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SENATE—*Wednesday, September 22, 1976*

The Senate met at 9:30 a.m. and was called to order by Hon. SAM NUNN, a Senator from the State of Georgia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

"Spirit divine, attend our prayers,
  And make this house Thy home;
Descend with all Thy gracious powers;
  O come, great Spirit, come!

"Come as the light: to us reveal
  Our emptiness and woe;
And lead us in those paths of life
  Where all the righteous go.

"Come as the fire: and purge our hearts
  Like sacrificial flame;
Let our whole soul an offering be
  To our Redeemer's name."

—ANDREW REED, 1829.

Come to us as a still small voice. Enter our minds with Thy truth and our hearts with Thy love. When we work and when we rest may we be at peace with Thee. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 22, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. SAM NUNN, a Senator from the State of Georgia, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. NUNN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, September 21, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SANTA YNEZ RIVER WATER CONSERVATION DISTRICT

Mr. ROBERT C. BYRD. Mr. President, there is one measure on the calendar which has been cleared for action by unanimous consent.

I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1180.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 589) to authorize the Secretary of the Interior to provide relief to the Santa Ynez River Water Conservation District due to delivery of water to the Santa Ynez Indian Reservation lands.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

ORDER FOR SENATE TO CONVENE AT 9 A.M. ON FRIDAY, SEPTEMBER 24, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today and tomorrow it stand in adjournment until the hour of 9 a.m., respectively, on Thursday and Friday.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the request with respect to the convening hour tomorrow be vitiated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar under "New Reports."

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

UNITED NATIONS SESSION REPRESENTATIVES

The second assistant legislative clerk proceeded to read sundry nominations of United Nations session representatives.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

CORPORATION FOR PUBLIC BROADCASTING

The second assistant legislative clerk proceeded to read sundry nominations in the Corporation for Public Broadcasting.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—DIPLOMATIC AND FOREIGN SERVICE

The second assistant legislative clerk proceeded to read sundry nominations in the Diplomatic and Foreign Service which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(All nominations confirmed today are printed at the end of the Senate proceedings.)

LEGISLATIVE SESSION

Mr. HUGH SCOTT. Mr. President, 1 ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Does the Senator from Pennsylvania seek recognition?

Mr. HUGH SCOTT. Not at this time.

APPOINTMENT BY THE VICE PRESIDENT

The ACTING PRESIDENT pro tempore. The Chair, on behalf of the Vice President, pursuant to Public Law 79-304, appoints the Senator from Delaware (Mr. Roth) as a member of the Joint Economic Committee, in lieu of the Senator from Arizona (Mr. Fannin), resigned.

JOINT MEETING OF THE TWO HOUSES ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, at 12:15 p.m., the Senate stand in recess until the joint meeting of the House and the Senate has been completed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet today to consider committee business; that the Subcommittee on Environment and Land Resources of the Committee on Interior and Insular Affairs be authorized to meet today to consider a proposed report on the subcommittee's investigation of the Forest Service performance in the preparation of the plan for the East River Unit of the Gunnison River National Forest in Colorado; that the Subcommittee on Labor of the Committee on Labor and Public Welfare be authorized to meet on September 27 to consider the Occupational Safety and Health Act; and that the Permanent Subcommittee on Investigations of the Committee on Government Operations be authorized to meet on September 29 and 30 to examine HEW's Medicaid Management Information System.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Rhode Island (Mr. Pell) is recognized for not to exceed 15 minutes.

TRIBUTES TO SENATOR JOHN O. PASTORE

Mr. PELL. Mr. President, I rise to pay tribute to my exceedingly wise, brilliant, and able senior colleague and friend, John O. Pastore.

He came to this body superbly grounded and equipped in the knowledge and skill of government. And he owed the position to which he had arrived completely to his own abilities, although he has always been the first to say how much strength and wisdom he had derived from the help and inspiration of his immediate family.

It is most difficult, in fact, I think it impossible, to present a tribute that does full justice to John Pastore—to capture in words what his friendship and help have meant and mean to me and what his extraordinary spirit and abilities have meant to the people of our State of Rhode Island, to the Senate, and to our Nation.

John Pastore has represented the people of Rhode Island in the Senate longer than any Senator elected by the people of the State, and of the Senators appointed by the general assembly, only one, Nelson W. Aldrich, the grandfather of our present Vice President, Nelson Aldrich Rockefeller, served a longer period.

In the course of those years, he has gained and sustained a position as one of the most esteemed and respected public officials in the history of our State.

Before he came to the Senate, he served the people of Rhode Island for 16 years in State offices, as a member of the general assembly, as an assistant attorney general, as Lieutenant Governor, and as Governor—gaining in each year and in each position greater public respect and trust.

Here in the Senate, as in Rhode Island, John Pastore's hallmark has been his superb oratorical and debating ability. He ranks with John Calhoun, Daniel Webster, and Henry Clay among the finest and most effective speakers who have ever served in the Senate. He displayed that speaking ability to the entire Nation in 1964 when he delivered a keynote address to the Democratic National Convention that will never be forgotten by those who heard it.

But John Pastore's effectiveness as a speaker is more than a matter of mere style and eloquence. He is a man of both style and substance, and he has been able to persuade his colleagues in debate because he knows the issues, he has analyzed them perceptively and incisively, and he is usually right.

Senator Pastore is a great Senator because he has used his great talents for good ends.

He has served in the Senate through an era of rapid, and at times, turbulent and traumatic change in our Nation and in the world, a period marked by the greatest explosion in science and technology in man's history.

Senator Pastore saw the implications, both good and bad, for mankind in this historic era of science and technology. He saw that atomic energy could prove a boon to mankind if used wisely, or could prove to be the instrument for the destruction of modern civilization if used unwisely. And because of his concern, he provided essential leadership in forging an international legal regime to prevent a nuclear holocaust—through establishment of the International Atomic Energy Agency, and negotiation and ratification of the Nuclear Proliferation Treaty and the Nuclear Test Ban Treaty. His leadership in these efforts ranks him with the great legislative statement of our history.

Senator Pastore saw also the implications of the new communications technologies—of television and space communications, and he provided the leadership for legislation to insure that the public interest in these revolutionary new forms of communication would be fostered and protected. Thanks to Senator Pastore we have a thriving public broadcasting system, and a framework for space and satellite communications systems. In addition, Senator Pastore displayed a keen awareness that the content of communications was as important as the medium that carried it and he campaigned vigorously against displays of violence and indecency over the public-owned airwaves, while always respecting the first amendment rights of free speech.

He has been, and is, deeply concerned over the integrity of our democratic elective processes and the impact of broadcast media on political campaigning. Because of that concern, he played a major role in election campaign reform, including adoption of the income tax check-off system of financing our Presidential election campaigns.

In all of his work and his accomplishments, as Senator, as an adviser and friend to Presidents, as a delegate to international conferences, John Pastore always remembered and drew strength from his origins, as the son of an immigrant tailor from Italy who struggled to support his family and to educate himself after his father died when he was but 9 years old. The example he set, as the first American of Italian descent to serve in the U.S. Senate, has been an inspiration, not only to other Italo-Americans, but to all Americans.

In the 16 years we have been here together, we have been partners and colleagues in every sense of the word, in every question concerning the well-being and future of our State. Moreover, blessed as he is with such intelligence and ability, he has been unstinting in his willingness to share his knowledge with me and help me be his junior partner.

He knows how much I shall miss him when he goes. He knows that being a senior Senator carries with it a large burden of work. He knows, too, that I shall do my best to follow his admonition: "Claiborne, be a good senior Senator."

I shall do my best to carry out his wishes. My wife, Nuala, and I extend to him and his lovely wife, Elena, my sincerest desires that they have a wonderful retirement and long good health to enjoy their children, and revel in their grandchildren.

I yield to the senior Senator from Connecticut.

Mr. RIBICOFF. Mr. President, Senator John Pastore is an original. His common sense and clarity of thought invariably cut the Gordian knot of controversy and led to practical solutions. John is my friend and neighbor from the adjoining State of Rhode Island. He is the type of U.S. Senator we should all try to emulate. If we modeled our acts after his, we would eliminate undue legislative delays and ours would be a more constructive body.

For the past 40 years my friend and colleague John Pastore has served the people of his State with the utmost trust and integrity; 26 of those years have been in the Senate of the United States.

Each of us who has been privileged to serve with him knows of his legendary ability as a debater. Yet those of us who have known and worked with JOHN PASTORE over the years will remember him not only for the inspirational and fiery character of his oratory, but also for his interest in and devotion to the needs and aspirations of the people of Rhode Island and the Nation. JOHN PASTORE is a working Senator in the truest sense of the word. With a keen mind and indomitable spirit he believes that a Senator should be the most active participant in the initial shaping of legislation at the committee level, and the perfecting of it on the Senate floor. Only a person who was close to people of his State as an assistant attorney general, Lieutenant Governor, and then Governor, could so well understand their hopes and problems, and seek constructive and positive solutions to them.

As a Senator, JOHN PASTORE has left his mark on some of the most significant legislation of our time. His leadership led to the Nuclear Proliferation Treaty, the establishment of the International Atomic Energy Agency, and the ratification of the Nuclear Test Ban Treaty. These are matters of extreme importance to people throughout the world, and future generations will benefit from his ability to approach basic problems with wisdom, perspective, and commonsense.

Thanks to Senator PASTORE'S efforts, we also have a growing public television and broadcasting system, fairer Federal election laws, and forward looking energy research and development programs.

For the past 26 years, JOHN PASTORE'S family has had to share him with the U.S. Senate and the Nation to which he has contributed so much. Now JOHN is going home.

We will miss JOHN as he goes home to his family and to Rhode Island, and we wish him well in the future.

Mr. PELL. I yield to the junior Senator from Washington.

Mr. JACKSON. Mr. President, I join my colleagues on this occasion to pay special tribute to JOHN PASTORE. I am one of the very lucky Members of the Senate who has worked with him during all of his 26 years in the Congress. For the first two of these years I was a Member of the House—but I served with JOHN on the Joint Committee on Atomic Energy and found a marvelous friend and formidable legislator.

JOHN and I share with some other Members of the Senate the honor of being sons of immigrants. My father came from Norway, he was a cement finisher; JOHN'S father came from Italy, he was a tailor. We are proud of this heritage. And because of this background JOHN'S love of his country is especially warm and deep.

No representative of a State has drawn greater strength and support from his constituents than JOHN—both as Governor and Senator.

I believe JOHN PASTORE is without peer in this body as legislative craftsman. He is the most effective advocate I have ever known for difficult and complicated bills. He does his homework, he masters the facts, and he cuts through irrelevancies to the heart of an issue. He has been the principal author and proponent of the landmark legislation in atomic energy and communications, just to mention a few.

Throughout his career JOHN has been the Senator par excellence for emergencies. He moves in on short notice, holds the entire Chamber enthralled, and articulates the problems so well that every Senator will get the point.

JOHN PASTORE is totally reliable—his word is his bond. And what a marvelous disposition. He is the author of what has become the proverbial definition of effective legislation: the art of being able to disagree without being disagreeable.

I join with my colleagues today in wishing JOHN joyful days of relaxation and rest, interspersed with new adventures in company with his lovely family.

Mr. PELL. Mr. President, I yield at this point to the senior Senator from Pennsylvania (Mr. HUGH SCOTT).

Mr. HUGH SCOTT. Mr. President, Senator JOHN PASTORE reflects sometimes that his career in public service could only have happened in America.

We are glad it did. It is a tribute to the man and to the Nation.

Today we salute the distinguished senior Senator from Rhode Island for his superb Senate career, which will measure 26 years at the conclusion of this 94th Congress. Over this time, he has represented the people who so wisely elected him with unswerving devotion to their well-being. His legislative record stands as an abundant legacy to this Chamber. His party can take great pride in his faithful dedication to its principles.

John was born in the "little Italy" section of Providence, R.I., the son of Italian immigrants. During a public service career spanning more than four decades, he became the first Italian-American to be elected Governor of a State, and later, Senator of the State. In these he takes pride, but it is the kind of pride which ennobles.

That is the kind of man JOHN is; he has never forgotten his roots.

We in the Senate shall always remember his firm and fiery and often feisty oratory. It has been oratory to good purpose.

He measures as his outstanding accomplishments in the Senate his efforts to obtain ratification of the Limited Nuclear Test Ban Treaty in 1963 and the Nuclear Nonproliferation Treaty ratified in 1969. He drafted and sponsored a Senate resolution in 1967 which called for, and finally resulted in, the Nuclear Nonproliferation Treaty.

In 1955, he served as a delegate to the United Nations, where he helped draft the U.S. resolution which first sponsored the International Atomic Energy Agency. For more than 20 years he has been a member of our Joint Committee on Atomic Energy, of which he is presently chairman. His efforts over these years have indeed helped to make this volatile world a safer place in this nuclear age.

His leadership and support of so many other vital legislative efforts, particularly in the telecommunications field, are equally laudatory—among them civil rights, broadcasting, campaign reform, and space communications.

He has surely earned our highest respect for a job well done. And he has won our friendship. It is especially gratifying, as one who also has been an observer of the emerging juniority system, to know that JOHN has not hesitated to share with the younger Members of the Senate his good counsel. He has much to teach.

So, we shall miss JOHN in this Chamber. Marian and I wish for Elena and JOHN in the years to come the kind of providence for which the city of his birth was named.

I thank the distinguished junior Senator from Rhode Island.

Mr. PELL. Mr. President, I yield at this point to the junior Senator from Mississippi (Mr. STENNIS).

Mr. STENNIS. I yield to the Senator from North Dakota.

Mr. YOUNG. Mr. President, there is a feeling of sadness shared by every Senator that the great Senator from Rhode Island, JOHN PASTORE, will no longer be with us when the next Congress convenes. He leaves a void in the Senate that can never be filled by anyone.

JOHN PASTORE is colorful, personable, and lovable. He is one of the best, if not the best, speaker in the Senate during my time. He has been unusually effective, whether it be on the Senate floor or in committee. He is one that other Senators listen to and they are often influenced by his logic, reason, and the eloquent way in which he presents his viewpoint.

In the many years I have served in the Senate, I have watched many Senators come and go. Occasionally, I have felt that a Senator has stayed too long. Some I know have been eloquent and tremendous Senators during their best years, but some have lost effectiveness before they decided to retire. The public has a way of remembering a Senator's last years, not his best years. JOHN PASTORE'S last years and his last day here are among his very best. He will be remembered, as he richly deserves, as one of the Senate's all time great Senators.

I can understand and appreciate Senator PASTORE'S desire to retire while he still has time to enjoy life with his family and friends. Every Senator will miss him, not only for the great contribution he has made to the Senate, to his beloved State of Rhode Island and the Nation, but, too, for his warm and lovable personality.

Pat and I wish Elena, his lovely wife, and JOHN many happy days in their retirement.

Mr. STENNIS. Mr. President, I certainly thank the Senator from Rhode Island for yielding to me.

Mr. President, I am here this morning partly through a sense of duty because, as one who has served all these years with Senator PASTORE, and valuing that service as I do, I think I ought to make a record of it and thereby do something toward maintaining the high standards he has shown here as a Member of our body.

There will be much said today here about him that is complimentary, and I can agree with that, I am sure, in advance.

I want to emphasize one point: It seems to me he has been one of the most valuable, highly valuable, and useful Senators I have known in this Chamber. That means of value and usefulness to his State, not in a narrow, selfish sense, but in the broad sense; and valuable to the Nation as a whole, because he did take broad views and was an active Senator.

He was valuable to any committee, as I have seen him at work, of which he was a member or with which he advised; valuable to any subcommittee that had the benefit of his tremendous energy.

He was valuable to any fellow Senator who, first having learned of his perception, and his knowledge, was willing to confer with him. He certainly has been valuable to me in my trying to go about my duties as a member of the Appropriations Committee, as a member of the Armed Services Committee and, in the last several years, as chairman.

He has a very fine knowledge of so many aspects of those subject matters, including his fine contribution in the field of nuclear energy, weaponry and related matters.

I do not question his judgment about leaving, even though I regret it. As he goes, every Senator will have a feeling of sincere regret and a sense of loss. I do not say he is going to leave us, because his work here, the standards he has set in the legislation he helped create, policies he advocated, will live a long, long time beyond his actual departure.

I thank him as well as salute him.

Mr. PELL. Mr. President, I yield to the senior Senator from Maine.

The ACTING PRESIDENT pro tempore. The time of the Senator from Rhode Island has expired.

Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized.

Mr. ALLEN. Mr. President, I yield such time as the senior Senator from Maine will require.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield, let me also yield 10 minutes of my time to the Senator from Rhode Island (Mr. PELL), and I so ask unanimous consent.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I thank my good friend from Rhode Island and my good friend from Alabama for giving me this courtesy. I especially value this occasion to say a few words of tribute to my good friend from Rhode Island, Mr. PASTORE.

As long as I have been in the Senate, the name of JOHN PASTORE has been spoken with respect and admiration.

For few other Senators have championed the cause of working families, the elderly, and poor more eloquently and forcefully.

Now that he is retiring after 26 years of service, I feel a special sadness.

For JOHN PASTORE and I are the sons of immigrant tailors. We both grew up in industrial New England. He was the first Italian-American elected to the U.S. Senate. I was the first Polish-American. And we have stood together many times on this floor fighting for progressive social change.

I have heard many people say that his greatest accomplishment was his oratory. Others have cited his central role in shaping our Nation's broadcast media. And others have said that the Nuclear Test Ban Treaty was his greatest accomplishment.

I do not agree. These all were great accomplishments.

But JOHN PASTORE established his place in the history of the Senate with the sum of his work—with his consistent leadership on the broad range of important issues—with the force of his reasoned arguments and moral purpose.

When we needed to pass the 1964 Civil Rights Act, he was there as a floor leader.

When we needed reform of campaign finances in 1971, he was there to pass the first campaign spending reform in a half century—and the dollar checkoff amendment for financing Presidential campaigns.

When public broadcasting came under intense political pressure, he obtained long-range funding that insured independence for innovative programing.

When we needed a congressional energy policy, he chaired the Senate Democratic Task Force on Energy and the Economy that outlined our goals and shaped our present policy.

When space technology made satellite communications a possibility, JOHN PASTORE sought legislation that helped make that a reality.

When the widespread abuses by our intelligence community became known, he sponsored the bill that established the Senate Committee on Intelligence.

I could go on about his distinguished record.

But it is sufficient to say that whenever you needed him, JOHN PASTORE was there.

When we had to fight for the redevelopment of cities, for expanding human rights, for jobs for the unemployed, for aid to education, for consumer protection, for assistance to our elderly—in short, when the people's needs were at stake, he was there.

He was not there just to vote, either. You could count on him to take an active part—debating on the floor—rounding up votes—clarifying complex issues—persuading his fellow Senators—performing the tough jobs demanded by the legislative process.

And he always did these jobs with a vitality, dignity, and good humor that have made serving with him a pleasure.

JOHN PASTORE has served his country and the people of Rhode Island well. He has served the Senate well. He has been a good friend to us all, and we will miss his peppery nature.

Mr. PELL. Mr. President, I yield to the junior Senator from New Mexico.

Mr. DOMENICI. I thank my good friend from Rhode Island.

Mr. President, while I am sad this morning to talk about Senator PASTORE's retirement, I am also happy. I have grown to know JOHN personally. I know the great personal sacrifice that all of the wonderful accomplishments that have been talked about this morning and heretofore brought to him and his family.

I have had the opportunity of meeting his wonderful family. It is obvious, to me he has had to be a father and a gentle, kind husband, and yet devote substantial time and effort to this great body and to our great country.

I am sure many of us think he is leaving us too soon. But I think part of that is because he knows he has done a splendid job—and he would never say it—but he feels confident that what he was brought to this world for and what his parents wanted of him have been accomplished, and he would like now to return to his beloved State and, probably more importantly, to his beautiful family to spend some time with them, to share with them his years and to watch his children and his grandchildren grow, and share in their dreams, and let them share more than they have been able to in the past in his wonderful personal qualities.

In that regard I am happy for him. I hope that that will bring great joy, as the accomplishments here in the Senate must have brought great joy to him.

Mr. President, I have been in the Senate for only 3½ years now, a far cry from the 26 years that my colleague, and friend, from Rhode Island has served as a Senator. But, in that 3½ years I have had the chance to watch him in action on the Senate floor and to learn from him.

He is one of the most effective Senators who has ever lived when it comes to passing a bill and fighting for a cause. Although he is a Democrat, ability knows no party label. Senator Norris Cotton, who was a Republican and served for 20 years in the Senate, said of our friend Senator PASTORE:

> The one Senator who is actually capable of changing votes is JOHN PASTORE. Time after time I have seen him strip a question before the Senate of all its non-essentials and then quickly and forcefully reveal the stark, naked issue at stake—and carry the Senate with him.

I can truly say that JOHN PASTORE has stood for those first amendment freedoms that brought his father, and my father and mother, to this country.

He has been a great leader in giving more Americans a voice through television and making it possible for creative ideas to find a place on the public broadcasting system.

It is in the best tradition of the first amendment that Senator PASTORE almost single-handedly brought about public broadcasting, and then pushed with all his might to make sure that the Congress keep the Public Broadcasting System alive by annual Federal appropriations.

The new kinds of children's programing, the innovative documentaries, the full range of cultural and historical and educational information that the American public now can get through public television, can all be credited to the work of the man we honor today.

And, I can think of no higher tribute to pay any man than to say, "He has given our children and our people knowledge that they would not have had without his work." JOHN PASTORE's legacy in this field will live forever.

I said earlier that I have been privileged to know JOHN PASTORE for only 3½ years. But, those who have known him even longer than I have the highest form of praise for him.

Perhaps a short review of what those men who have served with JOHN PASTORE said when he announced his retirement will show how much respect he has earned:

President Ford wrote, in part, to Senator PASTORE:

> I was shocked to read of your retirement announcement. You have been so effective in the United State Senate that it will be impossible to replace you. I am grateful for the strong leadership you have given in many areas. I am sure your colleagues in the Senate . . . wonder how they can ever replace the piercing debate, the oratory, and the good judgment of the senior Senator from Rhode Island.

Senate Majority Leader MIKE MANSFIELD told us in the Senate in a moving speech:

> The news that this colorful and extremely capable man will not seek re-election will be regretted not only by the people of Rhode Island and the people of the Nation, but the Members of the Senate as well. Senator PASTORE was a giant among us. In brains he could not be excelled, in integrity he could not be approached, and in his dedication and devotion to his family, his state and his country he was outstanding. When JOHN PASTORE handles a bill, it is handled in a manner that causes no concern, no worry, and no distress on the part of the leadership. He is a man who knows his subject, who is devoted to his work and who is respected by us all.

Senator HARRY BYRD, while more conservative than Senator PASTORE in some matters, also praised JOHN as "an unusually able Senator, and unusually fine man, who will be missed tremendously in the Senate of the United States." Senator PERCY was also saddened at Senator PASTORE's announcement. He said:

> Having spent a part of every summer for many years in Rhode Island, I have seen Senator PASTORE through the eyes of his constituents. He is a man of courage, a beloved man, who, in the highest tradition of the Senate, has served the needs of his state, but has never placed them ahead of the best interests of the nation and the people of America.

And Senator PELL, of Rhode Island, who may know Senator PASTORE's work best, summed it up when he called Senator PASTORE's decision to retire:

> A noble and rare action . . . to retire when he is in his prime, when his legislative abilities are at their height, when his standing as one of the most loved and respected public officials in Rhode Island history is undiminished.

I could quote more of the praise given to Senator PASTORE, but let me close with a personal note.

My father and Senator PASTORE's father both came here from Italy. They came, I suspect, for very similar reasons—to enjoy the freedoms of a great Nation. They came to be more than they had been. They came to create and work and to do something for their neighbors and for their Nation. They came, because they knew that America was a place where event the humblest person could rise to great heights.

Above all things I can say about JOHN PASTORE, I can say that he has kept the faith, that he has stood for those very principles of compassion and devotion that his father and mine, and yours, wanted this Nation to stand for. It has been men like JOHN PASTORE who have kept alive the dream that was in the minds of millions of immigrants to this land.

In that regard, JOHN, in our society when dreams come true, then dreams continue to flow. I think you have made the dream a reality. That means you have set a tremendous example for those to come after you that, indeed, you can have big dreams and in America they can come true.

Whatever good life we enjoy in the future, we will owe a substantial part to the great work of JOHN PASTORE, the Senator from Rhode Island.

You will be missed more than you know.

Mr. PELL. Mr. President, I yield to the distinguished Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I thank my colleague, the Senator from Rhode Island (Mr. PELL).

I have at this particular time mixed feelings. There is, of course, sadness, as our cherished friend, JOHN PASTORE, prepares to depart the Senate. His retirement comes voluntarily, after personal achievement and public leadership. This quiet hour brings many remembrances of the opportunity that I sit at a desk in this Chamber, just a few feet from JOHN PASTORE.

Often I have leaned over this desk to counsel with him. Very frankly, I admit it readily, I have asked for his advice on pending measures before the Senate.

I was in our State of West Virginia last night and a friend said to me:

> What we would like in this campaign is for Senator JOHN PASTORE to come and speak.

He, as well as other persons, remembered a prior visit of JOHN to Harrison County which was not political in nature, but they recalled, as others have recounted to me, the dynamic message that he delivered in Clarksburg to the Italian-American people—good citizens—who cheered his speech.

In that section, we have people of Italian background not by the hundreds, but by the thousands. They have followed with admiration, as we have in the Senate, the creative and constructive career of our colleague.

It is true that JOHN PASTORE has a rare legal talent, a rapier like mind which permits itself to come to grips with questions, head on, and to do it with a piercing expression as he talks with a complete understanding of the problems that are involved.

Senators who are in the Chamber now will recall many times when it seemed that we were on dead center. Then the physically little man from Rhode Island, who is large in stature from the standpoint of his character and service, would break that dead center or logjam and we would move on to another vote or a decision in this body.

Mr. MUSKIE. Will the Senator yield?

Mr. RANDOLPH. Yes, I yield to the able Senator.

Mr. MUSKIE. I recall those moments when he would reach his crescendo.

Mr. RANDOLPH. Yes, the crescendo. That is an apt expression, indeed. Crescendo. He was certainly on the upbeat.

We realize today that JOHN's voice, eloquent and persuasive, brought results. Many times, it has been an impassioned appeal that was heeded.

Senators on both sides of the aisle might have disagreed with him, but by sheer strength of argument they found his point irresistible.

But there is something above all that. It was the rightness of the causes to which he addressed himself. The values he has held reflect that JOHN represented, not only of the people of Rhode Island, but of the country.

In a sense, the Members of the Senate have not just respected him, not just admired him, but they have understood the depth and the breadth of his service in the Senate over the five terms that he has been in this body.

He has left a very large imprint, Mr. President, on the history of legislation in the Senate of the United States.

His career from one office to another, of course, is recognized. My tribute is not to the positions he has held or the honors that have rightly come to him, but to the man and his talent for discerning and stating the truth.

We will miss his steel-trap mind and most of all we shall miss the compassionate approach to the solving of national problems.

Mr. PELL. Mr. President, two Senators who wished to be here this morning to join in this tribute to Senator PASTORE were unable to do so because of previous commitments, but have asked that their prepared remarks be printed in the RECORD. Accordingly I ask unanimous consent that remarks by the senior Senator from Wyoming (Mr. MCGEE), and a letter from the junior Senator from New York (Mr. BUCKLEY) be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. CULVER). Without objection, it is so ordered.

STATEMENT BY SENATOR MCGEE

Today the Senate is paying its respects to one of its retiring members, The Senior Senator from the State of Rhode Island, John O. Pastore. With sine die adjournment rapidly approaching, the Senate will be losing one of its real giants—and I use that word advisedly and not facetiously. For while the Senator from Rhode Island is small in stature, he is indeed a giant when measured by any other standard and he is indeed a giant in terms of those qualities which combine to make a great Senator and a great individual.

Very early in my Senate career I had the privilege of not only knowing John Pastore but establishing a close working relationship with him. Upon my swearing in, in January of 1959, I was assigned immediately to the Committees on Appropriations and Commerce, committees on which he was already a veteran member. I learned much from him in those earlier years, and I continue to learn from him.

The Senate will miss John Pastore because he has that indefinable quality enabling him to bring issues to a head, to bring order out of chaos, and to get things moving when they appeared to be hopelessly deadlocked. We have all seen him do this time and time again both in Committee and on the Floor of the Senate. He did this, not in the role of a great compromiser, as some of our colleagues have been referred to in the past, but rather by suggesting that we slow down, think what we are saying, and act more responsibly. To paraphrase a commercial we see on television—"When John Pastore talks, people listen."

John Pastore loves the Senate and honors it as one of our great American institutions. In his 26 years in this Body the integrity of the Senate as an institution has been uppermost in his mind, and he has indeed brought great honor to this Body.

The retiring Senator from Rhode Island will be remembered for many qualities and attributes. He is a skilled debater and this, coupled with his comprehensive preparation and mastery of his subjects, made him always a welcome ally or a most respected opponent. He is a classical orator. Few of us who heard him will ever forget the stirring keynote address he made to the Democratic National Convention in Atlantic City in 1964.

Lastly, and on a personal note, I would remind my colleagues that we share a common birthday. Once each year the Senator from Wyoming would join the Senator from Rhode Island (spelled John O'Pastore for the occasion) to note our common birthday and to join the millions of Irishmen of all nationalities and backgrounds in honoring St. Patrick's Day—March 17.

John Pastore dedicated his adult life to public service and held many responsible positions in state government, including Governor of his state, before coming to the Senate in 1950. But he also has a deep love for his family and it was his desire to spend more time with that family that lead to his decision to retire from the Senate at the conclusion of this Session. We can all understand and respect that decision, and I take this occasion to wish him well in his retirement. May the Senate's deep loss be offset by the rewards to be gained by John Pastore and his family.

LETTER FROM SENATOR BUCKLEY

U.S. SENATE,
Washington, D.C., September 20, 1976.

Hon. CLAIBORNE PELL,
U.S. Senate,
Washington, D.C.

DEAR CLAI: I would like to thank you for your very kind invitation to join with you and our other colleagues to honor John Pastore on September 22, 1976. It is with deep regret however that I will not be able to be in Washington that day and I want to take this opportunity to let you know.

Although I will not be able to be with you, I do want you to know that I will be with you in spirit. Throughout my six years in the Senate, I have come to know that there is more than one kind of leader. The great strength of John Pastore is his eloquence to breathe life into the day-to-day floor fights and speeches with his perceptiveness and wit. For this unique ability, plus his dedication and integrity the people of Rhode Island and of the United States will miss him—and so will every one of his colleagues on either side of the aisle.

Warm regards.

Sincerely,

JAMES L. BUCKLEY.

Mr. ALLEN. Mr. President, I should like to add my voice to the great chorus of praise accorded the senatorial performance of the Honorable JOHN O. PASTORE of Rhode Island, on the occasion of his retirement from the Senate.

Since 1950, when he was elected to the U.S. Senate, he has served in this Hall as a voice of reason in a period often fraught with rancor and discord.

His departure will, indeed, be hard to bear.

Entering politics in the New Deal days, at the age of 27, he won a seat in the Rhode Island General Assembly. He went to the attorney general's department in 1937 and served as an assistant to the State's attorney general until 1944. Senator PASTORE was elected Lieutenant Governor in 1944 and became Rhode Island's Governor in 1945. He served in that capacity until his election to the Senate.

In the capacity of Senator, our distinguished colleague has acquired renown and respect throughout the country, and certainly in this body, for his workmanlike approach to all problems confronting the Senate, for his basic concept for human rights, for his strong sense of nationalistic purpose, and for his powerful performance as chairman of the Joint Committee on Atomic Energy.

In this regard, he deserves considerable credit for passage of the legislation which opened the way to creation of our antiballistic missile system.

Senator PASTORE has been responsible for much of the major legislation which has helped develop radio and television broadcasting in the best interests of the Nation.

Second ranking member of the Senate Commerce Committee and chairman of its Subcommittee on Communications since 1955, he has emphasized that radio and television broadcasting are forces of staggering importance in our society. He notes that approximately 1½ billion man-hours per week are spent with these media by the people in this country. Television viewing alone occupies nearly one-fourth of the waking hours of the average American.

His concern with crime and violence on television has been long and continuous. Senator PASTORE said that it was untenable for the television networks to claim that television commercials motivated the audience to buy products and at the same time claim that program content does not influence the viewer.

Showing a vital concern for the interests of everyone deserving the protection of the Federal authority and an equal concern for the preservation of longstanding traditions of national value, Senator JOHN PASTORE has established himself as a Senator of the finest kind, and I would like at this time to express my admiration for his performance and his great record over the past quarter century.

Mr. President, Senators come and go, but the institution of the U.S. Senate as a continuing body goes on and on. The U.S. Senate will continue to be a great deliberative body when JOHN PASTORE leaves the Senate. But it will be a less great parliamentary body on his departure.

I think Senator PASTORE better, perhaps than any Senator in this body, typifies that the American dream can come true.

I heard him just the other day here in the Chamber say that at the age of 9, on the death of his father, he had to start work to help support his family. Who would have thought that this boy of 9 years of age going out to be breadwinner of the family would rise to be a great U.S. Senator? Only in America can that happen, because here in America every boy and girl and every man and woman can go just as far in life as their character, their ability, their ambition, their dedication, and their efforts will take them.

Certainly, JOHN PASTORE is a fulfillment and an embodiment of the best feature of the American dream.

I would like to say, too, that in this body, which is all too prone to obfuscate issues, Senator PASTORE has had the great talent of being able to focus in on an issue, discarding the peripheral matters, discarding the portions of the issue of little importance, getting to the heart of the matter, defining the issue in simple terms. That is a great art.

I have told Senator PASTORE on several occasions as he has performed this service here in the Senate that he can say more in fewer words than any other Member of the Senate. That is a great art.

We all admire Senator PASTORE. We hate to see him leave the Senate.

I reserve the remainder of my time.

Mr. GRIFFIN. Will the Senator yield?

Mr. ALLEN. Yes; I yield.

Mr. GRIFFIN. Mr. President, we all know that great and important things sometimes come in small packages. And JOHN PASTORE personifies that truism. As one who sees eye to eye with him at the same level on the Senate floor—even though we have sometimes had our disagreements—I rise to join in the tributes to this great and important man in a small package.

Other giants have left, and will leave, this body. But none is more deserving of that description than the mighty giant from the mighty State of Rhode Island, JOHN PASTORE.

I know that his colleagues on the committees on which he serves will miss him very much. I know because I serve with him on the Commerce Committee and under him on the Communications Subcommittee. He will be sorely missed by the Appropriations Committee and the Joint Committee on Atomic Energy, as well, because in each case, he has not only been an effective member but a leader in the finest sense of the word.

I know his political party will miss him because he has been one of its most effective members and leaders over the years.

Mr. RANDOLPH. Will my colleague yield for a moment?

Mr. GRIFFIN. Yes, of course.

Mr. RANDOLPH. As the Senator speaks of Senator PASTORE's party, and this is not partisan, I believe we do remember his keynote address to the Democratic National Convention in 1964. It was more than a presentation of party appeal to the electorate. It was an appeal for participating citizenship by men and women in our country.

Mr. GRIFFIN. I thank the Senator from West Virginia for his contribution.

I wish to add, Mr. President, that most of all JOHN PASTORE will be missed by the Senate as an institution.

I have been a member of this body since 1966. I must say I have not always been proud of the Senate during that period of service. But there have been many great moments and some fine hours when there were reasons to be very proud, when the Senate exhibited the kind of vision and statesmanship expected by our Founding Fathers.

As I think back, it occurs to me that in almost every situation when I have been particularly proud of the Senate as an institution, John Pastore has been prominently associated with the debate or action of the Senate.

Others have been called the conscience of the Senate, and yet, in a real sense, he too has been the conscience of the Senate. In a way that no one else could match, John Pastore has often stepped up to call the Senate to task as a body; he has often said what needed to be said at just the right time to save the Senate from itself; he has often pointed this body in the right direction and has made the Senate a better place to serve.

So as he prepares to leave, I salute him, not only for his many other contributions, but most of all for the invaluable contributions he has made to the Senate as an institution. May those of us who continue to serve after he leaves seek to follow the example he has set.

I wish him and his wife, Elana, many happy retirement years with the family and friends they love so dearly.

Mr. ROBERT C. BYRD. Mr. President:

> The hours are like a string of pearls,
> The days like diamonds are.
> The moments are the threads of gold,
> That binds them for our wear,
> So may the years that come to you, John,
> Such wealth and good contain
> That every moment, hour, and day
> Be like a golden chain.

Henry Thoreau said:

> If you have built castles in the air, your work need not be lost; that is where they should be. Now put the foundations under them.

John Pastore epitomizes the story of the millions of immigrants who have come to this country and who have, under this great system of ours, put the foundations under the castles in the air. There are millions of stories that could be told like that of John Pastore, a man whose parents came to this country as immigrants. John Pastore: a man of humble beginnings, but a man who had within himself the ambition, the drive, and the ability to overcome the problems, the disadvantages that confronted those people who came to these shores, especially in the latter years of the 19th century and the early years of the 20th century.

John Pastore's story is one that ought to be told and retold from the pulpits, from the desks of professors, and from the forums of politicians over and over again, because it is a story that should inspire the young people of our own time. It is a story that should tell them that if they but have the drive and the determination to work, to sweat, and to study, and to develop their talents, they can overcome any disadvantage and rise to any height. It is a beautiful story.

John Pastore has been a Senator's Senator. I count it a privilege to have served with him here for 18 years, and I count him among the small circle of Senators who were here when I came, who have inspired me and who have helped me throughout those years.

There was once a time when I was being considered for a seat on the Supreme Court of the United States. I got a call one day from John Pastore. He did not wait for me to come to ask him if he would support my nomination; he called me and he said that he was for me.

I later began to wonder whether or not I wanted a seat on the Supreme Court. I do not know that I would have been appointed, but I was being considered, and there were those in this Chamber who were urging my appointment, on both sides of the aisle.

I sat with my wife one evening at dinner, and I said, "I am not sure I would want that job." The next day I went to a Senator to get his advice. Who was that Senator? John Pastore. I never asked any other Senator. When I finished talking with John Pastore, I had made up my mind and I knew what to do.

Here is a man who has the calm, solid, sound judgment that many of us here, perhaps all of us, have come to rely upon. He not only is eloquent, but he has one of the sharpest minds and he is one of the most unique men, I am sure ever to serve in this body.

I have served with him on the Appropriations Committee of the Senate, and I have always found him to be fair, reasonable, considerate, frank, and as I have said, most sound in his opinions.

We will miss John Pastore. As Antony said of Caesar:

> Here was a Caesar! when comes such another?

John, my wife and I wish for you and Mrs. Pastore happiness and health as you enter upon your new career of service.

Many times John Pastore has talked with me about his wonderful wife and about his children. He delights in talking about his family. Here is a man who has given of his best to the service of the public, a man who has sacrificed. This man could have made it in any field. Any field. He could have been an eminently wealthy man in any field that he had chosen. But he chose the field of public service, and he has sacrificed much in giving so much of himself. The greatest sacrifice that he has made has been that of being so much away from his family.

So, John, my wife and I wish for you, for Mrs. Pastore, and for your family these things:

> Work for your hands.
> A straight path for your feet.
> A coin for your purse.
> Sunshine on your window pane at morning.
> A song in your treetop at evening.
> The hand of a friend on your latchstring.
> Soft rains for your garden.
> Love at your fireside.
> Happiness in your heart.
> And God's wonderful blessing always.

The PRESIDING OFFICER (Mr. Griffin). The Senator from Iowa is recognized.

Mr. CULVER. Mr. President, today we salute a colleague who has left a large and durable imprint on the statute books and who has as well been one of the most energetic and influential legislative figures of our time. There are many enactments in a broad variety of fields which visibly and memorably were the product of his initiative, concern, and persuasiveness. There are countless others of which he was the quiet yet resourceful architect. He has been a superb negotiator with a sure instinct for both the practicalities and potentialities of any situation.

All of us lament the decision of John Pastore to leave the Senate even as we respect his reasons for doing so. But his departure leaves not only a large personal vacancy; it also depletes the Senate of many moments of high drama and virtuoso performance. John Pastore never doubted that good politics and good theater are not antithetic but can be natural allies. Certainly in the buoyant personality of John Pastore they were agreeable companions and all of us—however briefly we may have had the privilege of serving with him here—have happy recollections of the Senator in action. Even his victims usually left the floor or the committee room with respect for his wisdom, wit, and love of battle.

In 26 years of senatorial service and in years of prior distinguished State service, John Pastore always displayed a wide repertoire of interests and abilities. His contributions range across a wide terrain from social services to public broadcasting to the control of nuclear energy. Whatever he touched he enhanced. And because his mind was so fertile and probing and his personal example so contagious we shall always recall him with special fondness and admiration. And for that reason we wish the Pastores all the satisfactions of an active retirement and the knowledge of a job well done.

Mr. HELMS. Mr. President, will the Senator from Alabama yield?

Mr. ALLEN. I yield from the time allotted to me to the distinguished Senator from North Carolina (Mr. Helms).

Mr. HELMS. Mr. President, a few weeks ago in this body, during a rather spirited debate on the antitrust bill, the parliamentary situation was becoming, shall we say, just a bit interesting, and Senator Pastore came into the Chamber and without the usual formalities, as I recall, he said, "What is going on here?"

This simple inquiry told a very great deal about this great man. It was direct, forward, and to the point, and it was so typical of the personality and approach of our distinguished colleague.

Sometimes politicians are inclined to be just a bit slow, evasive, and adept only at obfuscating the issues, but not the Senator from Rhode Island. There is never any question about where he stands. He may agree with you or he may disagree with you, but there is never any doubt about where he stands.

Coupled with this straightforwardness is a remarkable degree of energy. While the rest of those who may be a few years younger flop down our tired bones in what the Senator from Rhode Island calls the trolley, connecting the Senate office buildings with the Capitol, Senator Pastore never uses the trolley. When rollcall votes occur, you can always see him on foot walking vigorously over to the Capitol or back to the office. He walks with a determination and a lilt in total harmony with his personality, direct, forward, and to the point. I daresay there have been many times when he set out on foot, Mr. President, and arrived here in the Capitol before those who were riding the trolley.

I think he knows how truly sorry I am to see him go. I have told him that so many times. We have disagreed and we have agreed on various issues, but I feel as all other Senators do that we are losing a friend of grace, who has the nobility of being a true gentleman.

Senatore Pastore's retirement will leave this body just a little bit vacant, perhaps a little bit quieter, and certainly a lot less interesting.

I will miss him as a friend, I will miss him as a colleague, and he will always own my respect and admiration. I thank the Senator.

Mr. PERCY. Mr. President, I was unable to be in the Senate to hear the comments of all my colleagues. Together with my colleagues, I express the appreciation of Congress as well as the Nation for John Pastore's contributions to the Senate.

I started my relationship with John Pastore a number of years ago. We were competing for a nuclear accelerator—Rhode Island against Illinois—and we had some real problems. We did not have, for example, an open occupancy law.

John Pastore has devoted his life to seeing that there was an equal opportunity in every aspect of life for every American, regardless of race, color, or creed. I must say that I was terribly embarrassed that we could not put the assurance of law behind the right of all people to live where they wished. We resolved this problem, but it was a problem that John Pastore brought to the attention of the Senate and the administration in making this decision, with which I was fully sympathetic.

However, even though in this particular case Illinois had the accelerator, I am happy to report to Senator Pastore that my latest visit to Batavia indicated that there has been a freedom of movement of people, and an infusion of people, regardless of race, color, or creed, into the community, which would be a credit to the highest tradition he could have wanted the State of Illinois to establish.

I have been a visitor to Rhode Island every year that I have been in the Senate, spending a short part of each summer in the State, to enjoy its beauty and our friendships with people there. One really has to visit a State of a Senator to know and understand the affection and regard in which he is held. The people of Rhode Island revere John Pastore. He could have stayed in the U.S. Senate as long as he chose to stay. Like Mayor Daley, he has become an institution—Mayor Daley in Chicago, John Pastore in Rhode Island.

But it is his choice that he leave at what is really the peak of his career, when he has many, many years of productive service ahead. I know that he is going to be called upon by the President of the United States, whether he be a Republican or a Democrat, to continue to serve thc people of this country. There is no way he can escape the responsibility that he will have, and that he will impose upon himself, for continued service.

I think all of us feel that he has a right to leave the structured life that many of us lead and to find an even greater life, unstructured in nature, but leaving him somewhat freer to follow his own interests and the interests he feels will serve his family, his community, his State, and his Nation.

Many things have been spoken about John Pastore. One of the things that impresses me most occurs when the Senate, in late sessions, gets into a period when many times emotions obscure our reason and our rationality and our ability to get to the heart of the problem we are working on. John Pastore will take the floor and Senators will listen to him. In essence, in one way or another, he reminds us of our duty, of our obligation, when he says, "Let's get on with the business of the Nation and the business of the Senate."

When he does rise to speak, the Senate stops to listen. Few in this body can ever match his rhetorical eloquence. He is an effective speaker, but he speaks effectively because he speaks from his heart. He never speaks on an issue to which he is not deeply devoted; and the persuasiveness of his personality and, more important, the persuasiveness of his arguments, are immense.

Although we have differed on occasion as to the approach to an issue, I have learned from these differences and tend to examine my own positions and actions far more closely. For that impetus and inspiration, I shall always be personally grateful to John Pastore. He has been a tremendous teacher; and if we do not learn from him, it is only because we have not been equally responsive students.

We all know that he rose from humble beginnings, and we all know that he has become a giant in the Senate and a giant in this country. His career is a special source to his constituents in Rhode Island, as it is a special source of pride to Italian-Americans across the Nation and throughout the world.

No Member leaves this body without leaving an impression. Mr. President, the Senate of the United States is a far better place and the country is far better because of the impact of John Pastore's services here, services that shall continue for many years to come, in the interests of his people, in the interests of his Nation.

RETIREMENT OF SENATOR JOHN PASTORE

Mr. THURMOND. Mr. President, there are few Senators who personify the oratorical abilities of John C. Calhoun as well as John Pastore, senior Senator from Rhode Island. For 26 years, he has upheld the standards of the Senate, lifting them to new highs. John Pastore's intellect, wit, and abilities are rare and singular. He will be sorely missed.

A giant in his home State, probably no one in Rhode Island's history has dominated public life in that State so completely and for so long a period of time as John Pastore. He was the first person of Italian ancestry to be elected the Governor of any State and the first U.S. Senator of Italian-American ancestry.

Widely regarded as one of the few Senators who can change the vote on a measure on the floor, his abilities as a debater and a floor manager are seldom surpassed. He has the uncanny ability to divest an issue of all the unessentials and present the heart of the matter to his colleagues.

Senator Pastore's legislative accomplishments are monumental. It was his resolution that led to the Nuclear Proliferation Treaty, and he led the fight for its ratification with one of his greatest floor speeches. He helped draft the resolution that established the International Atomic Energy Agency while he was a delegate to the United Nations. Another of his signal accomplishments was the successful leading of the floor fight to ratify the Nuclear Test Ban Treaty.

He has been responsible for most of the major legislation which has helped develop radio and television broadcasting in the best interests of society. It was John's initiative which led to the inquiry into the effect of television's programing of violence on the American public. As chairman of the Communications Subcommittee since 1955, he has been responsible for legislation contributing to the development of the telecommunications industry to the high position it enjoys today.

He was largely responsible for the enactment in 1971 of the first campaign spending and disclosure reform since 1925. The dollar check-off proposal, which introduced the concept of public financing of Presidential and Vice Presidential campaigns, was another Pastore creation.

Senator Pastore is considered a pioneer of space communications in this country. The Communications Satellite Act of 1962, which made possible the simultaneous viewing of events around the globe, was developed and enacted under his leadership and I was pleased to work with him on that matter. Other landmark legislation in the field of communications has justifiably contributed to his reputation in that area.

He sponsored, in the Democratic caucus and on the floor, the resolution that established the Select Intelligence Committee, upon which I am pleased to serve. Forming the guidelines for legislation in the area of energy sufficiency and economic recovery, last year he chaired the Senate Democratic task force on energy and the economy.

Few men have left their mark more indelibly on the Senate and on this Nation than has John Pastore. His presence, his phenomenal legislative abilities, and his friendship have warmed these halls since 1950.

Mr. President, Mrs. Thurmond joins me in wishing John Pastore, his lovely wife Elena, and their fine family much health and happiness with their many friends in their beloved home State of Rhode Island.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from New York be recognized for 5 minutes out of Mr. Muskie's time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I am here this morning, as are so many others, to pay tribute to John Pastore, very much alive and kicking, which is characteristic of him and still with many years of wonderful living in him. This is a sentimental occasion, as I have served with him ever since I have been here, 20 years. We have been through a lot of agonizing and many gratifying legislative battles. I want to recall just two instances that I hope pleased him and will make him remember glowingly events of the past.

One is a debate that he had here during the arduous civil rights debates of the sixties with Russell Long, of Louisiana, in which Russell stated the great philosophy of the social order of the South in terms of the black woman who raised him in her arms, cradled him in her arms.

Senator Pastore, in his usual striking way, characterized that, as it was, a very limited view, certainly in history. He pointed out that he, too, was raised by a woman, who happened to be white—also in her arms—not necessarily his mother, and that it did not really represent any social order which could replace constitutional guarantees. It was so touching, so eloquent, such a moving event, that I hope he will recollect it, read the Record on it, and enjoy it time and time again as the years go on.

The other memory I have of Senator Pastore is that he has saved us so much time in the Chamber. His unique function of rising at precisely the critical moment to find out what we are doing, why we are doing it, and why we are spending so much time on it has, time and again, saved us anguished days and nights and enabled us to do many other things, often many other more pleasant things.

His unique position in this Chamber has been epitomized by the fact that no one would ever think he was officious or patronizing or too big for his britches, or trying to do anything but what we would expect of John Pastore, to be not only a father to his people, but a father to his fellow Senators.

So I say to him as an old friend, I feel a dear friend, who has suffered with him, through his illness rejoiced in his comeback physically, I say: You are a great gamecock, John Pastore. Now it is time, for a little while, to go home to your loving wife and family. Godspeed.

I thank the Senator.

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin (Mr. Proxmire) is recognized for not to exceed 10 minutes.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Proxmire, I yield 2 minutes to the Senator from Alaska (Mr. Stevens).

Mr. STEVENS. Mr. President, with the retirement of the distinguished senior Senator from Rhode Island, Senator John Pastore, the country will lose a statesman whose legislative accomplishments rank among the most impressive in the recent history of the Senate. Additionally, those of us in the Senate know we will lose a man who is certainly the outstanding orator in this body.

Therefore, it is with extreme pride that I join in paying tribute to the triumphant Senate career of John Pastore. The list of the legislative accomplishments of Senator Pastore are among the most impressive in the Senate during the last 25 years. Senator Pastore has been a guiding force behind such important legislation as the Federal Elections Campaign Act and the dollar checkoff for Presidential and Vice Presidential campaign funding. The leadership he has shown as vice chairman of the Committee on Atomic Energy includes his efforts for ratification of the Nuclear Proliferation Treaty and the Nuclear Test Ban Treaty, as well as sponsoring the resolution that established the International Atomic Energy Committee.

Since 1955, Senator Pastore has been the chairman of the Senate Subcommittee on Communications. Through this position, he has distinguished himself as the preeminent authority on communications matters in the Congress. Almost every critical piece of legislation in the recent past dealing with communications matters can be traced to the hand of John Pastore. These include the Educational Television Facilities Act of 1962, the Public Broadcasting Act of 1967, and the Communications Satellite Act of 1962. Additionally, Senator Pastore has been one of the most eloquent spokesmen American consumers have in the Senate and as second ranking member of the Commerce Committee his knowledge and expertise in this area will certainly be missed in the years ahead.

It has been my privilege to serve with John Pastore on the Communications Subcommittee and I know other members of the subcommittee will agree with me that we will have big boots to fill as we carry on the work pioneered by Senator Pastore.

There is certainly no question that with the retirement of John Pastore, the Senate will lose a most eloquent spokesman. Time and again, this body has seen the senior Senator from Rhode Island rise to the occasion in critical debates and deliver remarks which, with a minimum of verbiage, cut to the heart of the issue at hand in an influential and persuasive manner. I remember well during the crucial debates on legislation to extend our fisheries conservation zone to 200 miles offshore, John Pastore delivered an impassioned speech in support of the legislation which captured the attention of the Senate and galleries. It matters little whether we have found ourselves in accord with Senator Pastore's remarks or felt the sting of his rebuttals. We will all miss his participation in the important debates to come.

Each time I listen to John Pastore speak on the floor of the Senate, I am reminded just how empty our Chamber will be as we face a new Congress without his strong voice. We wish we could continue to have the benefit of Senator Pastore's leadership and oratorical skills. Mr. President, during his 26 plus years of distinguished service in the Senate, John Pastore has built a solid reputation of leadership in the finest tradition of the Senate. He richly deserves this recognition. Therefore, I join with my colleagues in wishing John and Elena the best in the years to come.

Mr. President, John Pastore has given great leadership as the chairman of the Subcommittee on Communications. It has been a real pleasure to work with him.

As a matter of fact, when I got up this morning, I was thinking about coming over here and I grabbed this tie, which reminds me of the trip, John, that you and I took together to your State for some hearings. You were gracious enough to include me in a lunch with some of your very dear friends. It was a real pleasure to see the comradeship that exists there between you and your friends. I hope that your trip now, back home to join them, will be a very enjoyable one after your time here.

I think the thing that I shall remember most about your participation here is that you are one who does not need the microphone, either. We have enjoyed being able to hear you no matter where we are in this body. Your voice is not limited by the length of that cord on your desk.

We have all heard John Pastore, no matter where we have been, and we shall miss hearing him. As I told him personally, we shall miss hearing him.

I am indebted, as the people of Alaska, I think, are indebted to John Pastore. I think the turning point in the Senate's consideration of the bill to extend our fisheries jurisdiction out to 200 miles was when John Pastore tried to put the bill in perspective in terms of the consumer, the American fishermen, and the destiny of the country.

Being a State that has over half that coastline that you have assisted us to protect, I want to express our appreciation and thanks to you, Senator Pastore, and to join your colleagues in wishing you well.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no time be charged to Senator Proxmire.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may yield to the Senator from Arkansas, without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. McCLELLAN. Mr. President, the retirement of any of our colleagues in the Senate is a time for regret, particularly so when the departing Member is of the stature and distinction of the senior Senator from Rhode Island, John O. Pastore.

Few men, during my 34 years of service here, have made more lasting contributions to the welfare and progress of the State of Rhode Island and to the Nation as a whole than has Senator PASTORE.

Senator PASTORE's 26 years of service in this body constitutes a record of accomplishment and achievement that is unexcelled and equaled only by a very few. It would be difficult to find an area of legislation that has not felt the impact of his discerning wisdom and masterly touch.

In years to come, those of us who have served with Senator PASTORE will frequently recall his exceptional skill and incisiveness in the slash and parry of floor debate.

He is recognized by all as the Senate's consummate master of debate and is a fitting spiritual heir of the great oratorical tradition bequeathed us by Daniel Webster, John C. Calhoun, and Henry Clay.

Each of us can recall occasions over the last two decades when we have been enthralled by Senator PASTORE's skill in debate and the keeness and penetration of his mind as he addressed some great issue of our time.

It has always been interesting and instructive to observe him in action as he strips some complicated issue to its barest essentials and carries the Senate with him.

Senator PASTORE has many legislative accomplishments.

He was the author of the resolution that led to the Nuclear Proliferation Treaty, and he led the fight for its ratification.

As a delegate to United Nations, he assisted in drafting the resolution that established the International Atomic Energy Agency.

He also led the successful floor fight for the ratification of the Nuclear Test Ban Treaty.

As chairman of the Communications Subcommittee of the Senate Committee on Commerce since 1955, he has been responsible for much of the basic legislation governing the development of radio and television and was truly the father of public television in this country.

In this position, he was among the first to alert the American people to the dire consequences of televised violence—a stand that has been vindicated by recent research.

But it is as a member of the Senate Committee on Appropriations since 1957—as chairman of its Subcommittee on State, Justice, Commerce, and the Judiciary; and as a member of the Subcommittee on Defense—that I have learned to know Senator PASTORE best for the vital and vigorous Senator that he is, to appreciate his dedication and ability and to value his friendship.

He has been one of the committee's "work horses," well known for his prodigious labors on all his committee assignments. As a member of the Subcommittee on Defense, he has worked to make and keep our defense posture a strong and effective deterrent to war.

JOHN PASTORE will be sorely missed by all of his colleagues here and by all who have admiringly and approvingly followed his illustrious career.

Mrs. McClellan joins with me in expressing our deep regrets upon his decision to leave the U.S. Senate, and we both wish JOHN and his gracious wife, Elena, many, many years of continued happiness following his retirement.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time consumed not be charged against the Senator from Wisconsin.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Frankly, Mr. President, I came to the floor to speak on the economic situation. But I cannot resist adding my words to what has been said already about JOHN PASTORE.

JOHN PASTORE and I have not always agreed on issues. I found him to be without a doubt the most effective opponent I have encountered here, and I have encountered some who have been able to knock me down consistently, but none with the force, effectiveness, and humor, I might add, of JOHN PASTORE.

We are going to miss JOHN PASTORE for many reasons. He makes this body a much more amusing, entertaining, and exciting place than it would possibly be without him.

He is a man who speaks with great eloquence and force. He also has the remarkable knack of using in a very dignified way common, understandable language so that nobody is in doubt where JOHN PASTORE stands. Sometimes we wish they would be, but we are not in doubt about that.

We are going to miss JOHN PASTORE very much not only as a great figure on the floor, but because I always felt this was a talent that was wasted. Too few people in the country realize what a remarkably able speaker Senator PASTORE is. The Nation heard him in that great keynote speech in 1964, which many people feel was the best keynote speech given in a long time by either party. But that was about it. They did not realize the great speeches he made time and time again right off the top of his head, without preparation, on the floor of the Senate. But he has not been a person who has been trying to push himself. He has not been on national television very much. While he is a national figure, highly respected nationally, he made no attempt to achieve the potential which, I think, he could have achieved.

TRIBUTE TO SENATOR JOHN PASTORE

Mr. EASTLAND. Mr. President, when my dear friend, the senior Senator from Rhode Island, announced to the Senate earlier this year that he would not offer as a candidate for reelection, there was genuine regret and sorrow throughout the Chamber. It is hard to imagine the Senate of the United States without the presence of this truly unique individual, who has been a strong and effective force for good in this body for the past 26 years.

Few men have come to the Senate better prepared for service in the legislative branch of Government than JOHN O. PASTORE. A lawyer by profession, he served successfully as a member of the General Assembly of Rhode Island, as assistant attorney general, as Lieutenant Governor and Governor of that great State. He has the distinction of being the first American of Italian descent to serve as Governor of any State and the first Italian-American to assume a seat in the U.S. Senate.

Now, some Governors who come to the Senate have some difficulty in adjusting. The chief executive of any State has at his command the entire machinery of the State government. He has the power to make instant and far-reaching decisions affecting the life of his people, and then there are perquisites and privileges of that office not available to Members of the Senate. JOHN PASTORE, however, came to the Senate in 1950 and immediately was at home here in this Chamber. He quickly mastered the rules of the Senate and in a quiet, unassuming way began his trek up the legislative ladder. He quickly earned for himself positions on the highly prestigious Appropriations Committee and the very influential Commerce Committee. Following in the tradition of his fellow New Englander, the late Senator Brien McMahon, he worked his way up to the chairmanship of the Joint Committee on Atomic Energy.

As is well known, there is no finer orator in the Senate—or in America for that matter—than JOHN PASTORE. He is slow to seek recognition—but when he does—and raises his gifted voice in the advocacy of a cause in which he deeply believes, Senators listen—and the Nation takes note. A lawyer's lawyer and a legislator's legislator—he has rendered dedicated and unselfish service to the Senate and the American people as chairman of two very important subcommittees.

JOHN PASTORE joined the Subcommittee on Broadcasting when television was still in its infancy. As chairman, he has guided the vital work of the subcommittee—and protected the public interest in the period when television has become the most influential communications medium and a dominant force in modern society.

I have had occasion to work with JOHN in his capacity as chairman of the Subcommittee on State, Justice, Commerce and Judiciary Appropriations. I have invariably found him to be just and fair in his consideration of the financial needs of the Department of Justice and the judicial branch. At the same time I have found him to be a jealous guardian of the public purse, strictly demanding of the departments under his jurisdiction an accounting of their stewardship and justification for their budget requests.

I shall not attempt further to recount the lengthy legislative accomplishments of this great and good man. When the gavel falls on the 94th Congress, JOHN PASTORE's public record will have been made. When history properly records it, that record will be an inspiration to every young man and woman in Rhode Island and the Nation who aspires to the profession of public service. Through hard work, self-sacrifice, and love and devotion to his fellow man, JOHN has earned a secure place in the history of this country, his beloved Rhode Island, and the Senate of the United States.

In his private life John has been the most fortunate of men. He has been blessed with a loving and devoted wife, three wonderful children, and six fine grandchildren. I know that his decision to seek retirement this year was prompted by the great love he has always shown for his family.

And so, as the time nears for John's return from the legislative battles to his home and family, it is a privilege for me to join my colleagues in this tribute to this gentleman of unquestioned integrity, high principles, great strength of character, and never failing loyalty.

I have the utmost respect for him as a man, and as a U.S. Senator.

Motivated by an unusual love of country and dedication to the cause of freedom, he has brought to the Senate those qualities of leadership which have earned for him the title—statesman. As a man, he is revered here among his associates as a warm, loyal, and proven friend.

When the Senate adds to the list of the six outstanding Senators of all time, whose portraits are enshrined in the Senate reception room—I have a nominee to join the illustrious company of Calhoun, Clay, Webster, Taft, and La Follette—John O. Pastore of Rhode Island.

Mr. PACKWOOD. Mr. President, it is difficult to believe that John Pastore is retiring. John Pastore has been at times a formidable adversary; but I have also had the good fortune to find him an extremely loyal ally. When John spoke in the Senate, people listened carefully. He is an engaging debater and has represented the people of Rhode Island well, which is a noble tribute to any Senator.

As a member of two major committees, Appropriations and Commerce, as well as the chairman of the Joint Committee on Atomic Energy, much of the legislation passing through these committees bears his unique mark, a concern for the well-being of his countrymen.

We in the Senate will miss him. It will be a long time before we see the likes of his energy and style. We wish him well and a productive, active retirement.

Mr. STAFFORD. Mr. President, the retirement of the senior Senator from Rhode Island (Mr. Pastore) at the end of this 94th Congress after 26 years of service will be a sad occasion.

The smallest of our States has sent to the Senate one of its biggest Members, and he shall be sorely missed.

We shall miss John Pastore's enthusiasm, his humor, his eloquence, and his dedication to causes.

I join with my colleagues in wishing John Pastore well, and also with confidence that he will find new and exciting outlets for his extraordinary talents and energies.

Mr. INOUYE. Mr. President, I rise to pay tribute to the acknowledged giant of the U.S. Senate, Senator John Pastore. This body will be much diminished by his departure. John Pastore has made his mark in innumerable ways on innumerable issues.

When you had John Pastore on your side on an issue you knew that you had far more than one vote—you had the most effective spokesman and the fiercest debater this body has seen in many a decade.

Yes, John Pastore was combative but also eloquent. He joined in debate with a relish and with an effectiveness born out of mastery of his subject as well as of the debater's skills.

This Chamber has need of the John Pastores of this world. If we can but find another we will welcome him most gladly.

I have been privileged in recent years to serve with John Pastore on both the Commerce Committee and the Appropriations Committee. From that vantage point, I have become aware of his many contributions in committee work as well as in debate on the Senate floor. He has been a fearsome foe and a valued friend—and I am proud to say that on nearly all issues he has been a friend. He will be sorely missed—missed for his work on communications matters, on appropriations, on nuclear energy, and on countless others.

Probably none of us can appreciate his influence fully. I can only say that we will become vaguely aware of John Pastore's big contributions through our sharp awareness of the tremendous void his departure will leave in the ranks of the 95th Congress. We will sorely miss you John. We are proud to have been associated with you.

Mr. GRIFFIN. Mr. President, I ask unanimous consent to have printed in the Record a statement by the Senator from Connecticut (Mr. Weicker) relating to the retirement of Senator Pastore.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR WEICKER

I wish to share a few thoughts with my colleagues on the retirement of John Pastore, the distinguished senior Senator from Rhode Island.

John Pastore is someone who has touched the hearts and minds of all of us who have had the privilege to serve with him. His oratory, his wit, and his keen intellect are just some of the outstanding characteristics of this remarkable man. For 26 years, he has brilliantly guided the members of this body through floor proceedings and debate. No matter how controversial an issue, no matter how unpopular an issue, John Pastore spoke his mind to defend the principles and ideals that made this nation great. He has brought us on many occasions, from rancor to comity, from turmoil to compromise.

His show of excellence was not limited to his actions on the Senate floor. As a member of the Commerce Committee, I have had the opportunity to witness his leadership qualities, not to mention his thorough understanding and expertise in the communications field. Throughout his long service on the Commerce Committee, John Pastore has played a major role in America.

John Pastore has served this body, this nation, with honor and distinction. His contribution to America will not be forgotten.

Mr. MOSS. Mr. President, today we pay tribute to the senior Senator from Rhode Island who has served with distinction as a member of the State legislature, the Lieutenant Governor, the Governor, and as a Member of the U.S. Senate. In 26 years, John O. Pastore has indelibly left his mark on the U.S. Senate as a distinguished public servant, a dynamic leader, an articulate spokesman, and a compassionate humanitarian.

His breadth of experience has covered the gamut from civil rights, to energy, to communications policy. He has been an important force in insuring that the Senate expeditiously handles its business.

His concern for the rights of our citizens and the freedom which is so critical to our American system can serve as a guiding light to us all.

John Pastore has served as the ranking member of the Senate Committee on Commerce since 1955 and in those almost 22 years he has served continuously as chairman of the Subcommittee on Communications. His imprint on the development of television in this country will stand for years to come.

Mr. President, John O. Pastore is a giant of the Senate in a long tradition of giants and we will miss him dearly when the 95th Congress comes about and he will not be with us.

Mr. BURDICK. Mr. President, I welcome the opportunity to pay tribute to my friend and colleague, Senator John Pastore of Rhode Island. Senator Pastore has served his State and this Nation with great distinction for 26 years. He has been a fighter for human rights during his entire lifetime and the U.S. Senate has been enriched and made more meaningful during his period of distinguished service.

John Pastore's career in politics has been described as "one of the authentic Horatio Alger stories of American politics." Those of us who have served with him in these Chambers have always realized his greatness and his ability to fight for what is right and just. We have all been enriched by his example and work on the Senate Appropriations and Commerce Committees.

I join my colleagues in extending my very best wishes to the senior Senator from Rhode Island, my good friend John Pastore.

Mr. CANNON. Mr. President, I am pleased to join my colleagues in paying respects to our retiring colleague, John Pastore.

As one who has worked closely with John Pastore on the Senate Commerce Committee, particularly on the Communications Subcommittee which he chaired since 1955, I know that his legislative expertise and concern about the integrity of the electoral process and the radio and television will be sorely missed.

Senator Pastore was one of the first lawmakers to appreciate the importance of radio and television in our society. He noted that television is the greatest single contributor to the high cost of campaigning for public office. And when the Campaign Act of 1971, now law, was being considered, he called for even stricter spending limitations for media use.

In 1967, Senator Pastore led the battle that resulted in the enactment of the Public Broadcasting Act of 1967 that created the Corporation for Public Broadcasting, the programing arm for public television and an extension of a program calling for the construction of educational television stations in the United States.

His concern with crime and violence on television has been long and continuous. JOHN PASTORE called attention to the findings of the National Commission on the Causes and Prevention of Violence that in recent years have erupted so tragically among us. He called for the industry to police itself and rejected a censorship imposed by the Government.

He rightly regards as his outstanding accomplishments during his 26 years in the Senate the work that he did to obtain ratification of the Limited Nuclear Test Ban Treaty in 1963 and the Nuclear Non-Proliferation Treaty, ratified in 1969. He drafted and sponsored a Senate resolution in 1967 which called for, and ultimately led to, the Nuclear Non-Proliferation Treaty. His floor leadership during the debate on the treaty was the key to its ratification.

The distinguished Senator from Rhode Island has left a strong, lasting, and positive mark in this body and he will be missed. I wish him and his wife, Elena a meaningful and productive retirement.

Mr. BAYH. Mr. President, today the Senate is paying tribute to one of its most distinguished Members, JOHN O. PASTORE, who has announced his retirement at the end of the 94th Congress.

Senator PASTORE has given 41 years of his life to serve the citizens of Rhode Island as a member of its general assembly, assistant attorney general, Lieutenant Governor, Governor and for the past 26 years as a Member of the U.S. Senate.

His service in the Senate has included a distinguished record as chairman of the Subcommittee on State, Justice, Commerce and the Judiciary of the Appropriations Committee and as chairman of the Subcommittee on Communications of the Commerce Committee, but perhaps his greatest mark has been in the area of atomic energy. JOHN PASTORE has led the efforts to develop peaceful uses of nuclear power as chairman of the Joint Committee on Atomic Energy. Outside of the Senate, he has served our Nation as a delegate to the 10th General Assembly of the United Nations, as Congressional Advisor to the U.S. delegation to the United Nations to help establish a new International Atomic Energy Agency and as Senate-designee to the Geneva Conferences on the Peaceful Uses of Atomic Energy in 1955, 1958, and 1961.

His considerable contributions to the development of legislation during his career in the Senate have ranged over a wide variety of interests from the effects of violence on television audiences to the nonproliferation of atomic weapons.

However, JOHN PASTORE will be fondly remembered not only for his legislation but also for his warm personal charm. He possesses one of the most distinctive gifts of oratory present in the Senate during the past 26 years and he has used this gift to courageously speak out for social, economic and political equality for all Americans. JOHN PASTORE has the uncanny ability to bore directly in on the crux of an issue and to clearly and suscinctly identify the best course of action to bring about the most benefit to our citizens.

JOHN PASTORE's humanity, courage, humor, leadership and voice will be sorely missed in the 95th Congress and all the Congresses to follow.

I have been proud to serve in the Senate with this distinguished American, will always treasure his friendship, and wish him much happiness in his retirement.

JOHN PASTORE: STATESMAN AND FRIEND

Mr. HUMPHREY. Mr. President, as the final term of our good friend and distinguished colleague, JOHN PASTORE, draws to an end we can look with great pride and gratitude to the indelible mark he has made on his fortunate colleagues in the Senate and on Americans everywhere who have benefited from his dedication and tireless efforts to make this a better country.

JOHN PASTORE's life is a prime example of complete, unreserved dedication to the public interest, an example that is to be admired and cherished. Early in life he decided on a mission of public service. It has been a long and varied mission, unbroken from the time of his election to the Rhode Island State House of Representatives in 1934, only 3 years after his admission to the Rhode Island Bar. He served in the House from 1935 until 1937, when he became Assistant Attorney General of Rhode Island. In 1939 he became a member of the Providence Charter Revision Commission, after which service he was again made assistant attorney general. In 1944, he was elected Lieutenant Governor of Rhode Island and, on October 6, 1945, he assumed the office of Governor of the Ocean State. He was elected Governor in 1946 and again in 1948. Finally, on December 19, 1950, he took office in the U.S. Senate, where he has served consecutively since.

Among JOHN PASTORE's greatest accomplishments were his pioneering efforts in promoting the development and growth of the broadcasting industry. Having assumed the chairmanship of the Communications Subcommittee in 1955, when television was still in its infancy, he has guided broadcasting legislation through such important innovations as public broadcasting and the communications satellite. At the same time he has fought with determination any foe of free speech and free enterprise. In his capacity as subcommittee chairman, JOHN PASTORE has come to understand in detail the complexities and difficult issues of the airwaves. We are indeed fortunate to have had the benefit of his in-depth knowledge of the highly influential communications industry, and Federal involvement in it.

Senator PASTORE's great accomplishments in the Senate have by no means been limited to the area of communications, however. He has also made broad, lasting and vital contributions in a variety of other areas. His efforts were instrumental in the ratification of the Nuclear Non-proliferation Treaty and the Nuclear Test Ban Treaty, landmarks in the control of nuclear power and in safeguarding the peoples of the world. On the domestic front he lead the way in election campaign reform and in fighting for the major civil rights bills of the 1950's.

Truly, JOHN PASTORE has been one of the major pioneering forces in the Senate during his career, always in the forefront in the development and promotion of new ideas. He undoubtedly deserves the accolade of a statesman of the highest stature. After 40 years of service to his State and Nation, JOHN PASTORE is more than deserving of time to rest and reflect with his family and friends. Nevertheless, we will miss his precise understanding of national issues and the zest, the spice and incisiveness which he always brings to a controversial debate. We will miss his sense of humor and, above all, the daily benefits of his friendship which have enriched our lives. He is some special man—and we who know him, love him.

Mr. President, JOHN PASTORE's record is impressive. It remains for history to calculate the full extent of his contributions. His impact has been great and his absence will be deeply felt. I join with my colleagues in wishing JOHN and Elena a most fulfilling and satisfying retirement.

Mr. CHURCH. Mr. President, when the curtain falls on the close of the 94th Congress, the Senate will be left with the loss of a number of its most distinguished Members who have decided to retire. One of the most conspicuous voids will be that of the senior Senator from Rhode Island.

Before coming to the Senate in 1950, JOHN PASTORE had a distinguished career in the Rhode Island General Assembly, as assistant attorney general, Lieutenant Governor and Governor. And as Senator, JOHN PASTORE has been at center stage during much of his Senate career. He has fought the good fights with tenacity and skill during some of the Senate's most productive years. His interests spanned the whole spectrum—nuclear proliferation; communications and broadcasting; campaign spending and disclosure; public television; civil rights; atomic energy—these are but the highlights of his distinguished career.

Perhaps his most endearing and effective trait is his debating ability. I fondly recall a day in 1964 when the Senate was to vote on the seating of Pierre Salinger as Senator from California. The entire Senate was present and impatient to vote and the galleries were packed as the drama unfolded. As I recall, the opposition to seating Salinger was based on the question of his residency in California. Well, JOHN PASTORE cut the opposition down with a devastating display of verbal skill.

And yet as a partisan he has never wavered from his basic decency, courtesy and fundamental justice toward those holding opposing views. Through his leadership in the Senate, the country has been well served. I am proud to have been associated with him during my own 20 years in the Senate, and I shall miss him a great deal. To JOHN PASTORE and his family, Bethine and I wish a long and happy life in a well-earned retirement.

JOHN PASTORE—FORCEFUL AND UNDERSTANDABLE IN SERVICE OF HIS COUNTRY

Mr. McINTYRE. Mr. President, as we draw to the conclusion of the 94th Congress we are faced with the unhappy task of saying farewell to so many of our friends for whom we have developed relationships and enormous respect and admiration through our years of joint service.

Today we are expressing our views about John Pastore of Rhode Island. This is a task which, at the same time, is easy and difficult—easy because there is no lack of things to say about this great colleague, and difficult because you know that we have only a few days left when John will be with us here in the Senate.

It is as far removed from an understatement as one can get to say that we are going to miss John Pastore.

No more colorful figure has graced this body in recent history. His entrance into debate has always been the moment when we begin to feel electricity here on the floor. For one thing, John needs no mechanical device to be heard. I have always believed we could hear John because he knew the subject under debate and, therefore, was not reluctant to speak out.

There is a gentleman by the name of Boren who heads a tongue-in-cheek society of bureaucrats. The motto of Mr. Boren's society is: "When in doubt, mumble." John Pastore can never belong to Mr. Boren's society.

But, seriously, John Pastore always comes directly to the point and few Members of this body have the ability to sum up complex issues we face in such terse, and understandable, language. I can say that I personally have benefited so many times by the chance to listen to John in debate before having to cast my vote. It seems sometimes that some proponents or opponents of legislation want to obfuscate the issues and hope that in the confusion they will influence a vote to their side of an argument. This was not a device employed by John Pastore and the Senate has been a better place because of it.

John has left his mark on our Nation. He has fought hard to help meet the needs of his State and the Northeast region of our Nation.

And on the national level, he is Mr. Atomic Energy; he has led efforts to try to bring sense to the communications industry; he has carried major responsibility for the well-being of the State, Justice, Commerce and Judiciary branches of our country as a ranking member of the Appropriations Committee.

John Pastore always seems so young, full of energy, and in love with life that it is hard to remember that only six other Members of the Senate have served longer than he and that John came here 26 years ago after previously having served as a member of the Rhode Island General Assembly, an assistant attorney general, the Lieutenant Governor and finally Governor of his home State.

Certainly, John and his lovely wife Elena deserve some time to themselves to enjoy life, visit with their children and grandchildren, and to recall with considerable satisfaction the great contributions made during a full life.

I join my colleagues in sending all the best to John and Elena.

Mr. HATHAWAY. Mr. President, the long and illustrious public career of one of New England's most articulate public officials will close in January. My friend and colleague, John Pastore, has devoted the last 26 years of his public service career to this Chamber; but he had been involved in public life since 1934, when he first won election to the Rhode Island General Assembly.

Since that first election, John O. Pastore has been a powerful and persuasive influence first of all in the State of Rhode Island, where he served as Governor from 1945 to 1950, and now in this Chamber. Here he has not only made his mark in the areas of communications and nuclear energy, but with his acerbic wit and booming voice. On more than one occasion an ongoing debate has been brought to an abrupt close when the Senator from Rhode Island obtained the floor, and dispatched the issue with a few well chosen words.

It was this same vocal and emotional energy which brought thousands of dozing Democrats to their feet during the 1964 Democratic Convention. It was rumored, and I suspect this is true, that even the television audience came to for this fiery and eloquent speaker.

John Pastore speaks in the Senate, in his office, and in his home State with the same verve; always passionate, always in focus. It was this passion that evoked such a response during the 1964 convention when he was the convention's keynote speaker. Applause and cheers interrupted his speech at least 53 times.

His speeches in this Chamber have on many an occasion, deserved the same sort of accolade the Nation and the Democratic conferees gave him that night.

One of the accomplishments which could have been rewarded with applause is the ratification of the Limited Nuclear Test Ban Treaty in 1963. In 1967, he drafted and sponsored a Senate resolution which called for, and ultimately led to, the Nuclear Non-Proliferation Treaty. Extensive hearings on both treaties were held by Senator Pastore, and his floor leadership was instrumental in the ratification of the two treaties.

As chairman of the Joint Committee on Atomic Energy, Senator Pastore is one of the world's experts on nuclear weapons security, and last year personally briefed the President on this subject.

In 1974, Senator Pastore sponsored and obtained passage of a bill which, in essence, gives Congress the right to veto a proposed nuclear agreement with a foreign country.

My New England colleague has also been responsible for many major reforms of the broadcast industry. As chairman of the Commerce Committee's Communications Subcommittee since 1955, he has played a leading role in formulating specific policies and drafting landmark legislation. The rapid growth of television, and of FM broadcasting, has been done under legislation that has the unmistakable mark of John Pastore on it.

In 1971, Pastore guided through the Senate the first campaign spending and disclosure reform in 50 years. The bill limited the amounts that candidates for Federal office could spend on radio, television and other forms of advertising. It did not become law because of a veto, but the next year an even stronger law was written, and in the face of another veto, was tacked onto the President's tax program, and signed into law. It was the first reform of election laws since the Federal Corrupt Practices Act of 1925.

The rapid growth of educational television has been a result of Senator Pastore's keen pen, and perceptive mind. He wrote the bills for both educational television and the Public Broadcasting System, and he led the campaigns on Capitol Hill beginning in 1957 that resulted in the Educational Television Facilities Act in 1962, and the Public Broadcasting Act of 1967.

Nuclear security, communications civil rights, public housing, economic development, job opportunities—the list of interests and accomplishments of the Senator from Rhode Island goes on and on. The most amazing facet of his career in the Senate is his effectiveness in each of his areas of interest.

Much of that effectiveness can be due to his hard work; as most of us know if we are going to get into an argument with John Pastore, we had better have done our homework. But a lot of John Pastore's success can be attributed to the near universal respect he has from his colleagues. Because John and I share a geographic constituency, it is natural that our similar issues evoke in us a close bond. I am proud of that similarity.

The bond with Members who do not share constituencies comes from a recognition of talent, an appreciation of honesty, and a respect for the integrity of the Italian-American from Rhode Island. John Pastore has done much for his State, and much for the Nation, during his years of service here.

John, good luck, and thank you for what you have done, and for the legacy of achievement you are leaving behind.

Mr. LAXALT. Mr. President, a number of years ago Jimmy Dean, then known more for his singing than his pork sausages, cut a record entitled "Big John." As my colleagues may recall, Big John the miner "stood 6 foot 6 and weighed 245." John Pastore is, in a physical sense somewhat short of those dimensions, but in his stature as a U.S. Senator, he has truly been Big John. And, I might add, those who have withered under his oratorical fire, may say Big Bad John.

The U.S. Senate has never suffered from a shortage of orators, but surely, John Pastore must figure among that small number of masters whose names and voices will forever echo in these Chambers. Had Shakespeare ever penned a drama of our proceedings, most certainly, John Pastore would have played a leading role.

However, eloquence, in and of itself, may be but a flimsy shield. The more important quality must be a rapier-like mind to penetrate the heart of an issue and to cut away the appendages which sometimes obscure our vision. Here too, we have benefited from John Pastore's keen and incisive mind which, on so many occasions, has pointed the way to reason and solution.

In wielding these skills, the senior Senator from Rhode Island has left a formidable legislative record. Perhaps his paramount achievements have been in an area vital to every creature on this good Earth, in making war and nuclear holocaust less likely. Senator Pastore played a key role in ratifying the Nuclear Test Ban Treaty and in drafting and sponsoring the Senate resolution in 1967 which called for, and ultimately led to, the Nuclear Non-Proliferation Treaty. The indelible mark of John Pastore is imprinted on numerous other areas including radio and television broadcasting, the establishment of educational television, space communications and campaign spending and disclosure reform.

Through all of these trials and accomplishments, Senator Pastore has retained that one quality which none of us can afford to be without, a hearty sense of humor. I recall his comment following a recent, characteristically rollicking exchange with the distinguished senior Senator from Texas:

> But I want to say one thing about him. There is one reason why I have tremendous admiration and affection for him. I can see eyeball to eyeball with him, because neither one of us has to look either down or up at the other.

Mr. President, those of us like myself who have had the privilege to serve with him for but a short time, I am certain, are grateful for and will long remember this paragon of senatorial excellence.

Mr. CRANSTON. Mr. President, we pay tribute today to a colleague who—in the truest sense of the phrase—will be sorely missed.

John Pastore's legislative record, especially in the fields of broadcast communications and atomic energy, is without peer. With apparently unlimited energy throughout his 26 years in this body, John Pastore has directed his concern and creativity to improving this Nation's broadcast communications system, to limiting worldwide nuclear proliferation for both peaceful and military purposes, to political and campaign reform, to the great civil rights battles—the list is endless.

But it is not just for his outstanding legislative accomplishments that John Pastore will be remembered or missed.

John Pastore has been deeply committed to his work here. He loves the Senate as an institution—and often has expressed that love with a marvelous exasperation with his colleagues' inability to see as keenly or to understand as quickly as he could the intricacies of legislative debate.

His ferocious good humor and his superb oratorical ability have innumerable times brought clarity to a muddied debate, and put the Senate back on the track toward resolution of an issue. It made no difference on which side John argued—he just wanted to remind his colleagues what their purpose as Senators was and how they were not accomplishing it.

The Senate will be less brilliant and much less fun without him.

Mr. BENTSEN. Mr. President, I join with my colleagues today in tribute to the senior Senator from Rhode Island.

Senator Pastore is a man of great warmth and compassion, a man of impeccable integrity, a man whose eloquence and great, booming voice combine to qualify him to stand alongside the giants of oratory who have served in this body: alongside such men as Clay, Calhoun and Webster; LaFollette, Norris, and Douglas.

I am reminded of a letter John Adams wrote on hearing Daniel Webster speak. Mr. Adams wrote:

> This oration will be read 500 years hence, with as much rapture as it was heard. It ought to be read at the end of every century, and indeed at the end of every year, forever and ever.

Mr. President, even today, we remain in awe of Daniel Webster's skills as an orator.

On many occasions in the 6 years I have been in the Senate I have understood how John Adams felt that day. When I enter this room and hear the voice of John Pastore filling the Chamber I call to mind the great orators of old. His passionate pleading. His pungent wit. His telling rebuttal.

And now, Mr. President, he is leaving us to return with his wife, Elena, to their home in Rhode Island. After 26 years in the Senate, and far more years than that in service to his State and his Nation, John Pastore is returning to private life.

We will miss him. We will miss his companionship and his dedication and his ability as a legislator and, above all, will miss his great skills as a speaker whose eloquence and rhetorical thrusts are both compelling and effective.

Mr. President, I wish for my distinguished colleague from Rhode Island and his wife happines and fulfillment in the years that lie ahead.

Mr. PHILIP A. HART. Mr. President, it is considered polite when noting the upcoming retirement of a colleague to assure him that you never will forget him. With the senior Senator from Rhode Island (Mr. Pastore), I would feel secure in assuring him that no Member of this body ever will forget him.

John Pastore has added more color to the Senate over the years he has served here than almost any other man. His speaking style, his clear-cut thinking process and his dedication to the things he believes deeply in already are a legend.

Perhaps one of the most explicit memories for each of us will be of John Pastore standing up on the Senate floor and breaking a legislative logjam with either his special sense of humor or his knack for cutting through the rhetoric and exposing the real problem.

It is with the utmost sincerity and respect that I bid him a happy retirement filled with contentment with the Italian: Che possa dormire fra due guanciali.

Mr. MATHIAS. Mr. President, when the distinguished senior Senator from Rhode Island, John Pastore, was the Governor of Rhode Island, my wife's father, Robert Bradford was Governor of the Commonwealth of Massachusetts. These two great Governors decided it would be fitting if they were jointly to dedicate a dam, constructed within the Commonwealth of Massachusetts close to the border with Rhode Island, which would benefit both States.

Plans for the ceremony proceeded smoothly until someone turned up a 17th century law, still on the books in Massachusetts, that made it illegal for any Rhode Islander to enter the Commonwealth. Governor Bradford hastily proposed a bill to repeal the offending law, enabling Governor Pastore to perform his part in the joint ceremony without committing a crime.

Just as Gov. John Pastore opened the door to Massachusetts for his fellow Rhode Islanders, so Senator John Pastore has been opening doors for his fellow countrymen ever since he entered public life. He has opened doors of opportunity for his fellow man in the legislation he has initiated and supported. He has opened doors of opportunity for his fellow Italian Americans by his example and his leadership. And, with his brilliant oratory and incisive intellect, he has opened doors in the minds of his colleagues in this body.

John Pastore presided over the opening of the age of television and he has fought a vigorous and sustained battle to prevent television from becoming the Pandora's box of the 20th century. He would be the first to admit that television is still a very mixed blessing, but the extent to which it is a blessing at all is due in a significant way to the restraining influence of John Pastore.

Finally, Senator Pastore, in his 26 years in this Chamber, has contributed substantially to the work of this body. His brilliant legislative record and the many devoted friends he will leave here when he retires, stand as the measure of a remarkable man and fine Senator.

Mr. SYMINGTON. Mr. President, it has been my privilege to have John Pastore as a cherished friend for over 30 years. During 24 of those years I have been his colleague in the Senate.

As much as anyone it has been my privilege to know, John Pastore is my idea of a Senator's Senator. With his superb mind, his extraordinary capacity for plain hard work, his ability to get quickly to the heart of the subject, and above all his spotless integrity, he has earned the respect and admiration of us all.

When I first knew John he was Governor of Rhode Island. How wise the people of that great State have been in lending him to the citizens of this Nation, because his logic and capacity for expression have been characteristic of many outstanding pieces of legislation that either bear his name or the imprint of his thinking.

For many years all of us have known that at times activities in the Senate were based on the plane schedules to Rhode Island. No one ever lived who was more devoted to his family, his gracious wife Elena and his three outstanding children. John's decision to leave will benefit them, but sadden those who know of his devotion to his country and his concept of public service.

May he continue to have health and all happiness in the years to come.

Mr. PEARSON. Mr. President, I would like a moment to pay tribute to a fine and noble colleague—JOHN PASTORE.

Though I have served under Chairman PASTORE on the Joint Committee on Atomic Energy for only a brief time, I have witnessed the care and concern with which he approaches this committee's awesome responsibilities. The precision with which he conducts the committee's business is tempered always with an equitable and solicitous regard for contesting points of view. And, though deliberative, JOHN PASTORE is decisive and effective.

His leadership in the field of nuclear power policy spans two decades. In 1955, as a delegate to the United Nations, Senator PASTORE helped draft the U.S. resolution which first sponsored the International Atomic Energy Agency. Nuclear proliferation has been a repeated center of concern for him. He worked hard to obtain U.S. ratification of the Limited Nuclear Test Ban Treaty in 1968 and later the Nuclear Non-Proliferation Treaty, which he helped father through his work in this body. More recently, he has taken the initiative to insure that American nuclear weapons abroad are secure. He sponsored and obtained passage of legislation which provides essential congressional involvement during the consideration of nuclear agreements with foreign countries.

These accomplishments alone make for a praiseworthy Senate career, but Senator PASTORE's achievements in atomic energy are equalled by his contributions to the development of our Nation's communications systems. There has been no major legislation in the past 20 years regarding radio and television broadcasting that has not borne JOHN PASTORE's mark. He has played a leading role in the Senate in formulating significant policies and drafting landmark legislation that have brought to the people of this country the best communications system in the world. In 1967, his efforts resulted in the enactment of the Public Broadcasting Act that created the Corporation for Public Broadcasting. And without his work, satellite communications might still be a fledgling operation.

Mr. President, Senator PASTORE's legislative record is not limited even to these abundant accomplishments. His work on campaign spending and disclosure legislation led to the first workable reforms in 50 years. His work on the Appropriations Committee helped assure proper funding for poverty programs and civil rights enforcement.

Mr. President, I will not take further time from other Members who want to add their voices to the chorus who will pay tribute to our retiring friend. Each of us understandably wishes to recount the course of JOHN's distinguished service in this body. But, I do ask for 1 additional minute to acknowledge yet another fine aspect of JOHN PASTORE's character.

Mr. President, in a lifetime of public service, JOHN PASTORE has always taken time for his family. In the midst of querulous and unproductive debate late in the evening recently, we were heartened by JOHN's sincere plea that we suspend long enough to be replenished by a respite with our families. It was typical of his concern for his familial responsibilities. Surely this dedication to his family has enhanced his uncompromising public service.

Mr. President, when the 95th Congress is convened, JOHN PASTORE will not be among its ranks. We will all have to work much harder to overcome that disadvantage.

Mr. HASKELL. Mr. President, JOHN PASTORE has contributed greatly to the building of our Nation. His 16 years in State government and 26 years in the Senate constitute a distinguished career of commitment toward meeting this country's needs.

His work in fulfilling the dream of equal civil rights, his efforts to insure the world from nuclear holocaust and his unrelenting desire to provide an equitable and efficient communications system merits the commendation and admiration of us all.

From humble beginnings as a tailor's son, JOHN PASTORE has followed the path of the pioneer. He was the first person of Italian ancestry to be elected a Governor of any State and the first Italian-American to serve in the U.S. Senate. He was a forger of innovative and necessary controversial legislation. Having attained the seat of floor manager, his energy and pioneer spirit, along with his rich and august oratory, more often than not, garnered the requisite support for legislation—from both sides of the aisle.

Above all, JOHN PASTORE is a leader, whether in service of his State or the Nation. He has, in a selfless manner, dedicated his life to the legislative process, so that Americans might view their Government as a positive force for change. It is with these thoughts in mind that I convey my deepest gratitude and respect for his unwavering devotion to the American people. The Senate will surely miss JOHN PASTORE.

Mr. KENNEDY. Mr. President, I wish to join my Senate colleagues in paying tribute and bidding fond farewell to the esteemed senior Senator from Rhode Island and my good friend, JOHN PASTORE. We say goodbye to this respected leader of the Senate with sadness in our hearts, for our lives have been truly enriched by knowing and working with him throughout his illustrious career in the U.S. Senate.

The State of Rhode Island may be the smallest in the Union, but the voice of her senior Senator has rung loud and clear in the Senate Chamber for the past 26 years. A master of debate and an orator in the classic style, JOHN PASTORE commands our undivided attention and our deep respect whenever he rises to address his colleagues. As chairman of the Senate Commerce Committee's Communication's Subcommittee, Senator PASTORE is one of the most influential men on the Hill on matters relating to the media. The Congress and the Nation are indebted to Rhode Island's senior Senator for his outstanding leadership in this area and in guiding our country toward a wise and responsible communications policy. We also praise his brilliant achievement on reform of campaign financing. Primarily through his leadership in 1971, Congress adopted the basic principle of public financing of Presidential elections, which has done so much to take the national elections off the auction block and restore them to the people. Finally, as a member of the New England delegation, I and the people of Massachusetts have benefitted continually from the leadership and cooperation of Senator PASTORE on countless matters affecting our economy and our energy resources.

With his retirement from the U.S. Senate, JOHN PASTORE brings to a conclusion many years of service to the people of his beloved Rhode Island, whom he has served with distinction as a member of the State Legislature, as assistant attorney general, as lieutenant governor and Governor, and finally, his long and distinguished career as U.S. Senator.

I salute an outstanding public servant, a great orator, an illustrious Senator, and a wonderful friend.

Mr. FANNIN. Mr. President, unfortunately Senator JOHN PASTORE is retiring from more than 26 years of outstanding service in the Senate. During these years he has shown himself to be one of the most persuasive and compelling speakers of our time and an orator with style. As my colleagues well know, when JOHN PASTORE speaks, people listen with anticipation. Witness his keynote address to the Democratic National Convention in Atlantic City in 1964. It was widely hailed as being an exceptional piece of oratory, and still talked about for his magnificent presentation.

JOHN PASTORE typifies the American success story. Born in Providence, R.I., the son of Michele and Erminia Pastore. His father was an immigrant tailor from Naples who died when JOHN was 9 years old. A top scholar, he worked his way through school while at the same time supporting his family. After working days and attending law school at night he became a prominent lawyer and then a member of the Rhode Island General Assembly. He went on to become first Lieutenant Governor; then Governor of Rhode Island, and finally, a very outstanding Senator. All this he did on his own.

In the Senate his accomplishments have been many including being a leader in researching the effects of television violence on television viewers. The hearing which he chaired compelled the Nation to direct its attention to the question of the impact of television violence on its young people. Certainly, his work begun 15 years ago is now bearing fruit. New evidence is revealed daily that there is a positive correlation between television violence and viewers behavior.

As a debater, JOHN PASTORE, is admired by all his colleagues. No matter how spirited or how partisan the debate on the Senate floor, JOHN, never bears any rancor. Once he leaves the floor, he can always be counted on for a smile, a wink, a nod and a few samples of his famous wit. He will be sorely missed.

Mr. HOLLINGS. Mr. President, when JOHN PASTORE leaves the Senate, part of the Senate will be leaving us. In all the annals of this Chamber, no man has done more to improve both the substance and the image of the U.S. Senate.

When I think of John Pastore, I think of his unmatched ability to penetrate the fog and the smog and to get right to the heart of a matter. Nobody recognizes sham faster than our good friend from Rhode Island, and no man unmasks it so effectively.

I think of his almost legendary capacity in debate. He can marshal his arguments instantaneously, and, as we all know, he can present them as an orator without peer. The echoes of his voice have many times helped lead the Senate out of confusion and chaos.

I think of his unswerving dedication to do what is good and right. His service in the Senate can aptly be described as selfless, and the words "public servant" sum up what holding office means to John Pastore.

And I think of the good humor and comradeship I have been privileged to share during my years of service with him. Some men make the Senate more effective. Some make it more enjoyable. Rarely does one man contribute so much to both these ends. Sometimes we take ourselves just a little too seriously, and then it is doubly refreshing to have the kind of down-to-earth approach which John Pastore possesses.

Forty-two years of public service have earned him the best retirement a man can have. In the company of his wonderful wife, his family and his friends, I know John will find the kind of reward and enjoyment that flows from having been not just a devoted public servant, but a good and just man. May our paths cross many times in the years ahead.

Mr. LONG. Mr. President, the Senate loses more than a great Senator when John Pastore departs. It loses an institution. For many years we have been able to rely upon John Pastore to give life to a dry-as-dust debate or to add a human touch of reality to a debate which has lost its meaning.

Always acutely aware of the hopes, the dreams, as well as the needs of people, John Pastore has pointed us constantly toward the goal of a better life for all people. The son of an Italian immigrant, he has never permitted us to forget what it was that brought all of our forebears to America.

It has been my privilege to work with John Pastore in seeking to provide better security for Americans in old age, protection of families from poverty, care of those unable to care fully for themselves.

It was my feeling in 1966 that we should take the Presidency of the United States beyond the power of private campaign contributions to influence it substantially. I managed to push to enactment the $1 check-off system, only to see that proposal rendered ineffectual during the following year.
reenact and improve upon that measure,

Several years later, we were able to together with a number of other provisions to improve the election process, thanks to an amendment offered by John Pastore to a revenue bill which I was privileged to manage.

That was one of the significant debates of the last decade, and it was one of the most far-sighted decisions of American Government. It marked the beginning of public financing of Federal elections. It will result in a drastic reduction in the power of private money to control or influence the decisions of Government.

John Pastore is more than an effective legislator and more than a polished speaker; he is a man of integrity, a man of reason, and, a man of thought. Yes, he speaks well; but he thinks even better.

I have been fortunate to serve with him for many years on the Senate Commerce Committee where I have observed first hand his grasp of extremely complicated legislation. He has impressed us time and time again.

His legislative record is outstanding. He has been a leader in writing some of our most important laws in the past quarter century.

They include the Nuclear Nonproliferation Treaty, the establishment of the International Atomic Energy Agency, the ratification of the Nuclear Test Ban Treaty and the enactment of the first campaign spending and disclosure reform law in 50 years.

His achievements in the fields of atomic energy and communications are unsurpassed. As chairman of the Communications Subcommittee since 1955 he has played the leading role in all major legislation affecting radio and television broadcasting.

His distinguished legislative record is his legacy to all Americans. His dedication to his country has left its mark.

Mr. President, I join with my colleagues in wishing John Pastore all of God's blessings and much success when he leaves us. I want him to know I will miss him greatly.

RESPONSE BY SENATOR PASTORE TO TRIBUTES IN HIS BEHALF

Mr. PASTORE. Mr. President, will the Senator from Alabama, my good friend, yield?

Mr. ALLEN. I yield.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PASTORE. Mr. President, I rise with a heart full of gratitude for the nice things that have been said about me in this forum here this morning.

I must say that I owe a lot of things to many people.

I thank the people at the desk for the many courtesies shown to me. I thank the members of my staff and the staff of people on the various committees who work with me. They have all been generous with their time and with their patience.

Jim Allen, my dear friend, brought out the fact that I lost my Dad when I was 9 years old, and to understand me and to understand what motivates me you must understand my background and my beginnings because no matter how much we try and no matter how much we live we cannot separate ourselves from the lessons that we have learned from the very beginning of our lives.

I was born on the third floor rear of a six-family house. It has been characterized here as the Little Italy part of the city of Providence.

We were a very poor family but a very happy family. We wanted for nothing more than what we had, and we said our prayers every time we partook of the litlte bit that we did have.

We learned to respect our elders. We learned to abide by the law. And we were taught from the very beginning that if you work hard enough and long enough your dreams can come true.

I began work when I was 9 years old. I was an errand boy for a clothing store during the time I was in grammar school. I kicked a foot press in a jewelry shop every day I went to Classical High School.

When I graduated from Classical High School, I was admitted to two prestigious Ivy League colleges. I could not go. My family needed my paycheck. My mother was a widow at 31 years of age, with five children. I cried myself to sleep when I graduated from high school because I could not go to college.

However, this being America, I heard that they were giving law classes at the YMCA, under the auspices of Northeastern University. I applied; I was accepted. And while my friends went to dances and on dates, I studied. Forty took the bar examination, only 10 passed, and I was among the 10 that passed. From then on, my life is a public record.

My State has been kind to me. They have showered upon me every gift within their power to give. I took office on January 1, 1935, and I have been in office continuously since then—for 42 years. They bestowed upon me the highest gifts within the power of my people to bestow on any citizen—the governorship. They elected me to the governorship for three times. They sent me back to the Senate of the United States for 26 years.

I love the Senate. I admonish my colleagues: Whatever you do, keep that torch of opportunity lighted. Protect that flag. Maintain our institutions. Debate your differences if you have them. But always realize what that insignia says, "E pluribus unum"—from the many there shall be one. That decision must always be one objective.

The phenomenon in the Senate lies in the fact that the best friendships you cultivate are not developed wholly on one side or wholly on the other side. Among my best friends—some of the friendships that I will cherish as long as I have a breath of life in my body—are some of my Republican colleagues.

Everyone has been good to me. The Lord has been very kind. It has been pointed out here time and time again that I have a lovely family. I am proud of them all. And I am going home. I am going home to enjoy with my family whatever is left of my life.

Gentlemen, I shall remember you as long as I live. Thank you.

(Applause, Senators rising.)

ORDER TO PRINT AS A SENATE DOCUMENT TRIBUTES TO SENATOR JOHN O. PASTORE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all Senators may have 10 days in which to insert their remarks in tribute to Senator Pastore in the Record, and I ask unanimous consent that the Record may be printed as a bound volume and as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, may we have the order for Mr. Muskie now?

The PRESIDING OFFICER. The Senator from Maine (Mr. Muskie) is recognized for not to exceed 10 minutes.

CONGRESS: A SUMMARY OF FISCAL DISCIPLINE AND ECONOMIC RESPONSIBILITY

Mr. MUSKIE. Mr. President, President Ford, on a recent "Today Show," told the American people that he was afraid to leave Washington while Congress was in session. He said it was his responsibility to "be in the Nation's Capital to make sure that the Congress doesn't go off the deep end."

May I reassure both President Ford and the American people that they need not be afraid of the 94th Congress. It has demonstrated that it is fiscally disciplined and that it can manage economic policy.

I remind President Ford that Congress now has a budget process, that we set our own spending limits, and that we live within them. The Congress will monitor and control its own budget. Spending and the deficit in fiscal 1976 were less than Congress had budgeted for itself a year and a half ago. Our second concurrent resolution passed just last week for fiscal 1977, reduced the targets for spending and the deficit that we have set this spring. I ask unanimous consent that a table showing the 94th Congress record of adhering to its budget targets be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MUSKIE. Moreover, Mr. President, Congress does not need help from the President's vetoes to stick to its targets. Sustained vetoes did reduce fiscal 1976 outlays by $4 billion. But $2.4 billion of that was for jobs—a top congressional priority which was fully accommodated within our budget. I ask unanimous consent that a memorandum concerning the effect of the Presidential vetoes be also printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. MUSKIE. Mr. President, the 94th Congress also demonstrated that it had a better understanding than the administration of the economic problems facing the country in the last 2 years. The fiscal and energy policies proposed by the administration were dangerous and inappropriate to the situation we faced during the last 2 years. It was Congress, not the administrations, that put this country on the road to economic recovery.

The Congress wisely rejected the administration's proposed tax increase offered in the fall of 1974 while the Nation was in the midst of its worst postwar recession. The Congress wisely rejected the administration's proposed drastic increase in energy prices, offered in the winter of 1975 when the Nation had just gotten through the most inflation-ridden year in recent history. And the Congress wisely rejected the administration's plan to allow unemployment to remain at terribly high levels for an intolerably long period.

Congressional economic policy in fiscal 1976 deserves the credit for the current recovery and lower inflation rates. The important elements of Congress policies vis-a-vis those of the President in the last fiscal year were:

First. Rejection of drastic cutbacks in social security and other programs that protect the old and poor from the worst effect of recession and inflation;

Second. More spending for countercyclical and jobs programs;

Third. Larger and more permanent tax reductions than the President had originally proposed; and

Fourth. An energy policy that did not do further damage to an already weakened economy.

I ask unanimous consent that a longer statement documenting the congressional responsibility for the economic recovery in fiscal 1976 also be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. MUSKIE. Mr. President, the congressional budget for fiscal 1977 is designed to continue the less inflationary economic recovery that we enjoyed during fiscal 1976. If the goals are met, they will be a second step on the long road back to full employment and reasonably stable prices.

The Congress provided more money for temporary job-creating programs than the administration proposed. It also avoided a large increase in social security taxes and trimmed back the President's request for a large increase in the unemployment insurance taxes. These taxes are inflationary because they add to employers' costs, and they also discourage employment. If the congressional budget is fully enacted, it will both provide more jobs and less inflation than the President proposed. Partially because of our success with tax reform, our deficit is only $3 billion greater than the President's, a difference entirely accounted for by job-creating programs.

The report accompanying our second concurrent resolution directed Congress' and the Nation's attention to goals from 1980 and 1981. The time perspective of the Congress must be extended if we are ever to succeed in balancing the budget.

We estimate that if economic recovery continues as planned, there will be a fiscal margin of $30 billion by fiscal 1980 and $50 billion by fiscal 1981. This is a considerable sum, but it can easily be absorbed by new programs and/or tax cuts along the way. The margin can also be increased by reducing or at least slowing the projected increase in existing programs. This year, for example, the Congress cut $9 billion from the current services budget. If we continue to be that successful, the margin will be significantly greater by 1980 and 1981.

In this context, I want to point out that much of the fiscal margin projected for the beginning of the next decade has already been spoken for. Either party's platform already lays claim to a substantial part of the margin estimated for 1981.

I ask unanimous consent that a memorandum be printed at the end of my remarks which shows that the Democratic platform would require $40 billion and the Republican platform $50 billion by 1981. I submit this analysis in an effort to combat the wildly exaggerated and misleading claims made yesterday by the Republican House leadership about the Democratic platform. I also ask unanimous consent that a memorandum analyzing those remarkable claims be printed at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 4 and 5.)

Mr. MUSKIE. Mr. President, the estimates I submit today are very approximate because platforms are subject to interpretation. The numbers are based on a series of reasonable assumptions which could, of course, be altered. Moreover, both candidates are redefining their respective platforms. Governor Carter has promised to phase in the Democratic programs so that the budget can be balanced in his first term. President Ford, "in his speech at Michigan last week, restricted the catastrophic health insurance programs promised in the Republican platform only to those on medicare.

Despite these modifications, the essential point remains valid. The budget margin for fiscal 1981 is already spoken for, and the evidence suggests that the congressional budget process is capable of holding either administration to its discipline irrespective of who will be President next year.

The major difference between the two parties is not in the magnitude of their promises—the cost is probably about the same—but, rather, to whom the promises are made. The Democratic platform pledges welfare reform, national health insurance, and equalizing education support among communities. These are promises to lighten the load on working class Americans and on State and local governments. The Republican platform promises to lower the taxes on corporate profits and dividends. The difference between the parties has not changed. The Democrats believe in helping the average American, the Republicans in "trickle-down" economics.

Clearly, the next Congress will have to look at the promises and the fiscal resources that will be available if we are to balance the budget before the

Presidential election of 1980 and achieve a spendable dividend thereafter.

The next Congress will also have to remember the lessons learned in the last 2 years if it is to be an equal partner with the President in setting national priorities.

We will have to remember the relationship between economic recovery and the budget. Fiscal and monetary policy must support a continuing economic recovery; otherwise, the budget will not be balanced no matter how hard we try. The Congress must also refrain from actions that directly increase costs or prices, such as abruptly raising energy prices or payroll taxes. We must recognize the tradeoff between unemployment and income maintenance, as the new CETA bill does by targeting public sector jobs on heads of needy households. We must look for fiscal stimulus programs that disappear automatically when recovery is obtained, such as countercyclical revenue sharing. The Congress must also extend its time perspective, beyond the next year or two, when it evaluates spending or tax legislation, or we will mortgage the 1981 fiscal dividend many times over.

The next Congress and the next administration will face a complicated set of problems. We will have to be more successful than anyone has ever been before if we are to prolong the economic recovery until full employment is regained. We will have to find structural policies that will reconcile full employment with less inflation.

If the country is to achieve these goals, the budget process will have to continue to improve. We are only begininng to learn how to balance priorities among the 16 budget functions. The relation between the Federal sector and the other sectors of the economy is yet to be adequately explored. Connections between defense policy, international economics, and foreign policy are not well understood. The art of long-range planning remains to be mastered.

The Congress was successful with its new budget process during the Nation's worst recession since the 1930's. The economic recovery is as healthy as it is because Congress rejected the fiscal and energy policies of the administration and substituted its own. It was not a victory for the Congress or the Democratic Party, but a battle that the country has won.

EXHIBIT 1

During the past two years, Congress has amply demonstrated its ability to set budget targets and stick to them. In fiscal 1976—the first year of the Congressional budget process—the Federal government actually ended up with more revenues, less spending, and a lower deficit than the targets established by Congress in May 1975. We are now about to enter fiscal 1977 and the prospects are equally bright. The Congress has just completed action on the Second Budget Resolution for fiscal 1977 which sets a revenue floor equal to and a spending ceiling lower than the targets established last May. The result is a deficit lower than predicted last spring. The pertinent numbers are as follows:

[In billions of dollars]

	Revenues	Outlays	Deficit
Fiscal year 1976:			
First budget resolution target (May 1975)	298.2	367.0	68.8
Preliminary actual	299.2	364.8	65.6
Fiscal year 1977:			
First budget resolution target (May 1976)	362.5	413.3	50.8
Second budget resolution floor/ceiling (September 1976)	362.5	413.1	50.6

EXHIBIT 2

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, D.C.

MEMORANDUM

To Senator Muskie.
From Doug Bennet.
Subject Savings from Presidential vetoes.
Date September 15, 1976.

Pursuant to your request, we have analyzed the bills vetoed by President Ford to ascertain the amount of savings that might be attributed to such vetoes.

In cases where the President vetoed a bill but the veto was subsequently overridden by the Congress, the only savings that have been assumed are those that result from the delay in time between the original date of passage and the date of the veto override. Similarly, if a veto was sustained but a portion of the vetoed total was subsequently included in another bill which was not vetoed, no savings have ben assumed other than for the delay in enactment. We understand that this approach has also been used by the Administration in making its calculations.

The Administration has used different estimates at different times for the savings attributable to Presidential vetoes. One recent table prepared by the Office of Management and Budget lists $9.2 billion in outlay savings as a result of vetoes. We have found, however, that this table includes different assumptions for different bills which renders the total meaningless. For bills that authorized a specific amount of funds, including authorizations for several years, the OMB table lists the full authorized amount as savings. For bills involving permanent increases in entitlements, the OMB table lists savings accruing from the point of the veto through fiscal year 1977. For bills that provide adjustments in entitlements for a specific time period, the OMB table lists the savings attributable to that period of time only. Thus the OMB table provides no useful information based in a consistent set of assumptions.

We understand that Budget Director James Lynn has publicly stated a savings figure of $5 billion in outlays for fiscal year 1976. It is impossible to tell whether this number is based on the table described above since no backup detail has been made public. The Lynn figure, however, was attributed to a specific time period—fiscal 1976.

Our staff has extensively analyzed the Presidential vetoes, and, based in this detailed examination, estimates outlay savings in fiscal year 1976 of $4 billion. Because we cannot obtain the backup data for the Lynn figure, it is not possible to compare our number to his. Some of the difference may be due to differing assumptions as to the likely funding of authorizations. It appears that all of the Administration figures, contrary to actual experience and practice, assume that authorizations would be fully funded, whereas we have assumed an appropriate discount in cases where full funding of authorizations would be unlikely, based on actual congressional practice.

The difference between Lynn's $5 billion figure and our $4 billion figure is not the significant issue—we know there are savings as a result of vetoes and they fall somewhere in the $4–5 billion range in fiscal 1976. That can and should be acknowledged. The significant and striking fact is the degree to which the dollar savings occur in programs that had been aimed at job creation. Within our $4 billion estimate, a minimum of $2.4 billion would have gone to provide jobs in either the public or the private sector.

It should also be noted that the above "savings" figures for jobs programs do not take account of the loss in revenues to the Federal budget or the increase in Federal unemployment compensation and welfare costs that are likely to result from the failure to provide these jobs. Perhaps as much as 30 to 40 percent of the so-called "savings" due to vetoed jobs programs may be lost through the resulting lower revenues and higher unemployment compensation and welfare costs.

EXHIBIT 3

CONGRESS AND RECOVERY

Last week the Senate passed the second concurrent resolution on the budget for fiscal year 1977. As I noted on that occasion, this was an historic event, marking the conclusion of a two-year effort to reform the federal budget process.

Today, I want to discuss fiscal policy, and especially congressional fiscal policy.

The 94th Congress did not merely modify the fiscal program of the executive branch. It fashioned and substituted a complete policy of its own making. Moreover, the policies worked. Congressional fiscal and energy policies successfully met the most serious challenge to the economy of the United States since the depression of the 1930s.

The recession put fiscal policy to a severe test in FY 1976. It is difficult now to recall just how grave the situation was only a year and a half ago: economic conditions were bad and getting worse; the expert advice was unconvincing and contradictory; the executive was in disarray and Congress had not yet demonstrated its ability to initiate a comprehensive response.

In December of 1974, the unemployment rate crossed the 7 percent mark and real GNP was falling at a 7.5 percent rate. Despite this evidence of a worsening recession, the administration was still on record for a tax increase. The nation was clamoring for a solution to the energy crisis although the memories of the previous year's gasoline lines were fading.

Congress was receiving a wide-range of conflicting advice. The chairman of the federal reserve was saying that keynesian economics no longer worked He said that efforts to stimulate the economy would have a perverse effect because the fear of inflation would frighten consumers and investors. Efforts to stimulate demand would diminish it. The secretary of the treasury agreed. He warned that fiscal stimulus would be inflationary and therefore prevent recovery. Paradoxically, he proposed an energy program that would add 3 to 5 percent to the price level.

In January, the administration submitted a budget for fiscal 1976 which was inadequate to meet the challenge of recession. The President's budget belatedly recognized the economic downturn and sought to deal simultaneously with recession, inflation and the energy problem. The President recommended that Congress cut $17 billion from ongoing social spending and add back $7 billion in energy equalization payments. A one-time $16 billion tax reduction—$12 billion in personal tax rebates and $4 billion to corporations—was the prescribed anti-recession medicine. This much fiscal stimulus—but no more—was offered out of an unjustified belief that doing more would accelerate inflation.

In December, the administration had still been talking about a balanced budget for fiscal 1976. Then, as the economic situation worsened, President Ford first acknowledged the possibility of a $45 billion deficit in his State of the Union message. Two weeks later his budget proposed a $52 billion deficit which was understated by gimmicks such as over-estimating the revenues expected from the sale of offshore oil leases. By this time, Secretary Simon was supporting a deficit of $52 billion, but warning that any further fiscal stimulation would be inflationary and "crowd out" necessary investment before fiscal 1976 was over. The Secretary also warned that a spendthrift Congress was likely to produce a deficit of $100 billion. In fact, the deficit for the fiscal year which ended on June 30 was $65.6 billion and no signs of crowding out have yet appeared.

The administration's stated energy objective was to reduce oil imports by one million barrels per day from "what they would otherwise be" by the end of 1976 and 2 million barrels per day by the end of 1977. To accomplish this, the President proposed a package of energy taxes and immediate decontrol of oil and natural gas prices.

The taxes—$2 a barrel on domestic oil, an equivalent tax on natural gas, and a $2 tariff on imported oil—were estimated to raise $35 billion in Federal revenues. The $35 billion was to be rebated in a complicated series of corporate and personal income tax reductions. These rebates were presumed to neutralize the effect of the entire energy program on the economy.

The policy ignored the impact that decontrolling energy prices would have had on the recession. Decontrol would have caused substantial additional inflation, redistributed income from consumers to the oil companies, reduced aggregate demand, and increased unemployment. Decontrol alone would have more than offset the anti-recession effect of the administration's proposed tax reduction.

Congress found both the President's economic goals and energy policies unacceptable. His budget projected high rates of unemployment and inflation throughout the decade. While cutting back on programs which gave some protection to the elderly and other disadvantaged groups. Moreover, the employment situation in early 1975 was even worse than the administration recognized. By the time fiscal 1976 began, unemployment had hit 8.9 percent. If the President's program had been adopted, 1975 would have probably ended with both double-digit unemployment and inflation rates. As it was, unemployment averaged 8.5 percent and inflation 7 percent in the last quarter of 1975. The Congress, therefore, sought an alternative.

Congress, not the President, made economic policy in fiscal 1976. Congress rejected the administration's goals, concluding that such a deep and extended recession was unnecessary. Our first priority was to return to full employment as soon as possible. Our goal was to reduce the unemployment rate to 8 percent by the end of 1975 and reduce the rate further by 1 percent annually. By this formula the unemployment rate was to fall to 6 percent by the end of 1977. This goal is still within reach although the President's vetoes have made it more difficult. Achieving these goals, instead of the President's, will add $335 billion (in 1974 prices) to national output over the 1975 to 1980 period. That is almost $5,000 per household.

On March 27, the Congress sent President Ford a tax bill to reduce 1975 taxes by $23 billion. The economy touched bottom just after that bill was signed. About $13 billion of that tax reduction was a reduction in 1975 tax rates and $10 billion was a retroactive rebate on 1974 taxes (including a rebate to recipients of social security). The $13 billion reduction was expanded to $17 billion in December when the tax cut was extended through calendar 1976. That reduction will continue through 1977 under the terms of the tax bill just passed by the Congress.

The deficit was a major issue before the Congress. How could Congress reconcile concern over the budget deficit with the necessity for fiscal stimulus? The solution was to separate the temporary deficit increases—both discretionary and automatic—from the permanent programs. The committee called for a "two-budget" strategy. It recommended policy restraint in those areas which would commit the nation to new permanent spending programs and a continuing higher deficit. It concentrated on the immediate task of fighting the recession and creating new jobs through temporary measures. This "two-budget" strategy was a sophisticated application of the full employment budget concept.

In April, the Senate passed a first concurrent resolution calling for spending of $365 billion and revenue of $298 billion. $348 billion was allocated to the fiscal base for permanent programs. The remaining $17 billion was budgeted for the built-in stabilizers, such as unemployment compensation, and a package of temporary spending programs that included public employment, countercyclical revenue sharing and public works.

This strategy and the numbers have held up well. The deficit estimate was raised to $74 billion in the second concurrent resolution passed in December 1975. But the final numbers for the fiscal year show that the deficit was $2 less than originally approved by the Senate for fiscal 1976. The President's vetoes had only a minor impact on the outcome.

The relation between this fiscal policy and the economic outcome was no accident. The Senate focused on numerical economic goals: It called for reducing unemployment below 7.5 percent and getting inflation down to 5 percent by the end of this year. The goals are being achieved with the recommended fiscal policy. The accuracy of the general economic forecast—which was made before the recovery began—is reflected in the accuracy of the revenue forecast. Clearly we cannot expect to be so accurate every year, but it was gratifying to do so well during the first year of the new congressional process.

As part of its over-all economic recovery plan, Congress rejected the administration's energy program and fashioned its own. Congress returned from its Christmas recess on January 14, 1975. By the end of January, the democratic leadership of the House and Senate had established task forces, under Senator Pastore and Congressman Wright, to produce alternatives to the President's proposed legislation.

In February, the congressional task force issued its report, "The congressional program of economic recovery and energy sufficiency" which became the framework for a congressional energy policy. We concluded that the potential short-term benefits of the administration's proposal to raise energy prices were not worth the cost.

Our energy objectives were to end U.S. vulnerability to an embargo as quickly as possible and to limit the increase in the world price of oil. Reducing U.S. imports by 2 million barrels per day would not have had much impact on these objectives because it was too small a fraction of U.S. imports and of OPEC exports.

Our emphasis was on longer range results. The report of the congressional task force called for an energy policy that would reduce import dependence "without aggravating the . . . economic crisis." Gradualism and an integration of energy and economic policies was the congressional alternative. Developing more efficient energy using equipment or new energy sources takes time and creates employment. Therefore, efforts to improve auto efficiency or insulate buildings or drill for oil were encouraged. In contrast, actions to reduce the use of existing equipment could be done quickly but would reduce employment. Therefore, rationing was undesirable but standby plans were made ready for use in the event of a second embargo. The congressional task force sought a policy of gradually increasing energy prices. Future prices are important to investors in energy production or energy-using equipment. Reducing the use of existing equipment by immediate decontrol would gain nothing of value.

The importance of the congressional energy program is often overlooked in debates over which branch of government deserves credit for the recovery with declining inflation. Yet energy policy was at least as important as the normal fiscal policy instruments of spending and taxes.

The effect of the President's program was conservatively estimated to add 2 to 3 percent to inflation in 1975. As it turned out, inflation in 1975 was 4 percentage points less than projected in the administration's fiscal 1976 budget.

While the congressional committees were shaping legislation during the summer of 1975, the full Congress and the President were having a series of confrontations on oil pricing policies. Controls were due to expire on August 31, 1975. On August 28, a six-month extension was sent to the President, who vetoed the bill on September 9, leaving the country without controls.

By this time, most observers were convinced that immediate decontrol would abort the recovery, and no one wished to be responsible for this. The President had already substantially changed his earlier position. The administration had dropped the excise taxes, was reserving removal of the tariff as a negotiating weapon, and had proposed decontrol over a 30-month period. The President vetoed congressional bills while the Congress rejected Presidential decontrol ideas. In the middle of September, a 60-day extension of controls was enacted. Finally, after a long and large House-Senate conference and a suspenseful period of veto threats, the President signed the Energy Policy and Conservation Act into law on December 22, 1975.

The result for energy pricing policies was not far from the recommendations of the congressional task forces and the budget committee. Oil prices are to be decontrolled over an extended period ending in mid-1979. The initial price rollback gave the country an inflation rate of only 3.5 percent in the first quarter of this year and kept the recovery on track.

Although natural gas pricing policy is still unresolved at this time, the chances are that the solution will be close to the task force recommendation, whether the pricing policy is achieved legislatively or through federal power commission regulation.

In summary, the important elements of Congress' policies vis-a-vis those of the President were:

(1) rejection of drastic cutbacks in social security and other programs that protect the old and poor from the worst effect of recession and inflation;

(2) more spending for countercyclical and jobs programs;

(3) larger and more permanent, tax reductions than the President had originally proposed; and

(4) an energy policy that did not do further damage to an already weakened economy.

EXHIBIT 4

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, D.C.

MEMORANDUM

For Senator MUSKIE.
From Doug Bennet.
Subject 1981 projections—the platform.
Date September 16, 1976.

In an effort to get a bearing on where the platforms of the respective parties might take the budget by 1981 we have done some cost estimates to determine possible deflections from current policy. As statements of broad policy, party platforms are necessarily difficult to cost out with precision. A great many assumptions must be supplied in the process of analysis. The resulting figures, despite an appearance of precision, can not be regarded as any better than ballpark estimates.

The overall conclusion is that both platforms are affordable without increasing the present Federal share of GNP. Neither platform pledges universal, Federally-funded national health insurance, and these figures assume that any such program would not be financed entirely through the Federal budget.

The Democratic platform can be implemented at a cost lower than the Republican platform, based on reasonable economic and program funding assumptions. The principal reason for this difference is that the Republican platform envisions very substantial new tax expenditures while the Democratic platform promises to close tax loopholes. In addition, the Republican platform would increase defense spending over current policy levels while the Democratic platform would make some savings.

While the costs of both platforms would probably be roughly the same from a budgetary point of view by 1981, the distribution of benefits would be very different. The minimum of thirty billion dollars in new tax expenditures envisioned in the Republican platform would mean substantial benefits for high-income individuals. The heavier emphasis on human resources programs in the Democratic platform and closing tax loopholes would mean a greater share of benefits for low and middle income taxpayers.

Below is a table summarizing the results of our estimates. Please remember that these are ballpark estimates. Please also remember that, particularly in the case of tax expenditures, there are inter-relationships among possible packages of programs which can substantially affect the outcome. With these caveats, here is what the two platforms might add to current policy:

Changes in current policy outlays in fiscal year 1981[1]

[In billions of dollars]

	Democrat	*Republican*
Defense and international affairs		
Physical resources and general government	0	0
Human resources	50	15
Tax expenditures	−5	30
Net addition	40	50

[1] FY 77 budget adjusted for cost of living increase, compared with CBO projections for 1981, updated in the case of human resources programs.

I am attaching memoranda detailing the basis of our estimates for the three most salient areas—Defense, Human Resources and Tax Expenditures.

Defense: Estimated proposed budgets fiscal year 1981

[In billions]

	Democratic platform	*Republican platform*
Budget authority	$144	$155
Outlays	135	145

I. MANPOWER AND OPERATIONS AND MAINTENANCE

Democratic

More tail-to-teeth adjustment in active forces; increase officer to enlisted ratio; create efficiencies in support activities.

Require greater training program efficiencies; reorganize DoD headquarters responsibilities and decision-making process.

Revise selected Reserve and Guard Policies.

Stress management efficiency in all manpower and O&M areas.

Savings: $4.0 billion, in both BA and outlays, less than projected Republican policies.

Republican

Continue current Defense personnel and O&M policies with primary changes aimed at miscellaneous revisions in Reserve and Guard policies.

II. RESEARCH AND DEVELOPMENT

Democratic

Reduce duplication and waste in R&D activities, thereby preventing unneeded and costly weapons' development and production.

Savings: $2.0 billion, in both BA and outlays, less than the Republican policies.

Republican

Continue current R&D policies and activities, unabated in introducing very costly, duplicative, sophisticated weapon systems.

III. FORCES

Democratic

Sustain strong strategic deterrent capability.

Modernize tactical aircraft and land forces capabilities; evaluate need for revisions in air wing and Army division structures.

Create a modern Navy stressing survivability, smaller, less vulnerable, and less costly naval vessels.

Maintain realistic mix of nuclear and conventional-powered ships to meet cost and increased force-level goals.

Reduce duplication and waste in weapon systems procurement activities.

Defer decision on production of B–1 until more is known about its performance and utility.

Savings: $5.0 billion in BA and $4.0 billion in outlays less than the Republican policies.

Republican

Continue large, sustained real growth in defense expenditures.

Modernize missile and bomber forces.

Increase ship force structure, continuing heavy emphasis on a naval force projection capability and on a nuclear-powered Navy.

Belgian production of the B–1 aircraft.

Sustain strong strategic deterrent capability.

PLATFORM COMPARISONS: HUMAN RESOURCES

HUMAN RESOURCES BUDGET TRENDS

The following tables show projected current policy outlays for selected years for the human resources sector of the federal budget. The tables classify expenditures by budget function and major program area, by type of expenditure, and by type of recipient:

Function and program	Outlays (billions) 1971	1976	1977	1981
A. BY FUNCTION AND PROGRAM				
Total	92.7	206.1	229.5	314.6
Income security	58.7	135.3	148.6	211.8
Social security and railroad retirement	37.1	77.4	87.1	124.9
Federal employee retirement (includes military)	6.5	15.5	18.6	29.4
Unemployment compensation	5.8	19.4	16.4	15.8
AFDC and SSI	5.5	10.9	12.8	17.5
Food stamps and child nutrition	2.2	8.2	9.2	14.7
Housing assistance	1.2	2.5	3.2	8.0
Other	.4	1.4	1.3	1.5
Health	14.5	33.2	38.4	58.0
Medicare	7.9	17.6	21.6	34.5
Medicaid	3.4	8.5	9.6	14.0
NIH	1.5	2.3	7.2	9.5
Other	1.7	4.8		
Veterans benefits and services	9.8	18.9	19.5	21.1
Compensation and pension	5.7	8.2	8.8	10.1
Medical care	2.0	4.1	4.3	5.3
Readjustment benefits	1.7	5.5	5.4	4.5
Other	.4	1.1	1.0	1.2
Education, training, employment and social services	9.7	18.7	23.0	23.7
Elementary and secondary education	3.6	4.8	5.2	7.0
Higher education	1.4	2.8	3.3	3.7
Other education	.5	.8	.9	1.2
CETA	1.4	5.3	7.4	5.0
Other training	1.2	1.5	2.2	1.9
Social services	1.6	3.5	4.0	4.9
B. BY TYPE OF EXPENDITURES				
Total	92.7	206.1	229.5	314.6
Income transfer payments	75.7	169.6	188.6	270.4
Contributory	53.9	120.7	133.4	191.2
Noncontributory, nonwelfare	7.2	15.9	17.0	21.0
Cash welfare	7.8	13.8	16.2	21.5
Noncash welfare	6.8	19.2	22.0	36.7
Provision of services	17.0	36.5	40.9	44.2
Health	5.2	11.2	11.5	14.8
Education	7.2	13.9	14.8	16.4
Training and employment	2.6	6.8	9.6	6.9
Other	2.0	4.6	5.0	6.1
C. BY TYPE OF RECIPIENT				
Total	92.7	206.1	229.5	314.6
Payments to individuals	70.3	158.4	177.7	248.0
Grants to State and local governments	18.0	37.6	41.4	51.6
All other	4.4	10.1	10.4	15.0

Between 1976 and 1981, spending on human resource programs is expected to rise by 53 percent, from $260 billion to $315 billion. If adjusted for inflation, this increase amounts to a real growth of 15 percent, resulting from rising beneficiary populations and benefit levels in certain income security programs. Of the $109 billion increase, all but $8 billion is accounted for by income security and health programs. In fact, $78 billion of the $109 billion is due to growth in retirement programs and the medicare program.

NEW INITIATIVES PROPOSED IN DEMOCRATIC PLATFORM

A number of initiatives in the human resources area are described in the 1976 Democratic Party Platform. Many of these items are already built into current congressional budget policy. Others are minor in nature, in that they could be satisfied by a shifting of funds among programs with little additional spending.

However, there are 13 proposals that would likely require significant budget increases. These planks are discussed below:

PROPOSAL

Net cost range fiscal 1981
($ billions)

1. Welfare reform ------------------ 10 to 20

COMMENTS

The cost shown assumes a comprehensive reform such as the Griffiths bill. The net cost could be a tax expenditure if handled through the tax system instead of as a spending program.

PROPOSAL

2. National health insurance ------ 23 to 95

COMMENTS

These estimates were prepared by CBO and assume effective cost controls. The lower estimate is for a system that relies heavily no private insurance and mandatory coverage by employers. The higher figure represents the budget impact of the Kennedy-Corman bill.

PROPOSAL

3. Full employment -------------------- 5

COMMENTS

This estimate assumes that macroeconomic policy reduces the unemployment rate to 5 percent. The rate is then reduced to 4 percent by hiring 1 million people in public service jobs at a net cost of $5,000 per job. This low unit cost would result from targeting jobs on persons otherwise eligible for welfare or unemployment benefits.

PROPOSAL

4. Social security—liberalize the retirement test ------------------ 1 to 6

COMMENTS

Complete elimination of the retirement test would cost $6 billion.

PROPOSAL

5. Social security—treat men and women equitably ------------ .04 to .4

COMMENTS

Treating women on the same basis as men reduces benefits slightly. Treating men as women are now treated increases benefits by $0.4 billion.

PROPOSAL

6. Federal standards for unemployment compensation ------------------ .8

COMMENTS

This estimate is the added cost to current policy of the AFL-CIO proposal defeated in the Ways and Means Committee this year.

PROPOSAL

7. Equalization of education funding - 4 to 11

COMMENTS

The lower figure assumes federal aid raises all school districts to the current median for classroom funding. The higher figure is the cost of the Perkins bill (H.R. 16). Raising all school districts to the level of the highest State would cost $30 billion.

PROPOSAL

8. Cost of education payments to institutions of higher education ------- .8

COMMENTS

This estimate assumes a federal payment of $100 per student.

PROPOSAL

9. Expand child care through school systems and other agencies ------- 1 to 10

COMMENTS

The lower figure is the authorization in Senator Mondale's Child and Family Services Act. The higher figure is an estimate of the cost if child care were furnished to all who want it.

PROPOSAL

10. Higher funding for Title XX grants to States for social services - .5 to 1.0

COMMENTS

Increases would cover inflation effects and permit expansion of services to moderate-income families.

PROPOSAL

11. Medicare—reduce cost to beneficiaries ---------------------- .3

COMMENTS

This estimate assumes the Part A deductible is frozen at the present level.

PROPOSAL

12. Medicare—cover Americans living abroad ---------------------- .2

PROPOSAL

13. Extend G.I. bill delimiting period for 2 years ---------------------- .8

PROPOSAL

1. Catastrophic health insurance -------- 13

COMMENTS

Six billion would be in the form of tax expenditures.

PROPOSAL

2. Improve welfare programs -------- 0 to 15

COMMENTS

If the States were to carry the burden for improvements, there should be negligible federal cost. The upper end of the range assumes eradication of poverty with federal dollars.

PROPOSAL

3. Correct social security inequities for women, married couples ----- 0.1 to 0.5

PROPOSAL

4. Liberalize social security retirement test ---------------------- 1 to 6

COMMENTS

Complete elimination of the retirement test would cost $6 billion.

PROPOSAL

5. Redesign unemployment compensation system ------------------ −2 to 2

COMMENTS

The platform calls for better work incentives. Benefits could be reduced for savings, or beneficiaries could keep part-time earnings, which would increase costs.

PROPOSAL

6. Block grants for child nutrition, social services, health services, elementary and secondary education −6 to 0

COMMENTS

Grant consolidation as proposed by President Ford would reduce Federal grants to States and localities by $6 billion.

PROPOSAL

7. Home health care and domiciliary care for aged ------------------ 0.5

PROPOSAL

8. Comprehensive mental health care - 3.5 to 6

COMMENTS

This estimate nets out existing federal payments for mental health services. No induced demand is included in the estimate.

PROPOSAL

9. More emphasis on alcohol and drug abuse treatment ------------------ 0.2

PROPOSAL

10. Control health care costs and abuse of medicare and medicaid ---------- −0.5

COMMENTS

The savings come from control of fraud and abuse. It was assumed that no other net savings could be realized by fiscal 1981, given the proposal in the platform.

PROPOSAL

11. Provide greater benefits to SSI recipients who also receive family support ---------------------- 0.2

PROPOSAL

12. Establish employment services for women heads of households -------- 0.1

PROPOSAL

13. Enact tax credits to offset costs to parents of private school tuition ---- 2

COMMENTS

This proposal applies to elementary and secondary school tuition only.

PROPOSAL

14. Reduce federal role in housing ---- —

COMMENTS

Housing commitments are made for long time periods, so any reductions in outlays in the short-run would be minimal.

The total net federal cost for these proposals ranges from $14 to $45 billion. The lower figure assumes a cutback in grants to State and local governments of $6 billion, an amount State and local taxpayers would have to assume unless they were willing to reduce health care, child nutrition, education, and social services by that amount.

GOALS AND IMPLICATIONS OF PARTY PLATFORMS

DEMOCRATIC PLATFORM

Calls for comprehensive health insurance for all Americans;

Would gradually federalize welfare programs and restructure them to improve equity and incentives;

Would ensure full employment through both macroeconomic policy and job creation efforts;

Calls for increase in the wage base subject to the social security tax, equitable treatment for working women under social security, and a liberalized retirement test;

Would establish federal standards for State unemployment compensation systems;

Would use federal aid to bring about more financial equality among the Nation's school districts;

Would expand child care and other social services;

Would extend the GI bill delimiting period for 2 years;

Calls for reform of the VA pension program;

Would maintain or strengthen most other existing federal programs, with increases for higher education funding and medicare coverage;

Would provide fiscal relief to State and local governments through welfare reform, health insurance, education funding and other initiatives.

REPUBLICAN PLATFORM

Would broaden health insurance to cover all Americans for catastrophic expenses;

Would emphasize control of health care costs and fraud and abuse of the medicare and medicaid programs;

Would improve welfare programs within the existing program structure without federalization;

Would rely on the private sector for increasing employment, but would provide employment services for women household heads;

Would consolidate grants to States for child nutrition, health services, social services, and elementary-secondary education;

Would improve the unemployment compensation system;

Would reduce the federal role in housing;

Would provide tax credits to offset parents' expenses for private school tuition;

Would improve funding of social security, correct inequities for working women and married couples, liberalize the retirement test, and help SSI recipients who also receive support from relatives;

Would continue most federal programs, emphasizing selected areas such as mental health care, alcohol and drug abuse treatment, alternatives to institutional care for the aged;

Would place increased demands on State and local tax sources if block grants were funded at levels proposed by the President this year.

REPUBLICAN AND DEMOCRATIC PLATFORM TAX INITIATIVES

The Democratic platform only mentions tax reform. The platform suggests that $5 billion can be raised in this fashion. Tax credits could be used in achieving some of the other platform pledges such as welfare reform and health insurance. The cost of these pledges have been estimated previously without distinguishing whether they would be achieved by spending or tax credits; therefore, they have already been counted.

The attached pages covers the Republican platform tax initiatives. It is even more difficult to place numbers on these vague tax proposals than it is on spending commitments. It would be fair, in our judgment however, to use a range of $27 to $55 billion as the cost of the tax initiatives in the Republican platform.

REPUBLICAN PARTY PLATFORM TAX INITIATIVES

The 1976 Republican platform recommended eight tax initiatives. Some are specific but most are stated in somewhat vague terms. In these latter cases, revenue estimates can only be provided for recent representative legislative initiatives that appear to incorporate the concepts supported in these platform elements. In addition, two of the initiatives (#3 and #4) are so vague they cannot fairly be associated with specific legislative proposals. In these two cases, only a range of estimates can be provided. The first full year revenue costs of the various tax initiatives in the platform as thus interpreted are as follows:

SUMMARY TABLE OF REPUBLICAN TAX PLANKS AS EXTRAPOLATED

[In billions]

Provisions:	
1. College tuition credit	$−1.1
2. Child care credit	−0.4
3. Accelerated depreciation	−2.5/−25.0
4. Dividend reinvestment deferral	−0.8/−15.0
5. Corporate integration	−13.0
6. Broadened stock ownership plans	−0.6
7. Personal exemption increase	*−10.0
8. Estate and gift tax revision	−2.0
	**

*Include only if matched by equivalent spending reductions.

**No figure accurately could be cited as the total revenue cost of the package of proposals because each of these items has been estimated without taking into account the impact it might have upon the other plank elements. This is especially significant in the case of the relationship of #3 to #5, #4 to #5, and #4 to #6.

(1) "Tax credits for college tuition and postsecondary technical training." During the recent tax reform bill debate, the Senate adopted an amendment proposed by Senator Roth to provide a 100% tax credit for up to $250 of the tuition costs for each student enrolled in college or a postsecondary technical training program. The amendment was deleted in the tax bill conference. When fully effective in 1981, the Roth amendment would have reduced annual revenue collections by an estimated $1.1 billion.

(2) "Tax credits for child care expenses incurred by working parents." The tax bill conferees have agreed to convert to a credit and expand the coverage of the current child care deduction. The new law will provide maximum tax relief of $400 per year for taxpayers with child care expenses for a single child and $800 for two or more children. The new credit will reduce annual revenue collections by approximately $400 million over the revenue loss associated with the current deduction.

(3) "New systems of accelerated depreciation." No generally applicable new system of accelerated depreciation was seriously considered in the development of the recent tax bill. However, a general "new system of accelerated depreciation" recently proposed by the NAM and several Members of the House including Congressmen Kemp, Frenzel, and Waggonner would provide a maximum 5-year depreciation schedule for all machinery and equipment and a 10-year schedule for industrial structures. According to preliminary revenue estimates, this new system would reduce tax collections by approximately $25 billion after five years. Obviously, alternative "new systems" of accelerated depreciation could be constructed with longer depreciation schedules and revenue losses as low as one-tenth of the NAM program.

(4) "Removing the tax burden on equity financing to encourage more capital investment." The phrase is too general to be adequately linked with any specific legislative proposals. However, one possible interpretation is that this plank supports the Administration's 1974 proposal to allow a corporate tax deduction for preferred stock dividends. This would cost $800 million by the fifth year after enactment. Another more costly interpretation could be allowing a corporate tax deduction for all distributed dividends. This latter interpretation would overlap No. 5 below. The revenue loss range for proposals that could meet this broad plank language is extremely large.

(5) "Ending . . . double taxation of dividends." A representative proposal for integration of the corporate and individual income taxes was made by the Administration as part of its FY 1977 budget presentation. The Administration proposal would combine an approximate 50% corporate deduction for distributed dividends with a 50% stockholders' credit. The Administration estimated the revenue loss associated with its proposal at $13 billion in FY 1981.

(6) "Proposals to enhance the ability of our working and other citizens to own 'a piece of the action' through stock ownership." This is a reference to the Administration sponsored "Broadened Stock Ownership Plan" (BSOP) that was tabled during the recent Senate tax reform debate on August 4 by a vote of 57–31. BSOP would allow an annual deduction of the lesser of $1,500 or 15% of personal service income that is used to purchase common stock. It would be available only to persons with annual income no greater than $40,000. When fully implemented, the program would cost $600 million annually.

(7) "When balanced by expenditure reductions, the personal exemption should be raised to $1,000." An amendment by Senator Dole to increase the personal exemption to $1,000 was tabled on August 6 by a Senate vote of 57–29. This increase would have cost approximately $10 billion in the first full year of enactment.

(8) Estate and Gift Tax Reform: Increase the estate tax exemption to $200,000; . . . allow valuation of farm property [and family businesses] on a current use basis; . . . provide for extension of the time of payment in the case of farms and small businesses; . . . [and] a liberalized marital deduction." The $50,000 credit passed by the Senate, which is roughly equivalent to a $200,000 exemption, would reduce revenues in 1981 by $1,775 billion; current use basis for farm and small business property would reduce revenues by roughly $20 million; extension of estate tax payment periods for farm and small business estates would cost approximately $30 million annually; and a liberalized marital deduction equal to the greater of $250,000 or half the decedent's adjusted gross estate (as recently approved by both the Senate and the Ways and Means Committee) would reduce annual revenue collections by $170 million. The combined revenue loss associated with this package is approximately $2.0 billion in 1981.

EXHIBIT 5

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, D.C.

MEMORANDUM

To: Senator Muskie.
From: Doug Bennet.
Date: September 21, 1976.
Subject: Comment on House Republican Policy Committee press release.

On September 21, 1976, the House Republican Policy Committee issued a press release that claims the Democratic Party Platform proposes new government intiatives that will add $217.1 billion a year to the Federal budget by fiscal 1980. They claim that a 64-percent tax increase will be required to finance these cost increases.

The Policy Committee's fiscal 1980 figure consists of the following items:

[In billions]

Proposal:	*Fiscal 1980 cost*
National health insurance	$101.6
Humphrey-Hawkins bill	21.8
Educational finance equalization	22.0
Child development	14.2
Welfare reform	18.9
Federal takeover of local welfare costs	5.2
Liberalization of social security earnings test	4.6
Loan subsidies for low and moderate income housing construction	5.5
Farm price support programs	4.9
All other proposals	18.4

The nine proposals itemized above account for $198.7 billion, or 92 percent of the total of $217.1 billion.

This Republican presentation is very misleading, and even incomplete. It ignores two planks in the Democratic Platform that reduce the federal budget deficit: tax reforms to close $5 billion in loopholes; and defense efficiencies to save $5 billion from current policy spending levels.

What the Policy Committee does choose to talk about misrepresents the Platform in a way that exaggerates its cost. Consider the following examples:

(1) The Platform calls for full employment but makes no mention of the Humphrey-Hawkins bill. The Budget Committee's chief economist estimates that macro-economic policies now in place will bring us within one percentage point of full employment by fiscal

1981. Hiring 1 million people in public service jobs to reach full employment could cost as little as $5 billion if the jobs were targeted on people receiving federal income assistance, or $17 billion less than the Policy Committee asserts;

(2) The Policy Committee's estimates assume the Kennedy-Corman health insurance bill would be enacted, yet the Democratic Platform makes no such claim. A health insurance system relying on existing private insurance plans would have a budget cost $79 billion less than the Policy Committee's estimate;

(3) The Policy Committee's figure for education finance equalization must assume that all school districts are subsidized to the financing level in one of the wealthier States. In fact, no one has ever seriously proposed doing that. A more reasonable assumption of federal aid to raise all school districts to the current national median would cost $4 billion, or $18 billion less than the Policy Committee's figure;

(4) The Policy Committee's figure for child development program expansion is $13 billion more than the cost of Senator Mondale's own bill would be if fully funded;

(5) The Policy Committee attributes $24 billion to changes in welfare programs, although they have double-counted by assuming welfare reform would not include a $5 billion takeover of local welfare costs. No specific welfare reform plan is now under serious consideration, but $10 billion would be a more realistic estimate for welfare reform, or $14 billion less than the Republicans assert.

The items discussed above reduce the Policy Committee's total of $217.1 billion by about $150 billion, and many of the smaller items in their tabulation such as the $4.9 billion for farm price support increases are similarly overstated. Thus, it is safe to say that a realistic interpretation of the Democratic Party Platform would result in new initiatives totalling no more than $40–50 billion in fiscal 1980, especially if allowance is made for the time required to enact and implement new legislation.

A $50 billion addition to the current policy budget would be feasible by fiscal 1981 with no additional taxes, given current projections of revenues and expenditures. Of course, this projection assumes continued economic recovery and continued fiscal restraint by Congress. As Governor Carter has already indicated, he plans to pursue the goals of the Platform as the budget and the economy permit. Given the facts presented above and Governor Carter's own declaration of his priorities, the Republican Policy Committee's claims are totally off-base and cannot be treated seriously.

THE ECONOMIC SITUATION

Mr. PROXMIRE. Mr. President, I shall speak briefly on the economic situation. I do think we have to recognize in this country we have a tragic and irrecoverable waste too few people talk about—not simply a waste of money but a waste of manpower.

There is no more tragic waste that the waste of unemployment. Once a person has lost a month or a year of employment he has lost it forever. It can never be restored. Unlike money that can be raised or earned, paid back unemployment is time gone forever. A lifetime is finite. That unemployment can never be recovered.

Now, Mr. President, the other party has indicated that the unemployment we suffer from now is not really that bad. In their view it does not really seem to matter. After all, they say, these are not heads of households who are out of work. These are housewives who are just working part time, perhaps, or who want to supplement the family income; they say these are young people who want to earn a little more or could have a little more to spend. They say this is not the kind of tragedy we suffered in the depression.

Mr. President, they are wrong. They are wrong and these statistics show they are wrong. If you compare August 1974 with August 1976, just that 2-year span—it happens to be the 2 years during which Mr. Ford has been President, and it also happens to be the most recent period for which we have figures—they show while teenage unemployment is higher now than it was—it has gone from 15 to 19 percent, while the unemployment of blacks is higher than it was, having gone from 9 to 13.6 percent—there has been a bigger proportional increase in unemployment among adult males.

People do not realize that, but this unemployment has hit the heads of households in this country, and hit it hard. As I say, it is about 50 percent higher than it was in August of 1974, and I am speaking about the unemployment rate. That, as I say, is a waste that simply cannot be compensated for.

Now, our good friends on the other side argue if Mr. Carter is elected President of the United States we are going to have a greater spending program, greater deficits, and so forth.

Unfortunately, the distinguished chairman of the Budget Committee was unabel to speak this morning. He had to go to a hearing, but he did show me part of his speech. Without scooping him, because I think he has issued a release on it, I think it is proper to point out that he has a very remarkable figure in it. He points out if you cost—and he has asked the staff of the Budget Committee to make this estimate—it is a highly competent staff, and they estimate the cost of the Republican platform as being greater than the cost of the Democratic platform.

The Democratic platform will result in reducing the deficit more than the Republican platform will. I hope all voters have a chance to look at those figures, compare and consider them, because this, as I say, is not arrived at by Mr. Carter, or people on his staff, nor arrived at by this Senator. It is arrived at by a staff of a committee I think most of us recognize is as competent as we have ever had.

Mr. HELMS. Will the Senator yield?

Mr. PROXMIRE. I will yield briefly because I have limited time.

Mr. HELMS. That was that Democratic staff that prepared that rather political analysis, I presume?

Mr. PROXMIRE. This was a staff of the Budget Committee which I think is entirely competent. Their integrity would be at stake. I think we have to recognize all the evaluation.

We can say the Office of Management and Budget is a partisan staff inasmuch as it is headed by people appointed by the President of the United States, who is Republican. But I think we would simply have to decide that we should listen to competent people, even though they may be identified as appointed by a Democratic chairman or a Republican President.

Mr. HELMS. I had something to do with the Republican platform and I would be happy to debate the competent staff members who prepared the report to which the Senator alludes.

Mr. PROXMIRE. Very good.

Let me point out in the inflation area, while inflation overall is not as bad as it was a couple of years ago, it increased very sharply when the Republican Party took office.

Furthermore, Mr. President, the biggest increases have come in the areas where Government policy could be most effective in discouraging those increases.

Unfortunately, the overall price increase is obscured if we just look at the Consumer Price Index, or the Wholesale Price Index. If we go beyond that and knock out food, which is highly volatile and fluctuates month to month, depending on crops and developments having nothing to do with Government policy, lay that aside and consider wholesale industrial commodities, we find an alarming increase in prices.

Wholesale industries prices went up at an annual rate in June about 6 percent, but in July 8.4 percent, August 8.4 percent.

This is in the area where unit labor costs are reasonably stable so prices should not be rising. It is an area where effective jawboning by the President of the United States, to insist on justifying those increases by concentrated industries, could be very effective.

It is where the Commission on Wage Price Stabilization has not functioned effectively because it has not largely been adequately manned, although there are very able people there that I admire greatly. But there are only 12 professionals with responsibility for evaluating and analyzing the entire private economy of the United States. They obviously cannot do the job they would like to do.

Mr. President, I also point out that the price increases in some products have been greater on nondurable consumer-finished goods. The increase in June was 8.4 percent and July 13.2 percent. These are the latest months for which figures are available. There is an even greater increase in lumber, a very great increase in chemicals, 21.6 percent on an annual basis in the last couple of months.

Mr. President, I also point out that the recovery has been largely fueled by the consumers in our economy who have gone out and bought more than they were expected to buy in spite of the fact business has not been as stimulative as was expected. Real income, however, is beginning to level off.

Furthermore, if we take the figure from July 1968 to July 1976, we find there has been no increase at all—none—in real disposable income. People have no more in their pocket now than 8 years ago. There is tremendous progress in Sweden, Germany, and Japan, and virtually every other free country in the world in those 8 years. This country, however, stood still.

We have, in effect, the consequences of a no growth policy.

Mr. President, to sum up, I hope that those who decide between the parties on the basis of the economy will recognize the great tragedy of the resurgence of unemployment in this economy. In spite of the fact that we are supposed to be in recovery, almost 8 percent of our people are out of work. Inflation is very serious and disturbing precisely in those areas where Government policy could discourage it if we had a vigorous President who would jawbone, as Kennedy and Johnson did, and Ford has not.

Also, we have a President who has discouraged effective antitrust action on the part of Congress and did his best to discourage passage of the antitrust bill which, with great difficulty, the Senate and the House has brought to consummation and is going to put on the President's desk.

When we put all this together, it is clear that those who believe in keeping our economy moving ahead, those who believe in employment and effective anti-inflation policy, should recognize that the Democratic Party and Jimmy Carter have a great deal to offer in this campaign.

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for not to exceed 10 minutes.

THE FORD ADMINISTRATION RECORD ON TAXES AND TAX REFORM

Mr. KENNEDY. Mr. President, I join my colleagues this morning in addressing a matter which is being debated and discussed quite strenuously across this country—the Ford administration and Carter positions on the issue of tax equity, tax justice, and tax fairness in our society.

Many of us in Congress and millions of citizens around the country who are concerned about tax reform and the fairness of the Nation's tax laws did a double take last weekend, when we heard President Ford, Vice Presidential candidate Dole, and other apologists for the Ford administration attempting to distort an interview with the Democratic Party's candidate Jimmy Carter on the issue of taxes and tax reform.

As Shakespeare put it, the lady doth protest too much. The administration claims—and the Associated Press transcript in dispute does not at all bear out the claim—that Jimmy Carter is bent on raising taxes on average citizens earning $15,000 a year or more.

How short their memories are. Two years ago, the Ford administration actually proposed exactly that sort of tax increase themselves. In October 1974, in one of his first major economic policy recommendations as President, Mr. Ford appeared before Congress for a joint address to the members of the House and Senate. A key part of that address was his proposal for a $5 billion tax increase on the American people—a 5 percent income tax surcharge on every American taxpayer.

And get this—the tax increase in the President's proposal would have applied to families earning $15,000 a year or more. It would also have applied to single persons earning $7,500 a year or more.

So, the White House is actually tossing boomerangs this week, and the President and his administration ought to duck. The blunder they are trying to pin on the Democratic Party in 1976 is a blunder they actually committed themselves in 1974. The next time you hear President Ford or a Republican candidate or an administration spokesman complain about the tax increase proposal that Jimmy Carter never made, think about the major tax increase that President Ford actually did propose for the average citizen in 1974.

Fortunately for both the President and the ordinary taxpayer, Congress rejected the Ford tax increase out of hand in 1974. At the time, the economy was already slipping over the brink of the worst recession since World War II. Since early 1974, many of us in Congress had been calling for a tax reduction to stop the slide and bring the economy back to health. Neither elementary economics nor any other logic could justify a tax increase at that time, as recommended by the President.

By early 1975, the fact of the serious recession was clear to all. Even President Ford had made his famous "179 degree" turn on the economy. The recession was full upon the country, and there was broad bipartisan support for a major antirecession tax reduction. The result was the $23 billion tax cut in the Tax Reduction Act of 1975, which was signed into law in March that year. As the President signed that bill, which was to do so much to ease the burden of the worsening recession, he must have hoped that his misguided tax increase proposal of the previous October would disappear from sight and memory.

Because of that tax increase proposal, however, valuable time was lost. The recession of the past 2 years was significantly longer and deeper and harsher than it would otherwise have been. So when they talk at the White House of economic blunders, the country will not soon forget this major Ford administration blunder of 1974, which cost the Nation so much in terms of men and women out of work and in terms of idle plants and factories.

If the taxpayer's recollection of President Ford's 1974 tax fiasco is a little hazy, the cause may lie in two other diversions of that time:

First, President Ford's joint address to Congress calling for a tax increase was the same address in which the President unveiled another dubious economic program for the country—asking every American citizen to wear a "WIN" button to fight inflation. Needless to say, the buttons did not work and the country was trapped in a continuing seige of double digit inflation and soaring price increases.

Second, the 1974 tax increase proposal came right on the heels of President Ford's pardon of former President Nixon the week before. Unfortunately, the uproar over the pardon diverted urgently needed attention away from the deteriorating plight of the economy and the President's unwise tax and price proposals. Instead of granting relief to former President Nixon and taxing the American people, it would have been much better for the country if President Ford had granted relief to the average taxpayer and made Mr. Nixon pay his taxes.

Finally, the 5-percent surcharge was unfair in yet another way. It applied most heavily to those who were already paying their fair share of taxes. Wealthy individuals and corporations who use tax loopholes to eliminate their taxes altogether would not have had to pay the surcharge at all. And those who use the loopholes to reduce their taxes to levels close to zero would have paid far less than their fair share. Only the hard-pressed average taxpayer—those who have no loopholes to hide behind—would have to pay the full surtax and bear the heaviest burden.

The Ford administration's income surtax proposal of 1974 is of current interest because it so clearly puts the lie to the administration's loud and distorted criticism of Jimmy Carter's tax position.

More important for present purposes, however, is the fact that the 1974 surtax proposal is only one of the many dismal landmarks in the administration's backward looking policy on taxes.

The past 2 years of controversy, and especially the long debate in the House and Senate over the massive Tax Reform Act of 1976, make clear that the easiest way to distinguish Democrats from Republicans is to ask their views on tax reform.

The frustrations this year of those of us who care about tax reform are well known. Two causes stand out in the failure of the recent version of the Senate bill to even hold the line on revenues, and the failure of the conference bill to make more than a halting step in the right direction: The antitax reform of the Ford administration and the Treasury Department on almost all of the major issues in the debate was a constant source of opposition to the elimination of tax loopholes.

As a result, there was an enormous contrast between the voting records of Senate Democrats and Republicans on specific issues of tax reform.

An analysis of 35 of the most important votes in the debate tells the story. In areas like LAL, the minimum tax, DISC, deferral and many other issues, the difference in the outcome was the massive Republican resistance to tax reform.

On these 35 critical votes, slightly over half the Democrats in the Senate voted for reform at least 50 percent of the time. But only four Republicans did as well. And fully two-thirds of the Republicans in the Senate voted for tax reform less than 20 percent of the time.

On many of these votes, the margin was extremely close. For example, our losses on the minimum tax and the deferral issues were decided by one-vote margins. Time and time, under the leadership or acquiescence of the Ford administration, solid Republican opposition provided the bloc of votes that defeated worthwhile proposals in the Senate for significant tax reform.

At best, the Ford administration's position on tax reform throughout the long Senate fight this year was a posture of indifference, passivity and neglect. At worst, the record was outright hostility and active resistance to tax reform.

On issue after issue, the President and the Treasury were on the sidelines, while others carried the ball for tax reform against the heavy opposition of the wealthy individuals, the multinational corporations, and the many special interest groups who were fighting hard both to preserve their existing loopholes and to open up new loopholes in the tax laws.

Nine times out of ten, when the Ford administration came onto the field to participate in the tax reform debate, it picked up the ball and ran in the wrong direction.

Last year and this year, as part of his tax and budget recommendations to Congress, and later as the debate went on in the House and Senate, President Ford and the Treasury Department made a number of regressive and unsatisfactory proposals to create new tax loopholes and provide excessive tax relief for the wealthy that would have further undermined the equity of the Federal income tax system.

The catalog of errors is a long one, but the following examples reveal the distressing picture:

First. The Ford payroll tax increase. On a par with the myopic 5 percent tax surcharge in 1974 was the Ford administration's thoroughly ill conceived budget proposal in January 1976 for a $3.3 billion increase in the social security tax. That tax is a tax on the wages of working men and women. It is the Federal Government's most regressive tax, because it is a flat rate, proportional tax on the wages of low and lower middle income workers.

In recent years, the burden of the payroll tax has mushroomed. More than half the workers of America already pay higher payroll taxes than income taxes. In addition, the payroll tax is America's fastest growing tax, yet the Ford administration proposed to raise it even higher. Since 1945 the share of total Federal revenues derived from the individual income tax has remained approximately constant at about 40 percent. But social security taxes have soared from 7 percent to over 32 percent in the same period, while the corporate share has sharply declined from 34 percent to only 14 percent today. The burden of Federal taxation—$362 billion in the current fiscal year—has thus shifted dramatically against the individual taxpayer, especially when social security taxes are taken into account. The Ford administration proposal in 1976 would have increased this already heavy burden on the average worker by another $3.3 billion.

Lightning does strike twice. The ordinary citizen's pocketbook is a lightning rod for the Ford administration when higher taxes are in the wind. The 1974 surtax was no coincidence. They proved they meant it in 1976, by asking for a higher payroll tax.

Second. The Ford reduction of the corporation tax rate to 46 percent. This proposal would have cost an estimated $1.7 billion a year. Economists are generally agreed that corporate rate reductions do nothing to stimulate capital investment and may even be counterproductive under certain conditions.

They also agree that even the existing major incentives for capital formation—the 10 percent investment credit and the asset depreciation range—ADR—form of accelerated depreciation—are wasteful and inefficient methods for stimulating capital investment. By contrast, a properly structured investment credit could be significantly more efficient, requiring less revenue loss and providing more capital incentives in the bargain. A recent Library of Congress study found, for example, that per dollar of revenue loss, a corporate rate reduction returns only 4 cents on the dollar; ADR returns only 35 cents on the dollar; and even the existing investment credit returns only 49 cents on the dollar in terms of increased investment. By contrast a restructured investment credit—with the credit primarily for incremental investment above a previous yearly average—could return at least $1.20 in new investment per dollar of revenue loss. Yet the Ford administration, while insisting on the urgency of capital formation as an issue, also insists or supporting the most wasteful and inefficient of all the current widely discussed proposals for dealing with the crisis.

Third. The Ford deduction for stock purchases. This proposal—the so-called BSOP, or broadened stock ownership plan, would have cost the taxpayer an estimated $700 million a year. Like all special interest deductions, the proposal would have had an upside-down effect, providing no benefits at all to nontaxpayers, and providing increasingly larger benefits as income rises. Thus, a tax deduction of a dollar is worth only 14 cents for persons in the lowest—14 percent—bracket, but it is worth 70 cents for those in the highest—70 percent—bracket.

Introduction of a Federal tax incentive for purchases of stock by individuals would not only create new tax inequities, but it would also be inconsistent with a free market economy. Individual investors in a market economy will purchase corporate stocks—as opposed to bonds, for example—when the investments are attractive because of the increased yield and dividend potential of the company itself. Use of a special deduction distorts the decisionmaking process by investors in the marketplace and results in less than optimal efficiency in the use of capital. The Federal Government can safely rely on the good judgment of individual investors to evaluate and determine the best investment for their own particular needs. Yet the Ford administration persists in trying to distort this balance, principally for the benefit of the wealthy few who are in a position to invest substantial sums of money in corporate stock.

Fourth. Ford support for tax deductions in general. As the preceding example indicates, when it decides to grant tax relief, the Ford administration has a penchant for tax deductions, whose upside-down effect guarantees that an excessive share of the tax relief will go to those in the highest income brackets who need relief the least. To avoid this inequitable result, virtually all tax reform proponents now advocate the use of tax credits, rather than tax deductions, to achieve their goals. A credit gives the same dollar amount of tax relief, regardless of the taxpayer's income bracket. As a result, a tax credit targets more of the tax relief to those in the low and middle income groups who need it most.

But not the Ford administration—long after the merits of the debate over credits versus deductions has ended, the administration persists in recommending tax deductions. The latest is the administration's current tax relief proposal to raise the personal exemption—a deduction—to $1,000 from its present level of $750. Even if Congress could resolve the budget and economic policy arguments in favor of such extensive tax relief at this time, Congress would not choose the route of raising the personal exemption. Instead, as we did in the Tax Reduction Act of 1975, we would grant the relief by such alternative methods as the low income allowance and the $35 personal tax credit, to guarantee that when relief is given, it goes primarily to the millions of ordinary citizens who need it most.

Five. The Ford special mortgage tax relief for financial institutions. This loophole would have cost an estimated $900 million per year when fully effective. A task force of the House Budget Committee held hearings on this proposal in 1975 and testimony revealed that the proposed relief would be undesirable from the standpoint of both tax and housing policy. Yet, the Ford administration endorsed the proposal in 1976, apparently on the theory that it would be good for banks, even if it was bad for housing and bad for the tax laws.

Sixth. The Ford tax relief for electric utilities. This loophole proposal included a provision to permit shareholders to defer the tax on dividends paid by the utilities where they elect to have the dividends reinvested in additional common stock. The changes proposed by the Ford administration would have reduced tax liabilities of electric utilities and their shareholders by $800 million a year in the long run. Such companies are among the least likely candidates for further tax relief. According to data filed with the Securities and Exchange Commission for 1974, many utilities paid no taxes at all, either to the U.S. Government or any other government, and others paid at very low effective rates. Commonwealth Edison paid an effective rate of 15.2 percent, Pacific Gas and Electric paid 10.6 percent, and Consolidated Edison paid no tax at all. It is not electric utilities who need financial relief—it is their customers. And there was nothing at all in the administration proposals that would insure that any of the proposed tax benefits would in fact be passed on to the consumers in the form of lower utility rates.

Seventh. The Ford tax relief for corporate dividends. Whatever may be the merits of full integration of corporate and personal income taxes—and economists and tax experts are divided on this subject—the Ford administration proposals would not accomplish full integration. In fact, the net result would be to produce tax reductions for upper income shareholders in corporations. In fact, the Ford proposals cost far more than full integration—$13 billion a year when fully effective. It is the virtually unanimous view of economists who have studied the matter that corporate dividend tax relief will not result in the formation of additional capital; it will simply reallocate available capital from those companies that desire to retain earnings for future growth to those companies that pay out earnings in current dividends. The economic case for this type of reallocation of capital resources is unclear at best, and was wisely rejected by Congress.

Eighth. The Ford additional relief for capital gains. One of the administration's worst proposals—because it points so clearly in the wrong direction for tax reform—is the $800 million a year proposal for additional tax relief for capital gains.

At a time when the concern of the vast majority of citizens is for tax relief and tax reform, it makes no sense to increase still further the large tax preference that is already available for capital gains, and thereby open the capital gain loophole even wider. Real tax reform in the area of capital gains lies in the direction of narrowing, not expanding, the current preference. Under present law only 50 percent of long term capital gain is included in taxable income.

Under the Ford proposal, the proportion of gain included in taxable income would be reduced by an even larger amount, depending on the length of time the asset is held. Under the proposal presented on the Senate floor and defeated by a narrow margin, the exclusion would be reduced by an additional 1 percent for each year the asset is held, up to a maximum of 25 years. The net result would be to exclude up to 75 percent of capital gains from the Federal income tax.

Under present law, capital gains already enjoy two important advantages over other kinds of income:

Fifth. The Ford special mortgage tax capital gains is the advantage of tax deferral—the tax on a capital gain is deferred until a sale of the asset actually takes place. The income represented by the accumulating gain in the value of the asset goes untaxed, even over a period of many years, until it is finally sold. This deferral is, in effect, an interest free loan by the Federal Government to wealthy individuals with capital gains. The amount of the loan is the taxes that are deferred each year until the asset is finally sold. By contrast, those whose income derives from their wages or from interest on their savings accounts, rather than capital gains, have no such advantage of tax deferral. They pay as they go along.

Capital gains enjoys a low tax rate when the tax is finally applied. When the sale occurs, only half of the gain is included in the taxpayer's taxable income. The top tax bracket on ordinary income is 70 percent; but the top rate for capital gains is only 35 percent. The Ford proposal would have reduced this top rate to the ridiculously low level of only 17 percent. This bargain basement rate is the rate paid by low income families with taxable incomes of only $3,000 to $4,000 a year, representing earnings of approximately $10,000 a year. Yet—it is the rate that President Ford wants to apply to some of the wealthiest taxpayers in the country—investors reaping capital gains worth hundreds of thousands or even millions of dollars a year.

This Ford proposal—the so-called "sliding scale" for capital gains—is the antithesis of responsible tax reform. It is simply another effort to provide an increased tax preference for the wealthy at the expense of the millions of low- and middle-income individuals who already bear too heavy a burden under the tax laws. With the Dow Jones average at 1,000, additional tax relief for capital gains is not the first priority of Congress.

Ninth. The Ford estate tax ripoff. The active support of the Ford administration is also responsible for what is probably the most expensive and least justifiable new loophole in the tax laws—the $1 billion in estate tax relief in the current omnibus bill. This relief, which goes entirely to the wealthiest 7 percent of the population, is masquerading as assistance to farmers and small businesses. But as the Senate debate showed, it would only cost $120 million to provide the same relief to farms and small businesses. Such relief was entirely appropriate in these two areas—no farm or small business should have to be sold against the owner's will in order to meet the estate tax burden. But the rest of the relief—about $900 million—is "juice" for wealthy holders of corporate stock and other investors, whose closest brush with a farm or small business is the well-heeled lobbying effort that won this rich but undeserved relief. It is incredible that the Ford administration was lulled so easily into accepting this massive give-away of scarce tax dollars. Once again, it is the ordinary citizen who has to pay the difference, whose taxes are too high because others pay too little.

Tenth. Ford support for the Domestic International Sales Corporation—DISC—loophole. On DISC, the Ford administration led the fight to preserve intact this $1.4 billion loophole for the largest multinational corporations who are selling products overseas. In 1973, the most recent year for which data are available, 52 percent of the tax benefits of DISC went to 249 corporations with assets over $250 million; 39 percent went to only 23 corporations.

When it became clear that the House and Senate would take at least a modest step toward restricting this unjustifiable tax benefit, the administration worked to insure that the step was as small as possible. As a result, the current bill eliminates only one-third of a loophole that ought to be repealed outright. Probably no other loophole in the history of the Internal Revenue Code has cost so much per year with so little justification. It remains in the tax laws as a continuing reminder of the strength of a powerful special interest lobby and the abdication by the Ford administration of its responsibility to the hard-pressed average taxpayers.

Eleventh. Ford tax support for runaway plants and runaway jobs. The administration also vigorously resisted our efforts in the Senate to close another favorite loophole of the multinational corporations—the $400 million bonus the tax laws award each year for profits earned abroad. It is difficult to believe that a country with a major capital shortage and 8 percent unemployment would be granting large benefits to the largest U.S. firms to build plants abroad and hire foreign workers. Yet that is the result of this "runaway plants and runaway jobs" loophole and the Ford administration's refusal to adopt a responsible tax and economic policy when it pinches the multinational corporation and other powerful special interest groups.

Twelfth. Ford support for the executive loophole. Again, because of the resistance of the Ford administration, the Senate failed in its effort to repeal the most substantial loophole in the minimum tax, the so-called "executive suite" loophole that allows wealthy executives, doctors, dentists, lawyers, athletes and movie stars to escape the minimum tax. The minimum tax is supposed to be an additional tax on income that would otherwise escape the tax laws—a modest 15 percent tax rate under the present bill will be imposed on income from tax loopholes. But, because of the opposition of the Ford administration, a serious loophole in the minimum tax itself will continue. Wealthy individuals will still be able to deduct from their loophole income 50 percent of the regular taxes they pay, before the 15 percent rate is applied. And corporations will still be able to deduct 100 percent of their regular taxes. In sum, the present reform is a step forward compared to present law, but it is a weak response when a much stronger minimum tax was called for. The Ford administration's resistance cost the average taxpayer $1 billion a year in the form of revenues that should have been collected from wealthy individuals and corporations if the executive suite loophole in the minimum tax had been closed effectively.

Thirteenth. The Ford resistance to small business tax relief. In 1975, as part of his anti-recession tax proposals for individuals and business, the President recommended $4 billion in tax relief for corporations. But the relief was proposed in the form of an increase in the investment tax credit from 7 percent to 12 percent, which would have channeled the benefits primarily to the Nation's largest corporations. Congress refused to leave small business out. The Tax Reduction Act of 1975, as signed into law in March that year, wisely decided to fashion significant relief for small business, too. As a result, the law trimmed the investment credit to 10 percent for big business, and granted $2 billion of new and well deserved tax relief for small business. The small business relief was achieved by reducing the tax rate on the first $25,000 of taxable income from 22 percent to 20 percent and applying a 22-percent rate to the second $25,000. This major victory for small business was not achieved without a fight. In a Senate floor amendment, opponents of small business, with the active encouragement of the Ford administration and the Treasury, tried to strike the provision from the bill. In one of small business' most satisfactory victories in Congress, the Senate rejected the Ford position by the overwhelming margin of 73-17, and the benefits for small business were preserved.

Fourteenth. The Ford opposition to the refundable child care credit. Most symbolic of all was the Ford administration's opposition to the provision in the Senate bill making the child care credit for low income working mothers refundable. Under this provision, working mothers would be eligible for the $800 a year in tax relief for child care expenses, even if their annual income was too low to require them to pay any Federal income tax. The cost of this benefit was a modest $30 million. Yet the administration opposed it and it was rejected in the recent bill. That's not a bad yardstick for the future—when the Ford administration starts paying as much attention to the need for tax relief for working mothers as it pays to additional tax relief for capital gains and for wealthy investors and multinational corporations, it will be time enough to reassess the administration's abysmal record on tax reform.

Fifteenth. The Ford opposition to repeal of the oil depletion allowance. Last but by no means least is the Ford administration's opposition to repeal of the percentage allowance for oil in 1975. This provision—the granddaddy of all tax loopholes, the most notorious loophole of them all—had provided huge tax windfalls for the oil industry for half a century. In 1969, Congress had finally succeeded in trimming the allowance slightly, from 27½ percent to 22 percent. In 1973 and 1974, when the price of oil more than quadrupled, and oil industry profits were mushrooming to record levels, a major new effort was made in Congress to eliminate this loophole. The House of Representatives voted to repeal the depletion allowance outright as part of the Tax Reduction Act in March 1975. The Ford administration and the Treasury opposed this action and in the end, Congress had to compromise, settling for only a partial repeal of this excessive tax benefit.

In sum, I repeat that on no other issue in this election are the Presidential candidates or the political parties further apart. The Ford administration's 2-year record puts it in the cellar in the standings on tax reform. The average American taxpayer can welcome the fact that Jimmy Carter and the Democratic Party platform have staked out the high ground on this issue.

Under 4 more years of Mr. Ford the loopholes will multiply and get bigger. Under a Carter administration, the loopholes will begin to close, the wealthy will begin to pay a fairer share of taxes, and the backbreaking burden on the average citizen will be lighter.

The White House charges filling the air in recent days may be full of sound and fury. But they signify nothing, as the record proves. The Ford administration has been calling the tune for the past 2 years and orchestrating new tax loopholes, and now it is time to pay the piper.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I understand Mr. Kennedy is on his way to the floor. He has been in committee meeting.

Mr. President, I ask unanimous consent that the period for the transaction of routine morning business which was to follow special orders occur now without prejudice to Mr. Kennedy.

The PRESIDING OFFICER. Without objection, it is so ordered.

PHILIP A. HART VISITORS' CENTER

Mr. GRIFFIN. Mr. President, I send to the desk a bill and ask that it be stated.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Michigan?

There being no objection, the Senate proceeded to consider the bill (S. 3843), to name the Visitors' Center at the Sleeping Bear Dunes National Lakeshore the Philip A. Hart Visitors' Center, which was read the first time by title and the second time at length.

Mr. GRIFFIN. Mr. President, this bill is sent to the desk with the cosponsorship of the Senator from West Virginia (Mr. Robert C. Byrd), the Senator from Pennsylvania (Mr. Hugh Scott), and the chairman of the Interior Committee (Mr. Jackson). There may be others who will wish to be associated with it.

Mr. President, in less than 2 weeks it is expected that the 94th Congress will adjourn sine die. As we have already noted this morning, this is a time for nostalgia—for saying good-bye to colleagues who will not return to the Senate—and it is a time for completing unfinished business.

This legislation encompasses both nostalgia and unfinished business. Quite simply, it would name the visitors' center at the Sleeping Bear Dunes National Lakeshore after my esteemed senior colleague from Michigan, Senator Philip A. Hart.

All of us know of the lasting mark Phil Hart has left on this body and on this Nation; and as an indication of our affection and respect for him, we have voted to name in his honor the new Senate office building now under construction.

It is nice, of course, that a building in Washington will bear the name of Phil Hart. But many believe it would be even more appropriate if a building in Michigan were named for him. Not just any edifice—but one that is associated with legislation very close to his heart.

Phil Hart has worked on many bills of national and international importance. But I suspect his proudest moment came with final enactment of the bill to preserve the Sleeping Bear Dunes on the shores of Lake Michigan in the beautiful northwestern part of our State and to establish a national park in that area for the benefit of future generations.

Last year Senator Hart spoke of the heritage we are now shaping for our Nation 200 years hence. He said:

> Will we leave them great fields of metal and concrete or the opportunity to sink their feet into the sandy beaches of Lake Michigan? The Sleeping Bear Dunes National Lakeshore, along with the Nation's other parks and lakeshores, helps assure that some of our blessings will survive.

Visitors to the peaceful area called Sleeping Bear should know—both in this generation and in generations to come—that this blessing survived because of Senator Philip A. Hart.

More than a year ago, when Phil Hart announced his plans to retire at the end of this session, he told his Michigan constituents that he would like to see congressional action to complete the purchase of Sleeping Bear before he leaves the Senate.

That wish, unfortunately, will not be completely fulfilled; Congress has lagged far behind in appropriating funds necessary to complete land acquisition in the park. That work is now only about half finished, but great progress has been made, and I shall continue the fight for funding next year.

Still, there is one thing that Congress can do this year—and that is to insure that Senator Hart will be remembered in the Michigan wilderness he loved just as he will be remembered here in Washington where he served so ably.

Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of the bill, which will name the visitors' center at the Sleeping Bear Dunes National Lakeshore the Philip A. Hart Visitors' Center.

The PRESIDING OFFICER (Mr. Bumpers). The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 3843) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3843

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the Visitors' Center at the Sleeping Bear Dunes National Lakeshore shall hereafter be known as, and is hereby designated as, the Philip A. Hart Visitors' Center.

ARTHUR H. VANDENBERG BUILDING

Mr. GRIFFIN. Mr. President, if I may be recognized again, I send another bill to the desk and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Michigan?

There being no objection, the Senate proceeded to consider the bill (S. 3844) designating the Federal building in Grand Rapids, Mich., as the Arthur H. Vandenberg Building, which was read the first time by title and the second time at length.

Mr. GRIFFIN. Mr. President, on October 4, a new Federal building in Grand Rapids, Mich., will be dedicated. The desire of the officials there, as well as the public officials both at the State and local level, is to have that Federal building named after the distinguished former Senator and great statesman, Arthur Vandenberg.

Mr. President, it is a special pleasure for me to urge enactment of legislation designating the Federal building in Grand Rapids, Mich., as the "Arthur H. Vandenberg Building."

Needless to say, Arthur Vandenberg was a great son of Michigan. He was born, grew up, and died in Grand Rapids. For over 23 years he represented Michigan in the U.S. Senate, serving both as President pro tempore and as chairman of the important Foreign Relations Committee. On at least one occasion, he turned down the Republican Party's nomination for Vice President; his name was frequently mentioned as a possible nominee for President.

Arthur Vandenberg was more than a great son of Michigan. He was truly a world figure.

A quarter century has passed since Arthur Vandenberg was last with us, but the principles by which he lived in the Senate remain as valid today as they were then.

More than ever before the challenges we face in the world call for a united American foreign policy. As I stated earlier on the Senate floor:

> A great deal can be done at both ends of Pennsylvania Avenue to develop a more cooperative and bipartisan approach to foreign policy.

Arthur Vandenberg was not the first American to realize the need for national unity in time of crisis. Thomas Jefferson once observed:

> If we move in mass . . . . we shall attain our object; but if we break into squads, every one pursuing the path he thinks most direct, we become an easy conquest to those who can now barely hold us in check.

Abraham Lincoln explained:

> In a storm at sea, no one on board can wish the ship to sink, and yet not infrequently all go down together because too many will direct and no single mind will be allowed to control.

But it was Arthur Vandenberg who personified the spirit of bipartisanship in foreign policy. As chairman of the Senate Foreign Relations Committee, he worked in close cooperation with Presidents of the opposition party to forge a policy that was neither Republican nor Democrat—but truly an American foreign policy.

Does "bipartisan foreign policy" mean an end to debate—blind allegiance to Presidential dictates? Not at all. On January 11, 1947, Senator Vandenberg told the Cleveland Council of World Affairs:

> As a junior partner, I have worked with Secretary (of State) Byrnes on what is called a "bipartisan foreign policy." . . . This does not mean that we cannot have earnest, honest, even vehement domestic differences of opinion on foreign policy. It is no curb on free opinion or free speech. But it does mean that they should not root themselves in partisanship. We should ever strive to hammer out a permanent American foreign policy, in basic essentials, which serves all America and deserves the approval of all American-minded parties at all times.

Nearly 2 years later, in a radio address to the Nation, Senator Vandenberg again explained:

> This common action does not mean that we cease to be "Republicans" or "Democrats" at home. It does not mean that we mute our criticisms of mistakes. It does not mean a fake "unity" devoid of popular consent. It means that we strive by consultation to lift foreign policy above partisan issues. It means that we attempt to hammer out the greatest possible measure of agreement so we can speak to the world, not as "Republicans" or "Democrats" but as undivided Americans.

Vandenberg realized that foreign policy is primarily the responsibility of the President. But he also recognized that Congress does have a critical impact on the success of any foreign policy:

> Since the Constitution charges the President with primary responsibility in international relations, it is he who must start the process and set its boundaries. But in the final analysis the Congressional "opposition" decides whether there shall be cooperation. We cooperated. I express the belief that our patriotic Democratic friends will follow this example when they are in the "opposition."

Today, America desperately needs bipartisan cooperation in forging our relationship with other nations. In the last analysis, if our will is perceived to be lacking, no aggressor will be deterred by our physical strength.

Over 27 years ago, Arthur Vandenberg noted:

> In the face of any foreign problem, our unity is as important as our atomic bombs. It is particularly important as a discouragement to alien miscalculation which, otherwise, might lead to the mistaken belief that we are vulnerable because of our domestic divisions. In other words, this is our best available insurance for peace.

There were many events in the late 1940's which might have justified an end to bipartisan cooperation, had Senator Vandenberg so wished. For the most part, such opportunities were overlooked. This was not because the Senator from Michigan was less a "Republican" than others—certainly he would have enjoyed seeing the other party squirm. It was simply that Arthur Vandenberg placed the welfare of the Nation above the partisan goals he might otherwise have served.

In one of his last major speeches—a Lincoln Day address in the city of Detroit on February 10, 1949—Senator Vandenberg looked toward the future:

> It will be a sad hour for the Republic if we ever desert the fundamental concept that politics shall stop at the water's edge. It will be a triumphant day for those who would divide and conquer us if we abandon the quest for a united voice when America demands peace with honor in the world. In my view nothing has happened to absolve either Democrats or Republicans from continuing to put their country first. Those who don't will serve neither their party nor themselves.

Mr. President, in 1964, I was privileged to play a role in action which designated room S–129 of the Capitol as the "Vandenberg Room."

Today, it is an honor to play a role in designating the new Federal building in Grand Rapids as the "Arthur H. Vandenberg Building."

Mr. President, this legislation has also been cleared with the chairmen and ranking members of the appropriate committees. There is a companion bill (H.R. 13247) in the House of Representatives. If that bill comes over, we will ask that it be held at the desk and pass the House bill as well. But in the meantime, I do ask the Senate to pass S. 3844.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 3844) was ordered to be engrossed for a third reading, read the third time, and passed as follows:

S. 3844

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Federal building located at 110 Michigan Avenue, Northwest, in Grand Rapids, Michigan, is hereby designated as the "Arthur H. Vandenberg Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the Arthur H. Vandenberg Building.

Mr. GRIFFIN. Mr. President, I thank the Chair and I thank the distinguished acting majority leader.

ORDER FOR RECOGNITION OF SENATOR BARTLETT TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, after the two leaders or their designees have been recognized under the standing order, the Senator from Oklahoma (Mr. BARTLETT) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX REFORM

Mr. HATHAWAY. Mr. President, the administration has laid claim to leadership in the area of tax reform. In order to be able to evaluate that claim, we must accept the invitation of one of the earlier stalwarts of the same Republican administration; we must look at what they do, not what they say. We can get a better idea of what kind of reform they are talking about when we look at what they have done since President Ford found himself in the White House.

The first set of tax proposals put forth by this administration were those contained in the WIN program. WIN, as you will recall, stood for "whip inflation now", and was supposedly going to be the answer to the increasingly serious recession.

The specific proposals contained in the program were the following:

> A tax surcharge of 5% of tax liability in excess of the taxes attributable to the first $10,000 of income for single taxpayers and $15,000 of the income of married taxpayers,
>
> A surcharge of 5% on corporate taxes,
>
> A deduction for corporations for dividends on preferred stock,
>
> An increase from 7% to 10% in the investment tax credit.

The net revenue impact of these tax changes would have been to increase tax revenues by about $2 billion—this at a time when the economy had been slowing down for over a year, and when it was obvious to almost everyone but the Ford administration that the slowdown was turning into a major recession. On October 9, when unemployment was 5.9 percent, Secretary Simon testified before Ways and Means that—

> We believe that the rise in unemployment will certainly not be excessive, as a few estimates have indicated.

Within 8 months, unemployment had risen to 8.9 percent.

More importantly, for purposes of the Ford administration's recent claims on tax reform, the only tax changes affecting individuals were increases of $2.7 bililon. The only tax reductions were for the business community, and over 80 percent of those went to big business, while the tax on most small businesses would have actually increased. Such proposals seem singularly inappropriate for a nation in a recession.

Their consistency with the administration's later proposals suggests that the reason for their inappropriateness was that the administration was not trying to respond to the recession of a suffering nation. Instead, they were responding to the same constituency they have responded to ever since—big business at the expense of small business, and at even more expense to the individual.

The Democratic Congress, which had learned the characteristics of one Republican President, recognized the WIN proposal for what it was—a sham.

After the elections of 1974, the administration abandoned the WIN program, and in his State of the Union message of January 15, 1975, the President proposed a tax cut. This was news to no one, since by then the Republican-induced recession had deepened to such a point that a tax cut was unavoidable; but what was of interest was the form the President's tax cut was to take.

The tax cut was to be in the form of a rebate for individuals of 12 percent of the taxpayers tax liability, to a maximum of $1,000. The ceiling was only added at the last minute when the administration realized how outrageously high some of the rebates would be for higher income taxpayers. For business, the tax benefit was to be a 1-year increase in the investment tax credit.

Again, the President's primary concern was not the recession, but his own constituency. Less than 20 percent of the benefits of the investment tax credit accrues to small business—the rest goes to big business—and because tax rates are graduated, a tax cut based on a percentage of tax liability benefited high-income taxpayers more than low-income taxpayers.

Recognizing the moral and intellectual bankruptcy of President Ford's proposals, the Democratic leadership in Congress seized the initiative in enacting tax cuts designed to deal effectively with the recession and to enhance the progressivity of the Internal Revenue Code. Instead of a one-shot rebate based on tax liability, the Congress provided a rebate tied to a lowering of tax rates overall. This provided tax relief to the middle-income working people whom President Ford is trying to hoodwink, and whom he has so neglected.

Congress also provided $1.4 billion in the earned income credit for America's working poor, to help them off welfare as the recession closed in on them, and a $1.7 billion payment to social security recipients, who were severely pressed by inflation, and whom the Ford administration had ignored. Instead of giving all the business tax cuts in areas most beneficial to big business, the Congress targeted their relief at small business with an increase in the surtax exemption from $25,000 to $50,000 and a reduction in the rate on the first $25,000 of corporate income from 22 to 20 percent.

In addition to the tax relief provided by the congressional proposal, increasing the standard deduction enabled over 7 million people to stop itemizing, thus greatly simplifying the tax system, and greatly raised the income level above which people had to start paying taxes. The administration's proposal had done none of these things.

Furthermore, thanks in large part to the leadership provided by Democratic Vice President candidate MONDALE in supporting the $30 per capita credit, the proposal adopted by the Democratic Congress was far more progressive than that proposed by the Ford administration. The following table gives a breakdown of the distribution of the tax cuts by income class:

TABLE 1.—DISTRIBUTION OF ADMINISTRATION TAX CUT COMPARED TO TAX REDUCTION ACT OF 1975 (1974 INCOME LEVELS)

[Amount in millions]

AGI class (thousands)	Administration tax rebate		Tax Reduction Act of 1975[1]	
	Amount	Percent of total	Amount	Percent of total
Less than 3	30	0.2	672	4.0
3 to 5	213	1.7	1,834	10.8
5 to 7	491	4.0	2,093	12.3
7 to 10	1,110	9.1	2,643	15.6
10 to 15	2,549	20.9	3,982	23.5
15 to 20	2,509	20.6	3,222	19.0
20 to 50	4,489	36.8	2,350	13.8
50 to 100	646	5.3	145	.9
100 and over	157	1.3	34	.2
Total	12,195	100.0	16,976	100.0

[1] Includes refund on 1974 taxes, increase in standard deduction, $30 per capita credit and earned income credit.

As can be seen from the table, 42.7 percent of the benefit of the proposal goes to income classes below $10,000, as compared to 15 percent under the Ford proposal.

Instead of supporting tax cuts for low- and middle-income individuals, as the Ford administration is now claiming it wants to do, the administration devoted most of its energies during the consideration of the bill to preserving the depletion allowance for oil and gas for the major oil companies. As the public will recall, the Tax Reduction Act was passed shortly after the Arab oil embargo had raised the price of new oil from around $4 per barrel to around $11 per barrel. The response of the Democratic Congress was that this tripling of prices ought to provide a sufficient market incentive for exploration oil for the Treasury to stop subsidizing the oil industry by allowing it deductions for expenses which were never incurred. But the President disagreed. Apparently, he thought a 50-year-old loophole of this size was a relic and ought to be preserved. But in any case, although the final provision approved by Congress contained an exemption for small, independent drillers, President Ford was not appeased. His concern was not the small companies that do the drilling, but the big ones that make the profits, and in a televised speech to the Nation, he cited the repeal of the oil depletion allowance as one of the bill's most objectionable features. Despite a recession, despite inflation, and despite the highest profits in history for most of these companies because of a windfall from their Arab friends, the President wanted to preserve their unique tax advantage, rather than offer tax relief to working families trying desperately to stay off welfare or to recipients of social security living on fixed income. This is the kind of tax reform President Ford supported. He was overruled by a Democratic Congress.

Now is a particularly appropriate time to be discussing the issue of tax reform, and I am glad the President has brought the issue up, because the tax reform bill is now on his desk awaiting his signature. This bill was initiated by the Democratic leadership in Congress, worked on by Congress, and passed with the support of the Democratic majority in Congress. During this process the Ford administration's primary energies were devoted to lobbying on behalf of preserving DISC benefits for large corporations and in protecting oil and gas tax shelters for wealthy individuals.

DISC's—domestic international sales corporations—are a special tax device to enable corporations to defer indefinitely the income on one-half of their exports. The annual revenue loss is about $1.4 billion, and growing. Yet, although their own staff issued a report that was very ambivalent on the issue, and although most outside economists estimated the effects of DISC's to be negligible compared to the effects of floating exchange rates, the administration argued vigorously against closing this loophole for wealthy corporations. And needless to say, there was no middle- or lower-income group for which the administration supported an exemption of one-half of their income from tax. Indeed, whenever tax benefits for these taxpayers were proposed, such as the tax credit for child care, the administration piously argued against it, citing the revenue loss, despite the fact that the child care credit, at about one-half the revenue loss, promises to put far more people to work than DISC ever will.

Combating tax shelters for wealthy individuals was the one area in which the Ford administration briefly assumed the posture of reform by proposing limitations on the artificial losses—LAL's—of tax shelters. Under the LAL approach the special tax deductions that are allowed to an enterprise can only be taken against the income from that enterprise, not against other, unrelated income. The result is a wealthy taxpayer cannot buy into an enterprise for the purpose of getting deductions to shelter his outside income.

After making this proposal, however, the Ford administration declined to apply it to oil and gas shelters. This is like plugging all of the holes in the dike but one. Furthermore, having put their proposal forward, the administration offered no leadership in pressing the matter, and opposed all alternatives. The result was that again it was left to the Democratic Congress to fashion adequate remedies to deal with tax shelter situations, which that Congress did.

Meanwhile, as the Ford administration was giving little support to closing the tax shelters that are only available to the very rich, they were proposing to raise the payroll taxes for both the social security and unemployment trust funds. These increases in the payroll tax, among the most regressive taxes in our entire code, would have meant a tax increase for every working American.

This is the kind of tax reform the Ford administration has proposed—DISC's, depletion, and deception. For tax relief for workingmen and women. Americans must turn to the political party to which they have always turned, the party of the people—the Democratic Party.

THE HOUSING RECOVERY

Mr. GRIFFIN. Mr. President, again this morning we have witnessed and listened to bombastic and colorful rhetoric by Democratic spokesmen who appear to be more and more concerned about the chances of their Democratic nominee for the President.

Last Wednesday some of my Democratic colleagues filled up 8 pages of the Congressional Record with criticism and attacks on the housing record of President Ford.

Aside from pointing out that there were many inaccuracies in those politically motivated statements, I think the most effective response lies—not in making countercharges—but in simply laying out the facts.

The latest housing statistics, released just last Friday, are particularly interesting in light of those political charges. Politics aside, it should be obvious to any objective observer, or voter, that there is, and has been, significant upward movement in the housing field. As President Ford has pointed out with reference to a number of economic indicators, the trend in housing—as well as in other areas—is in the right direction.

I ask that a statement dated September 17 by the Department of Housing and Urban Development be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

The Housing Recovery

The seasonally adjusted rate of private housing starts in August rose almost 11 percent over the July level and was 22 percent over the level in August, 1975.

Housing and Urban Development Secretary Carla A. Hills, in comments on the increases announced today by the Commerce Department, said the developments "indicate an improving economy".

"The pattern represents a continuation of the recovery in housing production which has been stimulated by President Ford's sure hand on the economy since he took office in August, 1974," the Secretary said.

"Among the most significant indicators are the increases in multifamily starts and permits," she added.

August multifamily unit starts rose almost 48 percent over July, 1976, and 30 percent over August, 1975 while single family starts were up almost 6 percent over July and 22 percent over August, 1975.

The same pattern occurred in building permits for private housing units. August multifamily permits rose 19 percent over July and almost 53 percent over August, 1975. Total permits this August went up 7 percent over July 1976, and 30 percent over August 1975.

Other signs that the housing production market is advancing are the reports of record September savings inflows to savings and loan institutions, the primary sources of residential mortgage credit, and the recent decline in short-term interest rates.

VOTER QUALIFICATIONS

Mr. ALLEN. Mr. President, an interesting article appeared in the Washington Star yesterday afternoon. "New Kind of Campaign: Urging the Mentally Retarded To Vote."

I ask unanimous consent that this article be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ALLEN. Mr. President, back in 1965, Congress passed a law that prohibited seven southern States from having literacy tests, contending that the literacy tests were used as a bar, an impediment, or a device to discourage registration of voters.

Then in 1970 Congress thought that was such a good idea that it extended nationwide the bar on States having literacy tests as a requirement for registration to vote.

Mr. President, the passage of those laws is a further indication that Congress all too frequently acts first and then studies next, if at all.

Only recently one of the candidates for President came out with a statement advocating the passage of a postcard registration bill which was thereafter hurried through the House of Representatives, and it came here and reposes now in the Senate Committee on Post Office and Civil Service. I might say that over in the House they did have the good judgment of knocking out the distribution of those postcards through the mails. That bill is dead in this session of Congress, and certainly it is well that it is dead.

Then the same candidate for President, not satisfied with advocating postcard registration, came out with the amazing proposal that we have blanket registration for every person in the country who becomes 18 years of age. That would not be in the public interest in my judgment.

They are having voter registration drives at two institutions for the mentally retarded as recorded in this article. We certainly sympathize with these unfortunate people who are confined to institutions for the mentally retarded. But one questions whether we ought to spend our energies registering voters in institutions for the mentally retarded. Will we also register voters in insane asylums? Will we register voters in the prisons of the country? Will we register voters on death row? Will we register voters who are confined to the prisons or spaces in the prisons for the criminally insane? How far will this be extended?

There is nothing wrong with literacy tests as a condition precedent for voting. It is when the tests are abused that they become objectionable. So I question whether Congress acted with a great deal of wisdom in banning literacy tests throughout the country. According to the law no State can have a literacy test. So I think that we have made an unwise step here, and I think that it is pretty well illustrated by the fact that they are having voter registration drives in institutions for the mentally retarded.

I yield the floor.

Exhibit 1

New Kind of Campaign: Urging the Mentally Retarded To Vote—Registration Encouraged in Montgomery, Northern Virginia

(By Diane Brockett)

One Great Oaks resident was disappointed when Ronald Reagan didn't win the Republican presidential nomination, because he is a fan of all Reagan's old movies and wanted to vote for him.

Now the man is debating whether he should cast a write-in vote for the star-turned-politician.

"Actually, he's not so different from many voters on the outside," Gail Nachman, director of social services at The Great Oaks Center, pointed out.

There is one difference. The man is mentally retarded and will be voting for the first time as part of a growing movement to give mentally retarded persons all of their civil rights.

Great Oaks, a state institution for the mentally retarded serving a five-county area from a location in Montgomery County, and the Northern Virginia Training Center for the Mentally Retarded are both helping eligible residents register to vote in time for the November election. The registration drives are the first at both institutions.

It has been the accepted philosophy in most localities that a mentally retarded person shouldn't vote, that he is incompetent, especially if he is in an institution.

But growing numbers of advocates for the rights of retarded citizens nationally are arguing that the mentally retarded should not be deprived of such a basic right of citizenship, regardless of their understanding of the election process or specific election issues.

A recent article in Hospital & Community Psychiatry magazine notes that 8,000 ballots were invalidated in the District's presidential primary May 4 because they were improperly filled out. "I'm sure most of those people were not mentally disabled," it quotes an unnamed attorney.

"Voting is the symbol of citizenship," said Robert Plotkin, an attorney with the Mental Health Law Project who serves on the human rights committee at Great Oaks. He called denial of the right to vote a symbol of "second class citizenship."

In Maryland, Virginia and the District, a mentally retarded person is eligible to vote if he is 18 years old and has not been found legally incompetent (a very narrow definition) or been put under the guardianship of either an institution or some individual.

Residents at both Great Oaks and Northern Virginia are there following voluntary rather than court-ordered commitments.

Residents at Forest Haven, the District's institution for the mentally retarded, are a mixture of voluntary and court-ordered commitments, but no effort has ever been made to register residents there.

At Great Oaks, all 253 residents who met the age requirement were recently read a statement explaining they have the right to vote in this fall's election, Nachman said. If they expressed an interest in registering, they were given their choice of voting by mail or in person.

About 71 residents ranging in age from 18 to 55 expressed an interest in voting, Nachman said. Their method provided a natural selection process, she said: Those able to understand expressed an interest and those with too low an intelligence level did not respond.

About 78 percent of the residents at the institution are severely and profoundly retarded.

Two of the 71 were found to be registered voters already, the social worker said. The other 69 have now also been registered, each in his home county.

Eight, including one from Calvert County, have asked to vote in person. They will be taken to the proper polling places on election day.

Nachman said the five counties involved were very cooperative, and Maryland's voter registration law allowed all the Great Oaks residents to register by mail.

In some states, residency has been used as a barrier to letting retarded persons who live in the institution vote, because neither the home community nor the site of institution site claim them as permanent residents. Maryland officials decided to opt for the home locality, since many institutionalized retarded persons receive financial assistance through their county welfare departments and could lose that aid if Montgomery County registered them as voters.

A less formal process of determining who wants to register will be used at Northern Virginia, according to Dr. David Lawson, director, but essentially the same guidelines will be followed.

He said he has not sought a legal opinion about the registration effort, but merely intends to take those eligible into the proper county offices and register them.

"If anyone refuses us, then we'll ask for an opinion from the attorney general," Lawson said.

Both institutions are planning to give their residents some voter education, beginning by encouraging them to watch this week's Ford-Carter debate. The League of Women Voters has planned a session for the Great Oaks voters which will include details of both presidential candidates' campaigns.

Lawson said he has asked local candidates from both major political parties to consider participating in a program at the Northern Virginia Center.

The eight Great Oaks residents who want to vote in person will also have a practice session with a voting machine at the Montgomery County election board Oct. 4, so they will know what to do when they get in the real voting booth alone.

The PRESIDING OFFICER. The time for routine morning business has expired.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the morning hour be extended for a period of not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST—S. 2278

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that five members of the staffs of Senator KENNEDY and Senator TUNNEY be authorized to have the privilege of the floor during further consideration today of the civil rights attorneys' fee bill, and they are as follows:

Jane Frank, Robert Malon, Tom Susman, Ralph Oman, and Ralph Neas.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 14071 be held at the desk pending further disposition.

Mr. HELMS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

THREE PROPOSED RESCISSIONS—MESSAGE FROM THE PRESIDENT

The Presiding Officer laid before the Senate the following message from the President of the United States, which was referred jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, Public Works, Interior and Insular Affairs, Commerce, and Armed Services:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith propose three rescissions of 1977 budget authority totalling $134.1 million. The rescission proposals affect programs of the Corps of Engineers and the Departments of the Interior and Transportation.

In addition, I am reporting an increase of $133,000 to a 1976 and transition quarter deferral involving the wildlife conservation, etc., military reservations programs.

The details of the proposed rescissions and the revised deferral are contained in the attached reports.

GERALD R. FORD.

THE WHITE HOUSE, *September 22, 1976.*

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

PROPOSED LEGISLATION BY THE DEPARTMENT OF THE AIR FORCE

A letter from the Assistant Secretary of the Air Force transmitting a draft of proposed legislation to extend the period during which authorized numbers for the grades of lieutenant colonel and colonel in the Air Force are increased (with accompanying papers); to the Committee on Armed Services.

REPORT OF THE NATIONAL TRANSPORTATION SAFETY BOARD

A letter from the Chairman of the National Transportation Safety Board transmitting the budget of the Board for the fiscal year 1978 (with an accompanying report); to the Committee on Commerce.

REPORT OF THE SECRETARY OF TRANSPORTATION

A letter from the Secretary of Transportation transmitting a progress report on the implementation of the statement of National Transportation Policy issued September 17, 1975 (with an accompanying report); to the Committee on Commerce.

COMMISSION ON FINANCIAL OVERSIGHT OF THE DISTRICT OF COLUMBIA

A letter from the Mayor of the District of Columbia advising of his intention to serve as a member of the Commission on Financial Oversight of the District of Columbia; to the Committee on the District of Columbia.

UNITED STATES-SPAIN TREATY OF FRIENDSHIP AND COOPERATION

A letter from the Secretary of State relating to the instrument of ratification of the 1976 United States-Spain Treaty of Friendship and Cooperation; to the Committee on Foreign Relations.

PUBLISHED REGULATIONS OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Director, Office of Regulatory Review, Department of Health, Education, and Welfare, transmitting a copy of published regulations relating to financial assistance for educationally deprived children (with accompanying papers); to the Committee on Labor and Public Welfare.

MESSAGES FROM THE HOUSE

At 9:45 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House has passed without amendment the following Senate bills:

S. 1404. An act for the relief of Mrs. Kyong Chu Stout;

S. 1477. An act for the relief of Beatrice Serrano-Toledo;

S. 1787. An act for the relief of Maria Lisa R. Manalo and Rogena R. Manalo;

S. 2220. An act to authorize and direct the Secretary of the Interior to reinstate oil and gas lease New Mexico 18302;

S. 2322. An act for the relief of Lee Mee Sun;

S. 2481. An act for the relief of Oscar Rene Hernandez Rustrian;

S. 2668. An act for the relief of Arturo Moreno Hernandez;

S. 2770. An act for the relief of Anthony Augustus Daley and Beverly Evelyn Daley;

S. 2830. An act for the relief of Gary A. Broyles; and

S. 2956. An act for the relief of Teresa Marie Salman.

The message also announced that the House has passed the following Senate bill, each with amendments in which it requests the concurrence of the Senate:

S. 3050. An act to authorize the Secretary of Transportation, when the Coast Guard is not operating as a service in the Navy, to lease for military purposes structures and their associated real property located in a foreign country; and

S. 3383. An act to authorize and direct the Secretary of Commerce to develop a national policy on weather modification, and for other purposes.

The message further announced that the House has passed the following Senate bill, with an amendment in which it requests the concurrence of the Senate:

S. 2991. An act to amend the Hazardous Materials Transportation Act to authorize appropriations, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 14299) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution in which it requests the concurrence of the Senate:

H. Con Res. 726. A concurrent resolution to urge the Soviet Union to release Georgi Vins and permit religious believers within its borders to worship God according to their own conscience.

The message also announced that the House has passed the following bills and joint resolutions in which it requests the concurrence of the Senate:

H.R. 300. An act to authorize the Secretary of the Interior to sell certain rights in the State of Florida;

H.R. 2977. An act to authorize the Secretary of the Interior to sell certain rights in the State of Florida;

H.R. 10613. An act to authorize the Secretary of the Interior to sell certain rights in the State of Florida;

H.R. 10841. An act to amend the Intercoastal Shipping Act, 1933, and for other purposes;

H.R. 13585. An act to amend the Federal Boat Safety Act of 1971;

H.R. 14041. An act to amend the Railroad Retirement Act of 1974 with respect to the computation of annuity amounts in certain cases, and for other purposes;

H.R. 14227. An act to direct the Secretary of Agriculture to release a condition with respect to certain real property conveyed by the United States to the board of regents of the Universities and State colleges of Arizona for the use of the University of Arizona;

H.R. 14773. An act to amend title 10, United States Code, to make certain changes in the Retired Serviceman's Family Protection Plan and the Survivor Benefit Plan as authorized by chapter 73 of that title, and for other purposes;

H.R. 15136. An act to authorize appropriations for construction of facilities on Guam, and for other purposes;

H.R. 15445. An act to save the gray and bowhead whales;

H.R. 15552. An act to amend title 18, United States Code, to implement the "Convention To Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion That Are of International Significance" and the "Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents", and for other purposes;

H.J. Res. 915. A joint resolution to authorize the placement of the bell known as the American Legion's Freedom Bell on lands owned by the United States, and for other purposes; and

H.J. Res. 967. A joint resolution authorizing the acceptance of the Joint Committee on the Library on behalf of the Congress, of the United States Capitol Historical Society, of preliminary design sketches and funds for murals, in the first floor corridors in the House wing of the Capitol, and for other purposes.

H.R. 14071. An act to regulate interstate commerce with respect to parimutuel wagering on horseracing, to maintain the stability of the horseracing industry, and for other purposes.

At 12:35 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the House has passed the bill (S. 2839) to supplement the authority of the President and various Federal agencies to collect regular and periodic information on international investment, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message also announced that the Senate has passed the bill (S. 3430) to amend the act approved August 18, 1970, providing for improvement in the administration of the national park system by the Secretary of the Interior and clarifying authorities applicable to the national park system, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House has passed the bill (H.R. 13374) to provide for a national wildlife refuge in the Minnesota River Valley, and for other purposes, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 3485) for the relief of Orlando Garzon, with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 11349. An act for the relief of M. Sgt. William E. Boone, U.S. Army, retired; and

H.R. 11859. An act for the relief of William H. Klusmeier, publisher of the Austin Citizen, of Austin, Tex.

The message also announced that the House has agreed to the concurrent resolution (H. Con. Res. 737) expressing the sense of the Congress that every person throughout the world has a right to a nutritionally adequate diet and that the United States should increase substantially its assistance for self-help development among the world's poorest people, in which it requests the concurrence of the Senate.

At 2:04 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the Speaker has appointed Mr. JARMAN, Mr. RANDALL, Mr. MCCLORY, Mr. PEPPER, and Mr. BYRON as delegates to attend the conference of the Interparliamentary Union, to be held at Madrid, Spain, on September 23 to October 1.

The message also announced that the House has passed the following bills and joint resolution in which it requests the concurrence of the Senate:

H.R. 1761. An act for the relief of Evelyn Fegi Matayoshi and Wilma Fegi Matayoshi;

H.R. 3647. An act to amend the Federal Aviation Act of 1958 relating to eligibility for aircraft registration;

H.R. 6511. An act for the relief of certain employees of the Naval Ordnance Systems Command;

H.R. 6816. An act for the relief of Dr. Daryl C. Johnson;

H.R. 7522. An act for the relief of Robert H. Glazier;

H.R. 7682. An act relating to the disposition of certain recreational demonstration project lands by the State of Oklahoma;

H.R. 9444. An act to name the Federal Building in Omaha, Nebr., the "Glenn Cunningham Federal Building" in commemoration of the many contributions of former Congressman Glenn Cunningham;

H.R. 9543. An act for the relief of Eupert Anthony Grant;

H.R. 10072. An act to direct the conveyance of certain real property of the United States to the county of Mineral, State of Nevada;

H.R. 11303. An act to designate the "Herman T. Schneebeli Federal Building";

H.R. 11891. An act to authorize the establishment of the Congaree Swamp National Monument in the State of South Carolina, and for other purposes;

H.R. 12484. An act to amend the Federal Aviation Act of 1958, to provide for expedited consideration by the Civil Aeronautics Board of applications for certificates of public convenience and necessity;

H.R. 12937. An act to designate a Federal building and U.S. Post Office in Jasper, Ga., as the "Phil M. Landrum Federal Building and Post Office";

H.R. 14503. An act to name the new post office in Youngstown, Ohio, the "Michael J. Kirwan Post Office";

H.R. 13940. An act for the relief of Mr. and Mrs. Aaron Wayne Ogburn;

H.R. 14956. An act to designate the "Joe L. Evins Post Office and Federal Building";

H.R. 14977. An act to name the Federal office building in Athens, Ga., the "Robert G. Stephens, Jr., Federal Building";

H.R. 15026. An act to amend the Federal Aviation Act of 1958 to authorize reduced fare transportation on a space-available basis for elderly persons and handicapped persons, and for other purposes;

H.R. 15546. An act to designate the "Ray J. Madden Post Office Building"; and

H. J. Res. 1096. A joint resolution making supplemental appropriations for the Department of Defense for the repair and replacement of facilities on Guam damaged or destroyed by Typhoon Pamela, and for other purposes.

At 4:45 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14238) making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 1 through 39, 46, 48, 57, 58, 59, 60, 79, and 89; that the House recedes from its disagreement to the amendments of the Senate numbered 90 and 91 and concurs therein each with an amendment in which it requests the concurrence of the Senate; and that the House insists upon its disagreement to Senate amendment numbered 56.

ENROLLED BILLS SIGNED

At 5:30 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the Speaker has signed the following enrolled bills:

S. 1404. An act for the relief of Mrs. Kyong Chu Stout.

S. 1477. An act for the relief of Beatrice Serrano-Toledo.

S. 1787. An act for the relief of Maria Lisa R. Manalo and Rogena R. Manalo.

S. 2220. An act to authorize and direct the Secretary of the Interior to reinstate oil and gas lease New Mexico 18302.

S. 2481. An act for the relief of Oscar Rene Hernandez Rustrian.

S. 2668. An act for the relief of Arturo Moreno Hernandez.

S. 2770. An act for the relief of Anthony Augustus Daley and Beverly Evelyn Daley.

S. 2830. An act for the relief of Gary A. Broyles.

S. 2956. An act for the relief of Teresa Marie Salman.

S. 3095. An act to increase the protection of consumers by reducing permissible deviations in the manufacture of articles made in whole or in part of gold.

H.R. 10612. An act to reform the tax laws of the United States.

H.R. 11149. An act to amend section 2 of the act entitled "An act to incorporate the National Society of the Daughters of the American Revolution."

H.R. 13325. An act to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the United States Railway Association, and for other purposes.

H.R. 14298. An act to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes.

H.R. 15193. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions, which were referred as indicated:

Twenty resolutions adopted by the National Conference of Lieutenant Governors, relating to: (1) Chronic unemployment; to the Committee on Labor and Public Welfare; (2) transportation; to the Committee on Public Works; (3) Report on the Office of Lieutenant General; laid on the table; (4) Volunteerism; to the Committee on Labor and Public Welfare; (5) Services for the aging; to the Committee on Labor and Public Welfare; (6) National food policy; to the Committee on Agriculture and Forestry; (7) CSG Executive Committee; laid on the table; (8) National coordinated tourism policy; to the Committee on Commerce; (9) comprehensive energy policy; to the Committee on Interor and Insular Affairs; (10) research in energy sources; to the Committee on Interior and Insular Affairs; (11) energy facilities site selections; to the Committee on Interior and Insular Affairs; (12) liquefied natural gas facilities; to the Committee on Commerce; (13) energy contingency plans; to the Committee on Interior and Insular Affairs; (14) energy conservation; to the Committee on Interior and Insular Affairs; (15) commercial fisheries; to the Committee on Commerce; (16) disaster relief; to the Committee on Public Works; (17) bicentenial council of the 13 original States; laid on the table; (18), (19), and (20) appreciation; laid on the table.

A resolution adopted by the Kansas Independent Oil and Gas Association relating to the market price of crude oil; to the Committee on Interior and Insular Affairs.

A petition seeking redress of grievances from a citizen of the State of New York; to the Committee on Labor and Public Welfare.

Assembly Joint Resolution No. 74 adopted by the Legislature of the State of California; to the Committee on Interior and Insular Affairs:

"ASSEMBLY JOINT RESOLUTION NO. 74

"Whereas, The Santa Monica Mountains and seashore constitute the last great expanse of open space in the Los Angeles metropolitan area; and

"Whereas, The Santa Monica Mountains and seashore is a unique and valuable economic, environmental, agricultural, scientific, educational, and recreational resource which provides essential relief from the urban environment and serves as an airshed for a severely polluted air basin; and

"Whereas, The Santa Monica Mountains and seashore exist as a single ecosystem in which changes that affect one part may also affect all other parts; and

"Whereas, Planning for the Santa Monica Mountains and seashore has been fragmented and not pursuant to a comprehensive plan for the entire area; and

"Whereas, Without comprehensive, coordinated planning, piecemeal development may result in irreparable damage to the Santa Monica Mountains and seashore; and

"Whereas, The preservation and protection of the Santa Monica Mountains and seashore for the present and future population of the region is in the public interest; now, therefore, be it

"Resolved by the Asssembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to create a program for comprehensive planning, including an urban park and recreation area, in the Santa Monica Mountains and seashore that reflects the significance of that area to residents of the region and to the nation as a whole and involves the cooperative effort of federal, state, and local governments; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

Assembly Joint Resolution No. 53 adopted by the Legislature of the State of California; to the Committee on Labor and Public Welfare:

"ASSEMBLY JOINT RESOLUTION NO. 53

"Whereas, Section 504 of the Rehabilitation Act of 1973 guarantees equal rights to the handicapped and provides that ". . . no otherwise qualified handicapped individual in the United States . . . shall solely by reason of the individual's handicap be excluded from the participation in, be denied the benefits of, or be subjected to the discrimination under any program or activity receiving Federal financial assistance"; and

"Whereas, That same act reaffirmed the essential responsibility and function of various state agencies of vocational rehabilitation to "increase services to the severely disabled"; and

"Whereas, The Elementary and Secondary Education Act of 1974 declares "it to be the policy of the United States of America that every citizen is entitled to meet his or her full potential without financial barriers . . ."; and

"Whereas, It has been determined in a recent survey that in excess of $25,000,000, prorated over a period of three years, will be necessary in order to make California public postsecondary campuses free of architectural barriers that impede the movement of physically handicapped persons; and

"Whereas, The California Department of Rehabilitation, the primary state agency charged with returning disabled citizens to employment, and the California community colleges, representing 100 campuses throughout California, that offer educational and training programs and services to over 30,000 physically, educationally, and mentally handicapped students, jointly desire to cooperate for the benefit of removing barriers to disabled citizens of California at its postsecondary educational institutions; and

"Whereas, Presently, many vital educational and training programs are incapable of being attended by severely disabled persons strictly by virtue of the fact that they are unable to reach the classrooms or negotiate the terrain of the campuses; and

"Whereas, This situation discriminates against otherwise qualified handicapped individuals solely by reason of their handicap by excluding disabled persons from participation in and benefiting from educational and training programs and activities now receiving federal financial assistace; and

"Whereas, Barriers at postsecodary educational institutions deny the equal rights of the handicapped, now guaranteed by the Vocational Rehabilitation Act; and

"Whereas, The cost of providing training and education to disabled citizens and thereby increasing their economic independence will be far less than the cost of continued public dependency; now, therefore, be it

"Resolved by the Assembly and Senate of the State of Cailfornia, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to take legislative action to appropriate the necessary funds to aid California's public postsecondary campuses to remove the architectural barriers that obstruct the mobility and functioning of disabled persons attempting to utilize existing public postsecondary educational buildings and campuses; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HRUSKA, from the Committee on the Judiciary without amendment:

S. 842. A bill for the relief of the Mondakota Gas Co. (Rept. No. 94–1272).

With an amendment:

S. 3646. A bill to amend title 18, United States Code, to implement the "Convention To Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion That Are of International Significance" and the "Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents", and for other purposes (Rept. No. 94–1273).

By Mr. HASKELL, from the Committee on

Interior and Insular Affairs with an amendment:

S. 3444. A bill to provide for the study of certain lands to determine their suitability for designation as wilderness (Rept. 94–1274).

By Mr. EASTLAND, from the Committee on the Judiciary without amendment:

S. 649. A bill for the relief of Roberto Quispe (Rept. No. 94–1275).

S. 2647. A bill for the relief of Doctor Reynaldo P. Perez, his wife, Raquel Perez, and their child, Marie Freinde Perez (Rept. No. 94–1276).

S. 2736. A bill for the relief of Dr. Abraham Horwitz (Rept. No. 94–1277).

S. 2917. A bill for the relief of Guy Marius Langlois and Diane Mireille V. Langlois (Rept. No. 94–1278).

S. 3490. A bill for the relief of Gaspar Louis Sayoc (Rept. No. 94–1279).

With an amendment:

S. 2894. A bill for the relief of Maria Fineza Fortich (Rept. No. 94–1280).

S. 2948. A bill for the relief of Milos Forman (Rept. No. 94–1281).

S. 3757. A bill for the relief of Walter Louis Moritz Laqueur and his wife Barbara Auguste Helene Koch Laqueur (Rept. No. 94–1282).

S. 3313. A bill for the relief of Sister Maria Lucila Santos (title amendment) (Rept. No. 94–1283).

S. 3314. A bill for the relief of Sister Isdiaria Avaricio (title amendment) (Rept. No. 94–1284).

S. 3315. A bill for the relief of Sister Lina Afinidad (title amendment) (Rept. No. 94–1285). With amendments:

S. 3017. A bill for the relief of Lee Young Soo (Rept. No. 94–1286).

S. 3026. A bill for the relief of Monchito C. Entena, Antonia V. Entena, Robert Entena, Cathleah Entena, Arvin Entena, and Eliza R. Ayala (Rept. No. 94–1287).

S. 3556. A bill for the relief of Marciano Santiago and his wife, Eleanor L. Santiago (Rept. No. 94–1288). Without amendment:

With an amendment:

H.R. 7624. An act for the relief of Jacinto Vazquez Camacho (Rept. No. 94–1289).

H.R. 11890. An act for the relief of Bernard Julian Phillips (Rept. No. 94–1290).

With amendments:

H.R. 8119. An act for the relief of Fernando Alves Macos (Rept. No. 94–1291).

With an amendment:

H.R. 11199. An act for the relief of Hollis Anthony Millet (Rept. No. 94–1292).

By Mr. HUMPHREY, from the Committee on Agriculture and Forestry:

S. 3847. An original bill to provide emergency relief to farmers in disaster and emergency areas with respect to repayment schedules on certain loans, and for other purposes (Rept. No. 94–1294).

By Mr. STEVENSON, from the Committee on Banking, Housing and Urban Affairs with amendments:

H.R. 13955. An act to provide for amendment of the Bretton Woods Agreement Act, and for other purposes (Rept. No. 94–1295).

By Mr. LONG, from the Committee on Finance, without amendment:

S. 3662. A bill to amend the Railroad Retirement Act of 1974 with respect to the computation of annuity amounts in certain cases, and for other purposes (Rept. No. 94–1296).

H.R. 4047. An act for the relief of Jack R. Misner (Rept. No. 94–1297).

With an amendment:

H.R. 11920. An act to terminate the use of exchange funds as a means of escaping income taxes on realized capital gains (title amendment) (Rept. No. 94–1298).

By Mr. RIBICOFF, from the Committee on Government Operations:

S. Res. 563. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 14886. Referred to the Committee on the Budget.

ANTITRUST AND MONOPOLY SUBCOMMITTEE ACTIVITIES REPORT, 1975 (S. REPT. NO. 94-1293)

Mr. PHILIP A. HART, from the Committee on the Judiciary, submitted a report entitled "Antitrust and Monopoly Subcommittee Activities, 1975" (together with additional views), which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. LONG, from the Committee on Finance:

Susan B. Gordon, of New Mexico, to be an Assistant Secretary of Health, Education, and Welfare.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. EASTLAND, from the Committee on the Judiciary:

Howard G. Munson, of New York, to be U.S. district judge for the northern district of New York.

Vincent L. Broderick, of New York, to be U.S. district judge for the southern district of New York.

Richard M. Bilby, of Arizona, to be U.S. circuit judge for the ninth circuit.

HOUSE BILLS AND RESOLUTIONS REFERRED

The following concurrent resolution, and the following bills and joint resolutions which were read twice by their titles, were referred as indicated:

H. Con. Res. 726. A concurrent resolution to urge the Soviet Union to release Georgi Vins and permit religious believers within its borders to worship God according to their own conscience; to the Committee on Foreign Relations.

H.R. 300. An act to authorize the Secretary of the Interior to sell certain rights in the State of Florida; to the Committee on Interior and Insular Affairs.

H.R. 2977. An act to authorize the Secretary of the Interior to sell certain rights in the State of Florida; to the Committee on Interior and Insular Affairs.

H.R. 10613. An act to authorize the Secretary of the Interior to sell certain rights in the State of Florida; to the Committee on Interior and Insular Affairs.

H.R. 10841. An act to amend the Intercoastal Shipping Act, 1933, and for other purposes; to the Committee on Commerce.

H.R. 13585. An act to amend the Federal Boat Safety Act of 1971; to the Committee on Commerce.

H.R. 14227. An act to direct the Secretary of Agriculture to release a condition with respect to certain real property conveyed by the United States to the Board of Regents of the universities and State colleges of Arizona for the use of the University of Arizona; to the Committee on Interior and Insular Affairs.

H.R. 14773. An act to amend title 10, United States Code, to make certain changes in the retired serviceman's family protection plan and the survivor benefit plan as authorized by chapter 73 of that title, and for other purposes; to the Committee on Armed Services.

H.J. Res. 967. A joint resolution authorizing the acceptance of the Joint Committee on the Library on behalf of the Congress, from the U.S. Capitol Historical Society, of preliminary design sketches and funds for murals, in the first floor corridors in the House wing of the Capitol, and for other purposes; to the Committee on Rules and Administration.

H.R. 11349. An act for the relief of M. Sgt. William E. Boone, U.S. Army, retired; to the Committee on the Judiciary.

H.R. 11859. An act for the relief of William H. Klusmeier, publisher of the Austin Citizen, of Austin, Tex.; to the Committee on the Judiciary.

H.R. 1761. An act for the relief of Evelyn Fegi Matayoshi and Wilma Fegi Matayoshi; to the Committee on the Judiciary.

H.R. 3647. An act to amend the Federal Aviation Act of 1958 relating to eligibility for aircraft registration; to the Committee on Commerce.

H.R. 6511. An act for the relief of certain employees of the Naval Ordnance Systems Command; to the Committee on the Judiciary.

H.R. 6816. An act for the relief of Dr. Daryl C. Johnson; to the Committee on the Judiciary.

H.R. 7522. An act for the relief of Robert H. Glazier; to the Committee on the Judiciary.

H.R. 7682. An act relating to the disposition of certain recreational demonstration project lands by the State of Oklahoma; to the Committee on Interior and Insular Affairs.

H.R. 9543. An act for the relief of Eupert Anthony Grant; to the Committee on the Judiciary.

H.R. 10072. An act to direct the conveyance of certain real property of the United States to the County of Mineral, State of Nevada; to the Committee on Interior and Insular Affairs.

H.R. 11891. An act to authorize the establishment of the Congaree Swamp National Monument in the State of South Carolina, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 12484. An act to amend the Federal Aviation Act of 1958, to provide for expedited consideration by the Civil Aeronautics Board of applications for certificates of public convenience and necessity; to the Committee on Commerce.

H.R. 13940. An act for the relief of Mr. and Mrs. Aaron Wayne Ogburn; to the Committee on the Judiciary.

H.J. Res. 1096. A joint resolution making supplemental appropriations for the Department of Defense for the repair and replacement of facilities on Guam damaged or destroyed by Typhoon Pamela, and for other purposes; to the Committee on Appropriations.

H.R. 15026. An act to amend the Federal Aviation Act of 1958 to authorize reduced fare transportation on a space-available basis for elderly persons and handicapped persons, and for other purposes; to the Committee on Commerce.

H.R. 15546. An act to designate the "Ray J. Madden Post Office Building"; to the Committee on Public Works.

H.J. Res. 915. A joint resolution to authorize the placement of the bell known as the American Legion's Freedom Bell on lands owned by the United States, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 12927. An act to designate a Federal building and U.S. post office in Jasper, Ga., as the "Phil M. Landrum Federal Building and Post Office"; to the Committee on Public Works.

H.R. 14503. An act to name the new post

office in Youngstown, Ohio, the "Michael J. Kirwan Post Office"; to the Committee on Public Works.

H.R. 14956. An act to designate the "Joe L. Evins Post Office and Federal Building"; to the Committee on Public Works.

H.R. 14977. An act to name the Federal office building in Athens, Ga., the "Robert G. Stephens, Jr., Federal Building"; to the Committee on Public Works.

H.R. 9444. An act to name the Federal Building in Omaha, Neb., the "Glenn Cunningham Federal Building" in commemoration of the many contributions of former Congressman Glenn Cunningham; to the Committee on Public Works.

H.R. 11303. An act to designate the "Herman T. Schneebeli Federal Building"; to the Committee on Public Works.

H.R. 14041. An act to amend the Railroad Retirement Act of 1974 with respect to the computation of annuity amounts in certain cases, and for other purposes; to the Committee on Labor and Public Welfare.

H.R. 13374. An act to provide for a national wildlife refuge in the Minnesota River Valley, and for other purposes; to the Committee on Commerce.

H.R. 15136. An act to authorize appropriations for construction of facilities on Guam, and for other purposes; to the Committee on Armed Services.

H.R. 15445. An act to save the gray and bowhead whales; to the Committee on Commerce.

H.R. 15552. An act to amend title 18, United States Code, to implement the "Convention To Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion That Are of International Significance" and the "Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents", and for other purposes; to the Committee on the Judiciary.

BILL PLACED ON THE CALENDAR

The bill (H.R. 14071) to regulate interstate commerce with respect to parimutuel wagering on horseracing, to maintain the stability of the horseracing industry, and for other purposes, was read twice by its title and placed on the calendar.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, September 22, 1976, he presented to the President of the United States the following enrolled bills:

S. 2090. An act to make the provisions of section 1331(e) of title 10, United States Code, retroactive to November 1, 1953.

S. 2286. An act to amend the act of June 9, 1906, to provide for a description of certain lands to be conveyed by the United States to the city of Albuquerque, N. Mex.

S. 2004. An act to eliminate a restriction on use of certain lands patented to the city of Hobart, Kiowa County, Okla.

S. 2511. An act to authorize the Secretary of Agriculture to convey certain lands in the State of Idaho, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. GRIFFIN (for himself, Mr. Robert C. Byrd, Mr. Jackson, and Mr. Hugh Scott):

S. 3843. A bill to name the Visitors' Center at the Sleeping Bear Dunes National Lakeshore the "Philip A. Hart Visitors' Center." Considered and passed.

By Mr. GRIFFIN:

S. 3844. A bill to name a certain Federal building in Grand Rapids, Mich., the "Arthur H. Vandenberg Building." Considered and passed.

By Mr. BENTSEN:

S. 3845. A bill for the relief of Dr. Homero Rene Anchondo-Hernandez and Dr. Silvia Sobarzo de Anchondo. Referred to the Committee on the Judiciary.

By Mr. ALLEN:

S. 3846. A bill to amend chapter 67 of title 10, United States Code, to grant eligibility for retired pay to certain reservists who did not perform active duty before August 16, 1945, and for other purposes. Referred to the Committee on Armed Services.

By Mr. HUMPHREY, from the Committee on Agriculture and Forestry:

S. 3847. An original bill to provide emergency relief to farmers in disaster and emergency areas with respect to repayment schedules on certain plans, and for other purposes. Placed on the Calendar.

By Mr. JACKSON (for himself, Mr. Johnston, Mr. Eagleton, Mr. Gravel, Mr. Hatfield, Mr. Hollings, Mr. Humphrey, Mr. Inouye, Mr. Kennedy, Mr. Mansfield, Mr. Mathias, Mr. McGovern, Mr. Metcalf, Mr. Hugh Scott, Mr. Symington, and Mr. Williams):

S.J. Res. 215. A joint resolution to establish a Compact of Permanent Union between Puerto Rico and the United States, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ALLEN:

S. 3846. A bill to amend chapter 67 of title 10, United States Code, to grant eligibility for retired pay to certain reservists who did not perform active duty before August 16, 1945, and for other purposes. Referred to the Committee on Armed Services.

RETIREMENT BENEFITS FOR CERTAIN RESERVISTS

Mr. ALLEN. Mr. President, over the years it has on several occasions been brought to my attention that reservists who did not perform active duty before the end of World War II have been denied retirement benefits notwithstanding the fact that their total service inclusive of years prior to the termination of World War II amounts to 20 years or more.

Many of these reservists served later in the Berlin crisis or Vietnam yet they have still been denied retirement because they have not been permitted to count for retirement purposes service in the Reserve performed during the World War.

The Senate acted once to resolve this inequity when it passed during the 93d Congress S. 3283, a bill identical to the measure I am introducing today.

Unfortunately, S. 3283 was not acted upon by the House of Representatives; however, I believe the House might now favorably consider this legislation should it again pass the Senate.

Mr. President, I therefore urge that the Committee on Armed Services act promptly to report the measure I am introducing and that thereafter it be given priority for consideration by the full Senate.

By Mr. JACKSON (for himself, Mr. Johnston, Mr. Eagleton, Mr. Gravel, Mr. Hatfield, Mr. Hollings, Mr. Humphrey, Mr. Inouye, Mr. Kennedy, Mr. Mansfield, Mr. Mathias, Mr. McGovern, Mr. Metcalf, Mr. Hugh Scott, Mr. Symington, and Mr. Williams):

S.J. Res. 215. A joint resolution to establish a compact of permanent union between Puerto Rico and the United States, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, on behalf of Senator Johnston and myself and Senators Eagleton, Gravel, Hatfield, Hollings, Humphrey, Inouye, Kennedy, Mansfield, Mathias, McGovern, Metcalf, Hugh Scott, Symington and Williams, I introduce for appropriate reference a joint resolution proposing a new compact of permanent union between the Commonwealth of Puerto Rico and the United States.

This proposed compact represents the first attempt since the establishment of the Commonwealth in 1952 to express, in formal terms, the principles of the association between Puerto Rico and the United States. In some instances it clarifies what is ambiguous in current law; in others it makes explicit what has been implied in the Commonwealth relationship from the beginning—that Puerto Rico is to have a substantial degree of autonomy while its people retain the obligations and rights of American citizenship. The compact is consistent with both the uniqueness of Puerto Rico culture, and its indissoluble link with the United States.

Mr. President, it has been 26 years since Congress adopted the Puerto Rican Federal Relations Act, which changed the status of Puerto Rico from that of an unincorporated territory to that of a self-governing commonwealth, freely associated with the United States.

The unique nature of the Commonwealth status carries with it the continuing obligation to examine and, where necessary, redefine the legal, political, and economic characteristics of the relationship. The Puerto Rican Status Commission recognized this 10 years ago when it recommended the creation of ad hoc advisory groups to conduct periodic reviews of major issues affecting United States-Puerto Rico relations.

In 1973, Puerto Rico's able young leader, Gov. Rafael Hernandez Colon, took the initiative for the creation of an ad hoc advisory group appointed by himself and President Nixon to develop for Puerto Rico the maximum of self-government and self-determination within the framework of Commonwealth. Last fall, the ad hoc group made its report to the President and the Governor, recommending a new compact of permanent union between Puerto Rico and the United States. These recommendations are incorporated in large part in the compact being introduced today.

Mr. President I believe this proposed compact represents a major effort to recast our relationship with Puerto Rico to reflect the concerns and realities of

the 1970's. There can be no doubt that it provides Puerto Rico with greater powers of self-government and that is as it should be. The 95th Congress which convenes in January should, I believe, give high priority to action on this compact. In the interim, I hope that Senators will give serious study to the proposed compact and give us the benefit of their comments and recommendations. I hope also that the executive branch, which has yet to even comment on the recommendations of the ad hoc group, will begin to show some interest in building a stronger relationship with our fellow citizens in Puerto Rico.

Mr. President, I ask unanimous consent that the text of the joint resolution and an explanatory memorandum be printed in the RECORD at this point. I also ask unanimous consent that an editorial from the September 2, New York Times, on our relationship with Puerto Rico be included.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. RES. 215

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas, the Congress has recognized the right of the people of Puerto Rico to govern themselves, and, acting together with the Government of the United States, to determine their political status; and

Whereas, the people of Puerto Rico, pursuant to a compact with the United States under the terms of Public Law 600, Eighty-First Congress, chose to establish the *Estado Libre Asociado de Puerto Rico* on July 25, 1952, the title being then translated as Commonwealth of Puerto Rico; and

Whereas, the Commonwealth status of Puerto Rico has assured its cultural integrity, served to strengthen its democratic institutions, and advanced its economic growth; and

Whereas, the Commonwealth status of Puerto Rico has demonstrated to the world the strength and flexibility of America's Federal system, by transforming a formerly colonial relationship into one of free democratic association characterized by mutual economic benefits, shared constitutional values, and a common devotion to human dignity; and

Whereas, on July 23, 1967, in a plebiscite in which the people of Puerto Rico were entitled to choose between Statehood, Independence, and the further improvement of the *Estado Libre Asociado de Puerto Rico;* they voted to confirm and to develop further the *Estado Libre Asociado de Puerto Rico;* and

Whereas, the people of Puerto Rico gave evidence, in the 1967 plebiscite, of their commitment to a permanent association with the United States, founded on common citizenship, common defense, common currency, and a common market, and capable of evolving to reflect the particular character, conditions, and aspirations of Puerto Rico; and

Whereas, the President of the United States and the Governor of Puerto Rico established the Ad Hoc Advisory Group on Puerto Rico, and charged it with recommending ways to "develop the maximum of self-government and self-determination within the framework of Commonwealth"; and

Whereas, the Advisory Group has submitted its recommendations to the President of the United States and the Governor of Puerto Rico, calling for a new "Compact of Permanent Union" which reaffirms the union between the United States and Puerto Rico, while giving further effect to the right of self-government in the people of Puerto Rico; Now be it

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, that the Compact of Permanent Union between Puerto Rico and the United States is approved as follows:

SEC. 1. PUERTO RICO

The people of Puerto Rico constitute an autonomous body politic organized by their own, free and sovereign will and in common agreement with the United States under the juridical structure and official name of the Free Associated State of Puerto Rico, hereinafter referred to as Puerto Rico.

The jurisdiction of Puerto Rico extends to the people of, and to the lands and waters in, around, and appertaining to the Island of Puerto Rico and adjacent islands.

The people of Puerto Rico, a cultural community of Hispanic language and tradition, citizens of the United States as well as citizens of Puerto Rico, have repeatedly affirmed in their Constitutional Convention, in referendums and in a plebiscite, their resolve to live in permanent union with the United States upon mutually satisfactory and just bases.

In fulfillment of the terms of that plebiscite and subject to the approval of the Congress of the United States and the ratification in referendum by the people of Puerto Rico, it is hereby agreed to reaffirm, to consolidate and to improve the relationship already established, by means of this Compact of Permanent Union between Puerto Rico and the United States. In keeping with the above the people of Puerto Rico reaffirm their commitment to the democratic way of life, the republican form of government and their respect for human values as embodied in the bill of rights of the Constitution of the United States and the Constitution of Puerto Rico.

SEC. 2. JURISDICTION AND AUTHORITY OF PUERTO RICO

(a). The right of the people of Puerto Rico to govern themselves according to their own Constitution and laws, and to make a compact with the United States is hereby recognized.

(b). In the exercise of the above rights and powers, the people of Puerto Rico now propose:

(1). To agree with the United States upon the principles, provisions, and procedures set forth in this Compact;

(2). To agree upon the exercise by the United States of the authority and powers specified in this Compact;

(3). To reserve all other political and governmental authority to Puerto Rico or to the people of Puerto Rico;

(4). To recognize the Supreme Court of the United States as the final adjudicator of this Compact, including the decision whether the laws of the United States or the laws of Puerto Rico conform to this Compact and to the applicable provisions of the Constitution of the United States.

(c). Unless otherwise provided in or pursuant to this Compact, the United States shall have and shall exercise responsibility for and authority with respect to foreign affairs and defense affecting Puerto Rico. Except as the President of the United States may determine and advise the Governor of Puerto Rico that such action is inimical to the foreign relations of the United States, Puerto Rico may conclude educational, cultural, health, sporting, professional, industrial, agricultural, financial, commercial, scientific, or technical agreements with foreign countries and may participate in specialized agencies of international organizations dealing with the foregoing matters.

SEC. 3. COMMON CITIZENSHIP—ITS RIGHTS AND DUTIES

All persons born in Puerto Rico are citizens of the United States and have all the rights, privileges and immunities inherent in that citizenship as well as duties pertinent thereto. While residing in Puerto Rico, they shall also enjoy all the rights, privileges and immunities, and shall have all the duties which the Constitution and laws of Puerto Rico confer and impose on its citizens. In case of a change of residence to any state or other jurisdiction of the United States, the citizens of Puerto Rico shall have in addition to their rights and duties as citizens of the United States, all the rights, privileges and immunities, as well as the duties of citizenship established by the Constitution and laws of that state or jurisdiction. Likewise, any citizen of the United States who changes his residence to Puerto Rico shall, in addition to his rights and duties as a citizen of the United States, acquire all the rights, privileges and immunities as well as the duties established by the Constitution and laws of Puerto Rico.

SEC. 4. SECURITY AND COMMON DEFENSE

Laws of the United States relating to defense and national security shall apply to Puerto Rico in accordance with their terms. The President and the Governor will consult and cooperate to facilitate the objectives of such laws.

SEC. 5. CURRENCY

The currency of the United States shall be the exclusive currency of Puerto Rico. The laws of the United States relating to currency, coinage, gold and silver shall apply to Puerto Rico, in accordance with their terms.

SEC. 6. COMMON MARKET

(a). Economic, trade and commercial relations between the United States and Puerto Rico shall be conducted within the framework of the common market between the United States and Puerto Rico.

Puerto Rico shall not impose tariffs, customs or duties or any kind on articles imported into Puerto Rico from the United States, nor shall the United States impose tariffs, customs or duties of any kind on articles imported into the United States from Puerto Rico.

(b). Except as hereinafter provided, laws of the United States providing for tariff on articles imported from foreign countries shall be applicable in Puerto Rico.

(c). The proceeds of customs, duties, licenses for imports, and tariffs collected in or in respect to imports into Puerto Rico after deducting the expenses of such collections, as well as all taxes collected in Puerto Rico or in the United States under the internal revenue laws of the United States on articles produced or manufactured in Puerto Rico and transported to the United States or consumed in Puerto Rico, shall be covered into the Treasury or Puerto Rico.

(d). Puerto Rico shall continue to enjoy the right to levy tariffs upon or otherwise to restrict the import of coffee from foreign countries or the United States; and after prior consultation and coordination with the Federal authorities concerned, Puerto Rico may levy, increase, reduce or eliminate tariffs and quotas on articles imported directly from foreign countries or transshipped through the United States: Provided, That mutually agreeable procedures shall be established to:

(1). avoid conflict with international obligation

(2). assure that articles containing foreign components shipped or transshipped from Puerto Rico to the rest of the United States customs territory conform to the customs, tariff and other laws of the respective jurisdictions;

(3). assure continuous communication and coordination between the United States Executive Branch and Puerto Rico on economic and trade policies and their implementation.

(e). Notwithstanding any other provision of law, Puerto Rico may import materials and articles duty free for subsequent shipment and sale to other parts of the United States customs territory provided that the F.A.S. (free at side) shipping price contains at least 35% value added in Puerto Rico.

(f). In international trade negotiations, the United States shall take into account Puerto Rico's stage of economic development, and in agreement with Puerto Rico, shall protect and promote its economic interests.

Sec. 7. Lands and Navigable Waters

(a). Lands

All property which may have been acquired in Puerto Rico by the United States under the cession of Spain in the treaty of peace entered into on December 10, 1898, and which has not been disposed of by the United States, shall become the property of Puerto Rico; Provided, That the United States may continue to use for public purposes that property which is now being used for such purposes; Provided, further, That the President may from time to time, convey to Puerto Rico any lands, buildings or interests in lands or other property of the United States within the territorial limits of Puerto Rico, however acquired, which in his judgment are no longer necessary for the purposes of the United States. The President of the United States, may from time to time, accept by grant from Puerto Rico, any lands, buildings or other interests or property which may be needed for public purposes by the United States.

(b). Navigable Waters and Submerged Lands

The harbor areas and navigable streams and bodies of water in and around the Island of Puerto Rico and the adjacent islands together with the submerged land underlying the same seaward to the limits of the continental shelf as may now or hereafter be recognized by the laws of the United States or international law as belonging to or appurtenant to the United States or Puerto Rico, are and shall be the property of Puerto Rico.

Provided, That the laws of the United States for the protection and improvement of the navigable waters of the United States and the preservation of the interests of navigation and commerce, shall continue in force as at present, unless contrary agreed to; Provided, further, That nothing contained in this Compact shall be construed so as to affect or impair in any manner the terms or conditions of any authorizations, permits or other powers heretofore lawfully granted in or in respect of said waters and submerged land in and surrounding said Island and its adjacent islands by the Secretary of Defense or other authorized officer or agent of the United States.

Sec. 8. Internal Revenue

(a). Except as provided in subsection (b) of this Section and except for Internal Revenue laws imposing taxes on articles produced or manufactured in Puerto Rico and transported to the United States, the Internal Revenue laws of the United States shall not have effect in Puerto Rico.

(b). The income tax laws of the United States may be applied to residents of Puerto Rico only with respect to income derived from United States or foreign sources.

Sec. 9. Reciprocity Provisions

(a). There shall exist full reciprocity between Puerto Rico and the United States, the states of the Union and any other body politic of the United States, concerning the following:

(1). Giving full faith and credit to official certification, documents and judicial proceedings;

(2). Accepting and honoring rights of removal and surrender of fugitives;

(3). Mutually exempting from taxation the official obligations issued under the authority of any of the jurisdictions referred to above.

(b). In the interests of cooperation and efficiency, and when compatible with their legal responsibilities and authority, officials of the departments and agencies of Puerto Rico and officials of the departments and agencies of the United States are directed to assist one another in the execution of their respective functions.

Sec. 10. Representation of Puerto Rico

(a). Puerto Rico shall be represented in the House of Representatives of the United States by one representative, who shall be elected to that position according to the laws of Puerto Rico. Said representative shall have a seat in the House of Representatives of the United States and shall receive official acknowledgment from all the departments of the Government of the United States upon presentation by the Department of State of a certificate of election issued by the Governor of Puerto Rico. Such representative shall have the qualifications established for members of the House of Representatives and shall have the rights, privileges and immunities of such members as are compatible with the Constitution of the United States and shall have such powers and duties as may be provided by the House of Representatives.

(b). In case of a vacancy in said position, it will be filled for the rest of the term according to the laws of Puerto Rico.

Sec. 11. Applicability of Federal Laws

(a). The laws of the United States applicable to Puerto Rico on the effective date of this Compact including amendments of such laws, shall continue in effect except and to the extent repealed or modified by this Compact or incompatible with it.

(b). Laws enacted after the effective date of this Compact, by the Congress, shall not be applicable to Puerto Rico except as provided in subsection (a) of this section, or unless such laws are compatible with this Compact and explicitly refer to Puerto Rico or are applicable to Puerto Rico pursuant to the powers and functions expressly vested in the United States pursuant to this Compact: *Provided, however,* That prior to the enactment of any legislation applicable to Puerto Rico, including any amendment of a law applicable to Puerto Rico under subsection (a) of this section, the Governor of Puerto Rico shall be entitled to submit to the President of the United States objections to the applicability of said legislation to Puerto Rico, together with a statement of reasons therefor. If the President, after consideration of such objections, shall find that the application of said legislation to Puerto Rico is inconsistent with this Compact, incompatible with its purposes, is not essential to the interests of the United States, or will unduly impede the development of Puerto Rico, the President, prior to enactment thereof, may suspend the application of said legislation to Puerto Rico. In the event that the President shall so order, he shall promptly advise the Congress thereof, together with a statement of the reasons for his action. If the Congress by Concurrent Resolution adopted by a majority of the members of each House within 60 legislative days of the receipt of the President's message shall so provide, the suspension ordered by the President shall terminate as provided in such Concurrent Resolution, but in the absence of the adoption of such Concurrent Resolution, the legislation specified in the President's order shall not be applicable to Puerto Rico.

(c). Rules, regulations and orders issued by the departments and agencies of the United States after the effective date of this Compact shall apply to Puerto Rico unless and except to the extent that they are incompatible with this Compact. In the event that Puerto Rico shall notify a department or agency of the United States that it objects to the application of any such rule, regulation or order to Puerto Rico, such rule, regulation or order shall not be applicable to Puerto Rico unless and until the department or agency shall find and declare that the application thereof to Puerto Rico is necessary to the interests of the United States and is compatible with this Compact. Any such determination shall be subject to judicial review in accordance with law.

Sec. 12. Assignment of Federal Functions to Puerto Rico

(a). Except and to the extent that Congress may otherwise provide, the President of the United States may with the concurrence of the Governor of Puerto Rico from time to time transfer to the Government of Puerto Rico the total or partial performance of functions vested in the United States by law.

Except as otherwise agreed to, the Government of Puerto Rico, its agencies and dependencies shall assume the administrative expenses and responsibilities incident to the performance of the transferred functions.

In any such transfer, provision shall be made so that the officials and employees of the Government of the United States in charge of the functions on the date of their transfer shall retain the rights previously acquired by reason of their employment.

(b). The Congress of the United States, in authorization and appropriations legislation applicable to Puerto Rico, shall, to the maximum extent consonant with the purposes and objectives of the authorizations and the appropriations, and subject to the rules of the United States Congress and to such procedures as the Congress may provide, authorize Puerto Rico to administer such legislation so that the use of the appropriated funds may be adapted to the special circumstances and conditions of Puerto Rico.

Sec. 13. Improvement of Environmental Quality

(a). The primary responsibility for protecting and improving the environmental quality of Puerto Rico shall reside in Puerto Rico.

(b). Environmental regulations promulgated by Puerto Rico shall be presumptively valid, and shall not be disapproved or superseded by Federal regulations unless they are determined to be clearly injurious to the health and safety of the people of Puerto Rico.

Sec. 14. Joint Commission on United States-Puerto Rico Relations

(a). There is hereby created a Joint Commission composed of six (6) members, three (3) members and their successors appointed by the President of the United States, and three (3) members and their successors to be appointed by the Governor of Puerto Rico according to law. Said appointees shall serve a term of two (2) years, subject to reappointment, and said Commission shall expire in 6 years from the effective date of this Compact. The Commission shall adopt its own internal regulations.

(b). This Joint Commission shall assist in bringing the legal and administrative relations between the United States and Puerto Rico into further conformity with the fundamental objectives of this Compact and, to that end, shall have the following tasks:

(1). The Commission shall study the desirability of retaining, modifying or eliminating the application of specific Federal laws to Puerto Rico. The Commission shall submit its report to the President and to the Governor. In the event that the President of the United States and the Governor of Puerto Rico shall concur with a recommendation in any such report for modification or discontinuance of the applicability of a particular law to Puerto Rico, the President shall transmit such recommendation to the Congress. Such recommendation shall become effective in accordance with its terms and shall have the force and effect of law unless the Congress by Concurrent Resolution adopted by a majority of the members of each House within 60 legislative days of the receipt of the President's message of transmittal shall otherwise provide.

(2). The Commission shall also study other possible transfers of Federal functions to agencies of Puerto Rico in addition to such transfers as may be made pursuant to section 12(a) and shall make pertinent recommendations. When such recommendation involves the transfer of major Federal functions to Puerto Rico, such recommendations shall be submitted to the President of the United States and the Governor of Puerto Rico. If both agree with the recommendations, the President shall by Executive Order provide for such transfer and shall transmit such Executive Order to the Congress. Any such Executive Order shall become effective at such time as it shall specify, unless either House of Congress, within ninety legislative days from receipt of the Executive Order, shall object.

(3). The Commission shall also study, with the highest priority, the desirability of recommending a system of contributory payments from the Government of Puerto Rico to the Treasury of the United States, to be initiated at the appropriate time, in gradual ways which will not substantially impede the economic and social development of Puerto Rico, based upon disbursements which shall be made by the Legislature of Puerto Rico from the general fund or any other sources subject to the legislative action of Puerto Rico.

(c). The Commission shall have a professional and technical staff and may use the services of the research and consultative institutions which it deems convenient; and is hereby authorized to request and receive the cooperation of any department, agency, or bureau of the United States or Puerto Rico.

(d). The Commission shall have an annual budget, to be shared in equal parts by the Government of the United States and the Government of Puerto Rico. The Commission shall formulate its own budget proposal annually. There is hereby authorized and there shall be appropriated by the respective governments such sums as are necessary to sufficiently fund the functions and operations of the Commission.

SEC. 15. UNITED STATES DISTRICT COURT

(a). There shall exist a United States District Court for Puerto Rico whose jurisdiction shall be the same as that of other District Courts of the United States, including the jurisdiction over the naturalization of qualified aliens and residents in Puerto Rico.

(b). The procedures, pleadings, and records shall be in Spanish, unless the Court, in the interest of justice and the effective administration of its work shall otherwise determine in particular cases.

(c). The selection of the jurors shall be conducted and their qualifications shall be determined in accordance with the laws of the United States; *Provided*, That the language qualifications of jurors shall be consistent with subsection (b) of this section.

(d). The United States District Court shall not enjoin the establishing or collecting of any tax imposed by the laws of Puerto Rico.

(e). Actions instituted in the courts of Puerto Rico may not be removable to a Federal court on the sole grounds that the provisions of this Compact are in issue. The United States District Court for Puerto Rico, unless it shall find that the interests of justice otherwise require, shall abstain from exercising jurisdiction in civil actions based upon alleged acts or failure to act by officials of Puerto Rico, pending final decision by the courts of Puerto Rico.

(f). Final judgments and decrees entered by the highest court of Puerto Rico in which decision could be had may be reviewed by the Supreme Court of the United States in like manner as final judgments and decrees rendered by the highest court of a state in which decision could be had.

SEC. 16. ENTRY OF ALIENS INTO PUERTO RICO

(a). Immigration laws, rules, regulations and procedures of the United States shall apply to Puerto Rico in accordance with their terms: Provided, That unless and to the extent that the Congress by Concurrent Resolution shall otherwise expressly provide the President of the United States and the Governor of Puerto Rico may from time to time agree upon measures which will operate to limit the number of aliens in specified categories who may be admitted to Puerto Rico as permanent residents therein or which will permit aliens in specified categories to be admitted to Puerto Rico for specified periods or as permanent residents to meet the needs of Puerto Rico.

(b). Nothing included in any of the provisions of this section shall affect in any way the right of unimpeded transit between the United States and Puerto Rico of citizens of the United States.

SEC. 17. EFFECTIVE DATE

(a). In order to become effective, this Compact must be approved by the Congress of the United States and by the electorate of Puerto Rico in a special referendum called for that purpose by the Legislative Assembly of Puerto Rico.

(b). The effective date of this Compact shall be determined by agreement between the President of the United States and the Governor of Puerto Rico, provided that the Compact shall become effective not later than one year following its approval by the electorate.

SEC. 18. TRANSITION

Nothing in this Compact shall be deemed to interrupt or impair the jurisdiction of the courts or quasi-judicial agencies over matters pending before them at its effective date nor to affect, until their normal expirations, any franchises, permits and other grants issued prior to such effective date. Actions by either the United States or Puerto Rico prior to this Compact which would be lawful at its effective date shall not be affected in any way by its approval.

SEC. 19. AMENDMENTS

In order to respect the right of self-government guaranteed by this Compact, the United States agrees that the provisions of this Compact may be modified only by mutual agreement between the Government of the United States and the Government of Puerto Rico, and with respect to the provisions that regulate the fundamental relations between the United States and Puerto Rico; namely:

Sections 1—Puerto Rico;
2—Jurisdiction and Authority;
3—Common Citizenship;
4—Security and Common Defense;
5—Currency;
6—Common Market;
7—Legal Title to Lands;
9—Reciprocity Provisions;
10—Representation of Puerto Rico;
11—Applicability of Federal Laws;
16(b)—Unimpeded Transit;
19—Amendments; with the approval of the electorate of Puerto Rico.

[From the New York Times, Sept. 2, 1976]

HYPOCRISY AT THE U.N.

On the initiative of Cuba and a few other self-styled "nonaligned" nations, the United Nations Decolonization Committee seems headed for its annual exercise in hypocrisy concerning the Commonwealth of Puerto Rico. Last year, after strenuous lobbying by Ambassador Daniel P. Moynihan, the 24-nation committee shelved by a narrow margin a resolution that would have pompously affirmed "the inalienable right of the people of Puerto Rico to self-determination and independence."

Adding to the problem now faced by the United States and Puerto Rican Governments at the United Nations is the Ford Administration's inertia in reacting to the unanimous recommendation last year by a joint commission, appointed by the two Governments, for a "Compact of Permanent Union" that would enlarge considerably Puerto Rico's already substantial political autonomy.

Had President Ford pushed vigorously in Congress for enactment of the "Compact," uninformed U.N. members might have come to understand the unique commonwealth status. As matters stand, the Cubans can cite the stalled "Compact" as evidence of Washington's unwillingness to expand the self-governing capacities of Puerto Rico's three million people.

Yet, any U.N. delegate willing to examine the facts will know that the Puerto Ricans *have* exercised their inalienable right to self-determination—continue in reality to exercise it in free elections—and that the advocates of independence regularly get a very small percent of the votes. In a 1967 referendum on the island's status, proindependence forces mustered exactly 0.4 percent against 60 percent for the Commonwealth and 39 percent for statehood.

In the last general election in 1972, the Puerto Rican Independence Party won 4.5 percent, its highest poll since 1956. Because of high unemployment, it may do better this November, though the election as usual will be fought out primarily between the pro-commonwealth Popular Democrats of Gov. Rafael Hernandez Colon and the pro-statehood New Progressive Party.

New nations that struggled for their independence against a colonial power may find it difficult to understand commonwealth status. And countries that never permit free elections will always try to discredit them. But the basic facts about Puerto Rico ought to impress any U.N. delegate interested in authentic self-determination and not merely in helping Fidel Castro and a handful of discredited Puerto Rican malcontents stir up trouble for the Commonwealth and the United States.

MEMORANDUM: THE PROPOSED "COMPACT OF PERMANENT UNION BETWEEN PUERTO RICO AND THE UNITED STATES"

I. ORIGINS OF THE COMPACT

In 1950 Congress adopted the Puerto Rican Federal Relations Act (Public Law 600 of the 81st Congress). After its approval in a referendum by the people of Puerto Rico, the status of the island was changed in 1952 from one of an unincorporated territory to that of a self-governing Commonwealth, freely associated with the United States.

The advent of Commonwealth did not end the debate among Puerto Ricans as to which form of political status—Commonwealth, statehood, or independence—was best suited for the future development of Puerto Rico. In 1967, following the recommendation of a joint U.S.-Puerto Rican commission, a plebiscite was conducted. More than 60% of the voters chose Commonwealth; slightly less than 40%, statehood; independence received less than 1%. The ballot contained, under "Commonwealth", an explicit authorization to "develop Commonwealth in accordance with its fundamental principles to a maximum of self-government compatible with a common defense, a comon market, a common currency and the indissoluble link of the citizenship of the United States."

Subsequently, in 1973, as a means of developing Commonwealth, the President of the United States and the Governor of Puerto Rico appointed a bipartisan Ad Hoc Commission to 1) examine the applicability of Federal laws to Puerto Rico, and 2) recommend ways in which Puerto Rico might participate in Federal decisions affecting the island. The mainland members included former Senator Marlow Cook (a co-chairman), Senator Bennett Johnston, Senator James Buckley, Representative Don Clausen, and former Illinois Governor Richard Ogilvie. Former Governor Luis Munoz Marin, also a co-chairman, and Resident Commissioner Jaime Benitez were among the Puerto Rican members.

Basically, the Commission was charged to suggest ways of expanding Puerto Rico's powers of self-government, while retaining the essential elements that bind the island and its people to the United States.

In October, 1975, the Ad Hoc Commission rendered its report to the President and the Governor. It recommended a new "Compact of Permanent Union" between Puerto Rico and the United States, one that would remove many of the anomalies that remain in Public Law 600 of 1950, and that were carried into that law from statutes as old as the Foraker Act of 1900. The Compact, as proposed to be introduced, builds on the work of the Ad Hoc Commission.

II. NATURE OF THE COMPACT

The proposed Compact contains 19 sections, most of which simply confirm present law and policy. The United States' unfettered responsibility and authority with respect to foreign affairs and defense affecting Puerto Rico is explicitly stated; Puerto Rico may, however, enter into certain defined international agreements, and participate in specialized agencies of international organizations, unless the President determines that to do so would be inimical to the foreign relations of the United States. Common citizenship, a common currency, and a common market are affirmed.

The principal changes in existing law which would be effected by the Compact are:

(a) As to the applicability of Federal laws—

The current law (Section 9 of the Puerto Rico Federal Relations Act of 1950, which carries forward the language of 1900 and 1917 statutes) provides:

"That the statutory laws of the United States not locally inapplicable, except as hereinbefore or hereinafter otherwise provided, shall have the same force and effect in Puerto Rico as in the United States".

In other words, there is presently a presumption that U.S. statutes apply to Puerto Rico, unless they are "locally inapplicable". Specific language in given U.S. statutes reverses this presumption.

The problem with the presumption is that it runs contrary to the spirit of the Commonwealth idea—which emphasizes local autonomy and internal self-government for the people of Puerto Rico.

The Compact would change the presumption in the following ways:

(i) Current laws of the United States which are applicable to Puerto Rico, and future amendments of such laws, shall continue to be applicable, except insofar as they are changed by the Compact or incompatible with it.

(ii) Laws (other than those covered under (i) above) enacted after the effective date of the Compact shall not be applicable to Puerto Rico unless they explicitly refer to Puerto Rico and are compatible with the Compact.

(iii) Prior to the enactment of any legislation applicable to Puerto Rico, including an amendment to a currently applicable law (i.e., under (i) above) the Governor of Puerto Rico may submit to the President objections to its applicability to Puerto Rico. If the President finds that applying the legislation to Puerto Rico would be inconsistent with the Compact or is not essential to the interests of the United States, he may suspend the application of the law to Puerto Rico. If he does so, he must inform Congress of his action. Congress may then reverse this Presidential action by passing a concurrent resolution within 60 days.

(iv) A similar process is provided in the case of Federal rules and regulations. If Puerto Rico notifies the relevant Federal department or agency that it objects to the application of the rule or regulation to Puerto Rico, its objection will prevail unless the department or agency finds that application is necessary to the interests of the United States and is compatible with the Compact.

(v) On the initiative of the President, and with the concurrence of the Governor, the Compact makes possible the transfer to Puerto Rico of the total or partial performance of functions vested by law in the United States. In such cases, Puerto Rico will bear the administrative expenses associated with the performance of the transferred functions. Further, Congress is empowered to provide for the administration of legislation by Puerto Rico, to the end that appropriated funds may be adapted to the special needs and conditions on the island.

(b) As to tariffs—

As under current law, Puerto Rico is prohibited from imposing tariffs or duties on articles imported from the United States, and the United States will not impose such tariffs or duties on articles imported from Puerto Rico.

After coordinating with the Federal authorities concerned, Puerto Rico may levy, increase, reduce, or eliminate tariffs and quotas on articles imported directly into Puerto Rico from foreign countries or transshipped through the United States. so long as mutually agreeable procedures are established to avoid conflict with the United States' international obligations, and so long as other statutory conditions are met.

Puerto Rico may also, under the Compact, import materials duty free for subsequent shipment and sale to other parts of the United States, provided that the F.A.S. (free at side) shipping price contains at least 35% value added in Puerto Rico.

The purpose of this is to provide a new incentive for industries to locate in Puerto Rico, similar to those available to Guam and the Virgin Islands. It will also equalize Puerto Rico's relative advantage with other developing areas—which, under the 1974 Trade Act, have been afforded duty-free entry of products to which they add a substantial part of the value. It is those areas who are now Puerto Rico's chief competitors in labor-intensive industries.

Despite the progress made through "Operation Bootstrap", and despite the heavy trade between the mainland and the island (in 1974 Puerto Rican shipments to the U.S. totalled $2.8 billion, while imports from the United States amounted to $2.7 billion), Puerto Rico remains one of the poorest areas of the United States, with a per capita income only 40% of the United States average. It has been deeply affected by the U.S. recession (making its products harder to sell on the mainland), by inflation (making its imports from the U.S., particularly food, more costly at a time when its unemployment rate has exceed 20%), and by the quadrupling of petroleum prices (it is totally dependent on imported crude oil). If it is to renew the upward movement of its economy, it must be given a degree of flexibility with regard to trade and tariffs. An economically stronger Puerto Rico will be better able to provide for its people, thus reducing the burden on U.S. taxpayers and enhancing its position in the Caribbean.

Puerto Rico's long-standing exemption from Federal income taxes is retained.

(c) As to submerged lands—

The Compact substantially adopts the language of Public Law 600 of 1950, with regard to Puerto Rico's entitlement to property ceded to the United States by Spain in 1898. As in P.L. 600, the United States is expressly granted the right to continue to use for Public purposes such lands as are now so used.

The Compact then provides that bodies of water in and around Puerto Rico and its adjacent islands: "together with the submerged land underlying the same seaward to the limits of the continental shelf as may now or hereafter be recognized by the laws of the United States or international law as belonging to or appurtenant to the States or Puerto Rico, are and shall be the property of Puerto Rico".

(d) As to the entry of aliens into Puerto Rico—

While the United States immigration laws will continue to apply to Puerto Rico, the Compact provides a means by which the President and the Governor of Puerto Rico may agree on measures to limit the number of aliens in specified categories who may be admitted to Puerto Rico as permanent residents, or to permit aliens in other categories to be admitted to Puerto Rico as permanent residents. The Congress is empowered to deny effect to these measures by concurrent resolution.

Puerto Rico has one of the highest population densities in the world. It is also experiencing severe unemployment. Yet because it also has the highest living standard of any Latin American community, it has attracted large numbers of immigrants, particularly from the Caribbean area. It is important that Puerto Rico have some means of controlling this immigration, subject to approval by the President and Congress.

(e) As to the language of court proceedings—

The Compact provides that proceedings, pleadings, and records in the United States District Court for Puerto Rico shall be in Spanish, unless the Court, in the interest of justice and the effective administration of its work, shall otherwise determine in particular cases.

(f) As to responsibility for environmental quality—

As is the case with the states under Federal environmental laws, the primary responsibility for protecting and improving the quality of Puerto Rico's environment is to be Puerto Rico's. The Compact establishes the presumptive validity of Puerto Rico's environmental regulations, which are not to be disapproved or superceded by Federal regulations, unless they are determined to be clearly injurious to public health and safety. Since Puerto Rico is more than 1,000 miles from the mainland, and since economic conditions on the island are demonstrably different from those in the States, the Compact gives Puerto Rico both the authority and responsibility to protect its environment in a manner consistent with those geographical and economic conditions, while retaining Federal oversight and authority to correct abuses.

III. IMPORTANCE OF THE COMPACT

The Compact represents the first attempt since the establishment of Commonwealth in 1952 to express, in formal terms, the principles of the association between Puerto Rico and the United States. In some instances it clarifies what is ambiguous in current law; in others it makes explicit what has been implied in the Commonwealth relationship from the beginning—that Puerto Rico is to have a substantial degree of autonomy while its people retain the obligations and rights of American citizenship. The Compact is consistent with both the uniqueness of Puerto Rican culture, and its indissoluble link with the United States.

Internationally, the Compact, by extending the powers of self-government in Puerto Rico, will be highly beneficial to the United States. Its adoption will give the lie to charges, often expressed in the United Nations, that Puerto Rico is a captive colony of the United States. Since it can only be adopted with the consent of the Puerto Rican electorate (as well as with Congress'), it symbolizes what its Spanish title expresses: an Estado Libre Asociado, a free associated state.

Economically, the Compact gives Puerto Rico the tools by which it can regain the economic momentum it had during the 1950's and 1960's. By doing so it will become more self-sufficient, less dependent on U.S. aid, and an even more active importer of mainland goods. (It is already the sixth largest importer of such goods).

Finally, the Compact demonstrates the flexibility and vitality of the Federal system. In an anti-colonial age, it suggests one means by which the relationship between a metropolitan power and a developing people may be fruitful to both.

Puerto Rico was, in earlier years, a magnet and an exemplar for developing countries throughout the world, particularly in this hemisphere. Its economic difficulties during the past decade have to a degree reduced its attractiveness to such countries, some of whom have expressed greater interest in regimes that force development while denying individual liberties. The Puerto Rican economy, given new vitality by the Compact, can once again offer an example of progress in freedom. The benefits that will yield to the United States are clear and significant.

Mr. JOHNSTON. Mr. President, I am pleased to join, at the request of my good friend, Gov. Rafael Hernández-Colón, as a consponsor of Senate Joint Resolution 215, which establishes a Compact of Permanent Union Between Puerto Rico and the United States.

Mr. President, the relationship between the Commonwealth of Puerto Rico and the United States is unique. Beginning almost 80 years ago with the Treaty of Paris, that relationship has grown and matured until we now stand at a new threshhold in the development of the long-standing ties that connect Puerto Rico and the United States. I welcome the opportunity to participate in this important phase of United States-Puerto Rico relations.

The joint resolution we introduce today provides the framework to improve upon the present unique relationship between Puerto Rico and the United States in a manner consistent with our mutual commitments to common defense, common market, common currency, and common citizenship. Clearly this draft compact will be modified during the hearings and discussions which are to come. Nevertheless, this joint resolution provides a proper basis for the new relationship which is sought. I look forward to participating in the confection of the final compact for presentation to the people of Puerto Rico.

ADDITIONAL COSPONSORS

S. 3567

At the request of Mr. Williams, the Senator from Minnesota (Mr. Humphrey) was added as a cosponsor of S. 3567, to require an employer to honor the terms and conditions of collective bargaining contract.

S. 3661

At the request of Mr. Laxalt, the Senator from Oklahoma (Mr. Bartlett), the Senator from Tennessee (Mr. Brock), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Clark), the Senator from Kansas (Mr. Dole), the Senator from New Mexico (Mr. Domenici), the Senator from Mississippi (Mr. Eastland), the Senator from Utah (Mr. Garn), the Senator from Wyoming (Mr. Hansen), the Senator from Nebraska (Mr. Hruska), the Senator from Kentucky (Mr. Huddleston), the Senator from Vermont (Mr. Leahy), the Senator from Idaho (Mr. McClure), the Senator from Wyoming (Mr. McGee), the Senator from Georgia (Mr. Nunn), and the Senator from Texas (Mr. Tower) were added as cosponsors to S. 3661, a bill to amend medicare and medicaid provisions as they relate to rural health care facilities.

AMENDMENTS NOS. 2334 AND 2335

At the request of Mr. Durkin, the Senator from New Hampshire (Mr. McIntyre) was added as a cosponsor to amendments numbered 2334 and 2335, amendments to S. 969, a bill to amend chapter 34 of title 38, United States Code, to extend the basic educational assistance eligibility for veterans under chapter 34 and for certain dependents under chapter 35 from 36 to 45 months.

SENATE RESOLUTION 561

At the request of Mr. Kennedy, the Senator from Wyoming (Mr. McGee), was added as a cosponsor of S. Res. 561, relating to the condemnation of the murder of Orlando Letelier and Ronni Karpen Moffitt and urging an investigation of the circumstances surrounding the bombing.

SENATE CONCURRENT RESOLUTION 208—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING ADDITIONAL PRINTING

(Referred to the Committee on Rules and Administration.)

Mr. HUMPHREY submitted the following concurrent resolution:

S. Con. Res. 208

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Joint Economic Committee five thousand additional copies of its joint committee print of the 94th Congress, 2d Session, entitled "Soviet Economy in a New Perspective".

Mr. HUMPHREY. Mr. President, I submit a concurrent resolution.

This resolution would authorize the printing for the use of the Joint Economic Committee 5,000 additional copies of its current joint committee print entitled "Soviet Economy in a New Perspective". If these additional copies, sure to be needed by the joint committee, are printed subsequent to the time of printing the regular number of copies of the joint committee print their cost will be approximately $18,662.96. If printed at the same time as the regular copies, the additional copies will cost approximately $12,397.45, a large and definite savings to the taxpayer of $6,265.51.

SENATE RESOLUTION 562—SUBMISSION OF A RESOLUTION AUTHORIZING CERTAIN PRINTING

(Referred to the Committee on Rules and Administration.)

Mr. TOWER (for Mr. Baker) submitted the following resolution:

S. Res. 562

Resolved, That the compilation entitled "U.S. and Soviet City Defense—Considerations for Congress", prepared by the Congressional Research Service, Library of Congress, be printed with illustrations as a Senate document.

SENATE RESOLUTION 563—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF H.R. 14886

(Referred to the Committee on the Budget.)

Mr. RIBICOFF, from the Committee on Government Operations, reported the following resolution:

S. Res. 563

Resolved, That pursuant to section 402 (c) of the Congressional Budget Act of 1974, the provisions of section 402(a) are waived with respect to the consideration of H.R. 14886. Such waiver is necessary because the present authorized amount of $900,000 to facilitate Presidential transitions, pursuant to the Presidential Transition Act of 1963, has been found to be inadequate and unrealistic, although it appeared reasonable in 1963. H.R. 14886 would increase the authorization to $3 million, of which $1 million would be available to outgoing Presidents and Vice Presidents and $2 million for incoming Presidents and Vice Presidents. Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by May 15, 1976 because the inflationary impact upon the existing level of authorization was not highlighted until recently, and because the Federal Elections Commission issued regulations, after that date, which would prohibit campaign funds from being used for transition purposes.

AMENDMENTS SUBMITTED FOR PRINTING

OMNIBUS RIVERS AND HARBORS ACT—S. 3823

AMENDMENTS NOS. 2351, 2352, AND 2353

(Ordered to be printed and to lie on the table.)

Mr. NELSON. Mr. President, I submit three amendments to S. 3823, and I ask unanimous consent that they be printed at this point in the Record.

There being no objection, the amendments were ordered to be printed in the Record, as follows:

Amendment No. 2351

On page 18, line 14,

(a) After "Mississippi River" insert the word "system".

Amendment No. 2352

On page 18, line 18,

(a) After "master plan." add the new sentence, "All activities inconsistent with the master plan or guidelines shall be deemed unlawful."

AMENDMENT No. 2353

On page 15, line 1,

(a) Following the words "comprehensive master plan" insert the words, "consistent with enhancing its existing environmental quality".

Mr. NELSON. Mr. President, amendment No. 2351 clarifies an important aspect of the master planning process. Under the provisions of the committee bill, the Council is directed to develop a master plan for the entire Mississippi River system. It is only logical, therefore, to assume that no further construction on the system should be commenced prior to the adoption of the master plan by the Congress. This amendment continues this process following the approval of the master plan by the Congress. It applies that any further construction on the Mississippi River system be initiated in accordance with the guidelines set forth in the master plan. The committee bill limits this post approval initiation of construction solely to the Mississippi River.

Mr. President, amendment No. 2352 merely clarifies and gives force to the prohibition against activities on the Mississippi River system which are contrary to the objectives and guidelines of the master plan.

The language simply states that "all activities inconsistent with the master plan or guidelines shall be deemed unlawful."

Mr. President, amendment No. 2353 insures that the master plan, particularly the section of the master plan that applies to the upper Mississippi River, will have as its principal priority the preservation and enhancement of the areas' ecological values.

FEDERAL MINE SAFETY AND HEALTH ACT OF 1976—1302

AMENDMENT NO. 2354

(Ordered to be printed and to lie on the table.)

Mr. LAXALT. Mr. President, in many instances, a small businessman who wishes to comply with OSHA regulations has difficulty in doing so because he just does not have the expertise. It is high time that the Government regulators started trying to help the businessman to comply rather than just citing him for failure to do so. This can be brought about if OSHA is authorized to consult with a business regarding their safety requirements. Furthermore, it should not fall solely on the businessman to bear the burden of some bureaucrat's idea on the subject of safety. The Federal Government makes the regulations; they should help bear the burden of compliance.

To facilitate such a circumstance, I am submitting an amendment to the Mine Safety Act which adds a new title authorizing the Secretary to visit a facility for purposes of providing an employer with onsite "consulation and advice" as to applicable standards and compliance with them. Such visits would be at an employer's request. My amendment would also authorize "alternative means other than onsite consultation" at the Secretary's discretion. It also specifies that these visits, and any recommendations regarding possible hazards resulting therefrom, shall not constitute penalties under the terms of the act. Finally, my amendment provides for financial assistance for business under section 28 of the Occupational Safety and Health Act of 1970, absent a citation for violations of standards mandated by the act.

AMENDMENT NO. 2355

(Ordered to be printed and to lie on the table.)

Mr. LAXALT. Mr. President, in my office, complaints of arbitrary or capricious actions on the part of Federal regulators are all too common an occurrence. Among the most frequent violators have been inspectors for the Occupational Safety and Health Administration. When my staff or I question constituents with these complaints, I frequently hear that they did not fight a decision which appeared to be patently unfair because they could not afford the legal fees which such a fight would entail. As a result, many of our small businessmen are subjected to wholly unwarranted citations and penalties. Can there be any doubt that incidents of this nature are contributory to the growing feeling of alienation from their Government felt by so many Americans?

This problem must be addressed. As a step toward solving it, I am submitting an amendment to the Mine Safety Act which would provide for the payment to the employer of reasonable legal costs incurred in contesting a citation if that citation is vacated. "Legal costs" would include reasonable attorney's fees and other reasonable litigation costs and would be paid by Federal funds.

AMENDMENT NO. 2356

(Ordered to be printed and to lie on the table.)

Mr. LAXALT. Mr. President, frequently, when cited by OSHA, a businessman has no idea of how to comply with the regulation he has been cited for violating. He also frequently has no idea of how long it will take him to come into compliance. The inspectors for the Occupational Safety and Health Administration are the persons who determine that the business is in violation. They should also, therefore, be the ideal persons to suggest methods of coming into compliance. I am, therefore, offering an appropriate amendment to the Mine Safety Act.

I propose that the Secretary of Labor suggest alternative corrective courses of action to the employer found to be in violation of the standards set out by the Occupational Safety and Health Administration. In addition, each course of corrective action suggested by the Secretary shall be costed-out, at the expense of the Federal Government, to inform all parties—employers and OSHA officials—of the expected expenses of the corective measure.

AMENDMENT NO. 2357

(Ordered to be printed and to lie on the table.)

Mr. LAXALT. Mr. President, in many instances, an employer attempting to comply with OSHA regulations finds his efforts thwarted by his employees. I must admit that I find it quite understandable that a man who has worked at a job for 20 or 25 years would doubt some bureaucrat in Washington knows more about his job than he does. However, it is grossly unfair to punish an employer for acts of his employees if he has tried, to the best of his ability, to comply with a particular regulation. In order to solve this dilemma, I am offering an amendment to the Mine Safety Act which would address this problem.

This amendment would not penalize the employer or operator if he has gone to the extent of reasonable limits in informing his employees of OSHA standards and properly equipping them to meet those standards. If an employee is negligent in following the standards, an employer acting in good faith would not be liable for a citation.

AMENDMENT NO. 2358

(Ordered to be printed and to lie on the table.)

Mr. LAXALT. Mr. President, one of the real costs associated with various regulations of the Occupational Safety and Health Administration are those which result from the phasing out of equipment before its useful life has ended. How is a businessman to plan, if shortly after investing in an expensive piece of equipment he finds that some OSHA inspector has decided that it is unsafe? Never mind that it may have been in use for several years without accidents, or that it met accepted industry standards at the time of purchase—the OSHA bureaucrat has spoken. Of course, it would be ridiculous to do away with a piece of equipment which was perfectly serviceable before its useful life had expired; however, OSHA requires that this be done every day. In order to help solve this problem, I am proposing an amendment which would provide that the normal life of existing machinery, tools, or equipment be truncated only if there be a serious violation of the Occupational Safety and Health regulations as defined in section 17(k) of the Occupational Safety and Health Act of 1970.

AMENDMENT NO. 2362

(Ordered to be printed and to lie on the table.)

Mr. FANNIN. Mr. President, there was an error in the text of my amendment No. 2329 to S. 1302, the Federal Mine Safety Act amendments, as it appeared in the CONGRESSIONAL RECORD of September 20, 1976.

Accordingly I am submitting a substitute amendment with corrected text and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 2362

Beginning on line 3 on page 131, strike through line 19 on page 140.

AMENDMENTS NOS. 2373 THROUGH 2377

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted five amendments intended to be proposed by him to the bill (S. 1302), supra.

AMENDMENTS NOS. 2394 THROUGH 2397

(Ordered to be printed and to lie on the table.)

Mr. WILLIAM L. SCOTT submitted four amendments intended to be proposed by him to the bill (S. 1302), supra.

INDIANA DUNES NATIONAL LAKESHORE—H.R. 11455

AMENDMENTS NOS. 2359, 2360, AND 2361

(Ordered to be printed and to lie on the table.)

Mr. HANSEN submitted three amendments intended to be proposed by him to the bill (H.R. 11455) to amend the act establishing the Indiana Dunes National Lakeshore to provide for the expansion of the lakeshore, and for other purposes.

EXTENSION OF UNEMPLOYMENT COMPENSATION—H.R. 10210

AMENDMENT NO. 2363

(Ordered to be printed and to lie on the table.)

Mr. NELSON (for himself, Mr. JAVITS, Mr. WILLIAMS, Mr. CRANSTON, Mr. HUMPHREY, and Mr. KENNEDY) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 10210) to require States to extend unemployment compensation coverage to certain previously uncovered workers; to increase the amount of the wages subject to the Federal unemployment tax; to increase the rate of such tax; and for other purposes.

AMENDMENT NO. 2366

(Ordered to be printed and to lie on the table.)

Mr. NELSON (for himself, Mr. JAVITS, Mr. WILLIAMS, Mr. CASE, Mr. HUMPHREY, and Mr. KENNEDY) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 10210), supra.

AMENDMENT NO. 2367

(Ordered to be printed and to lie on the table.)

Mr. JAVITS (for himself, Mr. WILLIAMS, Mr. KENNEDY, Mr. CASE, and Mr. HUMPHREY) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 10210), supra.

AMENDMENT NO. 2368

(Ordered to be printed and to lie on the table.)

Mr. JAVITS (for himself, Mr. WILLIAMS, Mr. KENNEDY, Mr. HUMPHREY, Mr. CASE, and Mr. CRANSTON) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 10210), supra.

AMENDMENT NO. 2369

(Ordered to be printed and to lie on the table.)

Mr. JAVITS (for himself, Mr. WILLIAMS, Mr. KENNEDY, Mr. HUMPHREY, and Mr. CASE) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 10210), supra.

AMENDMENT NO. 2370

(Ordered to be printed and to lie on the table.)

Mr. JAVITS (for himself, Mr. WILLIAMS, Mr. HUMPHREY, and Mr. CASE) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 10210), supra.

BONDED WINE CELLAR PREMISES—H.R. 8283

AMENDMENT NO. 2364

(Ordered to be printed and to lie on the table.)

Mr. BURDICK submitted an amendment intended to be proposed by him to the bill (H.R. 8283) to amend the Internal Revenue Code of 1954 with respect to the type of flavors which may be used on bonded wine cellar premises in the production of special natural wines.

GOVERNMENT ECONOMY AND SPENDING REFORM ACT—S. 3834

AMENDMENT NO. 2365

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted an amendment intended to be proposed by him to the bill (S. 3834) to provide for the elimination of inactive and overlapping Federal programs, to require authorizations of new budget authority for Government programs and activities at least every 4 years, to establish a procedure for zero-base review and evaluation of Government programs and activities every 4 years, and for other purposes.

FEDERAL METAL AND NONMETALLIC SAFETY ACT—H.R. 13555

AMENDMENT NO. 2372

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to the bill (H.R. 13555) to amend the Federal Metal and Nonmetallic Safety Act and to transfer certain functions relating to coal mine health and safety under the Federal Coal Mine Health and Safety Act of 1969.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT—S. 2278

AMENDMENT NO. 2378

(Ordered to be printed and to lie on the table.)

Mr. BUMPERS. Mr. President, I have never believed that the inability to pay for an attorney should be an impediment to litigation regarding basic civil rights and liberties. Indeed, I believe that a court system available only to the wealthy is directly antithetical to the principles of a democratic form of government.

Having said that, I must take issue with one glaring deficiency in S. 2278. It does not apply the "shifting fee" principle for the benefit of plaintiffs and defendants alike. I direct your attention to page 5 of the committee report on this bill and I quote:

> Such "private attorneys general" should not be deterred from bringing good faith actions to vindicate the fundamental rights here involved by the prospect of having to pay their opponent's counsel fees should they lose. *Richardson* v. *Hotel Corporation of America*, 332 F. Supp. 519 (E.D.La. 1971), aff'd, 468 F.2d 951 (5th Cir. 1972). (A fee award to a defendant's employer, was held unjustified where a claim of racial discrimination, though meritless, was made in good faith.) Such a party, if unsuccessful, could be assessed his opponent's fee only where it is shown that his suit was clearly frivolous, vexatious, or brought for harassment purposes. *United States Steel Corp* v. *United States*, 385 F. Supp. 346 (W.D.Pa. 1974), aff'd, (3d Cir. 1975). This bill thus deters frivolous suits by authorizing an award of attorneys' fees against a party shown to have litigated in "bad faith" under the guise of attempting to enforce the Federal rights created by the statutes listed in S. 2278. Similar standards have been followed not only in the Civil Rights Act of 1964, but in other stautes providing for attorneys' fees.

My amendment would eliminate this judicial gloss on the "shifting fee" principle for the purposes of S. 2278. Defendants, in order to avail themselves of the principle, would not have to prove that the plaintiffs acted in bad faith, frivolously, vexatiously, or for harassment purposes. Federal courts could then award prevailing defendants attorneys fees, paid by the plaintiffs, without requiring that prevailing defendants satisfy such a stringent burden of proof.

This is only fair. We should treat both parties in litigation the same whether the matter be a civil rights case, unlawful death action, or whatever.

I urge my colleagues to join with me in the adoption of this amendment and I ask unanimous consent that the text be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 2378

> On page 1, line 10, strike out the quotation marks and the period and insert in lieu thereof a period and the following:
>
> "For purposes of this section, a prevailing party who is a defendant in such an action or proceeding may be awarded a reasonable attorney's fee, at the Court's discretion, even if such defendant cannot show that the plaintiff bringing such action or proceeding acted in bad faith, frivolously, vexatiously, or for the purpose of harassing such defendant.".

AMENDMENTS NOS. 2379 THROUGH 2391

(Ordered to be printed and to lie on the table.)

Mr. ALLEN submitted 13 amendments intended to be proposed by him to the bill (S. 2278), supra.

AMENDMENTS NOS. 2392 AND 2393

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted two amendments intended to be proposed to amendment No. 2347 to the bill (S. 2278), supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS

Mr. ABOUREZK. Mr. President, the Senate Judiciary Subcommittee on Constitutional Rights will hold hearings on the operation of the grand jury system. The hearing will be on September 28, at 10 a.m. in room 2228, Dirksen Senate Office Building.

SUBCOMMITTEE ON AEROSPACE TECHNOLOGY AND NATIONAL NEEDS

Mr. FORD. Mr. President, I wish to announce that the Subcommittee on Aerospace Technology and National Needs of the Committee on Aeronautical and Space Sciences has scheduled hearings for Monday and Tuesday, September 27 and 28, on alternative fuels for aviation.

The hearings will consider the need for NASA to develop new aircraft engine technology to utilize fuels of the future. The hearings will also consider whether the development of alternative fuels, such as synthetic fuels derived from coal and oil shale, is proceeding rapidly enough to meet the eventual needs of aviation.

The hearings will be held in room 235 of the Russell Senate Office Building beginning at 9:30 a.m. On September 27 the witnesses will be from the American Institute of Aeronautics and Astronautics, General Electric, the Navy, and NASA. On September 28 the witnesses will be Senator Jennings Randolph and representatives from Esso Research and Engineering Co., Standard Oil of Indiana, GAO, and ERDA.

ADDITIONAL STATEMENTS

ELIMINATING TOBACCO SUBSIDIES

Mr. MOSS. Mr. President, currently pending on the Senate Calendar is H.R. 15068, an act to provide for emergency allotment, lease and transfer of tobacco allotments of quotas for 1976 in certain disaster areas in South Carolina and Georgia. This bill was reported by the Committee on Agriculture and Forestry on September 10, 1976.

Mr. President, I have no wish to hurt the tobacco farmer. These people have labored hard in their work and it is most unfortunate that they produce a deadly crop. My objective in recent years has been to eliminate the tobacco subsidies, the underpinnings for the growth of this crop. Perhaps without the subsidies these farmers would turn to other crops more beneficial to human life. Tobacco remains a deadly killer, so I must continue to do everything within my power to force the Senate and the Congress to reverse the schizophrenic practice of subsidizing the growth of a product which will cause numerous deaths and disabilities to the American people, while at the same time we appropriate money to aid those who become ill as a result of smoking and try to educate our people not to smoke.

I have placed a hold on H.R. 15068. This is not something I have done lightly, for as I have stated, I do not wish to hurt the tobacco farmers, and farmers in the disaster areas certainly do need assistance. But I wished to present again to the Senate an opportunity to cancel the outrageous program of Government tobacco subsidies.

Let me review, if I might, the history of my efforts to eliminate the tobacco subsidies. In each of the past six sessions of the Congress I have offered an amendment to the Agriculture appropriations bill or other appropriate vehicles to eliminate tobacco subsidies. When I first offered the amendment in 1970, the elimination was to be complete and immediate. Several Senators expressed concern that it would be unfair to eliminate subsidies for tobacco already planted and in process. To be fair I complied with the requests of the opponents to the amendment and inserted a condition that the elimination of subsidies would not apply to tobacco in process. Each year since 1970, I have attempted to attach a similar amendment to the Agriculture appropriations bill or to other appropriate bills such as the emergency farm bill in March of 1975. I have done this in order that the Senate can take a rollcall vote each year on the determination whether tobacco subsidies are in the public interest.

This year when I offered such an amendment, a point of order was raised. This point of order was based on an extremely technical reading of the Senate rules but was upheld. Therefore, the Senate did not have the opportunity to work its will on the merits of my amendment. But I believe that the handwriting is on the wall. While several years ago the Department of Agriculture would rush to the tobacco proponents with ammunition to shoot down my amendments, today the Department comes to me to help in combating the Government's cost of subsidies for tobacco.

Over the years, many Members of the Senate have supported my effort. There are now 35 different Members of the Senate who have supported my amendments for an immediate termination of tobacco subsidies. And there are approximately five others who have supported amendments which I have offered to phase out tobacco subsidies over time.

But in fairness to the tobacco farmers who are in a disaster area, I am today releasing the hold which I have placed on H.R. 15068. But I will be back next year with a proposal to cut off subsidies for growing tobacco.

CURTIS-DOLE AMENDMENT WOULD DESTROY THE FOREIGN TRADE ZONE CONCEPT

Mr. JACKSON. Mr. President, on behalf of myself and Senators Inouye, Kennedy, and Muskie, I wish to comment on the proposal by Senators Curtis and Dole to amend the Meat Import Act to exclude meat processing operations from foreign trade zones. The Senate Committee on Finance held very abbreviated hearings on this bill Monday afternoon, September 20. This ill-conceived and injurious legislation would sound the death knell for active and proposed foreign trade zones from Maine to Hawaii, but it would not provide any relief for the domestic cattle industry.

The Curtis-Dole amendment would destroy countless American jobs and job opportunities, without having any effect on identical foreign operations. One thousand needed jobs would be eliminated immediately in Puerto Rico. Potential jobs in Minneapolis, Kansas City, and New Orleans would evaporate overnight. And soon, the entire economic contribution of the foreign trade zones could be destroyed.

The purpose of the Foreign Trade Zone Act is to encourage capital investment in the United States by attracting to U.S. soil businesses and jobs which would locate in foreign countries. This is accomplished by treating foreign trade zones as foreign countries for duty and quota purposes. Investments in foreign trade zones create American jobs; the Curtis-Dole amendment goes to the opposite extreme. By effectively prohibiting the importation of meat that is processed in foreign trade zones, while leaving foreign processors free of any controls, the amendment would drive investors, and the jobs they create, out of the United States. It would, in short, discriminate against American jobs and investment in favor of foreign businesses. It would, moreover, aggravate our critical balance-of-payments situation.

Labor and small businesses would be hardest hit, but no one can benefit from this legislation—not even the cattle industry. Meat processed in foreign-trade zones amounts to well below one-half of 1 percent of our annual domestic consumption. The position of the cattle industry can only be improved by reasoned analysis of the underlying problems, and not by a reckless, misguided attack on American workers and businesses in the foreign-trade zones.

For these reasons, we will vote against any amendment to the Meat Import Act that puts meat processing operations in foreign-trade zones in a less advantageous position than those operating in foreign countries, and we hope that our colleagues on the Finance Committee will do likewise. The larger problem posed by meat import quotas and the current problems of our domestic cattle industry deserve careful attention and study. This can only be provided by full hearings and thorough examination in the appropriate committee.

CONSTRUCTION LAGS AS MORE PEOPLE DEFER HOME PURCHASES

Mr. HUMPHREY. Mr. President, Alan Greenspan, Chairman of the Council of Economic Advisers, is now assuring us that the recovery is "reaccelerating." From my perspective, however, the evidence continues to pour in that the economic lull is solidly rooted. We have seen a rare burst of increased unemployment during an already lackluster upturn, signs of consumer confidence fading, and indications of business hesitation about capital and inventory investment. It just is not clear to me from where the impetus for rising demand, necessary to spur the recovery, will materialize.

A prime example of the combination of disheartening consumer attitudes and high unemployment is in housing, and the Joint Economic Committee will hold hearings about this problem on Thursday of this week.

Unemployment among construction workers in August continues at the incredible level of 17.1 percent, representing 782,000 workers. This compares with 19.7 percent a year earlier. That is improvement, but it illustrates a general observation: Normal recovery from an abnormally deep and painful recession simply does not cut it.

Why is chronic unemployment in construction continuing? Clearly, there are many factors, but, most important is the fact that with mortgage rates as high as they are, people are finding the cost of buying houses prohibitive and they are deferring purchases. And, let me point out that a well-intentioned temporary deferral of a home purchase for economic reasons now, may well become a permanent decision to abandon homeownership plans later.

I cite an interesting survey by Citicorp which asked people what their home buying plans are.

The findings are instructive:

In July, 3.5 percent of the respondents indicated an intention to purchase a house in the next year or two; in March, 6.8 percent had said they would make such a purchase.

Over half of those who said they were putting off home purchases indicated the reason was high mortgage rates.

Three out of four people believe the already high total cost of purchasing a home will go up instead of down, while 1 out of 10 believe the cost will go down.

One out of three respondents characterize the price of a single family home as "extremely overpriced."

The Citicorp survey news release speaks for itself and deserves the attention of all my colleagues. Therefore, I ask unanimous consent that it be printed in the Record.

There being no objection, the news release was ordered to be printed in the Record, as follows:

Home Buying Plans Put Off Due to Cost

New York.—A significant number of Americans have given up their plans to buy a new home in the next year or so, according to the latest Citicorp Survey.

The poll, which queried 1,409 adults across the country, showed that in the past six months, the percentage of those with home buying plans had been cut almost in half. In July, 3.5 per cent of the respondents said they definitely were going to buy a home in the next year or two. In March when the same question was asked, 6.8 per cent said they had such plans.

A primary reason for postponing a home purchase is the interest rate on mortgages. Over half—51 per cent—of those who said they had put off buying a new home said the interest cost was a major reason. Meanwhile, 71 per cent said the overall cost was the primary determinant. Difficulty in obtaining a mortgage was mentioned by 24 per cent and 37 per cent said lack of a down payment was a major factor.

While people perceive the cost of a new home to be high at present, most feel the cost is going to rise in the coming year. Almost three out of every four respondents with an opinion on the subject said prices will increase while less than one in ten feels prices will come down. Approximately one out of every three—32 per cent—thinks the price of a single family home is "extremely overpriced."

Most people feel it is currently a sellers' market for single family homes, but not necessarily for cooperatives or condominiums. Asked whether it is easier to buy or sell, 59 per cent said it is easier to sell a single family home at a good price compared to 23 per cent who said it is easier to buy.

Questioned about condominiums and cooperatives, 36 per cent said it is easier to buy, 31 per cent said it is easier to sell. Older people—55 years and over—often the target market for condominiums and cooperatives, are aware of the buyers' market for these types of homes. One out of every three respondents in that age category said it is currently easier to buy a cooperative or condominium at a good price while only 22 per cent said it is easier to sell one.

The survey is conducted monthly by an independent research firm for Citicorp and its principal subsidiary, Citibank. The random cross section includes men and women from a wide variety of wage and job categories ages 18 to 55 and over.

CONGRESSIONAL ACTION ON HALOCARBONS

Mr. PEARSON. Mr. President, on September 15, 1976, I introduced a bill S. 3820, which addresses the serious issues raised by continued use of aerosols. The scientific community has generated significant evidence that indicates halocarbons contained in aerosols are slowly breaking down the atmosphere's ozone layer. Without a stable ozone layer, the Earth's surface is exposed to the Sun's ultraviolet rays with resulting deleterious impacts on the public health and environment.

The legislation I have introduced would require manufacturers of products containing aerosols to label their product containers with an adequate warning on the dangers of halocarbons. S. 3820 would also mandate investigations into the effectiveness of aerosol container labeling and the effects of halocarbons on the environment and the public health.

As I stated last week, I do not expect congressional action on S. 3820 due to the limited time remaining this session. However, I continue to believe that Senate hearings should be held early in the next Congress.

My concern over the dangers of continued aerosol use is shared by a growing number of people. On September 19, 1976, the Washington Post ran an editorial which discusses the various problems associated with aerosol products.

I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Getting Rid of Aerosols

Although the report issued last week by a committee of the National Research Council was cautiously worded, the message seems clear. The aerosol can as we now know it—for hair spray, deodorant, insecticide, paint and a multitude of other items—will have to go. Not perhaps tomorrow morning, according to the committee of scientists—but the potential long-range danger of the gases these aerosols spray into the atmosphere far outweigh their personal and economic benefits.

The problem with the aerosols is that they generally release into the air two fluorocarbons that float upward and eventually attack the layer of ozone surrounding the earth. While our knowledge of both the process and the ozone layer is still incomplete, the evidence indicates that continued heavy use of the two fluorocarbons would cause extremely grave health and climatic problems in the future. The committee believes the situation is serious enough to support its recommendation that steps be taken *now* to restrict uses of these fluorocarbons by early 1978—unless improbably, some new and contradictory evidence is developed in the interim. While its findings may not support Friday's call for an immediate consumer boycott of aerosols by Russell Peterson, chairman of the President's Council on Environmental Quality, they surely support Mr. Peterson's request that industry begin an immediate phaseout of the use of these products.

The most important next step, it seems to us, is for congressional leaders to prepare at once to give this subject highest priority in the next session. Fluorocarbons are used in products other than aerosols and some distinctions will need to be made. For example, there seems to be little potential danger from the leakage of these gases out of home refrigerators and freezers, and there may be no acceptable replacement for them as the propellants in certain medical products. The committee suggests a series of regulatory steps: banning the gases' use in most aerosols; a requirement that people who repair automotive air conditioners use equipment that does not release the gases into the air; a requirement that new automotive air conditioners be built to avoid the releases they now produce through leaks; and—if these aren't sufficient—forbidding the use of fluorocarbons in any kind of air conditioning equipment.

While it is true that not all of the scientific evidence is yet in, we see no reason for Congress to wait for it—and every reason for Congress to move with speed. The odds against an ultimate finding favorable to fluorocarbons are small, and manufacturers have been on notice for some time that fluorocarbons may be dangerous. Aerosol hair sprays and deodorants may be nice to have around and use, but they are luxuries without which humankind survived through the ages. Their elimination will create economic problems, as well as personal inconveniences. But we are sure American industry can come up with substitutes that do the job and can be merchandised just as well.

FARMERS HOME ADMINISTRATION

Mr. BAYH. Mr. President, on page 31249 of the September 20, Congressional Record, there appears a brief statement which I made concerning a matter of grave importance to many rural residents. The issue—the failure of Farmers Home Administration to obligate a very large proportion of the funds appropriated by Congress for fiscal 1976 rural housing loans—is one of interest and importance to many of my colleagues, as witnessed by the fact that a total of 49 Senators signed a letter to FmHA Administrator Elliott urging him to continue processing loan applications and obligating funds up until the very last day of this fiscal year.

On Monday, September 20, Administrator Elliott responded to that letter. I ask unanimous consent that a copy of that letter be printed in the Record, together with a copy of the letter which I am today sending to Mr. Elliott.

There being no objection, the letters were ordered to be printed in the Record, as follows:

U.S. Department of Agriculture,
Farmers Home Administration,
Washington, D.C., September 20, 1976.
Hon. Birch Bayh,
US. Senate,
Washington, D.C.

Dear Senator Bayh: We regret the apparent misunderstanding concerning the commitment of Farmers Home Administration (FmHA) housing loan funds. I want to assure you that the Agency fully intends to continue obligation of funds through the completion of the fiscal year on September 30. The $800 million in loan authority to which you refer did not yet reflect normal year-end increases in the rate of loan and grant requests which are now being processed through our Finance Office. The Agency anticipates based on present activity that it will substantially use the lending authority available to it this fiscal year.

The September 20 date to which you refer was provided as guidance to our State Directors for planning purposes only. To meet the accounting and reporting requirements required for valid fund obligations of the Federal Government at the end of a fiscal year as requested by Section 1311 of the Supplemental Appropriations Act of 1955 and Title 7 of the General Accounting Office (GAO) Accounting and Procedures Manual, this date was established for guidance as the last probable date for which loan and grant obligation requests mailed from the field would have adequate time to arrive at the St. Louis Finance Office and be processed and returned for obligation using FY 1976 and Transition Quarter funds.

Loan and grant obligation requests will continue to be sent to St. Louis and at no time will any cutoff occur. The September 20 planning date was provided to our State Directors to indicate to them that they should anticipate that most such requests mailed after this date may, in order to meet legal requirements for proper obligation, be charged against FY 1977 funds.

We trust this response will clarify the apparent misunderstanding of internal guidance information provided to our State Directors and will assure you that our personnel are committed to the prompt processing of qualified applicants throughout the fiscal year.

Sincerely,

FRANK B. ELLIOTT,
Administrator.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., September 22, 1976.

Mr. FRANK ELLIOTT,
Administrator, Farmers Home Administration, U.S. Department of Agriculture, Washington, D.C.

DEAR MR. ELLIOTT: Thank you for your letter of September 20 regarding the obligation of fiscal 1976 Farmers Home Administration housing loan funds.

I assure you that no misunderstanding exists on my part about this issue. The purpose of the letter to you dated September 17 and signed by forty-nine Senators was to impress upon you the intent of the Congress which appropriated FmHA housing funds that the funds appropriated for fiscal 1976 be used in that year.

Clearly, it is not possible that the $725 million in obligational authority remaining unused as of September 17 can be responsibly expended by the close of the fiscal year. I believe that the situation confronting us today of a large unexpended balance should not and would not have occurred had FmHA acted aggressively throughout fiscal 1976 to fulfill the mandate given it by the Congress. Not only did Congress explicitly reject a $500 million rescission proposed by the Administration, thus reaffirming its intention that all appropriated funds be obligated; Congress also appropriated funds for additional staff to ensure and to facilitate the processing of loan applications. I am fully aware that a portion of the funds appropriated for fiscal 1976 for new full-time positions was diverted to other purposes, contrary to the intent of Congress, and can not regard the lack of personnel as an adequate reason for FmHA's failure to obligate all or most of the funds made available to it for fiscal 1976.

In your letter you reiterate FmHA's commitment to continue obligation of funds through the completion of the fiscal year on September 30. I urge you to fulfill that commitment by taking all necessary steps at both the field office and state level to ensure that as many qualifying applications as possible be processed and receive loans prior to 12 midnight on September 30. If such steps require special mail procedures or that the St. Louis Finance Office be required to remain open 24 hours a day, such extraordinary steps are indeed appropriate compared to the loss of several hundred millions of dollars needed for rural housing.

Thank you for your attention to this matter and your prompt response to my letter of September 17.

Sincerely,

BIRCH BAYH,
U.S. Senator.

TOWARD A NATIONAL POLICY FOR SMALL BUSINESS: HOW FAR HAVE WE GONE IN THE 94TH CONGRESS?

Mr. HUMPHREY. Mr. President, the degree to which our economy recovers from the worst recession since the Great Depression will be directly proportionate to the vitality of the Nation's small business.

Small business—farmers, professionals, manufacturers, merchants, and service firms—comprises 98 percent of all the business entities in the country, employs more than 60 percent of the labor force, and accounts for 43 percent of the total U.S. gross national product.

The crucial importance of small business to our economy prompted me to issue a series of proposals on July 22, 1976, which were designed to move the Federal Government toward establishment of a national small business policy to give small business equal ranking with large corporations in the country.

I know that only 2 months have passed since I presented this comprehensive policy statement, but I should add that many of the specific proposals are based on longstanding suggestions I have made in recent years to meet chronic small business problems. With this in mind, I think it entirely appropriate, as the 94th Congress draws to a close, to ask how small business fared at the hands of Congress and the administration in terms of approaching a national small business policy during this 2-year period.

Definitive action has yet to be taken on many of these proposals, but on an overall basis, I think a good start has been made to achieve the goal they represent.

SECONDARY MARKET FOR SBA GUARANTEED LOANS

One of the most important points advocated in my statement called for substantial expansion of the market for sale of the guaranteed portion of SBA loans by giving such debt paper a standing equivalent to any other Federal security. In effect, the Federal Government would honor these obligations under all circumstances.

In consultation with the Treasury Department and commercial banks, SBA reports it is completing work to develop what amounts to a standard uniform loan guarantee obligation that will be widely accepted on a secondary market basis. The Agency said it is on the verge of implementing this new marketing tool which will allow commercial banks to sell or, in effect, roll over their existing small business loans. This should greatly increase the flow of credit into this segment of economy which too often is treated on a residual, last-served basis.

To expedite guaranteed small business loan applications and free Agency personnel for more important work, it was proposed that SBA aggressively pursue efforts to transfer its credit checking functions to commercial banks which would decide what firms are reasonable credit risks.

SBA reports it is approaching the point of implementing what it calls an accelerated bank guarantee program under which commercial banks will perform credit checks using SBA criteria for eligible borrowers.

IMPROVED CAPITAL FORMATION—TAX BENEFITS

To a significant degree most of the tax proposals which I advocated to strengthen small business were realized. The fact that these provisions apply to all business does not in any way detract from the aid that will be extended to small business.

I proposed that the estate tax exemption applying to small business should be expanded from $60,000 to the equivalent of a $200,000 tax exemption in order to erase the need to liquidate small businesses in order to pay Federal estate taxes.

In effect the tax reform bill as it was adopted will provide what amounts to a $175,000 tax exemption to be reached over a 5-year period.

Another tax proposal made in my policy statement would extend the loss carry forward period for both new and existing small business in order to promote establishment of new enterprises and strengthen existing companies. Specifically, it was recommended that the loss carry forward period for new business be extended to 10 years and that the period for existing business, with losses of less than $1 million, be extended from the present 5 to 7 years.

As it was finally adopted, the tax reform bill extends the loss carry forward period for all business to 7 years.

I also proposed that the Congress make permanent the temporary corporate income surtax exemption increase from $25,000 to $50,000. The new tax bill extends the exemption through 1977.

Another tax proposal made in my July 22 statement would increase the accumulated earnings credit for small business from $150,000 to $250,000 in order to expand the potential reserve funds these companies can retain. Neither the Senate nor the House bill contained this provision. It is my intention to renew this proposal in the 95th Congress.

CORPORATE TAX REFORM

Going beyond these specific proposals, I advocated that legislation be adopted as soon as possible to assure that all corporations pay their fair share of income taxes so that small business will not continue to be overburdened in this area while large corporations are allowed to avoid their full responsibility. To this end the Joint Economic Committee and the Select Committee on Small Business have requested the Treasury Department to supply data indicating current effective corporate income tax rates according to asset size and income level.

The Treasury Department has informed me that it expects to make a full report to the two committees by the end of October. A bill to build equity into our tax structure for both small and big business can then be drafted with the prospect that legislation will be ready for consideration early in the new Congress.

IMPROVED SMALL BUSINESS INFORMATION

Mr. President, despite its enormous importance, refined and detailed information on the condition, performance, trends, and problems of small business is woefully lacking. This condition cannot be allowed to continue if the Congress and the administration are to have the knowledge necessary for development of sound policies and legislative action.

In response to this situation I have proposed the creation of an executive task force, headed by OMB, with SBA and other relevant agency participation, to determine how meaningful, in depth, statistics can be collected and disseminated.

SBA has a $1 million funding authorization to undertake this task itself but I seriously doubt that it can be satisfactorily completed at this expenditure level. SBA has additional funds that have been allocated for research purposes that could be channeled into this project area but the Agency, as yet, has not used them. This is another example of the administration's benign neglect toward an effort that is of vital significance to small business.

Hopefully, the new Congress will solve this problem with a specific and adequate authorization.

SMALL BUSINESS OMBUDSMAN

My statement outlining the path leading toward a national small business policy included a proposal to establish a Grievance Board within the SBA's Advocacy Office, to assist small business experiencing compliance difficulties and other problems with Federal regulatory agencies. Grievance Board personnel would be stationed at each SBA regional office.

No administration action has been taken to implement this recommendation to establish what would amount to a Small Business Ombudsman to fight for the rights of small business before an array of Federal agencies. As in other problem areas, a solution can be found in a specific legislative proposal directing SBA to establish a Grievance Board and providing proper funding for it.

REDUCING PAPERWORK

In my statement of July 22, I proposed that the new Office of Advocacy within SBA should play a central role in reducing the large amount of Federal paperwork confronting small business borrowers. In this connection, SBA's Council for Advocacy should be directed to undertake a study of this subject with the assistance of OMB. Part of this effort would be devoted to determining the level of information and its cost and devising a plan to reduce both.

For the most part, this recommendation is being ignored. SBA's effort in this area is confined to participation, along with all other Federal agencies, in the activities of the executive branch paperwork task force which is endeavoring to develop methods by which the volume and cost of paperwork throughout the executive branch can be reduced. There appears to be little hope of achieving early improvement within SBA by following this route. This prognosis has been indicated by SBA itself which said, for example, that the task force has recommended consolidation of a number of forms into one questionnaire which takes SBA borrowers longer to complete than the existing multiple forms.

It is clear that SBA should seek to reduce its own paperwork requirements first. In this connection I also proposed the General Accounting Office be directed to undertake a study of what OMB can do to reduce the paperwork burden on small business. The Senate Select Committee on Small Business plans on pursuing this subject and if it does not meet with success the question may be placed in the hands of GAO to answer.

MORE CAN AND MUST BE DONE

Mr. President, it is clear that real progress has been made toward achieving a national policy for small business. But it is also clear that much more must and will be done to give small business the legislative and administrative recognition absolutely necessary to the survival of our competitive enterprise system.

In virtually every instance, it is small business which has produced the technological innovation resulting in new services and products, new fields expanding employment opportunities, and a continuously rising standard of living. It is the very heart of our economic vitality.

Mr. President, while we have made some progress in Federal policy toward small business there is much more that must be done if this vital element of our economy is to prosper. I intend to do all I can so long as I am a Member of this body to promote a healthy and dynamic small business sector of the American economy.

TRIBUTE TO CARL ALBERT

Mr. MATHIAS. Mr. President, the distinguished Speaker of the House of Representatives, CARL ALBERT, is retiring at the end of this session of the Congress after 30 years of distinguished service in the Congress.

CARL ALBERT and I served together in the House of Representatives in the 87th, 88th, 89th and 90th Congresses. We also served together as the sponsors of the project of the Johns Hopkins University Press to publish the journals of the first Congress. His sponsorship of this legislation underlines the Speaker's continuing scholarly interest in history.

It is both appropriate and necessary that the third constitutional officer of the Republic should not only be well acquainted with history but be able to discern its lessons and accept its guidance.

CARL ALBERT is such a man and the Republic has been fortunate in him.

We all stand in his debt for responsible public service and he is due our thanks. I extend my best wishes to him for many active and fulfilling years ahead.

A-BOMBS FOR TAIWAN?

Mr. CHURCH. Mr. President, today we confront the worst peril yet in the unhappy history of man against the bomb. Tremendous are the pressures spreading nuclear reactors across the Earth. The energy crisis is upon us, and virtually every nation reaches out for its own reactors to generate electricity. A multibillion dollar market summons eager salesmen from the United States, England, France, Germany, Canada, the Soviet Union, Japan, and other supplier nations. The lure of enormous profits becomes overriding, and considerations of arms control and environmental safety—even the specter of nuclear war itself—give way.

As long as unrestrained competition for these lucrative sales continues to govern, the buyers—not the sellers—will set the terms. We have seen this happen for years in conventional arms sales. In 1952, our international arms sales amounted to $300 million; today they have soared to an estimated $20 billion in this last year alone. Not that we wished to fill Asian countries with huge stockpiles of weapons; not that we believed the inflammatory Middle East was a good place for mountains of missiles and tanks; but because we reasoned that others would sell the weapons, if we did not.

The United States has become the munitions maker for the world, selling the means for new wars on almost every continent, always with the justification, "If we don't, the Russians, the French, the English, or somebody else will." So, for the profit, the balance-of-trade, and the political leverage, we do it.

Now we are selling, not the obsolescent, but the more advanced and sophisticated planes and ships. To the Shah of Iran we offer scores of F–14 jets, Spruance destroyers more advanced than those in our own Navy, and high-precision Sidewinder and Maverick missiles. Countries in the Middle East alone signed agreements with the United States to purchase weapons worth over $5 billion in fiscal year 1976. In this arms race, all restraints are off as the competition keeps raising the stakes higher.

And so it is with nuclear reactors, too. Already, we are introducing nuclear technology and equipment into the tension areas of the world under the guise that "if we don't, others will"—the universal excuse for doing wrong. We have assisted South Korea, Iran, and India, among others, with so-called peaceful nuclear programs only to find the Koreans and Iranians offering to buy reprocessing plants from European suppliers, and India setting off a nuclear explosion. And, within weeks of the Indian blast, President Nixon promised first Egypt, then Israel, to help expand their nuclear energy programs. Now we find that Taiwan apparently is developing stockpiles of plutonium diverted from imported reactors. I refer my colleagues in the Senate to the editorial in The Washington Post which discusses the dangers of a nuclear Taiwan, and ask unanimous consent that it be printed in the RECORD at the end of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD.

(See exhibit 1).

It is vital that an international charter be sought that will accommodate the peaceful energy needs of nations without permitting the diversion of reactor fuels and wastes for military purposes.

EXHIBIT 1

[From the Washington Post, Aug. 31, 1976]

A NUCLEAR TAIWAN?

The American intelligence system reports—ominously—that the Republic of China on Taiwan is taking a key step to becoming able to make its own nuclear bomb.

It is reprocessing spent uranium fuel from one or more of its nuclear power reactors into weapons-grade plutonium. A country with a stockpile of plutonium can quickly—under some conditions, even within days—build a bomb. This shreds the "safeguards" by which the International Atomic Energy Agency seeks to prevent signatories of the Nuclear Nonproliferation Treaty (NPT), such as Taiwan, from diverting peaceful nuclear activities into bomb-making. Some details remain hazy. It is unclear whether the spent fuel being reprocessed comes from a reactor supplied by Canada in 1969. The Canadians shifted their diplomatic ties to Peking in 1970 and thereby lost the capacity to keep a close eye on "their" reactor. The spent fuel might come from someplace else—in which case, if the fuel is not under safeguards, Taiwan has violated the NPT. Nor is it clear just what unsafeguarded reprocessing facilities, beyond its American-supplied "hot cell" research plant, Taiwan may have. What is known, however, is troubling enough: The Republic of China could conceivably be on its way to becoming a nuclear power.

Why? In the face of Taiwan's denials, one can only speculate that some Chinese officials believe a nuclear capability to be prudent insurance against an uncertain future, in particular, against the uncertainties of future American support. Some Chinese Nationalist officials might argue—correctly, in our view—that if Taiwan were to break its word as a signatory of the NPT, it would jeopardize not just its vital peaceful nuclear links with the United States but also its overall political ties. Other Chinese officials might respond that the United States would understand and perhaps even respect Taiwan's concern for its own defense. One can imagine a tentative decision in Taiwan to move forward discreetly, waiting to see what the reaction of the United States, other interested nations and the International Atomic Energy Agency might be.

In the relatively short time since signs of Taiwan's questionable reprocessing activity were detected, the United States has reportedly conveyed its urgent concern on a political level and put a warning hold on the sale of two more nuclear power reactors. The IAEA is also said to be fully aware that its status and effectiveness as administrator of the NPT hinge in large measure on its performance in this case. Now that the matter has become public, the stakes are even higher. We think this is to the good. There may be limits to the extent to which the United States can press Taiwan publicly without producing a nationalist backlash that would torpedo the non-proliferation cause. But the United States cannot afford to leave anywhere the impression that it is not really serious about halting the spread of nuclear weapons. In this particular case, a flabby stand could traumatize American relations with Peking and with Tokyo alike. And American efforts to limit proliferation elsewhere would be a shambles.

The impulses which may make a bomb seem attractive or even compelling to some officials on Taiwan are not, we would emphasize, frivolous. Taiwan looks across the Pacific at the United States, and back over its shoulder at Peking, and it is bound to wonder what its future holds. If the United States will not stand still while Taiwan builds its own bomb, then Taiwan has a strong claim on alternative security arrangements based on clear political understandings in Washington, Peking and Taipei. By wise and patient diplomacy, the United States has it within its power to provide such arrangements over the years of change in East Asia which lie ahead. Those who would have the United States shift its diplomatic allegiance forthwith from Taipei to Peking, by the way, would do well to bear in mind the impetus to proliferation which such a switch would impart. There is a delicate strategic and diplomatic equation to be written. A way must be found to do it.

MINNESOTA WEATHER AND CROP PROSPECTS FOR NEXT YEAR

Mr. HUMPHREY. Mr. President, I wish to share with my Senate colleagues a letter which I directed to Mr. John V. Graff, meteorologist of the National Weather Service in Minneapolis, and his reply to me.

There has been a great deal of speculation in the Upper Midwest concerning the low level of soil moisture and the impact which this is likely to have on next year's crop levels. There has been a great deal of speculation that low levels of soil moisture now would largely determine that next year's crops would be at least below average.

At our July 1 hearings on the drought situation, a great deal of the discussion focused on the importance of the present low levels of soil moisture. The Commissioner of Agriculture, Mr. Jon Wefald, pointed out that Minnesota began this year with very low levels of soil moisture. Many knowledgeable State observers have pointed out that crops along the roadways appear to be better than elsewhere because of the collection of snowbanks along the roads.

I know that Mr. Harry M. Major who heads our regional Soil Conservation Office has been taking soil moisture measurements in Southwestern Minnesota in order to follow this issue.

It is also worth noting that the Federal Crop Insurance Corporation, in canceling new applications for crop insurance in 22 Minnesota counties, claimed that the present low soil moisture level would likely preclude normal crops in this area next year. However, the FCIC also conceded that the picture could change sharply by next spring, with the possibility of the door being reopened for new applications at that time.

Mr. Graff's letter provides some interesting answers to these questions. He deals with the 20- and 40-year cycles which appear to have dominated our drought history in the Midwest.

He also provides five key checks against which a growing season's moisture can be judged. These include: First, adequate fall rains before the ground frost sets in; second, normal winter snows of about 45 inches; third, gradual snow melts without rapid evaporation or runoffs; fourth, normal soaking spring rains; and fifth, regular rains during the growing season without prolonged heat or dryness.

This list will provide a useful checkpoint for anyone who is interested in following this important issue. It would appear that the moisture level for the growing season largely begins in the fall, and each year is a new start although droughts have followed 20- and 40-year patterns.

I am hopeful that the Federal Crop Insurance Corporation and other agencies will use this information rather than prejudging next year's growing season at this time.

Mr. President, I ask unanimous consent that the two letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SEPTEMBER 1, 1976.

Mr. JOHN V. GRAFF,
Meteorologist in Charge, National Weather Service, Federal Aviation Building, Minneapolis, Minn.

DEAR MR. GRAFF: For several months, Minnesota has been caught in the grips of one of the worst droughts on record. Your Weather Service office has done an outstanding job in keeping Minnesotans informed of weather events both on an emergency and long term basis. Please allow me to extend my compliments on your work.

I am concerned, though, over the weather prospects for the long range future and especially the coming year. Can we expect a continued lack of precipitation and the resultant loss of subsoil moisture? Will the moisture loss this year be a significant factor in the crop production possibilities for 1977? Or, in fact, is it just too early to make any clear predictions?

As you know, the Congress is presently considering several changes in the Federal Agricultural Disaster Assistance Programs. Any information which you could provide in the way of weather and forecast data will be extremely helpful in this effort.

Thank you for your assistance in this matter. I will look forward to your comments.

With best wishes.

Sincerely,

HUBERT H. HUMPHREY.

NATIONAL WEATHER SERVICE,
Minneapolis, Minn., Sept. 14, 1976.

Hon. HUBERT H. HUMPHREY,
U.S. Senate, Washington, D.C.

DEAR SENATOR HUMPHREY: This is in reply to your letter of September 1, 1976 wherein you expressed concern for weather prospects in the State of Minnesota for the long range future and especially the coming year. In the same letter you expressed compliments for the services provided by the National Weather Service Forecast Office here in the Twin Cities.

May I first sincerely thank you for these kind words, on behalf of this staff, and on behalf of Mr. Charles G. Knudsen our Regional Director, and Dr. George P. Cressman our National Director. Our work here in the Twin Cities, in and for the State of Minnesota, is only a reflection of the operative standards these gentlemen have clearly set forth as a guide for our conduct.

With regard to the drought situation I shall present to you the same thought process which was pursued, beginning in the late months of this past Winter, which as you know, led to an outlook of dryness for the then coming agriculture season. By presenting those thoughts in this manner it is hoped that a number of answers to your questions may be better understood and more properly applied to the likelihood of future meteorological events:

1. Evident dryness, possibly resulting in drought, is a phenomenon which has a tendency to recur about every 20 years; viz.: mid 1890's, 1910's, 1930's, 1950's, and now the mid 1970's.

2. Every 40 years (1890's, 1930's) prolonged dryness over a number of years near the peak or, one very severely dry year characterizing the apex of the 40-year cycle with one or two "threatening years" before and after the "apex year" tends to manifest itself.

3. Identification of whether or not the mid-years of a 40-year cycle (mid 1970's) will result in subsequent years of drought or will be characterized by an "apex year" (1976?) followed by only threatening years, with some dry periods, can be problematically alluded to by viewing the trend of the one or two years which precede the driest year. If the trend is gradual-1974 (first signs) and 1975 (a real threat year) and this is followed by

an apex year of severe drought (1976), then it would be suggested that the latter of the two possibilities would be more predominant and that we could be seeing the worst of the drought condition in this year of 1976. It would then follow, that one or two "threat years" would be anticipated (1977 and 1978) to finish out the 40-year peak.

4. Drought is migratory: Examination of drought centroids from year to year during peak dry periods reveals that the "driest centers", and often the whole dry area, does not tend to recur in exactly the same location! This strongly suggests that the extremely dry sections of Western Minnesota should not at least suffer again as they did this year (1976).

5. Next year's (1977) agricultural moisture availability is dependent upon a sequence of events which will begin this fall (1976): A growing season's moisture comes from this 5-point model:

A. Adequate fall rains which get into the soil before deep ground frost sets in.

B. Normal winter snows (about 45" in the major ag areas of Minnesota).

C. Gradual snow melts which are produced by temperatures that are warm enough to melt snow for surface absorption but not so warm that evaporation to the atmosphere nor runoff is excessive.

D. Normal soaking spring rains of 24- to 48-hours duration (as opposed to quick hitting lighter showers).

E. A growing season sequence of regular showers and no prolonged spells of dryness and/or excessive heat.

Note: 4 of the 5 axioms (sequence of events) were violated in 1975/1976. i.e., inadequate Fall Rains (1975); snows were adequate but most all of it evaporated in the "heat spell" during the last three (3) weeks of February 1976; the Spring Rains did not come; and, the normal growing season sequence never occurred.

6. Many of our agricultural years (in or out of a cyclic drought period) are characterized by violation in part, or in whole, of one (1) to three (3) of the stated axioms; however, the probability of 4 out of 5 being totally violated in two successive years is unlikely (although not impossible).

7. Subsoil moisture is extremely important but can be overcome if axioms C, D, and E are not at least moderately violated. If they are, then the "weaknesses" in a given geographical area are compounded to the extent that subsoil dryness once more becomes a major contributing factor to crop reduction, or in extreme cases, crop failure.

8. I wish to particularly add that long range guidance materials were provided by our NOAA, National Weather Service's—National Meteorological Center (NMC). These products were incorporated and given equal weight with our Minnesota Climatological information in deriving outlooks. I'm not certain how successful we would have been in the absence of these NMC products. It must be said that effort, really, on a National NWS scale was applied to provide localized prognostications.

I respectfully submit these ideas and concepts for your consideration in the hope that they may, to some extent, enhance or prompt reflection from the viewpoint of your own very comprehensive knowledge of agriculture. I wish, also, to give any due credit to my colleagues, Mr. Earl Kuehnast (State Climatologist for Minnesota), and Professor (Dr.) Donald Baker of the University of Minnesota. Though they may not share my exact viewpoint of the matter, they have nevertheless been in the game (with their necks out) since the beginning and have established or confirmed many of the concepts herein expressed.

With best regards.

Sincerely,

JOHN V. GRAFF,
Meteorologist in Charge.

THE 14TH DISTINGUISHED NEBRASKA AWARD TO DR. HOWARD HANSON

Mr. HRUSKA. Mr. President, last evening the Nebraska Society of Washington, D.C., gathered at the Old Town Holiday Inn in Alexandria to pay tribute to a distinguished Nebraskan, Dr. Howard Hanson. Dr. Hanson, a native of Wahoo, who will be 80 years of age on October 28, has had an outstanding career as a composer, conductor, and educator. Dr. Hanson, whose symphonies are famous worldwide, holds a Pulitzer Prize and a George Foster Peabody Award for his musical accomplishments.

Dr. Hanson is the 14th recipient of the Distinguished Nebraskan Award. That award was presented to him last night. It was a great honor for me to be presented with a 10-album record collection of American music conducted by Dr. Hanson. The gift was from the Institute of American Music and the Eastman-Rochester Archives recordings. My thanks to all of those responsible, including Dr. Donald Shetler, chairman of the Department of Music Education at the Eastman School of Music, Rochester, N.Y., who made the presentation.

In response to his being presented the award, Dr. Hanson spoke fondly of his youth in Wahoo and the experience with his parents and his teachers which shaped his great career.

He also stressed the importance and need for continuing support of the arts by the State and Federal Governments; a concept which I wholeheartedly endorse.

Mr. President, so that my colleagues and others might discover more about this year's distinguished Nebraskan, I ask unanimous consent that Senator CARL CURTIS' introduction of Dr. Hanson, the program from the Distinguished Nebraskan Dinner, and an article on Dr. Hanson which appears in today's Omaha World-Herald, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRESENTATION OF THE DISTINGUISHED NEBRASKAN AWARD TO DR. HOWARD HANSON, SEPTEMBER 21, 1976, BY SENATOR CARL CURTIS

This evening we pay tribute to a man who has earned and sustained international acclaim for the past 60 years. His long list of honors includes a Pulitzer Prize, the Prix de Rome, a George Foster Peabody award, and some 36 honorary degrees. This is a man who has spent his life making musical history—and it all began 80 years ago in Wahoo, Nebraska, which today proudly displays a sign that reads, "Wahoo—the Birthplace of Howard Hanson."

Dr. Hanson's remarkable career began with basic training from his mother and music courses at Luther College in Wahoo. He went on to study at the University of Nebraska, the Institute of Musical Art in New York, and Northwestern University. At the age of 20 he had already so distinguished himself as a musician that he was asked to join the faculty at the College of the Pacific in San Jose, California. Three years later he was made Dean. Two more years passed to find him in Rome, where he was awarded the first American Prix de Rome. Here he met George Eastman, who asked him to head the celebrated Eastman School of Music at the University of Rochester. So for the next 40 years Dr. Hanson directed the most elaborate and ideally-equipped music school in the world.

For over half a century, Dr. Hanson has played a major part in the development of American music. He is a prolific composer. His works span the musical spectrum and include symphonies, opera, choral pieces, piano works, marches, chamber music, folk song arrangements, and children's songs.

Along with his musical contributions, Dr. Hanson has led an equally extraordinary career as educator and promoter of the arts in America. Shortly after becoming director of the Eastman School, he inaugurated the American Composers' Concerts, to focus attention on fine emerging American composers. Since that time 89 concerts and 24 music festivals have been held.

He has written and spoken extensively on music education. Many times over he has been called "Mr. President" by such groups as the National Association of Schools of Music, the Music Teachers' National Association, and the National Music Council Numerous important music councils and commissions have benefitted by Dr. Hanson's membership, such as the U.S. Commission for UNESCO, the State Department's Advisory Commission on Music, and the International Music Council—to mention a few.

Dr. Hanson is a musical statesman. He has served his country and his art with distinction. Musicians and music lovers the world over have expressed their gratitude to Dr. Hanson for his work.

We Nebraskans owe him special thanks, for he has beautifully interpreted Nebraska in his music.

Dr. Hanson is a modern composer who still believes in romanticism. He believes in weaving the best threads of the past into the present. In the rich fabric of his music, scenes from Nebraska appear from time to time. Those of us from Nebraska can catch the glimpses of cornfields, the gusts of prairie wind, and remember.

On behalf of the Nebraska State Society of Washington, I am honored to present the 14th Annual Distinguished Nebraskan Award for this historic year to Dr. Howard Hanson—a man whose work has influenced not only his contemporaries, but future generations as well.

BOARD OF GOVERNORS OF THE NEBRASKA SOCIETY OF WASHINGTON, D.C.

1976–1979—Frank Scott, the Honorable Virginia Trotter, and Linda C. Walker.

1975–1978—James J. Bierbower, Roni Haggart, and Clara Sandahl.

1974–1977—Rady A. Johnson, Robert F. Krohn, and the Honorable Norbert T. Tiemann.

PROGRAM

FRANK SCOTT—Master of Ceremonies.

Presentation of the Colors—Color Guard, Boy Scout Troop No. 813, Arlington, Virginia.

Pledge of Allegiance.

Invocation—The Reverend Obed Lundeen, Executive Director, Augustana Family Counseling Center, Washington, D.C.

Welcome—Robert F. Krohn, President, Nebraska Society of Washington, D.C.

Introduction of Distinguished Guests, Recognition of Retiring Members of the Board of Governors.

D.C. Youth Chorale—Mr. Ed Jackson, Directing.

Presentation of Distinguished Nebraskan Award by the Honorable Carl T. Curtis, United States Senate, to Dr. Howard Hanson.

Responses and Benediction.

DR. HOWARD HANSON

"Looking back over my long and varied career, I fought a lot of battles and had a wonderful time doing it. And I intend to keep on as long as there is any breath left in me. I still think that the creative powers of any nation or any people are its most important products, and that those products are as important as science. Artists are searching for beauty, which is as important as truth. If we don't realize that, we will become a completely materialistic nation. A successful rocket to the moon is so much more to talk about than a symphony or a poem. So we must preach the gospel of the arts furiously. Otherwise we are going to be snowed under by the sciences."

—Dr. Howard Hanson—1964.

Dr. Howard Hanson was born in Wahoo, Nebraska, October 28, 1896, of Scandinavian parentage. He was married to Marget Elizabeth Nelson July 24, 1946.

Dr. Hanson received his early musical training from his mother and went on to attend the Luther Junior College in Wahoo, the Institute of Musical Arts (later to become the Juilliard), the University of Nebraska School of Music, and Northwestern University. He holds numerous honorary degrees. He taught at the College of the Pacific in San Jose, California, for several years before winning the Prix de Rome in 1921. In 1924 he was appointed director of the Eastman School of Music in Rochester, New York, a post he held until his retirement in 1964. Two generations of American composers were influenced by his teaching. He organized festivals of American music that were given annually at the Eastman School through which he contributed greatly to the cause of American musical education, as well as to that of American music. He conducted American works in Europe and in 1961–1962 traveled with the Eastman School orchestra in 17 countries, including Russia, under the auspices of the U.S. Department of State.

Many honors and awards have been bestowed upon Dr. Hanson, among them the Pulitzer Prize for his Fourth Symphony (1944), the Ditson Award (1945), George Foster Peabody Award (1946), National Federation of Music Clubs Citation for distinguished contribution to American music (1957), and Laurel Leaf awarded by American Composers Alliance for distinguished service to contemporary music (1957).

Although the majority of his works are for symphony, or for works with symphonic accompaniment, numerous works for piano, string quartets and songs, in addition to choral works and chamber music, testify to his interest in other fields as well. "Merry Mount," an opera in three acts, was commissioned in 1933 by the Metropolitan Opera and produced there in 1934. "The Song of Democracy," one of his most popular works, was written for solos, chorus and orchestra and was premiered at a Music Educators National Conference in Philadelphia in 1957. While Dr. Hanson's music is permeated with outspoken Romanticism, he has a skillful, modern technique that permits him to write in any idiom he wishes. He does not employ extreme effects of musical modernism. His profound kinship for Scandinavia is expressed in many of his works.

America's Bicentennial Year seems a particularly appropriate time to present Dr. Hanson with the Nebraska Society's Distinguished Nebraskan Award. Musical emphasis in concert halls throughout the country is being placed on the works of American composers and foremost among these is Nebraska's Dr. Howard Hanson.

Dr. Hanson is the only living composer to be honored in this Bicentennial Year by the National Music Council with a plaque in recognition of his achievements, to be placed in his restored birthplace in Wahoo, which also contains the piano on which he first played.

Distinguished Nebraskan Award Recipients

1963—Clair M. Roddewig.

1964—His Excellency, the Most Reverend Gerald T. Bergan, D.D.

1965—Robert S. Devaney and Bob Gibson.

1966—General Alfred M. Gruenther, USA (Ret.).

1967—V. J. Skutt.

1968—Arjay Miller.

1969—Edd H. Bailey.

1970—General Albert C. Wedemeyer, USA (Ret.).

1971—Mrs. A. Bromley Sheldon.

1972—James Keogh.

1973—Leo A. Daly.

1974—Loren C. Eiseley.

1975—Peter Kiewit.

[From the Omaha World-Herald, Sept. 22, 1976]

Nebraskans Sing Praise of Native Composer

(By Mary Kay Quinlan)

Washington.—Howard Hanson, renowned composer and Wahoo, Neb., native, remembers telling the school superintendent there more than 60 years ago that he wanted to study music.

The superintendent, Hanson recalled in an interview, discouraged him. "Howard," the composer remembers him saying, "you don't have to be a musician. You have brains."

Tuesday night, the Nebraska Society of Washington, D.C., honored the musician with brains with its 1976 Distinguished Nebraskan Award.

Presenting an engraved plaque to Hanson at an Alexandria, Va., dinner, Sen. Carl Curtis called the composer "a musical statesman" and said he has "spent his life making musical history."

TWO GENERATIONS

Hanson, 80, who has taught two generations of American composers, is director emeritus of the Eastman School of Music in Rochester, N.Y. He directed the school for 40 years.

Hanson has won the Pulitzer Prize, the George Foster Peabody award and the American Prix de Rome for his compositions, and has 36 honorary degrees. Most of his works are for symphonies.

When people ask what accounts for his success, Hanson gives what he calls "kind of a small counrty boy answer."

"It comes from the heart; it comes from the soul," the tall, white-haired man said. Writing music "is just something you have to do."

MUSIC "CHANGED"

Hanson's mother was his first music teacher, though he later studied piano, cello and composition at Luther College in Wahoo, the University of Nebraska and Juilliard in New York City, among other schools.

Music in the Midlands has changed over the years, Hanson said, partly because radio and records make it possible for great musicians to be heard anywhere and partly because teaching music has changed.

Music has a higher priority in schools than it once did, he said, because children learn to make music, not just listen to it.

Small colleges and large universities in the Midlands have good music departments now, and many communities have good orchestras whose performers are mostly housewives, doctors, lawyers and other nonprofessional musicians, he said.

PUBLIC SUPPORT

Public support for the arts, through state arts councils, for example, is greater than Hanson said he once thought it would be.

"It's because there's a basic feeling that man cannot live by bread alone." Hanson said "He must have these things that minister to his spirit.

"The politicians are just beginning to figure that out," he added, chucking.

Hanson's wife Peggy, Donald Shetler of Eastman's music education department, and W. Allen Wallis, chancellor of the University of Rochester, also attended the dinner.

At the award banquet, the Eastman school presented retiring Sen. Roman Hruska with a 10-album collection of recordings of American music conducted by Hanson and including several of Hanson's compositions.

About 140 persons, including congressmen, government officials and other Nebraskans in the Washington area, attended the banquet. The 30-member D.C. Youth Chorale sang selections of American music.

EARLY DIRECTIONS FOR THE NATIONAL INSTITUTE ON AGING

Mr. CHILES. Mr. President, there has been in existence for 2 years a separate and distinct National Institute on Aging—NIA—within the National Institute of Health, but it is just beginning to emerge as a strong voice in the field of aging research.

Adding to the strength of that voice is the first director of the NIA, Dr. Robert N. Butler, appointed this May. Dr. Butler has also been recognized this year as the Pulitzer Prize winner for his book, "Why Survive? Being Old in America."

What direction should NIA take in developing a comprehensive research plan for the field of aging? Dr. Butler addresses this issue in a recent editorial of the Gerontologist. His comments clearly define the challenges faced by the NIA and its researchers.

I ask unanimous consent that Mr. Butler's editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Guest Editorial: Early Directions for the National Institute on Aging

(By Robert N. Butler, MD)

Two years ago on May 31, 1974, the Research on Aging Act was signed into law. This legislation authorized the establishment of the National Institute on Aging for the conduct and support of biomedical, social, and behavioral research and training related to the aging process and the diseases and other special problems and needs of the aged. This broad mandate presents an exciting opportunity to support studies on physiological, psychological, social, educational, and economic aspects of aging in order to effectively understand the whole aging process.

The Act gave official acceptance to what we in the field have long recognized:

(1) That the study of the aging process, the one biological condition common to all, had not received research support commensurate with its effects on the lives of every individual;

(2) That, in addition to the physical infirmities resulting from advanced age, the economic, social, and psychological factors associated with aging operate to exclude millions of older Americans from the full life and the place in our society to which their years of service and experience entitle them;

(3) That recent research efforts point the way toward alleviation of the problems of old age by extending the healthy middle years of life;

(4) That there was no American institution that had undertaken comprehensive systematic and intensive studies of the biomedical and behavioral aspects of aging and the related training of necessary personnel; and

(5) That the establishment of a National Institute on Aging within the National Institutes of Health would meet the need for such an institution.

I think Congress demonstrated great wisdom when it placed the Institute within the National Institutes of Health so that we could share in NIH's history and tradition of excellence. This is particularly important since gerontology is an emerging science which draws from a wide range of disciplines and professions. There is a great deal that needs to be done in both the theoretical and practical aspects of aging. For example, we still need to develop techniques to assess and quantify the relative contributions made by biomedical, behavioral, and social variables to the mysterious, implacable, time-dependent processes we call aging. For, at present, we do not know whether to characterize the effect of a change in one or more of these variables on the individual or on the aging process.

Geronotology is a relatively new enterprise. The Gerontological Society, for example, was established a little over 30 years ago in 1945. Thus in the span of just over three decades, we have progressed to the establishment of a research institute with a staff of intramural scientists and a grant program for the support of extramural research and the training of research scientists.

In the first two years of the extramural program, a majority of the grants awarded were for studies in the biological sciences; a modest number of grants supported studies in the social and psychological sciences; while a small number were supported in investigative medicine.

The Institute recognizes the need for expanded support for research and training in the biological sciences. At the same time, we will be working for greater program balance in order to support new efforts in medicine and the social and psychological sciences. In addition, we hope to support scientifically rigorous, but innovative studies on health care and human service delivery.

Our concern about program balance reflects the fact that it is not the extension of life, per se, but the improvement in the quality of life that deeply interests the NIA. We understand basic research is not only biological research in molecular or cellular aging and immune biology but fundamental investigations of the interpersonal and social aspects of human experience. In this regard, we are very interested in preventive medicine, individual and family life styles, personal, social, and physical fitness—including exercise, dietary habits and the adverse effects of so-called recreational drugs, like tobacco, alcohol, and caffeine.

We are also interested in what might be called "real world" research. This would include studies of drug-drug and drug-age interaction, insomnia and other aspects of sleep disturbance with age, and the development of carefully-honed assessment techniques to assist in flexible retirement decisions—particularly relevant should mandatory retirement based solely upon age be declared unconstitutional, a question currently being considered by the courts.

Senile dementia—that syndrome which is so destructive to the personality, to the memory, and indeed to the very fabric of life is an area which presents a real challenge to our abilities to work cooperatively. In addition to the immediate training of physicians and mental health personnel in the rapid diagnosis and effective treatment of "senility," we must undertake support and conduct of biomedical research on brain disease under the joint leadership of the NIA, the National Institute of Neurological and Communicative Disorders and Stroke (both within the National Institutes of Health) and of the National Institute of Mental Health.

The Institute is also greatly concerned about education. We need new research personnel in the field. We need young scientists beginning their careers; we also welcome people in mid-career who may become interested in studies of the middle and later years, perhaps in part because of their own aging.

We must be conscious of two obstacles to our efforts. The first is a kind of persistent fatalism held by many that there is not much that can be done about age; or that if there were, we might create additional problems by increasing the number of older people beyond the country's capacity to effectively respond. That is one obstacle. The other results from over-enthusiasm on the part of well-motivated people who might mistakenly think that research could or should suddenly extend life rather than improve its quality by lengthening the vigorous and productive middle years. To assure the continuation of support from Congress and the public, we must avoid extremes of fatalism and over-confidence.

The NIA alone should not be expected to meet the many research objectives to be outlined in the DHEW research plan on aging as developed by the National Advisory Council on Aging and the staff of the NIA. If the private sector were to mistakenly assume that the Federal government's commitment to research on aging embodied in the NIA is sufficient, and therefore, turn their interests elsewhere, the field of aging would suffer greatly. The Institute's efforts must be supplemented by the private sector—the universities, research centers, individual philanthropic foundations, the voluntary organizations in aging, labor unions, and industry (insurance and nursing home in particular), all of whom have a stake in the hoped-for change in character of the later years and the expected benefits of research on aging. Broad-based financial support from the private and public sectors could result in the creation of a number of regional research centers in aging in addition to the National Institute on Aging.

DISCHARGE PLANNING—AN INNOVATION THAT SAVES MONEY

Mr. CHURCH. Mr. President, with health care costs on the rise 14 percent this year, it is refreshing to learn of efforts to reduce these skyrocketing costs. Such is the case at St. Luke's Hospital in Boise, Idaho, where a discharge planning project has been in operation for 8 months.

The project helps those patient residing in nursing homes who no longer need skilled nursing care. Not only does this provide a more humane solution, but the project has demonstrated cost savings as well. In one instance, a handicapped adult who was being maintained in the nursing home at a cost of $558 a month is now being maintained at home at a cost of $368 a month.

Now funded by a 1-year grant from the Western Interstate Commission for Higher Education, the program will need financial support from third party payors when the grant expires this winter. Unfortunately, this will create a problem since, in the words of the directors,

> The laws regarding third party payment under federal programs are directed toward the traditional forms of health care and there are no allowances for innovative, cost reducing approaches.

Recently the directors of this project wrote me describing the disincentives that exist in Federal programs. Their comments effectively point out the need for changes in Federal programs to encourage home care, and I ask unanimous consent to have this letter printed in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHURCH. Mr. President, as chairman of the Senate Special Committee on Aging, I have advanced several measures which would encourage home care programs for older persons, including legislation pending before the Senate Finance Committee which would liberalize home, health benefits under the medicare program. The time has come for the Congress to provide greater flexibility in the Federal system. As my Idaho constituents have indicated, innovation is not necessarily synonymous with higher costs.

The letter follows:

EXHIBIT 1

ST. LUKE'S HOSPITAL,
Boise, Idaho, August 23, 1976.

Hon. FRANK CHURCH
The U.S. Senate, U.S. Senate Office Building, Washington, D.C.

DEAR SENATOR CHURCH: Because the rising costs of health care continues to be a primary concern in Congress, we want to inform you of a cooperative project in our community that involves these issues. "Co-ordinated Services for Discharge Planning—A Community Model" is concerned with those patients residing in the nursing home who no longer need skilled nursing care and could be supported in more independent living situations. The cost of health care for patients can be significantly reduced if these patients can live in a retirement home or in their own home with support from community resources.

The purpose of the discharge planning project is to demonstrate a centralized, coordinated discharge planning program which can be implemented in other communities where it is not economically feasible for each skilled nursing facility to recruit and employ qualified discharge coordinators. A qualified discharge coordinator is a registered nurse with baccalaureate or masters degree preparation which includes community health nursing preparation.

The objectives of the discharge planning project are:

1. To develop a model which can be replicated in communities throughout Idaho for a cooperative discharge planning program between an acute care general hospital and the communities skilled nursing facilities.
2. To evaluate the patient benefits of the cooperative discharge planning project.
3. To identify the role of the hospital based community health nurse as the discharge planner in the skilled nursing facilities.
4. To determine the cost of providing a cooperative discharge planning program so that the service can be offered to the skilled nursing facilities on a contractual or fee-for-service basis.

Until now, our project has been funded as a demonstration project by the Western Interstate Commission for Higher Education. These funds will no longer be available when the grant expires January 1, 1977. In order to continue, the program will have to have financial support from third party payers. This is a problem because the laws regarding third party payment under federal programs are directed toward the traditional forms of health care and there are no allowances for innovative, cost reducing approaches. Third party payers have concentrated on payment where services are provided rather than what services are provided.

The project has shown that the clients who have been discharged from the nursing home and are being maintained at home or in a retirement home have reduced the cost of their health care significantly. One example of this reduction is a handicapped adult who was being maintained in the nursing home at a cost of $558 a month and is now being maintained at home at a cost of $368 a month. Some of the services which have been utilized by clients following discharge from the nursing home have been nursing, physical therapy, occupational therapy, home meal delivery, and homemaking.

During the eight months the program has been operational, many interesting problems have been encountered. For example, there is a time lapse between payment of care in the nursing home and the payment of a grant-in-aid because of eligibility requirements. This prevents the client with discharge potential from being discharged from the nursing home, and he continues to be a consumer of costly health care. Another example is the handicapped adult who becomes employed and earns "too much money" (approximately $400 a month for a single person, living alone, no dependents) to be eligible to continue to receive his medical care through Medicaid. This person is then forced to abandon his independent living situation and return to the nursing home in order to receive financial help with medical expenses. Obviously, care in the nursing home is much more costly than the care at home.

In our efforts to contain costs and to provide quality health care, four providers have worked cooperatively to implement this discharge planning project which is an example of what can be done. It also exemplifies some of the problems with the federal system of reimbursement for health care. Our concern is that the quality of care not be sacrificed for cost containment and that any more legislation passed regarding health care be responsive to the needs of the consumer and support payment of services where ever they are provided. Currently it is nearly impossible to obtain reasonable third party payment for health care services provided in other than nursing homes or hospitals.

We would be available as a group or as individuals to discuss this program further with you and to explore some possible changes in the system of reimbursement for health care, which could reduce health care costs significantly.

Sincerely,
JoAnna DeMeyer, R.N., M.N.,
Project Director.
Jane Runyan, R.N., M.N.,
Project Co-director.

Coordinated Services for Discharge Planning a Community Model

Advisory Committee

Boise Valley Sunset Home—3116 Sycamore Drive, Boise, Idaho 83702.

Administrator—Mr. LuVerne Browen; Director of Nursing Service—Mrs. Celeste Rush.

Grand Oaks Healthcare—316 West Washington Street, Boise, Idaho 83702.

Administrator—Mr. William Scifres; Director of Nursing Service—Mrs. Judy Pinkston.

St. Luke's Hospital—130 East Bannock Street, Boise, Idaho 83702.

Assistant Administrator/Director of Nursing—Miss JoAnna DeMeyer; Discharge Coordinator—Mrs. Jane Runyan.

Treasure Valley Manor—909 Reserve Street, Boise, Idaho 83702.

Administrator—Mrs. Jean Heazle; Director of Nursing Service—Mrs. Marge Strader.

FOREIGN INTELLIGENCE SURVEILLANCE

Mr. BAYH. Mr. President, it has unfortunately become clear in the last few days that there is absolutely no chance of action by the House of Representatives on S. 3197, the Foreign Intelligence Surveillance Act. For this reason, we will not be taking up this measure before adjournment in the Senate though the bill has received the overwhelming support of two Senate committees.

While it is a bit frustrating for me and I am sure many others that we will not see enactment of S. 3197 into law, I still believe we did accomplish a great deal in our treatment of this legislation. Thus my feelings of frustration are tempered by a sense of considerable satisfaction.

S. 3197 marked the first legislative effort of the Select Committee on Intelligence. In studying this legislation, both in hearings before the Subcommittee on Intelligence Activities and the Rights of Americans, which I chair, and in markups in the subcommittee and full committee, we learned a great deal about the problems of the intelligence community and the need to find a proper balance between the Government's need to know and the fundamental rights of American citizens.

Further, in dealing with S. 3197, I believe we demonstrated the value of having special consideration of intelligence legislation by the select committee under the sequential jurisdiction formula established by Senate Resolution 400. The select committee, coordinating with members of the Judiciary Committee, was able to make significant improvements in the bill.

Our amendments to restrict—with limited exception—surveillance of Americans to individuals engaged in criminal activities, to establish expanded standards for disclosure of wiretap information in criminal trials, and to require more complete information in the Government's certification—to name just a few—added strength to the bill, in the view of its sponsors on the Judiciary Committee, as well as many students of wiretap legislation, both in and out of the Senate.

Most importantly, I think S. 3197 served as a vehicle to develop a bipartisan consensus in the Senate and in the executive branch that warrant procedures for electronic surveillance in intelligence cases are essential. After years of failure in attempts to enact such procedures, I believe this consensus will make it possible to put them into place in the near future.

In this regard, I commend a number of people who have very different viewpoints but worked together to try to find a common ground on which to base electronic surveillance legislation that would pass the Senate. Senator Kennedy, who introduced the bill, worked tirelessly for its passage. Without his understanding of complex issues and his determination to move forward in this important area, S. 3197 would not have progressed very far. Attorney General Levi also devoted a great amount of his personal attention. And in the Select Committee, Chairman Inouye and Senator Garn, the vice chairman of our subcommittee, exercised strong leadership which enabled us to develop a consensus.

This is not to say S. 3197 is an uncontroversial measure. The issues involved in formulating rules for intelligence surveillance are extremely difficult and evoke strong feelings on the part of those who study them. We could hardly expect otherwise when we are talking of the national security on one hand and civil liberties on the other.

Several Senators, including Senators Tunney and Morgan, brought issues to the attention of the select committee and the Senate which deserve the most careful consideration. We will address those issues again as we work on this legislation in the future.

Finally, in closing I say that while I do not believe S. 3197 is a perfect bill, I do think that in its amended form it would have constituted a major step toward our goal of eliminating abusive activities by the intelligence community. Its provisions to require warrants for electronic surveillance and to permit electronic surveillance of Americans only when they are engaged in criminal activities or when they are spying and endangering the national security at the direction of a foreign intelligence network would have given strong new protection to our citizens who are now virtually unprotected by law.

Certainly, S. 3197 would have required constant monitoring if it had been enacted. The need for amendments would undoubtedly have become clear as we followed its implementation and learned more about the operations of the intelligence community. But S. 3197 would have been a good starting place.

I believe that by next year when we again consider such legislation, our knowledge will have increased considerably and that we can make substantial improvements over S. 3197. We must not, however, delay in exercising congressional responsibilities in the intelligence area. Though we were defeated by the calendar in our current effort, it is very important that we continue to address the difficult intelligence issues and move forward in the next Congress.

REGULATORY REFORM

Mr. KENNEDY. Mr. President, I would like to make a few brief remarks in support of the hard work done by my distinguished colleague from Nevada (Mr. Cannon) in the area of regulatory reform. Earlier this week the Senator from Nevada (Mr. Cannon) introduced S. 3830, the Aviation Improvement Act of 1976. The Senator from Nevada announced that this bill is intended to bring about an "air transportation system which will rely on competitive market forces to determine the variety, quality, and price of interstate and overseas air service." This bill is an outgrowth of several days of hearings held earlier this year before the Senate Aviation Subcommittee which the Senator from Nevada chairs. Those hearings focused on various legislative solutions to reform Federal economic regulation of the airlines, including S. 3364, a bill I introduced earlier this year. Cosponsored by the Senators from New York (Mr. Buckley), Idaho (Mr. Church), Michigan (Mr. Philip A. Hart), and Pennsylvania (Mr. Hugh Scott), my bill has substantially the same purpose as the bill just introduced by Senator Cannon.

Our shared purpose is simple—to bring about a more efficient air transportation system at the lowest possible cost to the consumer through reliance on the competitive market system and through reduction in Federal economic regulation of the airline industry. As someone who testified early in the course of Senator Cannon's hearings and who followed their progress closely throughout the spring and early summer, I am very encouraged that Senator Cannon has come down firmly and conclusively on the side of fundamental reform.

Senator Cannon's progressive proposals for more competition do not come as a surprise to me, Mr. President, I have watched him lead the Aviation Subcommittee over the years in a manner calculated to bring about efficient and low-cost airline service to our Nation's travelers. He has been a continuous champion of low-priced charter flights. More than any single person he has consistently prodded the CAB to liberalize its rules so that more Americans might take advantage of charter air travel at rates that are often 50 percent less than those charged for scheduled flights. The new relaxed charter rules adopted just this month by the CAB are a fitting legacy to Howard Cannon's untiring and dauntless efforts.

Mr. President, the fundamental redirection in airline regulation that Senator Cannon, myself, and others have advocated will, if adopted, help bring to the scheduled airline industry what has been the hallmark of the charter industry, namely economical air travel. This conclusion is supported not only by evidence presented recently before the hearings held by Senator Cannon, but was the main theme voiced at many days of hearings I chaired in 1974 and 1975. These earlier hearings before the Senate Subcommittee on Administrative Practice and Procedure, which I chair, resulted in a unanimous subcommittee finding that rigid regulation tended to raise the price of airline tickets above what they should be and that more price competition and freer entry into the industry is likely to bring about the low-cost air transportation that consumers seem to prefer.

I had the pleasure to present these findings and legislative recommendations before Senator Cannon's subcommittee earlier this year. I am fully aware of the chilly reception these proposals received from those scheduled carriers who are now protected from competition by the CAB. But, in spite of the parade of industry witnesses who essentially urged Congress to maintain the status quo, Senator Cannon has given us a bold and responsible proposal for fundamental change. In doing so, he has demonstrated once again his concern for the interests of the airline traveler and the millions of Americans who today cannot afford to fly.

With the support and leadership that Senator Cannon will bring to bear on this issue, the Senate can look forward to passing legislation designed to reform airline regulation. Although there is insufficient time remaining for congressional action this year, Senator Cannon has committed his subcommittee to reporting out legislation early next year. On the House side, the prospects for action are bright also. Congressman Glenn Anderson of California, who chairs the House Aviation Subcommittee, has conducted extensive hearings and also proposed legislation to bring more competition into the airline industry. And regulatory reform of this important industry is a policy that already has the support of both Presidential candidates.

Mr. President, there now exists a widespread conviction that vigorous, healthy competition is better suited than rigid Federal regulation to guarantee our citizens access to a convenient economic, and efficient air transportation system. I look forward to assisting Senator Cannon and others who will be working to translate that conviction into legislative action early next year.

INTERNATIONAL WOMEN'S YEAR COMMISSION REPORT

Mr. BAYH. Mr. President, for the last 2 days I have printed several chapters of the International Women's Year Commission Report into the Record for the use of our colleagues and their constituents. Today I wish to print another chapter on "The Creative Woman."

The Commission recommends many procedures which, if carried out, will give women better treatment in the arts and humanities. Judging practices, salary differentials, the place of women in academia, in libraries, artistic and cultural institutions, symphony orchestras and much more are examined.

I ask unanimous consent that this chapter be printed in the Record.

There being no objection, the chapter was ordered to be printed in the Record, as follows:

The Creative Woman

The evening was a Sunday in August 1975, late into a grueling 3-day international music contest. Fifty competing pianists had been narrowed to a field of seven semifinalists and then to three finalists.

Up on stage, the judges tallied their points in full view of the audience. (Usually this procedure takes place behind closed doors.)

What was most unusual about the setting was a 7-foot-tall fabric screen that separated the judges from the contestants. It was shadow proof and the panel was unable to see anything beyond it.

A thick carpet runner stretched from the backstage wings to the piano bench and thus even the contestants' footsteps were dulled for this "blind" judging session.

Such precautions were intended to insure utmost objectivity throughout this 18th annual Johann Sebastian Bach International Competition at Lisner Auditorium, George Washington University in Washington, D.C.

When the winner was announced, a woman, 31-year-old Bronislawa Kawalla from Warsaw, Poland, stepped forward.

At least one judge, a male from Europe, was clearly stunned:

"I am amazed the winner is a woman, because not only did she play with the authority and assurance of a man, but she also demonstrated such a strong intellectual grasp of this architectural and monumental musical masterpiece, the Goldberg variations."

That judge became an on-the-spot convert to the "blind" judging concept, saying that he was convinced the screen separating contestants from judges was absolutely essential for fair and impartial decision.

Raissa Tselentis Chadwell founder-president of the Bach International Competitions and American Bach Foundation,[60] rejects the notion that judges need to see the performer to appraise stage presence. "The first importance is musicianship and accomplishment and fairness," she declares. And she finds participants in the Bach contest often "come back to compete four or five times. They want and appreciate the experience of being judged fairly."

Regrettably, few organizers of other musical activities have copied this example. An American Symphony Orchestra League study, completed in February 1976 at the request of the Committee on Arts and Humanities, shows that only one-third of the major American orchestras conduct their preliminary auditions behind screens, and only two orchestras—all with a high percentage of women—use a screen in the final auditions.

The number of women instrumentalists has risen remarkably in the last decade. The study found that the number of women players in "major" symphony orchestras—those with budgets over $1 million—rose 36 percent between the 1964–65 season and the 1974–75 season. More than 60 women serve in major symphonies as principals, or section leaders, and women are one-fourth of all instrumentalists in the major orchestras.

This record supports the testimony of the noted conductor, Antonia Brico, who appeared in August 1975 before the Committee on the Arts and Humanities. Maestra Brico reported that there are now more women in orchestras. She also told how she founded the New York Women's Symphony in 1934 "to prove that women could play every area of the orchestra."

Nonetheless, women musicians continue to be concentrated in amateur and semiprofessional orchestras where pay is lowest. "Orchestras with the highest budgets, longest seasons, and most generous salaries tend to have the fewest women musicians," the League's study notes, adding that it hasn't determined "whether this is a natural reflection of the kinds of work being sought by women, or a factor of the women's movement not yet influencing long-standing employment patterns."

Still a wider use of blind auditions clearly can be one way to achieve a change on behalf of women. The IWY Commission, at the urging of the Arts and Humanities Committee, recommends that this type of impartial judging system be adopted in many areas of the arts and humanities. Indeed, except for dance and drama, contestants in most artistic endeavors do not need to be identified by name, sex, or race. Paintings, film, photography, crafts, sculpture, musical auditions, articles, and papers need no such identification.

The Arts and Humanities Committee found other clear evidence to support blind judging. A study published in the magazine *Visual Dialog* in February 1976 showed that over the years 1960 to 1972, women painters and sculptors did considerably better in juried shows where their names were concealed than they did in one-artist or group invitational shows where names were known.

In 1975, after women teachers of classical languages arranged for anonymous or blind review of their papers submitted for presentation to professional societies, the proportion of women presenting papers tripled

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Footnotes at end of article.

in comparison with 1973 before blind review was initiated.[61]

Impartiality regarding the sex of the arist is a policy that will also help to remedy salary differences faced by women in the arts and the humanities.

In all arts- and humanities-related professions surveyed in the 1970 census, the median earnings of men were higher, and men, outnumber women in all but two professions—dancing and librarianship. Among librarians there has been a steady move by men to top-paying positions.

The median number of years invested in schooling by male and female professionals in the arts and humanities differs by only a few months. But median earnings[62] (half are higher and half are lower) range from $1,000 a year higher for male actors to $6,000 to $7,000 a year higher for male museum personnel, male designers, and male architects.

For example, a 1975 study by the Task Force on Women in Architecture found that men's salaries were on the average 61 percent higher than women's; and there was a general lack of internship opportunities for women, with advancement for women architects usually stopping at the lower middle echelons. The task force, incidentally, also noted stereotyping of a special kind, such as the belief that women are "more capable of designing residences, kitchens"; or reluctance to send women architects to building sites "on the assumption that prejudicial attitudes of contractors and construction workers would prevent her from doing her job . . ."

THE ARTIST'S HARDSHIP

June Wayne, a multimedia artist and founder of the Tamarind Lithography Workshop, told the committee that the major art galleries and museums discriminate against women artists.

A survey conducted in 1970–71 by her workshop found that art critics in major art journals and leading newspapers were predominantly male. Male artists received the majority (72–95 percent) of the space in art reviews, and illustrations of their works were reproduced in such reviews 8 to 12 times more often than were works by women.

In 1972 only 20 percent of the 1,000 artists represented by Manhattan's 100 principal modern art galleries were women. And only 10 percent of the work in the Metropolitan Museum collection of contemporary art was by women, *Time* magazine reported in 1972.[65]

There seems to be some recent improvement. Wayne told the committee, "Certainly consciousness about women artists has been raised, but not changed. That's the next step." And Judy Loeb, writing in *Art Education* in November 1975, noted a trend in art journals to include more reviews of women artists.[64]

Lila Katzen, a teacher and sculptor in metal, also told the committee about discrimination by galleries and collectors against women's art. "Dealers feel they're not going to get the price. My prices are much lower in comparison to those of male sculptors."

Much of Katzen's work is in storage, or consists of sketches and smaller models. "People who award commissions don't usually think a woman is capable of the concentration or technical know-how."

She supports her art by teaching at the Maryland Institute College of Art in Baltimore. "Women have a hard time getting into university sculpture departments," she says. "We wind up teaching two- and three-dimensional design."

She adds that many basic college texts on art history either totally omit or minimize women artists and their contribution to the arts.

THE WORKING ACTRESS

Women on the stage, radio, television, and the screen have their own special problems of discrimination. The committee found that from 1953 to 1972 only one-third of the available parts in some 350 major Broadway and off-Broadway plays were roles for women. Half of all actresses worked less than 28½ weeks and earned less than $5,021 in 1970.

A 1974 study by the Women's Conference Committee of the Screen Actor's Guild found that on all stations of the three major commercial television networks in Los Angeles over a typical month, 71.5 percent of all roles were male and 28.5 percent female, an even lower proportion than on the stage. The study also found that in television commercials men out-numbered women two to one as performers.

WOMEN ON CAMPUS

Those women artists or performers who take up teaching to supplement their creative work find their chances for advancement limited by a longstanding prejudice against women in academia. Women are clustered at the lower ranks of instructor and assistant professor, often despite higher qualifications. The 1970 census showed that the median earnings for women art, drama, music, foreign language, English, and history teachers, among others, were 50–60 percent of the earnings of men.

Women have obtained half of the Ph.D.'s in art history and half the M.A.'s and M.F.A.'s, but a survey by the Women's Caucus for Art in 1975 showed that in 165 college and university art departments, women made up only 22.4 percent of the faculties, up from 20 percent in 1973.

Many of these problems could be addressed by the managers of artistic and cultural institutions. The Arts and Humanities Committee repeatedly found, however, that women are not adequately represented in such managerial, administrative, or decisionmaking posts.

The Commission urges review and remedy of this imbalance by State Governors, State commissions on the status of women, by local groups, and by the institutions themselves.

The need for women in decisionmaking positions is reflected, for example, in concert bookings. Carol Rosenberger, international concert pianist, believes that a female pianist is in less demand as a soloist than is a man. When the question is raised by booking agents, she adds, the common answer is, "We already have a woman pianist for next season."

"Most artist managements take only one woman pianist at a time," she says. For example, many will limit the number of women instrumentalists.

Ms. Rosenberger suggests that the women serving on orchestra boards and concert committees should start realizing the power they really have—

"Some even seem to accept the situation without question. But if women in these positions started saying, 'Look, we want more women soloists,' there would have to be a positive response."

The committee hopes that the extraordinary rise in the number of women managers of metropolitan and smaller symphonies may also bring more positive results. The American Symphony Orchestra League's study has shown that during the 10 years from 1964–65 to 1974–75 the number of women symphony managers increased 154 percent in metropolitan orchestras, and went up 100 percent in urban community orchestras, although it remained constant in major symphonies, where there are still only two women managers.

Women working in the arts and humanities can also be adversely affected by some grant-awarding policies.

At the National Endowment for the Humanities, for example, senior fellowship awards are based on the salaries of recipients. Therefore, an underpaid woman university teacher has been getting a proportionately smaller award than a higher paid male winner. After meeting with the Commission's Arts and Humanities Committee, a National Endowment spokesman agreed to try to correct the practice.

Cultural institutions, especially those receiving Federal support, should more carefully assess their activities to examine their impact on the status of women, the Commission states.

Federal museums have proportionately fewer women senior officials than nonprofit museums.[65] The Smithsonian Institution, for example, has only 11.9 percent women in its upper middle and senior positions in 1974.

The Committee on the Arts and Humanities was not wholly satisfied by the response of the National Endowment for the Arts (NEA) when it indicated that Endowment advisory panels, which judge awards for literature, theater, and architecture, include only 12–13 percent women. Dance panels, however, were 61 percent women. (Roughly 82 percent of all dancers are women.)

In January 1976, a spokesman for the National Endowment reported to the Committee that NEA finds it particularly difficult to locate "women in leadership roles" to serve as panelists. In addition, he said, the top-qualified women often do not have the time available to serve. For its theater awards program, for example, he said that "actresses are rarely available, and there are few women in top management positions."

He added, "The Endowment does not feel that a lack of women on any specific panel has had relationship to the relatively low representation of women among grants recipients in that field."

The Commission has nevertheless urged inclusion of more women on all awards panels, including the National Endowments for the Arts and the Humanities, and asks institutions to encourage more grant proposals from female applicants.

The creative woman also wants her equal chance to be seen, to be heard, to be read, and to have full access to the American people. The Commission hopes its recommendations and studies will open doors to her fairer recognition.

FOOTNOTES

[60] Screened (blind) judgings have been part of the Johann Sebastian Bach International Competitions since 1958.

[61] Transactions of American Philological Assn., spring 1976.

[62] This figure includes 1969 earnings from wages, salaries, self-employment, income from all sources, some of which might have been outside the stated profession.

[63] *Time*, Mar. 20, 1972.

[64] *Art Education*, National Art Education Association, Nov. 1975, vol. 28, no. 7, p. 9.

[65] *Museums, U.S.A.*, National Endowment for the Arts, 1974.

ARTS AND HUMANITIES COMMITTEE[1]

BLIND JUDGING OF CANDIDATES FOR AWARDS, FELLOWSHIPS, EXHIBITIONS, AND EMPLOYMENT[2]

The IWY Commission recommends:

1. To all judging agencies in the field of music that blind auditions be held for all musician candidates, including singers, in appraising the merit of candidates for employment, awards, and fellowships.

2. To all judging agencies or review boards in the humanities and arts that they conduct blind reviews of all articles and papers presented for review for publication or delivery, and of all grant and exhibition entry application forms and supporting documents submitted for review for awards, fellowships, and exhibitions.

Background

The committee makes the above recommendations in view of testimony presented to it that audition or preview panels judging

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Footnotes at end of article.

candidates for awards, fellowships, exhibitions, publication, and employment may be influenced by the sex of the candidate.

At the same time the committee commends those arts and humanities agencies and cultural institutions, such as the American Bach Foundation and Johann Sebastian Bach International Competitions, the Chicago Symphony Orchestra, and the National Symphony Orchestra, which have already initiated the above practices of blind auditions or review. The American Philological Association at its 1975 meetings in Washington, D.C. also chose papers to be read under an anonymous submission policy. Of the papers chosen 19.5 percent were by women—almost triple the percentage of 1973 (6.7 percent) whose authors' names were known to the program committee.[3]

GRANTS-IN-AID TO CULTURAL INSTITUTIONS [4]

The IWY Commission recommends that all government agencies considering grants-in aid to cultural institutions require that the institution requesting an award (a) make assessments of the impact of such grants on the status of women in the institutions and (b), as necessary, include suitable provisions for assuring equal employment opportunities and affirmative action for women so that the grant will in no way diminish the relative position of women in the institution.

Background

The committee found that at least one government program—the Library Services Act of 1956, designed to strengthen and expand cultural institutions and upgrade their administration—has had the unintended and unforeseen effect of sharply reducing the number of women holding the top executive posts in State and public libraries. Excerpts from *Women in Librarianship,* by Anita R. Schiller, published in *Advances in Librarianship* 1974, follow:

Few studies have examined the status of women in librarianship at any point in time, so comparisons from one time to another are difficult at best. It is not unlikely that (the number of) women in top library positions reached a peak during the 1920's, although possibly even before . . . Yet it is quite clear that whatever it was at its high point, women's representation in certain key positions has diminished rapidly in recent years.

In 1950, 50 percent of the deans and directors of accredited U.S. library schools were men. In 1970, the corresponding figure was 81 per cent. A similar trend is apparent among the journal editors of national library periodicals. In 1950, about one-half of the national library periodicals were edited by women. In 1971, the figure dropped to one-third. This shift has resulted in part from the introduction of new journals (e.g., the *Journal of Library Automation* and *Library Technology Reports* are edited by men).

In the mid-sixties, all of the fifty largest academic libraries were headed by men, although there had been four women among the immediate predecessors in these fifty positions. The libraries of the elite women's colleges, traditionally directed by women, have been the scene of male take overs. Men librarians, for the first time in these institutions' history, stepped into the top positions at Barnard in 1967 and at Smith in 1968. [Note: Smith restored the post to a woman in 1973.]

A few directorships in the top fifty academic libraries have been regained by women in the past few years, but appointments of women to these positions remain exceptional. As we have noted elsewhere the largest libraries are traditionally headed by men, and this pattern is being consolidated. not broken.

Another report, covering a longer span of years, showed that in 1930, three-quarters (73 per cent) of the libraries in the nation's seventy-four largest academic institutions accredited by the American Association of Universities were headed by men. A check of these same institutions in 1967 found that 95 per cent of these libraries now had men directors.

For the public libraries a similar story unfolds. Of the fifty largest public libraries, by number of volumes, forty-three of the directorships were held by men in the mid-sixties. Of the immediate predecessors in these positions, thirty-nine were men. [Other schools] have also reported on this trend in twenty-six large public libraries for the years 1969, 1950, and 1930.

State librarians and heads of state library extension agencies are a group of top leadership positions where a particularly dramatic shift has occurred. The trend began to accelerate during the sixties, a few years after the passage of the Library Services Act. Thereafter, federal funds and matching grants from the states began to be disbursed to these agencies to strengthen public library development, and millions of dollars were added to their combined budgets. As these positions acquired greater responsibility and influence, they were increasingly assigned to men.

In 1950, a large majority (80 per cent) of the state librarians and state library agency directors were women. In 1959, women still held 76 per cent of these positions, but by 1970 they became the minority, when their representation dropped to 48 per cent. Although there were a few replacements of men by women in the fifty state offices during the past decade, the overall trend has persistently favored the men; the movement has been rapid and there is no sign of deceleration. While half of the fifty state library associations in 1970 had women presidents, as late as 1960 women held a two-thirds majority of these positions.

The evidence is overwhelming. Women are being systematically eliminated from leadership positions in an occupation in which they constitute four-fifths of the membership. The apparent irony is that the wipe-out rate began to accelerate as support for libraries increased. Whether, or how, women's positions will be affected by current reduction in library support is difficult to predict, but it would be most unfortunate if budget cuts, rather than affirmative action, turn out to be a decisive factor.

INSURING EQUAL OPPORTUNITIES FOR WOMEN IN FEDERALLY FUNDED PROGRAMS [5]

The IWY Commission recommends that the President:

1. Issue an Executive order which states that no person in the United States shall, on the ground of sex, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

2. Direct that each Federal department and agency empowered to extend Federal financial assistance to any program or activity (a) shall be responsible for enforcing that prohibition simultaneously with its enforcement of title VI of the Civil Rights Act of 1964 and (b) shall issue, within 180 days, regulations approved by the President implementing the Executive order.[6]

Background

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the grounds of race, color, or national origin in federally assisted programs. Federal assistance covered by Title VI includes grants and loans; donations of equipment and property; detail of Federal personnel; sale of, lease of, or permission to use Federal property for nominal consideration; and any other arrangement by which Federal benefits are provided. Title VI does not ban sex discrimination[7] and no statute or Executive order provides the same broad prohibition of sex discrimination as title VI provides against discrimination on the grounds of race, color, or national origin.

The Congress has, however, in recent years included prohibitions of sex discrimination both under new Federal programs and, by amendment, under existing programs. Although these laws cover a wide spectrum of Federal programs (including, for example, elementary, secondary, and higher education; water pollution; public works development; law enforcement assistance; disaster assistance; and manpower training), not all Federal assistance programs are covered. The grants made by the National Endowments for the Arts and the Humanities are not covered by title VI nor by any other laws. This omission should be corrected. The Commission agrees with the Civil Rights Commission that the best way is through issuance of an Executive order.

Such an Executive order has application beyond the scope of this committee, but the need has been well demonstrated by committee findings and by consultations with the Committee on Enforcement of the Laws.

EQUALIZING REPRESENTATION OF WOMEN ON GRANT-AWARDING PANELS IN PUBLIC AND PRIVATE AGENCIES [8]

The IWY Commission recommends that the President:

1. Direct all Federal grant-making agencies:

a. To require that all their award-making boards, committees, and advisory panels be more equitably proportioned as to men and women members;

b. To seek actively more women applicants for grants, especially minority women;[9]

c. To review all grants and awards to assure that women are not given smaller stipends than men because of discriminatory patterns of pay in academic and other institutions; and

d. To publish annually names of persons on award panels.

2. Direct the Office of Management and Budget (OMB) to use fully its authority to require that all government-supported, award-making agencies actively seek out, if necessary, qualified women to achieve an equitable balance between men and women on review panels.

The IWY Commission recommends also that all grant-making private tax-exempt institutions, as a matter of simple justice, act promptly:

a. To make their grant-awarding panels more equitably balanced between men and women;

b. To stimulate more applications for grants from women;

c. To avoid sex discrimination in size of awards; and

d. To publish annually names of persons on award panels.

Background

The Federal Advisory Committee Act (Public Law 92–463) and Executive Order 11769, which list responsibilities for overall administration and guidance of advisory committee activities in the OMB, require the membership of an advisory committee to be fairly balanced in terms of points of view represented and of the functions to be performed. "Balanced membership" implies a wide range of membership possibilities and constraints depending upon the purpose of each committee. Implicit in this requirement is the concern that advisory committee membership be determined with appropriate attention to factors of sex, race, creed, national origin, and religion.

Footnotes at end of article.

COMPARISON OF MALE-FEMALE REPRESENTATION ON GOVERNMENT GRANT-AWARDING PANELS

	Total members	Women	Percent women
Board of Foreign Scholarships (1976–77): [1]			
Scholars	143	19	19
Students	99	29	29
Arts students only	48	14	39
National Endowment for the Arts (fiscal year 1974):			
All panels	297	67	23
Selected art panels (comparable to arts awards panels,[2] Board of Foreign Scholarships)	184	44	24
National Council only	[3] 26	6	23
National Endowment for the Humanities (fiscal year 1974)			
All panels	425	64	15
Fellowships	252	30	12
Research	29	4	14
Youth grants	23	7	30
National Council	26	4	15

[1] Rough, informal hand-count from lists submitted by the Board.

[2] Architecture, music, visual arts, dance.

[3] Plus 1 chairman.

The following chart illustrates the makeup of panels of the Board of Scholarships, which handles the Fulbright program of international exchange for the State Department, and the Endowments for the Arts and the Humanities. The members of the Board of Scholarships and of the National Councils for each of the Endowments are appointed by the President. Other panels under the Endowments may be appointed by the chairs of those organizations.

Testimony from the National Endowments for the Arts and the Humanities shows that in many fields far fewer women than men apply for grants.

In the Humanities. Women comprised 14.7 percent of all fellowship applicants in 1971-72; 15.7 percent in 1972–73; 15.6 percent in 1973–74; and 19.8 percent in 1974–75.

In the Arts. Women comprised 35 percent of all applicants for arts fellowships, although for some grants a higher proportion of women applied (e.g., 43 percent women applicants for printmakers' grants; 49 percent for art critics' grants; 43 percent for craftsmen's grants); and in others markedly lower proportions, e.g., photography, 20 percent women applicants; literature, 26 percent.

Both Endowments showed that the proportions of grants awarded closely paralleled the proportion of grants applied for.

Further, both Endowments said that no special effort had been made to encourage women applicants, but indicated they were willing to do so through professional women's organizations, women's media, etc.

In its testimony before the committee, the National Endowment for the Humanities stated that for its important senior fellowship program, the dollar amount of the fellowship was based on the salary level of the recipient. Thus, women academicians, who traditionally receive lower annual earnings than their male colleagues, are awarded smaller fellowships from the National Endowment for the Humanities than their male colleagues.

This practice was questioned by the committee at the hearing, with a committee member saying,

"Public moneys simply must not be given on the basis of whatever discriminatory practices there are . . . It would seem a rather simple proposition for the Endowment to change its ground rules and say that we will not pay less to a person because that person is female or is a minority person, even though their applying institution does have a distinction. It doesn't seem to me that that's too difficult to do, to change the ground rules."

In reply the Endowment spokesman said: "Certainly it is within the administrative powers of the Endowment to say, when we have decided, by our panels and council, that on merit somebody deserves a fellowship that he or she should get a fixed amount regardless of what an institution has paid . . . You're absolutely right in pointing to that area in which even an agency like the Endowment can work directly to redress this imbalance."

WOMEN IN PRIME-TIME TV ROLES, TV COMMERCIALS, AND TV PRODUCTION [10]

The IWY Commission recommends that the Equal Employment Opportunity Commission (EEOC) make full use of its authority, under section 707 of title VII of the Civil Rights Act, to identify and attack patterns and practices of discrimination among major employers in commercial TV broadcasting and among commercial TV industry clients and their advertising sponsors.

Background

The committee found that in commercial TV broadcasting women are markedly underrepresented. Screen Actors Guild studies show that over 71 percent of all prime-time roles are male, and that 68 percent of all performers in average commercials are men.

The EEOC under title VII of the 1964 Civil Rights Act has the authority not only to investigate individuals' complaints but also to challenge on its own initiative broad institutional practices of discrimination. Section 707 of title VII, which gives EEOC the latter authority, has been used relatively infrequently. The U.S. Commission on Civil Rights has urged the EEOC to institute more litigation under section 707 because such a strategy would permit the agency to focus on certain industries.[11]

The precedent of the EEOC's case against A.T.&T. (a regulatee of the Federal Communications Commission) should however be applied to the communications industry. As of January 1976, the EEOC has filed only two lawsuits against a broadcast station.[12] This record should be changed.

Following are excerpts from *Screen Actors Guild Survey, February 1974,* cited above:

In a nationwide survey of public attitudes about television, a random cross section of American viewers has expressed a strong desire for positive changes in programming.

A questionnaire compiled by the Women's Conference Committee of the Screen Actors' Guild was sent to more than 300 newspapers throughout the country. Nearly 9,000 reader-viewers responded. An additional 1,400 questionnaires of the same type were compiled through personal interviews in the Southern California area. The responses to the latter generally followed the pattern of the newspaper survey.

67.4 per cent of all respondents said they would like to see women appearing on TV in positions of authority; for example, actresses portraying women in professions (86.3 per cent); as spokeswomen for national products (72.7 per cent); and as hosts of talk shows and children's programs (81.4 per cent).

63.4 per cent said they would like to see more women in leading roles on TV programs other than comedies, variety and talk shows. The percentage of positive responses to this question was notably higher among teachers (77.8 per cent), college graduates (75.7 per cent), and those in the 25-35 age group (78.4 per cent).

The need for change in TV representation of women and minorities is also dramatically illustrated by the results of the monitoring of a typical month of prime-time programming of all three networks. On the average, 71.5 per cent of the roles were male and 28.5 per cent female.

APPOINTMENT OF WOMEN TO DECISIONMAKING POSTS IN CULTURAL INSTITUTIONS [13]

The IWY Commission recommends (1) that, as appropriate, State Governors, State Commissions on the Status of Women, local chief executives, and local women's groups take action to insure more equitable women's representation in managerial, administrative, and policymaking posts in local cultural institutions; further, (2) that local women's groups serve as monitors and, as necessary, sponsors of equitable appointment of women to such posts in their local cultural institutions.

Background

The Committee found repeatedly in its investigation that women are not represented equitably in managerial, administrative, and decisionmaking posts in cultural institutions.

Fifty percent of the women professionals newly hired by museums in 1973 and 1974 earned salaries 20 percent below starting salaries of men. Half of the women professionals hired by museums in 1973 and 1974 started at salaries lower than $10,000; 58 percent of the men hired during the same period earned starting salaries of over $12,500. The average salary for newly hired men in all the museums was $14,000; for women, $11,120. Only 62 percent of the men newly employed had previous museum employment, but 67 percent of the women had such experience.[14]

The table [15] below shows how few women are employed in managerial positions in public broadcasting.

PERCENT OF WOMEN EMPLOYED IN MANAGERIAL POSITIONS, 1974

Position	TV	Radio	Joint facility
General manager	3	4	0
Station manager	2	12	8
Operations manager	7	19	10
Program manager	13	17	0
Production manager	5	5	0
Business manager	45	82	24
Chief engineer	0	0	0

EQUALIZING OPPORTUNITIES FOR WOMEN MUSEUM PROFESSIONALS [16]

The IWY Commission recommends that:

1. The American Association of Museums encourages its member institutions to keep records, by sex, of job applicants, of starting salaries, and of newly appointed paid professional staff; and to write such standards for recordkeeping into its accreditation requirements.
2. Museums requesting Federal grants for professional staff training be required (a) to keep personnel records by sex and (b) to furnish their plans for developing women professionals equally with men. The major endowing organizations to be affected by this recommendation are the National Endowment for the Arts, the National Endowment for the Humanities, the National Science Foundation, and the National Museum Act Grants Administration.
3. All museums follow the lead of the National Museum Act Grants Administration in recording all grants—applied for, received, and denied—by sex of the principal investigator or project director.

Background

Of the 27 museums which answered a museum survey questionnaire, 12 had records of newly appointed paid professional staff by sex (since January 1, 1973), only 8 had records of job applicants by sex, and 15 out of 26 kept records of starting salaries of new staff by sex. In order to effectively carry out affirmative action employment programs, all museums need to maintain such records.

Footnotes at end of article.

There is nothing in the handbook on museum accreditation about recordkeeping. (Marilyn J. Hicks, Museum Accreditation: *A Report to The Profession.* Washington, D.C., American Association of Museums, 1975.)

Of the 22 museums which received Federal grants in the period January 1, 1973, to June 30, 1975, 7 kept no such records in 1973, 6 in 1974, and 3 in 1975.[17]

IWY COMMISSION RECOMMENDATION BASED ON REPORT OF THE TASK FORCE ON WOMEN IN PUBLIC BROADCASTING, SUBMITTED TO THE BOARD OF DIRECTORS, CORPORATION FOR PUBLIC BROADCASTING (CPB), OCTOBER 8, 1975[18]

Preface

The committee considered the report of the Task Force on Women in Public Broadcasting, a group set up by the CPB, and noted that the CPB Board of Directors had taken the following actions after reviewing the task force report:

Unanimously resolved to direct the CPB management to review the task force's programming policy recommendations and to act on those recommendations that will assure a diverse, representative, and balanced image of women in all CPB-funded programs.

Directed management to review the task force's recommendations on employment and to carry out those that will help remedy the underutilization of women in public broadcasting; and

Directed the CPB management to report, within 3 months and annually thereafter, on what it has done and plans to do to carry out the CPB board's directions derived from the task force report.

Recommendation

The IWY Commission commends the CPB's resolve to remedy the "pervasive underrepresentation of women," both in employment and in program content of public radio and TV. At the same time the Commission recommends that the President recommend to the Office of Management and Budget and to the Congress that a CPB statement on remedial steps actually taken and improvements actually achieved be submitted with CPB requests for appropriations for the next and all subsequent fiscal years. Further, the Commission recommends that CPB 5 years hence (1980) do a followup study that will demonstrate to the public the improvements made.

Background

The CPB Task Force study documents "pervasive" underrepresentation of women throughout the public broadcasting industry.

For example, after monitoring a week of public television programs, the task force discovered that women are not so much stereotyped as they are overlooked. Of 28 programs viewed in 1 week, 11 had no women participants, and only 1 program specifically addressed a "woman's issue."

Overall there are more women on public radio than on public television, but they are still underrepresented. For instance, narrators and announcers of public radio programs are likely to be male—80 percent in a week's listening compared to 10 percent female. Ten percent of the programs had both male and female announcers.

Women held slightly fewer than 30 percent of all jobs in public broadcasting. Women, it was further found, are not likely to hold top executive positions in public broadcasting stations. In 1975, 3 percent of all public television general managers were women, and 4 percent of all public radio general managers were women. Most women were found in secretarial or clerical positions.

The task force's report contains important recommendations on programming and employment and their implementation. Among the major recommendations are the following given in brief summary. CPB should:

Give the highest priority to the integration of all women on an equal basis in programming;

Recognize the importance of developing specific women's programs;

Recognize the interrelationship of sex and race discrimination;

Encourage the placement of women as hosts, cohosts, and guests in public affairs programs;

Pay special attention in children's programming to encourage a balance of girls and boys and discourage role stereotyping in both real and imaginary characters;

Search for and fund the performance of literary works which treat women fairly and equitably;

Encourage the use of many more women as narrators and announcers in all appropriate programming; and to these ends.

Establish a continuing broad-based national and local monitoring system to assess the progress of the public radio and television systems in achieving fair treatment of women and men in broadcasting.

The task force found that employment of women in public broadcasting is highest at the lower levels of responsibility, lower at the middle levels, and extremely limited at the highest levels. Women make up slightly less than 30 percent of the public broadcasting work force but for a variety of reasons rarely are hired for, or promoted to, upper level positions. To increase the number of women in decisionmaking positions, the task force recommends, among other actions, that:

Public broadcasting should cooperatively explore ways to enlarge the pool of qualified candidates, with special emphasis on women because they are now underrepresented in public broadcasting;

Upper level positions where possible be filled with existing lower level staff, with special emphasis on women;

Monitoring of trends in the employment of women to assess the progress being made be continued;

CPB encourage full implementation of the policy of equal pay for equal work; and

CPB take a leadership role in structuring its staff to include a fair and equitable distribution of women in its upper level positions, and encourage National Public Radio and the Public Broadcasting System and other broadcast entities to adopt a similar policy.

Committee recommendations not acted upon by the IWY Commission

Several recommendations adopted by the Committee on the Arts and Humanities could not be acted upon by the IWY Commission, because, under its rulings, it may consider only recommendations predominantly affecting women. The committee, however, so strongly felt the need for new actions to support the arts and humanities that it wishes to go on record as itself approving certain supportive measures. Below is a summary of the committee's recommendations:

1. The committee recommends that the President instruct the Internal Revenue Services and ask the Congress, as it considers basic income tax reforms, to adjust inequities in income taxes that inflict particular hardship on all artists—both men and women, but especially on women because they suffer lower earnings generally and other sex discriminations.

2. The committee recommends that the President ask Congress to change the copyright law (undergoing revision in late 1975) to extend copyright protection in the form of royalties to conductors, instrumentalists, and performing artists involved in recorded works—protections now accorded only to composers and lyricists. The committee recommends also that reproduction royalties be granted to authors, who now have no protection against unauthorized duplication of their works by fast-copying devices.

3. The committee recommends maximum authorized Federal funding for the National Endowments for the Arts and the Humanities; positive action by mayors and governors, in accordance with their already-adopted resolutions, to increase State and local support for the arts and art institutions; and augmented support of community art and cultural organizations by State and local women's groups, along with monitoring female representation in cultural institutions.

4. The committee recommends abandoning State and municipal admission taxes to cultural institutions receiving any government support.

5. The committee recommends that artists not be required to pay exhibition entry fees to any exhibit in cultural institutions receiving Federal, State, or local government support.

6. The committee recommends that governors and mayors, in accordance with their own resolutions adopted in national gatherings, act to require that a percentage of every State and municipal construction budget be allocated for purchase or commission of American works of art for public buildings.

FOOTNOTES

[1] IWY Commission members: **Rita Z. Johnston**, Chair. Other Commission members: Richard Cornuelle, Gilda Gjurich, Katharine Hepburn, and Lenore Hershey. Public members: Muriel Berman, President and Chair of the Board of Hess's, Inc. and member of Pennsylvania Council on the Arts; Kathryn F. Clarenbach, Associate Professor of Political Science and Chair of the Wisconsin Commission on the Status of Women; Ruth Fernandez, concert singer, Senator-at-Large of Ponce, Puerto Rico and Chair of Committee on Arts and Culture of Puerto Rican Senate; Jack Golodner, attorney, Executive Secretary of Council of AFL–CIO Union for Professional Employees, and Vice President of Board of Trustees of Ford's Theatre; Lillian Hellman, playwright; Alice Heyman, consultant; Margaret Mahoney, Vice President of Robert Wood Johnson Foundation. The Forrestal Center; Teixeira Nash, artist; and Joan Kaplan Davidson, Chair of the New York State Council on the Arts.

Committee Staff Director: Bernice Baer. Consultant: Jean Joyce.

The committee contracted with the American Symphony Orchestra League to do a study on American symphony orchestras, and with Vandegriff Research to do a study on women in the arts and humanities.

[2] Recommendation approved by Arts and Humanities Committee Dec. 18, 1975; by IWY Commission Jan. 16, 1976.

[3] Transactions of the American Philological Association, vol. 106, Spring 1976. Report on the Status of Women and Minority Groups.

[4] Recommendation approved by Arts and Humanities Committee Dec. 21, 1975; by the IWY Commission Jan. 16, 1976.

[5] Recommendation approved by Arts and Humanities Committee Jan. 7, 1976; by IWY Commission Jan. 16, 1976.

[6] "The Federal Civil Rights Enforcement Effort—1974," vol. VI, p. 804.

[7] The Civil Rights Act of 1964 bans discrimination on grounds of race, color, and national origin in a number of areas. For example, title II applies to places of public accommodation; title III covers public facilities; and title VII prohibits discrimination in employment. Sex discrimination, however, is prohibited only under title IV and title VII.

[8] Recommendations approved by Arts and Humanities Committee Dec. 23, 1975; by IWY Commission Jan. 16, 1976.

[9] The term minorities is understood to include blacks, American Indians, Oriental-Americans, and women of Hispanic origin.

[10] Recommendation approved by Arts and Humanities Committee Jan. 7, 1976; by IWY Commission Jan. 16, 1976.

[11] *The Federal Civil Rights Enforcement Effort—1974,* vol. V—To Eliminate Employment Discrimination. A Report of the U.S. Commission on Civil Rights, July 1975, p. 543.

[12] *EEOC* v. *Storz Bdcstg. Co.* (*WQAM-radio*) S.D. Fla. CA 75–1853 Civ., filed Sept. 8, 1975. *EEOC* v. *American Public Life Bdcstg. Co.* (*WAPT–TV*) S.D. Miss. CA J–75–199 (R), filed Dec. 26, 1975.

[13] Recommendation approved by Arts and Humanities Committee Jan. 7, 1976; by IWY Commission Jan. 16, 1976.

[14] Excerpted from an "exploratory" study prepared for the Arts and Humanities Committee by Vandegriff Research, 1976.

[15] Source: *Report on Task Force on Women in Public Broadcasting,* Corporation for Public Broadcasting, Caroline Isber and Muriel Cantor, coauthors, Oct. 8, 1975, p. 38.

[16] Recommendation approved by Arts and Humanities Committee Jan. 7, 1976; by IWY Commission Dec. 16, 1976.

[17] Excerpts from an "exploratory" study by Vandergriff Research, *op. cit.*

[18] Recommendation approved by Arts and Humanities Committee Dec. 4, 1975; by IWY Commission Dec. 5, 1975.

$ $ $ FOR CULTURE AND RESEARCH

Federal agencies each year hand out more than $5 billion to individuals, private organizations, and State and local governments for research projects, for fellowships, for the support of the arts and humanities, and for myriad other purposes.

Private, tax-exempt foundations also disburse millions in grants annually, particularly in the area of cultural interests.

The commission asked, are women getting their equal share? Is the impact of such grants on women equitable?

Government awards, generally known as grants-in-aid or project grants, are administered under title VI of the 1964 Civil Rights Act. Title VI does not prohibit sex discrimination; however the Congress, during the past 5 years, has made sex discrimination illegal in a number of Federal grant programs, such as education, water pollution, public works development, law enforcement assistance, disaster assistance, and manpower training.

But sex discrimination is not eliminated in all areas. For example, grants made by the National Endowments for the Arts and the Humanities are not covered. Neither is the very large area of grants for health research.

The welfare of future generations of women may be adversely affected by this. The Committee on Special Problems of Women reports that—

"In health research as in other areas of human concerns men have all too often been considered the norm and women the exceptions . . . all of whose problems are thought to relate to reproduction."

Studies on diseases common to men and women sometimes do not include women as subjects. For instance, two major research projects sponsored by the National Institutes of Health exclude the study of women. These are the Framingham (Mass.) Study on Heart Disease and the Multifactor High Risk Study, an examination of smoking, drinking, and diet. Yet women are smoking, using alcohol and drugs more than ever before.

Little or no research has been done in other health areas important to women. A report to the National Dialysis Registry in October 1975 stated that only two-thirds as many women as men are receiving dialysis in the treatment of kidney disease. The Special Problems Committee also said there is a need for research on the effect of careers outside the home on longevity and on the health of women.

Because of such inequities, the IWY Commission endorses a recommendation already made by the U.S. Commission on Civil Rights that asks the President to issue an Executive order insuring equal opportunity for women in any program that receives Federal funds or assistance.

The Commission also asks that research be reviewed to see that it meets the special needs of single parents, aged women, and minority women, including blacks, Hispanics, Asian-Americans, and Native Americans.

Sometimes grants-in-aid have an adverse effect on women just because they enrich institutions and make certain jobs more desirable for men.

The Arts and Humanities Committee of IWY found that the Library Services Act of 1956 strengthened the budgets of many libraries and helped to raise salaries. A few years after passage of the act, male takeover of top library jobs became apparent.[68] More men recruited for the field and more men prepared in college for such jobs.

Thus the Commission finds it important to recommend that government agencies, considering grants-in-aid to cultural institutions, require the institutions to assess the impact of such grants on women.

To make sure that women are included both in grants and in research conducted, the Commission recommends to the government and to private institutions that more women be named to all boards, committees, and panels that make such grants. The percentage of women now on these boards is low.

But, trying to work for the equal partnership of women sometimes has unusual side effects. Consider the case of Dr. Julia Apter, a Chicago physician and scientist, who is presently (April 1976) suing Health, Education, and Welfare (HEW). She alleges that HEW discriminated against her in not awarding a $580,000 grant to the Medical Center where she worked.

The story begins in 1971 when Dr. Apter tried to have more women placed on the HEW advisory committees, which determine the funding of health research. At that time the committees had not one gynecologist in over 2,000 members; in all, only 2.6 percent committee membership was female.

Representing the Association of Women in Science (AWS), Dr. Apter and women from six other women's groups met with HEW representatives. Their demands were met with the promise that female committee membership would be increased to one-third "as soon as possible."

The women said they already had a list of 5,000 women qualified for the 500 vacancies existing in National Institutes of Health (NIH) committees. Dr. Apter agreed to match the women's vitae to the job descriptions immediately. Elliot Richardson, then Secretary of HEW, said he would delay filling the vacancies until she could finish the list. NIH staffers opposed this moratorium.

To do the work, Dr. Apter, an ophthalmology specialist, took 5 weeks leave from her job. She found many exceptionally talented women who "had been hiding their light under a bushel." For one vacancy, which required M.D. and Ph.D. degrees and a professorship in surgery, she came up with nine women who met the qualifications.

The AWS roster was effective at least for committee membership. Women now make up 22 percent of HEW advisory units. However, Dr. Apter did not fare well after this experience. Her employer, Rush-Presbyterian-St. Luke Medical Center in Chicago lost a $580,000 NIH grant and Dr. Apter contends it was because she had become "persona non grata" at NIH due to her work on behalf of the committee membership.

The Medical Center fired Dr. Apter. Her suit against HEW, charging sex discrimination and abridgement of First Amendment Rights, followed.

The scarcity of women in decisionmaking areas of government was pointed up again and again as the various committees of the Commission listened to experts and women in public life testify. Some of these stories follow in the next section.

HALTING MILITARY ASSISTANCE TO URUGUAY

Mr. CHURCH. Mr. President, I wish to congratulate the Senate and House conferees on their important decision to prohibit military assistance to Uruguay in the 1977 Foreign Assistance Appropriations Act. In the House version of the bill, Congressman Edward I. Koch included the following amendment:

> None of the funds appropriated or made available pursuant to the Act shall be used to provide military assistance, international military education and training, or foreign military credit sales to the Government of Uruguay.

Happily, this language was retained by the conference committee.

This result should signal to Latin America and the rest of the world that the Congress does care about the kind of government to which she offers military assistance. Those governments practicing torture against political prisoners, and other forms of repression, should recognize that they can no longer take American aid for granted.

Uruguay, the latest—though not the only—torture chamber of Latin America, is an appropriate place to extend our efforts to encourage greater respect for human rights. Known at one time as the Switzerland of South America because of her strong democratic traditions, Uruguay is now governed by a military regime of startling brutality. Reliable estimates indicate that at least 5,000 individuals have been imprisoned for political reasons in Uruguay since 1973. In a country of only 2.5 million people, this represents 1 in every 500 Uruguayans. Fifty thousand, or 1 in every 50 Uruguayans, have passed through prison during this same period. This is the highest percentage of prisoners in the world. Amnesty International has traced 22 cases of persons fatally tortured by the Government. Large numbers of incidents involving political arrests, torture, and murder have been confirmed by the Department of State. Even Chile has been surpassed by Uruguay in the ferocity of its repression.

During the Tupamaro guerrilla insurgency of 1968–73, the Uruguayan military gradually took control of the Government. In June 1973, President Bordaberry, supported by the armed services, dissolved the Parliament of his country and thereby silenced the sole remaining source of institutional opposition to his regime. Leaders of opposition political parties were held and tortured; other critics were exiled, since 1973, 12 percent of the population or 300,000 Uruguayans, have fled their homeland; newspapers were closed; political gatherings banned; and the mass media censored.

In 1975, the regime authorized a decree permitting the armed services and police to open the private correspondence of citizens and foreigners. Censorship of books was imposed and, reminiscent of the Third Reich, authorization was given to destroy "all books considered dangerous" in bonfires. Among other libraries, Marcha—a cultural institution in Uruguay—was burned to the ground. Theatrical and filmmaking companies were dissolved and their property confiscated.

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[68] Anita R. Schiller, "Women in Librarianship," published in *Advances in Librarianship,* 1974.

This year two popular opponents of the Uruguayan regime were assassinated: Senator Zelmar Michelini of the "Broad Front" and the President of the House of Representatives, and Hector Gutierrez Ruiz of the National Party. A third barely escaped with his life: Wilson Ferreira Aldunate, leader of the National Party. Mr. Ferreira has now begun an international campaign to restore democracy to Uruguay. For this, the military regime has confiscated all of his property, charged him with sedition, and put out a warrant for his arrest.

The United States should be a beacon of hope for the downtrodden and oppressed throughout the world. It was once so, and can become so once again. In banning American military aid to Uruguay, the conferees led on the Senate side by the distinguished Senator from Hawaii (Mr. INOUYE), have taken an important step toward making our foreign policy begin to conform with our historic ideals.

VETERANS AND JIMMY CARTER

Mr. HARTKE. Mr. President, on August 24 of this year, Democratic Presidential Candidate Jimmy Carter spoke to the National Convention of the American Legion in Seattle, Wash. Unfortunately, both press and public attention has been focused on the one part of the speech where Mr. Carter was booed by some in the audience, that part dealing with Mr. Carter's decision to grant a blanket pardon to those who violated selective service laws during the Vietnam era.

Mr. Carter's speech contained much more than this one controversial position with which his audience expressed disapproval. As a matter of fact, Mr. Carter was interrupted by applause a total of 21 times by that same American Legion audience. However, only the boos made the news.

The inordinate attention given the emotional issue of a blanket pardon to those citizens who were found to be evading the draft during the Vietnam era distorts not only the thrust of Mr. Carter's speech, but the basic issues of the last 10 years concerning the Vietnam veteran.

The largest and most significant number of veterans during the Vietnam era served in uniform between August 4, 1964, and May 7, 1975. More than 3½ million actually saw duty in Southeast Asia during this period. In excess of 56,000 were killed. More than 350,000 were wounded. In his speech, Mr. Carter called attention to the service of those young men he called "our Nation's greatest unsung heroes." Mr. Carter also pointed out the insensitivity of the present administration toward returning Vietnam veterans citing President Ford's vetoes of GI bill, job training and employment legislation and lack of administration leadership in implementing laws already on the books for the disabled and Vietnam veteran.

Mr. President, I commend this speech to your attention, the attention of all my colleagues in the Senate and to all Americans. I urge you to read it in its entirety.

I ask unanimous consent to have it printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS BY JIMMY CARTER TO THE AMERICAN LEGION, SEATTLE, WASH., AUGUST 24, 1976

It is a pleasure to appear here today before my fellow Legionnaires and to have this opportunity to discuss matters of common concern to us as veterans and as Americans.

I am, as you may know, a member of Legion Post No. 2 in Americus, Georgia, as was my father before me.

A tradition of military service runs deep in our family. My first ancestor to live in Georgia, James Carter, fought in the Revolutionary War. Almost a hundred years later, others fought in the War between the States, and my father, Earl Carter, served as a first lieutenant in the Army during the First World War.

Including my time at the U.S. Naval Academy, I spent 11 years in the Navy, most of my sea duty in submarines. I had the good fortune to serve under Admiral Rickover on the development of one of the first atomic submarines, and I have tried to carry over into my business career and my political life the high standards of dedication and competence that I learned from that remarkable military leader.

My son Jack continued our family's tradition in the military, but his service came in an era quite different from my own. Jack left college several years ago and volunteered to serve in Vietnam. He did so because he didn't think it was right for him to escape service simply because he had the money and the educational background to stay in college.

During the Second World War, and even during the Korean War, I always wore my uniform with immense pride, and it was a badge of honor among my civilian friends and neighbors.

That was not the case when Jack came home from Danang in 1969. He and the uniform he wore were all too often greeted with scorn and derision. Many of his friends told him he was a fool to risk his life in a meaningless war that couldn't be won.

Hundreds of thousands of Vietnam veterans were meeting that same bitter reception all over America, and I believe very strongly that those scenes, and the national mood they reflected, amount to nothing less than an American tragedy.

I believe in patriotism. I believe that people should love our country, and be proud of our country, and be willing to fight to defend our country. That is how you and I grew up—never doubting that ours was the greatest nation on earth, and getting, as Senator John Glenn once put it, a warm feeling inside us whenever the American flag passed by.

I know that your patriotism has been demonstrated not only in your military service, but in your work in community and national affairs, such as your outstanding "War on Cancer" fund drive. But we must recognize that for millions of our fellow Americans, patriotism is out of fashion, or is an object of scorn and jokes. That fact is part of the bitter heritage of an unpopular war.

I do not seek a blind or uncritical patriotism. Obviously a government's policies must be deserving of public support. But in recent years, disagreement with our nation's policies too often became rejection of our nation itself. There is a great need for the next President to do everything in his power, by word and deed, to restore national pride and patriotism in our country—and if I am elected, that is what I intend to do.

I also believe in tradition. I was Governor of Georgia when Congress passed the law that changed the observation of Armistice Day away from the traditional date of November 11. I thought that action was unnecessary, insensitive, and offensive, and we kept November 11 as Armistice Day in Georgia.

I did not come here just to get your vote or endorsement, nor just to make a good impression on you. I come here as a nominee for President who has spent full-time the last 20 months learning about this country—what it is and what it ought to be.

I want to talk to you about some tough decisions—as veterans, yes, but also as Americans who are farmers and truckdrivers, doctors and lawyers, fathers and grandfathers, school teachers and civil servants, employed and unemployed, rich and poor.

We must maintain adequate military strength compared to that of our potential adversaries. This relative strength can be assured:

by a commitment to necessary military expenditures;

by elimination of waste, duplication among forces, excessive personnel costs, unnecessary new weapons systems, inefficient contracting procedures;

and by a mutual search for peace so that armament levels can be reduced among nations, because the most important single factor in avoiding nuclear war is the mutual desire for peace among the superpowers.

I would never again see our country become militarily involved in the internal affairs of another country unless our own security was directly threatened. But it is imperative that the world know that we will meet obligations and commitments to our allies and that we will keep our nation strong.

We seek friendship with the unaligned and developing nations of the world. Many of them are weak and vulnerable and they need allies who can contribute to their peace, security and prosperity. Yet we must remember that excessive foreign commitments can overtax our national ability. We must therefore be cautious in making commitments, but firm in honoring them.

I have spoken recently with many experts in national defense matters, and I believe we have, overall, adequate ability to defend ourselves, to meet obligations to our allies, and to carry out a legitimate foreign policy. But we must be constantly vigilant to recognize and correct adverse trends.

Our total American ground combat forces are less than half those of the Soviet Union, and the number of men under arms in that country has increased by a million while ours have decreased by 1½ million since 1968. During the same period the number of U.S. ships has been cut in half. For every tank we have, the Soviets have at least eight. Because of our greatly improved anti-tank weapons, this heavy Soviet investment in tanks may prove to have been an unwise investment.

Of course there are counterbalancing factors of strength such as superior quality of our weapons, the relative security of our own borders, our more ready access to the sea, and the trustworthiness and military capability of our allies.

There is now, in my opinion, an overall rough equivalency in direct military strength. This balance must be maintained.

Yet, as we seek an adequate defense, we must face the fact that the very words "national security" have fallen into disrepute. I want to hear those words spoken with respect once again. Too often, those words are now viewed with scorn, because they have been misused by political leaders to hide a multitude of sins, and because they have been used to justify inefficiency and waste in our defense establishment.

Whatever the price and whatever the pressures, the President must insist on a national defense posture that is lean and muscular and flexible.

It is sometimes said that the threat of war has receded. But in Europe, the Middle East, in northeast Asia, potential for conflict still exists, powerful armed forces are deployed and Americans have recently been brutally killed. To deny that these situations pose a potential danger to peace is to turn away from reality.

Our military power must be continually reviewed. In Europe, NATO must increase its combat readiness and adapt its forces to new military technology, if it is to offset steady improvements in Warsaw Pact forces. In the eastern Mediterranean, strong U.S. naval power must be maintained. We must also assure a close and confident defense relationship with South Korea and Japan.

We must maintain rough equivalency with the Soviet Union in strategic nuclear forces. Equally important, we and our allies must have conventional military capability adequate to reduce dependence on nuclear striking power. In a world where massive mutual devastation is the likely result of any use of nuclear weapons, such strategic forces cannot solely be relied upon to deter a vast range of threats to our interests and the interests of our allies.

We must always recognize that the best way to meet ideological threats around the world is to make our own democratic system work here at home.

The strongest defense grows out of a strong home front—out of patriotism. Our defense must come not only from our fighting forces, but from our people's trust in their leaders, from adequate transportation, energy, agriculture, science, employment, and most of all from the willingness of our people to make personal sacrifices for the sake of our nation. Not until we restore national unity can we have a truly adequate national defense.

Only then can we, in Theodore Roosevelt's phrase, speak softly but carry a big stick.

I recognize, of course, as you do, that it is not enough for the president to talk about patriotism and national security. He must take positive, aggressive action to ensure that our defense establishment is worthy of national respect. That calls for leadership, and it calls for management.

In any given annual budget, now or in the future, there is a limited amount of money available for national defense. When any resources are wasted, our nation's security is weakened. We now have an excessive drain on defense funding from waste and unnecessary expenditures.

We must better coordinate long-range planning and budgeting among departments responsible for military, foreign, fiscal, economic, transportation and social affairs of our government. A spirit of cooperation must be restored.

Foreign aid must be consistent with our national purposes, and designed to strengthen our allies and friends and to fulfill humanitarian purposes. I'm tired of our taxing the poor people in our rich country and sending the money to the rich people in poor countries.

We must frankly and constantly assess the effectiveness of our present voluntary recruitment program. As unemployment drops and civilian jobs become more plentiful, it will be much more difficult to maintain our present military strength.

We must ensure that an oversized support establishment does not prevent us from maintaining needed combat force levels.

We must recognize that our military personnel are transferred too much. At any given moment, about one out of seven of those personnel is in the process of moving, or away from their family on temporary training duty. This year $2.5 billion will go simply to move service personnel, their families, television sets and furniture from one base to another. Such frequent moves not only to eat up money, they undermine morale. If we extend the average tour of duty by just two months, we could save $400 million per year.

We need to reexamine our military training programs. Recent congressional hearings, by the way, revealed that we now have an average of one and a half military students for each instructor. By moving to a ratio of only three students to each instructor, we could save an estimated $1 billion per year.

Cost overruns have become chronic. The Pentagon itself estimates that the total current cost of overruns on the 45 weapons systems now in the process of development in the three services—exclusive of inflation—is $10.7 billion. Over the next five years that would approximate the cost of the proposed B-1 bomber program over the same period.

We need sound, tough management of the Pentagon not only to eliminate waste, but to ensure that force structures are correlated with foreign policy objectives. Tough management will mean that overlaps are eliminated between Pentagon programs and similar programs of civilian agencies. It will mean that we cooperate closely with our allies in our mutual defense, that our weapons systems are integrated with each other, technically and strategically, and that we put a stop to the dubious practice of arms giveaway programs for potential adversaries.

Ever since I was Governor of Georgia, when I attended National Guard training sessions every summer, I have been concerned that our reserve forces, both the regular reserve and the National Guard, do not play a strong enough role in our military preparedness. We need to shift toward a highly trained, combat-worthy reserve, well equipped and closely coordinated with regular forces—always capable of playing a crucial role in the nation's defense.

If we can get the flab out of the Pentagon's budget, I believe that the public will evaluate questions about weapons systems and force levels on their merits in a calm and rational manner. Our people will support an adequate defense establishment without complaint, so long as they know that their tax dollars are not being wasted.

The threat to our security comes not only from states that might be hostile. International terrorism knows no boundaries, recognizes no law of warfare, accepts no standards of conduct. It is brutality at its worst, the law of the jungle in its most primitive form.

Recently at Entebbe the Israelis reaffirmed courageously the old principle that every state has the right to defend its citizens against brutal and arbitrary violence—violence that in this case was even based on collusion between the terrorists and a government.

The issue of international terrorism must be a priority item for the entire international community. If I become President, I intend to recommend strong multinational sanctions against guilty nations as a necessary and productive means for crushing this intolerable threat to international law and peace. International terrorism must be stopped once and for all!

In our own country, we must recognize that, in far too many cases, the Vietnam veteran has been a victim of governmental insensitivity and neglect. Large bureaucracies of the federal government have often been incompetent, inefficient, and unresponsive in their fulfillment of responsibilities to veterans. Each month, thousands of veterans are plagued with late delivery of badly needed benefit checks. Hundreds of millions of dollars of benefit payments have been improperly computed. The average VA hospital has only half the doctors and supporting personnel found in the average community hospital.

The poor record of the government bureaucracy has been especially bad in programs intended to help recent veterans to find jobs. In 1973 and 1974 Congress passed legislation requiring special consideration for veterans in public service jobs, in training programs, for jobs with federal contractors, and for jobs in the federal government. None of these requirements has been fully or effectively carried out.

For example, despite the mandates of the law many federal departments and agencies have few disabled veterans or Vietnam veterans serving within them. It took the Labor Department 18 months to establish administrative guidelines to ensure the hiring of veterans. In 1975, 16 federal agencies failed even to submit required plans for hiring disabled veterans until Congressional inquiries were begun.

The record of placement in private sector jobs and training has been no better. In 1975 more than two thirds of the 153,000 job training slots went unfilled, largely due to inadequate administrative procedures.

Yet last month there were still 531,000 Vietnam veterans who had no jobs.

The reason for this dismal record is clear: It is a failure of leadership.

Sympathetic leadership would not submit—as did the present administration—a budget recommending cuts of ten percent or more to veterans' programs and denying full cost of living protection to disabled veterans.

Concerned leadership would not have vetoed a bill overwhelmingly voted by Congress for higher education allowances, better work-study programs, more educational loans, and employment and training preferences for more than two million veterans.

Only because the Congress overrode this veto do Vietnam veterans enjoy some of the educational benefits they deserve.

I believe we need to address the needs of veterans, especially of Vietnam veterans, with sympathetic and active leadership rather than with vetoes and passive resistance. Men who have endured so much suffering, so bravely, fighting in a far-off land, should not now suffer anew in their own country at the hands of insensitive bureaucrats and indifferent politicians.

If I become President, the American veteran, of all ages, of all wars, is going to have a friend, a comrade and a firm ally in the White House. My administration will act to strengthen the competence, the responsiveness, and the independence of the Veterans' Administration. I will appoint the most capable administrators available and I will insist on fair and sensitive treatment for veterans by every employee of the executive branch of government from top to bottom.

I would like to speak for a moment about the single hardest decision I have had to make during the campaign. That was on the issue of amnesty. Where I come from, most of the men who went off to fight in Vietnam were poor. They didn't know where Canada was, they didn't know where Sweden was, they didn't have the money to hide from the draft in college. Many of them thought it was a bad war, but they went anyway. A lot of them came back with scarred minds or bodies, or with missing limbs. Some didn't come back at all. They suffered under the threat of death, and they still suffer from the indifference of many of their fellow Americans. The Vietnam veterans are our nation's greatest unsung heroes.

I could never equate what they have done with those who left this country to avoid the draft.

But I think it is time for the damage, hatred and divisiveness of the Vietnam war to be over.

I do not favor a blanket amnesty, but for those who violated Selective Service laws, I intend to grant a blanket pardon.

To me, there is a difference. Amnesty means that what you did is right. A pardon means that what you did—right or wrong—is forgiven. So, pardon—yes; amnesty—no.

For deserters, each case should be handled on an individual basis in accordance with our nation's system of military justice.

We may not all be able to agree about what was the right course for the nation to take in 1966. But we can now agree to respect those differences and to forget them. We can come together and seek a rebirth of patriotism in which all our citizens can join.

We must bind up our wounds. We simply cannot afford to let them fester any longer. The world is too dangerous. We cannot remain distracted from what must be our overriding aim. Our attention must turn to rebuilding the military, economic and spiritual foundations of a peaceful world order.

Those who most want peace, and who best understand the need for strength as a prerequisite for peace, are our past and present servicemen and their families. As a former submarine officer, I know that fact from experience.

I can still remember hearing President Truman explain to the world that the atomic bomb had been dropped on Hiroshima. I was at sea in an old battleship in the North Atlantic. None of us had ever heard even a rumor of this quantum leap in destructive power. We had no way of comprehending the meaning of this new weapon which had been dropped on Japan. We were mainly relieved at the prospect that the need for invading Japan might be averted, thus saving what would surely have been the loss of hundreds of thousands of American and Japanese lives.

After we saw the destruction in Japan, for a while we understood the terrible havoc and devastation which would follow any use of nuclear weapons. But now we have a tendency to forget. Even if a strategic nuclear war could remain "limited in nature," it would still involve the death of approximately ten million Americans. A so-called "limited nuclear war" in Europe could produce an even greater number of deaths. In an allout nuclear war, 200 million Americans could die—virtually the entire population.

Obviously, such a holocaust is beyond our capacity even to imagine. Numbers like 10 million dead or 200 million dead seem unbelievable. But they are true.

The Duke of Wellington said in 1838: "A great country cannot wage a little war." In our time that doctrine has acquired new meaning. In a nuclear world, we cannot rely on little wars to prevent big wars. We must maintain our strength and use it to prevent all wars.

Our people have been shocked and hurt over and over again. Things which we used to take for granted are now subject to widespread doubt. Things like trust in our leaders, confidence in our institutions—even love and respect for the flag and support and appreciation for the men and women who defend the flag. But I believe there is no one in this country—certainly there is no one in this room—who does not want to heal wounds and restore the precious qualities and the national strengths we seem to have lost.

I hope to play a role in that noble enterprise.

I hope you will help.

Thank you.

WHAT FUTURE FOR SMALL BUSINESS?

Mr. SPARKMAN. Mr. President, in the Washington Post of September 18 there was an editorial entitled "What Future for Small Business?" I think this is a very good treatment of the problems, the challenges, and the accomplishments of small business in the important role it plays in the economy and lifestyle of this country.

The editorial is based largely on the work and statements made by Senator Gaylord Nelson who has served now for nearly a decade as chairman of the Select Committee on Small Business. This committee has been converted from a "select" committee to a standing committee of the Senate. I have the pleasure of serving on this committee under the chairmanship of Senator Nelson. Indeed, I have served as a member of the committee since its establishment and was its first chairman from the time of its establishment in 1950 until January 1967 when, under the Senate rules, I had to give up the chairmanship in order to become chairman of the Banking Committee. Senator Nelson has done a wonderful job, and I commend and congratulate him for the outstanding work that he has done.

I commend the reading of this editorial by every Senator. I ask unanimous consent, Mr. President, to have the editorial printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

What Future for Small Business?

Not all the work of congressional committees and subcommittees is meant to produce "a bill." Often it is the airing of problems that marks the usefulness of a committee. One example is Sen. Gaylord Nelson's Select Committee on Small Business, which has been quietly at work exploring a number of questions involving the economic, social and political conditions with which the small businessman must deal.

The committee has done valuable work, if only because its examination could be the starting point for much of the discussion that will necessarily come in future years. Sen. Nelson observed that "small businesses today, which constitute 97 perecnt of the total U.S. business firms, are . . . confined generally high—those are the areas where entrance is easy, competition is high and survival chances are poor. . . . The traditional freedom of the small businessman has diminished and so have the promises of the American dream of individualism and independence."

One of the themes repeatedly emphasized was the relationship of the small operator to his local neighborhood and community. Harold Williams, president of the Institute of Man and Science in Rensselaerville, N.Y., made the point that "most small towns are simply unable to attract large businesses." Appalachia, for example, is one area where politicians and planners have tried to persuade large companies to settle. In many areas they have, but mostly the attraction has been to what are called "growth centers." One of the unfortunate results is that the isolated small towns have become even more isolated, losing people who go to the larger towns for jobs. Family ties, community solidarity and self-reliance are lost.

As one result, what is often encouraged, not only in Appalachia but elsewhere in the country, is the shifting around of corporation employees from one city to another. Dr. Robert Seidenberg, a professor of psychiatry at the State University of New York in Syracuse, discussed the style of rootlessness that is often imposed on workers who are regularly transferred. "Wives and children are involuntarily transported to areas which may be completely inimical to their personal needs and aspirations. When we see today so many of our young people wandering, as we say, on the highways and byways of America and abroad as well, they may be responding not to some counterculture innovation, but indeed to their early life experiences of being on the road as part of their father's corporate nomadism."

The argument made by Sen. Nelson, Mr. Williams, Dr. Seidenberg and others at the hearings was not that small business is superior to big business but that the contributions of small business to American life should not be smothered or ignored. At the least, the businesses should be nurtured. In one area, for example, Sen. Nelson asked last week that House and Senate conferees not raise taxes on small businesses. In addition to the burden of what are often excessive taxes, the shoulders of the small businessman are also weakened by the burden of regulatory paperwork. For many, running a business now means spending more time filling out forms than serving the customer or marketing the product. These were a few of the issues discussed at the hearings. They are not "the burning issues" of the day, perhaps. But to ignore them is to risk losing not only an increasing number of small businesses but also the human values that prompt men and women to enter the marketplace as independents.

THE GENOCIDE CONVENTION: FEDERAL POWERS AND STATES' RIGHTS

Mr. PROXMIRE. Mr. President, opponents of the Genocide Convention have often based their opposition on the contention that the Genocide Convention gives new unwarranted powers to Congress, thereby infringing on the States' jurisdictions.

However, it has been conclusively shown that the Genocide Convention in no way will add to the powers of the Federal Government or decrease those of the States. The Constitution expressly grants to Congress the power "to define and punish Piracies and Felonies committed on the high seas and Offences against the Law of Nations." Since genocide is an offense against the law of nations it is in Congress' power to outlaw it. Thus, ratification of the Genocide Convention will in no way deprive the States of a field of criminal jurisprudence.

In fact, the proposed implementing legislation carefully protects States' rights. Section 2 of the legislation states:

> The remedies provided in this Act shall be the exclusive means of enforcing the rights based on it, but nothing in the Act shall be construed as indicating an intent on the part of Congress to occupy, to the exclusion of State or local laws on the same subject matter, the field in which the provisions of the Act operate.

A related argument against the Convention is that ratification of this treaty would act as the opening wedge in a drive to exceed the legislative powers of Congress vis-a-vis the States. Proponents of this argument have been particularly concerned that the Genocide

Convention might be used to justify Federal legislation in the field of civil rights. However, not only does Congress clearly have the power to prohibit genocide, but the events of the past 20 years have shown that our Constitution is sufficient in itself to justify Federal legislation in civil rights.

The Genocide Convention will not increase the powers of the Federal Government nor usurp the rights of the States. We must ratify this important document to demonstrate to the people of the world that we, as a nation, are committed to ending the crime of genocide.

SUGAR POLICY

Mr. INOUYE. Mr. President, yesterday President Ford took action to increase the tariff on sugar imports from the present 0.625 cents per pound to 1.875 cents per pound. While this represents the legal tariff limit, the President could have acted on two additional fronts; removing sugar from the preference list and reducing the sugar import quota. This he failed to do.

As I noted yesterday, this response by the President, while welcome, is too little and too late. It is applying a bandaid when what is needed is a sugar policy and a long-range sugar program.

While I also welcome his call for expeditious review of the impact of sugar imports by the International Trade Commission, I am concerned, as are many within the sugar industry, that this study may become an excuse to delay rather than to expedite action by the administration to develop a viable sugar program.

The fallacy in the thinking of those who see the "free market" as beneficial to the consumer should be apparent to anyone who compares the continuing high price of sugar and products using large amounts of sugar with the low prices now paid to sugar producers.

The need for a program and the justification for a policy which would protect the American producer and consumer alike from the sharp fluctuations in the price of sugar on the so-called "free world market" is ably presented in an editorial which appeared in the Honolulu Star Bulletin, Friday, September 17. Mr. President, I would like to share that Honolulu Star Bulletin editorial with my colleagues and others interested in this vital matter and therefore ask unanimous-consent to have it printed in the RECORD at this time. I ask also unanimous consent to have printed in the RECORD the Honolulu Advertiser editorial for today, September 22, on this issue.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Honolulu Advertiser, Sept. 22, 1976]

SUGAR: POLITICS AND PRICES

Politics is involved in President Ford's action increasing the tariff on foreign sugar.

That's not bad. In fact, you might say Hawaii is fortunate that election year politics helped drive home the plight of the U.S. sugar industry to Ford and Agriculture Secretary Earl Butz.

It helped that a dozen Republican senators, including Hawaii's Hiram Fong, called on Ford to take action. It also helped that Governor Ariyoshi and others at the Western Governor's Conference in Wyoming this week were making this an issue.

It is, in fact, an issue that's overdue. And, if Ford's action yesterday may bring relief in some degree, almost everyone seems to agree that more must be done to protect the U.S. sugar industry and American consumers from a damaging roller coaster of prices.

There may be more that can be done by Ford right away. The industry and others have called for the President to reduce the U.S. global quotas for imports as a companion action to yesterday's tariff boost.

At best, however, any action Ford can take now is buying time until Congress acts next session. Meanwhile, the industry here and elsewhere must make the best of a bad year that has followed two record good ones.

The point that must now be made in Washington and to the nation as a whole is that sugar provides a special case in two ways.

One is that it is not a free market commodity in most of the world. The U.S. is now the only major economy that does not protect its sugar industry in some major way.

The second is that the U.S. produces only about half the sugar Americans consume. It is in our national interest to maintain at least such a minimum domestic source.

Here parallels are drawn with oil where we have become increasingly dependent on foreign suppliers who can raise prices or cut off the flow.

The call is for legislation to replace the old U.S. Sugar Act which Congress and the Administration let die two years ago after it served both the industry and consumers for 40 years.

The need is for a modernized version that guarantees the U.S. industry a reasonable share of the market at reasonable prices and assures American consumers sugar at prices that don't skyrocket out of sight in times of world shortage.

Otherwise, we will all be riding that price roller-coaster and the kind of uncertainty that could destroy much of Hawaii's sugar industry in years ahead.

[From the Honolulu Star-Bulletin, Sept. 17, 1976]

SUGAR VERSUS EARL BUTZ

As a free-market man, feisty Earl Butz has an impressive record as Secretary of Agriculture.

In his four-year tenure, Butz has swept away all controls over what major crops farmers may plant and also killed most subsidies to protect farm incomes.

Now he is going after some remaining fringe subsidy programs, like peanuts, which happen to have a particular political significance this election year.

"Adapt or die," Butz once said, meaning that farmers must grow their crops more efficiently. He fends off critics by pointing out that U.S. farmers averaged $26 billion a year in income in the past four years compared with $11.9 billion in the last years of a Democratic administration, part of which came from public subsidies.

The reeling U.S. cane sugar industry is up against Earl Butz and his boss, President Ford, as it appeals for protection against red ink prices that have plummeted some 25 percent below the break-even point for growers in Hawaii . . . a loss rate that would drive them out of business if sustained.

Butz cheered when the Sugar Act expired at the end of 1974, and U.S. growers were left at the mercy of the world market for the first time in decades.

He is going to be a hard man to convert to sugar supports now. Neither a new sugar act from Congress nor presidential action to wall off the U.S. sugar market with quotas and tariffs is apt to appeal to him.

What case do Hawaii and other sugar areas have to argue against the Butz philosophy? A strong one, we think, based on both local and national interests, and not threatening to our national free trade position.

First, the United States now is the only major economy in the world that does not protect its sugar industry in some way. Eighty per cent of the sugar grown in the world is price-protected. Of the unprotected 20 per cent, the U.S. is by far the biggest market. Since the end of the Sugar Act we have become a world dumping grounds, where producers unload what they can't sell in price-protected areas.

Second, unlike wheat, sorghum and corn where we produce more grain than we can use. America produces only about 50 to 55 per cent of the sugar it consumes. Historically, most nations have tried to guarantee themselves an assured supply, thus the widespread use of protective barriers, even though the U.S. Department of Agriculture classifies sugar as a non-basic commodity.

Third, a continuation of the present depressed prices threatens destruction of the cane industries in Hawaii, Florida, Louisiana and Texas. Beet sugar growers can store seeds and rotate to other crops. Cane growers, who plant from stalk cuttings, don't and can't rotate. When cane areas shut down, they are apt to stay down.

Grain producers can warehouse their surpluses while they wait for better prices. Cane can't be stored. The expensive milling and refining process must be completed before it can be stored as sugar—a much more severe economic burden than the grain producers face with their surpluses.

In Hawaii there are simply no alternative uses for the 220,000 acres now planted in sugar cane. The troubles of finding alternative industries at Kohala on the Big Island and Kilauea on Kauai, where plantations did close down, are testimony to that.

Fourth, the U.S. consumer enjoyed far more stable prices for sugar during the years the Sugar Act was in effect than since. The rollercoaster highs and lows seen since 1974 would be avoided in a protected market.

As Gov. George Ariyoshi, our congressional representatives and sugar industry spokesmen consider an appeal for relief to President Ford and Congress, they have a tough task staked out for them but a strong case to argue.

1976: A YEAR OF PROGRESS TOWARD PASSAGE OF FULL EMPLOYMENT LEGISLATION

Mr. HUMPHREY. Mr. President, at the beginning of this year, I introduced what I believe is one of the most important pieces of legislation it has ever been my privilege to sponsor, the Full Employment and Balanced Growth Act of 1976. The crystallization of the form for this bill and the support for it coincided with an economy plagued with raging inflation and the worst recession since the Great Depression of the 1930's. The recession and the hesitant recovery we are now experiencing served to underscore the need for new policymaking machinery to insure that all Americans share in the prosperity which has been synonymous with America since its founding.

When Congressman AUGUSTUS HAWKINS and I introduced S. 50 and H.R. 50, we fervently hoped that the legislative process could be expedited to achieve passage of this historic legislation during the

30th anniversary year of the Employment Act of 1946. Yet, having been a Member of this august body for almost three decades, I was fully aware that a fundamental change in the making of economic and social policy would be a controversial and complex undertaking.

Mr. President, I have been involved in many efforts to improve the social and economic structure of our country—civil rights, food stamps, medicaid and medicare, housing, aid to education, conservation measures, public works, school lunches, social security and senior citizen housing, food for peace, and the Peace Corps. And while we were successful in the end in instituting these programs the legislative road was often tortuous and slow. They all required a period of gestation and refinement. That is how I would characterize this past year. The issue of full employment has assumed a position of priority in economic, social, and political debate. Many segments of society, from the many ardent supporters of S. 50 to its most critical opponents, have focused on the issue of full employment and how it can be achieved. This has been a valuable, necessary process. We have received many constructive suggestions on how the Humphrey/Hawkins bill could be improved. A number of those have been incorporated into a revised House version of the bill which I want to mention later.

Mr. President, today I want to review briefly the context in which this bill was introduced; the broad outlines of the current bill; the concerns of some of our critics; and the improvements and refinements that have already occurred and which will continue next year.

WHY DO WE NEED FULL EMPLOYMENT LEGISLATION?

During the thirty years since the enactment of the Employment Act of 1946, its famous mandate "to promote maximum employment, production and purchasing power," has become fully incorporated into the litany of national goals—to which all must give at least lipservice. Yet, the achievement of these goals has been only sporadic during the past 30 years. This is not to say that the Employment Act has not brought great benefits. The procedures established by the Employment Act have helped to prevent a repetition of the Great Depression. During most of its life, I believe, the Employment Act has served us well, but far from perfectly.

Yet in the past 5 years it has become increasingly clear that the comfortable and familiar institutions which have evolved under the Employment Act no longer serve us adequately in the 1970's. During the 1950's the unemployment rate averaged 4.5 and the rate of consumer price increase 2.0 percent per year. In the 1960's, the unemployment rate was 4.8 percent; the inflation rate 2.2 percent. In the first half of the 1970's, the unemployment rate has averaged 5.9 percent and the inflation rate 6.6 percent.

True, the worst is for the moment behind us. Both unemployment and inflation will be less in 1976 than they were in 1975. However, the 5 to 6 percent inflation and 7-plus percent unemployment expected for this year are a painful contrast to the 1950's and 1960's, imperfect as the performance of those decades may have been.

Even these tragically high unemployment and inflation rates mask the incredible losses that we as a Nation and we as individuals have suffered as a result of a poorly managed economy. The enormous waste of human and capital resources that results from excessive unemployment and unnecessary inflation is staggering.

WHAT HAVE BEEN THE ECONOMIC COSTS OF THIS RECESSION?

Consumers and business have lost $500 billion thus far in income and production that would have been theirs at full employment. Between now and 1980, the economy could lose an additional $800 to $900 billion because the economy will not be operating at capacity. This amounts to an income loss of over $6,000 for every man, woman and child in the United States by 1980.

The total loss in Federal, State, and local revenue from this recession could exceed $400 billion by the end of this decade.

In the depths of the recession, more than a quarter of our productive capacity was idle. Even after 12 months of recovery capacity utilization was below 80 percent.

The true number of unemployed far exceeded the 8.9-percent peak unemployment rate as conventionally measured. When discouraged workers and the part-time unemployed are included, the unemployment rate soared above 12 percent in 1975 and still remains close to 10 percent.

These numbers, as tragic as they are, do not fully reflect the more severe problems for many groups, and in different regions and cities. In recent months, in spite of the much heralded economic recovery we are supposedly experiencing, the unemployment rate has risen continuously. In August, the latest month for which data are available, the unemployment rate rose to 7.9 percent, the highest level reported this year. But the unemployment rate for teenagers was almost 20 percent; for black teenagers it was a whopping 40.2 percent. The rate of unemployment among all blacks was 13.6 percent. Among many blue-collar workers, unemployment was at 14 percent and in the construction industry, it exceeded 17 percent. Let me emphasize that these are the official unemployment rates. Just as the overall rate understates true unemployment, so the official rate for blacks or for black teenagers also significantly understates the unemployment problems of these workers and would-be workers. States like California, Connecticut, Florida, Michigan, New York, and Rhode Island have unemployment rates close to 10 percent. And in many of our central cities unemployment ranges upward from 15 percent.

Even if the economy grew 6 percent in real terms not only this year, but every year for the remainder of this decade, the unemployment rate would still be above 5 percent in 1980. By itself, growth—even at a rate which would be unprecedented historically over a sustained 5-year period—will only diminish, not eliminate, the waste of our precious resources. These losses and the failure of current policy to come to grips with high inflation and unemployment is the most eloquent explanation I can conceive of why we need to pass full employment legislation.

WHAT DOES THE HUMPHREY/HAWKINS BILL DO?

First, S. 50 establishes systematic procedures for setting specific quantitative targets for output, employment, and purchasing power. Second, all the appropriate agencies of government, including very importantly the Federal Reserve, would be required to follow policies designed to achieve those goals. Third, a time frame for achieving long-range goals would be developed through a sensible, democratic planning process.

The act sets a target of reducing unemployment to 3 percent of the adult labor force within 4 years of enactment. For the purposes of this legislation, we have defined an adult as anyone 20 years of age and over. This translates to an overall unemployment rate of about 4 percent. While as a nation we have lowered our sights substantially in the last few years, we must remember that in 8 of the years since 1947 we have achieved that goal.

Let me briefly summarize the provisions of S. 50 designed to achieve the goals of full employment, balanced growth, and stable prices:

First. A new cooperative process is created among the President, Congress, and the Federal Reserve for the establishment of annual, numerical economic goals. This will encourage the development of a unified annual economic policy. A firm commitment is also established to prevent any increase in the rate of inflation. This is a major goal of S. 50.

Second. New requirements are placed on the Federal Reserve to make it a full partner in national economic decisions.

Third. The President is required to determine the extent to which budget policy can be relied upon to achieve full employment so that Government spending does not excessively inflate the economy.

Fourth. A planning capability is provided for in the Executive Office of the President to give us a better idea of where the economy is headed over the long run and how we can most efficiently achieve full use of our human and capital resources.

Fifth. The act also provides for economy in Government measures to review and make recommendations for improvement of 20 percent of all Government programs and regulations each year.

Sixth. The act requires that work be substituted for welfare, unemployment compensation, and income maintenance spending to the maximum practical extent.

Seventh. Comprehensive anti-inflation policies are required in conjunction with the annual policymaking process, with an emphasis on increasing productivity and the supplies of necessities such as food and fuel.

Eighth. Provision is made for a range of employment programs that focus on structural problems of unemployment in depressed regions, States, and among groups in the labor force who have special unemployment problems, such as youth. A specific objective to drastically reduce youth unemployment is included in the bill.

Ninth. A comprehensive countercyclical employment program is required, with special emphasis on a grant program to stabilize State and local governments during recessions and thereby prevent contradictory fiscal actions at different levels of Government.

Tenth. After the private sector has been fully utilized, and all other provisions of this act have been employed, the Federal Government is responsible for insuring that the remaining unemployed above 3 percent adult unemployment are provided jobs.

WOULD THE HUMPHREY/HAWKINS BILL BE INFLATIONARY?

Let me say that there is no doubt that we face today an inflation-prone economy, one where price and wage pressure must be closely followed whether we pass full employment legislation or not. But the overwhelming evidence shows that a faster rate of real economic growth, which would achieve full employment, would be less inflationary than a slow rate of growth with the resultant idleness of human and capital resources.

In the early 1950's and again in the mid-1960's, increased production and employment were accompanied by lower rates of inflation. Our experience in late 1975 and 1976 is similar. Many businesses have been able to absorb higher material costs and higher labor costs with very little increase reflected in consumer prices, because of higher productivity. However, in writing this legislation, we anticipated that at some point in the process of achieving full employment, bottlenecks, price and wage pressures may materialize. To avoid this, the Full Employment and Balanced Growth Act utilizes a wide range of both unemployment and anti-inflation policies that will improve our ability to achieve full employment and reasonable price stability. These include measures which would yield less inflation per increase in employment than the exclusive use of general monetary and fiscal measures to attain the same increases in employment.

In addition, the bill provides these specified anti-inflation measures: Comprehensive information system to monitor and analyze inflationary trends; more refined use of monetary and fiscal policies; programs and policies to increase supply of goods, services, labor, and capital in structurally tight markets, with particular emphasis upon increasing the supply of food and energy; encouragement to labor and management to increase productivity; recommendations to strengthen antitrust laws and to increase compeition in the private sector. The bill also calls upon the President to make other recommendations for administrative and legislative actions to promote reasonable price stability.

The original Humphrey/Hawkins bill included a provision permitting the emergency use of export licensing—as in existing law—as one of our anti-inflation tools. This provision was simply a reaffirmation of the provisions in the Export Control Act. In order to simplify the bill and to asure that no attempt would be made to interpret this provision as anything other than a reaffirmation of existing law, the original provision dealing with export licensing has been deleted from the bill. The bill does not authorize any embargo or interruption of commerce. It is designed to encourage and promote the development of both domestic and foreign markets—the expansion of production, consumption, and exports.

HOW DOES S. 50 ENVISAGE MEETING OUR JOBS GOAL?

Not by massive federalized public employment, but by a mix of private and public sector job creation that is tailored to the skills and strengths of different sectors of the labor force and urgent national needs. Our clear order of priority under S. 50 would be:

First. Expansion of conventional private sector jobs, through improved monetary and fiscal policies, which would promote an economic environment in which private enterprise would be encouraged by the assurance of growing markets for its products and by greater stability and certainly in public policies. S. 50 would help restore confidence of both consumers and business by ending the stop-go economic policies of the past.

Improved training programs would make labor resources more attractive. And finally, there would be a multiplier effect of more stimulative policies, and of the human and capital investment promoted in other sections of the bill. As we all know, successful economic expansion feeds upon itself, and S. 50 aims to revitalize the private sector.

Second. Expansion of national priority jobs, with improved Federal assistance. These jobs would not be mainly public jobs, much less "public service" jobs. They would be mainly private jobs, as is clear from the nature of the priority needs cited in S. 50—housing, mass transportation, environmental improvement, health, education, and so forth.

Third. As a last resort, for those otherwise unemployed, either because of unavoidable swings in the economy or because of some skill deficiency, S. 50 would provide for reservoirs of public and private nonprofit jobs. Most of these jobs, which would only be established 2 years after enactment of S. 50, would be at the State and local level or in nonprofit private employment. Only the remainder would be Federal jobs.

HOW MUCH WOULD FULL EMPLOYMENT COST?

I see no reason to expect budget costs to exceed $8 to $12 billion, after we take into account the offsetting reductions which would occur in welfare, unemployment compensation, food stamps, and so forth; and the increase in personal and corporate income taxes. Let me give you an example of the magnitude of the costs incurred at the current level of unemployment. In 1976 alone, the U.S. Treasury will lose more than $50 billion in tax revenues and higher costs for income support because we are so far from achieving full employment.

The estimates I have made here are roughly consistent with those made, at my request, by the Congressional Budget Office. The CBO concluded that after 2 years of operation, a program to reduce unemployment to roughly 3.5 percent by 1980 would have a net cost in the range of $8 to $16 billion. The cost of reducing unemployment to the current 4 percent goal by 1980 would be somewhat less. I remind my colleagues that these costs are very small indeed when compared to the enormous losses in real output and income which we face in the absence of a coordinated policy to achieve full employment. As I mentioned earlier we will lose more than $800 billion between now and 1980 if we do not realize our growth potential, an income loss of over $6,000 for every man, woman, and child in the United States.

I commend this CBO study to my colleagues.

MODIFICATIONS TO THE HUMPHREY/HAWKINS BILL

Let me emphasize again that as the original sponsors of this measure, Congressman HAWKINS and I fully expected to benefit from the constructive suggestions of our colleagues both inside and outside Congress. The legislative process which we have witnessed has already helped to refine the bill, and will be continued next year when it is reintroduced. In the House of Representatives, the Education and Labor Committee has recently approved amendments to the bill which make the anti-inflation provisions even more specific. They have established an unemployment target of 3 percent for adults 20 years and over. The job reservoir program has been further refined to more accurately reflect the types of jobs and the skill and wage levels appropriate for this kind of program. I commend Congressman Hawkins for the Herculean task that he has undertaken and his skillful development of H.R. 50 in the House.

I anticipate that as the bill moves through the Senate next year, there will be further improvements. Since this legislation was introduced, I have maintained an open mind as to changes that might be made. I look forward to considering additional proposals next year.

Let me conclude by saying that this year has on the whole been a productive one in moving full employment legislation to realization. Our progress, of course, was impeded by the threat of a certain veto by the President. And unfortunately, some of our critics seemed much more interested in opposing our bill than in developing some constructive changes.

The time has come for the critics of the Humphrey-Hawkins bill of all political and ideological persuasions to stand up and be counted. Are they for full employment or not? Once they have answered this question, let them give us some constructive suggestions either on how our bill can be improved or on a workable alternative.

I am confident that most Americans agree with me that work is far better than the dole. Arguments about whether inflation or unemployment must be our priority, or whether jobs should be created in the public or the private sector—these arguments camouflage the true dilemma we face. And that is whether we want an increasing segment of the American public receiving income support through welfare and unemployment compensation, or whether we want a national policy which allows all Americans willing, able, and seeking work the dignity of earning their own incomes.

I believe in the work ethic, Mr. President, and I intend to build next year on the advances we have made in th 94th Congress to make full employment a reality.

Mr. President, I ask unanimous consent that the following documents be printed in the RECORD: A list of principal supporters of the Humphrey-Hawkins bill; an editorial and interview from Challenge magazine; selected editorials from newspapers and magazines and my responses; and a summary of the CBO study of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS FULLY ENDORSING S. 50

AFL–CIO.
Amalgamated Clothing and Textile Workers Union.
United Steelworkers of America.
U.A.W.—United Auto Workers.
Industrial Union Department, AFL–CIO.
National Council of Senior Citizens, Inc.
Building and Construction Trades Department, AFL–CIO.
Retail Clerks International Association.
United Farm Workers of America, AFL–CIO.
Coalition of Labor Union Women.
American Federation of Teachers.
National Federation of Settlements and Neighborhood Centers.
Americans for Democratic Action.
American Federation of State, County, and Municipal Employees.
Amalgamated Meatcutters and Butcher Workmen of America.
Oil, Chemical, and Atomic Workers International Union.
American Jewish Congress.
International Union of Electrical, Radio, and Machine Workers.
The Workmen's Circle.
United Association of Plumbers and Pipefitters.
Communications Workers of America.
Service Employees International Union.
International Ladies Garment Workers Union.
International Association of Machinists.
Seafarer's International Union.
International Union of Operating Engineers.
Fellowship Commission of Philadelphia.
National Farmers Union.
Jewish Labor Committee.

Organizations which have "endorsed full employment as a necessary goal and the principles of S. 50".

Boston Industrial Mission.
National Center for Urban Ethnic Affairs.
Union of American Hebrew Congregations.
Common Cause.
National Women's Political Caucus.
National Council of Negro Women.
National Urban League.
League of Women Voters of the U.S.
National Council of Churches.
N.A.A.C.P.
Consumer Federation of America.
Puerto Rican Legal Defense and Education Fund.
United States Catholic Conference.
New Careers Training Laboratory.
Americans for Indian Opportunity.
League for Industrial Democracy.
Martin Luther King Center for Social Change.
American Jewish Committee.
Opportunities Industrialization Centers of America.
Friends Committee on National Legislation.
Commission on Social Action of Reformed Judaism.
Center for Social Action of the United Church of Christ.
American Association of Retired Persons.
Clark County Welfare Rights Organization.
Environmentalists for Full Employment.

DO ECONOMISTS DISCOVER ECONOMIC LAWS OR ARE THEY PASSED BY CONGRESS?

Not wishing to prejudice anyone for or against the Humphrey-Hawkins bill, I will limit myself to a few casual remarks.

The reader will find the complete text and an interpretive interview with Senator Humphrey in this issue. It will be evident that the "Full Employment and Balanced Growth Act of 1976" is the most consequential social legislation to come along since the Employment Act of 1946. The bill is a plan for planning, and first of all, for planning full employment without inflation. It is a large generalization about the objectives of this country and how to reach them. If it becomes law, we will, in effect, have reached agreement on an experiment and a compact that will take us on a long journey into uncharted territory. This will give economists plenty to do even though they may think the doing of it is impossible.

There is no need to rehearse the old arguments about how much easier it is to arrange to have unemployment, inflation or both. Economists are past masters at these things. But it is always worth a reminder that the costs are intolerably high. The Joint Economic Committee has supplied us with some disquieting new figures. We have lost $500 billion in potential income and production in the late recession. We will lose another $800 to $900 billion between now and 1980. Federal, state and local governments will have lost $400 billion by then—if we fail to do better. You don't have to be a great champion of growthmanship to recognize how devastating all this is. It is small comfort that 90 percent of the labor force is still employed. We have turned onto a high cost road. If we cannot or will not get off it, that is an admission of failure. The price will become higher, not lower, as we go on.

You cannot legislate intelligence, of course. But you can legislate objectives, and a framework and a procedure for reaching them. This is how the bill should be viewed. The vast reservoir of intellect among economists can then be tapped to make sure that the provisions are applied wisely.

It will be a great tonic to the morale of the reader to know that the AFL–CIO is supporting the Humphrey-Hawkins bill. I hope that George Meany will not be embarrassed if I paraphrase Marx. Economists have interpreted the economy long enough. The point is to change it. That means less forecasting and more planning. This is the answer to the riddle in the title.

THE NEW HUMPHREY-HAWKINS BILL

Q. In March, a new draft of the Humphrey-Hawkins bill, "The Full Employment and Balanced Growth Act," was introduced in the Senate and House. Why do we have a new version now?

A. The original bill was always viewed as a preliminary vehicle for focusing discussion on full employment. In the course of hearings around the country, which Congressman Hawkins and I conducted, certain limitations in the original draft bill became apparent. First, the 18-month timetable for reaching 3 percent unemployment seemed too ambitious. It was a goal which would be difficult to achieve without destabilizing the economy, perhaps causing an acceleration of inflation. Second, the original Humphrey-Hawkins bill did not have a comprehensive set of economic and job-creating policies to achieve full employment. The goals were extremely ambitious and the means modest. To reach full employment it will be necessary to utilize the full range of economic policies at the federal, state, and local levels, and in the private economy. What was needed was a general economic policy bill, not just a jobs bill.

Finally, the earlier bill had a provision which allowed people who did not get jobs with which they were satisfied to sue the federal government. That seemed to be putting the cart before the horse—providing a legal guarantee before we set up the job-creation mechanisms necessary to provide the jobs.

Q. Why don't we discuss the new version section by section? The first deals with the establishment of goals, planning, and general economic policies.

A. It should be said at the outset that the bill is a general economic policy bill intended to supplement and strengthen the Employment Act of 1946. It begins by making a firm national commitment to full employment. The statement that refers to promoting maximum employment, production, and purchasing power in the 1946 Act is changed to say that it is the responsibility of the federal government to promote full employment, production, and purchasing power. We have put full employment back into the Employment Act.

Q. Why do you say "back"? Was it ever in?

A. It was in when the debate began on the Employment Act of 1946. The bill was initially called the Full Employment Act, but in the process of making congressional accommodations in order to achieve passage, "full" was dropped and it became the Employment Act of 1946.

Now, the second and major part of the policy declaration is that Congress declares and establishes the right of all adult Americans able, willing, and seeking to work, to opportunities for useful employment at fair wages. This is a major new commitment to work, an old-fashioned value that we have gotten away from in recent years.

The next section of the bill, dealing with annual economic goals and the Economic Report of the President, is an important modification to the Employment Act of 1946. That Act requires that the President look at trends and set general goals in the Economic Report. The difficulty is that the objectives have always been vague. There was little effort to coordinate the goals and policies of the President, of Congress, and of the Federal Reserve. This will always be the case to some extent, given the separation of powers embodied in our system. But it's possible to make institutional changes that will encourage the President, the Congress, and the Federal Reserve to resolve their differences over goals and policies much more systematically.

That's what this section does in several ways. First, it requires the President to set numerical annual goals each year for employment, production, and purchasing power. He has to submit these as part of the Economic Report. Second, the Federal Reserve must submit an independent report to Congress, indicating whether or not it will support the goals of the President, and what policies it will use to support those goals. If the Federal Reserve cannot support the goals, it must give full justification to the President and Congress. Finally, Congress is to look at both the President's proposals and the Federal Reserve report and establish annual numerical economic goals for the country. Congress will do this as part of the congressional budget resolution process, which is where goals should be set. In the last year Congress debated the size of the deficit, an instrument of economic policy, without looking at the objectives of that policy. As a result our economic policy has suffered.

Q. I have the bill in front of me, and I see a reference to long-term full employment goals as well as short-term goals.

A. What we have tried to do in this bill, in addition to clarifying our annual objectives, is to develop a long-range dimension to national economic policy and to provide the means of setting long-range goals for employment, production, and purchasing power. This requires that we look at the trends and problems we face over a longer time period and develop policies now to deal with those problems. This bill provides for long-range thinking on economic policy so that we can detect problems before they become crises, set new priorities, and develop alternative policies to achieve our aims effectively.

The other aspect of the long-range economic planning section which is particularly important is that it provides a way for us to look at particular industries and sectors and see what kinds of objectives and policies we ought to establish in those sectors. This will enable us to understand and manage the supply side of the economy much better.

Q. What is the function of the Full Employment and Balanced Growth Plan?

A. Goal setting in recent years has been dominated by economists who forecast what is likely to occur in the future based on trends in the past. There's considerable merit in that and we can't ignore trends. But national goals ought to go beyond the trends of the past. The purpose of setting national goals is to do better. National economic goals are not just technical considerations for economists, but are broad choices that should reflect the spirit and direction of a society.

Q. This bill makes full employment the primary national goal.

A. That's right. This bill says that full employment is more important than any of our other economic goals, because full employment of our human and capital resources is crucial to the overall performance of the economy and to the achievement of our other goals. So many of the problems that we've had in recent years are the result of our failure to reach full employment. We have people without productive roles, unused plant capacity, and large deficits because we have not had a fully employed economy. Even inflation, to some extent, has been the result of having an underemployed economy. The problems of cities, welfare, youth, education, crime—they're all linked to unemployment.

Q. Inflation will be a very irritating issue for economists, but let's hold that for a minute. What is the relationship between the President's Economic Report and the Full Employment and Balanced Growth Plan?

A. You can look at the President's Economic Report as part of an annual economic plan that the President submits to Congress each year. The Full Employment and Balanced Growth Plan complements the annual plan by extending that view several years into the future. It is also a means whereby the broad outlines of the Economic Report can be supplemented with considerably more detailed analysis of what's going on in particular sectors and industries.

Q. Why is this plan to be submitted annually?

A. That's a good question and one to which I'm not sure I have a definitive answer. It was thought in the formulation of the bill that it was best to submit the plan annually so that the President and the Congress could focus on it each year as part of their long-term view of what's going on in the economy, and be kept on their toes with respect to longer-term problems. But you can argue that such a timetable requires the President and Congress to do a great deal in a short time and for that reason you may want to do it every two years. There are advantages and disadvantages on both sides. But it was our best judgment when we completed the bill that we ought to try to do it every year.

Q. The bill requires the Council of Economic Advisers to prepare the plan, but at present the Council has three members and its staff is small. Yet the bill doesn't say anything about enlarging the Council.

A. It's not quite right to say that the plan will be prepared just by the Council. The President prepares the plan with the assistance of the Council of Economic Advisers, and in consultation with the Office of Management and Budget, using the full resources of the federal government. The Office of Management and Budget would play a large role in the formulation of the plan. As you know, they have a large staff that makes a detailed review of government activities and their impact on various parts of the economy. So you have quite a lot of additional staff there. Beyond that, it's clear that the Council of Economic Advisers would have to be substantially enlarged in order to fulfill the mandate of this new act. How much larger is difficult to say until we have worked out the precise guidelines for the plan itself.

Q. One more question with respect to this part of the bill. We are going to need a tremendous amount of detailed data and information on the various sectors of the economy. I don't see any provision for obtaining this information. In the Humphrey-Javits bill there is a Division of Economic Information. Why was this left out?

A. You're right that we need much better information if we hope to do an effective job of economic planning in this country. I think that the bill provides a sufficient mandate to gather all the information that will be needed. If it does not, then the bill should be strengthened to put more emphasis on information and analysis.

Q. Now this section of the bill has a vital element. It calls for obtaining a 3 percent rate of unemployment within four years after passage of the bill. That looks like a tremendously difficult objective.

A. It's a very ambitious goal. It means that you need to get the adult unemployment rate down to 3 percent by 1980. We haven't performed that well in many years. Having said that, however, it is important to emphasize that this bill provides new policies to achieve these ambitious goals. If we were to use only aggregate monetary and fiscal policies to try to achieve 3 percent adult unemployment in that time period, we would not be successful. But Title II has a broad range of carefully targeted employment programs to get at unemployment in difficult pockets of the economy.

Beyond that, the bill requires the President to make a formal report to Congress in the first year indicating any obstacles to the achievement of the goal and, if necessary, proposing corrective economic measures to see that the goal is attained.

Let me add this. My judgment is that you'll never attain 3 percent unemployment unless you set it as a goal. You won't even come close. The purpose of a goal is to measure performance. The 3 percent figure isn't just a figure on unemployment. It's a way of disciplining ourselves to raising productivity; to improving our tools of industry; to adopting more sensible monetary, credit, and interest policies; to taking a good hard look at the tax structure. Setting a tough goal is a way of compelling the government to take the measure of what it really has to do instead of being satisfied with a sloppy, lackadaisical effort.

Q. There are two procedures for reviewing the Full Employment and Balanced Growth Plan, one by members of the cabinet and other senior members of the administration and the second by the governors.

A. The procedures for cabinet review are straightforward and quite similar to cabinet review of other comprehensive federal policies. All the departments, agencies, and regulatory commissions that are involved in activities which have a substantial impact on the economy in the context of the long-range plan are to submit reports to the Council of Economic Advisers, indicating the extent of that interaction. After that's done and the President has reviewed a fully coordinated plan, then the plan is sent out to the governors at the same time that the President sends it to Congress. That's a little unusual, but you are not going to have successful national economic planning unless there is widespread discussion and debate at the state and local levels about what's in the plan. Economic planning is not just economic forecasting and it's not just economic policies. It really has to do with building a consensus about the direction in which we want our society to move in the future. And so the bill calls for hearings at the state and local levels, out of which should come some important input on how the plan ought to be modified as it moves through Congress.

Q. The bill has two very important sections on fiscal and monetary policies and inflation and it deals with these subjects within the framework of planning as described in this bill.

A. The emphasis in the bill in the first instance is on using fiscal policy to the maximum extent that we can to achieve full employment. But it recognizes that fiscal and budget policies alone are not adequate to attain full employment. If we relied only on those policies, we would simply be pumping up overall demand far more than the economy could tolerate, which could generate additional inflation. So in the fiscal policy section there is a formal requirement that the President determine the extent to which fiscal policy can be relied on to achieve full employment. We will then know to what extent the supplementary job creation policies of Title II will have to be implemented.

On the subject of monetary policy, the President has been silent in the past when making his economic presentations. He simply left monetary policy to the Federal Reserve Board. This bill requires the President to make specific recommendations with respect to monetary policy and to correlate them with fiscal policy.

Q. But doesn't that still leave monetary policy to the Federal Reserve Board and only require them to explain what they're doing?

A. Yes, it does. And it still leaves the Federal Reserve an independent institution managing the nation's day-to-day monetary affairs.

Q. How can this be justified in view of the aims of this bill?

A. You don't have to destroy the overall independence of the Federal Reserve in order to encourage it to develop policies and programs which are in line with the general economic goals of the President and the Congress. You have to remember that Arthur Burns has consistently said that the Federal Reserve would do its best to fulfill any legal mandates on goals from the Congress.

Q. Wouldn't it be better to call on Congress to set limits on monetary policy within a given period of time?

A. No. I think you and I both know that it would be profound folly for Congress to try directly to regulate monetary policy. It's a very complicated technical area which Congress doesn't understand well and which it would not have time to handle on a day-to-day basis. It would cause chaos to have Congress setting daily or monthly monetary policies. What Congress ought to do is to set basic national economic goals, to make those explicit, and to require the Fed—to the maximum extent consistent with maintaining its general independence—to achieve those goals.

Q. A lot of people are going to be troubled about the question of inflation and there is a section here that deals with that problem.

A. I think that the inflation section is a step forward in existing anti-inflation policies. At the present time the President is not required to make any formal recommendations on inflation and we've really had very weak anti-inflation policies for a number of years. This bill requires the President to submit, as part of the annual Economic Report, a comprehensive set of recommendations on anti-inflation policies. These run all the way from the proper use of monetary and fiscal measures to specifically targeted policies to increase supply in structurally tight markets such as energy and food. This section also requires the President to manage the export of critical materials and to develop new techniques for increasing U.S. productivity. Finally, the bill has a backup provision urging the President to take whatever other administrative and legislative actions are necessary to promote price stability.

Q. Any reference to wage-price controls is notably absent. Surely the authors of the bill are aware of the phenomenon of administered prices and wages.

A. That's why there's a strong statement on antitrust policy and on improvement of productivity. And there's nothing in this bill to prevent the President from using stronger means to deal with administered prices if necessary. As far as controls are concerned, their usefulness is debatable and I would certainly question giving the President authority to implement them at present. My judgment is that this issue will be looked over very carefully in committee. It may well be necessary to have an income policy for industries where there's an opportunity for price-rigging. It's been recommended that we might have a delay period before certain wage and price increases are made. But we didn't put any such provisions in the bill because we would like to see if we can do the job without them. That's my preference. If we get cooperation from industry and from labor, we can succeed. If we don't, then the public interest will have to be served with executive cajoling and persuading, and with a much more effective Council on Wage and Price Stability, which can use its subpoena power and bring publicity to bear to enforce far better self-discipline in administered price industries.

Q. This title of the bill finishes up with the establishment of an Advisory Committee on Full Employment and Balanced Growth. Could you describe how that Committee is set up and what its functions will be?

A. The purpose of that Committee is to bring a broad range of private opinion into the workings of the Council of Economic Advisers as they fulfill their responsibilities under this act, particularly with respect to the Full Employment and Balanced Growth Plan. It's an effort to open up the policy-making process at the national level, which is something that I believe is very important.

Q. In particular this section authorizes the Council to establish regional and industry advisory subcommittees to furnish advice and assistance.

A. That kind of regional and sectoral emphasis can be quite useful. French planning, for example, has been quite successful when it has focused on problems of particular sectors. We have had some of the same payoff in this country in the efforts of John Dunlop with respect to the construction industry.

Q. Would it be fair to say that the Humphrey-Hawkins bill incorporates a large part of the Humphrey-Javits "Balanced Growth and Economic Planning Act"?

A. Part of the genesis of this bill is the Humphrey-Javits planning bill. What we attempted to do was slim down that bill and put it into the context of a broad range of national full employment policies.

Q. You have actually combined the Humphrey-Javits and Humphrey-Hawkins bills, which means that you have combined the issues of planning and full employment.

A. In large measure that is true. Not only is that the correct thing to do on its merits, but it significantly strengthens the political appeal of the bill. Still, it may be appropriate to treat some aspects of the planning issue separately.

Q. There's one notable feature of the Humphrey-Javits bill that's left out of the Humphrey-Hawkins bill, and that is an Economic Planning Board. The functions of an Economic Planning Board are now apparently lodged mainly in the Council of Economic Advisers and in a subordinate way in the Office of Management and Budget. Is that a correct observation? If so, what is the reason for doing this?

A. That is a correct observation, and the reason for doing it was principally to utilize the existing institutions of the federal government. When we stepped back and took a look at what we had done in the Humphrey-Javits bill, although we could see some advantages to having a completely separate institution for planning, there were some disadvantages in segregating it from the Council of Economic Advisers and the Office of Management and Budget. We wanted to avoid breaking the line of responsibility and authority in the general area of economic policy, and we wanted to avoid creating a new government institution. For those two reasons, we decided to consolidate short- and long-run economic policy-making in the Council of Economic Advisers.

Q. Title II deals with countercyclical, structural, and youth employment policies. This section provides measures to supplement aggregate monetary and fiscal policies. It deals with microeconomic issues and the structure of the economy. Could you tell us the philosophy behind this part of the bill and what particular programs are envisaged?

A. Title II rests on the basic intellectual premise that monetary and fiscal policies cannot by themselves achieve reasonably full employment and price stability. We need a series of carefully targeted employment programs that complement the aggregate policies and get to the pockets of unemployment. In a sense you can think of Title II as a series of policies to close whatever employment gap will remain after we've used monetary and fiscal policy and the full strength of the private sector to the maximum extent possible without aggravating inflation.

Q. This title is organized in a way that requires the President to submit six separate legislative proposals to Congress over periods of 90 to 180 days, each dealing with a specific issue. It might be useful if we reviewed those six proposals.

A. That's fine. The first section requires the President to take all existing and proposed countercyclical employment policies, such as countercyclical public service employment, countercyclical state and local grants, and unemployment insurance, and to submit to Congress a comprehensive strategy for dealing with high levels of unemployment caused by recession. A program of that kind would be automatically phased in and out in an effort to moderate the business cycle.

Public works have been criticized because it takes too long to gear them up. This bill would have a shelf of public works, ready to be used, triggered into action when unemployment rates start to go up, and automatically phased out when unemployment rates fall.

The next section goes on to emphasize that it is essential to develop a permanent countercyclical grants program to stabilize state and local government budgets during periods of recession. In the last major recession many state and local budgets were forced into deficit because of falling tax revenues and rising expenditures. As a result, governments tried to cut expenditures and raise taxes, which caused state and local budgets to move in exactly the opposite direction from national fiscal policy. So the principal purpose of this section is to provide the means to coordinate national, state, and local fiscal policies.

Q. The third piece of legislation required deals with regional and structural employment policies.

A. In addition to the countercyclical unemployment problem that we face, an even more difficult problem is caused by declining or chronically depressed regions of the country where production facilities are insufficient to keep people employed. A similar problem exists where we have groups in the labor force that for one reason or another are inadequately prepared to fill the kinds of jobs that are available. This causes persistent pockets of unemployment, regardless of the general state of the economy.

I might just go on to add that as a part of the requirement to meet regional structural unemployment problems, the federal government is required to develop a domestic development bank for the purpose of encouraging development in chronically depressed areas, by maintaining public facilities, and by providing credit to private firms to locate plants in those areas.

Q. Yes, I've listed that as my fourth legislative requirement. Are there no existing lending agencies that can perform this task?

A. You can always modify existing agencies to do this, and we really have not established a brand new bank here. We simply have given the President a mandate to develop an institutional arrangement for providing this economic assistance. If he decides that an existing institution can do the job, his proposal, of course, will be examined.

Q. The fifth piece of legislation required is a comprehensive youth employment program.

A. As you know, this is one of the critical structural employment problems we face. The total number of teenagers and young adults who were jobless in January 1976 was 3.7 million, almost half the total number of Americans unemployed. Given the size and special nature of this problem, we needed to focus on youth and pull together all the training and job creation efforts that are now being made or contemplated in fragmented programs.

The manpower studies that have been done, not only by the Joint Economic Committee and other committees of Congress, but by outside professionals, show that youth unemployment today is to a large degree a problem separate and distinct from adult unemployment. It's very difficult to bring the number of young people that are available for gainful employment into the private market. Therefore we direct our attention in this bill towards a pervasive, persistent, nagging problem of youth unemployment that is not only an economic liability, but a social disaster.

Q. There's a section here that looks very much like a new Civilian Conservation Corps. It talks about job opportunities in a variety of tasks, such as conservation, public service, cleaning up our cities, and so forth. Did the sponsors particularly have in mind something like the CCC?

A. Yes, definitely.

Q. Before we come to the sixth piece of legislation required of the President, let's discuss the Full Employment Office and the reservoirs of employment projects.

A. The Full Employment Office and reservoirs of employment projects are designed to provide a backup to insure that if, after a comprehensive effort has been made to achieve full employment through the private sector and through other provisions of this bill, we find that there are still some people who are unable to obtain employment, then these people are provided with useful employment opportunities. The President is required to phase in these projects in conjunction with the annual employment recommendations required in the earlier portion of the bill, in order to achieve a rate of adult unemployment not in excess of 3 percent within four years.

Q. The sixth piece of legislation that the President is required to submit to Congress deals with the integration of employment and income maintenance programs.

A. This is a very important section because it tells you a great deal about the philosophy of the bill. The spirit of this bill is to substitute work for welfare. It's designed to bring a halt to the practice of simply extending unemployment compensation longer and longer as a way to buy off the unemployed and to prevent them from becoming socially disruptive. It requires the development of policies to substitute work for income maintenance to the maximum extent feasible, given the limitations and special problems of the people involved.

Q. Before we go on to Title III, let me ask you a general question. Title II envisages six really comprehensive and far-reaching pieces of legislation that are to be submitted to Congress by the President between 90 and 180 days from the time of the passage of this bill. How can the President accomplish such an enormous task within such a short period of time? Why did the sponsors think it better to outline the principles for these six pieces of legislation rather than providing the details in the present Humphrey-Hawkins bill?

A. With respect to the first question, the President, through his thousands of executive branch officials, ought to be working on these problems now and should have been at work on them in the past. So it's not as if the executive branch is beginning from point zero. At least I hope not. Beyond that, this bill will be discussed in Congress for many months, giving the President and his advisers ample time to get ready to meet these requirements. However, if any of these timetables is too tight, that's a small problem which can be resolved during the course of committee hearings.

With respect to the second question, originally there was an effort to write in details of the programmatic mandates that are now in this bill. That was abandoned because it became clear that you would lose the perspective that you could get by writing a general economic policy bill. You would have so much detail in each section of the legislation that you couldn't see the important general framework that was being set up by this act. Another reason for not doing it is that if we had written in all those details, the bill would have become a legislative monostrosity, requiring referral to most of the committees of Congress, and embroiling us in jurisdictional disputes that would have prevented us from passing any legislation at all.

Q. Title III deals with procedures for Congressional review. Will you elucidate these?

A. Title III establishes general procedures and policies to give Congress a full partnership in the formulation and establishment of all the economic policies that are required in the earlier sections of the bill. Congress must review and eventually establish economic goals on an annual basis, through the Full Employment and Balanced Growth Plan, the budget resolution, the reports of the Federal Reserve, and, of course, all the legislation that would be submitted by the President as part of Title II. This review would take place through many committees of Congress with the lead being taken by the Joint Economic Committee and the Budget Committees, but with other committees playing roles, depending upon the particular jurisdiction of the matter involved.

Q. The Joint Economic Committee plays the principal part in this?

A. The Joint Economic Committee plays the principal role in general review of the act, the setting of annual goals, the review of the plan, and the submission of concurrent resolutions to the floor of the House and the Senate, approving, rejecting, or modifying the plan.

Q. What happens if the President's proposed plan is modified or rejected? How do you get coordination between the President and Congress?

A. Two ways. First the resolution itself will be sent to the President and I think in most years you'll have a President attempting, even though it will not be required by law, to make an accommodation with Congress. Beyond that, and in a sense more important, Congress will use the concurrent resolutions on a plan as a guide to its legislative activity, and it's through legislation that Congress controls the executive as well as national economic policy. And so by this device long-range policies will be better coordinated.

Q. How much detail or generality do you see in the plan?

A. We don't have a complete answer to that yet. We need to study the issue carefully as we set up planning appropriate for the United States. My own bias is toward a rather short and simplified plan to be taken to the floor of the House and Senate, with greater detail embodied in a supplement to the plan. In that way, a member of Congress can understand and debate the priorities and policies in the plan.

Q. There is one other institution established in this bill, a Division of Full Employment and Balanced Growth in the Congressional Budget Office.

A. The purpose is to bolster the staff of Congress in dealing with the complicated set of requirements under economic planning and to ensure that there is adequate technical assistance in developing, reviewing, and modifying the plan.

Q. What kind of support does this bill have?

A. The support for the bill is already astonishing. There is a coalition of labor, business, church and other groups including the AFL–CIO, the Full Employment Action Council, the UAW, the National Farmers Union, and many others. In Congress we have support on the House side from the Speaker of the House, Congressman Bolling, Reuss, Perkins and over a hundred others. On the Senate side, even though we have not yet circulated the bill, we have eight co-sponsors at the present time, including Senators Williams, Nelson, and Javits.

Q. My last question is this. This bill really attempts to chart a new course for economic policy-making in this country, I think you agree. But there are many economists who undoubtedly will be skeptical about the objectives or at least about their feasibility. What's your reaction to this kind of skepticism?

A. There are two answers. First, I believe we have had a climate of negativism and failure for so many years that many of our intellectual leaders have lost their nerve and sense of creativity. We have been putting much of our energy into explaining underachievement and too little into achievement. This bill does chart a new course for economic policy that challenges th currently accepted ideas. That challenge is badly needed if we are to come to grips with the economic problems our system faces.

Beyond that, we ought to have the grace and good sense to be modest about what we have presented. Any bill that has just been introduced can be improved. I hope we can get constructive suggestions on the bill in the course of committee hearings, and perfect what has been proposed.

A STRATEGY FOR PUTTING AMERICA BACK TO WORK

(By HUBERT H. HUMPHREY)

Most Americans have begun to realize that there is something fundamentally wrong with our nation's economy.

During the past five years, U.S. economic growth averaged less than one-half its historical rate. As a result, the nation lost some $500 billion in production of goods and services in the last five years alone. And we can expect to lose another $600 to $900 billion by 1980.

That astounding waste lies at the center of our economic problems. And coming to grips with it requires fundamental reform of the way in which we manage our economy. It requires that this nation answer the basic question of whether or not it is an important function of government to assure that all citizens willing and able to work are given an opportunity to do so.

The Full Employment and Balanced Growth Act of 1976, authored by Rep. Augustus Hawkins and me, is one proposed answer to that question. This measure, cosponsored by many other members of both houses of Congress, proposes a general economic policy framework and a package of programs that vary from year to year depending on economic conditions and decisions by Congress and the President. This flexibility is a major strength of the bill.

The Act is based on two simple, yet profound, premises: First, that work and productivity are better than welfare and waste; and, second, that the full use of our human and capital resources is in the best interest of all the American people.

The principal thrust of the Act is to encourage the creation of job opportunities in private enterprise through tax, credit and budget policies that will stimulate the private sector in a balanced and sustainable way.

Many of the auxiliary programs, such as the incentives program to revitalize depressed areas, the skills-training and job-placement grants and loans from the development financing institutions, are specifically designed to create jobs in private industry. Moreover, the programs for emergency public works and community development would provide jobs in private business by channeling funds to private contractors. Additional activities under the bill will supplement and not supplant the private sector. It is *not* a public service jobs proposal.

The Act sets an initial objective of reducing unemployment among adults to not more than three per cent within four years. This is an ambitious goal, but it can be done. The President is required to inform Congress of his views on this goal and to recommend any changes he believes are needed.

The Act also provides for a new cooperative relationship whereby the President and the Congress, working with the Federal Reserve Board, would establish explicit, numerical goals each year for employment, production and purchasing power. That is the most crucial reform in the legislation.

Last year, by contrast, instead of setting positive goals that would challenge economic policy, the debate degenerated into nothing more than a superficial discussion of the size of the federal deficit and the rate of increase in the money supply. No progress was made and policy suffered.

In addition, the bill places new requirements on the Federal Reserve to make its credit and interest rate policies respond to these national economic policy decisions. If they do not, the President can make recommendations to the Board and Congress to ensure closer conformity. Dr. Arthur Burns, Federal Reserve Board Chairman, has stated repeatedly that Congress has been remiss in failing to set specific economic goals that the Board could strive to achieve.

The Act further recognizes that renewed inflation may become a serious threat as our economy moves toward full employment and production. Therefore, it requires the President to submit a detailed and comprehensive set of anti-inflation policies to Congress every year. This program must include an inflation information system to alert the President and Congress to emerging inflation problems, a program to expand the supply of goods, services, labor and capital in tight markets, and recommendations to strengthen anti-trust enforcement and to increase competition. Furthermore, the President is required to recommend *any* administrative or legislative actions he feels are necessary to promote reasonable price stability.

I disagree with those who claim that low unemployment means high inflation. In the 1960s inflation averaged only 2.3 per cent and the unemployment rate averaged 4.8 per cent. In the last few years we have seen that as unemployment came down from the 9 per cent level, inflation was cut in half—from about 12 per cent to 6 per cent.

This bill is not intended to provide all of the answers to every economic situation that might develop. But it does face up to the crucial need to streamline government and make it more efficient and responsive.

It requires the Congress and the President to undertake a complete review of all existing government rules and regulations to determine which still serve the public interest and which should be eliminated. And it further requires them to carry out each year an in-depth evaluation and review of 20 per cent of the dollar volume of existing federal programs. Thus, all government programs would receive a special intensive evaluation at least once every five years, thereby giving Congress and the executive branch the information necessary to amend, extend or eliminate programs.

As a result, the bill does what many people only talk about. That is, it faces up to the problems of overregulation, excessive bureaucracy and programs that don't work or cost too much.

The Act also calls for more systematic and structured long-range planning. It became obvious with the energy crisis and food price explosion of the mid-1970s that we must do a much better job of anticipating future problems, their economic impact and what to do about them. The bill allows us to look ahead.

Beyond these measures, I am convinced that economic policy must be broadened to treat systematically structural problems that impede growth, employment and price stability. The bill reflects this conviction and would require a range of supplemental policies:

—a comprehensive youth employment program to provide jobs, training and employment services to young people who are unable to find work without assistance;

—a financial institution responsible for encouraging private and public investment in economically depressed regions, economic sectors and inner cities; and

—a program designed to correct federal tax, spending and employment policies that have undermined the economic strength of certain regions and areas of the country.

The Act recognizes that public policy has responded much too slowly during periods of economic instability and seeks to eliminate this problem with a comprehensive countercyclical manpower program, including such elements as accelerated public works, community development, anti-recession support to states and local governments, and emergency public service jobs. These programs are designed to begin and end automatically as economic conditions warrant.

Finally, the Act creates a new Full Employment Office in the Department of Labor. It is required to assist all those able and willing to work to find decent jobs. A reservoir of useful publically financed jobs will be available for those who have no other employment opportunities, up to the limits of the annual numerical employment goal set by Congress.

The direct cost of authorizing the Act is less than $50 million to establish the general policy framework for full employment. The indirect costs—that is, those determined by subsequent legislation to fulfill the mandate of the Act—will be arrived at each year within the goal-setting process.

Assuming a normal economic recovery, I see no reason to expect indirect budget costs to exceed $8 to $12 billion, after taking into account the drastically decreased costs of welfare and the increased revenues from taxes. In contrast, under present policies, excessive unemployment in 1976 alone will cost the U.S. Treasury more than $50 billion in lost tax revenues and increased costs for unemployment compensation, food stamps and welfare.

The Full Employment and Balanced Growth Act embodies the best in current thinking about how to ensure full production in our economy and modern coordinated policy-making in our government. Undoubtedly, it will be refined and improved during debate, discussion and committee hearings. But the strategy set forth in the Act provides our best chance for sustaining a healthy economy while providing the greatest opportunities for productive and constructive work to all Americans.

[From the Minneapolis Tribune,
June 16, 1976]

HUMPHREY-HAWKINS: A FLAWED BILL

Jimmy Carter supports the Humphrey-Hawkins bill in principle. As the likely Democratic nominee for president, he could hardly object to the goals spelled out in the bill's title, the Full Employment and Balanced Growth Act. But the qualifying phrase "in principle" means that he sees pitfalls in some of the bill's provisions. Carter is in good company. Although the legislation has become something of a loyalty test for Democratic politicians, many Democratic economists consider it seriously flawed.

Serious though their concerns are, they pale before the expressions of Republican horror, principally at the elaborate economic planning process the bill envisions. That strikes us as an overrated threat, which does not deserve the scare talk coming from otherwise sensible politicians like Minnesota Rep. Albert Quie. If enacted, the bill would "put the federal government totally in control of all aspects of American life," Quie has said.

Instead, we think, the bill would prove too cumbersome. The Humphrey-Hawkins assumption is that the administration, Federal Reserve System, Congress and various advisory groups would reach consensus each year on the right levels of employment, production, growth and purchasing power. Experience suggests that such agreement is not much more likely with a legislative mandate than without one.

But the bill itself sets some specific goals, including 3-percent unemployment and, for those unable to find work in the private market, government jobs at the highest prevailing rate for the work involved. These are the provisions that furrow the experts' brows.

The 3-percent requirement, discussed in this space on May 26, is unrealistic because the country has never been able to achieve that rate of unemployment for many years running. Attempting to do so, the economists believe, would generate a wage-price explosion. One means of avoiding that is to couple more realistic unemployment targets with federal manpower training and employment programs.

Under the Humphrey-Hawkins bill, though, government jobs might do little for over-all employment, Charles Schultze, budget director in the Johnson administration, points out that in many cities local-government jobs pay more than comparable jobs in industry. Under the bill, a worker could quit a private job and be eligible for work at the local-government rate in federally provided employment.

All this indicates that the Humphrey-Hawkins bill needs extensive revision. Although earlier congressional enthusiasm for passing it now seems to be subsiding, some of its key provisions have been adopted by the Democratic Party's platform committee. Carter's expressed desire for a platform that he can unreservedly support suggests that such points as the 3-percent unemployment requirement may be changed to more practical form before being adopted at the national convention. Doing so would give the Democrats a firmer foundation for the economic-policy campaign debate to which the country is entitled.

JUNE 18, 1976.

Mr. CHARLES BAILEY,
Editor, Minneapolis Tribune,
Minneapolis, Minn.

DEAR MR. BAILEY: On June 16, the Tribune carried an editorial criticizing certain aspects of the Full Employment and Balanced Growth Act of 1976 which I have introduced in the Senate and Representative Augustus Hawkins has introduced in the House.

Though I disagree with your objections to the bill, I nevertheless readily acknowledge that your criticism is constructive and I welcome it in the interests of furthering both public debate on the proposal and increased public understanding of its provisions and the reasons why they are needed.

Because the Nation's economic growth rate averaged less than one-half its historical level during the past five years, we have lost some $500 billion in the production of goods and services during that time. If we continue on the present do-nothing course of the Administration we will lose another $600 to $900 billion by 1980.

This is a staggering and needless shortfall.

The Full Employment and Balanced Growth Act establishes the framework and procedures by which the Administration and Congress would, as a first and continuing priority, assess the condition of the economy and develop and implement policies and programs to reduce adult unemployment to 3 percent of the labor force within four years following enactment. The initial emphasis of the bill directs that fiscal and monetary policies be designed to establish and sustain the economic conditions that will make it possible for business and industry to maximize their resources for the sake of creating the new job opportunities necessary to reach this goal.

When necessary, and only as long is it is necessary, the gap between private sector performance and the employment goal of the bill would be filled with job producing Federally funded grants and public works and facilities projects for State and local governments. A large part of these expenditures would produce private sector jobs through construction company contracts and the related increased sales of materials suppliers and supporting service companies. Federal funds could also be made available for those types of public service employment opportunities that can stand the test of useful need.

To further assure carrying out the purposes of the bill, youth job training programs could be conducted to help meet the demand for skilled private sector workers and thus dampen inflationary tendencies.

Rather than being cumbersome, as you have claimed in your editorial, the design of the bill allows for the continual orchestration of an array of actions.

To the fullest extent possible, Federally funded programs would be implemented on a selective basis, targeted at those regions and communities where the need is greatest. Thus maximum benefits would be assured while inflationary tendencies would be minimized.

The bill itself does not authorize or fund any specific programs to achieve a full employment economy. It establishes the framework and procedures by which the Administration and Congress, on a future year to year basis, would develop and authorize any one or any series of these alternatives to reach the employment goal while maintaining reasonable price stability.

You have also questioned the validity of the 3 percent adult unemployment goal on the grounds that joblessness has never been held to that level on a sustained basis and that if we were to do so it would be at the cost of severe inflation. This posture ignores the fact during the past two years we have seen 9 percent unemployment and double digit inflation. The key to stable prosperity is optimum utilization of plant and equipment and increased productivity.

The Congressional Budget Office (CBO), in an analysis of the bill, estimates that efforts to reach a full employment economy for workers 18 years and older by increasingly aggregate demand would raise the level of inflation by roughly 1 percentage point by 1980, or 2 percentage points by 1982, figures which translate into an annual inflationary increase of about 0.4 percentage point. Moreover, the CBO study indicates that even these estimates are likely to overstate the inflationary impact of the measure because they do not take the numerous anti-inflation measures the legislation contains into consideration.

How much will the bill cost? CBO estimates that after 24 months the cost of reaching the unemployment goal would have a net cost in the range of $8–$16 billion after corresponding cutbacks in welfare and unemployment compensation payments are considered along with greater tax revenues stemming from increased employment. Contrast this with the $20 billion price tax on "extra" unemployment expenditures due to the present high levels of joblessness.

Your editorial suggests public service employment jobs at prevailing market wages, provided under the legislation, would prompt workers to leave lower paying private sector jobs. No convincing case has been made for this point. The level of prevailing wages for comparable work as is specified by the bill, is established more by the private than the public sector in virtually all market areas.

Furthermore, there is no strength in an argument that favors very inflationary welfare and unemployment insurance programs at the cost of less inflationary public service employment programs paying people to perform useful work.

Faced objectively, there is nothing radical, let alone alarming about the Full Employment and Balanced Growth Act. It says, in essence, that the President and Congress shall coordinate their efforts to plan and carry out policies and programs needed to reach and hold prosperity and price stability.

What real alternative do we have but to strive to meet this challenge?

The effort to do so includes a thorough debate about the provisions of the legislation. The bill is not perfect. It can be improved and will be as it continues to move through the legislative process. In this respect, your editorial and all constructive criticism serves the Nation well.

Best wishes,

Sincerely,

HUBERT H. HUMPHREY,
Chairman.

AUGUST 4, 1976.

THE EDITOR
Newsweek Magazine,
444 Madison Avenue,
New York, N.Y.

DEAR SIR: Milton Friedman's recent column misses the point of the Humphrey-Hawkins bill. We are not talking in the Humphrey-Hawkins bill about trading away jobs in the private sector for jobs in the public sector. The more than seven million workers now unemployed attest to the failure of the private economy alone to absorb these workers.

Some of Professor Friedman's more conservative colleagues have come to the realization that a balanced economic growth policy, which encourages a strengthened private sector, can and should be appropriately combined with limited public and private job creation by the government. Even Dr. Arthur Burns, Chairman of the Federal Reserve and a respected conservative economist, acknowledged recently that "a wise government will always strive to create an environment that is conducive to high employment in the private sector. Nevertheless, there may be no way to reach the goal of full employment short of making the government an employer of last resort."

The time has come for the critics of the Humphrey-Hawkins bill of all political and ideological persuasions to stand up and be counted on this issue. Are they for full employment or not? Nowhere in his article does Professor Friedman even indicate that he supports full employment as a goal. Once our critics have answered this question, I suggest they give us some constructive suggestions either on how our bill can be improved or on a workable alternative.

It is about time that critics stop using the shibboleths of inflation and government planning as reasons for opposing full employment legislation. In a constructive dialogue, many of their concerns can be dealt with.

I believe, and I am confident that most Americans agree, that work is far better than the dole, for the individual, for his family and for the nation. The choice is not between the public and the private sector, or between inflation and full employment; the true choice is between income support through welfare and unemployment compensation for an increasingly disaffected and pessimistic populace and creating a climate in which Americans will have the dignity to earn their own incomes while contributing to a more prosperous society.

The Humphrey-Hawkins bill is based on the premise that the work-ethic—a job for every American willing, able and seeking work—rather than the welfare ethic, truly reflects America's aspirations for itself.

Sincerely,

HUBERT H. HUMPHREY,
U.S. Senator.

HUMPHREY-HAWKINS

(By Milton Friedman)

A centerpiece of the Democratic fall campaign is the "Humphrey-Hawkins Full Employment and Balanced Growth Act of 1976." Support of that bill has become the litmus test of the true-blue Democratic faith of every candidate from Jimmy Carter to the aspirant for dogcatcher.

The present expanded version of the Humphrey-Hawkins bill embraces the earlier Humphrey-Javits bill. It proposes to establish a process of long-range economic planning to achieve "a full-employment goal . . . consistent with a rate of unemployment not in excess of 3 per centum of the adult Americans in the civilian labor force, to be attained . . . within not more than four years after the enactment" of the act, as well as a long list of other goodies.

ADAM SMITH'S CRITIQUE

The best critique of this bill that I have come across was published 200 years ago in that great book, "The Wealth of Nations" by Adam Smith—the original Adam Smith, not the current impostor who has had the effrontery to adopt that pseudonym.

Wrote Smith: "The statesman, who should attempt to direct private people in what manner they ought to employ their capitals would not only load himself with a most unnecessary attention, but assume an authority which could safely be trusted, not only to no single person, but to no council or senate whatever, and which would nowhere be so dangerous as in the hands of a man who had folly and presumption enough to fancy himself fit to exercise it."

Has any contemporary political writer described Hubert Humphrey more concisely?

Not to put too fine a point on it, the Humphrey-Hawkins bill is as close to a fraud as has ever served as a campaign document. It is full of pious promises but contains no measures capable of fulfilling those promises. It would not reduce unemployment but simply add to government employment and reduce private employment, in the process making us all poorer and very likely igniting a new inflationary binge.

How can such a bill do otherwise? Easy enough to say that the government will be the employer of last resort. But where does the government get the money? Ultimately, from you and me, by hook or by crook. If it spends, we don't. If it employs people, we don't.

Of course, people on welfare could be relabeled "civil servants assigned to home duty," thereby reducing recorded unemployment without additional spending. But to do more—and Humphrey-Hawkins promises to do far more—requires more government spending. The extra spending could be financed by higher explicit taxes. In that case, taxpayers would have less to spend and would hire fewer people. The extra spending could be financed by higher borrowing. In that case, the lenders, or the borrowers outbid by government, would have less to spend. Government employment would replace employment in building homes or factories. Finally, the government could print the money, which would tax us indirectly via inflation. We would have more pieces of paper to spend but could buy less. For a time, that could mean more government spending without less private spending, but surely by now we have learned that that is a fool's paradise that would not last.

Is anyone so naive as to suppose that the government jobs created will be more productive than the private jobs destroyed?

VISIBLE GOOD, INVISIBLE HARM

Why do Democrats believe that Humphrey-Hawkins is such potent political soothing syrup? Do they have such a low opinion of the intelligence of the American people? I do not think so. It is for a very different reason—one that is the source of so many harmful government policies: the visible vs. the invisible effects of government measures.

People hired by government know who is their benefactor. People who lose their jobs or fail to get them because of the government program do not know that that is the source of their problem. The good effects are visible. The bad effects are invisible. The good effects generate votes. The bad effects generate discontent, which is as likely to be directed at private business as at the government.

The great political challenge is to overcome this bias, which has been taking us down the slippery slope to ever bigger government and to the destruction of a free society.

AN ECONOMIC ANALYSIS OF THE FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1976

SUMMARY

S. 50, the Full Employment and Balanced Growth Act of 1976, establishes a goal of 3 percent adult unemployment to be achieved within 4 years and outlines a set of organizational structures and an administrative process designed to improve coordination of economic policy at the national level. While it mandates the use of certain types of programs to achieve the full-employment goal, it does not directly establish specific employment programs.

Both the economic impact and future budget costs of S. 50 will depend on a number of different factors:

The underlying strength of private demands in the economy that determines how much unemployment there would have been without passage of S. 50.

The particular policy mix selected to reduce unemployment to the 3 percent range;

The definition of "adult unemployment": If "adult" is defined as non-teenage, the 3 percent target for adults translates to around 4 percent for overall unemployment; if "adult" is defined as persons 18 years and older, it translates to around 3.5 percent overall unemployment.

When these factors are taken into account, this study concludes that enactment of S. 50 could result in lower unemployment, but at the risk of substantially higher inflation, particularly if the 3 percent target is viewed as a short-range goal and if teenagers are included in the definition of adult. A set of simulations by CBO shows that reaching a 3.5 percent overall unemployment rate instead of 5.0 percent by 1980 might add roughly 2 percenage points to the inflation rate by 1982. In the long run, on the other hand, it is possible that careful development of employment programs targeted at pockets of high structural unemployment could reduce these inflationary risks.

Training programs, if successful, could shift workers from situations of labor surplus to those of labor shortage. Further, vigorous pursuit of anti-inflation measures might increase the feasibility of achieving a 3 percent unemployment goal in a noninflationary environment.

Budget costs will also vary widely, depending on the state of the economy and the policy mix adopted under S. 50. This report provides estimates of the cost of public employment programs under certain hypothetical economic assumptions. They range from $16 billion to $44 billion, depending on what is assumed about the definition of adult and the amount of displacement from other employment. If public employment programs attract previously-employed persons from low-paying jobs in the private sector or if state and local governments use public employment funds to hire workers they may have employed anyway, net employment is not increased by the full number of new public jobs. Net budget costs of a $16 to $44 billion program would be less as a result of lower unemployment insurance payments and higher tax receipts. They might range from $7.0 billion to $19.9 billion after a year of operation. It should be stressed, however, that these estimates are merely an illustration of one possible set of budgetary implications for S. 50. Under different economic conditions and using a different policy mix than those shown, budget costs could vary widely.

S. 50 provides a limited job guarantee provision whereby the government would stand ready as employer of last resort to provide jobs at prevailing wages when adult unemployment exceeds 3 percent. The section mandates wage standards for the job guarantee program, standards which add to the inflationary impact of the bill. Higher wages, on the other hand, may have other benefits as an income maintenance device and a way to draw more attention to improving pay and working conditions in low-level private sector jobs.

REVISING THE SECTION 404 PERMIT PROGRAM

Mr. PACKWOOD. Mr. President, on September 1, the Senate passed the Federal Water Pollution Control Act Amendments of 1976. In addition to reauthorizing the grant program for wastewater treatment, the bill modifies the section 404 permit program currently administered by the Army Corps of Engineers. Legislative action in this area was made necessary by recent court decisions and administrative actions that have extended the program beyond the limits originally intended by Congress.

The traditional definition of "navigable waters" falling under jurisdiction of the Corps of Engineers included waters that have been used, are presently used, or could be used in the future for commercial water transportation. It was within these parameters that the 404 permit program was initially implemented.

Seeking to extend Federal protection to activities affecting wetlands, the Natural Resources Defense Council filed suit to require a broader definition of the Corps' jurisdiction. In March of 1975, the NRDC against Callaway decision was handed down in district court requiring the Corps to adhere to the description of "waters of the United States" found in section 402 of the Federal Water Pollution Control Act (Public Law 92-500). These include: First, navigable water; second, tributaries of navigable waters; third, interstate waters; and fourth, intrastate waters used for recreation, fishing or industry comprising interstate commerce.

In response to the court decision, the Corps of Engineers published section 404 regulations to be implemented in three stages over a 2-year period. We have now moved into phase II which extends 404 coverage to primary tributaries, associated wetlands, and lakes. By July 1, 1977, the program will cover all tributaries, interstate waters, waters meeting the interstate commerce test and associated wetlands.

Mr. President, both Congress and the Corps have established their priorities for preserving and protecting the waters of the United States and the various components of this delicate ecosystem. Both Public Law 92-500 and the implementing regulations leave no question as to our intention to prevent harmful disruption of the Nation's wetlands, streams, rivers, lakes, territorial seas, and other navigable waterways.

I firmly believe, however, that it was not the intent of Congress to cause the harmful disruption of farming, ranching, and silvicultural activities in the process.

The Corps of Engineers has taken some recognition of this in promulgating regulations which exempt a largely undefined class of "normal" activities in these areas. I do not think it is satisfactory, however, to leave our farmers and foresters in this kind of limbo, subject to the regulatory whims of the Federal Government. Forestry and agriculture are too important to the economic health of Oregon and many other States.

Congress is still faced with the job of making the section 404 permit program workable. The administrative quagmire that the corps has stepped into has the potential for dragging responsible farming and forestry operations down with it.

The approach to this problem taken by the House restricts the 404 program to jurisdiction over traditionally navigable waters and their adjacent wetlands. Unfortunately, this solution would leave waters in many parts of the country without adequate protection.

The Baker-Randolph amendment is preferable by virtue of its specified exemptions for normal agricultural and silvicultural activities. I am disappointed, however, that under the guise of exempting related roadbuilding activities from the corps under section 404, the approach embodied in the Senate bill requires instead that they be "constructed and maintained in accordance with guidelines promulgated by the Administrator" of the Environmental Protection Agency.

It is my sincere hope, Mr. President, that the conferees meeting today to work out a compromise will deal with the real problems of Federal interference with our farmers and foresters. The mere shifting of responsibilities from one agency to another is not a meaningful approach.

FOREIGN INTELLIGENCE ELECTRONIC SURVEILLANCE

Mr. KENNEDY. Mr. President, insufficient time remains this session for the Senate and House to take up the "Foreign Intelligence Surveillance Act of 1976," which I introduced last March with broad bipartisan support. Thus, the American people, unfortunately, will have to wait at least another year before meaningful, comprehensive statutory restrictions are placed on the unchecked power of the Executive to engage in foreign intelligence electronic surveillance.

The failure of the Congress to act this session is particularly regrettable in light of the strong bipartisan support expressed for the bill at every stage of the legislative process. The bill was endorsed by the President in an extraordinary spirit of constructive cooperation with the Congress and had the strong support of the Attorney General who worked diligently and constructively for its passage. It was reported favorably by the Senate Judiciary Committee by a vote of 11 to 1, the very same committee which had failed to report any legislation regulating electronic surveillance since 1968. Sent to the new Select Intelligence Committee, which had been set up specifically to deal with the abuses uncovered by the Church Committee, the bill was reported favorably by a vote of 14 to 1. In addition, many of the Nation's leading constitutional authorities and surveillance experts, including Professors Philip Heymann, Herbert Wechsler and Paul Mishkin, voiced support for S. 3197.

My goal in introducing S. 3197 was the same goal I and others have unsuccessfully pursued for the past 5 years: to establish a statutory procedure which would place national security electronic surveillance in the United States under the rule of law. S. 3197 would have done this.

Today, the executive branch conducts such surveillance unfettered by judicial review; the bill would require that a judicial warrant be secured based on a "probable cause" standard before the Executive could engage in electronic surveillance for purposes of obtaining foreign intelligence information.

Today, the Executive alone decides who the target of such surveillance shall be; the bill would limit such surveillance to foreign powers or agents of foreign powers working as members of that power's intelligence network.

Today, congressional oversight of such activity is almost nonexistent; the bill would provide for increased congressional oversight of the Executive's electronic surveillance activities.

Today, formal accountability within the executive branch for initiating such surveillance is severely limited. The bill would provide an internal check on arbitrary Executive approval of electronic surveillance by establishing a procedure for written accountability within the executive branch.

Today, incidental information picked up during the surveillance may be retained; the bill would mandate the destruction of all irrelevant information.

Today, there is an ongoing debate as to whether any legal penalties can be applied to those who conduct illegal "national security" electronic surveillance; the bill would provide, in clear language, that civil and criminal penalties apply to all those who violate its provisions.

Mr. President, as I have reiterated on numerous occasions, this bill must be considered in light of existing law—which is, unfortunately, no law at all. The Executive's exercise of inherent constitutional power is the only basis for such surveillance, a basis that all would agree has too often been misused in the past.

I am not unaware of the various well-intentioned criticisms of the bill which have been voiced by civil liberties groups. I continue to share their concerns as I have shared them in the past. At every step of the legislative process a serious effort has been made by the sponsors of the legislation and the Attorney General himself to meet these concerns. The bill reported out of the Judiciary Committee was a better bill than the one introduced; the Select Intelligence Committee made further important improvements, and the process of refining and improving the legislation goes on even now. Just last week the sponsors of S. 3197 and the Department of Justice reached agreement on striking subsection (b) of section 2528, the disclaimer provision. This subsection was viewed by many as an open invitation to abuse. Working closely with the Attorney General, a decision was made to delete it. It is this type of cooperation which has highlighted the discussions throughout.

To call for this bill's defeat—with all its attendant safeguards—is to assure a return to the unregulated surveillance of the present. For too long the American people have lacked any legal, statutory safeguards protecting them against the abuses of foreign intelligence electronic surveillance. S. 3197 would change all of this.

I consider this legislation a top priority of the next Congress and will continue to push for its enactment. The Attorney General, who has taken a personal interest in the legislation, has similarly urged quick enactment next session. It is my hope that whatever issues remain outstanding can be resolved to everyone's satisfaction so that statutory safeguards in this area can become a reality.

The bipartisan nature of support for S. 3197 must not be allowed to fade. Five years of debate is long enough; without the support of Democrats and Republicans, liberals and conservatives, we will find ourselves back where we started, with the executive branch continuing to undertake such surveillance through the exercise of inherent power, while the Congress, unable to reach agreement on legislation, fails to act. This is the real alternative we face—no legislation at all, and the continuation of "business as usual" by the executive branch.

Mr. President, I am confident that if Senate deliberations in this area are conducted next session in a spirit of bipartisanship and compromise, a workable, fair and just piece of legislation—reflecting the dual concerns of civil liberties and national security—will be the result.

THE FOREIGN INTELLIGENCE ELECTRONIC SURVEILLANCE ACT

Mr. MORGAN. Mr. President, for the past 18 months I have been deeply involved in the work of our intelligence agencies, first as a member of the Church Committee which conducted a thorough investigation into their activities and most recently as a member of the Intelligence Oversight Committee. During this time it has been necessary for me as a Senator to face and resolve conflicts between the security of our Nation and the individual liberties of our citizens. S. 3197 presented the latest such conflict. When S. 3197 came on for consideration by the Select Committee on Intelligence, I voted against reporting the bill as it was then drafted and intended to support several floor amendments which in my view would have preserved the individual liberties with which we are blessed in this country without unduly hampering the activities of our intelligence agencies.

While I wholeheartedly concur with the premise that questionable and intrusive investigative techniques used by our intelligence agencies should be utilized in accordance with strict statutory authority so as to limit abuse, I also feel that the necessary work of our intelligence agencies should be carried out in a framework which provides for the protection of our own guarantees of individual liberty.

S. 3197, as its sponsors contend, would have established for the first time a judicial warrant procedure governing the use of electronic surveillance techniques in the foreign intelligence field. All previous efforts to get legislation of this nature enacted by the Congress have failed. While S. 3197 will not be enacted into law during this term, I do not consider its fate in the same vein as the failure of other attempts by the Congress to establish statutory guidelines for the use of electronic surveillance for foreign intelligence purposes. Rather, Mr. President, I view the Senate's response to S. 3197 as a manifestation of its awakening to its responsibility, in the intelligence area, to guarantee that we have the best possible national defense which at all times is cognizant of and operates within the structure of our existing laws and the principles of freedom and individual liberty upon which our country was founded.

In the coming months, the Select Committee on Intelligence will conduct an in-depth study of the actions, procedures, and techniques used by our intelligence agencies in the normal course of their operations. The studies will constitute comprehensive evaluations of their work and will be followed by the drafting of legislative charters. These charters, when enacted, will establish statutory authority for the actions of our intelligence agencies. The drafting of these charters, to me, should be the first priority of the Intelligence Committee. After the committee has had the opportunity to examine the complete spectrum of intelligence agencies and their operations and decided on the statutory framework of our intelligence agencies, I feel it will be decidedly more capable of speaking, without reservation, on the wisdom of legislation such as S. 3197.

By not being bound by Senate action on S. 3197, the committee will be able to more fully evaluate circumstances in which wiretapping, the most intrusive investigative technique, should be used by our intelligence agencies.

My opposition to S. 3197 is more, however, than a matter of timing. For even after consideration of legislative charters it is likely that we will still be faced with the conflict between the security of our Nation on the one hand and the liberty of our citizens on the other in approving electronic surveillance for foreign intelligence purposes. We know a strong intelligence capability is a necessary component of our security. Likewise, we know that consant chipping away at our liberties will leave us a people no longer free. Thus, while we must have intelligence, we must also preserve our open society, for to destroy the latter for the sake of the former would be a complete perversion of our goals.

Accordingly, I was greatly troubled by the provisions of S. 3197 which would allow electronic surveillance of American citizens not engaged in criminal activity and which infer that there is within the power of the Presidency the constitutional authority to conduct electronic surveillance without securing a warrant. In the absence of a positive demonstration by our intelligence agencies of a compelling need to change our existing interpretations of the Constitution and our laws, which these provisions do, I feel the Congress should give the American citizen the benefit of the doubt and authorize investigative techniques within the existing framework of our laws.

In the final analysis, Mr. President, I feel the Senate is very close to taking the necessary action in this area. The introduction of S. 3197, the administration's bill, by Senator KENNEDY and its favorable report by the Judiciary Committee indicates the emergence of a spirit of cooperation between the Congress and the Executive in addressing and recognizing the intelligence-related abuses which have occurred in the past. The improvements the bill underwent when considered by the Select Committee on Intelligence demonstrate that the Senate is taking its oversight responsibilities seriously. And finally, by delaying efforts to enact this bill into law until next year, we are confirming our belief in the principles of liberty, which serve as the cornerstone of our democracy, while at the same time trusting our intelligence agencies to protect us and to operate within the law.

I thank the Chair.

Mr. MATHIAS. Mr. President, it is always disappointing when the calendar and the press of priority bills near the close of a session does not permit us to take up sound measures such as S. 3197, the "Foreign Intelligence Surveillance Act."

As a cosponsor of this bill—and as the sponsor of an even more comprehensive bill setting procedural safeguards on Government intelligence activity, the "Bill of Rights Procedures Act," S. 1888, I nevertheless believe that we have made substantial progress this year in our effort to bring Government action firmly within the rule of law and the provisions of the Constitution.

It is no small achievement that two standing committees of the Senate—the Committee on the Judiciary and the Committee on Intelligence—favorably reported S. 3197 to the full Senate by substantial margins: 11 to 1 in the case of the Judiciary Committee and 14 to 1 in the case of the Intelligence Committee.

Most significantly, President Ford and Attorney General Levi have broken with nearly four decades of tradition in supporting a warrant requirement for foreign intelligence electronic surveillance. They deserve great credit for their leadership and courage in reversing the longstanding position of the executive branch on this issue.

My position on S. 3197 is set out in full in my additional views in the report of the Judiciary Committee on S. 3197 and in the additional views which Senators ABOUREZK, PHILIP HART, and I published in that report. As I noted there, some improvements are desirable in the bill as it now stands—improvements which in large measure are contained in my Bill of Rights Procedures Act.

But it is also important to note that some of the criticism of this bill has been misplaced. As the Washington Post stated, in placing such criticism in perspective:

> For now, the most important and encouraging point is simply that such legislation, with such broad sponsorship, is being introduced at all. This is dramatic evidence, first, that the President, the Attorney General and key Senators are determined to address a serious and intricate problem in a mature way, and second, that the old-fashioned arts of political negotiation and compromise have not vanished from the scene. All this bodes well not only for the eventual passage of wiretap controls, but also for progress in related areas where executive-legislative cooperation is needed to set new ground rules for intelligence operations.

We have come a long way since I first introduced the Bill of Rights Procedures Act in the 93d Congress. My colleague on the Judiciary Committee, Senator KENNEDY, in particular deserves great credit for his leadership this session in seeking to set procedural safeguards on foreign intelligence wiretapping.

In short, Mr. President, we have built a firm foundation for work in the next Congress to transform the commands of the fourth amendment into legislative reality. I am confident that in the 95th Congress we can complete our task.

THE FREEDOM OF INFORMATION ACT EXPERIENCE

Mr. KENNEDY. Mr. President, last month Dr. Harold C. Relyea, a specialist in American National Government with the Library of Congress, delivered a paper to the Institute of Public Administration of Canada on "The Provision of Government Information: the Federal Freedom of Information Act Experience." Dr. Relyea has done extensive research for congressional offices and committees on this subject and, in particular, has been of enormous assistance to the Subcommittee on Administrative Practice and Procedure which oversees implementation of the Freedom of Information Act. His expertise in this area is widely recognized.

His paper contains important historical analysis and describes with great insight a number of current problems arising out of agency information practices. I believe that Dr. Relyea's study provides useful background for those interested in this field and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

THE PROVISION OF GOVERNMENT INFORMATION: THE FEDERAL FREEDOM OF INFORMATION ACT EXPERIENCE*

(By Harold C. Relyea)

Within the American governmental experience, "freedom of information" may be regarded as a relatively recent concept, recognized in Federal statutory law only a decade ago. Until 1967, public access to documents held by the national executive was governed by a "need to know" policy, deriving from the housekeeping statute of 1789 (last codified at 5 USC 1002) authorizing the heads of government agencies to prescribe regulations regarding the custody, use, and preservation of the records, papers, and property of their entity; and a provision of the Administrative Procedure Act of 1946 (last codified at 5 USC 1002) indicating that matters of official record should be made available to the public, but adding that an agency could restrict access to its documents "for good cause found" or "in the public interests." [1] Actually, a more accurate characterization of the situation is that these provisions did not so much foster the "need to know" policy but, rather, justified it. Those seeking refuge in such law, articulating the "need to know" position, and promoting this policy were the Federal Bureaucracy.

Bureaucrats, it would seem, are reluctant to serve up their treasure trove of records to anyone but the politically powerful, sympathetic, or trustworthy. Over half a century ago, the sociologist Max Weber, one of the first serious analysts of social organization, commented: "Every bureaucracy seeks to increase the superiority of the professionally informed by keeping their knowledge and institutions secret." But perhaps a more important observation for the American domestic condition is provided by Weber when he notes:

> The pure interest of the bureaucracy in power, however, is efficacious far beyond those areas where purely functional interests make for secrecy. The concept of the "official secret" is the specific invention of bureaucracy, and nothing is so fanatically defended by the bureaucracy as this attitude, which cannot be justified beyond . . . specifically qualified areas. In facing a parliament, the bureaucracy, out of a sheer power instinct, fights every attempt of the parliament to gain knowledge by means of its own experts or from interest groups. The so-called right of parliamentary investigation is one of the means by which parliament seeks such knowledge. Bureaucracy naturally welcomes a poorly informed and hence powerless parliament—at least in so far as ignorance somehow agrees with the bureaucracy's interests.[2]

Conditioned by the official secrets experience of World War II and the subsequent Cold War, the tirade against their number by the witch-hunting Senator Joseph R. McCarthy, and various efforts at reducing the Executive workforce which accompanied the arrival of the Eisenhower and Kennedy administrations, the Federal bureaucracy was not eager to have its activities and operations disclosed to the public, the press, or other government entities. The prevailing law prior to 1967 tolerated this state of affairs, offering citizens no clear access to government information. Like Kafka's castle, one knew where the sought object was, but could not realistically approach it.

PHILOSOPHICAL UNDERCURRENTS

In many regards, the access to government information policy prior to the adoption of the Freedom of Information Act (5 USC 552) in 1966 militated against fundamental principles of democratic practice. A democratic system of government is generally regarded to be one which derives its authority from the people it serves. However, once constituted, that government may take on an autonomous and autocratic character. The English political theorist Thomas Hobbes (1588–1679) argued this view of the state in his *Leviathan* (1651). According to Hobbes, a group of individuals might commonly unite to form a state but, once that state, that Leviathan, was formed, it became an organic entity larger than the sum of its component parts and possessed of a life of its own. It could never be dismantled, even if all of the creators might agree to such, and it was omnipotent. Such a state is authoritarian in nature and not necessarily totalitarian. Hobbes sets forth a contractual foundation of government which is anathema to totalitarians: the state is to maintain order and security for the benefit of the citizens, not for the benefit of the rulers of the state; Hobbes believed in *laissez faire* and not a planned economy; the sovereign was to be an administrator and lawgiver, constituted in one man or an assembly, but not a single dictator; the Hobbesian state sought outer conformity from the citizenry and did not seek to control the minds of men as well; and the Leviathan also recognized that, "A man cannot lay down the right of resisting them that assault him by force to take away his life" for the very purpose of civil society is the preservation and protection of the individual's life.

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*The views expressed in this paper are solely those of the author and are not attributable to any other source. Dr. Harold C. Relyea is a Specialist in America National Government with the Congressional Research Service, Library of Congress, Washington, D.C. 20540. All footnotes appear at the end of this paper.

Footnotes at end of article.

Juxtaposed to the Hobbesian view of government is the theoretical state of John Locke (1632–1704). It was Locke who maintained that a group of individuals first form society and that this society then creates the state. The state is the sum total of the individuals composing society. Further, it is society which the state is created to serve and when it does not meet the needs and wishes of society, then government may be altered or abolished.

In considering the Freedom of Information Act together with government information policy and practice, these two theoretical viewpoints—the Hobbesian and the Lockean—pose an interesting conflict. But, it was the latter view which eventually prevailed in the provisions of the Freedom of Information Act. The servants of the public should disclose any state information which the populace might seek, short of material which would endanger the nation's safety. However, too often, in actual practice, public servants have manifested the Hobbesian view of the state being an entity unto itself and thereby not being under any obligation to furnish requested information to the citizenry.

The Lockean Freedom of Information Act places the public in an adversary role, acknowledges the people's right to know, and requires the government to justify its decisions for not granting requests. The adversary proceedings are carried through the administrative machinery of the executive to argumentation before the Federal courts. The Hobbesian state would seek to disclose only that information to which it thought the public was entitled. In brief, the Hobbesian view is a somewhat propagandistic model of information management: bland information is cosmetically packaged for mass dissemination throughout the nation at public expense.

In administering the Freedom of Information Act, the Hobbesian mind regards the statute's nine exemption categories as mandatory obligations not to release information of these types; the Lockean view, and the thinking of Congress in enacting this law, is that these are permissive strictures to be applied only in the last resort for reasons harmonious with the law. The Hobbesian bureaucrat invokes the exemptions to deny information because he believes such material to be solely the property of the state. The Lockean bureaucrat, on the other hand, maintains that, while the exemptions do exist, every effort should be made to disclose requested government records even if it might be possible to withhold them under the law: the state does not own these materials but is, rather, a custodian in ultimate service to society.

It is also the Hobbesian view that individual Congressmen have no greater right to government (executive) information than the average citizen but that the institutions of Congress, such as its committees, are entitled to certain types of records which the public or individual Congressmen should be denied. The Lockean view would not seem to prevail on this point in a clear form. While current arguments are that both individual Congressmen and congressional institutions should be equally entitled to certain Executive Branch information which should otherwise be denied to the public, the Freedom of Information Act[3] recognizes no special standing for anyone utilizing its procedures. Indeed, the statute does not even require that the "person" so seeking government information be a legal citizen of the United States.

Finally, the Hobbesian viewpoint argues that the public obtains all the information it needs from government provided publications and releases and the press. The Lockean mind opts for the adversary role for each citizen as well as for the press. Freedom of Information Act procedures allow a highly selective pursuit of government information complementary to one's own interest within society.

While political theorists undoubtedly will question some of the philosophical generalizations attributed to Hobbes and Locke in the foregoing paragraphs, such a portrayal has heuristic value: it begs an understanding and inquiry into values operative within current government information policy administration. Such values are discussed here in terms of two classical political philosophers. Nevertheless, these contrasting viewpoints are operative within government, the Hobbesian predilections being replaced by the Lockean due to the intervention of the Freedom of Information Act. Still, old attitudes do not soon pass away.

Presuming all Executive Branch records should be available to the public, other than categories permissively exempted within the law, the Freedom of Information Act provides the basic authority and procedure for retrieving otherwise unreleased documents held by the Federal bureaucracy. Deriving from some eleven years of investigative hearings by the House Government Operations Special Subcommittee on Government Information, the statute was the product of additional legislative deliberations before the successor Foreign Operations and Government Information Subcommittee and the Senate Judiciary Subcommittee on Administrative Practice and Procedure.[4] Enacted in 1966 (80 Stat. 250), codified (81 Stat. 54) and otherwise effective the following year, the FOI Act was the product of a variety of political pressures. No Executive Branch department or agency urged passage of the proposal and, for a time, even the President's approval of it seemed uncertain.

Five years after its enactment, the administration and operation of the FOI law came under congressional review when, during the latter half of the 92nd Congress, the House Foreign Operations and Government Information Subcommittee, during fourteen days of sworn testimony, heard various government and private witnesses discuss their experiences and difficulties with the public access provisions of the statute.[5] Two years later, in 1974, the FOI Act was amended (88 Stat. 1561), again without any Executive Branch endorsement of the legislation strengthening the basic statute and also in the face of a presidential veto.[6] During this same period, Congress considered and adopted a close kinsman to the FOI Act: the Privacy Act (88 Stat. 1896; codified at 5 U.S.C. 552a) provides citizens with a procedure to gain access to government-held dossiers maintained on them and places limitations upon Executive Branch agencies with regard to the circulation of personally identifiable information.[7]

Consistent with the Constitution's First Amendment guarantee of the right of petition, which traces its origins to chapter 61 of Magna Carta, the FOI law provides procedures whereby the citizenry, at their own volition, may directly request a document from an Executive Branch entity. If denied access to the item sought, redress in the courts is ultimately available. Such a request is, however, limited to existing records: the agency is under no compulsion to prepare an item if the sought information is not readily available in documentary form. Prior to the enactment of the FOI statute, Federal access to records law (5 U.S.C. 1002) was devoid of a clear petition procedure for obtaining documents.

Another innovation achieved with the adoption of the FOI Act—perhaps the most revolutionary and sweeping change—was a reversal in policy presumption. Previous law (5 U.S.C. 22, 1002) indicated the Executive Branch agencies would decide who would obtain access to their records and thereby fostered the "need to know" policy, but the Freedom of Information Act presumes these records are available to the public unless a particular document qualifies for exemption from disclosure under the precise terms of the FOI statute. However, even then, the nine exemptions of the law are to be permissively applied; every effort is to be made by bureaucrats to facilitate disclosure. In this regard, the FOI Act is an embodiment and a manifestation of the unwritten "right to know."

Most American legislation seeking to advance public knowledge of government activity stems from the Eighteenth Century suspicion of the state. Lockean in its presumptions, the Declaration of Independence, for example, reflects the Enlightenment assumption that neither society nor government is organic or natural to human existence. Rather, it would seem that:

> . . . individuals contract with one another to carry on and facilitate social affairs and to establish a governing institution to protect presocietal rights ("natural rights"). Implied in these concepts is a right to withdraw from the contract when government does not fulfill its responsibilities. The Declaration of Independence, after stating that governments derive "their just powers from the consent of the governed," asserts that a government can become destructive of the rights of its citizens. The term "consent," in contradistinction to "submission," connotes rational approval; the people knowingly authorize government to undertake certain tasks, but if government assumes nondelegated responsibilities or corrupts its responsibilities, that consent may be withdrawn. Implicit in this scheme is the notion that citizens must have information about what their government is doing to judge whether government authority is being misused. Consequently, it is incumbent upon citizens to be watchful of their government to ensure the preservation of popular rule.[8]

Among its designers, the Freedom of Information Act was regarded as a meaningful manifestation of this principle of government.

LEGISLATIVE STRUCTURE

In many regards, responsibility for the basic structure of the Freedom of Information Act must be credited to the late Jacob Scher, an attorney, a former newspaperman of 20 years experience, and a professor of journalism at Northwestern University. Initially working with the House Special Subcommittee on Government Information as an advisor in November, 1955, he became a special counsel with the panel in early 1957 and began drafting a records access proposal in 1960, developing it for a little more than a year before his untimely death.

A basic element of Scher's legislative model was the establishment of a statutory pre-

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sumption that government documents should be accessible to the public with but slight specific exception. His draft confined its jurisdiction to the Executive Branch not only because this segment of the government was regarded as the immediate perpetrator of records secrecy, as the Subcommittee's lengthy investigation had revealed, but, also, because there was no political reprisal available against the bureaucracy for this behavior. The proposal would, it was thought, be utilized mostly by the general public who had a "right to know" but could not vote the despoilers of their right out of office; also, the law would be used by journalists vigorously exercising the watchdog function of a free press.

In addition, Scher had indicated that an access bill "must have teeth in it such as a mandatory injunction and criminal sanctions. . . ." [9] His draft proposal limited nondisclosure to three areas: (1) matters specifically exempted by statute, (2) matters exempted by Executive order for reasons of national defense, and (3) those areas, the disclosure of which would be a clearly unwarranted invasion of privacy. He also included an enforcement provision, "giving any person denied access the right to judicial process for enforcement of his rights."

Scher's modest proposal was generally greeted with positive comment, support, and endorsement from the private sector, particularly within the journalistic community; Executive Branch officials largely reflected suspicion and opposition. Then, in 1961, hopes for this promising model were dashed: Subcommittee Members wanted to provide the new President an opportunity to assess the policy, a Senate Subcommittee undertook a revision of the whole Administrative Procedure Act which contained the objectionable public information section, and in September the persuasive draftsman suddenly died.

Eventually, of course, interest in and support for a so-called Freedom of Information law revived, rallied, and culminated in the 1966 statute. In terms of drafting, however, the FOI Act came into existence handicapped by political compromise and a mixture of interpretations. For example, in addition to Scher's three disclosure exemptions, legislative bargaining, timidity in the face of presidential pressure, and special interest demands were effective in adding six more clauses to the measure to justify the withholding of records.

Another problem of interpretation derived from the differences in House and Senate reports on the legislation resulting in the FOI Act. After the Senate Judiciary Committee released (S. Rept. 89–813) the FOI bill in 1965, forces within the administration of President Lyndon Johnson sought to blunt and otherwise dampen the impact of the legislation. This was accomplished by pressuring the House Government Operations Committee into producing a much more limited and antithetic report (H. Rept. 89–1497) on the bill. The net effect of this shift, in the view of one expert, was that:

In general, the Senate committee is relatively faithful to the words of the Act, and the House committee ambitiously undertakes to change the meaning that appears in the Act's words. The main thrust of the House committee remarks that seem to pull away from the literal statutory words is almost always in the direction of nondisclosure. The Attorney General's Memorandum (interpreting the law) consistently relies on such remarks by the House committee.[10]

The consequence of this dilemma is that the courts have been continuously called upon to provide an ultimate determination as to the meaning of what should have been a relatively straight-forward law. Not only is this situation troublesome in terms of the continuity of the law in this policy sphere (subject to change with frequent interpretation by the courts), but it also places a definite burden upon the judicial system with regard to conflicting sources of legislative history as well as a restriction upon public use when court redress requires, on the average, an outlay of $10,000 in litigation costs.

Further, certain language, even when subjected to judicial interpretation, has been misunderstood [11] or of unclear meaning on its face.[12] In part, this interpretation quandary, as noted above, derives from the legislative history of the Act—in particular, the politics of the reports on the bill—but other influences must also be acknowledged: the Executive Branch agencies did not support the proposal and had it forced upon them; the President reluctantly signed the bill, indicating to top administrators a lack of sympathy for the statute's requirements; the Attorney General's Memorandum interpreting the Act reflected a bias against the true spirit of the law; and the departments and agencies, in allocating resources for the administration of the Act, failed to seriously regard its dictates.

This lack of good faith on the part of the Executive, which some characterized as contempt for the law, became readily apparent in 1972 when the first oversight hearings were held on the Freedom of Information Act by the House Foreign Operations and Government Information Subcommittee. Reporting on findings deriving from these proceedings, the Subcommittee concluded: "The efficient operation of the Freedom of Information Act has been hindered by 5 years of foot-dragging by the Federal bureaucracy . . . obvious in parts of two administrations." [13] Specific indictments of the Executive in its administration of the FOI Act were:

Some agency regulations are confusing, inadequate, or deficient, adhering neither to the guidelines in the 1967 Attorney General's memorandum nor to the intent of Congress.

The Office of Legal Counsel, Department of Justice, has undertaken an advisory role to assist other agencies in the administration of the FOI Act, but the office needs to exercise a greater leadership function, for example, by advising other agencies of significant court interpretations of the act and by preparing a pamphlet for the general public to explain the rights of individual citizens to obtain public records from Federal agencies.

Some Federal agencies have not kept adequate records of requests for public information under the act to properly evaluate their performance; some have not informed an individual of the precise exemption under the act being exercised to deny a requested record; others have not advised individuals of the administrative right to appeal the denial to a higher agency authority, nor of ultimate rights to legal remedy in the courts.

Very few agencies have involved public information officials in administrative decisions on requests for public records under the act; very few agencies have issued clear policy statements on commitment to the principles of the FOI Act, nor have they issued directives to place appropriate priority on compliance with the provisions of the act.

Many agencies have failed to provide suitable training or orientation of employees on the meaning, intent, and proper administration of the FOI Act, even those directly affected by responsibilities that involve public requests under the act.

Excessive fees for search and reproduction of public records in some agencies have deterred individuals desiring access to such records; moreover, there is a wide disparity among agencies in fees charged for the same types of records.

The delay by most Federal agencies in responding to an individual's request for public records under the FOI Act, or delay in acting on an administrative appeal frequently has negated the basic purpose of the act; while reforms might be initiated at the administrative level, amendments to incorporate (specific response time) recommendations of the Administrative Conference of the United States into the act are a way to achieve the prompt handling of requests by individuals under the act.

Many Federal agencies have used the "identifiable record" requirement of the FOI Act as an excuse to withhold public records; thus, legislative clarification is necessary.

The delay by Government attorneys in filing responsive pleadings in suits brought by individuals to obtain public records and the high costs to an individual in pursuing litigation under the act have often been serious deterrents in obtaining public records, giving unfair advantage to the Government.

Federal agencies have not been required to report to Congress on their activities under the FOI Act, and an annual evaluation would not only improve administration of the act but also permit more effective and systematic legislative oversight.

The nine exemptions in the act which permit withholding of information have been misused by Federal agencies. Confused interpretations of agency regulations, the desire to withhold records which might embarrass an agency, and misunderstanding of court decisions affecting these exemptions, all have contributed to the problem. These deficiencies can only be corrected by amendments to the FOI Act itself.[14]

This state of affairs also contributed to another condition never anticipated when the FOI Act was being proposed and considered during the early 1960s: the primary user of the statute was not the public or the press but, rather, the business community.[15] The reasons for this development should be obvious: the resources necessary to effectively utilize the Freedom of Information Act during that period were time, money, and legal expertise. Business had all of these resources. There was no imperative to obtain government information immediately; costs were minimal in relation to economic benefits derived; and legal expertise was not only readily available, but usually on retainer. The public was frustrated in its use of the law by, at least, the litigation-expense problem and journalists were stymied not only by this dilemma but the delayed response-timely information condition as well.

AMENDING THE LAW

As a consequence of these findings, vigorous efforts were undertaken during the 93rd Congress to effectively amend the FOI Act to improve its administration and expedite operations pursuant to its provisions. A bipartisan bill was offered in the House during January, 1974, which was uananimously reported (H. Rept. 93–876) from the Committee on Government Operations in early March and subsequently was adopted on a 383–8 record vote of the chamber in midmonth. A Senate measure amending the Freedom of Information Act cleared (S. Rept. 93–854) the Committee on the Judiciary on May 16, 1974, but in a less ambitious version than the House legislation due to partisan and ideological considerations. Once brought to the Senate floor, the proposal was amended to agree closely with the companion House bill. The Senate adopted its FOI Act amendments on May 30 in a 64–17 roll call vote. A conference was then called to resolve differences between the two bills; after this was accomplished, each chamber accepted the conference report (H. Rept. 93–1380 and S. Rept. 93–1200) and the legislation was ready for the President's signature in early October. Arguing that the proposal would adversely affect the reten-

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tion of military or intelligence secrets, would compromise the confidentiality of investigatory law enforcement files, would unreasonably burden agencies in imposing specific response times, and was otherwise "unconstitutional and unworkable," the Chief Executive vetoed (H. Doc. 93-383) the measure on October 17. On November 20 the House voted 371-31 for override and, with two-thirds of the membership expressing favor, the President's objections were rejected. The Senate completed action on the matter the following day, voting 65-27 for override. The bill thereby became a public law (88 Stat. 1561).

As considered by the conference committee, these were the important changes made in the basic Freedom of Information Act by the 1974 amendments. The House version required the publication and distribution—through sale or otherwise—of agency indices identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, which is required by the FOI Act (5 U.S.C. 552(a)(2)) to be made available or published. Items covered by this provision include final orders, opinions, agency statements of policy and interpretations not otherwise produced in the Federal Register (the official Executive Branch gazette), as well as administrative manuals, handbooks, and agency staff instructions affecting the populace, unless these items are published in some other manner and copies are offered for public sale. The purpose of such indices is to provide the citizenry with a clearer indication of what is available under the Act and to assist them in identifying sought material. Some such indices were being commercially produced at the time the amendments were adopted and the availability of these goals through an agency would satisfy the indexing requirement.

Beyond these House demands, the Senate imposed a requirement that these agency indices be updated on a quarterly or more frequent basis, but allowed an agency to forego publication of such an index if the agency determined by an order produced in the Federal Register that such an undertaking would be "unnecessary and impracticable." However, the conference agreed that, if an agency determined not to publish an index, it would be required to provide copies of same to the public upon request at a cost not to exceed the direct expense of duplication.

Related to these matters was a provision pertaining to document identification. The original Freedom of Information Act required that a request for information from an agency be for "identifiable records." Because interpretation of whether or not a sought record was "identifiable," in terms of its retrieval, was left to the discretion of the bureaucracy, efforts to obtain documents could be thwarted by premature claims that an item could not be located merely from the description given by a requester or a sizable search fee might be imposed. To eradicate this potential, a House clause was adopted by the conference, providing that a request need only "reasonably describe" the material sought.

In another area, the Senate version of the amendments sought to require that the Director of the Office of Management and Budget promulgate regulations establishing a uniform schedule of fees for all agency searches and copying of records conducted pursuant to the FOI Act. The conference, however, assigned this function to each separate agency, requiring the issuance of individual regulations for the recovery of only the direct costs of search and duplication but not including expenses for the examination or review of records. In addition, the conference retained a Senate provision allowing an agency to furnish documents without charge or at a reduced cost if it determined that such action would be in the public interest. This discretion was designed to allow the Executive to facilitate FOI Act requests made by the indigent or by charitable or non-profit groups serving the public interest.

The conference followed the Senate legislation in the area of court review, providing that in determining de novo whether agency records have been properly withheld, the court may examine records in camera in making its determination under any of the nine categories of exemptions under . . . the law. In *Environmental Protection Agency* v. *Mink*, et. al., 410 U.S. 73 (1973), the Supreme Court ruled that in camera inspection of documents withheld under section 552(b)(1) of the law, authorizing the withholding of classified information, would ordinarily be precluded in Freedom of Information cases, unless Congress directed otherwise. (The amendments) . . . permit such in camera examination at the discretion of the court.

While in camera examination need not be automatic, in many situations it will plainly be necessary and appropriate. Before the Court orders in camera inspection, the Government should be given the opportunity to establish by means of testimony or detailed affidavits that the documents are clearly exempt from disclosure. The burden remains on the Government under this law.[16]

The House version of the amendments provided that the defendant to a complaint under the FOI Act must make a responsive pleading within twenty days after service, unless the court directed otherwise for good cause shown. The Senate legislation contained a similar clause but allowed the defendant forty days. The conference adopted a thirty-day responsive pleading time-frame, granting the court discretion to direct otherwise for good cause shown. The desired effect underlying the provision was to expedite litigation with definite time requirements regarding pleas redress.

The Senate version of the amendments contained a unique point whereby precedence would be given to FOI Act appeal cases, excepting those suits on the docket which the court, in its discretion, considers more important. The conference adopted this provision urging judicial expedition of FOI Act litigation. The language merely begs court attention for this type of suit and leaves the discretion for quick adjudication with the court.

The conference also adopted a portion of the Senate legislation pertaining to cases in which the complainant had "substantially prevailed" and allowing the court, in those situations, to award costs and attorney fees to the successful litigant. Criteria for the granting of such moneys was eliminated from the final bill by the conference "because the existing body of law on the award of attorney fees recognized such factors" and it was thought that "a statement of the criteria may be too delimiting and is unnecessary." [17] Discretion for such awards lies with the court which, as noted, must be guided by precedents in both case law and the statutes.[18]

The Senate version of the amendments contained a special provision authorizing the court to impose a sanction of up to sixty days suspension from employment against a Federal employee or official whom the court finds to have been responsible for withholding requested records without a reasonable basis in law. The conference subsequently modified this sanction, authorizing the court to determine if such an improper withholding by a Federal employee or officer did occur, but requiring that the Civil Service Commission promptly initiate a proceeding to determine if disciplinary action is warranted. The findings of the Commission and its recommended action are submitted to the administrative authority of the entity where the offender is engaged "and the administrative authority shall promptly take the disciplinary action recommended by the Commission."

As adopted, this provision was thought by the conferees to meet due process guarantees applicable to Federal employees and officials in cases of disciplinary action but may present difficulties in terms of the court taking notice of an offending party not directly involved in litigation at hand.

In an attempt to expedite FOI Act requests received by the Executive Branch agencies, the conference committee adopted administrative action deadlines recommended by the Administrative Conference of the United States, a government entity which studies administrative procedures with a view to their improvement, and contained in both versions of the legislation. These timeframes allow ten days—excepting Saturdays, Sundays, and holidays—for responding to an initial request for records pursuant to the FOI Act and twenty days for answering a request made on an administrative appeal. In addition, the conference adopted a Senate recommendation granting an extension of ten working days for "unusual circumstances" where an agency may be required to retrieve documents from a field facility or an office other than the one processing the request, where more than one agency may be involved in responding to the request, or where voluminous records are being sought. The ten-day extension may be invoked only once during the course of action on a request—at either the initial or the appellate stage—and constitutes a realistic approach to records management difficulties which may arise in attempting to efficiently and faithfully administer the requirements of the FOI Act.

The conference adopted language from both the House and Senate versions of the amendments to permit the withholding of information where it was "specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy" and was "in fact, properly classified" pursuant to both procedural and substantive criteria set forth by such an Executuive directive.[19] The conference report noted:

When linked with the authority conferred upon the Federal courts in this conference substitute for in camera examination of contested records as part of their de novo determination in Freedom of Information cases, this clarifies Congressional intent to override the Supreme Court's holding in the case of *E.P.A. v. Mink, et. al., supra,* with respect to in camera review of classified documents.

However, the conferees recognize that the Executive departments responsible for national defense and foreign policy matters have unique insights into what adverse effects might occur as a result of public disclosure of a particular classified record. Accordingly, the conferees expect that Federal courts, in making de novo determinations in section 552(b)(1) cases under the Freedom of Information law, will accord substantial weight to an agency's affidavit concerning the details of the classified status of the disputed record.

Restricted Data (42 U.S.C. 2162), communication information (18 U.S.C. 798), and intelligence sources and methods (50 U.S.C. 403(d)(3) and (g)), for example, may be classified and exempted under section 552 (b)(3) of the Freedom of Information Act. When such information is subjected to court review, the court should recognize that if such information is classified pursuant to one of the above statutes, it shall be exempted under this law.[20]

The Senate legislation contained a unique provision pertaining to exemption 552(b)(7) regarding law enforcement files. As adopted by the conference, the clause permits an agency to withhold investigatory records

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compiled for law enforcement purposes only to the extent that their production would interfere with enforcement proceedings, deprive a person of a right to a fair trial or an impartial adjudication, would constitute an unwarranted invasion of personal privacy, would disclose the identity of a confidential source of information, would disclose investigative techniques and procedures, or would endanger the life or physical safety of law enforcement personnel. The conference also added language protecting information compiled by a criminal law enforcement authority deriving from a confidential source in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation. The attempt here was to protect Federal Bureau of Investigation records, Central Intelligence Agency documents, and the files of other Federal law enforcement entities. The safeguard applies only to law enforcement matters (the Central Intelligence Agency, for example, is statutorily proscribed (50 USC 403(d)(3)) from exercising "police, subpena, law-enforcement powers, or internal-security functions). According to the conference, "national security" is to be strictly construed to refer to military security, national defense, and foreign policy matters. The referent "intelligence" is intended to apply to positive intelligence-gathering activities, counter-intelligence activities, and background security inquiries by government units so authorized to perform such functions.

The conference adopted another unique Senate provision specifying that any segregable portion of a sought record be extracted and exempted, facilitating the release of parts of documents and curbing the withholding of an entire record because some segment was deemed to be protected under the law. This practice is, of course, wholly in support of the spirit of the FOI Act which presumes government information should be available to the public.

The conference selected provisions from both versions of the amendments to require an annual report on activity and operations pursuant to the Freedom of Information Act by each Executive Branch agency and specifying certain details which must be included in such reports. These minimal points include statistical information on the number of agency determinations to withhold information requested under the FOI Act; the reasons for such withholding; the number of appeals of such adverse determinations with the result and reasons for each; a copy of every rule made by the agency in connection with the Act; a copy of the agency fee schedule with the total amount of fees collected by the agency during the year; and such other information as would indicate efforts to properly administer the law. The first of these reports, covering activities during 1975, have been prepared and released. Their administrative implications will be discussed shortly.

Finally, adopting language from the House legislation, the conference clarified the definition of "agency" for FOI Act matters to include certain entities within the coverage of the law which were thought by some to have been outside of the jurisdiction of the original statute. Those units primarily affected by this change were government corporations, government controlled corporations, and bodies within the Executive Office of the President. The provision does not extend to the "President's immediate personal staff or units in the Executive Office whose sole function is to advise and assist the President." [21]

With these provisions, Congress sought to clarify its intent in this policy sphere and to correct certain administrative abuses. Politics—partisan, ideological, and institutional—tempered the scope and detail of the 1974 amendments just as it did in the formulation of the original 1966 statute. For this reason, not all of the problems identified in the 1972/1973 congressional hearings could be corrected in the subsequent legislation. If, as it appears, the creation of this type of government information law arouses one of the broadest arrays of political interests, then compromises, for purposes of realizing an effective policy production coalition, will seemingly militate against sweeping reform in this sphere.

ADMINISTRATIVE EXPERIENCE

The Freedom of Information Act Amendments became operative on February 19, 1975. In assessing the administration of the amended law, we have the benefit of the annual reports of the Executive Branch and the experience of observing a year and a half of operations under the modified statute.

In general, the amended FOI Act is realizing ever increasing use. Simultaneously, the Federal bureaucracy is learning to respect the statute as a consequence of education and training regarding its administration, the allocation of resources by the agencies to make implementation of the law less burdensome, and a consequential reduction of fears that the divulgence of government records would, in some way, discredit Executive Branch employees.

Still, there are problems in administration, though not widespread and often peculiar to particular agencies or subject matter. While the spirit of the FOI Act appears to be permeating the Executive Branch, it has not reached all quarters. In its 1975 annual report on FOI Act administration, the Department of the Treasury indicated denying a few requests for records because the FOI law had not been specifically cited in these inquiries. Some would dismiss these as minor aberrations in the administration of a government policy of public access to records, but such incidents cannot be lightly regarded for they are anathema to a law which has been in existence for almost a decade. Similarly, the Selective Service System, when asked for a copy of its FOI Act annual report, denied the request, saying "it does not constitue, in our opinion, public information as contemplated by the Freedom of Information Act." Such a denial exceeds the realm of irony and must be plainly regarded as ludicrous. And the Agency for International Development, in preparing its 1975 FOI Act report, failed to supply any statistics on the total number of initial denials for records made pursuant to the Act, the other bases of authority (if any) for initially refusing access to documents, or the frequency with which FOI Act exemptions or other authority (if any) was invoked to deny administrative appeals under the law. On its face, such omissions would appear to be contemptuous of the reporting requirements of the amended FOI Act and may indicate, as well, that this particular agency is not maintaining records on or otherwise monitoring its internal administration of FOI Act requests. Attitudes such as those reflected in these examples constitute some explanation for the approximately 500 law suits currently pending in the Federal courts on Freedom of Information Act matters.

Some measure of the blame for continued resistance to the objectives of the Freedom of Information Act must be attributed to the Department of Justice which is responsible for advising and guiding the other Executive Branch units with regard to the faithful and proper administration of the FOI Act. For almost a decade, Justice Department attorneys have been laboring under the less than enthusiastic and otherwise restrictive view of the FOI law contained in the Attorney General's Memorandum of 1967. Shortly after the effectuation of the 1974 amendments, Attorney General Edward H. Levi, in discussing FOI Act matters in a speech to the Association of the Bar of the City of New York, offered this comment:

> Under our Constitution, the people are the sovereign, but they do not govern by the random and self-selective interposition of private citizens. . . . The concept of democracy and the principle of majority rule require a special role of the government in determining the public interest.

The implications of this viewpoint would seem to be that the Republic, rather than the citizenry, is sovereign and must, in meeting the needs of the popular majority, exercise a discretion with regard to serving the public interest. Stated in other terms, the Justice Department, as an agent of the Republic, is sovereign and, therefore, empowered to make a choice as to determining which of its functions have priority over other obligations in serving the public interest. If the chief purposes of the Department are to enforce all Federal laws, to furnish legal counsel in Federal cases, and to construe the laws under which other departments act, then these duties may, in the view of the Attorney General, take precedence over the administration of a particular statute authorizing random and self-selective requests by various persons for government records. In brief, the Attorney General seems to be hinting that, at the Justice Department, FOI Act requirements might well be secondary to other duties in service to the public interest.

In a similar regard, it has recently been revealed that the Federal Bureau of Investigation, a subunit of the Justice Department, long held the policy viewpoint that the FOI Act was designed to serve only the legal citizenry. After higher authority within the Department pointed out that the law was available to any "person," the Bureau revised its position and ceased denying requests made by foreign nationals. The Bureau's concept of discretion on this aspect of administration apparently was not acceptable to the Attorney General.

Another source of Justice Department unhappiness with the Freedom of Information Act derives from the great volume of inquiries it has received pursuant to the law. After the security classification exemption (5 USC 552(b)(1)) and the investigatory files exemption (5 USC 552(b)(7)) were modified by the 1974 amendments, there was reason to believe that the Department would have less basis for denying requests for documents. This situation coincided with revelations in the media that the Department and certain of its subunits had engaged in a variety of questionable surveillance activities, had engaged in unorthodox and perhaps illegal investigatory and intelligence practices, and was maintaining a vast system of dossiers on Americans who were not subject to any pending Federal prosecution. In brief, the Justice Department, and the Federal Bureau of Investigation in particular, reaped the proverbial whirlwind!

Thus, while the Department of Justice is supposed to be exercising leadership within the Executive Branch with regard to the faithful administration of the Freedom of Information Act, its primary statement of government-wide policy in this domain reflects little realistic sympathy for the statute; its attorneys are actively seeking to emasculate the response timeframes imposed by the 1974 amendments and recommended after careful study by another Executive Branch entity, the Administrative Conference of the United States; and its own record in responding to FOI Act requests leaves much to be desired, either as an administrative example to other agencies or in and of itself. Undoubtedly there are those within the Department who have or are attempting to reverse this situation. Unfortunately, such efforts have been, to the moment, largely fruitless.

Apart from these concerns over Justice

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Department efforts at Freedom of Information Act policy coordination and leadership, the organization and efficiency of the various Executive Branch entities administering the FOI law also deserve some general consideration. With regard to organization, including both the structural and personnel aspects, most Federal agencies currently maintain a unit at their Washington headquarters to manage FOI Act requests with representatives in the field for these matters as well. Generally, such units operate as a component of the public information office or enjoy some degree of independent status with largely direct ties to the head of the agency. In the larger Federal departments, a Freedom of Information official with close administrative proximity to the Secretary often coordinates the activities of operating FOI Act staffs located within the principal entities of the department.

However, the key factor, essential to the effective functioning of these arrangements, would appear to be the degree of discretion exercised by personnel responding to FOI Act requests. In most agencies, the FOI Act unit has the authority to either grant or deny an initial request for records and denials may be appealed to the head of the agency. In some entities, however, the FOI Act unit may only deny requests and grants can be made only by the head(s) of the agency (this has been true in the case of some regulatory commissions). This structure obviously slows the grant process, since agency heads undoubtedly have other demands upon their time, and appears to be an administrative process in inverse relationship to the purposes of the FOI Act.

On the other hand, there is at least one entity—the Department of Health, Education and Welfare—where FOI Act administrators may only grant requests; denial authority is limited to a very small group of officials. This situation would appear to be quite harmonious with the thrust of the law, so long as it does not impede processing an inquiry.

With regard to personnel, the ideal is to not only have a sufficient number of individuals versed in FOI Act procedures and requirements to properly administer requests pursuant to the law, but, also, to utilize program personnel who will be capable of expediting inquiries in a timely and proper manner. Actual practice indicates Executive Branch agencies are using a combination approach in staffing for FOI Act matters. Often a corps of information generalists are utilized to clear routine requests and program personnel are trained to service FOI Act pleas involving substantive questions.

When considering administrative efficiency in FOI Act matters, the backlog of unanswered requests pending with the Central Intelligence Agency and the Federal Bureau of Investigation must be regarded as deriving from very unusual circumstances. As indicated previously, the amendment of certain exemptions in the FOI Act prompted public expectation that more records would be released by these agencies and media revelations about their intelligence and surveillance activities aroused curiosity as well. The problem was that these agencies did not have adequate staff to meet the initial avalanche of requests; little effort was made to increase resources as the volume of inquiries continued to mount; and the Federal Bureau of Investigation has indicated it has no intention of allocating any more money or staff for this task in the immediate future.[22]

However, while the FBI was attempting to process a little over 10,000 FOI Act requests during 1975, the Department of Defense cleared slightly less than four times as many inquiries with no backlog. Indeed, the vast majority of Executive Branch agencies indicated they were processing requests for documents in a timely fashion, largely because trained personnel were sufficiently available to meet the workload.

Further, while Justice Department attorneys have been successful in obtaining a ruling from the Court of Appeals (District of Columbia Circuit) that the administrative deadline set by the 1974 amendments to the FOI Act are "not mandatory, but directory,"[23] an examination of somewhat incomplete information supplied by approximately 90 Federal agencies in their 1975 FOI Act reports clearly indicates that the vast majority of them are experiencing little difficulty in complying with the response timeframes. Only about a third of these agencies cited any instances when they found it necessary to seek a ten-day extension of an administrative deadline and of these, only six entities, excepting the Central Intelligence Agency and the Justice Department, found it necessary to obtain such an extension in more than a dozen cases.

Undoubtedly, the administration of the amended Freedom of Information Act has been surprisingly costly for some agencies. Among those reporting the highest expenses were the Department of the Treasury ($3,337,000), the Department of Health, Education and Welfare ($2,365,500), the Veterans Administration ($1,631,400), and the Central Intelligence Agency ($1,392,000). However, many agencies realized costs not in excess of $500,000 and quite a few cited "negligible" expense which was absorbed by the existing budget. High costs can be attributed to an unusual volume of FOI Act requests, necessary hiring and training of new staff, and/or an inadequate allocation of resources to FOI Act matters in the past. Other factors to be kept in mind are that initial costs will probably be far in excess of those incurred in more normal or routine operations, that many agencies have elected to provide documents and records to public interest petitioners at no charge, and that upper grade staff may have been involved in FOI Act administration when personnel of a lower salary rate could have been effectively utilized. These are a few of the considerations surrounding the costs of FOI Act operations. Balanced against the expense factor is the practical rejoinder that these expenses are probably not as great as those resulting from Executive Branch public relations puffery. In the case of an FOI Act request, someone at least wanted the information enough to write for it.

And there is also the more philosophic argument: the maintenance of democratic practice requires money. If, indeed, the Freedom of Information Act contributes to the realization of a democratic system of government, then the cost of its demise or diminution is the more troubling consideration.

FUTURE REFINEMENTS

The enactment of the Freedom of Information Act marked the beginning of a continuing effort at realizing the "people's right to know" about the activities and operations of their national government.[24] Since its adoption a decade ago, the FOI Act has acquired a few kinsmen: the Fair Credit Reporting Act of 1970 (15 USC 1681 et seq.) provides an individual access to any information held by consumer reporting agencies and persons (including corporations) who regularly procure or cause to be prepared an investigative report bearing on a consumer's eligibility for credit, insurance, employment, rent, license, or government benefit; the Family Educational Rights and Privacy Act of 1971 (20 USC 1232g) provides an adult access to his or her personal records maintained by an educational agency or institution which is the recipient of Federal educational funds; the Federal Advisory Committee Act of 1972 (86 Stat. 770) opens the deliberations of Executive Branch advisory bodies to public observation and requires that certain records be kept regarding their proceedings; the Privacy Act of 1974 (5 USC 552a) provides an individual access to those Federal records held by Executive Branch authorities, including personnel records, which are retrievable by a personal identifier such as a name or number (such access is restricted to those records pertaining to the particular individual); and the Government in the Sunshine Act, about to be signed into law (as 5 USC 552b) by the President this summer, opens the deliberations of collegially headed Executive Branch agencies when a final policy decision is under consideration.

But what of future developments? Though the following comments are purely personal observations, they are, nevertheless, informed speculations. During the next four years, congressional attention might be devoted to:

Creation of a statutorily specified security classification system consistent with the spirit and provisions of the Freedom of Information Act. Such a law would restrict presidential discretion in this policy area by establishing general criteria, limitations, and expectations within which the relevant Executive Branch entities would function.[25] The agencies would exercise a considerable degree of administrative autonomy under such an arrangement but the statutory prescripts would, among other things, require adherence to the basic principles of the FOI Act. Reduction of the potential for conveying an unfair economic advantage through the Freedom of Information Act. Essentially, this proposition foresees consideration of the possibility of limiting corporate or business community utilization of the FOI Act, as is the case with the Privacy Act, and simultaneously devoting serious thought to refining the trade secrets exemption (5 USC 552(b)(4)) to more equitably protect commercial and financial information obtained by the government under a proper pledge of confidentiality.

Assessment of records management and archival administration practices with a view to the effective operation of the FOI Act. Efforts are currently being made within the Executive Branch to eliminate and otherwise reduce unnecessary paperwork and records. While this undertaking is desirable from the standpoint of government efficiency and economy, care must be taken to make certain that such actions do not adversely effect the FOI Act in terms of document availability. Also, as new consideration is being given to the adequacy of present archival arrangements for obtaining and protecting the records of former Federal officials, attention should be given to the possible application of the FOI Act to facilitate public retrieval of these materials.

Ten years ago the Freedom of Information Act came into existence, burdened by imprecise language and surrounded by confusion as to its interpretation. Opposed by the Executive Branch, the legislation was regarded by the bureaucracy as an irritant and a threat to government operations. Through oversight proceedings and statutory amendments, Congress made its intent in this policy sphere very clear and reinforced both the spirit and procedures of the law. Today, a decade after its enactment, the Freedom of Information Act seems to have been accepted by the majority of Federal agencies to the extent that it is being efficiently and effectively administered by most Executive Branch entities. Flaws in perception and procedure do exist, however, and new problems, undoubtedly, will arise with the passage of time. Nevertheless, the Freedom of Information Act today is a meaningful reality. Continued congressional vigilance will protect that reality and an element of vision will contribute to not only an extension of the "people's right to know" about the activities and operations of the state but the further realization of open government in an open society as well.

Footnotes at end of article.

FOOTNOTES

[1] As contained in the 1964 edition of the United States Code, these provisions of Title 5 read as follows:

Sec. 22 "The head of each department is authorized to prescribe regulations, not inconsistent with law, for the government of his department, the conduct of its officers and clerks, the distribution and performance of its business, and the custody, use, and preservation of the records, papers, and property appertaining to it. This section does not authorize withholding information from the public or limiting the availability of records to the public." (The last sentence of this section was added in 1958 by 72 Stat. 547.)

Sec. 1002 "Except to the extent that there is involved (1) any function of the United States requiring secrecy in the public interest or (2) any matter relating solely to the internal management of an agency—

(a) Every agency shall separately state and currently publish in the Federal Register (1) descriptions of its central and field organization including delegations by the agency of final authority and the established places at which, and methods whereby, the public may secure information or make submittals or requests; (2) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal or informal procedures available as well as forms and instructions as to the scope and contents of all papers, reports, or examinations; and (3) substantive rules adopted as authorized by law and statements of general policy or interpretations formulated and adopted by the agency for the guidance of the public, but not rules addressed to and served upon named persons in accordance with law. No person shall in any manner be required to resort to organization or procedure not so published.

(b) Every agency shall publish or, in accordance with published rule, make available to public inspection all final opinions or orders in the adjudication of cases (except those required for good cause to be held confidential and not cited as precedents) and all rules.

(c) Save as otherwise required by statute, matters of official record shall in accordance with published rule be made available to persons properly and directly concerned except information held confidential for good cause found."

[2] H. H. Gerth and C. Wright Mills, eds. *From Max Weber: Essays in Sociology*. New York, Oxford University Press, 1946, pp. 233–234.

[3] U.S. Congress. House. Committee on Government Operations. *U.S. Government Information Policies and Practices—Administration and Operation of the Freedom of Information Act* (Part 6). Hearings, 92d Congress, 2d session. Washington, U.S. Govt. Print. Off., 1972, pp. 2240–2241.

[4] With regard to the investigative proceedings, see: U. S. Congress. House. Committee on Government Operations. Special Subcommittee on Government Information. *Availability of Information from Federal Departments and Agencies* (17 parts). Hearings, 84th–86th Congresses. Washington, U. S. Govt. Print. Off., 1956–1959. 4260 p.; also see Robert Okie Blanchard. *The Moss Committee and a Federal Public Records Law*. Unpublished doctoral dissertation. Syracuse, Syracuse University Graduate School, 1966. 278 p.; Robert O. Blanchard. "A History of the Federal Records Law." *Freedom of Information Center Report. No. 189*. Columbia School of Journalism, University of Missouri, 1967. 12 p.

With regard to the legislative proceedings, in chronological development, see: U. S. Congress. Senate. Committee on the Judiciary. Subcommittee on Administrative Practice and Procedure. *Freedom of Information. Hearings*, 88th Congress, 1st session. Washington, U. S. Govt. Print. Off., 1964. 322 p.; —. —. —. —. *Administrative Procedure Act*. Hearings, 88th Congress, 2d session. Washington, U. S. Govt. Print. Off., 1964. 673 p.; —. —. Congress, 1st session. Washington, U. S. Govt. Print. Off., 1965. 572 p.; —. —. —. *Clarifying and Protecting the Right of the Public to Information and for Other Purposes*. Washington, U. S. Govt. Print. Off., 1965. 10 p. (89th Congress, 1st session. Senate. Report No. 83); —. House. Committee on Government Operations. Foreign Operations and Government Information Subcommittee. *Federal Public Records Law*. Hearings, 89th Congress, 1st session. Washington, U. S. Govt. Print. Off., 1965. 528 p.; —. —. —. *Clarifying and Protecting the Right of the Public to Information*. Washington, U. S. Govt. Print. Off., 1966. 14 p. (89th Congress, 2d session. House. Report No. 1497); —. —. Committee on the Judiciary. *Codification of Public Law 89–467*. Washington, U. S. Govt. Print. Off., 1967. 8 p. (90th Congress, 1st session. House. Report No. 125).

[5] Additional days were devoted to related subjects besides the public access provisions and the series of hearings was published as U. S. Congress. House. Committee on Government Operations. Foreign Operations and Government Information Subcommittee. *U. S. Government Information Policies and Practices* (9 parts). Hearings, 92nd Congress, 1st and 2d sessions. Washington, U. S. Govt. Print. Off., 1972. 3758 p.; see parts 4–6 regarding public access matters; also see U.S. Congress. House. Committee on Government Operations. *Administration of the Freedom of Information Act*. Washington, U. S. Govt. Print. Off., 1972, 89 p. (92d Congress, 2d session. House. Report No. 1419).

[6] See U.S. Congress. House. Committee on Government Operations. Foreign Operations and Government Information Subcommittee. *The Freedom of Information Act*. Hearings, 93rd Congress, 1st session. Washington, U.S. Govt. Print. Off., 1973. 412 p.; —. —. —. *Amending Section 552 of Title 5, United States Code, Known as the Freedom of Information Act*. Washington, U.S. Govt. Print. Off., 1974. 29 p. (93rd Congress, 2d session. House. Report No. 93–876); —. Senate. Committee on Government Operations (and) Committee on the Judiciary. *Executive Privilege, Secrecy In Government, Freedom of Information*. Hearings, 93rd Congress, 1st session. Washington, U.S. Govt. Print. Off., 1973. 1482 p.; —. —. Committee on the Judiciary. *Amending the Freedom of Information Act*. Washington, U.S. Govt. Print. Off., 1974. 64 p. (93rd Congress, 2d session. Senate. Report No. 93–854): —. House. Committee of Conference. *Conference Report: Freedom of Information Act Amendments*. Washington, U.S. Govt. Print. Off., 1974. 15 p. (93rd Congress, 2d session. House. Report No. 93–1380).

[7] See U.S. Congress. House. Committee on Government Operations. Foreign Operations and Government Information Subcommittee. *Records Maintained By Government Agencies*. Hearing, 92nd Congress, 2d session. Washington, U.S. Govt. Print. Off., 1972. 232 p.; —. —. —. —. *Access to Records*. Hearings, 93rd Congress, 2d session. Washington, U.S. Govt. Print. Off., 1974. 388 p.; —. —. —. *Privacy Act of 1974*. Washington, U.S. Govt. Print. Off., 1974. 42 p. (93rd Congress, 2d session. House. Report No. 93–1416); —. Senate. Committee on Government Operations (and) Committee on the Judiciary. *Privacy*. Joint hearings, 93rd Congress, 2d session. Washington, U.S. Govt. Print. Off., 1974, 2335 p.; —. —. Committee on Government Operations. *Protecting Individual Privacy in Federal Gathering, Use and Disclosure of Information*. Washington, U.S. Govt. Print. Off., 1974. 85 p. (93rd Congress, 2d session. Senate. Report No. 93–1183).

At least one oversight proceeding has been held since the adoption of the Privacy Act; see U.S. Congress. House. Committee on Government Operations. Government Information and Individual Rights Subcommittee. *Implementation of the Privacy Act of 1974: Data Banks*. Hearings. 94th Congress, 1st session. Washington, U.S. Govt. Print. Off., 1975, 156 p.

[8] See Jerome J. Hanus and Harold C. Relyea. "The Privacy Act of 1974: A Policy Analysis." *The American University Law Review*. v. 26, Summer. 1976, forthcoming.

[9] Blanchard, *The Moss Committee and a Federal Public Records Law, supra.*, pp. 140–148.

[10] Kenneth Culp Davis. "The Information Act: A Preliminary Analysis." *The University of Chicago Law Review*, v. 34, Summer, 1967, p. 763; capitalizing upon the politics of the moment, the *Attorney General's Memorandum*, supposedly issued to guide the departments and agencies in faithfully administering the FOI Act, appears to restate the White House view of the statute, imposed upon the House report on the legislation in 1966, in that it ignores the legislative history of the law and relies almost exclusively upon the House report as substantiation for interpreting the FOI Act.

[11] See, for example, *Environmental Protection Agency v. Mink, et al.*, 410 U.S. 73 (1973) where the Supreme Court ruled that a claim of exemption under the national defense and foreign policy provision of the FOI Act (5 USC 552(b)(1)) was satisfied by affidavit of the Government that the documents in question were properly classified, that Congress gave the Executive the authority to determine if any information should be classified, and that Congress did not intend to subject the soundness of Executive security classifications to judicial review—of which in camera inspection was a central aspect—at the insistence of any objecting citizens. The 1974 FOI Act amendments overturn this interpretation by granting the courts the discretion to make in camera examinations of classified records, to question Executive assertions that the documents at issue are properly classified, and to overrule the Executive as to whether or not information is properly classified.

[12] For example, with regard to the difficulties of identifying what type of information constitutes a "trade secret," see James T. O'Reilly. "Government Disclosure of Private Secrets under the Freedom of Information Act." *The Business Lawyer*, v. 30, July, 1975, pp. 1125–1147.

[13] H. Rept. 92–1419, p. 8.

[14] *Ibid.*, pp. 9–11.

[15] See Harold C. Relyea and Sharon S. Gressle. "Special Analysis of Operations of the Freedom of Information Act." *Congressional Record*, v. 118, March 23, 1972, pp. 9949–9953; also see Thomas Redburn. "Open Files: Letting Exxon In." *The Washington Monthly*, v. 7, July/August, 1975, pp. 18–23; Cf. note 12 *supra*.

[16] H. Rept. 93–1380, p. 9.

[17] *Ibid.*, p. 10.

[18] For the Supreme Court's most recent decision on the general matter of the awarding of court costs and attorney fees, see *Alyeska Pipeline Service Company v. Wilderness Society et. al.*, 421 U.S. 240 (1975).

[19] The principal presidential directive establishing current security classification policy and procedures is E.O. 11652 (37 F.R. 15624 *et. seq.*), as amended, and an accompanying National Security Council implementation directive (37 F.R. 10053).

[20] H. Rept. 93–1380, p. 12.

[21] *Ibid.*, p. 15.

[22] On July 29, 1976, the House Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary began hearings on the effects of the demands of the Freedom of Information Act and the Privacy Act on the Federal Bureau of Investigation; in addition, nine Members of the House of Repre-

sentatives have asked the General Accounting Office, a congressional investigative agency, to probe "the FBI's difficulty in meeting its statutory requirement for timely processing" of Freedom of Information Act requests.

[23] See *Open America v. Watergate Special Prosecution Force*. Civil Action No. 76–1371 (C.A.D.C. July 7, 1976).

[24] See Harold C. Relyea. "Opening Government to Public Scrutiny: A Decade of Federal Efforts." *Public Administration Review*, v. 35, January/Ferbuary, 1975, pp. 3–10.

[25] See Harold C. Relyea. "Congress and Government Information Security Classification Policy: The Statutory Option." U.S. Congress. House. Committee on Government Operations. U.S. Congress. House. Committee on Government Operations. *Security Classification Reform*. Hearings, 93rd Congress, 2d session. Washington, U.S. Govt. Print. Off., 1974, pp. 289–295; also see U.S. Congress. House. Committee on Government Operations. *Executive Classification of Information.—Security Classification Problems Involving Exemption (b) (1) of the Freedom of Information Act (5 U.S.C. 552)*. Washington, U.S. Govt. Print. Off., 1973. (93rd Congress, 1st session. House. Report No. 93–221).

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2278, which will be stated by title.

The second assistant legislative clerk read as follows:

A bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard. The Clerk will call the roll.

The second assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 47 Leg.]

Allen
Bumpers
Byrd, Robert C.
Cranston
Helms
McClellan
Pastore
Pearson
Thurmond
Williams

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The second assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

Mr. CRANSTON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Kentucky (Mr. Ford), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Arkansas (Mr. McClellan), the Senator from Wyoming (Mr. McGee), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Georgia (Mr. Talmadge), and the Senator from California (Mr. Tunney), are necessarily absent.

I further announce that the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Mansfield), and the Senator from Ohio (Mr. Glenn), are absent on official business.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. Buckley), the Senator from Nebraska (Mr. Curtis), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Goldwater), the Senator from Ohio (Mr. Taft), the Senator from Texas (Mr. Tower), and the Senator from Connecticut (Mr. Weicker), are necessarily absent.

I also announce that the Senator from Tennessee (Mr. Baker) is absent on official business.

The result was announced—yeas 76, nays 1, as follows:

[Rollcall Vote No. 624 Leg.]

YEAS—76

Abourezk
Allen
Bartlett
Bayh
Beall
Bellmon
Bentsen
Brock
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Garn
Gravel
Griffin
Hansen
Hart, Gary
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Laxalt
Leahy
Magnuson
Mathias
McClure
McIntyre
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Thurmond
Williams
Young

NAYS—1

Biden

NOT VOTING—23

Baker
Buckley
Curtis
Dole
Ford
Glenn
Goldwater
Hart, Philip A.
Johnston
Kennedy
Long
Mansfield
McClellan
McGee
McGovern
Metcalf
Mondale
Montoya
Taft
Talmadge
Tower
Tunney
Weicker

So the motion was agreed to.

The PRESIDING OFFICER (Mr. Gary Hart). A quorum is present.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

The Senate continued with the consideration of the bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

Mr. ALLEN addressed the Chair.

AMENDMENT NO. 2347

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, I have waited in vain for more than a day for some sponsor of the legislation to rise in the Senate and explain the bill, explain the need for the bill, explain why this bill providing for attorney fees in certain actions is so important that it is placed ahead of all the important legislation on the calendar of the U.S. Senate, explain why this bill guaranteeing attorney fees for lawyers who bring civil rights actions is so important that it is placed ahead of important legislation pending here in the Senate.

I was somewhat surprised on yesterday when I offered an amendment that would provide another area, as long as we were providing for attorneys' fees, in which attorney fees would be paid to the prevailing party.

That amendment provided that where actions are brought under title IX, which is the antisex discrimination section, attorney fees would be paid to the prevailing side in such actions.

The Senate in its wisdom rejected this amendment, apparently taking the position that it did not wish to see attorney fees paid where actions are brought under the antisex discrimination section.

I have now, Mr. President, an amendment which I am going to introduce after I conclude my remarks, and I take this precaution to allow me to discuss the amendment without having it tabled without discussion.

The amendment that I propose to present opens up another area in which attorney fees shall be paid to a defendant in an action brought by the IRS—the Internal Revenue Service, a department of the Treasury Department—asserting that such person against whom the action is brought owes money to the Government under internal revenue laws. If in the final determination of the action it is found that the taxpayer owes nothing to the Government, or it is found that this action by the Government was without merit, or that it was frivolous, then the Government would be required to pay the attorney fee to the taxpayer as to whom it was found that there was no liability of taxes.

We know all too well the proclivity of the IRS to harass taxpayers throughout the country. It is only right, Mr. President, that if the Government harasses a taxpayer, brings a frivolous action against him and it is found that the taxpayer does not owe the Government any money, that action may have been before the courts for years and may well have bankrupted the taxpayer in attorney fees for the defense of that action, but if in the final determination of the suit it is found that he owes nothing, then the Government should be required to pay that attorney fee.

Mr. President, I do not see all of the concern we manifest here in the Senate about attorney fees. I like to see attorneys earn fees. I like to see them succeed in their profession. But I do not believe it is up to the United States Government to subsidize attorneys who bring actions against individuals, against corporate entities, against governmental bodies.

It certainly is an encouragement to the stirring up of litigation.

There is a term in the law, or a word in the law, called barratry. Barratry means the stirring up of litigation against people.

Certainly, it is unethical conduct for an attorney to engage in the practice of barratry. It is illegal. It is unethical.

But here we are doing exactly that if we pass this bill. We are unnecessarily stirring up litigation.

I will not say that the Senate in passing this bill is acting in an unethical fashion. Certainly, the Senate has got a right to pass this bill if it so desires.

But if it were an individual doing it, I would say it would be unethical and possibly illegal.

The Senate has shown an unusual concern for guaranteeing attorney's fees, and large fees at that.

Mr. MATHIAS. Will the Senator yield?

Mr. ALLEN. I do not yield.

Mr. MATHIAS. The Senator commented on the lack of speakers supporting the bill.

Mr. ALLEN. I do not yield to the Senator. I have the floor.

Mr. MATHIAS. The Senator does.

Mr. ALLEN. I hope the Senator will not interrupt me while I discuss this important matter.

I might comment that I waited to see if anybody else wanted to ask for the floor. The Chair was just about to put the question on agreeing to the Kennedy substitute. The Kennedy substitute is a nice little item, I might say. What it does is to add about 7 words to the bill but it is done in the form of a substitute.

A casual observer might feel, "What is wrong with passing a substitute and going on to other amendments?"

The joker in that is if we pass a substitute no further amendments would be in order.

Amendments are now in order to the Kennedy substitute and to the bill itself. I do propose to offer an amendment in a short while which would pay attorney fees to taxpayers who are wrongfully sued by the IRS.

I would welcome an explanation by advocates of the bill, but none will come forward. The author of the bill is not even present. Mr. TUNNEY is the author of the bill but he is not here to explain it.

Of course, it is easy to pass any bill that has the words "civil rights" in the bill. That is an easy bill to pass. Those are the key words. If one puts "civil rights" in the bill, the bill will pass without Senators bothering to check into what is involved.

But this bill, Mr. President, does not involve civil rights. This bill involves attorney fees. That is all there is in the bill. There is not one single additional civil right extended. There is not one single civil right protected, not one single one. There is not one thing in the bill except guaranteeing attorney fees. Why should we in the Senate be concerned about seeing that attorneys get fees?

Mr. President, I have mentioned that the Senate has shown undue concern about seeing that attorneys get fees.

Mr. CRANSTON. Will the Senator yield?

Mr. ALLEN. No; I do not.

Let us see the record of the Senate in this regard.

The first action the Senate took regarding attorney fees had to do with the no-fault insurance legislation which came up here in the Senate. I do not favor the no-fault insurance. I do not believe it has worked well where that is the law in the various States. I believe it is something that the States should do if it is to be done at all and not the Federal Government.

I favor the concept that the States should be allowed to perform many governmental services rather than the Federal Government. If our State legislature wants to enact a no-fault insurance law I would certainly support that concept, if they wished to do it.

One of the largest groups, or I might say the largest group, opposing the no-fault insurance concept was the trial attorneys of the Nation, the damage suit lawyers, we might say. Obviously, with the no-fault certain but smaller amounts are paid for damages sustained in automobile accidents. Under the present law, of course, the sky would be the limit, with certain limitations as to excess recovery. Naturally, larger attorney fees would be received under the present law.

So the Senate turned back the no-fault insurance. I dare say if the lawyers had not opposed no-fault insurance, it would have passed overwhelmingly.

That is the first instance of the Senate taking care of the lawyers on their fees.

The next instance that I recall had to do with the antitrust legislation which passed the Senate and the House. There was no conference report, but the bill now, I assume, is on the President's desk. That bill had a difficult course here in the Senate. We had considerable debate on it. I believe it was debated for a couple of weeks, at least.

Mr. President, do you know what the main thing involved in that antitrust bill was? It was protecting lawyers, guaranteeing a certain favored few among the legal profession access to litigation where tremendous fees, up in the millions of dollars, Mr. President, might be paid on some of these antitrust actions..

How did that come about? How could lawyers profit by antitrust legislation?

Well, the bill had this provision in it: The attorneys general of the 50 States—and I think some of the territories as well; certainly the 50 States—could farm out to such cronies as they might have in the legal profession antitrust actions, taking it away from the Justice Department—not taking it away, but adding this additional route on to the present procedure, where the Justice Department handles antitrust legislation—adding 50 separate and distinct agencies or entities bringing or having authority to bring antitrust actions, where they would go in and sue some company for everybody that may have paid 2 cents too much for toothpaste over a period of years. They sue for all of those people, and when you add the damages up it runs into millions of dollars; and the attorneys are allowed to receive contingent fees under that procedure.

Mr. President, that was the chief point of contention in the entire legislation. That is what caused the difficulty. It was not looking after the consumer. The consumer might have 13 cents involved; but when you multiply that by 15 million consumers, it adds up to a lot of money.

What was at the bottom of that legislation, Mr. President, was concern for attorneys and attorneys' fees. Had that been stripped from the bill, we would not have had a 2 weeks debate on it. It would have been passed very quickly.

So there, Mr. President, is the second instance of the Senate's great concern for attorneys and attorneys' fees. Oh, we do great things for the consumer. We have great concern for the consumer. Oh, the consumer is king; we have got to take care of him. And it is made to appear that this antitrust legislation is going to benefit the consumer.

Well, the consumer's recovery would be a pittance. Who would bother to ask the court for $1.57? Very few people. But add that up and give the attorney his contingency fee, and the consumer has not benefited, but the attorney has.

I have no fault to find with attorneys. I am a member of the legal profession, and have been for 40 years. I do not practice law, inasmuch as I have a fulltime job in the U.S. Senate, but I retain my high regard and great respect for the legal profession.

Mr. President, this type of suit really is not brought by the average country lawyer, shall I say, the average small-town lawyer. These types of suits, these antitrust suits, are brought by a relatively small group of activist attorneys.

Talk about cronyism: that is what we had in this antitrust legislation; taking care of a small group of activist attorneys. All of the talk about aiding the consumer is just a smokescreen, Mr. President. We all know that. It is not publicized a great deal, because the media like to see free enterprise institutions assailed. They enjoy that; it makes good news for them—though not very good news for those who are sued. But you never really get the true story.

Going home some nights, I hear Paul Harvey. He says, "You know the news; now I am going to tell you the rest of the story." And he has really interesting little vignettes in the way of telling of some incident or some person's life.

Just last night, or the night before, he was telling about a lady who lived in a house that was formerly a freight train caboose, and who made a living from her garden, where she raised vegetables of one sort or another, and one vegetable or organic food that he mentioned, I believe, was comfrey, which is supposed to have certain medicinal qualities.

They live far below the poverty level

in their expenditures for living, she and her husband. However, they do a whole lot of good works from funds that they have; and Paul Harvey told the rest of the story: that this lady is a granddaughter of John D. Rockefeller, Jr. But you would never know that from their lifestyle.

I am telling the rest of the story on the antitrust legislation. It is supposed to be for the benefit of the consumer, the little man, but actually it benefits, in the main, a small group of activist attorneys.

So that was the main bone of contention, Mr. President. Some of us did not want to see this harassment machinery set up where, instead of just having the Justice Department file antitrust actions, 50 attorneys general's departments throughout the country were set up as suboffices—suboffices—in the bringing of antitrust proceedings, so that if you get some eager beaver attorney general who feels that prices have been fixed on some commodity, he can haul the company that makes it into court and claim, perhaps, that they overcharged, through price fixing, some 2 or 3 cents on an item.

The damages are huge under this process of aggregation of damages, where they do not have to show actual damages to anyone, but where they just take a pencil and say, "Now, look, on this tube of toothpaste they overcharged 3 cents a tube and they have been selling 50 million tubes a year, so they have overcharged then some whatever that would be, $1.5 million, say."

So, with a potential judgment of that sort against a company, they are prone to settle the case. In one case actually the amount of recovery was $200 million. Think what a melon those attorneys sliced on that litigation, a $200 million settlement. I daresay the recovery if they had gone on to court might have been $1 billion. Or it might have been nothing. Sometimes that is the case.

I remember reading the paper the other day where some child had been injured, damaged by a doctor and suit had been brought against the doctor or the hospital. I forget which. That is not important. But while the jury was out, they reached a compromise settlement, somewhere in the neighborhood of $1.5 million, I think maybe $450,000. But that is not important. It was a huge settlement. And as soon as they had shaken hands on the settlement or signed papers, the jury announced it was ready to come back, and it did come back. The jury made known what their verdict would have been had the case not been settled. It would have been a verdict for the defendant.

That is not always the case, of course, and these companies have to settle these matters rather than risk tremendous scare verdicts, and the attorneys profit under a contingency fee arrangement.

So that was the main concern, and I am telling the rest of the story here now, as Paul Harvey does. As he would say, "You know the news, the antitrust bill passed the Congress." But I am telling the rest of the story. That was not, in the main, a consumer bill, a bill for the protection of the consumer. It was a bill for the protection of lawyers. Mr. President, if President Ford signs the bill—I hope he vetoes it—in every State in the Union they will have a subantitrust office in the attorney general's department and the attorney general can check around and see which company or which manufacturing or sales group he wants to sue. Then he can call his friend in one county who has been supporting him through the years, contributing to his campaign and say: "Look, we have an antitrust action here for you to bring, and whatever you recover you will get a contingency fee on it that could run up to a staggering amount."

Naturally, the attorney would thank the attorney general and enter upon the preparation of his paper.

UP AMENDMENT NO. 472

Mr. President, I am going to send to the desk my amendment, on which I am going to call for the yeas and nays, that provides, as I stated at the outset, where the IRS wrongfully sues a citizen and it is found that the suit seeking the establishment of tax liability is without merit or frivolous, then in that event the Government will be required to pay an attorneys' fee to John Q. Citizen who has been harassed by the IRS. So I send this amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Alabama (Mr. Allen), for himself and Mr. Helms, proposes unprinted amendment No. 472, to the Kennedy amendment.
>
> To amend the Kennedy substitute to S. 2278 on line 8, by striking the comma after 1964 and add the following:
>
> "or where suit is brought by the IRS against any person asserting the existence of tax liability to the government on the part of such person and said suit is found in such action to be without merit or frivolous."

Mr. ALLEN. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ALLEN. Mr. President, I have no recourse but reluctantly to suggest the absence of a quorum which, under the policy I have established, would be a live quorum. I would hope that we might hold the request in abeyance for a moment. I hate to occupy the Senate in a quorum.

Mr. NELSON. If the Senator will yield, perhaps there are some Members in the cloakroom.

Mr. McCLURE. We can round one up.

Mr. ALLEN. So I will talk for a moment in the hope we can get the Members of the Senate in the Chamber. I would much prefer that the time of the Senate be used in discussion of the bill, rather than a quorum call. I have no plans to put in a quorum call at any time today, but if anyone does suggest the absence of a quorum, I am going to assume that he wants to find out if there is a quorum of the Senate present, and I will object to any request to call off the quorum call.

So at this time inasmuch as several Senators have entered the Chamber, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. Philip A. Hart), the Senator from Louisiana (Mr. Johnston), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that the Senator from Ohio (Mr. Glenn) and the Senator from Montana (Mr. Mansfield) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from Texas (Mr. Tower), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. Baker) is absent on official business.

The result was announced—yeas 39, nays 47, as follows:

[Rollcall Vote No. 625 Leg.]

YEAS—39

Allen
Bartlett
Bellmon
Brock
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Domenici
Durkin
Eastland
Fannin
Garn
Goldwater
Griffin
Hansen
Hathaway
Helms
Humphrey
Laxalt
Long
McClellan
McClure
Morgan
Nunn
Packwood
Pell
Roth
Scott, William L.
Sparkman
Stennis
Stevens
Stone
Symington
Talmadge
Thurmond
Young

NAYS—47

Abourezk
Bayh
Beall
Bentsen
Biden
Brooke
Case
Church
Clark
Cranston
Culver
Curtis
Eagleton
Fong
Ford
Gravel
Hart, Gary
Hartke
Haskell
Hatfield
Hollings
Hruska
Huddleston
Inouye
Jackson
Javits
Kennedy
Leahy
Magnuson
Mathias
McGovern
McIntyre
Metcalf
Muskie
Nelson
Pastore
Pearson
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevenson
Taft
Williams

NOT VOTING—14

Baker
Buckley
Dole
Glenn
Hart, Philip A.
Johnston
Mansfield
McGee
Mondale
Montoya
Moss
Tower
Tunney
Weicker

So Mr. Allen's amendment was rejected.

Mr. HATHAWAY and Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mr. Leahy). The Senator from Maine is recognized.

Mr. HATHAWAY. Mr. President, I yield to the Senator from California.

Mr. CRANSTON. Mr. President, it was alleged in the course of the debate against this bill this morning by the Senator from Alabama that those who are in favor of the pending measure have not been present to debate and have not made any statements in behalf of the bill. As closely as I can remember, that is exactly what was stated.

I then spoke with the Senator from Maryland to verify my impression that he had given a lengthy speech yesterday, detailing extensively his reasons for supporting this bill. He stated that he had done so. The record shows that he did so.

The Senator from Maryland then sought the floor; he asked the Senator from Alabama to yield, simply for the purpose of straightening out the RECORD to make plain that he had been present, had spoken at length, and his arguments are in the record. The Senator from Alabama refused to yield to him.

Upon another occasion, I asked the Senator from Alabama if he would yield solely for the purpose of my making a few points in regard to this bill. Again, the Senator from Alabama refused to yield the floor.

My only point in making this statement is to correct the record. There are those present and there have been those present who have wished to speak for the bill.

Mr. ALLEN. Will the Senator yield?

Mr. CRANSTON. I cannot yield. The floor is in the hands of the Senator from Maine.

Mr. ALLEN. Will the Senator from Maine yield?

Mr. HATHAWAY. I yield to the Senator from Alabama.

Mr. ALLEN. The Senator from California could get the floor now. I do not recall the Senator from Maryland making any remarks. Possibly he did.

Mr. CRANSTON. If the Senator from Alabama will read the record, he will find that he did.

Mr. ALLEN. I do not recall, and I was here practically all the time. I may have stepped to an adjoining room for a few minutes. I do not recall the speech.

As for his asking me to yield the floor to him, he had not appeared, when the bill was called up, to speak. I hope advocates of the bill will have something to say in favor of the bill, if in fact, there is something to be said.

Mr. CRANSTON. Advocates of the bill have made statements for the bill. The Senator from Maryland indicated to me that he gave a very long speech.

Mr. HATHAWAY. Mr. President, the bill we have under consideration, S. 2278, the Civil Rights Attorneys' Fees Awards Act, would allow a Federal court to provide the familiar remedy of reasonable counsel fee awards to private citizens who must go to court to enforce the civil rights laws which Congress has passed since 1866. This bill would add the same type of "fee shifting" provision contained in portions of every major civil rights bill passed since 1964 to other civil rights statutes which do not now specifically authorize fee awards, thereby achieving consistency in the civil rights laws.

In the typical case arising under these civil rights laws, the citizen who must enforce the provisions through the courts has little or no money with which to hire a lawyer, and there is often no damage claim from which an attorney could draw his fee. If private citizens are to be able to enforce the laws—if those who violate these most basic human freedoms are not to proceed with impunity—then citizens must have the opportunity to recover what it costs them to vindicate these rights in court.

The reason why this bill was not offered years ago is that, until the Alyeska Pipeline case decided by the Supreme Court last year, Federal courts had been routinely awarding fees in civil rights cases covered by this bill. The courts reasoned that they had the inherent equity power to make these laws effective, and that Congress had indicated very frequently in civil rights bills that attorneys' fees were one way to achieve effectiveness.

Last year, however, the Supreme Court held that the Federal courts did not have this inherent power, no matter how beneficial fee awards were, and that Congress must specifically grant them that power if the practice were to continue.

This bill, then, contains no startling new remedy—it only meets the technical requirements that the Supreme Court laid down if the courts are to continue the practice of awarding attorneys' fees which had been going on for years prior to the Alyeska decision. It does not change the statutory provisions regarding the protection of civil rights, except as it provides the fee awards which are necessary if citizens are to be able to effectively secure compliance with these existing statutes.

Mr. President, right now the vindication of important congressional policies in the vital area of civil rights is made to depend upon the financial resources of those least able to promote them. Because of this, violation of fundamental human rights goes unchallenged. Unless this bill is passed, statutes which allow citizens to go to court to pursue enforcement of civil rights will become historical documents, rather than the useful tools for law enforcement which they have become over the past decade. Mr. President, we cannot allow this to happen. I urge adoption of this measure.

Mr. ABOUREZK. Mr. President, will the Senator from Maine yield to me for a question?

Mr. HATHAWAY. I would be happy to yield to the Senator from South Dakota.

Mr. ABOUREZK. There has been a great deal made here on the floor by opponents of this legislation that it would encourage frivolous lawsuits. It has been the "lawyers' relief bill," as every bill has been called when it has come up and there has been opposition to it. But, according to the provisions of the bill itself, is it not true that the legislation says the court, in its discretion, may award attorneys' fees to the prevailing party, so that if the defendant in a civil rights suit were to prevail the court could prevent a frivolous lawsuit by having that provision available?

Mr. HATHAWAY. The Senator is absolutely correct. There is adequate safeguard in the bill to protect against frivolous lawsuits.

Mr. ABOUREZK. So if somebody thought, some lawyer thought, he was going to make a lot of money by bringing civil rights suits he would be subject to being penalized himself; is that not correct?

Mr. HATHAWAY. The Senator is correct.

Mr. ABOUREZK. I thank the Senator.

The PRESIDING OFFICER (Mr. LEAHY). Does the Senator from Maine yield the floor?

Mr. HATHAWAY. The Senator from Maine yields the floor.

Mr. HELMS. Mr. President, I thank the Chair.

I am very pleased at long last to hear some comment, brief as it was and defensive as it appears to be, on the part of the proponents of this legislation.

Now, the distinguished Senator from California (Mr. CRANSTON) referred to a long speech made yesterday by the able Senator from Maryland (Mr. MATHIAS). The Senator from North Carolina was on the floor just about all day long, and I did not hear any long speech by the distinguished Senator from Maryland. Did the Senator from Alabama hear it?

Mr. ALLEN. No; I did not hear it.

Mr. HELMS. I will say to the able occupant of the Chair that either Senator ALLEN or the Senator from North Carolina was on the floor at all times yesterday. Senator MATHIAS may have put some written material into the RECORD, but he did not deliver it on the floor, where it could be debated.

The only time I recall the Senator's making any comment was in objection to an amendment submitted by the Senator from North Carolina, which amendment was intended to relieve the average citizen of this country of the harassment and intimidation of Federal bureaucrats that now exist.

The Senator from Maryland said he agreed with me, yet he moved to table my amendment and, of course, as is well known in this body, as it operates, the majority came in and obtained their instructions on how to vote. The amendment was tabled without even half the Senators knowing what it was all about.

The same will happen——

Mr. HATHAWAY. Mr. President, will the Senator yield?

Mr. HELMS. No, I believe I will finish my line of thought, if the Senator does not mind.

The same thing will happen undoubtedly as to the amendment the Senator from North Carolina will call up after he finishes his statement in connection therewith. We can count the Senators on the floor right now on two hands and, undoubtedly, there will be a motion to table. There will be instructions whispered to the Senators as they enter the Chamber. They will obediently vote to table this amendment, and another good amendment will bite the dust. The excellent amendment submitted by the Senator from Alabama, cosponsored by the Senator from North Carolina, would have given relief to taxpayers harassed and intimidated by the Internal Revenue Service. It was defeated by the votes of Senators who were not present to hear one word of debate.

This harassment of citizens by IRS bureaucrats is going on all over the country. There have been many articles in various publications, including the Reader's Digest, about how the IRS bureaucrats persecute, prosecute, intimidate and harass the common man in this country.

Here the Senator from Alabama and the Senator from North Carolina attempted to do something about it, and in come the absent Senators on a rollcall; they get instructions from the manager of the bill, "vote it down, vote it down." And vote it down they did.

That is the way it goes, Mr. President. This is the way this Senate operates these days with the prevailing majority.

And then they piously lament the fact that the minority of the Senate occasionally uses the rules in an attempt to restrain unwise legislation. Well, I have got news for the majority. As long as this kind of inattention to legislation continues, this Senator, at least—and I am confident there are some others—is going to use every rule he can to block ill-considered legislation.

Threats are already being heard about rule XXII. They say that they intend to further dilute rule XXII when the 95th Congress commences in January. I would advise them to carefully think about that, because if they want to play hard ball, the Senator from North Carolina can play it also. So we will see.

But I just want to say for the record that I was on this floor practically all day yesterday. I did not hear the Senator from Maryland make a long speech in defense of this bill. He did not do it.

He may have put written material in the RECORD, but he did not make a speech on this floor in defense of this bill. So the Senator from California is in error.

Mr. President, the amendment which I will call up shortly would remedy the unnecessarily broad aspects of this proposed legislation.

Parenthetically, I might say that I am not going to call it up until I conclude my remarks because the amendment would then be subject to a motion to table with no further discussion. So I shall wait until the conclusion of my remarks to call up the amendment.

First, it would require that the judge's decision to grant attorneys' fees to the prevailing party be based upon a showing of the other party's bad faith in conducting the litigation. Second, it would afford protection to financially pressed State and local governments by including them within the bill's exemption from liability granted to the Government of the United States.

Mr. President, the American judicial tradition in general disapproves the allowance of attorney's fees to the prevailing party in civil legal actions. The Federal judiciary has been exceedingly cautious in carving out even very limited exceptions to this rule. The basis of this approach was recently outlined by the Supreme Court. The Court stated that—

> Since litigation is at best uncertain one should not be penalized for merely defending or prosecuting a lawsuit, and that the poor might be unjustly discouraged from instituting actions to vindicate their rights if the penalty for losing included the fees of their opponents' counsel. *Fleischmann Distilling Corp.* v. *Maier Brewing Co.* 386 U.S. 714, 718 (1967).

In short, American jurists reject the proposition that the loser in a law suit be required to pay the attorney costs of the winner. The amendment that I shall submit momentarily is designed to bring this pending legislation within the American tradition. My amendment would do so, first by setting an objective standard to guide judges in their awarding of such fees and second by more clearly identifying which parties would be subject to its exemption under the statute.

Presently this bill requires a Federal court to grant attorneys' fees to the prevailing party solely on the basis of its own discretion. My amendment incorporates an objective standard to aid judges in making their decision. It would simply require that the party seeking to recover legal fees demonstrate to the court through sufficient evidence the "bad faith" of the other party in maintaining the suit or in actions which preceded the suit. This bad faith standard has an established judicial meaning and effect and should be construed in light of its use in the Federal Rules of Civil Procedure. It has been interpreted by Federal courts to include dilatory and objectionable tactics before or during trial. It would include actions for which a party has been held in civil contempt. It would also include clearly spurious or frivolous defenses and vexatious, wanton, or oppressive actions during litigation. While this requirement does set an objective, reviewable standard, it is broad enough to be responsive to the many differing circumstances to which the court would have to respond.

It is maintained that part of the rationale for S. 2278 and the Kennedy substitute is that a plaintiff in cases arising under these statutes is acting as "a private attorney general," and that therefore the award of attorneys' fees is appropriate. In the Alyeska case, Justice White explained that—

> Since the essential function of the private attorney general is to call public officials to account and to insist that they enforce the law, it would follow in such cases that attorneys' fees should be awarded against the government. *Alyeska Pipeline Service Co.* v. *Wilderness Society*, 421 U.S. 240, 267 (1974).

However, this bill exempts the United States from such an award. If the reason for passing S. 2278 is that the plaintiff is acting as a private attorney general, then he should clearly be able to recover such an award from the United States when the Federal Government is involved in the lawsuit. Since he is not able to do so under this proposal, I suggest that perhaps the private attorney general justification is inappropriate for this legislation. One convincing argument for rejecting liability for the United States and, therefore for rejecting the concept of private attorney general was stated by Assistant Attorney General Rex E. Lee:

> The theory is that the governments' adversaries in litigation are merely forcing government to obey the law; that in this capacity they are performing a public service as private Attorneys General, and are, therefore, entitled to be paid for it. Once again, this argument assumes an overly simplistic notion of litigation. The proposition that the government as a matter of policy or practice goes into court for the purpose of asserting frivolous positions simply can not be sustained.

Mr. President, I disagree with the position that the bureaucrats in the Federal Government cannot be said to act in a frivolous manner in bringing legal action against American citizens, however, if the Senate does find this analysis convincing in regard to National Government, I suggest that our system of federalism mandates that State and local governments have the same constitutional integrity and should therefore be accorded the same exemption. We cannot respect our federal system and accept legislation which assumes that State and local govenments act in a frivolous or vexatious manner while it is assumed that the National Government can never do so.

This legislation provides that State and local governments and their officials can be defendants in cases involving these statutes and that attorneys' fees will "be collected either directly from the official in his official capacity, from funds of his agency or under his control, or from the State or local government." Presently this legislation potentially places a tremendous burden upon State and local governments. In other public interest law suits where the legal fees have been contested they have ranged from $200,000 to $800,000. Certainly, it is unwise to provide that liability in these amounts be assumed by already financially hard-pressed State and local governments.

Therefore, the amendment I am about to call up would exempt State and local governments from the provisions of S. 2278, or the Kennedy substitute.

The court of appeals in the Alyeska case discussed at length the circumstances which give rise to the necessity for the private attorney general concept as it relates to attorneys' fees. The court stated that:

> When violation of a congressional enactment has caused little injury to any one individual, but great harm to important public interests when viewed from the perspective of the broad class intended to be protected by that statute, not to award counsel fees can seriously frustrate the purposes of Congress. 495 F.2d 1026, 1030 (D.C. Cir. 1974).

However, this fact pattern is not pressent under the civil rights statutes affected by the present legislation. The violation of the rights protected by these statutes result in a substantial injury to the parties involved. That legal harm is incentive enough for legal action. These are not cases where each member of a broad group is slightly injured and where each member as an individual plaintiff lacks a sufficient incentive to undertake litigation. Here we are dealing with the normal type of plaintiff and the extraordinary remedy provided by this legislation is unnecessary.

Chief Justice Burger has time and again stated the urgency for reform of the Federal judiciary to make access easier and dispositions quicker for those who must utilize the Federal courts Those persons who have found themselves involved in civil legal actions and who have had to wait as long as 3 or 4 years for their case just to come to trial because of the heavy caseloads of Federal courts would surely agree that every alternative should be tried before the caseload of the Federal courts is increased still further. Recently the Supreme Court responded to this problem.

The Wall Street Journal reports that the decision of the Court denying attorneys' fees in the Alyeska case was motivated in part by the desire not to increase the caseload of the Federal courts. We are undoing that with the pending legislation. Undoubtedly the added incentive of receiving one's attorneys' fees from the opposing party will increase the number of cases brought before the Federal bench. The legal journal, Juris Doctor, reports future "attorneys' fee awards were the number one factor in the future of public interest law financing." This increased caseload will again expand the waiting periods for trial which are already far too lengthy in the Federal court system. We are all familiar with the phrase "justice delayed is justice denied." We are dangerously approaching the theshold where this delay becomes the denial of justice in many areas of this country. The present legislation, whether the Tunney bill or Kennedy substitute, will only aggravate this problem.

During the last 200 years our judicial system has developed a number of costs of litigation, both of a monetary and a nonmonetary nature which act as a deterrent to trivial and specious law suits. By reducing these costs, this legislation increases the burden on the Federal judiciary. Witnesses before the House Subcommittee on Civil and Constitutional Rights testified that such legislation would result in an increase in the Federal courts' caseload. I suggest that our responsibility to further the timely administration of justice in this country requires that we pursue every alternative before increasing the caseload of the Federal judiciary.

Another assumption behind this legislation is that many citizens will not bring meritorious suits if they are required to pay the cost of their attorneys' fees. I hope that all Americans will vigorously defend their civil and legal rights when they are infringed. However, I cannot see granting this extraordinary advantage to one party in these limited cases when it has been steadfastly rejected in almost every area of American law. Why should these rights, important as they may be, be given a greater priority than the right to receive the bargain of one's contract or the freedom from the intentional or negligent infliction of personal injury. I do not think that we today can say that the rights involved in this legislation are of significantly greater value than our other traditional legal rights. Even if we assume that it is proper to make this exception to the American rule in these cases to assist indigents, the problem of providing legal services to indigents is already being met by other methods. Legal assistance is already being provided on the local level by both private and public organizations. Those who are truly unable to afford legal enforcement of their rights can turn to one of the many legal aid services or the many public interest law firms and foundations. These already existing services make the widespread use of the proposed fee-shifting mechanism in this legislation unnecessary.

Emphasis has been placed upon the fact that titles II and VII of the Civil Rights Act of 1964 and title VIII of the Civil Rights Act of 1968 contain provisions for the award of attorneys' fees. These statutes meticulously detail and carefully outline the procedures and the remedies available to a plaintiff seeking their protection. The civil rights statutes affected by this legislation, however, are broad, ambiguous, and far-reaching in coverage. Depending upon who may interpret their affect, they could be easily interpreted by some to reach conduct which the vast majority of Americans would consider not only constitutionally permitted but totally proper. To allow an award of attorneys' fees without guidelines to govern a court's determination is to invite potential test cases which will not only add to the congestion of Federal courts, but also severely harass citizens who are engaged in constitutionally permissible conduct.

Mr. President, if the Senate finds it necessary to make this exception to the American rule regarding the award of attorneys' fees under cases brought to enforce provisions of sections 1977, 1978, 1979, 1980, and 1981 of the revised statutes, title IX of Public Law 92–318 or title VI of the Civil Rights Act of 1964, then I urge that it do so under the limitations provided for by my amendment.

UP AMENDMENT NO. 473

Mr. HELMS. Mr. President, I now call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment No. 473 to the Kennedy amendment No. 2347:

On page 1, line 8, after "court" insert the following: ", upon a showing or finding of bad faith of the losing party,".

On page 1, line 9, after "United States," insert the following: "or any territory or possession thereof, or any State of the United States or any political subdivision thereof including special purpose units of general local government,".

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

QUORUM CALL

Mr. HELMS. I suggest the absence of a quorum, then.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded so that Mr. HELMS can get the yeas and nays on his amendment.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 48 Leg.]

Allen
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Culver
Eastland
Goldwater
Griffin
Helms
Inouye
Javits
Kennedy
Leahy
Magnuson
McClellan
Pearson
Scott, Hugh
Stennis
Symington

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

The second assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

Mr. ROBERT C. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN) and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The result was announced—yeas 79, nays 5, as follows:

[Rollcall Vote No. 626 Leg.]

YEAS—79

Abourezk
Allen
Bartlett
Bayh
Bellmon
Bentsen
Brock
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Curtis
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McClure
McGovern
McIntyre
Metcalf
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Williams
Young

NAYS—5

Biden
Church
Goldwater
Hartke
Morgan

NOT VOTING—16

Baker
Beall
Buckley
Dole
Glenn
Hart, Philip A.
Johnston
Mansfield
McGee
Mondale
Montoya
Moss
Pell
Tower
Tunney
Weicker

So the motion was agreed to.

The PRESIDING OFFICER (Mr. Goldwater). A quorum is present.

Mr. KENNEDY. Mr. President, I make a motion to table the Helms amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

Mr. HELMS. I ask for the yeas and nays on the tabling motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. Philip A. Hart), the Senator from Louisiana (Mr. Long), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that the Senator from Ohio (Mr. Glenn) and the Senator from Montana (Mr. Mansfield) are absent on official business.

Mr. HUGH SCOTT. I announce that the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from Michigan (Mr. Griffin), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. Baker) is absent on official business.

The result was announced—yeas 59, nays 28, as follows:

[Rollcall Vote No. 627 Leg.]

YEAS—59

Abourezk
Bayh
Beall
Bentsen
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Fong
Garn
Gravel
Hart, Gary
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Magnuson
Mathias
McGovern
McIntyre
Moss
Muskie
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Williams

NAYS—28

Allen
Bartlett
Bellmon
Byrd, Harry F., Jr.
Chiles
Curtis
Eastland
Fannin
Ford
Goldwater
Hansen
Helms
Hruska
Laxalt
McClellan
McClure
Metcalf
Morgan
Nunn
Packwood
Scott, William L.
Sparkman
Stennis
Stone
Talmadge
Thurmond
Tower
Young

NOT VOTING—13

Baker
Buckley
Dole
Glenn
Griffin
Hart, Philip A.
Long
Mansfield
McGee
Mondale
Montoya
Tunney
Weicker

So the motion to lay on the table was agreed to.

(The following proceedings occurred during the presentation of Mr. Helm's remarks and are printed at this point in the Record by unanimous consent.)

Mr. PASTORE. Will the Senator yield?

Mr. HELMS. Yes.

Mr. PASTORE. I realize the Senator does not wish to be interrupted too much, but I was wondering if he would allow me, rather than to wait until he has completed his remarks, to bring up a conference report on H.R. 15194, the Public Works Employment Appropriations Act.

Mr. HELMS. I am delighted to yield.

PUBLIC WORKS EMPLOYMENT APPROPRIATIONS — CONFERENCE REPORT

Mr. PASTORE. Mr. President, I submit a report of the committee of conference on H.R. 15194 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Leahy). The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15194) making appropriations for public works employment for the period ending September 30, 1977, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the Record of September 14, 1976, beginning at page 30273.)

Mr. PASTORE. Mr. President, the conference action provides $3,732,433,000, an increase of $280 million over the House allowance and $220 million below the Senate bill.

Mr. President, all the Senate conferees worked very hard to sustain as much of the Senate increase as possible. The House conferees were very tough. Nevertheless we were able to sustain $280 million out of the $500 million Senate add-on for waste treatment construction grants.

The conferees also agreed to distribute the $480 million for waste treatment grants on a pro rata basis using the distribution formula incorporated in the authorizing legislation.

Mr. President, there is no doubt the funds are needed. The programs funded in this bill will provide much needed job opportunities in high unemployment areas while constructing facilities of lasting value to the community or providing essential community services. The bill should provide my own State of Rhode Island with about 2,000 job opportunities.

Mr. President, I strongly urge the adoption of the conference report on H.R. 15194.

Mr. President, I ask unanimous consent that the usual tabulation of figures be printed in the Record at this point.

There being no objection, the tabulation was ordered to be printed in the Record, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE CONFERENCE REPORT

Department or activity	Budget estimate	House bill	Senate bill	Conference action	Conference action compared with— Budget estimate	House bill	Senate bill
CHAPTER I—DEPARTMENT OF COMMERCE							
Economic Development Administration							
Local public works		$2,000,000,000	$2,000,000,000	$2,000,000,000	+$2,000,000,000		
CHAPTER II—DEPARTMENT OF THE TREASURY							
Office of the Secretary							
Office of Revenue Sharing							
Antirecession financial assistance fund		1,250,000,000	1,250,000,000	1,250,000,000	+1,250,000,000		
Salaries and expenses		1,633,000	1,633,000	1,633,000	+1,633,000		
INDEPENDENT AGENCIES							
Environmental Protection Agency							
Construction grants		200,000,000	700,000,000	480,000,000	+480,000,000	+$280,000,000	−$220,000,000
Abatment and control		800,000	800,000	800,000	+800,000		
Total		3,452,433,000	3,952,433,000	3,732,433,000	+3,732,433,000	+280,000,000	−220,000,000

Mr. RANDOLPH. Mr. President, today the Senate is considering a measure of vital concern to the unemployed of this country, the conference report on the Public Works Employment Appropriations Act.

I commend my colleagues who served on the conference. The appropriations recommended in the conference report are a reasonable reflection of the need for economic stimulation. The programs of the Public Works Employment Act are designed to provide immediate assistance where the downturn in the economy has hit hardest and has continued longest.

Currently national unemployment is 7.9 percent. The unemployment figure—7.9—for August is a significant increase over the 7.3-percent unemployment level of May. National unemployment has now remained higher over a longer period than at any time since World War II.

The construction industry has been especially hard hit with unemployment rates of more than double the national average unemployment rate.

The Public Works Committee early in the consideration of antirecession legislation believed the proper approach was construction of much needed public facilities such as local public works projects and water treatment works, as well as the maintenance of essential public services. This is a more suitable approach than continuation of excessive Federal funding of the unemployment trust fund.

The conference agreed with this concept and has provided $3.7 billion for the transition period and fiscal year 1977. This action will provide jobs for some of the 17.7-percent unemployed construction workers now drawing unemployment benefits. These workers will construct public facilities of lasting value to the communities of this Nation.

Mr. President, the expeditious completion of this legislation could not have taken place without the attentive contributions of our colleagues, Senators PASTORE, MCCLELLAN, JOHNSTON, HUDDLESTON, MATHIAS, and BELLMON. Their actions reflected the importance of appropriating funds for the creation of jobs to meet the unemployment situation we face today.

Mr. President, this conference report provides funds for a program which embodies a sound, reasonable, and workable method of providing productive jobs and creating tangible results. I urge the Senate to adopt this report and the President to sign the bill.

Mr. PASTORE. Mr. President, I move adoption of the conference report.

The PRESIDING OFFICER. The question is on the adoption of the conference report.

The conference report was agreed to.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the conference was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(This concludes the proceedings that occurred earlier today.)

EMERGENCY JOBS PROGRAMS EXTENSION ACT OF 1976—CONFERENCE REPORT

Mr. NELSON. Mr. President, I submit a report of the committee of conference on H.R. 12987 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12987) to authorize appropriations for fiscal year 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, for carrying out title VI of the Comprehensive Employment and Training Act of 1973, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of September 13, 1976, beginning at page 29985.)

Mr. TAFT. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. NELSON. I yield for the purpose of a unanimous-consent request without losing my right to the floor.

Mr. TAFT. Mr. President, I ask unanimous consent that Mr. Robert Hunter of my staff have the privileges of the floor during the debate upon the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I ask unanimous consent that the following persons have the privileges of the floor during the consideration of the conference report on H.R. 12987, the Emergency Jobs Programs Extension Act of 1976: Richard Johnson, Scott Ginsburg, Martin Jensen, Larry Greenberg, Jon Steinberg, and Babette Polzer.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, the conference agreement on the Emergency Jobs Programs Extension Act of 1976 (H.R. 12987) passed the House of Representatives on last Friday by a vote of 295 to 9. The conference agreement is substantially similar in all major respects to the provisions of the bill passed by the Senate on August 10 by a vote of 67 to 11. The administration supports the conference agreement.

The conference report was signed by all 13 of the conferees for the Senate and all 15 conferees of the House of Representatives.

The conference agreement, like the Senate-passed bill, extends the public service employment program under title VI of the Comprehensive Employment and Training Act—CETA—through the fiscal year ending September 30, 1977.

This legislation authorizes the appropriation of such sums as may be necessary for title VI of CETA. The specific amounts to be appropriated will be decided in the appropriations process, under the limitations imposed by the congressional budget resolution.

According to Labor Department estimates, about 310,000 public service jobs are currently being supported under titles II and VI of CETA throughout the Nation—based on data as of last June 30. While the appropriations process will determine the funding level under the "such sums" authorization contained in this legislation, the second congressional budget resolution just passed by Congress would permit appropriations up to a level sufficient to fund 500,000 public service jobs.

The major feature of the conference agreement are the amendments to title VI of CETA which would focus future public service jobs on the long-term unemployed. All newly funded public service jobs—resulting from increased allocations—must be filled by long-term unemployed persons who have been unemployed for 15 or more weeks or by persons receiving welfare assistance. The existing title VI provides that, in order to be eligible for a public service job, an individual must have been unemployed for a period of not less than 30 days. However, in areas having unemployment rates in excess of 7 percent, persons who have been unemployed for not less than 15 days may be hired in a title VI public service job under the existing program.

In addition to redirecting new funds toward the long-term unemployed, the conference agreement also provides that 50 percent of the vacancies in the number of public service jobholders leaving their positions under title VI, by attrition from the June 30, 1976, level would be filled by long-term unemployed persons or welfare recipients. The remaining 50 percent could be filled under the current law's requirements—that is, such 50 percent would only have to meet the existing title VI eligibility prerequisite of 15 days unemployment in areas having a 7-percent or higher unemployment rate, or 30 days unemployment if an area's rate of unemployment is less than 7 percent.

The House conferees insisted that 50 percent of the replacements for vacancies continue to be available for persons unemployed for the current law's requirements of a 15- or 30-day unemployment period. The House conferees were willing to accept the Senate's provisions directing that all increased funding in a prime sponsor's allocation go to the long-term unemployed, but the House conferees insisted that some prime sponsors have special needs, particularly, in the fields of public health and safety—especially police and fire protection—and that they should not be foreclosed from filling 50 percent of the vacancies with such public health and safety personnel. While a prime sponsor is not required to use 50 percent of the vacancies for public health and safety personnel, the statutory language in the conference bill does provide that a prime sponsor may give preference in filling such vacancies to public health and safety personnel.

Under title VI of the Comprehensive Employment and Training Act—CETA—

approximately 260,000 previously unemployed persons are currently employed in public service employment programs, helping to meet locally determined needs in communities throughout the Nation. An additional 50,000 public service jobs are supported under title II of CETA—for a total of about 310,000 public service jobs under both these titles.

Title II needs no new authorization until next year, since all titles of CETA—except title VI—already have a such sums as may be necessary authorization through fiscal year 1977. Title II jobs are available only in areas of substantial unemployment having 6.5 percent or higher unemployment rates. The title II program has a regular annual funding level of $400 million—which is the level that is included in the regular Labor-HEW appropriations bill for fiscal year 1977 now on the President's desk.

The annualized funding level for title VI is about $2.2 billion—for a total funding level for public service jobs, when added to the $400 million annual funding level under title II of CETA, of about $2.6 billion.

Title VI has provided funds to all areas of the Nation since early 1975. Title VI was enacted as part of the Emergency Jobs and Unemployment Assistance Act of 1974 (Public Law 93-567), which was signed by President Ford on December 31, 1974.

The pending bill extends the title VI program through September 30, 1977. If this legislation is not enacted, those 260,000 jobs which are now being funded under title VI will come to an end, resulting in lay-offs when the current allocations run out. Some prime sponsors have sufficient funds from the supplemental appropriations to sustain their current levels of public service jobs through next January. Some prime sponsors will run out of funds by October 1, but most prime sponsors will run out of funds between October of this year and January of next year.

A total of 445 State and local prime sponsors have been designated to administer employment and training programs under CETA during fiscal year 1977. Local prime sponsors include cities and counties as well as combinations of local governments which have populations of 100,000 or more persons. In the balance of each State—rural and other areas not served by local prime sponsors—the State governments serve as prime sponsors administering CETA programs, but the States usually pass the funds allocated for public service jobs on to the smaller counties and towns.

With public service jobs funds, unemployed persons have been hired in a variety of jobs providing needed public services. These include services in the fields of police and fire protection; health; education; park rehabilitation, cleanup and maintenance; housing rehabilitation and weatherization; environmental quality; and transportation.

The conference agreement provides that each prime sponsor's allocation will first be used to assure that each prime sponsor's June 30, 1976, level of public service jobholders under title VI and title II will be sustained throughout fiscal year 1977—taking into account funds available for use in such fiscal year under title II. If a prime sponsor began to transfer public service jobholders at the end of June from one title to another, the mere fact that a prime sponsor may not have had a jobholder for the full day on June 30 on one title or the other will not result in that person "falling between the cracks." Such jobholder must be counted under either title II or VI, to assure that the purposes of the "hold harmless" provision are complied with in good faith, as I am sure they will be.

As I previously mentioned, this conference agreement makes a very significant change in the future conduct of the public service jobs program, by focusing new public service jobs on the long-term unemployed.

Beginning with appropriations for the coming fiscal year, all new public service jobs—and 50 percent of replacements for vacancies arising from attrition of current public service jobholders—would be restricted to individuals who have been unemployed for 15 or more weeks or have been receiving welfare benefits. In filling all such new public service jobs, each prime sponsor must determine that each person hired in such a public service job is a person who has been receiving unemployment compensation for 15 or more weeks, or has exhausted unemployment compensation benefits, or is a recipient of aid to families with dependent children—AFDC.

Public service jobs funded with increased allocations must be used in projects and jobs of no longer than 1 year's duration, and are to be aimed at average wages per job of $7,800 per year.

The $7,800 goal restates the aim currently set forth in section 209(b) of CETA. The ceiling on public service job wages which can be federally supported is $10,000 per job. The principal requirement for projects is the requirement mentioned above that projects and jobs be designed for not more than 1 year's duration.

The legislation contains a definition of project applicants, including State and local governments and public and private nonprofit agencies.

While, under the current law, many prime sponsors already subcontract for a substantial number of public service jobs to be performed with private nonprofit agencies, the conference agreement adds the requirement that applications submitted by project applicants shall be considered by the prime sponsor's manpower planning council, which will make recommendations to the prime sponsor concerning the approval of project applications. The prime sponsor's decision is final, after considering such recommendations.

A new requirement has been added in, a new subsection (b) to section 605 of CETA, added by section 5(d) of this bill, which is designed to prevent prime sponsors from substituting Federal for State or local funds by contracting out customary services to private nonprofit agencies. It is the purpose of this provision to prevent reductions in the customary level of services provided by States, local governments, or local educational agencies through the device of contracting out such services with private nonprofit agencies. Providing funds through nonpublic project applicants must not be used as a means of reducing the existing level of governmentally provided services.

In addition, no person would be eligible to be hired in a public service job if other family income exceeded 70 percent of the lower living standard income level determined by the Secretary of Labor. This will be based on the lower living standard budget issued annually by the Bureau of Labor Statistics. In the case of an urban family of four persons, that would allow a job to an unemployed individual even though other family members earn up to a total of $6,700—including income of a spouse or that earned from summer jobs by teenagers in the family. Therefore, a modest amount of additional family income would not make an unemployed person ineligible to be hired in a public service job. The conference agreement makes clear that, in determining a person's eligibility for a public service job, there would be excluded unemployment compensation or similar benefits that such an individual would lose upon taking the job. The purpose of this provision is to focus new public service jobs upon those individuals most in need of employment and income, excluding only those unemployed persons whose families have another substantial source of income.

The conference agreement provides that States and political subdivisions shall be reimbursed under the special unemployment assistance program for the costs of providing unemployment benefits to workers who have been employed in public service jobs pursuant to the Comprehensive Employment and Training Act. Otherwise, title VI funds would be used by local prime sponsors in nine States to reimburse the State unemployment insurance funds for unemployment payments. In fact, in several States, local agencies are now required to set aside reserves of funds intended for creating public service jobs in order to protect against the contingency that they might have to reimburse the State unemployment insurance funds. In other States, such payments are made from the federally funded special unemployment assistance program. This section of the bill would provide equitable treatment for all the States by authorizing the the use of supplemental unemployment assistance—SUA—funds in the event that public service jobholders are laid off and receiving unemployment benefits.

The pending legislation authorizes not to exceed 15 percent of funds to be used for necessary supplies and equipment and administraive expenses. Not less than 85 percent of funds allocated for use for public service jobs programs under titles II and VI of CETA must be expended only for wages and employment benefits to persons employed in public service jobs, with the remaining 15 percent of a prime sponsor's allocation available for administrative costs, including rental costs and necessary supplies, equipment and materials. This amendment is necessary because section 208(a)(7) of CETA currently provides that no funds may be used for rental or purchase of supplies and equipment.

To allow a small percentage of funds to be used for tools and work-related supplies and equipment should help assure that public service jobs will provide useful and tangible improvements which local communities want and need to have done.

Let me make clear that the requirement that "not less than 85 per centum of the funds allocated in accordance with the provisions of this title which are used by an eligible applicant for public service employment programs under this title shall be expended only for wages and employment benefits to persons employed in public service jobs pursuant to this title," means that not less than 85 per centum of the total title II allocation and 85 per centum of the total title VI allocation for each prime sponsor are required to be used for wages and employment benefits. If a prime sponsor transfers a portion of its allocation to title I under the authority in section 210 and calls it "work experience" or something else, that does not allow the allocation to escape the limitations in sections 203(b) and 602(b) as amended by this legislation.

The conference agreement also includes the Senate-passed provision which makes clear that title VI discretionary funds may be used for continuing the employment of persons previously employed in public service jobs. This hold-harmless provision would provide statutory authority for the Secretary of Labor to use his discretionary funds—10 percent of title VI appropriations—to avoid layoffs of any onboard title VI jobholders when there are shifts in allocations which result in funds not being sufficient to continue such jobholders for a reasonable period of time. The bill also specifies that any allocations for such purpose shall be based on the needs of each unit of general local government eligible to be a prime sponsor even though part of a consortium.

The conference agreement includes the provision that, whenever the Secretary distributes discretionary funds by formula under either title II or title VI of CETA, he shall publish the proposed formula in the Federal Register for the purpose of receiving public comments not later than 30 days prior to making such allocations final.

The conference agreement provides for a set-aside of not less than 2 percent of title VI funds to be provided to Indian tribes, bands, and groups for public service employment programs.

In addition, the bill amends section 602(e) of CETA—which provides that Indian tribes on Federal or State reservations are eligible applicants to carry out public service employment programs—by eliminating the restrictions to tribes which are "on Federal or State reservations," providing instead that eligible applicants include Indian tribes, bands, and groups which have their own governing bodies and receive funding for manpower services under section 302 of CETA. The intent of this amendment is to include—in addition to Indian tribes on Federal or State reservations now receiving direct funding for public service employment programs under title VI of CETA—recognized Indian tribes in the State of Oklahoma and Alaskan Native villages in the State of Alaska.

The conference agreement includes the Senate passed bill's section establishing a presidentially appointed Commission on Employment and Unemployment Statistics, to review and make recommendations to the Congress on the Nation's needs for collecting and analyzing unemployment statistics. This section was drafted in cooperation with the Commissioner of the Bureau of Labor Statistics.

Mr. President, this conference agreement will, in my judgment, make substantial improvements in the public service employment program under title VI of CETA. The existing title VI program has provided jobs to about 400,000 persons who would otherwise have been unemployed since it was enacted in December of 1974. I believe that, with the revisions made in this conference agreement, the program can be further improved by concentrating future public service jobs upon the long-term unemployed.

I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I am pleased to rise in support of the conference report on H.R. 12987, to extend and authorize appropriations for title VI of the Comprehensive Employment and Training Act, for the period beginning July 1, 1976, and ending September 30, 1976, and for fiscal year 1977.

Special recognition must be given to Senator GAYLORD NELSON, chairman of the Subcommittee on Employment, Poverty, and Migratory Labor, for his leadership and resolve, enabling the conferees to reach agreement. Upon objective reflection, one can only conclude that the resulting legislation is an important step in the development of a public service employment program which better reflects the intention of the original design of the program, when it was enacted in December 1974.

The current status of public service employment is clear. Without an extension of title VI, over 260,000 jobholders will be laid off in the next few months. Under the Emergency Supplemental Appropriations Act of 1976, (Public Law 94–266, enacted April 15, 1976) $1.2 billion was provided to extend those jobholders until the end of January 1977, when it was contemplated by the administration to phase out the title VI program altogether. The Emergency Supplemental Appropriations Act funded under title II, all those jobs then funded under title VI. The legality of this approach was questioned by many, including myself. The conference report, adopting the Senate provision, ratifies that prior action. Nevertheless, funds appropriated under that act will be expended totally by the end of January 1977. In some cases prime sponsors will begin to run out of funds in the next 3 or 4 weeks. Layoffs by those prime sponsors will then begin.

Since the Emergency Supplemental Appropriation Act was passed in April, and the Senate version of H.R. 12987 was reported out of the Committee on Labor and Public Welfare on May 14, 1976, there have been significant changes in the unemployment picture. The past months have shown a rise in the rate of unemployment from a yearly low of 7.3 percent in May, up to 7.5 in June, 7.8 in July, and 7.9 for August. These discouraging statistics lead naturally to reevaluations of previous projections and estimates, and a reassessment of positions. I believe this has occurred with the administration's position, too.

Despite the alltime record numbers of those employed in this country, about 88 million people, the new entrants to the labor force have recently reversed the significant reduction that occurred on the unemployment rate from 8.9 in May 1975 to 7.3 percent in May 1976. This reversal has caused the administration to reevaluate its previous position against the extension of title VI of CETA. Indications were received that the administration would support the original Senate bill, and I am confident the President will sign the bill which was agreed to in conference.

As I mentioned above, this bill makes an important statement as to the direction and purposes of the program. It does not change the basic way the nationwide program is operated, but does change the emphasis to those who should be filling the jobs by targeting jobs to those most in need—long-term unemployed low-income persons.

The last year has vividly etched the plight of cities and municipalities, with their eroding tax base and necessary curtailing of municipal services. CETA title VI funds were used, by necessity, to rehire some municipal employees who were laid off because of the fiscal crisis faced by the local government. Given the circumstances, it is understandable that governments would use whatever funds were available to rehire policemen, firemen, and others employed to maintain essential services. It should be recognized, however, that CETA title VI funds were not intended for this purpose; nor should these funds be used for general revenue sharing purposes.

Recently, the Congress passed over the President's veto, the Public Works Employment Act of 1976 (Public Law 94–369). Title II, for antirecession financial assistance, contains an authorization level of $1.25 billion, and this appropriation level has been agreed to by both the House and the Senate. These funds are specifically to maintain basic services which would be curtailed otherwise. On page 9 of Senate Report No. 94–1185, on the Public Works Employment Appropriations Act, the use of these funds is clear and unequivocal:

> The funds are to be used for the maintenance of basic services ordinarily provided by State and local governments, such as police and fire protection and sanitation services. The authorization legislation makes it clear that the funds are not to be spent for supplies, materials or construction unless related directly to the maintenance of basic services. Thus the Committee anticipates that the great bulk of this funding will be used to pay the salaries of personnel whose activities are essential to the provisions of

basic services and who would otherwise not be on State or local payrolls.

It must be clear that taken in the context of this title VI reauthorization bill, antirecession financial assistance was enacted to prevent layoffs, and maintain municipal services. That is its purpose. Public service employment is to augment these services, with additional jobs to provide services that would not otherwise be available. While the two pieces of legislation must be viewed together as preventing people from being unemployed, local governments should not view the two interchangeably. Each has its distinct purpose and operating guidelines, and each must be separately administered to accomplish its goals. It is this principle that will allow the integrity of each program to be maintained.

The agreement of the conferees turned upon the important question of who would fill those positions which would be empty through attrition. The House bill provided for an extension of title VI as presently administered through the transition quarter. It was understood that an extension through fiscal year 1977 was also acceptable, because the Comprehensive Employment and Training Act must be reviewed and reauthorized, in toto, next year. The original Senate bill protected all those jobholders in title VI, and targeted all job openings through attrition to the long term unemployed, and AFDC recipients. To be eligible a person would have to be unemployed 15 weeks or more, or receiving AFDC, and who have low household incomes. Under the present law, one had to be unemployed 15 days under the eligibility requirements of title VI.

The agreement reached in conference, which I proposed, provides that for vacanies resulting from attrition below the June 30, 1976, number of title II and VI jobholders for any prime sponsor, one-half shall be filled by persons meeting the long-term low-income eligibility requirements. The other half may be filled without regard to the new eligibility requirements and in accordance with other requirements of the act.

Any jobs in excess of those on board June 30, 1976, must be in a new program of employment projects of no more than 1 year in duration. These projects could be run by the prime sponsor, or contracted out to nonprofit organizations. Eligibility for these jobs would be solely for the long-term unemployed with low family income. Thus the provisions in the Senate bill have been accepted, except for those slots resulting from attrition, which have been divided 50–50.

A further requirement was added prohibiting the Secretary of Labor from applying a quota or numerical restriction on the number of rehired public service employees that may be rehired. This prohibition would not limit a municipality from rehiring civil servants out of CETA funds under a formula provided by the Secretary of Labor, as was, formerly done. However, it is reiterated that other funds have been provided for just such purpose and it is hoped that it will not be necessary for CETA funds to be utilized in this manner.

The conferees have indicated the direction in which public service employment should go. By targeting jobs to those most in need, we will utilize a program of limited resources to the best advantage. While this bill will provide only a fraction of those jobs needed, it is a development which we applaud, and one which we will look at closely to see what it accomplishes.

Mr. President, as the ranking minority member of the Labor and Public Welfare Committee and as the ranking minority member of the Labor Subcommittee, I have worked with Senator NELSON in the consummation of this very difficult conference.

Mr. President, I wish to pay my tribute to Senator NELSON for tact, leadership, and resolution in enabling the conferees to reach an agreement. An agreement which was critical, because of the expiration of the funds by the end of January 1977.

Senator NELSON has already gone over the situation in the conference with a few exceptions. I would like to deal only with those exceptions. I thoroughly commend the conference report to the Senate and hope that it will be approved. It is very essential and it should be approved.

The first factor I refer to particularly, Mr. President, is that unemployment is on the increase, not the decrease.

We have found the steady rise in unemployment from the early low of 7.3 percent which was attained in May to 7.5 percent in June, 7.8 percent in July and 7.9 percent for August.

The unemployment rate, as everyone knows, applies to a work force of something in the area of 95 million, leaving us in round figures 7.5 million unemployed.

Mr. President, though the rate of unemployment is down from 8.9 percent in May 1975, it still remains high, and every forecast, including the administration's, continues to be that it will remain high.

Faced with the social and economic problems of unemployment per se, we have already made the basic decision we would maintain a certain number of public service jobs and keep as many as possible because there is certainly a need for them on the employment rolls.

Because of the municipal financial crunch, Mr. President, the point was reached where a number of CETA employees were replacements for public employees who had been laid off by the cities, the towns, the counties, and the States. Title VI was used for the purpose of enabling these units of government to rehire, or to hire employees because there was really a grave inadequacy in governmental services.

We know, however, that we do not intend public service employment to be for that purpose. So we are trying now, in this bill, even though the emergency unemployment rate continues, to begin to reshape and focus upon the relationship between public service employment and the long-term endemically unemployed.

The second important point I wish to make is that this bill begins to make that transition. That is, we are going back on the track of dealing with long-term unemployed, the endemically unemployed, but at the same time we accommodate those who are presently employed on public service jobs, under CETA.

We are preparing for, opening the door to, the new program, which is really a continuance of what was the intent of the original public service employment program, while we accommodate the problems created by municipal employee layoffs and the need for hiring such employees under title VI.

Mr. President, we do that by providing that the appropriations shall first go to sustain present title VI employees, while the remainder shall go to the long-term unemployed for employment projects. We put very sharp limitations on the projects in which the long-term unemployed are to be used, by making them 1-year projects. Projects which by their nature can be speedily put into effect. These projects will emphasize local initiative, which is the adoption on our part of a program which has worked very well in Canada, the LIP program.

We then had to deal with what turned out to be the toughest problem for the conference, the question of attrition. As job slots become vacant because of death, other employment, or as people quit, who would be eligible to replace that worker? Under which eligibility requirements would be the replacement quality for the vacancy?

After a very considerable struggle, we split it down the middle, 50–50. That is, 50 percent of those job slots created by attrition will go back to the eligibility requirements under the original title VI legislation. The other 50 percent will go to the long-term unemployed. One additional provision added to the first category is that preference may be given to hiring qualified workers for public health and safety positions. For these jobs for the long-term unemployed, the project concept does not apply. The job slot continues as it had before the vacancy; the eligibility requirements have been changed.

As to the numbers, the appropriation authorization is for such sums as may be necessary. We have left it to the flexibility of the Appropriations Committee to deal with the question of numbers.

We are sure that it will fund the prescent numbers. Quite sure—though one can never be positive.

Mr. President, I conclude as follows: This was a very hard fought conference. It is a very well-designed bill, considering where we stand. It preserves our intent to focus on the long term, endemically unemployed, and continues the essentiality of providing to governmental entities additional services. At the same time, it avoids any excess in this program by leaving to the Appropriations Committee to determine the size of the program.

For all of those reasons, Mr. President, I strongly commend the conference report to the Senate.

Mr. TAFT. Mr. President, I wish to begin my comments on this conference report by commending the distinguished chairman of the Subcommittee on Manpower and the distinguished ranking member of the Committee on Labor for what I believe is a very fair and a very good report. I think we basically have kept the strength of our CETA program. I was happy to be one of the original sponsors of that program. I believe it will be continued in the role in which it was intended. It will do something about training those Americans who need additional training in order to get employment, who cannot get it with the present skills they have.

Also, and at the same time, it will give additional assistance to local governments who are in a tight squeeze insofar as manpower is concerned at this particular point.

The most significant compromise, actually, between the House and the Senate came on the matter of just what requirements ought to be placed upon the reemployment or new employment of public employees in areas that have been particularly hard hit by unemployment.

All in all, I believe this is a fair compromise and one which I believe will work beneficially to all concerned.

I do, however, have one matter which I want to discuss with regard to this conference report, which concerns a matter of a local community in my own State, a project which I think has extraordinary merit, so much that I would discuss it in the Chamber.

Here in the Senate, when the measure came to the Chamber, I proposed an amendment to make it possible for the Secretary of Labor to use his discretionary funds on certain types of training programs. That amendment was accepted by the distinguished subcommittee chairman and by the minority and went to conference.

I wish to describe to the Senate just exactly what that is before commenting on the total refusal of the House conferees, with their heels dug into a position not to accede in any way to a compromise of any kind with regard to this amendment.

This provision, which I offered on the Senate floor during the debate, was designed to correct an inequity in the program of participation and eligibility under CETA title III as that provision is presently interpreted by the Labor Department.

The problem came to my attention when I was briefed on a proposed project that the Leo Perlis Remotivation Center in Cleveland, Ohio, hoped to have funded through the Secretary of Labor's discretionary funds under CETA title III.

The Leo Perlis Center is unique in several ways. It is a demonstration project totally operated by organized labor—the United Auto Workers, the International Brotherhood of Teamsters, and the AFL-CIO, in a joint venture. It is the only project of its kind in the country, and has a distinguished record in the Cleveland area. The program is intended to be a comprehensive community service that can reduce recidivism among criminal offenders. It is designed to be a replicable demonstration project in a service area that has had few success models.

Perlis Center, United Labor Agency, Inc., is a nonprofit, tax-exempt organization, which is the health and social services department of organized labor in Cleveland. The organization provides job counseling, job training, and job placement services for offenders, ex-offenders and general relief recipients who do not qualify for work incentive program assistance. All of the persons served by the Perlis program are unemployed or underemployed by the U.S. Department of Labor standards. The typical Perlis enrollee is not a high school graduate and does not have a marketable skill or a record of steady employment.

Perlis Center operates job training programs in shoe repair, building maintenance, furniture repair and refinishing, salesmanship, and office worker's skill improvement. A training restaurant is scheduled to open about Thanksgiving, and it is this proposed project that is the focal point of the amendment which the conference turned down. The most important single component of the Perlis Center program will be the training restaurant. The food service industry is a growth industry. While the fast-food portion of the industry has been able to find adequate help, the restaurant portion of the industry lacks potential workers with necessary professional skills. Cooks, maitre d's, and good waiters and waitresses are at a premium and command good incomes.

An institutional training program in this field has potential for a higher degree of self-support, good job placement rates, and successful entry by the type of client served by the Perlis Center. Thus, the project as proposed would create a training program in all areas of restaurant services, thereby providing an actual work experience in a restaurant as an integral part of the program. The restaurant would have been created only and specifically as an extension of and a vehicle for the training experience.

The Department of Labor interprets title III as a bar to granting discretionary funds under these circumstances, notwithstanding the desirability and feasibility of the proposed project. I took this up personally with the Secretary of Labor, meeting with him, his general counsel, and representatives of labor organizations. The amendment would thus permit the Secretary of Labor, at his complete discretion, to use his discretionary funds to finance a private venture when and only when the following conditions are met: Where the project is fully supported by the local community and the governing body of the unit of general local government in which the project is to be conducted; and by the appropriate representatives of labor and management; and not more than 30 percent of the total cost of the project to be assisted will be title III discretionary Federal funds, as determined by the Secretary of Labor.

It is also my intention to prohibit, as the language of the amendment prohibits, the use of any Federal funds to subsidize directly the wages of any trainee who participates in this program. I believe that would be an unfair subsidy to a business enterprise which is in competition with the private sector and could evoke considerable criticism of the Secretary's use of discretionary funds.

Mr. President, the Department of Labor supports this provision and so indicated to the conference committee.

When we went to conference, I discussed the matter with the various conferees on the Senate side and there seemed to be no opposition that I could find. I discussed it with the Republican members of the conference from the House side and there was no opposition that I could find. I then asked the United Labor Agency whether they had made contact with some of the Members of the opposite party in the House, among the House conferees, and they had, without any indication of objection whatsoever.

However, when we got to this matter, it was postponed as a final matter of the conference. At the tail of the conference, I brought it up and made the same kind of presentation I made here today, expecting no opposition at that time. I was told very summarily by the chairmen of the conference at that time that they had no interest in considering this measure, that they were not going to vote for it. I said I did not think they really understood what was involved here, what the backing of this particular measure was, in the community, among organized labor, among management. There has been a donation of the land, several hundred thousand dollars involved, from private sources in the community. The United Labor Agency was going to put large amounts of money into the project. They have had financial support, in part, from the city of Cleveland. I reviewed again what I thought were the merits of this particular project.

I was told then by the chairman of the conference and by another ranking member of the conference from the majority party on the House side that, no, they still were not in any way interested, and they were not going to hear anything of any compromise or have any discussion of this matter further.

I found that to be very peculiar, so I pressed the point a little further, and said, "Well, what is the reason for the opposition to this particular point in the conference?"

The reply at that point from the other side was, they said, "Well, the Democratic members of the conference caucused before we came in here today, and the reason we are going to give you is that we have the votes and the proxies to turn it down, and that is the only reason."

It was commented by one of the other conferees on my side at that point, I thought very aptly, "That is a heck of a lot better than any other reason you have given us all day." And the matter was left on that basis.

I have checked and checked to try to find out what the reason was. I have challenged the members of the other party to say why they turned the measure down. I noted that my opponent in the Senate race was in Washington that day, because my administrative assistant met him. I have challenged him to find out why this measure was turned down at that particular time, and I have had no response of any kind on these items.

It is naturally a great disappointment to me. I do not know what the inference is. It seems to be that for some reason, I do not say it was necessarily a political reason, but it seems likely, there was a feeling that this was not the appropriate time for this measure to pass, that it might possibly have some effects on public opinion or some segments of public opinion in the area involved.

I do not know that that is the case, but I do think an explanation is due on this point from the opposition, because if indeed that is what happened, it does seem, I think, very, very strange that we would have this kind of a secret caucus. This is not Government in the sunshine; it seems to be contrary to the principles of open conferences to have this kind of action taken with regard to an amendment passed and accepted by the Senate, and I must say I intend to pursue the matter fully, not only in trying to find out who was involved in getting this kind of cavalier turndown on this proposal, but also in attempting to get it on other legislation by way of amendment or, early next session, to introduce it by way of separate legislation.

I have a sneaking feeling that it may have an easier time passing next session, or after November 2, than it had in conference, where it had such cursory consideration by the conferees.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. TAFT. I am happy to yield to the Senator from New York.

Mr. JAVITS. First, I would like to confirm the Senator's herculean efforts in conference to convince the conferees. All the Senate conferees were solidly with him. I considered the project which he wished to allow as innovative, brilliant, and completely consistent not only with the purpose of the legislation but with the whole thrust of the private enterprise system and its opportunity to do what it could about unacceptable unemployment.

I would like to state to the Senator from Ohio that I will consider it a privilege to pursue with him a continuance of this effort, and I believe in a less political circumstance we will have a much better chance for success. I do not know the voters of Ohio as intimately as Senator Taft does, but I think they are sophisticated enough to understand that. That is why I give my testimony in support of the proposition that the idea is right, and that I believe it was recognized to be right. But the day was not right for reasons which are not too creditable to our system; nevertheless those are the circumstances.

We will have another day, and I am confident that it can and will be done, and that it will be done by the Senator from Ohio himself.

I thank my colleague.

Mr. TAFT. I thank the distinguished Senator from New York, who has been a tower of strength in this matter, and whose help I deeply appreciate.

Mr. JAVITS. Mr. President, I just wish to say one other word, and then I am through.

I have urged the President of the United States to sign this bill. I believe it is an absolute irreducible minimum in terms of the contribution which public service jobs can make to help us with the unemployment problem. I shall continue to do that; and I express every feeling that I believe the President will see the justice of that position, and that he will sign the bill into law, hopefully after the Senate has approved it.

The PRESIDING OFFICER (Mr. TOWER). The Senator from Wisconsin is recognized.

Mr. NELSON. Mr. President, as is always the case, there are a number of export staff members who were involved in the hearings, and drafting of complicated legislation such as this. I think it is appropriate to take note of the fact that we have, both on the majority and the minority staff, on the Senate and on the House side, had very dedicated and expert staff members involved in this legislation. They have done, in my judgment, an excellent job in the various legislative drafting responsibilities, including drafting of compromise provisions, that resulted in the final achievement of unanimous agreement on both sides here in the Senate and on both sides in the House on this legislation.

I want particularly to acknowledge the contributions that have been made by several staff members on the majority side and on the minority side. They are Richard Johnson, staff director of the Subcommittee on Employment, Poverty, and Migratory Labor; Scott Ginsburg, Martin Jensen, Jon Steinberg, Mrs. Babette Polzer, and Mark Schneider of the majority; and Larry Greenberg, Don Zimmerman, and Bob Hunter of the minority.

Again I would say what I have said in the past, that the majority on this subcommittee and the minority on this subcommittee have been able on every occasion to reach reasonable compromises and agreement on this legislation, as well as other measures that have come out of our subcommittee. I have been happy as chairman of the subcommittee with the great cooperation and the creative contribution of the ranking minority member of the full Committee on Labor and Public Welfare, Senator JAVITS, and of the ranking minority member of the subcommittee, Senator TAFT, as well as all the other minority members and majority members of the subcommittee.

Mr. JAVITS. Mr. President, will the Senator yield very briefly?

Mr. NELSON. I yield the floor.

Mr. JAVITS. Mr. President, I join in the appreciation expressed by the Senator from Wisconsin of the contribution made by the majority and minority staffs, which was splendid, and the fine and brilliant work done by Senator NELSON as chairman of the conference.

Mr. HUMPHREY. Mr. President, I urge my colleagues to adopt the conference report on H.R. 12987, and vote for the enactment of the Emergency Jobs Program Extension Act of 1976. This bill extends, through fiscal year 1977, the authority for the existing public service jobs program under Title VI of the Comprehensive Employment and Training Act—CETA—which has expired. Its adoption is vital if we are to prevent further job losses and continue the congressional fight for a return to full employment. Today is no time for retreat from this fight. Today's unemployment rate is an astounding 7.9 percent, and it has risen in each of the last 3 months—threatening yet another disastrous spate of high unemployment for our Nation's working people. If we are to give this Nation's 7½ million unemployed workers any hope at all of finding a productive and meaningful job, we must enact this measure.

As of June 30, there were approximately 310,000 public service jobs funded under CETA. This bill would continue that minimum number of jobs through 1977.

It will mean an estimated 2,360 jobs to be funded under CETA in the State of Minnesota during fiscal year 1977. And I am proud of the record of prime sponsors of CETA programs in my State of Minnesota. According to a recent Department of Labor performance evaluation conducted of the CETA program in 431 State and local governments, Minnesota was one of only 18 States which received a top performance rating for the State as well as for all of the prime sponsors within the State.

No one can question the fact that these jobs are productive for the individual and for society.

However, just as important as the extension of the jobs program, is the conference agreement providing for a program of employment projects for low-income persons who have been unemployed for a long period. Fifty percent of all jobs created to bring employment in a region up to the June 30, 1976 level, which become vacant as a result of attrition, will be filled under a new set of priorities and requirements. These requirements will focus jobs on the long-term unemployed and the economically disadvantaged.

The remaining 50 percent will be filled in accordance with provisions of law previously applicable, except that preference may be given to hiring laid off public health and safety personnel. As chairman of the Joint Economic Committee, I am particularly pleased to see the committee's recommendation adopted for targeting public service jobs to those whose need is greatest.

This bill corrects a number of deficiencies which exist under the present CETA law. It is not a panacea for all our economic ills, but it is a positive step forward and an essential component of our job creation strategy.

According to the Congressional Budget Office, public service employment is the most effective, flexible, and controllable of all temporary programs to create employment. The enactment of the Emergency Jobs Extension Act of 1976 is essential to continue, expand, and improve our public service jobs programs. And it is essential if we are to relieve the misery and devastation of unemployment.

This bill merits our support and I urge my colleagues to join me in voting for the adoption of this conference report.

Mr. WILLIAMS. Mr. President, it is deeply gratifying that the Senate is about to give its final approval to the Emergency Jobs Programs Extension Act of 1976.

It has taken many months to reach this point, to achieve an overwhelming consensus in support of a continuing and expanding program of public service employment for those American workers who can find no other jobs in the continuing and now expanding recession.

Last month, according to the Bureau of Labor Statistics, the national unemployment rate rose to a level of 7.9 percent—the third month in succession that a rise has been recorded. Over 7.5 million Americans were counted as unemployed—willing and eager to work, but unable to find a job.

The bill before us would revive, renew, revise, and improve the emergency public service jobs program contained in title VI of the Comprehensive Employment and Training Act, which was originally enacted in December of 1974.

At that time, the unemployment statistics from November 1974, were the galvanizing influence that prompted the Congress to act. The number counted as unemployed in that month was 6.1 million, and the national unemployment rate was 6.6 percent.

Today, the rate is 1.3 percent higher and the number of unemployed is 1.4 million more. Clearly, this is not the time to abandon a Federal program that has meant so much to jobless Americans and is more urgently needed now than when it was first enacted.

The title VI CETA program that would be renewed by H.R. 12987 has provided, on the average, 260,000 wage-earning positions over the past 21 months for more than twice that many American workers who could find no other jobs during the continuing recession.

The good commonsense of this program has been particularly appreciated in my home State of New Jersey, where unemployment remains at the tragically high level of 10.3 percent. Over 300,000 New Jersey residents were looking for work last month, but could not find a job.

Approximately 10,500 others are fortunate to be employed at the present time in public service jobs under CETA. I am determined that New Jersey will receive enough funds to reach the level of 18,000 jobs achieved at the height of the existing program last year and, in addition, to increase that level by several thousand more positions for long-term unemployed persons from low-income households.

In New Jersey, as across the Nation, the hopes of thousands of jobless workers are riding on this legislation. Local communities are depending upon this public service jobs program not only to provide work for the unemployed, but to provide an effective economic stimulus by increasing consumer purchasing power.

Mr. President, this legislation affirms the commitment of Congress to providing jobs in the recession for those who can find no other work.

The jobs it provides are not "make-work" jobs that simply put a rake or a fly-swatter in the hands of a worker. They are jobs identified by local prime sponsors as areas of public need in their communities—work that otherwise could not be done because of shortages of funds that have been exacerbated by the economic decline that characterizes the recession.

It is important to bear in mind, Mr. President, that enactment of this legislation, with adequate funding, will provide the final link in the congressional program for confronting joblessness with jobs.

Congress has already approved two other programs to fight unemployment. Federal assistance on the scale of $2 billion has been authorized for State and local public works construction projects that are ready to launch, but for a shortage of State and local funds. In addition, we have enacted legislation establishing a $1.1 billion program of antirecession financial assistance to State and local governments. The House of Representatives, by a vote of 263 to 53 on Friday, approved the appropriations for these programs, and I am confident that the Senate will also approve the funding bill.

In the instance of the public works assistance, a vital stimulus will be provided for the construction industry, which has been severely damaged by two recessions in the last 6 years, and at the same time meet the needs for State and local government for vital capital improvements.

In the second instance, the wherewithal will be provided for State and local governments to sustain their regular work force and public services.

In the instance before us today, H.R. 12987 will provide assistance to State and local prime sponsors to permit them to maintain the public service employees under CETA that are now engaged in providing essential services, plus 50 percent of any attrition that has occurred since June 30, 1976. And as further attrition occurs in the future, half of those jobs may be filled by the prime sponsor under the original terms of the title VI program.

The other half, however, and all additional positions made possible by expanded funding of the title VI program are to be filled by long-term unemployed persons from low-income households working in employment projects of 1 year's duration.

Mr. President, this concept of "targeting" a portion of public service jobs on the most needy is an important contribution of this legislation. It is a concept that was developed by the Committee on Labor and Public Welfare, embraced by the Senate, and adopted by the House of Representatives.

If properly administered, the concept can serve as a template for future national efforts to bring the poor and the disadvantaged into the mainstream of the American workforce.

For this to happen, however, local prime sponsors will be required to forego the temptation to utilize the employment projects, and the "targeted" employees, to provide services that are customarily provided by regular public employees.

In our joint explanatory statement, the conferees on H.R. 12987 made the following declaration:

> The Conferees expect prime sponsors to provide a substantial portion of the project funds to nonprofit agencies which both insures that real, new jobs are created and avoids the substitution of Federal funds for services customarily provided by State and local governments.
>
> A new requirement (prevents) prime sponsors from . . . contracting out any of their customary services to nonprofit agencies or . . . reducing their customary level of such services.
>
> . . . where State and local governments themselves operate projects, the Conferees expect strict enforcement of . . . maintenance-of-effort requirements (of the Act).

It should be clear from this language that prime sponsors are to be required to maintain essential services at their normal levels, utilizing any other resources available to them; but the financial assistance provided in accordance with this Act for employment projects may be used only to expand such services or provide services that are not now available. These provisions are not intended to prohibit prime sponsors from contracting with nonprofit organizations for added service levels, so long as customary levels are maintained by governmental bodies serving an area; nor are they intended to prohibit prime sponsors from contracting with a governmental unit in the area for, or conducting their own, employment projects that provide increased services.

However, the provision of the bill limiting projects to a 12-month duration strongly suggests that they should be used judiciously and sparingly for increasing the level of customary services, since termination of the project at the end of the year would reduce services unless other funds could be found to continue them.

Mr. President, the bill before us would extend the Title VI program for at least 1 more year, so that current jobholders may continue in dignified employment and not be forced unto the unemployment compensation rolls.

To the extent that unemployment compensation may be required, however, the bill provides for the benefits to be paid out of Federal general revenues through a new part B of title II of the Emergency Jobs and Unemployment Assistance Act of 1974 (P.L. 93-567). In this way, funds appropriated to create and sustain jobs will not be diverted to paying unemployment benefits.

In order to bring the employment projects into play and provide any significant number of jobs for the long-term unemployed, a substantial increase in title VI appropriations will be necessary. It is my firm intention to seek appropriations that would expand the current public service jobs program by 60 percent or more—to a level of about 500,000 total jobs in fiscal 1977.

Mr. President, I should like to especially point out that this level of jobs comports with the assumptions upon which the Federal budget for fiscal 1977, as embodied in the second concurrent resolution on the budget (S. Res. 139), is based. By adopting the budget resolution, the Congress has established a high priority for increased numbers of public service jobs, and our action on the appropriations for this bill should carry out this priority.

By adopting the budget resolution, Congress has made a commitment to expand the emergency public service jobs program. By enacting this legislation, we will have established the specific authorization for the expansion. The final step—enactment of sufficient appropriations to carry out our commitment—will be met with deep gratitude by the hundreds of thousands of jobless Americans who will derive the benefits of dignifying employment.

Mr. President, another important part of H.R. 12987 is the estabilshment of a national commission to evaluate the system by which official unemployment statistics are compiled by the Bureau of Labor Statistics.

These statistics are indispensable guides for developing public policy and legislation to deal with unemployment, and they are the foundation upon which billions of dollars of Federal assistance are allocated.

Under the present system, many workers are suffering the pains of joblessness, but are not counted among the officially unemployed. Many others who can find only part-time work are considered as fully employed, for purposes of the BLS studies.

Clearly, the Congress and the Nation need more accurate, uniform objective measures of the extent of unemployment, not only so that we can equitably see to the distribution of Federal assistance to fight unemployment, but also to make it possible to measure the impact of the full range of economic and human resource programs of government at all levels.

Mr. President, I am grateful to the Senator from Wisconsin (Mr. NELSON) for his expert and sensitive management of this legislation on behalf of the committee, to the Senator from California (Mr. CRANSTON) for his work in developing the provisions establishing the national commission on unemployment statistics and, in cooperation with the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), and the Senator from New York (Mr. JAVITS), developing the employment projects for the long-term unemployed from low-income households.

I am also grateful to our colleagues on the Education and Labor Committee of the House of Representatives for their determination and commitment to insure that this legislation is enacted.

In particular, Mr. President, we owe a debt of gratitude to my colleague from New Jersey, Congressman DOMINICK V. DANIELS, who has been an outstanding leader over the years in developing Federal programs for relieving the tragic effects of joblessness.

Congressman DANIELS has decided to take his retirement after this session of Congress, although he could have been reelected by a landslide. We will all miss his wisdom and expert counsel on these matters and on every other problem of public policy that comes before the Congress.

Mr. President, I urge the adoption of the conference report on H.R. 12987.

Mr. CRANSTON. Mr. President, I rise in support of the conference report on H.R. 12987, the Emergency Jobs Programs Extension Act of 1976—House Report 94-1514.

Mr. President, this act extends the public service jobs program conducted under title VI of the Comprehensive Employment and Training Act of 1973—CETA—as amended, by authorizing an appropriation of such sums as may be necessary through fiscal year 1977. The conference report passed the House by a vote of 295 to 9 last Friday, September 17.

BACKGROUND

Mr. President, there are currently about 310,000 public service job slots provided nationwide under titles II and VI of CETA through more than 440 prime sponsors.

Title VI was originally enacted as part of the Emergency Jobs and Unemployment Assistance Act of 1974—Public Law 93-567—in response to dramatic increases in the national unemployment rate and predictions—which certainly proved accurate—of a critically deteriorating economy. The purpose of the title was to provide emergency countercyclical public service employment and to combat severe unemployment. The title carried an authorization level of $2.5 billion for fiscal year 1975 with obligations authorized to be made through December 31, 1975. The full $2.5 billion has been appropriated and obligated.

Mr. President, about 260,000 jobs were originally funded under "Title VI, Emergency Jobs Programs," before the authority for that title expired. Currently, funding for these jobs is directed to prime sponsors through title II in accordance with the provisions of the Emergency Supplemental Appropriations Act—Public Law 94-266.

Appropriations were made in this manner in order to insure maintenance of current public service jobs levels and to avoid laying people off of jobs while the Congress worked to provide for the extension of the program.

That the title VI program of nationwide public service jobs needs to be extended cannot be seriously questioned. During August, the national rate of unemployment continued its pattern of monthly increases, rising to 7.9 percent—the highest figure so far this year. August was the third straight month that the jobless rate climbed over the 7.5-percent rates that prevailed in February, March, and April, after dropping to 7.3 percent in May. The August rate is more than 1 full percentage point higher than the national unemployment rate of November 1974 which prompted the enactment of title VI. And the number of those officially counted as unemployed—now 7.5 million—is 1.3 million more than in that month.

NEW JOBS PROGRAM

Mr. President, the measure which has been reported from conference contains an important provision that any new jobs created above the current levels will be in community employment projects for the long-term, low-income unemployed. This so-called "second tier" provision was added in an amendment offered by Senator JAVITS and I, and Senator KENNEDY, also joined by Senators WILLIAMS and MONDALE, during Senate committee consideration of this extension legislation. I would like to talk for a few minutes about this provision which represents the culmination of our work over nearly a year now to try to bring some new concepts to our public service employment programs.

What the provision in this conference report attempts to do is to recognize and move to resolve the difficulties—perceived and real—which public service employment programs have experienced the last 5 years since the time we began this venture in 1971 under the Emergency Employment Act.

Specifically, we aim to target the new public service jobs, and half of the job openings in the existing title VI jobs, on individuals with low family income—below about $6,700 on the average—who have been unemployed for at least 15 weeks or who are receiving AFDC. Our provisions also require that prime sponsors, in the provision of jobs, emphasize the needs of certain persons, such as older persons or parents of young children, for flexible working hours.

Under the bill reported from conference, eligibility for such new public service jobs and half of the job openings would be restricted to those unemployed persons:

First, who have been receiving unemployment compensation for 15 or more weeks;

Second, who are receiving AFDC;

Third, who have exhausted unemployment compensation benefits; or

Fourth, who are ineligible for unempoyment compensation benefits but who have been unemployed for 15 or more weeks. Such an unemployed person would nevertheless still not be eligible for a public service job if his or her income plus that of other family members exceeds 70 percent of the lower living standard income level.

As provided in the conference report, this level is to be determined annually by the Secretary of Labor based upon the most recent "lower living standard budget" issued by the Bureau of Labor Statistics and is to take into account regional, metropolitan, urban, rural, and family size differences.

By "based upon" the conferees meant that in no event may the Labor Department figure exceed in any significant amount 70 percent of the actual BLS applicable lower living standard budget figure. Nationwide, that level for an urban family of four persons, as computed by the BLS on May 5, 1976, was $9,588.

Since the new jobs under this bill would be targeted on the most needy of the unemployed, many of whom are receiving public assistance or unemployment compensation payments, substantial offsets in these income security programs would reduce the net cost of these jobs. In addition, Federal, State, and local tax revenues would be increased as households move from the tax exempt support of public assistance or unemployment compensation to support from a taxable income, and as the economy responds to the stimulus of an expanded workforce. Estimates, based on data prepared by the Congressional Budget Office, indicate that the net cost to the budget per targeted job would be only $2,900 to $3,500.

Unemployment of long duration causes more social dislocation than does a short spell of joblessness. In August, more than 2.3 million people—or 2.5 percent of the labor force—were unemployed for a period of 15 weeks or more. The average duration of official unemployment is 15.6 weeks—almost one-third of a year.

The effects of unemployment, however, Mr. President, are far more serious than two-digit numbers when examined in human terms. Primary earners—the men and women household heads who provide the main source of support for the family—feel most intensely the financial hardship of joblessness. The total impact of unemployment on this group is much more damaging than is unemployment among secondary wage earners—those living with a working spouse, parent, or other family member.

In August, the rate of household head unemployment was 5.2 percent with nearly 2.8 million people in this category out of work. Assuming that the average U.S. family consists of 3.4 family members, based on 1974 U.S. census data, this means that close to 9.5 million people are directly suffering as a result of just this one category of unemployment.

This becomes especially critical when examining the large increase in recent years in the number of households headed by women. One out of every eight families in the Nation is headed by a woman—more than 7 million family units. Women as single heads of households have increased by 30 percent since 1967 and by 100 percent since 1957. This means that in such households there is usually only one wage earner and that wage earner, on the open market, has at this time less earning potential than a male.

The unemployment rate for female heads of households with relatives was 11.1 percent in August. Such a high rate of joblessness is a serious additional hardship on this segment of the population when half of all families headed by women are at or below the poverty level. Only 10 percent of the families above the poverty line are headed by women.

A basic purpose of our proposal is to put the emphasis where it belongs among the 7½ million people who are in need of jobs. We are attempting to distribute a limited number of jobs among those whose financial need for the jobs is the greatest and among those who are receiving substantial Federal, State, and local cash payments either from unemployment compensation or public assistance.

I believe it makes more sense to find productive jobs in our communities for individuals who are seeking to work than to continue to provide cash payments to them.

Mr. President, the bill provides that all of the new jobs in the second tier would be part of special projects of not more than 12 months duration established by the prime sponsors, and that the average federally supported wage in those jobs will be maintained at a $7,800 average. Under the new program, a community hearing process will determine what those projects will be, where they will be located, and who will run them.

The measure makes directly eligible for this purpose "project applicants"—local educational agencies, community-based organizations, community development corporations, and other nonprofit organizations engaged in public service—in addition to direct governmental agencies.

It was our intention, Mr. President, as to these new public service jobs, that prime sponsors should "contract out" a very substantial portion of the new jobs to these nonprofit agencies so as to disperse responsibility for supervision and attempt to insure that real, new jobs are created. This will minimize the substitution effect—where an existing job is switched from the locally tax-supported payroll to the federally supported public service payroll—and prevent unnecessary increases in direct State and local employee payrolls, except when necessary, of course, to provide essential public services.

Mr. President, in addition to this targeted approach with respect to any new jobs which are provided under this program, one-half of the number of vacancies resulting from attrition below the level of public service jobs that existed on June 30, 1976—approximately 310,000—are to be filled by persons who meet the eligibility requirements for low-income, long-term unemployed, without regard to the project requirements. The other half of the vacancies which result from attrition may be filled by the prime sponsors through procedures which they presently use to fill jobs supported by title VI.

In addition, we have indicated that prime sponsors may, at their discretion, give preference for these regular title VI job vacancies to the hiring of unemployed former public health and safety employees for public health and safety jobs for which they are appropriately qualified.

Mr. President, the conference agreement also will prohibit the Secretary of Labor from applying any quota or numerical restriction on the number of rehired public service employees placed in positions which are under that half of the jobs which are not required to be targeted, as well as prohibiting the application of such a quota to existing title VI jobholders in order to remove them from their jobs.

We also expect, Mr. President, that each prime sponsor shall take steps to insure that new targeted jobs are equitably allocated among the four different categories of the eligible population. Although in some instances, the data to make completely accurate determinations with respect to these job allocations will be incomplete or not readily available to the prime sponsor, the conference report notes that prime sponsors are to "make a good faith effort to meet this requirement."

The intent here, Mr. President, is to assure that there is a reasonably fair allocation of jobs among those persons who: First, have been unemployed for 15 weeks or more and who have been receiving UI; Second, have been unemployed for 15 weeks or more and are ineligible for UI benefits; Third, have exhausted UI benefits; or Fourth, are in receipt of AFDC payments.

Mr. President, according to the best estimates of job turnover, approximately 75,000 to 100,000 of the job openings that become available because of attrition could be targeted on the low-income, long-term unemployed during the coming fiscal year.

OTHER PROVISIONS

Mr. President, I would like to note several other provisions of the committee bill in which I am especially interested.

VETERANS EMPLOYMENT

Mr. President, section 12 of the bill contains three amendments which I authorized and which the conference accepted dealing with veterans employment.

First, an amendment to title I (section 105(a)(3)) of CETA provides that the comprehensive manpower plan required to be submitted to the Secretary shall provide for such arrangements as may be appropriate to promote maximum feasible use for eligible veterans of Veterans' Administration apprenticeship or on-job training—OJT—programs conducted under section 1787 of title 38, United States Code. Promotion by prime sponsors of available VA apprenticeship or on-job training will be beneficial to and productive for both the eligible veterans and the prime sponsors.

Under the VA/OJT program, an approved employer promises a permanent job to a veteran upon successful completion of an OJT program. The program, which originated as part of the GI bill following World War II, is based upon the principle of the veteran learning a trade by performing the necessary job operations. During the training program, the employer pays the veteran less than the full regular wage and the VA supplements this with a training assistance allowance which it pays directly to the veterans. The amount of the training assistance allowance is contingent upon the number of dependents and the length of time the veteran has been in training.

Mr. President, implementation of this provision could include the establishment by CETA prime sponsors of VA-approved and funded public sector OJT opportunities. In addition, CETA prime sponsors, in close coordination with the Department of Labor, the State employment service, and the VA could refer unemployed veterans to available VA-approved apprenticeship or OJT opportunities in the private sector.

The need for this provision is underscored by the continuing high unemployment rates for veterans, particularly young, disabled, and minority group veterans. During the second quarter of this year, there were 479,000 Vietnam-era veterans unemployed. The unemployment rate for 20- to 24-year-old veterans during the second quarter of 1976 was 16.3 percent; this compares with the unemployment rate for nonveterans of the same age group of 10.7 percent. Among young minority group veterans unemployment averaged 27.7 percent in the second quarter; for the same group of nonveterans it was 18.6 percent.

I believe that during this continuing period of such high veterans' unemployment, every effort must be made to insure that all available and qualified veterans desiring assistance are placed in training or employment opportunities. The VA OJT and apprenticeship programs have a great unrealized potential for such placement.

In addition, Mr. President, the conference report amends section 104(b) of the Emergency Jobs and Unemployment Assistance Act of 1974—Public Law 93-567. This section, which I authored in the 1974 act, directed the Secretary of Labor to consult and cooperate with the Secretary of Health, Education, and Welfare in order to provide for an extensive outreach and public information program. Further, the Secretary of Labor, in consultation and cooperation with the VA Administrator and the HEW Secretary, was required to report to the Congress on the steps taken and the regulations issued to carry out the outreach and public information program.

Mr. President, the report which the Congress received from the Labor Department last year provided little specific information as to what has been done, and tends, instead, to emphasize future plans. Thus, the bill requires a new report to be filed within 90 days after the enactment of this act.

It is my hope that this new report will provide an opportunity for the Department to identify and discuss in greater detail the status and conduct of outreach and public information programs mandated under this section to which $3.4 million has been allocated by the Labor Department. Additionally, the report will cover steps taken to produce jobs for veterans in connection with the title VI public service job efforts and other CETA programs.

Finally, with respect to veterans, the bill makes a technical amendment in section 106(b)(5) of CETA title I. As originally enacted in 1972 in Public Law 92-549, section 2012(a) of title 38, United States Code, required Federal contractors to give "special emphasis" to the employment of qualified service-connected disabled veterans and veterans of the Vietnam era.

Subsequent to the enactment of the Comprehensive Employment and Training Act of 1973, Congress amended section 2012(a) of title 38 in the Vietnam Era Veterans Readjustment Assistance Act of 1974—Public Law 93-508—by changing "special emphasis" to "affirmative action." Thus, the conference report makes a conforming amendment to correct references to section 2012 in section 106(b)(5) of CETA title I so as to reflect the changes made by the 1974 GI bill amendments.

NATIONAL COMMISSION ON EMPLOYMENT AND UNEMPLOYMENT STATISTICS

Mr. President, I would like to turn now to section 13 of the conference report which I authored along with the Senator from Illinois (Mr. STEVENSON) and the Senator from New York (Mr. JAVITS). Section 13 provides for the establishment of a National Commission on Employment and Unemployment Statistics which would have the responsibility of examining the current methods of employment and unemployment data collection, analysis, and presentation, and of ways and means of reforming the current statistical processes.

The Commission is modeled along the lines of the President's Committee To Appraise Employment and Unemployment Statistics—popularly known as the Gordon committee for its chairman, Dr. Robert A. Gordon, University of California—which was appointed by President Kennedy on November 11, 1961, in response to a proposal by former Secretary of Labor Arthur Goldberg. The Gordon committee completed its report to the President in 1962. Since that time, no comprehensive appraisal has been made of the employment and unemployment statistical processes.

Mr. President, in appointing the committee in 1961, President Kennedy stated that:

> The statistics of employment and unemployment are of vital importance as measures of the economic health and well-being of the nation. They serve as guides to public policy in the development of measures designed to strengthen the economy, to improve programs to re-employ the unemployed, and to provide assistance to those who remain unemployed.

This statement, Mr. President, remains equally valid today. I want to stress that the need for more timely, accurate, and uniform data on employment and unemployment is especially important in connection with CETA, since billions of dollars under this act are distributed to prime sponsors on the basis of formulas that are heavily dependent upon unemployment statistics. The same is true with respect to the recently enacted Local Public Works Capital Development and Investment Act (Public Law 94-369) which authorizes $3.9 billion for public works and countercyclical programs. It is imperative, for the equitable and effective conduct of these programs, that employment and unemployment statistics mean the same thing in California as they do in Alabama, Maine, and Minnesota, and that they be the most accurate and up-to-date figures that can possibly be obtained.

While it is a matter of record that the Gordon committee report was, and remains, a timely and comprehensive study of the system of measurement of employment and unemployment, and many of its recommendations found their way into use, much work remains to be done.

Developments in the Nation's economy during the last decade and a half have created an urgent demand for effective public policies to deal with the new sets of problems facing the Nation. This necessarily requires a reliable and comprehensive measurement system upon which to base decisions in the public policymaking process.

Mr. President, the current statistical survey process represents a model of professionalized reporting. But, the statistics, while they may be the most accurate and precise figures obtainable within the limits of the present system, sometimes do not reflect all of the harsh realities. We do not even include in the unemployment rate calculations those persons who have looked for jobs—long and hard—who have been unsuccessful, and who have given up looking in hopelessness and despair. According to the Bureau of Labor Statistics, there were 905,000 "discouraged jobseekers" during the second quarter whose misery was not even counted as "in the labor force." And what about those persons seeking to make a living by working in part-time jobs because no full-time positions are available? There is no official statistical measurement of this population.

The Urban Institute, in its report entitled "The Jobless Rate: Another Dimension of the Economic Picture" estimates that although the average number of people officially counted as unemployed during 1975 was officially 7.8 million, there were an additional 1.6 million persons who were not working or looking for work who would have been in the labor force if the economy had been operating at full capacity. The Urban Institute determined that for December 1975, 10.2 percent of the Nation's potential labor force was without jobs. The conventional employment figure, reported by BLS, was 8.3 percent for the same month.

Mr. President, in order to create meaningful programs to move the economy on toward and to sustain a recovery, it is imperative that we have the most accurate and precise measures possible to determine the effect of our current employment and training public policies. Exactly what should be considered employment, how it should be collected, counted, analyzed, and presented, requires the attention of the experts and demands the highest degree of objectivity possible.

Former Secretary of Labor Willard Wirtz and former Assistant Commissioner for Manpower and Employment Statistics Harold Goldstein in their report entitled "A Critical Look at the Measuring of Work" conclude that:

> It is time that another general review of these [work] measurements be made, by another [Gordon] Committee of competent, respected, and independent members.

Also, Mr. President, in a paper presented at the annual forum of the National Conference on Social Welfare, Dr. Janet L. Norwood, Deputy Commissioner for Data Analysis of BLS, stated:

> The BLS believes that it is time for appointment of a similar [Gordon] committee to re-examine the concepts and definitions of employment and unemployment in the light of current and social conditions. . . . [A] broad spectrum of data from the monthly labor force survey and other sources needs to be examined.

Mr. President, the conference report, which has the support of Jules Shiskin, Commissioner of Labor Statistics, directs the Commission to consider a number of issues in the course of its examination. Going beyond a critical and comprehensive look at the current methodology of collection, analysis, and presentation of employment and unemployment statistics, the Commission will consider ways of making improvements in the statistical process such as in the analysis of the employment conditions of particular groups and methods of achieving current, accurate, and uniform statistics on a State and local basis.

The Commission is directed to study the need for and methods to obtain data relating employment status and earnings, economic hardship, and family support obligations. The Commission is also to direct its attention to statistical indicators of the relationship between job and job training programs and subsequent employment, earnings, and unemployment experience.

There is also a need for additional data and analysis on job vacancies, job turnover, and job matching, part-time workers, youth, women, older persons, handicapped individuals, and other labor market entrants, and the Commission is to look at these needs. These issues, along with others enumerated in the bill, will be put before the Commission for its study.

Mr. President, the conference report provides that the Commission shall consist of nine members who are appointed by the President, with the advice and consent of the Senate. Seven of the members are to be selected on the basis of their particular training and experience, and are to be broadly representative of labor, business and finance, education and training, economics—including statistics—and State and local government. The remaining two members are to be members of the general public, and the full membership of the Commission is to be generally representative of significant segments of the labor force, including women and minority groups. With respect to the two members appointed from the general public, although it would be desirable to have one individual who is involved in public interest activities, it would be equally desirable to include an individual who represents the "person-in-the-street" point of view.

Members of the executive and legislative branches are to participate in the Commission's activities on an advisory basis. I might note that during conference we added the membership of the Joint Economic Committee to those to be represented.

The Commission will submit, within 18 months, a report to the Congress and the President on its findings and recommendations with respect to the employment and unemployment statistical process. In submitting the report, the Commission is to include a feasible schedule for implementation of its recommendations, cost estimates of such implementation, and any appropriate draft regulations and legislation necessary to implement such recommendations.

Further, Mr. President, the Secretary of Labor, in coordination with other affected executive agencies, is required to take action on the Commission's recommendations. In a 6-month interim report to the Congress, the Secretary is to include comments on the desirability, feasibility, and cost of implementing each of the Commission's recommendations and the actions taken or planned with respect to implementation, as well as any recommendations the Secretary may have for alternative or additional legislation necessary to strengthen and improve the measurement of employment and unemployment. A final report by the Secretary of the actions taken with respect to the Commission's recommendations is to be submitted within 2 years. I believe that these mandated follow-up steps are absolutely critical to insure that the Commission's report does not become one more dust gatherer in the library of unread and unheeded Commission reports.

CONCLUSION

Mr. President, in conclusion, I urge the Senate to accept the conference report on the Emergency Jobs Programs Extension Act of 1976.

According to official unemployment statistics, which fail to tell the full story, we have over 7½ million people looking for work in this richest of all nations. Of these, nearly 2.8 million are unemployed household heads. The household head unemployment rate of 5.2 percent today compares with 2.9 percent just 3 years ago when CETA was enacted.

Mr. President, the number of individuals with needs to be met is far larger than can be provided for even with the additional funding anticipated by this measure. The second concurrent budget resolution carries allocations sufficient for 200,000 to 300,000 more public service jobs above the present level. We have got to put a lot more needy people to work a whole lot faster than we are now doing. And I feel that this measure represents a responsible and fiscally achievable approach to serving the most people, as well as those most in need, in an equitable, effective, and productive manner. It is my hope that President Ford will, as he has indicated, promptly sign this measure into law.

At this time, Mr. President, I want to thank the chairman of the Subcommittee on Employment, Poverty, and Migratory Labor (Mr. NELSON) and the ranking minority member of the committee (Mr. JAVITS), and the majority and minority staff—Dick Johnson, Scott Ginsburg, Don Zimmerman, and Larry Greenberg—for their yeoman efforts during an unusually arduous conference. I would also like to thank all the House and Senate conferees and their staffs, all of whom worked so hard and long to create and bring together a promising and productive compromise.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on the motion to lay on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT REQUEST

Mr. ALLEN. Mr. President, I wish to ask unanimous consent that a bill which is listed under the heading "Subjects on the Table," be returned to the calendar. It was put there not by a vote on this particular bill, in other words, it was not tabled, but was put there by the leadership, by unanimous consent, in the thought that it would not be reached.

I ask unanimous consent that H.R. 8401, the Nuclear Fuel Assurance Act, be returned to the calendar.

Mr. DURKIN. I object.

The PRESIDING OFFICER. Objection is heard.

BILL PLACED ON CALENDAR

Mr. MAGNUSON. Mr. President, I ask unanimous consent that H.R. 14071, which was received from the House today, be considered as having been read twice and placed on the calendar, and that a motion to proceed to its consideration not be in order prior to Monday, September 27, 1976.

I have cleared this with everyone involved.

The PRESIDING OFFICER. Without objection, it is so ordered.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

The Senate continued with the consideration of the bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that John Brooks of my staff have the privilege of the floor during the debate on the civil rights attorneys' fees bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I ask unanimous consent that Jane Frank, Robert Malson, Tom Susman, Joyce Steptoe, Ralph Omen, Ralph Neas, and Barbara Dixon be granted the privilege of the floor during the consideration and votes on S. 2278.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2350

Mr. GOLDWATER. Mr. President, I send an amendment to the desk, and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Arizona (Mr. GOLDWATER) proposes amendment No. 2350.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the end of the bill, insert the following new section:
>
> "SEC. . (a) Subchapter A of chapter 65 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new section:
>
> "'SEC. 6408. REIMBURSEMENT OF TAXPAYER'S EXPENSES IN CERTAIN CASES.
>
> "'(a) GENERAL RULE.—If—
>
> "'(1) the Secretary or his delegate subjects the return of a taxpayer to a field audit and after such audit (A) proposes a deficiency or overpayment of income tax imposed by

chapter 1, which the taxpayer accepts in writing, on a form specified by the Secretary or his delegate, or (B) notifies the taxpayer that there is no change in his tax liability;

"'(2) subsequent to the taxpayer's written acceptance of such proposed deficiency or overpayment, or the taxpayer's receipt of a notification that there is no change in his tax liability, the Secretary or his delegate proposes another deficiency or reduction in the overpayment of such tax from the same year with respect to which such acceptance has already been made, or such notification has already been received; and

"'(3) the deficiency in such tax for such year finally obtained, or the overpayment finally allowed, is not more favorable to the Secretary or his delegate, than the deficiency on overpayment which the taxpayer had already accepted, or the tax liability reflected on the return for which notification had already been received by the taxpayer, then the Secretary or his delegate shall reimburse the taxpayer for all expenses incurred by the taxpayer administratively or judicially (including, but not limited to, court costs and legal and accounting fees and expenses) in connection with the deficiency or reduction in overpayment proposed subsequent to such original acceptance or notification.

"'(b) PROCEDURE FOR REIMBURSEMENT.—Expenses incurred by the taxpayer which are to be reimbursed by the Secretary or his delegate pursuant to subsection (a) shall be deemed, for the purposes of section 6511 (a), a tax paid by the taxpayer on the date his tax liability for such year is finally determined (whether determined administratively or judicially). For purposes of this title and section 1346(a)(1) of title 28, United States Code, the amount of tax so deemed paid by the taxpayer shall constitute an overpayment.'

"(b) The table of sections for such subchapter A is amended by adding at the end thereof the following new item:

"'Sec. 6408. Reimbursement of taxpayer's expenses in certain cases.'.

"(c) The amendments made by this section shall apply only with respect to proposals of deficiencies or reductions in overpayments described in section 6408(a)(2) of the Internal Revenue Code of 1954 (as added by subsection (a)) notification of which is made on or after the date of the enactment of this Act."

Mr. GOLDWATER. Mr. President, I asked that my amendment not be read because it is a lengthy one. However, I shall explain it.

In fact, we have already today voted on a similar amendment offered by the distinguished Senator from Alabama (Mr. ALLEN).

In essence, what this amendment does is require the Federal Government to pay the legal, court, and auditor fees, and other fees that come up when the Internal Revenue Service asks for a second audit of your income taxes and the Internal Revenue Service is wrong.

These are some differences in my amendment from the one that we have already voted on. There are four differences.

First, my amendment only applies when the Internal Revenue Service pursues a second audit.

Second, my amendment covers accounting fees as well as legal costs.

Third, my amendment covers expenses in administrative proceeding as well as in court.

Fourth, my amendment covers suits brought by the taxpayer himself as well as suits brought by the Government.

Mr. President, as I said, this amendment would repay a taxpayer for the legal and accounting cost of contesting an unwarranted second audit of his income taxes. I believe a taxpayer who defends his rights against the Government in a tax case is enforcing his civil rights fully as much as another citizen who brings suit under specific civil rights laws. A taxpayer should be able to recover all of the costs of successfully defending himself against the Government, at least in those situations where the Internal Revenue Service is taking its second crack at the taxpayer.

Mr. President, the need for this amendment stems from the all-too-common practice of the Internal Revenue Service to reaudit taxpayers who have already been thoroughly audited once and may even have been told that there is no change in their taxes.

The amendment would not prevent the Government from making a second audit, but it may stop the IRS from harassing people. There are far too many situations in which the taxpayer wins the case, but loses all the costs

To give a little more background about this amendment, I might say that it is based upon the actual experiences of some taxpayers who have brought the problem to my attention. What happens is this.

The IRS will conduct a field audit at which a taxpayer's income tax liability is thoroughly examined. The citizen will be told in writing by the IRS that there is a certain amount of tax due or that no additional tax at all is due. Then the tax collector will turn around later and follow up with a second audit covering the very same tax year. Now, if that second audit is completed without there being any change in the taxes due, the taxpayer is nevertheless forced to suffer 100 percent of all the costs of contesting the case.

Mr. President, I believe we should do something to stop the unnecessary harassment of ordinary citizens by overeager tax agents. A legal battle to vindicate one's rights against improper conduct of the IRS is an effort to enforce one's basic human rights; and there is no reason why we should fail to help the victim of tax abuse as much as we help other victims whose rights are impaired.

I might say, Mr. President, that I find no fault with the bill to which I offer this amendment. I think it is a proper one. I think at the same time we should recognize, as I have said, other inequities that occur to our citizens at all levels from the lowest taxpayer to the highest.

My proposal is not retroactive. It does not apply to any audits or court proceedings that have already been instituted. The Senate has agreed to similar amendments at least twice before, only to have it dropped in conference; and I hope that the Senate will not only pass the amendment today, but will insist in conference upon placing this small measure of justice into our laws.

And I will conclude, Mr. President, by saying that I have had this amendment introduced in both of the last two Congresses and I was a cosponsor with Senator DOLE in one about 5 years ago.

Mr. President, I have no further comments to make about this amendment. I offer it. I hope that the Senate will accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. BAYH. Mr. President, I have been consulting with the principal author of this bill, and I find myself in a rather difficult position, feeling that the amendment of the Senator from Arizona has a good deal of merit. As he pointed out, it passed this body at least once, probably twice before, and thus the Senate position has been rather clear. But we are in a position right now where it is a matter of some significant question whether this measure that some of us feel is rather important, which is now before us, the Kennedy amendment, is going to be able to pass because of the time constraints. I do not know what the position of the Senator from Arizona is, and I am certain that this is not the reason that he is offering his amendment. But we are advised, and I think probably accurately, that if we are to amend this bill so that it differs substantively from the measure which is presently in the process of passing the House we are, in effect, killing the legislation.

I do not think that is what the Senator from Arizona wants to accomplish. But I think he has been around these Halls long enough to know that at this time in the session that is probably what would happen.

Is there any way the Senator from Arizona could offer his amendment to another piece of legislation that may not face the kind of opposition that this particular measure has faced and thus be subject to a better chance of succeeding in his own right without killing the meritorious measure that is presently before us?

Mr. GOLDWATER. I answer the Senator from Indiana by saying that I have been waiting for years for the committee to take action on this—either report it or not report it. I have not been able to get any estimate from Internal Revenue or any other of the downtown sources as to what it might cost. I have been waiting patiently for a bill to attach this to, and this has been the only one that has been directly related to the whole subject of lawyers' fees.

As I said earlier, I think that the civil rights of American citizens are tampered with when they are forced to pay all the way from very minor amounts to very large amounts to lawyers and to auditors and even to pay court costs when they have honestly tried to fill out their income tax form in the proper way and may or may not have made a mistake.

I do not hesitate to say that because I won a lawsuit, a rather sizable lawsuit, some 10 or 12 years ago, my return has been looked at every year; and I am told that as long as my name appears on the computer, my taxes will be audited. I am just one. I know of others in Congress.

I think it is fair legislation. I believe it would cause the Internal Revenue Service to take a second look before they just go out willy-nilly and look at the tax returns of people who have done their best to be honest and are honest.

I do not want to see this legislation killed, and I have not offered the amendment for that reason. I will vote for the passage of this bill.

I hope that the committee will not object to the amendment, will take it, will take it to conference, and see what the House will do. I cannot believe that either body, in voting on this matter, would want to turn it down.

Mr. BAYH. Am I in error in saying that the Senator has already pointed out that on two occasions our brothers and sisters in the House have turned it down?

Mr. GOLDWATER. Yes, they have. It baffles me.

Mr. BAYH. It baffles the Senator from Indiana.

I have been advised by those who have been following the legislative process in the House more closely than I—the Senator from Massachusetts being one—that if we were to accept any amendments, there would be a significant, substantive difference between the measure we hope shortly will pass the Senate from that which is in the process of passing the House, and it would become embroiled in the conference report, and that would kill it. I do not think the Senator from Arizona wants to see that happen.

Mr. GOLDWATER. Let me try to be fair about this. The Senator from Massachusetts is not in the Chamber. We are going to have a cloture vote tomorrow. I would withhold a request for a vote on this amendment until the Senator from Massachusetts has had a chance to take a look at it and confer with me on it. If it would not hamper passage of the bill, I would call for a vote after the cloture vote tomorrow or before the cloture vote.

Mr. BAYH. I think the Senator from Arizona, in his typical fashion, is being very fair about this. I believe the Senator from Massachusetts can speak for himself better than can the Senator from Indiana, but that certainly is the legislative situation as I have seen it.

Mr. ALLEN. Mr. President, I hope the Senator will not withdraw his amendment, because after cloture has been adopted, the Senator's amendment would not be in order, in my judgment.

Mr. GOLDWATER. I was going to ask that.

Mr. ALLEN. At this time, germaneness is not required. I hope the Senator will insist on going ahead with his amendment.

As to all this scare talk about the bill being changed, I offered a seven-word change just the other day that was already included in the Kennedy amendment, and they said that it would kill the bill. All this scare talk about killing the bill—that is just what it is; it is scare talk.

I have no doubt that the House would have no objection to the amendment the Senator from Arizona is offering. I hope he will insist on having a vote on his amendment and not fall victim to the suggestion that he wait until after cloture is adopted, when the amendment would not even be in order.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that, contrary to the rule, I be allowed to call for a vote on this amendment after the vote tomorrow on cloture.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Was the request not only that it be called up but that it be considered to be germane?

Mr. GOLDWATER. I include that in my unanimous-consent request.

The PRESIDING OFFICER. Is there objection to the amended request? The Chair hears none, and it is so ordered.

Mr. GOLDWATER. I will call for a vote after the cloture vote tomorrow, regardless of which way it goes.

I yield the floor.

ARTS, HUMANITIES, AND CULTURAL AFFAIRS ACT OF 1976—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on H.R. 12838 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. TAFT). The report will be stated by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12838) to amend and extend the National Foundation on the Arts and Humanities Act of 1965, to provide for the improvement of museum services, to establish a challenge grant program, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of September 20, 1976, beginning at page 31377.)

Mr. PELL. Mr. President, as chairman of the conferees on H.R. 12838, amended by our Senate bill S. 3440, I am in full support of the conference report on the reauthorization of the arts and humanities legislation.

We have had a lengthy conference. We have had to consider certain new provisions in the legislation very carefully.

I have taken great satisfaction in my chairmanship of the Senate Special Subcommittee on Arts and Humanities since its inception more than 12 years ago. Working with me through all these years is Senator JAVITS, the real pioneer of legislation to support the arts in our country. Once again, his assistance and wisdom have proved of enormous value.

Let me especially commend at this time my House colleagues, who spent long hours with us on the development of this legislation. In particular, let me commend Representatives CARL D. PERKINS, chairman of the House Committee on Education and Labor; JOHN BRADEMAS, chairman of the Select Subcommittee on Education; and ALBERT H. QUIE, the ranking minority member.

The legislation provides for important new initiatives within the broad areas of the arts and the humanities.

Involved is a new program to assist our Nation's museums. I have been working on this legislation for the past 5 years, and I am delighted that its purposes have at last been realized.

We have provided for both the arts endowment and the humanities endowment opportunities to undertake new challenge-grant programs, so that the Federal investment can be maximized and so that added and much needed non-Federal support can be generated in response to more imaginative uses of the Federal catalyst dollar.

With respect to the humanities, we have given emphasis to a challenge program, which will focus on how best we can examine and renew our own democratic principles—as we move forward from a Bicentennial Year to a more substantive application of the true meaning of this year of celebration to our Nation's future. This broader view of the Bicentennial and its meaning and relevance to the legislation are particularly attributable to initiatives taken by Senator JAVITS.

I heartily applaud these initiatives and look forward to a full implementation of their purposes by the humanities endowment.

I am very pleased that this legislation also opens up new opportunities and challenges for the humanities with respect to State programs. The great benefits to the development of the arts, provided by the State Arts Councils, have served as an example to be followed. The legislation provides new incentives to expand the humanities programs in each of our States. It opens up new opportunities for a real partnership between Federal and State governments with the purpose of giving the humanities endowment an opportunity to make a more vital contribution to American life. I have been working for many years to bring the humanities more into the mainstream of our democratic process, and I am indeed pleased that we are working constructively toward such important goals.

Finally, let me emphasize that we have provided authorization for a special, Bicentennial-related photographic and film project, so that we will have, with full State involvement and their expressed enthusiasm, a portrait of our country as we enter our third century. Such a portrait has not been made since the 1930's, some 40 years ago. Many months ago, the Senator from Minnesota, Mr. MONDALE, suggested this project, which was developed through detailed hearings and a compromise agreement by the conferees.

Only modest funds are provided, but I believe they will produce excellent results. And, I am pleased, too, that a Senate provision to place some emphasis on the values of the arts in education was, again in modest measure, retained.

We have come a long way with the arts and humanities program since 1965. Because of the present stringencies in budgeting and because of our efforts to take fully into consideration those stringencies, the present bill provides in total no more for fiscal 1977 than is presently authorized. But, this legislation looks toward the future and contains opportunities for both the arts and humanities programs to expand in future years.

In closing, let me commend the staff work, which so helped with the progress and results of the conference. On our Senate side, Livingston Biddle and Gregory Fusco worked well together, representing the bipartisan spirit, which has been traditional to our deliberations of more than a decade when Mr. Biddle first became involved with me in these endeavors and helped draft the original bill. He has contributed immensely, not only to the creation, but to the development of the arts and humanities endowments. Special praise is due for Mr. Fusco and for his ability to help us with two important conferences, this one and the one on the education legislation. These have been busy days for all of us. Gregory Fusco has been a lion for hard, painstaking, and excellent work.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR—S. 2278

Mr. JAVITS. Mr. President, I ask unanimous consent that Charles Warren, of my staff, may have the privilege of the floor during the consideration of the pending bill on lawyers' fees in civil rights cases.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY—EXECUTIVE Q, 94TH CONGRESS, 2D SESSION

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the protocol amending the Tax Convention with the United Kingdom of Great Britain and Northern Ireland, signed at London on August 26, 1976 (Executive Q, 94th Congress, second session), transmitted to the Senate today by the President of the United States, and that the treaty with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Protocol signed at London on August 26, 1976, amending the Convention between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains, signed at London on December 31, 1975, as amended by Notes exchanged at London on April 13, 1976. For the information of the Senate, I also transmit a covering report of the Department of State with respect to the Protocol.

The Convention, along with the amending Notes and this Protocol, would promote closer cooperation and more active trade between the United States and the United Kingdom.

I urge the Senate to give its advice and consent to ratification to the Convention, the exchange of Notes, and to this Protocol, at an early date.

GERALD R. FORD.

THE WHITE HOUSE, *September 22, 1976.*

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet on September 23 to consider committee business; that the Committee on Agriculture and Forestry be authorized to meet on September 23, to consider a House-passed bill, the Rural Electrification Administration Technical Amendments Act of 1976; and that the Committee on Labor and Public Welfare be authorized to meet on September 28 to consider several nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMERGENCY TOBACCO ALLOTMENT TRANSFERS

Mr. ROBERT C. BYRD. Mr. President, there is a bill which has been cleared on both sides of the aisle for passage by unanimous consent.

I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1165.

Mr. ALLEN. Mr. President, reserving the right to object, what is the bill?

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 15068) to provide for emergency allotment lease and transfer of tobacco allotments of quotas for 1976 in certain disaster areas in South Carolina and Georgia,

Mr. ALLEN. I withdraw my request.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture and Forestry with an amendment to strike out all after the enacting clause and insert the following:

That section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b) is amended by adding at the end thereof the following new subsection (i):

"(i) Notwithstanding any provision of this section, when as a result of drought, flood, damage due to excessive rain, hail, wind, tornado, or other natural disaster, the Secretary determines (1) that one of the counties in South Carolina or Georgia has suffered a loss of 10 per centum or more in the number of acres of tobacco planted (or expected production from the planted acreage), and (2) that a lease of such tobacco allotment or quota will not impair the effective operation of the tobacco marketing quota or price support program, he may permit the owner and operator of any farm within a designated county which has suffered a loss of 10 per centum or more in the number of acres of tobacco planted (or expected production from the planted acreage) of such crop to lease all or any part of such allotment or quota to any other owners or operators in the same county, or other counties within the same State, for use in such counties for the year 1976 on a farm or farms having a current tobacco allotment or quota of the same kind. In the case of a lease and transfer to an owner or operator in another county pursuant to this subsection, the lease and transfer shall not be effective until a copy of the lease is filed with and determined by the county committee of the county to which the transfer is made to be in compliance with the provisions of the subsection.".

Mr. THURMOND. Mr. President, I rise in support of H.R. 15068. This is an important measure affecting the tobacco farmers in South Carolina. Extreme weather conditions have prevailed in areas of South Carolina and Georgia causing hardships to many farmers. This legislation allows cross-county leasing of tobacco which would enable affected farmers to lease unused poundage to farmers in other counties in the same State who were not adversely affected. This does not affect the amount of tobacco that will be produced this year. Further, it will not cost the Federal Government anything additional.

Considering the emergency nature of the bill, I urge the Senate to act promptly on this measure.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

The Senate continued with the consideration of the bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

UP AMENDMENT NO. 475

Mr. ALLEN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Massachusetts to the pending bill, S. 2278.

Mr. ALLEN. Mr. President, I call up my unprinted amendment to the Kennedy amendment, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes unprinted amendment No. 475 to the Kennedy amendment No. 2347.

Strike lines 1 and 2 and insert in lieu thereof the following:

"That this act may be cited as the Tunney-Kennedy Civil Rights Attorneys Relief Act of 1976."

Mr. ALLEN. Mr. President, I feel that this amendment should be adopted. It is in line with the amendment contained in the Senate amendment to the House amendment to the Senate amendment to H.R. 8532, the Antitrust Amendments Act, which named the Antitrust Amendments Act the Hart-Scott-Rodino Act. I feel that the proponents of this bill, the attorneys' fees bill, should similarly be recognized as the authors of this landmark legislation providing additional benefits for attorneys.

I couple that with an amendment changing it from the attorneys' fee awards to Civil Rights Attorneys Relief Act of 1976, because the Senate has been more concerned, I believe, with securing attorneys' fees for attorneys than they have been with the consumer that some of these bills are supposed to be for, or even for civil rights, for that matter. This bill before the Senate now does not refer to civil rights as such. It does not create an additional civil right. It does not protect an additional civil right. All it has to do with is providing for attorneys' fees for the attorneys, who do represent plaintiffs in actions under some of these laws, but the primary concern is seeing to it that attorneys receive attorneys' fees for their services.

I have been impressed by the fact that in the Senate, some of the very same sponsors of this type of legislation have been the very Senators who have been seeking to guarantee large fees to attorneys. The antitrust bill was supposed to be a great bill for the consumer, but actually, it is a bill providing for contingency fees for attorneys. That is the gravamen of the bill, the thrust of the bill that caused the hangup here, in the Senate, that they were setting up a procedure by which 50 attorneys general throughout the country could farm out antitrust action to favored attorneys in their States. These attorneys would be able to collect vast fees on a contingency basis. The consumer would get practically nothing out of the proceedings, but the attorney could get fabulous fees.

So, in this legislation, which does not do anything to protect civil rights, we are concerned about attorneys' fees; in the antitrust legislation, we were concerned about attorneys' fees. Then the distinguished Senator from Massachusetts (Mr. KENNEDY) had Senate bill 2715 put on the calendar. I notice that has been put over under "Subjects on the Table," and I assume it will not come up. But it provided, of all things, for attorneys' fees for attorneys appearing before Federal agencies.

I pointed out earlier that the defeat of the no-fault insurance concept in the Senate came largely by the opposition of damage suit attorneys throughout the country, trial lawyers throughout the country. By a very close vote, it was defeated in the Senate, or it was sent back to the committee; that is the actual action that was taken.

So I am somewhat aghast at the concern of the Senate—not to represent consumer interests; that is the facade of the matter. Actually, what is involved is the securing and the payment and the receipt by attorneys of fees. That is what was behind the antitrust proceeding. That is what caused the hangup here in the Senate, the fact that some of us objected to setting up 50 substations for the initiation of antitrust proceedings, to let every attorney general in the country be a suboffice of the Department of Justice for bringing antitrust proceedings in their respective States. It enabled these attorneys general to farm cases out to a favored few of their cronies, who happen to be activist attorneys in this field, giving them the right to file these actions against companies and corporate entities, alleging the fixing of prices and great damage to the consumer.

The truth of the matter is that the attorneys are the great beneficiaries under these proceedings, because the damage to the individual consumer might be measured in cents, or small sums, $3 or $4 or $5, say. But aggregating those damages, as they are allowed to do under the bill, without proof of actual damage, merely arriving at a theoretical figure based on all of the sales throughout the country and applying that to the damage to an individual person, multiplying all of that and figuring the damage at the aggregate amount of all of the sales, it would run into a stupendous sum, up in the tens of millions of dollars. One settlement by a company was for $200 million, but some $40 million of that went to attorneys.

So this bill is for the relief of attorneys and I think it ought to be named for the chief Senate sponsors. I do not feel that we ought to allow them to hide their light under a bushel.

I think that Mr. TUNNEY, of California, who introduced the bill, has not been here during the time the bill has been under consideration. Frankly, I am wondering why in the world the bill was brought up, anyhow, because it had its origin back in 1973.

It was approved by a subcommittee of the Committee on the Judiciary at that time, according to the committee report. Nothing more was heard of it during that year or the following year, and it emerged then as an amendment in another bill, which was never brought up on the floor. I believe this bill has been on the calendar for some 3 months and has not been brought up until the closing days of this session, when we have many important bills on the calendar. Yet the leadership chooses to put it ahead of all other bills—all other bills that are available. They reach out and get this bill, this bill for the relief of attorneys, activist attorneys throughout the country.

I do not attach as much importance to the bill as do the sponsors of this bill, but since it is so important as to be given priority over all other matters on the calendar, it must be important.

So I feel that the chief sponsors of the bill should be given the credit for this important landmark legislation. And, as in the case of the antitrust bill, which was named for the sponsors of that legislation, the distinguished Senator from Michigan (Mr. PHILIP A. HART), the distinguished Senator from Pennsylvania (Mr. HUGH SCOTT), and Congressman RODINO of the House, so this amendment would name the bill to do honor to our colleagues here in the Senate by naming the bill for them. They are modest gentlemen, and they will not offer such an amendment, so it has fallen to the responsibility of the Senator from Alabama to take note of their sponsorship of this legislation.

Indeed, it is a bill of 10 lines in length, so it took a great deal of study and a great deal of investigation, a great deal of research to come up with this bill.

The author of this bill is the distinguished Senator from California (Mr. TUNNEY), who is not here. The floor manager of the bill at this time—that honor has been passed around, but the floor manager of the bill at this time—is the distinguished Senator from Massachusetts (Mr. KENNEDY).

So I believe we should recognize their major role in the passage of this legislation, and their major role, I assume, in getting the leadership to put this bill at the top of the heap.

I do not know why it is brought up at this time. Possibly some of us need some votes among attorneys in the upcoming election, because it is a bill for the relief of certain activist attorneys in the country who do file suits of this sort.

As I say again, Mr. President, it is not a bill that protects any civil rights, creates any civil rights. All its does is to provide for attorneys' fees.

I hate to see the Senate actually considering this bill. I hope it will not be enacted into law, but if it is, those Senators who charted the course of this bill for the last 3 years since it first bobbed up there in the Judiciary Committee back in 1973, I think, should have the credit for the bill. That is the theory of the amendment.

I call for the yeas and nays. First, Mr. President, I call for the yeas and nays on the Kennedy amendment since that is the pending amendment and then, following that, I would like for the yeas and nays on my own amendment.

The PRESIDING OFFICER (Mr. TAFT). It would at this point take unanimous consent to order the yeas and nays on the Kennedy amendment.

Mr. ALLEN. I would not like to ask for unanimous consent, so I call for the yeas and nays on the Allen amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I shall just take 1 minute. This is an amendment offered by the Senator from Alabama which, along with many of his others, has the clear purpose to delay and frustrate the very serious objective of this legislation.

None of the comments he makes with regard to this legislation detracts from its importance in insuring the protection of the civil rights of citizens of this

Nation and the protection of our citizens against discrimination, including women and the blind, who would be included should the Kennedy amendment be accepted to this legislation.

The arguments have been made time and time again, and I have restrained myself from answering and repeating arguments to points that are laboriously, continuously raised by the Senator from Alabama. They have all been debated and discussed time and time again.

The Senator from Alabama cannot name one lawyer in this country who has become wealthy because of his work on the protection of the civil rights of citizens of this Nation. I ask him to name one—and his silence in this particular situation, I think, responds full well.

We are not talking about the kind of attorneys' fees that were included in the antitrust bill. You do not get rich from protecting civil rights of citizens whether they are in my own city of Boston or in Birmingham. And the determination of fees is left, in any event, to the discretion of the courts. This is a concept which has been included in over 50 other statutes. It is an issue which has been debated and discussed time and time again. It is just one more part of the distinguished Senator from Alabama's continuing, and partially successful, effort to avoid or delay the passage of this bill.

I move to table the amendment of the Senator from Alabama.

Mr. ALLEN. Mr. President, will the Senator withdraw his motion for 1 minute?

Mr. KENNEDY. No; I make the motion to table, and I ask for the yeas and nays.

The PRESIDING OFFICER. The motion is not debatable. Is there a sufficient second? There is not a sufficient second.

Mr. KENNEDY. I will yield to the Senator.

Mr. ALLEN. Never mind. The Senator suggested the absence of a quorum.

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I yield to the Senator from Missouri. Recess for 2 minutes only.

VISIT TO THE SENATE BY MEMBERS OF THE GREEK PARLIAMENT

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Senate stand in recess for 2 minutes so that I may introduce to my colleagues——

Mr. ROBERT C. BYRD. Will the Senator introduce them first?

Mr. EAGLETON. I ask unanimous consent that I may introduce five very distinguished Members of the Greek Parliament who are guests of the United States and who are visiting the United States.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. EAGLETON. I will now introduce the gentlemen. First, is a man who looks somewhat like Sam Rayburn, and that is what I call him. He is Mr. Demetrius Papaspyrou, the former Speaker, a fine man. Next, in order, are Mr. Nicholas Anagnostopoulos, Mr. Michael Galenianos, Mr. Costis Giatrakos, and finally Mr. Nicholas Papaioannou.

Mr. President, I am very pleased that these distinguished parliamentarians have come to the U.S. Senate and that we have the opportunity to greet them. Unfortunately, the number of democracies in the world has diminished and, therefore, the number of parliamentarians which perform functions similar to that of the U.S. Congress has also diminished. That is not true in the case of Greece.

Democracy returned to Greece in 1974, and these gentlemen form its foundation. I have been privileged to visit the Parliament of Greece and I can personally attest to the openness and vibrancy of the debate which takes place in that chamber.

We have with us today representatives of Greece's majority party and of the loyal opposition. I can assure my colleagues that they pursue their perception of Greece's national interest with as much vigor as do Democrats and Republicans in this country.

Finally, Mr. President, I must point out that there is a special meaning to this visit. On many occasions over the past several years the two great branches of the U.S. Government have differed on vital aspects of United States-Greek relations. While not wanting to belabor those differences, I feel that it is safe to say that the Greek people have preferred to see the decisions made by this Congress on such important matters as the Cyprus question, as being the true reflection of the attitudes of the American people. The Senate, therefore, holds a special meaning for these distinguished visitors. I am privileged to welcome them today.

Mr. KENNEDY. Mr. President, if the Senator will yield for a comment, I wish to say that the parliamentarians visited my own State of Massachusetts, and they were very well and warmly received. We are very fortunate and blessed to have in our State many of those who trace their ancestry to Greece. We also want to join in Senator EAGLETON's warm welcome to you, and we want you to know you are among friends.

Mr. NELSON. Mr. President, I too want to join with Senator EAGLETON and Senator KENNEDY in welcoming these distinguished visitors from Greece. Our two countries share many things in common, and Greece has long been a friend of the United States. This friendship is reciprocated and is demonstrated today by this visit. It is indeed an honor to greet these members of the Greek Parliament in our Senate Chamber.

[Applause, Senators rising.]

RECESS FOR 2 MINUTES

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Senate stand in recess for 2 minutes.

There being no objection, the Senate, at 3:50 recessed until 3:52 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. TAFT).

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. HANSEN. I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 49 Leg.]

Allen
Byrd, Robert C.
Curtis
Eagleton
Goldwater
Hansen
Hart, Gary
Haskell
Helms
Hruska
Jackson
Kennedy
Nelson
Pearson
Scott, Hugh
Scott, William L.
Taft
Tower

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

Mr. HANSEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Wyoming (Mr. McGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from California (Mr. TUNNEY), the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN) and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The result was announced—yeas 78, nays 4, as follows:

[Rollcall Vote No. 628 Leg.]

YEAS—78

Abourezk
Allen
Bartlett
Bellmon
Bentsen
Brock
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Magnuson
Mathias
McClellan
McClure
McGovern
McIntyre
Metcalf
Moss
Muskie
Nelson
Nunn
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Williams
Young

NAYS—4

Biden
Garn
Laxalt
Morgan

NOT VOTING—18

Baker
Bayh
Beall
Buckley
Curtis
Dole
Glenn
Goldwater
Hart, Philip A.
Hartke
Long
Mansfield
McGee
Mondale
Montoya
Packwood
Tunney
Weicker

So the motion was agreed to.

The PRESIDING OFFICER (Mr. THURMOND). With the addition of Senators voting who did not answer the quorum, a quorum is present.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

The Senate continued with the consideration of the bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Alabama (Mr. ALLEN). The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. LONG), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The result was announced—yeas 63, nays 20, as follows:

[Rollcall Vote No. 629 Leg.]

YEAS—63

Abourezk
Bellmon
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Fong
Ford
Gravel
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Magnuson
Mathias
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Williams

NAYS—20

Allen
Bartlett
Brock
Curtis
Eastland
Fannin
Garn
Hansen
Helms
Hruska
Laxalt
McClellan
McClure
Scott, William L.
Stennis
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—17

Baker
Bayh
Beall
Buckley
Dole
Glenn
Goldwater
Hart, Philip A.
Hartke
Long
Mansfield
McGee
Mondale
Montoya
Packwood
Tunney
Weicker

So the motion to lay on the table was agreed to.

ORIENTATION OF DEPENDENTS OF USDA EMPLOYEES HAVING FOREIGN ASSIGNMENTS—CONFERENCE REPORT

Mr. HUMPHREY. Mr. President I submit a report of the committee of conference on S. 3052 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. ALLEN). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3052) to amend section 602 of the Agricultural Act of 1954, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of August 11, 1976.)

Mr. HUMPHREY. Mr. President, S. 3052 authorizes orientation and language training for families of officers and employees of the Department of Agriculture who have foreign assignments. As passed by the Senate, S. 3052 would have authorized the Secretary of Agriculture to use for such orientation and language training any appropriated funds available to him.

The bill, as agreed to by the Committee of Conference, does not have the flexibility provided for under the Senate-passed bill.

The House amended the bill to provide a specific annual authorization for appropriations of not to exceed $35,000 annually. However, under the agreement reached by the conferees, that amount was increased to $50,000 to take account of the fact that the higher amount will probably be necessary in the future because of inflation.

The House did recede with respect to its amendment that would have restricted the orientation and language training to spouses. Also, under the agreement reached by the conferees, the Secretary would be authorized to make use of any funds appropriated to the Department—in an amount not to exceed $50,000—for the first year of the program. The appropriation Act for the Department for fiscal year 1977 has, of course, already been enacted. The bill, as amended by the House and modified by the conferees, also authorizes the use of foreign currencies generated under Public Law 480 to carry out the program and requires that the Secretary submit an annual report to Congress showing the activities carried out under the program.

Despite its shortcomings, I believe that the bill as agreed to by the committee of conference represents a positive step toward upgrading the benefits of dependents of USDA employees to a level closer to that enjoyed by dependents of Department of State personnel.

As world trade in agricultural commodities becomes increasingly important to the domestic economy, the role of agricultural attaches in providing timely information on foreign crop and market conditions becomes evermore important. There is no reason why our agricultural attaches and their families should be treated as second class citizens as compared to their foreign service colleagues. Benefits such as language training for dependents can be most important in recruiting individuals to serve in foreign posts. The adaptation of a family to a foreign climate can be an important factor in deciding whether to accept a job opportunity overseas. If an attache's family is not happy, it obviously impairs the effectiveness of the attache. Agricultural attaches, their spouses, and children are frequently called upon to participate in representational functions abroad at which proficiency in the language of the foreign country is almost essential.

The orientation and language training authorized by S. 3052 should serve to strengthen the effectiveness of our agricultural attaches.

Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

The Senate continued with the consideration of the bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

The PRESIDING OFFICER. The question is on agreeing to the substitute offered by the distinguished Senator from Massachusetts (Mr. KENNEDY).

The Chair recognizes the distinguished Senator from South Carolina (Mr. THURMOND).

UP AMENDMENT NO. 476

Mr. THURMOND. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes an unprinted amendment No. 476:

> On page 1, immediately after line 9, add the following new section:
>
> SEC. 2. Notwithstanding any other provision of law, no court shall award an attorney fee in any action involving the transportation of students in order to carry out an order or a plan of racial desegregation of any public school or local educational agency.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from South Carolina.

Mr. ABOUREZK. Mr. President, will the Senator from South Carolina yield? I wish to propound a unanimous-consent request, and I will yield back the floor.

I ask unanimous consent that it be in order that on a motion to table this amendment, we can ask for the yeas and nays now.

Mr. THURMOND. On a motion to table my amendment.

Mr. ABOUREZK. Yes—before its having been made.

Mr. THURMOND. The Senator has not heard the discussion of it yet.

Mr. ABOUREZK. I am not making the motion to table now. That is why I am asking at this time that it be in order to ask for the yeas and nays.

Mr. THURMOND. The Senator means if he makes the motion.

Mr. ABOUREZK. Yes.

Mr. THURMOND. And the Senator does not know whether he is going to make it, because he has not heard the discussion.

Mr. ABOUREZK. That is probably true.

Mr. THURMOND. Well, it is true, is it not?

I have no objection.

The PRESIDING OFFICER. Is there objection to the request that when and if a motion to table the pending amendment is made, the yeas and nays may be called for at this time? The Chair hears none, and it is so ordered.

Mr. ABOUREZK. I ask for the yeas and nays on a motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays are ordered on a motion to table, if and when made.

Mr. THURMOND. Mr. President, I think it is obvious that there will be an increase in the number of suits brought, if this bill is passed. I am afraid that many frivolous suits will be brought.

One area where it is very apparent that we do not need more suits brought is in the area of busing. I have long opposed busing to achieve racial balance, but not to improve quality education. I am in favor of busing for quality education. I do not think that busing to achieve racial balance is in the best interest of our Nation, and recent polls have shown that our citizens, both black and white, do not want it.

Children should be permitted to attend their neighborhood schools rather than bused for miles and placed in a strange environment. Busing as a means of desegregating schools has never been a sensible approach and it is not one now. On numerous occasions, I have urged my colleagues in the Senate to adopt measures which would end forced busing to achieve balance.

In addition to the reasons I have stated against forced busing, it is a waste of fuel in a time when this Nation faces an energy crisis.

Forced busing has also caused a great deal of strife and discord in many communities across the country. Two of the most seriously hit have been Boston and Louisville. In order to emphasize the problems busing has caused in Boston, I shall at this time read a statement by the Honorable Louise Day Hicks, a member of the Boston City Council and former Representative from the Ninth Congressional District of Boston, made before the Senate Judiciary Committee on November 11, 1975.

STATEMENT OF LOUISE DAY HICKS

Freedom is dying in Boston, and, as is typical of events and conditions in modern-day America, freedom is only dying for poor people. That is the real tragedy of forced busing. Poor whites have been pitted against poor blacks to salve the conscience of the affluent.

Poor whites and poor blacks are asked to undergo the trauma of forced desegregation while those more financially fortunate sit in their suburban livingrooms untouched by the reality of forced busing, protected by an invisible wall of affluence through which only they can pass.

The poor are told forced busing is the Law of the Land. If this be true, then equity demands that every state in the nation comply, and yet that is not the case.

Forced busing is a mockery of our entire constitutional system and the poor are asked to pay for it with their lack of tax loopholes, their dedication to their public school system, and their children.

A decade ago, Mrs. Martin Luther King, Jr., denounced the Vietnam War because it basically discriminated against the poor. Only the poor, she said were asked to bear the bloody brunt of that conflict.

Well, only the poor, locked into our central cities, are asked today to bear the traumatic and financial brunt of forced busing.

Only the poor are forced to live the reality of the streets. Only the poor in the cities are under court order. Only poor children must leave the security of familiar neighborhoods for the hostility and fear that awaits across town. Only the poor parents of those children must spend their days with a more horrifying fear, the fear their children will not get off that bus.

The conscience of this nation has fled to the suburbs, where it now lies dormant, and well it should while there are courts and judges willing to soothe it with victimization of the poor for social justice's sake.

For Boston, that flight means more than just loss of conscience. It means that white flight is a reality that spells disaster for the city, emotionally and financially, if forced busing is not prohibited and prohibited quickly.

Just prior to the imposition of Federal Judge W. Arthur Garrity's Phase I desegregation plan, there were 93,647 children enrolled in the Boston Public Schools. As of October 29, 1975, enrollment in the Boston Public Schools is 66,355 of which 31,604 are white students; 26,251 are black students, and 8,480 are other minority students.

The figures reveal then that not only are there 27,312 students missing from the classrooms of Boston, but the school system is now serving a predominantly black and other minority enrollment.

Furthermore, the figures speak of children either not going to school, enrolled in parochial or private schools, or most unfortunately, for the future of Boston, enrolled in suburban systems where parents have taken up residence or are in the process of doing so.

One need only look at the geographical location in Boston and manner of opposition to forced busing to verify the victimization of the poor inherent in our city's current plight. The poor cannot escape to the suburbs so they must stand up to the victimization with the only tool at their disposal—their emotions.

Representatives of various cities, most notably Louisville, Kentucky, have appeared before this Committee with their own stories to tell. They have spoken of the fear of parents, both black and white, who refuse to jeopardize their children's safety by placing them on yellow school buses to be transported into an atmosphere of hostility and suspicion.

I speak of the great city of Boston. I speak of a city composed of different yet rich neighborhoods. I speak of a culture that knows no counterpart in the rest of this nation, at least not anymore. I speak of a city rich in spirit, but fast becoming racially-polarized to the chagrin of those who love it.

As it was 200 years ago at the beginning of our Revolution, the City of Boston is under siege. It is beset by internal disorder and external forces which, if left unchecked, will destroy the very essence of what has made Boston perhaps the most liveable city in the nation.

Boston is people, but more especially, it is people in neighborhoods. During the latter part of the nineteenth century and continuing into the first decades of this century, Boston grew geographically by annexing neighborhood towns, which sociologists later called trolley suburbs. The annexation movement did not stop until the town of Brookline, now almost completely surrounded by Boston, refused to be annexed.

The towns that were annexed, however, remained towns, if not governmentally, then at least socially and psychologically. Even with the advent of a rapid transit subway and bus system that made access to the downtown area relatively easy, residents of the annexed towns still thought of themselves, and still do, as first and foremost, citizens of the towns or neighborhoods as they are now described.

Stop anyone on a downtown Boston street today and ask their hometown. Nine times out of ten a native Bostonian will not respond with "Boston." Instead the interviewer will hear, "South Boston," "East Boston," "West Roxbury," "Hyde Park," "Dorchester," "Charlestown," "Mattapan," "Roxbury," "Allston," "Brighton," or "Jamaica Plain."

These are all Boston's hometowns, and there are several more—including the Back Bay, Beacon Hill, the West End, the South End, and the North End, all sections of the original Boston before it began the annexation process.

Each of these hometowns has a distinct flavor and each has a determined civic pride. The news media has picked up that flavor and pride to blame Boston's present problems on the ethnic makeup of the neighborhoods. The Irish of South Boston are blamed. The Italians of the North End or East Boston are found to be at fault. The media says that they should know better.

The fact of the matter is they do know better. They know better than anyone else that Boston is a sociologist's nightmare. They know because they live with it and they have accommodated themselves to it. They know because it has made their city vibrant and alive with people of varying cultures and backgrounds learning to live with each other.

The large Albanian population of South Boston knows its hometown is no longer predominantly Irish as does the large Lebanese and Greek population of West Roxbury. The only section of the city that still resembles anything of an ethnic enclave is the North End, and even that neighborhood is changing with a large influx of students from Boston's many universities.

Traditions have endured, of course, but their existence does not necessarily mean that their originators are still in the same neighborhoods or in the city at large for that matter.

Today, the St. Patrick's Day Parade in South Boston is more a celebration of community than of ethnicity as is Bunker Hill Day in Charlestown or Columbus Day in the North End.

And what are the values of these neighborhoods? They are the values of low and middle income people everywhere. They are the values based on an adherence to the work ethic. They are the values of a people overtaxed to the point where they are eligible for food stamps and they cannot understand why, and they cannot understand why their municipal property tax rate must bear the full brunt of the bill for forced busing when it was imposed by a federal judge and supported by the State Board of Education.

In each of the workingclass neighborhoods of Boston such as South Boston and Charlestown, the emotionalism displayed is commensurate with the frustration that accompanies the inability to escape. In the more affluent neighborhoods, "For Sale" signs preclude vociferous opposition, but "For Sale" signs signify opposition nonetheless. It is worthwhile to note that in one workingclass neighborhood of Boston, Dorchester, defeatism has already taken hold and property owners are abandoning their homes, actually defaulting on their mortgages to attain asylum in the suburbs.

If the current home market situation continues in conjunction with the present economy, it will not be long before parents in more affluent neighborhoods take their cue from Dorchester and also default. Many right now are holding down two mortgages, one urban, one suburban, and it is not difficult to determine which mortgage will eventually be defaulted.

Realtors in the most affluent section of Boston, West Roxbury, report that there are 800 homes for sale in that neighborhood. With a lack of buyers, the area is ripe for blockbusting and redlining, thus opening another avenue of still more victimization of still more poor people.

The flight of the white middle class portends economic disaster for the city of Boston which depends almost entirely on its property tax revenue to survive. With a steady erosion in middle class population, those financially unable to leave are required to pay increasingly higher bills caused by forced busing.

Phase I busing cost the taxpayers of Boston $18,169,000. The projected cost for Phase II this year has been tentatively set at $26,360,000. When those costs are itemized, one is struck by the magnitude of the security problem in the city because of forced busing. The buses alone cost the taxpayers of Boston $5,000,000 during the last fiscal year, but security in the form of police in and around the schools together with equipment such as metal detectors at the doors of schools cost $8,050,000.

The Phase II figure for buses has been projected at $6,500,000. The cost of security personnel has not yet been projected, but a figure of $1,550,000 has been set for security equipment, an increase of $700,000 over last year. It is known that police protection is costing the taxpayers $95,000 per day, and the final figure must wait until the police, if ever, are withdrawn from the schools.

The financial costs of forced busing are horrendous enough, but the cost in terms of traumatic experiences for our schoolchildren and their teachers is startling. According to testimony presented to the Ways and Means Committee of the Boston City Council at public hearings on civil rights violations, assaults on teachers have increased 150 percent in just one year. Mr. Martin Foley of the Boston Teachers Union testified to this tragedy representing a complete breakdown in discipline within the public school system of Boston.

The figures he presented represent cases that were actually processed in court. Mr. Foley contends that as many as three times the number recorded were committed and went unchecked because of the tendency of school administrators to ignore them for the sake of their careers. The situation resembles the Vietnam bodycount syndrome in reverse.

Forced busing, whenever and wherever it has been imposed on a great city, has inevitably led to the flight of the middle class, disruption in classrooms, destruction of neighborhoods, defeatism among the remaining lower-income groups, and segregation. Professor James Coleman of the University of Chicago recently appeared before this Committee and documented these devastating results of forced busing, and he has spoken out against further implementation by the courts.

The irony in the whole situation is the claim of the N.A.A.C.P. that forced busing brings black children into white, middle class educational environments where they have a better chance at achievement. How can that theory be validated when in city after city, the white middle class has packed up and taken its quality education with it to the suburbs where it is well out of reach of the city's school buses?

Nowhere has it been proven that forced busing leads to quality education. During the 1972–1973 school year, for example, out of 195 schools there were 62 racially imbalanced schools in the City of Boston. Today, out of 168 schools, that number has risen to 115, and unlike 1972–73, the schools are predominantly black. Forced busing has created its own Catch 22 and the end result can only lead to resegregation.

Black cities surrounded by white suburbs is not integration, and yet the game plan apnears to remain unaltered. In Boston, for instance, leaders of the black community continue to support forced busing while calling for control of their neighborhood schools. Why ask for control of neighborhood school policy when the children that should be in those schools are scattered from one end of the city to another?

It is ludicrous if one's goal is quality integrated education, but quite acceptable if one's goal is political domination. Supreme Court Justice William O. Douglas saw the handwriting on the wall when he dissented in the recent Detroit metropolitan decision.

Justice Douglas saw through the game plan and so has a very definite majority of the American people, both white and black, who have expressed their opposition to forced busing.

They know that as in ending our involvement in Vietnam, the prohibition of forced busing will not take place overnight. The people so demand, however, that steps be taken immediately to begin to end the madness of forced busing before it completely destroys our cities, and renders our suburbs lily-white sanctuaries from the reality of that destruction.

The children and parents of the City of Boston turn now to the Congress of the United States because all judicial avenues of redress open to them have been closed by the intransigence of Judge W. Arthur Garrity, Jr., of the United States District Court for the District of Massachusetts.

The judge has consistently refused to grant motions filed by parties intent on being recognized as intervenors in the city's desegregation suit, Morgan versus McDonough. By denying these motions Judge Garrity has proven himself to be unable to rationally make decisions that are in the best interests of those most vitally affected, the children and parents of Boston. Instead, he has allowed Morgan versus McDonough to stand as a monument to the destruction of a great American city and the denial of the right of parents to make decisions affecting the lives of their children.

In addition to my testimony today, I have made available to each Member of this distinguished Committee, a copy of a Resolution approved by the Boston City Council last Monday commending the AFL–CIO Labor Council of the Commonwealth of Massachusetts for its own Resolution in support of a constitutional amendment to prohibit forced busing which it adopted in state convention last Friday.

The action by the state AFL–CIO state convention is noteworthy, not only because it was approved in the face of opposition from the national AFL–CIO hierarchy, but because it demonstrates the determination of the workingmen and women of the city of Boston and of the Commonwealth of Massachusetts to see this struggle through to the eventual enactment of a constitutional amendment to prohibit forced busing by the 94th Congress.

In addition, I have enclosed copies of another Resolution adopted by the Boston City Council, calling upon the Massachusetts Congressional delegation to introduce a constitutional amendment to prohibit forced busing into the 94th Congress, and a letter I personally forwarded to Gerald R. Ford, President of the United States, calling for his support of such an amendment. This nation will sleep an uneasy peace until this

Congress realizes that not only Indians, Chicanos and Blacks but also poor and middle income whites in our cities are living a nightmare of financial insecurity and emotional despair made unbearable by forced busing. Gentlemen, a generation of bitterness or understanding waits for you to act. Thank you.

Mr. President, that was a statement made by the Honorable Louise Day Hicks before the Senate Judiciary Committee. Mrs. Hicks, as I stated, is a member of the Boston City Council and a former Congresswoman from the Ninth Congressional District of Massachusetts.

Mr. President, I felt this statement by Mrs. Hicks should be called to the attention of the Senate in connection with this amendment which I have offered.

I present now to the Senate the testimony of Harvey I. Sloane, M.D., mayor of Louisville, Ky., which was presented to the Committee on the Judiciary of the U.S. Senate.

Mr. DURKIN. Will the Senator yield for a question without losing his right to the floor?

Mr. THURMOND. Mr. President, I ask unanimous consent that I might yield to the distinguished Senator from New Hampshire without losing my right to the floor.

The PRESIDING OFFICER. Is there objection to the request?

Hearing none, it is so ordered.

Mr. DURKIN. How many pages is Mr. Sloane's statement?

Mr. THURMOND. Twenty-one and a half.

Mr. DURKIN. I thank the Senator.

Mr. THURMOND. Mr. President, Mr. Sloan's testimony should be of interest to this body.

Testimony of Harvey I. Sloane, M.D.

I would like to express my appreciation to the distinguished Chairman and members of this Committee for holding hearings on this matter of critical importance and interest to the citizens of this country.

The issues surrounding the best way to integrate schools, and particularly the issue of busing for school desegregation, are so controversial and so important that they deserve to be debated on a national level. Congress offers the logical and appropriate forum, and I hope these hearings will be the beginning of a national debate in the full Senate and Congress.

A survey of American public opinion published this month by the Gallup organization shows that up to 80 per cent of the population is opposed to the widespread use of busing as a remedy to desegregate our public schools. However, a majority of those interviewed support the goal of full integration of the schools, so the question becomes how we can find another remedy besides busing that will offer an equal opportunity for quality education to all.

Unless the Congress fully considers this issue, a large segment of the population—and particularly those already under court orders—will continue to feel that their government leaders are slowly taking away their freedom of mobility and choice.

I am here today to offer for your consideration an alternative approach to massive, cross-community busing, which I strongly oppose as a method for achieving school desegregation. But first I want to tell you a little about my own background and interest in this area.

I am a physician, and my medical work before I became Mayor of Louisville took me into a variety of situations where I learned firsthand the problems of race and economics that are at the heart of our school situation today.

I came to Kentucky in 1964 as a member of President Kennedy's relief team for Appalachia. There I gave medical service to thousands of indigent residents, most of them children. From 1967 to 1972, I directed a neighborhood health center in one of Louisville's inner-city neighborhoods. In 1973, I took office as Mayor of Louisville.

I have seen the problems that low-income families have, whether they live in mostly white communities in Appalachia or mostly black areas of a city like Louisville. I have seen the kinds of schools that their children attend, often woefully underfunded and inadequate.

I understand the goals of desegregation in our public school systems—goals aimed at erasing the gaps between black and white children, between the poorer city and wealthier suburbs. I strongly support these goals . . . what I cannot support is the lack of imagination which results in a federal court ordering a single answer to the complex question of school desegregation.

Massive, cross-community busing is creating serious problems in Louisville. Our community has been polarized, and the fabric of relationships that makes a community strong has been torn apart. Parents who send their children to school in defiance of boycotts are shunned by relatives, friends and neighbors. Businesses that don't display anti-busing signs lose customers. School bus drivers have been threatened. Police officers assigned to control demonstrations have been assaulted. Government officials who pledge to enforce the law and maintain peace are repudiated.

And the ugly flames of racism have been fanned in a community that has long been proud of its record of moderation in race relations.

In 1954 and 1956, following the Supreme Court's decision in the Brown I and Brown II cases, Louisville and Jefferson County peacefully integrated their school systems. We were the first "southern" city to do so, and the head of the Louisville school system was called to the White House and presented an award by President Eisenhower for this achievement.

School integration continued through the next decade with both the city and county school systems passing the approval of HEW school inspections.

In the early 1960s, our community approved a public accommodations law and an open housing law. In 1963, Louisville was named an "All American City" for our progress in race relations.

Our current involvement with school desegration and the courts began in 1971 when the Jefferson County School Board failed to come to an agreement with the U.S. Department of Health, Education and Welfare on the extent of desegregation needed in county schools, and a suit was filed by two local groups to force desegregation of the county schools. Ten months later, another local suit brought the City school system into the desegregation case.

As in many other cities, the case went up and down the ladder of appeals, reversals and orders. By the spring of 1975, the case had progressed to the point that all sides expected to have at least a year to prepare for full desegregation, and governmental and school officials began planning in this direction.

Then, on July 17, 1975, the United States Court of Appeals for the Sixth Circuit reversed its own earlier decision, and ordered immediate and total desegregation of our school system in just six short weeks.

This order, which resulted in a desegregation plan that involved busing 22,600 school children for the purposes of desegregation, came on the heels of the merger of the Louisville and Jefferson County school systems, which had occurred on April 1, just 3½ months earlier.

The plan for integration was prepared in just two weeks and released on July 30, 1975. This left the School Board 35 days to work out transportation and attendance schedules for 124,000 children in 165 schools . . . to reassign hundreds of teachers and school administrators, to hire more than 250 monitors for the school buses, and to handle a myriad of other details.

Imagine the strains on a school system and a community preparing for implementation of this desegregation plan, and struggling at the same time with the adjustments required in a merger involving two school systems with decades of different philosophies and policies.

What made the difference between the peaceful integration of the school system in 1956, and the turmoil that has surrounded the expansion of racial mixing in 1975? The differences can be measured in time and method.

In 1956, the Louisville School Board took 15 months to develop an integration plan, and to get the community prepared for this major social change. Jefferson County schools were assimilating their small number of black students into county schools. In 1975, the school board had 35 days to get ready, and had little opportunity for community preparation.

In 1956, Louisville used several methods of achieving integration, including altered attendance zones, open transfer and planned new school construction. The 1975 plan made changes in attendance zones and closed some schools, but relied mainly on busing to achieve a mathematical desegregation formula.

The school integration that we accomplished in 1956 was just as radical a step at the time as the court-ordered busing of 1975. But the plan of two decades ago did not require school children to become captive commuters to achieve racial integration. We did not pay the price of a polarized community in 1956, and we cannot afford to pay that price today.

Let me sketch for you now in more detail the effects in Louisville and Jefferson County of the July 17 order by the Sixth Circuit Court.

THE EFFECT ON THE EDUCATIONAL SYSTEM

Under Kentucky law, local Boards of Education are funded by the state based upon the average daily pupil attendance. If a pupil does not come to school, the School Board eventually loses funds from the state.

The Superintendent of Jefferson County schools last week estimated that anti-busing boycotts by students so far this fall could cost the school system the loss of $3 million in state aid. He estimated that the cost of implementing the busing plan in this first year would run about $4 million. He acknowledged that more state aid for Jefferson County schools would be necessary, but he is concerned that public opposition will prevent any such help coming from the 1976 state legislature.

The effect of this financial loss on the school system can only mean a lowering of standards for educational quality.

We are also starting to see an increase in the number of private schools in Louisville, which will mean a further drain on the pupils and resources of our public school system. At least five private schools have been started already as a result of the court order, and seven "Christian" private schools report a 40 per cent increase in enrollment over last year.

Although Kentucky law places stringent accreditation requirements on such schools, we expect to see more of them in response to the demand from parents who are deserting the public schools because of the busing and desegregation plan.

This will follow a pattern that has been repeated across the South in the wake of desegregation activity in the schools. The Lamar Society, a non-profit educational organization in Washington, estimates that there now are some 4,000 private segregated academies in the Southern states. Memphis lost some 25,000 white students from its public schools over the last two years to about 100 new private academies, most of them segregated. Charlotte-Mecklenberg had more than two dozen segregated academies within two years after its court-ordered busing plan, with an enrollment of some 10,000 white children. And since 1968, according to the Lamar Society, Jackson, Mississippi public schools have lost one-half of their white student population—9,000 children—to private segregated academies. The effect is resegregation, not desegregation.

The shift in teacher and principal assignments required by the desegregation plan has lowered morale and created confusion in Louisville's schools. The huge job of trying to merge the policies, staffs and administrative differences of two school systems has been tremendously complicated by the timing of the court's order, and in turn has made implementation of the plan more difficult and cumbersome than it would be otherwise.

Because of the short preparation time, the School Board has not had the opportunity to hire and train the most qualified bus drivers. So the safety of many children has been endangered and school bus accidents have increased in greater proportion than the increase in the number of miles driven. Many experienced drivers, almost one-fifth of the total, resigned in response to threats and intimidation from anti-busing advocates.

The School Board did not have time to order the extra buses it needed to carry out the desegregated plan, so children must be transported in two shifts, creating confusion and complications in the transportation schedule. In the first weeks of implementation, many buses were off schedule and some didn't arrive at all, forcing children to miss class completely.

The buses that the School Board did have on hand were in many cases inadequate and in need of replacement. Some buses were borrowed from neighboring counties. We have been lucky so far that we have not had any serious injuries or deaths in accidents involving school buses.

We found that our problems were compounded not only by an arbitrary court order, but by international relations as well. When the School Board checked into the delay in delivery of some replacement buses it had on order, they found they had to wait in line behind the King of Saudi Arabia, who was ordering school buses to carry thousands of Moslem pilgrims to Mecca.

In our Mecca, the average student bused for desegregation rides for two hours or more a day on four separate school buses. Elementary students leave for school at different times than older students and the resulting disruption in family schedules affects both children and their parents.

Finally, and most importantly, education within the classroom is suffering. Some 10 percent of the parents still are keeping their children home from school in protest of busing, and these children in effect will lose one-half or one full year of schooling. Concern over transportation and safety problems kept thousands of children home during the opening days of school, so many students are behind in their normal schedules.

Anti-busing protests in the community, especially on or near school property, detract from the healthy educational climate so necessary to the school environment. A recent report showed that suspension of students was up 40 percent in September compared to the same month last year, with the majority of students suspended for cutting classes to participate in anti-busing protests.

Extra-curricular activities, including athletics, school bands, student council activities and special clubs, are suffering from a lack of participants and the mechanical problems of missing the last bus home. Rumors of incidents within the schools are rampant, and though most are untrue, they unsettle students and parents alike.

Last week I completed my annual City Walk through the neighborhoods of Louisvile, a program I use to get out among the people and sample community opinion. For 70 miles over 18 days, I heard comments and complaints about busing. Some days I was joined on my walk by hostile demonstrators, but most often the people I met were frightened, bewildered parents. They were concerned about the safety of their children on the school buses and in the schools. They worried over whether problems of classroom discipline and confusion would hinder their children's education.

This is the third year I have taken a City Walk, but it is the first time I have witnessed such alienation and such racial polarization because of one issue—busing.

Busing means different things to different people. Among those I talked with, busing for many black families represents an opportunity to break out of the mediocre educational pattern they have been forced to accept in the past. So they suffer the inconvenience of busing, and the strains of court-imposed integration formulas that make them a minority in every school. Black students will be bused eight or nine out of their 12 years under our desegregation plan; white students will be bused a maximum of two years because of the racial makeup of the school system. Black parents are worried about the safety of their children in the majority-white schools, and many call for alternatives to busing to give their children the educational opportunity they seek.

For working-class white families, busing is only the last straw in a series of government-imposed programs that they see threatening their individual freedom and way of life. Some of the most vocal opponents of busing are those families who have moved out of the inner city to seek what they see as a better life—better housing, better schools, better jobs, better opportunity for their children. Now, in Louisville, their children are being bused back into the very neighborhoods they left behind. Many of these busing opponents admit that they have not been involved in protest movements before, but they are getting involved now because their own children, their hope for the future, are affected.

For wealthier families, who can afford to send their children to private schools, busing is really someone else's problem. But they will suffer from the deterioration in racial relationships and community trust along with everyone else. And all will feel the impact if antibusing turmoil discourages economic expansion or causes further loss of confidence and support for the public school system.

Racial intolerance is a definite part of the opposition to busing in Louisville. But there are other reasons, too, and they deserve attention. In the end, I think the majority of our citizens recognize the importance of everyone having an equal opportunity to quality education, and they realize that integration must occur for this to happen. But when confronted with the disruption of massive, cross-community busing, they tell me: It costs more . . . it is disruptive . . . it detracts from the educational process. What is the purpose? What is being accomplished?

If we truly want integration of our schools and our society, we must find another way than massive busing to bring it about. Our public school system cannot take the strain of arbitrary court orders that ignore social realities, and our community cannot function when hatred and mistrust replace brotherhood and tolerance.

THE EFFECT ON THE COMMUNITY

The busing issue has polarized our community to an alarming extent. Disruption and discord have become a daily part of our lives.

Nearly every day or night since September 4, the opening day of school, there have been demonstrations, meetings, boycotts or protests relating to the busing issue. Most of these have occurred in the outlying suburbs south of the City, where resistance to busing is strongest. School building and school buses have been vandalized. Businesses in areas where busing opposition is heavy have been ordered to put anti-busing signs in their windows, and to close on certain days in protest of busing. If they refuse, they are boycotted, and in some cases have been vandalized. Service station operators intimidated by busing opponents have refused to sell gas to school buses.

Several of our large industries have curtailed production one or more days as workers stayed home to protest busing. In one truck assembly plant, where workers were disciplined for unauthorized absences, some equipment was sabotaged in retaliation. Busing foes have urged their followers to make late "protest" payments on their property tax bills, which partly support the school system.

Our community institutions have felt the backlash. The Metro United Way opened its yearly campaign this month with expectations of losing $250,000 or more because of calls by anti-busing advocates to withhold contributions. They charge that the agency supports the NAACP, the Kentucky Civil Liberties Union and other groups with liberal stands on school integration and busing. This is not true, but the effect is the same. The Catholic Archdiocese recently completed its annual fund drive amid boycott threats from contributors over the busing issue, though they felt only a slight adverse effect.

THE EFFECT ON LOCAL GOVERNMENT

Like most cities in this country, the City of Louisville is struggling to maintain adequate services to our citizens on a very stringent budget. In this fiscal year, we had a contingency fund of about $1.2 million for unexpected expenditures. After the July 17 court order, anticipating some extra costs in connection with the desegregation plan, we put a freeze on all personnel hiring in City Government, and I asked the Board of Aldermen to restrict future appropriations to emergencies.

Even with these moves, it will hurt to absorb the bill of $602,570 that we have spent so far in connection with the plan. This is one half of our surplus funds for the entire year, and one per cent of our total City budget. We have reached the point where any additional expenditures for desegregation purposes could force us to cut back City services to maintain a balanced budget.

Under the court order, the School Board is responsible for implementing the desegregation plan. Local government is not a party to the desegregation suit, and has no legal jurisdiction over school operations.

Local government's responsibility in the desegregation plan has been to maintain the public peace and safety, and particularly to guard the safety of school children. The District Judge included an entire section in the plan outlining the public safety policies to be followed, and we have tried to comply with the court's orders.

The majority of our costs—a total of $539,000—went to pay overtime for our Louisville police officers, who were on 12-hour shifts for 12 days before and after the opening of schools. This included six days of 100 city police officers riding security detail on school buses to assure the safety of children.

We also spent $13,500 in overtime pay to place one fireman in each City school during the first three days of classes, to check out rumors and save unnecessary runs of fire equipment. Other desegregation-related costs paid for overtime and supplies in Traffic Engineering and Public Works Departments, and in our Emergency Medical Service.

The City has recenty allotted $89,515 in funds from our CETA program to hire 14 security guards in the schools, because the School Board did not have the money to hire them.

This does not take into account hundreds of thousands of dollars spent by Jefferson County and the State of Kentucky for desegregation-related activities. The State supplied Kentucky State police and the National Guard to the community during the troubled days of demonstration and protests following the opening of school.

And these costs are only the most direct costs of desegregation plan on local government. We have absorbed additional thousands of dollars in staff time and energy that has diverted our attention from other city government responsibilities.

My point in coming here today has been to let you know the effects of the precipitous order of the Sixth Circuit Court in our community, and to suggest to you an alternative judicial approach for school desegregation cases.

Some members of Congress have proposed adoption of a Constitutional amendment forbidding assignment of students to schools on the basis of race, or restricting the use of busing for school desegregation. I have publicly asked that the Constitutional amendment question be brought before the full Congress for debate and resolution. I think that the American people want a decision.

However, I have yet to see a Constitutional amendment which appears to offer a practical answer to the mandate posed by the fourteenth amendment. In fact, passage of any one of the amendments proposed to date could well have the effect of controlling much more than busing. Given the just concern of the federal courts for desegregating schools under the demand of the Fourteenth Amendment, I think a federal court faced with a strictly drawn anti-busing amendment might well resort to even less palatable remedies for achieving school desegregation.

With the courts' past record of ordering simplistic solutions to this complex question, we could well see court orders that force racial quotas in housing sales, or that assign students to schools on the basis of family income as a way of guaranteeing equal educational opportunity. The cure could well be worse than the malady in such cases.

Moreover, the Constitutional amendment process is slow and intricate. And Constitutional scholars have serious doubts about the extent to which an amendment would affect desegregation plans existing at the time of its adoption.

I think there are other legislative remedies short of a Constitutional amendment that could be more quickly implemented and more effective. I want an alternative to massive, cross-community busing that will work now for Louisville, and for those communities facing court-ordered busing in the future. More than 20 major school desegregation cases are pending around the country in which federal district courts are soon to issue remedies.

The remedy I propose deals with the heart of what I believe is the problem—namely, the limitations of the federal court system to deal with such a complex issue as school desegregation.

A federal judge assigned to a school desegregation case is placed in the role of school administrator, educator, policeman and social worker . . . a role that no man could reasonably be expected to fulfill. He is often required on short notice, without time to seek adequate expert assistance, to draft complicated pupil transportation and assignment plans.

And he is required to develop this plan in the traditional adversary setting of the courtroom—an atmosphere not exactly conducive to the complex delicacy of this operation. In too many instances, the plaintiff appears on the one hand requesting the most radical solutions, with the defendant School Board proposing that the Judge take little or no action.

No person in these situations is there to present the desirable middle ground to the Court. The experts, if any are employed, are hired by the parties to the litigation, and major educational matters are decided by a federal judge who usually handles only one desegregation case in his lifetime.

School desegregation plans should be continuously monitored and adjusted to reflect changing housing patterns, changing pupil enrollment and population shifts. The federal courts are not adequately equipped to provide this kind of monitoring.

Complex school desegregation plans also require extensive funding if long-term success is to be achieved. Congress has expressed its opposition to busing by denying funds for busing to the U.S. Department of Health, Education and Welfare, and President Ford has strongly expressed the need for "more flexibility" in the courts to examine alternatives other than busing for achieving quality education.

If quality education and desegregation are to be achieved without busing, then both the President and Congress must be willing to pay the monetary costs of providing alternatives. And this financial commitment must be coordinated with school desegregation plans, which is not being done today.

I propose that Congress create a special judicial commission to oversee all existing, pending and future school desegregation cases mandated by the courts or ordered by HEW. This Quality Education Commission would be composed of a number of commissioners appointed for a term of years by the President of the United States.

The Commission would employ on a full-time basis experts in the fields of education, school administration, human relations, desegregation, law, psychology, sociology and other fields to aid in preparing and reviewing all desegregation plans.

HEW, working with the Commission, would be required to make lump sum grants to school districts for programs to promote desegregation, as well as incentive payments to parents who voluntarily participate in desegregation efforts.

The Commission would operate with a two-level hearing system. At the trial hearing level, two judges of the Commission would be appointed to hear each case, along with one local judge appointed by the Governor of the state involved in the desegregation case.

The local hearing panels would have an administrative officer to provide day-to-day supervision of the local desegregation plan, and to call for modification of the plan when such conditions as housing patterns or population shifts require changes. A speedy appeal would be provided to the entire Commission from the decision of the local panel.

The Quality Education Commission would be in a much better position than our federal courts and even HEW to follow the Congress' mandate in the Equal Educational Opportunity Act of 1974, which calls for an exploration of alternatives to busing before compelling extensive busing. No Supreme Court case requires that busing be the only alternative explored by the court in drawing desegregation plans.

But federal judges who do not have the expertise or the resources to administer a school plan that might encompass new school construction, pairing of schools, magnet schools and the like, find it easy to settle for a simple mathematical apportionment of the races between all schools.

Unlike the federal judge, the Quality Education Commission would not hear just one desegregation case in its lifetime. Its hearing of many cases, coupled with the expertise to explore and implement alternative solutions, would result in desegregation remedies that are sensitive to local needs and to the long-range goals of racial harmony and community trust.

The Commission would not only have the staff and the time to study alternatives to busing—it would have available the funds to experiment with innovations that could greatly reduce the need for busing or eliminate it altogether.

The precedent for establishing this independent Commission or Court is well founded. Congress has established courts to hear a variety of special cases in specific areas. Labor matters within the federal system are handled by the National Labor Relations Board. Patent, copyright and trademark matters are all considered by a special court—the Court of Customs and Patent Appeals.

There are special customs courts and courts designed to allow litigants to bring claims against the United States. It is difficult to argue that school desegregation matters don't require and deserve the same type of expert treatment provided in patent, copyright, trademark, customs and federal claims cases.

Attached to this testimony is a document describing in detail the structure of the Commission, plus a legal memorandum supporting the creation of such a Commission.

If this Quality Education Commission had taken jurisdiction of the Louisville desegregation case in 1971, I believe we could have avoided many of the problems we are experiencing today in our schools and in our community.

The Commission's staff of experts would have been available in preparing the plan. They would be free of the bias of the plaintiff or defendant, and could approach the case more objectively.

The Commission could have brought a depth of experience and understanding to the case that I don't think could be expected from federal judges who handle a variety of different matters every day. Realizing that a complex desegregation plan cannot reasonably be implemented in only six weeks, the Commission would have allowed sufficient time to thoroughly study and experiment with alternatives for achieving desegregation without massive cross-community busing.

The Commission would have available money to help the local School Board actually implement innovative programs as alternatives to busing, not just to talk about them or assume that they won't work, as is often the case now.

These funds could support studies of longer-range needs such as new school construction combined with school closings. And finally, the Commission would be working today evaluating results of experimental programs, and evaluating data relating to changing housing patterns, population shifts and other indicators. This research would be used to help modify the plan if necessary.

In closing, let me summarize the course of action I propose.

Congress must act with all deliberate speed to take meaningful action on the busing issue, unlike many of the moves taken so far, which hold out false hopes of remedy without addressing the central issue of busing and its effects. While bills are bottled up in Committee, and votes are taken on meaningless measures that restrict busing without providing any alternative remedies, thousands of school children in cities like Louisville are suffering the effects of a mismanaged social experiment that is irresponsible and counterproductive.

I believe the Quality Education Commission I propose is a meaningful answer that will provide workable alternatives to busing, and an opportunity for quality education for all school children.

We are about to celebrate our 200th anniversary as a nation, and part of the heritage that we will celebrate is our national talent and ingenuity for solving unsolvable problems. We have built a great nation, and have applied our energies to conquering disease, exploring outer space, promoting world peace, and providing a good life for all.

We have the way to deal with the cause of desegregation in our schools and in our society. All we need is the *will*—the will that says we will not accept simplistic solutions like busing until we have honestly tried and supported all of the many other alternatives that are more fair, more workable and more acceptable to the American people. Thousands of concerned parents in Louisville, Kentucky, both black and white, are waiting for Congress to accept this challenge. Thank you.

Mr. THURMOND. Mr. President, I have presented the statement of a member of the City Council of Boston, Mrs. Hicks, a former Congresswoman, and the testimony of Dr. Harvey I. Sloane, both before the Judiciary Committee of the Senate. I feel that her statement and his testimony should be considered carefully by this body on the question of busing. These people have gone through this situation probably as much as anybody else in the country. No cities ever had greater problems in busing than Boston, Mass., and Louisville, Ky.

I hope the Senate will take into consideration the terrific problems that are posed by busing for racial balance.

I have presented this amendment because I feel that it would be a great mistake to award an attorney's fee in an action involving the transportation of students to carry an order or a plan of racial desegregation of any public school or local educational agency.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. GRAVEL. Mr. President, I move to table the amendment.

Mr. HELMS. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to the motion of the Senator from Alaska to table the amendment of the Senator from South Carolina.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from California (Mr. TUNNEY), and the Senator from Minnesota (Mr. HUMPHREY) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The result was announced—yeas 50, nays 32, as follows:

[Rollcall Vote No. 630 Leg.]

YEAS—50

Abourezk
Bellmon
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Church
Clark
Cranston
Culver
Durkin
Eagleton
Fong
Gravel
Hart, Gary
Haskell
Hatfield
Hathaway
Huddleston
Inouye
Jackson
Javits
Kennedy
Leahy
Magnuson
Mathias
McGovern
McIntyre
Morgan
Moss
Muskie
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Williams
Young

NAYS—32

Allen
Bartlett
Bentsen
Biden
Brock
Byrd,
Harry F., Jr.
Chiles
Curtis
Eastland
Fannin
Ford
Garn
Griffin
Hansen
Helms
Hollings
Hruska
Johnston
Laxalt
Long
McClellan
McClure
Metcalf
Nunn
Roth
Scott,
William L.
Sparkman
Stennis
Stone
Talmadge
Thurmond
Tower

NOT VOTING—18

Baker
Bayh
Beall
Buckley
Dole
Domenici
Glenn
Goldwater
Hart, Philip A.
Hartke
Humphrey
Mansfield
McGee
Mondale
Montoya
Packwood
Tunney
Weicker

So the motion to lay on the table was agreed to.

ORDER FOR REFERRAL OF A BILL—H.R. 15246

Mr. HELMS. Mr. President, I ask unanimous consent that when H.R. 15246 reaches the Senate it be referred to the appropriate committee.

The PRESIDING OFFICER. Is there objection?

Mr. BROOKE. Reserving the right to object, Mr. President——

The PRESIDING OFFICER. Objection is heard.

Mr. BROOKE. I withdraw my reservation, Mr. President.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

IMPROVEMENT OF THE ADMINISTRATION OF THE NATIONAL PARK SYSTEM

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3430.

The PRESIDING OFFICER (Mr. ALLEN) laid before the Senate the amendment of the House of Representatives to the bill (S. 3430) to amend the act approved August 18, 1970, providing for improvement in the administration of the National Park System by the Secretary of the Interior and clarifying authorities applicable to the National Park System, and for other purposes.

(The amendment of the House is printed in the House proceedings of the RECORD of September 21, 1976.)

Mr. JACKSON. Mr. President, the House amendments to S. 3430 make two substantive changes. The House expands section 8 to include an annual submission of all areas included on the Registry of Natural Landmarks and those areas of national significance listed on the National Register of Historic Places, which areas exhibit known or anticipated damage or threats to the integrity of their resources, along with details as to the nature and severity of such damage or threats.

Second, the House adds a new section 12 which requires certain information to be provided to the Interior Committees in a timely manner. This information includes a detailed development program for each unit of the national park system by January 15 of each year; general management plans on each park area; and proposed awards of concession leases and contracts involving a gross annual business of $100,000 or more, which are to be submitted to the Interior Committees 60 days prior to the award.

These amendments are acceptable to both the majority and minority sides of the aisle. This bill was introduced by Senator HANSEN and I have his concurrence in the action I am taking here today.

Therefore, I move that the Senate concur in the amendment of the House to S. 3430.

The PRESIDING OFFICER. Is there objection to immediate consideration of the House message? The Chair hears none.

The question is on concurring in the House amendment. Is there objection? The Chair hears none.

The motion was agreed to.

Mr. ABOUREZK. I move to reconsider the vote by which the motion was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from South Carolina (Mr. THURMOND).

LEGISLATIVE BRANCH APPROPRIATIONS, 1977—CONFERENCE REPORT

Mr. HOLLINGS. Mr. President, I submit a report of the committee of conference on H.R. 14238 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. INOUYE). The report will be stated by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14238) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1977, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 15, 1976.)

Mr. HOLLINGS. Mr. President, I submit the report of the committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill, H.R. 14238, making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes. I ask unanimous consent for the immediate consideration of the conference report, which has been printed as Report No. 94–1559 of the House of Representatives.

Mr. President, Wednesday seems to be legislative appropriations day for it was on Wednesday, September 1 that the House originally passed this bill; on Wednesday, September 8 the Senate passed the bill; on Wednesday, September 15 we held our conference on this bill; and now on Wednesday, September 23 we are ready to clear the conference report and send the bill to the President.

As the Senate will recall the budget estimates for the legislative branch for fiscal year 1977 amounted to $992,290,765. When the bill passed the Senate on September 8, it contained appropriations totaling $971,141,285. The amount agreed by the conferees is $943,400,485, which excludes the $25,000,000 approved by the Senate for the restoration of the west central front of the Capitol. This item was taken back by the House managers in full disagreement. Exclusive of the west central front, the conference agreement is $27,740,800 under the amount approved by the Senate. Similarly, the amount is $163,089,535 more than the amount approved by the House, which is chiefly due to the $141 million in Senate-related items which traditionally are not part of the House consideration of the bill.

RESTORATION OF THE WEST FRONT OF THE CAPITOL

Mr. President, this is another dark day for those interested in the appearance of the Capitol. Earlier today by a vote of 95 to 304 the other body rejected the amendment of the Senate to authorize and appropriate $25 million to the Architect of the Capitol in order to restore the west central front of the Capitol. The restoration was to be accomplished without change in either location or architectural appearance of the building. I am obviously disappointed by this turn of events.

Twice before during my chairmanship of the Legislative Branch Subcommittee, the Senate has approved my recommendation that the last remaining wall of the original Capitol should be restored and not be covered over by a huge, ugly, and unnecessary extension of the Capitol. The subcommittee has gone into this matter more extensively than any other body of the Congress and our hearings are replete with information substantiating our recommendation that the west wall can and should be preserved. Two years ago the House voted not to proceed with restoration because of the imminence of the Bicentennial. We could not argue with that and believed that finally, this year, the other body would come around to our position. Unfortunately, the forces of delay have won again—this time to study the latest device of the Architect of the Capitol. The Architect has had 2 years to argue his case but he waited to the last moment to unveil his miniextension which the House members of the Commission on the Extension of the Capitol embraced without a public hearing on September 9. I echo what Representative STRATTON wrote to his colleagues yesterday:

> The Architect of the Capitol has never wanted to restore the west front. He has never made the slightest effort to carry out the Praeger recommendations. Instead he still dreams of a new monument for himself, regardless of what it does to the taxpayers.

So once again the citizens of our country as well as the visitors from abroad will have to continue to view a shameful disgrace of pealing paint, missing stones, and wooden supports that is now our west entrance.

In large part, the final recommendations recommended by the conference are identical to those approved by the Senate, so I will not delay the Senate by reviewing the entire conference report, but will merely highlight the major recommendations.

COPYRIGHT REVISION

I am pleased to note that the $268,000 the Senate provided for the Copyright Royalty Commission expected to be authorized in the final version of the Copyright Revision Act is part of the final bill. The House managers also agreed to the $1,683,000 that the Senate approved for the copyright revision activities of the Copyright Office. Both of these amounts are contingent upon the enactment of S. 22 or equivalent legislation, but the author, our distinguished chairman (Senator McCLELLAN), has indicated that a final version of the bill will be worked out before the adjournment of the Congress. The revision of the copyright system will be a very complex operation and the provision of these amounts will allow the work to be implemented immediately upon the passage of the legislation.

RESTRICTION ON THE COST-OF-LIVING INCREASES

Another controversial matter in this year's bill was the restriction of the cost-of-living increases by the House of Representatives. This restriction provided that no funds in this or any other act may be used to provide further cost-of-living salary increases to Members of the Senate and House of Representatives, Federal judges and certain Federal executive positions. When the bill was before the Senate on September 7, I attempted to have this whole section deleted but the Senate voted to retain the restriction on the Members of Congress while allowing the cost-of-living increases for the judges and the Federal executives. The managers from the House were adamant in the position of the House of Representatives so that their proviso is part of the conference report. However, the House did recede to the amendment of the Senate that this restriction does not preclude increases which may be proposed by the President pursuant to the recommendations of the Commission on Executive, Legislative, and Judicial Salaries.

During our conference there was a question of whether the restriction of the House is permanent legislation and bars cost-of-living increases not only this October but in the future. The particular section is as follows:

> No part of the funds appropriated in this Act or any other Act shall be used to pay

the salary of an individual in a position or office referred to in Section 225(f) of the Federal Salary Act of 1967, as amended (2 U.S.C. 356), including a delegate to the House of Representatives, at a rate which exceeds the salary rate in effect on September 30, 1976, for such position or office except increases submitted by the President pursuant to section 225 of the Federal Salary Act of 1967.

For the record Mr. President, I want it to be clearly understood that during the consideration of this bill I have viewed the phrase "in this act or any other act" as an ordinary limitation in an annual appropriation act which would expire at the end of the fiscal year. I do not view the words "or any other act" to denote any permanence of this restriction. This is in accordance with page 129 of the 1974 edition of Senate Procedure that states:

> A limitation on the use of funds in a general appropriation bill is effective only for the year for which the appropriations are made.

I view the phrase "In this act or any other act" as the necessary and only way to insure that none of the affected positions would receive this year's cost-of-living increase since the funds would come from almost all of the various appropriations acts. "Any other act" means to me the other appropriation acts for fiscal year 1977.

It is traditional in appropriation acts to designate permanent changes in law by using the word "hereafter." An example of this procedure can be found in this very legislative Appropriation Act for 1977 in the last paragraph of the appropriation printing and binding. The other body inserted a permanent bar on the automatic distribution of the U.S. Statutes at Large to any Senator or Representative unless such document is requested in writing, by beginning the prohibition with "hereafter, not withstanding any other provision of law, and so forth."

The Supreme Court in January 1841 in the case of Minis against the United States held that—

> It would be somewhat unusual to find engrafted upon an act making special and temporary appropriations, any provision which was to have a general and permanent application to all future appropriations. Nor ought such an intention on the part of the legislature to be presumed, unless it is expressed in the most clear and positive terms, and where the language admits of no other reasonable interpretation.

As Attorney General Herbert Brownell wrote in 1956 in quoting the Minis decision, "This is particularly so where the language alleged to be permanent is a proviso," and the Attorney General went on to quote the decision as follows:

> The office of a proviso, generally, is, either to except something from the enacting clause, or to qualify or restrain its generality, or to exclude some possible ground of misinterpretation of it, as extending to cases not intended by the legislation to be brought within its purview. A general rule, applicable to all future cases, would most naturally be expected to find its proper place in some distinct and independent enactment.

Another Attorney General in a decision dated April 7, 1909, dealing with a permanence of a proviso in an Agricultural Appropriation Act said that the presumption against general and permanent enactments in appropriation acts is against permanence. In this particular case a proviso had been included in each of 7 successive years. This is very similar to several general provisions now included in the Treasury, Postal Service and General Government Act, 1977, namely section 607(a), section 608, and section 610 which all incorporate the phrase "In this or any other act." The first two have been included in this appropriation act for the last 5 years. If this phrase is to be interpreted as permanent legislation, it seems strange that it is reenacted every year. As the Attorney General said in 1909:

> The repetition and reenactment of the proviso in each of seven successive years were strange and superfluous. Further, in consequence of the repeated previous treatment of the proviso by Congress as depending upon annual repetition and reenactment for its continued operation, the elimination of the proviso when the appropriation for Farmers' Bulletins was first made in 1907 in the sundry civil appropriation act seems to show that it was then the intention of the Congress to have the rule of the proviso no longer operative.
>
> While general and permanent enactments now not infrequently appear in appropriation acts, the presumption concerning a provision in such an act is rather against permanence.

Finally, Mr. President, I have a copy of a letter dated September 21, 1976, from the General Accounting Office to the chairman of the Post Office and Civil Service Committee of the House of Representatives. This letter indicates that the Comptroller General would not view this proviso as being permanent legislation. I ask unanimous consent that the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., September 21, 1976.

Hon. ERNEST F. HOLLINGS,
Chairman, Subcommittee on Legislative Committee on Appropriations, U.S. Senate.

DEAR MR. CHAIRMAN: I am enclosing for your information a copy of our letter of today to the Chairman of the House Committee on Post Office and Civil Service concerning the provision adopted by the conferees in the Legislative Appropriation Act of 1977 placing a limitation on the use of appropriations for the payment of compensation.

You will note that, in our opinion, pay increases to General Schedule employees and those linked to a particular rate of the Executive Schedule would not be affected by the appropriation restriction agreed to by the conferees.

I thought it important to bring this to your attention before the conference report is taken up by the Senate and the House of Represenatives.

Sincerely yours,

ROBERT F. KELLER,
Acting Comptroller General of the United States.

Enclosure.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., September 21, 1976.

Hon. DAVID N. HENDERSON,
Chairman, Committee on Post Office and Civil Service, House of Representatives

DEAR MR. CHAIRMAN: This refers to your letter of September 17, 1976, asking 2 questions on the provision in the Legislative Branch Appropriation Act, 1977 (H.R. 14238) placing a limitation on the use of appropriations for the payment of compensation.

The language in question reads as follows:

"Provided, That none of the funds contained in this Act shall be used to increase salaries of Members of the House of Representatives pursuant to section 204a of Public Law 94–82 in excess of the salary rate in effect on September 30, 1976, for such position or officer. No part of the funds appropriated in this Act or any other Act shall be used to pay the salary of an individual in a position or office referred to in section 225(f) of the Federal Salary Act of 1967, as amended (2 U.S.C. 356), including a delegate to the House of Representatives, at a rate which exceeds the salary rate in effect on September 30, 1976, for such position or office except increases submitted by the President pursuant to section 225 of the Federal Salary Act of 1967."

The first question is whether the language "No part of the funds appropriated in this Act or any other Act" has the effect of extending the prohibition on the use of funds to any increase that would occur after the end of fiscal year 1977. You refer in particular to any increase in salaries that could occur under section 204a of Public Law 94–82, on October 1, 1977, or any date subsequent to the end of fiscal year 1977.

Our view is that a provision in an annual appropriation act may not be construed to be permanent legislation unless the language used or the nature of the provision renders it clear that such was the intention of the Congress. When the word "hereafter" or other words indicating futurity are used, or when the provision is of a general nature bearing no relation to the object of the appropriation, the provision may be construed to be permanent legislation. We find no wording in the appropriation provision here in question which shows a clear intent to enact a permanent restriction. The term "funds appropriated in this Act" clearly relates only to the funds authorized in 1977 fiscal legislative appropriation act for 1977 fiscal year. The term "or any other Act" covers the same subject matter, that is, pay increases for officers and employees. Those words standing alone are not to be considered as words of futurity. We interpret them as a prohibition on the use of funds in the various other appropriation acts for fiscal year 1977 which otherwise would be used for pay increases of officers and employees whose salaries are not paid from funds authorized by the legislative appropriation act. There are other appropriation act provisions that use the words similar to those under consideration here. They are repeated year after year in the appropriation acts, which is indicative that such provisions were not considered by the Congress to be permanent legislation. Therefore, the first question is answered in the negative.

The second question is what effect the prohibition against the use of funds contained in the quoted provision may have on the salary ceiling for positions under the General Schedule or on positions the rate of pay for which is linked to a particular level of the Executive Schedule. You point out that you have no question as to the application of the limitation to positions under the Executive Schedule. You refer however, to those positions the compensation for which is fixed by law "at an annual rate which is equal to the rate for positions" at a particular level of the Executive Schedule.

Also you refer to 5 U.S.C. 5308 which provides that pay may not be paid to employees under the General Schedule, and several other groups subject to the section, "at a rate in excess of the rate of basic pay for level V of the Executive Schedule."

You state that the intention of Mr. Udall was that the freeze would apply to rates of compensation of the Executive Schedule and the rates of all positions linked to the Executive Schedule by specific levels or ceilings. There were, we note, references in the debates in the Senate and House to the freeze affecting supergrades (GS–16 through GS–18). Nevertheless, the question you raise is whether the language of the provision actually does this, or whether the provision can be interpreted as not freezing the rates for an employee whose position is not under the Executive Schedule but who is entitled to a rate comparable to the rate of a particular level of the Executive Schedule or who is subject to the rate for Level V under 5 U.S.C. 5308.

The language does not suspend or postpone the operation of Public Law 94–82 and it is not therefore a limitation on the rates of pay established thereunder. The language sets a limitation on the use of funds. By its terms it restricts the use of funds otherwise available "to pay the salary of an individual in a position or office referred to in section 225(f) of the Federal Salary Act of 1967, as amended (2 U.S.C. 356)." It freezes the salary payments of those individuals at the "salary rate in effect on September 30, 1976, for such position or office."

The provisions of section 225(f) are specific as to the positions covered. There is no language in that section which refers to General Schedule employees or to employees linked to the Executive Schedule except as concerns the appropriate pay relationships between the offices and positions under 225 (f) and the offices and positions in the General Schedule. (To construe mention of General Schedule employees in this context as a "reference" within the meaning of the appropriation limitation in question would be to deny an increase in pay to all General Schedule employees, a result clearly not intended. And it follows that if General Schedule employees are not referred to in section 225(f), the appropriation limitation by its terms does not serve to limit their pay.) Thus, a Presidential pay schedule under 5 U.S.C. 5305 authorizing a pay raise for General Schedule and Executive Schedule employees would entitle the General Schedule employee to a raise not to exceed the rate specified by the President for level V of the Executive Schedule. Likewise, the pay increase would be due employees authorized to receive "a rate equal to a rate for a particular level of the Executive Schedule." The reason for this, as indicated above, is that the pay limitation in the legislative appropriation act does not affect the legal rate that may be set by the President for Executive Schedule positions under other pay fixing procedures. The restriction is solely on the use of funds to pay salary increases to individuals in the positions or offices specified in section 225(f). Since Executive Schedule positions are specified in section 225(f), individuals in those positions could not receive the pay increase. But the legal rates for Executive Schedule offices and positions would still be the rate set by the President and the use of these rates is not prohibited for other pay purposes. The ceiling in 5 U.S.C. 5308 would, however, restrict payment of increases of General Schedule, and other positions subject to section 5308, to the rate set by the President for level V.

Therefore, the answer to question 2 is that pay increases to General Schedule employees and those linked to a particular rate of the Executive Schedule would not be affected by the appropriation restriction here in question.

I note that the restriction on funds for certain pay raises specifically is made inapplicable to increases that may be submitted by the President under section 225 of the Federal Salary Act of 1967.

Sincerely yours,

R. F. Keller,
Acting Comptroller General of the United States.

ELIMINATION OF THE 1-PERCENT KICKER

Mr. HOLLINGS. I am pleased to report that the House has receded and concurred in the amendment of the Senate eliminating the so-called 1-percent kicker for cost-of-living adjustments in the annuities of Federal and military retirees. The conferees also agreed to a new method of computing such adjustments semiannually on the basis of the actual cost of living, with the computation to be made each January and July. Adjustments will be made effective as of March and September with the payments to be made in the checks made to the annuitants in April and October. The GAO has shown that the 1-percent kicker has led to annuity increases to Federal retirees of 71 percent while the cost of living has risen by only 56 percent. By substituting this new procedure for the current system, we will assure our Federal annuitants full protection to any increases in the cost of living, be it ½ percent, 2 percent, or 3 percent or more; but at the same time saving the Treasury some $3 billion over the next 5 years according to both the Congressional Budget Office and the Office of Management and Budget.

Mr. President, a distinguished former Member of Congress, the Honorable Hastings Keith, has been in the forefront of the battle to repeal the kicker. I was happy to learn that Mr. Keith is making a splendid recovery from his recent open heart surgery. On August 25, 1976, Mr. Keith sent a letter to the Wall Street Journal that completely analyzes this issue. Mr. Keith indicates that for the existing 2.3 million employees and their surviving spouses, the total future cost of the 1-percent kicker alone—above the cost of living—would be about $150 billion, assuming an annual inflation rate of only 6 percent. I ask unanimous consent to have Mr. Keith's article printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

Letter From a Pensioner

(By Hastings Keith)

Your editorial of August 10, "Washington's Generous Pensions" was on target—but you are shooting at a fast-moving gravy train that may already be out of range.

I should, as one of those federal pensioners (civil service, military, congressional) be enjoying the ride, but instead I am sickened by the skyrocketing nature of the benefits and costs—benefits and costs which in the long run are probably more generous and will take proportionately more of the taxpayers' dollars than do the much critized pension plans of New York City and my home state of Massachusetts.

Your editorial was correct in stating that the "kicker" that boosts federal pensions even faster than increases in the cost of living is only a "tiny part" of the total pension problem. But perhaps a little further examination as to how big the "tiny part" is would encourage your readers nationwide to do something about it—like calling their Congressman.

To give you a first-hand view of how the kicker works, consider my pension, which on retirement after 14 years in the Congress, five years and ten months in the military and about three months of Civil Service was, at age 57, $1,560 a month. Thirty-five months later it reached a $2,206 per month, an increase of 41.5% in less than three years time. Stated another way, the increase was almost 50% more than the cost of living, which had gone up 28% during that same 35-month period.

(The 1% add-on or "kicker" as it is sometimes called, was intended to compensate for the time lag that occurs between the actual cost-of-living increase and the effective date of the adjustment. So 1% is added to the cost-of-living formula each time an increase takes place. The problem arises—and overcompensation occurs—because Congress apparently did not realize that the 1% becomes a permanent part of the pension, compounding the benefits.)

ALBERT EINSTEIN'S 'DISCOVERY'

Even the relatively sophisticated readers of the Journal will have a difficult time (as do the members of Congress) comprehending how any pension could have compounded so fast. All I can do is remind them of the truth of Albert Einstein's alleged response when he was asked, "What do you, Mr. Einstein, consider to be man's greatest invention?" He didn't reply the wheel or the lever. He is reported to have said, "Compound interest."

Most of us think of interest as compounding annually, but in the case of the federal pension, under its formula, it compounds—depending on the rate of inflation—as often as twice a year. Hence, over the lifetime of the government's existing 2.3 million employes and their surviving spouses (who will receive 55% of a deceased annuitant's pension) the total future costs of the 1% kicker alone—above the cost of living and all paid for from general revenues—would be about $150 billion, assuming an annual inflation rate of only 6%.

It is significant that these long-range estimates of future costs were not found in the debate—either at the time the 1% add-on to the pension formula was enacted in 1969 or during the debate on August 2 this year when the add-on's elimination was being considered. In 1969 the debate dealt in terms of millions and in a time frame of a year or two. The projected costs in the debate earlier this month were in terms of $2 billion or $3 billion over a five-year period.

The fact is that if the 1% kicker is only prospectively removed—as called for in the Henderson bill (HR-350)—there will still be a further $40 billion in benefits added to the pensions of federal pensioners and their surviving spouses. All of this additional add-on will not only be above the cost of living, but it will all be paid from general revenues—all done with borrowed money—and all on top of the most generous pension plan in existence.

Rep. Paul Findley (R., Ill.) has proposed an amendment to the Henderson bill which would, in effect, freeze the present annuities of the existing pensioners. His amendment would allow them to keep the more than $1 billion above the cost of living that has already been paid to them; furthermore, it would allow them to continue to draw their pensions at the current rate and, depending upon the future rate of inflation, they could get another $2 billion during the catch-up period. From then on, federal pensions would stay abreast of the cost of living. Over the next 20 to 35 years, Findley's amendment would save—in addition to the savings in the Henderson bill—some $38 billion. (This figure is based on statistics furnished me by the former chief actuary of the Social Security Administration, Robert Myers. His computations were confirmed by specialists in the Library of Congress.)

It must be noted that without the acceptance of the Findley amendment, the $38 billion that would be added to existing pensions will be entirely financed from general revenues; none of it will come from employe contributions. Most importantly, it stands in sharp contrast to the fate of the rest of the American workforce which does not benefit from such a program. Few workers enjoy a cost-of-living formula in their pensions; none of them make a "profit" on inflation as do those who have the 1% add-on.

Although the proposed reforms were defeated on August 2, the situation is expected to get a fresh airing, possibly today, when the House is scheduled to take up a bill on pensions for federal judges. The restriction on pension add-ons is expected to be introduced under an open rule permitting amendments.

It would be impossible for Congress to tackle all the points made in your editorial. The current climate in Congress does not ing how any pension could have compounded encourage any broad-range attack on such matters as early retirement, dual compensation (double-dipping), "outrageous" disability provisions, methods of funding and the matter of integration of federal pensions with Social Security.

The most expensive pension plan is that of the military—it is also the most worthy of reform. It does not recognize that the roles of vast numbers of the military are only remotely related to combat. Only in a very small sector of the vast defense establishment (namely, combat elements of combat command) can the case be made for the lush benefits that now return retirees to the private sector at about age 42 with pensions averaging more than $700 a month. Their pensions increase under the same formula as their civilian counterparts. The annuities of military retirees can double or quadruple under the 1% add-on before the annuitant is old enough to draw Social Security against which there is no offset.

The time is right for the Henderson bill with its projected savings of $150 billion. The fate of the Findley amendment, with its prospects for an additional savings of $38 billion will depend upon the congressional mood and the support given to the proposal by the committees and by the administration. It is to be hoped that the Executive Branch and the Congressional Budget Office can furnish to the Congress more farsighted projections than have thus far been submitted.

You can be sure, however, that the leadership of the National Association of Retired Federal Employees (NARFE) will alert its members to the possible threat to their pension formula. NARFE knows full well that in constant dollars the continuation of the "kicker" will mean an increase in annual purchasing power of about 25% from the add-on alone in the years ahead. Insofar as the federal retirement plan is concerned, the gulf between the average voter and the average Congressman has almost been a vacuum into which organized special interests, such as NARFE, have moved. And who can blame them for taking advantage of the void?

PUBLIC CONSCIOUSNESS NEEDED

But this void of interest and knowledge must be replaced by a consciousness that enables the average American to recognize that if federal employes and retirees get a disproportionate share of the Gross National Product there will be less and less for the general public. It must be recognized that the so-called "private sector" will, under these circumstances, have to work longer years to support the generous retirements of public employes. Other programs will have to be curtailed, interest rates will be driven up as the federal government borrows money to meet its increased pension commitments and further taxes will be required. More inflation will, of course, flow from the developments.

But worst of all, in the resultant climate the trend will be toward indexing to the cost of living other elements of our economy. "Why," it will be argued, "should only the federal pension—and later the federal salary—be indexed to the cost of living? Why not index all pensions, and later all salaries?"

The final outcome of all these developments would be an economy with many more regulations, controls and bureaucracies than we already have. Another alternative, equally pessimistic, could be the continued trend toward legislating programs for everyone, ending with the socialism of present-day Britain. Perhaps the forecast of George Orwell's "1984" is on schedule. In the long run, if we are to avert the fate that currently seems in store for us, it will take an effective and alert private citizenry.

I am hopeful that by the election of 1976 the national and congressional climate will encourage and permit the Henderson bill to become law. I am further hopeful that prior to the next presidential election, the public's increasing recognition of the common nature of public pension problems—perhaps recognition of their potentially disastrous proportions—will set the stage for a return to common sense in public compensation. Only such an outcome will assure that the nation, its cities, counties and states can afford the services which are essential to the survival of our democracy and our private enterprise system.

Mr. HOLLINGS. Mr. President, when this bill was before the Senate the junior Senator from Iowa indicated that he found sufficient space in the House Annex No. 2 for the Senate Computer Center. Accordingly, we wrote into this bill a requirement that the Sergeant at Arms and Doorkeeper look for space in existing House and Senate office buildings before leasing any space for the computer. Our distinguished Sergeant at Arms inquired of the majority leader of the House of Representatives of the amount of space that the Senate might have in the House Annex. The Senate rules do not permit me to verbally repeat the majority leader's response, but I ask unanimous consent to have printed in the RECORD this letter from the chairman of the Committee on House Administration.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES, COMMITTEE ON HOUSE ADMINISTRATION,
Washington, D.C., September 20, 1976.

Hon. FRANK NORDY HOFFMAN,
Sergeant at Arms,
U.S. Senate, Washington, D.C.

DEAR NORDY: I have checked with the Building Superintendent and have determined that there are not 32,000 square feet of space available in House Annex No. 2 which would be suitable for your expanded computer needs.

I regret we cannot be of help in this matter, but please don't hesitate to call me again.

With kind regards,
Cordially,
FRANK THOMPSON, Jr.

JUDGES' SALARIES

Mr. PERCY. Mr. President, I am deeply disappointed that the conferees for the legislative appropriations bill chose to adhere to the House position disallowing payraises for Federal judges, top Government officials and employees, and Members of Congress. I supported the Senate provision to impose a pay freeze for Members of Congress only so that the salary status of the others could be separated from election year politics. The increases are well deserved and much needed if we are to keep high quality people in Government service and attract others to it. Nonetheless, I intend to vote for the conference report because of the important Federal pension reform provision it bears.

H.R. 14238 repeals the 1-percent "kicker" for Federal civil service pensions and substitutes a new system whereby cost-of-living increases will be computed every 6 months automatically and raised only as much as the actual cost-of-living increase for that period. This is much more equitable than the 1-percent add-on.

Originally, the add-on was enacted to make up for the time lag that occurred between the time the COL increase was authorized and the time it was actually reflected in the pension check. Because of the frequency with which cost-of-living increases have occurred since the add-on was established in 1969, and because of the compounding effect when each additional 1 percent became part of the annuity base for succeeding adjustments, the cumulative effect has been that Federal retirees have been overcompensated for inflation. Since 1969, benefits have increased 72 percent while the cost-of-living has increased 56 percent.

This 72-percent increase has added about $28 billion to the unfunded liability of the retirement systems, of which $5 billion is attributable to the 1-percent add-on.

The General Accounting Office estimates that retention of the 1-percent "kicker" will generate at least $4 billion in additional liability for each 6-percent increase in annuities. The cost to the retirement systems, and to the taxpayer, of the 1-percent add-on is only one part of the overall picture. I am concerned about the lack of a coherent, coordinated Federal retirement system and about the need to maintain soundness and stability. GAO studies have indicated that the Federal retirement systems—of which there are 10—have in excess of $200 billion in unfunded liabilities which will have to be met through congressional appropriations if no further reforms are instituted.

Mr. President, I think H.R. 14238 is a good start toward running the Federal retirement systems on sound actuarial principles, but I hope we will not stop here. More needs to be done to guarantee a strong system to Federal employees, who have contributed their share in good faith, and to the taxpayer who will be called on to foot the bill if we continue on our present course.

Mr. HOLLINGS. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 90 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Sec. 1305. (a) The Sergeant at Arms and Doorkeeper of the Senate and Sergeant at Arms of the House may (1) designate as a private, first class, any private of the Capitol Police whose pay is disbursed by the Secretary of the Senate or Clerk of the House who has served satisfactorily as a member of the Capitol Police for thirty months or more, and (2) fix the compensation of any such private, first class, at not to exceed $13,038 per annum: *Provided*, That the Sergeant at Arms of the House may fix the compensation of seven Detectives, Police Force at not to exceed $14,946 per annum each in lieu of not to exceed $13,992 per annum each; nineteen Technicians, Police Force at not to exceed $13,992 per annum each in lieu of not to exceed $13,038 per annum each; eight Plainclothesmen, Police Force at not to exceed $13,992 per annum each in lieu of not to exceed $13,038 per annum each; and six K–9 Officers, Police Force at not to exceed $13,992 per annum each in lieu of not to exceed $13,038 per annum each.

(b) Subsection (a) shall take effect on October 1, 1976. Any designation of a private of the Capitol Police as a private, first class, shall be made effective on the first day of a month, and no such designation may be effective before the first day of the first month which begins after the day on which such private has served satisfactorily as a member of the Capitol Police for thirty months.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 91 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Cost of Living Adjustments

Sec. 1306. (a) Section 8340(b) of title 5, United States Code, is amended by striking out "1 percent plus".

(b) The amendment made by subsection (a) shall apply to any increase in annuities after the date of enactment of this Act.

(c)(1) Section 8340(b) of title 5, United States Code, as amended by subsection (a), is amended to read as follows:

"(b)(1) The Commission shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for June of such year over the price index published for December of the preceding year.

"(2) If in any year the percent change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the price index, then—

"(A) effective March 1 of such year, in the case of an increase under paragraph (1)(A), each annuity payable from the Fund having a commencing date not later than such March 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent, or

"(B) effective September 1 of such year, in the case of an increase under paragraph (1)(B), each annuity payable from the Fund having a commencing date not later than such September 1 shall be increased by the percent change in the index published for graph, adjusted to the nearest 1/10 of 1 percent.".

(2) The amendment made by subsection (1) shall apply to any increase in annuities after the date of enactment of this Act, except that with respect to the first date after the date of enactment of this Act on which the Commission is to determine a percent change, such percent change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index for the last month prior to the date of enactment of this Act for which the price index showed a percent rise forming the basis for a cost-of-living annuity increase under section 8340(b) of title 5, United States Code, as in effect immediately prior to the date of the enactment of this Act.

(d)(1) Section 1401a(b) of title 10, United States Code, is amended to read as follows:

"(b)(1) The Secretary of Defense shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the index published for December of the preceding year over the index published for June of the preceding year; and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the percent change in the index published for June of such year over the index published for December of the previous year.

"(2) If in any year the percent change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the index, then—

"(A) effective March 1 of such year, in the case of an increase under paragraph (1)(A), the retired pay and retainer pay of members and former members of the armed forces who become entitled to that pay before such March 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent; and

"(B) effective September 1 of such year, in the case of an increase under paragraph (1)(B), the retired pay and retainer pay of members and former members of the armed forces who become entitled to that pay before such September 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent.".

(2) The amendment made by subsection (1) shall apply to any increase in retired pay or retainer pay after the date of enactment of this Act, except that with respect to the first date after the date of enactment of this Act on which the Secretary of Defense is to determine a percent change, such percent change shall be determined by computing the change in the index published for the month immediately preceding such first date over the index for the last month preceding the date of enactment of this Act used as the basis for the most recent adjustment of retired pay and retainer pay under section 1401a(b) of title 10, United States Code, as in effect immediately prior to the date of enactment of this Act.

(e)(1) Section 882(b) of the Foreign Service Act of 1946 (22 U.S.C. 1121(b)), is amended to read as follows:

"(b)(1) The Secretary shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for June of such year over the price index published for December of the preceding year.

"(2) If in any year the percent change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the price index, then—

"(A) effective March 1 of such year, in the case of an increase under paragraph (1)(A), each annuity payable from the Fund having a commencing date not later than such March 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest ⅒ of 1 percent, or

"(B) effective September 1 of such year, in the case of an increase under paragraph (1)(B), each annuity payable from the Fund having a commencing date not later than such September 1 shall be increased by the percent change computed under such paragraph adjusted to the nearest ⅒ of 1 percent.".

(2) The amendment made by subsection (1) shall apply to any increase in annuities after the date of enactment of this Act, except that with respect to the first date after the date of enactment of this Act on which the Secretary is to determine a percent change, such percent change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index for the last month prior to the date of enactment of this Act for which the price index showed a percent rise forming the basis for a cost-of-living increase under section 882(b) of the Foreign Service Act of 1946 (22 U.S.C. 1121(b)), as in effect immediately prior to the date of enactment of this Act.

Resolved, That the House insist on its disagreement to the amendment of the Senate numbered 56 to the aforesaid bill.

Mr. HOLLINGS. Mr. President, I move that the Senate concur in the amendments of the House of Representatives to Senate amendments numbered 90 and 91.

The motion was agreed to.

Mr. HOLLINGS. I move that the Senate recede from its amendment numbered 56.

The motion was agreed to.

Mr. HOLLINGS. Mr. President, I ask unanimous consent to have printed at this point in the Record the usual table comparing the conference amounts and the amounts of the budget estimates for 1977, and the amounts recommended in the House and Senate versions of the bill.

There being no objection, the table was ordered to be printed in the Record, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1976 AND BUDGET ESTIMATES FOR 1977

[Becomes available automatically under earlier, or "permanent" law without further, or annual, action by the Congress. Thus these amounts are not included in the accompanying bill]

PERMANENT NEW BUDGET (OBLIGATIONAL) AUTHORITY—FEDERAL FUNDS

Agency and item (1)	New budget (obligational) authority, 1976 [1] (2)	Budget estimate of new (obligational) authority, 1977 [1] (3)	Increase (+) or decrease (−) (4)
LIBRARY OF CONGRESS			
Oliver Wendell Holmes devise fund (indefinite, special fund)	$44,000	$23,000	−$21,000

PERMANENT NEW BUDGET (OBLIGATIONAL) AUTHORITY—TRUST FUNDS

Agency and item (1)	New budget (obligational) authority, 1976 [1] (2)	Budget estimate of new (obligational) authority, 1977 [1] (3)	Increase (+) or decrease (−) (4)
LIBRARY OF CONGRESS			
Gift and trust fund accounts, nonrevolving	$4,704,000	$4,466,000	−$238,000

[1] Amounts as estimated and shown in the January 1976 budget document. Some items are indefinite in amount, and thus are subject to later reestimation.

CONFERENCE SUMMARY—LEGISLATIVE BRANCH APPROPRIATIONS BILL, 1977 (H.R. 14238)

						Increase (+) or decrease (−), Conference Committee compared with—			
Agency and item (1)	1976 comparable appropriation (2)	1977 budget estimate (3)	House allowance (4)	Senate allowance (5)	Conference agreement (6)	1976 comparable appropriation (7)	Budget estimate (8)	House allowance (9)	Senate allowance (10)
TITLE I—SENATE									
Compensation and Mileage of the Vice President and Senators and Expense Allowances of the Vice President and Leaders of the Senate									
Compensation and mileage of the Vice President and Senators	$4,990,740	$5,052,630		$5,052,630	$5,052,630	+$61,890		+$5,052,630	
Expense allowances of the Vice President and Majority and Minority Leaders:									
Vice President	10,000	10,000		10,000	10,000			+10,000	
Majority Leader of the Senate	3,000	3,000		3,000	3,000			+3,000	
Minority Leader of the Senate	3,000	3,000		3,000	3,000			+3,000	
Subtotal, Compensation and mileage of the Vice President and Senators and Expense Allowances of the Vice President and Leaders of the Senate	16,000	16,000		16,000	16,000			+16,000	
Total, Senate expense	5,006,740	5,068,630		5,068,630	5,068,630	+61,890		+5,068,630	
Salaries, Officers and Employees									
Office of the Vice President	584,065	615,015		615,015	615,015	+30,950		+615,015	
Offices of the Majority and Minority Leaders	239,000	251,540		251,540	251,540	+12,540		+251,540	
Offices of the Majority and Minority Whips	185,440	195,260		195,260	195,260	+9,820		+195,260	
Office of the Chaplain	30,200	31,800		31,800	31,800	+1,600		+31,800	
Office of the Secretary	3,073,975	3,323,290		3,323,290	3,323,290	+249,315		+3,323,290	
Committee employees	8,934,592	9,660,685		9,660,685	9,660,685	+726,093		+9,660,685	
Conference committees	370,850	454,510		454,510	454,510	+83,660		+454,510	
Administrative and clerical assistants to Senators	45,668,578	48,190,355		48,190,355	48,190,355	+2,521,777		+48,190,355	
Legislative assistance to Senators	3,500,000	5,500,000		5,500,000	5,500,000	+2,000,000		+5,500,000	
Office of Sergeant at Arms and Doorkeeper	13,222,965	15,579,010		15,579,010	15,579,010	+2,356,045		+15,579,010	
Offices of the secretaries for the Majority and Minority	296,245	311,645		311,645	311,645	+15,400		+311,645	
Agency contributions and longevity compensation	4,750,000	5,500,000		5,500,000	5,500,000	+750,000		+5,500,000	
Total, Salaries, Officers and Employees	80,855,910	89,613,110		89,613,110	89,613,110	+8,757,200		+89,613,110	
Office of the Legislative Counsel of the Senate									
Salaries and expenses	606,980	629,700		629,700	629,700	+22,720		+629,700	
Contingent Expenses of the Senate									
Senate policy committees	767,520	845,710		845,710	845,710	+78,190		+845,710	
Automobiles and maintenance	45,000	45,000		45,000	45,000			+45,000	
Inquiries and investigations	20,672,185	21,854,485		21,854,485	21,854,485	+1,182,300		+21,854,485	
Folding documents	89,825	90,905		90,905	90,905	+1,080		+90,905	
Miscellaneous items	17,998,650	17,807,000		19,098,000	19,098,000	+1,099,350	+$1,291,000	+19,098,000	
Postage stamps	2,585	2,715		2,685	2,685	+100	−30	+2,685	
Stationery (revolving fund)	29,250	31,650		31,650	31,650	+2,400		+31,650	
Total contingent expenses of the Senate	39,605,015	40,677,465		41,968,435	41,968,435	+2,363,420	+1,290,970	+41,968,435	
Total, Senate	126,074,645	135,988,905		137,279,875	137,279,875	+11,205,230	+1,290,970	+137,279,875	
TITLE II—HOUSE OF REPRESENTATIVES									
Payments to Widows and Heirs of Deceased Members of Congress									
Gratuities, deceased Members	174,200		$89,200	89,200	89,200	−85,000	+89,200		
Compensation and Mileage for the Members									
Compensation of Members	21,281,320	21,543,800	21,543,800	21,543,800	21,543,800	+262,480			
Mileage of Members	210,000	210,000	210,000	210,000	210,000				
Total, compensation and mileage	21,491,320	21,753,800	21,753,800	21,753,800	21,753,800	+262,480			

CONFERENCE SUMMARY—LEGISLATIVE BRANCH APPROPRIATIONS BILL, 1977 (H.R. 14238)—Continued

Agency and item (1)	1976 comparable appropriation (2)	1977 budget estimate (3)	House allowance (4)	Senate allowance (5)	Conference agreement (6)	Increase (+) or decrease (−), Conference Committee compared with— 1976 comparable appropriation (7)	Budget estimate (8)	House allowance (9)	Senate allowance (10)
TITLE II—HOUSE OF REPRESENTATIVES—Con.									
House Leadership Offices									
Office of the Speaker	$455,095	$460,500	$460,500	$460,500	$460,500	+$5,405			
Office of the Majority Floor Leader	287,325	292,700	292,700	292,700	292,700	+5,375			
Office of the Minority Floor Leader	287,325	292,700	292,700	292,700	292,700	+5,375			
Office of the Majority Whip	258,195	261,300	261,300	261,300	261,300	+3,105			
Office of the Minority Whip	258,195	261,300	261,300	261,300	261,300	+3,105			
Total, House Leadership Offices	1,546,135	1,568,500	1,568,500	1,568,500	1,568,500	+22,365			
Salaries, Officers and Employees									
Office of the Clerk	4,346,245	4,672,000	4,672,000	4,672,000	4,672,000	+325,755			
Office of the Sergeant at Arms	8,557,145	8,456,000	8,456,000	8,456,000	8,456,000	—101,145			
Office of the Doorkeeper	3,330,860	3,537,400	3,537,400	3,537,400	3,537,400	+206,540			
Office of the Postmaster	1,095,195	1,073,000	1,073,000	1,073,000	1,073,000	—22,195			
Office of the Chaplain	19,770	19,800	19,800	19,800	19,800	+30			
Office of the Parliamentarian	220,000	228,000	228,000	228,000	228,000	+8,000			
Compilation of precedents of the House of Representatives	243,815	255,000	255,000	255,000	225,000	+11,185			
Official reporters of debates	484,805	488,000	488,000	488,000	488,000	+3,195			
Official reporters to committees	557,964	560,800	560,800	560,800	560,800	+2,836			
Two printing clerks for majority and minority	29,486	30,000	30,000	30,000	30,000	+514			
Technical assistant, Office of the attending physician	26,500	27,000	27,000	27,000	27,000	+500			
House Democratic Steering Committee	353,490	357,200	357,200	357,200	357,200	+3,710			
House Democratic Caucus	68,475	69,300	69,300	69,300	69,300	+825			
House Republican Conference	421,965	426,500	426,500	426,500	426,500	+4,535			
Six minority employees	224,100	220,100	220,100	220,100	220,100	—4,000			
Total, salaries, officers and employees	19,979,815	20,420,100	20,420,100	20,420,100	20,420,100	+440,285			
Committee Employees									
Professional and clerical employees (standing committees)	20,766,000	21,805,000	21,805,000	21,805,000	21,805,000	+1,039,000			
Committee on Appropriations (Studies and Investigations)									
Salaries and expenses	2,281,500	2,608,000	2,608,000	2,608,000	2,608,000	+326,500			
Committee on the Budget (Studies)									
Salaries and expenses	354,000	329,000	329,000	329,000	329,000	—25,000			
Office of the Law Revision Counsel									
Salaries and expenses	342,800	357,000	357,000	357,000	357,000	+14,200			
Office of the Legislative Counse.									
Salaries and expenses	1,197,300	1,293,000	1,293,000	1,293,000	1,293,000	+95,700			
Members Clerk Hire									
Clerk hire	93,241,000	96,566,000	96,566,000	96,566,000	96,566,000	+3,325,000			
Contingent Expenses of the House									
Allowances and Expenses									
Computer and related services for Members	1,853,000	3,500,000	3,500,000	3,500,000	3,500,000	+1,647,000			
Constituent communication expenses	3,500,000	2,195,000	2,195,000	2,195,000	2,195,000	−1,305,000			
Equipment (purchase, lease, and maintenance)		5,150,000	5,150,000	5,150,000	5,150,000	+5,150,000			
Equipment	2,900,000					−2,900,000			
Equipment maintenance	150,000					−150,000			
District office expenses	878,000	865,000	865,000	865,000	865,000	−13,000			
Postage stamps	525,155	525,900	133,450	133,450	133,450	−391,705	−$392,450		
Rental of district office space (private and Federal)		6,220,000	6,220,000	6,220,000	6,220,000	+6,220,000			
Rental of private office space	2,634,000					−2,634,000			
Federal office space	3,368,000					−3,368,000			
Transportation for Members	2,135,000	2,350,000	2,350,000	2,350,000	2,350,000	+215,000			
Transportation for staff	823,000	900,000	900,000	900,000	900,000	+77,000			
Telegraph and telephone	6,500,000	9,383,000	9,383,000	9,383,000	9,383,000	+2,883,000			
District telephone expense	2,366,200					−2,366,200			
Supplies and materials	1,507,000	1,512,000	1,512,000	1,512,000	1,512,000	+5,000			
Furniture and furnishings	1,123,000	1,500,000	1,500,000	1,500,000	1,500,000	+377,000			
Reporting hearings	1,175,000	1,525,000	1,525,000	1,525,000	1,525,000	+350,000			
Salaries authorized by House resolutions	1,600,000	1,680,000	1,680,000	1,680,000	1,680,000	+80,000			
Government contributions	8,640,000	10,141,300	10,141,300	10,141,300	10,141,300	+1,501,300			
Miscellaneous items	1,075,560	1,082,700	1,082,700	1,082,700	1,082,700	+7,140			
Total, allowances and expenses	42,752,915	48,529,900	48,137,450	48,137,450	48,137,450	+5,384,535	−392,450		
Stationery (Revolving Fund)									
Allowances	2,853,500	2,853,500	2,853,500	2,853,500	2,853,500				
Special and Select Committees									
Salaries and expenses	22,001,000	23,993,000	23,993,000	23,993,000	23,993,000	+1,992,000			
Total, contingent expenses of the House	67,607,415	75,376,400	74,983,950	74,983,950	74,983,950	+7,376,535	−392,450		
Total, House of Representatfves	228,981,485	242,076,800	241,773,550	241,773,550	241,773,550	+12,792,065	−303,250		

CONFERENCE SUMMARY—LEGISLATIVE BRANCH APPROPRIATIONS BILL 1977 (H.R. 14238)—Continued

						Increase (+) or decrease (−), Conference Committee compared with—			
Agency and item (1)	1976 comparable appropriation (2)	1977 budget estimate (3)	House allowance (4)	Senate allowance (5)	Conference agreement (6)	1976 comparable appropriation (7)	Budget estimate (8)	House allowance (9)	Senate allowance (10)
TITLE III—JOINT ITEMS									
Contingent Expenses of the Senate									
Joint Economic Committee	$1, 207, 215	$1, 423, 475	$1, 423, 475	$1, 423, 475	$1, 423, 475	+$216, 260			
Joint Committee on Atomic Energy	632, 000	663, 600	663, 600	663, 600	663, 000	+31, 600			
Joint Committee on Printing	764, 740	478, 325	478, 325	478, 325	478, 325	−286, 415			
Joint Committee on Inaugural Ceremonies of 1977	825, 000					−825, 000			
American Indian Policy Review Commission	1, 885, 168	263, 000	263, 000	263, 000	263, 000	−1, 622, 168			
Total, contingent expenses of the Senate	5, 314, 123	2, 828, 400	2, 828, 400	2, 828, 400	2, 828, 400	−2, 485, 723			
Contingent Expenses of the House									
Joint Committee on Internal Revenue Taxation	1, 444, 180	1, 636, 000	1, 636, 000	1, 636, 000	1, 636, 000	+191, 820			
Joint Committee on Defense Production	166, 065	241, 000	168, 000	168, 000	168, 000	+1, 935	−$73, 000		
Joint Committee on Congressional Operations (including Office of Placement and Office Management)	654, 500	661, 500	661, 500	661, 500	661, 500	+7, 000			
Total, contingent expenses of the House	2, 264, 745	2, 538, 500	2, 465, 500	2, 465, 500	2, 465, 500	+200, 755	−73, 000		
Office of the Attending Physician									
Medical supplies, equipment, expenses, and allowances	288, 485	387, 800	387, 800	387, 800	387, 800	+99, 315			
Capitol Police									
General expenses	564, 820	702, 000	702, 000	702, 000	702, 000	+137, 180			
Capitol Police Board	1, 400, 345	1, 618, 860	1, 400, 400	1, 618, 860	1, 618, 860	+281, 515		+$218, 460	
Total, Capitol Police	1, 965, 165	2, 320, 860	2, 102, 400	2, 320, 860	2, 320, 860	+355, 695		+218, 460	
Education of Pages									
Education of congressional pages and pages of the Supreme Court	186, 615	178, 600	178, 600	180, 200	180, 200	−6, 415	+1, 600	+1, 600	
Official Mail Costs									
Expenses	62, 181, 000	46, 904, 000	46, 904, 000	46, 904, 000	46, 904, 000	−15, 277, 000			
Capitol Guide Service									
Salaries and expenses	422, 500	389, 100	389, 100	389, 100	389, 100	−33, 400			
Statements of Appropriations									
Preparation	13, 000	13, 000	13, 000	13, 000	13, 000				
Total, Joint Items	72, 635, 633	55, 560, 260	55, 268, 800	55, 488, 860	55, 488, 860	−17, 146, 773	−71, 400	+220, 060	
TITLE IV—OFFICE OF TECHNOLOGY ASSESSMENT									
Salaries and expenses	6, 143, 000	8, 500, 000	6, 624, 000	8, 000, 000	6, 624, 000	+481, 000	−1, 876, 000		−$1, 376, 000
Reappropriations	435, 000					−435, 000			
Total, Office of Technology Assessment: New Budget (Obligational) Authority	6, 578, 000	8, 500, 000	6, 624, 000	8, 000, 000	6, 624, 000	+46, 000	−1, 876, 000		−1, 376, 000
Appropriations	(6, 143, 000)	(8, 500, 000)	(6, 624, 000)	(8, 000, 000)	(6, 624, 000)	(+481, 000)	(1, 866, 000−)		(−1, 376, 000)
Reappropriations	(435, 000)					(−435, 000)			
TITLE V—CONGRESSIONAL BUDGET OFFICE									
Salaries and expenses	4, 868, 440	10, 159, 000	9, 319, 200	9, 319, 200	9, 319, 200	+4, 450, 760	−839, 800		
TITLE VI—ARCHITECT OF THE CAPITOL									
Office of the Architect of the Capitol									
Salaries	1, 629, 100	1, 783, 500	1, 770, 100	1, 770, 100	1, 770, 100	+141, 000	−13, 400		
Contingent expenses	321, 000	120, 000	120, 000	120, 000	120, 000	−201, 000			
Reappropriations	100, 000					−100, 000			
Total, contingent expenses	421, 000	120, 000	120, 000	120, 000	120, 000	−301, 000			
Total, Office of the Architect of the Capitol	2, 050, 100	1, 903, 500	1, 890, 100	1, 890, 100	1, 890, 100	−160, 000	−13, 400		
Capitol Buildings and Grounds									
Capitol buildings	4, 696, 300	5, 906, 000	5, 725, 900	5, 853, 900	5, 853, 900	+1, 157, 600	−52, 100	+128, 000	
Reappropriations	956, 500	208, 500	162, 500	208, 500	208, 500	−748, 000		+46, 000	
Total, Capitol buildings	5, 652, 800	6, 114, 500	5, 888, 400	6, 062, 400	6, 062, 400	+409, 600	−52, 100	+174, 000	
Restoration of West Central Front of Capitol				25, 000, 000					−25, 000, 000
Capitol grounds	1, 843, 700	3, 232, 800	1, 832, 800	1, 832, 800	1, 832, 800	−10, 800	−1, 400, 000		
Reappropriations		94, 500	94, 500	94, 500	94, 500	+94, 500			
Total, Capitol grounds	1, 843, 700	3, 327, 300	1, 927, 300	1, 927, 300	1, 927, 300	+83, 600	−1, 400, 000		
Master plan for future development of the Capitol grounds and related areas	350, 000					−350, 000			
Senate office buildings	9, 018, 000	13, 465, 900		10, 408, 000	10, 408, 000	+1, 390, 000	−3, 057, 900	+10, 408, 000	
Reappropriation	225, 000	120, 000		120, 000	120, 000	−105, 000		+120, 000	
Total, Senate office buildings	9, 243, 000	13, 585, 900		10, 528, 000	10, 528, 000	+1, 285, 000	−3, 057, 900	+10, 528, 000	
Acquisition of Property in Square 630 in the District of Columbia		35, 500, 000					−35, 500, 000		
Senate garage	134, 300	139, 500		139, 500	139, 500	+5, 200		+139, 500	
House office buildings	10, 252, 700	14, 448, 000	14, 448, 000	14, 448, 000	14, 448, 000	+4, 195, 300			
Capitol Power Plant (operation)	9, 088, 000	11, 672, 000	11, 172, 000	11, 172, 000	11, 172, 000	+2, 084, 000	−500, 000		
Modifications and enlargement, Capitol Power Plant		12, 000, 000		12, 000, 000	12, 000, 000	+12, 000, 000		+12, 000, 000	
Total, Capitol buildings and grounds	36, 564, 500	96, 787, 200	33, 435, 700	81, 277, 200	56, 277, 200	+19, 712, 700	−40, 510, 000	+22, 841, 500	−25, 000, 000

CONFERENCE SUMMARY—LEGISLATIVE BRANCH APPROPRIATIONS BILL, 1977 (H.R. 14238)—Continued

						Increase (+) or decrease (−), Conference Committee compared with—			
Agency and item (1)	1976 comparable appropriation (2)	1977 budget estimate (3)	House allowance (4)	Senate allowance (5)	Conference agreement (6)	1976 comparable appropriation (7)	Budget estimate (8)	House allowance (9)	Senate allowance (10)
TITLE VI—ARCHITECT OF THE CAPITOL—Con.									
Alterations and Improvements, Buildings and Grounds, to Provide Facilities for the Physically Handicapped									
Alterations and improvements	2, 700, 000					−2, 700, 000			
Library Buildings and Grounds									
Structural and mechanical care	$2, 103, 000	$2, 863, 000	$2, 241, 200	$2, 241, 200	$2, 241, 200	+$138, 200	−$621, 800		
Reappropriations	70, 000	71, 000	71, 000	71, 000	71, 000	+1, 000			
Total, structural and mechanical care	2, 173, 000	2, 934, 000	2, 312, 200	2, 312, 200	2, 312, 200	+139, 200	−621, 000		
Library of Congress James Madison Memorial Building	33, 000, 000					−33, 000, 000			
Total, Library buildings and grounds	35, 173, 000	2, 934, 000	2, 312, 200	2, 312, 200	2, 312, 200	−32, 860, 800	−621, 800		
Total, Architect of the Capitol: New budget (obligational) authority	76, 487, 600	101, 624, 700	37, 638, 000	85, 479, 500	60, 479, 500	−16, 108, 100	−41, 145, 200	−$22, 841, 500	−$25, 000, 000
Appropriations	(72, 136, 100)	(101, 130, 700)	(37, 310, 000)	(84, 985, 500)	(59, 985, 500)	(−15, 150, 600)	(−41, 145, 200)	(+22, 675, 500)	(−25, 000, 000)
Reappropriations	(1, 351, 500)	(494, 000)	(328, 000)	(494, 000)	(494, 000)	(−857, 590)		(−166, 000)	
TITLE VII—BOTANIC GARDEN									
Salaries and expenses	1, 252, 500	1, 164, 900	1, 164, 900	1, 164, 900	1, 164, 900	−87, 600			
TITLE VIII—LIBRARY OF CONGRESS									
Salaries and expenses	59, 119, 800	68, 664, 000	66, 589, 400	67, 591, 000	66, 978, 000	+7, 858, 200	−1, 686, 000	+388, 600	−613, 000
Copyright Office, salaries and expenses	6, 977, 500	10, 426, 000	8, 277, 300	9, 408, 300	9, 408, 300	+2, 430, 800	−1, 017, 700	+1, 131, 000	
National Commission on New Technological Uses of Copyrighted Works, salaries and expenses	337, 000	564, 000	559, 500	559, 500	559, 500	+222, 500	−4, 500		
Congressional Research Service, salaries and expenses	17, 165, 000	20, 329, 000	19, 293, 200	19, 900, 000	19, 293, 200	+2, 128, 200	−1, 035, 800		
Distribution of catalog cards, salaries and expenses	11, 529, 000	12, 263, 000	11, 993, 000	11, 993, 000	11, 993, 000	+464, 000	−270, 000		−606, 800
Books for the general collections	1, 695, 000	1, 760, 000	1, 760, 000	1, 760, 000	1, 760, 000	+65, 000			
Books for the law library	251, 000	286, 000	286, 000	286, 000	286, 000	+35, 000			
Books for the blind and physically handicapped, salaries and expenses	15, 905, 000	22, 637, 000	20, 800, 800	21, 729, 000	21, 729, 000	+5, 824, 000	−908, 000	+928, 200	
Collection and distribution of library materials (special foreign currency program):									
Payments in Treasury-owned foreign currencies	1, 718, 500	2, 680, 200	2, 680, 200	2, 680, 200	2, 680, 200	+961, 700			
U.S. dollars	295, 600	230, 000	230, 000	230, 000	230, 000	−65, 600			
Total, Collection and distribution of library materials	2, 014, 100	2, 910, 200	2, 910, 200	2, 910, 200	2, 190, 200	+896, 000			
Furniture and furnishings	4, 078, 000	3, 108, 000	2, 909, 700	3, 087, 000	2, 942, 000	−1, 136, 000	−166, 000	+32, 300	−145, 000
Reappropriations	20, 000					−20, 000			
Total, Furniture and furnishings	4, 098, 000	3, 108, 000	2, 909, 700	3, 087, 000	2, 942, 000	−1, 156, 000	−166, 000	+32, 300	−145, 000
Revision of Annotated Constitution, salaries and expenses	34, 000	36, 000	36, 000	36, 000	36, 000	+2, 000			
Total, Library of Congress: New budget (obligational) authority	119, 125, 400	142, 893, 200	135, 415, 100	139, 260, 000	137, 895, 200	+18, 769, 800	−5, 086, 000	+2, 480, 100	−1, 364, 800
Appropriations	(119, 105, 400)	(142, 983, 200)	(135, 415, 100)	(139, 260, 000)	(137, 895, 200)	(+18, 789, 800)	=−5, 088, 000)	(+2, 480, 100)	(−1, 364, 800)
Reappropriations	(20, 000)					(−20, 000)			
TITLE IX—COPYRIGHT ROYALTY COMMISSION									
Salaries and expenses				268, 000	268, 000	+268, 000	+268, 000	+268, 000	
TITLE X—GOVERNMENT PRINTING OFFICE									
Printing and binding	109, 294, 000	93, 639, 000	93, 639, 000	93, 639, 000	93, 639, 000	−15, 655, 000			
Office of Superintendent of Documents, salaries and expenses	44, 364, 700	47, 476, 000	47, 188, 400	47, 188, 400	47, 188, 400	+2, 823, 700	−287, 600		
Project planning	210, 000					−210, 000			
Total, Government Printing Office	153, 868, 700	141, 115, 000	140, 827, 400	140, 827, 400	140, 827, 400	−13, 041, 300	−287, 600		
TITLE XI—GENERAL ACCOUNTING OFFICE									
Salaries and expenses	141, 541, 000	151, 418, 000	150, 580, 000	150, 580, 000	150, 580, 000	+9, 039, 000	−838, 000		
TITLE XII—COST-ACCOUNTING STANDARDS BOARD									
Salaries and expenses	1, 635, 000	1, 700, 000	1, 700, 000	1, 700, 000	1, 700, 000	+65, 000			
SUMMARY									
Grand total, New Budget (Obligational) Authority	933, 048, 403	992, 290, 765	780, 310, 950	971, 141, 285	943, 400, 485	+10, 352, 082	−48, 890, 280	+163, 089, 535	−27, 740, 800
Consisting of—									
1. Appropriations	(931, 241, 903)	(991, 796, 765)	(779, 892, 950)	(970, 647, 285)	(942, 906, 485)	(+11, 664, 582)	(−48, 890, 280)	+162,923,535)	(−27, 740, 800)
2. Reappropriations	(1, 806, 500)	(494, 000)	(328, 000)	(494, 000)	(494, 000)	(−1, 312, 500)		(+166, 000)	

CONFERENCE SUMMARY—LEGISLATIVE BRANCH APPROPRIATIONS BILL, 1977 (H.R. 14238)—Continued

Agency and item (1)	1976 comparable appropriation (2)	1977 budget estimate (3)	House allowance (4)	Senate allowance (5)	Conference agreement (6)	Increase (+) or decrease (−), Conference Committee compared with— 1976 comparable appropriation (7)	Budget estimate (8)	House allowance (9)	Senate allowance (10)
RECAP									
Title I—Senate	$126,074,645	$135,988,905		$137,279,875	$137,279,875	+$11,205,230	+$1,290,970	+$137,279,875	
Title II—House of Representatives	228,981,485	242,076,800	$241,773,550	241,773,550	241,773,550	+12,792,065	−303,250		
Title III—Joint Items	72,635,633	55,560,260	55,268,800	55,488,860	55,488,860	−17,146,773	−71,400	+220,060	
Title IV—Office of Technology Assessment	6,578,000	8,500,000	6,624,000	8,000,000	6,624,000	+46,000	−1,876,000		−$1,376,000
Title V—Congressional Budget Office	4,868,440	10,159,000	9,319,200	9,319,200	9,319,200	+4,450,760	−839,800		
Title VI—Architect of the Capitol	76,487,600	101,624,700	37,638,000	85,479,500	60,479,500	−16,008,100	−41,145,200	+22,841,500	−25,000,000
Title VII—Botanic Garden	1,252,500	1,164,900	1,164,900	1,164,900	1,164,900	−87,600			
Title VIII—Library of Congress	119,125,400	142,983,200	135,415,100	139,260,000	137,895,200	+18,769,800	−5,088,000	+2,480,100	−1,364,800
Title IX—Copyright Royalty Commission				268,000	268,000	+268,000	+268,000	+268,000	
Title X—Government Printing Office	153,868,700	141,115,000	140,827,400	140,827,400	140,827,400	−13,041,300	−287,600		
Title XI—General Accounting Office	141,541,000	151,418,000	150,580,000	150,580,000	150,580,000	+9,039,000	+838,000		
Title XII—Cost-Accounting Standards Board	1,635,000	1,700,000	1,700,000	1,700,000	1,700,000	+65,000			
Grand total, New Budget (Obligational) Authority	933,048,403	992,290,765	780,310,950	971,141,285	943,400,485	+10,352,082	−48,890,280	+163,089,535	−27,740,800

ORDER OF BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, shortly I will move to adjourn the Senate until 9:30 a.m. tomorrow. If that motion carries, the vote on the motion to adopt cloture will occur at about 10:45 a.m. tomorrow, give or take a little bit. But it is possible that rollcall votes could occur prior to that cloture vote tomorrow.

Also tomorrow at 12:15 p.m. the Senate will recess to go as a body to the hall of the House of Representatives to attend a joint meeting for the purpose of hearing an address by the Honorable William Tolbert, Jr., President of Liberia.

On the completion of that joint meeting, the Senate will resume its work.

Mr. President, I yield to the Senator from West Virginia (Mr. RANDOLPH) for not to exceed 30 seconds with the understanding that I do not lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION TO FILE CONFERENCE REPORT ON S. 2228 BY MIDNIGHT TONIGHT

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the committee of conference on the disagreeing votes of the Senate and House on Senate 2228, a bill to extend the Public Works and Economic Development Act, have until midnight to file the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETINGS

COMMITTEE ON ARMED SERVICES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on September 23 to consider military nominations and certain legislative items.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENT AND LAND RESOURCES, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Environment and Land Resources of the Committee on Interior and Insular Affairs be authorized to meet on September 28 to finalize a report on the subcommittee's investigation of the Forest Service's performance in the preparation of the plan for the East River Unit of the Gunnison River National Forest in Colorado.

The PRESIDING OFFICER. Without objection, it is so ordered.

REQUEST FOR CERTAIN MEASURES TO BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the following measures be held at the desk pending further disposition: H.R. 9444——

Mr. ALLEN. I object.

Mr. ROBERT C. BYRD. H.R. 11303.

Mr. ALLEN. I object to each one separately and severally.

Mr. ROBERT C. BYRD. Let me state all of them. H.R. 12927.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard to the first three.

Mr. ROBERT C. BYRD. H.R. 13374.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. H.R. 14041.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. H.R. 14503.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. H.R. 14956.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. H.R. 14977.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. H.R. 15026.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. H.R. 15136.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. H.R. 15445.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. H.R. 15546.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. H.R. 15552.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. House Joint Resolution 915.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

The Senate continued with the consideration of the bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Alabama (Mr. ALLEN) for the purpose of laying down an amendment to the pending bill making it the pending question, with the understanding that I yield no longer than 30 seconds and for that purpose only and without losing my right to the floor.

AMENDMENT NO. 2371

Mr. ALLEN. Mr. President, I call up my amendment to the Kennedy amendment and ask that it be stated.

The PRESIDING OFFICER (Mr. BURDICK). The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Alabama (Mr. ALLEN) for himself and Mr. HELMS, proposes an amendment No. 2371.
>
> Strike lines 1 and 2 and substitute the following:
>
> "That this act may be cited as the Tunney-Kennedy-Abourezk Civil Rights Attorneys' Fees Awards Act of 1976."

Mr. ROBERT C. BYRD. Mr. President, does any other Senator wish me to yield?

ADJOURNMENT TO 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in adjournment until the hour of 9:30 tomorrow morning, and ask for a vote.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to; and at 6:11 p.m., the Senate adjourned until tomorrow, Thursday, September 23, 1976, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 22, 1976:

IN THE AIR FORCE

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Leroy J. Manor, [redacted] FR (major general, Regular Air Force), U.S. Air Force.

The following officers for appointment in the Regular Air Force, in the grade indicated, under the provisions of section 8284, title 10, United States Code, with date of rank to be determined by the Secretary of the Air Force:

To be first lieutenant

Accamando, Thomas J., [redacted].
Acheson, Margo L., Jr., [redacted].
Adams, Terry R., [redacted].
Adkins, Bruce M., [redacted].
Akerlind, Nils, Jr., [redacted].
Alexander, Ralph, Jr., [redacted].
Alford, Laura C., [redacted].
Allen, Andrew R., [redacted].
Allen, David P., [redacted].
Allen, James, M., [redacted].
Allen, Richard K., [redacted].
Allen, Scott C., [redacted].
Anawalt, Donald A., [redacted].
Anderson, Lamarr L., [redacted].
Anderson, Larry O., [redacted].
Anderson, Wayne J., [redacted].
Angell, Stewart K., [redacted].
Anzelon, George A., [redacted].
Apuzzo, Paul J., [redacted].
Armstrong, Randall J., [redacted].
Artman, David H., Jr., [redacted].
Aubele, James F., [redacted].
Austell, David L., [redacted].
Austin, Dennis L., [redacted].
Aven, William M., [redacted].
Avery, Stephen L., [redacted].
Aycock, Jeffrey P., [redacted].
Badger, Arthur D., [redacted].
Bagley, Joseph, [redacted].
Bagnal, Walter I., [redacted].
Baie, Richard J., [redacted].
Baird, William P., [redacted].
Baker, Allen W., [redacted].
Baker, Keith C., [redacted].
Ballard, Ernest J., III, [redacted].
Barnes, Brent J., [redacted].
Bathurst, Mark A., [redacted].
Behrends, Kenneth J., [redacted].
Belanger, Allen D., [redacted].
Belle, Donald G., [redacted].
Bennett, Charles I., III, [redacted].
Bennett, Judith S., [redacted].
Bennett, Michael G., [redacted].
Bentley, George D., III, [redacted].
Berinato, Anthony J., III, [redacted].
Bernards, Herman J., [redacted].
Berry, James R., [redacted].
Bianca, Frank P., [redacted].
Bielick, Michael J., [redacted].
Bierck, William J., Jr., [redacted].
Biggs, Charles R., [redacted].
Bigum, Randall K., [redacted].
Bishop, John R., [redacted].
Bishop, Stephen E., [redacted].
Black, Arthur N., [redacted].
Black, Roie R., [redacted].
Blaine, Casey L., [redacted].
Blaylock, Larry D., [redacted].
Blazek, Thomas J., [redacted].
Blohm, Raymond W., III, [redacted].
Bloomer, Raymond H., Jr., [redacted].
Blosser, William E., [redacted].
Boden, Daryl G., [redacted].
Bolliger, Donn A., [redacted].
Boot, Robert L., [redacted].
Bose, Gregory A., [redacted].
Bostick, John R., [redacted].
Boudreaux, John L., Jr., [redacted].
Boyd, Thomas J., [redacted].
Brady, Glen L., [redacted].
Brady, William A., Jr., [redacted].
Brady, William D., Jr., [redacted].
Brandes, Douglas A., [redacted].
Breerwood, David J., [redacted].
Broadhurst, David A., [redacted].
Brown, Edward J., [redacted].
Brown, Gregg L., [redacted].
Brown, Larry N., [redacted].
Brown, Lyndell R., [redacted].
Brown, Mark N., [redacted].
Brown, Ronald D., [redacted].
Brown, Stephen V., [redacted].
Brucia, James P., [redacted].
Brylski, Raymond J., [redacted].
Buckley, Linda R., [redacted].
Buelow, Larry D., [redacted].
Bull, Douglas R., [redacted].
Bullington, Thomas E., [redacted].
Bundy, Gary J., [redacted].
Burand, Donald J., [redacted].
Burge, Legand L., Jr., [redacted].
Burgess, George D., [redacted].
Burke, William D., [redacted].
Burns, William D., [redacted].
Burrescia, James A., [redacted].
Bushey, Robert R., [redacted].
Button, Michael A., [redacted].
Byrd, Albert D., [redacted].
Byrd, Larry E., [redacted].
Byrd, Thomas E., [redacted].
Byrom, William H., III, [redacted].
Cadwalader, John A., [redacted].
Callahan, Timothy P., [redacted].
Callens, Jerry D., [redacted].
Cameron, Spence M., [redacted].
Campbell, Bruce L., [redacted].
Campbell, Carol E., [redacted].
Canion, Michael D., [redacted].
Cardinal, Michael R., [redacted].
Carl, Thomas R., [redacted].
Carpenter, Charles L., [redacted].
Carter, Charles C., [redacted].
Casteel, Burto A., Jr., [redacted].
Caviness, Richard B., [redacted].
Cecil, Thomas H., [redacted].
Centers, Judith I., [redacted].
Cerveny, Thelma J., [redacted].
Chaisson, Kernan N., [redacted].
Chalfant, Zane C., [redacted].
Chown, Douglas W., [redacted].
Christian, James N., [redacted].
Churchill, Edward J., [redacted].
Clay, Harold M., [redacted].
Clayton, William R., [redacted].
Clements, Michael R., [redacted].
Clouse, Gale E., Jr., [redacted].
Coldiron, Clark K., [redacted].
Cole, Donald M., [redacted].
Cole, Julian D., Jr., [redacted].
Coleman, Michael C., [redacted].
Collins, James M., Jr., [redacted].
Collins, Kevin A., [redacted].
Collons, Fester, [redacted].
Conell, Lonnie R., [redacted].
Cook, James K., [redacted].
Cook, Richard H., [redacted].
Cooper, William J., [redacted].
Corlette, Tom N., III, [redacted].
Cousins, Bernard A., [redacted].
Coutinho, Alan D., [redacted].
Covert, John W., Jr., [redacted].
Cowell, Robert A., [redacted].
Cramsie, William P., [redacted].
Crandall, Dale L., [redacted].
Crapster, Norman N., [redacted].
Creek, Howard E., [redacted].
Croft, John S., [redacted].
Crow, Samuel A., II, [redacted].
Cruce, Alan B., [redacted].
Crum, Timothy D., [redacted].
Crusoe, Robert W., [redacted].
Cunningham, Robert F., [redacted].
Cupp, Charles W., [redacted].
Currer, Paul M., [redacted].
Curry, Floyd, Jr., [redacted].
Dade, Lucian A., III, [redacted].
Dailey, James F., [redacted].
Damman, Lawrence M., [redacted].
Daniels, Tony G., [redacted].
Danne, William A., [redacted].
Darnell, Don R., [redacted].
Daup, James E., [redacted].
Davis, Charles R., [redacted].
Davis, Clair S., [redacted].
Davis, James D., [redacted].
Davis, Judith E., [redacted].
Davis, Larry P., [redacted].
Dawson, Hal R., [redacted].
Day, Benjamin H., [redacted].
Dean, Gregory A., [redacted].
Dean, Gregory L., [redacted].
Dean, Gregory O., [redacted].
Deangelo, Nieson D., [redacted].
Dedrick, Craig R., [redacted].
Degnan, James H., Jr., [redacted].
Delarosa, Rafael G., Jr., [redacted].
Dement, John D., [redacted].
Dilworth, John W., [redacted].
Dineen, Richard T., [redacted].
Dinwoodie, William J., [redacted].
Doi, Alan J., [redacted].
Dolphin, Dennis E., [redacted].
Donahue, Mary E., [redacted].
Dorre, Richard L., [redacted].
Dorsey, Donovan E., [redacted].
Doss, Robert K., [redacted].
Doubt, Richard M., [redacted].
Doucet, Stephen P., [redacted].
Drake, William J., [redacted].
Dreher, Robert R., [redacted].
Drogan, Raymond A., [redacted].
Dugan, Owen L., [redacted].
Duggan, Stephen J., [redacted].
Duke, Gary L., [redacted].
Dunipace, Thomas M., [redacted].
Duringer, Michael S., [redacted].
Duryea, Robert A., [redacted].
Eaton, William W., [redacted].
Edgar, Allen R., [redacted].
Edge, Sandy, [redacted].
Ege, Ronald R., [redacted].
Elbow, Valerie A., [redacted].
Elmer, Jerry B., [redacted].
Emmelhainz, Larry W., [redacted].
Endter, David B., [redacted].
Eng, William F., [redacted].
Engle, James B., [redacted].
Eskesen, Gregory J. S., [redacted].
Eslinger, Carl R., [redacted].
Evans, Michael R., [redacted].
Everett, Raymond E., [redacted].
Farrar, Stephen J., [redacted].
Farrell, Dennis W., [redacted].
Fazzari, Joseph F., [redacted].
Feldman, Richard A., [redacted].
Femia, Vincent F., [redacted].
Ferlin, Douglas E., [redacted].
Fetner, Edward H., III, [redacted].
Few, Gary B., [redacted].
Fiertner, Alfred J., [redacted].
Filzen, Ted W., [redacted].
Fish, Eugene F., [redacted].
Fitzgerald, David J., [redacted].
Flannery, Patricia A., [redacted].
Fletcher, Paul J., [redacted].
Foht, Dennis R., [redacted].
Foltz, Stanley J., [redacted].
Fossum, Chester G., Jr., [redacted].
Foster, Ernest L., [redacted].
Foster, Stewart J., [redacted].
Fotheringham, Jack H., [redacted].
Fountain, Randall M., [redacted].
Fowler, Ellis W., Jr., [redacted].
Fox, Dolores, [redacted].
Frakes, Timothy A., [redacted].
Franke, Fred A., Jr., [redacted].
Freeman, Luther M., [redacted].
Freitag, Alan R., [redacted].
French, Charles W., [redacted].
Gadzik, Joseph G., [redacted].
Gaither, Rodney D., [redacted].

Gamm, Richard T., [redacted].
Gander, William F., Jr., [redacted].
Gay, John C., [redacted].
Gehrmann, Paul R., [redacted].
Geltz, Robert C., [redacted].
Gerst, Ronald A., [redacted].
Giblin, Michael S., [redacted].
Gift, William J., Jr., [redacted].
Gilbert, Dale W., [redacted].
Gildea, James C., [redacted].
Gillman, David C., [redacted].
Gilmer, Thomas J., [redacted].
Gilpin, Eugene C., Jr., [redacted].
Gladney, Jerome, [redacted].
Glaze, Harry L., [redacted].
Godwin, Rex A., [redacted].
Golightly, George A., [redacted].
Goodman, Frederick H., [redacted].
Goodwin, Ray E., [redacted].
Gordon, Grant D. III, [redacted].
Gordon, Steven C., [redacted].
Gottschalk, Richard L., [redacted].
Grace, Donald R., [redacted].
Graham, Winfred N., [redacted].
Graves, Wayne P., [redacted].
Graw, Joseph P., Jr., [redacted].
Gray, George L., [redacted].
Gray, Stephen S., [redacted].
Green, Charles L., [redacted].
Greene, Charlotte, [redacted].
Greene, Franklyn N., Jr., [redacted].
Greene, Warren M., [redacted].
Greenlee, James R., [redacted].
Greer, Darrel R., [redacted].
Groeninger, Edward J., [redacted].
Guadalupe, Rolando, [redacted].
Gudewicz, John G., [redacted].
Hailey, Travis T., Jr., [redacted].
Haley, Charles A., [redacted].
Hall, Curtis D., [redacted].
Hall, Frederick S., [redacted].
Hall, Gerald A., [redacted].
Hall, Steven D., [redacted].
Hall, Terry L., [redacted].
Hann, Kenney W., [redacted].
Hankins, David R., [redacted].
Hanusa, Joel D., [redacted].
Hardeman, Lee F., [redacted].
Hardin, Stephen D., [redacted].
Harding, John S., [redacted].
Harlamert, Mer W., Jr., [redacted].
Harlow, Richard L., [redacted].
Harris, John F., Jr., [redacted].
Harrold, Billy J., [redacted].
Hartenstine, Arthur D., [redacted].
Hartikka, Dale M., [redacted].
Hartman, John S., [redacted].
Hartman, Richard L., [redacted].
Harvey, Richard L., [redacted].
Hasman, Gary F., [redacted].
Hatcher, Robert B., Jr., [redacted].
Hawk, Richard D., [redacted].
Hayden, Thomas J., [redacted].
Healy, Kirk A., [redacted].
Heckman, Gary W., [redacted].
Hedgpeth, Harding B., [redacted].
Hedrick, Robert L., [redacted].
Hegland, James R., [redacted].
Hegler, Gary L., [redacted].
Hei, Ronald R., [redacted].
Heinemeyer, Michael L., [redacted].
Hellmann, Richard L., Jr., [redacted].
Helmich, Larry E., [redacted].
Helms, William L., III, [redacted].
Hemphill, William L., [redacted].
Henderson, Joseph W., [redacted].
Henderson, Marvin J., [redacted].
Hendrickson, Warren B., [redacted].
Herbel, Charles A., [redacted].
Hill, Andrew O., III, [redacted].
Hill, James E., [redacted].
Hill, Michael D., [redacted].
Hinote, Robert C., [redacted].
Hodges, Ray P., Jr., [redacted].
Hoey, Richard C., [redacted].
Hoffer, Temple P., Jr., [redacted].
Hogan, Allan R., [redacted].
Hogue, Linn E., [redacted].
Holtzscheiter, Earl W., Jr., [redacted].
Holzhauser, James L., [redacted].
Honnett, Randy E., [redacted].
Hood, Barry L., [redacted].
Hopkins, Arthur T., Jr., [redacted].
Hoppenrath, Michael H., [redacted].
Horn, John F., [redacted].
Horne, Shelia M., [redacted].
Horner, James P., [redacted].
Hough, John C., Jr., [redacted].
Howard, Arnold W., [redacted].
Howard, William H. III, [redacted].
Howson, Richard G., [redacted].
Huffine, Michael E., [redacted].
Huggins, George T., [redacted].
Hughes, Douglas C., [redacted].
Hughes, Glen S., [redacted].
Hunter, Richard L., [redacted].
Hutchinson, Jeffrey K., [redacted].
Ingbretsen, Roger M., [redacted].
Jackson, Terry V., [redacted].
James, Kenneth P., [redacted].
Jaroch, Victor D., [redacted].
Jarvis, Robert H., [redacted].
Jellison, Raymond L., [redacted].
Jensen, Larry L., [redacted].
Jermunson, Deborah L., [redacted].
Johnson, Albert L., [redacted].
Johnson, David L., [redacted].
Johnson, Robert R., Jr., [redacted].
Johnson, Stephen G., [redacted].
Jones, Conell, [redacted].
Jones, Francis S., [redacted].
Jones, Gary L., [redacted].
Jones, Grady R., [redacted].
Jones, Henry A., Jr., [redacted].
Jones, Homer D., [redacted].
Jordan, Kerry D., [redacted].
Joseph, Albert T., [redacted].
Joslyn, Douglas A., Jr., [redacted].
Joyce, Richard W., [redacted].
Jubela, Benjamin W., [redacted].
Kacena, Neil G., [redacted].
Kaiser, Gerald G., [redacted].
Kaplan, Leonard E., [redacted].
Karash, Frank C., Jr., [redacted].
Kearl, Leonard C., Jr., [redacted].
Kearny, Patrick K., [redacted].
Keebler, Kenneth M., [redacted].
Kennedy, Christopher M., [redacted].
Kennedy, Ronald J., [redacted].
Kerekes, Michael A., [redacted].
Keyes, Harry S., [redacted].
Keyes, John W., [redacted].
Kiersnowski, Michael S., [redacted].
Kincaid, Robert J., [redacted].
Kizer, Gary G., [redacted].
Klazynski, George J., [redacted].
Klopovic, James, [redacted].
Knieriemen, Jeffrey N., [redacted].
Knowles, Stephen V., [redacted].
Knutsen, Douglas W., [redacted].
Koch, Alan D., [redacted].
Koch, Elizabeth A., [redacted].
Kohlhepp, Douglas E., [redacted].
Kolstee, Frank G., Jr., [redacted].
Koopmans, Kenneth W., [redacted].
Kou, Manuel, [redacted].
Krause, Randy H., [redacted].
Krebs, John S., [redacted].
Krecklow, Robert L., [redacted].
Krig, Paul K., [redacted].
Krimm, Gail L., [redacted].
Krones, Duane F., [redacted].
Krysiak, Timothy G., [redacted].
Kunz, Del R., [redacted].
Kuse, Wayne C., [redacted].
Kushman, Keith L., [redacted].
Kwader, Stanley J., [redacted].
Labit, Michael L., [redacted].
Lackey, Robert J., [redacted].
Lacombe, Phillip E., [redacted].
Lambert, William L., Jr., [redacted].
Lamphan, Richard L., [redacted].
Lanctot, William D., [redacted].
Lapierre, Joseph W., [redacted].
Last, Daniel P., [redacted].
Latimer, Charles E., [redacted].
Lavery, Michael A., [redacted].
Lay, Theodore W., II, [redacted].
Layman, Arch H., Jr., [redacted].
Lechtenberg, Norman R., [redacted].
Lee, John A., [redacted].
Lee, Michael G., [redacted].
Lee, Robert E., [redacted].
Leland, James S., [redacted].
Lending, Brian C., [redacted].
Leonard, C. L., [redacted].
Lesueur John T., II, [redacted].
Lewis, Ellen K., [redacted].
Litherland, Chris J., [redacted].
Logsdon, James A., [redacted].
Lokey, Luther B., [redacted].
London, George G., Jr., [redacted].
Long, William H., Jr., [redacted].
Lovell, Larry W., [redacted].
Lower, Robert W., [redacted].
Lowmiller, Russell C., [redacted].
Luckenbach, Timothy E., [redacted].
Luebbert, Stephen P., [redacted].
Lundin, Gregory K., [redacted].
Lynch, James M., [redacted].
Lyons, Robert P., Jr., [redacted].
Maddox, Richard M., [redacted].
Magargee, Peter H., [redacted].
Magner, Fredric M., [redacted].
Maguire, Bruce A., [redacted].
Maher, Roger D., [redacted].
Major, Arthur L., [redacted].
Mann, Gary W., [redacted].
Marple, John Floyd, [redacted].
Martin, Albert L., [redacted].
Martin, James M., [redacted].
Masel, Richard T., [redacted].
Masoner, Richard D., [redacted].
Matijega, Roney J., [redacted].
Matthews, William T., [redacted].
Maxwell, Gregg E., [redacted].
McAlister, Daniel C., [redacted].
McCabe, Robert E., [redacted].
McCabe, Susan E., [redacted].
McCarthy, Richard H., [redacted].
McCarthy, Richard M., [redacted].
McCormack, Ford H., [redacted].
McCracken, Portia R., [redacted].
McCully, Mary S., [redacted].
McDaniel, Gregory J., [redacted].
McDonald, James R., [redacted].
McElveen, Walter W., [redacted].
McGrath, Charles E., [redacted].
McKee, George M., [redacted].
McLendon, James W., [redacted].
McMeans, Bobby E., [redacted].
McPhee, Robert S., [redacted].
McWilliams, Michael W., [redacted].
Mechsner, Michael D., [redacted].
Melcher, Leonard T., [redacted].
Mellon, William D., Jr., [redacted].
Melvin, William A., [redacted].
Mertel, Herbert J., [redacted].
Michaelson, Michael L., [redacted].
Milholland, Gary L., [redacted].
Miller, Gary W., [redacted].
Millett, Stephen M., [redacted].
Mills, Alan D., [redacted].
Milne, Ian M., [redacted].
Mims, Paul W., Jr., [redacted].
Mitchell, George D., [redacted].
Moen, Hanferd J., Jr., [redacted].
Moran, Francis M., [redacted].
Morland, Anita L., [redacted].
Morris, Richard L., [redacted].
Morrison, Dennis, [redacted].
Moser Ralph L., [redacted].
Mowrey, Sharon L., [redacted].
Mroczek, Stephen V., [redacted].
Mudge, Wayne I., [redacted].
Muhl, Michael A., [redacted].
Mundy, Albert L., [redacted].
Munk, Michael L., [redacted].
Murrell, Marion J., [redacted].
Musgrave, Paul D., [redacted].
Nafziger, Roger C., [redacted].
Nash, Anthony H., [redacted].
Nawrocki, Paul A., [redacted].
Needham, Paul M., [redacted].
Nelson, Glenn E., [redacted].
Nelson, Norman J., [redacted].
Newland, James K., [redacted].
Newlin, Robert C., [redacted].
Nickell, Janet M., [redacted].
Nicolosi, Roy S., [redacted].
Nixon, Keith A., [redacted].
Noble, Leslie C., [redacted].
Noeller, Mary C., [redacted].

Nolen, Mark J. A., [redacted].
Northington, Larry W., [redacted].
Norton, Robert E., [redacted].
Norwood, Peter W., [redacted].
Nowlan, Kenneth E., Jr., [redacted].
Obringer, John W., [redacted].
O'Connor, Michael P., [redacted].
Odor, David D., Jr., [redacted].
Oldham, Thomas W., [redacted].
Oliverson, Michael G., [redacted].
Olkowski, David J., [redacted].
Olson, Marc G., [redacted].
Olson, Olenius, III, [redacted].
O'Meara, Michael T., [redacted].
O'Rourke, Dennis J., [redacted].
Orton, Bradley, [redacted].
Oslick, James G., [redacted].
Owen, Carolyn T., [redacted].
Oxe, Dale R., [redacted].
Padula, Gregory F., [redacted].
Pagel, Daniel W., [redacted].
Pape, Harry A., [redacted].
Parisot, David A., [redacted].
Parsons, William E., [redacted].
Pascal, Dennis M., [redacted].
Patel, Mahendra K., [redacted].
Patterson, Joseph G., [redacted].
Patton, John W., III, [redacted].
Payne, Bettye J., [redacted].
Perrie, Alfred H., [redacted].
Peterhans, Louis R., Jr. [redacted].
Petersen, James L., [redacted].
Petraszko, Michael S., [redacted].
Pettit, Roger A., [redacted].
Philcox, Kenneth J., [redacted].
Phillips, Gary M., [redacted].
Phipps, Melvin L., [redacted].
Pierdominici, Paul, [redacted].
Pinnel, John R., [redacted].
Poburka, Henry W., Jr., [redacted].
Poland, Ronald P., [redacted].
Pollasch, Edward A., [redacted].
Poole, Gary S., [redacted].
Pope, Thomas J., Jr., [redacted].
Porter, Delewis O., [redacted].
Porter, Tommy W., [redacted].
Potere, Thomas P., [redacted].
Potter, Timothy A., [redacted].
Powell, Gordon K., [redacted].
Price, Betty J., [redacted].
Price, Richard A., [redacted].
Price, Seth L., [redacted].
Price, William R., [redacted].
Pridgen, Johnny C., Jr., [redacted].
Pronk, Raymond T., [redacted].
Pugh, Isaiah, [redacted].
Pulcher, Larry J., [redacted].
Raimo, Gerard, [redacted].
Ramby, Vincent J., Jr., [redacted].
Ramos, Luis A., [redacted].
Ramsey, Todd S., [redacted].
Randall, David F., [redacted].
Ratliff, Grover C., III, [redacted].
Ray, Randall L., [redacted].
Rech, Arnold W., [redacted].
Redmann, Gary L., [redacted].
Reece, Walter E., Jr., [redacted].
Reinecker, Edward L., [redacted].
Rhodes, Robert N., [redacted].
Richard, Gary W., [redacted].
Richardson, Gregory M., [redacted].
Rippon, George G., [redacted].
Robb, Lawrence K., [redacted].
Roberts, Douglas J., [redacted].
Robinson, Ben T., [redacted].
Robinson, William A., [redacted].
Rogers, Ronald J., [redacted].
Rohas, Roderique R., [redacted].
Rohrs, Alan E., [redacted].
Root, James E., [redacted].
Rosa, Anthony J., Jr., [redacted].
Rouse, William H., III, [redacted].
Rudder, Karan L., [redacted].
Ruiz, Norman G., [redacted].
Rush, James E., [redacted].
Rutan, William G., [redacted].
Rutley, William D., [redacted].
Rybos, Charles G., [redacted].
Saeger, Raymond A., [redacted].
Saflarski, Edward G., [redacted].
Sain, Edward R., [redacted].
Sams, Ronald F., [redacted].
Sanders, Cynthia L., [redacted].
Saunders, Eric R., [redacted].
Scaperotto, Charles S., [redacted].
Scearce, Michael D., [redacted].
Schaule, Norman, [redacted].
Schillings, Larry C., [redacted].
Scoggin, David W., [redacted].
Sconyers, James C., [redacted].
Scott, Ray A., [redacted].
Scott, Robert E., [redacted].
Scragg, Keith A., [redacted].
Seipel, Mark S., [redacted].
Self, Donnie B., [redacted].
Serine, Edward A., [redacted].
Shamberger, David L., [redacted].
Shaw, Chris W., [redacted].
Shelton, Brooks E., [redacted].
Sherfesee, John, [redacted].
Sherkus, John P. [redacted].
Sherman, David P., [redacted].
Sherwood, Arthur J., [redacted].
Shield, Robert W., Jr., [redacted].
Shinkle, Reese S., [redacted].
Shishoff, John W., [redacted].
Shiver, Samuel M., [redacted].
Shoemaker, Jackie G., [redacted].
Shunk, David A., [redacted].
Smith, Billy C., [redacted].
Smith, Craig L., [redacted].
Smith, Douglas B., [redacted].
Smith, James K., [redacted].
Smith, Richard V., [redacted].
Smith, Robert M., [redacted].
Smith, Steven R., [redacted].
Snook, Thomas E., [redacted].
Sorrels, Richard E., [redacted].
Southward, John C., [redacted].
Speegle, William L., [redacted].
Speigel, John M., [redacted].
Spencer, Mark S., [redacted].
Spinner, Frank J. [redacted].
Spohr, Gregory P., [redacted].
Sprigg, Dana J., [redacted].
Spriggs, Charles W., [redacted].
Sprowl, Robert V., II, [redacted].
Stafford, Kenneth A., [redacted].
Stalker, Lance L., [redacted].
Stanley, Robert S., [redacted].
Stanley, Tad A., [redacted].
Steele, Clarence E., [redacted].
Steele, James A., [redacted].
Steele, Lee P., [redacted].
Stefanic, James L., [redacted].
Steffen, Michael A., [redacted].
Stepan, Robert L., [redacted].
Stephens, David W., [redacted].
Stepp, Michael C., [redacted].
Sterzinger, Wayne H., [redacted].
Stevens, Edward O., [redacted].
Stevens, Frederick H., [redacted].
Stevenson, Lawrence H., [redacted].
Stewart, Dennis L., [redacted].
Stewart, Donald R., [redacted].
Stewart, Johnnie B., [redacted].
Storrs, Richard B., [redacted].
Stovall, Ronald G., [redacted].
Straughn, James L., [redacted].
Stroud, Bennie R., [redacted].
Sullivan, Leo D., [redacted].
Sullivan, Stephen J., [redacted].
Summers, Michael W., [redacted].
Sumner, Craig E., [redacted].
Sutliff, Thomas O., [redacted].
Swanson, Charles J., [redacted].
Sweeney, Lawrence E., [redacted].
Swint, Loften, Jr., [redacted].
Szabo, James P., [redacted].
Tabony, Gary L., [redacted].
Tacoma, Paulette I., [redacted].
Tallon, William B., [redacted].
Tate, John W., [redacted].
Taylor, Mark A., [redacted].
Teepell, Kenneth G., [redacted].
Testerman, Robert E., [redacted].
Thaxter, David L., [redacted].
Thomas, Billy G., Jr., [redacted].
Thomas, Henry O. L., [redacted].
Thomas, William J., [redacted].
Thompson, Roy M., [redacted].
Thornley, Paul D., [redacted].
Thornton, Robert O., II, [redacted].
Tickel, Jobe C., Jr., [redacted].
Tircuit, Elwood C., [redacted].
Toole, Joseph E., [redacted].
Torango, Philip E., [redacted].
Tormey, Robert J., [redacted].
Townsend, Willie B., Jr., [redacted].
Trask, Harry A., [redacted].
Tripp, David H., Jr., [redacted].
Trowbridge, Donald C., [redacted].
Trowel, Laurence M., [redacted].
Tuel, Jeffrey S., [redacted].
Tulo, Steve J., [redacted].
Turley, Lynn E., [redacted].
Tyce, Michael J., [redacted].
Tynch, David R., [redacted].
Uehara, Albert K. [redacted].
Ulczynski, Ronald J., [redacted].
Underwood, Stephen M., [redacted].
Vallier, John P., Jr., [redacted].
Vanderman, Guy R., [redacted].
Vanlommel, Richard E., [redacted].
Vanstone, Mark S., [redacted].
Vargo, Michael D., [redacted].
Vela, Arnoldo, [redacted].
Vermillion, Dale M., [redacted].
Verschaeve, Douglas D., [redacted].
Vidas, Charles M., [redacted].
Vinsang, Michael W., [redacted].
Vought, Ralph D., [redacted].
Vuckovick, Michael M., [redacted].
Wagner, Clarence H., Jr., [redacted].
Wagner, William L., [redacted].
Wagoner, Gordon B., [redacted].
Walker, Samuel S., [redacted].
Walter, Bruce W., [redacted].
Wang, Teddy N., [redacted].
Ward, Darrell W., [redacted].
Ward, Richard E., [redacted].
Watkins, William B., [redacted].
Watson, Jerry K., [redacted].
Watts, Edward N., Jr., [redacted].
Webb, John A., [redacted].
Webb, Philip D., [redacted].
Weeks, Richard H., II, [redacted].
Welch, Michael R., [redacted].
Wellman, Michael W., [redacted].
Wheeler, Richard D., [redacted].
White, David B., [redacted].
White, David L., [redacted].
Whitemarsh, Steve L., [redacted].
Whitley, Alfred H., [redacted].
Wickware, George R., Jr., [redacted].
Wiedemer, Michael P., [redacted].
Wilber, Brian H., [redacted].
Wilfong, Gary H., [redacted].
Wilkins, Gary, [redacted].
Wilkinson. Richard D., [redacted].
Willers, Larry F., [redacted].
Willford, Turner, Jr., [redacted].
Williams, Robert G., [redacted].
Willis, Brian E., [redacted].
Willis, Michael J., [redacted].
Wilson, Bobby E., [redacted].
Wilson, William D., [redacted].
Wiltz, Roland J., [redacted].
Winters, Charles M., [redacted].
Wise, Walter P., [redacted].
Witkowski, Gerald V., [redacted].
Woellner, Joan C., [redacted].
Wood, Buddy B., [redacted].
Wood, David W., [redacted].
Wood, Rooney J., [redacted].
Wood, William A., Jr., [redacted].
Woodruff, Henry M., Jr., [redacted].
Woods, Michael D., [redacted].
Yantis, John T., II, [redacted].
Ybarra, Argelio, [redacted].
Yoho, Ronald D., [redacted].
Young, Carlton E., [redacted].
Young, Peter W., [redacted].
Young, Randall W., [redacted].
Young, Vickie A., [redacted].
Ziegler, Frederick J., Jr., [redacted].
Ziegler, Richard L., [redacted].

To be second lieutenant

Baker, Daniel R., [redacted].
Bartels, Klaus B., [redacted].

Berner, Terry H., [redacted].
Bleymaier, Theodore P., [redacted].
Bloodgett, Robert H., [redacted].
Brown, Russell D., [redacted].
Buzzell, William A., [redacted].
Carron, Brian E., [redacted].
Craft, Charles M., [redacted].
Davis, Steven J., [redacted].
Duesing, Paul R., [redacted].
Edmonds, Walter L., III, [redacted].
Filippelli, Lawrence J., Jr., [redacted].
Fink, Patrick T., [redacted].
Flom, Elroy A., [redacted].
Flynn, Michael D., [redacted].
French, Andrew H., [redacted].
Furman, Dennis R., [redacted].
Garrett, Henry B., [redacted].
Guidry, Richard M., [redacted].
Hager, Joseph W., [redacted].
Harbaugh, Gerry W., [redacted].
Harmon, Gary R., [redacted].
Hildreth, Joseph H., [redacted].
Hodge, James K., [redacted].
Howard, Geoffry S., [redacted].
Jordan, Michael A., [redacted].
Klet, Leroy E., [redacted].
Korba, Rodney J., [redacted].
Kraft, Stuart A., [redacted].
Landers, Thomas L., [redacted].
MacBain, John A., [redacted].
Mahler, Thomas W., Jr., [redacted].
Manfredi, John T., [redacted].
McKillop, Gregory W., [redacted].
Miklos, William J., [redacted].
Miller, Robert E., [redacted].
Molyneaux, Joel E., [redacted].
Mosora, James A., [redacted].
Mushala, Michael C., [redacted].
O'Callaghan, Kevin W., [redacted].
Owens, Edward S., [redacted].
Patneaud, Edward L., [redacted].
Peters, John E., [redacted].
Porter, Thomas R., [redacted].
Pratt, Frank H., [redacted].
Price, Craig H., [redacted].
Rij, Jerry J., [redacted].
Rodgers, John M., [redacted].
Rohrer, Lawrence A., [redacted].
Shirrell, Charles D., [redacted].
Shunk, Dan L., [redacted].
Silverthorn, James T., [redacted].
Storch, Donn M., [redacted].
Sullivan, Donald J., [redacted].
Utermoehlen, Clifford M., [redacted].
Vaughn, Gregg L., [redacted].
Vivian, Talbot N., [redacted].
Walton, James R., [redacted].
Weber, Edward J., [redacted].
Wenzel, Jeffrey H., [redacted].
Wesley, David J., [redacted].
Wilbeck, James S., [redacted].
Winstead, Charles L., Jr., [redacted].
Yochmowitz, Michael G., [redacted].

CONFIRMATIONS

Executive nominations confirmed by the Senate September 22, 1967:

UNITED NATIONS SESSION REPRESENTATIVES

The following-named persons to be Representatives of the United States of America to the 31st Session of the General Assembly of the United Nations:

William W. Scranton, of Pennsylvania.
W. Tapley Bennett, Jr., of Georgia.
George McGovern, U.S. Senator from the State of South Dakota.
Howard H. Baker, Jr., U.S. Senator from the State of Tennessee.
Rev. Robert P. Hupp, of Nebraska.

The following-named persons to be Alternate Representatives of the United States of America to the 31st Session of the General Assembly of the United Nations:

Albert W. Sherer, Jr., of Illinois.
Jacob M. Myerson, of South Carolina.
Nancy V. Rawls, of Georgia.
Stephen Hess, of the District of Columbia.
ERSA Hines Poston, of New York.

CORPORATION FOR PUBLIC BROADCASTING

Louis P. Terrazas, of Texas, to be a member of the Board of Directors of the Corporation for Public Broadcasting for the remainder of the term expiring March 26, 1978.

Clyde M. Reed, of Kansas, and Charles W. Roll, Jr., of New Jersey, to be Members of the Board of Directors of the Corporation for Public Broadcasting for terms expiring March 26, 1982.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE DIPLOMATIC AND FOREIGN SERVICE

Diplomatic and Foreign Service nominations beginning Stephen F. Dachi, to be a Foreign Service information officer of class 3, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America, and ending Mary Bland Marshall, to be a Consular Officer of the United States of America, which nominations were received by the Senate and appeared in the Congressional Record on September 9, 1976.

HOUSE OF REPRESENTATIVES—*Wednesday, September 22, 1976*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

What does the Lord require of you but to do justly, to love kindness and to walk humbly with God.—Micah 6: 8.

Almighty God, our Father, whose mercy is over all Thy works and whose will is ever directed to Thy children's good, we come into Thy presence seeking light for our way, strength in our way, and love along our way that we may learn to do justly, to love kindness, and to walk humbly with Thee.

Make our minds shrines of Thy truth, our hearts sanctuaries of Thy love, and send us out into this day with the spirit of those who seek to build highways of peace and justice among the citizens of our land and the nations of our world.

We pray for our beloved country that she may be an instrument of good will in bringing about a deeper unity among the members of our human family to the glory of Thy holy name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 11149. An act to amend section 2 of the act entitled "An act to incorporate the National Society of the Daughters of the American Revolution";

H.R. 11722. An act to amend title 18 of the United States Code to prohibit deprivation of employment or other benefit for political contribution, and for other purposes; and

H.R. 11997. An act to amend the Internal Revenue Code of 1954 with respect to the tax treatment of certain divestitures of assets by bank holding companies.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15193) entitled "An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes," and that the Senate agrees to the House amendments to the Senate amendments numbered 3, 6, 16, 48, and 60 to the foregoing bill.

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 3095. An act to increase the protection of consumers by reducing permissible deviations in the manufacture of articles made in whole or in part of gold.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 798. An act to amend chapter 5, subchapter II, of title 5, United States Code, to provide for improved administrative procedures.

ORLANDO LETELIER

(Mr. **FASCELL** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **FASCELL**. Mr. Speaker, I was shocked to learn of the tragic death of Orlando Letelier, former Chilean Foreign Minister and Ambassador to the United States, apparently at the hands of political assassins. This senseless and brutal murder snuffed out the life of a gracious gentleman and a patriotic Chilean who served his nation during a most difficult period.

While I frequently disagreed with the policies of the government of the late President, Salvador Allende, I must say that I always found the Ambassador, Orlando Letelier, an honest, forthright, courageous, and eloquent spokesman for the government he served. While I am sure he, too, harbored some doubts about the wisdom of many of his own government's policies, in the manner of a true diplomat he served his government loyally and steadfastly.

Mr. Letelier was here as a refugee from Chile. He was a guest of the people of the United States and his murder is an offense against us all.

Mr. Speaker, I am sure that I speak for all in this Chamber when I express the hope that the perpetrators of this act of political cowardice will be swiftly brought to justice.

THE MURDER OF ORLANDO LETELIER

(Mr. MOFFETT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous material.)

Mr. MOFFETT. Mr. Speaker, Members of the House, in a short time I am going to attempt to bring up a resolution which is cosponsored by over 130 Members of this body on both sides of the aisle relating to the subject just covered by the gentleman from Florida (Mr. Fascell); that is, the tragic death of Orlando Letelier yesterday.

In less than 2 hours yesterday on the House floor, over 130 Members put their signatures on the resolution, which does nothing more than deplore the killing of the former Ambassador, and urges a Federal investigation.

It calls for no new bureaucracy to be set up, no new committee. It makes no judgment as to who is to blame in this terrible act. It simply puts this body on record as deploring this type of violence.

I understand a similar resolution is being introduced in the Senate sometime today. It seems to me that this is the least we can do. It is not something that warrants a great deal of discussion or argument on the need for this sort of thing, but this body should be on record as deploring these acts.

I sincerely hope that no Member will object to this resolution being brought up.

MOTION TO DISCHARGE COMMITTEE ON DISTRICT OF COLUMBIA FROM FURTHER CONSIDERATION OF HOUSE RESOLUTION 1481

Mr. PAUL. Mr. Speaker, I would like to make a motion.

Mr. Speaker, pursuant to the legislative veto provision of Public Law 93–198, 87 Statutes 774, sections 602(c)(2) and 604, (d), (e), and (f), the District of Columbia Self-Government and Governmental Reorganization Act, which provide that if a resolution disapproving any action of the District of Columbia City Council has been introduced and not reported by the District of Columbia Committee at the end of 20 calendar days after its introduction, it is in order to discharge that committee from the further consideration of the resolution by the use of a highly privileged motion, not subject to an amendment.

Therefore, Mr. Speaker, I move to discharge the Committee on the District of Columbia from further consideration of House Resolution 1481, and ask for its immediate consideration.

POINT OF ORDER

Mr. DIGGS. Mr. Speaker, I rise to a point of order against the motion.

The SPEAKER. The gentleman will state his point of order.

Mr. DIGGS. Mr. Speaker, the proper procedure for congressional review of Council acts, specifically Council Act 1–142 of the Firearms Regulation Act, is a concurrent resolution passed by both the House and the Senate, as provided in section 602(c)(1) of the Home Rule Act.

The gentleman from Texas (Mr. Paul) recognizes by the introduction of House Concurrent Resolution 694, which was referred to the District of Columbia Committee and a hearing held, that this is pending action of the committee. As a matter of fact, we held a hearing on the 25th of August, and we have had four subsequent meetings with respect to this matter. A quorum was not present to take action.

This procedure was not subject to one member making a motion to discharge the committee.

The second procedure being pursued by the gentleman from Texas (Mr. Paul) is a single House veto of Council acts, provided for in Home Rule Act, section 602(c)(2), including the ability of one member to make a highly privileged motion to discharge the committee and commence 10 hours of debate on the veto resolution, I would remind the Members, which is provided for in section 604 (d), (e), and (f).

The legislative history, Mr. Speaker, of the Home Rule Act is clear that the second procedure will be used only after the Council gains the power to amend titles 22, 23, and 24 of the District of Columbia Criminal Code.

The conference report stated that the conference committee also agreed to transfer authority to the Council to make changes in titles 22, 23, and 24 of the District of Columbia Code, effective January 22, 1977.

After that date—and I emphasize after that date—changes in titles 22, 23, and 24 by the Council shall then be subject to congressional veto by either House of Congress within 30 legislative days.

The citation for that is the House Report No. 93–703.

So that any Council amendment to titles 22, 23, and 24, Mr. Speaker, before 1979 is void, not merely voidable, by Congress.

The second point we want to make is that even after 1977, which was changed to 1979 by Public Law 94–402, the one-House veto will apply only to Council changes in titles 22, 23, and 24, not to every act in any way dealing with subject matter included in titles 22, 23, and 24, which is the District of Columbia Criminal Code, and not to a broad concept of criminal law.

So the use of the three words, "with respect to" any provision of title 23, and so forth, in the Home Rule Act does not lead to a broader interpretation.

Congressional discussion during the home rule debate makes it clear that the restriction on the Council extended only to changes in titles 22, 23, and 24, the District of Columbia Criminal Code.

The next point is that congressional practice has set the precedent for the narrow interpretation set by the legislative history.

The third point is that a broad interpretation that tries to reach every criminal law section of the Code would restrict the Council as to literally hundreds of sections such as licensing barbers, false ID cards of welfare recipients, selling mattresses, and many other matters.

In any event, Council Act 1–142 is a revision of regulations asked in 1968, not under the authority of title 22, but of title 1, section 227, dealing with firearms, projectiles, explosives, or weapons of any kind.

The U.S. Court of Appeals in 1971 ruled that the Council had the power to adopt firearms regulations under title 1, and the Congress had not preempted the field by adoption of title 22.

A section-by-section comparison of Act 1–142 and existing city firearms regulations, article 51–55, shows that Act 1–142 uses much of the same language of the existing regulations and rearranges and changes different parts.

Act 1–142 avoids any change in the title, and the Council frequently passes changes and regulations of this nature.

All regulations adopted by the Council must be by act and be submitted to the Congress for a 30-day layover, and it does not permit the Council to bypass congressional review in adopting regulations.

It is upon this basis, Mr. Speaker, that I make a point of order against the motion offered by the gentleman from Texas (Mr. Paul).

The SPEAKER. Does the gentleman from Texas (Mr. Paul) desire to be heard on the point of order?

Mr. PAUL. I do, Mr. Speaker.

The SPEAKER. The Chair will be glad to hear the gentleman.

Mr. PAUL. Mr. Speaker, we have just heard the arguments presented by the Members of the District of Columbia Committee who are doing their utmost to prevent this House from voting on the resolution of disapproval of the District of Columbia Firearms Control Act. For the past 7 weeks that committee has had before it and has not reported House Concurrent Resolution 694, which it now claims to be the only proper way to disapprove an act of the City Council. It is very convenient for a committee which has blocked House action on House Concurrent Resolution 694 for 7 weeks to now try to block House action on House Resolution 1481, claiming that the proper resolution for the House to act on is House Concurrent Resolution 694.

The committee has raised the issue of its repeated failures to attract quorums to committee meetings. That failure did not stop the committee from taking action on and reporting out a bill on September 2. When the committee wishes to act, it acts irrespective of whether there is a quorum present or not.

Another issue that the members of the committee have raised is the legality of the District of Columbia Firearms Act. They are maintaining that the act is completely legal, that it is not with respect to title 22 of the District of Columbia Code. As everyone should know, the American Law Division of the Library of Congress and the Senate Legislative Counsel have both argued conclusively that the Firearms Act is, in fact, an act with respect to title 22 of the District of Columbia Code and therefore illegal. Perhaps more importantly, the District of Columbia Corporation Counsel himself in a letter to Chairman Diggs on June 29 implicitly acknowledged this to be the case.

Now the members of the committee are asking you to make a decision in essence on the legality of the District of Columbia Firearms Act. By what authority can the Chair or the Parliamentarian make such a decision? I know of no House rule which grants the Speaker such authority—authority properly exercised only by the entire House. Yet the opponents of my resolution of disapproval are seeking such a decision from the Chair, in an obvious effort to avoid such a decision being made by the full House. I believe that by placing you on the spot, Mr. Speaker, the opponents of the resolution of disapproval are not only embarrassing you, but twisting the rules of the House.

Another argument offered against my motion and for the point of order is that high privilege does not apply to a motion discharging a simple House resolution until January 1979 when the prohibition or the District of Columbia City Council tampering with the criminal laws is terminated.

I would first point out that there is no language in the Home Rule Act itself making such a delay necessary. It simply says, and I quote:

> In the case of any such act transmitted by the Chairman with respect to any Act codified in Titles 22, 23, or 24 of the District of Columbia Code, such act shall take effect at the end of the 30-day period beginning on the day such act is transmitted by the Chairman to the Speaker of the House of Representatives and the President of the Senate only if during such 30-day period one House of Congress does not adopt a resolution disapproving such act. (Section 602(c)(2))

The effective date of section 602(c)(2) is not January 1979, but according to part G, section 771, subsection (c) and (d) of the Home Rule Act itself, January 2, 1975. There is no legislative history indicating that there was to be a 2-year delay on congressional authority to disapprove an act of the City Council. Such a reading of the act leads to the absurd conclusion that Congress will have more control over the actions of the City Council when the 2-year prohibition on certain actions by the City Council expires.

The legislative history that the Members have constructed revolves around one phrase in the conference report on the Home Rule Act, page 75. There the conferees noted that—

> The Conference Committee also agreed to transfer authority to the Council to make changes in Titles 22, 23, and 24 of the District of Columbia Code, effective January 2, 1977. After that date, changes in Titles 22, 23, and 24 by the Council shall be subject to a Congressional veto by either House of Congress within 30 legislative days.

The conferees did not deny, however, that the simple House resolution could be used before that date. They were acting on the presumption that the District of Columbia City Council would stay within the bounds of its authority and act legally. They have been proved to be wrong in that presumption, for the Council has now acted illegally. The question now before us is whether or not the District of Columbia Committee will be able to prevent this House from officially nullifying an illegal act of the City Council. Since there is no explicit procedure specified in the Home Rule Act for nullifying an illegal act of the City Council, and since the plain language of the act—as I have pointed out—indicates that a simple House resolution is the proper way to disapprove the Firearms Control Regulations Act of 1975, and since there is competent and sufficient legal opinion maintaining that the act is in fact with respect to title 22 of the District of Columbia Code, I urge the Chair to overrule the point of order that has been raised against my motion and allow the entire House to register its approval or disapproval of the District of Columbia Firearms Control Act. In so making its ruling, I would hope that the Chair would make it clear to this body that it is not within its authority to decide the question of the legality of the Firearms Control Act and therefore it will let the full House decide.

The SPEAKER. The Chair is ready to rule.

The gentleman from Texas (Mr. PAUL) has moved to discharge the Committee on the District of Columbia from further consideration of House Resolution 1481, disapproving the Firearms Control Regulations Act of 1975 passed by the Council of the District of Columbia. The gentleman from Michigan (Mr. DIGGS) makes the point of order that the motion is not in order and is not privileged under Public Law 93–198, the District of Columbia Self-Government and Governmental Reorganization Act.

The decision whether the Firearms Control Act passed by the District of Columbia Council is valid as a matter of law or violates the provisions of the Home Rule Act is not a decision within the Chair's duty or prerogative to make.

The only question before the Chair is whether the motion to discharge a simple resolution of disapproval is in order at this time under section 602(c)(2) and section 604 of the Home Rule Act.

Public laws which contain mechanisms allowing the Congress to disapprove actions by the executive branch, or in this case by the District of Columbia Council, serve the purpose of reserving to Congress the power to review and disapprove the exercise of authority which it has delegated.

But the Congress may effect such disapproval only within the strict confines of congressional procedures set out in such public laws.

The privileged disapproval for simple resolutions in the Home Rule Act was intended only to apply after January 2, 1977, to acts which the Council was not granted the power to enact until after January 2, 1977.

Under a recent enactment, the prohibition against criminal code enactments by the Council was clarified and extended for another 2 years. To apply the motion to discharge the simple resolution at this time would be premature under the statute and would assume that the Council action is in violation of the Home Rule Act and is null and void as a matter of law. Thus the passage of such a simple resolution would be a meaningless and ineffective action, since the simple resolution can neither add to nor detract from the legal validity of the Council action. If the Council enactment is without authority that matter will be determined by the courts or may be resolved by the Congress through the enactment of another law, or the Congress may properly proceed under the Home Rule Act with a concurrent resolution of disapproval.

For the reasons stated, the Chair sustains the point of order and the motion to discharge may not be entered.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. The Chair seems to have laid great importance in his ruling on the resolution of following the strict procedures provided in the statute. Is the Speaker then saying that if the gentleman from Texas (Mr. PAUL) moved to discharge the committee from further consideration of the concurrent resolution that that would be in order?

The SPEAKER. The Chair will state that the statute does not provide for a privileged motion to discharge a concurrent resolution of disapproval.

Mr. BAUMAN. I thank the Speaker.

The SPEAKER. The point of order is sustained.

GENERAL LEAVE

Mr. DIGGS. Mr. Speaker, I ask unanimous consent that all Members may be permitted to revise and extend their remarks with respect to the motion of the gentleman from Texas (Mr. PAUL) and with respect to the point of order.

The SPEAKER. That may not be done on the point of order. Is the gentleman from Michigan wishing to extend his remarks on the point of order?

Mr. DIGGS. Yes, Mr. Speaker.

The SPEAKER. The Chair will state that the gentlemen from Texas and Michigan may extend their remarks on the subject matter of the motion but not on the point of order.

Mr. DIGGS. I thank the Speaker.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. McKINNEY. Mr. Speaker, I would like to comment in opposition to the effort to discharge the District Committee from consideration of House Resolution 1447.

Under section 602(c)(2) of the District of Columbia Self-Government and Governmental Reorganization Act, the House may only discharge the District Committee of a resolution disapproving a Council act "with respect to any Act codified in titles 22, 23, or 24 of the District of Columbia Code." The District's Firearms Control Regulations Act of 1975, Council Act No. 1–142, however, is not such an act. Recitation of a few facts clearly demonstrates that this is the case.

First, the U.S. Court of Appeals for the District of Columbia has held that the provisions of chapter 32 of title 22 of the District of Columbia Code regulating firearms and other weapons do not preempt the field with respect to the regulations of firearms. *Maryland and District of Columbia Rifle and Pistol Association* v. *Washington*, 442 F.2d 123 (C.A.D.C. 1971). Therefore, the Council may enact regulations of firearms which would not change title 22 of the District of Columbia Code.

Second, the conference report accompanying the Home Rule Act clearly indicates that the criminal law restriction on the Council's power is limited to enactment of "changes in titles 22, 23, and 24 of the District of Columbia Code." Conference report on S. 1435, House Report No. 93–703, 93d Congress, 1st sess. 75 (1973). The Council Act is not a change in title 22 of the District of Columbia Code nor does it purport to be. Section 709 of the Council Act specifically states that—

> This act . . . shall not supersede but shall supplement all statutes of the District and the United States in which similar conduct is prohibited or regulated.

As stated in the report of the Council's Committee on the Judiciary and Criminal Law accompanying the bill:

> This bill does not amend or conflict with the provisions of Chapter 32 of Title 22 of the D.C. Code [regulating firearms and other weapons].

Report of the Committee on the Judiciary and Criminal Law, to accompany bill No. 1–164, Council of the District of Columbia at page 6 (1976). Thus, the Council Act does not change title 22 of the District of Columbia Code and therefore is not an act "with respect to" such title.

Third, the mere fact that the Council Act contains criminal penalties does not make it an act "with respect to title 22 of the District of Columbia Code." Many provisions contained in the District of Columbia Code involving criminal penalties are codified outside of titles 22, 23, or 24 of the District of Columbia Code. See; for example, the tax laws codified in title 47, the Uniform Narcotic Drug Act codified in title 33, the alcoholic beverage laws codified in title 25. If Congress wanted to treat these criminal provisions in the same manner as those codified in titles 22, 23, or 24 it could have done so, but it did not. Therefore, the mere presence of criminal penalties does not make the Council Act an act "with respect to" title 22. Indeed, the Council has passed other acts containing criminal penalties, such as Council Act No. 1–26 regulating conduct on Metro buses and trains, whose legality has never been questioned by anyone in Congress.

Fourth, if the Council Act was an act with respect to title 22 of the District of Columbia Code it would be in violation of section 602(a)(9) of the Home Rule Act. If that were the case, it would not have been necessary for the Congress to adopt the Dent amendment to H.R. 12261 which extends the prohibiton of section 602(a)(9) for another 2 years. In addition to continuing the prohibition on the Council enacting any act with respect to title 22, 23, or 24, the Dent amendment extends that prohibition to any act—

> With respect to any criminal offense pertaining to articles [firearms and other weapons] subject to regulation under Chapter 32 of title 22 of the District of Columbia Code.—Public Law 94–402.

The Council must have have previously had the authority to enact such acts, or there would have been no necessity to retract it.

Finally, the procedure for a single House resolution of disapproval cannot be used prior to the end of the period during which the Council is prohibited from enacting any act with respect to title 22, 23, or 24 of the District of Columbia Code. This procedure was designed to be used only after the Council obtained jurisdiction over title 22, 23, and 24. The conference report on the Home Rule Act clearly states that—

> The Conference Committee also agreed to transfer authority to the Council to make changes in titles 22, 23, and 24 of the District of Columbia Code, effective January 2, 1977. *After that date*, changes in Titles 22, 23, and 24 by the Council shall be subject to a Congressional veto by either House of Congress within 30 legislative days.—H. Rept. No. 93–703, 93rd Cong., 1st Sess. 75 (1973) (emphasis added).

Mr. Speaker, I urge the point of order be sustained.

CALL OF THE HOUSE

Mr. ROUSSELOT. Mr. Speaker, I make a point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 791]

Abzug
Andrews, N.C.
Archer
Ashley
Badillo
Beard, Tenn.
Boggs
Burke, Calif.
Butler
Byron
Chisholm
Conlan
Conyers
Dellums
Devine
Drinan
Eckhardt
Esch
Eshleman
Evins, Tenn.
Fraser
Giaimo
Gradison
Green
Gude
Guyer
Hanley
Harsha
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Jarman
Jeffords
Jenrette
Jones, Ala.
Kemp
Kindness
Landrum
Lehman
Lujan
McCollister
Mathis
Matsunaga
Meeds
Metcalfe
Mink
Mitchell, Md.
Murphy, Ill.
Neal
Nix
O'Hara
Paul
Pritchard
Rangel
Rees
Reuss
Riegle
Runnels
Ruppe
Santini
Sarbanes
Scheuer
Shuster
St Germain
Stark
Steelman
Steiger, Ariz.
Stephens
Stuckey
Symington
Udall
Vander Jagt
Vanik
Wiggins
Wolff
Young, Alaska
Young, Tex.

The SPEAKER. On this rollcall 351 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

REQUEST TO DISCHARGE COMMITTEE ON THE JUDICIARY FROM FURTHER CONSIDERATION OF HOUSE RESOLUTION 1559, CONDEMNING MURDERS OF ORLANDO LETELIER AND RONNI KARPEN MOFFITT

Mr. MOFFETT. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from the further consideration of House Resolution 1559, expressing the sense of the House of Representatives condemning the murders of Orlando Letelier and Ronni Karpen Moffitt, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

Mr. McDONALD. Mr. Speaker, reserving the right to object, this resolution was stimulated by an event that took place yesterday, and about which we have little information. The resolution is offered in haste and perhaps should be considered in a more deliberate manner in regular order.

The tragic explosion might have been prevented had law-enforcement agencies been permitted to do their jobs and plant informants in violence oriented groups. The Institute for Policy Studies has been in the forefront of the attack on intelligence gathering; and have used both the courts and their influence in Congress to destroy local and national intelligence programs.

Some of our colleagues who are the most vehemently outspoken in condemning the murder of Letelier and Mrs. Moffitt are the same ones who have helped to emasculate the Nation's intelligence-gathering programs. In the many previous incidents of terrorist atrocities where the victim was not a leftist, we heard no such outcries.

Is there anyone here who remembers Dr. Marcus Foster? Marcus Foster was the black school superintendent shot and killed with cyanide bullets by the Symbionese Liberation Army. The only congressional voice on this matter was that of the House Committee on Internal Security which issued a timely and valuable report on the SLA.

A number of car bombings have taken place in the Miami area recently against anti-Castro Cubans. There is excellent reason to believe these murders were committed by Castro's secret police, the DGI. Again no national outcry has been raised.

POINT OF ORDER

Mr. EDWARDS of California.. Mr. Speaker, a point of order.

Mr. Speaker, I make the point of order that the gentleman is not addressing the objection.

The SPEAKER. The gentleman will proceed in order.

Mr. McDONALD. Mr. Speaker, further reserving the right to object, the victim, Letelier, has been a leader of IPS's Transnational Institute which includes persons involved in terrorist violence throughout the world. The domestic IPS has close links with the terrorist Weather Underground and other violence-prone groups.

Tariq Ali, a Pakistani Trotskyite, is a fellow of the Transnational Institute. He has publicly advocated terrorism and is a member of the International Executive Committee of the terrorist Fourth International. He serves as a leader of the British section of the Fourth International, the International Marxist Group which provides manpower and support to Saor Eire, a terrorist organization which is conducting kidnapings and murders in England and Ireland.

Robert "Bo" Burlingham, a prominent functionary of IPS's Cambridge subsidiary, was indicted in a bombing conspiracy in 1972, but charges were dropped when his Weatherman codefendants could not be apprehended. Burlingham said in 1974:

> I don't think an equitable, fair, free democratic world order is going to happen any other way than through violence.

Basker Vashee, a TNI fellow in Amsterdam, is a member of the national executive of the Marxist terrorist Zimbabwe African People's Union—ZAPU—which is supported by the Soviet bloc and which is waging a terror campaign against the civilian population of Rhodesia.

Terrorist bombings have been prevented by the Federal Bureau of Investigation and local police by the effective use of undercover agents and informants. In 1964, a New York City police undercover officer prevented a terrorist group from blowing up the Statue of Liberty. A few years later undercover officers of the same department prevented another group of terrorists from assassinating American Negro leaders Roy Wilkins and Whitney Young. An FBI informant broke up a bomb ring within a few days after penetrating a group which had bombed banks and businesses in New York.

Terrorism must be prevented whether the victims are rightwing, leftwing, or nonpolitical.

If this incident teaches us anything, it is that we must strengthen the internal security forces of our country. I favor a thorough congressional investigation of this tragic incident and all other terrorist activities that are taking place in this country and throughout the world.

Another bomb exploded yesterday in New York. It was directed against the Governor of Puerto Rico. Luckily there were no casualties. The South African Consulate in San Francisco was the target of a terrorist bombing by the leftist New World Liberation Front this past weekend.

We need a House Committee on Internal Security to thoroughly investigate terrorism and to propose legislation necessary to cope with this problem.

I know that my colleague from Connecticut, Mr. MOFFETT, is truly concerned about the problem of terrorism. Unfortunately, he is often gravely misinformed as when on October 7, 1975, he told the House that Chilean Christian Democrat Bernardo Leighton had been murdered in Rome by agents of the Chilean secret police. In fact, Leighton is still alive and in good health; and after a year of investigation the Italian police have developed no evidence linking the Chilean Government to the assault on Leighton.

All of us would be better informed about the activities of international and domestic terrorists if we had our own congressional committee investigating this area.

Congressman JOHN ASHBROOK introduced H.R. 1577 on January 17, 1975. This bill would have made a major contribution to the fight against international terrorism. It was assigned to the Judiciary Committee which never held hearings on it. The Justice Department under Edward Levi never responded to a request to comment on the bill. Those who are so eloquent condemning terrorism today should join with Mr. ASHBROOK and this Member in asking the Judiciary Committee to report out H.R. 1577. They should also join us in working for the reestablishment of the House Committee on Internal Security which would have the jurisdiction to investigate in this area.

Mr. Speaker, I withdraw my objection.

Mr. EDWARDS of California. Regular order.

The SPEAKER. Regular order is requested.

Mr. ASHBROOK. Mr. Speaker, regular order is to object, and I will object.

The SPEAKER. Objection is heard.

Mr. McDONALD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Objection is heard.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORTS

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, may I know what reports are involved?

Mr. MOAKLEY. Two bills are being heard by the Rules Committee this morning. One concerns privileges of the House for ex-Members. The other deals with a bill out of the Merchant Marine and Fisheries Committee.

Mr. BAUMAN. I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

STATEMENT OF THE HONORABLE WALTER E. FAUNTROY IN SUPPORT OF HOUSE JOINT RESOLUTION 1101, MAKING AN EMERGENCY SUPPLEMENTAL APPROPRIATION FOR THE DISTRICT OF COLUMBIA FIRE DEPARTMENT

(Mr. FAUNTROY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAUNTROY. Mr. Speaker, I would like to take this moment to ask my colleagues to support me in seeking to provide the District of Columbia Fire Department with adequate funds to keep all of its facilities available for service on a 24-hour basis. As you know, I have introduced a joint resolution—at this very late hour in a seemingly hopeless effort to secure additional funds through an increase in the Federal payment. I do not know if we have time enough to do this, but I want us to try.

As everyone here knows, much of our housing in this city is dilapidated, filled with ancient construction and ancient electrical wiring that would flame into a most spectacular fire if it were not for the heretofore excellent work of our Fire Department. Before we have some additional terrible and perhaps absolutely catastrophic tragedy. I want us to do something.

Our Fire Department does not have any fat in its budget. Indeed, there has been no growth in the numbers of companies since 1958. Our fire boat—which protects the water area of National Airport—is ancient, unmanned, not merely undermanned, and there are proposals afloat to lessen services even more.

In this, our Federal City, I want us to recognize our responsibility both to ourselves, our visitors, and our residents. If you will join with me in cosponsoring this resolution, it will mean a lot to me personally and to the people of this city. Perhaps we can find a way to get this matter considered before we leave. This is too important a matter not to act upon now.

PREFERENTIAL MOTION OFFERED BY MR. WAGGONNER

Mr. WAGGONNER. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Pursuant to the provisions of rule XXVIII, clause 1(b), Mr. WAGGONNER moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 12572, to amend the U.S. Grain Standards Act to improve the grain inspection and weighing system, and for other purposes, be instructed to disagree to the Senate amendment and to insist on the language of the House bill.

Mr. WAGGONNER. Mr. Speaker, my preferential motion is offered as a motion of the highest privilege pursuant to rule XXVIII, clause 1(b), which states:

> After House conferees on any bill or resolution in conference between the House and Senate shall have been appointed for twenty calendar days and shall have failed to make a report, it is hereby declared to be a motion of the highest privilege to move to discharge said House conferees and to appoint new conferees, or to instruct said House conferees; and further, during the last six days of any session of Congress it shall be a privileged motion to move to discharge, appoint, or instruct, House conferees after House conferees shall have been appointed thirty-six hours without having made a report.

My motion applies to the House conferees on H.R. 12572, the so-called grain inspection bill.

This bill passed the House on April 2, 1976, by a record vote of 246 to 33. Conferees were appointed by the Senate on April 26, 1976, and by the House on May 6, 1976.

Mr. Speaker, this so-called grain inspection bill was at that time, and is now, an overreaction on the part of the Congress to some publicity given to some alleged wrong-doing, which is still under investigation, by those involved in grain inspection at ports of embarkation for export of grain from the United States to overseas markets.

That investigation still continues. But this Congress, doing what it is always prone to do when there is an allegation of something wrong being done, over-reacted, as we always react, and the answer always is: Let the Federal Government take over this aspect of our lives.

The assumption is that everything is wrong with grain inspection. Everything is not wrong with grain inspection. Wherein there has been wrong, it has been pursued. This investigation is continuing. But the Congress, in its lack of wisdom, felt—at least some Members did—that the Federal Government should remove State and local authorities completely from grain inspection. I consider this to be not in the best interest of anybody. It tars with the same brush those who have done a decent, good, honest job, as those who have done wrong. This should not be the case.

Mr. Speaker, it is inconsistent on the part of this Congress to talk about revenue sharing, letting the local people do what they can, on the one hand, and in the instance of grain inspection, say, "You people cannot have any authority whatever any more over trade and the inspection of grain within your political jurisdiction."

Mr. Speaker, this does not just affect my State of Louisiana and its port cities. This affects the grain market in the United States. This affects boards of trade wherever they are in the United States. This is a concern, Mr. Speaker, which is shared by our Governor, by our State legislature, by people involved, who have been involved with grain inspection over the years, some for 100 years or more, like the board of trade in Memphis, Tenn., for example.

I have here a letter dated July 16, 1976, which I think puts in perspective what is at stake, the issue in this particular instance. This letter is addressed to Senator TALMADGE, the chairman of the Committee on Agriculture, by my Governor, a former member of this body.

Mr. Speaker, he had this to say in writing to Senator TALMADGE:

> DEAR SENATOR TALMADGE: I am deeply concerned with the conference committee on H.R. 12572, Federal Grain Inspection, which might reach a compromise which would preclude the possibility that the Louisiana Department of Agriculture at some time might be designated a grain inspection agency. I do not think it is equitable to preclude the possible future designation of the State Department of Agriculture simply because it is not now so designated.
>
> I respectfully request that you consider delegating the U.S. Secretary of Agriculture the discretionary authority to designate a State agency when such designation might serve the public interest.
>
> I am enclosing a copy of a resolution passed this month by the Louisiana Legislature which speaks to this matter.
>
> Thank you in advance for your consideration.
>
> Sincerely

And it is signed, "Edwin Edwards," who is Governor of the State of Louisiana.

Originals of this went to all of those involved, to Members of the Senate and Members of the House. An original went to the chairman of the House Committee on Agriculture, the very distinguished gentleman from Washington (Mr. FOLEY). Copies went to members of the Louisiana delegation and to a member of others who are concerned.

The State Legislature assumes exactly the same posture in their presentation, and they are asking the Louisiana delegation to agree to retaining the House language which would allow the designation of State agencies if the Department of Agriculture chose to do this grain inspection.

This is all that we are asking for. The best interests of the Government will be served if this is done.

Mr. Speaker, this legislation has been in conference for 4 months now. House conferees were appointed on May 6, 1976. The conferees go into session again this afternoon at 1:30.

This is a critical issue. It is an important issue. It means something to trade; it means something to the preservation of local units of government. It is wrong to assume that the Department of Agriculture is going to designate a State agency wherein there is no reason to believe that that State agency can do the job or will do the job or will root out wrongdoing where it is suspected.

There is every reason to believe that the Department of Agriculture and the Secretary will take this authority and utilize it in a reasonable manner, and that the Secretary will, if indeed he ever does designate a State agency, only designate a State agency or State agencies, if there is more than one—because there are multiple States involved—who will comply with the law.

This, I believe, serves the best interests of government at every level.

Mr. Speaker, I do believe that this preferential motion should be agreed to, and that our House conferees ought to bring a bill back to us that adheres to the House language.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Maryland for purposes of debate only.

Mr. BAUMAN. Mr. Speaker, I rise in support of the gentleman's motion. It could not be more timely, because as we stand here today and debate this issue, the Port of Baltimore has been completely closed down for the last 3 days by Federal grain inspectors. Federal grain inspector trainees have been sent in to the port and are imposing strict standards that have never before been applied to grain exportation. There are more than 500 railcars full of grain that have not been unloaded. There are numerous ships sitting in Baltimore Harbor, and the local and State inspectors who have handled this job competently in the past are now being hamstrung in everything they do by Federal inspectors who themselves are not well trained.

The result has been that the farmers in many Midwestern States—and I think the Members ought to know this—are suffering. Corn and wheat shipments in Maryland, Pennsylvania, Virginia, and as far away as Indiana, are being held up. Local farmers cannot sell their harvest and are being turned away. If this continues, there are going to be many economic losses. Grain is rotting in some instances. I do not think there is any question but that this situation stems from an overzealous enforcement of Federal standards. Perhaps this grows out of the admitted cases of corruption that have been discovered in some ports. But so far no such accusations have been lodged against the Port of Baltimore where the chamber of commerce supplies grain inspectors. I therefore seriously question the action of the USDA agents which are causing great hardship to Maryland and other farmers. This points up the need to allow competent State agencies to conduct grain inspection, such as the Maryland Department of Agriculture.

Nobody, including the gentleman from Maryland is calling for grain standards that would harm the public or foreign buyers who might consume the grain; but we do ask for a reasonable application of these rules.

Mr. Speaker, unless the gentleman's motion is carried and this bill comes back in reasonable form, all of the ports of this country may be tied up by Federal inspection to the detriment of the people.

Mr. WAGGONNER. Mr. Speaker, the gentleman from Maryland (Mr. BAUMAN) has cited an instance in the State of Maryland involving the port in Baltimore which illustrates the emotion surrounding circumstances such as this. Let us keep in mind that the only thing that the House language does is allow the Secretary of Agriculture to designate State agencies to do the inspection. Why should not the State be allowed to do this, if the Secretary makes a determination that, first, the States can do it, based upon maybe the need for them to do it; in part, based upon the fact that he does not have the personnel or the capability of doing it; but even on an interim basis if he wants to allow them to conduct this investigation? Why should that not be permitted, Mr. Speaker?

Not to allow this would, in my opinon, be a demonstration on the part of the Congress of no confidence not in this Secretary of Agriculture, but in any Secretary of Agriculture now or in the years which lie ahead.

Mr. MOORE. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Louisiana (Mr. MOORE), my esteemed friend, for purposes of debate only.

Mr. MOORE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker and Members of the House, this whole bill is good except for this one section that we are talking about.

We are talking about a section that deals with the honesty of people. We have had some dishonest people who have made some mistakes in inspecting grain. They should be punished; they will be punished; they are, in fact, being punished at the present time.

The House bill says in its section which I think, is objectionable, that we are going to rule out all private people who inspect grain and have just State and Federal.

Mr. Speaker, I point out that it makes no difference whether you are Federal people or State people or private people; you can be dishonest. Therefore, it is not the system that is at fault. It is the people in it.

Mr. Speaker, the House bill seeks to rectify that by tightening up conflict-of-interest sections and by increasing penalties for those who are found guilty, and this is good.

The Senate bill provision which is also objectionable is far, far worse. It simply says, you are not going to have any State people or any private people. You are only going to have Federal people.

Mr. Speaker, we have a Federal meat-inspection program. The papers are full of stories of graft, corruption, and dishonesty in Federal meat inspections. The Federal people are no more honest than the State people, and the State people are no more honest than the private people. People are people.

Mr. Speaker, what is happening is that we are deciding to legislate morality through the particular branch of Government one works in; and that does not make sense. The actual people who are guilty in these cases were supervised by Federal supervisors. For every single person who was found guilty there was a Federal supervisor supposedly watching over that work he was doing. Therefore, Federal people are on the job right now and evidently were not doing their job properly as mistakes were made. Simply having all Federal people on the job will not solve the problem.

Mr. Speaker, let us now look to the solution which the conferees are considering to break the logjam between this House version, which is bad, and the Senate version, which is horrible.

They are now saying, Let us do this. Let the State agencies who are inspecting grain now continue to do it, but do not let any other State do it.

That is not bad, Mr. Speaker; that is not horrible; that is unconstitutional. Section 9 of article I of the U.S. Constitution clearly provides, "No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another."

Mr. Speaker, this compromise proposal is saying, "Louisiana, you cannot; Texas, you can; Mississippi, you cannot; Washington, you can." This is a preference by regulation of commerce and revenue of the ports of one State over another.

Mr. Speaker, that is unconstitutional and far worse than either the Senate or House versions.

Therefore, Mr. Speaker, I strongly support the preferential motion of the gentleman from Louisiana (Mr. WAGGONNER) that we instruct the House conferees to stick to the lesser of these three evils and support the House version which at least is constitutional and treats all States equally. We should totally reject the Senate version and totally reject this unconstitutional, discriminatory, and insulting compromise provision with regard to the respective States.

Mr. Speaker, I thank the gentleman for yielding.

Mr. WAGGONNER. Mr. Speaker, the gentleman from Louisiana (Mr. MOORE) is a member of the House Committee on Agriculture and is very knowledgeable on this particular subject. Keep in mind that he has pointed out that the House version outlaws and prohibits the use of private individuals in grain inspections. The Senate version goes further. It prohibits the use of private individuals, but the Senate provision as well, in going further, prohibits the use of certain State agencies.

There is no reason that we should not make provision in this legislation for discretionary designation of State agencies if the need be, or if wisdom dictates the necessity of, or the value of, to conduct grain inspection. Therefore it is important that we do not run roughshod over this Secretary of Agriculture or some future Secretary of Agriculture or on State agencies who might be utilized in such grain inspection.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. I yield to my friend, the gentleman from Texas (Mr. BROOKS), for the purpose of debate only.

Mr. BROOKS. Mr. Speaker, let me say to my friend the gentleman from Louisiana (Mr. WAGGONNER) that it is his understanding, is it not, that the Federal Government does not examine all the oil, gas, and hydrocarbons we ship out of the gulf coast before it is shipped? They do not inspect every barrel of oil and every piece of exported material that is shipped. That is not really the job of the Federal Government. The States do not do it either, in most instances.

Is there some real reason why the Federal Government should be involved in determining what the quality of wheat is? I admit that some of the big grain dealers, and most of them are not U.S. owned, have been indicted and found guilty on various charges, but that is just a good warning to people to be careful when they buy from them, to check what they buy and what they pay and what the grain content is.

I just wonder what the real necessity is that requires the Federal Government, or the States, to examine everything that our manufacturers sell?

Mr. WAGGONNER. Mr. Speaker, in response to the gentleman from Texas (Mr. BROOKS) I am not sure I can completely answer his question. Let me say that the Federal Government, of course, wants its business community, as is the case with Government actions, to not misrepresent that which it does. So that the Federal Government would like those who buy whatever it is we have to sell, and in this instance it is grain, to receive what we portray it to be.

The gentleman from Texas is completely correct that it is more of a concern of those who buy to be sure to get what they pay for. So maybe inspection is more important to those who buy than it is on our part to oversee every aspect of the sale.

The gentleman from Texas used the example of oil and gas and the truth is we do not export much of that, we are importers. But we do not inspect every item that we do export. And, of course, we export more wheat and other agricultural commodities than we do anything else. We do not inspect every tire that goes overseas. We do not inspect every can of tomatoes that goes overseas. We do not inspect everything that we do. And there is no reason to believe that we ought to completely federalize grain inspection.

We are not asking anything except that we allow the law to give discretionary authority to the Department of Agriculture through its Secretary, to designate, if they so desire, State agencies and other public bodies, the right to do the job of grain inspection. To do for us, who? We are in the Federal Government and we are the Federal Government in the eyes of the people. I see nothing wrong with allowing the Secretary of Agriculture to designate a State agency if he concludes that it is in the public interest for that State agency to do grain inspection for the Federal Government.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Iowa for purposes of debate only.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

I would like to say to the gentleman from Texas this is unlike meat inspection or an ordinary inspection service for this reason: The buyer and the seller pay for this service, and all they are asking for is a service where the referee is not a party to the contract. So why should not the Federal Government furnish somebody who is independent. That is what we are really talking about. We cannot really compare this to other kinds of inspection services which are for the benefit of U.S. consumers.

Mr. WAGGONNER. Mr. Speaker, to elaborate further on what the gentleman from Iowa (Mr. SMITH) has had to say, who here is to say today that in the future under the provisions of this act, if the House language prevails as I hope it will—and my instruction is intended to see to it that it does prevail—there are none in State agencies anywhere in this country who can be utilized without total federalization? All we are asking is that State agencies, if the Secretary concludes and wants to designate them to do inspections, be allowed to do those inspections. We are not talking about private individuals; we are talking about units of Government to do what the gentleman from Iowa suggests.

Mr. MELCHER. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Montana for purposes of debate only.

Mr. MELCHER. I thank the gentleman for yielding.

I do not want the House to lose track of the question of the integrity of American grain sales. There has been a lot of short-weighting on American grain sales. There has been a lot of improper grading.

Because of those unfortunate occurrences that were dishonest, this Congress felt constrained to take some action. We are not forcing ourselves into this business of grain inspecting and weighing of grain because everything was going right; we are forcing ourselves into this business because there are many instances of abuse of the integrity of the foreign grain shipments from U.S. ports.

The American grain farmers dependent on foreign sales are also dependent on having honest weights and honest grading done at export points so that the buyers of our American grain in foreign countries will have faith in us and will continue to buy from us. The American grain farmers have been hurt in the past couple of years because of the abuses and the lack of honesty at export points. For that reason, as one of the conferees on the bill, I hope that we can arrive at a bill that would delegate that authority and clean up this mess to the Secretary of Agriculture, requiring Federal inspection and weighing of American grain that is exported. Unfortunately, that, will go contrary to the wishes of the gentleman from Louisiana. But I think the situation is so critical that in order to regain lost ground and to renew the feeling of integrity of American grain as to weight and grade, we have got to take action. For that reason I support Federal inspection on export grain at export points.

Mr. WAGGONNER. Mr. Speaker, in answer to the gentleman from Montana (Mr. MELCHER) let me say that the Federal Government should not every time that somebody in the private sector does wrong federalize that aspect of our life. Wrongdoing has not, is not, and will not be limited to the grain export business. Wrongdoing has not, is not, and will not be limited to instances of private endeavor. Wrongdoing has not, is not, and will not be limited to instances wherein State agencies are involved. I would say to the gentleman as sincerely as I can that wrongdoing has not, is not, and will not end with federalization of grain inspection because it has not been the track record of Federal involvement in other instances. If this Government embarks on the course of every time there is wrong federalizing that aspect of our life, then those who advocate such a course are looking for something out of Government that I do not see.

The distinguished chairman of the House Committee on Agriculture has said that the conferees need time to resolve this issue and without instruction. I recall to the attention of the Members again that House conferees were appointed on May 6 of this year—quite some time ago. The House visualized—and this speaks to the necessity of this move—in writing its rules and in modifying in this instance its rule, that after 20 days if there was a deadlock and no agreement could be reached, the House could appropriately, if it chose, instruct its conferees to stand by a provision of the bill, a portion of the bill, or all of the bill.

Now, yes, I would agree with the gentleman that the conferees have made some progress, but I am simply saying to the Members that this aspect of the House bill needs to be retained and the conferees should stand by this provision of the bill, because I do not believe any of the Members want to go back home and say to their State agencies that we are never going to allow the State agencies in grain inspection or other aspect of the administration of the Federal legislation if wrongdoing is alleged. We will not allow them to help us administer any legislation.

We trust the State agencies to administer Federal program after Federal program. Why can we not trust the State agencies in the future if, and only if, some future Secretary of Agriculture concludes that a State agency can be better utilized in this instance for grain inspection?

Now I say to the Members of Congress that foreign governments have expressed confidence not just in the State agencies but also, it may come as a surprise to the Members, in the private sector as well.

Mr. Speaker, they have been satisfied, a great many of them have, over the years. We are simply asking that after 4 months to try to preserve the discretionary authority for the Secretary of Agriculture to utilize, if he chooses, and again only if he chooses, State agencies to conduct grain inspections.

Mr. Speaker, I yield to my friend, the gentleman from Virginia (Mr. WAMPLER) for purposes of debate only.

Mr. WAMPLER. Mr. Speaker, the distinguished chairman of the House Committee on Agriculture, I think, has properly described the situation that is facing the conferees, and we are scheduled to meet again this afternoon.

The bill that passed the House earlier this year does provide for public inspection of grain at export points. The Commonwealth of Virginia, among other parts of the Union, for many years has conducted this function of inspecting grain at export points. So far as I am aware, the States, generally speaking, have done an adequate and satisfactory job.

I might say to my distinguished friend, the gentleman from Louisiana, that the Board of Trade of New Orleans, a private inspection agency duly designated by the Secretary of Agriculture, has for many years performed that function in the ports that are under their jurisdiction in New Orleans. Unfortunately, there were other private inspection agencies that have not performed that function in keeping with law and free of fraud or irregularities.

Mr. Speaker, it seems to me that we should adopt a conference report that gives the Secretary of Agriculture the discretion either to have the grain inspected by employees of the Department of Agriculture, or in his discretion to permit a duly designated State agency to perform this very useful function.

I recognize there has been a great deal of irregularity in the inspection of grain. There are those who feel that this is not a proper function of the Federal Government, that when the Federal Government issues a certificate certifying the quality and the standard of that grain, we do not stand behind it as a matter of law. It simply is a device that tells us, or a certificate that tells us that there is a given amount of grain that meets certain grade specifications. There are field specifications over and above this; but in any event, it seems to me we should pass a bill that gives the Secretary the discretion, so we can have public inspections at export points, either by Federal inspectors or by duly designated State agencies.

Therefore, it will be my position as a member of the conference to insist on the House position in this regard.

Mr. WAGGONNER. Mr. Speaker, the gentleman from Virginia has succinctly stated the problem. The gentleman's words are wise.

Mr. THONE. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. Mr. Speaker, I yield to the gentleman from Nebraska (Mr. THONE), for purposes of debate only.

Mr. THONE. Mr. Speaker, I thank the gentleman from Louisiana for yielding.

The conferees met yesterday and I was most disappointed that the other body was not more reasonable. More reasonable in one vital area that is legislative overkill in my opinion. I am of the opinion that grain inspection at the export facilities should be strictly federalized, but that no such case has been made for federalization at interim terminals. That offensive portion of the Dole-Clark compromise was insisted on by a majority, but not all of the Senate conferees. The insisted compromise strongly tilts Federal into an area that has been, by and large, well served by State and private inspection.

These are obvious conflicts of interest that should be eliminated. These would be addressed pretty well by the compromise. This is a plus.

Official weighing is included for the first time. This is a real plus.

The upgrading of the departmental inspection "service" at USDA is in order with the present-day volume of export. I understand that the Department has strong objections, but stronger firepower here is advisable in my opinion.

In conclusion, the conferees are close to an agreement on a good and needed bill. I would hope that it would not be killed, because of overzealousness on a most critical point.

Mr. WAGGONNER. Mr. Speaker, the gentleman from Nebraska has properly stated the situation. It is legislative overkill which we will regret in time to come.

Mr. HILLIS. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. Mr. Speaker, I yield to the gentleman from Indiana for purposes of debate only.

Mr. HILLIS. Mr. Speaker, I thank the gentleman from Louisiana for yielding.

Mr. Speaker, I would point out to the Members of the House that approximately 25 percent of all American farm production goes abroad.

I would point out further that those of us representing inland States have absolutely no say in the quality of inspection at the export terminals, despite the fact that our States are drastically affected when those export terminal inspections are such that it tends to destroy the world market. I would ask the gentleman in the well if he has read the GAO report on this matter, for my reading of that report would indicate that buyer after buyer, from country after country, has consistently pointed out their reluctance to trust what they are buying from this country.

The quickest way that I know of to destroy a market is to not give people what you are selling them. That is what we have been doing, and let us not kid ourselves—that is what we have been doing. The seashells that were found in the grain in the ship in the port of Louisiana were not grown with any grain in the hills of Montana, nor the valleys of Virginia, nor anywhere else. Those were pollutants added in.

We can discuss all we want to, this motion today will kill this bill. Those of us who represent States so tremendously oriented to agriculture as Indiana must have some surcease. We must have some relief from the system that is now in vogue. We must have some system whereby we can be assured that when that grain leaves the fields of Iowa, leaves the terminals of Indiana, it goes abroad in its original state without being diluted.

Mr. WAGGONNER. Let me ask the gentleman from Indiana the question: Is the gentleman prepared to say that the State of Indiana and its department of agriculture is so unworthy of trust that never should they be allowed to conduct any inspections with regard to quality and quantity of whatever it is the farmers of Indiana might produce?

Mr. FITHIAN. I am simply saying to the gentleman in the well——

Mr. WAGGONNER. Would the gentleman answer the question?

Mr. FITHIAN. Dating back to the Kennedy administration, we have had these problems.

Mr. WAGGONNER. Mr. Speaker, the gentleman is not going to answer the question. I am not going to continue to yield to him.

Mr. FITHIAN. I simply pointed out that 12 years is enough.

Mr. WAGGONNER. Mr. Speaker, I refuse to yield further. The gentleman refuses to answer the question. Does the gentleman distrust his department of agriculture in Indiana?

Mr. FITHIAN. No, I do not distrust that department of agriculture——

Mr. WAGGONNER. He has answered the question. Why does he distrust mine? Mine has not been utilized.

Mr. FITHIAN. I simply distrust the record of performance at the Gulf ports. It is that simple.

Mr. WAGGONNER. But my department of agriculture has not been party to that.

Mr. Speaker, I refuse to yield further.

Mr. POAGE. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Texas (Mr. POAGE) for purposes of debate only.

Mr. POAGE. Mr. Speaker, I am one of those who agree with my colleague, Mr. BROOKS, that the U.S. Government should not engage in the practice of putting a grade on any commodity that it is not willing to back up. The United States does not guarantee grades of export grain. We put a grade on through a Government inspector and say, "This is No. 2; this is No. 1; this is No. 4." Then, it turns out not to be that, and we say, "Me no Alamo; me no Goliad—we had nothing to do with that."

Now, the U.S. Government ought not, in my judgment, to be in such a situation. The U.S. Government, if it is going to hold out to the world that this grain is of a certain grade, should guarantee it is of that grade. I do not think it should hold out to the world what the grade is.

I think the U.S. Government should simply provide the facilities and let the buyers from anywhere in the world come here and look at the grain and decide for themselves what the grade is. Then, they cannot complain to anybody about the United States deceiving them.

But, that is not the matter before the House at the moment. What is before us is whether we will insist on the bill we all voted for, which most of us voted for, by an overwhelming majority. The instruction is to simply insist on the House bill rather than take the Senate bill.

It seems to me that that is perfectly logical. Why should not this body insist on its own bill? Has anything occurred since we voted the House bill? Has anything occurred to change the situation? If it has, we ought to have that brought out. But I do not know of any change that has taken place. A 4 or 5 to 1 majority—probably more than that—of this House voted for the House bill. We knew what the other body wanted at that time. Since we voted for the House bill, why should we change now unless circumstances have changed?

It seems to me that those who want to abandon the House bill should point to the change in circumstances that have occurred since they voted for that bill. It seems to me that if they cannot point out a change in circumstances that perhaps they have a right, but they are in rather poor grace, to come in here and say, "Well, I voted for it, and things are now just as they were then, but I hope you will give us something else."

I am a member of that conference. I would rather see no bill, frankly. I recognize that my point of view is in the minority. I would rather see no bill, because I think the U.S. Government should not guarantee grades. But if we are going to have a bill, and I think we are, then we should adopt the House bill. I think the House bill is fair. Nobody has criticized the House bill. Nobody has said there was an injustice in the House bill. Why do we not stand behind the bill we have presented?

Mr. WAGGONNER. Mr. Speaker, the gentleman from Texas is correct. On April 2 of this year, by a record vote of 246 to 33, this House passed this bill, which was an expression on the part of the House, 246 Members of the House, that that provision providing for discretionary authority on the part of the Secretary of Agriculture to designate State agencies to do grain inspection was good, was right, and it was acceptable. Two hundred forty-six Members of this House expressed concurrence in that provision then, and only 33 expressed disagreement with that particular provision.

So what is there now to say that we should think completely different?

Mr. MOORE. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. I yield to my friend, the gentleman from Louisiana (Mr. MOORE) for purposes of debate only.

Mr. MOORE. I appreciate my colleague's yielding to me again.

Mr. Speaker, as I sit here and listen to the debate, one thing becomes clear. That is that the gentleman is entirely correct when he says that the Louisiana State Department of Agriculture, Grain Inspection Division, had nothing to do with any of the problems that exist in Louisiana, nor, to my knowledge, has any State agency in any of the export ports, whether they be on the west coast, the east coast, the Great Lakes, or in the Gulf. And since it is not a case of legislative overkill, it seems to me like a case of just legislative complete improvements to rule States out. But as I pointed out earlier, it is constitutional to leave some in, because they are doing it now, and leave some others out. If it is a valid premise that a State agency cannot export grain and inspect it, then why is it not the same premise that they cannot do it at interior ports? And if that is the case, why is it they cannot go out in the field and help the farmer?

The point I am trying to make is that if a State agency cannot be trusted at our export points, they cannot be trusted anywhere; the State agencies should be banned from the entire spectrum of agriculture. And, of course, that is a ridiculous proposition.

It likewise makes it true that the Senate provision and the compromise that is being proposed in the conference today is likewise a logically ridiculous proposition, as well as unconstitutional.

Again I urge my colleagues to support the proposition and the motion presented by the gentleman from Louisiana.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. Mr. Speaker, I yield to the gentleman from Iowa (Mr. BEDELL) for purposes of debate only.

Mr. BEDELL. I thank the gentleman for yielding.

Mr. Speaker, I think we lose sight of the situation here, from the parliamentary standpoint. It is correct, is it not, that the committee is meeting at this time, that they are trying to work out an agreement between the House version and the Senate version? If they do, it will come back to the House, and those people who object to that version will have a chance to vote against it, if they wish to do so. Is that correct?

Mr. WAGGONNER. Mr. Speaker, it is correct to say that Senate conferees were appointed on April 26, 1976, that House conferees were appointed on May 6, 1976, and that the conferees have been meeting on an off-and-on basis since that period of time.

It is not technically correct to say they are meeting at this time, no. They are to meet, as I understand it, later today. This is a statement, I believe, that tracks the statement of the chairman of the House Committee on Agriculture, the gentleman from Washington (Mr. FOLEY), who said the House conferees are to meet next at 2:30 this afternoon in an effort to resolve this question.

Mr. BEDELL. Mr. Speaker, will the gentleman yield further?

Mr. WAGGONNER. I yield further for purposes of debate only.

Mr. BEDELL. Mr. Speaker, it would seem to depend on what they come up with this afternoon. It would seem to me to be the sensible legislative procedure that we should let them proceed and see what they come up with, and then we should decide if what they come up with is something we should approve or disapprove.

It seems to me it would be a tragic error to stop them right now so that they will have had no chance this afternoon to try to come to an agreement and bring something back to us on which we can vote.

Mr. WAGGONNER. Mr. Speaker, the conferees have been meeting for 4 months. I do not believe that we should abandon the House-passed provision which was opposed by only 33 Members when we passed this bill earlier this year.

We should provide this discretionary authority for the Secretary of Agriculture if this bill is signed into law so that any future Secretary of Agriculture may designate State agencies to conduct grain inspections for him under his guidelines and under his instructions.

Mr. Speaker, there is nothing wrong with that. This Congress should not overreact emotionally, but it is always prone, it seems, to do that.

Mr. Speaker, I move the previous question on the preferential motion.

MOTION TO TABLE OFFERED BY MR. BERGLAND

Mr. BERGLAND. Mr. Speaker, I move to lay the preferential motion on the table.

POINT OF ORDER

Mr. WAGGONNER. Mr. Speaker, I raise a point of order.

The SPEAKER. The gentleman from Louisiana (Mr. WAGGONNER) will state his point of order.

Mr. WAGGONNER. Mr. Speaker, under the rules of the House, in offering a preferential motion, the time belongs to the offeror. Now, for the benefit of the gentleman from Minnesota (Mr. BERGLAND), I can move the previous question, and the vote occurs on the previous question. The votes does not occur on a motion to table until the previous question is voted on and unless the previous question is not ordered.

The SPEAKER. The Chair will state the gentleman's statement is not correct. If the gentleman moves the previous question, the motion to instruct conferees is first subject to being tabled.

Mr. WAGGONNER. That is exactly what I am talking about, Mr. Speaker. We have to table my motion.

The SPEAKER. The motion to table the motion to instruct is privileged over the previous question.

Mr. WAGGONNER. But the previous question has to be tabled first, Mr. Speaker.

The SPEAKER. No, that is not correct. The motion to table is being applied to the motion to instruct conferees, and not to the previous question on that motion.

PARLIAMENTARY INQUIRY

Mr. WAGGONNER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WAGGONNER. For my information, Mr. Speaker, will the Chair cite for me the rule which is the basis of the Chair's ruling?

The SPEAKER. The citation is clause 4 of rule XVI.

Mr. WAGGONNER. And that says what, Mr. Speaker?

The SPEAKER. The Chair will read a portion of the rule:

> When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question (which motions shall be decided without debate), to postpone to a day certain, to refer, or to amend, or postpone indefinitely; which several motions shall have precedence in the foregoing order; and no motion to postpone to a day certain, to refer, or to postpone indefinitely, being decided, shall be again allowed on the same day at the same stage of the question.

Mr. WAGGONNER. Mr. Speaker, what is that preferential order?

Mr. YATES. Mr. Speaker, I call for the regular order. The regular order is on the motion to table; is it not?

The SPEAKER. The gentleman is correct.

Mr. YATES. Then, Mr. Speaker, let us have a vote.

The SPEAKER. The question is on the motion to table offered by the gentleman from Minnesota (Mr. BERGLAND).

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BAUMAN. Mr. Speaker, am I correct in assuming that the gentleman from Minnesota (Mr. BEGRLAND) has moved to table the previous question?

The SPEAKER. The gentleman from Minnesota (Mr. BERGLAND) has moved to table the preferential motion to instruct conferees.

Mr. BAUMAN. And that is what we will be voting on?

The SPEAKER. Yes, and that is privileged.

Mr. BAUMAN. I thank the Speaker.

PARLIAMENTARY INQUIRY

Mr. WAGGONNER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. WAGGONNER. Mr. Speaker, under what rule of the House can the gentleman move to table the preferential motion without the previous question's being denied?

The SPEAKER. The rule which the Chair has just cited and under the precedents in support thereof.

Mr. WAGGONNER. Mr. Speaker, how can any vote be conducted without the previous question's being ordered?

The SPEAKER. It is a motion to table, which must be voted on before the motion for the previous question on the matter which the gentleman refers to.

Mr. YATES. Mr. Speaker, I demand the regular order.

The SPEAKER. The regular order is demanded.

The Chair is putting the question on the motion which is before the House.

The question is on the motion offered by the gentleman from Minnesota (Mr. BERGLAND) to table the preferential motion offered by the gentleman from Louisiana (Mr. WAGGONNER).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WAGGONNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 224, nays 178, not voting 28, as follows:

[Roll No. 792]

YEAS—224

Abzug
Adams
Addabbo
Alexander
Allen
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Baldus
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Broomfield
Brown, Calif.
Broyhill
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Clay
Cleveland
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
D'Amours
Daniels, N.J.
Danielson
de la Garza
Delaney
Dellums
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evans, Ind.
Fary
Fascell
Findley
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Gaydos
Giaimo
Gibbons
Gonzalez
Grassley
Gude
Hagedorn
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hicks
Holtzman
Howard
Howe
Hungate
Jacobs
Johnson, Calif.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Keys
Koch
Krebs
Leggett
Lehman
Lloyd, Calif.
Long, Md.
Lundine
McCloskey
McCormack
McDade
McFall
McHugh
McKay
Madden
Maguire
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pike
Pressler
Preyer
Price
Quie
Railsback
Randall
Rangel
Rees
Reuss
Richmond
Riegle
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Steiger, Wis.
Stokes
Studds
Sullivan
Symington
Taylor, N.C.
Thompson
Thone
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waxman
Weaver
Whalen
Wilson, C. H.
Wirth
Wolff
Yates
Yatron
Young, Ga.
Zablocki
Zeferetti

NAYS—178

Abdnor
Ambro
Anderson, Ill.
Andrews, N.C.
Archer
Armstrong
Ashbrook
AuCoin
Bafalis
Bauman
Beard, Tenn.
Bell
Bevill
Boggs
Bowen
Breaux
Brinkley
Brooks
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Carter
Cederberg
Chappell
Clausen, Don H.

Clawson, Del
Cochran
Collins, Tex.
Conable
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Davis
Dent
Derrick
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
du Pont
Edwards, Ala.
Emery
English
Erlenborn
Eshleman
Evins, Tenn.
Fenwick
Fish
Flowers
Flynt
Forsythe
Fountain
Frenzel
Frey
Fuqua
Gilman
Ginn
Goldwater
Goodling
Haley
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Hébert
Hefner
Hightower
Hillis
Holland
Holt
Horton
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jarman
Jeffords
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Lent
Levitas
Lloyd, Tenn.
Long, La.
Lott
Lujan
McClory
McDonald
McEwen
McKinney
Madigan
Mahon
Mann
Martin
Mathis
Michel
Milford
Miller, Ohio
Mills
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Myers, Pa.
Neal
Nichols
O'Brien
Passman
Paul
Pettis
Pickle
Poage
Pritchard
Quillen
Regula
Rhodes
Risenhoover
Roberts
Robinson
Rousselot
Runnels
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Sikes
Skubitz
Snyder
Spence
Stanton, J. William
Steed
Stephens
Stratton
Stuckey
Symms
Talcott
Taylor, Mo.
Teague
Thornton
Treen
Vander Jagt
Waggonner
Walsh
Wampler
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wright
Wydler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—28

Badillo
Byron
Chisholm
Clancy
Conlan
Esch
Gradison
Green
Guyer
Heinz
Helstoski
Henderson
Hinshaw
Jenrette
Jones, Ala.
Jones, N.C.
McCollister
Matsunaga
Metcalfe
Mink
Nix
Ruppe
Santini
Sarbanes
Smith, Nebr.
Steelman
Steiger, Ariz.
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Helstoski for, with Mr. Clancy against.

Mr. Badillo for, with Mr. Steiger of Arizona against.

Mrs. Chisholm for, with Mr. Steelman against.

Mr. Matsunaga for, with Mr. Guyer against.

Mr. Nix for, with Mr. Conlan against.

Mr. Metcalfe for, with Mr. Ruppe against.

Mrs. Mink for, with Mr. Byron against.

Until further notice:

Mr. Green with Mr. Henderson.

Mr. Jenrette with Mr. Jones of North Carolina.

Mr. Sarbanes with Mr. Santini.

Messrs. THONE, BURLISON of Missouri, and PRESSLER changed their vote from "nay" to "yea."

So the motion to table the preferential motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDING ACT OF JULY 9, 1965—RECREATIONAL AND OTHER PUBLIC USES AT DAMS AND RESERVOIRS

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 15563) to amend the act of July 9, 1965 (79 Stat. 213; 16 U.S.C. 4601-17(c)), and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. SEBELIUS. Mr. Speaker, reserving the right to object, could the gentleman give us a brief explanation of what this bill does?

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. I yield to the distinguished gentleman.

Mr. TAYLOR of North Carolina. Mr. Speaker, I would like to state that since 1965, all reservoirs constructed by the Corps of Engineers or the Bureau of Reclamation have listed recreational uses as one of the project purposes. As a matter of fact, they have emphasized recreation as a justification for expenditures. But some of the older reservoirs constructed years ago make no mention of recreation. Back in the thirties few people owned boats and little consideration was given to water-oriented recreation; today recreation on the lakes has become a very important aspect of our lives.

Let me emphasize this. The bill does not require any Federal agency to do anything. It does not alter any existing financial commitments. It merely says that in operating Federal dams and reservoirs, the agency involved may recognize and provide for recreational uses in a manner consistent with the promotion of navigation, flood control and electric energy production, and other uses as provided by law.

Mr. Speaker, this bill passed the committee unanimously. I know of no objection to it.

Mr. KETCHUM. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Speaker, I ask, through the gentleman from Kansas to the chairman of the committee, I think this is a good bill; but does the adding of the term "recreation" then make these water recreation areas eligible for land and water conservation funds?

Mr. TAYLOR of North Carolina. Mr. Speaker, if the gentleman will yield, these subjects are already eligible for land and water conservation fund matching grants through the States. This would not make them eligible for any of the Federal funds, unless additional legislation is passed.

Mr. KETCHUM. Mr. Speaker, I thank the gentleman for that explanation.

Mr. SEBELIUS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the bill, as follows:

H.R. 15563

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6(d) of the Act of July 9, 1965 (79 Stat. 213; 16 U.S.C. 4601-17(c)) is amended by changing the period to a comma and inserting the following: "but all such projects are authorized to recognize and provide for recreational and other public uses at any dams and reservoirs heretofore or hereafter constructed in a manner consistent with the promotion of navigation, flood control, and the generation of electric energy, as otherwise required by law.".

Mr. MILLER of Ohio. Mr. Speaker, I would like to address an inquiry to the distinguished gentleman from North Carolina. My inquiry is this: What is the meaning of language contained in this bill "and other public uses"? For the further information of the Members I understand the gentleman from North Carolina has said that the term "other public uses" as appearing on line 7 of H.R. 15563 must be interpreted in relation to recreation. It might authorize fish and wildlife protection and management or stocking of lakes with fish, but it is not intended to authorize functions unrelated to water-oriented recreation. For instance, it would not authorize the withdrawal of water from a lake for municipal or other uses.

The bill was ordered to be engrossed and read the third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

AUTHORIZING CERTAIN STUDIES BY THE SECRETARIES OF AGRICULTURE AND THE INTERIOR

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 15558) to authorize the study of certain areas by the Secretaries of Agriculture and the Interior.

The clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. SEBELIUS. Mr. Speaker, reserving the right to object, I would like to ask the chairman of the subcommittee to explain the bill.

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. I yield to the distinguished gentleman.

Mr. TAYLOR of North Carolina. Mr. Speaker, I would say the bill is wholly noncontroversial. It authorizes seven studies of certain specific projects in various parts of the country. Once the studies are completed and the recommendations are formulated with respect to the recreational and other values involved, they will be sent to a future Congress for review and possible action. It is simply a study bill.

I might point out that we have held hearings on a great many bills referred to our subcommittee. Some of these bills called for immediate action, but the Secretary of the Interior said, "We need more information. We need more study before we are in a position to act."

So, in line with these recommendations, we have changed some of the proposals to "study bills," hoping that the studies will result in proper consideration by a future Congress.

Mr. SEBELIUS. Mr. Speaker, does the bill authorize any appropriations?

Mr. TAYLOR of North Carolina. Mr. Speaker, if the gentleman will yield further, the dollar cost for the studies is anticipated to be $390,000 and that appropriation is authorized.

I say again that these studies should be valuable in guiding a future Congress as to what action should be taken on these proposals.

Mr. SEBELIUS. It does not authorize anything for next year, but for the year after that?

Mr. TAYLOR of North Carolina. The gentleman is correct. No funds authorized by this legislation are to be available before fiscal year 1978.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I rise in strong support of H.R. 15558, a bill which would authorize the Secretary of Agriculture and the Secretary of the Interior to conduct certain area studies. Under title III of this omnibus study bill are provisions for the Secretary of the Interior to conduct a 2-year feasibility/suitability study for a National Museum of Afro-American History and Culture at or near Wilberforce, Ohio. A bill similar to title III of H.R. 15558 passed the Senate by a voice vote on August 25, 1976.

I have introduced on several previous occasions, starting in 1968, legislation to establish and operate an Afro-American museum in Wilberforce and I am pleased to report that when I introduced this measure again last April, I had 14 cosponsors, including many members of the Black Caucus. This worthy measure deserves the immediate support of the House in order that the National Museum of Afro-American History and Culture, as well as the other areas to be studied, may become a reality.

Wilberforce is a community rich in over 200 years of ethnic heritage, and Wilberforce University, established in 1856, is the first university organized by and for Americans of African heritage. Also located there are two other institutions of higher education, Central State University, whose enrollment is still predominantly black but which educates both black and white students, and Payne Theological Seminary, which prepares individuals for ministry in the AME Church. All three institutions have historically been committed to the education of the world's economically disadvantaged, especially those of African heritage. Today, the world's nations of African heritage maintain relations, both educational and cultural, with the institutions and residents of Wilberforce. A number of African leaders have been educated there and future leaders are being educated there today.

Historically, the Wilberforce area is the location of a number of registered national historical landmarks. Additionally, the area was selected as the proposed site because of its significance as an early center of abolitionist activity and as a major stop on the underground railroad, especially the Col. Charles Young residence. What better place for a collection of the many facets of contribution to the American culture by the black culture than a place where blacks and whites together took their early stand for freedom?

Wilberforce, Ohio, is a center of Afro-American History and Culture geographically located in the heartland of America. More than half of the Nation's population resides in areas that are within a day's drive of Ohio. Fifteen miles west of Wilberforce is the location of the renowned Air Force Museum at Wright Patterson Air Force Base and less than an hour's drive to the north is the home of the Neil Armstrong Air and Space Museum maintained by the Ohio Historical Society.

The State of Ohio has shown its support for this endeavor through the enactment of legislation in 1972, which would provide for the Ohio Historical Society to establish and operate a National Museum of Afro-American History and Culture near Wilberforce. That same legislation created the National Museum of Afro-American History and Culture Planning Council to advise the Ohio Historical Society. The Ohio Legislature has appropriated $80,000 for 1975–77 biennium for two purposes: First, to do the planning necessary to secure funds from a nationwide range of sources for operation and construction; and second, to identify and protect manuscripts and memorabilia. To my knowledge, this initiative has not been equaled by any other State legislature. The Ohio Historical Society would be permitted to accept donations, property, and other forms of contributions for the purpose of constructing the museum and necessary roads and facilities.

The three major educational institutions located in Wilberforce—Wilberforce University, Central State University, and Payne Theological Seminary—are all strongly supporting this proposal of a 1-year study. Also, the endorsement of the museum by the recently formed community development corporation, Wilberforce, Inc., indicates the existence of the community support necessary for the success of the project. This legal entity could also provide technical assistance and support for such a facility. The Ohio Association for the Study of Afro-American Life and History, with chapters in many major cities throughout Ohio, is also supportive of this legislation.

There are economic advantages for the establishment of the National Museum of Afro-American History and Culture in the area that was ravaged by tornadoes 2 years ago at and near Xenia, Ohio. The destruction caused by the tornadoes that hit the Xenia-Wilberforce area, and the three Wilberforce campuses, in April of 1974, was immeasurable. Federal and State assistance, coupled with national fundraising efforts by Wilberforce University and Central State University, have, with strong community support, begun to put this area back on its feet. The creation of the museum and the visitors it would attract, linked with plans for the rebuilding of the universities and the surrounding area, would indicate the national interest and support necessary for this region to fully recover.

The creation of a major collection, display, and cultural center in the form of an Afro-American Museum offers a special educational focus within a day's drive of the most concentrated part of the U.S. population which would create an increased public awareness—among both black and white—of Afro-American participation in, and contributions to, the history and culture of the United States.

The establishment of the National Museum of Afro-American History and Culture near Wilberforce will significantly enhance this Nation's ability to recognize, understand, and pay tribute to the great achievements made by Americans of African heritage. This museum would also create a worthwhile institution dedicated to the research and preservation of Afro-American genealogy, memorabilia, and artifacts, placing emphasis on contributions in the areas of arts, science, technology, religion, education, politics, sports, and entertainment.

The enactment of this legislation constitutes the first step necessary for the creation of this centralized facility appropriate to recognize the accomplishments of the Afro-American. The establishment of the National Museum of Afro-American History and Culture of all black peoples from the earliest times to the present—especially in this, our Bicentennial Year—is a project worthy of national consideration.

Mr. Speaker, I respectfully urge speedy action on this bill. It has already passed the Senate, and time is running short for completing the action necessary this year. It is important that we get this study underway as soon as possible so that we may begin to live up to our commitments to black Americans to fully recognize their many contributions to the history and culture of the United States.

Mr. SEBELIUS. Mr. Speaker, this bill is an omnibus measure which provides for studies to be undertaken by the Secretaries of Interior and Agriculture for seven different areas.

The results of these studies will be made available to the Congress so that any further action it may wish to consider in the future will have the benefit of the information and recommendations developed by the studies.

While it is my opinion that there is some degree of question on the merit of handling some of the subjects in this bill in this manner, and I cannot therefore be enthralled with this bill, I shall not object to it.

I would point out that, in the case where studies of these items may have already been initiated and carried forth to some degree, full value should be made of the work already completed so as to reduce the amount of repetitiveness and expense that might be otherwise encountered.

Mr. Speaker, we are all aware of the coming retirement of our good friend and able chairman of the Subcommittee on National Parks and Recreation (Mr. TAYLOR). Through his work in serving on this subcommittee for 16 years and chairing it for 10, he has left an indelible imprint and made a great and lasting contribution to the people of this and future generations in the preservation of the most superlative of our natural and historical heritage.

One of the most meritorious titles of this bill deals with the study of the Mt. Mitchell area in North Carolina as a potential national park. I include an article relative to this proposal from the Asheville Citizen in the Record at this point:

[From the Asheville (N.C.) Citizen,
Sept. 14, 1976]

A National Park at Mt. Mitchell

Michael Frome, one of the nation's most outspoken conservationists, would like to see Mt. Mitchell included in the National Park System as a tribute to the retiring 11th District Congressman Roy A. Taylor of Black Mountain.

"It's a wonder to me that we haven't given Mt. Mitchell that kind of recognition before," said Frome, who spent the weekend here trying to start a movement for the establishment of Mt. Mitchell National Park. "It's the highest peak east of the Rockies, and is a tremendous area of spectacular vistas and unspoiled wilderness."

Frome, of Alexandria, Va., is the author of "Strangers in High Places," the story of the Great Smoky Mountains, and, more recently, Rand McNally's "National Park Guide," which this year is in its 10th edition.

He is former conservation editor of Field & Stream magazine. He was fired from that job a couple of years ago following his criticism of special economic interests in logging, mining, grazing, and land development, and his personal ratings of congressmen on environmental issues. Before that, he lost his job as conservation columnist for American Forests magazine because of his criticism of the U.S. Forest Service and its logging practices.

So Mike Frome has been around. He is infinitely familiar with the Great Outdoors, with our national parks and the people who run them. He is concerned that many of our precious natural wonders have few years left unless government indifference, industrial greed, and public apathy can be overcome.

SPECTACULAR RANGE

He wants to see the establishment of a Mt. Mitchell National Park encompassing 50,000 to 100,000 acres, with the Black Mountain range the focal point.

"I don't think there's anything more spectacular between Pennsylvania and Mt. Oglethorpe than the Black Mountains," he said.

The park land he has in mind would be a football-shaped area running from Craggy Pinnacle along the Blue Ridge Parkway to Crabtree Falls, northward to include Roan Mountain on the North Carolina-Tennessee state line, then westward to take in the Unaka Mountains, and southward again to Craggy Pinnacle.

"This area includes fantastic rivers like the Toe and Cane," he said, "which compare very favorably with the New River, most recently included in the Wild and Scenic Rivers Act. If we can save the New River, we can establish Mt. Mitchell National Park.

The area lies in Yancey and Mitchell counties primarily.

"This is a tremendous area of unspoiled land in private ownership, national forest tracts, and state land," he said. "Probably sixty per cent is owned by the U.S. Forest Service. The private land is in large, undeveloped blocks owned by good people. And the state land is the Mt. Mitchell State Park, which would be the core of the national park."

It was evident that he had done his homework.

"This would be a great addition to the National Parks System," Frome said. "At a time when President Ford is talking about expanding the national parks, I can't think of a better project. It could be set up as an area to protect endangered species. I believe there are panthers up there.

"I would like to see Roy Taylor introduce a bill to establish this park before he leaves Washington," Frome added. "Then I hope the Blue Ridge Parkway Association will take the lead in working for the new national park. It would be of tremendous benefit to the accommodations industry, crafts people, and the like—and Burnsville would make a wonderful gateway to the park."

TOUGH ACT TO FOLLOW

Frome said he intends to carry the idea to national conservation organizations, the Sierra Club, the Wilderness Society, political candidates, and just plain citizens. "The big push," he said, "must come from the citizens of North Carolina."

Frome called Roy Taylor "one of the few people in the House who understands our national parks." But there was a time when Frome criticized Taylor.

"Here's a guy we had some problems with," Frome said. "The initial problem came with the proposed building of that road through the Smokies from Bryson City to Deal's Gap. I remember him saying, 'After we build that road, then we're going to build a road from Deal's Gap to Clingman's Dome.'

"But he changed," Frome said. "He learned a great deal about the national parks and the National Forest Service, and he became a wiser man. He matured on the basis of his experience with the national parks all over the country. He has always been a gentleman, and always he was trying to do what he thought his constituents wanted. He was responsible to the best interests of his constituents.

"His work as chairman of the House Subcommittee on National Parks and Recreation, an arm of the Committee on Interior and Insular Affairs, has been outstanding.

"And now, as he retires, those who criticized him, as I did, really want to salute this man. He has made significant achievements to our nation's beauty, and they came from his heart.

"I don't know who's going to replace Roy on the subcommittee, but it's going to be a tough act to succeed him."

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the bill, as follows:

H.R. 15558

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—FREDERICK LAW OLMSTED HOME AND OFFICE, BROOKLINE, MASSACHUSETTS

Sec. 101. The Secretary of the Interior shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives within two years from the date of enactment of this Act a feasibility/suitability study of the Frederick Law Olmsted Home and Office as a unit of the National Park System. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as any alternatives for the administration and protection of the area.

Sec. 102. There are authorized to be appropriated not to exceed $25,000 for the purposes of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

TITLE II—SAINT PAUL'S CHURCH, EASTCHESTER, NEW YORK

Sec. 201. The Secretary of the Interior shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives within two years from the date of enactment of this Act a feasibility/suitability study of Saint Paul's Church as a unit of the National Park System. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as any alternatives for the administration and protection of the area.

Sec. 202. There are authorized to be appropriated not to exceed $25,000 for the purposes of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

TITLE III—NATIONAL MUSEUM OF AFRO-AMERICAN HISTORY AND CULTURE AT OR NEAR WILBERFORCE, OHIO

Sec. 301. The Secretary of the Interior shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives, within two years from the date of enactment of this Act a feasibility/suitability study for a National Museum of Afro-American History and Culture at or near Wilberforce, Ohio. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as any alternatives for the administration of such museum.

Sec. 302. There are authorized to be appropriated not to exceed $25,000 for the purposes of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

TITLE IV—KALAUPAPA SETTLEMENT ON THE ISLAND OF MOLOKAI, HAWAII

Sec. 401. (a) The Congress finds:

(1) Since 1866 a colony for the care and treatment of the victims of leprosy, known as the Kalaupapa settlement, has existed on the island of Molokai in the State of Hawaii. On this site Father Joseph Damien de Veuster (1840–1889) worked for sixteen years among those victims until at last succumbing to their disease. This inspiring work made him a figure of such national acclaim that a statue of him rests in the Nation's Capitol. This work led to proceedings for his beatification by the Catholic Church and to worldwide veneration of this devotion and mission. This respect and admiration served to focus unprecedented attention on the disease of leprosy and stimulated charity and scientific research toward its cure.

(2) The Kalaupapa settlement constitutes a unique and nationally significant cultural, historical, educational, and scenic resource.

(b) The purposes of this title are—

(1) to preserve and interpret the Kalaupapa settlement for the education and inspiration of present and future generations, and

(2) to provide that the preservation and interpretation of that settlement be managed and performed by native Hawaiians, including patients and former patients of the Kalaupapa settlement, to the extent practical, and that training opportunities be provided such persons in management and interpretation of the settlement's cultural, historical, educational, and scenic resources.

Sec. 402. (a) The Secretary of the Interior (hereinafter referred to as the "Secretary") shall study the feasibility and desirability of establishing as a part of the National Park System an area (hereinafter referred to as the "proposed park area") comprising all, or a portion of, the lands, waters, and interest in Kalawao County on the island of Molokai.

(b) As a part of such study, the Secretary shall consult with other interested Federal agencies, with other interested State and local bodies and officials, with patients and former patients presently in residence at the Kalaupapa settlement, and with the Commission established by section 4, and he shall coordinate the study with other applicable planning activities.

SEC. 403. (a) The Secretary shall submit to the President and the Congress within two years after the date of the enactment of this title a report of his study. The report of the Secretary shall contain, but not be limited to, findings with respect to the historic, cultural, educational, scenic, and natural values of the resources involved and recommendations for preservation and interpretation of those resources.

(b) The report of the Secretary referred to in subsection (a) shall include a detailed proposed master plan for the development of the proposed park area. Such plan shall include: (1) a schedule of acquisition of the proposed park area, (2) an assessment of planned restorations of historic sites, (3) an estimate of park development and long-term operation costs, (4) a plan for the development of programs (including training programs) for native Hawaiians, including patients and former patients of the Kalaupapa settlement, to manage and perform the preservation and interpretation of the park, (5) provision for the preservation of existing, exclusive hunting and fishing (konohiki) rights of the residents of Kalawao County, and (6) provisions to prevent the dislocation or displacement of any patient or former patient presently in residence at the Kalaupapa settlement and to maintain transportation and hospital facilities and other public services as may be necessary for any remaining patients or settlement staff.

SEC. 404. (a) There is hereby established a Kalaupapa National Historic Park Advisory Commission.

(b) The Commission shall be composed of fifteen members, at least six of whom shall be native Hawaiians, appointed by the Secretary, as follows:

(1) two members, one of whom will be appointed from recommendations made by each of the United States Senators representing the State of Hawaii, respectively;

(2) two members, one of whom will be appointed from recommendations made by each of the United States Representatives for the State of Hawaii, respectively;

(3) five public members, who shall have knowledge and experience in one or more fields as they pertain to Hawaii of history, ethnology, education, medicine, religion, culture, and folklore and including representatives of the Bishop Museum, the University of Hawaii, and organizations active in the State of Hawaii in the conservation of resources, to be appointed from recommendations made by the Governor of the State of Hawaii;

(4) two members to be appointed from recommendations made by local organizations representing the native Hawaiian people;

(5) at least two members representing the patients, organization; and

(6) two members to be appointed from recommendations made by the mayor of the county Maui.

(c) The term "native Hawaiian", as used in this title means a descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to the year 1778.

(d) The Secretary shall designate one member to be Chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(e) A member of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carying out its responsibilities under this title on vouchers signed by the Chairman.

(f) The Commission shall cease to exist at the time of submission of the Secretary's report referred to in section 3(a) to the President and the Congress.

SEC. 405. During the period commencing with the date of the enactment of this title and ending with submission of the Secretary's report to the President and the Congress and any necessary completion of congressional consideration of recommendations included in that report (1) no department or agency of the United States shall, without prior approval of the Secretary, assist by loan, grant, license, or otherwise in the implementation of any project which, in the determination of the Secretary, would unreasonably diminish the value of cultural, historical, educational, scenic, or natural resources relating to the proposed park area and (2) the Chief of Engineers, Department of the Army, shall not, without prior approval of the Secretary, undertake or assist by license or otherwise the implementation of any project which, in the determination of the Secretary, would diminish the value of natural resources located within one-quarter mile of the proposed park.

SEC. 406. There are authorized to be appropriated not to exceed $150,000 for the purposes of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

TITLE V—SHAWNEE HILLS, ILLINOIS

SEC. 501. The Congress finds that the Shawnee Hills in the State of Illinois contain unique recreational resources; that the Shawnee Hills possess historical, cultural, educational, recreational and natural qualities which offer outstanding opportunities for public enjoyment; and that such opportunities should be utilized and developed to their optimum potential for the full enjoyment of present and future generations.

SEC. 502. The Secretary of Agriculture is authorized and directed to study the Shawnee Hills in Saline, Pope, Gallatin, and Hardin Counties, Illinois, as depicted on the map entitled, "Shawnee Hills Study Area," dated June 1976, which shall be on file and available for inspection in the Office of the Chief, Forest Service, United States Department of Agriculture. Within three years from the date of enactment of this title, the Secretary shall submit a report to the Congress, including his recommendation as to the desirability and feasibility of establishing a national recreation area within the Shawnee Hills Study Area. Such report shall include the estimated costs of such establishment and proposed legislation to implement any recommendation for the establishment of such area.

SEC. 503. There are authorized to be appropriated not to exceed $90,000 for the purposes of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

The SPEAKER. The Clerk will report the committee amendments.

The Clerk read as follows:

Page 4, line 3, strike the word "statute" and insert in lieu thereof "statue".

Page 5, line 11, strike the figure "4," and insert in lieu thereof "404,".

Page 8, line 7, strike the figure "3(a)" and insert in lieu thereof "403(a)".

Page 9, line 19, strike "Agriculture," and insert in lieu thereof "Agriculture."

Page 10, following line 6, insert new Titles VI and VII reading as follows:

"TITLE VI—GEORGE W. NORRIS HOME, McCOOK, NEBRASKA

"SEC. 601. The Secretary of the Interior shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives within two years from the date of enactment of this Act a feasibility/suitability study of the George W. Norris home as a unit of the National Park System. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as any alternatives for the administration and protection of the area.

"SEC. 602. There are authorized to be appropriated not to exceed $25,000 for the purposes of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

"TITLE VII—MOUNT MITCHELL, NORTH CAROLINA

"SEC. 701. The Secretary of the Interior, in consultation with the Governor of the State of North Carolina and the Secretary of Agriculture, shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives within three years from the date of enactment of this Act a feasibility/suitability study of the Black Mountain Range of North Carolina, including the Mount Mitchell State Park, and the nearby federally owned lands adjacent to the Blue Ridge Parkway, including the Craggy Mountains, as a proposed Mount Mitchell National Park. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as any alternatives for the administration and protection of the area.

"SEC. 702. There are authorized to be appropriated not to exceed $50,000 for the purposes of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977."

Mr. TAYLOR of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the committee amendments be dispensed with and that they be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The committee amendments were agreed to.

Mr. SEIBERLING. Mr. Speaker, I rise in support of H.R. 15558, a bill authorizing the study of certain areas by the Secretaries of Agriculture and Interior.

In particular, I strongly support the provision in title III of the bill to direct a study to be made of the suitability and feasibility of establishing a National Museum of Afro-American History and Culture in the vicinity of Wilberforce, Ohio.

Legislation establishing the museum was introduced in the House by our distinguished colleague from Ohio, Mr. BROWN, and in the Senate by Senators TAFT and GLENN. However, the Department of the Interior has never made a study of the proposal. Without such a study the Interior Committee did not believe that there was enough information on the cost and feasibility of the proposal to make a final decision on whether to establish the museum.

Mr. Speaker, this museum would be unique in the United States. It would be the first central facility in the Nation specifically to preserve and interpret the history and culture of the Afro-American people.

Wilberforce, Ohio, was selected for the site of this museum because of the historic significance of the area as a center for the abolition movement. It was on the main line of the underground railroad in the 1800's for slaves who fled north. Wilberforce also contains two outstanding schools of higher education—Wilberforce University and Central State University. Wilberforce University was founded by black Americans, and it was the first institution of higher learning in America dedicated to the education of blacks. Central State was created by Wilberforce.

The museum, if established, would be used to preserve, collect, and display objects, relics, and records pertaining to Afro-American participation and contributions to the history and culture of the United States.

I urge my colleagues to support H.R. 15558.

Mr. OTTINGER. Mr. Speaker, I rise in support of H.R. 15558, the study of areas for inclusion in our national parks and wilderness areas systems by the Secretaries of Agriculture and Interior, which includes a 1-year study of how best to preserve the historic St. Paul's Church and site in Mount Vernon, N.Y.

St. Paul's is nationally recognized as a national shrine to the Bill of Rights. It was the place where the disputed election of 1733 took place in which the Royal Colonial Governor of New York sought to rig the outcome. The journalistic account of those events written by a young German immigrant printer by the name of John Peter Zenger led to his arrest for treasonous libel against the State. The famous Zenger trial ended in acquittal for Zenger and laid the foundation for our precious right to freedom of the press which was included in our Constitution's Bill of Rights some 50 years later.

St. Paul's is also the place where Anne Hutchinson found refuge in 1624 in her flight from religious persecution in the Massachusetts Bay Colony, and was thereby able to continue her efforts for freedom of religion, freedom of speech, and freedom of assembly.

Interestingly enough, St. Paul's Church bell acquired in 1758 was cast by the same craftsmen and in the same foundry as the famous Liberty Bell in Philadelphia.

I trust the House today will complete congressional action on this legislation by passing H.R. 15558. The Senate has already approved a similar measure. St. Paul's has already been designated as a national historic site, one of the few not already included in the national park system. I am hopeful that the 1-year study will conclude, as I and many others have already, that St. Paul's Church merits inclusion in the national park system. In the meantime, I am sure that the Congress will honor the direction in the House and Senate committee reports which calls for up to $100,000 to be appropriated for the emergency maintenance and repair of the church during this 1-year study period under the authority already granted by the National Historic Sites Act.

Many local and national organizations have expressed their support of legislation to preserve St. Paul's including the Society of the National Shrine of the Bill of Rights at St. Paul's Church, the Post Roads Girl Scouts Council of Westchester, N.Y., the Knapp Chapter of the Daughters of the American Revolution of Westchester, the Westchester County Historical Society, the city of Mount Vernon, the town of Pelham, N.Y., the town of Eastchester, N.Y., other local historical groups, as well as the Westchester Rockland newspapers and WVOX radio in New Rochelle, N.Y.

National press organizations which have announced their support include Editor & Publisher magazine, the National Newspaper Association, the Sigma Delta Chi journalists' fraternity, the National Association of Broadcasters, CBS Television News and CBS anchorman Walter Cronkite, the American Newspaper Publishers Association, Women in Communications, and the New York Daily News. The legislation has also received the active support of the Girl Scouts of America.

The contribution of all of these groups and individuals has been vital in our continuing efforts to have St. Paul's maintained and preserved as a part of the national park system.

Mrs. MINK. Mr. Speaker, I rise in support of H.R. 15558 which authorizes the study of certain areas including the Kalaupapa leprosy settlement area on the island of Molokai in the State of Hawaii for possible inclusion as a unit in the national park system. This bill was recently unanimously approved by the House Committee on Interior and Insular Affairs.

Kalaupapa, established more than a century ago for the care and treatment of victims of leprosy, may be known to the Members of this body through the long and dedicated service to the colony by the Belgian priest, Father Damien, whose statue is one of Hawaii's two commissioned by the State for display in the Halls of the U.S. Capitol. Father Damien is highly revered for his total dedication to the task of ministering to the needs of those who were stricken by leprosy and who were banished to Kalaupapa to live out their lives. Father Damien's sacrifice made him a venerated figure worldwide and led to proceedings for his beatification by the Catholic Church. All of this focused unprecedented attention on the disease of leprosy and stimulated charity and significant scientific research toward its cure.

So much progress has been made in the treatment of this disease that now the Hawaii Department of Health is trying to get all the patients to leave the settlement. But the patients do not wish to and this bill preserves their right to remain. Today leprosy is considered fully curable and confinement is no longer required. In time, therefore, there will be no patients left.

The promontory on which Kalaupapa is located is among the most remote and spectacular in the entire State. It is the scene of much dedicated service in the tradition of Father Damien but as these newer methods of treatment of leprosy have been developed, the patient population has dwindled to about 150. In the near foreseeable future, the settlement will have no one left. No new patients are being admitted.

There is growing concern about the future of the area and two options, preservation or development, present themselves.

The people of Hawaii want to see Kalaupapa saved. My bill H.R. 11180 is now title IV of this bill. The Secretary of Interior is authorized to order a study of the feasibility and desirability of establishing a national historic park for the preservation and restoration of the original site of the leprosy settlement as built by Father Damien and to develop a master plan of such proposed preservation effort. The historic preservation of Kalaupapa to memorialize the work of Father Damien is one of my most important proposals this year. I want Kalaupapa saved and restored. I know of no better, nor a more fitting way to remember and learn from the devotion and sacrifice of Father Damien than by preserving Kalaupapa as he created it. I urge the adoption of this bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 400) to direct the Secretary of the Interior to conduct a 1-year feasibility/suitability study of the Frederick Law Olmsted Home and Office as a national historic site.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 400

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives within one year from the date of enactment of this Act a feasibility/suitability study of the Federick Law Olmsted Home and Office as a national historic site. The study shall include cost estimates for any necessary acquisition, operations and maintenance, and development as well as any alternatives.

MOTION OFFERED BY MR. TAYLOR OF NORTH CAROLINA

Mr. TAYLOR of North Carolina. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TAYLOR of North Carolina moves to strike out all after the enacting clause of the Senate bill S. 400, and to insert in lieu thereof the text of H.R. 15558, as passed by the House as follows:

TITLE I—FREDERICK LAW OLMSTED HOME AND OFFICE, BROOKLINE, MASSACHUSETTS

SEC. 101. The Secretary of the Interior shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives within two years from the date of enactment of this Act a feasibility/suitability study of the Frederick Law Olmsted Home and Office as a unit of the National Park System. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as any alternatives for the administration and protection of the area.

SEC. 102. There are authorized to be appropriated not to exceed $25,000 for the purposes of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

TITLE II—SAINT PAUL'S CHURCH, EASTCHESTER, NEW YORK

SEC. 201. The Secretary of the Interior shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives within two years from the date of enactment of this Act a feasibilty/suitability study of Saint Paul's Church as a unit of the National Park System. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as any alternatives for the administration and protection of the area.

SEC. 202. There are authorized to be appropriated not to exceed $25,000 for the purposes of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

TITLE III—NATIONAL MUSEUM OF AFRO-AMERICAN HISTORY AND CULTURE AT OR NEAR WILBERFORCE, OHIO

SEC. 301. The Secretary of the Interior shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives within two years from the date of enactment of this Act a feasibility/suitability study for a National Museum of Afro-American History and Culture at or near Wilberforce, Ohio. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as any alternatives for the administration of such museum.

SEC. 302. There are authorized to be appropriated not to exceed $25,000 for the purposes of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

TITLE IV—KALAUPAPA SETTLEMENT ON THE ISLAND OF MOLOKAI, HAWAII

SEC. 401. (a) The Congress finds:

(1) Since 1866 a colony for the care and treatment of the victims of leprosy, known as the Kalaupapa settlement, has existed on the island of Molokai in the State of Hawaii. On this site Father Joseph Damien de Veuster (1840–1889) worked for sixteen years among those victims until at last succumbing to their disease. This inspiring work made him a figure of such national acclaim that a statue of him rests in the Nation's Capitol. This work led to proceedings for his beatification by the Catholic Church and to worldwide veneration of this devotion and mission. This respect and admiration served to focus unprecedented attention on the disease of leprosy and stimulated charity and scientific research toward its cure.

(2) The Kalaupapa settlement constitutes a unique and nationally significant cultural, historical, educational, and scenic resource.

(b) The proposes of this title are—

(1) to preserve and interpret the Kalaupapa settlement for the education and inspiration of present and future generations, and

(2) to provide that the preservation and interpretation of that settlement be managed and performed by native Hawaiians, including patients and former patients of the Kalaupapa settlement, to the extent practical, and that training opportunities be provided such persons in management and interpretation of the settlement's cultural, historical, educational, and scenic resources.

SEC. 402. (a) The Secretary of the Interior (hereinafter referred to as the "Secretary") shall study the feasibility and desirability of establishing as a part of the National Park System an area (hereinafter referred to as the "proposed park area") comprising all, or a portion of, the lands, waters, and interest in Kalawao County on the island of Molokai.

(b) As a part of such study, the Secretary shall consult with other interested Federal agencies, with other interested State and local bodies and officials, with patients and former patients presently in residence at the Kalaupapa settlement and with the Commission established by section 404, and he shall coordinate the study with other applicable planning activities.

SEC. 403. (a) The Secretary shall submit to the President and the Congress within two years after the date of the enactment of this title a report of his study. The report of the Secretary shall contain, but not be limited to, findings with respect to the historic, cultural, educational, scenic, and natural values of the resources involved and recommendations for preservation and interpretation of those resources.

(b) The report of the Secretary referred to in subsection (a) shall include a detailed proposed master plan for the development of the proposed park area. Such plan shall include: (1) a schedule of acquisition of the proposed park area, (2) an assessment of planned restorations of historic sites, (3) an estimate of park development and long-term operation costs, (4) a plan for the development of programs (including training programs) for native Hawaiians, including patients and former patients of the Kalaupapa settlement, to manage and perform the preservation and interpretation of the park, (5) provision for the preservation of existing, exclusive hunting and fishing (konohiki) rights of the residents of Kalawao County, and (6) provision to prevent the dislocation or displacement of any patient or former patient presently in residence at the Kalaupapa settlement and to maintain transportation and hospital facilities and other public services as may be necessary for any remaining patients or settlement staff.

SEC. 404. (a) There is hereby established a Kalaupapa National Historical Park Advisory Commission.

(b) The Commission shall be composed of fifteen members, at least six of whom shall be native Hawaiians, appointed by the Secretary, as follows:

(1) two members, one of whom will be appointed from recommendations made by each of the United States Senators representing the State of Hawaii, respectively;

(2) two members, one of whom will be appointed from recommendations made by each of the United States Representatives for the State of Hawaii, respectively;

(3) five public members, who shall have knowledge and experience in one or more fields as they pertain to Hawaii of history, ethnology, education, medicine, religion, culture, and folklore and including representatives of the Bishop Museum, the University of Hawaii, and organizations active in the State of Hawaii in the conservation of resources, to be appointed from recommendations made by the Governor of the State of Hawaii;

(4) two members to be appointed from recommendations made by local organizations representing the native Hawaiian people;

(5) at least two members representing the patient's organization; and

(6) two members to be appointed from recommendations made by the mayor of the county of Maui.

(c) The term "native Hawaiian", as used in this title means a descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to the year 1778.

(d) The Secretary shall designate one member to be Chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(e) A member of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this title on vouchers signed by the Chairman.

(f) The Commission shall cease to exist at the time of submission of the Secretary's report referred to in section 403(a) to the President and the Congress.

SEC. 405. During the period commencing with the date of the enactment of this title and ending with submission of the Secretary's report to the President and the Congress and any necessary completion of congressional consideration of recommendations included in that report (1) no department or agency of the United States shall, without prior approval of the Secretary, assist by loan, grant, license, or otherwise in the implementation of any project which, in the determination of the Secretary, would unreasonably diminish the value of cultural, historical, educational, scenic, or natural resources relating to the proposed park area and (2) the Chief of Engineers, Department of the Army, shall not, without prior approval of the Secretary, undertake or assist by license or otherwise the implementation of any project which, in the determination of the Secretary, would diminish the value of the natural resources located within one-quarter mile of the proposed park.

SEC. 406. There are authorized to be appropriated not to exceed $150,000 for the purposes of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

TITLE V—SHAWNEE HILLS, ILLINOIS

SEC. 501. The Congress finds that the Shawnee Hills in the State of Illinois contain unique recreational resources; that the Shawnee Hills possess historical, cultural, educational, recreational and natural qualities which offer outstanding opportunities for public enjoyment; and that such opportunities should be utilized and developed to their optimum potential for the full enjoyment of present and future generations.

SEC. 502. The Secretary of Agriculture is authorized and directed to study the Shawnee Hills in Saline, Pope, Gallatin, and Hardin Counties, Illinois, as depicted on the map entitled, "Shawnee Hills Study Area," dated June 1976, which shall be on file and available for inspection in the Office of the Chief, Forest Service, United States Department of Agriculture. Within three years from the date of enactment of this title, the Secretary shall submit a report to the Congress, including his recommendation as to the desirability and feasibility of establishing a national recreation area within the Shawnee Hills Study Area. Such report shall include the estimated costs of such establishment and proposed legislation to implement any recommendation for the establishment of such area.

SEC. 503. There are authorized to be appropriated not to exceed $90,000 for the purposes of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

TITLE VI—GEORGE W. NORRIS HOME, McCOOK, NEBRASKA

SEC. 601. The Secretary of the Interior shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives within two years from the date of enactment of this Act a feasibility/suitability study of the George W. Norris home as a unit of the National Park System. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as any alternatives for the administration and protection of the area.

SEC. 602. There are authorized to be appropriated not to exceed $25,000 for the purposes of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

TITLE VII—MOUNT MITCHELL, NORTH CAROLINA

SEC. 701. The Secretary of the Interior, in consultation with the Governor of the State of North Carolina and the Secretary of Agriculture, shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives within three years from the date of enactment of this Act a feasibility/suitability study of the Black Mountain Range of North Carolina, including the Mount Mitchell State Park, and the nearby federally owned lands adjacent to the Blue Ridge Parkway, including the Craggy Mountains, as a proposed Mount Mitchell National Park. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as any alternatives for the administration and protection of the area.

SEC. 702. There are authorized to be appropriated not to exceed $50,000 for the purposes of this tile. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To authorize the study of certain areas by the Secretaries of Agriculture and the Interior."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 15558) was laid on the table.

DESIGNATING CERTAIN LANDS WITHIN UNITS OF THE NATIONAL PARK SYSTEM AS WILDERNESS; REVISING THE BOUNDARIES OF CERTAIN OF THOSE UNITS; AND FOR OTHER PURPOSES

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 13160) to designate certain lands within units of the national park system as wilderness; to revise the boundaries of certain of those units; and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. SEBELIUS. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from North Carolina if he will tell us how much money is authorized to be appropriated in this bill.

Mr. TAYLOR of North Carolina. Will the gentleman yield?

Mr. SEBELIUS. I do.

Mr. TAYLOR of North Carolina. Mr. Speaker, in the main, the bill designates lands as wilderness in 10 national parks and monuments. Of course, there is no cost whatsoever as a result of the designations. There is a small addition of land in the Pinnacles National Monument in the district of the gentleman from California (Mr. TALCOTT). The anticipated cost of that addition is $955,000, so except for this addition there is no cost.

Mr. SEBELIUS. One more question: Does this bill have the support of every Member of the districts in which the proposed wildernesses are located?

Mr. TAYLOR of North Carolina. The answer is yes. Let me state that we started out with many bills before us which were introduced by different Members of Congress providing for wilderness areas in the national parks located in their districts. We held hearings on each one of them. Some were very controversial, but these 10 were relatively noncontroversial.

We were able to get the Department and the Members of Congress to generally agree with regard to the need to designate wilderness in these areas, and each one of these has the support of the Congressman in the district where it is located. It also has the suport of the administration, and even though the environmental organizations did not get all they wanted, nevertheless they strongly support this bill.

Mr. SEBELIUS. I thank the gentleman.

Mr. Speaker, the bill now under consideration is an omnibus measure which designates as wilderness, specified land acreage in 10 units of the national park system.

I know of no remaining controversy in this measure, and there never had been much of real significance to begin with.

Mr. Speaker, wilderness designation is probably more compatible with the general management objectives of the National Park Service than it is with any other Federal agency. The principal purpose of the natural areas of national park system units is to preserve unique resources in their natural state, with visitor use and enjoyment to occur in such manner as to not impair that resource. This is nearly the identical purpose of wilderness, with the exception that the hand of man, in the form of mechanization and development, is to be kept absent, and human numbers may need to be curtailed so as to retain the element of solitude.

Mr. Speaker, only four units of the national park system to date have had wilderness designation bestowed on parts of their lands. This bill will bring the total to 14, and constitute the semblance of some type of a developing system of wilderness within lands of the national park system. I hope that the National Park Service will recognize the importance of the challenge it has emerging before it, to administer these lands in the finest and best tradition of commitment to the retention of wilderness purity.

I become somewhat disturbed through time, in listening to the various proposals for and proponents of wilderness designation, where various interests advocate exceptions to the rules and intent of what wilderness was designed to mean. They want special exceptions and exemptions recognized within wilderness for activities and uses which are outright contrary to wilderness. They want wilderness and their contrary activities too. This approach tends to degrade the meaning of wilderness and reduce its value, and I think it is wrong.

I would expect that the National Park Service will fully commit itself to the management of these wilderness designated lands in as pure a manner, free from the imprint of man and his civilized ways and technology, as is possible.

I would like to make one final point specific to this bill, and that is in regard to section 7, which is designated to dovetail this bill into the provisions of the 1964 Wilderness Act. It would be my understanding that the terms "applicable provisions" and "where appropriate" are intended to bring into application to National Park Service wilderness, any provisions of the 1964 act and national forest system provisions which would provide increased protection of the land's wilderness purity, but not decreased protection of it.

For example, the 1964 act permits specified non-conforming activities to occur in national forest wilderness as specifically recognized provisions and exceptions, and provides certain constraints on land acquisition procedure, among other items. Any provision of the 1964 act which could be construed as a lessening of authority for the protection and promotion of purity in wilderness within the national park system would not be considered "appropriate" or "applicable" under terms of section 7 of this bill.

Mr. Speaker, I urge the adoption of this bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the bill as follows:

H.R. 13160

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in accordance with section 3(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132(c)), the following lands are hereby designated as wilderness, and shall be administered by the Secretary of the Interior in accordance with acres, depicted on a map entitled "Wilderness Act:

(a) Bandelier National Monument, New Mexico, wilderness comprising twenty-two thousand seven hundred and twenty-seven acres, depicted on a map entitled 'Wilderness Plan, Bandelier National Monument, New Mexico", numbered 315–20,014–A and dated February 1976, to be known as the Bandelier wilderness.

(b) Black Canyon of the Gunnison National Monument, Colorado, wilderness comprising eleven thousand one hundred and eighty acres, depicted on a map entitled "Wilderness Plan, Black Canyon of the Gunnison National Monument, Colorado", numbered 144–20,017 and dated May 1973, to be known as the Black Canyon of the Gunnison Wilderness.

(c) Chiricahua National Monument, Arizona, wilderness comprising nine thousand four hundred and forty acres, and potential wilderness additions comprising two acres, depicted on a map entitled "Wilderness Plan, Chiricahua National Monument, Arizona", numbered 145–20,007–A and dated September 1973, to be known as the Chiricahua Wilderness.

(d) Great Sand Dunes National Monument, Colorado, wilderness comprising thirty-three thousand four hundred and fifty acres, and potential wilderness additions comprising six hundred and seventy acres, depicted on a map entitled "Wilderness Plan, Great Sand Dunes National Monument, Colorado", numbered 140–20,006–C and dated February 1976, to be known as Great Sand Dunes Wilderness.

(e) Haleakala National Park, Hawaii, wilderness comprising nineteen thousand two hundred and seventy acres, and potential wilderness additions comprising five thousand five hundred acres, depicted on a map entitled "Wilderness Plan, Haleakala National Park, Hawaii", numbered 162–20,006–A and dated October 1975, to be known as the Haleakala Wilderness.

(f) Isle Royale National Park, Michigan, wilderness comprising one hundred and thirty-one thousand eight hundred and eighty acres, and potential wilderness additions comprising two hundred and thirty-one acres, depicted on a map entitled "Wilderness Plan, Isle Royale National Park, Michigan", numbered 139–20,004 and dated December 1974, to be known as the Isle Royale Wilderness.

(g) Joshua Tree National Monument, California, wilderness comprising four hundred and seventeen thousand six hundred acres, and potential wilderness additions comprising thirty-seven thousand five hundred and fifty acres, depicted on a map entitled "Wilderness Plan, Joshua Tree National Monument, California", numbered 156–20,003–C and dated February 1976, to be known as the Joshua Tree Wilderness.

(h) Mesa Verde National Park, Colorado, wilderness comprising eight thousand one hundred acres, depicted on a map entitled "Wilderness Plan, Mesa Verde National Park, Colorado", numbered 307–20,007–A and dated September 1972, to be known as the Mesa Verde Wilderness.

(i) Pinnacles National Monument, California, wilderness comprising twelve thousand nine hundred and fifty-two acres, and potential wilderness additions comprising nine hundred and ninety acres, depicted on a map entitled "Wilderness Plan, Pinnacles National Monument, California", numbered 114–20,010–D and dated September 1975, to be known as the Pinnacles Wilderness.

(j) Saguaro National Monument, Arizona, wilderness comprising seventy-one thousand acres, and potential wilderness additions comprising ten acres, depicted on a map entitled "Wilderness Plan, Saguaro National Monument, Arizona", numbered 151–20,003–C and dated February 1976, to be known as the Saguaro Wilderness.

SEC. 2. A map and description of the boundaries of the areas designated in this Act shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, and in the office of the Superintendent of each area designated in this Act. As soon as practicable after this Act takes effect, maps of the wilderness areas and descriptions of their boundaries shall be filed with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such maps and descriptions shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such maps and descriptions may be made.

SEC. 3. All lands which represent potential wilderness additions, upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses thereon prohibited by the Wilderness Act have ceased, shall thereby be designated wilderness.

SEC. 4. The boundaries of the following areas are hereby revised, and those lands depicted on the respective maps as wilderness or as potential wilderness addition are hereby so designated at such time and in such manner as provided for by this Act:

(a) Isle Royale National Park, Michigan:

The Act of March 6, 1942 (56 Stat. 138; 16 U.S.C. 408e–408h), as amended, is further amended as follows:

(1) Insert the letter "(a)" before the second paragraph of the first section, redesignate subparagraphs (a), (b), and (c) of that paragraph as "(1)", "(2)", "(3)", respectively, and add to that section the following new paragraph:

"(b) Gull Islands, containing approximately six acres, located in section 19, township 68 north, range 31 west, in Keeweenaw County, Michigan.".

(2) Amend section 3 to read as follows:

"SEC. 3. The boundaries of the Isle Royale National Park are hereby extended to include any submerged lands within the territorial jurisdiction of the United States within four and one-half miles of the shoreline of Isle Royale and the surrounding islands, including Passage Island and the Gull Islands, and the Secretary of the Interior is hereby authorized, in his discretion, to acquire title by donation to any such lands not now owned by the United States, the title to be satisfactory to him.".

(b) Pinnacles National Monument, California:

(1) The boundary is hereby revised by adding the following described lands, totaling approximately one thousand seven hundred and seventeen and nine-tenths acres:

(a) Mount Diablo meridian, township 17 south, range 7 east: Section 1, east half east half, southwest quarter northeast quarter, and northwest quarter southeast quarter; section 12, east half northwest quarter, and northeast quarter southeast quarter; section 13, east half northeast quarter and northeast quarter southeast quarter.

(b) Township 16 south, range 7 east: Section 32, east half.

(c) Township 17 south, range 7 east: Section 4, west half; section 5, east half.

(d) Township 17 south, range 7 east: Section 6, southwest quarter southwest quarter; section 7, northwest quarter north half west quarter.

(2) The Secretary of the Interior may make minor revisions in the monument boundary from time to time by publication in the Federal Register of a map or other boundary description, but the total area within the monument may not exceed sixteen thousand acres: *Provided, however*, That lands designated as wilderness pursuant to this Act may not be excluded from the monument. The monument shall hereafter be administered in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented.

(3) In order to effectuate the purposes of this subsection, the Secretary of the Interior is authorized to acquire by donation, purchase, transfer from any other Federal agency or exchange, lands and interests therein within the area hereafter encompassed by the monument boundary, except that property owned by the State of California or any political subdivision thereof may be acquired only by donation.

(4) There are authorized to be appropriated, in addition to such sums as may heretofore have been appropriated, not to exceed $955,000 for the acquisition of lands or interests in lands authorized by this subsection.

SEC. 5. (a) Within the wilderness area designated by section 1(a) and section 1(h) of this Act, the Secretary of the Interior may undertake minimum activity necessary in order to investigate and stabilize sites of archeological interest.

(b) Within the wilderness area designated by section 1(d) of this Act, the Secretary of the Interior may, as he deems necessary, utilize motorized vehicles to maintain fencing for the protection of the area from incursion of domestic livestock.

(c) Within the wilderness area designated by section 1(f) of this Act, the Secretary of the Interior may, as he deems necessary—

(1) construct and maintain boat docks for the safety of visitors and the protection of the wilderness resource;

(2) maintain an existing power transmission line in the vicinity of Rock Harbor and Mount Ojibway; and

(3) pursue a program of prescribed burning in order to preserve the area in its natural condition.

(d) Within the wilderness areas designated by section 1(g) of this Act, the Secretary may, as he deems necessary—

(1) construct and maintain wildlife watering devices; and

(2) provide for the use of necessary manipulative techniques in order to maintain natural ecological conditions.

SEC. 6. (a) The Secretary of Agriculture shall, within two years after the date of enactment of this Act, review, as to its suitability or nonsuitability for preservation as wilderness, the area located in the Coronado National Forest adjacent to Saguaro National Monument, Arizona, and identified on the map referred to in section 1(j) of this Act as the "Rincon Wilderness Study Area," and shall report his findings to the President. The Secretary of Agriculture shall conduct his review in accordance with the provisions of subsections 3(b) and 3(d) of the Wilderness Act, except that any reference in such subsections to areas in the national forests classified as "primitive" on the effective date of that Act shall be deemed to be a reference to the wilderness study area designated by this Act and except that the President shall advise the Congress of his recommendations with respect to this area within two years, after the date of enactment of this Act.

(b) The Secretary of Agriculture shall give at least sixty days' advance public notice of any hearing or other public meeting relating to the review provided for by this section.

SEC. 7. The areas designated by this Act as wilderness shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of this Act, and, where appropriate, any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

With the following committee amendments:

Page 2, lines 1 and 2, strike out "twenty-two thousand seven hundred and twenty-seven" and insert "twenty-three thousand two hundred and sixty-seven".

Page 2, line 4, strike out "315–20,014–A and dated February 1976," and insert "315–20,014–B and dated May 1976,".

Page 2, line 5, strike out "wilderness." and and insert "Wilderness."

Page 2, line 19, strike out "Wilderness." and insert "National Monument Wilderness."

Page 3, line 2, after "as" insert "the".

Page 3, line 3, after "Haleakala" strike the first "National".

Page 3, lines 18 and 19, strike out "four hundred and seventeen thousand six hundred" and insert "four hundred and twenty-nine thousand six hundred and ninety".

Page 3, lines 22 and 23, strike out "156–20,003–C and dated February 1976," and insert "156–20,003–D and dated May 1976,".

Page 4, lines 15 and 16, strike out "acres, and potential wilderness additions comprising ten acres," and insert "four hundred acres,".

Page 4, line 18, strike out "151–20,003–C and dated February" and insert "151–20,003–D and dated May".

Page 5, line 22, strike out "suparagraphs" and insert "subparagraphs".

Page 6, line 2, strike out "Keeweenaw" and insert "Keweenaw".

Page 8, at the end of line 3, add a new sentence reading as follows: "No funds authorized to be appropriated pursuant to this Act shall be available prior to October 1, 1977."

Page 10, following line 7, insert "effective date of the Wilderness Act shall be deemed to be a reference to the".

Mr. TAYLOR of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The committee amendments were agreed to.

Mrs. PETTIS. Mr. Speaker, I am certainly pleased the House is considering the omnibus wilderness bill, H.R. 13160, which contains provisions to establish the Joshua Tree Wilderness within the Joshua Tree National Monument, Calif. The bill provides that 429,690 acres will go immediately into "wilderness" with another 37,550 acres to become "potential wilderness."

The Joshua Tree National Monument, located in my congressional district, encompasses over 500,000 acres of the California desert and contains two large, unique ecosystems: the Mojave, or high desert, and the Colorado, or low desert. Few areas of the country have such a diverse and spectacular geology complemented by an assembly of desert plants and animals. Archeological and historical sites supplement the desert environment. The monument exhibits some of the most outstanding geology in southern California, the results of repeated uplifts, successive lava flows, and the relentless erosion. The westward part of the monument embraces several mountain masses, with a number of peaks over 5,000 feet high, interlaced with medium-elevation plateaus and valleys. To the east, the nearly flat intermountain plateaus drop off to the low, bowl-shaped Pinto basin.

Mr. Speaker, the need for the establishment of wilderness areas within the Joshua Tree National Monument has been documented in a variety of reports. I would draw your attention to the "environmental assessment" of the natural resources management plan which the National Park Service issued on October 22, 1974. In the report it is stated:

> The future of the Joshua Tree National Monument environment without the proposed action [establishing wilderness areas] will be an ecosystem continuing to trend further from a natural condition . . . Without the proposed action, it will not be possible to preserve the natural ecosystems for the enjoyment of present and future generations.

The reason the Joshua Tree National Monument was created in 1936 by Presidential proclamation was the uniqueness of the two desert ecosystems which meet within it. These ecosystems will continue to deteriorate due to the influence of man unless we take action. I believe it is essential we enact legislation in 1976 to create the Joshua Tree Wilderness.

I would like to take this opportunity to commend the chairman of the National Parks Subcommittee, Mr. TAYLOR, for the leadership he has shown in bringing this bill to the House. I regret that I have served with him on the Interior Committee for such a short time. With the gentleman's retirement at the end of this session, the House will lose one of its great leaders in the cause of development and expansion of the Nation's park system for future generations of Americans to enjoy. I am pleased to be a cosponsor with him of this important wilderness legislation.

Mr. RUPPE. Mr. Speaker, I rise in support of H.R. 13160.

This legislation was reported out of the House Interior Committee after extensive review and consideration by the Subcommittee on National Parks. As a member of the subcommittee, I have had the opportunity to participate in the markup of this legislation from the very beginning and I am pleased with the bill before the House this afternoon.

I am particularly pleased that this legislation designates Isle Royale National Park to be included in the Nation's wilderness system. Isle Royale, the largest island in the Great Lakes, has been a national park since 1931. Over the years, the prime attraction of the island to the visitor revolves around its natural north woods character. It is this particular character of Isle Royale, perhaps more so than any other island in the Nation, which demonstrates the island's suitability for inclusion in this wilderness system.

The preservation of Isle Royale is important to the people of northern Michigan. The measure before the House this afternoon guarantees that this beautiful island will be maintained for the pleasure and enjoyment of future generations.

At the same time, by including special management provisions in the proposal, the people of northern Michigan are assured that the National Park Service will continue to manage the island in a manner that allows for easy access and use of island facilities.

Mr. Speaker, I urge swift enactment of H.R. 13160.

Mr. TALCOTT. Mr. Speaker, I rise to give my enthusiastic support for H.R. 13160, particularly section (i) which will establish a wilderness area within the boundaries of Pinnacles National Monument. I commend the committee for its wise decision to recommend the measure which is of special interest to the residents of the 16th District of California, and is also of vital concern to all Americans who visit our area now or in the future.

The Pinnacles National Monument is 14,497 acres of rock formation, caves, chapparal, and spectacular vistas; it is a well-known landmark in California, located in San Benito and Monterey Counties, and is only 40 miles inland from the Pacific Ocean. It is adjacent to U.S. Route 101, which is the main coastal highway in central California between San Francisco and Los Angeles, and is within 2 hours' driving time of the heavily populated San Francisco-Oakland-San Jose metropolitan region.

Pinnacles is a unique area. The geography of Pinnacles is significant both for its scientific and geological value, and for its natural beauty which pleases the eye and excites the imagination.

The Pinnacles were formed approximately 23 million years ago during a period of intense volcanic activity along the western edge of the North American continent. Later, volcanic rock that had erupted developed a great rift, called the San Andreas Fault, and the land on the seaward side began sliding gradually northwestward—a movement which still continues at a rate of four centimeters per year. The result of this is that part of the Pinnacles rocks are far to the south, near Gorman, buried under rounded hills, while those on the ocean side of the fault huge rocks have slid downward to cover canyons, extensive caves and underground passageways have been formed. The Pinnacles themselves are remains of a Miocine volcano, and are in an advanced stage of decomposition. A few thousand feet of volcanic debris have already eroded away, and earthquakes have broken what remains into jointed fragments—referred to as "Pinnacles."

The Pinnacles themselves comprise only a small portion of the monument acreage. Much of the remaining land can be classified as a "coastal broadleaf chapparal" ecosystem. There are many opportunities for the study of different types of rare plant and animal life in this area. Of course, there is also the opportunity for the ordinary citizen of central California and elsewhere to enjoy a day's excursion into another world—a world untouched by human hands.

The Pinnacles National Monument was established by Presidential proclamation on January 16, 1908. The area of the monument was gradually increased by later proclamations until the total current acreage of 14,497 acres was reached.

The Park Service in 1968 recommended the establishment of a wilderness area within the boundaries of Pinnacles National Monument. At that time, the Park Service recommended a total acreage of approximately 7,500 acres for inclusion in the wilderness area.

I welcomed the Park Service recommendation only as a starting point for further discussion, and since then I have continuously worked with knowledgeable citizens and organizations in our area, and elsewhere, who were interested in the establishment of a Pinnacles Wilderness area in an attempt to achieve a concensus that would include as much of the monument acreage as possible in the wilderness area.

Many competing special interests had to be resolved. Some groups wanted a road built across the monument which, if constructed, would have restricted the possibility of a wilderness area; others wanted to enlarge the area for concessions and camping facilities within the monument. All of these conflicts and others have been surmounted by my proposal.

Early in 1975 I held a series of meetings and consultations with individuals and officials in the hope of redrawing the wilderness map to include additional land. I came to the conclusion that more land within the monument could be included in the wilderness category, and I introduced a revised bill, H.R. 7209, in March of last year.

On February 6, 1976 the Subcommittee on Parks and Recreation of the House Committee on Interior and Insular Affairs incorporated the exact provisions of my bill in their omnibus wilderness bill.

H.R. 7209 has two major purposes. The first was to revise and expand the present boundaries of the Pinnacles National Monument. The second purpose was to place most of the current Pinnacles Monument, and some of the land in the expanded boundary area, within a "Pinnacles Wilderness" area.

The land immediately adjacent to the monument is suitable for inclusion in a wilderness area, and should be included in the wilderness someday. The most efficacious time is now.

The scenery in the eastern area is spectacular. Further, the eastern area protects the drainage of Chalone Creek. The western land is also quite pretty, and, more importantly, it can be seen from the visitor's observation points in the western entrance area. Thus, it should be protected from developments that would degrade the view.

In order that the land can be acquired, it must first be placed within the monument boundaries. Then, whenever the land is acquired, it will automatically become part of the wilderness area, assuming it continues to meet the requirements of the Wilderness Act.

It is also clear that when a Pinnacles Wilderness is established, there will be a need for expanded Park Service support facilities outside, but close to, the wilderness area. Much of the additional land authorized for inclusion in an expanded Pinnacles Monument would be utilized by the Park Service for visitor support facilities. My understanding is that the Park Service Master Plan for Pinnacles confirms the need for such expanded support facilities.

I have been quite impressed with one possibility for support facilities which would involve a joint venture by a private group and the Park Service. The private group would work with the Park Service to provide overnight visitor's facilities outside of the east entrance to the wilderness. I am favorably impressed with this unique approach would could set a precedent for future joint activities combining the creativeness of private enterprise with the dedication and skill of the Park Service throughout our Nation.

H.R. 7209 included more total wilderness acreage than any of the other Pinnacles proposals of which I am aware, and all of this land will add to the beauty of the Pinnacles Wilderness and increase the enjoyment of it by Americans from all across the Nation.

Some private land is designated in H.R. 7209 for inclusion in the expanded monument boundaries. As far as I can determine, there are no manmade structures of any significance on this land. Much of it is natural and open and used for cattle grazing. Certain portions of the land, upon acquisition, would become wilderness. Other portions, upon acquisition, would be used for visitor support facilities.

All of the affected landowners are aware of the provisions of my bill. There have been discussions concerning the possible sale of their land to the Government. None of the owners have refused to discuss selling their land, and most appear interested. The Park Service has advised me that their estimate of the cost of acquisition of all of the private land within the boundaries of H.R. 7209 is about $955,000. I believe this may be too high. I might point out that the sooner the Congress acts, the less the land acquisition will actually cost.

Mr. Speaker, since introducing H.R. 7209, I have received comments from interested parties, and have suggested one major change in acreage. I have added a 267-acre tract of land suitable for wilderness classification which is located southeast of the eastern entrance to the monument.

Finally, I want to state for the record, even though the law is clear on this point, that private owners of land within the wilderness boundaries are free to utilize their land as they wish, for as long as they continue to own the land. I stress that my major concern is the approval of a Pinnacles Wilderness. I know of no opposition to its establishment or to this bill.

While the administration has not yet expressed a position on my proposed wilderness and external boundary adjustments, and has deferred comment for purposes of further scrutiny, the National Park Service's environmental impact statement for the monument's master plan was approved on December 1, 1975. The approved master plan's environmental impact statement includes all of the boundaries proposed in my bill except for the additional 267-acre tract adjacent to the east side of Chalone Creek, which was included in the House omnibus bill at my recommendation.

The master plan's environmental impact statement proposed this acreage as alternative acquisition and recognizes that inclusion of the tract would more "adequately protect parklands along Chalone Creek." To my knowledge no objections have been raised to this small addition; all parties with previous interest in this legislation favor inclusion.

I urge the adoption of this bill.

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills just passed.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

REQUEST FOR CONSIDERATION OF H.R. 3078, AUTHORIZING ESTABLISHMENT OF THE CHATTAHOOCHEE RIVER NATIONAL RECREATION AREA IN THE STATE OF GEORGIA

Mr. TAYLOR of North Carolina. Mr. Speaker, I call up the bill (H.R. 3078) to authorize the establishment of the Chattahoochee River National Recreation Area in the State of Georgia, and for other purposes, and ask unanimous consent that the bill be considered in the House.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. McDONALD. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

CONFERENCE REPORT ON H.R. 14238, LEGISLATIVE BRANCH APPROPRIATION ACT, 1977

Mr. SHIPLEY. Mr. Speaker, I call up the conference report on the bill (H.R. 14238) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1977, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 15, 1976.)

Mr. SHIPLEY (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER. The gentleman from Illinois (Mr. SHIPLEY) is recognized.

Mr. SHIPLEY. Mr. Speaker, the conference agreement provides appropriations totaling $943,400,485 for fiscal year 1977. However, this figure is $48,890,280 below the budget estimates. The Senate added $163,089,535 above the amount in the bill as it passed the House, and this amount includes $147,993,375 for Senate items that we did not consider in the House. Excluding the Senate items, the conference agreement is $15,096,160 above the House allowance and $27,740,800 below the Senate bill.

Mr. Speaker, upon conclusion of our consideration of this conference action, I will ask permission to include a comparative summary of the conference action at this point in the RECORD.

The tabulation referred to follows:

LEGISLATIVE BRANCH APPROPRIATION BILL, 1977 (H.R. 14238)—CONFERENCE SUMMARY

Agency and item	New budget (obligational) authority fiscal year 1976	Budget estimates of new (obligational) authority, fiscal year 1977	New budget (obligational) authority House bill	New budget (obligational) authority Senate bill	New budget (obligational) authority conference	Conference action compared with—			
						Fiscal year 1976	Budget estimates	House bill	Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Senate	$126,074,645	$135,988,905		$137,279,875	$137,279,875	+$11,205,230	+$1,290,970	+$137,279,875	
House of Representatives	228,981,485	242,076,800	$241,773,550	241,773,550	241,773,550	+12,792,065	−303,250		
Joint items	72,635,633	55,560,260	55,268,800	55,488,860	55,488,860	−17,146,773	−71,400	+220,060	
Office of Technology Assessment	6,578,000	8,500,000	6,624,000	8,000,000	6,624,000	+46,000	−1,876,000		−$1,376,000
Congressional Budget Office	4,868,440	10,159,000	9,319,200	9,319,200	9,319,200	+4,450,760	−839,800		
Architect of the Capitol	76,487,600	101,624,700	37,638,000	85,479,500	60,479,500	−16,008,100	−41,145,200	+22,841,500	−25,000,000
Botanic Garden	1,252,500	1,164,900	1,164,900	1,164,900	1,164,900	−87,600			
Library of Congress	119,125,400	142,983,200	135,415,100	139,260,000	137,895,200	+18,769,800	−5,088,000	+2,480,100	−1,364,800
Copyright Royalty Commission		[1] (268,000)		268,000	268,000	+268,000	+268,000	+268,000	
Government Printing Office	153,868,700	141,115,000	140,827,400	140,827,400	140,827,400	−13,041,300	−287,600		
General Accounting Office	141,541,000	151,418,000	150,580,000	150,580,000	150,580,000	+9,039,000	−838,000		
Cost-Accounting Standards Board	1,635,000	1,700,000	1,700,000	1,700,000	1,700,000	+65,000			
Grand total, new budget (obligational) authority	933,048,403	992,290,765	780,310,950	971,141,285	943,400,485	+10,352,082	−48,890,280	+163,089,535	−27,740,800
Consisting of—									
1. Appropriations	(931,241,903)	(991,796,765)	(779,982,950)	(970,647,285)	(942,906,485)	(+11,664,582)	(−48,890,280)	(+162,923,535)	(−27,740,800)
2. Reappropriations	(1,806,500)	(494,000)	(328,000)	(494,000)	(494,000)	(−1,312,500)		(+166,000)	

[1] Included in estimates under Library of Congress, Copyright Office.

Mr. Speaker, before the conference began, I was approached by scores of Members providing advice and counsel on how to resolve the pay matter. The conferees agreed on a pay increase package which was in accordance with their counsel. Very briefly, Mr. Speaker, the conferees agreed to: First, language that makes it clear that Members of the House would not have their salary reduced; second, that no October cost-of-living increases would be made to judges, Members of Congress, and certain executive positions; and third, that those proscribed from getting the October cost-of-living pay increase are not precluded from receiving any increase next March resulting from proposals by the President pursuant to recommendations of the Commission on Executive, Legislative, and Judicial Salaries.

Mr. Speaker, the conferees also agreed to retain the provisions added by the Senate which pertain to adjustments to the pension computation for Federal retirees. These provisions eliminated the 1-percent kicker and added a new method of computing increases for retirees to adjust for cost-of-living increases.

This action will result in savings of over $3 billion over the next 5 years.

Mr. Speaker, under existing law, when the cost of living increased by 3 percent for 3 months, a pension recomputation was made, and the retirees got that increase plus 1 percent. The 1 percent was to make up to the retirees what had not been paid to the retirees before the recomputation occurred.

Since the 1-percent provision has been adopted, the cost of living has increased 56 percent while the pension payment increase has been 72 percent. This growth in pension increase in excess of the cost-of-living increase is a function of compounding the 1-percent kicker. The elimination of the kicker has been endorsed by the chairman and ranking minority member of the Committee on Post Office and Civil Service and by the Civil Service Commission.

To replace the kicker provision, the conferees agreed to provide for a semiannual recomputation based on the actual cost-of-living increase in the preceding 6-month period. The provisions agreed to by the conferees provide that the first increase effective on March 1, 1977, will be based on the change that occurred between the last base month, December 1975, and December 1976—a 12-month period.

Mr. Speaker, with regard to the West Front of the Capitol, the conferees did not reach agreement on the Senate amendment providing $25 million for restoration of the West Central Front of the Capitol.

Mr. Speaker, I will offer a motion that the House insist on its position that no funds be included in this bill for the restoration. There is no disagreement as to the need to repair this section of the Capitol. There is, however, disagreement as to the method of repairing it. The Senate proposal involves a process of pressure grouting that would require boring hundreds of holes in the wall—about 5,700 2-inch holes. The House members of the Commission on the Extension of the U.S. Capitol oppose this method and support a modified extension plan recommended by the Architect of the Capitol.

The Committee on Appropriations has not had an opportunity to study this new plan, and it is my recommendation that we not proceed until we have an opportunity to look it over.

Mr. Speaker, the conference agreement includes a technical language change for the American Indian Policy Review Commission, as well as additional funds required for reimbursement to the District of Columbia government for the services of Metropolitan Police and Page School teachers detailed to the Hill due to pay increases granted earlier to those two categories of employees.

The conferees agreed to the Senate amendment reducing the number of operators on automatic elevators in the Capitol Building and in the Senate and House office buildings, with the proviso that the provision would not apply to present incumbents.

The additional funds proposed by the Senate for copyright revision activities, including the establishment of an independent Copyright Royalty Commission, were agreed to, with the proviso that they shall be available only upon the enactment of enabling legislation into law. The increase proposed by the Senate for the library of congress program for the blind and physically handicapped was agreed to.

The conference action also provides for the establishment of a new rank of private first class and certain salary increases for the members of the Capitol Police Force, including both the House and Senate details.

Mr. Speaker, this is a good conference agreement, and I urge its adoption.

Mr. ADDABBO. Mr. Speaker, will the gentleman yield?

Mr. SHIPLEY. I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it will be my intention, when we get to the point of moving on the various amendments, to ask the House to vote down the motion to recede and support my motion to insist on its disagreement to Senate Amendment No. 91, relative to the 1 percent kicker. I will not take the time of the House to discuss this matter now because it will be discussed further when my motion is offered.

I also take this time to ask my colleagues to look at pages, 8, 9, 10, and 11 of the conference report brought back by the committee. There is legislation included which this House will be asked this afternoon to accept without having studied or debated. An amendment we do not know the end result of or the cost.

Mr. COUGHLIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as my colleagues know, when the legislative appropriations bill was before the House, I introduced a package of amendments particularly supported by my minority colleagues on this side of the aisle, Messrs. CEDERBERG, ARMSTRONG, and REGULA, but with broad bipartisan support which would have performed some real reforms in our House procedures.

Among other things, Mr. Speaker, these amendments would have opened committees and Members' expenditure accounts to public scrutiny. They would have required committees and Members to certify that expenditures were made for official business, under penalties of perjury; and they would have eliminated some of the goodies in the goody bag that has grown by almost 300 percent in the past few years.

Mr. Speaker, it is certainly a source of deep disappointment to me that these amendments are not part of this bill. It is a source of deep disappointment that the bill was brought before this House under a gag rule that prohibited the offering of amendments by individual Members. It is a source of disappointment that the package of amendments was defeated by a vote of 199 to 195; and for that reason, of course, they could not be considered in the conference.

With respect to the conference itself, Mr. Speaker, I believe that the conferees did an admirable job of upholding the House position on the bill, and I congratulate the gentleman from Illinois (Mr. SHIPLEY), our chairman, in that respect. He held, for example, to our position; and I am proud of what occurred.

Mr. Speaker, the Senate, for example, had increased the funding for the Office of Technology Assessment by $1.3 million, adding 38 new employees. We sustained the House position totally and kept the Office of Technology Assessment at its present level of 93 employees.

The Senate had increased the Congressional Research Service by 31 employees and by $606,000. Again we held firm to the House position, and the only really substantive increases that were put in the bill were for Senate items for which they themselves are responsible.

We did concur in a Senate amendment reducing the number of elevator operators from 152 down to 90 or to 62 positions, as recommended by the Architect of the Capitol.

Mr. Speaker, the bill itself and the conference itself really represented a good conference and, I think, a very substantial contribution. From that standpoint, I think we have a good bill.

With respect to salaries, we clarified the SHIPLEY amendment to insure that the cost-of-living pay freeze, would be prospective rather than retroactive. In my judgment, despite a recent letter from the General Accounting Office to the contrary effect, it was the intent of the committee that the automatic cost-of-living increase should be eliminated as a matter of permanent law. However, the GAO seems to interpret the provision differently.

We did retain, though, House language making other top grades subject to the same pay freeze; and we did not preclude consideration of the Quadrennial Commission's proposed increase, should that be approved by the House.

Mr. Speaker, with respect to the 1 percent kicker, that amendment will be brought before us later in technical disagreement. The Senate amendment would substitute for the so-called 1 percent kicker, a semiannual cost-of-living adjustment.

With respect to the west front of the Capitol, the Senate added an amendment which will be before us later in disagreement. The amendment provides $25 million for restoration of the west front, but under a cost-plus contract that would actually be open-ended.

In my judgment, at least, the legislative appropriations bill is not the place in which to solve the west front problem; and certainly an open-ended restoration contract is not the way to solve the west front problem.

I would urge my colleagues to reject the Senate amendment at the appropriate time.

Mr. YATES. Mr. Speaker, will the gentleman yield on that point?

Mr. COUGHLIN. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, I would inquire of the gentleman from Pennsylvania if the legislative bill is not the place, where is the place? We have gone through this same fight for 10 years. I believe that some day we ought to come to some conclusion on what to do with the West Front of the Capitol. It's condition is a disgrace.

The interior of the Capitol has been retouched up, it has been beautified. The beams, the crossbars, the struts, the supporting trusses supporting the West Front wall destroys the beauty of that West Front. The Congress must take action to correct this situation one of these days. We must do something to bring the West Front into proper condition.

As the gentleman from Pennsylvania will recall, in conference I said I favored the position of the Senate. I favor the restoration rather than the position taken by the other conferees which I understand to be in support of the extension of the West Front.

Mr. COUGHLIN. I certainly agree with the gentleman from Illinois that a decision should be made on what to do, but I do not think the place for that decision is in this particular appropriation bill.

There has been a recommendation by the Extension Commission, there have been recommendations by the Architect of the Capitol, and it seems to me that we should not be attempting to solve that here.

In addition to that, Mr. Speaker, I have strong opposition to the fact that the Senate amendment includes a cost plus a fixed fee contract which would be essentially open ended. The problem there is that once you start drilling holes and pouring in grout that there is no telling how much it will cost if we are under that kind of a contract.

Mr. YATES. Mr. Speaker, if the gentleman will yield further, I have the impression that the Rayburn Building was constructed under a contract that was supposed to be limited to $60 million and which ultimately cost $100 million.

Mr. COUGHLIN. That is just what I would object to on a contract of that sort.

Mr. YATES. Mr. Speaker, let me say to the gentleman from Pennsylvania, if the gentleman will yield still further, in the event an extension of the West Front is approved at a fixed price, if the additional extension is voted, it will follow the same course as the Rayburn Building.

Mr. COUGHLIN. Mr. Speaker, I would certainly hope that we could avoid what happened in the Rayburn Building which, in my recollection, was a complete disaster because the contract involved a totally open-ended authorization and appropriation.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I want to commend the gentleman from Pennsylvania upon his vigilance in trying to hold down the expenses of the legislative branch of the Government in this legislation. But, once again, we see before us a bloated bill containing nearly a billion dollars that increases once again in many areas the spending of the House and Senate. In 10 years congressional spending has tripled and personnel and buildings have continued to multiply. We should be cutting back our spending instead of always increasing. As an illustration of this empire building I include at this point an editorial from the Washington Star:

THE COST OF KEEPING CONGRESS

Anyone wondering why Congress keeps gobbling up Capitol Hill real estate might take a look at a study just released by the Tax Foundation, Inc.

According to the foundation, a non-profit research organization, Congress spent nearly $1 billion on itself during the last fiscal year, $925 million to be more precise. That is triple what it spent in 1970 and five times more than in 1960.

Growth of Congress' spending on itself has outpaced the increase in the overall federal budget (up 305 per cent since 1960) and the cost-of-living (up 93 per cent since 1960).

The biggest part of the increase has been for personnel. The congressional staff has grown 44 per cent in the past six years, which accounts for the legislative sprawl over Capitol Hill. The help doesn't work for peanuts, either. Congressional staff salaries "are high by any standards," according to the foundation, which estimated the average income of Senate employes at $15,000 a year and House employes at $14,000.

The foundation calculated that it cost each man, woman and child in the United States about $4.30 last year to maintain Congress in the fashion to which it has become accustomed. At the rate things are going, it'll take another half-dollar in a year or so.

Based on the foundation's figures, we calculate it cost $1.7 million last year to keep each of the 535 members of Congress in business.

There's no real check on congressional spending. Congress controls the purse strings for all other federal agencies, but the only control on what Congress spends on itself is its own self-control. The House and Senate decide what their budgets should be and, said the Tax Foundation, "seldom, if ever, does either body challenge the operations of the other."

Perhaps the budget for congressional operations ought to be determined at auction. Put each member of the House and Senate on the block and let the people of the districts and states bid on what they think each one is worth. Would any one go for $1.7 million?

Mr. Speaker, I also want to inform the gentleman from Pennsylvania and the other Members of the House, that the so-called Commission on Administrative Review on which I serve met last Friday for 3 hours. It was the first meeting since its creation 2 months ago. At that time the Commission laid out plans for its future actions which probably will not be concluded for 2 years. I read that as an indication that there is absolutely no impetus for immediate reform on the part of that Commission.

The Commission created two task forces, one to study the problem of legislative scheduling, and that will be acted upon before December. For that, there is a great urgency, I was told. The other task force will study "the role of a Congressman," an interesting concept which will take some time to explore, no doubt.

When I made a motion in the commission to establish a task force to recommend immediately fundamental changes and reforms in our procedures, in view of the Wayne Hayes affair and other scandals, with the suggestion that the task force report back by next January so that the next Congress could consider these recommendations, my motion was voted down on a straight party line vote. So much for congressional reform.

I might add further that the press was so interested in the Commission's deliberations that there was one reporter present. I must conclude that absent the presence of Elizabeth Ray, the press has a greatly diminished concern about reform on Capitol Hill.

Mr. Speaker, the bill before us is the legislative vehicle which the gentleman from Pennsylvania tried to employ to bring about real reform, and others have joined with him because of the scandals that have occurred in the past. For that I commend him and I regret that the House rejected his proposals.

Mr. COUGHLIN. Mr. Speaker, I commend the gentleman from Maryland (Mr. BAUMAN) upon his vigilance and his leadership in the field of reform, yet, as the gentleman and I both pointed out during the discussion of this House bill, about the amendment, that there were things that could be done and that could have been done now and that we could have reform right now, but, unfortunately, that was not done.

Mr. SHIPLEY. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, we have back with us here now, as Members who were here before the 94th Congress will be aware, the old question of the battle over the extension of the West Front of the Capitol. But for those Members—and we have a number of distinguished Members—who came in in the 94th Congress, they will not be entirely familiar with this battle; so I should like to try to spend these few minutes to apprise them of what the issue really is and what has been involved.

For many years there has been a massive argument going on here about what to do about the West Front of the Capitol. The gentleman from Illinois (Mr. YATES) pointed out that it is not a very attractive sight. There are all kinds of wooden pinnings, braces, buttresses; the paint is peeling off; the birds are dripping all over it; and as the Washington Star pointed out some time ago, this is and has been really one of the great disgraces of the Nation's Bicentennial.

Those of us who were concerned about the West Front of the Capitol have been told since 1966, when the battle began, that it was impossible to restore the West Front of the Capitol, that for very obtuse engineering reasons it could not be done, and that the Capitol was in imminent danger of collapsing, if a plane just flew over it, or a helicopter, it would tumble down. Later on, of course, a bomb exploded almost directly under the dome and the Capitol remained intact.

We were told that the only way that we could save the Capitol was with a rather elaborate extension which would have gone almost halfway down the Mall, put in a couple of restaurants, and so on, at a cost of around $60 or $80 million. Many of the Members objected to that expenditure, and we were able to block it. Many of us were not convinced that the Capitol really could not be restored. They are restoring Canterbury Cathedral; why can they not restore the West Front of the Capitol?

In 1969 the House finally agreed to call upon the most competent, prestigious engineering firm in the country, the Praeger firm, and at a cost of $200,000 asked them to determine whether the Capitol could in fact be restored and how much it would cost.

They reported back, one, that the Capitol was in sound condition; that it was not going to collapse; two, that it could be restored; and, three—and this was in 1970 at 1970 prices—it could be restored for $15 million. Unfortunately, those who were in command here did not pay much attention to the report. The whole thing—Praeger report was shelved—because it did not bear out the earlier arguments.

Finally, there was a general agreement to leave the West Front alone until after the Bicentennial. So we have had to put up with this disagrace throughout the Bicentennial. Now the question comes up again, and the basic question is simply this: Are we going to spend great sums of money on an extension of the Capitol? The latest extension plan is not quite as vast. This is a mini-extension now, but it is still an extension. It is still a change of the Capitol. Should we change it, or should we simply restore it to good condition and spend as little money as possible? I think that is what we ought to be doing. It is time something was done about the West Front of the Capitol. And that is what the Senate now agrees with.

They went back to the Praeger firm and said, "All right, it would have cost $15 million in 1970; how much will it cost in 1976?" Mr. Praeger gave them the figure of $25 million—and this from one of the most prestigious professional engineering firms in the country—not from amateurs.

The Architect of the Capitol disagrees, but that he has never wanted to restore it ever. He wants to build another big monument to himself, and he wants to build it regardless of what it is going to do to the taxpayers. But I say we ought to restore the Capitol now. I do not think this is the time to be building any monuments to ourselves here in the Congress, and I do not think we ought to be spending any money on anything we do not need to spend money on.

So I intend to move at the appropriate time that we recede and concur in the Senate amendment. Let us get this thing settled once and for all. This bill is the only place we can settle it. I hope my amendment at the proper time will be supported.

Mr. COUGHLIN. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I think this is the time and the proper forum for a bit of legislative history. In July 1975, the House and the other body approved legislation amending the 1970 Federal Pay Comparability Act dealing with the annual pay comparability adjustment for Federal employees. The legislation made Members of Congress, the Federal judiciary, and executive schedule employees eligible for the annual comparability adjustment based on private sector salary levels.

In the interim that has elapsed, certain self-styled experts on Government operations have succeeded in muddling the motivation behind the enactment of the 1975 legislation. In the process, Members of Congress have become convenient targets of opportunity and have been much maligned.

As I pointed out on the floor last year, the impetus for the 1975 legislation did not come from Members of Congress. It came as a result of double-barrel pressure from the Judicial and Executive branches to relieve Federal judges and top-level executives from the salary crunch they had experienced in the previous 6 years.

Our committee files contained ample evidence the executive branch was having difficulty filling top level positions because of unrealistic salary levels. At the Federal judiciary level, Chief Justice Warren Burger kept up a constant drumfire on the need for a pay adjustment for judges.

Furthermore, the congressional tie-in to the annual cost-of-living adjustment clearly was the reason President Ford's alternate 5-percent pay proposal was left undisturbed last year. If Congress had not been an issue a pay increase of 8.66 percent would have been approved. That would have added $3.5 billion to Federal expenditures. The 5-percent limitation reduced that total by about $1.6 billion, a real saving for the taxpayer.

Historically and logically, we are on firm ground in keeping the salaries of Congress and the judiciary together in fixed ratios. I can see no justification for preferential treatment for judges. Our conferees are to be commended for their action.

Likewise, I urge your support for the amendment pertaining to the 1-percent kicker for Federal retirees. Under the repealed language agreed to in conference, the Office of Management and Budget says savings in fiscal year 1977 alone will total $288 million, and a cumulative 5-year saving will be $3.094 billion.

While the 1-percent add-on will be eliminated, there is provision made for semiannual cost-of-living increases. It guarantees fair and reasonable treatment for annuitants. The semiannual adjustment procedure will provide equitable cost-of-living adjustments for retirees and will guarantee that there will be no unwarranted delay in making the adjustment. This vote protects present and future annuitants, it protects the solvency of the fund, and it protects the taxpayer.

Mr. Speaker, again I call the special attention of the Members to the provisions in this measure affecting the so-called 1-percent kicker. Members will recall we debated this extensively on numerous occasions. We had a very clear majority in the House for the elimination of this 1-percent kicker. The Senate adopted the Chiles amendment which eliminates the 1-percent kicker and provides for a semiannual cost-of-living increase.

The Congressional Budget Office estimates in the first 5 years of the application of this amendment there will be a savings in excess of $3 billion and savings in fiscal year 1977 will be $228 million.

The important thing, Mr. Speaker, is that we should take this step, remembering that the Federal Government at the moment has 2.7 million active employees participating in the system. There are slightly over 1 million annuitants and approximately 450,000 survivors. That means a total of 4.2 million people. They need the protection. They need the coverage now but they also need the protection in the future. We must add both the budgetary implications and the savings that could be involved.

There is one other figure I must call to the attention of the Members which is the fact that the unfunded liability of the civil service retirement fund has increased $28 billion since 1969, of which $4.9 billion is attributable to the 1-percent kicker. I urge Members this afternoon to support the committee, to support the Senate amendment.

Mr. SHIPLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. Brooks).

Mr. BROOKS. Mr. Speaker, I would say to my distinguished friend, the gentleman from New York, that we do not see him objecting to the East Front and that magnificient extension and restoration that was carried on there. It has served very well this Congress and the people of this Nation. It looks attractive. It is useful. It is desirable. It is serving the people. It is practical. It is a highly desirable improvement.

I want to say that Mr. Praeger—and may his soul rest well, he has gone to his reward—who wrote that big analysis of what can be done to the West Front, when he estimated that it could be done some years ago at $25 million, was asked if he would take on and accept that job for $25 million, and he said: "Oh, no; I would not think of that," because the truth of the matter is there is no guarantee that it could be done for $25 million.

Mr. Speaker, the Senate amendment should be opposed on so many grounds, anyone of which ought to be decisive, as to make the proposal virtually undebatable.

First, the $25 million is short of what will be required by almost 100 percent. The current actual estimate is $45 million.

Second, the House has not had an opportunity to explore the proposal, its cost and implications and alternatives, and we have had too much experience with ex post facto grief after hasty decisions.

Third, there is no assurance—there is only the hope—that the proposed project will actually strengthen and preserve the West Front of the Capitol. This building is too important to trifle with.

The proposal would have us drill 5,700 holes 2 inches in diameter and 3 feet apart over the Front. It might weaken the Capitol. Who knows? It might strengthen the Capitol or weaken the Capitol.

Fourth, even if the drilling of 5,700 holes in the walls of the West Front and squirting them with grouting should prove effective, there would be no net gain to the country or to the Congress or to the people of this country in the expenditure of this large amount of money.

There would be no improvement in design, no better balance to support the Capitol dome, no additional space for Members of Congress or their committees, no improved facilities for the millions of visitors who visit the Capitol each year.

Fifth, and possibly the most important factor of all, approval of the Senate amendment would preclude the consideration of an alternative plan developed by the Architect of the Capitol. This Architect of the Capitol, let me comment on this, is not a Democrat; he is not an old friend of mine. He is a Republican appointee, but he is an architect and he has been an excellent architect for this Capitol and we in the Congress should appreciate him and not spend our time depreciating his consistent efforts to serve this body and the American people. Now, he has a plan which meets virtually every objection made to the Senate amendment and which promises every additional benefit which would be lost by the Senate amendment.

Let me emphasize that the Architect's plan is not—and I repeat—not the plan advanced by the previous holder of that office. It bears almost no resemblance to it. In my judgment, in fact, the new plan has so many virtues that to refuse to even consider it would be gross irresponsibility.

Now, among the many merits of the Architect's plan are the following:

First, new, more solid and more substantial walls would be erected approximately 20 feet from the existing walls, so as to support the present walls without change and provide an architecturally more sound foundation for that dome.

Second, the existing walls would be preserved unchanged, with complete integrity and with their decorative features fully visible.

Third, the facade of the west front would appear unchanged with its beautiful and historic angles and indentations preserved and fortified. The impressions would be exactly the same.

Fourth, the dramatic Olmstead terraces which give the west front its most distinctive appearance would be completely unchanged.

Fifth, the plan if it could be executed overnight, would have no apparent change in the features the design, or the overall appearance of the west front.

Sixth, approximately 170,000 additional square feet of new usable space would be provided, and provided where space is most needed, in the immediate vicinity of the floors of the House and the Senate, where it can be used by Members and the committees.

The SPEAKER. The time of the gentleman from Texas has expired.

Mr. SHIPLEY. Mr. Speaker, I yield 2 additional minutes to the gentleman.

Mr. BROOKS. Mr. Speaker, seventh, the net additional cost of this plan would be a modest $10 million, certainly one of the best investments on a cost-benefit basis that the Congress has ever made.

This is a living building, Mr. Speaker. It is a working building, as well as a historic treasure. Its entire history has been a series of changes and modifications and adaptations. Like all living things, the Capitol has grown with the years, and that growth has preserved it as a functioning and useful seat of our National Government.

Mr. Speaker, preservation is not synonymous with atrophy. Like many of our colleagues, I have followed closely, and supported, the growth of the historic preservation movement in the United States. The basic principle of historic preservation, the essence of this movement, has been to give new life to old buildings, to restore them and bring them to useful life.

The recent and widely acclaimed restoration of Faneuil Hall in Boston, very near the district office of our esteemed majority leader, has brought renewed energy and activity to one of the oldest centers of commerce in the United States.

Mr. Speaker, that is historic preservation at its best. It is also precisely what the Architect of our Capitol proposes to do here, that is preserve the beauty and the integrity of the old, at the same time increasing its usefulness and serviceability and enable it to carry out the purposes and fulfill the grand design of its early builders.

Mr. Speaker, we are not now seeking a decision on the Architect's plan. We are only asking for a few months time in which to give it the consideration it deserves. Therefore, I would urge my colleagues to disagree to the Senate amendment and support the amendment of our distinguished colleague, the gentleman from Illinois (Mr. Shipley).

Mr. COUGHLIN. Mr. Speaker, I have no further requests for time.

Mr. SHIPLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I concur with what I have just heard from my friend from Texas regarding the honesty and integrity of the Capitol Architect, Mr. George White. I respect him very much. I simply take issue with him regarding the West Front of the Capitol.

Mr. Speaker, I think that so long as this Congress insists on a proliferation of its committees and subcommittees, we will bring dishonor to the Congress of the United States. So long as we insist on creating new committees and subcommittees, we bring disgrace to the lawmaking process, we add to the pressures for more buildings in, more staff, around, and more bureaucracy imbedded on Capitol Hill. It is a beast, and the only way to stop this beast is to abolish committees, merge subcommittees, and do away with the insatiable appetites for fiefdoms for all. But, that is not the purpose of my taking this time today.

My reason for being in the well today is to compliment the Managers on the part of the House for at least saving us $1.5 million on amendment No. 51, dealing with the funds for the Office of Technology Assessment. I am highly critical also of their activities in the past several years. The Office of Technology Assessment was asked about 3 times in this Congress, Mr. Speaker, to do an objective, impartial, candid, scientific study for the House Committee on Interior and Insular Affairs regarding the recharge capacities of the Madison limestone formations in Wyoming to see whether or not they could stand the draw of 20,000 acre feet of water per year to slurry coal out of that State into other areas.

Three times they were asked and 3 times they refused to accept the chore, and it is now obvious the reason why was the pressure from the lobbyists which was made to reflect upon the very work of that office. In my opinion, that office has proved that it is not fit to be a part of the House and Senate, and ought to be abolished. So should any other office or bureau that refuses a job for which it was created.

No doubt some Members of the Congress would differ from these views. But I can only base them on my experience with the OTA.

Mr. RIEGLE. Mr. Speaker, the conference report on H.R. 14238, Legislative Appropriations, which we are considering today, contains two very important provisions which I believe deserve the careful attention of all House Members. One is the elimination of the cost-of-living raise for Members of Congress and the other is the elimination of the supplement to the cost-of-living increase for Federal retirees.

I feel very strongly that the pay raise for Representatives and Senators should not have been speedily and quietly tacked on to an unrelated postal bill in July 1975 and I voted against this amendment at that time. Passage of this provision, by a one vote margin, 214 to 213, prevented Congress from dealing with the pay raise question fairly and objectively. I believe this sly maneuver to include Members of Congress in the cost-of-living issue resulted in the later vote to limit pay increases for the 1.4 million Federal employees, 2.1 million members of the uniformed armed services, and 355,893 black lung beneficiaries to 5 percent rather than the 8.6 percent increase recommended by the Office of Management and Budget, the Civil Service Commission, and the Advisory Committee on Federal Pay. Both the House and Senate voted eariler this year to eliminate this cost-of-living increase for Members of Congress and this provision is included in this bill. I strongly support this action.

Another matter involving the cost-of-living increase—the elimination of the so-called 1-percent kicker—could not be resolved by the House and Senate conferees and a separate vote will be taken today on Senate amendment No. 91. This amendment eliminates the 1-percent add-on to the cost-of-living adjustments for annuities of Federal and military retirees. I oppose this amendment for several reasons.

First, this nongermane amendment has been hastily and arbitrarily added by the Senate to this bill without full hearings by the appropriate legislative committee and, therefore, without proper consideration of the impact this proposed change would have on the financial well-being of millions of retirees.

The Senate amendment we are considering today establishes a new method of computing adjustments on a semiannual basis. Unfortunately we have no way of knowing the effect this would have on the millions of retirees. I believe we should hold hearings on the adequacy of the whole retirement system, rather than attack the problem piecemeal by adopting this amendment today. I urge my colleagues to vote against accepting Senate amendment No. 91.

Mr. PATTEN. Mr. Speaker, rarely do I speak against a portion of an appropriations measure, but today, we are considering what I feel is a pretentious and cowardly section of the legislative appropriations measure. I am referring to that section which continues the unfair freeze on salaries for judges and other top-level administration officials.

Until 1969, the Federal Government offered intelligent and dedicated public officials adequate compensation for their efforts and initiatives. Since then, salaries for these individuals have remained stagnant while inflation has pushed up the cost-of-living by over 50 percent. Many of our supergrades have moved from Government service to private employment because they could not afford to stay. This freeze has also been cited as a deterrent to attracting qualified and capable people to these jobs. The House, in its "wisdom" has forced this stagnation for another year. I am disgusted and saddened that the Senate has concurred in this "wisdom" by accepting the House language and allowing the freeze on judges' and top officials' salaries to be tied to our own. Mr. UDALL's amendment to the House-passed measure simply clouded the issue by binding the two together. Chairman SHIPLEY's amendment which I would have supported had a vote been taken, would have allowed these justifiable cost-of-living increases to take effect, while postponing consideration of similar increases for Members until a full evaluation could be made.

Mr. FRENZEL. Mr. Speaker, I shall vote against this legislative appropriations conference report, H.R. 14238, just as I have voted against similar appropriations in the past.

Even though it is up from last year by a relatively small amount, it is still too much money. We are directly responsible for the creation of a $1 billion, Frankenstein monster called the Capitol Hill bureaucracy.

This monster embraces the personal congressional staffs, the committee staffs, the restaurant personnel, the Capitol Police, the Library of Congress, the House Information System, the staffs of the offices of the House, and so forth, and on and on.

It covers about 40,000 employees, and expends nearly $1 billion per year. It has no unified control and few rational personnel systems.

It has been created to handle the worst cases. Subcommittees which meet occasionally are fully and exclusively staffed. Police staffing is based on the riots of the Vietnam era. Restaurants are staffed for peak loads. The House Information System is capable of providing a good deal of information, more than any of us want, or can use.

In short, we have treated our own bureaucracy the way—but worse—we have treated the executive bureaucracy. It is uncontrolled, bloated, and desperately needs some direction.

In the past, before the monster growth ran wild, it was of such a size that excessive spending was not a major problem. At the $1 billion level, it is more than a problem. It is a disgrace.

Mr. SHIPLEY. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 299, nays 94, not voting 37, as follows:

[Roll No. 793]

YEAS—299

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Badillo
Baldus
Baucus

Beard, R.I.
Bedell
Bell
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Carter
Cederberg
Chisholm
Clausen, Don H.
Clay
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
English
Erlenborn
Eshleman
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Findley
Fish
Fisher
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Frey
Fuqua
Gaydos
Gibbons
Ginn
Gonzalez
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Hayes, Ind.
Hébert
Heckler, Mass.
Hefner
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Howe
Hubbard
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jordan
Kastenmeier
Kazen
Kelly
Ketchum
Keys
Koch
Krebs
Krueger
LaFalce
Leggett
Lehman
Lent
Lloyd, Calif.
Long, La.
Long, Md.
Lundine
McClory
McCloskey
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Preyer
Price
Quie
Quillen
Railsback
Randall
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Russo
Ryan
St Germain
Santini
Sarasin
Scheuer
Sebelius
Seiberling
Sharp
Shipley
Shriver
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Taylor, N.C.
Teague
Thompson
Thornton
Traxler
Tsongas
Udall
Van Deerlin
Vander Veen
Vanik
Vigorito
Waggonner
Wampler
Waxman
Weaver
Whalen
White
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Yates
Yatron
Young, Ga.
Zablocki
Zeferetti

NAYS—94

Abdnor
Archer
Armstrong
Ashbrook
AuCoin
Bafalis
Bauman
Beard, Tenn.
Bennett
Biaggi
Brinkley
Brown, Mich.
Broyhill
Butler
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conable
Conlan
Crane
Daniel, Dan
Daniel, R. W.
Davis
Devine
Dickinson
Duncan, Tenn.
Emery
Evans, Ind.
Fenwick
Fithian
Forsythe
Frenzel
Gilman
Goldwater
Goodling
Grassley
Gude
Hagedorn
Hammerschmidt
Hansen
Harsha
Hechler, W. Va.
Hicks
Holt
Hughes
Jeffords
Jones, Tenn.
Kasten
Kemp
Kindness
Lagomarsino
Latta
Levitas
Lloyd, Tenn.
Lott
Lujan
McDonald
McEwen
Martin
Michel
Miller, Ohio
Montgomery
Moorhead, Calif.
Mottl
Myers, Ind.
Nichols
Paul
Pressler
Pritchard
Rees
Robinson
Rousselot
Satterfield
Schneebeli
Schroeder
Schulze
Shuster
Snyder
Spence
Steiger, Wis.
Symms
Talcott
Taylor, Mo.
Thone
Treen
Vander Jagt
Walsh
Whitehurst
Wiggins
Wydler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—37

Bergland
Byron
Chappell
Clancy
Edwards, Ala.
Esch
Giaimo
Gradison
Green
Guyer
Harris
Hawkins
Heinz
Helstoski
Henderson
Hinshaw
Jones, Ala.
Karth
Landrum
McCollister
Matsunaga
Mills
Mink
Neal
Nix
O'Hara
Peyser
Rangel
Ruppe
Sarbanes
Sikes
Smith, Nebr.
Steelman
Steiger, Ariz.
Stephens
Ullman
Young, Tex.

The Clerk announced the following pairs:

Mr. Matsunaga with Mr. Clancy.
Mr. Chappell with Mr. Esch.
Mr. Giaimo with Mr. Harris.
Mr. Helstoski with Mr. Gradison.
Mr. Nix with Mr. Jones of Alabama.
Mr. Hawkins with Mr. Edwards of Alabama.
Mrs. Mink with Mr. Karth.
Mr. Byron with Mr. McCollister.
Mr. Green with Mr. Mills.
Mr. Henderson with Mr. Guyer.
Mr. Neal with Mr. Peyser.
Mr. Rangel with Mr. Heinz.
Mr. Sikes with Mr. Ruppe.
Mr. Ullman with Mr. Steiger of Arizona.
Mr. O'Hara with Mr. Stephens.
Mr. Bergland with Mr. Landrum.
Mr. Sarbanes with Mr. Steelman.

Messrs. ABDNOR, BAFALIS, HAGEDORN, MONTGOMERY, WALSH, THONE, LEVITAS, and GUDE, and Mrs. FENWICK changed their votes from "yea" to "nay."

Mr. SEIBERLING changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will report the first amendment in disagreement.

Mr. SHIPLEY. Mr. Speaker, inasmuch as amendments Nos. 1 through 39 relate solely to housekeeping operations of the other body and in which, by practice, the House concurs without intervention, I ask unanimous consent that Senate amendments Nos. 1 through 39 be considered as read, printed in the RECORD, and that they be considered en bloc.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentleman from Illinois could tell the Members of the House whether or not there were any extraordinary expenses or increases in the money added by the other body? I believe that about $170 million was added by the other body. I know that according to the so-called rule of comity we are not supposed to question the amounts of money put in by the other body but I believe the time may well have come that each House of the Congress will want to look with scrutiny at the way the other body spends the taxpayers' money.

Mr. SHIPLEY. Mr. Speaker, if the gentleman will yield, let me say that my experience since I have been a Member indicates that, as usual with regard to the other body, there were some large increases, not in any gross amount, but there was a general increase in many of the appropriations in the bill.

Mr. BAUMAN. Would the gentleman characterize those as excessive as compared with past years?

Mr. SHIPLEY. I would not say that they were excessive, no. I would say it was in tune with past actions of the Senate upon the appropriation bill for the legislative branch.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman from Illinois. I would again suggest that at some point in time we must reduce all expenditures in both bodies and we ought to start now.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Senate amendments 1 through 39 are as follows:

(1) TITLE I

(2) SENATE

(3) COMPENSATION AND MILEAGE OF THE VICE PRESIDENT AND SENATORS AND EXPENSE ALLOWANCES OF THE VICE PRESIDENT AND LEADERS OF THE SENATE

(4) COMPENSATION AND MILEAGE OF THE VICE PRESIDENT AND SENATORS

For compensation and mileage of the Vice President and Senators of the United States, $5,052,630.

(5) EXPENSE ALLOWANCE OF THE VICE PRESIDENT AND MAJORITY AND MINORITY LEADERS

For expense allowance of the Vice President, $10,000; Majority Leader of the Senate, $3,000; and Minority Leader of the Senate; $3,000; in all, $16,000.

(6) SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, clerks to Senators, and others as authorized by law, including agency contributions and longevity compensation as authorized, which shall be paid from this appropriation without regard to the below limitations, as follows:

(7) OFFICE OF THE VICE PRESIDENT

For clerical assistance to the Vice President, $615,015.

(8) OFFICES OF THE MAJORITY AND MINORITY LEADERS

For offices of the Majority and Minority Leaders, $251,540.

(9) OFFICE OF THE MAJORITY AND MINORITY WHIPS

For offices of the Majority and Minority Whips, $195,260.

(10) OFFICE OF THE CHAPLAIN

For office of the Chaplain, $31,800.

(11) OFFICE OF THE SECRETARY

For office of the Secretary, $3,323,290, including $151,370 required for the purpose specified and authorized by section 74b of Title 2, United States Code: *Provided*, That, effective October 1, 1976, the Secretary may appoint and fix the compensation of a Bill Clerk at not to exceed $25,440 per annum in lieu of not to exceed $19,080 per annum; an Assistant Bill Clerk at not to exceed $19,080 per annum in lieu of not to exceed $12,720 per annum; a Secretary at not to exceed $17,172 per annum in lieu of a Receptionist at not to exceed $17,172 per annum; a Registrar at not to exceed $16,218 per annum in lieu of a Secretary to the Curator at not to exceed $16,218 per annum; a Clerk at not to exceed $10,812 per annum in lieu of an Assistant Messenger at not to exceed $10,812 per annum; an Historian at not to exceed $29,574 per annum; an Associate Historian at not to exceed $18,126 per annum; a Photo Historian at not to exceed $25,281 per annum; a Research Assistant to Historian at not to exceed $10,335 per annum; a Secretary to Historian at not to exceed $11,130 per annum; an Information Clerk, Digest, at not to exceed $10,017 per annum; and a Secretary, Stationery Room, at not to exceed $13,356 per annum: *Provided further*, That, effective October 1, 1976, the allowance for clerical assistance and readjustment of salaries in the Disbursing Office is increased by $37,842.

(12) COMMITTEE EMPLOYEES

For professional and clerical assistance to standing committees and the Select Committee on Small Business, $9,660,685.

(13) CONFERENCE COMMITTEES

For clerical assistance to the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $227,255 for each such committee; in all, $454,510.

(14) ADMINISTRATIVE AND CLERICAL ASSISTANTS TO SENATORS

For administrative and clerical assistants to Senators, $48,190,355.

(15) LEGISLATIVE ASSISTANCE TO SENATORS

For legislative assistance to Senators, $5,500,000.

(16) OFFICE OF SERGEANT AT ARMS AND DOORKEEPER

For office of the Sergeant at Arms and Doorkeeper, $15,579,010: *Provided*, That effective October 1, 1976, the Sergeant at Arms and Doorkeeper may appoint and fix the compensation of an Administrative Assistant to the Sergeant at Arms and Doorkeeper at not to exceed $36,729 per annum in lieu of not to exceed $35,298 per annum; a Superintendent, Service Department at not to exceed $35,457 per annum in lieu of not to exceed $31,482 per annum; a Director, Computer Center at not to exceed $35,457 per annum in lieu of not to exceed $34,344 per annum; Director, Recording Studio at not to exceed $35,457 per annum in lieu of not to exceed $34,662 per annum; a Telecommunications Adviser at not to exceed $29,574 per annum in lieu of not to exceed $27,348 per annum; a Chief Cabinetmaker at not to exceed $22,737 per annum in lieu of not to exceed $20,670 per annum; a Chief Janitor at not to exceed $19,557 per annum in lieu of not to exceed $17,808 per annum; an Asssistant Superintendent, Service Department at not to exceed $22,578 per annum in lieu of not to exceed $20,988 per annum; a Night Supervisor, Service Department at not to exceed $19,875 per annum in lieu of not to exceed $15,264 per annum: a Supervisor, Printing Section at not to exceed $18,921 per annum in lieu of a Foreman of Duplicating Department at not to exceed $17,808 per annum; a Supervisor, Folding Section at not to exceed $18,921 per annum in lieu of a Chief Machine Operator at not to exceed $15,582 per annum; a Supervisor, Addressograph Section at not to exceed $18,921 per annum in lieu of not to exceed $14,628 per annum; two Audio Engineers at not to exced $13,356 per annum each in lieu of an Audio Engineer at not to exceed $13,356 per annum; a Micrographics Supervisor at not to exceed $21,147 per annum; an Assistant Micrographics Supervisor at not to exceed $16,536 per annum; a Secretary-Receptionist at not to exceed $10,812 per annum; a Senior Folding Machine Operator at not to exceed $12,243 per annum; a Senior Addressograph Operator at not to exceed $12,243 per annum; twenty Laborers, Service Department at not to exceed $9,222 per annum each in lieu of seventeen Laborers, Service Department at not to exceed $9,222 per annum each; ten Office Systems Specialists at not to exceed $15,582 per annum each in lieu of seven Office Systems Specialists at not to exceed $15,582 per annum each; ten Senior Programmer Analysts at not to exceed $25,122 per annum each in lieu of eight Senior Programmer Analysts at not to exceed $25,122 per annum each; three Network Technicians at not to exceed $20,352 per annum each in lieu of a Network Technician at not to exceed $20,352 per annum; two Secretary-Typists at not to exceed $12,402 per annum each; three Systems Supervisors at not to exceed $29,892 per annum each in lieu of a Systems Supervisor at not to exceed $29,892 per annum; an Operations Supervisor at not to exceed $20,988 per annum; eight Lead Operators at not to exceed $14,628 per annum each in lieu of six Lead Operators at not to exceed $14,628 per annum each; two Data Conversion Operators at not to exceed $10,017 per annum each in lieu of a Data Conversion Operator at not to exceed $10,017 per annum; a Training Specialist at not to exceed $20,034 per annum; five Printing Operators at not to exceed $14,946 per annum each; three Quality Controllers at not to exceed $14,946 per annum each; three Assistant Chief Telephone Operators at not to exceed $13,356 per annum each and an Auditor at not to exceed $13,356 per annum in lieu of four Assistant Chief Telephone Operators at not to exceed $13,356 per annum each; twenty-one Telephone Operators at not to exceed $10,494 per annum each, a Secretary at not to exceed $10,494 per annum, four Clerks at not to exceed $10,494 per annum each, and an Auditor at not to exceed $10,494 per annum in lieu of twenty-seven Telephone Operators at not to exceed $10,494 per annum each; a Chief Barber at not to exceed $12,084 per annum in lieu of a Foreman of Skilled Laborers at not to exceed $12,084 per annum; a Chief Barber at not to exceed $10,971 per annum; two Barbers at not to exceed $11,130 per annum each in lieu of two Skilled Laborers at not to exceed $11,130 per annum each; three Barbers at not to exceed $9,381 per annum each; forty-eight Laborers at not to exceed $9,222 per annum each and a Barber Shop Attendant at not to exceed $9,222 per annum in lieu of forty-nine Laborers at not to exceed $9,222 per annum each: a Barber Shop Attendant at not to exceed $4,134 per annum; seven Detectives, Police Force at not to exceed $14,946 per annum each in lieu of not to exceed $13,992 per annum each; sixteen Technicians, Police Force at not to exceed $13,992 per annum each in lieu of not to exceed $13,038 per annum each; eight Plainclothesmen, Police Force at not to exceed $13,992 per annum each in lieu of not to exceed $13,038 per annum each; and six K–9 Officers, Police Force at not to exceed $13,992 per annum each in lieu of not to exceed $13,038 per annum each: *Provided further* That not to exceed $45,000 of this appropriation may be used to employ special deputies.

(17) OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For offices of the Secretary for the Majority and the Secretary for the Minority, $311,645.

(18) AGENCY CONTRIBUTIONS AND LONGEVITY COMPENSATION

For agency contributions for employee benefits and longevity compensation, as authorized by law, $5,500,000.

(19) OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the office of the Legislative Counsel of the Senate, $629,700.

(20) CONTINGENT EXPENSES OF THE SENATE

(21) SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, $422,855 for each such committee; in all, $845,710.

(22) AUTOMOBILES AND MAINTENANCE

For purchase, lease, exchange, maintenance, and operation of vehicles, one for the Vice President, one for the President pro tempore, one for the Majority Leader, one for the Minority Leader, one for the Majority Whip, one for the Minority Whip, for carrying the mails, and for official use of the offices of the Secretary and the Sergeant at Arms and Doorkeeper, $45,000.

(23) INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, including $600,385 for the Committee on Appropriations, to be available also for the purposes mentioned in Senate Resolution Numbered 193, agreed to October 14, 1943, and Senate Resolution Numbered 140, agreed to May 14, 1975, $21,854,485.

(24) FOLDING DOCUMENTS

For the employment of personnel for folding speeches and pamphlets at a gross rate of not exceeding $4.07 per hour per person, $90,905.

(25) MISCELLANEOUS ITEMS

For miscellaneous items, $19,098,000: *Provided*, That not to exceed $736,000 shall be available for the lease and alteration of space for the Senate Computer Center if the Committee on Rules and Administration determines that such facility cannot be located in existing space available to the Senate or House of Representatives.

(26) POSTAGE STAMPS

For postage stamps for the offices of the Secretaries for the Majority and Minority, $420; Chaplain, $200; and for air mail and special delivery stamps for the office of the Secretary, $610; office of the Sergeant at Arms and Doorkeeper, $240; and the President of the Senate, as authorized by law, $1,215; in all, $2,685.

(27) STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, $4,500, and for committees and officers of the Senate, $27,150; in all, $31,650.

(28) ADMINISTRATIVE PROVISIONS

(29) SEC. 101. (a) Effective October 1, 1976, section 105(d)(1) of the Legislative Branch Appropriation Act, 1968, as amended and modified is amended by striking out "calendar year" each place it appears and inserting in lieu thereof "fiscal year".

(b) Subject to the provisions of section 105(d)(2) of the Legislative Branch Appropriation Act, 1968, as amended and modified, the amount of accrued surplus available to any Senator under section 105(d)(1) of such Act at the close of September 30, 1976, shall be available to that Senator during the period beginning on October 1, 1976, and ending on December 31, 1976, for the purposes of fixing the number and rates of compensation of employees in his office.

(30) SEC. 102. Section 108(c) of the Legislative Branch Appropriation Act, 1976, is amended by inserting "(1)" after "(c)" and by adding at the end thereof the following new paragraph:

"(2) If (A) a Senator's service on a committee terminates (other than by reason of his ceasing to be a Member of the Senate) or a Senator's status on a committee as the chairman or ranking minority member of such committee or a subcommittee thereof changes, and (B) the appointment of an employee appointed under this section and designated to such committee by such Senator would (but for this paragraph) thereby terminate, such employee shall, subject to the provisions of subsection (e), be continued as an employee appointed by such Senator under this section until whichever of the following first occurs: (1) the close of the tenth day following the day on which such Senator's service on such committee terminates or his status on such committee changes or (2) the effective date on which such Senator notifies the Secretary of the Senate, in writing, that such employee is no longer to be continued as an employee appointed under this section. An employee whose appointment is continued under this paragraph shall perform such duties as the Senator who appointed him may assign.".

(31) Sec. 103. Section 5533(c)(1) of title 5, United States Code, is amended by inserting before the period at the end thereof "($10,540, in the case of pay disbursed by the Secretary of the Senate)".

(32) Sec. 104. (a) The Secretary of the Senate is authorized to reimburse any bank which clears items for the United States Senate for the costs incurred therein. Such reimbursements shall be made from the contingent fund of the Senate.

(b) The Secretary of the Senate is authorized to prescribe such regulations as he deems necessary to govern the cashing of personal checks by the Disbursing Office of the Senate.

(c) Whenever an employee whose compensation is disbursed by the Secretary of the Senate becomes indebted to the Senate and such employee fails to pay such indebtedness, the Secretary of the Senate is authorized to withhold the amount of the indebtedness from any amount which is disbursed by him and which is due to, or on behalf of, such employee. Whenever an amount is withheld under this section, the appropriate account shall be credited in an amount equal to the amount so withheld.

(33) Sec. 105. (a) Effective October 1, 1976, except as provided in subsections (b) and (c), the maximum annual compensation of a mail carrier in the Senate post office shall not exceed $8,109.

(b) In the case of a mail carrier in the Senate post office who was serving as such a mail carrier on September 30, 1976, the maximum annual rate of compensation shall not exceed $11,130, so long as his service as such a mail carrier remains continuous.

(c) In the case of a mail carrier in the Senate post office (other than a mail carrier whose compensation is fixed under subsection (b)) whose regularly scheduled daily tour of duty begins on or before 6 a.m., the annual rate of compensation may be increased, in the discretion of the Sergeant at Arms and Doorkeeper, by not to exceed 10 percent. If such annual rate of compensation, as so increased, is not a multiple of the figures set forth in the applicable order of the President pro tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970, such rate shall be adjusted to the next higher multiple of such figure.

(34) Sec. 106. (a) There is hereby established in the Treasury of the United States a revolving fund within the contingent fund of the Senate to be known as the Senate Employees Barber Shop Revolving Fund (hereafter in this section referred to as the "revolving fund").

(b) All moneys received by the Senate employees barber shop from fees for services or from any other source shall be deposited to the credit of the revolving fund. Moneys in the revolving fund shall be available without fiscal year limitation for disbursement by the Secretary of the Senate for additional compensation of personnel of the Senate employees barber shop, as determined by the Sergeant at Arms and Doorkeeper of the Senate, and for necessary supplies for the Senate employees barber shop.

(c) On or before December 31 of each year, the Secretary of the Senate shall withdraw from the revolving fund and deposit in the Treasury of the United States as miscellaneous receipts an amount equal to the amount in the revolving fund at the close of the preceding fiscal year, reduced by the amount of outlays from the revolving fund after the close of such year attributable to obligations incurred during such year.

(d) Disbursements from the revolving fund shall be made upon vouchers signed by the Sergeant at Arms and Doorkeeper of the Senate.

(e) The Sergeant at Arms and Doorkeeper of the Senate is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section.

(f) This section shall take effect on October 1, 1976.

(35) Sec. 107. No provision of this Act or of any Act hereafter enacted which specifies a rate of compensation (including a maximum rate) for any position or employee whose compensation is disbursed by the Secretary of the Senate shall, unless otherwise specifically provided therein, be construed to affect the applicability of section 4 of the Federal Pay Comparability Act of 1970 to such rate.

(36) Sec. 108. The second paragraph under the heading "Administrative Provisions" in the Legislative Branch Appropriation Act, 1959 (72 Stat. 442; 2 U.S.C. 65b), is amended by striking out "$2,000" and inserting in lieu thereof "$4,000 during any fiscal year".

(37) Sec. 109. Section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)) is amended—

(1) by inserting after "Joint Committee on Congressional Operations" the following: "and the Select Committee on Intelligence of the Senate"; and

(2) by adding at the end thereof the following new sentence: "In the case of the Select Committee on Intelligence of the Senate, such consolidated report may, in the discretion of the chairman of such select committee, omit such information as would identify the foreign countries in which members and employees of such select committee traveled.".

(38) Sec. 110. (a)(1) Notwithstanding any other provision of law but subject to the provisions of paragraph (2), the Committee on Government Operations is authorized, during the fiscal year ending September 30, 1977, to employ one additional professional staff member at a per annum rate not to exceed the rate provided for the four professional staff members referred to in section 105(e)(3)(A) of the Legislative Branch Appropriations Act, 1968, as amended and modified.

(2) The provisions of paragraph (1) shall cease to be effective when and if the individual who was a reemployed annuitant and was employed by such Committee at the per annum rate referred to in such paragraph on August 25, 1976, ceases to be so employed at such rate.

(b)(1) Notwithstanding any other provision of law but subject to the provisions of paragraph (2), the Committee on Commerce is authorized, during the fiscal year ending September 30, 1977, to pay one additional professional staff member at a per annum rate not to exceed the rate provided for the two professional staff members referred to in section 105(e)(3)(A) of the Legislative Branch Appropriations Act, 1968, as amended and modified.

(2) The provisions of paragraph (1) shall cease to be effective when and if any of the individuals who were paid by such Committee at the per annum rate referred to in such paragraph on August 25, 1976, cease to be paid at such rate.

(39) Sec. 111. Amounts required to be deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund under section 8344 of title 5, United States Code, with respect to any officer or employee of the Senate, including an employee in the office of a Senator, shall be paid from the contingent fund of the Senate during the fiscal year ending September 30, 1977.

MOTION OFFERED BY MR. SHIPLEY

Mr. SHIPLEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Shipley moves that the House recede from its disagreement to the amendments of the Senate numbered 1 through 39 inclusive and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 46: Page 25, line 7, insert: *Provided*, That, not to exceed $100,000 of the funds appropriated under this heading for fiscal year 1976 and for the period ending September 30, 1976, shall remain available until June 30, 1977.

MOTION OFFERED BY MR. SHIPLEY

Mr. SHIPLEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Shipley moves that the House recede from its disagreement to the amendment of the Senate numbered 46 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 48: Page 30, line 7, insert: *Provided further*, That $109,230 of this amount is provided to cover the costs of a 6 percent salary increase, approved retroactive to October 1, 1975, for the purpose of reimbursing the District of Columbia government for the costs of that salary increase from October 1, 1975, through September 30, 1976.

MOTION OFFERED BY MR. SHIPLEY

Mr. SHIPLEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Shipley moves that the House recede from its disagreement to the amendment of the Senate numbered 48 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 56: Page 35, line 1 insert:

RESTORATION OF WEST CENTRAL FRONT OF CAPITOL

Notwithstanding any other provision of law, the Architect of the Capitol, under the direction of the Senate and House Office Building Commissions acting jointly, is directed to restore the West Central Front of the United States Capitol (without change of location or change of the present architectural appearance thereof), $25,000,000, to remain available until expended: *Provided*, That the Architect of the Capitol, under the direction of such Commissions acting jointly, is authorized and directed to enter into such contracts including cost-plus-a-fixed-fee contracts, incur such obligations, and make such expenditures for personal and other expenses as may be necessary to carry out this paragraph: *Provided further*, That any cost-plus-a-fixed-fee general construction contract entered into under authority of this paragraph shall be awarded on competitive bidding among selected responsible general contractors approved by such Commissions upon the amount of the fixed fee to accrue from the performance of such contract: *Provided further*, That with the exception of any subcontract to be made by the general contractor for underpinning, foundation, and special restoration work and work incidental and appurtenant thereto, which may be a cost-plus-a-fixed-fee contract, all other subcontracts made by the general contractor shall be fixed price contracts awarded on competitive bids received from responsible subcontractors.

MOTION OFFERED BY MR. SHIPLEY

Mr. SHIPLEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SHIPLEY moves that the House insist on its disagreement to the amendment of the Senate numbered 56.

PREFERENTIAL MOTION OFFERED BY MR. STRATTON

Mr. STRATTON. Mr. Speaker, I offer a preferential motion to recede and concur in the Senate amendment No. 56 to the legislative appropriation conference report.

The Clerk read as follows:

Mr. STRATTON moves that the House recede from its disagreement to the amendment of the Senate number 56 and concur therein.

Mr. STRATTON. Mr. Speaker, will the distinguished gentleman from Illinois, the chairman, yield me 5 minutes.

Mr. SHIPLEY. I yield the gentleman from New York 5 minutes.

Mr. STRATTON. Mr. Speaker, I thank the gentleman from Illinois for yielding.

Mr. Speaker, we discussed this motion of mine earlier when the conference report was under consideration but I think the audience may have changed somewhat in the meantime and for that reason I want to try to reiterate what is involved in this item and what is involved in the motion to recede and concur.

I sent out a "dear colleague" letter this morning but we get so many of those that perhaps Members have not had a chance to see it. Essentially, the question here is, what we are going to do with the West Front of the Capitol, which has been in a state of disrepair for almost 10 years and on which there have been proposals that instead of repairing it we should extend it in various degrees. So the basic question today is whether we are going to spend just the money that is needed to put the West Front back into shape, or whether we are going to set in motion the wheels of developing some new and more expensive kind of expansion or miniexpansion.

The argument has been made for many years that we cannot restore the West Front of the Capitol for various engineering reasons. Arguments were advanced by various individuals, none of whom is an engineer, that instead of just fixing up the West Front we ought to expand and extend it, at a cost of from $60 to $80 million.

In 1965, we got the House to refer this matter of whether we could or could not restore the West Front to someone who knew what he was talking about, to the most prestigious group of architectural engineers in this country, the Westbury-Praeger Co. We paid them almost a quarter million dollars to make the report. In 1970, they submitted their voluminous report, which said essentially that, yes, we can restore the Capitol, that it is not going to fall down. And they said that at current prices in 1970 we could fix it for $25 million.

But we have still not been able to get agreement between those who want to restore and those who want to expand the West Front, whether that be a full-scale expansion or a miniexpansion.

But it seems to me this is not the time we in Congress ought to be spending any money on an expansion, whether an expansion or a miniexpansion, or spend any more money on ourselves than we ought to spend.

The Senate has now put in the bill $25 million to fix the wall and restore it. They are restoring the Canterbury Cathedral, so why cannot they restore the Capitol of the United States?

In fact, I have a letter here this morning from the National Trust for Historic Preservation that says they are pleased with reports they have received that I have advocated legislative action to preserve the historic structure without modification.

Mr. Speaker, I do not think we ought to delay any longer. The Architect, of course, has a new expansion scheme. He would like to build a monument, but I think it is time for us to clean up the west front of the Capitol and do it at the minimum cost of $25 million. Let us preserve this structure and let us get on with our other jobs.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I am glad to yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, I want to commend the gentleman for the position he has taken. I agree with the gentleman. I share his views. I think we ought to restore the west front of the Capitol, rather than agreeing to an extension of it. The original plan for the extension was predicated upon the assumption there could be no restoration. The reports that were made subsequently by the persons employed by the Architect, the Praeger report, indicated that a restoration was possible, that it was possible at a cost far less than that which would be necessary for the extension.

I favor particularly in view of the fact we have already had an alteration of the exterior through the reconstruction of the east wall, I think we ought to adhere to one wall which preserves the past. I commend the gentleman.

Mr. STRATTON. Mr. Speaker, I thank the gentleman for his support.

Mr. Speaker, let me repeat that this $25 million figure was an estimate presented just recently by the Praeger Co. which gave it to the Senate this year to update those earlier 1970 figures.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, the report that the gentleman has submitted, does it contain detailed plans for the restoration?

Mr. STRATTON. Yes. It contains detailed plans and drawings. This was submitted by the firm of Praeger, Kavanagh & Waterbury. As I say, it cost us one-quarter of a million dollars. Now, I am not an engineer, but their conclusions are very clear.

The trouble is that the Architect of the Capitol has never really made any attempt to implement this report. He never wanted restoration. He wants to build a monument.

The SPEAKER. The time of the gentleman from New York has expired.

Mr. SHIPLEY. Mr. Speaker, I yield 1 additional minute to the gentleman from New York.

Mr. REGULA. Mr. Speaker, will the gentleman yield further?

Mr. STRATTON. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, in the gentleman's opinion, are those plans in sufficient detail that a contractor could bid against them and establish a fixed amount for the work to be done?

Mr. STRATTON. I am not an engineer, but the Praeger engineering firm says they are. We have no information that the Architect has ever really made any serious attempt to get somebody to bid on this proposal.

Mr. REGULA. Mr. Speaker, if the gentleman will yield further, if that be the case, would the gentleman agree that the language here should require a competitive bid with an absolute cost, rather than a cost plus fixed fee as a means of getting this work done?

Mr. STRATTON. I am not a contractor. I do not know which way to go about it, but I know the Senate has spent some time considering the matter and they are convinced this can be done for the figure in the Senate amendment.

I think we ought to get the job underway. I think if any contractor can believe that the Architect really wants to negotiate with them to get the job done, they would be able to come up with a bid.

Mr. COUGHLIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as I pointed out in the general debate, the Senate amendment would provide $25 million to restore the West Front of the Capitol without change of location or appearance and would authorize such contracts, including cost-plus-fixed-fee contracts, as may be necessary to carry out the restoration.

Mr. Speaker, in my judgment, the Legislative Appropriations bill is not the place to solve the west wall problem and an open-ended restoration contract is not the way to solve the west wall problem.

Mr. Speaker, first of all, the $25 million is an illusion. It is a come-on. The estimate alone is $45 million and if we enter into an open-ended contract, there is no telling how much money we may end up spending.

Second, Mr. Speaker, there is no assurance, according to our own architect, the Architect of the Capitol, that this will be successful even if we do spend the money. There is no assurance that technically—and do not take my word for it, but listen to our own architect—that this could be done by rooting holes in the west wall, and filling them up with grout because there are two walls with rubble in between, and no one knows what they will get into.

Third, Mr. Speaker, this is proposing a cost-plus-fixed-fee contract to do the whole restoration. We all know that once that contract is entered into, the contractor will be back here once, twice, and three times, year after year, to get more money, and we will have no control over the situation at all. As the gentleman from Ohio so properly pointed out a few minutes ago, if we are going to do this, there should be some limit on the amount of the contract and some assurance of what we are going to have when we are finished. We all know of the experience with the Rayburn Building, with a similar open-ended contract. It turned out to be a disaster both in terms of the impression on the American people and the cost of the building itself.

Fourth, Mr. Speaker, our Architect, our own Architect, the Architect of the Capitol, who has had the benefit of all the studies, including the study the gentleman from New York refers to, who has had the benefit of all official proceedings and his own studies—our own Architect recommends against simple restoration of the Capitol and recommends buttressing the existing wall with a new wall. He is not recommending any monument. He is not recommending any alteration to the terraces. He is not necessarily recommending substantial additional space, although it is really up to this House to decide that question.

But, he recommends a method of restoring and preserving the West Front of the Capitol; not just simply taking the existing limestone wall and drilling holes in it and pouring grout, but erecting a new wall to buttress the present wall. He says that would be the best way to do it in the long run.

Mr. Speaker, the West Front is not a wailing wall. I have never seen people lining up to kiss the West Front.

Finally, Mr. Speaker, as I mentioned before, certainly the legislative appropriation bill is not the place to be deciding this problem. We have a commission, a Capitol Building Commission, that has studied this and made recommendations. We should debate those recommendations here on the floor, but not in this bill; not in the legislative appropriations bill. I urge my colleagues to oppose the motion offered by the gentleman from New York to recede and concur.

Mr. Speaker, I reserve the balance of my time.

Mr. SHIPLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. Brooks).

Mr. BROOKS. Mr. Speaker, I would say just briefly to the Members who were not here earlier that we went over this pretty well during the 1 hour of debate, but I want to say that one of the best things we have done is to restore very nicely the East Front of this Capitol. It is serviceable, useful and attractive. It will last perhaps 1,500 years or 2,000 years if that marble does as well as that in Crete, and we look forward to its doing so.

Now, this $25 million we are talking about is a pipedream. The current actual estimate of this attempt to restore this West Front would cost now $45 million. For another $10 million we could implement—if we agreed to it— a new proposal to build another wall and restore the existing wall; this would increase the availability of space by 170,000 feet for the use of the Senate and House Members and committees.

There is no assurance—only hope—that this patch-up job we are being asked to approve today, would be useful. They want to plug 5,700 holes 2 inches in diameter, 3 feet apart, all over that front, and who knows, it may weaken it instead of helping it. They want to pump grout in there, and there is no guarantee that the grout will fill up the holes where there now is rubble between the walls. This is just a nice estimate, and when they asked this distinguished man who has gone to his reward if he would like to take that contract for $25 million, he said, "Oh, no, I would not take the contract for $25 million. That is just an estimate."

I would just add that true restoration is the preservation of the beauty of our existing structure and making it into useful, attractive space that will grow and be of service to the people of this country and to its elected Representatives.

If we would add that 170,000 square feet that we sorely need, for an additional $10 million we would be getting something that would be useful. Preservation is not something synonymous with atrophy. I believe that there is no question that we can preserve the beauty and the integrity of those old walls and keep them there in a visible manner where people can see them and enjoy them and at the same time spread the structural load to a new wall and protect the entire Capitol in a useful and practical way. We are not seeking an answer today on the Architect's plan. We need a few months. Congress needs to evaluate that through the appropriate committees of the House and the Senate, the Appropriation Committees, the Capitol Building Commission and the Public Works Committees of the House and Senate. We are asking for a few months time to give it the consideration it certainly deserves.

Therefore, I urge my colleagues to vote against the motion offered by the gentleman from New York, vote against any effort to spend $25 million on what is really just a pipe dream.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from New York (Mr. Stratton).

Mr. STRATTON. I thank the gentleman for yielding.

Mr. Speaker, the gentleman said that this estimate of $25 million is inaccurate, and he throws around the figure of $45 million. I was not aware that the gentleman is an engineer, but I would point out to the gentleman that the figure of $25 million has been advanced by the Praeger firm, this very distinguished engineering firm that we engaged for a quarter of a million dollars, whereas the $45 million figure has been thrown out by George White, who is not an engineer. I believe the figures of the engineering firm should have more weight.

Mr. BROOKS. In reply to the gentleman's statement, the distinguished engineer to whom reference was made has gone to his reward. His estimate was $25 million. He turned down an offer to do that job for $25 million.

Mr. White, who is a registered, licensed, well qualified engineer as well as being the Architect for this Capitol, has said that the current estimates, prepared by architects and engineers both, is now about $45 million. The $25 million estimate was made about 4 or 5 years ago.

Mr. STRATTON. If the gentleman will yield further, this was the Senate committee's figure. Senator Hollings got this $25 million figure this year from the Praeger firm just a couple of months ago.

Mr. BROOKS. This is what I got yesterday. I am not speaking of a couple of months ago.

Mr. COUGHLIN. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. Regula).

Mr. REGULA. Mr. Speaker, this is an opportunity to have the Visitors Center revisited. If we adopt the motion offered by the gentleman from New York we will be back in here appropriating more and more money to sustain an open-end contract just as we did with the Visitors Center.

Mr. Speaker, I want to say at the outset that I am opposed to any expansion of space in the Capitol. I strongly favor restoration of the existing structure of the Capitol. However, I favor doing it with a set of plans and specifications that a contractor can take and provide the Government a firm bid for completing the work.

The document that has been introduced here earlier by the gentleman from New York is in fact a feasibility study and not one containing plans and specifications that could be used for bidding purposes.

Mr. Speaker, I wish to quote from the letter of submission that goes with the aforementioned document. It states as follows:

> Dear Mr. Campioli:
>
> Submitted herewith is our report on the feasibility of restoring the west central front of the United States Capitol.

It goes on to say in the same letter:

> Based upon a detailed investigation of the west front walls, we conclude that under conditions indicated in the report, restoration of the west central front of the Capitol is feasible.

Mr. Speaker, that is a far cry from an engineering set of specifications that one could bid against. I think the Senate in its language admits to that, because if we read the language of the proposed Senate amendment, we find it states as follows:

> Provided, That the Architect of the Capitol, under the direction of such Commissions acting jointly, is authorized and di-

> rected to enter into such contracts including cost-plus-a-fixed-fee contracts, incur such obligations, and make such expenditures for personal and other services and other expenses as may be necessary to carry out this paragraph: Provided further, That any cost-plus-a-fixed-fee general construction contract entered into under authority of this paragraph shall be awarded on competitive bidding among selected responsible general contractors approved by such Commissions upon the amount of the fixed fee to accrue from the performance of such contract: Provided further, That with the exception of any subcontract to be made by the general contractor for underpinning, foundation, and special restoration work and work incidental and appurtenant thereto, which may be a cost-plus-fixed-fee contract, all other subcontracts made by the general contractor shall be fixed price contracts awarded on competitive bids received from responsible subcontractors.

Mr. Speaker, I think it ought to be made clear to the Members that the issue before us now is whether we go with an open-end contract for restoration, not having specific plans and not knowing what it is going to cost, as contrasted with the committee position, which is to get specific plans and submit those to contractors for a specified bid so that we know exactly how much it is going to cost the Government. We have had plenty of evidence in the past with any number of Federal buildings as to what happens when we fail to get a firm bid and work with a cost-plus-fixed-fee type of contract.

Again, Mr. Speaker, I think it needs to be emphasized that the issue today on this upcoming vote is not whether we restore or whether we expand; the issue is whether we open up Pandora's box and provide for a so-called restoration on an unlimited cost factor basis or whether we go back and require the Architect of the Capitol to submit detailed, specified plans that can be submitted for bid.

Therefore, I urge that the motion offered by the gentleman from New York (Mr. STRATTON) be defeated, that the committee position be sustained, and that we reject the Senate language. I urge the Members to reject this open-end contract that is proposed and that we develop a specific set of plans so we can be assured of what we are getting into in terms of cost and also in terms of a completed job, not a halfway piece of work.

Mr. SLACK. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from West Virginia.

Mr. SLACK. Mr. Speaker, I want to compliment the gentleman from Ohio (Mr. REGULA) because he gets to the very guts of the issue. No contractor can bid without a set of working plans and detailed specifications. And study today reveals an estimated cost—and it is only an estimated cost—and that is determined from a feasibility study, but no one can ascertain what the cost is without specific plans and specifications.

Mr. Speaker, I compliment the gentleman for the point he has made.

Mr. REGULA. Mr. Speaker, I thank the gentleman.

PARLIAMENTARY INQUIRY

Mr. STRATTON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. Will the gentleman from Illinois (Mr. SHIPLEY) yield for a parliamentary inquiry?

Mr. SHIPLEY. Yes, I yield to the gentleman for the purpose of making a parliamentary inquiry.

Mr. STRATTON. Mr. Speaker, the gentleman from Illinois (Mr. YATES) wishes to offer a substitute motion to recede and concur with an amendment striking the cost plus fixed fee contract.

Is it in order for that motion to be offered if I withdraw my motion?

The SPEAKER. The Chair will state that the gentleman may offer his motion if the gentleman from New York (Mr. STRATTON) withdraws his preferential motion. In that event, the gentleman could offer another preferential motion, or if this preferential motion would be defeated, another preferential motion can be offered.

Mr. STRATTON. I have a further parliamentary inquiry, Mr. Speaker.

Would a motion to recede and concur with an amendment be a preferential motion?

The SPEAKER. It would be preferential over a motion to insist on disagreement.

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that I may be permitted to withdraw my preferential motion.

Mr. COUGHLIN. Mr. Speaker, I object.

The SPEAKER. The gentleman from New York (Mr. STRATTON) does not need unanimous consent for that purpose in the House.

Does the gentleman intend to withdraw his motion? The gentleman does not need unanimous consent to withdraw the motion that he has made.

Mr. STRATTON. Mr. Speaker, if I do not need unanimous consent, then I withdraw my motion.

The SPEAKER. The gentleman from New York (Mr. Stratton) withdraws his motion.

PREFERENTIAL MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a preferential motion.

The SPEAKER. The Clerk will report the preferential motion.

The Clerk read as follows:

> Mr. YATES moves on amendment 56 to recede and concur with the Senate on amendment No. 56 with an amendment as follows: on page 35, line 11, strike out the words "including cost-plus-fixed-fee contracts".
>
> On lines 14 and 15, strike out the words "cost-plus-a-fixed-fee".
>
> On line 23, strike out language after "appurtenant thereto" and strike out lines 24 and on page 36 strike out lines 1 and 2.

Mr. SHIPLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. YATES).

Mr. YATES. Mr. Speaker, the purpose of my amendment is to meet the objections raised so eloquently by my friends, the gentleman from Ohio (Mr. REGULA), by the gentleman from West Virginia (Mr. SLACK), and by the gentleman from Texas (Mr. BROOKS). They objected to the provision allowing cost-plus-fixed-fee contracts.

My amendment strikes out that portion of the Senate provision which allows cost-plus-fixed-fee contracts. The provision with my amendment will read as follows:

> Notwithstanding any other provision of law, the Architect of the Capitol, under the direction of the Senate and House Office Building Commissions acting jointly, is directed to restore the West Central Front of the United States Capitol (without change of location or change of the present architectural appearance thereof), $25,000,000 to remain available until expended: *Provided*, That the Architect of the Capitol, under the direction of such Commissions acting jointly, is authorized and directed—

Then I strike out the words, "including cost-plus-a-fixed-fee contracts."

Then I continue as follows: "incur such obligations, and make such expenditures for personal and other services and other expenses as may be necessary to carry out this paragraph: *Provided further*, That any," and then I strike out "cost-plus-a-fixed-fee."

Then I continue as follows: "general construction contract entered into under authority of this paragraph shall be awarded on competitive bidding among selected responsible general contractors approved by such Commissions upon the amount of the fixed fee to accrue from the performance of such contract: *Provided further*, That with the exception of any subcontract to be made by the general contractor for underpinning, foundation, and special restoration work and work incidental and appurtenant thereto . . ."

Then I strike out "which may be a cost-plus-a-fixed-fee contract, all other subcontracts made by the general contractor shall be fixed price contracts awarded on competitive bids received from responsible subcontractors."

Thus, Mr. Speaker, all reference to any cost-plus-a-fixed-fee contract or contracts is stricken out. The amount that is made available for the restoration is limited to $25 million. The open-ended feature to which many of my colleagues objected—and rightfully so—has been eliminated.

Mr. COUGHLIN. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Speaker, I thank the gentleman for yielding.

The language would still authorize and direct the Architect to enter into such contracts and incur such obligations as may be necessary to carry out the paragraph, that is, restoration of the West Front. Therefore, that would not limit it to $25 million, but to a contract for more than $25 million; is that not correct?

Mr. YATES. That is not correct. The language read by the gentleman does not provide for open-endedness on financial obligations at all. The provisions read by the gentleman are limitations, not expansions of the amount appropriated.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Arizona.

Mr. RHODES. I would ask my colleague what would happen if the Architect were to advertise for bids for this job and no bid was received under $25 million?

Mr. YATES. The provision would fail.

Mr. RHODES. There would be no work done; is that correct?

Mr. YATES. There would be no work done.

Mr. RHODES. And the wall would continue in its present dangerous condition?

Mr. YATES. Mr. Speaker, I do not agree that the wall is in danger. It would continue in its present condition.

The gentleman's position would permit the wall to remain in its present condition. The committee study he seeks which would review the new proposal by the Architect would take time. The wall would continue in its present condition. The gentleman proposes delay.

What we propose is to take action promptly. Let us start in the restoration within the price of $25 million.

Mr. RHODES. If the gentleman will yield further, I am informed by the Architect, and I think the distinguished Speaker and the distinguished majority leader would agree with me, that the Architect says there is absolutely no chance of getting anybody to bid on this job. We are not seeking delay, merely a reasonable approach to the problem.

Mr. YATES. Why do we not find out by letting it out for bids?

Mr. RHODES. We do not know what is in the wall and no blueprints are drawn which would support the specifics a bid would require. It is the kind of job that no responsible contractor would bid on because he would not know all the facts. He does not have any idea what he is getting into.

Mr. YATES. May I reply to my distinguished friend by saying that the Architect's predecessor and this Architect have taken the position that under no circumstances do they want any kind of restoration.

They say it just cannot be done.

The former Architect of the Capitol came forward with an extension of the west wall that covered 4½ acres. The wall was going to be extended out 88 feet. Now the new Architect of the Capitol wants to extend the wall but not on the grand scale of the former Architect's plan, but that it be extended, nevertheless.

My suggestion will make $25 million available under the proposal of the very distinguished architectural firm which has said the restoration of the west wall of the Capitol can be accomplished. I think that we ought to try it.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. SHIPLEY. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, I would say that the $25 million figure may be a good figure or it may be not a good figure. The architectural commission and the new Capitol Architect estimated yesterday that it would cost $45 million to make the effort to do this job in addition to the fact that the inspection and studies have never provided any guarantees that putting grout in would work.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. SHIPLEY. I yield such time as he may consume to the distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Speaker, I oppose the amendment offered by the gentleman from Illinois (Mr. YATES).

Mr. Speaker, I can recall when we were building the Rayburn Building, that there was a tremendous increase in actual costs over the estimates. Here we have been told that the cost estimate is $25 million.

A closer estimate would be $45 million. But, I think there is something other than cost that we should consider. When the extension of the East Front of the Capitol was proposed, I was vigorously opposed. Now that the extension has been completed for these many years, I wonder how many of us now know where the old East Front was? How many people look up and say that the Capitol has been changed? It looks as beautiful to me today as it did when I was a kid. And when I was a kid I did not want the Capitol to be changed, because it was dear to my heart. It was a thing of beauty.

Now we have plans for the West Front. I am on the Building Commission along with the gentleman from Arizona (Mr. RHODES) and the Speaker of the House. We have had this subject before us many times.

There is now a new plan to deal with the West Front. It has not yet been brought before the American Institute of Architects for review. It has not been before any committee. But the Commission has looked at it. In no way does it affect the appearance of the Capitol. One would never have any idea that there was any difference between the current West Front and the West Front as it would be altered by the plan. It would look exactly the same, while providing additional space.

So, what is happening at the present time? The new proposal of the Architect has not been studied by any committee. I believe that it should be studied.

The American Institute of Architects have scheduled hearings at a later time in the year.

I have great confidence in Mr. White. I think he is an excellent architect. This is his recommendation, this is his proposal. I think that we ought to let the American Institute of Architects look it over.

Why should we be locked into spending $25 million or $45 million, when no one knows actually whether it will serve any purpose?

Mr. YATES. Mr. Speaker, if the gentleman will yield, the American Institute of Architects has come out flatly in saying that it is in favor of the restoration of the west wall.

Mr. O'NEILL. That was years ago. They have not seen these new plans.

Mr. YATES. That does not make any difference, they know the plans of the previous proposed extension.

Further, may I say that the building Commission which is made up of the leadership of both bodies want the West Front extended and do not really worry about the consequences to the Capitol. They would have permitted the destruction of the Olmstead Terraces under the previous proposal. Now, under the new plan they avoid that deplorable result, but the lines of the wall would be altered. The Commission still wants an extension, even though restoration is possible. The engineers of the Praeger Co. tells us it can be done for $25 million. My amendment will limit it to $25 million without a cost plus fixed fee contract, I think it ought to be undertaken.

Mr. O'NEILL. Mr. Speaker, if we ever adopted the amendment proposed by the gentleman from Illinois (Mr. YATES), we might end up with a failure and that would be a terrible disgrace.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, I have a letter from the American Institute of Architects dated September 22, 1976, which says:

> First, let me say that the AIA strongly recommends immediate approval of funds to repair the West Front and urges all Members of the House to agree with the Senate amendment to the Legislative Appropriations conference report, providing $25 million for this project.

There is where the AIA stands.

Mr. O'NEILL. The interesting thing is that, architecturally, America is beautiful, and the Capitol is beautiful. The Members should be for progress, and for progress in the Capitol. There has been a new design submitted. I think that we ought to look it over before they come out with any kind of letter like that on this proposal.

Mr. BROOKS. Mr. Speaker, if the gentleman will yield, 1972 is 4 years ago by the way I count and the fact is that the American Institute of Architects is planning in December to have a committee evaluate the new proposal of the Architect of the U.S. Capitol. That is a new and current and still to be done evaluation of the current status, not a 4-year-old evaluation of the costs and procedures.

Mr. COUGHLIN. Mr. Speaker, I yield such time as he may consume to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. STRATTON. Mr. Speaker, will the distinguished minority leader yield for a correction?

Mr. RHODES. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, the letter I read from is dated September 22, 1976. If I said "1972" I misspoke. This is a letter hand delivered today.

Mr. RHODES. Will the gentleman from New York identify the letter for the record?

Mr. STRATTON. This is a letter from the American Institute of Architects and signed by Louis de Moil, FAIA, president.

Mr. RHODES. Mr. Speaker, in reply, or perhaps actually in further explanation, at the time the Building Commission met on this matter I asked the Architect of the Capitol, Mr. White, if he had had a chance to discuss his new plan with the American Institute of Architects. He said at that time he had not, that he did intend to discuss it with them. This conversation, I am sure, took place after that letter was written.

I am not saying nor would I have the House believe the eloquence of the Architect of the Capitol is such that he could definitely turn around the position of the American Institute of Architects, but I happen to think and have enough confidence in the Architect of the Capitol and his standing in the profession to believe that he has a very good chance of turning them around.

The reason I do think that is that his plan is entirely different from the plan of his predecessor.

The plan of the predecessor could have been described—and was described by some—as a way of getting more room for the Members of the Congress. Actually it was supposed to bolster up the west wall, but many people thought there was another reason and there were those who did not approve for that reason.

There were those who felt those walls, those historic stones should not be covered up. Of course, the walls are not to be covered up. They will be preserved and will be still in place. They can be looked at and admired by anyone who wants to do so, but they just will not be the outside walls any more.

But nevertheless I do not regret nor bemoan the fact that the former plan was not adopted. I do feel the present plan has great merit. In the first place, it does not change the outward appearance of the West Front of the Capitol, which I believe and most people believe is one of the most beautiful sights that any building in the country can present. I would not want to change it. This does not change it.

It does provide, however, a means which everybody agrees will actually do the job which we need to do, which is to bolster the walls of the West Front. It does that by building another wall, which will take the stress off the old wall so that the old wall will stand.

Of course, it would be entirely possible to build another wall immediately adjacent with no space at all between the new wall and the old wall, but would that really make any great amount of sense? I suggest that it would not. It would be just about as expensive to build that wall there as it would be to build it out 30 feet.

Well, now, if we can bolster the wall and if we are also able to get 30 feet of space, which I do submit is badly needed in this Capitol, then why should we not do it? The cost of building a new wall is not greatly in excess of grouting the old wall; yet it can be guaranteed that this will succeed in bolstering the wall and in keeping the Capitol from falling down.

Now, they can put all the grouting in the world in that old wall and I do not think there is anybody who will guarantee that it will work, that it will actually end the danger that that wall will some day crumble.

Mr. Speaker, I have mentioned before in my colloquy with the gentleman from Illinois that the Architect of the Capitol says that it would be impossible to find somebody to bid a fixed sum on grouting that wall and guaranteeing that it would do the job. They can get persons to grout it, but they will not guarantee the result. So what good is grouting if it does not do the job? All we will have done is to invest $25 million or $30 million, or whatever, in a lot of concrete that goes into the wall and then perhaps we will have to build another wall to bolster it, anyway.

Mr. EVANS of Colorado. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Speaker, I concur with the comments made by the gentleman from Arizona. I think there is honest disagreement on two sides and there has been disagreement for many, many years, I think, for the 12 years I have been here. There are those who feel that the Capitol is a working, growing, changing, historical, useful institution, that should meet the needs of the Members today and then tomorrow. Then there are those who honestly believe there should be no change in the West Front, because of history that the architecture represents.

I come down on the former side and concur with the gentleman in the well. This is a building that has changed many, many times to suit the needs of the House and the Senate and the Supreme Court.

I believe the same kind of building today, if we are going to strengthen the wall and it adds nothing more than we have now, I think it is a waste of funds. If we can do that and end up with more useful space for this important institution, I think we should study this proposition.

Mr. Speaker, I concur with the comments of the distinguished gentleman from Arizona.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, the gentleman from Colorado (Mr. EVANS) talks about meeting the needs of the House. We were told originally we had to extend this West Front to provide space; but in the years since the controversy has been underway we have expanded the staffs of the committees of this House so much that if we had to put them all in the Capitol, we would be halfway down the Mall. We cannot possibly put everybody in the Capitol. Therefore, we ought to stop expanding the Capitol, fix it up, and get it restored so it looks decent.

Mr. RHODES. Mr. Speaker, of course, the argument of the gentleman from New York might be persuasive if it were not absolutely true that the scheme which the gentleman proposes would not certainly have the effect of bolstering the wall. What we are trying to do is bolster the wall and if we are going to bolster the west front and be sure we succeed, then we will build another wall.

All that my good friend, the gentleman from New York is saying, is that we should build a wall next to the present one.

I am saying that is not rational, when we can get some 30 feet more space for almost the same price by extending the wall.

Mr. STRATTON. Mr. Speaker, if the gentleman will yield further, the gentleman from Arizona and I went to Harvard Law School at the same time; but I was not aware the gentleman also took an engineering degree.

Mr. Speaker, we spent a quarter of a million dollars to get a report from a prestigious engineering firm and all we are listening to now is amateur engineers, like the gentleman from Arizona, and the gentleman from Texas (Mr. BROOKS) and the Architect of the Capitol. Why not leave the technical engineering questions up to the experts?

Mr. RHODES. Mr. Speaker, of course, the gentleman from New York is not leaving the technical questions to the experts, either. I do not know, maybe the gentleman from New York got a degree in engineering after the gentleman left Harvard Law School.

Mr. Speaker, we hired the Architect of the Capitol for this purpose. I think the best way is to build the wall; so I say, let us get on with it and build the wall.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, what is the status of this plan the gentleman has described at the moment?

Mr. RHODES. I am not absolutely certain. I do know that the Architect wants permission from the House and the Senate to proceed with plans to construct the new wall as we have outlined.

Mr. REGULA. Is there in fact a set of schematic drawings or anything that is put down on paper which describes this proposed plan?

Mr. RHODES. I would not say they are schematic drawings. They are drawings, and they were sufficient to describe the plan to my unschooled mind, but whether an engineer would say they are sufficient, I do not know.

Mr. REGULA. Is there a copy of this plan available to all the Members to look at?

Mr. RHODES. There is a copy in the Office of the Architect of the Capitol, yes.

Mr. REGULA. Did the Architect of the Capitol, along with the plans, submit any estimate of the cost that might be involved in construction on those plans?

Mr. RHODES. The Architect was fairly sure that the structural change which is envisioned would cost very little more than the grouting of the wall.

Mr. REGULA. I thank the gentleman.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Illinois.

Mr. YATES. Has the Architect ever stated that the wall could not be restored?

Mr. RHODES. No; the Architect did not state that it could not be restored. All he said was that he did not believe he could get anybody to bid on the restoration of the wall and guarantee that the grouting would work.

Mr. YATES. Should he not be given that opportunity to try while the House studies that question?

Mr. RHODES. But why should we spend the money to do that job when it possibly will not work, when we have a plan we know will work and does not cost much more?

Mr. YATES. May I say that we have a whole year if we are going to study the Architect's plan. Why should we not try to restore it?

Mr. RHODES. Because we are still going to take a year to study it. We might as well get started.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, my understanding from the Capitol Architect who is also a registered engineer and a lawyer is that reworking this wall in this fashion for an estimated $25 million might or might not be helpful. Nobody guarantees that. He said his estimate was that it would cost about $45 million as of now. He said that it was his further estimate that for an additional $10 million he could have built a wall approximately 20 feet out, following the same contour, which would yield for this Congress and for the Senate 170,000 additional square feet, which would spread that load from the dome and which would enable them to retain and maintain the existing wall as it is now and would give them additional space, and preserve the existing wall.

Mr. RHODES. I think the gentleman from Texas would agree with me that this would mean that we could get 170,000 square feet of additional space for $10 million, which is a pretty good bargain when we are building buildings such as the Capitol of the United States.

Mr. BROOKS. Congressional and Senate committees need that space for conferences, for meetings of committees. The space that is near this Capitol, this building, this Chamber right here, is 10 times as valuable as space in the FBI Building. We cannot go to the FBI Building for a meeting and get back for a quorum, but we could go to an office within this Capitol for a conference meeting, for a committee meeting, and come back in time to vote. That is why that space is vastly more important, more useful, more vital to the real operation of the Congress of the United States.

Mr. RHODES. I thank the gentleman.

Mr. SHIPLEY. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Appropriations Committee, the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, at times, it is difficult to sense the mood of the House. I do not think it is difficult today. The American people are not sitting on the edges of their seats wondering what is going to happen here on this issue. I think they would say, "Do not spend that $25 million now, especially if we do not know for sure what is going to be done with it." They are not interested in this at this time. I do not believe the Members of the House are interested in trying to settle this problem at this time.

So, Mr. Speaker, I do not think it is necessary to spend as much time as we have with respect to this matter. We just should not go forward at this time on spending $25 million, which is of very doubtful value under the circumstances, and which may start us down the wrong road as to what we may eventually decide to do about the West Front. So, I predict that the overwhelming majority of the House is going to vote against spending $25 million.

I certainly am, and I urge my colleagues to vote against it. At a later day we can decide what we want to do about the West Front.

Mr. COUGHLIN. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. WALSH).

Mr. WALSH. I thank the gentleman for yielding.

Mr. Speaker, I would like to pose a question to the author of the amendment.

As I understand the intent of the amendment, it is to close the openendedness of the contract?

Mr. YATES. If the gentleman will yield, yes.

Mr. WALSH. Does it effectively do that?

Mr. YATES. In my opinion, it does.

Mr. WALSH. My second question is: If this should be approved and the $25 million is appropriated, will the contract contain a performance bond by the contractor that will guarantee that the wall will stand up?

Mr. YATES. I would assume it would, yes. If I were the architect and it were my responsibility to make sure that the work was adequately done, I would require such a bond.

Mr. WALSH. I thank the gentleman.

Mr. SHIPLEY. Mr. Speaker, I rise in opposition to the preferential motion. I think it has been discussed fully. I do not believe that we could get a contractor to bid on the plan for restoration of the existing wall as proposed in the Senate amendment. The changes which are made in the amendment by the motion offered by the gentleman from Illinois (Mr. YATES), are simply language changes. The fact is that the $25 million appropriation for restoration is still in the amendment.

Mr. Speaker, I urge a "no" vote, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER. The question is on the preferential motion offered by the gentleman from Illinois (Mr. YATES).

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. STRATTON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. The Chair will count. One hundred and eighty-seven Members are present, not a quorum.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 95, nays 304, not voting 31, as follows:

[Roll No. 794]

YEAS—95

Abzug
Ambro
Ashbrook
Aspin
AuCoin
Bauman
Bell
Bennett
Biester
Bingham
Boggs
Brodhead
Brown, Mich.
Burgener
Cleveland
Cochran
Cohen
Conable
Conte
Crane
Daniel, Dan
Davis
Derrick
du Pont
Early
Edwards, Calif.
Fenwick
Fish
Fraser
Fuqua
Gilman
Goldwater
Gude
Hagedorn
Hammerschmidt
Hannaford
Hansen
Harrington
Hébert
Hechler, W. Va.
Holland
Holt
Holtzman
Jenrette
Kelly
Kemp
Koch
LaFalce
Lagomarsino
Leggett
Lundine
McClory
McCloskey
McDonald
Maguire
Mann
Melcher
Mikva
Miller, Calif.
Moorhead, Pa.
Mosher
Nolan
Ottinger
Pike
Preyer
Pritchard
Randall
Rangel
Reuss
Roncalio
Rose
Roybal
Satterfield
Scheuer
Schroeder
Sharp
Spellman
Spence
Stark
Stratton
Studds
Symington
Symms
Thornton
Udall
Van Deerlin
Vander Jagt
Vigorito
Waxman
Wiggins
Wilson, Tex.
Wirth
Yates
Young, Fla.
Young, Ga.

NAYS—304

Abdnor
Adams
Addabbo
Alexander
Allen
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashley
Badillo
Bafalis
Baldus
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bergland
Bevill
Biaggi
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Collins, Ill.
Collins, Tex.
Conlan
Conyers
Cornell
Cotter
Coughlin
D'Amours
Daniel, R. W.
Daniels, N.J.
Danielson
de la Garza
Delaney
Dellums
Dent
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Findley
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frey
Gaydos
Gibbons
Ginn
Gonzalez
Goodling
Grassley
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hanley
Harkin
Harris
Harsha
Hawkins
Hayes, Ind.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Ketchum
Keys
Kindness
Krebs
Krueger
Landrum
Latta
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McCormack
McDade
McEwen
McFall
McHugh

McKay
McKinney
Madden
Madigan
Mahon
Martin
Mathis
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Michel
Milford
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Pickle
Poage
Pressler
Price
Quie
Quillen
Regula
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rosenthal
Rostenkowski
Rousselot
Runnels
Russo
Ryan
St Germain
Santini
Sarasin
Schneebeli
Schulze
Sebelius
Seiberling
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Snyder
Solarz
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steiger, Wis.
Stokes
Stuckey
Sullivan
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Traxler
Treen
Tsongas
Ullman
Vander Veen
Vanik
Waggonner
Walsh
Wampler
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Wilson, C. H.
Winn
Wolff
Wright
Wydler
Wylie
Yatron
Young, Alaska
Zablocki
Zeferetti

NOT VOTING—31

Byron
Clancy
Corman
Diggs
Esch
Giaimo
Gradison
Green
Guyer
Heinz
Helstoski
Henderson
Hinshaw
Jones, Ala.
Jones, N.C.
Karth
McCollister
Matsunaga
Mink
Nix
Peyser
Railsback
Rees
Roush
Ruppe
Sarbanes
Smith, Nebr.
Steelman
Steiger, Ariz
Stephens
Young, Tex.

The Clerk announced the following pairs:

Mr. Byron with Mr. Karth.
Mr. Matsunaga with Mr. Clancy.
Mr. Giaimo with Mr. Guyer.
Mr. Helstoski with Mr. Steiger of Arizona.
Mr. Diggs with Mr. Heinz.
Mr. Green with Mr. Esch.
Mr. Corman with Mrs. Smith of Nebraska.
Mr. Nix with Mr. Steelman.
Ms. Mink with Mr. Gradison.
Mr. Henderson with Mr. Ruppe.
Mr. Roush with Mr. Railsback.
Mr. Sarbanes with Mr. McCollister.
Mr. Jones of North Carolina with Mr. Stephens.
Mr. Rees with Mr. Jones of Alabama.

Mr. **KRUEGER** and Mr. **COLLINS** of Texas changed their vote from "yea" to "nay."

Mr. **HARRINGTON** changed his vote from "nay" to "yea."

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

The **SPEAKER** pro tempore. (Mr. McFALL). The question is on the motion offered by the gentleman from Illinois (Mr. SHIPLEY).

The motion was agreed to.

The **SPEAKER** pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 57: Page 36, line 20 insert:

SENATE OFFICE BUILDING

For maintenance, miscellaneous items and supplies, including furniture, furnishings, and equipment, and for labor and material incident thereto, and repairs thereof; for purchase of waterproof wearing apparel, and for personal and other services; for the care and operation of the Senate Office Buildings; including the subway and subway transportation systems connecting the Senate Office Buildings with the Capitol; uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902), prevention and eradication of insect and other pests without regard to section 3709 of the Revised Statutes as amended; to be expended under the control and supervision of the Architect of the Capitol in all $10,408,000, of which $980,000 shall remain available until expended.

Not to exceed $120,000 of the unobligated balance of the appropriation under this head for the fiscal year 1975, continued available until June 30, 1976, is hereby continued available until September 30, 1977.

MOTION OFFERED BY MR. SHIPLEY

Mr. **SHIPLEY**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SHIPLEY moves that the House recede from its disagreement to the amendment of the Senate numbered 57 and concur therein.

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 58: Page 37, line 14, insert:

SENATE GARAGE

For maintenance, repairs, alterations, personal and other services, and all other necessary expenses, $139,500.

MOTION OFFERED BY MR. SHIPLEY

Mr. **SHIPLEY**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SHIPLEY moves that the House recede from its disagreement to the amendment of the Senate numbered 58 and concur therein.

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 59: Page 38, line 15, insert:

MODIFICATIONS AND ENLARGEMENT, CAPITOL POWER PLANT

For an additional amount for "Modifications and Enlargement, Capitol Power Plant", $12,000,000, to remain available until expended, and the limit of cost authorized by Public Law 93–50 (87 Stat 109–110) for such project is increased by such additional amount.

MOTION OFFERED BY MR. SHIPLEY

Mr. **SHIPLEY**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SHIPLEY moves that the House recede from its disagreement to the amendment of the Senate numbered 59 and concur therein.

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 60: Page 39, line 6, insert:

AUTOMATIC ELEVATOR OPERATORS

No part of the funds appropriated under this Act shall be used for the payment of compensation for more than forty-six elevator operator positions under the heading "Architect of the Capitol, Capitol Buildings"; sixteen elevator operator positions under the heading "Architect of the Capitol, Senate Office Buildings"; and twenty-eight elevator operator positions under the heading "Architect of the Capitol, House Office Buildings": *Provided*, That such provision shall not be applicable to present incumbents of elevator operator positions.

MOTION OFFERED BY MR. SHIPLEY

Mr. **SHIPLEY**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SHIPLEY moves that the House recede from its disagreement to the amendment of the Senate numbered 60 and concur therein.

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 79: Page 49, line 4, insert:

TITLE IX—COPYRIGHT ROYALTY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Copyright Royalty Commission, $268,000, which shall be available only upon enactment into law of S. 22 or equivalent legislation.

MOTION OFFERED BY MR. SHIPLEY

Mr. **SHIPLEY**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SHIPLEY moves that the House recede from its disagreement to the amendment of the Senate numbered 79 and concur therein.

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 89: Page 55, line 11, insert: "Effective October 1, 1976, the gross annual maximum rate of compensation of Pages of the Senate shall be $9,063, and such rate shall not be adjusted under any Order of the President pro tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970, except the multiple specified in any such Order which is nearest to but not less than $9,060."

MOTION OFFERED BY MR. SHIPLEY

Mr. **SHIPLEY**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SHIPLEY moves that the House recede from its disagreement to the amendment of the Senate numbered 89 and concur therein.

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 90: Page 55, line 18, insert: "SEC. 1305. (a) The Sergeant at Arms and Doorkeeper of the Senate may (1) designate as a private, first class, any private of the Capitol Police whose pay is disbursed by the Secretary of the Senate and who has served satisfactorily as a member of the Capitol Police for thirty months or more, and (2) fix the compensation of any such private, first class, at not to exceed $13,038 per annum.

"(b) Subsection (a) shall take effect on October 1, 1976. Any designation of a private of the Capitol Police as a private, first class, shall be made effective on the first day of a month, and no such designation may be effective before the first day of the first month which begins after the day on which such private has served satisfactorily as a member of the Capitol Police for thirty months."

MOTION OFFERED BY MR. SHIPLEY

Mr. **SHIPLEY**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Shipley moves that the House recede from its disagreement to the amendment of the Senate numbered 90 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

"Sec. 1305. (a) The Sergeant at Arms and Doorkeeper of the Senate and Sergeant at Arms of the House may (1) designate as a private, first class, any private of the Capitol Police whose pay is disbursed by the Secretary of the Senate or Clerk of the House who has served satisfactorily as a member of the Capitol Police for thirty months or more, and (2) fix the compensation of any such private, first class, at not to exceed $13,038 per annum: *Provided,* That the Sergeant at Arms of the House may fix the compensation of seven Detectives, Police Force at not to exceed $14,946 per annum each in lieu of not to exceed $13,992 per annum each; nineteen Technicians, Police Force at not to exceed $13,992 per annum each in lieu of not to exceed $13,038 per annum each; eight Plainclothesmen, Police Force at not to exceed $13,992 per annum each in lieu of not to exceed $13,038 per annum each; and six K-9 Officers, Police Force at not to exceed $13,992 per annum each in lieu of not to exceed $13,038 per annum each.

"(b) Subsection (a) shall take effect on October 1, 1976. Any designation of a private of the Capitol Police as a private, first class, shall be made effective on the first day of a month, and no such designation may be effective before the first day of the first month which begins after the day on which such private has served satisfactorily as a member of the Capitol Police for thirty months."

Mr. SHIPLEY (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 91: Page 56, line 8, insert:

Cost of Living Adjustments

Sec. 1306. (a) Section 8340(b) of title 5, United States Code, is amended by striking out "1 percent plus".

(b) The amendment made by subparagraph (a) above shall apply to any increase in annuities after the date of enactment of this Act.

(c) (1) Section 8340(b) of title 5, United States Code, as amended by subparagraph (a) above, is amended to read as follows:

"(b) (1) The Commission shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for June of such year over the price index published for December of the preceding year.

"(2) If in any year the percent change determined under either paragraph (1) (A) or (1) (B) indicates a rise in the price index, then—

"(A) effective March 1 of such year, in the case of an increase under paragraph (1) (A), each annuity payable from the Fund having a commencing date not later than such March 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent, or

"(B) effective October 1 of such year, in the case of an increase under paragraph (1) (B), each annuity payable from the Fund having a commencing date not later than such October 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent.".

(2) The amendment made by subsection (1) shall apply to any increase in annuities after the date of enactment of this Act, except that with respect to the first date after the date of enactment of this Act on which the Commission is to determine a percent change, such percent change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index for the last month prior to the date of enactment of this Act for which the price index showed a percent rise forming the basis for a cost-of-living annuity increase under section 8340(b) of title 5, United States Code, as in effect immediately prior to the date of the enactment of this Act.

(d) (1) Section 1401a(b) of title 10, United States Code, as amended by section 2 of this Act, is amended to read as follows:

"(b) (1) The Secretary of Defense shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the index published for December of the preceding year over the index published for June of the preceding year; and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the percent change in the index published for June of such year over the index published for December of the previous year.

"(2) If in any year the percent change determined under either paragraph (1) (A) or (1) (B) indicates a rise in the index, then—

"(A) effective March 1 of such year, in the case of an increase under paragraph (1) (A), the retired pay and retainer pay of members and former members of the armed forces who become entitled to that pay before such March 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent; and

"(B) effective October 1 of such year, in the case of an increase under paragraph (1) (B), the retired pay and retainer pay of members and former members of the armed forces who become entitled to that pay before such October 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent.".

(2) The amendment made by subsection (1) shall apply to any increase in retired pay or retainer pay after the date of enactment of this Act, except that with respect to the first date after the date of enactment of this Act on which the Secretary of Defense is to determine a percent change, such percent change shall be determined by computing the change in the index published for the month immediately preceding such first date over the index for the last month preceding the date of enactment of this Act used as the basis for the most recent adjustment of retired pay and retainer pay under section 1401a(b) of title 10, United States Code, as in effect immediately prior to the date of enactment of this Act.

(e) (1) Section 882(b) of the Foreign Service Act of 1946 (22 U.S.C. 1121(b)), as amended by section 3 of this Act, is amended to read as follows:

"(b) (1) The Secretary shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for June of such year over the price index published for December of the preceding year.

"(2) If in any year the percent change determined under either paragraph (1) (A) or (1) (B) indicates a rise in the price index, then—

"(A) effective March 1 of such year, in the case of an increase under paragraph (1) (A), each annuity payable from the Fund having a commencing date not later than such March 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent, or

"(B) effective October 1 of such year, in the case of an increase under paragraph (1) (B), each annuity payable from the Fund having a commencing date not later than such October 1 shall be increased by the percent change computed under such paragraph adjusted to the nearest 1/10 of 1 percent.".

(2) The amendment made by subsection (1) shall apply to any increase in annuities after the date of enactment of this Act, except that with respect to the first date after the date of enactment of this Act on which the Secretary is to determine a percent change, such percent change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index for the last month prior to the date of enactment of this Act for which the price index showed a percent rise forming the basis for a cost-of-living increase under section 882(b) of the Foreign Service Act of 1946 (22 U.S.C. 1121(b)), as in effect immediately prior to the date of enactment of this Act.

Mr. SHIPLEY (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

MOTION OFFERED BY MR. SHIPLEY

Mr. SHIPLEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Shipley moves that the House recede from its disagreement to the amendment of the Senate numbered 91 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

Cost-of-Living Adjustments

Sec. 1306. (a) Section 8340(b) of title 5, United States Code, is amended by striking out "1 percent plus".

(b) The amendment made by subsection (a) shall apply to any increase in annuities after the date of enactment of this Act.

(c) (1) Section 8340(b) of title 5, United States Code, as amended by subsection (a), is amended to read as follows:

"(b) (1) The Commission shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for June of such year over the price index published for December of the preceding year.

"(2) If in any year the percent change determined under either paragraph (1) (A) or (1) (B) indicates a rise in the price index, then—

"(A) effective March 1 of such year, in the case of an increase under paragraph (1) (A), each annuity payable from the Fund having a commencing date not later than such March 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent, or

"(B) effective September 1 of such year, in the case of an increase under paragraph (1)(B), each annuity payable from the Fund having a commencing date not later than such September 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent.".

(2) The amendment made by subsection (1) shall apply to any increase in annuities after the date of enactment of this Act, except that with respect to the first date after the date of enactment of this Act on which the Commission is to determine a percent change, such percent change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index for the last month prior to the date of enactment of this Act for which the price index showed a percent rise forming the basis for a cost-of-living annuity increase under section 8340(b) of title 5, United States Code, as in effect immediately prior to the date of the enactment of this Act.

(d)(1) Section 1401a(b) of title 10, United States Code, is amended to read as follows:

"(b)(1) The Secretary of Defense shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the index published for December of the preceding year over the index published for June of the preceding year; and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the percent change in the index published for June of such year over the index published for December of the previous year.

"(2) If in any year the percent change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the index, then—

"(A) effective March 1 of such year, in the case of an increase under paragraph (1)(A), the retired pay and retainer pay of members and former members of the armed forces who become entitled to that pay before such March 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent; and

"(B) effective September 1 of such year, the case of an increase under paragraph (1)(B), the retired pay and retainer pay of members and former members of the armed forces who become entitled to that pay before such September 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent.".

(2) The amendment made by subsection (1) shall apply to any increase in retired pay or retainer pay after the date of enactment of this Act, except that with respect to the first date after the date of enacment of this Act on which the Secretary of Defense is to determine a percent change, such percent change shall be determined by computing the change in the index published for the month immediately preceding such first date over the index for the last month preceding the date of enactment of this Act used as the basis for the most recent adjustment of retired pay and retainer pay under section 1401a(b) of title 10, United States Code, as in effect immediately prior to the date of enactment of this Act.

(e)(1) Section 882(b) of the Foreign Service Act of 1946 (22 U.S.C. 1121(b)), is amended to read as follows:

"(b)(1) The Secretary shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for June of such year over the price index published for December of the preceding year.

"(2) If in any year the percent change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the price index, then—

"(A) effective March 1 of such year, in the case of an increase under paragraph (1)(A), each annuity payable from the Fund having a commencing date not later than such March 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest one-tenth of 1 percent, or

"(B) effective September 1 of such year, in the case of an increase under paragraph (1)(B), each annuity payable from the Fund having a commencing date not later than such September 1 shall be increased by the percent change computed under such paragraph adjusted to the nearest one-tenth of 1 percent.".

(2) The amendment made by subsection (1) shall apply to any increase in annuities after the date of enactment of this Act, except that with respect to the first date after the date of enactment of this Act on which the Secretary is to determine a percent change, such percent change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index for the last month prior to the date of enactment of this Act for which the price index showed a percent rise forming the basis for a cost-of-living increase under section 882(b) of the Foreign Service Act of 1946 (22 U.S.C. 1121(b)), as in effect immediately prior to the date of enactment of this act.

Mr. SHIPLEY (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. MCFALL). Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ADDABBO. Mr. Speaker, I demand a division of the question.

The SPEAKER pro tempore. The question will be divided.

Mr. SHIPLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conferees agreed to retain the provisions added by the Senate which pertain to adjustments to pension computation for Federal retirees. These provisions eliminated the "1 percent kicker" and added a new method of computing increases for retirees to adjust for cost-of-living increases. This action will result in savings of $3 billion over the next 5 years.

Under existing law, when the cost of living increased by 3 percent for 3 months, a pension recomputation was made and retirees got that increase plus 1 percent. The 1 percent was to make up for the retiree what had not been paid during the period before recomputation occurred.

Since the 1-percent provision has been adopted, the cost of living has increased 56 percent while the pension payment increase has been 72 percent. This growth in pension increase in excess of the cost-of-living increase is a function of compounding the 1-percent kicker. Elimination of the kicker has been endorsed by the chairman and the ranking minority member of the Post Office and Civil Service Committee and the Civil Service Commission.

To replace the kicker provision, the conferees agreed to provisions that provide for a semiannual recomputation based on the actual cost-of-living increase in the preceding 6-month period. The provisions agreed to by the conferees provide that the first increase effective on March 1, 1977 will be based on the change that occurred between the last base month, December 1975, and December 1976—a 12-month period.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Speaker, I would hope that the House would act today to continue to provide the 1-percent increase in cost-of-living benefits for Federal retirees and not bow to the imposition of the will of the other body.

Let me make clear that the 1-percent kicker in the pension benefit does not raid the Federal Treasury. The money which would be paid to retirees comes completely from the retirement fund, a contributory retirement fund which pays for all pension benefits.

But even more important than where the money comes from is the reality of life for people who must exist today on fixed-income pensions. We are talking about small increments to retirees, perhaps as little as $4 or $5 a month, perhaps less.

Ask yourselves if in the last year inflation has not already eaten up $4 or $5 a month in increased food costs, clothing costs, medical care, prescription costs, travel costs? You know it has.

We are talking here mainly about retired postal workers and the other Federal employees, the majority of those people whose lives were based on paychecks rather than other income, people who need every pension dollar they can get just to survive another month.

There are ways in which the Congress ought to act to cut Federal spending. I have spent some time on this floor talking about the waste in the defense budget, and against my protests the House has gone on to appropriate billions of dollars each year in wasteful programs. There are people on this floor who will vote for useless weapons, defense waste and overruns, but who will not vote for people.

Well, as far as I am concerned, this is a vote for people. This is a vote for people who have spent their lives working on behalf of their country, who have contributed all of their working years to a pension plan so that when they reached retirement age, they would be able to spend their remaining years in some degree of comfort and security.

The retired workers of America have not caused the inflation that has ravaged the lives of those who must live on fixed incomes. The people of America have lived with double-digit inflation and for years now, and I see nothing soothing in our immediate future. Things may get better but they will not be much better anytime in the foreseeable future.

It would be a breach of faith for this

Congress to vote to do away with this small increment today without full hearings, debate, and proper legislative action. To deny this badly needed extra would be to cave in to the unfeeling complaints of those who have never—and do not now—demonstrated concern about the poor, the ill, and the forgotten millions who are our fellow citizens. I appeal to the House to reject any move to deny this desperately needed pension allowance. It will be money well spent, for it is literally bread in the mouths of those who cannot help themselves.

If the Congress wishes to do away with the 1-percent kicker, let us do it in an orderly and proper legislative manner. Let the Post Office and Civil Service Committee bring forth a bill which then can be debated and possibly approved.

This bill and procedure gives the House no possibility of working its will. The proposition before us arbitrarily passed by the other body without hearings and little debate does not permit the House to work its will. We are being asked to accept legislation outlined in over 3 pages of the conference report. There is no way of knowing the end result of the amendment we are asked to accept. We do not know the cost of such an amendment.

I ask that the motion to recede be defeated and my later motion to insist on disagreement to the Senate amendment be approved.

Mr. ICHORD. Mr. Speaker, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Speaker, I have been advised that there is a former Member of Congress who retired from this body with a good many years of service, who is now receiving more money in retirement pay than a sitting Member of Congress. This is primarily due to the 1-percent kicker. Is that true? Is there a former Member of Congress now receiving more retirement pay than a sitting Member of Congress receives in pay?

Mr. ADDABBO. This has been an allegation which has been circulated, but the question is how he computes it. He has military pay, other pay. State pensions, and also he is entitled to the normal cost-of-living raise. It may have risen, but not because of the 1-percent kicker.

Mr. ICHORD. The 1-percent kicker has resulted in that increased pay, has it not?

Mr. ADDABBO. There has been increased pay, but again they are entitled to it. This House, the Congress, gave them that 1-percent kicker because this House felt that our retirees were entitled to it. I am not saying that there may not be need of revision of the 1-percent kicker, but let it come before this House in normal fashion so that if it is taken away, there will be other types of recomputation and other amendments which could be offered to make up for the loss they receive.

Mr. ICHORD. But is it not true that if we do not concur in the amendment of the gentleman from Illinois, that this former Member of Congress will receive even greater increases in retirement pay?

Mr. ADDABBO. The gentleman is comparing the misery of a man living on a small pension, as compared to a man who earned a large income. Is the man who is getting $3 per month additional under this going to be denied that because perhaps 1 percent of the retirees are receiving a larger pension? Are we going to penalize him and force him to perhaps eat cat food because he cannot afford a decent meal?

Mr. COUGHLIN. Mr. Speaker, I rise in opposition to the motion made by the gentleman from New York (Mr. ADDABBO).

The Senate amendment to which the conferees agreed is not an unfair amendment, and it does not really strip a benefit from retirees because it makes an alternate provision for retirees that is, in fact, much fairer than the current provision. It does provide for a semiannual adjustment for cost of living, and that is as it should be.

Mr. ADAMS. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Speaker, I think the gentleman was referring to a motion by the gentleman from New York (Mr. ADDABBO). In a few minutes I am going to make a parliamentary inquiry, but it was my understanding that the gentleman from New York demanded a division of the question, and that the division of the question is a matter of right to him, and the question has been divided.

Therefore, what is presently pending is the motion of the gentleman from Illinois (Mr. SHIPLEY) to recede. Therefore, the vote on this would be an aye vote in support of the committee. I will ask that, but I wanted to be certain that the gentleman, in his remarks, agrees with my interpretation.

Mr. COUGHLIN. I do agree with the gentleman's interpretation, and I was in error. It should be an aye vote in support of the motion offered by the gentleman from Illinois (Mr. SHIPLEY).

This method of dealing with the 1-percent kicker, or a method essentially similar to this, has been previously passed upon by a majority of this House. This has been considered at great length by the Committee on Post Office and Civil Service. The whole question has been debated before this House before.

In view of the fact that this is a fair way of doing it, in view of the fact that it is fair to apply this uniformly across the board for the various classes of governmental employees, I rise in support of the motion offered by the gentleman from Illinois (Mr. SHIPLEY).

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. I thank the gentleman for yielding.

Mr. Speaker, I would like to address a question or two to the gentleman. I have, frankly, not made up my mind on how I will vote on this matter. I find it an exceedingly difficult matter. I was one of those who voted against the motion to suspend the rules when this matter came up under the Suspension of the Rules. But I understand now that the proposition before us is an improvement, from the point of view of the retirees, over the proposition that was before us at that time. Is that correct or is that not correct?

Mr. COUGHLIN. As I understand it, that is correct.

Mr. BINGHAM. If the gentleman will yield further, will the gentleman explain to me in what respect it is an improvement?

Mr. COUGHLIN. Because this has an automatic semiannual adjustment for cost of living for the retirees.

Mr. BINGHAM. And previously the adjustment would only have been made annually; is that correct?

Mr. COUGHLIN. That is correct.

Mr. BINGHAM. May I ask the gentleman another question? I understand that the payment for these funds for these retirees comes from the retirement fund and is not a direct charge against the Federal budget, but that the retirement fund itself shows a balance of unfunded obligations in the neighborhood of $80 billion; is that correct?

Mr. COUGHLIN. I do not pretend to be an expert in this field, but I think there are direct government funds that go into the Retirement Fund. Certainly there would be.

Mr. ADAMS. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. I thank the gentleman for yielding.

Mr. Speaker, I would state to the gentleman that the unfunded liability in the Federal Civil Service Fund at the present time, when we started this year, was $91 billion. During the course of this year it has now risen to $95 billion. We have started to pay partial interest payments out of the general fund on the $91 billion. In 1980 we will start to pay total interest payments. A portion of the 1-percent kicker which is tied to this, the military, is a complete Government contribution. There is no contribution into it at all. So all of the 1-percent matters are hanging on what we do here now. I can state that the amount of money that went out of the general fund last year into the area of the military alone is between $7 billion and $8 billion, and the amount of contributions that are going in in the 7 percent withheld are $91 billion short of meeting the obligations of those presently working.

Mr. BINGHAM. If the gentleman will yield further, I am very grateful to the gentleman from Washington (Mr. ADAMS) for that clarification.

Mr. Speaker, I would like to pursue another thought. I have many retirees in my district, and many of them are having a hard time getting along, I know, on whatever they receive from their retirement. But is it not true that the 1-percent kicker was introduced on the theory that it was to compensate for the delay in the cost-of-living adjustments and not as a way of improving the general level of benefits under the retirement system?

Mr. COUGHLIN. That is correct. But I think in this proposal now we have a better method of compensating for the delay. The delay is compensated for and we do not have something built into the system that can end up, as it has in the current situation, in distorting the system.

Mr. BINGHAM. I thank the gentleman for his comments.

Mr. ADDABBO. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. I thank the gentleman for yielding.

Mr. Speaker, there has been a colloquy here in reference to what it would cost the budget. I am just wondering whether anyone can tell the Members right now what the Senate amendments would cost. The Senate amendment which we are being asked to accept today appears on pages 8, 9, 10, and 11 of the conference report.

Does any Member know what that will cost?

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I will be glad to yield to my colleague, the gentleman from Illinois.

Mr. DERWINSKI. Mr. Speaker, if I may address myself to the gentleman from New York (Mr. ADDABBO), the emphasis should be upon what the amendment will say, which is really the key to this issue. The figures we have show that the Chiles amendment—and that is what we are speaking of in the Senate amendment, the Chiles amendment—which provides a semiannual cost-of-living increase in lieu of the 1-percent kicker would under the budget estimate save $228 million in fiscal year 1977, and from fiscal year 1977 through 1981 the accumulated savings would be over $3 billion.

Now, these are savings to the Treasury, savings in unfunded liability, savings that we are really establishing for future annuitants, and this would protect the solvency of the fund.

Mr. Speaker, that is the emphasis that we should place behind the Chiles amendment.

Mr. ADDABBO. Mr. Speaker, if the gentleman will yield further, I will say that when this matter was in conference, we heard several different figures. This is the third or fourth figure I have heard. We have heard figures of $100 million, $200 million, and $300 million. I do not believe anyone has yet been able to analyze this amendment because it was passed so hurriedly in the Senate without hearings and no consideration by the House.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield further?

Mr. COUGHLIN. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Speaker, if I may have the attention of the gentleman from New York (Mr. ADDABBO), I do not, of course, claim to be a master of the budgetary or the appropriation process, as is my good friend, the gentleman from New York. However, as the gentleman knows, when the House and the Senate passed the First Budget Resolution and then just 2 weeks ago passed the supplemental budget resolution, we presumed in both instances the passage of the repeal of the 1-percent kicker.

Therefore, any Member who was supporting that budget resolution should support this position. Other Members who voted against it did so because they felt it was too high a figure. To be consistent with any affirmative vote on the budget resolutions, one should support the position of the gentleman from Illinois (Mr. SHIPLEY) and accept the Senate amendment to repeal this 1-percent kicker.

Mr. BRINKLEY. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from Georgia.

Mr. BRINKLEY. Mr. Speaker, I would like to make an inquiry of the gentleman as to one distinguishing feature which I seem to detect in this conference report, as compared to the provision we voted upon earlier.

As I understand it, there will be no lag in the adjustment, with the biyearly adjustment that we are making in this conference report, whereas, on the other hand, under our consideration of the bill under suspension of the rules the lag was reduced to 2 months and whereas earlier there had been a lag of 5 months?

Mr. COUGHLIN. The gentleman is correct.

Mr. BRINKLEY. So, therefore, the conference report represents that improvement, in that there will be no lag?

Mr. COUGHLIN. The gentleman is correct.

Mr. BRINKLEY. Mr. Speaker, I thank the gentleman.

PARLIAMENTARY INQUIRY

Mr. FASCELL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. MCFALL). The gentleman will state his parliamentary inquiry.

Mr. FASCELL. Mr. Speaker, do I understand that the question has now on request been divided by the Chair?

The SPEAKER pro tempore. The gentleman is correct.

Mr. FASCELL. And, Mr. Speaker, do I understand the first question that will be put whenever we get to it will be on the motion to recede?

The SPEAKER pro tempore. The gentleman is correct.

Mr. FASCELL. Mr. Speaker, I gather that a yes vote on that will permit the next question to be put—and that, I understand, has already been put since the question has been divided—and that is the question on the motion to concur in the Senate amendment with an amendment?

The SPEAKER pro tempore. The gentleman is correct. The gentleman states the parliamentary situation exactly correctly.

Mr. SHIPLEY. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. CHARLES H. WILSON).

Mr. CHARLES H. WILSON of California. Mr. Speaker, I join my friend, the gentleman from New York (Mr. ADDABBO), in asking that we do not recede and concur in the Senate amendment. There are four points I am going to make, and I am going to be as brief as possible.

First, this amendment is absolutely not germane to the bill that is under consideration. It should never have been put in the bill, but the Senate has certain peculiar rules that are entirely different than the rules we have here in the House of Representatives. This is not a germane amendment, and it does not belong in this bill.

Second, as the gentleman from New York (Mr. ADDABBO) mentioned, there have been no hearings on the Chiles amendment.

The Senate has not had any hearings on any kind of amendment involving the 1-percent kicker.

The gentleman from Texas (Mr. WHITE), the chairman of the Subcommittee on Retirement and Employee Benefits of the Committee on Post Office and Civil Service, has had about 2 days of hearings on the general subject of the 1-percent kicker, but no hearings have been held whatsoever on the Chiles amendment itself.

Mr. GUDE. Mr. Speaker, will the gentleman yield?

Mr. CHARLES H. WILSON of California. I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Speaker, I want to commend the gentleman in the well for his statement.

Certainly on an amendment of this magnitude, involving such a large number of retired employees, there should at least be some type of hearing in the House and the Senate.

Mr. Speaker, I certainly support the gentleman's position.

Mr. Speaker, I am greatly disturbed that the conferees accepted the Senate provision to delete the 1-percent kicker on Federal retiree annuities and replace it with a system which will not allow these annuity checks to keep pace with the cost of living. As I stated to the House last month, retirees are already struggling to keep up with hikes in utility rates and real estate taxes not to mention hefty increases in every day living expenses such as food and gasoline, and cannot afford to be undercompensated in this way.

I am deeply disturbed that the House committee did not hold hearings on this provision which will adversely affect millions of retirees. In fact, the full committee never met to discuss the issue. I would like to insert for the record an analysis of the cumulative increase in cost-of-living adjustments which would have accrued without the 1-percent kicker and also an analysis based on the provision in this bill which provides for a semiannual consideration of cost-of-living increases, also without the 1 percent. I want to emphasize once again that the computation of retiree annuities as provided for in this bill will not assure a payment for the time it takes to make a decision on a cost-of-living increase to the time retirees actually receive that increase in their annuity checks.

ANALYSIS OF ANNUITY ADJUSTMENTS SINCE ENACTMENT OF PUBLIC LAW 91-93 (OCT. 20, 1969)

14 INCREASES WITH SEN. CHILES AMENDMENT

6-mo period through—	CPI	Increase (percent)	Compounding (percent)	Cumulative increase (percent)
June 1969	127.6			
December 1969	131.3	2.9		2.9
June 1970	135.1	2.9	0.0841	5.8841
December 1970	138.5	2.5	.1471	8.5312
December 1970	119.2			
June 1971	121.5	1.9	.1621	10.5933
December 1971	123.1	1.3	.1377	12.0310
June 1972	124.9	1.5	.1805	13.7115
December 1972	127.3	1.9	.2605	15.8720
June 1973	132.4	4.0	.6349	20.5069
December 1973	138.5	4.6	.9433	26.0502
June 1974	146.9	6.1	1, 5891	33.7393
December 1974	155.4	5.8	1.9569	41.4962
June 1975	160.6	3.3	1.3694	46.1656
December 1975	166.3	3.5	1.6158	51.2814
June 1976	170.1	2.3	1.1795	54.7609
Total		41.5 +	10.2609 =	54.7609

10 INCREASES WITHOUT 1 PERCENT ADD-ON

Effective—	Increase (percent)	Compounding (percent)	Cumulative increase (percent)	
Nov. 1, 1969	4.0		4.0	
Aug. 1, 1970	4.6	0.1840	8.7830	(4+4.6+0.1840)
June 1, 1971	3.5	.3074	12.5914	(8.7840+3.5+0.3074)
July 1, 1972	3.8	.4407	16.8321	
July 1, 1973	5.1	.8584	22.7905	
Jan. 1, 1974	4.5	1.0256	28.3161	
July 1, 1974	5.3	1.5006	35.1167	
Jan. 1, 1975	6.3	2.2125	43.6291	
Aug. 1, 1975	4.1	1.7888	49.5179	
Mar. 1, 1976	4.4	2.1788	56.0967	
Total	45.6 +	10.4967 =	56.0967	(56 percent).

Mr. CHARLES H. WILSON of California. Mr. Speaker, I appreciate the gentleman's comments.

He is certainly correct on this, that we must have some type of hearings. We must have more information.

The gentleman from New York (Mr. ADDABBO) just discovered, through his questions, that no one can tell us what the Chiles amendment will constitute. Mr. Speaker, it is absolutely wrong to take this type of action.

The third thing that should be emphasized again is this fact: Let us separate the military and the Federal judges from the civilian employees who make contributions to this fund. The fund that involves the civilian employees is a solvent fund. There is more money in it, coming in each year, than that which is being taken out. This is their money. There is not a penny of tax money in that fund.

Mr. Speaker, if someone wants to have some legislation that would require that the military and the Federal judges make contributions to their retirement program, I would be for that 100 percent. I think perhaps that is what we should do, but let us not penalize the civilian employees, the Federal employees, who are making contributions and pay for their retirement program, and who are going to be hurt by the Chiles amendment that is under consideration at this time.

Mr. Speaker, the last point I want to make is that it is not the Congressmen that we have heard about from the gentleman from Missouri (Mr. ICHORD) who are the ones at stake here in this particular case. The fact is that 70 percent of the retirees here are people who are receiving $500 or less per month in their retirement program. Twenty percent of the annuitants receive less than $200 per month. It is people of this type who are going to be extremely penalized as a result of this particular amendment.

Mr. Speaker, I hope and urge that we reject the motion of the chairman of the subcommittee. I have all the respect in the world for him, but I think we would be making a mistake if we caved in to the Senate in this particular instance.

Mr. FISHER. Mr. Speaker, will the gentleman yield?

Mr. CHARLES H. WILSON of California. I yield to the gentleman from Virginia.

Mr. FISHER. Mr. Speaker, there is some confusion in my mind as to whether the plan that is in the bill and which the Senate has approved actually involves a delay in the giving of raises on account of cost of living.

I think it was said a little bit ago on the other side that there would be no delay. As I understand it, there would be at least a 2-month delay between the expiration of the 6 months' period and the reflection of any increases in the retirement check; is that correct?

Mr. CHARLES H. WILSON of California. Mr. Speaker, I am going to refer the question of the gentleman from Virginia (Mr. FISHER) to the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Speaker, if the gentleman will yield, I would have to agree with the gentleman from Virginia because what we are speaking about is under subsection (A), which reads:

> (A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for December of the preceding year over the price index published for June of the preceding year.

Mr. Speaker, subsection (B) says that on July 1 the same thing would have to be determined 6 months after the fact.

Therefore, by the time they got a check it would be at least 2 months.

Mr. FISHER. Mr. Speaker, if the gentleman would yield further, there is, consequently, at least a 2-month delay. In addition, it seems to me that one would have to wait 6 months to establish an increase in the cost of living, on the basis of which the retirement check might be increased 2 months later. However, the cost of living may have gone up at any time during that 6 months' period, so there could be, in my opinion, an additional delay of 4 or 5 months if the cost of living, in fact, went up in the early part of the 6 months' period.

The SPEAKER pro tempore (Mr. McFALL). The time of the gentleman from California (Mr. CHARLES H. WILSON) has expired.

Mr. SHIPLEY. Mr. Speaker, I yield 2 additional minutes to the gentleman from California.

Mr. FISHER. Mr. Speaker, will the gentleman yield further?

Mr. CHARLES H. WILSON of California. I yield to the gentleman from Virginia.

Mr. FISHER. Mr. Speaker, it seems to me, contrary to what may have been the understanding, that there is a delay, and it may be a delay of many months, between the increase in the cost of living and the reflection of that in the retirement check.

Mr. Speaker, I would like to ask one other question. I was furnished with some statistics, and perhaps other Members were as well, indicating that considering the last 10 or so pay increases, under the Chiles amendment which we are being asked to approve today, in effect, the accumulated increase over the 10 periods would be less by a little bit than what the increase would have been without any 1-percent kicker at all.

I wonder if the gentleman from New York (Mr. ADDABBO) or the gentleman from Illinois (Mr. SHIPLEY) could answer that?

Mr. ADDABBO. Mr. Speaker, if the gentleman will yield, let me say that I cannot answer that question and I do not think there is any person in the House who could do so. That was debated in the Senate and in the conference and again, and I repeat myself, we heard three different figures. No one knows what the effect of the Chiles amendment will be.

Mr. CHARLES H. WILSON of California. Mr. Speaker, that is another reason why we need further hearings on this so as to learn more about what we are going to do.

Mr. FISHER. Mr. Speaker, if the gentleman will yield further, these figures were furnished by an interested group, the National Association of Retired Federal Employees. They use a pretty sharp pencil on this. So I think without further hearings, this is the kind of evidence that comes up at the last minute. We should have more information, more analysis, a better basis for anything as complicated, as difficult and as sensitive to millions of people as a proposal to reduce retirement benefits is bound to be. Indeed, if we remove the 1-percent kicker and substitute this new way of handling the matter, we will be kicking the retiree in the teeth as well.

I urge my colleagues to vote this proposal down.

Mr. SHIPLEY. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. Dominick V. Daniels).

Mr. DOMINICK V. DANIELS. Mr. Speaker, I rise in opposition to Senate amendment No. 91, which would eliminate the 1-percent add-on to civil service, military, and Foreign Service annuities and provides a new formula for computing cost-of-living adjustments.

I want to take just a moment to remind the Members why we have a provision providing for the 1-percent add-on in the present law.

Presently, a cost-of-living increase for annuitants is only triggered when the Consumer Price Index rises by at least 3 percent over the previous base month. Once the 3-percent trigger level is reached, the cost-of-living adjustment actually shows up in a retiree's check 6 months later.

During that period, the Consumer Price Index inevitably continues its upward trend, generally obtaining a level in excess of 1 percent over the actual percentage rate of the annuity increase. As a result, by the time an annuitant actually receives a check containing a cost-of-living increase, the ever-climbing CPI has already wiped out the purchasing power of that increase, and in most cases, the benefit afforded by the 1-percent add-on. In other words, even under existing law, with the add-on, the purchasing power of an annuitant generally fails to keep pace with the rise in the cost of living.

Now, if we agree to Senate amendment No. 91, we are going to deprive the retiree of the add-on, and we are still going to make him wait 9 months from the time the 6-month computation period begins to run until he actually receives a check with the appropriate increase.

I was a member of the House Post Office and Civil Service Committee in 1969 when it reported the bill which eventually was enacted to provide the 1-percent add-on. The committee, and the Members of this House, then clearly recognized the effect of the time lag between annuity increases, and the resulting need for the add-on, as indicated in the original House report (H. Rept. 91-158):

> In order to correct this serious deficiency in the adjustment formula and thereby compensate retirees and survivor annuitants for the intervening incremental rises in the cost of living, H.R. 17682 will add one percent to all future percentage adjustments.

Nothing has changed. The time lag still exists, and it will be 9 months if we agree to the Senate amendment.

Finally, and most disturbing, if we agree to this amendment the Congress is, in essence, going back on its word. We are taking money away from retirees, which we had promised them, and which they had relied upon receiving. I think this is a mistake, and I urge my colleagues to join me in voting "no" on Senate amendment No. 91.

Mr. WHITE. Mr. Speaker, will the gentleman yield?

Mr. DOMINICK V. DANIELS. I yield to the gentleman from Texas (Mr. White).

Mr. WHITE. Mr. Speaker, as the gentleman from New Jersey has pointed out, the 1-percent add-on is intended to make the annuitant whole while he waits for the cost-of-living increase.

Mr. DOMINICK V. DANIELS. That is true. There is a 7-month lag.

Mr. WHITE. Is it not true the conferees could find some other way of making annuitants whole such as cash reimbursement for the lag, other than the Chiles amendment, some other way that would not cause hardship to the annuitant nor to the United States?

Mr. DOMINICK V. DANIELS. My colleague from Texas is entirely correct. The gentleman from Texas is now serving as chairman of the Subcommittee on Retirement and Employee Benefits and has held a couple of days of hearings on this matter, which is very complex and involved. I think we should not consider the Chiles amendment which is now being proposed to the membership of this House, because of the fact that it completely wipes out the present formula for retaining the cost-of-living increase and also wipes out the 1-percent add-on.

Mr. WHITE. I thank the gentleman from New Jersey for yielding.

Mr. COUGHLIN. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. Derwinski).

CALL OF THE HOUSE

Mr. DEL CLAWSON. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Mr. SISK. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 795]

Abzug
Archer
Biaggi
Bonker
Burton, John
Byron
Cederberg
Clancy
Cochran
Conyers
Diggs
Drinan
Esch
Evins, Tenn.
Fenwick
Fish
Foley
Forsythe
Giaimo
Gradison
Green
Guyer
Harsha
Hayes, Ind.
Hébert
Heckler, Mass.
Heinz
Helstoski
Henderson
Hinshaw
Holland
Jarman
Johnson, Calif.
Jones, Ala.
Karth
Kastenmeier
Kemp
Lehman
McCollister
McKinney
Madigan
Mathis
Matsunaga
Meeds
Melcher
Meyner
Milford
Mink
Mosher
Nix
O'Hara
Passman
Patten, N.J.
Peyser
Pike
Rangel
Rees
Richmond
Rosenthal
Roush
Ruppe
Santini
Sarbanes
Scheuer
Seiberling
Shuster
Smith, Nebr.
Stark
Steelman
Steiger, Ariz.
Stephens
Stuckey
Treen
Udall
Ullman
Van Deerlin
Waxman
Weaver
Wright
Young, Alaska
Young, Tex.

Mr. McFALL. On this rollcall 349 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON H.R. 14238, LEGISLATIVE APPROPRIATION ACT, 1977

The SPEAKER pro tempore (Mr. McFall). Prior to the quorum call, the gentleman from Pennsylvania (Mr. Coughlin) had just yielded 5 minutes to the gentleman from Illinois (Mr. Derwinski).

The gentleman from Illinois (Mr. Derwinski) is recognized.

Mr. DERWINSKI. Mr. Speaker, let me sum up this 1-percent-kicker issue and in the process let me dispel a few innocent misstatements that have been made.

First of all, it is absolutely untrue to say that if we do away with the 1-percent kicker, we are taking something away from the retirees. The facts of life are that the 1-percent kicker is an overpayment, it is a bonus. All we are doing here is providing actuarial and fiscal soundness; we are not taking basic provisions away.

The second point we have to consider is that under the Chiles amendment adopted in the Senate the retirees will be receiving semiannual adjustments in the cost of living. The next adjustment, according to the Civil Service Commission, will be on April 1, 1977, and that will be approximately 5.2 percent.

Mr. Speaker, if the Members are wondering about fairness, let me point out that only 4 percent of the private pension plans in existence in the country have a cost-of-living increase provision, and under social security retirement the adjustment is made just once a year. So the Federal retirees, under the civil service retirement program, have a much better situation, even with the Chiles amendment, than the private sector has, and that social security beneficiaries have.

But the real guts of the issue is this: The charge has been made that this is something they paid for. That is just untrue. This 1-percent kicker has never been paid for. It is charged entirely to the unfunded liability of the civil service retirement system. All that the civil service annuitants pay for at the present time is 7 percent matched by the Government, and that in and of itself is less than the payment needed to meet the unfunded liability.

Mr. Speaker, what we are speaking of here is a long overdue step to correct the mistake that Congress made 8 years ago.

The other thing to remember is that when we are speaking of the unfunded liability, we are speaking not just of the present recipient but we are speaking of future generations. If you would just read the morning New York Times we find there a story of a new crisis that has developed in the pension fund of the city of New York.

Who suffers when a State, a local, or a Federal pension fund goes awry? It is the future generations, the millions and millions of recipients who will be drawing these funds in years to come. Those are the people to be considered at this time.

Then if the Members want to hear one staggering figure, the Civil Service Commission estimates that if we assume an annual inflation rate of only 6 percent from 1976 to 1990, the 1-percent kicker, if retained, would cost $37 billion by 1990. Let me repeat. That is $37 billion. Just where are we going to raise the money to cover that?

I am going to read for the Members one paragraph of the House report that was written when this 1-percent kicker was adopted back in 1969. The report reads as follows:

> It is estimated that an additional 1 percent increase granted annuitants on any future cost-of-living adjustments will have a minimum annual cost of approximately $23 million.

That was an underestimate.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. DERWINSKI) has expired.

Mr. COUGHLIN. Mr. Speaker, I yield 2 additional minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, the report went on to say that the unfunded liability would be increased by $243 million annually. That was in the report at the time this was adopted. It just slipped by; it did not get enough attention, and no one realized the sobering implications.

But the implications here today are these: If a Member voted for the budget resolution or if a Member supported the gentleman from California (Mr. ROUSSELOT) and voted against it, that Member was voting to either limit spending to the figures provided in the budget resolution or to cut spending.

That budget resolution assumed the passage of this repeal of the 1-percent kicker.

Second, Mr. Speaker, we must remember that we are not funding the 1-percent kicker. The third thing to remember is that this 1-percent kicker is a bonus. When we take it away, we are not penalizing anyone; we are just making a practical adjustment in the light of experience. We have debated this on four previous occasions this year.

Each time a majority of the House has gone on record to repeal the 1-percent kicker.

Mr. Speaker, to be consistent with our past votes in this session, to be consistent with our vote for the budget resolution, and to be consistent with our interest in future generations., I urge support of the committee report and support of the position taken by the gentleman from Illinois (Mr. SHIPLEY).

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague's yielding.

The gentleman in his statement made it clear that the Chiles amendment mandates a semiannual determinaton of pension benefit increases for Federal retirees. It is my understanding that this amendment is superior to the current provisions for pension increases because retirees will no longer be forced to wait many months for increases in their retirement check due to a lengthy triggering process. However, the cost of the 1-percent extra bonus if retained would be $2.6 billion annually based on a 6-percent rate of inflation. This far exceeds the original 1969 estimate made by the Post Office and Civil Service Committee of $23 million annually. Clearly, the 1-percent kicker if retained as is, endangers the viability of the Federal retirement system not only for current annuitants but for future generations of Federal employees.

Under the Chiles amendment the Federal pension recipients are guaranteed cost-of-living reviews twice a year: Is that correct?

Mr. DERWINSKI. April 1 and October 1 of every year.

Mr. ROUSSELOT. That is because under the Chiles amendment pension increases are clearly tied, twice a year, to the cost-of-living index. Is that correct?

Mr. DERWINSKI. That is absolutely correct.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. DERWINSKI) has expired.

Mr. COUGHLIN. Mr. Speaker, I yield 1 additional minute to the gentleman from Illinois.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, according to a recently completed study by the General Accounting Office on Federal pension benefits only a small percentage of pensioners in the private sector enjoy the same level of benefits as the Federal employees will under this amendment; is that not correct?

Mr. DERWINSKI. The last figure we have is that only 4 percent of the private pension plans had seasonal adjustment for cost of living.

Mr. ROUSSELOT. So the Chiles amendment places the Federal pensioners in an advantageous position over employees in the private sector; is that not correct?

Mr. DERWINSKI. And in an advantageous position compared to social security beneficiaries.

Mr. ROUSSELOT. Mr. Speaker, I thank my colleague, the gentleman from Illinois (Mr. DERWINSKI) for his very concise and careful analysis of this Chiles amendment. The House should support the conferees.

Mr. DERWINSKI. Mr. Speaker, I thank the gentleman from California for helping me make my point.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Ohio, the ranking minority member of the Committee on the Budget.

Mr. LATTA. Mr. Speaker, let me commend the gentleman from Illinois (Mr. DERWINSKI) for a very excellent statement. I agree with him 100 percent.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. DERWINSKI) has again expired.

Mr. COUGHLIN. Mr. Speaker, I yield 2 additional minutes to the gentleman from Illinois.

Mr. LATTA. Mr. Speaker, if the gentleman will yield further, when we are talking about the private sector, we must also point out that they do not have the 1-percent kicker in their retirement plans, nor do they have the cost-of-living factor, with the exception of 4 percent. Therefore, we will still have the cost-of-living factor which is a plus over 96 percent of all of the pension systems in the private sector.

Mr. DERWINSKI. That is correct.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Texas (Mr. MAHON), the chairman of the Committee on Appropriations.

Mr. MAHON. Mr. Speaker, did I correctly hear the gentleman say that we have had several votes on the elimination of the kicker, and in each and every case, by a substantial vote, the House has turned down the 1-percent kicker?

Mr. DERWINSKI. That is right. The last vote we had when we attempted to suspend the rules. We did not have the needed two-thirds, but we certainly had a solid vote in favor of repealing the 1-percent kicker.

Mr. MAHON. On how many occasions have we voted on this issue during this session?

Mr. DERWINSKI. We voted on it in the measure for Foreign Service retirees and for the military.

Mr. MAHON. We voted on it for the military; that is correct.

Mr. DERWINSKI. And the figures were implied in the budget—not implied—the figures were assumed in the budget resolution. Then we had the specific vote under suspension, which just fell short of the needed two-thirds vote.

Mr. MAHON. Mr. Speaker, I thank the gentleman, and I support the position taken by the chairman of the subcommittee, and by others who have spoken in the same vein.

Mr. DERWINSKI. Mr. Speaker, I am overwhelmed by this tremendous support.

Mr. ROUSSELOT. Mr. Speaker, I rise in support of the Chiles amendment which is included in the conference report on H.R. 14238.

This Chiles amendment is a practical and reasonable compromise to proposed suggestions for revising the cost-of-living formula of civil service annuities.

The amendment repeals the 1-percent extra bonus—notice we say extra bonus—presently applied to civil service annuity adjustments and provides for semiannual adjustments to Federal annuitants based on increases in the consumer price index.

The cost savings to the U.S. Treasury and the taxpayers are substantial. Estimated savings in outlay for fiscal year 1977 are $228 million—$105 million for civil retirees and $123 million for military retirees. The 5-year savings, the unnecessary increases, are $3 billion.

Elimination of the 1-percent extra bonus is important to safeguard the resources of the civil service retirement fund. The 1-percent add-on has been in effect since 1969, and has now resulted dramatically in overcompensation in the last 3 years. Since November 1969, civil service annuity increases have totaled 72 percent. Yet, during this same period, the consumer price index, to which annuity adjustments are geared, rose by only 56 percent.

Congress never envisioned a program that would have such runaway unfunded costs. The results of this action were totally unanticipated. At the time the extra bonus was put into effect to allow Federal retired employees to catch up with inflation. Since 1969 Federal retired employees have caught up.

The financial magnitude of this extra compensation is illustrated by the fact that of the $28 billion added to the unfunded liability of the civil service retirement system since 1969 by cost-of-living adjustments, about $4.9 billion is attributable to the one-percent add-on.

Even without the 1-percent kicker, our civil service retirement program, with its built-in guarantee of automatic adjustments, must be rated on the generous side when compared with retirement programs in the private sector. Other retirement programs commonly apply limits on the amount and frequency of increases. This is not the case with our Federal employee system. Retention of the 1-percent extra bonus would leave the Federal program virtually in a class by itself, and that is a distinction I do not think we can afford to perpetuate.

This amendment keeps faith with the civil service annuitants by permitting their annuities to stay abreast of cost-of-living rises twice a year and at the same time squares with the mood of the American working taxpayers by eliminating the 1-percent extra bonus.

Mr. Speaker, I urge favorable action on this Chiles amendment.

Mr. SHIPLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Speaker, the conference agreement on the Legislative Appropriations Act, 1977, provides budget authority of $943 million, which is fully consistent with the second budget resolution. This is a compromise from the original proposition of complete elimination of the 1-percent kicker.

Of great importance to the congressional budget for fiscal year 1977 and future years is the provision adopted by the Senate and agreed to by the House managers which would eliminate the so-called 1-percent kicker in computing cost-of-living increases for Federal retirees. The conference agreement would eliminate the 1-percent kicker immediately, and would substitute for it a provision which looks toward twice-a-year adjustments of Federal retirement benefits, based solely upon increases in cost of living. Elimination of the 1-percent kicker was a very important aspect of the 1977 congressional budget, and I am pleased that the Congress has an opportunity to vote on this matter and that the recommended cost savings can be realized. Members are aware that passage of this legislation relating to civil service retirees will—by the operation of measures adopted by Congress earlier this session—also eliminate the 1-percent kicker with respect to military and foreign service retirees.

My colleagues will recall that this issue has been before the House several other times this year. Both the military and State Department authorizations provided for elimination of the kicker in whatever way it is done in the civil service system. On June 17, 1976, the House voted 331 to 64 to eliminate funding for the 1-percent kicker in the military appropriations bill. The House then eliminated it for Foreign Service officers. On August 2, 1976, an absolute majority of the House approved the compromise offered by the chairman of the Post Office and Civil Service Committee, DAVID HENDERSON. The vote was 238 to 143, but because that measure came to the House under suspension of the rules, it failed to pass.

This amendment is a compromise between flat elimination of the 1-percent kicker with no other change and continuation of the status quo. This amendment is a worthy reform not only in terms of fiscal responsibility, but also in terms of providing more uniform treatment between Federal annuitants and social security retirees, who receive cost-of-living increases only once a year without the 1-percent kicker.

Savings in fiscal year 1977 are consistent with what we have assumed in the second budget resolution. A preliminary estimate of cumulative savings through fiscal year 1981 is $3 billion. These savings are not quite as large as assumed in the first resolution, because in that resolution we assumed straight elimination of the kicker without the semiannual increases proposed in this conference agreement. Savings of $3 billion over 5 years is a significant sum, especially since cost-of-living increases are financed from general funds, not from the matching employer-employee contributions. If the conference agreement is accepted, the Congress will have made the same provisions applicable to all Federal employees.

We all have been receiving letters on this issue. The recipients, of course, want to keep this advantage. But the compromise would not be unfair; it would not punish Federal retirees. Indeed, it would still provide two cost-of-living increases a year, rather than once a year as is the case with social security. Since the kicker was enacted in late 1969, these annuities have been increased by 72 percent while the cost of living for which these annuities were to compensate rose by only 56 percent.

We need to protect our retirees against inflation. There is no argument with that. We also need to protect those presently working. We do not need to overcompensate them for inflation, especially when we do not do this for social security. Indeed we simply cannot afford to do so and still hope to maintain the Federal retirement system which has grown from $91 to $95 billion since we started on this issue last year. We are now appropriated from the general fund only part of the interest on this. If we do not control the system this unfunded liability will continue to grow and payments can only come from the general fund which supports all other programs. At present the Government is appropriating $4 billion to $5 billion into the retirement trust annually in addition to 7-percent matching contribution from each agency and that will have to be automatically increased to cover the unfunded liability which is being increased by both the cost-of-living and 1 percent kicker increases.

I urge support of the motion of the chairman.

Mr. SHIPLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. Mr. Speaker, I rise in opposition to the motion offered by the gentleman from Illinois (Mr. SHIPLEY) to recede and concur in the Senate amendment. The reason I do this is because the parliamentary situation once again does not allow alternative proposals to be considered in the House unless the Shipley motion is first rejected.

Mr. Speaker, I have introduced an amendment with the gentleman from California (Mr. MINETA) which would eliminate the 1-percent kicker while providing retroactive compensation for delay periods in processing cost-of-living adjustments. On every occasion when we have considered this issue the parliamentary situation has precluded consideration of our alternative. This is the third time this year that this has happened.

Mr. Speaker, I have never quarreled with the attempt to eliminate the 1-percent kicker. In fact, I favor eliminating it. I have spoken for and voted for its elimination.

But what I do not want to do is to make a mistake distorting the situation in the opposite direction. Let us eliminate the 1-percent kicker, but let us also eliminate the difficulty that retirees have in coping with increases in inflation. Let us not increase the real value of the pension through the back door but also let us not decrease it, either. Let us eliminate the 1-percent kicker but assure that retirees are not denied, through time lags, the real value of their pension.

Under the present system cost-of-living increases are triggered when there are three consecutive monthly increases of 3 percent or more in the CPI. Effective on the first day of the third month after the trigger is set off, monthly benefits are increased by 1 percent plus the highest monthly percent increase during the triggering period and this month becomes the new base month.

The purpose of the additional 1-percent increase is to make up for the lag between the triggering time and the time when the increased benefits can be distributed.

Mr. Speaker, our amendment would simply eliminate the 1-percent additional increase and make the benefits retroactive. In other words, in the month when the increased benefits are distributed, the recipient receives the value of the cost-of-living increase for the 5-month lag period. Second, our amendment would eliminate the 1-percent kicker immediately and would institute the new retroactive formula for payments beginning in fiscal year 1978. Our amendment will achieve the savings assumed by the Committee on the Budget for fiscal year 1977 by saving some $173 million. This amendment will also save $73 million over the conference version for fiscal year 1977. It will achieve two-thirds of the savings between now and 1981 that are contemplated in the Chiles amendment .

What the gentleman from California (Mr. MINETA) and I have offered, but which on the three successive occasions that we have voted on this we have been unable to present to the House, is simple retroactivity which would seem to meet any reasonable equity test. I think the House must demonstrate that its only intention is to achieve equity and it must be ready to replace the present system with a formula that is both fair and reasonable. Our amendment presents a fair and reasonable solution to the problem of the 1-percent kicker. We hope we will finally have an opportunity today to offer it so that it may be voted on by this House.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Speaker, I thank the gentleman for yielding. I think the gentleman has offered a very commendable solution to a very difficult situation. I have been listening to the debate carefully and I support the position taken by the gentleman from New Jersey.

Mr. SHIPLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland (Mrs. SPELLMAN).

Mrs. SPELLMAN. Mr. Speaker, I am opposed to the motion to recede from the House position on Senate Amendment 91, which amends the provisions for computation of cost-of-living increases for hundreds of thousands of Federal retirees.

We all know that this amendment was added on the floor of the Senate to the legislative branch appropriations bill, hardly what might be considered a germane bill. All of this was done late in the evening with a good number of Senators absent, despite the fact that the Senate has never conducted a single day of hearings on the proposal. Although the House has spent much time discussing the controversial subject of the 1-percent add-on, we, too, have not conducted a single day of hearings to determine the effects of the Senate amendment. Some may call the practice of passing a measure without fully considering it the normal legislative process, but I am sure most of us believe that such a practice is an unjust, unethical sham which is a disgrace to the integrity of the U.S. Congress.

Let us for a moment consider, not the retired executives, generals, and admirals, but the number of people who depend upon an annuity for their livelihood. According to the U.S. Civil Service Commission Report of Statistical Data for 1975, out of a total 982,433 Federal annuitants in the United States 248,594 receive an annuity of $3,600 or less, per annum. Just think about it, that means that more than 25 percent of the people who receive Federal annuities receive sums that are below all poverty standards. Would you say this is a befitting reward to the dedication which our Federal employees have long displayed.

Is this not a reform-minded Congress that has pledged itself to purging out the "old ways" which have disenfranchised millions of voters, a Congress which is concerned with restoring public confidence in Government? Then how can we expect a restoration of confidence if we alter the benefits of hundreds of thousands of citizens without the background work necessary to enable us to make a just decision?

Let us, also, finally consider the Senate amendment. In effect, it will dictate that, for the purpose of computing Federal annuities, the cost-of-living index be examined every 6 months. If it has gone up, Federal annuities would be computated on a 6-month basis rather than require that it had to go up by 3 points and had to stay up for 3 months, which is the present method of computation. Considering the analysis of annuity adjustments since October 20, 1969, when the add-on was enacted into law, one can see that if the Chiles Senate amendment were enacted in place of the add-on a retiree would have received a cumulative increase of 54.8 percent. That is 1.3 percent less than the cumulative increase in the cost-of-living index on this same period of time. So what in effect is being proposed here is not only the elimination of the add-on but the replacing of it with a formula which will not even keep Federal retirees up with the cost of living.

Mr. Speaker, I am very much opposed to the Senate amendment and I implore my colleagues in the name of fairness and justice to vote against this proposal. There are many questions to be answered before Congress can vote with a clear conscience. I urge my colleagues to join me in voting against the motion to recede from the House position and concur with the Senate amendment.

Mr. SHIPLEY. Mr. Speaker, I think the debate has been very thorough on this matter. We have had an opportunity to vote several times on the elimination of this 1-percent kicker. The House has acted. The Senate has acted. Under leave to extend my remarks I will insert a chronology which shows this matter has been voted on 10 times during this calendar year by either the House or the Senate.

The matter referred to follows:

SIGNIFICANT CONGRESSIONAL ACTION BY 94TH CONGRESS—2ND SESSION ELIMINATION OF 1 PERCENT KICKER

1. April 9, 1976—Approved elimination of 1% kicker for military retirees—298-52—H.R. 12438.

2. April 29, 1976—Adopted H. Con. Res. 611—the 1st congresisonal budget resolution which assumed repeal of the 1 percent kicker—221 yea; 155 nay.

3. May 13, 1976—Adopted the conference report on the 1st congressional budget resolution which assumed repeal of the 1 percent kicker—224 yea; 170 nay.

4. June 18, 1976—Approved elimination of 1% kicker for foreign service retirees—327-22—H.R. 13179.

5. August 2, 1976—H.R. 12882—Majority of house voted to repeal 1% kicker and to prohibit recomputation until cost-of-living had increased by 3%. Vote of 238 yea; 143 nay; 1 present. Was not 2/3, so bill failed to pass on suspension.

6. September 8, 1976—Senate adopted Hollings amendment to Legislative appropriation bill to eliminate 1% kicker—68 yea; 11 nay.

7. September 8, 1976—Senate adopted Chiles amendment to Legislative appropriation bill to provide for recomputation each 6 months for total increase in cost-of-living—thus eliminating the minimum increase of 3% in present law—adopted by voice vote.

8. September 9, 1976—House adopted H. Con. Res. 728—2nd concurrent resolution on the budget which assumed elimination of the 1% kicker—227-151.

9. September 15, 1976—Conferees reached agreement on Legislative appropriation bill agreeing to elimination of 1% kicker and providing new computation period.

10. September 16, 1976—House adopted conference report on 2nd concurrent resolution on the budget which assumed elimination of the 1% kicker—234-143.

Mr. BURKE of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. SHIPLEY. I yield to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. Mr. Speaker, I think what we ought to keep in mind here is that the Government has made a contract with the retirees. Many of those retirees retired ahead of time with the understanding that they were going to get this 1-percent kicker.

Does this provision, I would ask the gentleman, provide that it takes effect immediately and that the 1-percent kicker is repealed immediately upon the enactment of the law?

Mr. SHIPLEY. Upon enactment of the law, the gentleman is absolutely correct.

Mr. BURKE of Massachusetts. Does the gentleman not think that is rather unfair? Here are these people who retired and who thought they would be given the 1-percent kicker, and here a year later they are told that it will be taken away from them. We encouraged these people to retire earlier from the various agencies of the Government. We encouraged Members of Congress to retire from the Congress. I think this year 32 Members are retiring and many of them were retiring with the understanding they were going to get the 1-percent kicker and they were retiring to make place for the younger people who wanted to take their place. They wanted to get a younger Congress in. Now what do we find?

We find the Government is going to break its word to the retirees.

Why not give them at least 2 years or 3 years or 5 years to prepare?

Mr. SHIPLEY. I would say to the gentleman from Massachusetts, who mentions that it is not fair; certainly it is a fair thing to do because while the 1 percent has been added, the cost of living has increased 56 percent but the retirees' pensions have been increased 72 percent. That is what is not fair. The House and the Senate have expressed themselves many times in various forms to the effect that we made a mistake in adopting the kicker in the first place. I think it is very wise today to go along with the Senate in eliminating the kicker.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. SHIPLEY. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I would like to say to the gentleman from Massachusetts that one of our former colleagues, Hastings Keith, a retired Member of the House of Representatives, has written us a letter which I will now read:

BROCKTON, MASS., *June 22, 1976.*

Hon. RICHARD C. WHITE,
Chairman, Subcommittee on Retirement and Employee Benefits, Washington, D.C.

DEAR MR. CHAIRMAN: I regret that a hospital stay prevented me from testifying before your committee concerning the proposal to discontinue the so-called "one percent add-on" feature of the Civil Service (Military) Retirement Plan for all federal annuitants. I appreciate your willingness to make this letter a matter of public record in the hearings which you will be publishing of today's meeting.

You know from my earlier appearance—last November 14—that I have been very much concerned with the long-range implications—both social and economic—which flow from this one percent "kicker."

I am convinced that unless this provision is deleted from the existing statutes that it will unnecessarily and unjustifiably increase the pension benefits of the retired federal employees to a degree that will accelerate the very inflation with which it was intended to cope. Furthermore, it will bring about other unforeseen problems that will cause difficulties far beyond those which we have thus far encountered.

All of this was forecast by our highly-esteemed former member, Martha Griffiths, who represented Michigan in the Congress for so many years. In 1970, while she was chairing a meeting of the Joint Economic Committee she forecast a taxpayers' revolution which would eventually occur as a result of the taxpayers' conclusion that they would have to work longer hours and pay heavier taxes in order to support the early retirement and the generous pensions that were being legislated for public employees.

That was in 1970, long before the effects of the cost-of-living increase or the one percent add-on had even begun to be felt! Since that time, Mr. Chairman, we have seen the City of New York on the verge of bankruptcy; we have witnessed the state employees of Massachusetts so adamant in resisting change in their pension plan that the governor had to take drastic steps in an effort to remain solvent; we have seen the District of Columbia (the city whose pension plan is very much the creature of Congress) now confronted with unfunded liabilities that are so extensive that Senator Eagleton has warned Congress and the nation of a pending time bomb pension explosion.

Mr. Chairman, there are other signs of disaster—even of revolution—which confront the country in general and Congress in particular. There are big questions which you and your colleagues have been wrestling with for many years; these problems have developed because of the "layering" of benefits that has occurred as Congress has attempted to do something additional for the civil service constituency in most every year, certainly in every election year. I am sympathetic to your problem, and as you know, generally speaking, I supported legislation which this committee has brought to the floor of Congress.

I would, however, in self-defense point out that I have from time-to-time protested some of what seemed to me to be overly-generous amendments which have been added to the Civil Service Retirement Act and to other Acts relating to retirement benefits. I have registered my concern in Congressional debates on many occasions—on abuses in the Railroad Retirement Act of 1960, on the generosity of the federal judiciary's pension plan, and generally on the early retirements of federal employees, whose so-called "hazardous" occupations were frequently used to provide early retirement for them. It seemed to me then as it does now that lateral transfers within the civil service would have made possible a much more effective utilization of their talents and at the same time saved the taxpayers hundreds of thousands of dollars—perhaps millions of dollars.

Finally, Mr. Chairman, I voted for the H.R. Gross amendment that would have deleted the one percent add-on in 1969. I did speak against this amendment but such argumentation was inadequate, and we committed the nation to a course, the fruit of which has brought us to the point where we are now.

Under the Henderson bill those existing add-ons which the legislation seeks to stop are eliminated. No recognition is given to the existence of those add-ons already effected by the extraordinary inflation of recent years.

I do not suggest that they should be taken away—or that the pension should be immediately adjusted downward to correspond to the actual increases that would have resulted from close correlation with the cost of living. What I do suggest is that all of the existing federal annuitants and their surviving spouses continue to receive their present annuities (and this means the present increment of the current pension benefit which is, even now, in excess of the cost of living) until such time as the cost of living catches up with the annuities they are now receiving. This would allow the pensioners to keep, of course, the more than one billion dollars above the cost of living that has already been paid to them and allow them to continue to draw the additional amounts contained in their present pensions for rather lengthy periods of time. It would mean that they would get another billion dollars in benefits above the cost of living during the catch-up period!

But eventually, Mr. Chairman, the cost of living would catch up with these individual pensions, and these annuities would thereafter keep pace with the cost of living—whatever it may be.

As you probably know, Congressman Findley has offered an amendment which would implement this philosophy. If that amendment were accepted by your committee and the Congress, it would save the taxpayers approximately thirty-eight billion dollars over the life expectancies of the existing annuitants and their surviving spouses.

I realize that it is very difficult for the committee, for the Congress, or for anyone to comprehend how such a relatively small amount of money as a billion dollars could, when compounded at six percent, increase pension payouts by so many billions of dollars, but this is in fact the case. It seems to me that we have all forgotten if we ever knew about Einstein's reply when asked, "What is man's greatest invention?" He didn't say the wheel or the lever; he said, "Compound interest!"

Here is how $100 of federal pension (without the "add-on") compounds at six percent. The $100 increment increases (compounds) to $242 during a life expectancy of fifteen years. The total payments flowing from this increment amount to $28,346. At the annuitant's death the surviving spouse will receive a follow-on pension starting at $136 per month and rising during his or her life expectancy of ten years to $245 per month. It provides a total of $21,786. (Since only fifty-five percent of the pensioners will leave a surviving spouse, the average will total $11,982.)

Assuming conservatively that there are two million military and civilian retirees with an average monthly increment from the one percent add-on of only $50—at six percent inflation—the total over their life expectancies would be about $28 billion. The total follow-on benefits to their surviving spouses would cost another $12 billion.* (All of this is in addition to the basic pension and in addition to cost-of-living increases. And all of it is financed from general revenues. None of it comes from employee contributions. It stands in sharp contrast to the fate of the rest of the American work force which does not share in such a benefit program.)

It is these additional costs, on top of several hundred billion dollars of other unfunded liabilities, that have prompted me to speak out on this question. I am deeply concerned that continuation on the present course will wreak havoc with our economy—and consequently with our society.

Responses which I receive to press coverage on this subject and to my earlier testimony before your committee indicate to me that most of the critics of my arguments are those who are getting small pensions. I would concur that if those retirees have spent the major part of their working years with the federal government and are not being adequately cared for by other federal programs, particularly Social Security, they should get increases in pensions which allow them to live comfortably in retirement.

Mr. Chairman, I believe that it is not only the general public which is concerned with the constantly increasing cost of public pensions. I believe, too, that the hard-working career public servant recognizes that these pension benefits (and taxes) can't continue, and he hopes that the Congress will correct these abuses before the nation suffers a fate somewhat akin to that of New York City and the State of Massachusetts.

Sincerely,

HASTINGS KEITH.

Since 1969 there has been an increase in Federal pensions of 72 percent. "Federal pensioners have been more than compensated by the 1 percent extra bonus" according to our former colleague. Our former colleague states that it is time to eliminate the 1-percent kicker. Additionally he notes that under the Chiles amendment Federal employees will be brought up to proper levels of income with the increases according to the cost-of-living index, twice a year.

So, I would say to my good colleague, the gentleman from Massachusetts (Mr. BURKE) that our former colleague from Massachusetts, Mr. Keith, who is now retired, that he believes all Federal employees have not only caught up but also that they are ahead in the race to keep up with inflation. Further Mr. Keith believes they will continue to stay ahead of the game on the basis of the Chiles amendment. I know that the gentleman from Massachusetts (Mr. BURKE) agrees that our former colleague has an excellent sense of fairness.

Mr. BURKE of Massachusetts. I would like to tell my good friend that Hastings Keith and I are very close personal friends. Hastings is doing very well. He gets two pensions. But there is nothing to prevent Hastings from giving back the 1-percent kicker if he does not need it.

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* This information was supplied to me by Mr. Robert Myers, former Chief Actuary for the Social Security Administration and now professor of actuarial science at Temple University.

But I am talking about the people who need it, those in the low-pension group. I think it is unfair of this Congress and a piece of callousness on our part to take it away from the pensioners now. Oh, I know, politically it is a great move to make.

But to say to those low-paid people, to say to them they are not going to get it, I would like to remind the gentleman who talked about the increase in the pension, that increase was based on a very low pension in the first place; so even though the increase might have gone up further than the cost-of-living, the pension that was received in the first place was inadequate.

Mr. SHIPLEY. Mr. Speaker, the gentleman talked about the political vote. The political vote here would be to keep the 1-percent kicker and not kick it out.

Mr. BURKE of Massachusetts. No, no; that does not take courage to vote to repeal. To keep the 1 percent, it takes courage.

Mr. SHIPLEY. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. MYERS).

Mr. MYERS of Indiana. I thank my friend from Illinois, Mr. SHIPLEY, for yielding. Mr. Speaker, there are a number of people speaking about cowardice. I am not sure where the cowardice lies in this particular vote. I think I know, but the gentleman from Illinois (Mr. SHIPLEY) has put his finger right on it; but in any event, we have been talking about that it does not take any money from the Treasury, and this is true at this point. The gentleman from Illinois (Mr. DERWINSKI) talked about the actuarial account, how we are using it up. So who are we taking money from when we give the people now receiving benefits the 1-percent kicker? It is the people working now for the Federal Government in the district of the gentlewoman from Maryland (Mrs. SPELLMAN) and the other people working now for the Government who are having their retirement accounts depleted, when their accounts are being diminished by these payments sometimes in the future either someone must pay a lot more into the account or the Treasury must take it over.

So, Mr. Speaker, I say it takes courage to stop the 1-percent kicker, to protect the people still working and the retirement account all are or will be drawing upon.

Mrs. HOLT. Mr. Speaker, I rise to express my opposition to Senate amendment No. 91 to the Legislative Branch Appropriations Act.

Every Member in this Chamber recognizes that there are growing problems associated with the Federal retirement system. I am sure that we are all committed to providing retirees with adequate compensation at a cost affordable to the taxpayers.

However, we must exert extreme caution in acting on measures that affect millions of our Nation's senior citizens. The retirement system is a complex system which provides benefits to 2.5 million Federal retirees. It is not susceptible to quick and easy changes. Alterations must be carefully thought out and scrutinized before being implemented.

I oppose this amendment today because it fundamentally changes the cost-of-living mechanism for Federal retirees and yet it was not subjected to the normal legislative process. It was not reported or analyzed by the appropriate jurisdictional committee. This proposal was an amendment offered on the floor of the Senate. We all know that sound legislation is a product of the committee process; it is not written on the floor. I urge my colleagues not to be stampeded into an action which may adversely affect 2.5 million retirees, and to join with me in opposing this amendment.

Mr. FRENZEL. Mr. Speaker, I congratulate the conferees for giving us a chance to vote to repeal the infamous 1 percent "kicker" on Federal and military pensions. I urge a vote for repeal of the kicker.

Since it became law, the kicker has escalated pensions at a rate well above increases in the cost of living. Unless we repeal it, it will cost the taxpayers billions of dollars. Estimated extra costs of the kicker over the next 5 years is $3 billion. It has already cost the taxpayers $5 billion extra since 1969.

The compromise on COL adjustments every 6 months seems to me to be a good one. If we ever get a handle on inflation, the pensioners will not have to wait for a 3-percent increase to get their cost-of-living adjustment.

Repeal of the kicker will also help keep the Federal pension system from bankruptcy. The unfunded liability of the system is now $106 billion. We chop that liability, a debt of the taxpayers of tomorrow, by billions by repeal.

Mr. UDALL. Mr. Speaker, today we vote on whether or not we should repeal the "1 percent kicker" for Federal retirees. As a friend of Federal employees and retirees, I intend to vote in favor of the Chiles amendment to replace the 1-percent add-on provision with an automatic, twice-yearly cost-of-living adjustment for Federal retirees.

Let me make the following points—

In the debate and discussion continual reference has been made to the fact that no specific hearings have been held on the subject. I would suggest that sometimes a problem is so self-evident that all it takes is common sense to understand that a law which was intended to resolve one problem has simply created an entirely different one. That is what we did when we enacted the original legislation. In solving one serious injustice to retirees, we created another problem. The question before us today is how to adjust the law so that we still protect the retired employee without granting benefits that are unfair. And that, in my judgment, is what the Chiles amendment does.

Furthermore, the Chiles amendment will give Federal retirees an automatic adjustment twice a year, based on actual increases in the cost of living. This provision is better than the one provided for social security annuitants, who get a similar adjustment once a year.

It is hard for me to understand how a retiree can say that it is equitable for them to have twice-yearly adjustments when no other large group of retirees have similar benefits.

Finally, it is estimated that the Chiles amendment will save something over $3 billion through fiscal year 1981.

When the original 1-percent kicker was adopted by the Congress, no one knew for sure how it would work. What we were trying to do was to be fair to retirees so that they would not suffer the ill effects of inflation while living on fixed incomes. We made that adjustment, but we overadjusted it, to such an extent that this group of retirees received over 25 percent more in their retirement benefits than the actual increase in the cost of living. We did not intentd for that to occur and as responsible legislators, we have an obligation to rectify our mistakes.

For that is what it is—a mistake. And when you make a mistake, you ought to try to undo what you did.

Now, maybe the Chiles amendment is not perfect, but the Committee on Post Office and Civil Service will watch it in the next Congress, and if it does not work as well as it should, we will change it.

But for now, I think it is a fair and equitable solution to a mistake we made 6 years ago, and for these reasons I intend to support it.

Mr. KOCH. Mr. Speaker, I have consistently been in support of the elimination of the so-called 1-percent kicker to the pensions of Federal retirees. All along I have maintained that we should only pay increases in the cost-of-living to Federal annuitants. I still believe that the 1-percent add-on is too costly and ought to be eliminated from the Federal pension plan.

However, I intend to vote against Senator CHILES' amendment to the legislative branch appropriations bill on two basic grounds.

The first is that the House of Representatives did not adequately discuss and vote on elimination of the 1-percent add-on. The House Committee on Post Office and Civil Service never took a vote on the issue and the one time this issue was before the full House, the House voted against the elimination of the 1-percent add-on under a suspension of the rules. I believe that a significant change in benefits to retirees on fixed incomes ought to be adequately debated and reflected upon.

Second, as I understand it, the Chiles amendment reduces the benefits received beyond the 1-percent add-on and actually would not give the annuitants a full cost-of-living increase. We do know that the 1-percent add-on has led, since 1969, to a benefit increase higher than the cost-of-living increase since 1969. But it has been estimated that in the Chiles amendment had been in effect since 1969, the increase in benefits would have been less than the cost-of-living increase during that period.

Therefore, I will cast my vote against the Chiles amendment on the grounds that it goes beyond the mere elimination of the 1-percent add-on and would unfairly penalize those who count on the cost-of-living increase to help provide them with an adequate fixed income. When and if a proper amendment is offered which will protect the pensioner from any loss as a result of inflation and at the same time not provide a bonus resulting in a loss to the taxpayer—I will vote to rescind the 1-percent add-on. This amendment does not do that.

Mr. **FORD** of Tennessee. Mr. Speaker, I rise today to oppose the elimination of the 1-percent add-on for Federal retirees included in the conference report on H.R. 14238, the "Legislative Branch Appropriations Act for Fiscal Year 1977." While I do support the provisions of this bill pertaining to the operation of the legislative branch, I object to the inclusion of the motion which would eliminate the 1-percent add-on.

The House in its wisdom has rejected previous efforts to make changes in the cost-of-living increases for retired Federal employees. Only little more than a month ago, the House considered a bill, H.R. 12882, which contained an amendment that would have eliminated the add-on. I may add that many of the Members of this distinguished body who objected to this action did so because they felt that it was improper to consider this issue as part of an unrelated bill.

However, here we are today considering another nongermane amendment, but this time to an appropriations bill. This amendment was sent to us by the Senate which has a penchant for forcing such decisions on the House. I wish that Congress would reject this amendment as eagerly as it accepted a pay raise for itself last year, which was also added to an unrelated bill. The difference today though is that we are asking the people who pay our salaries to involuntarily sacrifice an important part of their incomes. These are retired people; those who can least afford any reduction in their earnings. In addition, the group of retirees we are singling out are those people who worked for the same employer we do.

As a member of the Select Committee on Aging, I am well acquainted with the financial problems retirees face. Inflation ravages their incomes; therefore, an quitable means of coping with the changes in the economy must be guaranteed to them. So far, the 1-percent add-on has been both a fair and suitable answer to this problem. Indeed it is a better answer than the cost-of-living adjustment provided for in this bill.

I hope that my colleagues will be reminded of the most important dimension of our actions here—the human dimension. The elimination of the 1-percent add-on will adversely affect millions of persons. Before casting your vote, remember that it was the 94th Congress which established the first committee to examine the problems of the older citizens of this country, the Select Committee on Aging. We have just begun to realize that these persons are an invaluable resource for our Nation. It would be a terrible setback to the progress we have made for the elderly if we eliminate the 1-percent add-on. Congress will be betraying the trust of these people which I am not willing to do. I urge the Members of this august body to join with me in opposing this grossly insensitive effort to deprive this Nation's senior citizens dignified lives.

Ms. **ABZUG**. Mr. Speaker, despite reports to the contrary, the issue of the 1 percent cost-of-living adjustment for Federal retirees remains very much alive. I am particularly disturbed to see this issue raised as an amendment to an appropriations bill. I oppose this feature of the bill. When the 1 percent cost-of-living adjustment was enacted in 1969, it was the intent of Congress that retirees should not only be able to keep up with inflation, but that they should also, to some extent, be able to maintain their standard of living and benefit by the productivity of the current work force. The Consumer Price Index is based on the rise in the cost of goods and services and used in computing the cost-of-living increase for our Federal retirees may have actually understated the impact of inflation on senior citizens inasmuch as the preponderance of a senior citizen's income is spent on food, housing, fuel, and medical care, items which have experienced the highest rates of inflation.

To eliminate the so-called "kicker" would penalize annuitants for inflation. This makes no sense. Inflation hurts those on fixed incomes more than anyone else. I am appalled by those who advocate economy at their expense. They are not the cause of our economic ills, they should not have to unduly suffer for them.

Mr. **MOAKLEY**. Mr. Speaker, I rise in opposition to the motion to recede and concur, with an amendment, in Senate amendment No. 91 relative to the 1-percent cost-of-living add-on.

I commend the managers on the part of the House for presenting this matter in a manner that will permit a separate vote on this issue. I am nevertheless troubled by the repeated attempts to repeal the 1-percent add-on "under cover of darkness."

The issue was presented to the House August 2 in the form of a motion to suspend the rules and pass an unrelated bill with an amendment repealing the 1-percent add-on. The motion was offered by the chairman of the Committee on Post Office and Civil Service acting without the authorization of the committee.

The motion having failed for lack of the required two-thirds vote, it was proposed to offer the repeal as an amendment to the same bill when it was considered under a rule. This was never done, primarily because the amendment was apparently not germane to the bill under clause 7, rule XVI.

Now we are presented with the repeal in language extensively amending matters which lie within the exclusive jurisdiction of the Committee on Post Office and Civil Service. And this is done in a conference report presented by a nonlegislative committee. Even were such a matter within the jurisdiction of Appropriations, the Subcommittee on the Legislative Branch does not appear to be the appropriate subcommittee.

There is a clear threat that this repeal will be enacted in a manner which represents a clear raid on the jurisdiction of a standing committee of the House and will go into law without the benefit of any hearings.

And why are we shortcircuiting the legislative process?

I will gladly yield to anyone who claims that the "kicker" results in payments to civil service and military annuitants which outpace the Consumer Price Index. This is absolutely true. The numbers are there and there is no point in trying to debate them.

But the numbers are at best misleading and at worst deceptive.

The CPI is a good guide to the increase in the cost of living of the "typical" married couple with two and a half children, a suburban house and a typical employment and spending pattern.

But theirs is a very different spending pattern from that of the retired people who will be hurt by Senate Amendment No. 91.

A study conducted by my office in February 1975 indicated that the cost-of-living for senior citizens was then running a full 3 percentage points ahead of the CPI.

The reason for this is that it is precisely those items which have been under the greatest inflationary pressure on which senior citizens expend the largest portion of their income—food, medical care, prescriptions, housing and so on.

Even with the so-called kicker, senior citizens on Federal annuitities are steadily slipping in purchasing power.

Last year I introduced a bill (H.R. 3449) which would have required the Bureau of Labor Statistics to compile a "Senior Citizen CPI." I regret that this bill was not reported. I would like to have these numbers used as the basis for this debate.

But I think it is very unfair to tamper with the add-on until we have a clearer idea of what we are doing to retirees. I urge the House to defeat the motion so that this kind of analysis can take place through the normal machinery of committee hearings by which such an important matter should reach the House.

Mr. **SHIPLEY**. Mr. Speaker, I move the previous question on the motion to recede.

The previous question was ordered.

The **SPEAKER**. The question is on the motion to recede.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **ADDABBO**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent members.

The vote was taken by electronic device, and there were—yeas 250, nays 157, answered "present" 1, not voting 22, as follows:

[Roll No. 796]

YEAS—250

Abdnor
Adams
Alexander
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin

Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biester
Blouin
Boland
Bolling
Bonker
Brademas
Breaux
Breckinridge
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Burlison, Mo.
Butler
Carr
Carter
Cederberg
Clawson, Del
Cochran
Cohen
Collins, Tex.
Conable
Corman
Cornell
Cotter
Coughlin
Crane
Daniel, Dan
Danielson
Derrick
Derwinski
Devine
Dickinson
Downing, Va.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Fenwick
Findley
Fish
Flowers
Flynt
Foley
Forsythe
Fountain
Fraser
Frenzel
Fuqua
Gibbons
Goldwater
Goodling
Grassley
Hagedorn
Haley
Hall, Ill.
Hall, Tex.

Hamilton
Hammerschmidt
Hansen
Harkin
Harrington
Hayes, Ind.
Hébert
Hechler, W. Va.
Heckler, Mass.
Hefner
Hightower
Horton
Howe
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Karth
Kasten
Kelly
Kemp
Ketchum
Keys
Kindness
LaFalce
Latta
Lent
Levitas
Long, La.
Long, Md.
Lundine
McClory
McCloskey
McCormack
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Mahon
Mann
Martin
Mazzoli
Meeds
Melcher
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Neal
Nedzi
Nichols
Nowak
Obey

O'Brien
Ottinger
Passman
Patterson, Calif.
Pattison, N.Y.
Paul
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Rees
Regula
Rhodes
Roberts
Robinson
Rodino
Roncalio
Roush
Rousselot
Roybal
Ryan
Santini
Sarasin
Satterfield
Schneebeli
Schroeder
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Snyder
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steiger, Wis.
Stratton
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thornton
Treen
Udall
Ullman
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Wampler
Whalen
Whitten
Wiggins
Wilson, Tex.
Winn
Wirth
Wright
Wylie
Yates
Zablocki

NAYS—157

Abzug
Addabbo
Allen
Anderson, Calif.
Badillo
Bafalis
Beard, R.I.
Biaggi
Bingham
Blanchard
Boggs
Bowen
Brinkley
Brodhead
Brown, Calif.
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Byron

Carney
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Collins, Ill.
Conte
Conyers
D'Amours
Daniel, R. W.
Daniels, N.J.
Davis
de la Garza
Delaney
Dellums
Dent
Diggs
Dingell
Dodd
Downey, N.Y.

Duncan, Tenn.
Eilberg
Evans, Ind.
Fary
Fisher
Fithian
Flood
Florio
Ford, Mich.
Ford, Tenn.
Frey
Gaydos
Gilman
Ginn
Gonzalez
Gude
Hanley
Hannaford
Harris
Harsha
Hawkins
Heinz

Hicks
Hillis
Holland
Holt
Holtzman
Howard
Hubbard
Hughes
Jeffords
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Koch
Krebs
Krueger
Lagomarsino
Leggett
Lehman
Lloyd, Tenn.
Lott
Lujan
McDade
Maguire
Mathis
Metcalfe
Meyner
Mineta

Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Murphy, N.Y.
Natcher
Nolan
Oberstar
O'Hara
O'Neill
Patten, N.J.
Pepper
Perkins
Quillen
Randall
Rangel
Reuss
Richmond
Riegle
Rinaldo
Risenhoover
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Runnels
Russo
St Germain
Sarbanes

Scheuer
Schulze
Sikes
Solarz
Spellman
Spence
Steed
Stephens
Stokes
Stuckey
Studds
Sullivan
Thompson
Thone
Traxler
Tsongas
Van Deerlin
Walsh
Waxman
Weaver
White
Whitehurst
Wilson, Bob
Wilson, C. H.
Wolff
Wydler
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Zeferetti

ANSWERED "PRESENT"—1

Lloyd, Calif.

NOT VOTING—22

Clancy
Conlan
Esch
Giaimo
Gradison
Green
Guyer
Helstoski

Henderson
Hinshaw
Jones, Ala.
Landrum
McCollister
Matsunaga
Mink
Nix

Peyser
Ruppe
Smith, Nebr.
Steelman
Steiger, Ariz.
Young, Tex.

The Clerk announced the following pairs:

Mr. Matsunaga with Mr. Clancy.
Mr. Green with Mr. Steiger of Arizona.
Mr. Giaimo with Mr. Gradison.
Mr. Helstoski with Mr. Peyser.
Mrs. Mink with Mrs. Smith of Nebraska.
Mr. Nix with Mr. Conlan.
Mr. Henderson with Mr. Ruppe.
Mr. Jones of Alabama with Mr. Esch.
Mr. Landrum with Mr. Guyer.
Mr. McCollister with Mr. Steelman.

Mr. MOSS changed his vote from "nay" to "yea."

Mr. HOLLAND changed his vote from "yea" to "nay."

So the motion to recede was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the motion to concur in the Senate amendment with an amendment offered by the gentleman from Illinois (Mr. SHIPLEY).

The motion to concur in the Senate amendment with an amendment was agreed to.

A motion to reconsider the votes by which action was taken on the several motions and on the conference report was laid on the table.

GENERAL LEAVE

Mr. SHIPLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to and that I may be permitted to include certain tabulations with respect to the conference report and the action taken by the House on this matter today.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Roddy, one of his secretaries, who also informed the House that on September 17, 1976 the President approved and signed bills of the House of the following titles:

H.R. 5071. An act to amend section 584 of the Internal Revenue Code of 1954 with respect to the treatment of affiliated banks for purposes of the common trust fund provisions of such Code; and

H.R. 6622. An act to provide for repair of the Del City aqueduct, a feature of the Norman Federal reclamation project, Oklahoma.

REQUEST FOR PERMISSION TO FILE CONFERENCE REPORT ON S. 2228

Mr. ROE. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the Senate bill (S. 2228) to amend the Public Works and Economic Development Act of 1965, as amended, to extend the authorizations for a 3-year period.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman tell us why it is necessary to make this unanimous-consent request?

Mr. ROE. If the gentleman will yield, because we have to get unanimous consent to file by midnight.

Mr. ROUSSELOT. Further reserving the right to object, why is it necessary to get unanimous consent? Why can it not be filed in the normal manner?

Mr. ROE. If the gentleman will yield, because we are hoping to bring this conference report up by tomorrow.

Mr. ROUSSELOT. Further reserving the right to object, has that been discussed with the minority leadership?

Mr. ROE. It is my understanding that it has been. I do not know.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, could the gentleman check with the minority and find out?

Mr. ROE. If the gentleman will yield, I would be glad to.

Mr. Speaker, I will withdraw my unanimous-consent request and bring it up later.

CONFERENCE REPORT ON H.R. 7108, AUTHORIZING APPROPRIATIONS FOR ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION

Mr. BROWN of California (on behalf of Mr. TEAGUE) filed the following conference report and statement on the bill (H.R. 7108) to authorize appropriations for environmental research, development, and demonstration:

CONFERENCE REPORT (H. REPT. No. 94–1645)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7108) to authorize appropriations for environmental research, development, and demonstration, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments which added new sections 6 and 7 to the bill.

That the House agree to remove all references in the bill to the Safe Drinking Water Act.

In lieu of the matter proposed to be inserted by the Senate Amendment, insert the following:

That this Act may be cited as the "Environmental Research, Development, and Demonstration Authorization Act of 1976".

SEC. 2. (a) There is authorized to be appropriated to the Environmental Protection Agency for the following categories, as follows:

(1) Research, development, and demonstration under the Noise Control Act of 1972 (42 U.S.C. 4901 et seq.), not to exceed $2,110,000 for the fiscal year ending June 30, 1976, and not to exceed $527,500 for the fiscal transitional period ending September 30, 1976.

(2) Research, development and demonstration under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), not to exceed $14,047,000 for the fiscal year ending June 30, 1976, and not to exceed $3,511,975 for the fiscal transitional period ending September 30, 1976.

(3) Research, development, and demonstration under section 301 of the Public Health Service Act (42 U.S.C. 241), not to exceed $2,115,000 for the fiscal year ending June 30, 1976, and not to exceed $528,750 for the fiscal transitional period ending September 30, 1976.

(4) Research, development, and demonstration under the Clean Air Act (42 U.S.C. 1857 et seq.), not to exceed $148,194,700 for the fiscal year ending June 30, 1976, and not to exceed $37,048,675 for the fiscal transitional period ending September 30, 1976.

(5) Research, development, and demonstration under the Solid Waste Disposal Act (42 U.S.C. 3251 et seq.), not to exceed $13,534,300 for the fiscal year ending June 30, 1976, and not to exceed $3,383,575 for the fiscal transitional period ending September 30, 1976.

(6) Research, development, and demonstration under the Federal Water Pollution Control Act Amendments of 1972, not to exceed $148,800,000 for the fiscal year ending June 30, 1976, of which—

(A) $89,900,000 shall be for programs authorized by section 104(u)(1) thereof (33 U.S.C. 1254(u)(1)),

(B) $5,600,000 shall be for programs authorized by section 104(u)(4) thereof (33 U.S.C. 1254(u)(4)),

(C) $2,000,000 shall be for programs authorized by section 104(u)(5) thereof (33 U.S.C. 1254(u)(5)),

(D) $20,000,000 shall be for programs authorized by section 104(u)(6) thereof (33 U.S.C. 1254(u)(6)),

(E) $24,700,000 shall be for programs authorized by section 105(h) thereof (33 U.S.C. 1255(h));

(F) $4,600,000 shall be for programs authorized by section 107 thereof (33 U.S.C. 1257), and

(G) $2,000,000 shall be for programs authorized by section 113 thereof (33 U.S.C. 1263) and

not to exceed $37,200,000 for the fiscal transitional period ending September 30, 1976.

(b) No funds may be transferred from any particular category listed in subsection (a) of this section to any other category or categories listed in such subsection if the total of the funds so transferred from that particular category would exceed 10 percent thereof, and no funds may be transferred to any particular category listed in subsection (a) of this section from any other category or categories listed in such subsection if the total of the funds so transferred from that particular category would exceed 10 percent thereof, unless—

(1) a period of 30 legislative days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate a written report containing a full and complete statement concerning the nature of the transfer and the reason therefor, or

(2) each committee of the House of Representatives and the Senate having jurisdiction over the subject matter involved, before the expiration of such period, has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

(c) In addition to any transfers among the categories listed in subsection (a) of this section which are authorized by subsection (b) of this section, not to exceed 10 percent of the total amount appropriated pursuant to such subsection (a) may be transferred to other authorized activities of the Environmental Protection Agency (except construction grants for waste treatment works and scientific activities overseas), and not to exceed 10 percent of the total amount appropriated for such other authorized activities may be transferred to any category or categories listed in such subsection (a).

SEC. 3. Appropriations made pursuant to the authority provided in section 2 of this Act shall remain available for obligation for expenditure, or for obligation and expenditure, for such period or periods as may be specified in the Acts making such appropriations.

SEC. 4. No appropriation may be made to the Environmental Protection Agency for environmental research, development, or demonstration, for any period beginning after September 30, 1976, unless previously authorized by legislation hereafter enacted by the Congress.

SEC. 5. The Administrator of the Environmental Protection Agency shall transmit to the Congress, within 6 months after the date of enactment of this Act, a comprehensive 5-year plan for environmental research, development, and demonstration. This plan shall be appropriately revised annually, and such revisions shall be transmitted to the Congress no later than two weeks after the President submits his annual budget to the Congress in such year.

OLIN E. TEAGUE,
GEORGE E. BROWN, Jr.,
JEROME A. AMBRO,
LARRY WINN, Jr.,
Managers on the Part of the House.

JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
HOWARD H. BAKER, Jr.,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The Managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7108) to authorize appropriations to the Environmental Protection Agency for FY 1976 for Research, Development and Demonstration, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the Managers and recommended in the accompanying conference report.

The points in disagreement and the conference resolution of them are as follows:

(1) On the recommendation of the Committee on Labor and Public Welfare, the Senate voted to add the following new sections to the bill:

SEC. 6. Whenever in any fiscal year funds appropriated for the purposes of administering laws through the Administrator of the Environmental Protection Agency exceed $718,192,000, such excess amounts up to $3,000,000 and if such excess is greater than such amount, any of such greater excess which the Administrator finds necessary shall be used solely for the purposes of monitoring and assuring the adequacy reliability and quality of the testing of chemicals under any provision of law administered by him.

SEC. 7. Chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371) is amended by adding at the end thereof the following new section:

"RELIABILITY AND QUALITY TESTING

"SEC. 708. Whenever in any fiscal year funds appropriated for the purposes of this Act exceed $223,000,000, such excess amounts up to $25,280,000 and if such excess is greater than such amount, any of such greater excess which the Secretary finds necessary shall be used solely for the purposes of monitoring and assuring the adequacy, reliability, and quality of preclinical and clinical testing of drugs, food additives, devices and cosmetics which are tested under the provisions of the Federal Food, Drug, and Cosmetic Act.".

The Conferees agree that these two new sections 6 and 7 are not appropriate to the bill, and have agreed to delete these sections.

(2) The House authorized not to exceed $12,789,200 for the fiscal year ending June 30, 1976, and not to exceed $3,197,300 for the fiscal transitional period ending September 30, 1976 for research, development, and demonstration under The Safe Drinking Water Act (42 U.S.C. 300f, *et seq.*)

Authorization of appropriations for research, development, and demonstration under The Safe Drinking Water Act has already been approved under existing legislation, which authority extends beyond fiscal year 1976 and the fiscal transitional period. Accordingly, on recommendation of the Senate Committee on Commerce, the Conferees agree to delete all references to The Safe Drinking Water Act in this bill.

(3) The Conferees agree that Section 5 of the bill which requires the Administrator of the Environmental Protection Agency to revise annually a comprehensive 5-year plan for environmental research, development and demonstration and to transmit such revisions to the Congress no later than November 10 of each year should be modified to require transmittal of such revisions no later than two weeks after the President submits his annual budget to the Congress each year.

OLIN E. TEAGUE,
GEORGE E. BROWN, Jr.,
JEROME A. AMBRO,
LARRY WINN, Jr.,
Managers on the Part of the House.

JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
HOWARD H. BAKER, Jr.,
Managers on the Part of the Senate.

PROVIDING FOR CONSIDERATION OF H.R. 15377, EXTENDING THE EXPORT ADMINISTRATION ACT

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1549 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1549

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15377) to amend the Export Administration Act of 1969. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 15377, it shall be in order in the House to take from the Speaker's table the bill S. 3084 and it shall then be in order in the House, to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 15377 as passed by the House.

The SPEAKER. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA) for the minority, pending which I yield myself such time as I may consume.

Mr. Speaker, the reading of the resolution makes clear that this is a relatively simple rule. It is an open rule providing for 1 hour of general debate, under the normal procedure; and a motion to recommit can be made with or without instructions.

Let me say, Mr. Speaker, that the only question that was brought to the attention of the Committee on Rules in connection with this particular piece of legislation has to do with an amendment adopted by the Committee on International Relations. It is the understanding that the actual bill itself, H.R. 15377, did not contain any material which would have called for sequential referral. However, the amendment adopted by the committee and the amendment which did raise some questions that were brought to our attention before the Committee on Rules did raise a question as to whether, in fact, sequential referrals would have been in order.

Mr. Speaker, the other committee involved in this case is the Joint Committee on Atomic Energy. That was so because it is our understanding that the Committee on International Relations adopted an amendment that requires the United States to retain reprocessing control over all nuclear materials produced by nuclear reactors of United States origin. All countries to which the U.S. exports nuclear equipment must explicitly agree not to use these materials and equipment to make nuclear explosive devices. To insure compliance, the amendment requires recipient states to permit the International Atomic Energy Agency to report to the United States on the status of inventions of weapons grade nuclear materials possessed by that country. Foreign reprocessing of U.S. nuclear fuels can occur only after the Secretary of State determines that adequate safeguards have been established to detect diversions of nuclear materials.

Mr. Speaker, it is the understanding of the Committee on Rules that although this does raise a question, an amendment to strike, of course, or at least a vote on the amendment as proposed by the Committee on International Relations will, of course, be in order and that those feeling that the amendment is not proper will have an opportunity, under this open rule, to make their feelings felt, and also to discuss the issue.

Therefore, Mr. Speaker, I would urge the adoption of the resolution in order to permit the Committee on International Relations to present their case in connection with this legislation.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentleman from California (Mr. SISK) has already explained, this rule provides for 1 hour of general debate, and the bill as introduced was a simple extension of the Export Administration Act. Certainly there is a need for the extension of this act, but what happened after it was introduced is the cause of the trouble. In its present form the administration opposes this piece of legislation particularly because of the anti-foreign-boycott provisions that it contains. The administration maintains that these provisions would be potentially harmful to the economic and political interests of the United States in the Middle East.

Certainly the passage of this legislation and its becoming law would bring on, in my humble opinion, a very early oil embargo, which would be disastrous to the economic recovery of this country.

The provisions on the reprocessing of nuclear fuel are unrealistic in that they impose conditions on the International Atomic Agency, and on foreign customers, which could not be enforced. They would result in sending customers to other suppliers exercising less stringent safeguards and thus harming our nonproliferation objectives.

Mr. Speaker, as I pointed out earlier, the administration supports a simple extension of this act and no more. The rule should be defeated and a clean bill reported and passed.

Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, and Members of the House, I am not going to urge other Members to oppose the rule on this legislation even though I will vote against it because, as both the gentlemen who preceded me have indicated, the basic legislation extending the current act will soon expire and an extension is important. But, Mr. Speaker, I want to address myself at this particular time, because I may not have time later, to the issue of the Bingham amendment to this act.

Mr. Speaker, the amendment proposed by the gentleman from New York (Mr. BINGHAM) has a laudable objective but in the pursuit of this objective, the sponsors are proposing legislation so broad in its reach and so severe in its penalties that legitimate business activities with both Arab countries and Israel would be severely hampered and tens of thousands of jobs in the United States will be placed in jeopardy.

This is for all intents and purposes with the Bingham amendment, an unemployment bill.

Let me put this into proper perspective for all Members of the House.

Last year U.S. firms exported more than $5 billion in goods and services to Arab countries and, according to the Department of Commerce figures, those exports account for 400,000 U.S. jobs.

In a current article in U.S. News & World Report entitled "Fighting the Arab Boycott—A Move That Could Backfire on U.S." the projections of dollar sales to the Arab bloc is as high as $7.1 billion in 1976.

I intend to ask permission to include the entire article at the close of my remarks.

Mr. Speaker, we have been hearing all this talk about how we need to keep people employed, and as a matter of fact to put people in public service jobs to meet this problem of unemployment in this country. Now here we have 400,000 jobs at stake with the Bingham amendment at the same time we have 315,000 people employed in public service jobs costing us $2.5 billion. It does not make sense. We are going to wipe out whatever gain there is from those employed in public service jobs with an ill-conceived amendment because it is a political year and all the ramifications flow from it.

Just one firm in my district, the Caterpillar Tractor Co. which has its worldwide headquarters there exported from the United States over $100 million of equipment in 1975 to Arab countries. Those exports accounted for 6,000 U.S. jobs, 2,000 within Caterpillar and 4,000 in those other supporting suppliers such as steel mills, forging shops, manufacturers of component parts, both large and small.

I have ample reason to believe the U.S. firms now are able to conduct legitimate nondiscriminating business transactions with both the Arab countries and Israel. As a matter of fact Caterpillar in addition to the $100 million in exports to the Arab countries from this country, are doing some $30 million of business with Israel.

But we are faced here with legislation so far reaching as to actually impose an embargo on shipments of all U.S. products to the Middle East. Trade responsible for tens of thousands of jobs in California, Illinois, Ohio, Pennsylvania, Texas, and other States would be in fact prohibited under the terms of the Bingham amendment.

Now I ask those Members who sponsor this severe measure: Are you really aware of the employment impact of this proposal? At a time when you are swinging away at the administration for not doing enough about unemployment you seem willing to add tens of thousands to the unemployment rolls by adoption of this amendment?

Some have the Pollyannaish belief that such legislation will force Arab nations to "cave in" on the boycott because of their heavy dependence on U.S. goods. Come now. Let us take an objective look at the facts.

The Arab States depend upon us for

less than 20 percent of their imports. The truth, if examined in the sobering light of early dawn, is that the legislation would force the Arab States to turn even more to the Japanese, the Europeans and others to supply their needs. So you see we are not just talking about the direct impact on 400,000 U.S. jobs today but also about the impact in years to come because of our losing a foothold today and in the future in the expanding Arab market.

The Bingham amendment will be counterproductive in its impact on U.S. political and commercial relations with Arab nations. It will be extremely costly in terms of U.S. jobs and our balance of payments.

Although well intentioned, the amendment has been hastily drafted with little thought for the havoc it would surely produce. The issue is too important to be rammed through in the heat of a political campaign. Before we sacrifice American jobs on the altar of political expediency, let us seek a more intelligent solution to this problem.

I would like to think we might have the kind of support that would knock out this amendment but I am a realist. I know that in the committee there was only one dissenting vote. It came out 27 to 1. There has not been the kind of time to lay the groundwork for getting these facts to the Members, so I am not going to pursue that route.

But I want to lay out here for all the Members to clearly understand what they are doing and hopefully in the conference there can be some modification. The Stevenson amendment over on the other body is acceptable and could be a vehicle. But I ask the Members not to tie themselves down here so tightly that we cannot extricate ourselves and find ourselves doing irreparable harm and damage to our trade with this bloc of countries over an extended period of years.

Mr. Speaker, I should like to include with my remarks at this point a letter received from Mr. Lee Morgan, president of Caterpillar and the article from U.S. New & World Reports mentioned earlier in my remarks:

CATERPILLAR TRACTOR CO.,
Peoria, Ill., September 20, 1976.

DEAR BOB: Proposed legislation dealing with the Arab boycott of Israel is now before the House in the form of an amendment to the Export Administration Act. As one of the very largest exporters in the entire United States, and with substantial sales to both Israel and a number of Arab countries, Caterpillar is, of course, deeply interested in U.S. policies relating to the Middle East. Our purpose in communicating is to share with you some of our concerns with respect to the proposed anti-boycott legislation.

Let me state first that Caterpillar opposes boycotts, in principle and in practice. We have long advocated the removal of obstacles to free trade, of which boycotts are an example. We share the judgment of most Americans that the Arab boycott of Israel is particularly unfortunate, especially when an attempt is made to block American firms from dealing with other American firms.

In practice, Caterpillar has continued to maintain good business relationships with both Israel and the Arab countries. There is a Caterpillar dealer in Israel, and dealers in a number of Arab countries. We sell significant quantities of product to both sides, and our business relations with all parties in the area have been conducted on a non-discriminatory basis.

A few statistics will help to illustrate the growing importance of this area to our company and our employees. Our 1975 sales to Israel totaled about $30 million, while combined sales to the Arab countries amounted to over $250 million. Thus, Israel and the Arab countries together accounted for approximately 10 percent of Caterpillar's $2.8 billion in sales outside the United States last year. About two-thirds ($1.9 billion) of our total overseas sales consisted of products exported from the United States, resulting in a contribution of $1.7 billion to our national balance of payments.

A substantial and growing number of Caterpillar employees in the United States owe their jobs to our sales in the Arab world. In 1973, about 780 U.S. jobs were dependent on such sales; by 1975 that level had risen to approximately 2,000. For each of these Caterpillar jobs, we estimate that two more jobs are generated with supplier firms from whom we buy materials, components, and services. We are not, then, talking about a mere handful of jobs, but about the means of livelihood of thousands of people in this country resulting from sales to the Arab world by just one company.

Stabilizing employment is an important objective of our company, as it is an important social and economic objective of governments everywhere. I can tell you very frankly that we probably could not have achieved our record of employment stability over the past several years had not increased sales to the Middle East made up for relatively flat markets in the United States, Europe, and Japan.

We are deeply concerned that the Congress, in pursuit of a laudable objective, may enact legislation so broad in its reach and so severe in its penalties that legitimate business activities such as ours, and tens of thousands of U.S. jobs, will be jeopardized.

Supporters of this legislation appear confident that the Arab countries are so eager to obtain U.S. products and technology that they will abandon their boycott when confronted with a firm U.S. stance. We are unable to share this confidence. The United States is not the Arabs' major supplier of imports, and we at Caterpillar are acutely aware of foreign competition for Arab markets. Our major competitor in the Middle East is not another U.S. firm—which would be equally affected by boycott regulations as Caterpillar—but the Komatsu Machinery Company of Japan. Numerous European firms also offer products competitive with ours. If we attempt to dictate to the Arab countries the conditions under which they will be allowed to buy our products, they can—and quite likely will—turn to foreign suppliers who attach no such conditions.

In summary, we believe the proposed legislation is likely to be counterproductive in its impact on U.S. political and commercial relations with the Arab nations, and extremely costly in terms of U.S. employment and our balance of payments. Although well-intentioned, the proposed legislation appears to have been hastily drafted with little thought given to either its cost or the results it is likely to produce. This matter is too important to be rushed through in the heat of an election campaign. Dealing as it does with one of the most volatile political issues on this globe as well as with economic matters of vast importance, any new legislation on this issue deserves the most thoughtful analysis and skillful legislative craftsmanship of which our Congress is capable.

Sincerely,

LEE L. MORGAN,
President.

FIGHTING THE ARAB BOYCOTT

A MOVE THAT COULD BACKFIRE ON U.S.

Fears are growing that an attempt by Congress to crack down on American firms that go along with the Arab boycott of Israel will boomerang against the United States.

Already, there are signs that the Arabs are likely to retaliate with these steps:

An increase of $1.50 or more per barrel in the price of oil produced by the Organization of Petroleum Exporting Countries (OPEC) cartel of which the Arabs are key members. That would mean a boost in what U.S. motorists pay for gasoline—as much as 2 cents a gallon.

A cutback in production from Arab wells just as economic recovery has caused an upswing in worldwide demand for oil—a move that could imperil the business rebound, especially in European nations that are heavily dependent on oil imports.

Loss of business for American firms that have been cashing in on the billions of petrodollars that Arab nations are spending on vast development plans.

White House officials, as well as U.S. business leaders, say that the steps taken by Congress will prove of little help to Israel in its conflict with the Arabs and will hamper U.S. peace efforts in the Midle East.

At issue are two bills—almost certain to become law in a matter of days—that seek to prevent American firms from participating in the boycott.

Under the boycott, Arab nations refuse to do business with companies on their blacklist, which includes 1,500 American firms. The list is made up of firms that deal with Israel, assist its economic development or refuse to fill out questionnaires on such matters.

One of the antiboycott measures is contained in the new tax-reform bill. As outlined in the box on page 30, any U.S. company found to have agreed to terms of the Arab boycott will be stripped of certain tax benefits.

The second part of the congressional crackdown, an amendment to a bill extending the Export Administration Act, is even stronger. The House version of the bill forbids American companies, under the threat of criminal penalties, to participate in the boycott.

Insiders say the tough House measure probably will be passed rather than the milder Senate version, which would permit companies to refuse to do business with Israel but would ban them from agreeing not to deal with firms blacklisted by the Arabs. The final bill probably will require firms to reveal whether they will bow to boycott demands.

American business leaders are upset with the new measures. Robert Norris, director of the Foreign Trade Council, argues that the nation's tax laws should not be used to deal with complicated foreign-policy issues.

Officers of the Mobil Oil Corporation contend that the new legislation will result in a loss of business for American firms in the Mideast and that U.S. export trade will suffer as Arabs shift their business to other nations.

POTENTIAL LOSERS

The oil firms stand to lose the most from the tax-penalty measure, since they have huge fixed investments in Arab lands. It is probable that they would accept the loss of the tax breaks rather than risk angering the Arabs with a tough antiboycott stand.

In recent weeks, Arab leaders such as Sheik Hisham Nazer, Saudi Arabia's Minister of Planning, have let it be known that they will take their business elsewhere if the U.S. adopts the antiboycott measures.

Many American business executives assert that there are few, if any, products and services now supplied By U.S. firms that could not be purchased from other countries.

Ruddick Lawrence of Continental Oil, the president of the U.S.-Arab Chamber of Commerce, an American group that fosters Mideast trade, observes that the Arabs are already stepping up their trade with the Japanese, Germans and even Communist nations such as Rumania and Poland.

Supporters of the new antiboycott measures counter that the Arabs are bluffing and are too dependent on American products and know-how to turn to other nations.

Roger Majak, staff counsel for the House International Relations subcommittee on trade, thinks that at worst there might be a few temporary reprisals. He believes: "The Arabs might kill a big U.S. contract or go to the Japanese or Germans on a major deal, but in the end they'll swallow it and come back to U.S. firms."

Ze'ev Sher, the economic minister of the Israeli Embassy in Washington and a strong force behind the new legislation, also contends that the Saudi Arabian development plan is "totally dependent" on the U.S.

Last year, U.S. firms did 5.5 billion dollars' worth of trade with the Arab countries that observe the boycott, and this year's business could total more than 7 billion dollars' worth. The U.S. Army Corps of Engineers is in charge of Saudi Arabian construction projects valued at nearly 18 billion dollars.

ACHILLES' HEEL

In addition to the potential loss of billions in trade, the U.S. is vulnerable to retaliation because of its increasing reliance on oil from the Arab nations of the Mideast and Africa.

Since the 1973–74 Arab oil embargo, the U.S. has more than doubled its imports from the Arab world. Saudi Arabia, the staunchest defender of the boycott, is now the No. 1 supplier of oil imported by this country.

In recent days, Saudi Arabian spokesmen have hinted that the oil-rich Kingdom will not try to stop other members of OPEC from seeking oil-price increases of 10 to 20 per cent above the current basic price of about $11.50 a barrel. Saudi leaders have said they may cut oil production from 8.2 million barrels a day to 5 million—a step that would assure that the cartel could make the price boost stick.

The only current U.S. law specifically dealing with the boycott is one that requires American companies to report any Arab demands to the Commerce Department and to report whether they intend to go along with them.

Commerce, however, keeps this information confidential, and its handling of the reports has upset many lawmakers. A study just released by the House Interstate and Foreign Commerce Committee's investigations subcommittee contends that the Department's regulations contain many loopholes that allow firms to evade their reporting obligation. In some cases, the study said, Commerce has actually promoted business opportunities with the Arabs, knowing that the potential deals had boycott provisions attached to them.

The study also shows that in 1974 and 1975 combined, at least 4.5 billion dollars' worth of U.S. sales and proposed sales to Arab countries were subject to boycott requests.

Says Senator Abraham Ribicoff (Dem.), of Connecticut, chief sponsor of the tax-penalty measure: "It is intolerable to have Americans discriminate against their fellow countrymen at the behest of any foreign nation. Americans must be free to trade with Americans, with Arabs and with Israelis."

The White House, though strongly protesting the boycott, argues that no new legislation is needed to curb it.

The thinking of the Ford Administration is that laws already on the books, such as those dealing with civil rights and unfair business practices, are sufficient to deal with the boycott problem. One example cited is the antitrust suit that the Justice Department brought early his year against Bechtel Corporation. The giant construction company is accused of refusing to deal with subcontractors on the Arab boycott list.

"One thing's for sure—these new laws won't end the boycott," says Assistant Treasury Secretary Gerald Parksy, "and they'll add fuel to the arguments of those in the Arab world who are against the United States."

Administration officials claim there is evidence that the Arabs have been taking steps to soften the boycott themselves. They cite the fact that earlier this year Saudi Arabia removed from its visa applications a request for information on religion.

There are also reports, according to Treasury Secretary William Simon, that the Arabs may exempt firms that make as significant a contribution to their countries as they do to Israel.

GRANDSTAND PLAY

What is happening, say critics of the new legislation, is that lawmakers are attempting to make political points in an election year by portraying the boycott as a vehicle for religious discrimination against those of the Jewish faith. However, the House Commerce subcommittee's study found that only 15 of 4,000 boycott requests examined had clauses of a religious or ethnic nature.

Arab leaders justify their boycott as an economic sanction against Israel applied in the same way that the U.S. has curbed trade with Cuba.

Representative Paul Findley (Rep.), of Illinois, the only member of the International Relations Committee to vote against the extension of the Export Administration Act and its antiboycott provision, says he has received "furious" letters accusing him of religious bigotry. Mr. Findley asserts that he voted against the measure because it would harm U.S. peace efforts in the Mideast.

That is a minority view in Congress, where the antiboycott measures have won overwhelming support and have been attached to bills that President Ford may find virtually impossible to veto.

If he signs the measures, the months ahead will reveal whether the Arabs will actually carry out their threats against the U.S.

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Speaker, I strongly support the position of the gentleman from Illinois.

Mr. Speaker, because I have official business in Arkansas this evening, I may not be present when the vote is cast on H.R. 15377. I, therefore, wish at this time to associate myself with the remarks of my colleague, Mr. MICHEL, with respect to consideration of the Export Administration Act amendments.

While I do support an extension of the act, which I feel is badly needed, I have opposed the rule under which this legislation will be acted upon, because of my concern over the danger implicit in approving the amendment to be offered by the gentleman from New York, making any form of American compliance with the Arab boycott illegal.

I cannot believe that the far-reaching, and I might add highly harmful ramifications of imposing such provisions are not crystal clear to everyone. In my view, the adverse impact of such action is obvious. If this amendment is adopted and becomes law, a totally unacceptable impediment will be placed in the path of the legitimate and proper conduct of American business, as far as the goods and services we export to Arab nations are concerned.

I, for one, will not be a part of any action that will place such an undue and unwarranted restriction on our American business firms doing business with those nations. This amendment, if implemented, will tie the hands of our businesses by placing them at an unfair disadvantage in the international marketplace. Its provisions are so broad and so severe, both economically and politically, that I call upon each of us in this body to fully consider their implications.

What we are talking about in this context is the American economy—jobs and employment, the balance of payments, the very soundness of our national economy. And, this boycott proposal comes at a time when we are struggling to find our way out of the constraints of an economy in recession. We cannot allow ourselves to plunge back into a deeper recession.

The boycott amendment to be offered does not represent a prudent course of action, although it is well intentioned and is the end product of sincere convictions and motivations. Very simply, it ignores reality.

Have we already forgotten the effects of the OPEC oil embargo of the fall of 1973, which resulted in a fivefold increase in world oil prices? I need not remind my colleagues of the impact of that action on the American economy and on the international economy.

The statistics available as to the impact of the oil embargo and the statistical projections available on the impact of implementation of this amendment speak for themselves. I need not belabor the point. The Commerce Committee report on the Arab boycott and its effect on American business clearly states that "* * * the impact on U.S. business has been substantially greater than Congress had been led to believe* * *."

Let me not be counted among those who would irresponsibly and unfairly restrict our American business community—the very core of our economic system. I oppose this amendment and urge my colleagues to do likewise and to act accordingly.

Mr. MICHEL. Mr. Speaker, I thank the gentleman from Arkansas.

I thank the gentleman from Ohio for yielding me this time.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, since we are here debating the rule, I do not want to enter into a full-fledged debate with the gentleman from Illinois at this point on the merits of the boycott amendment that was adopted by the Committee, but let me make just a few points. This is not an ill-considered matter as the gentleman charged. It has been before this House since 1965 when we first adopted legislation that stated it to be U.S. policy that we were opposed to such boycotts and that American businesses were to be discouraged from complying with those boycotts. In those 10 years we have had a demonstration that that legislation was not working. There were no teeth to it. It simply was ignored.

We have had three subcommittees of the House of Representatives studying this matter; my own subcommittee, the Subcommittee on International Trade and Commerce; the Subcommittee on Oversight headed by the gentleman from California (Mr. Moss), and investigations of the Committee on Interstate and Foreign Commerce and the Subcommittee on Commerce, Consumer and Monetary Affairs of the Government Operations Committee headed by the gentleman from New York (Mr. Rosenthal). All these subcommittees came to the conclusion that something drastic has to be done about the boycott. American concerns are being, in effect, compelled to refuse to do business with people with whom they may want to do business. This is an issue that goes to the fundamentals of American freedom of enterprise.

Finally, the Committee on International Relations gave the amendment which I offered full consideration and voted in favor of it by the resounding vote of 27 to 1. I can assure this House that no such vote would have occurred in the Committee on International Relations without full consideration of the implications of the amendment and what it might do to U.S. employment.

The answer to that question very clearly is that nobody knows precisely how the Arabs will respond to this. My own feeling is that they will not refuse to do business with American firms under these terms; but fundamentally, the question is one of principle and of morality.

Mr. LATTA. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, listening to the gentleman from New York, the author of this amendment, the gentleman does assume apparently there is going to be some reaction by the Arab nations if this bill is passed. He does not know how they will react, but the gentleman assumes there will be some reaction. I can predict how they will react. They will react with an oil embargo. The gentleman knows it and I know it and we all know it. That is what we are faced with.

I do not think we ought to continue to meddle in the internal affairs of other nations. We have gotten burned several times in the last year or two by our meddling caused by congressional meddling. I think it is high time we learned from our past mistakes.

Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. Anderson).

Mr. ANDERSON of Illinois. Mr. Speaker, when this legislation was before the Committee on Rules, I testified in strong opposition to the granting of a rule for another reason, other than those that have been mentioned by the previous speakers; that is, because of the section contained in the bill, section 18, which would establish specific requirements for the transfer of nuclear equipment and material by the United States, specific requirements that would be included in all new agreements for cooperation with other nations in the peaceful uses of atomic energy. At the present time all the statutory requirements that deal with the licensing of nuclear equipment, nuclear material equipment and technology and provisions that deal with agreements for cooperation, are contained in the Atomic Energy Act of 1954, as that has been subsequently and from time to time amended. The jurisdiction with respect to that act is clearly within the jurisdiction of the Joint Committee on Atomic Energy.

Mr. Speaker, I think that during this time that we are considering the rule, we ought to be concerned about what is a clear violation of the rules, a clear invasion of the jurisdiction of that committee, chaired by the Senator from Rhode Island and the vice chairman, my colleague, the distinguished gentleman from Illinois (Mr. Price). To show that the committee did, in fact, act with full knowledge of what they were doing, that they were circumventing the rules of this House with respect to the jurisdiction of committees, let me read very briefly from a transcript of the House Committee on International Relations at their markup sessions on August 26, 1976, which I hold in my hand:

> I am somewhat concerned about the jurisdictional problem that I think may be raised by the Joint Committee on Atomic Energy.

This is Mr. Bingham, of New York:

> I think what we are doing here is putting into the Export Administration Act a provision which the joint committee may feel, and I think with some reason, amounts to amendment to the basic Act, the Atomic Energy Act of 1954. I don't believe we should be perturbed by that, but I believe we should recognize that may be a problem.
>
> Mr. Zablocki. The Joint Atomic Energy Committee could request referral, regardless.

A little later, in the same transcript, appears this very interesting colloquy:

> Mr. Zablocki. To make it absolutely legal, I ask unanimous consent to withdraw my amendment from the bill . . .

This is section 18, I am talking about.

> The bill we will introduce will be the clean bill.
>
> Chairman Morgan. Any objection?
>
> There is no objection.

Now, the gentleman from New York (Mr. Solarz) enters the act, Mr. Solarz of New York:

> On this possibility on which we have embarked, I assume the strategy now is, once the bill comes before the committee, for us to adopt the Zablocki-Findley amendment as an amendment to the clean bill. Having done that, is there any possibility that at that point, having added this amendment to the bill, that the joint committee will come in and say, "Now, it is a matter relative to our jurisdiction. We want a referral before it can come up on the floor?"
>
> Chairman Morgan. There is no way amendments can be referred.

In other words, what they did was to go back into session, take the Zablocki amendment out of the bill, introduce a clean bill and then adopt a committee amendment so that they could avoid the point of order that would otherwise have been raised against the bill, that they were clearly violating the rules of this House and invading the jurisdiction of the Joint Committee on Atomic Energy. I am not the only one who is disturbed by what has occurred, and I speak not simply out of jurisdictional sensibilities that have been offended because another committee seeks to trespass on the jurisdiction of my committee. Let me read to the Members very briefly from a letter dated September 9, 1976, signed by Robert C. Seamans, Jr., Administrator of the Energy Research and Development Administration:

The SPEAKER. The time of the gentleman from Illinois has expired.

Mr. LATTA. Mr. Speaker, I yield 5 additional minutes to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, I quote from the letter I referred to:

> We believe that nuclear policy issues such as those addressed in section 18 of H.R. 15377 are too important to be dealt with on a piecemeal basis. Inconsistent legislative requirements and policies regarding nuclear proliferation will doubtless create confusion and hinder the United States' ability to exert leadership in this area. Rather than being fragmented among multiple pieces of legislation and reports, each based on a different perspective of the issues and advancing a different approach to the problems, these issues should properly be treated in comprehensive legislation, and we have been working with the Joint Committee on Atomic Energy to that end.

What makes this a real travesty on the legislative process is that a week ago last Tuesday, by a unanimous vote of the Joint Committee on Atomic Energy, we reported out a bill that had been coauthoried by the gentleman from Illinois (Mr. Price) and myself, and which had been very carefully worked out over a period of many weeks. Working together with the officials of the Energy Research and Development Administration, we unanimously reported out comprehensive legislation dealing with this important question. Now, nobody on the joint committee will take a back seat to anyone on the International Relations Committee in his regard for the importance of this subject.

Nuclear proliferation, the danger that by illegal and illicit diversion of special nuclear materials—plutonium, if you will—that nations, presumably engaged in the peaceful use of atomic energy, are diverting to weapons purposes, we want to curb that problem around the world. But believe me, this legislation, section 18 of this legislation, is not the way to do it. It is going to be counterproductive. It is going to have the effect of sowing so many doubts in the minds of our trading partners around the world that what we are going to end up with, I am afraid, is the very opposite of doing something about this very important problem.

If this rule is adopted—and I do not think it should be, with the shape this legislation is in—I am going to ask for some time to go into some of the specifics of section 18 of this bill, to show the Members of this body just how poorly designed it is. But let me point out just one section in that regard, and it is section 18(3)(A), on page 22, beginning at line 14 of the bill.

> No license may be issued for the export of any nuclear material, equipment, or devices pursuant to an agreement for cooperation unless the recipient country, group of countries, or international organization, has agreed that the material, equipment, and devices subject to that agreement will not be used for any nuclear explosive device, regardless of how the device itself is intended to be used.

This is the so-called Indian provision. This is the provision that was put in this legislation to deal with the fact that surreptitiously India used a research reactor and heavy water supplied by both Canada and the United States to manufacture an explosive device.

But then what does the committee do in the succeeding paragraph, on line 21, subparagraph (B)?

> (B) Subparagraph (A) of this paragraph shall take effect at the end of the one year period beginning on the date of enactment of this section.

Instead of giving guidance to the Nuclear Regulatory Commission that even now is dealing with the subject of whether or not this Government should export nuclear fuel for the reactor, they are going to put a 1-year moratorium on their own antiexplosive pledge in this legislation. That is not what the NRC wants, I know that, because this is the joint committee that has oversight jurisdiction over the NRC. They are looking for some explicit policy guidelines from the Congress on how to deal not only with the Indian situation but others that may be like it. We give them that kind of device, we give them guidelines on the bill that the gentleman from Illinois (Mr. Price) and I have filed in this House last Tuesday.

The SPEAKER. The time of the gentleman from Illinois has expired.

Mr. LATTA. Mr. Speaker, I yield 1 additional minute to the gentleman from Illinois (Mr. Anderson).

Mr. ANDERSON of Illinois. Mr. Speaker, if I had more time I could point out other provisions of this section that work against the very important goal and objective that the Committee on International Relations says they were trying to deal with. But I submit they have not done it correctly in this section of the legislation. It ought to be stricken from the bill. The rule should not have been granted to a bill that so patently and obviously and, I submit, with great injury, invades the jurisdiction of another committee of this Congress.

Mr. SISK. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Illinois (Mr. Price).

Mr. PRICE. Mr. Speaker, I am in complete agreement with the statement made by my colleague, the gentleman from Illinois (Mr. Anderson). This is a definite infringement on the jurisdiction of a committee. But that is not the main concern. The main concern is the problem that might arise from the language in the bill and its subsequent consequences.

The principal objection to the amendment in the bill, which is section 18, is that it attempts to deal with the very important problem of the proliferation of nuclear explosive devices on a piecemeal basis.

We concede that the Committee on International Relations would have some interest in this matter, just as we have interest in matters that are purely within the jurisdiction of the Committee on Foreign Relations, but we do not attempt to legislate within that committee's jurisdiction.

Attempting to prevent the further proliferation of nuclear explosives requires a comprehensive approach. In that regard, the Joint Committee on Atomic Energy has reported legislation, the proposed Nuclear Explosive Proliferation Control Act of 1976, and I have requested that a rule be granted on this bill. I am hopeful that we will have action on it before we adjourn next weekend.

The Joint Committee bill includes a comprehensive declaration of U.S. nonproliferation policy, effective requirements for U.S. nuclear exports, long-term negotiating objectives leading to international agreements on broad proliferation controls for international nuclear trade, and incentives to encourage other nations to cooperate with us in reaching an effective international solution to this important problem.

Moreover, the Joint Committee bill approaches these many aspects of the nuclear proliferation problem within the existing statutory framework of the Atomic Energy Act of 1954.

The Joint Committee on Atomic Energy had the original jurisdiction, and it is because the Joint Committee has given thorough attention to this problem on a constant and almost daily basis that the House today is asked not to transfer the jurisdiction of these problems to another committee. This is plainly a raid on a committee's jurisdiction, and I believe that the House should support the committee which had original jurisdiction.

Mr. Speaker, I ask that the Members reject this rule. The Joint Committee would gladly support the other sections in the bill recommended by the Committee on Foreign Relations. I ask for a nay vote on the rule.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Committee on International Relations, the gentleman from Pennsylvania (Mr. Morgan).

Mr. MORGAN. Mr. Speaker, I hate to rise in opposition to one of my best friends in the House of Representatives, my good friend, the gentleman from Illinois (Mr. Price), who is the cochairman of the Joint Committee on Atomic Energy, but I want to point out that the Committee on International Relations reported this bill to the House on September 1. The Joint Committee on Atomic Energy had ample time to ask the Speaker of the House for coreferral. That did not occur, as far as I know.

I want to warn the House that the Export Administration Act expires on September 30. That is only 8 days from now. We are not going to have time to wait for the bill that the joint committee may bring out. If we vote this rule down, we will kill this bill for this session of Congress.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, I thank the gentleman for yielding.

I just want to assure the gentleman and the Members of the House that the gentleman from Illinois (Mr. Price) and I were not negligent in the regard the gentleman just mentioned. We did address a letter in which we asked that this bill be sequentially referred to the Joint Committee on Atomic Energy because we felt then and we feel now that it involves the basic jurisdiction of that committee.

Mr. MORGAN. Mr. Speaker, I just want to say to the gentleman that I listened to the debate on the rule very attentively, and I feel that any chairman of a major committee in this House who does not have the commonsense to protect his bill against points of order when it comes to the House should not be the chairman of that committee.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. McCormack).

Mr. McCORMACK. Mr. Speaker, I find myself in a rather awkward position. I respect the sincerity of the members of the Committee on International Relations in their attempts to try to move forward in controlling nuclear exports. Furthermore, I recognize the urgency with which this bill must be treated.

Mr. Speaker, I want to point out that the wording in section 17 of the bill is such that it preempts parts of the Atomic Energy Act of 1954, as amended, and it also clearly sets up language and provisions that are in contradiction to the law; all in an attempt to improve it. In so doing, Mr. Speaker, the drafters cause great confusion, although it may not be easily discerned by those who have not studied the subject.

Let me point out to the Members of the House that section 17 of this bill in providing restrictions related to the issuing of licenses for the export of nuclear materials, if any explosive device could be made with these materials, says that such restrictions shall take effect after 1 year, beginning on the date of enactment of this section.

Mr. Speaker, these provisions are already in effect under the Atomic Energy Act of 1954, as amended, and with no waiting period at all.

In the last section, the Secretary of State "may only determine that safeguards can be applied effectively to such reprocessing if he finds that the reliable detection of any diversion will occur well in advance of the time in which that party could transform strategic quantities of diverted nuclear material into explosive nuclear devices."

Mr. Speaker, that is physically impossible. There is no possible way in which this could be done. Anyone with the most simplistic understanding of the processes knows this.

I should like to point out that the provisions of this bill, in prohibiting agreements, ignores the fact that we have military agreements with our NATO allies involving nuclear material and nuclear weapons. These would be prohibited under these provisions.

Mr. Speaker, I am attempting to demonstrate that, in their good intentions to prepare this section, the drafters have ignored the existing law, the international relations, and the physical realities of the subject. They would create great chaos and confusion with what they are trying to do.

I support the recommendation of the ranking member in the House of Representatives of the Joint Committee on Atomic Energy, the gentleman from Illinois (Mr. Price), and other members of the Joint Committee, who point out the confusion that is being caused by this section of the bill.

Therefore, Mr. Speaker, I oppose the rule.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. Brown).

Mr. BROWN of California. Mr. Speaker, I thank the gentleman for yielding.

I am, as was the gentleman from Washington (Mr. McCormack), reluctant to take the time to discuss this matter here because I recognize, and I hope the Members of the House recognize, that we are dealing with an area which legitimately falls within the jurisdiction of both of these committees. There is no question but what the matter of exports is properly within the jurisdiction of the Committee on International Relations and that likewise matters involving nuclear energy fall within the jurisdiction of the Joint Committee on Atomic Energy.

Mr. Speaker, when we get to the export of nuclear materials, we have a situation which overlaps into both committees. I must say, however, that the bill reported by the Joint Committee on Atomic Energy, referred to by the distinguished gentleman from Illinois (Mr. Price), the vice chairman of the Joint Committee, takes cognizance of this point. It provides that agreements for cooperation involving nuclear matters would be referred to both of these committees, so that both of them would have an input into the process of how these agreements for cooperation would work.

It deals also in a comprehensive way with the total problem of nuclear proliferation, in an effort to bring about a workable solution to this important problem.

I must compliment the gentleman from Wisconsin (Mr. Zablocki) and the other members of the Committee on International Relations for their demonstration of concern in this matter. Ideally, members of both committees who share this concern should sit down and work out the details of workable nonproliferation legislation. But we are not in an ideal situation, and under present circumstances I will have to go with the vice chairman of the Joint Committee on Atomic Energy, Mr. Price, of Illinois, and the distinguished ranking member, Mr. Anderson of Illinois, in opposition to this rule.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. Findley).

Mr. FINDLEY. Mr. Speaker, the remarks of my esteemed colleague, the gentleman from Illinois (Mr. Anderson), makes me realize the depth of his feeling on this matter. The gentleman has long been respected as a student in this field. I certainly think he is correct in stating that no member of this committee need take a back seat in respect to nuclear proliferation to any other member. But the same goes for our Committee on International Relations; we have not neglected this field either.

On the question of jurisdiction it is very plain that the Committee on International Relations has a thorough basis for its amendment language.

I will just say one thing to establish that fact. An amendment to the Export Administration Act of 1974 directed the President to report to the Congress on the adequacy of all laws, regulations, and safeguards relating to U.S. nuclear exports. In his May 1975 report to the Congress, the President said that to be effective, international nuclear safeguards must provide early detection of diversions. And the American rights and the law and policy objectives outlined by the President in the report he made are permitted by the very act to be amended by this legislation now before us.

But I would be pained if this body would judge the merit of this language purely on the basis of jurisdiction. We have an element that has not been mentioned up to this time. I am sure the witnesses before the Joint Committee on Atomic Energy, just as the witnesses before the Committee on International Relations, one after another have warned that if greater restraint on nuclear proliferation is not achieved within a span of not more than 10 years, there will be 40 nations possessing nuclear weapons or in a position to possess weapons within a day or so. I think this ought to be of vital concern.

One of the issues that the Committee on International Relations was up against was the time limit, as to what could be considered this year. I would hope that the Members of this body would recognize the urgency of the United States taking a role of leadership and a role in international affairs in order to hopefully establish the kind of safeguards on reprocessing which can at least slow down this dread progress of nuclear proliferation which presently is so clearly in prospect.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware (Mr. du Pont).

Mr. du PONT. Mr. Speaker, and my colleagues, I think it is important, in view of the impassioned argument of my friend, the gentleman from Illinois, about the jurisdiction of our committee that we not let readers of the Congressional Record tomorrow get the impression that his remarks reflect an accurate portrayal of the jurisdiction of the Committee on International Relations.

I do not suppose the Joint Committee on Atomic Energy has ever claimed exclusive jurisdiction over the Export Administration Act, and that is the act we are talking about today. I do not deny for a moment the right of the gentleman's committee to report out bills of its own, but we are dealing with an appropriate vehicle here—the Export Administration Act is within the jurisdiction of our committee—and it is an appropriate vehicle for adding an amendment designed to prevent the spread of nuclear proliferation.

I would also say to the Members present that if they are worried about the problem of the spread of nuclear weapons—and anybody who has considered the problem, I think, has to be worried—they ought to recognize that this is the only vote they get. The bill reported out by the other committee will not be before the House this year, and this is their last chance to vote to halt the spread of nuclear weapons between now and sometime next spring. So do not vote down the rule; vote it up; and let us get on with the debate.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. du PONT. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

On the point the gentleman makes about the appropriateness of this committee amendment legislation, of course, if the rule is adopted, if this committee amendment is out of order, it can be objected to on a point of order, as the gentleman well knows.

Mr. du PONT. Of course, it can. It can be objected to on a point of order. It can be amended. The rule is open. There is an opportunity for the gentleman from Illinois to improve upon the language that we have drafted.

Mr. Speaker, I urge adoption of the rule.

The SPEAKER. The time of the gentleman has expired.

Mr. SISK. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. Zablocki).

Mr. ZABLOCKI. Mr. Speaker, it was not my intention to take any time on the rule, but after listening to my good friends and distinguished colleagues from Illinois, the ranking member on the Joint Committee on Atomic Energy, Mr. Price and Mr. Anderson, I decided that it was necessary to set the facts straight as to the question of jurisdiction. I believe others have adequately pointed out that indeed the Export Administration Act of 1969 and the amendment to the Export Administration Act of 1974 made it clear. Even our colleague, the gentleman from California (Mr. Brown), a member of the joint committee has stated, the

Committee on International Relations has a proper jurisdiction and a rightful input in legislation in this field.

The Export Administration Act of 1969 regulates the export of all products for purposes of national security and foreign policy. The amendment on nuclear export, section 18, is aimed at protecting the national security through limiting nuclear proliferation, which is also a foreign policy goal.

We have heard in the past, for example at the Committee on Rules hearing, that the Committee on International Relations had performed an amateurish job on this amendment. The members of the International Relations Committee must resent such unfounded allegations. Mr. Speaker, we have held weeks and weeks of hearings by my Subcommittee on International Security and Scientific Affairs and by the full Committee on International Relations. Further, during the markup, we stayed within the rules and regulations of the House. Again, if I may refer to our good colleague, the gentleman from California (Mr. BROWN) and his additional views to the report on the Nuclear Export Proliferation Control Act of 1976, H.R. 15419, by the Joint Committee on Atomic Energy. Congressman BROWN of California states in that report very clearly that he had not seen or received the amendments before the morning of the vote on H.R. 15419. He states further, and I quote:

> I myself only received these amendments the morning of the vote on H.R. 15419. . . . The amendments have the potential of transforming this to a license for "business as usual. . . ." This development greatly disturbs me because H.R. 15419 was a good bill before the Joint Committee adopted, under highly unusual circumstances, these major amendments. . . . It was only the last minute amendments which were rushed, and which I now want to criticize. . . .
>
> Unfortunately, the nature of these last minute amendments by ERDA is such that I cannot, in good faith, defend this bill unless these amendments are removed or substantially altered.

Now, what were those "unsual circumstances"? The gentleman from Illinois had taken the privilege of reading from the transcript of our Committee on International Relations.

The SPEAKER. The time of the gentleman has expired.

Mr. SISK. Mr. Speaker, I yield 1 additional minute to the gentleman from Wisconsin.

Mr. ZABLOCKI. I thank the gentleman may I relate some of those unusual circumstances during the Joint Committee markup on the bill H.R. 15419, which the gentleman from Illinois claims is superior to that presented by the International Relations Committee. The Joint Committee convened at 10:15 a.m.—at approximately 10:45 a.m. the Committee proceeded to the markup of H.R. 15419, though a quorum was not present. At almost exactly 11:30 a quorum was present. That was approximately 1 hour and 15 minutes after the meeting convened and following an extensive effort during which the committee had struggled to get a quorum. At that time the committee was on page 2 of a 7-page-long list of technical amendments. Consideration of five substantive amendments had not even begun. On a motion of the gentleman from Illinois (Mr. PRICE), a vote was taken and all members voted in favor of it. An exchange between Senator BAKER, the Senator from Tennessee and the gentleman from Washington (Mr. McCORMACK) then took place, and I quote now from the transcript:

> Senator BAKER. We have voted to report whatever it is we end up with?
>
> Representative McCORMACK. That is right.

In other words, the committee reported out the bill and then proceeded to amend the bill that they had already reported out. Almost immediately after the vote on reporting the bill was made, certain members left and a quorum was no longer present for the remainder of the bill.

Now speaking of what committee has violated the rules of the House, would the kettle call the pot black?

I submit, Mr. Speaker, that our committee realizes the dual jurisdiction. As the gentleman from Washington (Mr. McCORMACK) must attest, we have also offered to try to work out a compromise between our two committees. We tried since last Friday, the day H.R. 15377 was first listed on the calendar, but to no avail. We could not make any arrangements with other members of that committee.

Mr. Speaker, the resolution before us provides for an open rule. The bill can be amended. I trust the rule will be granted.

I urge a "yes" vote on the rule and a "yes" vote on Bill H.R. 15377.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, to rebut the suggestion made by my friend, the gentleman from Wisconsin (Mr. ZABLOCKI), that this is only a jurisdictional quarrel and not really a question on substantive matters which is involved here, let me point out a letter from the Administrator Dr. Robert C. Seamans, Jr., and this is a part which the gentleman from Illinois did not read, which says:

> Our concern about section 18 of H.R. 15377 is especially great since the important and complicated non-proliferation points treated in it have had only an abbreviated consideration.

ERDA was not even given an opportunity to testify on this committee amendment. Dr. Seamans goes on in the letter to point out:

> 1. The Amendment would impose ill-defined timeliness criteria for warning of a diversion which may be impossible to implement.
>
> 2. The Amendment could be interpreted as signalling U.S. acquiescence in national reprocessing ventures in non-nuclear weapon states if safeguards could assure timely warning. This is contrary to our policy of discouraging such national reprocessing and, instead, promoting multinational control of sensitive fuel cycle facilities and materials.

The legislation involved in this bill ought to be defeated.

Mr. SISK. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Speaker, the joint committee is a late comer in its concern over this problem of proliferation. A year ago in debates on this floor, the Joint Committee leadership saw no problem at all. No problem at all did they see. It is only when they began to recognize a national alarm and to perceive a chance that they might lose jurisdiction over this area that they came forward with a bill. I submit that what they really want to do is control the pace at which we act to slow it down. In the words of Lady Macbeth who said to two noblemen of Scotland, "Stand not upon the order of thy going, but go at once." I say here today: "Stand not upon the order of our acting, but act."

Mr. SISK. Mr. Speaker, I urge adoption of the rule and I move the previous question on the resolution.

The SPEAKER. Without objection the previous question is ordered.

There was no objection.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the "ayes" appeared to have it.

Mr. LATTA. Mr. Speaker, I object to the vote on the ground that quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 313, nays 82, answered "present" 1, not voting 34, as follows:

[Roll No. 797]

YEAS—313

Abdnor
Abzug
Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Bauman
Beard, R.I.
Bedell
Bennett
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Brodhead
Brooks
Broomfield
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Daniel, Dan
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derwinski
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Eshleman
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Frenzel
Fuqua
Gaydos
Gibbons
Gilman
Goldwater
Gonzalez
Goodling
Grassley
Gude
Guyer
Haley
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kemp
Ketchum

Keys
Koch
Krebs
Krueger
Lagomarsino
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
Lundine
McClory
McCloskey
McDade
McFall
McHugh
McKay
McKinney
Madden
Madigan
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Pa.
Natcher
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pike
Pressler
Preyer
Pritchard
Quie
Railsback
Randall
Rangel
Rees
Regula
Reuss
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shriver
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steiger, Wis.
Stokes
Studds
Sullivan
Symington
Symms
Talcott
Taylor, N.C.
Teague
Thompson
Thone
Traxler
Treen
Tsongas
Udall
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Ga.
Zablocki
Zeferetti

NAYS—82

Alexander
Anderson, Ill.
Archer
Armstrong
Ashbrook
Bafalis
Beard, Tenn.
Bell
Bevill
Breckinridge
Brinkley
Brown, Calif.
Brown, Ohio
Broyhill
Butler
Carter
Cederberg
Clawson, Del
Collins, Tex.
Conable
Crane
Daniel, R. W.
Derrick
Devine
Erlenborn
Forsythe
Ginn
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Hutchinson
Hyde
Ichord
Johnson, Colo.
Johnson, Pa.
Karth
Kazen
Kelly
Kindness
Landrum
Latta
Lloyd, Tenn.
Lott
Lujan
McCormack
McDonald
McEwen
Mahon
Michel
Milford
Montgomery
Moorhead, Calif.
Myers, Ind.
Passman
Paul
Pickle
Poage
Price
Quillen
Rhodes
Robinson
Rousselot
Runnels
Satterfield
Schneebeli
Sebelius
Shuster
Snyder
Stephens
Stratton
Stuckey
Taylor, Mo.
Thornton
Ullman
Vigorito
Waggonner
Whitten
Wiggins
Wylie
Young, Alaska
Young, Fla.

ANSWERED "PRESENT"—1

Conlan

NOT VOTING—34

Boggs
Brown, Mich.
Clancy
D'Amours
Early
Esch
Evins, Tenn.
Frey
Giaimo
Gradison
Green
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Jarman
LaFalce
McCollister
Maguire
Matsunaga
Mink
Murphy, N.Y.
Neal
Nix
Pepper
Peyser
Ruppe
Smith, Nebr.
Steed
Steelman
Steiger, Ariz.
Wilson, C. H.
Young, Tex.

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Jarman.

Mr. Murphy of New York with Mr. Brown of Michigan.

Mr. Nix with Mr. Frey.

Mr. Pepper with Mr. Gradison.

Mr. Matsunaga with Mr. Peyser.

Mr. LaFalce with Mr. Esch.

Mr. Early with Mrs. Smith of Nebraska.

Mr. Giaimo with Mr. Steelman.

Mr. Hébert with Mr. Evins of Tennessee.

Mr. D'Amours with Mr. Ruppe.

Mr. Helstoski with Mr. Steiger of Arizona.

Mrs. Mink with Mr. Maguire.

Mr. Neal with Mr. Henderson.

Mr. Charles H. Wilson of California with Mr. Clancy.

Mr. Green with Mr. Heinz.

Mr. Steed with Mr. McCollister.

Mrs. LLOYD of Tennessee changed her vote from "yea" to "nay."

Mr. PRITCHARD and Mr. O'BRIEN changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROHIBITING DEPRIVATION OF EMPLOYMENT OR OTHER BENEFIT FOR POLITICAL CONTRIBUTION

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 11722) to amend title 18 of the United States Code to prohibit deprivation of employment or other benefit for political contribution, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, strike out all after line 6 over to and including line 20 on page 2 and insert:

"(a) Whoever, directly or indirectly, knowingly causes or attempts to cause any person to make a contribution of a thing of value (including services) for the benefit of any candidate or any political party, by means of the denial or deprivation, or the threat of the denial or deprivation, of—

"(1) any employment, position, or work in or for any agency or other entity of the Government of the United States, a State, or a political subdivision of a State, or any compensation or benefit of such employment, position, or work; or

"(2) any payment or benefit of a program of the United States, a State, or a political subdivision of a State;

if such employment, position, work, compensation, payment, or benefit is provided for or made possible in whole or in part by an Act of Congress, shall be fined not more than $10,000, or imprisoned not more than one year, or both.

Page 3, line 10, strike out "(1)" and insert: "(A)".

Page 3, line 11, strike out "(2)" and insert: "(B)".

Page 3, line 13, strike out "(3)" and insert: "(C)".

Page 3, line 15, strike out "(4)" and insert: "(D)".

Page 3, line 17, strike out "(5)" and insert: "(E)".

Page 4, line 15, strike out "purposes on" and insert: "purposes, on".

Mr. HUNGATE. Mr. Speaker, H.R. 11722 passed the House under suspension of the rules on April 5 of this year. In the Senate, the bill was referred to the Senate Judiciary Committee's Subcommittee on Criminal Laws and Procedures. That subcommittee, and the Senate Judiciary Committee, reported the bill favorably, but with some amendments. Just yesterday the Senate voted to pass the bill with those amendments.

The amendments added by the Senate are acceptable to the Subcommittee on Criminal Justice and to Representative J. EDWARD ROUSH, the chief sponsor of the bill. In fact, Representative ROUSH and the subcommittee were consulted by the Senate Judiciary Subcommittee on Criminal Laws and Procedures in the drafting of the amendments. We indicated at that time that the amendments were agreeable to us. The amendments added by the Senate are those the subcommittee and Representative ROUSH helped draft and that we approved.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

A motion to reconsider was laid on the table.

ELECTION AS MEMBER OF COMMITTEE ON THE BUDGET

Mr. RHODES. Mr. Speaker, I offer a privileged resolution (H. Res. 1562) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1562

Resolved, That John H. Rousselot, of California be, and is hereby, elected a member of the Committee on the Budget.

The resolution was agreed to.

A motion to reconsider was laid on the table.

EXTENDING THE EXPORT ADMINISTRATION ACT

Mr. MORGAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15377) to amend the Export Administration Act of 1969.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MORGAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 15377, with Mr. EVANS of Colorado in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Pennsylvania (Mr. MORGAN) will be recognized for 30 minutes and the gentleman from Michigan (Mr. BROOMFIELD) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. MORGAN).

Mr. MORGAN. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, the bill before us, H.R. 15377, is a measure to extend the Export Administration Act of 1969 and to make various improvements in that act.

It is an important and necessary piece

of legislation. The Export Administration Act, as Members know, safeguards the national interest by providing authority to restrict exports under certain conditions.

The present act is scheduled to expire on September 30. A companion bill to extend the law already has been passed by the Senate.

Because this is the first time that the Committee on International Relations has had the responsibility for acting on this legislation, the committee has made a special effort to investigate fully the various problems and questions that have been raised regarding export controls.

The committee requested several studies by the Congressional Research Service.

Two of our subcommittees held hearings on specific aspects of export control issues.

The full committee then held 8 days of hearings on the Export Administration Act.

H.R. 15377 thus reflects hard and serious work by the committee. We have produced what we believe to be a very worthwhile bill.

The first 13 sections of H.R. 15377 are aimed principally at improving the export licensing process. Included in these sections are:

A 1-year extension of the act, through September 30, 1977; provision for a specific authorization for appropriations after fiscal year 1977; an increase in the penalties for violation of the act; a clarification of congressional access to information collected under the act; a directive to consider means to simplify the U.S. control list; strengthening of the intent of Congress that licenses be processed within a 90-day period.

These 13 sections were developed, for the most part, pursuant to extensive hearings before the Subcommittee on International Trade and Commerce, headed by Congressman BINGHAM. The full committee owes a note of thanks for the hard work and thought the subcommittee and its chairman have put into these amendments.

Section 14 strengthens the existing policy statement in the act that declares it to be U.S. policy to oppose boycotts of countries friendly to the United States. It prohibits any U.S. person from complying with a request to participate in such a boycott.

The committee strongly favored this strengthening of our resistance to the Arab boycott of Israel through prohibiting U.S. compliance with secondary and tertiary boycotts.

The last two sections of the bill, 17 and 18, deal with the matter of nuclear exports. Section 17 reinstates in law a provision of the Foreign Assistance Act that prohibits the use of aid funds for the construction of nuclear powerplants in foreign countries.

Section 18, a committee amendment, seeks to strengthen U.S. nuclear export control standards and safeguards. It attempts to assure that foreign reprocessing of U.S. nuclear fuel will occur only under safeguards that provide genuine protection against the possible use of plutonium for nuclear explosives.

This amendment was offered by Congressmen ZABLOCKI and FINDLEY pursuant to extensive hearings before the Subcommittee on International Security and Scientific Affairs. Their strong case convinced the committee that we should adopt this proposal as a necessary step toward controlling the spread of nuclear weapons.

Mr. Chairman, questions have been raised as to: Whether this committee amendment is germane to this bill; whether it is within the committee's jurisdiction; and whether the Committee on International Relations has attempted to end-run the Joint Committee on Atomic Energy on this issue.

I would like to make several points.

This amendment on nuclear exports is clearly germane to H.R. 15377. H.R. 15377 amends the Export Administration Act, the primary purpose of which is to provide the executive with guidelines for imposing export controls. A 1974 amendment to that act directed a review of all laws and regulations relating to nuclear exports. The committee amendment was written so as to carry out the recommendations of the resulting report.

The Committee on International Relations has jurisdiction over matters relating to this Nation's foreign policy and national security and over export controls. This amendment clearly affects our country's foreign policy and security and it controls our nuclear exports.

The only reason the committee adopted this provision as a committee amendment was in order to assure speedy consideration of H.R. 15377. This bill extends the Export Administration Act, the current authority for which expires September 30, 1976. There are some 40 to 50 items of difference between this bill and the Senate bill. The conference committee will require adequate time to resolve the differences and get a law enacted within the next 2 weeks.

Further, the Rules Committee set a date of September 10 as a cut-off for receiving requests for rules. The Export Administration Act is an important law which has to be renewed; that is the reason this committee has sought to bring this entire matter before the House without delay.

Mr. Chairman, the committee has worked hard in drafting H.R. 15377. The bill was approved by voice vote with bipartisan sponsorship. I urge its favorable consideration by the House of Representatives.

Mr. GRASSLEY. Mr. Chairman, my question is in regard to section 16 that deals with agricultural commodities. Is section 16 in this bill absolutely necessary from this standpoint? Without it could a country be prohibited from receiving grain that that country had bought, paid for, and stored in this country? In other words, without this amendment would it be impossible for that country to receive that grain?

Mr. MORGAN. Section 16, of course, exempts from export limitation certain agricultural products purchased for use overseas, stored in the United States. I am sure the gentleman from Illinois (Mr. FINDLEY) has proposed some additional language and could answer that question.

I yield to the gentleman from Illinois (Mr. FINDLEY) for an answer.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MORGAN. Mr. Chairman, I yield myself 5 additional minutes.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from Illinois.

Mr. FINDLEY. I thank the gentleman for yielding.

The language in the bill provides a safeguard to certain interests in the event that curtailment or embargo of farm commodities should occur under authority of this act.

Under certain conditions it gives assurance that commodities purchased for export may be exported notwithstanding a general curtailment or embargo.

Mr. REES. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from California.

Mr. REES. I thank the gentleman for yielding.

I would like to ask the distinguished Chairman as to his interpretation of the intent of the bill on page 15, section (k). It says that any person—which is a firm—receiving a request for furnishing information or entering into an agreement as specified must report it to the Secretary of Commerce, and then it is made open for public inspection. So the mere receiving of the request, even though the request is not accurate, means that a firm must furnish this to the Department of Commerce, and then that information shall be made public.

Mr. MORGAN. Mr. Chairman, I yield to the gentleman from New York (Mr. BINGHAM) for a response, the author of this section.

Mr. BINGHAM. I thank the gentleman for yielding.

I am sorry; would the gentleman repeat the question?

Mr. REES. On line 11 it says there are two circumstances by which a businessman must furnish information to the Department of Commerce. One is if he receives a request for furnishing information, say, from an Arab country, he must report that request to the Department of Commerce, and then that is made public; and, No. 2, if they actually enter into the agreement, they must report that to the Secretary of Commerce and that is made public.

Mr. BINGHAM. That is correct. What is the gentleman's question?

Mr. REES. My worry is that someone by the mere fact that he has received a request for information, and that being made public, might subject him to harassment, just the mere fact of receiving a request for information.

Mr. BINGHAM. The requirement for the receipt of a request for information is in the law today, and such information supplied was a matter of discussion in the subcommittee headed by the gentleman from California (Mr. MOSS) which investigated very extensively the responses to that requirement of the filing of information.

Mr. REES. But the law today is not that it shall be made public.

Mr. BINGHAM. I do not understand the gentleman's point. To what particular point in the bill is he referring?

Mr. REES. I am referring to page 15, section (k), and then the next section, section (B). It says that all of this information shall be made public, and it is my impression that that is not in the law.

Mr. BINGHAM. If the gentleman will yield further, the purpose of this entire amendment is to require disclosure of what goes on under the efforts of the Arab nations who oppose the boycott. Disclosure is an essential part, and disclosing the request for the receipt of information is part of that disclosure.

Mr. REES. I would like to ask the Chairman if it would be possible for me to get time. I have two more questions as to the legislative intent of the bill.

Mr. MORGAN. I will try to yield the gentleman some time and he can ask the author of the amendment.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BROOMFIELD. Mr. Chairman, I yield myself such time as I may consume.

Mr. BROOMFIELD. Mr. Chairman, H.R. 15377 marks the first time that the Committee on International Relations has exercised its authority over export administration, and I commend the committee and its distinguished chairman for an outstanding performance.

The legislation before us contains significant improvements in the export licensing process, procedures that should facilitate the flow of American exports and serve the interests of the American business community; H.R. 15377 also includes important provisions designed to arrest the dangerous process of nuclear proliferation; and it seeks a legislative remedy to a situation we all find obnoxious: Commercial discrimination and the use of economic blackmail against the State of Israel.

Let me state at the outset that I am totally opposed to the Arab boycott of Israel and I am determined to do whatever I can to render the boycott ineffective. I voted for the Bingham amendment in committee and I shall vote in favor of H.R. 15377 today.

President Ford has made it clear, in deed and in word, that discrimination of any sort is repugnant to the American character and totally unacceptable to the American people.

One need only refer to Secretary Simon's June testimony before the Committee on International Relations to appreciate that the Ford administration has not confined itself to passive or verbal disapproval of the boycott. On the contrary, President Ford has acted to insure that exclusionary policies of other states do not apply to the selection of American contractors or personnel for overseas assignments. In January of this year the administration submitted legislation to prohibit the use of economic means to coerce any person or entity to discriminate against any U.S. person or entity on the basis of race, color, religion, sex, or national origin.

In addition, the Department of Commerce now requires U.S. firms to indicate whether or not they supply information on their dealings with Israel to Arab countries, and Commerce refuses to accept or circulate documents containing boycott conditions.

I recognize that there are those who will contend that the administration, in an effort to avoid confrontation with certain states important to our Middle East peace initiative, has not moved far enough or fast enough; the language of this bill is a reflection of such an attitude. In stating my support for H.R. 15377 and the Bingham resolution, I would nevertheless suggest that the administration is acting in good faith on the boycott issue. Differences President Ford may have with the Congress on this matter are differences of tactics and not of principle. I sincerely hope that our legislative proposals on the boycott, drawn with the most honorable intentions, produce the intended effect. I think they will, and I urge support of this legislation.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from New York.

Mr. LENT. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of this legislation, which would, among other things, improve export licensing procedures and make illegal complicity by American firms in the Arab boycott of Israel. As one who actively participated in the deliberations of the Oversight and Investigations Subcommittee on this issue, I was pleased to note that many of the recommendations in our recent report on the boycott would be implemented in H.R. 15377.

I was especially pleased to see the inclusion of a provision I have long advocated which would prohibit the withholding of boycott information from Congress under section 7(c) of the Export Administration Act.

Almost a year ago, I sponsored H.R. 9932, to amend section 7(c) to provide that no material obtained by the Secretary of Commerce pursuant to that section could be withheld from the Congress. My bill was introduced in response to the heated controversy over whether then Secretary of Commerce Rogers Morton was legally permitted to turn over U.S. Exporter Reports obtained by the Department to the Oversight Subcommittee. Attorney General Levi ruled that he could not.

The committee report on H.R. 15377 states that this provision, which incorporates the language of H.R. 9932, "should not be necessary," and that it is made necessary only because of the administration's interpretation of section 7(c) "in a manner inconsistent with the intent of Congress." With all due respect to the committee, I believe there is ample justification for the interpretation put upon the existing section 7(c) by the executive branch. If Congress wants access to information, it should be willing to make that intent clearly known when it drafts legislation. Hence, I view the inclusion of this provision as a victory for not only statutory clarity, but also for better executive-legislative relations and for improved congressional oversight of the enforcement of the Export Administration Act.

Mr. BURKE of Florida. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Florida.

Mr. BURKE of Florida. Mr. Chairman, as a member of the Committee on International Relations I cosponsored H.R. 15377. I am proud I did and I now strongly support this bill which will extend and amend the Export Administration Act of 1969. I now emphasize in the strongest possible terms the need for the support of section 14 of this bill, namely the foreign boycott section—which would make illegal American complicity in the Arab boycott. This is, I believe, one of the most significant pieces of legislation to come to the floor of the House in recent years.

There is no doubt that the Arab boycott constitutes one of the most monstrous and most sinister campaigns ever to be directed against the United States, and yet, Mr. Chairman, it is one of the most subtle. In this seemingly innocuous effort, every aspect of American life comes under attack.

In the first instance, compliance with this boycott requires that American corporations violate the basic principles of the free enterprise system. Free competition is replaced by a process of racially discriminate bargaining.

Secondly, the primary symbols of the American political life—freedom and equality under the law—are ruthlessly challenged; and, finally, American sovereignty itself—most clearly manifested in the ability of the United States to conduct an independent foreign policy—is undermined and made subject to foreign interests. Domestically and internationally, the Arab boycott threatens our American way of life, and my colleagues, this we cannot tolerate.

Mr. Chairman, in counting up this dread-balance sheet, the U.S. House of Representatives has before it no other viable alternative. We cannot stand idly by waiting to be tamely and abjectly enslaved. Rather, we must strike at the very heart of this unparalleled and deliberate act of political and economic aggression. We must pass H.R. 15377 with section 14, which is presently under consideration. In so doing, we will bear witness to the American people and to the rest of the world that America is still the land of those who love freedom, and the home of those who have the courage to live and make sacrifices for that freedom.

To see the wide-spread character of this boycott, it is only necessary to consider briefly its nature. From the very founding of Israel in 1948, the Arab States ceased to do business with that state. This severance of economic ties has precedent in international relations and resembles American policy with respect to countries such as Cuba, North Vietnam, and North Korea. This action is known as the primary boycott and has been viewed by the United States as an acceptable form of international behavior.

But, Mr. Chairman, the Arab boycott has other dimensions which make it totally unacceptable to the United States. Contrary to what can be tolerated, the Arab States carry this practice to include the internal affairs of all trading partners — including the United States. This extension of the Arab boycott to include a penetration of American society though our American business community, has two aspects commonly called the secondary and the tertiary boycott.

The secondary boycott focuses its impact upon American businesses. A much publicized blacklist has been developed which contains mostly American companies and individuals allegedly connected in some way with Israel or with Jews. The secondary boycott employs this blacklist in accordance with a very simple principle. No company on the blacklist can expect to do business with any Arab State or business. Conversely, any company doing business with an Arab State or business cannot do business with Israel. The basic thrust of this principle is that no company could expect to have access to lucrative Arab markets if it was engaged in trade with Israel or with Jews anywhere.

In practical terms, the following kinds of conditions are imposed upon those who would do business with any Arab State. First, exporters are asked to certify that they do not sell to Israel. Second, shipping lines must confirm that vessels stopping at Arab ports have not stopped in Israel. Third, manufacturers must stipulate that they have no Israeli operations and that their products contain no Israeli-made components. Fourth, banks will honor certain letters of credit only for customers who certify that they have no dealings with Israel. The upshot of these actions is that the Arab States not only refuse to do business with Israel, they also refuse to trade with those who do.

However, the Arab boycott has a further devious dimension. The tertiary boycott extends throughout the entire economic life of those countries who would trade with the Arab States. Any business which trades with the Arab States is forbidden—if it desires to continue that trade—from doing business with any other company which does in fact trade with Israel. The significance of this is simple. U.S. firms are forced to discriminate against other American firms and are thus made subject to the express policy of a foreign government. This violates the basic principles of American sovereignty and seriously undermines the American way of life.

Mr. Chairman, running throughout the entire spectrum of the Arab boycott is another theme which I feel we should bring into the clear light. There can be no doubt that the overriding character of the Arab boycott is nothing other than a hate crusade against the Jewish people with a view to the deliberate and systematic destruction of the State of Israel. Every since 1948 when we followed the British lead it has been the policy of the United States to give its active support and assistance to Israel to make it a viable and self-sustaining state. My colleagues, regarding our failure now to actively participate in any boycott of the kind under discussion will be to give credence and material assistance to a policy of anti-Semitism. I cannot condone this because it would violate the sacred trust and honor we owe to those who fought and died in Europe in World War II.

Mr. Chairman, it has been just over 30 years since the world recognized Hitler's national policy of racial discrimination and religious bigotry. What we are witnessing today in the Arab boycott is another start toward the hates of other days. The demand that American firms practice religious and racial discrimination in hiring, promotion, job assignment, selection of corporate officers and in dealing with other American firms sound all too familiar. It is in all honesty repugnant to the American belief of fairness and as an American I cannot condone it. Any and all attempts by foreign countries to intrude into American domestic life and to coerce American foreign policy must be defeated with dispatch and an open willingness to face those who would try by threats to bring us to our knees.

We would be naive if we did not anticipate at least the thought of the Arab States' undertaking certain actions of reprisal. For instance, there could be some short-term diversion of trade to other European countries or to Japan. It is to be expected that the Arabs will express their displeasure when they realize that their scheme no longer enjoys even tacit, let alone explicit, support by the American public.

Mr. Chairman but I am willing to bet that any major shift in commercial dealings would work a much more unacceptable hardship upon the Arab business community than could be anticipated in the United States. The fact is that some Arab businessmen have expressed private misgivings about the operation of the boycott. They feel that they have become unnecessarily restricted in their dealings with the blacklisted companies. There is considerable evidence which indicates that failure to comply with a boycott request would not necessarily lead to a termination of commercial relations. The Morgan Guaranty Bank officials testified that the offensive boycott language was stricken by the Arab and other foreign banks, in 23 out of 24 times where the bank refused to process such letters of credit which contained objectionable language. In other words, there are strong indications which would lead me to the conclusion that the Arabs would rather waive boycott conditions rather than deprive themselves of American goods and services.

Mr. Chairman, in the final analysis, we who are called upon to vote on this measure must admit, that even if a high price is to be exacted from us, there is no alternative but to take the course of action presently being considered. Fundamentally what is in question, is not the price of oil or the profits of corporations—although these are important, but is the willingness of the American people to support its principles and its own sovereignty. That to me is the basic issue. It is simply a matter of justice, and if there is any common truth to which we must all subscribe, it is that justice cannot be measured in terms of dollars alone. Since when, have we in America used the dollar sign as our symbol of justice or as a substitute for right.

I strongly urge my colleagues to approve H.R. 15377. We must once again put an end to a policy of racial and religious discrimination. Our action today will also serve notice to all the peoples of the world, that the United States intends to remain the principle defender of freedom regardless of the economic pressures by others. To do anything less would be to betray our principles for which so many have fought and died and would be a sorrowful beginning for the hopes of our citizens for a free tomorrow.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of H.R. 15377 and the provision in the Export Administration Act (H.R. 15377) which seeks to reduce the danger of nuclear proliferation.

The purpose of this provision is to insure that adequate safeguards are in effect to prevent the spread of nuclear weapons. Readily fissionable nuclear material, specifically plutonium, is the direct byproduct of reprocessing spent fuel for nuclear reactors. Without adequate safeguards to protect the disposition of those byproducts, we cannot justify a policy which promotes the export of the means for nuclear reprocessing. Current adequate safeguards do not exist. Any nation which has access to plutonium is only a few days, if not hours, away from the ability to produce a nuclear weapon.

The effect of this provision would be to prohibit the U.S. export of reprocessing facilities and the reprocessing of U.S.-supplied fuel by foreign countries until tighter safeguards can be put into operation.

This provision will also serve to set a firm guideline for a more consistent U.S. nuclear export policy. We cannot expect other nuclear supplier nations to control the access to nuclear reprocessing if we do not set definite limits of our own.

Mr. Chairman, I repeat, we must adopt this provision.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I want to say forthrightly why I voted against the antiboycott measure approved by the House Committee on International Relations.

To begin with, the amendment offers no hope of actually terminating or materially reducing the impact of the existing boycott. Indeed, there is every likelihood that this legislation will simply serve to stiffen matters in this regard. None of us ought to ignore the practical consequences of legislative acts, however well intentioned those acts may on their surface appear.

Second, the policy of the U.S. Government on this issue has already been strong and unambiguous. Indeed, few countries, save Israel and the United States herself, have made such explicit and public antiboycott pronouncements. Thus, the moral requirement of a firm U.S. declaratory policy has already been satisfied.

Third, persistent, behind the scenes efforts have already been somewhat successfull in moderating the effect and the intensity of the boycott.

Most importantly, however, this legislation is sure to aggravate improved but still delicate relations with Arab States. Certain of these states are of course instrumental to a long term and peaceful solution to the Middle East conflict. These states have already committed themselves—perhaps unwisely—to assuring that the boycott remains in at least formal effect until a comprehensive settlement has been achieved. Although regrettable, such tactics are not new in the affairs of states.

I very much fear that our action will not only aggravate the Arab States into taking harsher action, but that it may also undermine the moderate leadership in key Arab countries. Such results are sure to complicate if not retard our efforts for a final settlement.

The consequences of this well-intentioned amendment then can be seen to affect adversely the prospects for peace instead of war, for economic stability instead of continued poverty and ruin, for life instead of death. These are also moral considerations of the highest order. And to my mind they are compelling enough to outweigh the desirability of a confrontational intervention of the Congress—especially one that is sure to have only the most meager impact upon the boycott of Israel itself.

I continue to believe that my vote served the best interest of Israel because it served the best interest of peace.

Mr. MORGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. ROSENTHAL).

Mr. ROSENTHAL. Mr. Chairman, I rise in support of this bill.

I urge the passage of this bill which will make illegal American complicity in the Arab boycott. In 1965, the Congress thought it was ending American participation in the boycott of Israel when it made such participation against U.S. policy and it gave strong authority to the Commerce Department to enforce this policy.

As the years have passed, we in the Congress have waited vainly for the Commerce Department to take strong action. Instead we have seen the Commerce Department circulating to industry trade offers containing boycott conditions and counseling U.S. companies in ways to evade the requirements of the act. As recently as this March, Commerce Department officials were telling a select group of businessmen how to disregard even the weak civil rights prohibitions which the Department had been forced to enact only 4 months before.

As the Commerce Department procrastinated, boycott demands against American businesses multiplied. Discrimination among American businesses spread. The blacklist of American companies which refused to suffer foreign dictation in their commercial dealings swelled. Today the blacklist includes over 1,500 firms and individuals.

Recent figures released by the Commerce Department to the Government Operations Subcommittee on Commerce, Consumer and Monetary Affairs which I chair reveal how pervasive the pressures against American businesses have become. Banks are the principal enforcers of the boycott. They are the ones who exact compliance with the boycott as the price for payment by the Arab importer.

According to the Department, during the period from April 1 through June 30, 1976, 131 U.S. banks reported that they had engaged in 8,026 transactions involving 15,392 requests to enforce restrictive trade practices. The total amount involved in these transactions was $479 million. Equally troubling, the number of transactions conditioned on compliance with the boycott had grown by over 25 percent from the immediately preceding 4-month period.

Based upon statistics such as the above, the Los Angeles Times recently made a dire prediction:

> Not too many years in the future, the nation could have two kinds of auto companies, steel makers, trading firms and banks: those that deal with the Arabs, and those that don't. If that happened, the two groups would be hampered by the blacklist in their dealings with each other. Imagine the effects on the nation's economy, its sense of nationhood, its integrity.

FOCUS OF THE BOYCOTT

The Commerce, Consumer and Monetary Affairs Subcommittee held 2 days of hearings on the boycott in early June. Their inquiry focused on the pressures exerted on the American financial community and, through it, American industry, to comply with Arab boycott demands. Among the witnesses were Chairman Roderick Hills of the SEC; the General Counsel of the Federal Reserve Board; the head of the Commerce Department's Office of Export Administration, and officials of Chemical Bank and Morgan Guaranty. These hearings put the lie to one of the prime contentions of boycott apologists that the boycott is directed solely against Israel. As the top bank and Federal officials made clear, the Arab boycott, is largely a boycott of American business.

In its secondary aspect, the boycott seeks to prevent American industry from doing business with one of this Nation's principal trading partners—Israel—and precludes blacklisted American firms from doing business in the growing markets of the 20 states of the Arab League. In the boycott's so-called tertiary aspect, American companies are pressured into discriminating against other American companies; that is, those on the boycott list.

BOYCOTT BACKGROUND AND THEORY

It is important to understand how the boycott of American business operates. Virtually from the founding of Israel in 1948, Arab States ceased to do business with that state. While an unfortunate consequence of the hostilities in the Middle East, this severance of economic relations has precedents in international relations and resembles U.S. policy with respect to countries such as Cuba, Vietnam, and North Korea. But the Arab States carried this practice further and elected to include innocent third parties, including American businesses, not otherwise involved in the Middle East dispute. This escalation led to the development of a list of mostly American companies and individuals allegedly connected in some way with Israel or with Jews with which no Arab State or company could do business. This is the Arab blacklist which, in the 1970 Saudi Arabian version made public by the Senate Subcommittee on Multinational Corporations, contains the names of over 1,500 U.S. companies, financial institutions, and individuals.

The theory of the boycott is simple. No company on the blacklist should expect to do business with any Arab State or business. Conversely, any company doing business with an Arab State or business cannot do business with Israel. In practice, as a condition of doing business with Arab interests—

Exporters are asked to certify that they do not sell to Israel;

Shipping lines must confirm that vessels stopping at Arab ports have not stopped in Israel;

Manufacturers must stipulate that they have no Israeli operations and their products contain no Israel-made components; and

Banks honor certain letters of credit only for customers who certify they have no dealings with Israel.

This economic pressure by Arabs directly against U.S. firms has been called the secondary boycott.

But the reach of the boycott can be far wider to encompass not only doing business with Israel but also doing business with any company which does business with Israel. U.S. firms are thus put in the position of discriminating against other U.S. firms pursuant to the dictates of foreign governments. In any form it is equally repugnant in restricting the freedom of American concerns to do business with whom they wish.

BOYCOTT IMPACT

The Arab boycott has an enormous impact upon American business. The House Commerce Investigations Subcommittee reported in May that American firms are complying with over 90 percent of the boycott requests as the cost of doing business with Arab States. The subcommittee, headed by Representative Moss, also found that during 1974 and 1975, 637 U.S. exporters sold at least $352.9 million and as much as $781.5 million in goods and services under boycott conditions. The actual figure is unknown since many firms reporting to the Commerce Department on boycott pressures refused to admit whether they had given in. The Commerce Department has required information as to compliance only since late 1975.

In the hearings before my subcommittee, banks gave graphic evidence of the pervasiveness of boycott requests. The resident counsel of Morgan Guaranty testified that in the 4 months from December 1975 to April 1976, his bank had received 824 letters of credit in a total amount of $41,237,815 containing boycott clauses. These letters of credit were issued not only by Arab banks but also by banks in other Asian and African countries which have joined the boycott against American businesses. In each of these instances, Morgan Guaranty exacted compliance with the boycott as a condition of payment to the American exported under the letter of credit.

Appearing on the boycott list can have a significant impact upon a U.S. company's business. RCA Corp. offers a typical example. Prior to being included on the blacklist, RCA did about $10 million worth of business annually with the Arab world. The company had every reason to believe, it has said, that its sales would have increased substantially over this figure. Today, as a consequence of being boycotted, RCA operations in Arab countries have shrunk to under $1 million, a direct loss of over $9 million.

The boycott not only is hurting American businesses which must choose between dong business with Arabs or Israelis, it is also having a dire impact upon Israel. This impact has been greatest in certain high technology areas where the compliance of a few American firms with the boycott precludes access to vital new developments. In the area of energy exploration, for example, Israel has been unable to draw upon the services of the American petroleum giants for assistance in finding new sources of oil. This has forced Israel into a partnership with a non-American company and has prompted strict secrecy as to the identity of this company for fear of reprisal. Communications technology is another area where Israel has had to look elsewhere at greater expense for the assistance which American companies could better provide.

This impact on both U.S. companies and Israel threatens to increase substantially unless strong action is taken to curb the domestic boycott. A Saudi Arabian minister was recently in the United States exploring American investment in a Saudi development plan. In an interview, he made it clear that investors would have to make boycott declarations and certifications, thereby excluding the 1,500 American companies on the blacklist and undoubtedly widening the number of companies which will feel constrained to avoid business with Israel. The Commerce Department estimates that Arab-American trade, which amounted to $5.5 billion in 1975, is likely to double by 1980. Action is urgently required before large segments of American industry are divided into two groups, each one excluded from the other's Mideast market.

BOYCOTT AS EXTORTION

It is important to point out that the Arab boycott is not an ironclad and impermeable structure. Indeed, the many leaks in the boycott create an evil of their own in that they have created a new cottage industry based on evading the boycott or getting off the boycott list.

There is no single boycott list. Although there is a coordinating body based in Damascus which has power to recommend addition or deletion from the blacklist each of 20 Arab countries and the Arab League itself has its own blacklist with its own wrinkles. The situation is further complicated by the length and complexity of the boycott regulations which contain 100 pages of detailed rules.

Finally, confusion is guaranteed by the secrecy surrounding the list and the regulations. The boycott office has refused to make available copies of either. The only published versions, dated 1970 and 1972 respectively, were first made public in February 1975 by the Senate Subcommittee on Multinational Corporations.

The nature of the boycott as a capricious and extortionist device is clear from the reactions of some American companies to the discovery that they were on the 1970 Saudi Arabia list. A spokesman for the Hertz system, which has licensed auto rental outlets in both Israel and Egypt, declared:

> We are puzzled to find ourselves listed. From time to time we get applications from parties in Arab lands for licenses.

The chairman of Lord & Taylor department store chain said that he first learned of the blacklist in 1971 when a shipment of goods was impounded in Saudi Arabia. He said:

> So we know we are on the list, but we don't know why, never having been told.

A Burlington Industries official noted:

> I did not know we were on any blacklist and don't know why we should be. We are shocked to hear it. We do business with both Israel and the Arab world—far more business in the Arab world, in fact.

The Republic Steel Corp. observed that it had been put on the list "although we have neither any investments or interest in the Mideast." American Electric Power Co. spokesmen were similarly bewildered as to their company's appearance on the list.

Those companies which could ascribe reasons to their being blacklisted disclosed a catalog of capricious and arbitrary actions by Arab boycott administrators. Xerox Corp. attributed blacklisting to a documentary on Israel sponsored in 1966. Coca-Cola was on because it granted a franchise to an Israeli bottling company in the mid-1960's. Sears, Roebuck & Co. said its inclusion was due to the mistaken impression that a British company, Sears Holding, Ltd., was in some way an affiliate. It is not. General Tire & Rubber appeared because a subsidiary, since sold, once had a service arrangement with an Israeli company.

Fortune magazine has noted that dozens of firms listed cannot be found and some no longer exist. A spokesman for Laurance Rockefeller speculated that Laurance Rockefeller Associates—which never existed—is mentioned because Rockefeller and a few colleagues once had a minor interest in Elron Electronics Industries, an Israel company, which they sold in 1967.

The experience of American companies in trying to get their names off or keeping their names off the blacklist throws a different cast upon the nature of the boycott. Instead of being a weapon in the war against Israel, the boycott appears more as a means of extorting bribes and additional business from U.S. concerns. Earlier this year, the SEC accused General Tire and Rubber Co. of failing to disclose that it had paid $150,000 to a Saudi Arabian to get its name off the boycott list. The alleged recipient was none other than Adnan Khashoggi, the same individual who has been implicated in other Mideast "commissions." General Tire subsequently agreed to a court injunction barring future violations.

Bulova had a similar experience. Despite having no dealings in the Middle East apart from its watches being on sale at duty free shops, Bulova was placed on the blacklist. Later a Syrian lawyer approached the company and offered for a retainer to get its name removed. Unfortunately, the lawyer was executed in a Damascus public hanging before he could fulfill his promise.

Undoubtedly other American companies have been forced to resort to similiar payoffs to get themselves off the blacklist. But the usual method of "negotiation" to expunge a name or keep it off is somewhat subtler. What appears to be required is a willingness to make an appropriate contribution to the economies of the Arab world. Sometimes the contribution reportedly can be a strict quid pro quo. Secretary Simon testified to this extortionist arrangement before the committee.

Hence, Xerox is "negotiating" to have its name stricken. The documentary film about Israel which prompted the blacklisting cost the company $230,000 to produce. Xerox has been told that an investment of a like amount in an Arab State would suffice for delisting. Ford Motor Co. is talking with the Egyptians about a similar arrangement—assembling in Egypt automobiles to offset the 5,000 Ford cars annually produced by an Israeli concern. The New York Times reported that Sony was approached with a like arrangement—an electronics enterprise in an Arab country to "compensate" for one in Israel.

Sometimes exceptions are made without explicit agreement due to the bargaining position of the American concern. Hence, defense contractors such as McDonnell Douglas, United Aircraft, General Electric, Hughes Aircraft, and Texaco do business in both Israel and the Arab States without any apparent boycott interference. This is also true of Hilton and IBM. But how many smaller American exporters or manufacturers can affort to enter into similar agreements with the Arabs? And why should they be forced to submit to such extortion which is a violation of express U.S. policy?

According to recent indications, this bribery may become even more widespread. An article by the Arab Press Service cites pressures on the Central Boycott Office being exerted by individual Arab States to allow multinational companies to buy their way off the blacklist by making investments twice the size of their investments in Israel. This would institutionalize the current informal extortion and bribery which characterizes the listing and delisting process.

TERTIARY BOYCOTT

Thus far I have dealt with the direct impact of the boycott on American firms—the so-called secondary boycott. I would like now to turn to an aspect of the boycott which has occasionally been called the tertiary boycott—the discrimination of certain American firms against other American and European firms under pressure from Arab States. This form of compliance with the boycott is illustrated by the following examples:

According to the testimony of SEC Chairman Hills before my subcommittee, a "$30 to $40 million American company" interested in receiving Arab investments felt compelled to end its sizable account with an American investment banking firm because of the latter firm's close relations with Israel.

A U.S. bus manufacturer had its contract to sell buses to an Arab State terminated when it was learned that the seats were to be made by an American company on the blacklist.

Two American investment banking firms were disciplined by the National Association of Security Dealers—NASD—for violating that organization's rules of fair practice in substituting nonblacklisted affiliates for blacklisted firms in underwritings with Arab participation.

Bechtel Corp. was sued by the Justice Department for violating the Sherman—antitrust—Act in refusing to deal with blacklisted American subcontractors and requiring American subcontractors to refuse to deal with blacklisted persons or entities.

As the last example makes clear, there are many who feel that this so-called tertiary boycott, that is, American firms discriminating against American firms, violates the antitrust laws which outlaw conspiracies in restraint of trade. President Ford apparently shares that opinion. In a thoughtful and innovative statement made on November 20, 1975, he clarified his administration's position on the boycott and modified agency practice to outlaw compliance with the religious and racial, but not economic, aspects of the boycott. As part of his address, he remarked:

> The Department of Justice advises me that the refusal of an American firm to deal with another American firm in order to comply with a restrictive trade practice by a foreign country raises serious questions under the U.S. antitrust laws.

Other commentators suggest that the antitrust laws extend even to the secondary boycott where an American firm refuses to deal with Israel in compliance with boycott pressures.

I welcome and commend the actions of the President and the Justice Department in this regard. I share their conclusions about the applicability of the antitrust laws at least to the tertiary boycott. But we all know that actions through the courts to enforce the antitrust laws can be extremely lengthy, time-consuming and unpredictable. Bechtel has raised numerous defenses to the lawsuit including the undisputed fact that the U.S. Government at times has encouraged trade with Arab League countries knowing that boycott compliance was a commercial requirement and that an alleged exemption from the antitrust laws for foreign acts of state may be applicable.

According to the San Francisco Examiner, Bechtel itself is apparently continuing to bow to blacklist pressures and has circulated letters to its subcontractors stating that Israeli goods or materials shipped on blacklisted vessels could not be used in a $20 billion seaport construction project in Saudi Arabia. Enforcement of the antitrust laws, while laudable, is therefore not the most expeditious or effective means of ending this boycott of American businesses.

UN-AMERICAN PRESSURES

I have so far addressed myself to the economic aspects of the boycott. There is another side. Few people seriously maintain that the boycott is not also anti-Jewish. Senate investigators and others have uncovered numerous instances where American individuals or companies were apparently denied business with Arab states solely because they or their officers, employees or shareholders were Jewish. Two colonels in the Army Corps of Engineers admitted to a Senate subcommittee that the corps had given in to Arab pressure to exclude Jewish personnel from projects in Saudi Arabia. They admitted that private U.S. companies were subject to the same anti-Jewish requirement.

I will not, however, dwell on this important aspect of the boycott because I feel it has been well-documented and is the subject of the executive memorandum dated November 20, 1976. I wish only to say that the illegality of such discrimination based on religion, national origin, sex, or race should be clarified and expanded to all American companies as this bill does.

DENUNCIATIONS OF THE ECONOMIC BOYCOTT

Many American businesses have joined in the denunciation of the Arab boycott which has put them in the unconscionable position of having to refuse to do business with an ally and major trading partner of the United States—Israel—in return for business from the Arab world. They urge the passage of legislation such as this which, once and for all, will enable, indeed require, them to turn down such requests. Among the American firms reported taking this position are General Mills, Bausch and Lomb, Pillsbury, First National Bank of Chicago, Northwestern National Bank of Minneapolis, Provident National Bank of Philadelphia and the Marine National Exchange Bank of Milwaukee. I think it is fair to say that these sentiments are shared by large segments of the American business community.

Important Federal officials have also urged strong Congressional action to end the discriminatory impact on American business of boycott compliance. Principal among these has been Chairman Arthur Burns of the Federal Reserve Board who in a letter to my subcommittee dated June 3 stated:

> The time has come for Congress to determine whether it is meaningful or sufficient merely to "encourage and request" U.S. banks not to give effect to the boycott. It is unjust, I believe, to expect some banks to suffer competitive penalties for responding affirmatively to the spirit of U.S. policy, while others profit by ignoring this policy. This inequity can be cured if Congress will act decisively on the subject.

CURRENT LAW

To place in perspective the changes embodied in this bill, let me summarize the present provisions of the Export Administration Act which pertain to the boycott and some other statutory weapons against the boycott which have unfortunately not proven wholly effective.

There are three sections of the current Export Administration Act relating to the boycott. The first, section 3(5), declares in effect that it is U.S. policy to oppose boycotts imposed by foreign countries against countries friendly to the United States. A second provision requires companies to report to the Commerce Department all requests for boycott compliance.

In December 1975, the Department announced it had fined four companies and warned 212 others for failure to report boycott requests properly. Tightened Department regulations now extend these reporting requirements to banks, insurers, freight forwarders, shipping companies and other businesses that serve exporters, and include the obligation to report whether or not they plan to go along with boycott requests.

Moreover, Department regulations outlaw compliance with boycott requests which involve discrimination against Americans based upon their race, color, religion, sex or national origin. These prohibitions are widely known.

There is, however, a third provision of the Export Administration Act which, if enforced, would obviate having to strengthen the act to protect American concerns from the boycott. This is section 4(b)(1) of the act which gives the President the power to "effectuate the policies set forth in section 3"—including the antiboycott policies—through limiting export privileges and imposing other unspecified sanctions against related service companies which act contrary to these stated policies.

In a letter to the Government Operations subcommittee, then Commerce Secretary Rogers Morton admitted that this language was the only authority he needed to outlaw all compliance with the boycott. Unfortunately, neither he nor his successor has seen fit to use this power despite the clear congressional intent that it be used.

Other laws or regulations which apply to the Arab boycott include the following:

The Sherman Act outlaws contracts, combinations or conspiracies in restraint of trade. According to the Justice Department—in the Bechtel suit—an agreement not to do business with American companies that deal with Israel would almost certainly be a violation. An American company's promise not to trade with Israel may also be a violation.

The Securities Exchange Act of 1934 requires the disclosure of information which could have a material impact upon a public company. SEC Chairman Hills in testimony before my subcommittee, suggested that compliance with the boycott might have to be disclosed where the company's business or the market value of its shares would be affected by such disclosure as where customers of a bank might be concerned that such bank was aiding the Arab cause.

In their duty to oversee the privileges and benefits of the banking community and to prevent unsafe or unsound practices, the Federal bank regulatory agencies have outlawed religious discrimination in accepting deposits, investing or lending. Chairman Burns of the Federal Reserve Board even suggested that processing letters of credit with boycott stipulations violated banks' Federal responsibilities.

Pursuant to the far-reaching Presidential statement of November 20, a number of departments and agencies have issued orders or regulations barring any boycott-related discrimination based upon religion, race or national origin.

Legislation embodying the principles of the Presidential directive has been passed in Illinois, New York, Maryland, and Massachusetts. These States, as well as Pennsylvania, where similar legislation is under active consideration, are bearing the burden of the belated, piecemeal and insufficient Federal action against the boycott.

Let me summarize the current legal status of the boycott. The Export Administration Act declares the furtherance or support of the Arab blacklist to be against U.S. policy. Companies must report all boycott requests. They are prohibited from complying with any boycott request which furthers or supports discrimination against U.S. citizens or firms on the bases of race, color, religion, sex, or national origin. They also may be forbidden from discriminating against other U.S. firms, although the Justice Department acknowledges that a foreign boycott has never been held to violate the Sherman Act.

Thus, U.S. law already appears to outlaw the anti-Jewish features of the boycott as well as the so-called tertiary economic aspects of the boycott. But these prohibitions are embodied in the first instance in regulations based solely on U.S. "policy" and in the second instance on an antitrust statute only first being applied in a test case.

Moreover, no U.S. law is addressed to the most pervasive, sinister and direct symptom of the boycott—the blacklisting of 1,500 American firms and individuals. It must be made clear, as this bill does, that no foreign nation can involve innocent American businesses in its warfare against a nation friendly to the United States.

PROJECTED IMPACT OF THIS BILL

Concern has been expressed in some quarters that outlawing compliance with the boycott may adversely affect U.S. trade and diplomatic relations with the Arab world. I would be naive if I did not admit some risk in the course of action pursued by this committee. There could be some short-term diversion of trade to other European countries or Japan as the Arabs express anger that their scheme no longer enjoys tacit, if not explicit, American support. But there are several grounds for optimism that the disruption of trade would be neither severe nor long-term.

First, the long-standing and generally amicable commercial relations between this country and the Arabs have survived earlier political vicissitudes. Iraq currently offers a fine example where radical rhetoric and divergent political philosophies have not interfered with a thriving American business relationship. The Arabs have become used to the high quality goods and services which only this Nation can provide in such abundance. Any major shift in commercial dealings would, I believe, work an unacceptable hardship upon the Arab business community and its customers.

Second, numerous Arab businessmen have expressed private misgivings about the operation of the boycott. They feel it unnecessarily restricts their dealings with blacklisted companies. It also alienates executives of other companies who resent being questioned about their company's business relations or who find it morally repugnant. No fewer than 22 larger American firms have recently pledged not to comply with Arab boycott demands. These include American Brands, Beatrice Foods, El Paso Natural Gas, General Motors, Greyhound, Kennecott Copper, G. D. Searle, Texaco, Textron, and U.S. Gypsum. Typical of this pledge was that of the chairman of General Motors, T. A. Murphy, who said:

> General Motors has received occasional requests from Arab countries that it agree not to participate in future dealings with Israel or with Israeli companies. . . . General Motors has made no such agreements and would not make any such agreements.

Third, Arab companies have demonstrated in past dealings that an objection to a boycott request would not necessarily lead to a termination of relations. When the Commerce Department in November 1975 outlawed compliance with requests involving discrimination on ethnic or religious grounds, banks were forced to reject letters of credit containing objectionable language. Morgan Guaranty testified before my subcommittee that in 23 of the 24 instances where the bank refused to process such letters of credit the offensive boycott language was voluntarily stricken by the Arab or other foreign banks involved. There is considerable reason to believe that Arab countries would waive boycott conditions rather than deprive themselves of vital American goods and services.

Fourth, it is by no means clear that all European and developed countries would welcome compliance with the Arab boycott as a price for additional Arab trade. Indeed, some developed countries appear to have taken a harder line against boycott compliance than the United States.

Germany offers a fine example. It is Israel's largest trading partner after the United States. It is also the principal competitor of the United States in the sale of high technology equipment and services to the Arabs. Yet German industry has vigorously opposed compliance with Arab boycott conditions. There are virtually no reported instances of German acquiescence in boycott demands.

Indeed as recently as March, the Hamburg Chamber of Commerce labelled the Arab boycott as a "particularly grotesque strain of discrimination against freedom of trade." Since 1965, West German chambers of commerce have refused to validate all so-called negative certificates of origin, and so forth, declarations that goods are not of Israeli origin. This position has the support of almost all German business organizations. This resolve has evidently been successful since Bonn's Economic Ministry claims to have no record of any export contract breach resulting from this refusal to validate boycott documents. Although there are reportedly 200 German firms on the Arab blacklist, many businesses maintain parallel links with the Israelis and the Arabs.

One highly publicized instance of German resistance to boycott pressures involves a recent license granted by Volkswagen to an Israeli firm for the production of the Wankel rotary engine. The Arab boycott committee had responded by threatening to place VW on the blacklist. VW refused to withdraw the license and to the best of my knowledge maintains its opposition to any Arab dictation related to its substantial Israeli trade.

The Common Market has also been outspoken in its opposition to the Arab boycott. Article 85 of the Treaty of Rome establishing the EEC prohibits "the conclusion of contracts subject to acceptance by other parties of supplementary obligations which have no connection with the subject of such contracts." In trade agreements concluded or being negotiated with Arab States, the EEC is insisting upon insertion of clauses outlawing discrimination among nationals, companies, or firms of the Common Market.

While the Arab signators, including Tunisia, Egypt, Lebanon, Morocco, and Algeria, have issued reservations against these clauses, the EEC has informed Egypt that it considers a proper respect for the nondiscrimination clause essential to the full implementation of the trade agreement. As one member of the EEC Commission put it:

> The Commission considers [that] Arab discriminatory boycott measures are contrary to the principles of cooperation which the community wishes to establish with the Arab countries.

The British position on the boycott was expressed in November 1975 by the then Secretary of State for Trade, Peter Shore, as follows:

> This Government deplores and is opposed to any boycott that lacks international support and authority.

In a celebrated case last winter, the British Foreign Office Race Relations Board required Gulf Oil Co. to award compensation and to reinstate a secretary whose promotion had been withdrawn when Gulf had discovered that she had married a Jew. British efforts directed against the boycott are coordinated by a committee composed of numerous influential businessmen and civic leaders. They are in the process of developing and promoting legislation which would outlaw all compliance with the boycott.

Other examples of European opposition to the boycott include the Dutch government's prohibiting notaries from validating boycott documents and the adoption of article 15 of the Convention establishing the European Free Trade Association, which prohibits "concerted practices between enterprises which have as their object or result in the prevention, restriction or distortion of competition within the area of the Association." The former law has not prevented widespread and growing relations between Dutch industry and the Arabs.

According to press reports, Saudi Arabia has recently placed huge orders with Dutch firms for the construction of harbors in Damman and Jubail and for the expansion of the Saudi telephone system. Moreover, Egypt is expected to place an important order for the construction of ships in Dutch shipyards.

In Canada, the 1975 amendments to the Combines Investigation Act forbid conspiracies to restrict competition. Parties to an agreement which reduces competition in Canada are subject to criminal prosecution.

The impression I and my staff gather from numerous conversations with foreign diplomatic officials is that the Arab boycott is a matter of great concern to other developed countries. Representatives of countries which have not outlawed compliance with the boycott expressed considerable interest in the prospect that a strong American initiative might prompt their countries to do likewise.

The above analysis should lay to rest the speculations of those who fear that U.S. opposition to the boycott would send the Arabs into the arms of a welcome and compliant Europe. Indeed should some developed countries be slow to follow the American lead, the United States is not without recourse. The General Agreement on Tariffs and Trade—GATT—to which not only developed countries but even Egypt and Kuwait are parties almost certainly forbids the imposition of discriminatory boycotts such as the Arabs' against third parties to a conflict. As long as the United States submitted to boycott pressures, it was naturally reluctant to raise these prohibitions with other developed countries. This reluctance should end with the passage of strong domestic antiboycott legislation such as this.

While no one can predict to a certainty the impact on United States/Arab trade relations of antiboycott legislation, the evidence suggests any trade diversion would be small and short-lived. The Arabs are highly unlikely to allow enforcement of a secondary boycott to interfere with their long-term development plans, and they are not going to find that other developed countries are substantially more willing than the United States over the long run to tolerate such discriminatory and anticompetitive practices.

These views are long but I feel compelled to make the strongest possible case for the prompt and favorable consideration of this bill. Our Nation must no longer acquiesce in the shameful, extortionist pressures of the Arab blacklist which offend American principles of free trade and fair play and which are having a destructive, divisive, and anticompetitive effect upon American business.

Mr. MORGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Chairman, I rise in support of H.R. 15377, extending the Export Administration Act.

Mr. Chairman, the time is short and my remarks will be brief. Primarily I take this time to speak in support of section 18, which deals exclusively with the issue of nuclear exports.

Mr. Chairman, more specifically, it is intended to help solve one of the most challenging problems facing us today—that of nuclear proliferation.

Let me say at the outset that I am proud to be associated with this amendment. Together with a bipartisan group of 14 cosponsors from the House International Relations Committee, I was pleased to sponsor it with our distinguished colleague from Illinois (Mr. FINDLEY).

Nuclear proliferation is a subject on which the Subcommittee on International Security and Scientific Affairs has held extensive hearings. One result of those hearings was House Concurrent Resolution 570, a resolution adopted by the House on May 3. What that resolution did was to urge certain specific courses of action aimed at stopping the rising worldwide spread of nuclear technology and the resulting increased threat of nuclear war.

One provision in the original version of House Concurrent Resolution 570 dealt with the reprocessing of nuclear fuel, an important aspect of the nuclear proliferation problem. During the extended course of our deliberations, however, serious questions arose regarding the wisdom and adequacy of that provision. Thus, rather than advocate an ill-advised or inadequate solution, the subcommittee decided to delete the provision in markup.

Since that time, several important developments have taken place. First, under the distinguished and able leadership of our esteemed chairman, Dr. MORGAN, the House International Relations Committee as well as the subcommittee have held additional hearings. Those hearings have concentrated chiefly on important new studies conducted by respected nuclear scholars. In addition, five separate GAO reports have been developed. The end result of this exhaustive and dedicated effort is the approach contained in section 18 of H.R. 15377.

I go into this somewhat lengthy background only by way of reflecting the care and seriousness with which the issue has been considered. Because nuclear proliferation is a complex issue, and because the failure to control proliferation could result in the extinction of civilization, it has demanded care and precision.

In effect, then, the committee amendment actually picks up where we prudently left off several months ago. On the basis of very careful and exhaustive review, I believe it is a sound, balanced, and effective legislative remedy to an extraordinarily complex and dangerous problem.

Evidence accumulated during our hearings points up the seriousness of the danger. For example, nuclear material from which nuclear explosives could ultimately be made now exist in approximately 30 countries. By 1985—9 short years from now—it is estimated that nearly 50 countries will have nuclear powerplants producing enough plutonium each year for at least several dozen nuclear explosives. By the year 2000, the annual rate of plutonium production worldwide will be nearly 1 million kilograms—enough to make 100,000 nuclear explosive devices.

Clearly, a spread of this magnitude will not only erode world stability but will also seriously degrade the effectiveness of our own nuclear forces as well.

It is this urgent and frightening prospect to which this amendment addresses itself. I believe the amendment achieves its goal prudently and without damage to our domestic nuclear industry.

In closing I would only observe that the time for responsible legislative initiative is short. Action is needed and it is needed now. I am convinced that this amendment is necessary and responsible. I urge my colleagues to vote for it.

Mr. MORGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Chairman, I rise in support of this legislation.

Mr. MORGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, this bill improves and strengthens the export control program of the United States. It reaffirms the need for effective control of exports on national security grounds, and at the same time for maximum trade consistent with the national security in the interests of a healthy economy, fuller employment, and a strong balance-of-payments position. It also strengthens the ability of this country and its businesses to resist attempts by foreign countries to force us into compliance with boycotts of third countries friendly to the United States.

This bill has received extensive consideration at both the subcommittee and full committee levels. The Subcommittee on International Trade and Commerce, which I have the honor to chair, held 5 days of hearings this year on "Export Licensing of Advanced Technology," which everyone involved agrees constituted the most thorough scrutiny to which the export-licensing process has been subjected since the passage of the Export Administration Act in 1969.

Witnesses included administration officials, industry and trade association representatives, and specialists from the Congressional Research Service, the General Accounting Office, and major universities. We considered both general principles and specific cases. The subcommittee also held 4 days of hearings last year on the Arab boycott. The full International Relations Committee then held further hearings on all aspects of the bill.

Mr. Chairman, this bill is the product of full cooperation between the subcommittee and the full committee, and between the majority and minority. I am proud to have been a part of it, and I urge the support of my colleagues for the committee bill.

Mr. Chairman, sections 1 to 13 of H.R. 15377 are designed to continue and build on the improvements in the export-licensing process which were instituted by the Committee on Banking and Currency, which previously had jurisdiction over the Export Administration Act. All but one of these sections grow out of five days of hearings before the Subcommittee on International Trade and Commerce, which I have the honor to chair, on "Export Licensing of Advanced Technology." The amendments had unanimous support in the full Committee and have broad support in the business community and are also responsive to the recommendations of experts on the export-licensing process in the Congressional Research Service and the General Accounting Office as well as the Nation's universities.

I hope these amendments will complement and stimulate the administration's own internal studies and reforms, under the leadership of the very able Deputy Assistant Secretary of Commerce, Mr. Arthur T. Downey.

It is clear from my subcommittee's hearings that there are major problems with the export-licensing system. It is true, as the administration is quick to point out, that the vast majority of the more than 50,000 export license applications submitted annually to the Department of Commerce are processed routinely, efficiently, and without major disagreement among the parties involved in the procedure. But the test of the system is not how well it processes the majority of the applications which present no problems, which are always approved. The test of the system is how well it processes those relatively few but vitally important applications which present the most severe analytical problems. Such applications are most typically for the export of advanced technology to communist destinations. The evidence is that, on these applications, the system does not produce rational decisions in a timely fashion.

The most immediate reason for this is the unwieldiness of the export-licensing system. The Office of Export Administration is inadequately staffed with technically competent personnel and backward in its administrative procedures. The system is top heavy with interagency review structures designed to compensate for inadequate personnel at the working levels and to avoid responsibility for licensing decisions. The interagency review process operates on the basis of an informal unanimity rule under which any interested agency can block an application. A system of interagency consultation which was designed to facilitate the balancing of all relevant considerations in licensing decisions has become a system where the most obstructionist agency can delay applications indefinitely.

The Department of Commerce, which is supposed to be the lead agency in the process, has been too content to rely on unanimity as a basis for decision, and has failed vigorously to exercise its leadership role to forge a consensus among the responsible agencies. My amendments address four underlying problems which contribute to the unwieldiness, inefficiency, and ineffectiveness of this system.

First, we in Congress have not done well enough at providing the administration with clear policy directives to guide it in making licensing decisions. As the Export Administration Act has been successively amended, inconsistent and even contradictory language has crept into the act. We have failed on occasion to state our intent with sufficient strength and clarity. My amendments seek to strengthen congressional intent and clarify policies.

Second, the administration has been unable to develop adequate criteria for determining which exports are most in need of control on national security grounds. It is apparent from my subcommittee's hearings that it is necessary to move away from the concept of controlling countries and toward the concept of controlling commodities. But this would require the development of better criteria for determining which commodities should be controlled. The process can never become significantly more efficient until the agencies involved learn to focus their resources more narrowly on the truly critical aspects of technology.

Third, we have to begin to reverse two related presumptions which underlie the licensing system. One is that we start by controlling everything, and that the burden of proof rests on those who seek removal of an item from the list. The other is that exporting is not a right which, like other rights, may be limited for specific and justifiable reasons, but rather a privilege which is granted by the State. These two presumptions, which are enshrined in the rules and the practice of the export-licensing system, contribute to the length of the commodity control list and the complexity of the Export Administration Regulations.

Fourth, for a quarter century the process has been closed to effective public scrutiny and congressional oversight. Most information about the functioning of the system has been deemed either security-classified or business-confidential. Secrecy is the atmosphere in which bureaucracy is most likely to feed on itself. A system so insulated will not reform. The national security and confidentiality arguments have been overdone in this field as in others. We have to open it up. For this purpose, the bill contains a number of "sunshine" amendments.

Mr. Chairman, section 1 of the bill extends the Export Administration Act for 1 year, to September 30, 1977. This short extension is necessary to give the committee, for which export controls are a new subject, an early opportunity to make such further changes in the act as may be indicated by further study. Some of my amendents call for detailed administration studies of particularly difficult aspects of the export administration program, and the committee hopes to have the benefit of these studies before providing a longer extension. And a 1-year extension will facilitate the close and continuing oversight of the program by the Committee that is necessary to stimulate the desired reforms.

Section 2, which increases the penalties for violations of the act, was offered by the distinguished chairman of the full committee at the request of the administration, and I am happy to have it included with my amendents. The penalties are unchanged since 1969 and need to be increased to take account of inflation, as well as to increase their deterrent value.

Section 3, like section 1, has the objective of facilitating congressional oversight of the export administration program—in this case by requiring specific authorization of appropriations for the program by the appropriate legislative committees. This amendment will also bring us into clear conformity with the House rules requiring prior authorization of appropriations. I am gratified that, in a previous exchange of correspondence, the gentleman from West Virginia (Mr. SLACK), the distinguished chairman of the Appropriations Subcommittee with jurisdiction over the program, indicated that he would welcome more adequate guidance by the committee with legislative jurisdiction.

Section 4 speaks to one of the most serious flaws in the export-licensing system, by providing that goods freely available from other countries shall not be controlled for export from the United States on national security grounds unless it is demonstrated by the President and justified to Congress that the absence of controls would damage the national security. There are disturbing indications that the administration's failure to adhere to such a policy is resulting in loss of business by American companies to their foreign competitors. The current language of the act is unclear as to what the policy on "foreign availability" should be. This amendment clarifies the language in a way which protects both the national security and commercial interests.

Section 5 contains a strengthened statement of congressional intent that license applications be decided up or down in a reasonable period of time, and provides applicants in certain cases with an opportunity to respond to objections to their applications. Although it is clear that Congress intends that applications be decided within 90 days except in unusual circumstances which are meaningfully explained to the applicant, applications still languish in the bureaucracy for months, as documented in the committee report and the subcommittee hearings, and the applicant cannot find out why.

Paragraph one requires issuance of a license for any application not decided within 90 days unless the agency raising an objection makes a positive finding that more time is needed and tells the applicant the specific reasons for the delay.

Paragraph two introduces an element of "due process" into the system by requiring that within the limitations of national security, an applicant for a license not decided within 90 days be informed of and given an opportunity to respond to questions or negative considerations raised in the interagency review process. This provision guards, for example, against the possibility that the objection is based on a misunderstanding or misinterpretation of the documentation submitted by the applicant. Together, these two paragraphs seek to make the export-licensing process more expeditious and accountable, while fully protecting the national security.

Section six reaffirms the intent of Congress that the secrecy provisions of the act do not authorize the withholding of information from Congress, and provides for submission of any information obtained under the act to any committee or subcommittee of Congress, upon request, with appropriate safeguards for protecting confidentiality. Most of the information acquired under the act is deemed confidential by the administration, and Congress gets it, even in executive session, only by the grace of the administration and under conditions imposed by the administration. It is inconceivable that Congress intended by the secrecy provisions of the act to deny itself access to such information as it might later deem necessary for the effective exercise of its legislative and oversight responsibilities.

Section 7 requires reporting to Congress on the impact of the technical advisory committees. These industry-Government committees were authorized as part of the 1972 amendments to the act to advise the Department of Commerce on technical matters, foreign availability, and licensing procedures, and in general to facilitate communication between business and Government. Heretofore these committees have been unable to determine whether anyone in the bureaucracy takes their recommendations seriously. Since the technical advisory committees function pursuant to legislation, the administration should be accountable to Congress for the use made of them.

Section 8 requires simplification of the rules and regulations issued pursuant to the act, to make them more understandable to the average businessman and thereby to facilitate compliance. Mastery of these lengthy, complex, and constantly changing regulations is costly for any business and is particularly difficult for small businesses which cannot afford to maintain staffs of experts on export regulations. Testimony suggests that much noncompliance is probably inadvertent, the result of an inability to determine what the requirements are.

Section 9 amends sections 4(h) and 6(b) of the act to bring them into conformity with the basic purposes and policies of the act as a whole, thereby providing the administration with more coherent policy guidance. This is accomplished by removing specific references to communist countries, and by providing stricter guidelines for restricting exports on national security grounds. Section 4(h) of the act, added in 1974, gives the Secretary of Defense a special voice in reviewing exports on national security grounds. This amendment preserves that special voice, but it both broadens it and narrows it. The amendment broadens the authority of the Secretary to review exports on national security grounds, by authorizing him to do so for exports "to any nation to which exports are restricted for national security purposes," rather than just for Communist-country exports as under current law. And the amendment narrows the authority of the Secretary to recommend against exports on national security grounds, by requiring him to show not only that the export would increase the military potential of another country, as under current law, but also that such increase would be detrimental to the national security of the United States. In so doing, this amendment brings section 4(h) into conformity with the basic policies of the act, which are to control exports to any nation which would prove detrimental to the national security of the United States.

Finally, this section makes a conforming amendment to section 6(b) of the Act by providing that the felony penalties of the act apply to exports in willful violation of the act with knowledge that such exports will be used for the benefit of any "country to which exports are restricted for national security or foreign policy purposes", rather than of any "Communist-dominated nation" as in the current law.

Section 10 repeals title II of the Mutual Defense Assistance Control Act of 1951, which provides for multilateral controls on the export to Communist countries of nonmilitary strategic items. This title has been superseded by the Export Administration Act and is now obsolete.

Section 11 requires reporting to the Secretary of Commerce of any technology exchange agreement which may result in transfer of technical data from the United States and the monitoring of technology transfers under such agreements by the Secretary, and a study by the Secretary of the problem of the transfer of technical data in scientific publications. This amendment responds to concerns voiced in hearings and in the press that significant transfer of technology from the United States takes place by means not subject to the export-licensing process.

Section 12, in a further attempt to facilitate oversight of the act by Congress, specifies the information to be included in the semiannual reports to Congress already required by the act.

Section 13 requires the submission within 12 months of a special report on multilateral export controls. These controls are currently governed by an informal 15-nation group of advanced industrial democracies known as COCOM. There are disturbing indications that COCOM is inefficient, slow to reflect changes in technology, unable to promote uniform application of export controls by its members and to monitor compliance with end-use guarantees, and as a consequence ineffective in controlling the flow of technology and disadvantageous to American business. This amendment will provide Congress with a better informational basis for possible future legislation, and will stimulate the administration to think about how the system might be reformed.

Mr. Chairman, section 14 of this bill is an important provision which seeks to protect Americans and American firms from discrimination and to preserve the right of Americans to do business abroad without political pressure. The provision would prohibit Americans from intentionally complying with any foreign boycott of a country friendly to the United States.

As the committee report points out, this provision is aimed principally at American complicity in the Arab economic boycott of Israel. This boycott involves Americans in several respects. Arab nations may refuse to do business with any American person or firm that deals with Israel or that is owned or managed by Jewish Americans. This is the so-called "secondary" boycott.

Similarly, Arab nations or firms may refuse to do business with any American person or firm which does business with another American person or firm that is Jewish or that has dealings with Israel. This so-called "tertiary" boycott compels Americans to discriminate against other Americans in order to do business with Arab nations and firms.

The "primary" Arab boycott of Israel—under which Arab nations and firms refuse to do business directly with Israel and Israeli firms—is outside American jurisdiction and is not affected in any way by this legislation. Contrary to some press reports and the comments mostly of opponents of this measure, this bill is not intended to stop the direct Arab boycott of Israel. It would only end the secondary and tertiary aspects of that boycott insofar as American firms are concerned.

As far back as 1965, the Senate passed legislation similar to the provision in this bill banning all compliance with foreign boycotts. The House, however, was persuaded by executive branch arguments that the way to deal with this boycott was by quiet negotiation. So with that in mind, the Congress settled for a policy statement which is contained in the current Export Administration Act, which encourages American firms to refrain from complying with the terms of foreign boycotts but does not prohibit such compliance.

Diplomatic efforts to reduce the impact of the Arab boycott have not been successful after more than 10 years. With the growth of Arab economic strength, the boycott has grown. Investigations by my Subcommittee on International Trade and Commerce, by the Subcommittee on Investigations of the Interstate and Foreign Commerce Committee, and by the Subcommittee on Commerce, Consumer and Monetary Affairs of the Government Operations Committee have all found extensive evidence of boycott requests in business contracts and letters of credit. All have recommended and endorsed legislation along the lines contained in this bill to prohibit U.S. compliance with foreign boycotts.

In weighing the possible Arab response to this measure, two considerations should be kept in mind. First, considerable interdependence has developed in recent years between the United States and the Arab world. We are dependent upon the Arab nations for much of our oil. But the Arab nations have purchased billions of dollars in military equipment. They will need technical assistance and spare parts for that equipment for many years, and will undoubtedly wish to continue to obtain more of this kind of equipment.

Second, sales to Arab countries by European nations that have taken the hardest line against compliance with the embargo, such as the Netherlands, have increased as fast or faster than the European nations that have generally complied with the boycott, such as France.

Mr. Chairman, a number of arguments have been raised by businesses and interest groups in this country, such as the National Association of Arab Americans, in opposition to this antiboycott provision to which I wish to respond.

The first such argument is that this provision would prohibit U.S. trade with Arab countries. It would do no such thing, nor is it intended to. Certainly there is nothing in this bill that prohibits United States-Arab trade. Its impact on trade will depend upon how the various Arab nations choose to respond to it. We know that a number of the Arab nations have little interest in continuing the embargo and have implemented it only very loosely in recent years.

Even the countries that implement it most rigorously do business with a number of large companies that have refused to comply with the embargo—companies that do business openly with both Israel and Arab countries.

Finally, the boycott is implemented mostly against trade involving U.S. investment. Much trade which does not involve investment is unaffected by the boycott. Presumably much of this trade—noninvestment trade, trade by companies which already refuse to comply with the embargo, and trade with Arab countries which are not deeply committed to continuing the embargo—would be unaffected by this provision. Many firms have existing contracts with Arab firms or governments—some of them long-term contracts. Since under international law contracts are generally entered into subject to any government restrictions, such existing contracts would remain valid and enforceable even if they contained boycott requirements with which the American parties could no longer comply.

A second argument, Mr. Chairman, is that this provision will cost American jobs—"up to 650,000 jobs in the United States" according to an ad appearing yesterday in the Washington Post and other newspapers under the sponsorship of the National Association of Arab Americans. That argument presumes that this provision would stop all trade with Arab countries which, of course, is not the case.

American business has long shown its ability to sell its superior products at home and abroad. The Arab nations need American products and technology. In my judgment they will accept the reality of the new situation and will continue to import American products and technology.

Even under existing conditions Arab countries have often ignored the black list when it was important to them to do so.

Also, if we continue to bow to the pressure of the Arab boycott, we open ourselves to similar blackmail and involvement in other foreign political disputes that would cost far more jobs than might be lost if we stand firm on principle now against compliance with or complicity in such foreign boycotts.

It is ironic, Mr. Chairman, that some of the American companies that have written me in opposition to the prohibition in this bill against compliance with foreign boycotts say they oppose that prohibition because they do not like the U.S. Government telling them who they can and cannot do business with. Consider the inconsistency of that argument.

In the first place, this provision as I have already pointed out, does not tell American businesses that they can not trade with the Arabs—only that they can not trade in compliance with boycott demands. More importantly, this argument puts American business in the position of rejecting restrictions imposed by the American government while accepting restrictions imposed by Arab governments.

Yet another argument that is made by opponents of this measure is that it will create a massive shift of Arab business to our foreign competitors. In the words of a Mobil Oil Co. advertisement printed in various newspapers such as the New York Times on September 16, this provision would "be the most gigantic subsidy for foreign business ever enacted by Congress—a Marshall Plan for America's competitors abroad." This is a most irresponsible charge. Most of the goods and services provided to Arab nations by the United States are available from two other sources—Japan and Europe. The Arabs have shown little inclination to do business with the Japanese.

With respect to Europe, it would be naive to suppose that there are not European firms that are more than ready to take any business they can away from American firms. But that may not be as easy as the Arabs and some American firms suppose.

In the first place, some products will not be available in Europe in quantities and quality equal to those available from the United States. Second, while some European governments permit compliance with Arab boycott demands, the European Economic Community is taking an increasingly strong stance against such compliance. The Treaty of Rome—the "constitution" of the European Economic Community—contains strong antidiscrimination provisions, and those provisions are being included in bilateral trade agreements which the EEC is presently in process of concluding with the Arab countries.

Article 85 of the Treaty of Rome proscribes any concerted practices which are likely to affect trade between the member states and which have as their object or result the prevention, restriction or distortion of competition within the Common Market.

Article 86 proscribes action by one or more enterprises to take improper advantage of a dominant position within the Common Market or within a substantial part of it. Both articles prohibit "making the conclusion of contracts subject to acceptance by other parties of supplementary obligations which by their nature or according to commercial usage, have no connection with the subject of such contracts."

Bilateral trade agreements concluded so far by the EEC with Algeria, Morocco, Tunisia, and Egypt prohibit business arrangements which "give rise to any discrimination between the member states—of the EEC—their nationals, or their companies or firms."

In view of these policies of the EEC, as well as the policies of some European national governments, against compliance with foreign boycotts, it may not be as easy as Arab leaders and some American firms think for the Arabs simply to shift their business to Europe and still maintain the secondary and tertiary aspects of their embargo.

Finally, Mr. Chairman, it is a mistake to speak of this legislation as being intended to hurt the Arab countries or to help Israel. Neither is the case. No American company would be forced in any way by this bill to do business with Israel. Indeed the bill specifically states that the fact that a company that does no business with Israel but does business with Arab nations does not itself constitute or indicate compliance with the embargo. The main injury this bill tries to remedy is the injury to American business that are forced to choose between doing business with Israel and doing business with the Arab nations.

I should like to add comments at this time on the Committee amendment which will be proposed as section 18, and which was offered in the Committee by Messrs. ZABLOCKI and FINDLEY.

While I share the concern of a number of my colleagues that this language does not go far enough toward strengthening our nonproliferation efforts. I am most confident that the amendment represents a positive first step in the right direction.

It tightens our control over reprocessing by foreign nations which import U.S. nuclear material. It improves IAEA inspection procedures. It strengthens the role of the State Department in assuring that detection systems designed to guard against diversion of special nuclear material overseas are adequate to prevent the development of nuclear weapons by still more nations. And the amendment includes a firm declaration of congressional policy regarding proliferation of reprocessing capabilities, as well.

Facts and figures which serve to dramatize the grave nature of what has rapidly become a proliferation crisis abound; I shall not belabor my colleagues here today with a complete recitation of the grim statistics. But I should like to stress one point at the outset of my remarks; the time for action on the proliferation crisis is now. We simply cannot afford to let Executive inaction or congressional infighting imperil our efforts to address the proliferation dilemma.

The proliferation of nuclear technology and nuclear weapons-capability endangers the security of the United States and threatens, indeed, the security of every human being on this planet. And yet this spread of nuclear hardware and nuclear weaponry has continued unabated while the administrations of Richard Nixon and Gerald Ford have failed to address the crisis with any effective initiatives. This tail-dragging has continued through 7½ years of Republican maladministration; thus it has clearly become incumbent upon this Congress to seize the initiative in a policymaking area which has traditionally been left to the Executive branch and to formulate some strong nonproliferation objectives.

The Ford administration has long maintained that plodding agency reports and special study groups will suffice as a manner of dealing with the problem, and are in fact preferable to any legislative action. Evidently the President is just now preparing to make public a recent in-house study which might shed some light on what actually is this administration's nonproliferation policy, if it can even be said to have one.

Why must the President wait until years after the onset of this problem, until months after the issuance of a detailed and comprehensive statement on the matter by his Democratic opponent, to even get around to speaking to the issue, not to mention suggesting some hard solutions?

The present position of the Ford administration, or at least the position of its chief spokesman on the nonproliferation question, Robert Fri, is one of great timidity. "We no longer have any significant leverage over the international nuclear marketplace," Mr. Fri explained to me and a dozen colleagues at a recent breakfast meeting. This is the line we hear from other Ford spokesmen at ERDA and the NRC, that we only have 60 percent of the foreign reactor market, that our share of the enriched uranium market will decrease rapidly in the near future, that we have little significant influence with which to advance nonproliferation goals.

This weak position completely belies the fact that while we control but 60 percent of the foreign reactor market, those nations which supply the other 40 percent of reactor sales are almost totally reliant upon us for delivery of enriched reactor fuel. And while France and West Germany may have the potential to gain a small degree of our share of the free world market for enriched uranium sometime in the decades ahead, the United States still dominates this market today by a factor of 71 to 1. In short, the United States has any number of levers with which to address the proliferation crisis, should its Congress and its President choose to act.

I have heard the arguments advanced that it is not for the House International Relations Committee to address this issue, similarly that it is not proper for the Senate Committee on Goverment Operations and Foreign Relations to draft legislation aimed at easing the proliferation crisis, that all such initiatives must come from the membership of the Joint Committee on Atomic Energy. I reject this argument categorically. It is for all of us, all of us here in the Congress and the Government to address this momentous issue, without deference to intrabureaucratic squabbles.

Certain members of the Joint Committee on Atomic Energy have seen fit to denigrate the International Relations Committee amendment, calling it an "amateurish," "piecemeal" approach to the proliferation dilemma. The opponents of our amendment, including my colleague Mr. ANDERSON of the Joint Comittee, maintain that they "have the real answer to the proliferation problem," which will be forthcoming in their own proposals. H.R. 15419, which Mr. ANDERSON has, upon occasion, held up as "the professional approach," certainly is a more comprehensive statement of objectives. But I would submit that this Joint Committee proposal is far too little, far too late. Far too little, because H.R. 15419 completely emasculates the compromise nonproliferation bill worked out by the chairman of the JCAE, Senate Government Operations, and Senate Foreign Relations by watering down most of the compromise bill's substantive provisions. Far too late, because H.R. 15419 was not acted upon by the Joint Committee until after the Rules Committee deadline for considerationtion of legislation to be brought to the floor this session. Even then the bill was voted out of the JCAE without so much as a precursory reading of a host of amendments.

Frankly, I am forced to call into question the supposed good faith of those Joint Committee members who claim, as Mr. ANDERSON did before Rules last Wednesday, that "proliferation matters are being considered expeditiously elsewhere in Congress." These matters have not been considered in a thorough expeditious fashion by the Joint Committee. That committee is severely divided on the proliferation question. It has even seen fit to reject the wisdom of its own chairman, whose compromise bill could not get the votes to get out of his committee.

The record shows that Mr. ZABLOCKI's subcommittee or the full International Relations Committee held hearings on this problem for several days last October, and then again in November of 1975. The committee received several detailed reports on the proliferation question from the GAO. Testimony was again received by the full committee in June and August of 1976, making a total of 21 witnesses addressing the committee on proliferations questions and particularly on the advisability of the amendment before the House today. Meanwhile, the Senate Foreign Relations Committee worked strenuously on the proliferation problem and the Senate Government Operations Committee held a remarkable series of hearings, compiling a more than 2,000-page document supporting the passage of strong nonproliferation legislation.

Yet now the members of the International Relations Committee are charged with maliciously circumventing House rules by offering the amendment before us today as a committee amendment and not including it in the legislation we brought before the Rules Committee last week. If we had not followed this perfectly legitimate route, the bill would have routinely been referred to the JCAE where it would most certainly have languished and died, dashing any hope that this Congress might take even this small step in stemming nuclear proliferation.

When did the Joint Committee act on this crisis and report out a bill, any bill, even attempting to deal with the realities at hand? Not until last Tuesday, after the Rules Committee deadline, and only then, I suspect, to hold up its watered-down, paste-up legislation, H.R. 15419, as the answer to the proliferation crisis, even though the bill—upon which no real hearings were held by the Joint Committee—had no chance to reach the floor at such a late hour. The legislation emerging from all these political shenanigans is a poor excuse for forward-thinking policy and does not deserve to be held up as "THE answer" to the problem, and most certainly is not so meritorious as to warrant Congress to defer action on the well-considered amendment before us today.

As a final point, I would just reiterate that there is no single solution to the proliferation crisis. Congress and the executive branch must work relentlessly to make progress in this area. I have concluded, along with a number of my colleagues, that proceeding with one small constructive step today is far more desirable than rushing through a paste-up bill which purports to "solve" the problem—but is actually retrogressive—and then abandoning the topic. Thus I urge my colleagues to support the proposed committee amendment.

Mr. MORGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. SCHEUER).

Mr. SCHEUER. Mr. Chairman, 2 weeks ago both Governor Carter and President Ford went before the national convention of B'nai B'rith in Washington to declare their opposition to the Arab economic boycott. Their support is welcomed both to overhaul administration implementation of the boycott, which is sloppy, fainthearted, and ineffectual, and even more important, to expedite new legislation making cooperation with the Arab boycott flatly illegal. The administration's decade-long record of nonfeasance and malfeasance shows that legislative action is necessary.

On September 7, the House Commerce Committee released a report on the Arab economic boycott which indicates that during 1974 and 1975 at least $4.5 billion worth of U.S. sales and proposed sales to Arab countries were subject to boycott requests.

For the past 11 years the Commerce Department has failed to execute vigorously our foreign policy as expressed by the Congress and by successive Presidents and Secretaries of State. The Commerce Department has also opposed every legislative attempt to strengthen our antiboycott stand. The report indicates that the Commerce Department at best, did a bare minimum to carry out the mandate of the foreign boycott provisions of the Export Administration Act. Actually they furthered the boycott by implicitly condoning activity declared against national policy, and overtly facilitated the boycott in several important respects:

Commerce Department forms on which companies receiving boycott requests were to report such actions contained language which stated that, while it was against U.S. policy for corporations to comply with boycott requests it is not against U.S. law to do so, thereby sending out a clear signal for companies to do as they wished.

These same forms made it optional for companies to declare whether they were, or were not, complying with boycott requests, making it impossible for the Commerce Department even to measure, much less to evaluate, the impact of the boycott on our foreign commerce.

The Commerce Department itself distributed to U.S. businesses bid documents on Arab trade opportunities requiring compliance with boycott provisions. Last March, Commerce Department officials met with American businessmen to discuss ways in which U.S. export firms could evade the reporting requirements of antiboycott legislation by setting up foreign subsidiaries, thus making the Commerce Department an active agent of the Arab boycott office.

The Commerce Department's reporting system was so slipshod and inaccurate as to be misleading and to obfuscate the true effects of the boycott. Export forms were designed to make the compilation and computerization of data difficult, and analysis of 30,000 reporting forms virtually impossible.

Antiboycott legislation will not have a negative effect on Arab-American trade because the Arabs have repeatedly stated that they will not allow the boycott to interfere with their own economic development. The report documents that since 1973 Arab trade with staunchly antiboycott nations has increased substantially—Holland, 83 percent; Sweden, 93 percent; West Germany, 100 percent; and the United States, 109 percent—while Arab trade with a nation like France which supinely acquiesces to boycott threats, increased by less than 50 percent.

Indeed, the United States which—at least theoretically—has the most clearly enunciated antiboycott policy, currently enjoys only 18 percent of the world export market, but nevertheless provides 40 percent of the goods and services purchased by the Arabs in the world market.

Quite clearly, there is absolutely no hard evidence that defying the Arab boycott has any adverse impact on a country's ability to do business, and indeed, increase trade with the Arab nations. IBM, Hilton, and TWA are all doing major business with Israel and the Arab world. General Electric, which provides the jet engine for the K'fir jet fighter—Israel's first military jet—does extensive business throughout the Arab world. Clearly, the Arabs will buy goods and services where they can be found at the most favorable prices and the most favorable terms, and they have made clear that they will not let boycott operations interfere with their own economic development.

Therefore, I urge all my colleagues to support section 14 of Export Administration Act extension which would effectively end the immoral and demeaning Arab economic boycott in America.

Mr. MORGAN. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. REES).

Mr. REES. Mr. Chairman, I would like to ask the distinguished chairman of the subcommittee several questions on specific sections of the bill that we were just discussing.

On page 16, which is section (2)(A) it says that no United States person shall take any action with intent to comply with or to further or to support any trade boycott fostered or imposed by any foreign country, et cetera. If a person signs a boycott form, and I have never seen one, but merely states that they do not have any business at the present time in Israel, would the signing of this statement be intent?

This refers also back to page 17, section (IV), line 8, which says it is illegal to furnish information about any past, present, or proposed business relationship; so that if a person merely signed a form saying that they did not do business in Israel and sent that back to the intended purchaser of equipment, say Egypt, they would then, it seems to me in reading this, be in violation of the act.

Mr. BINGHAM. Mr. Chairman, if the gentleman will yield, let me respond to the gentleman in this way.

The committee was very careful to prohibit only actions taken with intent to comply with or further the boycott. Obviously, it was not the intention of the committee to require any business concern to do business with Israel. We so stated on lines 6 to 8 on page 16 of the bill, that the mere absence of a business relationship with a boycott country does not indicate the existence of the intent required by the preceding sentence.

So it is perfectly clear that a company is free to do business or not to do business with Israel, as it sees fit.

The question of intent, which is a question that is frequently found in criminal statutes as to whether an act is prohibited by law or not, the matter of intent is often a key consideration and that is a question of proof that must be adduced in a court of law if the person is to be punished.

In the case the gentleman raises, I believe that the supplying of a statement such as the gentleman has in mind—that the concern does not do business with Israel—would presumptively disclose the intent constituting a violation of law.

Mr. REES. Mr. Chairman, it concerns me, because it seems to me if one signs a statement that represents intent and if the statement merely states they do not have any business with Israel, it would be in violation of section IV.

I might ask the gentleman further what would happen with those American firms doing business in the Middle East?

The CHAIRMAN. The time of the gentleman from California (Mr. REES) has expired.

Mr. MORGAN. Mr. Chairman, I yield 2 additional minutes to the gentleman from California.

Mr. REES. Mr. Chairman, to continue my question, how would this affect U.S. firms now doing business in the Middle East who have already signed a form stating that they have not been doing business with Israel?

Mr. BINGHAM. Mr. Chairman, if the gentleman will yield further, there are many statutes which are passed which affect existing contracts. We recognize there may be some time required to adjust to the provisions of this legislation if it is enacted into law; but existing business relationships which depend on a continuation of compliance with a boycott would be affected, yes.

Mr. REES. So if a company had signed the form say 4 years ago upon enactment of this act, would they then be in violation of the act?

Mr. BINGHAM. Not by the fact of the signing of the form 4 years ago. We are certainly not engaging in ex post facto legislation here. What would be determinative would be the behavior of that company following the enactment of the law.

Mr. REES. If the company merely fulfilled its contract it already had and was not asked to sign any boycott form by the Arab country involved, then the gentleman is saying that they would not come under this act in terms of intent?

Mr. BINGHAM. Again, that would be a matter of proof to be brought in court.

Mr. REES. The gentleman does not know the nature of the proof?

Mr. BINGHAM. It would be composed of other communications, I suppose, if there were other communications indicating that the business was going to continue to comply with the boycott; the kind of proof that is offered in, let us say, antitrust cases, where intent is a very important aspect of the problem.

Mr. REES. I thank the gentleman.

Mr. BROOMFIELD. Mr. Chairman, I yield as much time as he may consume to the gentleman from Pennsylvania (Mr. BIESTER).

Mr. BIESTER. Mr. Chairman, I rise in support of H.R. 15377, the Export Administration Act Amendments of 1976

The bulk of this bill is aimed at improving the export licensing process. That it must be improved has not been disputed by any witnesses who have testified before the House International Relations Committee or its Subcommittee on International Trade and Commerce, of which I am the ranking minority member. Some of the problems arise from lack of clarity in the Export Administration Act itself. Past and periodic amendment of the act has compounded the contradictions of policy language, prompting the committee to make a start in this new area of its jurisdiction to begin the task of making more consistent the policies and procedures of the act.

The first area of broad concern of our amendments is the fundamental right to export. In a free enterprise economy such as ours which has repeatedly pledged its commitment to free trade among nations, the right to export is a basic presumption, and it should be abridged only for specific and overriding national security reasons. However, the current act, taking its cue from the days of 1949 when practically all trade with Communist countries was curtailed, operates with the assumption that everything is controlled, even though current policy focuses on control of only those items which might contribute to another country's military potential to the detriment of U.S. national security.

Several of our amendments clarify this focus including, for example, section 9, which deals with the special role of the Defense Department in the licensing process, and section 4, which directs the President to remove unilateral export controls on goods freely available elsewhere unless he can demonstrate that the absence of those controls would damage the national security. Our amendments also highlight the fundamental right to export in, for example, section 5, which provides that any export license application not decided within 90 days is deemed to be approved and the license shall be issued unless the applicant is notified in writing of the specific reasons for a delayed decision.

Another area of broad concern to us is the traditional focus of export control in law and practice on country destinations—particularly Communist ones—rather than the intrinsic nature of the commodity itself. Our bill recognizes that Communist countries may vary in the extent to which they constitute a threat to the national security of the United States, and that non-Communist countries—and therefore, exports to them—may also constitute such a threat, direct or indirect. We expect that increased efforts to identify the commodities most likely to contribute to foreign threats would lead to increased efficiency and effectiveness in the export control process.

A third aim of our amendments was to provide for more accountability in the export control process. We extended the act for 1 year—section 1—modifying the administration's request for 3 years, because we felt the need for close and continuing congressional oversight. For this reason among others we require specific authorization in section 3 for funds to carry out functions prescribed by the act. In other sections we reaffirm the right of Congress to obtain information acquired under the act, we give license applicants certain opportunities to respond to objections raised by officials, we call for a simplification of the export control regulations, and we require various reports to be submitted to the Congress. However, throughout all of these provisions we have taken care to safeguard the legitimate need for confidentiality so that proprietary trade secrets and national security information are duly protected.

Sections 1 to 13 of this bill represent a bipartisan effort at remedying some of the shortcomings of the export control system. This effort was spearheaded by Congressman BINGHAM whom I wish to commend for his receptivity to modifying suggestions offered by both his colleagues and administration officials. In conclusion, Mr. Chairman, I urge my fellow House Members to vote for this bill.

Mr. BROOMFIELD. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I rise in support of the legislation before us today, H.R. 15377, a bill to amend the Export Administration Act of 1969.

This legislation seeks to clarify and make more consistent the policies and procedures of the Export Administration Act. In addition, it represents a bold step forward by the Congress to help define and direct United States export policy in such areas as foreign trade boycotts and nuclear exports.

The majority of the recommended changes to the existing law as represented in this bill have evolved from extensive and meticulous consultation with the executive branch of the Government and other public and private concerns. These changes, for the most part, have broad support from all parties concerned and are basically designed to strengthen and simplify procedures for export control programs. In addition, the authority of the act is extended for a 1-year period, reflecting the desire to maintain a close and continuing congressional oversight.

One of the major features of H.R. 15377 is section 14, to end compliance with the discriminatory practices of foreign boycotts. These not so subtle attacks on U.S. foreign policy pit one American against another because of his racial, ethnic or religious background. Such forms of economic blackmail must not be allowed to continue.

Current policy statements in the Export Administration Act state our opposition to such restrictive practices. However, we need not only to oppose and discourage such acts, but to prohibit them. With the adoption of section 14, the same principles of freedom from repression, nondiscrimination and rights of religious tolerance upon which this great Nation was founded would be applied to the conduct of commerce.

Another important feature of this legislation, section 18 concerns nuclear exports. Current safeguards applied to nuclear equipment and materials are designed to detect diversion of from peaceful to nonpeaceful uses. The safeguards do not, however, work to prevent such diversions.

The effectiveness of such safeguards, however, can be greatly enhanced when applied to the nuclear reactors that we export. In this manner, we can insure that other countries will not be able to circumvent current United States and international controls and use the spent fuel from a non-U.S. source to obtain plutonium. It is this plutonium, a byproduct of spent reactor fuel, that can be diverted for the purpose of making a nuclear bomb.

By requiring that the United States retain control over all nuclear materials from reactors we have exported and by prohibiting the reprocessing of American supplied fuel by foreign countries, we can better control the equipment and material needed to produce a nuclear weapon.

While the adoption of this amendment by itself will not stop the proliferation of nuclear material and nuclear weapons, it will be a significant step forward in that direction. Had such safeguards been part of our past policies, American material might not have been used to detonate India's first bomb.

The United States has led the way in seeking new and more effective safeguards. We must continue to set the example by establishing these needed controls over the reprocessing stages. Section 18 will continue this tradition.

As an initial cosponsor of both the proposed amendments on foreign boycotts and nuclear exports, I strongly urge their passage. As a cosponsor of H.R. 15377 itself, I believe it represents responsible legislative leadership and deserves the consideration and support of my colleagues. I urge its adoption.

Mr. Chairman, I would like to take this opportunity to commend our distinguished chairman, the gentleman from Pennsylvania (Mr. MORGAN), not only for his leadership in bringing this measure to the floor, but I would also like to take this opportunity to note that this may be our distinguished chairman's last debate on the House floor as the chairman of the Committee on International Relations.

While we all regret that Chairman MORGAN has seen fit to bring to an end his distinguished 30-year career of public service in the House of Representatives, we recognize his outstanding 18 years of leadership as chairman of our Committee on International Relations; a tenure of leadership that has spanned five Presidencies and many severe international crises.

To Chairman MORGAN go our heartfelt wishes for many years of health and happiness in his deserving retirement.

Mr. BROOMFIELD. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. WHALEN).

Mr. WHALEN. Mr. Chairman, I rise in support of H.R. 15377, the Export Administration Act Amendments of 1976.

This bill contains a variety of provisions, including sections with conditions attached to nuclear exports, antiboycott language, and specific exemptions from controls—such as for petroleum products refined in U.S. foreign trade zones under carefully delimited circumstances.

However, the major subject addressed by this legislation is the overall framework of export controls. This is a very complicated subject, both in a technical and a policy sense. To start with, the Congress has enunciated two contradictory policy objectives: To promote trade, and to restrict it when necessary. This creates an inevitable dilemma: In the grey area that exists between proposed trade that has clearly dangerous national security risks and proposed trade which as clearly entails no such risks, which objective should receive top priority? As in many other areas of foreign economic policy, such as the Trade Reform Act of 1974, the Congress has seen fit to stand on the fence and has given no guidance one way or the other.

This policy dilemma has been further complicated by numerous accretions to the act over the years, and the thrust of many of the committee's proposals in this bill is to resolve the inconsistencies as best as can be done.

Second, on the practical side, there were a set of common threads of discontent running throughout the testimony of many witnesses we heard during subcommittee and committee hearings. These related particularly to the operation of the informal coordinating committee known as COCOM, the international body that meets to discuss common rules on categories of export restriction and exceptions to the categories established. These discontents were five in number:

First. The charge was made that there is old technology or dated technology on COCOM's list;

Second. The charge was made that there is technology on the list which has no substantial security impact;

Third. It was charged that there is a lack of manufacturer input, both domestically in the decisionmaking process as well as at COCOM meetings.

Fourth. It was claimed that there is undue delay in the decisions made domestically; and

Fifth. It was alleged that there is unequal enforcement by other COCOM countries, to the detriment of the U.S. firms.

The various and sundry proposals of H.R. 15377 have attempted to deal conscientiously with these core problems, perhaps not in a definitive manner, but to jog the system in the direction of greater efficiency and effectiveness, as well as greater equity.

Mr. Chairman, this bill before us has been carefully worked over in a bipartisan effort and I would like to urge my colleagues to support its final passage.

Mr. BROOMFIELD. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas (Mr. WINN).

Mr. WINN. Mr. Chairman, that the spread of reprocessing facilities vastly increases the danger of nuclear proliferation is an accepted fact. Exactly what to do to restrict the acquisition of reprocessing technology is, however, unfortunately still in dispute. While Congress continues to mandate studies and to legislate wishful thinking rather than solutions, nuclear proliferation becomes more certain.

This amendment is a positive step toward reinforcing U.S. efforts to stem nuclear spread. It would restrict the reprocessing of U.S.-supplied fuel by recipient states until such time as effective safeguards can be applied. This is little enough to ask.

U.S. agreements for cooperation give us a veto over the reprocessing of U.S. fuel by recipient nations. Our agreements stipulate that we will not permit reprocessing to occur unless effective safeguards can be applied. But we have never defined what we mean by effective safeguards. This amendment defines what should be our safeguard standard for reprocessing. It sets a standard in terms of time—warning time. This is a minimum condition and not necessarily the only one our Government may want to apply.

This standard of reliable warning time must apply to reprocessing, no matter where it is located, in national or international centers. To suggest that international centers solve the problem of proliferation is to obscure what is really at stake. A country that receives reprocessed fuel from an international center has available to it about 50 bombs worth of plutonium per reactor. It is not simply the reprocessing that is dangerous, it is also the fuel itself. Plutonium fuel is convertible—overnight—into nuclear explosive devices.

If the United States encourages international reprocessing centers, it should only do so with the secure knowledge that effective safeguards can be applied to reprocessing and reprocessed fuel. With the stimulus this amendment gives to safeguards research, international reprocessing can be made safeguardable by the time it is economic, which it currently is not.

Until the United States can be assured that its safeguards, when applied to reprocessing and reprocessed fuel, can provide timely warning of diversion, it should not aid or permit nations or groups of nations to reprocess U.S.-supplied fuel.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. WINN. I yield to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Chairman, I want to compliment the gentleman on his statement. I think it was an excellent description of the situation. However, there was one point that the gentleman made that I would appreciate if he could clarify.

I think the gentleman referred to the language of the amendment as prohibiting the reprocessing of American-supplied fuel for use as nuclear weapons. My reading of the language of the amendment is that it would also prohibit the reprocessing of any fuel, regardless of source, if the reactor was supplied by the United States. Am I in error on that?

Mr. WINN. No. The gentleman is correct.

Mr. BROWN of California. I thank the gentleman for clarifying that point.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Chairman, I would like to take a moment or two to ask a question of the gentleman from New York, the author of the amendment here that I find so repulsive in this legislation.

If the gentleman will recall my remarks during consideration of the rule, I mentioned the multinational corporation in my district, Caterpillar Tractor Co., the largest returner of dollars to this country in export trade. They have plants around the globe, in France, Belgium, England, Australia, and elsewhere. There are, for example, components of Caterpillar's equipment which are made in France, which are made in Belgium, which are made in England, and which are shipped to the Arab countries. None of those countries have the same feeling about this issue as this country is about willing to express if the gentleman's amendment is adopted. Having this differing view toward the Arab countries, what effect does that have on equipment that is built in those countries in Caterpillar's subsidiaries, married up with the equipment in this country, and then shipped to the Arab countries? Are they barred? We have no right to bar shipment of those component parts or machines of companies over whom we have no control, who are free to negotiate, free to trade with Arab countries, as they choose.

Does this amendment, by any stretch of the imagination, have any effect on those transactions?

Mr. BINGHAM. Let me say, first of all, to the gentleman, if he will yield, that it is clearly not the intent of the committee to attempt to prohibit the application of the primary boycott. A primary boycott is something which we ourselves engage in, with respect to various countries.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. MICHEL) has expired.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 additional minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. BINGHAM. If the gentleman from Illinois will yield further, we are, therefore, not intending to prohibit the application of the primary boycott which the Arabs impose on products coming from Israel and which contain Israeli components.

However, the gentleman's question could also be directed to his own legislature in Illinois which has adopted legislation very similar to this and which prohibits compliance with the boycott. One of the reasons we need Federal legislation is that States like Illinois, New York, and Maryland have adopted antiboycott legislation. Pennsylvania has a bill pending, and these States have adopted legislation prohibiting compliance with the boycott. So we need a uniform approach.

Of course, the interpretation of the legislation would have to be an intelligent interpretation. As I indicated in my colloquy with the gentleman from California (Mr. REES), we must show an intent to cooperate with the boycott before one can be found to have violated it.

Mr. MICHEL. Mr. Chairman, would it be possible to avoid the provisions of this antiboycott legislation by transshipment from the parent company to a subsidiary and then have the material sold to one of the Arab countries through one of the company's subsidiaries, even though the normal channel of the transaction would not take that course?

Mr. BINGHAM. If the intent of that transaction would amount to an intent by the American company to further the boycott and comply with it, then I would say, yes, that would be a violation.

Mr. MICHEL. Mr. Chairman, it may be that during the consideration of the bill and the reading of the bill under the 5-minute rule we will have further questions to propound. I do not want to delay the Committee's moving into the amendment stage.

Mr. BROOMFIELD. Mr. Chairman, I yield back the balance of my time.

Mr. MORGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Chairman, I wish to commend the committee for this very important bill, and I wish to commend particularly the distinguished gentleman from New York (Mr. BINGHAM), who has developed this legislation.

If I may, I will say parenthetically to the gentleman from New York (Mr. BINGHAM) that there is another State involved here; namely, Massachusetts, that has also passed a State antiboycott law. I agree completely with the gentleman from New York (Mr. BINGHAM) that the existence of these five laws in these five States adds one more reason why we need a national law.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield momentarily?

Mr. DRINAN. I am happy to yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman from Massachusetts (Mr. DRINAN) for his comments, but I would like to say that this is a joint product of a number of members of the committee, including particularly my colleague, the gentleman from New York (Mr. ROSENTHAL) and the gentleman from New York (Mr. SOLARZ). A number of the members of the committee contributed to the formulation of this legislation. I am glad to know that Massachusetts has also adopted it.

Mr. DRINAN. Mr. Chairman, I thank the gentleman very much.

Mr. Chairman, I am pleased to rise in support of H.R. 15377 which would bring to an end American complicity in the insidious Arab economic boycott of Israel. Our Nation's policy of opposing restrictive trade practices is established by statute. While section 4(b)(1) of the Export Administration Act gives the Secretary of Commerce the authority to prohibit compliance with boycott demands, Secretary Richardson and his predecessor, Rogers Morton, have refused to exercise that power.

In the midst of this executive branch paralysis, the boycott has continued to grow in size and strength. The tremendous expansion of American trade with Middle Eastern nations has transformed the boycott from a minor nuisance into a festering cancer within the American economy. We have all received a copy of the excellent report issued by the Interstate and Foreign Commerce Subcommittee on Oversight and Investigations. That report stated that American firms were acquiescing to boycott demands in more than 90 percent of all cases. Thus, in the absence of sanctions imposed by the administration to enforce American policy, it is apparent that the vast majority of companies doing business in the Middle East have succumbed to economic blackmail and are actively participating in the strangulation of our ally, Israel.

The impact of the boycott on the Israeli economy is readily apparent. Numerous American firms are also adversely affected by domestic compliance with boycott demands. More than 1,500 American companies appearing on the Arab blacklist are unable to do business with Arab countries or with other American firms which have agreed to comply with the regulations of the Arab Boycott Office. Such regulations prohibit doing business with a blacklisted firm. Thus, American companies are presently faced with the choice of succumbing to Arab demands or suffering a loss of business to other American firms. A uniform prohibition on compliance with boycott demands would end this dilemma and place all firms on an equal competitive standing in seeking business in the Middle East and elsewhere.

It is apparent that the only effective remedy of this intolerable situation lies in the enactment of appropriate legislation to carry out the policy set forth in the Export Administration Act. Section 14 of the legislation before us today constitutes such a remedy. The bill would prohibit all forms of compliance with boycott demands, including the furnishing of information and the refusal to do business with Israel or with American companies blacklisted by the Arab League. Stringent civil and criminal penalties are authorized to be imposed for violations of the act. Moreover, reports submitted concerning boycott requests, currently kept confidential by the Department of Commerce, would be disclosed to the public.

I am pleased to note that this antiboycott section of the bill, authored by the gentleman from New York (Mr. BINGHAM) incorporates to a great extent the provisions of H.R. 5913 which I introduced in April 1975, along with 28 cosponsors in the House. That bill, like the legislation before us today, prohibited all forms of boycott compliance and established civil and criminal penalties for noncompliance. One significant characteristic of H.R. 5913, also contained in the bill before us, is the inclusion of foreign subsidiaries and affiliates of domestic firms within its scope. Thus, American companies will not be able to evade the provisions of the act by channeling their Arab business through subsidiary firms. This bill would thus prohibit ARAMCO, as well as the major oil companies themselves, from complying with boycott demands.

The overwhelming margin of 27 to 1 by which the Committee on International Relations approved this section indicates that Congress will no longer tolerate American involvement in the Arab boycott. The committee wisely rejected administration contentions that the proposed legislation would jeopardize American trade in the Middle East and interfere with diplomatic efforts to achieve a lasting solution to the Arab-Israeli conflict. As the committee report states—

> The current legislation does not abandon or preclude continued use of diplomatic pressures and efforts to end boycott demands on American businesses. Indeed, the Committee encourages such efforts. . . . But the proposed legislation would back up such efforts with a clear and uniform ban on compliance.

Mr. Chairman, I am proud that the House is taking action today to solve a problem which the Ford administration has preferred to ignore. The entire world is watching us today to see whether the Congress will be true to the principles which we espouse as a nation. I am confident that we will stand firm in support of economic freedom and nondiscrimination should the President unwisely veto this bill.

Mr. MORGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina (Mr. FOUNTAIN).

Mr. FOUNTAIN. Mr. Chairman, I rise in support of H.R. 15377, but I have serious reservations about the Bingham antiboycott provisions in it. Apparently no attempt will be made today to strike or to moderate those provisions.

It is my sincere hope, however, that the conference committee from the House and the Senate will take a careful new look at it in an effort to so moderate the language as to prevent many of the serious consequences which may well result from its passage into law.

As I stated in committee I am sympathetic with BINGHAM's amendment objectives.

Mr. Chairman, certainly, all of us are opposed to discrimination of any kind based on a person's religion or his ethnic heritage, and none of us want American firms involved in carrying out the Arab boycott against Israel.

However, I do not believe this particular antiboycott provision will accomplish what its sponsors hope for.

To the contrary, we have had substantial testimony before the International Relations Committee indicating that the provision will have a harmful effect—not only on our diplomatic efforts toward a Middle East settlement, but also on employment in the United States.

For example, Mr. Chairman, we had testimony from Mr. Edwin L. Jones, Jr., representing the Associated General Contractors of America. This association represents 8,100 general contracting firms, in every State of the Union.

The AGC opposed such legislation on grounds—and I quote—that it "would prevent American construction companies from working abroad in certain countries, and would have a serious effect on the domestic employment situation for U.S. suppliers and construction companies which are now experiencing the highest unemployment rate of any industry in this Nation."

The AGC estimated that American firms over the next 5 years are expected to participate in at least $30 billion worth of construction programs in the oil-rich nations.

But this American trade association at the same time warned us—and again I quote: "It has been estimated that the adoption of legislation requiring all U.S. industry to refuse to adhere to the boycott provisions would result in the loss of 800,000 jobs throughout the United States."

I am certainly opposed to the Arab boycott, whether at its primary level against Israel or in its second—and third-level impact on American firms. I support efforts to resist and counter that boycott, most particularly those aspects of it which seek to prevent one American firm or individual from doing business with another American firm or individual.

I think we all agree on the objective. But I have great doubts about the ability of the legislation before us to achieve our goals. Why?

Because we are trying to deal with a complex issue by striking a noble pose. The dramatic gesture certainly has its place in affairs of state. It also has its consequences, and we owe it to the American people who elected us to reflect on the consequences before we adopt the kind of policy embraced in the Bingham amendment.

Let me be more specific about some additional likely consequences of our adopting the language proposed by the distinguished gentleman from New York (Mr. BINGHAM).

The measure is aimed at the Arab countries and is intended to make them either abandon their boycott or lose access to American goods and services. There is a possibility that this kind of confrontation will succeed. But we must recognize that we are challenging Arab pride in a very public form, and we should not be surprised if pride alone causes the Arabs to respond with anger.

That anger could take various forms. Certainly a tightening of the boycott is one possibility.

Restrictions on oil exports to this country are another possibility. And we are now importing 40 to 45 percent of the oil we use, much of it from Arab lands.

Perhaps most serious of all is the likelihood that the gradual reduction of tension in the Middle East which has occurred over the past several years will abruptly end. Our role as a mediator will no longer be credible to the Arabs, who will see our action as tantamount to a counterboycott.

Finally, the amendment is drafted so broadly that it will force foreign subsidiaries of U.S. firms to cease selling to Arab countries as long as the Arab boycott remains in effect. Take a look at the language on page 18, lines 14 and 15, which reads: "and any foreign subsidiary or affiliate of any domestic business concern." We will be telling firms in France, in Japan, in Belgium—firms affiliated with American companies—that they must stop selling to the Arabs, that they must lay off workers and forego foreign exchange earnings.

The governments of some of our closest allies and business partners unfortunately do not share all of our views with regard to the Arab-Israeli situation. How will they react when they find that we are trying to force companies in their countries to comply with our views, which they see as in conflict with their own interests?

The more I read this amendment, the more it appears to me that we are guaranteeing that the Arabs will be supported by some of our own closest friends in reacting strongly and loudly. We must continue to resist the Arab boycott; we must do more to protect American firms from tertiary boycotts. But we must not let zeal run ahead of wisdom. I urge you to vote against this amendment.

Therefore, Mr. Chairman, not only because the antiboycott proposal will fail to achieve its intended goal, but also because of its harmful effect on jobs for American workers if enacted into law, I urge the House and the Senate to reject this provision as now contained in the bill before us.

I include the following:

[From U.S. News & World Report, Sept. 27 1976]

FIGHTING THE ARAB BOYCOTT—A MOVE THAT COULD BACKFIRE ON UNITED STATES

Fears are growing that an attempt by Congress to crack down on American firms that go along with the Arab boycott of Israel will boomerang against the United States.

Already, there are signs that the Arabs are likely to retaliate with these steps:

An increase of $1.50 or more per barrel in the price of oil produced by the Organization of Petroleum Exporting Countries (OPEC) cartel of which the Arabs are key members. That would mean a boost in what U.S. motorists pay for gasoline—as much as 2 cents a gallon.

A cutback in production from Arab wells just as economic recovery has caused an upswing in worldwide demand for oil—a move that could imperil the business rebound, especially in European nations that are heavily dependent on oil imports.

Loss of business for American firms that have been cashing in on the billions of petrodollars that Arab nations are spending on vast development plans.

White House officials, as well as U.S. business leaders, say that the steps taken by Congress will prove of little help to Israel in its conflict with the Arabs and will hamper U.S. peace efforts in the Middle East.

At issue are two bills—almost certain to become law in a matter of days—that seek to prevent American firms from participating in the boycott.

Under the boycott, Arab nations refuse to do business with companies on their blacklist, which includes 1,500 American firms. The list is made up of firms that deal with Israel, assist its economic development or refuse to fill out questionnaires on such matters.

One of the antiboycott measures is contained in the new tax-reform bill. As outlined in the box on page 30, any U.S. company found to have agreed to terms of the Arab boycott will be stripped of certain tax benefits.

The second part of the congressional crackdown, an amendment to a bill extending the Export Administration Act, is even stronger. The House version of the bill forbids American companies, under the threat of criminal penalties, to participate in the boycott.

Insiders say the tough House measure probably will be passed rather than the milder Senate version, which would permit companies to refuse to do business with Israel but would ban them from agreeing not to deal with firms blacklisted by the Arabs. The final bill probably will require firms to reveal whether they will bow to boycott demands.

American business leaders are upset with the new measures. Robert Norris, director of the Foreign Trade Council, argues that the nation's tax laws should not be used to deal with complicated foreign-policy issues.

Officers of the Mobil Oil Corporation contend that the new legislation will result in a loss of business for American firms in the Mideast and that U.S. export trade will suffer as Arabs shift their business to other nations.

POTENTIAL LOSERS

The oil firms stand to lose the most from the tax-penalty measure, since they have huge fixed investments in Arab lands. It is probable that they would accept the loss of the tax breaks rather than risk angering the Arabs with a tough antiboycott stand.

In recent weeks, Arab leaders such as Shiek Hisham Nazer, Saudi Arabia's Minister of Planning, have let it be known that they will take their business elsewhere if the U.S. adopts the antiboycott measures.

Many American business executives assert that there are few, if any, products and services now supplied by U.S. firms that could not be purchased from other countries.

Ruddick Lawrence of Continental Oil, the president of the U.S.-Arab Chamber of Commerce, an American group that fosters Mideast trade, observes that the Arabs are already stepping up their trade with the Japanese, Germans and even Communist nations such as Rumania and Poland.

Supporters of the new antiboycott measures counter that the Arabs are bluffing and are too dependent on American products and know-how to turn to other nations.

Roger Majak, staff counsel for the House International Relations subcommittee on trade, thinks that at worst there might be a few temporary reprisals. He believes: "The Arabs might kill a big U.S. contract or go to the Japanese or Germans on a major deal, but in the end they'll swallow it and come back to U.S. firms."

Ze'ev Sher, the economic minister of the Israeli Embassy in Washington and a strong force behind the new legislation, also contends that the Saudi Arabian development plan is "totally dependent" on the U.S.

Last year, U.S. firms did 5.5 billion dollars' worth of trade with the Arab countries that observe the boycott, and this year's business could total more than 7 billion dollars' worth. The U.S. Army Corps of Engineers is in charge of Saudi Arabian construction projects valued at nearly 18 billion dollars.

ACHILLES' HEEL

In addition to the potential loss of billions in trade, the U.S. is vulnerable to retaliation because of its increasing reliance on oil from the Arab nations of the Mideast and Africa.

Since the 1973–74 Arab oil embargo, the U.S. has more than doubled its imports from the Arab world. Saudi Arabia, the staunchest defender of the boycott, is now the No. 1 supplier of oil imported by this country.

In recent days, Saudi Arabian spokesmen have hinted that the oil-rich Kingdom will not try to stop other members of OPEC from seeking oil-price increases of 10 to 20 per cent above the current basic price of about $11.50 a barrel. Saudi leaders have said they may cut oil production from 8.2 million barrels a day to 5 million—a step that would assure that the cartel could make the price boost stick.

The only current U.S. law specifically dealing with the boycott is one that requires American companies to report any Arab demands to the Commerce Department and to report whether they intend to go along with them.

Commerce, however, keeps this information confidential, and its handling of the reports has upset many lawmakers. A study just released by the House Interstate and Foreign Commerce Committee's investigations subcommittee contends that the Department's regulations contain many loopholes that allow firms to evade their reporting obligation. In some cases, the study said, Commerce has actually promoted business opportunities with the Arabs, knowing that the potential deals had boycott provisions attached to them.

The study also shows that in 1974 and 1975 combined, at least 4.5 billion dollars' worth of U.S. sales and proposed sales to Arab countries were subject to boycott requests.

Says Senator Abraham Ribicoff (Dem.), of Connecticut, chief sponsor of the tax-penalty measure: "It is intolerable to have Americans discriminate against their fellow countrymen at the behest of any foreign nation. Americans must be free to trade with Americans, with Arabs and with Israelis."

The White House, though strongly protesting the boycott, argues that no new legislation is needed to curb it.

The thinking of the Ford Administration is that laws already on the books, such as those dealing with civil rights and unfair business practices, are sufficient to deal with the boycott problem. One example cited is the antitrust suit that the Justice Department brought early this year against Bechtel Corporation. The giant construction company is accused of refusing to deal with subcontractors on the Arab boycott list.

"One thing's for sure—these new laws won't end the boycott," says Assistant Treasury Secretary Gerald Parsky, "and they'll add fuel to the arguments of those in the Arab world who are against the United States."

Administration officials claim there is evidence that the Arabs have been taking steps to soften the boycott themselves. They cite the fact that earlier this year Saudi Arabia removed from its visa applications a request for information on religion.

There are also reports, according to Treasury Secretary William Simon, that the Arabs may exempt firms that make as significant a contribution to their countries as they do to Israel.

GRANDSTAND PLAY

What is happening, say critics of the new legislation, is that lawmakers are attempting to make political points in an election year by portraying the boycott as a vehicle for religious discrimintaion against those of the Jewish faith. However, the House Commerce subcommittee's study found that only 15 of 4,000 boycott requests examined had clauses of a religious or ethnic nature.

Arab leaders justify their boycott as an economic sanction against Israel applied in the same way that the U.S. has curbed trade with Cuba.

Representative Paul Findley (Rep.), of Illinois, the only member of the International Relations Committee to vote against the extension of the Export Administration Act and its antiboycott provision, says he has received "furious" letters accusing him of religious bigotry. Mr. Findley asserts that he voted against the measure because it would harm U.S. peace efforts in the Mideast.

That is a minority view in Congress, where the antiboycott measures have won overwhelming support and have been attached to bills that President Ford may find virtually impossible to veto.

If he signs the measures, the months ahead will reveal whether the Arabs will actually carry out their threats against the U.S.

Mr. MORGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. SOLARZ), a member of the committee.

Mr. SOLARZ. Mr. Chairman, I had planned to deliver an impassioned plea in defense of the antiboycott provisions of this bill, but in deference to the masterful management of the chairman of the committee and of my good friend, the gentleman from Florida (Mr. FASCELL), a member of the committee, who are interested in expediting the debate on this bill, I will be consent to revise and extend my remarks.

Mr. MORGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. BLANCHARD).

Mr. BLANCHARD. Mr. Chairman, I rise in support for H.R. 15377, the Export Administration Act amendments. Among the measures in this bill are the Bingham-Rosenthal provisions which considerably strengthen U.S. policy with respect to foreign boycotts. It is vital that we enact these provisions if we wish to end Arab blackmail in this country.

It has been the policy of the United States to oppose restrictive trade practices and boycotts with countries friendly to the United States. However, while firms were supposedly discouraged from participating or complying with boycott requests, the law did not prohibit it.

Evidence from the House Commerce Committee and from other sources clearly demonstrates the need for this legislation. According to the Commerce Committee report, during 1974–75 U.S. companies complied with Arab boycott requests about 90 percent of the time and at least $4.55 billion was involved in these transactions. It is also evident that the Commerce Department was extremely lax in using its power to stop these abuses.

This situation cannot continue. We cannot and we will not shy away from our commitment to religious freedom. We cannot and we will not condone discrimination because we fear losing Arab dollars.

Earlier this year, in anticipation of this legislation, I offered an amendment to H.R. 13876, the International Banking Act of 1976 which banned discrimination by foreign banks and bank holding companies on the basis of "race, color, religion, sex, or national origin." This amendment was specifically aimed at stopping discrimination against persons of the Jewish faith or heritage.

This measure, too, will be effective in halting discrimination. It will make it clear that compliance with the Arab boycott is prohibited and it will set penalties for violators. I wholeheartedly support this measure and urge all my colleagues to do so.

Mr. BRODHEAD. Mr. Chairman, the retention of antiboycott language in this bill is essential. Voluntary action by the U.S. Commerce Department has clearly been a failure—it is time and long past time that Congress acted on this matter. We must firmly establish the principle that foreign powers cannot be allowed to dictate commercial practices in this country. We must firmly reject the Ford administration's position on this matter and stand up and be counted for what we know is right.

Ms. ABZUG. Mr. Chairman, I strongly support the provisions of H.R. 15377 which makes illegal American complicity in the Arab boycott. I have strongly supported such a change as a sponsor of various bills that would accomplish it, as a witness before the International Relations Committee, and on many occasions in and out of the Congress.

As my colleagues are aware, Congress previously tried in 1965, by adopting amendments to the Export Control Act of 1949, to encourage U.S. companies to refuse to cooperate with the boycott. This provision has proven to be ineffective in attempting to deal with this problem and it is quite clear that stronger measures against the boycott are now required. Section 14 of this bill sponsored by my colleague Mr. BINGHAM, provides such a stronger stance by prohibiting U.S. citizens and companies from complying with either a secondary or tertiary boycott request. I compliment Mr. BINGHAM for his work on this measure.

Although it has been U.S. policy since 1965 to encourage U.S. companies to refuse to cooperate with the Arab boycott, the effect of the boycott has deepened and widened, primarily as a result of Commerce Department unwillingness to enforce the law. In fact, the Commerce Department has counseled U.S. companies in ways to evade the requirements of the Act and the blacklist has swelled until it today includes over 1,500 firms and individuals.

The impact of the boycott is enormous. The House Interstate and Foreign Commerce Investigation Subcommittee found that during 1974 and 1975, 637 U.S. exporters sold at least $352.9 million and as much as $781.5 million in goods and services under boycott conditions. And one bank, Morgan Guaranty Trust Co., testified before the Government Operations' Subcommittee on Commerce, Consumer and Monetary Affairs Subcommittee that in one 4-month period the bank received 824 letters of credit, in a total amount of over $41 million, containing boycott clauses.

The Arab boycott has various aspects. It involves the primary boycott by Arab countries and companies refusing to do business with Israel and Israeli companies; the secondary boycott seeking to prevent American industry from doing business with Israel by precluding blacklisted American firms from doing business with Arab countries; and in its tertiary aspect, it involves American companies which are pressured into refusing to deal with other American companies which are on the boycott list. The bill before us would go far to eliminate these boycotts.

Other aspects of the boycott have come to my attention in my capacity as chairwoman of the Subcommittee on Government Information and Individual Rights. Over the past year this subcommittee has heard testimony on discriminatory assignment policies overseas by Federal agencies. These hearings spurred the White House to issue in November 1975, a "Memorandum to the Heads of Executive Departments and Agencies," stating that exclusionary policies of the country to which a potential assignment is being considered "must not be a factor in any part of the selection process of a Federal agency." In my opinion, President Ford's directive did not go far enough, in that it does not flatly prohibit Federal employees from providing information on their race, religion, or national origin when traveling abroad on official business. Accordingly, I have continued to urge the administration to refuse to accede to discrimination by Arab countries in the assignment of U.S. personnel abroad.

Another effect of the boycott is the impact on U.S. investors of company involvement in the Arab boycott. In this connection, I recently inquired of SEC Chairman Roderick Hills as to whether

American companies participating in the Arab boycott are required to disclose information about such involvement. I am pleased to report that in response to my letter, Chairman Hills stated that American companies participating in the boycott are required to disclose such information where there is a "material adverse effect upon corporate income, assets—including good will—or profits." I maintain that any participation, no matter how small the monetary amount, is of vital interest to investors and the public, and I have asked that the SEC disclose all information it possesses regarding actual participating by American companies and that it require all companies subject to the securities laws to make public disclosure of any participation in the Arab boycott on their part.

Mr. Chairman, it is time to put teeth into the Export Administration Act by amending the act to forbid any American or entity doing business here from participating in any boycott based wholly or in part upon race, religion, or national origin, or a boycott fostered or imposed by any foreign country against another country friendly to the United States, and to require reporting and public disclosure of any such participation.

It is time to face the invidious nature of foreign boycotts based upon such arbitrary factors as religious association. They have no place in this great country and we must enact this legislation to make it clear that they have no place here.

Mr. FRENZEL. Mr. Chairman, because of the interest in the anti-boycott provision and in the sections relating to nuclear exports, the main provisions of the Export Administration Act have been getting less attention.

I believe the improvements in the licensing procedures, and the change in standards as to what material may be shipped to Communist countries, are a welcome reversal of standards and procedures which have crept into the law, and into regulations, over the past several years.

Unwisely, the Congress especially on the 1974 version of the Export Administration Act, set up obstacles to trade expansion which reduced the ability of American firms to compete abroad, those restrictions, which are being reduced by this bill, only exacerbated our balance-of-payments problems, and limited our ability to develop more U.S. jobs.

Therefore, Mr. Chairman, I support the bill as an enormous improvement over existing law. I congratulate the committee for its wisdom, and urge that the bill be promptly passed.

Mr. DERWINSKI. Mr. Chairman, I rise in support of H.R. 15377, the Export Administration Act Amendments of 1976.

The major area of concern in this bill is the overall framework of export controls. The Committee on International Relations heard testimony that expressed concern with the administration of these controls, and much of the bill is designed to deal with these complaints. The President is directed, for example, to further limit unilateral export controls, to simplify export regulations, and to take other measures which will expedite the processing of license applications.

Furthermore, the committee has added various report requirements which will assist us in our oversight responsibilities. For instance, the Secretary of Commerce will be required to include in his semiannual report to Congress an accounting and analysis of the consultations undertaken with the technical advisory committees, the use made of their advice, and their contributions to carrying out the purposes of the act.

Finally, there are various special provisions which have been added to the bill. The most notable are specific exemptions from controls, such as for petroleum products refined in U.S. foreign trade zones under carefully delimited circumstances, and conditions attached to certain nuclear exports with a view to stemming the spread of nuclear weapon proliferation. I support the antiboycott section.

In conclusion, Mr. Chairman, I support this legislation and urge my colleagues to do the same. I make these points since most of the debate centers around amendments unrelated to the original bill.

Mr. KOCH. Mr. Chairman, I rise in support of H.R. 15377, the Export Administration Act Extension of 1976. I commend the committee for this piece of legislation which contains an amendment to prohibit any American company from participating in the boycott of any other American company or any country friendly to the United States in response to a foreign boycott demand. This amendment, sponsored by Congressmen JONATHAN BINGHAM, STEPHEN SOLARZ, and BENJAMIN ROSENTHAL, closely parallels the language and intent of the bill introduced earlier this year by Congressman JAMES H. SCHEUER and myself. Our bill, H.R. 11463, also sought to end American complicity in the Arab boycott of Israel or of any other nation friendly to the United States, and it was cosponsored by 76 other Members of Congress. That bill has been passed by the U.S. Senate as S. 3084, and its sponsor in the Senate was Senator ADLAI STEVENSON, JR.

I also want to commend the able leadership of Chairman THOMAS MORGAN of the International Relations Committee for his assistance in conducting an excellent set of hearings and for supporting this language which deals with the Arab boycott. We will all miss him when he retires from the Congress at the end of this session.

The bill we are considering today would explicitly outlaw both the boycott of another American company and the boycott of Israel or any Israeli company in response to a foreign country's boycott request. In addition, it provides that a company or person who loses business as a result of another company's participation in the boycott may institute a civil action in a U.S. District Court for three times actual damages and attorneys' fees. This provision, which was not contained in the Koch-Scheuer-Stevenson proposal, is an innovative and effective addition to the legislation. No longer will an aggrieved American citizen have to rely on the sporadic and unenthusiastic enforcement of the Export Administration Act prohibitions by the Commerce Department. In the future, an injured party may bring his own action and recover treble damages. This will be an effective deterrent to complicity in the boycott.

In certain other respects the bill under consideration today is not as strong as the bill I proposed. The Koch-Scheuer-Stevenson bill would have required disclosure to the public of all boycott demands and the companies' reactions to them. From my reading of this bill it apparently does not require such public disclosure, but I nevertheless feel it is a significant and effective piece of legislation which will prevent compliance with the boycott, particularly in light of the private treble damage actions which can be brought. This bill prohibits boycott compliance by prohibiting bills of lading or other commercial, shipping, insurance, sale, purchase, or legal documents from including information which would facilitate boycott compliance. I am sure the drafters of the legislation intend to embrace bank letters of credit within these prohibitions, and I would hope that any language excepting them from the scope of these prohibitions, which may have been added in the Senate consideration of S. 3084, would be deleted in conference.

The boycott provisions deal with the three-tiered boycott, instituted by the Arab League and their member Arab countries against—

First. Israeli goods and services;

Second. Blacklisted companies, defined as those doing business with or having investments in Israel, or as being a Zionist firm; and

Third. Companies supplied by blacklisted companies.

The Arab boycott is particularly pernicious and intolerable, because it requires that one American company not do business with another American company simply because the latter is engaged in commercial dealings with Israel or because some of its officers are Jewish. The Arabs claim that their boycott is not a religious matter, and instead an economic extension of their war against Israel. But, firms are blacklisted for their Jewish or Zionist identities as much as any other reason. In fact, a firm will be blacklisted without any reason being given, and one can only guess at the real reason.

We may not be able to force Arab countries to deal with Israeli firms, but the United States can surely respond strongly to any attempt to gain cooperation or participation by U.S. companies in any aspect of the boycott.

Last fall the President directed that new regulations be issued dealing with this subject. But they are not adequate. Those regulations prohibit an American firm from acceding to a boycott demand that would cause discrimination on the basis of race, religion, sex, or national origin by virtue of either the information they provide or the refusal to do business with a particular company. The Commerce Department also requires that a company report any request that it provide boycott related information or that it participate in the boycott. But, as I read the regulations, this still allows a company to discriminate against Israeli firms or against a fellow American company which the Arabs have labeled as being "Zionist" or a firm which is doing business with Israel. Furthermore, the Commerce Department's regulations do not require a company to report whether or not it intends to comply with a boycott demand, only whether it has been asked to provide boycott related information or to participate in a boycott of a company or country.

All reports received by the Commerce Department are held in confidence by the Commerce Department so that the public does not know whether the Department is enforcing the law. The Department has announced recently that it will make public any "charging letters"—letters charging illegal boycott practices—it issues against companies, but it has not issued any such "letters" to date. And the five companies that have been found in violation of the reporting requirements — AGIP-USA of New York; Inter-Equipment Co. of New York; Continental EMSCO of Houston; National Cash Register of New York; and Getty Oil of Los Angeles—have been fined only $1,000 each and not suffered the possible revocation of their export license.

The tertiary boycott is particularly hideous because it requires an American company such as General Motors wanting to sell buses to Saudi Arabia, not to buy any parts from another American company whose officers may be Jewish, or which may have been labeled as Zionist, or which has commercial ties with Israel. The President's Executive order simply prohibits an American company from furnishing information to any country or to participate in a boycott where such action would lead to discrimination against an American citizen on the basis of race, religion, sex, or national origin.

This, of course, is inadequate because the Arabs, being as smart as anyone else, do not blacklist a company on the grounds that the firm has a Jew in their operations. They will simply say the firm is "Zionist." In effect, the Arab boycott officials have picked up the Soviet Union's anti-Semitic line. There, too, the Russians never slander Jews as Jews; they cloak their slander by using the word "Zionist." This legislation would effectively end this disguised discrimination and would give American companies the legal backbone to refuse to comply with Arab boycott demands.

The administration takes the position that it can end tertiary boycotts by the use of the antitrust laws, and it has brought one suit against the Bechtel Co. I suspect that, if we see the end of that antitrust lawsuit within the next two decades, we will have a unique situation. Such antitrust litigation generally drags on in the courts for years. The lawsuit also does not attempt to outlaw a secondary boycott—requiring a company to refuse to deal with Israel, if the company wants to do business with the Arabs. If the administration were sincere in its desire to end both the secondary and tertiary boycotts, it would support this legislation.

Mr. Chairman, there is a fundamental question of morality which transcends everything else in this matter. There are some who will say, "If we do what KOCH and others want, won't it affect business?" Perhaps it will in the short run. Even if it does, there are some instances in which principle and morality must prevail. This is one of them.

This situation is similar to the question of whether we should sell arms to bloodthirsty dictators. Some argue that they do not want to lose the business and if we do not supply the arms, others will. I respond that, indeed, there is something more important than money: our morality and conscience.

Who will dare defend the practice of one American businessman discriminating against another American businessman at the behest of a foreign power?

There is another reason that a comprehensive national policy is needed to deal with the boycott. A national policy is needed against the boycott, because those States like New York who attempt to take action against discriminatory practices have been losing business as a result. Since January of this year, when the New York State "Lisa law," which bans commercial discrimination based upon a person's race, color, creed, national origin, or sex, went into effect, the Port of New York has experienced a loss in traffic to other ports that may be as high as 10 percent this year. Even though this new law does nothing that is not done by existing Commerce Department regulations that already outlaw discrimination on the basis of race, religion, sex, or nationality by exporters, shippers, banks, and insurance companies, New York State has apparently been identified as taking a strong stand against the boycott, and it is being penalized for this courageous stand. We need national legislation that explicitly outlaws participation in the boycott by American companies and we need strong enforcement by the Commerce and Justice Departments so that courageous acts by our local governments will not be penalized.

Mr. Chairman, all of us interested in this subject had hoped that the administration would act to protect not only American businessmen from foreign extortion, but also to preserve America's conscience and morality. It has failed to do that, and so this Congress must do it by enacting this legislation.

I want again to commend my colleagues Congressmen BINGHAM, ROSENTHAL, and SOLARZ for having made the case so clearly that in their committee these antiboycott provisions were adopted 27 to 1.

Mr. ANDERSON of California. Mr. Chairman, I rise in vigorous support of H.R. 15377, the bill to extend and amend the Export Administration Act of 1969. This bill merits the House's unanimous approval inasmuch as it calls attention to two potentially explosive issues—the increasingly imminent threat of nuclear proliferation and the foreign manipulation of America's domestic business behavior.

International sales of nuclear material and technology have multiplied at an alarming rate over the last decade, a trend unfortunately evidenced by India's and Israel's recent acquisition of a nuclear capability. The ominous consequence of these sales becomes magnified when viewed in terms of the ease in which countries, such as India, have been able to transform nuclear material designated for peaceful use into military weaponry.

The past policy of the United States regarding nuclear sales has emphasized selectivity in determining which allies should be granted access to radioactive materials and the technology required to exploit its potential. The report on H.R. 15377 points out significant flaws in our policy which adoption of the bill would alleviate. First, it exposes the ineffectiveness of present safeguards in precluding the possible diversion of reprocessed nuclear waste for strategic use. Inasmuch as scientists have yet to devise a formula which could accurately determine the amount of plutonium produced from reprocessed waste, auditing techniques which represent the primary safeguard against misuse are incapable of detecting diversions of this type of fuel.

The bill proposes to freeze the sales of reprocessing plants until adequate safeguards can be developed to effectively account for and control the use of plutonium.

A second flaw exists in our supervision of U.S. manufactured reactors using material originating outside of the United States. Current policy doesn't require inspectors to oversee the use of fuel acquired from foreign countries in spite of the obvious fact that this material can as easily be used to develop nuclear explosive devices as U.S. supplied material.

The amendment would require the United States to retain control over all nuclear material processed by the reactors we export. This would preclude any attempts by a foreign country to circumvent stringent U.S. controls insuring the peaceful use of nuclear energy.

H.R. 15377 insists that it is the responsibility of the United States, as the Nation which pioneered the development of nuclear energy, to set an instructive example for other nuclear-exporting countries—an example characterized by caution and inspired by a sense of moral obligation. Is it not only fair that a country which expects other nations, that is, France, to abstain from nuclear sales adopt a similar, if not more restrictive policy regulating the exportation of our Nation's nuclear technology. We certainly have little to lose, and literally a world to gain.

The second part of the bill addresses the anti-Israel Arab-sponsored boycott which has, in effect, attempted to impose an economic stranglehold upon U.S. businesses which deal with Israel. My dismay over these findings became even more intense after discovering that over 90 percent of the companies faced with the Arab requests willingly complied. U.S. companies with the assistance of the Arab governments compiled lists, including the names of U.S. corporations and individuals which were currently or had previously engaged in business dealings with Israel. According to the committee report, the total amount involved in the transactions between Arab governments and the compliant businesses came to a staggering $479 million, a figure which is likely to grow since the number of firms supporting the boycott had increased 25 percent during the previous 4-month period.

A superficial examination of the Arab embargo might produce the conclusion that it is perfectly legitimate, inasmuch as the United States has imposed similar boycotts against Cuba, Vietnam, and North Korea. The Arab embargo, however, is much more pervasive, passing into the stages of secondary and tertiary boycotts-terms undoubtedly coined by the global economists to confuse the layman. The secondary boycott forbids Arab governments from conducting business with U.S. corporations dealing with Israel. The tertiary boycott essentially amounts to a demand by Arab states that U.S. corporations which desire to do business with the Arab nations, terminate their business activities with other U.S. corporations or individuals financially linked with Israel.

The destructive consequence of this boycott has not only been felt by its target, Israel, but also by U.S. businesses which refuse to submit to the Arab's unreasonable demands. RCA, a corporation whose name appeared on the blacklist, experienced a $9 million dollar cut in profits after a year in which most indicators had predicted an increase.

A third harm attributed to the embargo is the obvious moral implication of Arab requests demanding that client corporations remove Jews from their list of officers, employees, and shareholders. In response to these requisites, the bill offers a section which expressly prohibits discrimination based on religion, national origin, sex, or racial background.

In light of the Secretary of Commerce's unwillingness to act against these injustices, and the lengthy deliberations of, and frequently arbitrary results obtained through antitrust proceedings, a need for this remedial legislation becomes apparent. H.R. 15377 explicitly requires all American businesses and individuals to file public reports with the Secretary of Commerce on all "informations or actions received pursuant to a foreign boycott." Any compliance or promotion of boycott activities by U.S. corporations is punishable by strict criminal and civil penalties.

Unfortunately, those U.S. companies and individuals which have been victimized by past boycott practices will never be able to reclaim their losses. It is my hope, however, that the passage of this bill will restore brilliance to the tarnished principles of free trade and equitable treatment which have guided, and which should continue to guide the free flow of America's business.

Ms. HOLTZMAN. Mr. Speaker, I strongly support the reauthorization of the Export Administration Act (H.R. 15377) which includes provisions designed to protect Americans from the effects of the Arab boycott. Specifically, this bill, if enacted, would help stop American complicity in the Arab boycott of Israel and end boycott-inspired discrimination against American Jews.

In 1965, the Export Administration Act was amended to state that the United States opposes boycotts fostered by foreign countries against countries friendly to the United States. The Commerce Department, however, failed to enforce this policy and virtually conspired with businesses to evade it. I support this present effort to put real teeth into the Export Administration Act—to identify specifically which boycott-type actions are illegal and to stiffen penalties for violation.

Staggering oil revenues have permitted Arab countries to dictate business practices to American companies. Arab countries not only attempt to prevent American companies from doing business with Israel, they also try to prevent American companies from doing business with other American companies that do business with Israel.

It is intolerable for foreign countries to interfere with lawful business practices of Americans. Even worse is the foreign pressure that has been put on American companies to exclude American Jews from their partnerships or boards of directors and to discriminate against Jews in hiring and promotion.

Under the Constitution, the Federal Government is given the right to regulate commerce with foreign governments. It, therefore, has the responsibility to protect Americans from religious discrimination and boycotts instigated by foreign countries.

This bill goes a long way toward remedying the problems caused by the Arab boycott. As the author of another bill (H.R. 12383) dealing with this problem, I can attest to the soundness and the effectiveness of the provisions in this bill.

Particularly, the bill prohibits U.S. companies from first, discriminating against Americans on the basis of religion; second, boycotting any American company on account of that company's lawful trade with any foreign country; third, furnishing information about the religion of owners or partners of U.S. companies; and fourth, furnishing information about past or future proposed business relationships by any U.S. company with a foreign country.

It is incredible that the present administration sees only the lure of Arab petrodollars and is willing to sacrifice the rights of Americans and the freedom of lawful foreign trade to those dollars. The administration's position on this issue is contemptible. I hope, therefore, that this bill is enacted promptly.

Mr. MORGAN. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 15377

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

EXTENSION OF EXPORT ADMINISTRATION ACT

SECTION 1. The Export Administration Act of 1969 (50 U.S.C. App. 2401 et seq.) is amended in section 14 by striking out "September 30, 1976" and inserting in lieu thereof "September 30, 1977".

PENALTIES FOR VIOLATIONS

SEC. 2. (a) Section 6(a) of the Export Administration Act of 1969 is amended—

(1) in the first sentence, by striking out "$10,000" and inserting in lieu thereof "$25,000"; and

(2) in the second sentence, by striking out "$20,000" and inserting in lieu thereof "$50,000".

(b) Section 6(b) of such Act is amended by striking out "$20,000" and inserting in lieu thereof "$50,000".

(c) Section 6(c) of such Act is amended by striking out "$1,000" and inserting in lieu thereof "$10,000".

(d) Section 6(d) of such Act is amended by adding at the end thereof the following new sentences: "Further, the payment of any penalty imposed pursuant to subsection (c) may be deferred or suspended in whole or in part for a time equal to or less than any probation period (which may exceed one year) that may be imposed upon such person. Such deferral or suspension shall not operate as a bar to the collection of the penalty in the event that the conditions of the suspension, deferral, or probation are not fulfilled.".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 2 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any amendments to section 2?

If not, the Clerk will read.

The Clerk read as follows:

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. The Export Administration Act of 1969 is amended by inserting after section 12 the following new section 13 and redesignating existing sections 13 and 14 as sections 14 and 15, respectively:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 13. Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the purposes of this Act for any fiscal year commencing on or after October 1, 1977, unless previously and specifically authorized by legislation enacted after the enactment of this section.".

FOREIGN AVAILABILITY

SEC. 4. Section 4(b) of the Export Administration Act of 1969 is amended—

(1) by striking out paragraphs (2) through (4) and redesignating section 4(b) (1) as section 4(b); and

(2) by striking out ", regardless" and all that follows thereafter in the third sentence of such section 4(b) and inserting in lieu thereof a period and the following: "The President shall not impose export controls for national security purposes on the export from the United States of articles, materials, or supplies, including technical data or other information, which he determines are available without restriction from sources outside the United States in significant quantities and comparable in quality to those produced in the United States, unless the President determines that adequate evidence has been presented to him demonstrating that the absence of such a control would prove detrimental to the national security of the United States. The nature of such evidence shall be included in the semiannual report required by section 10 of this Act. Where in accordance with this subsection, export

controls are imposed for national security purposes notwithstanding foreign availability, the President shall take steps to initiate negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability.".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 4 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any amendments to section 4?

If not, the Clerk will read.

The Clerk read as follows:

PERIOD FOR ACTION ON EXPORT LICENSE APPLICATIONS

Sec. 5. Section 4(g) of the Export Administration Act of 1969 is amended to read as follows:

"(g)(1) It is the intent of Congress that any export license application required under this Act shall be approved or disapproved within 90 days of its receipt. Upon the expiration of the 90-day period beginning on the date of its receipt, any export license application required under this Act which has not been approved or disapproved shall be deemed to be approved and the license shall be issued unless the Secretary of Commerce or other official exercising authority under this Act finds that additional time is required and notifies the applicant in writing of the specific circumstances requiring such additional time and the estimated date when the decision will be made.

"(2) With respect to any export license application not finally approved or disapproved within 90 days of its receipt as provided in paragraph (1) of this subsection, the applicant shall, to the maximum extent consistent with the national security of the United States, be specifically informed in writing of questions raised and negative considerations or recommendations made by any agency or department of the Government with respect to such license application, and shall be accorded an opportunity to respond to such questions, considerations, or recommendations in writing prior to final approval or disapproval by the Secretary of Commerce or other official exercising authority under this Act. In making such final approval or disapproval, the Secretary of Commerce or other official exercising authority under this Act shall take fully into account the applicant's response.".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 5 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any amendments to section 5?

If not, the Clerk will read.

The Clerk read as follows:

AVAILABILITY OF INFORMATION TO CONGRESS

Sec. 6. (a) Section 7(c) of the Export Administration Act of 1969 is amended by adding at the end thereof the following new sentences: "Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and any information obtained under this Act, including any report or license application required under section 4(b) and any information required under section 4(j)(1), shall be made available upon request to any committee of Congress or any subcommittee thereof. No such committee or subcommittee shall disclose any information obtained under this Act which is submitted on a confidential basis unless such committee or subcommittee determines that the withholding thereof is contrary to the national interest.".

(b) Section 4(c)(1) of such Act is amended by inserting immediately before the period at the end of the last sentence thereof "and in the last two sentences of section 7(c) of this Act".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 6 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any amendments to section 6?

If not, the Clerk will read.

The Clerk read as follows:

TECHNICAL ADVISORY COMMITTEES

Sec. 7. Section 5(c)(2) of the Export Administration Act of 1969 is amended by striking out the third sentence and inserting in lieu thereof the following: "The Secretary shall include in each semiannual report required by section 10 of this Act an accounting of the consultations undertaken pursuant to this paragraph, the use made of the advice rendered by the technical advisory committees pursuant to this paragraph, and the contributions of the technical advisory committees to carrying out the policies of this Act.".

SIMPLIFICATION OF EXPORT REGULATIONS

Sec. 8. Section 7 of the Export Administration Act of 1969 is amended by adding at the end thereof the following new subsection (e):

"(e) The Secretary of Commerce, in consultation with appropriate United States Government departments and agencies and with appropriate technical advisory committees established under section 5(c), shall review the rules and regulations issued under this Act in order to determine how compliance with the provisions of this Act can be facilitated by simplifying such rules and regulations or by any other means. Not later than six months after the enactment of this subsection, the Secretary of Commerce shall report to Congress on the actions taken on the basis of such review to simplify such rules and regulations. Such report may be included in the semiannual report required by section 10 of this Act.".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 8 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any amendments to Section 8?

If not, the Clerk will read.

The Clerk read as follows:

CONTROL OF EXPORTS FOR NATIONAL SECURITY PURPOSES

Sec. 9. (a) Section 4(h)(1) of the Export Administration Act of 1969 is amended—

(1) by striking out "to a controlled country" in the first sentence;

(2) by striking out "significantly increase the military capability of such country" in the first sentence and inserting in lieu thereof "make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States";

(3) by striking out "such country" in the second sentence and inserting in lieu thereof "nation to which exports are restricted for national security purposes"; and

(4) by striking out "significantly increase the military capability of such country" in the second sentence and inserting in lieu thereof "make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States".

(b) The second sentence of section 4(h)(2) of such Act is amended to read as follows: "The appropriate export control office or agency to whom a request which falls within such types and categories is made shall notify the Secretary of Defense of such requests, and such office may not issue any license or other authority pursuant to such request prior to the expiration of the period within which the President may disapprove such export.".

(c) Section 4(h)(2)(A) of such Act is amended to read as follows:

"(A) recommend to the President that he disapprove a request for the export of any goods or technology which he determines will make a significant contribution to the military potential of any nation or nations which would prove detrimental to the national security of the United States;".

(d) Section 4(h)(2)(C) of such Act is amended by striking out "export of such goods or technology" and inserting in lieu thereof "request".

(e) Section 4(h)(2) of such Act is amended by striking out "the export of such goods or technology to such country" in the last sentence and inserting in lieu thereof "such export".

(f) Section 4(h)(4) of such Act is amended—

(1) by inserting "and" at the end of subparagraph (A); and

(2) by striking out the semicolon at the end of subparagraph (B) and all that follows thereafter through "1961" at the end of subparagraph (C).

(g) Section 6(b) of such Act is amended by striking out "Communist-dominated nation" and inserting in lieu thereof "country to which exports are restricted for national security or foreign policy purposes".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 9 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any amendments to section 9?

If not, the Clerk will read.

The Clerk read as follows:

REPEAL OF TITLE II OF THE MUTUAL DEFENSE ASSISTANCE CONTROL ACT

Sec. 10. (a) Title II of the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1612–1612b) is repealed.

(b) Section 301 of such Act (22 U.S.C. 1613) is amended by striking out "and title II".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 10 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any amendments to section 10?

If not, the Clerk will read.

The Clerk read as follows:

EXPORTS OF TECHNICAL INFORMATION

SEC. 11. Section 4 of the Export Administration Act of 1969 is amended by adding at the end thereof the following new subsection (j):

"(j)(1) Any person (including any college, university, or other educational institution) who enters into any agreement for, or which may result in, the transfer from the United States of technical data or other information to any nation to which exports are restricted for national security or foreign policy purposes shall furnish to the Secretary of Commerce such information with respect to such agreement as the Secretary shall by regulation require in order to enable him to monitor the effects of such transfers on the national security and foreign policy of the United States.

"(2) The Secretary of Commerce shall conduct a study of the problem of the export, by publications or any other means of public dissemination, of technical data or other information from the United States, the export of which might prove detrimental to the national security or foreign policy of the United States. Not later than 6 months after the enactment of this subsection, the Secretary shall report to the Congress his assessment of the impact of the export of such technical data or other information by such means on the national security and foreign policy of the United States and his recommendations for monitoring such exports without impairing freedom of speech, freedom of press, or the freedom of scientific exchange. Such report may be included in the semiannual report required by section 10 of this Act.".

Mr. MORGAN (during the readings). Mr. Chairman, I ask unanimous consent that section 11 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any amendments to section 11?

If not, the Clerk will read.

The Clerk read as follows:

SEMIANNUAL REPORTS

SEC. 12. (a) Section 10 of the Export Administration Act of 1969 is amended by adding at the end the following new subsection (c):

"(c) Each semiannual report shall include an accounting of—

"(1) any organizational and procedural changes instituted, any reviews undertaken, and any means used to keep the business sector of the Nation informed, pursuant to section 4(a) of this Act;

"(2) any changes in the exercise of the authorities of section 4(b) of this Act;

"(3) any delegations of authority under section 4(e) of this Act;

"(4) the disposition of export license applications pursuant to sections 4(g) and 4(h) of this Act;

"(5) the effects on the national security and foreign policy of the United States of transfers from the United States of technical data or other information which are reported to the Secretary of Commerce pursuant to to section 4(j) of this Act;

"(6) consultations undertaken with technical advisory committees pursuant to section 5(c) of this Act; and

"(7) violations of the provisions of this Act and penalties imposed pursuant to section 6 of this Act.".

(b)(1) The section heading of such section 10 is amended by striking out "QUARTERLY".

(2) Subsection (b) of such section is amended—

(A) by striking out "quarterly" each time it appears; and

(B) by striking out "second" in the first sentence of paragraph (1).

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 12 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any amendments to section 12?

If not, the Clerk will read.

The Clerk read as follows:

SPECIAL REPORT

SEC. 13. The Export Administration Act of 1969, as amended by section 3 of this Act, is further amended by inserting after section 10 the following new section 11 and redesignating existing sections 11 through 15 as sections 12 through 16, respectively:

"SPECIAL REPORT

"SEC. 11. Not later than 12 months after the enactment of this section, the President shall submit to the Congress a special report on multilateral export controls in which the United States participates pursuant to this Act and pursuant to the Mutual Defense Assistance Control Act of 1951. The purpose of such special report shall be to assess the effectiveness of such multilateral export controls and to formulate specific proposals for increasing the effectiveness of such controls. That special report shall include—

"(1) the current list of commodities controlled for export by agreement of the group known as the Coordinating Committee of the Consultative Group (hereafter in this section referred to as the 'Committee') and an analysis of the process of reviewing such list and of the changes which result from such review;

"(2) data on and analysis of requests for exceptions to such list;

"(3) a description and an analysis of the process by which decisions are made by the Committee on whether or not to grant such requests;

"(4) an analysis of the uniformity of interpretation and enforcement by the participating countries of the export controls agreed to by the Committee (including controls over the re-export of such commodities from countries not participating in the Committee), and information on each case where such participating countries have acted contrary to the United States interpretation of the policy of the Committee, including United States representations to such countries and the response of such countries;

"(5) an analysis of the problem of exports of advanced technology by countries not participating in the Committee, including such exports by subsidiaries or affiliates of United States businesses in such countries;

"(6) an analysis of the effectiveness of any procedures employed, in cases in which an exception for a listed commodity is granted by the Committee, to determine whether there has been compliance with any conditions on the use of the excepted commodity which were a basis for the exception; and

"(7) detailed recommendations for improving, through formalization or other means, the effectiveness of multilateral export controls, including specific recommendations for the development of more precise criteria and procedures for collective export decisions and for the development of more detailed and formal enforcement mechanisms to assure more uniform interpretation of and compliance with such criteria, procedures, and decisions by all countries participating in such multilateral export controls.".

Mr. MORGAN (during the reading. Mr. Chairman, I ask unanimous consent that section 13 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there amendments to section 13? If not, the Clerk will read.

The Clerk read as follows:

FOREIGN BOYCOTTS

SEC. 14. (a) Section 3(5) of the Export Administration Act of 1969 is amended in subparagraph (B)—

(1) by striking out "encourage and request" and inserting in lieu thereof "require"; and

(2) by striking out "the furnishing of information or the signing of agreements" and inserting in lieu thereof "furnishing information or entering into or implementing agreements".

(b) Section 4 of such Act is amended—

(1) by striking out the next to the last sentence of subsection (b), as so redesignated by section 4 of this Act; and

(2) by adding the following new subsection (k) immediately after subsection (j), as added by section 11 of this Act:

"(k)(1)(A) Rules and regulations prescribed under subsection (b) shall implement the provisions of section 3(5) of this Act and shall require that any United States person receiving a request for furnishing information or entering into agreement as specified in that section must report this fact to the Secretary of Commerce for such action as the Secretary may deem appropriate to carry out the policy of that section.

"(B) Any report filed under subparagraph (A) after the enactment of this subsection shall be made available promptly for public inspection and copying. The Secretary of Commerce shall transmit copies of such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the policy set forth in section 3(5). The provisions of section 7(c) shall not apply to reports filed under subparagraph (A) of this paragraph.

"(2)(A) In furtherance of the policy set forth in sections 3(5) (A) and (B), no United States person shall take any action with intent to comply with or to further or support any trade boycott fostered or imposed by any foreign country against a country which is friendly to the United States and which is not itself the object of any form of embargo by the United States. The mere absence of a business relationship with a boycotted country does not indicate the existence of the intent required by the preceding sentence.

"(B) For the purpose of enforcing the prohibition contained in subparagraph (A) of this paragraph, the Secretary of Commerce shall issue rules and regulations prohibiting any United States person from taking any action with the required intent, including the following actions:

"(i) Discriminating against any United States person, including any officer, employee, agent, director, or stockholder or other owner of any United States person, on the basis of race, color, religion, sex, nationality, or national origin.

"(ii) Boycotting or refraining from doing business with any United States person, with the boycotted country, with any business concern in or of the boycotted country with any national or resident of the boycotted country, or with any business concern or other person which has done, does, or proposes to do business with the boycotted country, with any business concern in or of the boycotted country, or any national or resident of the boycotted country.

"(iii) Furnishing information with respect to the race, color, religion, sex, nationality, or national origin of any past, present, or proposed officer, employee, agent, director, or stockholder or other owner of any United States person.

"(iv) Furnishing information about any past, present, or proposed business relationship, including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply, with any United States person, with the boycotted country, with any business concern in or of the boycotted country, with any national or resident of the boycotted country, or with any business concern or other person which has done, does, or proposes to do business with the boycotted country, with any business concern in or of the boycotted country, or any national or resident of the boycotted country.".

(c) (1) Section 6 of such Act is amended by redesignating subsection (g) as subsection (h) and by inserting immediately after subsection (f) the following new subsection (g):

"(g) Any United States person aggrieved by action taken as a result of a violation of section 4(k) (2) of this Act may institute a civil action in an appropriate United States district court, without regard to the amount in controversy, and may recover threefold actual damages, reasonable attorney's fees, and other litigation costs reasonably incurred, and obtain other appropriate relief.".

(2) Section 6(h) of such Act, as so redesignated by paragraph (1) of this subsection, is amended by striking out "or (f)" and inserting in lieu thereof "(f), or (g)".

(d) Section 12 of such Act, as so redesignated by section 13 of this Act, is amended by adding at the end thereof the following: "The term 'United States person' includes any United States resident or national, any domestic business concern (including any domestic subsidiary or affiliate of any foreign business concern), and any foreign subsidiary or affiliate of any domestic business concern.".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 14 be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there amendments to section 14?

Mr. MICHEL. Mr. Chairman, I move to strike the last word.

I take this time to pose several questions to the gentleman from New York (Mr. BINGHAM). I have in my hand here a rather lengthy document that would indicate the contents of certification of a number of countries. Let me pick out one, Yemen.

Going back again to my hometown industry, the Caterpillar Tractor Co., if they wish to do business with the Republic of Yemen and are asked to sign a certificate that says that the goods are not of Israeli origin and do not contain any Israeli materials, and if the Caterpillar Tractor officials sign that certificate, do they come within the purview of the Bingham amendment in prohibiting the shipment of any Caterpillar equipment then to the Republic of Yemen?

Mr. BINGHAM. Mr. Chairman, if the gentleman will yield, I would say, first, that the intent of the amendment is with regard to the imposition of a secondary boycott, not a primary boycott.

Mr. MICHEL. Whose intent are we talking about? When we speak about intent, exactly whose intent are we talking about here?

Mr. BINGHAM. We are speaking of the intent of the amendment. If the intent of a company is to comply with the boycott then that, of course, is prohibited. If a certificate of origin, for example, were to state that the products are manufactured in the United States; that is, if there were a positive certificate of origin, then presumably, it would be difficult to claim any intent to comply with the boycott. If the statement is framed negatively, as the gentleman suggests it would be, then I think intent would be presumed.

Mr. MICHEL. Second, with respect to insurance covering shipment, if there is an insurance company's certificate that reads that to the best of their knowledge and belief their company is not blacklisted by the Arab League, what effect does the amendment have on that kind of a statement?

Mr. BINGHAM. The effect of that kind of a statement would certainly raise a presumption of intent to comply with the boycott.

The matter of blacklisting is the key to the whole operation of the boycott. It has been operated in a capricious and arbitrary way. I might say at this point that one of the reasons why I for one, and many others feel that the Arabs will react realistically, if this legislation should become law—that those who are dealing with American businesses will continue to deal with these American businesses—is that they have done that time and time again in the operation of the boycott up to now. Firms that have been on the blacklist have, nevertheless, been able to deal with Arab countries when the Arab countries want to do business with them. But a firm's statement—to respond to the gentleman's question—that it is not on the blacklist, would, I think, create a presumption of intent.

Mr. MICHEL. Finally, if they require a steamship company certificate, that the steamship is not an Israeli ship and is not going to any Israeli port during the voyage.

Mr. BINGHAM. I can tell the gentleman from Illinois that again the matter of intent would be crucial. Certainly they are not required to use Israeli vessels and the type of certificates that is normally attached to shipments of that kind will not necessarily be a violation or prohibition. It would again be a matter of the intent with which the shipper provides the information.

Mr. MICHEL. I just want to say further to the gentleman that as large a company as we have been talking about, with no discrimination practiced in their employment and hiring practices, there are obviously people of many nationalities and religious faiths building the kind of machines we are talking about here that eventually get sold and shipped to an Arab country. But there is nothing, so far as the Arabs are concerned, as I read their requirements and certification, that none of the products here have been in any way manufactured by those of the Jewish faith.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MICHEL was allowed to proceed for 3 additional minutes.)

Mr. BINGHAM. Let me reiterate to the gentleman the last thing that the committer wants to do is to stop American concerns from exporting to Arab nations. That is the last thing we want to do. But we are hopeful that based on the pattern of Arab behavior in the past, when they have ignored blacklisting and they chose to do it, that they will accept an American law that is going to treat all businesses alike.

One of the problems that has existed up to now is that some companies have refused on principle to allow themselves to be told whom they can do business with and whom they cannot do business with. This bill will put everybody in the same category. Companies operating in Illinois will be in the same category with companies operating elsewhere. It may be that there has not been discrimination against Jewish members of the Caterpillar firm, but let me read to the gentleman from the report of the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce, chaired by the gentleman from California (Mr. Moss). The reports that were filed "included requests by Arab importers that U.S. exporters certify that there are no persons employed in senior management who are of the Jewish faith, Zionists," and so forth.

Mr. MICHEL. Let me ask the gentleman one final matter. Earlier we were talking about the question of subsidiary plants abroad over which this amendment would have no control, even though they are a subsidiary of a parent company in this country. Would that not tend, if the gentleman's amendment holds fast, to really encourage the flight of American capital to build the same kind of plants in these foreign countries to which I have alluded who do not have this kind of restriction but have the ability to produce the kind of machines that the Arab countries want?

Mr. BINGHAM. Let me point out to the gentleman that it is not true that other countries do not have restrictions. The Netherlands, for example, does have restrictions on providing documents that prohibit, as I understand it, the notarization of documents that are in compliance with the boycott. Yet the Netherlands is doing very well in its trade with Arab countries. I think the gentleman raises an unrealistic fear.

Mr. ROSENTHAL. Mr. Chairman, as a coauthor of section 14 of the bill, I wish to offer my response to the question raised by the gentleman from Illinois, (Mr. Michel). I agree with my colleague from New York (Mr. Bingham) that the actions prohibited are those taken with an "intent to comply with or to further or support" a boycott of a friendly state.

I would only add that in certain cases such an intent undoubtedly can be presumed from the act itself. In the hypothetical case set forth by my distinguished colleague from Illinois, the action of the company in certifying to an Arab importer that the goods are not of Israel origin or do not contain Israel components is such a case. There seems little doubt that such a certification would be a clear violation of this section.

This interpretation is supported by subparagraph (B) of this section where certain forms of prohibited conduct are set forth. One such form in (iv) includes furnishing information about a business relationship with the boycotted country. The hypothetical case offered entails the furnishing of such information.

As to the hypothetical case presented where the certification is to the U.S. origin of the goods or question, I feel this also could fit within the prohibition expressed in the same subparagraph although this is admittedly a gray area and would depend upon the intent of the company.

I agree with my colleague from New York that a certification that the goods to an Arab port are not being shipped on ships not under Israel flag would not be a violation.

The CHAIRMAN. The time of the gentleman has expired.

Are there any amendments to section 14? If not, the Clerk will read.

The Clerk read as follows:

CERTAIN PETROLEUM EXPORTS

Sec. 15. Section 4 of the Export Administration Act of 1969, as amended by section 11 and 14 of this Act, is further amended by adding at the end thereof the following new subsection (1):

"(1) Petroleum products refined in United States Foreign-Trade Zones from foreign crude oil shall be excluded from any quantitative restrictions imposed pursuant to section 3(2)(A) of this Act, except that, if the Secretary of Commerce finds that a product is in short supply, the Secretary of Commerce is authorized to issue such rules and regulations as may be necessary to limit exports.".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 15 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENT OFFERED BY MR. ZABLOCKI

Mr. ZABLOCKI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Zablocki: On page 18, line 22, insert the following after the word "Zones", "or in the United States Territory of Guam."

Mr. ZABLOCKI. Mr. Chairman, all this amendment does is to include the Territory of Guam in the exclusion. The committee's attention has been called to the fact that, after we provided exclusion for the U.S. foreign trade zones, only one State, Hawaii, would be affected and would be discriminatory if Guam were not given equal treatment. Therefore, in equity we believe that the U.S. Territory of Guam should be included.

Mr. MORGAN. Mr. Chairman, the gentleman from Wisconsin has consulted both the minority member and myself about this amendment, and I certainly feel there is no reason why Guam should not have been included when the bill was marked up. I have no objection to the amendment.

Mr. WON PAT. Mr. Chairman, I move to strike the requisite number of words, and on behalf of the people of Guam, I rise in support of the amendment offered by the distinguished gentleman from Wisconsin (Mr. Zablocki). This amendment will include the territory of Guam in the limited exemption that is provided by section 15 to the foreign trade zones of the United States. This amendment will be of significant benefit to the severely depressed economy of Guam which lies over 5,500 miles west of the U.S. mainland, and only 1,500 miles from Japan.

The small business refinery on Guam exclusively uses foreign crude oil, but at present has a capacity of only 29,500 barrels a day. Virtually all of its products are sold to the Defense Fuel Supply Center, mostly diesel fuel marine and JP-4, and to the Guam Power Authority for electricity generation. To the extent that it has surplus products, they are exported to foreign entities. Although the Export Control Administration has allowed the refinery to sell its small surplus abroad, the export licenses are issued on a quarterly basis. This dependency on a laborious quarterly renewal of their export license prevents the refinery from making the long-term contracts necessary for economically viable exportation of the surplus. The passage of this amendment will provide the opportunity for the refinery on Guam to increase its capacity to up to 50,000 barrels a day, as a result of the improved export situation. This multimillion dollar expansion would provide a large number of jobs in the disastrously depressed construction industry on Guam. The expansion will also provide new jobs for Guamanians in the refinery.

The U.S. balance of payments posture will be improved by this amendment because of the increased export sales of foreign imported oil refined in the United States. Thus, there will be a marginal increase in foreign sales without affecting valuable domestic supplies of petroleum.

The U.S. defense posture will be enhanced by the growth of our westernmost refinery. Having a larger refinery in the strategic outpost of Guam will help insure that the United States will have additional petroleum supplies in times of national emergency. The refinery on Guam supplied most of the aviation fuel to the U.S. military on Guam during the periods of intense air activity over Vietnam.

I would respectfully remind my colleagues that this exemption from the Export Control Act applies only to products refined from foreign crude oil, and that export controls would still be an option on such products as are deemed by the Secretary of Commerce to be in short supply.

For the foregoing reasons, I strongly urge my colleagues to vote favorably on this committee amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. Zablocki).

The amendment was agreed to.

The CHAIRMAN. The clerk will read.

The clerk read as follows:

EXEMPTION FOR CERTAIN AGRICULTURAL COMMODITIES FROM CERTAIN EXPORT LIMITATIONS

Sec. 16. Section 4(f) of the Export Administration Act of 1969 is amended—

(1) by redesignating such section as section 4(f)(1); and

(2) by adding at the end thereof the following new paragraph:

"(2) Upon approval of the Secretary of Commerce, in consultation with the Secretary of Agriculture, agricultural commodities purchased by or for use in a foreign country may remain in the United States for export at a later date free from any quantitative limitations on export which may be imposed pursuant to section 3(2)(A) of this Act subsequent to such approval. The Secretary of Commerce may not grant approval hereunder unless he receives adequate assurance and, in conjunction with the Secretary of Agriculture, so finds that such commodities will eventually be exported, that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, that storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities, and that the purpose of such storage is to establish a reserve of such commodities for later use, not including resale to or use by another country. The Secretary of Commerce is authorized to issue such rules and regulations as may be necessary to implement this paragraph.".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 16 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENT OFFERED BY MR. FINDLEY

Mr. FINDLEY. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. Findley: Page 20, immediately after line 5, insert the following new section:

Sec. 19. Section 4(f) of the Export Administration Act of 1969, as amended by section 16 of this Act, is amended by adding at the end thereof the following new paragraph:

"If the Secretary of Commerce shall prohibit or curtail the exportation of any commodity pursuant to this section, he shall immediately report such prohibition or curtailment to the Speaker of the House and the President pro tempore of the Senate setting forth his reasons therefore in detail. If the Congress shall by concurrent resolution disapprove of such prohibition or curtailment, it shall cease with the passage of said resolution."

Mr. FINDLEY. Mr. Chairman, many people in the United States have anxiety over the possibility that the President in the future may utilize the authority in the Export Administration Act to impose restrictions or an embargo on the export of certain food products. This anxiety is reflected I think in the Presidential campaign. Both candidates have expressed in their own way their opposition to such imposition, but nevertheless the anxiety continues.

My amendment would provide to the Congress the right to pass judgment should the President at any future time utilize the authority in the act to establish a curtailment or prohibition on the export of food products. The Congress would pass judgment by means of the concurrent resolution approach, not a single House veto but a concurrent resolution approach.

I am sure the presence of this language in the act would provide a reassurance to the American people that the President will use due care in examining conditions which might impel him to use the authority in this act to exercise such curtailment or prohibition.

Such a course of action can do great harm of course to the income of farmers but even more broadly it can do great harm to the interest of the people of the United States because farm products have become the greatest and the most dependable source of earnings of foreign exchange which are vital to the functioning of our economy.

I am not aware of opposition to this amendment and I do hope that the committee will accept it.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Pennsylvania.

Mr. MORGAN. Mr. Chairman, I am sure the administration, I will say to the gentleman from Illinois (Mr. FINDLEY), would veto this on constitutional grounds, because a concurrent resolution seems to be a nasty word downtown. I am sure we possibly would have a Presidential veto on this bill. I am sure there would be opposition from the administration.

I am worried about the amendment of the gentleman from Illinois, because the gentleman has made it much broader than the amendment that the gentleman offered in the committee. The former amendment was limited to agricultural products. Now the gentleman has made it to cover all exports and products.

The amendment is much broader than the amendment Senator HUDDLESTON offered in the Senate. I am afraid if we adopt the gentleman's amendment we will be locked in—that it would be necessary to bring back a concurrent resolution from the conference.

The gentleman from Illinois offered the Huddleston amendment in the committee, where it was defeated. I am reluctant to take this amendment to conference, where it would require agreement to concurrent resolution; so I oppose the amendment.

Mr. FINDLEY. Mr. Chairman, I recognize, of course, that the executive branch always opposes the legislative veto approach. This does differ from the legislative veto issue which was resolved on the House floor a couple days ago. This requires majority concurrence of both Houses.

Mr. MORGAN. Mr. Chairman, if the gentleman will yield further, I have reread the gentleman's amendment. I ask the gentleman to withdraw the amendment. We can go to conference—the gentleman will be a conferee because of his position as the third ranking member of the committee—without the amendment, I am sure with what we have in the Senate bill, with the Huddleston amendment, we will be able to work out a compromise with the gentleman from Illinois.

Mr. FINDLEY. On the gentleman's assurance, I ask unanimous consent to withdraw my amendment.

Mr. FINDLEY. Mr. Chairman, on that assurance, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Are there further amendments to section 16? If not, the Clerk will read.

The Clerk read as follows:

NUCLEAR POWERPLANTS

SEC. 17. None of the funds authorized by the Foreign Assistance Act of 1961 may be used to finance the construction of, the operation or maintenance of, or the supply of fuel for, any nuclear powerplant under an agreement for cooperation between the United States and any other country.

The CHAIRMAN. Are there amendments to section 17?

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the legislation before us today, the Export Administration Act amendments, will at last complete the effort many of us renewed in this Congress 18 months ago: the passage of a law which makes compliance with the Arab boycott illegal.

In so doing, we are bringing the rules which govern our international trading relationships into conformity with our principles as a nation.

More than 10 years ago, the Congress explicitly stated in an amendment to this same law that it is the policy of the United States to oppose restrictive trade practices and foreign-imposed boycotts and to refuse to take any action which encouraged these activities.

The Congress enunciated this policy, because it clearly recognized that the existence of boycotts, such as the Arab boycott, are repugnant to many of our basic values. The Arab boycott in particular not only works to erode the operation of a free market, but also systematically denies any of our citizens basic protections against discrimination.

Responsibility for implementing this clear policy direction was given to the Department of Commerce. Since 1965, however, its record has been one of acquiescence to and encouragement of the Arab boycott in the United States. On September 7, 1976, the Commerce Subcommittee on Oversight and Investigations, of which I am a member, released its report, "The Arab Boycott and American Business." This study—the most comprehensive review ever of the boycott's impact on the United States—is a damning indictment of the Commerce Department's response to the boycott. Our report documented—

That for more than a decade, the Commerce Department circulated trade offerings from Arab League countries which contained boycott demands;

That for more than a decade, the Commerce Department formally advised American exporters that they were not prohibited from complying with the boycott's demands;

That since 1965, the Department refused to require American firms from reporting whether or not they had complied with the boycott; and

That until December 1975, banks, freight forwarders, and insurers were excluded from even the Department's minimal boycott regulations.

These policies had the direct and significant effect of greatly expanding the impact of the Arab boycott on our economy. More than 1,500 American corporations are currently blacklisted by the Arab League. In 1974 and 1975 alone, more than $4.5 billion in goods were subject to boycott restrictions. More than 90 percent of all trade agreements with the Arab League are currently in compliance with the boycott's provisions. Almost all the letters of credit issued by banks in order to underwrite exports to the Arab League contain discriminatory demands.

It is, therefore, painfully apparent that instead of promoting policies which would work to limit the boycott's effect on the United States, the Department of Commerce consistently subverted and obstructed the implementation of our Nation's antiboycott policy.

What is also clear is that all these trends have been accelerated in response to the shift of economic and political power to the OPEC nations since the 1973 quadrupling of oil prices.

In effect, the boycott has driven a wedge into the American business community, separating those who are prepared to comply with the boycott's demands in order to enjoy the growing trading opportunities with the Arab League from those who would reject its demands, because of their discriminatory and anticompetitive nature.

Only by making compliance with the boycott illegal can the American business community and the American people be protected against its pernicious influence. Only by removing the boycott as a condition of trade with the Arab League can there be removed the competitive advantage secured by complying with it.

The heart of this issue is whether the United States will allow itself to be blackmailed—politically and economically—as a condition of furthering our relationships within the Arab world. By passing this amendment, we will be making it clear that there are basic principles which must be respected, and which must form the framework of future ties.

I believe the mutual desire for each other's goods and services will overcome any potential this legislation might have to jeopardize our trade with the Arab world. Even today, the boycott is suspended for firms whose products are needed in the OPEC countries—precisely because it is more to their advantage to ignore it than enforce it. By prohibiting compliance with the boycott, we can only encourage this trend.

Mr. Chairman, if the policy of the Congress had been enforced a decade ago, we would not now be confronted with the dilemma posed by the boycott, nor would we need this legislation today.

It is long past the time for this amendment to be law. I urge my colleagues to adopt this provision, and attach, for their further consideration, my additional views to our subcommittee's report on "The Arab Boycott and American Business":

Committee on Interstate and Foreign Commerce, Subcommittee on Oversight and Investigations, Report, "The Arab Boycott and American Business"

ADDITIONAL VIEWS OF REPRESENTATIVES HENRY A. WAXMAN, JOHN E. MOSS, ANTHONY TOBY MOFFETT, JAMES H. SCHEUER, RICHARD OTTINGER, ANDREW MAGUIRE

The subcommittee's report, "The Arab Boycott and American Business," is the most comprehensive congressional review of the nature, scope, and impact of the Arab boycott on the United States since anti-boycott provisions were added to the Export Administration Act in 1965.

This subcommittee's investigation has opened the wall of secrecy which has surrounded much of the Arab boycott. The barest outlines of the scope of the boycott, and its gross economic impact on the United States, are now available. Billions of dollars in trade have been subjected to the boycott's discriminatory trade practices. But strikingly absent from this report—and obscured even today by Commerce Department policies—is the answer to the question of how many businesses have changed their business practices in order to comply with the boycott's restrictions and have in effect become tools in the Arab's economic warfare against the State of Israel. Specifically: To what extent have businesses agreed to terminate their direct relationships with Israel in order to obtain contracts in the Arab world? To what extent have businesses agreed to refuse to deal with other American companies which have relationships with or are otherwise sympathetic to Israel? These questions remain unanswered because the Commerce Department has refused to prohibit compliance with these so-called secondary and tertiary aspects of the Arab boycott—even though there is a greater awareness of these activities, and even though their frequency and intensity is growing, and not diminishing.

Despite this inevitable shortcoming, this report is a damning chronicle of evasion and subversion by several administrations and, to a lesser extent, by the business community of the clear Congressional mandate opposing boycotts and restrictive trade practices. At the same time, this report repeatedly emphasizes that the profound issues raised by the Arab boycott—legal, political, economic, moral—remain unresolved to this day. It is our hope that this document will serve as a major impetus toward the passage of legislation which would at last prohibit business in the United States from complying with the Arab boycott.

Such a desire surely embraces the spirit of the law. As the Export Administration Act unequivocally states,

"It is the policy of the United States (A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries * * * and (B) to encourage and request domestic concerns engaged in * * * export * * * to refuse to take any action, including the furnishing of information or the signing of agreements, which has the effect of furthering or supporting the restrictive trade practices or boycotts * * *"

The Congress' meaning in establishing this policy in 1965 was clear. It reflected the judgment that compliance with the Arab boycott was repugnant to cherished American principles regarding freedom from discrimination and the operation of a free market. It sought to assure that this Nation would not compromise its basic values in the search for expanded trade opportunities throughout the world.

Nevertheless, the subcommittee's report has documented that the Department of Commerce, which was charged with enforcing this mandate, consistently undermined this policy to the extent that, over the years, the Arab boycott has been allowed to proceed with the full acquiescence and indeed the tacit encouragement of the U.S. Government. In particular:

For more than ten years, the Commerce Department's reporting forms of boycott requests explicitly stated that U.S. exporters are "not legally prohibited from taking any action" in support of the Arab boycott. Such a statement represented a clear signal to all U.S. exporters that compliance with the boycott carried no sanctions whatsoever.

Again, for more than ten years, the Commerce Department circulated to American businesses notices of trade opportunities which contained boycott demands. The Commerce Department circulates such notices in order to encourage trade with other countries. By promoting trade opportunities which were contingent upon compliance with the boycott, however, the Commerce Department played an active, and central, role in promoting the Arab boycott in the United States.

Although the Export Administration Act requires all boycott requests, including the furnishing of information or the signing of agreements, to be reported to the Commerce Department, for over ten years the Department chose not to require U.S. exporters to report whether or not they had complied with such requests—even though the Department had the clear statutory authority to compel such information. Such a policy prevented the Department and anyone else from ascertaining the boycott's scope and its impact on the American economy.

Although the operations of banks, freight forwarders, and insurance companies are essential components of all export transactions, it was not until December 1975 that the Department's boycott regulations were broadened to encompass these concerns. For over a decade, in other words, letters of credit, insurance policies, and transportation arrangements for billions of dollars in exports were not subject to even minimal antiboycott requirements.

A distressingly clear pattern of passivity to, promotion of, and disinterest in enforcing the antiboycott policy of the United States by the Department of Commerce over a ten-year period is therefore plainly evident. Indeed, the four policies which are mentioned above were terminated only after vigorous initiatives were undertaken by members of this Subcommittee, and others in the Congress, with former Commerce Secretary Rogers Morton.

Even then, our efforts were vigorously rebuffed at first. In order to effectively ascertain the nature, scope, and impact of the Arab boycott on the United States, this Subcommittee subpoenaed from the Commerce Department boycott requests which exporters received from Arab League countries—and which were required by law to be reported to the Department. For months, this Subcommittee was forced into contesting an unfounded claim of statutory privilege which Secretary Morton sought to exercise over these reports, which this Subcommittee urgently needed if it were to fulfill its oversight responsibilities. Renowned scholars came before the Subcommittee and testified that Secretary Morton's position had no legal basis whatsoever under the statutes he cited or the Constitution.

But more importantly, Commerce Secretary Rogers Morton's four-month refusal to provide documents was consistent with the Administration's decade-long policy of acquiescence in and promotion of the Arab boycott. As the Subcommittee's report shows, the subpoenaed materials reveal that the Department exercised virtually no control over attempts by the Arab League to enforce boycott provisions against American business—although it had both the Congressional policy mandate and the statutory authority to implement it. Rather than correct these shortcomings over time, the Department failed to take any remedial steps.

We are forced to conclude that Secretary Morton's refusal for five months to comply with the Subcommittee's subpoena for Arab boycott information was nothing less than an attempt to cover up the Department's grave abdication of its responsibilities under the Export Administration Act.

There is therefore no question in our minds, after reviewing the entire record which the Subcommittee has developed, that the Commerce Department, with the approval of the highest levels of several Administrations, obstructed over a ten-year period the effective implementation of the antiboycott provisions of the Export Administration Act as expressed by both the Congress and by successive Presidents and Secretaries of State. Second, in that the Commerce Department has failed to move against the secondary and tertiary aspects of the Arab boycott, it may be fairly stated that such an obstruction is continuing unto this day.

This is, in our judgment, a matter of the most serious concern to the Congress and the American people.

The business community has exhibited an ambivalent response to the competing pressures which the existence of the boycott evokes. On the one hand, the pressure to comply with the boycott is enormous. The records indicate that upwards of 90 percent of all transactions subject to boycott demands were ultimately in compliance with them. Only in 2–3 percent of all cases has the boycott been deliberately evaded. Nevertheless, in coordination with the American Jewish Congress, more than two dozen corporations have publicly pledged to refrain from complying with the boycott.

On the other hand, in the absence of an express prohibition of compliance with the Arab boycott, and in the presence of government policies which actively encourage compliance with it in order to improve our balance-of-payments with the Arab oil-producing states, noncompliance with the boycott can only place those who adhere to such a policy at a competitive disadvantage. As Federal Reserve Chairman Arthur Burns has stated.

"The time has come for the Congress to determine whether it is meaningful or sufficient merely to "encourage and request" U.S. banks not to give effect to the boycott. It is unjust, I believe, to expect some banks to suffer competitive penalties for responding affirmatively to the spirit of U.S. policy, while others profit by ignoring this policy. This inequity can be cured if Congress will act decisively on this subject." (Letter to Rep. Benjamin Rosenthal, June 3, 1976.)

This dilemma, however, extends beyond the choices faced by the business community. The Subcommittee's report documents that at least $4.5 billion in trade with the Arab League in 1974 and 1975—and probably much more—has been held hostage to the Arab boycott. The Subcommittee staff further indicates that nearly half if not more of all trade with the Arab League—involving billions more—is currently being subject to boycott demands. It is clear that despite the increased attention which has been focused on the boycott, its influence appears to be growing and not diminishing.

The higher level of scrutiny has also revealed that the boycott is not monolithic or impermeable; rather, it has consistently been applied in an arbitrary and capricious manner. Ostensibly, the boycott's blacklist contains those firms who have contributed to Israel's economic growth or have an affiliation with another blacklisted firm. Since 1948, the Chase Manhattan Bank has served as Israel's agent in handling government bonds in the United States. General Electric supplies the Israeli Air Force with jet engines for the Kfir aircraft—Israel's first military jet. Despite the crucial role these two corporations play in Israel's economic and military security, both firms are not blacklisted and do extensive business in the Arab world. TWA, Myles Laboratories, and IBM are among the firms which do substantial amounts of business with both Israel and the Arab nations. Moreover, experience since the Arab oil embargo has been that obeisance to restrictive trade practices neither ensures improved trade relationships nor guarantees immunity from further economic reprisals. France, which went to extraordinary lengths to accomodate OPEC demands after the Yom Kippur War, has not had as great an increase in trade with the OPEC nations as the Netherlands and West Germany, which pointedly refused to alter their relationship with Israel.

It is therefore apparent that these corporations and countries, and others like them, are able to operate in such a manner precisely because their services are as indispensable to Arab needs as they are to Israel.

Therein, we believe, lies the key to breaking the Arab boycott's influence on our economy and society. American goods and services are the most sought after in the world. We currently account for 18 percent of all world trade. The Arab nations, who so desperately want to develop their societies, are increasingly relying on American resources. The United States now accounts for 40 percent of the additional trade which the OPEC nations have undertaken since the quadrupling of oil prices in 1973. This relationship, instead of being characterized by discriminatory demands that are alien to our traditions and law, should instead dictate that, as a condition of its continuance, no such demands will be tolerated.

It remains that compliance with the Arab boycott is still not prohibited by law. We therefore urge that the Export Administration Act be amended to prohibit all agreements to refrain from doing business (1) with a foreign country friendly to the United States, and (2) with a company or supplier boycotted by a foreign concern, thereby furthering a foreign-imposed boycott or restrictive trade practice. We also urge the Congress to amend the Export Administration Act to prohibit business from furnishing the information the Arab League uses to enforce its boycott demands. Both of these recommendations are contained in the Subcommittee's report.

Whether the Congress will finally declare these practices illegal is another facet of the long-standing debate over whether the conduct of our foreign policy—in which economic relationships are the substructure—will be consistent with our ideals. It does little good—indeed it does much harm—to voice opposition to the boycott while winking at compliance with its demands. Both our credibility and our true intentions are called into question. Rather than mortgage our principles—both domestically and in our support for the State of Israel—it is time that we exercise the leverage and suasion we command in the Persian Gulf. Rather than succumb to discriminatory demands imposed by foreign governments against American citizens, it is time this Nation repudiate them once and for all.

This is our hope, and the policy to which we are committed.

HENRY A. WAXMAN,
JOHN E. MOSS,
ANTHONY TOBY MOFFETT,
JAMES H. SCHEUER,
RICHARD OTTINGER,
ANDREW MAGUIRE.

The CHAIRMAN. If there are no amendments to section 17, the Clerk will read.

The Clerk read as follows:

NUCLEAR EXPORTS

SEC. 18. The Export Administration Act of 1969 is amended by adding at the end thereof the following new section:

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment:

Page 20, immediately after line 12, add the following new section:

NUCLEAR EXPORTS

SEC. 18. The Export Administration Act of 1969 is amended by adding at the end thereof the following new section:

"NUCLEAR EXPORTS

"SEC. 17. (a) (1) The Congress finds that the export by the United States of nuclear material, equipment, and devices, if not properly regulated, could allow countries to come unacceptably close to a nuclear weapon capability, thereby adversely affecting international stability, the foreign policy objectives of the United States, and undermining the principle of nuclear nonproliferation agreed to by the United States as a signatory to the Treaty on the Non-Proliferation of Nuclear Weapons.

"(2) The Congress finds that nuclear export activities which enable countries to possess strategically significant quantities of unirradiated, readily fissionable material are inherently unsafe.

"(3) It is, therefore, the purpose of this section to implement the policies stated in paragraphs (1) and (2) of section 3 of this Act by regulating the export of nuclear material, equipment, and devices which could prove detrimental to United States national security and foreign policy objectives.

"(b) (1) No agreement for cooperation providing for the export of any nuclear material, equipment, or devices for civil uses may be entered into with any foreign country, group of countries, or international organization, and no amendment to or renewal of any such agreement may be agreed to, unless—

"(A) the provisions of the agreement concerning the reprocessing of special nuclear material supplied by the United States will apply equally to all special nuclear material produced through the use of any nuclear reactor transferred under such agreement; and

"(B) the recipient country, group of countries, or international organization, has agreed to permit the International Atomic Energy Agency to report to the United States, upon a request by the United States, on the status of all inventories of plutonium, uranium 233, and highly enriched uranium possessed by that country, group of countries, or international organization and subject to International Atomic Energy Agency safeguards.

"(2 The Secretary of State shall undertake consultations with all parties to agreements for cooperation existing on the date of enactment of this section in order to seek inclusion in such agreements of the provisions described in paragraphs (1) (A) and (1) (B) of this subsection.

"(3) (A) No license may be issued for the export of any nuclear material, equipment, or devices pursuant to an agreement for cooperation unless the recipient country, group of countries, or international organization, has agreed that the material, equipment, and devices subject to that agreement will not be used for any nuclear explosive device, regardless of how the device itself is intended to be used.

"(B) Subparagraph (A) of this paragraph shall take effect at the end of the one year period beginning on the date of enactment of this section.

"(4) In any case in which a party to any agreement for cooperation seeks to reprocess special nuclear material produced through the use of any nuclear material, equipment, or devices supplied by the United States, the Secretary of State may only determine that safeguards can be applied effectively to such reprocessing if he finds that the reliable detection of any diversion and the timely warning to the United States of such diversion will occur well in advance of the time at which that party could transform strategic quantities of diverted nuclear material into explosive nuclear devices.".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and open to amendment. This amendment has been printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ANDERSON of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this would be an appropriate point during our consideration of this legislation under the 5-minute rule to offer motion to strike section 18 of this legislation under the 5-minute erous invitations that were extended to me during the earlier debate on the rule to offer such a motion and that, indeed, was one of the justifications that was given for offering an open rule, that we would have an opportunity to do so.

I am under no illusions, in view of the lateness of the hour and the fact that the Members are now, I am sure, tired after their arduous labors throughout the day—I am under no illusions as to what the success, or I should perhaps say the lack of success, would be for such an effort. Frankly, that is the only reason, a very pragmatic reason, that deters me from offering a motion to strike this section from the bill because, very frankly, I am disappointed; deeply disappointed that the rule was adopted and that we proceeded with the consideration of this legislation in its present form.

Mr. Chairman, I hold in my hand a copy of H.R. 15419, which is the bill which was cosponsored by the gentleman from Illinois (Mr. PRICE), the distinguished vice chairman of the Joint Committee on Atomic Energy, and myself, which was introduced in the House on the 2d of September of this year. It was reported with an amendment and reported to the Committee of the Whole House on the State of the Union and ordered to be printed on September 18.

Members, and particularly the members of the Committee on International Relations, have not had an opportunity to consult that bill or even read it, but in it, if they had been able to do so, they would have found that on pages 32 through 63—for more than 30 pages—we undertake in most detailed, specific, concrete manner, to deal in comprehensive fashion with the very real and important problem of nonproliferation. In contrast to that, as Dr. Seamans, the head of ERDA, pointed out in the letter which I read earlier in the debate under the rule, the Energy Research and Development Administration was not given an opportunity to testify on the committee amendment now incorporated in section 18 of the bill. He went on to suggest that this kind of piecemeal approach was not the best remedy for this important problem.

We have talked also with the Assistant Secretary of State, Mr. Kratzer, to clear up with him what input the State Department had in this whole process. I am informed that Mr. Kratzer, the Assistant Secretary of State, met informally with the staff of the subcommittee chaired by my friend and colleague from Wisconsin (Mr. ZABLOCKI) for about one-half hour; that no members were present; no formal statement was presented for inclusion in any committee proceedings as a result of this meeting.

No further communication was received from the committee until the hearings were scheduled for the committee amendment on nuclear export. At that time, Mr. Kratzer requested to be added to the witness list, and that request was granted. But, no written or prepared statement was submitted, and at the last minute a new draft of the amendment was presented to the witnesses for their comments, and he did the best he could, but had problems with that draft and promised to provide comments on it in writing to the committee.

But, 48 hours after that hearing, the bill was marked up, it was reported, and the views of our own U.S. Department of State were never formally presented or considered by the committee on this very, very important issue. This, I suggest, is a very cavalier and a very faulty way in which to deal with an important question of this kind.

I tried to make it clear during the debate we had earlier on the rule, that it is not simply a question of having our jurisdictional feathers ruffled as a result of this obvious invasion of the jurisdiction of another committee, but that there are several substantive defects in the language of section 18. Let me very briefly point out what I think they are.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(On request of Mr. MORGAN and by unanimous consent Mr. ANDERSON of Illinois was allowed to proceed for 3 additional minutes.)

Mr. ANDERSON of Illinois. I am grateful to the distinguished chairman of the committee, who is and shall remain my friend notwithstanding our disagreement on this matter.

Mr. Chairman, the finding contained in section 17(a)(1), that nuclear export, if not properly regulated, can undermine the policy of encouraging nations to sign the nonproliferation treaty is inconsistent—inconsistent with the requirement that appears later in section (b)(1)(B), in which countries disclose to the United States inventories of special nuclear material that is under IAEA safeguards.

If a country wants to avoid disclosure, it is this section, as I read it, which encourages bringing those facilities under safeguards, and the only way to do that is to refuse to sign the nonproliferation treaty. With the very definition of the language contained here, they cannot comply with the requirements for disclosing inventories that are required.

I can scarcely ask the House to indulge me in any further extension of time, but I want to point out very quickly that section 4, which is the last subsection of the committee amendment, that particular subsection which appears in the bill on line 24 at the bottom of page 22 and continues through the balance of the bill, if that section were implemented it would preclude the U.S. involvement in any reprocessing activities overseas, activities that could very well, under the right kinds of conditions and the right circumstances, be very productive in encouraging nations to forego national reprocessing facilities, to encourage them instead to cooperate in multinational facilities under strong safeguards, with multinational investment, control, management, and so on.

I do not have the time to go into some of the other detailed provisions of that section. Again, the intention of the authors is unbounded in its goodness, but the unfortunate part of it is that they simply were not sufficiently conversant with the background of the Atomic Energy Act of 1954, the Nuclear Regulatory Commission process by which exports are licensed, and as a result they have included language which, in my judgment, is actually counterproductive to the goal of nonproliferation.

In words as strong as I possibly can muster, I must protest this particular means of dealing with the problem.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Chairman, I want to compliment the gentleman on his statement and pay tribute to the work he has done in trying to draft the proper kind of agreement.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ANDERSON) has expired.

(On request of Mr. MORGAN, and by unanimous consent, Mr. ANDERSON of Illinois was allowed to proceed for 2 additional minutes.)

Mr. BROWN of California. If the gentleman will yield further, I was complimenting the gentleman for the fine work he has done in drafting the legislation which has been reported out by the joint committee.

Mr. Chairman, I want to pose this question to the gentleman, as an indication of the possible weakness of the provision within the current bill.

Is it not true that if we enact in legislation restrictive conditions which another country feels it cannot meet, and if there is available the nuclear plants and nuclear materials from other countries, would that not drive them to take their nuclear business to these other countries?

Mr. ANDERSON of Illinois. The gentleman is so correct in his point he made, and that is why the very heart and core of the legislation the gentleman from Illinois (Mr. PRICE) and I introduced, and which the gentleman voted for in the joint committee, is so important. The heart and core of that legislation, in section 15, which is the section which refers to the criteria, is based on mutual undertaking.

Some people have the wholly fallacious idea that the United States has some great monopoly today on the supply of nuclear technology and equipment. We may have had that once, and indeed we did; but we have lost it and, as a result, the mere promulgation of a unilateral basis of safeguards on criteria governing and controlling export is not going to do any good in a world that is already nuclear. We have to go the route of encouraging mutual international cooperation and mutual undertakings to curb this horrible proliferation.

Mr. BROWN of California. If the gentleman will yield further, in an attempt to solve this problem we might actually exacerbate it unless we create conditions which allow incentives for control of proliferation as long as there are the kinds of standards that are in the bill.

Mr. ANDERSON of Illinois. Mr. Chairman, once again the gentleman from California (Mr. BROWN) demonstrates his complete understanding of why this section is wrong.

Mr. LONG of Maryland. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from Illinois (Mr. ANDERSON) has argued that we do not need the "Nuclear Exports" section of H.R. 15377 of U.S. nuclear fuel because the House will soon consider H.R. 15419, the nuclear proliferation bill reported on September 18 by the Joint Committee on Atomic Energy.

But what the gentleman from Illinois does not say and what I must point out is that the Joint Committee bill, in its present version, is worse than no bill at all. The administration, in the last stages of the committee markup on the bill, succeeded in including numerous amendments that have greatly reduced the potential of the bill to reform and strengthen our nonproliferation policies.

The Joint Committee bill, as reported, would allow nuclear deals such as those between Germany and Brazil and between France and Pakistan, because all that would be required under the current version of the bill would be "a judgment on the part of the exporting nation" that a nuclear deal would not contribute to the spread of nuclear weapons.

Remember that Germany and France have always contended that their nuclear deals with Brazil and Pakistan, respectively, had sufficient safeguards to prevent diversion of nuclear material for nuclear weapons. Therefore, Germany and France could be expected to make a judgment that their nuclear deals with other countries would not contribute to nuclear weapons proliferation.

Any bill that would allow nuclear deals such as the German-Brazilian deal can scarcely be said to improve radically the prospects of curbing nuclear proliferation.

The current version of the Joint Committee bill effectively removes any possibility that the many loopholes in existing nuclear agreements between the United States and other countries will be tightened up.

Further, another last-minute administration amendment to H.R. 15419 removed the requirement that the administration inform the Congress as to which nuclear agreements for cooperation should be modified or tightened up.

The principal point here is that most of our nuclear exports occur under the authority of existing nuclear agreements for cooperation, a majority of which do not expire until after 1990.

If the Joint Committee bill, which Mr. Anderson would have us rely on instead of the nuclear exports provision in the Export Administration Act, does not allow the renegotiation and tightening up of existing nuclear agreements, the bill is basically window dressing.

The third major problem of the Joint Committee bill is that the supposedly strengthened system for control of nuclear exports would not go into effect until all the nations of the world agreed to these additional measures.

Such agreement by all the nations of the world obviously could not happen for many years, if ever. Obtaining agreement by the relatively small number of nuclear supplier nations is in the realm of possibility; obtaining agreement by all the nations of the world is totally unrealistic.

Finally, the Joint Committee bill allows the President to overturn a ruling by the Nuclear Regulatory Commission against a nuclear export license with little or no possibility of effective congressional scrutiny of this decision. Why? Because the President is not required to give Congress any notice of his decision before it goes into effect or any detailed explanation of his decision.

Summary: Therefore, I urge you to support the "Nuclear Exports" section of the Export Administration Act which has been so carefully drafted by the International Relations Committee and by the gentleman from Wisconsin (Mr. Zablocki) and the gentleman from Illinois (Mr. Findley). The Zablocki-Findley provision is a solid step forward in combating nuclear proliferation and in preventing the spread of nuclear reprocessing that could lead to nuclear weapons.

AGREEMENTS FOR COOPERATION IN THE CIVIL USES OF ATOMIC ENERGY

A. Bilaterals with Individual Countries:

COUNTRY, SCOPE, EFFECTIVE DATE, AND TERMINATION DATE:

Argentina: Research and Power; July 25, 1969; July 24, 1999.

Australia: Research and Power; May 28, 1957; May 27, 1997.

Austria: Research and Power, Jan. 24, 1970; Jan. 23, 2014.

Brazil: Research and Power; Sept. 20, 1972; Sept. 19, 2002.

Canada: Research and Power; July 21, 1955; July 13, 1980.

China, Rep. of: Research and Power; June 22, 1972; June 21, 2014.

Colombia: Research; March 29, 1963; March 28, 1977.

Finland: Research and Power; July 7, 1970; July 6, 2000.

*Greece: Research; Aug. 4, 1955; Aug. 3, 1974.

India: Power (Tarapur); Oct. 25, 1963; Oct. 24, 1993.

Indonesia: Research; Sept. 21, 1960; Sept. 20, 1980.

Iran: Research; April 27, 1959; April 26, 1979.

Ireland: Research; July 9, 1958; July 8, 1978.

Israel: Research; July 12, 1955; April 11, 1977.

Italy: Research and Power; April 15, 1958; April 14, 1978.

Japan: Research and Power; July 10, 1968; July 9, 2003.

Korea: Research and Power; March 19, 1973; March 18, 2014.

Norway: Research and Power; June 8, 1967; June 7, 1997.

Philippines: Research and Power; July 19, 1968; July 18, 1998.

Portugal: Research and Power; June 26, 1974; June 25, 2014.

South Africa: Research and Power; Aug. 22, 1957; Aug. 21, 2007.

Spain: Research and Power; June 28, 1974; June 27, 2014.

Sweden: Research and Power; Sept. 15, 1966; Sept. 14, 1996.

Switzerland: Research and Power; Aug. 8, 1966; Aug. 7, 1996.

Thailand: Research and Power; June 27, 1974; June 26, 2014.

Turkey: Research; June 10, 1955; June 9, 1981.

United Kingdom: Research and Power; July 21, 1955; July 20, 1976.

United Kingdom: Power; July 15, 1966; July 14, 1976.

Venezuela: Research and Power; Feb. 9, 1960; Feb. 8, 1980.

Vietnam (Republic of): Research; July 1, 1959; June 30, 1979.

Mr. du PONT. Mr. Chairman, I move to strike the requisite number of words.

Mrs. LLOYD of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. du PONT. I yield to the gentlewoman from Tennessee.

Mrs. LLOYD of Tennessee. Mr. Chairman, it is most unfortunate when a Member of this body is constrained to oppose what is fundamentally a commendable and sound legislative remedy to a very real problem. But I find myself in that position in connection with the bill before us, the Export Administration Act amendments.

The unfortunate action by the Committee on International Relations in section 18 of this bill has left me no alternative but to oppose the enactment of H.R. 15377.

In opposing the rule on this measure, it was my contention that the language of this section is clearly under the jurisdiction of the Joint Committee on Atomic Energy. This section, section 18, is ostensibly aimed at eliminating the proliferation of nuclear weapons by banning U.S. approval of any arrangements whereby fuel used in a U.S.-applied reactor could be reprocessed in a foreign facility. This veto power over foreign reprocessing will result in a de facto moratorium in nuclear reactor sales by the United States. Unilateral action in this field by the United States, which does not include other supplier nations, will only result in the loss of U.S. exports, and the substitution of competitor nuclear systems for U.S. technology by consumer nations.

The time has arrived when the United States cannot claim a monopoly on the development of nuclear technology. West Germany, Britain, France, and soon Japan, will be eagerly seeking to supplant U.S.-produced nuclear systems with their own. By restricting the right of domestic firms to compete in the international marketplace, we may even be risking the eventual decline of the U.S. industry to a point where we will be dependent upon foreign suppliers to meet our domestic needs. Beyond this, I believe that a reasonable argument can be made that, by forcing consumer nations to rely on technology which is inferior to our own, we actually increase the risk of nuclear accidents, and reduce the effectiveness of safeguards against the conversion of nuclear fuels into nuclear weaponry.

The adoption of this legislation effectively ties the hands of the United States insofar as we could participate in the development of a sound nonproliferation policy, developed in concert with all producer nations and taking into consideration the complex nature of the international agreements already in existence or under consideration. This bill will certainly have a negative impact on our balance of payments, employment, tax revenues and most importantly, the development of a viable nuclear industry and technology sufficient to meet the needs of our own country and the world in the energy scarce decades ahead.

I am most sympathetic to the major provisions of the bill, to prohibit Americans and American firms from intentionally furthering or complying with, on any grounds, and in any way, a boycott by a foreign nation which is friendly with the United States.

Mr. Chairman, I find it personally distasteful to know that any American firm would willingly participate in discriminatory actions against the customers, agents, or employees of other firms as a result of the pressure exerted by a foreign power. Such action not only contravenes the basic tenets of the very free enterprise system which underlies the growth and prosperity of all American business.

In order to protect the ability of this country to establish a substantive and workable policy regulating the proliferation of nuclear weapons, and in order to assure the continued safe development of our domestic nuclear industry, I must reluctantly oppose the enactment of the Export Administration Act amendments.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. du PONT. I yield to the gentlewoman from New York.

Ms. ABZUG. Mr. Chairman, I rise in support of the committee amendment, section 18.

Nuclear proliferation is one of the most critical issues on the international agenda at this time. India recently joined the nuclear club, and reports indicate that perhaps a dozen countries now possess the technological base required to produce atomic devices. As one who has worked both in Congress and in the peace movement against the nuclear threat, I look upon these developments with great alarm.

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*Superseding, research and power agreement in abeyance; U.S. material covered by IAEA (NPT) safeguards and Greek "peaceful uses" guarantee.

The basic problem is that the nuclear technology and nuclear fuel used for civilian energy projects provide the basis for the production of the special nuclear material—plutonium—which is the essential ingredient of nuclear weapons. Our Government has simply been too lax and too unconcerned to bring effective safeguards into existence through administrative or diplomatic procedures.

We know that India, which has refused to ratify the Non-Proliferation Treaty, utilized American-supplied materials to produce the nuclear device it exploded in 1974. No scheduled fuel shipment to India was ever subsequently held up as a result of this explosion, described by India as "peaceful."

Intelligence reports indicate that Taiwan has been secretly reprocessing spent fuel from a research reactor—which, if confirmed, would comprise the first known violation of the nonproliferation treaty by a signatory. Over 700 Taiwanese, according to the ERDA, have studied nuclear technology in the United States.

American diplomatic efforts are being conducted on an ad hoc basis without any overall, coherent nuclear policy. We may have pressured South Korea enough to force an end to its plans to purchase a reprocessing plant from France, but last year Brazil successfully purchased an entire nuclear package from West Germany. Will we succeed in pressuring Pakistan? Instead of rushing around to plug holes in the nuclear dike, we should be exerting world leadership to bring both supplier countries and purchaser countries to their senses.

The committee amendment in this bill is an absolutely necessary first step toward responsible management of the nuclear peril. It would extend export controls over the reprocessing of fuel in any American-supplied reactor, in addition to the current controls on American-supplied fuel. It would strengthen the role of the international atomic energy agency in undertaking inventories of nuclear materials. And it would prohibit licensing of exports of nuclear technology or materials to any country which fails to agree that it will not use the export for the development or manufacture of an explosive nuclear device of any kind, even so-called peaceful ones, thus closing a major loophole in existing regulations.

Mr. GRASSLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the intent of section 16 is good. It would encourage foreign countries to buy American, especially when prices are low and it would allow nations with a shortage of storage facilities to store their purchases here.

I am concerned, however, with the language on page 19, lines 21–23, "that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact," at some future date, might be interpreted as giving the Secretary of Commerce the authority to impose selective export embargos.

I interpret the language above as meaning that if a foreign country—such as Japan, Russia, et cetera—goes to the Department of Commerce and asks to store a grain purchase, and the Department determines that the purchase could be inflationary or cause a scarcity, that the purchase can be stopped. In effect, by not allowing a purchase, an embargo is put into effect. And, in fact, if only the storage is disallowed, a country may be discouraged from making a purchase it has planned.

In addition, the phrase "nor export" suggests that if a country wants to buy and store, or else goes ahead and buys and stores—with the Secretary's approval—the Secretary might later disallow the export of the purchased grain. Naturally, if this interpretation is correct, no country will want to buy and store.

There are today three conditions under which an embargo can be imposed. These include domestic short supplies of food stuffs—which would cause inflation—foreign policy considerations, and national defense.

In the first instance, the Secretary of Agriculture must certify to the President that a short supply of a particular item is in existence, and that its export could be inflationary. The President then decides what action, if any, is to be taken.

In the second two instances, the President sets down guidelines which his administrators follow or implement, so that if a particular problem arises, he is made aware of it.

However, in none of these cases does the Department of Commerce have the authority to forbid a sale because of a potential short supply or potential rise in inflation. I do not believe it would be responsible of us to give the Secretary that authority now. Only the President, if any one is to have the authority to embargo, should have such authority.

Mr. FINDLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I know of few amendments that have involved as much work, study, and consultation as the one before us at this moment.

This amendment corrects a fundamental defect in our national antiproliferation policy. It sets a minimum standard for reprocessing safeguards. No longer can these critical safeguard standards be left undefined and unguided by responsible criteria.

This amendment recognizes the threat not only of secret theft by terrorists but of outright appropriation of large quantities of bomb material by states themselves—states who may agree to promises now but who might—at some future date—find themselves desperately in need of nuclear weapons. It will be painfully clear at that moment that paper assurances and safeguards which were no more than alarm bells—not locks—will not have been enough. I do not want the Congress of the United States to bear the responsibility for that kind of safeguard soft spot.

Safeguards today are said to deter theft by working early enough to provide time for action by the international community or by supplier states themselves once things have gone wrong. At present, we could not obtain such warning in the case of reprocessed reactor fuel or stockpiled plutonium. The reason is very simple: such material can be transformed into nuclear weapons overnight. It is clear then that special precautions need to be taken. With such material, our safeguards must in effect be locks and not merely weak warning bells. We currently take such a view with respect to our bombs stored abroad. And separated or easily separable plutonium is, of course, no more than a few hours from itself being a nuclear weapon.

The warning and security requirements mandated by my amendment can be met by the proper exploitation of new technologies. The time to take such action is now, before reprocessing is a necessary part of commercial nuclear power. To avoid taking this step will only lead to disaster.

Let me say just a word about the extent of effort in formulating this amendment. We held many hearings. We did extensive research. We authorized field trips to look at safeguard research. We talked to industry representatives, and top independent experts. We did not just closet ourselves with the one Government agency now working most frantically to rationalize past mistakes and current failures. We did not just say: "Come on in fellas and write a bill for us that will take the heat off for a while." Instead, we worked with both the administration—all elements of it—and with others of great independent judgment and stature.

For instance, we worked with persons like Albert Wohlstetter, whose previous studies saved our defense establishment over $2 billion and led to the creation of the fail-safe warning system, locks on nuclear weapons, the idea of an airborne alert for SAC, and the emplacement of missiles in underground silos in order to protect them against incoming attack.

Surely all of us can agree on one fact. Nuclear exports ought to help countries to satisfy legitimate energy needs. These needs do not require at this time exotic, uneconomic technologies, the principal purpose of which is the speedy acquisition of nuclear weaponry. Let us begin to separate the wheat from the chaff. There are ways to provide for nuclear energy without in the process placing countries to within a day's reach of a nuclear weapon. That is what this amendment is really all about. My good friend, Mel Price, who watches so responsibly over our Nation's defense, would I think be able to support our efforts in this regard. Indeed, Assistant Defense Secretary Cotter found our safeguard technology ideas to be very imaginative and much to his liking.

Some will of course urge that our

amendment be dropped in favor of language proposed by the Joint Committee. We think some of those various bills—and there seem to be a hundred different versions of them, continually being amended by ERDA—contain some useful provisions. But our own legislation gets at a problem this legislation does not touch.

Moreover, to be frank, the bulk of the Joint Committee bills consist essentially of advice and direction. But time is running out on the proliferation problem. There is advice galore but no responsible legislation on the statute for us to point to when questioned about the Indian nuclear activities, the reported diversions in Taiwan, the incredible revelations of several GAO reports and so forth.

Our bill may not be 30 pages long, but it has bite rather than bravado. Rather than posture, it sets a sober and responsible standard—a floor, so to speak, on the most critical of all our safeguards. It assures warning before countries can transform diverted material into bombs; it makes it more difficult for them to quickly carry out such an act. As the former president of the Rand Corp., Henry Rowen, said in supporting our amendment: Who can oppose such a basic condition, when the alternative is to give a country the capability of having ready access to nuclear weapon material.

This amendment has the support of the International Relations Committee on both sides of the aisle. It has been carefully drafted and studiously researched. It is here to be acted upon today. We can delay no longer.

Mr. OTTINGER. Mr. Chairman, I rise in strong support of the Zablocki-Findley amendment to the Export Administration Act. This amendment is an excellent example of bipartisan cooperation in establishing policy guidelines to deal with one of the most serious problems facing the world today, the proliferation of nuclear weaponry. The work of both those gentlemen, the chairman and ranking minority member of the Subcommittee on International Security and Scientific Affairs, deserves commendation by all of us.

Since the explosion of a nuclear device by India in May 1974, the threat of nuclear proliferation has increasingly grasped the attention of the world. The paradox written into the Non-Proliferation Treaty, which on the one hand enjoins the signatories from transferring or receiving the capability to develop nuclear weapons, and on the other hand protects the rights of all nations to have access to nuclear energy for peaceful purposes, is now a matter for the policymakers to clarify. By now we are all aware of the relationship between the exportation of nuclear technology and equipment and the development of nuclear weapons. In the case of India, their weapon was made possible by reprocessing the spent fuel from a Canadian reactor with heavy water that had been supplied by the United States. Both the Canadian reactor and the U.S. heavy water had been exported on the condition that they would not be used for the production of nuclear weapons.

It is to me an incredible and prolonged stroke of luck that more nations have not developed nuclear weapons since the U.S. use of one over Hiroshima. It is remarkable that the stress which has been placed on nuclear deterrence, nuclear arsenals, nuclear war strategies, and the general power and respect reputed to follow in the wake of a nation's development of nuclear weapons have not induced many more nations to seek a nuclear weapons capability. While continuing to profess noninterest in nuclear weapons, the actions of Brazil, South Korea, Taiwan, Iran, and South Africa all indicate the horrendously dangerous potential to produce nuclear weapons.

All of the reasons for seeking such a potential existed before the Indian explosion, so why do these nations now believe that they can openly negotiate for the equipment and technical knowledge necessary to construct a nuclear weapon? The apparent reason is the indifference of the United States toward the Indian actions. Certainly, if the largest exporter of nuclear equipment does not back up its critical policy statements with actions why should anyone care what we say.

Were it not for the interest and hard work of the Zablocki subcommittee and the Senate Committee on Government Operations I am convinced that there would still be no response forthcoming from the United States to this problem which is of our own making and is our responsibility.

The Zablocki-Findley amendment deals with two of the most immediate problems surrounding the issue of proliferation. First, it would eliminate the ambiguity in the U.S. policy toward "peaceful nuclear explosions." Section 17(b)(3)(A) requires that any nation receiving nuclear equipment from the United States give assurances that those items will not be used to develop any nuclear explosive device. It is about time that our policy reflect what everyone knows: that there is no difference between a nuclear weapon and a so-called peaceful nuclear device.

Second, that amendment deals with the complex problem of safeguarding spent nuclear fuel and the reprocessing of that material. It assures that the United States will maintain control of any nuclear material produced in a reactor supplied by the United States and provides for the establishment of an adequate safeguard system before the United States will either export reprocessing facilities or allow other nations to reprocess nuclear material produced in U.S. reactors.

These steps are responsible actions to curtail the spread of nuclear weapons. As far as I can tell, acceptance of these strictures would be offensive only to those nations interested in developing nuclear weapons, and as such I do not believe that the United States should assist them in reaching their goal. This amendment represents a positive step toward the control of nuclear weapons and I urge all of my colleagues to support it.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. FRASER

Mr. FRASER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRASER: Page 23, immediately after line 9, insert the following new section:

EXPORTS OF NUCLEAR TECHNOLOGY

SEC. 19. Section 4(j) of the Export Administration Act of 1969, as added by section 11 of this Act, is amended by adding at the end thereof the following new paragraph:

"(3) In furtherance of the purposes of this subsection (relating to exports of technical information), of subsection (h) of this section (relating to exports of technology which may contribute to the military potential of other nations), and of section 17 of this Act (relating to nuclear exports), the President shall conduct an in-depth study of whether, or the extent to which, the education and training of foreign nationals within the United States in nuclear engineering and related fields contributes to the proliferation of explosive nuclear devices or the development of a capability of producing explosive nuclear devices. Not later than the end of the 6-month period beginning on the date of enactment of this paragraph, the President shall submit to the Congress a detailed report containing the findings and conclusions of such study. Such report shall analyze the direct and indirect contribution of such education and training to nuclear proliferation."

Mr. FRASER. Mr. Chairman, this amendment is offered on my own behalf and on behalf of the gentleman from Maryland (Mr. LONG).

Mr. Chairman, the intent of this amendment is to provide the Congress with information on the significance of training and education of foreign nationals in the United States to the proliferation of nuclear weapons.

As expressed in section 4 of the Export Administration Act, the Congress determined that "the defense posture of the United States may be seriously compromised if the Nation's goods and technology are exported * * * without an adequate and knowledgeable assessment being made to determine whether the export of such * * * technology will significantly increase the military capability" of other countries.

It should be noted that between 1955 and 1974 the Atomic Energy Commission trained over 10,000 foreign nationals in the use of research reactors and other aspects of a nuclear program. This included the following number of trainees from countries which we now regard as "near nuclear":

India	1,104
Taiwan	713
Argentina	192
Brazil	133
Korea	195
Pakistan	120
South Africa	88
UAR	103
Israel	250

It might be said that "the horse is out of the barn" and that we should have monitored the flow of nuclear technology more carefully years ago. While it is certainly true that the monitoring should have begun long ago, it is not the case that it is pointless to begin now. There are constantly "new horses" coming in the rear door. There is no single "secret" to technology flows. To a large extent the transmission and development of technologies is a matter of the growth of a reservoir of people with key skills and interests. Within a small country, this highly educated group may become a pressure group for programs which utilize and extend their skills. This process continues.

Furthermore, we do not know what new technologies will be coming along. Particularly problematic would be breakthroughs in the enrichment and reprocessing of nuclear fuel. We are at a point where spent fuel is so widely distributed that a breakthrough in reprocessing methods would place nuclear weapons within reach of scores of countries.

In conclusion, let me note that the proposed amendment is quite modest. It only calls for a study; however, the study should be thorough. The fields which are relevant to the development of nuclear weapons are quite diverse. They include metallurgical and chemical engineering as well as nuclear engineering. It will not be easy to review and assess the significance of such education and training. Given the importance of the issues involved, it is worth the effort.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Pennsylvania.

Mr. MORGAN. Mr. Chairman, I want to say that the gentleman from Minnesota (Mr. Fraser) raised this issue during the committee markup. I know of the longstanding interest of the gentleman from Maryland (Mr. Long), who has offered amendments to other bills which have been reported from the Committee on International Relations.

Mr. Chairman, I am sympathetic with what the gentleman from Minnesota is trying to do; after consultation with the ranking minority member, I am sure we would be glad to take this amendment, if it is the wish of the House, to conference and see what can be worked out.

Mr. Chairman, the only reason I opposed it in the committee is because I thought it involved the jurisdiction of other committees.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, I also would like to say that we have had a chance to look at this amendment, and we are in accord with what the gentleman from Pennsylvania (Mr. Morgan) has said.

Mr. Chairman, I feel that this study would be very important, and I think we can certainly accept this amendment.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, I congratulate the gentleman from Minnesota (Mr. Fraser).

As the gentleman knows, I am a cosponsor of this amendment, and I have some remarks prepared in support of it.

The most effective help we can give a nation is not necessarily the hardware but the know-how with which to develop that nation's own engineering complex.

In the 5-year period from 1970–75, the United States trained nearly 1,500 foreign nationals from 41 nations in the crucial areas of nuclear reactor technology, plutonium recycle/reprocessing, uranium enrichment and related disciplines.

Particularly disturbing is the fact that at least eight scientists from seven nations were trained in the key area of plutonium recycle/reprocessing.

Of the 1,489 trained in the 5-year period, 1,356 were from nations which could develop weapons in the near future.

One of the chief causes of proliferation is the chain reaction effect which occurs when one country gets nuclear weapons and irresistible internal political pressures force its neighbors to go after nuclear weapons also.

INDIA—A PRIME EXAMPLE

On July 26, 1976, I released a 1966 Atomic Energy Commission—AEC—memorandum acknowledging that 10 years ago the United States knew that India had a plutonium reprocessing plant not under international safeguards but nevertheless recommended that the United States provide "encouragement and assistance toward the recycle of plutonium produced in India's nuclear powerplants."

Not only did we supply the heavy water used in the 1974 Indian nuclear explosion, but we also taught Indians nearly everything they needed to know to convert nuclear materials into an explosive.

Well over 1,100 Indians have been trained at U.S. facilities since 1955—23 Indians trained between 1970–75 in critical areas.

Several Indian scientists were trained in the key area of plutonium recycle/reprocessing, one of whom was H. N. Sethna, head of India's Atomic Energy Commission.

In hearings this morning before a Senate Foreign Relations Subcommittee, witnesses from the State Department and the Arms Control Disarmament Agency testified on the nuclear program of the Republic of China. A State Department official responded that Senator Symington was correct in his statement that U.S. training of Taiwanese in the nuclear field could indeed lead to the production of nuclear weapons regardless of the U.S. intention behind the training.

Over 2 years ago—June 1974—I asked Secretary Kissinger for a list and description of U.S. assistance to nuclear research and development programs of countries which are reported to have potential for development of nuclear weapons. The information he provided showed that over the 18-year period of 1955–73, foreign nationals trained in nuclear physics and related fields numbered well over a hundred in several countries:

India	1, 104
Brazil	133
Argentina	192
Egypt	103
Israel	250
Pakistan	126
Taiwan	713
Turkey	108
South Korea	193
Philippines	118

From ERDA, I requested and received a list of the nearly 1,500 foreign nationals trained in nuclear technology in the last 5 years—1970–75. By placing the training totals by nation in four distinct categories—showing various nations' proximity to developing nuclear weapons, we see that there is, ample justification—in fact a crying need for the Fraser-Long amendment calling for a study of the extent to which U.S. training of foreign nationals in nuclear engineering and related fields contributes to proliferation.

The four categories, and nations in each category, are listed below:

TRAINING OF FOREIGN PERSONNEL IN THE UNITED STATES (1970–75)

(In reactor technology, plutonium recycle/reprocessing, uranium enrichment and related disciplines)

NATION AND NUMBER OF NATIONALS TRAINED	
Category O/O+ (Nations which have nuclear weapons/explosives):	
France	38
Great Britain	28
India	23
U.S.S.R.	3
Category I (Nations with full access to bomb-grade material and with broad-based technology support):	
Belgium	6
Canada	6
Germany (West)	158
Italy	128
Japan	269
Netherlands	7
South Africa	4
Sweden	17
Taiwan	354
Category II (Nations with limited bomb material sources and some nuclear technology program):	
Argentina	6
Australia	8
Brazil	73
Czechoslovakia	1
Egypt	8
Iran	33
Israel	11
Korea (ROK)	11
Mexico	90
Norway	1
Pakistan	4
Spain	64
Switzerland	97
Category III (Remainder of nations):	
Algeria	3
Austria	8
Chile	4
Denmark	3
Finland	1
Greece	3
Hong Kong	1
Ireland	1
Jordan	1
Libya	1
Nigeria	2
Saudi Arabia	1
Syria	1
Thailand	1
Turkey	8
Vietnam (South)	2
Total	1, 489

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. Fraser).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Hughes: Page

23, immediately after line 9, insert the following new section:

LIMITATION ON EXPORTS OF CRUDE OIL AND NATURAL GAS

SEC. 20. Section 4 of the Export Administration Act of 1969, as amended by sections 11, 14, and 15 of this Act, is further amended by adding at the end thereof the following new subsection (m):

"(m)(1) Except for crude oil and natural gas described in paragraph (2), no crude oil or natural gas produced in the United States (including the Outer Continental Shelf) may be exported from the United States, its territories or possessions, unless the President determines that the export of such crude oil or natural gas will not diminish the total quantity and quality of crude oil and natural gas available to the United States and that such export is in the national interest of the United States: *Provided*, That such determination shall be reported to the Congress, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this subsection are in the national interest: *Provided further*, That no such exports shall take place during such time period. If the Congress within such time period passes a concurrent resolution of disapproval stating disagreement with the President's determination concerning national interest, such determination shall have no force or effect.

"(2) Paragraph (1) shall not apply to such exports of crude oil or natural gas as may be necessary to leave uninterrupted or unimpaired—

"(A) exchanges in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state,

"(B) temporary exports for convenience or increased efficiency of transportation across parts of an adjacent foreign state which exports reenter the United States, and

"(C) the historical trading relations of the United States with Canada and Mexico.".

Mr. HUGHES (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HUGHES. Mr. Chairman, the amendment I am offering would prohibit the export of crude oil and natural gas produced in the United States or from our Outer Continental Shelf, except upon a finding by the President that such exports are in the national interest, and that it would not reduce the quantity or quality of oil and natural gas available to the United States.

The President's findings could not take effect for a period of 60 days, and would be subject to disapproval by concurrent resolution of the Congress during that time.

The amendment would specifically exempt exchange agreements, temporary transportation across an adjacent foreign nation, and our traditional trading relations with Mexico and Canada.

I would emphasize also that it applies only to crude oil and natural gas. It would permit exports if the President and not refined petroleum products.

This amendment is addressed to recent press accounts concerning the oil surplus which has been projected for the west coast when the Alaska pipeline begins delivering oil to the lower 48 States next year.

I know it is bewildering to be talking about a surplus in the midst of an oil shortage, but that apparently will be the case, especially given the difficulty of economically transporting west coast surpluses to eastern markets.

At present, the discussions concerning the surplus revolve around exchanging that surplus oil with Japan for Middle East oil which would have ordinarily gone to Japan. The Mideast oil could go to the eastern markets in this country.

I have no objection to an exchange agreement, provided that we receive a like amount of oil in exchange. My amendment would specifically exempt exchanges from the prohibition on exports.

But we cannot ignore the possibility, which has already been suggested, that surplus west coast oil be sold outright to other nations, such as Japan. The temptation to export U.S. oil may grow in future years, particularly as more and more offshore areas are opened up for oil and gas development for the first time, under the accelerated leasing program.

Yet, at the present time, we have only patchwork of laws dealing with the problem of oil exports.

There is one law, Public Law 93-153, dealing with Alaskan crude transported via the pipeline. There is another law, the Energy Policy and Conservation Act, which deals with other crude oil and refined products.

The status of oil produced from the Outer Continental Shelf is not clear at the present time. Although the proposed OCS Lands Act amendments, which will be before us tomorrow in the form of a conference report, would subject OCS oil to the Export Administration Act, it is not clear whether the OCS bill will be passed, or if it is passed, whether it will be vetoed.

At any rate, all three of those laws make reference to the Export Administration Act. However, in the event of a temporary or regional surplus, it is safe to say that the act would not necessarily prevent oil exports. Under a temporary or regional surplus situation, reasonable people could argue that exports would not have an inflationary impact or create shortages.

But when we are talking about oil, we are talking about a nonrenewable resource. To me, it seems unfair to cheat future generations by exporting oil now for the temporary expedient of effecting a surplus in our balance of trade, or because the oil we produce now cannot be absorbed all at once by a regional market, such as the west coast.

My amendment would bring a uniform standard to the issue of whether or not we should export any of our oil. It is not a rigid or unyielding standard: It would permit exports if the President and both Houses of Congress concur that it would be in the national interest.

If the west coast oil surplus comes into being, we will face a chaotic situation. The Alaskan pipeline legislation says one thing: the energy policy and conservation act says another, and the OCS bill, if passed, would establish another third standard for OCS oil.

I urge the adoption of my amendment to provide a uniform standard for oil exports.

Mr. FINDLEY. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New Jersey (Mr. HUGHES).

Mr. Chairman, I oppose the amendment reluctantly because I am sure it is the intent of the administration and of both Presidential candidates, up to date, to conserve our stockpiles of petroleum products.

Yet I think we ought to recognize that the Export Administration Act already has language which permits the President to protect the national interest, to assure adequate domestic supplies or to serve the foreign policy interests of the Nation by curtailing or prohibiting the export of the commodity specified in the amendment.

Second, it seems to me that this amendment, while understandable, is, nevertheless, quite contrary to the spirit of all trade expansion legislation in recent years. It does propose a flat prohibition on the export of petroleum, crude oil, and natural gas.

Third, it is unduly restrictive, and I should like to cite just one example to illustrate the complications it might cause.

Let us assume the State of Israel gets into a terrible bind for petroleum supplies and finds it was at odds with most of the world, with perhaps the United States as its only friend. As I read this amendment, I see no way that the President could set aside the language set forth here and in that dire emergency send crude oil or natural gas or other products to the State of Israel.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

I want to say to my colleague that the language is almost exactly the language that is in the trans-Alaskan pipeline legislation. What I am saying in essence is why should we treat Alaskan oil any different than the Outer Continental Shelf oil? There is discretion in this respect. The President has to make a finding that it is in the national interest, but to be consistent with Project Independence, it seems to make sense to me to have one standard for all oil, not three or four different standards.

Mr. FINDLEY. If I could comment on that, my own feeling is that that language in the Alaskan pipeline legislation was a mistake, and we should not complicate our national policy by making another mistake.

Mr. Chairman. I yield back the remainder of my time.

Mr. MORGAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am very sympathetic

to the objectives sought by the gentleman from New Jersey, However, Mr. Chairman, I see several problems with his amendment. I am told by the counsel that there are similar amendments presently incorporated in several other laws: The Energy Policy and Conservation Act, the Trans-Alaskan Pipeline Act, and the Navy Petroleum Reserve Production Act. In each of these instances this matter has been dealt with by committees other than the Committee on International Relations.

I do not believe that we should get into this subject without consideration by the committee of proper jurisdiction and competence over this subject.

I am advised that the administration would be very much concerned with this amendment because it again has to deal with the same issue that I spoke about on the Findley amendment.

About the concurrent resolution included in the gentleman's amendment, it would give us some problems by threatening a Presidential veto.

I would think the administration would have to look at four different acts in regulating petroleum exports if this stayed in the bill. I feel it is unnecessary in this bill. I think it just clouds the issue here today.

The passage of this bill is very, very important, as I said in my opening remarks. This act expires on September 30, some 8 days away. We will attempt to go to conference, if we can, on this tomorrow, if this passes the House. As much as I regret it, I cannot support the gentleman's amendment, and I hope the House will vote down the amendment.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

I can appreciate the Chairman's concern, but let me say to the Chairman that we now have a patchwork of three different formulas being used by three different pieces of legislation. My amendment would standardize one formula. The language is just about identical with the language in the Trans-Alaskan Pipeline legislation. I am a member of the Ad Hoc Select Committee on the Outer Continental Shelf, and I incorporate by reference the Export Administration Act of 1969 into the legislation. What my amendment will do will be to standardize it so that all oil, whether it comes from Alaska or the Outer Continental Shelf, or from wherever it comes, will be subject to the application of the same standard. It seems to me the Chairman would be interested in this.

Mr. MORGAN. I listened to the gentleman's remarks very well, and I heard him say in his remarks in defense of the amendment that the House would consider a conference report tomorrow that includes the same provision and could be subject to a veto. So I see no reason, if the gentleman feels his own conference report on the Outer Continental Shelf is going to be subject to a veto, why we should expose this very important piece of legislation to a veto.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. Hughes).

The question was taken; and on a division (demanded by Mr. Hughes) there were—ayes 6, noes 36.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. BURLISON OF MISSOURI

Mr. BURLISON of Missouri. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Burlison of Missouri: Page 23, immediately after line 9, insert the following new section:
>
> EXPORT CONTROLS ON AGRICULTURAL COMMODITIES
>
> Sec. 20. Section 4(f) of the Export Administration Act of 1969, as amended by section 16 of this Act, is further amended by adding at the end thereof the following new paragraph:
>
> "(3) In any case in which the exportation of any agricultural commodity is limited or prohibited under this Act, the exportation of any fertilizer, tools, tractors, combines, or other material or implements used in the production of that agricultural commodity shall be limited in corresponding amount or prohibited, as the case may be. If the limitation or prohibition on exportation of the agricultural commodity is applicable with respect to specific nations, the limitation or prohibition pursuant to this paragraph shall be applicable with respect to the same nations.".

Mr. BURLISON of Missouri. Mr. Chairman, what does this amendment do? Very simply it places a restriction on the exports of merchandise and materials used by the farmer to produce the commodities which are embargoed under this act.

The unfortunate experience of our farmers began under this act in 1973 with the soybean embargo. In that instance many of our export markets were lost for future years.

In my interrogation of or colloquy with the Secretary of Agriculture the year after that embargo was levied, the Secretary testified that he felt it was a mistake to put in place the embargo in 1973 on soybeans. He gave as his reason for levying that embargo that they had to do it to prove it was a mistake so that they would not do it again.

Now, if that sounds like a far-fetched answer, an unreasonable answer, I agree, but I cite part 1 of the fiscal year 1975 Appropriation Committee hearings, the Subcommittee on Agriculture, on page 78, where Members will find that testimony, to wit:

> Mr. Burlison. Were you referring also in that statement to the decision to place export controls on soybeans?
>
> Secretary Butz. Yes, sir, which again, I think, was an unfortunate decision. Except——
>
> Mr. Burlison. Again a decision that you joined in with Mr. Shultz and publicly approved of?
>
> Secretary Butz. That is correct. At that time I think we had to go through that instance to prove to ourselves we shouldn't do it again.

I asked the Library of Congress to submit a report to me with respect to the effects of embargoes since 1973, and that report under date of March 8, 1976, compiled by Janice Baker reads in part as follows:

> As farm organizations have pointed out, the embargo or moratorium indicated to traditional foreign buyers that the United States might no longer be a reliable supplier. Purchasers such as Japan began to look elsewhere to assure an adequate supply of needed imports of soybeans and grains.

Mr. Chairman, if there is any doubt in the minds of Members with respect to the truth of that analysis, I would refer them to the Journal of Commerce, March 1, 1976, on page 2, in which is read in detail an agreement between Japan and Brazil for the production of 50,000 hectares of soybeans in Brazil, an experiment which was expected and is expected to develop into 1 million hectares of soybean production in Brazil in cooperation with Japan. The reason for this is the violation of soybean contracts with Japan, one of our greatest export customers. So we find now Japan has looked to Brazil to rely upon that source as a result of the embargo that was placed under this act in 1973 and subsequent years. The article in its entirety reads as follows:

Japanese, Brazil Plan Joint Farm Production

(By A. E. Cullison)

Tokyo.—Talks between representatives of the Japan-Brazil Agricultural Development Cooperation Organization and the Brazilian Government finally have resulted in a basic agreement to proceed with the plan to open 50,000 hectares to farm production as a joint effort.

Officials of the Japanese Agriculture-Forestry Ministry disclosed at the weekend that the massive agricultural production project on the central plain of Brazil was agreed upon after almost four weeks of discussions in Brazil. The program is expected to cost both countries at least approximately $26.4 million and perhaps more as it progresses.

Under the agreement, the ministry authoriites said, only the 50,000 hectares of the vast Serra do Roncador region, which includes Minas Gerais, Goias and Mato Grosso States in the central part of Brazil, will be developed on an experimental basis. However, if all goes well in the future, it is assumed that as much as a million hectares later may be jointly developed as farmland.

A jointly established agricultural development company is to be established to operate the experimental project. The new venture will be financed through direct loans provided roughly on a 50–50 basis by the Japanese and Brazilians. It is understood that the Japanese loans will be made on Brazilian-provided securities.

The agreement also calls for both the Japanese and Brazilian investments in the new firm to be provided by means of investment companies established in Tokyo and Brazilia. In addition, Brazilian interests will hold something more than a 50-per-cent equity position in the joint venture.

During the early negotiations it was learned that the Brazilians had wanted the joint venture to develop around a million hectares of farmland. But the Japanese were more cautious, holding out for a test operation of the 50,000 hectares. There also was the question of budgetary considerations resulting from Japan's present struggle with its own economic recession.

PLAN FIRST BROUGHT UP

The plan to develop the region was first brought up on an official basis in 1973 when then Japanese Prime Minister Kakuei Tanaka paid a state call on President Ernest Giesel. At that time—before the oil crisis—

the Japanese economy was expanding at a fast pace and it was considered likely that very much more than just 50,000 hectares woud be put into development.

Japanese now is to invest around $13.2 million in the project, with Brazil putting in the equivalent or perhaps slightly more. Under the program agreement, the Japanese Government will invest $6.6 million and the country's business community will invest the remaining $6.6 million investment.

It is expected that the intial project will grow soybeans and grains and that much of the production will be shipped to the Japanese market. There also have been reports in Tokyo that the program ultimately will call for the growing of citrus fruits of various types.

Mr. Chairman, I will ask unanimous consent when we return to the House to include extraneous matter where I can put in more detail these sources of information to which I am alluding.

Mr. Chairman, another effect of these embargoes and again I quote from the Library of Congress report:

In June 1973, prior to the imposition of the soybean embargo, farmers were receiving $10 per bushel for soybeans. When the embargo and licensing system ended in 1973, farmers were receiving $5.81 per bushel.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

(By unanimous consent, Mr. BURLISON of Missouri was allowed to proceed for an additional 2 minutes.)

Mr. BURLISON of Missouri. Mr. Chairman, I might add that the average price received for soybeans during that production year was $4.75 a bushel, in comparison with the $10 per bushel which existed when the embargo was put in place.

Mr. Chairman, I think the problem as it affects farmers was fairly well put in perspective by some officials of the Iowa Soybean Growers Association in a report or statement which was reported in the Des Moines Register of February 5, 1976, where it is stated that during the 5-month restriction on soybean exports, beginning in October, 1974—this is the embargo that was put in place 1 year later.

The statement follows:

IOWA SOYBEAN GROWERS JOIN D.C. PROTEST

(By James Risser)

WASHINGTON, D.C.—A delegation of 40 soybean producers, including seven from Iowa, came to Washington Wednesday to demand that control of agricultural policy be returned to the U.S. Department of Agriculture (USDA).

The farmers angered by grain export embargoes and falling soybean prices, asserted government "interference" had cost each of 600,000 U.S. soybean producers an average of $11,178 in the past 2 years.

"We in agriculture have no desire to become the American peasantry dictated to by unions, consumer groups and departments of government which have no understanding of our problems," William Prichard, a vice-president of the American Soybean Association, told a news conference.

Prichard of Louisville, Ga., said, "The government asked farmers to plant from fencerow to fencerow last spring and the year before" but then "stepped in to limit or actually prohibit sales of the commodities produced."

He said a five-month restriction on soybean exports beginning in October, 1974, caused the domestic price to fall from $8.50 a bushel to $4.72.

The subsequent three-month moratorium on shipments of soybeans and grains to Russia and Poland, starting in late July, 1975, resulted in prices dropping from $5.73 a bushel to $4.91, he said.

The producers presented petitions signed by 40,000 growers in 14 states, to Senator Herman Talmadge (Dem., Ga.), chairman of the Senate Agriculture Committee.

Talmadge told the delegation he agreed with their position, and said part of the blame rests with members of Congress who have "a lack of informed interest in agriculture" and believe farmers should "produce products for free and give them away."

Iowans who attended the news conference and who met later with members of Congress were Morris Greenley of Independence, Merlyn Groot of Manson, Garland Hanson of Callender, Ed Schettler of Emmetsburg, Herb Turin of Odebolt, Harold Fick of Callender and Eugene Lang of Grinnel.

Now, Mr. Chairman, I have also had considerable colloquy and discussion with the Secretary of Agriculture and his staff on their appearances before the Agricultural Appropriations Subcommittee for the fiscal years 1975, 1976, and 1977. Again, I will place some of that material in the RECORD upon receiving unanimous consent to do so when we are in the full House.

The material is as follows:

Mr. BURLISON. For about 5 or 6 years we have done that. I want to remind any of those that might be reading the record that our discussion last year was on pages 90 to 92, inclusive, of part I of the hearings.*

Now, I want to update that discussion with something that has happened since our little colloquy at that time.

FULL PRODUCTION VERSUS TRADE EMBARGOES

The Department put out a news release in 1975 at planting time. I brought your attention to this news release in a prior hearing.

The Department put out this release encouraging our farmers to go to full production, fence row to fence row, to get in every available acre, because they are going to have a free market to market their product. Then, as we approached harvest season, some time in late summer, our wheat embargo with Russia goes on that you have taken credit for.

Now, what is your response to that?

Secretary BUTZ. My response is that earlier in that season we had already sold the Russians substantially more than their normal purchases from this country.

Sales to every other part of the world continued unabated, with the exception of Poland. We sold some of the Socialist countries of Eastern Europe, including East Germany, substantially increased quantities.

My response is that we had already sold the Russians enough, that they had enough to go 7 months at full capacity with unloading. I don't think we skipped a beat.

Mr. BURLISON. I would say this, Mr. Secretary: I am afraid if you do put out a news release again this year urging our farmers to put forth full production, to take advantage of an open and free market, they are not going to put much substance in that news release.

Grain embargo

Mr. BURLISON. Mr. Manager, can we expect a grain embargo in 1976?

Mr. HUTCHINSON. I would say absolutely not, in 1976.

Mr. BURLISON. Why do you say that?

Mr. HUTCHINSON. If our supplies are adequate, and it appears that we can see we are going to have some increases, a slight increase, in our carryover, we do not see problems of supply in relation to demand as we see it, both worldwide at the present time, and domestically here at home. And I would like to mention one other thing, that the Soviet agreement has taken the huge impact of the uncertainties about Soviet purchases out of the market to a large degree.

Mr. BURLISON. I think to a significant respect that answer is similar to your response last year. I have been asking this question for 4 years now and I get the same answer every year. And we can look forward to the same embargo when the next summer comes, notwithstanding the Department testimony.

On this question, Mr. Secretary, I just noticed some recent speeches that you have made with respect to free trade.

On December 1st of last year you said:

"Grain farmers now have the incentive to respond fully to market growth. With the 1970 and 1973 Agriculture Acts we have moved forward toward a market oriented farm policy."

You went on to say:

"It is the free market system which depends on the marketplace to signal the producer the needs of the customers, both at home and abroad."

In a speech on February 21, 1976, you stated.

"American farmers now have the freedom and incentive to produce to meet effective world demand."

In a speech on February 3rd of this year, before the Illinois Corn Growers, you said:

"Expanded corn and other grain exports have enabled American agriculture to pursue a full production and market orientation foreign policy. Policy of prior years were costly and pressured American farmers from using fully their resources and managerial capacity. The full production and market-orientation policy permitted farmers to use their resources more effectively. Consequently, farm productivity is on the rise.

"It is a policy that has put decisionmaking in American agriculture back in the hands of American farmers. That is where decisionmaking in agriculture belongs. The production and export records speak for themselves."

I never cease to be amazed how you folks go on the stump, as soon as the annual embargo has been lifted, advertising to the American farmer this great free market system that we have and how they can rely on it.

Are you ever going to quit running across the country making those promises, only to violate them——

Mr. BELL. Mr. Burlison——

Mr. BURLISON [continuing]. The next summer, when it is harvest season?

Mr. BELL. Before 1972 the American farmer did not have access to the grain markets in the U.S.S.R. He didn't have access to the grain markets in Eastern Europe. He had at least 60 million acres of land he was not producing on. He was being paid $4 billion in subsidy not to use his full managerial capacity.

In the past year, or rather, the last 3 to 4 years, we have more than tripled our agricultural exports. We have put most of that land of 60 million acres back into production. We have gotten rid of the $4 billion subsidy payment.

Frankly, I don't know how many farmers you talked to in Missouri. Ones I have talked to kind of like our policy. I think we will be out there continuing to say it despite what you say.

Mr. BURLISON. If you can find a farmer in my State that is in favor of your annual export embargo policy, I will tip my hat to you.

Mr. BELL. I don't think that we have an annual export embargo policy that you seem to say we do.

Mr. BURLISON. You have had it since 1973, haven't you? Haven't we had at least one embargo or moratorium or restriction, whatever you want to call it? You come up with a different title every year. It is the same thing. It affects the grain market in the same fashion, drives it down to the same extent.

We have had it in 1973, 1974, and 1975, 1976 is an election year. I am telling my people that I think we can count on not having it this year. But I am worried about 1977 and 1978.

Thank you, Mr. Chairman.

Mr. WHITTEN. Mr. Secretary, I am not running your business, but I wouldn't tell a fellow about his own State. I learned when I first got into politics, don't go to their town telling them how strong you are in that town. They know more about it than you do.

You made a mistake about telling Mr. Burlison about his State. Leave his State alone.

Mr. BELL. I don't intend to be invited to Missouri to find out.

Mr. WHITTEN. I would say, if you don't, it sounds like you know it is not very strong for you.

Mr. Chairman, in conclusion, the effect and the result of this amendment will be to temporize and moderate the inclination of our Government to levy these grain and soybean embargoes, as has been the case in 1973, 1974, and 1975.

The administration has promised the farmers in each of those instances at planting time that we will have the free market system if the farmer will just plant from fence row to fence row. "If you will just utilize all of that acreage, we promise you that it will be a free and open market in which to sell your product." Then as we approach harvest time, that promise has been broken. In all 3 of those years, the promises of this administration, the Nixon administration and the Ford administration, under two Secretaries of Agriculture, have been violated to the detriment of the farm producer; to the detriment of the interests of this country with respect to our balance of payments, with respect to our integrity as an exporting country for farm commodities to Japan and Western Europe and the others of our valued and dependable customers around the world.

Mr. Chairman, if this amendment is defeated, the bill should be defeated.

Mr. MORGAN. Mr. Chairman, I rise in opposition to the amendment.

I am sympathetic with the gentleman's problem about the embargo on soybeans back in 1973, but I do not think the gentleman's amendment is going to correct another embargo on soybeans. I think the gentleman has no idea how far this amendment will go. It would apply controls in respect to fertilizer, tools, tractors, combines, or any other materials used in the production of agricultural commodities; if another soybean embargo were put on we would not be able to ship overseas a truck or a tractor or anything else.

This is a very punitive type of amendment. I say that this is no place for it. If the gentleman is on the Agriculture Committee and has a problem with the Secretary of Agriculture as to the production and shipment of soybeans overseas, I think he should take it up in his own committee. This is a very punitive amendment and puts restrictions on many of the products we export abroad. I think it should be defeated.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, I also want to join the chairman in opposition to this amendment. I think the language that has been proposed by the gentleman's amendment would create controls so complex they would be almost impossible to administer. For that reason, I ask that we vote down this amendment.

Mr. JOHNSON of Colorado. Mr. Chairman, I move to strike the last word, and I rise to speak in favor of the amendment. I will not take the full 5 minutes, because I realize the mood of the House.

I would like to point out that the gentleman from Missouri has used a delightful means of bringing to the attention of this House and perhaps to the Nation—if we can get anybody to listen—the inconsistency that is involved when people that are in the production of manufacturing farm machinery and other things that go to produce farm equipment, which is subsequently used by farmers, then demand that there be a curtailment of export of farm commodities because the price is becoming too high to them, for their groceries. So, the punitive aspects of farm export embargoes always fall back on the farmer and never reflect finally on the rest of our society.

The gentleman is simply trying to make a point. He has made the point that the Secretary of Agriculture is to blame, but I would also point out that the last embargo, which was not with respect to soybeans but was related to wheat, was instigated by members of a union. The gentleman is obviously of a party that cannot stand any criticism of unions, but the members of the union did not realize that they are also affected by the fact that farmers pay high prices for machinery—pay, in effect, union wages for the machinery—and the consumers who keep insisting that the farmer pay the bill for lower farm commodities rather than the rest of society.

So, the gentleman is simply trying to make a point that if we, as a society, decide that all of our farm prices are too high, we do not concentrate that punitive aspect on the farm alone, but it should be spread throughout all of our economy.

People who manufacture farm equipment should also participate in this farm commodity embargo. It makes a great deal of sense. I know that nobody from a manufacturing district will vote for this, but anybody from a manufacturing district who does not vote for this and then endorses the commodity embargo is exposed for the political chameleon he really is.

Mr. BURLISON of Missouri. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Missouri.

Mr. BURLISON of Missouri. I thank the gentleman for yielding. He knows of my respect for his extraordinary expertise as a leader on the Committee on Agriculture.

Mr. Chairman, I would like to say that I have been extremely critical of organized labor for the part they played in the grain embargo of 1975, the refusal to load that grain. I have been just as critical of Mr. Meany and the longshoremen as I have been of two Presidents and two Secretaries of Agriculture. I appreciate the point the gentleman from Colorado is making, which is that if the consumers are going to get the "benefit" of an embargo on farm commodities, then it just seems eminently fair that the farmers get the benefit of an embargo on the products that they must use to produce their commodities.

My colleagues may find of interest the contents of my letter of September 9, 1975, addressed to Mr. Meany. It reads as follows:

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., September 9, 1975.

Mr. GEORGE MEANY,
President,
AFL-CIO,
Washington, D.C.

DEAR MR. MEANY: This letter is to voice my opposition and disappointment with the disruption of farm commodities trade which your action has precipitated by refusal to load grain bound for Russia. In my view you have taken advantage of, and punished, the sector of our economy which the maritime industry, as well as the maritime and longshoremen's unions, are most indebted. I refer to the $22 billion per year in farm exports. Where would the maritime industry and its unions be without this staggering volume of trade? You are biting the hand that feeds your industry and its workers.

Your ostensible reason for this interference is inflated food costs. You seem not to understand that increased grain prices play a very small role in such inflation. There is only about four cents of wheat in a thirty-five cent loaf of bread. It is well documented that transportation, packaging, promotion and labor costs are far larger factors, e.g., the $2 an hour wage increase which the maritime unions won in their last contract. The farmer's fertilizer costs quadrupled in a year, but we placed no embargo on fertilizer. The cost of the farmer's machinery and equipment increases 25 percent in a year, but no thought is given to placing an embargo on American manufactured farming equipment. There appears to be no alarm at a tripling of the farmer's energy related production costs in a highly energy dependent farm industry. Farm commodity prices go up but they always come back down, (as they have this time in response to the labor imposed export embargo). Nothing the farmer buys to produce his crop ever comes down once it goes up, just as your union worker's wages never come down but always move forward. The farmer must buy his production inputs at the world price but you expect him to sell his product at a domestically controlled price.

It also seems to me that you are attempting to execute the foreign policy of the country. This would be better left to the President and the Congress where the broad national interests can be better balanced. The issues are farm issues and trade issues, not labor issues.

Probably the primary purpose of your action is to obtain a larger share of shipping for American bottoms. This would seem a legitimate concern of you and the maritime unions and industry. In the past I have supported these efforts in spite of the fact that in comparison with many other nations, high U.S. labor costs and low U.S. productivity highly inflates the shipping costs.

Your actions are made more astonishing by the fact that the maritime industry is probably the highest subsidized industry in our economy. For example, last year alone the federal government subsidized maritime industry operations to the tune of $220 million and ship construction $281 million, with the deferral tax loophole adding another $40 million. I have also in the past supported these subsidies, but I can now be counted out on that.

As you know, I have rather consistently been on the side of labor on important labor oriented issues. The most recent example is situs picketing, a bill close to your heart as an old craft tradesman. I have great respect for your union leadership contributions. It is sincerely hoped that our disagreement on this important issue does not permanently fracture our working relationship.

Hopefully, you may reconsider your position which over the long term will be detrimental to your workers as well as a disservice to agriculture producers, consumers, and the national interest at large.

Respectfully yours,

BILL D. BURLISON,
Member of Congress.

P.S. I recognize you have just today agreed to load grain for a month. Apparently, the quid pro quo for this concession was a Presidential promise to retain the present embargo for another month. Therefore, the above points would remain relevant.

Mr. JOHNSON of Colorado. Mr. Chairman, I thank the gentleman for his remarks.

I realize this amendment is not going to pass, but in the interest of fairness I think the Members should recognize that the gentleman is making a very familiar point, and I congratulate the gentleman.

Mr. SEBELIUS. Mr. Chairman, I appreciate this opportunity to rise in support of the Burleson amendment and I am sorry that Mr. Findley withdrew his amendment to provide a Congressional veto over grain export controls.

At no time in our Nation's history has the farmer been more important to the economic and social well-being of our Nation and the world. The farmer must have a free market and fair price for farm products if we plan to continue making progress toward peace and prosperity both at home and abroad.

The farmer has been eager to make the transition from a Government-subsidized agriculture to the promise of a free market. He has made massive investments in land, machinery, and technology. As a result of this new thrust in U.S. farm policy, farmers increased total acreage for major crops from 291 million acres in 1969 to 355 million acres in 1976. Federal payments to farmers have fallen from an average of $3.4 billion per year in 1966–69 to only $768 million in calendar year 1975 and over half of the 1975 payments were for farmers' losses sustained in natural disasters.

Mr. Chairman, in a day and age of increased Government spending and controls and falling productivity in the private sector throughout the American economy, this is an incredible success story.

In return, the farmer simply asks for fair treatment and unrestricted access to markets both at home and abroad. This amendment would help guarantee the promise of a free market for farm products.

Working men and women have a direct interest in this proposal. One out of every four jobs in private employment in the United States is related to agriculture. Each billion dollars of farm exports represents about 53,000 additional nonfarm jobs in the United States. Jobs depend on a free market for farm products.

Consumers also have a direct stake in this proposal. Production on 1 out of every 3 acres of U.S. cropland is surplus to our Nation's requirement for food and fiber, thanks to the productive genius of the U.S. farmer. If we don't export this surplus, stockpiles are created and the taxpayer then is forced to pay for storage which amounted to $1 million a day in 1971 and price support payments that averaged $3.4 billion annually in the late 1960's. The consumer also benefits from the foreign exchange which is received when farm products are exported. This foreign exchange increases the value of the dollar and decreases the consumer cost of oil and other imports; oil that is vital to our economy and whose price is steadily increasing.

Last year farm exports were valued at a record $22.15 billion. The U.S. agricultural trade balance totaled $12 billion in 1976, more than offsetting the $8 billion deficit in nonagricultural trade. The farmer exported an all-time record 84.2 million metric tons of grain in 1975–76. But, Mr. Chairman, we still face a build up in carryover grain stocks.

For the first time in decades, the farm and rural population has started to grow as a result of farm prosperity resulting from free markets. This has started to ease some of the pressures on our cities which have been strained to handle the massive migration of rural residents to our nation's major metropolitan areas. As you can see, the benefits of a free market agriculture and access to foreign markets are tremendous in scope and importance.

It was a mistake to embargo grain exports in the past. It would be a mistake to embargo grain exports in the future. This amendment will assure fair treatment for farmers.

I urge your support for the amendment. We must get the attention of the other interests. We must "be fair to the farmer—he is the backbone of our Nation."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. BURLISON).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BURLISON of Missouri. Mr. Chairman, I demand a recorded vote and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Seventy-eight Members are present, not a quorum.

The Chair announces that he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Missouri (Mr. BURLISON) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia: On page 23, after line 9, insert the following new section:

"SUNSHINE IN GOVERNMENT

"SEC. 20. (a) Each officer or employee of the Secretary of Commerce who—

"(1) performs any function or duty under this Act or the Export Administration Act of 1969 which is amended by this Act; and

"(2) has any known financial interest in any person subject to such Acts, or in any person who obtains any license, enters into any agreement, or otherwise receives any benefit under such Acts;

shall, beginning on February 1, 1977, annually file with the Secretary a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(b) The Secretary shall—

"(1) act within ninety days after the date of enactment of this Act—

"(A) to define the term 'known financial interest' for purposes of subsection (a) of this section; and

"(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

"(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within such agency which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

"(d) Any officer or employee who is subject to, and knowingly violates, this section or any regulation issued thereunder, shall be fined not more than $2,500 or imprisoned not more than one year, or both."

Mr. HECHLER of West Virginia (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to

the request of the gentleman from West Virginia?

There was no objection.

Mr. HECHLER of West Virginia. Mr. Chairman, I have a "sunshine in Government" amendment to H.R. 15377, as reported, at the desk which is printed in the September 21, 1976, RECORD at page 31714. The amendment adds a new section 18 to the bill.

Mr. Chairman, the purpose of this amendment is to bring more sunshine into Government. It is cosponsored by my colleague, Representative GARY A. MYERS.

It is the same provision which the Congress adopted last December for the Federal Energy Administration and some of the employees of the Interior Department administering Public Law 94-163—the Energy Policy and Conservation Act. On May 20, 1976, the House adopted this provision for ERDA employees in H.R. 13350, which authorized appropriations for fiscal year 1977 for ERDA. On June 11, 1976, the House added it to H.R. 6218 for employees of Interior administering the Outer Continental Shelf leasing program. Earlier this week the conferees reported that bill with this provision. On June 3, 1976, it was added to H.R. 9560 for EPA employees administering the water pollution program. On July 22, 1976, the House also added it to H.R. 13777, the public lands bill, for employees of Interior and on July 28, to H.R. 13555, the mine health and safety bill, for Interior, HEW, and Labor employees.

On August 4, it was added to H.R. 8401, the nuclear assurance bill, for ERDA employees. On August 23, it was added to H.R. 14032, the toxic substances bill, and on September 8, to H.R. 10498, the Clean Air Act, for EPA employees, and on September 2, to H.R. 13636, the LEAA bill. On September 14, 1976, it was added to S. 2371, the national parks mining bill, for National Park Service employees. The Senate accepted the provision last Friday and sent the bill to the President.

In addition, it is included in H.R. 12112, as reported by three committees, for ERDA employees, and in H.R. 14496 for EPA employees.

The amendment requires officers and employees of the Commerce Department who perform any function under the bill to file annual statements of any known financial interest in the persons subject to this bill or who receive financial assistance under the bill. Such statements would be available to the public and would have to be reviewed by Commerce. Positions within the agency that are of a nonregulatory or nonpolicymaking nature could be exempted from this requirement by the Secretary.

The amendment does not prevent any employee from having such interests. It merely requires that they disclose such interests. It does not apply to consultants.

Currently, Commerce and other Federal agencies require their employees who are at the GS-13 level or above and in a decisionmaking position to file financial interest statements which are not available to the public. This requirement is not based on any statutory provision but on a 1965 Executive Order No. 11222 and Civil Service Commission regulations. But the Executive order and regulations do not have any teeth. Our amendment does.

The use of the GS-13 level as a classification for determining who must file is an "administrative practice" convenient to the Federal agencies, but is not relevant to the degree of responsibility of the position as the GAO has noted. This amendment, like the one in the above bills, seeks to abandon the practice and force a position-by-position review by the agency.

Moreover, in a series of reports on the effectiveness of the financial disclosure system for agency employees, the GAO has found "deficiencies" in the system at Interior and several agencies, including in the collection and timely review of such statements, and the resolution of problems associated with the statements. In a March 3, 1975, report, the GAO said:

> Many USGS employees have financial interests which appear to conflict with their Government duties. Many of these holdings violate the Organic Act of 1879. We believe that the ownership of these conflicting interests is due to deficiencies in the Department's financial disclosure system and that they will have to be corrected to prevent the situation that now exists from continuing.
>
> To improve the effectiveness of the USGS financial disclosure system, we recommend that the Secretary of the Interior:
>
> Review, and take remedial action on, the financial interests of USGS officials which raise conflict of interest possibilities or violate the Organic Act.
>
> Prepare, keep current, and issue to USGS personnel specific guidelines, including a list of prohibited securities, concerning financial interests which may violate the Organic Act.
>
> Require the Bureau Counselor to strictly adhere to the restrictions imposed on USGS employees by the Organic Act.
>
> Insure that adequately trained and experienced personnel, who are knowledgeable of employees' duties and potential conflicts of interest, are appointed to counsel employees and review financial disclosure statements.
>
> Insure that officials responsible for reviewing financial disclosure statements are given specific guidelines and reference manuals to enable them to adequately evaluate the statements.
>
> Require reviewing officers to sign and date the financial disclosure statements to indicate they have reviewed them and determined that the financial interests do not violate the Organic Act or raise conflict of interest possibilities.
>
> Require the USGS Counselor to report the results of the annual financial disclosure review to the Department and to note any financial interests questioned and any remedial action taken.
>
> Establish procedures for periodically reviewing financial disclosure statements to insure that Bureau Counselors adequately enforce conflict of interest regulations.

In a later report of December 1975, the GAO said that Interior was taking steps to improve the situation but the GAO said there were 1,435 additional employees who should file statements, of which 1,000 were below the GS-13 level.

The GAO made similar findings in eight other studies since late 1974.

Our amendment makes it clear that the Secretary of Commerce must periodically look at the positions to determine who should file and not base his decision on the grade level of the employee. It also mandates annual filing by the affected employee and review by the agency and provides criminal penalties for knowing violation. Adequate provision is made for the Secretary to define what a "known financial interest" is. Indeed, as an example of such a definition, the Interior Department published proposed regulations defining this term on March 22, 1976, for the purposes of Public Law 94-163. That definition, which is not yet finalized, of course, is as follows:

> Any pecuniary interest of which an officer or employee is cognizant or of which he can reasonably be expected to have knowledge. This includes pecuniary interest in any person engaged in the business of exploring, developing, producing, refining, transporting by pipeline or distributing (other than at the retail level) coal, natural gas, or petroleum products, or in property from which coal, natural gas, or crude oil is commercially produced. This further includes the right to occupy or use the aforesaid business or property, or to take any benefits therefrom based upon a lease or rental agreement, or upon any formal or informal contract with a person who has such an interest where the business arrangement from which the benefit is derived or expected to be derived has been entered into between the parties or their agents. With respect to officers or employees who are beneficiaries of "blind trusts," the disclosure is required only of interests that are initially committed to the blind trust, not of interests thereafter acquired of which the employee or officer has no actual knowledge.

Finally, the regulations would be expected to make it clear that public disclosure of financial statements shall be only for lawful purposes. A violation of this requirement is subject to criminal prosecution.

I urge adoption of the amendment.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Pennsylvania.

Mr. MORGAN. Mr. Chairman, the majority and the minority side have seen this amendment.

I know it has been attached to five or six other bills in the House. It is a so-called sunshine amendment, and we are glad to accept the gentleman's amendment.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, I want to compliment the gentleman from West Virginia (Mr. HECHLER) for his sunshine amendment. I think it makes a very important improvement to the bill, and we accept it on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

The amendment was agreed to.

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. Evans of Colorado, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 15377) to amend the Export Administration Act of 1969, pursuant to House Resolution 1549, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The question is on the amendments.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. MICHEL. I am, Mr. Speaker, very much so.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Michel moves to recommit the bill, H.R. 15377 to the Committee on International Relations with instructions to report the bill to the House forthwith with the following amendment: Page 1, strike out line 8 and all that follows thereafter through the end of the bill.

The SPEAKER. Does the gentleman from Illinois desire to be heard briefly on his motion to recommit?

Mr. MICHEL. Mr. Speaker, I take the admonitions of the Speaker to heart that the House would like to move on to other business. Very briefly, what I propose to do in my motion to recommit is simply to have a 1-year extension of what we have now, with no amendments.

The answers to the questions I asked of the authors, particularly the gentleman from New York (Mr. Bingham) on his amendment, did not get very specific responses. We need those answers, because there are ramifications to this bill which go far beyond the emotional issue around which all of us would probably agree with respect to the morality of the boycott and what is involved therein.

Mr. Speaker, I have labeled this bill an unemployment bill. I did that during consideration of the rule. I pointed out that there has been $5 billion worth of exports going to the Arab countries from U.S. firms in the last year, 1975. Also U.S. News & World Report points out in an article in the current issue that the prospects in 1976 are for $7.1 billion worth of exports. The testimony of the Department of Commerce was that there are 400,000 American jobs at stake. And yet all the time we are talking about putting people to work and getting them off the unemployment rolls we act to implement this kind of a mechanism that puts people out of work. We cannot have it both ways.

I submit that it is a good economic issue. Support my motion to recommit and we can have a simple extension.

Mr. WAGGONNER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Speaker, I want to express my concurrence in the statement that the gentleman from Illinois (Mr. Michel) has just made. This country will be better off with a simple extension of the existing legislation. If a motion to recommit is the only way for us to achieve that, then I do believe that we ought to support it. I am going to support that motion on this legislation.

Mr. MICHEL. I thank the gentleman from Louisiana for his very significant measure of support.

Mr. MORGAN. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, the Committee on International Relations has worked long and hard, it has worked 15 months on this bill. This is not an unemployment bill. It is a bill that has a lot of good in it.

There are certain big corporations like the Mobile Oil Corp. that are running full page ads in every newspaper in the country in opposition to this bill, but we do not see such ads from the many companies that oppose boycotts and whose people are also out of work.

I know the gentleman from Illinois has a special interest that he spoke of during consideration of the rule when he spoke about the Caterpillar tractor factory. I am sympathetic with the gentleman's problem. But, on the other hand, Mr. Speaker, we cannot let these people in the Middle East discriminate against American citizens and that is exactly what they are doing and they have been doing it for a long, long time.

If this motion to recommit carries today, then we will be going to a conference with a Senate bill containing almost 40 points and a House bill with a single provision. We will still have to come back with some sort of a boycott provision, anyway, because it is in the Senate bill.

So, Mr. Speaker, I can see no use in wasting the time of the Members of the House with a rollcall vote on the motion to recommit tonight, because we are going to have the boycott legislation back here as soon as the conferees meet, anyway, because a boycott provision is in the Senate bill. There are some four States, including the State of Illinois, which have passed boycott legislation; Maryland and New York have also. What about those States? What has happened to the ports in those States? They are losing thousands and thousands of jobs, because we have no uniform boycott law in this country.

Speaking about unemployment, how about those stevedores? Let us make these laws national, and we will find that Arab countries will come back into the community of nations and stop this silly boycotting of American citizens.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from Illinois.

Mr. MICHEL. I appreciate the gentleman's yielding.

The gentleman makes mention of the Stevenson amendment in the Senate bill. I would say that I think we are in a much more flexible position by enacting a bill here in the House which calls for a simple extension. This would permit the most advantageous position for the House to obtain some kind of movement in the conference that resolves this difficult employment matter.

Mr. MORGAN. This is only a 1-year bill. If it does not work, the gentleman knows we will be back in here next year with another extension. Let us try that so we do not discriminate against Americans for this coming year.

Mr. Speaker, I ask that the motion to recommit be voted down.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. KOCH. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 91, nays 287, not voting 52, as follows:

[Roll No. 798]

YEAS—91

Abdnor
Anderson, Ill.
Archer
Armstrong
Ashley
Beard, Tenn.
Bowen
Breaux
Brinkley
Brown, Mich.
Brown, Ohio
Burleson, Tex.
Butler
Cederberg
Clawson, Del
Cochran
Collins, Tex.
Conable
Daniel, Dan
Daniel, R. W.
Dent
Dickinson
Downing, Va.
Duncan, Oreg.
Edwards, Ala.
Erlenborn
Eshleman
Fountain
Gaydos
Goodling
Hagedorn
Hall, Tex.
Hansen
Hutchinson
Hyde
Ichord
Jenrette
Johnson, Colo.
Johnson, Pa.
Karth
Kazen
Kelly
Ketchum
Kindness
Latta
Lloyd, Tenn.
Lott
Lujan
McClory
McCormack
McDonald
McEwen
Mahon
Michel
Milford
Miller, Ohio
Montgomery
Moore
Myers, Ind.
Nichols
Paul
Pettis
Poage
Quillen
Randall
Rhodes
Robinson
Runnels
Satterfield
Schneebeli
Sebelius
Shriver
Sikes
Skubitz
Snyder
Spence
Stanton, J. William
Steiger, Wis.
Symms
Taylor, Mo.
Thornton
Treen
Ullman
Vander Jagt
Waggonner
Wampler
White
Whitten
Wilson, Bob
Young, Alaska
Young, Fla.

NAYS—287

Abzug
Adams
Addabbo
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashbrook
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland

Cohen
Collins, Ill.
Conte
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
English
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Fraser
Frenzel
Frey
Fuqua
Gilman
Ginn
Goldwater
Gonzalez
Grassley
Gude
Guyer
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Jacobs
Jeffords
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kemp
Keys
Koch
Krebs
Lagomarsino
Landrum
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
Lundine
McCloskey
McDade
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Pa.
Natcher
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Rangel
Regula
Richmond
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Steed
Stokes
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Thompson
Thone
Traxler
Tsongas
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
Whitehurst
Wiggins
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Ga.
Zablocki
Zeferetti

NOT VOTING—52

Allen
Beard, R.I.
Boggs
Clancy
Conlan
Conyers
Diggs
Esch
Evins, Tenn.
Ford, Mich.
Forsythe
Giaimo
Gibbons
Gradison
Green
Haley
Hammerschmidt
Hawkins
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Jarman
Jones, Tenn.
Krueger
LaFalce
McCollister
Matsunaga
Mink
Murphy, N.Y.
Neal
Nix
O'Hara
Pepper
Peyser
Rees
Reuss
Riegle
Ruppe
Schulze
Shuster
Smith, Nebr.
Steelman
Steiger, Ariz.
Stephens
Stuckey
Teague
Udall
Wilson, C. H.
Wilson, Tex.
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Murphy of New York against.

Mr. Teague for, with Mr. Hawkins against.

Until further notice:

Mrs. Boggs with Mr. Clancy.

Mr. Charles H. Wilson of California with Mr. Heinz.

Mr. Pepper with Mr. Beard of Rhode Island.

Mr. Giaimo with Mr. Ruppe.

Mr. Helstoski with Mr. Steelman.

Mr. Reuss with Mr. Esch.

Mr. Matsunaga with Mr. Forsythe.

Mr. Neal with Mr. Hammerschmidt.

Mr. Nix with Mr. McCollister.

Mr. Stuckey with Mr. Conlan.

Mr. Green with Mrs. Mink.

Mr. Haley with Mr. Jarman.

Mr. Gibbons with Mr. O'Hara.

Mr. Evins of Tennessee with Mr. Henderson.

Mr. Jones of Tennessee with Mr. Udall.

Mr. Conyers with Mr. Shuster.

Mr. Allen with Mr. Rees.

Mr. Ford of Michigan with Mr. Peyser.

Mr. Diggs with Mr. Riegle.

Mr. Krueger with Mr. Stephens.

Mr. LaFalce with Mr. Steiger of Arizona.

Mr. Gradison with Mr. Schulze.

Messrs. DEVINE and VIGORITO changed their vote from "yea" to "nay."

Messrs. DENT, HAGEDORN, JENRETTE, and WHITE changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 318, nays 63, not voting 49, as follows:

[Roll No. 799]

YEAS—318

Abzug
Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Fountain
Fraser
Frenzel
Fuqua
Gaydos
Gilman
Ginn
Goldwater
Gonzalez
Grassley
Gude
Guyer
Hagedorn
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hyde
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Lagomarsino
Landrum
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
Lott
Lundine
McClory
McCloskey
McDade
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Pa.
Natcher
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Rangel
Regula
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Seiberling
Sharp
Shipley
Shriver
Simon
Sisk
Slack
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steiger, Wis.
Stokes
Stratton
Studds
Symington
Talcott
Taylor, N.C.
Thompson
Thone
Traxler
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Wiggins
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Ga.
Zablocki
Zeferetti

NAYS—63

Abdnor
Alexander
Archer
Armstrong
Beard, Tenn.
Bowen
Breaux
Brown, Ohio
Burleson, Tex.
Burlison, Mo.
Collins, Tex.
Duncan, Oreg.
English
Frey
Goodling
Hall, Tex.
Hansen
Hicks
Hungate
Hutchinson
Ichord
Johnson, Colo.
Jones, Ala.
Jones, Tenn.
Karth
Kazen
Kelly
Latta
Lloyd, Tenn.
Lujan
McCormack
McDonald
McEwen
Mathis
Michel
Milford
Miller, Ohio
Montgomery
Moore
Myers, Ind.
Passman
Paul
Poage
Quillen
Randall
Robinson
Runnels
Satterfield
Sebelius
Sikes
Skubitz
Smith, Iowa
Steed
Sullivan
Symms
Taylor, Mo.
Thornton
Treen
Ullman
Waggonner
Whitten
Wilson, Bob
Young, Fla.

NOT VOTING—49

Boggs
Clancy
Conlan
Conyers
Diggs
Esch
Ford, Mich.
Forsythe
Giaimo
Gibbons
Gradison
Green
Haley
Hammerschmidt
Hawkins
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Hughes
Jarman
Krueger
LaFalce
McCollister
Matsunaga
Mink
Murphy, N.Y.
Neal
Nix
O'Hara
Pepper
Peyser
Rees
Reuss
Riegle
Ruppe
Schulze

Shuster
Smith, Nebr.
Steelman
Steiger, Ariz.
Stephens
Stuckey
Teague
Udall
Wilson, C. H.
Wilson, Tex.
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Murphy of New York for, with Mr. Hébert against.

Mr. Hawkins for, with Mr. Teague against.

Until further notice:

Mrs. Boggs with Mr. Clancy.
Mr. Matsunaga with Mr. McCollister.
Mr. LaFalce with Mr. Jarman.
Mr. Pepper with Mr. Steelman.
Mr. Charles H. Wilson of California with Mr. Esch.
Mr. Hughes with Mr. Forsythe.
Mr. Conyers with Mr. Gradison.
Mr. Ford of Michigan with Mr. Conlan.
Mr. Giaimo with Mr. Hammerschmidt.
Mr. Diggs with Mr. Stuckey.
Mr. Green with Mr. Steiger of Arizona.
Mr. Haley with Mr. Henderson.
Mrs. Mink with Mr. Reuss.
Mr. Krueger with Mr. Schulze.
Mr. Nix with Mr. Stephens.
Mr. Neal with Mrs. Smith of Nebraska.
Mr. O'Hara with Mr. Riegle.
Mr. Udall with Mr. Ruppe.
Mr. Helstoski with Mr. Shuster.
Mr. Gibbons with Mr. Heinz.
Mr. Rees with Mr. Charles Wilson of Texas.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MORGAN. Mr. Speaker, pursuant to House Resolution 1549, I call up from the Speaker's table, for immediate consideration, the Senate bill S. 3084 to amend and extend the Export Administration Act of 1969 to improve the administration of export controls pursuant to such act, to strengthen the antiboycott provision of such act, to amend the Securities Exchange Act of 1934 to enhance the investor disclosure provisions of that act, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. MORGAN

Mr. MORGAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MORGAN moves to strike out all after the enacting clause of the bill S. 3084 and to insert in lieu thereof the text of the bill H.R. 15377, as passed by the House, as follows:

EXTENSION OF EXPORT ADMINISTRATION ACT

SECTION 1. The Export Administration Act of 1969 (50 U.S.C. App. 2401 et seq.) is amended in section 14 by striking out "September 30, 1976" and inserting in lieu thereof "September 30, 1977".

PENALTIES FOR VIOLATIONS

SEC. 2. (a) Section 6(a) of the Export Administration Act of 1969 is amended—

(1) in the first sentence, by striking out "$10,000" and inserting in lieu thereof "$25,000"; and

(2) in the second sentence, by striking out "$20,000" and inserting in lieu thereof "$50,000".

(b) Section 6(b) of such Act is amended by striking out "$20,000" and inserting in lieu thereof "50,000".

(c) Section 6(c) of such Act is amended by striking out "$1,000" and inserting in lieu thereof "10,000".

(d) Section 6(d) of such Act is amended by adding at the end thereof the following new sentences: "Further, the payment of any penalty imposed pursuant to subsection (c) may be deferred or suspended in whole or in part for a time equal to or less than any probation period (which may exceed one year) that may be imposed upon such person. Such deferral or suspension shall not operate as a bar to the collection of the penalty in the event that the conditions of the suspension, deferral, or probation are not fulfilled.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. The Export Administration Act of 1969 is amended by inserting after section 12 the following new section 13 and redesignating existing sections 13 and 14 as sections 14 and 15, respectively:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 13. Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the purposes of this Act for any fiscal year commencing on or after October 1, 1977, unless previously and specifically authorized by legislation enacted after the enactment of this section.".

FOREIGN AVAILABILITY

SEC. 4. Section 4(b) of the Export Administration Act of 1969 is amended—

(1) by striking out paragraphs (2) through (4) and redesignating section 4(b) (1) as section 4(b); and

(2) by striking out ", regardless" and all that follows thereafter in the third sentence of such section 4(b) and inserting in lieu thereof a period and the following: "The President shall not impose export controls for national security purposes on the export from the United States of articles, materials, or supplies, including technical data or other information, which he determines are available without restriction from sources outside the United States in significant quantities and comparable in quality to those produced in the United States, unless the President determines that adequate evidence has been presented to him demonstrating that the absence of such a control would prove detrimental to the national security of the United States. The nature of such evidence shall be included in the semiannual report required by section 10 of this Act. Where in accordance with this subsection, export controls are imposed for national security purposes notwithstanding foreign availability, the President shall take steps to initiate negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability.".

PERIOD FOR ACTION ON EXPORT LICENSE APPLICATIONS

SEC. 5. Section 4(g) of the Export Administration Act of 1969 is amended to read as follows:

"(g) (1) It is the intent of Congress that any export license application required under this Act shall be approved or disapproved within 90 days of its receipt. Upon the expiration of the 90-day period beginning on the date of its receipt, any export license application required under this Act which has not been approved or disapproved shall be deemed to be approved and the license shall be issued unless the Secretary of Commerce or other official exercising authority under this Act finds that additional time is required and notifies the applicant in writing of the specific circumstances requiring such additional time and the estimated date when the decision will be made.

"(2) With respect to any export license application not finally approved or disapproved within 90 days of its receipt as provided in paragraph (1) of this subsection, the applicant shall, to the maximum extent consistent with the national security of the United States, be specifically informed in writing of questions raised and negative considerations or recommendations made by any agency or department of the Government with respect to such license application, and shall be accorded an opportunity to respond to such questions, considerations, or recommendations in writing prior to final approval or disapproval by the Secretary of Commerce or other official exercising authority under this Act. In making such final approval or disapproval, the Secretary of Commerce or other official exercising authority under this Act shall take fully into account the applicant's response.".

AVAILABILITY OF INFORMATION TO CONGRESS

SEC. 6. (a) Section 7(c) of the Export Administration Act of 1969 is amended by adding at the end thereof the following new sentences: "Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and any information obtained under this Act, including any report or license application required under section 4(b) and any information required under section 4(j) (1), shall be made available upon request to any committee of Congress or any subcommittee thereof. No such committee or subcommittee shall disclose any information obtained under this Act which is submitted on a confidential basis unless such committee or subcommittee determines that the withholding thereof is contrary to the national interest.".

(b) Section 4(c) (1) of such Act is amended by inserting immediately before the period at the end of the last sentence thereof "and in the last two sentences of section 7(c) of this Act".

TECHNICAL ADVISORY COMMITTEES

SEC. 7. Section 5(c) (2) of the Export Administration Act of 1969 is amended by striking out the third sentence and inserting in lieu thereof the following: "The Secretary shall include in each semiannual report required by section 10 of this Act an accounting of the consultations undertaken pursuant to this paragraph, the use made of the advice rendered by the technical advisory committees pursuant to this paragraph, and the contributions of the technical advisory committees to carrying out the policies of this Act.".

SIMPLIFICATION OF EXPORT REGULATIONS

SEC. 8. Section 7 of the Export Administration Act of 1969 is amended by adding at the end thereof the following new subsection (e):

"(e) The Secretary of Commerce, in consultation with appropriate United States Government departments and agencies and with appropriate technical advisory committees established under section 5(c), shall review the rules and regulations issued under this Act in order to determine how compliance with the provisions of this Act can be facilitated by simplifying such rules and regulations or by any other means. Not later than six months after the enactment of this subsection, the Secretary of Commerce shall report to Congress on the actions taken on the basis of such review to simplify such rules and regulations. Such report may be included in the semiannual report required by section 10 of this Act.".

CONTROL OF EXPORTS FOR NATIONAL SECURITY PURPOSES

SEC. 9. (a) Section 4(h) (1) of the Export Administration Act of 1969 is amended—

(1) by striking out "to a controlled country" in the first sentence;

(2) by striking out "significantly increase the military capability of such country" in the first sentence and inserting in lieu thereof "make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States";

(3) by striking out "such country" in the second sentence and inserting in lieu there-

of "nation to which exports are restricted for national security purposes"; and

(4) by striking out "significantly increase the military capability of such country" in the second sentence and inserting in lieu thereof "makes a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States".

(b) The second sentence of section 4(h)(2) of such Act is amended to read as follows: "The appropriate export control office or agency to whom a request which falls within such types and categories is made shall notify the Secretary of Defense of such request, and such office may not issue any license or other authority pursuant to such request prior to the expiration of the period within which the President may disapprove such export.".

(c) Section 4(h)(2)(A) of such Act is amended to read as follows:

"(A) recommend to the President that he disapprove a request for the export of any goods or technology which he determines will make a significant contribution to the military potential of any nation or nations which would prove detrimental to the national security of the United States;".

(d) Section 4(h)(2)(C) of such Act is amended by striking out "export of such goods or technology" and inserting in lieu thereof "request".

(e) Section 4(h)(2) of such Act is amended by striking out "the export of such goods or technology to such country" in the last sentence and inserting in lieu thereof "such export".

(f) Section 4(h)(4) of such Act is amended—

(1) by inserting "and" at the end of subparagraph (A); and

(2) by striking out the semicolon at the end of subparagraph (B) and all that follows thereafter through "1961" at the end of subparagraph (C).

(g) Section (b) of such Act is amended by striking out "Communist-dominated nation" and inserting in lieu thereof "country to which exports are restricted for national security or foreign policy purposes".

REPEAL OF TITLE II OF THE MUTUAL DEFENSE ASSISTANCE CONTROL ACT

Sec. 10. (a) Title II of the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1612–1612b) is repealed.

(b) Section 301 of such Act (22 U.S.C. 1613) is amended by striking out "and title II".

EXPORTS OF TECHNICAL INFORMATION

Sec. 11. Section 4 of the Export Administration Act of 1969 is amended by adding at the end thereof the following new subsection (j):

"(j)(1) Any person (including any college, university, or other educational institution) who enters into any agreement for, or which may result in, the transfer from the United States of technical data or other information to any nation to which exports are restricted for national security or foreign policy purposes shall furnish to the Secretary of Commerce such information with respect to such agreement as the Secretary shall by regulation require in order to enable him to monitor the effects of such transfers on the national security and foreign policy of the United States.

"(2) The Secretary of Commerce shall conduct a study of the problem of the export, by publications or any other means of public dissemination, of technical data or other information from the United States, the export of which might prove detrimental to the national security or foreign policy of the United States. Not later than 6 months after the enactment of this subsection, the Secretary shall report to the Congress his assessment of the impact of the export of such technical data or other information by such means on the national security and foreign policy of the United States and his recommendations for monitoring such exports without impairing freedom of speech, freedom of press, or the freedom of scientific exchange. Such report may be included in the semiannual report required by section 10 of this Act.".

SEMIANNUAL REPORTS

Sec. 12. (a) Section 10 of the Export Administration Act of 1969 is amended by adding at the end the following new subsection (c):

"(c) Each semiannual report shall include an accounting of—

"(1) any organizational and procedural changes instituted, any reviews undertaken, and any means used to keep the business sector of the Nation informed, pursuant to section 4(a) of this Act;

"(2) any changes in the exercise of the authorities of section 4(b) of this Act;

"(3) any delegations of authority under section 4(e) of this Act;

"(4) the disposition of export license applications pursuant to sections 4(g) and 4(h) of this Act;

"(5) the effects on the national security and foreign policy of the United States of transfers from the United States of technical data or other information which are reported to the Secretary of Commerce pursuant to section 4(j) of this Act;

"(6) consultations undertaken with technical advisory committees pursuant to section 5(c) of this Act; and

"(7) violations of the provisions of this Act and penalties imposed pursuant to section 6 of this Act.".

(b)(1) The section heading of such section 10 is amended by striking out "QUARTERLY".

(2) Subsection (b) of such section is amended—

(A) by striking out "quarterly" each time it appears; and

(B) by striking out "second" in the first sentence of paragraph (1).

SPECIAL REPORT

Sec. 13. The Export Administration Act of 1969, as amended by section 3 of this Act, is further amended by inserting after section 10 the following new section 11 and redesignating existing sections 11 through 15 as sections 12 through 16, respectively:

"SPECIAL REPORT

"Sec. 11. Not later than 12 months after the enactment of this section, the President shall submit to the Congress a special report on multilateral export controls in which the United States participates pursuant to this Act and pursuant to the Mutual Defense Assistance Control Act of 1951. The purpose of such special report shall be to assess the effectiveness of such multilateral export controls and to formulate specific proposals for increasing the effectiveness of such controls. That special report shall include—

"(1) the current list of commodities controlled for export by agreement of the group known as the Coordinating Committee of the Consultative Group (hereafter in this section referred to as the 'Committee') and an analysis of the process of reviewing such list and of the changes which result from such review;

"(2) data on and analysis of requests for exceptions to such list;

"(3) a description and an analysis of the process by which decisions are made by the Committee on whether or not to grant such requests;

"(4) an analysis of the uniformity of interpretation and enforcement by the participating countries of the export controls agreed to by the Committee (including controls over the re-export of such commodities from countries not participating in the Committee), and information on each case where such participating countries have acted contrary to the United States interpretation of the policy of the Committee, including United States representations to such countries and the response of such countries;

"(5) an analysis of the problem of exports of advanced technology by countries not participating in the Committee, including such exports by subsidiaries or affiliates of United States businesses in such countries;

"(6) an analysis of the effectiveness of any procedures employed, in cases in which an exception for a listed commodity is granted by the Committee, to determine whether there has been compliance with any conditions on the use of the excepted commodity which were a basis for the exception; and

"(7) detailed recommendations for improving through formalization or other means, the effectiveness of multilateral export controls, including specific recommendations for the development of more precise criteria and procedures for collective export decisions and for the development of more detailed and formal enforcement mechanisms to assure more uniform interpretation of and compliance with such criteria, procedures, and decisions by all countries participating in such multilateral export controls.".

FOREIGN BOYCOTTS

Sec. 14. (a) Section 3(5) of the Export Administration Act of 1969 is amended in subparagraph (B)—

(1) by striking out "encourage and request" and inserting in lieu thereof "require"; and

(2) by striking out "the furnishing of information or the signing of agreements" and inserting in lieu thereof "furnishing information or entering into or implementing agreements".

(b) Section 4 of such Act is amended—

(1) by striking out the next to the last sentence of subsection (b), as so redesignated by section 4 of this Act; and

(2) by adding the following new subsection (k) immediately after subsection (j), as added by section 11 of this Act:

"(k)(1)(A) Rules and regulations prescribed under subsection (b) shall implement the provisions of section 3(5) of this Act and shall require that any United States person receiving a request for furnishing information or entering into agreement as specified in that section must report this fact to the Secretary of Commerce for such action as the Secretary may deem appropriate to carry out the policy of that section.

"(B) Any report filed under subparagraph (A) after the enactment of this subsection shall be made available promptly for public inspection and copying. The Secretary of Commerce shall transmit copies of such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the policy set forth in section 3(5). The provisions of section 7(c) shall not apply to reports filed under subparagraph (A) of this paragraph.

"(2)(A) In furtherance of the policy set forth in sections 3(5)(A) and (B), no United States person shall take any action with intent to comply with or to further or support any trade boycott fostered or imposed by any foreign country against a country which is friendly to the United States and which is not itself the object of any form of embargo by the United States. The mere absence of a business relationship with a boycotted country does not indicate the existence of the intent required by the preceding sentence.

"(B) For the purpose of enforcing the prohibition contained in subparagraph (A) of this paragraph, the Secretary of Commerce shall issue rules and regulations prohibiting any United States person from taking any action with the required intent, including the following actions:

"(i) Discriminating against any United States person, including any officer, employee, agent, director, or stockholder or other owner of any United States person, on the basis of race, color, religion, sex, nationality, or national origin.

"(ii) Boycotting or refraining from doing business with any United States person, with the boycotted country, with any business concern in or of the boycotted country with any national or resident of the boycotted country, or with any business concern or other person which has done, does, or proposes to do business with the boycotted country, with any business concern in or of the boycotted country, or any national or resident of the boycotted country.

"(iii) Furnishing information with respect to the race, color, religion, sex, nationally, or national origin of any past, present, or proposed officer, employee, agent, director, or stockholder or other owner of any United States person.

"(iv) Furnishing information about any past, present, or proposed business relationship, including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply, with any United States person, with the boycotted country, with any business concern in or of the boycotted country, with any national or resident of the boycotted country, or with any business concern or other person which has done, does, or proposes to do business with the boycotted country, with any business concern in or of the boycotted country, or any national or resident of the boycotted country.".

(c)(1) Section 6 of such Act is amended by redesignating subsection (g) as subsection (h) and by inserting immediately after subsection (f) the following new subsection (g):

"(g) Any United States person aggrieved by action taken as a result of a violation of section 4(k)(2) of this Act may institute a civil action in an appropriate United States district court, without regard to the amount in controversy, and may recover threefold actual damages, reasonable attorney's fees, and other litigation costs reasonably incurred, and obtain other appropriate relief.".

(2) Section 6(h) of such Act, as so redesignated by paragraph (1) of this subsection, is amended by striking out "or (f)" and inserting in lieu thereof "(f), or (g)".

(d) Section 12 of such Act, as so redesignated by section 13 of this Act, is amended by adding at the end thereof the following: "The term 'United States person' includes any United States resident or national, any domestic business concern (including any domestic subsidiary or affiliate of any foreign business concern), and any foreign subsidiary or affiliate of any domestic business concern.".

CERTAIN PETROLEUM EXPORTS

SEC. 15. Section 4 of the Export Administration Act of 1969, as amended by sections 11 and 14 of this Act, is further amended by adding at the end thereof the following new subsection (l):

"(l) Petroleum products refined in United States Foreign-Trade Zones, or in the United States Territory of Guam, from foreign crude oil shall be excluded from any quantitative restrictions imposed pursuant to section 3(2)(A) of this Act, except that, if the Secretary of Commerce finds that a product is in short supply, the Secretary of Commerce is authorized to issue such rules and regulations as may be necessary to limit exports.".

EXEMPTIONS FOR CERTAIN AGRICULTURE COMMODITIES FROM CERTAIN EXPORT LIMITATIONS

SEC. 16. Section 4(f) of the Export Administration Act of 1969 is amended—

(1) by redesignating such section as section 4(f)(1); and

(2) by adding at the end thereof the following new paragraph:

"(2) Upon approval of the Secretary of Commerce, in consultation with the Secretary of Agriculture, agricultural commodities purchased by or for use in a foreign country may remain in the United States for export at a later date free from any quantitative limitations on export which may be imposed pursuant to section 3(2)(A) of this Act subsequent to such approval. The Secretary of Commerce may not grant approval hereunder unless he receives adequate assurance and, in conjunction with the Secretary of Agriculture, so finds that such commodities will eventually be exported, that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, that storage of such commodities in the United States will unduly limit the space available for storage of domestically owned commodities, and that the purpose of such storage is to establish a reserve of such commodities for later use, not including resale to or use by another country. The Secretary of Commerce is authorized to issue such rules and regulations as may be necessary to implement this paragraph.".

NUCLEAR POWERPLANTS

SEC. 17. None of the funds authorized by the Foreign Assistance Act of 1961 may be used to finance the construction of, the operation or maintenance of, or the supply of fuel for, any nuclear powerplant under an agreement for cooperation between the United States and any other country.

NUCLEAR EXPORTS

SEC. 18. The Export Administration Act of 1969 is amended by adding at the end thereof the following new section:

"NUCLEAR EXPORTS

"SEC. 17. (a)(1) The Congress finds that the export by the United States of nuclear material, equipment, and devices, if not properly regulated, could allow countries to come unacceptably close to a nuclear weapon capability, thereby adversely affecting international stability, the foreign policy objectives of the United States, and undermining the principle of nuclear nonproliferation agreed to by the United States as a signatory to the Treaty on the Non-Proliferation of Nuclear Weapons.

"(2) The Congress finds that nuclear export activities which enable countries to possess strategically significant quantities of unirradiated, readily fissionable material are inherently unsafe.

"(3) It is, therefore, the purpose of this section to implement the policies stated in paragraphs (1) and (2) of section 3 of this Act by regulating the export of nuclear material, equipment, and devices which could prove detrimental to United States national security and foreign policy objectives.

"(b)(1) No agreement for cooperation providing for the export of any nuclear material, equipment, or devices for civil uses may be entered into with any foreign country, group of countries, or international organization, and no amendment to or renewal of any such agreement may be agreed to, unless—

"(A) the provisions of the agreement concerning the reprocessing of special nuclear material supplied by the United States will apply equally to all special nuclear material produced through the use of any nuclear reactor transferred under such agreement; and

"(B) the recipient country, group of countries, or international organization, has agreed to permit the International Atomic Energy Agency to report to the United States, upon a request by the United States, on the status of all inventories of plutonium, uranium 233, and highly enriched uranium possessed by that country, group of countries, or international organization and subject to International Atomic Energy Agency safeguards.

"(2) The Secretary of State shall undertake consultations with all parties to agreements for cooperation existing on the date of enactment of this section in order to seek inclusion in such agreements of the provisions described in paragraphs (1)(A) and (1)(B) of this subsection.

"(3)(A) No license may be issued for the export of any nuclear material, equipment, or devices pursuant to an agreement for cooperation unless the recipient country, group of countries, or international organization, has agreed that the material, equipment, and devices subject to that agreement will not be used for any nuclear explosive device, regardless of how the device itself is intended to be used.

"(B) Subparagraph (A) of this paragraph shall take effect at the end of the one-year period beginning on the date of enactment of this section.

"(4) In any case in which a party to any agreement for cooperation seeks to reprocess special nuclear material produced through the use of any nuclear material, equipment, or devices supplied by the United States, the Secretary of State may only determine that safeguards can be applied effectively to such reprocessing if he finds that the reliable detection of any diversion and the timely warning to the United States of such diversion will occur well in advance of the time at which that party could transform strategic quantities of diverted nuclear material into explosive nuclear devices.".

EXPORTS OF NUCLEAR TECHNOLOGY

SEC. 19. Section 4(j) of the Export Administration Act of 1969, as added by section 11 of this Act, is amended by adding at the end thereof the following new paragraph:

"(3) In furtherance of the purposes of this subsection (relating to exports of technical information), of subsection (h) of this section (relating to exports of technology which may contribute to the military potential of other nations), and of section 17 of this Act (relating to nuclear exports), the President shall conduct an in-depth study of whether, or the extent to which, the education and training of foreign nationals within the United States in nuclear engineering and related fields contributes to the proliferation of explosive nuclear devices or the development of a capability of producing explosive nuclear devices. Not later than the end of the six-month period beginning on the date of enactment of this paragraph, the President shall submit to the Congress a detailed report containing the findings and conclusions of such study. Such report shall analyze the direct and indirect contribution of such education and training to nuclear proliferation.".

SUNSHINE IN GOVERNMENT

SEC. 20. (a) Each officer or employee of the Secretary of Commerce who—

(1) performs any function or duty under this Act or the Export Administration Act of 1969 which is amended by this Act; and

(2) has any known financial interest in any person subject to such Acts, or in any person who obtains any license, enters into any agreement, or otherwise receives any benefit under such Acts;

shall, beginning on February 1, 1977, annually file with the Secretary a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) The Secretary shall—

(1) act within ninety days after the date of enactment of this Act—

(A) to define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within such agency which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section or any regulation issued thereunder, shall be fined not more than $2,500 or imprisoned not more than one year, or both.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed. The title was amended so as to read: "To amend the Export Administration Act of 1969."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 15377) was laid on the table.

GENERAL LEAVE

Mr. MORGAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislatives in which to revise and extend their remarks on the bill H.R. 15377 just passed.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

GENERAL LEAVE

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the passage of H.R. 11722 today.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS TO FILE CONFERENCE REPORT ON S. 2228

Mr. ROE. Mr. Speaker, I ask unanimous consent that the Committee on Public Works may have until midnight tonight to file a conference rpeort on the Senate bill S. 2228, Public Works and Economic Development Act Amendments of 1976.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman from New Jersey tell us whether the gentleman has been able to secure the agreement of the minority Members on this?

Mr. ROE. Mr. Speaker, if the gentleman will yield, I am pleased to advise the gentleman from California (Mr. ROUSSELOT) that the minority leader has approved the request.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman from New Jersey and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

TO PROVIDE FOR ESTABLISHMENT OF A CONSTITUTION FOR THE VIRGIN ISLANDS

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill H.R. 9460, an act to provide for the establishment of a constitution for the Virgin Islands, with the Senate amendment thereto and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert: That the Congress, recognizing the basic democratic principle of government by the consent of the governed, authorizes the people of the Virgin Islands to organize a government pursuant to a constitution of their own adoption as provided in this Act.

SEC. 2. (a) The Legislature of the Virgin Islands is authorized to call a constitutional convention to draft, within the existing territorial-Federal relationship, a constitution for the local self-government of the people of the Virgin Islands.

(b) Such constitution shall—

(1) recognize, and be consistent with, the sovereignty of the United States over the Virgin Islands, and the supremacy of the provisions of the Constitution, treaties, and laws of the United States applicable to the Virgin Islands, including, but not limited to, those provisions of the Organic Act and Revised Organic Act of the Virgin Islands which do not relate to local self-government;

(2) provide for a republican form of government, consisting of three branches: executive, legislative, and judicial;

(3) contain a bill of rights;

(4) deal with the subject matter of those provisions of the Revised Organic Act of the Virgin Islands of 1954, as amended, which relate to local self-government; and

(5) provide for a system of local courts consistent with the provisions of the Revised Organic Act of the Virgin Islands, as amended.

SEC. 3. The members of such constitutional convention shall be chosen as provided by the laws of the Virgin Islands (enacted after the date of enactment of this Act): *Provided, however*, That no person shall be eligible to be a member of the constitutional convention, unless he is a citizen of the United States and qualified to vote in the Virgin Islands.

SEC. 4. The convention shall submit to the Governor of the Virgin Islands a proposed constitution for the Virgin Islands which shall comply with the requirements set forth in section 2(b) above. Such constitution shall be submitted to the President of the United States by the Governor of the Virgin Islands.

SEC. 5. Within sixty calendar days after the date on which he has received the constitution, the President shall transmit such constitution together with his comments to the Congress which may modify or amend the proposed constitution. As approved by the Congress, the construction shall be submitted to the qualified voters of the Virgin Islands for acceptance or rejection through an islandwide referendum to be conducted as provided under the laws of the Virgin Islands (enacted after the date of enactment of this Act). Upon approval by not less than a majority of the voters participating in such referendum (counting only the affirmative or negative votes), the constitution shall become effective in accordance with its terms.

The Clerk read the amendment to the Senate amendment as follows:

In lieu of the matter to be inserted by the Senate to the text of the bill insert the following:

That the Congress, recognizing the basic democratic principle of government by the consent of the governed, authorizes the peoples of the Virgin Islands and of Guam, respectively, to organize governments pursuant to constitutions of their own adoption as provided in this Act.

SEC. 2. (a) The Legislatures of the Virgin Islands and Guam, respectively, are authorized to call constitutional conventions to draft, within the existing territorial-Federal relationship, constitutions for the local self-government of the people of the Virgin Islands and Guam.

(b) Such constitutions shall—

(1) recognize, and be consistent with, the sovereignty of the United States over the Virgin Islands and Guam, respectively, and the supremacy of the provisions of the Constitution, treaties, and laws of the United States applicable to the Virgin Islands and Guam, respectively, including, but not limited to, those provisions of the Organic Act and Revised Organic Act of the Virgin Islands and the Organic Act of Guam which do not relate to local self-government.

Amend the title of the House bill to read "An Act to Provide for the Establishment of Constitutions for the Virgin Islands and Guam."

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. DON H. CLAUSEN. Mr. Speaker, reserving the right to object, and I do so only for the purpose of asking if the gentleman from California (Mr. BURTON) will explain to the Members of the House what the amendment will do.

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman will yield, as the gentleman from California knows, the House passed, without dissent, about a year ago, legislation authorizing local home rule constitutions for Guam and the Virgin Islands. The Senate has urged upon us, with success, the rearrangement of the time sequence. The bill, as provided for in this amendment, would have the proposed constitutional convention recommendations be first submitted to the House, the Senate and the President of the United States, before being submitted to the people, rather than as in the House bill, following.

Mr. DON H. CLAUSEN. The minority concurs that the compromise worked out by the gentleman with the Senate is acceptable.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. **PHILLIP BURTON**. Mr. Speaker, I ask unanimous consent that all Members may have 2 legislative days in which to revise and extend their remarks on the bill just passed.

The **SPEAKER**. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON H.R. 12168, NATURAL GAS PIPELINE SAFETY ACT AMENDMENTS OF 1976

Mr. **STAGGERS** submitted the following conference report and statement on the bill (H.R. 12168) to amend the Natural Gas Pipeline Safety Act of 1968 to authorize additional appropriations, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 94–1660)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12168) to amend the Natural Gas Pipeline Safety Act of 1968 to authorize additional appropriations, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Natural Gas Pipeline Safety Act Amendments of 1976".

SEC. 2. Section 15 of the Natural Gas Pipeline Safety Act of 1968 is amended—

(1) in subsection (a) thereof, by striking out "and" after "June 30, 1975," and by inserting "$500,000 for the period beginning July 1, 1976, and ending September 30, 1976, $4,664,000 for the fiscal year ending September 30, 1977, and $5,000,000 for the fiscal year ending September 30, 1978," after "June 30, 1976,"; and

(2) in subsection (b) thereof, by striking out "5(c)" and inserting in lieu thereof "5 (c) and (f)", and by striking out "and" after "June 30, 1975," and by inserting ", $2,500,000 for the fiscal year ending September 30, 1977, and $4,500,000 for the fiscal year ending September 30, 1978" after "June 30, 1976".

SEC. 3. Section 2 of the Natural Gas Pipeline Safety Act of 1968 is amended—

(1) by striking out "; and" at the end of paragraph (8) and inserting in lieu thereof ", except that it shall not include any pipeline facilities within a State which transport gas from an interstate gas pipeline to a direct sales customer within such State purchasing gas for its own consumption;"; and

(2) by redesignating paragraph (9) as paragraph (10), and inserting after paragraph (8) the following new paragraph:

"(9) 'Intrastate pipeline transportation' means pipeline facilities and transportation of gas within a State which are not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act, except that it shall include pipeline facilities within a State which transport gas from an interstate gas pipeline to a direct sales customer within such State purchasing gas for its own consumption; and".

SEC. 4. Section 3(b) of the Natural Gas Pipeline Safety Act of 1968 is amended—

(1) by inserting "emergency plans and procedures," after "inspection," in the second sentence thereof; and

(2) by amending the last sentence thereof to read as follows: "Any State agency may adopt additional or more stringent standards for intrastate pipeline transportation if such standards are compatible with the Federal minimum standards. No State agency may adopt or continue in force any such standards applicable to interstate transmission facilities, after the Federal minimum standards become effective.".

SEC. 5. (a) Section 5(a) of the Natural Gas Pipeline Safety Act of 1968 is amended—

(1) in the first sentence thereof, by striking out "pipepline facilities and the transportation of gas (not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act) within a State" and inserting in lieu thereof "intrastate pipeline transportation";

(2) in clause (1) thereof, by striking out "pipeline facilities and transportation of gas" and inserting in lieu thereof "transportation";

(3) by striking out "(2) has adopted each Federal safety standard applicable to such pipeline facilities and transportation of gas established under this Act as of the date of the certification;" and inserting in lieu thereof "(2) has adopted, as of the date of the certification, each Federal safety standard established under this Act which is applicable to such transportation or, with respect to each such Federal safety standard established within one hundred and twenty days before the date of the certification, is taking steps pursuant to State law to adopt such standard;"; and

(4) by striking out "and (4)" and inserting in lieu thereof "(4) is encouraging and promoting programs designed to prevent damage to pipeline facilities as a consequence of excavation activity; and (5)".

(b) Section 5(b) of such Act is amended by striking out "With respect to" and all that follows down through "actions to—" and by inserting in lieu thereof the following: "With respect to any intrastate pipeline transportation for which the Secretary does not receive an annual certification under subsection (a) of this section, the Secretary may, by agreement with a State agency (including a municipality) authorize such agency to assume responsibility for, and carry out on behalf of the Secretary as it relates to intrastate pipeline transportation the necessary actions to—".

(c) The first sentence of section 5(d) of such Act is amended to read as follows: "A certification which is in effect under subsection (a) of this section shall not apply with respect to any new or amended Federal safety standard established for intrastate pipeline transportation pursuant to this Act after the date of such certification.".

(d) Section 5 of such Act is amended by adding at the end thereof the following new subsection (f):

"(f) (1) During the fiscal year ending September 30, 1978, the Secretary shall, in accordance with regulations issued by the Secretary taking into account the needs of the respective States, pay to each State agency out of funds appropriated or otherwise made available one hundred percent of the cost (not to exceed $60,000 for each State agency) of not more than three full-time natural gas pipeline safety inspectors in addition to, and not in lieu of, the number of natural gas pipeline safety inspectors maintained by such State agency in calendar year 1977.

"(2) Not later than September 30, 1977, any State may apply to receive funds under paragraph (1) for the calendar year 1978.

"(3) Each State agency which receives funds under paragraph (1) shall continue to maintain during calendar years 1979 and 1980 not less than the number of full-time natural gas pipeline safety inspectors which were maintained by such State agency in calendar year 1978.

"(4) Any State in which the State agency fails to meet its obligations under paragraph (3) shall reimburse the Secretary for a sum equal to 50 percent of the funds received by such State under this subsection in proportion to which such State agency has failed to meet its obligations.".

SEC. 6. The first sentence of section 11 of the Natural Gas Pipeline Safety Act of 1968 is amended to read as follows: "Each person who engages in the transportation of gas or who owns or operates intrastate pipeline transportation facilities shall file with the Secretary or, if a certification or an agreement pursuant to section 5 of this Act is in effect, with the appropriate State agency, a plan for inspection and maintenance of each facility used in such transportation and owned or operated by such person, and any changes in such plan, in accordance with regulations prescribed by the Secretary or appropriate State agency.".

SEC. 7. Section 14(a)(1) of the Natural Gas Pipeline Safety Act of 1968 is amended by striking out "accidents" and inserting in lieu thereof "leak repairs, accidents,".

SEC. 8. The Natural Gas Pipeline Safety Act of 1968 is amended by adding at the end thereof the following:

"CONSUMER EDUCATION

"SEC. 16. Each person who engages in the transportation of gas shall, in accordance with the regulations prescribed by the Secretary, conduct a program to educate the public on the possible hazards associated with gas leaks and on the importance of reporting gas odors and leaks to appropriate authorities. The Secretary may develop materials suitable for use in such education programs.

"CITIZEN'S CIVIL ACTION

"SEC. 17. (a) Except as provided in subsection (b), any person may commence a civil action for mandatory or prohibitive injunctive relief, including interim equitable relief, against any other person (including any State, municipality, or other governmental entity to the extent permitted by the eleventh amendment to the Constitution, and the United States) who is alleged to be in violation of this Act or of any order or regulation issued under this Act. The district courts of the United States shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties.

"(b) No civil action may be commenced under subsection (a) with respect to any alleged violation of this Act or any order or regulation issued under this Act—

"(1) prior to the expiration of 60 days after the plaintiff has given notice of such alleged violation to the Secretary (or to the applicable State agency in the case of a State which has been certified under section 5(a) and in which the violation is alleged to have occurred), and to any person who is alleged to have committed such violation; or

"(2) if the Secretary (or such State agency) has commenced and is diligently pursuing administrative proceedings or the Attorney General of the United States (or the chief law enforcement officer of such State) has commenced and is diligently pursuing judicial proceedings with respect to such alleged violation.

Notice under this subsection shall be given in such manner as the Secretary shall prescribe by regulation.

"(c) In any action under subsection (a), the Secretary (with the concurrence of the

Attorney General) or the Attorney General may intervene as a matter of right.

"(d) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or at common law to seek enforcement of this Act or any order or regulation under this Act or to seek any other relief.

"(e) In any action under this section the court may, in the interest of justice, award the costs of suit, including reasonable attorney's fees and reasonable expert witnesses fees, to a prevailing plaintiff. Such court may, in the interest of justice, award such costs to a prevailing defendant whenever such action is unreasonable, frivolous, or meritless. For purposes of this subsection a reasonable attorney's fee is a fee (1) which is based upon (A) the actual time expended by an attorney in providing advice and other legal services in connection with representing a person in an action brought under this section, and (B) such reasonable expenses as may be incurred by the attorney in the provision of such services, and (2) which is computed at the rate prevailing for the provision of similar services with respect to actions brought in the court which is awarding such fee.

"(f) For purposes of this section, a violation of any safety standard or practice of any State shall be deemed to be a violation of this Act or of any order or regulation under this Act only to the extent that such standard or practice is not more stringent than the comparable Federal minimum safety standard."

And the Senate agree to the same.

Harley O. Staggers,
John D. Dingell,
Timothy E. Wirth,
Phil Sharp,
William M. Brodhead,
Managers on the Part of the House.

Warren G. Magnuson,
Vance Hartke,
J. Glenn Beall, Jr.,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12168) to amend the Natural Gas Pipeline Safety Act of 1968 to authorize additional appropriations, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers, and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

AUTHORIZATION OF APPROPRIATIONS

House bill

The House bill authorized to be appropriated $500,000 for the fiscal year transition period beginning July 1, 1976, and ending September 30, 1976, and $4,664,000 for the fiscal year ending September 30, 1977, for purposes of implementing the Natural Gas Pipeline Safety Act of 1968. In addition, the House bill authorized to be appropriated $2,500,000 for the fiscal year ending September 30, 1977 for purposes of implementing the State grant-in-aid program pursuant to section 5(c) of the Natural Gas Pipeline Safety Act of 1968.

Senate amendment

The Senate amendment authorized to be appropriated $2,850,000 for the fiscal year ending June 30, 1976, $650,000 for the fiscal year transition period beginning July 1, 1976, and ending September 30, 1976, $4,500,000 for the fiscal year ending September 30, 1977, and $5,000,000 for the fiscal year ending September 30, 1978, for purposes of implementing the Natural Gas Pipeline Safety Act of 1968. In addition, the Senate amendment authorized to be appropriated $2,500,000 for the fiscal year ending June 30, 1976 and the transitional period ending September 30, 1976, $4,500,000 for the fiscal year ending September 30, 1977, and $4,500,000 for fiscal year ending September 30, 1978, for purposes of implementing the State grant-in-aid program pursuant to section 5(c) of the Natural Gas Pipeline Safety Act of 1968.

Conference substitute (section 2)

The conference substitute authorizes to be appropriated $500,000 for the transition quarter, $4,664,000 for the fiscal year ending September 30, 1977, and $5,000,000 for the fiscal year ending September 30, 1978, for purposes of implementing the Natural Gas Pipeline Safety Act of 1968 (other than Federal grants-in-aid under the Act). In addition, it authorizes to be appropriated $2,500,000 for the fiscal year ending September 30, 1977, and $4,500,000 for the fiscal year ending September 30, 1978, for purposes of implementing the State grant-in-aid program pursuant to section 5 of the Natural Gas Pipeline Safety Act of 1968. The increase of $2 million for fiscal year 1978 is needed to implement the 1-year additional grant-in-aid program provided in section 5(d) of the conference substitute.

TECHNICAL PIPELINE SAFETY STANDARDS COMMITTEE

House bill

The House bill contained no provision with respect to the Technical Pipeline Safety Standards Committee.

Senate amendment

The Senate amendment amended section 4(a) of the Natural Gas Pipeline Safety Act of 1968 to require that the technical Pipeline Safety Standards Committee meet at least twice during each calendar year.

Conference substitute

The conference substitute adopts the position of the House and contains no provision with respect to the Technical Pipeline Safety Standards Committee. While deleting this provision, the conferees agree that the performance of the Technical Committee has been disappointing. The Secretary has not adequately sought the Committee's advice and the Committee itself has met infrequently and has shown little initiative in proposing standards.

The conferees believe that the Technical Committee should be meeting at least twice a year, but rather than write this requirement in the law, it was decided to give the Technical Committee maximum flexibility in scheduling meetings. However, both the House and the Senate Committees contemplate a closer evaluation of the meetings and performance of the Technical Committee in their future examination of this legislation.

DAMAGE TO SUBSURFACE UTILITY EQUIPMENT

House bill

The House bill contains no provision relating to damage to subsurface utility equipment.

Senate amendment

The Senate amendment amended section 5(a) of the Natural Gas Pipeline Safety Act of 1968 regarding the burden that a State agency must meet in order to be certified to enforce the Federal natural gas pipeline safety regulations. Under existing law, the State must submit to the Secretary an annual certification that such State agency (1) has regulatory jurisdiction over the safety standards and practices of pipeline facilities for the transportation of gas; (2) has adopted each Federal safety standard; (3) is enforcing such standards; and (4) has the authority to require record maintenance, reporting and inspections substantially the same as provided under the Act, the filing for approval of plans of inspection and maintenance required under the Act, and that the law of the States makes provision for the enforcement of the safety standards. The Senate amendment would require that a State agency encourage and promote programs designed to prevent damage to natural gas pipelines and other subsurface utility equipment as a consequence of any excavation activity.

Conference substitute (section 5(a)(4))

The conference substitute incorporates the Senate provision with technical modifications. More than half of the natural gas pipeline failures in recent years are attributable to outside forces, primarily excavation activity. It is the belief of the conferees that by incorporating this provision as a certification requirement, both the Federal Government and the States will focus greater attention on efforts to reduce the number of such pipeline failures.

AUTHORITY OF THE FEDERAL POWER COMMISSION

House bill

The House bill contained no provision with respect to the authority of the Federal Power Commission.

Senate amendment

The Senate amendment amended section 7 of the Natural Gas Pipeline Safety Act of 1968 to provide that the Federal Power Commission may not attach any condition to the issuance of a certificate of public convenience and necessity, or the exercise of rights granted under such a certificate, if such condition requires the applicant to comply with any safety standards for pipeline facilities or for the transportation of gas other than safety standards prescribed by the Secretary of Transportation.

Conference substitute

The Senate recedes to the House position and conference substitute does not include the Senate provision. The Natural Gas Pipeline Safety Act assigns to the Secretary of Transportation primary responsibility for establishing minimum Federal safety standards for the transportation of gas and pipeline facilities as defined in the Act. These standards may apply to the design, installation, inspection, testing, construction, extension, operation, replacement, and maintenance of those pipeline facilities. The conferees believe that it is incumbent upon the Federal Power Commission and other Federal departments and agencies with overlapping responsibilities in this area to direct the Secretary's attention to deficiencies in the natural gas pipeline safety regulatory program rather than to pursue piecemeal solutions on their own. Both industry and Government gain by uniform, consistent regulation.

The conferees note with approval FPC Chairman Dunham's letter of March 22, 1976 to Congressman Dingell (a copy of which is reprinted in House Report 94–1050) in which he supports the solution to this interagency controversy contained in the Senate provision. Based on Chairman Dunham's approval of this approach and DOT Secretary William Coleman's statement in his July 20, 1976 letter to Chairman Magnuson "that the current spirit of cooperation (between the DOT and the FPC) will alleviate past problems," the conferees are confident that the jurisdictional squabbles between the two agencies will cease.

NEW GRANTS-IN-AID

House bill

The House bill contained no provision with regard to a new program for grants-in-aid to the States.

Senate amendment

The Senate amendment provided that the Secretary shall pay out of the funds appropriated 100 percent (but not to exceed $60,000 for each State) of the cost of not more than three full time inspectors. The number of inspectors for which each State was eligible was to be determined by regulations issued by the Secretary taking into account the needs of the respective States. This 100-percent funding program was in addition to the 50 percent grants now provided for in section 5(c) of the Natural Gas Pipeline Safety Act of 1968. In order for a State to receive such funds, it must have maintained its expenditures at a level which does not fall below the average level of expenditures for the last 2 fiscal years preceding the fiscal year for which the State agency is seeking a 100-percent funding grant.

Conference substitute (section 5(d))

The conference substitute incorporates a substantially modified and scaled-down grant program. Under the substitute provision, the Secretary is authorized to pay the cost of not more than three full-time natural gas pipeline safety inspectors for each State (not to exceed $60,000 for each State) in fiscal year 1978. The Secretary is directed to promulgate regulations which define criteria for determining the eligibility of a State, and the number of inspectors an eligible State may receive under this provision. Those regulations should take into account such factors as the number of miles of pipeline in each State and the age of the pipeline. The conferees agreed that the Secretary should provide no more than $25,000 for any one inspector.

This limited program is designed to insure that the public is adequately protected from the dangers associated with the transportation of natural gas by pipeline. It is the belief of the conferee, however, that the public is not now adequately protected from such dangers. More than a dozen States, for example, have failed to provide sufficient resources to support even one full-time natural gas pipeline safety inspector. While 45 States have been certified under section 5(a) of the act to enforce the safety regulations, there are serious questions as to whether all of those States are in fact meeting their obligations required by the statute for certification. The conferees will not tolerate "paper" certifications and the Secretary is directed to closely scrutinize the natural gas pipeline safety program of each State to insure that the State is fulfilling its responsibilities.

This special grant-in-aid program is designed and intended to be temporary. It is the hope of the conferees that those States which to date have not provided sufficient inspection activity will take this opportunity to bring their inspection forces up to an appropriate level and maintain that level. The conference substitute provides that if a State receives a grant-in-aid for additional inspectors during calendar year 1978 under this section and then fails to continue to provide the funding for that inspector for at least 2 subsequent calendar years, then the State would be required to reimburse the Federal Government a sum equal to 50 percent of the funds it received under this section in proportion to which such State has failed to meet its obligations. Thus, if a State which currently supports 2 inspectors receives a grant of $20,000 for a third inspector, that State would be required, after calendar year 1978 to provide funding for at least 3 inspectors (2 inspectors previously supported, plus 1 inspector supported under this subsection) for the next 2 calendar years. If it fails to do so, it must reimburse the Federal Government $10,000 (50 percent of the total grant). If it provides such funding for only 1 year, it must reimburse the Federal Government $5,000 (one-half of 50 percent of the total grant). In providing the funding for the additional inspector in the years subsequent to calendar year 1978, the State would of course be eligible for the 50-percent funding under the existing grant-in-aid provisions of section 5(c) of the Act.

The conferees endorsed this approach because it is designed to assist the States to upgrade their enforcement program on a permanent basis. The alternative to this approach whereby the States share enforcement responsibilities with the Federal Government is to fund a network of Federal enforcement officials. This would of course be much more expensive and most likely less efficient, and it is the hope of the conferees that this temporary grant program will assist the States in creating and maintaining a meaningful enforcement capability.

CONSUMER EDUCATION

House bill

The House bill contained no provision with respect to consumer education.

Senate amendment

The Senate amendment required each person who engages in the transportation of gas, in accordance with regulations prescribed by the Secretary of Transportation, to conduct a program to educate the public on the possible hazards associated with gas leaks and on the importance of reporting gas odors and leaks to appropriate authorities. The Secretary was further authorized to develop materials suitable for use in such education programs.

Conference substitute (section 8)

The conference substitute adopts the provision contained in the Senate amendment. While this section is designed to upgrade the awareness of consumers about possible hazards associated with gas leaks, it is not intended to impact existing tort principles relating to the liability of a pipeline owner or operator for failure to educate the public about such possible hazards.

CITIZENS CIVIL ACTION

House bill

The House bill contained no provision with respect to citizens' civil actions.

Senate amendment

The Senate amendment added a new section to the Natural Gas Pipeline Safety Act of 1968 to provide that any person may commence a civil action for mandatory or prohibitive injunctive relief, including interim equitable relief, against any person who is alleged to be in violation of a provision of the Natural Gas Pipeline Safety Act of 1968 or of an order or regulation issued thereunder. However, no such civil action could be commenced prior to 60 days after the moving party had given notice of the alleged violation to the Secretary and to any alleged violator, or if the Secretary has commenced and is diligently pursuing administrative proceedings or the Attorney General has commenced or is diligently pursuing judicial proceedings with respect to the alleged violation. In any action under this section, the court may, in the interest of justice, award the costs of suit, including reasonable attorneys' fees and reasonable expert witnesses' fees to a prevailing plaintiff. Additionally, the court may, in the interest of justice, award such costs to a prevailing defendant whenever such action was unreasonable, frivolous, or meritless. A reasonable attorney's fee was defined as one which is based upon the actual time expended by an attorney in providing advice and other legal services in connection with representing a person in an action brought under this subsection and such reasonable expenses as may be incurred by the attorney in the provision of such services. Additionally, such fees were to be computed at the rate prevailing for the provision of similar services with respect to actions brought in the court which is awarding such fee.

Conference substitute (section 8)

The conference substitute adopts a citizen's civil action provision similar to the provision in the Senate bill. Under this provision, any person may commence a civil action for mandatory or prohibitive injunctive relief, against any person who is alleged to be in violation of the Natural Gas Pipeline Safety Act or an order or regulation issued under the Act. This provision would not supplant the Secretary's efforts (or if a State agency has been certified under section 5 (a), the State agency's efforts) for enforcement and compliance. Before a person may file such a civil action, he must inform the Secretary (or the State agency) of his intention to do so. If the Attorney General of the United States (or of the State if it has been certified under section 5(a)) has commenced and is diligently pursuing judicial proceedings or the Secretary (or the State agency) has commenced and is diligently pursuing administrative proceedings with respect to the alleged violation, then the person may not commence the civil action.

If a suit is brought in a State which has been certified under section 5(a) of the Act, then the petitioner may seek to enforce only the requirements of Federal minimum standard, notwithstanding a higher State standard. The 11th Amendment to the Constitution stands as a bar to bringing a suit against a State which has not consented to be sued in Federal court in such an action.

Like the Senate bill, the conference substitute authorizes the award of costs of suit, including reasonable attorney's fees and reasonable expert witnesses fees to a prevailing plaintiff-petitioner if the court determines that such an award is in the interest of justice. In awarding such costs, it is important to keep in mind that the purpose of this provision is to protect the public health and safety—generally the petitioner will not personally gain by his actions. The statute also allows the court, in the interest of justice, to award such costs to a prevailing defendant whenever such action is unreasonable, frivolous, or meritless. This is consistent with case law on the award of attorney's fees (see *United States Steel Corp.* v. *United States*, 385 F. Supp. 346 (W.D. Pa. 1974)).

The conferees intend that if such an action is brought and an injunction is sought which would impact the availability of gas to those served by the pipeline, those who would be impacted should be given prior notice and opportunity to participate in the court proceeding in the manner and to the extent determined by the court to be appropriate.

MISCELLANEOUS PROVISIONS

House bill

The House bill amended sections 3(a) and 3(b) of the Natural Gas Pipeline Safety Act of 1968 by deleting the word "minimum" wherever it appears. Those provisions now refer to the Federal safety standards as "minimum" standards and this amendment was contained in the House bill to emphasize that the regulations of the Secretary of Transportation were not to be modified or expanded upon by any other agency.

Senate amendment

First, the Senate amendment did not contain the provision striking the word "minimum" from sections 3(a) and 3(b) of the Natural Gas Pipeline Safety Act of 1968.

Second, the Senate amendment amended section 3(b) of the Act to provide that among the areas to which Federal pipeline safety regulations may be addressed are regulations relating to emergency plans and procedures.

Additionally, the Senate amendment amended section 14(a)(1) of the Natural Gas Pipeline Safety Act of 1968 regarding the annual report of the Secretary to the President and Congress on the implementation of the Natural Gas Pipeline Safety Program. The amendment would require the report to contain a thorough compilation of leak repairs occurring in the year to which the report is addressed.

Conference substitute

The conference substitute does not incorporate the House amendments to sections 3(a) and 3(b) deleting the word "minimum." The conferees believe that the relationship between the Federal Power Commission and the Department of Transportation with respect to natural gas pipeline safety is clear. Additionally, the conferees want to emphasize that Federal safety standards are minimum standards and industry is free to exceed those standards where it deems appropriate.

Section 4(1) of the conference substitute incorporates the Senate amendment to section 3(b) relating to emergency plans and procedures. While DOT has issued regulations requiring such plans and procedures, the conferees have incorporated this provision to underscore the critical importance of improvements in this vital area. In 6 recent pipeline accidents, pipeline operator's personnel were at the leak site in sufficient time to prevent the ensuing accidents. The conferees strongly believe that emergency plans and procedures should be upgraded and the inclusion of this provision emphasizes the priority the conferees place on improvements in this area.

Section 7 of the conference substitute incorporates the Senate amendment to section 14(a)(1) regarding the inclusion of data on leak repairs in the Secretary's annual report. This latter amendment does not impact the Secretary's authority to collect data from pipeline owners and operators.

HARLEY O. STAGGERS,
JOHN D. DINGELL,
TIMOTHY E. WIRTH,
PHIL SHARP,
WILLIAM M. BRODHEAD,
Managers on the Part of the House.

WARREN G. MAGNUSON,
VANCE HARTKE,
J. GLENN BEALL, Jr.,
Managers on the Part of the Senate.

CORPS OF ENGINEERS AND DEPARTMENTS OF INTERIOR AND TRANSPORTATION RESCISSIONS AND WILDLIFE CONSERVATION DEFERRAL—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94-620)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith propose three rescissions of 1977 budget authority totalling $134.1 million. The rescission proposals affect programs of the Corps of Engineers and the Departments of the Interior and Transportation.

In addition, I am reporting an increase of $133,000 to a 1976 and transition quarter deferral involving the wildlife conservation, etc., military reservations programs.

The details of the proposed rescissions and the revised deferral are contained in the attached reports.

GERALD R. FORD.

THE WHITE HOUSE, *September 22, 1976.*

COPYRIGHT LAW REVISION

Mr. MURPHY of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1550 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1550

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 22) for the general revision of the copyright law, title 17 of the United States Code, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. No amendment to said amendment shall be in order except amendments offered by direction of the Committee on the Judiciary and germane amendments printed in the Congressional Record at least three calendar days prior to the start of the consideration of said bill for amendment, but said amendments shall not be subject to amendment except those offered by direction of the Committee on the Judiciary. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. MURPHY of Illinois. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Mississippi (Mr. LOTT). Pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1550 provides for a modified open rule providing for 1 hour of general debate on S. 22, the copyright law revision. The rule provides that the committee substitute, now printed in the bill, be in order as an original bill for the purpose of amendment. House Resolution 1550 further provides that only amendments offered by the Judiciary Committee and germane amendments printed in the CONGRESSIONAL RECORD 3 calendar days prior to the consideration of the bill for amendment, will be in order. Amendments printed in the RECORD can only be amended by the Judiciary Committee.

House Resolution 1550 waives section 402(a) of the Congressional Budget Act to permit the consideration of this bill. S. 22 is in violation of the Budget Act since the bill was not reported from the House Judiciary Committee by May 15 but contains an authorization effective in fiscal year 1977. The Judiciary Committee will amend the bill on the floor eliminating the fiscal year 1977 authorization to conform to the provisions of the Budget Act.

S. 22 provides for the first comprehensive revision of the copyright law—title 17 of the United States Code—since 1909. This bill extends copyright liability to two previously exempted groups: The operators of jukeboxes and of cable television systems.

The bill also extends the length of copyright protection to the life of the creator plus 50 years. Existing works would receive an extension of 75 years.

S. 22 further provides that in 1981 the requirement that all copyrighted books and materials be printed in the United States be terminated.

Among other provisions of the bill, a three-member commission, appointed by the President, would determine copyright royalty rates, distribute royalty fees, and settle disputes.

Guidelines for copying materials by schools and libraries are also outlined. This bill allows the reproduction and distribution of one copy or phonorecord if the following conditions are met: No direct or indirect commercial gain is realized, the library is open to the public, and a notice of copyright is on the reproduction.

Copyright infringement and remedies are also provided in the bill.

The Copyright Act of 1909 has been outdated by new technological developments in the areas of motion pictures, recording, and photocopying. There is a need to revise this law to reflect these changes. I urge the adoption of House Resolution 1550 that we may discuss and debate S. 22.

Mr. Speaker, I yield to the gentleman from Mississippi (Mr. LOTT).

Mr. Speaker, I move the previous question.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentleman has explained, House Resolution 1550 is the rule making in order the consideration of S. 22, a bill providing for a general revision of the copyright laws. The rule waives section 402(a) of the Congressional Budget Act, which requires authorizations to be reported by May 15 preceding the beginning of the fiscal year in which they are to become effective. This waiver is necessary because this legislation was reported after May 15, 1976, and contains an authorization for fiscal year 1977. In this connection, it is my understanding that the Budget Committee will not oppose the waiver, since the Judiciary Committee has agreed to offer an amendment to the bill to delay the authorization until fiscal year 1978.

Pursuant to the terms of the rule, the bill may be debated for 1 hour and will be read for amendment under the 5-minute rule. The committee amendment in the nature of a substitute is made in order as an original bill for purposes of amendment. No amendment to the committee amendment in the nature of a substitute will be in order except amendments offered by the direction of the Judiciary Committee and germane amendments printed in the CONGRESSIONAL RECORD at least 3 calendar days prior to the start of consideration of the bill for amendment. These amendments, however, will not be subject to amendment except those offered by direction of the Judiciary Committee.

S. 22 provides for a general revision of the U.S. copyright law, title 17 of the United States Code. This measure passed the Senate on February 19 of this year by unanimous consent vote. After hearing 100 witnesses and holding 22 days of markup, the Judiciary Committee reported the bill to the House on September 3, 1976.

The estimated cost of the legislation for the first fiscal year is $1 million. Thereafter, no Federal expenditures are expected for the next 4 years.

Mr. Speaker, I believe this is a fair rule; and I urge its adoption so that we may proceed to consider this extremely important legislation.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I ask for this time to inquire from whomever might be able to answer, perhaps the chairman of the Judiciary Committee, what the program plans are for the rest of this evening. Are we going to finish this bill or not? It is 8 o'clock. I have heard it might take 3 hours. The Members might like to know what the plan is.

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, soon after we go into the Committee of the Whole, I would think Members desiring to speak on this bill might limit their remarks to about 30 or 40 minutes at the most.

As far as the amendments are concerned, I know of at least five that will be offered en bloc and having talked to some of the Members I do not think the debate will be extensive. Therefore, I would predict that after we go into the Committee of the Whole, we should take about 1½ hours to 2 hours, but not more than that.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for that explanation.

Mr. MURPHY of Illinois. Mr. Speaker, I have no further requests for time and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. KASTENMEIER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 22) for the general revision of the copyright law, title 17 of the United States Code, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER).

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 22, with Mr. SMITH of Iowa in the chair.

The Clerk read the title of the Senate bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Wisconsin (Mr. KASTENMEIER) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. RAILSBACK) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Wisconsin (Mr. KASTENMEIER.)

Mr. KASTENMEIER. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Chairman, today is a proud day for the Copyright Subcommittee and for its parent Judiciary Subcommittee as we present to the House—unanimously by the subcommittee and with one sole dissent in the full committee—the bill S. 22 for general revision of the copyright law, with a committee amendment in the nature of a substitute.

When one considers the extended background of this legislation and the difficulties that have been overcome in the process, the reason for our pride is not hard to see. Under the chairmanship and gifted guidance of our colleague BOB KASTENMEIER of Wisconsin and the unflagging cooperation of the ranking minority member of the subcommittee, TOM RAILSBACK of Illinois, our subcommittee undertook and has brilliantly brought to conclusion an enormous task.

The present copyright law is essentially as enacted in 1909. The technological and communications developments since that time have rendered that law obsolete and inadequate. It is the purpose and effect of the copyright bill which we bring you today to provide for a general revision of the copyright law.

The first American copyright law was enacted by the First Congress in 1790, in exercise of the constitutional power:

> To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.

Comprehensive revisions were enacted, at intervals of about 40 years.

Since 1909 significant changes in technology have affected the operation of the copyright law. Motion pictures and sound recordings had just made their appearance in 1909, and radio and television were still in the early stages of their development. During the past half century a wide range of new techniques for capturing and communicating printed matter, visual images, and recorded sounds have come into use, and the increasing use of information storage and retrieval devices, communications satellites, and laser technology promises even greater changes in the near future. The technical advances have generated new industries and new methods for the reproduction and dissemination of copyrighted works, and the business relations between authors and users have evolved new patterns.

Against this background of need for revision and after extended hearings and study, the committee in 1967 brought forth and the House enacted a comprehensive revision bill. The Senate, however, was unable to enact this measure. Not until 1974 did the Senate pass a copyright bill. Reintroduced in 1975, the measure became the basis for S. 22 and the House companion bill, H.R. 2223.

During 1975, the House Judiciary Subcommittee conducted extensive hearings at which nearly 100 witnesses were heard. Following some 22 days of public markup sessions in 1976 the House subcommittee favorably reported S. 22, by a unanimous vote, on August 3, 1976, with an amendment in the nature of a substitute. The Committee on the Judiciary now reports that bill, as amended, without change.

In reporting S. 22, the committee has deleted and held over for further consideration in the 95th Congress title 2 of the bill that would create a new system of protection for ornamental designs of useful articles.

The legislation before us now contains a number of complex and important provisions. These include: Increased term, fair use, exemptions related to the handicapped, royalty fees for cable television systems, mechanical royalties, and compulsory license for public broadcasting. The bill eliminates the so-called manufacturing clause which has performed a tariff function in the guise of copyright.

Mr. Chairman, it is with the most profound respect that I urge my colleagues to vote to enact this monumental revision.

Mr. KASTENMEIER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, at the outset, I would like to compliment the Members of the subcommittee who worked so hard on this particular legislative endeavor; the gentleman from Illinois (Mr. RAILSBACK); the gentleman from California (Mr. WIGGINS); and on our side, the gentleman from California (Mr. DANIELSON); the gentleman from Massachusetts (Mr. DRINAN); the gentleman from New York (Mr. BADILLO); and the gentleman from New York (Mr. PATTISON); as well as the other gentlemen, the gentleman from California (Mr. EDWARDS); the gentleman from Michigan (Mr. HUTCHINSON); who 10 years ago served on the subcommittee and worked on the project at that time.

Mr. Chairman, the Committee on the Judiciary has reported favorably the bill, S. 22, revising the copyright code of the United States.

The existing Copyright Code was enacted in 1909 and has remained basically unchanged since that time even though the intervening years have witnessed revolutionary technological developments which have totally changed the nineteenth century assumptions upon which that law was based.

Attempts to modernize the law began over 50 years ago, in 1924. Before World War II, revision bills twice passed one House of Congress only to be stymied in the other. The efforts which resulted in the committee bill before you today began in August 1955 when Congress authorized what was to become a 6-year study of needed revisions by a special committee of experts under the supervision of the Register of Copyrights.

On the basis of that study former chairman, Emanuel Celler, in 1965 introduced the general revision which is the forerunner of S. 22. It was my pleasure to chair 22 days of public hearings and 51 days of markup on that bill during the 89th Congress. The result of that effort was successful passage of a revision bill by the House in the 90th Congress in 1967. Because of a controversy over the cable TV provision, however, the bill died in the Senate.

By the 93d Congress the Senate was successful in achieving sufficient agreement to pass the bill. However, our committee received the measure far too late in that session to act, especially given the pressures of the impeachment inquiry.

Near the beginning of the current Congress the Senate quickly passed the bill a second time and our committee began work in earnest to produce a bill that would balance the competing interests of the various affected economic groups and at the same time serve the general public interest. The Subcommittee on Courts, Civil Liberties, and the Administration of Justice held a total of 17 days of hearings at which testimony was received from 99 different witnesses. These hearings were followed by 25 days of markup which resulted in the bill before you this morning.

Much of the bill is merely a restatement of existing law, both statutory law and the judicial doctrines which over the years have grown up around the 1909 code. However, the bill does contain a number of significant changes.

First, copyright protection is changed from the current maximum term of 56 years to the life of the author plus 50 years. This is in keeping with the standard recognized throughout the world, and will enable the United States to more easily reach reciprocal agreements on copyright matters with other nations. All copyrights presently in existence would be valid until 75 years from the date of publication.

Secondly, the bill extends copyright protection to two areas which are not presently covered—performance of copyrighted musical works by jukeboxes and retransmission of copyrighted works by cable television systems. However, the committee has greatly softened the impact of this extended copyright coverage by providing that jukebox operators and cable television systems will be entitled to compulsory licenses at very reasonable fees which are provided in the bill. The bill contains special provisions for small cable systems which require them to make only a nominal payment.

In addition, the bill raises the so-called mechanical royalty from the current 2 cents per pound to 2¾ cents or 6/10 cents per minute of playing time, whichever is greater. The mechanical royalty is the minimum payment which must be made to the copyright owner by record companies for the right to produce a recording of a work which has already been recorded.

In order that Congress itself will not be required to review periodically the rates of the various compulsory licenses established in the bill, a three member Copyright Royalty Commission is established to review royalty rates and settle disputes among parties claiming statutory royalties.

Another important reform contained in S. 22 is the phasing out of the archaic manufacturing requirement, a feature of the 1909 law which requires that virtually all copyrighted books be printed in the United States. The bill provides for the termination of this provision in 1981.

Finally, the legislation establishes for the first time a national television archive in the Library of Congress so that, through the copyright deposit system, a national archive of television programs may be maintained.

Mr. Chairman, although the bill provides for the creation of a copyright royalty commission and a national television archive it is not expected that any additional costs to the United States will be incurred because the revenue from fees authorized under the bill will more than offset costs. As you can see from the cost estimate on p. 184 of the report, revenue from fees during the next 5 years will actually exceed costs.

S. 22 is basically economic legislation which affects a variety of industries and interest groups. Of course, it is impossible to draft a copyright bill which will meet with the approval of every interested party. I believe that we have been successful in writing a bill which resolves the conflicts among the various parties as successfully as is humanly possible.

Three issues in the bill were most troublesome for the committee. These were: Photocopying by public libraries, the copyright liability of cable television systems, and the Senate attempt to create a new type of copyright protection for ornamental design.

I believe that we have successfully balanced the needs of libraries against the rights of copyright proprietors by providing that libraries may photocopy copyrighted material, including for purposes of interlibrary loans, as long as such photocopying is not systematic and a substitute for purchase or subscription.

On the cable TV issue, the Subcommittee had the benefit of an agreement reached by two of the three interested parties, the Copyright Proprietors and the National Cable Television Association. The third major group is the National Association of Broadcasters. We have endeavored to include in the bill provisions which, short of dictating communications policy, will protect the interest of broadcasters. An example is section 501 which permits local radio and television broadcasters to act as "private attorneys general" by granting them the right to sue cable systems which violate the terms of the compulsory license in the bill even though they have not been directly injured by a cable system's alteration of their own signals. I was disappointed to learn that very recently the Community Antenna Television Association—CATA—has raised several questions about the provisions of the bill dealing with importation of foreign signals from Mexico and Canada, powers of the Copyright Royalty Commission to change cable royalties on the basis of changes in FCC rules governing sports programing, the definition of local service area, and the requirement of the bill that all cable systems, even those retransmitting local signals, pay some copyright royalty.

The Members of the House should know that during the 22 markup sessions on the bill, many of which were attended by representatives of CATA, none of these points was raised. However, the Committee did make special efforts to accommodate the needs of the small cable systems which CATA represents by providing for substantially lower copyright royalty payments for cable systems with gross receipts of less than $160,000. The Senate version had only provided special treatment for systems with gross receipts of less than $80,000. To acquiesce to the further demands of CATA at this time would, in all likelihood, result in a substantial reduction of the total royalty fees available to copyright owners under the bill and, therefore, bring about their opposition to the bill.

The final major area of controversy is title II of the Senate bill which provides for a new form of protection for ornamental designs which cannot be identified separately from the useful articles of which they are part. This "no mans land" between copyright and patent law presents difficult public policy questions. The Department of Justice strongly opposed the creation of this new form of intellectual property on the grounds that no need for it had been demonstrated. Because sufficient information was not available to enable the subcommittee to resolve the issue at this time, we deleted title II from the bill with the understanding that the subject would be considered in depth during the next Congress.

For the most part, affected industries and groups are satisfied with the compromises reached in the bill. I believe that the fact that the bill was approved by the committee on a vote of 27 to 1 testifies vividly to this fact.

Mr. Chairman, before concluding my remarks I would like to discuss several questions which have been raised concerning the meaning of several provisions of S. 22 as reported by the House Judiciary Committee and of statements in the committee's report, No. 94–1476. One of these questions involves the meaning of the concept of "publication" in the case of a work of art, such as a painting or statue, that exists in only one copy. It is not the committee's intention that such a work would be regarded as "published" when the single existing copy is sold or offered for sale in the traditional way—for example, through an art dealer, gallery, or auction house. On the other hand, where the work has been made for reproduction in multiple copies—as in the case of fine prints such as lithographs—or where multiple reproductions of the prototype work are offered for purchase by the public—as in the case of castings from a statue or reproductions made from a photograph of a painting—publication would take place at the point when reproduced copies are publicly distributed or when, even if only one copy exists at that point, reproductions are offered for purchase by multiple members of the public.

Another question involves the reference to "teacher" in the "Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions" reproduced at pages 68–70 of the committee's report No. 94–1476 in connection with section 107. It has been pointed out that, in planning his or her teaching on a day-to-day basis in a variety of educational situations, an individual teacher will commonly consult with instructional specialists on the staff of the school, such as reading specialists, curriculum specialists, audiovisual directors, guidance counselors, and the like. As long as the copying meets all of the other criteria laid out in the guidelines, including the requirements for spontaneity and the prohibition against the copying being directed by higher authority, the committee regards the concept of "teacher" as broad enough to include instructional specialists working in consultation with actual instructors.

Also in consultation with section 107, the committee's attention has been directed to the unique educational needs and problems of the approximately 50,000 deaf and hearing-impaired students in the United States, and the inadequacy of both public and commercial television to serve their educational needs. It has been suggested that, as long as clear-cut constraints are imposed and enforced, the doctrine of fair use is broad enough to permit the making of an off-the-air fixation of a television program within a nonprofit educational institutional for the deaf and hearing impaired, the reproduction of a master and a work copy of a captioned version of the original fixation, and the performance of the program from the work copy within the confines of the institution. In identifying the constraints that would have to be imposed within an institution in order for these activities to be considered as fair use, it has been suggested that the purpose of the use would have to be noncommercial in every respect, and educational in the sense that it serves as part of a deaf or hearing-impaired student's learning environment within the institution, and that the institution would have to insure that the master and work copy would remain in the hands of a limited number of authorized personnel within the institution, would be responsible for assuring against its unauthorized reproduction or distribution, or its performance or retention for other than educational purposes within the institution. Work copies of captioned programs could be shared among institutions for the deaf abiding by the constraints specified. Assuming that these constraints are both imposed and enforced, and that no other factors intervene to render the use unfair, the committee believes that the activities described could reasonably be considered fair use under section 107.

Further, on pages 70 and 71 of the committee report Guidelines for Educational Uses of Music under section 107 are set forth. Those guidelines represent the understanding of the Music Publishers' Association of the United States, Inc., the National Music Publishers Association, Inc., the Music Teachers National Association, the Music Educators National Conference, the National Association of Schools of Music, and the Ad Hoc Committee on Copyright Law Revision as expressed in a joint letter to me dated April 30, 1976.

The report, as printed, does not reflect a subsequent change in the joint guidelines which was described in a subsequent letter to me from a representative of the above named organizations. Subsection A.2. of the guidelines should be changed to read as follows: "2. For academic purposes other than performance, single or multiple copies of excerpts of works may be made, provided that the excerpts do not comprise a part of the whole which would constitute a performable unit such as a selection, movement or aria, but in no case more than 10 percent of the whole work. The number of copies shall not exceed one copy per pupil."

In addition, Mr. Speaker, the paragraph beginning at the bottom of page 97 and concluding at the top of page 98 is intended to mean that, in one instance, specific additional payments are to be made for carrying specific additional programs. Where a cable system, at its own discretion, deletes certain programs and substitutes other, live, programs, an additional payment is to be made; this identifiable payment is intended to be distributed to the specific program source, that is, owners of live programs.

Finally Mr. Chairman, I would like to observe that the House bill differs from the Senate bill in its treatment of public broadcasting, especially regarding use of nondramatic literary works. We did not feel justified in going as far to guarantee arrangements for public broadcasters as they would have liked. Our preference was to encourage private negotiations, and, particularly in nondramatic literary works, we established a framework which we believe will be helpful in such private negotiations. We provided for an antitrust exemption so that publishers and authors could get together with public broadcasters in establishing standard terms, rates, and clearance mechanisms without running afoul of the antitrust laws. We also provided for a report to Congress in 2 years so that the outcome of such private arrangements could be made known to us. I am advised that indeed publishers and authors and public broadcasters are talking together this very week in an effort to set up suitable common rates and practices for public broadcasters. I am very encouraged by this report, and I hope they will come to a successful conclusion before our conference on this bill with the Senate.

Mr. Chairman, because of the complexity of this bill and the delicate balances which it creates among competing economic interests, the committee will resist extensive amendment of this bill. On behalf of the committee I would urge all of my colleagues to vote favorably on S. 22.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I am happy to yield to my friend, the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I thank my friend, the gentleman from Wisconsin, for yielding.

Mr. Chairman, I have received a great deal of mail from the schoolteachers in my district who are particularly concerned about section 107—fair use—the fair use of copyrighted material. Having been a former schoolteacher myself, I believe they make a good point and there is a sincere fear on their part that, because of the vagueness or ambiguity in the bill's treatment of the doctrine of fair use, they may subject themselves to liability for an unintentional infringement of copyright when all they were trying to do was the job for which they were trained.

The vast majority of teachers in this country would not knowingly infringe upon a person's copyright, but, as any teacher can appreciate, there are times when information is needed and is available, but may be literally impossible to locate the right person to approve the use of that material and the purchase of such would not be feasible and, in the meantime, the teacher may have lost that "teachable moment."

Did the subcommittee take these problems into consideration and did they do anything to try and help the teachers to better understand section 107?

Have the teachers been protected by this section 107?

Mr. KASTENMEIER. Mr. Chairman, in response to the gentleman's question and his observations preceding the question, I would say, indeed they have.

Over the years this has been one of the most difficult questions. It is a problem that I believe has been very successfully resolved.

Section 107 on "Fair Use" has, of course, restated four standards, and these standards are, namely: The purpose and character of the use of the material; the nature of the copyrighted work; the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and the effect of the use upon the potential market for or value of the copyrighted work.

These are the four "Fair Use" criteria. These alone were not adequate to guide teachers, and I am sure the gentleman from Kansas (Mr. SKUBITZ) understands that as a schoolteacher himself.

Therefore, the educators, the proprietors, and the publishers of educational materials did, at the committee's long insistence, get together. While there were many fruitless meetings, they did finally get together.

Mr. Chairman, I will draw the gentleman's attention to pages 65 through 74 in the report which contain extensive guidelines for teachers. I am very happy to say that there was an agreement reached between teachers and publishers of educational material, and that today the National Education Association supports the bill, and it has, in fact, sent a telegram which at the appropriate time I will make a part of the RECORD and which requests support for the bill in its present form, believing that it has satisfied the needs of the teachers:

> NATIONAL EDUCATION ASSOCIATION,
> *Washington, D.C., September 10, 1976.*
>
> National Education Association urgently requests your support of the Copyright Revision bill, H.R. 2223, as reported by the Judiciary Committee. This compromise effort represents a major breakthrough in establishing equitable legal guidelines for the use of copyright materials for instructional and research purposes. We ask your support of the committee bill without amendments.
>
> JAMES W. GREEN,
> *Assistant Director for Legislation.*

Mr. SKUBITZ. Mr. Chairman, if the gentleman will yield further, then the NEA is satisfied with the language in the bill as it now stands; is that correct?

Mr. KASTENMEIER. The gentleman is correct.

Mr. SKUBITZ. Mr. Chairman, I thank the gentleman.

Mr. RAILSBACK. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. HUTCHINSON), the ranking minority member.

Mr. HUTCHINSON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of S. 22, the general revision of the copyright law. Today marks a special day as the House considers and, I am confident, enacts the first general revision of the Nation's copyright laws in over 65 years. I would like to commend the members of the subcommittee who spent just countless hours working on this legislation. I can appreciate what they went through because I had the same experience when this bill went through the House in 1967.

Mr. Chairman, the first chapter of the bill defines the bundle of intangible property rights which inure in an original work of authorship which make up this statutory scope of copyright. That first chapter then proceeds to impose limitations upon those rights.

The second chapter of this bill deals with the ownership of those rights and how they may be transferred.

Now, Mr. Chairman, I propose to take up the consideration of chapter 3, concerned with the duration of those rights. Therefore, I shall be talking about sections 301 through 305 of the bill, sections to be found on pages 125 through 133 thereof.

Mr. Chairman, the constitutional grant of authority under which Congress considers this bill, is to be found in section 8 of article I of the original Constitution, wherein we are charged with the duty "to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."

Mr. Chairman, for the purposes of chapter 3, the essential phrase in the constitutional grant contains three words—"for limited times."

Mr. Chairman, whatever copyright law the Congress enacts must limit the duration of the exclusive rights it secures. All works of authorship must eventually fall into the public domain. We are without power to vest those rights in an author in perpetuity.

Still, Mr. Chairman, notwithstanding our inability to create any perpetual exclusive rights in an author, there is another law of copyright—in the common law—and under that law an author's rights in the nature of copyright may be perpetual. These common law rights are unlimited as to time. But the common law must yield to statutory law, wherever statutory law is applicable. So, wherever our statute law reaches, whatever it covers, the common law of rights of unlimited duration in an author is displaced by the congressional law of termination.

Mr. Chairman, our statutory law of copyright draws the line where the common law of unlimited duration ceases, and the present and all prior statutes have drawn that line at the point of publication.

If a work is published, it then loses its common law protections and becomes a subject for copyright. Upon publication, if requisite statutory procedures are followed, the exclusive rights of the author are secured for the statutory time otherwise they fall immediately into the public domain.

Mr. Chairman, under our present statute, the author of a copyrighted work enjoys his exclusive right for a term of 28 years, and he is permitted to renew his copyright for one additional term of 28 years. So, if a valid copyright exists, it is valuable to the author for at least 28 years but never more than 56 years.

At the end of that time, the work falls into the public domain. In all cases, this time is measured from the date of publication under the present law. If the author of a work or his heirs choose not to publish it, they retain it as their exclusive right indefinitely under the common law.

The bill we are now considering will change that law. It will change it by measuring the time of copyright from the time of creation of a work rather than from the time of its publication. The time of creation is determined by the act of fixation of the work in a tangible form. Thus, when an author completes his manuscript the work is fixed in a tangible form, and the copyright term begins. The effect of this rather far-reaching change in the law is to bring under statutory copyright unpublished as well as published works.

The next important change in the law on the duration of copyright is a longer term. After January 1, 1978, when this bill will go into effect, a work within the copyright statute would be copyrightable for the lifetime of the author plus 50 years. There would be no renewable term available. Thus all the works of an author will fall into the public domain and become public property at the same time. The present complexity where the earlier works of an author become freely available before his later works—that present complexity will be done away with. Present-day records of vital statistics including records of death are now so complete and so available that it will be easy to determine when an author dies and 50 years after that date all of his works will fall at the same time into the free use of the public. Thus, the last works of an author will probably enjoy no longer term of protection that they would under the present law of 56 years. His earlier works may be protected for a longer period of time under the bill than under the present law, but if a man creates something of value, it is his property, and he ought to have the right to enjoy it for his lifetime. In no case would the heirs of an author have any rights beyond 50 years after his death.

The committee was persuaded to make this change in duration from the present maximum of 56 years after publication to the lifetime of the author plus 50 years, measuring the copyright from the creation of the work for the following reasons:

First, life expectancy has increased considerably since the present 56-year maximums were written into law in 1909.

Second, the tremendous growth in communication media has substantially lengthened the commercial life of a great many works. A short term is particularly discriminatory against serious works in music, literature, and art, whose value might not be recognized until after many years.

Next, although limitations on the term of copyright are publicly and constitutionally necessary, too short a term harms the author without giving any special benefit to the public. The public frequently pays the same for works in the public domain as it does for copyrighted works, and the only result is a commercial windfall to certain users at the author's expense.

In some cases the lack of copyright protection actually restricts the dissemination of the work since publishers and other users do not want to risk investing in the work unless they can be assured of some exclusive rights for a limited time.

The present system of measuring copyright from the date of publication is confused by the vagueness of the term "publication". The death of an author is a definite determinable event, and it would be the only date that a potential user would have to be concerned with under this new law.

All of an author's works, including

those successively revised by him, would fall into the public domain at the same time, thus avoiding the present problems of determining a multitude of publication dates, and of distinguishing old and new matter in later editions.

The problem of determining when a relatively obscure author died is resolved by establishing a registry of the dates of death of authors in the copyright office. A presumption is written into the law that after 75 years following the first publication of the work or 100 years after its creation, whichever expires first, any person who obtains a certificate from the copyright office that the register has no evidence that the author is living or that he died less than 50 years before, may presume that the author has been dead for at least 50 years so his work has fallen into the public domain.

The committee was also persuaded that the present system requiring renewal of copyright in order to extend its protection beyond the original term of 28 years is a substantial burden and expense. It is highly technical and in a number of cases the renewal requirement has been the cause for the loss of copyright. The life-plus-50-year term provided in the bill provides no renewal term.

The longer term is also justified, we believe, because we subject unpublished works to the copyright law, thus denying them the unlimited exclusive common law rights the author and his heirs have enjoyed in them, including works that have been widely disseminated by means other than publication. It is possible to make a wide dissemination of some kind of works without them ever having been technically or legally published. The life-plus-50-year-term rule in the present bill is fair recompense to authors for the loss of perpetual rights which they have heretofore had in unpublished works.

Lastly, the life-plus-50-year term which authors would have in works created after the effective date of this bill, would conform our law to the copyright law of many foreign countries. In these times of instant communication throughout the world, there is increasing need for some uniformity in the field of copyright. A very large number of countries have already adopted a copyright term of the life of the author and 50 years after his death.

American authors are today frequently protected longer in some foreign countries than in the United States, and some resentment has occasionally been provoked because of this disparity in the duration of the term. Copyrighted materials move across national borders faster than virtually any other economic commodity, and with the techniques now in common use this movement has become instantaneous and effortless in many cases. The need to conform the duration of U.S. copyright to that prevalent throughout the rest of the world is increasingly pressing in order to provide certainty and simplicity in international business dealing.

To this increased term of life plus 50 years, with no renewal term provided, the committee has devised a method by which an author or his heirs may enjoy a right of reverter after 35 years in any copyright sold. This would permit an author to renegotiate with publishers after 35 years in order to protect him against sales which he may have made or some arrangement he could have made with a publisher long before the value of the work was known.

This right of reverter will also afford an author an opportunity to find some other method to exploit his work if during the original 35 years his original publisher has not vigorously promoted the work.

A joint work under the law would enjoy copyright measured by the life plus 50 years of the last survivor of the authors.

If you have more than a single author, several authors joining together in a work, the duration of the copyright would be measured by the death of the last of the surviving authors. An anonymous or pseudonymous work would enjoy copyright for only 75 years from publication or 100 years from creation. A work for hire, where you employ someone to write a literary work for you would be copyrightable for 75 years from publication or 100 years from creation, whichever is earlier. The bill extends existing copyrights so that they may benefit from the longer term. Those in the original 28-year term may at the end of that time be extended for another 47 years, making a total of 75 years. Those in their renewal term will be extended an additional 19 years, to provide the same 75-year coverage.

There is another major provision in chapter 3 which I want to briefly touch upon and that is the doctrine of Federal preemption in the field of copyright. The bill proposes to take under jurisdiction of the Federal law the whole law of copyright. Since the bill would bring within its ken unpublished as well as published works of authorship which have been fixed in tangible form, the area for State regulation in this field will be greatly reduced anyway, and the bill proposes to supersede State law on the subject.

One of the purposes behind the copyright clause in the Constitution was to achieve a uniformity of the copyright law throughout the country and to avoid the difficulty of enforcing an author's rights under the differing laws of the several States.

The intention of section 301, which is the Federal preemption section is to preempt and abolish any rights under the common law or the statutes of a State that are equivalent to copyright and that extend to works coming within the scope of the Federal copyright law.

On the other hand, this bill does not reach works that have not been fixed in any tangible means of expression. Such works would include such things as extemporaneous speeches or original works of authorship communicated solely through conversations or live broadcasts, or a dramatic sketch or a musical composition which has been improvised or developed from memory and without having been recorded or written down. Since these are not subject to copyright, they would continue to be subject to State law and common law until fixed in some tangible form.

In summary, Mr. Chairman, the committee has worked long and hard to bring this piece of legislation before you and the membership of the House and I urge the Members to support the enactment of S. 22.

Mr. RAILSBACK. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in support of Senate bill S. 22. This is the first general copyright revision legislation since 1909.

S. 22 is the first general copyright revision legislation since 1909. I believe it would be appropriate to first pay tribute to the Judiciary Subcommittee members who labored long and hard putting together this rather difficult and complex legislative package. I would especially like to commend our subcommittee chairman for his thoroughness, his fairness and his leadership throughout the consideration of this measure.

I want to pay tribute to the distinguished Register of Copyrights, the Honorable Barbara Ringer and her counsel, John Baumgarten and their staff. In all the rolls of our civil service, I believe, you will find no servants of the public who surpass in knowledge and the talent of these individuals. The Congress and the public are indebted to them for their intellectual labor.

The Congress has been struggling with this legislation for more than 10 years. The concept of general revision has been under study more than 50 years. The present copyright law was enacted in 1909, and, of course, makes no mention of radio, television, cable television, computer information storage, et cetera. It is a credit to what the Congress did in 1909, that such a copyright law has been able to function at all in this day of electronic mass communication.

The courts have pleaded, in case after case, for Congress to reform and update the copyright law. Well, here it is, and it is the closest we have ever come to having a general revision. And what you do here in the next couple of hours will determine whether there will be a new copyright law this year or ever, for that matter.

We have endeavored to balance the many competing interests. Teachers, librarians, and broadcasters, for good reason, are interested in making the most of the latest technologies with the least possible restrictions. Authors, composers, publishers, and the motion picture industries, on the other hand, are interested in protecting their work product. Their livelihood depends on such protection. This bill has more support now, than it has ever had. There is no way to satisfy all the parties who have an interest in this legislation. A good compromise is probably one that satisfies no one, but is acceptable to everyone, and it has been said that this bill is a compromise of compromises.

In my opinion, these interests and that of the public have been fairly well balanced. This balance, however, is a delicate one. A change in any one sentence may tilt that balance in such a way so as to unravel the entire bill. For example, one of the most important sections of the bill is section 107, the Fair Use of Copyrighted Works.

Teachers were uncomfortable with this section because of its vagueness. The doctrine of fair use as it has been developed by the courts is purposely vague, since it would be difficult to prescribe precise rules to cover many varied situations. The Judiciary Committee Subcommittee made some slight changes which satisfied the teachers, without unsettling the authors and publishers. In addition, since the subcommittee's action, the two parties have agreed upon guidelines on how this section will work in practice. This agreement, in and of itself, is an amazing development to those of us close to the problem. These parties have rarely agreed upon anything. It is my purpose to support this measure in full and to resist those amendments which I feel, in a substantive way, alter the purpose and intent of this legislation.

This legislation is unlike any processed by the Judiciary Committee. It involves money, big money; it involves special interests, many special interests; and most importantly, it involves the public interest. And the interest best served by the expeditious consideration of S. 22 will be the public's interest.

Copyright involves the process by which one protects his personal, intellectual labor. Copyright has to do with the craft of the author, the craft of the composer and the craft of the artist. The purpose of copyright is to stimulate creativity and by so doing benefit the public. The granting of exclusive rights under the proper terms and conditions confers a public benefit that in my opinion outweighs the evils of this temporary kind of monopoly. Copyright is not a monopoly in the sense that a patent is a monopoly. Copyright secures only the property right in the manner and content of the expression. Facts and ideas recited or systems and processes described by the author are freely available to the public at large, and the author has no power under copyright to proscribe their use. For example, a photographer's copyright empowers him to prohibit the copying and use of his original photograph. However, it gives him no power to prevent another photographer from standing on the same spot and taking a picture of the same object with the same lighting, focus, and shutter speed, even if the second picture is identical to the first. Copyright is a constitutional right, even though the word is found nowhere in the U.S. Constitution.

Mr. Chairman, I shall not undertake, except in response to specific questions, to deal at any great length with the technical aspects of the legislation at this time. Rather, I would like to discuss generally an overview of the bill and in particular several of its more controversial provisions.

S. 22 is the complete revision of present copyright law which can be found in title 17, U.S.C., sections 1–201. The legislation is divided into eight chapters with general subject headings. Chapter 1 covers almost all the testimony received by the subcommittee, the vast majority of which covers sections 106 through 118.

The subject matter of copyright, that is, the scope of the copyright law in terms of the works it covers, as distinguished from the rights it gives, is covered by chapter 1, sections 102 through 105. Section 106 is a very fundamental provision of the bill in that it lays out the exclusive rights of the copyright owner in general terms. Sections 107 through 118 are the limitations or qualifications on those exclusive rights, and it is these sections which are the ones most talked about.

Section 105 is the same as that of section 8 of the present law, that is, works produced for the U.S. Government by its officers and employees should not be subject to copyright. A more difficult question is whether the definition should be broadened to prohibit copyright in works prepared under U.S. Government contract or grant. As the bill is written, the Government agency concerned could determine in each case whether to allow an independent contractor or grantee to secure copyright in works prepared in whole or in part, with the use of Government funds. In this case, copyright can be used as an incentive to creation and dissemination, if necessary.

The subcommittee amended Section 105 at the request of the Department of Commerce to provide for a very limited exception to the rule precluding copyright protection in works of the U.S. Government. I offered that amendment which would have the effect of permitting the Secretary of Commerce to secure for a limited term, not to exceed 5 years, in any National Technical Information Service publication. Mr. Chairman, I believe this provision is justified for the following reasons:

First. The Secretary of Commerce must select publications for copyright and such protection is for no more than 5 years, it may be less. This is much less than the regular copyright terms of life of the author, plus 50 years;

Second. No broad Government copyright is claimed. Authority is granted for the highly specialized NTIS publications—scientific, technical, and engineering information. It would not give Government monopoly over the dissemination of Government information.

Third. NTIS by statute (15 U.S.C. Sec. 1151–7) must be self-sustaining. It exists without congressional appropriations of the taxpayers' money. It must survive by virtue of the income derived from public sales. Therefore, it is unreasonable and illogical to argue that NTIS would withhold any publication from sale.

Fourth. In the absence of explicit U.S. copyright protection, NTIS has tried to invoke the "national treatment" clause of the Universal Copyright Convention. Under this clause, each nation grants to authors of other nations copyright protection equivalent to that which the nation gives to its own authors in similar categories of works. Since government publications in nearly every other nation are copyrighted, theoretically, U.S. Government publications should receive copyright protection in other nations. NTIS has been unsuccessful in this endeavor because of the clear U.S. prohibition against copyright in government publications.

The significance of this is the loss of foreign sales income to NTIS, and thereby loss of opportunities to keep down prices to U.S. buyers. For example, several Japanese firms have estimated sales of copied-in-Japan NTIS publications at about $3,000,000 annually, compared to $150,000 received by NTIS. This is information pirated at our taxpayers' expense and it is wrong!

Fifth. Lastly, Mr. Chairman, in a letter from NTIS, dated March 26, 1976, they indicated that of the 64,000 publications by that agency in 1975, only 40 would have been even susceptible to an NTIS copyright.

Section 108 makes clear that the library photocopying exemption applies to the making of a single photocopy by librarians operating without any profit motive, open to the public or to outside researchers. Libraries are subject to the "fair use" doctrine of section 107. Subsection (F)(3) contains the so-called Vanderbilt University exception originally put in the legislation by Senator BAKER. For a number of years, Vanderbilt University has been providing a public service by attempting to record for history, major news events, especially the nightly newscast of the major networks. Vanderbilt felt that this was an important part of this country's oral history which, prior to their effort was being lost. S. 22 continues to recognize this special exemption which is intended to cover local, regional, or network newscasts, interviews concerning current news events, and on-the-spot coverage of news events.

Section 110 deals with performances and exhibitions that are now generally exempt under the "for profit" limitation and which are specifically exempted from copyright liability under this legislation. Section 110 is intended to set out the conditions under which performances or displays in the course of instructional activities are to be exempted from copyright. This clause covers all types of works. A teacher or student would be free to perform or display anything in class as long as the conditions are met.

One issue in these sections concerned 110(5) and the Twentieth Century Music Corp. against Aiken, decided by the U.S. Supreme Court in June 1975. The defendant in that case was the owner and operator of a fast-service food shop in downtown Pittsburgh who had "a radio with outlets to four speakers in the ceiling," which he turned on throughout the business day. Lacking any performing license, he was sued for copyright infringement by two ASCAP members. He lost in the district court, won a reversal in the Third Circuit Court of Appeals, and prevailed by a margain of 7 to 2 in the U.S. Supreme Court.

The Senate, without changing the language in the bill, added new language in the report that copyright licensing would be required under the revised copyright law in factual situations like that in the Aiken case. The subcommittee amended section 110(5)(B) to reflect the holding of the Aiken case and reverse what was intended by the Senate. That is, the fact situation in the Aiken case would not be an infringement of copyright. However, anything beyond what was done in the Aiken case may well be an infringement.

Section 111 primarily covers cable television. The subcommittee completely rewrote this section to reflect a compromise between Motion Picture Association of America and National Cable Television Association, the primary parties of interest. This section has been, by far, the most controversial section of the entire copyright bill and has been the primary reason for the delay in enacting the copyright revision bill. All parties are now satisfied with section 111, except the National Association of Broadcasters. They were not a party to the compromise because they are not a major party of interest, but the subcommittee amended the compromise to reflect some of their concerns among others. For the most part, the section is directed at the operation of cable television systems and the terms and conditions of their liability for the retransmission of copyrighted works. However, other forms of secondary transmission are also considered, including apartment house and hotel systems, wired instructional systems, common carriers, nonprofit "boosters" and translators and secondary transmissions of primary transmissions to controlled groups.

Another chapter of S. 22 which is very related to section 111 is chapter 8. This chapter creates a Copyright Royalty Commission for the purpose of periodically reviewing and adjusting statutory royalty rates for use of copyrighted materials pursuant to compulsory licenses provided in sections 111, 115, 116, and 118. Under section 801(b)(2)(B), the Commission may adjust the rates established in section 111(d)(2)(B) if the rules and regulations of the FCC—Federal Communications Commission—are amended at any time after April 15, 1976, to permit the carriage of additional distant signals. The subcommittee spent considerable time discussing factors which the Commission should consider in adjusting rates for new additional distant signals. In determining the reasonableness of such rates, the Commission should consider, among other factors: the economic impact that such adjustment may have on copyright owners and users, including broadcast stations and the effect of such additional distant signal equivalents, if any, on local broadcasters' ability to serve the public. On page 176 of the House Report No. 94-1476, we intended to delete the last sentence on that page, but due to a mix-up at the printing office, it was not deleted. The reason for its deletion is because it is confusing and would be misunderstood. I would like to make clear for the record, since the language in the report is reflecting my amendment, that the Federal Communications Commission and the Copyright Royalty Commission are two entirely separate commissions with entirely separate jurisdiction, proceedings, and functions.

In closing, Mr. Chairman, I believe that the committee has accomplished a remarkable task in reconciling many conflicting interests as fairly, as justly, and as constructively as possible. I urge the Members to support the enactment of S. 22.

Mr. KASTENMEIER. Mr. Chairman, I yield so much time as he may consume to the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. First of all, Mr. Chairman, I wish to associate myself fully with the comments of my subcommittee chairman, the gentleman from Wisconsin (Mr. KASTENMEIER) and my colleagues, the gentleman from Illinois (Mr. RAILSBACK) and the gentleman from Michigan (Mr. HUTCHINSON). I will not retraverse the ground that they have tread. I want to add two encomiums anyway to the list so far, and that is my appreciation and deep respect to Herb Fuchs and Bruce Lehman of our staff, who did an unbelievable amount of work in the last 2 years in putting this bill together.

There are two subjects on which I wish to touch very briefly. One is the subject of performer's rights. I was the author of a bill which was considered in conjunction with the principal bill which would have provided royalties for performers' rights. We have not included them in the final bill for very good reason; namely, we have not had time to conduct a full study of the proposal for performers' rights, and rather than jeopardize the legislation, we decided to leave that subject out of this bill and take it up at a future time. But I want the RECORD to show what we are talking about.

Performers' rights refer to the rights of performers—musicians, and so forth—to be compensated for the commercial use of their creative efforts. Recorded music accounts for roughly three-fourths of the advertising revenues of radio and TV. Yet they pay nothing to performers or recording companies for the use of the created musical material.

The performers' royalty concept is certainly consistent with cable TV royalties. Broadcasters should pay a fee for the profitmaking use of someone else's property. Performers' royalties are recognized in nearly every other Western nation. Out of about 25,000 musicians who make recordings in this country, we find that the average earning from the work was $840 per musician in the year 1975.

I would like also to point out that organized labor, the National Endowment for the Arts, the U.S. Copyright Office, and the thousands of talented American musicians support the concept.

Lastly, the platforms of the Democratic Party and the Republican Party which were adopted just this summer each contain a plank which would support performers' royalties, and I include those two planks at this point:

DEMOCRATIC PARTY PLATFORM, 1976

THE ARTS AND HUMANITIES

We recognize the essential role played by the arts and humanities in the development of America. Our nation cannot afford to be materially rich and spiritually poor. We endorse a strong role for the federal government in reinforcing the vitality and improving the economic strength of the nation's artists and arts institutions, while recognizing that artists must be absolutely free of any government control. We would support the growth and development of the National Endowment for the Arts and Humanities through adequate funding, the development of special anti-recession employment programs for artists, copyright reforms to protect the rights of authors, artists and performers, and revision of the tax laws that unfairly penalize artists. We further pledge our support for the concept and adequate financing of public broadcasting.

REPUBLICAN PARTY PLATFORM, 1976

ARTS AND HUMANITIES

The arts and humanities offer an opportunity for every American to become a participant in activities that add fullness, expression, challenge and joy to our daily lives. We Republicans consider the preservation of the rich cultural heritages of our various ethnic groups as a priority goal.

During our Bicentennial year we have celebrated our anniversary with cultural activities as varied and colorful as our cultural heritage. The Republican Party is proud of its record of support to the arts and humanities during the last eight years. We are committed to steadily increase our support through the National Endowments for the nation's museums, theatre, orchestras, dance, opera and film centers as well as for individual artists and writers.

This upward trend in funding for the National Arts and Humanities Endowments deserves to continue but Washington's presence should never dominate; it must remain limited to supporting and stimulating the artistic and cultural lives of each community.

We favor continued federal assistance to public broadcasting which provides us with creative educational and cultural alternatives. We recognize that public broadcasting is supported mainly through private sector contributions and commend this policy as the best insurance against political interference.

In 1976, we have seen vivid evidence that America's history lives throughout the nation. We support the continued commemoration throughout the bicentennial era by all Americans of those significant events between 1776 and 1789 which contributed to the creation of this nation. We support the efforts of both the public and private sectors, working in partnership, for the historic preservation of unique and irreplaceable historic sites and buildings.

We propose safeguarding the rights of performing artists in the copyright laws, providing tax relief to artists who contribute their own talents and art works for public enjoyment, and encouraging the use of one percent of the cost of government buildings for art works.

Much of the support of the arts and humanities comes from private philanthropy. This generosity should be encouraged by government policies that facilitate charitable donations.

The last point I would like to touch upon is the so-called jukebox. In this bill we are imposing a fee of $8 per jukebox per year as a flat royalty fee. There are provisions in the bill for sharing of that royalty derived from that fee for the owners of the copyrighted works which the jukeboxes use.

Two points I think should be stressed. Whereas jukeboxes may have been a very profitable industry at one time, they have passed their prime. With the advent of television and the decay in the inner cities, with the change of our national habits, we do not go downtown and spend the evening at the jukejoint, as it was called, any more. The number of jukeboxes has fallen off tremendously. Although they may have been able to pay a tremendous royalty at one time, it is my opinion the $8 figure which now pertains is probably very appropriate.

We have a provision in the bill that in the future the Copyright Royalty Commission will have the power to review the copyright paid by jukebox operators, but I want the RECORD to reflect the fact that in section 801(b)(1) we put in the caution that such determinations—meaning those of the Copyright Royalty Commission—shall be based upon relevant factors occurring subsequent to the enactment of this act. I think that is a very important caveat and I wish it to appear in the RECORD.

Mr. KASTENMEIER. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Chairman, I want to pay tribute to the chairman of the subcommittee and the ranking minority member for their patience in the 41 sessions of the subcommittee in hearings and markup.

I also wish to express my appreciation to Ms. Barbara Ringer, the register of copyrights, for her exceptional skill and selfless devotion in providing expert assistance to the subcommittee on this measure. I do not think it is an overstatement to say that this bill might properly be called the "Ringer Copyright Act." Her extraordinary efforts, talents, and patience were principally responsible for the fine work which is represented by the committee substitute. I extend to Barbara my eternal gratitude.

At this time when one sees the conclusion of a really monumental piece of work, one is troubled by some things. Let me mention only one or two that continue to concern me. One is the right to play certain music under the so-called mechanical royalty rate. The economic data submitted to the committee seemed to justify an increase in that rate but it was not overwhelming. I am pleased that a Copyright Royalty Commission will have the right to reexamine that whole question in the near future.

The performing artists also have for too long been denied the full fruits of their labor. For example, in the manufacture and sale of the average phonograph record every contributor but the performer shares in the royalties. That is not fair and must be remedied. I hope that this subcommittee will in the near future get into those few things which we were not able to complete in this legislation.

Mr. Chairman, the authority to grant copyright is expressly given to the Congress by article I of the Constitution:

> To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.

Because copyright provides exclusive rights to reproduce specific material, it is, by definition, a form of monopoly.

The monopoly is given, because it serves to advance artistic, intellectual, and social development. Without those benefits to society as a whole, granting copyrights would be disadvantageous. In designing a fair copyright law, a proper balance must be struck between these conflicting values. Copyright as a monopolistic practice can only be justified to the extent it serves the public good. That is why the Constitution insists that it be secured only "for limited times."

As one examines this lengthy bill and even longer report, these divergent strains can be seen. The tension between competing values we all share emerges quite clearly. At every intersection the committee sought, with great diligence, to resolve the differences in a manner which would maximize artistic endeavors while protecting the public from unwarranted restrictions on access to the creative works.

Consequently the resulting revision of the copyright law is a series of compromises arrived at after much debate, examination, drafting and redrafting, reconsideration, and confirmation. In my judgment, the compromises in this bill do not represent the kind frequently associated with the legislative process: Cynical political deals worked out behind closed doors. At every step of the way, your committee developed this measure in public sessions, giving every opportunity to competing interests to present their views.

This bill emerged from that free exchange. Of necessity it strikes balances between social goals equally high in value. It is always difficult to legislate on matters in which the opponents have sound arguments. Seeking and finding accommodations of such rational views is a hard task.

In several sections of the bill, the competing interests were particularly difficult to accommodate. In sections 107 and 108, the rights of authors and publishers conflicted with the desire for free access to books and periodicals by teachers, students, and the reading public. In our judgment the Senate version did not strike the proper balance. Consequently the committee modified the Senate-passed bill to provide greater access to published materials by educators, librarians, and the citizenry. In this connection I am very grateful for the assistance of the Bureau of Library Extension of the Massachusetts Department of Education for providing expert comment and analysis on this sensitive and difficult issue.

In addition the subcommittee encouraged representatives of the competing interests to negotiate guidelines for the reproduction of copyrighted materials which would be satisfactory to all. While the bill moved forward, the parties met, discussed, and approved the "Guidelines for Classroom Copying in Not-for-Profit Educational Institutions." The Judiciary Committee said in its report that the "guidelines are a reasonable interpretation of the minimum standards of fair use."

I should note, however, that not all the affected parties concurred in the reasonableness of those guidelines. The Association of American Law Schools and the American Association of University Professors were particularly critical of those criteria—see the excerpts from their letters to Chairman KASTENMEIER, which are inserted into the RECORD at the conclusion of these remarks.

In view of the discontent in some areas over these guidelines, I wish to stress that, as the committee report notes, they are "minimum standards." The report also expresses the hope that "if there are areas where standards other than these guidelines may be appropriate, the parties will continue their efforts to provide additional specific guidelines in the same spirit of good will and give and take that has marked the discussion of this subject in recent months." I hope the AAUP and the AALS will continue their efforts to explore additional avenues for the implementation of this critical aspect of the new copyright law.

The subcommittee also struggled to reconcile the competing interests in section 111. In that provision, the concerns of cable television owners clashed with the rights of copyright owners of programs broadcast by television stations. Again the subcommittee encouraged the parties to seek resolution of their differences. Through those efforts and the assistance of other affected parties—including, I should add, some very helpful comments from my constituents—the subcommittee adopted a workable and sensible formula for determining and adjusting the royalty rates and distributing the income generated by them.

I should add that initially certain small cable operators, who generally operate in rural areas, were not satisfied with the resolution preliminarily approved by the subcommittee. After additional discussion and debate, modifications were made to accommodate the concerns of those parties. In my judgment the final product is a balanced approach reconciling very divergent interests. We should keep in mind that the Copyright Royalty Commission, created under this act, may make further adjustments in the rates, and that Congress ultimately sits in judgment of the success or failure of section 111.

A third major area involved section 118, where the public broadcasters asked us to continue their right for free access to nondramatic literary works, while authors urged us to require some payment for the public use of their creativity. Essentially the subcommittee adopted a provision which encourages, to the maximum feasible extent, voluntary arrangements between authors and broadcasters. In the event of irreconcilable differences, section 118 provides for intervention by the Copyright Royalty Commission.

In sum, I believe the subcommittee made extraordinary efforts in these crucial areas to achieve a negotiated settlement of differences by the affected parties. In each case, we arrived at a compromise which, in my view, represents an appropriate accommodation of the competing positions, while protecting the public interest in reasonable access to copyrighted works and in stimulating the creativity which produced them.

With all due deference to the work of our committee, for which I share responsibility, I cannot say with any certainty that we achieved that delicate accommodation in each instance. I continue to be troubled by the rate set in section 115 for the right to play recorded music, the so-called "mechanical" royalty rate.

The economic data submitted to the committee to justify an increase in that rate, frankly, was not overwhelming. It was challenged vigorously by the Consumer Federation of America as not based on sound investigation and full disclosure. Although the committee did not raise the rate as high as the recording industry would have desired, we nonetheless did increase it with an uncertain impact on record prices.

That the rate had remained constant for over 60 years in the face of rising prices at the retail level undoubtedly persuaded a majority to vote a half-cent increase. Because the bill creates a Copyright Royalty Commission which has authority to reexamine that rate at certain intervals, I am confident that any adverse impact, if any, to the consumer can be corrected.

I am also not satisfied that we explored sufficiently the question of record duplicating—the so-called "pirating" of copyrighted sound recordings. When Congress extended the antipiracy act 2 years ago, I expressed my concerns at some length in dissenting views. I still do not think we have examined the economic structure of the industry adequately to determine whether ultimately consumers are benefited or harmed by forbidding such duplication.

I am disappointed too, that the bill does not contain a provision granting a performance royalty. Performing artists have for too long been denied the full fruits of their labors. For example, in the manufacture and sale of the average phonograph record, every contributor but the performer shares in the royalties. That is not fair and must be remedied. I am hopeful that we can turn our attention to that inequity at the earliest possible time.

Finally, I should add that, through the efforts of the Boston Visual Artists Union and other persons interested in the fine arts, the measure approved by the committee reflects a greater appreciation for their work than the original bill. Among other things, modifications were made in the optional deposit requirements, and clarifications stated regarding "publication" for works of art. While the copyright law is not the proper vehicle to express and resolve the other concerns of fine artists, I am hopeful that the 95th Congress will examine those matters in some detail.

In view of the monumental task confronting your committee and in light of the exceptional product which resulted, I urge my colleagues to approve the committee amendment in the nature of a substitute to S. 22.

The material follows:

Excerpts From Letter of May 25, 1976, to Chairman Kastenmeier From the American Association of University Professors

As scholars and teachers who both produce and use copyrighted materials, we appreciate and approve the recognition of the needs of the scholar and university teacher reflected in Sections 107 and 504 of S. 22 as recently amended by your Subcommittee. In Section 504, the mandatory remission of statutory damages for teachers acting in good faith constitutes a recognition of the function of the scholar and teacher. More significantly, by its references to "teaching (including multiple copies for classroom use), scholarship, or research," and in the distinction recognized between commercial and nonprofit uses, Section 107 as presently drafted is an articulate statement of the general principle of fair use on which courts and others may build a comprehensive framework for the educational uses of copyrighted material.

However, these salutary and progressive provisions in the Bill would be undermined by the proposed Guidelines if, as is apparently contemplated by the parties who submitted them to you, they were to become a significant part of the legislative history of Section 107 as a result of incorporation in your Committee Report. We recognize, of course, the right of any given groups mutually to agree upon the terms and conditions by which they, and those they actually represent, will be guided in conforming to a statute such as this. To suggest, however, that such agreements should be binding upon *other* persons or groups or should, through incorporation in a committee report, be given weight in the interpretation of the statute generally, is quite a different matter. Consequently, these Guidelines—agreed to recently by author and publisher representatives and some members of the education community but with no representation from our Association—have caused us deep dismay. They would seriously interfere with the basic mission and effective operation of higher education and with the purpose of the Constitutional grant of copyright protection, which is designed to promote, not hinder, the discovery and dissemination of knowledge. These proposed Guidelines, notwithstanding the insistence that they represent only minimum standards, and despite other disclaimers, ultimately resort to the language of prohibition (see Section III). In so doing, they contradict the basic concept of fair use and threaten the responsible discharge of the functions of teaching and research.

Excerpts From Letter to Chairman Kastenmeier From the Association of American Law Schools, May 26, 1976

Our substantive objections to the guidelines are spelled out in the letters of Professors Raskind and Gorman to you. They are in essence that the guidelines restrict the doctrine of fair use so substantially as to make it almost useless for classroom teaching purposes. Requiring a law school teacher to meet all three tests of brevity, spontaneity and cumulative effect stifles the use of copyrighted material for classroom purposes. The draft guidelines are based on the principle, with which most people would agree, that copying should not substitute generally for purchase of a copyrighted work. The effect of the draft guidelines before you, however, is to stifle dissemination of material rather than encourage purchasing or licensing of it. The realities of classroom teaching and the economics of our students are such that they cannot purchase or pay royalties on works other than the standard text and case books that are used as the major resources in classroom teaching. Thus the teacher's choice is not between purchasing and copying; it is between copying and not using. The vague and restrictive nature of the draft guidelines leaves the teacher with no assurance of safety in the fair-use doctrine and will result in sharply curtailing the use of copyrighted works in the classroom. We would prefer that the courts be allowed to delineate, within the well-phrased current draft of the statute, where to draw the line on abuses of the fair-use doctrine.

Mr. RAILSBACK. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Chairman, I thank the gentleman from Illinois (Mr. RAILSBACK) for yielding.

I certainly want to join in the tributes that have been paid to the members of the committee and the chairman, the gentleman from Wisconsin (Mr. KASTENMEIER) and the ranking minority member, the gentleman from Illinois (Mr. RAILSBACK) for producing this legislation which, as the gentleman from Massachusetts just said, is a truly monumental revision of the present law.

I rise to express the hope however that with respect to one provision, which is section 601 of the bill, that consideration will be given by the members of this distinguished committee who will serve on the conference committee to accepting the Senate version of this legislation insofar as it pertains to the so-called manufacturing clause.

Mr. Chairman, as members of the committee know, a manufacturing clause is one that allows the Government, in effect, to say to the publishers that we will grant them a monopoly to sell and to distribute this work; but as a condition of granting the monopoly we want them to have the product produced in this country by U.S. manufacturers and U.S. workers. This has been a provision of the copyright law since 1890. Rather than phase out the manufacturing clause, as the House bill would do, it seems to me it would be far better to instead include a provision that would provide for a review within 5 years by the Registrar of Copyrights to the effectiveness and the need for that provision. In that way, it seems to me an adequate study could be made and on that we could base a proper legislative judgment.

I think that sometimes the argument is made that this is a free trade provision, that we should eliminate the manufacturing clause under the guise of permitting free trade. I happen to be one that has generally promoted the concept of free trade, but I think those that used that argument in the context of defending this provision contained in the House bill really misunderstand the concept of free trade, because granting unlimited monopoly within the United States to foreign manufactured books obtained under the Universal Copyright Convention does not really bolster free trade, because at the same time the requirement for obtaining a monopoly within the United States has been accomplished and a restraint on trade has resulted; so this is not really the classic confrontation between free trade and the domestic interests, but I am convinced on the basis of the information that has been furnished me by many printing and publishing firms in the State of Illinois, which is a very great industry in our State, that the copyrights law is the proper place for the copyright regulations; that industry does need the manufacturing clause. In fact, I am pained to say they are in very poor condition in terms of profit margin and return on investment. Production costs are high. This is a very labor-intensive industry and labor and production costs are higher than in any other industry, that is because of the labor factor.

Mr. Chairman, I want to mention just one more point briefly in concluding these remarks, that passage of the clause in its present form as it is now contained in the law is important with respect to our efforts to effect reductions in the Canadian trade barriers. I have been informed, for example, by Illinois publishers that there is in effect a 25 percent and, indeed, in some instances a 40-percent tariff charged on catalogs published here in the United States, a 40-percent tariff imposed by the Canadian Government. In addition to that, they have imposed mammoth trade barriers that impede the free flowing of U.S. printing and publishing materials between Canada and the United States. I do not have the time to recite some of the unfair nontariff barriers and some of the adjustments in Canadian tax law, refusing to allow Canadian advertisers to deduct the business expense and cost of advertising that they put in non-Canadian periodicals and so on. The only weapon we have to use with the Canadians is this manufacturing clause and until we can get them to negotiate, this hopefully will be discussed in the second Toronto Conference that we are trying to organize, until we can get the Canadians to see the equity of our position, to get them to lower their trade barriers to the importation of American books and periodicals published in the United States, we should not give away our hole card, which is the manufacturing clause.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. RAILSBACK. Mr. Chairman, I yield 1 additional minute to the gentleman from Illinois.

Mr. Chairman, will the gentleman yield to me?

Mr. ANDERSON of Illinois. I yield to the distinguished gentleman.

Mr. RAILSBACK. Mr. Chairman, I thank the gentleman for yielding.

I want to state that I personally am aware of the so-called Toronto Agreement which took place back in 1968 and under which the printing union representatives on both sides of the border agreed to attempt to provide equality and equity.

That particular pact bound us to Canadian exemptions, but it also committed the Canadian representatives to work for eliminating strict printing and publishing trade barriers. In the event that they would not so move in compliance with their side of the agreement, I would certainly think that this country and this Congress would want to take a second look at any barriers we may decide to erect.

Mr. ANDERSON of Illinois. If I could reclaim my time, I would ask the gentleman from Illinois one question: If, in the interim, however, we have passed this law in its present form and it has been signed into law by the President, have we not given away the bargaining tool that we might otherwise use to persuade the Canadians that they ought to bring down these barriers and unfair restrictions to which the gentleman has referred?

I have a letter from a representative of the Donnelly Co. which indicates that they are well on the road to putting together a second Toronto conference that would deal with all these Canadian trade barriers, and that is the hope we have, that we can encourage freer trade between the United States and Canada, but if we phase out the present manufacturing cost, we have lost the bargaining position.

Mr. RAILSBACK. I think maybe, in any conference, that we ought to take up this subject and address it. I think that leads to a letter I received from a representative of the company the gentleman just mentioned. That is one of the suggestions.

Mr. ANDERSON of Illinois. I hope that when the gentleman goes to conference along with the others on the committee, that he and they will bear in mind what has been said this evening and see the wisdom of accepting the Senate version on this matter.

Mr. RAILSBACK. Mr. Chairman, I yield 2 minutes to my distinguished colleague from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Chairman, I rise in support of S. 22, the general revision of the copyright law. I doubt if anyone can be as informative in discussing this legislation as the members of the subcommittee who have worked so long, so hard, and so ably to produce it. I would like to commend the subcommittee for a job well done. The product of their work is monumental.

The framers of our U.S. Constitution directed the Congress "to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." When the framers met in Philadelphia to consider which powers might best be entrusted to the Federal Government, there appears to have been virtual unanimity in determining that copyright should be included within the national sphere. Although the constitutional committee proceedings which considered the copyright clause, were conducted in secret, it is known that the final form of the clause was adopted without debate. Originally enacted in 1790, by the First Congress, the copyright law has been completely revised only three times since at intervals of four decades. The last revision in 1909 is essentially still the law today. In this Bicentennial Year, it is a great tribute to this country, after over 50 years of work and research, to finally update our copyright law to reflect our more modern society.

Authors and composers are competing with record manufacturers, motion picture companies, and the television industry in an effort to protect the rights to their literary and musical works. At the same time, libraries and educators want to preserve provisions comparable to the existing law which permit "fair use" of published works for research and educational purposes.

Under the new law, copyrights will be granted for the life of the author or composer plus 50 years. During this period, the copyright owner and his assignee will enjoy exclusively the right to the copyrighted works.

The interests of libraries and schools will benefit from the sections on "fair use," embodied in the new bill. This will permit reproduction of copyrighted works providing there is no commercial use or sale of the copyrighted materials. This may permit duplication of portions of copyrighted literary and musical materials without infringing on the rights of authors and composers to secure the benefits of their creativity and without injuring publishers who have invested in the right to produce and market their literary and musical works.

The legislation aims to put at rest a controversy between composers and the recording industry relating to payments for records or tapes of copyrighted musical works. Under existing law, licenses are granted to the recording industry at the rate of 2 cents for a recording of 2 minutes or less, with an additional one-half cent fee for each additional minute which is included on a record or tape. These fees were increased to 2¾ cents or six-tenths of 1 cent per minute of playing time or fraction thereof, whichever is larger.

There is substantial urgency for the enactment of a new copyright law with only a limited period remaining for the 94th Congress to act. Efforts by various interest groups to secure last minute changes or to gain special advantages will undoubtedly be blocked in the interest of producing the first comprehensive revision of the copyright laws in more than 50 years and the greatest advance in copyright legislation in our Nation's 200-year history.

I urge the Members to support the enactment of this legislation.

Mr. KASTENMEIER. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. ALLEN).

Mr. ALLEN. Mr. Chairman, as the representative of Music City, U.S.A., I would be remiss in my duty if I failed to rise in strong support of this legislation. Earlier in the year, if the Members will recall, I was honored to host a party at which all the Members were invited to meet artists, composers, and musicians from all areas of the United States.

Not many people realize that Nashville has come to be known as Music City, U.S.A., because it is today the largest recording center in all the Nation. We have more recording studios, and more records are made and more compositions come from that city than anywhere else.

I am delighted that this bill to amend an antiquated law that has remained on the books unchanged for nigh on to 70 years is, at long last, being brought up to date to give justice and relief to those who so badly need it among the authors, composers, and musicians across the Nation. I thank the chairman for giving me this opportunity.

Mr. FRENZEL. Mr. Chairman, I support the copyright revision bill, S. 22, although I believe that it is poor management on the part of our leadership to bring this complicated bill up for debate and vote at 10 p.m. The importance and complexity of the bill deserve better treatment.

I am particularly pleased with the "fair use" doctrine of this bill, but I wish it had been broadened to allow for more copies for libraries and archives. I hope the courts will continue to construe "fair use" as broadly as possible. I would support, if offered, the proposed amendment to increase the "fair use" copies from 1 to 10.

This bill should have been handled under an open rule with at least a full day available for debate and questions. Under these circumstances, I will vote "aye," urge its passage, and fervently hope that the sections we have not discussed adequately tonight are in good shape.

Mr. KASTENMEIER. Mr. Chairman, I have no further requests for time.

Mr. RAILSBACK. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment.

No amendment to the committee amendment is in order except amendments offered by the direction of the Committee of the Judiciary and germane amendments printed in the CONGRESSIONAL RECORD at least 3 calendar days prior to the start of consideration of said bill for amendment, but said amendments shall not be subject to amendment except those offered by direction of the Committee on the Judiciary.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

S. 22

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—GENERAL REVISION OF COPYRIGHT LAW

SEC. 101. Title 17 of the United States Code, entitled "Copyrights", is hereby amended in its entirety to read as follows:

TITLE 17—COPYRIGHTS

Chapter	Sec.
1. SUBJECT MATTER AND SCOPE OF COPYRIGHT	101
2. COPYRIGHT OWNERSHIP AND TRANSFER	201
3. DURATION OF COPYRIGHT	301
4. COPYRIGHT NOTICE, DEPOSIT, AND REGISTRATION	401
5. COPYRIGHT INFRINGEMENT AND REMEDIES	501
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Chapter 1.—SUBJECT MATTER AND SCOPE OF COPYRIGHT

Sec.
101. Definitions.
102. Subject matter of copyright: In general.
103. Subject matter of copyright: Compilations and derivative works.
104. Subject matter of copyright: National origin.
105. Subject matter of copyright: United States Government works.
106. Exclusive rights in copyrighted works.
107. Limitations on exclusive rights: Fair use.
108. Limitations on exclusive rights: Reproduction by libraries and archives.
109. Limitations on exclusive rights: Effect of transfer of particular copy or phonorecord.
110. Limitations on exclusive rights: Exemption of certain performances and displays.
111. Limitations on exclusive rights: Secondary transmissions.
112. Limitations on exclusive rights: Ephemeral recordings.
113. Scope of exclusive rights in pictorial, graphic, and sculptural works.
114. Scope of exclusive rights in sound recordings.
115. Scope of exclusive rights in nondramatic musical works: Compulsory license for making and distributing phonorecords.
116. Scope of exclusive rights in nondramatic musical works: Public performances by means of coin-operated phonorecord players.
117. Scope of exclusive rights: Use in conjunction with computers and similar information systems.
118. Scope of exclusive rights: Use of certain works in connection with noncommercial broadcasting.

§ 101. Definitions

As used in this title, the following terms and their variant forms mean the following:

An "anonymous work" is a work on the copies or phonorecords of which no natural person is identified as author.

"Audiovisual works" are works that consist of a series of related images which are intrinsically intended to be shown by the use of machines or devices such as projectors, viewers, or electronic equipment, together with accompanying sounds, if any, regardless of the nature of the material objects, such as films or tapes, in which the works are embodied.

The "best edition" of a work is the edition, published in the United States at any time before the date of deposit, that the Library of Congress determines to be most suitable for its purposes.

A person's "children" are that person's immediate offspring, whether legitimate or not, and any children legally adopted by that person.

A "collective work" is a work, such as a periodical issue, anthology, or encyclopedia, in which a number of contributions, constituting separate and independent works in themselves, are assembled into a collective whole.

A "compilation" is a work formed by the collection and assembling of pre-existing materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship. The term "compilation" includes collective works.

"Copies" are material objects, other than phonorecords, in which a work is fixed by any method now known or later developed, and from which the work can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "copies" includes the material object, other than a phonorecord, in which the work is first fixed.

"Copyright owner", with respect to any one of the exclusive rights comprised in a copyright, refers to the owner of that particular right.

A work is "created" when it is fixed in a copy or phonorecord for the first time; where a work is prepared over a period of time, the portion of it that has been fixed at any particular time constitutes the work as of that time, and where the work has been prepared in different versions, each version constitutes a separate work.

A "derivative work" is a work based upon one or more preexisting works, such as a translation, musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgment, condensation, or any other form in which a work may be recast, transformed, or adapted. A work consisting of editorial revisions, annotations, elaborations, or other modifications which, as a whole, represent an original work of authorship, is a "derivative work".

A "device", "machine", or "process" is one now known or later developed.

To "display" a work means to show a copy of it, either directly or by means of a film, slide, television image, or any other device or process or, in the case of a motion picture or other audiovisual work, to show individual images nonsequentially.

A work is "fixed" in a tangible medium of expression when its embodiment in a copy or phonorecord, by or under the authority of the author, is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration. A work consisting of sounds, images, or both, that are being transmitted, is "fixed" for purposes of this title if a fixation of the work is being made simultaneously with its transmission.

The terms "including" and "such as" are illustrative and not limitative.

A "joint work" is a work prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole.

"Literary works" are works, other than audiovisual works, expressed in words, numbers, or other verbal or numerical symbols or indicia, regardless of the nature of the material objects, such as books, periodicals, manuscripts, phonorecords, film, tapes, disks, or cards, in which they are embodied.

"Motion pictures" are audiovisual works consisting of a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

To "perform" a work means to recite, render, play, dance, or act it, either directly or by means of any device or process or, in the case of a motion picture or other audiovisual work, to show its images in any sequence or to make the sounds accompanying it audible.

"Phonorecords" are material objects in which sounds, other than those accompanying a motion picture or other audiovisual work, are fixed by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "phono-records" includes the material object in which the sounds are first fixed.

"Pictorial, graphic, and sculptural works" include two-dimensional and three-dimensional works of fine, graphic, and applied art, photographs, prints and art reproduction, maps, globes, charts, technical drawings, diagrams, and models. Such works shall include works of artistic craftsmanship insofar as their form but not their mechanical or utilitarian aspects are concerned; the design of a useful article, as defined in this section, shall be considered a pictorial, graphic, or sculptural work only if, and only to the extent that, such design incorporates pictorial, graphic, or sculptural features that can be identified separately from, and are capable of existing independently of, the utilitarian aspects of the article.

A "pseudonymous work" is a work on the copies or phonorecords of which the author is identified under a fictititous name.

"Publication" is the distribution of copies or phonorecords of a work to the public by sale or other transfer of ownership, or by rental, lease, or lending. The offering to distribute copies or phonorecords to a group of persons for purposes of further distribution, public performance, or public display, constitutes publication. A public performance or display of a work does not of itself constitute publication.

To perform or display a work "publicly" means—

(1) to perform or display it at a place open to the public or at any place where a substantial number of persons outside of a

normal circle of a family and its social acquaintances is gathered; or

(2) to transmit or otherwise communicate a performance or display of the work to a place specified by clause (1) or to the public, by means of any device or process, whether the members of the public capable of receiving the performance or display receive it in the same place or in separate places and at the same time or at different times.

"Sound recordings" are works that result from the fixation of a series of musical, spoken, or other sounds, but not including the sounds accompanying a motion picture or other audiovisual work, regardless of the nature of the material objects, such as disks, tapes, or other phonorecords, in which they are embodied.

"State" includes the District of Columbia and the Commonwealth of Puerto Rico, and any territories to which this title is made applicable by an Act of Congress.

A "transfer of copyright ownership" is an assignment, mortgage, exclusive license, or any other conveyance, alienation, or hypothecation of a copyright or of any of the exclusive rights comprised in a copyright, whether or not it is limited in time or place of effect, but not including a nonexclusive license.

A "transmission program" is a body of material that, as an aggregate, has been produced for the sole purpose of transmission to the public in sequence and as a unit.

To "transmit" a performance or display is to communicate it by any device or process whereby images or sounds are received beyond the place from which they are sent.

The "United States", when used in a geographical sense, comprises the several States, the District of Columbia and the Commonwealth of Puerto Rico, and the organized territories under the jurisdiction of the United States Government.

A "useful article" is an article having an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. An article that is normally a part of a useful article is considered a "useful article".

The author's "widow" or "widower" is the author's surviving spouse under the law of the author's domicile at the time of his or her death, whether or not the spouse has later remarried.

A "work of the United States Government" is a work prepared by an officer or employee of the United States Government as part of that person's official duties.

A "work made for hire" is—

(1) a work prepared by an employee within the scope of his or her employment; or

(2) a work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire. For the purpose of the foregoing sentence, a "supplementary work" is a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwords, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes, and an "instructional text" is a literary, pictorial, or graphic work prepared for publication with the purpose of use in systematic instructional activities.

§ 102. Subject matter of copyright: In general

(a) Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following categories:

(1) literary works;

(2) musical works, including any accompanying words;

(3) dramatic works, including any accompanying music;

(4) pantomimes and choreographical works;

(5) pictorial, graphic, and sculptural works;

(6) motion pictures and other audiovisual works; and

(7) sound recordings.

(b) In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

§ 103. Subject matter of copyright: Compilations and derivative works

(a) The subject matter of copyright as specified by section 102 includes compilations and derivative works, but protection for a work employing pre-existing material in which copyright subsists does not extend to any part of the work in which such material has been used unlawfully.

(b) The copyright in a compilation or derivative work extends only to the material contributed by the author of such work, as distinguished from the pre-existing material employed in the work, and does not imply any exclusive right in the pre-existing material. The copyright in such work is independent of, and does not affect or enlarge the scope, duration, ownership, or subsistence of, any copyright protection in the pre-existing material.

§ 104. Subject matter of copyright: National origin

(a) UNPUBLISHED WORKS.—The works specified by sections 102 and 103, while unpublished, are subject to protection under this title without regard to the nationality or domicile of the author.

(b) PUBLISHED WORKS.—The works specified by sections 102 and 103, when published, are subject to protection under this title if—

(1) on the date of first publication, one or more of the authors is a national or domiciliary of the United States, or is a national, domiciliary, or sovereign authority of a foreign nation that is a party to a copyright treaty to which the United States is also a party, or is a stateless person, wherever that person may be domiciled; or

(2) the work is first published in the United States or in a foreign nation that, on the date of first publication, is a party to the Universal Copyright Convention; or

(3) the work is first published by the United Nations or any of its specialized agencies, or by the Organization of American States; or

(4) the work comes within the scope of a Presidential proclamation. Whenever the President finds that a particular foreign nation extends, to works by authors who are nationals or domiciliaries of the United States or to works that are first published in the United States, copyright protection on substantially the same basis as that on which the foreign nation extends protection to works of its own nationals and domiciliaries and works first published in that nation, the President may by proclamation extend protection under this title to works of which one or more of the authors is, on the date of first publication, a national domiciliary, or sovereign authority of that nation, or which was first published in that nation. The President may revise, suspend, or revoke any such proclamation or impose any conditions or limitations on protection under a proclamation.

§ 105. Subject matter of copyright: United States Government works

Copyright protection under this title is not available for any work of the United States Government, but the United States Government is not precluded from receiving and holding copyrights transferred to it by assignment, bequest, or otherwise: Provided, however, That the Secretary of Commerce may secure copyright for a limited term not to exceed five years, on behalf of the United States as author or copyright owner in any National Technical Information Service publication, which is disseminated pursuant to the provisions of chapter 23 of title 15.

§ 106. Exclusive rights in copyrighted works

Subject to sections 107 through 118, the owner of copyright under this title has the exclusive rights to do and to authorize any of the following:

(1) to reproduce the copyrighted work in copies or phonorecords;

(2) to prepare derivative works based upon the copyrighted work;

(3) to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;

(4) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly; and

(5) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly.

§ 107. Limitations on exclusive rights: Fair use

Notwithstanding the provisions of section 106, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—

(1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;

(2) the nature of the copyrighted work;

(3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

(4) the effect of the use upon the potential market for or value of the copyrighted work.

§ 108. Limitations on exclusive rights: Reproduction by libraries and archives

(a) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a library or archives, or any of its employees acting within the scope of their employment, to reproduce no more than one copy or phonorecord of a work, or to distribute such copy or phonorecord, under the conditions specified by this section, if—

(1) the reproduction or distribution is made without any purpose of direct or indirect commercial advantage;

(2) the collections of the library or archives are (i) open to the public, or (ii) available not only to researchers affiliated with the library or archives or with the institution of which it is a part, but also to other persons doing research in a specialized field; and

(3) the reproduction or distribution of the work includes a notice of copyright.

(b) The rights of reproduction and distribution under this section apply to a copy or phonorecord of an unpublished work duplicated in facsimile form solely for purposes of preservation and security or for deposit for research use in another library or archives of the type described by clause (2) of subsection (a), if the copy or phonorecord reproduced is currently in the collections of the library or archives.

(c) The right of reproduction under this section applies to a copy or phonorecord of a published work duplicated in facsimile form solely for the purpose of replacement of a copy or phonorecord that is damaged, deteriorating, lost, or stolen, if the library or archives has, after a reasonable effort, determined that an unused replacement cannot be obtained at a fair price.

(d) The rights of reproduction and distribution under this section apply to a copy, made from the collection of a library or archives where the user makes his or her request or from that of another library or archives, of no more than one article or other contribution to a copyrighted collection or periodical issue, or to a copy or phonorecord of a small part of any other copyrighted work, if—

(1) the copy or phonorecord becomes the property of the user, and the library or archives has had no notice that the copy or phonorecord would be used for any purpose other than private study, scholarship, or research; and

(2) the library or archives displays prominently, at the place where orders are accepted, and includes on its order form, a warning of copyright in accordance with requirements that the Register of Copyrights shall prescribe by regulation.

(e) The rights of reproduction and distribution under this section apply to the entire work, or to a substantial part of it, made from the collection of a library or archives where the user makes his or her request or from that of another library or archives, if the library or archives has first determined, on the basis of a reasonable investigation, that a copy or phonorecord of the copyrighted work cannot be obtained at a fair price, if—

(1) the copy or phonorecord becomes the property of the user, and the library or archives has had no notice that the copy or phonorecord would be used for any purpose other than private study, scholarship, or research; and

(2) the library or archives displays prominently, at the place where orders are accepted, and includes on its order form, a warning of copyright in accordance with requirements that the Register of Copyrights shall prescribe by regulation.

(f) Nothing in this section—

(1) shall be construed to impose liability for copyright infringement upon a library or archives or its employees for the unsupervised use of reproducing equipment located on its premises: Provided, That such equipment displays a notice that the making of a copy may be subject to the copyright law;

(2) excuses a person who uses such reproducing equipment or who requests a copy or phonorecord under subsection (d) from liability for copyright infringement for any such act, or for any later use of such copy or phonorecord, if it exceeds fair use as provided by section 107;

(3) shall be construed to limit the reproduction and distribution by lending of a limited number of copies and excerpts by a library or archives of an audiovisual news program, subject to clauses (1), (2), and (3) of subsection (a); or

(4) in any way affects the right of fair use as provided by section 107, or any contractual obligations assumed at any time by the library or archives when it obtained a copy or phonorecord of a work in its collections.

(g) The rights of reproduction and distribution under this section extend to the isolated and unrelated reproduction or distribution of a single copy or phonorecord of the same material on separate occasions, but do not extend to cases where the library or archives, or its employee—

(1) is aware or has substantial reason to believe that it is engaging in the related or concerted reproduction or distribution of multiple copies or phonorecords of the same material, whether made on one occasion or over a period of time, and whether intended for aggregate use by one or more individuals or for separate use by the individual members of a group; or

(2) engages in the systematic reproduction or distribution of single or multiple copies or phonorecords of material described in subsection (d): Provided, That nothing in this clause prevents a library or archives from participating in interlibrary arrangements that do not have, as their purpose or effect, that the library or archives receiving such copies or phonorecords for distribution does so in such aggregate quantities as to substitute for a subscription to or purchase of such work.

(h) The rights of reproduction and distribution under this section do not apply to a musical work, a pictorial, graphic or sculptural work, or a motion picture or other audiovisual work other than an audiovisual work dealing with news, except that no such limitation shall apply with respect to rights granted by subsections (b) and (c), or with respect to pictorial or graphic works published as illustrations, diagrams, or similar adjuncts to works of which copies are reproduced or distributed in accordance with subsections (d) and (e).

(i) Five years from the effective date of this Act, and at five-year intervals thereafter, the Register of Copyrights, after consulting with representatives of authors, book and periodical publishers, and other owners of copyrighted materials, and with representatives of library users and librarians, shall submit to the Congress a report setting forth the extent to which this section has achieved the intended statutory balancing of the rights of creators, and the needs of users. The report should also describe any problems that may have arisen, and present legislative or other recommendations, if warranted.

§ 109. Limitations on exclusive rights: Effect of transfer of particular copy or phonorecord

(a) Notwithstanding the provisions of section 106(3), the owner of a particular copy or phonorecord lawfully made under this title, or any person authorized by such owner, is entitled, without the authority of the copyright owner, to sell or otherwise dispose of the possession of that copy or phonorecord.

(b) Notwithstanding the provisions of section 106(5), the owner of a particular copy lawfully made under this title, or any person authorized by such owner, is entitled, without the authority of the copyright owner, to display that copy publicly, either directly or by the projection of no more than one image at a time, to viewers present at the place where the copy is located.

(c) The privileges prescribed by subsections (a) and (b) do not, unless authorized by the copyright owner, extend to any person who has acquired possession of the copy or phonorecord from the copyright owner, by rental, lease, loan, or otherwise, without acquiring ownership of it.

§ 110. Limitations on exclusive rights: Exemption of certain performances and displays

Notwithstanding the provisions of section 106, the following are not infringements of copyright:

(1) performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images, is given by means of a copy that was not lawfully made under this title, and that the person responsible for the performance knew or had reason to believe was not lawfully made;

(2) performance of a nondramatic literary or musical work or display of a work, by or in the course of a transmission, if—

(A) the performance or display is a regular part of the systematic instructional activities of a governmental body or a nonprofit educational institution; and

(B) the performance or display is directly related and of material assistance to the teaching content of the transmission; and

(C) the transmission is made primarily for—

(i) reception in classrooms or similar places normally devoted to instruction, or

(ii) reception by persons to whom the transmission is directed because their disabilities or other special circumstances prevent their attendance in classrooms or similar places normally devoted to instruction, or

(iii) reception by officers or employees of governmental bodies as a part of their official duties or employment;

(3) performance of a nondramatic literary or musical work or of a dramatic-musical work of a religious nature, or display of a work, in the course of services at a place of worship or other religious assembly;

(4) performance of a nondramatic literary or musical work otherwise than in a transmission to the public, without any purpose of direct or indirect commercial advantage and without payment of any fee or other compensation for the performance to any of its performers, promoters, or organizers, if—

(A) there is no direct or indirect admission charge; or

(B) the proceeds, after deducting the reasonable costs of producing the performance, are used exclusively for educational, religious, or charitable purposes and not for private financial gain, except where the copyright owner has served notice of objection to the performance under the following conditions:

(i) the notice shall be in writing and signed by the copyright owner or such owner's duly authorized agent; and

(ii) the notice shall be served on the person responsible for the performance at least seven days before the date of the performance and shall state the reasons for the objection; and

(iii) the notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation;

(5) communication of a transmission embodying a performance of a work by the public reception of the transmission on a single receiving apparatus of a kind commonly used in private homes, unless—

(A) a direct charge is made to see or hear the transmission; or

(B) the performance or display is further transmitted beyond the place where the receiving apparatus is located;

(6) performance of a nondramatic musical work by a governmental body or a nonprofit agricultural or horticultural organization, in the course of an annual agricultural or horticultural fair or exhibition conducted by such body or organization; the exemption provided by this clause shall extend to any liability for copyright infringement that would otherwise be imposed on such body or organization, under doctrines of vicarious liability or related infringement, for a performance by a concessionnaire, business establishment, or other person at such fair or exhibition, but shall not excuse any such person from liability for the performance;

(7) performance of a nondramatic musical

work by a vending establishment open to the public at large without any direct or indirect admission charge, where the sole purpose of the performance is to promote the retail sale of copies or phonorecords of the work, and the performance is not transmitted beyond the place where the establishment is located and is within the immediate area where the sale is occurring;

(8) performance of a nondramatic literary work, by or in the course of a transmission specifically designed for and primarily directed to blind or other handicapped persons who are unable to read normal printed material as a result of their handicap, or deaf or other handicapped persons who are unable to hear the aural signals accompanying a transmission of visual signals, if the performance is made without any purpose of direct or indirect commercial advantage and its transmission is made through the facilities of (i) a governmental body; or (ii) a noncommercial educational broadcast station (as defined in section 397 of title 47); or (iii) a radio subcarrier authorization (as defined in 47 CFR 73.293–73.295 and 73.593–73.595); or (iv) a cable system (as defined in section 111(f)).

§ 111. Limitations on exclusive rights: Secondary transmissions

(a) Certain Secondary Transmissions Exempted.—The secondary transmission of a primary transmission embodying a performance or display of a work is not an infringement of copyright if—

(1) the secondary transmission is not made by a cable system, and consists entirely of the relaying, by the management of a hotel, apartment house, or similar establishment, of signals transmitted by a broadcast station licensed by the Federal Communications Commission, within the local service area of such station, to the private lodgings of guests or residents of such establishment, and no direct charge is made to see or hear the secondary transmission; or

(2) the secondary transmission is made solely for the purpose and under the conditions specified by clause (2) of section 110; or

(3) the secondary transmission is made by any carrier who has no direct or indirect control over the content or selection of the primary transmission or over the particular recipients of the secondary transmission, and whose activities with respect to the secondary transmission consist solely of providing wires, cables, or other communications channels for the use of others: *Provided*, That the provisions of this clause extend only to the activities of said carrier with respect to secondary transmissions and do not exempt from liability the activities of others with respect to their own primary or secondary transmissions; or

(4) the secondary transmission is not made by a cable system but is made by a governmental body, or other nonprofit organization, without any purpose of direct or indirect commercial advantage, and without charge to the recipients of the secondary transmission other than assessments necessary to defray the actual and reasonable costs of maintaining and operating the secondary transmission service.

(b) Secondary Transmission of Primary Transmission to Controlled Group.—Notwithstanding the provisions of subsections (a) and (c), the secondary transmission to the public of a primary transmission embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, if the primary transmission is not made for reception by the public at large but is controlled and limited to reception by particular members of the public: *Provided, however*, That such secondary transmission is not actionable as an act of infringement if—

(1) the primary transmission is made by a broadcast station licensed by the Federal Communications Commission;

(2) the carriage of the signals comprising the secondary transmission is required under the rules, regulations, or authorizations of the Federal Communications Commission; and

(3) the signal of the primary transmitter is not altered or changed in any way by the secondary transmitter.

(c) Secondary Transmissions by Cable Systems.—

(1) Subject to the provisions of clauses (2), (3), and (4) of this subsection, secondary transmissions to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work shall be subject to compulsory licensing upon compliance with the requirements of subsection (d) where the carriage of the signals comprising the secondary transmission is permissible under the rules, regulations, or authorizations of the Federal Communications Commission.

(2) Notwithstanding the provisions of clause (1) of this subsection, the willful or repeated secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, in the following cases:

(A) where the carriage of the signals comprising the secondary transmission is not permissible under the rules, regulations, or authorizations of the Federal Communications Commission; or

(B) where the cable system has not recorded the notice specified by subsection (d) and deposited the statement of account and royalty fee required by subsection (d).

(3) Notwithstanding the provisions of clause (1) of this subsection and subject to the provisions of subsection (e) of this section, the secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, if the content of the particular program in which the performance or display is embodied, or any commercial advertising or station announcements transmitted by the primary transmitter during, or immediately before or after, the transmission of such program, is in any way willfully altered by the cable system through changes, deletions, or additions, except for the alteration, deletion, or substitution of commercial advertisements performed by those engaged in television commercial advertising market research: *Provided*, That the research company has obtained the prior consent of the advertiser who has purchased the original commercial advertisement, the television station broadcasting that commercial advertisement, and the cable system performing the secondary transmission: *And provided further*, That such commercial alteration, deletion, or substitution is not performed for the purpose of deriving income from the sale of that commercial time.

(4) Notwithstanding the provisions of clause (1) of this subsection, the secondary transmission to the public by a cable system of a primary transmission made by a broadcasting station licensed by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by section 502 through 506, if (A) with respect to Canadian signals, the community of the cable system is located more than one hundred and fifty miles from the United States-Canadian border and is also located south of the forty-second parallel of latitude, or (B) with respect to Mexican signals, the secondary transmission is made by a cable system which received the primary transmission by means other than direct interception of a free space radio wave emitted by such broadcast television station, unless prior to April 15, 1976, such cable system was actually carrying, or was specifically authorized to carry, the signal of such foreign station on the system pursuant to the rules, regulations, or authorizations of the Federal Communications Commission.

(d) Compulsory License for Secondary Transmissions by Cable Systems.—

(1) For any secondary transmission to be subject to compulsory licensing under subsection (c), the cable system shall, at least one month before the date of the commencement of operations of the cable system or within one hundred and eighty days after the enactment of this Act, whichever is later, and thereafter within thirty days after each occasion on which the ownership or control or the signal carriage complement of the cable system changes, record in the Copyright Office a notice including a statement of the identity and address of the person who owns or operates the secondary transmission service or has power to exercise primary control over it, together with the name and location of the primary transmitter or primary transmitters whose signals are regularly carried by the cable system, and thereafter, from time to time, such further information as the Register of Copyrights, after consultation with the Copyright Royalty Commission, shall prescribe by regulation to carry out the purpose of this clause.

(2) A cable system whose secondary transmissions have been subject to compulsory licensing under subsection (c) shall, on a semiannual basis, deposit with the Register of Copyrights, in accordance with requirements that the Register shall, after consultation with the Copyright Royalty Commission, prescribe by regulation—

(A) a statement of account, covering the six months next preceding, specifying the number of channels on which the cable system made secondary transmissions to its subscribers, the names and locations of all primary transmitters whose transmissions were further transmitted by the cable system, the total number of subscribers, and the gross amounts paid to the cable system for the basic service of providing secondary transmissions of primary broadcast transmitters; and such other data as the Register of Copyrights may, after consultation with the Copyright Royalty Commission, from time to time prescribe by regulation. Such statement shall also include a special statement of account covering any nonnetwork television programing that was carried by the cable system in whole or in part beyond the local service area of the primary transmitter, under rules, regulations, or authorizations of the Federal Communications Commission permitting the substitution or addition of signals under certain circumstances, together with logs showing the times, dates, stations, and programs involved in such substituted or added carriage; and

(B) except in the case of a cable system whose royalty is specified in subclause (C) or

(D), a total royalty fee for the period covered by the statement, computed on the basis of specified percentages of the gross receipts from subscribers to the cable service during said period for the basic service of providing secondary transmissions of primary broadcast transmitters, as follows:

(i) 0.675 of 1 per centum of such gross receipts for the privilege of further transmitting any nonnetwork programing of a primary transmitter in whole or in part beyond the local service area of such primary transmitter, such amount to be applied against the fee, if any, payable pursuant to paragraphs (ii) through (iv);

(ii) 0.675 of 1 per centum of such gross receipts for the first distant signal equivalent;

(iii) 0.425 of 1 per centum of such gross receipts for each of the second, third, and fourth distant signal equivalents;

(iv) 0.2 of 1 per centum of such gross receipts for the fifth distant signal equivalent and each additional distant signal equivalent thereafter; and

in computing the amounts payable under paragraphs (ii) through (iv), above, any fraction of a distant signal equivalent shall be computed at its fractional value and, in the case of any cable system located partly within and partly without the local service area of a primary transmitter, gross receipts shall be limited to those gross receipts derived from subscribers located without the local service area of such primary transmitter;

(C) if the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters total less than $80,000, gross receipts of the cable system for the purpose of this subclause shall be computed by subtracting from such actual gross receipts the amount by which $80,000 exceeds such actual gross receipts, except that in no case shall a cable system's gross receipts be reduced to less than $3,000. The royalty fee payable under this subclause shall be 0.5 of 1 per centum, regardless of the number of distant signal equivalents, if any; and

(D) if the actual gross receipts paid by subscribers to a cable system for the period covered by the statement, for the basic service of providing secondary transmissions of primary broadcast transmitters, are more than $80,000 but less than $160,000, the royalty fee payable under this subclause shall be (i) 0.5 of 1 per centum of any gross receipts in excess of $80,000; and (ii) 1 per centum of any gross receipts in excess of $80,000 but less than $160,000, regardless of the number of distant signal equivalents, if any.

(3) The Register of Copyrights shall receive all fees deposited under this section and, after deducting the reasonable costs incurred by the Copyright Office under this section, shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury directs, for later distribution by the Copyright Royalty Commission as provided by this title. The Register shall submit to the Copyright Royalty Commission, on a semiannual basis, a compilation of all statements of account covering the relevant six-month period provided by clause (2) of this subsection.

(4) The royalty fees thus deposited shall, in accordance with the procedures provided by clause (5), be distributed to those among the following copyright owners who claim that their works were the subject of secondary transmissions by cable systems during the relevant semiannual period:

(A) any such owner whose work was included in a secondary transmission made by a cable system of a nonnetwork television program in whole or in part beyond the local service area of the primary transmitter; and

(B) any such owner whose work was included in a secondary transmission identified in a special statement of account deposited under clause (2)(A); and

(C) any such owner whose work was included in nonnetwork programing consisting exclusively of aural signals carried by a cable system in whole or in part beyond the local service area of the primary transmitter of such programs.

(5) The royalty fees thus deposited shall be distributed in accordance with the following procedures:

(A) During the month of July in each year, every person claiming to be entitled to compulsory license fees for secondary transmissions shall file a claim with the Copyright Royalty Commission, in accordance with requirements that the Commission shall prescribe by regulation. Notwithstanding any provisions of the antitrust laws (within the meaning of section 12 of title 15), for purposes of this clause any claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

(B) After the first day of August of each year, the Copyright Royalty Commission shall determine whether there exists a controversy concerning the distribution of royalty fees. If the Commission determines that no such controvery exists, it shall, after deducting its reasonable administrative costs under this section, distribute such fees to the copyright owners entitled, or to their designated agents. If the Commission finds the existence of a controversy, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

(C) During the pendency of any proceeding under this subsection, the Copyright Royalty Commission shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

(e) NONSIMULTANEOUS SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—

(1) Notwithstanding those provisions of the second paragraph of subsection (f) relating to nonsimultaneous secondary transmissions by a cable system, any such transmissions are actionable as an act of infringement under section 501, and are fully subject to the remedies provided by sections 502 through 506, unless—

(A) the program on the videotape is transmitted no more than one time to the cable system's subscribers; and

(B) the copyrighted program, episode, or motion picture videotapes, including the commercials contained within such program, episode, or picture, is transmitted without deletion or editing; and

(C) an owner or officer of the cable system (i) prevents the duplication of the videotape while in the possession of the system, (ii) prevents unauthorized duplication while in the possession of the facility making the videotape for the system if the system owns or controls the facility, or takes reasonable precautions to prevent such duplication if it does not own or control the facility, (iii) takes adequate precautions to prevent duplication while the tape is being transported, and (iv) subject to clause (2), erases or destroys, or causes the erasure or destruction of, the videotape; and

(D) within forty-five days after the end of each calendar quarter, an owner or officer of the cable system executes an affidavit attesting (i) to the steps and precautions taken to prevent duplication of the videotape, and (ii) subject to clause (2), to the erasure or destruction of all videotapes made or used during such quarter; and

(E) such owner or officer places or causes each such affidavit, and affidavits received pursuant to clause (2)(C), to be placed in a file, open to public inspection, at such system's main office in the community where the transmission is made or in the nearest community where such system maintains an office; and

(F) the nonsimultaneous transmission is one that the cable system would be authorized to transmit under the rules, regulations, and authorizations of the Federal Communications of the Federal Communications Commission in effect at the time of the nonsimultaneous transmission if the transmission had been made simultaneously, except that this subclause shall not apply to inadvertent or accidental transmissions.

(2) If a cable system transfers to any person a videotape of a program nonsimultaneously transmitted by it, such transfer is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, except that, pursuant to a written, nonprofit contract providing for the equitable sharing of the cost of such videotape and its transfer, a videotape nonsimultaneously transmitted by it, in accordance with clause (1), may be transferred by one cable system in Alaska to another system in Alaska, by one cable system in Hawaii permitted to make such nonsimultaneous transmissions to another such cable system in Hawaii, or by one cable system in Guam, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands, to another cable system in any of those three territories, if—

(A) each such contract is available for public inspection in the offices of the cable systems involved, and a copy of such contract is filed, within thirty days after such contract is entered into, with the Copyright Office (which Office shall make each such contract available for public inspection); and

(B) the cable system to which the videotype is transferred complies with clause (1) (A), (B), (C), (i), (iii), and (iv), and (D) through (F); and

(C) such system provides a copy of the affidavit required to be made in accordance with clause (1)(D) to each cable system making a previous nonsimultaneous transmission of the same viodeotape.

(3) This subsection shall not be construed to supersede the exclusivity protection provisions of any existing agreement, or any such agreement hereafter entered into, between a cable system and a television broadcast station in the area in which the cable system is located, or a network with which such station is affiliated.

(4) As used in this subsection, the term "videotape", and each of its variant forms, means the reproduction of the images and sounds of a program or programs broadcast by a television broadcast station licensed by the Federal Communications Commission, regardless of the nature of the material objects, such as tapes or films, in which the reproduction is embodied.

(f) DEFINITIONS.—As used in this section, the following terms and their variant forms mean the following:

A "primary transmission" is a transmission made to the public by the transmitting facility whose signals are being received and further transmitted by the secondary transmission service, regardless of where or when the performance or display was first transmitted.

A "secondary transmission" is the further transmitting of a primary transmission simultaneously with the primary transmission, or nonsimultaneously with the primary transmission if by a "cable system" not located in whole or in part within the boundary of the forty-eight contiguous States, Hawaii, or Puerto Rico: *Provided, however,* That a nonsimultaneous further transmission by a cable system located in Hawaii of a primary transmission shall be deemed to be a secondary transmission if the carriage of the television broadcast signal comprising such further transmission is permissible under the rules, regulations, or authorizations of the Federal Communications Commission.

A "cable system" is a facility, located in any State, territory, trust territory, or possession, that in whole or in part receives signals transmitted or programs broadcast by one or more television broadcast stations licensed by the Federal Communications Commission, and makes secondary transmissions of such signals or programs by wires, cables, or other communications channels to subscribing members of the public who pay for such service. For purposes of determining the royalty fee under subsection (d)(2), two or more cable systems in contiguous communities under common ownership or control or operating from one headend shall be considered as one system.

The "local service area of a primary transmitter", in the case of a television broadcast station, comprises the area in which such station is entitled to insist upon its signal being retransmitted by a cable system pursuant to the rules, regulations, and auhorizations of the Federal Communications Commission in effect on April 15, 1976, or in the case of a television broadcast station licensed by an appropriate governmental authority of Canada or Mexico, the area in which it would be entitled to insist upon its signal being retransmitted if it were a television broadcast station subject to such rules, regulations, and authorizations. The "local service area of a primary transmitter", in the case of a radio broadcast station, comprises the primary service area of such station, pursuant to the rules and regulations of the Federal Communications Commission.

A "distant signal equivalent" is the value assigned to the secondary transmission of any nonnetwork television programing carried by a cable system in whole or in part beyond the local service area of the primary transmitter of such programing. It is computed by assigning a value of one to each independent station and a value of one-quarter to each network station and noncommercial educational station for the nonwork programing so carried pursuant to the rules, regulations, and authorizations of the Federal Communications Commission. The foregoing values for independent, network, and noncommercial educational stations are subject, however, to the following exceptions and limitations. Where the rules and regulations of the Federal Communications Commission require a cable system to omit the further transmission of a particular program and such rules and regulations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, or where such rules and regulations in effect on the date of enactment of this Act permit a cable system, at its election, to effect such deletion and substitution of a nonlive program or to carry additional programs not transmitted by primary transmitters within whose local service area the cable system is located, no value shall be assigned for the substituted or additional program; where the rules, regulations, or authorizations of the Federal Communications Commission in effect on the date of enactment of this Act permit a cable system, at its election, to omit the further transmission of a particular program and such rules, regulations, or authorizations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, the value assigned for the substituted or additional program shall be, in the case of a live program, the value of one full distant signal equivalent multiplied by a fraction that has as its numerator the number of days in the year in which such substitution occurs and as its denominator the number of days in the year. In the case of a station carried pursuant to the late-night or special programing rules of the Federal Communications Commission, or a station carried on a part-time basis where full-time carriage is not possible because the cable system lacks the activated channel capacity to retransmit on a full-time basis all signals which it is authorized to carry, the values for independent, network, and noncommercial educational stations set forth above, as the case may be, shall be multiplied by a fraction which is equal to the ratio of the broadcast hours of such station carried by the cable system to the total broadcast hours of the station.

A "network station" is a television broadcast station that is owned or operated by, or affiliated with, one or more of the television networks in the United States providing nationwide transmissions, and that transmits a substantial part of the programing supplied by such networks for a substantial part of that station's typical broadcast day.

An "independent station" is a commercial television broadcast station other than a network station.

A "noncommercial educational station" is a television station that is a noncommercial educational broadcast station as defined in section 397 of title 47.

§ 112. Limitations on exclusive rights: Ephemeral recordings

(a) Notwithstanding the provisions of section 106, and except in the case of a motion picture or other audiovisual work, it is not an infringement of copyright for a transmitting organization entitled to transmit to the public a performance or display of a work, under a license or transfer of the copyright or under the limitations on exclusive rights in sound recordings specified by section 114(a), to make no more than one copy or phonorecord of a particular transmission program embodying the performance or display, if—

(1) the copy or phonorecord is retained and used solely by the transmitting organization that made it, and no further copies or phonorecords are reproduced from it;

(2) the copy of phonorecord is used solely for the transmitting organization's own transmissions within its local service area, or for purposes of archival preservation or security; and

(3) unless preserved exclusively for archival purposes, the copy or phonorecord is destroyed within six months from the date the transmission program was first transmitted to the public.

(b) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization entitled to transmit a performance or display of a work, under section 110(2) or under the limitations on exclusive rights in sound recordings specified by section 114(a), to make no more than thirty copies or phonorecords of a particular transmission program embodying the performance or display, if—

(1) no further copies or phonorecords are reproduced from the copies or phonorecords made under this clause; and

(2) except for one copy or phonorecord that may be preserved exclusively for archival purposes, the copies or phonorecords are destroyed within seven years from the date the transmission program was first transmitted to the public.

(c) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization to make for distribution no more than one copy or phonorecord, for each transmitting organization specified in clause (2) of this subsection, of a particular transmission program embodying a performance of a nondramatic musical work of a religious nature, or of a sound recording of such a musical work, if—

(1) there is no direct or indirect charge for making or distributing any such copies or phonorecords; and

(2) none of such copies or phonorecords is used for any performance other than a single transmission to the public by a transmitting organization entitled to transmit to the public a performance of the work under a license or transfer of the copyright; and

(3) except for one copy or phonorecord that may be preserved exclusively for archival purposes, the copies or phonorecords are all destroyed within one year from the date the transmission program was first transmitted to the public.

(d) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization entitled to transmit a performance of a work under section 110(8), to make no more than one copy or phonorecord embodying the performance, if—

(1) the copy or phonorecord is retained and used solely by the organization that made it, and no further copies or phonorecords are reproduced from it; and

(2) the copy or phonorecord is used solely for transmissions authorized under section 110(8), or for purposes of archival preservation or security.

(e) The transmission program embodied in a copy or phonorecord made under this section is not subject to protection as a derivative work under this title except with the express consent of the owners of copyright in the pre-existing works employed in the program.

§ 113. Scope of exclusive rights in pictorial, graphic, and sculptural works

(a) Subject to the provisions of subsections (b) and (c) of this section, the exclusive right to reproduce a copyrighted pictorial, graphic, or sculptural work in copies under section 106 includes the right to reproduce the work in or on any kind of article, whether useful or otherwise.

(b) This title does not afford, to the owner of copyright in a work that portrays a useful article as such, any greater or lesser rights with respect to the making, distribution, or display of the useful article so portrayed than those afforded to such works under the law, whether title 17 or the common law or statutes of a State, in effect on December 31, 1977, as held applicable and construed by a court in an action brought under this title.

(c) In the case of a work lawfully reproduced in useful articles that have been offered for sale or other distribution to the public, copyright does not include any right to prevent the making, distribution, or display of pictures or photographs of such articles in connection with advertisements or commentaries related to the distribution or display of such articles, or in connection with news reports.

§ 114. Scope of exclusive rights in sound recordings

(a) The exclusive rights of the owner of copyright in a sound recording are limited to the rights specified by clauses (1), (2), and (3) of section 106, and do not include any right of performance under section 106(4).

(b) The exclusive right of the owner of copyright in a sound recording under clause (1) of section 106 is limited to the right to duplicate the sound recording in the form of phonorecords, or of copies of motion pictures and other audiovisual works, that directly or indirectly recapture the actual sounds fixed in the recording. The exclusive right of the owner of copyright in a sound recording under clause (2) of section 106 is limited to the right to prepare a derivative work in which the actual sounds fixed in the sound recording are rearranged, remixed, or otherwise altered in sequence or quality. The exclusive rights of the owner of copyright in a sound recording under clauses (1) and (2) of section 106 do not extend to the making or duplication of another sound recording that consists entirely of an independent fixation of other sounds, even though such sounds imitate or stimulate those in the copyrighted sound recording. The exclusive rights of the owner of copyright in a sound recording under clauses (1), (2), and (3) of section 106 do not apply to sound recordings included in educational television and radio programs (as defined in section 397 of title 47) distributed or transmitted by or through public broadcasting entities (as defined by section 118(g)): *Provided,* That copies or phonorecords of said programs are not commercially distributed by or through public broadcasting entities to the general public.

(c) This section does not limit or impair the exclusive right to perform publicly, by means of a phonorecord, any of the works specified by section 106(4).

(d) On January 3, 1978, the Register of Copyrights, after consulting with representatives of owners of copyrighted materials, representatives of the broadcasting, recording, motion picture, entertainment industries, and arts organizations, representatives of organized labor and performers of copyrighted materials, shall submit to the Congress a report setting forth recommendations as to whether this section should be amended to provide for performances and copyright owners of copyrighted material any performance rights in such material. The report should describe the status of such rights in foreign countries, the views of major interested parties, and specific legislative or other recommendations, if any.

§ 115. Scope of exclusive rights in nondramatic musical works: Compulsory license for making and distributing phonorecords

In the case of nondramatic musical works, the exclusive rights provided by clauses (1) and (3) of section 106, to make and to distribute phonorecords of such works, are subject to compulsory licensing under the conditions specified by this section.

(a) Availability and Scope of Compulsory License.—

(1) When phonorecords of a nondramatic musical work have been distributed to the public in the United States under the authority of the copyright owner, any other person may, by complying with the provisions of this section, obtain a compulsory license to make and distribute phonorecords of the work. A person may obtain a compulsory license only if his or her primary purpose in making phonorecords is to distribute them to the public for private use. A person may not obtain a compulsory license for use of the work in the making of phonorecords duplicating a sound recording fixed by another, unless: (i) such sound recording was fixed lawfully; and (ii) the making of the phonorecords was authorized by the owner of copyright in the sound recording or, if the sound recording was fixed before February 15, 1972, by any person who fixed the sound recording pursuant to an express license from the owner of the copyright in the musical work or pursuant to a valid compulsory license for use of such work in a sound recording.

(2) A compulsory license includes the privilege of making a musical arrangement of the work to the extent necessary to conform it to the style or manner of interpretation of the performance involved, but the arrangement shall not change the basic melody or fundamental character of the work, and shall not be subject to protection as a derivative work under this title, except with the express consent of the copyright owner.

(1) Any person who wishes to obtain a compulsory license under this section shall, before or within thirty days after making, and before distributing any phonorecords of the work, serve notice of intention to do so on the copyright owner. If the registration or other public records of the Copyright Office do not identify the copyright owner and include an address at which notice can be served, it shall be sufficient to file the notice of intention in the Copyright Office. The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(2) Failure to serve or file the notice required by clause (1) forecloses the possibility of a compulsory license and, in the absence of a negotiated license, renders the making and distribuion of phonorecords actionable as acts of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506.

(c) Royalty Payable Under Compulsory License.—

(1) To be entitled to receive royalties under a compulsory license, the copyright owner must be identified in the registration or other public records of the Copyright Office. The owner is entitled to royalties for phonorecords made and distributed after being so identified, but is not entitled to recover for any phonorecords previously made and distributed.

(2) Except as provided by clause (1), the royalty under a compulsory license shall be payable for every phonorecord made and distributed in accordance with the license. For this purpose, a phonorecord is considered "distributed" if the person exercising the compulsory license has voluntarily and permanently parted with its possession. With respect to each work embodied in the phonorecord, the royalty shall be either two and three-fourth cents, or six-tenth of one cent per minute of playing time or fraction thereof, whichever amount is larger.

(3) Royalty payments shall be made on or before the twentieth day of each month and shall include all royalties for the month next preceding. Each monthly payment shall be made under oath and shall comply with requirements that the Register of Copyrights shall prescribe by regulation. The Register shall also prescribe regulations under which detailed cumulative annual statements of account, certified by a certified public accountant, shall be filed for every compulsory license under this section. The regulations covering both the monthly and the annual statements of account shall prescribe the form, content, and manner of certification with respect to the number of records made and the number of records distributed.

(4) If the copyright owner does not receive the monthly payment and the monthly and annual statements of account when due, the owner may give written notice to the licensee that, unless the default is remedied within 30 days from the date of the notice, the compulsory license will be automatically terminated. Such termination renders either the making or the distribution, or both, of all phonorecords for which the royalty had not been paid, actionable as acts of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506.

§ 116. Scope of exclusive rights in nondramatic musical works: Public performances by means of coin-operated phonorecord players

(a) Limitation on Exclusive Right.—In the case of a nondramatic musical work embodied in a phonorecord, the exclusive right under clause (4) of section 106 to perform the work publicly by means of a coin-operated phonorecord player is limited as follows:

(1) The proprietor of the establishment in which the public performance takes place is not liable for infringement with respect to such public performance unless—

(A) such proprietor is the operator of the phonorecord player; or

(B) such proprietor refuses or fails, within one month after receipt by registered or certified mail of a request, at a time during which the certificate required by clause (1) (C) of subsection (b) is not affixed to the phonorecord player, by the copyright owner, to make full disclosure, by registered or certified mail, of the identity of the operator of the phonorecord player.

(2) The operator of the coin-operated phonorecord player may obtain a compulsory license to perform the work publicly on that phonorecord player by filing the application, affixing the certificate, and paying the royalties provided by subsection (b).

(b) Recordation of Coin-Operated Phonorecord Player, Affixation of Cerficicate, and Royalty Under Compulsory License.—

(1) Any operator who wishes to obtain a compulsory license for the public performance of works on a coin-operated phonorecord player shall fulfill the following requirements:

(A) Before or within one month after such performances are made available on a particular phonorecord player, and during the month of January in each succeeding year that such performances are made available on that particular phonorecord player, the operator shall file in the Copyright Office, in accordance with requirements that the Register of Copyrights, after consultation with the Copyright Royalty Commission, shall prescribe by regulation, an application containing the name and address of the operator of the phonorecord player and the manufacturer and serial number or other explicit identification of the phonorecord player, and deposit with the Register of Copyrights a royalty fee for the current calendar year of $8 for that particular phonorecord player. If such performances are made available on a particular phonorecord player for the first time after July 1 of any year, the royalty fee to be deposited for the remainder of that year shall be $4.

(B) Within twenty days of receipt of an application and a royalty fee pursuant to subclause (A), the Register of Copyrights shall issue to the applicant a certificate for the phonorecord player.

(C) On or before March 1 of the year in which the certificate prescribed by subclause (B) of this clause is issued, or within ten days after the date of issue of the certificate, the operator shall affix to the particular phonorecord player, in a position where it can be readily examined by the public, the certificate, issued by the Register of Copyrights under subclause (B), of the latest application made by such operator under subclause (A) of this clause with respect to that phonorecord player.

(2) Failure to file the application, to affix the certificate, or to pay the royalty required by clause (1) of this subsection renders the public performance actionable as an act of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506.

(c) Distribution of Royalties.—

(1) The Register of Copyrights shall receive all fees deposited under this section and, after deducting the reasonable costs incurred by the Copyright Office under this section, shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury directs, for later distribution by the Copyright Royalty Commission as provided by this title.

The Register shall submit to the Copyright Royalty Commission, on an annual basis, a detailed statement of account covering all fees received for the relevant period provided by subsection (b).

(2) During the month of January in each year, every person claiming to be entitled to compulsory license fees under this section for performances during the preceding twelve-month period shall file a claim with the Copyright Royalty Commission, in accordance with requirements that the Commission shall prescribe by regulation. Such claim shall include an agreement to accept as final, except as provided in section 809 of this title, the determination of the Copyright Royalty Commission in any controversy concerning the distribution of royalty fees deposited under subclause (A) of subsection (b)(1) of this section to which the claimant is a party. Notwithstanding any provisions of the antitrust laws (within the meaning of section 12 of title 15), for purposes of this subsection any claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

(3) After the first day of October of each year, the Copyright Royalty Commission shall determine whether there exists a controversy concerning the distribution of royalty fees deposited under subclause (A) of subsection (b)(1). If the Commission determines that no such controversy exists, it shall, after deducting its reasonable administrative costs under this section, distribute such fees to the copyright owners entitled, or to their designated agents. If it finds that such a controversy exists, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

(4) The fees to be distributed shall be divided as follows:

(A) To every copyright owner not affiliated with a performing rights society, the pro rata share of the fees to be distributed to which such copyright owner proves entitlement.

(B) To the performing rights societies, the remainder of the fees to be distributed in such pro rata shares as they by agreement stipulate among themselves, or, if they fail to agree, the pro rata share to which such performing rights societies prove entitlement.

(C) During the pendency of any proceeding under this section, the Copyright Royalty Commission shall withhold from distributions an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

(5) The Copyright Royalty Commission shall promulgate regulations under which persons who can reasonably be expected to have claims may, during the year in which performances take place, without expense to or harassment of operators or proprietors of establishments in which phonorecord players are located, have such access to such establishments and to the phonorecord players located therein and such opportunity to obtain information with respect thereto as may be reasonably necessary to determine, by sampling procedures or otherwise, the proportion of contribution of the musical works of each such person to the earnings of the phonorecord players for which fees shall have been deposited. Any person who alleges that he or she has been denied the access permitted under the regulations prescribed by the Copyright Royalty Commission may bring an action in the United States District Court for the District of Columbia for the cancellation of the compulsory license of the phonorecord player to which such access has been denied, and the court shall have the power to declare the compulsory license thereof invalid from the date of issue thereof.

(d) Criminal Penalties.—Any person who knowingly makes a false representation of a material fact in an application filed under clause (1)(A) of subsection (b), or who knowingly alters a certificate issued under clause (1)(B) of subsection (b) or knowingly affixes such a certificate to a phonorecord player other than the one it covers, shall be fined not more than $2,500.

(e) Definitions.—As used in this section, the following terms and their variant forms mean the following:

(1) A "coin-operated phonorecord player" is a machine or device that—

(A) is employed solely for the performance of nondramatic musical works by means of phonorecords upon being activated by insertion of coins, currency, tokens, or other monetary units or their equivalent;

(B) is located in an establishment making no direct or indirect charge for admission;

(C) is accompanied by a list of the titles of all the musical works available for performance on it, which list is affixed to the phonorecord player or posted in the establishment in a prominent position where it can be readily examined by the public; and

(D) affords a choice of works available for performance and permits the choice to be made by the patrons of the establishment in which it is located.

(2) An "operator" is any person who, alone or jointly with others:

(A) owns a coin-operated phonorecord player; or

(B) has the power to make a coin-operated phonorecord player available for placement in an establishment for purposes of public performance; or

(C) has the power to exercise primary control over the selection of the musical works made available for public performance on a coin-operated phonorecord player.

(3) A "performing rights society" is an association or corporation that licenses the public performance of nondramatic musical works on behalf of the copyright owners, such as the American Society of Composers, Authors and Publishers, Broadcast Music, Inc., and SESAC, Inc.

§ 117. Scope of exclusive rights: Use in conjunction with computers and similar information systems

Notwithstanding the provisions of sections 106 through 116 and 118, this title does not afford to the owner of copyright in a work any greater or lesser rights with respect to the use of the work in conjunction with automatic systems capable of storing, processing, retrieving, or transferring information, or in conjunction with any similar device, machine, or process, than those afforded to works under the law, whether title 17 or the common law or statutes of a State, in effect on December 31, 1977, as held applicable and construed by a court in an action brought under this title.

§ 118. Scope of exclusive rights: Use of certain works in connection with noncommercial broadcasting

(a) The exclusive rights provided by section 106 shall, with respect to the works specified by subsection (b) and the activities specified by subsection (d), be subject to the conditions and limitations prescribed by this section.

(b) Not later than thirty days following the date of publication by the President of the notice announcing the initial appointments of the members of the Copyright Royalty Commission, as provided by section 801 (c), the Chairman of the Commission shall cause notice to be published in the Federal Register of the initiation of proceedings for the purpose of determining reasonable terms and rates of royalty payments for the activities specified by subsection (d) with respect to published nondramatic musical works and published pictorial, graphic, and sculptural works during a period beginning as provided in clause (3) of this subsection and ending on December 31, 1982. Copyright owners and public broadcasting entities shall negotiate in good faith and cooperate fully with the Commission in an effort to reach reasonable and expeditious results. Notwithstanding any provision of the antitrust laws (within the meaning of section 12 of title 15), any owners of copyright in works specified by this subsection and any public broadcasting entities, respectively, may negotiate and agree upon the terms and rates of royalty payments and the proportionate division of fees paid among various copyright owners, and many designate common agents to negotiate, agree to, pay, or receive payments.

(1) Any owner of copyright in a work specified in this subsection or any public broadcasting entity may, within one hundred and twenty days after publication of the notice specified in this subsection, submit to the Copyright Royalty Commission proposed licenses covering such activities with respect to such works. The Copyright Royalty Commission shall proceed on the basis of the proposals submitted to it as well as any other relevant information. The Copyright Royalty Commission shall permit any interested party to submit information relevant to such proceedings.

(2) License agreements voluntarily negotiated at any time between one or more copyright owners and one or more public broadcasting entities shall be given effect in lieu of any determination by the Commission: Provided, That copies of such agreements are filed in the Copyright Office within thirty days of execution in accordance with regulations that the Register of Copyrights shall prescribe.

(3) Within six months, but not earlier than one hundred and twenty days, from the date of publication of the notice specified in this subsection the Copyright Royalty Commission shall make a determination and publish in the Federal Register a schedule of rates and terms which, subject to clause (2) of this subsection, shall be binding on all owners of copyright in works specified by this subsection and public broadcasting entities, regardless of whether or not such copyright owners and public broadcasting entities have submitted proposals to the Commission. In establishing such rates and terms the Copyright Royalty Commission may consider the rates for comparable circumstances under voluntary license agreements negotiated as provided in clause (2) of this subsection. The Copyright Royalty Commission shall also establish requirements by which copyright owners may receive reasonable notice of the use of their works under this section, and under which records of such use shall be kept by public broadcasting entities.

(4) With respect to the period beginning on the effective date of this title and ending on the date of publication of such rates and terms, this title shall not afford to owners of copyright or public broadcasting entities any greater or lesser rights with respect to the activities specified in subsection (d) as applied to works specified in this subsection than those afforded under the law in effect on December 31, 1977, as held applicable and construed by a court in an action brought under this title.

(c) The initial procedure specified in subsection (b) shall be repeated and concluded between June 30 and December 31, 1982, and at five-year intervals thereafter, in accordance with regulations that the Copyright Royalty Commission shall prescribe.

(d) Subject to the transitional provisions of subsection (b)(4), and to the terms of any voluntary license agreements that have been negotiated as provided by subsection (b) (2), a public broadcasting entity may, upon compliance with the provisions of this section, including the rates and terms established by the Copyright Royalty Commission under subsection (b)(3), engage in the following activities with respect to published nondramatic musical works and published pictorial, graphic, and sculptural works:

(1) performance or display of a work by or in the course of a transmission made by a noncommercial educational broadcast station referred to in subsection (g);

(2) production of a transmission program, reproduction of copies or phonorecords of such a transmission program, and distribution of such copies or phonorecords, where such production, reproduction, or distribution is made by a nonprofit institution or organization solely for the purpose of transmissions specified in clause (1); and

(3) the making of reproductions by a governmental body or a nonprofit institution of a transmission program simultaneously with its transmission as specified in clause (1), and the performance or display of the contents of such program under the conditions specified by clause (1) of section 110, but only if the reproductions are used for performances or displays for a period of no more than seven days from the date of the transmission specified in clause (1), and are destroyed before or at the end of such period. No person supplying, in accordance with clause (2), a reproduction of a transmission program to governmental bodies or non-profit institutions under this clause shall have any liability as a result of failure of such body or institution to destroy such reproduction: *Provided*, That it shall have notified such body or institution of the requirement for such destruction pursuant to this clause: *And provided further*, That if such body or institution itself fails to destroy such reproduction it shall be deemed to have infringed.

(e) Except as expressly provided in this subsection, this section shall have no applicability to works other than those specified in subsection (b).

(1) Owners of copyright in nondramatic literary works and public broadcasting entities may, during the course of voluntary negotiations, agree among themselves, respectively, as to the terms and rates of royalty payments without liability under the antitrust laws (within the meaning of section 12 of title 15). Any such terms and rates of royalty payments shall be effective upon filing in the Copyright Office, in accordance with regulations that the Register of Copyrights shall prescribe.

(2) On January 3, 1980, the Register of Copyrights, after consulting with authors and other owners of copyright in nondramatic literary works and their representatives, and with public broadcasting entities and their representatives, shall submit to the Congress a report setting forth the extent to which voluntary licensing arrangements have been reached with respect to the use of nondramatic literary works by such broadcast stations. The report should also describe any problems that may have arisen, and present legislative or other recommendations, if warranted.

(f) Nothing in this section shall be construed to permit, beyond the limits of fair use as provided by section 107, the unauthorized dramatization of a nondramatic musical work, the production of a transmission program drawn to any substantial extent from a published compilation of pictorial, graphic, or sculptural works, or the unauthorized use of any portion of an audiovisual work.

(g) As used in this section, the term "public broadcasting entity" means a noncommercial educational broadcast station as defined in section 397 of title 47 and any nonprofit institution or organization engaged in the activities described in clause (2) of subsection (d).

Chapter 2.—COPYRIGHT OWNERSHIP AND TRANSFER

Sec.
201. Ownership of copyright.
202. Ownership of copyright as distinct from ownership of material object.
203. Termination of transfers and licenses granted by the author.
204. Execution of transfers of copyright ownership.
205. Recordation of transfers and other documents.

§ 201. Ownership of copyright

(a) Initial Ownership.—Copyright in a work protected under this title vests initially in the author or authors of the work. The authors of a joint work are coowners of copyright in the work.

(b) Works Made for Hire. In the case of a work made for hire, the employer or other person for whom the work was prepared is considered the author for purposes of this title, and, unless the parties have expressly agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright.

(c) Contributions to Collective Works.—Copyright in each separate contribution to a collective work is distinct from copyright in the collective work as a whole, and vests initially in the author of the contribution. In the absence of an express transfer of the copyright or of any rights under it, the owner of copyright in the collective work is presumed to have acquired only the privilege of reproducing and distributing the contribution as part of that particular collective work, any revision of that collective work, and any later collective work in the same series.

(d) Transfer of Ownership.—

(1) The ownership of a copyright may be transferred in whole or in part by any means of conveyance or by operation of law, and may be bequeathed by will or pass as personal property by the applicable laws of intestate succession.

(2) Any of the exclusive rights comprised in a copyright, including any subdivision of any of the rights specified by section 106, may be transferred as provided by clause (1) and owned separately. The owner of any particular exclusive right is entitled, to the extent of that right, to all of the protection and remedies accorded to the copyright owner by this title.

(e) Involuntary Transfer.—When an individual author's ownership of a copyright, or of any of the exclusive rights under a copyright, has not previously been transferred voluntarily by the individual author, no action by any governmental body or other official or organization purporting to seize, expropriate, transfer, or exercise rights of ownership with respect to the copyright, or any of the exclusive rights under a copyright, shall be given effect under this title.

§ 202. Ownership of copyright as distinct from ownership of material object

Ownership of a copyright, or of any of the exclusive rights under a copyright, is distinct from ownership of any material object in which the work is embodied. Transfer of ownership of any material object, including the copy or phonorecord in which the work is first fixed, does not of itself convey any rights in the copyrighted work embodied in the object; nor, in the absence of an agreement, does transfer of ownership of a copyright or of any exclusive rights under a copyright convey property rights in any material object.

§ 203. Termination of transfers and licenses granted by the author

(a) Conditions for Termination.—In the case of any work other than a work made for hire, the exclusive or nonexclusive grant of a transfer or license of copyright or of any right under a copyright, executed by the author on or after January 1, 1978, otherwise than by will, is subject to termination under the following conditions:

(1) In the case of a grant executed by one author, termination of the grant may be effected by that author or, if the author is dead, by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one-half of that author's termination interest. In the case of a grant executed by two or more authors of a joint work, termination of the grant may be effected by a majority of the authors who executed it; if any of such authors is dead, the termination interest of any such author may be exercised as a unit by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one-half of that author's interest.

(2) Where an author is dead, his or her termination interest is owned, and may be exercised, by his widow or her widower and his or her children or grandchildren as follows:

(A) the widow or widower owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow or widower owns one-half of the author's interest;

(B) the author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless there is a widow or widower, in which case the ownership of one-half of the author's interest is divided among them;

(C) the rights of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of such author's children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

(3) Termination of the grant may be effected at any time during a period of five years beginning at the end of thirty-five years from the date of execution of the grant; or, if the grant covers the right of publication of the work, the period begins at the end of thirty-five years from the date of publication of the work under the grant or at the end of forty years from the date of execution of the grant, whichever term ends earlier.

(4) The termination shall be effected by serving an advance notice in writing, signed by the number and proportion of owners of termination interests required under clauses (1) and (2) of this subsection, or by their duly authorized agents, upon the grantee or the grantee's successor in title.

(A) The notice shall state the effective date of the termination, which shall fall within the five-year period specified by clause (3) of this subsection, and the notice shall be served not less than two or more than ten years before that date. A copy of the notice shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

(B) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(5) Termination of the grant may be effected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant.

(b) Effect of Termination.—Upon the effective date of termination all rights under this title that were covered by the terminated grant revert to the author, authors and other persons owning termination interests under clauses (1) and (2) of subsection (a), including those owners who did not join in signing the notice of termination under clause (4) of subsection (a), but with the following limitations:

(1) A derivative work prepared under authority of the grant before its termination may continue to be utilized under the terms of the grant after its termination, but this privilege does not extend to the preparation after the termination of other derivative works based upon the copyrighted work covered by the terminated grant.

(2) The future rights that will revert upon termination of the grant become vested on the date the notice of termination has been served as provided by clause (4) of subsection (a). The rights vest in the author, authors, and other persons named in, and in the proportionate shares provided by, clauses (1) and (2) of subsection (a).

(3) Subject to the provisions of clause (4) of this subsection, a further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is signed by the same number and proportion of the owners, in whom the right has vested under clause (2) of this subsection, as are required to terminate the grant under clauses (1) and (2) of subsection (a). Such further grant or agreement is effective with respect to all of the persons in whom the right it covers has vested under clause (2) of this subsection, including those who did not join in signing. If any person dies after rights under a terminated grant have vested in him or her, that person's legal representatives, legatees, or heirs at law represent him or her for purposes of this clause.

(4) A further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is made after the effective date of the termination. As an exception, however, an agreement for such a further grant may be made between the persons provided by clause (3) of this subsection and the original grantee or such grantee's successor in title, after the notice of termination has been served as provided by clause (4) of subsection (a).

(5) Termination of a grant under this section affects only those rights covered by the grant that arise under this title, and in no way affects rights arising under any other Federal, State, or foreign laws.

(6) Unless and until termination is effected under this section, the grant, if it does not provide otherwise, continues in effect for the term of copyright provided by this title.

§ 204. Executive of transfers of copyright ownership

(a) A transfer of copyright ownership, other than by operation of law, is not valid unless an instrument of conveyance, or a note or memorandum of the transfer, is in writing and signed by the owner of the rights conveyed or such owner's duly authorized agent.

(b) A certificate of acknowledgement is not required for the validity of a transfer, but is prima facie evidence of the execution of the transfer if—

(1) in the case of a transfer executed in the United States, the certificate is issued by a person authorized to administer oaths within the United States; or

(2) in the case of a transfer executed in a foreign country, the certificate is issued by a diplomatic or consular officer of the United States, or by a person authorized to administer oaths whose authority is proved by a certificate of such an officer.

§ 205. Recordation of transfers and other documents

(a) CONDITIONS FOR RECORDATION.—Any transfer of copyright ownership or other document pertaining to a copyright may be recorded in the Copyright Office if the document filed for recordation bears the actual signature of the person who executed it, or if it is accompanied by a sworn or official certification that it is a true copy of the original, signed document.

(b) CERTIFICATE OF RECORDATION.—The Register of Copyrights shall, upon receipt of a document as provided by subsection (a) and of the fee provided by section 708, record the document and return it with a certificate of recordation.

(c) RECORDATION AS CONSTRUCTIVE NOTICE.—Recordation of a document in the Copyright Office gives all persons constructive notice of the facts stated in the recorded document, but only if—

(1) the document, or material attached to it, specifically identifies the work to which it pertains so that, after the document is indexed by the Register of Copyrights, it would be revealed by a reasonable search under the title or registration number of the work; and

(2) registration has been made for the work.

(d) RECORDATION AS PREREQUISITE TO INFRINGEMENT SUIT.—No person claiming by virtue of a transfer to be the owner of a copyright or of any exclusive right under copyright is entitled to institute an infringement action under this title until the instrument of transfer under which such person claims has been recorded in the Copyright Office, but suit may be instituted after such recordation on a cause of action that arose before recordation.

(c) PRIORITY BETWEEN CONFLICTING TRANSFERS.—As between two conflicting transfers, the one executed first prevails if it is recorded in the manner required to give constructive notice under subsection (c), within one month after its execution in the United States or within two months after its execution outside the United States, or at any time before recordation in such manner of the later transfer. Otherwise the later transfer prevails if recorded first in such manner, and if taken in good faith, for valuable consideration or on the basis of a binding promise to pay royalties, and without notice of the earlier transfer.

(f) PRIORITY BETWEEN CONFLICTING TRANSFER OF OWNERSHIP AND NONEXISTENCE LICENSE.—A nonexclusive license, whether recorded or not, prevails over a conflicting transfer of copyright ownership if the license is evidenced by a written instrument signed by the owner of the rights licensed or such owner's duly authorized agent, and if—

(1) the license was taken before execution of the transfer; or

(2) the license was taken in good faith before recordation of the transfer and without notice of it.

Chapter 3.—DURATION OF COPYRIGHT

Sec.

301. Preemption with respect in other laws.
302. Duration of copyright: Works created on or after January 1, 1978.
303. Duration of copyright: Works created but not published or copyrighted before January 1, 1978.
304. Duration of copyright: Subsisting copyrights.
305. Duration of copyright: Terminal date.

§ 301. Preemption with respect to other laws

(a) On and after January 1, 1978, all legal or equitable rights that are equivalent to any of the exclusive rights within the general scope of copyright as specified by section 106 in works of authorship that are fixed in a tangible medium of expression and come within the subject matter of copyright as specified by sections 102 and 103, whether created before or after that date and whether published or unpublished, are governed exclusively by this title. Thereafter, no person is entitled to any such right or equivalent right in any such work under the common law or statutes of any State.

(b) Nothing in this title annuls or limits any rights or remedies under the common law or statutes of any State with respect to—

(1) subject matter that does not come within the subject matter of copyright as specified by sections 102 and 103, including works of authorship not fixed in any tangible medium of expression; or

(2) any cause of action arising from undertakings commenced before January 1, 1978; or

(3) activities violating legal or equitable rights that are not equivalent to any of the exclusive rights within the general scope of copyright as specified by section 106, including rights against misappropriation not equivalent to any of such exclusive rights, breaches of contract, breaches of trust, trespass, conversion, invasion of privacy, defamation, and deceptive trade practices such as passing off and false representation.

(c) With respect to sound recordings fixed before February 15, 1972, any rights or remedies under the common law or statutes of any State shall not be annulled or limited by this title until February 15, 2047. The preemptive provisions of subsection (a) shall apply to any such rights and remedies pertaining to any cause of action arising from undertakings commenced on and after February 15, 2047. Notwithstanding the provisions of section 303, no sound recording fixed before February 15, 1972, shall be subject to copyright under this title before, on, or after February 15, 2047.

(d) Nothing in this title annuls or limits any rights or remedies under any other Federal statute.

§ 302. Duration of copyright; Works created on or after—January 1, 1978

(a) IN GENERAL.—Copyright in a work created on or after January 1, 1978, subsists from its creation and, except as provided by the following subsections, endures for a term consisting of the life of the author and fifty years after the author's death.

(b) JOINT WORKS.—In the case of a joint work prepared by two or more authors who did not work for hire, the copyright endures for a term consisting of the life of the last surviving author and fifty years after such last surviving author's death.

(c) ANONYMOUS WORKS, PSEUDONYMOUS WORKS, AND WORKS MADE FOR HIRE.—In the case of an anonymous work, a pseydonymous work, or a work made for hire, the copyright endures for a term of seventy-five years from the year of its first publication, or a term of one hundred years from the year of its creation, whichever expires first. If, before the end of such term, the identity of one or more of the authors of an anonymous or pseudonymous work is revealed in the records of a registration made for that work under subsections (a) or (d) of section 408, or in the records provided by this subsection, the copyright in the work endures for the term specified by subsections (a) or (b), based on the life of the author or authors whose identity has been revealed. Any person having an interest in the copyright in an anonymous or pseudonymous work may at any time record, in records to be maintained by the Copyright Office for that purpose, a statement identifying one or more authors of the work; the statement shall also identify the person filing it, the nature of that person's interest, the source of the information recorded, and the particular work affected, and shall comply in form and content with requirements that the Register of Copyrights shall prescribe by regulation.

(d) RECORDS RELATING TO DEATH OF AUTHORS.—Any person having an interest in a copyright may at any time record in the Copyright Office a statement of the date of death of the author of the copyrighted work, or a statement that the author is still living on a particular date. The statement shall identify the person filing it, the nature of that person's interest, and the source of the information recorded, and shall comply in form and content with requirements that the Register of Copyrights shall prescribe by regulation. The Register shall maintain current records of information relating to the death of authors of copyrighted works, based on such recorded statements and, to the extent the Register considers practicable, on data contained in any of the records of the Copyright Office or in other reference sources.

(c) Presumption as to Author's Death.—After a period of seventy-five years from the year of first publication of a work, or a period of one hundred years from the year of its creation, whichever expires first, any person who obtains from the Copyright Office a certified report that the records provided by subsection (d) disclose nothing to indicate that the author of the work is living, or died less than fifty years before is entitled to the benefit of a presumption that the author has been dead for at least fifty years. Reliance in good faith upon this presumption shall be a complete defense to any action for infringement under this title.

§ 303. Duration of copyright: Works created but not published or copyrighted before January 1, 1978

Copyright in a work created before January 1, 1978, but not theretofore in the public domain or copyrighted, subsists from January 1, 1978, and endures for the term provided by section 302. In no case, however, shall the term of copyright in such a work expire before December 31, 2002; and if the work is published on or before December 31, 2002, the term of copyright shall not expire before December 31, 2027.

§ 304. Duration of copyright: Subsisting copyrights

(a) Copyrights in Their First Term on January 1, 1978.—Any copyright, the first term of which is subsisting on January 1, 1978, shall endure for twenty-eight years from the date it was originally secured; *Provided,* That in the case of any posthumous work or of any periodical, cyclopedic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or of any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work is made for hire, the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of forty-seven years when application for such renewal and extension shall have been made to the Copyright Office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further,* That in the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work, the author of such work, if still living, or the widow, widower, or children of the author, if the author be not living, of if such author, widow, widower, or children be not living, then the author's executors, or in the absence of a will, his or her next of kin shall be entitled to a renewal and extension of the copyright in such work for a further term of forty-seven years when application for such renewal and extension shall have been made to the Copyright Office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further,* That in default of the registration of such application for renewal and extension, the copyright in any work shall terminate at the expiration of twenty-eight years from the date copyright was originally secured.

(b) Copyrights in Their Renewal Term or Registered for Renewal Before January 1, 1978.—The duration of any copyright, the renewal term of which is subsisting at any time between December 31, 1976, and December 31, 1977, inclusive, or for which renewal registration is made between December 31, 1976, and December 31, 1977, inclusive, is extended to endure for a term of seventy-five years from the date copyright was originally secured.

(c) Termination of Transfers and Licenses Covering Extended Renewal Term.—In the case of any copyright subsisting in either its first or renewal term on January 1, 1978, other than a copyright in a work made for hire, the exclusive or nonexclusive grant of a transfer or license of the renewal copyright or any right under it, executed before January 1, 1978, by any of the persons designated by the second proviso of subsection (a) of this section, otherwise than by will, is subject to termination under the following conditions:

(1) In the case of a grant executed by a person or persons other than the author, termination of the grant may be effected by the surviving person or persons who executed it. In the case of a grant executed by one or more of the authors of the work, termination of the grant may be effected, to the extent of a particular author's share in the ownership of the renewal copyright, by the author who executed it or, if such author is dead, by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one-half of that author's termination interest.

(2) Where an author is dead, his or her termination interest is owned, and may be exercised, by his widow or her widower and his or her children or grandchildren as follows:

(A) the widow or widower owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow or widower owns one-half of the author's interest;

(B) the author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless there is a widow or widower, in which case the ownership of one-half of the author's interest is divided among them;

(C) the rights of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of such author's children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

(3) Termination of the grant may be effected at any time during a period of five years beginning at the end of fifty-six years from the date copyright was originally secured, or beginning on January 1, 1978, whichever is later.

(4) The termination shall be effected by serving an advance notice in writing upon the grantee or the grantee's successor in title. In the case of a grant executed by a person or persons other than the author, the notice shall be signed by all of those entitled to terminate the grant under clause (1) of this subsection, or by their duly authorized agents. In the case of a grant executed by one or more of the authors of the work, the notice as to any one author's share shall be signed by that author or his or her duly authorized agent or, if that author is dead, by the number and proportion of the owners of his or her termination interest required under clauses (1) and (2) of this subsection, or by their duly authorized agents.

(A) The notice shall state the effective date of the termination, which shall fall within the five-year period specified by clause (3) of this subsection, and the notice shall be served not less than two or more than ten years before that date. A copy of the notice shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

(B) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(5) Termination of the grant may be effected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant.

(6) In the case of a grant executed by a person or persons other than the author, all rights under this title that were covered by the terminated grant revert, upon the effective date of termination, to all of those entitled to terminate the grant under clause (1) of this subsection. In the case of a grant executed by one or more of the authors of the work, all of a particular author's rights under this title that were covered by the terminated grant revert, upon the effective date of termination, to that author or, if that author is dead, to the persons owning his or her termination interest under clause (2) of this subsection, including those owners who did not join in signing the notice of termination under clause (4) of this subsection. In all cases the reversion of rights is subject to the following limitations:

(A) A derivative work prepared under authority of the grant before its termination may continue to be utilized under the terms of the grant after its termination, but this privilege does not extend to the preparation after the termination of other derivative works based upon the copyrighted work covered by the terminated grant.

(B) The future rights that will revert upon termination of the grant become vested on the date the notice of termination has been served as provided by clause (4) of this subsection.

(C) Where the author's rights revert to two or more persons under clause (2) of this subsection, they shall vest in those persons in the proportionate shares provided by that clause. In such a case, and subject to the provisions of subclause (D) of this clause, a further grant, or agreement to make a further grant, of a particular author's share with respect to any right covered by a terminated grant is valid only if it is signed by the same number and proportion of the owners, in whom the right has vested under this clause, as are required to terminate the grant under clause (2) of this subsection. Such further grant or agreement is effective with respect to all of the persons in whom the right it covers has vested under this subclause, including those who did not join in signing it. If any person dies after rights under a terminated grant have vested in him or her, that person's legal representatives, legatees, or heirs at law represent him or her for purposes of this subclause.

(D) A further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is made after the effective date of the termination. As an exception, however, an agreement for such a further grant may be made between the author or any of the persons provided by the first sentence of clause (6) of this subsection, or between the persons provided by subclause (C) of this clause, and the original grantee or such grantee's successor in title, after the notice of termination has been served as provided by clause (4) of this subsection.

(E) Termination of a grant under this subsection affects only those rights covered by the grant that arise under this title, and in no way affects rights arising under any other Federal, State, or foreign laws.

(F) Unless and until termination is effected under this subsection, the grant, if it does not provide otherwise, continues in effect for the remainder of the extended renewal term.

§ 305. Duration of copyright: Terminal date

All terms of copyright provided by sections 302 through 304 run to the end of the calendar year in which they would otherwise expire.

Chapter 4.—COPYRIGHT NOTICE, DEPOSIT, AND REGISTRATION

Sec.
401. Notice of copyright: Visually perceptible copies.
402. Notice of copyright: Phonorecords of sound recordings.
403. Notice of copyright: Publications incorporating United States Government works.
404. Notice of copyright: Contributions to collective works.
405. Notice of copyright: Omission of notice.
406. Notice of copyright: Error in name or date.
407. Deposit of copies or phonorecords for Library of Congress.
408. Copyright registration in general.
409. Application for registration.
410. Registration of claim and issuance of certificate.
411. Registration as prerequisite to infringement suit.
412. Registration as prerequisite to certain remedies for infringement.

§ 401. Notice of copyright: Visually perceptible copies

(a) GENERAL REQUIREMENT.—Whenever a work protected under this title is published in the United States or elsewhere by authority of the copyright owner, a notice of copyright as provided by this section shall be placed on all publicly distributed copies from which the work can be visually perceived, either directly or with the aid of a machine or device.

(b) FORM OF NOTICE.—The notice appearing on the copies shall consist of the following three elements:

(1) the symbol © (the letter C in a circle), or the word "Copyright", or the abbreviation "Copr."; and

(2) the year of first publication of the work; in the case of compilations or derivative works incorporating previously published material, the year date of first publication of the compilation or derivative work is sufficient. The year date may be omitted where a pictorial, graphic, or sculptural work, with accompanying text matter, if any, is reproduced in or on greeting cards, postcards, stationery, jewelry, dolls, toys, or any useful articles; and

(3) the name of the owner of copyright in the work, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner.

(c) POSITION OF NOTICE.—The notice shall be affixed to the copies in such manner and location as to give reasonable notice of the claim of copyright. The Register of Copyrights shall prescribe by regulation, as examples, specific methods of affixation and positions of the notice on various types of works that will satisfy this requirement, but these specifications shall not be considered exhaustive.

§ 402. Notice of copyright: Phonorecords of sound recordings

(a) GENERAL REQUIREMENT.—Whenever a sound recording protected under this title is published in the United States or elsewhere by authority of the copyright owner, a notice of copyright as provided by this section shall be placed on all publicly distributed phonorecords of the sound recording.

(b) FORM OF NOTICE.—The notice appearing on the phonorecords shall consist of the following three elements:

(1) the symbol ℗ (the letter P in a circle); and

(2) the year of first publication of the sound recording; and

(3) the name of the owner of copyright in the sound recording, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner; if the producer of the sound recording is named on the phonorecord labels or containers, and if no other name appears in conjunction with the notice, the producer's name shall be considered a part of the notice.

(c) POSITION OF NOTICE.—The notice shall be placed on the surface of the phonorecord, or on the phonorecord label or container, in such manner and location as to give reasonable notice of the claim of copyright.

§ 403. Notice of copyright: Publications incorporating United States Government works

Whenever a work is published in copies or phonorecords consisting preponderantly of one or more works of the United States Government, the notice of copyright provided by sections 401 or 402 shall also include a statement identifying, either affirmatively or negatively, those portions of the copies or phonorecords embodying any work or works protected under this title.

§ 404. Notice of copyright: Contributions to collective works

(a) A separate contribution to a collective work may bear its own notice of copyright, as provided by sections 401 through 403. However, a single notice applicable to the collective work as a whole is sufficient to satisfy the requirements of sections 401 through 403 with respect to the separate contributions it contains (not including advertisements inserted on behalf of persons other than the owner of copyright in the collective work), regardless of the ownership of copyright in the contributions and whether or not they have been previously published.

(b) Where the person named in a single notice applicable to a collective work as a whole is not the owner of copyright in a separate contribution that does not bear its own notice, the case is governed by the provisions of section 406(a).

§ 405. Notice of copyright: Omission of notice

(a) EFFECT OF OMISSION ON COPYRIGHT.—The omission of the copyright notice prescribed by sections 401 through 403 from copies or phonorecords publicly distributed by authority of the copyright owner does not invalidate the copyright in a work if—

(1) the notice has been omitted from no more than a relatively small number of copies or phonorecords distributed to the public; or

(2) registration for the work has been made before or is made within five years after the publication without notice, and a reasonable effort is made to add notice to all copies or phonorecords that are distributed to the public in the United States after the omission has been discovered; or

(3) the notice has been omitted in violation of an express requirement in writing that, as a condition of the copyright owner's authorization of the public distribution of copies or phonorecords, they bear the prescribed notice.

(b) EFFECT OF OMISSION ON INNOCENT INFRINGERS.—Any person who innocently infringes a copyright, in reliance upon an authorized copy or phonorecord from which the copyright notice has been omitted, incurs no liability for actual or statutory damages under section 504 for any infringing acts committed before receiving actual notice that registration for the work has been made under section 408, if such person proves that he or she was misled by the omission of notice. In a suit for infringement in such a case the court may allow or disallow recovery of any of the infringer's profits attributable to the infringement, and may enjoin the continuation of the infringing undertaking or may require, as a condition for permitting the continuation of the infringing undertaking, that the infringer pay the copyright owner a reasonable license fee in an amount and on terms fixed by the court.

(c) REMOVAL OF NOTICE.—Protection under this title is not affected by the removal, destruction, or obliteration of the notice, without the authorization of the copyright owner, from any publicly distributed copies or phonorecords.

§ 406. Notice of copyright: Error in name or date

(a) ERROR IN NAME.—Where the person named in the copyright notice on copies or phonorecords publicly distributed by authority of the copyright owner is not the owner of copyright, the validity and ownership of the copyright are not affected. In such a case, however, any person who innocently begins an undertaking that infringes the copyright has a complete defense to any action for such infringement if such person proves that he or she was misled by the notice and began the undertaking in good faith under a purported transfer or license from the person named therein, unless before the undertaking was begun—

(1) registration for the work had been made in the name of the owner of copyright; or

(2) a document executed by the person named in the notice and showing the ownership of the copyright had been recorded.

The person named in the notice is liable to account to the copyright owner for all receipts from transfers or licenses purportedly made under the copyright by the person named in the notice.

(b) ERROR IN DATE.—When the year date in the notice on copies or phonorecords distributed by authority of the copyright owner is earlier than the year in which publication first occurred, any period computed from the year of first publication under section 302 is to be computed from the year in the notice. Where the year date is more than one year later than the year in which publication first occurred, the work is considered to have been published without any notice and is governed by the provisions of section 405.

(c) OMISSION OF NAME OR DATE.—Where copies or phonorecords publicly distributed by authority of the copyright owner contain no name or no date that could reasonably be considered a part of the notice, the work is considered to have been published without any notice and is governed by the provisions of section 405.

§ 407. Deposit of copies or phonorecords for Library of Congress

(a) Except as provided by subsection (c), and subject to the provisions of subsection (e), the owner of copyright or of the exclusive right of publication in a work published with notice of copyright in the United States shall deposit, within three months after the date of such publication—

(1) two complete copies of the best edition; or

(2) if the work is a sound recording, two complete phonorecords of the best edition, together with any printed or other visually perceptible material published with such phonorecords.

Neither the deposit requirements of this subsection nor the acquisition provisions of subsection (e) are conditions of copyright protection.

(b) The required copies of phonorecords shall be deposited in the Copyright Office for the use or disposition of the Library of Congress. The Register of Copyrights shall, when requested by the depositor and upon payment of the fee prescribed by section 708, issue a receipt for the deposit.

(c) The Register of Copyrights may by regulation exempt any categories of material from the deposit requirements of this section, or require deposit of only one copy or phonorecord with respect to any categories. Such regulations shall provide either for complete exemption from the deposit requirements of this section, or for alternative forms of deposit aimed at providing a satisfactory archival record of a work without imposing practical or financial hardships on the depositor, where the individual author is the owner of copyright in a pictorial, graphic, or sculptural work and (i) less than five copies of the work have been published, or (ii) the work has been published in a limited edition consisting of numbered copies, the monetary value of which would make the mandatory deposit of two copies of the best edition of the work burdensome, unfair, or unreasonable.

(d) At any time after publication of a work as provided by subsection (a), the Register of Copyrights may make written demand for the required deposit on any of the persons obligated to make the deposit under subsection (a). Unless deposit is made within three months after the demand is received, the person or persons on whom the demand was made are liable—

(1) to a fine of not more than $250 for each work;

(2) to pay into a specially designated fund in the Library of Congress the total retail price of the copies or phonorecords demanded, or, if no retail price has been fixed, the reasonable cost to the Library of Congress of acquiring them; and

(3) to pay a fine of $2,500, in addition to any fine or liability imposed under clauses (1) and (2), if such person willfully or repeatedly fails or refuses to comply with such a demand.

(e) With respect to transmission programs that have been fixed and transmitted to the public in the United States but have not been published, the Register of Copyrights shall, after consulting with the Librarian of Congress and other interested organizations and officials, establish regulations governing the acquisition, through deposit or otherwise, of copies or phonorecords of such programs for the collections of the Library of Congress.

(1) The Librarian of Congress shall be permitted, under the standards and conditions set forth in such regulations, to make a fixation of a transmission program directly from a transmission to the public, and to reproduce one copy or phonorecord from such fixation for archival purposes.

(2) Such regulations shall also provide standards and procedures by which the Register of Copyrights may make written demand, upon the owner of the right of transmission in the United States, for the deposit of a copy or phonorecord of a specific transmission program. Such deposit may, at the option of the owner of the right of transmission in the United States, be accomplished by gift, by loan for purposes of reproduction, or by sale at a price not to exceed the cost of reproducing and supplying the copy or phonorecord. The regulations established under this clause shall provide reasonable periods of not less than three months for compliance with a demand, and shall allow for extensions of such periods and adjustments in the scope of the demand or the methods for fulfilling it, reasonably warranted by the circumstances. Willful failure or refusal to comply with the conditions prescribed by such regulations shall subject the owner of the right of transmission in the United States to liability for an amount, not to exceed the cost of reproducing and supplying the copy or phonorecord in question, to be paid into a specially designated fund in the Library of Congress.

(3) Nothing in this subsection shall be construed to require the making or retention, for purposes of deposit, of any copy or phonorecord of an unpublished transmission program, the transmission of which occurs before the receipt of a specific written demand as provided by clause (2).

(4) No activity undertaken in compliance with regulations prescribed under clauses (1) or (2) of this subsection shall result in liability if intended solely to assist in the acquisition of copies or phonorecords under this subsection.

§ 408. Copyright registration in general

(a) Registration Permissive.—At any time during the subsistence of copyright in any published or unpublished work, the owner of copyright or of any exclusive right in the work may obtain registration of the copyright claim by delivering to the Copyright Office the deposit specified by this section, together with the application and fee specified by sections 409 and 708. Subject to the provisions of section 405(a), such registration is not a condition of copyright protection.

(b) Deposit for Copyright Registration.—Except as provided by subsection (c), the material deposited for registration shall include—

(1) in the case of an unpublished work, one complete copy or phonorecord;

(2) in the case of a published work, two complete copies or phonorecords of the best edition;

(3) in the case of a work first published outside the United States, one complete copy or phonorecord as so published;

(4) in the case of a contribution to a collective work, one complete copy or phonorecord of the best edition of the collective work.

Copies or phonorecords deposited for the Library of Congress under section 407 may be used to satisfy the deposit provisions of this section, if they are accompanied by the prescribed application and fee, and by any additional identifying material that the Register may, by regulation, require. The Register shall also prescribe regulations establishing requirements under which copies or phonorecords acquired for the Library of Congress under subsection (e) of section 407, otherwise than by deposit, may be used to satisfy the deposit provisions of this section.

(c) Administrative Classification and Optional Deposit.—

(1) The Register of Copyrights is authorized to specify by regulation the administrative classes into which works are to be placed for purposes of deposit and registration, and the nature of the copies or phonorecords to be deposited in the various classes specified. The regulations may require or permit, for particular classes, the deposit of identifying material instead of copies or phonorecords, the deposit of only one copy or phonorecord where two would normally be required, or a single registration for a group of related works. This administrative classification of works has no significance with respect to the subject matter of copyright or the exclusive rights provided by this title.

(2) Without prejudice to the general authority provided under clause (1), the Register of Copyrights shall establish regulations specifically permitting a single registration for a group of works by the same individual author, all first published as contributions to periodicals, including newspapers, within a twelve-month period, on the basis of a single deposit, application, and registration fee, under all of the following conditions—

(A) if each of the works as first published bore a separate copyright notice, and the name of the owner of copyright in the work, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner was the same in each notice; and

(B) if the deposit consists of one copy of the entire issue of the periodical or of the entire section in the case of a newspaper, in which each contribution was first published; and

(C) if the application identifies each work separately, including the periodical containing it and its date of first publication.

(3) As an alternative to separate renewal registrations under subsection (a) of section 304, a single renewal registration may be made for a group of works by the same individual author, all first published as contributions to periodicals, including newspapers, upon the filing of a single application and fee, under all of the following conditions:

(A) the renewal claimant or claimants, and the basis of claim or claims under section 304(a), is the same for each of the works; and

(B) the works were all copyrighted upon their first publication, either through separate copyright notice and registration or by virtue of a general copyright notice in the periodical issue as a whole; and

(C) the renewal application and fee are received not more than twenty-eight or less than twenty-seven years after the thirty-first day of December of the calendar year in which all of the works were first published; and

(D) the renewal application identifies each work separately, including the periodical containing it and its date of first publication.

(d) Corrections and Amplifications.—The Register may also establish, by regulation, formal procedures for the filing of an application for supplementary registration, to correct an error in a copyright registration or to amplify the information given in a registration. Such application shall be accompanied by the fee provided by section 708, and shall clearly identify the registration to be corrected or amplified. The information contained in a supplementary registration augments but does not supersede that contained in the earlier registration.

(e) Published Edition of Previously Registered Work.—Registration for the first published edition of a work previously registered in unpublished form may be made even though the work as published is substantially the same as the unpublished version.

§ 409. Application for registration

The application for copyright registration shall be made on a form prescribed by the Register of Copyrights and shall include—

(1) the name and address of the copyright claimant;

(2) in the case of a work other than an anonymous or pseudonymous work, the name and nationality or domicile of the author or authors, and, if one or more of the authors is dead, the dates of their deaths;

(3) if the work is anonymous or pseudonymous, the nationality or domicile of the author or authors;

(4) in the case of a work made for hire, a statement to this effect;

(5) if the copyright claimant is not the author, a brief statement of how the claimant obtained ownership of the copyright;

(6) the title of the work, together with any previous or alternative titles under which the work can be identified;

(7) the year in which creation of the work was completed;

(8) if the work has been published, the date and nation of its first publication;

(9) in the case of a compilation or derivative work, an identification of any pre-existing work or works that it is based on or incorporates, and a brief, general statement of the additional material covered by the copyright claim being registered;

(10) in the case of a published work containing material of which copies are required by section 601 to be manufactured in the United States, the names of the persons or organizations who performed the processes specified by subsection (c) of section 601 with respect to that material, and the places where those processes were performed; and

(11) any other information regarded by the Register of Copyrights as bearing upon the preparation or identification of the work or the existence, ownership, or duration of the copyright.

§ 410. Registration of claim and issuance of certificate

(a) When, after examination, the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited constitutes copyrightable subject matter and that the other legal and formal requirements of this title have been met, the Register shall register the claim and issue to the applicant a certificate of registration under the seal of the Copyright Office. The certificate shall contain the information given in the application, together with the number and effective date of the registration.

(b) In any case in which the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited does not constitute copyrightable subject matter or that the claim is invalid for any other reason, the Register shall refuse registration and shall notify the applicant in writing of the reasons for such refusal.

(c) In any judicial proceedings the certificate of a registration made before or within five years after first publication of the work shall constitute prima facie evidence of the validity of the copyright and of the facts stated in the certificate. The evidentiary weight to be accorded the certificate of a registration made thereafter shall be within the discretion of the court.

(d) The effective date of a copyright registration is the day on which an application, deposit, and fee, which are later determined by the Register of Copyrights or by a court of competent jurisdiction to be acceptable for registration, have all been received in the Copyright Office.

§ 411. Registration as prerequisite to infringement suit

(a) Subject to the provisions of subsection (b), no action for infringement of the copyright in any work shall be instituted until registration of the copyright claim has been made in accordance with this title. In any case, however, where the deposit, application, and fee required for registration have been delivered to the Copyright Office in proper form and registration has been refused, the applicant is entitled to institute an action for infringement if notice thereof, with a copy of the complaint, is served on the Register of Copyrights. The Register may, at his or her option, become a party to the action with respect to the issue of registrability of the copyright claim by entering an appearance within sixty days after such service, but the Register's failure to become a party shall not deprive the court of jurisdiction to determine that issue.

(b) In the case of a work consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, the copyright owner may, either before or after such fixation takes place, institute an action for infringement under section 501, fully subject to the remedies provided by sections 502 through 506, if, in accordance with requirements that the Register of Copyrights shall prescribe by regulation, the copyright owner—

(1) serves notice upon the infringer, not less than ten or more than thirty days before such fixation, identifying the work and the specific time and source of its first transmission, and declaring an intention to secure copyright in the work; and

(2) makes registration for the work within three months after its first transmission.

§ 412. Registration as prerequisite to certain remedies for infringement

In any action under this title, other than an action instituted under section 411(b), no award of statutory damages or of attorney's fees, as provided by sections 504 and 505, shall be made for—

(1) any infringement of copyright in an unpublished work commenced before the effective date of its registration; or

(2) any infringement of copyright commenced after first publication of the work and before the effective date of its registration, unless such registration is made within three months after the first publication of the work.

Chapter 5.—COPYRIGHT INFRINGEMENT AND REMEDIES

Sec.
501. Infringement of copyright.
502. Remedies for infringement: Injunctions.
503. Remedies for infringement: Impounding and disposition of infringing articles.
504. Remedies for infringement: Damages and profits.
505. Remedies for infringement: Costs and attorney's fees.
506. Criminal offenses.
507. Limitations on actions.
508. Notification of filing and determination of actions.
509. Remedies for alteration of programing by cable systems.

§ 501. Infringement of copyright

(a) Anyone who violates any of the exclusive rights of the copyright owner as provided by sections 106 through 118, or who imports copies or phonorecords into the United States in violation of section 602, is an infringer of the copyright.

(b) The legal or beneficial owner of an exclusive right under a copyright is entitled, subject to the requirements of sections 205(d) and 411, to institute an action for any infringement of that particular right committed while he or she is the owner of it. The court may require such owner to serve written notice of the action with a copy of the complaint upon any person shown, by the records of the Copyright Office or otherwise, to have or claim an interest in the copyright, and shall require that such notice be served upon any person whose interest is likely to be affected by a decision in the case. The court may require the joinder, and shall permit the intervention, of any person having or claiming an interest in the copyright.

(c) For any secondary transmission by a cable system that embodies a performance or a display of a work which is actionable as an act of infringement under subsection (c) of section III, a television broadcast station holding a copyright or other license to transmit or perform the same version of that work shall, for purposes of subsection (b) of this section, be treated as a legal or beneficial owner if such secondary transmission occurs within the local service area of that television station.

(d) For any secondary transmission by a cable system that is actionable as an act of infringement pursuant to section 111(c)(3), the following shall also have standing to sue: (i) the primary transmitter whose transmission has been altered by the cable system; and (ii) any broadcast station within whose local service area the secondary transmission occurs.

§ 502. Remedies for infringement: Injunctions

(a) Any court having jurisdiction of a civil action arising under this title may, subject to the provisions of section 1498 of title 28, grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain infringement of a copyright.

(b) Any such injunction may be served anywhere in the United States on the person enjoined; it shall be operative throughout the United States and shall be enforceable, by proceedings in contempt or otherwise, by any United States court having jurisdiction of that person. The clerk of the court granting the injunction shall, when requested by any other court in which enforcement of the injunction is sought, transmit promptly to the other court a certified copy of all the papers in the case on file in such clerk's office.

§ 503. Remedies for infringement: Impounding and disposition of infringing articles

(a) At any time while an action under this title is pending, the court may order the impounding, on such terms as it may deem reasonable, of all copies or phonorecords claimed to have been made or used in violation of the copyright owner's exclusive rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced.

(b) As part of a final judgment or decree, the court may order the destruction or other reasonable disposition of all copies or phonorecords found to have been made or used in violation of the copyright owner's exclusive rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced.

§ 504. Remedies for infringement: Damages and profits

(a) In General.—Except as otherwise provided by this title, an infringer of copyright is liable for either—

(1) the copyright owner's actual damages and any additional profits of the infringer, as provided by subsection (b); or

(2) statutory damages, as provided by subsection (c).

(b) Actual Damages and Profits.—The copyright owner is entitled to recover the actual damages suffered by him or her as a result of the infringement, and any profits of the infringer that are attributable to the infringement and are not taken into account in computing the actual damages. In establishing the infringer's profits, the copyright owner is required to present proof only of the infringer's gross revenue, and the infringer is required to prove his or her deductible expenses and the elements of profit attributable to factors other than the copyrighted work.

(c) Statutory Damages.—

(1) Except as provided by clause (2) of this subsection, the copyright owner may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for all infringements involved in the action, with respect to any one work, for which any one infringer is liable individually, or for which any two or more infringers are liable jointly and severally, in a sum of not less than $250 or more than $10,000 as the court considers just. For the purposes of this subsection, all the parts of a compilation or derivative work constitute one work.

(2) In a case where the copyright owner sustains the burden of proving, and the court finds, that infringement was committed willfully, the court in its discretion may increase the award of statutory damages to a sum of not more than $50,000. In a case where the infringer sustains the burden of proving, and the court finds, that such infringer was not aware and had no reason to believe that his or her acts constituted an infringement of copyright, the court in its discretion may reduce the award of statutory damages to a sum of not less than $100. The court shall remit statutory damages in any case where an infringer believed and had reasonable grounds for believing that his or her use of the copyrighted work was a fair use under section 107, if the infringer was: (i) an employee or agent of a nonprofit educational institution, library, or archives acting within the scope of his or her employment who, or such institution, library, or archives itself, which infringed by reproducing the work in copies or phonorecords; or (ii) a public broadcasting entity which or a person who, as a regular part of the nonprofit activities of a public broadcasting entity (as defined in subsection (g) of section 118) infringed by performing a published nondramatic literary work or by reproducing a transmission program embodying a performance of such a work.

§ 505. Remedies for infringement: Costs and attorney's fee

In any civil action under this title, the court in its discretion may allow the recovery of full costs by or against any party other than the United States or an officer thereof. Except as otherwise provided by this title, the court may also award a reasonable attorney's fee to the prevailing party as part of the costs.

§ 506. Criminal offenses

(a) Criminal Infringement.—Any person who infringes a copyright willfully and for purposes of commercial advantage or private financial gain shall be fined not more than $10,000 or imprisoned for not more than one year, or both: *Provided, however,* That any person who infringes willfully and for purposes of commercial advantage or private financial gain the copyright in a sound recording afforded by subsections (1), (2), or (3) of section 106 or the copyright in a motion picture afforded by subsections (1), (3), or (4) of section 106 shall be fined not more than $25,000 or imprisoned for not more than one year, or both, for the first such offense and shall be fined not more than $50,000 or imprisoned for not more than two years, or both, for any subsequent offense.

(b) Seizure, Forfeiture, and Destruction.—All copies or phonorecords manufactured, reproduced, distributed, sold, or otherwise used, intended for use, or possessed with intent to use in violation of subsection (a), and all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced, shall be seized and forfeited to the United States. When any person is convicted of any violation of subsection (a), the court in its judgment of conviction may, in addition to the penalty therein prescribed, order either the destruction or other disposition of all infringing copies or phonorecords and all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced. The applicable procedures relating to (1) the seizure, summary and judicial forfeiture and condemnation of vessels, vehicles, merchandise, and baggage for violations of the customs laws contained in title 19, (2) the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from the sale thereof, (3) the remission or mitigation of such forfeitures, (4) the compromise of claims, and (5) the award of compensation to informers in respect of such forfeitures, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions of this section; except that such duties as are imposed upon any officer or employee of the Treasury Department or any other person with respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the provisions of the customs laws contained in title 19 shall be performed with respect to seizure and forfeiture of all articles described in subsection (a) by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General.

(c) Fraudulent Copyright Notice.—Any person who, with fraudulent intent, places on any article a notice of copyright or words of the same purport that such person knows to be false, or who, with fraudulent intent, publicly distributes or imports for public distribution any article bearing such notice or words that such person knows to be false, shall be fined not more than $2,500.

(d) Fraudulent Removal of Copyright Notice.—Any person who, with fraudulent intent, removes or alters any notice of copyright appearing on a copy of a copyrighted work shall be fined not more than $2,500.

(e) False Representation.—Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than $2,500.

§ 507. Limitations on actions

(a) Criminal Proceedings.—No criminal proceeding shall be maintained under the provisions of this title unless it is commenced within three years after the cause of action arose.

(b) Civil Actions.—No civil action shall be maintained under the provisions of this title unless it is commenced within three years after the claim accrued.

§ 508. Notification of filing and determination of actions

(a) Within one month after the filing of any action under this title, the clerks of the courts of the United States shall send written notification to the Register of Copyrights setting forth, as far as is shown by the papers filed in the court, the names and addresses of the parties and the title, author, and registration number of each work involved in the action. If any other copyrighted work is later included in the action by amendment, answer, or other pleading, the clerk shall also send a notification concerning it to the Register within one month after the pleading is filed.

(b) Within one month after any final order or judgment is issued in the case, the clerk of the court shall notify the Register of it, sending with the notification a copy of the order or judgment together with the written opinion, if any, of the court.

(c) Upon receiving the notifications specified in this section, the Register shall make them a part of the public records of the Copyright Office.

§ 509. Remedies for alteration of programing by cable systems

(a) In any action filed pursuant to section 111(c)(3), the following remedies shall be available:

(1) Where an action is brought by a party identified in subsection (b) or (c) of section 501, the remedies provided by sections 502 through 505, and the remedy provided by subsection (b) of this section; and

(2) Where an action is brought by a party identified in subsection (d) of section 501, the remedies provided by sections 502 and 505, together with any actual damages suffered by such party as a result of the infringement, and the remedy provided by subsection (b) of this section.

(b) In any action filed pursuant to section 111(c)(3), the court may decree that, for a period not to exceed thirty days, the cable system shall be deprived of the benefit of a compulsory license for one or more distant signals carried by such cable system.

Chapter 6.—MANUFACTURING REQUIREMENT AND IMPORTATION

Sec.

601. Manufacture, importation, and public distribution of certain copies.
602. Infringing importation of copies or phonorecords.
603. Importation prohibitions: Enforcement and disposition of excluded articles.

§ 601. Manufacture, importation, and public distribution of certain copies

(a) Prior to January 1, 1981, and except as provided by subsection (b), the importation into or public distribution in the United States of copies of a work consisting preponderantly of nondramatic literary material that is in the English language and is protected under this title is prohibited unless the portions consisting of such material have been manufactured in the United States or Canada.

(b) The provisions of subsection (a) do not apply—

(1) where, on the date when importation is sought or public distribution in the United States is made, the author of any substantial part of such material is neither a national nor a domiciliary of the United States or, if such author is a national of the United States, he or she has been domiciled outside the United States for a continuous period of at least one year immediately preceding that date; in the case of a work made for hire, the exemption provided by this clause does not apply unless a substantial part of the work was prepared for an employer or other person who is not a national or domiciliary of the United States or a domestic corporation or enterprise;

(2) where the United States Customs Service is presented with an import statement issued under the seal of the Copyright Office, in which case a total of no more than two thousand copies of any one such work shall be allowed entry; the import statement shall be issued upon request to the copyright owner or to a person designated by such owner at the time of registration for the work under section 408 or at any time thereafter;

(3) where importation is sought under the authority or for the use, other than in schools, of the Government of the United States or of any State or political subdivision of a State;

(4) where importation, for use and not for sale, is sought:

(A) by any person with respect to no more than one copy of any work at any one time;

(B) by any person arriving from outside the United States, with respect to copies forming part of such person's personal baggage; or

(C) by an organization operated for scholarly, educational, or religious purposes and not for private gain, with respect to copies intended to form a part of its library;

(5) where the copies are reproduced in raised characters for the use of the blind; or

(6) where, in addition to copies imported under clauses (3) and (4) of this subsection, no more than two thousand copies of any one such work, which have not been manufactured in the United States or Canada, are publicly distributed in the United States; or

(7) where, on the date when importation is sought or public distribution in the United States is made—

(A) the author of any substantial part of such material is an individual and receives compensation for the transfer or license of the right to distribute the work in the United States; and

(B) the first publication of the work has previously taken place outside the United States under a transfer or license granted by such author to a transferee or licensee who was not a national or domiciliary of the United States or a domestic corporation or enterprise; and

(C) there has been no publication of an authorized edition of the work of which the copies were manufactured in the United States; and

(D) the copies were reproduced under a transfer or license granted by such author or by the transferee or licensee of the right of first publication as mentioned in subclause (B), and the transferee or the licensee of the right of reproduction was not a national or domiciliary of the United States or a domestic corporation or enterprise.

(c) The requirement of this section that copies be manufactured in the United States or Canada is satisfied if—

(1) in the case where the copies are printed directly from type that has been set, or directly from plates made from such type, the setting of the type and the making of the plates have been performed in the United States or Canada; or

(2) in the case where the making of plates by a lithographic or photoengraving process is a final or intermediate step preceding the printing of the copies, the making of the plates has been performed in the United States or Canada; and

(3) in any case, the printing or other final process of producing multiple copies

and any binding of the copies have been performed in the United States or Canada.

(d) Importation or public distribution of copies in violation of this section does not invalidate protection for a work under this title. However, in any civil action or criminal proceeding for infringement of the exclusive rights to reproduce and distribute copies of the work, the infringer has a complete defense with respect to all of the nondramatic literary material comprised in the work and any other parts of the work in which the exclusive rights to reproduce and distribute copies are owned by the same person who owns such exclusive rights in the nondramatic literary material, if the infringer proves—

(1) that copies of the work have been imported into or publicly distributed in the United States in violation of this section by or with the authority of the owner of such exclusive rights; and

(2) that the infringing copies were manufactured in the United States or Canada in accordance with the provisions of subsection (c); and

(3) that the infringement was commenced before the effective date of registration for an authorized edition of the work, the copies of which have been manufactured in the United States or Canada in accordance with the provisions of subsection (c).

(e) In any action for infringement of the exclusive rights to reproduce and distribute copies of a work containing material required by this section to be manufactured in the United States or Canada, the copyright owner shall set forth in the complaint the names of the persons or organizations who performed the processes specified by subsection (c) with respect to that material, and the places where those processes were performed.

§ 602. Infringing importation of copies or phonorecords

(a) Importation into the United States, without the authority of the owner of copyright under this title, of copies or phonorecords of a work that have been acquired outside the United States is an infringement of the exclusive right to distribute copies or phonorecords under section 106, actionable under section 501. This subsection does not apply to—

(1) importation of copies or phonorecords under the authority or for the use of the Government of the United States or of any State or political subdivision of a State, but not including copies or phonorecords for use in schools, or copies of any audiovisual work imported for purposes other than archival use;

(2) importation, for the private use of the importer and not for distribution, by any person with respect to no more than one copy or phonorecord of any one work at any one time, or by any person arriving from outside the United States with respect to copies or phonorecords forming part of such person's personal baggage; or

(3) importation by or for an organization operated for scholarly, educational, or religious purposes and not for private gain, with respect to no more than one copy of an audiovisual work solely for its archival purposes, and no more than five copies or phonorecords of any other work for its library lending or archival purposes, unless the importation of such copies or phonorecords is part of an activity consisting of systematic reproduction or distribution, engaged in by such organization in violation of the provisions of section 108(g)(2).

(b) In a case where the making of the copies or phonorecords would have constituted an infringement of copyright if this title had been applicable, their importation is prohibited. In a case where the copies or phonorecords were lawfully made, the United States Customs Service has no authority to prevent their importation unless the provisions of section 601 are applicable. In either case, the Secretary of the Treasury is authorized to prescribe, by regulation, a procedure under which any person claiming an interest in the copyright in a particular work may, upon payment of a specified fee, be entitled to notification by the Customs Service of the importation of articles that appear to be copies or phonorecords of the work.

§ 603. Importation prohibitions: Enforcement and disposition of excluded articles

(a) The Secretary of the Treasury and the United States Postal Service shall separately or jointly make regulations for the enforcement of the provisions of this title prohibiting importation.

(b) These regulations may require, as a condition for the exclusion of articles under section 602—

(1) that the person seeking exclusion obtain a court order enjoining importation of the articles; or

(2) that the person seeking exclusion furnish proof, of a specified nature and in accordance with prescribed procedures, that the copyright in which such person claims an interest is valid and that the importation would violate the prohibition in section 602; the person seeking exclusion may also be required to post a surety bond for any injury that may result if the detention or exclusion of the articles proves to be unjustified.

(c) Articles imported in violation of the importation prohibitions of this title are subject to seizure and forfeiture in the same manner as property imported in violation of the customs revenue laws. Forfeited articles shall be destroyed as directed by the Secretary of the Treasury or the court, as the case may be; however, the articles may be returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury that the importer had no reasonable grounds for believing that his or her acts constituted a violation of law.

Chapter 7.—COPYRIGHT OFFICE

Sec.
701. The Copyright Office: General responsibilities and organization.
702. Copyright Office regulations.
703. Effective date of actions in Copyright Office.
704. Retention and disposition of articles deposited in Copyright Office.
705. Copyright Office records: Preparation, maintenance, public inspection, and searching.
706. Copies of Copyright Office records.
707. Copyright Office forms and publications.
708. Copyright Office fees.
709. Delay in delivery caused by disruption of postal or other services.
710. Reproductions for use of the blind and physically handicapped: Voluntary licensing forms and procedures.

§ 701. The Copyright Office: General responsibilities and organization

(a) All administrative functions and duties under this title, except as otherwise specified, are the responsibility of the Register of Copyrights as director of the Copyright Office of the Library of Congress. The Register of Copyrights, together with the subordinate officers and employees of the Copyright Office, shall be appointed by the Librarian of Congress, and shall act under the Librarian's general direction and supervision.

(b) The Register of Copyrights shall adopt a seal to be used on and after January 1, 1978, to authenticate all certified documents issued by the Copyright Office.

(c) The Register of Copyrights shall make an annual report to the Librarian of Congress of the work and accomplishments of the Copyright Office during the previous fiscal year. The annual report of the Register of Copyrights shall be published separately and as a part of the annual report of the Librarian of Congress.

(d) Except as provided by section 706(b) and the regulations issued thereunder, all actions taken by the Register of Copyrights under this title are subject to the provisions of the Administrative Procedure Act of June 11, 1946, as amended (c. 324, 60 Stat. 237, title 5, United States Code, chapter 5, subchapter II and chapter 7).

§ 702. Copyright Office regulations

The Register of Copyrights is authorized to establish regulations not inconsistent with law for the administration of the functions and duties made the responsibility of the Register under this title. All regulations established by the Register under this title are subject to the approval of the Librarian of Congress.

§ 703. Effective date of actions in Copyright Office

In any case in which time limits are prescribed under this title for the performance of an action in the Copyright Office, and in which the last day of the prescribed period falls on a Saturday, Sunday, holiday, or other nonbusiness day within the District of Columbia or the Federal Government, the action may be taken on the next succeeding business day, and is effective as of the date when the period expired.

§ 704. Retention and disposition of articles deposited in Copyright Office

(a) Upon their deposit in the Copyright Office under sections 407 and 408, all copies, phonorecords, and identifying material, including those deposited in connection with claims that have been refused registration, are the property of the United States Government.

(b) In the case of published works, all copies, phonorecords, and identifying material deposited are available to the Library of Congress for its collections, or for exchange or transfer to any other library. In the case of unpublished works, the Library is entitled, under regulations that the Register of Copyrights shall prescribe, to select any deposits for its collections or for transfer to the National Archives of the United States or to a Federal records center, as defined in section 2901 of title 44.

(c) The Register of Copyrights is authorized, for specific or general categories of works, to make a facsimile reproduction of all or any part of the material deposited under section 408, and to make such reproduction a part of the Copyright Office records of the registration, before transferring such material to the Library of Congress as provided by subsection (b), or before destroying or otherwise disposing of such material as provided by subsection (d).

(d) Deposits not selected by the Library under subsection (b), or identifying portions or reproductions of them, shall be retained under the control of the Copyright Office, including retention in Government storage facilities, for the longest period considered practicable and desirable by the Register of Copyrights and the Librarian of Congress. After that period it is within the joint discretion of the Register and the Librarian to order their destruction or other disposition; but, in the case of unpublished works, no deposit shall be knowingly and intentionally destroyed or otherwise disposed of during its term of copyright unless a facsimile reproduction of the entire deposit has been made a part of the Copyright Office records as provided by subsection (c).

(e) The depositor of copies, phonorecords, or identifying material under section 408, or the copyright owner of record, may request retention, under the control of the Copyright Office, of one or more of such articles for the full term of copyright in the work. The Register of Copyrights shall prescribe, by regulation, the conditions under which such requests are to be made and granted, and shall fix the fee to be charged under section 708 (a)(11) if the request is granted.

§ 705. Copyright Office records: Preparation, maintenance, public inspection, and searching

(a) The Register of Copyrights shall provide and keep in the Copyright Office records of all deposits, registrations, recordations, and other actions taken under this title, and shall prepare indexes of all such records.

(b) Such records and indexes, as well as the articles deposited in connection with completed copyright registrations and retained under the control of the Copyright Office, shall be open to public inspection.

(c) Upon request and payment of the fee specified by section 708, the Copyright Office shall make a search of its public records, indexes, and deposits, and shall furnish a report of the information they disclose with respect to any particular deposits, registrations, or recorded documents.

§ 706. Copies of Copyright Office records

(a) Copies may be made of any public records or indexes of the Copyright Office; additional certificates of copyright registration and copies of any public records or indexes may be furnished upon request and payment of the fees specified by section 708.

(b) Copies or reproductions of deposited articles retained under the control of the Copyright Office shall be authorized or furnished only under the conditions specified by the Copyright Office regulations.

§ 707. Copyright Office forms and publications

(a) CATALOG OF COPYRIGHT ENTRIES.—The Register of Copyrights shall compile and publish at periodic intervals catalogs of all copyright registrations. These catalogs shall be divided into parts in accordance with the various classes of works, and the Register has discretion to determine, on the basis of practicability and usefulness, the form and frequency of publication of each particular part.

(b) OTHER PUBLICATIONS.—The Register shall furnish, free of charge upon request, application forms for copyright registration and general informational material in connection with the functions of the Copyright Office. The Register also has the authority to publish compilations of information, bibliographies, and other material he or she considers to be of value to the public.

(c) DISTRIBUTION OF PUBLICATIONS.—All publications of the Copyright Office shall be furnished to depository libraries as specified under section 1905 of title 44, and, aside from those furnished free of charge, shall be offered for sale to the public at prices based on the cost of reproduction and distribution.

§ 708. Copyright Office fees

(a) The following fees shall be paid to the Register of Copyrights:

(1) for the registration of a copyright claim or a supplementary registration under section 408, including the issuance of a certificate of registration, $10;

(2) for the registration of a claim to renewal of a subsisting copyright in its first term under section 304(a), including the issuance of a certificate of registration, $6;

(3) for the issuance of a receipt for a deposit under section 407, $2;

(4) for the recordation, as provided by section 205, of a transfer of copyright ownership or other document of six pages or less, covering no more than one title, $10; for each page over six and each title over one, 50 cents additional;

(5) for the filing, under section 115(b), of a notice of intention to make phonorecords, $6;

(6) for the recordation, under section 302(c), of a statement revealing the identity of an author of an anonymous or pseudonymous work, or for the recordation, under section 302(d), of a statement relating to the death of an author, $10 for a document of six pages or less, covering no more than one title; for each page over six and for each title over one, $1 additional;

(7) for the issuance, under section 601, of an import statement, $3;

(8) for the issuance, under section 706, of an additional certificate of registration, $4;

(9) for the issuance of any other certification, $4; the Register of Copyrights has discretion, on the basis of their cost, to fix the fees for preparing copies of Copyright Office records, whether they are to be certified or not;

(10) for the making and reporting of a search as provided by section 705, and for any related services, $10 for each hour or fraction of an hour consumed;

(11) for any other special services requiring a substantial amount of time or expense, such fees as the Register of Copyrights may fix on the basis of the cost of providing the service.

(b) The fees prescribed by or under this section are applicable to the United States Government and any of its agencies, employees, or officers, but the Register of Copyrights has discretion to waive the requirements of this subsection in occasional or isolated cases involving relatively small amounts.

(c) The Register of Copyrights shall deposit all fees in the Treasury of the United States in such manner as the Secretary of the Treasury directs. The Register may, in accordance with regulations that he or she shall prescribe, refund any sum paid by mistake or in excess of the fee required by this section; however, before making a refund in any case involving a refusal to register a claim under section 410(b), the Register shall deduct all or any part of the prescribed registration fee to cover the reasonable administrative costs of processing the claim.

§ 709. Delay in delivery caused by disruption of postal or other services

In any case in which the Register of Copyrights determines, on the basis of such evidence as the Register may by regulation require, that a deposit, application, fee, or any other material to be delivered to the Copyright Office by a particular date, would have been received in the Copyright Office in due time except for a general disruption or suspension of postal or other transportation or communications services, the actual receipt of such material in the Copyright Office within one month after the date on which the Register determines that the disruption or suspension of such services has terminated, shall be considered timely.

§ 710. Reproductions for use of the blind and physically handicapped: Voluntary licensing forms and procedures

The Register of Copyrights shall, after consultation with the Chief of the Division for the Blind and Physically Handicapped and other appropriate officials of the Library of Congress, establish by regulation standardized forms and procedures by which, at the time applications covering certain specified categories of nondramatic literary works are submitted for registration under section 408 of this title, the copyright owner may voluntarily grant to the Library of Congress a license to reproduce the copyrighted work by means of Braille or similar tactile symbols, or by fixation of a reading of the work in a phonorecord, or both, and to distribute the resulting copies or phonorecords solely for the use of the blind and physically handicapped and under limited conditions to be specified in the standardized forms.

Chapter 8.—COPYRIGHT ROYALTY COMMISSION

Sec.
801. Copyright Royalty Commission: Establishment and purpose.
802. Membership of the Commission.
803. Procedures of the Commission.
804. Institution and conclusion of proceedings.
805. Administrative support of the Commission.
806. Deduction of costs of proceedings.
807. Reports.
808. Effective date of final determinations.
809. Judicial review.

§ 801. Copyright Royalty Commission: Establishment and purpose

(a) There is hereby created a Copyright Royalty Commission.

(b) Subject to the provisions of this chapter, the purposes of the Commission shall be—

(1) to make determinations concerning the adjustment of reasonable copyright royalty rates as provided in sections 115 and 116, and to make determinations as to reasonable terms and rates of royalty payments as provided in section 118. Such determinations shall be based upon relevant factors occurring subsequent to the date of enactment of this Act;

(2) to make determinations concerning the adjustment of the copyright royalty rates in section 111 solely in accordance with the following provisions:

(A) The rates established by section 111 (d)(2)(B) may be adjusted to reflect (i) national monetary inflation or deflation or (ii) changes in the average rates charged cable subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar level of the royalty fee per subscriber which existed as of the date of enactment of this Act: *Provided*, That if the average rates charged cable system subscribers for the basic service of providing secondary transmissions are changed so that the average rates exceed national monetary inflation, no change in the rates established by section 111(d)(2)(B) shall be permitted: And *provided further*, That no increase in the royalty fee shall be permitted based on any reduction in the average number of distant signal equivalents per subscriber. The Commission may consider all factors relating to the maintenance of such level of payments including, as an extenuating factor, whether the cable industry has been restrained by subscriber rate regulating authorities from increasing the rates for the basic service of providing secondary transmissions.

(B) In the event that the rules and regulations of the Federal Communications Commission are amended at any time after April 15, 1976, to permit the carriage by cable systems of additional television broadcast signals beyond the local service area of the primary transmitters of such signals, the royalty rates established by section 111(d)(2)(B) may be adjusted to insure that the rates for the additional distant signal equivalents resulting from such carriage are reasonable in the light of the changes effected by the amendment to such rules and regulations. In determining the reasonableness of rates proposed following an amendment of Federal Communications Commission rules and regulations, the Copyright Royalty Commission shall consider, among other factors, the economic impact on copyright owners and users: *Provided*, That no adjustment in royalty rates shall be made under this subclause with respect to any distant signal equivalent or fraction thereof represented by (i) carriage of any signal permitted under the rules and regulations of the Federal Communciations Commission in effect on April 15, 1976, or the carriage of a signal of the same type (that is, independent, network, or noncommercial educational) substituted for such permitted signal, or (ii) a television broadcast signal first carried after April 15, 1976, pursuant to an individual waiver of the rules and regulations of the Federal Communications Commission, as such rules and regulations were in effect on April 15, 1976.

(C) In the event of any change in the rules and regulations of the Federal Communications Commission with respect to syndicated and sports program exclusivity after April 15, 1976, the rates established by section 111(d)(2)(B) may be adjusted to assure that such rates are reasonable in light of the changes to such rules and regulations, but any such adjustment shall apply only to the affected television broadcast signals carried on those systems affected by the change.

(D) The gross receipts limitations established by section 111(d)(2) (C) and (D) shall be adjusted to reflect national monetary inflation or deflation or changes in the average rates charged cable system subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar value of the exemption provided by such section; and the royalty rate specified therein shall not be subject to adjustment; and

(3) to distribute royalty fees deposited with the Register of Copyrights under sections 111 and 116, and to determine, in cases where controversy exists, the distribution of such fees.

(c) As soon as possible after the date of enactment of this Act, and no later than six months following such date, the President shall publish a notice announcing the initial appointments provided in section 802.

§ 802. Membership of the Commission

(a) The Commission shall be composed of three members appointed by the President for a term of five years each; of the first three members appointed, two shall be designated to serve for five years from the date of the notice specified in section 801(c), and one shall be designated to serve for three years from such date, respectively. Commissioners shall be compensated at the highest rate now or hereafter prescribed for grade 18 of the General Schedule pay rates (5 U.S.C. 5332).

(b) The President shall appoint a Chairman.

(c) Any vacancy in the Commission shall not affect its powers and shall be filled, for the unexpired term of the appointment, in the same manner as the original appointment was made.

§ 803. Procedures of the Commission

(a) The Commission shall adopt regulations, not inconsistent with law, governing its procedure and methods of operation. Except as otherwise provided in this chapter, the Commission shall be subject to the provisions of the Administrative Procedure Act of June 11, 1946, as amended (c. 324, 60 Stat. 237, title 5, United States Code, chapter 5, subchapter II and chapter 7).

(b) Every final determination of the Commission shall be published in the Federal Register. It shall state in detail the criteria that the Commission determined to be applicable to the particular proceeding, the various facts that it found relevant to its determination in that proceeding, and the specific reasons for its determination.

§ 804. Institution and conclusion of proceedings

(a) With respect to proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in sections 115 and 116, and with respect to proceedings under section 801(b)(2) (A) and (D)—

(1) on January 1, 1980, the Chairman of the Commission shall cause to be published in the Federal Register notice of commencement of proceedings under this chapter; and

(2) during the calendar years specified in the following schedule, any owner or user of a copyrighted work whose royalty rates are specified by this title, or by a rate established by the Commission, may file a petition with the Commission declaring that the petitioner requests an adjustment of the rate. The Commission shall make a determination as to whether the applicant has a significant interest in the royalty rate in which an adjustment is requested. If the Commission determines that the petitioner has a significant interest, the Chairman shall cause notice of this determination, with the reasons therefor, to be published in the Federal Register, together with notice of commencement of proceedings under this chapter.

(A) In proceedings under section 801(b)(2) (A) and (D), such petition may be filed during 1985 and in each subsequent fifth calendar year.

(B) In proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in section 115, such petition may be filed in 1987 and in each subsequent tenth calendar year.

(C) In proceedings under section 801(b)(1) concerning the adjustment of royalty rates under section 116, such petition may be filed in 1990 and in each subsequent tenth calendar year.

(b) With respect to proceedings under subclause (B) or (C) of section 801(b)(2), following an event described in either of those subsections, any owner or user of a copyrighted work whose royalty rates are specified by section 111, or by a rate established by the Commission, may, within twelve months, file a petition with the Commission declaring that the petitioner requests an adjustment of the rate. In this event the Commission shall proceed as in subsection (a)(2), above. Any change in royalty rates made by the Commission pursuant to this subsection may be reconsidered in 1980, 1985, and in each fifth calendar year thereafter, in accordance with the provisions in section 801(b)(2) (B) or (C), as tho case may be.

(c) With respect to proceedings under section 801(b)(1), concerning the determination of reasonable terms and rates of royalty payments as provided in section 118, the Commission shall proceed when and as provided by that section.

(d) With respect to proceedings under section 801(b)(3), concerning the distribution of royalty fees in certain circumstances under section 111 or 116, the Chairman of the Commission shall, upon determination by the Commission that a controversy exists concerning such distribution, cause to be published in the Federal Register notice of commencement of proceedings under this chapter.

(e) All proceedings under this chapter shall be initiated without delay following publication of the notice specified in this section, and the Commission shall render its final decision in any such proceeding within one year from the date of such publication.

§ 805. Administrative support of the Commission

(a) To assist in its work, the Commission may appoint a staff which shall be an administrative part of the Library of Congress, but which shall be responsible to the Commission for the administration of the duties entrusted to the staff.

(b) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5.

§ 806. Deduction of costs of proceedings

Before any funds are distributed pursuant to a final decision in a proceeding involving distribution of royalty fees, the Commission shall assess the reasonable costs of such proceeding.

§ 807. Reports

In addition to its publication of the reports of all final determinations as provided in section 803(b), the Commission shall make an annual report to the President and the Congress concerning the Commission's work during the preceding fiscal year, including a detailed fiscal statement of account.

§ 808. Effective date of final determinations

Any final determination by the Commission under this chapter shall become effective thirty days following its publication in the Federal Register as provided in section 803(b), unless prior to that time an appeal has been filed pursuant to section 809, to vacate, modify, or correct such determination, and notice of such appeal has been served on all parties who appeared before the Commission in the proceeding in question. Where the proceeding involves the distribution of royalty fees under section 111 or 116, the Commission shall, upon the expiration of such thirty-day period, distribute any royalty fees not subject to an appeal filed pursuant to section 809.

§ 809. Judicial review

Any final decision of the Commission in a proceeding under section 801(b) may be appealed to the United States Court of Appeals, within thirty days after its publication in the Federal Register, by an aggrieved party. The judicial review of the decision shall be had, in accordance with chapter 7 of title 5, on the basis of the record before the Commission. No court shall have jurisdiction to review a final decision of the Commission except as provided in this section.

TRANSITIONAL AND SUPPLEMENTARY PROVISIONS

SEC. 102. This Act becomes effective on January 1, 1978, except as otherwise expressly provided by this Act, including provisions of the first section of this Act. The provisions of sections 118, 304(b), and chapter 8 of title 17, as amended by the first section of this Act, take effect upon enactment of this Act.

SEC. 103. This Act does not provide copyright protection for any work that goes into the public domain before January 1, 1978. The exclusive rights, as provided by section 106 of title 17 as amended by the first section of this Act, to reproduce a work in phonorecords and to distribute phonorecords of the work, do not extend to any nondramatic musical work copyrighted before July 1, 1909.

SEC. 104. All proclamations issued by the President under section 1(e) or 9(b) of title 17 as it existed on December 31, 1977, or under previous copyright statutes of the United States, shall continue in force until terminated, suspended, or revised by the President.

SEC. 105. (a)(1) Section 505 of title 44 is amended to read as follows:

"§ 505. Sale of duplicate plates

"The Public Printer shall sell, under regulations of the Joint Committee on Printing to persons who may apply, additional or duplicate stereotype or electrotype plates from which a Government publication is printed, at a price not to exceed the cost of composition, the metal, and making to the Government, plus 10 per centum, and the full amount of the price shall be paid when the order is filed.".

(2) The item relating to section 505 in the sectional analysis at the beginning of chapter 5 of title 44 is amended to read as follows:

"505. Sale of duplicate plates.".

(b) Section 2113 of title 44 is amended to read as follows:

"§ 2113. Limitation on liability

"When letters and other intellectual productions (exclusive of patented material, published works under copyright protection, and unpublished works for which copyright registration has been made) come into the custody or possession of the Administrative of General Services, the United States or its agents are not liable for infringement of copyright or analogous rights arising out of use of the materials for display, inspection, research, reproduction, or other purposes.".

(c) In section 1498(b) of title 28, the

phrase "section 101(b) of title 17" is amended to read "section 504(c) of title 17".

(d) Section 543(a)(4) of the Internal Revenue Code of 1954, as amended, is amended by striking out "(other than by reason of section 2 or 6 thereof)".

(e) Section 3202(a) of title 39 is amended by striking out clause (5). Section 3206 of title 39 is amended by deleting the words "subsections (b) and (c)" and inserting "subsection (b)" in subsection (a), and by deleting subsection (c). Section 3206(d) is renumbered (c).

(f) Subsection (a) of section 290(e) of title 15 is amended by deleting the phrase "section 8" and inserting in lieu thereof the phrase "section 105".

(g) Section 131 of title 2 is amended by deleting the phrase "deposit to secure copyright," and inserting in lieu thereof the phrase "acquisition of material under the copyright law,".

SEC. 106. In any case where, before January 1, 1978, a person has lawfully made parts of instruments serving to reproduce mechanically a copyrighted work under the compulsory license provisions of section 1(e) of title 17 as it existed on December 31, 1977, such person may continue to make and distribute such parts embodying the same mechanical reproduction without obtaining a new compulsory license under the terms of section 115 of title 17 as amended by the first section of this Act. However, such parts made on or after January 1, 1978, constitute phonorecords and are otherwise subject to the provisions of said section 115.

SEC. 107. In the case of any work in which an ad interim copyright is subsisting or is capable of being secured on December 31, 1977, under section 22 of title 17 as it existed on that date, copyright protection is hereby etxended to endure for the term or terms provided by section 304 of title 17 as amended by the first section of this Act.

SEC. 108 The notice provisions of sections 401 through 403 of title 17 as amended by the first section of this Act apply to all copies or phonorecords publicly distributed on or after January 1, 1978. However, in the case of a work published before January 1, 1978, compliance with the notice provisions of title 17 either as it existed on December 31, 1977, or as amended by the first section of this Act, is adequate with respect to copies publicly distributed after December 31, 1977.

SEC. 109. The registration of claims to copyright for which the required deposit, application, and fee were received in the Copyright Office before January 1, 1978, and the recordation of assignments of copyright or other instruments received in the Copyright Office before January 1, 1978, shall be made in accordance with title 17 as it existed on December 31, 1977.

SEC. 110. The demand and penalty provisions of section 14 of title 17 as it existed on December 31, 1977, apply to any work in which copyright has been secured by publication with notice of copyright on or before that date, but any deposit and registration made after that date in response to a demand under that section shall be made in accordance with the provisions of title 17 as amended by the first section of this Act.

SEC. 111. Section 2318 of title 18 of the United States Code is amended to read as follows:

"§ 2318. Transportation, sale or receipt of phonograph records bearing forged or counterfeit labels

"(a) Whoever knowingly and with fraudulent intent transports, causes to be transported, receives, sells, or offers for sale in interstate or foreign commerce any phonograph record, disk, wire, tape, film, or other article on which sounds are recorded, to which or upon which is stamped, pasted, or affixed any forged or counterfeited label, knowing the label to have been falsely made, forged, or counterfeited shall be fined not more than $10,000 or imprisoned for not more than one year, or both, for the first such offense and shall be fined not more than $25,000 or imprisoned for not more than two years, or both, for any subsequent offense.

"(b) When any person is convicted of any violation of subsection (a), the court in its judgment of conviction shall, in addition to the penalty therein prescribed, order the forfeiture and destruction or other disposition of all counterfeit labels and all articles to which counterfeit labels have been affixed or which were intended to have had such labels affixed.".

SEC. 112. All causes of action that arose under title 17 before January 1, 1978, shall be governed by title 17 as it existed when the cause of action arose.

SEC. 113. (a) The Librarian of Congress (hereinafter referred to as the "Librarian") shall establish and maintain in the Library of Congress a library to be known as the American Television and Radio Archives (hereinafter referred to as the "Archives"). The purpose of the Archives shall be to preserve a permanent record of the television and radio programs which are the heritage of the people of the United States and to provide access to such programs to historians and scholars without encouraging or causing copyright infringement.

(1) The Librarian, after consultation with interested organizations and individuals, shall determine and place in the Archives such copies and phonorecords of television and radio programs transmitted to the public in the United States and in other countries which are of present or potential public or cultural interest, historical significance, cognitive value, or otherwise worthy of preservation, including copies and phonorecords of published and unpublished transmission programs—

(A) acquired in accordance with sections 407 and 408 of title 17 as amended by the first section of this Act; and

(B) transferred from the existing collections of the Library of Congress; and

(C) given to or exchanged with the Archives by other libraries, archives, organizations, and individuals; and

(D) purchased from the owner thereof.

(2) The Librarian shall maintain and publish appropriate catalogs and indexes of the collections of the Archives, and shall make such collections available for study and research under the conditions prescribed under this section.

(b) Notwithstanding the provisions of section 106 of title 17 as amended by the first section of this Act, the Librarian is authorized with respect to a transmission program which consists of a regularly scheduled newscast or on-the-spot coverage of news events and, under standards and conditions that the Librarian shall prescribe by regulation—

(1) to reproduce a fixation of such a program, in the same or another tangible form, for the purposes of preservation or security or for distribution under the conditions of clause (3) of this subsection; and

(2) to compile, without abridgement or any other editing, portions of such fixations according to subject matter, and to reproduce such compilations for the purpose of clause (1) of this subsection; and

(3) to distribute a reproduction made under clause (1) or (2) of this subsection—

(A) by loan to a person engaged in research; and

(B) for deposit in a library or archives which meets the requirements of section 108 (a) of title 17 as amended by the first section of this Act,

in either case for use only in research and not for further reproduction or performance.

(c) The Librarian or any employee of the Library who is acting under the authority of this section shall not be liable in any action for copyright infringement committed by any other person unless the Librarian or such employee knowingly participated in the act of infringement committed by such person. Nothing in this section shall be construed to excuse or limit liability under title 17 as amended by the first section of this Act for any act not authorized by that title or this section, or for any act performed by a person not authorized to act under that title or this section.

(d) This section may be cited as the "American Television and Radio Archives Act".

SEC. 114. There are hereby authorized to be appropriated such funds as may be necessary to carry out the purposes of this Act, except that no more than $500,000 shall be appropriated annually for the operations of the Copyright Royalty Commission.

SEC. 115. If any provision of title 17, as amended by the first section of this Act, is declared unconstitutional, the validity of the remainder of the title is not affected.

Mr. KASTENMEIER (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

AMENDMENT OFFERED BY MR. KASTENMEIER

Mr. KASTENMEIER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KASTENMEIER: On page 168 delete line 16 through 19, and renumber the following section accordingly.

Mr. KASTENMEIER. Mr. Chairman, I will only take a moment to say that this amendment conforms with the agreement made with the Committee on Rules as a result of the point of order raised by the Committee on the Budget; namely, that the appropriation provision had not been authorized or approved by the deadline of May 15, of this year.

Accordingly, consistent with the agreement made, the subcommittee urges the deletion of this provision.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. KASTENMEIER).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. YATRON

Mr. YATRON. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc, and I ask unanimous consent that, since they were not properly presented in the RECORD, they be considered at this time notwithstanding that fact.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. RHODES. Mr. Chairman, reserving the right to object, I did not understand what the gentleman asked for.

The CHAIRMAN. Will the gentleman from Pennsylvania repeat his unanimous consent request?

Mr. YATRON. Mr. Chairman, I understand that my amendments were not properly presented in the RECORD.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Chairman, it is my understanding that the amendments were drafted to be put into the committee print rather than the Union Calendar print, and it is this technical deficiency to which the gentleman alludes and asks unanimous consent that that error or that inconsistency be waived, together with the fact that, having five amendments, as I understand it, the gentleman from Pennsylvania (Mr. YATRON) is also asking that they be considered en bloc.

Mr. RHODES. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. McCLORY. Mr. Chairman, further reserving the right to object, will the gentleman state whether or not they are in compliance, nevertheless, with the rule and that they were filed? I think the rule requires that they be filed three days in advance, but they were merely technically filed with respect the bill and not the substitute that is now before us?

Mr. KASTENMEIER. Mr. Chairman, if the gentleman will yield to me, I will say that I know the five amendments were printed in the RECORD otherwise consistent with the rule, and it was not my intention to make a point of order on the question of insufficiency.

Mr. McCLORY. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, are these amendments now in form so that they can be presented to us as the gentleman is now going to present them? This conformity is not going to be left to the Clerk or anyone else?

Mr. KASTENMEIER. If the gentleman will yield to me, I would say to the gentleman from Maryland that it is my understanding that they are otherwise in form to be consistent with the print of the bill now under consideration.

Mr. BAUMAN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk will report the amendments.

The Clerk reads as follows:

Amendments offered by Mr. YATRON: On page 102, line 3, insert a new paragraph as follows:

"(v) Where the community of the cable system is not, in whole or in part, within the local service area of three independent stations and one noncommercial educational station, the royalty fee imposed under paragraph (i) above shall include payment for a sufficient number of additional independent stations or a noncommercial educational station to provide the above complement of station signals to such cable system."

On page 106, strike lines 20 through the word "authorizations" in line 29 and substitute the following: "The 'local service area of a primary transmitter' in the case of a television broadcast station, for the purposes of this Title, comprises the area in which the primary transmitter can be or is received by the direct interception of a free space radio wave emission by such broadcast television station, provided such television station antenna is located within 120 miles from the community of the cable system."

On page 144, line 30, strike out all of clause (ii) subsection (d).

On page 159, line 14, strike out all of subparagraph (A), and reletter subparagraph (B) as (A) and subparagraph (D) on page 160 as (B).

On page 160, line 21, strike out all of subparagraph (C).

Mr. YATRON (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. YATRON. Mr. Chairman, and Members of the House, today, in the few minutes allotted to me, I want to speak on the copyright bill which we are presently considering on behalf of some 35 million viewers throughout our Nation, who will be affected by its provisions, including over 4 million or better than 27 percent of all of the Pennsylvania television viewers—none of whom up to this moment, have ever been directly informed by anyone, as to how this bill will affect them financially and otherwise in the years ahead. In my own district, this bill will affect the cable subscribers in some 106 communities or over 76,000 homes and more than one-quarter million viewers—more than half of all my constituents.

In this day of consumer concern and protection, no one in this Congress can, in good conscience, disregard the real parties in the interest of this legislation—the television viewers.

Under the copyright revision bill before the House, the basic concept is to impose copyright liability only on the reception and transmission of distant signals, and for the privilege of transmitting such signals. The accepted premise of this basic concept, is that no copyright liability should be imposed for the reception and transmission of local signals. And yet, because the bill unfortunately adopts the definition of "local" signals under the FCC rules as of April 15, 1976, its effect on cable viewers is to impose copyright fees for signals which are, in fact, local signals, received off the air.

This result comes about from the artificial application of the FCC rules defining local and distant signals, for policy purposes, to determine copyright liability. It is well recognized that many more signals can be received and are received by conventional rooftop antennas, off-the-air, than the "local" signals, under the FCC regulation.

Let me emphasize that this amendment does not affect the basic premise of the bill but, in fact, properly implements the premise. All cable television systems will still pay the basic copyright fee, including the special treatment for very small systems.

The amendment does not, in any way, affect the payment of copyright for truly distant signals, or the rate of payment for such signals.

The amendment for proper treatment of local and distant signals, will correct the definition to correspond to actual reception conditions, and result in an equality of treatment for off-the-air reception, whether by conventional rooftop antenna, or by the master antenna of a cable television system. This eliminates discrimination among television viewers in the same community, for the same reception.

Some areas of the country have available 14 different television signals, some have one, and a small area has none. Cable television can provide the means for equal television reception for all viewers. It has the capability for providing a minimum choice of signals, for television viewers.

It must be remembered that the copyright owners make use of the public airwaves, for broad dissemination of their copyright property, which greatly increases financial returns.

At the same time, the copyright owners do not pay for the use of the public airwaves, nor do they contribute to the cost of cable television facilities which are necessary in many areas, to provide satisfactory reception of broadcast signals.

The amendment proposed to section 111(d)(2)(b) would include within the basic copyright royalty fee of .00675 a minimum number of signals in order to insure a basic complement of signals to all viewers.

The complement would include, in addition to the national networks, three independent stations and one noncommercial educational station. This amendment avoids the creation of a discriminated segment of the viewing public, because of copyright.

Let me emphasize that this amendment does not encroach upon the regulatory authority of the FCC.

It relates only to establishing the copyright royalty fee, leaving the regulatory aspects for resolution by the FCC, or the appropriate committee of Congress.

I respectfully submit to you, Mr. Chairman, that unfair and discriminatory treatment of so many of our television viewers could be removed by the adoption of my amendments.

Mr. KASTENMEIER. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, I would like to compliment the gentleman from Pennsylvania (Mr. YATRON) on his presentation in offering these amendments; but the amendments themselves are totally destructive of the bill and the purpose of the bill.

The bill, it must be remembered, is a copyright bill. What the gentleman's amendments do is this: We have established the principle of "distant" and "local" markets, for example, as the basis for the cable royalty formula of the bill. The gentleman would replace that entirely.

Furthermore, Mr. Chairman, the second amendment of the gentleman from Pennsylvania would redefine the local-service area for a primary transmitter to something far larger than the 35-mile radius which would normally be the case under existing FCC regulations.

Mr. VAN DEERLIN. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. Yes, I yield to the gentleman from California.

Mr. VAN DEERLIN. Mr. Chairman, of course, it is with great reluctance that I join in opposing the amendments offered by our good friend, the gentleman from Pennsylvania (Mr. YATRON), with whom I suppose I vote 95 percent of the time.

Mr. Chairman, with respect to this particular amendment, No. 2, to which the gentleman from Wisconsin (Mr. KASTENMEIER) has referred, it changes the radius of the local service area from 35 miles to 120 miles. This, of course, encroaches, as the committee was very careful not to do in the preparation of this bill, not only on the jurisdiction of the Federal Communications Commission, but also upon the jurisdiction of the Committee on Interstate and Foreign Commerce.

Mr. Chairman, the amendment would invite such ridiculous results as New York stations coming into Philadelphia as local signals or Los Angeles signals—God forbid—coming into San Diego as local signals.

Therefore, Mr. Chairman, I must join in opposing these amendments which, I understand perfectly well, are offered for a constituency which is well served by the gentleman from Pennsylvania (Mr. YATRON). It happens that these amendments would not well serve the completion of this vitally important and long-overdue copyright legislation.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I thank the distinguished chairman for yielding.

I merely want to compliment my good friend, the gentleman from Pennsylvania (Mr. YATRON), for his excellent presentation. He has a district similar to mine, which is mountainous and has to depend upon cable television, if it has any television whatever.

Furthermore, over the years, of course, the copyrights, I believe, were intended at first to last 17 years; but from time to time we have extended copyrights on down to grandchildren and great grandchildren, far and beyond the length to which they really should have been extended. I do not think they should go on forever.

Mr. Chairman, I thank the distinguished gentleman from Wisconsin for yielding.

Mr. KASTENMEIER. Mr. Chairman, to conclude the point I wanted to make, namely, that the series of five amendments offered by the gentleman from Pennsylvania would destroy the carefully worked out balance we achieved between many of the cable systems that are in total agreement with this bill, and the proprietors of copyrighted material.

I recognize that there are some cable systems which would still rather not have to pay anything at all, but I would urge that the committee realize that this bill provides royalty payments of about $8½ million for cable systems. With about 11 million viewers that is perhaps 80 cents a year per viewer for material that now costs the cable systems nothing. They essentially engage in retransmission. So that I suggest that the arrangement we have worked out is not only fair, but given the difficulties among the affected industries, the integrity of these formulas should be maintained. Accordingly, Mr. Chairman, I urge the defeat of these amendments.

Mr. DANIELSON. Mr. Chairman I rise in opposition to the amendment.

The CHAIRMAN. The Chair would advise the gentleman from California that under the rule governing the consideration of this bill, only one 5-minute speech in favor of, and one 5-minute speech in opposition to each amendment is in order. Under the rule, the gentleman could be recognized only by unanimous consent for a pro forma amendment or for a second speech in opposition to the amendment.

Mr. DANIELSON. Then, Mr. Speaker, I ask unanimous consent that I may be permitted to proceed.

The CHAIRMAN. The Chair would inquire for what length of time? I could not hear the gentleman.

Mr. DANIELSON. Mr Speaker, I ask unanimous consent that I may be recognized for 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. RAILSBACK Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. Does the gentleman from California, Mr. DANIELSON, yield for a parliamentary inquiry?

Mr. DANIELSON. Mr. Chairman, I yield.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. RAILSBACK. Mr. Speaker, I wonder if it would not be a good idea to get clear exactly the text of the rule we are proceeding under? I knew there was the requirement that the amendments be printed in the record, but I had no idea that this would limit debate to the traditional 5 minutes for the proponent and 5 minutes for the opponent.

The CHAIRMAN (Mr. SMITH of Iowa). The Chair will state that the rule reads:

> No amendment to said amendment shall be in order except amendments offered by direction of the Committee on the Judiciary and germane amendments printed in the Congressional Record at least three calendar days prior to the start of the consideration of said bill for amendment, but said amendments shall not be subject to amendment except those offered by direction of the Committee on the Judiciary.

It does not make any exception for pro forma amendments, and therefore pro forma amendments are not in order. The rule also states that amendments to amendments cannot be offered by anyone other than the Committee on the Judiciary. However, the Members can, by unanimous consent, secure the right to proceed.

Mr. DANIELSON. Mr. Chairman, I am having difficulty hearing the Chair.

The CHAIRMAN. The Chair will state that the rule is as follows:

> . . . said amendments shall not be subject to amendment except those offered by direction of the Committee on the Judiciary.

The rule does not make any exception for pro forma amendments. Therefore pro forma amendments are not in order.

However the Chair will state that the gentleman from California (Mr. DANIELSON) did seek and receive unanimous consent to proceed for 5 minutes.

Mr. DANIELSON. Mr. Chairman, since the 5 minutes have almost expired, may I have my time back again?

The CHAIRMAN. The gentleman from California is recognized.

Mr. DANIELSON. Mr. Chairman, I am not making a pro forma amendment, but I rose in opposition to the amendment.

Mr. Chairman, I wish to have the record reflect that the otherwise very cogent reasons offered by the gentleman from Pennsylvania (Mr. YATRON) were considered at great length in the committee as we worked over this bill. We took them into account by providing a special, small system adjustment in the fees to be paid and we considered practically every objection. I believe we have done an equitable job of arranging for the payment of royalties.

The bill S. 22 is an exceedingly complex bill. Among many other things it would establish new rights and liabilities in the copyright liability of cable television, a subject which until now has not been covered by legislation. The subject is somewhat controversial, largely because it is new, and I feel that it requires added discussion.

At the threshold we must be aware that we are dealing with a property right. Copyright is a property right. It is often referred to as "intellectual property". It was known and honored in the common law. It was specifically recognized by the Founding Fathers in the Constitution, and the regulation of copyright was among the powers delegated to the Congress. Article I, section 8, clause 8.

As with more familiar forms of property, copyright can be bargained for, bought and sold, it can be the subject of a gift, it can be licensed for a specific use or period of time. It is subject to testamentary disposition and the laws of succession.

As a form of property, copyright is also afforded the protection of the Constitution and our laws, including the injunctions of the fifth and 14th amendments which declare that no person shall be deprived of property without due process of law, nor shall private property be taken for public use without just compensation. The Constitution also provides that authors and inventors are to have the exclusive right to their respective writings and discoveries.

For more than 1½ years the Judiciary Committee has been working on the copyright revision bill. The most controversial, difficult, and extensive part of that work has been the granting of a compulsory license and the development of a formula for the imposition and allocation of copyright royalty charges placed upon the secondary transmission by cable television systems of copyrighted programing which is broadcast by television stations.

In more familiar transactions in property there is no need for Government to intervene. In the free market buyers and sellers are able to bargain for and to reach prices which are acceptable to all concerned. The same is usually true in the case of business transactions involving copyrighted properties. However, the unique character and role of cable television is such that the committee has been compelled to depart from traditional practices. The bill subjects broadcasts of copyrighted programing to a compulsory license vested in cable systems which retransmit—secondarily transmit—those broadcasts to their subscribers, it imposes a royalty charge on certain of those secondary transmissions, and provides a means for the payment and distribution of the royalty charges by the users and to the owners.

In working out this formula, the commitee has arrived at a solution which, I sumbit, is workable and is fair and equitable to both the owners and the users of copyrighted materials and which also protects and serves the public interest.

Over the years it has been decided, and it is now settled, that it is the "performance" of a copyrighted work which gives rise to the liability to pay a royalty to the owner of the copyright. It has also been decided that the broadcast of a work by radio or television constitutes a "performance" and invokes copyright liability. The vastness and anonymity of the audience, the uncontrollable public access to programing once broadcast, the inability to identify and to impose a direct charge upon the viewers, our public policy that "the airwaves belong to the public," all of these gave rise to complex royalty problems arising out of radio and television broadcasts, but most of those problems have been resolved. The advent of cable television reopened and compounded those problems, and added another. What is the nature of the service provided by a cable system? Is it a "performance" which invokes copyright liability? Admittedly its role is passive, for it does not control the original broadcast. It is argued that cable merely intercepts the signal which has already been broadcast and then carries it to the subscriber's television receiver. It is argued that cable is merely an extension of the viewer's antenna. But the copyright owners and the copyright licensees argue that the cable systems are distributing the broadcast signals to a vastly greater audience than the broadcaster could reach and that this constitutes a "performance" and should invoke a copyright liability.

Being compelled to work with the existing copyright law, which was enacted in 1909, before radio and television, let alone cable, the Supreme Court has had a difficult time deciding the cases and controversies involving copyright which have heretofore arisen between copyright owners, broadcasters and cable television systems. In the Fortnightly and Teleprompter cases the Supreme Court held that the role played by cable was not that of a performer but, rather, the passive role of the viewer and as an extension of the viewer's antenna and that since this did not constitute a "performance" copyright liability was not invoked. In my opinion those were correct decisions under the facts of those cases. If the cable system does no more than intercept a broadcast signal and deliver it to the subscriber's television receiver, within the broadcasting station's local market area, then the cable system is only an extension of the viewer's antenna, should not be considered as a "performer" of the copyrighted material and no liability to pay a royalty should attach.

Under such circumstances the copyright owner has been able to bargain for a royalty payment with the knowledge that the performance may be viewed and heard by all persons within the local market area. Also, the broadcast station which purchases the right to use the copyrighted material is in an excellent position to estimate the number of viewers/listeners who will witness the performance and is able to bargain for the mix of royalties which he pays and advertising rates which he charges which will meet his commercial needs.

Today cable is able to do more, and often does more, than merely to intercept a signal and deliver it to the subscriber's receiving set located within the local market area of the primary tranmitter. With advances in the state of the art, cable sysems are now able to transmit signals by cable, microwave and satellite, almost without limit as to distance. They are governed, as they should be, by the Federal Communications Commission and other regulatory and franchising agencies but are restricted very little by technological limitations. Cable now can, and does, transmit signals far beyond the local market area. In the bill we refer to these as "distant signals," Admittedly they serve the public interest.

The copyright laws should not limit the extent to which cable serves the public interest. Although the Founding Fathers could not contemplate the size of the geographical distribution of the audience which can be reached by cable they certainly did not contemplate an arbitrary limitation on either of those factors. And it should be remembered that they delegated to the Congress the power to regulate copyright in order "to promote the progress of science and the useful arts."

Cable has a yet unrealized capability to broaden our horizons and to bring education, information, and entertainment to people everywhere. Surely this is in the public interest and for the public benefit. The copyright laws should not be used to restirct or impair that flow of knowledge. To the extent that regulation is necessary it can be accomplished through the FCC and through State and local utility commissions and similar bodies. Such regulation is not the proper role of the copyright laws.

Remembering that copyright is a property right we must also remember that the owner cannot be deprived of his property without due process of law nor can it be taken for public use without just compensation. This is where the most difficult problems arose in working out the copyright bill. We wished to permit and encourage the broader dissemination of communications through cable while being fair and equitable to the owners and users of copyrighted materials and at the same time protecting the public interest. The committee process is now complete and the committee has presented a bill which gives cable a compulsory license to intercept and retransmit—secondarily transmit—television and radio broadcasts. It recognizes the passive, "antenna," role of cable in secondary transmissions within the local market area, and imposes no liability to pay copyright royalties for those "local" transmissions. The bill, however, recognizes that when cable secondarily transmits signals to a place beyond the local market area, then it is doing something extra, it is adding something which would not exist but for the role of the cable system. This something extra, which is distant signal transmitting, impinges upon the property rights of the copyright owner who is thereby, to some extent, deprived of his property and denied the exclusive right to his property which is guaranteed by the Constitution and our laws and he is entitled to just compensation. This "something extra" could be considered as a "performance," or as an alternative to a performance.

The bill therefore imposes a schedule of royalty charges upon the secondary transmission of distant signals. The charges which are imposed, and the manner of their imposition, is set forth in detail in the body of the committee report; so is the method by which they are to be distributed to the copyright owners. Provision is made for future adjustments to the royalty schedules because the setting of royalties is unduly burdensome for a legislative body and should not be one of the problems of the Congress.

It may seem that a compulsory license is a drastic invasion of the rights of private property. Yet, when we remember that a cable system is passive in its program selection and must intercept and distribute whatever the primary transmitter transmits then we must recognize that it is impossible and impractical for the cable system to negotiate for a license with the copyright owner in advance of transmitting the programing. At the same time item-by-item negotiating between users and owners of copyright prior to each performance would be so burdensome as to destroy this valuable means of communication and would also effectively deny a valuable market to the copyright owners. Those facts have long since been recognized by copyright owners and the broadcast and entertainment industries which use such organizations as ASCAP and BMI as mediums through which they adjust their copyright liabilities and benefits.

I submit that the royalty fee schedule which the committee has agreed upon is fair and equitable to all concerned. There are those who disagree and feel that so-called rural cable systems are called upon to pay higher fees than urban cable systems.

It has been asserted that cable systems in nonmetropolitan areas bear the burden of royalty payments while urban systems will pay minimal fees. I respectfully disagree with this point of view.

THE SMALL SYSTEM ADJUSTMENT

Under the fee schedule proposed in this bill all systems with up to $160,000 in revenue semiannually—$320,000 annually—will pay under a sliding scale based on revenue, not on the number of distant signals carried. This small system adjustment was enacted specifically to avoid excessive impact on small, rural systems. These systems, because they are located in areas without adequate local service, import a large number of distant signals. Payment based solely on the number of distant signals would be onerous. Thus, the "adjustment".

Under the formula in this bill, systems with revenue over $320,000 per year will pay royalties based on the number and type of distant signals. Distant independent stations count as one full distant signal while distant network stations count as one-fourth of one distant signal. Among other reasons, this significantly lower cost for network stations was instituted to avoid undue burden on those larger rural systems carrying a great many distant networks. Due to the relative scarcity of independent stations, carriage of networks by rural systems usually greatly overshadows the carriage of independents.

Under current FCC regulations, urban cable systems are authorized to import a maximum of three distant independent signals. Some cable operators have argued that this limitation effectively diminishes the copyright burden on major market systems. It is vitally important to note that payment is based on both number and type of signal. Because independent signals each count as one full distant signal, an urban system will pay for three full distant signals. Rural systems will generally carry network stations, being able to carry 12 distant network signals—an unrealistic and unlikely situation—before bearing the same liability as an urban system.

LOCAL SIGNALS—THE 150-MILE PROPOSAL

It has been suggested that all signals imported from markets less than 150 miles distant should be considered local for purposes of fee determination. This change in definition would affect only those systems with annual revenue over $160,000 semiannually—$320,000 annual revenue—and therefore paying on the basis of distant signal carriage rather than the amount of revenue. The 150-mile local definition would cause several problems:

One hundred and fifty miles is considerably beyond any currently accepted or established market definition. For example, under this definition Washington, D.C., signals would be "local"—and therefore not liable for copyright—through most of southeastern Pennsylvania. Likewise, New York City would be considered local throughout much of that State.

Cable systems which are not located within 150 miles of an urban area—systems in many parts of the country—would bear an undue burden. For example, the majority of systems in Pennsylvania are located so that they are within 150 miles of either Philadelphia, New York, Washington, D.C., Baltimore, or Pittsburgh. In other areas of the country, without such a proliferation of urban centers, signals are simply not available within 150 miles.

By decreasing—for many systems—the number of signals considered distant and thus liable for copyright, the total amount of dollars paid into the copyright royalty "pot" would be greatly decreased. In order to keep the "pot" at the proposed $8.5 million, the payment burden would have to be shifted to those systems not fortunate enough to be located within 150 miles of the primary transmitter. In such cases systems located beyond 150 miles would incur a larger copyright burden.

LOCAL SIGNALS—"OFF THE AIR" PROPOSAL

The same arguments which apply to the suggestion that 150 miles be considered the cut off point between distant and local signals also apply to the suggestion that distant signals be considered as those which cannot be received "off the air." To include as "local signals" those receivable off the air by direct interception of a free space radio wave would permit signals received from over 100 miles distance using a 1,000-foot antenna to be considered "local signals" even though such places are clearly beyond the local market area of the primary transmitter.

LOCAL SIGNALS—"LOCAL SERVICE AREA" SOLUTION

The distinction between local and distant signals as used in the committee bill draws heavily on the FCC's experience in defining what should be considered local signals.

Local signals are signals received within the geographical market area to which a broadcaster directs his programing and which serves as the basis for his advertising revenues. When a copyright owner sells his work to a given broadcaster, he must assume that the work may be viewed and heard by all persons within that broadcaster's local service area and the royalty which he charges will be based upon that assumption. However, neither he nor the broadcaster can control the retransmission of his work by a cable system to a distance area which would ordinarily constitute a separate market for his work. For this reason, the committee has provided compensation to the copyright owner for signals retransmitted—secondarily transmitted—beyond the local market area. To define the term "local signals" by accepting either the 150-mile proposal or the concept that any signal which can be received off the air by an antenna mounted atop a high tower would be purely arbitrary. It would be inconsistent with commercial practice in the broadcast and advertising industries. It would deny fair compensation to copyright owners, and would place an unfair financial burden on cable systems located distant from urban areas. For this reason, the committee has provided compensation to the copyright owner for signals retransmitted—secondary transmission—beyond the local service area.

Mr. GOODLING. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GOODLING. Mr. Chairman, I would hope that regardless of how things are going here that the conference, if it is in the scope of the conference, at least, would certainly look into this situation, however, because anyone, I would think, who lives in a rural area would have some real concern about this legislation because, unless the lawyers connected with cable TV are incorrect, it would appear there is going to be a tremendous increase so far as the expenses to rural people are concerned with reference to this particular provision.

I think it is important that everybody realize that the letter we received from the Cable Television Association was very misleading, because the Cable Television Association, to the best of my knowledge, only represents about 60 percent of the cable television operators. The other 40 percent seem to have some real concern about this legislation. I am also under the impression that only about 70 percent of that 60 percent that belong agree with the legislation. So it would be my hope that we look at it very carefully; otherwise, I think we are going to find out sometime later that it is going to be rather expensive for people who live in rural areas.

Mr. PATTISON of New York. Mr. Chairman, will the gentleman yield on that point?

Mr. GOODLING. I yield to the gentleman from New York.

Mr. PATTISON of New York. I thank the gentleman for yielding.

We added a special exemption for small systems. Small systems making gross revenues of approximately $320,000 or less per year pay a maximum of 1 percent of all of their revenues—1 percent of all their revenues—no matter how many signals they have, and one-half of 1 percent on the first $160,000. So it is one-half of 1 percent on the first $160,000 and 1 percent on the next $160,000, no matter how many signals they have. A system to be eligible for that can have about 3,000 subscribers. Most systems we are talking about have in rural areas 600, 700, or 800 subscribers. They are well within that exemption, and they will pay a minimum amount, a couple hundred dollars a year for their subscription.

So we have really taken care of those small subscribers, the small systems in the rural areas, very generously.

Mr. GOODLING. I can only say again I am not the lawyer, but some of the lawyers working on this in reading the legislation indicated, for instance, in one area in my district that the original form as it came from S. 22 in the Senate would cost them about $1,700, and the bill that we now have indicates it would cost $8,600. If there is any truth to that, then all I can say is it is going to be a tremendous increase for the users in that particular area.

Mr. PATTISON of New York. If the gentleman would yield further, if the gentleman has a ssytem paying $8,600, it is not a small rural system; it is a large system with thousands and thousands of subscribers.

Mr. GOODLING. Under the new legislation?

Mr. PATTISON of New York. Under this legislation.

Mr. GOODLING. I can only say, then, that the lawyers for those cable TV companies apparently cannot understand the legislation.

Mr. PATTISON of New York. That may be true.

Mr. GOODLING. Mr. Chairman, I yield back the remainder of my time.

Mr. VIGORITO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Pennsylvania. I think one of the biggest difficulties with this bill is the fact that we do have a lot of attorneys working on it. I do not see what difference it makes what size a CATV is, whether it has got 200 members, 2,000 members, or 5,000 members. Does the gentleman mean to tell me if one TV owner here has a program and he gets it directly off the air, he does not have to pay anything; but the next door neighbor who is on CATV has to pay a fee indirectly or directly? It just does not make any sense.

Mr. PATTISON of New York. Mr. Chairman, will the gentleman yield?

Mr. VIGORITO. I yield to the gentleman from New York.

Mr. PATTISON of New York. I thank the gentleman for yielding.

The subscriber who is receiving a local signal will pay no rate at all, not even if he gets it off of CATV, because the local system does not pay for what it gets within the local service area. All it pays for is imported service.

Mr. VIGORITO. Does not the individual with a set not on CATV import signals?

Mr. PATTISON of New York. If the gentleman would yield further, a person who is on a set that does not get CATV cannot import a signal beyond the local service area. His antenna cannot pick up a signal beyond the local service area. One cannot have a television antenna in New York and pick up Philadelphia; he can only pick up New York stations. So the fact is that the local signal is not paid for under this system. We have exempted the local signal for the very reason the gentleman is speaking about because it is not fair.

Mr. VIGORITO. Then why are the CATV companies against it? They are claiming they are paying a tax that the individual TV owner does not have to pay.

Mr. PATTISON of New York. I can assure the gentleman that the vast majority of the CATV associations are in favor of this bill, the small and the large. There are several CATV associations which are in favor of it. There is the large one, the National Cable Television Association, which is 100 percent behind this bill. There is the Cable Television Association of America, CATA, which has not opposed this bill. Some of its members have, but CATA is basically in favor of this legislation because of the small systems exemption.

Mr. VIGORITO. Mr. Speaker, I urge the House to support the amendment offered by the gentleman from Pennsylvania.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. VIGORITO. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, I am afraid we are hung up on the word "local." That word in this instance means anyone who is within 35 miles range from the TV station. If one is beyond the 35-mile range unfortunately he is going to have to pay something.

Mr. VIGORITO. Why should they pay anything?

Mr. MYERS of Indiana. I agree with the gentleman from Pennsylvania. If one has a constituent who is living 50 miles away, he pays for living beyond that distance of 35 miles, but that little old lady in tennis shoes has to pay something extra because she lives beyond the 50 miles.

Mr. VIGORITO. The amount is immaterial. It is the principle of the thing.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania.

The question was taken; and on a division (demanded by Mr. GOODLING) there were—ayes 12, noes 30.

So the amendments were rejected.

AMENDMENT OFFERED BY MR. ENGLISH

Mr. ENGLISH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ENGLISH: Strike section III(c)(4) beginning on line 35, page 99 and continuing through line 13 of page 100.

Mr. ENGLISH. Mr. Chairman, in discussing the provisions of S. 22 with several of my constituents, it became clear that changes in the bill would be necessary in order for the bill to be more equitable toward CATV operators, especially in the rural areas of our Nation.

As S. 22 is currently written, cable television operators are prohibited from receiving and distributing foreign TV signals, specifically Mexican and Canadian, to their customers outside the geographical limitation set down in this section, while systems within the boundaries would be allowed to use these signals.

In many States, foreign TV signals provide a source of important educational and foreign language programing to cable systems.

The Federal Communications has clearly stated that the type of rebroadcast of foreign signals which would be prohibited by section III(c)(4) of S. 22 performs a valuable community service; and it is clear that some rural cable systems would have no realistic alternative source of this programing.

The amendment I am proposing to S. 22 would delete section III(c)(4) which would establish this unfair regulation. I urge my colleagues to mandate the continued availability of foreign programing to cable systems by supporting this amendment to S. 22.

Mr. KASTENMEIER. Mr. Chairman, I rise in opposition. The amendment proposed by the gentleman has the effect of extending the license to carry Mexican and Canadian signals throughout the entire United States. This is an entirely unacceptable resolution of the question.

The Senate bill provides for no importation of signals whatsoever from Canada or from Mexico.

Mr. Chairman, we tried to balance the competing values of preserving those cable systems who presently utilize and import signals from Canada and Mexico; but for the future what we would be doing is extending a market potential without restriction throughout the entire United States, if we accede to the gentleman's amendment.

What the committee bill does is to permit, in many cases, off the air taking of signals, in the future from Canada and Mexico. This means that the border areas will continue to have access to these signals, but certainly they will not be able to use them to penetrate the rest of the markets in the United States. We are very sensitive to this question, because potentially we have a situation where American owners of copyright materials, movies and the like, could have their materials sold in Europe or elsewhere in the world and have these materials reintroduced into the United States under a compulsory license under this particular bill.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I concur in what the gentleman has said and point out that the United States is the single largest exporter of copyrighted works in the world. If we do this, then there is every reason to think other countries would treat us the same and it would have a very adverse impact on the U.S. copyright owner.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. ENGLISH).

The amendment was rejected.

AMENDMENT OFFERED BY MR. ENGLISH

Mr. ENGLISH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ENGLISH: Amend section III (c) (2) on page 98, line 39, striking "willful or repeated" and inserting "willful and repeated"; and on page 99, line 8 of Section III (c) (2), insert after the semicolon, "provided, where there is a dispute as to the permissibility of carriage of a particular signal, the transmission is actionable only after resolution of the dispute by the Federal Communications Commission."

Mr. ENGLISH. Mr. Chairman, as cable television has grown over the past decade, the rules and regulations governing cable operations have become increasingly complex, making it difficult for regulators and CATV operators alike to carry out their responsibilities under the law.

I am proposing two technical changes to S. 22 which will help clarify this difficult situation. The first revision would change the test for actionable misuse of secondary broadcasts from "willful or repeated" violations to "willful and repeated" misuse. The carriage of impermissible signals need not be willful but merely repeated. The repeated violation may occur without any knowledge that the signals, due to complex syndicated rules, may not be permissible. This change would clarify an operator's responsibilities and remove the inadvertent transmission from liability.

The second revision I suggest in this amendment would allow the FCC to arbitrate disputes over the permissibility of carrying a particular secondary signal on a cable system. The language I am proposing today would prevent action from being taken in a disputed case until the FCC has determined whether or not a violation has actually occurred.

Mr. Chairman, I believe that these small technical changes will decrease the confusion which might arise in the implementation of S. 22 and I urge the adoption of this amendment.

Mr. RAILSBACK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the phrase "willful or repeated" is described fully in the committee report on page 93. It is designed to protect a cable system from being subjected to full copyright liability for innocent or casual acts. "Willful" means intentional and "repeated" means not only more than once but denotes a degree of aggravated negligence.

Under the amendment, an intentional act would have to be repeated before it becomes actionable. This gives a cable system unlimited freedom to violate the statute. If a cable system acts willfully, it should be held accountable whether that action is only once or consists of a repeated pattern.

The second part of this amendment is similar to the amendment put forward by Congressman ROONEY. It differs only in that the cable system would pay the compulsory license fee—under Rooney there would be no payment at all—while the FCC resolves a dispute as to whether the signals are permissible under its rules. The arguments against the Rooney amendment are equally applicable here.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I would like to point out that in addition to what the gentleman has just said, and with which I agree fully, this provision would absolutely emasculate the protection we put into the copyright orders which we have been very careful about. We have been very careful to make sure that the inadvertent, mistaken use of a signal will not impose liability, but the fact is that what this amendment would do would be to allow a cable system to willfully use, for instance, a sports event, even though it did not do it repeatedly, and get away with it. The worst that could happen to it would be that ultimately it would have to pay the compulsory license, which is kind of like having the only penalty for stealing a 5-cent pack of gum, the paying a nickel.

So that, it would encourage all kinds of use of signals that are not authorized by the FCC without any copyright liability and with minimum or simply no restitution at all.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. ENGLISH).

The amendment was rejected.

AMENDMENT OFFERED BY MR. DODD

Mr. DODD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DODD: Page 109, line 22, strike out "one copy or phonorecord" and insert in lieu thereof "ten copies or phonorecords".

Page 109, line 23, insert immediately before the comma the following: "or to permit the use of any such copy or phonorecord by any governmental body or nonprofit organization entitled to transmit a performance of a work under section 110(8)".

Page 109, line 24, strike out "the" the first place it appears and insert in lieu thereof "any such".

Page 109, line 25, insert immediately after the comma the following: "or by a governmental body or nonprofit organization entitled to transmit a performance of a work under section 110(8),".

Page 109, line 26, strike out "and".

Page 109, line 27, strike out "the" and insert in lieu thereof "any such".

Page 109, line 29, strike out the period and insert in lieu thereof "; and ".

Page 109, immediately below line 29, insert the following new paragraph:

(3) the governmental body or nonprofit organization permitting any use of any such copy or phonorecord by any governmental body or nonprofit organization under this subsection does not make any charge for such use.

Mr. DODD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. DODD. Mr. Chairman, I rise for the purpose of offering an amendment to section 112(d) of S. 22, the copyright law revision. Let me first of all commend my colleague, Mr. KASTENMEIER, for the enormous amount of work that he has put into this bill in his capacity as chairman of the Subcommittee on Courts and Civil Liberties which drafted this legislation, and also for the quality of the end product which has already received great acclaim for its precision and thoroughness.

Section 110(8) of the bill that we are considering today entitles governmental bodies and nonprofit organizations to transmit performances of nondramatic literary works without first obtaining a copyright license, as long as such performances are designed specifically for the blind and other visually handicapped individuals, and as long as these performances are broadcast without intention of commercial advantage.

What my amendment does is to carry this exemption one step further in order to maximize the benefit provided to the handicapped. Very simply, it allows governmental bodies and nonprofit organizations serving the blind to make up to 10 copies of any performance of a nondramatic literary work, and to exchange such copies with its sister organizations at no charge.

It will take only a few minutes, Mr. Chairman, to present to you and to my colleagues the need for this small adjustment to the bill.

There are presently 41 cities in 18 States which have nonprofit organizations providing radio readings and information services to the blind and visually handicapped. Unfortunately, but understandably, the quality and quantity of equipment and volunteer services available in each location is very uneven. Many of these organizations suffer from acute shortages of either people or materials.

Allowing for the duplication of performances for transmission, and for their exchange, would seem to be a very easy way of surmounting some of the worst obstacles faced by these nonprofit organizations. The inestimable benefit received by the handicapped as a result of these organizations warrants making it possible for the less fortunate in funding and personnel to obtain transmission material from the larger and better equipped organizations at no cost.

In sum, my amendment is aimed at increasing the availability of broadcasts which seek to furnish the visually handicapped with a little of what they may otherwise miss. It would allow for the better use of scarce resources.

I urge all of my colleagues on the floor to support it as well. Its adoption would be deeply appreciated across the country by both nonprofit organizations and the handicapped themselves.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. DODD. I am delighted to yield.

Mr. KASTENMEIER. Mr. Chairman, on this side we have had an opportunity to examine this amendment, and I believe we can accept it in its present form. The limitation in it makes it acceptable to us.

Mr. DODD. I thank the gentleman.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. DODD. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, we also have had a chance on this side to consider the amendment, and have no objection to it.

Mr. DODD. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. DODD).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROONEY

Mr. ROONEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Will the gentleman ask unanimous consent that his amendment be modified to reflect the proper page and line?

Mr. ROONEY. Mr. Chairman, I make that request.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment, as modified.

The Clerk read as follows:

Amendment offered by Mr. Rooney: Page 98, after line 9, insert the following:

"(5) The right of a cable system to carry a particular signal or to operate in a particular community is pending in a proceeding before the Commission until 30 days after the issue is resolved against the cable system and the proceeding is no longer subject to appeal."

Mr. ROONEY. Mr. Chairman, the purpose of this amendment is to avoid transferring issues in pending cases before the Commission from the Commission's administrative processes to infringement actions in the courts. It would be much better to let the Federal Communications Commission settle these pending regulatory issues of the right to carry particular signals or to operate a system in a particular community under its rules than to authorize them to be decided by a court in an infringement suit.

Unless this amendment is adopted, cable systems involved in pending cases may be forced because of fear of an infringement determination under the Copyright Act by a court to abandon their right to carry a particular signal or to operate in a particular community rather than continue to seek a determination of those issues by the Federal Communications Commission under the Communications Act and the regulations adopted thereunder.

This amendment will also aid in preserving the agreement between the Commerce Committee and the Judiciary Committee entered into on April 11, 1967, to maintain the respective jurisdiction of the Judiciary and Interstate and Foreign Commerce Committees.

Mr. Chairman, I ask that this amendment be adopted.

Mr. KASTENMEIER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I realize that this amendment may affect a system in the gentleman's district, and I appreciate why he would suggest the amendment; nevertheless, the purpose of his amendment really is to exempt from liability the cable system which carries unauthorized signals until 30 days after the FCC either issues an order adverse to the system or until all judicial appeals have been exhausted.

In other words, this would give any system involved in some sort of litigation with the FCC a free ride for an indefinite period of time. But more importantly, Mr. Chairman, the bill itself does not go into effect until January 1, 1978. I suggest this is the end of September 1976. Those particular pending matters in the gentleman's district, and elsewhere, should well be resolved by then, and we should not make the entire bill a prisoner of the problem of one or two or several cable systems that have problems with the FCC and orders relating to it, because copyright liability is quite independent of what action is pending before the FCC. The copyright liability this system is entitled to is compulsory, in any event. It cannot be denied to the system, and so the system should not be free from compliance.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman.

Mr. RAILSBACK. I thank the gentleman for yielding.

Mr. Chairman, I certainly agree with what the subcommittee chairman has said.

Also, let me just make the point that on page 93 of the committee report it is made very clear that, where a cable system in good faith enters into a dispute with the FCC over whether the carriage of certain signals is permissible, the cable system is not subject to full copyright liability. In other words, it is only where there is a willful or a repeated violation.

Mr. KASTENMEIER. Mr. Chairman, I urge defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlemen from Pennsylvania, (Mr. Rooney) as modified.

The amendment as modified was rejected.

AMENDMENT OFFERED BY MR. OBERSTAR

Mr. OBERSTAR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Oberstar:

Page 97, line 16, strike out the period and insert in lieu thereof a semicolon.

Page 97, immediately below line 16, insert the following new clause:

"(9) performance of a dramatic literary work, by or in the course of a transmission specifically designed for and primarily directed to the persons referred to in clause (8) of this section, if the performance is made without any purpose of direct or indirect commercial advantage and its transmission is made through the facilities of any radio subcarrier authorization referred to in clause (8)(iii) of this section."

Mr. OBERSTAR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. OBERSTAR. Mr. Chairman, I, too, want to join in complimenting the chairman of the subcommittee and the members of the subcommittee for doing a splendid job and performing the detailed and laborious work involved in bringing this much needed revision of copyright legislation to the House floor.

However, the legislation is deficient in one respect, and that is what this amendment would attempt to correct. It simply and very basically would allow radio reading services for the blind and physically handicapped to air plays or dramatic readings without first securing permission from the playwright. That, we know, is a time-consuming process, and it falls short of the goal in many instances.

This amendment would conform with identical language adopted in the other body which provides that it is not an infringement of copyright to perform or produce literary work productions for broadcast purposes for the blind on noncommercial educational radio and television stations. I emphasize the words, "noncommercial educational radio and television."

We recognize that playwrights should not be deprived of royalties which are their right, but yet we feel it is reasonable to exempt the use of dramatic works by nonprofit groups which are serving blind and otherwise handicapped audiences.

Those of us who offer and who support this amendment—and I am joined in this by my colleague, the gentleman from Minnesota (Mr. Fraser)—feel that it does not make sense, just to insure that royalties are met, to retain the provisions now in the committee print.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Chairman, I rise in support of the amendment offered by Congressman Oberstar, permitting the transmital of dramatic literary works by those organizations authorized to use a radio subcarrier authorization, such as radio reading services.

The Washington Ear, Inc., the radio reading service in the Washington, D.C., area, which transmits over the subcarrier of WETA-FM, is an excellent example of the kind of organization that this amendment would benefit. The Washington Ear is received only by those persons possessing special receivers adapted to receive this subcarrier. In order to obtain such a receiver, the person desiring it must complete an application to the Washington Ear stating that that person is visually handicapped. No person having the power of sight may be in possession of such a receiver and no normal AM-FM radio can receive the Washington Ear.

This means that the audience served by the Washington Ear is a select one, consisting only of visually handicapped persons. These people, who may obtain a receiver for free, are unable to utilize the written word for their communications. Therefore, this radio reading service fills what otherwise would be a void in their lives by presenting newspapers, magazines, and books in the oral form for their appreciation.

Likewise, due to the visual handicap, these persons are unable to fully appreciate the performance of dramatic literary works: that is, plays. One might think that a play can be understood simply by listening to it, but a sighted person cannot fully appreciate how much his eyes tell him in addition to the spoken word. Visually handicapped persons cannot appreciate sets, actions, expressions. The radio reading services could, with this amendment, augment the normal script of a dramatic work to the point where the listener can fully appreciate the performance.

I am advised that finances do not enter into this question. The normal copyright laws pertaining to newspapers, magazines, and books have been waived for radio reading services, thereby enabling them to quickly reproduce these written volumes for their listeners' appreciation. No royalty payments are required by the radio reading services for this activity because of their special service nature.

Likewise, I am advised that playrights have agreed not to request royalty payments for their use of their works over radio reading services. However, there is still the requirement, without this amendment, that copyright regulations be obeyed before a dramatic work can be presented. This could seriously delay the presentation of a contemporary work to the point that it would no longer be of topical interest to the services' listeners.

Radio reading services have enough problems reaching their audience. They are primarily volunteer activities, their finances are strained to stay on the air, they have insufficient staff to comply with special requests in order to expand the programs they offered tehir handicapped audience.

I urge my colleagues to join in supporting this valuable amendment, which provision was previously accepted by the Senate when it considered this legislation.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for his support of my amendment.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Minnesota.

Mr. FRASER. Mr. Chairman, I want to thank the gentleman for offering this amendment.

I think it is important to recognize that this amendment, No. 1, deals only with the blind and the physically handicapped. Second, it simply enlarges an exemption that is already written in the bill for nondramatic works. This would simply add dramatic works that could also be listened to over these closed-circuits by blind people.

Third, there is no profit here. There are no lost royalties or revenues to the playrights because these are audiences that cannot under any circumstances be expected to get to the regular places where these plays are going to be performed.

I would also make the point that for some reason the broader exemption which we seek appears to have been in the bill as we received it from the other body. They did not put the exemption of dramatic works in their bill. For some reason our committee has wanted to narrow that exemption, and there does not seem to me to be any justification for it except for some historic attachment to this very high degree of protection that dramatic works are supposed to enjoy. However, there is no reason for it in practice or in commonsense.

This enlarged exemption would bring the bill in conformity with the bill that we got from the other body. I will repeat that this is for the blind and the physically handicapped, those who are stuck in their homes. This is for closed-circuit transmissions.

Mr. Chairman, I might add that I have had the opportunity in Minnesota to visit our radio system for the blind. It is a remarkable facility. It affects a few thousand people in our State who are housebound. It is their only real source of news and information.

Mr. Chairman, I think that giving this very modest, enlarged exemption so as to bring the bill in conformity with the bill from the other body makes a lot of sense.

I hope that the committee will support this amendment by the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman very much for his very clear and forthright statement of support.

The amendment that we are offering has support from the Corporations of Public Broadcasting, the Association of Public Radio Stations, the American Foundation for the Blind; and we urge support for the 3 million blind and handicapped persons throughout the Nation.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. OBERSTAR) has expired.

Mr. FRASER. Mr. Chairman, I ask unanimous consent that the gentleman from Minnesota be permitted to speak for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

Mr. RHODES. Mr. Chairman, reserving the right to object, the hour is late. There was an agreement that we should leave at 9 o'clock at night. I am not going to object to this request, but I will object to any further extensions of time.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. The gentleman from Minnesota (Mr. OBERSTAR) is recognized for 2 additional minutes.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman from Minnesota (Mr. FRASER) for the 2 additional minutes.

The Federal Government has taken many steps to relieve and eliminate the barriers for the physically and otherwise handicapped. We have provided for better access to Federal buildings, we have provided for better access to buses, and most of that has been initiated right here in the Congress.

What we are saying is that one more step is needed to help the blind and the other handicapped people to have a better share of and a better slice of life and a stimulation of the mind.

Mr. Chairman, that is what this amendment would give them, the opportunity to enjoy life better.

Therefore, Mr. Chairman, we urge support for this very modest and very necessary and compassionate amendment.

Mr. PATTISON of New York. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this seems like a minor amendment. It will take care of people who need help.

The fact of the matter is that this is a very fundamental change in the law of copyright if this amendment should be adopted.

First of all, we should understand that under current law nonprofit performances of most everything are exempt except nonprofit performances of dramatic works. They have never been exempt because of the very nature of dramatic works. Dramatic works must be performed. People do not read them. The fact of the matter is that they have never been exempt in the copyright law of this country or that of any other country, nonprofit or otherwise.

Second, Mr. Chairman, the purpose of this section of the bill, to which I had an amendment which was accepted in the subcommittee, is to make certain things available in print for handicapped people, blind people, and people otherwise handicapped, newspapers, information, all kinds of things that are not of any use to anybody else. One can read. He does not listen to a newspaper being read over the air or a magazine being read over the air or even a book being read over the air unless he is blind.

Mr. Chairman, in the section that is under amendment now there is no exemption, for instance, for music. That is because music is available. Music is available to anybody. One can turn on his radio, turn a dial, and he will get music.

To a great extent, Mr. Chairman, dramatic works are also available. There is a market for dramatic works, and people listen to them. Dramatic works are available to the blind. They can get them on the CBS Mystery Theater, the soap operas, and so forth. They can get all of those other things.

Mr. Chairman, it is not necessary to make this possible for the blind. The problem of the radio station is that when a program is put out on the air, we do not know to whom it is going or who is going to hear it. I realize that it can go out on a subcarrier station specifically designed for blind people, but those things will be available to all people all over the country in future years.

Mr. Chairman, this amendment will impact on the traditional authors rights. The only thing he has is literary rights, the right to prohibit other people from using his work without payment.

Therefore, Mr. Chairman, this amendment, although I know it is for the blind and that it seems to be doing something that is good, the fact is it would fundamentally affect the Copyright Law, and it would be a mistake for this committee to adopt it, thinking they were doing the blind a great favor in doing it.

Mr. Chairman, I would like to add one other point, and then I will yield to the gentleman from Minnesota (Mr. FRASER). That point is this: Most of the dramatic works that are performed on any radio station are in the public domain. One does not need permission in that respect. Other dramatic works are available from authors. Authors are very generous. One needs preparation before a dramatic work is put on or performed. In the case of an author, it is true that he might want to be paid for the use of his work. However, in reading a book or a newspaper, one has relatively long lead time. All one has to do is write to the author. He will write back and say, "Go ahead and use it." Again, if he wants to make a profit, he will charge for its use.

Mr. Chairman, in other cases, such as with respect to the Library of Congress, marvelous things have been done for free. We can be sure that authors will be generous in this respect, too; but we must not impose this on the authors or with respect to dramatic works by, in effect, giving the compulsory license which we are granting here.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. PATTISON of New York. I yield to the gentleman from Minnesota.

Mr. FRASER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to make sure that the gentleman from New York agrees that if our amendment is accepted, it would not touch the basic question of dramatic works being read for nonprofit use. This is limited just to the blind and the physically handicapped under a subcarrier system. The gentleman from New York agrees with that; is that correct?

Mr. PATTISON of New York. That is correct, I do.

Mr. FRASER. Does the gentleman know Dr. Marvin Rockwell who directs the Washington Ear on Station WETA?

Mr. PATTISON of New York. I know him very well.

Mr. FRASER. I would say to the gentleman from New York that Dr. Rockwell has indicated that it takes 6 or 8 months to get permission to have one of these plays on one of these subcarrier channels and by that time the opportunities are passed. They ought to be able to get volunteer actors to read them over the radio but without this amendment it is enormously difficult to do that.

Mr. PATTISON of New York. Of course, we have given the right in subsection 112 to record so the leadtime is of very little consequence as far as 6 or 8 months. It might happen occasionally. But we do not need that in order to read Shakespeare and most of the other plays that people who are blind are familiar with. So this would not be used, anyway and I do not think it is possible, anyway. So that this is such a fundamental attack on the copyright holders rights that it really is not worth doing and it should be rejected.

Mr. FRASER. Would the gentleman not agree that under the amendment there are no royalty losses?

Mr. PATTISON of New York. Not today, perhaps, but there will be in the future.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR).

The amendment was rejected.

AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. SEIBERLING: Page 127, line 16, strike ", including" and all that follows down through line 20, and insert in lieu thereof a period.

Mr. SEIBERLING. Mr. Chairman, my amendment is intended to save the "Federal preemption" of State law section, which is section 301 of the bill, from being inadvertently nullified because of the inclusion of certain examples in the exemptions from preemption.

This amendment would simply strike the examples listed in section 301(b)(3).

The amendment is strongly supported by the Justice Department, which believes that it would be a serious mistake to cite as an exemption from preemption the doctrine of "misappropriation." The doctrine was created by the Supreme Court in 1922, and it has generally been ignored by the Supreme Court itself and by the lower courts ever since.

Inclusion of a reference to the misappropriation doctrine in this bill, however, could easily be construed by the courts as authorizing the States to pass misappropriation laws. We should not approve such enabling legislation, because a misappropriation law could be so broad as to render the preemption section meaningless.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, may I ask the gentleman from Ohio, for the purpose of clarifying the amendment that by striking the word "misappropriation," the gentleman in no way is attempting to change the existing state of the law, that is as it may exist in certain States that have recognized the right of recovery relating to "misappropriation"; is that correct?

Mr. SEIBERLING. That is correct. All I am trying to do is prevent the citing of them as examples in a statute. We are, in effect, adopting a rather amorphous body of State law and codifying it, in effect. Rather I am trying to have this bill leave the State law alone and make it clear we are merely dealing with copyright laws, laws applicable to copyrights.

Mr. RAILSBACK. Mr. Chairman, I personally have no objection to the gentleman's amendment in view of that clarification and I know of no objections from this side.

Mr. SEIBERLING. I thank the gentleman.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I will be glad to yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, I too have examined the gentleman's amendment and was familiar with the position of the Department of Justice. Unfortunately, the Justice Department did not make its position known to the committee until the last day of markup.

Mr. SEIBERLING. I understand.

Mr. KASTENMEIER. However, Mr. Chairman, I think that the amendment the gentleman is offering is consistent with the position of the Justice Department and accept it on this side as well.

Mr. SEIBERLING. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

The amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MCFALL) having resumed the chair, Mr. SMITH of Iowa, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the Senate bill (S. 22) an act for the general revision of the copyright law, title 17 of the United States Code, and for other purposes, pursuant to House Resolution 1550, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the Senate bill.

The Senate bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 316, nays 7, answered "present" 3, not voting 104, as follows:

[Roll No. 800]

YEAS—316

Abdnor
Abzug
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Aspin
AuCoin
Badillo
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Corman
Cornell
Cotter
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derwinski
Devine
Dickinson
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Gilman
Ginn
Grassley
Hagedorn
Hall, Ill.
Hall, Tex.
Hamilton
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hightower
Holt
Holtzman
Horton
Hubbard
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch

Krebs
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Russo
Santini
Sarasin
Satterfield
Scheuer
Schroeder
Sebelius
Seiberling
Sharp
Shipley
Shriver
Simon
Sisk
Skubitz
Smith, Iowa
Snyder
Solarz
Spence
Steed
Steiger, Wis.
Stokes
Studds
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Waxman
Whalen
White
Whitehurst
Wilson, Bob
Winn
Wirth
Wolff
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Ga.
Zablocki
Zeferetti

NAYS—7

Dingell
Goldwater
Goodling
Mollohan
Paul
Staggers
Stratton

ANSWERED "PRESENT"—3

Armstrong
Gonzalez
Krueger

NOT VOTING—104

Adams
Annunzio
Ashley
Bafalis
Beard, R.I.
Bell
Biaggi
Boggs
Broomfield
Brown, Calif.
Brown, Mich.
Burton, Phillip
Chisholm
Clancy
Clay
Conlan
Conyers
Coughlin
Daniels, N.J.
Derrick
Diggs
Esch
Eshleman
Evans, Colo.
Forsythe
Giaimo
Gibbons
Gradison
Green
Gude
Guyer
Haley
Hammerschmidt
Hanley
Hawkins
Hébert
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Holland
Howard
Howe
Hughes
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Karth
LaFalce
Landrum
McCollister
Madden
Martin
Matsunaga
Meyner
Michel
Mills
Mink
Mitchell, Md.
Moffett
Murphy, N.Y.
Neal
Nix
Passman
Pepper
Peyser
Rees
Riegle
Rosenthal
Ruppe
Ryan
St Germain
Sarbanes
Schneebeli
Schulze
Shuster
Sikes
Slack
Smith, Nebr.
Spellman
Stanton, J. William
Stanton, James V.
Stark
Steelman
Steiger, Ariz.
Stephens
Stuckey
Sullivan
Teague
Thompson
Udall
Waggonner
Weaver
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Wright
Young, Alaska
Young, Tex.

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Jarman.

Mr. Murphy of New York with Mr. Gradison.

Mrs. Boggs with Mr. Peyser.

Mr. Nix with Mr. Esch.

Mr. Pepper with Mrs. Smith of Nebraska.

Mr. Matsunaga with Mr. Steelman.

Mr. Giaimo with Mr. Ruppe.

Mr. Hébert with Mr. Steiger of Arizona.

Mr. Helstoski with Mr. Henderson.

Mrs. Mink with Mr. Clancy.

Mr. Neal with Mr. Heinz.

Mr. Charles H. Wilson of California with Mr. McCollister.

Mr. Green with Mr. Bafalis.

Mr. Hawkins with Mr. Eshleman.

Mr. Teague with Mr. Beard of Rhode Island.

Mr. Biaggi with Mr. Derrick.

Mr. Adams with Mr. Brown of Michigan.

Mr. Phillip Burton with Mr. Gude.

Mr. Dominick V. Daniels with Mr. Bell.

Mr. Evans of Colorado with Mr. Hillis.

Mrs. Chisholm with Mr. LaFalce.

Mr. Haley with Mr. Broomfield.

Mr. Gibbons with Mr. Guyer.

Mr. Clay with Mr. Brown of California.

Mr. Hanley with Mr. Hammerschmidt.

Mr. Hicks with Mr. Conlan.

Mrs. Spellman with Mr. Howe.

Mr. Conyers with Mr. Holland.

Mr. Howard with Mr. Johnson of Pennsylvania.

Mr. St Germain with Mr. Karth.

Mr. Diggs with Mr. Hughes.

Mr. Waggonner with Mr. Jones of Alabama.

Mr. Udall with Mr. Landrum.

Mrs. Meyner with Mr. Madden.

Mr. Moffett with Mr. Jones of North Carolina.

Mr. Passman with Mr. Martin.

Mr. Wright with Mr. Mills.

Mr. Sikes with Mr. Riegle.

Mr. Shuster with Mr. Rosenthal.

Mr. Whitten with Mr. Michel.

Mr. Slack with Mr. Mitchell of Maryland.

Mr. Stephens with Mr. Ryan.

Mr. Schulze with Mr. Sarbanes.

Mr. Rees with Mr. Ashley.

Mr. Stark with Mr. James V. Stanton.

Mr. Thompson with Mr. Stuckey.

Mr. J. William Stanton with Mrs. Sullivan.

Mr. Weaver with Mr. Wiggins.

Mr. Young of Alaska with Mr. Charles Wilson of Texas.

Mr. STAGGERS changed his vote from "yea" to "nay."

Messrs. SEBELIUS and BEDELL changed their vote from "nay" to "yea."

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 22, COPYRIGHT LAW REVISION

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 22) for the general revision of the Copyright Law, title 17 of the United States Code, and for other purposes, with House amendments thereto, insist on the House amendments and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin? The Chair hears none, and appoints the following conferees: Messrs. KASTENMEIER, DANIELSON, DRINAN, BADILLO, PATTISON of New York, RAILSBACK, and WIGGINS.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous matter.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished majority leader as to what we might expect for the rest of the evening and for tomorrow.

Mr. O'NEILL. Mr. Speaker, will the distinguished minority leader yield?

Mr. RHODES. I will be happy to yield.

Mr. O'NEILL. Mr. Speaker, I will ask unanimous consent that when the House adjourns tonight, it adjourn to meet tomorrow morning at 10 o'clock.

We will begin the program with the synthetic fuel rule. Following that, we will have the Private Calendar. Following the Private Calendar, we will go back to the synthetic fuel bill.

There will be a noon recess, at which time we will meet the President of Liberia in a joint session. When the President of Liberia has left the Chamber, we will come back with the synthetic fuel bill and conclude consideration.

It is the expectation of the Speaker that we will finish that bill tomorrow. I do not want to prejudge anything, but personally I will be voting for the rule on synthetic fuels. If it does not prevail, we will go into the Lobby Act. At the conclusion of the Lobby Act, we would be through for the day.

I would have to presume that the synthetic fuels rule will pass, and so I would hope we would be able to get a second television set for the back rooms in order that we may be able to watch the debate tomorrow night. I hope the results of the debates are the same as they were in 1960.

Mr. RHODES. Mr. Speaker, does the gentleman have any idea as to when this whole fiasco might end tomorrow?

Mr. O'NEILL. The Speaker has given the chairman, the gentleman from Texas (Mr. TEAGUE), the date to complete the bill. So we are anticipating that we will complete the synthetic fuels bill. If by any chance it is defeated on the rule, then we will take up the lobby bill. Any way we look at it, I would have to say we will be here until a reasonable hour tomorrow evening.

Mr. KETCHUM. Mr. Speaker, will the gentleman, yield?

Mr. RHODES. I yield to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. I thank the gentleman for yielding.

Mr. Speaker, could the minority leader tell me, is there truth in the rumor that the Humphrey-Hawkins bill is coming before us for a vote?

Mr. RHODES. Mr. Speaker, I would yield to the distinguished majority leader to answer that question.

Mr. O'NEILL. No. I anticipate we will have that about the second week in February.

Mr. RHODES. Mr. Speaker, I appreciate hearing the majority leader say that, because I have been telling people around the country that Humphrey-Hawkins will be considered only if we do have a Democratic Congress.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Illinois (Mr. Derwinski).

Mr. DERWINSKI. I thank the gentleman for yielding.

Mr. Speaker, could we in some way give the floor to the pro tempore majority leader, or can we do something to straighten out the confusion in the Democratic caucus ranks, because as I understand the situation, the gentleman from California (Mr. Phillip Burton) has lost his mantle to the gentleman from New York. If we could straighten out that situation, the rest of us would know what to do.

Mr. OTTINGER. Mr. Speaker, if the gentleman will yield, there is an easy way to get home early tomorrow night, and that is to defeat the synthetic fuels rule.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Texas (Mr. Pickle).

Mr. PICKLE. I thank the gentleman for yielding.

Mr. Speaker, I want to ask the distinguished majority leader if he can tell us if there will be a possibility of having any further suspension bills either on Thursday or on Monday. Some of the bills have not been reached.

Mr. O'NEILL. If the distinguished gentleman will yield, there are no plans at the present time to go to suspensions. It is my understanding from the Senate that only bills of major importance will be considered by them and only bills that have already been passed by them will be considered. I believe there are about 30 bills left on the Suspension Calendar, plus the fact that there are at least 50 more which have been asked to be placed on the list, and there is no possible way we could consider them and still adjourn by Friday next.

Things are always subject to change, but the present plan of the Speaker is not to have another day for the consideration of suspensions.

HOUR OF MEETING ON TOMORROW

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 o'clock a.m. tomorrow.

The SPEAKER pro tempore (Mr. McFall). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE SUPPLEMENTAL REPORT ON H.R. 15372

Mr. VAN DEERLIN. Mr. Speaker, on behalf of the Committee on Interstate and Foreign Commerce, I ask unanimous consent that the committee be permitted to file a supplemental report to accompany the bill H.R. 15372.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ALASKAN OIL, DISTRIBUTION DIFFICULTIES COME TO LIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. McKinney) is recognized for 5 minutes.

Mr. McKINNEY. Mr. Speaker, yesterday, Interior Department and FEA officials testified before the Senate Interior Committee concerning the anticipated "glut" of Alaskan oil on the west coast. Yesterday also found the front page of the New York Times carrying an article entitled "California Snubs Alaska Oil, U.S. Forced To Reconsider." Again the focus of interest was the inability and unwillingness of the west coast to receive and distribute the oil from the trans-Alaskan pipeline. Further, the Times article states that Washington was stunned by California's position.

Washington has absolutely no right to be stunned, Mr. Speaker, because since April of this year I have alerted my colleagues to the existence of distribution difficulties on six different occasions—through statements to the Record, letters to their offices, and testimony in committee. Nor do the Federal regulatory agencies have a right to be stunned, Mr. Speaker, because when I contacted them last April to ask for their assessment of this very situation, I was assured of their awareness of the problem and reassured in writing that resolution to the problem was well at hand.

In an effort to insure that indeed a solution was at hand, I introduced, in May of this year, a legislative proposal. My proposal would establish a regulatory consortium, including representatives of the FEA, FPC, and Department of the Interior, to combine their jurisdictions, and produce a single definitive plan for the distribution of Alaskan oil. The proposal would also temporarily suspend the export authority of the Trans-Alaskan Pipeline Authorization Act pending congressional approval of the regulators plan.

A smattering of support accompanied the initial introduction of my bill and despite gradually increasing support, many still view it as an attempt by a New England Congressman to promote the parochial needs of the New England region. However, Mr. Speaker, both the report of the Senate hearing and yesterday's article in the Times seem to support my original contention that the projected west coast "glut" could be the most serious challenge to energy independence that this country has experienced since the 1973 oil embargo. This country has anxiously awaited the delivery of the Prudhoe crude and the relief it would provide from dependency on foreign resources, since construction of the Alaskan pipeline began.

You may recall, Mr. Speaker, that section 114 of the Trans-Alaskan Pipeline Act expresses the intent of the legislation to alleviate this Nation's dependence on foreign oil and states that any exportation arrangement should not realize a cost to the total security of national energy supplies. As the Times article states the west coast position has led Washington to consider exporting the Alaskan crude to Japan in exchange for Persian Gulf oil. Such a plan would certainly not diminish our dependence on foreign imports. To deny the delivery contradicts the specified intent of the Trans-Alaskan Pipeline Act but could result in the most expensive show of ignorance and apathy in recent congressional history.

I again implore my colleagues, Mr. Speaker, to support a timely solution to this confused and potentially costly situation. I appeal to the Members of the New England Congressional Caucus and the newly formed Northeast-Midwest Economic Advancement Coalition to exhibit their purpose and worth by supporting the energy needs of those they represent and by promoting the immediate passage of corrective legislation.

COST OF CARTER'S PLATFORM: NEW ASSUMPTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Conable) is recognized for 5 minutes.

Mr. CONABLE. Mr. Speaker, yesterday the Republican Policy Committee released an analysis of the projected additional costs of carrying out the 1976 Democratic Platform.

One reason we did this was because the Democrats had denied our charges that carrying out the platform pledges would be totally inconsistent with Carter's avowed intent to balance the Federal budget. In a Business Week interview, a Carter staffer said:

> We're not going to get involved in any numbers game until the Republicans come up with some credible numbers and analysis.

It now looks as if the numbers game is on. Yesterday, my colleague Brock Adams, chairman of the House Budget Committee, responded to our study by saying that it double-counted.

Under the assumptions he now states, he is correct.

We are indebted to him for his clarification, since it helps our study to serve its intended purpose of finding out exactly how much of the Democratic Platform can be relied upon.

Does Carter mean to implement Humphrey-Hawkins, countercyclical aid, public employment, public works, direct stimulus, all of the above, some of the above or none of the above? Some $28.5 billion is at stake. We are sure the American voters would like to know.

Does Carter mean to have both welfare reform and a Federal takeover of State and local welfare costs, just one of these platform items, or neither?

Again, we and the American people would like an honest, candid answer.

It was also charged that the Republican study counted as additional Federal costs items that are already included in the Democratic Platform. If this is true, then the Democratic Platform is a highly misleading, deceptive document in its use of such modifiers as "increased," "additional," "full-funding," "expanded" and "greatly increased emphasis."

Most people would think these phrases indicate a change in policy from currently projected outlays to a higher level. If, as Adams says, these modifiers merely indicate holding programs to their presently projected levels, then the Carter platform stands as one of the most cynical and misleading political documents to come along in years.

We are indebted to him for setting the record straight—something the Carter campaign has thus far declined to do.

Subtracting all jobs programs and all welfare reform from our 1980 cost estimates leaves a projected $154.6 billion in additional spending for programs advocated in the Carter platform. Including the Humphrey-Hawkins jobs bill and the Griffiths welfare reform measure would result in a 1980 total of $166.5 billion. We still are not clear which of these two options Carter prefers, but it is reassuring to learn that he does not favor all of the items listed in his platform.

Mr. Speaker, I feel we are beginning to make some headway. Without changing the current programs, our projections show that our Federal budget will be running over $500 billion a year by 1980. Apparently the Carter proposals, as modified by Mr. Adams, will add at least $154.6 billion beyond that onto the backs of our American taxpayers. Perhaps still further dialog can reduce the threatened burden even more. If not, the American taxpayers should prepare for a tax increase, even after changing these assumptions, approaching 50 percent.

GERRY MISNER—A CHAMPION OF SPORTS, PHYSICAL FITNESS, PEOPLE AND QUALITY GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Don H. Clausen) is recognized for 15 minutes.

Mr. DON H. CLAUSEN. Mr. Speaker, a great friend of mine and a man I respected and admired very much, Mr. Gerald Misner, passed on to his reward after a long illness.

Gerry Misner was well known by many Members of the Congress and I know they join with me in paying tribute to this dynamic and very dedicated gentleman. One of those Members of Congress was an especially good friend of Gerry Misner. I am, of course, referring to our genial and revered President of the United States, Gerald R. Ford.

Gerry was the first congressional district chairman for my first campaigns to the Congress and spent a good portion of his life devoted to government and politics. This interest was spawned by his warm and genuine interest in others and in the policies of every level of government. He loved politics and association with this Nation's political leadership.

He had leadership qualities in abundance and also held numerous offices in the U.S. Lawn Tennis Association.

From our deep, close friendship I knew him as a strong, hard-driving man, but one who loved the human race. He was compassionate, forthright, conscientious and extremely able. He was a devoted family man. He was extremely proud of his lovely wife, Dolores, and their beautiful family.

During the last few years he faced and fought the debilitating effects of emphysema with the same dignity and constructive outlook that always characterized Gerry Misner.

I have lost a close personal friend and the State of California has lost one of its most outstanding citizens. But, Gerry Misner left us all with a legacy of friendship and warm memories. We are all the better for having known him and this is perhaps the best legacy a man can leave.

Most people have committed the Golden Rule to memory—Gerry Misner committed it to his life.

Mrs. Clausen joins me in expressing our deepest and most sincere sympathy to his wife, Dolores, and Gerry's children and grandchildren.

Mr. Speaker, I include at this point in the Record two articles pertaining to Gerry Misner:

[From the San Francisco Chronicle, Mar. 21, 1975]

Misner: Tennis and Politics

(By Howard Carr)

Gerry Misner doesn't want to sound as if he and President Ford are close pals but they are acquaintances—friends, even—from way back.

Now pushing 73, Misner, of Tiburon, was president of the Northern California Tennis Association for two years (1954 and '55) after being veep for three years and, like Ford, has long had a deep interest in sports.

"I haven't talked to President Ford since he got the top job," Misner said the other day, "but I talked to him several times when he was a Congressman and we hit it off pretty good."

After Misner got out of tennis politics about 20 years ago, he got into "regular" politics—Republican politics, that is—and that's when he and Ford started running into each other.

"And let me tell you about tennis politics," Misner said, "The training I got in that was put to good use when we took off our gloves in regular politics."

He and Ford always got along fine, for several reasons: both were of the same political persuasion; both had the same first name; both were sports buffs, and both went to high school in Michigan.

"I was born in Elgin, Ill., but took most of my schooling here in California—Santa Monica, Eureka and way points," Misner said. "However, I finished high school in Benton Harbor, Mich., which was in the same athletic conference as Ford's high school (Grand Rapids). I was quite a few years ahead of him, though, so we never played against each other."

Misner, an agile youngster, participated in football, basketball, baseball and tennis at Benton Harbor and did play against Bennie Oosterbaan, a three-sport star at Muskegon High who went on to be an All-America end at Michigan.

Another Michigan All-American was Chuck Bernard, who was at Benton Harbor High a few years after Misner and kept Ford a second-string center at Michigan his first two varsity years.

Despite the in-fighting, Misner looks back fondly at both tennis politics and regular politics, in which he was Marin County's top Republican committeeman for several years.

In tennis, he and the late Jim Moffet and Roscoe Maples formed a triumvirate that represented Northern California interests nationally.

"They called us 'the Three-Ms' and I guess we came on kind of strong to those staid Easterners," Misner said, "but we were just doing our thing."

He said he and Moffet were factors in getting the USLTA to separate the California Tennis Association into Northern and Southern associations; in getting hard court tournaments recognized nationally, and in getting the USLTA to take a serious look at open tennis.

As for Maples, "He was a man who did a great deal with his money to help youngsters who couldn't have afforded it develop in tennis," Misner said.

Misner's activity was suddenly halted about two years ago by a heart attack that hospitalized him for 85 days and dropped his weight from 170 pounds to 115.

He turned the running of the family's fireproofing firm over to sons Jim, 27, and Doug, 23 ("He's the baby of our five children," Misner said, "if you can call a guy who's 6-3 a baby.") Now he takes life slow and easy under the watchful eye of wife Dolores.

And reflects on the merits of tennis.

"Last time I saw Ford when he was out here about four years ago, we agreed that tennis is a good sport for the federal physical fitness program because you can have a lot of people playing it in half a block of space whereas golf, for instance, requires much more room."

The two old friends shook on that.

[From the San Rafael Independent Journal, Feb. 6, 1976]

Gerald Misner

Gerald E. Misner of San Rafael, former Republican Party leader in Marin and the state, died yesterday at a local convalescent hospital after a long illness. He was 73.

Misner, who was chairman of the Marin Republican Central Committee from 1963 to 1967, also served as a member of the state Republican Central Committee and as vice president of the State Republican County Chairmen's Association.

An avid tennis player, he was former regional director of the U.S. Lawn Tennis Association, a member of the Davis Cup Committee and past president of the Mill Valley Tennis Club.

A native of Elgin, Ill., Misner lived in Mill Valley, San Anselmo, Tiburon and San Rafael during his 37 years in Marin.

He was retired founder and president of Admiralty Manufacturing Co., located in Sausalito.

Misner attended Western Michigan University.

Surviving are his wife, Dolores of San Rafael; three daughters, JoAnne Wuelfing of San Leandro, Geraldine McCauley of Fairfax and Claudia Kriel of Mill Valley; three sons, James Misner of Mill Valley, Douglas Misner of Fairfax and Dr. Gordon Misner of St. Louis, Mo. He also leaves six grandchildren.

Mass of Christian Burial will be at 11 a.m. tomorrow at St. Anselm's Church in San Anselmo. Rosary will be recited at 8 p.m. today at Russell and Gooch Mortuary in Mill Valley. Private burial will be at Mount Tamalpais Cemetery in San Rafael.

NATIONAL EDUCATION ASSOCIATION: POLITICS FIRST, EDUCATION LAST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. Ashbrook) is recognized for 60 minutes.

Mr. ASHBROOK. Mr. Speaker, the recent endorsement of the liberal Democratic slate of Carter-Mondale by the National Education Association—NEA—comes as no surprise to me. As an observer of this organization over the years, it is obvious that their thrust is political not educational, and their goals are consistent with that endorsement. The NEA does not represent the average classroom teacher. It is possible that the more radical teacher elements in the big cities find the NEA union type tactics to their liking but not in our areas and, I feel, most areas of the country. Like most other organizations, their image is one thing and their substance is something else. The image of the American teacher is good, the substance of the NEA is anything but that, for it is at the forefront of virtually every organized liberal effort ranging from gun control and one-world thinking to budget-busting and deficit-creating new spending programs.

Its leaders hurl epithets and threats at those who stand in their way as did President Ryor in recently assailing teachers in my own State, calling them scabs. The NEA is accumulating a giant war chest for campaigns and will rank as the chief provider of political funds for liberal-left candidates in this country. It has none of the professional, dedicated qualities of the teachers we all remember. An Ollie Mae Parker, Willis Adams, or Pearl Danback would be an anachronism to these new power-hungry advocates of strikes, political activity and Federal control. School boards fit that same mold so they must go, too.

Again let me point out that the National Education Association is not the teachers of America. Indeed, it misrepresents the teachers of America. Most teachers are still free enterprise oriented, still believe in the basic traditions and values of our country and do not want strikes, guerrilla warfare, name calling and political power tactics. The NEA leaders would move the teachers in a direction of being just like dock workers rather than the professionally oriented solid citizen like Willis Adams and Ollie Parker we knew and revered.

Some will argue that the NEA started its leftward trend because of the pressure of the more radical American Federation of Teachers, a bona fide union which is strong in New York City and other big cities but of limited strength in the other areas of our country. There can be no doubt that President Ryor is always looking over his shoulder at Albert Shanker galloping up on his union charger but the NEA is basically what it has been for many years, just more open about it. How well I recall 10 years ago when NEA leaders would talk of strikes but never use the word "strike." Then they talked about sanctions. Their liberalism and distrust of local education has always been there, it is just now coming out in the open because the climate of opinion is such in our country today that virtually anything goes. Militancy, activism are appropriate now.

The NEA, like so many other unions, associations, and organizations, has a good case of Washingtonitis. It forgets those whom it would represent and fashions its policies on the shoals of the bureaucratic scrap heap here in the Capital. Too many liberal groups follow this course. They become a part of the Washington bureaucracy and sometimes it is difficult to distinguish them from the spenders, the regulators, and the social planners. They have forgotten, if they do not abhor, those squares, the old fashioned teachers back home.

The NEA and the Health, Education and Welfare bureaucrats are a virtual tweedledum and tweedledee. There is no appreciable difference. The NEA's big lie in the original debate over Federal aid to education was that there would be Federal money but no Federal control. Now the NEA advocates those very controls most teachers do not support and is in front of the advocates of forced busing, withholding of funds for racial balance reasons and would use Federal funds to force a type of education on taxpayers back home that neither they nor their local boards of education want. In short, the NEA has become a bureaucratic agency—of, by and for the bureaucrats rather than for the teachers, taxpayers and children. It is the adversary of local education and the advocate of a changed educational system which would be disastrous.

There is an almost incestuous relationship between NEA, the U.S. Office of Education, the various foundations and the National Science Foundation. Grants of taxpayers' money by the millions go to these same educational bureaucrats who study subjects like the dislocation of black eighth graders in metropolitan cities. Millions go down these ratholes which should be going to our schools. Millions are siphoned off at the top by thousands of grants and projects of meaningless value.

NEA GOES POLITICAL

The National Education Association is gearing up for a massive political effort in the 1976 elections. This effort will be directed at both the Federal and the State level. The goal will be to elect its friends and purge those who disagree with the legislative objectives of the organization.

For the first time a major push will be made in the race for President. Overturning its previous policy, the NEA has decided to endorse and actively support a Presidential candidate in the upcoming election. Of course, only one ticket for them—Carter-Mondale.

According to former NEA President Helen Wise, "It is our intent to translate our successes in the congressional elections of 1974 into a mandate to elect a friend of education to the White House in 1976." To provide funds for its candidate—who will be selected in September—NEA's political action committee will ask for a voluntary contribution from each of the organization's 1.8 million members.

NEA also plans an active role in congressional contests. Target categories have been established for 1976 House and Senate races. Top priority will be given to reelecting incumbents with good NEA voting records in marginal districts and defeating incumbents with bad NEA voting records.

NEA–PAC

The growth in NEA's political activism is a relatively recent development. It was not until 1972 that it formed a political action committee—NEA-PAC. In that year's elections, NEA claims that 141 out of 184 House candidates and 12 out of 19 Senate candidates receiving teacher support were elected to office.

NEA followed up its success in the 1974 elections. NEA-supported candidates won 229 out of 282 House races and 21 out of 28 Senate contests.

Overall, in 1974 NEA–PAC made financial contributions totaling almost $225,000. And this was only the tip of the iceberg. State and local association political action groups contributed $2.5 million to Federal, State and local races.

I think it is revealing to look at who the NEA supported. The December 1974 issue of the NEA Reporter shows the House and Senate candidates endorsed by NEA–PAC, including those who received financial contributions.

Out of the 323 candidates listed as receiving NEA support, 283 were Democrats. Only 40 were Republicans. That works out to a 7 to 1 ratio of Democrats over Republicans.

In California, for example, only 2 out of 33 were Republicans. In Indiana, 0 out of 10. In my home State of Ohio, only 1 out of 12 was a Republican. Most of NEA's financial support went to liberal democrats.

Such disproportionate levels of support call into question the nonpartisan claim of the NEA. Inasmuch as an NEA membership poll showed that 37 percent considered themselves Democrats and 37 percent Republicans and the rest independents, it also casts doubt on whether the NEA leadership is representing the views of the members.

LEGISLATIVE GOALS

One of NEA President Ryor's campaign promises was to work hard for continued development of the Coalition of American Public Employees. CAPE is an amalgamation of the NEA, the American Federation of State, County, and Municipal Employees, the National Treasury Employees Union, the American Nurses Association, the Physicians National Housestaff Association and the National Association of Social Workers.

A major goal of CAPE and the NEA is the passage of a Federal collective bargaining statute for public employees. This legislation would give public employees the right to organize and strike. In testifying before a subcommittee of the House Education and Labor Committee, Ryor testified that the strike "provides the most effective basis for dealing with the question of bargaining impasses." The bill would also open the door for compulsory union membership in Federal, State, municipal and local public employee groups, as well as teachers.

Public employee unions would be a disaster for our Nation. Essential government functions such as schools, sanitation departments and police and fire departments would be in the hands of private organizations unaccountable to the public. Areas of vital concern to the taxpayer could be closed without regard to duly elected public officials.

Local governments and public institutions no longer would be controlled by the people through their elected representatives. Instead, a clique of union bosses would determine the direction of government and the tax burden.

Public sector labor unions are not the only unwise legislative goal of the NEA. Another priority is strict gun control legislation. According to a recent NEA resolution, the NEA "shall take immediate action to support and lobby for strict gun control legislation that limits the ownership of handguns."

The right to keep and bear arms is an important and constitutionally guaranteed prerogative of the American people. Infringement of this right would be a serious blow to individual freedom. We should have tougher treatment of criminals in this country rather than limiting the rights of law-abiding citizens.

The NEA has also worked against strong antibusing legislation. The June 1, 1974 Congressional Quarterly reports that Stanley McFarland, director of NEA's government relations department, was "flatly opposed to the House antibusing amendment."

According to Congressional Quarterly:

> McFarland's staff considers Congress' continuing debate over anti-busing legislation to be one of its major legislative disappointments. NEA policy "recognizes that acceptable desegregation plans will include a variety of devices such as geographic realignment, pairing of schools, grade pairing and satellite schools. These arrangements may require that some students be bused."

Any way you look at it, forced busing has been a dismal failure. Even some of those who first advocated it—such as James Coleman, author of a major study on busing—have now changed their minds.

Busing was supposed to be one of those cure-alls that would improve both the quality and the scope of education. As numerous cities can testify, it has done neither.

The primary long-range legislative objective of NEA is to obtain more Federal funding of education. Presently, the Federal share is about 8 percent. NEA would like to raise that figure to at least one-third. Legislation has been introduced to achieve that goal.

Such a level of Federal funding is unrealistic as well as undesirable. The NEA bill would result in an additional $20 billion in Federal spending for education. Inasmuch as this year's budget deficit is already running in the $70 to $80 billion range, we can hardly afford to add billions more to that amount.

Perhaps even more important, one third Federal funding would almost certainly lead to greater Federal involvement in local education matters. This would be extremely unfortunate.

As I have repeatedly warned my colleagues in the House, Federal aid means Federal control. We have already seen this in such diverse instances as forced busing, the title IX sex discrimination regulations and the mandatory recordkeeping requirements on school discipline.

Washington, D.C., bureaucrats and the Congress view the giving of Federal dollars to a local school district as a first step toward Federal rule of the school system. Consequently the more the financing of education is moved to the Federal level the less control local communities will have over the education of their children. The traditional local control of schools will be replaced by Federal dictate.

This is not the only budget-busting proposal advocated by the NEA. In addition, the NEA backs what it calls "a major bill to provide comprehensive cradle-to-grave national health insurance."

Such a program could cost anywhere from $80 to $100 billion. This would match the entire estimated budget deficit for fiscal year 1976.

It is ridiculous for the Government to spend billions more when it cannot afford the programs that it already has. It is ridiculous to add another new and costly social program onto the backs of the American taxpayer. It can only mean higher taxes and increased inflation.

The NEA also supports passage of the Child and Family Services Act. This legislation would establish a comprehensive child development program run by the Federal Government. A new breaucracy would be set up—the Office of Child and Family Services—which would designate prime sponsors and administer the program.

I have opposed this bill since it first came up in 1971. It would authorize further Federal involvement in areas dealing with the family, particularly the parent-child relationship. This is an inappropriate area for the Federal Government.

SCHOOL OF THE FUTURE?

What should be the direction of education in the United States? Catherine Barrett, a past president of the National Education Association, has given us her vision of the future. Think about this "vision" in light of her statement that "we are determined to control the course of education."

According to Barrett:

> We will need to recognize that the so-called "basic skills," which currently represent nearly the total effort in elementary schools, will be taught in one quarter of the present school day. The remaining time will be devoted to what is truly fundamental and basic—time for academic inquiry, time for students to develop their own interests, time for a dialogue between students and teachers. When this happens—and it's near—the teacher can rise to his true calling. More than a dispenser of information, the teacher will be a conveyor of values, a philosopher. Students will learn to write love letters and lab notes. We will help each child build his own rocket to his own moon."

Frankly, this is absurd. To deemphasize basic skills would be disastrous for our children and our Nation. If anything, greater stress should be placed on developing basic reading, writing and mathematical skills.

Colleges and universities are being swamped with students who cannot write coherent sentences or handle simple math. More and more they have had to establish remedial programs to make up for student deficiencies.

According to a recent article, placement tests administered to freshmen at Ohio State University show that 26 percent have not mastered high school mathematics and 30 percent cannot write on an acceptable college level. Consequently both the English and mathematics departments are preparing full-scale remedial programs.

It is ridiculous to have our institutions of higher education teaching skills that should have been learned years earlier. This is a waste of money and a waste of talent. Our children do not need philosophers, they need teachers.

Barrett has more to say:

> Finally, if our children are to be human beings who think clearly, feel deeply, and act wisely, we will answer definitely the question "Who should make what decisions?" Teachers no longer will be victims of change; we will be agents of change.

This is hard to believe. Teachers supposedly are in the business of fostering the intellectual development of the child and instilling the values of the community and the Nation.

Barrett, however, would make the teacher an "agent of change." But a change to what? And why should the teacher or the NEA be the ones to decide rather than the parents of the child? It is really the job of the teacher to modify the child in order to change our society?

I think not. It is not the purpose of education to use the classroom as a vehicle for modifying the child and changing our society. Most teachers I know would agree.

FOOD STAMPS FOR TEACHERS

The NEA in 1975 urged teachers to apply for Federal food stamps. In a bulletion mailed to its State and local leaders, the NEA said:

> Many working teachers are checking . . . and discovering that their income after expenses qualifies them to join the 17 million Americans now buying the stamps to stretch their grocery budgets.

The NEA went on to say,

> No stigma should be attached to taking advantage of this program funded by the Nation's taxpayers.

HUMAN RELATIONS DAY

The NEA recommends that January 15 be proclaimed as Human Relations Day in memory of Martin Luther King. According to an NEA circular, King was "a minister, philosopher, Nobel Peace Prize winner, author of five books, warrior against barriers to human rights, and leader in the unending struggle for better human relations."

As part of the "suggested classroom activities" for that day, teachers are encouraged to "have a Martin Luther King display," "ask students to dramatize Dr. King winning the Nobel Prize," ask students to write and share in class an essay on "How I Learned About Prejudice," and "discuss 'freedom fighters' of all races."

Unfortunately this is pure propaganda. King was an advocate of violence and lawlessness. He preached an anti-American line that amounted to little more than radical drivel. To now portray him as a freedom fighter working for peace, human rights, and better human relations is to rewrite history.

A DECLARATION OF INTERDEPENDENCE

The NEA has come up with a program entitled "A Declaration of Interdependence: Education for a Global Community." Although supposedly designed to commemorate the Nation's Bicentennial the program makes a mockery of the meaning of the American Revolution.

The NEA booklet opens with the lines:

> We hold these truths to be self-evident:
> That 200 years after declaring our inde-

pendence, the American People are entering a new era.

That today we must acknowledge the interdependence of all peoples.

That education can be a vehicle through which peace and the principles of the American Revolution—life, liberty, the pursuit of happiness—may become the guidelines for human relationships on our planet.

That educators around the world are in a unique position to help bring about a harmoniously interdependent global community based on the principles of peace and justice.

That toward the end, the National Education Association can pursue a series of programs to prepare for major reform in education.

I find it ironic that as our country celebrates its 200th year of independence the NEA is proclaiming world interdependence. Most Americans cherish their independence. The internationalism espoused by the NEA is out of step with the thinking of the American people.

Most parents or taxpayers back home—indeed, most of the fine teachers I know who are professional and completely patriotic—don't see the radical nature of these social planning bureaucrats in the NEA and its network in the foundations and Government agencies. MACOS, the controversial textbook promoted by these Washington schemers, is about the ultimate in unconventional teaching. It tells of genocide, murder, adultery and virtually every mind-boggling situation. I have outlined this teaching monstrosity and will supply a full review of it on request. Consider this treatment of the politically controversial idea that the Nation ultimately will move to control population by increasing deaths or reducing births:

> As the population crunch becomes more severe and as more is learned about the genetic basis of particular human traits, it is likely that there will be increasing advocacy of various sorts of eugenic measures [manipulation of genes].
>
> It will be proposed . . . that society identify what are thought to be the most beneficial and most harmful existing genes, and that policies then be instituted to promote widespread reproduction of the former, while the latter are systematically culled out.
>
> Such policies could be enforced with the aid of various types of coercion, ranging from propaganda and tax incentives to government licensing of the right to reproduce.

The suggestion is clearly there that while these ideas are too controversial now, the discussion should begin with the idea that in several decades the students will be able to identify and manipulate all human gene traits. No wonder basics are not so important.

NEA works hand in glove with many nationwide liberal-left coalition groups. In no area is this more obvious than their involvement in the so-called peace movement and with one world socialists. As a Bicentennial project NEA has emphasized the teaching of peace in the schools from kindergarten on up. A study of the radical material they have used, however, shows this is a ruse and really an attempt to change the values of the children, make them hostile to nationalism and Americanism and identify them with radical pacifists and antiwar leaders in this country.

One of the books promoted by the NEA is "Learning Peace" which is published by the radical leftist group, Jane Addams Peace Association, Philadelphia. It is intended to be used in grades 7–12 to teach "about" and "for" peace. The authors ask the students to choose "courageous spokesmen for peace" and tell how they helped promote peace and understanding. Such representative people as Joan Baez, Daniel Ellsberg, Linus Pauling, Benjamin Spock and so forth are their idols. Take this assignment the young scholar would get:

> Thoreau once said: "If a man does not keep pace with his companions, perhaps it is because he hears a different drummer."
>
> A. Investigate and assess the types of actions engaged in by the following individuals:
>
> (*a*) Albert Bigelow, American Friends Service Committee, sailed into Pacific bombtest area.
>
> (*b*) Dr. Benjamin Spock, pediatrician and famous author, counseled resistance to draft.
>
> (*c*) Rev. William Sloane Coffin Jr. counseled draft resistance.
>
> (*d*) The Berrigan brothers and Sister McAlister burned draft records .
>
> (*e*) Joan Baez withheld taxes used for war.
>
> (*f*) Scott Herrick, American Friends Service Committee, exchanged children's art with children of Cuba; walked from San Francisco to Moscow; boarded a Polaris submarine.
>
> (*g*) Jane Fonda presented anti-war shows to servicemen.
>
> (*h*) Students and Buddhist monks set fire to themselves as a war protest.
>
> (*i*) Dick Gregory said he would fast until peace came in Vietnam.

The course calls for acting or "role-playing" in promoting one of these spokesmen for peace. You guessed it, never a mention of the Russian bear or any Communist assaults on peace. It only comes from America.

The same tie can be shown between NEA and the psychological testing cult which would pry into the private lives of the student and ask such questions as "Are you ashamed of your father's job?" or "Do your mother and father argue?" These brainpicking tests have also been analyzed in depth in previous speeches I have made. My files run into the dozens of drawers on the NEA lobby which I have followed closely for the past decade. Only a few excerpts are given here.

POLITICAL JUGGERNAUT

NEA leaders are optimistic about the future. They envision even more political clout in the years ahead.

According to Stanley McFarland, director of NEA government relations:

> Sometime in this decade the NEA is going to have more political resources, including volunteers and other campaign contributions, than any other single union—even more than the AFL–CIO. We may even do it by 1976.

Despite these resources, NEA's leaders may find that their effort to put a "friend of education" in the White House and more "friends of education" in the Congress backfires. I firmly believe that the American people, including most teachers, want elected leaders who are more than mere puppets for the NEA.

CONCLUSION

We have seen a decade of decline in our education. Not just in results but in the esteem that parents and taxpayers formerly had for their schools and for their teachers. The liberalism of the 1960's changed many things both in high school and college. The anti-war activists, drug culture faddists and street gang terrorists have virtually reconstituted the big city schools. I could recite in depth the recent report of a commission on violence in schools. It is shocking. While this phenomenon is largely one of our big city schools and not areas like my own Ohio District, the handwriting is on the wall. Unfortunately, the AFT and the NEA have been willing agents of this demise in the city, not antagonists of declining standards.

We are reaping the whirlwind. Parents know it. Most good teachers I know are aware of it. Civil rights goals have all to often resulted in lowered standards. Colleges are now in the backlash of this whirlwind. Policies of eased admissions, lower standards, fewer mandatory courses, no foreign language study and relaxed graduation requirements have taken hold around the country. High schools are next. You can be sure that NEA would not be fighting for the old values. Former NEA President James A. Harris put it this way:

> Unfortunately, many of those who advocate a traditional education are also advocating the kind of education that equates . . . good citizenship with blind super-patriotism, and education itself with indoctrination to a rigid and racist system of thought that seeks to insulate the student from any new, perhaps unsettling, idea. . . .

Well, I advocate a traditional education and make no bones about it. The NEA liberals may think that their brand of educational perversion is just what the country needs but most parents, taxpayers and teachers will never agree.

Drugs, abortions, free love indolence, anarchy—all these can be justified under the euphemism of "differing life styles," a term the liberal education bureaucrats here love to bandy about. Most Americans want to call a halt to this NEA drivel and get back to education with a purpose. NEA bureaucrats think they know best and if they get their hands on the Federal tax dollars they want, local education will simply crumble before their phalanx of controls and modified curriculums.

There is a battle going on, right now, in this country over who shall control the schools. I believe the public, not the NEA, should control the schools. Taxpayers and teachers will have to get busy, however, lest the bureaucrats in Washington win and by bureaucrats I mean both the NEA hierarchy and the government bureaucrats.

HIGH HOLY DAYS 5737

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, September 25 is a significant day for those of the Jewish faith for its marks the beginning of the Jewish religious New Year 5737.

I am happy to join my colleagues in the Congress and my constituents and friends of the Jewish faith in observing the advent of the Jewish high holy days beginning with Rosh Hashana on September 25 and 26 and ending with Yom Kippur on October 4.

Rosh Hashana is a most solemn day, distinguished by reflection, prayer, and penitence. It is a holy day on which Jews all over the world assemble in synagogues to ask God's forgiveness for man's sins and to pray for the unification of mankind. "Unite all of us in the bond of brotherhood" is the beginning of one of the beautiful, thousand-year-old prayers associated with this holy day.

On Rosh Hashana, or New Year, the shofar, or ram's horn is sounded. The blowing of the ram's horn on this day has a deep symbolism. It is considered so important that the day has been called "the day of the clarion call." Only a man of outstanding character is permitted to sound the shofar, and its shattering sound is meant to awaken man's conscience to renew his faith and to return to God.

October 4, the Day of Atonement, or Yom Kippur, is always observed solemnly. It is the climax of 10 days of penitence with which the Jewish New Year commences. This is the most sacred day of all—for on this day the Lord judges each individual. Jews fast all day, confess, and repent, and ask forgiveness from the Lord and from their fellow man. In turn, they freely forgive their neighbors and look forward to a good new life.

The Jewish tradition of setting apart 1 day in every year to concentrate to their utmost ability on the spiritual advancement of man is without parallel in the history of humanity. And the fact that for thousands of years Jews all over the world have united in prayer and repentance on the very same day is immeasurable in its significance, particularly when one realizes the impediments that have been in the way of Jewish religious observances and the oppressive religious persecution to which the Jews have been subjected for centuries.

Denial of freedom to worship, wherever and whenever it occurs, is a crime against our common humanity and a violation of the noblest aspirations of the spirit of man. In recent years the Soviet Union has imposed hindrances on the religious freedom of the Jews residing within the Soviet Union by placing major restrictions on the training of new clerics. Many of the Jews who seek to emigrate to Israel give the lack of religious freedom as a reason for renouncing their Soviet citizenship.

During the celebration of the Jewish high holidays, we recall once again the suffering endured by the Jewish people, and mankind's conscience cries out against the betrayal of human rights which they have tragically experienced.

As the Congressman for the 11th District of Illinois, where many of my friends and constituents of the Jewish faith reside, I take pleasure, with the advent of the High Holy Days 5737, in extending my greetings and best wishes to them for the new year.

ADMINISTRATIVE RULEMAKING REFORM ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 5 minutes.

Mr. LEVITAS. Mr. Speaker, the voice of the American people spoke yesterday in the resounding vote in support of H.R. 12048, the Administrative Rulemaking Reform Act, which provides for congressional veto of administrative rules and regulations. That vote was 265 to 135. 165 Democrats voted in favor of this bill and only 100 opposed it; 100 Republicans voted in favor and only 35 opposed.

Because this bill had to be brought to the House floor under the restrictive procedure of a suspension of the rules, a two-thirds majority vote was required for passage rather than the usual simple majority. Even so, H.R. 12048 lacked only three votes for approval. A sufficient number of Members have already said that if they had to vote over again, they would have changed their vote in favor of H.R. 12048.

Opposing this bill with tough lobbying tactics were such formidable opponents as the AFL–CIO, other labor organizations and Ralph Nader's group. Also opposing the wishes of the American people were the National Association of Manufacturers and the administration and its own bureaucracy. Notwithstanding the imposing opposition of these special interest groups, the Members of the House, the representatives of the people, outvoted them by a margin of 130 votes. That speaks well for the independence and responsiveness of a vast majority of the Members of Congress who listened to their constituents.

A loud and unmistakable message was sent to the bureaucracy yesterday by the overwhelming vote in favor of H.R. 12048. The message reads that the American people expect a more responsive bureaucracy and expect their elected representatives to have a measure of control over it. I am sure that message will be heard by the bureaucrats. Whether it will be heeded, remains to be seen.

Now that the leadership of the House has seen the impressive vote on H.R. 12048, expressing the clear will of the Members, perhaps they will be more amenable to that will and permit this bill to come to the House floor under a regular rule to be voted on so that H.R. 12048 can be adopted by the usual simple majority which this bill will obviously receive.

Today, I call upon the leadership and the Rules Committee immediately to grant a rule to H.R. 12048 so that the House may work its expressed will. In the absence of a rule for consideration this year, I assure the Members and the American people that the Administrative Rulemaking Reform Act will be back next year. I intend to introduce it as a first order of business in the 95th Congress. Given the overwhelming approval it received yesterday, I am confident that renewed efforts will meet with success in the next Congress. It will attract even more support from the American people. Indeed, after explaining their vote to their constituents, I think many of our colleagues who voted in the negative will change their minds. If they are back with us next year, I encourage them to come around to the way of thinking that was expressed in the vote yesterday which reflects the mood of America.

In the meantime, until this legislation is enacted, we will continue the string of successes that I and several other of our colleagues have met in offering floor amendments to various pieces of regulatory legislation in order to attach the congressional veto concept of H.R. 12048 time after time. Until the bureaucracy takes this medicine all at once, then we will give it to them one dose at a time.

All progress does not come at once; major changes do not happen overnight. It appears that it may take more than one Congress to clean up the mess that it has built up over recent decades. But rest assured it will be cleaned up. A giant step in that right direction was taken by the overwhelming majority vote in favor of H.R. 12048 that occurred last night.

AGE DISCRIMINATION IN THE FEDERAL GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 10 minutes.

Mr. PEPPER. Mr. Speaker, I am extremely gratified that the Education and Labor Subcommittee on Equal Opportunities, chaired by Representative GUS HAWKINS of California, held hearings last week on legislation by me and BILL RANDALL of Missouri, H.R. 14879 and H.R. 15342, to end age discrimination in employment in the Federal Government. As you know, Mr. RANDALL is chairman of the House Select Committee on Aging, and I serve as ranking majority member. We on the Select Committee on Aging are particularly pleased that this vital issue is achieving the attention it merits.

A number of bills with wide bipartisan support have been introduced to ban all public and private discrimination in employment because of age. I am a cosponsor of such legislation by Representative PAUL FINDLEY and others.

Hearings before our committee, and a report to be issued shortly, have indicated that chronological age alone is a poor indicator of ability to perform a job; that many workers can and do continue to work effectively beyond age 65; and that compulsory retirement often results in the loss of an individual's role and income. Compulsory retirement also causes loss of skills and experience from the work force.

Mr. Speaker, as our colleagues in the Congress are keenly aware, we have made great strides in equal opportunity for minorities and women in recent years; now it is time for the same equality of opportunity to be afforded to the aged.

The American Medical Association filed an amicus in a court case challenging mandatory retirement in the Department of Housing and Urban Development, Weisbrod against Lynn. The AMA amicus indicates that forcing persons to retire when they are able to and wish to continue to work is "a direct threat to the health and life expectancy of the persons affected." The AMA emphasized that an employer's decision to retire a worker should be based on the same factors as the decision to hire, namely, the desire and ability to perform the job.

The National Senior Citizens Law Center, which I am pleased also testified at those critical hearings, has stated:

> In enacting the Age Discrimination In Employment Act of 1967, Congress sought to protect older persons still capable of working from being refused employment or being forced into retirement based arbitrarily on age. However, the Act protects only those between the ages of forty and sixty-five. Increasingly it is being recognized that the sixty-five age limitation is also arbitrary and that many people are capable of meaningful achievement well beyond that age.

These exemplify some of the reasons that I have opposed discrimination in employment because of age.

Not only in the area of retirement, but in hiring, job advancement, and all other aspects of employment, it is my firm belief that age discrimination, like racial and sexual discrimination, must be ended.

Pending the enactment of broad legislation, which I support, covering all public and private employment, I think the Federal Government should lead the way by eliminating discrimination in Federal employment for persons of all ages. That is the reason I have introduced, with cosponsors, the legislation under consideration.

There is ample precedent on the State level for this legislation. Sixteen States prohibit age discrimination with no upper age limit.

It is my intent that the legislation will apply to all workers employed at whatever age by the Federal Government as well as applicants for employment. It is also my intention that the bill eliminate the various existing mandatory retirement provisions by the Civil Service, the Foreign Service, the Comptroller General, and other jobs where no highly irregular risks exist—such as combat military officers, air traffic controllers, and others under specific regulations to be issued. It is my view that the "Bona fide occupational qualifications" waiver provision of the Age Discrimination in Employment Act, even for those under 65, has been abused. In addition, there is an exception in the current Age Discrimination in Employment Act which allows otherwise prohibited discrimination if part of a pension plan. Both these exceptions must be clarified, and it is my intention to establish legislative history here and now indicating Congress' intention that both these exceptions should be extremely limited. Pension plans have sometimes become excuses for firing people that wish to and are able to continue to work. Such individuals should have a choice to continue.

Figures we have obtained from Federal agencies indicate the following number of Federal employees to whom our bill would apply:

In December 1974, there were 29,067 Federal civilian employees age 65 and over who were still employed but not protected by the existing law, and who would be protected under H.R. 14879 and H.R. 15342. There were also, as of June 1975, 34,179 persons receiving Federal civil service retirement benefits who had been mandatorily retired. The Civil Service requires mandatory retirement for persons at 70 and does not hire persons over 65. Of course, the bill would not affect those who choose to retire, so that the actual number affected will be significantly less. This number does not include Federal employees mandatorily retired under other Federal retirement systems such as the Foreign Service Act, which has mandatory retirement at age 60 for most personnel and at 65 for career ambassadors and ministers, to which our bill would also apply.

In addition, the bill would protect Federal workers under age 40 who are also now excluded from protection under the current law. Just as it is arbitrary to exclude those over 65, it is equally important not to discriminate against any other age group as well. There were 948,113 Federal civilian employees under age 40 in December 1974.

Recent U.S. court cases challenging mandatory retirement — Weisbrod against Lynn, Massachusetts against Murgia, and Bradley against Kissinger—have to date held that, under current law, certain—but not necessarily all—mandatory retirement instances are legal and not unconstitutional, and that a change in the law is a policy matter for Congress to decide.

In Bradley against Kissinger, the court held that specific Federal mandatory retirement provisions such as those of the Foreign Service are not superseded by more general laws such as the Age Discrimination in Employment Act "unless there is clear indication that Congress intended to do so."

It is our intention to state exactly such a clear intent to abolish mandatory retirement in the Federal Government, subject to the ability of the individual, except in high risk hazardous occupations such as those cited earlier.

In my testimony, I included for the record certain alternative language which could be added as amendments to H.R. 14879 and 15342. The bill now provides a broad sweep approach to ending Federal age discrimination involving any personnel action, including hiring, advancement, mandatory retirement, and other employment actions. However, in case the committee should choose to make reference to specific laws now providing for mandatory retirement, I enclose for the record language which would relate to those supplementary laws.

During the February 9 hearing on age discrimination, Chairman HAWKINS pointed out the importance of age discrimination, which as he said, "obviously touches everyone of us eventually." At the same time, he accurately pointed out that there had been "very little public debate on the subject and very little interest demonstrated that would allow this committee to approach the subject with the expectation of immediate action, quite apart from what our individual views may be."

Let me just say that since that time, the House Select Committee on Aging, a new committee, has devoted a great deal of time and effort to this subject this year. We found it to be one of the most important areas within our investigative jurisdiction. We are not, as you know, a legislative committee; we can only recommend to the legislative committees. We hope prompt action will be taken on this legislation.

What we are proposing is by no means a partisan issue. The 1976 Republican National Platform called for an outright end to involuntary retirement. Former Secretary of Labor Willard Wirtz testified before our committee concerning the advantages of maintaining the elderly in the work force, and he advocated amending the Age Discrimination in Employment Act to bar mandatory retirement. I am pleased that national leaders in the field of aging and Federal employment are testifying today.

I have been in touch with Representative FINDLEY concerning my legislation, and he is in total agreement with the strategy that, pending enactment of an end to all age discrimination, the Federal Government should lead the way. Representative FINDLEY also informed me that, in his opinion, the over 60 cosponsors—of which I am one—of the broader legislation would support such a move. Many of our colleagues have already cosponsored our bill ending age discrimination in the Federal Government, and we will reintroduce the legislation shortly with the additional sponsors.

It is ironic that, year after year, the President must grant an exemption to the U.S. Commissioner on Aging, Dr. Arthur S. Flemming, now 71 years old, an extremely competent and dedicated public servant, so that he can remain on the job rather than be subject to mandatory retirement. It is not surprising that Commissioner Flemming himself is an ardent advocate of ending mandatory retirement.

But what if you are not an Arthur Flemming and you cannot obtain an exemption? You might return home, bored for the remainder of your life. You might say, as did William Bagwell, who was retired after 24 years of being a letter carrier and then an assistant postmaster, "I would have liked to go on."

In closing, let me just point out that at age 70, there was a man who was on the committee drafting and approving the Declaration of Independence.

At age 77, he was negotiating the peace treaty that ended the war with Great Britain.

At age 80, he was serving on the committee that drew up the Constitution of the United States of America.

At age 74, he wrote the following prescription for successful aging: "Keep up your spirits and you will keep up your bodies."

He was Benjamin Franklin, and under our current law, he would not have been eligible for these appointments to serve the Nation.

Mr. Speaker, I would like to express my deep gratitude to Sharon House and Karen Lewis of the Library of Congress for the tremendous amount of time and effort they spent preparing information for our committee and me on this critical subject.

We are hopeful that this important bill will be enacted either this year or early in the next Congress.

THE '76 CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, in selected reports over the past 2 months it has become clearly evident that the observance of the '76 Captive Nations Week, both here and abroad, has left indelible impressions for some time to come. A published compilation of these revealing reports would show, indeed, America's Bicentennial salute to the oppressed captive nations in Central Europe within the Soviet Union, in Asia, the Caribbean and also now in Africa. Advocates for the captive nations and their strategic link to our basic national security have for years been advancing morality in our foreign policy. Rationally, they go beyond this with a well thought out course of action aimed at peace and freedom through strength. Captive nations analysis combines the humanitarian, the moral, and the political in its broadest sense to realize this consummate end. The National Captive Nations Committee, headed by its honorary chairman, President George Meany of the AFL–CIO and chairman Dr. Lev E. Dobriansky of Georgetown University, has been in the forefront of this movement for a captive nations policy and all that this entails in our global policy based on peace and freedom through strength.

Regarding the '76 Captive Nations Week and its aftereffects, I bring to the attention of my colleagues the proclamation of Boston's city council, an article in APACL Bulletin on the Taipei observance, a relevant part of the Evans and Novak column of August 26, a statement by His Eminence, Paul Cardinal Yupin, a letter to the editor on "The Russian Myth and the Captive Nations," and a declaration from the Republic of China:

City of Boston in City Council—Resolution

Whereas, The United States Congress eighteen years ago enacted Public Law 86–90 which established "Captive Nations Week" as the third week in July and designated it as a period for official, annual recognition of those without the basic human right of self-determination; and

Whereas, The peoples of the captive nations, and their descendants and relatives here in America have never given up the dream that one day freedom and self government will return to Poland, Ukraine, Armenia, Byelorussia, Estonia, Latvia, Lithuania, Georgia, Azerbaijan, Turkestan, North Caucasus, Hungary, Czechia, Slovakia, Romania and others; and

Whereas, The United States of America in celebrating its Bicentennial as a free Republic takes note that too many people do not enjoy the blessings of liberty; NOW, THEREFORE, BE IT

Resolved, That the Boston City Council, in meeting assembled, officially recognizes the third week of July as "Captive Nations Week" through the reaffirmation of the policy of freedom, independence and national self-determination for all peoples; and, be it further

Resolved, That the United States should not limit interest and concern for captive nations to one week per year, but should urge that all Americans rededicate themselves to the support of freedom around the world in order to prevent the flame of freedom from being extinguished.

[From APACL Bulletin, August, 1976]

1976 Captive Nations Week Observed in Taipei

Some 50,000 people from all walks of life in the Republic of China gathered on July 23 in the Taipei Municipal Stadium to observe 1976 Captive Nations Week and to appeal to the free nations to lend allout support to the struggle for freedom by captive peoples behind the iron curtain.

The mass rally climaxing the Captive Nations Week activities in Taipei was presided over by Dr. Ku Cheng-kang, Honorary Chairman of the World Anti-Communist League.

President Yen Chia-kan delivered a speech at the rally. The President pointed out that the history of evolving human civilization is to be equated with humanity's overcoming of violence and with freedom's victory over slavery.

In the last two decades, he said, all the turmoils and troubles facing Asia and the other peoples of the world may be considered a prolongation of the tragedy that befell the Chinese mainland in the Communist usurpation.

The goal of the Chinese people, therefore, is not only to assist the enslaved people in regaining their freedom, but also to bring a halt to the Communists' continuing expansion and aggression against the free countries—to safeguard free peoples from further Communist slavery and persecution.

He guaranteed that "no matter how the world situation may change, our will to struggle forward will never waver and our anti-Communist undertakings will never cease."

In his remarks to the rally, Dr. Ku Cheng-kang claimed that a favorable anti-enslavement situation is fast developing and the objective conditions for the liberation of the enslaved peoples are shaping up at an accelerating pace.

He said that the free nations now know only too well that the Communist objectives of communizing the world and enslaving mankind will never change. On the other hand, he went on, the Communist forces are disintegrating and weakening.

Just as the anti-enslavement struggle on both sides of the iron curtain is entering a new stage, he said, the United States is celebrating its Bicentennial. The American war of independence has served as a good example of mankind's fight for freedom and against enslavement.

He pointed out that all people in the world now look up to the United States, the initiator of the Captive Nations Week, to give full expression to its traditional spirit and to support the enslaved people in their life-and-death struggle against Communism and for freedom. He urged that the United States abandon once and for all the dangerous tactics of "aligning with the Peiping regime to checkmate Soviet Russia," and render allout support to the enslaved peoples' fight for freedom.

He also called upon the free nations to smash all international Communist united front intrigues and strengthen the camp of the forces of freedom and make full use of their power to defeat the disintegrating and greatly weakened Communist forces.

Other speakers at the rally included U.S. Congressman Edward J. Derwinski; Eduardo Galil, Brazilian Congressman; J. T. Kolane, speaker of the National Assembly of the Kingdom of Lesotho; Mrs. Slava Stetsko, chairman of the Press Bureau of the Anti-Boleshevik Block Nations; Prof. Giorgio Roberti of the University of Rome.

Derwinski said that "Communism has created a completely artificial structure in the economic, educational and political programs dictated by red governments. Therefore they must resort to constant propaganda and self-deception. Trapped by their own rhetoric they cannot acknowledge the true reasons for their failures." The Congressman stressed that the world cannot exist half-slave and half-free, emphasizing that "Freedom for all people, Communism for none, is our battle cry."

Kolane called attention to what the Communists are doing in Africa where they are active and have already gained a foothold in some unfortunate countries. He said that Lesotho has become more vigilant in ridding the country of all subversive activities that usually culminate in Communist infiltration.

Galil pointed out that in Brazil and the majority of Latin American countries nationalism has succeeded for the time being in checking the immediate danger of the Communists seizing power. Nevertheless, he said, the struggle against international Communist forces cannot be founded solely on the idea of nationalism.

He urged the free countries to be aware of their historic mission and ready to give their full support to the captive peoples so that in the near future the whole world may see the complete destruction of Communist oppression, the victory of nationalistic ideas, the triumph of the basic values of human nature and the establishment of real world peace.

Mrs. Stetsko appealed for a strong, united front to be established consisting of all good, freedom-loving people determined to stand up for the defense of truth, justice, national independence and human freedom.

Roberti warned of a new strategy devised by the Communists in Western Europe to deceive the public that they are sponsoring a different kind of Communism from the one existing on the other side of the iron curtain. However, he was confident that the Communist empire is doomed to fall. "Recent history teaches us to beware of Communism. But ancient and modern history alike tells us that empires first grow and then crumble. Some of us may be too old to witness this, but it will happen!"

U.S. President Gerald R. Ford's 1976 Captive Nations Week proclamation was read at the gathering along with other messages and greetings from leaders all over the world.

The rally was the biggest of its kind ever held in Taipei. Also present at the rally were members of the diplomatic corps, freedom-seekers recently arriving in Taipei from the Chinese mainland and overseas Chinese.

Six programs were presented during the gathering expressing people's support to the anti-Communist struggle by their brethren on the Chinese mainland. Each was performed by more than 1,000 people.

The first program was performed by thousands of young women from Taipei. They formed five circles on the floor of the stadium symbolizing the unity of the free forces of the world's five continents, the unity of anti-Maoist and anti-Communist workers, peasants, students and cadres on the Chinese mainland and the five types of heroic struggles waged by the Chinese mainland people against the Communist despotic regime.

Then, a demonstration of Chinese martial arts was presented by the Chengkung Chinese Boxing Society showing the strength of the people and their indomitable resolution to uphold justice in line with the nation's outstanding tradition.

Other programs included "The Call of Freedom," "Strive for Man's Freedom," "March to the Mainland," and "Against Slavery, For Freedom."

The programs ended with more than 2,000 people from 26 religious, professional and student bodies forming the Chinese characters that stand for "Against Slavery, For Freedom" and the English letters "WACL" symbolizing that all freedom-loving people irrespective of race, nationality, creed, sex or age unite under the anti-Communist banner of the WACL to strive for freedom for all mankind.

The mass rally adopted a declaration appealing to the free nations to lend allout support to the struggle for freedom by the captive peoples in Asia, Eastern Europe and Latin America and especially to lend moral and material support to the peoples in Vietnam, Cambodia and Laos, who have been shut behind the iron curtain and are being massacred and persecuted, so as to liberate them from further enslavement and help them regain freedom.

The declaration also appeals to the people on the Chinese mainland to rise up by taking advantage of the internal disintegration and current turmoil among the Chinese Communists as Mao Tse-tung lies on his deathbed to wage an allout struggle for freedom.

It emphasizes that the ultimate objective of Soviet Russia and the Peiping regime to communize the world will never change and the free world has to distinguish friends from foes so as to strengthen the anti-Communist camp and take resolute actions on all fronts.

During the Captive Nations Week, other observance activities in the Republic of China included a forum on international affairs, lectures by world anti-Communist leaders, a meeting of freedom-seekers from the Chinese mainland and gatherings of different religious groups.

[From the Washington Post, Aug. 26, 1976]

Abzug-Moynihan Race: At Opposite Poles

(By Rowland Evans and Robert Novak)

Rep. Bella Abzug of New York rose on the floor of the House July 21 to dramatize a remarkable world view that makes her Senate primary duel with Daniel Patrick Moynihan a test of opposite poles in the Democratic Party.

That day was the annual observance of "Captive Nations Week," during which congressmen denounce tyranny by Communist governments, a ritual that Mrs. Abzug has disdained in the past. This time, obviously because of New York's Sept. 14 primary, she participated. The heart of her remarks follows:

"We must not forget the suffering generated as a result of the totalitarian regime gaining control in Germany in the 1930s. We should not forget the lesson of Vietnam, and the suffering caused by support for a totalitarian regime there. We should also not forget the lesson of India, and the recent events of this past year, during which individual rights were virtually abolished."

Mrs. Abzug mentioned no other country, ignoring the entire record of Communist oppression in Eastern Europe, Asia, the Soviet Union itself. The omission shocked not only conservative congressmen but her fellow liberal Manhattan Democrat, Rep. Edward Koch, who that same day called "50 million killings in the U.S.S.R." equal to Nazi genocide.

The reticence of Mrs. Abzug to criticize Communist governments has been as characteristic of her six years in Congress as her vote against every single defense bill during that time. Thus, as the Democrat most conspicuously on the extreme left, she is the antithesis on national security questions of her principal opponent in the primary, the equally flamboyant Moynihan. Since the five-way Democratic race has now boiled down to an Abzug-Moynihan dead heat, their struggle defines the basic polarity within the Democratic Party that was finessed by the party platform and Jimmy Carters' candidacy.

Statement Released to the Press and Television, by His Eminence, Paul Cardinal Yupin, Archbishop of Nanking, China

Communism is the moral enemy of God and man. It is atheistic and intrinsically evil. Communism is the total negation of everything that the Catholic Church ever stood for: justice, human rights, freedom of religion, personal freedom and legitimate governments. It claims to promote a "classless society" but actually functions as a dictatorship of despots who exploit the toiling masses more viciously than any other tyrannical ruling class in the history of the world. From a platform of absolute oppression, communism unceasingly tries to mould the thinking of its victims. Communism has been provoking and conducting wars of oppression. In China alone communism has slaughtered more than 60 million innocent people. Millions more may perish following Mao's death.

There have been more christian martyrs in communist countries than in all history for the advent of communism.

The Church can no longer remain silent. By default we are contributing to the enslavement of millions whose future is bondage without hope.

You cannot be a christian and a communist. You cannot enter into detente with the devil. A Christian cannot be an accomplice to terrorism.

We are standing at the turning point of history. The fate of mankind hangs in the balance. We must stop compromising with communism. We must no longer indulge in the perversion of providing money and moral support for communist ventures. We must reassert the meaning of christianity against communist atheism.

Communists with neckties are merely smarter, but not less dangerous than communists in Mao jackets.

Finally, we must insure that the Church realizes that it is responsible to the faithful everywhere, including those oppressed by communist regimes. At this Eucharistic Congress in Philadelphia we pray for the suffering people of the whole world, especially for all the Captive Nations under communist yoke. As Chinese pilgrims from Free China, we cannot forget our brothers and sisters of Mainland China.

After 25 years of communist oppression on Mainland China the bell of freedom on April 6, 1976, was sounded in Peking when 100,000 Chinese at the Gate of Heavenly Peace Square (Tien An Men) opposed publicly the communist Government. They were the forerunners of other millions of Chinese people all over Mainland China now rebelling against the communist regime. We will send a message of consolation and encouragement to the persecuted Catholics on Mainland China. We pray daily for the ressurection of the Church of China.

[From America, Philadelphia, Aug. 12, 1976]

The Russia Myth and the Captive Nations

(Editor's Note: The below printed letter is a project that U.C.C.A. Branch Passaic-Bergen, in conjunction with the State of N.J. Coordinating Council, has sent out to over 55 newspapers and magazines from Connecticut to Washington, D.C.)

Dear Editor: Every time we Americans hear the word "Russia" mentioned we see visions of "Ninochka," "Brothers Karamazov," "Dr. Zhivago," the Cultural Exchanges, and Olga Corbit. These pleasant and romantic images blind us to the reality of Red Russians' messianic role in the world. They also make our foreign policy ineffectual and impotent towards the USSR—an empire composed of many Captive Nations.

It was at Yalta that president Roosevelt, leader of the victorious allies, signed away all the non-Russian nations in Eastern Europe into the Russian orbit. Our basic ignorance of the nationalities problem in Eastern Europe helped create the largest imperialistic empire in the world.

During the brief intervals of WW I, and WW II, these nations were breaking away from the old Czarist empire and forming sovereign states. But, Communist Russia, in its desire to maintain the Czarist empire intact, quenched each abortive attempt at self-rule. Ukraine was one such country. Ukraine, whose history extends back into neolithic times, and includes a Medieval Kingdom, and Democratic Kozak State in the 16th-18th centuries, was conquered by the state of Moscovy in the 18th century. The express policy of the Czars, then as with the Kremlin leadership now, was to eradicate the Ukrainian national identity through a policy of ethno-genocide. In the chaos and breakup of the Czarist empire in 1917, Ukraine formed a national government and declared itself sovereign. Among many of the democratic ideals accepted by that government was the creation of an autonomous Jewish Congress, a first in European politics. Another such attempt at self-rule was made in 1939. Both attempts at modern statehood were short-lived as Red Russia "liberated" each successive country that tried to breakaway.

House Resolution 89–90, signed into public law by President Eisenhower in 1959, designates a week in July as "Captive Nations Week." This law recognizes the illegality of the Russian empire.

If we follow Red Russian expansionism for the last thirty years, we see that the list of Captive Nations has been growing steadily. Angola is the most recent. Is Italy next?

As we commemorate Captive Nations Week this year, July 18–24, we should realize that what happened thirty years ago, in a remote part of the world, cannot be shrugged away, because the threat is moving ever closer in our direction.

Knowledge of the true nature of the threat posed and the nature and weaknesses of Imperialistic Russia's domestic problems, will aid us in implementing a realistic policy toward neutralizing this threat to us and the world.

Myron Pinkowsky,
President.

Declaration—Captive Nations Week Rally of the Republic of China

(Taipei, July 23, 1976)

People from all walks of life in the Republic of China and anti-Communist fighters who love freedom and champion the cause of justice from various parts of the free world gathered here at Taipei in support of the Captive Nations Week this year are jubilant over the new era that is opening in their fight against enslavement and for freedom at the very moment when the International Communist forces are disintegrating and retreating and the forces of freedom throughout the world are awakening and taking up the Communist challenge.

The mass rally firmly recognizes the fact that the Russian Communist forces, confronted as they are with the Chinese Communist struggle for hegemony, the rising liberalizing movement in the satellite nations, and the attempt to free themselves from Moscow's control on the part of the other Communist parties in non-Communist nations, are being isolated and are on the decline.

The mass rally firmly recognizes the fact that the Peiping regime's enslavement and persecution of the Chinese people on the mainland have stirred up their anti-Communist fury, that the anti-tyranny actions at Tien-An-Men have shaken the Iron Curtain to its foundations, that the Mao Tse-tung tyrannical regime is on its deathbed, and that the development of the Chinese Communists' internal anti-Mao struggle and the nation-wide anti-Communist revolution on the part of the Chinese people on the mainland will give rise to momentous changes resulting from the fight for freedom by one fourth of all humanity.

The mass rally firmly recognizes the fact that the ultimate objective of Soviet Russia and the Peiping regime to communize the world will never change. The mass rally should like to call the further attention of free nations to the fact that the Peiping regime is the source of all the troubles and confusion in Asia and the entire world and that if Asia is deprived of freedom and peace, there can be no freedom and peace in other parts of the world. We must take full advantage of this critical moment when the current situation is turning in our favor and cooperate wholeheartedly with all the forces of freedom on both sides of the Iron Curtain to wage a common fight for the salvation of the captive peoples and create a new world order.

Therefore, the mass rally hereby solemnly proclaims to all free nations of the world and all the people throughout China the two main tnemes following:

First, let us clearly recognize our friend and foe, strengthen the anti-Communist camp, and take resolute joint anti-Communist action on all fronts.

Second, let us recognize that in order to overthrow the International Communist tyranny, we must first of all liberate the Chinese people on the mainland by consolidating all the strength of the Chinese people at home and abroad to serve as the advance guard in the fight for freedom and against enslavement.

On the basis of these common understandings and recognitions, the mass rally hereby appeals to the free nations and all the people in China to do the following:

First, we appeal to the free nations to take cognizance of how International Communist strategy makes use sometimes of military aggression and sometimes of international united front. We must never recognize the accomplished facts of aggression. We appeal to the free nations to abandon the double policy of anti-Communism on the one hand and pro-Communism on the other, to discard all illusions of "aligning with the Peiping regime to checkmate Soviet Russia," and to carry out the policy of peace through strength so as to make world peace based on freedom and justice a reality.

Second, we appeal to the free nations to lend allout support to the struggle for freedom by the captive peoples in Asia, Eastern Europe, and Latin America and, especially, to lend moral and material support to the peoples in Vietnam, Cambodia, and Laos who have been shut behind the Iron Curtain and are being massacred and persecuted, so as to liberate them from further enslavement and regain freedom.

Third, we appeal to the people of the United States to faithfully carry out, on the basis of their traditional national spirit, the duties and responsibilities imposed upon them by the Declaration of Independence and to maintain with all their strength the God-given inalienable rights of life, liberty, and the pursuit of happiness. We appeal to the American people to follow the lines pointed out by President Gerald Ford in his Bicentennial statement by standing firmly for freedom and justice, uniting all the forces of the free world, and waging a common fight with them for the preservation of the freedom of the free peoples and the restoration of the captive peoples' freedom.

Fourth, we appeal to the United States to cherish its relationship of alliance with the Republic of China, to abide by its treaty commitments to the Republic of China, to scrap the Nixon-Chou En-lai Communique signed in contravention of the spirit of international law, and to stop all attempts to "normalize relations" with the Peiping regime.

Finally, we appeal to our enslaved brethren on the mainland to rise up and, by taking advantage of the internal disintegration and the current turmoil among the Chinese Communists as Mao Tse-tung lies on his deathbed, to wage an allout struggle for the freedom to live and against enslavement and persecution. We appeal to them to struggle for democracy and the rule of law and against despotism and dictatorship, to fight for security and happiness and against a reign of hate and terror, and, in response to Premier Chiang Chingkuo's clarion call, to join us in a spiritual union and stand side by side with us at this revolutionary center for national recovery, so as to form an irresistible anti-Communist revolutionary army of the entire Chinese nation to tear down the Iron Curtain that has been erected by the Peiping regime.

All freedom-loving peoples of the world and all our brethren throughout China, please know that the pursuit of freedom, democracy, and happiness is our common aspiration and that the overthrow of the despotic tyrannical regime of enslavement is the grand objective of our anti-Communist activities. Let us unite to fight for the triumph of freedom and accomplish the sacred mission of the times!

CONGRESS MUST CONDEMN ASSASSINATION OF ORLANDO LETELIER AND RONNI MOFFITT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 60 minutes.

Ms. ABZUG. Mr. Speaker, I have learned with shock and horror of the murder in Washington yesterday of Orlando Letelier, former Chilean Ambassador to the United States, and Ronni Karpen Moffitt, an administrative assistant at the Institute for Policy Studies. They were killed when a bomb exploded in their car as they were driving along Embassy Row. Michael Moffitt, the third occupant in the car, is in critical condition at George Washington Hospital.

I believe Congress must condemn what appears to be an act of political terrorism directed against a Chilean's exercise of his democratic right to criticize the military regime in Chile.

Orlando Letelier served as Ambassador to the United States from 1971 to 1973, and also served in the Chilean cabinet during the Allende government as foreign minister, defense minister, and interior minister. Following the September 1973 coup, Letelier was held prisoner by the military junta for more than 1 year until worldwide pressure from human rights organizations resulted in his release and subsequent exile in the United States.

The political terror and repression inaugurated by the junta have not been confined just to Chile. In 1974, General Prats, the exiled Chilean General of the Armies, and his wife were assassinated in Argentina. In 1975, Bernardo Leighton, the Christian-Democratic Vice President of Chile during the Frei administration, and his wife were machinegunned in the streets of Rome.

Now this political terror has been extended to the United States.

Congress must express the opposition of all Americans to terrorist attacks which not only destroy precious lives but assault the democratic institutions of our Nation as well.

Mr. Speaker, I agree with the sentiment expressed in the Washington Post this morning that Letelier "deserves honor" while the junta deserves "contempt." The text of the editorial follows:

ORLANDO LETELIER

Orlando Letelier, an economist of deep intellect and humane spirit, saw in the election of Salvador Allende as president of Chile in 1970, an opportunity to extend genuine economic and social benefits to the Chilean people. He promptly put his experience in international finance at the Chilean revolution's disposal, serving as ambassador in Washington. His special contribution was to try—against the ever longer odds created by both sides—to lead the American and Chilean governments to an appreciation of the steps both could take for their common benefit. He had no illusions about the spiraling of events in Chile but he nonetheless returned to Santiago to become foreign minister just before President Allende was assassinated in 1973.

The new junta at once put Mr. Letelier into a concentration camp and kept him there for a year. International pressure helped free him. He came to the United States, saddened but not embittered by the American role in the Allende tragedy, to teach and write and to prepare as best he could by open political activity for the restoration of his country's democratic traditions. Even that was evidently too much for the thugs who control Chile. Earlier this month they took away his "nationality"—as if they could. Yesterday, with a Washington associate, Ronni Moffitt, he was killed in an explosion of their car in Sheridan Circle. The circumstances at the very least raise the question of political assassination.

Orlando Letelier was a rare individual, as patient in argument as he was passionate in conviction, the model of the private man prepared to act on his beliefs and to accept their public consequences. He exemplified precisely the qualities—reason, concern for the common man, and civility—which the junta is trying to suppress in his native land. Whatever may yet be proven about the junta's part in his death, his exile speaks its own comment on those who exiled him. He deserves honor; they and their rule of Chile, contempt.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks, and to include therein extraneous material, on the subject of the special order taken today by the gentlewoman from New York (Ms. ABZUG).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ADDRESS OF CONGRESSMAN MORRIS K. UDALL TO 1976 CONFERENCE, NATIONAL REHABILITATION ASSOCIATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, on September 19, 1976, our distinguished colleague, the gentleman from Arizona, the Honorable MORRIS K. UDALL, delivered an outstanding address on problems of the handicapped at the annual conference of the National Rehabilitation Association in Hollywood, Fla.

Mr. Speaker, as chairman of the subcommittee of the House of Representatives with responsibility for the Vocational Rehabilitation Act and the Education for All Handicapped Children Act, I want to congratulate Congressman UDALL for the powerful and perceptive way in which he discussed the record—and it is a record of hostility of the administration of Gerald R. Ford, and of the Ford-Dole ticket—to initiatives in Congress to strengthen programs that serve the needs of handicapped Americans.

The text of Congressman UDALL's address follows:

SPEECH BY REPRESENTATIVE MORRIS K. UDALL

I was, frankly, somewhat surprised when I was asked to speak to you tonight. In the House, a body of specialists, I'm a member of the Interior and Civil Service Committees. And while I try to work in other fields, like election reform, John Brademas could tell you that rehabilitation has never been one of my specialties. So why Udall?

Finally it struck me—I'm handicapped. And that got me to reflecting on the fact that handicapped people don't often think of themselves—ourselves—as being different, being crippled, being inferior. The disabled individual is, first and always, a person . . . a person with problems, yes, but all people have problems. We are different chiefly to the extent that we are forced to be different—when we are denied the opportunity to develop our talents fully, to work to the best of our ability, to pursue social and athletic and intellectual interests. Those aren't extraordinary dreams. They aren't a desire for something special, something more than others expect. They are precisely what the founders of this country meant by "life, liberty and the pursuit of happiness."

So being with you today is a special privilege. From my own experience, I know the struggle faced by anyone trying to overcome a disability. I am personally aware of the hardship of those who cannot get the professional services provided by the members of this organization.

HANDICAPS NEED NOT BE OBSTACLES

I know, too, that physical handicaps need not be insurmountable obstacles to achieving a normal and productive life. Indeed, as most of us in this room grew up, one of our greatest Presidents governed from a wheelchair. In my own profession, I know the debt this nation owes to men like Senator Dan Inouye, who lost an arm in World War II; Mike O'Callaghan, the governor of Nevada, who lost a leg in Korea; Senator Chuck Percy, who suffers from hearing loss; and—despite some disagreements you'll be hearing about in the next 24 hours—Senator Bob Dole.

But more important than those political success stories are the hundreds of thousands of Americans in every state who benefit daily from your help. As I sought my party's nomination, I saw the fruits of your labors in dozens of visits to hospitals and rehabilitation centers. I saw the joy of a child learning, as I learned, that the loss of an eye can be a challenge, not a handicap; the hope of an adult who realizes that despite a disabling accident or disease he or she can still live a happy and productive life, both at work and at home; the pride of the older citizen determined that a stroke will be a temporary difficulty, not a permanent burden.

I know that each of you has been an actor in many dramas like these—quiet, private, often frustrating struggles filled with the heroism of ordinary people summoning the resources of body, mind and spirit to surmount extraordinary barriers. Not just your patients, not just their families and friends, but all Americans owe you a deep debt of gratitude.

Perhaps the central social event in our country in this century has been the refusal of black Americans to endure second-class citizenship any longer. Once awakened to the evils of unequal rights based on skin color, Americans have responded with a commitment to equality not only for blacks, but for other minorities, for women, and—under the Rehabilitation Act that Richard Nixon vetoed twice—for handicapped Americans. It was wrong to tell people that because of their skin color, they had to ride the back of the bus. But because of physical barriers, many handicapped Americans still can't ride the bus at all.

The law says that is wrong. The law says it is illegal. But the current Administration has failed to implement that law vigorously, as it has failed to enforce so many other laws.

And if they could get on the bus, where would these handicapped go? As I indicated before, the needs and aspirations of the disabled are like those of most other people. Like most other people, they'd like to go to work. More than most other people, they can't—not because of disabilities, but because this Administration has deliberately fostered high unemployment that hurts everyone, including the handicapped. And because this Administration has failed to enforce antidiscrimination and affirmative action provisions to help the disabled person get fair treatment in the job market.

It is understandable that handicapped citizens, and the professionals who deliver rehabilitation services, should want an Administration that is sensitive to their needs. And it is understandable that you would anticipate special sensitivity from a ticket that includes a Bob Dole.

FORD'S RECORD OF VETOES OF HANDICAPPED LEGISLATION

But in politics, as in every other area of life, there is really only one reliable way of projecting future performance: Look at the record. That's what handicappers do at the race track, and that's what the handicapped should do in the voting booth.

So let's do a little handicapping—let's look at the charts—let's see what the "racing form" can tell us about this Republican Administration and this Republican ticket.

Under past performances, we find the hallmark of Gerald Ford's Presidency, the veto. Getting vetoed by this Administration is sort of a badge of honor, like being on the enemies list. I thought I had a special distinction because my strip mining control bill was vetoed twice. But when I took a closer look at the record, I saw that the National Rehabilitation Association had me beaten. Richard Nixon vetoed the Rehabilitation Act in 1972, just a week before the election. He did it again in early 1973, and it was sustained in the Senate—with the help of Senator Dole. It was finally enacted later in 1973, and the next year Congress sought to amend and extend it. And Gerald Ford vetoed that. Three vetoes. Congratulations. Ford's veto, by the way, was overridden by the largest margin in history—398 to 7 in the House, and 90 to 1 in the Senate. That indicates just how far this unelected President is out of step with the elected representatives of the people.

The Rehabilitation Act vetoes are only part of the story. In the last six years, I count no less than fourteen other vetoes of bills of particular interest to the disabled. In 1970, Nixon vetoed the HEW appropriation, the Veterans Administration appropriation, the Hill-Burton hospital construction authorization, and the Office of Education appropriation. On every override attempt, Gerald Ford and Robert Dole voted to sustain those vetoes. In 1971, he vetoed the Office of Economic Opportunity Extension, and Robert Dole voted to uphold that veto. In 1972, he pocket vetoed the HEW appropriation, veterans health care expansion, and the Older Americans Act amendments. In 1973, he vetoed emergency medical services, and Gerald Ford voted to uphold that veto.

Since becoming President, Gerald Ford has vetoed nurses training twice, community health programs, the HEW appropriation, and funding for the Office of Education, in addition to the rehabilitation amendments.

I suspect the nominee of my party would feel more comfortable if I switched from a race track metaphor to something a bit less shady. So, if I may paraphrase the Bible, "by their vetoes you shall know them." And by their vetoes you know, as I know, that this Administration is no friend of the disabled, no friend of the disadvantaged, no friend of the needy—no friend of the people whose rights this government was constituted to protect.

FORD ADMINISTRATION OPPOSITION TO SERVICES FOR HANDICAPPED

The record of failure goes beyond Gerald Ford's indiscriminate use of the veto. In signing the Education for All Handicapped Children Act, he accused Congress of "falsely raising . . . expectations"; his lack of support for that bill took more concrete form in his attempts to reduce funding by nearly $200 million.

This week marks the third anniversary of the passage and signing of the Rehabilitation Act. It was one year before the first regulations under that act were promulgated. It took 16 months for this Administration to appoint a Commissioner to carry out the law. And now—after three years—major anti-discrimination rules are still not completed.

Now the Ford administration is backing legislation to legalize the kind of reorganization of health services that Florida has attempted. There is some surface appeal to the Ford argument that state experimentation should be encouraged. But in this case the logic is only on the surface. The federal-state partnership in vocational rehabilitation is not a new, untried, unproven program. It has been carried on—with immense success—for more than half a century. It has proven its worth. In cold cash terms rehabilitation enabled those you serve to increase their earnings in 1975 by more than a billion dollars. Strides toward self-sufficiency save the taxpayers the expense of welfare and other assistance, while adding immeasurably to the self-esteem of the disabled and the well-being of the community. To submerge this program in an amorphous agency with no clear lines of authority, no clear accountability for federal and state tax funds, is the worst kind of fiscal and social irresponsibility.

Efficient operation of state health services is a goal we all support. And it has been proven that such reforms can be achieved without emasculating rehabilitation services. In fact, it was proven just a few hundred miles north of here—in the state of Georgia—in the administration of Governor Jimmy Carter.

The current assault on the integrity of rehabilitation programs is part of a larger strategy. Gerald Ford would replace all categorical human assistance programs with block grants. That intention is spelled out in the Republican platform. It masquerades in the language of federalism. In reality, it is an attempt to justify in high-sounding language this Administration's inability or unwillingness to administer the laws of this nation.

The same spirit can be found elsewhere in the Republican platform. Most notably, it can be found in the health care plank that urges only "catastrophic" protection. That means no money-saving, life-saving preventive services for those most vulnerable. It means no effective cost controls to stop the spiral in health care expenses. It means more of the same kind of problems which have so damaged Medicare and Medicaid. It means forbidding reform and streamlining of health care delivery and it means letting a few doctors get rich on the misery of the poor and elderly.

JIMMY CARTER'S RECORD: SUPPORT FOR HANDICAPPED

I've talked about this Administration's record because it demonstrates vividly Gerald Ford's indifference to the quest of disabled citizens for full human rights and maximum selfsufficiency. I want to talk now about the Democratic nominee, Jimmy Carter. Again, I shall not read you a position paper. Instead, let's look at his record.

Two weeks ago, Jimmy Carter kicked off his campaign at a site with special significance for handicapped Americans—Warm Springs, Georgia. But there was more than symbolism attached to that location. For it was during the term of Governor Carter that the state purchased the Warm Springs hospital and increased its usage by 75 percent.

During those four years, architectural barriers were removed from more than 100 state government buildings; a law was enacted guaranteeing every deaf person the right to a qualified interpreter in court proceedings; and Governor Carter went beyond that, working with organizations of deaf Georgians to make interpreters available in all dealings with the state government.

In those four years, special education programs were doubled; 304 school buses equipped to carry disabled students were put into service; community mental health centers were increased from one to 18; and a million-dollar stroke prevention program screened 100,000 Georgians in its first year.

Most significant, perhaps, is this fact: Georgia ranked among the top five states in successful rehabilitations per 100,000 citizens every year of the Carter administration.

The Democratic Congress has passed laws to protect and assist the disabled. But the record proves it will take a Democratic President to enforce those laws. I learned in the primaries that when Jimmy Carter says he will beat you, he beats you. And I've learned since then, that when Jimmy Carter says he will help you, he helps you. Jimmy Carter is publicly pledged and privately committed to helping every disabled American achieve independence and self-respect to the maximum degree his or her handicap allows.

These facts in themselves do not guarantee a golden age for the disabled in the next four years. Effective legislative advocates like John Brademas and Jennings Randolph must be supported so they can make their voices heard. And vital organizations, both *for* the disabled and *of* the disabled, must continue to speak forcefully. For the needs of handicapped Americans compete with the urgent claims of other groups on the finite resources of government. Organization is especially important for those of limited physical strength and mobility.

So I commend the National Rehabilitation Association for its signal contributions. I urge you, and the 35,000 members of your association, and the 30 million handicapped Americans you serve, to get involved in our precious process of democracy. Examine the records and the programs of those who would lead America, and make your choice known November 2nd. For the ballot is blind. It does not see crutches or wheelchairs. In that booth there are only people—each equal, each free—each helping to build our future.

FOR REGIONAL ECONOMIC IMPACT STATEMENTS

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, I am reintroducing a bill, first introduced by Congressman William S. Moorhead, which requires Congress and all executive departments and agencies to assess the regional economic impact of proposed legislation, rules, and regulations. This piece of legislation is the first push in, what I hope to be, a formidable crusade to revive the lagging fiscal relationship between the Northeast and Midwest and Washington.

We in Congress, are familiar with that part of the legislative process which requires an "inflationary impact statement," as well as a "cost estimate," to accompany all pending legislation. The bill, which I am introducing today, would require an additional assessment—"an assessment of the differential impact on the various regions of the United States of all legislation in terms of probable or reasonably foreseeable changes in employment and unemployment rates, prices, per capita income, level of industrial production, and general business environment." The bill would also extend this requirement to executive branch rulemaking.

The need for this legislation is clear. If we are to correct the inequities which currently exist—which cause the Northeast and Midwest to receive negative returns on their Federal tax moneys—then we must attack the problem at its root. We must correct the myriad of legislative and executive formulas which allow this detrimental trend to continue, and cause the oldest and largest industrial centers in the United States to suffer billion dollars financial losses.

Earlier this month, 218 Members who represent the impacted areas agreed to form the Northeast-Midwest Economic Advancement Coalition in an effort to alter the distribution of Federal goods and services so that all regions of the country receive equal and fair treatment. One of our responsibilities will be to examine existing and proposed programs to correct inequities which are written into the law. To accomplish this with a degree of expertise, it is imperative we employ the comprehensive examination process presented in the bill I am introducing today.

THE COALITION SWELLS: 187 MEMBERS SIGN AGAINST SYNTHETIC FUELS; THE UAW AND THE LIBERTY LOBBY STATE OPPOSITION

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, I am listing below the 187 Members from both sides of the aisle who have joined together these last 2 days to agree to defeat the rule that would bring the synthetic fuel legislation to the floor again.

Along with this amazing amalgam of Republicans and Democrats of every stripe, I would like to bring to the attention of my colleagues a new letter from the UAW, which is printed below. The important phrase, to which I would like to call particular attention, is the statement that—

> The UAW believes the best course, however, would be to *vote down the rule and dispose of the issue for this Congress."* (emphasis supplied)

Finally, the following paragraph from the July 12, 1976, weekly newsletter "The Spotlight," expresses the opposition of the Liberty League:

> Looking at the big blueprint (scheme), what would eventually take place should this become law, would be that the government (and the people) would take all the financial risks and companies such as EXXON would take the profits. With the fuel companies being as monopolistic as they are, only a handful of companies would benefit.

Those who have signed the "Dear Colleague" opposing the rule now are the following Members:

1. Abzug.
2. Addabbo.
3. Allen.
4. Annunzio.
5. Ashbrook.
6. Aspin.
7. AuCoin.
8. Badillo.
9. Baucus.
10. Beard (R.I.).
11. Bedell.
12. Bergland.
14. Bingham.
13. Biaggi.
15. Blouin.
16. Boggs.
17. Bonker.
18. Brademas.
19. Breaux.
20. Brodhead.
21. Broomfield.
22. Broyhill.
23. Burton, John.
24. Burton, Phillip.
25. Butler.
26. Byron.
27. Carney.
28. Carr.
29. Chisholm.
30. Clay.
31. Cleveland.
32. Collins (Ill.).
33. Collins (Tex.).
34. Conable.
35. Conte.
36. Conyers.
37. Cornell.
38. Coughlin.
39. Crane.
40. D'Amours.
41. Daniel (Va.).
42. Daniels (N.J.).
43. de la Garza.
44. Delaney.
45. Dellums.
46. Derrick.
47. Devine.
48. Diggs.
49. Dingell.
50. Dodd.
51. Downey (N.Y.).
52. Drinan.
53. Duncan (Oreg.)
54. Eckhardt.
55. Edgar.
56. Edwards (Calif.)
57. Eilberg.
58. Evans (Ind.).
59. Fary.
60. Fascell.
61. Fauntroy.
62. Fenwick.
63. Findley.
64. Fish.
65. Fisher.
66. Fithian.
67. Florio.
68. Ford (Mich.).
69. Ford (Tenn.).
70. Fraser.
71. Frenzel.
72. Gaydos.
73. Gibbons.
74. Grassley.
75. Gude.
76. Guyer.
77. Haley.
78. Hall.
79. Hamilton.
80. Hansen.
81. Harkin.

82. Harrington.
83. Harris.
84. Hayes.
85. Hechler (W. Va.).
86. Heckler (Mass.).
87. Hefner.
88. Holland.
89. Holtzman.
90. Howard.
91. Hungate.
92. Jacobs.
93. Jenrette.
94. Jones (N.C.).
95. Karth.
96. Kasten.
97. Kastenmeier.
98. Kelly.
99. Kemp.
100. Keys.
101. Kindness.
102. Koch.
103. Lagomarsino.
104. Leggett.
105. Lent.
106. Long (Md.).
107. McDonald.
108. McEwen.
109. McHugh.
110. Madigan.
111. Maguire.
112. Melcher.
113. Meyner.
114. Mezvinsky.
115. Mikva.
116. Miller (Calif.).
117. Mills.
118. Mitchell (Md.).
119. Moffett.
120. Moore.
121. Moss.
122. Mottl.
123. Neal.
124. Nix.
125. Nolan.
126 Nowak.
127. Oberstar.
128. Obey.
129. Ottinger.
130. Patten.
131. Pattison (N.Y.).
132. Paul.
133. Peyser.
134. Pike.
135. Price.
136. Quie.
137. Rangel.
138. Richmond.
139. Riegle.
140. Robinson.
141. Rodino.
142. Roe
143. Rose.
144. Rosenthal.
145. Roush.
146. Ruppe.
147. Ryan
148. Santini.
149. Sarasin.
150. Sarbanes.
151. Satterfield.
152. Scheuer.
153. Schroeder.
154. Seiberling.
155. Sharp.
156. Shuster.
157. Slack.
158. Smith (Iowa).
159. Snyder.
160. Solarz.
161. Spellman.
162. Stanton (Ohio).
163. Stark.
164. Stokes.
165. Stuckey.
166. Studds.
167. Sullivan.
168. Symms.
169. Taylor (Mo.).
170. Taylor (N.C.).
171. Thompson
172. Treen.
173. Tsongas.
174. Udall.
175. Ullman.
176. Van Deerlin.
177. Vander Veen.
178. Vanik.
179. Vigorito.
180. Weaver.
181. Whalen.
182. Wiggins.
183. Wolff.
184. Yates.
185. Young (Ga.).
186. Zablocki.
187. Zeferetti.

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW,
Washington, D.C., September 20, 1976.

DEAR REPRESENTATIVE: Within the next several days, the House will be confronted with a bill raising numerous procedural and substantive issues which ought to be avoided. The bill is H.R. 12112, the proposed synthetic fuels legislation.

We believe there are several valid reasons for not acting on this expensive piece of legislation in the waning days of this Congress. The UAW urges strongly that you vote against the rule and help save the House from having to vote on this measure which at the very least should be held over until the next Congress for further consideration.

H.R. 12112 has had a most unusual legislative history. It was originally reported by the Science and Technology Committee. It was then referred to the Banking, Ways and Means and Commerce Committees. A measure combining the Science Committee bill with changes made by the Ways and Means and Banking Committees is in order under the rule as a substitute for H.R. 12112. The Commerce Committee bill is also in order as a substitute. It should be noted that the substitute to be offered by the Chairman of the Science and Technology Committee has not been approved by any committee in its present form.

Substantively, we believe there are many persuasive arguments against this type of legislation. If the House must act on this issue at all, the Commerce Committee substitute is vastly superior in our opinion to the substitute to be offered by the Chairman of the Science and Technology Committee. The UAW believes the best course, however, would be to vote down the rule and dispose of the issue for this Congress.

When the House voted 263–140 last December against similar legislation, it acted wisely. We believe the new version of this legislation, the substitute to be offered for H.R. 12112, deserves the same action. The UAW urges you to vote against the rule accompanying H.R. 12112.

Sincerely,

DICK WARDEN,
Legislative Director.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. PEPPER (at the request of Mr. O'NEILL), after 4 p.m. today, and for September 23, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WALSH) to revise and extend their remarks and include extraneous matter:)

Mr. MCKINNEY, for 5 minutes, today.

Mr. HEINZ, for 5 minutes, today.

Mr. CONABLE, for 5 minutes, today.

Mr. DON H. CLAUSEN, for 15 minutes, today.

Mr. ASHBROOK, for 60 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. LEVITAS, for 5 minutes, today.

Mr. PEPPER, for 10 minutes, today.

Mr. FLOOD, for 5 minutes, today.

Ms. ABZUG, for 60 minutes, today.

Mr. FORD, for 5 minutes, today.

Mr. BRADEMAS, for 5 minutes, today.

Mr. JONES of Tennessee, for 60 minutes, September 28.

Mr. FOUNTAIN, for 60 minutes, September 29.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. TREEN to follow remarks of Mr. WAGGONNER on preferential motion.

Mr. MCDONALD to revise and extend his remarks on House Resolution 1559.

Mr. BRODHEAD to revise and extend his remarks immediately following the remarks of Mr. BLANCHARD.

Mr. ROSENTHAL to revise and extend his remarks immediately following colloquy between Mr. MICHEL and Mr. BINGHAM concerning section 14 of H.R. 15377.

Mr. SEBELIUS, to revise and extend his remarks immediately prior to the vote on the Burlison of Missouri amendment.

Mr. BURLISON of Missouri, and to include extraneous matter, on H.R. 15377 in the Committee of the Whole today.

(The following Members (at the request of Mr. WALSH) and to include extraneous material:)

Mr. RHODES.

Mr. MCKINNEY in two instances.

Mr. MCCLORY in two instances.

Mr. ARCHER in two instances.

Mr. LENT.

Mr. CRANE in three instances.

Mr. SHUSTER.

Mr. DEVINE.

Mr. HEINZ in three instances.

Mr. FREY.

Mr. RAILSBACK.

Mr. COLLINS of Texas in two instances.

Mr. MCEWEN in two instances.

Mr. PAUL.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. PEPPER.

Mr. MAZZOLI.

Mr. MCDONALD in five instances.

Mr. EDWARDS of California in two instances.

Mrs. KEYS.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. EVINS of Tennessee.

Mr. BIAGGI in 10 instances.

Mr. HÉBERT.

Mr. NATCHER.

Mr. Gaydos.

Mr. Drinan.

Mr. Rogers in five instances.

Mr. Blanchard.

Mr. Milford.

Mr. Riegle.

Mr. McHugh.

Mr. Moorhead of Pennsylvania.

Mr. Dan Daniel.

Mr. Fary in two instances.

Mr. Dodd.

Mr. Rangel.

Mrs. Spellman.

Mr. Carr.

Mr. Baucus.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 10612. An act to reform the tax laws of the United States;

H.R. 11149. An act to amend section 2 of the Act entitled "An Act to incorporate the National Society of the Daughters of the American Revolution";

H.R. 13325. An act to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the United States Railway Association, and for other purposes;

H.R. 14298. An act to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes; and

H.R. 15193. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1404. An act for the relief of Mrs. Kyong Chu Stout;

S. 1477. An act for the relief of Beatrice Serrano-Toledo;

S. 1787. An act for the relief of Maria Lisa R. Manalo and Rogena R. Manalo;

S. 2220. An act to authorize and direct the Secretary of the Interior to reinstate oil and gas lease New Mexico 18302.

S. 2481. An act for the relief of Oscar Rene Hernandez Rustrian;

S. 2668. An act for the relief of Arturo Moreno Hernandez;

S. 2770. An act for the relief of Anthony Augustus Daley and Beverly Evelyn Daley;

S. 2830. An act for the relief of Gary A. Broyles;

S. 2956. An act for the relief of Teresa Marie Salman; and

S. 3095. An act to increase the protection of consumers by reducing permissible deviations in the manufacture of articles made in whole or in part of gold.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 24 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, September 23, 1976, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4058. A letter from the Chief Justice of the United States, transmitting the proceedings of the judicial Conference of the United States held April 7, 1976 (H. Doc. No. 94-621); to the Committee on the Judiciary and ordered to be printed.

4059. A letter from the Assistant Secretary of the Air Force (Manpower and Reserve Affairs) transmitting a draft of proposed legislation to amend the act of August 29, 1974, Public Law 93-397, to extend the period during which the authorized numbers for the grades of lieutenant colonel and colonel in the Air Force are increased; to the Committee on Armed Services.

4060. A letter from the Director, Office of Regulatory Review, Department of Health, Education, and Welfare, transmitting proposed final regulations governing the programs of financial assistance for educationally deprived children under parts 116 and 116a of the Elementary and Secondary Education Act, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. Supplemental report on H.R. 15372 (Rept. No. 94-1630, pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. Report on subdivision of Budget Allocation to subcommittees for fiscal year 1977 (Rept. No. 94-1644). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE: Committee of conference. Conference report on H.R. 7108 (Rept. No. 94-1645). Ordered to be printed.

Mr. BENNETT: Committee on Armed Services. S. 3734. An act to approve the sale of certain naval vessels, and for other purposes (Rept. No. 94-1646). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 14934. A bill to adjust the boundaries of certain units of the national park system, and for other purposes; with amendments (Rept. No. 94-1654). Referred to the Committee of the Whole House on the State of the Union.

Mr. FLOWERS: Committee on the Judiciary. S. 800. An act to amend chapter 7, title 5, United States Code, with respect to procedure for judicial review of certain administrative agency action, and for other purposes (Rept. No. 94-1656). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 15422. A bill to amend the Wild and Scenic Rivers Act, and for other purposes; with amendments (Rept. No. 94-1657). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. S. 3521. An act to expedite a decision on the delivery of Alaska natural gas to U.S. markets, and for other purposes; with amendments (Rept. No. 94-1658, pt. 1). Ordered to be printed.

Mr. STAGGERS: Committee of conference. Conference report on H.R. 12168 (Rept. No. 94-1660). Ordered to be printed.

Mr. MADDEN: Committee on Rules. House Resolution 1570. A resolution providing for the consideration of H.R. 9067, a bill to provide additional funds to the States for carrying out restoration projects and programs, and for other purposes (Rept. No. 94-1661). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FISH: Committee on the Judiciary. H.R. 2503. A bill for the relief of Dimitrios Panoutsopoulos, Angeliki Panoutsopoulos, and Georgios Panoutsopoulos (Rept. No. 94-1647). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 5655. A bill for the relief of Mark Charles Mieir and Liane Maria Mieir; with an amendment (Rept. No. 94-1648). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 9185. A bill for the relief of Marina Tingalon Baguyos; with an amendment (Rept. No. 94-1649). Referred to the Committee of the Whole House.

Mr. KINDNESS: Committee on the Judiciary. H. Res. 540. Resolution referring the bill, H.R. 6812, for the relief of Robert Alexander, to the Chief Commissioner of the Court of Claims (Rept. No. 94-1650). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 1786. An act for the relief of Kam Lin Cheung; with an amendment (Rept. No. 94-1651). Referred to the Committee of the Whole House.

Mr. KINDNESS: Committee on the Judiciary. S. 3146. An act for the relief of Leo J. Conway (Rept. No. 94-1652). Referred to the Committee of the Whole House.

Mr. FLOWERS: Committee on the Judiciary. S. 3790. An act for the relief of Camilla A. Hester (Rept. No. 94-1653). Referred to the Committee of the Whole House.

Mr. HALEY: Committee on Interior and Insular Affairs. S. 190. An act for the relief of John Oakason and H. F. Mulholland; with an amendment (Rept. No. 94-1655). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. House Resolution 1555. Resolution opposing the granting of permanent residence in the United States of certain aliens (Rept. No. 94-1659). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BELL:

H.R. 15662. A bill to authorize a study of the feasibility and desirability of establishing a national recreation area to be known as the Santa Margarita National Recreation Area in the area in San Diego, County, Calif., which presently constitutes Camp Pendleton; to the Committee on Interior and Insular Affairs.

By Mr. CLANCY:

H.R. 15663. A bill to amend the Occupational Safety and Health Act of 1970 to further encourage industrial safety, and for other purposes; to the Committee on Education and Labor.

By Mrs. FENWICK (for herself and Mr. Symms):

H.R. 15664. A bill to amend the Bankruptcy Act to provide a priority for certain debts to consumers; to the Committee on the Judiciary.

By Mrs. FENWICK (for herself and Ms. Burke of California):

H.R. 15665. A bill to amend the Immigration and Nationality Act to permit the adoption of more than two children; to the Committee on the Judiciary.

By Mr. MYERS of Pennsylvania (for himself, Mr. Fithian, and Mr. Edgar):

H.R. 15666. A bill to allow fire departments to transmit nonemergency communications relating to official fire department business over fire department radiofrequencies; to the Committee on Interstate and Foreign Commerce.

By Mr. MYERS of Pennsylvania (for himself, Mr. Kemp, and Mr. Burgener):

H.R. 15667. A bill to strengthen Federal nepotism laws as they pertain to Members and employees of the Congress, and for other purposes; jointly to the Committees on Post Office and Civil Service and House Administration.

By Mr. OTTINGER:

H.R. 15668. A bill to require that the processes of legislating and rulemaking be accompanied by an assessment of regional economic impact, and for other purposes; jointly to the Committees on Rules, and the Judiciary.

By Mr. QUILLEN:

H.R. 15669. A bill to amend the Social Security Act to provide for inclusion of the services of licensed practical nurses under medicare and medicaid; to the Committee on Ways and Means.

By Mr. SHRIVER (for himself, Mr. Cochran, Mr. Flood, Mr. Hall of Texas, Mr. Hightower, Mr. Kindness, Mr. Lagomarsino, Mr. Risenhoover, Mr. Robinson, Mr. Sebelius, Mr. Sisk, Mr. Skubitz, Mrs. Smith of Nebraska, Mr. Steed, Mr. Steelman, and Mr. Winn):

H.R. 15670. A bill to amend section 2 of the act of August 22, 1964, to prevent circumvention of import restrictions through the production or manufacture of articles from foreign meat in foreign trade zones, territories, and possessions of the United States; to the Committee on Ways and Means.

By Mrs. HECKLER of Massachusetts (for herself, Mr. Harrington, Mr. Early, Mr. Tsongas, Mr. Moakley, Mr. Burke of Massachusetts, Mr. Drinan, Mr. Studds, Mr. O'Neill, Mr. Conte, and Mr. Boland):

H.R. 15671. A bill to name the Veterans' Administration hospital located at 200 Springs Road, Bedford, Mass., the "Edith Nousse Rogers Memorial Veterans' Hospital"; to the Committee on Veterans' Affairs.

By Mr. ASHBROOK:

H.R. 15672. A bill entitled the Economic Recovery and Sustained Growth Act of 1976; jointly to the Committees on Ways and Means, Rules, Banking, Currency and Housing, and Education and Labor.

By Mr. CARR (for himself and Mr. Ruppe):

H.R. 15673. A bill to amend section 107 of the Energy Reorganization Act of 1974 (42 U.S.C. 5817) to delegate power to State legislatures to veto Energy Research and Development Administration site selection for radioactive waste storage; to the Joint Committee on Atomic Energy.

By Mr. McDADE:

H.R. 15674. A bill to expedite a decision on the delivery of Alaska natural gas to U.S. markets, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, and Interior and Insular Affairs.

By Mr. RISENHOOVER:

H.R. 15675. A bill to amend section 214 of the Interstate Commerce Act to increase the amount of capital stock or principal value of other securities which may be issued by motor carriers without authorization of the Interstate Commerce Commission; to the Committee on Public Works and Transportation.

By Mr. MAHON:

H.J. Res. 1105. Joint resolution making continuing appropriations for the fiscal year 1977, and for other purposes; to the Committee on Appropriations.

By Mr. MELCHER (for himself, Mr. Breckinridge, Mr. Burke of Florida, Mr. Cornell, Mr. Dent, Mr. Fithian, Mr. Fountain, Mr. Hanley, Mr. Murphy of Illinois, Mr. Quillen, Mr. Risenhoover, Mr. Roe, Mr. Roncalio, Mr. Runnels, Mr. Shriver, and Mr. Winn):

H.J. Res. 1106. Joint resolution to authorize and request the President to issue a proclamation designating the fourth Sunday in September annually as "National Good Neighbor Day"; to the Committee on Post Office and Civil Service.

By Mr. THOMPSON (for himself and Mr. Rose):

H. Res. 1563. A resolution providing additional funds for the expenses of the Committee on House Administration to provide for maintenance and improvement of ongoing computer services for the Committee on Appropriations and the Committee on the Budget of the House of Representatives; to the Committee on House Administration.

By Mr. MOFFETT (for himself, Mr. Brown of California, Ms. Chisholm, Mr. Stark, Mr. Corman, Mr. Kastenmeier, Mr. Hechler of West Virginia, Mr. Roybal, Mr. Ottinger, Mr. Bedell, Mr. Simon, Ms. Collins of Illinois, Mr. Harris, Ms. Schroeder, Mr. Nolan, Mr. Hughes, Mr. Hayes of Indiana, Mr. Phillip Burton, Mr. Hungate, Mr. Mitchell of Maryland, Mr. Roncalio, Mr. Carr, Mr. Eilberg, and Mr. Dodd):

H. Res. 1564. A resolution expressing the sense of the House of Representatives condemning the murders of Orlando Letelier and Ronni Karpen Moffitt; to the Committee on the Judiciary.

By Mr. MOFFETT (for himself, Mr. AuCoin, Mr. D'Amours, Mr. Edgar, Mr. Richmond, Mr. McHugh, Mr. Cornell, Mr. Rogers, Mr. Pritchard, Mr. Bell, Mr. Pressler, Mr. Abdnor, Mr. Lent, Ms. Fenwick, Mr. Levitas, Mr. Florio, Mr. Krebs, Mr. Blouin, Mr. Fisher, Mr. Rooney, Mr. Solarz, Mr. Weaver, Mr. Minish, Mr. Boland, and Mr. Adams):

H. Res. 1565. A resolution expressing the sense of the House of Representatives condemning the murders of Orlando Letelier and Ronni Karpen Moffitt; to the Committee on the Judiciary.

By Mr. MOFFETT (for himself, Mr. Studds, Mr. Howard, Mr. Moss, Mr. Forsythe, Ms. Heckler of Massachusetts, Mr. Foley, Mr. O'Neill, Ms. Boggs, Mr. Wolff, Mr. Patterson of California, Mr. Pattison of New York, Mr. Cotter, Mr. Murphy of New York, Mr. Murphy of Illinois, Mr. Neal, Mr. Reuss, Mr. Rousselot, Mr. Peyser, Mr. Conte, Mr. Mottl, Mr. Hanley, Mr. Giaimo, Ms. Spellman, and Mr. Santini):

H. Res. 1566. A resolution expressing the sense of the House of Representatives condemning the murders of Orlando Letelier and Ronni Karpen Moffitt; to the Committee on the Judiciary.

By Mr. MOFFETT (for himself, Mr. Van Deerlin, Mr. Derwinski, Mr. Thompson, Mr. Biaggi, Mr. Evans of Colorado, Mr. Bergland, Mr. Addabbo, Mr. Mikva, Mr. Nedzi, Mr. Yates, Mr. Lloyd of California, Mr. Brademas, Mr. Lundine, Mr. Conyers, Ms. Holtzman, Mr. Leggett, Mr. Gradison, Mr. Scheuer, Mr. Aspin, Mr. Blanchard, Mr. Tsongas, Mr. Waxman, Mr. Wirth, and Mr. Mezvinsky):

H. Res. 1567. A resolution expressing the sense of the House of Representatives condemning the murders of Orlando Letelier and Ronni Karpen Moffitt; to the Committee on the Judiciary.

By Mr. MOFFETT (for himself, Mr. Anderson of Illinois, Mr. Hall of Illinois, Mr. Stokes, Mr. Ford of Tennessee, Mr. Fascell, Mr. Beard of Rhode Island, Mr. Roush, Mr. Bolling, Mr. Rodino, Mr. St Germain, Mr. Fish, and Mr. Clay):

H. Res. 1568. A resolution expressing the sense of the House of Representatives condemning the murders of Orlando Letelier and Ronni Karpen Moffitt; to the Committee on the Judiciary.

By Mr. MOTTL:

H. Res. 1569. A resolution creating a Select Committee to conduct a study of the circumstances surrounding both product liability and professional liability insurance rate increases, and of any other product and professional liability insurance coverage issues the committee shall determine; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. SCHULZE introduced a bill (H.R. 15676) to provide for the striking of medals commemorating the 200th anniversary of the encampment of the American Army during the bitter winter at Valley Forge; to the Committee on Banking, Currency and Housing.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 9067

By Mr. MIKVA:

On page 12, lines 15 and 16, strike out "solely for the purpose of paying not more than" and insert in lieu thereof "to pay up to".

And on page 8, strike out line 19 and all that follows down through page 10, line 11, and redesignate the succeeding paragraphs of section 101 of the bill accordingly.

H.R. 12112

By Mr. BROWN of Ohio:

(Amendment to the Interstate and Foreign Commerce Substitute.)

Page 126, strike out lines 11 through 13 and insert in lieu thereof the following:

"(v) The information maintained by the Administrator under this section shall be made available to the public, subject to the provisions of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination: *Provided,* That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof, obtained under this section by the Administrator directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further,* That the Administrator shall, upon request, provide such information to (A) any delegate of the Administrator for the purposes of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, or heads or other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the Chairman. For the purposes of this subsection, the term 'person' shall include the borrower.

Page 107, line 20, strike out "(1)" and insert in lieu thereof the following: "(1) for the conversion of domestic coal into synthetic fuels; (2)".

Page 107, line 22, strike out "(2)" and insert in lieu thereof "(3)".

Page 107, line 24, strike out "(3)" and insert in lieu thereof "(4)".

Page 107, immediately after line 33, insert the following:

"(i) financing the construction and startup costs of 1 commercial-sized demonstration facility for the conversion of domestic coal into high Btu gaseous fuel compatible for mixture and transportation with natural gas by pipeline;"

Renumber the clauses of subparagraph (A) accordingly.

Page 108, strike out line 13 and all that follows thereafter down through "1978." in line 16, and insert in lieu thereof the following:

"(B) The aggregate amount of indebtedness for which guarantees and commitments to guarantee are issued under subparagraph (A)(i) of this paragraph may not exceed $900,000,000 for fiscal years 1977 and 1978, and the aggregate amount of indebtedness for which guarantees and commitments to guarantee are issued under this section (other than subparagraph (A)(1) of this paragraph) may not exceed $1,000,000,000 for each of the following fiscal years, 1977 and 1978:"

Page 108, line 32, strike out "(iv)" and insert in lieu thereof "(v)".

Page 115, line 39, strike out "and (iv)" and insert in lieu thereof "(iv), and (v)".

Page 121, line 32, strike out "and (iii)" and insert in lieu thereof "(iii), and (iv)".

Page 122, line 35, strike out "and (iii)" and insert in lieu thereof "(iii), and (iv)".

Page 122, line 39, strike out "(iv)" and insert in lieu thereof "(v)".

Page 107, line 20, strike ou t"(1)" and insert in lieu thereof the following: "(1) for the conversion of domestic coal into synthetic fuels; (2)".

Page 107, line 22, strike out "(2)" and insert in lieu thereof "(3)".

Page 107, line 24, strike out "(3)" and insert in lieu thereof "(4)".

Page 107, immediately after line 33, insert the following:

"(i) financing the construction and startup costs of 2 commercial-sized demonstration facilities for the conversion of domestic coal into high Btu gaseous fuel compatible for mixture and transportation with natural gas by pipeline;"

Renumber the clauses of subparagraph (A) accordingly.

Page 108, strike out line 13 and all that follows thereafter down through "1978." in line 16, and insert in lieu thereof the following:

"(B) The aggregate amount of indebtedness for which guarantees and commitments to guarantee are issued under subparagraph (A)(i) of this paragraph may not exceed $1,800,000,000 for fiscal years 1977 and 1978, and the aggregate amount of indebtedness for which guarantees and commitments to guarantee are issued under this section (other than subparagraph (A)(i) of this paragraph) may not exceed $1,000,000,000 for each of the following fiscal years, 1977 and 1978."

Page 108, line 32, strike out "(iv)" and insert in lieu thereof "(v)".

Page 115, line 39, strike out "and (iv)" and insert in lieu thereof "(iv), and (v)".

Page 121, line 32, strike out "and (iii)" and insert in lieu thereof "(iii), and (iv)".

Page 122, line 35, strike out "and (iii)" and insert in lieu thereof "(iii), and (iv)".

Page 122, line 39, strike out "(iv)" and insert in lieu thereof "(v)".

By Mr. FUQUA:

On page 124 (which is part of the Interstate and Foreign Commerce Committee amendment) strike subsection 19(r)(1), lines 11 through 13, and insert the following new subsection (r)(1):

"Inventions made or conceived in the course of or under a guarantee authorized by this section shall *not* be subject to the title and waiver requirements and conditions of section 9 of this Act *if the aggregate guarantees for the project are less than $50,000,000, except in the event of a default as defined under subsection (g) of this section.*"

(NOTE.—Proposed changes are italicized.)

Amendment to Teague amendment considered as an original bill for purposes of amendment as printed in the CONGRESSIONAL RECORD on August 26, 1976, on pages 27908–27913. On page 27912 strike subsection 18(r) and insert the following new subsection (r):

Inventions made or conceived in the course of or under a guarantee authorized by this section shall *not* be subject to the title and waiver requirements and conditions of section 9 of this Act *if the aggregate guarantees for the project are less than $50,000,000, except in the event of a default as defined under subsection (g) of this section.*"

NOTE.—Proposed changes are italicized.

By Mr. GOLDWATER:

On page H9179 of the August 26, 1976 CONGRESSIONAL RECORD (Mr. TEAGUE's substitute), insert, "(c)(5), (k)", between "(h)," and "(n),", in the proviso at the end of subsection (b)(1) in the third column of that page.

By Mr. HARKIN:

(Amendment to amendment by Mr. TEAGUE.)

On page H9179 of the CONGRESSIONAL REC- Guarantees for Demonstration Facilities" ORD of August 26, 1976, strike all of section 1(b) beginning with the heading "Loan through the period at the end of said section on page H9184 and insert therein the following:

"ADDITIONAL FINANCIAL ASSISTANCE FOR DEMONSTRATION AND MODULAR FACILITIES FOR THE SUPPLY AND CONSERVATION OF ENERGY

"SEC. 19. (a) It is the purpose of this section—

"(1) to demonstrate the best available energy technologies and gather information about the technological, economic, environmental, regulatory, and social costs, benefits, and impacts of various facilities and the efficiency of such technologies, and

"(2) to authorize a limited program of financial assistance, in addition to the assistance provided in sections 7 and 8 of this Act, (A) for the construction and start-up costs of demonstration and modular facilities for the conversion of (i) biomass, including, but not limited to, animal and timber waste, urban and other waste, and sewage sludge, (ii) the production of synthetic fuels and other forms of energy from renewable and geothermal resources, and (iii) the conversion of coal and oil shale into synthetic fuels; (B) providing essential community development and planning which is necessitated by such facilities; and (C) the demonstration of energy-efficient industrial equipment and facilities.

"(b)(1)(A) The Administrator is authorized, in accordance with such rules as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this Act) as he deems appropriate, the payment of interest on, and the principal balance of bonds, debentures, notes, and other obligations issued by, or on behalf of, any borrower for the purpose of—

"(i) financing the construction and startup costs of demonstration facilities for the conversion of biomass into synthetic fuels, except that no loan guarantee shall be available under this clause for the manufacture of component parts for demonstration of facilities eligible for assistance under this clause;

"(ii) financing the construction and startup costs of demonstration facilities to generate desirable forms of energy (including synthetic fuels) from direct solar, wind, ocean thermal gradient, or other renewable energy resources; and

"(iii) financing the purchase, construction, installation, and startup costs of energy-efficient industrial equipment and facilities for demonstration by small business concerns and others for general use; and

"(iv) further implementing the financing of geothermal resource development under the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1101, et seq.).

"(B) The aggregate amount of indebtedness for which guarantees and commitments to guarantee are issued under paragraph (1)(A) of this subsection may not exceed $900,000,000, except that no more than 30 percent of such indebtedness shall be allocated for biomass. The indebtedness guaranteed or committed to be guaranteed which may be outstanding at any time in any fiscal year shall not exceed the aggregate of the total amount authorized pursuant to this section for that fiscal year and all preceding fiscal years. The authority of the Administrator to enter into any guarantee or to make any commitment to guarantee under such paragraph terminates on September 30, 1984, unless extended by subsequent Act of Congress. Such termination does not affect the carrying out of any contract, guarantee, commitment, or other obligation entered into pursuant to such paragraph prior to that date, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts advanced or paid out in carrying on operations under this section.

"(C) Loan guarantees for geothermal resource development under subparagraph (A)(iv) of this subsection shall be carried out pursuant to the authority and provisions of the Geothermal Energy Research, Development, and Demonstration Act of 1974, except that paragraphs (6) thru (9) of this subsection, and subsections (d), (g)(2) and (4)(h), (j), (n), (o)(3), (q), (r), (s), (t), and (v) through (z) of this section, shall also apply to such guarantees and the limitations in section 201(e) of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1141(e)) shall not apply to such guarantees.

"(2)(A) Beginning after March 1, 1977, the Administrator is authorized to receive and he shall consider, in accordance with the provisions of this section and with such rules as he shall prescribe in consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this Act) as he deems appropriate, the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by, or on behalf of, any borrower for the purpose of—

(i) financing the construction and startup costs of demonstration facilities for the conversion of coal and other domestic resources (other than oil shale) into synthetic fuels; and

(ii) financing the construction and startup costs for modular facilities, the production of which is not less than 6,000 and not more than 10,000 barrels per day, for the conversion of oil shale into synthetic fuels.

"(B) Notwithstanding any other provision of this section, the Administrator shall not enter into any guarantee or commitment to guarantee, based on any application received under paragraph (2) (A) of this subsection, until he determines that the proposed facility will achieve the purposes of this section and meets the requirements thereof and submits to the Congress a detailed report on the proposed facility, together with his recommendation thereon, and until such guarantee or commitment to guarantee and the amount thereof is specifically authorized by an Act of Congress enacted after the date of enactment of this section.

"(3) No demonstration or modular facility may receive both a loan guarantee under this section and any director or indirect financial assistance under any other section of this Act, unless such assistance is specifically authorized by Act of Congress enacted after the date of enactment of this section.

Notwithstanding any other provisions of this section, no obligation guaranteed under this section or under the Geothermal Energy Research Development and Demonstration Act of 1974, which is amended by this section, shall be purchased pursuant to the Federal Financing Bank Act of 1973 (12 U.S.C. 2281–2296), and the Administrator shall not sell such obligation to the Federal Financing Bank, without specific authorization enacted after the date of enactment of this section, and the provisions of said Act shall not be applicable to such obligations.

"(4) The provisions of subsections (d), (e), (k), (m), (p), (r), (s), (t), (u), (v), (w), (x), (y) and (z) shall apply to any facility—

"(i) which is designed to convert oil shale into synthetic fuels,

"(ii) which has a capacity of more than 6,000 barrels per day, and

"(iii) which receives, or seeks to receive, assistance (other than loan guarantees) under this Act, in the same manner as such subsections would apply to a facility with respect to which a loan guarantee is issued, or sought to be issued, under this section.

"(5) All guarantees or commitments to guarantee authorized by this section shall be made only for facilities constructed within the United States or in waters contiguous to its territory. None of the amounts authorized for guarantees under this section shall be committed until the studies already initiated by the Administrator concerning the program authorized by this section are completed and a report of each such study is submitted to the Speaker of the House of Representatives and the President of the Senate.

"(6) An applicant for any financial assistance under this section shall provide information to the Administrator in such form and with such content as the Administrator deems necessary.

"(7) Prior to issuing a guarantee or commitment to guarantee with respect to any facility under this section, the Administrator shall submit to the Secretary of the Treasury a full and complete report on the proposed facility and the guarantee. The Secretary of the Treasury shall—

"(A) insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of any guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal activities which directly or indirectly impact on such capital markets, and

"(B) impose such conditions on the issuance of the guarantee, after analyzing the financing of the facility, the tax benefits which would be available to investors in the facility, and the regulatory actions associated with the facility, as may be necessary to assure that investors having an ownership or profits interest in the facility bear a substantial risk of after-tax loss in the event of default; and the guarantee or commitment to guarantee shall not be issued unless (i) its timing, interest rate, and substantial terms and conditions (as described in subparagraph (A)) are concurred in by the Secretary, and (ii) it meets the conditions imposed by the Secretary under subparagraph (B) of this paragraph.

"(8) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to the amount of principal and interest guaranteed.

"(9) Prior to making any guarantee or commitment to guarantee under this section, the Administrator shall determine that the underlying agreement on which the guarantee is sought contains all affirmative and negative covenants and other protective provisions which are usual and customary in loan agreements of a similar kind, including previous loan agreements between the lender and the borrower, and that such agreements cannot be amended, or any provisions waived, without the Administrator's prior written consent.

"(10) To the extent possible, loan guarantees shall be issued on the basis of competitive bidding among guarantee applicants in a particular technology area.

"(c) The Administrator, with due regard for the need for competition, may guarantee or make a commitment to guarantee any obligation or recommend such guarantee or commitment under subsection (b) only if the following conditions are met:

"(1) The Administrator is satisfied that the financial assistance applied for is necessary to encourage financial participation;

"(2) The amount guaranteed with respect to any facility may not at any time exceed 75 per centum of the total cost incurred as of such time with respect to such facility (as determined by the Administrator); except if the total cost incurred with respect to a facility exceeds the project cost estimated by the Administrator at the time the loan guarantee was issued, the amount guaranteed may not exceed 75 per centum of such estimated project cost and 60 per centum of such excess. In determining the cost incurred with respect to a facility—

"(A) There shall be excluded any cost incurred for facilities and equipment used in the extraction of a mineral to be converted to a synthetic fuel, unless the Administrator determines that such facilities and equipment are not capable of producing any marketable fuel other than synthetic fuel; and

"(B) Property or services obtained for the facility in a transaction with a person who has or will have a substantial ownership or profits interest in the facility shall be valued at the lower cost to the borrower or fair market value (disregarding any portion of such market value which the Administrator determines is attributed to the prospect of receiving Federal assistance under this Act);

The Administrator shall prescribe such rules as may be necessary to carry out this paragraph.

"(3) The Administrator has determined that there will be a continued reasonable assurance of full repayment;

"(4) The obligation is subject to the condition that all other financing for the project which is not guaranteed by the United States be subordinated to such obligation;

"(5) The Administrator has determined, taking into consideration all reasonably available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed facility have been fully elevated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such facility under this section, under other provisions of law, or by other means and, in the case of any facility for recovery of energy or fuel from any waste or discarded material, the Administrator has determined that such facility is in conformity with any applicable State, regional, or interstate plan respecting the management of waste or discarded material;

"(6) The maximum maturity of the obligation does not exceed 20 years, or 90 per centum of the projected useful economic life of the physical assets of the facility covered by the guarantee, whichever is less, as determined by the Administrator;

"(7) The Administrator has determined that, in the case of any facility planned to be located on Indian lands, the appropriate Indian tribe, with the approval of the Secretary of the Interior, has given written consent to such location;

"(8) The obligation fully amortizes during its term and (after completion of construction) is payable in installments which are substantially equal in amount and payable at equal intervals;

"(9) The obligation provides that the Administrator shall, after seven years, but not later than ten years, after issuance of such obligation, determine, in writing, whether to terminate Federal participation in the facility, taking into consideration whether the Government's needs for information to be derived from the project have been substantially met and whether the project is capable of commercial operation. Such determination shall be published in the Federal Register. In the event that the Administrator determines that such termination is appropriate, he shall notify the borrower and provide a minimum of two years and not more than three years in which to find alternative financing. If the borrower is unable to secure such financing, the Administrator may elect not to terminate upon agreement by the borrower to pay an additional fee of not less than 1 per centum per annum on the remaining obligation to which the guarantee applies, and

"(10) in the case of a demonstration facility which converts any coal (including lignite) from any surface mine (on federally-owned or nonfederally-owned land) to synthetic fuel, the Administrator has determined that any such coal is, or will be mined under lawfully binding reclamation standards requiring the surface mine operator as a minimum to—

"(A) conduct surface coal mining operations so as to maximize the utilization and conservation of the solid fuel resource being recovered so that reaffecting the land in the future through surface coal mining can be minimized;

"(B) restore the land affected to a condition at least fully capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is a reasonable likelihood, so long as such use or uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution or pollution, and the operator's declared proposed land use following reclamation is not deemed to be impractical or unreasonable, inconsistent with applicable land use policies and plans, involves unreasonable delay in implementation or is violative of Federal State, or local law;

"(c) (3) with respect to all surface coal mining operations backfill, compact (where advisable to insure stability or to prevent leaching or toxic materials), and grade in order to restore the approximate original contour of the land with all highwalls, spoil piles, and depressions eliminated (unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authorized pursuant to this Act):

Provided, however, That in surface coal mining which is carried out at the same location over a substantial period of time where the operation transects the coal deposit, and the thickness of the coal deposits relative to the volume of the overburden is large and where the operator demonstrates that the overburden and other spoil and waste materials at a particular point in the permit area or otherwise available from the entire permit area is insufficient, giving due consideration to volumetric expansion, to restore the approximate original contour, the operator, at a minimum, shall backfill, grade, and compact (where advisable) using all available overburden and other spoil and waste materials to attain the lowest practicable grade but not more than the angle of repose, to provide adequate drainage and to cover all acid-forming and other toxic materials in order to achieve an ecologically sound land use compatible with the surrounding region: *And provided further,* That in surface coal mining where the volume of overburden is large relative to the thickness of the coal deposit and where the operator demonstrates that due to volumetric expansion the amount of overburden and other spoil and waste materials removed in the course of the mining operation is more than sufficient to restore the approximate original contour, the operator shall after restoring the approximate contour, backfill, grade, and compact (where advisable) the excess overburden and other spoil and waste materials to attain the lowest grade but not more than the angle of repose, and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region and that such overburden or spoil shall be shaped and graded in such a way as to prevent slides, erosion, and water pollution and is revegetated in accordance with the requirements of this section 19(c)(8);

"(D) stabilize and protect all surface areas including spoil piles affected by the surface coal mining and reclamation operation to effectively control erosion and attendant air and water pollution;

"(E) remove the topsoil from the land in a separate layer, replace it on the backfill area, or, if not utilized immediately, segregate it in a separate pile from other spoil and, when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick growing plant or other means thereafter so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation, except if topsoil is of insufficient quantity or of poor quality for sustaining vegetation, or if other strata can be shown to be more suitable for vegetation requirements, then the operator shall remove, segregate, and preserve in a like manner such other strata which is best able to support vegetation;

"(F) restore the topsoil or the best available subsoil which has been segregated and preserved;

"(G) protect offsite areas from slides or damage occurring during the surface coal mining and reclamation operations, and not deposit spoil material or locate any part of the operations or waste accumulation outside the permit area;

"(H) create, if authorized by applicable law, permanent impoundments of water on mining sites as part of reclamation activities only when it is adequately demonstrated that—

"(i) the size of the impoundment is adequate for its intended purposes;

"(ii) the impoundment dam construction will be so designed as to achieve necessary stability with an adequate margin of safety compatible with that of structures constructed under Public Law 83-566 (16 U.S.C. 1006);

"(iii) the quality of impounded water will be suitable on a permanent basis for its intended use and that discharges from the impoundment will not degrade the water quality in the receiving stream;

"(iv) the level of water will be reasonably stable;

"(v) final grading will provide adequate safety and access for proposed water users; and

"(vi) such water impoundments will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses;

"(I) plug all auger holes to a minimum of six feet in depth with an impervious and noncombustible material (such as clay) to prevent the flow of water in our out of such holes.

"(J) minimize the disturbances to the prevailing hydrologic balance at the minesite and in associated offsite areas and to the quality and quantity of water in surface and ground water systems both during and after surface coal mining operations and during reclamation by—

"(i) avoiding acid or other toxic mine drainage by such measures as, but not limited to preventing or removing water from contact with toxic producing deposits; treating drainage to reduce toxic content which adversely affects downstream water upon being released to water courses; casing, sealing, or otherwise managing boreholes, shafts, and wells and keep acid or other toxic drainage from entering ground and surface waters;

"(ii) conducting surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area above natural levels under seasonable flow conditions as measured prior to any mining, and avoiding channel deepening or enlargement in operations requiring the discharge of water from mines;

"(iii) removing temporary or large siltation structures from drainways after disturbed areas are revegetated and stabilized;

"(iv) restoring recharge capacity of the mined area to approximate premining conditions;

"(v) replacing the water supply of an owner of interest in real property who obtains all or part of his supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source where such supply has been affected by contamination, diminution, or interruption proximately resulting from the mining.

"(vi) preserving throughout the mining and reclamation process the essential hydrologic functions of alluvial valley floors in the arid and semiarid areas of the country; and

"(vii) such other actions as the regulatory authority may prescribe;

"(k) with respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine working or excavations, stabilize all waste piles in designated areas through construction in compacted layers including the use of incombustible and impervious materials, if necessary, and assure the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated according to the provisions of section (19)(c)(8);

"(L) refrain from surface coal mining within five hundred feet from active and abandoned underground mines in order to prevent breakthroughs and to protect health or safety of miners: *Provided,* That an operator shall be permitted to mine closer to an abandoned underground mine: *Provided,* That this does not create hazards to the health and safety of miners and an operator may mine near, through, or partially through an abandoned underground mine working where such mining through will achieve improved resource recovery, abatement of water pollution or elimination of public hazards and such mining shall be consistent with the provisions of this Section (19)(c)(8);

"(M) design, locate, construct, operate, maintain, enlarge, modify, and remove, or abandon, in accordance with the standards and criteria developed pursuant to subsection (e) of this section, all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes and used either temporarily or permanently as dams or embankments;

"(N) insure that all debris, acid forming materials, toxic materials, or materials constituting a fire hazard are treated or disposed of in a manner designed to prevent contamination of ground or surface waters or sustained combustion;

"(O) insure that explosives are used only in accordance with existing State and Federal law and the regulations promulgated by the regulatory authority, which shall include provisions to—

"(i) provide adequate advance written notice by publication and/or posting of the planned blasting schedule to local governments and to residents who might be affected by the use of such explosives and maintain for a period of at least two years a log of the magnitudes and times of blasts; and

"(ii) limit the type of explosives and detonating equipment, the size, the timing and frequency of blasts based upon the physical conditions of the site so as to prevent injury to persons, damage to public and private property outside the permit area, adverse impacts on any underground mine, and change in the course, channel, or availability of ground or surface water outside the permit area;

"(P) insure that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable with the surface coal mining operations;

"(Q) insure that the construction, maintenance, and postmining conditions of access roads into and across the site of operations will control or prevent erosion and siltation, pollution of water, damage to fish or wildlife or their habitat, or public or private property: *Provided,* That the retention after mining of certain access roads may be permitted where consistent with State and local land use plans and programs and where necessary may permit a limited exception to the restoration of approximate original contour for that purpose;

"(R) refrain from the construction of roads or other access ways up a stream bed or drainage channel or in such proximity to each channel so as to seriously alter the normal flow of water.

"(S) establish on the regraded areas, and all other lands affected, a diverse, effective, and permanent vegetative cover native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area; except, that introduced species may be used in the revegetation process where desirable and necessary to achieve the operator's proposed postmining land use;

"(T) assume the responsibility for successful revegetation, as required by paragraph (S) above, for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with paragraph (S) above, except in those areas or regions of the country where the annual average precipitation is twenty-six inches or less, then the operator's assumption of responsibility and liability will extend for a period of ten full years after the last year of augmented seeding, fertilizing, irrigation, or other work: *Provided,* That when a long-term intensive agricultural postmining land use is proposed, the applicable five- or ten-year period of responsibility for revegetation shall commence at the date of initial planting for such long-term intensive agricultural postmining land use: *Provided further,* That when there is proposed such a long-term, intensive, agricultural postmining land use as part of the mining and reclamation plan, exception to the provisions of paragraph (S) above may be waived; and

"(U) assure that the proposed surface coal mining operation, if located west of the one hundredth meridian west longitude would—

"(i) not interrupt, discontinue, or prevent farming on alluvial valley floors that are irrigated or naturally subirrigated, but, excluding undeveloped range lands which are not significant to farming on said alluvial valley floors and those lands that if the farming that will be interrupted, discontinued, or prevented is of such small acreage as to be of negligible impact on the farm's agricultural production or,

"(ii) not adversely affect the quantity or quality of water in surface or underground water systems that supply these valley floors in (i) of section 9(c) (8) (U):

Provided, That this paragraph (U) shall not affect those surface coal mining operations which in the year preceding the enactment of this Act produced coal in commercial quantities, and were located within or adjacent to alluvial valley floors or had obtained specific permit approval by the State regulatory authority of jurisdiction to conduct surface mining operations within said alluvial valley floors.

"(d) Prior to submitting a report to Congress pursuant to subsections (b) or (m) of this section on each guarantee or commitment to guarantee, the Administrator shall request from the Attorney General and the Chairman of the Federal Trade Commission written views, comments, and recommendations concerning the impact of such guarantee or commitment to guarantee on competition and concentration in the production of energy and give due consideration to views, comments, and recommendations received, except that if either official, within 60 days after the date of receipt of such request or at any time prior to the Administrator submitting such report to Congress, recommends against making such guarantee or commitment, the Administrator shall not do so.

"(e) (1) (A) As soon as the Administrator knows the geographic location of a proposed facility for which an application for a guarantee or a commitment to guarantee is made under this section, he shall inform the Governor of the State, and officials of each political subdivision and Indian tribe, as appropriate, in which the facility would be located or which would be impacted by such facility. The Administrator shall not guarantee or make a commitment to guarantee or recommend such guarantee under subsection (b) of this section, if the Governor of the State in which the proposed facility would be located recommends that such action not be taken, unless the Administrator finds that there is an overriding national interest in taking such action in order to achieve the purpose of this section. If the Administrator decides to guarantee or make a commitment to guarantee or recommend such guarantee despite a Governor's recommendation not to take such action, the Administrator shall communicate, in writing, to the Governor reasons for not concurring with such recommendation. The Administrator's decision, pursuant to this subsection, shall be final unless determined upon judicial review to be unlawful by the reviewing court pursuant to section 706(2) (A) through (D) of title 5, United States Code. Such review shall take place in the United States court of appeals for the circuit in which the State involved is located, upon application made within 90 days from the date of such decision. The Administrator shall, by rule, establish procedures for review of, and comment on, the proposed facility by States, local political subdivisions, and Indian Tribes which may be impacted by such facility, and the general public.

"(B) Nothing in this section shall be deemed to restrict the right of any person to obtain judicial review, under Federal and State law, of any Federal agency action or State agency action.

"(2) The Administrator shall, in consultation with the Secretary of the Interior and the Environmental Protection Agency, review and approve the plans of the applicant for the construction and operation of any facilities constructed or to be constructed with assistance under this section. Such plans and the actual construction shall include such monitoring and other data-gathering costs associated with such facility as are required by the comprehensive plan and program under this section. The Administrator shall determine the estimated total cost of such facility, including, but not limited to, construction costs, startup costs, costs to political subdivisions and Indian tribes by such facility, and costs of any water storage facilities needed in connection with such facility, and determine who shall pay such costs. Such determination shall not be binding upon the States, political subdivisions, or Indian tribes.

"(3) There is hereby established a panel to advise the Administrator on matters relating to the program authorized by this section, including, but not limited to, the impact of the demonstration and modular facilities on communities and States and Indian tribes, the environmental and health and safety effects of such facilities, and the means, measures, and planning for preventing or mitigating such impacts, and other matters relating to the development of synthetic fuels and other energy sources under this section and sections 7 and 8 of this Act. The panel shall include such Governors or their designees as shall be designated by the Chairman of the National Governors' Conference. Representatives of Indian tribes, industry, environmental organizations, and the general public shall be appointed by the Administrator. The Chairman of the panel shall be selected by the Administrator. No person shall be appointed to the panel who has a financial interest in any applicant applying for assistance under this section. Members of the panel shall serve without compensation. The provisions of section 106 (e) of the Energy Reorganization Act of 1974 (42 U.S.C. 5816(e)) shall apply to the panel.

"(f) Except in accordance with reasonable terms and conditions contained in the written contract or guarantee, no guarantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obigation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands or the holder of the guaranteed obligation, who obtained such guaranteed obligation of value, in good faith, and without knowledge of any fraud or material misrepresentation on the part of the borrower, and who himself did not commit any fraud or material misrepresentation.

"(g) (1) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of, the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forebearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(2) If the Administrator makes a payment under paragraph (1) of this subsection or section 202(b) of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1142(b)), the Administrator shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the guarantee or related agreements), including the authority to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except section 207 of that Act (40 U.S.C. 488), or any other law, or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the facility if the Administrator determines that this is in the public interest.

"(3) In the event of a default on any guarantee under this section, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amount of any payments made under paragraph (1) including any payment of principal and interest under subsection (h) from such assets of the defaulting borrower as are associated with the demonstration facility, or from any other security included in the terms of the guarantee.

"(4) For purposes of this section, patents, including any inventions for which a waiver is made by the Administrator under section 9 of this Act, and technology resulting from the demonstration or modular facility, shall be treated as project assets of such facility. The guarantee agreement shall include such detailed terms and conditions as the Administrator deems appropriate to protect the interests of the United States in the case of default and to have available all the patents and technology necessary for any person selected, including, but not limited to, the Administrator to complete and op- the guarantee agreement shall contain a provision specifying that patents, technology, provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the demonstration or modular facility shall be available to the United States and its designees on equitable terms, including due consideration to the amount of the United States default payments. Inventions made or conceived in the course of or under such guarantee, title to which is vested in the United States under this Act, shall not be treated as project assets of such facility for disposal purposes under this subsection, unless the Administrator determines in writing that it is in the best interests of the United States to do so.

"(h) With respect to any obligation guaranteed under this section, the Administrator is authorized to enter into a contract to pay, and to pay, holders of the obligation, for and on behalf of the borrower, from the fund established by this section or from the Geothermal Resources Development

Fund, as applicable, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds in writing that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such demonstration or modular facility; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.

"(i) Rules and regulations required by this section shall be issued within 180 days after the date of enactment of this section, except as provided in subsection (s) of this section. All rules and regulations under this section and any amendments thereof shall be issued in accordance with section 553 of title 5, United States Code, without regard to subsection (a)(2) thereof.

"(j) The Administrator shall charge and collect fees for guarantees of obligations authorized by subsection (b) of this section in amounts (1) which are sufficient in the judgment of the Administrator to cover all applicable administrative costs, and (2) which reflect the percentage of project costs guaranteed and the risk of default on the guaranteed obligations. In no event shall the fee be less than 1 per centum per annum of the outstanding indebtedness covered by the guarantee. Nothing in this subsection shall be construed to apply to community planning and development assistance pursuant to subsection (k) of this section.

"(k)(1) In accordance with such rules as the Administrator in consultation with the Secretary of the Treasury shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purpose of financing essential community development and planning which directly result from, or are necessitated by, one or more facilities assisted under this section to—

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of, obligations for such financing issued by eligible States, political subdivisions, or Indian tribes;

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such facilities by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing; and

"(C) require that the applicant or assistance for a facility under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning, except that the State, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the facilities for such payments by such applicant.

"(2) Prior to issuing any guarantee or commitment to guarantee under this subsection, the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal activities which directly or indirectly impact on such capital markets.

"(3) The amount of obligations authorized for any guarantee and commitment to guarantee under paragraph (1) of this subsection is $150,000,000 for each of the following fiscal years, 1977 and 1978, except that such obligations guaranteed or committed to be guaranteed which may be outstanding at any time in any fiscal year shall not exceed the aggregate of the total amount authorized pursuant to this subsection for that fiscal year and all preceding fiscal years.

"(4) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this subsection, the Administrator shall pay out of the fund established by this section such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

"(5) If after consultation with the State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of this subsection will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may—

"(A) make direct loans to the eligible States, political subdivisions, or Indian tribes for such purposes on such reasonable terms and conditions as the Administrator shall prescribe. The Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demonstrates to the satisfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such demonstration or modular facility that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such demonstration or modular facility and which are determined by the Administrator to be appropriate for such inclusion shall be included in the total costs of the demonstration or modular facility.

"(6) The Administrator is further authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of demonstration and modular facilities, and for establishing related management expertise.

"(7) At any time the Administrator may, with the concurrence of the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations for which tax payments are guaranteed under this subsection.

"(8) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the demonstration or modular facilities occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(9)(A) Such amounts as may be necessary for direct loans pursuant to this subsection shall be available as provided in annual authorization Acts and shall be requested in fiscal year 1977, and in subsequent fiscal years.

"(B) There is hereby authorized to be appropriated for the fiscal year ending September 30, 1977, $2,000,000 for grants to be used to carry out the purposes of this subsection.

"(10) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to this subsection.

"(11) In carrying out the provisions of this subsection, the Administrator shall provide that title to any facility receiving financial assistance under this subsection shall vest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case of default by the borrower on a loan guarantee made or committed under subsection (b) of this section, such facility shall not be considered a project asset for the purposes of subsection (g) of this section.

"(l)(1) The Administrator shall submit a report to the Congress within 180 days after the date of enactment of this section setting forth his recommendations on the best opportunities to implement a program of Federal financial assistance with the objective of demonstrating production and conservation of energy. Such report shall be updated and submitted to Congress at least annually for the duration of the program authorized by this section and shall include specific comments and recommendations by the Secretary of the Treasury on the methods and procedures set forth in subparagraph (B)(viii) of this paragraph, including their adequacy, and changes necessary to satisfy the objectives stated in this subsection. This report shall include—

"(A) a study of the purchase or commitment to purchase by the Federal Government, for use by the United States, of all or a portion of the products of any synthetic fuel facilities constructed pursuant to this program as a direct or an alternate form of Federal assistance, which assistance, if recommended, shall be carried out pursuant to section 7(a)(4) of this Act;

"(B) a comprehensive plan and program to acquire information and evaluate the environmental, economic, social, and technological impacts of the program under this section. In preparing such a comprehensive plan and program, the Administrator shall consult with the Environmental Protection Agency, the Federal Energy Administration, the Department of Housing and Urban Development, the Department of the Interior, the Department of Agriculture, and the Department of the Treasury, and shall include therein, but not be limited to, the following:

"(i) information about potential demonstration facilities proposed in the program under this section;

"(ii) any significant adverse impacts which may result from any activity included in the program;

"(iii) the extent to which it is feasible to commercialize the technologies as they affect different regions of the Nation;

"(iv) proposed regulations required to carry out the purposes of this section;

"(v) a list of Federal agencies, governmental entities, and other persons that will be consulted or utilized to implement the program;

"(vi) the methods and procedures by which the information gathered under the program will be analyzed and disseminated;

"(vii) a plan for the study and monitoring of the health effects of such facilities on workers and other persons, including, but not limited to, any carcinogenic effect of synthetic fuels; and

"(viii) the methods and procedures to insure that (I) the use of Federal assistance for demonstration and modular facilities is kept to the minimum level necessary for the information objectives of this section, (II) the impact of loan guarantees on the capital markets of the United States is minimized, taking into account other Federal activities which directly or indirectly impact on such capital markets, and any economic sectors which may be negatively impacted as a result of the reduction of capital by the placement of guaranteed loans, and (III) the granting of Federal loan guarantees under this Act does not impede movement toward improvement in the climate for attracting private capital to develop synthetic fuels without continued direct Federal incentives; and

"(C) an analysis of the cost effectiveness of different types of energy investments for which assistance is available under this Act, and a ranking of such types of investments according to their cost effectiveness. As used in this subparagraph, the term 'cost effectiveness' means the number of units of net energy conserved or produced per dollar expenditure (discounted to present value).

"(2) The Administrator shall annually submit a detailed report to the Congress concerning—

"(A) the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including, but not be limited to (i) a discussion of the status of each demonstration and modular facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility, including byproduct production therefrom, and the distribution of such products and byproducts, (ii) a detailed statement of the financial conditions of each such demonstration and modular facility, (iii) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate such impacts, (iv) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (v) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section; and

"(B) the activities of the funds referred to in subsection (n) of this section during the preceding fiscal year, including a statement of the amount and source of fees or other moneys, property, or assets deposited into the funds, all payments made, the notes or other obligations issued by the Administrator, and such other data as may be appropriate.

"(3) The annual reports required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports and the 180-day report required in paragraph (1) of this subsection shall be transmitted to the Speaker of the House of Representatives and to the President of the Senate.

"(m)(1) Prior to issuing any guarantee or commitment to guarantee pursuant to subsection (b)(1) of this section, the Administrator shall submit to the House of Representatives and the Senate a full and complete report on the proposed demonstration facility and such guarantee. Such guarantee or commitment to guarantee shall not be finalized under the authority granted by this section prior to the expiration in 90 calendar days of continuous session of Congress (within the meaning of section 551(d) of the Energy Policy and Conservation Act) after the date on which such report is received by the Congress.

"(2) If the cost of any demonstration facility in paragraph (1) exceeds $100,000,000, any guarantee or commitment to guarantee may not be made or entered into unless—

"(A) the Administrator has transmitted a full and complete report on the proposed demonstration facility to the Congress in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act; and

"(B) neither House of Congress has disapproved such proposal in accordance with the procedures specified in section 551 of such Act.

"(3) For purposes of congressional review of proposals submitted under paragraph (2) of this subsection, the 5 calendar days described in section 551(f)(4)(A) of such Act shall be lengthened to 30 calendar days, and the 15 calendar days described in section 551 (c) and (d) of such Act shall be lengthened to 90 calendar days.

"(n)(1) There is hereby created within the Treasury a separate fund (hereafter in this section called the 'fund') which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by subsection (b) and subsections (g), (h), and (k) of this section. The Geothermal Resources Development Fund established by the Geothermal Energy Research, Development, and Demonstration Act of 1974 shall be available for the purpose of carrying out the geothermal loan guarantee program as established by that Act and as further implemented by this section.

"(2) There are authorized to be appropriated from time to time such other amounts as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debts, but excluding administrative expenses. All amounts received by the Administrator as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund or in the Geothermal Resources Development Fund, as applicable.

"(3) All payments on obligations and repayments pursuant to operations of the Administrator under this section shall be paid from the fund subject to appropriations or from the Geothermal Resources Development Fund, as applicable. Administrative expenses (including reimbursements to other government accounts) may be paid from the fund to the extent (A) authorized by law, and (B) provided in appropriations Acts. If at any time the Administrator determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

"(4) If at any time the moneys available in the fund or in the Geothermal Resources Development Fund are insufficient to enable the Administrator to discharge his responsibilities as authorized by subsection (b), (g), (h), and (k) of this section, or the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1101), as the case may be, the Administrator shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by subsection (b) and subsections (g), (h), and (k) of this section, and from appropriations or other moneys available under section 204 of the Geothermal Energy Research, Development, and Demonstration Act of 1974 for loan guarantees described in subclause (iv) of subsection (b)(1)(A) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection.

"(5) The provisions of this subsection do not apply to direct loans or planning grants made under subsection (k) of this section.

"(6) There is authorized to be appropriated in fiscal year 1977 $2,000,000 for administrative expenses. The amount authorized for such expenses shall be established in annual authorization Acts.

"(o) For the purposes of this section, the term—

"(1) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, or any territory or possession of the United States.

"(2) 'United States' means the States, and

"(3) 'borrower' or 'applicant' includes any individual, firm, corporation, company, partnership, association, society, trust, joint venture, joint stock company, public utility district, or other non-Federal entity.

"(p)(1) An applicant seeking a guarantee under subsection (b) of this section shall be a citizen or legal resident of the United States. A corporation, partnership, firm, or association shall not be deemed to be a citizen or legal resident of the United States unless the Administrator determines that it satisfactorily meets all the requirements of section 802 of title 46, United States Code, for determining such citizenship, except that the provisions in subsection (a) of such section 802 concerning (A) the citizenship of officers or directors of a corporation, and (B) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable.

"(2) The Administrator, in consultation with the Secretary of State, may waive such requirements in the case of a corporation, partnership, firm or association, controlling interest in which is owned by citizens of countries which are participants in the International Energy Agreement: *Provided*, That it is established by a certificate filed with the Administrator that not less than 90 percentum of the employees of such corporation, partnership, firm, or association, are and will continue to be during the term of any guarantee or agreement issued under this section to such corporation, partnership, firm or association, citizen or legal resident of the United States.

"(q) No part of the program authorized by this section shall be transferred to any other agency or authority, unless specifically authorized by law after the date of enactment of this section, except that the Administrator may delegate his functions under this section with respect to any facility for recovery of energy or fuel from any waste or discarded material to the Administrator of the Environmental Protection Agency.

"(r) Inventions made or conceived in the course of or under a guarantee authorized by this section shall be subject to the title and waiver requirements and conditions of section 9 of this Act.

"(s)(1) Each officer or employee of the Energy Research and Development Administration and the Secretary of the Treasury who—

"(A) performs any function or duty under this section; and

"(B)(i) has any known financial interest in any person who is applying for or receiving financial assistance for a demonstration or modular facility under this section; or

"(ii) has any known financial interest in property from which coal, natural gas, oil shale, crude oil, or other energy resources is produced in connection with any demonstration or modular facility receiving financial assistance under this section,

shall, beginning on February 1, 1977, annually file with the Administrator or the Secretary, as appropriate, a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(2) The Administrator or the Secretary of the Treasury shall—

"(A) act within 90 days after the date of enactment of this Act—

"(i) to define the term 'known financial interest' for purposes of paragraph (1) of this subsection; and

"(ii) to establish the methods by which the requirements to file written statements specified in paragraph (1) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator or the Secretary of the Treasury of such statements; and

"(B) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(3) In the rules prescribed in paragraph (2) of this subsection, the Administrator or the Secretary of the Treasury may identify specific positions within the Administration or the Treasury Department which are of a nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this subsection.

"(4) Any officer or employee who is subject to, and knowingly violates, this subsection or any regulation issued thereunder shall be fined not more than $2,500, or imprisoned not more than one year, or both.

"(5) No fulltime officer or employee of the Energy Research and Development Administration who directly or indirectly discharged duties or responsibilities under this section, and who was at any time during the twelve months preceding the termination of his employment with the Administration compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS–16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Administration, employment or compensation, directly or indirectly, from any person, persons, association, corporation or other entity, that had entered into a cooperative agreement or guarantee or commitment to guarantee with the Administration under this section during such time as such officer or employee discharged duties or responsibilities under this section.

"(t) Nothing in this section shall be construed as affecting the obligations of any person receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain Federal and State permits, licenses, and certificates.

"(u) The provisos in the third sentence of section 17 of this Act shall not apply to information obtained by the Administrator for the purpose of carrying out this section.

"(v) Notwithstanding any other provision of this section, the authority provided in this section to make guarantees or commitments to guarantee under subsection (b), to make guarantees or commitments to guarantee, or to make loan or grants, under subsection (k), to make contracts under subsection (h), to use fees and receipts collected under subsection (b) and (j) of this section, and the authorities provided under subsection (n) of this section shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this section.

"(w) Nc person in the United States shall on the grounds of race, color, religion, national origin, or sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with assistance made available under this section: *Provided,* That Indian tribes are exempt from the operation of this subsection: *Provided further,* That such exemption shall be limited to the planning and provision of public facilities which are located on reservations and which are provided for members of the affected Indian tribes as the primary beneficiaries.

"(x) In carrying out his functions under this section, the Administrator shall provide a realistic and adequate opportunity for small business concerns to participate in the program to the optimum extent feasible consistent with the size and nature of each project. No more than 75 per centum of the aggregate amount of loans authorized to be guaranteed by the Administrator may be issued with respect to demonstration facilities the total cost of each of which exceeds $10,000,000.

"(y) (A) Recipients of financial assistance under this section shall keep such records and other pertinent documents, as the Administrator shall prescribe by rule, including, but not limited to, records which fully disclose the disposition of the proceeds of such assistance, the cost of any facility, the total cost of the provision of public facilities for which assistance was used, and such other records as the Administrator may require to facilitate an effective audit. The Administrator and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such records and other pertinent data.

"(B) Within 6 months after the date of enactment of this section and at 6-month intervals thereafter, the Comptroller General of the United States shall make an audit of recipients of financial assistance under this section. The Comptroller General may prescribe such rules as he deems necessary to carry out this subparagraph.

"(z) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276c)."

By Mr. McKINNEY:

(Amendment to Interstate and Foreign Commerce Substitute.)

On page 124, line 11, striko Section 19(r) (1) and insert therein the following new Section 19(r) (1):

"(r) (1) Inventions made or conceived in the course of or under a guarantee authorized by this section shall *not* be subject to the title and waiver requirements and conditions of section 9 of this Act *except in the event of a default as defined under subsection (g) of this section.*" (NOTE.—Proposed changes are in italic.)

By Mr. MILLER of Ohio:

(Amendment to the amendment in the nature of a substitute offered by Mr. TEAGUE (printed in the CONGRESSIONAL RECORD of August 26, 1976, on pages 27908–27913.)

In subsection (g) (4) of section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974, as added by subsection (b) of the first section of the amendment in the nature of a substitute offered by Mr. TEAGUE, insert immediately after "section 9 of this Act" the following: "or for which title has vested under subsection (r) (1) of this section."

In subsection (r) of such section 19, insert "(1)" immediately after "(r)" and strike out the period and insert in lieu thereof the following: ", except that—

"(A) any individual making or conceiving any such invention shall be entitled to 5 per centum of the title to such invention, and 5 per centum of any proceeds to which the United States is entitled as a result of the grant of all or any part of the rights to such invention under this Act; and

"(B) any person or government employing or assigning any work to any individual making or conceiving any such invention shall be entitled to 25 per centum of the title to such invention, and 25 per centum of any proceeds to which the United States is entitled as a result of the grant of all or any part of the rights to such invention under this Act, if such invention is made or conceived within the scope of the employment or assignment involved.

"(2) In the event of any default referred to in subsection (g) of this section, any invention to which any title has vested under paragraph (1) shall be subject to the provisions of subsection (g) (4) of this section."

(Amendment to the amendment of the Committee on Interstate and Foreign Commerce.)

Page 114, line 33, insert immediately after "Act" the following: "or for which title has vested under subsection (r) (1) (A) of this section".

Page 124, line 11, insert "(A)" immediately after "(1)".

Page 124, line 13, strike out the period and insert in lieu thereof the following: "except that—

"(i) any individual making or conceiving any such invention shall be entitled to 5 per centum of the title to such invention, and 5 per centum of any proceeds to which the United States is entitled as a result of the grant of all or any part of the rights to such invention under this Act; and

"(ii) any person or government employing or assigning any work to any individual making or conceiving any such invention shall be entitled to 25 per centum of the title to such invention, and 25 per centum of any proceeds to which the United States is entitled as a result of the grant of all or any part of the rights to such invention under this Act, if such invention is made or conceived within the scope of the employment or assignment involved.

"(B) In the event of any default referred to in subsection (g) of this section, any invention to which any title has vested under subparagraph (A) shall be subject to the provisions of subsection (g) (4) of this section."

By Mr. MOFFETT:

(Amendments to the amendment recommended by Interstate and Foreign Commerce Committee to section 1 of amendment in the nature of a substitute offered by Mr. TEAGUE (page and line references to Union Calendar bill No. 674).)

On page 124, insert before the period on line 3 the following: "; but only if it is established by a certificate filed with the Administrator that not less than 90 per centum of the employees of such corporation, partnership, firm, or association, are and will continue to be during the term of any guarantee or agreement issued under this section to such corporation, partnership, firm, or association legal residents of the United States."

On page 126, after line 2, insert the following new paragraph:

"(4) No full-time officer or employee of the Energy Research and Development Administration who directly or indirectly discharged duties or responsibilities under this section, and who was at any time during the twelve months preceding the termination of his employment with the Administration compensated under Executive Schedule or compensated at or above the annual rate of basic pay for grade GS–16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Administration, employment or compensation, directly or indirectly, from any person, persons, association, corporation, or other entity, that had entered into a cooperative agreement or guarantee or commitment to guarantee with the Administration under this section during such time as such officer or employee discharged duties or responsibilities under this section."

On Page 126, line 3, strike out "(4)" and insert "(5)".

By Mr. OTTINGER:

(Amendment to the amendment in the nature of a substitute offered by Mr. TEAGUE.)

In section 19(c) of the Federal Nonnuclear Energy Research and Development Act of 1974 (as added by the first section of the amendment in the nature of a substitute offered by Mr. TEAGUE):

(1) Strike out "and" at the end of paragraph (8),

(2) Insert after paragraph (8) the following:

"(9) in the case of a demonstration facility which converts any coal (including lignite) from a surface mine to synthetic fuel, the President or his delegate has prescribed regulations for the purpose of reduction and control of adverse environmental effects resulting from operation of such surface mine, and such regulations have been transmitted to each House of Congress and approved by Congress by law;" and

(3) Redesignate paragraph (9) as paragraph (10).

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of September 21, 1976, page 31714:

HOUSE BILLS

H.R. 15356. August 31, 1976. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to: (1) require the Civil Aeronautics Board to consider the necessity of competitive market forces in the air transportation system; (2) limit the time in which the Board has to pass on applications for certificates of public convenience and necessity; (3) revise procedures for route transfers, pooling agreements, rate changes and abandonments; (4) remove restrictions on nonstop service; and (5) remove the authority of the Postmaster General to require air carriers to establish additional schedules for the transportation of mail between two points served by such carrier.

H.R. 15357. August 31, 1976. Ways and Means. Amends the Tariff Schedules of the United States to require proof of automobile property and personal liability insurance on automobiles imported for the personal use of nonresidents and foreign government personnel, in an amount equal to the minimum insurance requirements in those States in which the vehicle will be operated.

Directs the Secretary of the Treasury to forward certain identifying information on such vehicles to the Secretary of Transportation who shall forward such information to the appropriate State agency responsible for motor vehicle registration.

H.R. 15358. August 31, 1976. Public Works and Transportation. Amends the Appalachian Regional Development Act of 1965 to increase the amount of available Federal assistance as a percentage of the total costs of Appalachian development highway projects.

H.R. 15359. August 31, 1976. Science and Technology; Atomic Energy. Requires the submission of a supplemental plan evaluating future energy programs, to be transmitted to the Congress by the Administrator of the Energy Research and Development Administration. Establishes an Energy Production Planning Committee to prepare such plan.

H.R. 15360. August 31, 1976. Post Office and Civil Service. Prohibits carriers of Federal employee health benefits plans from reducing benefits or excluding any class of provider of health services unless the Civil Service Commission gives notice of, and conducts hearings relative to, the proposed change within prescribed time limits.

H.R. 15361. August 31, 1976. Post Office and Civil Service. Requires that the following information be posted in a prominent place in each post office: (1) the qualifications, dates, and places for voter registration and voting in the area served by the post office; (2) the names and office addresses of the United States Senators and Representatives for the area served by the post office; (3) the names and office addresses of the State legislators representing the area served by the post office; and (4) the cost and availability of Western Union public opinion messages to the President, Vice President, and Members of Congress.

H.R. 15362. August 31, 1976. Agriculture. Prohibits the importation of palm oil and palm oil products unless the Secretary of Agriculture certifies that such products are pure and wholesome and meet sanitation standards. Authorizes the Secretary to establish such standards, and to inspect such imports. Requires that such imports meet the packaging and labeling requirements in effect in the United States and specify the country of origin. Makes all palm oil in the United States subject to the Federal Food, Drug, and Cosmetic Act. Sets forth labeling requirements for palm oil in the United States. Prescribes penalties for violation of this Act.

H.R. 15363. August 31, 1976. Agriculture. Amends the Forest and Rangeland Renewable Resources Planning Act to direct the Secretary of Agriculture to prepare specified reports and to submit specified budget estimates for the purpose of reducing the backlog of National Forest System lands in need of reforestation or other treatment.

Sets forth guidelines and standards pertaining to the development and revision of land and resource management plans.

Revises provisions relating to sale of forest products found upon national forest lands.

Prohibits the return to the public domain of national forest lands other than by Act of Congress.

Abolishes the National Forest Reservation Commission.

H.R. 15364. August 31, 1976. Judiciary; Standards of Official Conduct. Requires candidates for Federal office, Members of the Congress, and certain officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 15365. August 31, 1976. Post Office and Civil Service. Includes as creditable service for the computation of civil service retirement annuities, all periods of service, not otherwise creditable, performed under agreements to which the Federal Government was a party in the employ of a State, or a political subdivision thereof, or of any instrumentality of either in the carrying out of specified Federal-State cooperative programs.

H.R. 15366. August 31, 1976. Merchant Marine and Fisheries. Directs the Secretary of Commerce to establish a National Aquaculture Development Plan to identify each aquatic species which can be commercially cultured and to contain a program of aquacultural development for such species.

Establishes the Interagency Committee on Aquaculture to coordinate aquacultural programs and projects.

Establishes within the Treasury a Federal Aquaculture Assistance Fund to guarantee loans for the financing of aquacultural facilities and to make disaster loans available to recipients of such guaranteed loans. Authorizes a program of grants for aquacultural projects.

H.R. 15367. August 31, 1976. Public Works and Transportation. Directs the Secretary of the Army, acting through the Chief of Engineers, to study methods to develop, utilize, and conserve the land and water resources in the Hilo Bay Area in Hawaii.

H.R. 15368. August 31, 1976. Science and Technology. Amends the Federal Fire Prevention and Control Act to require the Administrator of the National Fire Prevention and Control Administration to give priority, in allocating training grants, to training programs which employ techniques that simulate fire experiences.

H.R. 15369. August 31, 1976. Ways and Means. Amends the Tariff Schedules of the United States to impose a customs duty on the importation of candles and tapers.

H.R. 15370. August 31, 1976. Post Office and Civil Service. Extends the period during which a Member or Member-elect of Congress who is a candidate in a primary or general election is prohibited from sending mass mailings as franked mail to 60 days before such election.

EXTENSIONS OF REMARKS

SHOULD AROUSE CONGRESS

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Wednesday, September 22, 1976

Mr. HARRY F. BYRD, JR. Mr. President, on August 31, the distinguished Senator from North Carolina (Mr. HELMS), the distinguished Senator from Alabama (Mr. ALLEN) and I engaged in a colloquy on the need for a critical reappraisal of our present system of life tenure for Federal judges.

At that time, I moved the Senate to restore to the Calendar Senate Joint Resolution 16, a proposed constitutional amendment to require reconfirmation of Federal judges every 8 years. Both Senator ALLEN and Senator HELMS have cosponsored that proposal with me, along with Senators NUNN, TALMADGE, GARN, and GRAVEL.

On September 2, the Staunton, Virginia Leader commented editorially on this matter. It noted:

> The need for such an amendment, which Sen. Harry F. Byrd, Jr. co-sponsored with six others, has been well demonstrated in recent years. . .

The editorial also mentioned the recently released results of a nationwide poll sponsored by the National Federation of Independent Businesses in which the question was asked: Should Federal judges be appointed for a limited term or for life?

An overwhelming 86 percent of the respondents of that 460,000 member organization favored some form of limited tenure for Federal judges.

In seeking a reason for such a singular sanction to our present system of life tenure, the Leader said:

Dissatisfaction with life tenure making federal judges immune to checks and balances inspires the criticism, heard with increasing frequency, that 'we are being governed by courts, not by elected officials'.

And the Leader concluded:

That contention, which has considerable validity, should arouse both senators and representatives to jealousy of their Constitutional powers, expressed in approval of the Byrd call for a Constitutional amendment to require reconfirmation of judges.

The editor and publisher of the Staunton Leader is E. Walton Opie.

I ask unanimous consent that the Staunton Leader editorial of September 2 be printed in the Extensions of Remarks.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

SHOULD AROUSE CONGRESS

Because of the volume of unfinished legislation which Congress hopes to dispose of before recess on Oct. 2 for political campaigning, the call to the Senate to place on its agenda the Byrd resolution for a Constitutional amendment to require reconfirmation of federal judges after eight-year terms probably won't be approved.

The need for such an amendment, which Sen. Harry F. Byrd Jr. co-sponsored with six others, has been well demonstrated in recent years, however, and the persistent Virginia Senator may renew his effort when the 94th Congress reconvenes for its final weeks after the election.

In his latest address to the Senate on the resolution for abandoning life tenure for judges, Sen. Byrd reported on the results of a poll on the question by the National Federation of Independent Businesses. The poll, the Senator told his colleagues, "showed 86 per cent of those responding, nationwide, favored some form of limited tenure for federal judges. No state responded with less than 75 per cent favoring either a single 10-year term or renewable 10-year terms for federal judges. A bare 11 per cent favored retention of our present system of life tenure."

Why have so many observers of the work of federal courts reached the conclusion, like Sen. Byrd, that life tenure, under today's conditions, has led to judicial dictation that badly stretches provisions of the Constitution and some decisions do not accord with the intent of Congress in enacting statutes under challenge by some litigant with a vested interest or ideology foreign to American principles? Dissatisfaction with life tenure making federal judges immune to checks and balances inspires the criticism, heard with increasing frequency that "we are being governed by courts, not by elected officials".

That contention, which has considerable validity, should arouse both senators and representatives to jealousy of their Constitutional powers, expressed in approval of the Byrd call for a Constitutional amendment to require confirmation of judges.

MAKING METRO WORK

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. MAZZOLI. Mr. Speaker, as a Member who has supported Washington's Metro system since my first term in 1971, I would like to call my colleagues' attention to a study commissioned by the Washington Center for Metropolitan Studies.

The title of the study, "Making Metro Work," is undeniably positive, and the study's recommendations are similarly positive. The author, Prof. Edwin T. Haefele of Pennsylvania calls on those responsible for the system to begin the task of replanning the financing and construction of the system. Professor Haefele asserts that the 1969 plan for Metro has broken down and that a new plan must be drawn.

Last winter, the District Committee's Subcommittee on Fiscal Affairs, which I chair, held extensive hearings on the Metro system. Based on those hearings I tend to agree with Mr. Haefele that the 1969 system plan has broken down.

Some facts:

First. A consultant's study performed for the subcommittee concluded that the shifts in population growth in the region would decrease the ridership and increase the deficits by as much as 50 percent. A Department of Transportation review of the study concluded that the consultant's estimates of ridership were "pessimistic," but that "it is not possible to find any basis upon which the overall—Metro—forecasts can be defended."

Second. The subcommittee's hearing record shows that the potential total capital and deficit costs will by the early 1980's exceed the region's ability to pay without significant Federal assistance.

Third. If the construction of the system stops where Metro runs out of money, and their latest comptroller's report shows only $145 million—or 3 to 5 months' worth—available for obligation, the resulting system will not be well planned to serve the area. If careful planning is made, then the money available can be used to build the best system that the region can afford.

I hope that my colleagues, who have a concern in this matter, and those in the local governments will read Mr. Haefele's report, and begin to rethink how Metro can be made to work for the 1970's and 1980's.

Mayor Washington's 1977 budget message already calls for regional financing for Metro and I hope that others will respond to this initiative.

I would like to insert a Washington Star editorial on this subject. The editorial follows:

[From the Washington Star, Sept. 14, 1976]

MEAT FOR METRO THOUGHT

The Washington Center for Metropolitan Studies has never been an organization quick to squeal that the sky is falling. Thus, when it asserts that a new study of the transit system here "was commissioned out of a growing conviction that the unfolding troubles of Metro potentially pose one of the gravest fiscal and political crises ever confronted by Washington," the evaluation should be considered somberly.

There has developed, we think, a dual reaction to the almost weekly semi-cataclysmic status reports on bus operations, rapid-transit construction and finances thereunto pertaining: To flinch or to disdain.

Sheer institutional momentum might, in the immediate past, have been relied upon to carry Metro to the end of the projected line; we wonder if it can suffice as operating deficits swell, indeed to a projection almost beyond present comprehension. There is increasing restlessness within the component jurisdictions.

The center's report, "Making Metro Work," was done by Edwin T. Haefele, formerly of the Brookings Institution and now a professor of political science and public policy at the University of Pennsylvania.

It is, in some ways, an obvious piece of work, discussing remedies, alternatives, mechanisms that have wafted about, but which, we add, are fully worth what is called your hard thought. In some other respects, the report is a subtle one and the more volatile for that.

We were particularly struck by this: "It should be re-emphasized at this point that the new capital contributions agreement (which Mr. Haefele gives strong priority) need *not,* indeed should not, specify the rail system. It should instead specify the process whereby lines are to be agreed upon . . . No more futile or useless battle has been, or could be, waged than to try to specify the total mileage in advance. It should not have been done in the first place; having been done it should be abandoned."

What the writer is saying, as we read it, is that there is not, nor should there be, anything sacred about the 100-mile system as now designated. That the full rapid-transit system must be built has become an incantation for many—we have uttered it frequently on this page. This does not mean that by virtue of a consultant's report we are ready to shrive ourselves; however, his thought is pertinent.

Mr. Haefele notes that "Metro will be concerned with a small percentage of total daily travel in the region, even though it is a percentage that all hope will grow and that all are willing to encourage to grow by making auto travel pay its social costs." There is a muted pessimism, it seems to us, in that sentence. He points out that the rail system will have the "additional consequences of increasing density at the center (downtown) at the same time as it allows further spreading out of the population from the outer terminals."

It has become apparent that population and travel patterns have changed, in some instances dramatically, since that first shovel of earth was turned. There have been a few voices insisting that these trends require fresh looks at Metro—while there yet is time to be constructive.

It is not possible to touch the full scope of the study. Mr. Haefele adds urgency to the notion of a regional tax earmarked for Metro; it is imperative. That would release the localities from payment beyond income from the dedicated tax but it also would largely determine what service is to be provided; if a particular locality decided it wanted additional mileage or facilities, it could have them—but it would have to find the wherewithal itself. Makes sense.

Basically, he contends, the initiative for the future of Metro now lies with Congress and particularly, with the Department of Transportation's Urban Mass Transit Administration, not a reassuring thought. Federal contributions by way of Interstate transfer payments require alternative analysis by UMTA—which means rather brutally that if it doesn't approve of a Metro increment, that section will be nearly impossible to build.

Mr. Haefele has other observations on Metro that are worth serious consideration. His report is thoughtful, timely and episodically persuasive. He does not do justice, it seems to us, to the incredibly difficult problem of auto commuting, beyond suggesting taxing mechanisms to wean us from the car; that verges on the idyllic.

But the study offers a solid base for immediate and concerned appraisal. We had best get to it.

A TAX EXPENDITURE

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Wednesday, September 22, 1976

Mr. HARRY F. BYRD, JR. Mr. President, the August 30 edition of the Roanoke Times included an excellent editorial on the subject of tax expenditures.

The editorial points out that when a tax expenditure is made—as opposed to when Congress creates budget authority directly in an appropriation bill—it is the citizen and not "somebody way up there" who has decided how the money shall be spent.

While of course we in the Congress have the obligation to examine tax expenditures, like all other budgetary matters, the thoughts expressed in the editorial are worth some reflection.

I ask unanimous consent that the editorial, "A Tax Expenditure? Hooray!" be printed in the Extensions of Remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A TAX EXPENDITURE? HOORAY!

There is a highfalutin economic term floating around, especially in the federal government, that folks in the hinterlands should learn about. It is used in arguments about how much of the nation's money the federal government should spend. This term is—*a tax expenditure.*

Now, what is "a tax expenditure"? You will be surprised. You make them all by yourself—and government takes the credit for it! When the government allows you to deduct the interest on your mortgage, a tax expenditure has been made to help out housing. When you deduct a gift to a tax-exempt symphony orchestra, the government theorizes that it—the government—has really appropriated to help culture. (Sometimes the term, "tax appropriation," is used.) Because if the government did not permit the deduction, the house, symphony, hospital or what-all would not have gotten the money, or as much of it.

There is a certain amount of sense in using the term. Tax policies do have their effects, good or bad, and a concept that illuminates the effects is a useful one. But we are suspicious; over-use of the term promotes the idea, already far gone, that the government is responsible for all spending, anyway.

And the term also takes the joy out of giving. Suppose you give $100 to the United Fund, a mighty good place for your charitable thoughts. Suppose also you are in the 30 per cent income tax bracket. Those addicted to the term, "tax expenditure," or its twin, "tax appropriation," would say that you gave only $70 and Uncle Sam gave $30. The extreme addict would argue the federal government should get credit for the entire $100 because you wouldn't give to a charity that was not tax-deductible.

The day when the tax system is simplified will be a happy day, indeed. But until that day arrives, we recommend (1) that you understand the meaning of "tax appropriation" and "tax expenditure," and (2) that you don't worry about it. The more tax expenditures, the better—they show *you* and not a somebody way up there are deciding where the appropriation goes.

McGARR'S FIRST LAW: WHATEVER GOVERNMENT DOES, IT DOES MORE OR LESS BADLY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. CRANE. Mr. Speaker, the philosophy of the Founding Fathers had at its very base the idea that government was a necessary evil, not a positive good.

The Constitution which they wrote clearly limited the powers of the National Government and carefully divided authority between coequal branches as well as between the States and Washington. By limiting government, they believed, freedom could best be insured.

During the 200 years which have passed between the American Revolution and today many Americans have abandoned the perception of the Founding Fathers. Today, many view government as a positive good, and look to government as the "solution" to a variety of problems. Unfortunately, the historical understanding of the men who wrote the Constitution was superior to that of those who seek an activist government today. Today, more and more, government is the problem rather than being the solution.

In an important commencement address delivered at Loyola University Law School on June 13, 1976, Judge Frank J. McGarr, judge of the U.S. District Court of the Northern District of Illinois, explains his own view of the nature of government.

Judge McGarr noted that,

> . . . after spending a good deal of my life in research, I have found a universal principle—and this is not a facetious one; it's real . . . It comes from years of observation, from within government and outside government, and at all levels. The principle, which I call McGarr's First Law because I hope there will someday be a second, is: Whatever government does, it does more or less badly.

Judge McGarr pointed out,

> Big government is by nature self-aggrandizing. It grows bigger and thrusts itself more inextricably into our lives . . . Federal, state and local government employees now total 14.6 million adults. Governmental budgets aggregate $523 billion annually, 37 per cent of the gross national product.

Judge McGarr declared:

> If we are to solve the current difficulty of growing and increasingly inefficient government, the first step is to recognize and understand it. Only then can we begin to search for answers. The time to address this problem is now.

Judge Frank J. McGarr has had a distinguished career as assistant and first assistant U.S. attorney, as partner in the firm of Moses, McGarr, Gibbons, Abramson & Fox, as first assistant attorney general for the State of Illinois and, now, as judge. He had been president of the Chicago chapter of the Federal Bar Association and vice president of the Chicago Crime Commission.

I wish to share with my colleagues an article which has been adapted from Judge McGarr's Loyola University address as it appeared in the July–August 1976 issue of the Chicago Bar Record and insert it into the RECORD at this time:

McGARR'S FIRST LAW: WHATEVER GOVERNMENT DOES, IT DOES MORE OR LESS BADLY

(By the Honorable Frank J. McGarr)

(EDITOR'S NOTE.—This article is adapted from Judge McGarr's Commencement address at Loyola University Law School on June 13, 1976.)

I have long been intrigued by universal principles and the men who discovered them—Pythagoras, Newton, Darwin, even the modern men responsible for Parkinson's Law and the Peter Principle. And I have long desired to emulate them. One of the ambitions of my life has been to discover a truly universial and generally applicable principle and have my name attached to it. I thought I had one some years ago: *Anything that can go wrong, will.* I've since heard it referred to as Murphy's Law. I don't know who Murphy is or how he got into the act, but I abandoned any proprietary interest when I learned that Julius Caesar once said "*Quod malum posset futurum,*" which, roughly translated, turns out to be my and Mr. Murphy's universal principle.

Finally, however, after spending a good deal of my life in research, I have found a versal and generally applicable principle and tious one; it's real, it's serious, it's true, and it's universally applicable. It comes from years of observation, from within government and outside government, and at all levels. The principle, which I call McGarr's First Law because I hope there will someday be a second, is: *Whatever government does, it does more or less badly.*

Think about it. Do you know of a single governmental function, whether federal, state or local, which is performed with clarity of purpose, brisk efficiency, dedicated personnel and a notable record of achievement and success? Think of the Internal Revenue Service, the Department of Agriculture, the United States Army, the Veterans Administration, our capital city of Washington, D.C., the Army Engineers, Cook County Hospital, the Illinois Department of Mental Health, the Model Cities Program, the Chicago Bureau of Streets. The list could be endless.

Let me give you an example in microcosm. While the government has given its special attention, blessings and money to many groups in society, one group in our midst has been the happy beneficiary of the commitment of the federal government to protect and provide for from the cradle to the grave, whatever national resources it takes. Who among us can claim to be more fortunate than the members of the lucky minority who enjoy this all-embracing commitment? I'm speaking, of course, of the American Indian.

To establish the validity of McGarr's First Law one need only note that it has been tested against a life-time of experience and hence stands as a true universal principle: *Whatever government does, it does more or less badly.*

As a principle which governs action, what does this mean to us? Well, first, there are several things it does not mean. It does not mean we should run out and overthrow the government, because we need it and, with all its faults, it's the best system there is. We should be motivated by this principle to improve government, not to destroy it. Further, it does not mean that people in government are all stupid or venal. Some are, but not in any significantly greater numbers than in society as a whole. The problem lies in the nature of the institution itself and people's instinctive reaction to it.

The first aspect of the problem is simply bigness. Government has grown so enormous, so unwieldy and so diffuse that it has grown beyond the capacity of man to manage it. Its systems and the regulations designed to manage it become an end in themselves, and ultimately work to frustrate the purposes they were designed to further. Any adroit government employee can manipulate the policies and regulations of his agency to his own advantage, and usually to the detriment of the agency's goals. Adroit citizens dealing with governmental agencies can do the same thing.

The advent of McGarr's Law makes it possible to put in startling juxtaposition two basic tenets of American life. Since the days of President Franklin Roosevelt, every major social or economic problem in America has been approached in the context of the axiomatic assumption that, somewhere in government, with enough federal or state or local money, the solution can be found and should be implemented. Every emerging national crisis, from environmental decay to moral bankruptcy, is met with the cry, "Why doesn't the government do something?" So, on the one hand, we have the universal American assumption that in government lies the solution to all of our problems, and, on the other hand, we have McGarr's Law. All joking aside, this is one of the true crises of our times.

Also at the heart of our dilemma is that big government is by nature self-aggrandizing. It grows bigger and thrusts itself more inextricably into our lives, while we stand by and talk and worry about it. Just a few observations are needed to outline the dimensions of the problem. Federal, state and local government employees now total 14.6 million adults. Governmental budgets aggregate $523 billion annually, 37 percent of the gross national product. And just to keep the problem in perspective, let it be noted that state and local payrolls have grown and are growing twice as fast as the federal payroll.

Many students of the problem have reached the conclusion that the burgeoning bureaucracy is irreversible—that, like Hercules's Hydra, it is growing new heads faster than they can be cut off. Examples could be discussed by the hour, and each and every one of you has experienced one or more of them. Let's take one or two just to set the tone. The Social Security Administration sends a monthly check, for two hundred dollars on the average, to one out of every seven adults in the United States. The number of beneficiaries, in proportion to the number of contributors, is growing every year. The program is actuarily unsound, and always has been. Simple mathematics reveals that it will run out of reserve funds in about 1980. If it were a business, it would go bankrupt. If it were an insurance company, its officers and directors would go to jail. But in the Alice in Wonderland world of government, the economic laws of the marketplace do not apply. To shut down Social Security would be unthinkable. So the deficits will be met with appropriations from current revenues—first in tens, and ultimately in hundreds of millions of dollars annually.

This is only one of the scores of examples of growing government programs which we cannot end, any more than Nero could terminate bread and circuses. In ten years, the number of employees of the Federal Food Stamp Program has grown from 240 to 2,000. Put it to yourself—would any one of you, as a member of Congress, care to introduce a bill eliminating the Federal Food Stamp Program or even sharply curtailing it?

Along with Federal funds, and the growing burdens on the economy which they generate, is the companion phenomenon of government regulation, either in pursuit of some social goal or as a manifestation of the axiom that where there is government money, there follows government control. As I said, many people think this bureaucratic burgeoning is irreversible. What do I think? Is it really? All I can say is that a recent Commerce Department opinion survey revealed that 56 percent of the American public believe that additional government regulation of the economy is necessary and desirable. Further, I have never heard of a governmental agency advocating a curtailment of its budget or its activities.

Because lawyers are the principal bulwark between the citizenry and government, I address this subject to the bar. Lawyers are constantly guiding clients through the bureaucratic maze and protecting clients as best they can from growing bureaucratic excesses. Since bureaucracy threatens freedom, and it certainly does, lawyers must play a key role in fending off this newest and most serious threat to the success of the democratic experiment. As the tentacles of government spread into and entwine around every aspect of American life, lawyers must form the thin gray-flannel line defending freedom.

The first step toward the solution of any problem is to recognize and understand it. Only then can we begin the search for answers. The time to address this problem is now. If lawyers do not take the lead in dramatizing the problem and ultimately turning the tide, we will have nothing to celebrate in the tricentennial year of 2076.

THE STRATEGIC IMPORTANCE OF TURKEY

HON. DAN DANIEL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. DAN DANIEL. Mr. Speaker, as you are aware, the Congress is now considering a Mutual Defense Agreement with one of our valued NATO allies of longstanding, the Republic of Turkey. With this in mind, the Veterans of Foreign Wars of the United States at its 77th national convention held in New York City this summer, adopted a resolution in support of this agreement, pointing out the strategic importance of Turkey. For the RECORD, I would like to bring that resolution to the attention of my colleagues.

The text is attached:

RESOLUTION NO. 426, THE STRATEGIC IMPORTANCE OF TURKEY

Whereas, ever since Turkey acceded to NATO in 1951 and CENTO in 1954, Turkey has been a loyal and effective ally of the United States, having earlier fought at our side in Korea; and

Whereas, Turkey, with a long tradition of hostility to both Czarist and Communist Russia, commands the air, sea, and land approaches to the oil-rich Middle East; and

Whereas, the U.S., with Turkish cooperation, has created an indispensable network of bases on Turkish soil which can monitor Soviet Missile flights, nuclear weapons tests, and aerial overflights, capabilities which cannot be matched elsewhere in the region and which bear importantly on the United States' ability to verify Soviet compliance with the SALT agreements; and

Whereas, in a blind surrender to domestic political considerations, the 94th Congress has voted to deny Turkey military aid to include arms and spare parts Turkey has paid for; and

Whereas, a new U.S.-Turkish pact has now been negotiated and awaits Congressional approval; now, therefore

Be it Resolved, by the 77th National Convention of the Veterans of Foreign Wars of the United States, That the Commander-in-Chief of the Veterans of Foreign Wars of the United States clearly and unequivocally seek to reverse the earlier Congressional blunder denying military aid to Turkey and impress upon Congressional leadership the overriding strategic importance of Turkey, and the U.S. bases therein, to the United States of America.

Adopted by the 77th National Convention of the Veterans of Foreign Wars of the United States held in New York, New York, August 13 through 20, 1976.

TROTSKYISM AND TERRORISM: PART XI—SOCIALIST WORKERS PARTY FRONTS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. McDONALD. Mr. Speaker, a front organization is a group controlled by a Communist Party for the purpose of attracting non-Communists to the support of a Communist cause and to recruit new members. The Trotskyite Communists, following the example of the Stalinists, have also set up front organizations.

The methods by which the Trotskyites operate in the trade union movement was revealed by Jeff Mackler, since 1973 an alternate member of the SWP National Committee, at the 1971 SWP National Convention. Mackler, who used the alias Jeff Maxton at the convention, described his misuse of his union affiliation on behalf of the SWP-controlled National Peace Action Coalition—NPAC. Mackler said:

> My first day of school in California I looked around for an AFT button and out of 1,000 teachers I finally found one. They were having a union meeting so I went. The meetings started out with twelve teachers, built up to about thirty. There was a controversial point on the agenda, and I don't know what prompted me to do it, but I spoke on it. The next item that came up on the agenda was that the vice-president of the union had transferred. A hand went up and nominated me for vice-president, second, call the question, vote, and I was a district vice-president of the Federation of Teachers.
>
> I was subsequently elected statewide representative to NPAC, and I attended the NPAC national conference and through that we participated in the labor support committee. Since I represented 20,000 workers, as opposed to the longshoremen, who only represented 10,000, I participated in the NPAC labor support committee in San Francisco.[1]

Mackler went on to describe how, using his position as an AFT district vice president—elected at a meeting of merely 30 people—he was able to "initiate a little antiwar project" and circulate an anti-Vietnam resolution to the other AFT locals for endorsement.[2]

Footnotes at end of article.

The National Peace Action Coalition had been organized by the SWP to compete with the Communist Party, U.S.A.—CPUSA—controlled People's Coalition for Peace and Justice—PCPJ. Both groups supported the North Vietnamese Communists aggression against South Vietnam.

The 1971 SWP National Convention also received a letter of commendation from Pierre Frank, leader of the French section of the Fourth International, on behalf of the United Secretariat. Frank wrote:

> First of all I express to you the attention and the passion with which the international Trotskyist movement in its entirety follows the action against the Vietnam war waged in the U.S.A. and in which you, the S.W.P., play such an important role. It is this mass mobilisation increasingly large and increasingly firm to "Bring the GIs home now" which, after the heroic resistance of the Vietnamese people, contributed decisively to sap at the determination of American imperialism and to paralyse its forces. This anti-war activity must not stop for one minute, even if the victory of the Vietnamese revolution seems imminent. It must continue in the U.S.A. as in the whole world to prevent American imperialism from making an orderly retreat, to insure that its defeat henceforth inevitable should be the worst possible.[3]

THE YOUNG SOCIALIST ALLIANCE

The Young Socialist Alliance—YSA—was established in 1960 as the SWP youth group. While it is not necessary to be a member of the Socialist Workers Party to belong to the YSA, 50 percent of the YSA members hold dual membership in the SWP.[4] And it is noted that expulsion from the SWP also results in expulsion from YSA.

In 1971, Ken Simpson and Nancy Adolfi were expelled from YSA. According to their appeal, the only reason for their expulsion was that they had already been expelled from the SWP and that the charges were "preferred against them by party members and the majority of their trial body * * * were also members of the party—people who had previously voted for their expulsion from the SWP."[5]

Barry Sheppard, SWP organizational secretary has said, "recruitment to the YSA is party work * * *." He went on to say,

> For the last 15 years our basic recruitment to the party has been from the YSA. This aspect of our recruitment will continue to be important. Since the YSA serves in this aspect as both a training ground and a screening process, when YSA members join the party we are recruiting people who have already decided they want to be professional revolutionaries. They go through a process in the YSA that helps them make up their minds. They've learned something about our program, methods and organization. It's going to be different when we begin to recruit larger numbers of people who are coming directly to the party. We should not succumb to the temptations to automatically put all recruits in the YSA. Sometimes I think we've done that, precisely because its a good training ground. What we have to begin to think about is that people we recruit directly to the party have not yet made the same kind of commitment, nor do they have the same kind of training as someone who has gone through the YSA.

Sheppard said further,

> There are new possibilities of bringing around more contacts from our work in the desegregation fights, from our work in the unions, and from our election campaigns.
>
> Many of these contacts are YSA-age and attracted to the YSA. But a significant and growing number, though still a minority, are direct party contacts. Some are in their late twenties and thirties. Some are younger workers who, given their life situation, are direct contacts of the party regardless of their age. We can expect some contacts like this are going to be more comfortable in coming directly to the party and not the YSA. A worker who is nineteen, has a family, has been working two years and is attracted to our movement through union activity won't necessarily join the YSA.[6]

The YSA serves as the principal recruiting ground for the Socialist Workers Party and its major supporter in running the fronts. Most YSA members are recruited in the colleges. However, a campaign to organize high school students has also been undertaken by YSA.

Malik Miah, who has served as YSA national chairman and now is a regular member of the SWP National Committee described the high school recruitment in a report to the YSA National Committee Plenum in July 1974. He stated:

> We want to increase our recruitment work * * * on the Black struggle and socialism to attempt to win Black militants to the YSA.
>
> This orientation of developing a good base on campus also applies to high school work. When we talk about high school work, in most cases we are talking about Black work. Blacks as the most radicalized segment of the population are generally the most receptive to our ideas. This holds true for Black high school students. Some of our best opportunities to do campaign work, youth support work, is at the high schools. The New York City high school campaign rallies and the response they received are such examples.
>
> * * * * *
>
> Coupled with YSA work directed at the high schools and the major universities is the work we do at the community colleges and all-Black schools. This is just as important as other campus work and must be well planned out. In many cases this may mean trail-blazing to campuses where we don't have members or where we haven't visited before in the cities we function in. The number of students open to our ideas is great on all campuses and we should take advantage of this.[7]

In that same report, Miah noted how the Young Socialist Alliance rallied to support the Symbionese Liberation Army. It is noted that Gary D. Atwood, former husband of SLA member Angela D'Angelis Atwood, was a member of the YSA at the time his ex-wife and other SLA members were killed in a shootout with police in Los Angeles. Miah said:

> After the SLA members were executed in Los Angeles, the YSA in alliance with other community forces helped to organize a protest demonstration against the terrorist methods used by the cops.[8]

Here we have a high SWP and YSA official calling the police "terrorists" in defense of a gang of revolutionaries who had murdered the superintendent of the Oakland schools, Dr. Marcus Foster, and at the same time had fired a shotgun into the abdomen of his assistant, Robert Blackburn; and had committed armed robberies and kidnaping.

Miah also described the YSA and SWP attitude toward the police:

> I'd like to say a few words on our view of cops. We do not consider cops as part of the working class. They are direct agents of the capitalist state. * * * This holds true for both white and Black cops * * *. We are not for the reforming of the capitalist police force. We stand for its complete dismantling and abolition.[9]

NATIONAL STUDENT COALITION AGAINST RACISM

Designed to exploit controversies arising from forced busing, the National Student Coalition Against Racism—NSCAR—was established by the Young Socialist Alliance and SWP at a conference held in Boston in February 1975. NSCAR is targeted principally at black college and high school students and is being used extensively to recruit new SWP and YSA members from those groups.[10]

NSCAR claims some 70 chapters—these are attached to the local YSA and SWP branches. NSCAR headquarters are at 612 Blue Hill Avenue, Dorchester, Mass. 02121 (617-288-6200); its national coordinator is SWP national committee' member, Maceo Dixon, former national chairman of YSA. NSCAR's third conference is scheduled to be held at Boston University, November 19–21, 1976. One of the invited guests is Bernadette Devlin McAliskey, an Irish Trotskyite and leader of the Irish Republican Socialist Party—IRSP.

Shortly after the founding conference, SWP National Organizational Secretary Barry Sheppard described the SWP and YSA role in NSCAR. He said:

> It took a little time and a lot of work. But we played an important role—from the December 14 (1974) demonstration and teach-in, the formation of the student committee (against racism), the conference of the student committee, to building for the May 17 march.

Sheppard continued:

> NSCAR is basically a student and youth group; that is, it is attracting non-student youth as well as students. Helping to build NSCAR is a major task for the YSA. But it is also a task for the party, because of the role this group is playing within the whole desegregation fight. It is the only group consistently projecting the proletarian line of mass mobilization. And the party's got to pay attention to it; we've got to help build it as a broad action coalition. That's part of the proletarian orientation we've been talking about. NSCAR can reach beyond its own forces to the NAACP, and other forces in the Black community especially.[11]

FOOTNOTES

[1] Internal Information Bulletin #4 in 1971, Oct. 1971 p. 15.

[2] Ibid.

[3] Internal Information Bulletin #6 in 1971, November 1971 p. 6.

[4] Internal Information Bulletin #7 in 1971, November 1971 pp. 7–8.

[5] YSA Internal Information Bulletin, "Documents on the Cases of Nancy Adolfi and Ken Simpson" December 21, 1971 p. 8.

[6] Socialist Workers Party Discussion Bulletin, Vol. 33 #4 June 1975, pp. 24, 25.

[7] Young Socialist Discussion Bulletin, Vol. XVIII, #1, Nov. 1974 p. 5.

[8] Ibid p. 7.

[9] Ibid.

[10] Militant, Sept 24, 1976 p. 25.

[11] Barry Sheppadr report to SWP National Committee May 2, 1975, SWP Discussion Bulletin Vol. 33, #4 June 1975 p. 20.

TRIBUTE TO ST. CLARE'S SCHOOL—25 YEARS OF PROVIDING QUALITY EDUCATION

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. BIAGGI. Mr. Speaker, this month marks the 25th anniversary of the founding and opening of St. Clare's School which is located in the Bronx portion of my congressional district. It is appropriate on this occasion to review the proud history of the school and to pay special tribute to those who have contributed so greatly to its outstanding success.

In September of 1951, the doors of St. Clare's School first opened. Since that time, more than 20,000 students have passed through its doors. It is significant to note that St. Clare's School is still located at its original site, a tribute to the wisdom of its founders.

Throughout its history, St. Clare's School has been staffed by the devoted and dedicated Sisters Oblates to Divine Love. The first principal of the school was Rev. Mother Gloria Castro, who served in its capacity from opening day through 1966. She successfully steered the school and its students through the difficult years and took great pride when 20 students comprised the first graduating class in 1957. Since that time, more than 1,500 students have graduated from the school.

As of 1966, St. Clare's School has been under the expert guidance and leadership of Sister Josephine Stabile. During her decade as principal, St. Clare's School has continued to grow and is now considered to be one of the finest schools of its kind in the city of New York. Sister Stabile has donated much time and effort to insuring that her students are provided with the best possible education. She has equipped the school with modern education tools such as special educational television networks and modernized science labs.

St. Clare's School is closely affiliated with St. Clare of Assisi Church. The pastors of the church play an important supportive role in the school. One of the most instrumental individuals in the establishment of St. Clare's School was Pastor Francis Cagnina, who is generally considered to be the founder of both the St. Clare parish and school. The present pastor of St. Clare of Assisi Church, Msgr. Joseph Raimondo, has lent considerable time and support to insuring the continued success of the school.

St. Clare's School is joyfully celebrating its silver anniversary. They have demonstrated how a combination of quality administrative personnel and faculty with a cooperative student body, spell success for any educational institution. St. Clare's School is highly regarded by and active in the community around it. Many of its graduates have become leading local citizens and some have come back to teach at St. Clare's.

The official celebration of their 25th anniversary will include a week-long series of events from October 11 through the 17th. The highlights of the festivities will include a special mass of thanksgiving, a dinner-dance, and an alumni reunion. An anniversary journal, highlighting major events in the life of the school will also be published.

Mr. Speaker, St. Clare's School is celebrating a most significant event and it is my pleasure to extend to them my warmest congratulations. A special tribute should be paid to Principal Stabile as well as assistant principal, Sister Julia, whose leadership has aided the school and whose visions will insure its future success. Also, Pastor Raimondo and his assistants, Father Raymond La Manna and Father Joseph Hyndz, deserve special commendation for their outstanding work on behalf of the school. I extend my warmest best wishes for many more years of success to St. Clare's School.

TURN DOWN OF EARTHQUAKE BILL, A MISTAKE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. ANDERSON of California. Mr. Speaker, Monday night the House in its infinite wisdom turned down the Earthquake Hazards Reduction Act (S. 1174). The vote, in my opinion, was both baffling, and a serious mistake.

Hopefully, we will have an opportunity before adjournment to rectify this error.

It is ironic to think that this body, which earlier this year approved $25 million in relief to an earthquake stricken Guatemala, refuses to take action forestalling a similar disaster in our own Nation.

On February 4, 1976, Guatemala was struck by its worst earthquake in 20 years. The result was 22,000 dead, 74,000 injured, and damage well over $600 million. Certainly, Congress was right to pass the legislation providing emergency relief. In fact, the bill called for new construction in that nation to be of "seismic-resistant materials," and called on the Government of Guatemala to promote the use of such materials. Yet on Monday, September 20, we voted to deny that basic protection to our own people.

It is quite true that a vote by Congress is not going to lessen the possibility of a major earthquake in the United States, or stop one from happening. But we can effectively protect our citizens from unnecessary dangers should such a quake occur. In my own district in California, a major quake struck in the year 1936 near the city of Long Beach. Lives were lost, and ornate decorations on the exteriors of buildings were found to constitute a major threat to life during earthquakes. They were promptly outlawed and eliminated.

Certainly, an act of Congress would not have stopped that quake. Nor will it stop any in the future. But an act of Congress can—and should—provide for the research and development of construction methods able to withstand all but the most severe seismic activity, and lessen the hazards to life and property that exist in any part of our country lying in an earthquake zone.

Mr. Speaker, after-the-tragedy legislation calling for "emergency relief, rehabilitation, and humanitarian assistance" is fine for Guatemala. I want preventive legislation for the United States.

HOUSE CONCURRENT RESOLUTION 737—RIGHT TO FOOD RESOLUTION

HON. EDWARD G. BIESTER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1976

Mr. BIESTER. Mr. Speaker, yesterday we voted to approve House Concurrent Resolution 737, a resolution intended to demonstrate the consciousness, humanity, and compassion of Congress to the needs of an estimated 460 million persons, almost half of them young children, who are malnourished and suffering the consequences of diets seriously deficient in proteins and other essential nutrients.

The time for action in dealing with this problem is long overdue. International food and fertilizer aid has lagged behind the most modest goals. Even in the aftermath of UNCTAD IV the world has yet to agree on a global system of food reserves. Food production in the developing countries is increasing more slowly than it did during the 1960's; and the International Food Policy Research Institute has predicted that unless the trend in production in developing market economy countries improves in the future, the availabilty of cereal, the major food in most of these countries, will fall short in meeting demand by 95 to 108 million tons by 1985. This compares with shortfalls of 45 million tons in the crisis year 1974, and 28 million tons in the relatively good production period, 1969–71.

What are we prepared to do in the light of this increasingly serious problem? The "Right to Food Resolution" affirms our intent to make hunger "a fundamental point of reference in the formulation and implementation of U.S. policy" in relation to international trade, monetary arrangements, and foreign assistance. And it certifies our will to increase substantially U.S. assistance for self-help development among the world's poorest people.

These are noble aspirations; or at least they would appear to be. For in the long process of preparing this resolution for passage, during which time several very thorough and informative hearings were held, its body and substance were significantly altered, perhaps to the point of making it devoid of much of its meaning. Most notably, all reference to a target goal for food assistance was eliminated.

Legislation of this magnitude requiring no specific obligation to future expenditure can all too easily be ratified without thought or commitment to the broad goals which are sought. For this reason, and because I believe there was a critical need to substantiate the intent of this resolution, I introduced an amendment during International Relations Committee markup which would have provided that—

> The United States * * * increased its food and development assistance to 1.0 percent of the gross national product of the United States within five years after the date of enactment of this concurrent resolution.

Though passage of a substantially amended and watered down resolution was preferable to the eventual stagnation or defeat of a stronger measure, I feel constrained to point out that in my view, House Concurrent Resolution 737, as passed by the House of Representatives yesterday, is little more than a general statement of principles, completely lacking obligation or means to fulfillment. The resolution would have been used much improved were it to have included specific commitments by the United States to a percentage of gross national product to be allocated to food and development aid within a specific term of years.

I sincerely hope that ratification of this resolution does not amount to a thoughtless exercise in political grandstanding to be forgotten before the next foreign assistance authorization measure reaches committee.

HEINZ URGES REALISTIC NUCLEAR EXPORT POLICY

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. HEINZ. Mr. Speaker, I am in strong opposition to the provision in the Export Administration Act that seeks to set unrealistic and simplistic regulations on the export from this country of nuclear technology.

I refer to the amendment in the bill that states that no nuclear material or equipment may be provided to any country unless all nuclear materials reprocessed through equipment provided by the United States are under the control and reporting requirements of this act.

I urge my colleagues to vote to defeat this provision.

It makes no sense, Mr. Speaker, to enact legislation that will, in effect, drive customers to foreign and alternate suppliers. We have only to look at Brazil's recent acquisition of nuclear technology from West Germany to see what could, and probably would, happen on a worldwide scale if this amendment were allowed to remain in the bill.

Furthermore, by taking ourselves out of the international market for nuclear technology, we would be taking away our ability to bargain for, and encourage, multilateral action aimed at stemming the unchecked tide of nuclear proliferation.

I would add that, as the Committee on International Relations notes in its report on the bill, readily fissionable material already is safeguarded by the International Atomic Energy Council.

I urge the defeat of this portion of the legislation.

DIRECTOR KELLEY

HON. SAMUEL L. DEVINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. DEVINE. Mr. Speaker, not much is written about the other side of the coin as the continuing effort to destroy the FBI runs rampant. Perhaps Victor Riesel's article will shed some light, and balance.

The article follows:

[From the Paterson (N.J.) News, Sept. 17, 1976]

FBI, UNDER KELLEY, HAS BRILLIANT RECORD

(By Victor Riesel)

WASHINGTON.—During my recent travels I conversed with some of the most brilliant, pragmatic iron-nerved James Bond types specializing in counterintelligence and antiterrorist operations for their government. In one famed continental capital I was their guest. To my utter delight I learned they had one of the best wine cellars abroad.

Believe me, the faith their nation places in them is justified, their records some day will show. Obviously with their truly meager wages they aren't buying the vintages.

So I was startled on returniing home to note a headline reading "Director of FBI Target of Inquiry" because he had permitted (actually his late wife did) the bureau's exhibit section to use an estimated $40 worth of lumber to put up a set of curtain valances in his new apartment.

Director Clarence Kelley, now 64, a deacon of the Christian church and like Gov. Carter, who wants him fired, a former Sunday school teacher, wouldn't misappropriate a 13-cent stamp.

Actually U.S. Secretary of the Treasury William Simon, who directs the Secret Service, tells me there was no more practical or less expensive fashion in which to build these valances. Literally Director Kelley saved—not wasted—the government money, manpower and security.

Kelley won't tell the story. It's simpler to write a $335 check and forget it—if President Ford's political opponents permit. Here's what Bill Simon told me the other day when I asked him to tell me, as the cabinet member in charge of the Secret Service, if he would have fired Kelley had the FBI chief been under his jurisdiction instead of Atty. Gen. Levi's.

"No, I most certainly wouldn't. I think . . . you'll find it was $35 for some plywood for a valance . . . in his apartment in Washington.

"Now let's look at a side of this that hasn't been looked at. . . . For $35 worth of plywood, here is the director of the FBI . . . you know we're living in a very dangerous world and we do have enemies and adversaries. Can you imagine how many people would love to have the residence of the director of the FBI bugged?

"Can you imagine how easily it would be to bug the plywood . . . that would go into the valances, if indeed it were done commercially. At the very least we would have to have FBI agents go down and purchase the lumber, guard his apartment while it was being installed. And inspect the plywood too. How much . . . would that cost if indeed the government opted to do it that way?"

Then I asked him if the FBI would have to rescan Kelley's apartment if it had been decorated by a commercial carpenter.

Said Simon: "Sure. My office is constantly gone over when (I) have a visitor. One never knows whether a detecting device has been left."

It seems to me the question of Kelley's receiving gifts, such as a $105 easy chair, an $84 clock or a $95 walnut table, from his staff, isn't any more "illegal" than all the personal favors done by Secret Service agents bodyguarding the presidential candidates. That's political nitpicking.

Point is—what of the FBI's total work? Look at the record.

During fiscal 1975, the bureau's civil rights fight was one of quality and quantity. In this year, the FBI, according to its documents, handled 7,946 cases within the civil rights criminal statutes. Further, there were another 1,238 cases of alleged discrimination in housing; another 1,477 cases under the Civil Rights Act of 1964 prohibiting discrimination in employment, education, public facilities and places of public accommodation.

Effectiveness in these fields doesn't spring from some civil service attorney researching the record. It takes field work—often dangerous. In bombing attacks, for example.

And there is a vast area of white-collar crime into which the FBI has recently thrown special "desks." These squads now are piercing Medicaid and Social Security and welfare fraud—thus aiding the aged and the poor. The battle is on against vast thievery and forging of securities on which many depend for old age income.

And if that's of no interest to the scalp hunters, what of the FBI's attack on organized crime? What of the investigation, indictment and conviction of such tough dons as Kansas City's Nick Civella, Detroit's Tony Zerilli and St. Louis syndicate power Tony Giardano? Most of these needed only to dial a phone to get action from "controlled" unions.

In all there were 1,417 convictions of racketeers. By year's end (June 30, 1975) there were 1,800 alleged gangsters in the court pipelines. Not bad. Fair return on $40 (or $35) worth of valances.

It's like President Lincoln said when there were complaints that Gen. Grant was a heavy drinker. Mr. Lincoln asked what Grant's brand was. He wanted to rush it to his other generals.

DEATH CLAIMS A GOOD FRIEND

HON. F. EDWARD HÉBERT

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. HÉBERT. Mr. Speaker, I was indeed saddened to learn of the death of a good friend and a great photographer, Charles P. Gorry.

Charlie, as he was known to his friends, had an illustrious career with the Associated Press. He put my picture on more front pages than anyone during those years he was covering the Hill.

His face was a familiar one to those of us who have been around here for awhile, and we will miss him.

Charlie always got the job done without being pushy or obnoxious, which is unusual among photographers today.

Charlie was a fine human being. My sympathy goes to his family during these trying hours.

NO ONE LOVED AMERICA MORE

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. EVINS of Tennessee. Mr. Speaker, the popular and talented White House correspondent, Mrs. Virginia Weldon Kelly, the wife of Rear Admiral Thomas J. Kelly, of Washington, D.C., and formerly of Tennessee, has written a beautiful and moving story concerning her mother who came to the United States from Hungary at an early age, became an American citizen and lived a long life proclaiming the beauties, glories, and greatness of America.

The Paris Post-Intelligencer of Paris, Tenn., has reprinted Virginia Kelly's story about her mother under the headline, "No One Loved America More." I am inserting this news story and editorial in the Record along with a tribute to Virginia and Admiral Thomas J. Kelly.

Mrs. Virginia Weldon Kelly is a trustee of the Navy Marine Coast Guard Residence Foundation which built and operates the nonprofit residence, Carl Vinson Hall, McLean, Va. Virginia is a member of a pioneer family, the daughter of Dr. John D. Weldon and the granddaughter of Dr. Andrew Jackson Weldon of Paris Landing, Tenn.

Virginia is a member of the National Society of Colonial Dames, the Daughters of the American Revolution, the Washington Club, the National Press Club, the Washington Press Club, the American Newspaper Women's Club and the Women's National Democratic Club. Both Virginia and Admiral Kelly are great Tennesseans and great Americans.

The editorial from the Post-Intelligencer of Paris, Tenn., "No One Loved America More," follows:

[From The Paris (Tenn.) Post-Intelligencer, July 9, 1976]

No One Loved America More

My mother came to the United States from Hungary when she was 13 years old. She never forgot her first glimpse of the Statue of Liberty. She and the other passengers on the ship had been up since dawn. Suddenly, the mist lifted, the sun was shining . . . and there was the statue in all its beauty.

If she had lived to see the Bicentennial, she would have rejoiced to know that Americans celebrated in harmony on July 4. She would have approved President Ford's words after he had sworn in new citizens at Charlottesville, Va.: "After two centuries, there is still something wonderful about being an American."

Mama knew Mr. Ford as a Congressman. She said he was "a man of integrity—a kind man." Sometimes she had advice for President Johnson, whom she had known a long time. She admonished me to tell him after his next press conference. "Mama, I can't give the President unsolicited advice, even from you," I would say.

"Presidents should hear the views of private citizens—especially women. They are surrounded by 'yes' men. I'm sure the President will ask you," mama replied serenely. He did, too. Sometimes he would say, "Virginia, how does your mother think I am doing?" He would listen gravely and tell me, "Be sure to tell your mother that I will seriously consider her views."

At home, mama watched the televised press conferences. If she saw me, she was happy. "Don't I always tell you this is a wonderful country? Where else would a woman have such an interesting career? Where else would a woman be able to know Presidents?"

She was so proud of being an American citizen. She said that no native born American fully appreciated the blessings of this country. "The United States," mama said, "is the fulfillment of everyone's dreams, the land of opportunity where everyone with health, normal intelligence, industry, and ambition can be a success."

When I pointed out that many people were in the slums, burdened with a tragic lack of education and other handicaps, she said, "But consider how much worse off these people would be if they were back in the homelands of their ancestors. Here, they have a chance."

In the depths of the depression, she was optimistic and predicted that there would eventually be community colleges where each person could get higher education, free. She insisted that life is better for most people now than in former generations.

Every day, when we had prayers, she sat in a chair but I was on my knees beside her. Looking down at me, she would say, "Thank God for being an American." Dutifully and daily, I did so.

Mama and I were certain that she had a close working relationship with Divine Providence, as far as I was concerned. Each day in our prayers, she would ask the Lord to help me to be kinder and more loving to my husband, the family, and to all who "are in sorrow, sickness or in need," and to realize my responsibilities as God's child and as a citizen.

Mama believed in prayer, but she also believed in action. She was what I called the "wagonmaster for our gravy train." If any neighbor was ill, that person received hot meals. If the weather was bad, mama had the grocery lists of elderly neighbors. "Do the marketing on your way home," she said. If a black friend needed a loan, mama was not only ready with her modest means, but was quick to admonish me to chip in.

After the daily prayers came the Bible reading. "You choose the passage," mama usually said. Late at night we talked of many things. Sometimes mama would ask me to read parts of the Constitution and the Bill of Rights. She considered the separation of church and state the noblest concept of all. With every fiber of her being, she believed in justice and liberty for all. This, too, was the guiding principle of my father, a member of a pioneer family whose ancestors had fought in the Revolution.

One of the memories that I cherish during this year of the Bicentennial is that no one in our family ever spoke disparagingly of any race or religion, or the status of women. In harmony with these views, my mother, my father's mother, and his sisters were all women of intelligence and high principles, who believed that women have a role in government and in every aspect of life.

Mama was only 11 when her mother died, but she remembered how gifted, dynamic, and capable her mother and grandmother had been. "They used to speak of the United States and how they would like to see it. Even then, they had faith that a new era would begin where the opportunities for women would be limitless. If they could have been born later, and if they could have been Americans, how much they could have accomplished. You must act for them because women have civilized the human race," mama said.

BISHOP FLOYD BEGIN'S FIGHT AGAINST PORNOGRAPHY

HON. LINDY BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mrs. BOGGS. Mr. Speaker, recently it came to my attention that Bishop Floyd L. Begin of Oakland, Calif., has been waging a public battle in favor of eradicating pornography. His Excellency's principal method has been to encourage likeminded citizens to refrain from patronizing establishments which show or sell pornographic materials.

I would like to take this opportunity to share with my colleagues in the House an article which recently appeared in "Morality in Media Newsletter," concerning the Bishop's activities in this area, the text of which appears below:

MM Man of the Month: Bishop Floyd L. Begin

Early in May, a full or half-page paid advertisement appeared in all the newspapers—secular and religious—of Oakland, California. The ad was headlined: "An Open Letter of Concern from Bishop Floyd L. Begin."

The Most Reverend Floyd L. Begin is the Roman Catholic Bishop of Oakland. A native of Cleveland, he has been bishop of Oakland since the creation of the diocese in 1962; was a member of the Administrative Tribunal of Vatican Council II; a member of the administrative board for the National Conference of Catholic Bishops; and is vice-president of the California Catholic Conference.

The Bishop publicly expressed his concern about the traffic in pornography, and then sent the same letter to all religious leaders in his area, all media outlets, and all Catholic elementary and high schools and colleges.

In addition to the letter, he had printed hundreds of thousands of cards containing a prayer and pledge of decency, and distributed them widely.

Following is the text of Bishop Begin's open letter:

"As a spiritual leader in our community I wish to address an area of increasingly grave concern. It is the rapid growth of the pornographic and nearly pornographic in the society around us.

"There seems to be an almost constant barrage of the immodest and indecent through motion pictures, stage productions, magazines, newspapers, television and even on the streets of our cities. So universal have these things become that too many of us have accepted them almost as a way of life, as an inevitable consequence of modern society. Sensitivities have been dulled, right and informed consciences stilled, and moral objections silenced.

"I feel it not only appropriate, but urgent, to speak out against this amazing proliferation. Its prime motivation seems to be financial profit, but its ultimate result, too often, is the destruction of the moral fiber and virtue of our people. I write this, not out of a sense of prudishness or latter-day puritanism, but with what I trust is sensitivity to what the gift of human sexuality is all about.

"It is through our God-given sexuality that we as human beings can reach out to one another in love. It is in sexual union that a couple can express to one another tenderness, intimacy and permanent fidelity. The public and profitable exploitation of the sexual, so common around us, is a direct betrayal of the basic values of sexuality itself. What is sometimes referred to as the 'playboy philosophy' of sexually using and discarding another person with 'no strings attached' is not a form of freedom but of enslavement. What was intended to be most precious becomes almost trivial. What was created to be most deeply personal is dehumanized.

"Pornography of any kind is gravely wrong and the abuse of the gift of sex remains wrong no matter how common or well-publicized it becomes.

"I call on concerned people, and particularly on my fellow Catholics, to refrain from patronizing those publications, theaters and places of business which encourage the pornographic. I ask their support in affirming what is positive and wholesome in the media and opposing publicly what is not. I urge them to pray for decency in the community and the country.

"Finally, I ask citizens everywhere to promote what is wholesome and good in our society and to encourage reverence for humanity and sexuality at all times."

Bishop Begin's public statement elicited tremendous response in the Oakland area. Such statements from religious leaders of all faiths in all areas of the country could generate the vocal community expression needed to solve the problem of pornography.

70001 LTD. HELPING DISADVANTAGED YOUTH

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. ARCHER. Mr. Speaker, it seems that there is always a lot of talk about partnership between the public and private sectors, but not much is being done about it.

Today, I would like to briefly share with my colleagues some information about an organization that is doing something about it. 70001 Ltd. is a nonprofit corporation that provides a program of employment, on-the-job training, education and motivation for out-of-school young people between the ages of 16 and 22.

Although it is funded by the Department of Labor, 70001 places its young people in unsubsidized jobs in the private sector. Let me repeat. These are unsubsidized jobs. The wages paid these disadvantaged young people come entirely from the private sector. And what is happening here is that a growing number of these young adults are moving off the public welfare rolls and onto private payrolls. As of the end of last year, these 70001 workers had earned more than $1 million and paid back nearly a quarter of that in local, State, and Federal taxes.

What we have here is a true partnership, with public dollars helping prepare the 70001 enrollee to work and advance in the private sector. In turn, business pays the enrollee unsubsidized wages that ultimately reduce welfare costs and increase tax revenue.

I commend 70001 Ltd., the Department of Labor, and the private sector, particularly the retailing industry that is providing most of these jobs, for forming such an effective partnership that already has helped thousands of disadvantaged young people. We need more efforts such as these.

TRIBUTE TO JOHN WARNER ON THE BICENTENNIAL

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. McCLORY. Mr. Speaker, in these days of much talk, but little action about bureaucratic reform, it seems a bit unusual to acknowledge the passing of a Federal agency and its Administrator, but as the Members know, John Warner recently chaired his final meeting of the American Revolution Bicentennial Administration. The spectacular success of ARBA and of Mr. Warner deserve the recognition both of Congress and the American people.

Mr. Speaker, it seems to me that the great achievement of the Bicentennial was its orientation toward people and communities. Much of the success of 1976 must be attributed to hard-working individuals all across our Nation, but there was also an early decision to keep the Bicentennial celebration close to the people, and for this we must thank Mr. Warner. With the same talents he demonstrated as Secretary of the Navy, he made 1976 into a memorable and appropriate tribute to a great nation. In the process, he left a lesson behind for those agency administrators not retiring: by and large, he let the people plan their own Bicentennial.

These plans took many forms. In my own 13th Congressional District of Illinois, Elgin Community College decided it wanted to honor Thomas Jefferson with a special day. Working closely with my office, they managed to have a resolution passed by both Houses of Congress and signed by the President. An annex of the Library of Congress was renamed in honor of Mr. Jefferson, a joint session of Congress with several guest speakers was held, and special ceremonies, featuring an address by President Gerald Ford, took place at the Jefferson Memorial.

The citizens of Crystal Lake, another community in my district, decided to give their city a $1,000 U.S. savings bond as a Bicentennial gift. Working through my office, they arranged for this unusual bond to be issued by the Treasury Department. In ceremonies scheduled for October 2, the bond will be placed in a time capsule, to be opened in 2076.

My office also participated in a Bicentennial project of Marcor Corp., distributing decorative flag sets to all Members of the House of Representatives.

Finally, like all congressional offices, we provided a huge volume of information to local Bicentennial commissions.

Mr. Speaker, it is happily clear to all that the Bicentennial was a rousing success. At this time, I would like to express my personal gratitude to Mr. Warner for his guiding role in our Nation's 200th birthday celebration.

THE TERRIBLE COSTS OF TERRORISM

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. BLANCHARD. Mr. Speaker, yesterday, as virtually all of us know by now, the former Chilean Ambassador, Orlando Letelier, was assassinated here in Washington.

The assassination, which was carried out by means of a bomb placed in Mr. Letelier's automobile, was a barbaric act, and one tragic in its consequences.

Investigations by local authorities and by agents of the Department of Justice are already underway. I have joined in sponsoring the resolution offered by the gentleman from Connecticut (Mr. MOFFETT) which condemns the assassination, and I will support any proposals for further investigation.

I do not, however, want to let this matter pass without expressing my contempt for the person or persons who have perpetrated this cowardly act. I hope that other Members will take the time, as I have, to read the details of the assassination in the newspapers. They tell a story that can only sicken and anger civilized men, of whatever political persuasion.

Like similar actions, here and abroad, this one was not without its innocent victims. In this case, they were staff members of the Institute for Policy Studies, where Mr. Letelier worked. One of them, Ronni Karpen Moffitt, lost her life.

I include herewith her story, both as a memorial and as a reminder that terrorism, wherever it occurs—in La Guardia Airport, in Belfast, in Ma'alot or Munich or here in our own midst—is a disease and an abomination that must be destroyed.

[From the Washington Post, Sept. 22, 1976]

SECOND VICTIM OF BLAST WAS "WARM, VITAL, AND ACTIVE"

(By Richard E. Prince)

Ronni Susan Moffitt, who died in the automobile bomb explosion yesterday that also killed a former Chilean ambassador to the United States, was described yesterday as a politically aware, full-of-life woman who was excited about the future.

Married on Memorial Day in her native Passaic, N.J., she and her husband, Michael Moffitt, also 25, recently moved into an old, white clapboard five-room farmhouse in Potomac. They met at the Institute for Policy Studies, where last month she started a new job as the organization's fund-raiser. Moffitt, who was in the car and survived the bomb explosion, is an economist there.

Mrs. Moffitt was the oldest of three children of Hilda and Murray Karpen, who owned a 50-year-old delicatessen and appetizer business in Passaic.

After completing high school in 1968, she attended the University of Maryland, where she majored in elementary education and minored in art. Her acrylic and pen-and-ink works adorned their home, friends said yesterday.

After graduating from Maryland, Mrs. Moffitt taught for a year at Rocking Horse Road Elementary School in Rockville. She left that job, her father said yesterday, because "She loved the kids but wasn't crazy about the adults."

At the time, Mrs. Moffitt was living in the Adams-Morgan area of Washington (before that she lived in Takoma Park). Her musical interests, cultivated in high school, led her to become involved with The Music Carry Out at 2004 18th St. NW., which served as a club for musicians.

Virginia Wheaton, who was active in the Carry Out, remembers Mrs. Moffitt as "very warm, vital, and active. She was an organizer—she was always getting things going, and she had a great sense of humor." Among other activities, she organized a weekly women's night at which she played flute and guitar.

While active at the Carry Out from 1974 until last fall, she helped write a proposal that secured $2,000 for the club from the Institute for Policy Studies.

A co-director of the institute, Marcus Raskin, frequented the place, friends said, and he hired her as his assistant. She began working for him in September, 1974.

Michael Moffitt started work at the Institute in January, 1974, and did a major share of the research for "Global Reach," a study of multinational corporations authored by Institute co-director Richard Barnett. He majored in economics at the State University of New York at Cortland and is currently working on his masters at American University.

Moffitt was raised an Irish Catholic. He and his wife, raised an Orthodox Jew, were married by an American University rabbi May 30 in her family's garden. About 200 people attended.

"They're both politically aware people who were involved," said Tina Smith, an associate at the Institute for Policy Studies.

Mrs. Moffitt's father said she called home every Sunday. In her last call home, she said she would be home Friday for Rosh Hashanah. After she was named fund raiser, Karpen said, she was "full of ideas. She was up here last week looking for a grant from a foundation. She was full of life, full of life," he said.

Friends said Mrs. Moffitt was no more interested in Chile than she was in other areas of the world. Her father had this explanation for her death:

"I guess it was aimed at the ambassador. He was fighting the junta in Chile. He had accused them of barbaric acts, and to prove they were not barbaric, they murdered him and my daughter."

THE LOBBY BILL

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. RAILSBACK. Mr. Speaker, tomorrow I will be offering two amendments to H.R. 15, the lobby bill, which I am having printed in the RECORD herewith.

REPORTING OF CONTRIBUTIONS TO LOBBYING ORGANIZATIONS

Page 28, strike lines 14–25 and page 29, strike lines 1–6, and substitute in lieu thereof the following:

"(8) an identification of—

(A) each organization from which the reporting organization received income during such period, including the amount of income provided by the organization, where the income was expended in whole or in part to engage in activities described in section 3(a), if the amount of income received from the organization has totaled $2,500 or more in amount or value during the calendar year; and

(B) each individual from whom the reporting organization received income during such period, including the amount of income provided by the individual, where the income was expended in whole or part to engage in activities described in section 3(a), if the amount of income received from the individual and his immediate family has totaled $2,500 or more in amount or value during the calendar year. This paragraph shall not apply to any income received by the organization in the form of a return on an investment by the organization or a return on the capital of the organization."

ELIMINATING EXEMPTION FOR COMMUNICATIONS OR SOLICITATIONS TO AN ORGANIZATION'S MEMBERSHIP

At page 23, line 4 after "public", strike "or to the membership of an organization".

At page 23, line 5, after "broadcast," strike the semicolon and insert the following:

", or through a regular publication of a voluntary membership organization published in substantial part for purposes unrelated to engaging in activities described in paragraphs (1) and (2) of subsection 3 (a);"

THIRTY-ONE YEARS OF MEMORIES

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. McHUGH. My Speaker, the 243d Field Artillery Battalion of the Army of the United States is holding its 31st annual reunion on October 9 in Binghamton, N.Y. It seems appropriate and fitting that our Nation, in appreciation for the unity which we now enjoy, pay tribute to this group which has for itself preserved the ideals for which it served.

Each year in honor of the country for which they fought and with a profound respect for each other, this group meets to maintain a fellowship seldom equaled. Sharing the memories of almost 4 years of service together as a unit, this yearly reunion exemplifies the high devotion which each member has for our country and for each other.

Being activated in August of 1942 at Camp Shelby, Miss., the 243d received its complement of personnel direct from civilian life. After extensive training, this unit was honored by being selected to place into service the Army's newest heavy artillery weapon, the 8-inch rifle. The unit landed on Utah Beach, August 6, 1944. As a separate unit serving in the 20th Corps of the 3d Army, the 243d saw duty in France at St. Malo, Brest, Metz, and Thionville. In Germany the unit made splendid combat contributions to the battles of Saarlautern, Dillengen, Ensdorf, Saarbrucken, Moselle-Sarr Triangle, Ardennes, Saar River, Rhine River,

As each member of the 243d is proud of his unit's military accomplishments, so should we, as a Nation, indicate here today our pride and thanks for this unit's personal sacrifices and devotion.

Remembering their departed comrades, this year's reunion honors the memory of these men by having as special guests the widows and children of each deceased member.

So to you, the 243d Field Artillery Battalion, we wish you a happy 31 years of memories.

THE 50TH ANNIVERSARY OF RIVERDALE, MD., BAPTIST CHURCH

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mrs. SPELLMAN. Mr. Speaker, it is with pleasure and pride that I bring to the attention of my colleagues a milestone event in the history of one of the distinguished churches of Prince Georges County, Md. On September 26, the First Baptist Church of Riverdale will celebrate the 50th anniversary of its founding in 1926. It is a joyous occasion for the congregation and, on behalf of the Members of the U.S. Congress, I would like to extend my warmest congratulations.

Since its inception, the First Baptist Church has played a central role in the lives of its membership. Believing strongly that a church can provide spiritual guidance in many diverse ways, the Riverdale Baptist Church has always maintained varied and enriched opportunities for participation. It has sponsored many different groups for the benefit and enjoyment of the congregation and the community. On more than one occasion, I have been deeply moved by the performances of the First Baptist Church of Riverdale Choir, whose singing reflects so beautifully the spiritual commitment its members have made.

I, for one, doubt that any nation can long survive unless its people receive the fulfillment and guidance provided by its churches. For 50 years, the First Baptist Church of Riverdale has been such a beacon to its faithful members. This church has been an integral part of the religious fabric which is essential to the continued growth and prosperity of this Nation. The future of this country will be strengthened by the demonstrated faith of this congregation.

On behalf of my colleagues in the Congress, I extend my warmest congratulations to the First Baptist Church of Riverdale on its golden anniversary. May God bestow His blessings upon the congregation.

SWEDES SHOW DISILLUSIONMENT WITH THEIR WELFARE STATE!

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. CRANE. Mr. Speaker, after 44 years of a Socialist government, the voters of Sweden have become disillusioned with their expensive and all-embracing welfare state.

The candidates running in Sweden in opposition to the ruling Socialist Party argued that high taxes—which take nearly half the salaries of most workers—as well as the growing bureaucracy have created a society that puts security and welfare ahead of initiative, free choice, and opportunity.

Americans who have used Sweden as a model of the direction in which our own country should move, should carefully examine the attitudes of the people of that country toward the welfare state under which they have lived for so many years. If they do so, they will find that freedom and socialism are, in reality, not compatible values.

In an article concerning the Swedish system of taxation, Carl G. Holm, a contributor to a number of magazines in Sweden, including Contra, and a graduate of the Stockholm School of Economics, notes that—

> In Sweden today, 50.5 per cent of the gross national product is taken up by Social Security and other taxes; another 9.6 per cent goes into the public coffers in the form of customs duties, fees on public services, and interest on government assets. The total is expected to go to 69.8 per cent by 1980.

The average Swede, Mr. Holm points out, earns the equivalent of $8,800 a year, of which he pays 40 percent in taxes. His employer pays an extra 25 percent in payroll taxes and social security dues, and inflation rate is 10 percent a year. In higher income brackets, the Government takes an even larger share in taxes. Those private entrepreneurs earning more than $33,000, for example, are subject to a tax rate of 102 percent. The celebrated case of movie producer Ingmar Bergman illustrates the difficulty of keeping even a small portion of the fruits of your labor in today's Sweden.

Mr. Holm notes that in Spain:

> The number of Swedish tax refugees is estimated to be several times the number of Spanish political refugees in Sweden.

Now that the people of Sweden have seen fit to express their growing hostility to the ever-advancing welfare state, those in the United States who hold Sweden out as a model should rethink their own position.

I wish to share with my colleagues the article, "Taxation in Paradise," by Carl G. Holm, as it appeared in the October 1, 1976, issue of National Review, and insert it into the RECORD at this time:

TAXATION IN PARADISE

(By Carl G. Holm)

Five years ago, Mr. Kaj Bornebusch, of the southern Swedish city of Halsingborg, was charged with tax fraud. The case was tried before the local tax board, and Mr. Bornebusch was found guilty and forced to pay back taxes of 250,000 Kronor ($55,000). Bornebusch appealed to a tax court, but in the meantime the authorities moved in on his property. When his home was sold at forced auction, the tax authorities recovered their claimed 250,000 Kr. The market value of his house, however, had been estimated at 600,000 Kr or over $130,000. When Bornebusch was acquitted of the charges in tax court two years later he was entitled to get back his 250,000 Kr with 6 per cent interest. But there was no legal compensation for the difference between what his house had been sold for and what it was actually worth. Bornebusch now lives in Spain, where the number of Swedish tax refugees is estimated to be several times the number of Spanish political refugees in Sweden.

In Sweden today, 50.5 per cent of the gross national product is taken up by Social Security and other taxes; another 9.6 per cent goes into the public coffers in the form of customs duties, fees on public services, and interest on government assets. The total is expected to go to 69.8 per cent by 1980.

In such a system, tax rates are high even on low and medium incomes. Mr. Svenson, Sweden's John Doe, earns 40,000 Kr a year ($8,800). His employer pays an extra 25 per cent in payroll taxes and Social Security dues. Svenson himself pays some 40 per cent in taxes, and inflation is running at 10 per cent a year.

To keep inflation in check, the government makes continuous changes in the tax system, which are not always successful. Late in 1975, for instance, parliament legislated a special tax rate for private entrepreneurs (authors, artists, lawyers, shopkeepers, etc.) earning more than 150,000 Kr ($33,000)—a tax rate of 102 per cent. Though protests were organized against such an outlandish levy no changes were made until author Astrid Lindgren wrote a "fairytale" on the 102 per cent tax in one of the major dailies. In order to meet taxes of 2,002,000 Kr on expected royalties of only 2,000,000 Kr, she estimated that she would have to steal at least 7,000 Kr from the Treasury—2,000 Kr to cover the taxes that exceeded her income, and another 5,000 Kr to live on. The Secretary of Finance huffed in Parliament that "taxation was none of Astrid Lindgren's business," but the impact of her article caused the government to change the tax law.

High tax rates have created a large black market. Almost everything can be bought at reduced prices, if it's "without receipt." Dentists and doctors give free help to plumbers and carpenters in exchange for their services. Such activities have forced the authorities to take severe measures against tax dodgers. The Secretary of Justice has launched a campaign suggesting that crimes against society are more reprehensible than crimes against individuals, that is, it is worse to be a tax dodger than a burglar or thief.

Since January 1, a law "to secure evidence in taxation cases" has been in effect. It gives tax authorities the right (1) to search any office or factory at any time, without offering grounds for suspicion or a court order, for evidence that might concern the taxes of any Swedish taxpayer, and (2), with a court order, to search any private home at any time. But no defending attorneys are present when the court authorizes the search, and the searchee need not be notified that he is under suspicion. Parliament passed the law unanimously—any opponent would have been branded a "friend of criminal tax dodgers" in the socialist press.

Under the provisions of the new law, tax police have frequently violated the professional secrecy of doctors and lawyers. In one widely publicized case this spring, tax police went through all the files in the office of Dr. Torkel Westin—to check the doctor's bookkeeping, they said—and incidentally to peruse the files of the 30,000 patients registered with him over the years.

The most celebrated tax case has been that of Ingmar Bergman, who was arrested at a rehearsal at the Royal Dramatic Theater in Stockholm and charged with tax fraud. When the prosecutor general ruled the charges unfounded, the tax authorities changed strategy. Bergman had not committed a crime, they charged, but he had illegally tried to avoid taxes. One set of tax bureaucrats charged that Bergman had listed certain sums as "income from employment" which should have been taxed as "capital gains," another set maintained that the sums in question should have been listed as corporate profit. Bergman, who had already paid 10 per cent capital-gains tax, was now being sued for 85 per cent by the first authority, and 54 per cent by the second. Both maintained that they were right, and it was conceivable that Bergman might be forced by two different tax courts to pay a 139 per cent tax on his income. Only by appealing to the supreme tax court could he get his tax lowered to below 100 per cent; but such an appeal can take up to five years.

Bergman claims also that he was blackmailed by certain officials, and asked to make "a deal" with tax authorities. In the end, he simply left the country and put his fortune "at the disposal of the tax authorities, so that no one will think that I tried to evade my duty as taxpayer according to the law."

Press reaction in Sweden on Bergman's decision to go into exile was mixed. The anti-socialist papers have seized on it to attack both the Social Democratic government and the tax system. The socialist papers, on the other hand, with elections coming up this month, have strongly supported the tax authorities; they picture Bergman as a criminal. Many have asked for even tougher actions against "tax dodgers."

HEINZ SUPPORTS LOBBYING REFORM LEGISLATION

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. HEINZ. Mr. Speaker, for too long, this country has been without an effective law requiring the full public disclosure of the activities of lobbyists, those individuals and organizations in Washington seeking to influence legislation.

Because I strongly believe that the public has a right to know just how lobbyists influence the outcome of legislation which has such a tremendous effect on their day-to-day lives, I have cosponsored H.R. 15, the Public Disclosure of Lobbying Act.

H.R. 15, the result of countless months of careful committee deliberation, will help open up the governmental process to public scrutiny by specifying which organizations must register as lobbyists, and by requiring these lobbyists to report the amount and specific purpose of their lobbying expenditures.

H.R. 15 will replace the loophole-ridden Lobby Disclosure Act of 1946 now in effect. Under the old act, which the General Accounting Office has found to be vague, ambiguous, and not enforced, 48 percent of lobbyists' reports were found to be incomplete, 61 percent were filed late and, in the 30 years since the bill's enactment, there has been only one successful prosecution of lobbying violations.

Mr. Speaker, I urge my colleagues to join me in supporting this long-awaited reform legislation. In addition to opening up the governmental process to full public view, the passage of H.R. 15 can hopefully restore public confidence in our Government and in its leaders.

MAKE NO LAW

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. EDWARDS of California. Mr. Speaker, on Wednesday, September 15, the House Ethics Committee conducted an investigation of great importance to Americans concerned with the application of the first amendment to the Constitution. The San Jose Mercury published this perceptive editorial which I commend to the attention of my colleagues:

MAKE NO LAW

The intent of the First Amendment to the Constitution is as clear as its language, which says, "Congress shall make no law" abridging the freedom of the press.

In the United States an individual can be deprived of his life, liberty or property only in accordance with the due process of law.

It is, therefore, reprehensible and probably unconstitutional as well for the Ethics Committee of the House of Representatives to threaten television reporter Daniel Schorr with a contempt of Congress citation which could send him to jail or cost him a heavy fine.

Schorr refuses, and quite properly so, to tell the committee who gave him a copy of a secret House report on U.S. intelligence activities. Schorr subsequently passed along the report to a New York newspaper, the Village Voice, which published portions of it.

The report itself was hardly earth-shattering, but that is neither here nor there.

The point is Daniel Schorr was exercising his constitutional right to find the news and make it available for publication. Congress now threatens to punish him for this because he won't tell which member of Congress or which person on a congressional staff slipped him the report in the first place. If Congress persists in this folly it will, in effect, be "making a law" that abridges Schorr's freedom of the press, and that the First Amendment flatly forbids.

In his testimony Wednesday before the House Ethics Committee (a singularly misnamed body), Schorr demonstrated a deeper understanding of the Constitution than that exhibited by the committee or its chairman, Rep. John J. Flynt (D-Ga). The First Amendment is designed, in the final analysis, to protect the American people. As Schorr put it:

"In some 40 years of practicing journalism, I have never yielded to a demand for the disclosing of a source I had promised to protect. I cannot do so now.

"To betray a confidential source would mean to dry up many future sources for many future reporters. The reporters and the news organizations would be the immediate losers. The ultimate losers would be the American people and their free institutions."

If the people are truly to govern their own affairs, they must be able to find out what their public servants, elected and appointed, are doing in their name, with their money and—all too frequently—to them. The First Amendment was added to the Constitution so that the people would always have the means to govern intelligently.

As a generality, secrecy in government is an enemy of the people. It is the friend, usually, of incompetence, corruption, and chicanery. Daniel Schorr understands this even if too many congressmen, legislators and judges don't. The American people, or the vast majority of them, anyway, understand it, too, and would be inclined to deal harshly at the polls in November with any House member voting to cite Schorr for contempt of Congress.

TRIBUTE TO ROBERT ROTTNER

HON. ROBERT C. McEWEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. McEWEN. Mr. Speaker, I have recently learned of the heroic act of one of my constituents, Mr. Robert Rottner of Paul Smiths, N.Y., in rescuing a person in danger of drowning in the Lower St. Regis Lake in my district.

Mr. Rottner's courage and selflessness deserve recognition by us all. I received the following letter from the American National Red Cross detailing Mr. Rottner's ordeal on June 1. Anyone who is familiar with water temperatures in northern New York in late spring would doubly appreciate Mr. Rottner's heroic act, and his strength and persistence in rescuing the would-be victim.

The letter follows:

THE AMERICAN NATIONAL RED CROSS,
Washington, D.C., August 24, 1976.
Hon. ROBERT C. McEWEN,
Rayburn House Office Building,
Washington, D.C.

DEAR MR. McEWEN: Once again I write to call your attention to a noteworthy act of mercy undertaken by one of your constituents. In this instance Mr. Robert Rottner, Heron Lane, Paul Smiths, New York 12970, has been named to receive the Red Cross Certificate of Merit and accompanying pin. You will recall this is the highest award given by the American National Red Cross to a person who saves or sustains a life by using skills and knowledge learned in a volunteer training program offered by the Red Cross in first aid, small craft or water safety. The Certificate bears the original signatures of the President of the United States, Honorary Chairman, and Frank Stanton, Chairman of the American National Red Cross. Presentation of the award will be arranged by the Saranac Lake-Lake Placid Chapter of the American National Red Cross, Saranac Lake.

On June 1, 1976, Mr. Rottner, trained in Red Cross advanced first aid, was in a camp near the shore of Lower St. Regis Lake on the campus of Paul Smith's College, when his wife spotted a canoe tip over on the lake. As no rescue craft was available, Mr. Rottner grabbed some flotation seats from the boathouse and swam toward the canoeist, who had lost his glasses and was floundering toward the center of the lake, away from the overturned canoe. After a long interval in the chilling water, Mr. Rottner finally reached the frantic swimmer. Using the flotation seats, Mr. Rottner pulled the victim toward shore; witnesses say it took him well over an hour to do so. Both men were treated for exposure after reaching camp, and the victim was taken to a hospital for observation. Without doubt, the heroic and persistent efforts of Mr. Rottner were responsible for saving the victim from death by drowning.

This meritorious action exemplifies the highest ideals of the concern of one human being for another who is in distress.

Sincerely,

GEORGE M. ELSEY.

4-H—ROOM TO GROW

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. NATCHER. Mr. Speaker, the 4-H clubs throughout the country are looking forward to beginning another enthusiastic year of activity with their National 4-H Week of October 3 to October 9. I once again consider it a pleasure and an honor to salute them as they begin this year with their national theme of "Room To Grow." This theme certainly reflects their development over the years into a unique organization openly responding to our everchanging world. The 4-H Clubs of America have expanded their emphasis of early years as a rural and agriculturally oriented group to encompass the many different ways of life in our country today. In farms, towns, suburbs, and central cities, 4-H attracts youth from all racial, cultural, economic, and social backgrounds. Projects vary from food nutrition, clothing, livestock, crops, and health, to aerospace, theatrics, geology, and karate. Special programs include firefighting training, environmental improvement, and energy conservation, programs to combat juvenile delinquency, and community projects such as working with the handicapped and providing consumer product information.

While the projects in which 4-H'ers participate are as many and varied as their backgrounds and interests, the emphasis is placed on personal growth and the development of social and leadership responsibility which will enable our youth to better cope with a more complex life later on.

4-H has certainly demonstrated its potential for growth as it has expanded its membership to over 4 million youths. This continual expansion is in my opinion due to the flexibility of 4-H as an organization readily adjustable to today's community and national needs. The outstanding contributions of volunteer leaders and professional extension agents who offer their time and energy in enthusiastic participation and leadership are vital factors in the growth of 4-H and, I am sure, will continue to be an inspiration of community spirit to us all.

I am very proud of our Kentucky 4-H'ers as they have consistently demonstrated their resourcefulness and eagerness to become involved in all that surrounds them. In this year alone the Kentucky 4-H membership has grown by over 4,000 to a total of 161,743 4-H'ers.

These young people are already active and concerned citizens of Kentucky. They will, I am sure, continue to develop and establish higher goals as they learn by doing through the 4-H program.

The focus this year is on growing. Mr. Speaker, I have no doubt that our 4-H'ers will grow in all respects by meeting new challenges and grasping new opportunities. I offer my congratulations and best wishes for continued success in the future to an organization so worthy of our pride and our respect.

JOB POSSIBILITIES FOR NATION'S VETERANS

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. MOAKLEY. Mr. Speaker, in this month's issue of Jobs for Veterans Report, published by the National Alliance of Businessmen, there appeared a most interesting article on the efforts of Mr. Jim Greene, of Boston, on increasing job possibilities for our Nation's veterans. I believe this article will be of great interest to my colleagues:

"FAMILY FEELING" WORKS BEST FOR VETS

When JFV Manager Jim Greene first came to the Boston metro in 1974, he asked Regional Veteran Employment Representative Jim Ferguson for advice in setting up a program. Ferguson suggested that his key to success would be to work with other local veteran agencies and groups. Greene put Ferguson's words into action and says he is happy he did.

"There is strength in numbers," says Greene, adding that his partnership with Boston's veteran groups is reaching more veterans and employers and is getting more media exposure than any individual group could do alone.

Greene cites his recent contact with radio station WRKO. As part of a publicity campaign, Greene sent the station a veterans ad. He didn't hear from the station, so he was surprised when a deluge of mail started coming in from listeners who had heard the spot on WRKO. Greene phoned news director Roger Allan to thank him for the exposure and to tell him about the good response the ad received. During the conversation, Allan asked Greene to speak on the station's major public affairs program.

"I chose as a theme, veterans organizations and their contributions to the Alliance," Greene says. "We got a really good response, both from veterans wanting benefit information and from employers interested in hiring veterans." He adds that the program led Allan to ask Greene to give weekly talks on the history and function of Boston veteran organizations. Allan was so impressed with NAB from his contact with Greene, that he agreed to join the Alliance's Business Advisory Board.

The partners in Boston's Jobs for Veterans program hold frequent meetings to discuss veterans' problems and map out strategy for solving them. As a result, according to Greene, each agency and group in the partnership has information and material at hand to deal with any question that a veteran might have.

"The computer at the Veterans Administration shows that an average of 1300 calls are not completed each day at the agency, because the callers get frustrated before they get through," Greene says. "Now that we know what each other is doing, NAB or another veteran group can get to some of these callers and give them some help."

The coalition also helps NAB conduct its Veterans Employment Seminar Program. The Disabled American Veterans, Veterans of Foreign Wars and Massachusetts Elks have sponsored, along with the Alliance, six seminars since the program began. The diversity of participating sponsors provides vets with a broader spectrum of information. Greene adds that either Charles Sweeney, regional chief of veteran services at the VA, or his personal representative has attended each VESP.

In between VESPs, Greene says that the partnership concentrates on "special need vets—the ones who need an extra boost up the ladder." Special need veterans can go to any of the partners, according to Greene, and get information on how to apply for a job, what is available, or where to go to get extra help. One group of special need veterans, alcoholics, benefit from mini-VESPs which Greene holds in conjunction with the Statewide Veterans Administration Center for Alcoholics. Greene, who is himself a disabled veteran, reaches disabled veterans and veterans with psychiatric problems thanks to the cooperation of Boston area VA hospitals.

Veterans aren't the only ones that the coordinated veterans effort is helping, says Greene. Employers who wish to hire veterans don't have to worry about contacting the wrong agency, according to Greene. If they call an agency that isn't directly able to find the right applicant, that organization will contact the partner who can be of most help. In this way, says Greene, employers can feel sure that they are getting the best employee for their needs in the most efficient way possible.

Jim Greene describes the results of "this family feeling" among veteran groups and agencies as a miracle. "All of this unity," Greene says "means that no Boston veteran ever has to be in doubt about what help is available to him or about what benefits he is entitled to."

JIMMY CARTER AND HIS STAND ON TAXES

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. RHODES. Mr. Speaker, there seems to be some kind of misunderstanding about Jimmy Carter and his stand on taxes. It has been reported to me that at a recent gathering someone was commenting on the candidates speaking styles and said that Mr. Carter's syntax was lacking. One old codger there jumped up and assured the group that Mr. Carter would take care of that tax after he was elected.

Since the near-millionaire goober grower has declared war on the incomes of America's working men and women—if they make more than the median income of around $14,000, I think the American people should take a look at Mr. Carter's own taxes.

Last year he paid $16,072 on an income of $136,139, or less than 12 percent. How did this great tax reformer get off so lightly? Why, he used one of those nasty tax loopholes that he is so vehemently against today. He lowered his taxable income because he invested in a peanut sheller.

I think it is just a wee bit hypocritical for a Presidential candidate to go around castigating tax laws that he uses to his own advantage, and downright demagogic to try to blame them on the minority, when the Democrats wrote them all into the book.

I would remind him of Matthew VII, verse 3: "And why beholdest thou the mote that is in thy brother's eye, but considerest not the beam that is in thine own eye?"

CHIEF COUNSEL GREGORY NICOSIA OF HOUSE RULES COMMITTEE

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. PEPPER. Mr. Speaker, I am enclosing an article that appeared in the Torrance, Calif., Daily Breeze on August 31, 1976, about the function of the House Rules Committee and its chief counsel, Gregory Nicosia. The article discusses the role and importance of the Rules Committee in the House. It gives insight into the power of the Rules Committee and tells how vital this committee is to the legislative process in the House.

The article compliments Gregory Nicosia for the fine job he has done in his 4 years with the Rules Committee. I have seen firsthand Greg's dedication to the Rules Committee. He is a hard-working and knowledgeable counsel, and I am pleased to insert this article in the RECORD:

RULES COMMITTEE POWER IS CRUCIAL

(By Ed Segal)

WASHINGTON.—One of the most important and influential parts of the federal government is one of the least known or understood.

In fact, more people today know how the Central Intelligence Agency works than they do about one of the most crucial committees in Congress, the rules committee in the House of Representatives.

None of the 21 other committees in the House carry the same weight or responsibility of influencing the fate of a piece of legislation—be it an impeachment inquiry, election laws or a declaration of war.

The House Rules Committee is a traffic cop, deciding when, if and under what conditions legislation will reach the floor for consideration.

It is rare indeed that a measure gets to the House without first getting the go-ahead of the rules committee.

There is an automatic three-day lapse between the time a measure is reported out of a committee, however, and the first available day when it may be brought up on the floor of the House.

This provision can only be dispensed with when the rules committee recommends such an action and the House votes on it. This delaying provision usually assures enough time so that copies of the legislation may be printed and distributed to members.

Greg Nicosia is the chief counsel to the rules committee. He is 28, the youngest person ever to direct a committee of this size and importance.

His position is a testimony to his talents and skills and evidence of the opportunity for advancement that is available to staff people on the Hill.

After graduating from the Indiana University School of Law at Indianapolis, he served on the committee staff, first as a research assistant and then as majority counsel.

Today, as chief counsel, Mr. Nicosia has the task of keeping in touch with the 11 Democrats and five Republicans who sit on the committee.

He assists in the drafting of summaries of legislation that will be presented and keeps in constant contact with his counterparts on other committees.

A big part of his job is scheduling when a bill, resolution or conference report will be brought up for a "rule."

According to Nicosia, a rule provides for consideration in the House of a bill or resolution and allocates the number of hours of debate that will be spent on a bill when it is debated, whether amendments will be permitted to be offered to it and, if so, how many and what type.

The power to give a rule on a bill is the power to determine if legislation might be altered from its original form and how much time members of Congress will have to convince their colleagues of its merits or faults.

And this is the crux of the deliberative side of the legislative process—convincing other congressmen that a measure should be passed or defeated.

The rules committee has assumed different degrees of importance throughout the history of Congress.

In its early years, the panel met only briefly at the start of a session and quickly issued rules for bills that were expected to be introduced.

But from about 1945 to 1966, a combination of factors caused the committee to cease to be an arm of the leadership of Congress and it took on a life of its own.

Speakers of the House acquired more power. Political balances in Congress and the committee shifted.

An unlikely coalition of Southern Democrats and Republicans came together to prevent controversial or important bills from ever reaching the floor.

From the late 60s to the early 70s, the committee began drifting back to its traditional role as the arm of the majority party. The change came as the composition of the House shifted with the defeat or death of its members and new political pressures came to bear on the rules panel.

NATIONAL VOLUNTEER FIREMEN WEEK

HON. MAX S. BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. BAUCUS. Mr. Speaker, I would like to say a few words in support of this resolution honoring our volunteer firefighters.

Ninety percent of the State of Montana is protected by volunteer fire departments. My district in western Montana alone has over 4,500 firefighters encompassing 150 fire districts.

I wholeheartedly support honoring our volunteer firefighters because they can be considered the last line of defense in fire prevention. They risk their lives daily, and for nothing more than the knowledge that what they do saves lives and protects property.

However, we should not consider the need to support volunteer firefighters as being satisfied by this resolution. More can be done. For example, there is a bill which would allow an exemption to volunteer firefighters from paying the Federal excise taxes on gasoline and fuel products. I cosponsored this bill and would like to see it pass Congress. If regular fire departments get these exemptions, volunteer fire departments should get them too.

It is highly unlikely that this bill will be considered in this Congress. We should truly honor our volunteer firefighters by passing this tax exemption legislation as soon as possible in the new Congress. This is the least we can do for them. We owe it to ourselves, and most of all we owe it to the 1 million volunteer firefighters.

DEALING WITH UNEMPLOYMENT: A CASE FOR THE JOBS CREATION ACT

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. LENT. Mr. Speaker, unemployment is a serious issue facing policymakers and the American public as the economy recovers from one of the most severe recessions in recent history. Despite the strong rate of growth for the overall economy, the cooling of inflationary trends, and figures showing that more Americans are now employed than ever before, the unemployment rate remains stubbornly above 7 percent.

The Bureau of Labor Statistics figures for August show that unemployment stands at 7.9 percent nationwide. While this represents an increase in unemployment over the July rate of 7.8 percent, it does not describe the real situation. Who is unemployed is the question which must be answered.

Breaking the total figure down, the BLS estimates the jobless rate for adult men at 5.9 percent for August, a decrease from the July rate of 6.1 percent, while that of adult women stands at 7.7 percent, an increase over the July figure of 7.6 percent. The unemployment rate for teenagers remains high at 19.7 percent. These figures represent the normal trend in unemployment. That is, the unemployment rate for women and teenagers is generally higher than that of adult men, regardless of the business cycle.

Traditional economic theory provides an explanation for the observed differences. Women and teenagers have generally fallen into the category of secondary income earners. One characteristic of many secondary income earners is the ability to choose whether or not to enter the labor force.

As the recovery moves forward, the demand for workers increases and wage levels rise. Thus, more and more secondary income earners are drawn into the labor force. But, because women and teenagers in general display less-continuous participation in the labor force than adult men, these secondary income earners may remain unemployed longer than primary income earners. Therefore, the current unemployment rate does not necessarily reflect increases in unemployment due to layoffs or a slackening of the pace of the recovery, but is more likely due to an increase in the labor force—defined as those employed and those seeking work within the last calendar month—attributable to the response of citizens to what is perceived as increased job opportunities.

What remains is a matter of serious concern, not alarm. Put into realistic perspective, the number of Americans with jobs stands at an all-time high with a record 87,981,000. But the number seeking work keeps growing as a natural response to increased job opportunities. What is needed as a solution to this problem is a strong employment policy which will acommodate all those looking for work.

JOBS AND INVESTMENT

What should be the content of such a policy?

How best can we create the jobs we need to accommodate those who wish to work?

Economists have long recognized that in order for a society to grow and prosper, and to create new jobs, it has to accumulate capital and channel it into productive investment. In other words, a society must consume somewhat less than it produces and use its savings to make the expensive tools, buildings, factories, trucks, tractors, houses, airplanes and machines that people use to increase their productivity. The main source of our Nation's prosperity has been not only its willingness, but more important, its ability to save and produce productive capital.

Since 1960, however, the United States has had the lowest level of capital investment among the major industrialized nations. Japan's investment rate and productivity growth rate have been triple our own. The rates in Germany, France, and Canada, for instance, are all substantially higher than ours. All of these nations give more favorable tax treatment to capital investment than do we. Productive investment is the keystone of our productivity. If through continued underinvestment, we lose the ability to compete effectively with other industrialized nations, we will suffer further loss of markets and jobs to competitor countries and a decline in our world political, economic and military position.

While many of our foreign competitors have been increasing their capital investment per worker, since 1967 the U.S. capital investment per worker has actually decreased.

This decrease in investment means that capital becomes less abundant relative to labor which, in turn, causes a decline in the productivity of labor. This causes a lower real wage rate which then results in a decline in real economic growth, thus reducing new job formation. In other words, without increased capital formation, productivity will be stifled, real economic growth will diminish, and fewer jobs will be created.

INVESTMENT AND INFLATION

During 1973 and the early part of 1974, the U.S. economy suffered major shortages in many basic industries including chemicals, steel, paper, and fertilizer. These shortages aggravated inflationary pressures and hindered economic growth. This lack of sufficient industrial capacity was a result of inadequate prior investment, which caused the capital shortage in the affected industries. It is predicted that in approximately 1 year, we will again face many of these same problems as we reach the maturity stage of our present economic recovery.

The Council of Economic Advisers has noted inhibiting factors which may cause business to fail to provide adequate new investment to avoid future shortages. For example, actual rates of return on business investment have lagged in recent years as a result of such things as increased price instability, experiments with wage-price controls, and increased costs resulting from environment and safety regulations. While certain regulations may very well be desirable, they nevertheless force business to require higher rates of return on investment, in return reducing the number of acceptable investments.

Also, price inflation has raised corporate taxes more than it has raised before-tax returns on fixed capital. This has occurred because inflation-induced inventory profits have boosted the tax base.

In addition, inflation has caused the real value of historical cost depreciation allowances to decline. The increase in corporate debt to equity ratios has partially resulted from the tax treatment of interest as a deductible expense. This has made debt financing particularly attractive during inflationary periods, thus increasing business financing risk, and in turn, increasing the cutoff rate of return on many new projects.

The U.S. Treasury estimates that to reach a full employment economy, we will need to create almost 20 million new jobs by 1985. That is 7 million more than we created in the past decade. Henry Wallich, of the Federal Reserve Board, and others, have concluded that as a result of inadequate past investment, the United States is already experiencing an overall shortage of capital with respect to jobs.

Under this condition there are not enough jobs to provide full employment even when industry is operating close to capacity. Thus, capital capacity is not great enough to employ all of those who want to work.

What then should be the specifics of a jobs creation policy?

JOBS AND INFLATION

A number of alternative proposals have been set forth to deal with unemployment, the most publicized one being the Humphrey-Hawkins bill now pending before Congress. Humphrey-Hawkins mandates an adult unemployment level of no greater than 3 percent to be reached by 1980. If necessary to reach this goal, the Federal Government would become the employer of last resort, and employ people at the locally prevailing union wage—Davis-Bacon—level for the particular occupation.

As much as one would hope to see an unemployment level of no greater than 3 percent, unfortunately the Humphrey-Hawkins bill will not only fail to achieve this objective, but on the contrary, will cause excessive rates of inflation and even greater unemployment. My reasoning is this: for the government to become the employer of last resort, it will have to spend many additional billions of dollars. These dollars can only come from either increased taxes upon those working, primarily in the private sector, or greater Federal Government borrowing. We know both from past experience and economic theory that as an economy approaches full employment, inflationary pressures increase.

Even leading Democratic economists, such as Charles Schultz, have pointed out that when the economy begins to have an unemployment level of less than 5 percent, serious inflationary pressures result. If, as the economy approaches full employment, the Government increases deficit spending, financing this increased deficit will soak up our very limited capital. What Government borrows, private investors cannot, and to a great extent, Government deficit spending occurs at the expense of private investment. This will greatly accelerate inflation, and, at the same time, reduce the rate of business expansion, which in turn will lead to increased unemployment in the private sector.

On the other hand, if this proposed Government employment program is funded through increased taxation, workers will have fewer real dollars to spend on goods and services. If they have fewer real dollars to spend on goods and services, business will produce less, expand less rapidly, or perhaps even curtail their operations. In any case, there will be reduced employment in the private sector. Hence, at best, all the Humphrey-Hawkins bill will do is to substitute Government jobs for private jobs. It is widely recognized that employment in the private sector tends to add much more to real national economic wealth and productivity than that in the public sector.

FULL EMPLOYMENT

A second alternative now under consideration by Congress is the Jobs Creation Act, which I cosponsor. The Jobs Creation Act, introduced by Representative JACK KEMP in 1975, is a meaningful alternative to the problem of providing jobs for those who want them without fueling inflation. The act contains a number of provisions designed to stimulate economic growth by providing incentives to businessmen to expand the numbers of jobs they can provide by eliminating the biases in our tax laws which now inhibit business investment.

Some of the provisions of the act which address the tax bias directly are—

The institution of tax credits for increased qualified savings in banks and other savings institutions and in stocks and bonds;

The exclusion of the first $1,000 of capital gains;

The exclusion of dividends from domestic corporations from gross income;

The permanent reduction in both the normal corporate tax rate and in the corporate surtax;

An increase in the corporate surtax exemption;

An increase in the investment tax credit; and

The provision of new alternative cost recovery allowances and extension of the asset depreciation range.

A major econometric study undertaken by Dr. Norman Ture of Washington, D.C., simulates the effects of the economy of the tax reduction provisions of the Jobs Creation Act. In his study, Dr. Ture concluded that enactment of the provisions would result in a significant gain in GNP, employment, capital outlays, and Federal revenue.

The causes of unemployment in American society are easily identified. First, structural unemployment—that is, not having the workers with the right skills to meet the needs of the economy. Too many of our workers are undertrained or improperly trained for the tasks society needs, or trained for tasks no longer needed.

These structural employment problems need to be dealt with through the redesign and more effective management of Government job training programs. Also, much more needs to be done in the forecasting of future employment needs by industry and occupation. Too often, in the past, we have spent millions of dollars training people for positions that did not exist. We can and should do a better job of job training. There is a very proper and legitimate role for Government in this area.

The other basic cause of unemployment—that is, an insufficient rate of economic growth—can only be cured over the long run by Government allowing and/or providing the proper incentives to businessmen to expand their levels of economic activity. Specifically, we need a much higher rate of capital formation than we have had in the past. This can be accomplished through lower Government deficits and eliminating the bias in our tax laws against capital formation.

In addition, we need to free business of the excessive cost of over-regulation by government in relationship to that of the rest of the economy. Government receipts and expenditures have been growing far faster than the private sector. Only through limiting the growth of Government receipts by doing such things as indexing our present tax system to account for inflation, are we going to be able to provide those incentives necessary to permit the private economy to move vigorously forward with fewer inflationary pressures and much higher rates of employment.

Serious studies of our long-term capital outlook, by the Brookings Institution, Data Resources, Inc., the Department of Commerce, and others, all agree that the demand for capital will be increasing at a much greater rate than we have experienced in the recent past. By the best estimates available, the United States will need the incredible sum of $4.5 trillion, or $21,000 for every man, woman, and child in the United States in new capital funds in the next 10 years. This is three times the $1.5 trillion of the past decade.

The Department of Commerce has concluded that private fixed investment must increase from the 10.4 percent of the gross national product that characterized the 1965–74 period, to 12 percent of GNP between now and 1980 if we are to have a capital stock sufficient to promote full employment, control pollution, and to fully develop our domestic energy resources.

In the final analysis, the choice must be made by the American people. To this end, an informed electorate is essential. The American economic system has given Americans the freedom to choose the work they wish to do, to pursue the opportunities they have found, and to be as creative as they can possibly be.

The economy is a complex and subtle system. It will work for us if we allow it to, if we understand it and shape it carefully. But it may turn against us if we tamper blindly or try to force the system into molds it cannot fit.

CHRISTOPHER J. DODD PAYS TRIBUTE TO NATHAN HALE

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. DODD. Mr. Speaker, it is with a great sense of pride and admiration that I rise to honor the memory of the controversial but faithful American patriot and Connecticut son, Nathan Hale.

Two hundred years ago today, on September 22, 1776, Hale sacrificed his life at the hands of the British Army at Artillery Park in Manhattan, N.Y. His hanging was ordered by the British, without due process of a trial, as punishment for his intelligence activities on behalf of the Continental Army. Today, one cannot avoid the conclusion that this act represented a gross injustice; however, at the time, Nathan Hale's loyalty to the American cause and acceptance of his impending death was vividly expressed by his dying words:

> I only regret that I have but one life to lose for my country.

Beyond the controversy over his exact words or the propriety of his role as a spy in the American Revolution, Hale should be remembered most for his undaunted response to the call of service to his country. Hale was a schoolmaster at Union School in New London, Conn., when he heard the first reports of the battle of Lexington and Concord. Born in nearby Coventry and educated at Yale, Hale was teaching in New London when he joined the Continental Army in April 1775 and was commissioned a lieutenant in the Connecticut regiment shortly thereafter. In September 1775 he reported for duty with Washington's army near Boston. The following year he was transferred to New York to defend this new battlefront. He traveled from Norwalk, Conn., to Huntington, Long Island at General Washington's request to seek out the British strategy. At the age of 21, he gave his life for his country.

On the 200th anniversary of Nathan Hale's death, the citizens of New London and of the State of Connecticut will gather for memorial services at the old Union School house where Hale started his early teaching career at the age of 19. His memory should remind us all to respond to a call to civil duty, in whatever capacity it may present itself to us. As a recent American President has expressed so well:

> It is not the position one holds, but the capacity to serve one's government that should be the driving force behind our decisions.

In this sense, Nathan Hale, a relatively unknown and youthful patriot has provided an inspiration for us all.

I would like to take this opportunity, Mr. Speaker, to share with you an article which recently appeared in the Norwich Bulletin.

NEW LONDON REMEMBERS PATRIOT-HERO NATHAN HALE

(By Sue McCaslin)

NEW LONDON.—He was not a native New Londoner, he lived and worked in the city less than one year and he died far from the Whaling City.

Yet, the patriot Nathan Hale left an indelible mark on the shoreline town from which he answered the call to battle and to which he never returned.

Considered by many historians to be among the nation's greatest patriots, Hale is best-remembered for his dying words, "I only regret that I have but one life to lose for my country."

It is this declaration that has made Hale a hero in American history known to virtually every school child throughout the country. There has been great debate about the phrase—some authorities dispute the hero's parting speech, others claim the words were spoken, but were not his own.

However, 200 years after Nathan Hale's death, it really makes little difference what he said. His place as an outstanding figure of the American Revolution is more important.

Hale died Sept. 22, 1776. He was hanged in Artillery Park at a spot where Third Avenue and 66th Street intersect today in Manhattan. The circumstances leading to the Connecticut native's untimely death at the hands of the British are sketchy and his grave is unknown—the British were said to have left his body hanging for three days as a warning to other rebels.

Hale joined the Continental Army in April, 1775 after his classes at Union School on State Street were interrupted one day by a post rider bringing news of the battles of Lexington and Concord. He was commissioned a lieutenant in the Connecticut regiment July 1 and two months later reported for duty with Washington's army near Boston. Early in 1776, he was promoted to captain and three months later was transferred to New York where the British Army had fled from Boston.

Sometime in late August or early September, Washington became desperate for intelligence and called for volunteers to spy. Reportedly, no one answered the first plea—Hale responded to the second. Wearing civilian clothes, he travelled by ferry from Norwalk to Huntington, L.I. and made his way to Manhattan.

Nothing more is known of his activities until Sept. 20 or 21 when he was captured near Flushing Bay on Long Island, probably by the Queen's Rangers. Notes and maps of redcoat defenses were found on his person and he was taken before British Gen. William Howe.

He was hanged without benefit of a trial and the British, fearing a public account of the patriot's capture and execution would further inflame Revolutionary sentiment, suppressed all details of the incident.

It would be many years before bits and pieces of the young schoolmaster's final activities were pieced together by his own associates and British troops who witnessed the hanging.

Probably the most singularly significant fact of the heroic end to Nathan Hale's life was his age and his accomplishments. Although Hale reached his 21st year just three months before his death, he had lived a remarkably full life.

Born June 6, 1755 in Coventry, Hale was one of nine sons and three daughters of Deacon Richard Hale and Elizabeth Strong. Six of the Hale sons served in the Revolution, three at Lexington and Concord.

Hale entered college at age 14, two years after the death of his mother, and graduated from Yale in 1773 at age 18. An exceptional athlete and enthusiastic debater. Hale is today regarded as one of Yale's most famous * * * Hall the oldest building on Yale's New Haven campus.

Statues of Hale also have been erected in New London, in memory of the young schoolmaster who never returned to his Union School classes. One likeness stands in Williams Memorial Park on Broad Street, another on the campus of Mitchell College. The city has named two schools for its adopted son and a street bears his name.

But the best-known tribute to Nathan Hale is the restoration of his Union School on Captain's Walk near the original site of the schoolhouse. Rededicated the Nathan Hale Schoolhouse, the little one-room school previously had been moved around the city from one place to another until it seemed the old building was in danger of falling apart.

Finally, in 1975, Harry F. Morse, a Nathan Hale scholar, convinced the city to allow the school to be placed permanently on a site between City Hall and First Church of Christ.

Morse, who is president of the Nathan Hale Chapter of the Connecticut Society, Sons of the American Revolution, directed a complete restoration of the interior and exterior of the school by volunteers and business contributors. Owned by the SAR, the school was re-dedicated at its new site last October 4.

The city again paid tribute to Nathan Hale last June on the anniversary of his birth with a Bicentennial program near the Williams Park statue. The birthday program was coordinated by Lucille M. Showalter, New London historian and teacher of local history, who directed a Bicentennial series, "Know Your City's History," under the sponsorship of the Board of Education and the city's Bicentennial Committees.

Members of her local History Seminar will mark the 200th anniversary of Nathan Hale's death Wednesday with a memorial program at the schoolhouse.

Open to the public, the program will begin at 6:45 p.m. Wednesday with a candlelight procession from Eugene O'Neill Drive and State Street to the schoolhouse.

Though he stayed but a few months, New London has remembered Nathan Hale as its own—scholar, teacher, soldier, patriot, hero.

CONGRESSMAN ALBERT W. JOHNSON CARES ABOUT SENIOR CITIZENS

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. SHUSTER. Mr. Speaker, in the years I have been in Congress, I have been impressed by the hard work and efforts of my friend and colleague, Congressman ALBERT W. JOHNSON, on behalf of our senior citizens. Earlier this year, ALBERT JOHNSON was inducted into the Golden Age Hall of Fame as a "Guardian of the Aged," the highest public service award given by the National Alliance of Senior Citizens to those who have worked consistently and diligently to support our older Americans.

Congressman JOHNSON recognizes that the most pervasive problem facing our senior Americans on fixed incomes is the inflation caused by chronic deficit spending by their Federal Government on many wasteful projects. Mr. JOHNSON has consistently supported efforts to reduce Government deficit spending and balance the budget, thereby halting the huge rise in the cost of living. We cheat the older American when we expect him to live on a fixed income that is constantly being reduced in purchasing power, while the Government shows no restraint in deficit spending.

ALBERT JOHNSON has sponsored legislation to overhaul the out-of-control food stamp program. It has been estimated that if we could eliminate the frauds, cheats, strikers, students, and other nonneedy able-bodied men and women from the food stamp rolls, we could save the taxpayers more than $1 billion a year, while at the same time increasing food stamps to the elderly, the disabled, the handicapped, and other citizens truly in need. This is a problem now being considered by Congress.

In the last Congress, AL JOHNSON, as a member of the House Banking Committee and now its ranking Republican, was instrumental in getting the Housing and Community Development Act of 1974 enacted into law. This law provides Federal subsidies for the construction of public housing facilities for use by low- and moderate-income elderly citizens. The 23d Congressional District can now boast of having at least 8 senior citizen housing projects finished or under construction, and AL JOHNSON is currently working on obtaining more such projects in his 11-county district.

Last year, we had many complaints from our senior citizens who found it demeaning to take a means test in order to receive services provided by community senior citizen centers, and they asked that the means test be suspended. Congress asked the Department of Health, Education, and Welfare to study the means test and report back to Congress this spring. In the interim, the means test was suspended for those citizens given group eligibility status by their States. The State of Pennsylvania gave this status only to those citizens in urban areas, thus discriminating against the elderly in rural areas and angering those of us who represent rural Pennsylvania. HEW reported to Congress this past spring that they did not have the statutory authority to make changes in the means test.

Therefore, Congress enacted legislation strongly supported by AL JOHNSON and signed into law by President Ford whereby States are given the power to eliminate means tests for senior citizen centers where most of the participants have low or moderate incomes. Congressman JOHNSON has been a strong supporter of these centers, which have given new direction and meaning to the elderly all over this country, particularly those who live in rural and isolated areas.

One of the greatest concerns of the senior citizen today is how he would finance necessary medical care in the event of catastrophic illness. Recognizing this concern, President Ford recommended that Congress consider a program of catastrophic health insurance for those covered by medicare. Mr. JOHNSON endorses the President's program because he believes that no elderly citizen living on a fixed income or with meager savings should have the worry or burden of trying to finance a long illness.

Last year ALBERT JOHNSON supported legislation to provide bonus payments to recipients of social security, railroad retirement, and supplemental security income; he voted to increase funding for nutritional programs for the elderly; he has sponsored legislation to increase the pensions of our World War I veterans and their dependents, and has voted to provide cost-of-living increases for these citizens; he has also sponsored legislation to remove the earnings limitations for social security recipients because he believes that senior citizens who must work, or who want to work, should not be penalized by having their earnings taxed away.

Mr. Speaker, I could discuss at length the many bills AL JOHNSON has supported or introduced on behalf of our senior citizens, or the great amount of time and effort he spends on helping senior citizens with individual problems. However, let me sum up the philosophy of Congressman JOHNSON. He believes that our senior citizens should be accorded dignity in their harvest years, the dignity for which they have worked so hard in making this country great. In return for that hard work, our senior citizens should be provided a comfortable standard of living free of burdens.

More importantly, Mr. Speaker, AL JOHNSON believes that the greatness of a nation depends on how that nation treats its elderly, and in this regard, his efforts are devoted to seeing that this Nation is recorded in the history books as the greatest in according its senior citizens dignity and respect.

THE ARAB BOYCOTT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. RANGEL. Mr. Speaker, the Arab boycott against Israel has resulted in a great deal of concern on the part of many Members of Congress. As the editorial below highlights, there are efforts being made to thwart the boycott. Many of my colleagues find these tactics which the Arab nations are seeking to employ to be contrary to the principles of international law, but more importantly, find the actions of those American companies who accede to the demands of the Arabs to be highly reprehensible.

The Ribicoff tax penalty approach, although not acceptable, illustrates the frustration of many within Congress about the apparent lack of concern in the executive branch regarding this matter. It is time now for Congress to take hold of the issue and develop a more legally sound and effective attack on the boycott.

In order to prevent American companies from acceding to boycott rules imposed upon them by a foreign power, we must actively support the strengthening of the Export Administration Act by making it illegal for American firms to engage in secondary or tertiary boycotts. Hence it is in light of the upcoming House vote concerning the Export Administration Act amendments (H.R. 15377) that I would like to bring to the attention of my colleagues the following editorial which appeared in the New York Times on September 14:

THE ARAB BOYCOTT

The Arab boycott against Israel raises difficult political, economic, legal and moral issues for the United States. The boycott is repugnant. It violates American principles and laws when it requires American companies, as a condition for doing business with Arab countries, to discriminate against American citizens because of their religion. It unfairly imposes secondary boycotts against American companies that hire Jewish employees or directors, or trade with Israel.

Efforts to prevent American companies from acceding to boycott rules imposed upon them by a foreign power are unfortunately complicated by the fact that the United States has itself engaged in secondary boycotts against other countries—for example, for trading with Cuba. Such extraterritoriality is a threat to liberal trade and investment, to the rights of innocent people in other countries, to the sovereignty of other nations, and to peace itself.

All of this makes more difficult, but no less relevant, the question whether the United States can effectively prevent its own businesses from yielding to Arab pressures that abridge the rights of other American citizens and companies. The route taken by Senator Ribicoff in amending the pending omnibus tax bill with a requirement to impose tax penalties on companies that participate in secondary or tertiary boycotts seems to us the wrong solution. Using the tax code as a punitive device establishes a dangerous precedent. The tax laws are not intended to be part of the law-enforcement system; their purpose is to provide revenues and to improve the economy's stability and growth.

Although certain types of activities are encouraged by the tax law (as through the investment tax credit), stretching that principle into a new system to punish corporations or individuals for alleged misdeeds is a questionable course. Under the Ribicoff amendment, moreover, determination of guilt would be made by the Secretary of the Treasury "or his delegate." Such powers, if granted to an agency administrator, might be employed arbitrarily, especially in dealing with such complex questions as whether a firm did or did not participate in a secondary or tertiary boycott.

Unfortunately, the Ribicoff amendment has now been embedded in the tax bill adopted by the House-Senate conference committee, and the President may have no choice but to accept it or risk killing the tax bill and endangering the economic recovery. Over the coming months, however, Congress and the President should develop a more effective and legally sound attack on the boycott.

The antitrust laws, the civil rights laws and the banking and security laws give the United States Government the means of curbing conspiracies and discriminatory practices by American companies that cooperate with the Arab boycott. Enforcement of those laws would do much to stiffen the resistance of American firms to foreign economic blackmail. The Government has recently stepped up its actions to penalize firms that violate American laws in response to the Arab boycott. This may signal a welcome change from past attitudes when, as a report by the House Subcommittee on Oversight and Investigations shows, the U.S. Commerce Department actually helped and encouraged American firms to uphold the Arab boycott and winked at violations of the disclosure requirements of the Export Administration Act, intended by Congress to fight the boycott. Secretary Elliot Richardson insists that under his administration such conduct has ceased.

Congress nevertheless should strengthen the Export Administration Act by making it illegal for American firms to engage in secondary or tertiary boycotts. The threat of economic reprisal by the Arabs cannot be accepted as a basis for permitting American firms to submit to odious terms that violate the rights and interests of other Americans, or abridge this nation's sovereign powers.

RADIOACTIVE WASTE STORAGE

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. CARR. Mr. Speaker, today Mr. RUPPE and I are introducing legislation which seeks to delegate to the States the authority to veto ERDA's decisions regarding the location of radioactive waste storage facilities.

Some 75 million gallons of high-level radioactive waste and 51 cubic feet of low-level waste are now being stored at nine facilities in this country. At no time prior to the construction of these facilities were the local or State representatives advised of the construction. Given the hazards we know to be associated with radioactive waste, it appears to me to be haphazard that those people directly affected by the dumping of nuclear waste would not be advised of this decision.

As noted by Dr. Mason Willrich, visiting professor of nuclear engineering at MIT, a major radioactive waste problem already exists with the present facilities. The escape of material into the air and water of the Earth from these disposal sites constitutes a major health hazard for hundreds of thousands, if not millions of years. Plutonium-239 for example, has a half-life of 25,000 years, which from the perspective of human history, can be considered infinite.

As we all know, the harmful effects of radiation could be immediate death, shortened lifespan, radiation induced genetic changes which could effect subsequent generations, or temporary ill health. However, the people directly affected by these hazards have no voice in the decisionmaking process which contracts for the construction of such a facility.

Public reaction to the location of storage sites within their States has been highly negative. In Lyons, Kans., and Alpena, Mich., the public strongly protested ERDA's proposal to locate permanent radioactive waste disposal sites in their regions. Yet, with no recourse, the States will have to accept ERDA's decision.

Our bill, Mr. Speaker, seeks to give the States that recourse. This legislation requires ERDA to publicly notify the presiding officers of the State legislature of ERDA's decisions to explore a site in that State for the purpose of the construction of a radioactive waste storage facility. Furthermore, in those instances where a State legislature has stated through legislative action their objection to the location, ERDA shall not contract for the construction of a nuclear waste storage facility.

Given the hazards associated with these facilities, it is imperative that the Congress give the States, whose population and environment is directly affected by the placement of a nuclear waste storage facility, the authority to veto ERDA's decision.

The bill follows:

A bill to amend section 107 of the Energy Reorganization Act of 1974 (42 U.S.C. 5817) to delegate power to state legislatures to veto Energy Research and Development Administration site selection for radioactive waste storage

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 107 of the Energy Reorganization Act of 1974 (42 U.S.C. 5817) is amended by adding the following new subsection.

"(g) (1) The Energy Research and Development Administration must publicly notify the presiding officers of the state legislature of its intent to explore a site in that state for the purpose of construction of a radioactive waste storage facility.

"(2) The Energy Research and Development Administration shall not permit contracting for construction of a radioactive waste storage facility at a site in a state where the state legislature by concurrent resolution states that that site shall not be used for such purpose.

PERSONAL EXPLANATION

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. PAUL. Mr. Speaker, on September 17, I was unable to vote on the following bills. Had I been here, this is how I would have voted:

Rollcall No. 749—"Aye" on H.R. 15069, National Forest Management Act of 1976.

Rollcall No. 750—"Nay" on the conference report to H.R. 15194, Public Works appropriation.

Rollcall No. 751—"Nay" on the conference report to H.R. 12987, Emergency Jobs Programs Extension Act of 1976.

NATIONAL OCEAN INDUSTRIES ADVERTISEMENT: DISTORTIONS AND MISINFORMATION

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. MURPHY of New York. Mr. Speaker, this morning's Washington Post carried a full-page advertisement by the National Ocean Industries Association urging the Congress to delay until next January its consideration of S. 521, a bill to amend the Outer Continental Shelf Lands Act of 1953. The plea comes at the 12th hour, and carries a tone of crisis. If S. 521 is passed, it says, the Nation's energy crisis will be prolonged, and many of the association's members will be driven into bankruptcy. These are old arguments, almost worn out from overuse, and are totally without merit.

I want to emphasize at the outset that S. 521 is the result of a long, thoughtful process in which every conceivable argument for and against the provisions of the bill has been carefully considered, debated and voted upon. In the House, for example, the Ad Hoc Select Committee on the Outer Continental Shelf considered almost 200 amendments; and on the floor, the full House looked at more than 80 amendments. A majority of the recommendations submitted by the administration were incorporated. A conference committee of the Senate and House has now met and resolved their differences over S. 521, and the bill that has emerged from the conference will go to the two bodies in the next few days. It is at this juncture, almost 2 years after the legislative process was commenced, that the association cries havoc.

What does the advertisement say? It claims that S. 521, by adding new regulatory measures to the present statutory regime for OCS oil and gas development, will crank in a delay of at least 2 years in getting OCS oil and gas out of the Continental Shelf. And this, alleges the association, will ruin its member companies and make the United States even more dependent on foreign oil. The allegation is ridiculous, because the premise is ridiculous. The fact is that the new regulatory requirements that S. 521 will establish replace old ones, and do not add new steps, and will not create delay. If the Department of the Interior does its job efficiently, it can concurrently accommodate them all within the present time periods.

What the association does not tell us in its advertisement is that the present OCS Lands Act is archaic and inadequate in today's world. First, the current leasing system, which is based on cash bonus bidding, is no longer working well, because there is too much risk of uncertainty and a shortage of capital. The result is that the oil companies are bidding on fewer tracts than they would otherwise, which will mean considerably less oil 5 years from now; the major companies are predominating in lease sales; and the economic goal of finding a proper balance between a fair profit to the companies and a fair return to the Federal Government as the owner of OCS lands cannot be achieved.

Second, State governments, local communities, environmental organizations, and others with an affected interest do not have a statutory right to participate in the Federal decisionmaking process with regard to the development of OCS oil and gas. The result is that disaffected States and organizations are taking every legal measure they can to halt lease sales and to prevent offshore oil from coming ashore within their borders.

Third, the current statutory regime is inadequate in dealing with the protection of the environment, as demonstrated by the enthusiastic support of S. 521 by every major environmental organization.

Fourth, it is also inadequate in dealing with the safety of the worker. Numerous deaths and serious injuries have occurred under the present system. The workers have rightfully demanded, and enthusiastically supported, the protections in S. 521.

S. 521 is a moderate attempt to reform a 23-year-old law, and has the support of not only environmentalists and most coastal States, and the unions, but also of almost all of the gas distributors throughout the United States and many of the smaller refiners and oil companies. In fact, opposition to the bill can be isolated to the seven large oil companies, their industry representative, the American Petroleum Institute, and NOIA, which was originally set up by Exxon to act as an additional lobbying agent in its behalf.

As I have said on many occasions before, S. 521, if it is passed by the Congress and signed into law, will be one of the most significant achievements of the 94th Congress. It is a comprehensive bill that would promote the swift, orderly, and efficient exploration and production of oil and gas on the Outer Continental Shelf; secure a fair return to the Federal Government for the lease of Federal lands while enabling the oil industry to earn a reasonable profit; provide the necessary framework for the protection of the marine and coastal environment; mandate meaningful participation in OCS decisions by State and local governments; and enhance the safety of offshore working conditions. S. 521 represents 2 solid years of legislative work to bring the Outer Continental Shelf Lands Act into the modern world so that it may serve the best interest of the American people.

125TH ANNIVERSARY CELEBRATED BY ST. MARY'S PARISH, ELGIN, ILL.

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. McCLORY. Mr. Speaker, I rise to draw the attention of the Members of the U.S. House of Representatives to a Bicentennial event of great significance in my 13th Congressional District, the 125th anniversary of St. Mary's Roman Catholic parish in Elgin, Ill.

The original church, known as the Church of the Immaculate Conception, was completed in 1851, 11 years after the founding of Elgin and 5 years after Abraham Lincoln's first election to the House. It was made of cobblestone and built mainly through the contributions of its parishioners—Irish immigrants and railroad construction workers. For years St. Mary's remained the only Catholic church in the area, and in 1880, it was pioneered parochial education in Elgin with the opening of St. Mary's Academy.

The present church was begun in 1896 and completed in 1901, the parish's 50th year. Recent remodeling, which has made St. Mary's one of the most beautiful churches in my congressional district, coincides with both the Bicentennial and the parish's 125th anniversary. St. Mary's will be formally rededicated at a special afternoon Mass led by the Rt. Rev. Arthur J. O'Neill, bishop of the diocese of Rockford, on October 10. I am pleased that I will be participating in a dinner celebrating that event at the gracious invitation of Pastor Robert F. Cell. Other participants will include Father John Kavcak, associate pastor, Brother Ralph Carpenter, and my longtime friend Eugene Devitt, a St. Mary's parishioner. I might add, Mr. Speaker, that Father Cell and his parish have received the congratulations of President Gerald Ford.

Mr. Speaker, we have spoken often in this Bicentennial year about the legacies of the American Revolution. Certainly one characteristic of the Revolutionary movement, and of the Founding Fathers themselves, was their profound spirituality. They envisioned a nation of virtuous men and women, ordained by God and dedicated to do His will, as they could best perceive it, in this world.

Americans have relied on the wisdom derived from religion, and also on the solace and comfort it provides. We have been rightly known as an innovative people, but we have relied heavily on continuity and tradition.

Social and religious institutions like St. Mary's Church help provide that needed continuity. Residents of Elgin's East Side and South Elgin know that their church has been alive since before the Civil War, and that it will serve their grandchildren and great-grandchildren with the same principles that they have learned and cherished. An institution so important and so dependable in such a rapidly changing world provides a valuable respite from the tensions of modern life, and makes a tangible and significant contribution to the lives of its parishioners—and provides an influence for good on the entire community.

Mr. Speaker, it is indeed a pleasure to salute Father Cell, the clergy, and parishioners of St. Mary's Catholic Church on their 125th anniversary.

REVOLUTIONARY TERRORISM—OR WHY LAW ENFORCEMENT SHOULD MONITOR SO-CALLED PEACE GROUPS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. McDONALD. Mr. Speaker, on September 15, 1976, Susan Saxe, 27, went on trial in Boston on murder charges stemming from a bank robbery on September 23, 1970, during which Officer Walter A. Schroeder was shot to death.

Three men involved in the robbery, reportedly committed to finance revolutionary terrorist "armed struggle" as recommended by Lenin and Marighella, were quickly captured. One of them, Robert Valeri, turned State's evidence helping convict William A. Gilday and Stanley Bond, and received a reduced sentence. Bond later accidentally killed himself while making a bomb in Walpole Prison.

Two women who were active in the anti-Vietnam movement at Brandeis University, Catherine Ann Power and Susan Saxe, who had become involved with the men on a special prison release study program at the university, were sought as participants in the robbery and murder. They became fugitives, and were placed on the FBI's "Ten Most Wanted" list. Saxe was arrested in Philadelphia in March 1975. Power remains on the wanted list.

Saxe pled guilty to a Philadelphia bank robbery and to the theft of ammunition and a truck from a Newburyport, Mass., National Guard Armory which both took place in 1970. In exchange for her June 1975, guilty plea, Saxe was given assurances by Federal prosecutors that she would not be required to testify about those who had harbored her and Power in the radical underground. Sentencing on those offenses has been postponed until after her murder trial.

As Saxe's trial opened in Boston, WIN magazine, the weekly magazine of the militant pacifist War Resisters League—WRL—published a five-page article in support of Saxe by "Shoshana Rihn," who is actually Patricia Swinton, a former fugitive in the underground.

Swinton and Jane Alpert were fugitives for nearly 5 years on bomb conspiracy charges. Sam Melville pled guilty to bombing charges; he died during the Attica Prison riot in 1971. Another man, David Hughey, also was convicted. Jane Alpert surrendered in 1974 and pled guilty to reduced charges. Swinton was captured, tried and acquitted in 1975. Now of Guilford, Vt., she is active with the Brattleboro chapter of the Weather Underground's Prairie Fire Organizing Committee. On July 25 she led a violent demonstration and attempted assault on Secretary of State Henry Kissinger in Newfane, Vt.

Rhin/Swinton's WIN article, "Why We Should Defend Susan Saxe," attempts to excuse Saxe's alleged involvement in the Boston murder and bank robbery by attacking the existence of banks in general:

> Banks * * * epitomize what capitalism is all about. Banks [are] * * * a major part of the forces of reaction and oppression.

She brushes aside the murder of Officer Schroeder with the comment, "murder, like everything else, is a term that the state can manipulate."

Swinton has also provided, in the words of a left revolutionary, a major justification for law enforcement monitoring of so-called peace groups:

> We saw, by 1970, that we had no power to make this government—our so-called servant—do our bidding. And in outrage people took to the streets once again, with chilling results: at Kent State and Jackson State. That was the context of Susan's antiwar activism, as it was for yours and mine.
>
> * * *

Swinton went on to compare our government with that of Nazi Germany saying:

> If it were Nazi Germany we were talking about, all sorts of acts of resistance might seem acceptable to us—going underground, sabotaging the war effort, resisting by various methods whenever the SS came to take people away, robbing banks to raise money for the resistance movement, blowing up trains * * *, destroying ammunition dumps, sabotaging industry. * * * While some might not use every tactic of the resistance, we certainly would not condemn and want to imprison those whose tactics we disapproved of. Most of us, indeed, would applaud whatever was done to resist it.
>
> * * * the destruction we wreaked on Vietnam was as bad as anything Nazi Germany ever did.

A Susan Saxe Defense Committee is operating from P.O. Box 39, West Somerville, Mass. 02144.

TRIBUTE TO MARINE SGT. JAMIE M. TROMBLEY

HON. ROBERT C. McEWEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. McEWEN. Mr. Speaker, recently I had the pleasure of meeting Marine Sgt. Jamie Trombley, a young woman from Fulton, N.Y., who decided to serve her country by enlisting in the Marine Corps 2 years ago.

In August, Sergeant Trombley became the first woman to win the Marine Corps Cup Match. In this 300-yard rapid fire riflery event, Sergeant Thrombley beat 700 other shooters—675 of them men—and established a national record with a perfect score of 300—9 X's. Later that month, Sergeant Trombley captured the national women's title at the national rifle matches at Camp Perry, Ohio, with a combined score of 1,935 out of a possible 2,000 points.

Sergeant Trombley's extraordinary skill in the art of riflery has been recognized by the Marine Corps in the form of meritorious promotion to corporal after the Marine Cup Match, and to her present rank following her victory in the national rifle matches.

Sgt. Jamie Trombley, 19, serves as an administrative clerk assigned to the Marine Corps Recruit Depot, Parris Island, S.C.

MORE RESPONSES ON HEW FOOT-DRAGGING

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. KOCH. Mr. Speaker, as many of my colleagues interested in the health care problems of the elderly may know, I have for several years been trying to determine whether HEW is justified in claiming to need an additional 2 years to conduct a study of the quality of care provided by the various types of nursing home and home health modalities.

On August 16, I sent letters to numerous individuals and organizations knowledgable in the area of nursing and home health care seeking their opinions about HEW's timetable. Several of the responses I received I placed in the Record on August 30 on page 28328.

Today I am placing additional responses in the Record which represent views both understanding and critical of HEW. I think those who have followed this issue will find the appended letters of interest:

Community Service Society,
New York, N.Y., September 1, 1976.

Hon. Edward I. Koch,
House of Representatives,
Washington, D.C.

Dear Congressman Koch: Thank you for your letter of August 16, 1976 to Mr. Charles Dorf, Chairman of our Committee on Health, requesting our views concerning the time frame proposed for the DHEW study on quality of care rendered by nursing homes and home health care agencies.

We really do not have sufficient information regarding the complete study design, the funds and staff available to conduct such a nationwide study which would be necessary for us to render any reliable opinion. However, a review of the survey methodology used to collect data for the skilled nursing home study as described in the Introductory Report published in July 1975, entitled *Long-Term Care Facility Improvement Study,* would seem to indicate that if data are to be collected over a twelve month period beginning in March or April 1977 the analysis and final report could not be ready until the latter part of 1978. Apparently, the instruments to collect data on patient assessment and evaluation of care are ready for field testing, the surveyors are being trained to collect data for the study, and by the spring of 1977 the final facilities will be selected to complete the sample.

The difficulties of measuring quality of care have been discussed at length by health professionals and researchers over the years. Certainly it is advisable to allow sufficient time to review and revise the survey tools if useful data are to be secured.

We do have some observations. You have requested information from DHEW concerning all types of nursing homes and on home health care agencies; the DHEW commitment is only to secure data from skilled nursing homes. The latter comprise less than half the nursing home universe and of course, exclude the home health care field entirely. The need for sound objective research in the area of long-term care in order to facilitate health planning is evident. You are correct in stating that "the elderly deserve quality care and the taxpayers are justified in expecting that our tax dollars are providing that care for the elderly who need it." Since the need for reform is urgent, it seems neither necessary nor advisable to delay implementation of an action program to correct flagrant abuse of public money and unacceptable levels of care until such time as all the data have been gathered.

Your essential question has not been answered adequately for your purposes. Perhaps an action program might proceed as the study itself progresses and each benefit from the other.

Thank you again for soliciting our views. Our best wishes to you.

Sincerely yours,
Eleanor D. Marshall,
Staff Assistant for Health.

American Association
of Homes for the Aging,
Washington, D.C., September 3, 1976.

Hon. Edward I. Koch,
House of Represesentatives, Longworth House Office Building, Washington, D.C.

Dear Congressman Koch: Thank you for your letter of August 16, 1976, soliciting my thoughts and the views of my Association toward the Department of Health, Education and Welfare's efforts to document the differentials in care by type of ownership in skilled and intermediate nursing facilities.

The American Association of Homes for the Aging represents the not-for-profit providers of institutional services to older Americans and their residents. Among our members are facilities which participate in the Title XVIII (Medicare) program as skilled nursing facilities and in the Title XIX (Medicaid) program as both skilled nursing facilities and intermediate care facilities. Because our members believe there is a difference in the quality of care provided to residents of facilities premised on the financial motivations of the provider, we welcome an indepth, objective study of this relationship. We view a positive correlation between the quality of care which our member facilities provide and their nonprofit status. This motivation often is the stimuli which forces the facility to be more dependent and accountable to the community which it serves. Our Association encourages this healthy interrelationship between the provider and community. We have pioneered means to bring the community to the facility when such institutionalized services are the most appropriate setting for patient care. An unbiased study of the differences in the quality of services which our member facilities provide and that of other providers which respond to different motivations would assist us in assessing our responsiveness to patient and community needs. Certainly, the sooner such information is available the better we will be able to assess our impact on the service delivery system.

At the same time, Congressman Koch, we must sound a caution that the Phase II patient assessment study is hardly the vehicle to shed facts on the quality of care rendered in different facilities. The objective of the Phase II study is to develop a patient evaluation instrument which can be used in the future to improve survey and licensure activities. As a member of the Phase II advisory panel, I can document that present program activities will not provide an objective study of the differences in care provided by type of ownership. While a last minute program change has set out facility ownership as one of the test variables, the fact that all facilities participating in the Phase II study are doing so voluntarily precludes the opportunity for a valid sample of participating facilities. Obviously, the facilities providing less than adequate care are not going to step forward to participate in a volunteer program that could subject their institution to greater scrutiny by surveyors.

Even if the Phase II study were to provide for a random sample of facilities (as opposed to the present selective process), attention would have to be given to the PACE (Patient Assessment and Care Evaluation) instrument. Representatives of consumer organizations as well as representatives of nonprofit facilities have criticized the contracted Phase II PACE instrument as failing to address physio-social aspects of care on equal basis with the medical aspects. An objective study of the care provided in the institutional setting must address the different need requirements of long-term care patients in contrast to the needs of the acute care patient. To many long-term care patients, the facility becomes their home; and, therefore, such patients require more than attention to their medical needs. The provider should address their environmental physio-social needs. The PACE instrument neglects to reflect the abilities of providers to meet these health-social service objectives.

Our Association is concerned that the Department is attempting to stretch the objectives of the Phase II study to meet other priorities without changing the scope of that project. As you will recall, a similar demand upon the Phase I Long-Term Care Facility Improvement Study resulted in inconclusive research, which, while informative, could not be used for policy formation. Our concerns regarding the Phase II study are heightened by the response which one of your colleagues received, commenting that the Phase II research would be applicable to home health, even though no home health providers are participating in the program. We believe it is a serious mistake to misrepresent the Phase II project and one which will only facilitate the dispersal of misleading project results.

The American Association of Homes for the Aging compliment you for your continued leadership in improving the quality of care for older Americans. We welcome your inquiry on the measurement of such care by type of ownership, and we can appreciate the frustrations which you have experienced in security valid information. We solicit your continued intravention to ensure that any study which the Department releases contrasting the quality of care in the institutional setting will be accurate and objective.

If we can assist you in any way, please do not hesitate to contact me.

With best wishes, I am

Sincerely yours,

David C. Crowley,
Executive Vice President.

Washington, Report on
Long Term Care,
Washington, D.C., September 8, 1976.

Rep. Edward I. Koch,
Longworth HOB,
Washington, D.C.

Dear Mr. Koch: First, I would like to thank you for including Washington Report On Long Term Care in your list of individuals and organizations knowledgeable in the field of aging. We at McGraw-Hill like to think of our publication as the premier one in long term care.

I can understand your chagrin in being unable to obtain from the Department of HEW any solid data on the differences, if any, between care in a proprietary nursing home and in a nonprofit facility. Frankly, I believe the original study begun by HEW's Office of Nursing Home Affairs was over-promised. The erroneous impression was created that somehow this survey was to yield data on the quality of nursing home care in the United States; when, in fact, HEW's sample population included only Skilled Nursing Facilities—about one-third of long term care facilities that the National Center for Health Statistics classifies as nursing homes.

There was another problem in that the sample chosen by HEW—288 out of the total number of 7,526 Skilled Nursing Facilities in the country—was too small to answer the question you now pose. Thus, I believe HEW is being candid with you when they say that your question cannot be answered for now. Perhaps they are being less than forthright in admitting the reasons why.

Also, I doubt whether HEW's Office of Long Term Care will be able to come up with an answer to your question by 1978. While Phase I of their Long Term Care Campaign involved 288 facilities, Phase II will see less than 200 facilities volunteer for the project to develop a patient assessment procedure. That is not to say that HEW's long term care campaign has little value because it cannot readily relate the quality of care to the sponsorship of facility. Indeed, if HEW's campaign has a successful impact it will cause nursing home surveyors to look at the patient, not just his records or the facility's physical plant. It also might result in better trained surveyors.

Although HEW's Office of Long Term Care was unable to assist you, HEW's Social Security Administration might have. SSA is charged with keeping HEW's management information system for long term care. SSA expects to have in its computers a tabulation of inspection deficiencies of long term care facilities. I would not call this the best indicator of quality care, but it is something if you desire to pursue it.

A final note on your letter to me: may I suggest that you not lump home health agencies with nursing homes. Data from one type of health care provider simply cannot be extrapolated to another.

Sincerely,

Ronald Schwartz.

National Association
of Home Health Agencies,
St. Louis, Mo., September 8, 1976.

Hon. Edward I. Koch,
U.S. House of Representatives, Longworth Office Building, Washington, D.C.

Dear Congressman Koch: Please forgive the delayed response to your August 16, 1976 letter. This was due to a rather intense travel schedule over the last few weeks and not to any disinterest in your quest for information from H.E.W. on the comparative quality of care provided by non-profit and proprietary nursing homes and home health agencies. Since I represent both the National Association for Home Health Agencies and the Visiting Nurse Association of Greater St. Louis, I will restrict my comments to home health agencies.

I am convinced that part of the difficulty in obtaining this information from H.E.W. is the lack of national standards and definitions and need determination for home care services. One of the most perplexing issues I have faced in the four years in the home health field I've had is the lack of planning parameters for the services needed. To my knowledge, no one has developed a description of these services which are needed and what is the current availability and cost of providing them to the indicated target population. I am very much in favor of Congressman Cohen's approach to establishing a national commission under the aegis of the Congress to address this very problem.

Until a detailed effort is made, it seems to me that all of the good words about the role and need of home health services is purely academic. I believe, as I said earlier, we have to determine what is needed by whom and at what cost. Only then can we avoid all of the catastrophic errors made in the past when attempting to answer the health needs of the citizens in this country.

I would be happy to assist you in any way that I can in this critical area.

Sincerely,

John P. Byrne,
M.H.A. President.

National Council
of Health Care Services,
Washington, D.C., September 17, 1976.

Hon. Edward I. Koch,
U.S. House of Representatives, Longworth House Office Building, Washington, D.C.

Dear Congressman Koch: We appreciate the opportunity you have extended the National Council of Health Care Services to comment on the possible differences in the quality of care between proprietary and non-proprietary nursing homes. We have followed with great interest your insertions in the *Congressional Record* on this subject, and welcome this chance to express our views.

The members of the National Council of Health Care Services are proprietary multi-facility nursing home firms, which own or administer nursing facilities in 35 states. In addition to the more than 1,000 state and federal requirements which a nursing home participating in the Medicare and Medicaid programs must meet, we require that our member's facilities meet or be able to meet the standards of the Joint Commission on Accreditation of Hospital's Accreditation Council for Long Term Care.

In response to your inquiry about the proposed time frame of the response by Dr. Faye Abdellah, Director of the Office of Long Term Care, to your request, it is in our firm opinion very realistic.

Three of our member firms have conducted extensive research to develop and refine a patient assessment form, as well as the methodology necessary to evaluate a patient's total status and needs. These firms have spent the past two years in reviewing and examining the use of a number of different patient assessment forms. The objective of this effort has been to develop the best system to maintain a continuous audit of the quality of patient care, as well as the appropriateness of that care.

Generally, it may be said that this is an area which has been ignored except for the last few years. It was not until former Under Secretary Frank Carlucci's initial efforts in 1974 to move the Medicare and Medicaid programs away from their "check-list" approach of a facility's physical plant's compliance towards surveys that address themselves to the quality of services rendered by the facility, that attention within the Department of Health, Education, and Welfare began to focus on this area.

Based on our experience and knowledge of current survey techniques, and the data which is produced, we would challenge any national conclusions as to a comparison between the quality of patient care in proprietary and non-proprietary facilities. New techniques, such as a patient assessment system, must be developed first and applied nationally before such a comparison could objectively be attempted by HEW.

As you noted in your remarks in the *Congressional Record* of August 10, 1976, there have been a few limited studies conducted, and various individuals have written on the subject of the issue of proprietary versus non-proprietary facilities in regard to the quality of care which they provide. These studies have been, for the most part, inconclusive in terms of objectively finding any significant differences in the quality of care delivered in nursing facilities, solely on the basis of whether or not they are proprietary or non-proprietary.

Since there is presently a lack of a nationally accepted definition of "acceptable care", and the lack of a national assessment form currently in effect, we strongly question the ability of anyone to answer the question as to the differences between the quality of care provided by "non-profit and proprietary nursing facilities". We would at this time further question the appropriateness and benefits of such an evaluation which is the product of a philosophical debate whose shadow has for too long cast itself over the long term care industry.

It should be noted that the assessment form to be used in the HEW project is not presently designed to solely address the issue of comparing the quality of care in proprietary and non-proprietary facilities. In fact, the type of facility in which a patient resides is only one of several factors listed on the assessment form. This is only appropriate, since a facility's ownership is only one of many characteristics which can or may influence its operation and ultimately the quality of patient care which it provides. We do not know the impact of any of these characteristics at this time. Therefore, to give undue emphasis because of a particular philosophical viewpoint would be to prejudice the assessment form and the study itself.

We would further submit that research conducted by a federal government agency should be conducted in order to improve the quality of care and services being rendered by all providers participating in its programs, rather than in an attempt to discredit a segment of that industry solely because of its financial, administrative, or ownership structure. It is more important to concentrate our available federal resources on constructive efforts to assure that all facilities provide quality patient care to their patients.

We would hope that because of the admitted need to improve the health services provided our nation's elderly, that those within the industry, Congress, officials of the Department of Health, Education and Welfare, and the general public could begin to work together to solve their health problems. We can not afford to let subjective, emotional analyses or personal philosophies interfere with a rational approach to these problems.

We strongly support the concept of developing a comparative analysis of the quality of care provided to patients in nursing homes. Since there is neither a nationally accepted definition of "acceptable care", nor the means to assess that level on a national basis, it is undesirable, but not unrealistic, that such a process will take until 1978. However, we do take strong exception to any analysis which would limit itself to one characteristic of a facility, whether it be its ownership, size, type of building, size of staff, location, or any other single item.

We appreciate your interests in the health care needs of our nation's elderly, and would be most appreciative of the opportunity to discuss and present to you some of our findings in the patient assessment area, or any other aspect covered in this letter.

Sincerely,

JACK A. MACDONALD,
Executive Vice President.

DISTRICT OF COLUMBIA FIREARMS CONTROL ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. PAUL. Mr. Speaker, we have just heard a recitation of the so-called "good faith efforts" of the D.C. Committee to take action on my resolution of disapproval. The committee claims to have done its best. Clearly, however, that best has not been good enough, for it has yet to report a resolution of disapproval.

I

The committee claims that it could not muster a quorum to take action on my resolution. Yet, during the 7 weeks in which my resolution has been before the committee—since July 29—the committee has in fact reported at least one bill, H.R. 15276, when there was not a quorum of the committee members present. In fact at the committee meeting at which this action was taken, there were only six members present. The resolution of disapproval was the next item on the agenda, but the committee suddenly recessed subject to the call of the Chair.

There is, however, a further consideration. The D.C. Committee has never held a meeting on the resolution I have moved to discharge. Their meeting notices have always specified House Concurrent Resolution 694. Not one meeting has been held on House Resolution 1447 or House Resolution 1481.

The hearings held by the committee on August 25, hearings in which only three witnesses were heard, and from which residents of the District of Columbia were specifically barred as witnesses, were held specifically on House Concurrent Resolution 694. If anyone doubts what I am saying, let him check the records of the D.C. Committee. He will find that the committee has not held 1 minute of meetings, has taken no action whatsoever, on the resolution I am seeking to discharge from the committee today. This total inaction belies the "good faith efforts" claim of the committee, and it constitutes sufficient cause why the committee should be discharged from further consideration of the resolution of disapproval.

One final thought: The meetings listed by the committee were almost always, 2, 3, or 4 minutes in length. The only time during which the committee met for a considerable period was on August 25 when it held hearings on House Concurrent Resolution 694, and even then it did its utmost to keep the witness list to a minimum.

II

Under title VI of the District of Columbia Self-Government and Governmental Reorganization Act, the Congress has 30 legislative days in which to disapprove any action taken by the District of Columbia City Council which the Council has transmitted to the Congress.

The Firearms Control Regulations Act was transmitted to the Congress on July 23, and the 30 legislative day review period will expire at midnight on September 23. Therefore, this Congress has only 2 days left in which to act before this repressive gun law goes into effect in the District.

The District of Columbia Committee has had a resolution of disapproval before it since July 29, over 7 weeks, yet they have not reported it. In fact, they have not held one meeting on House Resolution 1447, or House Resolution 1481.

The so-called Dent amendment has not achieved its putative purpose of nullifying the Firearms Control Act. The Library of Congress, the Senate Legislative Counsel and the District government all agree with that assessment.

The Firearms Act was clearly enacted in contravention of section 602(a)(9) of the Home Rule Act. The Library of Congress and the Senate Legislative Counsel have written two cogent opinions substantiating the fact that the Firearms Act is, in fact, an act exceeding the authority of the City Council. I do not think there is any doubt about that point.

If this Congress fails to disapprove the City Council's Firearms Act, it is, in effect, voting for gun controls. It is long past due and it is time that the Congress exercised its responsibility for once to abdicate and allow a repressive, unconstitutional, illegal act to go into effect in the District of Columbia. This law will become a model for the Nation, and this Congress will deserve the opprobrium it gets if it irresponsibly fails to act on this resolution of disapproval.

III

The members of the District of Columbia Committee and other Members of this body have just presented arguments explaining why the use of a simple house resolution is not in order until after the period during which the prohibitions on the City Council has ended—January of 1979. It has been maintained that the only proper way for Congress to disapprove an action of the City Council is by passing a concurrent resolution. But the District of Columbia Committee has been sitting on a concurrent resolution for the past 7 weeks, and will not report a resolution so that this House may vote on it. In effect, the committee has been preventing the Congress from disapproving an illegal act by the City Council.

Now, I, for one, do not believe that this was the intention of the framers of the Home Rule Act. In fact, in section 604 of that act, they outline a procedure whereby the committee can be discharged from further consideration of a concurrent resolution. If you will refer to section 604 subsection (b), you will find these words: "For the purpose of this section, 'resolution' means only a concurrent resolution. . . ." Then in subsections (d)(e) and (f), you will find the procedure specified to discharge a committee from further consideration of a resolution, which, according to subsection (b) must mean a concurrent resolution.

If anyone wishes to object to this reading of the Home Rule Act, the best argument he can maintain is that the Home Rule Act itself is self-contradictory on this point. That means, however, that the Chair has equal reason to rule either way. Having just ruled, though, that the simple House resolution is not in order, and having just stated that the concurrent resolution would be in order at this time, the Chair ought not as it has done with the post inquiry now rule that the concurrent resolution is not in order. The only way out of this dilemma is to discharge the committee from further consideration of House Concurrent Resolution 716 and to allow the entire District of Columbia Firearms Control Act.

GLASSPORT LEGION, A POST WITH PRIDE

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. GAYDOS. Mr. Speaker, all of us are familiar with the fine work undertaken on a national level by the American Legion on behalf of those who served our country in time of war. But, I frequently wonder if we are as familiar with the numerous community-oriented programs initiated by member Legion Posts on a local level.

Many local posts serve as the focal point for communitywide activities involving not only veterans but members of every age group. Post 443 in Glassport, Pa., for instance, has earned the respect of the community. It is a Legion Post with pride—in its members and the people of the borough in which it is located.

Among the various activities Post 443 conducts for the residents of Glassport are: A softball team, a summer basketball team, a bowling league, a spelling bee, and coloring contest for younsters, the Glassport Athletic Association, the furnishing of wheelchairs and other equipment for the elderly and disabled, a Bicentennial poster contest, visitations to area hospitals, sponsorship of two boys at Keystone State Camp, and a $1,000 fundraiser for the Glassport Bicentennial Committee.

The wide scope of its activities demonstrates the capable leadership which has guided Post 443 since its incorporation in 1929. The past commanders of Post 443 deserve public recognition and I would like to list them for the attention of my colleagues:

Edward Edding, 1929–30; John Murdock, 1930–31; H. G. Freyer, 1931–32; Earl Gross, 1932–33; Hugh McCracken, 1933–34; Fred Clague, 1934–35; Arthur Mayou, 1935–36; Arthur Salzman, 1936–37; Ray Wawrzeniak, 1937–39; Hugh McCusker, 1939–40; William Hutton, 1940–41; Daniel O'Connell, 1941–42; William Rennie, 1942–43; Daniel O'Connell, 1943–44; Fred Clague, 1944–46; Charles Shoaf, 1946–47; William Bradley, 1947–48; Frank Karnash, 1948–49; Felix P. Zyra, 1949–50; Ben Miller, 1950–51; William Kulid, 1951–52.

William Carns, 1952–53; Michael Kurka, 1953–54; Milan Trbovich, 1954–55; Norman Papernick, 1955–57; Charles H. Cope, 1957–59; Carl Metz, 1959–60; Albert Halucha, 1960–61; Edwin Stetz, 1961–62; Vetold Lutkus, 1962–63; Louis B. Ostorski, 1963–64; Theodore A. Gavola, 1964–66; Edwin D. Stetz, 1966–67; George Pattakos, 1971–73; John F. Vaurek, 1973–74; and George March, 1974–76.

Mr. Speaker, the continued success of Post 443's community involvement rests in the hands of the new officers of the organization and its ladies auxiliary, who will assume their new duties in a joint installation ceremony scheduled for October 30. On behalf of the Congress, I extend to them our official congratulations and best wishes for success. They represent a Legion Post with pride in the past and promise for the future.

POST 443 OFFICERS

Harry Thompson, commander; Donald Gallagher, senior vice commander; Patricia Harris, junior vice commander; Thomas Cipirani, adjutant; Dennis Trow, finance officer; Raymond Krills, chaplain and historian; John Vavrek, judge advocate; George Pattakos, service officer; Charles Puka and William Przywarty, sergeants-at-arms.

AUXILIARY OFFICERS

Catherine March, president; Diane Upperman, first vice president; Shirley Furman, second vice president; Clara Grace, chaplain; Peg Shirley, treasurer; Patricia Jones, secretary; Elsie Conklin, historian; Patricia Webb and Robin Hodnak, sergeants-at-arms.

TAX REFORM ACT OF 1976

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. HAMILTON. Mr. Speaker, the Congress approved this week a bill that will affect every taxpayer in the country—the Tax Reform Act of 1976.

Some of the more important provisions for individuals are: A special credit, or reduction, in taxes of $35 for each taxpayer and each dependent: an increase in the minimum standard deduction; an extension of the holding period to qualify for capital gains taxation from 6 to 12 months; a tax credit for 20 percent of child care costs; an increase in maximum deductions for moving expenses; limited deductions for business use of homes and vacation homes; an increase in the maximum amount that can be set aside tax-free for individual retirement accounts; and a broader definition of "retirement income" to include earnings and thus permit increased tax credit and lower taxes.

There are also some important changes for corporations: An extension of the 10 percent level for the investment tax credit; an increase in corporate surtax exemption; continuation of extra percentage points of investment tax credit for employees' stock option plans; reduction in the DISC tax benefits for corporate export earnings; additional benefits for corporations which use certified pollution control facilities in older plants; and a provision giving corporations 2 additional years to carry forward net operating losses to offset profits and thus lower taxes.

The bill also increases the amount of money a person can give away or leave tax free. It combines the estate and gift tax exemptions and converts them into a single credit which rises gradually to $175,625 in 1981. Since the current estate tax law exempts the first $60,000 of an estate, only 7 percent of all estates are taxed. With the increased exemption, only 2 percent of all estates would be taxed. The bill increases the amount a husband or wife can leave or give to a spouse without paying taxes on it and extends the time that estates, consisting of farms or closely held businesses, will be given to pay the estate tax.

The tax reform bill is not perfect, and it may not even be a model for tax reform, but it is a respectible bill and a much better bill than looked possible just a few days ago. The bill was passed because of persistent efforts by the tax reformers in the Congress and because of the impact of the new congressional budget process.

The passage of this bill means that the congressional budget process now exerts a powerful influence on legislation, both in keeping expenditures down and in keeping revenues up. The bill will produce an estimated revenue gain of $1.6 billion in 1977, fully meeting the requirements established by the new congressional budget control process. And the bill is in line with the economic needs of the country as determined by the Congress to keep the recovery going and to reduce unemployment without making inflation worse. During final consideration of the bill in the congressional conference committee costly new provisions were dropped, like a popular provision to allow a tax credit to parents to help pay for higher education. Such action means that Congress is willing to live within its budget.

The bill accomplishes modest tax reform, meaning that it limits at least the extent to which tax preferences can reduce the taxes for well-to-do taxpayers. By increasing the minimum tax on so-called preference income—that is, income shielded from regular taxes—the bill makes it virtually impossible for the rich taxpayer to avoid paying any taxes at all. Also tax shelters for investors in oil, movies, real estate and sport franchises have been reduced. The purpose of this reduction is to stop wealthy taxpayers from avoiding taxes altogether or reducing their taxes to absurdly low levels.

The bill is noteworthy in several respects. It is the first major reform of the estate and gift tax since 1941. It is the first bill written in a House-Senate conference open to the public and the press. It makes the tax system more progressive by extending tax reductions through 1977 and weighting those reductions toward low- and moderate-income taxpayers. It gives substantial tax relief to all modest-sized estates by an increase in the amount of an estate which is exempt from taxes.

The bill is entirely the result of congressional initiative. The President has had astonishingly little to do with it—a fact which raises my hopes that with presidential leadership much more can be done for the improvement of the tax system. It should also be noted that the tax bill defies the conventional wisdom that tax bills, especially tax bills that increase revenue, cannot be written in an election year.

While this huge and complex bill is

acceptable, it does not represent genuine reform. It only tinkers with the tax code. A major overhaul of the tax system still seems to me to have the highest priority on the national agenda.

Unfortunately, the bill with its 1,500 pages does not simplify the tax law. Rather it makes the tax law more complex. Even the summary of the bill made available for Congressmen to study this week is 100 pages of fine print and tough reading. Apparently every attempt to bring greater fairness to the tax code means finer distinctions must be made. We need a simpler tax code, but no matter how strong the attraction of the idea, we may be limited to modest achievements in attaining such a goal given the complicated American economic system.

HOW THE CIA WON

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Ms. ABZUG. Mr. Speaker, I wish to call to the attention of my colleagues an article which appeared in the New York Times magazine of September 12, 1976, written by Taylor Branch, dealing with how the CIA managed "to outfox congressional investigators." In all the furor over the investigation of the so-called leak of the Pike committee report, we have lost sight of the important substance of that report. We have not adequately dealt with the critical question of covert activity and have not in fact brought the Central Intelligence Agency under congressional control.

The creation of a committee in the Senate dealing with the intelligence agencies is a useful first step. But, Mr. Speaker, why has the House not created a counterpart committee? I urge my colleagues to consider the creation of such a committee before we adjourn for the year.

A portion of the article by Taylor Branch follows. I will submit the balance on a succeeding legislative day:

THE TRIAL OF THE CIA

(By Taylor Branch)

There have been enough revelations about the Central Intelligence Agency over the past two years to keep diplomats, prosecutors, reporters and philosophers busy for entire careers. Three separate investigations not only stretched the imagination with show-biz material about cobra venom and deadly skindiving suits but twisted the lens on the American self-image in foreign affairs. The investigations rewrote history—the history, for example, of the relationship between the United States and the Castro Government in Cuba. They showed that the C.I.A., in some 900 foreign interventions over the past two decades, has run secret wars around the globe and has clandestinely dominated foreign governments so thoroughly as to make them virtual client states. In contrast to Watergate, the C.I.A. investigations proved that abuses of power have not been limited to one particular Administration or one political party. They also established facts that few people were prepared to believe—such as that distinguished gentlemen from the C.I.A. hatched assassination plots with Mafia gangsters.

With all these surprises percolating, the most interesting surprise has been largely ignored. And that is how the C.I.A. investigations ceased. The topic faded away so quickly as to make the whole episode look like a fad. Unlike the F.B.I. issue, which has moved to the prosecutors' offices and stayed on the front page, the vaunted trial of the C.I.A. has already become a memory. And the agency itself has survived the scandals with its covert operations intact, if not strengthened.

The collapse of the C.I.A. investigations has been due largely to ineptitude, poor judgment and lack of will on the part of the Congressional committees. But the agency also played a role. Its strategy was flawless. "Those guys really knew what they were doing," says a staff member of the Senate Select Committee on Intelligence chaired by Frank Church. "I think they defended themselves just like any other agency would, except they're better. They had a whole office set up to deal with us, and I sometimes had the feeling that they ran operations against us like they run them against foreign governments. It was like the C.I.A. station for the Congress instead of for Greece or Vietnam." The story of how they came out ahead of their investigators says a great deal about both the Congress and the agency, and about the problem of reconciling the demands of the superspy with the democracy he is supposed to protect.

In the spring of 1975, the Church committee had been spinning its wheels for several months without much success. Charged with the task of investigating more than a dozen intelligence agencies, any one of which was an enormous challenge, the Senators became ensnarled in debate over how to proceed. The agencies were stalling, hoping to deflect attention elsewhere. Then the committee got a break.

The Presidential commission set up under Vice President Rockefeller that January, to inquire into charges of illegal domestic spying by the C.I.A., announced that it had received evidence of C.I.A. involvement in attempts to kill foreign leaders. The news created an instant sensation. Rockefeller said his commission, which was completing its work, had neither the time nor the mandate to pursue the matter, and he turned the evidence over to President Ford, who quickly passed it along to the Church committee. Suddenly, the Senators found themselves with a large batch of classified documents and with responsibility for the hottest issue since Watergate.

For five months last year, the Church committee focused its energy on assassinations. Other investigations lapsed. Staff members were pulled from other projects. While it is no mean feat in the Senate to obtain sustained, personal effort from Senators on any single subject, the members of the Church committee went to C.I.A. briefings day after day to be introduced to the agency's arcane methods. In November 1975, the committee pulished an interim report on this one aspect, and Senators and staff alike were proud of it. A sane exploration of the Machiavellian underside of American foreign policy, it was, in fact, a tour de force. Yet it failed to build public support for investigating or controlling the C.I.A.

Press and TV coverage was intense but shortlived, focusing on certain salacious details: the gangster plots, the titillating reports of an affair between President Kennedy and the mistress of one of the gangsters, and a few exotic spy plans worthy of a television serial. In this last category, the report featured a C.I.A. plan to treat Prime Minister Fidel Castro's boots with a chemical that would make his beard fall out and thereby destroy his charisma. The rest of the material was extremely complicated, conclusions were tentative, and the assassination plans fell short of the dramatic expectations that had grown up.

The committee did not claim to have found a "smoking gun," in the form of a kill order ringing down from the Oval Office, through the C.I.A. chain of command and out to some mysterious trigger man in a foreign capital. Quite the contrary. Where the American efforts to kill were most direct and persistent—in the case of Castro—they were unsuccessful. And where the foreign leaders were actually killed—Lumumba in the Congo, Trujillo in the Dominican Republic, Diem in South Vietnam, Schneider in Chile—there was no hard proof that C.I.A. operatives actually took part in the murders. In some cases, the agency seemed to withdraw at the last moment. In other cases, someone else got there first. Of the Diem assassination the committee could only say that the C.I.A. had sanctioned and encouraged a coup against his Government when there was a reasonable chance the plotters would kill him. But no direct orders to assassinate. Everything was a little blurred. Even the most direct written communications, as in the Lumumba case, were couched in opaque C.I.A. language: "Hunting good here when lights right."

Smoking guns are considered thoroughly unprofessional in clandestine operations, where secrecy is paramount and it is a mark of skill to channel existing forces subtly. The assassination report, on the other hand, was publicly judged by standards built for palpable and exotic murders. Because no foreign leaders were killed outright by American initiative, planning and execution, the C.I.A. benefited from a general impression that it came out of the assassination inquiry with clean hands. This impression is false.

Certainly many thousands of people have died as a result of secret C.I.A. paramilitary interventions in countries ranging from Laos to Cuba to the Congo. (The Church committee obtained some casualty figures but did not publish them at the agency's request.) And, in the case of selected killings detailed in the report, the line between involvement and actual murder is often shadowy. For example, the Church committee reported extensively on the maneuvering that preceded the assassination of Rafael Trujillo in 1961. It showed how American policy turned against the Dominican strongman, how the agency provided assurances of support to those who plotted against him, how C.I.A. officials smuggled weapons into the country and exchanged cryptic messages on the likelihood of a successful assassination. In keeping with its courtroom definition of assassination, however, the committee exonerated the agency of Trujillo's murder on the ground that the weapons it smuggled in were probably not the ones used in the killing.

"By the time we finished the assassination report," recalls the leader of one of the committee's task forces, "we had lost three things—the public's attention, much of our own energy and will power, and our leadership. Quite candidly, we had lost Frank Church." The Senator, according to this investigator, had given up hope of achieving major reforms in the prevailing atmosphere. Public interest was down. Assassinations proved peripheral to the main business of C.I.A. covert action, and the investigation of that unknown realm had scarcely begun. With investigations of the other intelligence agencies, including the F.B.I., still ahead of them, five crucial months had been lost—along with much of the committee's momentum. The Senate's February 1976 deadline for the completion of all work loomed large. And Church wanted to wrap up his investigative chores in order to begin his own Presidential campaign.

The Church committee had gambled heavily on the assassination report. And lost.

According to Mitchell Rogovin, the C.I.A.'s special counsel during the investigation, the crux of the inquiry from the agency's point of view was covert action—secret interventions abroad by means of propaganda, bribes, manipulation of foreign agents and, in some cases, paramilitary force—as distinct from gathering and analyzing intelligence. The promotion system for C.I.A. case officers has been built around operations, and C.I.A. leadership has been drawn from the operators—Allen Dulles, Richard Helms, William Colby—instead of intelligence analysts. Veteran agency operatives often say that without covert action the C.I.A. would be nothing but a collection of sophisticated professors with mounds of intelligence, and the agency itself would be only a more specialized version of the State Department.

The C.I.A. approached the Congressional investigations with one central objective: to protect the means and practice of covert action. It was in line with this strategy that Colby and Rogovin gave ground on the marginal issue of assassination, cooperating with the Church committee, turning over more information than the committee could digest, helping the committee use itself up. Then, when the assassination report was completed, Rogovin became tough about information to be granted for the remainder of the investigation—especially in regard to covert action. The committee was floundering; Rogovin pressed his advantage. "We agreed with the committee that they could have access to information for six case studies in covert action," he says, "provided they would go public with only one of them. They swore all kinds of secrecy oaths that they would not even let the names of the other five countries leak." The case study he chose was Chile—a selection favorable to the agency, since a lot of the material on the C.I.A.'s intervention in Chile had already leaked to the press.

"It was a bad deal," says F. A. O. Schwarz, the committee's chief counsel. Many of the principal staff members opposed the settlement. What little they had learned about covert action in the course of the assassination investigation had made them realize it was one of the hardest but also one of the most important issues to deal with. "That is why we went so heavily into Mongoose in the assassination report," Schwarz explains.

Operation Mongoose was a covert action designed to weaken and destroy the Castro regime through an orchestrated program of economic sabotage, commando raids and paramilitary harassment. It was the heart of the agency's effort to overthrow Castro; simultaneous assassination attempts complemented Mongoose rather than vice versa. Although the campaign failed, it was kept so secret that the American public was left with a fundamentally distorted view of United States-Cuba relations for more than a decade.

Before the committee's report, it was generally accepted that the Kennedy Administration ceased hostilities against Castro after the Bay of Pigs, until forced to act defensively by the unprovoked introduction of Russian missiles on Cuban soil. The Church committee revealed that not only were there repeated attempts on Castro's life before and after the missile crisis but covert Mongoose raids were being intensified throughout the period. The assassination report quotes the minutes of high-level meetings, less than two weeks before the missile crisis, at which Attorney Robert Kennedy spurred the C.I.A. on to hit Castro harder.

The assassination report, outside sources generally agree, was the high point of the committee's investigation. After that, the staff divided into two groups, one known informally as "the lawyers"—a group of attorneys drawn together largely by Schwarz—and the other as "the professors," who were generally foreign-policy experts with academic roots or Capitol Hill experience. Under task-force leader William Bader, the "professors" became responsible for the C.I.A. investigation, while the "lawyers" went off after the F.B.I. Frictions developed between the two groups, the Bader group tending to criticize the lawyers as too prosecutorial and "Watergate-minded," and the Schwarz team hinting that the Bader group was too soft in its handling of the C.I.A.'s pros. In any event, discouraged by the covert-action compromise, the "professors" never recovered the initiative.

In the House, the Select Committee on Intelligence chaired by Otis Pike—the counter part of the Church committee—pursued an arduous and independent course. Created only after a long internecine squabble over its leadership, its mandate weakened by continuing feuds in the House, the committee struggled through the summer of 1975 to breathe life into itself—seeking, on one occasion, to justify its existence by leaking the sensational but unverified story that Nixon aide Alexander Butterfield had been a C.I.A. "plant" in the White House. The story was refuted, leaving the committee with less credibility than ever. By fall, the traditional jealousy between the House and the Senate had flared up behind the scenes, and Mitchell Rogovin, negotiating with both committees, was finding them competitive. "Church," says Rogovin, "held his 'toxin hearings' because he was afraid Pike would do it if he didn't."

By December, the House and Senate committees were set on opposite courses. Pike wanted to impale the C.I.A. for its abuses. Church wanted to show that a Senate committee could handle national secrets responsibly. The Ford Administration played the committees against each other. When Pike demanded information and denounced "delaying tactics," Administration spokesmen would point to the exemplary behavior of the Church committee and appeal for a more cooperative spirit. When the Church committee cooperated, the Administration tended to see it as a sign of weakness and feel freer to hold back on information. Secretary of State Henry Kissinger and C.I.A. director William E. Colby simply boycotted all the covert-action hearings, and the committee accepted the rebuff instead of subpoenaing them.

"The object of the exercise," says a Church committee staff member, "was to prove that we were not Pike. We were not going to move the Congress or the public by more exposé. What was going to carry us was the kind of editorial we finally got in The Washington Post: 'An Intelligence Approach to Intelligence.'" The committee evidenced an increasing awareness of its public image, of its ability to keep secrets, avoid leaks and work in some semblance of public harmony with the C.I.A. Many on the committee staff endorsed this approach as the path toward "establishing a relationship" that would serve the Congressional committee that was to be set up to exercise oversight—supervision of the intelligence agencies. Some of these investigators have, in fact, moved on to jobs with the oversight committee, now in business. Their attitude was infectious: Even today, many former Church committee staff members are more reticent in discussing C.I.A. matters than C.I.A. officials themselves.

On Dec. 24, a band of unknown terrorists assassinated Richard Welch, the C.I.A. chief of station in Greece. Welch had been identified as a C.I.A. official by a small anti-C.I.A.. magazine, and a furor immediatey arose over whether the revelation had anything to with his death. The Senators on the Church committee received a flood of letters denouncing its work on the grounds that exposure of C.I.A. secrets is an invitation to the killing of C.I.A. officials.

Sources on both sides of the C.I.A. investigation now agree that neither the magazine nor the Church committee is likely to have caused Welch's death. He was a relatively well-known figure in Athens, certainly to the kind of organized political groups likely to have killed him. These probabilities were overwhelmed, however, by the emotional power of the tragedy, and the C.I.A. encouraged the idea that C.I.A. critics might have contributed indirectly to the murder. Rogovin would only tell the Church committee that its own investigations were not "directly" responsible. Colby lashed out in public at those who revealed C.I.A. secrets as being more sinister than the secrets themselves. Ford made public statements to the effect that inquiries into C.I.A. methods were unpatriotic.

No single event did more to turn public opinion against the investigations than the Welch affair. As 1975 ended, the press was shying away from the C.I.A. issue, and hostility toward the inquiry was building up in Congress itself. As to the C.I.A.'s private thoughts on whether naming senior officials makes them more vulnerable to "the other side," a move that escaped public attention may provide some insight: Welch was replaced in Athens by a man who had been identified as a C.I.A. official by Greek newspapers and an American magazine.

On Jan. 29, 1976, Representative John Young, Democrat of Texas, offered a motion on the House floor to suppress the final report of the Pike committee. The ensuing debate was not distinguished. Some speakers argued that the report—which they admitted they had not read—would endanger national security and align the House with the murderers of Richard Welch. Others, like Wayne Hays, argued for suppression on the grounds that the report would be boring: "I suspect . . . that when this report comes out it is going to be the biggest nonevent since Brigitte Bardot, after 40 years and four husbands and numerous lovers, held a press conference to announce that she was no longer a virgin." Views like these prevailed, and the House, by a vote of 246 to 124, ordered its own report to be locked away in the clerk's safe.

The document did not remain suppressed very long. It was leaked to CBS correspondent Daniel Schorr, who in turn leaked it to The Village Voice through a series of intermediaries. When The Voice published the report in two special supplements under banner headlines, it became the most spectacular leak of the C.I.A. investigations.

Pike developed two thematic criticisms of the C.I.A. First, he amassed evidence of repeated intelligence failures, showing how the agency had failed to anticipate such major world events as the 1968 Tet offensive in Vietnam, the Russian invasion of Czechoslovakia the same year, and the 1973 Yom Kippur war in the Middle East. Citing various bureaucratic entanglements and preoccupations as the cause of poor performance, Pike took the agency to task for bungling the one function—gathering intelligence—against which there is no audible dissent. Pike's second line of criticism was more substantive: He attacked covert action by revealing a few of the more startling case studies. His most poignant example involved the Kurdish minority in Iraq.

Like many of the world's mountain peoples—the Tibetans, the Meo in Laos, the Montagnards of Vietnam, the Indians of South America—the Kurds have always seemed destined for a hard time. They have been struggling against the Iraqi Government for years. For years they have been losing. In 1972, when the Kurdish campaign for autonomy was in a brief period of dormancy, the Shah of Iran asked the United States to help him in one of his perpetual feuds with neighborhing Iraq. This time it was a border dispute. The Shah wanted the United States to channel clandestine military aid to the Kurds, reasoning that American support would inspire the Kurds for another military offensive against the Iraqi Government, thus weakening Iraq and aiding the Shah.

Secretary of the Treasury John Connally, acting on behalf of Henry Kissinger and President Nixon, informed the Shah that the United States would go along. A $16 million covert-action project went into effect. According to Pike's documents, the deal was made in a convivial spirit—a favor to the Shah as one of the fellows. (He himself had been returned to power by the C.I.A. in a 1953 coup.) Even the C.I.A. opposed the scheme, but was overruled.

The agency funneled arms and money to the Kurds for more than two years, and the Kurds once again rose up in rebellion. Their leader was so moved by American support for the Kurdish cause that he sent Kissinger a gold and pearl necklace for his new bride. He also sent word to Kissinger that the Kurds were ready "to become the 51st state" after achieving liberation.

In March 1975, the bloodied Iraqi Government came to terms with the Shah. The very next day, Iran and the United States cut off all aid to the Kurds, and the Iraqi Army mounted a full-scale offensive against them. The Kurdish leader, who could not bring himself to believe the United States had reversed itself so cynically, wrote desperate, pitiful appeals for help to Kissinger. Kissinger did not reply.

An estimated 5,000 Kurdish refugees died fleeing the Iraqi onslaught. The Shah, pragmatic to the last, forcibly repatriated 40,000 Kurdish refugees to Iraq, where their fate, while unknown, has presumably been sad. The United States declined to provide any relief assistance to the remaining refugees and refused to accept a single Kurdish application for asylum.

This covert action remained secret, of course, until the Pike committee learned about it and leaked it to the press. To say the very least, the disclosure raised large questions about the compatibility of such covert actions with principles of any kind, as well as questions about how such decisions should be made. Yet no public debate arose, and except for a one-man crusade by The New York Times's columnist William Safire, the Kurdish undertaking was widely ignored in the press. The reason is simple: The substance of the Pike report was completely overshadowed by the controversy over how it was leaked.

Daniel Schorr first denied, and then admitted, being the intermediary source. His behavior helped draw attention to his own conduct and away from the conduct of the C.I.A. Leaks became the issue. President Ford pledged the full resources of the executive branch for the culprit on the Pike committee. The House of Representatives rose up mightily against the leak and authorized a $150,000 investigation by its ethics committee. A team of investigators began grilling the Pike committee staff, many of whose members left Washington in fear. Schorr, three other journalists and 18 committee staff members have been subpoenaed to appear before the ethics committee this Wednesday.

WELCOME POLISH BISHOPS: HANDS AND HEARTS ACROSS THE SEA

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. FARY. Mr. Speaker, recently, the Polish American people of Chicago had the distinct pleasure of meeting with a distinguished group of Polish bishops visiting the United States to attend the 41st International Eucharistic Congress. It was a most memorable occasion, and I would like to relate to my colleagues the contributions of the Polish people to the human community which has been extraordinarily rich and diverse since the beginning of their recorded history 1,000 years ago.

It was in 996 that the first historic ruler of that Nation adopted the Christian faith. The Roman Catholic Church was formally established in the year 1,000 and the way was prepared for the life and work of St. Stanislas, Bishop of Cracow, Patron Saint of the Polish nation and symbol of their unity. Through long centuries of triumph and tragedy, the Polish people have survived to the present day, due in large part to their unshakable faith in God. The character of that faith has been the secret of their strength in every age.

Poles have been in America since the 17th century. They take pride in their wholehearted participation in American life. In this Bicentennial Year they recall the dedication of Polish patriots such as Kosciuszko and Pulaski to the cause of American independence and to the freedom of Poland alike.

It is in this spirit that Americans of every faith have welcomed the recent visit to these shores by 16 bishops of the Catholic Church in Poland, headed by Karol Cardinal Wojtyla, Archbishop of Cracow.

The delegation, representing the Polish episcopate, were invited guests of the American Catholic bishops, at the 41st International Eucharistic Congress, held in Philadelphia last month. Their presence and participation in the congress, gathering in the birthplace of American liberty, witnessed to that unity and charity in faith which is symbolized in the Eucharist itself. For Americans, the "Church of Silence" in Poland and other lands under Communist rule was suddenly made real in a personal way. For our Polish visitors, the freedom and pluralism of American democracy was strikingly evident.

The visit coincided with annual collections received in all Catholic parishes that minister to American Catholics of Polish descent by the Catholic League for Religious Assistance to Poland, for almost 35 years a tangible symbol of the ties which unite Polish Catholics in Poland and in the United States. In the words of Bishop Alfred Abramowicz, executive director of the league: "Charity enkindles love, revives hope, sustains faith." This has been the guiding philosophy of the league since its founding in response to an appeal of Pope Pius XII for Poland during World War II.

During their trip to the United States and Canada, the bishops, individually and as a group, visited 17 American dioceses with heavy concentrations of Polish Americans, celebrated a Polish language Mass at the National Shrine of the Immaculate Conception in Washington, and shared in the Eucharistic Congress celebrations in Philadelphia. For me personally, and for millions of Americans, the visit to Chicago—as guests of John Cardinal Cody, archbishop of that great city—was a dramatic and unforgettable climax to the tour.

Welcomed by Cardinal Cody, Mayor Daley, and a host of dignitaries, civil and religious, Catholic and non-Catholic, the bishops were greeted with the traditional Polish gifts of bread, salt, and flowers, in behalf of the Chicago archdiocese and the Polish community. They were able to celebrate Masses throughout the metropolitan area in Polish Catholic churches and at Holy Name Cathedral. It was my privilege to greet Cardinal Wojtyla at Five Holy Martyrs Church in the Fifth Congressional District and to attend the testimonial dinner at the Conrad Hilton at which some 2,300 people were present to honor His Eminence.

Cardinal Wojtyla—one of the "papabili" or prelates most frequently mentioned as a possible successor to Pope Paul VI—created a deep impression of reverence, spirituality, and strength of character. Formerly a worker-priest and factory hand, he has served on the faculties of the Universities of Lublin and Cracow and is an ardent patron of the arts and sciences and of Polish cultural life. He is expected to succeed Cardinal Wyszinski on the latter's retirement as Primate of Poland, a crucially important office in this troubled era of crisis and change.

Bishop Boydan Bejze, auxiliary bishop of Lodz, was the guest of Five Holy Martyrs parish during the last part of his visit and celebrated daily Mass there. After most of the delegation had returned to Poland, he remained behind and was able to further his knowledge and contact within the Chicago community. He was particularly interested in the people's participation in the Eucharistic Liturgy, the upkeep of churches and Catholic schools, and the high level of cultural development in the city. He expressed his admiration for the pastoral work of Chicago priests, the interior design of the churches, and the ways in which modern technology is utilized for human betterment. He praised the program prepared for the delegation in Chicago for enabling the bishops to acquaint themselves with the different neighborhoods of the city, with the various parishes, and with individual priests and lay persons in great number throughout the archdiocese.

In retrospect, the visit represents an affirmation of spiritual freedom and of faith by Polish and American Catholics alike. It celebrated the heart of our American experiment in democracy—ethnic pluralism, the pride and strength which all Americans feel in their many and distinctive cultural, religious, and ethnic traditions. It inspired among us fresh admiration for the courage of Poland, her people and her ancient church, steadfast in faith despite all adversity. May God give to us in the Bicentennial Year of our liberties a like courage and a like devotion that will kindle a deeper faith among all our people as we face the challenges of our third century.

PRICE SUPPORTS NEEDED FOR COAL GASIFICATION

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, the price support provision of H.R. 12112, added by the House Committee on Banking, Currency and Housing, could facilitate the construction of coal gasification plants dedicated to providing gas for industrial plants.

This is a new provision in the bill. In its proper perspective, it is an important feature of the legislation.

Although making pipeline quality gas—1,000 Btu per cubic foot—from coal for distribution in the Nation's natural gas pipeline system will be the principal marketing system used by the gas industry to tap our rich coal reserves, there is another approach that is technically viable and is expected to be economically competitive in the 1980's. Aside from pipeline quality gas, consideration is being given by some gas utilities and large industries to producing medium-Btu—300 Btu per cubic foot—gas via coal gasification for use as fuel gas for heating and also chemical feedstock for such products as ammonia. Medium-Btu gas is interchangeable with natural gas for most industrial processes provided that the combustion equipment is modified slightly.

It is important to realize that the technology for medium-Btu gas is already established. The Lurgi, Koppers-Totzek, and Winkler processes are commercially available. The cost of a facility to produce the energy equivalent of 20 million cubic feet of natural gas per day is estimated in the $125 million range. These plants could be constructed adjacent to industrial users with high natural gas requirements. To the extent that synthetic gas is made available to industry, it either makes more natural gas available to higher priority residential and commercial users or it reduces the need for the industrial user to depend on alternates such as imported oil. We need the former so that we can well do without the latter.

The major economic difficulty in developing this domestic energy resource is that at this time, the price of medium-Btu gas is somewhat more costly than fuel oil. Thus, a large industrial fuel user cannot contract today for the medium-Btu gas supply without paying a premium price.

Mr. Speaker, the price support mechanism in the Teague substitute provides the assistance that would be necessary to build a few of these plants in the near future. The immediate need for building a few of these medium-Btu industrial coal gasification plants is the same as it is for the high-Btu Lurgi coal gasification plants currently planned for the Western States. These early commercial plants would demonstrate the economic, environmental, and social acceptability of coal gasification in preparation for future widespread commercialization.

For a given gas production rate, the expected investment for medium-Btu gasification is markedly less than for high-Btu gasification since high-Btu gasification requires more extensive gas processing to increase the heating value from 200 Btu per cubic foot to about 1,000 Btu per cubic foot. Thus, a small size medium-Btu plant could offset the economy of scale working against it.

The need for price supports to build the first few medium-Btu "commercial demonstration plants" becomes apparent when one examines the price of the product gas. One gas utility company that is interested in building such a plant in the Appalachian area has estimated that the 20-year average gas cost would be $4.50 per million Btu. This is too high for an industrial user today since fuel oil is available in the price range of $2 to $2.50 per million Btu. However, once the gasification plant is built, the cost of medium-Btu gas is expected to increase more slowly than oil prices since most of the cost elements in medium-Btu gas are not subject to the rampant escalation that world oil has experienced and probably will continue to encounter. Thus, it is believed that the present fuel cost differential in favor of fuel oil will diminish and be eliminated during the life of "commercial demonstration plants" that would be built and receive price support assistance under the provisions of H.R. 12112.

Mr. Speaker, the only viable way to promptly demonstrate medium-Btu coal gasification for industrial users is for the Government to eliminate the differential between the cost of the medium-Btu gas and the price of fuel oil. Providing fuel oil parity price supports is essential to demonstrating as soon as possible this important coal gasification concept. One gas company that has proposed such a project to ERDA has estimated that the Government's payments over the 20-year project life would total $170 million, or an average of $9 million per year.

This would be for a plant producing about 20 million Btu/day and having a capital investment of about $125 million. This is a good sized plant for industrial markets, and it would yield all the information needed to facilitate subsequent commercialization of the process without Government assistance in the 1980's, assuming the free market price for gas at that time is below the free market price for fuel oil.

GAS, OIL EFFORTS DECLINE

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. MILFORD. Mr. Speaker, I know there are many here who would agree with me that the United States has a severe energy supply shortage, and that nothing of significance is being done about it.

This is frustrating and disappointing, but it is a fact.

In a column which appeared last week in the Dallas Morning News, Clyde La Motte has not only summed up the lack of any forward progress in this Congress, but has made a good case that in some areas we are actually moving backward.

Mr. Speaker, I would like this column, which appeared under the headline "Gas, oil efforts decline" to appear in the RECORD:

GAS, OIL EFFORTS DECLINE

(By Clyde La Motte)

WASHINGTON.—As the presidential campaign begins to warm up, it is becoming increasingly apparent that the nation appears to be more concerned about abortion and a wide range of other issues than it is about the energy supply situation.

Even when energy enters into the Washington picture there is little meeting of minds, so the result is that about as much is being done to discourage more energy production as there is being done to encourage it.

For example, Congress last week was wrestling with tax "reform" legislation that would add to the burdens of the domestic producer and to the international companies even though the nation's dependency on overseas sources of supplies continues to grow rapidly.

Regarding natural gas, there was a growing awareness in Washington that if the winter ahead should be a bit colder than the recent mild ones, there will be some consumers doing without gas. Even so, legislation to free natural gas producers from price regulation remains dormant.

Instead of a natural gas deregulation bill, Sen. Adlai Stevenson (D.-Ill.) was pushing for a bill to give the Federal Power Commission more power to allocate short supplies in an emergency. That is, the emphasis is not on how to increase gas supplies but on how to decide who will get the short supply that will be available.

Similarly, Congress last week was in the final stages of consideration of off-shore legislation (S. 521) that would tend to slow down offshore oil and gas development even though most authorities feel that development of these resources offers the primary hope for slowing down the dependence on foreign oil supplies.

Regarding North Slope oil, there seems to be more concern over finding something wrong with the way the Trans-Alaska Pipeline is being built than there is over how to get that oil to the areas of the nation, such as the upper Midwest, where refiners are being caught in a bind because Canada is phasing out its shipments of crude oil to U.S. markets.

The conflict of priorities, tending to put additional obstacles in the way of energy development, also continue to be apparent in Washington.

Thus, the house recently followed the senate in rejecting an amendment which would have deleted the non-degradation section of the pending clean air act (H.R. 10498). This means it will be more difficult than ever to find a site for a new refinery or power plant.

On the administrative side, the Environmental Protection Agency has been insistent on a rapid phaseout of the use of lead in gasoline even though this could very well result in a gasoline shortage next summer equal to or worse than the shortage that occurred during the Arab oil embargo a little over two years ago.

Oil and gas are not the only energy fuels facing the problem of obstacles, delays and uncertainties created by Washington.

The coal industry has to cope with strong opposition to strip mining in the west and with environmental regulations that make any increase in coal consumption difficult.

The nuclear industry has been brought almost to a standstill by those who say it is too dangerous and therefore should be shelved.

There are countless other problems besetting domestic energy development, with little progress being shown in solving those problems.

Thus far, for example, legislation is still pending that would minimize the delay and avoid the court contests regarding selection of a transportation route for delivering north slope natural gas to lower U.S. markets. If this continues, it will be almost a decade before that gas will be available to U.S. consumers.

PANAMA CANAL—PART I, "WHO OWNS THE PANAMA CANAL ANYHOW?"

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. McDONALD. Mr. Speaker, the recent unrest in Panama has returned Panama to the headlines, with Panamanian dictator Omar Torrijos accusing the Central Intelligence Agency of creating his troubles. However, of greater interest to the American people, I believe, is our own government's determination to give away our rights and property, by turning over the American-purchased Canal Zone and the American-financed and American-built canal to whoever happens to be in political control of the Republic of Panama at any given time.

Therefore, it seems fitting to include an article on the subject by a distinguished expert on Latin American affairs, Harold Lord Varney, in the RECORD for the edification of those still confused on the question of "Who Owns the Panama Canal Anyhow?" The article was prepared by Mr. Varney earlier this year, in his capacity as head of the Committee on Pan-American policy.

WHO OWNS THE PANAMA CANAL ANYHOW?

(By Harold Lord Varney)

Who really owns the Panama Canal and its Canal Zone, and why?

Although the answer should be self-evident, men and women are asking this question with bewilderment throughout the world. It is being asked in the United Nations, in the councils of the so-called "Third World," in the controlled conclaves of the Iron Curtain countries. It is even being repeated in exalted circles in Washington. It overshadows the present Panama Treaty crisis.

Of course, the whole question is a fraud and a booby-trap.

It originated in the mouthings of the little minority of terrorists, led by Torrijos, who snatched Panama from the hands of its popularly elected President in 1968 and have ruled the Isthmus illegally ever since. It is a blackmail question, shrewdly designed to belittle and emasculate the United States in world opinion.

Let us examine its pretensions.

The facts are indelibly recorded by history. They predate the existence of the Republic of Panama itself. For seventy-three years, the United States has breathed into the tiny Republic of Panama whatever semblance of viability it has possessed as a nation. With American fostering and the magic of American billions working together, a pestilential and backward former province of Colombia has been transformed into a modernized, sanitized, and increasingly prosperous nation.

In return for our help in its birth, in 1903, Panama granted us the right to build, operate, and own a new Panama inter-oceanic canal. Panama signed the grant "in perpetuity." It was understood by both parties that the U.S. Senate would reject a treaty which did not contain a perpetuity clause, and that the U.S. would not build the canal without it. Until the advent of Torrijos' motley band sixty-five years later, our ownership was never seriously questioned.

Today, this mini-government that we have big-brothered since 1903 is attempting to stigmatize the United States as an unwanted intruder in the Isthmus. Although Torrijos does not speak for the majority of the Panamanian people, he has served a get-out order upon the United States. He contemptuously demands that Washington turn over the Canal to his regime, without compensation, in or before the year 2000. He declares that we must hand over the Canal Zone—now American soil—three years after the signing of a new treaty, presumably in 1980. In the event that we fail to comply with this ultimatum, he holds over our heads the *opéra bouffe* threat of Panamanian violence. "Panama will decolonize itself by 1977," he says, "whether negotiating or fighting." He boasts, "And I will lead them."

The sheer absurdity of such a defiance staggers the imagination. Not since Dean Swift's Lilliput has so little challenged so much. The United States is being threatened with attack. It is threatened by an imposter regime in a country of just 1,500,000 inhabitants. The threat is made in the name of a nation which has no standing army (its 9,000-man Guardia Nacional is only a police force). It talks violence to a nation with a population of 213,000,000 and armed forces of 2,174,000 men (11,000 of whom are actually stationed in the Canal Zone).

What has been Washington's reaction?

It would be reassuring to record that the United States has repudiated Torrijos' absurd demands with the scorn that such an insult invites. Unfortunately, it has not done so.

Instead of making a swift and blasting response, our Washington policymakers have chosen the path of weak-spirited temporizing On February 7, 1974, Secretary of State Kissinger visited Panama City and signed, with Torrijos' Foreign Minister, "The Principles of Agreement," in which he pledged the United States to surrender to the Republic of Panama both the Canal and the Canal Zone—the full quota of Torrijos' demands. Chief negotiator Ellsworth Bunker still sits in amicable conference with Torrijos' representatives, drafting a new U.S.-Panama treaty embodying Torrijos' crackpot demands to supplant the treaty of 1903. Aquilino Boyd, Torrijos' recently appointed Foreign Minister (a life-long anti-American), tried to frighten the recent O.A.S conference at Santiago by declaring that the situation ". . . is so explosive in Panama that it could cause explosive consequences, not only for the operation of the Canal, but also for the entire world."

When sane voices like that of Admiral Thomas Moorer, Chairman of the Joint Chiefs of Staff from 1970 to 1974, speak out and declare the necessity of maintaining U.S. operation of the Canal "in perpetuity," as stated in the 1903 treaty, their voices are drowned out by the cringing apologetics of the men around Kissinger, who are ready to surrender.

The palsied reaction toward Panama's aggression has even reached the White House. When President Ford was questioned about the Panama crisis, instead of giving heartening leadership to the American people, calling them to unity in defense of their rights, he declared that the negotiation of a new treaty will go on, and he warned, almost in Torrijos' words, that we are threatened by dangerous "violence" in the Isthmus. Apparently he has staked the fate of his administration upon a policy of pusillanimous surrender.

A worse consequence stems from the Administration's incredible timidity.

The demoralization of Washington is the obvious key to Torrijos' unexpected anti-American chutzpah. In the whole contest, his secret weapon has been the confidence that the present Washington establishment, steered by Insiders, will not stop him. He has only to unleash a student demonstration in the streets of Panama City, orchestrated by his stand-by thugs, to plunge almost all Washington into trembling jitters.

The bitter truth in Washington is that the United States is now on the point of handing over both Canal and Canal Zone on a dishonorable surrender platter.

The background of the Panama Canal situation which now confronts us goes back to a century of almost continuous fumbling and bafflement by nations interested in an inter-oceanic canal across Central America. The confusion lasted until 1903, when the United States, by its treaty with the newly established Republic of Panama, broke the deadlock and constructed the canal. The 1903 treaty will go down in history as a treaty that has worked. The short-sighted blunderers who are now clamoring for its annulment would plunge us back into the ugliness and uncertainties that prevailed in the disturbed years at the turn of the Century.

A brief examination of this background will do much to clarify the present discussion. It is a background dominated by four nations—France, Great Britain, Colombia, and the United States—each of which, in its own way, attempted to build or control an inter-oceanic canal. Let us take a brief glance at the rival and unsuccessful approaches to canal building made by other nations before the United States stepped finally and decisively into the picture.

FRANCE MEETS FAILURE

The French entry into the canal-building race was ambitious but disastrous. France actually attempted to build a canal. It failed miserably.

France made its entry with the glamor of Ferdinand de Lesseps' great success as the Suez Canal builder still dazzling the world. A French speculative company, seeing an inter-oceanic canal as a promising profit venture, sent Lt. Wyse of the French Navy to survey the different proposed routes. He recommended Panama. In 1878, he secured the necessary concessions from Colombia to proceed with the excavation. De Lesseps headed the project.

De Lesseps opted for a sea level canal such as he had built so successfully at Suez. The decision was a disastrous mistake. The company soon found itself with insufficient funds. It encountered landslides, floods, yellow fever and other calamities.

In 1889, the Company went into bankruptcy and the digging ceased. The wreckage of the endeavor was strewn over the Isthmus for the next quarter of a century as a mute reminder of the cruel difficulty of the task.

GREAT BRITAIN MUDDLES THE PICTURE

Meanwhile, the British were contemplating a canal over the Nicaragua route, which could take advantage of Lake Nicaragua. Their activities were complicated by a long-continued ambition to secure a stronger British foothold in Central America. In pursuit of this aim, they had seized the key Nicaraguan city of Bluefields in 1848. The U.S. took sharp action and, in 1850, the Clayton-Bulwer Treaty was signed. It was soon obvious that this was an American mistake, as it bound the U.S. to obtain the consent of other nations, should it decide to build a canal. For fifty-one years, this treaty stood in the way of any workable project for an American-built canal. The treaty was finally annulled by the Hay-Pauncefote Treaty of 1901. By that time, interest in the Nicaragua route had been abandoned.

COLOMBIA IS A STUMBLING BLOCK

Colombia balked at a new agreement in the hope of obtaining large compensation; but in 1903 it signed the Hay-Herrán Treaty with the United States. This provided for a payment of $10 million to Colombia, the award of a six-mile strip of land through the Isthmus with joint sovereignty by Colombia and the U.S. and a later payment of $250,000 a year to cover previous Panama Canal Company commitments. Had Colombia honored this overgenerous agreement, the subsequent Panama secession could have been avoided. Instead it overreached itself.

But in 1902, Congress, already distrustful of Colombia, had passed the Spooner Act, authorizing the President to acquire a canal zone for the building of a canal, but conditioning it upon "perpetual control" by the United States.

Discovering that no real progress could be made with Colombia, Washington welcomed the act of the people of the Panama province, when they revolted against Bogotá and set up the Republic of Panama. As any sane government, facing similar circumstances, would have done, it refused to provide transportation to Colombian troops in American carriers to put down the rebellion. For this refusal the United States has received strong but undeserved censure.

THE 1903 U.S.-PANAMA TREATY

The treaty which the government of the new Panama Republic signed with the United States in 1903 is, of course, the treaty which Torrijos-led Panama and our Kissinger-led Department of State are seeking to replace with a new treaty. Its principal controversial provisions are:

1. *Perpetuity*. The importance the parties attached to the permanence of the American presence in Panama is attested by the fact that the phrase "in perpetuity" appears at least five times in the Articles of the treaty. There is nothing ambiguous in its usage. The treaty specifies that the Republic of Panama grants to the United States in perpetuity "the occupation and control" of the land and waters of the ten-mile-wide Canal Zone in which the canal is located. There is no mention in the treaty of a reconsideration or revision of this status at any later date, such as Kissinger and Bunker are now discussing with Torrijos. The agreement was in perpetuity—for keeps.

2. *Sovereignty*. Similarly, the treaty contains no qualification of America's rights to sovereignty over the Canal Zone. The language is explicit:

"The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned . . . which the United States would possess and exercise if it were the sovereign of the territory within which said waters and land are located, to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

The operative word in this passage is "entire."

Former President William Howard Taft unintentionally confused the treaty issue by introducing the expression "titular sovereignty" into the discussion, meaning the words to apply to the unlikely possibility that the United States might discontinue operation of the Canal. The final word on "titular sovereignty" was pronounced by the U.S. Supreme Court in 1907 in Wilson v. Shaw, 204 U.S. 24.) The court declared:

"It is hypocritical to contend that the title of the United States is imperfect, and that the territory described (the Canal Zone) does not belong to this nation because of the omission of some of the technical terms used in ordinary conveyances of real estate."

Obviously, the United States cannot divest itself of sovereignty over the Canal Zone, as Kissinger proposes, without voiding its whole status in the Isthmus.

3. *Defense*. The treaty speaks for itself on the subject of defense, now being gravely jeopardized by Torrijos' proposed take-over. It says:

"If it should become necessary at any time to employ armed forces for the safety or protection of the Canal, or of the ships that make use of the same, or the railway and auxiliary works, the United States shall have the right, at all times and in its discretion, to use its police and its land and naval forces or to establish fortifications for these purposes."

It should be noted that the treaty language vests the United States, not Panama, with the discretionary power.

From the foregoing, it is clearly obvious that the major consideration guiding Washington policy, through the years 1901–1903, was the determination that we should possess permanent and exclusive control of the projected canal. It was only with the understanding that this would be the case that we embarked upon the venture in 1903. It was only because the canal was indisputably ours that we have, since that date, poured out 6.8 billion dollars of American taxpayers' money on its construction and upkeep.

In reversing American policy, Kissinger and his pals, who now babble about "a new era" in the Canal as partners of the Communist-trained Torrijos, desecrate the memory of the great men whose lives are immortalized by this canal. They are breaking faith with George W. Goethals, who constructed the canal where de Lesseps had failed; with William C. Gorgas, whose incomparable sanitation leadership made the Isthmus habitable; with our great Secretary of State, John Hay, who steel-riveted American rights during the fierce diplomatic wars that raged at the turn of the century; with Theodore Roosevelt, whose rock-like firmness made the whole dream come true.

Unfortunately, the memory of these towering figures means nothing to the frightened men in Washington. We are being asked to give away their monument.

THE REAL TRUTH ABOUT VIETNAM SHOULD BE TOLD

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. CRANE. Mr. Speaker, as Communists do whenever they inflict their rule upon a country through the use of force and violence, the history of that country is rewritten.

In the Soviet Union itself, depending upon which forces are in control at the moment, history books are repeatedly revised. Stalin has been a featured figure one year, omitted almost entirely the next, and restored to prominence a short time later. This, we have learned, is the nature of totalitarian government.

In North Vietnam, Radio Hanoi has initiated a program called "What Do You Know About Vietnam?" Among the questions being asked are,

> How many tons of bombs did the U.S. imperialists drop on the Vietnamese people?

Columnist John Lofton believes that a number of other questions, which are not being asked, would more clearly describe the reality of that country's history.

One of those questions suggested by Mr. Lofton is this:

> After the Communists took power in North Vietnam in 1954, how many people did they execute as a part of their forced "land reform" program?

Mr. Lofton's answer:

> The most probable figure—drawn from detailed eye-witness testimony and corroborated by official North Vietnamese admissions—is approximately 50,000.

The fact is that in a totalitarian state such as Vietnam has now become, such questions cannot be asked. Mr. Lofton points out that,

> Obviously, I am being facetious in suggesting these questions. Anyone in North Vietnam asking them, or answering them, would not be around come March 31, 1977.

The world must not close its eyes to the reality of the tyranny which is now being imposed upon the people of South Vietnam, Laos, and Cambodia. While the United Nations continue hypocritically to condemn its favorite targets—such as Israel and South Africa—not a word is said about the subjugation of the peoples of Indochina. The double standard of the world body could not be made more clear.

I wish to share with my colleagues the column by John D. Lofton, Jr., " 'Question Time' On Radio Hanoi Overlooks Some Real Lulus," as it appeared in the Rocky Mountain News of August 18, 1976, and insert it into the RECORD at this time.

[From the Denver (Colo.) Rocky Mountain News, Aug. 18, 1976]

"QUESTION TIME" ON RADIO HANOI OVERLOOKS SOME REAL LULUS

(By John D. Lofton, Jr.)

The word from Bankok, Thailand, from those individuals who monitor such things, is that Radio Hanoi has decided to brighten its programming format a bit by introducing its listeners to a write-in contest called "What Do You Know About Vietnam?"

A couple of the questions asked thus far have been:

"How many tons of bombs did the U.S. imperialists drop on the Vietnamese people?"

And:

"On what date was Saigon liberated?"

Those who answer these questions correctly are promised "a prize" provided their answers are received by March 31, 1977.

Now, I have no idea who's writing Radio Hanoi's copy, but these questions are softballs. I mean, every man, woman and child in North Vietnam knows the answers to these questions.

So, I'd like to suggest some real toughies, some questions that are not only challenging but are informative as well. For my facts and figures, I am indebted to Hoover Institution Fellow Robert F. Turner, author of "Vietnamese Communism: Its Origins and Development."

Q. How many piasters did French colonial authorities pay Soviet Comintern agent Ho

Chi Minh to betray the anti-French, Vietnamese patriot, Phan Boi Chau?

A. There is a difference of opinion. Vietnam scholar Joseph Buttinger says 150,000; another Vietnam scholar, Hoang Van Chi, in his book, "From Colonialism to Communism," says 100,000. This payoff was made at a time when five piasters bought one buffalo.

Mr. Chau, called "Vietnam's Sun Yat-sen" by the late Bernard Fall, is credited with having directly or indirectly, through his teachings, influenced nearly every act of anti-French resistance during the first quarter of this century. In June of 1925, he was lured to Shanghai by Ho Chi Minh, ostensibly to discuss furthering the anti-French resistance movement. When Mr. Chau agreed to the meeting, "Uncle Ho" informed the French, who arrested him when he got off the train and returned him to Haiphong for trial.

Mr. Chau was sentenced to death but because of the widespread public outcry this sentence was commuted to life imprisonment. He served the rest of his life under house arrest, and was finished as a revolutionary. Ho subsequently got his dough.

Q: When the Communists took over North Vietnam in 1954, how many people fled South to freedom?

A: By July 20, 1955, the International Control Commission reported that 892,876 North Vietnamese had been processed through official refugee stations. The total number is probably closer to one million by including those who escaped South independently. In late 1954, Time magazine quoted articulate refugees as saying they had left the North because the Communists "destroyed the customs and friendliness of the past, and have spat upon family ties and religion."

Q: After the Communists took power in North Vietnam in 1954, how many people did they execute as a part of their forced "land reform" program?

A: The most probable figure—drawn from detailed eye-witness testimony and corroborated by official North Vietnamese admissions—is approximately 50,000.

Turner writes:

"In addition to those who were executed, one must also consider the indirect casualties: The landlords who committed suicide to avoid execution and torture, and the members of the families of convicted individuals who were forced by an isolation policy to die of starvation. This figure is even more difficult to ascertain, but estimates of 300,000 to 500,000 are common and most authorities place the number in at least six figures."

Q: During the 1968 Tet offensive, how many people were murdered by the Communists when they temporarily captured the South Vietnamese city of Hue?

A: As a result of ready-prepared "Blood Debt Lists," anywhere from 3,000 to 5,000 so-called "class enemies" and "puppet administrative personnel" were systematically killed. This represents between 5 per cent and 10 per cent of the entire city.

Speaking of the "liberation" of South Vietnam, Radio Hanoi might also want to ask the question:

How goes it since the Communist takeover 16 months ago?

According to Tiziand Terzani, who visited Saigon recently, the answer is:

Not well, not well at all, if one is a non-Communist.

Writing in the New York Review of Books last month, Terzani, a reporter for the German magazine Der Spiegel, says at least 200,000—some would claim 300,000—persons have been put in Communist "re-education camps," which are dispersed throughout South Vietnam but mainly in remote areas and the jungles. Calling what is going on now in South Vietnam "a hard, painful process," Terzani writes:

"The signs of a firmly authoritarian political line are emerging. One observer defined it to me as 'Stalinist-Confucian.' "

Obviously, I am being facetious in suggesting these questions. Anyone in North Vietnam asking them, or answering them, would not be around come March 31, 1977.

Incidentally, how many months must pass before some liberal somewhere calls on the new Saigon government to broaden its base by including at least one anti-Communist?

HOUSE OF REPRESENTATIVES—*Thursday, September 23, 1976*

The House met at 10 o'clock a.m.

Rev. John G. Marvin, Chevy Chase Presbyterian Church, Washington, D.C., offered the following prayer:

Almighty God, how Thou hast blessed us and how little Thou dost require of public servants, but "to do justly, love mercy, and walk humbly" with Thee.

We would do justly. In these twisted times guide us along the razor's edge of integrity. In divisive issues and the heat of national elections forgive our pride and prejudice and help us to practice what we preach.

We would love mercy. Bless the mission of the Secretary of State overseas and the visit of President Tolbert of Liberia here today. As we reach out into space and search for life on Mars, forgive our blindness to the needy at our door. Make us not so much our brother's keeper as our brother's brother.

We would walk humbly with Thee. We cannot bear the weight of national responsibility unless we lean back hard on Thee. We cannot know the future unless we know the One who holds the future, so hold us in Thy hands this day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 589. An act to authorize the Secretary of the Interior to provide relief to the Santa Ynez River Water Conservation District due to delivery of water to the Santa Ynez Indian Reservation lands.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12838) entitled "An act to amend and extend the National Foundation on the Arts and Humanities Act of 1965, to provide for the improvement of museum services, to establish a challenge grant program, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12987) entitled "An act to authorize appropriations for fiscal year 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, for carrying out title VI of the Comprehensive Employment and Training Act of 1973, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14238) entitled "An act making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes," and that the Senate agreed to the amendments of the House to the amendments of the Senate numbered 90 and 91 and receded from its amendment numbered 56 to the foregoing bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15194) entitled "An act making appropriations for public works employment for the period ending September 30, 1977, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3052) entitled "An act to amend section 602 of the Agricultural Act of 1954."

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 3430. An act to amend the act approved August 18, 1970, providing for improvement in the administration of the National Park System by the Secretary of the Interior and clarifying authorities applicable to the National Park System, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 15068. An act to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1976 in certain disaster areas in South Carolina and Georgia.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 3843. An act to name the Visitors' Center at the Sleeping Bear Dunes National Lakeshore the "Philip A. Hart Visitors' Center"; and

S. 3844. An act to name a certain Federal building in Grand Rapids, Mich., the "Arthur H. Vandenberg Building."

The message also announced that the Vice President, pursuant to Public Law 79–304, appointed Mr. ROTH as a member, on the part of the Senate, of the Joint Economic Committee, in lieu of Mr. FANNIN, resigned.

TO PROVIDE FOR ESTABLISHMENT OF A CONSTITUTION FOR THE VIRGIN ISLANDS

(The proceeding whereby the House concurred in the Senate amendment with an amendment on September 23, 1976, to the bill H.R. 9460, which were printed with error, reads as follows:

TO PROVIDE FOR ESTABLISHMENT OF A CONSTITUTION FOR THE VIRGIN ISLANDS

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill H.R. 9460, an act to provide for the establishment of a constitution for the Virgin Islands, with the Senate amendment thereto and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That the Congress, recognizing the basic democratic principle of government by the consent of the governed, authorizes the people of the Virgin Islands to organize a government pursuant to a constitution of their own adoption as provided in this Act.

SEC. 2. (a) The Legislature of the Virgin Islands is authorized to call a constitutional convention to draft, within the existing territorial-Federal relationship, a constitution for the local self-government of the people of the Virgin Islands.

(b) Such constitution shall—

(1) recognize, and be consistent with, the sovereignty of the United States over the Virgin Islands, and the supremacy of the provisions of the Constitution, treaties, and laws of the United States applicable to the Virgin Islands, including, but not limited to, those provisions of the Organic Act and Revised Organic Act of the Virgin Islands which do not relate to local self-government;

(2) provide for a republican form of government, consisting of three branches: executive, legislative, and judicial;

(3) contain a bill of rights;

(4) deal with the subject matter of those provisions of the Revised Organic Act of the Virgin Islands of 1954, as amended, which relate to local self-government; and

(5) provide for a system of local courts consistent with the provisions of the Revised Organic Act of the Virgin Islands, as amended.

SEC. 3. The members of such constitutional convention shall be chosen as provided by the laws of the Virgin Islands (enacted after the date of enactment of this Act): *Provided, however,* That no person shall be eligible to be a member of the constitutional convention, unless he is a citizen of the United States and qualified to vote in the Virgin Islands.

SEC. 4. The convention shall submit to the Governor of the Virgin Islands a proposed constitution for the Virgin Islands which shall comply with the requirements set forth in section 2(b) above. Such constitution shall be submitted to the President of the United States by the Governor of the Virgin Islands.

SEC. 5. Within sixty calendar days after the date on which he has received the constitution, the President shall transmit such constitution together with his comments to the Congress which may modify or amend the proposed constitution. As approved by the Congress, the construction shall be submitted to the qualified voters of the Virgin Islands for acceptance or rejection through an islandwide referendum to be conducted as provided under the laws of the Virgin Islands (enacted after the date of enactment of this Act). Upon approval by not less than a majority of the voters participating in such referendum (counting only the affirmative or negative votes), the constitution shall become effective in accordance with its terms.

The Clerk read the amendment to the Senate amendment as follows:

In lieu of the matter to be inserted by the Senate to the text of the bill insert the following:

"That the Congress, recognizing the basic democratic principle of government by the consent of the governed, authorizes the peoples of the Virgin Islands and of Guam, respectively, to organize governments pursuant to constitutions of their own adoption as provided in this Act.

"SEC. 2. (a) The Legislatures of the Virgin Islands and Guam, respectively, are authorized to call constitutional conventions to draft, within the existing territorial-Federal relationship, constitutions for the local self-government of the people of the Virgin Islands and Guam.

"(b) Such constitutions shall—

"(1) recognize, and be consistent with, the sovereignty of the United States over the Virgin Islands and Guam, respectively, and the supremacy of the provisions of the Constitution, treaties, and laws of the United States applicable to the Virgin Islands and Guam, respectively, including, but not limited to, those provisions of the Organic Act and Revised Organic Act of the Virgin Islands and the Organic Act of Guam which do not relate to local self-government.

"(2) provide for a republican form of government, consisting of three branches: executive, legislative, and judicial;

"(3) contain a bill of rights;

"(4) deal with the subject matter of those provisions of the Revised Organic Act of the Virgin Islands of 1954, as amended, and the Organic Act of Guam, as amended, respectively, which relate to local self-government;

"(5) with reference to Guam, provide that the voting franchise may be vested only in residents of Guam who are citizens of the United States;

"(6) provide for a system of local courts consistent with the provisions of the Revised Organic Act of the Virgin Islands, as amended; and

"(7) provide for the establishment of a system of local courts the provisions of which shall become effective no sooner than upon the enactment of legislation regulating the relationship between the local courts of Guam with the Federal judicial system.

"SEC. 3. The members of such constitutional conventions shall be chosen as provided by the laws of the Virgin Islands and Guam, respectively, (enacted after the date of enactment of this Act): *Provided, however,* That no person shall be eligible to be a member of the constitutional conventions, unless he is a citizen of the United States and qualified to vote in the Virgin Islands and Guam, respectively.

"SEC. 4. The conventions shall submit to the Governor of the Virgin Islands a proposed constitution for the Virgin Islands and to the Governor of Guam a proposed constitution for Guam which shall comply with the requirements set forth in section 2(b) above. Such constitutions shall be submitted to the President of the United States by the Governors of the Virgin Islands and Guam.

"SEC. 5. Within sixty calendar days after the respective date on which he has received each constitution, the President shall transmit such constitution together with his comments to the Congress. The constitution, in each case, shall be deemed to have been approved by the Congress within sixty days after its submission by the President, unless prior to that date the Congress has approved the constitution, or modified or amended it, in whole or in part, by joint resolution. As so approved or modified, the constitutions shall be submitted to the qualified voters of the Virgin Islands and Guam, respectively, for acceptance or rejection through islandwide referendums to be conducted as provided under the laws of the Virgin Islands and Guam, respectively, (enacted after the date of enactment of this Act). Upon approval by not less than a majority of the voters (counting only the affirmative or negative votes) participating in such referendums, the constitutions shall become effective in accordance with their terms."

Amend the title of the House bill to read "An Act to Provide for the Establishment of Constitutions for the Virgin Islands and Guam."

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. DON H. CLAUSEN. Mr. Speaker, reserving the right to object, and I do so only for the purpose of asking if the gentleman from California (Mr. BURTON) will explain to the Members of the House what the amendment will do.

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman will yield, as the gentleman from California knows, the House passed, without dissent, about a year ago, legislation authorizing local home rule constitutions for Guam and the Virgin Islands. The Senate has urged upon us, with success, the rearrangement of the time sequence. The bill, as provided for in this amendment, would have the proposed constitutional convention recommendations be first submitted to the House, the Senate and the President of the United States, before being submitted to the people, rather than as in the House bill, following.

Mr. DON H. CLAUSEN. The minority concurs that the compromise worked out by the gentleman with the Senate is acceptable.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

SYNTHETIC FUELS AND SUBSIDIES

(Mr. OTTINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OTTINGER. Mr. Speaker, today we are being asked to reconsider a bill providing multibillion-dollar loan guarantees for synthetic fuels which has already been defeated by a vote of 2 to 1 in the House. The main fight will be on the rule.

The Washington Post on Monday, September 20, in an editorial entitled "Synthetic Fuels and Subsidies" stated:

> That bill to subsidize synthetic fuels has more lives than a cat. The House of Representatives threw it out the window last December, but now it's back meowing at the door. The House needs to remind itself that the animal has a voracious appetite. The farther it goes in these last days of the session, the more Congress is likely to regret it in years to come.

Mr. Speaker, there are 187 Members of this body who have signed a "Dear

Colleague" letter addressed to the Members urging defeat of the rule.

I think the cat we are dealing with here is really a tiger and I hope we will, just temporarily, send him up a tree.

PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that during the 5-minute rule today the Committee on House Administration may sit.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

SOVIET JEWS FACE ARREST FOR FLOWER-BEARING OBSERVANCE AT BURIAL GROUND

(Mr. BRODHEAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRODHEAD. Mr. Speaker, next Wednesday, September 29, marks the 35th anniversary of the tragedy at Babi Yar, site of the slaughter of 100,000 Russian Jews by the Nazis during World War II.

It has been the practice of the Jewish community of Kiev to commemorate the occasion by bringing flowers to the burial ground. Each year, Jewish families from the Kiev district participate in the solemn observance for relatives killed at Babi Yar in 1941.

This year, the observance has been clouded by threats from the Russian police. Those who wish to bring flowers to the burial ground have been threatened with arrest and long-term imprisonment.

I do not know why the Russian Government wishes to prevent this day of mourning. Certainly, it is to be a peaceful observance and it is in no way critical of the Government. In a very real sense, it is a family event; for there are very few Jewish families in Kiev who do not have a relative in the burial ground. Yet the families have been told, "We do not want any of your dirty Zionist flowers."

I have protested this denial of basic human rights in the strongest terms in a telegram to Secretary Brezhnev and I urge my colleagues to do the same. I believe that the best way to insure that the rights of these Soviet Jews are protected is to bring the matter under full public scrutiny. I know that my speech before the House of Representatives and the subsequent printing of it in the CONGRESSIONAL RECORD will achieve that end.

If the Russians indeed plan to arrest and imprison their Jewish citizens for laying flowers on this tragic grave, then I plan to see that they will bear the full weight of public knowledge.

Additional speeches will be made on this floor on Monday and Tuesday. If the Russian police follow through with their threats, then you and Secretary Brezhnev can expect to hear from me once again.

CALL OF THE HOUSE

Mr. OTTINGER. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 801]

Abzug
Ambro
Andrews, N.C.
Archer
Badillo
Bell
Brown, Calif.
Brown, Mich.
Burke, Calif.
Carter
Chisholm
Clancy
Clay
Conlan
Conyers
Corman
Diggs
Dodd
Drinan
Edwards, Calif.
Esch
Fenwick
Fraser
Giaimo
Gibbons
Gradison
Green
Gude
Hall, Tex.
Hammerschmidt
Harris
Hébert
Heinz
Helstoski
Henderson
Hicks
Hinshaw
Howe
Jarman
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Landrum
Leggett
Lehman
McCloskey
McCollister
McKinney
Maguire
Matsunaga
Mink
Mitchell, Md.
Moffett
Neal
Nix
O'Hara
O'Neill
Patterson, Calif.
Pepper
Peyser
Rangel
Rees
Reuss
Riegle
Ruppe
Ryan
Santini
Sarasin
Satterfield
Scheuer
Schneebeli
Shuster
Smith, Nebr.
Spellman
Steelman
Steiger, Ariz.
Stokes
Stuckey
Sullivan
Treen
Tsongas
Udall
Wilson, Tex.
Wirth
Wolff
Young, Tex.

The SPEAKER. On this rollcall 344 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the Appropriations Committee may have until midnight tonight to file a report on a joint resolution making continuing appropriations for fiscal year 1977, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. MICHEL. Mr. Speaker, reserving the right to object, did I understand the gentleman's request was to make in order the continuing resolution anytime next week?

Mr. MAHON. If the gentleman will yield, after this unanimous-consent request is disposed of, I would then make that request.

Mr. MICHEL. Further reserving the right to object, conceivably, that could then be considered on Monday. Is it the intention of the chairman that we deal with that subject on Monday? Does it have to be done then?

Mr. MAHON. If the gentleman will yield, we need to get the continuing resolution over to the other body as soon as we can. Of course, I have just asked unanimous consent simply to have until midnight tonight to file the report.

If the gentleman will yield further, my next request will be that it shall be in order on Monday next or any day thereafter to consider in the House the continuing resolution.

Mr. MICHEL. Mr. Speaker, further reserving the right to object, I do not intend to delay the proceedings, but there are going to be a number of Members involved on Monday in activities and they may not be present. I would hope that conceivably that measure could be put off until Tuesday. The reason I mention it is that I have seen it on the tentative schedule for next week, and it presents a problem. I am not going to object to the chairman's request, but if it does not appear that it is absolutely essential to bring it up Monday, can it be scheduled for Tuesday? I would appreciate the gentleman's consideration of our problem and exercising his influence accordingly.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

MAKING IN ORDER CONSIDERATION OF A JOINT RESOLUTION MAKING CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1977, ON MONDAY NEXT OR ANY DAY THEREAFTER

Mr. MAHON. Mr. Speaker, I ask unanimous consent that it may be in order in the House on Monday next or any day thereafter to consider a joint resolution making continuing appropriations for the fiscal year 1977, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, is that the only time the gentleman can bring the bill up?

Mr. MAHON. If the gentleman will yield, Monday or any day thereafter is the request. We are trying to get this resolution to the House and over to the other body as soon as we can, because we are going to adjourn the next weekend and we would need to get this finished.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, is there any chance the gentleman and his committee could bring it up on Tuesday?

Mr. MAHON. Tuesday would represent just 1 more day of delay, which places us in some degree of jeopardy. We would not have to bring it up as the first order of business on Monday. It could be brought up later in the day.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORT

Mr. SISK. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file a privileged report.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 12112, LOAN GUARANTEE FOR DEMONSTRATION OF NEW ENERGY TECHNOLOGIES

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1545 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1545

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12112) to provide additional assistance to the Energy Research and Development Administration for the advancement of nonnuclear energy research, development, and demonstration. After general debate, which shall be confined to the bill and to amendments made in order by this resolution and which shall continue not to exceed four hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Currency and Housing, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider in lieu of the committee amendments printed in the bill the amendment in the nature of a substitute printed on pages H9179–H9184 of the Congressional Record of August 26, 1976, by Representative Teague as an original bill for the purpose of amendment under the five-minute rule, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI, are hereby waived. It shall also be in order to consider the amendment recommended by the Committee on Interstate and Foreign Commerce now printed on pages 107 through 133 of H.R. 12112, if offered as an amendment to section 1 of said amendment in the nature of a substitute, prior to the consideration of perfecting amendments to that section, notwithstanding the provisions of clause 7, rule XVI. No amendment to said amendment in the nature of a substitute or to the amendment recommended by the Committee on Interstate and Foreign Commerce shall be in order except germane amendments printed in the Congressional Record at least one legislative day prior to the offering thereof and pro forma amendments and no amendments to section 2 of said amendment in the nature of a substitute shall be in order except amendments offered by direction of the Committee on Ways and Means. At the conclusion of consideration of H.R. 12112 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from California (Mr. Sisk) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. Anderson), pending which I yield myself such time as I may consume.

Mr. Speaker, if I may, I would like to explain to the membership the division of time on the rule, and I would appreciate very much having the attention of the Members so that I may outline the problem that we have in connection with this rule.

In view of the fact that it seems that there is going to be a substantial attack on the rule, it would be correct to say that this rule probably will be the key to the consideration of this matter because in fact if we cannot adopt the rule, that is, of course, the end of the line.

Therefore, in order to be completely fair or at least as fair as I know how to be, I am going to take the 30 minutes which I have reserved for this side and divide it, giving 15 minutes to the opponents of the rule and 15 minutes to the proponents of this particular rule. The gentleman from Illinois (Mr. Anderson) will, of course, use his own judgment in connection with division of time. We are trying to be completely fair and yet at the same time retain the right to speak for those who desire to support this particular rule.

Mr. Speaker, this resolution, as has been indicated and understood by those Members who listened to the reading of the resolution, makes it perfectly clear that this is basically an open rule. I regret the charges that there is necessarily anything in the resolution that could be construed as meaning we are considering a closed rule in this matter. There is one matter out of the Committee on Ways and Means dealing with the Internal Revenue Code that is closed. However, that refers to a very small part of the bill. The balance of the bill is completely open.

Because of the complexity of the subject matter at issue, it was felt to be advisable and it was generally agreed by every member of the Committee on Rules that the resolution should require that the amendments be printed in the body of the Record at least 1 day prior to consideration.

It is a long, complicated rule; yet, if we analyze it and pay some attention to it, it is really not all that complicated.

Mr. Speaker, there are four committees that have an interest in and concern with this matter. Again, the Committee on Rules has attempted to be pretty fair.

Mr. Speaker, the four committees have been named in the reading of the resolution. They will be given an opportunity in each case to present their positions in connection with the fact that they will be provided 1 hour for each of the four committees.

Mr. Speaker, I am not going into any detailed discussion of the technicalities of this particular piece of legislation because this has been around quite a long while. All I am going to urge is that we adopt this resolution and permit the committees to proceed to present the case to the people.

Mr. Speaker, let me conclude on this note, and then I wish to reserve the balance of my time: This bill is a very, very important matter. I think there is nothing before this Congress that should be of any more concern than this particular piece of legislation and some others similar to it, because yesterday afternoon we passed a bill, and we passed it with my support, which I am terribly afraid may and could very well lead to another oil embargo.

Mr. Speaker, when we look today at this unbelievable dependence we have upon the Arab countries for our energy, approaching 50 percent, and are doing little or nothing—at least if we turn this bill down—to offset that and try to become energy self-sufficient, then it seems to me there is nothing in the world that is more important for this Congress to be concerned with than trying to become more self-sufficient in connection with the production of energy.

Mr. Speaker, I urge adoption of the resolution, and reserve the balance of my time.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I am going to be very brief because I have tried, like the gentleman from California (Mr. Sisk), to very carefully allocate the time on this side of the aisle between those who are opposed to and those who are in support of the rule.

As to the rule, I cannot agree that it is unprecedented or restrictive. Under the terms of the rule, as we have already heard, the debate time is going to be divided between the chairmen and the ranking minority members of the four committees who dealt with this legislation.

Mr. Speaker, I appeared in the well of this House yesterday and urged the defeat of the rule on another bill because I felt that it very unfairly invaded the jurisdiction of another committee which was not given any time to present its views on the bill.

In contrast to that today, the committees concerned with this legislation, four in number, are given time under the rule; and they will have an opportunity to express their views on the legislation.

Mr. Speaker, I frankly think that it is sufficiently important, regardless of our substantive differences on the legislation—and they are many—and it is only fair for the House and for the committees who for many, many months have worked on this legislation to adopt the rule and give the committees the opportunity to be heard.

Mr. Speaker, the pilot projects that would be provided for under the loan guarantees that are set up in the legislation would give us the experience that we need, the working experience that we need, to encourage the investment that is going to be required for the plants that would then come on stream in 1990 and that will deal with the real problem that will then exist as far as energy supplies are concerned.

Furthermore, I am told by Members of this House whom I respect very highly that we cannot find the kind of empirical data we need to build these plants in the laboratory. We cannot acquire that knowledge simply by building pilot plants. We have to have the large-size demonstration plants that are provided for and that would be funded under the guarantees of this legislation.

Mr. Speaker, let me, before I use all of my time, also suggest, particularly to my friends on the Democratic side of the aisle, that I have in my hand telegrams from Robert Georgine, president of the Building Construction Trades, and I have a very persuasive letter from our old friend Andrew Biemiller, the director of the department of education of the AFL–CIO, urging, in very strong terms, support for this bill, a favorable vote on this legislation.

Mr. Biemiller particularly, I think, is persuasive when he makes the argument that the importance of this legislation is underscored by the fact our nation today is more dependent on imported oil from very insecure sources and more vulnerable in that regard than we were way back in 1973.

Do we really want the Members to go home to the American people and advise the electorate before the election which is a little more than 6 weeks hence that we were even unwilling to adopt the rule and debate this very important legislation? Or, as one Member of this body has put it in his "Dear Colleague" letter, "Defeat the rule and get home for Christmas."

Members of the House, if it took until Christmas to deal with this important issue, we should be here, we should be meeting our responsibility. The requirement to place the amendments in the RECORD is not restrictive, instead, it seems to me to be a very orderly procedure by which we can deal with amendments to an admittedly very complex piece of legislation.

Mr. Speaker, I hope, very earnestly, we will adopt the rule in this case and proceed to debate the bill.

Mr. SISK. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I think it is an absolute outrage that we are asked to consider this complex and very controversial legislation at this time with just 5 legislative days left in this session, with important legislation that the House wants to support still pending, like the solid waste disposal bill, ConRail amendments, special unemployment assistance, the Peanut Act, the lobbying bill, and a great many more. There are some 33 bills in conference that we will have to consider in these next 5 days, including important appropriations measures, and bills such as the Clean Air Act, Water Pollution Act amendments and Revenue Sharing. This bill has already been defeated once resoundingly by virtually a 2 to 1 vote in this body, and to take it up at this point is an undue imposition upon the Members.

It was not my fault or that of the Commerce Committee or anyone else but the Science Committee itself that this bill comes to us so late. The last committee to consider and report on this legislation, the Commerce Committee, reported it out on June 25. A rule was not requested until August 27, 60 days later, and the Committee on Rules met on September 8. So, although I was accused before the Rules Committee hearings by the other side of delaying consideration of this bill, it is just simply not so.

As I say, this bill was defeated once before. It was defeated for good reason. It is a bad bill setting a bad precedent for "socialized free enterprise" where the Government takes all the risks and the companies make all the profits even on Government funds.

Since that defeat, we have held full hearings on the bill. I would like to say to the gentleman from Texas (Mr. TEAGUE) there is no one more patient, more agreeable, more anxious to be cooperative than he, but the more we considered this bill the worse it appeared. Since this bill was turned down by this body last December, the GAO has come out firmly saying that this is unsound economically and that it is also unsound from energy and environmental viewpoints. GAO concluded:

> Serious questions exist regarding any national commitment at the present time to uneconomic, high-cost supply technologies which substantially exceed the cost of imported oil. Certainly, larger commitment to building complex, highly capital-intensive energy sources will result in less incentive in future years to develop alternative lower cost energy sources. In addition technologies producing energy that costs more than energy from imported oil would put exporting countries in a position to increase energy prices."

It would thus encourage OPEC countries to increase their prices.

I want to make absolutely clear, in response to what both the gentleman from California (Mr. SISK) and the gentleman from Illinois (Mr. ANDERSON) have said, that this is not an energy production bill. This is a bill to spend billions and billions of dollars to build a couple of commercial-size coal gasification plants, according to ERDA, just to ascertain environmental and socioeconomic information. That is where all the money is going to go. All of the rest—solar, geothermal, bio-mass—is window-dressing.

We already have a synthetic fuels program in ERDA in which we participate on a 50-50 basis with industry, and I support that fully. I even supported the effort of the gentleman from West Virginia (Mr. HECHLER) to get millions of dollars more for that program when the Committee on the Interior's appropriation was considered. This existing $416 million ERDA synfuels program is going to build, not just research laboratories as the gentleman from California (Mr. ANDERSON) indicated; ERDA is going to build demonstration plants that are likely to be half the size of the plants we are financing here. They are already under contract and are going to come on line long before the plants proposed here could be built.

ERDA testified time and time again that H.R. 12112 was not for the production of gas; it was to find out certain environmental and socioeconomic effects of synthetic fuels plants.

There are key studies which ERDA has financed which are still missing. One hundred thousand dollars of the taxpayers' money is going into them to find out what size plants we need to find these environmental and socioeconomic answers. Those studies are still not available to us. They will be available shortly, in just a month or so. The plants using new technology, that both ERDA and GAO say are going to be 15 percent more efficient and are not going to require these huge Government subsidies, may well be adequate to get all of the environmental and socioeconomic information ERDA says it wants from the H.R. 12112 demonstration plants and we can save the taxpayers the $11½ billion the program in this bill will cost. So I do not see any reason at all to spend what in effect is going to be an $11½ billion subsidy—and Exxon is one of the applicants as well as other multibillion-dollar corporations—to get them to do something that they feel is too unsound to put up their own money for, and where the Government subsidy is likely going to be 100 percent. This bill provides 75 percent, but GAO sent us a letter, and in that letter GAO said that recipients of ERDA guarantees could go to the Federal Financing Bank and turn over that paper and get 100 percent loans from the Federal Financing Bank. Thus, Government would take 100 percent of the risk, and these companies would not have to put up any money. GAO says this is highly objectionable and would result in a direct increase in the national debt.

This legislation is too controversial to be considered like this, at the end of the session. There are 88 amendments printed in the RECORD. Four committees have reported out different versions and the Rules Committee has made in order for consideration a fifth version introduced by the gentleman from Texas (Mr. TEAGUE) last week which no committee has considered and which breaks the budget. There are 4 hours of general debate before we even get to amendments. When I said in my "Dear Colleague" letter, "Vote down this ill-considered rule and let us get home for Christmas," I meant it.

I do hope the House will defeat the rule.

The SPEAKER. The time of the gentleman has expired.

Mr. ANDERSON of Illinois. Mr.

Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. Mosher).

Mr. MOSHER. Mr. Speaker, the gentleman who just spoke in the well, the gentleman from New York (Mr. Ottinger), declared that he was outraged that this should be brought up at this time, crowding out other important business, and he specifically mentioned the Peanut Act.

Mr. Speaker, I say that I would be outraged if the rule is turned down. That would be an indication that the House is not willing to consider this legislation which is so overwhelmingly needed in the national interest.

Mr. Speaker, the gentleman from Illinois (Mr. Anderson) just called to the attention of the Democrats that Andy Biemiller of the AFL–CIO is in support of this bill—and that is great. But I call to the attention of the Republicans the fact that the President of the United States, Mr. Gerald R. Ford, is overwhelmingly and urgently in support of this act.

Mr. Speaker, the gentleman from New York (Mr. Ottinger) late last night urged that we defeat this rule so that we can go home early today. Mr. Speaker, I think that is a very shallow argument for defeating the rule. Certainly, after four committees of this House have given weeks and months of very serious effort in preparation of this legislation, to defeat the rule would be a tragedy, in consideration of the great national interest.

Mr. Speaker, I support the rule, in part because it is so beautifully fair to the opponents. The legislation needs our attention today, and I think it needs our action and support. Therefore, I urge the House to support the rule and give the House an opportunity to work its will on what is probably, as the gentleman from California said, the most important piece of legislation before the Nation today.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. Goldwater).

Mr. GOLDWATER. Mr. Speaker, I oppose the adoption of this rule.

We are being asked to accept a modified, closed rule. A rule that closes out legitimate points of order—not just on the tax portions of this synfuels bill, but also on the so-called three committee compromise and the Commerce Committee substitute. We are being asked to accept this rule by some of the most forceful advocates of congressional openness and reform in the House.

This rule makes it in order to consider a proposal that has to my knowledge only been printed in the Congressional Record—in small print, in three colums, for page after page, with no reference points such as numbered lines. It makes in order confused consideration of a highly complex, difficult subject matter.

Worse, this so-called three committee compromise has never been adequately considered in its current form by any one of the three committees having major interest and jurisdiction over the subject matter. Once again, this approach to dealing with a complex, difficult issue asks for confusion, ill-consideration and major, original legislative drafting on the floor of the House. An approach that is not in the best interests of good solutions to our energy crisis.

Worse still, important sections of this three committee compromise were offered as amendments in the science and technology committee and were rejected.

Not only that, but the price support provisions were specifically disavowed and rejected by the Science and Technology Committee report. If you doubt me, see page 48 of the committee report.

Finally, making in order the consideration of this so-called compromise makes a mockery of the right of the members of all three committees to consider the matter. They have been cut out by deliberate action.

Is this approach what we want to point to as proof of our dedication to congressional reform and Government in the sunshine?

This rule makes it in order for the House to consider provisions that have already been enacted into law in this session. The FEA Act extension contains many provisions. To approve this rule will encourage legislative confusion, encourage adoption of conflicting law and procedure. And, I am afraid make a mockery of our previous efforts to legislate responsibility and coherently—despite our sincerity and good intentions.

To accept this rule will once again make it possible for the House to get sucked into the confused approach of the other body. That body has once again combined the general authorization legislation for ERDA with a synfuels bill. It was that approach that in part caused the House to decisively reject synfuels legislation in the closing days of the last session. We did not have much choice last time but we sure do now. Is it responsible to opt for such an approach again—especially when their synfuels provisions are vastly different from any of the proposals in the House?

Finally, my fellow colleagues, what we are being asked to approve is a rule that brings us a bill that currently makes the Government both the loan guarantor and the lender, that permits a $25 million oil shale investment to qualify for as much as $1 billion in Federal assistance, that fosters energy production concentration, that artifically allocates credit and displaces citizens from the capital market, that does nothing to eliminate the existing disincentives, and that will almost certainly necessitate Federal—taxpayer—subsidy of the price of the energy produced.

The proponents of synfuels loan guarantees started out with good intentions and motives to produce a thoroughbred energy horse. Unfortunately what we are presented with is at best an energy giraffe.

Defeat this rule and do the Nation a favor before you go home to ask for their vote and confidence.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. Broyhill).

Mr. BROYHILL. Mr. Speaker, I rise in opposition to this rule.

The loan guarantees that are provided in this bill are only a very small down payment for the ultimate development of the synthetic fuel industry. In the last year or so we have heard figures $100 billion and more that may be needed for the development of this synthetic fuel industry. This bill has already been cut back considerably or has been recommended by some of the committees that have had their hands in the development of it, to be cut back from $6 billion to $2 billion.

Mr. Speaker, I maintain this is only a foot in the door and they will be back for a lot more in future years if we enact this bill.

Mr. Speaker, I also oppose the bill and the rule for other reasons. For 3 years or more we have been debating the present scheme of price controls on petroleum products. Many of us have been pointing out that these control programs can only lead to shortages and more reliance on foreign oil and stifle development of forms of other energy. Here we are now debating a bill to provide a form of Government subsidies because of Federal overregulation. I think this is a mistake.

Mr. Speaker, I also am concerned about the policy of allocating by Government action the scarce capital resources that we have in this Nation. This bill will not create additional capital. All it does is to allocate the capital resources that are presently available in the private capital market.

Mr. Speaker, during consideration of this bill in committee, I authored some minority views which I would ask unanimous consent to be included at this point in the Record. These views explain in greater detail my concerns about this bill:

Opposing Views on H.R. 12112

We wish to discuss here those aspects of H.R. 12112 which warrant the bill's rejection by the full House. We see in the passage of H.R. 12112 the danger of enacting legislation which is untimely when viewed in the light of our present regulatory structure. Congress should seek a balanced approach to the search for new energy sources, an approach which favors no one option at the expense of others.

H.R. 12112 commits the United States Government to the support of a highly capital and technologically intensive synthetic fuels production industry. It is an industry even the proponents of which admit entails substantial risk. Industry has come to the federal government because the risks and expense of the program under the present Federal regulatory scheme have left the private sector unwilling to risk the vast capital investment required. Government regulations and other restrictions have made the private development of synthetic fuel so unprofitable as to be economically unfeasible. Further involvement by the federal government in such a project, fraught with ambiguity as it is, would be sheer folly.

WILL SYNFUEL SELL?

Vast amounts of capital are necessary to construct the synthetic fuel plants called for in H.R. 12112. For the huge amount of money we will be putting in we will actually receive very little energy. The ratio of monetary investment to actual energy output is extremely high. The cost of the fuel produced will be so high that it will not be able to compete in the marketplace, meaning failure of the project or massive Federal subsidies to keep the plants in operation.

A Congressional Research Service study places the cost of synthetic gas, once in production, at $4.00 per million cubic feet. Current natural gas prices under federal price regulation are $.52 per million cubic feet. If the government were to lift these artificial restraints and let prices seek their own level, the price differential between natural and synthetic gas would be significantly reduced. If, though, the Congress passes H.R. 12112 in the present climate of price controls, it will be in the awkward position of voting loan guarantees and subsidies for a project while continuing the artificially low gas prices which have caused the gas shortages. It is continued Federal regulation which is reducing the likelihood of private investment for increased supplies by depriving the private sector of research and development funds through normal market operations. We cannot have Congress maintaining these regulations which result in shortages on the one hand, while subsidizing the development of other fuels on the other. Such is the effect which passage of H.R. 12112 would have.

TECHNOLOGICAL UNCERTAINTIES

Synthetic fuel technology development will require an abnormally long lead time, thus pointing out another danger in this legislation. In spite of its high cost, the first generation synfuel technology could be obsolete by the time production facilities are completed. The Energy Research and Development Administration already has a second generation prototype under development. The Congressional Research Service, in its recent report on H.R. 12112, notes that a five year delay in the start of a synfuel project would cause only a two year delay in reaching production. A more prudent and economical approach than passage of H.R. 12112 lies in accelerated research to develop the second generation synfuels package rather than risking great sums on a race with the calendar, as this bill would have us do, to go into production of an unproven technology. We should be careful not to legislate into existence a commercial-scale operation the success of which is severely endangered because of technological uncertainties as well as inevitable problems in the market place which government regulation creates.

REGULATORY UNCERTAINTIES

The normal risks inherent in the promotion of a new technology such as that of synfuel development are compounded by present and future uncertainties created by oil price controls, gas price regulation, divestiture legislation, accessibility of federal resources, environmental regulations, and changing fiscal priorities. The nuclear power industry offers graphic evidence of drastic cost increases generated by constantly changing regulations and other pressures which have frequently led to substantial design changes and added construction costs.

Many of us in Congress have worked diligently to reduce the size of our bureaucracy and the degree of government intervention. H.R. 12112 would represent a step backward in this fight, however, for it would restrict further not only our energy program, but our economy levels are granted jurisdiction in the synfuels area by this bill. Such authority will defeat the goal of increased production by diverting funds into the increased costs of compliance, implementation, and regulatory constraints.

ECONOMIC UNCERTAINTIES

Two billion dollars is only a small down payment on the ultimate development of a synthetic fuels industry. As the loan guarantee amount in H.R. 12112 has been successively trimmed from six to four to $2 billion, the likelihood has increased that the bureaucrats will be back for more before the ink is dry on this bill. Rising costs will steadily erode the purchasing power of the synfuel loans, very possibly to the extent that project completion may not be possible without further federal funding. Another possibility raised by funding insufficiencies is that of default, in which case ownership of an unfinished project would revert to the United States Government, necessitating further appropriations in order to complete the project and justify the initial investment.

Whether we can even afford such expenditures in these times is a question of vital importance. Our economy is presently experiencing a recovery from a severe recession and federal fiscal priorities are being directed toward reestablishment of economic stability. With continued deficit spending, the only way we can raise the needed funds for synfuel development is to deviate from current fiscal priorities, and borrow from the private sector, a practice which has serious consequences.

William E. Simon, Secretary of the Treasury, stated that the Federal Government today is the nation's biggest single employer, its biggest consumer, and its biggest borrower. And, if present trends continue until the end of the century, government at all levels will account for almost 60% of our gross national product. Once government achieves that degree of dominance over your lives, much of the economic and political freedom you now take for granted will have been lost. The government's heavy borrowing needs in addition to loan guarantees require it to soak up 80% of all new long-term loanable capital, leaving only 20% to the entire private sector, which nevertheless must produce virtually all our goods and services and employ 83% of our workforce.

Diversions of funds to this project would do little to increase the overall supply of capital. Such a drain would actually create demand pressures which would bid up the cost of money and thereby further inhibit investment in other fields. A program of federal support would not only siphon needed investment funds from a recovering economy, it would also hide the real costs of project capitalization. This unsettling effect on the capital market as well as the distortion of project cost information would disrupt our economy as well as severely threaten the success of this venture. These economic problems, together with the inherent technical uncertainties, all but insure failure. It simply does not make sense for Congress to undertake a massive infusion of public money using scarce capital resources when the answer is to deregulate natural gas and let the free market work.

INCREASED REGULATION

We must act decisively to rectify our energy problems. The answer lies, however, not within an expanded framework of government regulation and intervention in the affairs of private business. Such programs as H.R. 12112 will weaken the free enterprise system by artificially supporting the development of industries which are being stifled by the overregulation. These same industries would most likely flourish in a free market environment, generating needed economical benefits. The loan guarantee program is essentially a government subsidy to pay for government regulation. Federal agencies would now be required to prepare comprehensive impact and technological analyses. Burdened agencies would include ERDA, FEA, EPA, the Departments of Interior, Agriculture and Justice the Federal Trade Commission, HUD, and the Department of Treasury.

A policy of deregulation and reduction of government intervention will allow the market to generate the funds it needs naturally, with none of the detrimental effects inherent in federal subsidization. With decontrol, we would also experience the bonus of additional investment capital which private development would bring to the marketplace. A deregulatory policy would also liberate other resources for an overall improvement in our energy supply situation.

To support a new technology by means of government financing is to commit funds we do not have in order to guarantee a project which is being threatened most by the very type of intervention which this bill would endorse. Were we to rectify the distortions caused by overregulation, there would be no need for this type of legislation, and therefore no possibility of creating another creature dependent upon government support. We must direct our efforts to those areas truly in need of government aid, and leave well enough alone those areas where the free market has the proven capability to finance and maintain such ventures as this.

The program which this legislation would support is necessary only in light of the current Federal overregulation of our private sector. Loan guarantees cannot insure success. When one takes into account the first-generation technology which we would be forcing upon industry, the financial drain which we would be imposing upon our economy, and the unwieldy regulatory structure which we would be creating to implement this program, one cannot help but be convinced that Congress is being asked to overextend both its capabilities and its authority. We are convinced that the answer lies in decreased regulation. In this way industry would be able to finance synthetic fuel production with beneficial, not adverse effects upon our economy; in the atmosphere of stability which comes with a free market environment. The facts leave us no choice but to oppose this legislation.

Sincerely,

James T. Broyhill,
James M. Collins,
Samuel L. Devine,
John Y. McCollister.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. Teague), the distinguished chairman of the Committee on Science and Technology.

Mr. TEAGUE. Mr. Speaker, the only part of this bill that has been considered in this House before is the loan guarantee part. This bill has not been considered.

Mr. Speaker, this legislation was first considered in 1952. At that time the administration, under President Truman, felt we were going to have an energy problem and a panel was appointed, chaired by Mr. Paley of CBS in New York. That panel recommended a synthetic fuels program and this is what we are considering today.

Mr. Speaker, Member after Member has come to me and said that the Senate would not pass this bill. The majority leader, the gentleman from Massachusetts (Mr. O'Neill), came to me and told me that Senator Mansfield told him the bill was not on his list of legislation to be considered in the remaining time of the 94th Congress. I called the person that this information came from, Senator Henry Jackson of Washington, and told the Senator that. The Senator went to Senator Mansfield and both Senator Mansfield and Senator Henry Jackson assured me this legislation will pass the Senate if it passes the House. It will be tacked on to another bill and will come back over here. So if those Members who have told me they would vote against the rule because it would not be considered in the Senate—if that is the reason—they are mistaken.

Mr. Speaker, if there has ever been a piece of legislation that was carefully and thoroughly considered, it is this bill. There is no Member on the Committee on Science and Technology who can have any criticism of our handling of the bill. We reported the bill out in May. It went to three other committees. The

Committee on Commerce asked for an extension of time, which the Speaker gave them. We agreed to that extension and from that time on, there was never a time that I did not discuss it with the gentleman from Michigan (Mr. DINGELL). We discussed the provisions with which we differed.

The SPEAKER. The time of the gentleman from Texas has expired.

Mr. SISK. Mr. Speaker, I yield 30 additional seconds to the gentleman from Texas.

Mr. TEAGUE. Mr. Speaker, finally, I determined there was no way to come to an agreement with the gentleman from Michigan (Mr. DINGELL). I went to the gentleman from Michigan (Mr. DINGELL) on the floor and told the gentleman that we would try to get a rule and bring it to the floor and work it out here.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, the best thing about this bill is the chairman of the committee, the gentleman from Texas (Mr. TEAGUE), for whom I have the greatest respect.

Mr. Speaker, the bill itself, coming up in the last days of Congress is a nightmare. We have four committees involved in this legislation; but the big objection is that basically there is no need for this additional research. The real need in this country is to deregulate the price of gas.

Let me make some observations on what is involved. The FTC established a price on gas that will travel interstate at $1.42. This new price is being contested. They say it is too high.

Mr. Speaker, let me review what we are talking about in this proposed research program. We hear talk about $4, which is the cheapest price they ever said they would get. Every realistic scientist I have heard talk about it said that $6 is the least they will have under this program. If we will just let the marketplace take care of itself. We will go out to the old gas fields of America, go into secondary recovery and go back into water flood for oil, use all the various engineering and scientific methods we have today, we could recover natural gas in adequate supply at $2 or less. Let's go in the open market and produce deregulated gas at $2 instead of going into research synthetic at $6.

Why should we be granting $3.5 billion for this program? I will tell the Members of another research program underway right now. They are taking coal and removing from it the one-third that is water. The coal has less transportation weight and the water stays there. Then, they have a more combustible coal product left, so they then mix half coal and half oil. The process is ready right now for production and being put into burners of utilities all over America. We have energy research programs going on everywhere. We do not need this program. We certainly should not go off in a half-cocked fashion the last week as we have inadequate time as we finalize this session of Congress.

The answer for American energy is deregulation of gas. Go to the free open market and turn loose the genius and ability of the private industries of America. Next year let us take the first essential step which is deregulation of gas.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia (Mr. HECHLER).

Mr. HECHLER of West Virginia. Mr. Speaker, I have the utmost personal respect and personal commendation for the chairman of the full committee, the gen- this bill. I think, however, that they have tleman from Texas (Mr. TEAGUE), and for the manner in which he has handled saddled him with a real mishmash.

What we have here is, as he has said, not the same bill that was rejected by the House last December; not the same bill that was carefully examined in these large volumes of hearings we see the reports of on the desk, but rather an entirely new piece of substitute legislation that is going to be thrust onto the Members on the floor without committee consideration. I doubt that there are six Members of the House that know exactly what is in this substitute legislation.

So far as the Senate considering H.R. 12112, it looks like it is going to be railroaded through, I warn my fellow colleagues, by being attached to the ERDA conference report in the Senate so that nobody will be able to make any amendment to it, and we will only be able to just vote it up or down. There will not be an opportunity for the Senate to consider H.R. 12112 or the substitutes thereto as an independent piece of legislation. The Senate will not take up this bill. They are going to try to put it into a conference report, and thereby thwart the will of the Congress.

Mr. HAYES of Indiana. Mr. Speaker, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Indiana.

Mr. HAYES of Indiana. What the gentleman is saying is that we are being asked to make a fundamental energy choice, a choice of energy courses for this country on the basis of this kind of legislation.

Mr. HECHLER of West Virginia. And nobody knows what is really in this substitute legislation. I think we should defeat the rule for that reason. The rule gives control of the time to the chairman and the ranking minority member on these committees, all of whom are in favor of the mishmash we have to consider.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. We are going to have to make an energy choice sometime. Why keep putting it off?

Mr. HECHLER of West Virginia. This is not the right energy choice to make, I say to my friend from Ohio. I say, defeat the rule.

The bill is complicated. It was considered by four committees and each had a different version.

But to add to this confusion, the rule requires that we consider as an "original bill" the so-called substitute amendment in lieu of anything the committees did. That amendment never was introduced as a bill, recommended by any committee, or backed by any committee report. In fact, the only place you can find it is in small type, six pages long, in the CONGRESSIONAL RECORD. Does every Member have a copy of that RECORD to read as we amend this complicated substitute?

Additionally, we are being asked to adopt amendments to the RECORD, not to any line and page of a bill. How will a Member ever find an amendment, and there are 50 of them to the substitute? How can any Member offer a substitute?

But that is not all. Before we consider the substitute, we must also consider a complete Commerce Committee substitute amendment to the Science and Technology substitute. Is it not strange for a committee to amend a Member's amendment? We will also consider about 40 amendments to the Commerce substitute.

But the rule is also a closed rule. The Ways and Means Committee amendment cannot be amended under this closed rule.

We will be here all day and all night. The House should not be put to this endurance test. There are more vital bills on the calendar than this.

Let me say that the four committees completed action on this special interest legislation last June. No rule was requested by the proponents for more than 60 days. Now they want us to pass it in a pell-mell rush.

Again I urge defeat of this unprecedented rule.

Mr. Speaker, this special interest legislation does not have the full support of any group, except the limited number of large oil and gas corporations who will reap its benefits. Many in industry, however, are opposed to this "giveaway" legislation. Labor is divided on it; some unions support, others oppose. The Wall Street Journal opposes the legislation. The Liberty Lobby opposes it. Environmentalists oppose it. The General Accounting Office opposes it. Indeed, the GAO said in a September 13, 1976 letter to the Commerce Committee:

> We believe that, if synthetic fuel plants are built on a commercial scale, due to the Government's substantial financial interest they will be kept in operation—whatever their economics. The products of the plants will be fed into the Nation's energy system and either higher prices or further Government subsidy will be required. If the Government did not choose to subsidize the product of an uneconomic technology, the loan may be defaulted.
>
> To commit to commercial-size plants without first developing better information on the institutional constraints and further refining the essential economic considerations is in our view, not desirable.

WHO WANTS THIS BILL?

The special interests want this bill.

They are Texas Eastern Transmission Corp., and Pacific Lighting Corp., who want to build a huge 250 mcf plant on the Navajo Indian Reservation, strip mine millions of acres of coal for the plant, and deliver gas to southern California customers at a cost estimated by the Interior Department in a July 1976 report to be $4.19 per million Btu.

They are TOSCO, Shell, Sunoco, Union Oil, and several other oil company firms who have formed consortia to build oil shale plants in the West.

BILL DOES NOT BENEFIT EAST

This is a western-oriented bill. None of the gasification plants costing billions are planned for the East. Why? Because ERDA wants to use a Lurgi process that cannot be used on eastern coals. West Virginia will suffer.

PLANTS TOO COSTLY

These plants will cost a billion dollars or more to build. The special interests want the Government to guarantee 75 percent of the project costs—which can mean a 100-percent guarantee of a loan and insuring that the lender shares no risks. They want the taxpayer to bear all risks. They want multiple subsidies which will do little to prove the true economics of these plants.

Included in the substitute is $500 million in price supports which the Senate has never considered, and the House Science and Technology Committee specifically refused to endorse and held no hearings on. No provision is made for purchase, in lieu of price supports, of the output where such an approach may be less costly to the United States.

DEFEAT OF H.R. 12112 WILL NOT DOOM SYNFUELS

Rejection of H.R. 12112 will not delay development of synthetic fuels. Defeat would save the taxpayers and prevent development of white elephants that could indeed impede synfuels later.

ERDA is now expending millions for synthetic fuels. More than $416 million is included in H.R. 13350—the ERDA authorization bill for fiscal year 1977 which is now awaiting a House-Senate conference—for synthetic fuels. This proper R. & D. program includes demonstration plants. It holds great promise for the orderly development of this industry using more efficient second-generation technology. This is stressed by one ERDA official who testified last June that:

> If one can improve the efficiency of a plant whose revenues is $350 million a year by 10 percent, assuming everything else is about the same, one saves $35 million a year per plant.

LEGISLATION COULD LEAD TO INCREASE IN PUBLIC DEBT

The bill triggers use of Federal Financing Bank Act of 1973, which established the Bank in the Treasury Department. The act authorizes the Bank to make 100-percent loans directly to borrowers who have a Federal guarantee. These loans are made from money borrowed from the Treasury at one-eighth of 1 percent above Treasury marketable securities. This is off-budget money. But the loans generally require the Treasury to increase the public debt each year.

Thus, ERDA borrowers, like WESCO, could get such an FFB loan for its entire borrowing—which would still be only 75 percent of project costs—and save $10 million or more as a windfall and bear no risk.

But this loophole in the bill precludes any participation by the private financing sector, despite ERDA's pious statement that one of the most important features of the bill is such participation.

I note that Mr. TEAGUE plans to offer an amendment to close this big loophole after it was brought to everyone's attention by the GAO and Representatives OTTINGER, HAYES, DINGELL, GOLDWATER, and myself. But how many more loophopes are in this multibillion-dollar bill that we have yet to uncover and will haunt us later?

NO SURFACE MINING CONTROLS

The bill will result in the building of at least two coal gasification plants, each obtaining millions of tons of coal annually by surface mining. But we have no surface mining legislation. On the very day the Rules Committee gave a rule to the industry for this bill, it refused to grant a rule for the strip mining bill. Thus, these plants will be built without adequate strip mine controls.

I urge defeat of this outrageous rule.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado (Mr. JOHNSON).

Mr. JOHNSON of Colorado. Mr. Speaker, I favor the rule and I favor the bill. Last year, I opposed the bill when it came up in December, and I would like to explain briefly why I have changed my position.

The main feature of the bill I am concerned with in my district is the oil shale feature. Last year, when we were considering the guaranteed loan program, we had another Federal program that was pending. It was a prototype lease program developed by the Interior Department. The companies had paid $200 million. The bid was over $300 million, but they had paid $200 million for the privilege of developing these leases. Detailed development plans had not yet been reported and I felt that a competing program was unnecessary then. Since that time, the plans have been reported. They show that the cost will be about a billion dollars to develop a 50,000-barrel-per-day plant.

The companies, before they would go ahead and expend this kind of money for 50,000 barrels per day, wanted a free market for their product, offsite disposal for some of the overburden, and wanted a rapid tax write-off. None of these things could be given them, or were refused them at any rate, so the leases have been suspended. The companies have lost well over $200 million in investment, and there is no oil shale program in process right now.

This bill provides for a gradual development of oil shale with State input with environmental protective clauses.

It might not be the best program. I frankly thought the former program was a good one and it should have been followed through. But it has failed. The Government has not seen fit, this body has not seen fit to follow through with the prototype lease program, so now we are left with this situation. If the Members believe that that 600 billion to 2 trillion barrels of oil is worth developing, then we must get underway. The prototype lease program has failed. It has fallen through. If we do not go ahead with this program, then we have nothing. This is one sound method of approaching the problem, and I urge the Members to vote for the resolution and for the bill.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

Mr. Speaker, I agree thoroughly with the gentleman in the well and the gentleman from Texas (Mr. COLLINS) that we should deregulate natural gas and oil so we can encourage the conservation and the production of those products now. But the difficulty is that we are going to run out of those products eventually no matter what we do, and we are going to have to have some kind of an interim source of supply of energy for internal combustion engines and household furnaces which can come from the development of synthetic fuels in order to bridge that gap between the kind of energy we have had and those exotics we will come to when we develop solar energy and other exotic systems and convert our economy to them. That will take many, many years. In the meantime we are running out of natural gas and oil and need synthetics. This bill is needed to get them because the problem is that the money markets will not provide the needed capital out of fear that suits to slow construction or other possible social and environmental problems will prohibit completion of these projects or delay them so long that they cannot possibly repay the borrowed capital needed to build them.

Mr. SISK. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. HAYES).

Mr. HAYES of Indiana. Mr. Speaker, I only want to say that I think what the gentleman from Colorado (Mr. JOHNSON) has just pointed out is one of the major defects of this bill. He pointed out that application had to be made to the Secretary of the Interior, Mr. Kleppe, to suspend leases for 1 year. It means the holders of the leases on the western slope of the Rockies will be left with the leases. Where did they get the leases in the first place? From the sale of the leases to them by a consortium of the oil companies, whose representative told me during the hearings in 1975 that they got rid of them because: First, the shale process was unsound economically; and second, it was unsound environmentally. That is a fundamental defect in the shale program. It does not work.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. HAYES of Indiana. I yield to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. I thank the gentleman for yielding.

Are you aware that Governor Lamm of Colorado has written a letter on behalf of the National Conference of Governors saying they oppose the oil shale provision as included in the Teague substitute because they are not modular but permit immediate commercial operation without having obtained environmental and socioeconomic information on oil shale projects.

Mr. HAYES of Indiana. I am aware of that, yes.

Mr. SISK. Mr. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. FREY).

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. FREY. I yield to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. I thank the gentleman for yielding.

Mr. Speaker, I support the rule and favor the bill. The loan guarantee and price support programs envisioned in this bill have the potential to help alleviate a rapidly developing natural gas shortage in my own State which has a substantial 40 percent of its industry based on natural gas for fuel. Experts estimate that Ohio contains over 700 trillion cubic feet of recoverable shale natural gas. This is an extremely valuable energy source which can and should be utilized. This is another valuable resource waiting to be exploited.

Viewed together, coal gasification and shale gas could meet our gas needs for centuries to come. All that is needed is the technology which this bill will help develop.

Mr. FREY. Mr. Speaker, we have heard words used about this bill that it is an "outrage," a "nightmare." The gentleman from New York (Mr. Ottinger) in his remarks in the committee report said this program is born out of desperation. And I must say that I agree with them all. For 8 years now I have been serving in the Congress, and we have been trying to get some energy program. For 8 years the Congress has been really effective in only one thing, and that is doing nothing. The Congress to my sorrow is against every program that comes up. It is an outrage that it has taken so long to get to the floor.

The statistics tell us that in 1 year $25 billion is going to the Arab nations to import oil and more will go next year to bring in oil. We know that in the years ahead we must supplement the oil and gas in some way—it just will not last. Solar energy is an example of our failure. For a 10-year period from 1960, the Federal Government spent $100,000 a year on solar energy research. Today we are close to $300 million but it is not near enough. The basic question is what are we going to do? Are we going to do nothing? Are we just going to kill yet another program. It seems to me that even though it is late in the session, we should try to work this out on the floor. I voted for decontrol of oil and gas.

I happen to believe very deeply that we need this to develop our domestic resources. With this bill—much of the funds can go into solar energy research and synthetic energy. Many of us agree that solar energy can be the key to our future—it is clean and the source is unlimited. If we do not do anything today, the goal of having 7 percent of our energy demands in solar energy by the year 2000 will never be reached. We are not even close.

Yet everyone agrees that there is going to be a great call for solar energy and other technologies. For instance we are trying to develop a new technology off the coast of Florida and extending to the Gulf States known as ocean thermal. It is based on the differences in the temperatures of the water. The work in this area was begun way back in the 1920's by a man named Claude off Cuba. With new technology recent studies show that it is now economically feasible. But we will never get this program off the ground unless there is some place we can go to get the capital to develop a pilot project. Once developed this technology can help our Nation and be a major source of exportable technology.

I can go through the new technologies project by project and show the Members what we have covered in our Committee on Science. There is tremendous potential through this legislation.

Mr. Speaker, there are things about this rule that I do not like; there are some things about this program that I do not like. But we should ask ourselves, What is the alternative? What are we going to do? Where are we going to put the money? Would we rather give $35 billion next year to the Arab nations to import oil and gas and increase our dependence on these countries, or would we rather take a chance? Would we rather take a risk and put $3½ billion in loan guarantees and develop new technology. It seems to me we really have no choice—I hope the rule passes and we make any needed changes on the floor.

Mr. TEAGUE. Mr. Speaker, will the gentleman yield?

Mr. FREY. I yield to the gentleman from Texas.

Mr. TEAGUE. Mr. Speaker, I would just like to say that if there ever was an unfair statement made in this House in the last 30 years since I have been here, it was the statement made by the gentleman from West Virginia (Mr. Hechler) about this piece of legislation. If there ever was any Member that got every break a Member could get, he got it. If there is any Member who knows what is in this bill, it is the gentleman from West Virginia (Mr. Hechler).

When I recall what he said about its being a new bill and that nobody knows anything about it, I never heard such an outrageous statement.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. FREY. No. Mr. Speaker, I would just like to conclude my statement on this matter.

I think that the gentleman from Ohio (Mr. Brown) really put it well. We have to take a position. If we do not do anything now, we will delay research by at least another year. We really need these new sources of energy badly.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. Myers).

Mr. MYERS of Pennsylvania. Mr. Speaker, I rise in strong support of the rule and of the bill.

I think we have a strange set of bedfellows opposing this rule and the bill—as an example, the gentleman from Texas (Mr. Collins) and the gentleman from North Carolina (Mr. Broyhill), who are for decontrol along with the gentleman from New York (Mr. Ottinger), who always has opposed development of natural gas and oil as vigorously as he opposed this bill. It seems to me that what the gentleman from Texas (Mr. Collins) and the gentleman from North Carolina (Mr. Broyhill) have overlooked is that the gentleman from New York (Mr. Ottinger) will never vote for decontrol, and if we do not develop alternate sources of energy with their associated costs the actual replacement cost for traditional energy sources will never be clearly evident to the general public.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. MYERS of Pennsylvania. I will not yield.

Mr. Speaker, this program will probably bring synthetic gas from coal and other sources to the marketplace, at about the same price range as soon-to-come Algerian liquefied natural gas and other present-day synthetic gas that comes into our marketplaces. Already today I have industries in my district which are using synthetic fuels at about the price we are going to pay for the gas from gasification of coal.

So there is a clear indication that industries are now struggling to preserve the jobs in the Northeast area, and they would welcome this new technology so they will have a more reliable source of high Btu gas in the future.

This does not commit us to a $100 billion project. This is a research program that is designed to raise all the relevant issues about environment, about cost, about siting, and about what is going to be developed and who is going to develop these resources. In that respect it is a research project.

Mr. Speaker, I have heard from the gentleman from New York (Mr. Ottinger) and from some of the Members on this side of the aisle who say that the oil and gas companies should not be involved in Federal leases of coal lands because they will not develop it. Here we have clear indications these companies would like to develop coal and bring its energy products to the markets which need them very badly.

CALL OF THE HOUSE

Mr. HAYES of Indiana. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 802]

Addabbo
Archer
Badillo
Beard, Tenn.
Bell
Blouin
Brown, Mich.
Clancy
Conlan
Conyers
Dodd
Duncan, Tenn.
Edwards, Calif.
Esch
Evins, Tenn.
Fenwick
Flynt
Foley
Fraser
Giaimo
Gibbons
Gradison
Green
Hall, Tex.
Hammerschmidt
Harsha
Hébert
Heckler, Mass.
Heinz
Helstoski
Henderson
Hinshaw
Holland
Howe
Jarman
Jeffords
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Kemp
LaFalce
Leggett
Long, Md.
Lott
McCollister
McKinney
Matsunaga
Meyner
Mink
Mitchell, Md.
Moffett
Neal
Nix
O'Hara
Passman
Pepper
Peyser
Railsback
Randall
Rangel
Reuss
Riegle
Rinaldo
Ruppe
Sarasin
Shuster
Smith, Nebr.
Steelman
Steiger, Ariz.
Stephens
Stuckey
Sullivan
Treen
Udall
Vigorito
Wilson, Tex.
Wolff
Young, Ga.
Young, Tex.

The SPEAKER. On this rollcall 351 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PROVIDING FOR CONSIDERATION OF H.R. 12112, LOAN GUARANTEES FOR DEMONSTRATION OF NEW ENERGY TECHNOLOGIES

Mr. SISK. Mr. Speaker, I yield 6 minutes to the distinguished chairman of the Committee on Rules, the gentleman from Indiana (Mr. MADDEN).

Mr. MADDEN. Mr. Speaker, last week the House Committee on Rules held hearings on the application for a rule on the so-called synthetic fuel and subsidy legislation so that this highly complicated and long-delayed bill could be debated, amended and acted on before the proposed adjournment on October 2, 1976.

Most of the Members have forgotten that last December the original $6 billion synthetic fuel loan guarantee legislation was defeated by this body after a long debate by a vote of 263 to 140. The administration last April returned with a similar program for $2 billion and hearings began in the Science and Technology Committee. This bill was reported from the Science and Technology Committee for $4 billion on May 15 and for some unknown reason was jointly referred to three other committees, and the final report from the Interstate and Foreign Commerce Committee was issued on June 25.

For some mysterious reason our Rules Committee was not asked to give hearings on a rule until August 27, 1976. Regardless of this extraordinary delay in requesting a rule we are now going to consider a substitute to the original bill H.R. 12112 printed for the first time in the RECORD of August 26.

This proposed substitute legislation which we are asked to debate and amend has not been considered or heard as a complete bill by any of the four House committees now fighting over jurisdiction. The House Members should inquire today what we are doing with this legislative nightmare during this last 10 days of the 94th Congress.

During the Rules Committee hearings last week, a number of witnesses representing several committees claiming jurisdiction testified and most of the information our committee received was not concerning the merits or demerits of the legislation but mostly over jurisdiction of four House committees.

Today, for the first time in approximately 25 years as a member of the Rules Committee, I am asking that the Members devote real commonsense analysis of this complex legislation and vote against this rule or postpone the consideration of this legislation until January, February, or March of 1977. Members of Congress will then have ample opportunity to give the extended study that this highly involved legislation deserves.

The General Accounting Office in its report on H.R. 12112 states that this Federal subsidy to launch the project is uneconomical:

> 1. Large building complexes to be built under this legislation will result in less incentive in the future to develop alternative lower cost energy sources.
>
> 2. Large corporate industry, especially in oil and fuel, have easier access to the billions that it will require to finance this energy project than the American taxpayers now burdened by a $40 billion dollar annual interest rate on our National debt.
>
> 3. In the next few years, technology could easily render this Federal subsidized synfuels project obsolete.
>
> 4. It is estimated that present research and development now underway might in the next couple of years reduce the proposed cost of this experiment by about 15%.
>
> 5. Loan guarantee for this uneconomical technology is not advisable and if that would be provided, it should be included in our annual budget for next year.
>
> 6. The General Accounting Office specifically recommends that Government financing assistance for commercial development of synthetic fuels should not be provided at this time.

In an editorial of the Washington Post of last Monday criticizing this legislation it stated as follows, and I quote verbatim:

> That bill to subsidize synthetic fuels has more lives than a cat. The House of Representatives threw it out the window last December, but now it's back meowing at the door. The House needs to remind itself that the animal has a voracious appetite. The farther it goes in these last days of the session, the more Congress is likely to regret it in years to come.
>
> This bill would provide $3.5 billion in federal loan guarantees, and $500 million in price supports, to get new processes operating on a commercial scale.
>
> This $4 billion would build plants capable of turning out the equivalent of about 200,000 barrels of oil a day (present U.S. consumption is running about 17 million barrels a day). These plants would go into production sometimes in the 1980s. The oil and gas would be extremely expensive by present standards.

With regard to the substance of this legislation, the General Accounting Office issued a report on August 24 opposing the granting of Government financial assistance for commercial development of synthetic fuels at this time. Good heavens, that is just exactly what this legislation calls for—a 3.5-billion-dollar guaranteed loan and a one-half-billion-dollar price support for gas from coal and oil from shale. If our financial watchdog, the General Accounting Office, recommends against this, why in the world are we even thinking of placing it on the backs of the taxpayers of the Nation.

We all know this program could increase the national debt by over a billion dollars and, what is more, it puts the taxpayer in the position of taking the risks for companies that will then reap the profits if all goes well. I just cannot stand by and let this overcomplicated and controversial program eat up our time in these last few days. If we have waited this long to have it brought before us, Congress can surely wait until next January or February to give it the extended attention that will be necessary. I urge defeat or postponement of this rule, and I urge it with a clear conscience and profound sense of the rightness of such an action.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I rise in support of this rule. It is a hackneyed thing to say, but, my colleagues, this is a vote for our children and our grandchildren and for the future economic independence of the United States.

I am proud of a lot of things this Congress has done, but the greatest single deficiency of this Congress has been in its collective failure to do anything—anything, Mr. Speaker—to increase energy supplies in any substantial way for the United States.

Since the Arab oil embargo 3 years ago, we have tried to do a few timid things to reduce consumption, but they have not been very successful, because total domestic consumption has risen. We have dabbled with oil and gas pricing. We have made more money available for long-range research, for things like solar energy, that may help us 30 or 40 years from now. But as far as doing anything practical to increase the supply of energy and reduce our dependence upon foreign sources in the foreseeable future, Mr. Speaker, we have done nothing.

Now, this is the only opportunity we will have in this session. I do not know that this bill necessarily represents the quintessential best way to do it, but I know it is the only opportunity we will have.

And I know this: Inexorably, just as certainly as the Sun is going to set in the West this evening, the United States is running out of oil and gas.

I do not know how many years. Experts differ—15 years, 20 years, 25 years—somewhere in that range we shall have eaten our way through the total oil and gas reserves of the United States, and most of the total oil and gas reserves of the world. Think of how profoundly this economy depends upon energy, and of the absolutely devastating effect upon our standard of living and our way of life if we do not bring on alternate supplies in sufficient quantity—and for practical purposes this means coal—before we run out of oil and gas.

May the future not lament that we were too petty to see the problem, too quarrelsome to get together and too timid to act.

This is our one chance to do something. There is enough domestic coal to last us for several hundred years, and it can be made into a high grade, low sulphur content motor oil within the next 10 years if we get busy now. If we procrastinate and quarrel and delay, we shall condemn the next generation to a drastically declining standard of living.

Mr. SISK. Mr. Speaker, I know that what I am going to say is going to make some Members very unhappy, I am afraid, but I am prepared to yield back the balance of the time on this side and just cut off some Members. I understand the leadership will try to vote on this before we go into recess, and it just seems to me that if the other side is willing to yield, I will take the responsibility and take the heat for yielding back the balance of time on this side.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to the distinguished minority leader.

Mr. RHODES. I agree with the gentleman. I think the time has come to vote, but I do want to say before we vote that I think that this bill is a very necessary piece of legislation. I agree thoroughly with the gentleman from Texas (Mr. WRIGHT). He was absolutely correct when he said that if the Congress does not do this, it will have done nothing to increase the supply of energy available domestically.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I rise in support of House Resolution 1545, a rule, making in order the consideration of synfuel legislation.

This Congress has done something to reduce the demand side of the energy crisis.

We have done virtually nothing to increase the supply side.

This bill will correct that imbalance.

For three winters in a row we have had remarkably mild weather. Even so there have been natural gas curtailments and job layoffs.

If we have a normal winter this year there will be more curtailments and more job losses.

I do not want to say to the jobless that I voted against even allowing the Congress to consider a synthetic fuel program.

I urge the adoption of the rule.

Ms. ABZUG. Mr. Speaker, this is one of the most bizarre rules I have seen since coming to Congress. I cannot support it.

There is no justification for a modified closed rule for a bill as complex and controversial as this one. Just last December, this House decisively rejected a synthetic fuels program. Now it reappears for an extraordinary reconsideration under conditions that will make an adequate consideration impossible at this late date in the session.

I am especially concerned that we are being limited to consideration of a substitute which is substantially different from the original bill, yet on which there have been no hearings, no impact statement, and no committee report. As an example, the Teague substitute amendment authorizes substantial price supports, whereas the Science Committee's bill specifically excluded price supports.

Moreover, I think at the end of the session we are entitled to give a first consideration to the important legislation we have yet to address ourselves to, rather than going back over old ground in a rushed manner. Certainly the GAO report, which was published only in August, should give us pause to consider its serious criticisms of the synfuels program.

Mr. Speaker, I urge my colleagues to vote down this modified closed rule.

Mr. PAUL. Mr. Speaker, I rise in opposition to this rule and also to H.R. 12112, which would provide loan guarantees for the commercial development of synthetic fuels. I believe that this is very bad legislation for a variety of reasons, but primarily because it shifts our attention away from the fundamental cause of our energy problem: Government intervention in the free market.

As we all know, the Federal Government has controlled the price of petroleum for many years now, and the price of natural gas for even longer. By setting these prices far below what would prevail on the free market, the Government has discouraged further exploration and development of new energy sources. As the great economist Frank H. Knight once observed:

> If educated people can't or won't see that fixing a price below the market level inevitably creates a "shortage" (and one above it a "surplus") it is hard to believe in the usefulness of telling them anything whatever, in this field of discourse.

So long as the Government persists in its price controls, we will have an energy problem and no amount of loan guarantees for developing synthetic fuels will ever have the slightest effect in alleviating this problem.

Of course, there is nothing inherently wrong with synthetic fuels and I am sure that eventually they may become a significant source of energy. However, we must ask ourselves why it is necessary to promote their development now with Government guaranteed loans? The answer obviously is that private industry will not build synthetic fuel plants on its own. I think that this fact alone is enough to cast serious doubt on the viability of this whole enterprise.

Clearly, the private sector recognizes that the risk of developing synthetic fuels far outweighs the potential profits. I am sure that this is partly because of the threat of future price controls on synthetic oil and gas like those already on petroleum and natural gas. It is also due the high cost of complying with environmental regulations and the high inflation rate, which leads to uncertainties about the eventual cost of production. In each case, it is a Government policy which is discouraging development of synfuels and now we propose to compensate for this by having the U.S. taxpayer assume the risks.

Further contributing to the lack of interest by investors in synfuel production is the very existence of this bill itself. It is quite reasonable to assume that even if an investor were contemplating an investment in synfuels, he would certainly wait for the disposition of this bill because the Government may possibly assume all his risks for him; including normal business risk.

It is generally thought that there is no cost to the taxpayer of this program and, therefore, we might as well go ahead with it anyway. This is false for several reasons. First, it assumes that there will not be any default on the guaranteed loans. Given the experience of Lockheed, Penn Central, and New York City, one can hardly have any faith in this argument. Second, it ignores the cost to the economy from increased interest rates because of the impact of the loan guarantees on capital markets. As Prof. Murray Weidenbaum noted in a statement before the Committee on Science and Technology:

> Boiled down to its basics, federal guarantees of bonds issued by business and other institutions really involve putting "the monkey" on someone else's back. They do not increase the amount of investment funds available to the economy. Rather, to the extent they succeed, they mainly take capital funds away from other sectors of the economy and lead to similar requests for aid to raise the level of interest rates in the economy, both for private as well as government borrowers. They thus increase an important element of business cost.

Lastly, we must consider the direct cost to the Government of these loans should they be financed through the Federal Financing Bank. Acording to a report by the Senate Budget Committee, this bank is expected to acquire 63 percent of the net loans guaranteed by all Government agencies in fiscal year 1976.

Obviously, in cases where the FFB purchases a guaranteed obligation, the U.S. Government becomes a direct lender, rather than simply a guarantor. Thus the whole effect of guaranteeing a loan becomes a subterfuge for getting appropriations off the budget. This way, the true level of the public debt may be hidden and the Government can appear to be giving the public something for nothing. However, as a recent Forbes magazine article noted:

> In the final analysis, the tragedy of excessive government spending isn't the pain it inflicts upon the taxpayer, but the pain it inflicts on the entire society: inflation. And that is the point about off-budget government spending; it can be just as inflationary as any other kind. That is, it competes for money and credit with the free market and with individuals.
>
> The real problem is that the American people—businessmen included—want cheaper government, but they also want government help. Hence the politicians' attempts to have it both ways.

I believe it would be much more honest and straightforward for the Congress to agree that the price of energy ought to be set by supply and demand, rather than Government fiat. The longer we postpone decontrol and waste our time pretending to be doing something about energy by throwing money at every exotic proposal which comes up the road, the longer we will remain at the mercy of foreign cartels. Thus a recent Washington Post editorial observed:

> Congress keeps voting to hold oil and gas prices down. Consumers see prices level off and, among other consequences, the swing to small cars slows sharply. The next consequence, already visible, is a further increase in oil imports. Congress, understandably, gets anxious. It begins to push production methods that lie many years in the future and that are too expensive and uncertain for the banks to finance without a federal safety net. Isn't there something askew here?
>
> Energy is going to cost more in the future. The country may as well get used to

that unwelcome thought. It is a great deal better to meet that cost directly, through the prices that the customer pays, than indirectly through everybody's taxes and a cat's cradle of federal loan guarantees and price supports.

The General Accounting Office estimated that conservation measures would be a far more cost-effective method of decreasing American dependence on foreign oil. Obviously, the best way to promote conservation would be to put supply and demand back in equilibrium by decontrolling the price of oil and natural gas and allowing it to rise to the market level. Congress should stop ducking this issue and forget about pushing synfuels.

Mrs. MINK. Mr. Speaker, I rise in opposition to House Resolution 1545, providing for the consideration of H.R. 12112, synthetic fuels. This is the second time in 10 months that the question of synthetic fuels loan guarantees has come before us. Last December 11 we overwhelmingly, and wisely, rejected a $6 billion program—we must now do the same for this almost identical $4 billion bill. At a minimum, H.R. 12112 represents an unnecessary precedent-setting risk of the taxpayers money; at worst, it could initiate an unparalleled commitment and loss of tax dollars to commercialize a synthetic fuels industry that may not become economically self supporting before it is rendered obsolete by advanced technology.

Mr. Speaker, it is no secret that the reason the Government is being asked to guarantee loans for the development of synthetic fuels lies in the fact that the private capital sector will not touch it. In short, Congress is being asked to do what the banks will not. Indeed, ERDA Administrator Seamans on March 13 testified, and I quote:

> It should be clearly understood that the $2 billion in loan guarantees provided by H.R. 12112 would only initiate the program recommended by the Administration.

The Science and Technology Committee has since summarily raised the $2 billion figure to $3.5 billion, and added $500 million in price supports. The price-support provisions are in the bill before us today despite the fact that the price-support concept was specifically rejected in the bill reported out by the Science and Technology Committee. This was accomplished by the granting of a rule to a substitute bill; not the bill which was reported by the committee. I fear that this whole program may be but the beginning of an endless raid on the Treasury to back loans, provide grants, establish price-support programs for, and ultimately assume ownership of, synthetic fuels projects that will be commercial failures.

One of my main reasons for opposition to H.R. 12112 stems from the provisions which would provide up to $1.75 billion in loan guarantees to finance the construction of so-called first generation coal gasification plants which would produce high Btu, pipeline quality natural gas. In my opinion there is an all too good chance that gas from such plants may never become commercially marketable, and that the Government will be obliged to absorb the loss. This position is based on estimates that the price of high Btu synthetic gas from gasification projects will be around $3.50-$4.00 per thousand cubic feet, or almost 3 times the recently upped interstate regulated price of $1.42 per thousand cubic feet.

The American Gas Association has stated that deregulation of gas prices is one of the two "major remaining obstacles" to construction of commercial coal gasification projects—the other being financing. Removing the financing obstacle through the use of Government guaranteed loans would undoubtedly intensify the clamor for deregulation. Indeed, the Federal Government might be put in the position of being forced to support deregulation in order to protect its investment in the coal gasification industry.

Yet even with deregulation, synthetic gas would still be nearly twice as expensive as natural gas from conventional sources. Further, while natural gas deregulation might enhance the competitive position of synthetic gas vis-a-vis conventional sources on a short term basis, the oil companies have repeatedly testified that deregulation would stimulate new exploration and production—production that could expand existing supplies to a point where "first generation" technology high Btu gas would never be marketable. The result: a potential minimum loss of $1.75 billion to the U.S. Treasury, the very reason the banks will not finance first generation technology.

Another major deficiency of first generation gasification technology and oil shale plant proposals involves the large amount of capital required to produce insignificant amounts of energy. A 50,000 barrel per day equivalent gasification plant or oil shale facility will cost roughly $1 billion. Gasification plant production capacity will be diminished by 33 percent at any given time due to the maintenance requirements of the gasifiers. Thus, without calculating in the down time for maintenance requirements, FEA estimates it would cost up to $22 billion just to finance construction of a synthetic fuels industry capable of attaining a fuels equivalent of one million barrels of oil per day, or $6 billion to achieve the administration's goal of 350,000 barrels per day from synthetic fuels by 1985.

The $6 billion figure, of which the H.R. 12112 program is the cleverly disguised initial appropriation, is for construction costs only, and does not include the bulk of an additional $5.1 billion in price supports and outright grants which ERDA feels may be necessary to achieve the 350,000 barrel per day target. By way of contrast, a $6 billion investment in the Alaska pipeline will enable in excess of 1.5 million barrels of oil per day, or nearly five times as much as the synfuels goal, to reach the market. Further, ERDA's Office of Energy Conservation anticipates that enormous barrel per day savings can be effectuated in the near future with investments in energy conservation technology. While cost/benefit studies on energy conservation potential by ERDA are not yet complete, initial ERDA figures indicate that energy conservation measures may well result in energy savings on the order of several million barrels of oil per day by 1985, with an investment far less than that required for synthetic fuel development. A recently released report by the General Accounting Office concurs in this assessment.

It is my firm belief, therefore, that we should not rush to the aid of potentially obsolete synthetic fuels technology before we have carefully evaluated the impact this might have on other sources of energy, and considered whether our attention and funding might more profitably be directed in other areas such as energy conservation, ocean thermal, wind, urban waste, enhanced recovery methods, and solar and geothermal power.

The proponents of H.R. 12112 point out that the bill authorizes up to 50 percent of the total $3.5 billion loan guarantee package to be used for such purposes, however, it also authorizes up to 50 percent for high Btu coal gasification and up to 30 percent for other synthetic fossil fuels—a total of 130 percent. Clearly, this bone is not big enough to go around, and ERDA has stated that it intends to use the maximum amounts available to stimulate high Btu gasification and oil shale commercialization—the scraps will go to renewable resources and energy conservation.

We must further bear in mind that the availability of loan capital to finance energy development is not infinite, and that by using loan guarantees to encourage $3.5 billion in capital to flow toward synthetic fuel development, we would be depriving other energy source proponents of the ability to seek this capital in the open market. In effect, we would be imposing highly questionable technology on the free market system—and I believe this is totally unwarranted until synthetic fuels technology is improved to the point where it can at least become reasonably competitive with traditional oil and gas sources.

The provisions of H.R. 12112 which authorize up to $3.5 billion in loan guarantees for high Btu coal gasification pose another problem—one that has gone almost totally unnoticed in the debate so far. Among the possible beneficiaries of the coal gasification guarantees and price supports are two mammoth projects in the Four Corners area of New Mexico proposed by Wesco and El Paso Natural Gas. These two projects are currently stalled by numerous difficulties, but removing the financing problems might well provide the impetus needed for the projects to proceed.

If this happens, the El Paso and Wesco projects will obtain coal from two proposed surface mines that will produce 25 and 36 million tons per year respectively. These mines would instantly become the largest coal mines in the world. Mining plans on file with the U.S. Geological Survey indicate that they would dwarf even the huge surface coal mines in the Powder River Basin of Wyoming, where coal gasification projects are also planned. The Four Corners area and the Powder River Basin are regions of extremely low rainfall, and without the assurance of adequate reclamation, revegetation, and overall environmetal protection that the twice vetoed strip mining bill would afford, we should not pass legislation which accelerates the development of these coal gasification projects.

In addition to the devastating environmental impacts the surface mines associated with the two New Mexico projects might have on the region and its Navajo residents, the proposed gasification plants will require enormous quantities of water. As in most of the Western States, water is very scarce in the Four Corners region, and its use for coal gasification could severely impede the ability of the Navajo Tribe, and others in the region, to sustain a viable and stable agricultural economy.

The oil shale provisions of H.R. 12112 are likewise questionable from both a financial and environmental point of view. Through the generous terms of the Department of Interior's prototype oil shale leasing program, the Government has already extended a helping hand to industry in an effort to stimulate oil shale development. Development progress on the prototype lease tracts has now completely ground to a halt, however, largely because the price of oil from shale simply is not competitive. Testimony received in June by the Mines and Mining Subcommittee during 3 days of oversight hearings on the prototype oil shale leasing program, reveals that the loan guarantee provisions of H.R. 12112 would do little to enhance the likelihood of an early resumption of development activities on the prototype tracts—too many other obstacles remain.

Further, as with high Btu coal gasification, the environmental problems associated with oil shale development are tremendous, and include: The potential for severe air pollution; increased sediment runoff and salinity in the Colorado River; the production of waste water containing a high level of carcinogenic compounds; and the creation of "boom towns" reminiscent of the boom or bust communities associated with gold and silver mining in the frontier West. Finally, a recent study indicates that workers coming in contact with oil shale may be 50 times more prone to develop skin cancer than workers in conventional oil fields and refineries. All this leads me to believe that the Government should not, given the state of present oil shale technology, accord special favors or treatment to the oil shale industry. If oil shale is to make it commercially, let it be within the framework of the traditional lending market, or under a carefully controlled, Government-run program.

In conclusion, Mr. Speaker, allow me to point out that should H.R. 12112 fail, ERDA will still have funds available to aid in the development of synthetic fuels technology—funds which are wholly adequate to achieve legitimate objectives. The fiscal year 1977 ERDA authorization bill contains $535 million for fossil fuels research and development, and authorizes substantial sums above and beyond that amount for both high and low Btu gasification demonstration plants. In addition, ERDA has received responses from nine industrial firms to a proposal calling for joint research, development and demonstration projects to accelerate in situ oil shale recovery technology. ERDA continues programs for coal liquefaction and oil shale development by conventional room and pillar mining and surface retorts.

It should be clear, therefore, that the Government, through many different agencies and programs is heavily involved in encouraging the development of a commercially viable synthetic fuels industry—and I fully support these efforts. However, I cannot at this time support further consideration of H.R. 12112, because of its use of loan guarantees, and possible future price supports or outright grants to salvage technology which is highly questionable from both a financial and environmental standpoint. I urge my colleagues to vote against this rule.

Mr. KOCH. Mr. Speaker, I intend to cast my vote against House Resolution 1545, the rule on H.R. 12112, the Synthetic Fuels Guaranty Act. I want to state at the outset that I am not against the development of synthetic fuels and I am not opposed to the Federal Government protecting synthetic fuel developers from possible reductions in today's price of oil which might be engineered by oil producing nations to force the developers out of competition. I am for the development of truly economically justifiable alternatives to oil so that we can become energy self-sufficient and free ourselves from foreign oil dependency.

However, the piece of legislation before us is not the proper vehicle to commit us to a multibillion-dollar synthetic fuel program. The legislation before us has not been voted on by a committee of the House in its present form.

There have been 165 amendments printed in the CONGRESSIONAL RECORD and I think this reflects the confusion and controversy surrounding this legislation and quite frankly I do not think such a bill will get the kind of attention and deliberation it deserves with only 6 days remaining on the House legislative calendar. Finally, the report on this bill from the General Accounting Office, if it does nothing else, should warn all of us that we should proceed in the synthetic fuel area with caution and in a manner that does not irrevocably commit us to technologies we do not know enough about.

The recent General Accounting Office report on the synthetic fuels bill concluded that this bill was not the economically efficient way to proceed with the development of synthetic fuels program. That report suggested that a smaller demonstration program should first be developed, before the Congress commits vast amounts of Federal money in what may turn out to be an unproductive means of producing fuel.

Furthermore, the Energy Research and Development Administration has yet to receive the results of two key studies on this program being prepared for it by the Stamford Research Corp., which would allow the Congress and the public to see whether the line of research proposed here is likely to be effective either from a cost or technological standpoint. And I would like to note that ERDA is already financing, on a 50–50 basis with private industry, demonstration synthetic fuels plants, which are actually more advanced in technology and more cost effective than the plants which would be financed by this bill.

On these grounds I will vote against this rule, but I look forward to voting in favor of legislation that will have us make a responsible commitment to synthetic fuels.

Mr. ANDERSON of Illinois. Has the gentleman from California yielded back his time?

Mr. SISK. I have proposed to yield back my time, yes.

Mr. ANDERSON of Illinois. In view of the explanation that has been offered, and the necessity to vote, and the agreement that has been reached on both sides of the aisle, I would do likewise.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ECKHARDT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 192, nays 193, answered "present" 1, not voting 44, as follows:

[Roll No. 803]

YEAS—192

Abdnor
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Beard, Tenn.
Bennett
Bevill
Biester
Bolling
Breaux
Brinkley
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Carney
Carter
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Corman
Cotter
Dent
Derwinski
Dickinson
Downing, Va.
Drinan
Duncan, Tenn.
du Pont
Early
Edwards, Ala.
Emery
Erlenborn
Eshleman
Evans, Colo.
Evins, Tenn.
Flood
Flowers
Foley
Forsythe
Frey
Fuqua
Gaydos
Gilman
Ginn
Goodling
Guyer
Hagedorn
Haley
Hanley
Hannaford
Harsha
Hawkins
Hicks
Hightower
Hillis
Horton
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kazen
Ketchum
Krueger
LaFalce
Landrum
Latta
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
Lundine
McClory
McCormack
McDade
McEwen
McFall
McHugh
McKay
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Metcalfe
Michel
Milford
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nichols
Nowak
O'Brien
O'Hara
O'Neill
Passman
Perkins
Pettis
Pickle
Poage
Pressler
Preyer
Price
Pritchard
Quillen
Railsback
Randall

Rees
Regula
Reuss
Rhodes
Risenhoover
Roberts
Rogers
Roncalio
Roush
Rousselot
Runnels
Schneebeli
Schulze
Sebelius
Shipley
Shriver
Sikes
Sisk
Skubitz
Snyder
Spence
Stanton, J. William
Stanton, James V.
Steiger, Wis.
Stratton
Symington
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Van Deerlin
Waggonner
Walsh
Wampler
Waxman
White
Whitehurst
Wiggins
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wright
Wydler
Wylie
Yatron
Young, Alaska
Zablocki

NAYS—193

Abzug
Adams
Addabbo
Archer
Armstrong
Ashbrook
Aspin
AuCoin
Badillo
Baldus
Baucus
Bauman
Beard, R.I.
Bedell
Bergland
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonker
Bowen
Brademas
Breckinridge
Brodhead
Brooks
Broyhill
Burke, Calif.
Burton, John
Burton, Phillip
Butler
Byron
Carr
Chisholm
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Cornell
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Devine
Diggs
Dingell
Downey, N.Y.
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Eilberg
English
Evans, Ind.
Fary
Fascell
Findley
Fish
Fisher
Fithian
Florio
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Frenzel
Goldwater
Gonzalez
Grassley
Gude
Hall, Ill.
Hamilton
Hansen
Harkin
Harrington
Harris
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Holland
Holt
Holtzman
Howard
Hungate
Jacobs
Jenrette
Jordan
Kasten
Kastenmeier
Kelly
Kemp
Keys
Kindness
Koch
Krebs
Lagomarsino
Long, Md.
McCloskey
McDonald
Madden
Madigan
Maguire
Melcher
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Montgomery
Moss
Mottl
Murphy, Ill.
Neal
Nedzi
Nolan
Oberstar
Obey
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pike
Quie
Rangel
Richmond
Robinson
Rodino
Roe
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
St Germain
Santini
Sarbanes
Satterfield
Scheuer
Schroeder
Seiberling
Sharp
Shuster
Simon
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stark
Steed
Stokes
Stuckey
Studds
Sullivan
Symms
Talcott
Thompson
Traxler
Tsongas
Udall
Ullman
Vander Jagt
Vander Veen
Vanik
Vigorito
Weaver
Whalen
Whitten
Wolff
Yates
Young, Fla.
Young, Ga.
Zeferetti

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—44

Bell
Clancy
Dodd
Esch
Fenwick
Flynt
Giaimo
Gibbons
Gradison
Green
Hall, Tex.
Hammerschmidt
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Howe
Jarman
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Karth
Leggett
McCollister
McKinney
Matsunaga
Mink
Mitchell, Md.
Moffett
Nix
Pepper
Peyser
Riegle
Rinaldo
Ruppe
Sarasin
Smith, Nebr.
Steelman
Steiger, Ariz.
Stephens
Treen
Wilson, Tex.
Young, Tex.

The Clerk announced the following pairs:

Mr. Dodd with Mr. Green.

Mr. Matsunaga with Mr. Riegle.

Mr. Mitchell of Maryland with Mr. Henderson.

Mr. Moffett with Mr. Jones of North Carolina.

Mr. Hébert with Mr. Jones of Alabama.

Mr. Giaimo with Mr. Clancy.

Mr. Flynt with Mr. Esch.

Mr. Pepper with Mrs. Fenwick.

Mr. Nix with Mr. Gradison.

Mr. Charles Wilson of Texas with Mr. Hammerschmidt.

Mr. Leggett with Mr. Heinz.

Mrs. Mink with Mr. Johnson of Pennsylvania.

Mr. Helstoski with Mr. McCollister.

Mr. Gibbons with Mr. McKinney.

Mr. Howe with Mr. Peyser.

Mr. Stephens with Mr. Rinaldo.

Mr. Bell with Mr. Ruppe.

Mr. Hall of Texas with Mr. Sarasin.

Mr. Jarman with Mr. Steelman.

Mr. Karth with Mr. Steiger of Arizona.

Mrs. Smith of Nebraska with Mr. Treen.

Messrs. EVINS of Tennessee, LENT, TAYLOR of Missouri, BREAUX, and WIGGINS changed their vote from "nay" to "yea."

Messrs. STAGGERS, PATTERSON of California, and BUTLER changed their vote from "yea" to "nay."

So the resolution was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SISK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution, House Resolution 1545, just under consideration.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

The Chair announces that today during the joint meeting to hear an address by the President of Liberia, only the doors immediately opposite the Speaker and those on his left and right will be open.

RECESS

The SPEAKER. Pursuant to the order of the House of Tuesday, August 31, 1976, the House will stand in recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 9 minutes p.m.), the House stood in recess subject to the call of the Chair.

JOINT MEETING OF THE HOUSE AND SENATE TO HEAR AN ADDRESS BY DR. WILLIAM R. TOLBERT, JR., PRESIDENT OF THE REPUBLIC OF LIBERIA

The SPEAKER of the House presided.

The Doorkeeper (Hon. James T. Molloy) announced the Vice President and Members of the U.S. Senate, who entered the Hall of the House of Representatives, the Vice President taking the chair at the left of the Speaker, and the Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to escort the President of the Republic of Liberia into the Chamber, the gentleman from Massachusetts (Mr. O'NEILL), the gentleman from California (Mr. MCFALL), the gentleman from California (Mr. PHILLIP BURTON), the gentleman from Pennsylvania (Mr. MORGAN), the gentleman from Michigan (Mr. DIGGS), the gentleman from Arizona (Mr. RHODES), the gentleman from Illinois (Mr. MICHEL), the gentleman from Illinois (Mr. ANDERSON), and the gentleman from Michigan (Mr. BROOMFIELD).

The Doorkeeper announced the Ambassadors, Ministers, and Chargés d'Affaires of foreign governments.

The Ambassadors, Ministers, and Chargés d'Affaires of foreign governments entered the Hall of the House of Representatives and took the seats reserved for them.

The Doorkeeper announced the Cabinet of the President of the United States.

The members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

At 1 o'clock and 5 minutes p.m., the Doorkeeper announced the President of the Republic of Liberia, Dr. William R. Tolbert, Jr.

President Tolbert, escorted by the committee of Representatives, entered the Hall of the House of Representatives, and stood at the Clerk's desk.

[Applause, the Members rising.]

The SPEAKER. Members of Congress, it is my great privilege, and I deem it a high personal honor and pleasure to present to you His Excellency, William R. Tolbert, Jr., President of the Republic of Liberia.

[Applause, the Members rising.]

President TOLBERT. Mr. Speaker, Mr. Vice President, Honorable Members of Congress, friends: I consider it a distinct honor and privilege to have been invited to be the only Liberian President, indeed the first African head of State in this your third century, to address a joint session of your honourable body. I, therefore, ask that you accept our profound appreciation and thanks for the warm words of welcome and the extraordinary opportunity you have afforded us today.

In the name of the Government and all the people of Liberia, I bring you heartfelt greetings, congratulations, and best wishes as America celebrates this Centennial of preeminent international distinction.

Unto this land of individual excellence, institutional vibrancy, and triumphant continuity, the U.S. Congress has remained the bulwark of the national purpose, the prescient promotor of the thriving enterprise of state, and the constant preserver of the ideals and aspirations of democracy. Contemporaneous with the spirit of the American Revolution, the U.S. Congress has resiliently upheld for its constituency those eternal values of human dignity, economic opportunity, and social equity.

It has earned the enviable admiration of nations and peoples everywhere.

As you celebrate with pride the accomplished heights of national experience and maturity, Liberians can proudly reflect upon the peculiar but solid contributions made by people from our continent and shores, people of our race and color, in enhancing the unprecedented international stature of the United States of America today. Joining in the defense of freedom during two World Wars, Liberia courageously committed its strategic resources and position to the coordinate efforts of the Allies.

As you stand upon the threshold of another century of uplifting promise, Liberians can warmly recall the historic events leading to the birth of our own Nation 130 years ago, events in which the U.S. Congress and Government, as well as farsighted American citizens, enacted decisive leadership roles in strategically assisting the founding fathers of Liberia—those who left here and those whom they met there—to secure a new life on the African Continent, free from human oppression, free for human distinction.

Indeed, not only at Bunker Hill and at Gettysburg, but Americans have also paid the supreme price of securing freedom upon the sunlit shores of the west African Republic of Liberia.

Seizing likewise the sparks of liberty from the American halls of eloquence and its fields of valor, the Republic of Liberia, throughout the age of colonialism, has held aloft the exalted torch of freedom, as ordained by providence, calling forth the heroic emancipation of the African peoples and continent.

In the eternal interest of mankind, this liberating experience of the Spirit of '76 must invincibly prevail. In fulfillment of the ordinance of providence, likewise, the vision and decisions of the U.S. Congress must always be to improve the future of this our one world.

A famous historian has described our times as the age of paradox, evincing competition of arms and usurpation of development, signifying creative ingenuity and destructive proclivities, manifesting determined aspirations and defiant domination. Plenty is marred by plunder, vibrancy is despoiled with violence, freedom is left to fortuity, and friendship cast to fatality.

Even in this Bicentennial Year of refreshing democratic renewal, when Americans will participate in free elections, exercising their universal suffrage, our sisters and brothers in southern Africa are being violently denied their basic human rights and dignity. The scourge of discrimination and racist minority rule is afflicting and repressing the peoples of Zimbabwe, Namibia, and South Africa.

International rule of law is flouted by the defiance of force. And the dimensions of resentment portend the danger of imminent conflagration.

At a time when the world can take pride in the plethora of its collective wealth, billions of its resources are being channeled to armaments rather than to food and socioeconomic development.

Jet fighters of power are exchanged between nations, and paid fighters against freedom delay emancipation.

Technology superiority astounds humanity, while human malignancy and misery, alas, imply a curious misuse of technology and a strange misplacement of human values. And the potential for nuclear abuse is being channeled into the sinister hands of those who are even fostering the isolation of the races in their own land.

Despite the availability of reconstructive material, the present economic order of the world yet awaits a more functional design for balanced opportunity. The majority of the world's economies has had to accept a declining and volatile price structure for its output of raw materials. This same majority of the world's economies has had to accept higher and constantly rising prices for its imports of manufactures and services, foodstuffs, and capital goods.

Growing debts and deficits, rudimentary technology, widespread illiteracy, prevalent infant mortality, and wasting diseases seem too long to postpone for these nascent economies the prerequisites to development and prosperity.

Today, in the council halls of the world, an interim of dialog and negotiation is therefore sustaining a continuing paradox upon the family of man. While unions are being formed, alinements met, and alliances forged, the tide of human frustration and uneasy confrontation are building up on every side.

With vestiges of oppression incongruous with the American ideals, with global divisiveness incongruous with the federation of the world; with pervasive destitution incongruous with suffusive American affluence, the Congress of the United States—that reservoir of the American conscience, that hub of America's leadership—must assert again in this third century the unconquerable Spirit of '76.

It is time for the U.S. Congress to bring to pass the hopes of the world in the heart of America.

It is time for the U.S. Congress to usher in a new age of the American Revolution wherein this great Nation of nations will demonstrate its appropriate responsibility to the posterity of the whole of mankind.

It is time for the U.S. Congress, ever more articulately and effectively, to choose uplifting priorities, and to create and promote a universal conscience for international dignity and development.

The critical situation in Africa and third world nations today presents a challenge to the conscience and choices of America in her third century.

What are the priorities for bringing dignity and serenity to Southern Africa? Counterweigh with neighboring states the massive strength of investments and military ties with South Africa? Repeal the Byrd amendment? Make Southern Africa a nuclear free zone? Institute an arms embargo on South Africa? Defuse the momentum of the guns of liberation? Should the priorities be concessionary talks and repressive atrocities? Majority rule and inviolable equal rights? A conciliatory spirit and peaceful change?

Should these priorities be such that developed nations would strengthen freedom's adversaries and placate the oppressors of Africa?

Let the U.S. Congress decide for itself.

I am convinced that each and every African remains distressfully insecure so long as their brothers and sisters in Southern Africa suffer and struggle under the anvil of colonialism and racism. Africans will never exchange one form of external oppression, however veiled, for any other. And no extent of tyranny will prevent the courageous people of Africa from achieving their God-given rights.

With all sincerity and determination, the Spirit of '76 demands, and I am convinced of the increasing will of each and every African, to the last man and the last drop of African blood to accept the fate of violent death rather than endure the infamy of continued oppression.

As history itself must confirm, it is only after an earnest but unsuccessful quest for peace that Africans would pursue a path of violence; and then with valor and with vigor, they fight to obtain their God-given rights and dignity.

At a time when the world has recognized the humane frontiers of global interdependence, what might constitute the humane priorities of socioeconomic conquest?

Might it not consist in more responsive funding of multilateral agencies which equitably administer concessional aid for the rural and urban poor of the world?

Might it not mean stable, fairer, and more remunerative prices for primary exports of developing economies, an integrated commodity program undergirded by a common commodity fund?

Might it not involve more meaningful participation in the monetary and economic decisionmakng processes, in the managerial and the shipping services of the world?

Might not the overall flow of financial aid to developing countries increase at least proportionately to equal the present phenomenal expenditure on arms?

Might not the volume of official aid to developing nations, particularly the most seriously affected, begin to move upward from its all-time low toward the proposed United Nations target of 1 percent of gross national product?

Might not the urgent goals of economic diversification require a more cooperative and productive blend of international corporate and technological skills?

Let the U.S. Congress decide.

As the world stands disquietedly on this humane frontier of a new economic order, will these priorities presage the isolation that comes with counter-alliances, or will they foster immutable coalliances for economic and social justice?

Will they engender petulance or will they excite the passion of humanity to accelerate the evolution of a world free from the blight of ignorance, disease, and poverty—deadly enemies against which we are uncompromisingly at war in Liberia?

The Revolutionary Thomas Paine expressed unwavering faith in "the power of the United States to create a happy world." In this age of accelerated evolution, shall it constitute the dignity of America not to care so much as what the world will think, but to care so much as how the world shall live?

Let the Congress of the United States decide.

In the founding of the Republic of Liberia which early launched the hope of African emancipation, the U.S. Congress played a decisive role. Resolutely, in 1819 it put an end to the heinous practice of slave trading. Generously, in the same year, it appropriated a fund of $100,000 to facilitate the return of liberated black people to the African shores.

In preventing the financial collapse of the Liberian Republic in 1911, Congress used its good offices to arrange a multinational refunding loan of $1.7 million, and encouraged other crucial private investments subsequently, whereby the nation's internal development could be continued. Skillfully, it steered the course of insuring Liberia's independence and avoiding the spread into Liberia of colonialism for which we will remain ever grateful.

Since World War II, Congress, in providing significant economic aid for Liberia's development, has again enacted the means by which our country has benefited from technical and military assistance, from Peace Corps services, corporate American investments, and overall programs of bilateral cooperation.

Indeed, no emblem of the democratic ideal of '76 in any part of our one world should ever be abandoned to the right of uncertainty and need.

Though humanely salutary and crucially decisive throughout the years, considering the special relationship between the United States and Liberia not infrequently referred to, yet it would seem that the role of the U.S. Congress could have been more fully manifested in greater progress and development for the Liberian people.

When noted economists can rank our nation among those holding the worst place among 59 developing countries today and describe it as being in urgent need of aid to balance its development process; when foreign journalists can visit Liberia and portray it as depressing and appalling; when we review the entire spectrum of unique and historic relations with this great American citadel of splendor and power, we can perceive a clearly evident need for closer and more meaningful cooperation between our two nations.

And we are the more inspired with the patriotic fires for strategic economic diversification and greater self-reliance for self-sufficiency.

Thus, Liberia has an urgent rendezvous with reconstruction and development.

She must, and she will plan creatively, promote her finances securely, and afford the most useful environment for international productive copartnerships.

She must, and she will transform her rural sectors, increase her health and educational facilities, and provide modern housing accommodations in rural and urban areas.

Liberia must, and she will build more schools and feeder roads, deliver modern agricultural inputs and health delivery systems, and thereby raise her people from mats to mattresses.

Liberia's priorities are distinctly clear. With the total involvement of everyone in every way for selfsufficiency, with ultimate faith and trust in God, and reliance on self, Liberians are fervently determined to raise their nation to heights of unprecedented achievement.

With appropriate understanding and encouragement, particularly from her trusted friends, Liberia will continue to demonstrate, in common with her brothers and sisters, that Africans are capable of developing their own political, social and economic institutions, suitable to their desired destinies.

Mr. Speaker and honorable Members of the Congress: let us always remember that the world is seized today in the grip of imbalance and disadvantages, in muck and malignancy. Sharp income disparity and striking social distinction exists. Human deprivation, degradation, and indignity are complemented by corporate concentration and systematic exploitation.

Let the Congress then become the bold crusader for social and economic reform around the world—our one world and act timely.

Let the U.S. Congress become the fearless campaigner for international cooperation and accommodation.

Let this great Congress of the United States of America continuingly assure for the family of man and of nations a lifted standard of liberty and prosperity, opportunity, and justice within a wholesome functioning world society—our one world.

[Applause, the Members rising.]

At 1 o'clock and 31 minutes p.m., the President of the Republic of Liberia, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Doorkeeper (Hon. James T. Molloy) escorted the invited guests from the Chamber in the following order:

The members of the President's Cabinet.

The Ambassadors, Ministers, and chargés d'affaires of foreign governments.

JOINT MEETING DISSOLVED

The SPEAKER. The purpose of the joint meeting having been completed, the Chair declares the joint meeting of the two Houses now dissolved.

The Members of the Senate retired to their Chamber.

The SPEAKER. The House will continue in recess until 2 o'clock and 15 minutes p.m. today.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 2 o'clock and 15 minutes p.m.

PRINTING OF PROCEEDINGS HAD DURING RECESS

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

LEGISLATIVE PROGRAM FOR BALANCE OF TODAY

(Mr. McFALL asked and was given permission to address the House for 1 minute.)

Mr. McFALL. Mr. Speaker, I take this time to give the program for the balance of the afternoon.

We will conclude the Private Calendar; then we will take up the rule on H.R. 15, regulating lobbying and related activities, the rule only; then we will have the conference report on S. 521, Outer Continental Shelf; then we will have the conference report on H.R. 9019, health maintenance organizations; and then we will have the conference report on H.R. 5546, the Health Manpower Act.

It is the hope that we would finish, as I understand it, by about 5 o'clock.

DEFEAT OF RULE ON SYNTHETIC FUELS SEEN AS DEFEAT FOR CONSUMERS

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PERKINS. Mr. Speaker, the one vote defeat on the rule on the synthetic fuels bill should be recognized for what it is—a defeat for the consumers of America.

That is true any way you look at this legislation, because it is a glaring indication to the oil exporting nations, the OPEC countries, that the Congress does not want to make the United States self-sufficient in energy.

Mr. Speaker, there is not a single question raised by the opponents of the synthetic fuels bill—there is not a single objection raised by the opponents of the bill—which does not have a satisfactory answer.

The only way we are ever going to be self-sufficient in energy, and the only way we are ever going to get out of the clutches of the extortionist oil exporters, is to go into commercial scale coal liquefaction and coal gasification.

Some of the opponents of the bill claim that it would cost more to produce gas or oil from coal than it costs to import it from the Middle East, but no one can accurately predict what anything will cost in the 4 or 5 years it might take to build a commercial scale coal to oil or coal to gas plant.

Mr. Speaker, every conceivable safeguard possible or necessary to protect the public was built into this legislation. None of the giant multinational energy companies would have gotten one of the guaranteed loans to build a plant, but smaller, technically capable companies would have, and we would have gotten some competition built into the energy industry.

Mr. Speaker, the record ought to show that despite misinformation about technology for coal gasification and coal liquefaction being spread about, the simple fact of the matter is that technology has been available and in use for about 50 years.

Germany used to during World War II, and South Africa uses it today.

It is a shame that the Congress has not acted as it should to protect the American consumer. A similar mistake was made in 1953, when Congress eliminated a $2 million appropriation for synthetic fuel production, but I thought we were a little wiser about these things today.

Unfortunately, it appears that we are not, but if the Members will study some of the 1953 debate from the RECORD, which I am including with my remarks, I think perhaps some greater understanding will develop:

THE COAL INDUSTRY

The SPEAKER. Under previous order of the House, the gentleman from Kentucky (Mr. PERKINS) is recognized for 10 minutes.

Mr. PERKINS. Mr. Speaker, with mines closing down daily throughout America, it certainly is bad news to learn that the Interior Department has proposed to shut down its two coal-to-oil demonstration plants at Louisiana, Mo., as revealed by its revised budget for fiscal 1954.

The coal industry throughout the Nation is suffering a severe depression caused by the unrestricted importation of residual fuel oil. Hearings will commence next week before the Ways and Means Committee on proposals to place a 5-percent limitation on imports of foreign residual fuel oils.

As I understand, the Interior Department's appropriation bill, which was to be considered on the floor this week, is now being marked up and will not be considered perhaps for a couple of weeks. Personally, I am unaware of any department in this Government that has carried on a more efficient and economical operation than the Bureau of Mines. Recently money was made available in the supplemental appropriation for 50 additional inspectors to carry out the safety requirements in the coal mines. Necessary funds must be made available if we are to follow through in the future with an effective mine-safety program.

Mr. Speaker, I am hopeful that the Department will reconsider its proposal to shut down its two coal-to-oil demonstration plants. Naturally, such a proposal at this time would have a bad psychological effect on the coal industry throughout the Nation. The oil lobby has contended for some time that synthetic fuel oil shale is more feasible than coal. I believe that we can all agree, from the standpoint of the national interest, that our Government should continue to explore through its demonstration plants, the development of oil from coal with a view of reducing the price.

Between 1948 and 1951, after careful preliminary analysis, the Interior Department spent $20 million to build and equip these plants for the purpose of testing under actual operating conditions the technology of large-scale production of liquid fuels from our abundant supplies of coal. These plants have been operating with encouraging results as to efficiency, cost, and the quality of diversified products from selected samples of coal.

But now, just when it appears that the processes are on the very threshold of success, and in view of increasing apprehension as to the adequacy of our future supplies of liquid fuels, a proposal is made to shut down these plants in order to pare from the appropriation $2 million needed to operate them through the fiscal year 1954

The ultimate cost of such abortive action, in terms of the Nation's future security, would exceed by many times the nominal budget saving which is sought. It would be the height of folly to make this far-reaching decision within the narrow context of a single year's appropriation. The two plants in question are vital parts of a comprehensive long-range program for the development of synthetic liquid fuels in every feasible direction.

By 1975, it is predicted, our daily needs for liquid fuels may be several times greater than our domestic production from petroleum. If we were to be confronted with another all-out war, available supplies of liquid fuels would immediately present an acute problem. A growing dependence upon foreign sources of oil would increase our vulnerability and impair our security.

It is, therefore, imperatively necessary for us to push ahead, steadfastly and without interruption, with programs for the development of alternative sources of liquid fuels based upon domestic energy resources, including our abundant supplies of coal. Considered in this broad perspective, it is false economy indeed to pursue a relatively paltry saving of $2 million over the coming fiscal year, at the cost of jeopardizing a vital part of our national fuel development program. When it is necessary for us to spend $50 billion a year for national defense and the development of atomic energy, it seems inconceivable that $2 million would be denied for the furtherance of a program so promising as the conversion of coal to liquid fuels.

* * * * *

Mr. PERKINS. I wish to thank the gentleman from West Virginia for his contribution.

In truth, rather than to shut down the two established coal demonstration plants, we should be concerned with the immediate development of additional plants on a larger scale. In the two preceding sessions of Congress, I have introduced bills to provide for the construction and operation of full-scale plants for producing liquid fuels from coal, and I am today introducing a similar bill for this purpose. The security and welfare of our Nation require that this effort be advanced, not retarded, hastened rather than delayed by fitful budgetary changes.

Mr. Speaker, in view of the sudden decision of the Secretary of Interior to close down the coal-to-oil plants, and in view of the wide rumors now prevailing around the Capitol, I am wondering whether or not there is a double payoff involved. It is well known through unimpeachable sources that the chemical lobby is deeply interested in stopping governmental operation and taking over the control of these particular plants. I am sure that the country as a whole will reach the only inescapable conclusion—if this does happen—that the oil lobby and chemical people are receiving their payoff from campaign promises.

There have been reports that within 2 or 3 years these processes that have been developed at the Louisiana plant would be so far advanced as to be patentable. Such patent rights would be of inestimable value to private industry.

* * * * *

Mr. KIRWAN. Mr. Chairman, I yield 10 minutes to the gentleman from Kentucky (Mr. Perkins).

Mr. PERKINS. Mr. Chairman, I wish at the outset to concur in the remarks of the distinguished gentleman from Missouri (Mr. Cannon).

I am glad to learn that the gentleman from Missouri (Mr. Cannon) will offer an amendment to restore the funds necessary to operate the synthetic liquid fuels—coal to oil plants—at Louisiana, Mo. On page 20, of the Interior Department appropriation bill, 1954, we find this statement:

"In the table above the only appreciable change from the amounts allowed in the current fiscal year is for the synthetic liquid fuels program. It was reported to the committee that the Secretary proposed to put the synthetic liquid fuels demonstration plant at Louisiana, Mo., in standby. This plant is used for making gasoline from coal by hydrogenation and gas synthesis processes. It was reported to the committee that refinements accomplished to date in these processes have brought the cost of producing gasoline down to within a few cents of being commercially competitive with other methods of producing gasoline. The Bureau appears to have done an excellent job in leading the way in these important developments which are now at the point where private industry can pick them up."

The report further states that funds have been made available to place the plants on a standby basis. Then we find this language in the last sentence of the paragraph: "The Secretary is instructed to dispose of the two demonstration plants in accordance with existing law and agreements which may be in existence between the Department and other Federal agencies."

This report clearly states that the coal to oil process has been improved to the point where the cost of production is within a few cents of the prevailing costs of securing gasoline and other refined products from petroleum. You will note that this has been urged as a reason for discontinuing the Government research program and to let private industry take over the studies when and if they are ready. But why stop at this point? It is easy to see why some of the oil companies would want the Government research program to stop, but is there any valid reason why the Congress of the United States representing all the people should order the research to stop?

Surely the committee is not trying to tell us that cost reduction can go no further than the level of present costs of petroleum refining. Since these scientists have already made marked improvement in the process and have greatly reduced the costs, is it not possible that they may, if they go on with their work, eventually be able to cut the costs below present costs? Surely the committee is not asking Congress to say that the ultimate has been reached and the scientists cannot produce any more beneficial results. There is just as much logic in saying that they can cut the costs to one-half those now prevailing as to say that, because this scientific program has reduced these costs to a certain point, that the goal has been reached and that they should stop.

There is another very compelling reason why this Congress should continue and even expand research to make gasoline, oil, gas, and other useful fuel and energy resources from coal. Reserves of coal are found in 31 of the 48 States. Coal is not only the most abundant mineral fuel and source of energy we have, but it is so widely distributed that if ways can be found to convert it to more useful and convenient liquid forms it would benefit more people and contribute to the efficiency of our economic system more than possibly any other single development. Twenty-two of these thirty-one States have energy values in coal greater than all the oil reserves of the entire country. In contrast to the wide distribution of the coal reserves, the oil reserves are highly concentrated. One State has approximately half while 3 States have 80 percent of the known reserves.

By continuing this research program we may soon be able to make economical and convenient energy fuel readily available to people all over America. This optimistic conclusion has more justification than the one now before us that since the scientists have brought the costs of oil from coal down to within a few cents of the prevailing costs of petroleum refining, within 2 cents, as admitted here today, that we have reached our ultimate goal and should stop.

Mr. ELLIOTT. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Alabama.

Mr. ELLIOTT. I know the gentleman is thoroughly familiar with the plant at Louisiana, Mo., and some of the other plants, and I wish to congratulate him for the interest he consistently shows in the welfare of the coal industry and those connected with it. I am wondering if he is familiar with the fact that at Gorgas, Ala., there has been carried on by the United States Bureau of Mines and by the Alabama Power Co., cooperating over the past few years, the single greatest experiment in underground coal gasification that this entire world has ever known.

Mr. PERKINS. Certainly I am familiar with that experiment.

Mr. ELLIOTT. Is the gentleman further familiar with the fact that this bill as it stands now, just as it does in connection with the plant at Louisiana, Mo., and the plant at Rifle, Colo., fails to provide one single cent with which to carry on the great experimental project there at Gorgas, Ala., in underground coal gasification?

Mr. PERKINS. The gentleman is absolutely right. As I understand, the only laboratory left is the one at Bruceton.

Mr. ELLIOTT. May I call the gentleman's attention at this point to the fact that experimentation in the field of underground gasification is being carried on by various governments throughout the world. Many of our leading scientists feel that perhaps the Russians are now carrying on intensive experimentation in this field of underground coal gasification. I think it is the height of folly for this Nation, right at the time when we are on the brink of accomplishing the greatest scientific results in this field that the human mind can conceive of, to say suddenly that no further funds will be provided to carry on the work, and there is no further interest on the part of this great people in carrying on those experiments and allowing them to reach the conclusion which is clearly pointed up by what has gone before in the past 4 or 5 years.

Mr. PERKINS. I thank the gentleman from Alabama for his contribution. I concur wholeheartedly in his statement.

Since coal is so widely distributed and is so abundant, having 100 times the energy value of all known petroleum and natural gas reserves combined, nothing is more fundamental than to make all possible efforts to perfect known processes and discover all potential processes of utilizing this abundant source of energy.

What would be the predicament of America in event of all-out war that would destroy the lines of communication and cut all overseas sources of oil? All Europe would be paralyzed except for our help.

Would our petroleum industry be equal to the task? How much use will our vast expenditures for research in atomic energy and military facilities be if we do not have the abundant and appropriate energy fuels to supply our ships, airplanes, tanks, trucks, and automobiles?

Along with this recommended scrapping of the liquid fuel research program; does the Congress have assurance that the Communists are also scrapping their research programs?

Mr. FENTON. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield.

Mr. FENTON. I am sure the gentleman wants to be fair and not accuse this committee of wanting to throttle this program. I thought I told you very plainly that there is now another method that they are pursuing which is going to sidetrack the other two methods and put them in a state of standby. That is all. We are not trying to sidetrack them.

Mr. PERKINS. Let me answer the gentleman this way. If we fail to restore these funds here, it will be one of the greatest giveaways of the most valuable property, and one of the greatest errors that this administration could possibly commit.

* * * * *

The CHAIRMAN. The Chair recognizes the chairman from Kentucky [Mr. PERKINS.]

Mr. PERKINS. Mr. Chairman, Walter S. Hallanan's Petroleum Council set up to counsel the Interior Department, recommended in February this year that the coal-to-oil plant at Louisiana, Mo., should be closed. Mr. Hallanan is head of the Plymouth Oil Co. of Pittsburgh, and is the Republican national committeeman from West Virginia. This gentleman, as we all recall, was chairman of arrangements of the Republican National Convention in Chicago last July.

I do not think we should make a decision for oil or coal but that we should proceed with our demonstration processes in both fields without being discriminatory. We have a process that has proved successful and has reached the point of being commercially competitive with crude oil. Yet, because of that fact, we want to destroy that process in favor of the oil lobby, and at the same time, endanger the defenses of this country. That is all we are doing.

PRIVATE CALENDAR

The SPEAKER. Pursuant to the order of the House on Tuesday, September 22, 1976, the Clerk will call the Private Calendar.

FIDEL GROSSO-PADILLA

The Clerk called the bill (H.R. 6817) for the relief of Fidel Grosso-Padilla.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MRS. ROSE THOMAS

The Clerk called the bill (H.R. 1424) for the relief of Mrs. Rose Thomas.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

MURRAY SWARTZ

The Clerk called the bill (H.R. 1560) for the relief of Murray Swartz.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

FRANKLIN R. HELT

The Clerk called the bill (H.R. 2564) for the relief of Franklin R. Helt.

There being no objection, the Clerk read the bill, as follows:

H.R. 2564

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of the money in the Treasury not otherwise appropriated, to Franklin R. Helt, of Bronson, Texas, the sum of $2,356.23, plus interest at rate of 6 per centum, in full settlement of all of his claims against the United States arising out of the failure of the Department of the Army to pay him a separation allowance from May 16, 1958, to May 16, 1959.

SEC. 2. No part of the amount appropriated in the first section of this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with such claims, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

AMENDMENT OFFERED BY MR. FLOWERS

Mr. FLOWERS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FLOWERS: Page 1, line 6, strike out "$2,356.23, plus interest at rate of 6 per centum," and insert in lieu thereof "$4,759.52".

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CHESTER C. CLARK, MARY L. CLARK, AND DOROTHY J. WILBUR (ALSEA VENEER, INC.)

The Clerk called the bill (H.R. 6507) for the relief of Chester C. Clark, Mary L. Clark, and Dorothy J. Wilbur.

There being no objection, the Clerk read the bill as follows:

H.R. 6507

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 116(b) of the Economic Opportunity Act of 1964 (42 U.S.C. 2727(b)), the Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, the sum of $25,000 to Chester C. Clark, Mary L. Clark, and Dorothy J. Wilbur, as owners of Alsea Veneer, Incorporated, a corporation incorporated under the laws of the State of Oregon, in full satisfaction of their claim against the United States for the complete loss of their Michigan 275 log handling machine. Such loss occurred on April 1, 1972, when three Job Corps enrollees from Camp Angell Job Corps Center near Yachats, Oregon, entered upon property owned by Alsea Veneer, Incorporated, took possession of the log handling machine, and drove such machine over a cliff into a canyon.

SEC. 2. No amount in excess of 10 per centum of the sum appropriated by the first section of this Act shall be paid to or received by any agent or attorney in consideration for services rendered in connection with the claim described in the first section. Any violation of the provisions of this section is a misdemeanor and any person convicted thereof shall be fined not more than $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ALICE W. OLSON, LISA OLSON HAYWARD, ERIC OLSON, AND NILS OLSON

The Clerk called the Senate bill (S. 3035) for the relief of Alice W. Olson, Lisa Olson Hayward, Eric Olson, and Nils Olson.

There being no objection, the Clerk read the Senate bill as follows:

S. 3035

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $312,500 each to Alice W. Olson, Lisa Olson Hayward, Eric Olson, and Nils Olson, in full settlement of all their claims against the United States arising out of the death of Doctor Frank R. Olson in November 1953, if all of them waive any and all rights arising out of such death. The payment of such sums shall be in full satisfaction of all claims of Alice W. Olson, Eric Olson, Lisa Olson Hayward, and Nils Olson of any nature whatsoever against the United States, or against any past or present employee or agent of, or person associated with, the United States, his estate or personal representative, in connection with the circumstances surrounding such death and such payments shall be in lieu of further compensation otherwise due under chapter 81 of title 5, United States Code, or any award thereunder.

SEC. 2. No part of the amount appropriated by this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same is unlawful, any contract to the contrary notwithstanding. Violation of this section is a misdemeanor punishable by a fine in any amount not to exceed $5,000.

AMENDMENT OFFERED BY MR. FLOWERS

Mr. FLOWERS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FLOWERS: Page 1, line 5, delete "$312,500" and insert "$187,500".

The amendment was agreed to.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MRS. HELEN WOLSKI, MICHAEL WOLSKI, AND STEVEN WOLSKI

The Clerk read the bill (H.R. 3377) for the relief of Mrs. Helen Wolski, Michael Wolski, and Steven Wolski.

There being no objection, the Clerk read the bill as follows:

H.R. 3377

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the time limitations contained in section 8193(c)(3) of title 5 of the United States Code, a claim presented to the Secretary of Labor within one year after the date of enactment of this Act by Mrs. Helen Wolski, Michael Wolski, and Steven Wolski for the death of her husband and their father, a Detroit police officer killed in the line of duty, shall be allowed under section 8192(b) to the extent that such claim is otherwise allowable under that section.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GARY DAVES AND MARC CAYER

The Clerk called the bill (H.R. 4480) for the relief of Gary Daves and Marc Cayer.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

DANIEL CROWLEY

The Clerk called the bill (H.R. 9908) for the relief of Daniel Crowley.

There being no objection, the Clerk read the bill as follows:

H.R. 9908

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of the Immigration and Nationality Act, Daniel Crowley shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper quota control officer to deduct the required number from the appropriate quota for the first year that such quota or quotas are available.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That, notwithstanding the provisions of section 212(a)(1) and (25) of the Immigration and Nationality Act, Daniel Crowley may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided,* That these exemptions shall apply only to grounds for exclusion of which the Department of State, or the Department of Justice had knowledge prior to the enactment of this Act: *Provided further,* That a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of the said Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

OLIVE M. V. T. DAVIES AND HER CHILDREN

The Clerk called the bill (H.R. 10962) for the relief of Olive M. V. T. Davies and her children.

There being no objection, the Clerk read the bill, as follows:

H.R. 10962

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.). Olive M. V. T. Davies and her children, Remmie Samuel K. Davies, Samira D. K. Davies, Ola Tomi K. Davies, Ola Yinka K. Davies, Ilesha E. K. Davies, and Baba Tunji K. Davies, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fees.

SEC. 2. Upon the granting of permanent residence under the first section of this Act to the individuals specified in such section, the Secretary of State shall instruct the proper officer to deduct the required numbers from the total number of immigrant visas and conditional entries which are made available under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) to natives of the country of each such individual's birth.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That, in the administration of the Immigration and Nationality Act, Mrs. Olive M. V. T. Davies and her children, Remmie Samuel K. Davies, Samira D. K. Davies, Ola-Tomi K. Davies, Ola-Yinka K. Davies, Ilesha E. K. Davies, and Baba-Tunji K. Davies shall be held and considered to be within the purview of section 203(a)(2) of that Act and the provisions of section 204 of the Act shall be inapplicable in their cases.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PATRICK ANDREW C. LAYGO AND CHRISTINA SOCORRO C. LAYGO

The Clerk called the bill (H.R. 11387) for the relief of Patrick Andrew C. Laygo and Christina Socorro C. Laygo.

There being no objection, the Clerk read the bill, as follows:

H.R. 11387

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Patrick Andrew C. Laygo and Christina Socorro C. Laygo shall be issued a visa and shall be admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct the required numbers from the total number of immigrant visas and conditional entries which are made available to natives of the country of each alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That, in the administration of the Immigration and Nationality Act, Patrick Andrew C. Laygo and Christina Socorro C. Laygo shall be classified as children of Mr. and Mrs. Teresito Laygo within the meaning of section 101(b)(1)(E) of such Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MRS. AMELIA DORIA NICHOLSON

The Clerk called the bill (H.R. 11724) for the relief of Mrs. Amelia Doria Nicholson.

There being no objection, the Clerk read the bill, as follows:

H.R. 11724

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the Immigration and Nationality Act, Mrs. Amelia Doria Nicholson, the widow of a citizen of the United States, shall be held and considered to be within the purview of section 201(b) of that Act, and the provisions of section 204 of that Act shall not be applicable in this case.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MO CHONG-PU

The Clerk called the bill (H.R. 12831) for the relief of Mo Chong-Pu.

There being no objection, the Clerk read the bill, as follows:

H.R. 12831

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Mo Chong-Pu may be classified as a child within the meaning of section 101 (b) (1) (F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. Thomas Pitt, citizens of the United States, pursuant to section 204 of the Act. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

With the following committee amendment:

On page 1, line 10, strike out "case." and insert in lieu thereof the following: "case: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PATRICK ANDRE TASSELIN AND FABIENNE FRANCOISE TASSELIN

The Clerk called the Senate bill (S. 866) for the relief of Patrick Andre Tasselin and his wife, Fabienne Francoise Tasselin.

There being no objection, the Clerk read the Senate bill, as follows:

S. 866

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Patrick Andre Tasselin and his wife, Fabienne Francoise Tasselin, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That for the purpose of section 203(a) (4) and 204 of the Immigration and Nationality Act Patrick Andre Tasselin shall be held and considered to be the natural-born alien son of Howard E. Yarborough, a citizen of the United States.

The committee amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "For the relief of Patrick Andre Tasselin."

A motion to reconsider was laid on the table.

VALIDATING THE CONVEYANCE OF CERTAIN LAND IN THE STATE OF CALIFORNIA BY THE SOUTHERN PACIFIC TRANSPORTATION CO.

The Clerk called the bill (H.R. 3818) to validate the conveyance of certain land in the State of California by the Southern Pacific Transportation Co.

There being no objection, the Clerk read the bill, as follows:

H.R. 3818

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to section 3, the conveyances executed by the Southern Pacific Transportation Company and described in section 2, involving certain land in San Joaquin County, California, forming a part of the right-of-way granted by the United States to the Central Pacific Railway Company under the Act entitled "An Act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes", approved July 1, 1862 (12 Stat. 489), as amended, are hereby legalized, validated, and confirmed, as far as any interest of the United States in such land is concerned, and shall have the same force and effect as if the land involved in each conveyance had been held, on the date of conveyance, under absolute fee simple title by the Southern Pacific Transportation Company, subject to a reservation to the United States of the minerals therein.

SEC. 2. The conveyances referred to in the first section of this Act are as follows:

(1) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Stokely-Van Camp, an Indiana corporation, as grantee, on March 2, 1973, and recorded as instrument numbered 555797 on December 3, 1973, book 3822, page 586, of the Official Records of San Joaquin County, California, describing the following lands: That certain parcel of land situate in the county of San Joaquin, State of California, being a portion of the west half of section 12, township 3 north, range 6 east, Mount Diablo base and meridian, described as follows:

The easterly 125 feet of the westerly 150 feet of lots 66, 67, 68, 69, the westerly 150 feet of lot 70 and the easterly 100 feet of the westerly 150 feet of lot 71, as said lots are shown on the map of the Lodi-Barnhart Tract, recorded November 5, 1906, in volume 3 of Maps and Plats, page 48, records of said county.

Excepting therefrom that portion of said lot 68 lying easterly of the easterly boundary of the land described in the deed dated August 27, 1962, to Stokely-Van Camp, Incorporated, recorded September 5, 1962, in book 2592, page 385, of Official Records, records of said county, and southerly of the easterly prolongation of the northern boundary thereof.

(2) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Bernardino Barengo, a married man, as grantee, on June 27, 1973, and recorded as instrument numbered 37943 on August 9, 1973, book 3792, page 21, of the Official Records of San Joaquin County, California, describing the following lands: That certain parcel of land situated in the county of San Joaquin, State of California, being a portion of the southwest quarter of section 24, township 4 north, range 6 east, Mount Diablo base and meridian, described as follows:

Commencing at the intersection of the original located center line of Southern Pacific Transportation Company's main track (Stockton to Sacramento) with a line that is parallel with and distant 20.00 feet northerly, measured at right angles, from the south line of said southwest quarter of section 24, said parallel line being the north line of Acampo Road (formerly Main Street);

thence north 88 degrees 36 minutes 00 seconds west, along said parallel line, 140.71 feet to a line that is parallel with and distant 135.00 feet westerly, measured at right angles, from said original located center line and the true point of beginning of the parcel of land to be described;

thence north 14 degrees 58 minutes 30 seconds west, along last said parallel line, 883.19 feet;

thence south 75 degrees 01 minutes 30 seconds west, at right angles from last said parallel line 9.40 feet to the southeasterly corner of the lands of Dino Barengo as described in deed recorded September 29, 1961, in book 2462, page 290, Official Records of said county;

thence northerly along the easterly line of said lands on the following four courses: (1) north 14 degrees 58 minutes 30 seconds west, parallel with said center line, 14.60 feet, (2) north 11 degrees 33 minutes 30 seconds west 100.00 feet, (3) north 9 degrees 39 minutes 30 seconds west 50.00 feet, (4) north 8 degrees 29 minutes 30 seconds west 27.60 feet;

thence south 67 degrees 42 minutes 00 seconds west, along the northerly line of last said lands 69.88 feet to a line that is parallel with and distant 200.00 feet westerly, measured at right angles, from said original located center line, last said parallel line being the westerly line of the 400-foot right-of-way granted by Act of Congress to the Central Pacific Railroad Company;

thence south 14 degrees 58 minutes 30 seconds east, along last said parallel line, 1046.81 feet to said north line of Acampo Road;

thence south 88 degrees 36 minutes 00 seconds east, along said north line, 67.75 feet to the true point of beginning, containing an area of 1.565 acres, more or less.

(3) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Calvin Clark III, a married man, as grantee, on November 4, 1974,

and recorded as instrument numbered 56311 on December 9, 1974, book 3934, page 640, of the Official Records of San Joaquin County, California, describing the following lands: That certain real property situated in the County of San Joaquin, State of California, being a portion of section 24, township 4 north, range 6 east, Mount Diablo base and meridian, more particularly described as follows:

Commencing at the point of intersection of a line parallel with and distant 30 feet westerly, measured at right angles, from the easterly line of Sycamore Street, with the westerly prolongation of the northerly line of an alley in block 4 as said street, alley and block are shown on the map of the town of Acampo;

thence south 88 degrees 36 minutes 00 seconds east along said prolongation, northerly line and its easterly prolongation thereof, 474.05 feet to a point in the southwesterly line of land (400 feet wide) of Southern Pacific Transportation Company;

thence north 14 degrees 58 minutes 30 seconds west along said southwesterly line being parallel with and distant 200.0 feet southwesterly, measured at right angles, from the original located center line of said company's main track (Tracy-Polk), 166.38 feet to a point in the northerly line of land of Dino Barengo as described in deed recorded September 29, 1961, in book 2462 of the Official Records, page 290, Records of San Joaquin County and the actual point of beginning of the parcel of land to be described;

thence continuing north 14 degrees 58 minutes 30 seconds west along said southwesterly line, 693.8 feet to a point in the southerly line of land now or formerly of George L. Keeney and E. M. Keeney;

thence south 88 degrees 57 minutes east along the seconds west along said southwesterly line, 693.8 feet to a point distant 74.08 feet westerly, measured at right angles, from said center line of main track;

thence south 6 degrees 42 minutes east 96.05 feet;

thence south 8 degrees 29 minutes 30 seconds east 559.88 feet to a point in said northerly line of Dino Barengo, being distant 151.12 feet westerly, measured at right angles, from said center line;

thence south 67 degrees 42 minutes 00 seconds west along last said northerly line, 49.29 feet to the actual point of beginning, containing an area of 1.343 acres, more or less;

(4) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and the city of Lodi, a municipal corporation, as grantee, on November 6, 1974, and recorded as instrument numbered 57584 on December 17, 1974, book 3937, page 183, of the Official Records of San Joaquin County, California, describing the following lands: That certain strip of land 125.00 feet in width, situate in the south half of section 36, township 4 north, range 6 east, Mount Diablo base and meridian, county of San Joaquin, State of California and described as follows:

A strip of land 125.00 feet wide lying contiguous to and easterly of a line parallel with and distant 75.00 feet easterly, measured at right angles, from the original located center line of Southern Pacific Transportation Company's main track (Stockton to Polk), and extending from that certain course described as "south 80 degrees 47 minutes west 200 feet, more or less" in the northerly boundary of the land described in deed dated July 13, 1967, from Southern Pacific Company to Jay Loveless recorded October 10, 1967, in book 3158, page 339, Official Records of San Joaquin County, northerly, to the northerly line of the 3.6-acre parcel of land described in deed dated May 22, 1915, from H. Bechthold et ux, to city of Lodi recorded June 25, 1915, in book "A", volume 266 of deeds, page 3, San Joaquin County Records, said northerly line being described in said deed as following the meanders of the southern bank of the Mokelumne River.

(5) The easement entered into between the Southern Pacific Transportation Company, grantor, and the city of Lodi, a municipal corporation, as grantee, for roadway purposes, on November 21, 1974, and recorded as instrument numbered 5528 on February 7, 1975, book 3952, page 203, of the Official Records of San Joaquin County, California, describing an easement upon the following property: That certain strip of land situate in the south half of section 36, township 4 north, range 6 east, Mount Diablo base and meridian, County of San Joaquin, State of California, and described as follows:

A strip of land 25.00 feet in width lying contiguous to and easterly of a line parallel and concentric with and distant 75.00 feet easterly, measured at right angles and radially, from the original located center line of Southern Pacific Transportation Company's main track (Stockton to Polk), and extending from the northerly line of the 20,480 square foot parcel of land described in Indenture dated August 24, 1960 from Southern Pacific Company to city of Lodi recorded September 12, 1960 in book 2334, page 421, San Joaquin County Records, northerly, to that certain course described as "south 80 degrees 47 minutes west 200 feet, more or less," in the northerly boundary of the land described in deed dated July 13, 1967, from Southern Pacific Company to Jay Loveless recorded October 10, 1967 in book 3158, page 339, Official Records of San Joaquin County, said 25.00 foot wide strip hereinabove described being also contiguous to and westerly of the westerly line of the 100.00 foot wide strip of land quitclaimed to Jay Loveless by said deed.

Reserving unto grantor, its successors and assigns, the right to construct, maintain, and use railroad, pipeline, communication, and transportation facilities in, upon, over, along, and across said property.

SEC. 3. (a) Nothing in this Act shall—

(1) diminish the right-of-way referred to in the first section of this Act to a width of less than fifty feet on each side of the center of the main track or tracks established and maintained by the Southern Pacific Company on the date of the enactment of this Act; or

(2) validate or confirm any right or title to, or interest in, the land referred to in the first section of this Act arising out of adverse possession, prescription, or abandonment, and not confirmed by conveyance made by the Southern Pacific Company before the date of the enactment of this Act.

(b) There is reserved to the United States all oil, coal, or other minerals in the land referred to in the first section of this Act, together with the right to prospect for, mine, and remove such oil, coal, or other minerals under such rules and regulations as the Secretary of the Interior may prescribe.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING THE SECRETARY OF THE INTERIOR TO CONVEY THE INTEREST OF THE UNITED STATES IN CERTAIN LANDS IN ADAMS COUNTY, MISS., NOTWITHSTANDING A LIMITATION IN THE COLOR-OF-TITLE ACT (45 STAT., 1069, AS AMENDED; 43 U.S.C. 1068)

The Clerk called the bill (H.R. 12574) to authorize the Secretary of the Interior to convey the interest of the United States in certain lands in Adams County, Miss., notwithstanding a limitation in the Color-of-Title Act (45 Stat. 1069, as amended; 43 U.S.C. 1068).

There being no objection, the Clerk read the bill, as follows:

H.R. 12574

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any provision of the Act of December 22, 1928 (45 Stat. 1069, as amended; 43 U.S.C. 1028–1068b), limiting the maximum acreage which may be conveyed thereunder, the Secretary of the Interior is authorized and directed to receive, consider, and act on an application by Weathersby Godbold Carter, Junior, and Richard T. Harris III, of Natchez, Mississippi, for conveyance of the interest of the United States in the following described land pursuant to and in accordance with all other applicable provisions of that Act, but without regard to acreage limitations:

Section 28, township 5 north, range 2 west, Washington meridian, Adams County, Mississippi.

SEC. 2. No conveyance may be made pursuant to the first section of this Act unless an application for conveyance is filed with the Secretary of the Interior within one year of the effective date of this Act.

With the following committee amendment:

Page 1, lines 4 and 5, strike out "43 U.S.C. 1028–1068b)," and insert in lieu thereof "43 U.S.C. 1068–1068b),".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARLENE PYLE

The Clerk called the bill (H.R. 2106) for the relief of Marlene Pyle.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Marlene Pyle shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant admissions authorized pursuant to the provisions of section 21(e) of the Act of October 3, 1965.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That, for the purposes of the Immigration and Nationality Act, Marlene Elizabeth Holder may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Wesley McD. Holder, citizens of the United States, pursuant to section 204 of the Act, and the provisions of section 245(c) of the Act shall be inapplicable in this case: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "For the relief of Marlene Elizabeth Holder."

A motion to reconsider was laid on the table.

NATIVIDAD CASING AND MYRNA CASING

The Clerk called the bill (H.R. 3376) for the relief of Natividad Casing and Myrna Casing.

These being no objection, the clerk read the bill, as follows:

H.R. 3376

Be it enacted by the Senate and House of Representatives of the United States of America in Congress, assembled, That in the administration of the Immigration and Nationality Act, Natividad Casing and Myrna Casing may be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of petition filed in their behalf by Winston A. and Pacita Ashford citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendments:

On page 1, line 6, strike out the word "petition" and substitute the word "petitions".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NORA L. KENNEDY

The Clerk called the bill (H.R. 10757) for the relief of Nora L. Kennedy.

There being no objection, the Clerk read the bill, as follows:

H.R. 10757

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the Immigration and Nationality Act, Nora L. Kennedy, the widow of a citizen of the United States, shall be deemed to be an immediate relative within the meaning of section 201(b) of such Act.

With the following committee amendment:

On page 1, line 6, strike out the word "Act." and insert in lieu thereof the following: "Act, and the provisions of section 204 of that Act shall not be applicable in this case."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CARMELLINE LEONORA MARIANO BARZAGA

The Clerk called the bill (H.R. 11229) for the relief of Carmelline Leonora Mariano Barzaga.

There being no objection, the Clerk read the bill, as follows:

H.R. 11229

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of sections 203(a)(2) and 204 of the Immigration and Nationality Act, Carmelline Leonora Mariano Barzaga shall be held and considered to be the unmarried, natural-born alien daughter of Dr. Ephraim B. Barzaga and Dr. Idilia M. Barzaga, aliens lawfully admitted for permanent residence in the United States: *Provided,* That the natural parents of the beneficiary shall not, by virtue of such parentage, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendments.

On page 1, line 9, after the words "natural parents" insert "or brothers or sisters".

On page 1, line 10, strike out the word "parentage" and substitute the word "relationship".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LILIA ARAUJO

The Clerk called the bill (H.R. 10645) for the relief of Lilia Araujo.

There being no objection, the Clerk read the bill, as follows:

H.R. 10645

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Lilia Araujo may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Rafael Araujo, citizens of the United States, pursuant to section 204 of the Act. The natural parents or brothers or sisters of Lilia Araujo shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LJUDEVIT PREVIC

The Clerk called the bill (H.R. 11809) for the relief of Ljudevit Previc.

There being no objection, the Clerk read the bill, as follows:

H.R. 11809

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the Immigration and Naturalization Act the provisions of section 312(1) of that Act shall be inapplicable in the case of Ljudevit Previc.

With the following committee amendment:

On page 1, lines 3 and 4, strike out the word "Naturalization" and insert in lieu thereof the word "Nationality".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING THE ACT ENTITLED "AN ACT TO AUTHORIZE THE SALE OF CERTAIN PUBLIC LANDS IN ALASKA TO THE CATHOLIC BISHOP OF NORTHERN ALASKA FOR USE AS A MISSION SCHOOL," APPROVED AUGUST 8, 1953

The Clerk called the bill (H.R. 4345) to amend the act entitled "An act to authorize the sale of certain public lands in Alaska to the Catholic bishop of northern Alaska for use as a mission school," approved August 8, 1953.

There being no objection, the Clerk read the bill, as follows:

H.R. 4345

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act entitled "An Act to authorize the sale of certain public lands in Alaska for use as a mission school", approved August 8, 1953 (67 Stat. A53), is amended by deleting "for use as a mission school,".

SEC. 2. The Act is further amended by inserting, in the second proviso of section 2 after the phrase "other mineral deposits in the land", the words ", except sand and gravel,".

With the following committee amendments:

Page 1, strike all of line 6 and insert in lieu thereof "is amended by deleting ', for use as a mission school'," and inserting in lieu thereof 'an amended patent to delete the restriction on the use of' ".

Page 1, lines 7 through 9, strike out all of section 2.

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARY VANCE TRENT

The clerk called the Senate bill (S. 3380) for the relief of Miss Mary Vance Trent.

There being no objection, the clerk read the Senate bill, as follows:

S. 3380

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the annuity payable from the Foreign Service Retirement and Disability Fund pursuant to title VIII of the Foreign Service Act of 1946, as amended (22 U.S.C. 1061–1116), to Miss Mary Vance Trent, a retired Foreign Service officer, shall be adjusted and paid from its commencing date in the amount that would be payable if it had commenced April 1, 1974, disregarding service and salary earned on and after such date but basing the credit for unused sick leave on Miss Trent's sick leave balance on her actual date of separation.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ROSINA C. BELTRAN

The Clerk called the bill (H.R. 4583) for the relief of Rosina C. Beltran.

There being no objection, the Clerk read the bill, as follows:

H.R. 4583

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Rosina C. Beltran shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that further reading of the Private Calendar be suspended.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MAKING IN ORDER PRIVATE CALENDAR ON TUESDAY, SEPTEMBER 28, 1976

Mr. FLOWERS. Mr. Speaker, I ask unanimous consent that it may be in order on Tuesday next, September 28, 1976, to call the Private Calendar.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

DIVINA MAMUAD

Mr. EILBERG. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5503) for the relief of Divina Mamuad, with the Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, line 8, strike out "(b)".

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

A motion to reconsider was laid on the table.

MRS. JEANETTE FLORES BYRNE

Mr. EILBERG. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7832) for the relief of Mrs. Jeanette Flores Byrne, with the Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 4, strike out "Mrs. Jeanette Flores Byrne," and insert: *"Mrs. Janette Flores Byrne,".*

Amend the title so as to read: "An Act for the relief of Mrs. Janette Flores Byrne.".

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

A motion to reconsider was laid on the table.

CARLOS MONTENEGRO GORBITZ, DOCTOR OF MEDICINE, MRS. GORBITZ, AND THEIR TWO-YEAR-OLD SON

Mr. EILBERG. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 10434) for the relief of Carlos Montenegro Gorbitz, doctor of medicine, Mrs. Gorbitz, and their 2-year-old son, with the Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert: That, for the purposes of the Immigration and Nationality Act and section 21(e) of the Act of October 3, 1965, Doctor Carlos Montenegro-Gorbitz, his wife, Maria Elena Olguin de Gorbitz, and their son, Carlos Gorbitz-Olguin shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to special immigrants as defined in section 101(a)(27)(A) of the Immigration and Nationality Act.

Amend the title so as to read: "An Act for the relief of Doctor Carlos Montenegro-Gorbitz, his wife, Maria Elena Olguin de Gorbitz, and their son, Carlos Gorbitz-Olguin.".

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

A motion to reconsider was laid on the table.

MRS. AFAF KANAFANI YASSINE, NAJLA YASSINE, WALID YASSINE, MONA YASSINE, AND MAHER YASSINE

Mr. EILBERG. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 10793) for the relief of Mrs. Afaf Kanafani Yassine, Najla Yassine, Walid Yassine, Mona Yassine, and Maher Yassine, with the Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert: That, for the purposes of the Immigration and Nationality Act, notwithstanding the death of Farouk Yassine on October 27, 1975, in Beirut, Lebanon, the beneficiary of a petition filed on behalf of himself and his family by his brother, Zouhair C. Yassine, a citizen of the United States, and approved on June 6, 1974, Afaf Yassine, the spouse of Farouk Yassine, and their children, Najla Yassine, Walid Yassine. Mona Yessine, and Maher Yassine shall if otherwise eligible be entitled to fifth preference status under section 203(a)(9) of such Act as of June 6, 1974.

SEC. 2. For the purposes of this Act, Najla Yassine and Walid Yassine shall be considered under twenty-one years of age.

Amend the title so as to read: "An Act for the relief of Afaf Yassine and her children, Najla Yassine, Walid Yassine, Mona Yassine, and Maher Yassine.".

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO HAVE UNTIL MIDNIGHT, FRIDAY, SEPTEMBER 24, 1976, TO FILE CERTAIN PRIVILEGED REPORTS

Mr. DENT. Mr. Speaker, I ask unanimous consent that the Committee on House Administration may have until midnight, Friday, September 24, 1976, to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman tell us what they are?

Mr. DENT. If the gentleman will yield, House Resolution 1557, which deals with the funding of the Select Committee on Assassinations, expenses of investigations and studies.

Mr. ROUSSELOT. Further reserving the right to object, how much was finally funded?

Mr. DENT. If the gentleman will yield, they asked for $250,000, and after consultation and deliberation, it was cut to $150,000.

Mr. ROUSSELOT. Further reserving the right to object, what is the other one?

Mr. DENT. If the gentleman will yield, House Resolution 1563, funds for the Committee on Appropriations and the Committee on the Budget.

Mr. ROUSSELOT. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PROVIDING FOR ADDITIONAL INCOME FOR THE U.S. SOLDIERS' AND AIRMEN'S HOME

Mr. STRATTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 13549) an Act to provide for additional income for the U.S. Soldiers' and Airmen's Home by requiring the Board of Commissioners of the home to collect a fee from the members of the home; by appropriating nonjudicial forfeitures for support of the home; and by increasing the deductions from pay of enlisted men and warrant officers, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert: That the Board of Commissioners of the United States Soldiers' and Airmen's Home shall collect from members of the home a fee which may be used solely for the operation of the home. The amount of the fee shall be determined by the Board of Commissioners on the basis of financial needs of the home and the ability of the members to pay, but in no case may the fee collected in any month in the case of any member exceed an amount equal to 25 per centum of the monthly—

(1) military retired pay paid to such member;

(2) civil service annuity paid to such member where such annuity is based in part on years of military service;

(3) disability compensation or pension paid to such member by the Veterans' Administration; or

(4) military retired pay and disability compensation or pension where such member is receiving both retired pay and disability compensation or pension.

SEC. 2. (a) There shall be deducted each month from the pay of each enlisted man and warrant officer on the active list of the Regular Army and Regular Air Force a sum not to exceed 50 cents which shall be deposited to the credit of the permanent fund. United States Soldiers' and Airmen's Home (trust fund) in the Treasury of the United States. The sums to be deducted shall be fixed from time to time, within the limit prescribed above, by the Secretary of the Army and the Secretary of the Air Force in consultation with the Board of Commissioners of such home so as to meet the annual operating requirements of such home. Such sums may be fixed at different amounts for such enlisted men and warrant officers on the basis of grade or time in service, or both, except that the sums fixed shall be the same for both the Army and Air Force.

(b) The Act entitled "An Act to provide further for the maintenance of United States Soldiers' Home", approved February 13, 1936 (49 Stat. 1137; 24 U.S.C. 44a), is repealed.

SEC. 3. (a) The Comptroller General of the United States shall conduct a study of the operations of the United States Soldiers' and Airmen's Home with a view to determining the short- and long-term financial needs of such home, the appropriate functions of such home, and the operating efficiency of such home.

(b) The Comptroller General shall transmit the results of such study to the Committees on Armed Services of the Senate and the House of Representatives on or before August 1, 1977, together with such comments and recommendations as he deems appropriate.

SEC. 4. The Act of August 29, 1974 (Public Law 93-397; 10 U.S.C. 8202 note), is amended by striking out "through September 30, 1976" and inserting in place thereof "through September 30, 1978".

Amend the title so as to read: "An Act to provide for additional income for the United States Soldiers' and Airmen's Home by requiring the Board of Commissioners of such home to collect a fee from the members of such home and by increasing deductions for the support of such home from the pay of enlisted men and warrant officers, and for other purposes.".

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. O'BRIEN. Mr. Speaker, reserving the right to object, I do not intend to oppose this, but I think it is entirely appropriate that the gentleman from New York (Mr. STRATTON), the chairman of our subcommittee, explain to the House why it comes to our attention at this time and in this manner.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. O'BRIEN. I yield to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, the Senate has passed H.R. 13549, the soldiers and airmen's home bill, with an amendment extending the Air Force grade relief for 2 years.

In view of the lateness of the session and the very remote possibility of getting improvements in conference, the committee has directed me to take the bill, H.R. 13549, from the Speaker's desk together with the Senate amendment thereto and agree to the Senate amendment.

In doing so, however, I would like to state very clearly that in accepting the Senate bill the House does not accept the interpretations of some sections of the bill contained in the Senate report; and that we accept the 2-year extension of the grade relief with great reluctance and only with the understanding that we will continue to work for passage of our own DOPMA legislation in the next Congress.

There are two points about H.R. 13549 that I wish to stress:

First, the bill as passed by the House provided for a phasing-in of the user's fee over a 5-year period. As passed by the Senate, it merely provides the same ultimate limit on the user's fee of 25 percent of retired pay. The Senate committee report implies that the full 25-percent fee should be initiated immediately. Our committee recommends that the House accept the amended bill with the understanding that we do not believe the full user's fee has to be instituted immediately and that we prefer it to be instituted on a gradual basis as recommended originally by the House.

Second. Both bills provide that the deduction from the active-duty pay may be increased from 25 to 50 cents a month. Our bill recommends going immediately to 50 cents and avoiding frequent changes. This is 50 cents from the active-duty pay of regular enlisted men and warrant officers at a time when the minimum salary of a private is $361 per month. The deduction was 25 cents a month back in the days when a private made $7 a month. It is our belief that the increased deduction should be instituted promptly in addition to the institution of a user's fee.

With this understanding, the committee recommends that the House accept the Senate amendment which eliminates the accrual of nonjudicial fines and forfeitures for the home and which calls for a GAO audit of the home, to be completed by next August.

The Senate bill also provides a 2-year extension of the Air Force grade relief. Our committee would have preferred 1 year. In accepting the Senate extension, we do so with the understanding that we will continue to work for overall revision of the officer promotion system and with the assurance to the House that we will call up the DOPMA legislation again early in the next session and try to reach agreement with the Senate on a DOPMA bill.

I have conferred with Senator BYRD of Virginia on this matter and he is aware of my statement and has no objection to the procedure we are following. The text of H.R. 13549 as amended will of course govern.

Mr. O'BRIEN. Further reserving the right to object, Mr. Speaker, I would like to make this comment: The DOPMA legislation is most complex. It was handled in the subcommittee by the gentleman from New York (Mr. STRATTON) and myself, and in the full committee by the gentleman from Illinois (Mr. PRICE), and the gentleman from California (Mr. BOB WILSON), and it was well considered by the Whole House.

I think it is a compliment to the House but not to the Senate that we have done serious work on DOPMA, and I am sorry that we are not able to pass this bill at this time.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

ALASKA NATIVE CLAIMS SETTLEMENT ACT AMENDMENTS

Mr. MEEDS. Mr. Speaker, I call up from the Speaker's table the Senate bill (S. 3651) to amend the Alaska Native Claims Settlement Act to provide for the withdrawal of lands for the village of Klukwan, Alaska, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. YOUNG of Alaska. Mr. Speaker, reserving the right to object—and I shall not object—I would like at this time to have an opportunity to explain the intent of this piece of legislation.

Mr. Speaker, this legislation has two basic purposes. First, it insures that the village of Klukwan in southeast Alaska will have sufficient acreage available to select one township of land to which they are entitled under the Alaska Native Claims Settlement Act. Second, it clarifies certain ambiguities and corrects typographical and printing errors in the terms and conditions for land consolidation and land management in the Cook Inlet area of Alaska. This document was ratified by Congress in section 12 of the act of January 2, 1976 Public Law 94-204).

The terms and conditions embody an

agreement by the State of Alaska, the Department of the Interior, and Cook Inlet Region Inc., with respect to the settlement of conflicting land claims to the Cook Inlet area. The most significant correction in S. 3651 clarifies the authorization for the transfer of land at Point Woronzof, near Anchorage, to the State to permit construction to go forward on a long-planned north-south runway at Anchorage International Airport. The runway is urgently needed because the airport has been designated inadequate by the Air Line Pilots Association. Without this legislation, construction would be unnecessarily delayed and people flying in and out of the city would continue to be subject to safety hazards due to having only a single east-west runway.

Klukwan, Inc., one of Alaska's Native village corporations, finds itself in a unique position. When Congress enacted the Alaska Native Claims Settlement Act, no deficiency withdrawal provision was provided for the southeastern Alaska villages because it was assumed that they were in the Tongass National Forest. In fact, Klukwan's traditional lands were not in the forest and hence, immediately after statehood, the State of Alaska made massive selections in the Chilkat Valley.

As a result, Klukwan was left with insufficient suitable lands from which to make its 23,040-acre selection.

This legislation will remedy the problem by providing an additional withdrawal area in another part of southeastern from which Klukwan's selection may be made. Those additional lands are to be comparable in quality and character to the lands which have been traditionally inhabited and utilized by the Chilkat Indians.

There has been some concern about the use of the general terms "of similar character" and "of comparable value to the extent possible" to describe the type of lands to be withdrawn for Klukwan, Inc. Fears have been voiced that the use of such general terms might lead to confusion when the identity of the lands to be withdrawn is actually known. The State of Alaska and Klukwan, Inc., have entered into a memorandum of understanding and agreement and have provided the Interior Committee with a map describing lands which Klukwan, Inc., desires. We construe this agreement as an indication by Klukwan, Inc., that the lands described on the attached map are considered by Klukwan, Inc., to be lands which are "similar in character" and "of comparable value" to those lands occupied by Klukwan, Inc. We have also this day received a letter from Klukwan, Inc., which further indicates the views of Klukwan in defining the provisions of this legislation. We agree with those views and on the basis of these representations we do not believe the present language of this legislation will lead to any controversy and misunderstanding. By the phrase "similar in character" and "of comparable value" we are referring to surface values only, not subsurface.

Mr. Speaker, we understand that the Department of the Interior supports the withdrawal of lands for Klukwan from those lands identified on the map filed with the committee by Klukwan and the State. The Governor of Alaska supports the withdrawal of those lands as indicated by the State-Klukwan agreement. And it is the intent of this body that the lands to be withdrawn should come from those lands identified on the map unless the State, the Secretary of the Interior, after consultation with the Forest Service and the Village of Klukwan, agree to an alternate location.

The legislation requires that the Secretary of the Interior consult with the Forest Service before any lands are actually withdrawn for Klukwan. This is included within the legislation in order that the concerns of the Forest Service can be met since the lands will come from an existing unit of the national forest system. It must be understood, however, that the Secretary of the Interior retains absolute and ultimate authority for the implementation of this section including the withdrawal for selection and conveyance of the lands due the Klukwan Natives. Nothing in this act shall be construed to in any way reduce the authority of the Secretary in the implementation of all sections of the Alaska Native Claims Settlement Act, as amended.

This legislation is an amendment to the Alaska Native Claims Settlement Act, and as such, we intend that all the provisions of the Settlement Act will apply to the activities undertaken under this legislation. For example, we intend that the land selection pattern by Klukwan, Inc., in lands to be withdrawn under this legislation, will be consistent with the provisions of section 16(b) of the Settlement Act, and that all implementing regulations will apply to the selection. We also intend that, consistent with section 14 of the Settlement Act, Klukwan, Inc., will receive the surface estate of lands selected, and the regional corporation in which the lands are located will receive the mineral or subsurface estate in those lands.

We do not intend this legislation to be a hybrid or create confusion in the implementation of the Settlement Act. We simply intend to authorize the withdrawal of lands in addition to those that were previously available under the Settlement Act, because of the unique situation of Klukwan, Inc., and we intend that such selection and conveyance will be undertaken in accordance with the provisions of the Settlement Act and the regulations implementing that act.

COOK INLET AGREEMENTS

The Department of the Interior, Cook Inlet Region, Inc., and the State of Alaska have presented us with a clarified version of the Cook Inlet Agreement which resolves ambiguities and printing errors existing in the Document as printed in House Report 94–729, December 15, 1975. The Department and Cook Inlet Region, Inc., have also reached a separate agreement resolving complex questions of the validity of village corporation selections in Cook Inlet Region. This agreement will require legislative authorization before it can be implemented. Because of the nature of land holdings in the Cook Inlet Region, these two agreements are complex, they overlap to a certain extent, and they were designed to complement one another. The congressional authorization for implementing these agreements is not intended to provide a bonus or extra entitlement for Cook Inlet Region, Inc., or its village corporations. The purpose of the legislation is simply to give the Department of the Interior the authority to implement the complementing agreements with the end result being a satisfaction of native claims in the manner envisioned by the Alaska Native Claims Settlement Act.

The provisions of this legislation authorizing transfer of village selected lands to the Cook Inlet Region, Inc., for reconveyance to village corporations provides authority for possible transfer of lands without the boundaries of the region. This provision recognizes the possible rights of other regional corporations which exist in section 12 of Public Law 94-204. This new provision is not intended to create any greater rights in other regional corporations than that which existed in section 12 of Public Law 94–204, and this legislation simply recognizes the existence of those rights.

We have also been informed that the agreements printed in the CONGRESSIONAL RECORD on September 1, 1976, contain a few printing errors. The purpose of printing the documents in the CONGRESSIONAL RECORD was only to provide information. The official documents are on file with the parties to the agreements and the appropriate committees to the Congress.

Mr. Speaker, all parties involved—the State of Alaska, the Interior and Agriculture Departments conservation groups and Klukwan—support this bill in its present form. I am aware of no opposition to it. It is an extremely important piece of legislation which I urge the House to approve.

At this point I insert copies of letters from the Forest Service and Klukwan which set forth their intent and understanding regarding this legislation:

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, D.C., September 23, 1976.

Hon. DON YOUNG,
House of Representatives.

DEAR MR. YOUNG: This is to follow up on my recent discussion with you on H.R. 14850, a bill you have sponsored to amend the Alaskan Native Claims Settlement Act to permit land selection by Klukwan Village. Your bill, and the companion bill, S. 3651, recently passed by the Senate, would authorize and direct the Secretary of the Interior to withdraw 70,000 acres of public land from which the Klukwan Village Corporation could select its entitlement of 23,040 acres.

Lands in the Tongass National Forest would qualify for selection under these bills, and Klukwan Village has signified its intention to request withdrawal of such lands. As the agency charged with responsibility for administering the National Forest System, we obviously review all proposals to transfer lands out of National Forest status quite thoroughly to assess the impact on the long-term management of the National Forests. We have given the Klukwan situation considerable attention in a desire to reach an equitable and acceptable solution to Klukwan's land selection difficulties. As you know, we have talked at length with the Congressional Delegation, your staffs, and the staff of the Subcommittee on Indian Affairs. We have also met and talked with Klukwan representatives.

We have had two principal concerns with the legislation. First, there has been no conclusive termination of the availability of lands in Klukwan Village. It was Klukwan's sincere belief that the State of Alaska had prior claim to its core township and adjacent lands that led to the request for this legislation. However, in the last few days we have received information from the Department of the Interior that as much as 14,800 acres are still available for selection by Klukwan in its core township.

Our second concern with the legislation has been the absence of criteria by which Klukwan would select its entitlement. We were concerned that under the bill there could be scattered, isolated private inholdings within the Tongass National Forest rather than feasibly manageable units.

I am pleased to report that we have reached an understanding with Klukwan on both these points and that Klukwan representatives are preparing a letter to the Chairman of the House Subcommittee on Indian Affairs which will indicate their willingness to select usable acreage in their core township to the degree possible and to work with the Forest Service, the Department of the Interior, and the State of Alaska in recommending any lands to be withdrawn and selected to satisfy their entitlement.

So that they may be informed of this latest development and progress, I am sending copies of this letter to Senators Gravel and Stevens.

Sincerely,

JOHN R. MCGUIRE,
Chief.

KLUKWAN, INC.,
Anchorage, Alaska, September 23, 1976.

Hon. LLOYD MEEDS,
Chairman, Indian Affairs Subcommittee, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN MEEDS: S. 3651, in pertinent part, provides that the Secretary of the Interior is directed to withdraw certain lands in Southeastern Alaska from which the village corporation of Klukwan, Inc. may select 23,040 acres.

If this legislation is enacted by the Congress, Klukwan, Inc. intends to select, within the original area withdrawn on behalf of Klukwan, Inc., pursuant to the terms of the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 et. seq., as amended by P.L. 94-204, Sec. 9, all useable lands.

In accordance with the an agreement between the Department of Agriculture, United States Forest Service, and Klukwan, Inc., useable lands are defined as all lands in the original withdrawal area which have already been classified as either agricultural lands or commercial forest lands; provided that in no event shall any tract of land so defined and to be selected by Klukwan, Inc. be less than 640 acres in size.

Lands selected pursuant to this definition will not only give Klukwan, Inc. economically viable lands of comparable quality and character to those of the Chilkat Valley which have already been patented to the State of Alaska and private interests but will also met U. S. Forest Service criteria with respect to feasibly manageable units.

Since the original withdrawal area defined in terms of "useable" and "comparable quality and character" will not yield sufficient land to satisfy Klukwan, Inc.'s entitlement of 23,040 acres, deficiency lands shall be withdrawn pursuant to the terms of S. 3651. Klukwan, Inc., in selecting and recommending lands for withdrawal by the Secretary of the Interior, shall cooperate fully with the Regional Forester for Alaska, John Sandor, and the Department of the Interior.

As evidence of Klukwan, Inc.'s good faith cooperation, it hereby relinquishes and negates any intent to seek the withdrawal of lands in the Endicott River area.

Respectfully submitted,

IRENE S. ROWAN,
President, Klukwan, Inc.

Mr. YOUNG of Alaska. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3651

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Section 16(a) of the Alaska Native Claims Settlement Act (85 Stat. 688, 705, as amended; 43 U.S.C. 1604, 1615) is further amended by striking "Klukwan, Southeast.".

(b) Section 16(d) of such Act is amended to read as follows:

"(d)(1) The Secretary is authorized and directed to withdraw seventy thousand acres of public lands, as defined in section 3 of this Act, in order that the Village Corporation for the village of Klukwan may select twenty-three thousand and forty acres of land. Such Corporation and the shareholders thereof shall otherwise participate fully in the benefits provided by this Act to the same extent as they would have participated had they not elected to acquire title to their former reserve as provided by section 19(b) of this Act: *Provided,* That nothing in this subsection shall affect the existing entitlement of any Regional Corporation to lands pursuant to section 14(h)(8) of this Act: *Provided further,* That no such lands shall be withdrawn from an area previously withdrawn as a forest reserve without prior consultation with the Secretary of Agriculture: *Provided further,* That the foregoing provisions of this subsection shall not become effective unless and until the Village Corporation for the village of Klukwan shall quitclaim to Chilkat Indian Village, organized under the provisions of the Act of June 18, 1934 (48 Stat. 984), as amended by the Act of May 1, 1936 (49 Stat. 1250), all its right, title, and interest in the lands of the reservation defined in and vested by the Act of September 2, 1957 (71 Stat. 596), which lands are hereby conveyed and confirmed to said Chilkat Indian Village in fee simple absolute, free of trust and all restrictions upon alienation, encumbrance, or otherwise: *Provided further,* That the United States and the Village Corporation for the village of Klukwan shall also quitclaim to said Chilkat Indian Vilage any right or interest they may have in and to income derived from the reservation lands defined in and vested by the act of September 2, 1957 (71 Stat. 597), after December 18, 1971, and prior to January 2, 1976.

"(2) The lands withdrawn by the Secretary pursuant to paragraph (1) of this subsection shall be located in the southeastern Alaska region and shall be of similar character and comparable value, to the extent possible, to those of the Chilkat Valley surrounding the village of Klukwan. Such withdrawal shall be made within six months of the date of enactment of this paragraph and the Village Corporation for the village of Klukwan shall select, within one year from the time that the withdrawal is made, and be conveyed, twenty-three thousand and forty acres. None of the lands withdrawn by the Secretary for selection by the Village Corporation for the village of Klukwan shall have been selected by, or be subject to an outstanding nomination for selection by, any other Native Corporation organized pursuant to this Act, or located on Admiralty Island".

SEC. 2. Notwithstanding any other provision of law, the Secretary is hereby authorized and directed to convey immediately to the State of Alaska, subject to valid existing rights, the following described lands for park, recreation, airport, or other public purposes:

Seward Meridan, Alaska

T, 13 N., R. 4 W.

Section 28, E½W½, E¼W¼NW¼, W½NW¼, NW¼, E½NW¼SW¼, E½W½SW¼NW¼, NE¼SW¼SW¼, E½SE¼SW¼SW¼.

Containing 265 acres, more or less.

SEC. 3. The first sentence of subsection 12 (b) of the Act of January 2, 1976 (89 Stat. 1145, 1151), is amended by changing the matter preceding the first colon to read as follows:

"(b) The Secretary shall make the following conveyances to the Region, in accordance with the specific terms, conditions, procedures, covenants, reservations, and other restrictions set forth in the document entitled 'Terms and Conditions for Land Consolidation and Management in Cook Inlet Area', which was submitted to the House Committee on Interior and Insular Affairs on December 10, 1975, and clarified on August 31, 1976, the terms of which, as clarified, are hereby incorporated herein and ratified as to the duties and obligations of the United States and the Region, as a matter of Federal law.".

SEC. 4. (a) The Secretary is authorized to convey lands under application for selection by Village Corporations within Cook Inlet Region to the Cook Inlet Region, Incorporated, for reconveyance by the Region to such Village Corporations. Such lands shall be conveyed as partial satisfaction of the statutory entitlement of such Village Corporations from lands withdrawn pursuant to section 11(a)(3) of the Alaska Native Claims Settlement Act (hereinafter, "The Settlement Act"), and with the consent of the Region affected, as provided in section 12 of the Act of January 2, 1976 (89 Stat. 1145, 1150), from lands outside the boundaries of Cook Inlet Region. This authority shall not be employed to increase or decrease the statutory entitlement of any Village Corporation or Cook Inlet Region, Incorporated. For the purposes of counting acres received in computing statutory entitlement, the Secretary shall count the number of acres or acre selections surrendered by Village Corporations in any exchange for any other lands or selections.

(b) The Secretary shall not be required to survey any land conveyed pursuant to subsection 4(a) until the Village Corporation entitlement for all eligible Village Corporations has been conveyed. With respect to the conveyances made by the Secretary in the manner authorized by subsection 4(a), the Secretary shall survey the exterior boundaries of each entire area conveyed to Cook Inlet Region, Incorporated, pursuant to subsection 4(a) and monument to boundary lines at angle points and intervals of approximately two miles on straight lines. The Secretary shall not be required to provide ground survey or monumentation along meanderable water boundaries. Each township corner located within the exterior boundary of land conveyed shall be located and monumented. Any areas within such tracts that are to be reconveyed pursuant to section 14(C) (1) and (2) of the Settlement Act shall also be surveyed pursuant to 43 C.F.R. 2650.

(c) Conveyances made under the authority of subsection (a) of this section shall be considered conveyances under the Settlement Act and subject to the provisions of that Act, except as provided by this Act.

SEC. 5. (a) The Secretary shall, within sixty days after the effective date of this Act, tender conveyance of the land described in subsection (b), subject to valid existing rights, to Cook Inlet Region, Incorporated. If the conveyance is accepted by the Region, such lands shall be considered 1,687.2 acre-equivalents within the meaning of paragraph I(C)(2)(e)(iii) of the Terms and Conditions as clarified August 31, 1976, and the Secretary's obligations under paragraph I(C) of those Terms and Conditions will be reduced accordingly. If, however, said section 12 of the Act of January 2, 1976, does not take effect then the entitlement of Cook Inlet Region, Incorporated, under section 12(c) shall be reduced by 8,346 acres.

(b) The land referred to in subsection (a) is described as a parcel of land located in section 7 of township 13 north, range 2 west of the Seward Meridian, Third Judicial District, State of Alaska; said parcel being all of Government lots 5 and 7 and that portion of the SE¼NW¼ lying north of the north right-of-way line of the Glenn Highway, State of Alaska, Department of Highways Project No. F–042–1(2), and more particularly described as follows:

"Commencing at the north quarter corner of said section 7;

"thence south 00 degrees 12 minutes east, a distance of 1,320.0 feet, more or less, to the northeast corner of said southeast quarter northwest quarter;

"thence west along the north line of southeast quarter northwest quarter a distance of 94.0 feet, more or less, to the north right-of-way line of the Glenn Highway and the true point of beginning;

"thence south 53 degrees 16 minutes 15 seconds west along said north right-of-way line, a distance of 1,415.0 feet, more or less, to a point of curve being at right angles to centerline Station 216 plus 51.35;

"thence continuing along said north right-of-way line along a curve to the right with a central angle of 12 degrees 51 minutes 34 seconds, having a radius of 5,595.58 feet for an arc distance of 105.0 feet, more or less, to a point of intersection of said north right-of-way line with the west line of said southeast quarter northwest quarter;

"thence north 00 degrees 12 minutes west along said west line, being common with the east line of Government lot 5, a distance of 910.0 feet, more or less, to the northwest corner of said southeast quarter northwest quarter;

"thence east along the north line of said southeast quarter northwest quarter, a distance of 1,225.0 feet, more or less, to the point of beginning; containing 56.24 acres, more or less.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 15, PUBLIC DISCLOSURE OF LOBBYING ACT OF 1976

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1551 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1551

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15) to regulate lobbying and related activities. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, two hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary and two hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Standards of Official Conduct, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. It shall also be in order to consider without the intervention of any point of order an amendment in the nature of a substitute recommended by the Committee on Standards of Official Conduct, if offered as an amendment in the nature of a substitute for the Judiciary Committee substitute. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the Judiciary Committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, those who listened to the reading of the rule will know that it provides for an open rule, with 2 hours of general debate to be divided between the majority and minority of the Committee on the Judiciary and 2 hours of general debate to be divided between the majority and minority of the Committee on Standards of Official Conduct.

Mr. Speaker, the rule makes in order the amendment in the nature of a substitute out of the Committee on the Judiciary for consideration as an original bill. It also makes in order a substitute to be offered by the Committee on Standards of Official Conduct. My understanding is that this is the substitute that is printed in the RECORD of September 20, 1976, on page 31423.

Mr. Speaker, this matter, of course, is controversial. There was controversy in the Committee on Rules on the matter. It is my memory and my understanding that the gentleman from Alabama (Mr. FLOWERS), the gentleman from Illinois (Mr. RAILSBACK), and the gentleman from Wisconsin (Mr. KASTENMEIER) are all in support of the bill.

There were some opponents. The gentleman from California (Mr. WIGGINS) was opposed to the rule being granted.

Mr. Speaker, we also provide for one motion to recommit, with or without instructions.

I should point out to those who are interested that the chairman of the Committee on Standards of Official Conduct supported the granting of a rule and supported the rule that we granted. Therefore, it seems to me that the great majority of the two committees was in favor of the rule; and I believe that this rule should be passed so that we may have an orderly debate on this very difficult and controversial subject.

Mr. WIGGINS. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Speaker, I have a question about the rule.

It is my understanding that the bill of the Committee on the Judiciary will be in the nature of a substitute; is that correct?

Mr. BOLLING. We made in order the substitute of the Committee on the Judiciary to be considered as an original bill for the purpose of amendment.

Mr. WIGGINS. And in turn, the bill sponsored by the Committee on Standards of Official Conduct may be considered as a substitute to the bill of the Committee on the Judiciary; is that correct?

Mr. BOLLING. That is correct.

Mr. WIGGINS. Just so that there will be no misunderstanding, may amendments be properly offered to the bill of the Committee on Standards of Official Conduct without being amendments in the third degree?

Mr. BOLLING. Amendments can be offered to the substitute offered by the Committee on Standards of Official Conduct.

Mr. WIGGINS. Without being amendments in the third degree?

Mr. BOLLING. As I understand it, amendments may be offered without being subject to a point of order on the ground that they are in third degree.

Mr. WIGGINS. Mr. Speaker, I thank the gentleman.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the gentleman from Missouri (Mr. BOLLING) has adequately described this rule.

I will just use a couple of minutes to raise a few questions about this bill that I raised in the Committee on Rules when the matter was before our committee.

One question that I raised was the question of whether we are letting the "big fish" go, so to speak, as far as lobbying is concerned.

Mr. Speaker, under this bill the organizations would be required to register rather than the lobbyists themselves. I think this is new to a good many Members.

After all, the organization is not always present in the Halls around this Capitol Building but the lobbyists are. It seems that we are not really getting at the evils that we want to get at in this bill, or what the proponents want to get at.

So I raise the question as to why we are not moving in this bill toward eliminating the evils that we have been hearing so much talk about. Why is this bill not directed toward the individuals rather than toward the organizations?

I also raised the question with the Committee on Rules as to whether or not this legislation, as written, would pertain to so-called volunteers. And I have reference to Mr. Ralph Nader and his organization. And I might say I am not convinced that it does. I have heard arguments on both sides but, since they are "volunteers", as I read the language, and I have read the bill in its entirety, I do not believe that it would attach to volunteers nor do I believe that it would attach to Mr. Nader himself unless he is a paid—and I repeat—unless he is a paid employee. And I understand that he is not a paid employee but he is compensated through honorariums and for his speeches, perhaps through foundations, and so forth, but not directly from his organization.

Now I need not tell the Members of this House that this is a lobbying organization and that your office and mine are contacted by these lobbyists. I think if we are going to get a lobbying bill that is worth the paper it is written on, then we ought to bring in all of the lobbying bodies, not a few of the small fish. And as I see it, the way this bill is written, it does go down to the small organization.

Mr. BENNETT. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Florida.

Mr. BENNETT. Mr. Speaker, the reason I ask the gentleman to yield is because the standards committee did consider this very thing, on page 11, line 17 where it says: "an identification of any chief executive officer or any principal operating officer of the organization who, on all or part of twelve or more calendar days in the filing period, engages in activities described in section 3(a)(1) on behalf of the organization".

We felt this was something that should be addressed because some of the main lobbyists would not be covered and we thought they ought to be covered.

Mr. LATTA. I have reference to H.R. 15 that was reported out by the Committee on the Judiciary. I have not yet come to the Committee on Standards of Official Conduct bill.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, the gentleman from Ohio (Mr. LATTA) is making a very good point. I offered in the committee an amendment which I believe would have covered Ralph Nader, although he was not being paid anything, was not a paid employee of the organization that he purports to represent. The amendment was such that if he advances the cause of certain issues, certain legislative issues, that then it would be necessary for him to be reported and included in this lobby reporting legislation.

However, I understand that another approach to the same subject is made in the measure which may be offered for the other committee as a substitute for the committee bill.

I might say that my amendment was not adopted by the Committee on the Judiciary but I understand that it will be reoffered by the gentleman from Ohio (Mr. KINDNESS) when the measure comes to the floor.

Again I say that the gentleman from Ohio (Mr. LATTA) is making a very, very good point because here is one of the principal lobbyists, and one who, in my opinion, has caused undue expense to the American consumers through his lobbying activities and he certainly should be at least required to be reported as a lobbyist and not to be considered as a public representative without any involvement in this lobbying legislation. I am convinced he is the principal lobbyist in this country and one who has probably imposed more burdens on the people of this country than any other lobbyist.

Mr. LATTA. I thank the gentleman for his comments. I would appreciate it if he would just attempt to answer one question, since he is a very distinguished member of this committee. What reason was given as to why Mr. Nader should not be covered in a lobbying bill?

Mr. McCLORY. If the gentleman will yield further, I might say to the gentleman that no reason which was valid to me, or which was persuasive with me, was given. I really cannot understand the reason behind omitting from the legislation a person like that.

Mr. FLOWERS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Alabama.

Mr. FLOWERS. I thank the gentleman for yielding.

I was trying to withold getting into this debate, but I just feel compelled to say something at this point.

I think that this House ought to recognize that a part of one of our basic documents—I believe it is the Constitution of the United States—disallows bills of attainder. I just do not think we can tar and feather Mr. Nader without getting a few other people.

Mr. LATTA. It is my time, and I decline to yield further, unless the gentleman wants to answer my question that I propounded to the gentleman from Illinois.

Can the gentleman give the House the reason why they did not include Mr. Nader when they wrote this bill?

Mr. FLOWERS. If the gentleman will yield further, we also did not include Mr. Anybody.

Mr. LATTA. I would like to know why not.

Mr. FLOWERS. It violates the organization concept of the bill. It does not cover individuals. It is simple, it is understandable. If we inject, A, Mr. Nader, in there, we also must inject every other individual in the United States potentially. It was the considered judgment—not the off-handed judgment, not the slaphappy judgment—of the subcommittee and the full committee that it ought to be approached from an organization concept; and neither Mr. Nader nor John Q. Public as an individual citizen ought to be covered.

Mr. McCLORY. Mr. Speaker, will the gentleman yield further?

Mr. LATTA. I yield to the gentleman from Illinois.

Mr. McCLORY. I would just like to say that it is my interpretation of the legislation that it is not a measure that would punish an individual. When the gentleman from Alabama denominates the legislation as a bill of attainder, it implies that there is some punishment in being required to register as a lobbyist. I thought that this was for informational purposes so that the public would know who is representing whom. If Mr. Nader remains nondisclosed as a representative while at the same time carrying on a gigantic lobbying operation, it would seem to me that it would fail miserably to fulfill the objective of this legislation, which is to make available to the public information as to who is trying to influence legislation in this body; who are the special interests who are trying to influence the measures with respect to legislation; and if Ralph Nader is not one of those, then there is not anybody in the country whose name should be required to be disclosed.

Mr. LATTA. I thank the gentleman for his comments. We can draft legislation to leave out anybody—anybody. If we have that intent, we can draft it. As I said in the Committee on Rules, I think if we are going to have a good lobbying bill, we ought to include all of the lobbyists if they are paid. I do not care whether they are paid directly or indirectly, they ought to be covered. I think that is what the American people believe they are going to be getting when we go home and say, "We passed a lobbying bill; we are going to correct some of these ills and evils that have been going on around the country that are attributed to lobbyists." Then we let the big fish go. I do not think that is right. I do not think it is right to tell the American people we are doing something when really we are not.

I have said many times in the well of this House that we ought to leave out these glorified titles on these bills and go by numbers because the titles are misleading many times. I think we should not have the title, "To regulate lobbying and related activities," when we do not cover all of the lobbying.

There is not a Member in this House who has not been contacted by another organization, a national organization that sends out to the State and to the Members' districts a little notice that they want us to vote such-and-such on a particular piece of legislation. I have reference to Common Cause. These people who contact the Members—and they contact me out in my district—who are prompted from Washington by a national organization should be covered. They are not telling the Members what their thoughts are as a constituent; they are just mouthing the position of a national organization. Is this right? I do not think it is, because a lot of times we get back to these people and we discuss what they have written us about, and they do not have the slightest idea what is in that legislation, or why they took the position that they did, other than the fact that some national organization passed the word.

Many times we have had some national organizations—and I do not want to name any further ones—which will send out messages and will even have the wrong title to the bill or the wrong number, and that will come through in all the telegrams we get, which indicates very clearly that they all came from the same source or they would not have throughout one's district the same mistakes on all those telegrams.

In reading this bill, many things come to my mind. I wonder how on page 24 under "Registration" of the organization, they would have a provision which reads as follows:

(b) The registration shall be in such form as the Comptroller General shall prescribe by regulation, and shall contain the following, which shall be regard as material for the purposes of this Act—

(1) an identification of the organization—

Now get this—

and a general description of the methods by which such organization arrives at its position—

I do not know how any organization is going to comply with that stipulation. How in the name of sense are we going to say: "Tell us the logic that went into arriving at the particular position that you reached."

Then they say in the bill on page 26:

(b) Each report required under subsection (a) shall contain the following, which shall be regarded as material for the purpose of this Act—

(1) an identification of the organization filing such report;

(2) the total expenditures which such organization made with respect to activities described in section 3(a) during such period, including an itemized listing of each expenditure in excess of $25 made to or for the benefit of any Federal officer or employee—

Remember that is "any Federal officer or employee"—

and an identification of such officer or employee, but not including any contribution to a candidate as defined in section 301(e) of the Federal Election Campaign Act of 1971.

My question is why not? Why not? Why not report that they gave a candidate a contribution? Oh, yes, we say, sure it is reported downtown at campaign time but not in these quarterly reports. Why leave that loophole if we want a good lobbying bill?

Here is another one that disturbs me because from time to time people contact our offices and we do not even know in all cases we have been contacted. We will get a notification on our desk that so-and-so called about a particular bill. We do not talk to them and we do not engage in any conversation, but on page 28 it says we are supposed to have, under subparagraph (7):

(7) disclosure of each known direct business contact by the organization involved with a Federal offier or employee—

Or employee—

whom such organization has sought to influence during the quarterly filing period involved;

Now, I do not know how it is going to be possible to comply with that.

Then in section 8, several of the national organizations, some of the farm organizations, have raised the question about the dues or contributions schedule of the organization. Well, why should we have in a Lobbying Act the requirement that a lobbying organization, the Farmers' Union, The American Farm Bureau and other farm organizations, must state what their dues are? I do not know. I do not know what that has to do with a lobbying bill.

Mr. Speaker, I went to a Farm Bureau meeting last Saturday night in one of my counties and they raised the dues from $30 to $38 for the year. Everybody there seemed to agree with it, over 700 people. Well, now, what does that have to do with lobbying? Why was that requirement inserted here? I do not know, but hopefully when we get into the 5-minute rule on this legislation, we can write a bill that will do the job that the American people think should be done; that is to cover all lobbying activities, nothing less and nothing more.

Mr. WIGGINS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Speaker, I do not think highly of this legislation, as will appear more fully in the general debate. If, however, it must be considered, I think it is appropriate that it be debated for 4 hours, since the House should explore the reach of the legislation carefully.

Mr. Speaker, I compliment the Speaker in deferring consideration of this bill until next Tuesday, I believe, so that the Members can have a full opportunity over the weekend to study what this legislation is all about.

Now, I will not repeat much that has been said already by my friend, the gentleman from Ohio (Mr. LATTA), but I think one sentence in the report, which was prepared, as we know, by those who support this legislation, tells it all:

It should be noted that the primary purpose of this legislation is not to eliminate corrupt practices or unethical behavior.

It is not to do any of those things; rather, it is to regulate extensively the innocent, noncorrupt act of communicating with the Federal Government; conduct I had always been led to believe was to be encouraged, rather than discouraged.

Mr. Speaker, the whole focus of this bill is wrong. I urge Members to study it carefully over the weekend and after full debate to defeat it.

Mr. BOLLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Speaker, Congress is in the process of approving a dangerous bill establishing strict new procedures on lobbying. It is H.R. 15. I will not dwell on the specific registration and reporting aspects of H.R. 15. Careful reading of the report and the dissenting views make this sufficiently clear to realize that few organizations, if any, in the country would be exempt in that under this bill, the Federal Government will continue to multiply—like rabbits—its influence into every area of the lives of our people and in the free associations and groups they form. The bill proposes to require strict accounting by all segments of American business and industry if they make a practice of contacting their Congressmen or agencies of Government, regardless of their reasons for doing so. No business, union, or profession will be exempt. No State or county or school district will be free from its control. If any one of these groups or entities has one employee who spends one day in five engaged in lobbying, which means communication or solicitation of assistance with a Federal official or employee, including Congressmen, that organization is covered by the bill.

All such organizations would have to register with the Comptroller General; would have to report in more than a dozen areas of financial and business activity for which all records would have to be retained for a period of 5 years. The bill provides for criminal or civil penalties for violations. The record making and record keeping which would be imposed by H.R. 15 would be a nightmare, tremendously burdensome on most and downright impossible for many others. It would create another means of control to make the people and their organizations subservient to yet another federal bureaucracy.

It is my sincere belief that H.R. 15 and the subsequent regulations that would follow would result in the intimidation of many of our citizens to the point where they would on many important matters be afraid to speak out to their own Government and their elected officials. I believe in our people, I have concern for their views and I have faith in their wisdom. I am therefore opposed to any legislation which would serve to silence or limit the people's willingness or ability to speak out.

I have been in Congress for 36 years. Two weeks ago I won an election with more than 75 percent of the vote cast for me despite all the propaganda and support my detractors, very largely from outside my district, were able to muster for my opponent. I attribute my victory this year and those in years past in large degree to the simple fact that when my constituents talk, I listen, and when they write or come to me with a problem, I do my best to help them.

My fears are that if H.R. 15 is enacted, the vital dialog and free exchange of ideas between my constituents and me, and indeed the dialog and free exchange that exists between every Member worth his salt and his constituents, may be forever altered or even shut off by H.R. 15.

Many from the legal profession have expressed their grave reservations about the constitutionality of the bill should it become law. Their point is that the bill would severely regulate one of our most basic rights, freedom of speech, and would also impede citizens from petitioning their government for a redress of grievances.

I have no argument with that. I might even add that beyond the obvious interference the bill might impose on our freedom of speech, the fourth amendment right which guarantees that people shall be secure in their papers and effects may also be ravaged in that almost all communication between a citizen and his government may in some way be open to public exposure without regard for due process.

Possibly the greatest danger posed by H.R. 15 is the fear that it will visit upon the people which will result in their unwillingness to make their views known to their government. As Congressman Wiggins pointed out so eloquently in his dissenting view to the Judiciary Committee report:

> To be sure the burden (imposed by the bill) can be avoided entirely, either by not speaking at all, or by curtailing speech to a level below the statutory threshold . . .".

Mr. BOLLING. Mr. Speaker, does the gentleman from Ohio have additional speakers?

Mr. LATTA. No.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 361, nays 16, answered "present" 1, not voting 52, as follows:

[Roll No. 804]

YEAS—361

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conlan
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gilman
Ginn
Goldwater
Goodling
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Hicks
Hightower
Hillis
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Santini
Sarbanes
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Snyder
Solarz
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stokes
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Winn
Wirth
Wolff
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—16

Burleson, Tex.
Clawson, Del
Collins, Tex.
Hansen
McClory
McDonald
Paul
Rousselot
Runnels
Schneebeli
Sikes
Symms
Teague
Waggonner
Wiggins
Wilson, C. H.

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—52

Bell
Clancy
Davis
Dent
Dodd
Esch
Evins, Tenn.
Findley
Flynt
Gaydos
Giaimo
Gibbons
Gradison
Green
Hall, Tex.
Hammerschmidt
Hébert
Heinz
Henderson
Hinshaw
Holland
Howe
Jarman
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Karth
McCollister
McKay
McKinney
Madden
Matsunaga
Mikva
Mink
Moffett
Nichols
Nix
Pepper
Peyser
Quillen
Riegle
Ruppe
Sarasin
Smith, Nebr.
Spellman
Steelman
Steiger, Ariz.
Stephens
Stuckey
Treen
Wilson, Tex.
Wright

The Clerk announced the following pairs:

Mrs. Spellman with Mr. Bell.

Mr. Matsunaga with Mr. Flynt.

Mr. Hébert with Mr. Evins of Tennessee.

Mr. Mikva with Mr. Gibbons.

Mrs. Mink with Mr. Hall of Texas.

Mr. Giaimo with Mr. Hammerschmidt.

Mr. Henderson with Mr. Esch.

Mr. Gaydos with Mr. Jarman.

Mr. Dodd with Mr. Karth.

Mr. Davis with Mr. Findley.

Mr. Nichols with Mr. Heinz.

Mr. Moffett with Mr. Gradison.

Mr. Nix with Mr. McKay.

Mr. Pepper with Mr. Steiger of Arizona.

Mr. Holland with Mr. Johnson of Pennsylvania.

Mr. Wright with Mr. Sarasin.

Mr. Charles Wilson of Texas with Mr. Peyser.

Mr. Riegle with Mr. Madden.

Mr. Jones of North Carolina with Mr. Quillen.

Mr. Howe with Mrs. Smith of Nebraska.

Mr. Dent with Mr. Ruppe.

Mr. Green with Mr. Steelman.

Mr. Jones of Alabama with Mr. Stuckey.

Mr. Stephens with Mr. Treen.

Mr. Clancy with Mr. McCollister.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REQUEST FOR PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO FILE REPORT ON H.R. 3155, URBAN MASS TRANSIT ACT, AND CONFERENCE REPORT ON S. 2228, ECONOMIC DEVELOPMENT ACT EXTENSIONS

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may have until midnight tonight to file a report on H.R. 3155 and a conference report on S. 2228.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman explain what these are.

Mr. HOWARD. Mr. Speaker, if the gentleman will yield, the conference report on S. 2228 is the Public Works Economic Development Act extensions and H.R. 3155 is amendments to the Urban Mass Transit Act, both of which have been cleared by the ranking minority member of the Committee on Public Works and Transportation, the gentleman from Ohio (Mr. Harsha).

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, can the gentleman tell me whether he had a chance to consult with the minority on these?

Mr. HOWARD. Not with the gentleman from Pennsylvania (Mr. Shuster), but with the gentleman from Ohio (Mr. Harsha).

I was informed that it was cleared by the minority.

Perhaps the gentleman from Pennsylvania (Mr. SHUSTER) would like to make a statement on H.R. 3155.

Mr. SHUSTER. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Speaker, I would ask the gentleman from New Jersey (Mr. HOWARD) if he would withhold this request and make it later in the day.

Mr. HOWARD. All right. Then, Mr. Speaker, I will only make the request with respect to the conference report on S. 2228 at this time.

The SPEAKER. For the sake of orderly parliamentary procedure, the Chair will ask the gentleman from New Jersey (Mr. HOWARD) to make his unanimous-consent requests one at a time.

Mr. HOWARD. Mr. Speaker, I withdraw my unanimous-consent request.

PERMISSION TO FILE CONFERENCE REPORT ON S. 2228, PUBLIC WORKS ECONOMIC DEVELOPMENT ACT EXTENSIONS

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may have until midnight tonight to file. a conference report on the bill (S. 2228), the Public Works Economic Development Act extensions.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CONFERENCE REPORT ON H.R. 10339, FARMER-TO-CONSUMER DIRECT MARKETING ACT OF 1976

Mr. VIGORITO. Mr. Speaker, I call up the conference report on the bill (H.R. 10339) to encourage the direct marketing of agricultural commodities from farmers to consumers, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

POINT OF ORDER

Mr. ROUSSELOT. Mr. Speaker, I make a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. ROUSSELOT. Mr. Speaker, I have two points or order to raise against the conference report on H.R. 10339 (H. Rept. 94–1516).

The first is under the Budget Control Act. The second is under House Rule XXVIII.

Section 401(b)(1) of the Congressional Budget and Impoundment Control Act (Public Law 93–344) provides as follows:

> (b) LEGISLATION PROVIDING ENTITLEMENT AUTHORITY.—
>
> (1) It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which provides new spending authority described in subsection (c)(2)(C) (or any amendment which provides such new spending authority) which is to become effective before the first day of the fiscal year which begins during the calendar year in which such bill or resolution is reported.

The text of the conference agreement as set forth in the amendment adding a new section 8 is as follows:

> EMERGENCY HAY PROGRAM
>
> SEC. 8. In carrying out any emergency hay program for farmers or ranchers in any area of the United States under section 305 of the Disaster Relief Act of 1974 because of an emergency or major disaster in such area, the President shall direct the Secretary of Agriculture to pay 80 percent of the cost of transporting hay (not to exceed $50 per ton) from areas in which hay is in plentiful supply to the area in which such farmers or ranchers are located. The provisions of this section shall expire on October 1, 1977.

It is clear from a literal reading of this proposed language that certain livestock owners will be entitled to a hay subsidy immediately upon enactment of this bill.

This bill is effective during the so-called transition period of July 1–September 30, 1976.

In any event it is a new spending authority effective before October 1, 1976, which marks the beginning of fiscal year 1977 but occurs in the calendar year in which the conference report is being called up in the House.

"New spending authority" is defined in section 401(c)(2)(C) to include "payments * * * the budget authority for which is not provided for in advance by appropriation Acts, to any person * * * if * * * the United States is obligated to make such payments to persons * * * who meet the requirements established by such law."

In the instance at hand, hay payments are mandated by the language directing that the President shall direct the Secretary of Agriculture to pay 80 percent of hay transportation costs—up to $50 per ton.

The second point of order is that section 8 of the conference report is not in compliance with rule XXVIII, clause 4, and if such language were offered to H.R. 10339 during its consideration in the House it would not be deemed to be germane under rule XI, clause 7.

The SPEAKER. Does the gentleman from Pennsylvania (Mr. VIGORITO) desire to be heard on the points of order?

Mr. VIGORITO. Yes, Mr. Speaker, I would like to be heard on the two points of order.

The SPEAKER. The gentleman from Pennsylvania is recognized.

Mr. VIGORITO. Mr. Speaker, my understanding is that if this program is an entitlement program under section 401 of the Budget Act, the funding could not be given an authorization in this bill until the beginning of the next fiscal year, or, in this case, October 1, 1976. If that is the case, I would think that we could develop legislative intent here in that none of the funding would begin in this bill until fiscal year 1977. As a practical matter, the bill will probably not have cleared the President prior to that time, anyway, and consequently we will not be delaying the impact of the bill for any substantial length of time. We have less than a week before October 1 comes about.

On the second point of order, Mr. Speaker, I only want to say that although the gentleman has a perfect right under the rules to raise a point of order at this point, I rather regret that he is doing so in view of the seriousness of the drought problem and the requirement that we do something now if assistance is going to actually be helpful. I will oppose any motion to delete the hay assistance provision in the event that the point of order should be sustained.

The SPEAKER. The Chair is having difficulty with the argument made by the distinguished gentleman from Pennsylvania, because, as the Chair understands it, theoretically and legally it would be possible to begin the payments before October 1, 1976, which would be in violation of the Budget Impoundment and Control Act, as the entitlement to those payments might vest prior to October 1. If, as the Chair understands it, the entitlement to payments only vested after October 1, 1976, there would be no violation of the Budget Control Act.

What is the gentleman's answer to that?

Mr. VIGORITO. The intent is only to begin after October 1, 1976.

The SPEAKER. Of course, the Chair sees before him language which it seems to the Chair—and the Chair is sympathetic with what the gentleman is trying to do—indicates that:

> In carrying out any emergency hay program for farmers or ranchers in any area of the United States under section 305 of the Disaster Relief Act of 1974 because of an emergency or major disaster in such area, the President shall direct the Secretary of Agriculture to pay 80 percent of the cost of transporting hay (not to exceed $50 per ton) from areas in which hay is in plentiful supply to the area in which such farmers or ranchers are located. The provisions of this section shall expire on October 1, 1977.

This language does not say when the entitlement to payments vests and does not imply when the payments begin. It does say when the payments end. But the point is that the payments cannot begin before October 31, 1976, without violating the Congressional Budget Act.

Mr. VIGORITO. I would like to bring to the attention of the Speaker and the House that the Department of Agriculture currently has authority to help on this situation. They can pay up to 50 percent of the cost of the freight for transporting the hay.

The SPEAKER. This changes that, though.

Mr. VIGORITO. I beg the Speaker's pardon?

The SPEAKER. This changes that.

Mr. VIGORITO. This changes that?

The SPEAKER. Yes.

Mr. VIGORITO. It increases the entitlement to 80 percent from 50 percent, with a limit of $50.

The SPEAKER. The Chair thinks that under the present circumstances he should insist that the gentleman consider another procedure, because he thinks it can be worked out. Therefore, the Chair must sustain the point of order.

The Chair will not rule on the second point of order, on germaneness grounds, because one point of order against the entire conference report has been sustained.

Will the gentleman undertake to work that out within the next day or two?

Mr. VIGORITO. Mr. Speaker, I ask unanimous consent to pull this off so that we can work this out.

The SPEAKER. The conference report is no longer before the House. The gentleman can dispose of the Senate amendments under another procedure.

CONFERENCE REPORT ON H.R. 13035, SEA GRANT PROGRAM IMPROVEMENT ACT OF 1976

Mr. BREAUX. Mr. Speaker, I call up the conference report on the bill (H.R. 13035) to amend the National Sea Grant College and Program Act of 1966, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 15, 1976.)

Mr. BREAUX (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BREAUX. Mr. Speaker, as chairman of the Oceanography Subcommittee, I am pleased to present to the House this legislation which is designed to strengthen our knowledge about one of our most precious resources—the waters and coastal areas of our oceans and Great Lakes.

The Oceanography Subcommittee conducted 5 days of oversight and authorization hearings on the national sea grant program and heard from a wide range of experts from Government, academia, industry, and the sea grant program itself.

The record we have established has led to the development of a comprehensive bill which will replace the National Sea Grant College and Program Act of 1966 with a new program containing many innovative changes while retaining the basic time-tested and proven concepts of the old law.

The key to the sea grant program that has worked so well in the past, is to provide Federal assistance to universities to stimulate learning in the marine sciences. In the legislation before us, we have provided for this in several ways. For universities and other institutions which have developed a worthy sea grant project, funding is available on a matching basis with up to 66⅔ percent provided by the Federal Government and the remaining one-third from State, local, or other sources.

An educational institution which has developed a balanced program of research, education, training, and advisory services, may then become a sea grant college. Two or more institutions of higher education carrying out successful programs by developing a regional approach to solving problems relating to ocean and coastal resources and who share their expertise, research, and educational facilities may become a sea grant regional consortia and are eligible for substantial Federal assistance.

A fellowship program is established for undergraduates and graduates concentrating on marine studies. The combination of these various programs will go far to stimulate research and study into problems relating to ocean and coastal resources.

We have established a new sea grant review panel which is designed to draw upon a wide range of experts not only in marine sciences, but in education, extension services, State government, industry economics, and planning. By limiting the term of office, it is hoped that the turnover in membership will allow for the broadest possible availability of ideas and innovative thought.

We have authorized $50 million to carry out the sea grant program. We have limited the extension of the program to only 1 additional fiscal year so that the committees, especially the Oceanography Subcommittee, can continue its sea grant review and focus upon it in light of national ocean policy hearings which it is now conducting.

In the past, Federal sea grant assistance has been limited to a matching basis, which has often restricted research and educational activities to a local nature. Testimony before the committee proved that there are many national problems which need attention, and as a result, we have instituted a program of up to 100 percent funding for projects intended to meet specific national needs and problems with respect to ocean and coastal resources. Five million dollars is authorized for fiscal 1977 to carry out these national projects in colleges and universities and other appropriate institutions.

Finally, we have established a new program to stimulate international cooperation by providing $3 million to enhance the research and development capabilities of developing foreign nations and to promote the international exchange of information. The funds will go to sea grant colleges, sea grant regional consortia, and other American institutions.

This bill is a result of the coordinated effort by the House and Senate conferees based upon extensive hearings and studies by both Houses. The bill has received virtually unanimous support, and I recommend immediate passage by the House.

A more detailed summary of the legislation follows:

SUMMARY OF CONFERENCE COMMITTEE PRINT (H.R. 13035)

SEA GRANT PROGRAM IMPROVEMENT ACT OF 1976

Section 2. *Amendment to the National Sea Grant College and Program Act of 1966.*

Section 201. *National Sea Grant Program Act* (Short Title).

Section 202. *Findings, Objective, and Purpose:* The national sea grant program, initially established in 1966, shall be extended and strengthened to promote research, education, training, and advisory service activities in fields related to ocean and coastal resources by federal support to sea grant colleges, sea grant regional consortia, and other institutions, through the National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

Section 203. *Definitions.*

Section 204. *National Sea Grant Program:* The national sea grant program shall be maintained within NOAA.

A qualified Director shall be appointed by the Secretary to carry out the following functions relating to the national sea grant program:

1. Apply the long-range guidelines and priorities as established by the Secretary;
2. Advise NOAA administrator of program expertise and capabilities beneficial to other offices of NOAA;
3. Assure federally-funded sea grant projects comply with objective;
4. Encourage sharing of program expertise and capabilities by other federal agencies;
5. Advise Secretary on designation (or termination or suspension of such designation) of sea grant colleges and sea grant regional consortia; and
6. Encourage formation and growth of sea grant programs.

Section 205. *Contracts and Grants:* The Secretary may assist any sea grant program or project found to implement objectives and be responsive to needs and problems of individual states or regions through grants which may equal 66⅔ percent of cost of program or project involved.

Special grants of up to 100 percent may be made for purposes unable to be achieved through matching grants. (Funding is limited to one percent of the total appropriated in any fiscal year.)

No payment under any grant or contract may be used for lease of land, purchase, rental, construction, preservation or repair of any building, dock or vessel, *except as regards* stationary habitats, buoys, platforms, *or* the rental of any research vessel used in support of a sea grant program.

A state is limited to 15 percent of total funds appropriated in any fiscal year. Records are required for purposes of audit and evaluation.

Section 206. *National Projects:* $5,000,000 is authorized for FY 1977 to enable the Secretary to make grants or enter into contracts for up to 100 percent funding of projects, identified to meet specific national needs or problems with respect to ocean and coastal resources. (Funding is limited to ten percent total appropriated in any fiscal year.)

Section 207. *Sea Grant Colleges and Sea Grant Regional Consortia:* In accordance with specific requirements, the Secretary may designate (or terminate or suspend the designation of) any institution of higher education as a sea grant college, and any association or other alliance of two or more persons (other than individuals) as a sea grant regional consortium.

Section 208. *Sea Grant Fellowships:* A program of sea grant fellowships providing educational and training assistance to individuals at undergraduate and graduate levels of education in fields related to ocean and coastal resources shall be supported by the Secretary at sea grant colleges, sea grant regional consortia, institutions of higher education, and professional associations and institutes. (Funding is limited to five percent of the total appropriated in any fiscal year.)

Section 209. *Sea Grant Review Panel:* A sea grant review panel, meeting biannually, shall supersede the sea grant advisory panel, to review and advise the Secretary on sea grant proposals and projects, the fellowship program, and the designation of sea grant colleges, sea grant regional consortia, and sea grant programs. The panel shall consist of 15 voting members appointed by the Secretary, plus the Director as a non-voting member. No less than five members shall be qualified in marine science, and the remaining members shall be qualified in education, extension services, state government, industry, economics, planning or other activity appropriate to ocean and coastal resources. Voting panel members may not be a director of a sea grant college, sea grant consortium, or sea grant program, beneficiary of a grant contract, or a full-time federal employee. Term of office is three years and voting members may serve only one full term.

Section 210. *Interagency Cooperation:* Each federal agency or entity engaged in matters relating to ocean and coastal resources may make personnel available to the Secretary, shall furnish relevant data to the Secretary, and shall cooperate with NOAA to carry out the national sea grant program.

Section 211. *Annual Report and Evaluation:* The Secretary shall submit to Congress and the President an annual report, which can be evaluated by OMB and the Executive Office of Science and Technology Policy, on activities of and outlook for the national sea grant program.

Section 212. *Authorization for Appropriations:* $50,000,000 is authorized to carry out the national sea grant program for FY 1977.

Section 3. *International Cooperation Assistance:* The Secretary may make grants and enter into contracts with any sea grant college, sea grant regional consortium, institution of higher education, laboratory, or institute within the United States, to enhance research and development capabilities of developing foreign nations and promote the international exchange of information and data with respect to ocean and coastal resources. $3,000,000 is authorized for FY 1977.

Section 4. *Conforming and Miscellaneous Provisions:* The Administrator of NOAA is listed by statute at Level III. The Deputy and Associate Administrator are listed by statute at Level IV.

Mr. Speaker, I congratulate the conferees and thank them for their assistance and particularly pay our thanks to the chairman of the full committee, the gentlewoman from Missouri (Mrs. SULLIVAN).

Mr. MOSHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference substitute being discussed today is a program which we initially began in 1966—the national sea grant program. It has proven its success many times over and has been acclaimed as one of the more impressive Federal scientific efforts by many persons around our Nation.

During our committee hearings in this session, one witness after another came forth to praise the achievements of the sea grant program—the only consistent complaint which we heard was that the Federal Government has not seen fit to fund this program to anywhere close to the fully authorized levels.

The conference report before us today would extend the sea grant program for an additional year and add two new programs to sea grant's authority.

As the existing law presently states, sea grant funds are used to provide two-thirds of the total cost of conducting marine-related research which would be of regional or local benefit.

To allow for broader projects of a national scope, the conference substitute authorizes an additional $5 million to allow the Secretary of Commerce to initiate national research projects at the academic institutions throughout the country.

A similar authority is being given to the Secretary with respect to cooperative projects with the international scientific community.

Both of these new programs were adopted by the House several months ago and the authorization levels represent the original House position.

The other changes to existing law incorporated in this conference report essentially codify that which has been practiced administratively within the Sea Grant Office of NOAA, along with some recommended changes which our Oceanography Subcommittee determined to be needed after some extensive hearings were conducted. Most of the changes have received support from the administration.

I am convinced that this particular Federal effort has been an unusually valuable one. Through both the testimony we heard and my personal observances, I am convinced that our Nation has received as much as two or three times the costs in benefits to local government, industry, and the scientific community.

We have just begun to learn about our marine and coastal environment, and we have much more to learn. Sea grants do not concentrate on one particular area, but cover everything from the Outer Continental Shelf oil and gas operations to fisheries problems, aquaculture, pollution, and coastal zone management.

Through sea-grant assistance, valuable research is not the only product; it is required that grant institutions also provide education, training, and advisory services within particular project categories. This tripartite effort is accomplished through the cooperative effort by a diversified team of professionals to achieve specified program objectives.

This year marks the 10th anniversary of this valuable Federal program. I urge your support for the passage of this conference report so that sea grant can continue our Nation's understanding of the marine and coastal environment around us.

Mr. DU PONT. Mr. Speaker, I, too, would like to rise in support of the sea-grant legislation. The University of Delaware has been one of the leading institutions in the country operating under the sea-grant program. With the additional year's extension I am sure that the university's program, under the able directorship of Dr. William Gaither, is going to turn Delaware into a leading oceanographic center of the United States. I am glad we have passed this bill to further the course of sea-grant programs.

Mrs. SULLIVAN. Mr. Speaker, we have before us the conference report on H.R. 13035, the National Sea Grant Program Act.

This legislation, in effect, extends and strengthens a program established in 1966 through the leadership of Congressman PAUL ROGERS.

The national sea grant program, in its present form, has a record of high achievement, but one which the committee felt could be improved upon with some innovative changes in the law. It was intended to develop a solid base of expertise in universities and colleges by drawing on scientists and engineers committed to the ocean and its resources, and by directing all available disciplines toward the understanding, utilization, management, and production of the resources of the oceans and the Great Lakes.

The national sea grant program is a Federal-State university partnership. It supports the integration of all three functions of American universities—research, education, and pubic service—in a practical approach to marine technology and resource development.

Although the testimony presented to the committee expressed a sense of accomplishment in the present program, alternatives and new directions were discussed.

Based on the testimony, the House Merchant Marine Committee reported, and the House passed, a bill which basically extended the national sea grant college and program for 1 year with an authorization of $50 million for fiscal year 1977.

The House also authorized $3 million for a program to encourage other nations to develop marine science capabilities. This new authorization replaces an old mandate to study the ways in which marine research may be shared internationally.

A new authorization of $5 million was made for grants of up to 100 percent for studies and programs on national issues. The present system of providing a matching requirement of two-thirds Federal funding and one-third matching funding by State, local, or private sources often limited the program to projects of a local or regional nature. This new provision would authorize projects to solve national problems related to ocean and coastal resources.

The House legislation also encouraged the cooperation among, and joint participation by, State and local government agencies, industries, and educational institutions in the development and conservation of coastal and marine resources. We removed the prohibition on the use of sea grant funds for the rental of research vessels and other ocean facilities directly employed in sea grant projects.

The Senate had completely rewritten the National Sea Grant College and Program Act of 1966 in an effort to broaden and strengthen the law. In addition, the Senate passed a bill establishing an Office of Marine Resources, Science, and Technology within the National Oceanic and Atmospheric Administration.

In an agreement reached by the committee conferees, the Senate receded from its proposal to establish the new Office of Marine Resources, Science, and

Technology, and the conferees concentrated on perfecting the legislation as it specifically related to the national sea grant program.

The legislation agreed upon by the conferees included all of the provisions enacted by the House. In addition to those outlined above, the conference bill authorizes the Secretary to designate sea grant colleges and regional consortia. It establishes a program of sea grant fellowships providing educational and training assistance to individuals at undergraduate and graduate levels, and it establishes a sea grant review panel to advise the Secretary of Commerce on grant proposals and projects, the fellowship program, and the designation of sea grant colleges, sea grant regional consortia, and sea grant programs.

I believe the bill agreed upon by the conferees represents a vast step forward for the national sea grant program. The bill enumerates in a very clear fashion exactly what the Congress expects of the program and how it should be carried out. The passage of this legislation represents once again the commitment of the Congress to learn about, develop in a responsible manner, and protect our marine and coastal resources.

I now yield to the Congressman from Louisiana (Mr. BREAUX), Chairman of the Subcommittee on Oceanography, who will present a more detailed explanation of this bill.

Mr. RUPPE. Mr. Speaker, the National Sea Grant College and Program Act of 1966 has proven to be a most beneficial piece of legislation. For almost 10 years, this program has been stimulating a working partnership between the Federal Government, State government, academicians, scientists, and industry to solve problems related to the marine environment and the coastal zones of our Nation.

This program, unlike so many others, has not been totally funded by the Federal Government—it has been administered as a matching grant system. State governments, universities, and industry have consistently provided matching funds for up to 50 percent of the total cost of sea grant projects. It is apparent that this Federal program has met with an impressive reception from the community at State and local levels, and there is every indication that this response will continue and grow to increased levels of acceptance.

The sea grant program stands out as a unique federally supported research effort in that it requires a combination of interdisciplinary efforts by scientists, economists, businessmen, lawyers, and public affairs personnel to accomplish specific missions in marine-related areas. It not only accomplishes applied research projects using these talents, but it disseminates the results of the research projects to interested user groups and the general public.

My own State of Michigan has participated in many projects through the University of Michigan and Michigan State University. Sea grant teams have studied problems of shoreline erosion, coastal zone management, water pollution, and diving techniques. A special hyperbaric chamber was developed through the help of sea grant funds to treat divers affected by decompression sickness. This single development for use in the Great Lakes area has medically assisted some 92 persons and has saved several lives.

The conference report before us today will extend the life of the national sea grant program for 1 year at the present authorized level of $50 million, and it will strengthen the program by adding two new program initiatives dealing with projects of national and international scope. I urge the support of my colleagues for this conference report.

Mr. ROGERS. Mr. Speaker, I rise in support of the conference report to accompany the Sea Grant Improvement Act of 1976.

This program, originally established in 1966, has proven its success again and again, despite the fact that actual funding levels have never met the full authorizations in the past. The Office of Sea Grant, within the National Oceanic and Atmospheric Administration, has sparked a lively interest in the study of our ocean resources. This legislation will strengthen the intent of this act, which is to promote research, education, training, and advisory service activities in fields related to ocean and coastal resources.

The sea grant program is certainly unique as it combines the efforts of the Federal Government, the scientific community, private industry, and the educational institutions of this Nation. This mandate calls upon the interdisciplinary efforts of many people and, therefore, in the last analysis, benefits Americans at the grass roots level.

I am pleased by the agreements reached in conference with the Senate. I am pleased by the inclusion of section 206, newly designated "national projects" designed to receive 100-percent funding because the problems to be researched go beyond the resources of one particular State or region of this country. This comes at a time when the U.S. Congress is taking a closer look at formulating a national oceans' policy.

During consideration of the sea grant legislation, the House and Senate reached agreement and deleted the Senate proposal which called for the establishment of a new office of Marine Resources, Science and Technology. These organizational changes were deleted in contemplation of a more thorough review of our ocean policy and its current organization of which the sea grant program is a part.

The need for a comprehensive ocean policy has been emphasized recently, not only by the Law of the Sea Conference in New York but also by the research conducted by the National Ocean Policy Study on the Senate side.

As you know, Mr. Speaker, the House Subcommittee on Oceanography has held several days of hearings and has called many distinguished Cabinet officials to testify. The prime focus of these hearings centers on the possible need to expand the Nation's interest in the oceans and to find a suitable locus within Government to carry out such a policy. These exploratory hearings coincide with the work of the Senate, and as the new Congress convenes, I am hopeful that new action in this area will be forthcoming.

There is also a new provision in the Sea Grant Program Improvement Act which calls for a program of international cooperation to enhance the research and development capabilities of developing nations and promote the international exchange of information and data with respect to ocean and coastal resources. I am hopeful that this will go far in encouraging mutual cooperation, especially in light of the passage of the Marine Fisheries Conservation Act, due to go into effect in March of 1977.

In light of these new provisions and keeping in mind the past successes of sea grant, I am pleased to see the support this program has maintained in the U.S. Congress, and look forward to the attainment of even higher goals.

Mr. MOSHER. Mr. Speaker, I have no further requests for time.

GENERAL LEAVE

Mr. BREAUX. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the conference report on the bill, H.R. 13035, just considered.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BREAUX. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1976

Mr. MURPHY of New York. Mr. Speaker, I call up the conference report on the Senate bill (S. 521) to increase the supply of energy in the United States from the Outer Continental Shelf; to amend the Outer Continental Shelf Lands Act; and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. FISH. Mr. Speaker, reserving the right to object, I should like to ask the chairman of the ad hoc select committee at this time if he will withdraw this report from consideration or seek to postpone further consideration of the report. If not, those on this side will be constrained to object to the request of the gentleman from New York.

Mr. Speaker, the House should not squander its precious remaining hours on a bill that is clearly destined, if not designed, to be vetoed.

Mr. MURPHY of New York. Mr. Speaker, I have no intention to withdraw the conference report.

Mr. ASHBROOK. Mr. Speaker, then I object.

The SPEAKER. Objection is heard. The Clerk will read.

The Clerk read as follows:

(For Conference Report and statement see proceeding of the House of September 20, 1976.)

CALL OF THE HOUSE

Mr. ASHBROOK. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 805]

Abzug
Alexander
Beard, Tenn.
Bell
Bonker
Burke, Calif.
Butler
Cederberg
Chappell
Clancy
Clausen, Don H.
Clay
Collins, Ill.
Conlan
Conyers
Corman
Coughlin
D'Amours
Davis
Delaney
Derwinski
Diggs
Dodd
Drinan
Duncan, Oreg.
Eckhardt
Esch
Eshleman
Evins, Tenn.
Findley
Flynt
Foley
Fraser
Giaimo
Gibbons
Gradison
Green
Hall, Tex.
Hammerschmidt
Harsha
Hébert
Hefner
Heinz
Henderson
Hinshaw
Holland
Howard
Howe
Jarman
Jeffords
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Karth
Kemp
Kindness
Krebs
LaFalce
Lehman
McCloskey
McCollister
McEwen
McKinney
Madden
Madigan
Matsunaga
Mazzoli
Melcher
Metcalfe
Mikva
Mink
Moffett
Mosher
Neal
Nichols
Nix
O'Hara
Ottinger
Passman
Pepper
Peyser
Quillen
Railsback
Rees
Reuss
Riegle
Rodino
Ruppe
Santini
Sarasin
Scheuer
Schneebeli
Seiberling
Simon
Smith, Iowa
Smith, Nebr.
Spellman
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stuckey
Treen
Udall
Vander Veen
Walsh
Weaver
Wilson, C. H.
Wilson, Tex.
Wright
Young, Ga.

The SPEAKER. On this rollcall 317 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON S. 521, OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1976

The SPEAKER. The Clerk will read.

The Clerk continued to read the conference report.

Mr. HUGHES. Mr. Speaker, I again ask unanimous consent that the conference report be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

Mr. ASHBROOK. Mr. Speaker, I make the point of order that a quorum is not present.

Mr. HUGHES. Will the gentleman withhold his request?

Mr. ASHBROOK. I will not withhold my request.

Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 806]

Alexander
Andrews, N.C.
Archer
Armstrong
Beard, R.I.
Beard, Tenn.
Bell
Brinkley
Burke, Calif.
Burton, Phillip
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Collins, Ill.
Conlan
Conyers
Corman
Coughlin
D'Amours
Daniel, Dan
Davis
Derwinski
Devine
Diggs
Dodd
Drinan
Duncan, Oreg.
Eckhardt
Edwards, Calif.
Emery
English
Esch
Eshleman
Evins, Tenn.
Findley
Flynt
Foley
Ford, Mich.
Giaimo
Gibbons
Goldwater
Gradison
Green
Hall, Tex.
Hammerschmidt
Harsha
Hayes, Ind.
Hébert
Hefner
Heinz
Henderson
Hinshaw
Holland
Howe
Hyde
Jacobs
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Kemp
Kindness
LaFalce
Landrum
Lehman
Lent
Lloyd, Calif.
Lujan
McCloskey
McCollister
McEwen
Madden
Madigan
Matsunaga
Melcher
Metcalfe
Mikva
Mink
Moffett
Mollohan
Mosher
Neal
Nichols
Nix
O'Hara
Passman
Pepper
Peyser
Quillen
Railsback
Reuss
Richmond
Riegle
Rodino
Runnels
Ruppe
St Germain
Santini
Scheuer
Schneebeli
Schulze
Sikes
Simon
Skubitz
Smith, Iowa
Smith, Nebr.
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stuckey
Symms
Talcott
Treen
Udall
Ullman
Vigorito
Walsh
Wilson, C. H.
Wilson, Tex.
Wright
Young, Alaska
Young, Ga.

The SPEAKER pro tempore (Mr. O'NEILL). On this rollcall 301 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO FILE REPORT

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may have until midnight Monday, September 27, 1976, to file a report on the bill H.R. 15636, Water Resources Development Act of 1976.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1976

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to dispense with further reading of the report, and that consideration thereof be the unfinished business when the House convenes on Tuesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. FISH. Mr. Speaker, I reserve the right to object.

Mr. Speaker, reserving the right to object—and I shall not object—I wish to be sure that I understand the request of the gentleman from New York. The gentleman is asking that: First, the rest of the report be considered as read; second, that further consideration today be dispensed with; and, third, that it not be considered until next Tuesday at the earliest.

Also, Mr. Speaker, I reserve several points of order against the conference report, and would ask, is this the understanding with my reservation of these points of order?

The SPEAKER pro tempore. The points of order will still be in order.

Mr. FISH. I thank the Chair.

Mr. MURPHY of New York. I would clarify for my colleague that the unanimous-consent request specifically stated that this would be the first order of business on Tuesday next.

Mr. FISH. On Tuesday next?

Mr. MURPHY of New York. Tuesday next.

Mr. FISH. Not before that?

The SPEAKER pro tempore. The first order of unfinished business on Tuesday next.

Mr. MURPHY of New York. That is correct.

Mr. FISH. Mr. Speaker, further reserving the right to object, is the Chairman also of the opinion that the several points of order which I have so reserved will be protected when we take this matter up?

Mr. MURPHY of New York. If the gentleman will yield, the Chair always protects the points of order of the minority.

Mr. FISH. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

REQUEST FOR HOUR OF MEETING ON TUESDAY, SEPTEMBER, 28, 1976

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that when the House convenes on Tuesday, September 28, 1976, it convene at 10 o'clock a.m.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. MILLER of Ohio. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. MURPHY of New York. Mr. Speaker, I move that when the House convenes on Tuesday next, it convene at 10 o'clock a.m.

The SPEAKER pro tempore. The Chair will state that the motion is not in order at this time.

MOTION TO CONSIDER SENATE AMENDMENTS ON H.R. 10339

Mr. BERGLAND. Mr. Speaker, I move to take from the Speaker's table the bill (H.R. 10339) to encourage the direct marketing of agricultural commodities from farmers to consumers, with Senate amendments thereto, and consider the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 4, strike out "1975" and insert: "1976".

Page 5, line 16, strike out "for the fiscal year beginning October 1, 1976" and insert: "for each of the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979".

Page 5, after line 16, insert:

"EMERGENCY HAY PROGRAM

"SEC. 8. (a) In carrying out any emergency hay program for farmers or ranchers in any area of the United States under section 305 of the Disaster Relief Act of 1974 because of an emergency or major disaster in such area, the President shall direct the Secretary of Agriculture, at the option of the farmers and ranchers, to:

"(1) Purchase hay in areas of the United States in which hay is in plentiful supply, transport such hay to the area in which such farmers or ranchers are located, and sell such hay to such farmers or ranchers as prescribed in this section, or

"(2) Pay the costs to transport the cattle of farmers and ranchers from such area to a location where adequate grazing land is available and the costs of transporting such cattle back to such area.

"(b) Hay shall be made available under section 305 to farmers and ranchers to help such farmers and ranchers maintain their cattle herds during any period such assistance is needed as the result of an emergency or major disaster.

"(c) Hay sold to farmers and ranchers under such section 305 shall be sold at a price not greater than $40 a ton.

"(d) The quantity of hay sold under such section shall not exceed (1) forty pounds a cow per day in the case of dairy farmers, (2) twenty pounds a cow per day in the case of any replacement heifer, and (3) twenty pounds a head per day in the case of beef cattle.

"(e) A farmer or rancher shall be permitted to purchase hay in sufficient quantities to permit the maintenance of up to one hundred and eighty days' supply.

"(f) (1) Whenever any farmer or rancher has elected under subsection (a) to have his cattle transported to a location where adequate grazing land is available, such cattle shall be transported back to the area from which they were shipped within a reasonable time, as determined by the Secretary, after grazing conditions in the emergency area from which such cattle were shipped have improved sufficiently (as determined by the Secretary) to support such cattle.

"(2) Nothing in this section shall be construed to prohibit any farmer or rancher from selling or otherwise disposing of his cattle after he has had such cattle transported to a grazing location outside an emergency area, but no return transportation payment shall be made in any such case.

"(g) The Secretary of Agriculture is authorized to utilize the facilities of the Commodity Credit Corporation in carrying out any emergency livestock feed program under section 305 of the Disaster Relief Act of 1974.

"(h) As used in this section, the terms 'emergency' and 'major disaster' shall have the same meaning as in section 102 of the Disaster Relief Act of 1974."

Mr. BERGLAND (during the reading). Mr. Speaker, I ask unanimous consent that Senate amendments be considered as read and printed in the Record.

The SPEAKER pro tempore (Mr. McFall). Is there objection to the request of the gentleman from Minnesota?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman tell us if the problem of compliance with the budget resolution is included in the gentleman's motion?

Mr. BERGLAND. If the gentleman will yield, the answer is yes. The question which the gentleman raised earlier has been met. The effective date is October 1, 1976, therefore clearing up the question of entitlement in violation of the Budget Act.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I would like to inquire of the chairman of the Committee on the Budget if he is satisfied that the requirements of the budget resolution have now been complied with.

Mr. ADAMS. If the gentleman will yield, I am satisfied with the statement that has been made by the gentleman from Minnesota (Mr. Bergland) and it is correct.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. BERGLAND. Mr. Speaker, I am pleased to bring back to the House this bill which is designed to assist in satisfying the increased interest among consumers and many farmers in the sale of fresh fruits and vegetables and other perishable food products at downtown markets and other places where such sales are direct from the farmer to the consumer.

This bill was reported by the Committee on Agriculture and passed the House last November 4 by a vote of 299 to 95. It passed the Senate July 30 by voice vote. The substantive differences between the House and the Senate were adjusted at a conference on September 1, and the Senate on September 14 agreed to the conference report.

The primary purpose of the bill is to enable State departments of agriculture and the Extension Service specialists in the various States to provide a limited measure of technical assistance to individuals or groups who wish to establish and operate a direct food marketing outlet.

In addition, the bill authorizes a nationwide survey of direct marketing arrangements and a year-end report to the Congress on direct marketing developments, both to be performed by the U.S. Department of Agriculture.

Other than a technical change, the conference report differs in two respects from the House bill. First, the House authorized section 5 of the bill, which is the technical assistance section, for fiscal year 1977 only. The Senate passed a 3-year authorization for that section. The conferees compromised on 2 years. The bill, therefore, authorizes $1.5 million a year for 2 years for technical assistance.

The second change results from a provision in the Senate bill to provide certain assistance to farmers and ranchers in several Upper Midwestern States who are caught in a very serious drought situation. The Senate bill provided that the President, in carrying out any emergency hay program under section 305 of the Disaster Relief Act of 1974, shall direct the Secretary of Agriculture to either purchase hay in areas where it is in plentiful supply, transport it into the drought-designated area, and sell it to farmers and ranchers at no more than $40 a ton, or pay the cost of transporting a farmer's or rancher's cattle from the drought-emergency area to a location where adequate grazing land is available and then back to the original location. The Senate bill contained certain stipulations under which this assistance would be carried out, and provided that the Secretary of Agriculture may use the facilities of the Commodity Credit Corporation to carry out such an emergency livestock feed program. The House bill contained no such provision.

In lieu of this Senate provision, the conferees agreed upon a provision which meshes directly with a hay transportation assistance program already being carried out by the U.S. Department of Agriculture—and which provides assistance only on the cost of transporting the hay, in the amount of 80 percent of the transportation costs not to exceed $50 a ton. Since the Department of Agriculture is already providing assistance in the amount of two-thirds of hay transportation costs up to $27 a ton, this bill is a limited and orderly addition to the existing program.

The drought in the Upper Midwest to which this provision is directed, is of such severity that many farmers and ranchers in that area are being forced to sell off their foundation herds of breeder livestock. But their plight affects us all. If they are forced to continue to deplete foundation herds of dairy cattle and beef livestock, it will further aggravate an already depressed livestock market. And that, in turn, will lead to shorter supplies of meat and dairy products and higher retail prices a few months down the road.

I therefore am convinced that the limited expansion in this bill of the assistance already being made available by the Department of Agriculture is a sound and wise move at this time, if we really want to give the prudent farmer or rancher in the drought area a chance to ride out the drought and stay in business.

The provision in the bill that we bring back to you today attempts to do that in the most fiscally responsible way. The hay assistance provision of the Senate bill was estimated by the Congressional Budget Office to cost $53 million. The provision as it comes back from conference is estimated by CBO to cost $15.9 million, or about 30 percent of the cost of the Senate provision.

Mr. Speaker, this bill can be a useful tool in making fresh, field-ripened food produce available to consumers on a wider scale, and it also addresses in an effective but responsible way the emergency drought situation that became so acute this summer. I urge the Members to accept it so that we may get this legislation to the President and into effect.

Mr. ABDNOR. Mr. Speaker, I rise in support of the conference report on H.R. 10339, the Producer to Consumer Direct Marketing Act. I am most especially concerned with the provisions for hay transportation assistance in drought areas.

On June 22, 1976, the President declared portions of Minnesota, Wisconsin, and my State of South Dakota a drought emergency area under the Disaster Relief Act of 1974.

Believe me, though, it did not take the President's declaration to tell us we had a problem of catastrophic proportions. Rainfall was below that of the "dirty thirties" in many parts of South Dakota, and large cattle movements had begun weeks earlier due to the lack of feed. Livestock auction markets were experiencing unprecedented sales for that time of year.

Stockmen who were not selling were betting their streak of bad luck could not endure and hoping that providence would finally come through with the long delayed precipitation which would foster at least a subsistence growth of grass in their barren pastures.

Those who were more realistic were already transporting their livestock to pasture in other areas. The pasture rental and transportation fees were high, but the alternative was to liquidate foundation herds, the very livelihood stockmen have worked their lifetimes to build up.

That was prior to the President's drought emergency declaration. Since that time the situation has further deteriorated. Crop production is estimated to be down by 55 percent statewide and may amount to a 90-percent loss in some counties. By the end of July, 11 percent of the State's cattle had been sold, and projections are that over one-third may be gone by February of next year.

In terms of percentage of population employed, South Dakota is the most agricultural State in the Nation. Furthermore, livestock production is far and away the largest source of agricultural income in the State. Obviously, the loss of one-third of the base of our largest source of income will be a terrible blow to the economy of our State in the years to come.

For this year alone the total loss attributable to the drought may total in excess of $1 billion, or one-half of the total annual agricultural income of the State. Even if rainfall returns next year, the State's income will remain depressed due to the liquidation of foundation herds this year. Foundation stock cannot be replaced overnight. When they are replaced, it may be at a great loss. In the meantime, an additional blow will be struck the people of the State as their schools suffer, since they rely heavily on livestock head taxes for support.

According to USDA, South Dakota's farm labor force was already reduced by 18 percent as of the week of July 11 through 17, compared wtih a year earlier. The Business Research Bureau at the University of South Dakota estimates the cash-crop losses could wipe out 47,500 jobs during next year, as farms and related businesses lose sales or cut back services. And, believe me, the loss of 47,500 jobs is a catastrophic thing to a State whose total population is less than three-quarters of a million. Unemployment could reach 20 percent, but even this figure probably understates the magnitude of the problem. Underemployment figures would be even more astounding.

Let me cite a few more bleak statistics as far as several individual farm commodities are concerned. These are USDA figures for South Dakota.

All hay production is forecast to be 38 percent below last year. This figure would be even higher but for a larger than normal amount of roadside ditches and small grain acreages being cut for hay. Stockmen have cut literally every standing blade of grass and even weeds in their struggle to find a subsistence amount of feed.

The 38 percent below normal further understates the seriousness of the situation because more than the normal amount of hay is required this year to compensate for the lack of pasture. Stockmen have found themselves having to feed expensive hay at a time their cattle would normally be grazing pastures which are barren this year.

Oats production for 1976 is estimated to be 59 percent below last year. It is the smallest crop since 1937.

Barley production is 72 percent below last year, and that is the smallest production since 1934.

Flaxseed production is forecast to be down 72 percent from last year. That is the smallest flaxseed crop since 1939.

Production of corn for grain will be the lowest since 1941, and 50 percent less than last year.

All wheat production is estimated to have yielded an average of only 19 bushels per acre this year compared with 30 bushels per acre last year. The total production is estimated to be down 30 percent from last year when fewer acres were planted.

Under these circumstances it should be little wonder to my colleagues why the administration continues to be attacked for insensitivity to the problem and why the people of South Dakota feel betrayed by a Congress which seems to have aid for every foreign malady but little concern for the distress of our own people.

As far as the legislation under consideration today is concerned, we in South Dakota are under no great illusions it will work miracles in helping us to cope with the drought. Indeed, USDA estimates increasing the current 66⅔ percent hay shipping subsidy to 80 percent will only amount to about $1.36 per ton.

The current hay transportation subsidy is averaging just over $16 in South Dakota and about $12 overall. If the current subsidy levels are continued, overall assistance is projected to total $28 million. USDA projects an 80 percent shipping subsidy will add only about $5 or $6 million overall for a total assistance level of $33 or $34 million. That is for four States—South and North Dakota, Minnesota, and Wisconsin.

That is not a lot of relief when you consider the impact of the drought on the economy of South Dakota may exceed a billion dollars. Nevertheless, if it is the best we can do, it is better than nothing.

Congress must come to grips with the inadequacy of our disaster relief laws in dealing with agricultural disasters. If a slight increase in the hay transportation subsidy is the best we can do at this time, however, I am sure my colleagues will agree we ought to do so.

I urge my colleagues to consider the gravity of the problem and support enactment of the conference report.

Mr. PRESSLER. Mr. Speaker, the drought that has afflicted South Dakota and other nearby States has brought very serious problems to our farmers and small businesses. While it often appears from the TV weather news that rains are falling on the drought areas, the true continuing nature of the drought is obscured. It is true that we have had some local showers, but none of these have been sufficiently widespread to change the picture significantly. We are now coming to the end of the growing season in South Dakota so the overall dimensions of the drought can be assessed. The following table of growing degree days, temperature, and precipitation for the week ending September 20, 1976, illustrates the severity of the weather better than any cataloging of individual conditions:

GROWING DEGREE DAYS—TEMPERATURE, PRECIPITATION

[For week ending 6:00 a.m., Sept. 20, 1976]

	Growing degree days		Temperature past week (degrees)				Precipitation (inches)					
								Totals		Departure from normal		
Station	Total growing degree days since Mar. 29[1]	Departure from normal	Average	Departure from normal	Highest	Lowest	Weekly	Since Jan. 1	Since Mar. 29	Past week	Since Jan. 1	Since Mar. 29
Milbank	2,861	+279	60	−1	86	42	T	7.14	4.61	−0.49	−11.28	−11.97
Watertown	2,796	+498	61	+1	83	36	0.09	9.50	6.55	−.33	−8.48	−9.40
Aberdeen	2,989	+559	64	+2	85	41	T	7.15	5.12	−.42	9.09	−9.18
Faulkton	3,167	+700	67	+7	87	39	.00	8.41	7.02	−.35	−8.03	−7.84
Huron	2,946	+326	63	0	88	34	.08	8.96	6.96	−.34	−7.11	−7.00
Brookings	2,585	+48	59	−3	85	36	.04	11.97	9.44	−.50	−6.83	−7.71
Sioux Falls	3,153	+498	64	+1	87	38	.17	9.97	7.58	−.53	−10.71	−10.27
Yankton	2,926	+194	62	−5	89	40	.18	15.38	13.19	−.38	−5.21	−5.26
Pickstown	3,213	+502	66	+2	87	43	.81	13.27	11.38	+.18	−7.89	−6.67
Mitchell	3,104	+301	64	0	88	39	.05	11.47	9.84	−.47	−6.98	−6.55
Sioux City, Iowa	3,067	+335	65	+1	86	43	.10	12.01	9.25	−.59	−9.49	−9.40
Mobridge	2,865	+263	65	+3	83	41	.02	10.01	7.79	−.33	−5.23	−5.97
Dupree	2,992	+639	68	+9	87	44	.00	13.57	11.63	−.28	−.08	−.51
Lemmon	2,489	+333	64	+5	86	38	.09	16.93	15.12	−.25	+1.56	+1.51
Camp Crook	2,574	+255	65	+7	89	40	.07	12.95	11.89	−.21	+1.05	+1.07
Vale (not available)												
Pierre	3,304	+622	68	+3	91	39	T	6.45	4.75	−.33	−9.26	−9.07
Philip	2,984	+371	66	+2	90	35	.00	11.05	10.17	−.28	−2.25	−1.99
Rapid City	2,545	+40	65	+3	87	39	.03	13.97	12.89	−.25	−.98	−.18
Oelrichs	2,847	+203	68	+8	89	48	.53	14.10	12.17	+.25	−.37	−.67
Winner	3,458	+589	69	+6	90	52	.50	10.43	9.12	+.08	−7.84	−7.08

[1] Growing degree days are calculated by subtracting a 50° (F) base temperature from the average of the maximum and minimum temperatures for the day. The daily maximum temperature is limited to 86° (F) and daily minimum to 50° (F). For detailed instructions, see the reference issued with the Apr. 5, 1976, "Weekly Weather Crop and Livestock Report."

The estimated drought damage to South Dakota's economy has been placed at the $1 billion level. Probably, nearly half of our cattle have already been sold or disposed of—and most of our livestock producers have trimmed their foundation herds to the bone. One farm operator that I know of who normally has a herd of 400 to 500 cows has reduced his herd to 100. This will have a severe impact on our local governing bodies who depend upon the personal property tax derived from livestock.

I wish to place in the RECORD a partial summary of the impact of the livestock sell-down occasioned by the drought. This material, which was prepared by the South Dakota Department of Agriculture, was sent to me by Secretary of Agriculture Bob Duxbury. This chart estimates the changes in cattle tax revenues which will result directly from the lower cattle numbers based on estimates made on July 31, 1976. Actually, as I have pointed out, the drought has continued and worsened since that date so this chart probably understates the effects of the drought.

	Percent estimated livestock selldown		
County	July 31, 1976	Feb. 1, 1977	Average percent impact on school revenues
Brookings	11.1	25.9	0.1
Brown	24.8	59.9	.8
Clark	33.3	45.1	2.4
Codington	42.0	55.4	.6
Day	31.8	48.3	1.2
Deuel	23.5	53.4	2.4
Grant	30.6	60.4	1.1
Hamlin	17.9	43.4	1.6
Hutchinson	3.3	8.6	.3
Kingsbury	47.4	62.4	2.9
Lake	18.2	33.4	.8
McCook	(8.6)	16.4	.5
Minnehaha	12.8	10.0	.1
Moody	20.0	36.0	1.5
Roberts	20.0	36.0	.9

The shortage of alfalfa hay is indicative of the overall feed shortage the following chart for the entire State of South Dakota shows, a 66.6-percent reduction in alfalfa production:

TABLE 3.—ALFALFA HAY PRODUCTION

[In thousands of tons]

County	Acreage production, 1974–75	Estimated 1976 production	Percentage change in production, 1974–75 average to estimated 1976
Aurora	46.5	NA	NA
Beadle	109.5	8.75	−80.1
Bennett	23.2	13.0	−44.0
BonHomme	43.3	9.0	−79.2
Brookings	81.1		
Brown	158.1	76.5	−51.6
Brule	50.3	4.8	−90.5
Buffalo	14.0	0	−100.0
Butte	69.3	90.0	+30.1
Campbell	44.4	20.0	−55.0
Charles Mix	70.9		
Clark	66.9	13.6	−79.7
Clay	50.1		
Codington	53.6	2.0	−96.3
Corson	74.4		
Custer	16.2		
Davison	38.9	.8	−97.9
Day	50.1	.1	−99.8
Deuel	62.7	10.0	−84.1
Dewey	43.6	24.0	−72.5
Douglas	34.2	10.6	−69.0
Edmunds	106.5	4.4	−95.9
Fall River	22.6	9.5	−58.0
Faulk	96.2	33.5	−65.2
Grant	77.4	2.5	−96.8
Gregory	77.2	19.5	−74.7
Haakon	20.7	4.7	−77.3
Hamlin	43.0	12.0	−72.1
Hand	102.3	8.0	−92.2
Hanson	26.3	10.5	−60.1
Harding	36.3	52.8	+45.5
Hughes	17.8	2.0	−88.8
Hutchinson	74.3	30.0	−59.6
Hyde	46.4	0	−100.0
Jackson	10.0	2.7	−73.0
Jerauld	43.4	7.5	−82.7
Jones	19.5		
Kingsbury	64.8	15.0	−76.9
Lake	48.8	15.0	−69.3
Lawrence	34.2	55.0	+60.8
Lincoln	57.8	32.0	−44.6
Lyman	22.8	.3	−98.7
McCook	45.6	19.5	−57.2
McPherson	128.7	10.0	−92.2
Marshall	59.2		
Meade	118.1	62.5	−47.1
Mellette	18.1	.6	−96.7
Miner	49.2	10.5	−78.7
Minnehaha	97.5	52.5	−46.2
Moody	56.2	9.8	−82.6
Pennington	37.6	45.0	+19.7
Perkins	87.5	50.3	−42.5
Potter	36.0	.8	−98.0
Roberts	77.0	4.9	−93.6
Sanborn	52.1	21.0	−60.0
Shannon	7.0	8.2	+17.1
Spink	103.9	10.0	−90.4
Stanley	11.3	0	−100.0
Sully	18.5	4.5	−75.7
Todd	41.6	10.0	−76.0
Tripp	83.1	9.0	−89.2
Turner	70.9		
Union	32.0	19.0	−40.6
Walworth	36.5	15.0	−58.9
Washabaugh	10.2	7.0	−31.4
Yankton	67.9		
Ziebach	20.7	24.0	15.9
State total	2,949.8	994.2	−66.6

The amendment which has been agreed upon in the House-Senate conference committee is scaled down considerably from the original Senate version—and estimates of costs have been placed in the range of $4 to $5 million to $15.8 million. Even with the increase in subsidy provided for in this bill as amended, many will not find it economically feasible to carry their cattle over next winter. While this bill will not provide the kind of overall relief that is needed, it is part of a package of disaster assistance that can help our farmers and livestock producers get through the winter and provide the basis for rebuilding our farm economy next year, if and when rains come. There are those who cynically say this is the normal risk of farming in the Dakotas—but I believe a nation that can extend loans to New York City for bailing them out of their mismanagement and to Lockheed and to foreign countries, has enough resources and wisdom to protect a vital segment of a State's economy. It would be a tragedy for Congress to turn its back on this section of the United States which would benefit from this amendment. If we fail to act favorably on this, our actions will be interpreted as being that we do not care. I urge your support of the conference report on H.R. 10339.

Mr. JEFFORDS. Mr. Speaker, today this Chamber is taking action that will have a very positive effect for both the American farmer and consumer; namely, the approval of the conference report on the farmer-to-consumer direct marketing bill, H.R. 10339.

The approval of this measure will show that Congress recognizes the current interest of our consumers who are becoming more and more concerned with obtaining quality produce directly from the American farmer. H.R. 10339 provides $3 million for technical assistance to aid and promote this endeavor. Also, a major result of this section could be a less expensive product for our consumers with the elimination of the middle man in the marketing chain. At the same time, producers can obtain a premium price for their product.

Another important provision of this bill will have far-reaching effects in two areas: First, consumer cost of food, and second, allowing disaster-stricken farmers to remain in business.

As you well know, weather disasters have raised havoc with the American farmer recently in several States. These disasters have ranged from extreme drought in the Midwest to floods on the East coast. The farmer is once again faced with the upcoming winter season and little or no feed to support his herds. Oats which have been the mainstay in former emergency feed programs are now in short supply and other avenues must be explored. We, in Vermont, have been faced with either a flood or drought situation in 3 of the past 4 years. The inclusion in H.R. 10339 of the hay transportation amendment will assist in the farmer's relief and thus help keep our consumer food cost down.

I am very pleased with this action and thank all my colleagues for supporting this action here today.

Mr. NOLAN. Mr. Speaker, I rise in support of the measure and ask my colleagues to cast their vote favorably on the provision authorizing much-needed assistance for the drought striken sections of our country.

Large areas of the Midwest and California are experiencing the worst drought in several decades. It is the third year of drought in the Midwest, and there is little hope for a change in the coming year. Substantial crop losses have forced farmers to pursue every avenue to obtain feed for the immediate needs of their livestock.

Feed prices in disaster areas have skyrocketed. The price of hay in Minnesota has risen from $43 a ton in mid-May to as much as $125 a ton. The average cost of hay has doubled in the last 4 months. Grain-feed costs have increased 21 percent since June.

These increased costs have placed a double burden upon cattle producers who are already suffering from a depressed market. According to USDA figures, cattle prices are presently 12 cents below the break-even level for producers. If cattlemen and dairy farmers are forced to liquidate substantial portions of their foundation herds now, consumer prices will rise even higher in the future.

Present disaster programs administered by the Department of Agriculture have proved entirely inadequate in supplying feed for drought-striken areas. Emergency loan and disaster payment programs cover crop losses and are not designed to meet the immediate needs of livestock in shortage areas. The present emergency livestock feed program is severely limited in scope and provides assistance to only a small percentage of those in need. In addition, commodity stocks used for the program are nearly depleted.

Farm organizations in the Midwest have taken the initiative and contracted for shipments of hay from far-distant points. Farmers are now bearing the cost of acquiring sufficient hay to see them through the winter. This measure would provide them with some additional assistance in meeting the cost of transportation.

Urban and rural Members, working together in the House, have made an effort to eliminate rollercoaster agricultural cycles for the benefit of both farmers and consumers. The weather is our worst enemy in this battle, and I strongly urge you to support this effort to keep agricultural production and agricultural prices on an even keel.

Mr. RICHMOND. Mr. Speaker, I urge my colleagues to vote against dropping the hay section from this bill. We must vote to provide minimal assistance to our stricken farmers in the Midwest.

I am just a city dweller, Mr. Speaker, but I have been to Minnesota where the drought is.

I have seen fields of soybeans that did not fill out because there was not enough moisture and we do not have enough soybeans as it is. That is not good for our farmers, not good for our consumers, and not good for our foreign customers.

I have seen fields of corn with wilted stalks and stunted ears. This corn will not feed our livestock, and what there is for feed is not enough to get through winter.

I have seen fields of alfalfa that farmers count on for three crops of hay giving only two, because the lack of water makes alfalfa grow slower and shorter. There is no hay in the drought area, and no feed for our cattle is no good for farmers or consumers.

I have seen cattle auctions in Minnesota and Kansas where the number of cattle sold for slaughter is two or three times what it should be. Herds are being depleted because it costs too much to keep the cattle alive.

In the short run this lowers beef prices, but it will not end the boom and bust cycle. Prices will rollercoaster to new highs once all the cattle are gone. It takes a long time to get these cattle back. And that is not good for our consumers or our farmers.

The conference committee's decision to provide temporary disaster relief to drought-stricken farmers and ranchers is a wise one. It is wise because this minimal assistance of simply transporting hay from areas of surplus to areas of need makes good, commonsense. When the cost of feed drives cattlemen out of business, the Government must do what it can to help.

This is not a handout. When the rain does not fall on our fields that is a disaster. When the earth is cracked and the crops do not grow, that is a disaster. And when farmers cannot afford to stay in business, that is a disaster. The consumers of this country are learning that what hurts the farmer, hurts them too. And consumers are also learning that whenever they can be of help to farmers, particularly the hard-working family farmers, it will in the long-run help them too.

I urge all my urban colleagues to join with me in this act of support for our farmers. This farmer-to-consumer marketing bill is a step forward in the effort to bridge the gap between urban America and rural America. We must work together—consumers and farmers—to keep our farmers in business, keep our herds of livestock from shrinking and insure a steady supply of the highest-quality food. This disaster provision in this bill is one thing that will help maintain our productive capacity and keep our country first in agriculture. And I think that is good for our farmers, good for our consumers, good for all Americans.

Mr. VIGORITO. Mr. Speaker, I am pleased that we could take up this conference report on H.R. 10339 at this time. This is an important measure, both to provide fresh produce to consumers at lower prices, and to provide this limited amount of assistance to drought-stricken farmers of the Upper Midwest.

This is a timely and badly needed measure, and I would hope that our colleagues will support its approval.

Mr. MEZVINSKY. Mr. Speaker, I rise to support this modest but significant piece of legislation. Direct marketing of farm products to consumers is a simple concept. It is not a new idea. Most of us, in our childhood at least, had fresh vegetables and fruit on the table that had come from a farmers market or direct from the farm if we had not grown them ourselves. Today if we can get fresh produce from a farmer, we probably buy it from a roadside stand or pick it ourselves. In some fortunate cities, we may have access to a newly revived farmers market.

What is new about direct marketing is its potential to forge a coalition between farmers and consumers who are both disadvantaged by their lack of power in the food economy. Food that on the average gains the farmer under 40 cents on the dollar, picks up 60 cents in additional costs by the time it reaches the consumer.

The obvious solution to the inequities both farmers and consumers suffer from low and high consumer prices is to bring these groups together by bypassing the middleman. In the last few years as inflation has cut hard into personal income, there has been new interest in farmers markets and other innovative forms of direct marketing in many cities and towns.

Given the spontaneous development of many new markets and signals from both farmers and consumers that their alliance can be mutually beneficial, the House might question whether any aid is necessary to encourage the development of direct marketing. I believe, however, that this aid is crucial and must be given now.

When our office first became interested in 1974 in the potential of direct marketing, we thought we could work with USDA to encourage an aggressive direct marketing program, particularly emphasizing farmers markets. Unfortunately, the official response at USDA was that they already had an active direct marketing program. Now this is not the case. The men at USDA who have day-to-day jurisdiction over such marketing programs have assured me that they have had personnel and funds cut in recent years and cannot begin to respond to the vastly increased volume of requests for aid in establishing farmers markets and other programs. The fact is that USDA is indifferent to this bill because it does not really think direct marketing matters in our vital agricultural economy.

This is far from the truth. With a little bit of vision, it is easy to see how innovative direct marketing programs can be real tools for fighting inflation, helping the poor, and removing some of the uncertainties as well as low prices that farmers face.

Even in a State like Iowa, which leads the Nation in corn production and is second in soybeans, there are small farmers, farmers wives, and 4–H'ers who respond enthusiastically to the farmers markets springing up all over the State because they have been able to as much as double their usual seasonal truck farming proceeds at farmers markets, at the same time charging consumers less than wholesale.

I think the potential advantages of direct marketing are open ended if we can commit the ideas, and support that this bill will provide. The dissemination of information, both technical and creative, to communities where these markets would work and general encouragement of this promising alternative to high-priced marketing channels will reap big benefits.

The SPEAKER pro tempore. The Clerk will report the first Senate amendment.

The Clerk read as follows:

Senate amendment: Page 1, line 4, strike out "1975" and insert: "1976".

MOTION OFFERED BY MR. BERGLAND

Mr. BERGLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BERGLAND moves to recede from disagreement to Senate amendment No. 1 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next Senate amendment:

Senate amendment: Page 5, line 16, strike out "for the fiscal year beginning October 1, 1976" and insert: "for each of the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979".

MOTION OFFERED BY MR. BERGLAND

Mr. BERGLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BERGLAND moves to recede from disagreement to Senate amendment No. 2 and concur therein with an amendment as follows: On page 1, lines 4 and 5 of the Senate engrossed amendments, strike out "September 30, 1978, and September 30, 1979" and insert in lieu thereof "and September 30, 1978";

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the last Senate amendment.

The Clerk **read as follows:**

Senate amendment No. 3: Page 5, after line 16, insert:

EMERGENCY HAY PROGRAM

SEC. 8. (a) In carrying out any emergency hay program for farmers or ranchers in any area of the United States under section 305 of the Disaster Relief Act of 1974 because of an emergency or major disaster in such area, the President shall direct the Secretary of Agriculture, at the option of the farmers and ranchers, to:

(1) Purchase hay in areas of the United States in which hay is in plentiful supply, transport such hay to the area in which such farmers or ranchers are located, and sell such hay to such farmers or ranchers as prescribed in this section, or

(2) Pay the costs to transport the cattle of farmers and ranchers from such area to a location where adequate grazing land is available and the costs of transporting such cattle back to such area.

(b) Hay shall be made available under section 305 to farmers and ranchers to help such farmers and ranchers maintain their cattle herds during any period such assistance is needed as the result of an emergency or major disaster.

(c) Hay sold to farmers and ranchers under such section 305 shall be sold at a price not greater than $40 a ton.

(d) The quantity of hay sold under such section shall not exceed (1) forty ponds a cow per day in the case of dairy farmers, (2) twenty pounds a cow per day in the case of any replacement heifer, and (3) twenty pounds a head per day in the case of beef cattle.

(e) A farmer or rancher shall be permitted to purchase hay in sufficient quantities to permit the maintenance of up to one hundred and eighty days' supply.

(f)(1) Whenever any farmer or rancher has elected under subsection (a) to have his cattle transported to a location where adequate grazing land is available, such cattle shall be transported back to the area from which they were shipped within a reasonable time, as determined by the Secretary, after grazing conditions in the emergency area from which such cattle were shipped have improved sufficiently (as determined by the Secretary) to support such cattle.

(2) Nothing in this section shall be construed to prohibit any farmer or rancher from selling or otherwise disposing of his cattle after he has had such cattle transported to a grazing location outside an emergency area, but no return transportation payment shall be made in any such case.

(g) The Secretary of Agriculture is authorized to utilize the facilities of the Commodity Credit Corporation in carrying out any emergency livestock feed program under section 305 of the Disaster Relief Act of 1974.

(h) As used in this section, the terms "emergency" and "major disaster" shall have the same meaning as in section 102 of the Disaster Relief Act of 1974.

MOTION OFFERED BY MR. BERGLAND

Mr. BERGLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BERGLAND moves to recede from its disagreement to Senate amendment no. 3 and concur therein with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

EMERGENCY HAY PROGRAM

SEC. 8. In carrying out any emergency hay program for farmers or ranchers in any area of the United States under section 305 of the Disaster Relief Act of 1974 because of an emergency or major disaster in such area, the President shall direct the Secretary of Agriculture to pay 80 percent of the cost of transporting hay (not to exceed $50 per ton) from areas in which hay is in plentiful supply to the area in which such farmers or ranchers are located. The provisions of this section shall expire on October 1, 1977; and shall become effective on October 1, 1976, or on the date of enactment of this Act, whichever is later.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

GENERAL LEAVE

Mr. BERGLAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered and agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

PROVIDING FOR EMERGENCY ALLOTMENT LEASE AND TRANSFER OF TOBACCO ALLOTMENTS OR QUOTAS FOR CERTAIN DISASTER AREAS

Mr. JENRETTE. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 15068) to provide for emergency allotment lease and transfer of **tobacco allotments or** quotas for 1976 in certain disaster areas in South Carolina and Georgia, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment as follows:

Strike out all after the enacting clause and insert: That section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b) is amended by adding at the end thereof the following new subsection (i):

"(i) Notwithstanding any provision of this section, when as a result of drought, flood, damage due to excessive rain, hail, wind, tornado, or other natural disaster, the Secretary determines (1) that one of the counties in South Carolina or Georgia has suffered a loss of 10 per centum or more in the number of acres of tobacco planted (or expected production from the planted acreage), and (2) that a lease of such tobacco allotment or quota will not impair the effective operation of the tobacco marketing quota or price support program, he may permit the owner and operator of any farm within a designated county which has suffered a loss of 10 per centum or more in the number of acres of tobacco planted (or expected production from the planted acreage) of such crop to lease all or any part of such allotment or quota to any other owners or operators in the same county, or other counties within the same State, for use in such counties for the year 1976 on a farm or farms having a current tobacco allotment or quota of the same kind. In the case of a lease and transfer to an owner or operator in another county pursuant to this subsection, the lease and transfer shall not be effective until a copy of the lease is filed with and determined by the county committee of the county to which the transfer is made to be in compliance with the provisions of the subsection.".

The SPEAKER pro tempore (Mr. MCFALL). Is there objection to the request of the gentleman from South Carolina?

There was no objection.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 13350, PROVIDING FOR AGREEING TO THE SENATE AMENDMENT TO THE BILL H.R. 13350 WITH AN AMENDMENT

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1553 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1553

Resolved, That upon the adoption of this resolution the bill (H.R. 13350) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes with the Senate amendments thereto, be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendment to the text of the bill be, and the same is hereby, agreed to with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate, insert as one amendment in the nature of a substitute the combined texts of H.R. 13350 and H.R. 13676 as passed by the House.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

Mr. Speaker, the purpose of this resolution is to make it possible for the House to go to conferense with the Senate and combine in the conference two House-passed bills, the ERDA Authorization Act, H.R. 13350, and the Energy Extension Act, which is H.R. 13676.

Mr. Speaker, this is basically just a procedural matter. There was no conflict over it in the Committee on Rules, and I know of no objection to it.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Missouri (Mr. BOLLING) has just explained that the purpose of this is to combine these two bills so that they can go to conference with the Senate together.

The minority has no objection to them.

Mr. Speaker, on May 20, 1976, the House passed H.R. 13350—a bill to authorize appropriations to the Energy Research and Development Administration for fiscal year 1977. The bill authorized $10 million for an Energy Extension Service; however, it contained no detailed provisions for the implementation of such a program.

Thus, on June 25, the other body passed H.R. 13350 with an amendment in the nature of a substitute which set forth a statutory framework for administering the Energy Extension Service. Subsequently, however, this house passed its own provision in H.R. 13676 by a vote of 323 to 55.

As my friend from Missouri has explained, House Resolution 1553 provides for the amendment of the other body to be agreed to with an amendment in the nature of a substitute comprised of the combined texts of H.R. 13350 and H.R. 13676 as passed by the House. This is done in order that the position of the House on the administration of the Energy Extension Service can be considered along with that of the other body in conference.

Mr. Speaker, I know of no opposition to this rule, and I ask that my colleagues vote in favor of its adoption.

Mr. GOLDWATER. Mr. Speaker, will the gentleman yield?

Mr. DEL CLAWSON. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Speaker, I thank the gentleman for yielding.

I wonder whether the chairman of the subcommittee, the gentleman from Arkansas (Mr. THORNTON), would respond to a concern of mine with regard to combining this Energy Extension Act with the ERDA conference.

Several of us have worked together to balance this action of creating the new Energy Extension Service with the need to provide positive coordination and direction to the existing Federal energy conservation program. The balance was added in the form of two amendments to the bill, adding new sections 7 and 9 (a) and (c). I am concerned that we might lose this balance by placing this bill in the larger context of the ERDA authorization with its many complex issues. I, therefore, would like to inquire of the gentleman from Arkansas and the subcommittee and committee chairman whether we will still have the same emphasis and focus on this coordination and direction problem in the ERDA conference.

Mr. THORNTON. Mr. Speaker, will the gentleman yield?

Mr. DEL CLAWSON. I yield to the gentleman from Arkansas.

Mr. THORNTON. Mr. Speaker, I would like to thank the gentleman from California (Mr. GOLDWATER) for his efforts in bringing these provisions into the energy extension service bill.

I, of course, can only speak for myself; but I consider that these provisions greatly improve the bill and I would strongly support their continued existence in the legislation.

Mr. GOLDWATER. Mr. Speaker, if the gentleman will yield further, then I would assume that the gentleman from Arkansas (Mr. THORNTON) would join with me in a determination to solve the problem in this area of coordination and cooperation that was brought out in testimony; is that correct?

Mr. THORNTON. The gentleman can be assured of my efforts in that direction.

Mr. GOLDWATER. Mr. Speaker, I thank the gentleman, and I support this effort to combine the Energy Extension Service Act into the ERDA conference because the other body already has it in their ERDA conference, and it makes more sense to resolve the difference in the same conference committee.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. DEL CLAWSON. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, is the gentleman certain that there is going to be a conference?

Mr. DEL CLAWSON. I have been advised by the Members that there is going to be a conference.

Mr. ASHBROOK. I express that concern because we were precisely in the same situation with regard to a bill out of the Committee on the Judiciary. The gentleman from California (Mr. DEL CLAWSON) might recall that we had a bill which dealt with three major criminal investigative matters and a bill that dealt with three civil investigative matters.

The gentleman from Ohio (Mr. SEIBERLING) made a similar motion and the next thing we knew there was no conference and a bill came back to this body on a take-it-or-leave-it basis incorporating parens patriae with it. I have to say I am somewhat skeptical of these requests this late in the session.

Mr. DEL CLAWSON. Mr. Speaker, in response to the gentleman from Ohio (Mr. ASHBROOK) let me say that I have been advised that the conferees will be appointed immediately, today, and that they are prepared to go to conference on Monday.

I can only take them at their word. I understand that is what they are prepared to do.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. DEL CLAWSON. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, since this is the combining of two bills, what are the costs of each bill?

Mr. DEL CLAWSON. I understand there are no costs involved in the energy bill.

Mr. THORNTON. Mr. Speaker, will the gentleman yield at this time?

Mr. DEL CLAWSON. I would be happy to yield to the gentleman from Arkansas.

Mr. THORNTON. Mr. Speaker, let me say that the additional cost of the energy extension service is zero because the House version of ERDA on this bill did contain an authorization for the creation of this service, as did the Senate ERDA authorization bill. This is merely language to flesh out the concept and to bring it into existence under a program approved by the Congress.

Mr. ROUSSELOT. What is the cost of the other agency, the authorization?

Mr. THORNTON. The cost of the ERDA authorization?

Let me say that the cost of the energy extension service authorization is approved at the $10 million in the ERDA authorization bill and $7½ million has been approved in an appropriation.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman from California yield still further?

Mr. DEL CLAWSON. I would be happy to yield further to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, by combining these two authorizations, is there any potential complications of which we should be aware even though they are just going to conference?

Mr. THORNTON. Mr. Speaker, will the gentleman yield further?

Mr. DEL CLAWSON. I would be happy to yield further.

Mr. THORNTON. Mr. Speaker, I would respond by saying that the situation here is that the Senate ERDA authorization bill contains language similar to what was contained in both bills in the House and that by combining the two House bills into one conference, is the only way that the issues can be joined and a report made back to the House for action.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield still further, the gentleman from Arkansas can assure us, then, that there will be no surprises when this comes back as a conference and that we will not be told that it is too late, there is nothing we can do about the items of nongermaneness, et cetera, they were not considered?

Mr. THORNTON. If the gentleman will yield further, certainly I do not anticipate any surprises arising from this.

Mr. ROUSSELOT. I thank the gentleman.

Mr. DEL CLAWSON. Mr. Speaker, I have no further requests for time. Again I recommend the adoption of the resolution.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 13350

Mr. THORNTON. Mr. Speaker, I ask unanimous consent that the House insist upon its amendment in the nature of a substitute to the Senate amendment to H.R. 13350 and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas? The Chair hears none, and, without objection, appoints the following conferees: Messrs. TEAGUE, DOWNING of Virginia, MCCORMACK, FUQUA, SYMINGTON, BROWN of California, THORNTON, MOSHER, WYDLER, and GOLDWATER.

There was no objection.

CONFERENCE REPORT ON H.R. 9019, HEALTH MAINTENANCE ORGANIZATION AMENDMENTS OF 1976

Mr. STAGGERS. Mr. Speaker, I call up the conference report on the bill (H.R. 9019) to amend title XIII of the Public Health Service Act to revise and extend the program for the establishment and expansion of health maintenance organizations, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the statement.

(For conference report and statement see proceedings of the House of September 13, 1976.)

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. STAGGERS. Mr. Speaker, I call up the conference report on H.R. 9019, the Health Maintenance Organization Amendments of 1976. This is legislation which originally passed the House last November by a vote of 309 to 46 and subsequently passed the Senate in June by a vote of 80 to 8. The differences between the two versions were modest and we have held a very successful conference which has produced a bill generally similar to the original House legislation. The original House proposal authorized a total of $170 million in appropriations for the HMO program for fiscal years 1976 through 1979. This is the same amount as existing law authorizes but redistributes the money over 4 years where existing law authorizes it all in the first 2 years, 1976 and 1977. For the same period the Senate proposal authorized a total of $250 million and I am sure my colleagues will be pleased that the compromise contained in the conference report authorizes a total of $180 million, only $10 million more than the House bill and existing law.

In other respects the conference report is identical to the House bill except that the House proposal for allowing HMO's to contract with individual health professionals, which was not included in the Senate amendment, was limited to 15 percent of the value of HMO physician services in nonrural areas and 30 percent in rural areas: The requirement that members of medical groups serve HMO members as their principal activity was modified along the lines proposed by the Senate to require them only to serve HMO members as their substantial activity; the open enrollment requirements of existing law, which were eliminated by the House bill, have been restored in a limited way comparable to that required by the Senate amendment; existing requirements for alcohol and addiction services, removed by the House bill, have been restored as they were by the Senate proposal; and Senate amendments limiting payment under medicare and medicaid to HMO's which meet the Federal requirements, which were not included in the House bill, have been agreed to with modest modifications. This last proposal is designed to stop known abuses in the medicare and medicaid programs and, therefore, seemed reasonable as both a cost control and patient protection measure.

I know of no opposition or controversy with respect to this conference report and fully expect it to be signed by the President since he has supported amendments to the HMO legislation during the present Congress. Mr. Speaker, this is a good conference report and I urge its enactment.

Mr. BROWN of Ohio. Mr. Speaker, I rise to report support of this conference report on the Health Maintenance Organization Amendments of 1976 by the minority conferees.

The intent of this legislation is to modify the original HMO Act of 1973 so as to encourage the development of health maintenance organizations and to improve their ability to compete in the health care system.

Based on testimony presented to the Subcommittee on Health and Environment, it was evident that implementation of the HMO program had been slow, and with limited progress. At the time of the hearings last year, only five HMO's had been qualified under the act as actual operational HMO's, in contrast to the committee's expectation that at least 100 HMO's would develop throughout the country as a result of Federal support.

This year's legislation represents an attempt to correct identified deficiencies in the original law, to improve the administration of the program, and generally to make HMO's more competitive with traditional insurance programs and health delivery systems.

For example, the HMO amendments provide for reduction in the number and extent of required services to be provided by an HMO. Under this legislation, HMO's will no longer be required to provide preventive dental care for children, nor will they have to offer the supplemental services mandated under the original act. In making these changes, the committee believes that HMO's should be able to offer a more reasonably priced benefit package which could successfully compete with other health insurance plans.

Second, these amendments provide for increased flexibility in the operation of HMO's. For example, under this legislation, HMO's will be able to provide professional services through any combination of staff, medical groups, IPA's, or professionals under contract. The original HMO Act did not permit such combinations of services. Moreover, this bill would permit HMO's to contract directly with health professionals for their services up to certain limitations set by the conferees. In the case of an HMO located principally in a rural area, the amount contracted for could not exceed 30 percent of the dollar value of the HMO's physician services, and in the case of an HMO located in an area which is not principally rural, the limit would be 15 percent of the dollar value. This provision was designed to address the difficulties faced by HMO's in delivering subspeciality services which are usually needed on a rather limited basis. Finally, this bill makes changes in medicare and medicaid law in an attempt to provide uniformity in all of the programs operations.

While some of the organizational changes mandated by this legislation were not desired by HEW, I believe that the programmatic changes will provide the needed flexibility for the HMO program and, therefore, should be helpful to future HMO development.

I urge favorable consideration of this conference report.

Mr. GOLDWATER. Will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Speaker, the gentleman before me said in 1973 was the act that created the HMO's. As I recall it was primarily a trial period, an experimental approach to see if this is a concept that would work. In that respect it was a limited program, and, as I recall, some 200 or 300 were authorized. Is this still the concept of a trial, an experiment to see if it is going to work, or is this now a permanent program?

Mr. BROWN of Ohio. It is.

Mr. GOLDWATER. It is what?

Mr. BROWN of Ohio. It is a trial program. What we have found out in the first program was that it did not work all that well the way it was structured.

Mr. GOLDWATER. So now we are coming back and authorizing an even more extensive program or extending it for a few more years.

Mr. BROWN of Ohio. We are coming back with a revised program which we hope can work.

Mr. GOLDWATER. It is the gentleman's expectation that the restructuring will take care of some of the problems in the original act?

Mr. BROWN of Ohio. I am given that impression by some of the members of the subcommittee here who helped to shape the program and who served on the conference committee, and they also advise me that HEW hopes that will be the case.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, the gentleman from West Virginia made the comment there were some minor changes in this bill that really did not bear discussion. I have had a chance to read it in the last hour. I want to ask the gentleman about page 22 in the conference report which includes a provision saying that doctors in an HMO medical group may not know the method of payment of the patients they are treating. What is the reason for this? Is it assumed the doctors are dishonest and will charge more if the patients are under medicaid or medicare?

Mr. BROWN of Ohio. I yield to the gentleman from Kentucky, who is himself a doctor and a distinguished member of the medical profession.

Mr. CARTER. Mr. Speaker, that is not the reason. It is not assumed that all doctors are dishonest. This provision is included so that the members of an HMO will not be labeled as "poor" simply because the Federal Government is paying for their care.

Mr. BAUMAN. Is the conference report suggesting that doctors are likely to be dishonest?

Mr. CARTER. No, I am certainly not, sir. I am proud to be a member of the medical profession and I would not indict it. I would stand up for it and uphold it. It seems the public thinks rather better of the medical profession than some of the Members here.

Mr. BAUMAN. I can understand that.

Mr. CARTER. Thank you. I am glad you do.

Mr. BROWN of Ohio. Mr. Speaker, I believe the doctors generally are under a stricter obligation since the doctors take the Hippocratic oath, which is somewhat stricter than the oath some of us as Members of Congress take.

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield further, on page 38 of the conference report it is indicated that the bill creates a health services policy analysis center. It says this is in addition to the two other centers already created under the Public Health Service Act. Having served in HEW myself for 3 years on an advisory committee, why on earth must we have another health services policy analysis center with more staff and more cost? What is the point?

Mr. CARTER. Mr. Speaker, if the gentleman will yield, I strongly objected to this Senate provision which was accepted by the conferees and which authorizes the establishment of a center for health services policy analysis. In my own mind I felt it was established for one individual. I did not think it was good or necessary. I opposed it and I still oppose it.

One thing I want to add is that I have the utmost faith in the medical profession. However, I know it has, as other professions have, those amongst the profession who do not always do as they should.

But I would remind the Members of this:

God and the doctor:
Sooner or later we all come to them
When we are on the brink of danger and not before,
But when the danger is over and all is righted,
God is forgotten and the doctor is slighted.

Mr. BAUMAN. I am always impressed with the knowledge of poetry exhibited by the gentleman from Kentucky.

I wanted to ask one thing more. The gentleman says that this policy analysis center was created in order to create a job for one specific person?

Mr. CARTER. I told the gentleman I thought it was.

Mr. BAUMAN. Who is the person?

Mr. CARTER. Mr. Speaker, if the gentleman will yield further, I would answer that I am not absolutely sure about that.

Mr. BAUMAN. If the gentleman will yield further, I suggest that we should be told by the majority side if this is a relief act for some doctor that wants a Federal appointment; that to me is a very serious charge.

Mr. CARTER. Mr. Speaker, if the gentleman will yield further, on this provision for the Health Policy Center we inserted a sentence in the conference report to assure a competitive review process. That sentence was added at my insistence and I think it will assure that whatever group is chosen, it will be competent.

Mr. BAUMAN. Mr. Speaker, lastly, if the gentleman will yield further, on page 40 there is a provision which is surprising to me, because it authorizes about $9 or $10 million to make grants to States and political subdivisions for the purpose of water treatment. What is water treatment doing in a bill like this? We spend hundreds of millions of dollars on water treatment and here we have something totally unnecessary in an HMO bill.

Mr. CARTER. Mr. Speaker, if the gentleman will yield further, we did not accept the Senate provision to which you refer for water treatment programs. Instead the conferees agreed to attempt to hold hearings next year.

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield further, it was taken out of the conference report?

Mr. CARTER. It was taken out.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for his responses and I think he is an able representative of his profession, both political and medical.

Mr. CARTER. Mr. Speaker, if the gentleman will yield further, I always appreciate the astuteness, the unbounded ability, the——

Mr. BAUMAN. Vigor?

Mr. CARTER (continuing). Vim and vitality of the distinguished gentleman from Maryland.

Mr. BROWN of Ohio. Mr. Speaker, I would be glad to yield further if the gentleman from Kentucky would expand that comment to include the gentleman from Ohio.

Mr. STAGGERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I rise in support of H.R. 9019, the Health Maintenance Organization Amendments of 1976.

This bill amends the existing HMO law in title XIII of the PHS Act, created by Public Law 93–222,, to extend the present program for 2 years through 1979; reduce the authorization of appropriations in 1976 and 1977 by $45 and $40 million respectively, and authorize appropriations in 1978 and 1979 of $45 and $50 million respectively; and modify the requirements of existing law so that HMO's can become more competitive with existing health insurance programs, their principal competition.

The legislation originally passed the House in November and was subsequently passed by the Senate in June and the two versions were in fact quite similar. The conference report before you contains a reasonable set of compromises which follow the House bill except for limiting HMO's use of contracts with individual health professionals; modifying the requirement that members of medical groups serve members of HMO's so that they need only devote a substantial amount rather than the principal part of their time to such service; restoring open enrollment in a limited manner comparable to that proposed by the Senate; restoring alcohol and addiction services to the required basic benefits; increasing the limits on Federal financial assistance to reflect recent inflation in costs; and adopting amendments to medicare and medicaid which would prevent payment under these programs to prepaid group practices which cannot qualify as HMO's.

The House proposal and existing law both authorize a total of $170 million for fiscal years 1976 through 1979. The Senate amendment increased these amounts to a total of $250 million but we were able to agree to a very reasonable compromise of $180 million.

We have worked closely in preparing this legislation with representatives of HEW and of the Committee on Ways and Means and know of no significant opposition to its enactment at this time. However, we have every reason to expect that it will prove acceptable to the President, although of course we have no assurance in advance of this.

Mr. Speaker, this is a good report for which I urge the support of my colleagues.

Mr. CARTER. Mr. Speaker, I shall vote in favor of this conference report on the Health Maintenance Organization Amendments of 1976; but I shall do so with reservations.

I feel I must reiterate some of the concerns I raised when the House first considered and passed the HMO amendments, H.R. 9019, earlier this session.

While I supported the HMO concept as embodied in the original 1973 legislation—and while I support the goals of that HMO Act—I regret that these amendments actually water-down the philosophy of the original legislation and serve to undermine its purpose.

First, the scope of available health services will be reduced by these amendments, HMO's will no longer be required to offer preventive dental care for children or supplemental health services.

While the House version of these amendments also removed certain alcohol and drug abuse services from the basic services list—I am pleased that the conferees accepted the Senate version which maintained existing law with respect to these services.

Nevertheless, the comprehensiveness of the original legislation's benefit package is reduced by these amendments.

Second, accessibility of health services to all segments of the population will be reduced by this bill—particularly to those most in need of services—whom the Congress specifically intended to benefit.

Even though the conferees agreed to accept the Senate's modified open enrollment provision—I regret that it is such a limited requirement and that it will not have much impact in assuring the kind of access to health care that federally funded HMO's were designed to provide.

By removing the original open enrollment requirement—this bill will encourage "skimming"—and by that I mean the selection of HMO members who are healthiest and who have the greatest resources—instead of those who are less fortunate and less healthy.

Third, the concept of the HMO as a one-step, comprehensive health center, which was the cornerstone of the original HMO Act, has also been undermined by this year's amendments.

The new bill would permit HMO's to provide professional services through any combination of staff, medical groups, individual practice associations, or individual health professionals.

Moreover, it permits HMO's to contract directly with health professionals for their services.

However, the conferees did agree to place a limit on the dollar value of these contractual services—and I am pleased with this modification of the House provision's more open-ended contractual authority.

I share in the conferee's expectation that such contractual arrangements would ordinarily be used only for services which could not feasibly be provided any other way.

In sum, I would hope that HMO's would make every effort to preserve the "integrity" of the self-sufficient medical group concept which is at the foundation of the HMO philosophy.

While there are other provisions with which I have concern, in general I find the conference version of the bill more acceptable than the House-passed version, since the conference bill is closer to the Original Act.

The community rating waiver is reduced from 5 years provided in the House bill to 4 years after date of enactment in the conference version.

In addition, I am pleased that the Original Act's earmarking of funds for HMO's which will serve nonmetropolitan areas is carried through in this conference version.

Finally, I am pleased with the amendment to the medicaid provision of this conference bill which would not preclude primary health care organizations funded by the Appalachian Regional Commission—such as the mountain trails health plan in Middlesboro, Ky., from serving medicaid recipients on a prepaid risk basis.

However, Mr. Speaker, I strongly object to the Senate provision accepted by the conferees which authorizes the establishment of a center for health service policy analysis.

I believe it is unnecessary to create a new, separate non-Federal organizational entity to do health policy research and analysis at the taxpayer's expense.

There are already numerous organizations carrying out this function—including those authorized by law—and other private groups.

In my view there has never been any question regarding the authority of the Secretary of HEW to conduct health policy related research.

In fact, the Department is currently engaged in such research activities—the results of which are available to the Congress, the executive branch, and the public.

Given this ongoing effort I feel it would be wasteful and unwise to establish this center when equally relevant data may be available to the Congress from many experts around the country.

In addition, I would urge that we not increase our Federal support of health services research until significant improvements in our current efforts in this area take place.

I am referring to the recent GAO report which reviewed grant and contract activities of the National Center for Health Services Research.

It was with regret that I learned of some of the problems documented in this report which stated that although the Center has formulated various goals and objectives—"they are not well defined, nor have they been adequately communicated to officials of several Center divisions."

In addition, the GAO report stated that the "Center lacks the ability to determine whether goals are being achieved."

Moreover, the National Center for Health Statistics has no established guidelines or procedures for monitoring projects.

I would urge that time and money would be better spent in improving existing health services research activities than in adding yet another duplicative entity to this research effort.

In addition, I would like to record my strong disagreement with a portion of the managers' statement concerning the applicability of the certificate of need provision of the planning legislation (Pub. L. 93-641).

I object to the conference report's inclusion of the phrase, "fee-for-service settings" as an example of the kind of ambulatory services which belong in the consideration of the certificate of need issue.

It is my belief that fee-for-service settings should not be subject to certificate of need.

In conclusion, Mr. Speaker, I agree with the sponsors of this legislation that the HMO Amendments of 1976 will indeed help HMO's become economically viable, if not profitable.

My overriding concern remains that this objective will be achieved at the expense of many of the fundamental principles of the original HMO Act.

Mr. STAGGERS. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. McFall). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The roll was taken

The vote was taken by electronic device, and there were—yeas 298, nays 29, answered "present" 1, not voting 102, as follows:

[Roll No. 807]

YEAS—298

Adams
Allen
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bedell
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Byron
Carney
Carter
Cederberg
Chappell
Chisholm
Clausen, Don H.
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Conyers
Cornell
Coughlin
D'Amours
Daniel, R. W.
Daniels, N.J.
Danielson
de la Garza
Delaney
Dellums
Dent
Derrick
Dickinson
Diggs
Dingell
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Edgar
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Gaydos
Gilman
Goldwater
Gonzalez
Goodling
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Helstoski
Hicks
Hillis
Holtzman
Horton
Howard
Hubbard
Hungate
Hutchinson
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kemp
Ketchum
Keys
Krebs
Krueger
Lagomarsino
Landrum
Leggett
Lehman
Lent
Levitas
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McClory
McCloskey
McCormack
McDade
McFall
McHugh
McKay
McKinney
Mahon
Mann
Mathis
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Randall
Rangel
Rees
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Roberts
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Runnels
Russo
Ryan
Santini
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Stokes
Stratton
Stuckey
Sullivan
Symington
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waxman
Weaver
Whalen
Whitehurst
Wiggins
Wilson, Bob
Winn
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—29

Abdnor
Archer
Armstrong
Ashbrook
Bauman
Bennett
Burleson, Tex.
Burlison, Mo.
Butler
Clawson, Del
Cochran
Collins, Tex.
Conlan
Crane
Daniel, Dan
Derwinski
Hansen
Holt
Hughes
Ichord
Kelly
Lott
McDonald
Martin
Myers, Pa.
Paul
Robinson
Rousselot
Satterfield

ANSWERED "PRESENT"—1

Burke, Calif.

NOT VOTING—102

Abzug
Addabbo
Alexander
Anderson, Calif.
Beard, R.I.
Beard, Tenn.
Bell
Boland
Broomfield
Carr
Clancy
Clay
Corman
Cotter
Davis
Devine
Dodd
Eckhardt
Edwards, Ala.
Edwards, Calif.
Esch
Findley
Fish
Flynt
Fuqua
Giaimo
Gibbons
Ginn
Gradison
Green
Hall, Tex.
Hammerschmidt
Harrington
Hébert
Heckler, Mass.
Hefner
Heinz
Henderson
Hightower
Hinshaw
Holland
Howe
Hyde
Jarman
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Karth
Kindness
Koch
LaFalce
Latta
Lloyd, Calif.
Lujan
McCollister
McEwen
Madden
Madigan
Maguire
Matsunaga
Metcalfe
Michel
Mikva
Milford
Mink
Moffett
Mottl
Nichols
Nix
Pepper
Peyser
Quillen
Railsback
Rhodes
Riegle
Rodino
Roush
Ruppe
St Germain
Schulze
Simon
Smith, Iowa
Smith, Nebr.
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Studds
Symms
Talcott
Teague
Treen
Vander Veen
Waggonner
Walsh
Wampler
White
Whitten
Wilson, C. H.
Wilson, Tex.
Wirth
Young, Ga.

The Clerk announced the following pairs:

Mr. Corman with Mr. Bell.
Mr. Matsunaga with Mr. Flynt.
Mr. Hébert with Mr. Koch.
Mr. Mikva with Mr. Hammerschmidt.
Mr. Studds with Mr. Esch.
Mrs. Mink with Mr. Jarman.
Mr. Giaimo with Mr. Karth.
Mr. Henderson with Mr. Heinz.
Mr. Dodd with Mr. Gradison.
Mr. Nichols with Mr. Steiger of Arizona.
Mr. Moffett with Mr. Peyser.
Mr. Nix with Mrs. Smith of Nebraska.
Mr. Pepper with Mr. Ruppe.
Mr. Holland with Mr. Steelman.
Mr. Charles Wilson of Texas with Mr. Broomfield.
Mr. Riegle with Mr. McCollister.
Mr. Jones of North Carolina with Mr. Edwards of Alabama.
Mr. Howe with Mr. Beard of Tennessee.
Mr. Green with Mr. Alexander.
Mr. Jones of Alabama with Mr. Boland.
Mr. Stephens with Mr. Anderson of California.
Mr. Beard of Rhode Island with Mr. Clancy.
Mr. Addabbo with Mr. Hyde.
Mr. Carr with Mr. Quillen.
Mr. Cotter with Mr. Treen.
Ms. Abzug with Mr. Wampler.
Mr. Edwards of California with Mr. Railsback.
Mr. Fuqua with Mr. Walsh.
Mr. Clay with Mr. Michel.
Mr. Ginn with Mr. McEwen.
Mr. Davis with Mr. Madden.
Mr. Gibbons with Mr. Lujan.
Mr. Hefner with Mr. Latta.
Mr. LaFalce with Mr. Kindness.
Mr. Lloyd of California with Mr. Madigan.
Mr. Maguire with Mr. Symms.
Mr. Eckhardt with Mr. Findley.
Mr. Hightower with Mr. Hall of Texas.
Mr. Roush with Mrs. Heckler of Massachusetts.
Mr. Rodino with Mr. Johnson of Pennsylvania.
Mr. Mottl with Mr. Rhodes.
Mr. Harrington with Mr. Devine.
Mr. Teague with Mr. Talcott.
Mr. Whitten with Mr. Schulze.
Mr. Charles H. Wilson of California with Mr. Vander Veen.
Mr. Young of Georgia with Mr. Waggonner.
Mr. White with Mr. Steiger of Wisconsin.
Mr. Wirth with Mr. Smith of Iowa.
Mr. Simon with Mr. St Germain.
Mr. Metcalfe with Mr. Milford.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

CONFERENCE REPORT ON S. 2228, PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT AMENDMENTS OF 1976

Mr. ROE submitted the following conference report and statement on the Senate bill (S. 2228) to amend the Public Works and Economic Development Act of 1965, as amended, to extend the authorizations for a 3-year period:

CONFERENCE REPORT (H. REPT. No. 94–1671)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2228) to amend the Public Works and Economic Development Act of 1965, as amended, to extend the authorizations for a three-year period, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

TITLE I

SEC. 101. This Act may be cited as the "Public Works and Economic Development Act Amendments of 1976".

SEC. 102. Section 2 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121) is amended by inserting at the end the following new sentence: "Congress further declares that, in furtherance of maintaining the national economy at a high level, the assistance authorized by this Act should be made available to both rural and urban areas: that such assistance be available for planning for economic development prior to the actual occurrences of economic distress in order to avoid such condition; and that such assistance be used for long-term economic rehabilitation in areas where long-term economic deterioration has occurred or is taking place.".

SEC. 103. (a) Section 101 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3131) is amended by striking out subsection (e).

(b) The second sentence of subsection (c) of section 101 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3131) is amended by striking out "may" each of the two places it appears and inserting in lieu thereof at each such place "shall".

(c) Section 101(c) of such Act is further amended by adding after the second sentence the following new sentence: "In case of any community development corporation which the Secretary determines has exhausted its effective borrowing capacity, the Secretary may reduce the non-Federal share below such per centum or waive the non-Federal share in the case of such a grant for a project in a redevelopment area designated as such under section 401(a) (6) of this Act.".

SEC. 104. The first sentence of section 102 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3132) is amended—

(1) by striking out "and June 30, 1976," and inserting in lieu thereof "June 30, 1976, September 30, 1977, September 30, 1978, and September 30, 1979,"; and

(2) by inserting immediately before "shall be available" the following: ", and for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $7,500,000 of the funds authorized to be appropriated under such section 105 for such period,".

SEC. 105. Section 105 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3135) is amended—

(1) by striking out the period at the end of the first sentence and inserting in lieu thereof the following: ", not to exceed $62,500,000 for the period beginning July 1, 1976, and ending September 30, 1976, and not to exceed $425,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979.";

(2) by striking out "and June 30, 1976," in the third sentence and inserting in lieu thereof "June 30, 1976, the period beginning July 1, 1976, and ending September 30, 1976, and the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979,"; and

(3) by striking out "10 per centum" in the third sentence and inserting in lieu thereof "15 per centum".

SEC. 106. Title I of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3131–3136) is further amended by adding at the end thereof the following:

"CONSTRUCTION COST INCREASES

"SEC. 107. In any case where a grant (including a supplemental grant) has been made under this title for a project and after such grant has beeen made, but before completion of the project, the cost of such project based upon the designs and specifications which were the basis of the grant has been increased because of increases in costs, the amount of such grant may be increased by an amount equal to the percentage increase, as determined by the Secretary, in such costs, but in no event shall the percentage of the Federal share of such project exceed that originally provided for in such grant.".

SEC. 107. (a) Section 201(c) (42 U.S.C. 3141) is amended to read as follows:

"(c) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section and section 202, except that annual appropriations for the purpose of purchasing evidences of indebtedness, paying interest supplement to or on behalf of private entities making and participating in loans, and guaranteeing loans, shall not exceed $170,000,000 for the fiscal year ending June 30, 1966, and for each fiscal year thereafter through the fiscal year ending June 30, 1973, and shall not exceed $55,000,000 for the fiscal year ending June 30, 1974, and shall not exceed $75,000,000 for the fiscal years ending June 30, 1975, and June 30, 1976, and shall not exceed $18,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and shall not exceed $200,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979.".

(b) Section 201 of such Act is further amended by striking subsection (d) of such section.

(c) Section 202(a)(1) of such Act is amended by adding after paragraph (1) the following new paragraph:

"(2) In addition to any other financial assistance under this title, the Secretary is authorized, in the case of any loan guarantee under authority of paragraph (1) of this section, to pay to or on behalf of the private borrower an amount sufficient to reduce up to 4 percentage points the interest paid by such borrower on such guaranteed loans. No payment under this paragraph shall result in the interest rate being paid by a borrower on such a guaranteed loan being less than the rate of interest for such a loan if it were made under section 201 of this Act. Payments made to or on behalf of such borrower shall be made no less often than annually.".

(d) Section 202(a) of such Act is amended by renumbering existing paragraph (2) as (3), including any references thereto.

SEC. 108. Section 202(a)(3) of the Public Works and Economic Development Act of 1965 (as redesignated by section 107 of this Act) is amended by striking out the period at the end thereof and adding the following: "(D) paying those debts with respect to which a lien against property has been legally obtained (including the refinancing of any such debt) in any case where the Secretary determines that it is essential to do so in order to save employment in a designated area, to avoid a significant rise in unemployment, or to create new or increased employment."

SEC. 109. Title II of the Public Works and Economic Development Act of 1965 is amended by adding at the end thereof the following new section:

"REDEVELOPMENT AREA LOAN PROGRAM

"SEC. 204. (a) If a redevelopment area prepares a plan for the redevelopment of the area or a part thereof and submits such plan to the Secretary for his approval and the Secretary approves such plan, the Secretary is authorized to make an interest free loan to such area for the purpose of carrying out such plan. Such plan may include industrial land assembly, land banking, acquisition of surplus government property, acquisition of industrial sites including acquisition of abandoned properties with redevelopment potential, real estate development including redevelopment and rehabilitation of historical buildings for industrial and commercial use, rehabilitation and renovation of usable empty factory buildings for industrial and commercial use, and other investments which will accelerate recycling of land and facilities for job creating economic activity. Any such interest free loan shall be made on condition (1) that the area will use such interest free loan to make loans to carry out such plan, (2) the repayment of any loans made by the area from such interest free loan shall be placed by such area in a revolving fund available solely for the making of other loans by the area, upon approval by the Secretary, for the economic redevelopment of the area. Any such interest free loan shall be repaid to the United States by a redevelopment area whenever such area has its designation as a redevelopment area terminated or modified under section 402 of this Act. This section shall not apply to any redevelopment area whose designation as a redevelopment area would be terminated or modified under section 402 of this Act except for the provisions of section 2 of the Act entitled "An Act to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for titles I through IV through fiscal year 1971", approved July 6, 1970 (P.L. 91–304).

"(b) (1) Each eligible recipient which receives assistance under this section shall annually during the period such assistance continues make a full and complete report to the Secretary, in such manner as the Secretary shall prescribe, and such report shall contain an evaluation of the effectiveness of the economic assistance provided under this section in meeting the need it was designed to alleviate and the purposes of this section.

"(2) The Secretary shall provide an annual consolidated report to the Congress, with his recommendations, if any, on the assistance authorized under this section, in a form which he deems appropriate. The first such report to Congress under this subsection shall be made not later than July 1, 1977.

"(c) There is authorized to be appropriated to carry out this section not to exceed $125,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979.".

SEC. 110. The fourth sentence of subsection (a) of section 302 of the Public Works and Economic Development Act of 1965 is amended to read as follows: "Any overall State economic development plan prepared with assistance under this section shall be prepared cooperatively by the State, its political subdivisions, and the economic development districts located in whole or in part within such State. Upon completion of any such plan, the State shall certify to the Secretary (1) that in the preparation of such State plan, the local and economic development district plans were considered and, to the fullest extent possible, such State plan is consistent with such local and economic development district plans, and (2) that such State plan is consistent with such local and economic development district plans, or, if such State plan is not consistent with such local and economic development district plans, all of the inconsistencies of the State plan with the local and economic development district plans, and the justification for each of these inconsistencies.".

SEC. 111. (a) Section 303(a) of the Public

Works and Economic Development Act of 1965 (42 U.S.C. 3152) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", $18,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $75,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979.".

(b) Section 303(b) of such Act is amended by striking out "and June 30, 1976" and inserting in lieu thereof "June 30, 1976, September 30, 1977, September 30, 1978, and September 30, 1979".

SEC. 112. (a) Section 304(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3153) is amended by inserting immediately after "June 30, 1976," the following: "$18,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $75,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979,".

(b) Section 304(a) of such Act is further amended by striking out "titles I, II, and IV" and inserting in lieu thereof "titles I, II, III (other than planning grants authorized under sections 301(b) and 302), IV, and IX".

(c) Section 304(c) of such Act is amended by striking out "title I, II, or IV" and inserting in lieu thereof "title I, II, III (other than planning grants authorized under sections 301(b) and 302), IV, or IX".

SEC. 113. (a) Section 401(a)(1)(A) of the Public Works and Economic Development Act of 1965 is amended by striking out "available calendar year" and inserting in lieu thereof "twelve consecutive months".

(b) Section 401(a)(8) of the Public Works and Economic Development Act of 1965 is amended to read as follows:

"(8) those areas which the Secretary of Labor determines, on the basis of average annual available unemployment statistics, to have experienced unemployment which is both substantial and above the national average for the preceding twenty-four months;".

(c) Section 401(a) of such Act is further amended by adding at the end thereof the following:

"(9) those areas which the Secretary determines have demonstrated long-term economic deterioration.".

SEC. 114. (a) Section 401(b)(4) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161) is amended by striking out "two hundred and fifty", and inserting in lieu thereof "twenty-five".

(b) Section 401(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3171) is amended by adding at the end thereof the following:

"Nothing in this subsection shall prevent any municipality, designated as a redevelopment area or eligible to be designated as a redevelopment area, from combining with any other community having mutual economic interests and transportation and marketing patterns for the purposes of such designation.".

SEC. 115. Section 403(g) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3171) is amended by inserting immediately after "June 30, 1976," the following: "not to exceed $11,250,000 for the period beginning July 1, 1976, and ending September 30, 1976, and not to exceed $45,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979,".

SEC. 116. Section 404 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3172) is amended by striking out ", and June 30, 1976," and inserting in lieu thereof the following: "and June 30, 1976, not to exceed $6,250,000 for the period beginning July 1, 1976, and ending September 30, 1976, and not to exceed $25,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979,".

SEC. 117. Title IV of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161 et seq.) is further amended by adding at the end thereof the following:

"PART D—UNEMPLOYMENT RATE DETERMINATIONS

"SEC. 405. Whenever any provision of this Act requires the Secretary of Labor, or the Secretary, to make any determination or other finding relating to the unemployment rate of any area, information regarding such unemployment rate may be furnished either by the Federal Government or by a State. Unemployment rates furnished by a State shall be accepted by the Secretary unless he determines that such rates are inaccurate. The Secretary shall provide technical assistance to State and local governments in the calculation of unemployment rates to insure their validity and standardization.".

SEC. 118. (a) Section 509(c) of the Public Works and Economic Development Act of 1965 is amended by striking out the first sentence and inserting in lieu thereof the following: "The term 'Federal grant-in-aid programs' as used in this section means those Federal grant-in-aid programs authorized on or before September 30, 1979, by this Act and Acts other than this Act for the acquisition or development of land, the construction or equipment of facilities, or other community or economic development or economic adjustment activities, including but not limited to grant-in-aid programs authorized by the following Acts: Federal Water Pollution Control Act; Watershed Protection and Flood Prevention Act; titles VI and XVI of the Public Health Services Act; Vocational Education Act of 1963; Library Services and Construction Act; Federal Airport Act; Airport and Airways Development Act of 1970; part IV of title III of the Communications Act of 1934; titles VI (part A) and VII of the Higher Education Act of 1965; Land and Water Conservation Fund Act of 1965; National Defense Education Act of 1958; Consolidated Farm and Rural Development Act; and titles I and IX of this Act.".

(b) The first sentence of section 509(d)(1) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3188a) is amended by striking out at the end thereof "and for the fiscal year ending September 30, 1977, to be available until expended, $250,000,000." and inserting in lieu thereof "and for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979, to be available until expended, $250,000,000 per fiscal year.".

SEC. 119. Section 509(d)(2) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3188a) is amended by striking out at the end thereof "and for the fiscal year ending September 30, 1977, to be available until expended, not to exceed $5,000,000." and inserting in lieu thereof "and for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979, to be available until expended, $5,000,000 per fiscal year.".

SEC. 120. Section 704(e) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3214) is amended to read as follows:

"(e) No financial assistance authorized under this Act shall be used to finance the cost of facilities for the generation, transmission, or distribution of electrical energy, or to finance the cost of facilities for the production or transmission of gas (natural, manufactured, or mixed), except (1) for projects specifically authorized by Congress, and (2) for local projects for industrial parks and industrial or commercial areas in communities where the electrical energy or gas supply is, or is threatened to be interrupted or curtailed resulting in a loss of jobs, or where the purpose is to save jobs, or create new jobs, on condition that (A) the Secretary finds that project financing is not available from private lenders or other Federal agencies on terms which, in the opinion of the Secretary, will permit accomplishment of the project, and (B) the State or Federal regulatory body regulating such service determines that the facility to be financed will not compete with an existing public utility rendering such a service to the public at rates or charges subject to regulation by such State or Federal regulatory body, or if there is a determination of competition, the State or Federal regulatory body must make a determination that in the area to be served by the facility for which the financial assistance is to be extended there is a need for an increase in such service (taking into consideration reasonably foreseeable future needs) which the existing public utility is not able to meet through its existing facilities or through an expansion which it agrees to undertake. Not more than $7,000,000 appropriated to carry out titles I and II of this Act may be expended annually for such projects.".

SEC. 121. (a) Section 901 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3241) is amended by inserting "(including long-term economic deterioration)" immediately after "economic conditions".

(b) Section 903(a)(1) of such Act (42 U.S.C. 3243) is amended—

(1) by inserting "(A)" immediately before "which the Secretary";

(2) by inserting ", or (B) which the Secretary determines has demonstrated long-term economic deterioration," immediately after "Federal Government)";

(3) by inserting "and businesses" immediately after "relocation of individuals"; and

(4) by striking out "and other appropriate assistance," and inserting in lieu thereof the following: "and other assistance which demonstrably furthers the economic adjustment objectives of this title.".

(c) Section 903(a)(2)(A) of such Act is amended by inserting immediately after "loan guarantees," the following: "payments to reduce interest on loan guarantees,".

(d) Section 905 of such Act (42 U.S.C. 3245) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", not to exceed $25,000,000 for the transition quarter ending September 30, 1976, and not to exceed $100,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979.".

SEC. 122. Section 1002 of the Public Works and Economic Development Act of 1965, as amended, is amended by striking the entire section and inserting the following:

"SEC. 1002. For the purpose of this title the term 'eligible area' means any area, which the Secretary of Labor designates as an area which has a rate of unemployment equal to or in excess of 7 per centum for the most recent calendar quarter or any area designated pursuant to section 204(c) of the Comprehensive Employment and Training Act of 1973 which has unemployment equal to or in excess of 7 per centum with special consideration given to areas with unemployment rates above the national average.".

SEC. 123. (a) Section 1003(c) of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"(c) Where necessary to effectively carry out the purposes of this title, the Secretary of Commerce is authorized to assist eligible areas in making applications for grants under this title.".

(b) Section 1003(d) of such Act, as amended, is amended to read as follows:

"(d) Notwithstanding any other provisions of this title, funds allocated by the Secretary of Commerce shall be available only for a program or project which the Secretary identifies and selects pursuant to this subsection, and which can be initiated or implemented promptly and substantially completed within twelve months after allocation is made. In identifying and selecting programs and projects pursuant to this subsection, the Secretary shall (1) give priority to programs and projects which are most effective in creating and maintaining productive employment, including permanent and skilled employment measured as the amount of such direct and indirect employment generated or supported by the additional expenditures of Federal funds under this title, and (2) consider the appropriateness of the proposed activity to the number and needs of unemployed persons in the eligible area.".

(c) Section 1003(e) of such Act, as amended, is amended to read as follows:

"(e)(1) The Secretary, if the national unemployment rate is equal to or exceeds 7 per centum for the most recent calendar quarter, shall expedite and give priority to grant applications submitted for such areas having unemployment in excess of the national average rate of unemployment for the most recent calendar quarter. Seventy per centum of the funds appropriated pursuant to this title shall be available only for grants in areas as defined in the first sentence of this subsection.

"(2) Not more than 15 per centum of all amounts appropriated to carry out this title shall be available under this title for projects or programs within any one State, except that in the case of Guam, Virgin Islands, and American Samoa, not less than one-half of 1 per centum in the aggregate shall be available for such projects or programs.".

SEC. 124. Section 1004 of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"SEC. 1004. (a) Within forty-five days after any funds are appropriated to the Secretary to carry out the purposes of this title, after the date of enactment of the Public Works and Economic Development Act Amendments of 1976, each department, agency, or instrumentality of the Federal Government, each regional commission established by section 101 of the Appalachian Regional Development Act of 1965 or pursuant to section 502 of this Act, shall (1) complete a review of its budget, plans, and programs and including State, substate, and local development plans filed with such department, agency or commission; (2) evaluate the job creation effectiveness of programs and projects for which funds are proposed to be obligated in the calendar year and additional programs and projects (including new or revised programs and projects submitted under subsection (b)) for which funds could be obligated in such year with Federal financial assistance under this title; and (3) submit to the Secretary of Commerce recommendations for programs and projects which have the greatest potential to stimulate the creation of jobs for unemployed persons in eligible areas. Within forty-five days of the receipt of such recommendations, the Secretary of Commerce shall review such recommendations, and after consultation with such department, agency, instrumentality, regional commission, State, or local government make allocation of funds in accordance with section 1003(d) of this title.

"(b) States and political subdivisions in any eligible area may, pursuant to subsection (a), submit to the appropriate department, agency, or instrumentality of the Federal Government (or regional commission) program and project applications for Federal financial assistance provided under this title.

"(c) The Secretary, in reviewing programs and projects recommended for any eligible area shall give priority to programs and projects originally sponsored by States and political subdivisions, including, but not limited to, new or revised programs and projects submitted in accordance with this section.".

SEC. 125. Section 1005 of the Public Works and Economic Development Act of 1965, as amended, is amended by striking such section and renumbering subsequent sections accordingly.

SEC. 126. Section 1005 of the Public Works and Economic Development Act of 1965, as amended, as redesignated by this Act, is amended by striking the period and inserting the following at the end thereof: "unless this would require project grants to be made in areas which do not meet the criteria of this title.".

SEC. 127. Section 1006 of the Public Works and Economic Development Act of 1965, as amended, as redesignated by this Act, is amended to read as follows:

"SEC. 1006. (a) There are hereby authorized to be appropriated to carry out the provisions of this title $81,250,000 for each calendar quarter of a fiscal year during which the national average unemployment is equal to or exceeds 7 per centum on the average. No further appropriation of funds is authorized under this section if a determination is made that the national average rate of unemployment has receded below an average of 7 per centum for the most recent calendar quarter as determined by the Secretary of Labor.

"(b) Funds authorized by subsection (a) are available for grants by the Secretary when the national average unemployment is equal to or in excess of an average of 7 per centum for the most recent calendar quarter. If the national average unemployment rate recedes below an average of 7 per centum for the most recent calendar quarter, the authority of the Secretary to make grants or obligate funds under this title is terminated. Grants may not be made until the national average unemployment has equalled or exceeded an average of 7 per centum for the most recent calendar quarter.

"(c) Funds authorized to carry out this title shall be in addition to, and not in lieu of, any amounts authorized by other provisions of law.".

SEC. 128. Section 1007 as redesignated by this Act is amended by striking "December 31, 1975" and inserting in lieu thereof "September 30, 1979".

SEC. 129. Title X of the Public Works and Economic Development Act of 1965 is further amended by adding at the end thereof the following new section:

"CONSTRUCTION COSTS

"SEC. 1008. No program or project originally approved for funds under an existing program shall be determined to be ineligible for Federal financial assistance under this title solely because of increased construction costs.".

SEC. 130. Section 2 of the Act entitled "An Act to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for titles I through IV through fiscal year 1971", approved July 6, 1970 (Public Law 91-304), is amended by striking out "June 1, 1976," and inserting in lieu thereof "September 30, 1979,".

TITLE II

SEC. 201. (a) The President of the United States is authorized and requested to call a White House Conference on Balanced National Growth and Economic Development within one year of the date of enactment of this Act in order to develop recommendations for further action toward balanced national growth and economic development, and to take account of present conditions and trends as set forth in the report accompanying this Act. Such conference shall be planned and conducted under the direction of the domestic council with the cooperation and assistance of such other Federal departments and agencies, including the regional commissions established under the Appalachian Regional Development Act and title V of the Public Works and Economic Development Act.

(b) For the purpose of arriving at facts and recommendations concerning the utilization of skills, experience, and energies and the improvement of our country's social and economic needs, the conference shall assemble representatives of government, business, labor, and other citizens and representatives of institutions who could work together for balanced national growth and economic development.

(c) A final report of the White House Conference on Balanced National Growth and Economic Development shall be submitted to the President not later than one hundred and eighty days following the date on which the conference is called and findings and recommendations included therein shall be immediately made available to the public. The President shall, within ninety days after the submission of such final report, transmit to the Congress his recommendations for the administrative action and legislation necessary to implement the recommendations contained in such report.

SEC. 202. In administering this title, the President shall—

(1) request the cooperation and assistance of such other Federal departments and agencies as may be appropriate;

(2) give all reasonable assistance, including financial assistance, to the States to enable them to organize and conduct conferences on balanced growth and economic development;

(3) prepare and make available background materials for the use of delegates to the White House Conference on Balanced National Growth and Economic Development as they may deem necessary:

(4) prepare and distribute interim reports of the White House Conference on Balanced National Growth and Economic Development as may be appropriate; and

(5) engage such personnel as may be necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 57 and subchapter 63 of such title relating to classification and General Schedule pay rates.

SEC. 203. For the purpose of this title the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

SEC. 204. The President is authorized and directed to establish an Advisory Committee to the White House Conference on Balanced National Growth and Economic Development composed of fifteen members, of whom not less than five shall represent businesses in the private sector, and the Secretaries of the Departments of Commerce, Agriculture, Housing and Urban Development, and relevant Federal program managers.

And the House agree to the same.

ROBERT A. ROE,
JIM WRIGHT,
KENNETH L. HOLLAND,
JAMES L. OBERSTAR,
HENRY J. NOWAK,
JOHN PAUL HAMMERSCHMIDT,
DON H. CLAUSEN,
Managers on the Part of the House.

JOSEPH M. MONTOYA,
JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
JAMES A. MCCLURE,
HOWARD H. BAKER, Jr.
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2228) to amend the Public Works and Economic Development Act of 1965, as amended, to extend the authorizations for a three-year period, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

References in this statement to the "Act" are references to the Public Works and Economic Development Act of 1965.

SHORT TITLE

Senate bill

No comparable provision.

House amendment

Provides that this statute may be cited as the "Public Works and Economic Development Act Amendments of 1976".

Conference substitute

Same as the House amendment.

STATEMENT OF PURPOSE

Senate bill

No comparable provision.

House amendment

Amends the statement of purpose to declare assistance under the Act should be available to both urban and rural areas, should be available for planning prior to actual economic distress, and should be used for long-term economic rehabilitation where long-term economic deterioration has occurred or is taking place.

Conference substitute

Same as the House amendment.

RESTRICTION ON FINANCIAL ASSISTANCE

Senate bill

No comparable provision.

House amendment

Repeals section 101(e) of the Act to eliminate the restriction on financial assistance with respect to certain public service or development facilities competing with public utilities, unless the need for service cannot or will not be met by such public utility.

Conference substitute

Same as the House amendment.

WAIVER OR REDUCTION OF NON-FEDERAL SHARE

Senate bill

No comparable provision.

House amendment

Amends section 101(c) of the Act to require the Secretary of Commerce to reduce or waive the non-Federal share where the applicant has exhausted its effective taxing and borrowing authority.

Conference substitute

Same as the House amendment.

COMMUNITY DEVELOPMENT CORPORATIONS

Senate bill

Amends section 101(c) of the Act to make Community Development Corporations eligible for reduction or waiver of the non-Federal share of a grant if they have exhausted their effective borrowing capacity.

House amendment

No comparable provision.

Conference substitute

Same as the Senate bill.

HEALTH PROJECT FUNDING

Senate bill

Extends through fiscal year 1979 the limitation on title I authorizations which are available for operations of any health project. The limitation is $7,500,000 for the transition quarter.

House amendment

Same as the Senate bill.

Conference substitute

Same as both Senate bill and House amendment.

TITLE I AUTHORIZATION

Senate bill

Authorizes $62,500,000 for the transition quarter and $450,000,000 per year for fiscal years 1977, 1978, and 1979, and extends the restriction that not less than 10 nor more than 35 percentum of appropriations made for the transition quarter and such fiscal years shall be expended in redevelopment areas designated under section 401(a)(6) of the Act.

House amendment

Same as the Senate bill, except that it provides an authorization per year for fiscal years 1977, 1978, and 1979 of $250,000,000, and increases the minimum percentage to be expended in section 401(a)(6) redevelopment areas to 25 per centum.

Conference substitute

The same as the Senate bill except the authorization for fiscal years 1977, 1978, and 1979 is reduced to $425,000,000 per year and the minimum percentage to be expended in section 401(a)(6) redevelopment areas is increased to 15 per centum.

CONSTRUCTION COST INCREASES

Senate bill

No comparable provision.

House amendment

Adds a new section to title I of the Act to permit the amount of a grant to be increased if the cost of the project has gone up because of increased costs. No such increase shall result in the Federal share of the project exceeding that originally provided for in the grant.

Conference substitute

Same as the House amendment.

PUBLIC WORKS AND DEVELOPMENT FACILITY LOANS

Senate bill

Provides for authorizations for public works development and facility loans of $18,750,000 for the transition quarter and $125,000,000 per year for fiscal years 1977, 1978, and 1979.

House amendment

Authorizes $18,750,000 for the transition quarter and $200,000,000 per year for those fiscal years. In addition, the House amendment authorizes, in the case of loan guarantees, the payment to or on behalf of a private borrower of an amount sufficient to reduce up to 4 percentage points the interest paid by that borrower on any loan guaranteed under paragraph (1) of section 202 (a) of the Act.

Conference substitute

Same as the House amendment except that payments to reduce interest are not to result in the guaranteed loan interest rate being less than the direct loan interest rate. In addition, a new section is added to title II of the Act to provide for interest free loans to redevelopment areas to be reloaned for economic redevelopment, with these loans to be repaid and to be placed in a revolving fund for the purpose of making other such loans. These loans would be subject to approval by the Secretary of Commerce. The plan submitted to the Secretary for approval should relate to other economic development planning being conducted by the redevelopment area. The interest free loan is to be repaid to the Treasury upon termination of the area's designation as a redevelopment area under this Act. No redevelopment area whose designation would be terminated but for the moratorium imposed by P.L. 91-304 is to be eligible for any interest free loan under this section. $125,000,000 is authorized per fiscal year for these interest free loans.

LOANS AND GUARANTEES

Senate bill

No comparable provision.

House amendment

Amends section 202(a)(3) of the Act to authorize the Secretary to pay those debts with respect to which a lien against property has been legally obtained, if he determines it essential to save employment, to avoid unemployment, or to create new or increased employment.

Conference substitute

Same as the House amendment.

STATE ECONOMIC DEVELOPMENT PLANS

Senate bill

No comparable provision.

House amendment

Amends section 302(a) of the Act to require every overall State economic development plan prepared with assistance under that section to be prepared cooperatively by the State, its political subdivisions, and economic districts within the State and is required to be consistent with local and economic development district plans.

Conference substitute

Same as the House amendment except that the State is required to certify that the preparation of a plan done by the State with assistance provided under section 302 has considered local and district plans and that such State plan is consistent with local and district plans or if it is not, the State shall certify the inconsistencies and the justification.

TECHNICAL ASSISTANCE AND RESEARCH AUTHORIZATIONS

Senate bill

Amends section 303(a) of the Act to authorize $18,750,000 for the transition quarter, and $75,000,000 per year for fiscal years 1977, 1978, and 1979. It extends the $15,000,000 per fiscal year limitation on the amounts available for grants to States during those fiscal years and sets a limit of $3,750,000 for the transition quarter.

House amendment

Same as the Senate bill, except that it does not contain the limitation on State grants.

Conference substitute

Same as the Senate bill.

SUPPLEMENTAL AND BASIC GRANTS

Senate bill

Authorizes $18,750,000 for the transition quarter and $75,000,000 per year for fiscal years 1977, 1978, and 1979 for supplementing or making grants or loans under titles, I, II, and IV of the Act.

House amendment

Same as the Senate bill, except that titles III and IX are also made eligible for funding under this provision.

Conference substitute

Same as the House amendment except that planning grants authorized under sections 301(b) and 302 of title III are not to be supplemented.

AREA ELIGIBILITY

Senate bill

Amends section 401(a)(1)(A) of the Act to require the Secretary of Labor in determining the current rate of unemployment to use the most recent twelve consecutive months.

House amendment

No comparable provision.

Conference substitute

Same as the Senate bill. In addition it revises paragraph (8) of section 401(a) to authorize designation of those areas which are determined to have experienced unemployment which is both substantial and above the national average for the preceding twenty-four months.

It also adds a new paragraph (9), making areas eligible for designation which have demonstrated long-term economic deterioration. Historically, unemployment data has principally been used to determine areas eligible for assistance under the Act. There is need for new criteria to better measure the long-term economic distress which this Act is attempting to address. Some of the measures which could be considered include low per capita income, decline in per capita employment, changing county business patterns, local tax effort, operating capacity ratio of industrial firms and loss of industrial or commercial jobs. The Secretary is directed to explore these and other possible factors to develop more meaningful measures of the long-term economic distress which this Act is designed to address.

REDEVELOPMENT AREA SIZE RESTRICTION

Senate bill

No comparable provision.

House amendment

Amends section 401(b)(4) of the Act to reduce the size of municipalities eligible to be designated as a redevelopment area from 250,000 to 50,000.

Conference substitute

Same as the House amendment except that the reduction in size of municipalities is to 25,000 population.

Nothing in this section shall prevent any municipality designated as a redevelopment area or eligible by existing criteria to be designated as a redevelopment area from combining with a contiguous community or communities of any size having a mutuality of interests or problems of economic growth, employment, transportation or other public facility development for the purpose of designation as a redevelopment area and the Secretary should encourage the formation of larger units for the purpose of long term economic development.

The Bureau of Labor Statistics is requested by the Conference Committee to develop as soon as possible techniques and the capability for determining monthly unemployment levels for cities 25,000 and above.

ECONOMIC DEVELOPMENT DISTRICT

Senate bill

Amends section 403(g) of the Act to authorize $11,250,000 for the transition quarter and $45,000,000 per year for each of the fiscal years 1977, 1978, and 1979.

House amendment

Same as the Senate bill.

Conference substitute

Same as the Senate bill and the House amendment.

INDIAN ECONOMIC DEVELOPMENT

Senate bill

Amends section 404 of the Act to authorize $6,250,000 for the transition quarter and $25,000,000 per year for each of the fiscal years 1977, 1978, and 1979 for the purpose of providing assistance to Indian tribes.

House amendment

Same as the Senate bill.

Conference substitute

Same as the Senate bill and the House amendment.

URBAN ECONOMIC DEVELOPMENT

Senate bill

Adds a new section 107 to title I of the Act setting out additional criteria for urban economic development. Under the new section, cities of 50,000 or more designated or located in redevelopment areas shall be assisted on a priority basis if they have either unemployment 50 percent above the national average rate for the preceding 24 months or 15 percent of the city's population is below the poverty level. Additionally, the city must have either a significant decline in per capita employment over the last 3 years or a deterioration in the city's economic base. All four of these factors need not be present for eligibility but at least one of each criteria of economic distress must be demonstrated by the applying city.

Further, this section provides that up to 20 percent of the first $250 million appropriated and up to 35 percent of appropriations over $250 million shall be available to eligible urban areas.

Eligible cities may be part of a larger redevelopment area which has prepared an approved overall economic development program or are designated as a municipal redevelopment area with a single-city OEDP. Section 107(d) requires that the development plan be current and appropriate to the area and insists that such programs be coordinated with other planning in the metropolitan area, as well as with programs under the Comprehensive Employment and Training Act and the community development block grant program.

The section also requires that projects and activities selected for funding should be those which will directly benefit the population which provides the statistical basis for qualification.

House amendment

Adds a new section 405 to the Act to authorize the Secretary to designate as a "redevelopment area" any city with a population of 50,000 or more as long as it (1) submits and has approved by the Secretary an overall economic development program in accordance with section 202(b)(10) of the Act, and (2) meets one or more of the following conditions within its boundaries:

(A) A large concentration of low income persons;

(B) Substantial out-migration;

(C) Substantial unemployment or underemployment;

(D) An actual or threatened abrupt rise of unemployment due to the closing or curtailment of a major source of employment; or

(E) Long-term economic determination.

Nothing in this section 405 or a part thereof, is intended to be construed to prohibit the designation of a city or a part thereof, as a "redevelopment area" under this section in addition to its designation as a "redevelopment area" under any other provision of the Act. Also, this section should not be construed to prohibit a city designated under this section and another provision of the Act from receiving assistance through the expenditure of funds both under section 405 and any other provision in the Act.

If a city designated under this section prepares a plan for the economic development of the city or a part of it and submits its plan to the Secretary, and the Secretary approves such plan, he is authorized to make a grant to the city for the purpose of carrying out the plan. Any grant made by the Secretary under this section must be made on the condition that the city will use such grant to make grants or loans or both to carry out the plan and that the repayments of any loans to the city be placed in a revolving fund by the city to be available for making other economic development grants or loans by the city upon the approval of the Secretary.

Each recipient receiving assistance under this section shall annually make a full and complete report to the Secretary evaluating the effectiveness of the economic assistance provided under this section. The Secretary shall provide an annual consolidated report to the Congress with his recommendations, if any, on the assistance provided. The first report to Congress shall be made not later than July 1, 1977.

There are authorized to carry out this section $50,000,000 for the transition quarter and $200,000,000 per year for fiscal years 1977, 1978, and 1979.

Conference substitute

Does not contain any provision specifically earmarked for urban economic development but title II of the Act is proposed to be amended to provide a program of long-term loans to be available for the same purposes and under the same conditions as was provided in the House amendment except that this loan program is available to all redevelopment areas and not restricted to urban areas only.

UNEMPLOYMENT RATE DETERMINATIONS

Senate bill

No comparable provision.

House amendment

Adds a new section 406 to the Act which permits information regarding unemployment rates to be furnished by either the Federal Government or a State or local government whenever a determination is required by this Act relating to unemployment rates. Rates furnished by State or local governments are to be accepted by the Secretary unless he determines that they are inaccurate. The Secretary is to assist State and local governments in calculating unemployment rates to insure their validity and standardization.

Conference substitute

Same as the House amendment except that unemployment rate information is to be furnished by either the Federal or State governments and a rate furnished by a State government is to be accepted unless the Secretary determines it is inaccurate.

SUPPLEMENTS TO FEDERAL GRANTS-IN-AID PROGRAMS

Senate bill

Amends section 509 of the Act to update various Federal grant-in-aid programs enacted before September 30, 1979, which are eligible to be supplemented by grants under that section. In addition, funding is authorized for title V at $250,000,000 per year for fiscal years 1978 and 1979.

House amendment

Same as the Senate bill with an additional amendment to section 509(d)(2) of the Act authorizing $5,000,000 per year for fiscal years 1978 and 1979 for management and authorized activities of new commissions.

Conference substitute

Same as the House amendment.

ENERGY DEMONSTRATION PROGRAMS

Senate bill

Amends section 515(c) of the Act to remove the $5,000,000 per fiscal year restriction on the use of funds apportioned to a regional commission for the purpose of carrying out enery related provisions of section 515.

House amendment

No comparable provision.

Conference substitute

No comparable provision.

POWERS OF THE SECRETARY

Senate bill

Amends section 701 of the Act to authorize the Secretary to reobligate funds previously obligated under title I, section 201, or section 403 of the Act for projects which cannot be initiated or completed, without regard to the purpose or location of the incomplete or uninitiated project. These funds may only be reobligated in the same State or States in which originally obligated. The project for which funds are to be reobligated must meet all requirements of this Act.

House amendment

No comparable provision.

Conference substitute

No comparable provision.

GAS AND ELECTRICAL ENERGY PROHIBITION

Senate bill

Amends section 704(e) of the Act which presently prohibits financial assistance for facilities to generate, transmit, or distribute electrical energy or to produce or transmit natural gas.

The amendment would allow an exemption for the transmission and distribution facilities for natural gas and electric energy of publicly-owned utilities. Assistance under the Act would only be available to fund the differences between the cost of the project and the revenues which would be derived through reasonable increases in rates over the life of the facility.

House amendment

Repeals section 704(e) of the Act.

Conference substitute

Amends section 704(e) of the Act which presently prohibits financial assistance for facilities to generate, transmit, or distribute electrical energy or to produce or transmit natural gas except (a) for projects specifically authorized by Congress and (b) for local projects where the Secretary finds that project financing is not available from private lenders and the State or Federal regulatory body determines that the facility will not compete with an existing public utility or where the existing public utility is not able to meet the energy requirements. No more than $7,000,000 appropriated for titles I and II of this Act may be expended annually for such projects.

SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE

Senate bill

Amends section 905 of the Act to authorize $25,000,000 for the transition quarter and $100,000,000 per year for fiscal years 1977, 1978, and 1979.

House amendment

Title IX of the Act is amended to include long-term economic deterioration as a condition for which assistance may be provided. In addition to the eligible activities in section 903(a)(1), recipients may use grants under this section for the relocation of businesses and to reduce interest on guaranteed loans.

In order to be an eligible recipient under the long-term deterioration criteria, (1) the unemployment rate of the area must exceed the national average for 6 consecutive months of the preceding 12 months, (2) have at least 15 percent of the population below the poverty levels defined by the Office of Management and Budget, and (3) an economic development planning and management capability adequate to effectively administer the grant.

Provides the same level of authorization for title IX as does the Senate bill with a separate authorization of $6,250,000 for the transition quarter and $25,000,000 per year for fiscal years 1977, 1978, and 1979 for long-term economic deterioration.

Conference substitute

Amends title IX of the Act to include long-term economic deterioration as a condition for which assistance may be provided. Recipients may use grants for relocation of businesses and to reduce interest on guaranteed loans. Provides the same authorizations at the same levels as are provided in the Senate bill.

JOBS OPPORTUNITIES PROGRAM

Senate bill

Makes a series of amendments to title X of the Act to add the Jobs Opportunities Program as a standby antirecession measure to become operative only when unemployment reaches 7 percent nationally for the preceding calendar quarter. It would provide project opportunities on a priority basis for areas of highest unemployment. It would authorize $125,000,000 for each quarter.

House amendment

No comparable provision.

Conference substitute

Same as the Senate bill except the authorization would be at the level of $81,250,000 for each quarter.

WHITE HOUSE CONFERENCE ON BALANCED NATIONAL GROWTH AND ECONOMIC DEVELOPMENT

Senate bill

Title II of the bill authorizes and requests the President to call a White House Conference on Balanced National Growth and Economic Development within one year after enactment of this legislation. The Conference shall be composed of representatives of Federal, State, and local governments and the broad spectrum of the private sector.

House amendment

No comparable provision.

Conference substitute

Same as the Senate bill.

MORATORIUM

Senate bill

No comparable provision.

House amendment

Amends section 2 of the Act of July 6, 1970, to extend to September 30, 1979, the date on which no redevelopment area can have that designation terminated unless a local governing body specifically requests dedesignation action.

Conference substitute

Same as the House amendment.

ROBERT A. ROE,
JIM WRIGHT,
KENNETH L. HOLLAND,
JAMES L. OBERSTAR,
HENRY J. NOWAK,
JOHN PAUL HAMMERSCHMIDT,
DON H. CLAUSEN,
Managers on the Part of the House.
JOSEPH M. MONTOYA,
JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
JAMES A. MCCLURE,
HOWARD H. BAKER, Jr.
Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE CONFERENCE REPORT ON S. 3149, TOXIC SUBSTANCES CONTROL ACT

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tonight to file a conference report on the Senate bill (S. 3149), Toxic Substances Control Act.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

PROVIDING FOR THE FILING AND PRINTING OF CERTAIN PRIVILEGED REPORTS

Mr. BRADEMAS, from the Committee on House Administration, filed the following privileged reports: House Resolution 1513 (Rept. No. 94–1672); House Resolution 1561 (Rept. No. 94–1673); House Resolution 1571 (Rept. No. 94–1674); House Concurrent Resolution 761 (Rept. No. 94–1675); and Senate Concurrent Resolution 201 (Rept. No. 94–1676), which were referred to the House Calendar and ordered to be printed.

APPOINTMENT OF FIVE ADDITIONAL CONFEREES ON H.R. 13350, AUTHORIZING APPROPRIATIONS FOR ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that five additional conferees representing the Joint Committee on Atomic Energy be appointed to the Committee of Conference on H.R. 13350, authorizing appropriations for the Energy Research and Development Administration.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following conferees: Messrs. PRICE, YOUNG of Texas, RONCALIO, ANDERSON of Illinois, and LUJAN.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO HAVE UNTIL MIDNIGHT TOMORROW, SEPTEMBER 24, 1976, TO FILE REPORTS ON H.R. 8002, H.R. 15122, H.R. 9126, H.R. 13789, S. 64, AND H.R. 13714

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs may have until midnight, Friday, September 24, 1976, to file reports on the following bills: H.R. 8002, Point Reyes Wilderness; H.R. 15122, omnibus trails study bill; H.R. 9126, Eugene O'Neill National Historic Site; H.R. 13789, Congressional Cemetery; S. 64, adding names of Alaska and Hawaii on Lincoln Memorial; and H.R. 13714, dedicating a segment of the C. & O. Canal to Justice Douglas.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

LEGISLATIVE PROGRAM

(**Mr. ASHBROOK** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, I take this time in order to inquire of the majority as to whether they have an announced schedule for next week?

Mr. McFALL. Mr. Speaker, if the gentleman will yield, I will be happy to respond to his inquiry.

Mr. ASHBROOK. I yield to the gentleman from California.

Mr. McFALL. Mr. Speaker, in reply to the inquiry of the gentleman from Ohio, let me state that there is no further legislative program for today, and upon the announcement of the program for next week I will ask to go over until Monday.

The program for next week is as follows:

Monday is District day and there are no bills.

We will consider H.R. 14932, rail amendments with an open rule and 2 hours of debate.

H.R. 14260, foreign aid appropriations conference report.

House Joint Resolution 1105, continuing appropriations, and H.R. 14496, resource conservation and recovery under an open rule with 2 hours of debate.

For Tuesday: The Private Calendar is in order on Tuesday.

Also S. 521, Outer Continental Shelf conference report.

H.R. 15, regulating lobbying and related activities, under an open rule with 4 hours of debate. The rule was previously adopted today.

Wednesday: H.R. 14970, special unemployment assistance extension with an open rule and 1 hour of debate.

H.R. 15636, omnibus rivers and harbors, subject to a rule being granted and H.R. 6684, exclusive territorial franchises under an open rule and 2 hours of debate.

For Thursday and the balance of the week: H.R. 12808, the peanut bill, under an open rule with 1 hour of debate.

H.R. 14319, clinical laboratory improvement, under an open rule and 1 hour of debate.

H.R. 9067, component parts of ammunition tax, under a modified open rule with 2 hours of debate.

House Resolution 1435, floor privileges of the House.

H.R. 15081, national stockpile disposal, subject to a rule being granted, and House Resolution 1392, Congressman Hinshaw resolution. That will be on Friday.

Conference reports may be brought up at any time and any further program will be announced later.

Mr. ASHBROOK. Mr. Speaker, it goes without saying that many Members in the House are quite interested in the schedule for next week. I know that, as a person who has been around these Chambers on many adjournment weeks, we normally have a motion for suspension of the rules. I note that we have not had such a motion. I guess on one hand it makes me feel a little bit better but, on the other hand, it makes me realize we have no set adjournment date. Could the gentleman from California give us some indication as to what the plans are for adjournment?

Mr. McFALL. Of course, as the gentleman from Ohio knows, as soon as we adopt the motion on the sine die resolution, then votes on suspensions would be in order. But I do not know when that will be brought up.

As I understand from discussing this matter with the Speaker, the Speaker intends to do all the business which is necessary to do which the Senate would take up and send to the President prior to the time that he might consider more suspensions. That would be toward the end of the week, I believe.

Mr. ASHBROOK. Then it is fair to say, I would ask my friend and colleague, the gentleman from California (Mr. McFALL) that we do firmly have a target date of next weekend for adjournment?

Mr. McFALL. I forgot to answer that, yes, that was the second part of the gentleman's question. We are, as I understand, going to get out of here at least on Saturday night and hopefully on Friday night.

Unless there is some unforeseen development that no one in the leadership—neither the Speaker, the majority leader, nor I know about at this time, I am expecting to be out of here Friday night, and if not then, Saturday night.

Mr. ASHBROOK. I thank the gentleman.

Mr. McFALL. The gentleman from Ohio might say a little prayer tonight that might help us on that basis.

Mr. ASHBROOK. I think if we could talk to a few people even on this Earth, it might help out, going to the other body or to the other source. But I would say that the gentleman did not have success in offering his unanimous consent regarding Tuesday. However, I assume it would be the goal of the leadership to come in early on each of those days and work late. Would that be an accurate statement?

Mr. McFALL. We would offer the unanimous-consent request again on Monday and perhaps at that time it would be clearer to the Members as to what might happen on Tuesday. Perhaps we would have more success at that time than we did on Thursday.

Mr. ASHBROOK. I thank the able gentleman for his information. Maybe next week we will see this happen.

Mr. McFALL. I thank the gentleman from Ohio.

ADJOURNMENT TO MONDAY, SEPTEMBER 27, 1976

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER pro tempore (Mr. DANIELSON). Is there objection to the request of the gentleman from California?

There was no objection.

REQUEST TO MEET AT 10 A.M. ON TUESDAY, SEPTEMBER 28, 1976

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House convenes on Tuesday next, September 28, 1976, that it convene at 10 o'clock a.m.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. MILLER of Ohio. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

DISPENSING WITH BUSINESS IN ORDER UNDER THE CALENDAR WEDNESDAY RULE ON WEDNESDAY NEXT

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday Rule may be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

THE "BIG SPENDER" IMAGE: A PROPER PERSPECTIVE

(Mr. PATTEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PATTEN. Mr. Speaker, critics of Congress, most notably fiscal conservatives, members of the media, and the present administration, seem to enjoy labeling Democratic Congressmen as big spenders of the taxpayers' dollars. After years and years of this rhetoric, it is hardly surprising that the general public has come to accept the label as fact. Unfortunately, the critics have been doing this country and its people a grave injustice. The "big spender" label is highly misleading and erroneous.

Each January, a popular tactic of the current administration is to claim how its new budget is so many billions less than the previous year. Of course, the President does not complete his fiscal education of the public by explaining that the budget does not include funding levels for programs lacking authorization, but which will be budgeted once reauthorized.

Although I do not expect to convert the "big spender" criers, I do ask that they examine a straightforward listing of year-to-year budget estimates versus enacted appropriations. The listing is very easy to read and understand. The budget "estimates" represent the budget requests made by the administration. The "amounts enacted" are all appropriations approved by Congress. Programs such as social security, which are not funded by appropriations, are not included.

The final column in the listing indicates whether the enacted amounts are greater or smaller than amounts budgeted. That column is the very point that I am making to my colleagues.

It reveals that since 1942, Congress has consistently adopted money bills that undercut budget requests presented for the consideration of Congress. This body has "reduced the budget," year after year, by as much as $14.5 billion. Since our current President has been sending the annual budget to Capitol Hill, the House and Senate have undercut the requests by $7,372 billion in 1975 and by $5 billion in 1976. These figures are not misleading or open to interpretation; I am not comparing "apples and oranges."

During the overview hearings on the fiscal year 1977 budget, Dr. Arthur Burns, Chairman of the Federal Reserve System fully recognized the facts. He congratulated the Appropriations Committee and further commented:

> I think the Appropriations Committee has done a good job over the years. You (the committee) have come in year after year below administration requests on budget authority and on outlays, and you are doing it again this year. (The Federal Budget for

1977. Hearings Before the Committee on Appropriations, House of Representatives, pp. 200–201.)

By making this statement and providing this information, I am not crying in righteous indignation that we, Members of Congress, are fiscal saints and have been wronged. Just as we adopt appropriations bills, so we adopt legislative bills, which are often reflected in our Federal spending. Of course, the President is not isolated from the legislative process, and his administrative shares in the development of much of the new legislative proposals which he can sign in turn, or veto.

I do ask, and it is not an unreasonable request, that the question of Federal spending be examined in its true perspective. One aspect of that true perspective is illustrated below. I urge all of my colleagues to consider the following listing:

REGULAR ANNUAL, SUPPLEMENTAL, AND DEFICIENCY APPROPRIATION BILLS, COMPARISON OF ESTIMATES AND AMOUNTS ENACTED

Calendar year	Estimates	Amounts enacted	Plus or minus
1935	$7, 405, 677, 168	$7, 273, 590, 211	−132, 086, 957
1936	8, 867, 777, 018	8, 703, 324, 109	−164, 452, 909
1937	7, 398, 054, 123	7, 164, 817, 513	−233, 236, 610
1938	8, 438, 993, 688	8, 574, 087, 321	+135, 093, 633
1939	9, 529, 433, 294	9, 719, 258, 467	+189, 825, 173
1940	13, 878, 150, 964	14, 614, 752, 845	+736, 601, 881
1941	53, 768, 037, 027	55, 325, 771, 373	+1, 557, 734, 346
1942	141, 056, 140, 932	143, 868, 481, 527	+2, 812, 340, 595
1943	115, 041, 366, 395	110, 634, 660, 785	−4, 406, 705, 610
1944	63, 513, 471, 020	61, 257, 906, 152	−2, 255, 564, 868
1945	62, 453, 310, 868	61, 042, 345, 331	−1, 410, 965, 537
1946	30, 051, 109, 870	28, 459, 502, 172	−1, 591, 607, 698
1947	33, 367, 507, 923	30, 130, 762, 141	−3, 236, 745, 782
1948	35, 409, 550, 523	32, 699, 846, 731	−2, 709, 703, 792
1949	39, 545, 529, 108	37, 825, 026, 214	−1, 720, 502, 894
1950	54, 316, 658, 423	52, 427, 926, 629	−1, 388, 731, 794
1951	96, 340, 781, 110	91, 059, 713, 307	−5, 281, 067, 803
1952	83, 964, 877, 176	75, 355, 434, 201	−8, 609, 442, 975
1953	66, 568, 694, 353	54, 539, 342, 491	−12, 029, 351, 862
1954	50, 257, 490, 985	47, 642, 131, 205	−2, 615, 359, 780
1955	55, 044, 333, 729	53, 124, 821, 125	−1, 919, 512, 514
1956	60, 892, 420, 237	60, 647, 917, 590	−244, 502, 647
1957	64, 638, 110, 610	59, 589, 731, 631	−5, 048, 378, 979
1958	73, 272, 859, 573	72, 653, 476, 248	−619, 383, 325
1959	74, 859, 472, 045	72, 977, 957, 952	−1, 881, 514, 093
1960	73, 845, 974, 490	73, 634, 335, 992	−211, 638, 498
1961	91, 597, 448, 053	86, 606, 487, 273	−4, 990, 960, 780
1962	96, 803, 292, 115	92, 260, 154, 659	−4, 543, 137, 456
1963	98, 904, 155, 136	92, 432, 923, 132	−6, 471, 232, 004
1964	98, 297, 358, 556	94, 162, 918, 996	−4, 134, 439, 560
1965	109, 448, 074, 896	107, 037, 566, 896	−2, 410, 508, 000
1966	131, 164, 926, 586	130, 281, 568, 480	−883, 358, 106
1967	147, 804, 557, 929	141, 872, 346, 664	−5, 932, 211, 265
1968	147, 908, 612, 996	133, 339, 868, 734	−14, 568, 744, 262
1969	142, 701, 346, 215	134, 431, 463, 135	−8, 269, 883, 080
1970	147, 765, 358, 434	144, 273, 528, 504	−3, 491, 829, 930
1971	167, 874, 624, 937	165, 225, 661, 865	−2, 648, 963, 072
1972	185, 431, 804, 552	178, 960, 106, 864	−6, 471, 697, 688
1973	177, 959, 504, 255	174, 901, 434, 304	−3, 058, 069, 951
1974	213, 667, 190, 007	204, 012, 311, 514	−9, 654, 878, 493
1975	267, 224, 774, 434	259, 852, 322, 212	−7, 372, 452 222

Source: Appropriations, Budget Estimates, etc. House Committee on Appropriations.

NCOA HONORS REPRESENTATIVE BOB WILSON

The SPEAKER pro tempore. (Mr. Danielson). Under a previous order of the House, the gentleman from South Carolina (Mr. Davis) is recognized for 5 minutes.

Mr. DAVIS. Mr. Speaker, last evening the Noncommissioned Officers Association of the USA—NCOA—honored our colleague, Bob Wilson, with a reception in the Gold Room, Rayburn House Office Building.

Some 400 guests, including representatives of the White House, Veterans' Administration and military departments, Members of Congress and their staff, representatives of many quasi-military and veterans organizations and members of the NCOA, were on hand to congratulate the gentleman from San Diego, Calif., for being named the association's 1976 recipient of its highest citation, the "L. Mendel Rivers Award for Legislative Action."

Assisting Messrs. James O. Duncan and Normand Gonsauls, NCOA president and vice president respectively, in making the presentation were former recipients of the coveted award; U.S. Senators Strom Thurmond of South Carolina and John Tower of Texas and Representatives F. Edward Hébert of Louisiana and Thomas N. Downing of Virginia.

Messrs. Duncan and Gonsauls also took a few minutes to award special plaques to Eddie Hébert and Tom Downing. Both are retiring at the end of the 94th Congress and the NCOA wished to recognize their outstanding services to our Nation over the past years.

Additionally, the NCOA awarded certificates of merit to eight U.S. Navy petty officers who were special guests at the reception. The eight were in the Nation's Capital being honored by the U.S. Navy as its top recruiters for 1976.

The "outstanding recruiter" is AT1 David A. Herst, a native of New York, who is presently with the Navy Recruiting Station, Cocoa, Fla. He will be promoted meritoriously today to the grade of chief petty officer by Adm. James L. Holloway III, Chief of Naval Operations.

Runner ups in their areas, by name, native State, if available, and present station, are:

AMS1 (AC) Charles W. Ruark, FL, NRS Geneva, NY.

AS1 Robert C. Tinsley, PA, NRS Greensburg, PA.

NCC Geoarge D. Paul, IL, NRS Joliet, IL.

AE1 Elden D. Martinez, NM, NRS Albuquerque, NM.

EMC Duane H. Klatt, NRS, Guam.

SM1 Pablo F. Navarro, Jr., TX, NAVRESCEN, Corpus Christi, TX.

ADRZ William J. Mitchell, NAS, Los Alamitos, CA.

CONTRACTS WITH LESS WORDS AND MORE MEANING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Annunzio) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, consumers have come a step closer to winning the battle of truth in the war against confusing contracts which often leave them victims of legal gibberish.

Several innovative banks are setting the precedent for better consumer relations by revising, reducing, and rewriting the old contracts which were filled with hundreds of complex legal phrases and fine print which only lawyers can understand. The results are contracts which benefit both the creditor and the consumer; creditors no longer have to interpret the complicated fine print, and the consumer can clearly understand the conditions and terms without a lawyer.

To illustrate what a difference clear language can mean, I would like to cite a passage from a typical loan and how Citibank in New York better expressed it to consumers. The following example is how a difficult loan from another bank reads:

> This note shall, at the option of the Bank or other holder, become immediately due and payable, without notice cr demand, upon the occurrence of any of the following events: (a) failure to pay any monthly installment on the due date thereof;

The preceding example continues on through letter "d" with an excess of words. The following example for Citibank's new consumer loan note says the same thing in laymen's terms.

Here is how they explain default:

> Default. I'll be in default: 1. If I don't pay an installment on time;

Citibank's example continues with just short concise statements explaining the same obligations in defaults, but minus the superfluous "heretofore" and "thereof."

Another significant improvement in the new contracts has been in readable print. There will be no longer be paragraph after paragraph of minute fine print which consumers often are not going to read, or be forced to wade through with great difficulty. Generally, some of the very important terms are not understood by the consumer because of the laborious task of muddling through all the fine print.

Take for example a particular point of a contract which is important—overdue payment penalties. An example of how it is given in fine print from a typical loan follows:

> Bank shall be entitled to collect a delinquency and collection charges on each installment in default for a period of not less than 10 days in an amount not in excess of 5% of each installment on interest at the rate of 8% per annum on the total unpaid balance, whichever is greater, plus reasonable attorney's fees (in the case of an attorney, not a salaried employee of the bank) and court costs.

The preceding example is both wordy and difficult to read because of the fine print. Citibank's new loan handles the same point on overdue payment charges in readable type, with less words. The example from Citibank reads:

> Late charge. If I fall more than 10 days behind in paying an installment, I promise to pay a late charge of 5% of the overdue installment, but no more than $5. However, the sum total of late charges on all installments can't be more than 2% of the total of payments or $25, whichever is less.

It should be noted that in addition to having more readable language, the example from Citibank's loan is in the same size print as the rest of the loan, thus sparing the consumer the task of hunting for hidden points.

I am most encouraged by this effort on the part of banks such as Citibank to cooperate with the philosophy of the Truth in Lending Act. The act guarantees consumers full disclosure of lease and contract terms. By simplifying the contract language, these banks are helping the consumer to understand the entire extent of their obligation and the banks' terms.

Hopefully, this will encourage all creditors to examine their current contracts and make an effort to streamline and clarify them into readable material for laymen. Consumers would be better able to assess which loans would suit their particular needs; creditors would benefit by offering consumers a competitive choice of services.

I can only hope this is the beginning of a trend in the credit industry to further consumer relations and understanding in an area long overdue.

THE ADMINISTRATION DOES NOT HAVE AN EFFECTIVE, WORKABLE NARCOTICS TRAFFICKERS TAX PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 10 minutes.

Mr. VANIK. Mr. Speaker, on September 22, 1976, I had the privilege of testifying before the House Select Committee on Narcotics Abuse and Control. This committee, under the chairmanship of my esteemed colleague, LESTER L. WOLFF, is doing excellent work on an issue of first importance.

Today, I would like to share my testimony before the select committee since the facts which were presented there are not generally available.

I want to try to set the record straight about whether the Federal Government has an aggressive, workable program to enforce the tax laws against major narcotics traffickers.

Five years ago, we started such a program, and it worked. It worked because dedicated law enforcement officials in the Treasury Department made it work.

But beginning in 1973, certain policymakers within Treasury set about to dismantle the program. Their efforts succeeded.

Today these policymakers still have the upper hand. This administration still has no strong, workable program to tax the profits of big narcotics traffickers. And that fact is not altered by all the election year posturing we hear these days from the President on down.

Very briefly, let me sketch what has happened since the summer of 1971:

That was the summer, you will recall, when a heroin epidemic was sweeping the country. Congress responded by appropriating ample funds and enacting strong new laws to help the administration get the epidemic in hand.

As part of that effort, the Acting Secretary of the Treasury, Charls E. Walker, issued a directive to bring the Nation's criminal and civil tax laws to bear against middle and upper echelon narcotics traffickers.

Thus was created the narcotics traffickers tax program. Under it, the Treasury's Office of Law Enforcement coordinated the activities of special units of the Internal Revenue Service and the Bureau of Customs with those of other agencies outside the Treasury Department, such as the Bureau of Narcotics and Dangerous Drugs in the Justice Department.

The program had been a success. While it lasted, more than 2,000 mid- and upper-level traffickers were selected for tax investigation. More than 250 individuals were indicted on criminal tax charges. Stiff prison terms were meted out.

Then the atmosphere in Treasury began to change. On July 17, 1973, less than 2 months after taking office, the Commissioner of Internal Revenue sent a memorandum to the then Deputy Secretary of the Treasury, William E. Simon. In this memo, the Commissioner asked that the Walker program be dismantled. While I do not know whether Mr. Simon formally approved the Commissioner's request, events over the next 2 years indicate that he at least acquiesced. IRS participation in the narcotics traffickers tax program's target selection committee was withdrawn. The process by which narcotics traffickers were selected for tax investigation was weakened.

As the number of IRS narcotics investigations predictably declined, funds which Congress had understood would be used for the narcotics traffickers tax program were diverted to other IRS programs. Finally, on July 1, 1975, the IRS "merged" the narcotics traffickers tax program out of existence.

Treasury documents recently made available indicate that the Assistant Secretary of the Treasury for Enforcement vigorously fought each of these IRS maneuvers. But these complaints received no support from Secretary Simon or his Deputy.

Last October, a white paper on narcotics issued by the President's own Domestic Council cited the low priority to which IRS had assigned narcotics tax investigations. It urged that the old program be resumed. But that plea also fell on deaf ears.

We come now to April 27 of this year. On that date, President Ford sent a remarkable message on drug abuse to Congress. In it, he called on the Secretary of the Treasury to work with the Commissioner of Internal Revenue to develop a tax enforcement program against high-level narcotics traffickers. The message failed to note that such a program had once existed but had collapsed under his administration.

While the President has called for more action, in fact, tax and penalty recommendations have fallen off dramatically in the last 2 years. For fiscal year 1974, almost $70 million in taxes and penalties was proposed against narcotics traffickers.

Less than $10 million have been proposed against narcotics traffickers for the first 9 months of fiscal year 1976. The Internal Revenue Service has become so embarrassed about its criminal tax enforcement statistics that it stopped publishing its quarterly statistics in June 1973.

The IRS, in testimony before the select committee, claimed that they completed 326 narcotics related investigations last year. This compares very unfavorably with the 663 investigations completed in fiscal year 1974 when the narcotics traffickers tax program was only 2 years old. The 111 prosecution recommendations made last year also compare unfavorably with the 245 made in fiscal year 1974. In my opinion, even this diminished effort for fiscal 1976 is based on cases commenced under the old narcotics traffickers tax program which was merged out of existence in fiscal 1975.

I have had a request pending since last month to determine when these cases were commenced, the quality of these cases and other important details. To this moment, this request has not been satisfied.

In its testimony before the select committee, the IRS claimed that they had 295 narcotics cases in the prosecution pipeline at the end of fiscal year 1976. When they testified before the Senate Judiciary Subcommittee on Juvenile Delinquency last month, they only claimed 258 narcotics cases in the pipeline at the end of fiscal 1976. So we already have a 15 percent improvement in their record by a simple modification of testimony.

With drug abuse and illicit trafficking again on the rise, with President Ford exhorting executive agencies to action, one would expect the administration to be fully marshaled against the menace. But I must tell you that from my work on IRS matters, the administration today has no real program to tax the illegal profits of major drug traffickers.

On May 17, 1976, I brought to the attention of the House the fact that the President's message had not been implemented by the bureaucracy. In response, on May 28, 1976, Treasury Secretary Simon announced the establishment of what he called the Treasury Anti-Drug Enforcement Committee. It was composed of the Commissioners of Internal Revenue and Customs, the Assistant Treasury Secretary for Enforcement, and Under Secretary of Treasury Jerry Thomas, who was named chairman.

To all appearances, the committee bore a strong law enforcement cast. But, as events proved, the committee was—and is—a sham.

Mr. Simon directed the committee to report to him by July 1 its recommendations for "the revitalization of an income tax enforcement program focusing on the illegal profits of high-level drug dealers."

When the Treasury Committee met for the first time on June 10, the Assistant Treasury Secretary for Enforcement, David R. Macdonald, presented a 14-point plan that would have effectively re-established the hard-hitting narcotics traffickers tax program. The two stand-ins Commissioner Alexander had sent to represent him promised IRS's comments within a week.

But such comments never materialized. Instead, the IRS proposed an agreement to merely exchange information with the Drug Enforcement Administration.

This was certainly nothing new. Under the old narcotics traffickers tax program, DEA and IRS had swapped information on major traffickers. The IRS–DEA agreement has no national punch behind it. My recent inquiries at IRS confirm that the IRS–DEA agreement will bring no change in the IRS approach. No special priority is being assigned to tax cases involving suspected narcotics traffickers. And no special provisions will be made to handle any increased workload that might be generated by information received from DEA.

The Macdonald proposal would have created the narcotics traffickers tax program essentially as it existed before its dissolution by Commissioner Alexander. Under it, tax enforcement against drug traffickers would be elevated again to the level of national direction, rather than the decentralized system which now exists. A minimum of 600 cases with high tax potential against upper-level narcotics traffickers would be the target each year. Monthly reports on accomplishments would be made to the Treasury Assistant Secretary for Enforcement, with overall coordination and monitoring in the hands of a steering committee representing Treasury, IRS, the Customs Service and the Drug Enforcement Administration.

I considered this to be an excellent program, but it was met by a stone wall. In an effort to salvage the essentials of the Macdonald program, the Treasury Under Secretary proposed a seven-point plan, including "vigorous information gathering by the IRS," involvement of Customs in the identification of potential targets, a centralized screening committee "to make certain that only high-level traffickers are included in the program," a specific commitment of IRS resources, a statement of specific goals, a system for monitoring results, and supervision by Treasury law enforcement officials.

In sending his revised draft to Secretary Simon, Under Secretary Thomas wrote:

> Without these components, it is unlikely that a new program will be as successful as the old program was. As a matter of fact, it does not appear that the IRS agreement provides for a separate, identifiable program as contemplated by the President.

I agree with this statement of the No. 3 person at Treasury. Unfortunately, none of these seven crucial elements has been implemented. There is no narcotics traffickers tax program.

Not only is there no effective narcotics traffickers tax program, but the President has failed to seek an appropriation to fund an effective program.

Recently, Treasury requested a supplemental appropriation of $20.6 million to fund 982 positions for IRS to work narcotics trafficking and corporate "slush fund" cases. The request was turned down by the President's own Office of Management and Budget on June 15, 1976. So Mr. Ford's demand for action is getting no support from OMB either.

There was no separate narcotics traffickers tax program for fiscal year 1976. Worse yet, the President's budget ax for fiscal year 1977 whacks a full one-third out of the special enforcement program. Not only has the President failed to seek a budget to fund a narcotics traffickers tax program, but, under his proposed budget, there is no provision for Treasury enforcement of the gambling tax laws. Furthermore, the budget cut will result in a continuing decline of tax evasion cases brought against organized crime figures. By cutting one-third out of the budget for the special enforcement program, the President has doomed any program against narcotics traffickers to failure.

Even worse, over the Labor Day weekend, on a quiet Saturday, it was announced that David R. Macdonald, the Assistant Treasury Secretary for Enforcement, had been asked to leave his Treasury duties and to accept transfer to the Department of the Navy. I greet this news with dismay. Mr. Macdonald has consistently supported revitalizing the IRS's now almost defunct narcotics traffickers tax program. The departure of Mr. Macdonald from the Treasury Department is a further indication that the future of this invaluable program remains in jeopardy. For this reason and also because of Mr. Macdonald's continuous efforts to overcome IRS opposition to fulfilling its obligation to prosecute racketeers, gamblers, and other white-collar criminals, his transfer is an event that I regard as regrettable.

When the narcotics traffickers tax program was born back in 1971, Congress expressed its mandate to IRS and Treasury in the clearest possible terms. Congress has never repudiated that mandate.

After a 2-year period in which the narcotics traffickers program was phased out, I find it incredible that the agency is receiving praise in some quarters for again beginning to do a fraction of what it did before.

My report today shows a history of recent footdragging and delay by the IRS against narcotics traffickers. This history of recent failure means that the Congress must watch the promises now being made by the IRS very, very closely to insure that there really is an effective narcotics traffickers tax program.

CONGRESSMAN HARRIS' VOTE ON THE CONFERENCE REPORT ON THE AUTOMOTIVE TRANSPORT RESEARCH AND DEVELOPMENT ACT OF 1976

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. HARRIS) is recognized for 5 minutes.

Mr. HARRIS. Mr. Speaker, the RECORD of August 31, 1976, indicates that I did not vote on rollcall 678, approving the conference report on H.R. 13655, the Automotive Transport Research and Development Act of 1976.

Apparently, there was a mechanical disfunction. I was on the floor at the time, inserted my card and voted "aye" on this measure.

Mr. Speaker, I ask that this statement appear in the permanent RECORD.

SEPTEMBER 25, 1976, THE BICENTENNIAL OBSERVANCE OF NATIONAL HUNTING AND FISHING DAY

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, Saturday, September 25, 1976, will mark the fifth annual observance of National Hunting and Fishing Day. I was one of the original sponsors of the legislation establishing this program. Hunting and Fishing Day now has come to be proclaimed annually by the President, all 50 Governors and over 500 mayors. It is also officially endorsed by more than 40 of the Nation's leading conservation groups, and has come to be celebrated in many foreign countries as well.

The theme for National Hunting and Fishing Day this year is "making a good thing better," which I think is appropriate for the Bicentennial celebration and aptly reflects the spirit of our 200th anniversary. Men and conservationists who observe Hunting and Fishing Day are the same individuals who have contributed so much to making hunting and fishing better for Americans everywhere. They have made a practice of making a good thing better because they enjoy the outdoors and they want to improve the habitat for game and fish.

This event has significant meaning to the more than 55 million hunters and fishermen who have contributed so greatly to conservation and the improvement of outdoor recreation in this country. The success of NHF Day may be attributed to the sportsmen—our first conservationists. Long before Earth Day and long before ecology became a household word, this Nation's hunters and fishermen had begun their conservation efforts. It was over 75 years ago that these sportsmen decried the rape of our fields, forests, and streams. Through excise taxes on hunting and fishing equipment that were imposed with the full endorsement of sportsmen's organizations, millions of dollars have been channeled into the maintenance and improvement of habitat across the land.

In the last 50 years, hunters and fishermen in the United States have contributed over $5 billion to conservation and this amount is increased by approximately $250 million each year. Also, more than 15 million hunting licenses and 24 million fishing licenses are sold each year. And each year the ranks grow larger. The funds from these sources are used to protect and improve wildlife habitat and fishing areas, thus fish and game populations are managed on a scientific basis. Properly regulated by the States with Federal assistance, fishing and hunting are an integral part of wildlife management. Even endangered species receive benefits from the efforts of these dedicated conservationalists—the enlightened hunters and fishermen who want to see their natural heritage preserved. Professional conservationalists will tell you that it is the sportsmen who are most responsible for the healthy populations of wildlife now abounding in many States.

Each year National Hunting and Fishing Day has been an outstanding success in hundreds of programs held at State fairs, schools, military installations, shopping centers, and many other facilities. The idea has also spread to Europe and South America. Since its initial observance in 1972 which involved 4 million people, NHF Day has grown tremendously. It is estimated that 18 million people took part in NHF Day celebrations last year which included 3,000 programs of activities throughout the country. Johnny Miller, one of the world's premier golfers and an avid hunter and fisherman, has been named honorary chairman of National Hunting and Fishing Day this year. This follows the annual custom of naming an outstanding sports figure as honorary chairman.

It is difficult to put into words the many exciting aspects and accomplishments of the most recent NHF Day observances. However, in trying to assess the overall impact and effectiveness of National Hunting and Fishing Day, it is clear that the day has done more to promote the sportsman's role in conservation and to insure a healthy future for the hunting and fishing sports than any other program in existence. Also, NHF Day has made major progress in its attempt to involve all Americans in the effort to conserve this Nation's wildlife and wild places. The day has served to show millions of Americans the differences between conservation—the wise use of natural resources—and preservation—the total nonuse of resources.

Mr. Speaker, we must continue our crusade to protect our wildlife and we should increase our efforts to alert the public on environmental problems. Getting this message across by example and not simply by words is a major part of the challenge that lies ahead. The observance of National Hunting and Fishing Day is one of the best ways of helping to achieve this goal. I urge your participation and support.

AMERICA AT THE BRINK

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, I have been privileged to read a sermon delivered by Dr. D. James Kennedy at Coral Ridge Presbyterian Church in Fort Lauderdale, Fla. Dr. Kennedy's sermon deals in a straightforward way with the evils of communism and the threat of the Communist movement to our country. Dr. Kennedy's church has for 6 years been the fastest growing Presbyterian Church in the United States. This tells something of the leadership, which he is providing.

Dr. Kennedy's sermon is a down-to-earth, factual, and inspiring message which deserves a very wide circulation. He states that we need to take a spiritual offensive; and we need to awaken the spiritual life of Americans. It is inspiring to note that, under Dr. Kennedy's leadership, the Coral Ridge Presbyterian Church is taking a firm stand in an effort to accomplish this. Dr. Kennedy and the members of his parish are indeed to be complimented for their efforts in this direction. It is time for professing Christians to stand up and be counted for God and to stand up and be counted to do what is right for America.

I thought extremely timely his reference to the statement by Aleksandr Solzhenitsyn regarding that—

> Détente is an illusion; it is a snare; it is a respite before destruction. There is no détente in Russia. It is simply another one of their lies.

My files are heavy with correspondence from people in my district and from all over our country who are deeply concerned about the relationship of our Nation with Russia. On many occasions, I have freely expressed the opinion that the Russians are not to be trusted and that we must exercise extreme care in our dealings with the Soviet Union.

Mr. Speaker, I submit Dr. Kennedy's sermon at this point in the Congressional Record:

AMERICA AT THE BRINK

Text: *"If my people, which are called by my name, shall humble themselves, and pray, and seek my face, and turn from their wicked ways; then will I hear from heaven, and will forgive their sin, and will heal their land"* (II Chronicles 7:14).

It isn't often that a truly prophetic voice is heard in the history of any people, but in the last several months such a voice has resounded throughout the West. It is the voice of Aleksandr Solzhenitsyn and it is a voice which every one of us desperately needs to hear. About two months ago Solzhenitsyn was interivewed in an hour-long broadcast on the BBC. The impact of that broadcast on Britain was greater than anything that had hit England in fifty years. So devastating was the impact that for the next several days thereafter, one commentator said, it was impossible to detect the ideological preconceptions of the commentators who spoke about the broadcast because he pierced through all of the veneer and tinsel of contemporary comment and told us the truth. Malcolm Muggeridge, another of the great social critics of our time, was asked this question: "Mr. Muggeridge, how do you account for the impact of this program?" He said, "Its impact is due to the fact that it is absolutely true. You see, what Solzhenitsyn has said is on an entirely different level from the comments that go on about our world on television by politicians. His comments were in terms of truth; in terms of good and evil; in terms, ultimately, of the Christian faith." This was rebroadcast in the United States a few weeks ago. Unfortunately, it was on Channel 2 and, therefore, its viewing audience was no doubt far less than in England. But I believe that so important were these words that every Christian needs to be aware of the essence of what he said.

By the way, for those perhaps who may not clearly know, Aleksandr Solzhenitsyn is, without question, the greatest literary man in the world today. He received the Nobel Prize for Literature. He is the Dostoevski of the twentieth century. Muggeridge says he is the greatest man living in our time. He was introduced in Washington where he gave a speech, by none other than George Meany, president of the AFL–CIO. George Meany is not exactly what you might call a conservative, but this is what he said: "We heed this voice not because it speaks for the left or the right or for any faction, but because it hurls truth and courage into the teeth of total power, when it would be so much easier and more comfortable to submit and to embrace the lies by which that power lives. What is the strength of his voice? How has it broken through to us when others have been stilled? Its strength is art. Aleksandr Solzhenitsyn is not a crusader, he is not a politician, he is not a general, he is an artist, and by his art he illuminates the truth. It is, in a sense, subversive. It is subversive of hypocrisy, subversive of delusion, subversive of the 'big lie.' No man in modern times, and very few in all of history, have demonstrated as drastically as Aleksandr Solzhenitsyn the power of the pen, coupled with courage, to free men's minds."—George Meany, AFL–CIO.

A very interesting comment, I think, was made by one of the *Time Magazine* editors, Mr. Bernard Levine, who said this: "What shall we do with Solzhenitsyn? Well, if I may conclude with a modest proposal, I suggest that the West, when he has provoked it a little further, should possibly under the auspices of the United Nations General Assembly, formally condemn him to death and execute him, either by obliging him to drink hemlock or by crucifixion. After all, the two most noted figures in history who respectively experienced those fates, were condemned principally because they told their own societies truths that made them uncomfortable." Solzhenitsyn declares, "Friends, I have not come to tell you comfortable things, but I have come to tell you the truth."

Here is an intellectual, a teacher, a writer, a decorated war hero, a man who wrote a letter one time in which he made some "unflattering comments" about Stalin. For that letter he spent eleven years in Siberian prison camps. Out of that experience came *The Gulag Archipelago,* no doubt the most famous book of our time. This is the message of an intellectual who intimately knows, and for over half of his lifetime has studied, the situation in Soviet Russia vis-a-vis the West. "The West is on the verge of a collapse *created by its own hand.*" Solzhenitsyn declares that this collapse will come precipitously. Two years ago when Solzhenitsyn was about to be persecuted again, the West made such a tremendous uproar and outcry that the politburo was forced to release him from Russia. (What has happened in the last two years? We have been told that in the last two years, since we have had detente, things are getting better! There is an easing of tensions and we shall live happily—or at least comfortably—together. Is that so?) Such a release would be impossible today because in the last two years, said Solzhenitsyn, there has been such a change in power. Two years ago the West was far stronger than Russia; today the balance has changed so that Russia is now stronger than the West, and Russia takes infinitely less concern with anything that the West has to say. It would be impossible today to effect the release of such a man as Solzhenitsyn. This is his conclusion.

A precipitous collapse of the West is what he predicts. Is this possible? May I say to you that it is not only possible, it would seem that it is quite probable. Someone said to me recently, "You don't really think that God would let that happen to America, do you?" My friend, I not only think that God would let it happen—that's not my problem—my problem is that I'm afraid that God will cause it to happen, so immoral and so corrupt and so vile has America become. We have had more opportunities for godliness than any nation that has ever lived, but now have more police per capita than any nation in the world, more crime, and the vileness of our motion pictures is unbelievable. Our nation's television is going the same way; its novels; the riots, the crime, the immorality, the breakup of the home, and the total disregard for the things of God in such a large sector of America is absolutely staggering. May I remind you of the words of Ruth Graham: "If God does not chasten America, He will have to apologize to Sodom and Gomorrah."

Yes, I believe that God would let it happen. Have we forgotten that the pagan, ungodly Assyrian was called by God a rod in His hands to chasten the impenitent Israelites? We have been led to believe, in the West, says Solzhenitsyn, many lies and many falsehoods about Communism. We have been led to believe, he said, that it has changed. Solzhenitsyn said it has not changed one iota from the day that it was born. Here, my friends, is one of the leading intellectuals of Russia, who declares to us that it has not changed one iota since the day that it was born. Oh, it has shifted its strategy a thousand times, but its goal has not changed one bit. And in case any of you have forgotten, or should you indeed be even ignorant of what their plans are, let me remind you. It is tragic to say that though the Communists have never disdained to reveal their views, most Americans have not even bothered to find out what they are. How few have read the *Communist Manifesto*, or have read the writings of Marx or Lenin to see what their plan is. May I take you back to the blueprint. The year is 1924, the speaker is Nikolai Lenin. He declares, "First, we shall take East Europe." How shall they do that? Well, they negotiated peace treaties with Latvia, Estonia, Lithuania, Poland, Hungary, Czechoslovakia, Yugoslavia, and all of the rest. Friendship treaties, as well, and as soon as their backs were turned they plunged in the knife. They took East Europe, exactly as they said they would. Do you realize that after the war 1.5 million Russian soldiers refused to be repatriated to Russia—the Communist paradise? One million, five hundred thousand were outside of Russia and they wouldn't go back. Do you know what we did? We gave them to Russia; with machine guns we forced them to go back. What happened to them? They were killed.

"Then we shall take Asia," said Lenin. China is gone now, Vietnam, North Korea, Cambodia, Laos. India, a prime target, now is moving ever more leftward. "Then we shall surround America, the last bastion of freedom." And that is precisely what they are doing now. Portugal, now Italy—a second NATO country soon to have Communists in high positions, Cuba, a Marxist dictator in Panama, Chile, Peru, Angola, and a half dozen other countries in Africa that are now under assault. "We shall surround America. We shall not have to fight. It will fall into our hands like overripe fruit." And so thousands of Communist agents have been in America for over thirty years endeavoring to bring about the corruption of that fruit by all sorts of immorality, by the use of pornographic films, by high court decisions that allow immorality of every sort to go on, by books and magazines, and by television and motion pictures. They are endeavoring to corrupt the American people until they have no strength left to resist. "We shall not have to fight."

Have you ever heard the arguments that what we really need to do is reduce our armaments because, after all, we have enough weapons to destroy Russia, that we don't need any more? Quote from Solzhenitsyn: "The U.S.S.R. has focused *all* of its economy on a war footing." Russia is on an all-out war economy (like we were on during World War II). Did you know that the gross national product of Russia is about one-third that of America, and yet for armament they spend 145 percent as much as we do. That means approximately 450 percent of their total income, compared to America, is spent for armament. Solzhenitsyn said, "Now, as everyone knows, they are passing us militarily; soon it will be two to one, and then three to one, and then five to one, and then one morning we will wake up and hear the announcement: 'Attention, America! We are marching our troops into Europe. If you resist, you will be annihilated.'" What do you think the response of America to that will be? It will be exactly the same response as elsewhere—let Portugal go, let Italy go, let Cuba go, let Panama go, let them go, let us have peace, peace in our time. And with the acquisition of Western Europe, the Communistic power will be doubled in its strength. And then what? Wait for the next announcement and America will precipitously collapse.

What will happen then? Lenin was describing the attempted coup of France (which some of you perhaps do not even know took place—long before the revolution in Russia the Communists attempted to take over Paris.) They failed, though they made quite a good start. Why did they fail? Why was the coup reversed? Because, said Lenin, we didn't kill enough people; we must kill whole groups, whole classes of people must be killed. Solzhenitsyn said that Communism is inhumanity. He says, "I am an old man but I was born a slave. I've been a slave all of my life. All of our people have been born slaves." He said that anti-Communism is a very bad word. It is etymologically very incorrect because Communism is anti-humanity. Therefore, anti-Communism is anti-anti-humanity. What we should say, he said, is that we are for humanity. For to be against the inhuman ideology of Communism is to be for humanity. Many people have no idea of the inhuman aspects of Communism. Solzhenitsyn said that in the Ukraine, right on the very edge of Europe, in 1933–34, six million Ukrainians were systematically liquidated. And Europe and America, for the most part, don't even know that it took place. Fifteen million more peasants were systematically destroyed in Russia. Including Eastern Europe, Russia and China, it is conservatively estimated that over eighty million people have been destroyed by Communism. May I say it again: eighty million people have been destroyed by Communism and only a moiety of the American populace even knows that it took place. That is one of the geniuses of Communism, as everyone who has escaped from a nation that has been destroyed has said. They are able to keep the people from knowing what will happen and what has happened until the ax falls. Eighty million people!

Solzhenitsyn said, "Most Americans have been quite deceived about the history of pre-Communist Russia. They have been told it was a terribly cruel and unjust regime. The facts are these: For the eighty years before the Communist takeover, seventeen people a year were executed as political prisoners. During the Communist regime forty thousand people a month were destroyed." And most Americans do not even know. Communist strategists have said that at least a third of the American population would have to be liquidated because in every country all of those classes that form any potential threat of a counter-revolution are destroyed. And in America, with its large middle class and democratic system, a vast number of people would have to die. "America is on the verge of a collapse created by its own hands."

Solzhenitsyn also had this to say: "We need to realize that freedom is indivisible. We have made a grave mistake. We have supposed that part of the world can exist in slavery and yet we can sit comfortably in our freedom." Abraham Lincoln knew that a country could not exist half free and half slave. We have got to learn that the world cannot exist half free and half slave.

Solzhenitsyn had some interesting things to say about detente. "Detente," say Solzhenitsyn, "is an illusion; it is a snare; it is a respite before destruction. There is no detente in Russia. It is simply another one of their lies." One of our problems is that in the Judaic-Christian ethic we have always felt that there should be a relationship between our words and our deeds. We should do what we say we will do. And many people seem to be unwilling to accept or realize these words of Lenin: "There must be *no relationship* between our diplomacy and our actions." So they have made over one thousand treaties and they have broken almost every single one of them, because to a Communist, truth is only that which forwards the Communist cause. Morality is that which forwards the cause of the Communist Party. To murder may be good or bad, depending on whether it hinders or helps the Communist cause. There is no such thing, says Solzhenitsyn, as detente. It exists only in the West. Why do we have detente? This is what he has to say: "Detente was created by the Soviets because of their tremendous need for Western technology and food." Brezhnev spoke at the World Communist meeting in Eastern Europe and he said to the Eastern Europeans, "You will be hearing much about detente. Don't believe it. We need Western technology and food. We need time to build up our armed forces. When that is accomplished then detente will be gone." It has never existed anywhere except in the West. It is a device, said Solzhenitsyn, of Soviet propaganda. "There is no detente. It is just gone."

What can be done in a situation like this? It seems to me that, first of all, we need in our country to have complete change of our policy in regard to Communism. We as Christians need to see that it is not merely a political viewpoint, but it is an atheistic, satanic religion, a religion that advances with tanks and guns. It is the religion of Satan and it is out to conquer the world. If we Christians close our eyes to it we deserve precisely what comes upon us. Says Solzhenitsyn, "It is a dragon devouring the world." He said, "I myself, was swallowed up by it. For eleven years I was in the belly of the dragon—in the red-hot, burning belly of the dragon." He said that there is an old Russian proverb, "When it happens to you, you'll know that it's true." Is it necessary that America can do nothing until the knife is at the throat?

Have you ever really contemplated what our policy toward Communism has been? After World War II we adopted an official policy of containment. The idea was that Russia was Communistic, Eastern Europe had been taken over by the Communists and we were trying to contain it there. This, of course, was a tremendous fallacy. We can use an analogy of football. In a football game there is both a defensive and an offensive team. The game is won by scoring touchdowns with the offense. What we adopted in containment was the idea that the other team would play on the offense and we would only play defense. Whenever the ball came to us we would hand it back to them and say, "No thank you, we only play defense." Do you have any question in your mind as to how such a game could end? Now we have changed that policy. You say, "That's wonderful, because that was a terrible policy. We couldn't possibly win?" Now we have a new policy. It is called "detente." Detente means that one team plays on the offense, and the other team plays "time out."

Solzhenitsyn says that during the time of detente, Russia has progressed faster than ever before. Their takeover of territory has increased; their importation of technological materials has increased; their persecution at home has increased—all during the time of detente. There must be no relationship between their diplomacy and their actions, but we seem incapable of grasping that. We need to have a different view. The Russians have made it very clear, even about detente. Did you realize this? They made it very clear to us that detente for them does not mean that they will not continue to support wars of liberation—but we are to keep our hands off. Now we have handed over East Europe permanently to the Communists, saying that it belongs by rights to them.

We need to take an offensive. We say, "We are for freedom and we will support any way we can, anyone, anywhere in the world that is for freedom."

Solzhenitsyn says that there are two processes occurring simultaneously in our world today. One is the spiritual liberation in the U.S.S.R. and in the other Communist countries. This I think, is very encouraging. There is a spiritual renaissance taking place in Communist countries. He says, "I was a slave from birth but there are young people who are slaves who are desiring to be free." He says that the other process is the assistance being extended by the West to the Communist rulers—a process of concession, of detente, of yielding whole countries to the Communists. These two processes are going on at the same time. He said, "I used to look to the West to free Russia. Now we realize that the only hope of freedom lies within ourselves." Did you know this? Says Solzhenitsyn. "The process has gone so far that, in the Soviet Union today, Marxism has fallen so low that it has become an anecdote. It is simply an object of contempt. No serious person in our country today, not even university and high school students, can talk about Marxism without smiling, without laughing."

But this whole process of liberation is slower than the process of concessions and capitulations on the part of the West. He says, "All that we ask you, we who have been born slaves, we who are being buried alive in the earth, who have the dirt in our mouth while we are still alive, is that you quit supplying our slavemasters with shovels, or with highly technological huge earth-moving equipment so that they can bury us." Solzhenitsyn says that the whole of the Communist system is dependent upon assistance from the West. He said recently that a Communist politician said, "We can get along without your trade, it is more political than economic assistance. The entire force, the whole existence of our slaveowners from beginning to the end is based upon Western economic." Said Solzhenitsyn, "That is a lie. Soviet economy is concentrated on war. Now you won't be building tanks and planes for them, but everything else which is lacking; everything else which is needed to fill the gap; everything which is necessary to feed the people, or other forms of industry, you will supply in order that the entire focus of the Soviet economy may be for war materiel. All we ask is that you do not help our slaveowners."

What kind of an economy is this great socialist economy that is going to bury us? What marvelous economy is this that is going to conquer the world? What do these great economists have to show for their production? What is it that Russia exports? Did you ever think of that? We know what Japan exports: everything, from the American flag on down. We know what West Germany exports, what Britain exports, what Switzerland exports, what America exports; but what does Russia, the great socialist economy, export? Virtually nothing! Do they export industry? heavy equipment? technological material? No! All of that is imported! It must be an agricultural community. Do they export grain? No, they import grain! What have they to export? Virtually nothing. The only thing that they export are some of the basic ores that God put in their land in the beginning. The whole economy, he says, is dependent upon assistance from the West. We give them loans at lower rates than you or I can mortgage our homes. They are not merely loans, they are actually economic assistance; it is foreign aid to Russia. Let them stand on their own two feet, he says, and we will see what they really are.

So what can be done? First, a whole change of policy is needed. A policy that says we are for freedom, that freedom is not divisible, and that we will help those who desire to be free. Secondly, we need to realize what Communism really is and what its goals are. Thirdly, we need to elect public officials who know what the real problem of the world is. Solzhenitsyn says that the problem in America today is not inflation, it is not unemployment, it is not welfare; the problem of the West is *survival*. Some of our politicians do not even seem to think that there is any problem. A Frenchman said that France fell because the people began to think of the government as a cow to be milked rather than a watchdog to be fed. This is the attitude of many of our people and politicians. It is the problem of greed.

Fourthly, we need to pray daily for America and for the Communist countries, that forces within them will be fomented and the Spirit of God will bring about a great movement for liberation and freedom.

Fifthly, we need to take a spiritual offensive, in our own country and around the world; we need to become involved in the Great Commission. Many of you are, but some of you are not; and those of you who are not may ultimately be responsible for the whole nation collapsing around your head. When it happens, my friend, don't forget I told you so. We need to do something about the life of America. We need to do something about carrying the Gospel message to the world. After all, Communism is essentially an idea and it can only be overcome by a stronger idea, and that idea is the Gospel of Jesus Christ.

The Session of this church has decided to do something about that. We are going to begin to send Bibles into Russia. We need to pray for the Christians in Russia that God will help a great revival to take place in that place. Our Evangelism Explosion International is now working behind the Iron Curtain.

Lastly, we can strengthen our own church. I am convinced that this church is only now doing approximately one one-thousandth of what it could do. If we reach five thousand people a week here, we could easily reach a thousand times that many—five million, conservatively—twenty million people through radio and television and a greatly expanded ministry of the printed word and tapes. In the past we have cut off Westminster Academy to a separate board to promote that. We have cut off Evangelism Explosion to a separate board to promote that. We have just now established the Coral Ridge Ministries under a separate board, so that all of the outreach, national and international, of this church will now be under a special group of people that will be promoting just this. The greatest handicap that we face at the moment is financial. So I am going to ask you to do something. I am going to ask all of you to double your giving to the church for the sake of the Gospel. You say, "I just can't do that!" Yes, you can, very easily. Just bring another member into the church this year! Very simple. A lot less painful than you thought, wasn't it? Don't you feel good about that? We can break this bottleneck and we can begin to get the Gospel out a thousand times more than we are doing now.

I am going to urge you for the sake of Christ, for the sake of a lost world, for the sake of our land, for the sake of the whole world, half of it languishing in slavery, that you give your heart and mind to Jesus Christ. If some of you do not know Christ, you yourself are in spiritual bondage and slavery and you need to be set free. I would call your attention to the Great Emancipator, Jesus Christ, who alone can set free slaves, the One who can forgive you for your sins and give you a new life and give you eternal life, if you will put your trust in Him and if you will cease trusting in your own good works and repent of your sins, and turn to Christ. Cease being a part of the problem and become a part of the solution. Give your heart and mind to the greatest cause the world has ever known—the cause if the Kingdom of Jesus Christ, for "He shall reign, where'er the sun does his successive journeys run." He is the Victor and one day every knee to Him shall bow.

This nation may collapse, we may go into another dark age, or we may be at the end of the whole age, but God's Kingdom will ultimately come. And I urge you to be a part of it. Put your shoulder to the wheel of it and give your heart and soul to it, and you will find that you are living for the greatest cause the world has ever known, for the spiritual emancipation and freedom and the eternal life of the world!

PRAYER

Grant we pray Thee, O Father, that in this climacteric of the age we may see that the menace that faces us is not merely threatening, not merely dangerous, but it is catastrophic in nature; and unless we awaken to the need of our time, unless our eyes are opened and the decitful lies which we have been fed are destroyed, this nation too, like so many before, will also be dragged down into the pit of slavery, and darkness shall settle once more upon the world. Grant that it may not be so, but help us as good soldiers of Jesus Christ to do what we can to that end, for the glory of His name. Amen.

"HOUNDED, SPAT ON, SLANDERED": SOVIET JEWS STRIVE TO COMMEMORATE BABII-IAR DESPITE THE SOVIET GOVERNMENT'S OPPRESSION

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I wish to point out to my colleagues yet another example of the Soviet Union's sadistic attitude toward its minorities. Its latest decree that Soviet Jews may not commemorate Babii-Iar borders on the criminally insane. Soviet police have warned Kiev Jews to stay away from Babii-Iar next week on the 35th anniversary of the Nazi massacre there of at least 100,000 Jews.

Soviet authorities have tried to erase from history this symbol of the anti-Jewish holocaust of World War II ever since German troops machinegunned thousands upon thousands of prisoners, most of them Jews, on September 29–30, 1941. The Russian poet, Yevgeny Yevtushenko, caused a major controversy when his poem, Babii-Iar, was published in 1961, in which he denounced the virulent anti-Semitic policies of Soviet Governments, both past and present. The Soviet Government has not allowed the poem to be republished since.

Until this summer there was only a small stone marking the site of the massacre. This July the Soviet Government erected a huge bronze monument commemorating "100,000 Soviet citizens of Kiev and prisoners of war." Incredibly, it does not mention Jews who comprised the majority of the victims. Kiev Jews have reported that they are under threat of arrest should they try to participate in a memorial on July 29, and Soviet authorities have told them they will not tolerate a "Jewish insult to this Soviet monument."

No matter what the Soviet Government does, it cannot wipe away the bitter memory of Babii-Iar. All people, whatever their nationality or religion, who cherish freedom should express their solidarity with Soviet Jews on this occasion. We must let the Soviet Government know that as it insults and vilifies the Jews of the Soviet Union, it insults and vilifies all of us. I am reminded of a few phrases of Yevtushenko's poem:

I am each old man here shot dead.
I am every child here shot dead.
Nothing in me shall every forget.
The "Internationale", let it thunder
When the last antisemite on earth is buried
forever.

By all its actions, the Soviet Union must be placed alongside Nazi Germany as the most repressive society in the history of the world. We must do all we can to support those who remain oppressed in that country. On September 29, in Yevtushenko's words, we should become "one massive soundless scream above the thousand thousand buried here." An international vigil should mark the shame of the Soviet Union's actions.

THE 63D STREET SUBWAY AND THE MTA

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, a subway is presently being constructed that cuts through the heart of my congressional district. It is the 63d Street Subway that will provide service from the existing Broadway and 6th Avenue subways through the new 63d Street line and connect with transit lines in Queens. The subway will also service Roosevelt Island situated in the East River, the site of a new housing complex. The Federal Government is paying a share of the project cost.

The construction of the subway has raised some difficult problems for my constituency. Before ground was broken, East 63d Street, lined with trees and old brownstones, as well as more modern luxury apartment buildings and small stores, was one of the nicest neighborhoods in the city. Now, between Park and Third Avenues many of the trees are gone, the sidewalks and streets are torn up, and construction equipment and storage vans line adjacent streets and avenues. Work goes on from 7 in the morning until 11 at night on the street and around the clock in the tunnel below. The pneumatic drill sounds a shrill reveille at 7 a.m. sharp. In addition to living discomforts, the construction has had an adverse impact on local businesses. Some merchants have reported a 50- to 70-percent reduction in their business. They are concerned that they will not survive the 4 years of construction, debris, noise, and equipment cluttered streets and sidewalks.

With today's high taxes and cost of money, this situation raises the question of what obligation the project has to nearby tenants and store owners to provide restitution for the economic and environmental hardship they suffer. Such relief might be provided in temporarily reduced real estate taxes and even compensatory payments to businessmen for lost revenues.

I have been advised by the city's economic development administration that there is no precedent for compensatory damage payments or temporary real estate tax reductions. Further, I have been advised by the Federal UMTA that there is no precedent for including restitution costs in the total project costs. But, in my judgment the loss of business to an area is very much a cost of the project as is the cost of replacing trees, destroyed sidewalks, and other amenities of a neighborhood. We may not have any precedent because usually our public works projects increase land values. In this case it has, at least temporarily, decreased them. I believe that business and environmental losses should be considered and compensated. And so, today I am writing to UMTA Administrator Robert E. Patricelli, MTA Chairman David Yunich, and the NYC Economic Development Administrator Abraham Goodman urging that steps be taken to provide some sort of restitution.

In the meantime, I have sought the cooperation of the MTA and the contractor, Schiavona Construction Co., to make the 63d and Third and Lexington Avenue areas as economically and environmentally viable as possible. As a result of the cooperative efforts of all concerned, increased lighting is being installed in the construction area, better signs are being designed and installed to identify stores whose street sightlines are obstructed by equipment and storage vans, and specially marked loading zones have been requested for the merchants. In addition, I have written to New York City Police Commissioner, Michael Codd, requesting additional police protection for the area.

All of the above challenges have been presented by the construction of the two block link between Park and Third Avenues. Another set of problems are being posed by plans recently disclosed for the link between Third and York Avenues. Originally, this section of the subway was to be tunneled without any surface disruption. Now the plans have been modified to include a T-shaped ventilator system to run under the sidewalk along York Avenue and 63d Street.

During construction, the central ventilator shaft to be located on the western edge of the York and 63d Street intersection, will be used as a truck hoist from the tunnel level below. This will have considerable impact on traffic in the area and on the residents for some 4 years. The community, represented by the tenants environmental association feels that the hoist and ventilator can be located on one of two sites east of York Avenue with far less adverse impact on local traffic and environment. One of the sites is owned by Rockefeller University, another by the city east of the FDR drive. The MTA claims that it has considered these alternatives and discarded them for various reasons. From my own point of view, the combined use of the Rockefeller University site and minimally used sidewalks east of York Avenue suggest a viable alternative that has not been adequately considered. The chairman of the MTA, David Yunich has agreed to meeting with myself, a Rockefeller University representative, and two representatives from the tenants neighborhood association on October 14 to discuss these alternatives before the MTA's final presentation is officially considered at a public hearing. I have told Chairman Yunich that at this point the city of New York, still at the edge of fiscal crisis, can ill afford to add discomforts to living in New York City, particularly in a neighborhood that is now prosperous. It would be particularly reckless to undermine a neighborhood if a viable alternative were indeed nearby and not used. It is my hope that in the October 14 meeting our cooperative efforts can forge a more satisfactory location for the hoist and ventilator system that will not impact so adversely on the residents and businesses of the area.

Mr. Speaker, the 63d Street community does not oppose the construction of the subway. The transit line will ultimately benefit the city. But, the community does demand that it be treated fairly during the construction period. Steps must be taken to make the neighborhood as viable as possible during this transition period, efforts must be made to minimize the adverse impact of the project, and the "costs" of the project to residents and merchants should be recognized with reasonable restitution made where severe hardship is identified.

LEGISLATION TO REQUIRE POSTAL SERVICE TO DISPOSE OF UNNEEDED PROPERTY

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, today, I have introduced a bill which would require the Postal Service to follow the same procedures used by other Federal agencies to dispose of unneeded property. The bill would apply to property acquired by the Postal Service upon passage of the Postal Reorganization Act of 1970.

When that law reorganized the old Post Office Department into the new Postal Service, it also provided that the Postal Service could buy and sell property as a private business would do.

All Federal properties or buildings, of which 50 percent or more were used by the Post Office Department, were turned over to Postal Service ownership. Henceforth, the Postal Service was allowed to sell any of these properties on the open market at fair market value.

When any other Federal building or property is no longer needed by an agency, Federal law requires specific procedures to be followed for disposal. These procedures were established to protect the taxpayer and assure that no level of government has need of a property before it is then sold to the highest bidder.

First, other Federal agencies must be surveyed to determine if they have a need for the property. Then State and local governments are checked to see if they have any need for the property. If a State or local government develops a viable proposal for use of the property then the Federal Government can turn it over at little or no cost. Only when all of these steps have proved fruitless, can the General Services Administration place the property on the market.

This approach has proven most fruitful, particularly for State and local governments which have received parks, libraries, office buildings, schools, and other useful properties through the program. The taxpayer benefits because his local government may not have to buy a building or a park at today's inflated land prices.

Since 1970, the Postal Service, although it could if it desired, has not operated this way. Exempt from Federal laws regarding disposal of Federal property, the Postal Service now immediately attempts to sell a surplus piece of property on the open market. Should another Federal agency, a State government, or local government have legitimate use for the property, then it must either buy the property outright or negotiate a trade.

I do not object to this procedure for properties bought after the Postal Reorganization Act of 1970. However, when that act was passed, literally billions of dollars of property and buildings were turned over gratis to the Postal Service. These properties and buildings were paid for by taxpayers, thus, I believe we owe it to these taxpayers to follow time tested and beneficial Federal rules for disposal of property and buildings turned over to the Postal Service as a result of the Postal Reorganization Act of 1970. When property has been financed by tax revenues, the taxpayers as represented by Federal, State, and local governments should be the first to benefit from the disposal of the property.

While Congress will not have time to consider this bill before adjournment, I believe that it is important to introduce the bill at this time. I am sure that the House Post Office and Civil Service Committee will begin to move quickly on postal legislation when the new Congress convenes next year. Also, the Commission on Postal Service, created by my bill, H.R. 8603, will begin meeting soon and is scheduled to conclude action by March 15. Introduction of this bill at this time will give the Commission an opportunity to consider the principle stated in it during its deliberations, and will give Members of Congress, and other interested people, time to study the proposal before the 95th Congress convenes.

ETHICS COMMITTEE HAS PROVIDED VALUABLE SERVICE FOR THE NATION

(Mr. MILFORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILFORD. Mr. Speaker, the Ethics Committee has provided a valuable service for the Nation. For the first time, a creditable and complete record has been made so that anyone can see the complete story of the Intelligence Committee leaks.

While the guilty party that was responsible for the leaks, was not determined, the very sloppy manner in which the House of Representatives handles our Nation's secrets was clearly brought to light. Hopefully, the House will now take corrective action.

The so-called "Freedom of the Press" issue was also placed in proper perspective, if one reads the entire Ethics Committee record. Neither I nor anyone else, to my knowledge, was questioning a reporter's right to protect sources from which he formulates his own stories. We did question a reporter's right to unilaterally decide to declassify an entire confidential report by passing it on to a third party for publication not under his byline.

The actions of the Select Committee on Intelligence constituted a horrible national nightmare and has seriously damaged our national intelligence capabilities. I was, and I continue to be, in total agreement that Congress should carefully supervise our intelligence agencies. However, such supervision should be done outside the glare of television cameras and in a manner that does destroy our intelligence missions by revealing vital sources and methods.

Hopefully, our Members of Congress and our citizens have learned from the experiences brought on by both the investigations of the Select Committee on Intelligence and the Ethics Committee. I think it is time to put them to bed and get on with other pressing national matters.

ALTERNATIVES FOR THE U.S. NAVY

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, today I am placing in the RECORD a summary of the remarks of Dr. Barry Blechman when he met and discussed the topic "Alternatives for the U.S. Navy" with Members of Congress and their staffs on March 30. Dr. Blechman is a defense analyst and a recognized naval expert. He heads the defense analysis group at the Brookings Institution and was formerly a staffer at the Center for Naval Analysis. He has written two monographs for Brookings on naval affairs, "The Changing Soviet Navy" and "The Control of Naval Armaments: Prospects and Possibilities."

Dr. Blechman points out that even though the Soviet Navy is smaller than it was 20 years ago, it is a much more potent adversary, because of improvements in design and equipment. By the same token, the U.S. Navy's capability can not be judged, he says, merely by counting numbers of ships—which have declined—but must be measured by its overall quality and capabilities.

Dr. Blechman outlines some of the serious problems that have developed in our fleet's material readiness and in the cost of new ships, and he offers some suggestions as to possible solutions. He also points out that the U.S. Navy has some very significant advantages over the Soviet Navy. He emphasizes that one thing that would help would be for our own Defense Department to stop exaggerating the Soviet naval threat in order to frighten Congress into supporting the Navy budget requests.

This talk on "Alternatives for the U.S. Navy" was part of a continuing series sponsored by the MCPL Education Fund dealing with various subjects under the general heading of "New Directions in Foreign Policy, Defense Policy, and Arms Control Policy."

In response to requests from Members desiring to study them and from interested members of the public, I have placed summaries of other such talks in this series in the RECORD. Other participants in this series have included: Dr. Kosta Tsipis, Dr. James Schlesinger, Mr. Paul Warnke, Dr. Jeremy Stone, Mr. John Finney, Dr. Herbert Scoville, Jr., Dr. Homer Jack, Dr. Marshall Shulman, Mr. Milton Leitenberg, Dr. Richard Garwin, Mr. Thomas Halsted, Dr. Seymour Melman, Dr. Graham Allison, and Dr. Zbigniew Brzezinski. Those who wish to obtain a reprint of these talks should contact Dr. Barry Schneider, Care Of MCPL Education Fund, Suite 316, 201 Massachusetts Avenue NE., Washington, D.C. 20002.

The summary of Dr. Blechman's remarks follows:

ALTERNATIVES FOR THE U.S. NAVY

(By Barry M. Blechman)

The navy is a very important arm of the military—perhaps the most important one. In Mr. Blechman's view, fundamental changes in the structure and composition of the U.S. Navy are necessary, however, if the Navy is to serve its purposes well.

The USN plays a major part in signalling U.S. intent to other countries, through its role of providing a U.S. military presence abroad. In this way, the navy signals our willingness to defend our allies. Navies can be sent to troubled regions, go on alert, man battle stations, or be withdrawn. These actions are much more credible than words, yet less disruptive than other actions that could be taken. In nearly every U.S.-Soviet crisis since the Berlin Crisis of 1961, naval forces have been used in this capacity. Navies also serve as a proxy for other armed forces. The size and capacity of the superpowers' naval forces are seen as a symbol of overall military capacity.

CONTRASTING TRENDS

Over the past 15 to 20 years, the Soviet Navy has made dramatic changes in the quality of its equipment, in its deployment policies, and in its missions.

Beginning around 1958, the U.S.S.R. entered into a sustained program to modernize its fleets. New ships and submarines, which hesitantly began to appear in the early 1960s, were markedly improved over earlier Soviet naval vessels, which more likely than not were imitations of Western designs. These new Soviet ships also incorporated certain striking innovations, such as the use of cruise missiles for operations against opposing surface fleets. Beginning in the late 1960s, what we may refer to as a second generation of indigenously-designed Soviet naval ships and submarines began to appear; and these were very good indeed. Thus, even though the Soviet Navy is smaller in size than it was 20 years ago, it is a much more potent potential adversary.

Moreover, beginning in the mid-1960s, the Soviet Navy for the first time left the home waters to which it previously had been confined, and began to deploy its warships far from the homeland. A standing Soviet naval presence was established in the Mediterranean in 1964, and in the Indian Ocean in 1968. Intermittent Soviet deployments to the Caribbean were initiated a year later. And at roughly the same time, Soviet warships began to range further afield and to appear in greater numbers in the Atlantic and the Pacific Oceans. This build-up has more or less leveled off within the past few years, but the sudden appearance of the Soviet Navy on the oceans of the world has left an indelible imprint in the U.S. political arena.

Then, perhaps most troubling, the U.S.S.R. began to use its Navy for various political purposes; to employ its naval resources in a traditional Western practice the Soviets had long derided—gunboat diplomacy. They did this tentatively at first, in marginal situations not involving the United States. But when these early efforts were crowned with some success, Soviet leaders became more bold; a fact vividly demonstrated during the 1973 War in the Middle East.

At the same time, the U.S. Navy has fallen somewhat into disrepair.

For one, the Navy is much smaller than it used to be. Excluding strategic forces, the following changes have taken place:

	Fiscal year 1964	Fiscal year 1976	Percentage change
Number of ships	892	430	—52
Displacement (million tons)	6.8	4.9	—28

The proportionally lesser reduction in tonnage reflects the fact that newer ships are larger and presumably, therefore, more capable than their predecessors. For example, looking at a shorter time frame, between FY 70 and FY 77, including strategic forces, the number of ships declined by one-third (769 to 489). At the same time, these changes took place in various indices of capabilities:

	Fiscal year 1970	Fiscal year 1976	Percentage change
Standard displacement (million tons)	6.7	5.4	—19
Shaft horsepower (millions)	23.9	18.7	—21
Electrical generating capacity (megawatts)	1,949	2,029	+4

Note that electrical generating capacity, which may be the best single index of a modern Navy's capability, actually increased. Nonetheless, just like aircraft, no ship can be in two places at once. And even if qualitative improvements have been sufficient to compensate for the steep decline in the size of the fleet, so too has the opposition improved its capabilities. Indeed, one would suspect that the Soviets have probably improved proportionally more. Thus, many observers have begun to fear that the U.S. Navy has become too small.

Additionally, serious problems have developed in the fleet's material readiness. For example:

	Fiscal year— 1972	Fiscal year— 1975
Ships overdue for overhaul (percent)	4	13
Average number of major items of equipment not functioning on each ship:		
Critical item only	1.0	1.75
All items	3.5	5.0
Naval aircraft nonoperational due to lack of parts (percent)	15	20
Production lead-time for spare parts (days)	190	170

The main cause of these problems is easv to understand. The shipbuilding appropriation began to decline in FY 1968. It remained depressed till 1972 as, first, the cost of the U.S. involvement in Vietnam and, then, the state of the U.S. economy exerted strong pressures for lowered expenditures on items not directly related to the war effort. Even then, the shipbuilding appropriation grew only slowly, for various reasons, until fiscal year 1976.

At the same time, the prices of new ships have soared. Part of the sharp price rise is due to inflation; no other sector of the defense budget seems to have been struck quite so hard. Another part was caused by the performance demanded of new ships: ships with missile systems instead of guns; ships with detection, communication, and other electronic systems at the leading edge of technology; ships with much larger than traditional spaces for weapon magazines, fuel storage, and crew quarters; and ships with nuclear rather than conventional propulsion systems; are all far more expensive ships. And finally, part of the price rise is due to failures in Navy management and the structure of the American shipbuilding industry. Shipbuilding is one of the few sectors of the American economy which has experienced a decline in productivity in recent years.

As a consequence of these contrary trends, even the now large appropriations for shipbuilding buy an insufficient number of ships to replace the roughly 20 or so vessels that must be retired each year, much less to add to the size of the fleet. In 1955, a shipbuilding appropriation of $1.2 billion was enough to purchase 30 ships and pay for 17 conversions. In 1976, a requested appropriation of $6.3 billion would only have paid for 16 ships and no conversions. Moreover, pressures to make available more funds for shipbuilding have caused the Navy and the Congress to skimp on funds for operations and maintenance; a fact which more than anything else has led to reductions in the operating tempo of the fleets and the previously mentioned problems of material readiness.

SOLUTIONS

What solutions can be found to alter these negative trends?

One thing which would help in the short term would be to stop exaggerating the threat. U.S. spokesmen are the ones who set the terms of the debate over relative naval capabilities. Our own budget process is debilitating in this regard. The Soviets don't talk about their own capacity; they watch as the U.S. tears its own defense program down in public and undermines its credibility abroad with exaggerations about U.S. naval weakness.

The Soviets generally have reacted to moves made by the U.S. Navy. First, the Soviet Union set out to counter the U.S. aircraft carriers, which played a major role in our plans for nuclear attacks against the U.S.S.R. in the 1950s. This led to their emphasis on submarines and cruise missiles, since they lacked airpower. Next, they have tried to do something about our strategic submarines, but without much luck, as best one can tell. Each of these steps led them to deploy further from Soviet "home waters."

Certain weaknesses can readily be seen in the Soviet Navy. Most of their submarines are relatively noisy, making them vulnerable. Their surface warships tend to be small, limited in endurance, carry few reloads, and have no staying power in a hostile environment. Moreover, the Soviet Navy is not capable of projecting power ashore if opposed. This is due to the fact that the Soviets have very limited sea-based air power. The Soviet Marine Corps is small (17,000 vs. a U.S. Marine Corps of nearly 200,000). Thus, they have only a very limited capability for amphibious assault. In addition, the Soviets have virtually no land-based infrastructure overseas. When these and other factors are considered, it becomes obvious that the situation is not as tragic as it is sometimes painted.

Mid-term solutions could be found so that U.S. forces could operate more effectively at present strength. U.S. deployments split the Navy, roughly 50/50, between the Atlantic and the Pacific. Also, we adhere tenaciously to a rigid deployment policy which limits our flexibility. We need to move from a fixed to a flexible deployment pattern. We should, for example, vary the number of aircraft carriers deployed in the Mediterranean. The present two carrier composition of Sixth Fleet is a carry-over from the 1950s. At that time, the carriers' nuclear strike role demanded that they be near the planned launch point for their aircraft; that constraint need apply no longer.

Over the longer-term, we should shift our emphasis from the attack aircraft carrier. Carrier task forces are usually sent into almost any situation when the Navy is needed. Other, less expensive systems would suffice in many of these instances. For example, we have seven small carriers known as LPHs. These could be equipped with V/STOL aircraft for use in regions like the Indian Ocean, accompanied by surface warships.

Another solution would be to reduce Navy manpower. If people were used more efficiently, less people would be needed and more money made available for shipbuilding or equipment. Money now going into training, base maintenance, and reserve forces, and other areas could be saved, and used to increase operations funds.

The essence of the problem, however, lies in the shipbuilding program. First, growth in the price of ships must be controlled. That will require closer cooperation among the Navy, the shipbuilders, the Congress, and the labor unions. One step which might help would be to establish an independent body to adjudicate shipbuilding claims. And, finally, it might be beneficial to introduce greater competition among American shipbuilders. Two possible approaches would be to:

(1) Re-open or expand some of the Navy's own shipyards;

(2) Permit foreign yards to bid on some shipbuilding contracts. Scandinavian countries, for example, are excellent shipbuilders, as are the Japanese.

Even if efforts to control growth in the price of ships were successful, however, much of the shipbuilding problem would remain. Shipbuilding costs are being driven higher more by real factors than by illusory ones: by the vast performance improvements demanded of new ships.

What can be done?

First, and here I am obviously as guilty as the next person, we should stop talking about the size of the fleet as if a *Nimitz*-class aircraft carrier were the equivalent of a destroyer tender. What is important is not whether the U.S. Navy should have 600, or 550, or 500 ships, but how many ships of each specific type it should have—and what the characteristics of their weapons and other component systems should be.

Second, nuclear power should not be treated as a question of theology. The issue of whether a particular vessel should be powered by a nuclear reactor or by some other propulsion system is one of the few military problems amenable to solution through the arcane methods of the systems analysts. For the most part, it is not a matter of intangible subjective political judgments, but a case of clear trade-offs between relative costs and relative effectiveness. These questions can, and should be left to technicians.

Third, the notion of a high/low ship mix in ship procurement needs to be revitalized. If you remember, this was a strategy suggested by Admiral Zumwalt for dealing with the growing cost of ships. It envisioned building some very capable (and therefore very expensive) vessels for the most demanding contingencies, and larger numbers of less capable (and therefore less expensive) ships for less demanding contingencies. Obviously, one does not have to send the *Nimitz* every time a show-of-force is desired to impress a third world politician. Unfortunately, the high/low mix seems to have gotten caught up in politics—both electoral and bureaucratic. This situation needs correction, quickly.

CONCLUSION

It is obvious that I have raised many questions, but answered few. Still, a serious debate on these matters is long overdue. For too long now, we have acted in recognition of the risks associated with virtually any change in the basic structure, or disposition, or internal policies of the U.S. Navy, but without recognition of the perhaps even greater risks associated with perpetuating the status quo. That risk, in brief, is that because of the conflicting budgetary trends of increasing costs for each unit of defense (both people and hardware), but relatively constant ceiling on overall spending, the present apparent gap between the capabilities of the Navy and the purposes which it is supposed to serve, can only grow larger over time. This is not a prospect that the nation should face with equanimity.

TRIBUTE TO GRANT CONWAY

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, on June 25, 1976, Grant Conway, who represented Montgomery County on the Chesapeake and Ohio Canal National Historical Park Commission and was active in numerous other conservation and environmental organizations, died in Washington, D.C. Commission Chairman Nancy Long requested Grant's Montgomery County colleague, Edwin F. Wesely, to prepare a tribute on behalf of the Commission. The tribute is reflective of Grant Conway—thoughtful, sensitive, and human. I would like to bring it to my colleagues' attention; Ed Wesely begins it by saying:

> I would like to read a paragraph from a National Park Service letter that pays tribute to Grant Conway:
>
> "Grant Conway was known and respected for years by many in the National Park Service. He was our friendly adversary. He had a deep concern for the C & O Canal and its future. His contribution was always positive and included suggestions to solve problems. He was realistic and fully understood the workings of the bureaucracy. His contributions were many. We will all miss him."

On behalf of myself and the members of the C. & O. Canal National Historical Park Commission, I have some further things to say. I think in addition to Grant Conway's many good works, there was also with him a unique style, which we all knew. He reminded me of a free verse poem by Carl Sandburg, with the long looping prose that was always more than prose, especially when Grant got warmed up. He had in him a really unique menagerie of people and events, present and past, that ranged all the way from strawberry patches—whose whereabouts he never revealed—to forgotten boundary stones along the C. & O. Canal. Some of these stones Grant would find and mark and lose and then find again. I remember a Potowmack Canal Co. stone near the Little Falls that he camouflaged so well to prevent its desecration, it took Grant almost a year to find it again. He finally found it this spring.

Carl Sandburg wrote:

> I got a zoo, I got a menagerie inside my ribs. I am the keeper of the zoo. I am a pal of the world.

Well, I think Grant said as much in almost every one of his stories, in which serious themes and events like the Justice Douglas hike of yore got their due but never got the upper hand. It always tickled Grant that dogging the heels of Douglas and his band of naturalists and writers was a man whom no one had invited, Jack Pearmain, who just showed up and began walking in sport coat and street shoes; who slept on a pool table at the Cardinal Club wrapped in the American flag; and whose diet of seaweed pills carried him the full 184 miles to a niche with the "immortal nine." But Pearmain's immortality was conferred not by his feet, but by the stories and art of Grant Conway.

Dick Stanton's nights at the Hawaiian Club were also chronicled by Grant, as were the deeds of people like Edith, and Maud; and Yankee Sullivan, the prizefighter, who fought near Harpers Ferry in the 1840's with bare knuckles; and Squirrely Lambert. Grant liked to tell how Squirrely was once fined for selling moonshine whisky, and soon after paid the fine by raising the price of his product.

A distinguished artist, who painted the Monocacy Aqueduct a few years ago, called it an American Parthenon. And that Squirrely Lambert, with his cats and chickens and moonshine whisky, had lived in the shadow of the aqueduct was the kind of zany twist that Grant Conway relished, as we all know. The world before Grant was crowded with discrepancies like that—so much so that weaving them into stories became his unique vocation and style.

And along with it was Grant's high respect for the world of nature: as he had known it as a kid in Oregon, and then here along the C. & O. Canal and the Appalachian Trail. Many was the impromptu bridge to High Island which bit the dust when Grant walked by, for this place above all he was determined to reserve for the wild flowers and animals.

The world was as it was. The same winds that reached along the Potomac into the shanty of Squirrely Lambert carried the sounds and sweet smells of spring, and the old life of the river. There was not a piece of it beneath Grant Conway's notice.

I cannot think that Grant would have endorsed the hymns we sang over him in church a week ago, that put "Victory" at the end of his life. Of Grant above all it could be said that he had a continuing "lover's quarrel with the world." And in his reports of that encounter, quickened both the world and many of us.

Grant treasured eccentricity, his wife Ione said last night. And I think for Grant the treasuring was in his stories, of which there were as many as there were people and events. He loved to collect and tell these stories, in which he bestowed on Maud and Squirrely and Edith a dignity they never knew they had.

To sum up about Grant, and what Ione said about his treasuring eccentricity, there is a little poem by Carl Sandburg. I do not know if Grant knew it, but I think he would have loved it. It is called "The Musings of a Police Reporter in the Identification Bureau." It says:

> You have led a hundred secret lives but you are marked by only one thumb. You have only one thumbprint.
>
> You go around the world and fight in a thousand wars and win all the world's honors, but when you come back home, the print of the one thumb your mother gave you is the same print of the thumb you had in the old home. Out of the whirling womb of time come millions of men, and their feet crowd the earth and they cut one another's throats for room to stand. And among them all are not two thumbs alike. Somewhere is a Great God of Thumbs who can tell the inside story of this.

Well, Grant had not just one "inside story" but many; and there was no one like him in all the wide world. Grant Conway was a good and faithful servant, in whom the "Great God of Thumbs" should be well pleased.

AMERICAN HORSE PROTECTION ASSOCIATION LAWSUIT

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, recently the Bureau of Land Management scheduled a roundup of 260 wild horses from the Federal public lands near Challis, Idaho. The American Horse Protection Association and the Humane Society of the United States went into federal district court here in Washington, D.C., seeking an injunction of this roundup on the grounds that the proposed BLM roundup was in violation of, among other statutes and regulations, the 1971 Wild Free-Roaming Horses and Burros Act passed by this Congress to preserve and protect wild horses.

On September 1, U.S. District Judge Charles R. Richey found in behalf of plaintiffs and declared the proposed roundup to be illegal and contrary to the clear mandate of the statute. Among Judge Richey's findings of fact and conclusions of law were that BLM's refusal to have veterinarians present during the roundup was a serious abuse of their agency discretion; that BLM's population inventories and other data were either inadequate or incorrect, or both; and that BLM's flat refusal to remove any of the 4,000 head of commercial cattle grazing in the area before planning a removal of 260 wild horses constituted an additional abuse of discretion, was both arbitrary and capricious, and contrary to law.

Mr. Speaker, I think Judge Richey's decision is noteworthy by the Members of Congress who worked long and hard to pass the 1971 act to preserve these wild horses and burros. It seems that the act has been successful as against individual trespassers who used to round up these magnificent animals to be sent to slaughter for dog food. However, the Bureau of Land Management has consistently interpreted the work done by the Congress as a mandate for them to manipulate and manage the size of wild horse herds according to the commercial grazing requirements of the area. I think the American Horse Protection Association and its president, Mrs. Joan Blue, should be congratulated for their perseverance in fighting the BLM's policy of wild horse population manipulation. The Congress asked the BLM to preserve and protect the wild horse herds for the enjoyment of all the American people. AHPA has argued that position in the courts for the better part of 4 years. And now a Federal judge has read the 1971 act as Congress intended it and has sent the BLM packing with their reduction scheme.

Mr. Speaker, I think Judge Richey's opinion should be read by every Member of the Congress and also by every civil servant in the Bureau of Land Management. In that regard, I include the opinion of Judge Richey in the case of American Horse Protection Association, et al., plaintiffs, against Thomas Kleppe, et al., defendants, in its entirety at this point in the RECORD:

EXTRACT FROM TRANSCRIPT OF PROCEEDINGS—OPINION ONLY

The Court. The Court has before it today for decision this action brought by the American Horse Protection Association, which is a non-profit corporation under the laws of Virginia, with offices at 3316 N Street, Northwest, and also brought by the Humane Society of the United States, another non-profit corporation organized under the laws of Delaware, with offices at 2100 L Street, Northwest, of this city.

These two plaintiffs have brought suit against the Secretary of the Department of Interior, Mr. Curtis Berklund, who is the Director of the Bureau of Land Management of the Department of the Interior; Mr. George Turcott, Associate Director of the BLM in the Interior Department; Miss Kay Wilkes, the Chief of the Division of Range of the Bureau of Land Management; and Mr. William L. Matthews, the State Director of the Idaho State office of the Bureau of Land Management of the Department of the Interior at Boise, Idaho; and Glen E. Ford, the Acting Manager of the Salmon District of the BLM, again, Salmon, Idaho.

The action asks the Court to grant a declaratory judgment and to declare that the proposed round-up is illegal and to prevent the implementation of the contract for the round-up and, in effect, to declare it not in accordance with the law and, therefore, null and void.

The plaintiff organizations also ask the Court for an injunction to enjoin the proposed round-up for the Challis Planning Unit until the two statutes that are involved in this case: namely, the Wild Free-Roaming Horses and Burros Act of 1971, and the National Environmental Protection Act, have been complied with in all respects.

There are other statutes mentioned in the complaint and the other pleadings, but those are the key ones with which we are here concerned.

The Court has listened carefully to all of the testimony by the various witnesses who have come here to Washington, some from great distances on both sides, and has examined the record, the briefs, and the pleadings, and listened carefully, as carefully as possible, to the arguments today; not only today, but throughout the hearing, of able counsel on both sides.

The Court, incidentally and parenthetically, at this point wishes to take this opportunity to thank plaintiffs' counsel for its courtesy to the Court and for its good work and craftsmanship.

The Court would like to do the same with respect to Government counsel.

I think all too often the public representatives are the forgotten and unsung heroes of our legal fraternity, and when they do a good job, they deserve, and should have, the commendation of the Court.

The Court wishes to extend the same appreciation to Government counsel.

Now, based on the considerations that I have enumerated just a few moments ago, the Court has decided to announce in an abbreviated fashion its conclusion and will file within the next few days, or maybe sooner, more copious findings and conclusions of law and issue a judgment in this case. But they will be consistent with what I am about to announce from the bench now.

First, this Court does have jurisdiction to hear and determine this case pursuant to 28 United States Code Section 1331, and the Administrative Procedures Act, as set forth in 5 United States Code Section 702.

The Court finds that the mandate of Section 3(a) of the Wild Free-Roaming Horses and Burros Act of 1971, as codified in 16 U.S.C. 1331(a), which provides that all management activities shall be at the minimum feasible level, requires, at a minimum, that before any round-up of horses or other significant management activity is undertaken, careful and detailed consideration must be given to all alternative courses of action that would have a less severe impact on the wild-horse population.

The alternative of restricting livestock grazing on the critical winter-range areas is such an alternative and would permit more horses to be left "unmanaged" in the region that is here involved, namely, the Challis Region, and would, thus, result in a lower level of management activity.

The other alternative of restricting livestock grazing—or the alternative of restricting livestock grazing—and the Court so finds—on the winter-range areas is not so impractical, particularly in the light of the alternatives that have been presented and discussed here in this court, and those which were actually considered by the defendants.

And it appears to the Court—and the Court, again, so finds—that the defendants have not given this alternative: namely, of restricting livestock grazing on the winter-range areas, the full and careful consideration that is mandated by the 1971 Wild Free-Roaming Horses and Burros Act.

And this failure to give this alternative the full and careful consideration required by the Act, in the opinion of this Court, renders the proposed action here not only arbitrary and capricious in the legal sense, but constitutes an abuse of discretion and makes the proposal contrary to the clear mandate of the statute, which I quoted a moment ago: namely, to keep all management activities at the minimum feasible level.

The defendants' determination that this Challis Region is overpopulated, and, thus, requires the removal of wild horses, requires a balancing of the data submitted to the Court by both sides, an evaluation of the data submitted to the Court by both sides, and, also, most importantly, an evaluation of their credibility.

Now, taking those factors into account, the determination that this region, namely, the Challis Region, is overpopulated, and, thus, requires the removal of some various number of horses and there have been many different numbers suggested by different witnesses—taking all of these factors into consideration, the Court finds that, insofar as the Government's determination and their two basic planning documents are concerned, that they were based on inadequate or incorrect data.

The Court further finds that no reliable, up-to-date, population inventories have been made and conducted on which this Court can rely.

And it further finds that the formula for projecting the present herd size on the basis of the 1975 inventory utilized a reproduction ratio which is unsupported by, and, in fact, contradictory to, the evidence presented in this Court.

Accordingly, the determination of the number of horses to be removed in the round-up plan, in the opinion of this Court, at least, was arbitrary and capricious; and the decision to proceed with the round-up at the present time on the basis of this inadequate data was, and is, or does constitute, an abuse of discretion by the various defendants.

Now, they could have given—and the Court finds that they should have given—consideration, in both the wild horse management plan and the environmental analysis record, to what the Court finds were other, less drastic means of population control.

And, therefore, again, it must be said—and this Court so finds—that the proposed round-up here involved was arbitrary and capricious, constituted an abuse of discretion on the part of the Governmental defendants, and is contrary to the mandate of the statute enacted by the Congress in 1971.

The Court also is very, very troubled—and the geography is no excuse, in the opinion of this Court, when we are dealing with any endangered species or resource which has life—there is no reason for the defendants not to have planned for, and had available, the kind of professional veterinary assistance on site, as distinguished from at least 30 miles, or whatever distance it was, and the evidence is not clear at all on this point, during the round-up.

And their failure to make provisions for this, again, in the light of the testimony that injuries do occur during the course of even the most humane type of round-up, was the kind of conduct that makes this proposed round-up plan not only contrary to Section 3(b) of the Wild Horses Act, but also requires removal measures, if this is ever to be done in the future, under more humane conditions and care.

That would include, as the Court has already indicated, having veterinarians on site.

It might also be said, in this connection, that the arrangements, the casual arrangements, that were made in this connection with respect to veterinary care make this proposed action not only arbitrary and capricious, but, in the opinion of this Court, constituted a serious abuse of discretion. I hope it will not happen again in any other region, or even in this region.

Now, there can be no question, gentlemen, but that restricting livestock grazing on the critical winter-range areas in order to allow the Challis Region to sustain more wild horses is one alternative to the livestock grazing in the Challis Region.

And because the impact statement is in the so-called draft stage at this point and because my distinguished colleague, Judge Flannery, has continuing jurisdiction over the preparation and review of the BLM livestock grazing impact statements, the Court finds that it would be premature and improper to rule on the inadequacy, or alleged inadequacy, of the draft environmental impact statement for this particular Challis Region.

However, the Court concludes that, to permit the proposed round-up, as I have already indicated, to proceed during the pendency of the EIS review process would eliminate one major alternative to the grazing allotments plan proposed in that statement and would, thus, distort, perhaps forever, the analysis of costs and benefits mandated by, and required in, the other Act that is here involved, namely, the National Environmental Policy Act.

Accordingly, the decision to proceed with the proposed round-up at this time is for this additional reason not going to be permitted, and the Court will issue a declaratory judgment holding that the proposed round-up is not only illegal, but it will set aside any contract as being contrary to law, or issue a declaration that any contract to, or for, a private contractor's benefit to conduct the round-up is contrary to law and null and void, and it will enjoin any proposed round-up for the Challis Planning Unit, at least until both of these statutes, namely, the NEPA statute, the National Environmental Policy Act, and the Wild Free-Roaming Horses and Burros Act of 1971, have been complied with in all respects.

This will be put in the form of a final order and judgment as will be the findings of fact that have not been mentioned. They will be more extensive than this, but they will be consistent with what I have just said. That will be issued promptly by the Court.

As I said yesterday, I think you are entitled to know how the Court evaluated the evidence, as well as the credibility of the witnesses, and this is the Court's decision. Thank you very much.

(Whereupon, at 3:20 o'clock p.m. the Court adjourned.)

CONFERENCE REPORT ON S. 3149

Mr. STAGGERS submitted the following conference report and statement on the bill (S. 3149) to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 94-1679)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3149) to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "Toxic Substances Control Act".

TABLE OF CONTENTS

SEC. 1. Short title and table of contents.
SEC. 2. Findings, policy, and intent.
SEC. 3. Definitions.
SEC. 4. Testing of chemical substances and mixtures.
SEC. 5. Manufacturing and processing notices.
SEC. 6. Regulation of hazardous chemical substances and mixtures.
SEC. 7. Imminent hazards.
SEC. 8. Reporting and retention of information.
SEC. 9. Relationship to other Federal laws.
SEC. 10. Research, collection, dissemination, and utilization of data.
SEC. 11. Inspections and subpoenas.
SEC. 12. Exports.
SEC. 13. Entry into customs territory of the United States.
SEC. 14. Disclosure of data.
Sec. 15. Prohibited acts.
Sec. 16. Penalties.
Sec. 17. Specific enforcement and seizure.
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Sec. 19. Judicial review.
Sec. 20. Citizens' civil actions.
Sec. 21. Citizens' petitions.
Sec. 22. National defense waiver.
Sec. 23. Employee protection.
Sec. 24. Employment effects.
Sec. 25. Studies.
Sec. 26. Administration of the Act.
Sec. 27. Development and evaluation of test methods.
Sec. 28. State programs.
Sec. 29. Authorization for appropriations.
Sec. 30. Annual report.
Sec. 31. Effective date.

SEC. 2. FINDINGS, POLICY, AND INTENT.

(a) FINDINGS.—The Congress finds that—

(1) human beings and the environment are being exposed each year to a large number of chemical substances and mixtures;

(2) among the many chemical substances and mixtures which are constantly being developed and produced, there are some whose manufacture, processing, distribution in commerce, use, or disposal may present an unreasonable risk of injury to health or the environment; and

(3) the effective regulation of interstate commerce in such chemical substances and mixtures also necessitates the regulation of intrastate commerce in such chemical substances and mixtures.

(b) POLICY.—It is the policy of the United States that—

(1) adequate data should be developed with respect to the effect of chemical substances and mixtures on health and the environment and that the development of such data should be the responsibility of those who manufacture and those who process such chemical substances and mixtures;

(2) adequate authority should exist to regulate chemical substances and mixtures which present an unreasonable risk of injury to health or the environment, and to take action with respect to chemical substances and mixtures which are imminent hazards; and

(3) authority over chemical substances and mixtures should be exercised in such a manner as not to impede unduly or create unnecessary economic barriers to technological innovation while fulfilling the primary purpose of this Act to assure that such innovation and commerce in such chemical substances and mixtures do not present an unreasonable risk of injury to health or the environment.

(c) INTENT OF CONGRESS.—It is the intent of Congress that the Administrator shall carry out this Act in a reasonable and prudent manner, and that the Administrator shall consider the environmental, economic, and social impact of any action the Administrator takes or proposes to take under this Act.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2)(A) Except as provided in subparagraph (B), the term "chemical substance" means any organic or inorganic substance of a particular molecular identity, including—

(i) any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature, and

(ii) any element or uncombined radical.

(B) Such term does not include—

(i) any mixture,

(ii) any pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act) when manufactured, processed, or distributed in commerce for use as a pesticide,

(iii) tobacco or any tobacco product,

(iv) any source material, special nuclear material, or byproduct material (as such terms are defined in the Atomic Energy Act of 1954 and regulations issued under such Act),

(v) any article the sale of which is subject to the tax imposed by section 4181 of the Internal Revenue Code of 1954 (determined without regard to any exemptions from such tax provided by section 4182 or 4221 or any other provision of such Code), and

(vi) any food, food additive, drug, cosmetic, or device (as such terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act) when manufactured, processed, or distributed in commerce for use as a food, food additive, drug, cosmetic, or device.

The term "food" as used in clause (vi) of this subparagraph includes poultry and poultry products (as defined in sections 4(e) and 4(f) of the Poultry Products Inspection Act), meat and meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), and eggs and egg products as defined in section 4 of the Egg Products Inspection Act).

(3) The term "commerce" means trade, traffic, transportation, or other commerce (A) between a place in a State and any place outside of such State, or (B) which affects trade, traffic, transportation, or commerce described in clause (A).

(4) The terms "distribute in commerce" and "distribution in commerce" when used to describe an action taken with respect to a chemical substance or mixture or article containing a substance or mixture mean to sell, or the sale of, the substance, mixture, or article in commerce; to introduce or deliver for introduction into commerce, or the introduction or delivery for introduction into commerce of, the substance, mixture, or article or to hold, or the holding of, the substance, mixture, or article after its introduction into commerce.

(5) The term "environment" includes water, air, and land and the interrelationship which exists among and between water, air, and land and all living things.

(6) The term "health and safety study" means any study of any effect of a chemical substance or mixture on health or the environment or on both, including underlying data and epidemiological studies, studies of occupational exposure to a chemical substance or mixture, toxicological, clinical, and ecological studies of a chemical substance or mixture, and any test performed pursuant to this Act.

(7) The term "manufacture" means to import into the customs territory of the

United States (as defined in general headnote 2 of the Tariff Schedules of the United States), produce, or manufacture.

(8) The term "mixture" means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction; except that such term does include any combination which occurs, in whole or in part, as a result of a chemical reaction if none of the chemical substances comprising the combination is a new chemical substance and if the combination could have been manufactured for commercial purposes with a chemical reaction at the time the chemical substances comprising the combination were combined.

(9) The term "new chemical substance" means any chemical substance which is not included in the chemical substance list compiled and published under section 8(b).

(10) The term "process" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce—

(A) in the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance or mixture, or

(B) as part of an article containing the chemical substance or mixture.

(11) The term "processor" means any person who processes a chemical substance or mixture.

(12) The term "standards for the development of test data" means a prescription of—

(A) the—

(i) health and environmental effects, and

(ii) information relating to toxicity, persistence, and other characteristics which affect health and the environment,

for which test data for a chemical substance or mixture are to be developed and any analysis that is to be performed on such data, and

(B) to the extent necessary to assure that data respecting such effects and characteristics are reliable and adequate—

(i) the manner in which such data are to be developed,

(ii) the specification of any test protocol or methodolgy to be employed in the development of such data, and

(iii) such other requirements as are necessary to provide such assurance.

(13) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, the Northern Mariana Islands, or any other territory or possession of the United States.

(14) The term "United States", when used in the geographic sense, means all of the States.

Sec. 4. Testing of Chemical Substances and Mixtures.

(a) Testing Requirements.—If the Administrator finds that—

(1)(A)(i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or any combination of such activities, may present an unreasonable risk of injury to health or the environment,

(ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or

(B)(i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,

(ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; and

(2) in the case of a mixture, the effects which the mixture's manufacture, distribution in commerce, processing, use, or disposal or any combination of such activities may have on health or the environment may not be reasonably and more efficiently determined or predicted by testing the chemical substances which comprise the mixture;

the Administrator shall by rule require that testing be conducted on such substance or mixture to develop data with respect to the health and environmental effects for which there is an insufficiency of data and experience and which are relevant to a determination that the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture, or that any combination of such activities, does or does not present an unreasonable risk of injury to health or the environment.

(b)(1) Testing Requirement Rule.—A rule under subsection (a) shall include—

(A) identification of the chemical substance or mixture for which testing is required under the rule,

(B) standards for the development of test data for such substance or mixture, and

(C) with respect to chemical substances which are not new chemical substances and to mixtures, a specification of the period (which period may not be of unreasonable duration) within which the persons required to conduct the testing shall submit to the Administrator data developed in accordance with the standards referred to in subparagraph (B).

In determining the standards and period to be included, pursuant to subparagraphs (B) and (C), in a rule under subsection (a), the Administrator's considerations shall include the relative costs of the various test protocols and methodologies which may be required under the rule and the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule. Any such rule may require the submission to the Administrator of preliminary data during the period prescribed under subparagraph (C).

(2)(A) The health and environmental effects for which standards for the development of test data may be prescribed include carcinogenesis, mutagenesis, teratogenesis, behavioral disorders, cumulative or synergistic effects, and any other effect which may present an unreasonable risk of injury to health or the environment. The characteristics of chemical substances and mixtures for which such standards may be prescribed include persistence, acute toxicity, subacute toxicity, chronic toxicity, and any other characteristic which may present such a risk. The methodologies that may be prescribed in such standards include epidemiologic studies, serial or hierarchical tests, in vitro tests, and whole animal tests, except that before prescribing epidemiologic studies of employees, the Administrator shall consult with the Director of the National Institute for Occupational Safety and Health.

(B) From time to time, but not less than once each 12 months, the Administrator shall review the adequacy of the standards for development of data prescribed in rules under subsection (a) and shall, if necessary, institute proceedings to make appropriate revisions of such standards.

(3)(A) A rule under subsection (a) respecting a chemical substance or mixture shall require the persons described in subparagraph (B) to conduct tests and submit data to the Administrator on such substance or mixture, except that the Administrator may permit two or more of such persons to designate one such person or a qualified third party to conduct such tests and submit such data on behalf of the persons making the designation.

(B) The following persons shall be required to conduct tests and submit data on a chemical substance or mixture subject to a rule under subsection (a):

(i) Each person who manufactures or intends to manufacture such substance or mixture if the Administrator makes a finding described in subsection (a)(1)(A)(ii) or (a)(1)(B)(ii) with respect to the manufacture of such substance or mixture.

(ii) Each person who processes or intends to process such substance or mixture if the Administrator makes a finding described in subsection (a)(1)(A)(ii) or (a)(1)(B)(ii) with respect to the processing of such substance or mixture.

(iii) Each person who manufactures or processes or intends to manufacture or process such substance or mixture if the Administrator makes a finding described in subsection (a)(1)(A)(ii) or (a)(1)(B)(ii) with respect to the distribution in commerce, use, or disposal of such substance or mixture.

(4) Any rule under subsection (a) requiring the testing of and submission of data for a particular chemical substance or mixture shall expire at the end of the reimbursement period (as defined in subsection (c)(3)(B)) which is applicable to test data for such substance or mixture unless the Administrator repeals the rule before such date; and a rule under subsection (a) requiring the testing of and submission of data for a category of chemical substances or mixtures shall expire with respect to a chemical substance or mixture included in the category at the end of the reimbursement period (as so defined) which is applicable to test data for such substance or mixture unless the Administrator before such date repeals the application of the rule to such substance or mixture or repeals the rule.

(5) Rules issued under subsection (a) (and any substantive amendment thereto or repeal thereof) shall be promulgated pursuant to section 553 of title 5, United States Code, except that (A) the Administrator shall give interested persons an opportunity for the oral presentation of data, "views, or arguments, in addition to an opportunity to make written submissions; (B) a transcript shall be made of any oral presentation; and (C) the Administrator shall make and publish with the rule the findings described in paragraph (1)(A) or (1)(B) of subsection (a) and, in the case of a rule respecting a mixture, the finding described in paragraph (2) of such subsection.

(c) Exemption.—(1) Any person required by a rule under subsection (a) to conduct tests and submit data on a chemical substance or mixture may apply to the Administrator (in such form and manner as the Administrator shall prescribe) for an exemption from such requirement.

(2) If, upon receipt of an application under paragraph (1), the Administrator determines that—

(A) the chemical substance or mixture with respect to which such application was submitted is equivalent to a chemical substance or mixture for which data has been submitted to the Administrator in accordance with a rule under subsection (a) or for which data is being developed pursuant to such a rule, and

(B) submission of data by the applicant on such substance or mixture would be duplicative of data which has been submitted to the Administrator in accordance with such rule or which is being developed pursuant to such rule,

the Administrator shall exempt, in accordance with paragraph (3) or (4), the applicant from conducting tests and submitting data on such substance or mixture under the rule with respect to which such application was submitted.

(3) (A) If the exemption under paragraph (2) of any person from the requirement to conduct tests and submit test data on a chemical substance or mixture is granted on the basis of the existence of previously submitted test data and if such exemption is granted during the reimbursement period for such test data (as prescribed by subparagraph (B)), then (unless such person and the persons referred to in clauses (i) and (ii) agree on the amount and method of reimbursement) the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement (in an amount determined under rules of the Administrator)—

(i) to the person who previously submitted such test data, for a portion of the costs incurred by such person in complying with the requirement to submit such data, and

(ii) to any other person who has been required under this subparagraph to contribute with respect to such costs, for a portion of the amount such person was required to contribute.

In promulgating rules for the determination of fair and equitable reimbursement to the persons described in clauses (i) and (ii) for costs incurred with respect to a chemical substance or mixture, the Administrator shall, after consultation with the Attorney General and the Federal Trade Commission, consider all relevant factors, including the effect on the competitive position of the person required to provide reimbursement in relation to the person to be reimbursed and the share of the market for such substance or mixture of the person required to provide reimbursement in relation to the share of such market of the persons to be reimbursed. An order under this subparagraph shall, for purposes of judicial review, be considered final agency action.

(B) For purposes of subparagraph (A), the reimbursement period for any test data for a chemical substance or mixture is a period—

(i) beginning on the date such data is submitted in accordance with a rule promulgated under subsection (a), and

(ii) ending—

(I) five years after the date referred to in clause (i), or

(II) at the expiration of a period which begins on the date referred to in clause (i) and which is equal to the period which the Administrator determines was necessary to develop such data,

whichever is later.

(4) (A) If the exemption under paragraph (2) of any person from the requirement to conduct tests and submit test data on a chemical substance or mixture is granted on the basis of the fact that test data is being developed by one or more persons pursuant to a rule promulgated under subsection (a), then (unless such person and the persons referred to in clauses (i) and (ii) agree on the amount and method of reimbursement) the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement (in an amount determined under rules of the Administrator)—

(i) to each such person who is developing such test data, for a portion of the costs incurred by each such person in complying with such rule, and

(ii) to any other person who has been required under this subparagraph to contribute with respect to the costs of complying with such rule, for a portion of the amount such person was required to contribute.

In promulgating rules for the determination of fair and equitable reimbursement to the persons described in clauses (i) and (ii) for costs incurred with respect to a chemical substance or mixture, the Administrator shall, after consultation with the Attorney General and the Federal Trade Commission, consider the factors described in the second sentence of paragraph (3) (A). An order under this subparagraph shall, for purposes of judicial review, be considered final agency action.

(B) If any exemption is granted under paragraph (2) on the basis of the fact that one or more persons are developing test data pursuant to a rule promulgated under subsection (a) and if after such exemption is granted the Administrator determines that no such person has complied with such rule, the Administrator shall (i) after providing written notice to the person who holds such exemption and an opportunity for a hearing, by order terminate such exemption, and (ii) notify in writing such person of the requirements of the rule with respect to which such exemption was granted.

(d) NOTICE.—Upon the receipt of any test data pursuant to a rule under subsection (a), the Administrator shall publish a notice of the receipt of such data in the Federal Register within 15 days of its receipt. Subject to section 14, each such notice shall (1) identify the chemical substance or mixture for which data have been received; (2) list the uses or intended uses of such substance or mixture and the information required by the applicable standards for the development of test data; and (3) describe the nature of the test data developed. Except as otherwise, provided in section 14, such data shall be made available by the Administrator for examination by any person.

(e) PRIORITY LIST.—(1) (A) There is established a committee to make recommendations to the Administrator respecting the chemical substances and mixtures to which the Administrator should give priority consideration for the promulgation of a rule under subsection (a). In making such a recommendation with respect to any chemical substance or mixture, the committee shall consider all relevant factors, including—

(i) the quantities in which the substance or mixture is or will be manufactured,

(ii) the quantities in which the substance or mixture enters or will enter the environment,

(iii) the number of individuals who are or will be exposed to the substance or mixture in their places of employment and the duration of such exposure,

(iv) the extent to which human beings are or will be exposed to the substance or mixture,

(v) the extent to which the substance or mixture is closely related to a chemical substance or mixture which is known to present an unreasonable risk of injury to health or the environment,

(vi) the existence of data concerning the effects of the substance or mixture on health or the environment,

(vii) the extent to which testing of the substance or mixture may result in the development of data upon which the effects of the substance or mixture on health or the environment can reasonably be determined or predicted, and

(viii) the reasonably foreseeable availability of facilities and personnel for performing testing on the substance or mixture. The recommendations of the committee shall be in the form of a list of chemical substances and mixtures which shall be set forth, either by individual substance or mixture or by groups of substances or mixtures, in the order in which the committee determines the Administrator should take action under subsection (a) with respect to the substances and mixtures. In establishing such list, the committee shall give priority attention to those chemical substances and mixtures which are known to cause or contribute to or which are suspected of causing or contributing to cancer, gene mutations, or birth defects. The committee shall designate chemical substances and mixtures on the list with respect to which the committee determines the Administrator should, within 12 months of the date on which such substances and mixtures are first designated, initiate a proceeding under subsection (a). The total number of chemical substances and mixtures on the list which are designated under the preceding sentence may not, at any time, exceed 50.

(B) As soon as practicable but not later than nine months after the effective date of this Act, the committee shall publish in the Federal Register and transmit to the Administrator the list and designations required by subparagraph (A) together with the reasons for the committee's inclusion of each chemical substance or mixture on the list. At least every six months after the date of the transmission to the Administrator of the list pursuant to the preceding sentence, the committee shall make such revisions in the list as it determines to be necessary and shall transmit them to the Administrator together with the committee's reasons for the revisions. Upon receipt of any such revision, the Administrator shall publish in the Federal Register the list with such revision, the reasons for such revision, and the designations made under subparagraph (A). The Administrator shall provide reasonable opportunity to any interested person to file with the Administrator written comments on the committee's list, any revision of such list by the committee, and designations made by the committee, and shall make such comments available to the public. Within the 12-month period beginning on the date of the first inclusion on the list of a chemical substance or mixture designated by the committee under subparagraph (A) the Administrator shall with respect to such chemical substance or mixture either initiate a rulemaking proceeding under subsection (a) or if such a proceeding is not initiated within such period, publish in the Federal Register the Administrator's reason for not initiating such a proceeding.

(2) (A) The committee established by paragraph (1) (A) shall consist of eight members as follows:

(i) One member appointed by the Administrator from the Environmental Protection Agency.

(ii) One member appointed by the Secretary of Labor from officers or employees of the Department of Labor engaged in the Secretary's activities under the Occupational Safety and Health Act of 1970.

(iii) One member appointed by the Chairman of the Council on Environmental Quality from the Council or its officers or employees.

(iv) One member appointed by the Director of the National Institute for Occupational Safety and Health from officers or employees of the Institute.

(v) One member appointed by the Director of the National Institute of Environmental Health Sciences from officers or employees of the Institute.

(vi) One member appointed by the Director of the National Cancer Institute from officers or employees of the Institute.

(vii) One member appointed by the Director of the National Science Foundation from officers or employees of the Foundation.

(viii) One member appointed by the Secretary of Commerce from officers or employees of the Department of Commerce.

(B) (i) An appointed member may designate an individual to serve on the committee on the member's behalf. Such a designation may be made only with the approval of the applicable appointing authority and only if the individual is from the entity from which the member was appointed.

(ii) No individual may serve as a member of the committee for more than four years in the aggregate. If any member of the committee leaves the entity from which the member was appointed, such member may not continue as a member of the committee, and the member's position shall be considered to be vacant. A vacancy in the committee shall be filled in the same manner in which the original appointment was made.

(iii) Initial appointments to the committee shall be made not later than the 60th day after the effective date of this Act. Not later than the 90th day after such date the members of the committee shall hold a meeting for the selection of a chairperson from among their number.

(C) (i) No member of the committee, or designee of such member, shall accept employment or compensation from any person subject to any requirement of this Act or of any rule promulgated or order issued thereunder, for a period of at least 12 months after termination of service on the committee.

(ii) No person, while serving as a member of the committee, or designee of such member, may own any stocks or bonds, or have any pecuniary interest, of substantial value in any person engaged in the manufacture, processing, or distribution in commerce of any chemical substance or mixture subject to any requirement of this Act or of any rule promulgated or order issued thereunder.

(iii) The Administrator, acting through attorneys of the Environmental Protection Agency, or the Attorney General may bring an action in the appropriate district court of the United States to restrain any violation of this subparagraph.

(D) The Administrator shall provide the committee such administrative support services as may be necessary to enable the committee to carry out its function under this subsection.

(f) REQUIRED ACTIONS.—Upon the receipt of—

(1) any test data required to be submitted under this Act, or

(2) any other information available to the Administrator,

which indicates to the Administrator that there may be a reasonable basis to conclude that a chemical substance or mixture presents or will present a significant risk of serious or widespread harm to human beings from cancer, gene mutations, or birth defects, the Administrator shall, within the 180-day period beginning on the date of the receipt of such data or information, initiate appropriate action under section 5, 6, or 7 to prevent or reduce to a sufficient extent such risk or publish in the Federal Register a finding that such risk is not unreasonable. For good cause shown the Administrator may extend such period for an additional period of not more than 90 days. The Administrator shall publish in the Federal Register notice of any such extension and the reasons therefor. A finding by the Administrator that a risk is not unreasonable shall be considered agency action for purposes of judicial review under chapter 7 of title 5, United States Code. This subsection shall not take effect until two years after the effective date of this Act.

(g) PETITION FOR STANDARDS FOR THE DEVELOPMENT OF TEST DATA.—A person intending to manufacture or process a chemical substance for which notice is required under section 5(a) and who is not required under a rule under subsection (a) to conduct tests and submit data on such substance may petition the Administrator to prescribe standards for the development of test data for such substance. The Administrator shall by order either grant or deny any such petition within 60 days of its receipt. If the petition is granted, the Administrator shall prescribe such standards for such substance within 75 days of the date the petition is granted. If the petition is denied, the Administrator shall publish, subject to section 14, in the Federal Register the reasons for such denial.

SEC. 5. MANUFACTURING AND PROCESSING NOTICES.

(a) IN GENERAL.—(1) Except as provided in subsection (h), no person may—

(A) manufacture a new chemical substance on or after the 30th day after the date on which the Administrator first publishes the list required by section 8(b), or

(B) manufacture or process any chemical substance for a use which the Administrator has determined, in accordance with paragraph (2), is a significant new use,

unless such person submits to the Administrator, at least 90 days before such manufacture or processing, a notice, in accordance with subsection (d), of such person's intention to manufacture or process such substance and such person complies with any applicable requirement of subsection (b).

2. A determination by the Administrator that a use of a chemical substance is a significant new use with respect to which notification is required under paragraph (1) shall be made by a rule promulgated after a consideration of all relevant factors, including—

(A) the projected volume of manufacturing and processing of a chemical substance,

(B) the extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance,

(C) the extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance, and

(D) the reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

(b) SUBMISSION OF TEST DATA.—(1) (A) If (i) a person is required by subsection (a) (1) to submit a notice to the Administrator before beginning the manufacture or processing of a chemical substance, and (ii) such person is required to submit test data for such substance pursuant to a rule promulgated under section 4 before the submission of such notice, such person shall submit to the Administrator such data in accordance with such rule at the time notice is submitted in accordance with subsection (a) (1).

(B) If—

(i) a person is required by subsection (a) (1) to submit a notice to the Administrator, and

(ii) such person has been granted an exemption under section 4(c) from the requirements of a rule promulgated under section 4 before the submission of such notice, such person may not, before the expiration of the 90 day period which begins on the date of the submission in accordance with such rule of the test data the submission or development of which was the basis for the exemption, manufacture such substance if such person is subject to subsection (a) (1) (A) or manufacture or process such substance for a significant new use if the person is subject to subsection (a) (1) (B).

(2) (A) If a person—

(i) is required by subsection (a) (1) to submit a notice to the Administrator before beginning the manufacture or processing of a chemical substance listed under paragraph (4), and

(ii) is not required by a rule promulgated under section 4 before the submission of such notice to submit test data for such substance,

such person shall submit to the Administrator data prescribed by subparagraph (B) at the time notice is submitted in accordance with subsection (a) (1).

(B) Data submitted pursuant to subparagraph (A) shall be data which the person submitting the data believes show that—

(i) in the case of a substance with respect to which notice is required under subsection (a) (1) (A), the manufacture, processing, distribution in commerce, use, and disposal of the chemical substance or any combination of such activities will not present an unreasonable risk of injury to health or the environment, or

(ii) in the case of a chemical substance with respect to which notice is required under subsection (a) (1) (B), the intended significant new use of the chemical substance will not present an unreasonable risk of injury to health or the environment.

(3) Data submitted under paragraph (1) or (2) shall be made available, subject to section 14, for examination by interested persons.

(4) (A) (i) The Administrator may, by rule, compile and keep current a list of chemical substances with respect to which the Administrator finds that the manufacture, processing, distribution in commerce, use, or disposal, or any combination of such activities, presents or may present an unreasonable risk of injury to health or the environment.

(ii) In making a finding under clause (i) that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or any combination of such activities presents or may present an unreasonable risk of injury to health or the environment, the Administrator shall consider all relevant factors, including—

(I) the effects of the chemical substance on health and the magnitude of human exposure to such substance; and

(II) the effects of the chemical substance on the environment and the magnitude of environmental exposure to such substance.

(B) The Administrator shall, in prescribing a rule under subparagraph (A) which lists any chemical substance, identify those uses, if any, which the Administrator determines, by rule under subsection (a) (2), would constitute a significant new use of such substance

(C) Any rule under subparagraph (A), and any substantive amendment or repeal of such a rule, shall be promulgated pursuant to the procedures specified in section 553 of title 5, United States Code, except that (i) the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions, (ii) a transcript shall be kept of any oral presentation, and (iii) the Administrator shall make and publish with the rule the finding described in subparagraph (A).

(c) EXTENSION OF NOTICE PERIOD.—The Administrator may for good cause extend for additional periods (not to exceed in the aggregate 90 days) the period, prescribed by subsection (a) or (b) before which the manufacturing or processing of a chemical substance subject to such subsection may begin. Subject to section 14, such an extension and the reasons therefor shall be published in the Federal Register and shall constitute a final agency action subject to judicial review.

(d) CONTENT OF NOTICE; PUBLICATIONS IN THE FEDERAL REGISTER.—(1) The notice required by subsection (a) shall include—

(A) insofar as known to the person submitting the notice or insofar as reasonably ascertainable, the information described in subparagraphs (A), (B), (C), (D), (F), and (G) of section 8(a) (2), and

(B) in such form and manner as the Administrator may prescribe, any test data in the possession or control of the person giving such notice which are related to the effect of any manufacture, processing, distribution in commerce, use, or disposal of such substance or any article containing such substance, or of any combination of such activities, on health or the environment, and

(C) a description of any other data concerning the environmental and health effects of such substance, insofar as known to the person making the notice or insofar as reasonably ascertainable.

Such a notice shall be made available, subject to section 14, for examination by interested persons.

(2) Subject to section 14, not later than five days (excluding Saturdays, Sundays and legal holidays) after the date of the receipt of a notice under subsection (a) or of data under subsection (b), the Administrator shall publish in the Federal Register a notice which—

(A) identifies the chemical substance for which notice or data has been received;

(B) lists the uses or intended uses of such substance; and

(C) in the case of the receipt of data under subsection (b), describes the nature of the tests performed on such substance and any data which was developed pursuant to subsection (b) or a rule under section 4.

A notice under this paragraph respecting a chemical substance shall identify the chemical substance by generic class unless the Administrator determines that more specific identification is required in the public interest.

(3) At the beginning of each month the Administrator shall publish a list in the Federal Register of (A) each chemical substance for which notice has been received under subsection (a) and for which the notification period prescribed by subsection (a), (b), or (c) has not expired, and (B) each chemical substance for which such notification period has expired since the last publication in the Federal Register of such list.

(e) Regulation Pending Development of Information.—(1) (A) If the Administrator determines that—

(i) the information available to the Administrator is insufficient to permit a reasoned evaluation of the health and environmental effects of a chemical substance with respect to which notice is required by subsection (a); and

(ii) (I) in the absence of sufficient information to permit the Administrator to make such an evaluation, the manufacture, processing, distribution in commerce, use, or disposal of such substance, or any combination of such activities, may present an unreasonable risk of injury to health or the environment, or

(II) such substance is or will be produced in substantial quantities, and such substance either enters or may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant or substantial human exposure to the substance,

the Administrator may issue a proposed order, to take effect on the expiration of the notification period applicable to the manufacturing or processing of such substance under subsection (a), (b), or (c), to prohibit or limit the manufacture, processing, distribution in commerce, use, or disposal of such substance or to prohibit or limit any combination of such activities.

(B) A proposal order may not be issued under subparagraph (A) respecting a chemical substance (i) later than 45 days before the expiration of the notification period applicable to the manufacture or processing of such substance under subsection (a), (b), or (c), and (ii) unless the Administrator has, on or before the issuance of the proposed order, notified, in writing, each manufacturer or processor, as the case may be, of such substance of the determination which underlies such order.

(C) If a manufacturer or processor of a chemical substance to be subject to a proposed order issued under subparagraph (A) files with the Administrator (within the 30-day period beginning on the date such manufacturer or processor received the notice required by subparagraph (B) (ii)) objections specifying with particularity the provisions of the order deemed objectionable and stating the grounds therefor, the proposed order shall not take effect.

(2) (A) (i) Except as provided in clause (ii), if with respect to a chemical substance with respect to which notice is required by subsection (a), the Administrator makes the determination described in paragraph (1) (A) and if—

(I) the Administrator does not issue a proposed order under paragraph (1) respecting such substance, or

(II) the Administrator issues such an order respecting such substance but such order does not take effect because objections were filed under paragraph (1) (c) with respect to it,

the Administrator through attorneys of the Environmental Protection Agency (shall apply to the United States District Court for the District of Columbia or the United States district court for the judicial district in which the manufacturer or processor, as the case may be, of such substance is found, resides, or transacts business for an injunction to prohibit or limit the manufacture, processing, distribution in commerce, use, or disposal of such substance (or to prohibit or limit any combination of such activities).

(ii) If the Administrator issues a proposed order under paragraph (1) (A) respecting a chemical substance but such order does not take effect because objections have been filed under paragraph (1) (c) with respect to it, the Administrator is not required to apply for an injunction under clause (i) respecting such substance if the Administrator determines, on the basis of such objections, that the determinations under paragraph (1) (A) may not be made.

(B) A district court of the United States which receives an application under subparagraph (A) (i) for an injunction respecting a chemical substance shall issue such injunction if the court finds that—

(i) the information available to the Administrator is insufficient to permit a reasoned evaluation of the health and environmental effects of a chemical substance with respect to which notice is required by subsection (2); and

(ii) (I) in the absence of sufficient information to permit the Administrator to make such an evaluation, the manufacture, processing, distribution in commerce, use, or disposal of such substance, or any combination of such activities, may present an unreasonable risk of injury to health or the environment, or

(II) such substance is or will be produced in substantial quantities, and such substance either enters or may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant or substantial human exposure to the substance.

(C) Pending the completion of a proceeding for the issuance of an injunction under subparagraph (B) respecting a chemical substance, the court may, upon application of the Administrator made through attorneys of the Environmental Protection Agency, issue a temporary restraining order or a preliminary injunction to prohibit the manufacture, processing, distribution in commerce, use or disposal of such a substance (or any combination of such activities) if the court finds that the notification period applicable under subsection (a), (b), or (c) to the manufacturing or processing of such substance may expire before such proceeding can be completed.

(D) After the submission to the Administrator of test data sufficient to evaluate the health and environmental effects of a chemical substance subject to an injunction issued under subparagraph (B) and the evaluation of such data by the Administrator, the district court of the United States which issued such injunction shall, upon petition, dissolve the injunction unless the Administrator has initiated a proceeding for the issuance of a rule under section 6(a) respecting the substance. If such a proceeding has been initiated, such court shall continue the injunction in effect until the effective date of the rule promulgated in such proceeding or, if such proceeding is terminated without the promulgation of a rule, upon the termination of the proceeding, whichever occurs first.

(f) Protection Against Unreasonable Risks.—(1) If the Administrator finds that there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance with respect to which notice is required by subsection (a), or that any combination of such activities, presents or will present an unreasonable risk of injury to health or environment before a rule promulgated under section 6 can protect against such risk, the Administrator shall, before the expiration of the notification period applicable under subsection (a), (b), or (c) to the manufacturing or processing of such substance, take the action authorized by paragraph (2) or (3) to the extent necessary to protect against such risk.

(2) The Administrator may issue a proposed rule under section 6(a) to apply to a chemical substance with respect to which a finding was made under paragraph (1)—

(A) a requirement limiting the amount of such substance which may be manufactured, processed, or distributed in commerce,

(B) a requirement described in paragraph (2), (3), (4), (5), (6), or (7) of section 6(a), or

(C) any combination of the requirements referred to in subparagraph (B).

Such a proposed rule shall be effective upon its publication in the Federal Register. Section 6(d) (2) (B) shall apply with respect to such rule.

(3) (A) The Administrator may—

(i) issue a proposed order to prohibit the manufacture, processing, or distribution in commerce of a substance with respect to which a finding was made under paragraph (1), or

(ii) apply, through attorneys of the Environmental Protection Agency, to the United States District Court for the District of Columbia or the United States district court for the judicial district in which the manufacturer, or processor, as the case may be, of such substance, is found, resides, or transacts business for an injunction to prohibit the manufacture, processing, or distribution in commerce of such substance.

A proposed order issued under clause (i) respecting a chemical substance shall take effect on the expiration of the notification period applicable under subsection (a), (b), or (c) to the manufacture or processing of such substance.

(B) If the district court of the United States to which an application has been made under subparagraph (A) (ii) finds that there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance with respect to which such application was made, or that any combination of such activities, presents or will present an unreasonable risk of injury to health or the environment before a rule promulgated under section 6 can protect against such risk, the court shall issue an injunction to prohibit the manufacture, processing, or distribution in commerce of such substance or to prohibit any combination of such activities.

(C) The provisions of subparagraphs (B) and (C) of subsection (c) (1) shall apply with respect to an order issued under clause

(i) of subparagraph (A); and the provisions of subparagraph (C) of subsection (e)(2) shall apply with respect to an injunction issued under subparagraph (B).

(D) If the Administrator issues an order pursuant to subparagraph (A)(i) respecting a chemical substance and objections are filed in accordance with subsection (e)(1)(C), the Administrator shall seek an injunction under subparagraph (A)(ii) respecting such substance unless the Administrator determines, on the basis of such objections, that such substance does not or will not present an unreasonable risk of injury to health or the environment.

(g) Statement of Reason for Not Taking Action.—If the Administrator has not initiated any action under this section or section 6 or 7 to prohibit or limit the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance, with respect to which notification or data is required by subsection (a)(1)(B) or (b), before the expiration of the notification period applicable to the manufacturing or processing of such substance, the Administrator shall publish a statement of the Administrator's reasons for not initiating such action. Such a statement shall be published in the Federal Register before the expiration of such period. Publication of such statement in accordance with the preceding sentence is not a prerequisite to the manufacturing or processing of the substance with respect to which the statement is to be published.

(h) Exemptions.—(1) The Administrator may, upon application, exempt any person from any requirement of subsection (a) or (b) to permit such person to manufacture or process a chemical substance for test marketing purposes—

(A) upon a showing by such person satisfactory to the Administrator that the manufacture, processing, distribution in commerce, use, and disposal of such substance, and that any combination of such activities, for such purposes will not present any unreasonable risk of injury to health or the environment, and

(B) under such restrictions as the Administrator considers appropriate.

(2)(A) The Administrator may, upon application, exempt any person from the requirement of subsection (b)(2) to submit data for a chemical substance. If, upon receipt of an application under the preceding sentence, the Administrator determines that—

(i) the chemical substance with respect to which such application was submitted is equivalent to a chemical substance for which data has been submitted to the Administrator as required by subsection (b)(2), and

(ii) submission of data by the applicant on such substance would be duplicative of data which has been submitted to the Administrator in accordance with such subsection,

the Administrator shall exempt the applicant from the requirement to submit such data on such substance. No exemption which is granted under this subparagraph with respect to the submission of data for a chemical substance may take effect before the beginning of the reimbursement period applicable to such data.

(B) If the Administrator exempts any person, under subparagraph (A), from submitting data required under subsection (b)(2) for a chemical substance because of the existence of previously submitted data and if such exemption is granted during the reimbursement period for such data, then (unless such person and the persons referred to in clauses (i) and (ii) agree on the amount and method of reimbursement) the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement (in an amount determined under rules of the Administrator)—

(i) to the person who previously submitted the data on which the exemption was based, for a portion of the costs incurred by such person in complying with the requirement under subsection (b)(2) to submit such data, and

(ii) to any other person who has been required under this subparagraph to contribute with respect to such costs, for a portion of the amount such person was required to contribute.

In promulgating rules for the determination of fair and equitable reimbursement to the persons described in clauses (i) and (ii) for costs incurred with respect to a chemical substance, the Administrator shall, after consultation with the Attorney General and the Federal Trade Commission, consider all relevant factors, including the effect on the competitive position of the person required to provide reimbursement in relation to the person to be reimbursed and the share of the market for such substance of the person required to provide reimbursement in relation to the share of such market of the persons to be reimbursed. For purposes of a judicial review, an order under this subparagraph shall be considered final agency action.

(C) For purposes of this paragraph, the reimbursement period for any previously submitted data for chemical substance is a period—

(i) beginning on the date of the termination of the prohibition, imposed under this section, on the manufacture or processing of such substance by the person who submitted such data to the Administrator, and

(ii) ending—

(I) five years after the date referred to in clause (i), or

(II) at the expiration of a period which begins on the date referred to in clause (i) and is equal to the period which the Administrator determines was necessary to develop such data,

whichever is later.

(3) The requirements of subsections (a) and (b) do not apply with respect to the manufacturing or processing of any chemical substance which is manufactured or processed, or proposed to be manufactured or processed, only in small quantities (as defined by the Administrator by rule) solely for purposes of—

(A) scientific experimentation or analysis, or

(B) chemical research on, or analysis of such substance or another substance, including such research or analysis for the development of a product,

if all persons engaged in such experimentation, research, or analysis for a manufacturer or processor are notified (in such form and manner as the Administrator may prescribe) of any risk to health which the manufacturer, processor, or the Administrator has reason to believe may be associated with such chemical substance.

(4) The Administrator may, upon application and by rule, exempt the manufacturer of any new chemical substance from all or part of the requirements of this section if the Administrator determines that the manufacture, processing, distribution in commerce, use, or disposal of such chemical substance, or that any combination of such activities, will not present an unreasonable risk of injury to health or the environment. A rule promulgated under this paragraph (and any substantive amendment to, or repeal of, such a rule) shall be promulgated in accordance with paragraphs (2) and (3) of section 6(c).

(5) The Administrator may, upon application, make the requirements of subsections (a) and (b) inapplicable with respect to the manufacturing or processing of any chemical substance (A) which exists temporarily as a result of a chemical reaction in the manufacturing or processing of a mixture or another chemical substance, and (B) to which there is no, and will not be, human or environmental exposure.

(6) Immediately upon receipt of an application under paragraph (1) or (5) the Administrator shall publish in the Federal Register notice of the receipt of such application. The Administrator shall give interested persons an opportunity to comment upon any such application and shall, within 45 days of its receipt, either approve or deny the application. The Administrator shall publish in the Federal Register notice of the approval or denial of such an application.

(i) Definition.—For purposes of this section, the terms "manufacture" and "process" means manufacturing or processing for commercial purposes.

Sec. 6. Regulation of Hazardous Chemical Substances and Mixtures.

(a) Scope of Regulation.—If the Administrator finds that there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture, or that any combination of such activities, presents or will present an unreasonable risk of injury to health or the environment, the Administrator shall by rule apply one or more of the following requirements to such substance or mixture to the extent necessary to protect adequately against such risk using the least burdensome requirements:

(1) A requirement (A) prohibiting the manufacturing, processing, or distribution in commerce of such substance or mixture, or (B) limiting the amount of such substance or mixture which may be manufactured, processed, or distributed in commerce.

(2) A requirement—

(A) prohibiting the manufacture, processing, or distribution in commerce of such substance or mixture for (i) a particular use or (ii) a particular use in a concentration in excess of a level specified by the Administrator in the rule imposing the requirement, or

(B) limiting the amount of such substance or mixture which may be manufactured, processed, or distributed in commerce for (i) a particular use or (ii) a particular use in a concentration in excess of a level specified by the Administrator in the rule imposing the requirement.

(3) A requirement that such substance or mixture or any article containing such substance or mixture be marked with or accompanied by clear and adequate warnings and instructions with respect to its use, distribution in commerce, or disposal or with respect to any combination of such activities. The form and content of such warnings and instructions shall be prescribed by the Administrator.

(4) A requirement that manufacturers and processors of such substance or mixture make and retain records of the processes used to manufacture or process such substance or mixture and monitor or conduct tests which are reasonable and necessary to assure compliance with the requirements of any rule applicable under this subsection.

(5) A requirement prohibiting or otherwise regulating any manner or method of commercial use of such substance or mixture.

(6)(A) A requirement prohibiting or otherwise regulating any manner or method of disposal of such substance or mixture, or of any article containing such substance or mixture, by its manufacturer or processor or by any other person who uses, or disposes of, it for commercial purposes.

(B) A requirement under subparagraph (A) may not require any person to take any action which would be in violation of any law or requirement of, or in effect for, a State or political subdivision, and shall require each person subject to it to notify each State and political subdivision in which a required disposal may occur of such disposal.

(7) A requirement directing manufacturers or processors of such substance or mixture (A) to give notice of such unreasonable risk of injury to distributors in commerce of such substance or mixture and, to the extent reasonably ascertainable, to other persons in possession of such substance or mixture or exposed to such substance or mixture, (B) to give public notice of such risk of injury, and (C) to replace or repurchase such substance or mixture as elected by the person to which the requirement is directed.

Any requirement (or combination of requirements) imposed under this subsection may be limited in application to specified geographic areas.

(b) Quality Control.—If the Administrator has a reasonable basis to conclude that a particular manufacturer or processor is manufacturing or processing a chemical substance or mixture in a manner which unintentionally causes the chemical substance or mixture to present or which will cause it to present an unreasonable risk of injury to health or the environment—

(1) the Administrator may by order require such manufacturer or processor to submit a description of the relevant quality control procedures followed in the manufacturing or processing of such chemical substance or mixture; and

(2) if the Administrator determines—

(A) that such quality control procedures are inadequate to prevent the chemical substance or mixture from presenting such risk of injury, the Administrator may order the manufacturer or processor to revise such quality control procedures to the extent necessary to remedy such inadequacy; or

(B) that the use of such quality control procedures has resulted in the distribution in commerce of chemical substances or mixtures which present an unreasonable risk of injury to health or the environment, the Administrator may order the manufacturer or processor to (i) give notice of such risk to processors or distributors in commerce of any such substance or mixture, or to both, and, to the extent reasonably ascertainable, to any other person in possession of or exposed to any such substance, (ii) to give public notice of such risk, and (iii) to provide such replacement or repurchase of any such substance or mixture as is necessary to adequately protect health or the environment.

A determination under subparagraph (A) or (B) of paragraph (2) shall be made on the record after opportunity for hearing in accordance with section 554 of title 5, United States Code. Any manufacturer or processor subject to a requirement to replace or repurchase a chemical substance or mixture may elect either to replace or repurchase the substance or mixture and shall take either such action in the manner prescribed by the Administrator.

(c) Promulgation of Subsection *(a)* Rules.—(1) In promulgating any rule under subsection (a) with respect to a chemical substance or mixture, the Administrator shall consider and publish a statement with respect to—

(A) the effects of such substance or mixture on health and the magnitude of the exposure of human beings to such substance or mixture,

(B) the effects of such substance or mixture on the environment and the magnitude of the exposure of the environment to such substance or mixture.

(C) the benefits of such substance or mixture for various uses and the availability of substitutes for such uses, and

(D) the reasonably ascertainable economic consequences of the rule, after consideration of the effect on the national economy, small business, technological innovation, the environment, and public health.

If the Administrator determines that a risk of injury to health or the environment could be eliminated or reduced to a sufficient extent by actions taken under another Federal law (or laws) administered in whole or in part by the Administrator, the Administrator may not promulgate a rule under subsection (a) to protect against such risk of injury unless the Administrator finds, in the Administrator's discretion, that it is in the public interest to protect against such risk under this Act. In making such a finding the Administrator shall consider (i) all relevant aspects of the risk, as determined by the Administrator in the Administrator's discretion, (ii) a comparison of the estimated costs of complying with actions taken under this Act and under such law (or laws), and (iii) the relative effiicency of actions under this Act and under such law (or laws) to protect against such risk of injury.

(2) When prescribing a rule under subsection (a) the Administrator shall proceed in accordance with section 553 of title 5, United States Code (without regard to any reference in such section to sections 556 and 557 of such title), and shall also (A) publish a notice of proposed rulemaking stating with particularity the reason for the proposed rule; (B) allow interested persons to submit written data, views, and arguments, and make all such submissions publicly available; (C) provide an opportunity for an informal hearing in accordance with paragraph (3); (D) promulgate, if appropriate, a final rule based on the matter in the rulemaking record (as defined in section 19(a)), and (E) make and publish with the rule the finding described in subsection (a).

(3) Informal hearings required by paragraph (2)(C) shall be conducted by the Administrator in accordance with the following requirements:

(A) Subject to subparagraph (B), an interested person is entitled—

(i) to present such person's position orally or by documentary submissions (or both), and

(ii) if the Administrator determines that there are disputed issues of material fact it is necessary to resolve, to present such rebuttal submissions and to conduct (or have conducted under subparagraph (B)(ii)) such cross-examination of persons as the Administrator determines (I) to be appropriate, and (II) to be required for a full and true disclosure with respect to such issues.

(B) The Administrator may prescribe such rules and make such rulings concerning procedures in such hearings to avoid unnecessary costs or delay. Such rules or rulings may include (i) the imposition of reasonable time limits on each interested person's oral presentations, and (ii) requirements that any cross-examination to which a person may be entitled under subparagraph (A) be conducted by the Administrator on behalf of that person in such manner as the Administrator determines (I) to be appropriate, and (II) to be required for a full and true disclosure with respect to disputed issues of material fact.

(C)(i) Except as provided in clause (ii), if a group of persons each of whom under subparagraphs (A) and (B) would be entitled to conduct (or have conducted) cross-examination and who are determined by the Administrator to have the same or similar interests in the proceeding cannot agree upon a single representative of such interests for purposes of cross-examination, the Administrator may make rules and rulings (I) limiting the representation of such interest for such purposes, and (II) governing the manner in which such cross-examination shall be limited.

(ii) When any person who is a member of a group with respect to which the Administrator has made a determination under clause (i) is unable to agree upon group representation with the other members of the group, then such person shall not be denied under the authority of clause (i) the opportunity to conduct (or have conducted) cross-examination as to issues affecting the person's particular interests if (I) the person satisfies the Administrator that the person has made a reasonable and good faith effort to reach agreement upon group representation with the other members of the group and (II) the Administrator determines that there are substantial and relevant issues which are not adequately presented by the group representative.

(D) A verbatim transcript shall be taken of any oral presentation made, and cross-examination conducted in any informal hearing under this subsection. Such transcript shall be available to the public.

(4)(A) The Administrator may, pursuant to rules prescribed by the Administrator, provide compensation for reasonable attorneys' fees, expert witness fees, and other costs of participating in a rulemaking proceeding for the promulgation of a rule under subsection (a) to any person—

(i) who represents an interest which would substantially contribute to a fair determination of the issues to be resolved in the proceeding, and

(ii) if—

(I) the economic interest of such person is small in comparison to the costs of effective participation in the proceeding by such person, or

(II) such person demonstrates to the satisfaction of the Administrator that such person does not have sufficient resources adequately to participate in the proceeding without compensation under this subparagraph.

In determining for purposes of clause (i) if an interest will substantially contribute to a fair determination of the issues to be resolved in a proceeding, the Administrator shall take into account the number and complexity of such issues and the extent to which representation of such interest will contribute to widespread public participation in the proceeding and representation of a fair balance of interests for the resolution of such issues.

(B) In determining whether compensation should be provided to a person under subparagraph (A) and the amount of such compensation, the Administrator shall take into account the financial burden which will be incurred by such person in participating in the rulemaking proceeding. The Administrator shall take such action as may be necessary to ensure that the aggregate amount of compensation paid under this paragraph in any fiscal year to all persons who, in rulemaking proceedings in which they receive compensation, are persons who either—

(i) would be regulated by the proposed rule, or

(ii) represent persons who would be so regulated,

may not exceed 25 per centum of the aggregate amount paid as compensation under this paragraph to all persons in such fiscal year.

(5) Paragraphs (1), (2), (3) and (4) of this subsection apply to the promulgation of a rule repealing, or making a substantive amendment to, a rule promulgated under subsection (a).

(d) Effective Date.—(1) The Administrator shall specify in any rule under subsection (a) the date on which it shall take effect, which date shall be as soon as feasible.

(2)(A) The Administrator may declare a proposed rule under subsection (a) to be effective upon its publication in the Federal Register and until the effective date of final action taken, in accordance with subparagraph (B), respecting such rule if—

(i) the Administrator determines that—

(I) the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance or mixture subject to such proposed rule or any combination of such activities is likely to result in an unreasonable risk of serious or widespread injury to health or the environment before such effective date; and

(II) making such proposed rule so effective is necessary to protect the public interest; and

(ii) in the case of a proposed rule to prohibit the manufacture, processing, or distribution of a chemical substance or mixture because of the risk determined under clause (i)(I), a court has in an action under section 7 granted relief with respect to such risk associated with such substance or mixture.

Such a proposed rule which is made so effective shall not, for purposes of judicial review, be considered final agency action.

(B) If the Administrator makes a proposed rule effective upon its publication in the Federal Register, the Administrator shall, as expeditiously as possible, give interested persons prompt notice of such action, provide reasonable opportunity, in accordance with paragraphs (2) and (3) of subsection (c), for a hearing on such rule, and either promulgate such rule (as proposed or with modifications) or revoke it; and if such a hearing is requested, the Administrator shall commence the hearing within five days from the date such request is made unless the Administrator and the person making the request agree upon a later date for the hearing to begin, and after the hearing is concluded the Administrator shall, within ten days of the conclusion of the hearing, either promulgate such rule (as proposed or with modifications) or revoke it.

(e) POLYCHLORINATED BIPHENYLS.—(1) Within six months after the effective date of this Act the Administrator shall promulgate rules to—

(A) prescribe methods for the disposal of polychlorinated biphenyls, and

(B) require polychlorinated biphenyls to be marked with clear and adequate warnings and instructions with respect to their processing, distribution in commerce, use, or disposal or with respect to any combination of such activities.

Requirements prescribed by rules under this paragraph shall be consistent with the requirements of paragraphs (2) and (3).

(2)(A) Except as provided under subparagraph (B), effective one year after the effective date of this Act no person may manufacture, process, or distribute in commerce or use any polychlorinated biphenyl in any manner other than in a totally enclosed manner.

(B) The Administrator may by rule authorize the manufacture, processing, distribution in commerce, or use (or any combination of such activities) of any polychlorinated biphenyl in a manner other than in a totally enclosed-manner if the Administrator finds that such manufacture, processing, distribution in commerce, or use (or combination of such activities) will not present an unreasonable risk of injury to health or the environment.

(C) For the purposes of this paragraph, the term "totally enclosed manner" means any manner which will ensure that any exposure of human beings or the environment to a polychlorinated biphenyl will be insignificant as determined by the Administrator by rule.

(3)(A) Except as provided in subparagraphs (B) and (C)—

(i) no person may manufacture any polychlorinated biphenyl after two years after the effective date of this Act, and

(ii) no person may process or distribute in commerce any polychlorinated biphenyl after two and one-half years after such date.

(B) Any person may petition the Administrator for an exemption from the requirements of subparagraph (A), and the Administrator may grant by rule such an exemption if the Administrator finds that—

(i) an unreasonable risk of injury to health or environment would not result, and

(ii) good faith efforts have been made to develop a chemical substance which does not present an unreasonable risk of injury to health or the environment and which may be substituted for such polychlorinated biphenyl.

An exemption granted under this subparagraph shall be subject to such terms and conditions as the Administrator may prescribe and shall be in effect for such period (but not more than one year from the date it is granted) as the Administrator may prescribe.

(C) Subparagraph (A) shall not apply to the distribution in commerce of any polychlorinated biphenyl if such polychlorinated biphenyl was sold for purposes other than resale before two and one half years after the date of enactment of this Act.

(4) Any rule under paragraph (1), (2)(B), or (3)(B) shall be promulgated in accordance with paragraphs (2), (3), and (4) of subsection (c).

(5) This subsection does not limit the authority of the Administrator, under any other provision of this Act or any other Federal law, to take action respecting any polychlorinated biphenyl.

SEC. 7. IMMINENT HAZARDS.

(a) ACTIONS AUTHORIZED AND REQUIRED.—(1) The Administrator may commence a civil action in an appropriate district court of the United States—

(A) for seizure of an imminently hazardous chemical substance or mixture or any article containing such a substance or mixture,

(B) for relief (as authorized by subsection (b)) against any person who manufactures, processes, distributes in commerce, or uses, or disposes of, an imminently hazardous chemical substance or mixture or any article containing such a substance or mixture, or

(C) for both such seizure and relief.

A civil action may be commenced under this paragraph notwithstanding the existence of a rule under section 4, 5, or 6 or an order under section 5, and notwithstanding the pendency of any administrative or judicial proceeding under any provision of this Act.

(2) If the Administrator has not made a rule under section 6(a) immediately effective (as authorized by subsection 6(d)(2)(A)(i)) with respect to an imminently hazardous chemical substance or mixture, the Administrator shall commence in a district court of the United States with respect to such substance or mixture or article containing such substance or mixture a civil action described in subparagraph (A), (B) or (C) of paragraph (1).

(b) RELIEF AUTHORIZED.—(1) The district court of the United States in which an action under subsection (a) is brought shall have jurisdiction to grant such temporary or permanent relief as may be necessary to protect health or the environment from the unreasonable risk associated with the chemical substance, mixture, or article involved in such action.

(2) In the case of an action under subsection (a) brought against a person who manufactures, processes, or distributes in commerce a chemical substance or mixture or an article containing a chemical substance or mixture, the relief authorized by paragraph (1) may include the issuance of a mandatory order requiring (A) in the case of purchasers of such substance, mixture, or article known to the defendant, notification to such purchasers of the risk associated with it; (B) public notice of such risk; (C) recall; (D) the replacement or repurchase of such substance, mixture, or article; or (E) any combination of the action described in the preceding clauses.

(3) In the case of an action under subsection (a) against a chemical substance, mixture, or article, such substance, mixture, or article may be proceeded against by process of libel for its seizure and condemnation. Proceedings in such an action shall conform as nearly as possible to proceedings in rem in admiralty.

(c) VENUE AND CONSOLIDATION.—(1)(A) An action under subsection (a) against a person who manufactures, processes, or distributes a chemical substance or mixture or an article containing a chemical substance or mixture may be brought in the United States District Court for the District of Columbia or for any judicial district in which any of the defendants is found, resides, or transacts business; and process in such an action may be served on a defendant in any other district in which such defendant resides or may be found. An action under subsection (a) against a chemical substance, mixture, or article may be brought in any United States district court within the jurisdiction of which the substance, mixture, or article is found.

(B) In determining the judicial district in which an action may be brought under subsection (a) in instances in which such action may be brought in more than one judicial district, the Administrator shall take into account the convenience of the parties.

(C) Subpenas requiring attendance of witnesses in an action brought under subsection (a) may be served in any judicial district.

(2) Whenever proceedings under subsection (a) involving identical chemical substances, mixtures, or articles are pending in courts in two or more judicial districts, they shall be consolidated for trial by order of any such court upon applicaion reasonably made by any party in interest, upon notice to all parties in interest.

(d) ACTION UNDER SECTION 6.—Where appropriate, concurrently with the filing of an action under subsection (a) or as soon thereafter as may be practicably, the Administrator shall initiate a proceeding for the promulgation of a rule under section 6(a).

(e) REPRESENTATION.—Not withstanding any other provision of law, in any action under subsection (a), the Administrator may direct attorneys of the Environmental Protection Agency to appear and represent the Administrator in such an action.

(f) DEFINITION.—For the purposes of subsection (a), the term "imminently hazardous chemical substance or mixture" means a chemical substance or mixture which presents an imminent and unreasonable risk of serious or widespread injury to health or the environment. Such a risk to health or the environment shall be considered imminent if it is shown that the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance or mixture, or that any combination of such activities, is likely to result in such injury to health or the environment before a final rule under section 6 can protect against such risk.

SEC. 8. REPORTING AND RETENTION OF INFORMATION

(a) REPORTS.—(1) The Administrator shall promulgate rules under which—

(A) each person (other than a small manufacturer or processor) who manufactures or processes or proposes to manufacture or process a chemical substance (other than a chemical substance described in subparagraph (B)(ii)) shall maintain such records, and shall submit to the Administrator such reports, as the Administrator may reasonably require, and

(B) each person (other than a small manufacturer or processor) who manufactures or processes or proposes to manufacture or process—

(i) a mixture, or

(ii) a chemical substance in small quantities (as defined by the Administrator by rule) solely for purposes of scientific experimentation or analysis or chemical research on, or analysis of, such substance or another substance, including any such research or analysis for the development of a product, shall maintain records and submit to the Administrator reports but only to the extent the Administrator determines the maintenance of records or submission of reports, or both, is necessary for the effective enforcement of this Act.

The Administrator may not require in a rule promulgated under this paragraph the maintenance of records or the submission of reports with respect to changes in the proportions of the components of a mixture unless the Administrator finds that the maintenance of such records or the submission of such reports, or both, is necessary for the effective enforcement of this Act. For purposes of the compilation of the list of chemical substances required under subsection (b), the Administrator shall promulgate rules pursuant to this subsection not later than 180 days after the effective date of this Act.

(2) The Administrator may require under paragraph (1) maintenance of records and reporting with respect to the following insofar as known to the person making the report or insofar as reasonably ascertainable:

(A) The common or trade name, the chemical identity, and the molecular structure of each chemical substance or mixture for which such a report is required.

(B) The categories or proposed-categories of use of each such substance or mixture.

(C) The total amount of each such substance and mixture manufactured or processed, reasonable estimates of the total amount to be manufactured or processed, the amount manufactured or processed for each of its categories of use, and reasonable estimates of the amount to be manufactured or processed for each of its categories of use of proposed categories of use.

(D) A description of the byproducts resulting from the manufacture, processing, use, or disposal of each such substance or mixture.

(E) All existing data concerning the environmental and health effects of such substance or mixture.

(F) The number of individuals exposed, and reasonable estimates of the number who will be exposed, to such substance or mixture in their places of employment and the duration of such exposure.

(G) In the initial report under paragraph (1) on such substance or mixture, the manner or method of its disposal, and in any subsequent report on such substance or mixture, any change in such manner or method. To the extent feasible, the Administration shall not require under paragraph (1) any reporting which is unnecessary or duplicative.

(3)(A)(i) The Administrator may by rule require a small manufacturer or processor of a chemical substance to submit to the Administrator such information respecting the chemical substance as the Administrator may require for publication of the first list of chemical substances required by subsection (b).

(ii) The Administrator may by rule require a small manufacturer or processor of a chemical substance or mixture—

(I) subject to a rule proposed or promulgated under section 4, 5(b)(4), or 6, or an order in effect under section 5(e), or

(II) with respect to which relief has been granted pursuant to a civil action brought under section 5 or 7,

to maintain such records on such substance or mixture, and to submit to the Administrator such reports on such substance or mixture, as the Administrator may reasonably require. A rule under this clause requiring reporting may require reporting with respect to the matters referred to in paragraph (2).

(B) The Administrator, after consultation with the Administrator of the Small Business Administration, shall by rule prescribe standards for determining the manufacturers and processors which qualify as small manufacturers and processors for purposes of this paragraph and paragraph (1).

(b) Inventory.—(1) The Administrator shall compile, keep current, and publish a list of each chemical substance which is manufactured or processed in the United States. Such list shall at least include each chemical substance which any person reports, under section 5 or subsection (a) of this section, is manufactured or processed in the United States. Such list may not include any chemical substance which was not manufactured or processed in the United States within three years before the effective date of the rules promulgated pursuant to the last sentence of subsection (a)(1). In the case of a chemical substance for which a notice is submitted in accordance with section 5, such chemical substance shall be included in such list as of the earliest date (as determined by the Administrator) on which such substance was manufactured or processed in the United States. The Administrator shall first publish such a list not later than 315 days after the effective date of this Act. The Administrator shall not include in such list any chemical substance which is manufactured or processed only in small quantities (as defined by the Administrator by rule) solely for purposes of scientific experimentation or analysis or chemical research on, or analysis of, such substance or another substance, including such research or analysis for the development of a product,

(2) To the extent consistent with the purposes of this Act, the Administrator may, in lieu of listing, pursuant to paragraph (1), a chemical substance individually, list a category of chemical substances in which such substance is included.

(c) Records.—Any person who manufactures, processes, or distributes in commerce any chemical substance or mixture shall maintain records of significance adverse reactions to health or the environment, as determined by the Administrator by rule, alleged to have been caused by the substance or mixture. Records of such adverse reactions to the health of employees shall be retained for a period of 30 years from the date such reactions were first reported to or known by the person maintaining such records. Any other record of such adverse reactions shall be retained for a period of five years from the date the information contained in the record was first reported to or known by the person maintaining the record. Records required to be maintained under this subsection shall include records of consumer allegations of personal injury or harm to health, reports of occupational disease or injury, and reports or complaints of injury to the environment submitted to the manufacturer, processor, or distributor in commerce from any source. Upon request of any duly designated representative of the Administrator, each person who is required to maintain records under this subsection shall permit the inspection of such records and shall submit copies of such records.

(d) Health and Safety Studies.—The Administrator shall promulgate rules under which the Administrator shall require any person who manufactures, processes, or distributes in commerce or who proposes to manufacture, process, or distribute in commerce any chemical substance or mixture (or with respect to paragraph (2), any person who has possession of a study) to submit to the Administrator—

(1) lists of health and safety studies (A) conducted or initiated by or for such person with respect to such substance or mixture at any time, (B) known to such person, or (C) reasonably ascertainable by such person, except that the Administrator may exclude certain types or categories of studies from the requirements of this subsection if the Administrator finds that submission of lists of such studies are unnecessary to carry out the purposes of this Act; and

(2) copies of any study contained on a list submitted pursuant to paragraph (1) or otherwise known by such person.

(e) Notice to Administrator of Substantial Risks.—Any person who manufactures, processes, or distributes in commerce a chemical substance or mixture and who obtains information which reasonably supports the conclusion that such substance or mixture presents a substantial risk of injury to health or the environment shall immediately inform the Administrator of such information unless such person has actual knowledge that the Administrator has been adequately informed of such information.

(f) Definitions.—For purposes of this section, the terms "manufacture" and "process" mean manufacture or process for commercial purposes.

Sec. 9. Relationship to Other Federal Laws.

(a) Laws Not Administered by the Administrator.—(1) If the Administrator has reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture, or that any combination of such activities, presents or will present an unreasonable risk of injury to health or the environment and determines, in the Administrator's discretion, that such risk may be prevented or reduced to a sufficient extent by action taken under a Federal law not administered by the Administrator, the Administrator shall submit to the agency which administers such law a report which describes such risk and includes in such description a specification of the activity or combination of activities which the Administrator has reason to believe so presents such risk. Such report shall also request such agency—

(A)(i) to determine if the risk described in such report may be prevented or reduced to a sufficient extent by action taken under such law, and

(ii) if the agency determines that such risk may be so prevented or reduced, to issue an order declaring whether or not the activity or combination of activities specified in the description of such risk presents such risk; and

(B) to respond to the Administrator with respect to the matters described in subparagraph (A).

Any report of the Administrator shall include a detailed statement of the information on which it is based and shall be published in the Federal Register. The agency receiving a request under such a report shall make the requested determination, issue the requested order, and make the requested response within such time as the Administrator specifies in the request, but such time specified may not be less than 90 days from the date the request was made. The response of an agency shall be accompanied by a detailed statement of the findings and conclusions of the agency and shall be published in the Federal Register.

(2) If the Administrator makes a report under paragraph (1) with respect to a chemical substance or mixture and the agency to which such report was made either—

(A) issues an order declaring that the activity or combination of activities specified in the description of the risk described in the report does not present the risk described in the report, or

(B) initiates, within 90 days of the publication in the Federal Register of the response of the agency under paragraph (1), action under the law (or laws) administered by such agency to protect against such risk associated with such activity or combination of activities,

the Administrator may not take any action under section 6 or 7 with respect to such risk.

(3) If the Administrator has initiated action under section 6 or 7 with respect to a risk associated with a chemical substance or mixture which was the subject of a report made to an agency under paragraph (1), such agency shall before taking action under the law (or laws) administered by it to protect against such risk consult with the Administrator for the purpose of avoiding duplication of Federal action against such risk.

(b) LAWS ADMINISTERED BY THE ADMINISTRATOR.—The Administrator shall coordinate actions taken under this Act with actions taken under other Federal laws administered in whole or in part by the Administrator. If the Administrator determines that a risk to health or the environment associated with a chemical substance or mixture could be eliminated or reduced to a sufficient extent by actions taken under the authorities contained in such other Federal laws, the Administrator shall use such authorities to protect against such risk unless the Administrator determines, in the Administrator's discretion, that it is in the public interest to protect against such risk by actions taken under this Act. This subsection shall not be construed to relieve the Administrator of any requirement imposed on the Administrator by such other Federal laws.

(c) OCCUPATIONAL SAFETY AND HEALTH.—In exercising any authority under this Act, the Administrator shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970, be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

(d) COORDINATION.—In administering this Act, the Administrator shall consult and coordinate with the Secretary of Health, Education, and Welfare and the heads of any other appropriate Federal executive department or agency, any relevant independent regulatory agency, and any other appropriate instrumentality of the Federal Government for the purpose of achieving the maximum enforcement of this Act while imposing the least burdens of duplicative requirements on those subject to the Act and for other purposes. The Administrator shall, in the report required by section 30, report annually to the Congress on actions taken to coordinate with such other Federal departments, agencies, or instrumentalities, and on actions taken to coordinate the authority under this Act with the authority granted under other Acts referred to in subsection (b).

SEC. 10. RESEARCH, COLLECTION, DISSEMINATION, AND UTILIZATION OF DATA.

(a) AUTHORITY.—The Administrator shall, in consultation and cooperation with the Secretary of Health, Education, and Welfare and with other heads of appropriate departments and agencies, conduct such research, development, and monitoring as is necessary to carry out the purposes of this Act. The Administrator may enter into contracts and may make grants for research, development, and monitoring under this subsection. Contracts may be entered into under this subsection without regard to section 3648 and 3709 of the Revised Statutes (31 U.S.C. 529, 14 U.S.C. 5).

(b) DATA SYSTEMS.—(1) The Administrator shall establish, administer, and be responsible for the continuing activities of an interagency committee which shall design, establish, and coordinate an efficient and effective system, within the Environmental Protection Agency, for the collection, dissemination to other Federal departments and agencies, and use of data submitted to the Administrator under this Act.

(2)(A) The Administrator shall, in consultation and cooperation with the Secretary of Health, Education, and Welfare and other heads of appropriate departments and agencies design, establish, and coordinate an efficient and effective system for the retrieval of toxicological and other scientific data which could be useful to the Administrator in carrying out the purposes of this Act. Systematized retrieval shall be developed for use by all Federal and other departments and agencies with responsibilities in the area of regulation or study of chemical substances and mixtures and their effect on health or the environment.

(B) The Administrator, in consultation and cooperation with the Secretary of Health, Education, and Welfare, may make grants and enter into contracts for the development of a data retrieval system described in subparagraph (A). Contracts may be entered into under this subparagraph without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529, 41 U.S.C. 5).

(c) SCREENING TECHNIQUES.—The Administrator shall coordinate, with the Assistant Secretary for Health of the Department of Health, Education, and Welfare, research undertaken by the Administrator and directed toward the development of rapid, reliable, and economical screening techniques for carcinogenic, mutagenic, teratogenic, and ecological effects of chemical substances and mixtures.

(d) MONITORING.—The Administrator shall, in consultation and cooperation with the Secretary of Health, Education, and Welfare, establish and be responsible for research aimed at the development, in cooperation with local, State, and Federal agencies, of monitoring techniques and instruments which may be used in the detection of toxic chemical substances and mixtures and which are reliable, economical, and capable of being implemented under a wide variety of conditions.

(e) BASIC RESEARCH.—The Administrator shall, in consultation and cooperation with the Secretary of Health, Education, and Welfare, establish research programs to develop the fundamental scientific basis of the screening and monitoring techniques described in subsections (c) and (d), the bounds of the reliability of such techniques, and the opportunities for their improvement.

(f) TRAINING.—The Administrator shall establish and promote programs and workshops to train or facilitate the training of Federal laboratory and technical personnel in existing or newly developed screening and monitoring techniques.

(g) EXCHANGE OF RESEARCH AND DEVELOPMENT RESULTS.—The Administrator shall, in consultation with the Secretary of Health, Education, and Welfare and other heads of appropriate departments and agencies, establish and coordinate a system for exchange among Federal, State, and local authorities of research and development results respecting toxic chemical substances and mixtures, including a system to facilitate and promote the development of standard data format and analysis and consistent testing procedures.

SEC. 11. INSPECTIONS AND SUBPOENAS.

(a) IN GENERAL.—For purposes of administering this Act, the Administrator, and any duly designated representative of the Administrator, may inspect any establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce and any conveyance being used to transport chemical substances, mixtures, or such articles in connection with distribution in commerce. Such an inspection may only be made upon the presentation of appropriate credentials and of a written notice to the owner, operator, or agent in charge of the premises or conveyance to be inspected. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness and shall be conducted at reasonable times, within reasonable limits, and in a reasonable manner.

(b) SCOPE.—(1) Except as provided in paragraph (2), an inspection conducted under subsection (a) shall extend to all things within the premises or conveyance inspected (including records, files, papers, processes, controls, and facilities) bearing on whether the requirements of this Act applicable to the chemical substances or mixtures within such premises or conveyance have been complied with.

(2) No inspection under subsection (a) shall extend to—

(A) financial data,

(B) sales data (other than shipment data),

(C) pricing data,

(D) personnel data, or

(E) research data (other than data required by this Act or under a rule promulgated thereunder),

unless the nature and extent of such data are described with reasonable specificity in the written notice required by subsection (a) for such inspection.

(c) SUBPOENAS.—In carrying out this Act, the Administrator may by subpoena require the attendance and testimony of witnesses and the production of reports, papers, documents, answers to questions, and other information that the Administrator deems necessary. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In the event of contumacy, failure, or refusal of any person to obey any such subpoena, any district court of the United States in which venue is proper shall have jurisdiction to order any such person to comply with such subpoena. Any failure to obey such an order of the court is punishable by the court as a contempt thereof.

SEC. 12. EXPORTS.

(a) IN GENERAL.—(1) Except as provided in paragraph (2) and subsection (b), this Act (other than section 8) shall not apply to any chemical substance, mixture, or to an article containing a chemical substance or mixture, if—

(A) it can be shown that such substance, mixture, or article is being manufactured, processed, or distributed in commerce for export from the United States, unless such substance, mixture, or article was, in fact, manufactured, processed, or distributed in commerce, for use in the United States, and

(B) such substance, mixture, or article (when distributed in commerce), or any container in which it is enclosed (when so distributed), bears a stamp or label stating that such substance, mixture, or article is intended for export.

(2) Paragraph (1) shall not apply to any chemical substance, mixture, or article if the Administrator finds that the substance, mixture, or article will present an unreasonable risk of injury to health within the United States or to the environment of the United States. The Administrator may require, under section 4, testing of any chemical substance or mixture exempted from this Act by paragraph (1) for the purpose of determining whether or not such substance or mixture presents an unreasonable risk of injury to health within the United States or to the environment of the United States.

(b) NOTICE.—(1) If any person exports or intends to export to a foreign country a chemical substance or mixture for which the submission of data is required under section 4 or 5(b), such person shall notify the Administrator of such exportation or intent to export and the Administrator shall furnish to the government of such country notice of the availability of the data submitted to the

Administrator under such section for such substance or mixture.

(2) If any person exports or intends to export to a foreign country a chemical substance or mixture for which an order has been issued under section 5 or a rule has been proposed or promulgated under section 5 or 6, or with respect to which an action is pending, or relief has been granted under section 5 or 7, such person shall notify the Administrator of such exportation or intent to export and the Administrator shall furnish to the government of such country notice of such rule, order, action, or relief.

SEC. 13. ENTRY INTO CUSTOMS TERRITORY OF THE UNITED STATES.

(a) IN GENERAL.—(1) The Secretary of the Treasury shall refuse entry into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States) of any chemical substance, mixture, or article containing a chemical substance or mixture offered for such entry if—

(A) it fails to comply with any rule in effect under this Act, or

(B) it is offered for entry in violation of section 5 or 6, a rule or order under section 5 or 6, or an order issued in a civil action brought under section 5 or 7.

(2) If a chemical substance, mixture, or article is refused entry under paragraph (1), the Secretary of the Treasury shall notify the consignee of such entry refusal, shall not release it to the consignee, and shall cause its disposal or storage (under such rules as the Secretary of the Treasury may prescribe) if it has not been reported by the consignee within 90 days from the date of receipt of notice of such refusal, except that the Secretary of the Treasury may, pending a review by the Administrator of the entry refusal, release to the consignee such substance, mixture, or article on execution of bond for the amount of the full invoice of such substance, mixture, or article (as such value is set forth in the customs entry), together with the duty thereon. On failure to return such substance, mixture, or article for any cause to the custody of the Secretary of the Treasury when demanded, such consignee shall be liable to the United States for liquidated damages equal to the full amount of such bond. All charges for storage, cartage, and labor on and for disposal of substances, mixtures, or articles which are refused entry or release under this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future entry made by such owner or consignee.

(b) RULES.—The Secretary of the Treasury, after consultation with the Administrator, shall issue rules for the administration of subsection (a) of this section.

SEC. 14. DISCLOSURE OF DATA.

(a) IN GENERAL.—Except as provided by subsection (b), any information reported to, or otherwise obtained by, the Administrator (or any representative of the Administrator) under this Act, which is exempt from disclosure pursuant to subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of such section, shall notwithstanding the provisions of any other section of this Act, not be disclosed by the Administrator or by any officer or employee of the United States, except that such information—

(1) shall be disclosed to any officer or employee of the United States—

(A) in connection with the official duties of such officer or employee under any law for the protection of health or the environment, or

(B) for specific law enforcement purposes;

(2) shall be disclosed to contractors with the United States and employees of such contractors if in the opinion of the Administrator such disclosure is necessary for the satisfactory performance by the contractor of a contract with the United States entered into on or after the date of enactment of this Act for the performance of work in connection with this Act and under such conditions as the Administrator may specify;

(3) shall be disclosed if the Administrator determines it necessary to protect health or the environment against an unreasonable risk of injury to health or the environment; or

(4) may be disclosed when relevant in any proceeding under this Act, except that disclosure in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding.

In any proceeding under section 552(a) of title 5, United States Code, to obtain information the disclosure of which has been denied because of the provisions of this subsection, the Administrator may not rely on section 552(b)(3) of such title to sustain the Administrator's action.

(b) DATA FROM HEALTH AND SAFETY STUDIES.—(1) Subsection (a) does not prohibit the disclosure of—

(A) any health and safety study which is submitted under this Act with respect to—

(i) any chemical substance or mixture which, on the date on which such study is to be disclosed, has been offered for commercial distribution, or

(ii) any chemical substance or mixture for which testing is required under section 4 or for which notification is required under section 5, and

(B) any data reported to, or otherwise obtained by, the Administrator from a health and safety study which relates to a chemical substance or mixture described in clause (i) or (ii) of subparagraph (A).

This paragraph does not authorize the release of any data which discloses processes used in the manufacturing or processing of a chemical substance or mixture or, in the case of a mixture, the release of data disclosing the portion of the mixture comprised by any of the chemical substances in the mixture.

(2) If a request is made to the Administrator under subsection (a) of section 552 of title 5, United States Code, for information which is described in the first sentence of paragraph (1) and which is not information described in the second sentence of such paragraph, the Administrator may not deny such request on the basis of subsection (b)(4) of such section.

(c) DESIGNATION AND RELEASE OF CONFIDENTIAL DATA.—(1) In submitting data under this Act, a manufacturer, processor, or distributor in commerce may (A) designate the data which such person believes is entitled to confidential treatment under subsection (a), and (B) submit such designated data separately from other data submitted under this Act. A designation under this paragraph shall be made in writing and in such manner as the Administrator may prescribe.

(2)(A) Except as provided by subparagraph (B), if the Administrator proposes to release for inspection data which has been designated under paragraph (1)(A), the Administrator shall notify, in writing and by certified mail, the manufacturer, processor, or distributor in commerce who submitted such data of the intent to release such data. If the release of such data is to be made pursuant to a request made under section 552(a) of title 5, United States Code, such notice shall be given immediately upon approval of such request by the Administrator. The Administrator may not release such data until the expiration of 30 days after the manufacturer, processor, or distributor in commerce submitting such data has received the notice required by this subparagraph.

(B)(i) Subparagraph (A) shall not apply to the release of information under paragraph (1), (2), (3), or (4) of subsection (a), except that the Administrator may not release data under paragraph (3) of subsection (a) unless the Administrator has notified each manufacturer, processor, and distributor in commerce who submitted such data of such release. Such notice shall be made in writing, by certified mail at least 15 days before the release of such data, except that if the Administrator determines that the release of such data is necessary to protect against an imminent, unreasonable risk of injury to health or the environment, such notice may be made by such means as the Administrator determines will provide notice at least 24 hours before such release is made.

(ii) Subparagraph (A) shall not apply to the release of information described in subsection (b)(1) other than information described in the second sentence of such subsection.

(d) CRIMINAL PENALTY FOR WRONGFUL DISCLOSURE.—(1) Any officer or employee of the United States or former officer or employee of the United States, who by virtue of such employment or official position has obtained possession of, or has access to, material the disclosure of which is prohibited by subsection (a), and who knowing that disclosure of such material is prohibited by such subsection, willfully discloses the material in any manner to any person not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000 or imprisoned for not more than one year, or both. Section 1905 of title 18, United States Code, does not apply with respect to the publishing, divulging, disclosure, or making known of, or making available, information reported or otherwise obtained under this Act.

(2) For the purposes of paragraph (1), any contractor with the United States who is furnished information as authorized by subsection (a)(2), and any employee of any such contractor, shall be considered to be an employee of the United States.

(e) ACCESS BY CONGRESS.—Notwithstanding any limitation contained in this section or any other provision of law, all information reported to or otherwise obtained by the Administrator (or any representative of the Administrator) under this Act shall be made available, upon written request of any duly authorized committee of the Congress, to such committee.

SEC. 15. PROHIBITED ACTS.

It shall be unlawful for any person to—

(1) fail or refuse to comply with (A) any rule promulgated or order issued under section 4, (B) any requirement prescribed by section 5 or 6, or (C) any rule promulgated or order issued under section 5 or 6;

(2) use for commercial purposes a chemical substance or mixture which such person knew or had reason to know was manufactured, processed, or distributed in commerce in violation of section 5 or 6, a rule or order under section 5 or 6, or an order issued in an action brought undersection 5 or 7;

(3) fail or refuse to (A) establish or maintain records, (B) submit reports, notices, or other information, or (C) permit access to or copying of records, as required by this Act or a rule thereunder; or

(4) fail or refuse to permit entry or inspection as required by section 11.

SEC. 16. Penalties

(a) CIVIL.—(1) Any person who violates a provision of section 15 shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation. Each day such a violation continues shall, for purposes of this subsection, constitute a separate violation of section 15.

(2)(A) A civil penalty for a violation of section 15 shall be assessed by the Administrator by an order made on the record after opportunity (provided in accordance with this subparagraph) for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Administrator shall give written notice to the person to be assessed a civil penalty under such order of the Administrator's proposal to issue such order and provide such person an opportunity to request, within 15 days of the date the notice is received by such person, such a hearing on the order.

(B) In determining the amount of a civil penalty, the Administrator shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

(C) The Administrator may compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed under this subsection. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

(3) Any person who requested in accordance with paragraph (2)(A) a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

(4) If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (3), or

(B) after a court in an action brought under paragraph (3) has entered a final judgment in favor of the Administrator,

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in paragraph (3) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

(b) CRIMINAL.—Any person who knowingly or willfully violates any provision of section 15 shall, in addition to or in lieu of any civil penalty which may be imposed under subsection (a) of this section for such violation, be subject, upon conviction, to a fine of not more than $25,000 for each day of violation, or to imprisonment for not more than one year, or both.

SEC. 17. SPECIFIC ENFORCEMENT AND SEIZURE.

(a) SPECIFIC ENFORCEMENT.—(1) the district courts of the United States shall have jurisdiction over civil actions to—

(A) restrain any violation of section 15,

(B) restrain any person from taking any action prohibited by section 5 or 6 or by a rule or order under section 5 or 6,

(C) compel the taking of any action required by or under this Act, or

(D) direct any manufacturer or processor of a chemical substance or mixture manufactured or processed in violation of section 5 or 6 or a rule or order under section 5 or 6 and distributed in commerce, (i) to give notice of such fact to distributors in commerce of such substance or mixture and, to the extent reasonably ascertainable, to other persons in possession of such substance or mixture or exposed to such substance or mixture, (ii) to give public notice of such risk of injury, and (iii) to either replace or repurchase such substance or mixture, whichever the person to which the requirement is directed elects.

(2) A civil action described in paragraph (1) may be brought—

(A) in the case of a civil action described in subparagraph (A) of such paragraph, in the United States district court for the judicial district wherein any act, omission, or transaction constituting a violation of section 15 occurred or wherein the defendant is found or transacts business, or

(B) in the case of any other civil action described in such paragraph, in the United States district court for the judicial district wherein the defendant is found or transacts business.

In any such civil action process may be served on a defendant in any judicial district in which a defendant resides or may be found. Subpoenas requiring attendance of witnesses in any such action may be served in any judicial district.

(b) SEIZURE.—Any chemical substance or mixture which was manufactured, processed, or distributed in commerce in violation of this Act or any rule promulgated or order issued under this Act or any article containing such a substance or mixture shall be liable to be proceeded against, by process of libel for the seizure and condemnation of such substance, mixture, or article, in any district court of the United States within the jurisdiction of which such substance, mixture, or article is found.

SEC. 18. PREEMPTION.

(a) EFFECT ON STATE LAW.—(1) Except as provided in paragraph (2), nothing in this Act shall affect the authority of any State or political subdivision of a State to establish or continue in effect regulation of any chemical substance, mixture, or article containing a chemical substance or mixture.

(2) Except as provided in subsection (b)—

(A) if the Administrator requires by a rule promulgated under section 4 the testing of a chemical substance or mixture, no State or political subdivision may, after the effective date of such rule, establish or continue in effect a requirement for the testing of such subsance or mixture for purposes similar to those for which testing is required under such rule; and

(B) if the Administrator prescribes a rule or order under section 5 or 6 (other than a rule imposing a requirement described in subsection (a)(6) of section 6) which is applicable to a chemical substance or mixture, and which is designed to protect against a risk of injury to health or the environment associated with such substance or mixture, no State or political subdivision of a State may, after the effective date of such requirement, establish or continue in effect, any requirement which is applicable to such substance or mixture, or an article containing such substance or mixture, and which is designed to protect against such risk unless such requirement (i) is identical to the requirement prescribed by the Administrator, (ii) is adopted under the authority of the Clean Air Act or any other Federal law, or (iii) prohibits the use of such substance or mixture in such State or political subdivision (other than its use in the manufacture or processing of other substances or mixtures).

(b) EXEMPTION.—Upon application of a State or political subdivision of a State the Administrator may by rule exempt from subsection (a)(2), under such conditions as may be prescribed in such rule, a requirement of such State or political subdivision designed to protect against a risk of injury to health or the environment associated with a chemical substance, mixture, or article containing a chemical substance or mixture if—

(1) compliance with the requirement would not cause the manufacturing, processing, distribution in commerce, or use of the substance, mixture, or article to be in violation of the applicable requirement under this Act described in subsection (a)(2), and

(2) the State or political subdivision requirement (A) provides a significantly higher degree of protection from such risk than the requirement under this Act described in subsection (a)(2) and (B) does not, through difficulties in marketing, distribution, or other factors, unduly burden interstate commerce.

SEC. 19. JUDICIAL REVIEW.

(a) IN GENERAL.—(1)(A) Not later than 60 days after the date of the promulgation of a rule under section 4(a), 5(a)(2), 5(b)(4), 6(a), 6(e), or 8, any person may file a petition for judicial review of such rule with the United States Court of Appeals for the District of Columbia Circuit or for the circuit in which such person resides or in which such person's principal place of business is located. Courts of appeals of the United States shall have exclusive jurisdiction of any action to obtain judicial review (other than in an enforcement proceeding) of such a rule if any district court of the United States would have had jurisdiction of such action but for this subparagraph.

(B) Courts of appeals of the United States shall have exclusive jurisdiction of any action to obtain judicial review (other than in an enforcement proceeding) of an order issued under subparagraph (A) or (B) of section 6(b)(1) if any district court of the United States would have had jurisdiction of such action but for this subparagraph.

(2) Copies of any petition filed under paragraph (1)(A) shall be transmitted forthwith to the Administrator and to the Attorney General by the clerk of the court with which such petition was filed. The provisions of section 2112 of title 28, United States Code, shall apply to the filing of the rulemaking record of proceedings on which the Administrator based the rule being reviewed under this section and to the transfer of proceedings between United States courts of appeals.

(3) For purposes of this section, the term "rulemaking record" means—

(A) the rule being reviewed under this section;

(B) in the case of a rule under section 4(a), the finding required by such section, in the case of a rule under section 5(b)(4), the finding required by such section, in the case of a rule under section 6(a) the finding required by section 5(f) or 6(a), as the case may be, in the case of a rule under section 6(a), the statement required by section 6(c)(1), and in the case of a rule under section 6(e), the findings required by paragraph (2)(B) or (3)(B) of such section, as the case may be;

(C) any transcript required to be made of oral presentations made in proceedings for the promulgation of such rule;

(D) any written submission of interested parties respecting the promulgation of such rule; and

(E) any other information which the Administrator considers to be relevant to such rule which the Administrator identified, on or before the date of the promulgation of such rule, in a notice published in the Federal Register.

(b) ADDITIONAL SUBMISSIONS AND PRESENTATIONS; MODIFICATIONS.—If in an action under this section to review a rule the petitioner or the Administrator applies to the court for leave to make additional oral submissions or written presentations respecting such rule and shows to the satisfaction of the court that such submissions and presentations would be material and that there were reasonable grounds for the submissions and failure to make such submissions and presentations in the proceeding before the Administrator, the court may order the Administrator to provide additional opportunity to make such submissions and presentations. The Administrator may modify or set aside the rule being reviewed or make a new rule by reason of the additional submissions and presentations and shall file such modified or new rule with the return of such submissions and presentations. The court shall thereafter review such new or modified rule.

(c) STANDARD OF REVIEW.—(1) (A) Upon the filing of a petition under subsection (a) (1) for judicial review of a rule, the court shall have jurisdiction (i) to grant appropriate relief, including interim relief, as provided in chapter 7 of title 5, United States Code, and (ii) except as otherwise provided in subparagraph (B), to review such rule in accordance with chapter 7 of title 5, United States Code.

(B) Section 706 of title 5, United States Code, shall apply to review of a rule under this section, except that—

(i) in the case of review of a rule under section 4(a), 5(b) (4), 6(a), or 6(e), the standard for review prescribed by paragraph (2) (E) of such section 706 shall not apply and the court shall hold unlawful and set aside such rule if the court finds that the rule is not supported by substantial evidence in the rulemaking record (as defined in subsection (a) (3)) taken as a whole;

(ii) in the case of review of a rule under section 6(a), the court shall hold unlawful and set aside such rule if it finds that—

(I) a determination by the Administrator under section 6(c) (3) that the petitioner seeking review of such rule is not entitled to conduct (or have conducted) cross-examination or to present rebuttal submissions, or

(II) a rule of, or ruling by, the Administrator under section 6(c) (3) limiting such petitioner's cross-examination or oral presentations,

has precluded disclosure of disputed material facts which was necessary to a fair determination by the Administrator of the rulemaking proceeding taken as a whole; and section 706(2) (D) shall not apply with respect to a determination, rule, or ruling referred to in subclause (I) or (II); and

(iii) the court may not review the contents and adequacy of—

(I) any statement required to be made pursuant to section 6(c) (1), or

(II) any statement of basis and purpose required by section 553(c) of title 5, United State Code, to be incorporated in the rule except as part of a review of the rulemaking record taken as a whole.

The term "evidence" as used in clause (i) means any matter in the rulemaking record.

(C) A determination, rule, or ruling of the Administrator described in subparagraph (B) (ii) may be reviewed only in an action under this section and only in accordance with such subparagraph.

(2) The judgment of the court affirming or setting aside, in whole or in part, any rule reviewed in accordance with this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

(d) FEES AND COSTS.—The decision of the court in an action commenced under subsection (a), or of the Supreme Court of the United States on review of such a decision, may include an award of costs of suit and reasonable fees for attorneys and expert witnesses if the court determines that such an award is appropriate.

(e) OTHER REMEDIES.—The remedies provided in this section shall be in addition to and not in lieu of any other remedies provided by law.

SEC. 20. CITIZENS' CIVIL ACTIONS.

(a) IN GENERAL.—Except as provided in subsection (b), any person may commence a civil action—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of this Act or any rule promulgated under section 4, 5, or 6 or order issued under section 5 to restrain such violation, or

(2) against the Administrator to compel the Administrator to perform any act or duty under this Act which is not discretionary.

Any civil action under paragraph (1) shall be brought in the United States district court for the district in which the alleged violation occurred or in which the defendant resides or in which the defendant's principal place of business is located. Any action brought under paragraph (2) shall be brought in the United States District Court for the District of Columbia, or the United States district court for the judicial district in which the plaintiff is domiciled. The district courts of the United States shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties. In any civil action under this subsection process may be served on a defendant in any judicial district in which the defendant resides or may be found and subpoenas for witnesses may be served in any judicial district.

(b) LIMITATION.—No civil action may be commenced—

(1) under subsection (a) (1) to restrain a violation of this Act or rule or order under this Act—

(A) before the expiration of 60 days after the plaintiff has given notice of such violation (i) to the Administrator, and (ii) to the person who is alleged to have committed such violation, or

(B) if the Administrator has commenced and is diligently prosecuting a proceeding for the issuance of an order under section 16(a) (2) to require compliance with this Act or with such rule or order or if the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with this Act or with such rule or order, but if such proceeding or civil action is commenced after the giving of notice, any person giving such notice may intervene as a matter of right in such proceeding or action; or

(2) under subsection (a) (2) before the expiration of 60 days after the plaintiff has given notice to the Administrator of the alleged failure of the Administrator to perform an act or duty which is the basis for such action or, in the case of an action under such subsection for the failure of the Administrator to file an action under section 7, before the expiration of ten days after such notification.

Notice under this subsection shall be given in such manner as the Administrator shall prescribe by rule.

(c) GENERAL.—(1) In any action under this section, the Administrator, if not a party, may intervene as a matter of right.

(2) The court, in issuing any final order in any action brought pursuant to subsection (a), may award costs of suit and reasonable fees for attorneys and expert witnesses if the court determines that such an award is appropriate. Any court, in issuing its decision in an action brought to review such an order, may award costs of suit and reasonable fees for attorneys if the court determines that such an award is appropriate.

(3) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of this Act or any rule or order under this Act or to seek any other relief.

(d) CONSOLIDATION.—When two or more civil actions brought under subsection (a) involving the same defendant and the same issues or violations are pending in two or more judicial districts, such pending actions, upon application of such defendants to such actions which is made to a court in which any such action is brought, may, if such court in its discretion so decides, be consolidated for trial by order (issued after giving all parties reasonable notice and opportunity to be heard) of such court and tried in—

(1) any district which is selected by such defendant and in which one of such actions is pending,

(2) a district which is agreed upon by stipulation between all the parties to such actions and in which one of such actions is pending, or

(3) a district which is selected by the court and in which one of such actions is pending.

The court issuing such an order shall give prompt notification of the order to the other courts in which the civil actions consolidated under the order are pending.

SEC. 21. CITIZENS' PETITIONS.

(a) IN GENERAL.—Any person may petition the Administrator to initiate a proceeding for the issuance, amendment, or repeal of a rule under section 4, 6, or 8 or an order under section 5(e) or (6) (b) (2).

(b) PROCEDURES.—(1) Such petition shall be filed in the principal office of the Administrator and shall set forth the facts which it is claimed establish that it is necessary to issue, amend, or repeal a rule under section 4, 6, or 8 or an order under section 5(e), 6(b) (1) (A), or 6(b) (1) (B).

(2) The Administrator may hold a public hearing or may conduct such investigation or proceeding as the Administrator deems appropriate in order to determine whether or not such petition should be granted.

(3) Within 90 days after filing of a petition described in paragraph (1), the Administrator shall either grant or deny the petition. If the Administrator grants such petition, the Administrator shall promptly commence an appropriate proceeding in accordance with section 4, 5, 6, or 8. If the Administrator denies such petition, the Administrator shall publish in the Federal Register the Administrator's reasons for such denial.

(4) (A) If the Administrator denies a petition filed under this section (or if the Administrator fails to grant or deny such petition within the 90-day period) the petitioner may commence a civil action in a district court of the United States to compel the Administrator to initiate a rule-making proceeding as requested in the petition. Any such action shall be filed within 60 days after the Administrator's denial of the petition or, if the Administrator fails to grant or deny the petition within 90 days after filing the petition, within 60 days after the expiration of the 90-day period.

(B) In an action under subparagraph (A) respecting a petition to initiate a proceeding to issue a rule under section 4, 6, or 8 or an order under section 5(e) or 6(b) (2), the petitioner shall be provided an opportunity to have such petition considered by the court in a de novo proceeding. If the petitioner demonstrates to the satisfaction of the court by a preponderance of the evidence that—

(i) in the case of a petition to initiate a proceeding for the issuance of a rule under section 4 or an order under section 5(e)—

(I) information available to the Administrator is insufficient to permit a reasoned evaluation of the health and environmental effects of the chemical substance to be subject to such rule or order; and

(II) in the absence of such information, the substance may present an unreasonable risk to health or the environment, or the substance is or will be produced in substantial quantities and it enters or may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant or substantial human exposure to it; or

(ii) in the case of a petition to initiate a proceeding for the issuance of a rule under section 6 or 8 or an order under section 6(b)(2), there is a reasonable basis to conclude that the issuance of such a rule or order is necessary to protect health or the environment against an unreasonable risk of injury to health or the environment.

the court shall order the Administrator to initiate the action requested by the petitioner. If the court finds that the extent of the risk to health or the environment alleged by the petitioner is less than the extent of risks to health or the environment with respect to which the Administrator is taking action under this Act and there are insufficient resources available to the Administrator to take the action requested by the petitioner, the court may permit the Administrator to defer initiating the action requested by the petitioner until such time as the court prescribes.

(C) The court in issuing any final order in any action brought pursuant to subparagraph (A) may award costs of suit and reasonable fees for attorneys and expert witnesses if the court determines that such an award is appropriate. Any court, in issuing its decision in an action brought to review such an order, may award costs of suit and reasonable fees for attorneys if the court determines that such an award is appropriate.

(5) The remedies under this section shall be in addition to, and not in lieu of, other remedies provided by law.

NATIONAL DEFENSE WAIVER

SEC. 22. The Administrator shall waive compliance with any provision of this Act upon a request and determination by the President that the requested waiver is necessary in the interest of national defense. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this Act. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national defense purposes, unless, upon the request of the President, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national defense, in which event the Administrator shall submit notice thereof to the Armed Services Committees of the Senate and the House of Representatives.

EMPLOYEE PROTECTION

SEC. 23. (a) IN GENERAL.—No employer may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

(1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this Act;

(2) testified or is about to testify in any such proceeding; or

(3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this Act.

(b) REMEDY.—(1) Any employee who believes that the employee has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section may, within 30 days after such alleged violation occurs, file (or have any person file on the employee's behalf) a complaint with the Secretary of Labor (hereinafter in this section referred to as the "Secretary") alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

(2)(A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting on behalf of the complainant) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this paragraph. Within ninety days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(B) If in response to a complaint filed under paragraph (1) the Secretary determines that a violation of subsection (a) of this section has occurred, the Secretary shall order (i) the person who committed such violation to take affirmative action to abate the violation, (ii) such person to reinstate the complainant to the complainant's former position together with the compensation (including back pay), terms, conditions, and privileges of the complainant's employment, (iii) compensatory damages, and (iv) where appropriate, exemplary damages. If such an order issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(c) REVIEW. (1) Any employee or employer adversely affected or aggrieved by an order issued under subsection (b) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code.

(2) An order of the Secretary, with respect to which review could have been obtained under paragraph (1), shall not be subject to judicial review in any criminal or other civil proceeding.

(d) ENFORCEMENT.—Whenever a person has failed to comply with an order issued under subsection (b)(2), the Secretary shall file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory and exemplary damages. Civil actions brought under this subsection shall be heard and decided expeditiously.

(e) EXCLUSION.—Subsection (a) of this section shall not apply with respect to any employee who, acting without direction from the employee's employer (or any agent of the employer), deliberately causes a violation of any requirement of this Act.

EMPLOYMENT EFFECTS

SEC. 24. (a) IN GENERAL.—The Administrator shall evaluate on a continuing basis the potential effects on employment (including reductions in employment or loss of employment from threatened plant closures) of—

(1) the issuance of a rule or order under section 4, 5, or 6, or

(2) a requirement of section 5 or 6.

(b)(1) INVESTIGATIONS.—Any employee (or any representative of an employee) may request the Administrator to make an investigation of—

(A) a discharge or layoff or threatened discharge or layoff of the employee, or

(B) adverse or threatened adverse effects on the employee's employment,

allegedly resulting from a rule or order under section 4, 5, or 6 or a requirement of section 5 or 6. Any such request shall be made in writing, shall set forth with reasonable particularity the grounds for the request, and shall be signed by the employee, or representative of such employee, making the request.

(2)(A) Upon receipt of a request made in accordance with paragraph (1) the Administrator shall (i) conduct the investigation requested, and (ii) if requested by any interested person, hold public hearings on any matter involved in the investigation unless the Administrator, by order issued within 45 days of the date such hearings are requested, denies the request for the hearings because the Administrator determines there are no reasonable grounds for holding such hearings. If the Administrator makes such a determination, the Administrator shall notify in writing the person requesting the hearing of the determination and the reasons therefor and shall publish the determination and the reasons therefor in the Federal Register.

(B) If public hearings are to be held on any matter involved in an investigation conducted under this subsection—

(i) at least five days' notice shall be provided the person making the request for the investigation and any person identified in such request,

(ii) such hearings shall be held in accordance with section 6(c)(3), and

(iii) each employee who made or for whom was made a request for such hearings and the employer of such employee shall be required to present information respecting the applicable matter referred to in paragraph (1)(A) or (1)(B) together with the basis for such information.

(3) Upon completion of an investigation under paragraph (2), the Administrator shall make findings of fact, shall make such recommendations as the Administrator deems appropriate, and shall make available to the public such findings and recommendations.

(4) This section shall not be construed to require the Administrator to amend or repeal any rule or order in effect under this Act.

SEC. 25. STUDIES.

(a) INDEMNIFICATION STUDY.—The Administrator shall conduct a study of all Federal laws administered by the Administrator for the purpose of determining whether and under what conditions, if any, indemnification should be accorded any person as a result of any action taken by the Administrator under any such law. The study shall—

(1) include an estimate of the probable cost of any indemnification programs which may be recommended;

(2) include an examination of all viable means of financing the cost of any recommended indemnification; and

(3) be completed and submitted to Congress within two years from the effective date of this Act.

The General Accounting Office shall review the adequacy of the study submitted to Congress pursuant to paragraph (3) and shall report the results of its review to the Congress within six months of the date such study is submitted to Congress.

(b) CLASSIFICATION, STORAGE, AND RETRIEV-

AL STUDY.—The Council on Environmental Quality, in consultation with the Administrator, the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the heads of other appropriate Federal departments or agencies, shall coordinate a study of the feasibility of establishing (1) a standard classification system for chemical substances and related substances, and (2) a standard means for storing and for obtaining rapid access to information respecting such substances. A report on such study shall be completed and submitted to Congress not later than 18 months after the effective date of enactment of this Act.

SEC. 26. ADMINISTRATION OF THE ACT.

(a) COOPERATION OF FEDERAL AGENCIES.—Upon request by the Administrator, each Federal department and agency is authorized—

(1) to make its services, personnel, and facilities available (with or without reimbursement) to the Administrator to assist the Administrator in the administration of this Act; and

(2) to furnish to the Administrator such information, data, estimates, and statistics, and to allow the Administrator access to all information in its possession as the Administrator may reasonably determine to be necessary for the administration of this Act.

(b) FEES.—(1) The Administrator may, by rule, require the payment of a reasonable fee from any person required to submit data under section 4 or 5 to defray the cost of administering this Act. Such rules shall not provide for any fee in excess of $2,500 or, in the case of a small business concern, any fee in excess of $100. In setting a fee under this paragraph, the Administrator shall take into account the ability to pay of the person required to submit the data and the cost to the Administrator of reviewing such data. Such rules may provide for sharing such a fee in any case in which the expenses of testing are shared under section 4 or 5.

(2) The Administrator, after consultation with the Administrator of the Small Business Administration, shall by rule prescribe standards for determining the persons which qualify as small business concerns for purposes of paragraph (1).

(c) ACTION WITH RESPECT TO CATEGORIES.—(1) Any action authorized or required to be taken by the Administrator under any provision of this Act with respect to a chemical substance or mixture may be taken by the Administrator in accordance with that provision with respect to a category of chemical substances or mixtures. Whenever the Administrator takes action under a provision of this Act with respect to a category of chemical substances or mixtures, any reference in this Act to a chemical substance or mixture (insofar as it relates to such action) shall be deemed to be a reference to each chemical substance or mixture in such category.

(2) For purposes of paragraph (1):

(A) The term "category of chemical substances" means a group of chemical substances the members of which are similar in molecular structure, in physical, chemical, or biological properties, in use, or in mode of entrance into the human body or into the environment, or the members of which are in some other way suitable for classification as such for purposes of this Act, except that such term does not mean a group of chemical substances which are grouped together solely on the basis of their being new chemical substances.

(B) The term "category of mixtures" means a group of mixtures the members of which are similar in molecular structure, in physical, chemical, or biological properties, in use, or in the mode of entrance into the human body or into the environment, or the members of which are in some other way suitable for classification as such for purposes of this Act.

(d) ASSISTANCE OFFICE.—The Administrator shall establish in the Environmental Protection Agency an identifiable office to provide technical and other nonfinancial assistance to manufacturers and processors of chemical substances and mixtures respecting the requirements of this Act applicable to such manufacturers and processors, the policy of the Agency respecting the application of such requirements to such manufacturers and processors, and the means and methods by which such manufacturers and processors may comply with such requirements.

(e) FINANCIAL DISCLOSURES.—(1) Except as provided under paragraph (3), each officer or employee of the Environmental Protection Agency and the Department of Health, Education, and Welfare who—

(A) performs any function or duty under this Act, and

(B) has any known financial interest (i) in any person subject to this Act or any rule or order in effect under this Act, or (ii) in any person who applies for or receives any grant or contract under this Act.

shall, on February 1, 1978, and on February 1 of each year thereafter, file with the Administrator or the Secretary of Health, Education, and Welfare (hereinafter in this subsection referred to as the "Secretary"), as appropriate, a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be made available to the public.

(2) The Administrator and the Secretary shall—

(A) act within 90 days of the effective date of this Act—

(i) to define the term "known financial interests" for purposes of paragraph (1), and

(ii) to establish the methods by which the requirement to file written statements specified in paragraph (1) will be monitored and enforced, including appropriate provisions for review by the Administrator and the Secretary of such statements; and

(B) report to the Congress on June 1, 1978, and on June 1 of each year thereafter with respect to such statements and the actions taken in regard thereto during the preceding calendar year.

(3) The Administrator may by rule identify specific positions with the Environmental Protection Agency, and the Secretary may by rule identify specific positions with the Department of Health, Education, and Welfare, which are of a nonregulatory or nonpolicymaking nature, and the Administrator and the Secretary may by rule provide that officers or employees occupying such positions shall be exempt from the requirements of paragraph (1).

(4) This subsection does not supersede any requirement of chapter 11 of title 18, United States Code.

(5) Any officer or employee who is subject to, and knowingly violates, this subsection or any rule issued thereunder, shall be fined not more than $2,500 or imprisoned not more than one year, or both.

(f) STATEMENT OF BASIS AND PURPOSE.—Any final order issued under this Act shall be accompanied by a statement of its basis and purpose. The contents and adequacy of any such statement shall not be subject to judicial review in any respect.

(g) ASSISTANT ADMINISTRATOR.—(1) The President, by and with the advice and consent of the Senate, shall appoint an Assistant Administrator for Toxic Substances of the Environmental Protection Agency. Such Assistant Administrator shall be a qualified individual who is, by reason of background and experience, especially qualified to direct a program concerning the effects of chemicals on human health and the environment. Such Assistant Administrator shall be responsible for (A) the collection of data, (B) the preparation of studies, (C) the making of recommendations to the Administrator for regulatory and other actions to carry out the purposes and to facilitate the administration of this Act, and (D) such other functions as the Administrator may assign or delegate.

(2) The Assistant Administrator to be appointed under paragraph (1) shall (A) be in addition to the Assistant Administrators of the Environmental Protection Agency authorized by section 1(d) of Reorganization Plan No. 3 of 1970, and (B) be compensated at the rate of pay authorized for such Assistant Administrators.

SEC. 27. DEVELOPMENT AND EVALUATION OF TEST METHODS.

(a) IN GENERAL.—The Secretary of Health, Education, and Welfare, in consultation with the Administrator and acting through the Assistant Secretary for Health, may conduct, and make grants to public and nonprofit private entities and enter into contracts with public and private entities for, projects for the development and evaluation of inexpensive and efficient methods (1) for determining and evaluating the health and environmental effects of chemical substances and mixtures, and their toxicity, persistence, and other characteristics which affect health and the environment, and (2) which may be used for the development of test data to meet the requirements of rules promulgated under section 4. The Administrator shall consider such methods in prescribing under section 4 standards for the developments of test data.

(b) APPROVAL BY SECRETARY.—No grant may be made or contract entered into under subsection (a) unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and contain such information as the Secretary may require. The Secretary may apply such conditions to grants and contracts under subsection (a) as the Secretary determines are necessary to carry out the purposes of such subsection. Contracts may be entered into under such subsection without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

(c) ANNUAL REPORTS.—(1) The Secretary shall prepare and submit to the President and the Congress on or before January 1 of each year a report of the number of grants made and contracts entered into under this section and the results of such grants and contracts.

(2) The Secretary shall periodically publish in the Federal Register reports describing the progress and results of any contract entered into or grant made under this section.

SEC. 28. STATE PROGRAMS.

(a) IN GENERAL.—For the purpose of complementing (but not reducing) the authority of, or actions taken by the Administrator under this Act, the Administrator may make grants to States for the establishment and operation of programs to prevent or eliminate unreasonable risks within the States to health or the environment which are associated with a chemical substance or mixture and with respect to which the Administrator is unable or is not likely to take action under this Act for their prevention or elimination. The amount of a grant under this subsection shall be determined by the Administrator, except that no grant for any State program may exceed 75 per centum of the establishment and operation costs (as determined by the Administrator) of such program during the period for which the grant is made.

(b) APPROVAL BY ADMINISTRATOR.—(1) No grant may be made under subsection (a) unless an application therefor is submitted to and approved by the Administrator. Such an application shall be submitted in such form and manner as the Administrator may require and shall—

(A) set forth the need of the applicant for a grant under subsection (a),

(B) identify the agency or agencies of the State which shall establish or operate, or both, the program for which the application is submitted,

(C) describe the actions proposed to be taken under such program,

(D) contain or be supported by assurances satisfactory to the Administrator that such program shall, to the extent feasible, be integrated with other programs of the applicant for environmental and public health protection,

(E) provide for the making of such reports and evaluations as the Administrator may require, and

(F) contain such other information as the Administrator may prescribe.

(2) The Administrator may approve an application submitted in accordance with paragraph (1) only if the applicant has established to the satisfaction of the Administrator a priority need, as determined under rules of the Administrator, for the grant for which the application has been submitted. Such rules shall take into consideration the seriousness of the health effects in a State which are associated with chemical substances or mixtures, including cancer, birth defects, and gene mutations, the extent of the exposure in a State of human beings and the environment to chemical substances and mixtures, and the extent to which chemical substances and mixtures are manufactured, processed, used, and disposed of in a State.

(c) ANNUAL REPORTS.—Not later than six months after the end of each of the fiscal years 1979, 1980, and 1981, the Administrator shall submit to the Congress a report respecting the programs assisted by grants under subsection (a) in the preceding fiscal year and the extent to which the Administrator has disseminated information respecting such programs.

(d) AUTHORIZATION.— For the purpose of making grants under subsection (a) there are authorized to be appropriated $1,500,000 for the fiscal year ending September 30, 1977, $1,500,000 for the fiscal year ending September 30, 1978, and $1,500,000 for the fiscal year ending September 30, 1979. Sums appropriated under this subsection shall remain available until expended.

SEC. 29. AUTHORIZATION FOR APPROPRIATIONS.

There are authorized to be appropriated to the Administrator for purposes of carrying out this Act (other than sections 27 and 28 and subsections (a) and (c) through (g) of section 10 thereof) $10,100,000 for the fiscal year ending September 30, 1977, $12,625,000 for the fiscal year ending September 30, 1978, $16,200,000 for the fiscal year ending September 30, 1979. No part of the funds appropriated under this section may be used to construct any research laboratories.

SEC. 30. ANNUAL REPORT.

The Administrator shall prepare and submit to the President and the Congress on or before January 1, 1978, and on or before January 1 of each succeeding year a comprehensive report on the administration of this Act during the preceding fiscal year. Such report shall include—

(1) a list of the testing required under section 4 during the year for which the report is made and an estimate of the costs incurred during such year by the persons required to perform such tests;

(2) the number of notices received during such year under section 5, the number of such notices received during such year under such section for chemical substances subject to a section 4 rule, and a summary of any action taken during such year under section 5(g);

(3) a list of rules issued during such year under section 6;

(4) a list, with a brief statement of the issues, of completed or pending judicial actions under this Act and administrative actions under section 16, during such year;

(5) a summary of major problems encountered in the administration of this Act; and

(6) such recommendations for additional legislation as the Administrator deems necessary to carry out the purposes of this Act.

SEC. 31. EFFECTIVE DATE.

Except as provided in section 4(f), this Act shall take effect on January 1, 1977.

And the House agree to the same.

HARLEY O. STAGGERS,
JOHN M. MURPHY,
W. S. STUCKEY,
BOB ECKHARDT,
RALPH H. METCALFE,
WILLIAM M. BRODHEAD,
JAMES H. SCHEUER,
SAMUEL L. DEVINE,
JAMES T. BROYHILL,
MATTHEW J. RINALDO,
Managers on the Part of the House.

WARREN G. MAGNUSON,
VANCE HARTKE,
PHILIP A. HART,
JOHN A. DURKIN,
JOHN V. TUNNEY,
HOWARD BAKER,
TED STEVENS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3149) to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill and the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

FINDINGS, POLICY, AND INTENT

Senate bill (section 2)

Section 2(a) outlines Congressional policy underlying the Toxic Substances Control Act. Congress finds that: human beings and the environment are exposed to numerous chemical substances and mixtures; some of these may cause or contribute to an unreasonable risk of injury to health or the environment: and the effective regulation of such substances and mixtures in interstate commerce necessitates regulation of intrastate commerce as well.

Subsection (b) sets forth that it is the policy of the United States that adequate data on the health and environmental effects of such chemical substances and mixtures should be developed. Such data development should be the responsibility of those who manufacture and process such chemical substances and mixtures. Adequate authority should exist to regulate chemical substances and mixtures, but the exercise of such authority should not unduly impede technological innovation.

Subsection (c) contains a declaration of Congressional intent as to how the Administrator shall fulfill the responsibilities under this Act. The Administrator shall carry out this Act in a reasonable and prudent manner and consider the environmental, economic, and social impact of any action taken or proposed under this Act.

House amendment (section 2)

The House amendment is nearly identical to the Senate bill. However, the House amendment confines its data development mandate to hazardous or potentially hazardous substances and mixtures, in contrast to the broader mandate contained in the Senate bill.

Conference substitute (section 2)

The conference substitute follows the Senate provision, Adequate data should be developed concerning the health and environmental effects of chemical substances and mixtures. Such data development should be the responsibility of those who manufacture or process such substances and mixtures. Adequate authority should exist to regulate chemical substances and mixtures which present an unreasonable risk of injury to health or the environment and to take action with respect to chemical substances and mixtures which are imminent hazards.

DEFINITIONS

Senate bill (section 3)

The Senate bill includes definitions for the Act, the principal ones of which are as follows:

1. Chemical substance is defined as (i) any organic or inorganic substance of a particular molecular identity including a combination of such substances occurring as a result of a chemical reaction, or (ii) any element or uncombined radical. The term specifically excludes any mixture; any pesticide; tobacco and tobacco products; special nuclear materials or by-product materials as defined in the Atomic Energy Act of 1954; articles which if sold would be subject to the tax imposed by section 4181 of the Internal Revenue Code of 1954 (i.e., pistols, firearms, revolvers, shells and cartridges); any substance found in or on any food, drug, cosmetic or device and any substance produced for research and development purposes intended only for use in or on any food, drug cosmetic or device.

2. The term "environment" includes human beings and their environment, water, atmosphere, and land and the interrelationships which exist among and between these.

3. "Manufacture" means to import, produce, or manufacture for commercial purposes.

4. The term "mixture" means any combination of two or more chemical substances if such substances do not react chemically with each other and if the combination is not a result of the chemical reaction. Mixture also includes combinations of substances which occur in nature.

The Senate bill authorizes the Administrator to exclude from coverage of the Act any chemical substance or mixture if the Administrator determines, by rule, that the substance or mixture does not present an unreasonable risk of injury to health or the environment. However, the exclusion shall not apply to section 7 or section 8(e) of the Senate bill.

House amendment (section 3)

1. The House definition of "chemical substance" is similar to that of the Senate bill, except that the term includes organic or inorganic substances or combinations of such substances occurring in nature. The exclusions from the definition of chemical substances are similar to the Senate bill, although the House amendment specifically excludes food additives along with foods, drugs, cosmetics, and devices.

2. The House amendment defines "environment" to include water, air and land, and the interrelationships which exist among and between water, air and land, and all living things.

3. The House amendment, like the Senate bill, defines manufacture to mean import, produce, or manufacture, but the definition is not limited to such activities done for commercial purposes.

4. The term "mixture" is defined to mean any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction. However, certain reaction-produced combinations are included in the term "mixture" in order to prevent disparate treatment of identical combinations simply because of the number of steps used in the manufacture of the combination. If each of the chemical substances comprising the combination is not a new chemical substance and if the combination could have been manufactured for commercial purposes without a chemical reaction occurring at the time the substances comprising the combination were combined, then the combination is included within the term "mixture".

The House bill does not contain general authority for the Administrator to exclude any chemical substance or mixture from the provisions of the bill. However, section 5(i)(5) of the House amendment authorizes the Administrator to exclude any chemical substance from the notification requirements of section 5 if the Administrator determines, by rule, that the substance will not cause or significantly contribute to an unreasonable risk to health or the environment.

Conference substitute (section 3)

The conference substitute adopts the definitions contained in the House amendment.

The conferees recognize that virtually no chemical substance exists in a completely pure state and intend that any reference to a chemical substance includes all impurities and concomitant products, including incidental reaction products, contaminants, coproducts, and trace materials. Thus the definition of the term "chemical substance" shall be applied to chemical substances as actually produced and marketed. For example, when the Administrator promulgates a rule under section 6(a) to regulate a particular substance such rule will apply to the identified substance, including all the impurities and other concomitant products, without explicitly identifying such impurities and concomitant products within the rule.

It is expected that the Administrator will develop guidelines for the purpose of clarifying the extent to which impurities and concomitant products will be included within a reference to "chemical substance" as it relates to the various provisions of the Act. While impurities and concomitant products are included within references to a "chemical substance" under the Act, the Administrator is obviously authorized to move against them separately under the applicable provisions of the Act.

TESTING OF CHEMICAL SUBSTANCES AND MIXTURES

The term "health and safety study" is important as it describes information to which various provisions of the Act are applicable. For example, section 8(d) requires manufacturers, processors, and distributors in commerce to list such studies with the Administrator. Moreover, section 14(b) contains provisions concerning the availability of health and safety studies to the public.

The conference substitute defines health and safety study to mean any study of any effect of a chemical substance or mixture on health or the environment, including underlaying data and epidemiological studies, studies of occupational exposure to a chemical substance or mixture, toxicological, chemical, and ecological studies of a chemical substance or mixture, and any test performed pursuant to this Act.

It is intended that the term be interpreted broadly. Not only is information which arises as a result of a formal, disciplined study included but other information relating to the effects of a chemical substance or mixture on health and the environment is also included. Any data which bears on the effects of a chemical substance on health or the environment would be included.

Senate bill (section 4)

Section 4 authorizes the Administrator to require testing of chemical substances and mixtures to ascertain potential effects on human health and the environment. Under subsection (a), the Administrator must, by rule, require the testing of a chemical substance or mixture if the Administrator finds (1) that the chemical substance or mixture may present an unreasonable risk of injury to health or the environment, or that there may be significant human or environmental exposure because substantial quantities will be produced and such substance or mixture may perhaps present an adverse effect on health or the environment; (2) there are insufficient data or experience to reasonably determine or predict its health and environmental effects; and (3) testing is necessary to develop such data. If no reliable data is available to the Administrator, the finding that such substance or mixture may perhaps present an adverse effect on health or the environmment shall be presumed. In the case of a mixture, the bill requires an additional finding that testing the chemical substances which comprise the mixture is not a more efficient and reasonable method to determine effects on health and the environment. When requiring tests under subsection (a), the Administrator shall consider reasonably ascertainable costs and other burdens associated with conducting tests and publish such considerations in the Federal Register.

Subsection (b) sets forth the required contents of the testing rule and provides an illustrative list of health and environmental effects for which test standards may be required. This subsection also describes some of the methodologies which the testing rule may prescribe. In addition, it describes which manufacturers and processors will be required to conduct the testing.

The Administrator shall review and, if appropriate, revise the standards for development of data at least once per year. Testing rules shall be issued in accordance with the rulemaking procedures of section 553, of title 5, United States Code, except that the Administrator shall allow interested persons the opportunity to make oral presentations of data, views, or arguments in addition to written submissions. A transcript of such oral presentations is required.

Subsection (c) provides a procedure whereby persons may apply to the Administrator for an exemption from a testing requirement rule in order to avoid submission of duplicative data. If an exemption is granted, a cost-sharing procedure is provided. A person providing reimbursement may have access to test data, subject to the confidentiality provisions of section 14.

Subsection (d) requires the Administrator to publish a notice of receipt of test data in the Federal Register and to make the data available to the public within 15 days of receipt.

Subsection (e) establishes an interagency advisory committee comprised of qualified and appropriate Federal officials to make recommendations to the Administrator regarding testing priorities.

The committee shall submit a list of chemical substances and mixtures in the order in which the committee determines the Administrator should promulgate testing rules under subsection (a). Within 12 months after the inclusion of a chemical on such list, the Administrator shall either initiate a rulemaking proceeding under subsection (a) or publish reasons for not initiating a proceeding in the Federal Register. Subsection (e) also contains specific conflict of interest provisions applicable to members of the interagency advisory committee.

Subsection (f) specifies actions by the Administrator in response to test data or other information which indicate that a substance or mixture has a potential to induce cancer, gene mutations, or birth defects at levels for which human exposure exists or may exist with appropriate safety margins. The Administrator shall either take appropriate action under section 5(e), 6(a), or 7 within 180 days after the date of receipt of such data or information or publish in the Federal Register a finding that no unreasonable risk of injury is presented and reasons for making such a finding. Such requirement shall not take effect until two years after enactment.

House amendment (section 4)

Like the Senate bill, the House amendment requires that the Administrator find that there are insufficient data and experience upon which to determine or predict the effects of the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture. It also requires a finding that testing of the substance or mixture is necessary to develop such data. However, the House bill differs from the Senate bill in that it requires a finding that a chemical substance or mixture may "cause or significantly contribute" to an unreasonable risk, whereas the Senate bill requires a finding that the substance or mixture may "present" an unreasonable risk.

Section 4(a)(1)(B) of the House amendment sets forth a second set of conditions under which the Administrator shall require testing. If the Administrator finds (1)(A) that a chemical substance or mixture is or will be produced in substantial quantities; and (B)(i) either that it enters or may reasonably be anticipated to enter the environment in substantial quantities or (ii) there is or may be significant or substantial human exposure to the substance or mixture, (2) there is an insufficiency of data, and (3) testing is necessary to develop the data, the Administrator shall, by rule, require testing.

The House amendment requires the Administrator to consult with the Director of the National Institute for Occupational Safety and Health before prescribing epidemiologic studies under the testing requirement rule. The House bill requires the Administrator to make and publish findings under subsection (a)(1)(A) or (a)(1)(B) before the issuance of a rule ordering persons to conduct tests. The House amendment also provides for the expiration of a testing requirement rule at the end of the reimbursement period.

The House amendment provides for exceptions from the testing rule in order to avoid submission of duplicative data. If an exemption is granted, reimbursement requirements similar to those in the Senate bill apply, except that the reimbursement period may last as long as five years, instead of the two-year period in the Senate bill. In promulgating rules to use in determining fair and equitable reimbursement, the House amendment does not require the Administrator to consult with the Attorney General and the Federal Trade Commission.

With respect to the interagency committee's priority list submitted to the Administrator, the House amendment does not require the Administrator either to initiate a rulemaking proceeding or to publish in the Federal Register the Administrator's reasons for not initiating such a proceeding. The House amendment does not include the conflict of interest provisions found in the Senate bill relating to members of the interagency advisory committee.

Conference substitute (section 4)

The conference substitute is similar to the House amendment with respect to the findings which the Administrator must make in order to require a manufacturer or processor to test a chemical substance or mixture, except that the term "presents" is used in lieu of "cause or significantly contribute to". The conference substitute includes this term throughout the bill when speaking of a risk.

In using the term, the conferees intend that the Administrator be able to address substances and mixtures which indirectly present unreasonable risks, as well as those which directly present such risks. Further, the conferees do not intend that a substance or mixture must be the single factor which results in the presentation of the risk. Oftentimes an unreasonable risk will be presented because of the interrelationship or cumulative impact of a number of different substances or mixtures. The conferees intend that the Administrator have authority to protect health and the environment in such situations.

In following the House language, the conference substitute requires testing not only (1) in situations in which a substance or mixture may present an unreasonable risk, but also (2) in situations in which there may be substantial environmental or significant or substantial human exposure to a substance or mixture about which there is inadequate information to predict effects on health or the environment.

In the first situation, the conferees intend to focus the Administrator's attention on those chemical substances and mixtures about which there is a basis for concern, but about which there is inadequate information to reasonably predict or determine their effects on health or the environment. The Administrator need not show that the substance or mixture does or will present a risk.

The second situation reflects the conferees' recognition that there are certain situations in which testing should be conducted even though there is an absence of information indicating that the substance or mixture *per se* may be hazardous.

The conference substitute follows the House amendment with respect to the contents of the testing rule. The Senate provision concerning which manufacturers and processors are required to conduct the testing and submit test data is included. Like both the Senate bill and the House amendment, the conference substitute permits the Administrator to grant exemptions from a testing rule. To grant an exemption, the Administrator must determine whether the chemical substance or mixture is equivalent to a chemical substance or mixture for which test data is already being developed. In making this determination the conferees expect the Administrator to look at any contaminants in the chemical substance or mixture for which an exemption is being sought and ascertain whether any contaminants present might cause differences in test data which would be significant and which would, therefore, cause the Administrator to determine that the chemical substances or mixtures in that instance were not equivalent. It also follows the House amendment concerning reimbursement, except that the Administrator must consult with the Attorney General and the Federal Trade Commission in issuing rules which establish the general criteria for determining reimbursement.

The conference substitute retains a modified version of the Senate provision on the interagency committee which is established to make recommendations concerning testing priorities to the Administrator.

The Administrator shall provide administrative services to support such activities. These services shall encompass such things as clerical staff assistance and supplies. The conferees recognize the importance of the interagency committee recommendations and expect the interagency committee to deliberate with care; therefore, the conferees intend that members of the interagency committee shall be given adequate support services by EPA. They also shall be relieved of responsibilities within the entity they represent to the extent necessary to carry out their duties to the committee. Each entity represented shall provide its member with professional and research services. Here, as in all places in the bill where specific officers of the Federal Government are referred to by title, the conferees intend that such references be construed to mean successors to such offices as affected by any reorganization plan or the like.

The interagency committee may designate a maximum of 50 substances or mixtures with respect to which the Administrator should initiate a testing rulemaking proceeding within a year. No more than 50 substances or mixtures may be so designated at any one time. If the Administrator does not take such action within a year, the Administrator must publish in the Federal Register an explanation as to why such action has not been taken.

The conferees have given discretion to the interagency committee as to how many substances or mixtures should be designated. Although the committee may designate up to 50 substances or mixtures at any one time, the conferees wish to stress that the committee need not designate the maximum number. While it is intended that the recommendations of the interagency committee be given great weight by the Administrator, it should be emphasized that the decision to require testing rests with the Administrator.

The conferees do not intend that, in complying with the requirements of the statute, the Administrator divert from the regulatory activities of the Agency an inordinate amount of resources to justify the failure to require testing.

If the Administrator receives information which indicates to the Administrator that there may be a reasonable basis to conclude that a substance or mixture presents or will present a significant risk of serious or widespread harm to human beings from cancer, gene mutations, or birth defects, the Administrator shall initiate appropriate action under section 5, 6, or 7 to protect against the risk or publish in the Federal Register a finding that the risk is not unreasonable. Such action must be taken within 180 days of the receipt of the data, except that the Administrator may extend that period for an additional 90 days for good cause. This requirement does not take effect until two years after the date of enactment.

The conference substitute adopts a provision contained in the House amendment which enables any person who intends to manufacture or process a chemical substance which is not subject to a rule under section 4(a) to petition the Administrator to prescribe standards for the development of test data for such substance. The Administrator must grant or deny the petition within sixty days. If the petition is granted, the Administrator shall prescribe such standards within seventy-five days of the date on which the petition is granted. Any denial of such a petition must be published in the Federal Register.

MANUFACTURING AND PROCESSING NOTICES

Senate bill (section 5)

The Senate bill requires any manufacturer of a new chemical substance to notify the Administrator at least ninety days prior to the commencement of commercial manufacture of the new substance. The notice is to include the common and the trade name of the substance, its chemical identity and molecular structure, categories or proposed categories of use, reasonable estimates of the amount to be manufactured or processed, a description of the by-products, estimates of the number of people who will be exposed to the substance in their places of employment, and existing data concerning environmental and health effects of the substance.

In addition, if a testing rule applicable to the substance is in effect prior to submission of the notice, the manufacturer is required to submit along with the notification, the test data required to be developed by the testing rule.

The ninety days notification period may be extended by the Administrator for an additional ninety days for good cause shown. Notice of such extension must be published in the Federal Register.

Similar notification is required of any person intending to manufacture or process a chemical substance for a distribution in commerce, use, or disposal that has been identified by the Administrator, by rule, as a significant new use, distribution, or disposal. The Administrator is, by rule, to establish criteria defining a significant new distribution in commerce, use, or disposal. In establishing such criteria, the Administrator is to take into account the projected volume of production and category or categories of uses, increases in magnitude and duration of human or environmental exposure, routes of exposure, and the human health and environmental effects.

The Senate bill authorizes the Administrator to issue immediately effective administrative orders during the notification period to halt or limit the manufacture, processing, distribution in commerce, use or disposal of new chemical substances subject to the notification requirements in two situations.

First, the Administrator is required to issue such an order if the Administrator finds that a testing requirement under section 4(a) should be established or modified. The order is to remain in effect until an expedited rulemaking proceeding under section 4(a) to require testing can be completed, the testing performed and the test data submitted. Second, if the Administrator finds that a new substance presents or is likely to present an unreasonable risk of injury to health or the environment, the Administrator is also required to issue an immediately effective order. If such an order is issued, the Administrator must conduct an expedited rulemaking proceeding in accordance with the provisions of section 6(c) (2) and (3).

If the Administrator does not take action to prohibit or limit the manufacture, processing, distribution in commerce, use or disposal of a new substance during the notification period, the Administrator is required to publish a statement of reasons in the Federal Register for not taking such action. The statement must be published prior to the expiration of the notification period. Manufacture or processing of the new substance may commence following publication of the Administrator's statement. Failure to take action against a substance is an action subject to judicial review.

The Senate bill provides certain exemptions from the requirement to submit manufacturing and processing notice. The Administrator is authorized to grant such an exemption for test marketing or other specially limited purposes. In addition, the Administrator may exempt chemical substances which are intermediate reaction products formed during the manufacture of another chemical substance and to which there is no human or environmental exposure. In addition, the notification provisions of the Senate bill do not apply to any chemical substance manufactured in small quantities solely for scientific experimentation or analysis or for chemical research or analysis, including such research or analysis for the development of a product. However, the Administrator may, by rule, require notification prior to the manufacture or processing of such a substance upon a finding that the substance may cause or contribute to an unreasonable risk of injury to health or the environment. Although the section, by its terms, does not apply to mixtures, the Administrator is authorized to specify any mixture which shall be subject to the provisions of the section.

House amendment (section 5)

Like the Senate bill, the House amendment requires manufacturers of new chemical substance to notify the Administrator ninety days prior to the commencement of commercial manufacture of such new substance. The notice is to include information similar to that required by the Senate bill, including test data required to be developed by any applicable testing rule which has been promulgated under section 4 prior to the submission of the notice.

In addition, the House amendment requires the Administrator to compile and maintain a list of chemical substances which cause or significantly contribute to or may cause or significantly contribute to an unreasonable risk to health or the environment. If a person intends to manufacture a new chemical substance included on this list and if no testing rule applicable to the substance has been issued under section 4, the person must submit to the Administrator information which the person believes indicates that the chemical substance will not cause or significantly contribute to an unreasonable risk. Such information must be submitted along with the notice.

The House amendment also requires manufacturers or processors of an existing chemical substance a new use which has been designated by the Administrator, by rule, as a significant new use, to provide similar notice ninety days prior to such manufacture or processing. The House amendment does not require notification prior to the manufacture or processing of a chemical substance for a significant new distribution in commerce or disposal.

In instances in which there is inadequate information to evaluate the effects of a new substance or of an existing substance for a significant new use, the Administrator is authorized to seek a court injunction to halt manufacture, processing or distribution in commerce. The Federal district courts are empowered to grant injunctions if the court finds that (1) there is inadequate information to reasonably evaluate the health and environmental effects of the new substance and (2) in the absence of such information, the substance may cause or significantly contribute to an unreasonable risk. If an injunction is granted, the Administrator shall conduct an expedited rulemaking proceeding to determine if a lesser restriction (rather than a total halt of manufacture, processing or distribution) would be adequate to protect health or the environment until adequate test data is developed and evaluated.

The House amendment does not require the Administrator to publish a statement of reasons for not taking action during the notification period to prohibit or limit the manufacture, processing, distribution, use or disposal of a new substance or of an existing substance manufactured or processed for a significant new use.

The House amendment also provides for exemptions from the notification requirements. The Administrator is authorized to provide an exemption for the manufacture and processing of a substance for test marketing purposes. The House bill specifically exempts from the notification requirements those chemical substances manufactured or processed in small quantities for scientific experimentation or analysis or for chemical research or analysis on such substance or another substance, including research and analysis for the development of a substance or another substance into a commercial product. However, all persons engaged in such experimentation, research or analysis for a manufacturer or processor must be notified of any risk to health which the manufacturer or processor has reason to believe may be associated with the substance.

The House amendment authorizes the Administrator, by rule, to exempt a manufacturer or processor of any new chemical substance from all or part of the requirements of this section if the Administrator determines that such chemical substance will not cause or significantly contribute to an unreasonable risk to health or the environment. The House amendment also contains an exemption clarifying that a chemical substance which, except for its inert ingredients, is identical to a chemical substance contained on the section 8(b) inventory will not be treated as a new chemical substance.

The House admendment does not authorize the Administrator to specify that a manufacturer of a mixture shall be subject to the notification requirements.

Conference substitute (section 5)

In general.—Section 5 sets out the notification requirements with which manufacturers of new chemical substances and manufacturers and processors of existing substances for significant new uses must comply. The requirements are intended to provide the Administrator with an opportunity to review and evaluate information with respect to the substance to determine if manufacture, processing, distribution in commerce, use or disposal should be limited, delayed or prohibited because data is insufficient to evaluate the health and environmental effects or because the substance or the new use presents or will present an unreasonable risk of injury to health or the environment.

The provisions of the section reflect the conferees recognition that the most desirable time to determine the health and environmental effects of a substance, and to take action to protect against any potential adverse effect, occurs before commercial production begins. Not only is human and environmental harm avoided or alleviated, but the cost of any regulatory action in terms of loss of jobs and capital investment is minimized. For these reasons the conferees have given the Administrator broad authority to act during the notification period.

Any person who intends to manufacture a new chemical substance or manufacture or process a chemical substance for a use which the Administrator, by rule, has determined is a significant new use, must give the Administrator at least 90 days notice before beginning such manufacture or processing. The 90-day period shall begin upon receipt of the notice by the Administrator or the Administrator's duly designated representative.

The conferees have not included the Senate provision which requires notification of significant new distributions or disposals. However, the conference substitute requires that the Administrator consider the reasonably anticipated manner and method of manufacturing, processing, distribution in commerce and disposal of a substance in determining when a use will be considered a significant new use. Thus, the conferees intend that any potential threats to health or the environment from the manufacture, processing, distribtuion in commerce, or disposal of a substance associated with a new use be considered by the Administrator when determining the significance of a new use. In addition, the Administrator shall consider the projected volume of manufacturing and processing of the substance for a use, the extent to which a use changes the type or form of exposure of human beings or the environment to a substance, and the extent to which such use increases the magnitude and duration of human or environmental exposure to a substance. Thus, a significant increase in the projected volume of manufacture or processing for a substance, a significant change in the type or form of human or environmental exposure, or a significant increase in the magnitude or duration of human or environmental exposure could be the basis for determining that a use is a significant new use.

Submission of test data.—Subsection (b) describes the instances in which a person subject to a notification requirement with respect to a chemical substance under subsection (a) must submit test data to the Administrator before manufacture of the substance or manufacture or processing of the substance for a significant new use can begin. If a rule under section 4 respecting a substance has been promulgated before submission of the notice required by subsection (a), then a person who is required by the section 4 rule to submit test data for the substance must submit such test data at the time the notice is submitted in accordance with subsection (a). This assures that the Administrator will have at least 90 days to evaluate the test data before the manufacture or processing begins. If a person has been granted an exemption from a testing rule under section 4 applicable to a new substance or to a significant new use of an existing substance, such person shall not begin manufacture or processing until 90 days after the date of submission of the test data on which the exemption is based.

It should be noted that if a testing rule under section 4 respecting a substance has not been promulgated prior to the submission of a notice required by section 5, the Administrator may promulgate a testing rule under section 4 for such substance without taking separate action under this section. However, such a rule would not delay the manufacture or processing of the substance.

The conferees adopted a provision from the House bill to insure that information respecting the health and environmental effects of any chemical substance which the Administrator has identified as a suspect chemical substance is submitted at the time of notification. Under the conference substitute the Administator may, by rule, compile a list of chemical substances the manufacture, processing, distribution in commerce, use or disposal of which presents or may present an unreasonable risk of injury to health or environment. If a testing rule under section 4 has not been promulgated with respect to such substance before the submission of the notice, then the person submitting the notice must submit to the Administrator data which the person believes shows the manufacture, processing, distribution in commerce, use and disposal of the substance or any combination of such activities will not present an unreasonable risk to health or the environment.

Extension of notice period.—The Administrator, for good cause, may extend the 90 day notification period for additional periods not to exceed in the aggregate 90 days. Notice of any extension together with the reasons for it shall be published in the Federal Register and shall constitute final agency action subject to judicial review.

The conferees intend that the Administrator have a large degree of flexibility in extending the notification period, so that manufacture or processing may begin as soon as the Administrator has sufficient information to evaluate the substance. For example, if the Administrator expects that sufficient data will be available 30 days after the original notification period will expire, then the conferees expect that the Administrator will settle on an extension period which will reasonably accommodate production of that data and time for administrative consideration. If production of the data is delayed, of course the Administrator may extend the original extension period. However, in no case may the extensions exceed a total of 90 days. Every time that the notification period is extended, the Administrator must publish notice of the extension in the Federal Register along with reasons therefor.

Content of notice; publications in the Federal Register.—The conference substitute requires the notice required under subsection (a) to include certain information described in section 8(a) (Reporting and Retention of Information) whether or not the Administrator has required its submission under that section; any test data in the possession or control of the person giving the notice which is related to the effects on health or the environment of any manufacture, processing, distribution in commerce, use or disposal of the substance; and a description of any other data concerning the health and environmental effects of the substance, insofar as known to the person making the report or insofar as reasonably ascertainable. The notice shall be made available, subject to section 14, for examination by interested persons.

In order that the public receive timely notification of any new chemical substance or any significant new use of an existing chemical substance, the conference substitute includes a provision which requires the Administrator to publish in the Federal Register a notice which identifies the chemical substance, lists the uses or intended uses of the substance, and describes the nature of tests performed on such substance and any data developed pursuant to subsection (b) or a rule under section 4. Such publication must occur within 5 days after the Administrator receives notice from the person who intends to manufacture or process.

The conference substitute also requires the Administrator to publish monthly a list of each chemical substance for which notice has been received under subsection (a) and for which the notification period has not expired. The Administrator must also include on the list those substances for which the notification period has expired since the last monthly publication.

Regulation pending development of information.—Subsection (e) sets out the procedures under which the Administrator can halt or limit the manufacture, processing, distribution in commerce, use, or disposal of a new substance or an existing substance for a significant new use when there is insufficient information to evaluate the health and environmental effects of the substance.

Action to prohibit or limit manufacture, processing, distribution in commerce, use, or disposal is required in instances in which the Administrator determines that:

(1) Information available to the Administrator is insufficient to permit a reasoned evaluation of the health and environmental effects of the substance, and

(2) (a). In the absence of information sufficient to permit the Administrator to make such an evaluation, the manufacture, processing, distribution in commerce, use, or disposal of the substance may present an unreasonable risk of injury to health or the environment, or

(b). The substance is or will be produced in substantial quantities, and (i) enters or may reasonably be anticipated to enter the environment in substantial quantities or (ii) there is or may be significant or substantial human exposure to the substance.

If the Administrator makes the above determination at least 45 days before the expiration of the notification period, then the Administrator may issue a proposed order to prohibit or limit the manufacture, processing, distribution in commerce, use or disposal of the substance. A limitation on manufacture or processing could, of course, include a labeling requirement. The proposed order will take effect upon the expiration of the notification period unless the manufacturer or processor subject to the order files objections with the Administrator, specifying with particularity the provision of the order deemed objectionable and stating the grounds for the objection. To prevent the order from becoming effective, the objections must be filed within 30 days after the manufacturer or processor has received in writing from the Administrator a notice of the proposed order. The conferees wish to stress that the Administrator must provide actual notice in writing to the manufacturer or processor who will be subject to the order. Notice is not to be published in the Federal Register, but is, of course, available to the public if it is not prohibited from disclosure under section 14.

This provision thus represents a melding of the Senate bill and the House amendment. In order to insure that timely action may be taken by the Administrator, the conference substitute authorizes the Administrator to issue an administrative order to take effect immediately upon the expiration of the notification period. However, to protect against unilateral action by the administrator without an adequate basis for action, the conference substitute borrows the procedure from section 701(e) of the Federal Food, Drug, and Cosmetic Act which permits the filing of objections by manufacturers and processors specifying with particularity the provisions of the order deemed objectionable and stating the grounds for the objections.

If such objections are filed, then the Administrator is instructed to seek an injunction in a Federal district court to prohibit or limit the manufacture, processing, distribution in commerce, use or disposal of the substance. Of course, if the objections filed with the Administrator indicate to the Administrator that the injunction is not necessary, then the Administrator is not required to seek the injunction.

If the court finds in such injunction action that (1) information available to the Administrator is insufficient to permit a reasoned evaluation of the health and environmental effects of the substance, and (2) (A) in the absence of such information, the manufacture, processing, distribution in commerce, use, or disposal of the substance may present an unreasonable risk of injury to health or the environment or (B) such substance is or will be produced in substantial quantities and it enters or may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant or substantial human exposure to the substance, then the court shall grant an injunction. The conferees intend that this two-part standard totally supplant the traditional elements which a party must ordinarily show before a court will exercise its equitable jurisdiction to grant an injunction. The conferees do not intend that the Administrator be required to make any showings other than that which is required for the court to make the two findings described above. Application of any other standard by the court would frustrate the purposes of this section that suspect chemicals be adequately tested to determine their health and environmental effects before commercial manufacture or processing begins.

The conference substitute authorizes such courts to grant a temporary restraining order or a preliminary injunction to prohibit manufacture, processing or distribution of a new substance or of an existing substance for a significant new use if the court finds that the notification period may expire before the action for an injunction can be completed. The conferees recognize that a manufacturer or processor, merely by beginning to manufacture, process, or distribute a new chemical or an existing chemical for a significant new use, could defeat the objective of section 5 to totally prevent environmental or human exposure to suspect new chemical substances or significant new uses of existing chemical substances until adequate testing can be performed and the data evaluated. Therefore, the conferees intend that the court freely exercise the authority to grant preliminary relief as is necessary to preserve the status quo in order to insure that the policy of this section can be fulfilled.

After submission of adequate test data to the Administrator and evaluation of such data, the district courts may, upon petition, dissolve the injunction unless the Administrator has initiated a proceeding under section 6(a) with respect to the substance. In such a situation, the injunction shall remain in effect until the effective date of a rule under section 6(a) or until the section 6 proceeding is terminated, whichever occurs first.

Protection against unreasonable risk.—Section 5(f) of the conference substitute requires the Administrator to take immediate action to prohibit or limit human or environmental exposure to a new chemical substance or to an existing chemical substance for a significant new use in certain situations. In section 5(f) the conference substitute authorizes the Administrator to issue a proposed rule under section 6(a), but such rule is to be effective upon its publication in the Federal Register. Such action is authorized in instances in which there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of the substance presents or will present an unreasonable risk of injury to health or the environment before a rule promulgated under section 6(a) could protect against the risk. The conferees recognize, of course, that there is authority in section 6(d) under which the Administrator may make a proposed section 6(a) rule immediately effective. However, to invoke the section 6(d) authority the Administrator must find an imminent, unreasonable risk of serious or widespread injury. With respect to new chemical substances or substances for significant new uses, immediate action is authorized under section 5(f) when there is an imminent, unreasonable risk of injury, regardless of whether the injury will be serious or widespread.

The section 6(a) rule proposed and made immediately effective pursuant to the authority of this section may (A) limit the amount of a substance which may be manufactured, processed, or distributed in commerce, (B) contain any of the requirements described in paragraph (2), (3), (4), (5), (6), or (7) of subsection 6(a), or (C) contain any combination of the requirements described in clauses (A) and (B). Immediately following the publication in the Federal Register of a section 6(a) rule as authorized by this section, the Administrator must conduct an expedited rulemaking proceeding in accordance with the provisions of section 6(d) (2).

A rule under section 6(a) authorized by this section may not totally prohibit the manufacture, processing, or distribution in commerce of a new substance or an existing substance for a significant new use. In order to totally prohibit the manufacture, processing, or distribution in commerce of a new substance, or of an existing substance for a significant new use, the Administrator must either issue a proposed order which shall be subject to all the procedures applicable to the situation when there is an insufficiency of information, as described above, or obtain a court injunction. If the court finds that there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use or disposal of a new substance or of an existing substance for a significant new use presents or will present an unreasonable risk of injury to health or the environment, the court shall issue an injunction. Again, the conferees intend that the court will not use the normal equity standard to determine if an injunction should be issued. Instead, the standard set out in section 5(f)(3)(B) of the conference substitute intended to totally replace the normal injunction standard.

The conferees recognize that there will be instances in which there are a limited number of practical uses for a chemical substance and that by issuing an immediately effective proposed rule prohibiting those uses, the Administrator could effectively prohibit manufacture or processing altogether. The conferees view such a prohibition as a total prohibition of manufacture or processing and intend that the Administrator comply with the procedures of section 5(f)(3) in order to obtain a total prohibition on manufacture or processing. The authority to issue an immediately effective rule to prohibit manufacture or processing for a use should be utilized only when there is more than one practical use of a substance and when the prohibition does not effectively ban all such uses. Likewise, the conferees do not intend that the Administrator utilize the authority to issue an immediately effective proposed rule so severely limiting the amount of a substance which may be manufactured, processed, or distributed in commerce as to effectively prohibit manufacture, processing, or distribution.

Statement of reasons for not taking action.—If, within the notification period, the Administrator has not initiated action under this section or sections 6 or 7 to prohibit or limit the manufacture, processing, distribution in commerce, use or disposal of certain new chemical substances or of existing chemical substances for significant new uses, then subsection (g) requires the Administrator to issue a statement of reasons in the Federal Register for not initiating such action. The statement must be published prior to the expiration of the notification period. The chemical substances for which such a statement is required are those for which the Administrator, because of prior administrative action with respect to such chemical substances, has indicated there may be particular cause for concern. Specifically, a statement of reasons for not initiating action is required if a testing rule under section 4 applies to a new substance or an existing substance for a significant new use, or if a substance is listed under section 5(b)(4). In addition, if notification is required because a use constitutes a significant new use and, if no action is initiated during the notification period, the Administrator must issue a statement of reasons for not initiating such action.

Publication of the statement of reasons in accordance with this subsection is not a prerequisite to the manufacture or processing of the substance with respect to which the statement is to be published. Thus, the Administrator, merely by not issuing the statement of reasons, cannot delay the beginning of manufacture or processing of a new substance or a substance for a significant new use. Nonetheless, the Administrator must perform this non-discretionary duty and will subject himself not only to criticism by the Congress for not doing so, but may also subject himself to suit under section 20 of this Act or other provisions of law relating to the required performance of nondiscretionary duties.

Exemptions.—Subection (h) describes the situations in which a chemical substance may be manufactured or processed without regard to the notice and test data submission requirements of subsections (a) and (b). Paragraph (1) provides the authority for granting an exemption for test marketing purposes. Under paragraph (2) an exemption from the test data submission requirements of subsection (b) may be obtained if submission of data for the substance to be exempted would be duplicative of data already submitted to the Administrator. Paragraph (3) adopts the language in the House amendment specifically exempting from the notification requirements those chemical substances manufactured or processed or proposed to be manufactured or processed in small quantities (as defined by the Administrator by rule) for scientific experimentation or analysis or for chemical research or analysis, including research and analysis for the development of the substance or another chemical substance into a commercial product. All persons engaged in such experimentation, research, or analysis for a manufacturer or processor must be notified of any risk to health which the manufacturer or processor or Administrator has reason to believe may be associated with the substance.

Under paragraph (4), the Administrator may, upon application and by rule, exempt the manufacturer of a new chemical substance from all or part of the requirements of this section if the Administrator determines that the manufacture, processing, distribution in commerce, use or disposal of the substance will not present an unreasonable risk of injury to health or the environment. A rule granting such an exemption must be promulgated in accordance with paragraphs (2), (3), and (4) of section 6(c).

Paragraph (5) authorizes the Administrator to make the requirements of subsection (a) and (b) inapplicable with respect to the manufacture or processing of a chemical substance which may temporarily exist as a result of a chemical reaction in the manufacture or processing of a mixture or another chemical substance and to which there is not or will not be any human or environmental exposure.

The conference substitute deletes the provision in the House amendment which clarified that a chemical substance is not to be treated as a new chemical substances solely because of the change in proportions of inert ingredients. This provision of the House amendment was deleted because under the definition of "mixture" in section 3 of the conference substitute the same result would occur, as any change in inert ingredients would constitute a new mixture not a new chemical substance. Mixtures are not covered by section 5.

Definition.—The terms "manufacture" and "process" as used in this section mean to manufacture or to process for commercial purposes. Since the term "manufacture" is defined to include import, persons who intend to import substances for commercial purposes will be treated in the same manner as domestic manufacturers under section 5.

REGULATION OF CHEMICAL SUBSTANCES AND MIXTURES

Senate bill (Section 6)

The Senate bill requires the Administrator to impose restrictions on a chemical substance or mixture if the Administrator finds that the manufacture, processing, distribution in commerce, use, or disposal presents or is likely to present an unreasonable risk of injury to health or the environment. The Administrator shall impose one or more of several specified requirements as is necessary to adequately protect against the risk, using the least-burdensome of effective controls.

A range of requirements is provided, from complete prohibitions on the manufacturing, processing, or distribution in commerce to labeling requirements. Among these is the authority to regulate the manner or method of use or disposal of such substance or mixture and the authority to require manufacturers or processors to replace or repurchase substances or mixtures found to present unreasonable risks.

The Senate bill also contains the authority to limit the amount of a substance or mixture which may be manufactured, processed, or distributed in commerce, or which may be manufactured, processed, or distributed in commerce for a particular use. A procedure for assigning permissible quotas if the applicable parties are unable to agree is provided. Supervision by the Attorney General and the Federal Trade Commission is provided for any voluntary efforts to establish quotas.

The Senate bill authorizes the Administrator to order manufacturers or processors to submit descriptions of relevant quality control procedures if the Administrator has good cause to believe that the manufacture or processing causes the adulteration of a chemical substance or mixture. If the Administrator determines that the quality control procedures of the manufacturer or processor are inadequate, the Administrator may order revisions in the quality control procedures to the extent necessary to remedy the inadequacy.

The Senate bill also requires the Administrator to consider relevant factors in imposing restrictions and to make findings with respect to certain factors.

The Senate bill contains a specific rulemaking procedure for rules imposing restrictions under this section. The procedure is an informal one, similar to the procedure in section 553 of title 5, United States Code, but there are exceptions, including an opportunity for an informal hearing. An opportunity for appropriate cross-examination in the hearing is provided under the supervision of the Administrator. Participants in a rulemaking proceeding may be compensated by the Administrator under specified criteria.

The Administrator may specify the date on which a rule under this section becomes effective, which shall be as soon as administratively feasible.

The Administrator may waive the required notice and comment period in those situations where compliance with the rulemaking provisions would present an unreasonable risk of death, serious or substantial personal injury, or serious or substantial environmental harm.

Finally, the Senate bill provides for the control of polychlorinated biphenyls (PCBs). Effective one year after the date of enactment of the Act, PCBs may not be used in any manner other than a totally enclosed manner, except that the Administrator may, by rule, authorize exceptions if the Administrator finds that no unreasonable risk of injury to health or the environment is presented. Effective two years after the date of enactment, the manufacture of any polychlorinated biphenyl would become unlawful. Effective two and one-half years after such date, the processing or distribution in commerce of PCB's would become unlawful, except that the Administrator may make exceptions if no unreasonable risk of injury to health or the environment is presented. Disposal regulations concerniing PCB's shall be promulgated within six months after the date of enactment.

House amendment (section 6)

The standard for taking action against unreasonable risks under this section in the House amendment is slightly different from that contained in the Senate bill. If the Administrator finds that there is a reasonable basis on which to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture, or any combination of such actions causes or significantly contributes to, or will cause or significantly contribute to, an unreasonable risk to health or the environment, the Administrator shall impose requirements as necessary to protect against the risk. The requirements generally are similar to the requirements of the Senate bill, with several exceptions. The Administrator may not regulate the manner or method of use. Nor may the Administrator impose replacement or repurchase requirements for substances regulated. Requirements regulating the manner or method of disposal may not require any person to take an action in violation of a State or local law. Also, a person subject to a disposal requirement shall notify the State in which a required disposal may occur of such requirement. The House amendment does not contain authority to impose manufacturing or processing quotas.

The House amendment provides a procedure for protecting against unintentional contamination of a chemical substance due to the manner of manufacturing or processing. Quality control procedures may be required to be submitted. If found inadequate, the Administrator may order such procedures to be changed. In addition, if the quality control procedures have resulted in the distribution in commerce of substances or mixtures which cause or significantly contribute to an unreasonable risk to health or the environment, the Administrator may require manufacturers or processors to give notice and to replace or repurchase any such substance or mixture as is necessary to protect health or the environment.

In promulgating any rule under section 6(a), the Administrator shall consider all relevant factors and make findings with respect to certain factors.

The Administrator shall not promulgate a rule under this section if the risk could be eliminated or reduced to a sufficient extent under another federal law administered by the Administrator unless the Administrator makes a finding that it is in the public interest to do so, taking into consideration a number of enumerated factors.

The rulemaking procedures of the House amendment are generally similar to those contained in the Senate bill.

The Administrator may make a rule immediately effective if an unreasonable risk of serious or widespread harm to health or the environment will occur prior to the completion of the rulemaking proceedings, and making the rule so effective is necessary to protect the public interest. If a proposed rule totally prohibits the manufacture, processing or distribution of a chemical substance or mixture, a court must have previously taken action against a substance or mixture in an imminent hazard proceeding under section 7. An expedited rulemaking procedure is provided for immedinately effective rules.

The provision ofthe House amendment relating to PCBs is similar to the Senate bill with a few exceptions. For example, the prohibitions effective in one year apply only to the manufacture, processing or disrtibution in commerce for a use other than a use in a totally enclosed manner. In addition, exemptions from the prohibitions relating to the manufacture, processing, and distribution of PCB's may be granted, if the Administrator determines that the expemption is necessary to protect health or the enviornment, and good faith efforts have been made to develop substitutes.

Conference substitute (section 6)

The conference substitute requires the Administrator to take action under this section against chemical substances or mixtures for which there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of such chemical substances or mixtures, or any combination of such activities, presents or will present an unreasonable risk of injury to health or the environment. Requirements shall be imposed to the extent necessary to protect against the risk.

The requirements must be the least burdensome feasible for those subject to the requirement and for society while providing for an adequate margin of protection against the unreasonable risk.

The requirements which may be imposed are similar to those included in both the Senate bill and the House amendment. The Administrator may impose requirements regulating the manner or method of the commercial use of a substance or mixture and also requirements regulating the manner or method of disposal of a substance or mixture or an article containing a substance or mixture by the manufacturer or processor or by any other person who uses or disposes of it for commercial purposes. The provision of the House amendment that a disposal requirement may not require any person to take action in violation of any State law or political subdivision is included. The conference substitute also includes the Senate provision which authorizes the Administrator to require replacement or repurchase by manufacturers or processors of substances or mixtures with respect to which action has been taken under this section.

The provisions of the House bill relating to quality control are included.

The provisions of the Senate bill which authorize the Administrator to assign manufacturing or processing quotas are not included.

The conferees appreciate that if the Administrator chooses to impose a production limitation on any chemical substance, such limitation, if not carefully drawn, could produce monopoly profits. The conferees believe that the Administrator should consult with the Attorney General and the Federal Trade Commission in order to avoid any anticompetitive consequences.

The conference substitute requires the Administrator to consider certain enumerated factors and to publish a statement in the Federal Register with respect to them at the time of promulgation of a rule under section 6(a). Specifically, the Administrator must consider and publish a statement concerning the effects of the substance or mixture on health and the magnitude of human exposure to such substance or mixture; the effects of the substance or mixture on the environment and the magnitude of environmental exposure to such substance or mixture; the benefits of such substance or mixture for various uses and the availability of substitutes for such uses; and the reasonably ascertainable economic consequences of the rule, after consideration of the effects on the national economy, small business, innovation, the environment, and the public health. This requirement was contained in both the Senate bill and the House amendment. The purpose in requiring such a statement is to assure that the bases for the Administrator's rule are publicly enumerated. By requiring the statements, the conferees intend to emphasize key considerations which must be addressed. The conferees do not intend that the statement be detailed or voluminous. A succinct and precise statement of these key considerations will suffice. Of course, the statements will provide part of the rulemaking record for judicial review of a rule promulgated under section 6(a).

Moreover, if the Administrator determines that a risk may be eliminated or reduced to a sufficient extent by actions taken under another Federal law administered by the Administrator, action may not be taken under this section unless the Administrator finds, in the Administrator's discretion, that it is in the public interest to take action under this Act. By committing such determination to the Administrator's discretion, the conferees intend that such determination not be subject to judicial review.

The House provision relating to compensation for the costs of participating in a rulemaking proceeding and the provisions relating to the effective date of a rule are included. Generally rules are to be effective as soon as procedurally and administratively feasible. However, proposed rules may be declared to be immediately effective by the Administrator in certain instances. The rule may be declared immediately effective if the Administrator determines that the manufacture, processing, distribution in commerce, use, or disposal of a substance or mixture is likely to result in an unreasonable risk of serious or widespread injury to health or the environment before the normal effective date and making the rule immediately effective is necessary to protect the public interest. In the case of a rule to prohibit the manufacture, processing, or the distribution, a court must have granted relief in an imminent hazard action under section 7. An expedited rulemaking procedure is provided if a rule is made immediately effective.

The conference substitute includes procedures contained in both bills for prescribing rules. In general, rules under this section are to be prescribed in accordance with the informal rulemaking procedures of section 553 of title 5, United States Code, except that an opportunity for an oral hearing and for limited cross-examination is provided. The procedures are patterned after those contained in section 18 of the Magnuson-Moss Warranty-Federal Trade Commission Improvements Act.

The Senate bill, unlike the House amendment specifically authorizes the Administrator to conduct cross-examination on behalf of the participants to the proceeding. Although the conference substitute retains the Senate provision, the conferees expect that in most instances the participants themselves would conduct the cross-examination, subject to the Administrator's time limitation and other rules.

When the Act states that the transcripts shall be available to the public, the conferees intend that such availability be construed in a reasonable manner. No person may be denied access to such information, but at the same time the Administrator shall not be required to assume the burden of copying what may be a formidable amount of material. Therefore, the conferees intend that the Administrator furnish copies of transcripts as long as a supply exists within EPA. However, if the amount of material is vast, or if EPA has run out of copies, then the person may inspect the transcript which shall be available at every regional office of EPA. EPA may photocopy a reasonable number of pages, such as 200, but shall in all cases afford any person the opportunity to photocopy as much of the transcript as the person desires. The cost of copying pages beyond a reasonable number shall be borne by the person; however, the Administrator shall not charge an unreasonable fee per page.

Generally, the provisions of the Senate bill relating to the control of polychlorinated biphenyls are included. The standard that must be satisfied before exemptions from the complete ban on polychlorinated biphenyls are granted contains elements of both the House and Senate provisions. Exemptions may be granted only if the Administrator finds that there is no unreasonable risk to health or the environment, and that good faith efforts have been made to develop a substitute. So that existing PCBs may be reused rather than disposed of, the prohibitions do not apply to distributions in commerce of PCBs sold for purposes other than resale before the effective date of the prohibition on distribution of PCBs.

IMMINENT HAZARDS

Senate bill (section 7)

The Senate bill authorizes the Administrator to initiate a judicial proceeding against an imminently hazardous chemical substance or mixture or against any person who manufactures, processes, distributes in commerce, uses or disposes of such substance or mixture or against both. The court is authorized to grant such temporary or permanent relief as is necessary to protect against the hazard. Such relief may include seizure and condemnation of the imminently hazardous substance or mixture. Further, the court is specifically authorized to require manufacturers, processors, or distributors to provide notice of the hazard to purchasers of the substance or mixture and to the public, and to recall and replace or repurchase the substance or mixture. Under the Senate bill an imminent hazard is considered to exist when the evidence is sufficient to show that a situation exists in which the continued use of a substance or mixture would be likely to result in unreasonable adverse effects on the environment or an unreasonable hazard to the survival of an endangered species. An unreasonable adverse effect is defined to mean an unreasonable risk to man or the environment taking into account the economic, social, and environmental costs and benefits of the use of the substance or mixture.

House amendment (section 7)

The House amendment differs from the Senate bill in three ways. First, in addition to authorizing action against imminently hazardous substances and mixtures, the House amendment explicitly authorizes actions against articles containing such substances or mixtures. Second, if the Administrator has not acted under section 6(d) of the House amendment which authorizes immediate administrative action against an imminent hazard, the Administrator is required to take action under section 7. Third, the House amendment differs from the Senate bill in its definition of an imminent hazard. Under the House amendment an imminently hazardous chemical substance or mixture is one which causes or significantly contributes to an imminent and unreasonable risk of serious or widespread harm to health or the environment. Such risk shall be considered imminent if it is shown that the manufacture, processing, distribution in commerce, use or disposal of a substance or mixture is likely to result in an unreasonable risk of serious or widespread harm to health or the environment before a final rule under section 6 can protect against the risk.

Conference substitute (section 7)

The conference substitute follows the House language with a clarification (contained in the Senate bill) that relief is authorized against persons who use or dispose of an imminently hazardous substance or mixture in addition to persons who manufacture, process, or distribute in commerce such substances or mixtures. If the Administrator has not used the authority provided in section 6(d)(2)(A)(i) to make a section 6 (a) rule immediately effective in order to protect against an imminently hazardous substance or mixture, the Administrator must bring an action under section 7. The conferees have imposed such a nondiscretionary duty upon the Administrator to insure that protection is provided against imminently hazardous substances, mixtures, and articles containing such substances and mixtures.

The conferees wish to note that while the unreasonable risk of injury must be imminent, the physical manifestations of the injury itself need not be. Rather, an imminent hazard may be found at any point in the chain of events which may ultimately result in injury to health or the environment. The observance of actual injury is not essential to establish that an imminent hazard exists. The conferees intend that action under the imminent hazard section be able to occur early enough to prevent the final injury from materializing. In using the term "widespread injury" the conferees do not intend that the imminent hazard authority with respect to widespread harm be limited to instances in which the risk of injury is geographically widespread. Rather an unreasonable risk of harm affecting a substantial number of people, even though it is within a rather limited geographic area, should be deemed adequate to satisfy the requirement of an unreasonable risk of widespread injury to health. Of course if the risk of injury to health or environment is serious, it need not be widespread.

REPORTING AND RETENTION OF INFORMATION

Senate bill (section 8)

Section 8 sets forth requirements for reporting and retention of information. Under subsection (a) the Administrator shall issue rules which require each person who manufactures or processes a chemical substance or mixture to maintain records and to make such reports as the Administrator may reasonably require. Such rules shall require manufacturers or processors of chemical substances or mixtures who produce such substances or mixtures in small quantities solely for scientific experimentation or analysis for chemical research or analysis to maintain records and to submit reports only to the extent necessary for the effective enforcement of the Act. This subsection also contains an illustrative list of the kinds of information which the Administrator may require from manufacturers or processors of chemical substances.

To determine which substances are new chemical substances for the purpose of the pre-market notification provisions of section 5, subsection (b) requires the Administrator to publish an inventory of existing chemical substances or mixtures which any person reports to be commercially manufactured or processed within the United States under subsection (a) or under section 5(a). The Administrator shall publish such list not later than 270 days after the date of enactment.

Subsection (c) requires any person who manufactures, processes, or distributes chemical substances or mixtures to maintain records of adverse reactions to health or the environment alleged to have been caused by any such substance or mixture. These records shall be maintained for 5 years from the date the information was reported to such person, except that reports dealing with adverse reactions of employees shall be retained for 30 years.

Subsection (d) requires the Administrator to promulgate rules with respect to the submission of lists of health and safety studies conducted or initiated by any manufacturer, processor, or distributor in commerce of any chemical substance or mixture. The Administrator may require the submission of any study appearing on the list.

Subsection (e) requires manufacturers, processors, or distributors in commerce of a chemical substance or mixture as well as their liability insurers to inform the Administrator when they receive information which supports the conclusion that such substance or mixture causes or contributes to an unreasonable risk of injury to health or the environment. Such persons are relieved of such requirement when they have reason to believe that the Administrator has been adequately informed of the risk.

House amendment (section 8)

Subsection (a) of the House amendment is substantially similar to the Senate bill except that it exempts small manufacturers or processors from the reporting requirements. The Administrator may, by rule, require such persons to maintain records and submit reports on a chemical substance or mixture subject to a rule or a proposed rule under section 4, 5(c), 5(g), or 6. In addition, if relief has been granted in an imminent hazard proceeding under section 7, the Administrator may, by rule, require a small manufacturer or processor to maintain records and submit reports. After consultation with the Administrator of the Small Business Administration, the Administrator, shall, by rule, prescribe standards for determining which manufacturers and processors will be considered "small" manufacturers and processors.

As a further limitation, section 8(a)(1) (B) specifies that the Administrator may not require the maintenance of records or the submission of reports with respect to changes in the proportions of the components of a mixture, unless the Administrator finds that such recordkeeping or reporting is necessary for the effective enforcement of the Act.

With respect to the inventory of existing chemical substances required by subsection (b), the House amendment provides that the inventory shall include at least each chemical substance which any person reports under section 5 or under section 8(a) was commercially manufactured or processed in the United States within 3 years before the effective date of the rules promulgated under section 8(a). The House amendment requires the publication of such inventory within 1 year after the effective date of the Act.

Subsection (c) differs from the Senate bill in that it allows the Administrator to determine, by rule, the requirements respecting the maintenance of records of adverse reactions to health or the environment alleged to have been caused by a substance or mixture. The Administrator may require that records relating to adverse reactions to employee health be retained for up to 50 years.

Subsection (d) concerning submission of lists of health and safety studies is similar to the Senate bill.

Subsection (e) of the House amendment does not require liability insurers to report to the Administrator information which supports the conclusion that a substance or mixture may cause or significantly contribute to an unreasonable risk of injury. Manufacturers, processors, and distributors must report information relating to a substantial risk to health or the environment unless they have actual knowledge that the Administrator has been adequately informed of such risk.

Subsection (f) of the House amendment provides definitions of "manufacture" and "process" for the purposes of section 8.

Conference substitute (section 8)

The conference substitute follows with some modification the House amendment of section 8 which outlines the policies and procedures for reporting and retention of information. Subsection (a) identifies which persons must, pursuant to rules promulgated by the Administrator, maintain records and make reports. The conference substitute provides an illustrative list of the kinds of activities for which recordkeeping and reporting may be required. The list includes such information as the identity of the chemical, categories of use, amounts manufactured or processed, by products, existing data, employees exposed, and the manner or method of disposal. The information specified may be required by the Administrator "insofar as known to the person making the report or insofar as reasonably ascertainable". The conferees intend that the "reasonably ascertainable" standard be an objective, rather than a subjective one. Thus, the manufacturer or processor must provide information of which a reasonable person similarly situated might be expected to have knowledge.

The conference substitute retains the exemptions in the House amendment relating to reporting by small businesses. The intent of the conferees is to protect small manufacturers and processors from unreasonably burdensome reporting requirements. However, the conferees do not intend to deny the Administrator access to information which may be necessary either to determine whether a rule or order should be promulgated or to enforce a final rule or order. Therefore, the conferees have specifically authorized the Administrator to obtain reports from small manufacturers and processors of a chemical substance or mixture with respect to which a rule has been proposed or promulgated under section 4, 5(b)(4), or 6, with respect to which an order or rule is in effect under section 5(e) or 5(f). Thus, once a rule has been proposed, the Administrator may, by rule, issued in accordance with the informal rulemaking procedures of section 553 of title 5. United States Code, require reporting from small manufacturers and processors. Under such procedures, the Administrator will be able to obtain timely access to needed information. Similarly, reporting may be obtained from small manufacturers and processors of a substance or mixture with respect to which relief has been granted in a civil action under section 5 or 7.

The conference substitute adopts, with some clarification, the House amendment in subsection (b) which requires the Administrator to compile, keep current, and publish an inventory of chemical substances and mixtures manufactured or processed in the United States. The conference committee compromised on the date that the Administrator shall first publish the inventory, which publication shall take place 315 days after the effective date of the Act.

The conference substitute accepts the substance of the Senate bill in subsection (c), which states that records of significant adverse reactions (as defined by the Administrator by rule) shall be retained for five years after such reactions are reported. Under this provision an officer or employee designated by the Administrator may inspect the records maintained on adverse reactions. The conferees intend that persons under contract with the Administrator be considered employees of the Administrator. Such contractors and their employees may have access to records for purposes of this section and throughout the Act. The conferees recognize the special dangers presented to persons who are exposed to substances on a daily basis; therefore, records of adverse occupational effects must be retained for thirty years.

The seriousness, duration, and the frequency of reactions should be taken into account in establishing what constitutes a significant adverse reaction. For example, if an individual reports that a chemical substance causes his or her eyes to become inflamed and to tear, such reaction may be attributed to an isolated allergic reaction. However, if several persons report a similar reaction, then the reaction may indeed be significant. Because the ultimate significance of adverse reactions is difficult to predict, the conferees intend that the requirement to retain records err on the side of safety. Some very serious neurological disorders, for instance, at first present what appear to be trifling symptoms.

The conference substitute includes the Senate version of subsection (d) concerning health and safety studies with slight modifications. As with the provision concerning adverse reactions, the conferees emphasize the importance of gaining information which errs on the side of too much rather than too little. Of course, the Administrator is to avoid imposing unnecessary or overly burdensome reporting requirements. In cases where test results are submitted, supporting data and the sources for such data must be included.

The conference substitute follows the House amendment for subsection (e) which provides that any manufacturer, processor, or distributor of a chemical substance or mixture who obtains information supporting the conclusion that such substance or mixture presents a substantial risk of injury to health or the environment shall notify the Administrator, unless such person has actual knowledge about the Administrator already possesses the information.

RELATIONSHIP TO OTHER FEDERAL LAWS

Senate bill (section 9)

Section 9(a) of the Senate bill provides that if the Administrator (A) has reason to believe that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture causes or contributes to, or is likely to cause or contribute to an unreasonable risk of injury to health or the environment, and (B) determines, in the Administrator's discretion, that such risk may be prevented or reduced to a sufficient extent by action taken under a Federal law not administered by EPA, then the Administrator must request the agency which administers such law to issue an order. Such agency shall consider all data submitted by the Administrator and issue an order declaring whether or not the manufacture, processing, distribution in commerce, use, or disposal of such substance or mixture causes or contributes to or is likely to cause or contribute to such a risk. If such agency makes such determination it shall also determine if such risk may be prevented or reduced to a sufficient extent by action taken under the law (or laws) administered by the agency.

The Administrator may specify the time within which the other agency must issue the order, but such time may not be less than 90 days from the date the request was made. The other agency must issue a report including a detailed statement of its findings and conclusions in response to the Administrator's request.

The Administrator shall not take any action under section 6 or 7 of this Act if such other agency (A) issues an order declaring that there is no unreasonable risk of injury, or (B) initiates action under the law (or laws) administered by such agency within 90 days of publication in the Federal Register of its report in response to the EPA request.

Section 9(a) of the Senate bill also states that nothing in this section shall prevent the Administrator from making any subsequent request or taking subsequent action under the Toxic Substances Control Act with respect to such risks if the requirements of section 9(a) are satisfied.

Section 9(a) of the Senate bill provides that if the Administrator has initiated action under section 6 or 7 of this bill with respect to a risk of injury which is the subject of a request to another agency, such other agency must consult with the Administrator to avoid duplication of Federal action against such risk before taking action under the law or laws it administers.

Section 9(b) of the Senate bill directs the Administrator to coordinate actions taken under this bill with actions taken under other Federal laws administered wholly or partially by the Administrator. The Administrator must use the authorities contained in such other Federal laws to protect against any risk to health or the environment associated with a chemical substance or mixture unless the Administrator, in the Administrator's discretion, determines that such risk might be more appropriately protected against under this Act. Section 9(b) does not relieve the Administrator of any duties or responsibilities imposed by other Federal law. Nor does section 9(b) affect any final action taken under such other Federal law or the extent to which human health or the environment is protected under such other law.

Section 9(c) of the Senate bill states that, in exercising any authority under this bill, the Administrator shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970, be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

Section 9(d) of the Senate bill requires the Administrator to consult and coordinate with the Secretary of Health, Education, and Welfare and the heads of other appropriate Federal agencies, departments or instrumentalities for the purpose of achieving the maximum enforcement of this legislation while imposing the least burdens of duplicative requirements on those subject to the bill, and for other purposes. The Administrator shall report annually to the Congress on actions taken to so coordinate authority under this bill with the authority granted under other EPA-administered laws and laws administered by other Federal agencies.

Section 9(e) of the Senate bill provides that nothing in section 9 limits any requirement of section 4, 5 (other than section 5(e)(2)), or 8, or rules promulgated thereunder.

House amendment (section 9)

Section 9(a) of the House bill is similar to section 9(a) of the Senate bill; however, there are certain differences. First, the Administrator's determination that an unreasonable risk to health or the environment may be prevented or reduced to a sufficient extent by action taken under a Federal law not administered by the Administrator is not discretionary. Second, if such a determination is made, the Administrator shall submit a report to the agency administering such other law. Such report shall describe such risk and include a specification of the activity or activities which the Administrator has reason to believe caused or contributed to such risk.

Such report shall request such agency to determine whether the risk might be prevented or reduced to a sufficient extent by action taken under such law. Conditioned upon such a determination shall be a request that the agency issue an order declaring whether the activity or activities specified in the Administrator's description caused or significantly contributed to such risk, which determination and order shall be reported to the Administrator.

Like the Senate bill, section 9(b) of the House bill requires the Administrator to coordinate actions taken under this legislation with actions taken under other laws administered in whole or in part by the Administrator; however, the language of the House bill differs regarding the Administrator's authority to regulate a risk to health or the environment associated with a chemical substance or mixture. Unless the Administrator determines that it is in the public interest to protect against such risk by actions taken under this Act, the House amendment requires the Administrator to use the authorities contained in other laws, if such risk could be eliminated or reduced to a sufficient extent.

Sections 9(c) and (d) of the House amendment are identical to the Senate bill. The House amendment contains no provision similar to section 9(e) of the Senate bill.

Conference substitute (section 9)

The conferees have drawn from both the Senate bill and the House amendment to assure that overlapping or duplicative regulation is avoided while attempting to provide for the greatest possible measure of protection to health and the environment.

Section 9(a) establishes the relationship between the Act and Federal laws not administered by the Administrator. If the Administrator has a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture presents or will present an unreasonable risk of injury and if the Administrator makes a discretionary determination (which is not subject to judicial review) that the risk may be prevented or reduced to a sufficient extent by action taken under a Federal law not administered by the Administrator, then the

Administrator must give the other agency an opportunity to act to protect against the risk before the Administrator uses the authorities in section 6 or 7 to protect against the risk.

If the Administrator determines that another Federal law contains authorities adequate to prevent or reduce the suspected risk to a sufficient extent, the Administrator shall submit to the agency which administers the law a report which describes the risk, including a specification of the activity or combination of activities associated with the substance or mixture which the Administrator believes presents the risk. The report must also include a detailed statement of the information on which it is based. The report shall also request the agency to determine if the risk described in the report may be prevented or sufficiently reduced by action taken under its law and, if such determination is affirmative, to issue an order declaring whether or not the activity specified in the report presents an unreasonable risk.

The agency receiving the request from the Administrator must respond to the Administrator within such time as the Administrator specifies. However, the Administrator must give the other agency at least 90 days.

Section 9(a) prohibits the Administrator from acting under section 6 or 7 with respect to the risk about which the Administrator notified the other agency if the other agency takes one of two alternative courses of action. First, if the other agency issues an order declaring that the activity specified in the Administrator's report does not present the unreasonable risk described in the report, then the Administrator may not take action under section 6 or 7 with respect to such risk. Alternatively, if within 90 days of the publication in the Federal Register of the other agency's response, the other agency initiates action to protect against such risk, then the Administrator is precluded from taking action under section 6 or 7 with respect to such risk. If the other agency does not take one of these actions, then the Administrator is permitted to act under section 6 or 7 to protect against the risk.

The conferees recognize that the other agency may not because of time constraints be able to initiate formal regulatory action to protect against the risk within the specified time period. As long as the other agency has officially initiated an action which will culminate as soon as practicable in effective regulatory action to protect against the unreasonable risk and sets forth a general time schedule of steps for such action, the requirement should be deemed satisfied. However, the requirement that the other agency initiate action to protect against the risk is not satisfied by the mere open-ended possibility of action by the other agency.

Subsection (b) establishes the relationship between this Act and other laws administered in whole or in part by the Administrator. Subsection (b) requires the Administrator to coordinate actions taken under this Act with actions taken under other Federal laws administered by the Administrator.

If the Administrator determines that a risk to health or the environment associated with a substance or mixture could be eliminated or reduced to a sufficient extent by actions taken under the authorities contained in other Federal laws, then the Administrator shall use such other authorities unless the Administrator determines, in the Administrator's discretion, that it is in the public interest to protect against such risk under this Act. While it is clear that the Administrator's determination that it is in the public interest to use this Act, is a completely discretionary decision not subject to judicial review in any manner, it is expected that the Administrator will review the other authorities and present the results of that review at the same time the Administrator takes action under this Act. While the Administrator's decision to use this Act, notwithstanding the other authorities, is unreviewable by any court, a reviewing court is expected to require that the Administrator have examined the other authorities and present the results of that examination when making the finding that it is in the public interest to use this Act. Of course, the requirement to examine other EPA laws and to make determinations applies only when the Administrator takes regulatory action to protect against an unreasonable risk under this Act. It does not apply when the Administrator takes action necessary for the administration or enforcement of the Act, such as issuing recordkeeping requirements.

This provision is not to be construed to relieve the Administrator of any requirement imposed by other Federal laws upon the Administrator, and of course nothing in this Act shall affect any final action taken under other Federal laws administered by the Administrator or in any way affect the extent to which health or the environment is to be protected under such other Federal laws.

SECTION 10. RESEARCH, DEVELOPMENT, COLLECTION, DISSEMINATION AND UTILIZATION OF DATA

Senate bill (section 10)

Section 10 authorizes the Administrator to conduct research and monitoring in cooperation with the Secretary of Health, Education, and Welfare and the heads of other appropriate agencies, as is necessary to carry out the purposes of the Act.

The Administrator shall undertake and support programs of research and monitoring of polychlorinated biphenyls to develop safe methods of disposal. The Administrator shall also establish, administer, and assume responsibility for the activities of an interagency committee to construct within the EPA an efficient system for the collection, dissemination, and use of data submitted to the Administrator under this Act among other Federal agencies. This interagency committee shall also direct its attention to coordinating the regulation of chemical substances among the federal agencies. The Administrator shall design, establish, and coordinate an effective system for the retrieval of toxicological and other scientific data which could be useful to the Administrator in carrying out this Act. This section also authorizes the Administrator to make grants and to enter into contracts in order to carry out his responsibilities under this section.

House amendment (section 10)

The House version of section 10 is substantially similar to the Senate bill. However, the House amendment omits the requirement that the Administrator undertake and support programs of research and monitoring of polychlorinated biphenyls. The House amendment contains additional specific provisions for various research programs such as the development of rapid, reliable and economical screening and monitoring techniques for carcinogenic, mutagenic, teratogenic, and ecological effects of chemical substances and mixtures.

Conferene substitute (section 10)

The conference substitute includes provisions found in both the Senate bill and the House amendment, but generally follows the language from the House version. Subsection (a) requires the Administrator to conduct such research, development, and monitoring as is necessary to carry out the purposes of this Act. In doing so, the Administrator must consult and cooperate with the Secretary of Health, Education, and Welfare and with heads of other appropriate departments and agencies. The Administrator may enter into contracts and make grants for the purpose of research and development in this area.

Subsection (b) authorizes the establishment of an interagency committee whose primary responsibility shall be to design an efficient system with the Environmental Protection Agency for the collection of data (submitted to the Administrator under this Act), the dissemination of such data to other instrumentalities of the Federal government, and the use of such data.

Subsection (b) specifies that an efficient and effective data retrieval system shall be developed. The conferees emphasize that sufficient data is necessary for successful implementation of this Act, yet they also acknowledge the burden placed on industry by excessive or duplicative reporting. It is essential that toxicological and other relevant scientific data already in the possession of the Federal Government be made available to the Administrator. The efficient exchange of information among Federal agencies and departments will facilitate implementation of this Act, and every effort should be made to achieve this goal and to avoid duplicative requirements in information-gathering.

Subsections (c), (d), (e), (f), and (g) of the conference substitute adopt provisions from the House amendment which concern research and development in the area of data collection. The conferees do not intend that such projects should detract from the primary purposes of the Act, but rather that those purposes should be enhanced by allowing the development of proper tools. Thus the purpose of these subsections is to provide the means to an end. They should in no case detract from the main purposes of the Act nor from other equally important research conducted by the Administrator, but should contribute to the achievement of those purposes where appropriate. Of course, such research and development should not duplicate any research and development already being conducted by other Federal agencies and departments. Thus, careful coordination and consultation with such departments and agencies is required.

INSPECTIONS AND SUBPOENAS

Senate bill (section 11)

The Senate bill authorizes the Administrator or any duly designated representative to inspect any establishment, facility or other premises in which chemical substances or mixtures are manufactured, processed, stored or held before or after distribution in commerce. Inspections are also authorized of conveyances used to transport chemical substances or mixtures in connection with distribution in commerce. Inspections may extend to all things within the premises or conveyances inspected bearing on whether the requirements of the Act have been complied with.

The Senate bill also authorizes the Administrator to issue subpoenas to require the attendance and testimony of witnesses and the production of reports, papers, documents, and answers to questions or other information necessary for the Administrator to carry out his or her duties under the Act.

House amendment (section 11)

The House amendment contains a similar provision authorizing inspections for the purpose of enforcement of the Act. However, the House amendment provides that no inspection shall extend to financial data, sales data other than shipment data, pricing data, personnel data or research data (other than research data required by the Act) unless the nature and extent of the data are described with reasonable specificity in the written notice presented to the owner, operator or agent in charge of the premises or conveyance to be inspected. The House amendment contained no subpoena authority.

Conference substitute (section 11)

The conference substitute includes the provision from the Senate bill with the addition of the House provision relating to inspections of financial data, sales data other than shipment data, pricing data, personnel data or research data (other than research data required by the Act or pursuant to any rule issued under the Act).

The conferees recgonize that the Administrator will have access to much information under section 5 and section 8 of the Act. Therefore, the conferees expect that the Administrator will use the subpoena authority only when information otherwise available through voluntary means or under other provisions of this Act is inadequate to meet the Administrator's needs under this Act.

It should be noted that the conferees intend that representatives of the Administrator authorized to make inspections should have the opportunity to record the results of such inspections because such records might be required at some later date; therefore, it is intended that persons making the inspection shall be allowed, for example, to photocopy records or photograph premises.

EXPORTS

Senate bill (section 12)

This section outlines the policy for chemical substances and mixtures manufactured, processed, sold, or held for sale solely for export from the United States: Subsection (a) provides that unless the Administrator finds that such substances or mixtures will cause or contribute to an unreasonable risk to the health of persons within the United States or the environment of the United States, such substances are exempt from the Act (other than the reporting requirements of section 8) if proper labeling shows that they are intended for export use only.

However, subsection (b) allows the Administrator to require testing under section 4 to see if such substance or mixture may cause or contribute to a risk of health within the United States or to the environment of the United States. Subsection (b) also requires that any person engaged in export activities shall notify the Administrator if such activities involve chemical substances or mixtures for which data is required under section 4 or 5 or for which a rule has been proposed or promulgated under section 5 or 6 or for which action is pending or relief has been granted under section 7. Should any such circumstance arise, the Administrator shall furnish the appropriate foreign government with relevant information pertaining to the chemical substance subject to the limitations of section 14.

House amendment (section 12)

Except for minor differences in language, the House amendment follows the Senate provision. The House provision also specifically covers articles containing chemical substances.

Conference substitute (section 12)

The conference substitute follows the policy set forth in both the Senate and House provisions to protect the health and environment of persons in the United States and to provide information to foreign governments regarding chemical substances and mixtures, so that such foreign governments can protect their own citizens.

ENTRY INTO CUSTOMS TERRITORY OF THE UNITED STATES

Senate bill (section 13)

The Senate bill instructs the Secretary of the Treasury to refuse entry into the United States of any chemical substance or mixture offered for entry if it fails to conform with any requirement of the Act or any rule in effect under the Act or if it is otherwise prohibited from being distributed in commerce. If a substance or mixture is refused entry, the Secretary of the Treasury is required to notify the consignee of the entry refusal. If the substance or mixture is not exported within 90 days, the Secretary is to cause the disposal or storage of the susbtance or mixture.

House amendment (section 13)

The House amendment contains a similar provision.

Conference substitute (section 13)

The conference substitute adopts the provision found in both the Senate bill and the House amendment relating to entry into the customs territory of the United States. Although the Secretary of the Treasury is authorized to cause the disposal of substances and mixtures which have been refused entry and are not exported within 90 days, the conferees intend that the Secretary consult with the Administrator before determining the disposal methods for the substance or mixture.

DISCLOSURE OF DATA

Senate bill (section 14)

The Senate bill provides generally that all information obtained by the Administrator under this Act shall be subject to the Freedom of Information Act (5 U.S.C. 552). The Freedom of Information Act makes such information available to the public upon request, unless the information requested falls into one of nine exceptions.

The Senate bill also requires the disclosure of data in certain further specified situations. If officers or employees of the United States request information in connection with their official duties under laws protecting human health or the environment or for specific law enforcement purposes, then the Administrator must disclose the information to them.

Likewise, the Administrator must disclose information to the public whenever the Administrator determines it is necessary to protect human health or the environment. If the Administrator determines that disclosure of information is necessary for a contractor or the contractor's employee to perform official duties satisfactorily under contracts for the United States in connection with this Act, then the Administrator must disclose the information. Finally, the Administrator must disclose information to any duly authorized committee of Congress upon written request.

House amendment (section 14)

The House amendment contains some similarities to, but also some differences from, the Senate bill. Whereas the Senate bill states that the Freedom of Information Act applies except in certain areas where disclosure is mandatory, the House bill statutorily prohibits the disclosure of information which falls into one of the exemption categories (subsection (b)(4) (5 U.S.C. 552(b)(4))) of the Freedom of Information Act.

Subsection (b)(4) of that Act encompasses matters that are trade secrets and commercial or financial information obtained from a person and privileged or confidential. The Administrator may not disclose information under that classification except to officers or employees of the United States in connection with their duties to protect health or the environment or for specified law enforcement purposes or to contractors with the United States or their employees in connection with this Act. Such information may be disclosed when relevant to a proceeding under this Act, but the disclosure must preserve confidentiality as much as possible without impairing the proceeding.

Subsection (b)(1) specifically provides that disclosure of any health and safety study for any chemical substance or mixture which is already being distributed or for which testing is required under section 4 or for which notification is required under section 5, is not prohibited. Data in such a study which discloses a manufacturing process or the proportions of a mixture may not be disclosed if such process or proportions would otherwise be entitled to protection from disclosure.

Subsection (c) authorizes any person who submits data under the bill to designate information he believes is entitled to confidential treatment under section (a). Designated information may not be released for 30 days after notification of release has been received by the person submitting such data.

Conference substitute (section 14)

The conference substitute adopts elements of both the Senate bill and the House amendment. The prohibition against disclosure of information exempt from mandatory disclosure under section (a) of section 552 of title 5, United States Code, by reason of its falling within the exemption under subsection (b)(4) of such section, is included. Section 14 applies to any release of information obtained under the Act.

Mandatory exceptions from this prohibition are also provided. Disclosure of information described in section 552(b)(4) of title 5 is required in the following situations:

(1) If officers or employees of the United States in connection with their official duties to protect health or the environment, and for specific law enforcement purposes.

(2) To contractors with the United States when the Administrator determines it to be necessary for the satisfactory performance of their duties in connection with this Act and under such conditions as necessary to preserve confidentiality as the Administrator may specify.

(3) If the Administrator determines it necessary to protect health or the environment against an unreasonable risk of injury to health or the environment.

In addition, the Administrator may disclose such information when relevant under a proceeding under this Act, except that disclosure under such proceeding shall be made in such a manner as to preserve confidentiality to the extent practicable without impairing the hearing. It is intended that the Administrator exercise due care to prevent the release of confidential information to competitors of persons submitting data merely because the competitors have joined the proceeding.

In any proceeding under section 552(a) of title 5 to obtain information which the Administrator has refused to release on the basis that disclosure is prohibited by section 14(a) of this Act, the Administrator may not rely on section 552(b)(3) of title 5 to sustain the refusal to disclose the information. Thus the Administrator will have to show that the information falls within section 552(b)(4) of title 5. Of course, section 552 of title 5 is the vehicle through which the public can obtain information from the Federal government, and all the provisions of that section will apply to requests for information obtained under this Act.

The conference substitute specifically provides that disclosure of any health and safety study or information from such a study on any substance or mixture which is already being distributed or for which testing is required under section 4 or for which notification is required under section 5, is not prohibited. Data in such a study which disclosuses manufacturing processes or the proportions of a mixture may not be disclosed if such processes or proportions would otherwise be entitled to protection from disclosure. However, any restriction on the release of such data will not apply to the health and safety study in which it is contained or from which it is derived. To comply with such restriction the Administrator need only to exclude such data when releasing such study.

If a request is made to the Administrator for health and safety study information which is not entitled to protection, the Administrator may not deny a request under section 552 of title 5, United States Code, on the basis that such information is included in the exceptions to mandatory disclosure enumerated in subsection (b)(3) or (b)(4) of such section. It is also intended that the Administrator not use exception (b)(7) of section 552 of title 5, relating to matters under investigation, in an excessive manner as a device for withholding information submitted under this Act. In order to be withheld under that exception, the information must be the subject of an ongoing, active investigation.

In submitting data, a person may designate data which the person believes is entitled to confidential treatment under this Act and submit it separately. If the Administrator proposes to release for inspection designated data, the Administrator must give 30 days notice to the person who submitted the information. Thirty days advance notice need not be given when information is to be released under one of the mandatory exceptions described above or when disclosure is not prohibited because the information is health and safety data. When disclosure is proposed because it is necessary to protect health and the environment from an unreasonable risk, the Administrator shall provide the person submitting the data written notice by certified mail of the proposed release at least 15 days prior to the release. The purpose of this provision is to provide the person submitting the data an opportunity to seek to stop the proposed release if that person disputes the Administrator's determination. The conferees recognize that there may arise emergency situations in which the Administrator determines that earlier release is necessary. In such cases, where the occurrence of the unreasonable risk is imminent, the Administrator need give notice only 24 hours prior to release. The required notice need not be given in writing but may be made by some other means such as telephone or telegraph.

The criminal penalties for wrongful disclosure contained in the House bill have been included in the conference substitute.

PROHIBITED ACTS

Senate bill (section 15)

The Senate bill makes it unlawful for any person to fail or refuse to comply with any rule or order promulgated under section 4, 5, or 6, or any requirement prescribed by section 5 or 6. It also makes it unlawful for any person to use or dispose of a chemical substance or mixture which the person knew or had reasons to know was manufactured, processed or distributed in commerce in violation of section 5 or a rule or order under section 6. Failure or refusal to establish or maintain records, submit reports, notices, or other information or to permit access to, or copying of, records is also unlawful. Finally, the Senate amendment makes unlawful the failure or refusal to permit entry or inspection as required by section 11.

House amendment (section 15)

The House amendment makes it unlawful for any person to fail or refuse to comply with any rule or order promulgated under section 4, 5, or 6 or any requirement prescribed by section 5. It also makes it unlawful for any person to use for commercial purposes a chemical substance or mixture which the person using such substance or mixture knew or had reason to know was manufactured, processed or distributed in commerce in violation of section 5, a rule or order under section 5 or 6 or an order issued in an action brought under section 5 or 7. The House provisions respecting maintenance of records, submissions of reports, entry, and inspections are identical to the Senate bill.

Conference substitute (section 15)

The conference substitute incorporates the provisions of the House bill with a conforming amendment making violations of the provisions of section 6 relating to polychlorinated biphenyls an unlawful act.

PENALTIES

Senate bill (section 16)

This section outlines the penalties and procedures for assessing penalties against persons who violate section 15. Subsection (a) provides for civil penalties of up to $25,000 per day per violation. Taking relevant factors into account, the Administrator shall assess the amount of such civil penalties in an order made on the record after the opportunity for an adjudicative hearing and proper notification of the person in violation of this Act. Such person may file a petition for judicial review of an order assessing civil penalties in U.S. Court of Appeals within thirty days; however, if a person fails to pay such assessment after it has become a final and unappealable order or after the Court of Appeals has found in favor of the Administrator, then the Attorney General shall recover the amount assessed.

Subsection (b) provides for criminal penalties of up to $25,000 per day or up to one year's imprisonment, or both, per violation for any person who knowingly or willfully violates this Act.

House amendment (section 16)

The House amendment follows subsections (a) and (b) of the Senate provision. In addition, subsection (c) of the House Amendment provides that the Administrator may require a person who has manufactured, processed, or distributed a chemical substance or mixture in violation of regulations issued under paragraph (1) or (2) of section 6(a) to give notice of the risk associated with that substances to any person who may be exposed to it and to include the public at large. The Administrator may also require such person to either replace or repurchase the substance found to be in violation. The Administrator may choose any or all of the remedies set forth in subsection (c); however, in each case the order must be made on the record with full opportunity for an agency hearing.

Conference substitute (section 16)

The conference substitute adopts the provisions found in both bills concerning civil and criminal penalties for violations of this Act. Under subsection (a), the Administrator shall assess the amount of civil penalties up to $25,000 per day violation; however, the Administrator must take into account such factors as the gravity and extent of the violation, the ability to pay of the person held in violation, and any prior history of violations under this Act.

Criminal penalties may be imposed on persons who "knowingly or willfully" violate any provision of section 15, which sets forth unlawful acts.

SPECIFIC ENFORCEMENT AND SEIZURE

Senate bill (section 17)

The Senate bill grants the United States district courts jurisdiction, upon application of the Administrator or the Attorney General, to restrain any violation of section 15, to restrain any person from manufacturing or processing a chemical substance before the expiration of the notification period under section 5, and to restrain any person from taking any action prohibited by a requirement prescribed under section 5 or 6 or rules or orders issued under section 5 or 6. In addition, the courts are granted jurisdiction to direct any manufacturer or processor of a chemical substance or mixture who is not in compliance with any order issued under section 5(e) or any rule issued under section 4 or 6 to give notice of such fact to persons within the chain of distribution and to the public, and to either replace or repurchase the substance or mixture. The Senate provision also authorizes the district courts to compel the taking of any action required by or under the Act. In addition, the Senate bill provides that any substance or mixture manufactured or processed or distributed in commerce in violation of the Act or any rule or order promulgated under the Act shall be liable to be proceeded against for seizure and condemnation.

House amendment (section 17)

The House amendment grants jurisdiction to the district courts to restrain any violation of section 15, to restrain any person from manufacturing or processing a substance before the expiration of the notification period under section 5, and to restrain any person from taking action prohibited by section 5 or a rule or order under section 5 or 6. Jurisdiction is also granted to compel the taking of any action required by or under this Act. The seizure authority in the House amendment is similar to that found in the Senate bill, except that seizure and condemnation of articles containing chemical substances or mixtures manufactured, processed or distributed in commerce in violation of the Act or any rule or order promulgated under the Act is specifically authorized.

Conference substitute

The conference substitute grants the district courts of the United States jurisdiction to restrain any violation of section 15, to restrain any person from manufacturing or processing a substance before the expiration of the notification period under section 5, and to restrain any person from taking any action prohibited by section 5 or 6 or a rule or order under section 5 or 6. The provision also grants such courts jurisdiction over actions to direct any manufacturer or processor of a chemical substance or mixture manufactured or processed in violation of any order issued under section 5 or any rule or order issued under section 6 to give notice of the risk associated with the substance or mixture to persons in the chain of distribution and to the public. The courts also have jurisdiction to require manufacturers or processors to either replace or repurchase the substance or mixture, whichever the person to whom the requirement is directed elects. The conference substitute also grants jurisdiction to compel the taking of any action required by or under the Act. The seizure authority in the conference substitute is identical to that contained in the House amendment.

PREEMPTION

Senate bill (section 18)

This section outlines the relationship between State authority and the authority under this Act to regulate chemical substances or mixtures. Subsection (a) asserts the State's authority to regulate, with certain limitations. No State may require testing which duplicates testing required by the Administrator under a section 4 testing rule. Further, if the Administrator has prescribed a requirement under section 5 or 6 to protect against a particular risk associated with a chemical substance or mixture, a State may not prescribe any different requirement (other than a total ban) with respect to that risk unless the State obtains permission from the Administrator to do so.

The Administrator may, by rule, grant such permission if the Administrator finds that compliance with the State requirement would not result in a violation of this Act, would result in a significantly higher degree of protection, and would not unduly burden interstate commerce.

House amendment (section 18)

The House amendment is similar to the Senate bill. However, rules promulgated under section 6(a)(5) do not preempt State laws. Moreover, rules promulgated under other Federal authorities such as the Clean Air Act, are not preempted by requirements under this Act.

Like the Senate bill, the House amendment authorizes the Administrator to exempt, by rule, States from prohibitions under subsection (a) in the same manner as the Senate bill.

Conference substitute (section 18)

The conference substitute provides that no State or political subdivision may establish similar requirements for the testing of a substance or mixture after the Administrator has issued a rule under section 4 respecting the substance or mixture. Nor may any State regulate any risk associated with a substance or mixture if the Administrator has prescribed a rule or order under section 5 or 6, which is designed to protect against the risk to health or the environment, unless the rule (A) is identical to that issued under this Act, (B) is adopted under the authority of another Federal law, or (C) prohibits the use of such substance or mixture other than in its use in the manufacture or processing of other chemical substances or mixtures.

In addition to the specific exemptions from the preemption provision, the conference substitute provides a means whereby a State or political subdivision may seek an exemption from the preemptive effects of a Federal requirement in order to provide a higher degree of protection for their citizens than that provided by a requirement under this Act. The Administrator may, by rule, grant an exemption if compliance with the State or local requirement will not cause a violation of the applicable requirement under this Act, if the State or local requirement will provide a significantly higher degree of protection from the risk, and if the State or local requirement will not unduly burden interstate commerce.

JUDICIAL REVIEW

Senate bill (section 19)

The Senate's provision authorized pre-enforcement judicial review of any rule under the Act or an order issued under section 5(e). Any rule promulgated under section 3(b), 5 or 6 shall not be affirmed unless supported by substantial evidence on the record taken as a whole.

House amendment (section 19)

The House provision authorizes pre-enforcement judicial review of rules issued under section 4, 5 or 6(a). Such rules shall not be affirmed unless supported by substantial evidence based on the record taken as a whole.

Conference substitute (section 19)

Section 19 of the conference substitute provides for judicial review in the courts of appeals of the United States for certain rules promulgated under the Act. The jurisdiction for preenforcement review and review of determinations of the Administrator relating to cross-examination is exclusively vested in such courts. Not later than 60 days after the date of promulgation of a rule under section 4(a), 5(a) (2), 5(b) (4), 6(a), 6(e), or 8 any person may file a petition for judicial review of the rule in the appropriate U.S. court of appeals.

The section specifically defines the rulemaking record to include the rule being reviewed (which would include the statement of basis and purpose pursuant to section 553(c) of title 5, United States Code), any transcript required to be made of an oral presentation, any written submission of interested parties, and any other information which the Administrator considers to be relevant to the rule and with respect to which the Administrator published a notice in the Federal Register identifying the information on or before the date of the promulgation of such rule. In addition certain findings and statements required to be made with respect to specific rules must also be included in the rulemaking record. In the case of a rule under section 4(a), the finding required by that section must be included in the record. In the case of a rule under section 5(b) (4), the finding required to be made by that section must be included in that record. In the case of a rule under section 6(a), the finding required by section 5(f) or section 6(a), as the case may be, and the statement required by section 6(c) (1) must be included in the rulemaking record.

The section includes authority for the submission of additional data and oral or written views and for the modification of the rule being reviewed.

Generally section 706 of title 5, United States Code, applies to review of a rule under this section. However, in the case of review of a rule under section 4(a), 5(b) (4), 6(a) or 6(e), the bill provides that the courts shall hold unlawful and set aside such rule if the court finds that the rule is not supported by substantial evidence in the rulemaking record taken as a whole. This provision is in lieu of paragraph 2(E) of section 706 of title 5. It is the intent of the conferees that the traditional presumption of validity of an agency rule is to remain in effect. The conferees recognize that in rulemaking proceedings such as those contained in this bill, which are essentially informal and which involve both determinable facts and policy judgments derived therefrom, the traditional standard for review is that of "arbitrary and capricious". However, the conferees have adopted the "substantial evidence" test because they intend that the reviewing court focus on the rulemaking record to see if the Administrator's action is supported by that record. Of course, the conferees do not intend that the court substitute its judgment for that of the Administrator.

Further, in the case of review of a rule under section 6(a), the court shall set the rule aside if it finds that action by the Administrator in excluding or limiting cross-examination or rebuttal submissions precluded disclosure of disputed issues of material fact necessary for a fair determination of the rulemaking proceeding taken as a whole. Also, in review of such rules, section 706(2) (D) will not apply with respect to review of the Administrator's actions respecting limitations or exclusions of cross-examination or rebuttal submissions, and review of such action can occur only during preenforcement judicial review.

Section 19 also provides that the court may not review the contents and adequacy of any statement required to be made pursuant to section 6(c) (1) or any statement of basis and purpose required by section 553(c) of title 5 of United States Code to be incorporated in the rule except as part of a review of a rulemaking record taken as a whole.

Section 19 provides that in a judicial review proceeding under this section the court may award the costs of suit and reasonable fees for attorneys and expert witnesses if the court determines that such an award is appropriate. In addition, in any review of such an action the Supreme Court may also award such costs of suit and reasonable fees.

The section also provides that the remedies provided in section 19 shall be in addition to, and not in lieu of, any other remedies provided by law. This provision should not be construed, however, to negate the provision in this section which specifically provides that the United States courts of appeals shall have exclusive jurisdiction of any action to obtain judicial review (other than in an enforcement proceeding) if any district court of the United States would have had jurisdiction of such an action but for the provisions of this section.

CITIZEN'S CIVIL ACTIONS

Senate bill (section 20)

Subsection (a) authorizes any person to commence a civil action in specified district courts against (A) any person including the United States or any governmental agency or instrumentality alleged to be in violation of this Act or any rule or order prescribed under sections 4, 5, or 6(a). Such suits may also be brought to compel the Administrator to perform any nondiscretionary act or duty.

Subsections (b), (c), and (d) specify certain procedural provisions. No action may begin until the Administrator and the alleged violator have received proper notice of the alleged violation. If the Administrator has instituted a civil action against an alleged violator to compel compliance, then no action may be brought under this section. However, if the Administrator does not commence such action until after the person bringing the citizen's civil action has notified the alleged violator of intention to sue under this Act, then the person who gave such notification may intervene in the suit brought by the Administrator. The Administrator may intervene in any civil action under this section to which the Administrator is not a party. The court may award the costs of the suit and reasonable fees for attorneys and expert witnesses. The court may also consolidate two or more civil actions involving the same defendant, the same issues, or the same alleged violations when appropriate.

House amendment (section 20)

The House amendment contains the same provision as the Senate bill.

Conference substitute (section 20)

The conference substitute contains the provision included in both the Senate bill and the House amendment with a clarification that citizen's civil actions may also be brought for violations of an order under section 5 or 6.

CITIZENS' PETITIONS

Senate bill (section 21)

Section 21 of the Senate bill authorizes any person to petition the Administrator to issue a rule or order or to take other action for the purpose of protecting against an unreasonable risk of injury to health or the environment. If the petition is denied or not acted upon within 90 days, the petitioner may bring a civil action in a United States district court to compel the Administrator to initiate the requested action. If the petitioner demonstrates by a preponderance of the evidence in a *de novo* proceeding that the action requested in the petition conforms to the applicable requirements of the Act, the court shall order the Administrator to initate the requested action.

House amendment (section 21)

The House amendment authorizes any person to petition the Administrator to initiate a proceeding for the issuance, amendment, or repeal of a rule under section 4, 5(c), or 6(a). If the petition is denied, the petitioner may file a civil action to compel the Administrator to initiate the rulemaking proceeding. If the petitioner requests the issuance of a rule under section 4, 5(c), or 6(a) (as opposed to the modification or repeal of a rule under section 4, 5(c), or an opportunity for a *de novo* proceeding before the court. If the petitioner makes the requisite showings for the applicable provision, the court must order the Administrator to initiate the requested action unless the court finds that the failure of the Administrator to initiate the requested action was not unreasonable.

Conference substitute (section 21)

The conference substitute authorizes any person to petition the Administrator to initiate a proceeding for the issuance, amendment or repeal of an action under section 4, 5(e), 6, or 8 of the Act. It should be noted that a petition under this section may be used to initiate a proceeding under section 5(f) since a proceeding under that section is for the issuance of a rule under section 6(a). The Administrator must grant or deny any petition under this section within 90 days after it is filed.

The conference substitute thereafter provides for different judicial review of the Administrator's denial of a petition, depending upon whether such petition seeks the issuance of a rule or order or the amendment or repeal of an existing rule or order.

The substitute affords greater rights to a person petitioning for the issuance of a rule or order because in such a situation the Administrator will not previously have addressed the issue by rule or order. If the Administrator denies or fails to respond to a petition for the issuance of a rule or order, the petitioner may commence a civil action in a United States district court to compel the Administrator to take the action requested in the petition. In the court, the petitioner is entitled to a *de novo* proceeding. If the petitioner demonstrates to the court by a preponderance of the evidence that there is an adequate basis for the issuance of the rule or order requested, the court shall order the Administrator to initiate the requested action.

The court may defer requiring the Administrator to take the requested action if it finds that the extent of risk of injury to health or the environment alleged by the petitioner is less than those risks of injury which the Administrator is addressing under this Act and there are insufficient resources to do both. If a deferral is granted, the conferees anticipate that the Administrator may seek extensions as needed.

The conference substitute provides different treatment for review of petitions for amendment or repeal of rules or orders, because the Administrator already will have addressed the general subject matter in an existing rule or order and the Administrator's determination will have been subject to review under section 19 of this Act. Therefore, the conferee's main interest is to make certain that any such petitioner receive timely consideration of such petition. By requiring the Administrator to act on any such petition within 90 days, the conferees will facilitate such a petitioner's right to seek judicial review should the Administrator deny the petition. Otherwise, the Administrator could avoid any judicial review simply by failing to take any action.

The conferees believe that a petition for amendment or repeal of an existing rule or order should contain newly discovered noncumulative material which was not presented for the Administrator's consideration in promulgating the rule or orders. Failure to include such information would be an adequate basis for denying the petition.

At the same time, the conferees do not intend that the Administrator be subjected to constant petitions challenging rules or orders for which adequate judicial review is provided under section 19. Therefore, if the Administrator denies a petition to amend or repeal an action under section 4, 5(e), 6, or 8, the conference substitute permits review of such denial only under the Administrative Procedure Act.

NATIONAL DEFENSE WAIVER

Senate bill (section 22)

The Senate bill directs the Administrator to waive compliance with any provision of this Act upon the request of the Secretary of Defense and a determination by the President that the interest of national defense requires such a waiver. The Administrator shall maintain a written record of the basis for the waiver. In addition, the Administrator shall publish notice of the waiver in the Federal Register, unless the Administrator determines, upon request from the Secretary of Defense, that such publication is contrary to national defense interests, in which case, the Administrator shall notify the Armed Services Committees of the Senate and the House of Representatives.

House amendment (section 22)

The House amendment is similar to the policies and procedures of the Senate bill except that only the President, not the Secretary of Defense, is authorized to request a national defense waiver from the Administrator and to request that publication of the waiver not be placed in the Federal Register for national defense reasons.

Conference substitute (section 22)

The conference substitute includes the provision of the House amendment.

EMPLOYEE PROTECTION

Senate bill (section 23)

Section 23 of the Senate bill provides protection for employees who cooperate with the Administrator in carrying out the Act. The provision prohibits any employer from discharging any employee or otherwise discriminating against the employee with respect to compensation, terms, conditions, or privilege of employment because the employee commenced, caused to be commenced, or is about to commence a proceeding under the Act. Protection is provided for employees who have testified or are about to testify in any proceeding under the Act or who have assisted or participated in a proceeding or any other action to carry out the purposes of the Act. The Secretary of Labor shall conduct investigations of alleged violations and issue orders to require any person who violates the prohibitions to take affirmative action to remedy any such violation. Any person adversely affected by an order of the Secretary may obtain judicial review of the order in the United States court of appeals for the circuit in which the violation allegedly occurred. The Secretary is authorized to enforce the orders in the district court of the United States for the district in which the violation occurred.

House amendment (section 23)

The House amendment contains an identical provision.

Conference substitute (section 23)

The conference substitute adopts the provision found in both the Senate bill and House amendment.

EMPLOYMENT EFFECTS

Senate bill (section 23(f))

The Administrator shall conduct continuing evaluation of the effect on employment of rules or orders under this Act. Any employee who is discharged or whose employment is threatened or who is otherwise discriminated against as a result of any action under this Act may request investigation of the matter by the Administrator. The Administrator shall investigate the matter. If any interested party requests a hearing, the Administrator shall conduct a public hearing in accordance with section 554 of title 5, United States Code, at which the parties are required to present information on any employment effects.

Upon receipt of the investigation report, the Administrator shall make findings of fact as to the employment effects and shall make appropriate recommendations which shall be available to the public.

House amendment (section 24)

The House amendment is similar to the Senate bill. The House provision differs from the Senate's primarily as to whether and how a hearing requested by an interested person shall be conducted.

Upon request, the Administrator must hold a public hearing unless the Administrator determines that there are no reasonable grounds for such hearing. The hearing need not be a formal adjudicative hearing under 5 U.S.C. 554. Provision is made for subpoenas, oaths, and payment of witness fees in connection with any investigation or public hearing conducted under this section.

Conference substitute (section 24)

The conference substitute follows the House amendment with two modifications. First, if the Administrator determines that there are no reasonable grounds for holding a hearing, the Administrator must so find, by order, within 45 days of the date within which time such hearing is requested. Second, if a hearing is held, it shall be in accordance with the requirements of section 6(c)(3) of this Act.

STUDIES

Senate bill (section 24)

The Senate bill requires the General Accounting Office to conduct a study of all Federal laws administered by the Administrator to determine whether and under what conditions, if any, indemnification should be accorded any person as a result of action taken by the Administrator under such laws. The Senate bill also requires the Council on Environmental Quality to coordinate a study of the feasibility of establishing a standard classification system of chemical substances and related substances and a standard method for storing and obtaining rapid access to information respecting such substances.

House amendment (section 25)

The House amendment contains a similar provision except that the indemnification study shall be conducted by the Administrator and reviewed by the General Accounting Office.

Conference substitute (section 25)

The conference substitute includes the House provision.

ADMINISTRATION OF THE ACT

Senate bill (section 26)

Subsection (a) gives authority to each federal department and agency to cooperate with the Administrator, upon request, by sharing services of personnel, facilities, and information in order to carry out the purposes of this Act.

Subsection (b) provides that the Ambassador may, by rule, require payment from any person submitting data pursuant to section 4 or 5 to help defray administrative costs, provided that no such fee exceeds $2,500.

Under subsection (c), the Administrator may act with respect to categories of chemical substances or mixtures. For purposes of this section, a category includes chemical substances or mixtures grouped by virtue of similarity of chemical structure, physical, chemical, or biological properties, use or mode of entry into the human body or environment, or some other suitable grouping.

Under subsection (d), any proposed or final rule or order under this Act shall be accompanied by a statement of purpose and justification, which identifies the basis for the action. This statement shall become part of the "record of the proceedings" for purposes of judicial review under section 19(a).

Subsection (e) directs the President to appoint by and with the advice and consent of the Senate, an Assistant Administrator of the Environmental Protection Agency to administer this Act. The Assistant Administrator shall be qualified to direct a program concerning the effects of chemicals on health and the environment by reason of background and experience.

House amendment (section 26)

The House amendment contains provisions similar to the Senate bill concerning cooperation among federal agencies and fees to be paid by persons submitting data under section 4 or 5 to defray administrative costs, except that no small businesses shall be required to pay administrative fees exceeding $100. The House amendment also includes a provision on categories similar to that in the Senate bill.

No provision is made in the House amendment for appointment of an Assistant Administrator for Toxic Substances. However, the House amendment establishes an office within the Environmental Protection Agency to provide technical and other nonfinancial assistance to manufacturers and processors of chemical substances and mixtures concerning the requirements and application of this Act.

The House amendment does not contain a specific provision requiring that each proposed or final rule or order be accompanied by a statement of purpose or justification.

The House amendment in section 29 provides that each officer and employee of the Environmental Protection Agency and the Secretary of Health, Education, and Welfare who perform any function or duty under the bill and who has any known financial interest in any person subject to the bill or in any person who applied for or received any financial assistance pursuant to the bill must, beginning February 1, 1977, annually file with the appropriate agency or department a statement concerning all such interests during the preceding calendar year. Such statement must be available to the public.

The House amendment also directs the Administrator and the Secretary, within 90 days after enactment, to define "known financial interest" and to establish methods to monitor, enforce, and review the filing of such statements. They are also directed to report each year to Congress on June 1 regarding such disclosures and actions taken concerning them during the preceding calendar year.

Officers or employees in designated positions of a nonregulatory or nonpolicymaking nature may be exempted, by rule, from the requirements of this section.

The House amendment states that any officer or employer who is subject to, and knowingly violates, this section or any regulations issued thereunder is to be fined not more than $2,500 or imprisoned for not more than one year, or both.

Conference substitute (section 26)

The conference substitute incorporates provisions from both the Senate bill and the House amendment. Subsection (a) gives authority to each federal agency and department to cooperate with the Administrator to carry out the purposes of this Act.

The Administrator is authorized to require, by rule, payment of reasonable fees from any person required to submit data under sections 4 and 5 in order to defray the costs of administering this Act. In no case shall such fees exceed $2,500, or $100 in the case of a small business. In all cases when setting such fees, the Administrator shall take into account the ability to pay of persons submitting data.

The conference substitute includes the House provision concerning categories in subsection (c). The conferees expect that the Administrator will find the authority to categorize especially helpful in promulgating rules under section 5(a)(2) concerning what constitutes significant new use of chemical substances.

The conference substitute adopts the provision from the House amendment which establishes an office within EPA to provide technical and other nonfinancial assistance to manufacturers, processors of chemicals, and others. The purpose of the office is to help manufacturers and processors understand the requirements of the Act in order to assist in its efficient implementation and to avoid unnecessary confusion, which might prove detrimental to the chemical industry and the public interest.

The conference substitute adopts the House provision on financial disclosures for which the Senate bill had no comparable provision. The procedures and penalties are designed to make sure that persons who perform regulatory functions under this Act divulge any known financial interest such persons may have in any person subject to this Act.

Subsection (f) of the conference substitute modifies the requirement in the Senate amendment that each proposed or final rule or order be accompanied by a statement of basis and purpose to apply only to final orders.

The conference substitute includes the provision found in the Senate bill that the President appoint, with the advice and consent of the Senate, an Assistant Administrator for Toxic Substances who shall direct a program concerning the effects of chemicals on human health and the environment and perform other duties and responsibilities under this Act.

While the Assistant Administrator for Toxic Substances will be assigned responsibilities pursuant to this Act, the Administrator may assign additional duties. Of course this position will be in addition to the existing five assistant administrator positions established by Reorganization Plan No. 3 of 1970.

DEVELOPMENT AND EVALUATION OF TEST METHODS

Senate bill

The Senate bill contains no provision respecting development and evaluation of test methods.

House amendment (section 27)

The House amendment authorizes the Secretary of Health, Education, and Welfare, in consultation with the Administrator and acting through the Office of the Assistant Secretary for Health, to conduct projects for the development and evaluation of inexpensive and efficient methods for determining and evaluating the health and environmental effects of chemical substances and mixtures.

Conference substitute (section 27)

The House provision is included.

STATE PROGRAMS

Senate bill (section 25)

Section 25 authorizes the Administrator to assist up to three states in the establishment of demonstration programs to complement federal efforts under the Act. Subsection (a) describes the functions of such programs. Subsection (b) requires the Administrator to submit annual reports to the Congress on the demonstration programs. Subsection (c) authorizes appropriation of funds to assist the states in funding the demonstration programs. Grants shall not exceed 75 percent of the cost of any demonstration program. Subsection (d) provides that assistance shall be available to those states which can establish a priority need for such assistance. The Senate bill authorizes a maximum appropriation of $2 million for the fiscal year ending September 30, 1977, $2 million for the fiscal year ending September 30, 1978, and $2 million for the fiscal year ending September 30, 1979.

House amendment (section 28)

The House amendment is similar to the Senate bill, but differs in that grants are authorized only to assist states in addressing risks associated with substances and mixtures which the Administrator is unable to address.

The House amendment does not restrict the number of programs which the Administrator may approve. The House amendment authorizes an annual appropriation of $1 million for the fiscal years ending September 30, 1978, September 30, 1979 and September 30, 1980.

Conference substitute (section 28)

The conference substitute generally follows the House amendment with some modification. The Administrator may make grants to States to establish programs to prevent or eliminate unreasonable risks associated with chemical substances or mixtures against which the Administrator is not able or not likely to take action under this Act. The conferees agreed to a compromise on the authorization for such programs of $1.5 million for each of the fiscal years 1977 through 1979.

AUTHORIZATION FOR APPROPRIATIONS

Senate bill (section 27)

Section 27 of the Senate bill authorizes to be appropriated to the Administrator $11,100,000 for the fiscal year ending June 30, 1976, $2,600,000 for the period beginning July 1, 1976 and ending September 30, 1976, and $10,100,000 for the fiscal year ending September 30, 1977. This section prohibits using funds for construction of research laboratories.

Section 27(b) of the Senate bill requires that the Administrator submit concurrently to the Congress any budget requests, supplemental budget estimates, legislative recommendations, prepared testimony for Congressional hearings, or comments on legislation to the President or to the Office of Management and Budget connected with this Act.

House amendment (section 30)

The House amendment authorizes to be appropriated $12,625,000 for the fiscal year ending September 30, 1978, $16,200,000 for the fiscal year ending September 30, 1979, and $17,350,000 for the fiscal year ending September 30, 1980. The House amendment contained no provision relating to simultaneous submissions.

Conference substitute (section 29)

The conference substitute authorizes to be appropriated to carry out the purposes of this Act as follows: $10,100,000 for the fiscal year ending September 30, 1977; $12,625,000 for the fiscal year ending September 30, 1978; and $16,200,000 for the fiscal year ending September 30, 1979.

The conference substitute contains no provision for simultaneous submission of materials to Congress and the Office of Management and Budget.

ANNUAL REPORT

Senate bill (section 28)

The Senate bill requires the Administrator to submit to both the President and the Congress a comprehensive annual report. The report shall include (1) a list of the testing required under section 4 and an estimate of the costs incurred by the person required to perform the tests; (2) the number of notices received under section 5, the number of notices received under section 5 for chemical substances subject to a section 4 rule, and a summary of any action taken during the premarket notification period; (3) a list of rules issued under section 6; (4) a list, with a brief statement of the issues, of completed or pending judicial actions under the bill; (5) a summary of major problems encountered in administration of the bill; and (6) such recommendations for additional legislation as the Administrator deems necessary to carry out the purposes of the bill.

House amendment (section 31)

The House amendment is almost identical to the Senate bill. The only difference occurs with respect to the date that the Administrator must submit the first annual report. The House amendment specifies that the Administrator shall submit the first annual report on or before January 1, 1979.

Conference substitute (section 30)

The conference substitute generally follows the provision of the Senate bill. The first submission is due on or before January 1, 1978.

REVIEW

Senate bill

The Senate bill contained no rule review provision.

House amendment (section 32)

Section 32 of the House amendment provides that either House of Congress may veto a rule issued by the Administrator, the Secretary of the Treasury, or the Secretary of

Health, Education, and Welfare under this Act, by adopting a resolution of disapproval within 60 days.

Conference substitute

The House recedes.

EFFECTIVE DATE

Senate bill

The Senate bill contained no specific provision specifying an effective date; therefore, the legislation is to take effect upon enactment.

House amendment (section 33)

The House amendment provides that the legislation shall take effect October 1, 1977.

Conference substitute

The conference substitute establishes the effective date as January 1, 1977, except that section 4(f) shall not become effective for two years.

HARLEY O. STAGGERS,
JOHN M. MURPHY,
W. S. STUCKEY,
BOB ECKHARDT,
RALPH H. METCALFE,
WILLIAM M. BRODHEAD,
JAMES H. SCHEUER,
SAMUEL L. DEVINE,
JAMES T. BROYHILL,
MATTHEW J. RINALDO,
Managers on the Part of the House.

WARREN G. MAGNUSON,
VANCE HARTKE,
PHILIP A. HART,
JOHN A. DURKIN,
JOHN V. TUNNEY,
HOWARD BAKER,
TED STEVENS,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. JONES of North Carolina, for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. SIKES, for 60 minutes, on Wednesday, September 29.

(The following Members (at the request of Mr. SOLARZ) to revise and extend their remarks and include extraneous material:)

Mr. DAVIS, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes today.
Mr. PIKE, for 5 minutes, today.
Mr. VANIK, for 10 minutes, today.
Ms. ABZUG, for 10 minutes, today.
Mr. HARRIS, for 5 minutes, today.

Mr. SIKES, for 60 minutes, on September 29, 1976.

Mr. STEED, for 60 minutes, on September 29, 1976.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. PERKINS, and to include extraneous matter, immediately prior to consideration of Senate amendments on H.R. 13549 in the House today.

Mr. VIGORITO, to revise and extend his remarks immediately preceding the vote on the conference report on H.R. 10339.

Mr. HECHLER of West Virginia, to revise and extend his remarks during the general debate on the rule on H.R. 12112 today.

(The following Members (at the request of Mrs. PETTIS) and to include extraneous matter:)

Mr. BELL in two instances.
Mr. QUIE.
Mr. RHODES.
Mr. FORSYTHE.
Mr. GILMAN.
Mr. BOB WILSON.
Mr. GUYER.
Mr. MICHEL.
Mr. WIGGINS.
Mr. McKINNEY.
Mr. KASTEN.
Mr. MOSHER.
Mr. CRANE.
Mr. WHALEN.
Mr. WYDLER.

(The following Members (at the request of Mr. SOLARZ) and to include extraneous matter:)

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.
Mr. DRINAN in two instances.
Mr. AMBRO.
Mr. BOLLING.
Mr. TEAGUE.
Mr. BLANCHARD in two instances.

Mr. MOORHEAD of Pennsylvania in two instances.

Mr. DODD.
Mr. GREEN in two instances.
Mrs. MINK.
Ms. ABZUG.

Mr. MURPHY of New York in two instances.

Mr. LONG of Maryland in four instances.

Mr. WOLFF.
Mr. McDONALD in five instances.
Mr. CARNEY in three instances.
Mr. DENT.
Mr. JONES of Tennessee.
Mr. BRECKINRIDGE in two instances.
Mrs. COLLINS of Illinois.
Mr. MAZZOLI.
Mr. VIGORITO.
Mr. MOAKLEY.
Mr. RANGEL.
Mr. BENNETT.
Mr. HAWKINS in two instances.
Mr. OTTINGER.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

September 22, 1976

S. 798. An act to amend chapter 5, subchapter II, of title 5, United States Code, to provide for improved administrative procedures; to the Committee on the Judiciary.

S. 3621. An act to amend the International Claims Settlement Act of 1949 to provide for the determination of the validity and amounts of claims of nationals of the United States against the German Democratic Republic; to the Committee on International Relations.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 589. An act to authorize the Secretary of the Interior to provide relief to the Santa Ynez River Water Conservation District due to delivery of water to the Santa Ynez Indian Reservation lands;

H.R. 11997. An act to amend the Internal Revenue Code of 1954 with respect to the tax treatment of certain divestitures of assets by bank holding companies;

H.R. 12987. An act to authorize appropriations for carrying out title VI of the Comprehensive Employment and Training Act of 1973, and for other purposes;

H.R. 14238. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1977, and for other purposes;

H.R. 14299. An act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes; and

H.R. 15194. An act making appropriations for public works employment for the period ending September 30, 1977, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 2322. An act for the relief of Lee Mee Sun;

S. 3052. An act to authorize orientation and language training for families of certain officers and employees of the Department of Agriculture; and

S. 3430. An act to amend the Act approved August 18, 1970, providing for improvement in the administration of the National Park System by the Secretary of the Interior and clarifying authorities applicable to the National Park System, and for other purposes.

A BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on September 22, 1976 present to the President, for his approval, a bill of the House of the following title:

H.R. 14973. An act to provide for acquisition of lands in connection with the international Tijuana River flood control project, and for other purposes.

ADJOURNMENT

Mr. SOLARZ. Mr. Speaker, on the occasion of the Jewish New Year let me take this opportunity to wish you "Lashana Teka Savu," and my colleagues as well, and I further take this opportunity to move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 35 minutes p.m.), under its previous order, the House adjourned until Monday, September 27, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4061. A letter from the Secretary, Federal Trade Commission, transmitting notice of seven new systems of records for the Commission, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4062. A letter from the Under Secretary of the Interior, transmitting a proposed plan for the use and distribution of the Six Nation award granted by the Indian Claims Commission in dockets 84 and 300-B, and the Stockbridge-Munsee award granted by the Commission in docket 300 pursuant to 87 Stat. 466; to the Committee on Interior and Insular Affairs.

4063. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204 (d) of the Immigration and Nationality Act, as amended [8 U.S.C. 1154(d)]; to the Committee on the Judiciary.

4064. A letter from the Administrator, National Aeronautics and Space Administration, transmitting notice of NASA's plan to report to the General Services Administration as excess real property 50 acres of land with seven buildings at the Plum Brook Station, Sandusky, Ohio, pursuant to section 207 of the National Aeronautics and Space Act of 1958, as amended; to the Committee on Science and Technology.

RECEIVED FROM THE COMPTROLLER GENERAL

4065. A letter from the Comptroller General of the United States, transmitting a report on ways to increase U.S. shipbuilding productivity; jointly, to the Committees on Government Operations, Armed Services, and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MAHON: Committee on Appropriations. Subdivision to Subcommittees of Budget Totals Agreed to in Second Concurrent Resolution on the Budget (S. Con. Res. 139) for Fiscal Year 1977; (Rept. No. 94-1662). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 3656. A bill to study certain lands in the Sierra National Forest, Calif., for the possible inclusion in the National Wilderness Preservation System; with amendments (Rept. No. 94-1663). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 2905. A bill to designate the Manzano Mountain Wilderness, Cibola National Forest, N. Mex.; with an amendment (Rept. No. 94-1664). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 2906. A bill to designate the Sandia Mountain Wilderness, Cibola National Forest, N. Mex.; with an amendment (Rept. No. 94-1665). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 5893. A bill to designate certain lands as wilderness; with an amendment (Rept. No. 94-1666). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on Teton Dam disaster (Rept. No. 94-1667). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. A report on the effectiveness of Federal agency enforcement of laws and policies against compliance, by banks and other U.S. firms, with the Arab boycott (Rept. No. 94-1668). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. A report on the adequacy of the Office of the Comptroller of the Currency's supervision of Franklin National Bank (Rept. No. 94-1669). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. A report on the effectiveness of the Internal Revenue Service's income information document marketing program (Rept. No. 94-1670). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee of conference. Conference report on S. 2228; (Rept. No. 94-1671). Ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. House Resolution 1513. A resolution that there be printed as a House document a concise and selected nationwide record of the Bicentennial Captive Nations Week proclamations, statements, and relevant matters; with amendments (Rept. No. 94-1672). Referred to the House Calendar.

Mr. BRADEMAS: Committee on House Administration. House Resolution 1561. A resolution to provide for the printing of the transcript of the proceedings in the Committee on Public Works and Transportation of September 21, 1976, incident to the presentation of a portrait of Hon. Robert E. Jones, to the Committee on Public Works and Transportation (Rept. No. 94-1673). Referred to the House Calendar.

Mr. BRADEMAS: Committee on House Administration. House Resolution 1571. A resolution authorizing the printing of proceedings unveiling the portrait of Hon. Harley O. Staggers (Rept. No. 94-1674). Referred to the House Calendar.

Mr. BRADEMAS: Committee on House Administration. House Concurrent Resolution 761. A concurrent resolution authorizing the printing as a House document of proceedings of the Committee on Interior and Insular Affairs of July 27, 1976 (Rept. No. 94-1675). Referred to the House Calendar.

Mr. BRADEMAS: Committee on House Administration. Senate Concurrent Resolution 201. A concurrent resolution authorizing the printing of the prayers of the Chaplain of the Senate during the 94th Congress as a Senate document (Rept. No. 94-1676). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 1435. A resolution to amend rule XXXII of the Rules of the House of Representatives to specify conditions for the admission of ex-Members and certain other persons to the Hall of the House and rooms leading thereto; with an amendment (Rept. No. 94-1677). Referred to the House Calendar.

Mr. MAHON: Committee on Appropriations. House Joint Resolution 1105. A joint resolution making continuing appropriations for the fiscal year 1977, and for other purposes; with an amendment (Rept. No. 94-1678). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee of conference. Conference report on S. 3149 (Rept. No. 94-1679). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI:

H.R. 15677. A bill to amend title 38, United States Code, to eliminate certain minimum periods of service required of a veteran with respect to eligibility for a veteran's pension; to the Committee on Veterans' Affairs.

By Mr. BLOUIN:

H.R. 15678. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; jointly to the Committees on Interstate and Foreign Commerce, the Judiciary, and Ways and Means.

By Mr. DON H. CLAUSEN:

H.R. 15679. A bill to amend the Immigration and Nationality Act to permit adoption of more than two children; to the Committee on the Judiciary.

H.R. 15680. A bill tc amend title 38, United States Code, to provide for the payment of pensions to veterans of World War I; to the Committee on Veterans' Affairs.

By Mr. DELANEY (for himself, Mr. Dan Daniel, Mr. Beard of Rhode Island, Mr. Dodd, Mr. Moorhead of California, Mr. D'Amours, and Mr. Burke of Florida:

H.R. 15681. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for amounts paid by a taxpayer for tuition to provide an education for himself or for his dependents; to the Committee on Ways and Means.

By Mr. DRINAN:

H.R. 15682. A bill to amend title 28 of the United States Code to provide that positions in the Federal Bureau of Investigation shall be in the competitive service; to the Committee on the Judiciary.

By Mr. FISHER (for himself, Mr. Morgan, Mr. Bedell, Mr. Breckinridge, Mr. Clay, Ms. Collins of Illinois, Mr. Delaney, Mr. Derwinski, Mr. Edgar, Mr. Edwards of California, Ms. Fenwick, Mr. Fountain, Mr. Gude, Mr. Hubbard, Mr. Hughes, Mr. Ketchum, Ms. Keys, Mr. Koch, Mr. Krebs, Mr. Lagomarsino, Mr. Lent, Mr. Long of Maryland, Mrs. Meyner, Mr. Mikva, and Mr. Moorhead of Pennsylvania):

H.R. 15683. A bill to complement the Vienna Convention on Diplomatic Relations; to the Committee on International Relations.

By Mr. FISHER (for himself, Mr. Morgan, Mr. Nedzi, Mr. Pritchard, Mr. Roybal, Mr. Ryan, Mr. Sisk, Mr. Whitehurst, Mr. Won Pat, and Mr. Cornell):

H.R. 15684. A bill to complement the Vienna Convention on Diplomatic Relations; to the Committee on International Relations.

By Mr. GILMAN (for himself, Mr. Bedell, Mr. Hughes, Mr. Maguire, Mr. McCloskey, Mr. Peyser, and Mr. Won Pat):

H.R. 15685. A bill to establish a Commission to Study the Quality of Instruction at the Service Academies; jointly to the Committees on Armed Services, and Merchant Marine and Fisheries.

By Mr. GINN (for himself and Mr. Steed):

H.R. 15686. A bill to designate the "James J. Rowley Secret Service Training Center"; to the Committee on Public Works and Transportation.

By Mr. HANLEY:

H.R. 15687. A bill to amend title 39, United States Code, to provide that certain property held by the U.S. Postal Service shall be subject to certain provisions of the Federal Property and Administrative Services Act of 1949 relating to surplus and excess property; to the Committee on Post Office and Civil Service.

By Mr. HELSTOSKI:

H.R. 15688. A bill to amend the Internal Revenue Code to provide renters with a credit against income tax; to the Committee on Ways and Means.

By Mr. JACOBS:

H.R. 15689. A bill to establish rates of postage for first-class mail, to amend title 39, United States Code, to provide that proposed increases in any such rates of postage may not take effect if such increases are disapproved by the Congress, and for other purposes; jointly to the Committees on Post Office and Civil Service, and Rules.

By Mr. MOTTL:

H.R. 15690. A bill to expand competition, provide for the flow of funds for mortgage credit, provide improved financial services, and strengthen financial institutions and regulatory agencies, and for other purposes; to the Committee on Banking, Currency and Housing.

By Mr. ROE:

H.R. 15691. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. SOLARZ:

H.R. 15692. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to add a requirement that the comprehensive State plan include provisions for the prevention of arson; to the Committee on the Judiciary.

By Mr. BEDELL (for himself, Mr. Krebs, and Dr. Baldus):

H.R. 15693. A bill to amend the meat import law in order to limit the quantity of certain prepared or preserved beef and veal which may be imported into the United States after 1976; to the Committee on Ways and Means.

By Mr. GILMAN:

H.R. 15694. A bill to establish a task force to study and evaluate the taxation of real property by State and local governments, the effects of such taxation on certain taxpayers, and the feasibility of Federal taxation and other policies designed to reduce the dependence of State and local governments on such taxation; jointly to the Committees on Ways and Means, and Government Operations.

By Mr. LEGGETT:

H.R. 15695. A bill to amend the Arms Export Control Act to provide for analyses by the General Accounting Office of governmental and commercial sales of defense articles and services to foreign countries; to the Committee on International Relations.

By Mr. LEGGETT:

H.R. 15696. A bill to authorize the Secretary of Agriculture to subsidize the freight cost of exporting certain surplus agricultural commodities by ship; jointly to the Committees on Agriculture and International Relations.

By Mr. RANDALL (for himself, Mr. Pepper, Mr. Matsunaga, Ms. Abzug, Mr. Waxman, Mr. Annunzio, Mr. Ottinger, Mr. Rangel, Mr. Fraser, Mr. Levitas, Mr. Lagomarsino, Mr. Nolan, Mr. Edgar, Mr. Drinan, Mr. Gilman, Mr. Stark, Mr. Neal, Mrs. Spellman, Mr. Solarz, Mr. Nix, Mr. Roe, Mr. Downey of New York, and Mr. Bedell):

H.R. 15697. A bill to amend the Age Discrimination in Employment Act of 1967 to provide that all Federal employees described in section 15 of such act shall be covered under the provisions of such act regardless of their age; to the Committee on Education and Labor.

By Mr. ROSTENKOWSKI:

H.R. 15698. A bill to declare a national policy on investment in the private sector of the U.S. economy; to the Committee on Government Operations.

By Mr. THOMPSON:

H.J. Res. 1107. A joint resolution to provide for the printing and distribution of the Precedents of the House of Representatives compiled and prepared by Lewis Deschler; to the Committee on House Administration.

By Mr. CARTER:

H.J. Res. 1108. A joint resolution to authorize and request the President to issue a proclamation designating the fourth Sunday in September annually as "National Good Neighbor Day"; to the Committee on Post Office and Civil Service.

By Mr. MEEDS:

H.J. Res. 1109. A joint resolution to provide for the establishment of a Commission to examine the effect of Northwest Indian Off-Reservation Treaty Fishing Rights, and for other purposes; jointly to the Committees on Interior and Insular Affairs, and Merchant Marine and Fisheries.

By Mr. GREEN:

H. Con. Res. 764. A concurrent resolution disapproving the proposed letter of offer to sell certain defense articles and services to Saudi Arabia (transmittal numbered 7T–15); to the Committee on International Relations.

H. Con. Res. 765. A concurrent resolution disapproving the proposed letter of offer to sell certain defense articles and services to Saudi Arabia (transmittal numbered 7T–21); to the Committee on International Relations.

By Mr. GREEN:

H. Con. Res. 766. A concurrent resolution disapproving the proposed letter of offer to sell certain defense articles and services to Saudi Arabia (transmittal numbered 7T–39); to the Committee on International Relations.

By Mr. MOSS (for himself and Mr. Devine):

H.Res. 1571. A resolution authorizing the printing of proceedings unveiling the portrait of the Honorable Harley O. Staggers; to the Committee on House Administration.

By Mr. BIESTER (for himself and Mrs. Fenwick):

H. Res. 1572. A resolution to establish a John W. McCormack senior intern program; to the Committee on House Administration.

By Mr. OTTINGER (for himself, Mr. Conyers, Mr. Harrington, Mr. Edwards of California, Mr. Solarz, Ms. Abzug, Mr. Stark, and Mr. Wirth):

H. Res. 1573. A resolution relative to the admission of Vietnam to the United Nations; to the Committee on International Relations.

MEMORIAL

Under clause 4 of rule XXII,

466. THE SPEAKER presented a memorial of the Senate of the Commonwealth of Massachusetts, relative to the requirement that the elderly poor have their property assessed at 100 percent of market value, which was referred to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI:

H.R. 15699. A bill for the relief of Wayne Mitcham Williams; to the Committee on the Judiciary.

By Mr. JACOBS:

H.R. 15700. A bill for the relief of Midwest Cruises, Inc.; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 15

By Mr. QUIE:

Page 20, line 25, insert after the comma: "State or local government or agency thereof which qualifies as an organization to which provisions of this Act shall apply under section 3(a)(2) or which maintains an office in or near the District of Columbia to which the provisions of subsection (a) of section 3 apply,"

By Mr. SEIBERLING:

On page 29, following line 21, insert the following new subsection 6 (d):

"(d) In the case of an organization which is either—

"(A) described in section 501(c)(3) of the Internal Revenue Code of 1954, or

"(B) a college or university or instrumentality thereof, which is an agency or instrumentality of any government or any political subdivision thereof, or which is owned and operated by a government or any political subdivision thereof, or by any agency or instrumentality of one or more governments or political subdivisions,

such organization may, in lieu of the quarterly report required by subsection (b) of this section, elect to report annually—

"(1) an estimate of the total expenditure it has made on activities described in subsection 3(a) (not otherwise excluded under subsection 3(b)) of this Act which are directed to persons described in subsection 2(6)(C) of this Act;

"(2) either—

"(A) an estimate of the total expenditure it has made on activities described in subsection 3(a) (not otherwise excluded under subsection 3(b)) of this Act which are directed to persons described in subsections 2(6)(A) and (B) of this Act, or

"(B) such information as is described in section 6033(b)(8) of the Internal Revenue Code of 1954; and

"(3) a general description of the principal issues concerning which the organization engaged in activities described in subsection 3(a)."

H.R. 14496

By Mr. HUGHES:

On page 156, after line 6, insert the following new title, and renumber subsequent titles and sections accordingly:

"TITLE VI—LOAN GUARANTEES

"AUTHORITY OF ADMINISTRATOR

"Sec. 601. (a) The Administrator is authorized, in accordance with the provisions of this section and such rules and regulations as he shall prescribe, and after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee the bonds, debentures, notes, and other obligations issued by or on behalf of—

"(1) any State, municipality, or intermunicipal agency, or

"(2) in the case of facilities or equipment for the utilization of recovered resources, any other person, institution, organization, corporation or partnership,

for the purpose of financing the construction and startup and related development costs of commercial demonstration facilities necessary to the creation of resource conservation or resource recovery systems for municipal solid wastes, including the construction or modification of commercial demonstration facilities or acquisition of equipment necessary for the utilization of recovered resources, including fuel, produced by such system: *Provided*, That the outstanding indebtedness guaranteed under this Act at no time exceeds

$150,000,000: *Provided further,* That no guarantee or commitment to guarantee shall be undertaken under this Act after September 30, 1979.

"(b) An applicant for a loan guarantee under this Title shall provide evidence in writing to the Administrator in such form and with such content and other submissions as the Administrator deems necessary to protect the interest of the United States. Each guarantee and commitment to guarantee shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Administrator, with the concurrence of the Secretary of the Treasury deems appropriate.

"CONDITIONS OF LOAN GUARANTEES

"SEC. 602. The Administrator shall guarantee or make a commitment to guarantee under section 601 of this title, with respect to a facility of a resource conservation or resource recovery system, or component thereof, only if—

"(a) the facility for which the guarantee is provided is a critical element of the proposed resource conservation or resource recovery system, which has not been commercially demonstrated in such an application;

"(b) such system is certified by the State to be consistent with any applicable State and areawide plans or programs;

"(c) the applicant agrees that such system will be consistent with any applicable guidelines and plans established pursuant to title IV of this Act, and will meet the requirements of title III of this Act;

"(d) the Administrator is satisfied that the proposed resource conservation or resource recovery system is appropriate for the area to be served, that the proposed system does not duplicate or displace existing resource conservation or resource recovery services in the area, and that a realistic plan for achieving operational and financial self-sufficiency within a reasonable time exists for the proposed system, including adequate new and stable markets, such as a long-term contractual commitment for a significant proportion of the recovered resources;

"(e) such system will comply with effluent limitations under the Federal Water Pollution Control Act and with new source emission limitations or requirements of air quality implementation plans under the Clean Air Act;

"(f) the Administrator is satisfied that competition among private entities for the construction or operation of the system or facility to be assisted under this title will be in no way limited or precluded;

"(g) the amount guaranteed does not exceed 75 per centum of the total project cost of the facility assisted, and the balance of project cost is provided as follows:

"(1) in the case of governmental applicants, from general tax revenues or assessments or the proceeds of bond sales; and

"(2) in the case of private applicants, from invested or borrowed capital not subject to any public loan, guarantee, or grant program;

"(h) the Secretary of the Treasury and the Administrator are satisfied that the financial assistance applied for it not otherwise available form private lenders or from other Federal agencies on terms which in the opinion of the Secretary and the Administrator will permit the creation of the resource conservation or resource recovery system, and such assistance is necessary to encourage financial participation in such facility by private lenders or investors; and

"(i) the Administrator has determined that there will be a continued reasonable assurance of full repayment.

"NONREVOCABILITY OF GUARANTEES

SEC. 603. Except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no guarantee issued or committed to guarantee made under this title shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this title and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud, or material misrepresentation on the part of the holder.

"PROCEDURES ON DEFAULT

"SEC. 604. (a) If there is a default by the borrower as defined in regulations promulgated by the Administrator and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on and unpaid principal of the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this title shall be construed to preclude forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(b) In the event of a default on any guarantee under this title, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under subsection (a) of this section (including any payment of interest under Section 605 of this title) from such assets of the defaulting borrower as are associated with the commercial demonstration facility, or from any other security included in the terms of the guarantee.

"(c) For purposes of this title, patents, and technology resulting from the commercial demonstration facility shall be treated as project assets of such facility in accordance with the terms and conditions of the guarantee agreement. Furthermore, the guarantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the commercial demonstration facility shall be available to the Government and its designees on equitable terms, including due consideration to the amount of the Government's default payments.

"EMERGENCY PAYMENTS AUTHORIZED

"SEC. 605. With respect to any obligation guaranteed under this title the Administrator is authorized to enter into a contract to pay, and to pay, the holders of the obligation for and on behalf of the borrower from the fund established by this title the principal and interest payments which become due and payable on the unpaid balance of such loan if the Administrator finds that—

"(a)(1) the borrower is unable to meet such payments and is not in default;

"(2) it is in the public interest to permit the borrower to continue to pursue the purposes of such demonstration facility; and

"(3) the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(b) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(c) the borrower agrees to reimburse the Administrator for such payments on terms and conditions, including interest, which are satisfactory to the Administrator.

"FEES

"SEC. 606. The Administrator shall charge and collect fees for guarantees of obligations authorized by this title in amounts sufficient in the judgment of the Administrator to cover the applicable administrative costs and probable losses on guaranteed obligations, but in any event not to exceed 1 per centum per annum of the outstanding indebtedness covered by the guarantee.

"AUTHORITIES SUBJECT TO APPROPRIATION

"SEC. 607. Notwithstanding any other provision of this title, authorities made available under this title shall be effective only to the extent and in such amounts provided in advance in appropriation Acts enacted after the date of enactment of Resource Conservation and Recovery Act of 1976."

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of September 22, 1976, page 32039.

HOUSE BILLS

H.R. 15371. August 31, 1976. Judiciary. Provides for Secret Service protection for the spouse of a Presidential or Vice Presidential nominee of a major political party upon request of such nominee for 60 days prior to the general Presidential election.

H.R. 15372. August 31, 1976. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to direct the Federal Communications Commission to promulgate: (1) regulations governing the rates, terms, and conditions for pole attachments, any attachment on a pole, duct, conduit, or other right-of-way owned or controlled by a utility, and (2) minimum standards which a State must meet in order to be eligible for exemption from such regulations.

Increases the amounts of the fine which may be levied against a person who has been determined to have violated the terms of a broadcast license or permit.

H.R. 15373. August 31, 1976. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 15374. August 31, 1976. Judiciary. Stipulates that the English language requirements for naturalization under the Immigration and Nationality Act shall not apply to a certain individual.

H.R. 15375. August 31, 1976. Judiciary. Authorizes the admission of a certain individual to the United States for permanent residence.

H.R. 15376. August 31, 1976. Judiciary. Relieves a specified company of liability pursuant to its default on a contract to supply certain equipment to the Defense Supply Agency. Directs the Secretary of the Treasury to pay to such company an amount equal to the sums paid by the company or withheld from sums due to such company with respect to such liability.

H.R. 15377. September 1, 1976. International Relations. Amends the Export Administration Act of 1969 to increase penalties for violations under such Act. Revises Presidential authority to control exports for national security purposes. Revises export licensing procedures. Prohibits support of foreign boycotts by domestic exporting concerns. Exempts petroleum products and agricultural commodities from export controls designed to regulate domestic supply and inflation. Revises export regulation policy with respect to national security and foreign policy purposes upon which such controls may be based. Directs the Secretary of Commerce to study the effects of the export of technical data.

Prohibits use of funds under the Foreign Assistance Act of 1961 for nuclear powerplants.

H.R. 15378. September 1, 1976. Armed Services. Authorizes additional appropriations for the procurement of naval vessels by the Navy for fiscal year 1977.

H.R. 15379. September 1, 1976. Ways and Means. Amends the Tariff Schedules of the United States to limit the importation of mushrooms.

H.R. 15380. September 1, 1976. Government Operations. Establishes the Government Executive Analysis and Reform (GEAR) Commission and a Task Force on American Federalism.

Directs the Commission to study the structure of Federal agencies and programs and to recommend methods to improve the efficiency of the Federal Government.

Directs the Task Force to study the appropriate levels of responsibility shared among Federal, State and local governments and to recommend constitutional, legislative, and administrative changes necessary to achieve a proper balance and division of Federal, State and local roles.

H.R. 15381. September 1, 1976. Interstate and Foreign Commerce. Establishes a National Commission on Regulatory Reform to study and make recommendations on the activities and effect on the economy of certain Federal Regulatory agencies.

H.R. 15382. September 1, 1976. Public Works and Transportation. Directs the Secretary of the Army, acting through the Chief of Engineers, to utilize and encourage the utilization of disposal area management practices designed to minimize the need for new dredged material disposal areas.

H.R. 15383. September 1, 1976. Ways and Means. Amends the Internal Revenue Code to redefine the rate of interest on money due to or from the Government in the case of a corporate taxpayer to be 125 percent of the adjusted rate established by the Secretary of the Treasury. Requires the Secretary to adjust the interest rate to the predominant rate quoted by banks to large business.

H.R. 15384. September 1, 1976. Education and Labor. Amends the Labor Management Relations Act of 1947 to allow application of the national emergency procedures thereunder to strikes or lockouts which will cause losses of agricultural crops.

H.R. 15385. September 1, 1976. Interior and Insular Affairs; International Relations. Amends the Trans-Alaska Pipeline Authorization Act and the Mineral Leasing Act of 1920 to direct the President to develop a plan for an equitable system of transportation, allocation, and distribution of Alaskan petroleum resources to all areas of the United States.

H.R. 15386. September 1, 1976. Education and Labor; Judiciary. Amends the Equal Education Opportunities Act of 1974 to require a three judge court to hear all involuntary student transportaion cases and prohibits such court from ordering the involuntary transportaion of students except to the extent that present patterns of assignment of students to public schools are based on race in violation of Constitutional or statutory rights.

Extends authorizations for appropriations under the Emergency School Aid Act until September 30, 1978.

H.R. 15387. September 1, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 15388. September 1, 1976. Banking, Currency and Housing. Establishes a National Commission on Neighborhoods consisting of Members of Congress and Presidential appointees. States the duties of such Commission, including studying the factors necessary to neighborhood survival and revitalization and making recommendations for modification of existing laws and policies.

H.R. 15389. September 1, 1976. Banking, Currency and Housing. Establishes a National Commission on Neighborhoods consisting of Members of Congress and Presidential appointees. States the duties of such Commission, including studying the factors necessary to neighborhood survival and revitalization and making recommendations for modification of existing laws and policies.

H.R. 15390. September 1, 1976. Government Operations. Establishes within the Department of Health, Education, and Welfare the Office of Inspector General. Requires the Office to promote economy and efficiency and to detect fraud and abuse in the programs and operations of the Department.

Requires the Office to report its findings and activities to the Secretary and Congress at least quarterly.

H.R. 15391. September 1, 1976. Ways and Means. Amends the Tariff Schedules of the United States to declare it the policy of Congress that the importation of prepared or preserved beef or veal (other than cured or pickled beef and veal and beef in airtight containers) be limited after 1976.

H.R. 15392. September 1, 1976. Ways and Means. Amends the Emergency Jobs and Unemployment Assistance Act of 1974 to qualify individuals who are eligible for unemployment compensation under State or Federal law for special unemployment assistance to the extent that the special assistance benefits to which such individuals would be entitled had they not been eligible for State or Federal unemployment compensation exceeds such regular compensation.

H.R. 15393. September 1, 1976. Ways and Means. Amends the Internal Revenue Code to increase the exclusion from gross income for gain from the sale or exchange of a residence owned by a taxpayer who has attained the age of 65.

H.R. 15394. September 1, 1976. Merchant Marine and Fisheries; Interstate and Foreign Commerce. Directs the Secretary of Commerce to study the California gray whale and to make recommendations to the President for the preservation of such mammal. Directs all Federal agencies to protect the gray whale until such recommendations are implemented.

Declares a moratorium on the killing or capturing of such mammal within the 200 mile limit of the United States.

Directs the Secretary of Commerce, with the Secretary of State, to initiate negotiations with Mexico and Canada for such preservation.

H.R. 15395. September 1, 1976. Education and Labor. Amends the Education Amendments of 1972 to exempt from the sex discrimination prohibition provision of such Act, musical or social programs or activities.

H.R. 15396. September 1, 1976. Atomic Energy. Amends the Atomic Energy Act of 1954 to establish criminal penalties for offenses under such Act committed with intent to convert nuclear material or facilities.

H.R. 15397. September 1, 1976. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to authorize air carriers to grant reduced rates to: (1) families; (2) handicapped persons and attendants accompanying them; (3) persons 21 years of age or younger; and (4) persons 65 years of age or older.

H.R. 15398. September 1, 1976. Banking, Currency and Housing. Establishes minimum national standards for disclosure and consumer protection in condominium sales and conversions.

Allows the establishment of condominium regulation by any State or unit of local government. Empowers the Secretary of Housing and Urban Development to make grants to States to assist condominium regulation.

H.R. 15399. September 1, 1976. Interior and Insular Affairs; Merchant Marine and Fisheries; Banking, Currency and Housing; Appropriations. Establishes the Bicentennial Land Heritage Program for the Acquisition improvement, rehabilitation, and maintenance of units of the National Park System and the National Wildlife Refuge System, and for the improvement of community recreation facilities.

Appropriates specified sums for the following: (1) grants for State and local community development programs; (2) land acquisition by, and operational expenses of, the National Park Service; (3) land acquisition, resource management, anadromous fishery development, and (4) planning and constructing roads and parkways within the National Park System.

SENATE—*Thursday, September 23, 1976*

The Senate met at 9:30 a.m. and was called to order by Hon. RICHARD STONE, a Senator from the State of Florida.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, who hath made of one blood all nations of men to dwell on the face of the Earth, we beseech Thee to hear our intercessions for all races and kindreds of men, that all hearts may be turned to Thee and the way of Thy kingdom. Remove from our minds all prejudice and contempt for those who are not of our own race or color or creed. Give us grace to welcome those from distant lands who strive with us to bring a new order of tranquillity, understanding, and unity. Prosper the efforts of those on every continent who confer for the peace of the world. Fire our minds with a vision of the more perfect society here on Earth in which justice and brotherhood shall reign according to Thy will; and help us each one, O Lord, to do our part, that Thy will may be done on Earth as it is in heaven. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 23, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. RICHARD STONE, a Senator from the State of Florida, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. STONE thereupon took the chair as Acting President pro tempore.

PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT AMENDMENTS OF 1976—CONFERENCE REPORT SUBMITTED DURING ADJOURNMENT—(REPT. NO. 94-1299)

Under authority of the order of September 22, 1976, Mr. RANDOLPH submitted a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2228) to amend the Public Works and Economic Development Act of 1965, as amended, to extend the authorizations for a 3-year period, which was ordered to be printed.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, September 22, 1976, be dispensed with.

Mr. ALLEN. Mr. President, I object, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Objection is heard. The clerk will call the roll.

QUORUM CALL

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, a Senator is supposed to stand when he directs a statement to the Chair.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ALLEN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard. The clerk will call the roll.

The assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 50 Leg.]

Abourezk
Allen
Byrd, Robert C.
Culver
Griffin
Huddleston
McClure
Pearson
Stone

The ACTING PRESIDENT pro tempore. A quorum is not present. The clerk will call the names of absent Senators.

The assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Regular order.

The call of the roll was concluded.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. BUMPERS), the Senator from Virginia (Mr. HARRY F. BYRD, Jr.), the Senator from California (Mr. CRANSTON), the Senator from New Hampshire (Mr. DURKIN), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), the Senator from Missouri (Mr. SYMINGTON), the Senator from Georgia (Mr. TALMADGE), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Ohio (Mr. GLENN), and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. FANNIN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Oregon (Mr. PACKWOOD), the Senator from Virginia (Mr. WILLIAM L. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 64, nays 4, as follows:

[Rollcall Vote No. 631 Leg.]

YEAS—64

Abourezk
Baker
Bartlett
Bellmon
Bentsen
Brock
Brooke
Buckley
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Culver
Domenici
Eagleton
Eastland
Fong
Ford
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Johnston
Laxalt
Leahy
Mathias
McClellan
McClure
McGovern
Moss
Muskie
Nelson
Nunn
Pearson
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Taft
Thurmond
Tower
Tunney
Young

NAYS—4

Allen
Biden
Garn
Morgan

NOT VOTING—32

Bayh
Beall
Bumpers
Byrd, Harry F., Jr.
Cranston
Curtis
Dole
Durkin
Fannin
Glenn
Goldwater
Hart, Philip A.
Hartke
Hatfield
Javits
Kennedy
Long
Magnuson
Mansfield
McGee
McIntyre
Metcalf
Mondale
Montoya
Packwood
Pastore
Pell
Scott, William L.
Symington
Talmadge
Weicker
Williams

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

THE JOURNAL

The PRESIDING OFFICER. The clerk will read the Journal.

The legislative clerk proceeded to read the Journal of Wednesday, September 22, 1976.

During the reading the following occurred:

The PRESIDING OFFICER. The clerk will suspend. The Senate will come to order. The clerk will not proceed until we have order.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the reading of the Journal be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Objection.

The PRESIDING OFFICER. Objection is heard.

The clerk will proceed.

The legislative clerk resumed the reading of the Journal.

During the reading the following occurred:

Mr. ROBERT C. BYRD. Mr. President, I make a point of order that under rule XXII, 1 hour after the Senate having met, the Chair shall lay the motion for cloture before the Senate and direct that the Secretary call the roll, and upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the motion on cloture, that rule having been formalized subsequent to the writing of rule III, and the authors of rule XXII, having known of rule III, and having made no exception thereto, and it not being a constitutional question as to whether or not the reading of the Journal shall be suspended, that the Chair invoke rule XXII.

Mr. ALLEN. A point of order, Mr. President. The reading of the Journal cannot be suspended.

Mr. ROBERT C. BYRD. I make a point of order.

Mr. ALLEN. A point of order.

The PRESIDING OFFICER (Mr. FORD). The Chair will read rule III.

> The Presiding Officer having taken the Chair, and a quorum being present, the Journal of the preceding day shall be read, and any mistake made in the entries corrected. The reading of the Journal shall not be suspended unless by unanimous consent;

The point of order of the Senator from West Virginia is not well taken.

Mr. ROBERT C. BYRD. Mr. President, we have two rules in conflict here. Rule XXII was written subsequent to rule III with foreknowledge of the authors thereof. The nonsuspension of the reading of the Journal is not a constitutional question, and I appeal the ruling of the Chair, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. I appeal from the ruling of the Chair, and that is debatable.

Mr. ROBERT C. BYRD. It is not.

The PRESIDING OFFICER. Not in this context.

Mr. ALLEN. Cloture has not been voted.

The PRESIDING OFFICER. But the Journal is being read, and I am now going to submit it to the Senate, and the appeal from the ruling of the Chair is not debatable in this context.

Mr. ABOUREZK. Regular order.

Mr. ALLEN. I appeal from that ruling as well. I appeal from two rulings, Mr. President.

Mr. ABOUREZK. Regular order.

The PRESIDING OFFICER. There is a request for the regular order.

Mr. ALLEN. I appeal from that ruling right now that this is not debatable.

The PRESIDING OFFICER. If the two Senators will wait, I will do my best to try to let you have another vote.

Mr. ALLEN. I appeal from the Chair's last ruling that this is not debatable.

The PRESIDING OFFICER. There is an appeal pending. The question is, Shall the decision of the Chair stand as the judgment of the Senate? The yeas and nays have been ordered.

Mr. ROBERT C. BYRD. What is the question?

The PRESIDING OFFICER. It is on the appeal of the Senator from West Virginia from the ruling of the Chair. The question now——

Mr. ALLEN. Mr. President, I make a point of order. This is debatable.

Mr. CRANSTON. Regular order.

Mr. ALLEN. I appeal from any ruling to the contrary.

The PRESIDING OFFICER. The Chair holds it is not debatable, and the question is on the appeal of the Senator from Alabama. The question now is on the point of order made by the Senator from Alabama that the question is not debatable.

Mr. ALLEN. Mr. President, I call for the yeas and nays on the point of order, on my point of order.

The PRESIDING OFFICER. Is there a sufficient second on the appeal?

Mr. ROBERT C. BYRD. Mr. President, I move to table the appeal of the Senator from Alabama.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia to table the appeal by the Senator from Alabama. The yeas and nays have been requested.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The rollcall has been ordered.

Mr. ALLEN. Mr. President, not before I made that request.

Mr. HELMS. There was no response.

Mr. ALLEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The quorum call is not in order during the reading of the Journal, and the clerk will call the roll on the tabling motion of the Senator from West Virginia.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The clerk will suspend. Will the Senate come to order?

The clerk will suspend until the Senate comes to order. Clear the well. Senators will clear the well.

The clerk will suspend until the Senate comes to order.

The clerk may proceed.

The legislative clerk resumed calling the roll.

The PRESIDING OFFICER. The Senate will please come to order. Senators take their seats.

The legislative clerk resumed calling the roll.

The PRESIDING OFFICER. The Senate will please come to order. Senators please take their seats. Senators clear the aisles. Senators please take their seats.

The legislative clerk resumed and concluded calling the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from New Hampshire (Mr. Durkin), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), and the Senator from New Mexico (Mr. Montoya) are necessarily absent.

I further announce that the Senator from Ohio (Mr. Glenn) and the Senator from Montana (Mr. Mansfield) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Kansas (Mr. Dole), the Senator from Oregon (Mr. Packwood), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

The result was announced—yeas 69, nays 20, as follows:

[Rollcall Vote No. 632 Leg.]

YEAS—69

Abourezk
Allen
Baker
Bellmon
Bentsen
Biden
Brock
Brooke
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Domenici
Eagleton
Fong
Ford
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Magnuson
Mathias
McClure
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Tunney
Williams
Young

NAYS—20

Bartlett
Buckley
Curtis
Eastland
Fannin
Garn
Goldwater
Hansen
Helms
Hruska
Laxalt
Long
McClellan
Nunn
Scott,
  William L.
Sparkman
Stennis
Talmadge
Thurmond
Tower

NOT VOTING—11

Bayh
Beall
Dole
Durkin
Glenn
Mansfield
McGee
Mondale
Montoya
Packwood
Weicker

So the motion to lay on the table the appeal from the ruling of the Chair was agreed to.

Mr. ALLEN. Mr. President, having noted on the prevailing side, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which the ruling of the Chair was sustained. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), and the Senator from New Mexico (Mr. Montoya) are necessarily absent.

I further announce that the Senator from Ohio (Mr. Glenn), and the Senator from Montana (Mr. Mansfield), are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Kansas (Mr. Dole), the Senator from Oregon (Mr. Packwood), and the Senator from Connecticut (Mr. Weicker), are necessarily absent.

The result was announced—yeas 76, nays 14, as follows:

[Rollcall Vote No. 633 Leg.]

YEAS—76

Abourezk
Baker
Bellmon
Bentsen
Biden
Brock
Brooke
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Eastland
Fong
Ford
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Magnuson
Mathias
McClellan
McClure
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Tower
Tunney
Williams
Young

NAYS—14

Allen
Bartlett
Buckley
Curtis
Fannin
Garn
Goldwater
Hansen
Helms
Laxalt
Long
Scott,
William L.
Sparkman
Thurmond

NOT VOTING—10

Bayh
Beall
Dole
Glenn
Mansfield
McGee
Mondale
Montoya
Packwood
Weicker

So the motion to lay on the table was agreed to.

TIME-LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Alabama and I may each have 5 minutes to debate this question before he moves to table my appeal.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ALLEN. Mr. President, reserving the right to object, I do wish to be recognized. I ask unanimous consent to have this as part of the unanimous-consent agreement, following the expiration of the 10 minutes that I be recognized to make a motion to lay on the table.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ALLEN. Mr. President, I ask unanimous consent that I might at this time call for the yeas and nays on my prospective motion.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized for 5 minutes.

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The ACTING PRESIDENT pro tempore. Will Senators kindly take their seats? Senators will cease their conversations, so that the Senate may be in order. The Senate staff members will take their seats.

Mr. ROBERT C. BYRD. Mr. President, one of the objectives here is to run the clock to 12:15, at which time, under the order previously entered, the Senate is supposed to go to the Hall of the House of Representatives in a body, thus delaying the vote on cloture until the Senate returns. That is one of the objectives. Therefore, I would be constrained to object to any further debate after this 10 minutes has been consumed.

The Constitution makes this reference to the reading of the Journal:

> Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present be entered on the Journal.

That is all the Constitution says about the Journal. The Constitution does not require the reading of the Journal at the beginning of each day's session. The Constitution says nothing about suspending the reading of the Journal.

Rule III of the Standing Rules of the Senate, in paragraph 1, says this, in part:

> The Presiding Officer having taken the chair, and a quorum being present, the Journal of the preceding day shall be read, and any mistake made in the entries corrected. The reading of the Journal shall not be suspended unless by unanimous consent . . .

That is what rule III says, not the Constitution.

Rule XXII reads as follows on this point:

> Notwithstanding the provisions of rule III—

Which I have just read—

> or rule VI or any other rule of the Senate, at any time a motion signed by sixteen Senators, to bring to a close the debate upon any measure, motion, other matter pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Officer shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the Secretary call the roll, and upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question:
>
> "Is it the sense of the Senate that the debate shall be brought to a close?"

Rule XXII was written subsequent to the creation of rule III.

I suppose—and I think I am correct in this—that rule III was writen in 1789 or at such time as the Senate originally adopted its 18 or 19 rules at that time. Rule XXII was written in 1917. The authors of rule XXII knew of the existence of rule III at the time they wrote rule XXII. I maintain that they wrote rule XXII with that knowledge and that rule XXII prevails over rule III when a point of order is raised.

This precise point of order never has been made in the Senate in all the years of its existence. So that the Senate today ultimately will have an opportunity to decide this question: as to which of these rules in these precise circumstances, rule XXII or rule III, will prevail.

Let us read again the first sentence of paragraph 2 of rule XXII:

> Notwithstanding the provisions of rule III or rule VI or any other rule of the Senate, at any time a motion signed by sixteen Senators, to bring to a close the debate upon any measure, motion, other matter pending before the Senate or the unfinished business, is presented to the Senate, the Presiding Officer shall at once state the motion to the Senate. . . .

The argument may be made by my friend, Mr. ALLEN—and he is a very astute, knowledgeable, capable man and knows the rules exceedingly well—that notwithstanding the provisions of rule III, that phrase goes only to the first clause:

> The Presiding Officer shall at once state the motion to the Senate.

But if the presenting of a motion to the Senate is so weighty and vital that the provisions of rule III are to be accepted as they are, then the follow-on—the vote on that cloture motion—must have had equal weight and equal vitality in the minds of the authors of rule XXII, paragraph 2.

I maintain that, had the authors of that rule meant to except the automatic call of the quorum and the automatic vote on cloture from rule III, they would have so stated.

The Chair has ruled against me in this. I have appealed the ruling of the Chair. The Senate is going to make a decision as between the two rules, which should prevail in this set of circumstances. Mr. ALLEN will move to table my motion, but the Senate is going to decide today which of the rules it wants to follow in this precise set of circumstances. I hope the Senate will sustain my motions in this instance and not the Chair's ruling, for which I do not ordinarily hope.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ALLEN. Mr. President, I appreciate the supreme courtesy of the distinguished Senator from West Virginia in allowing some little discussion on this matter.

I had thought that an appeal from the ruling of the Chair was debatable, but the Chair held otherwise and the Senate sustained him. This is a highly technical contention that the distinguished Senator from West Virginia has made—that the Journal, in the process of being read, can be suspended to take up the cloture proceedings, to have the quorum call, and then the cloture vote.

We all know, Mr. President, that in parliamentary bodies, the reading of the journal, the complete reading of the journal—and if any senator wishes to offer a correction of that journal, he is permitted to do so—is basic in any parliamentary order. The reading of minutes in clubs is always the first order of business.

I do not see that a great deal has been gained by these parliamentary maneuvers of the distinguished Senator from West Virginia, who is highly knowledgeable in the rules. If we just had allowed the Journal to have been read, we would already be in the cloture process. So we are not really saving any time here. But now that the point has come up, it should be discussed.

I call attention to the Senate Procedure on page 217, under "Journal, Reading of."

The reading of the Journal, as decided by the Senate on one occasion, is not suspended or dispensed with—not suspended or dispensed with—according to this paragraph—by even the adoption of a cloture motion on a bill; a motion to suspend the reading of the Journal is not in order, but requires unanimous consent.

Now, the distinguished Senator from West Virginia said that I would make the contention, and apparently, he felt that this contention had to be answered in advance, because he knew of the debate. He says that, notwithstanding provisions of rule III, rule VI, or any other rule of the Senate, any time a motion signed by 16 Senators to bring debate to a close upon any measure, motion, or any other matter pending before the Senate or the unfinished business, is presented to the Senate, the Presiding Officer shall at once state the motion.

That is all that is being protected. We all know that the filing of cloture is also very important here, and a Senator can be taken off his feet—he does not even have to yield the floor. He can be taken off his feet to have a cloture motion presented. That is what this is trying to protect here, the right of any 16 Senators to file a cloture motion. The cloture motion can be filed, even though the Journal is being read. But it cannot be suspended merely for going forward with the rest of rule XXII.

So it is basic in any parliamentary body that the Journal be read or that unanimous consent be given that it be dispensed with, and not the rule, but the ruling in the past, that a motion to suspend the reading of the Journal is not in order, but requires unanimous consent.

Now, on these matters where we have decisions by the Chair, the leadership has it both ways here. As long as the Chair rules with the leadership, then that is the end of it. Who can appeal from a ruling of the Chair decided with the leadership? But they are not willing for the Chair to ever make a ruling that is contrary to their contention. And who is deciding, who is making the rulings here? Is it the Parliamentarian or is it the person who is managing the bill?

I feel that we need to support the Parliamentarian. I have sided with the Parliamentarian on many occasions when I thought that he was wrong, because I think it is best for orderly procedure that we know what to expect. If the Parliamentarian says one thing, he is a disinterested person——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ALLEN. I think we ought to stand by the ruling of the Parliamentarian in this matter. He has read both rules, as the Senator from West Virginia has. He rules that the Senator is out of order. I hope the Senate will sustain the decision.

Mr. ROBERT C. BYRD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the inquiry.

Mr. ROBERT C. BYRD. Has there ever been a decision on this point of order under these precise circumstances?

The PRESIDING OFFICER. This will be a case of first impression.

Mr. ALLEN. There has been a ruling now, has there not, that the Senator was out of order when he made his request?

The PRESIDING OFFICER. That is correct.

The time has expired.

Mr. ALLEN. Mr. President——

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Would a motion that the Senate adjourn until 12:15 be in order?

Mr. ROBERT C. BYRD. Mr. President, the Senator was recognized for a motion to table.

Mr. ALLEN. I did not make the motion. I merely made an inquiry. Would a motion be in order?

The PRESIDING OFFICER. Such a motion would not be in order during the reading of the Journal. Does the Senator——

Mr. ALLEN. I thank the Chair for his consistency.

I move to table the appeal from the ruling of the Chair.

Mr. GARY HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GARY HART. Will the Chair restate the ruling upon which his decision was made?

The PRESIDING OFFICER. The Chair ruled that rule III, which requires the reading of the Journal, and which requires unanimous consent in order to dispense with further reading or suspend the reading of the Journal, takes precedence over rule XXII as to the vote on cloture. That ruling was appealed by the Senator from West Virginia. Now the Senator from Alabama has moved to table that appeal.

The question is on the motion to table the appeal from the ruling of the Chair. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Arkansas (Mr. BUMPERS), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN) and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Kansas (Mr. DOLE), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 34, nays 54, as follows:

[Rollcall Vote No. 634 Leg.]

YEAS—34

Baker
Bartlett
Brock
Buckley
Byrd, Harry F., Jr.
Church
Curtis
Domenici
Durkin
Eastland
Fannin
Ford
Garn
Goldwater
Hansen
Haskell
Hatfield
Helms
Hruska
Laxalt
Long
McClellan
McClure
Morgan
Nunn
Roth
Scott, William L.
Sparkman
Stennis
Stevens
Talmadge
Thurmond
Tower
Young

NAYS—54

Abourezk
Allen
Bellmon
Bentsen
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Eagleton
Fong
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Leahy
Magnuson
Mathias
McGovern
McIntyre
Metcalf
Moss
Muskie
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevenson
Stone
Symington
Taft
Tunney
Williams

NOT VOTING—12

Bayh
Beall
Bumpers
Dole
Glenn
Kennedy
Mansfield
McGee
Mondale
Montoya
Packwood
Weicker

So the motion to lay on the table was rejected.

Mr. ALLEN and Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER (Mr. JOHNSTON). The Senator from Alabama.

Mr. ALLEN. Mr. President, having voted to lay it aside, I move to reconsider the vote on the motion to table.

Mr. ROBERT C. BYRD. Mr. President, I move to lay the motion on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to reconsider. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. BUMPERS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN) and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Kansas (Mr. DOLE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Vermont (Mr. STAFFORD), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 72, nays 15, as follows:

[Rollcall Vote No. 635 Leg.]

YEAS—72

Abourezk
Bellmon
Bentsen
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Robert C.
Cannon
Gase
Chiles
Church
Clark
Cranston
Culver
Curtis
Domenici
Eagleton
Eastland
Fong
Ford
Garn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Leahy
Magnuson
Mathias
McClellan
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Tower
Tunney
Williams
Young

NAYS—15

Allen
Baker
Bartlett
Byrd, Harry F., Jr.
Durkin
Fannin
Goldwater
Hansen
Helms
Johnston
Laxalt
Long
McClure
Sparkman
Thurmond

NOT VOTING—13

Bayh
Beall
Bumpers
Dole
Glenn
Kennedy
Mansfield
McGee
Mondale
Montoya
Packwood
Stafford
Weicker

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the appeal from the ruling of the Chair. The question is, shall the decision of the Chair stand as the judgment of the Senate? The yeas and nays have been ordered, and the clerk will call the roll.

Mr. ALLEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Is there an order entered by unanimous consent that at 12:15 the Senate shall proceed in a body to the Hall of the House of Representatives?

Mr. ROBERT C. BYRD. I ask for the regular order.

The PRESIDING OFFICER. There is such an order.

Mr. ALLEN. I thank the Chair.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. BUMPERS), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Kansas (Mr. DOLE), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 36, nays 50, as follows:

[Rollcall Vote No. 636 Leg.]

YEAS—36

Baker
Bartlett
Brock
Buckley
Byrd, Harry F., Jr.
Church
Curtis
Domenici
Durkin
Eastland
Fannin
Ford
Garn
Goldwater
Griffin
Hansen
Haskell
Hatfield
Helms
Hruska
Laxalt
Long
McClellan
McClure
Morgan
Nunn
Pearson
Roth
Scott, William L.
Sparkman
Stennis
Stevens
Talmadge
Thurmond
Tower
Young

NAYS—50

Abourezk
Allen
Bellmon
Bentsen
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Eagleton
Fong
Gravel
Hart, Gary
Hartke
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Leahy
Magnuson
Mathias
McGovern
McIntyre
Metcalf
Moss
Muskie
Nelson
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevenson
Stone
Symington
Taft
Tunney

NOT VOTING—14

Bayh
Beall
Bumpers
Dole
Glenn
Hart, Philip A.
Kennedy
Mansfield
McGee
Mondale
Montoya
Packwood
Weicker
Williams

So the ruling of the Chair was not sustained.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER (Mr. LEAHY). The Senator from Alabama.

Mr. ALLEN. Mr. President, I move the Senate do now adjourn until 2 o'clock this afternoon.

Mr. ROBERT C. BYRD. Mr. President, that motion is not in order, and I ask for the regular order.

Mr. ALLEN. Has the Chair ruled? I move we adjourn until 2 o'clock.

The PRESIDING OFFICER. The motion is in order now, the Journal is not being read.

Mr. ALLEN. I ask for the yeas and nays.

The PRESIDING OFFICER. The motion is in order because the reading of the Journal has been suspended by the vote of the Senate not to sustain the Chair.

Mr. ALLEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a suffiicent second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

SEVERAL SENATORS. May we have order, Mr. President?

The PRESIDING OFFICER. May we have order in the Chamber? The clerk will suspend until the well is cleared and the aisles are cleared. Those Senators and Senate officials having conversations will please retire to the cloakroom.

Senators have requested order, and the clerk will suspend until we have order.

The clerk will proceed.

The second assistant legislative clerk resumed the call of the roll.

The PRESIDING OFFICER. The Chair will appreciate order in the Chamber. The clerk is having difficulty hearing the votes of Senators. Senators are having difficulty hearing their names.

To the extent convenient and in consideration of the problems of the Chair, the Chair appreciates Senators carrying out their conversations elsewhere.

The clerk may continue.

The second assistant legislative clerk resumed and concluded the call of the roll.

Mr. GOLDWATER. Regular order, Mr. President. Regular order, Mr. President.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. BUMPERS), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Kansas (Mr. DOLE), the Senator from Oregon (Mr. PACKWOOD) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 19, nays 67, as follows:

[Rollcall Vote No. 637 Leg.]

YEAS—19

Allen
Baker
Bellmon
Curtis
Fannin
Garn
Goldwater
Griffin
Hansen
Helms
Hruska
Laxalt
McClure
Morgan
Percy
Scott, William L.
Sparkman
Stafford
Thurmond

NAYS—67

Abourezk
Bartlett
Bentsen
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Eastland
Fong
Ford
Gravel
Hart, Gary
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Leahy
Long
Magnuson
Mathias
McClellan
McGovern
McIntyre
Metcalf
Moss
Muskie
Nelson
Nunn
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Tower
Tunney
Williams
Young

NOT VOTING—14

Bayh
Beall
Bumpers
Dole
Glenn
Hart, Philip A.
Kennedy
Mansfield
McGee
Mondale
Montoya
Packwood
Stennis
Weicker

So the motion to adjourn was rejected.

Mr. ROBERT C. BYRD. Mr. President——

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

Mr. ALLEN. A point of order, Mr. President.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, the leadership in the House has been notified of the delay. We have asked that the proceedings there be held up. The Vice President is over there, talking with the President of Liberia, and the proceedings will be held up until we can finish our cloture vote, and I ask that the Chair proceed.

Mr. ALLEN. A point of order.

CLOTURE MOTION

The PRESIDING OFFICER. One hour having passed——

Mr. ALLEN. A point of order, Mr. President.

The PRESIDING OFFICER. The clerk will report the motion.

(The legislative clerk proceeded to read the motion.)

Mr. ALLEN. A point of order, Mr. President.

Mr. GOLDWATER. A parliamentary inquiry.

Mr. ALLEN. A point of order.

Mr. HANSEN. A point of order.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon S. 2278, the Civil Rights Attorney's Fees Awards Act of 1975.

Hubert H. Humphrey, Birch Bayh, Quentin N. Burdick, Alan Cranston, Robert C. Byrd, Patrick J. Leahy, William D. Hathaway, Dick Clark, Edward M. Kennedy, James Abourezk, Hugh Scott, Harrison A. Williams, John A. Durkin, James B. Pearson, Bob Packwood, Frank E. Moss, Jacob K. Javits, William Proxmire, Henry M. Jackson, Lowell P. Weicker, Mark O. Hatfield.

Mr. ALLEN. A point of order, Mr. President. A point of order.

The PRESIDING OFFICER. The Senator from Alabama will state his point of order.

Mr. ALLEN. Mr. President, I make the point of order——

Mr. ROBERT C. BYRD. Mr. President——

Mr. ALLEN. Will the Senator not interrupt me?

Mr. ROBERT C. BYRD. The clerk has read the motion.

Mr. ALLEN. Mr. President, I make the point of order—I have been recognized—I make the point of order that at this time, in accordance with the previous order, the Chair must adjourn the Senate in order that it may go to the House Chamber; and I would appeal from any contrary ruling by the Chair.

CALL OF THE ROLL

The PRESIDING OFFICER. The Chair rules that the cloture rule is operative, and pursuant to rule XXII, the Chair now directs the clerk to call the roll.

Mr. ALLEN. I appeal the ruling of the Chair.

The second assistant legislative clerk proceeded to call the roll, and Mr. ABOUREZK answered to his name.

Mr. ALLEN. I appeal the ruling of the Chair. I appeal the ruling of the Chair.

The second assistant legislative clerk continued to call the roll.

Mr. GARY HART. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The point is well taken. May we have order? The Chair asks Senators to answer to their names when they are called, so that we can determine the presence of a quorum.

The second assistant legislative clerk continued and concluded the call of the roll, and the following Senators answered to their names:

[Quorum No. 51 Leg.]

Abourezk
Allen
Baker
Bartlett
Bellmon
Bentsen
Biden
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McClure
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Williams
Young

The PRESIDING OFFICER. A quorum is present.

VOTE

The PRESIDING OFFICER. The question is: Is it the sense of the Senate that debate on the bill, S. 2278, the Civil Rights Attorneys' Fees Awards Act of 1976, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN) and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from Kansas (Mr. DOLE), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. WEICKER) would vote "yea."

The yeas and nays resulted—yeas 63, nays 26, as follows:

[Rollcall Vote No. 638 Leg.]

YEAS—63

Abourezk
Bellmon
Bentsen
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Chiles
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Fong
Ford
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Magnuson
Mathias
McGovern
McIntyre
Metcalf
Moss
Muskie
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Tunney
Williams

NAYS—26

Allen
Bartlett
Buckley
Byrd, Harry F., Jr.
Cannon
Curtis
Eastland
Fannin
Garn
Goldwater
Hansen
Helms
Hruska
Laxalt
Long
McClellan
McClure
Morgan
Nunn
Scott, William L.
Sparkman
Stennis
Talmadge
Thurmond
Tower
Young

NOT VOTING—11

Baker
Bayh
Beall
Dole
Glenn
Mansfield
McGee
Mondale
Montoya
Packwood
Weicker

The PRESIDING OFFICER. On this vote the yeas are 63, the nays are 26. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the cloture motion is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senators for their patience and forbearance. We shall now form in a line to go in a body to the Hall of the House of Representatives.

JOINT MEETING OF THE TWO HOUSES—ADDRESS BY THE PRESIDENT OF LIBERIA

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President of the Senate be authorized——

Mr. ALLEN. I object.

Mr. ROBERT C. BYRD (continuing). Authorized to——

Mr. ALLEN. I object.

Mr. ROBERT C. BYRD. Let me finish my reading of the request.

To appoint a committee of Senators on the part of the Senate to join with the committee on the part of the House of Representatives to escort the President of Liberia into the House Chamber.

Mr. ALLEN. I object.

The PRESIDING OFFICER. The objection is heard.

RECESS UNTIL 2:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 2:30 p.m. today.

The motion was agreed to and, at 12:52 p.m., the Senate recessed until 2:30 p.m., and the Senate, preceded by the Sergeant at Arms, F. Nordy Hoffmann; the assistant majority leader (Mr. ROBERT C. BYRD); and the minority leader (Mr. HUGH SCOTT) proceeded to the Hall of the House of Representatives to hear the address by the President of Liberia.

(The address delivered by the President of Liberia to the joint session of the two Houses of Congress is printed in the proceedings of the House of Representatives in today's RECORD.)

At 2:30 p.m., the Senate, having returned to its Chamber, reassembled, and was called to order by the Presiding Officer (Mr. ROBERT C. BYRD).

THE JOURNAL

The PRESIDING OFFICER. The clerk will continue the reading of the Journal.

The legislative clerk resumed the reading of the Journal.

Mr. GOLDWATER. A parliamentary inquiry, Mr. President. Is a parliamentary inquiry in order?

Mr. ALLEN. Objection. The reading has to be dispensed with.

Mr. GOLDWATER. Mr. President, is a parliamentary inquiry in order?

Mr. ALLEN. Will the Senator please use his microphone? I do not hear his request.

Mr. GOLDWATER. I merely wanted to propound a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Arizona is recognized for a parliamentary inquiry.

Mr. GOLDWATER. Yes. Does not a unanimous consent request have to be asked to continue with the reading of it or have the minutes read at all?

The PRESIDING OFFICER. No.

Mr. ALLEN. The other way around.

The PRESIDING OFFICER. Just the reverse. Unanimous consent would be required now to suspend further reading of the Journal.

Mr. GOLDWATER. I ask unanimous consent that further reading of the Journal be dispensed with.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue reading the Journal.

The legislative clerk resumed and concluded the reading of the Journal.

(During the reading of the Journal by the legislative clerk (Harold G. Ast), the assistant legislative clerk (William F. Farmer, Jr.), and the second assistant legislative clerk (R. Scott Bates), the chair was occupied by the following Senators as Presiding Officer of the Senate: Mr. PERCY, Mr. TAFT, Mr. GRIFFIN, and Mr. WILLIAM L. SCOTT.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum; I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WILLIAM L. SCOTT). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will call the roll.

The second assistant legislative clerk resumed the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 52 Leg.]

Allen
Buckley
Byrd, Robert C.
Cannon
Durkin
Garn
Goldwater
Griffin
Hart, Gary
Leahy
McClellan
Morgan
Pearson
Scott, Hugh
Scott, William L.
Sparkman
Thurmond

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absentees.

The second assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of the absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PASTORE) and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Ohio (Mr. GLENN), and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. MCCLURE), the Senator from Oregon (Mr. PACKWOOD) and the Senator from Vermont (Mr. STAFFORD) are necessarily absent.

The result was announced—yeas 71, nays 5, as follows:

[Rollcall Vote No. 639 Leg.]

YEAS—71

Abourezk
Baker
Bartlett
Bellmon
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Church
Clark
Culver
Curtis
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McGovern
McIntyre
Muskie
Nelson
Nunn
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Williams
Young

NAYS—5

Allen
Biden
Goldwater
Morgan
Weicker

NOT VOTING—24

Bayh
Beall
Bentsen
Brock
Chiles
Cranston
Dole
Domenici
Glenn
Hart, Philip A.
Hartke
Hatfield
Kennedy
Mansfield
McClure
McGee
Metcalf
Mondale
Montoya
Moss
Packwood
Pastore
Stafford
Tunney

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I have an amendment to the Journal at the desk. I ask that it be stated, and after it is stated, I seek recognition to discuss my amendment.

Mr. ROBERT C. BYRD. Mr. President, the Senator cannot yield out recognition to himself. When he calls up this amendment, he loses the floor.

Mr. ALLEN. I ask that it be stated in full.

The PRESIDING OFFICER. The clerk will state the amendment.

Mr. ROBERT C. BYRD. Mr. President——

The PRESIDING OFFICER. And the clerk will read the amendment in full.

Mr. ROBERT C. BYRD. All right.

The legislative clerk read as follows:

> I move that the Journal of the proceedings of September 22, 1976, be amended by adding at the end thereof the following statement by Senator MIKE MANSFIELD, "Senate Accomplishments, 94th Congress, 1st session."

Mr. ALLEN. Mr. President, that is not the amendment I asked to be called up.

The PRESIDING OFFICER. Will the Senator identify his amendment?

Mr. ALLEN. The one having to do with Senator MANSFIELD himself, the tributes.

The legislative clerk read as follows:

> I move that the Journal of the Proceedings of yesterday, September 22, 1976, be amended by adding at the end thereof the following tributes to Senator MIKE MANSFIELD and his response thereto.

Mr. ROBERT C. BYRD. Mr. President, I make a point of order, No. 1, that the tributes to Mr. MANSFIELD occurred on the 16th of September, not yesterday. They were printed in the CONGRESSIONAL RECORD of the 16th, and they have no place in the amendment of the Journal of yesterday. That is No. 1.

No. 2, in support of the point of order I am making, I read: "I make a point of order that the amendment is not in order."

Now——

Mr. ALLEN. I assume the Chair is going to allow me to discuss the amendment, also.

Mr. ROBERT C. BYRD. Points of order are not debatable.

Mr. ALLEN. The Senator is debating.

Mr. ROBERT C. BYRD. I withhold the point of order.

Mr. ALLEN. The Senator from West

Virginia has no right to debate at this time.

I call for the regular order.

Mr. ROBERT C. BYRD. I make a point of order.

The PRESIDING OFFICER. The Senator may state his point of order.

Mr. ROBERT C. BYRD. I make a point of order that the Senator is not in order, because rule IV of the Standing Rules of the Senate says:

> The proceedings of the Senate shall be briefly and accurately stated on the Journal. Messages of the President in full; titles of bills and joint resolutions, and such parts as shall be affected by proposed amendments; every vote, and a brief statement of the contents of each petition, memorial, or paper presented to the Senate, shall be entered.

What the Senator seeks to do here is to add to the Journal the tributes to Mr. MANSFIELD, which were delivered on the 16th of September, not yesterday, and they fill 25 pages of the CONGRESSIONAL RECORD.

He is asking that the clerk read these tributes, covering 25 pages of the CONGRESSIONAL RECORD of September 16, 1976, as an amendment to yesterday's Journal.

The Journal is not for the purpose of having speeches of Senators spread thereon. That is the purpose of the CONGRESSIONAL RECORD. If we are going to have the speeches of Senators in the Journal, then we might as well do away with the CONGRESSIONAL RECORD.

Mr. President, I make a point of order that the Senator's amendment in this instance is not in order.

Mr. ALLEN. Mr. President——

The PRESIDING OFFICER. The Chair, in its discretion, will hear the Senator from Alabama briefly on the point of order.

Mr. ALLEN. I thank the Chair.

This amendment was filed under Senate Procedure on page 516. I ask Senators to refer to that.

> A motion to amend or correct the Journal is privileged and must be proceeded with until disposed of; the motion is debatable, but it is not in order until the reading of the entire Journal has been concluded.

Mr. President, this amendment is in order. The Journal is amendable. What the distinguished Senator from West Virginia has said is absolutely inapplicable to amendments to the Journal.

So far as the fact that it happened several days ago is concerned, we have acted on amendments here as to the Lord's Prayer, which was much farther back than that.

As to when the speeches were made, it certainly seems a mighty small point for the distinguished assistant majority leader to make as to spreading on the Journal eulogies for Senator MANSFIELD, our distinguished majority leader.

So I feel that the amendment is very definitely in order; and if it is ruled out of order, I will offer it again in an abbreviated form.

The ACTING PRESIDENT pro tempore (Mr. STONE). Under rule IV, paragraph 1, the amendment of the Senator does not contain material described in that rule as being includable in the Journal. Therefore, the point of the Senator from West Virginia is well taken.

Mr. ALLEN. I appeal from the ruling.

Mr. ROBERT C. BYRD. I move to lay the appeal on the table, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to table the appeal from the ruling of the Chair. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. GOLDWATER. Regular order, Mr. President.

The PRESIDING OFFICER. Regular order is called for.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator Rhode Island (Mr. PASTORE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN) and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. MCCLURE), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Vermont (Mr. STAFFORD) are necessarily absent.

The result was announced—yeas 69, nays 5, as follows:

[Rollcall Vote No. 640 Leg.]

YEAS—69

Abourezk
Baker
Bartlett
Bellmon
Biden
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Church
Clark
Culver
Curtis
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Laxalt
Leahy
Magnuson
Mathias
McClellan
McIntyre
Muskie
Nelson
Nunn
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Tower
Weicker
Williams
Young

NAYS—5

Allen
Morgan
Scott, William L.
Sparkman
Thurmond

NOT VOTING—26

Bayh
Beall
Bentsen
Brock
Chiles
Cranston
Dole
Domenici
Glenn
Hart, Philip A.
Hartke
Hatfield
Kennedy
Long
Mansfield
McClure
McGee
McGovern
Metcalf
Mondale
Montoya
Moss
Packwood
Pastore
Stafford
Tunney

So the motion to lay on the table was agreed to.

AMENDMENT TO JOURNAL

Mr. ALLEN. Mr. President, I have another amendment at the desk and I ask that it be stated, and I ask recognition.

The ACTING PRESIDENT pro tempore. The clerk will report.

The second assistant legislative clerk read as follows:

> The Senator from Alabama (Mr. ALLEN) proposes an amendment to the Journal of yesterday that it be amended to add the following prayer delivered yesterday.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. ROBERT C. BYRD. Vote. Mr. President, I am ready to vote. I will support the amendment.

Mr. ALLEN. I have been recognized.

Mr. ROBERT C. BYRD. The Chair has not recognized the Senator.

The ACTING PRESIDENT pro tempore. The Chair has recognized the Senator.

Mr. ROBERT C. BYRD. I beg the Chair's pardon.

Mr. ALLEN. Mr. President, this amendment is debatable under the Senate rules, and I feel free to discuss the amendment at least as long as I might have had an opportunity to discuss the matter when I was seeking recognition earlier in the evening.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question only?

Mr. ALLEN. Yes; I yield for a question.

Mr. ROBERT C. BYRD. Would the Senator indicate for the benefit of all Senators how long he expects to hold the floor to discuss this dilatory amendment?

Mr. ALLEN. No—well now, the Senator—I did not yield for editorial comment. I yielded only for a question. [Laughter.]

Mr. ROBERT C. BYRD. Mr. President, I strike the word "dilatory" for the moment.

Mr. ALLEN. The matter, of course, is outside the rule of germaneness, and I feel free to discuss the bill inasmuch as time is limited under the cloture rule.

Mr. President——

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for another question?

Mr. ALLEN. No, I will not, I beg the Senator's pardon.

I will yield for a question if the Senator wishes to propound it.

Mr. ROBERT C. BYRD. Mr. President, with the respect for the Senator—and I am going to ask a question, with the deepest of respect for the Senator—and with genuine affection for the Senator, I wonder if the Senator realizes that what he is doing here is obviously not for the purpose of correcting a mistake in the Journal of yesterday. What he is doing is obviously——

Mr. ALLEN. I agreed to yield for a question.

Mr. ROBERT C. BYRD. I am asking a question. I said I wonder if the Senator does not feel that what he is doing is not correcting a mistake in the Journal of yesterday but that what he is actually doing is merely attempting futilely to delay the working of the will of the Senate on a bill on which cloture has been invoked. Would the Senator answer that question?

Mr. ALLEN. Well, I will state that in the proceedings of today when the Senator from Alabama could not get recognition when he was yelling at such a volume that the rafters, if he had any, would have been shaking, and the distinguished Senator from West Virginia would not allow a unanimous-consent order that had been entered to go to the House Chamber at 12:15, and he insisted on ramming the cloture motion to vote, so I do not feel as if the Senator from West Virginia asks any question with clean hands when he was guilty of that procedure.

Mr. ROBERT C. BYRD. Well, now, Mr. President, I resent that editorial comment also.

Mr. ALLEN. Well, I will withdraw the offending editorial comment, then, as the Senator did.

Mr. ROBERT C. BYRD. Mr. President, the Senator did not answer my question. Does he not realize that the Senator from West Virginia would certainly not interpose any objection to the correcting of a mistake in the Journal of yesterday? I ask the Senator if he will answer that question.

Mr. ALLEN. Well, I will state this: The Senator from Alabama called for the Journal to be read this morning, and if we had read the Journal, we would have been through with it hours ago and we would have been well into the debate on the lawyers' bill.

But the Senator from West Virginia saw fit to call on the Chair to lay the cloture motion before the Senate and needlessly used up some 2 hours of the Senate's time.

He went to the point of having the Senate overrule the Parliamentarian and declare that something that the Parliamentarian had ruled was not proper. He amended the rules in that fashion, and he would not allow the Senate to comply with the unanimous-consent request; the Senator from Alabama was making a point of order and could not get recognized, and I am wondering if the Senator from West Virginia would advise the Senator from Alabama—and I make this comment and ask unanimous consent that I not lose my right to the floor in making it——

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. ALLEN. I am just wondering if the Senator from West Virginia did not advise the distinguished Senator from Vermont (Mr. LEAHY) as to how he should discharge the duties of the Presiding Officer's chair prior to the Senator from Alabama's effort to gain recognition.

Mr. ROBERT C. BYRD. The Senator is asking me to answer that question?

Mr. ALLEN. Yes, and I got permission that that will not forfeit my right to the floor.

Mr. ROBERT C. BYRD. I understand that. I will answer that.

Mr. ALLEN. Yes, I wish the Senator would.

Mr. ROBERT C. BYRD. Mr. President, in answering the question——

Mr. ALLEN. The Senator might answer it yes or no.

Mr. ROBERT C. BYRD. I might, but the Senator asked me to answer it——

Mr. ALLEN. Yes.

Mr. ROBERT C. BYRD. And I will determine how to answer it.

Mr. President, the Senator is very adroit, at placing the onus for delay on the leadership. He says that because we went through all the motions here today that the reading of the Journal was delayed. But he does not care to tell the Senate—and I say this respectfully—that with his great knowledge of the rules that upon the completion of that reading of the Journal he could do exactly what he is doing right now.

Mr. ALLEN. The Senator has no intention of doing that, as he well knows.

Mr. ROBERT C. BYRD. Aha, the Senator has no intention of doing it, but he could offer an amendment to it, and he could drag it out and drag it out; he could move to adjourn, he could move to recess, he could get votes on those, he could move to reconsider, he could drag that out interminably. But because we, the Senate, went another direction, my distinguished friend now says that the cause for delay was the Senator from West Virginia.

Mr. ALLEN. That is correct.

Mr. ROBERT C. BYRD. But enough of that.

Yes, I asked the Chair——

Mr. ALLEN. Not to recognize me.

Mr. ROBERT C. BYRD. No, I did not say that. I asked the Chair to proceed with calling the quorum, and I have seen the Senator advising the Chair upon various occasions.

May I say this: I am afraid the Senator's actions are eroding his own weapons, and eroding the legitimate weapons, of a minority of Senators.

I hope that the Senator will take that into consideration as he persists in thwarting the Senate's will to come to a conclusion on a bill upon which cloture has already been invoked.

Yes, I advised the Chair. But I did not advise the Chair not to recognize Senator ALLEN. I advised the Chair to get that quorum call under way because under the rule we had reached that point, and once the quorum was established, to start the call of the roll.

I advised the Chair. I noticed the Senator has advised the Chair upon various occasions.

Mr. ALLEN. My advice does not have as much weight, I know.

Mr. ROBERT C. BYRD. I answered the Senator's question.

The ACTING PRESIDENT pro tempore. The Senator from Alabama is further recognized.

Mr. ALLEN. I call for a vote.

Th ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

The ACTING PRESIDENT pro tempore. If there be no further amendment to the Journal, the Senate will now proceed to S. 2278 on which cloture has been invoked, and the clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

Mr. GOLDWATER addressed the Chair.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Arizona is recognized to call up an amendment which will be considered germane.

Mr. ALLEN. Mr. President, I believe the amendment of the Senator from Alabama is in order. I have no objection to laying it aside temporarily.

The ACTING PRESIDENT pro tempore. The Senator from Alabama's amendment is laid aside by the previous order which required the recognition of the Senator from Arizona to call up an amendment which would be deemed germane, if he so chose to seek recognition.

Mr. ALLEN. I follow that amendment, is that correct?

The ACTING PRESIDENT pro tempore. Did the Senator further speak? The Chair did not hear the Senator.

Mr. ALLEN. I say, my amendment would follow then, would it not?

The ACTING PRESIDENT pro tempore. The Senate is correct. The Senator's amendment would follow.

Mr. ALLEN. I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator now has 1 hour.

Who yields time?

AMENDMENT NO. 2350

First, the clerk will state the amendment of the Senator from Arizona.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. GOLDWATER) proposes amendment numbered 2350. At the end of the bill, insert the following new section.

Mr. GOLDWATER. Mr. President, I

ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, this is a rather unusual situation. I presented this amendment yesterday and during the course of the debate I was asked by the Senator from Indiana (Mr. BAYH) if I would consider withdrawing the amendment because passage of the amendment might impair the passage of the bill in the House. An amendment similar to mine had been offered previously by the Senator from Alabama. It was defeated by a yea and nay vote.

My amendment does substantially the same thing, but there are four differences. I will mention them and then ask for a vote.

I have been trying to get this amendment passed in this body, some measure, for probably 12 years, and while it has been passed twice, it has been defeated in the House twice. Why, I do not know.

We are all acquainted with the fact that the Internal Revenue Service has the right, and exercises that right properly, in many cases in my opinion improperly, to audit the tax returns of American citizens.

The first audit, in my opinion, is all right. But when we go past that stage, I think the American taxpayer should get a break.

If the Government cannot prove that his taxes have been improperly paid in any way at all, I feel that the taxpayer should be paid by the Government for his lawyer fees, his auditor's fees, and any court costs which might accrue.

We have not even been able to get the Internal Revenue Service to tell us how much they think this might cost.

I must say, the whole purpose of my amendment is to stop this abuse that is being practiced year after year after year by the Internal Revenue Service.

I will give an example which I used yesterday.

I won a rather sizable lawsuit involving accusations made against me during my Presidential campaign. After receiving an award that with interest came to $96,000, I had to pay an additional either $8,000 or $11,000. So I was in the hole.

Ever since that happened, my name has been on the computer tape, year after year after year, for no reason at all. I actually think I am a little bit ahead of the Government because they find I am not only right, but have overpaid them. As long as a name stays on that computer tape, it will be audited year after year after year.

It has now got so that after the 3-year term has expired, they ask, in a not too polite way, to give them permission to go on year after year after year auditing the same account.

That, basically, is what I am trying to get through.

The four differences in my amendment with the one that was defeated yesterday are that my amendment only applies when the Internal Revenue Service pursues a second audit; my amendment covers accounting fees as well as legal costs; my amendment covers expenses in administrative proceedings, as well as in court; my amendment covers suits brought by the taxpayer himself; as well as suits brought by the Government.

Mr. President, as I said, I agreed yesterday under unanimous consent not to push for a vote so that the manager of the bill on the floor could advise me as to what he thought about this. I even approached the Senator from Massachusetts (Mr. KENNEDY) and told him what I had done at Senator BAYH's request. But they are neither on the floor now.

I will close by asking for a vote on this amendment. I hope it will pass. I think, frankly, that the abuses of the Internal Revenue Service are as much an abuse of American civil rights as the abuses we hear practiced once in awhile because of a man's color or religion.

I think this business of life, liberty, and the pursuit of happiness cannot be achieved without some material goods. The way we are going in this country, they are taking 43 percent of all the money people make in this country.

I think it is time we put the pressure on the Internal Revenue Service not to have their agents overly eager to see people go to jail or embarrass them.

Mr. President, that is all I have to say on it. I ask that my colleagues join me in voting for it.

The PRESIDING OFFICER (Mr. RIBICOFF). The question is on agreeing to the amendment of the Senator from Arizona.

Mr. ALLEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. GOLDWATER. I do not care for that.

Mr. ALLEN. The Senator does not want them?

Mr. GOLDWATER. I would prefer not to have the yeas and nays.

Mr. ALLEN. Very well. I withdraw my request.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona.

The amendment was agreed to.

Mr. GRIFFIN addressed the Chair.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMFNT 2371

Mr. GRIFFIN addressed the Chair.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Alabama.

Mr. GRIFFIN. Mr. President, will the Senator from Alabama——

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN), for himself and Mr. HELMS, proposes an amendment numbered 2371:

Strike lines 1 and 2 and substitute the following: "That this Act may be cited as the Tunney-Kennedy-Abourezk Civil Rights Attorney's Fees Awards Act of 1976".

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

IMPORTATION OF ELBOW PROSTHESES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—and I believe that this has been cleared with Mr. ALLEN and with the leadership on the other side of the aisle and with other Senators—that the Senate proceed at this time to the consideration of H.R. 11321, Calendar Order No. 1107.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 11321) to suspend until July 1, 1978, the duty on certain elbow prostheses if imported for charitable therapeutic use, or for free distribution, by certain public or private nonprofit institutions.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill.

Mr. LONG. Mr. President, the bill before us is H.R. 11321, an act to suspend until July 1, 1978, the duty on certain elbow prostheses if imported for charitable therapeutic use, or for free distribution by certain public or private nonprofit institutions. This bill was reported favorably by the Committee on Finance without any amendments on August 26, 1976. The bill would allow duty free importation until June 30, 1978, of externally powered electric elbow prosthetic devices for juvenile amputees imported solely for charitable therapeutic use or distribution free of charge by any public or private nonprofit institution established for educational, scientific, or therapeutic purposes. Without this legislation, prosthetic devices for juveniles would be dutiable at 10 percent ad valorem unless they are produced in a beneficiary developing country eligible for duty-free treatment under the generalized system of preferences. At this time, there is no domestic manufacturer producing prosthetic devices for juvenile amputees and the committee believes that the impact of the temporary duty-free entry of such devices will be to reduce the costs of complete limbs for nonprofit institutions which are distributing the devices free of charge or using them for charitable therapeutic uses. The bill is limited to prosthetic devices used by juvenile amputees, that is to say amputees who are less than 18 years of age. The administration has no objections to this bill and the annual customs revenue loss would be no more than $75,000.

Mr. BUCKLEY addressed the Chair.

The PRESIDING OFFICER. There is a time limitation on this bill of 30 minutes to be equally divided and controlled by the Senator from Louisiana and the Senator from Nebraska (Mr. CURTIS).

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I yield myself 1 minute on Mr. LONG's time.

Could the distinguished Senator from New York indicate whether or not he is going to want the yeas and nays on his amendment so that Senators will know?

Mr. BUCKLEY. I will need the yeas and nays, yes.

Mr. ROBERT C. BYRD. Does the Senator want to ask for them now?

Mr. BUCKLEY. I ask for the yeas and nays.

Mr. MUSKIE. Mr. President, will the Senator yield?

The PRESIDING OFFICER. It takes unanimous consent because the amendment is not yet pending.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent it be in order for the Senator from New York to ask for the yeas and nays at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 478

Mr. BUCKLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. BUCKLEY) on behalf of himself and Mr. STONE proposes an unprinted amendment No. 478.

The assistant legislative clerk proceeded to read the amendment.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 5, insert the following:

SEC. 3

(a) Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. DEDUCTION OF REAL PROPERTY TAXES IN CASE OF INDIVIDUALS WHO RENT THEIR DWELLING UNITS.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction the amount of the rent (not otherwise deductible) paid or incurred by the individual during the calendar year in which the taxable year begins for any dwelling unit used by the individual, but only to the extent that such amount does not exceed the individual's proportionate share of the State and local real property taxes (within the meaning of Section 164(a)(1))—

"(1) which are imposed on such dwelling unit, or on the building in which such dwelling unit is located, and on the land on which such dwelling unit (or building) is situated, and

"(2) which are paid or accrued during such calendar year.

"(b) PROPORTIONATE SHARE.—

"(1) IN GENERAL.—For purposes of subsection (a), an individual's proportionate share of the real property taxes described in such subsection which are paid or accrued during any calendar year with respect to any dwelling unit shall be an amount equal to—

"(A) the amount of such real property taxes—

"(i) in the case of a dwelling unit located in a building which contains one or more other units, which are attributable to such dwelling unit, or

"(ii) in the case of any other dwelling unit, which are imposed with respect to such unit; multiplied by

"(B) a fraction the numerator of which is the number of days in the calendar year on which such dwelling unit was rented by the individual, and the denominator of which is the number of days in such calendar year.

"(2) TAXES ATTRIBUTABLE TO CERTAIN DWELLING UNITS.—For purposes of paragraph (1), the amount of the real property taxes described in subsection (a) which are attributable to any dwelling unit located in a building containing one or more units is an amount which bears the same ratio to the aggregate amount of such taxes imposed on the building and the land on which it is situated as the number of square feet of floor space in such unit bears to the total number of square feet of floor space in all the units in such building. For purposes of the preceding sentence, there shall not be taken into account the amount of any floor space in the building which is a common area or is used by the lessor of such building for purposes of maintenance.".

(b) The table of sections for such part VII is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 220. Deduction of real property taxes in case of individuals who rent their dwelling units.

"Sec. 221. Cross references.".

(c) The deduction allowed to a taxpayer under this section shall in no way affect the tax liability of his landlord.

(d) The amendments made by this section shall apply to rent paid or incurred after December 31, 1977.

The PRESIDING OFFICER. There is a 1-hour limitation on this amendment. Who yields time?

Mr. BUCKLEY. Mr. President, my amendment, I hope, is familiar to the great majority of Senators as my office has tried diligently to acquaint Members of the Senate with what is at stake. Quite simply, it would remove one of the major inequities from the Internal Revenue Code by allowing tenants to take a deduction for that portion of their rent which goes to pay State and local property taxes.

Since at least the 1930's, property owners have been able to deduct amounts equal to the property taxes paid by them to State and local governments.

Tenants, however, are required, in effect, to bear the burden of local property taxes without receiving a comparable deduction. There can be no doubt that a portion of each tenant's rent represents amounts to be paid by the landlord to the local taxing authority.

Yet the tenant must continue to pay Federal taxes on income used to pay local property taxes because he is unable to take a deduction for those portions of his rent which are applied to State and local taxes.

Out of a tenant's monthly rental payment, as much as 25 percent may represent money which is received not for the benefit of the landlord, but to pay the State or locality in the form of real property tax. The landlord receives no income tax benefit from the property tax deduction because it is offset by the rental income allocated to the payment of the property tax. The transaction represents a "wash" as far as the landlord is concerned. The result is that rental property is effectively denied a State and local property tax deduction.

My amendment would eliminate the discrimination which currently exists by granting a tenant a deduction for property taxes which are effectively paid by him. The landlord would notify the tenant of the portion of his rent that is allocable to property taxes paid by him. At the end of the year, the tenant would be able to take that amount as a deduction from his adjusted gross income.

The one point which I would emphasize is that the landlord's tax liability would remain unchanged under my proposal. He would not receive the benefit of the tax deduction, but he would no longer be required to impute income for money passed on to State and local taxing authorities. The sole result will be the more equitable treatment of tenants and, therefore, a fairer operation of the Internal Revenue Code.

Mr. President, considerable attention has been focused in the past few weeks on the tax shelters that are available primarily to the affluent. The implication, though never actually stated, is that amendments tightening tax shelters will transfer money from the pockets of the affluent to the pockets of lower- and middle-class taxpayers in the form of tax reductions. As they effect businesses, those amendments would constitute no less than an implicit tax increase which would be passed on to the average American consumer in the form of higher prices for food, gasoline, housing, and other goods and services.

This is not to say that there are no inequities in the present Tax Code. Any system of taxation as arbitrary and complex as ours is inherently inequitable. But it does suggest that one approach to tax reform should be to ascertain the specific nature of the benefit that ought to be made available to the lower or middle income taxpayer, rather than relying on illusory reform which will ultimately be financed not by the affluent, but by the average American worker. My proposal for a tenant's property tax deduction would grant just such a tax benefit.

Mr. President, I ask unanimous consent that the table from the Annual Housing Survey of the Department of Housing and Urban Development dealing with the income distribution of tenant households be printed at this point in the RECORD.

There being no objection, the table was

ordered to be printed in the RECORD, as follows:

EXHIBIT 4

INCOME DISTRIBUTION OF RENTER AND OWNER HOUSEHOLDS

Income group	Total households (thousands)	Owner (percent)	Renter (percent)
$0 to $4,999	15,653	48	52
$5,000 to $9,999	16,875	55	45
$10,000 to $14,999	15,878	68	32
$15,000 to $24,999	15,519	79	21
$25,000 or more	6,907	87	13
Total	70,831	65	35
Median income		$12,800	$7,700

Source: Annual Housing Survey, HUD and Bureau of Census, 1974.

Mr. BUCKLEY. As this table clearly shows, there is a direct relationship between wealth and home ownership. About 87 percent of those who rent their home have incomes of less than $25,000. Even that segment of upper-income taxpayers who are actually apartment dwellers can normally afford to take advantage of the homeowners' property tax deductions through the purchase of condominiums.

It is, therefore, only those who cannot afford condominium tax shelters who must bear local property taxes without the benefit of the property tax deduction. This is the paradigm of a regressive tax, and it is about time that this injustice is rectified.

Mr. President, I understand that there may be those in this body who would favor the equity of my proposal, but would have reservations about its budgetary impact. These objections do not apply to my amendment for several reasons:

First, my amendment would not take effect until after the expiration of the current budget resolution; specifically, not until calendar year 1978. It will not result in the loss of 1 cent over the amount of tax revenues mandated by the first concurrent budget resolution.

Second, my amendment does not give anything to the taxpayers which the States are not capable of giving them unilaterally by replacing the property tax on leasehold buildings with a leasehold tax imposed directly on the tenant. I have forwarded to the office of each Senator a copy of an article by James Kee and Terrence Moan which appeared in the Harvard Law Review earlier this year. That article outlines a proposal before the New York State Legislature to transfer to the tenant the property tax which currently falls on the landlord of a leasehold building.

If this legislation is enacted, the landlords of New York will lose nothing, as they will neither impute income for that portion of rent which they use to pay property taxes nor take a property tax deduction on their Federal income tax.

For the landlord, such a proposal would constitute a "wash." But, as Kee and Moan point out, the imposition of the tax directly on the tenant by the New York State Legislature would allow him to take the same deduction which my amendment would extend to him. If all of the major States were to impose a leasehold tax comparable to this one in the next year or so, the State legislatures will have enacted my amendment by their own unilateral actions.

The question is whether we take the initiative in achieving equity for renters, or whether we allow the States to do this for us.

Third, what we fail to do by tax incentives in the area of tenant problems will ultimately be compensated in part by increases in Federal and State rent subsidies. Conversely, my amendment would save, on the expenditures side of the Federal budget equation, substantial revenues which have been expended on rent subsidies in the past, and will have to be expended on comparable subsidies in the future.

Fourth, I would add that I regard my amendment as a question of equity. The question is not "Shall we subsidize another group through tax expenditures?" but rather "Will tenants continue to be double taxed on moneys which they no longer have because they have already paid them to governmental units?" We have authorized, in the past 2 months, billions and billions of dollars in tax subsidies. Many of the so-called tax expenditures are designed to stimulate desperately crippled segments of the economy, and I voted for many of them. In the light of those actions, the suggestion that we can no longer afford overdue relief for the lower- and middle-income Americans who are now double taxed because of a mistake in the tax law, that our indulgence in special-interest tax breaks makes it impossible to achieve equity for people whose living arrangements stem not from choice, but necessity—that suggestion would be a statement on congressional priorities which would contain its own self-indictment.

Finally, I would point out that the implications of my bill go far beyond immediate relief for hard-pressed tenants. One of our major urban problems is the flight of middle-income families from the core cities to the suburbs. The deductibility of property taxes on suburban homes is one of the incentives that has sparked this exodus. My bill would help stem this flight by reducing the net cost of rental units in the core cities.

We have enacted a series of programs creating artificial ways of reducing the cost of urban housing. My amendment would reduce the net cost of housing in New York City by an estimated $200 million per year in the most automatic and natural way—by recognizing in the tax law that it is the tenant, not the landlord, who bears the burden of property taxes imposed on rental properties.

I suggest, Mr. President, that this amendment not only does equity for people who need equity, not only does it present all people who enjoy the use of property with equivalent tax treatment, but it will also go a long way in helping us solve some of our most urgent urban problems. The effective net cost of rental income in our center cities, in our core cities, will be reduced. There will be less of an incentive to move away and greater incentive to preserve our present stock of housing.

Mr. President, I reserve the remainder of my time.

Mr. STONE. Mr. President, I am pleased that the distinguished gentleman from New York (Mr. BUCKLEY) has been able to present to the Senate this amendment to H.R. 11321.

Renters are the forgotten, overlooked citizens of this country when it comes to taxes. One of the most unfair parts of our Tax Code gives landlords a Federal tax deduction for State and local property taxes—when it is actually the renters who end up paying them.

The amendment Senator BUCKLEY and I have introduced would allow the tenant to take a Federal income tax deduction for property taxes paid to State and local governments. This amendment would make a commonly used tax advantage available to renters, who are often in middle- and low-income brackets. At the same time, it would not hurt the landlords because they would not have to report as income the amount of rent their tenants use for tax deduction purposes.

Each year, Government agencies spend millions of dollars to renovate and build urban housing. Without any bureaucracy at all, this amendment would encourage people to remain in the city and boost the sagging construction industry—simply by making it cheaper to stay in apartments.

One-third of the citizens of our country live in rental units. Apartment dwellers are a group with great political potential—and this amendment is a first attempt to provide them with tax equity. It is genuine tax reform, because it gives tax relief to the people who need it most.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. THURMOND. Will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. THURMOND. Mr. President, I ask unanimous consent that a member of my staff——

Mr. GOLDWATER. I thought the Senator yielded to me. I am sorry.

The PRESIDING OFFICER. The Senator had yielded.

Mr. BUCKLEY. I had yielded to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that my amendment, which was just passed, be added to the bill and also be added to the Kennedy amendment, which will be a substitute.

The PRESIDING OFFICER. Is there objection?

Mr. MUSKIE. Objection.

Mr. THURMOND. Mr. President, will the Senator yield? Will the Senator from New York yield?

The PRESIDING OFFICER. Did the Senator from Maine object to the request of the Senator from Arizona?

Several Senators addressed the Chair.

The PRESIDING OFFICER. I had not quite heard the Senator. The Senator had interposed an objection, is that correct to the request of the Senator from Arizona?

Mr. MUSKIE. That is correct.

The PRESIDING OFFICER. Objection is heard.

Mr. THURMOND. Will the Senator from New York yield 1 minute?

Mr. BUCKLEY. I yield.

Mr. THURMOND. I ask unanimous consent that George Duckworth, of the Senate Judiciary Committee staff, and Gene Larimore, of my personal staff, be granted the privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Will the Senator yield for a question?

Mr. BUCKLEY. Yes.

Mr. LONG. Does the Senator do anything to deny the landlord the business expense deduction for interest and taxes which the landlord pays?

Mr. BUCKLEY. The effect of this is to remove the tax deduction from the landlord and assign it to the tenant.

Mr. LONG. Can the Senator show us where in this amendment the language appears which denies the landlord the deduction for the interest or taxes? Where in the amendment does it say that?

Mr. BUCKLEY. If the distinguished chairman will refer to the third page, subparagraph (c):

> The deduction allowed to a taxpayer under this section shall in no way affect the tax liability of his landlord.

Mr. LONG. The way I read that, it is just exactly the opposite. It in effect says that the deduction allowed to a taxpayer by this provision shall in no way affect the tax liability of a landlord. I assume that the landlord pays the tax on the property and he takes the deduction for the tax on the property. Now the Senator wants to let the tenant take the deduction, too. That is a double deduction, and it is against every principle of tax equity that can be found to let somebody deduct the same expense twice or let two people deduct the same thing.

Mr. BUCKLEY. I believe my opening remarks made it clear that as the landlord currently imputes income that equals the amount of the tax payment, there is, in effect, a wash. The landlord would not, in fact, in reality, realize a tax benefit. I think it is clear from the legislative history and from this language that the net effect of this is that the landlord would be acting, in effect, as a collecting agent, and that the rental income would not be described as his income or the payment as his deduction.

Mr. LONG. I believe I have some of the best tax experts on the Hill advising me, one of whom is right beside me, and they tell me they see nothing here that denies to the landlord the deduction for the tax he has paid on this property.

Mr. HASKELL. Will the Senator yield for a question?

Mr. LONG. For purposes of illustration, let us assume the landlord pays $1,000 in taxes on a property. He takes a business deduction for $1,000. This amendment would provide a deduction for the tenant as though he had paid that tax. That means the two of them are each deducting the same thing.

Mr. HASKELL. I would agree with the Senator from Louisiana I would like to hear what the Senator from New York has to say.

Mr. BUCKLEY. The fact is that the books of the landlord will show cash coming in and cash going out. It has a given current tax impact. I believe paragraph (c) clearly indicates that the position of the landlord will in no way be altered. It is a wash. Nevertheless, the property tax attributable to the unit that is rented will be available to the tenant to take on that tenant's income tax.

Mr. LONG. In addition to the fact that the landlord has already taken it.

Mr. BUCKLEY. Which is equalized by the money coursing through the landlord's books.

Mr. LONG. As I understand, the landlord has no more money than under prior law, is that correct?

Mr. BUCKLEY. That is correct.

Mr. LONG. So here the landlord is getting a deduction. He is getting a deduction for the tax that he pays the State and local government. His income is neither increased nor reduced by the Senator's amendment, is that correct?

So he has got exactly the same expenses, he is still paying the same thousand dollars in tax, and he still has the same thousand-dollar deduction against income as a business expense. Now the Senator presumes to give the tenant the deduction also. That is a double deduction, which we have been working for 20 years around here to get rid of, and in full operation this would cost us over $800 million a year for a double deduction: the landlord deduction and the tenant deduction.

The first objective of tax reform is to eliminate double deductions, but here we come with an $800 million a year double deduction. Why should we vote for something like that?

Mr. BUCKLEY. Mr. President, I believe it is totally clear from the legislative history, from the presentation, from the intent of the legislation, and from the language that the landlord would not have his position affected, and the fact is that under the present situation there is a wash between income in and income out.

Mr. LONG. Mr. President, that is just exactly what is wrong with the amendment. The landlord would not have his position affected, and here he is going to get a deduction for $1,000 he claims in taxes, and then we are going to give the tenant the deduction too, letting two people deduct the same thing.

So here we have an $800 million a year double deduction. If we start that all over again, we will soon find a thousand other situations involved where people want double deductions.

By allowing these double deductions, we destroy every principle of equity in the tax code.

It pains me to have to go along with a conference report which says we have eliminated what was an exclusion for income which represented sick pay. But we said that this exclusion for sick pay amounted to favoring a fellow who stays home over the fellow who reports for work and earns his income working. The effect of it is much the same as a double deduction; we exclude from income certain income that a person received.

In this case, we have the same expense being deducted twice, once by the tenant, and the other time by the landlord. If the tenant could deduct it and the landlord could not deduct it, that might have some appeal.

Mr. HASKELL. Mr. President, will the Senator yield?

Mr. LONG. Yes.

Mr. HASKELL. Even that I do not think would have much appeal, because if we do it, we are changing the economics of rental property all over the country overnight. The Senator's proposed amendment would make it better, but it still would not be very good.

Mr. LONG. At least one could find some merit to it. But what merit is there in saying the landlord can deduct the tax expense, and now the tenant can also deduct the same expense? So the same amount is deducted twice; it is a double deduction. That is contrary to everything we have been trying to condemn down through the years, to eliminate these things.

In 1981, when in full operation, this would cost the Treasury $811 million a year for the double deduction. It is contrary to every principle of taxation.

Mr. BUCKLEY. Mr. President, I hate to insist on the same point, but my point is that it would in no way affect the tax liability of the landlord. The tax liability of the landlord is a wash as soon as the tenant has paid his rent. If the tenant does not pay the rent, there is, therefore, no income paying through to meet a portion of the tax liability on the property, and the landlord is thereby able to maintain that deduction on that income that did not come in. This is a way of protecting the landlord against that gap, which would otherwise occur if he had delinquent tenants.

But the fact is, and it is stated clearly, that the landlord, as a result of the passthrough to the tenant of this tax benefit, does not gain and he does not lose.

The Senator from Colorado said that somehow or other this would change the economics of rental properties. From the landlord's point of view it does not change the economics one iota; but, yes, it does change the economics of rental property from the point of view of the consumer, from the point of view of the tenant—from the point of view of that 87 percent of tenants in this country who have incomes of less than $25,000. What this means today is that they get the same tax break that anyone else does. It means the cost of our housing is cheaper. It means that a city like New York has housing units that can be sustained and preserved longer. It means that we can do away with some of the arbitrary rent subsidy programs we now have, because we will have written an automatic adjustment into our tax laws. It means equity.

Incidentally, I might mention to the distinguished Senator from Colorado and the distinguished chairman that we are dealing with a situation here that, if we do not act, we are going to find the States acting on their own, case by case, by merely assessing the tax, doing by State law what I propose we do, in equity, by Federal law.

Mr. HASKELL. Mr. President, will the Senator yield?

Mr. BUCKLEY. Yes.

Mr. HASKELL. I would agree with the Senator that it does not change the landlord's economic position. That is true. But what it does is give the same deduction that the landlord is taking in arriving at his income to someone else; so the Senator from Louisiana is just 1,000 percent correct, we have two separate people taking the same deduction, and to the net deficit of the Treasury of $800 million in 1981. I would hope the Senator would not press this type of amendment.

Mr. BUCKLEY. I would focus the Senator's attention on the fact that it does not affect tax liability, and the fact is that so long as that rent comes in and the taxes are paid, there is a wash, an absolute wash. The adoption of this amendment would not change that effect.

Mr. HASKELL. Mr. President, we all agree in this Chamber that if the Senator's amendment is adopted, the landlord would pay no more and no less taxes; do we agree with that?

Mr. BUCKLEY. That is correct.

Mr. HASKELL. We agree with that. Then somebody is going to pay less taxes and that is the tenant.

Mr. BUCKLEY. That is correct.

Mr. HASKELL. And the reason the tenant is going to pay less taxes is he is taking the same deduction that the landlord already took. So he is getting a deduction. The Senator from Louisiana is right. If the Senator from Louisiana is renting a house to me he is getting the benefit of the tax deduction, and I as the tenant am going to get the same benefit. This is a brand new principle in tax law.

Mr. BUCKLEY. I suggest to the Senator from Colorado that he simply change the framework of thinking—we are talking about practicalities and not semantics—and that is that money that is collected from the tenant for payment in the State or local property taxes would in effect no longer be input to the landlord. Again it is a wash.

Mr. LONG. Mr. President, is this not correct: If a man stays in one of those expensive New York hotels for a night he would be entitled to deduct a certain part of the property tax on that hotel room paid by the owner of the hotel?

Mr. BUCKLEY. We are talking about dwelling units.

Mr. LONG. Is a hotel room not a dwelling unit? That is a dwelling unit. If a man stays in that hotel room for a night he is entitled to have a receipt from the hotel owner saying, "You are hereby entitled to a deduction for your share of the property tax paid on that hotel room, the tax bill divided by 365 days applicable to that room."

I take it that under the Senator's bill, every time a man rents a room in a hotel the landlord will hand him, along with his bill, a tax receipt to claim a tax deduction. He would be entitled to his share of property tax against the hotel room because he stayed in that hotel for a night. Furthermore would not the man who owns the hotel be taking the whole deduction all over again?

Mr. HASKELL. Will the Senator yield for another comment?

Mr. LONG. Would not the man who owns the hotel be deducting the whole property tax he paid on the hotel as well?

Mr. BUCKLEY. I believe if one looks into the Internal Revenue Code the words "dwelling unit" has a meaning within the code. It does not include hotel rooms but does include what the Senator and I know we are talking about.

Mr. LONG. Where does the code say that? Show me.

Mr. BUCKLEY. Should there be any ambiguity about that obviously I will be happy to insert the words "other than hotel rooms."

Mr. HASKELL. Will the Senator from New York yield for a question?

Mr. LONG. Mr. President, I am advised there is nothing in the Internal Revenue Code that defines the definition of a dwelling unit for purposes of this provision. That being the case I assume a dwelling unit would certainly include a hotel room and motel room. They are all dwelling units.

Mr. HASKELL. It seems to me the Senator from Louisiana raised another question. If this amendment should pass, which I hope it does not, it would only be rich tenants who would get the benefit of it because poor tenants do not itemize their deductions. Am I right?

Mr. LONG. The Senator is correct. Seventy percent of the people do not itemize.

Mr. HASKELL. They would only be Park Avenue renters who get the benefit of it or the folks who go to the big hotels.

Mr. LONG. The way I and the staff read this section, people living in apartment hotels and people staying in hotels would all get the benefit of a deduction for the property taxes which they did not pay.

Mr. HASKELL. They did not pay.

Mr. LONG. And the landlord gets it, and he ought to get it because he did pay it.

Mr. HASKELL. I concur with the Senator.

Mr. LONG. So now all the people who stay in these big, expensive hotels, these apartment hotels, who itemize already, get the deduction. The rank and file people, those who rent and take the standard deduction rather than itemize their deductions, would not get any benefit. What this would cost us is $811 million a year, guaranteed not to benefit 70 percent of the people in the country.

Mr. HASKELL. The Senator is correct.

Mr. BUCKLEY. Mr. President, I regret but the Senator is not correct. MacKenzie & Co. made a detailed study of this. MacKenzie & Co. determined **that people with incomes as low as $5,500 a year will benefit.** It will be worth their while to itemize their deductions. There are tables that indicate that the class of people who will benefit from this amendment represents those 30 to 35 percent of Americans who live in rental homes or rental apartments, over 80 percent of whom are among the lowest income people in this country. This is not something by which the wealthy are going to somehow rip off the Internal Revenue. The fact is there is increasing pressure on the part of wealthy people to move out of rental units into condominiums for the specific reason that that enables them to get a property tax deducion. The adoption of my amendment would remove that incentive, and as the Senator from Florida (Mr. STONE) mentioned earlier today at a press conference on this bill, one of the tragedies that often afflicts older couples, older people who have been living in a building year in and year out, is that they suddenly find themselves presented with a demand that they either move out or invest $40,000, $50,000, $60,000, or $80,000 in a condominium. This would completely avert that often tragic situation which is a very common one. But this is reform. This is targeted at low- to middle-income people in this country. It is tax equity. And it also is something that attacks one of the problems we have in our local cities.

Mr. MUSKIE. Mr. President, will the Senator yield me 5 minutes?

Mr. LONG. Yes.

Mr. MUSKIE. I appreciate that.

I regret that this amendment has precipitated a point with respect to the Budget Act which ought to be brought to the attention of the Senate. First of all, let me put the revenue picture in the budget resolution before the Senate. The situation is this: The second concurrent resolution sets a floor of $362.5 billion for revenues. The Budget Committee has sent to the Parliamentarian the first budget status report for fiscal year 1977 pursuant to the Budget Act. It shows that taking account of revenue legislation already enacted or through conference revenues now are estimated to be $362.117 billion or $383 million below the second concurrent resolution revenue floor. The House of Representatives passed an unemployment insurance tax bill which would increase revenues by $387 million. A similar bill which would raise revenues by $400 million has been reported in the Senate. Because the current revenue figure is below the revenue floor all subsequent net revenue losing legislation would be out of order, at least until such time as the revenue floor has been reached or exceeded.

There are several bills, Mr. President, yet to be considered by the Senate which lose small amounts of revenue, including the bill now before us. In future years I hope and expect that such bills can be enacted prior to the second budget resolution, but this year the heavy workload imposed on the Finance Committee by several major bills, and particularly the Tax Reform Act, has precluded early action on these small bills.

As chairman of the Budget Committee I am not inclined to raise a point of order against the consideration of these small bills this year. I wrote the chairman, the distinguished chairman, of the Finance Committee to that effect this morning. I ask unanimous consent that a copy of my letter to Senator Long be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Committee on the Budget,
Washington, D.C., September 22, 1976.
Hon. Russell B. Long,
Chairman, Committee on Finance, U.S. Senate, Washington, D.C.

Dear Russell: I am writing to call your attention to a situation which I hope we can discuss and attempt to resolve: that is the relationship to the Second Concurrent Resolution on the Budget of tax and tariff bills now on the Senate calendar or likely to be reported in this session.

As you know, Section 311 of the Budget Act provides a point of order may be made against any bill, amendment, or conference report the enactment of which would cause the revenue floor established by the Budget Resolution to be breached. The present estimate of fiscal year 1977 revenue collections, after passage of H.R. 10612, the Tax Reform Act of 1976, and H.R. 10210, the Unemployment Compensation Amendments of 1976, is approximately $362.4 billion—about $100 million below the revenue floor established in the Budget Resolution passed by Congress last week.

A number of tax and tariff bills are now either on the Senate calendar, in conference, or are understood to be scheduled for immediate Finance Committee consideration that would reduce revenue collections further below the presently estimated level of $362.4 billion. While most of these revenue-losing bills are of a minor nature, they all would be subject to a point of order under the Budget Act at the present time.

In addition, I understand there is at least one bill in conference, H.R. 1386, and one amendment scheduled for floor action, the property tax deduction amendment, this week that would result in extremely large revenue losses in subsequent fiscal years. Moreover, I understand the Congressional Budget Office estimates that the college tuition credit amendment to H.R. 1386 would reduce fiscal year 1977 revenue collections by $30 million and that the property tax deduction amendment to be offered by Senator Buckley would reduce FY 1977 collections by $20 million.

We recognize the fact that the Finance Committee may have been precluded by its heavy workload since last spring on the Tax Reform Act and other bills such as revenue sharing from earlier consideration of these bills. Under these special circumstances, I hope we can reach an understanding under which we could discourage the offering of points of order against those of these bills which do not have substantial revenue effects in either the year of enactment or subsequent fiscal years. Pursuant to discussion of this matter by the Budget Committee at its meeting this morning, I have also written to Senator Bryd to ask that you and I might be given time to resolve this matter before the Senate considers these bills. A copy of my letter to Senator Byrd is enclosed.

With best wishes, I am
Sincerely,
Edmund S. Muskie.

Mr. MUSKIE. Mr. President, the point I make about the Buckley amendment is that as it was introduced and in the modified form which it took earlier today it was subject to a point of order, in and of itself, because it had a revenue loss impact in fiscal year 1977.

Senator Buckley has amended it so that the 1977 impact of $20 million is no longer there, but, Mr. President, in fiscal year 1978 the revenue loss impact is $292 million, in 1979, $670 million, in 1980, $737 million, and in 1981, $811 million.

Mr. President, we discussed this in the Budget Committee the other day. I do not like to make points of order with respect to the minimal amounts in the bill itself. But when a revenue measure of this kind is introduced to such de minimis bills with such heavy out-year consequences then it seems to me the Senate must focus on that implication. The effect of this amendment and also that of the Roth tuition amendment the other day is to increase budget costs down year in budget years, which we have not yet examined in the way we examine current budget years.

If we just excuse ourselves on the ground that because there is no current fiscal impact it is all right to drain our revenues in down years, then the budget process will eventually become worthless.

As I understand it, this amendment was not the subject of any congressional hearings or any studies. It has a heavy impact down year.

In and of itself, I repeat, as now modified, the Buckley amendment is not subject to a point of order because it does not impact in fiscal year 1977. But if it is accepted, it will become part of a bill which is subject to a point of order.

I do not like to make that point of order, because I do not like to use that kind of instrument against the de minimis amounts involved in the bill itself. But I do object, I must say, with all appreciation for the work that the distinguished Senator from New York has done on the Budget Committee, and I simply cannot stand silent on this point, which I think has precedent-setting features for the rest of this session.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. LONG. I yield the Senator 2 additional minutes.

Mr. MUSKIE. There are other de minimis revenue bills on the calendar or coming to the calendar. If each of them has the potential for becoming a vehicle for this kind of revenue loser, whether in fiscal year 1977 or down year, I am going to resist. It is for that reason that I do not raise a point of order, because I cannot do so to the Buckley amendment. But I join the Senator from Louisiana in opposing the Buckley amendment for budgetary reasons on the merits of the issue itself as it has been discussed.

As I read the Buckley amendment, it does not change the tax liability of the landlord either to increase it or decrease it, so I assume that the landlord will continue to get the deduction and that the additional deduction provided will inure to the landlord.

I am not speaking as Budget Committee chairman on that point. That is simply my view of the merits on that particular issue. So I think it does tend to become a double deduction, and for that reason it is subject also to objection.

With that, I thank the Senator from Louisiana for giving me this opportunity to bring out the budget implications of this amendment, and I yield the floor.

Mr. BUCKLEY. Mr. President, I am very conscious of the arguments and concerns of the Senator from Maine. I, too, am a member of the Budget Committee; and I, too, believe that we must weigh very carefully what we do as it affects not only the fiscal situation of the year immediately ahead but also beyond that.

It is precisely for that reason, as he pointed out, that this would not become effective, for all practical purposes, until calendar year 1978. But it does outline a proposition of equity. It does provide Congress ample opportunity between now and the effective date of this amendment to review other programs that are designed to help tenants, to determine whether or not this is a more effective mechanism.

The fact is that it does elementary justice, and there are other areas where we can increase taxes to make up for the lost revenues. In fact, this is what we try to do.

I also suggest that as we lower the real cost of housing in older parts of our country, we will find that we will create incentives for renovation, incentives for the preservation of properties, and that the real impact on the economy of the United States and on the budget balancing process will not nearly reach the figures cited by the Senator.

Mr. TAFT. Mr. President, will the Senator yield for a question?

Mr. BUCKLEY. I yield.

Mr. TAFT. Is there any limitation on the Senator's proposal with respect to the application of the provisions relating to deductibility of real estate taxes based on the total amount of rental paid?

Mr. BUCKLEY. No.

Mr. TAFT. Does the Senator have any comment on the desirability or equity of perhaps limiting the amount of rental, at least that would be paid, that this would apply to?

Mr. BUCKLEY. The Senator from New York proceeds under the belief that the deductibility of property taxes is considered something legitimate that should offset taxation somewhere.

Property held for rental purposes, as a matter of fact, is the only property in which no real deduction is appreciated, is realized; and whether we are talking about luxury or simple housing does not affect the merits of the proposition.

Mr. TAFT. I appreciate the principles the Senator is talking about. I think there is a good deal to be said for them. I am somewhat concerned, however, about the fact that, in the case of luxury rental dwellings, we might be dealing with a rather large windfall for certain taxpayers which would be likely to occur in those instances.

Mr. BUCKLEY. I suggest that, as a practical matter, all people who work in that situation have long since converted to a condominium. At least, that is the experience in my city.

Mr. TAFT. But there would not be anything to prevent it.

Mr. BUCKLEY. But the fact is that

that benefit is available, anyway, through the simple act of converting a rental property into a condominium.

Mr. TAFT. But would it apply to a large private residence already in existence?

Mr. BUCKLEY. The Senator means someone who is renting a large private residence?

Mr. TAFT. Yes.

Mr. BUCKLEY. We are dealing there with the fringe factual situation, not the practical situation. The fact is that two-thirds of the people who rent units in this country have incomes of less than $15,000.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. HASKELL. Mr. President, will the Senator from Louisiana yield?

The ACTING PRESIDENT pro tempore. The Senator from New York has the floor.

Mr. BUCKLEY. I yield to the Senator from Maryland.

Mr. MATHIAS. I ask the Senator from New York whether he will comment on the conclusion reached by the Senator from Maine, that the deduction would not be lost by the landlord under the language he has proposed.

Mr. BUCKLEY. The language says explicitly that the tax liability of the landlord remains unchanged. If all the rents are coming in, it is a wash. But this was designed to protect the landlord against the situation where, having allocated one-fifth of the tax to a 5-apartment dwelling, if the tenant failed to pay that rent and he nevertheless had to pay the tax, he would be kept whole.

Mr. MATHIAS. The landlord would be kept whole?

Mr. BUCKLEY. Yes.

Mr. MATHIAS. But if the tenant claimed the deduction——

Mr. BUCKLEY. You would have income in, income out. The posture of the landlord would be unchanged.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. MUSKIE. I think that that point needs to be clarified. I read the language of the Senator's amendment:

> The deduction allowed to a taxpayer under this section shall in no way affect the tax liability of his landlord.

So the landlord's position continues as though the amendment had not been adopted, and the additional deduction goes to the tenant.

If the interpretation of the amendment were as the Senator from New York has put it, where would the $811 million cost projected by the Congressional Budget Office come from, if it were simply a washout? There is an $811 million cost.

Mr. BUCKLEY. The $811 million cost would be in the reduction of the income tax liability of the tenants who are really paying the tax, anyway, through their rental payments.

Mr. MUSKIE. Well, now, that is—I would like to see the class of tenants. That is a heavy revenue loss.

Mr. BUCKLEY. Yes, it is a heavy revenue loss, because this is a heavy inequity we are redressing.

Mr. MUSKIE. I am interested in the revenue loss at this time. The Senator from Louisiana is expressing the other point, and there is an $811 million potential revenue loss.

Mr. LONG. Mr. President, let me show what this amendment will do. Mind you, if the amendment did what I thought at first it might do, I would be more favorably inclined to it. But if it did deny a deduction to the landlord, that waiting room would be filled with landlords, screaming that we are going to deny them the deduction which they are claiming now. The landlords do not complain about this provision, because they continue to get the deduction if they pay the tax.

How does it work out? Assume a man is in the 70-percent tax bracket. He may decide to leave this vicinity and move somewhere else. He is going to rent his home until he comes back. Let us say he has been appointed ambassador somewhere.

He paid $1,000 a year in taxes and he deducts that. That costs Uncle Sam $700 to allow him to take that tax deduction. Then he rents the house to another taxpayer also in the 70 percent tax bracket. That fellow under this provision also deducts the same $1,000. Uncle Sam is out another $700. So between these two men, on a $1,000 expense item, they euchre Uncle Sam out of $1,400 and make a profit of $400.

That reminds me of the situation that existed at the Mayflower Hotel back when we had an excess profits tax in World War II.

Three lobbyists had a round of drinks. The first one said "Give me the check. I am in a 90 percent tax bracket and it won't cost me but 10 cents."

The second one said, "No, let me have the check. I am on an expense account. It won't cost me anything."

The third lobbyist said, "No, let me have the check. I have a cost plus contract. I will make a 10 percent profit on it."

Can you not see these rich people standing in line to rent their homes to one another so they can get this double deduction? All that discriminates against the poor soul who is out there taking the standard deduction because it would not pay him, in most cases, to try to itemize in order to get this deduction.

In addition, the Senator would make this double deduction such an attractive tax advantage, that he might persuade millions of little taxpayers to change from the simple system of the standard deduction over to the complicated itemized deductions in order to claim this double deduction he is going to offer to people of this country.

This discriminates against homeowners. If a man owns his home, he gets to deduct the taxes one time. But nobody gets to deduct the taxes a second time. There is only one deduction. Only one person is benefitted, the homeowner himself. Nobody else can get in on a second deduction. So it is just deducted once. It discriminates against homeownership.

It discriminates against all those who still find that, all things considered, they do just as well to take the standard deduction. Seventy percent of the people do, and not worry with all the complications in the code and are not required to keep all those records. It would make it so that any time a man goes to a hotel room, he would ask the hotel man, "Give me my receipt so I can claim my tax advantage because I stayed in this hotel room and take my share of the property taxes this hotel paid."

Mr. President, why do we want to get involved in this at all? Double deductions discriminate against low-income people who ordinarily would claim the standard deduction, moves people away from simplification and toward complicated itemized tax returns, when we have been trying to move them just the other way, toward a simplified form and away from the complications of itemizing their deductions. None of that makes any sense, Mr. President.

Furthermore, I do not know whether the budget can stand it, as Mr. MUSKIE so well pointed out to us. For all those reasons, Mr. President, it seems to me this should not be agreed to.

How much time remains, Mr. President?

Mr. CURTIS. Will somebody yield me a minute?

Mr. LONG. I am glad to yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, this amendment of the distinguished Senator from New York is entitled to full and further consideration. I do not know if we shall work out the answer here tonight or not. I do know, I am convinced of it, that the poor and the middle class people, particularly the poor people who have to have housing, with no way they can arrange to buy something, have to pay what is demanded of them. I am quite sure that they pay the taxes. I think in truth and in fact, the tenants do pay the taxes. Therefore, I think this proposition has merit.

I think the Senator from New York should be commended for it. Like a lot of these things, if we do not get it the first time, it can be explored again.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

Mr. BUCKLEY. How much time do I have left, Mr. President?

The ACTING PRESIDENT pro tempore. Nine minutes.

Mr. BUCKLEY. Mr. President, time is getting late. I would like to address myself to a couple of points that have been made.

We have heard a lot about the complexity of the paperkeeping and one thing and another. The fact is that this is something that has been studied in great detail, with great care. It has been the subject of an exhaustive article in the Harvard Law Review. This particular bill has the blessings of the National Apartment Association and the New York Landlords Associations. They are the people who worry about this paperwork.

With respect to the complications for the tenant, again the New York Tenants Association, the California Tenants Association, and others understand this legislation and do not feel it is too complicated for the people who would be saving the equivalent of up to 1 month's rent a year.

We hear a lot about double deductions. The fact is that "double deductions" is a catch phrase. It is a very common thing in taxation that one item of expense may be, in effect, deducted by several different taxpayers.

Someone manufactures a chair. He pays for lumber. He deducts the cost of that lumber. He then sells that chair for a profit to a business. That business deducts the cost of the chair, which includes the cost of the lumber.

We are talking practical consequences and the practical consequences of this amendment are two: No. 1, the landlord neither gains nor loses. No. 2, every tenant having an income of $5,000 or more gains by having the cost of his housing reduced because, for the first time, the tenant will be receiving the benefit of the property tax deduction that he, in fact, is paying for.

Mr. President, I think that the issue is clearly known, clearly explained. I am willing to yield back the remainder of my time.

Mr. LONG. Mr. President, I yield back the remainder of my time. I move to lay the amendment on the table. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Does the Senator ask for a rollcall vote?

Mr. LONG. Yes, Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that it be a 10-minute rollcall.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. GRIFFIN. Mr. President, I think I shall have to object.

The ACTING PRESIDENT pro tempore. Objection is heard. The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PASTORE), the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Ohio (Mr. GLENN), and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. FANNIN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. MCCLURE), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Vermont (Mr. STAFFORD) are necessarily absent.

The result was announced—yeas 41, nays 29, as follows:

[Rollcall Vote No. 641 Leg.]

YEAS—41

Abourezk
Bartlett
Bellmon
Bumpers
Burdick
Byrd, Robert C.
Cannon
Church
Clark
Culver
Durkin
Eagleton
Ford
Gravel
Hart, Gary
Haskell
Hathaway
Huddleston
Inouye
Jackson
Johnston
Leahy
Long
Magnuson
McClellan
McIntyre
Muskie
Nelson
Nunn
Pell
Percy
Proxmire
Randolph
Ribicoff
Sparkman
Stennis
Stevenson
Taft
Talmadge
Williams
Young

NAYS—29

Allen
Baker
Biden
Brooke
Buckley
Byrd, Harry F., Jr.
Case
Curtis
Fong
Garn
Griffin
Hansen
Helms
Hollings
Hruska
Javits
Laxalt
Mathias
Morgan
Pearson
Roth
Schweiker
Scott, Hugh
Scott, William L.
Stevens
Stone
Thurmond
Tower
Weicker

NOT VOTING—30

Bayh
Beall
Bentsen
Brock
Chiles
Cranston
Dole
Domenici
Eastland
Fannin
Glenn
Goldwater
Hart, Philip A.
Hartke
Hatfield
Humphrey
Kennedy
Mansfield
McClure
McGee
McGovern
Metcalf
Mondale
Montoya
Moss
Packwood
Pastore
Stafford
Symington
Tunney

So the motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. Under the previous order, no further amendments are in order, therefore, third reading of the bill.

Mr. ALLEN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. ALLEN. Mr. President, has there been third reading of the bill?

The bill was ordered to a third reading and was read the third time.

The ACTING PRESIDENT pro tempore. Under the previous order, there are 30 minutes on the bill, 15 minutes to each side. Is all time yielded back?

Mr. LONG. I yield back my time, Mr. President.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 11321) was passed.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. ABOUREZK. Are we now on the civil rights attorneys' fees?

The ACTING PRESIDENT pro tempore. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

Mr. ABOUREZK and Mr. ALLEN addressed the Chair.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. ABOUREZK. Is the pending measure the Allen amendment to change the title of the bill?

The ACTING PRESIDENT pro tempore. The amendment of the Senator from Alabama is an amendment to the short title of the bill, which is within the bill.

Mr. ALLEN addressed the Chair.

Mr. ABOUREZK addressed the Chair.

Mr. ABOUREZK. Mr. President, do I still have the floor?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ABOUREZK. Mr. President, is the attempted change of the Senator from Alabama to change the title from whatever it is now to the Kennedy-Tunney-Abourezk Civil Rights Lawyers Relief Act?

The ACTING PRESIDENT pro tempore. That is the substance of the amendment.

Mr. ABOUREZK. Regretfully, Mr. President, I move to table.

Mr. ALLEN. Point of order, Mr. President.

Mr. ABOUREZK. I ask for the yeas and nays, Mr. President.

Mr. ALLEN. The Chair did not—a point of order.

The ACTING PRESIDENT pro tempore. The Senate will be in order.

The Senator from Alabama will state the point of order.

Mr. ALLEN. The Chair misstated what the amendment is. It does not call it the civil rights attorney's relief measure. It uses the very word of the amendment itself which is "awards" rather than "relief." It does seek to give credit where credit is due by naming the bill for Mr. KENNEDY, Mr. ABOUREZK, and Mr. TUNNEY. The Chair misstated the amendment.

The ACTING PRESIDENT pro tempore. The Chair regrets the statement and the Chair asks the clerk to read the amendment.

The legislative clerk read as follows:

Strike lines 1 and 2 and substitute the following:

That this act may be cited as the Tunney-Kennedy-Abourezk, Civil Rights Attorney's Fee Awards Act of 1976.

Mr. ABOUREZK. Mr. President I ask for the yeas and nays on my motion to table.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to table. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from New Hampshire (Mr. DURKIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Jersey (Mr. WILLIAMS), the Senator from New Mexico (Mr. MONTOYA), the Senator from North Carolina (Mr. MORGAN), the Senator from Utah (Mr. MOSS), the Senator from Wisconsin (Mr. NELSON), the Senator from Rhode Island (Mr. PASTORE), the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Ohio (Mr. GLENN) and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

On this vote the Senator from Minnesota (Mr. HUMPHREY) is paired with the Senator from North Carolina (Mr. MORGAN). If present and voting the Senator from Minnesota would vote "yea" and the Senator from North Carolina would vote "nay."

I further announce that if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. FANNIN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. MCCLURE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Delaware (Mr. ROTH), the Senator from Vermont (Mr. STAFFORD), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 52, nays 9, as follows:

[Rollcall Vote No. 642 Leg.]

YEAS—52

Abourezk
Baker
Bartlett
Bellmon
Biden
Brooke
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Church
Clark
Culver
Eagleton
Fong
Ford
Garn
Gravel
Griffin
Hart, Gary
Haskell
Hathaway
Hollings
Huddleston
Jackson
Javits
Johnston
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McIntyre
Muskie
Nunn
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stevens
Stevenson
Stone
Taft
Weicker

NAYS—9

Allen
Curtis
Hansen
Helms
Hruska
Scott,
  William L.
Talmadge
Thurmond
Tower

NOT VOTING—39

Bayh
Beall
Bentsen
Brock
Buckley
Chiles
Cranston
Dole
Domenici
Durkin
Eastland
Fannin
Glenn
Goldwater
Hart, Philip A.
Hartke
Hatfield
Humphrey
Inouye
Kennedy
Mansfield
McClure
McGee
McGovern
Metcalf
Mondale
Montoya
Morgan
Moss
Nelson
Packwood
Pastore
Roth
Stafford
Stennis
Symington
Tunney
Williams
Young

So the motion to lay on the table was agreed to.

ADDITIONAL STATEMENTS ON S. 2278

Mr. MUSKIE. Mr. President, earlier this afternoon I interposed an objection to Senator GOLDWATER's unanimous consent request that his amendment to the Senate text of the Civil Rights Attorneys' Fees bill be considered as well as an amendment to Senator KENNEDY's pending amendment in the nature of a substitute. This objection was lodged in Senator KENNEDY's absence to preserve the option of the Senate to consider Senator KENNEDY's amendment on its own, without the Internal Revenue Service amendment included. As I understand, the objections of the IRS and certain Members of the House of Representatives to the Goldwater amendment would inevitably mean that this bill would die if it went to the House with that amendment intact. I certainly would not want that to happen, and I know that Senator GOLDWATER shares this view. I likewise share his frustration that we cannot get the House to focus constructively on his proposal.

But the future of the Civil Rights Attorneys' Fees bill is at stake. This is clearly reflected in two letters received by Senator KENNEDY today, from House Judiciary Committee Chairman PETER RODINO and Internal Revenue Service Commissioner Alexander. I ask unanimous consent that these two letters to Senator KENNEDY, which I think help explain why Senator GOLDWATER's amendment would threaten the viability of the underlying legislation, be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Washington, D.C., September 23, 1976.
Hon. EDWARD M. KENNEDY,
U.S. Senate, Russell Building,
Washington, D.C.

DEAR TED: I understand that the Senate is debating S. 2278, the Civil Rights Attorney's Fees Awards Act of 1976, which is substantially identical to H.R. 15460, which the Committee on the Judiciary has approved, and which is awaiting the Suspension Calendar. I have reviewed the amendment which Senator Goldwater offered, on September 22, 1976, to allow the reimbursement of attorney's fees to a prevailing taxpayer in Internal Revenue Service cases in which a second audit was ordered. (Cong. Record, 31846–47).

It is important to note that during the House-Senate conference on H.R. 10612, the Tax Reform Act of 1976, a provision for reimbursement of attorney's fees in all IRS cases, which was offered by the Senate, was deleted by the conferees after Commissioner Alexander testified in opposition to it. (See p. 492 House Report 94–1515, Sections omitted from Senate amendment No. 25.) Although the Administration has not been specifically asked to take a position on Senator Goldwater's amendment, he stated on September 22, 1976, that his amendment, though more limited in the type of cases covered, would allow recovery of accounting fees as well as costs and would cover administrative proceedings as well as courts. (Cong. Record, 31847).

I fear that Senator Goldwater's amendment—lacking a careful analysis by the Administration, and in light of the Administration's prior position on another IRS attorney fee provision—will jeopardize the Civil Rights Attorney's Fees Awards Act of 1976. S. 2278 presently is a very narrow bill intended to enable private enforcement of civil rights acts. It does not involve federal spending, and has specifically been supported by the Administration at a hearing before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice on December 3, 1976.

The Committee is presently studying other bills, like Senator Goldwater's, which would go far beyond the "American Rule," or the "private attorney general" exception to it, and which may allow recovery against the Federal Government. We hope to take action next Congress on such bills. However, I fear that quick action on the Goldwater amendment, which goes far beyond the narrow provisions of S. 278, would defeat the bill.

Sincerely yours,
PETER W. RODINO, Jr.,
Chairman.

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, D.C., September 23, 1976.
Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: This is in response to your letter of September 23, 1976, in which you ask for the views of the Internal Revenue Service on an amendment offered by Senator Goldwater to S. 2278, the Civil Rights Attorneys' Fees Awards Act.

Briefly stated, this amendment would provide for the reimbursement of expenses incurred by a taxpayer in connection with a deficiency which is proposed subsequent to a deficiency which the taxpayer accepted, or subsequent to notification to the taxpayer that there would be no change in tax liability, when the action of the Service, after final administrative or judicial review, results in no increase in tax from that previously agreed to.

It is our view that existing administrative safeguards afford taxpayers adequate protection against the reopening of cases to raise frivolous issues.

The Service will not reopen any case closed after examination by a district office or service center to make an adjustment unfavorable to the taxpayer unless: (1) there is evidence of fraud, malfeasance, collusion, concealment or misrepresentation of a material fact; or (2) the prior closing involved a clearly defined substantial error based on an established Service position existing at the time of the previous examination; or (3) other circumstances exist which indicate failure to reopen would be a serious administrative omission.

However, our most serious objection is tc the concept itself—that taxpayers should be reimbursed by the Government for expenses incurred in the settlement of a tax dispute. The proposal will set a precedent which may lead to further and more costly demands for legislation extending the principle of reimbursement under other circumstances. For FY 1975, IRS audited 2.465 million tax returns and closed 2.9 million delinquent accounts. Once the concept of reimbursement is introduced, it will be very difficult to limit its application to a particular taxpayer or tax action.

It is hoped that the Congress would defer its action on this very important matter until it has been more thoroughly considered. We will be pleased to study this matter in greater depth and submit a report of our views if that is desired.

With kind regards,

Sincerely,

Donald C. Alexander,
Commissioner.

Mr. TUNNEY. Mr. President, on Tuesday of this week the junior Senator from Alabama asked rhetorically why I was not present in this Chamber if this bill, which I had introduced, the Civil Rights Attorney's Fees Awards Act, was so important to me. He then proceeded to answer his question. He stated that I was engaged in a tough fight for reelection but not withstanding my campaign battle, I would be present for this cloture vote today.

He was correct on both points: I am here and I am engaged in an extremely tough election. But every Senator realizes that the great issues involved in this bill do not involve granting relief to attorneys. Senator Kennedy yesterday challenged Senator Allen to show a single case of a lawyer getting rich on civil rights cases. It just does not happen. In fact, a 1975 study undertaken by Leslie Helfman of the Antioch Law School indicates that of the 140 most recent cases decided prior to Alyeska, civil rights cases ranked near the bottom with fees averaging $37 per hour compared to $181 per hour for the highest ranking field of antitrust law.

If any relief is accorded by the passage of this bill, it will be granted to those individuals who have been unlawfully deprived of their constitutional rights. That is why a majority of the Senate has supported this bill through more than a dozen rollcall votes and have opposed the dilatory amendments that have been offered during the last 2 days of debate. That is why a dozen Senators believed that this bill was so important that they adjusted their schedules and canceled appointments in order to take turns managing this bill. Mr. President, I would like to express my deepest appreciation to Senators Robert C. Byrd, Cranston, Abourezk, Bayh, Brooke, Eagleton, Gravel, Hathaway, Javits, Kennedy, Mathias, and Hugh Scott for their diligence and leadership in pressing for passage of this legislation.

I would also like to express my special thanks to Senator Phil Hart of Michigan for his solid work on behalf of this bill in the Judiciary Committee.

Mr. President, the action that I ask the Senate to take today is far from unique. Fifty-four Federal statutes presently authorize the award of attorney fees in areas as diverse as antitrust, freedom of information, consumer product safety, banking, international relations, and patents, to name only a few. S. 2278, when enacted, will close a loophole in our present civil rights enforcement laws.

In *Alyeska Pipeline Service Corp.* v. *Wilderness Society,* 421 U.S. 240 (1975), the Supreme Court expressly stated that the lower Federal courts had no inherent equity power to award attorney's fees in civil rights cases absent statutory direction. This bill creates the necessary authorization and is addressed to the key questions raised in the opinion. The bill states, in part,

> The court, *in its discretion,* may allow the *prevailing party,* other than the United States, a *reasonable* attorney's fee as part of the costs. (Emphasis added.)

The award, Mr. President, must be reasonable and the courts have been exceptionally clear in stating their views on this aspect of the problem. In *Johnson* v. *Georgia Highway Express, Inc.,* 488 F. 2d 714 (5th Cir. 1974) the court of appeals listed 12 factors to be considered in computing the fees including the time and labor required, the novelty and difficulty of the question involved, the skill needed to present the case, the customary fee for similar work and the amount received in damages, if any.

S. 2278 also provides for awards to the prevailing party, a more moderate approach than limiting recovery to prevailing plaintiffs. This was designed to avoid bringing vexatious or harassing lawsuits by allowing the award of fees to prevailing defendants under those circumstances. *United States Steel Corp.* v. *United States,* 519 F. 2d 359, 364 (3rd Cir. 1975). At the same time, existing case law is clear on the point that prevailing plaintiffs "should ordinarily recover our attorney's fee unless special circumstances would render such an award unjust." *Newman* v. *Piggie Park Enterprises, Inc.,* 390 U.S. 400, 402 (1968) (per curiam).

Finally, S. 2278 states that the fees are to be allowed in the discretion of the court. That discretion has been included in the most recent civil rights statutes allowing attorneys' fees and the standards enunciated in *Newman* v. *Piggie Park Enterprises, Inc.,* 390 U.S. 400, 402 (1968) have been more than ample.

Thus, Mr. President, we have before us a moderate, rational plan carefully drafted to insure that the constitutional rights of our people may be adequately protected. I ask that the bill be passed.

REQUEST FOR ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I do not believe there will be any vote on the motion to adjourn tonight; it is my understanding there is no one who plans to ask for the yeas and nays on that. Therefore, there will be no more rollcall votes today.

I ask unanimous consent that at this time there may be a brief period for the transaction of routine morning business.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ALLEN. Mr. President, reserving the right to object, I object.

Mr. SPARKMAN. Mr. President, will the Senator from West Virginia yield to me for a brief question?

Mr. ROBERT C. BYRD. Yes.

Mr. SPARKMAN. The Senator knows that both Senator Allen and I have spoken to him and to Senator Mansfield with reference to the Nuclear Fuel Assurance Act. I think that number is H.R. 8401. And I know that it is included among "Subjects on the Table." I assume that means there definitely cannot be action during this session of Congress; is that right?

Mr. ROBERT C. BYRD. Not necessarily. A bill on that calendar may be called up by unanimous consent or by a motion just as can any measure on the regular calendar. It has been put on that calendar along with many other measures so as to clear the calendar of general orders of so many measures that are not likely to be called up.

Mr. SPARKMAN. As the leader knows, I have been greatly interested and concerned about this action. Many people in my State have been. If I understand correctly, the President wrote a letter to Senator Mansfield urging action on this bill before Congress adjourned. Therefore, I wanted to inquire just what the situation is with reference to it.

Mr. ROBERT C. BYRD. There are quite a number of measures that have been placed on the calendar entitled "Subjects On The Table." I may have asked unanimous consent to transfer them when I was directed to do so. The majority leader, I am sure, did ask unanimous consent that a good many of them go on that calendar, the purpose being to get them off the calendar of general orders. There is obviously a lot of opposition to them and in the opinion of the leadership—not me necessarily, because I am unaware of the contents of a good many of these measures, or of the nature of the opposition—they have been moved off the calendar of general orders and placed on the calendar of "Subjects On The Table," so as to clear the general orders calendar of measures that are going nowhere in this Congress before it adjourns.

We are trying to clean it up as much as possible. There are a good many other measures on the General Orders Calendar that really will not be acted on in this session and could just as well go on the Calendar of "Subjects on the Table," but, again in answer to the able Senator, the same unanimous-consent request can bring a measure off the "Subjects on the Table" Calendar or the same motion as with the Calendar of General Orders.

There is apparently very strong opposition to any measure that is on the Calendar of "Subjects on the Table."

Mr. SPARKMAN. I realized the situation, but I did wish to inquire, particularly if we are not going to be able to get action in this session, and I think I am ready to concede that we cannot hope for action during this session. I do hope that soon after the beginning of the new year we may have opportunity to bring it up and get a vote on it.

Mr. ROBERT C. BYRD. I am sure that the able Senator from Alabama will certainly do all he can after the first of the year to get action on a similar measure. But with the prospective adjournment date being no later than October 2, 90 percent of the measures, even on the general calendar, unles they will pass by unanimous consent, will die on that calendar at the end of the 94th Congress.

Mr. SPARKMAN. I fully recognize the situation with which we are confronted.

Mr. ROBERT C. BYRD. I thank my friend.

UNANIMOUS-CONSENT REQUEST—CHILE

Mr. ABOUREZK. Mr. President, I have introduced a bill that concerns the assassination the other day of former Chilean Ambassador Orlando Letelier. The bill calls for a cut-off of all aid by the United States to Chile in 120 days from the date of enactment. The aid can be reinstated or not reinstated at the will of Congress following that time contingent upon two matters. One matter is the unclassified provision to Congress by the President of the results of the administration's investigation into that assassination at which time the second contingency of whether Congress might want to continue, depending on the outcome of that investigation, aid to Chile.

As colleagues know, there have been a number of political assassinations around the country of the enemies of the Junta in Chile. In Rome, one of the outspoken critics of the Chilean Junta was machinegunned. Some have died in bomb blasts such as Mr. Letelier did this week in Washington. And although there is no evidence at this time, the finger of suspicion has been pointed directly at the Junta with regard to this current assassination.

So this method of waiting for 120 days to cut off aid, pending the outcome of an investigation, I think is a way to let people know that there is some concern up here and that we will not tolerate the inhibition of free speech and free political thought in the United States by virtue of any government sending assassination teams into this country to try to inhibit that free speech.

I know that it is too late now to refer the bill to the Committee on Foreign Relations, and to see it acted on in this session because we have such a short time. So I, therefore, ask unanimous consent that the bill be placed on the calendar and that the Senate be allowed to vote up or down on it.

Mr. HELMS. Mr. President, reserving the right to object, and I shall object in a moment, I strenuously object not only to this effort by the able Senator but to his obviously preconceived conclusions as to who is responsible for the terrorist act that occurred Tuesday. I do not know who did it, and neither, I presume, does the Senator from South Dakota.

I was in Chile this year. I think I am the only Member of the Senate who has been in Chile in a dozen or more years. We hear constant condemnations of Chile, often based on statements which are clearly erroneous. It may be popular to condemn Chile, but there are two sides to this question, Mr. President.

It is very interesting to me that I heard not one syllable of protest of aid to the Communist government of Chile when the self-proclaimed Marxist, Salvadore Allende, was throttling the rights of the people there. He was overthrown, much to the dismay of Communists everywhere, but the fact remains that the people of Chile now have a government of which, by the Gallup poll, more than 75 percent of them approve. The people of Chile, I was repeatedly told by average citizens there, do not even want an election until they can get the Communists and all of their influence out of their country.

For this measure now to be forced onto the calendar, and forced to a vote in the Senate in the closing days without any hearings, without any real consideration, and with the insinuation that somebody knows or suspects that the Government of Chile was somehow responsible for the act of terrorism that occurred in Washington Tuesday, is simply not consistent with the standards of reasonableness and fair play basic to the Senate.

Mr. ABOUREZK. Will the Senator yield?

Mr. HELMS. I object, Mr. President.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. ABOUREZK. Mr. President, all right. So the objection is out of the way.

But let me say this: first of all, the legislation that I have introduced does not make any final conclusions. It awaits the outcome of a conclusion on the part of the investigators put on this case by the administration.

Second, the Marxist Government of Chile under Salvador Allende was elected popularly. There were free democratic elections under which he was elected. That is much more than you can say about the Junta that overthrew the popularly elected government in Chile in 1973 by force, by violence, and with the result of a great deal of blood being shed as a result of it. It is much more than you can say about that government.

The second point I make is that this Government cut off aid to a popularly elected government in Chile during the time of Allende's regime down there. Whether or not we agree with the kind of government they had, nevertheless the people of that country agreed with it. This is nothing but a dictatorship that imposed its will upon the people of Chile by force of arms, against their will, and they are paying for it now. I would hate to see the United States pay for it at the same time.

Mr. HELMS. I say again to the Senator that he has not been there. I wish he would go. I know he has been to Cuba. I know that he has visited with Castro. But he has not visited Chile, and he does not know what he is talking about in terms of personal, firsthand information.

I have been to Chile. I have talked to labor union leaders. I have talked to schoolteacher groups. I have talked with farmers and small businessmen. I have talked to the average man on the street. I talked, Mr. President, with the housewives and mothers who inspired and led the revolution against Allende.

The fact is that the military imposed nothing on Chile. The people of Chile forced the military to act after the legislature and Supreme Court had officially condemned Allende for destroying the Constitution of Chile. Those are the facts, Mr. President, that the Senator from South Dakota and the Senator from Massachusetts (Mr. KENNEDY) could learn if they would do as I have done—go to Chile to see for themselves, instead of accepting secondhand information.

So, Mr. President, I think I know a little more about this thing than perhaps a lot of Senators who so frequently rise on this floor and condemn Chile.

I sat at breakfast a few weeks ago with the publisher of a large and prominent newspaper in this country. The publisher was condemning Chile, and I said, "Have you been there?"

She said, "No."

I said, "Then, dear lady, how do you know?"

She said, "Well, I just know. The press is stifled in Chile."

I said, "That's a curious thing, because I met last July with the editorial board of El Mercurio, the largest newspaper in Chile; I sat next to the publisher; and I put this question to him: 'Are you oppressed?' And the answer I got was: 'No longer, not since Allende is gone.'" His editorial board agreed completely.

So what are we talking about? We are talking about a last-minute effort in this Senate to do something precipitous based on no evidence whatsoever, I think the Senator would be well-advised to await the first of the year and take his proposal to the Committee on Foreign Relations, where it can be examined fairly and fully.

REQUEST FOR ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I would like to renew my request that there be a period for the transaction of routine morning business.

There are reports from various committees at the desk, and unless we can have a period for the transaction of routine morning business, those committee reports cannot come in. Senators have also submitted resolutions and introduced bills, I am sure.

I would like the Senator to state why—if he is going to object again, and I hope he will not—he objects.

Mr. ALLEN. I am going to object. There are a number of bills being reported that I do not feel are sufficiently important to depart from the cloture rule under which we are operating. We are under cloture now, and I feel that we should operate under rule XXII, as to which insistence has been made throughout the day. All I am doing is insisting that, cloture having been invoked, the rules of cloture be followed. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

ELECTRONIC VOTING EQUIPMENT IN THE SENATE CHAMBER

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report first.

Mr. ALLEN. I object.

The ACTING PRESIDENT pro tempore. The clerk will report first.

The assistant legislative clerk read as follows:

> Senate Resolution 151, providing for the installation and use of electronic voting equipment in the Senate Chamber.

Mr. ALLEN. I make the point of order, Mr. President, that it is out of order, cloture having been invoked.

Mr. ROBERT C. BYRD. I asked unanimous consent that it be considered immediately.

Mr. ALLEN. I raised the point of order that it is out of order, Mr. President.

Mr. ROBERT C. BYRD. But the clerk stated the title of the resolution. I asked unanimous consent for consideration of the resolution at this time.

Mr. ALLEN. I raised the point of order, Mr. President, that it is out of order.

The ACTING PRESIDENT pro tempore. The Senator has raised the point of order.

Mr. ALLEN. Before it was ever read. I insist on the point of order.

Mr. ROBERT C. BYRD. I believe the record will show that the clerk was stating the title of the resolution before an objection was made.

Mr. ALLEN. No. I made the point of order, and the Chair said the clerk should report it first.

The ACTING PRESIDENT pro tempore. The point at which the clerk had arrived at reading is not material. The point of order is raised that it is not in order to offer the resolution at this time, under cloture, and the point of order is well taken.

Mr. ROBERT C. BYRD. But I ask unanimous consent that the resolution be immediately considered. Certainly, it is in order to make the request.

Mr. ALLEN. And I make the point of order that it is out of order.

Mr. ROBERT C. BYRD. Very well. I ask unanimous consent that I may be permitted to offer the resolution.

Mr. ALLEN. It is out of order. I raise that point of order.

The ACTING PRESIDENT pro tempore. The point of order is sustained.

Mr. ROBERT C. BYRD. Mr. President, I wish the Senator would not object to the resolution being offered.

Mr. ALLEN. I am opposed to the resolution, as the Senator knows. I have so advised him.

Mr. ROBERT C. BYRD. The Senator has every right to oppose the resolution.

Mr. ALLEN. I am opposing it right now.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. I call attention again, Mr. President, to the fact that committee reports are being held at the desk because of an objection to their being morning business. Senators who are interested in filing committee reports will be able to see and understand why committee reports are not being allowed to come in.

Mr. ALLEN. I accept full responsibility, Mr. President.

Mr. ROBERT C. BYRD. I regret, Mr. President, that the Senate is looking bad. The Senator is within his rights to object to there being a period for the transaction of routine morning business. Numerous Senators undoubtedly have statements at the desk. They may have issued releases on the statements. Those statements cannot come in unless there is a period for morning business.

Mr. LONG. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. LONG. I must say, Mr. President, that whether the Senate is looking good or looking bad depends upon whether or not one agrees with the bill that some Senators do not think is a good bill.

Some people may feel that the Senator from Alabama is correct in believing that this is a bad bill, to pay everybody's lawyer's fee, that it would undoubtedly lead to a situation where, in due course, we will just have to pay any time anyone files a successful lawsuit and require that the Government pay the fee for everybody.

When you start out with this, you cannot decline to pay the lawyer's fee for those who sue because of sex discrimination, because of disability discrimination, because of any type of discrimination whatever, with respect to those who have a meritorious lawsuit.

Then, in due course, both sides will be paid, as we do with the poverty program now. We pay lawyers to sue the Government and pay lawyers to defend the Government. It always seems to me that nobody but an idiot would pay a lawyer to sue himself, but that is what we are doing now.

So, one may feel that we are going to have more lawyers than there are working people in this country, at this rate, and that is a very bad bill. This may be one of the Senate's finest hours. It depends on one's viewpoint.

I hope I may be pardoned in using a quotation—the way things are these days—but it might be well to abide by the admonition: "Judge not, lest ye be judged."

It depends on how one looks at these things.

I appreciate the acting majority leader's problems in moving this matter to a vote. I also appreciate the deep sense of dedication on the behalf of one who feels, even if he be the only man opposing a piece of legislation, that he ought to resist, and resist with all the powers provided him by the rules.

I do not think anybody—certainly the Senator from Louisiana is not—is contending that the Senator from Alabama is not entitled to his rights under the rules. I have experienced frustration both ways. I sometimes think, and I find great sympathy for the acting majority leader, that it is a much greater burden to have to hear speeches with which one disagrees than it is to make those speeches. At the same time, we pay a price for liberties that we enjoy in this great country.

I believe we ought to recognize that all of us have the duty under our form of government to resist when we believe a bad mistake is being made, because if we believe strongly enough, we ought to resist as strongly as the rules and our conscience dictate. I do not think any of us have the right to be keeper of the other fellow's conscience. I think that is something that the Maker entrusted to the individual, not to those of us who do not possess that same kind of conscience.

I urge my good friend, who has my complete admiration—he is one of the great leaders of this Senate of all time—to restrain his feeling of frustration that sometimes come when a minority stands in the way, and keep in mind that there will be times that even the Senator from West Virginia, great leader that he is, will find himself in the minority. I have found him to be a great battler for his side when he does find himself in the minority. It is just one of those things about freedom that work both ways.

Mr. ALLEN. Will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, may I respond to my friend from Louisiana?

Mr. ALLEN. Yes.

Mr. ROBERT C. BYRD. Mr. President, I hope I have not given the impression that I am attempting to keep anyone's conscience. I have problems enough with my own.

May I say further to my friend from Louisiana that the objection, in my judgment, to a period for routine morning business so that committee reports may come in is not a necessary weapon in the arsenal of any Senator who wants to oppose the pending bill. I may vote against this bill myself.

I recognize that the Senator from Alabama is within his rights to object to such a request, but I cannot see how objecting to morning business—and letting committee reports come in at this time and letting Senators' statements come in and be entered into the RECORD—is furthering the able Senator's objective in opposing the bill. We had no period for routine morning business today. That is the thing I am talking about.

Mr. LONG. Mr. President, I assume the Senator realizes that that is something for the Senator from Alabama to decide, whether it helps his position or injures his position. In the last analysis, he is the one who is privileged to be the judge of what hurts his cause.

Mr. ROBERT C. BYRD. That is fine. He objected. I hope the able Senator from

Louisiana will let the able Senator from Alabama defend himself. One on one is enough, without two. The Senator from Alabama is perfectly capable of defending himself.

Mr. LONG. Mr. President, in all fairness, I know that the Senator from West Virginia feels somewhat sorry for himself, having the burden of this bill imposed on him. I know that the sponsors of this bill are not here managing it. It is left with the distinguished Senator from West Virginia to do what he can with this situation.

I know that that is not a new experience for the Senator from West Virginia to do that, keeping the shop while others go on to look after other affairs and other matters that are of pressing interest to them. But I hope that the Senator, who has every right to feel somewhat sorry for himself at this moment, will realize that there may be some others who have every right to feel sorry for themselves and their plights.

Mr. ROBERT C. BYRD. Mr. President, I do not feel sorry for myself. When I leave here, I am going to go home and get my fiddle and play for my grandchildren until the debates start, and I shall forget about this Senate world. So I do not feel sorry for myself. I am 59 years old and I have had plenty of opportunities to feel sorry for myself over the years, but I long ago got past that.

I do not need anyone to defend me. I shall take my knocks and my lumps, and I have had my share of them, but I do not feel sorry for myself. I asked for this job and I just do the best I can.

When we walk out of here today, I shall shake hands with the Senator from Alabama, and my affectionate friendship for him will be as strong as it has ever been. I know he will have the same feeling for me.

Mr. ALLEN. I am going to renew my pledge to vote for the distinguished Senator for majority leader.

Mr. ROBERT C. BYRD. Mr. President, unless the Senator wants me to yield, I shall go on to other matters.

Mr. ALLEN. Let me state, before the Senator makes the request, that I appreciate very much the remarks of the distinguished Senator from Louisiana (Mr. Long), the wisdom of his remarks and the diplomacy of his remarks and the statesmanship of his remarks. It is not too popular right now to stand in the way of a steamroller. It is not too popular and not too safe, for that matter, in many respects.

I call attention to the fact that when we adopt a cloture, that is a two-way street. It certainly pinches very tightly those who are opposing a bill, but there are certain restraints that cloture also puts on those who are seeking to advance legislation. One of those restraints is that rule XXII says that when cloture is adopted, "then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of."

This is a good opportunity for me to say that I wish that the Senate would exercise a little more discretion about being so cloture happy. Every time a cloture motion is entered, then we end up with 63 votes for it, irrespective of the merits or demerits of the bill. So I hope that those who vote cloture—and I have had many who voted for cloture and, within 5 minutes thereafter, would come over and ask me to allow a bill other than the bill under consideration to be taken up. This is just an illustration of one instance where the shoe does pinch a little bit.

The distinguished Senator from West Virginia, of course, recognizes that I know that there are some committee reports there that have bills that the Senator from Alabama does not think are in the best interests of the country. I shall say this to the distinguished Senator from West Virginia: He has made the point that I am keeping Senators from inserting statements in the Record. I do not see anybody here who has a statement to introduce in the Record. If any wish the opportunity to introduce a statement in the Record, I wish they would so indicate. There is nobody here wanting to put a statement in the Record.

Mr. ROBERT C. BYRD. Mr. President, how many Senators are here? Six.

Mr. ALLEN. Those are the only ones we are talking about. I do not guess anybody will come in to offer a statement.

I would be willing to do this to comply with the request of the Senator from West Virginia: Have unanimous consent that any Senator may insert a statement, or to have a brief period of morning business confined exclusively to the presentation of statements, and statements only, by Members of the Senate. That will remove what appeared to be the chief objection, the chief purpose of the distinguished Senator from West Virginia.

Mr. ROBERT C. BYRD. The Senator would violate, it seems to me, his own admonition on rule XXII.

Mr. ALLEN. I appreciate the Senator's caution.

Mr. ROBERT C. BYRD. I am going to make the request, now that the Senator has suggested it.

Mr. ALLEN. I am glad the Senator does not want me to violate it.

Mr. ROBERT C. BYRD. I want the Senator to violate it. He just stated that once cloture has been invoked under rule XXII, we should not proceed to other matters.

Mr. ALLEN. I stand corrected.

Mr. ROBERT C. BYRD. I shall take the Senator's advice.

ADDITIONAL STATEMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all statements of Senators may appear in the Record today.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CAMPAIGN CONTRIBUTIONS BY ORGANIZED LABOR

Mr. GOLDWATER. Mr. President, as I said for the Record earlier, I intend whenever possible, to place in the Record the amounts of money donated by organized labor to candidates running for public office. Let me emphasize that the law does not prevent labor unions from giving certain funds to candidates of their choice any more than the law prevents individuals in private corporations and business from supporting candidates of their choice.

The reason that I enumerate the labor donations for the Record is to show that candidates other than Republicans are supported by special interests. To listen to the Democrats, you would think that any Republicans who accepted campaign contributions from people associated with the business community were being subverted and even used for ulterior corporate purposes.

The question I raise is why the sanctimonious liberals, people like those represented in Common Cause, can find so much morally wrong with contributions which come from people in business and not question the contributions which come from organized labor. If there is a moral question involved in the contributions which come from people in the corporate field, why is it not equally wrong to question the motivations of those who make the labor donations?

The labor unions have a big stake in the election of their chosen candidates for public office. If anyone doubts this, all he has to do is stand in the hall where the elevators are located, near the Senate Chamber when a vote is being taken on a matter of interest to organized labor. He will see the area practically filled with labor people grabbing Senators, asking them to vote their way.

In addition, the interested observer would see that the Senate galleries are usually filled with labor people when these important votes come up. The conclusion is obvious. The labor people expect the Senators to whom they have given money to vote their way and I have to say, that most of the time, the labor-supported Members do just that.

In this connection, I have been interested in the attacks made by the Democrat candidate for the Senate in Maryland, against the incumbent Senator J. Glenn Beall. The charge is to the effect that Senator Beall had used funds called "walk-around" money, whatever that happens to mean, in Baltimore, Md. But of course, no mention was made of the liberal amounts the Democrat candidate has received from organized labor for use in his campaign. The record shows that up to September 10 of 1976, Senator Beall's opponent had received $73,195 from different unions and labor people in and out of the State of Maryland. I ask unanimous consent that an up-to-date compilation of funds given by different labor organizations to Democrat candidates be printed at this point in the Record.

There being no objection, the compilation was ordered to be printed in the Record, as follows:

ORGANIZED LABOR CONTRIBUTIONS TO DEMOCRAT SENATE CANDIDATES (INCLUDES ALL CONTRIBUTIONS TOWARD 1976 CAMPAIGNS)

	Indiana, Senator Hartke (D) versus Lugar (R)	New Jersey, Senator Williams (D) versus Norcross (R)	California, Senator Tunney (D) versus Hayakawa (R)	Utah, Senator Moss (D) versus	Massachusetts, Senator Kennedy (D) versus Robertson (R)	Arizona, DeConcini (D) versus Steiger (R)	Wyoming, Senator McGee (D) versus Wallop (R)	Texas, Senator Bentsen (D) versus Steelman (R)	Pennsylvania, Green (D) versus Heinz (R)	Minnesota, Senator Humphrey (D) versus Brekke (R)	New Mexico, Senator Montoya (D) versus Schmitt (R)	Maryland, Sarbanes (D) versus Senator Beall (R)	Virginia, Zumwalt (D) versus Senator Byrd (I)	Montana Melcher (D) versus Burger (R)
Active Ballot Club (Retail Clerks)	$7,050	$7,000	$4,950	$5,000		$5,000		$2,000	$10,000	$5,000		$2,150		
AFL–CIO COPE	10,000	5,000	10,000	5,000	$5,000	5,000	$6,000	5,000	5,000		$15,000	10,000	$10,000	$5,000
AFT (Amer. Fed. of Teachers COPE)	525	2,250				100			100	700				
Amalgamated PEC (Clothing Workers) and affiliates	1,000	2,500	500		1,000				500	2,200		4,000		
AMCOPE (Meat Cutters)	500	500	1,000									2,000		
American Postal Workers	500	500	200	450	200		1,300		100	900	200	100		100
ATU–COPE (Transit)	3,500	500	500	500	500				500	500		550	250	500
Boilermakers P.L					1,000									
Bricklayers PEL	25				500					500		200		
Building & Construction Trades Dept		2,000					[1] 194			600				100
Carpenters LIC	1,000	2,500	7,000	1,300	500		1,600		1,000	1,250	1,500	750	1,500	800
Coal Miners PAC		800												
Committee on Federal Employees	600	650		800	1,500		2,600	50	300	650	200			
Committee on Letter Carriers		300	250	600										
CWA—COPE (Communications Workers) plus affiliates	2,600	1,500	4,070		1,000			500	1,100	1,350	500	3,120		
DRIVE (Teamsters)	2,000	1,000	11,200	1,500	150				250	7,700	1,000	2,100		
Engineers PEC	4,000	4,650	[1] 8,593	625	500			250	1,000	2,675	2,500	500	5,000	1,400
Firefighters COPE (F.I.R.E.–P.A.C.)	50	500	200	300	500		300		100	100		2,500	100	100
Firemen-Oilers P.L	200				200				100	175				
Fur, Leather & Machine Workers														
Glass Blowers P.L														
Graphic Arts PCC		500			500				300	1,250				
H & RE BIU-TIP (Hotel Employees)	2,700	5,000	1,250	1,000	1,000			1,000		5,000			500	
IBEW–COPE (Electrical Workers)	2,000	2,625	1,250	1,500	1,000	500	800		2,000	600	500	2,000	1,000	1,250
ILGWU (Garment Workers)	3,900	2,750	5,100	1,000	5,500		600	275	3,500	3,850	1,100	3,500	3,500	1,100
Industrial Union Dept	1,000	1,000	1,000	2,000					1,000	1,000			1,000	
Ironworkers PEL			200							625		300	100	
IUE–COPE (Electrical, Radio & Machine Workers)	300		100		1,000					300				
Laborers P.L	3,000	4,500	3,000	3,000	2,000	1,000	3,000	1,000	2,000	3,000	3,000		1,000	800
LIVE (Chemical Workers)	100	250												
Locomotive Engineers	200													
Longshoremen		3,500			200					200				
Machinists NPPL	5,000	800	5,400	400	1,000	2,500	2,400	1,000	7,000	1,650	200	5,000	2,000	400
Maintenance of Way P.L	1,000	500	6,300	300						1,000				200
Marine Cooks and Stewards			1,000	600						1,000			1,000	
Marine Firemans Union			500											
Masters, Mates & Pilots														
MEBA-PAF (Marine Engineers)	6,000	6,000	3,000	5,000	5,000		5,000	5,000	5,000	7,850	2,500	10,000	10,000	2,500
Molders & Allied Trades					200									
NEA-PAF (Teachers)	200	6,125	4,850	1,300			700	2,275	500	300	500	100	100	200
State Affiliates		250	500	3,250			500			6,000				
OCAW (Oil, Chemical Workers)	25	250			1,000									
National Maritime Union-P.L.O.W		250												
Painters & Allied Trades	250	500	400	200	1,000				100	2,050			100	250
PEOPLE (AFSCME)	1,200	3,000	2,000	500	1,000		900	1,000	2,200	2,900	100	500		100
Railway Clerks P.L	12,250	10,500	3,500	2,500	5,000		1,500	3,000	1,000	5,000	2,000	1,500		500
Railway Labor Executives Association	1,000	1,500		300			500			600	3,000			600
Seafarers SPAD	5,000	2,500	6,000	4,500	1,000		500	4,375	4,000	5,000		1,500	5,000	500
SEIU-COPE (Service Employees)		1,000			5,000		700					200	530	
Sheetmetal Workers	1,000	400	1,000	1,000	500				1,025	300	300	300	300	400
Signalmens P.L	200	800		100						150				
Transport Workers	1,400	1,250												
Transportation PEL	12,950	5,850	7,500	2,250	1,000		2,500	2,550	6,000	5,025	2,500	1,000	1,000	1,000
TWUA (Textile Workers)					1,000				250	300			250	
U.A.–PAL (Plumbers)			2,000		1,000									
UAW Voluntary CAP (Auto Workers)	5,200	15,600	5,100	5,200	5,050		300	2,500	5,000	4,350		10,000	100	350
United Rubber Workers	350				200			1,000		255				
United Steelworkers	5,400	5,000	5,000	7,500	5,000	5,000	5,000	2,400	2,000	5,000	5,000	7,500	5,000	
Miscellaneous	600	5,650	1,200	1,000	1,000		1,100	800	650	2,550	100	100		
United Paperworkers					1,000									
T.E.M.P.O. (United Fed. of Musicians)					1,000									
Letter Carriers Political League		250		200	300		2,600		100	300				
P.A.T.C.O. (Air Traffic Controllers)			4,000				1,200		200				500	
United Plant Guards												125		
Total	105,775	120,750	[1] 119,083	58,975	56,700	19,100	[1] 41,793	35,975	64,075	91,450	41,700	73,195	49,830	18,150

[1] Amounts rounded to nearest dollar.

Mr. GOLDWATER. It is interesting to note that these sums, up until September 10, run from around $18,000 to over $120,000 for individual candidates. All I am asking is a rather simple question. If it is morally correct for labor to pay for votes, why do not organizations like Common Cause and the League of Women Voters point out that it is legally and morally correct for individuals associated with business to give to candidates of their choice?

If it is morally wrong in the opinion of these same groups for organizations other than labor to support candidates of their choice, why is it not equally wrong for organized labor to buy the votes of Members of Congress?

TRIBUTES TO SENATOR JOHN PASTORE

Mr. WILLIAMS. Mr. President, it is always a matter of deep regret to his colleagues when a man of John Pastore's stature decides that the time has come for him to retire from the political arena, and seek the peace and the contentment that a lifetime of outstanding public service has denied him.

It is a matter of regret, not only because the Senate of the United States will lose the wisdom and the counsel of one of its most highly respected Members, but also because those of us who remain will lose in our everyday human associations a man we hold in the highest affection and esteem.

As a member of the Rhode Island General Assembly, as attorney general, as Lieutenant Governor, as Governor, and as a U.S. Senator for more than a quarter-century. John Pastore has given to his State and to his Nation a lifetime of service above and beyond the call of duty.

The State of Rhode Island is distinguished historically for its battles for freedom of conscience and action, beginning with Roger Williams—a distinguished name, indeed—in 1636.

Three and a half centuries later, a son of Rhode Island is still fighting for justice, equality, freedom, and for the inalienable rights of Americans to share in the dream on which the greatness of our Nation was built.

John Pastore is noted, and rightly so, for his mastery of the legislative process, and for his very considerable skill as an orator.

In his various capacities as a legislator, the Senator from Rhode Island has shown a level of competence and ability not often matched, even in this body.

But legislative excellence apart, John Pastore will be remembered by those of us who have been fortunate enough to be his contemporaries, for his qualities of compassion, understanding, and humanitarianism.

If I may strike a personal note, I will always be gratified that it was in my own State of New Jersey, at the Democratic Convention in Atlantic City in 1964, that JOHN PASTORE delivered one of the great keynote speeches in the history of the party.

It has been said that no man is indispensable.

Perhaps not, but when JOHN PASTORE leaves this body, he will be most sorely missed by his friends, by his State, and by this Nation.

Mr. GOLDWATER. Mr. President, necessary absence from the Senate will prevent me from paying my respects to JOHN PASTORE personally along with my other colleagues who will be doing the same, so I must resort to this letter.

When a man serves as long as I have served with JOHN he gets the feeling that he knows a man pretty well. I have watched JOHN enviously as he goes through his daily chores of being chairman of some of the most important committees in the Senate but, more importantly, I have enjoyed and admired the way he has worked, kept his temper, and been a gentleman on the floor.

I think that last word I used, gentleman, sums up, in every meaning of the word, the way I feel about JOHN PASTORE. He is a gentleman I would trust anywhere, anytime, and with anything, and as the days and months and the years go by and both of our lives stretch out longer and longer, the memory of our friendship is going to enhance those years just as the years that have passed have been blessed by the knowledge that we are friends.

Mr. GARY HART. Mr. President, the retirement of one of our colleagues is always a sad occasion. This is especially true when the individual has the kind of outstanding record of achievement and leadership of Senator JOHN PASTORE.

JOHN PASTORE has been the guiding force behind legislation which has helped develop radio and television broadcasting to better meet our Nation's needs. He has been actively involved in reducing the costs of campaigning for public office, lessening the likelihood of public scandals and helping to restore the public's faith in the integrity of its elected officials. He has long been supportive of efforts to insure the peaceful use of nuclear energy, helping in 1955 to draft the U.S. resolution before the United Nations which first sponsored the International Atomic Energy Agency.

But all these accomplishments do not fully describe the value of JOHN PASTORE to this body during his 27 years of service. An undaunted source of energy, he has time and again provided the needed stimulus to keep the Senate going. How many times have we seen JOHN PASTORE step in to a hopeless impasse, only to break the stalemate; to help form the compromises that keep the Senate from breaking down? How many times has his voice been the voice of reason when all reason had disappeared from this Chamber? All of us who have endured midnight sessions can thank JOHN PASTORE that they have been so few.

His active, lively, and knowledgeable participation has been a hallmark in the Senate for nearly three decades. It will be difficult to replace that vibrant spirit which we will soon lose. I join my colleagues in bidding him a most regrettable farewell.

Mr. HRUSKA. Mr. President, it is with a sad heart that I pay tribute to my good friend and colleague from Rhode Island, JOHN PASTORE, who is leaving this body after 26 years. He will be greatly missed.

I have had the privilege of knowing Senator PASTORE for all of the 22 years I have served in this body. I have nothing but respect and admiration for his intelligence, wit, and eloquence. His effectiveness during debate on the floor of the Senate and in committee is unparalleled.

Senator PASTORE and I have served for many years together on the Subcommittee on State, Justice, and Commerce of the Committee on Appropriations. We have disagreed many times, but his fairness and integrity have always been unquestioned. His positive influence on the judiciary and the Department of Justice is reflected in the continuing stability and progress of this country's legal system.

He has left his mark as well on this Nation's broadcasting industry and he has contributed much to the development of nuclear power for peaceful purposes. These are accomplishments for which all of us thank him.

Senator PASTORE has been one of the great Senators. His contributions to his State and his country are many. They will be remembered. May he have a long, happy, and fulfilling retirement.

Mr. STONE. Mr. President, I would like to take this opportunity to pay tribute to my good friend and colleague, JOHN PASTORE, who is leaving the Senate in January after 26 years of distinguished service to his native State, Rhode Island, and to the Nation.

Senator PASTORE's career is a wonderful example of the fulfillment of the American dream. Born into a poor family, JOHN PASTORE rose to become the Governor and senior Senator from Rhode Island through hard work and a strong will to succeed.

Senator PASTORE has been a leader in the Senate. As chairman of the Commerce Committee's Communications Subcommittee he recognized very early the staggering impact that television would have on campaigning for public office. He fought many battles to reduce the cost of running for office and in 1972 saw the passage of his legislation that put limitations on campaign media spending.

As chairman of the Joint Committee on Atomic Energy and an appointed delegate to the United Nations General Assembly during the Eisenhower administration, Senator PASTORE has been a leader in the development of nuclear energy for peaceful purposes.

Aside from his valuable knowledge of many subjects, we will surely miss Senator PASTORE's refreshing candor and humor in this Chamber. He will now be able to fully realize the satisfaction of family life with his wife Elena that he has often helpfully alluded to when the hour was late and the Senate was locked in less than productive argument.

I sincerely wish Senator PASTORE and Elena continued happiness and success in their future years.

Mr. BELLMON. Mr. President, for those of us who have served with and learned to admire the distinguished senior Senator from Rhode Island, his impending retirement from the Senate produces a distinct feeling of personal loss. Probably more than any other Member, Senator PASTORE has displayed the ability to liven up Senate debate as well as the great talent for reducing complex issues to understandable terms.

Senator PASTORE's excellence in floor debate is rivaled by the determination and dedication of his work on the Appropriations Committee where I have been honored to serve with him. He is a valiant and generally successful fighter for programs which he supports in committee and a tireless opponent of spending which he feels is not in the public interest.

Each Member of this body has the opportunity to make a singular and highly individualistic contribution to the operation of the Senate. During his many years as a leading Member of this body, Senator PASTORE has truly lived up to this expectation. It is safe to say that the mold from which Senator PASTORE came has been broken. It is extremely unlikely that the U.S. Senate will soon again be graced by another JOHN PASTORE. His wit and his piercing insights will be sorely missed by all of us who have come to know and admire him.

Mr. SCHWEIKER. Mr. President, I am pleased to join today with my colleagues who are honoring the senior Senator from Rhode Island, Senator PASTORE, who is retiring at the conclusion of this Congress after 26 years of service. He is the first person of Italian-American ancestry to serve in this body.

Senator PASTORE's record of service to the people of Rhode Island and the Nation is as distinguished as it is long. He began in 1934 as a State representative. After service as an assistant attorney general, lieutenant governor, and Governor, Senator PASTORE was elected to the Senate in 1950. He has served since that time with dedication and distinction.

Mr. President, I have occasionally been on the other side of an issue so that I can truly appreciate Senator PASTORE's skill as an orator and debater. He is a tenacious defender of the principles in which he believes. His persistence on the Senate floor is legendary.

May Senator and Mrs. Pastore's days ahead be healthy, happy, and productive.

LAWS TO AID FOUNDRIES

Mr. BARTLETT. Mr. President, the current issue of National Defense magazine includes the second in a series of articles on the American foundry industry. This series, authored by Debbie C. Tennison, associate editor of National Defense, offers an excellent analysis of the problems facing this vital industry and possible solutions to these problems. I ask unanimous consent that the current article be printed in the RECORD.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

LAWS TO AID FOUNDRIES

(By Debbie C. Tennison)

Anti-Washington sentiments began to surface long before they were brought out by the current political campaigns. Foundrymen across the Nation long have protested ever-increasing regulations and Government policies which stifle the growth of their industry—an industry that is vital to our national defense.

Their protests finally are being heard. As a result, reform attempts now are under way, with congressional reassessment of the mushrooming Federal regulatory process and proposed revisions of the Clean Air Act of 1970 among suggested solutions.

EPA Amendments.—Second only to OSHA-related problems (described in the July-August 1976 National Defense) is that of compliance with Environmental Protection Agency (EPA) regulations, which have been draining the industry's capital away from modernization and expansion.

It is expected that in the near future there will be new legislation signed by the President which amends the Clean Air Act. At press time, the House was continuing a year-long debate on H.R. 10498, while the Senate had passed its version, S. 3219.

The Senate bill was proposed by Sen. Edmund S. Muskie, D-Maine, of the Senate Public Works Committee, while the House version originated in the House Interstate and Foreign Commerce Committee, headed by Rep. Paul Rogers, D-Fla.

Deliberations have been influenced by intense lobbying pressures from heavy industry, the utilities, and the automobile interests. The very comprehensive amendments have both good and bad implications for foundrymen, but most foundry-society officials believe the negative aspects outweigh the positive, and they portray the amendments as thinly veiled Federal land-use controls.

This charge is disputed by Leon Billings of Senator Muskie's subcommittee, who says that most of the new measures simply codify policies already affirmed through judicial interpretation of the act and EPA regulations.

To understand why foundrymen label the amendments as a "backdoor approach" to land-use controls, an explanation is needed of the nondegradation provisions. The most controversial provisions of both bills, they spell out for the first time what is meant by significant deterioration (otherwise known as nondegradation).

Not mentioned in the original act, this is the concept that areas with better than mandated air quality should be kept that way. A 1974 court decision directed EPA to establish regulations to that effect, resulting in EPA's 3-tier classification system for all superclean regions of the country.

Three-Tier System.—Class I would apply to areas that must be allowed to remain pristine; Class II would allow some degradation; and Class III would allow dirtying of air to ambient standards. In 1975, EPA designated all qualifying areas as Class II, leaving it to the States to apply for redesignation.

The Senate and House bills put the nondegration system into law. A mandatory Class I designation would be assigned to certain areas, such as national parks and wilderness areas above a certain size.

This means present levels of particulates and sulfur oxides would be allowed to increase only 2 per cent over present levels. In Class II areas, 25 per cent deterioration would be allowed. The Senate bill contains no Class III, but the House Class III areas would permit a 50 per cent increment, providing that the total pollution did not exceed 90 percent of that allowed by secondary ambient air standards.

It should be noted here that if the final Clean Air Act amendment bill passed by the House and Senate contains nondegradation provisions, President Ford is expected to veto it.

Other Bill Provisions.—In addition to the highly debated nondegradation provision of the House and Senate bills, there are several other provisions of importance to foundrymen. First of all, the original 2-year extension for adherence to primary (health-related) standards would be extended to 1979 for stationary sources. The committees choose to provide for individual extension of compliance dates for emissions rather than extend the national deadline (1975).

Exceptions to the 1979 deadline also would be allowed in some cases, especially if a plant is experimenting with innovating technology which promises to be more efficient than existing techniques.

One selling point which should please foundrymen is the emphasis in both bills on giving States more responsibility for administering clean-air laws and more discretion on how they choose to go about it.

Environmentalists charge that both bills are too weak. They want the House Class III nondegradation category eliminated and also want more mandatory Class I areas. Russell E. Train, EPA Administrator, is concerned about the bills, since he thinks they are unworkable—that it would be an enormous task for Congress to review all the necessary data to make an educated decision on the regulations.

If the reform proposals are as unworkable as Mr. Train says, what are possible solutions to coping with EPA regulations? Foundry society officials suggest a 5-year moratorium, with qualification, on EPA legislation in order to: (1) establish realistic standards; (2) establish whether other more serious problems such as energy shortages are not created by compliance with standards; (3) develop standards with reproducible results; and (4) permit capital to be invested in hardware and processes needed to gain necessary productivity.

The Clean Air Act amendments, if passed in their present form, would be very stringent and expensive for the foundry industry, society officials contend. To lessen the burden to industry, EPA recently proposed a trade-off policy to allow a certain amount of expansion in polluted areas.

With existing laws, construction of major new sources of pollution is effectively barred in nonattainment areas (areas where standards already are being violated). These nonattainment areas still include the bulk of the industrialized United States, and EPA's trade-off policy may offer a ray of hope to industries wanting to build new plants in these areas.

Although the policy is probably only an interim solution, EPA hopes it will accomplish two things: ease the crunch on growth and force recalcitrant industries to bring advanced pollution-control technologies into the limelight.

Foundrymen can look forward to receiving additional aid for their EPA-compliance problems if legislation is passed which was recently sponsored by Rep. Richard L. Ottinger, D-N.Y. A supporter of small business, Congressman Ottinger has sponsored legislation—already passed by the House—to provide loan guarantees for small business to finance pollution control equipment.

He also has introduced a package of legislation to increase the Small Business Administration (SBA) maximum share on a small business loan from $350,000 to $500,000 and to provide relocation grants or loans to small businesses displaced by Federal programs. These proposals would be particularly applicable to the small foundry owner.

End to Paperwork?—Representative Ottinger also supports solutions to problems of excessive paperwork and overregulation—two big headaches for foundrymen. There are now efforts in Washington to get control of the paperwork problem. The congressionally created Commission on Federal Paperwork began its 2-year life last year. Its goals are: (1) to eliminate the gathering of unnecessary or too costly information; (2) to assure that the Federal Government actually has control over its own paperwork; and (3) to help State and local governments and the private sector eliminate unnecessary red tape.

Other legislation aimed at reform of regulations is the Regulatory Reform Act of 1976 (S. 2812) sponsored by Senators Robert C. Byrd, D-W. Va., and Charles H. Percy, R-Ill. Under this concept, the executive branch would be required, over a 5-year period, to develop reform plans for all Federal agencies. The Congress, and ultimately the President, would have to act on legislation growing out of these plans according to a specific, rigid timetable.

A similar House bill, H.R. 11450, has been sponsored by Representatives John B. Anderson, R-Ill., and Barbara Jordan, D-Tex. The House and Senate proposals are two of several now being debated by Congress. Some proposals call for more congressional oversight and some automatically would terminate Government agencies unless Congress acts to extend their life. Other plans would establish zero-based budgeting every four years for almost all Government programs.

"A more careful evaluation of the effect of one Federal policy upon another policy is needed," explains Sen. James A. McClure, R-Idaho. "In regulatory reform, we should reduce the burden to industry."

The Senator explains that one Federal form he saw was 63 feet long, commenting: "How much right do we have to burden them (in industry) with the expense of completing such a long form? We should determine whether all the information on forms is really needed. It should be boiled down to something meaningful and uesful."

Senator McClure therefore, is pushing to reevaluate all programs every four years. He says we need to telescope the regulatory process—to cut down the tremendous time lag

Materials Shortages—Even after problems with EPA and regulatory agencies are dealt with, the materials-shortage dilemma still exists.

According to foundry society officials, limited raw material availability for both domestic industrial and defense security needs suggests a reexamination of our stockpile and foreign-relations programs. They contend that if we don't soon establish, essential national preferences, we will be looking down the wrong end of the barrel.

Several proposals relating to materials shortages now are being debated in Congress.

Sen. John Tunney, D-Calif., has introduced legislation (S. 3350) which would increase the efficiency with which materials are used. It would establish in the Commerce Department a materials research and development program. The senator stresses the importance of reducing U.S. dependence on vulnerable foreign supplies of raw materials, improving materials processing, conserving energy, reducing denigrating impacts on the environment, reducing consumer costs, and improving productivity.

Federal Loan Guarantees.—Federal loan guarantees for development of synthetic fuels from coal, oil, shale, and waste materials have been proposed by Rep. Olin E. Teague, D-Tex., in H.R. 12112. With 40 per cent of our national energy consumption being used by industry (foundries included), this proposal is very important.

Supporters of this idea include the National Association of Manufacturers. That association's president, Douglas Kenna, says:

"The $2 billion program proposed in H.R. 12112 represents a practical approach to the demonstration of the commercial viability of synthetic fuels. It is a well-delineated program with specific goals. The first phase of the program would involve construction and operation of from 12 to 17 commercial-size plants using various processes and with a total capacity of 350,000 barrels of oil equivalent per day."

Another proposal which promises to help foundries dependent upon natural gas and electricity is S. 3341, sponsored by Senators Dewey F. Bartlett, R-Okla., Barry Goldwater, R-Ariz., and John Tower, R-Tex. Introduced to abolish the Federal Energy Administration (FEA), this legislation was being debated at press time in the Government Operations Committee.

"The embargo of late 1973 to early 1974 which provided the impetus for the FEA has long since subsided," explains Senator Bartlett. "There is no shortage of fuels other than a domestic shortage. The FEA has contributed very little to an expanded domestic supply; in fact, its recommended policies have contributed directly to a contraction in that supply."

The disbanding of the FEA is important, explains Rep. John H. Rousselot, R-Calif., since it would result in foundries getting a better supply of natural gas and electricity. Their supply of these energy forms has in the past been substantially reduced by price controls. These controls are self-defeating, says Senator Bartlett. "The price of gas has been kept down—and hence no supply. Industry is having a hard time getting gas. It's a suicide policy."

Foundry society officials contend that price controls were not the answer to the energy problem in the past—and are not the answer now. They also complain of scrap shortages, which they say stem from excessive exports of the commodity.

Scrap Shortages.—The steel-foundry industry has urged Government action to embargo or limit scrap exports temporarily. Scrap is important to this industry since it constitutes the basic charge material used in electric melting, requiring only one-third the energy needed to get the same casting from virgin ore. Yet foundry society officials point out that the U.S. remains the only industrial nation which exports it.

"I have talked with officials in the U.S. Department of Commerce on various occasions, urging them to reduce scrap exports because of the need of foundries and steel companies," states Senator Bartlett.

Scrap shortages (as explained in the May–June 1976 National Defense) are a real problem for some foundries. However, "shortages" are disputed by the Institute of Scrap Iron and Steel, which says there is "virtually an infinite supply of scrap." According to the institute, when complaints of various foundries are analyzed in detail, the reason for specific complaints usually can be explained in terms of the individual problems facing that foundry and is not the result of any shortage of the material.

The institute also says it is not factually correct that the Japanese purchase only from the U.S., and that the U.S. is the only country which permits exportation of ferrous scrap.

In testimony before the Senate Subcommittee on International Finance of the Committee on Banking, Housing, and Urban Affairs in 1973, the institute commented:

"Iron and steel scrap is not in short supply. Present estimates fix the existing supply of this scrap at levels capable of supplying both foreign and domestic demand at existing levels for 15 years without even taking into consideration the huge volume of new scrap that would be generated during this period. Thus, there obviously is no scrap shortage."

But foundry society officials disagree with this, insisting they indeed have shortages and need export controls to combat them.

"What they really want is indirect price control," states Dr. Herschel Cutler, executive director of the institute. He explains that there are no shortages—it is the higher prices of scrap that lead foundrymen to claim a "shortage."

Shortage or High Prices?—What is the basis of Dr. Cutler's reasoning? Most foundries do not produce enough home scrap to be self sufficient in the matter of scrap needs as is true of many integrated steel mills. Thus, when there is an unlimited demand for steel and the mills must buy scrap to supplement their home scrap in order to produce at capacity, they will buy up the needed scrap for short periods—which tends to drive up prices for all buyers (themselves, the nonintegrated steel mills and the foundries). When the nonintegrated mills and foundries likewise increase their purchases of scrap at the same time, the effect on price in the short term is obvious. This is especially true because of the 30-day contracting basis which is standard for scrap purchasing. Prices, in the same manner, fall sharply when demand declines.

If this is true, why then all the foundrymen's complaints about scrap "shortages" in 1974? Those agreeing with Dr. Cutler would say that the only real problems, other than short term price movements, were due to the inability on the part of small foundries to keep up with the times. Small foundries without staff metallurgists tend to learn a formula for producing their product and stick with it even after it's no longer the most efficient or when substitute raw material would be more practical.

When scrap technology changes, foundries still ask for the same inputs (one foot and under but not shredded)—hence a "shortage."

Therefore, the institute recommends that foundries keep up with new technologies and also add to their inventories when prices are low, thus blunting the effect when prices rise in response to temporary demand.

These recommendations do not carry much weight with foundry society officials, who say the recommendation of longer term buying arrangements than the 30-day contracts now utilized is academic. This is because most foundries are small business concerns, with 80 per cent employing fewer than 100 workers and 50 per cent employing fewer than 20 workers. Foundries do not have the needed capital for adding to inventories when scrap prices are low and facilities for storing a 6- to 8-month supply of scrap.

Also, foundry society officials argue that foundries tend to stay with established suppliers for the reason that a small business concern is very limited in the amount of overhead (number of manager-type people) it can support. Consequently, those doing the buying in most foundries also are engaged in several other company activities.

Conclusion.—The solutions to the scrap supply problem and other foundry dilemmas as outlined in this article are only a small sample of what can be done to improve the situation of this important industry. To continue discussions of the effect of this and other related industries on our defense-industrial base, a regular column will begin in the next issue of National Defense.

BROAD SUPPORT FOR OCS LEASING REFORM

Mr. JACKSON. Mr. President, the Senate will soon be considering S. 521, the Outer Continental Shelf Lands Act Amendments of 1976. The Senate has been working on reform of the Outer Continental Shelf Leasing Act for almost 3 years. In July 1975, we passed S. 521 by a vote of 67 to 19.

This legislation is supported by a wide variety of groups and State and local officials. I shall ask unanimous consent that letters which I have received from a number of these groups be printed in the Record at the conclusion of my remarks.

I find it particularly interesting that Associated Gas Distributors strongly support this legislation. This organization is made up of suppliers of natural gas to consumers all along the Eastern seaboard. Their members include:

Atlanta Gas Light Co.
Bay State Gas Co.
The Berkshire Gas Co.
Boston Gas Co.
Bristol and Warren Gas Co.
The Brooklyn Union Gas Co.
Cape Cod Gas Co.
Central Hudson Gas and Electric Corp.
City of Holyoke, Mass., Gas and Electric Dept.
City of Westfield Gas and Electric Light Dept.
Commonwealth Gas Co.
Concord Natural Gas Corp.
The Connecticut Gas Co.
Connecticut Natural Gas Corp.
Consolidated Edison Company of New York, Inc.
Elizabethtown Gas Co.
Fall River Gas Co.
Fitchburg Gas and Electric Light Co.
Gas Service, Inc.
The Hartford Electric Light Co.
Haverhill Gas Co.
Lawrence Gas Co.
Long Island Lighting Co.
Lowell Gas Co.
Manchester Gas Co.
New Bedford Gas and Edison Light Co.
New Jersey Natural Gas Co.
New York State Electric & Gas Corp.
North Attleboro Gas Co.
North Carolina Natural Gas Corp.
Northern Utilities, Inc.
The Pequot Gas Co.
Philadelphia Electric Co.
Philadelphia Gas Works
Piedmont Natural Gas Company, Inc.
Providence Gas Co.
Public Service Company of North Carolina, Inc.
Public Service Electric and Gas Co.
Rochester Gas and Electric Corp.
South County Gas Co.
Southern Connecticut Gas Co.
Tiverton Gas Co.
UGI Corporation
Valley Gas Co.
Washington Gas Light Co.

I believe that the millions of people served by Associated Gas Distributors will be greatly benefited by enactment of S. 521.

Mr. President, I ask unanimous consent that the letters be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Associated Gas Distributors,
Washington, D.C., September 17, 1976.
Hon. Henry M. Jackson,
Russell Senate Office Building,
Washington, D.C.

Dear Senator Jackson: As a member of the Conference Committee on S. 521, the bill to amend the Outer Continental Shelf (OCS) Lands Act, you have probably heard some disturbing predictions from opponents of the bill concerning its likely impact. The opponents are satisfied with the status quo, they would have the Federal offshore domain continue to be administered pursuant to the OCS Act of 1953. The Associated Gas Distributors Group (AGD), made up totally of east coast companies distributing gas directly to the consumer, fully supports fundamental legislative reform of the 1953 OCS Act. AGD believes that the House version of S. 521 as proposed to be amended by Senator Jackson would be a constructive and responsible Congressional response to many of the problems engendered by the 1953 Act. A few of the legislation's more notable provisions are illustrative.

First, although the legislation would *allow* the Federal government in some limited instances to contract with private industry for *exploratory* drilling, it would by no means create a Federal oil and gas company. There is simply no authority whatsoever in the legislation for Federal government oil and gas *development* of discovered oil or gas resources. Indeed, if there were, AGD would join in urging defeat of the bill. Second, the legislation would mandate the use of alternatives to the cash bonus bidding system. Thus, large "front-end" capital outlays would in many instances be eliminated. The net effects will be that more capital will be available for exploratory and developmental efforts, more companies will participate offshore thus leading to earlier resource assessment and development, and, in the event of a commercial discovery, the return to the taxpayers is likely to be higher than under the cash bonus system. Gas distribution companies, with the natural gas distribution section in the bill, would become likely bidders and explorers for gas reserves which they have traditionally depended on major oil companies to find and bring to market. Finally, the legislation would create much-needed mechanisms for Federal/State consultation and cooperation regarding offshore development. These mechanisms will facilitate appropriate planning and provide the means to resolve amicably controversies which could otherwise result in costly and protracted litigation to the detriment of efficient, early OCS development.

On the whole, S. 521, as amended will make good law. Your strong support of it at this critical time and juncture in the legislative process, however, is crucial to its success. Thus, I urge you to act with all due dispatch in Conference so that this legislation may be reported out for final consideration by the Senate and House as soon as possible.

Very truly yours,

RICHARD H. BOWERMAN,
Chairman, Southern Connecticut Gas Company; and Chairman, AGD Atlantic Shelf Steering Committee.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, D.C., September 15, 1976.

DEAR SENATOR JACKSON AND CONGRESSMAN MURPHY: As a member of the Conference Committee to H.R. 6218 and S. 521 the Outer Continental Shelf Development bills the National Association of Counties would like to take this opportunity to reiterate our strong support for what is in our opinion a necessary and long overdue piece of legislation. We would hope that in recognition of the importance of these bills, the Conferees would work quickly to resolve the differences in these bills so that they can be considered on the respective floors prior to the October 2nd adjournment date.

The National Association of Counties voiced its support for legislation to ensure a more rational development of our outer continental shelf in the attached resolution which was adopted by the full NACo membership on June, 1975.

We thank you for your consideration of our viewpoint.

Sincerely,

JIM EVANS,
Legislative Representative,
CAROL SHASKAN,
Legislative Representative.

RESOLUTION ADOPTED BY NACO MEMBERSHIP— JUNE, 1975

OUTER CONTINENTAL SHELF RESOURCES

Whereas, there are serious questions concerning the timing, methodology, compliance with NEPA and actual necessity and suitability of the proposed outer continental shelf leasing program as a means to increase domestic energy supplies and

Whereas, there are serious concerns of county government in the precise location, drilling procedures used, safety features, environmental monitoring, and environment protection features involved in offshore oil and gas development, and

Whereas, county government will be impacted by the development of these energy resources by onshore facilities, land use patterns, increased public service demand, local economic hardships, environmental degradation,

Therefore, be it resolved by the NACo Environment and Energy Steering Committee that development of the OCS must

1. Include a total and detailed analysis of the necessity of development of this natural resource in light of the probable extent of energy conservation and the availability of all forms of alternate energy sources.

2. Require the separation of the decision to explore from the decision to develop and produce.

3. Include considering existing uses of an area in development decisions and a commitment to the principle that some areas may require an absolute ban on OCS production.

4. Require that coordination and consistency with coastal zone management plans be adhered to.

5. Include an intergovernmental process which requires consultation with local officials in the planning and decision-making processes over the location, extent, and design of offshore oil and gas development.

6. Require the careful management of the outer continental shelf for the long term productivity of all its resources.

7. Include direct funding to county government based on the extent of secondary onshore impacts to:

(a) plan for impacts well in advance of development.

(b) provide necessary public facilities.

8. Require that the oil industry be liable for cleanup and damage from spills and that they provide funding for training and maintenance of sufficient personnel (state or national) to police and monitoring, enforcement, and cleanup efforts.

9. Require a leasing methodology that utilizes a priority and ranking system on environmental and safety factor to evaluate any specific site.

10. Hold OCS in reserve until proper safety features and environmental safeguards including improved blow-out, spill prevention and containment/spill techniques are established.

ENVIRONMENTAL POLICY CENTER,
Washington, D.C., September 15, 1976.

DEAR CONFEREE:

After many long months of consideration by both Houses of Congress, S. 521 (Amendments to the Outer Continental Shelflands Act) is finally in conference. We believe that the bill which has resulted from these many months of debate and negotiation establishes a reasonable approach toward solving some of the problems and resolving some of the conflicts which have become obvious in the management of the OCS Act. This bill is especially important and timely because of the lease sales which are on the Interior Department's schedule for the next year under its accelerated leasing program. Most of the delays in the leasing program over the last few years have been caused by uncertainties in the economic and regulatory climate, and by Interior's total insensitivity to legitimate concerns of the states. Although S. 521 with the Jackson-Murphy amendments does not satisfy all of our concerns, we believe it to be a workable, sensible bill resulting from a very fair process. It responds to many of the concerns of the affected coastal states; it takes steps to assure a fairer return to the public for the sale of public resources and for more competition in the bidding process; it provides for better information availability to the states so that they can plan knowledgeably for the inevitable impacts of coastal development, while protecting the competitive position of the companies; and it separates the decision to explore from the decision to produce oil and gas offshore.

S. 521 and H.R. 6218 have had broad support from diverse interests including labor, environmental and consumer organizations, and some segments of the oil and gas industry. We strongly urge that you report S. 521 from the Conference Committee with the Jackson-Murphy amendments as soon as possible and that you oppose all other amendments.

Sincerely,

BARBARA M. HELLER.

SIERRA CLUB,
Washington, D.C., September 14, 1976.

MEMORANDUM TO CONFEREES ON S. 521

On Thursday, September 16, the Conference Committee on the Amendments to the Outer-Continental Shelflands Acts, S. 521, will convene to decide the course of this vital legislation. The Sierra Club regards S. 521 as one of the most important pieces of energy legislation to come before this Congress.

It is our understanding that the major differences between the House and Senate versions have been resolved by Sen. Jackson and Rep. Murphy. We have had an opportunity to review the fourteen proposed amendments, and we would like you to know that we do support them. Accordingly, we urge the Conferees to vote to support the Jackson-Murphy amendments and to complete the action on the legislation and send it to the President for signature before September 20.

In view of the Department of Interior's leasing of the Mid-Atlantic OCS and planned leasing for other frontier areas, it becomes exceedingly important that S. 521 be enacted this year. The improvements the legislation makes in OCS leasing, exploration, development, and production procedures are essential. In particular, we view the improvements with regard to Gubernatorial powers, federal government exploratory drilling, pollution liability, bidding procedures, and anti-trust review as especially important.

It is our hope that work on S. 521 will be completed speedily and we would appreciate your help and support in seeing that this important legislation is enacted in this Congress.

Sincerely,

LINDA M. BILLINGS,
Washington Representative.

ENERGY ACTION COMMITTEE
Washington, D.C., September 10, 1976.

DEAR OCS CONFEREE:

We are writing to urge you to expedite final approval of pending Outer Continental Shelf Leasing legislation by supporting Senator Jackson's proposal to take the House bill, H.R. 6218, with a package of 14 additional amendments. House Ad Hoc Committee Chairman Murphy has agreed to this approach, recognizing the critical importance of enacting OCS leasing reforms this Congress.

Legislation establishing new policies and procedures for managing publicly-owned

OCS oil and natural gas resources was overwhelmingly approved by the Senate early in the 94th Congress, and more recently by the House of Representatives. This legislation is extremely important to people in every state across the nation—both inland and coastal—because the vast majority of this country's new domestic oil and gas discoveries will be offshore, on this Federal Outer Continental Shelf territory. The efficiency, safety, and importantly, the economic returns realized from offshore production will most certainly benefit all U.S. citizens.

Although the outmoded law governing these OCS resources has never been amended since its enactment in 1953, the major oil companies are adamantly opposed to the proposed amendments. They are fighting especially hard to prevent changes in the way OCS oil and gas is leased by the Federal government; such changes are among the most important provisions in the bill. Why? Because the oil companies have done extremely well under the present "cash bonus bid" leasing system, a system, we might add, which has long been abandoned by virtually every foreign government and U.S. state engaging in offshore leasing.

For example, in 1970, a group of oil companies paid a $28 million cash bonus for just one tract in the Gulf of Mexico. A large sum of money to be sure But this lease already is providing the oil companies with a total annual income of $171.5 million—and production has just begun! The U.S. Treasury is realizing only a 16⅔ percent royalty on the increased profits from these federal oil and gas reserves.

The importance of adopting alternative leasing procedures was further demonstrated in the recent Mid-Atlanic OCS lease sale. The Department of Interior underestimated the value of these reserves by one-half, anticipating no more than $600 million in oil company cash bonus bids. When industry bids totalled more than $1.1 billion, the sale was proclaimed a remarkable success. Some estimates, however, have suggested the combined value of the oil and gas resources could range from $9 to $31 billion! The sale was a great success—for the major multinational oil companies, which once again dominated the bidding.

The pending OCS legislation would correct this absurd situation where the government does not know the value of what it is leasing, and the amount paid by the oil companies is not even close to the ultimate value of the resources. The oil companies must pay—and the public must receive—full and fair value for these publicly-owned resources. Front-end bonus bidding restricts a fair return to the U.S. Treasury, inhibits competition, ties up industry capital which should be used for prompt development, and permits private companies to make exorbitant profits from public resources.

Energy Action strongly supports the prompt and orderly development of OCS oil and gas in a manner which guarantees a fair return to the public, and which adequately protects the environment. We believe the Jackson-Murphy Compromise is a reasonable and acceptable approach, which will do much to *avoid* (not create, as the industry argues) further delays in OCS development. By ensuring the timely production of oil and gas through strict due diligence requirements, providing coherent guidelines for the orderly planning of development and production, and by guaranteeing the necessary safeguards, the absence of which have led to litigation and delays in the past, the Jackson-Murphy Compromise will go far in helping this country refortify its dwindling domestic oil and gas reserves.

This measure is one of the most important pieces of energy legislation to be considered by the 94th Congress. Your support of the Compromise in conference is essential to ensure its enactment before the close of the session. We appreciate your consideration of this matter, and hope that you will feel free to call on us for any further information.

Sincerely,

JAMES F. FLUG,
Director and Counsel.

CRUISE MISSILE MISFIRES AS SUBSTITUTE FOR B-1

Mr. GOLDWATER. Mr. President, for as many years as I can remember I have been an advocate of the manned strategic bomber. Contrary to what many say, and I believe they are wrong, now is not the time to replace man in the strategic equation. Many have advocated that because man is no longer required for the strategic mission, the B-1 is, therefore, not required. Their argument continues that cruise missiles can do the job just as effectively and for far less expense.

The error in this thinking is that cruise missiles cannot substitute for manned bombers and especially the B-1 with its increased penetration capability over the current B-52 force. The error of substituting the cruise missile for the B-1 is the subject of an article by William C. Moore that appeared in the Los Angeles Times on September 3, 1976. So that all who are interested in this subject can read this fine article I ask unanimous consent that the article referred to be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CRUISE MISSILE MISFIRES AS SUBSTITUTE FOR B-1

(By William C. Moore)

The B-1 bomber is now in a holding pattern. It was put there this week when a House-Senate conference committee agreed to fund the controversial supersonic aircraft at a minimal level until the next President can decide whether to switch on the afterburner and really get the plane moving.

Meanwhile, as debate over the project intensifies, the thrust of the opposition argument will still go something like this: The B-1 is simply unnecessary, for the so-called cruise missile will assure our defensive posture well into the 1990s, obviating all the expense and bother of developing a new generation of supersonic bomber.

Cruise missiles certainly have their potential, but some of the claims made for them give pause. Are they really as good as all that?

According to their most ardent supporters, these weapons—which are, essentially, small winged aircraft carried, in folded form, by larger planes—have the potential to revolutionize modern warfare by reversing U.S. dependence on nuclear capability.

The reason is that these highly accurate yet inexpensive missiles would enable the United States to respond to a Soviet attack without using nuclear weapons. If it is true, moreover that cruise missiles can be effectively carried and fired by B-52s—or even 747 jumbo jets—then that eliminates any essential role for the B-1 bomber, as some media commentators and even some military strategists are maintaining.

But high hopes for the cruise missile raise two vexing questions.

One requires response by those aforementioned "experts" of the press, the other by professional military men who will have to prove in combat whether such optimism is justified.

The first question: *Do official reports of the Department of Defense reflect the optimism widely voiced in the popular press?*

The answer is no. Secretary of Defense Donald Rumsfeld agrees with his predecessor, James Schlesinger, that the cruise missile still needs proof of concept. Both have suggested, however, that the missile has promise if used in a supplementary role to increase the future utility of B-52s attacking lightly, as opposed to heavily, defended targets.

According to both Rumsfeld and Schlesinger, a research and development program for the missiles should be continued because they involve promising new technologies in engine design, fuel use and navigational accuracy while flying at extremely low altitudes—technologies that could well be useful in developing future, better weapons.

The second question: *How effective will the cruise missile be in combat?*

To military commanders, the answer is fundamental. It matters not whether the cost is high or low. Hitting the target is what counts.

The concept of cruise missiles is not new: The German "buzz bomb," or V-1, which struck targets in England during the latter phases of World War II, was an early version of the cruise missile. During the 1950s the United States itself deployed several cruise-type missiles—the Matador (later redesignated the Mace), the submarine-borne Regulus, and the intercontinental SNARK. Ultimately these systems were phased out in favor of more modern weapons.

But technological advances in the past few years have made the new crop of cruise missiles more reliable than those of the past. Comparatively small and able to fly at very low altitudes, they are hard for the enemy to detect. An improved navigation system, moreover, provides greater accuracy.

These are desirable attributes. But the fundamental requirement of a weapon is that it be able to evade enemy defenses, reach its destination, and then destroy its target. The cruise missile can meet these requirements only against lightly defended areas. Thus, as Secretary of the Air Force Thomas C. Reed has said, cruise missiles cannot fulfill a retaliatory role if the need should arise in the 1980s. That is because all targets of any significance in the Soviet Union, then as now, will be highly defended.

A cruise missile would be unsuccessful in attacking such a target for two main reasons.

Its speed is comparatively low—less than that of current first-line fighter aircraft, and much less than of prototypes of the B-1.

It lacks any electronic countermeasure capability. A cruise missile does not "know," for example, when enemy radar is tracking it, or when an enemy missile has been fired at it, and so it cannot "know" when or how to take evasive action.

Lessons learned in the Yom Kippur and Vietnam wars prove conclusively that highly defended targets can be attacked successfully only by manned aircraft with speeds nearly 50% greater than those now possible for the cruise. In addition, the aircraft must be able to jam enemy radar and must be equipped with "black boxes" that tell pilots when to take evasive action if a "missile is fired at them.

Even with such capabilities, Israel suffered significant aircraft losses during the Yom Kippur war. Yet Egyptian defenses were neither as dense nor as sophisticated as those operative in the Soviet Union, and by the 1980s—the earliest that the cruise missile could be deployed—Soviet defenses are sure to be even more formidable.

To overcome expected Soviet advances, the Defense Department has already initiated research and development on an advanced strategic air-launched missile (ASALM), which combines the features of cruise missiles and rockets. Carried by aircraft like the supersonic B–1 bomber, the ASALM would have a prospective speed six to eight times as great as the cruise missile's. Armed with this highspeed projectile, bombers would be able to fight their way into the Soviet Union and effectively attack highly defended targets.

This is not to say that cruise missiles would never serve a military need. Armed with them, bomber pilots could fly into highly defended areas and launch cruise missiles against lightly defended targets on either side of its flight path.

So the cruise missile does have a potention function, but it is not—and cannot be for a long time to come—the superweapon its supporters claim it to be. It is certainly no substitute for the B–1 bomber.

AMERICAN YOUTH SERVICE MILESTONES, 1945–75

Mr. HUMPHREY. Mr. President, within the next few days, I intend to introduce a major piece of legislation dealing with the problem of high unemployment among our Nation's youth.

This legislation will establish two new and important programs for young people.

First, it will create a separate division within the U.S. Employment Service that will devote its efforts entirely to the job-counseling, job-information, and job-placement needs of the millions of young people in this country between the ages of 16 and 25 who are trying to form career plans and find decent jobs in the midst of a very discouraging job market.

Second, it will create a nationwide community service jobs program for youths that will provide young people with useful and productive jobs delivering needed services within their local communities.

Although we have less than 2 weeks to go before Congress adjourns for the year, I believe it is necessary to introduce this legislation now so that we can have the advantage of 4 months of thought and discussion on the bill's proposals, and so that we can have time to improve the bill for introduction and enactment early in the next Congress.

The concept of a national youth service program has many respectable antecedents in this country.

During the Great Depression, when unemployment hit more than 25 percent of all American workers, and a much higher proportion of young workers, we did not hesitate to create programs that put youths to work on national service projects.

Soon after taking office in 1933, President Roosevelt established the Civilian Conservation Corps by Executive Order 6101, under the authority of the Emergency Conservation Act of 1933. The purpose of the CCC was to establish conservation camps where employment and training could be provided for youthful unemployed citizens of the United States.

During the 9-year life of the CCC—from 1933 to 1942—camps were established in every State of the Union, and in Alaska, Hawaii, Puerto Rico, and the Virgin Islands. Nearly 3 million young people were provided useful work and training. The CCC participants planted almost 3 billion trees in reforestation and conservation projects, including a "shelter belt" of trees that stretched a thousand miles from the Dakotas southward to the Texas Panhandle.

According to a report by the Library of Congress, the CCC constructed over 150,000 miles of roads and trails, stretched over 85,000 miles of telephone lines, erected 4,000 fire towers, and built approximately 45,000 bridges and many buildings. They provided improvements in the form of thousands of check dams against soil erosion and did cutting and thinning on about 4,000,000 acres of forest land.

The Civilian Conservation Corps stocked almost a billion fish, built more than 30,000 wildlife shelters, dug ditches and canals, and helped restore Revolutionary and Civil War battlefields. They contributed to the protection of millions of acres of forest from fire, and helped stamp out malaria through mosquito control.

The CCC added more than 17 million acres of forest land. It has been estimated that of all the forest planting, public and private, in the history of the Nation, more than half was done by the CCC.

The total cost of the CCC came to about $2.5 billion over its lifetime. It was one of the best investments this Nation ever made.

In 1935, President Roosevelt set up a second youth employment program—the National Youth Administration. Established by Executive Order 7086, under authority of the Emergency Relief Appropriation Act of 1935, the NYA had three main goals:

First. To provide part-time employment for needy students so that they could continue their educations;

Second. To provide part-time employment projects for out-of-school young people from relief families, providing both work experience and income for the youths as well as valuable services for the communities in which they lived; and

Third. To encourage the development of job training, job counseling and job placement services for youths.

According to the Library of Congress, the NYA spent about $660 million during its 8 years of existence to provide part-time work to more than 600,000 college students and 1.5 million high school students, as well as aid for over 2.6 million jobless youths—45 percent female—who were not in school. Many of these NYA participants received job training as well as employment experience.

Our national expenditures for these two youth employment programs accounted for almost 7 percent of the Federal budget during the Depression years. Today, with 3.5 million young people between the ages of 16 and 24 years old unemployed, and with hundreds of thousands more so discouraged by poor job prospects that they have simply given up the search for work, the Federal Government devotes less than 1 percent of the budget to the job needs of young people.

These two programs came to an end with World War II. Since the war, however, there have been a number of other service programs that have provided useful work to youths. These initiatives have been traced out from 1945 to 1975 by Mr. Donald Eberly of ACTION in a paper presented at a universal youth service conference at the Eleanor Roosevelt Institute at Hyde Park, N.Y. earlier this year.

This paper examines the Peace Corps, the Job Corps, the Neighborhood Youth Corps, VISTA, and recent proposals for youth service programs. It is an excellent background paper. I ask unanimous consent that portions of it be printed in the Record.

There being no objection, the paper was ordered to be printed in the Record, as follows:

Universal Youth Service Milestones, 1945–1975

(By Donald J. Eberly)

Throughout this paper, universal youth service refers to making available to all young people opportunities for full-time civilian service.

INTRODUCTION

In the 30-year period from 1945–75, youth service never approached the near universality attained during the preceding decade. Then, millions of young people enrolled in civilian service through such programs as the Civilian Conservation Corps and the National Youth Administration. With the advent of World War II, many of these same young men and millions more enlisted in the armed service.

While not so exciting nor massive as the youth service programs of the Roosevelt period, there are several important milestones related to the youth service concept to be identified with the period from 1945–75. Most of the milestones have familiar names, such as the GI Bill, the Peace Corps, and several War on Poverty programs. These and other milestones provide useful insights into several aspects of the universal youth service concept. They include:

Mobilization of young people.

Education gained from service experience.

Idealism of young people.

Manifestation of trust in young people.

Programs targeted at certain young people.

Training of young people.

Magnitude of needs for service.

Ability of young people to perform needed service.

Rationale for youth service programs.

A brief review of the past 30 years may remind us of the contexts in which these events occurred, and of their relationship to the universal youth service idea.

1945 was clearly a year of transition. President Roosevelt died. The United Nations was created. The atomic bomb was tested and used. World War II ended and with it, the greatest mobilization in U.S. history.

More than 16,000,000 people, over 10% of the U.S. population, served in the armed forces during the Second World War. Most of those who served were young men. Many went to war eagerly, joining the British or Canadian forces in advance of U.S. entry. Most went willingly, either to join a preferred branch of service before being drafted or, when called, to take that one fateful step forward on induction day. Compared to the Vietnam War, there were few draft dodgers or conscientious objectors. A clearly defined set of exemptions was attached to the military draft for the purpose of keeping men on farms and in factories, schools and churches, as much as for the purpose of conscripting them into the armed services.

The World War II experience showed that we as a nation could mobilize on a grand scale over a period of several years to meet a critical national need. That is the lesson of World War II for UYS. The question is this: Can we mobilize in a more measured fashion over a longer time period to meet a variety of needs perceived more sharply at the local level than at the national level?

1945—THE GI BILL

The GI Bill is readily acknowledged as one of the best investments ever made by the USA. By returning to the tax coffers several times* as much money as the $15 billion spent on education and training under the GI Bill from 1945–1954, it was a sound economic investment. By producing what was generally conceded to be the best group of students ever found on American campuses, it was an investment in the quality of education. By greatly broadening the socioeconomic profile of persons going on to higher education, the GI Bill was an investment in democracy.

A less recognized by-product of the GI Bill was its clear rebuttal of the supposed need for an educational continuum. There were predictions that the returning GI's would be a threat to American education, would require a great deal of counseling and would not accept the authority of the educators. Instead of fulfilling this dire set of predictions, the GI's demonstrated the value of an experience-loaded interlude to formal education. They gave massive proof to the experiential learning theories of William James and John Dewey.

The magnitude of response was vastly underestimated. The Army made a survey and predicted seven percent of the veterans would be educated under the GI Bill; Earl J. McGrath, then a University of Buffalo dean and later U.S. Commissioner of Education, estimated a total enrollment of 640,000 veterans. The total enrollment came to 7,800,000 persons, or 50% of those eligible.

1961—THE PEACE CORPS

The Peace Corps has yielded several valuable lessons in the field of youth service. The first and most often overlooked is the manifestation of trust in young people by the government. When Congressman Henry Reuss introduced his bill for a Point Four Youth Corps, when Senator Hubert Humphrey submitted his bill for a Peace Corps, when Candidate John F. Kennedy proposed a Peace Corps shortly before election day in 1961, the message heard by many young people was, "We trust you to serve in difficult and responsible positions."

There was strong resistance to the Peace Corps idea at the time. Several educators said nobody should be sent abroad until completing a full year of special training. Candidate Nixon responded to the Kennedy proposal, which contained a provision that would recognize Peace Corps service as an alternative to military service, by saying the Peace Corps would become a haven for draft-dodgers.

The State Department had earlier examined the idea and intimated first that Peace Corps kinds of activities be carried out by the private sector rather than the public, second that it was satisfied with the current level of private sector efforts of a Peace Corps character, and third that the living standards proposed for the Peace Corps participants would "imperil their health and ruin their effectiveness as public servants."

This viewpoint underwent radical surgery with the election of John F. Kennedy. Between his election and inauguration, the foreign aid branch of the State Department had moved swiftly to create Teachers for East Africa, which they hoped would fortify their bid to run the Peace Corps. Operated by Teachers College, Columbia University, Teachers for East Africa indeed became a high quality program which placed recent college graduates in teaching positions mostly in East African secondary schools. But Peace Corps Director Sargent Shriver felt the promise of the idea could not be achieved if the Peace Corps was run as an adjunct to the foreign aid program. With his persistence and some help from Vice-President Johnson, the Peace Corps came into being with about as much independence from the State Department as a Federally run program of overseas assistance could achieve.

The accomplishments of the Peace Corps Volunteers disproved the predictions of those who called it a "kiddie corps" or compared it with the Children's Crusade in the Middle Ages. Where the assignments were manageable, as with teaching and agriculture, the work of the Volunteers generally ranged from good to outstanding. Infrequently, most notably with the community development effort in Latin America, where the assignments tended to be vague and the objectives not realistic, the record was less than satisfactory.

Apart from the highly positive image of the United States which the Peace Corps has portrayed, probably its most lasting achievement has been the education gained by the Volunteers and the way in which they interpret this education in their daily lives. (When I meet an extraordinary official or volunteer worker, it is not at all uncommon to discover that he or she was in the Peace Corps.) Responding to a 1969 survey by the Stanford Research Institute, ex-Volunteers reported learning somewhat more than they contributed during the Peace Corps experience.

While the Peace Corps in practice did not quite live up to the hopes of its early advocates, it continues to stand as a small scale model of a program where government expresses its trust in young people, where young people respond positively to this trust, where they do good work under difficult circumstances, and where they return with a quality of understanding and wisdom that could be achieved in no other way.

From a peak enrollment of 15,000 persons and a $100,000,000 budget in 1967, the Peace Corps today enrolls nearly 7,000 persons and has a budget of $80,000,000.

1964—THE WAR ON POVERTY

The United States launched two wars in August 1964: the Vietnam War with the passage of the Tonkin Gulf Resolution and the War on Poverty with the signing of the Economic Opportunity Act. At the time, there were prospects of a budget surplus amounting to tens of billions of dollars. Whatever new tax money was generated by economic growth went into the Vietnam effort. The War on Poverty was kept on a short leash. Still, several of its programs would fit at least partially under the UYS umbrella. These are worth reviewing.

The Youth Employment Bill, introduced as S. 1 by Senator Humphrey on January 14, 1963, was the immediate legislative precedent for the Job Corps and the Neighborhood Youth Corps. Humphrey's bill, and a similar one (HR5131) introduced in the house by Rep. Carl Perkins, would have created a Youth Conservation Corps and a Local Area Youth Employment Program. The Corps would have employed 16–21-year-old men in conservation work for six month periods for a maximum of two years. The Local Program would have been open to both men and women from 16–21 years of ago to do public service work of unspecified duration. Both programs were aimed at increasing the employability of participants. The Youth Employment Bill was passed in the Senate but died in the House. (In 1971, a Youth Conservation Corps came into being and provided eight-week conservation work for 15–18-year-olds of both sexes. To date it has been a small but successful program.)

Job Corps. Officials of the Office of Economic Opportunity thought it would be difficult to recruit underprivileged 16–21-year-olds for the Job Corps, a job training program away from home. Yet within six months they received 300,000 inquiries and had only a few thousand openings.

The Job Corps costs $6500 per man-year and has a drop-out rate above 50%. For those who complete the program, however, its placement record is 90% or more, thanks in large measure to the work of volunteers in Women in Community Service and Joint Action for Community Service. The Job Corps presently operates at a level of some 43,000 enrollees per year, and a budget of $180,000,000.

Neighborhood Youth Corps. (NYC) NYC was one of the several manpower programs to become de-categorized in the Comprehensive Employment and Training Act of 1973, sometimes referred to as Manpower Revenue Sharing. While the legislation permits substantial innovations and re-shaping of priorities in manpower programs, in fact very little has occurred. What was formerly NYC continues to engage nearly 1,000,000 persons from 14 to 22 years of age, often in make-work projects during the summer. The annual budget is about three-quarters of a billion dollars.

A continuing concern with both NYC and Job Corps is the "label" given to participants. This is of paramount concern in the justice field where the fact of being labeled a "Person in Need of Supervision" or a "Juvenile Delinquent" may in itself push the person toward committing a crime. In NYC and the Job Corps, both the enrollees and the people around them know that the young people were enrolled because of their negative qualifications. "High school graduate and middle-income kids need not apply, just the drop-outs and poor kids."

College work-study program. (CWSP) When initially put forward in 1964, CWSP was to help needy students pay their way through college and to involve those same students in anti-poverty efforts. However, there were no teeth in the latter objective with the result that some 85% of CWS students can be found working on campus rather than in the community.

Since the employer pays only 20% of the CWS student's salary, there has been pressure by college officials to keep the students on campus in such positions as secretaries, dishwashers, and library aides. And, with only 3% of the funds available for local administrative costs, it has been easier to find positions on-campus than off.

Through the imagination and initiative of such men as John Lindsay, Timothy Costello, and Michael Goldstein, New York City made a major breakthrough with the creation of the Urban Corps in 1966. Operating out of the Mayor's Office, the Urban Corps assumed much of the administrative burden and placed thousands of students from scores of colleges each summer with city agencies. The idea caught on. Within three years, there were some 70 Urban Corps programs in the country. Today, there are still about 70 programs. They enroll an estimated 15,000 students per year, one-third of whom are in the New York City Urban Corps.

For UYS this is an important lesson, one fortified by observation of other Federal programs. It is simply this: It is possible for

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*There appears to be no full-scale analysis, generally acceptable to economists, on the rate of return on the GI Bill. Albert E. Smigel, Special Assistant for Economic Affairs to the Governor's Office of State Planning and Development in Pennsylvania, estimates the GI Bill from 1946 to 1973 had yielded a 16-fold return solely in terms of increased Federal tax payments. His analysis does not discount the future value of these returns, but he suggests that this amount is more than compensated for by the economic returns of the GI Bill in addition to Federal tax payments. An official of the Veterans Administration reports that they have not made a study of the GI Bill as an investment because it might appear that the VA was trying to make a case for a "universal GI Bill."

Federal monies to be expended in a way that fully meets the goals of the legislation and occasionally rises above them. But don't count on it. By funneling CWSP money through the colleges and not requiring the students to work on community service projects, only one student in seven did so. It would have been a different story if the money had gone through city hall or community service agencies.

Current appropriations level for CWSP is $390 million. This supports some 600,000 college students per year.

Volunteers in Service to America. VISTA was first publicly outlined on November 17, 1962, when President Kennedy appointed a high-level committee "to study the feasibility of a national service program patterned after the Peace Corps." The guidelines then described for this new venture have held remarkably firm during the eleven-year existence of VISTA. Its volunteers were to deal with the causes of poverty and work in such areas as mental hospitals, Indian reservations, migrant labor camps, and correctional institutions.

Moreover, and surprisingly so considering the magnitude of the problems the corps was supposed to tackle, it was to be small. The suggested enlistment term was one year. When the committee submitted its report to the President on January 14, 1963, it called for a National Service Corps that would reach a full strength of 5,000 in about three years. The Committee said that the full-time Corpsmen would, "by their example and inspiration, motivate many other citizens to give part-time service in their own communities." The Corps members would work under the supervision of local community groups. The Corps would be open to persons 18 and over who possessed "the highest possible personal qualifications and requisite technical preparation." Finally, the planners explored the possibility of academic credit at the university level and called for the development of standards by which experience in the Corps could be accredited.

The plans describe the product. VISTA enrollment hovers around 4500 and has never exceeded 5,000 persons. It serves the poor, the Indians, the migrants. It does generate additional resources, both human and financial, at the local level. VISTA Volunteers serve under local supervision. Entry qualifications are demanding. The University Year for ACTION, in which credit is awarded for learning acquired from full-time community service, was launched as a VISTA off-shoot in 1971.

This observer has seen only two substantial changes in VISTA over the years. Where all Volunteers originally were recruited nationally and served away from home, today nearly 60% serve in the communities where they reside. About half of these "locally recruited VISTA volunteers" are themselves in the low income group.

The other change concerns the role model for VISTA Volunteers. Clearly the Kennedy Committee saw them in the service role, such as providing recreational opportunities for mentally retarded children and teaching crafts to migrant workers. A few years later, with VISTA a part of the War on Poverty, with a meager allocation of resources to meet the needs perceived by the Volunteers, and with the Vietnam build-up, some Volunteers assumed the role of change agents. This led to confrontations with public officials and complaints from governors. Today VISTA has returned to the service role but with special emphasis on resource mobilization as opposed to one-on-one service.

The present VISTA budget of $25,000,000 supports some 4500 Volunteers, approximately 45% of whom are from 18 to 24 years of age.

1966—CONSIDERATION OF NATIONAL SERVICE

Serious public consideration of the national service idea began in 1966. It was not a novel idea, having been put forward by such persons as William James (1906), Eleanor Roosevelt (1934) and Lewis Mumford (1956). The debate was sparked by the privately sponsored National Service Conference on May 7 which was quickly followed by Secretary of Defense Robert McNamara's call for a system of voluntary national service, baccalaureate talks by the presidents of Yale (pro) and Harvard (con), and appointment by President Johnson of the National Advisory Commission on Selective Service. The Commission was charged with making recommendations affecting the Selective Service System and examining the idea of national service.

Soon there were more conferences where national service was a major item on the agenda. Among the conveners were the American Veterans Committee, the University of Chicago and the National Council of Women of the United States. National service legislation was introduced by Senators Daniel Brewster (S. 1213 in 1967), Edward Kennedy (S. 3052 in 1968), Mark Hatfield (S. 1937 in 1969) and Rep. Jonthan Bingham (H.R. 18025 in 1970). Hearings were conducted by the Senate Committee on Employment, Manpower and Poverty in March 1967. National service was the high school debate topic for 1968–69. A National Service Secretariat was created in 1966 to stimulate and facilitate consideration of national service. Editorials were written. Surveys were conducted. Resolutions were passed.

Generally, national service was viewed positively, if cautiously. The National Advisory Commission on Selective Service had some questions about national service, but recommended pilot projects to test the idea. The Scranton Commission on Campus Unrest in 1970 stated in their first recommendation: "National service projects, enlisting youth in a variety of civilian service activities should be tested."

The Harris and Gallup polls found the public to be in favor of national service by a substantial margin. The Gallup Poll reported in early 1969 that one year of compulsory national service for men was favored by 79% of the population and opposed by 16%. At the same time, required non-military service for women was favored by 44% and opposed by 49%. A survey by *Seventeen Magazine* found two-thirds of the girls from 13 to 19 years of age willing to serve for one year on a voluntary basis. The National Commission on the Causes and Prevention of Violence, headed by Milton S. Eisenhower recommended a Federally supported youth service program:

"We urge the President to seek legislation to expand the opportunities for youth to engage in both full-time and part-time public service, by providing federal financial support to young people who wish to engage in voluntary, non-military service to their communities and to the nation."

It is still too early to assess the outcome of all these discussions and recommendations. An intermediate appraisal would include these observations.

1. The discussions on national service did not lead to a national service program. None of the national service bills became law. President Johnson, who was favorable to the idea, was coming to the realization that he could not have guns for Vietnam and new social programs at home. Under President Nixon, whose position on national service was ambiguous, the emphasis was on the creation of a "voluntary army", and his strategists felt that a national service initiative would be incompatible with the volunteer army concept. Perceptively, Charles Bartlett wrote that national service was a program with a future, but an idea that "is so big and controversial that no politician knows how to get hold of it."

2. Fortuitously for the serious consideration of national service, the discussion of it continued as we moved from a draft crisis to an urban crisis and a campus crisis. Gradually, the national service concept was perceived as something with serious implications for more than the draft question. By the Spring of 1971, five years after the debate had begun, five of the ten task forces of the White House Conference on Youth had something to say about national service.

The Environment Task Force recommended a National Environmental Corps composed of young men and women to serve for two years upon completion of training. The Task Force recommended that service in the Corps be an alternative to military service, that preference be given to disadvantaged youth, that the Corps be administered by the Environmental Protection Agency, and that the budget for fiscal year 1972 be $25,000,000.

The Education Task Force called for more relevant education throughout its report and community learning centers. Most centers would be located in existing school facilities and academic credit would be awarded for work experience and volunteer service activities which contributed to career choices for students.

The Task Force on Employment and Economy was more specific, calling for a national system of public service employment that would fund employment and service opportunities for one million currently unemployed young people and adults. The jobs must contribute "to the betterment of a public or human service . . . be career development oriented . . . and be sponsored by any public or non-profit entity capable of handling the responsibility."

The Task Force on Poverty stressed the link between useful service and educational growth in its recommendation for "a national service-learning program . . . to serve all poor youth between the ages of 14 and 24." While entry into such a program would be voluntary, the Task Force recommended that participants be paid at or above the minimum wage.

Finally, the Task Force on the Draft, National Service and Alternatives opposed any form of compulsory service, favored an end to the draft by June 30, 1971, endorsed President Nixon's Action proposal, and called for a public foundation to underwrite service activities by all young people wishing to serve. Further, the Task Force recommended establishment of a two-year pilot project of "200,000 volunteers and volunteer supervisors to test the feasibility of greater Federal assistance to locally designed and administered programs of service-learning."

3. Ironically, it is worth noting that the alternative service aspect of national service shifted from a somewhat radical status in 1961 to an idea linked with the establishment in just six years. When candidate Kennedy proposed the Peace Corps as a draft alternative in 1961, candidate Nixon attacked it as something that would become a haven for draftdodgers. By late 1966, advocates of national service were viewed by some as in league with the Pentagon for making the draft sweeter and thereby alleviating pressure from draft-age men to get the country out of the war.

4. The country's need for the kind of work national service participants would do, in such areas as tutoring conservation, and health care, was determined to be greater than the probable enrollment in national service. A 1968 estimate suggested an immediate placement potential of 200,000 and long-range needs for 5,000,000 persons. The estimated enrollment after the build-up

period and assuming a two-year service period, was 3,000,000.

5. Certainly the consideration given to national service helped to prepare the way for furthering the linkage of community service with educational growth and for conducting a small test of the national service idea. It would appear that the high level consideration and advocacy of national service gave a degree of legitimacy to the involvement of young people in meaningful community endeavors.

6. Finally, there emerged a national service rationale which, in its most reduced form, went like this:

There are vast needs for service in the U.S.A.

Young people can meet many of these needs.

Many young people want to meet these needs.

In meeting these needs, young people may: Develop self-confidence and civic pride, gain work experience, explore career possibilities, engage the world outside the classroom and away from TV, discover the rewards of serving others, and learn how to work with people in common endeavor.

Since the national interest is served by promoting the general welfare as well as by fostering constructive growth opportunities for young citizens, it was argued that the government should guarantee opportunities for all young people to contribute a year or two of service to their fellow man.

There were, of course, variations of this rationale. Some believed the case for national youth service was so strong that it should be required of all young people. Some began the argument with the needs of young people for service experience. Either way, it was difficult to satisfy those persistent unidimensional questioners who asked, "What are you really trying to do, help kids grow up or serve the needs of the community?" They found it hard to visualize a program with more than a single purpose.

1973—THE PROGRAM FOR LOCAL SERVICE

The significance of the ACTION-sponsored Program for Local Service in Washington State is that it was the nearest we have come to conducting an experimental UYS program. Previous Federally sponsored civilian youth groups have excluded large segments of the youthful population. The problem with PLS is that it is so small, 300 participants in the first year and 700 in the second, that a microscope is needed to examine it. Its impact is too small to be detected by statewide measures of such indices as those for unemployment and youth delinquency.

In early 1973, invitations to apply to PLS were sent to all 18–25-year-old motor vehicle license holders in the southern portion of King County, including South Seattle and extending out to suburban and rural areas. It was estimated that 80% of the 75,000 18–25-year-olds in this area held such licenses. Special efforts were made to publicize the program in low-income areas. A telephone survey conducted four months after the mailing showed that some 20% of the target population had been made aware of the opportunity to apply to PLS.

PLS Volunteers were to receive a total yearly stipend of $2970, plus full medical coverage and certain legal benefits. (The Federal minimum wage for a 40-hour week came to $3328 per year in 1973.)

Within two months of the mailing, PLS received 1700 applications, nearly 10% of the "aware" population. After determining eligibility on the basis of the age, geographic, medical and legal requirements, applicants were invited to join PLS on a random basis. Eventually, all cleared applicants were asked to join.

Applicants came to a one-day orientation session. Here the program was explained to them, they were given practice in interviewing for positions, and they reviewed the directory which listed 1200 positions. By the end of the day, each person still interested in PLS was to have made appointments for three interviews. "Brokers" and "matchmakers" were available to assist in setting up the appointments and to attend the interviews if requested. Also by the end of the day, applicants had completed a one-page resume and had received a voucher and memorandum of agreement form. (See Appendix) These were taken to the interviews where agreements could be negotiated on the basis of the sponsors' needs and the applicants' talents and interests.

As agreements were reached, they were returned to the PLS office where each one was checked by both the program manager and legal counsel to make sure it was in compliance with the law and the program regulations. For example, the work had to be of an anti-poverty nature, with a public or private non-profit organization, and could not replace regular employees.

Once the agreement was certified, the applicant was invited to a three-day pre-service training session and began his one-year service within a few days.

This filtering process resulted in 372 persons becoming PLS Volunteers by June 30, less than five months after the invitations were sent out. The number of persons at each stage of the process was as follows:

Applicants	1694
Eligible applicants	1517
Attended one-day orientation	634
Concluded agreement	394
Attended pre-service training	372
Became PLS volunteers	372

It is of particular interest that the socio-economic profile of the 372 PLS volunteers is virtually identical to that of the 1517 eligible applicants. The process resulted in no significant discrimination. When compared to other young people in the Seattle area, PLS participants were more apt to be female, unmarried, low income, minority, better educated, and most distinctively, unemployed and seeking work.

Nearly one-quarter of the eligible applicants became PLS Volunteers. Of them, 62% completed the full-year of service. About one-third of those who left PLS were "fired" for breaking the agreement, another one-third left for "good" reasons such as getting a job, and the remaining one-third left for "neutral" reasons such as moving away or having a baby.

Approximately 500 potential sponsors were identified in the Seattle area. Half of them applied for PLS Volunteers but 34 were found ineligible. Eventually, 137 of the 221 eligible sponsors concluded a memorandum of agreement with at least one PLS Volunteer. The sponsors contributed $150 per man-year to the cost of the program. No potential sponsors dropped out because of this requirement.

The outcomes of PLS are also significant for a consideration of universal youth service. The value of the services performed by PLS Volunteers was judged by the sponsors to be worth $2,150,000, double the $1,086,000 grant made by ACTION to fund the program. When they applied to PLS, 70% of those persons who later enrolled in PLS were unemployed and looking for work. When surveyed six months after leaving service, only 18% were unemployed and looking for work. Two-thirds reported that experience in PLS had influenced career or educational plans; 63% rated PLS experience very valuable for future employment, and 25% said they had received or expected to receive academic credit for their work in PLS.

Today, three years after the PLS experiment was launched, it has expanded to all of Washington State and is supported primarily by the state legislature and secondarily by the sponsors, whose contribution has been raised from $150 to $520.

EPILOGUE

This chronology describes in brief some of the important youth service milestones from 1945 to 1975. A more complete work would have included reference to the growth of volunteer service and the movements for equal opportunity regardless of color and sex. That to me also would have described other pertinent Federal programs such as the Teacher Corps and the National Health Service Corps, state programs such as the Commonwealth Service Corps in Massachusetts and Open Road in California, church programs such as those sponsored by the Mennonites and the Quakers, and given several examples from among the many municipal and private efforts which offer young people opportunities for growth through community service. Finally, it would have have outlined the forms and outcomes of national youth service programs in such countries as Israel, Iran, Nigeria, Malawi, Ethiopia, Cuba, Indonesia, Nepal and China.

Still the report would be incomplete. The record to date comprises little more than a foreward to universal youth service. When concept becomes reality, and the debates and surveys and hearings and experiments become action, the record will continue.

VIRGINIAN-PILOT PAYS TRIBUTE TO DR. BRUCE WHITAKER

Mr. HELMS. Mr. President, a feature article in the Norfolk, Va., Virginian-Pilot, edition of Sunday, August 29, 1976, paid special tribute to a distinguished North Carolina educator, Dr. Bruce E. Whitaker, president of Chowan College, at Murfreesboro. The newspaper designated Dr. Whitaker for its Man of the Week honor.

The article, entitled, "He Set His Course and Followed It," and written by a highly-respected newspaperman, Mr. Harry Stapleton of Ahoskie, N.C., relates the struggle by Dr. Whitaker to expand the service area of the junior college to a wider region of my State.

It is a tribute well deserved and I commend Dr. Whitaker for his achievements. And I congratulate my friend, Harry Stapleton, on his craftsmanship as a newsman.

Mr. President, I ask unanimous consent that the article to which I have referred and an attachment entitled "Statistical information of Chowan College," be printed in the RECORD.

There being no objection, the article and attachment were ordered to be printed in the RECORD, as follows:

HE SET HIS COURSE AND FOLLOWED IT

(By Harry Stapleton)

MURFREESBORO.—It's a long way from the sun-soaked cotton fields of Cleveland County to the shaded halls of academe.

But it was in these cotton fields that a young Bruce Whitaker perceived his life's mission and set the course for the man he was to become.

Chowan College wasn't then a part of those plow-boy dreams of the eldest of the eight children of the church-going Whitaker family.

But the youth charted a course in Christian higher education that eventually led to the gates of the Baptist Junior College in Murfreesboro.

Two decades after accepting the Chowan College presidency, Dr. Whitaker has revitalized what was a little-known institution, foundering after a century of service and has made of it one of the top two-year colleges in the nation.

The first two goals Whitaker set after taking the helm of the school in 1957 was to make Chowan an academic household word and to put the school on a solid financial foundation.

His first recommended staff addition was for a public relations officer. A year later, the school was operating in the black and has been solvent for the last 18 years.

"Chowan wasn't known outside the Roanoke-Chowan area and we set about to make it a state and regional institution," Whitaker said.

The college now draws students from 20 states and 13 foreign countries.

"We operate in the black. We operate from a point of strength, not simply of need," said the man who saved $70.25 from a $7.50 per-month school-bus-driving job to enter college.

"Much of the money we have been able to raise came because people have seen that, here, we don't throw money away. We have a sense of direction of what we want to be and what we want our students to be," he said.

Whitaker said Chowan's turnaround from a school with a capital value of $750,000 and only 293 students to assets of more than $12 million and an enrollment of more than 1000 was not a one-man show.

He speaks of hard work, dedication, and commitment of his faculty and staff and the words come out natural, without the phony ring of a cliche.

Whitaker looks like what he is, a college president, and he knows what his life and position demand.

He wears dignity like a comfortable suit and the virtues he deems desirable in a college president are indicative of his own character, Dr. Whitaker the president and Bruce Whitaker the man.

A college president has to have "good physical health," he said, and "reasonably good sense.

His ideal president has to have an acknowledged education background and be "a man of character and integrity."

"He should be a person who is able to see the forest through the trees . . . to see the jealousies and ambitions of the college community and outsiders, and yet love and appreciate them and not cut them off unduly.

"He has to keep the operation on track and yet be personable and approachable," said Whitaker.

"A college president has to be a politician, to see the value of his constituency and to make people feel a sense of worth."

Whitaker said that he regrets that demands of the presidency leave little time or opportunity for close, personal contact with students and faculty.

But he said, "I'm not interested in being the good joe on campus, the most popular.

"I'm more interested in providing the facilities and support personnel to give them (students) an education.

"I think students respect me in varying degrees but they don't look upon me as their best friend. The people they work with would be considered more like personal friends."

But he knows what he wants Chowan students to be, "educated in head and heart."

Whitaker's successful work at Chowan College and his position on state, regional, and national educational and civic organizations have brought him many honors and citations, including the presidency of the National Council of Independent Junior Colleges.

It has also brought him job offers, many of which have been assessed and turned down over the years. The challenge of Chowan remains strong even into the 20th year.

That challenge, he said, is to "keep on making it greater, better, more serviceable."

STATISTICAL INFORMATION OF CHOWAN COLLEGE, SEPT. 13, 1976

Item	1957	1965	1976
Students	293	1,170	1,060
Faculty	21	56	57
Value of land	$36,387	$116,794	$456,760
Value of permanent buildings	531,127	3,324,528	7,318,110
Plant and equipment valuation	723,896	4,048,803	9,316,944
General endowment	6,701	105,136	1,085,000
Total assets	751,668	4,729,433	12,957,619
Campus acres	120	120	235
Operating budget	$298,200	$1,260,000	$3,085,000
Educational expenditures	129,893	657,292	1,768,653
Average faculty salary (9 mo)	3,300	6,184	11,709
Average fringe benefits	195	822	2,436
Books acquired	986	3,121	3,995
Budget for books	$2,000.00	$14,300	$23,146.44
Library expenditures	12,418.87	38,901	109,310.00
Periodicals	80	203	303
Total volumes	9,292	20,342	[1] 54,470
Reels of microfilm	0	0	5,867

[1] Exclusive of bound periodicals and items in the Government Depository.

COMMEMORATION OF MORMON BATTALION

Mr. MOSS. Mr. President, in 1847 at Council Bluffs, Iowa, a small band of men volunteered for duty in what has since been called the Mormon Battalion. At the request of President Polk, these men were to march more than 2,000 miles to enforce an American peace in California where only sailors were available to aid American settlers in defending the Pacific coast against active, well-provided, and intelligent Mexican troops in the Mexican-American War. History will long remark the selfless dedication to duty these men demonstrated when they left their wives and children in tears to face this westward migration alone and volunteered their services to make the long march to defend the Pacific coast.

Led by Capt. James Allen, the battalion left from Leavenworth, Kans., in the heat of midsummer and began a 6-month march through wilderness and desert, many times without shelter or water, and with pick and ax in hand, hewed a pass through the Rocky Mountains, arriving in Los Angeles in January. Of the Mormon Battalion, Colonel Mason, at the time commanding the California military department, wrote:

> Of the service of this Battalion, of their patience, subordination and general good conduct you have already heard; and I take great pleasure in adding that as a body of men they have religiously respected the rights and feelings of these conquered people, and not a syllable of complaint has reached my ears of a single insult offered or outrage done by a Mormon volunteer. So high an opinion did I entertain of the Battalion and of their especial fitness for the duties now performed by the garrisons in this country that I made strenuous efforts to engage their services for another year.

But their obligation having expired, most of the men traveled back to the infant community of Salt Lake City, where they hoped to be reunited with relatives and friends.

To commemorate these courageous and selfless men and in conjunction with our Nation's Bicentennial, the U.S. Mormon Battalion Inc. recently presented a traveling historical musical. Entitled, "March Across Our Land," the musical was performed in Salt Lake City, Utah; Casper, Wyo.; Grand Island and Omaha, Nebr.; Dodge City, Kans.; Pueblo and Douglas, Colo.; and Santa Fe, N. Mex. At each city the cast was greeted by large audiences who brought their families to the free performance and helped to recreate the patriotism embodied by the soldiers of the Mormon Battalion. I am proud to call the attention of my distinguished colleagues to this memorable part of our Western heritage and the worthy efforts of their modern-day heirs to preserve it.

THE IMPORTANCE OF CHOICE

Mr. HANSEN. Mr. President, a note on a copy of a recent speech by the dean of the College of Mines of the University of Arizona said:

> This thought provoking article deserves your attention.

After reading the comments of Dr. William H. Dresher made to the Western Conference of State Governments at Salt Lake City, I must agree that it deserves the attention of each Member of Congress as we continue to procrastinate on a national fuels, energy, and minerals policy.

As an example Dr. Dresher reminds that:

> Unprecedented quantities of minerals and mineral fuels will be needed to feed our society next year and for many years to come. While the energy prophets can point to an inexhaustible supply of energy from the sun, which may be harnessed sometime in the future, there is no foreseeable extraterrestrial source of raw materials. Our land is the only source available to us now and in the future. Uncertainties with foreign sources have clearly indicated a need for caution in over-reliance on foreign nations for energy and material supplies. At the time of the October, 1973 Arab Oil embargo, our nation was dependent on the Middle East for but 17 per cent of its petroleum needs and on foreign sources as a whole for 32 per cent. Even with conservation, we now prophesy that by 1980 we will be dependent on foreign nations for 50 per cent of our petroleum needs. Will it be said during this year of 1976, the year commemorating our bicentennial of freedom from foreign domination, that we are forecasting our loss of freedom? The 1973 embargo was a hardship. A future embargo or drastic economic action could be a national catastrophe!
>
> Even under the best of circumstances to meet even a portion of our needs from domestic sources is truly a Herculean effort! Long lead times are needed to explore for and to develop our domestic resources. In some cases, whole new technologies have to be developed and in other cases substitutes have to be used as certain mineral commodities become no longer available in economic quantities from our lands. Large amounts of capital have to be raised, mines and mills designed and built, and equipment ordered. Do you know that today you can't just go in to a showroom and buy a mining truck, or a power shovel, or a drilling rig? Yes, they will take your order but in many cases, they cannot promise delivery for another three to five years! And, how much will it cost, you might ask your salesperson? "I can't tell you precisely how much the cost will be"

he will respond; "you will be quoted at the time of delivery"!

Detailed planning, long lead times and high risks are the climate in which today's mining or petroleum company operates. While most businessmen expect to return their investment in ten years or so, a new mining or petroleum operation won't even be seeing its first production in that time. Twelve to fourteen years is an average time for the total process of exploration, development and construction to take place on such operations. This is why so many of us are concerned. We are concerned, that in our hustle to provide ourselves with what we consider to be a quality lifestyle that we will inadvertently reduce our capability to supply ourselves with the very basics of that quality of life. We are concerned that those who seek change and those who are empowered to make change do not understand how the materials and energy system operates. And, that in their ignorance, our economic and productive system will be damaged beyond repair.

Mr. President, as we near adjournment of the 94th Congress without passing any real substantive legislation to start the United States on the road to energy independence, I believe we would all benefit from the sobering revelations and reminders of Dr. Dresher's speech.

We must wake up to the realities of our growing dependency on foreign fuels and minerals.

Let me repeat Dr. Dresher's warning:

> Will it be said during this year of 1976, the year commemorating our bicentennial of freedom from foreign domination, that we are forecasting our loss of freedom? The 1973 embargo was a hardship. A future embargo or drastic economic action could be a national catastrophe!

Mr. President, because of its import, clarity, and timeliness, I ask unanimous consent that the full text of Dr. Dresher's speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

THE IMPORTANCE OF CHOICE

(By William H. Dresher)

I am both pleased and honored to have the opportunity to address you men and women of the Western Conference of The Council of State Governments today. Thank you not only for the opportunity to discuss with you a subject which is of the utmost importance to all of us—the accessability of public lands for mineral and energy development—but also for the opportunity to once again visit this fine city. It was just twenty years ago last month that I left the campus up on the side of the mountains under the white "U"—the University of Utah—with my Ph. D. degree under my arm and a youthful will to make this world a little better place for all of us.

In my student days here, I was particularly impressed with the newly-installed computer and microwave control system of Utah Power and Light Company which enabled a person, sitting at a control panel here, at the Salt Lake Office, to make the calculation of the least expensive source of energy—a hydroelectric plant on the Bear River in Cache Valley to the north, a coal-fired plant at Huntington to the south, or an oil and natural gas-fired plant here in Salt Lake City. The choice was made in a twinkling of an eye and the command message was beamed directly to the automatic control panels of the far-flung generating stations. Without further benefit of a human hand instantly another source of energy was brought into action as the previous one was phased out. Oh, for that ability to make a choice again! Last year, Utah Power and Light's electrical energy came mostly from coal—89% of it.

The hydropower capacity was long ago usurped such that last year it contributed but 8% to the power lines. Oil was expensive and natural gas was so intermittent that plants using them collectively contributed only 3% to power the wheels of Utah's growing industry and to the comfort of her residents. And that coal on which Uath is now so dependent has moved in cost from $4.70 per ton in 1971 to just twice that—$9.42 per ton in 1975! Utah, unfortunately, has lost her ability to choose her power source. Choice is no longer available here or elsewhere in our nation—America's options are fast running out. Our energy options are diminishing and our raw material options are certain to follow. Today, the most important thing we face as a nation is how to meet our country's present and future energy and raw material requirements. We must find an effective and permanent solution to these problems and it must be done quickly. The title of the Energy Research and Development Authority's latest report to the president is, "Creating Energy Choices for the Future". This is our stated national goal for energy and it must become our goal for raw materials also. The preservation of our option for choice is all important and yet, it seems that through legislative and administrative processes, we in America are fast running out on our options for choice!

We live in an industrial society. That society has brought to all of us the things we know best, all of the things we enjoy and all of the things we rely on. Our economy depends upon it, our welfare and our security depend upon it. Hopes of maintaining an industrial society and the lifestyle which we have achieved depend above all on continual availability to obtain the energy and material goods which feed that society. We cannot divorce ourselves from these needs, for they are your needs and my needs. Last year, you and I, and all other Americans, used an average of 40,000 pounds each—20 tons—of raw materials—stone, sand, copper, iron, aluminum, titanium, and many others.

We, you and I, used an amount of energy, in the form of oil, coal, natural gas and uranium, equivalent to the work output of 300 strong men—300 slaves, if you will, working for each of us night and day. Excessive you might say? Excessive perhaps, but nevertheless, these are the materials and the energy goods which are the foundation of our standard of living—yours and mine—the "quality of life" which we are all trying to protect. Further, it has been the wise use of these material and energy supplies that has given us American unprecedented prosperity and world leadership—two achievements which the rest of the world is striving for.

Unprecedented quantities of minerals and mineral fuels will be needed to feed our society next year and for many years to come. While the energy prophets can point to an inexhaustable supply of energy from the sun, which may be harnessed sometime in the future, there is no foreseeable extraterrestrial source of raw materials. Our land is the only source available to us now and in the future. Uncertainties with foreign sources have clearly indicated a need for caution in overreliance on foreign nations for energy and material supplies. At the time of the October, 1973 Arab Oil embargo, our nation was dependent on the Middle East for but 17% of itse petroleum needs and on foreign sources as a whole for 32%. Even with conservation, we now prophesy that by 1980 we will be dependent on foreign nations for 50% of our petroleum needs. Will it be said during this year of 1976, the year commemorating our bicentennial of freedom from foreign domination, that we are forecasting our loss of freedom? The 1973 embargo was a hardship. A future embargo or drastic economic action could be a national catastrophy?

Even under the best of circumstances to meet even a portion of our needs from domestic sources is truly a Herculean effort! Long lead times are needed to explore for and to develop our domestic resources. In some cases, whole new technologies have to be developed and in other cases substitutes have to be used as certain mineral commodities become no longer available in economic quantities from our lands. Large amounts of capital have to be raised, mines and mills designed and built, and equipment ordered. Do yon know that today you can't just go in to a showroom and buy a mining truck, or a power shovel, or a drilling rig? Yes, they will take your order but in many cases, they cannot promise delivery for another three to five years! And, how much will it cost, you might ask your salesperson? "I can't tell you precisely how much the cost will be" he will respond: "you will be quoted at the time of delivery"! Detailed planning, long lead times and high risks are the climate in which today's mining or petroleum company operates. While most businessmen expect to return their investment in ten years or so, a new mining or petroleum operation won't even be seeing its first production in that time. Twelve to fourteen years is an average time for the total process of exploration, development and construction to take place on such operations. This is why so many of us are concerned. We are concerned, that in our hustle to provide ourselves what we consider to be a quality lifestyle that we will inadvertently reduce our capability to supply ourselves with the very basics of that quality of life. We are concerned that those who seek change and those who are empowered to make change do not understand how the materials and energy system operates. And, that in their ignorance, our economic and productive system will be damaged beyond repair.

It goes without saying, I suppose, that the aquisition of mineral raw materials and fuels must be done without destroying the environment of the society that needs and uses them. To do so would certainly be counterproductive to that society.

In recent years, we have seen the recognition and development of an increasingly complex variety of issues that relate to the need to preserve the precarious balance between material and energy requirements and other natural resources. We must certainly insure that our nation's air, land and water resources are used most effectively and for the benefit of the maximum number of people. All of us, I am sure, support fundamentally the broad objectives of environmentalists and conservationists. After all, it is our world too that they are seeking to protect. But unfortunately, it is clearly evident that their efforts to date are endangering the very existence of the quality of life they aspire to protect. And in some cases, their efforts in one direction countermand efforts in other directions of national import. By illustration, I cite the gross movement of power plants from the burning of coal to the burning of natural gas—a movement which enhanced our environmental goals but it greatly dislocated the nation's energy goals; likewise, we can cite the air pollution control devices on automobiles which greatly decreased the gasoline mileage of the automobile. Clearly, a balance is in order, but the facts must be known before a balance can be struck.

We are constantly told that we must find the best use of our public lands—uses that will benefit the maximum number of people—"multiple use" is the favorite phrase today. Yet, how many of these areas are being parceled out for a singular use with no realistic assessment of the full value of these lands to society? I wonder if any of you have stopped to think of the value derived from mining operations on public lands? Not the profits to the mining companies, but the value to the American people—people like you and me. Let's take a look at the Bingham copper mine which lies just west of this city. Dr. Ernest Ohle, a well-known exploration geologist here in Salt Lake City, pointed out in his Presidential Address to the Society of Economic Geologists last year that the copper mine in Bingham Canyon, with perhaps 12 square miles of disturbed area—just 7,500 acres—each year provides copper equivalent to that used in all of the 11 million cars bought in the United States in 1973 or all of the houses built in America in the past five years! What greater value could 7,500 acres contribute to our society? On a dollars and cents basis, consider that one acre of a 0.6 percent porphyry copper deposit 300 feet thick contains metals, at 70 cents per pound, worth $9,100,000! It is hard to think of any metalliferous mineral deposit which doesn't contain metal worth at least $200,000 per acre! What other usage, be it timber, agricultural crops or recreation which even over decades can possibly match this value to society? Further, many of the materials derived from these lands are useful forever for they are recyclable! Don't misunderstand me, not all land is even eligible for the consideration of a mining venture. In all of the U.S. only a little over 3 million acres, or 0.16 percent of the total land area of the nation, have been so chosen since 1930. Quite obviously, these acres are very unique and special acres. And while mining must necessarily disturb these acres for at least some period of time, this disturbance is only temporary for 40 percent of the acres so disturbed have already been reclaimed for additional beneficial use.

It was revealed last September by Jack Carlson, then Assistant Secretary of the Interior for Energy and Minerals, and now candidate for the Senate of the United States representing Utah, that as of 1974, mineral explorationists were locked out of 73 percent of the land where mineral raw materials and mineral fuels are most likely to exist—our public lands. 73 percent in 1974 as compared with 17 percent in 1968—just think of that! American land on which we have the right to search and develop minerals, which is now withheld, is equal in size to every state east of the Mississippi River, excluding Maine.

What is worse, until two of Mr. Carlson's employees, Gary Bennethum and L. Courtland Lee, painstakingly extracted the information from the Federal Register and other public documents at their own initiative and on their own time no one, not even the "decision-makers" of Washington, had any inkling of the magnitude of the withdrawal which had taken place! It is worth mentioning in passing here that the total amount of land used in the U.S. for mining operations has been roughly equal to the land occupied by the State of Connecticut. The amount now withdrawn from exploration and mining is over 400 times that ever used for mining in the United States!

A few weeks ago, I visited Washington and stopped in to see Rolland Reed and Jim Gill, Deputy Assistant Secretaries of the Interior, Minerals and Energy, respectively. I was interested in obtaining from them first-hand a detailed breakdown of the withdrawn lands in each of your states. That data, ladies and gentlemen, does not exist today in spite of the fact that the problem has been known for nearly a year now! The Federal government itself does not yet have such data in any one place. Yes, the data for Idaho has been completed and the Utah data is now in preliminary form, but Dr. Reed estimates that two to three man-years per state are required to compile these statistics. Bill Fisher, the Assistant Secretary of the Interior has informed me recently that a Departmental task force has been organized and is working on this matter. The assignment is now in the hands of Jack Horton, Assistant Secretary for Land and Water Resources. If you wish to pursue the matter further yourself, please contact your congressman and ask him to request that the information be compiled for your state. These withdrawals certainly will have vital economic consequences to your state in future years.

Unfortunately, the land withdrawal process has not stopped yet and if allowed to continue at the present rate all of our public lands will be off base to mineral development by 1980. In addition to the specific withdrawal acts already being talked about in the Congress, would be an all encompassing general withdrawal action. Included in the act would be the habitats of 3 to 4 thousand plant species. Included in this will also be certain species of butterflys and land snails. It makes me wonder, how soon will you and I be the endangered ones?

The United States Geological Survey and the United States Bureau of Mines have been directed to conduct mineral surveys on national forest areas designated as wilderness areas as well as that designated as primitive areas. In addition, they have been directed to conduct mineral surveys on other areas being considered for wilderness designation, designated Forest Service roadless areas, Department of the Interior game ranges and one national monument.

The study of Forest Service primitive areas and contiguous tracts, totaling 7.2 million acres, has been completed—at least it has been superficially completed for no mineral appraisal of this scale can be sufficiently thorough to truly call it complete. Of the wilderness areas designated in the 1964 Act, field work will have been completed on some 1.1 million acres by the end of 1976 leaving 4.8 million acres to be completed by 1984—the final date of land closure under the 1964 Act. Mineral surveys must also be completed on 176,000 acres of the 212,616 acres named as wilderness in the Eastern Wilderness Act, 7.8 million acres in five Interior game ranges and the Glacier Bay National Monument I spoke of before and, if the proposed BLM Organic Act is enacted, an additional 85 million acres will have to be examined!

The collective FY 1976 budget for this responsibility was $4.4 million—approximately one-tenth of that being spent in my State of Arizona this year by private industry in its search for additional copper deposits! The U.S.G.S. and the U.S.B.M. have neither the funds nor the manpower required to examine these areas before withdrawal is finalized. Secretary of the Interior Thomas Kleepe himself has pointed out to the Congress that only a superficial examination is possible. In his letter to Representative James Haley, Chairman of the House Committee on Interior and Insular Affairs last April 7th, he said, ". . . Some people believe that an initial mineral survey definitely establishes the existence or non-existence of minerals and provides sufficient information to decide wilderness designation is the best single purpose use of a National Forest area in perpetuity. In reality, however, an initial mineral survey provides essential but relatively limited information."

It is obvious to all of us with mining concern that none of these lands will be examined with sufficient thoroughness to conclusively proclaim them to be "non-mineral". First of all, it would be a superhuman task to apply the same concentrated effort to the tens of millions of acres involved that a mining company finds necessary to apply to a few thousands of acres in the delineation of a new mineral deposit for commercial development. Second, new exploration tools and techniques are constantly being devised and thus making it possible to find mineral deposits which were concealed to older techniques. Further, new developments in metallurgical technology have continually made possible the proecssing of lower and lower grade ores. Let me give you a first-hand example of this. In 1920, the U.S.G.S. reported upon an area south of Tucson regarding its mineral potential.

Following this report, the Commissioner of the General Land Office, in 1922, instructed the Registrar and Receiver in Phoenix that the land, ". . . is hereby classified as non-mineral in character." A close examination of an aerial photograph made in 1937, 15 years later, shows no evidence of mining activity in the area covered—an area of some 525 square miles of land—15 miles across by 35 miles long. Yet, today that very area of that photograph hosts five major copper mines which, in 1974, produced some $603 million of copper—over 300,000 tons, or 10 percent of the copper consumed by the entire country in that year!

Other actions besides withdrawals also obstruct our access to minerals on the public lands. The Environmental Impact Statement, the one tool available to us to assess the pros and cons of any action in the Federal sector, has itself become an instrument of defacto withdrawal. The sheer massiveness of the number of statements issued each year and the lengthy review process for each has deferred projects to the point of extinction. The Kaiparowits power plant here in southern Utah is a good example. Seven years ago, in 1969, when the agreements between the utilities involved and the Department of the Interior were signed the project cost was estimated to be $750 million. In April of this year, when the California utilities decided to bow out, the cost was estimated at $3.5 billion! Time itself is a withdrawing action and time is becoming a scarce commodity too!

The United States Geological Survey, which has administrative responsibility for the mineral leasing program and regulatory authority over leased mineral and mineral fuel development and production, estimates that it must read and evaluate approximately 2200 environmental impact statements each year. For those which it prepares itself, the cost is approximately $1.5 million each!

Clearly, there are neither the funds nor the manpower available to adequately handle the administrative red tape we have created for ourselves and yet the process still continues. Carried to its extremes the EIS procedure can effectively block all progress.

Mineral fuels on public lands are leaseable. That is, before the development of a mineral fuel deposit on public lands the operator must acquire a lease from the Federal government through competitive bidding. Lease sales are deemed to be a significant impact on the environment; hence, an EIS and the public hearing process are required for each lease sale. The Bureau of Land Management has recently proposed that this process be advanced to the drilling state and in my State of Arizona this restriction has already taken place on the Black Mesa where Dresser Industries is attempting to initiate a new coal mine. In other words, under the proposed regulations, the process by which the mineral fuel deposit itself is evaluated—drilling—is deemed to be a "significant disturbance of the environment" and the whole EIS procedure multiplied ten's of hundred's of times over for just this one important function—the leasing of public lands to provide us with the mineral fuels which are required to replace those we must import!

My friends in the geothermal energy development business tell me that the single most prohibitive factor in the development of geothermal energy in the United States is the fact that geothermal energy sources have been declared leaseable and they are thus subject to all of the obstacles I have described—and yet, ladies and gentleman, geothermal energy is one of the few sources of non-depletable energy we expect to have at our disposal in the future! In our attempts to regulate we are often curtailing the development of the very activity we wish to promote!

The movement to over-regulate has become a national problem. The solution to each of our problems seems to be to control and to regulate and yet, the additive sum of a regulatory government often breeds more problems than it solves. That's why we fought for and gained our independence from Great Britain 200 years ago this month. You, my friends, at the state level of government are in the position to make yourselves heard on this issue. Not by a "Boston Tea Party", but by a loud and firm protest about what a "foreign government—Washington—is doing to your state!

Both the West and the nation stand to benefit from the proper development of western mineral resources—both mineral fuel and mineral raw material. This development can be done in a responsible manner consistent with the environmental quality and the general lifestyle we Westerners want to preserve. The spector of Appalachia cannot be permitted to permeate our decisions. It is irrelevant, unnecessary and irresponsible to permit it to do so. Sheer political courage is needed to see us through the present dilemma—the courage of true leadership under fire—the courage of decision-making based on facts. America must leave all of her options open in order to face the future. We can achieve this only if we are permitted the freedom of choice—the choice of what lands to explore for mineral materials and fuels, the choice of which mineral deposits to develop, the choice of what materials and fuels to use to meet our needs. You, my friends, as representatives of the people of the western states, are in the position to make the needs of your states known to the Congress. The economy of your state and the well-being of your constituents depend upon the orderly development of your state's mineral resources.

ANNUAL V–J DAY PARADE IN SEYMOUR, IND.

Mr. HARTKE. Mr. President, it is with a great sense of admiration and pride that I call the attention of my colleagues to the annual V–J Day parade in Seymour, Ind.

Since 1946, the grateful citizens of Seymour, Ind., have expressed their continuing appreciation for the sacrifices of their brave comrades who brought the world's most devastating war, World War II, to a close. As pointed out by my friend and fellow member of the Indiana Veterans of Foreign Wars, Comdr. Walfred J. Kleimola, Seymour, Ind., is the only city in the United States which has continued to hold the V–J Day parade without interruptions since the end of this country's victory over the Empire of Japan.

Mr. President, it is patriotic devotion and love of country such as this among those who risked their lives in the service of this country which makes me proud as the chairman of the Senate Veterans' Affairs Committee to be part of such a cause. It is the men and women who remember the price which freedom always exacts who really know the true value of it. As such, the men and women in Seymour, Ind., and my distinguished colleagues in the VFW and the Ladies Auxiliary, deserve the admiration, respect, and hardiest congratulations for reminding all of us what privilege it is to be Americans.

Mr. President, I ask unanimous consent that the remarks of Walfred J. Kleimola, commander, Post 1925, Veterans of Foreign Wars, Seymour, Ind., on the occasion of the 30th anniversary of the V–J Day parade and celebration in August of this year, be printed in the RECORD. Additionally, I ask unanimous consent to have printed in the RECORD a letter of congratulations which I wrote Commander Kleimola at the time of that great celebration.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SEYMOUR, IND.,
August 1976.

Greetings:

Welcome to our 30th consecutive V.J. Day Parade and Observance sponsored by Leslie, Arbuckle, Zimmerman Post 1925. Veterans of Foreign Wars of the United States.

The first V.J. Day Parade was organized and held in August 1946. The chairman was John W. Mize (deceased). Since that time Post 1925 has sponsored the Parade continuously each August thereafter.

Seymour, Indiana is the only city in the United States that has continued to hold the V.J. Day Parade without interruption. With each passing year, our parade and interest has grown. This year will be the largest and best yet.

We will continue to have the V.J. Day Parade and observance to remind us all that the price of freedom is high. We must never forget those who paid the supreme sacrifice and those who came home minus parts of their bodies so all of us could continue to live as free people in this great nation.

On behalf of the members of the Ladies Auxiliary of Post 1925, Veterans of Foreign Wars, Seymour, Indiana, we welcome each and every one of you here this year and hope to have you back to participate with us again next year.

WALFRED J. KLEIMOLA,
Commander, Post 1925,
Veterans of Foreign Wars.

COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., August 15, 1976.

WALFRED J. KLEIMOLA,
Commander, Leslie-Arbuckle-Zimmerman Post 1925, Veterans of Foreign Wars, Seymour, Ind.

DEAR COMMANDER KLEIMOLA: It gives me a great deal of pleasure to extend to you my congratulations on this, your thirtieth observance of V–J Day. I am gratified to have the opportunity to share with you in the commemoration of this historic event.

As Chairman of the Senate Committee on Veterans' Affairs, I am constantly aware of the need to remember those who have served our nation in the Armed Forces. Our efforts in introducing legislation to aid the Veteran are performed with a deep sense of appreciation for those who come so bravely to the defense of the United States.

The Leslie-Arbuckle-Zimmerman Post has, for thirty years, carried on a fine tradition in remembering those who participated in the Victory over the Empire of Japan, and I commend you for your efforts. I am honored to join with you in paying tribute to those who served with such heroism and dedication to bring World War II to a triumphant conclusion.

Sincerely,

VANCE HARTKE,
Chairman.

"70001 LTD."—CLOSING THE GAP BETWEEN EDUCATION AND WORK

Mr. ROTH. Mr. President, educators are talking more and more about the need to close the gap between education and work. Education must be made more relevant to the world of work.

"70001 Ltd." is a manpower training program that is closing the gap between education and work. 70001 is a program of rapid employment, on-the-job training, education, and personal motivation for disadvantaged out-of-school young people between the ages of 16 and 22.

Members of 70001, who are called associates, during their off-work hours study for their high school equivalency, the general educational development certificate. Where necessary, the associates have the help of special remedial instructors in the basic skills such as math and communications. The associates often can immediately apply what they learn in the clasroom to their jobs.

This effort is proving extremely effective and successful. Hundreds of associates have earned their GED's. Also 70001 does more than simply place young people into jobs; 70001 continues to work with them through promotions and upgrading into productive and rewarding careers. This followup by 70001 is a major reason why the program has the support of the American Retail Federation and many employers in the 14 cities with 70001 programs.

I think it is significant that one of the strongest supporters of 70001 is Dr. Kenneth Hoyt, Director of the Office of Career Education, U.S. Office of Education. We need more programs like 70001 to help close the gap between education and work.

SHAH OF IRAN HAS PRESIDENT FORD WRAPPED AROUND HIS ROYAL FINGER

Mr. DURKIN. Mr. President, the newspapers this week carried two stories which on the surface may have seemed unrelated, but in fact tell the story of how the Shah of Iran has President Ford wrapped around his royal finger.

In one story, we learn that the Ford administration is pushing very hard for congressional approval of the sale of $3.8 billion in jet fighters to Iran's Air Force. The Shah wants 160 F–16's, the United States most sophisticated fighter plane not even fully available yet to our own Air Force. That sale would come on top of the sale of 80 F–14's to Iran by President Nixon, made over the objections of every general in the Pentagon and every specialist in the State Department.

In the second story, we learn that OPEC oil ministers are gathering for their semiannual rape of the industrialized nations as they consider another rise in the price of crude oil. While the United States sits back helplessly and watches its economic future determined, the Shah of Iran—our supposed friend and ally—asks his fellow oil producers for the biggest price hike of all.

The irony and tragedy of these two stories is that President Ford, and President Nixon before him, have been stepping and fetching for the Shah of Iran for 6 years. And the result: 6 years of steadily increasing oil prices. Not only has the Nixon-Ford administration jeopardized Middle East security with its reckless sales of planes and guns to Iran; it has bought a friendship hollow in everything but name.

The Shah is playing a dangerous but effective international chess game. He holds crude oil as blackmail to insure the sale of military weaponry which he demands from the United States. And, upon receiving the planes and the final bill, he simply ups the price of his crude oil and gets us to finance the whole package. The humiliation of it all—we are both forced to sell him the planes, and pay for them, too, through higher electric bills, higher gasoline prices, higher heating costs, and higher oil company profits.

Through it all, President Ford sticks to his policy of cow-towing to the good Shah. He claims it has won us an ally strategically placed in the Middle East, between the Mediterranean and the Persian Gulf. And the President claims that by buying the Shah's friendship with highly sophisticated planes and weapons, we are preventing the Soviet's from selling their planes, and thus establishing their influence.

The bottom line of that policy, however, is that energy costs are now at confiscatory levels in places like New Hampshire and New England, and the military buildup threatens another outbreak of war in the Middle East.

A better policy would be to stand up to His Highness, tell him there will be no planes or guns unless the price of oil goes down, and establish a Federal oil and gas corporation to deal exclusively with the OPEC cartel. The Shah wants as much from us as we want from him. A strong-willed administration could certainly strike a bargain on that basis—a bargain which will keep oil prices down, keep peace in the Middle East, and keep a friend on the Persian Gulf.

The sorry state of the Ford-Nixon-Kissinger policy was pointed up recently by Treasury Secretary William Simon in a secret memo uncovered by Jack Anderson. Simon told the President that he was pursuing the wrong policy with the OPEC countries, and that the United States must begin to take the hard line. Iran, he said, is increasingly dependent on American products, especially in light of the Shah's dream of dominating the Persian Gulf both militarily and economically. Unless the United States is willing to use its economic power to barter for lower oil prices, the Shah will continue to sock it to us both coming and going, Simon predicted.

This cozy relationship between the Republican administration and the Shah has two important supporters in this country—the large defense contractors and the large oil companies.

OPEC countries know that an aggressive buyer of crude oil, seeking the lowest price, could trigger an international price war without too much effort. So they opt, instead, for long-term contracts and deals with the huge American oil companies to prevent this playing one producer off another. In return, the major oil companies are guaranteed a long-term supply of oil so their refineries can run at full steam, guaranteeing stable and ever-increasing profits for stockholders.

It is quite a deal. The major oil companies are assured steady supply, and OPEC gets as high a price as it thinks it can get without triggering too much conservation or ill will. An aggressive Federal corporation out fighting for American industry, and the American consumer would show this cozy arrangement up for what it really is.

As for defense contractors, there is no expense which they will not incur to interest the Shah in one of their newest gold-plated gadgets. Upon wining and dining the Shah and his generals, and paying exhorbitant commissions to influential friends, these companies secure an offer from the Shah to buy unnecessarily large numbers of highly sophisticated weapons. The companies then turn these same tactics around on the Republican administration, dangling campaign contributions and threatening layoffs if foreign sales are not expedited. Finally, an international bargain is struck, and an arms race is born again.

What has to be done is to take control of arms sales out of the hands of foreign middlemen and arms manufacturers, and out of the hands of White House politicos, and put it where it belongs—in Congress, where arms sales are better judged on whether they further U.S. interests and world peace.

President Ford and Secretary Kissinger are out of step with the strong national interest in lower energy prices and tighter arms control. They are admirably in step with the beat of different drummers—the Shah of Iran, the major oil companies, and the large arms manufacturers.

MEDICARE AND MEDICAID FRAUD CAN BE ABATED WITH IMMEDIATE HOUSE ACTION

Mr. DOMENICI. Mr. President, I welcome the Senate's swift and judicious action in passing H.R. 12961, attaching to it medicare and medicaid antifraud amendments.

I cosponsored the initial antifraud legislation, in S. 3801, which was only introduced 10 days before its passage as amendments to the House bill. That may not be a record around here, but it shows that the Senate realized the grave consequences of delaying such important provisions.

H.R. 12961, as passed by the House, contained a provision to repeal the requirement that a State's plan for medical assistance under the medicaid program include a provision requiring consent of the State to certain suits brought with respect to payment for inpatient hospital services. The Senate passed this amendment without modification, but added additional provisions dealing with fraud and abuse. I wish to restrict my comments to the amendment at this time.

Initially, a provision was added to establish an Office of Central Fraud and Abuse Control. This unit would have overall responsibility to direct, coordinate, and make policy with respect to fraud and abuse monitoring and investigation at all organizational levels in medicare and medicaid.

A further provision clarifies the prohibition against assigning medicare and medicaid claims to third parties, such as factoring firms; it also applies to situations where a hospital or doctor tries to bypass the prohibition by using power of attorney. The medicaid mills of New York City highlighted this problem, and I was appalled at finding the extent of these activities in the Chicago area, during the course of my personal investigations there.

H.R. 12961 would also require disclosure by providers and suppliers of services under medicare and medicaid—including the medicaid mills—to the Secretary of HEW and the Comptroller General of full and complete information as to the owners of the facilities, those sharing in the proceeds of fees, and business dealings between them. Too often, during the course of recent disclosures we have heard of unnecessary services and drugs dispensed, as well as providers directing a patient to fill his or her prescription at certain pharmacies. Therefore, this provision also requires the Secertary and the States to have agreements with independent laboratories, independent pharmacies, and independent durable medical equipment supplies, who are paid directly with Government funds. These organizations, if requested, would have to freely provide access to their books and records pertaining to billing and remittance. Hospitals and nursing homes are already required to provide records of this type.

Where an act is to be found to be fraudulent, the felonious offender could be punished by up to 5 years imprisonment and up to $25,000 in fines. Abuses were previously considered only as a misdemeanor, obviously not a deterrent to those considering "ripping off" the system.

The final provisions also concern professional standard review organizations. PSRO currently reviews hospital care. This section of the bill, however, requires the Secretary to give priority to requests from a PSRO which desires to undertake review of care in "shared health care facilities," which are sometimes, regrettably, the medicaid mills. The effect of having the PSRO voluntarily assume this responsibility for shared facility review might well result in determinations by the physician of the PSRO that the care or patterns of practice of given practitioners do not meet professional standards or that care and services being provided are not medically appropriate. Such findings by the PSRO would preclude payment of Federal funds for the care and can also result in PSRO recommendation and suspension of eligibility to participate in medicare or medicaid. The PSRO would be authorized to report fraudulent cases to State and Federal law enforcement agencies as well as to the Secretary of HEW.

These amendments will undoubtedly strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicaid and medicare programs. The basis of the law was always there, but too often the law enforcer's hands were tied because of bureaucratic delays or insufficient staff. It has been estimated that 10 percent or more of payments may be fraudulent. Everybody has a different figure, but wherever I traveled in the course of my investigation with the Special Committee on Aging Subcommittee on Long-Term Care, I found substantial problems, mismanagement, waste, and fraud. This was true in Chicago and elsewhere in the country. I know my colleagues found the same egregious circumstances. Certainly the headlines centering on the subcommittee's investigation these past several months imply the "newsness" of our discoveries. It is news and a horror to realize the extent of the abuses. New York would not be in fiscal trouble if their medicaid program were cleaned up. The needy and aged would hopefully receive good medical care rather than the shoddy treatment now prevalent in the medicaid mills.

Because of the differences in our legislative structure, H.R. 12961 must go before two committees on the House side, the Interstate and Foreign Commerce Committee and the Ways and Means Committee. I urge these committees to employ the same speed and fortitude as the Senate and get this legislation before the full House without any further delays. We are only wasting our taxpayers' money. As everyone knows the economy may be in a little better shape these days, but there still is no excuse for such blatant waste and fraud to exist in our Federal programs. To allow it to continue is demoralizing to the taxpayer and outrageous to the honest citizen. We must crack down hard—and now—on the plethora of fraud and abuse that pervades our medicaid and medicare systems.

OVERWHELMING SUPPORT FOR NASA AGPLANE TECHNOLOGY PROJECT FROM STATES

Mr. MOSS. Mr. President, on August 3, I addressed the Senate on the little known but enormously important subject of aerial application of seeds, pesticides, weedicides, and fertilizers, and the importance of these techniques to the increased production of food and fiber. While there has been a steady growth in the use of agriculture airplanes—or agplanes—in recent years, current aerial technology is old, based mostly on developments during and prior to World War II.

What is urgently needed is new technology to solve a number of vexing problems which, if not solved, will tend to severely limit growth in the use of agplanes and deny us these food and fiber production gains.

New technology is needed to improve aircraft maneuverability, control chemical dispersal, determine optimal droplet size in relation to winds, improve avionics for more efficient swath dispersal and increase safety in flying around ground obstacles. These are areas that are ideally suited to the capabilities of NASA, and in May I asked Dr. James C. Fletcher, Administrator of NASA, to develop a plan for a research program in these areas.

Having received a favorable reply from Dr. Fletcher, I then wrote to the Governors of each State in order to assess the views at the State level for the potential improvement of agplane technology.

For the last several weeks, I have been bringing to the attention of the Senate the replies that I have been receiving.

I frankly did not recognize how important the Governors believe this technology to be. The support for NASA to develop a research plan has been overwhelming.

I would like to give you just a few excerpts from some of the remaining letters that I have received.

From my own State of Utah, my good friend, Gov. Calvin Rampton, says:

> There is no doubt that agricultural production could be greatly increased by appropriate application of fertilizers, seeds, and pesticides in those areas where this is feasible.

Unfortunately, he adds, existing limitations in aeronautical technology greatly limit the use of aerial applications in Utah today and as a consequence, "rangeland that could be enhanced by aerial applications is lost to production."

The Honorable Glenn W. Kreuscher, director of the Nebraska Department of Agriculture, wrote:

> If technological improvements could be made to reduce our producer input costs, (the agplane technology) project would be very beneficial to our state.

Gov. Christopher Bond of Missouri said:

> The potential for even more extended use of aerial application is limited only by the need for improved technology in this field. . . . These needs do certainly merit the aid of NASA and its unequaled aeronautical research capabilities.

The Honorable Gilbert L. Dozier, commissioner of the Louisiana Department of Agriculture, tells me:

> As Louisiana's economy is highly dependent on agriculture, any research which might reduce costs to the farmer of producing his crop is highly desirable.

Also from Louisiana, Dr. Charles A. Whitehurst, science adviser to the Governor, has written me a detailed letter regarding some of the technical aspects of the program. He also said, "we strongly encourage an active technology improvement program by NASA."

From New Hampshire, Gov. Meldrim Thompson, Jr. said:

> There is a strong feeling among some of our leading farmers and Extension Service people that a wider use could be made of this type of agriculture if improved specialty aircraft could be developed which would also improve the financial aspect of the operation.

The Governor of Michigan, the Honorable William G. Milliken, tells me:

> I am interested in any program that will enhance the value, efficiency and safety of this method of application.

Gov. David Pryor of Arkansas says that his State would benefit.

The Honorable William P. Stephens, Director of the New Mexico Department of Agriculture urged the Committee to give full support to the NASA study.

Gov. Marvin Mandel of Maryland has listed a number of areas in which his State could benefit.

Kentucky Commissioner of Agriculture Thomas O. Harris says that the program has considerable merit.

Gov. Richard D. Lamm of Colorado says that such a program would constitute a major benefit for mankind.

Gov. Dan Walker of Illinois says that he agrees completely with the committee's objectives.

Gov. Thomas L. Judge of Montana says he certainly endorses the concept.

From California, David H. Fox, cabinet secretary, says that there is a definite need for substantially more research, and they fully support the proposal.

The Honorable Paul H. Castro, Governor of Arizona, says that the program could have merit both in Arizona and throughout the Nation.

Gov. Richard F. Kneip of South Dakota says that the opportunity for continual expansion of agplane use is very great.

From Oklahoma, Gov. David L. Boren says that if NASA could provide the aerial application industry with more refined application equipment, such equipment might decrease the environmental hazards and open up large acreages which are now restricted.

In Georgia, R. H. Brown, Chairman of the Division of Agricultural Engineering is more circumspect, expressing the hope that NASA will involve qualified agricultural engineers, agronomists, horticulturists, plant pathologists and entomologists on the project.

Gov. Patrick J. Lucey says that Wisconsin would support any program for improvements in agricultural aircraft.

And from Alabama, Gov. George C. Wallace says that, unquestionably, improvements in aircraft and dispensing equipment used in agriculture would have a significantly favorable impact on Alabama agriculture.

Mr. President, even a casual reading of the mail I have received on this subject reveals that there is a great depth of understanding of the need for improved technology in this area and an almost unanimous support for the plan for NASA to develop this technology. It is my sincere hope that NASA can develop this plan, in detail, in time for inclusion in the fiscal year 1978 budget cycle. The sooner we develop this technology, the sooner our farmers and our Nation will begin to reap the benefits.

Mr. President, I ask unanimous consent that these letters from Governors and State officials be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

STATE OF UTAH,
OFFICE OF THE GOVERNOR,
Salt Lake City, Utah, September 1, 1976.

Hon. FRANK E. MOSS,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR TED: In reference to your letter regarding technology improvements in agricultural aircraft, there is no doubt that agricultural production could be greatly increased by appropriate aerial application of fertilizers, seeds and pesticides in those areas where this is feasible. I am informed by our Department of Agriculture, however, that the potential increase due to aerial application is greatly limited in the state of Utah because of existing limitations in aeronautical technology.

Generally, our cropping areas are made up of small farms with a variety of crops which cannot utilize extensive use of aircraft. Especially in the use of pesticides, problems of drift constitutes a serious problem to nontarget plants and animals. Uneven terrain, including many mountainous areas, presents a serious problem in the use of low-flying aircraft. As a consequence of this, rangeland that could be enhanced by aerial applications is lost to production. Until there are significant technological improvements in agricultural aircraft, the use of aviation to increase production will be of limited scope in Utah.

Sincerely,

CAL,
Governor.

STATE OF NEBRASKA,
DEPARTMENT OF AGRICULTURE,
Lincoln, Nebr., July 12, 1976.

Hon. FRANK MOSS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MOSS: Governor Exon asked that I respond in regards to your inquiry of developing an aerial application technology program for improvements in agricultural aircraft. Nebraska's agriculture is very vital to our state's economy and we feel there is a need to develop technology to reduce risk hazards from drift in pest and weed control applications. If technology improvements could be made to reduce our producer input costs of production, this project would be very beneficial to our state.

If we may be of additional service in any way, please contact our office.

Sincerely,

GLENN W. KREUSCHER,
Director.

EXECUTIVE OFFICE,
STATE OF MISSOURI,
Jefferson City, Mo., July 2, 1976.

Hon. FRANK E. MOSS,
Chairman, Committee on Aeronautical and Space Sciences, U.S. Senate, Washington, D.C.

DEAR SENATOR MOSS: Thank you for advising me of the Senate Committee on Aeronautical and Space Sciences request to NASA for consideration of an aerial applications technology program for improving aerial application capabilities.

Aerial application of seeds and agricultural chemicals has been practiced in Missouri for many years. The potenial for even more extended use of aerial application is limited only by the need for improved technology in this field. It is imperative that the industry develop the capability to meet the present trend toward more stringent government regulations pertaining to the use and application of pesticides and expand the effectiveness of aerial application through both the elimination of undesirable drift and the ability to positively target chemicals to specific fields and crops. These needs do certainly merit the aid of NASA and its unequaled aeronautical research capabilities.

Improvements in technology in the aerial application industry will no doubt be reflected in increased agricultural productivity both in Missouri and the United States.

Agriculture is the number one provider of jobs and income in Missouri and food is America's most vital resource. For these reasons, I am always interested in any new and innovative efforts to aid the agricultural community so that it may continue setting the pace for productivity in this state and the nation.

Sincerely,

CHRISTOPHER S. BOND,
Governor.

LOUISIANA DEPARTMENT OF AGRICULTURE,
Baton Rouge, La., July 8, 1976.

Senator FRANK E. MOSS,
U.S. Senate, Committee on Aeronautical and Space Sciences, Washington, D.C.

DEAR SENATOR MOSS: Louisiana farmers are depending on aerial application. One of the most needed areas for research is in the development of airplanes and spray equipment that assures that the product that is being applied land on target. This would enable applicators to work more agricultural land which would improve the productivity and efficiency.

As Louisiana's economy is highly dependent on agriculture, any research might reduce costs to the farmer of producing his crop is highly desirable.

If I can be of any further assistance to you or NASA, please let me know.

Sincerely,

GILBERT L. DOZIER,
Commissioner.

STATE OF LOUISIANA,
EXECUTIVE DEPARTMENT,
Baton, Rouge, La., Sept. 16, 1976.

Senator FRANK E. MOSS,
U.S. Senate, Committee on Aeronautical and Space Sciences, Washington, D.C.

DEAR SENATOR MOSS: Your correspondence of June 4, 1976 to Governor Edwards related to the development of an aerial applications technology improvement program to be carried on by the National Aeronautics and Space Administration (NASA) came to my attention during the last week. The development of such a program is most appropriate to the continued development of Louisiana's agricultural economy. The state's four major crops are rice, sugar cane, cotton and soy beans, and the efficiency and productivity of these agricultural operations is tied directly to the efficient aerial applications of seeds, pesticides, herbicides or other chemicals.

Several federal agencies, namely the Environmental Protection Agency (EPA), Federal Aviation Authority (FAA), and Occupational Safety and Health Administration (OSHA) have imposed restrictions on the applicators which in some cases make the technology marginal. The EPA has banned several key chemicals because of the problems involved in aerial applications. These federal actions tend to decrease the productivity and it is appropriate that technology to overcome these restrictions and deficiencies should come from a federal agency.

To be specific, there is a definite need to improve aerial application technology in the area of reduced drift. This could be in the form of research in nozzle configurations, aircraft performance or technical improvements in the materials being applied. It appears that drift is the most important aspect of aerial applications and is the least understood. As much as 70 percent of the chemical is lost in some applications according to agriculturalists from the cooperative extension service at LSU. There is very little data available to support these, or other figures.

There is also a conflict between applicators and researchers regarding the optimum swath width which can be used in various applications. Apparently, there is again not enough data to determine what the optimum width should be, what overlap should be flown, or what the density of applied chemical dispersion is the influence of propeller wash on the applicator mechanisms. Certainly there is a need for research in this area.

In order to get satisfactory results on any of the major crops, whether they are being treated for weeds, or insects, there is an optimum amount of water which should be sprayed with each application. The number of gallons varies for any specific application and there is a great need to know the amount of water required per acre which will give satisfactory results. In treating tree crops (fruit and nuts in Louisiana and I will assume apples in the north and northwest) there is a need for data on the effectiveness of chemicals and the amounts of water needed per treatment when the treatments are affected through the use of aircraft.

Needless to say, we strongly encourage an active technology improvement program by NASA. We feel that aerial applications in the agricultural field will determine the economic productivity of agricultural interests in the future. Moreover, it is now proposed that we use aircraft to control aquatic weed infestation in the marshes of Louisiana. It is almost certain that there will be environmental questions raised when this program is initiated. A good sound program in technology improvement can alleviate the pressures facing aerial applicators.

The states of Louisiana and Mississippi are in an ideal position to assist NASA in a technology improvement program. Both states have technology transfer offices located in the National Space Technology Laboratories (NSTL) partially funded by the National Science Foundation and are actively involved in the transfer of technology from the federal agencies at NSTL to agencies and industrial users in the states. They could be effectively used in a new program such as the one proposed and the technology improvements generated by NASA could be passed on to the aerial applicators or agricultural interests very readily.

If there is any way that I can be of further assistance to you in promoting this program, please call upon me.

Sincerely yours,

CHARLES A. WHITEHURST, Ph. D.,
Science Advisor to the Governor.

STATE OF NEW HAMPSHIRE,
Concord, N.H., June 29, 1976.

Mr. FRANK E. MOSS,
Chairman, U.S. Senate Committee on Aeronautical and Space Sciences, Washington, D.C.

DEAR MR. MOSS: Thank you for your letter of June 4 requesting my opinion on the merits of an aerial applications technology program for improvement in agricultural aircraft. As a result of discussing this program with Commissioner Townsend of the New Hampshire Department of Agriculture, I would like to make the following comments:

As you know agricultural land is very limited in the Granite State. In addition, much of the agricultural land we do have is located in areas which do not lend themselves to conventional aircraft operations.

There has been some very limited use of aircraft to apply pesticides and, to an even lesser extent, seed and fertilizer.

There is a strong feeling among some of our leading farmers and Extension Service people that a wider use could be made of this type of agriculture if improved specialty aircraft could be developed which would also improve the financial aspect of the operation.

I would assume that N.A.S.A. would be a logical source for research and development if there appears to be sufficient interest and need for such an exercise.

Sincerely,

MELDRIM THOMPSON, JR.

STATE OF MICHIGAN,
OFFICE OF THE GOVERNOR,
Lansing, Mich., June 22, 1976.

Hon. FRANK E. MOSS,
Chairman, Committee on Aeronautical and Space Sciences, U.S. Senate, Washington, D.C.

DEAR SENATOR MOSS: Thank you for your recent letter concerning a proposed agricultural aerial applications tecnnology research program to be conducted by NASA.

While Michigan agriculture does not utilize aircraft for applications to the extent some other states do, it is an important tool for many of our farmers. Therefore, I am interested in any program that will enhance the value, efficiency and safety of this method of application. Without having more specifics concerning the NASA proposal, it is not possible to comment on the impact on agricultural aviation and its use in the state. However, I look forward to receiving additional information that will enable me to judge the program in light of this state's needs.

I very much appreciate your thoughtfulness in advising me of the proposed program.

Kind personal regards,

Sincerely,

WILLIAM G. MILLIKEN,
Governor.

STATE OF ARKANSAS,
OFFICE OF THE GOVERNOR,
Little Rock, Ark., June 10, 1976.

Hon. FRANK E. MOSS,
Chairman, Committee on Aeronautical and Space Sciences, Senate Building, Washington, D.C.

DEAR SENATOR MOSS: Thank you for your letter of June 4, 1976 providing me with an opportunity to comment on your Committee's intention to have the National Aeronautics and Space Administration develop improvements to the aerial application technology that presently exists.

As Governor of a predominately agriculture state, I certainly concur with your thoughts. I feel that the State of Arkansas would stand to benefit from the improved technology through wider application of seeding, fertilizing and weed and pest control by agriculture aircraft.

With warm wishes.

Sincerely,

DAVID PRYOR, *Governor.*

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE DIRECTOR,
Las Cruces, N. Mex., June 15, 1976.

Hon. FRANK E. MOSS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MOSS: The New Mexico Department of Agriculture would strongly urge your Senate Committee on Aeronautical and Space Sciences to support a National Aeronautical and Space Sciences to support a National Aeronautics and Space Administration (NASA) study program for improving pesticide aerial application methods. I feel Congress might also encourage the Environmental Protection Agency to commit some of its research funds to the NASA program.

While large amounts of monies are spent annually to develop new pesticide chemicals, very little effort is directed towards improving application methods. The increasing practice of growing many different crops in a region and the urbanization of many farm areas makes placement of pesticides on the target crop vitally important. Regulatory programs cannot prevent all of the damage which is potential in the aerial application of pesticides. Improved technology could help minimize some of the risks now associated with the application of such compounds as the phenoxy herbicides.

The costs associated with the control of crop pests have increased substantially in recent years. More efficient aircraft and more efficient placement of the pesticide would benefit both the farmer and applicator, and help to hold down prices to the consumer.

Again, I would urge your committee to give full support to the NASA study project.

Sincerely yours,

WILLIAM P. STEPHENS,
Director.

STATE OF MARYLAND,
EXECUTIVE DEPARTMENT,
Annapolis, Md., June 18, 1976.

Hon. FRANK E. MOSS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MOSS: Your interest in soliciting my observations on the proposal being considered by your Committee on Aeronautical and Space Sciences is very much appreciated.

Here in Maryland there has been less use made of aircraft in agricultural activities than in your area of the country. Planes were used to spray for insects, and recently some effort has been made in the wet areas of the State to apply fertilizer and seed when the condition of the soil was such that it would not support other vehicle activity.

The use of the airplane in Maryland for a working tool for agriculture was begun in the middle 1940's and has increased some, but not extensively. In my opinion there will always be a need for available aircraft in specific conditions, especially if the rate per acre can be made more practical. The problem that confronts aerial activity in agricultural operations in our State of Maryland is the size of fields and the control of drift in the use of chemicals and other liquid sprays.

It has been found by some that they have had to avoid aerial spray because of adjacent homes and the small plots of land that are closed in by woodland. The above conditions even give problems with the nonfixed two-wing aircraft. Unless there are significant changes in farm size, I do not believe that aircraft will ever be extensively used as it is in the western states.

With science and technology available to us today, maybe the above problem can be overcome, but your heavily populated areas such as the northeast, there will always be difficulties facing aerial applicators.

I hope that this limited information will be of some help to you in your decision making process.

Sincerely,

MARVIN MANDEL,
Governor.

COMMONWEALTH OF KENTUCKY,
DEPARTMENT OF AGRICULTURE,
Frankfort, Ky., June 29, 1976.

Hon. FRANK E. MOSS,
Chairman, Committee on Aeronautical and Space Sciences, U.S. Senate, Washington, D.C.

DEAR SENATOR MOSS: I find your committee's proposal to develop an aerial applications technology program for improvements in agricultural aircraft most interesting.

The aerial application industry in Kentucky, although not very large, has become an important facet in our overall agricultural economy. Our grain and tobacco producing areas have found this especially true.

I think such a program has considerable merit, particularly in achieving technological advances in the application of herbicides for noxious weed control. Such practices have been environmentally objectionable in the past, I am told.

I wish you every success in developing this program. Farmers everywhere will surely benefit from such improvements.

Sincerely yours,

THOMAS O. HARRIS.

STATE OF COLORADO,
Denver, Colo., July 12, 1976.

Hon. FRANK E. MOSS,
Chairman, Committee on Aeronautical and Space Sciences, U.S. Senate, Washington, D.C.

DEAR SENATOR MOSS: This is in response to your letter of June 4, 1976, in which you request my opinion on the merits of developing an Aerial Applications Technology Program for improvements in agricultural aircraft for the Senate's consideration. I certainly support research in the area of improving the production of food and fiber by whatever means are feasible, including those beyond the present realm of scientific knowledge.

The future needs of this nation and of the world make it imperative that such scientific exploration continues unabated and with added impetus.

Improvements in aircraft carrying capacity and in vertical and short landings and takeoffs could reduce the cost of treating areas by aircraft and enable the more effective use of fertilizers, pesticides, weedicides, and other disease prevention control in plants and animals. Improved aircraft technology would enable us to deal more effectively with beetles attacking forests and with other insects that retard crop production. Fertilizers could be applied in larger quantities and forest fires could be fought more effectively.

In Colorado, as in many states, weeds are taking land out of productivity in some areas faster than urban development. We need to identify trouble spots. Satellite sensing, as well as standard aircraft operations, may help us to map the areas of greatest difficulties. In the West, by the way, part of the weed problem exists on federal lands. Weeds not only reduce the value of these federal lands for grazing purposes but also spread to privately owned lands.

I hope the Senate can proceed with the development of an Aerial Applications Technology Program for agriculture. I believe such a program would constitute a major benefit for mankind.

Sincerely,

RICHARD D. LAMM,
Governor.

STATE OF ILLINOIS,
OFFICE OF THE GOVERNOR,
Springfield, Ill., July 15, 1976.

Hon. FRANK E. MOSS,
Chairman, Committee on Aeronautical and Space Sciences, U.S. Senate, Washington, D.C.

DEAR SENATOR MOSS: I agree completely with the objectives of the Senate Committee on Aeronautical and Space Sciences on their request that NASA develop for the Senate's consideration an aerial applications technology program for improvements in agricultural aircraft.

While improvements have been made in this equipment by the industry, the numbers of such aircraft produced has been relatively small. The financial return from this low production level has never allowed the aircraft industry to expend any great amount of money on research and development projects.

It appears to me that the development of better technology could be a great boon to agriculture as well as to the aviation industry.

If we can be of any assistance to the Committee, or to NASA, you may be assured we will most willingly cooperate.

Sincerely,

DAN WALKER.

STATE OF MONTANA,
OFFICE OF THE GOVERNOR,
Helena, Mont., July 16, 1976.

Hon. FRANK E. MOSS,
Chairman, Committee on Aeronautical and Space Sciences, U.S. Senate, Washington, D.C.

DEAR SENATOR MOSS: The State of Montana certainly endorses the concept that aerial applications for seeding, fertilization, and pesticide operations needs improving. The technical aspects of aerial application has virtually remained the same for many years. We still experience each year in our state crop damages due to poor applications, less than desirable control of insects and weeds, and other related aerial application problems.

Personnel within state government and the industry itself have expressed a desire for improvement of aerial application spray systems. This state is highly interested in these systems, especially if agricultural production is increased while costs are either reduced or not increased significantly. Continued improvement of Montana's new environment through proper and improved application of pesticides and other materials will directly assist the number one industry in our state, agriculture.

Sincerely,

THOMAS L. JUDGE,
Governor.

STATE OF CALIFORNIA,
GOVERNOR'S OFFICE,
Sacramento, Calif., July 20, 1976.

Hon. FRANK E. MOSS,
Chairman, U.S. Senate Committee on Aeronautical and Space Sciences, Washington, D.C.

DEAR SENATOR MOSS: Thank you for your letter to Governor Brown concerning the development of an aerial application technology program for use of agricultural aircraft.

Aircraft are widely used and are of great importance in California agriculture. Records for 1975 show that approximately 10 million acres were treated with pesticides by aircraft. In addition, large acreages for which records are not available were seeded and fertilized by aircraft.

There are many significant benefits to be attained by use of aircraft in pest control and other agricultural activities. The speed with which an area can be treated and the ability to apply materials to cropland which cannot be entered with ground equipment are two of the critically important features of aircraft applications.

It is the opinion of knowledgeable persons, both in agricultural production and in regulatory work, that there is a definite need for substantially more research to improve agricultural chemical handling and spraying systems as well as operation features of agricultural aircraft. There is also a need to improve the effectiveness of spray systems used in conjunction with aircraft. Undesirable pesticide loss into the environment from aircraft drift due to such factors as temperature inversions and wind can undoubtedly be reduced by technological advances in application equipment. Operating noise is another factor that sometimes limits the use of aircraft in fields near urban areas.

For these reasons, we in California believe that a study by NASA to improve agricultural aircraft technology is desirable, and we fully support the proposal. The Department of Agricultural Engineering of the University of California at Davis has been studying use of aircraft in pest control for many years but has had very limited funds. Perhaps the Congress may be able to assist such academic research institutions and thus utilize valuable special resources in this area.

Sincerely,

DAVID H. FOX,
Cabinet Secretary.

OFFICE OF THE GOVERNOR,
Phoenix, Ariz., July 21, 1976.

Hon. FRANK E. MOSS,
Chairman Committee on Aeronautical and Space Sciences, U.S. Senate, Washington, D.C.

DEAR SENATOR MOSS: Please accept my apology for not answering your letter of June 4 sooner. Your thoughts concerning the development of an aerial applications technology program for improvements in agricultural aircraft are greatly appreciated. This could be a very worthwhile project in augmenting our nation's future food supply, as well as the production of food and fiber crops for export to foreign countries to maintain a favorable balance of trade posture for the United States.

The program, as you have described it, certainly could have merit both in Arizona and throughout the nation. Greater and greater supplies of food will be needed in the future to feed expanding world populations. Any sophisticated improvements in equipment to promote an increased production is a worthwhile objective.

Sincerely,

RAUL H. CASTRO,
Governor.

STATE OF SOUTH DAKOTA,
Pierre, S. Dak., July 22, 1976.

Mr. FRANK E. MOSS,
Chairman, Committee on Aeronautical and Space Sciences, Washington, D.C.

DEAR SENATOR MOSS: Thank you for your letter of June 4, 1976.

The opportunity for a continual expansion of aircraft use in performing agricultural operations such as seeding, fertilizing and pest and weed control is very great in South Dakota.

According to several aerial applicators in the area, many improvements have been made in aircraft for agricultural use in recent years. However, to bring about the greater use of aircraft for agricultural purposes design improvements are needed to provide greater safety and to insure greater accuracy in the placement of materials such as seed or fertilizer.

Also, reduction in initial purchase cost and greater economy of operation would promote agricultural usage.

With our present concerns for conservation of energy, compaction of soil, and speed of operation, the expanded use of the aircraft may very well be one of the answers.

I apologize for the delay in responding to your letter and hope that this information will still be of use to you.

Sincerely,

RICHARD F. KNEIP,
Governor.

STATE OF OKLAHOMA,
OFFICE OF THE GOVERNOR,
Oklahoma City, Okla., July 23, 1976.

Hon. FRANK MOSS,
U.S. Senate, Chairman, Committee on Aeronautical and Space Sciences, Washington, D.C.

DEAR SENATOR MOSS: It is certainly a consideration that aerial application of seeds, fertilizers, and pesticides are now not acceptable on some acreage of agricultural lands, but the limitations do not appear to be because of discrepancies of the aircraft.

Our experiences in Oklahoma are that adequate type aircraft, both fixed and rotary wing, are now available from private industry. The reasons for limiting the uses of essential agricultural chemicals are because of environmental considerations, and there appears to be no limitations on aerial seeding in the state.

We definitely do feel that if the National Aeronautics and Space Administration could provide the aerial application industry with more refined application equipment to be carried by the aircraft, such equipment might decrease the environmental hazard from drift of pesticides. New innovations in this area would open up large acreage which are now restricted and thus increase total productivity.

On behalf of those involved in the aerial application industry in Oklahoma, we appreciate the opportunity to make comments to your committee for its consideration.

Sincerely yours,

DAVID L. BOREN.

OFFICE OF THE GOVERNOR,
Atlanta, Ga., August 5, 1976.

Hon. FRANK E. MOSS,
Russell Senate Office Building, Washington, D.C.

DEAR SENATOR MOSS: In response to your letter regarding the request that the National Aeronautics and Space Administration develop for the Senate's consideration an aerial applications technology program for improvements in agricultural aircraft, I am enclosing a copy of Dr. R. H. Brown's letter of July 16, 1976, for your information.

With kindest regards, I am

Sincerely,

GEORGE BUSBEE.

THE UNIVERSITY OF GEORGIA,
COLLEGE OF AGRICULTURE,
Athens, Ga., July 16, 1976.

Hon. GEORGE BUSBEE,
Governor of Georgia, Atlanta, Ga.

DEAR GOVERNOR BUSBEE: A copy of the letter which Chairman Frank E. Moss, U.S. Senate, sent to you requesting opinions on a proposal for NASA to engage in certain agricultural research was routed to me for comments and suggestions. The second paragraph of the letter from Senator Moss indicates that the NASA proposal is oriented toward the development of a vehicle designed by utilizing technology related to various NASA programs and intended for assisting in agricultural production by aerially treating agricultural land.

The letter from Senator Moss is brief and the specific objectives and procedures envisioned by NASA is not clear. He did state, however, that they intend to develop a vehicle and my response to such a proposal is one of caution. There has been substantial research and development programs in the past aimed toward an improved aircraft for agricultural purposes. For example, such a program was in progress at Mississippi State in the 1960's. As a matter of fact, an improved aircraft was developed but is not yet in use.

Another concern and perhaps the greatest one, is that the letter indicates this will be a NASA project. What about the U.S. Department of Agriculture? What about Agricultural Engineers, Agronomists, Horticulturists, Plant Pathologists, and Entomologists that have been working on aerial applications for years? Are Aerospace Engineers going to be working alone to come up with one machine? If so, the project is certainly a mistake.

On the other hand, should the NASA proposal be to engage in a determination of the true needs, the problems, the opportunities, and to present the facts backed up with data; then the effort may do something worthwhile. I sincerely hope that NASA would involve, in the planning phases of the proposed project, those engineers and scientists mentioned above and will choose them from the various states and regions recognized for their work in this area. I hope that this information will be of assistance to Senator Moss.

Sincerely yours,

R. H. BROWN,
Chairman, Division of Agricultural Engineering.

STATE OF WISCONSIN,
OFFICE OF THE GOVERNOR,
Madison, Wis., August 9, 1976.

Honorable FRANK E. MOSS,
Chairman, U.S. Senate, Committee on Aeronautical and Space Sciences, Washington, D.C.

DEAR SENATOR MOSS: Thank you for your letter regarding a program for improvement in agricultural aircraft.

We certainly would support any program for improvements in agricultural aircraft.

Our State's Agricultural Aerial Applicators Association has expressed the need for improvements and information in such areas as:

a. Noise Control.

b. Ways to Reduce Pesticide Drift.

c. Improved Marking and Flagging Techniques.

d. Interchange of Aircraft Parts.

e. Overall Economics of Payload vs. Aircraft Power Plant.

There are several thousand acres of vegetable and field crops being treated aerially in our state, and with improved technology this acreage could be increased.

Sincerely,

PATRICK J. LUCEY,
Governor.

STATE OF ALABAMA,
GOVERNOR'S OFFICE,
Montgomery, Ala., August 10, 1976.

Hon. FRANK E. MOSS,
Chairman, The U.S. Senate Committee on Aeronautical and Space Studies, U.S. Senate, Washington, D.C.

DEAR SENATOR MOSS: To adequately respond to your request of June 4, we communicated your proposition to the Alabama Aerial Applicators' Association and Agribusiness leaders in Alabama.

Unquestionably, improvements in aircraft and dispensing equipment used in agriculture would have a significantly favorable impact on Alabama agriculture. We have learned that the major problem in all types of aerial agricultural application is drift. Reduction or elimination of drift associated with aerial application would significantly enhance and expand the use of aerial application in this state.

Improvements in the agricultural aircraft would be welcomed by pilots and farmers if such improvements contributed to safety of the occupation and improved performance of the application.

Elimination of drift and improvement in the aircraft would enable farmers to utilize aerial application in areas now closed to them because of drift and safety factors.

We embrace your proposal that the National Aeronautics and Space Administration work for improvements in agricultural aircraft and dispensing equipment utilizing space-age technology.

With kind personal regards, I am

Sincerely yours,

GEORGE C. WALLACE,
Governor.

AIR FORCE ASSOCIATION LUNCHEON FOR THE SECRETARY OF THE AIR FORCE

Mr. GOLDWATER. Mr. President, the Air Force Association has just completed its 30th annual convention which was held here in Washington, D.C., on September 20–22. For me the AFA convention is one of the highlights of my year, because it gives me an opportunity to see so many of my friends I would otherwise probably not see.

It also is an opportunity for the Air Force Secretary to speak to the association and give the members his assessment of the Air Force, its accomplishments, its near-term goals, and its requirements.

The address this year by Secretary of the Air Force, Tom Reed, was a crackerjack. He tells it like it is, and as I have repeatedly said in the past, we had better start listening to those who spend 24 hours a day worrying about our national security.

I suggest that what he has to say about increasing Soviet capability be especially noted. And then I suggest that his remarks about our own ICBM force be noted.

Mr. President, these observations by Secretary Reed reiterate what the Secretary of Defense, the Joint Chiefs of Staff, the DIA, and the CIA have all been saying about what the Soviets are doing with their strategic forces.

Yet, in spite of this, I predict that next year we will go through the same battles when we try to get MX and improvements to our Minuteman II and III funded. I am sure we will again hear the argument that such programs can only be destabilizing and will irritate the Soviets. That kind of logic must leave the Soviets in stitches.

Tom Reed also has some good points to make about the B–1, especially as to preproduction reviews. I will leave it to the reader to examine the details and judge for himself the merit of the Secretary's preproduction plan. However, I would observe that the B–1 has got to be the most thoroughly examined and tested aircraft in the history of aviation prior to going to production.

Finally, Mr. President, the Secretary makes some pertinent remarks about the quality of the Air Force General Officer Corps that are absolutely outstanding. It is about time the record was set straight, and I commend him for his statement on this subject.

Mr. President, I ask unanimous consent that the text of the remarks by Secretary of the Air Force, Thomas C. Reed, be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY HON. THOMAS C. REED

I am very pleased to be with you today at this 30th annual Air Force Association convention. It's a special pleasure to speak with you this afternoon, and I am honored to be your guest for this luncheon.

Let me begin by congratulating the Association for another great job of planning and organization. This year's convention has been very impressive in every respect. The dinner honoring our Outstanding Airmen was an excellent tribute to some of the finest and most dedicated people in the service.

This year carries forward the tradition of excellence that began with the first AFA Convention in Columbus, Ohio, in 1947. Then, as now, we were faced with a complex world. On one hand, there were bright spots. The United States enjoyed a secure place in the world, due in part to an absolute monopoly on nuclear capability. We also possessed the only truly intercontinental delivery system in the world—our first production model of the B-36 bomber had flown the month before the convention. In addition, we were preparing for man's first flight through the sound barrier.

On the other hand, there were major challenges. Negotiations over the post-war future of Korea had broken down. Greece was threatened by Communist Guerrillas. Many governments seemed unstable in the wake of what was called a "chain reaction of political crises."

In this atmosphere, there was a sense of growing danger from the Soviet Union. There was also a strong commitment to counter any aggressive action against our national interest. That commitment was reflected in this statement of policy from that first AFA Convention: "We have banded together as the Air Force Association with this in common—a steadfast belief in a strong United States as the best insurance for world peace, and in air power as the key to our strength."

Good words—words that the AFA has fully supported ever since. For the most part, the nation as a whole also has acknowledged the need to maintain our military strength. As a result, we have avoided both nuclear war and coercion by our adversaries. During my travels in this Bicentennial year, I have sensed a new recognition of the value of a strong defense and a determination to protect our interests around the world. That determination is essential because of the ominous trends we see in the military balance.

In 1964 Leonid Brezhnev replaced the mercurial Nikita Khrushchev as leader of the Soviet world. Since then Brezhnev has worked with a cool determination to expand the Soviet military machine. In the 12 years since he took over, Brezhnev has allowed ever-growing resources to defense with an annual growth rate that now approaches 6 per cent.

Despite a vastly inefficient economic system with a gross national product only one-half of ours, the Soviet Union is now spending almost one-sixth of that GNP on defense.

During those same years, since 1964, the USAF aircraft inventory is down by more than a third. Even worse, the Air Force budget is down 40 per cent in purchasing power.

The Congressional Budget Office, very much an arm of the Congress and independent of the Administration, recently reviewed the Soviet defense effort. In July they described the Soviet missile buildup as "an unprecedented modernization program of the Soviet intercontinental ballistic missile force." They then concluded that "earlier estimates (of Soviet defense spending) may have been off by nearly 100% . . . (this buildup) clearly raises questions concerning the ultimate intentions of the present regime."

Our hopes of peaceful Soviet intentions are further clouded by their lack of restraint in nuclear testing. We are concerned by the appearance of the Backfire bomber in areas which clearly indicate its intercontinental range. We are disturbed by Soviet support of conflict and instability in Africa. We are concerned by their new ability to project air power beyond their borders through development of the Kiev class aircraft carriers. Soviet efforts to build a first-class blue-water Navy during the last decade are well known. Yet one NATO Defense Chief recently told me: "The next decade could be one in which they seek air superiority in Europe". We are concerned about the substantial differences between the U.S. and USSR that have hindered our efforts to achieve an acceptable SALT II agreement.

For the lifetime of this Associtaion we have avoided nuclear war and coercion because we have maintained our strength. Since the early sixties that strength has had, as its foundation, a Triad of strategic nuclear forces: submarine launched ballistic missiles, land-based ICBMs, and manned bombers.

Submarine launched ballistic missiles have been a significant factor in American defense planning since construction of the first missile-carrying submarines began in 1959. But those submarines are growing old. They are expected to reach the end of their service lives within a decade. By then, problems of corrosion, age, and the growing Soviet anti-submarine warfare threat will require modernization of our submarine launched ballistic missile force.

We have, in fact, begun that process. Production funds for the first trident submarines were approved by the Congress in 1974, and the keel for the first boat was laid in April of this year.

Land-based ICBMs make up another leg of the Triad. These systems play a major role in our strategic posture. Their unique characteristics make ICBMs especially suitable for use either in total war, if it comes to that, or in limited strategic attack options.

The decisions to develop and deploy Minuteman and Titan were made in the fifties. The technology, at best, is early sixties.

In contrast to our aging, relatively small ICBMs, the Soviets are today deploying at least three new missile systems, threatening us with a staggering throw weight and ICBM warhead imbalance in the eighties. And the character of the Soviet target structure is changing rapidly. They are hardening command facilities and communications nodes, industrial facilities and civilian shelters. As the Chief discussed yesterday, there is a massive Soviet civil defense effort.

To meet these increased risks, we are proceeding with several important efforts in ICBM modernization.

For the near term, we are improving the survivability of our deployed missiles by upgrading the hardness of our silos against blast, shock, and electromagnetic pulse. We plan to complete this program by 1979. To improve the responsiveness and flexibility of the Minuteman III, we are adding Command Data Buffer equipment. This will allow rapid retargeting in response to real time information. Further, it will widen the envelope of options available during crises and contingencies.

We also are upgrading the effectiveness of the Minuteman III by improving guidance system accuracy through changes in computer software. These accuracy improvements should be completed by 1978.

As a hedge against Soviet breakthroughs in the near future, we are beginning serious studies of a mobile Minuteman force. We expect to learn a great deal about the problems and advantages of transporting, operating, and maintaining a complex weapon system in a mobile mode. This may allow us to deploy the system quickly if necessary; it will certainly provide valuable experience for an advanced mobile ICBM system.

For the longer term, we have been considering a follow-on ICBM for the 1980s. Activities in support of this planning have concentrated on studies and component developments grouped under the heading of Advanced ICBM Technology. However, the determined Soviet attempt to achieve strategic dominance has convinced me that we must now move beyond the basic technology stage.

It is now time to fully modernize the ICBM leg of the Triad. U.S. advances in technology over the past ten years will allow a significant increase in missile payload, improvement in accuracy, and gain in survivability under attack. In my judgment, the Air Force should begin full scale development of such a modernized ICBM—the M–X—next year if we are to even *start* redressing the growing Soviet advantage in ICBM size and payload.

The manned bomber constitutes the third leg of our strategic Triad. It is a valuable asset because it provides the most in flexibility, controllability, and mobility.

The manned bomber involves human judgment throughout its mission, from launch to final weapons delivery. It has been tested and proven in combat. Over half of America's strategic megatonnage is allocated to the bomber force.

But our bombers are also aging, and the Soviet air defense systems gain in sophistication every year.

We saw a first-hand demonstration of that in the Mid-East War of 1973—and they have progressed since then.

As a result of this projected threat and the aging of our bomber force, we have conducted extensive studies seeking the best, most cost-effective aircraft to maintain the Triad of strategic deterrence through this century. Those studies confirm that the B–1 is the right solution.

I am glad that Congress has finally completed action on the defense authorization and appropriation bills. All the funds requested by the Department of Defense to initiate production of the B–1 aircraft, $1.049B, were appropriated by the Congress. There was understandable concern that the Air Force might obligate all of these funds immediately upon the turn of the fiscal year next week. As such, the Conference Committee agreed on a cumulative obligation limit of $87M per month until February. While that constitutes incremental funding contrary to Congress' own policy, it poses no unacceptable burden on the B–1 program. The Air Force in any event plans to obligate funds at a far lower monthly rate.

With Congressional action complete, then, the responsibility for sound management lies squarely in our lap.

The flight test program is proceeding well. Earlier in the program we set 250–300 hours of flight testing as our goal prior to production. As of today the three aircraft have logged over 335 hours in the air. We have begun flying operational profile missions, using the terrain following radar system in the automatic mode—at an altitude of 200 feet at .85 mach.

We are ready to start production but we remain cautious. Prior to a contract decision, the Defense Systems Acquisition Review Council—DSARC—chaired by the Deputy Secretary of Defense, will review the program for production readiness. That procedure will assess the results of an independent cost analysis, the Air Force production readiness reviews, and negotiations for a production contract satisfactory to the Government. It will also review for approval the Logistics Support Plan. A full review of the developmental and operational tests, the engine production verification tests, and the static and fatigue tests will also be conducted.

Secondly, we are assembling an independent group to review the technical aspects of the B–1 development program in parallel with the DSARC. The group will be chaired by Professor Courtland Perkins, President of the National Academy of Engineering, and will report directly to me on any technical risks they find in entering production.

Third, the Secretary of Defense and I have asked three respected outsiders to serve as an alternatives review panel. They are Dr. Michael May (a former SALT negotiator), the Honorable Paul Nitze (former Deputy Secretary of Defense), and the Honorable Edward David (former Science Advisor to the President and now Chairman of the National Security Council Ad Hoc Strategic Panel). We have asked them for an independent reevaluation of the assumptions, results, and alternatives presented in the Joint Strategic Bomber Study originally prepared for Congress two years ago.

Finally, I intend personally to examine the fatigue test articles, the low altitude, high speed performance of a flight vehicle, and the other details of the test program that seem appropriate.

Production of the B–1 will require expenditure of a significant portion of our national resources. Such a commitment is a great responsibility. I take that responsibility seriously, and I expect the Air Force and Industry to do likewise.

Now that the Congressional Debates on the B–1 are over for the year, I've had a chance to reflect on them a bit.

We have debated facts and policies on which reasonable men could disagree. We have tried to make clear the steady, massive Soviet buildup that within a few years could put us in a real corner. We have discussed the pros and cons in the press, on the air, and in both Houses of Congress.

In all this rhetoric, however, one statement really sticks in my mind. One Senator repeatedly claimed the B–1 was just a "toy." In particular, he said, "The Air Force is dominated by pilots from WW II . . . without the B–1 bomber the Air Force might not be able to justify so many positions for Generals . . ."

What nonsense!

I'd like to tell you something about General Officers that I've found since becoming Secretary of the Air Force.

They are young—new Brigadiers are in their mid-forties and 4-stars retire by their mid-fifties. They're bright—most have graduate degrees. They are intelligent, athletic, and mature professionals.

The Air Force is fortunate—and I have been extremely fortunate personally—to have as our Chief an officer who represents the very best of those qualities. Dave Jones has been the kind of partner that would make any Secretary look good.

The Air Force may be a lot of things, but there is one thing we are not, and that is "dominated by pilots from WW II." By the end of next year, only four of today's full Generals who saw overseas duty during World War II will be left:

George Brown, who commanded a bomb squadron; Bob Dixon, who commanded a Photo-Recon squadron; Dick Ellis, who commanded a Bombardment Group; and Mike Rogers, who commanded a Fighter Squadron.

That's it among the top Air Force leadership.

In 1982, when the B–1 achieves its initial operational capability, we will have no General Officers who served in World War II. None. They all will have retired.

In case there remains some concern about our desk-bound World War II Generals, let me tell you about one who just retired.

Airplanes have been Major General Tom Rew's life. In 1942 he entered the Army Air Corps as an aircraft mechanic. Thirty years later he was commander of the 72nd Bombardment Wing on Guam.

By December of 1972 it was clear that the Paris negotiations with the North Vietnamese were at a standstill. On the 15th of that month the President directed the Strategic Air Command to start bombing the Hanoi-Haiphong area, one of the most heavily defended areas in the world, and to keep it up until we had an agreement in Paris.

Three days later it was time to start. General Rew led the way, in the first B–52, in the first cell, with the first time on target over Hanoi. General Rew flew again from Guam, as he had done three times before in the "Arc Light" attacks. On the 30th of December the President announced an end to the bombing. We had an agreement.

A lot of senior officers didn't come back from those raids. A lot of young kids didn't either. We lost 15 B–52s. But regardless of the political merits of that war, or that decision, when the President said "Go," General Rew went. So did the others up and down the line.

When I asked him later why, he seemed rather surprised that I would ask. He and his men had drawn their pay for years training for that possibility. When the time came to really risk their lives and earn their pay, they understood what duty meant. Especially that World War II veteran.

For a U.S. Senator—who voted "Yes" on the Tonkin Gulf Resolution to authorize his President to proceed with escalation of that war; whose lack of foresight contributed to those grim nights over Hanoi—to complain about men like General Rew is an act of political flimflam.

I would like to correct the Senator. The Air Force is led by General Officers who are young, bright, and dedicated to the best interests of this nation.

If ever there was a need for the Air Force Association, it's now. At the convention in 1947, our first Chief of Staff, General Spaatz, said that the Air Force would look to AFA "as a major link with the people of the United States, through which it will be possible to insure that the roots of air power are firmly established and maintained."

No one could say it better. We still look to the AFA as that major, vital link. Go out and recruit another member. NOW. He or she doesn't have to be a former blue suiter, or be in the aerospace business, or live near an air base. All that's required is a serious concern for our future.

Go home and recruit that key local leader who can help maintain our civilian roots. The next generation is counting on you.

VERNON JORDAN ADDRESS AT LBJ SCHOOL SYMPOSIUM—"TOWARD NEW HUMAN RIGHTS"

Mr. HUMPHREY. Mr. President, I want to share with my colleagues an address by Vernon E. Jordan, Jr., executive director of the National Urban League, at a recent symposium conducted at the Lyndon B. Johnson School of Public Affairs. The theme of the symposium, "Toward New Human Rights," was explored fully and with enormous perception in these remarks.

With skill and insight, Mr. Jordan draws important lessons from the Bicentennial and calls us to meet the new challenges in civil rights.

Having retraced the civil rights struggle from the Revolution, Mr. Jordan proposes a new bill of rights for America's third century, including the right to education, the right to economic security, the right to health, the right to family stability, the right to representation, and the right to safe communities.

It is possible to capture the thrust of his remarks from the single passage:

> So social programs, federal spending, and a new Bill of Rights are perfectly compatible with sound resource management and practical human investment policies. The social devastation we see around us today, the blasted hopes and embittered dreams of so many millions of our people, the hunger and homelessness and bleakness that characterize so many of our cities, must inspire us to reject the prophets of the new minimalism, to restore the social concern and activism of the Second Reconstruction, and to devote our energies to securing new human rights in our third century.

Mr. President, I ask unanimous consent that the text of Mr. Jordan's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

TOWARD NEW HUMAN RIGHTS

THE EVOLUTION OF SOCIAL RIGHTS

Two hundred years ago Americans rose in armed revolt against the British Crown, basing their actions upon the philosophical premise that "all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty, and the pursuit of happiness."

The leaders of that revolt were largely drawn from the elite of colonial society. For many of them, the "inalienable rights" inherent in all men, were rights they themselves denied to black people whom they owned as chattel, whose lives and labor they commanded.

But if the men who gathered to declare their independence from English rule were blind to the hypocrisy of their position, those whom they held in bondage were not. Two years before the Virginia slaveowner, Thomas Jefferson, enshrined the concept of "inalienable rights," a group of black people petitioned the Massachusetts General Assembly for their freedom, declaring:

"We have in common with all other men a natural right to our freedoms without being deprived of them as we are a freeborn people and have never forfeited this blessing by any compact or agreement whatever."

Thus, masters and slaves agreed on the common concept of man's natural right to freedom, and the history of our nation has largely been the record of the fight to reconcile the ideals of freedom with the reality of its denial to significant segments of the population. Our first century was characterized by the struggle to extend the most elementary rights to all Americans, and it took a long and bloody civil war to do it. Our second century was marked by the struggle to break the bonds of a narrow interpretation of the meaning of those God-given "inalienable rights" in order to extend to larger and larger portions of the population the rights and privileges enjoyed by the few.

This effort may be seen as an illustration of Lincoln's dictum that the "legitimate object of Government is to do for a community of people whatever they need to have done but cannot do at all or cannot do so well for themselves in their separate and individual capacities."

Governmental power is thus seen as an intervening force to help right the balance between the powerful and the powerless. But government has never been neutral; indeed, it has often been the instrument to deny rights to people without the wealth, status and education that characterize the powerful. It was state power that made formal freedom for blacks relatively meaningless, and it was federal power that enshrined "separate but equal" as the law of the land, that encouraged rapacious "robber barons" and discouraged social and economic equality for blacks and for working people of all races.

With the coming of the New Deal and World War Two we saw more active federal action on behalf of the dispossessed and a new awareness of the need to widen basic human rights. The shared agonies of the Depression, the hardships, sacrifices and democratic rhetoric of the war experience, and the large-scale economic rearrangements caused by both events, helped to open our society to the winds of change.

For black people, the mass migration from southern agriculture to northern urban industry, the growth of the union movement, the New Deal reforms, and the experience of fighting for democracy in a segregated army resulted in a new insistence that rights are not a function of whiteness, and that the Constitutional guarantees enjoyed by white people must be extended to the black minority.

The civil rights movement of the 1950s and 1960s fought for those rights, but even while demonstrating against segregated buses, segregated drinking fountains, and segregated schools, there was a basic awareness that beyond the basic right to equality before the law, was the need for equality of opportunity in every sphere of human life. It is often forgotten that the slogan of the 1963 March on Washington was for "jobs and freedom," and not for an otherwise empty "freedom" alone.

Without access to jobs, economic security, quality education, and other means of exercising political rights, our traditional rights would wither and die. And because traditional "rights" are empty without the ability to use them, the struggle to secure what may be called "social rights" has become the focus of our attention. Indeed, from the Declaration of Independence's insistence that "all men are created equal" comes the natural conclusion that those elements basic to securing equality of opportunity are rights as fundamental as those enshrined in the Bill of Rights.

It is a measure of the vision of the architects of the New Frontier-Great Society era that much of their energies were devoted to extending economic and social rights to those denied them. This Second Reconstruction combined executive orders, judicial decisions and Congressional actions to dismantle some of the barriers to equality, and to confer upon the poor and the powerless some small measure of economic security.

The Second Reconstruction swept away laws and practices that denied civil rights to blacks and other minorities, extended the right to vote, enabled access to schools and housing to those denied them, and provided for federal programs of health, housing, education, and economic security designed to assist groups disadvantaged in those areas. Through the "war on poverty," it stimulated organization of the poor and increased their access to the judicial system and to public policy-making, in addition to concrete programs to improve their neighborhoods.

This was a significant era in our national history, one that will be seen as effecting a revolution in the status of minority groups. It enabled the South to finally rejoin the Union. And by stressing the economic prerequisites for a more equal society it helped win greater acceptance for the concept of social rights, and for their extension to all citizens.

If history will judge those Kennedy-Johnson years favorably, it must be admitted that our own day does not. Today the period of the '60s is widely regarded as a time of unwise social experiments, unfair advantages to minorities, and undue governmental interference in the economy and in private decisions.

Such a view is mean-spirited and wrong. It is the natural response of many forced to share their monopoly on rights and privileges. It elevates the right to oppress and to discriminate above the right to equality.

What concerns me most is not the attack on the reform of the 1960s by last-ditch segregationists and the radical right. Such a last gasp of venom is expected from those unwilling to admit black people's right to vote and to work.

What distresses me is the failure of moderates and liberals to take pride in the accomplishments of reforms they helped institute and supported. There is a fatal flaw of compromise and timidity in conventional liberalism that today takes the form of retreat from the uncompleted battle for equality and in the overly defensive reaction to unfounded criticisms of the reforms of the '60s.

It cannot be said too often—the Second Reconstruction was a success. Whatever the failings of this or that specific program, the overall thrust to extend equality, increase community initiatives, focus attention on the real problems of our society and to mobolize national efforts to solve those problems constitute one of the few periods of our national history of which we can be proud.

The social programs of the Kennedy and Johnson Administrations did not bring about full racial equality, they did not end poverty, they did not build a new Jerusalem. No eight-year-long effort can be expected to overcome centuries of poverty, neglect and discrimination. No social thrust as underfunded as were the programs of the '60s and so bitterly opposed by so large a segment of the population, could possibly achieve all its goals. And like other periods of social reform—Wilson's New Freedom and Roosevelt's New Deal—the Second Reconstruction ended on the battlefields of a far-off war, untimely killed before it could achieve its ends.

For black people, the era of the '60s was a period of unprecedented advances. The numbers of the black poor were reduced from over half the black population in 1960 to a third in 1969. Median black income, half that for whites in 1960, rose to over 60 percent of white income by the end of the decade. Black college attendance doubled. Black gains in housing, political participation, job distribution, and other indicators all showed startling improvements.

So black people are not inclined to be apologetic about the experiences of the '60s. We are not inclined to be overly critical of the Kennedy-Johnson social programs although they were too few and too underfunded to fully solve the problems they tackled.

But the changes of the '60s did not bring equality to black people. They did remove the restrictions imposed by race on crucial civil rights. They did provide the impetus for developments that made it possible for that portion of the black community that had skills and education to win a measure of economic progress. And they provided some measure of assistance to the majority of blacks chained in the prisons of poverty.

It is all too often conveniently forgotten that the real beneficiaries of the social reforms of the '60s were white people. Even in those programs popularly believed to be "black," the majority of participants were white. The so-called "black" war on poverty became a major instrument for reducing white poverty faster and in greater numbers than black poverty.

It is a truism that some poor whites raised to middle class status by the New Deal wound up cursing "that man in the White House" for his liberalism. So too, in the '60s, we saw the weird phenomenon of white people trained by manpower programs and placed in well-paying jobs, who bought their homes with Federal loans and guarantees, whose children went to college on federally-financed scholarships and grants, and whose entire well-being was made possible by the programs of the Kennedy-Johnson era, now castigating those same programs as being for black people.

To the extent that blacks benefited in disproportionate numbers from those programs it is because blacks were disproportionately poor. But by sheer weight of numbers, those programs were white programs, just as today the so-called "black" welfare system has more whites than blacks on its rolls.

At the end of the '60s a great gap between whites and blacks remained, a gap that has grown wider with each passing year. The reason for that gap is not hard to find. Without positive intervention on behalf of the poor and the powerless, the wealthy and the powerful will increase their share of both wealth and power.

This has been proved through recent experience. The abdication of Federal responsibilities has been followed by intolerably high levels of unemployment, accelerated urban decay, and by increased black disadvantage. Today, every fourth black worker is unemployed, two out of three black young people cannot find jobs, the numbers of the black poor are increasing, and a people who, just a few short years ago, were glibly characterized as "middle class" are once again struggling simply to survive.

Lyndon Johnson understood that it's not enough just to say "we won't discriminate any more." I was here at the Civil Rights Symposium in 1972, shortly before he died, when he said: "To be black in a white society is not to stand on level and equal ground. While the races may stand side by side, whites stand on history's mountain and blacks stand in history's hollow. Until we overcome unequal history, we cannot overcome unequal opportunity."

And Johnson concluded by saying "It's time we get down to the business of trying to stand black and white on level ground. In specific areas we must set new goals, new objectives and new standards."

It is indeed time our society stopped the rear-guard warfare against affirmative action programs that compensate for an unequal past. It is time our society scrapped the outmoded myths of limited government and neutral market forces and replaced them with policies based on the new realities of the complex economy we live in today. And it is time, long overdue, for our society to build upon the pioneering reforms of the past forty years to finally build a nation of political, social and economic justice for all.

A prerequisite for such an effort is the formulation of an extended concept of rights, a concept that includes the traditional rights embedded in the Constitution but goes beyond them to assure economic and social rights so long withheld from those excluded from privilege based on wealth, class and race.

Thus, I suggest to this Conference titled "Toward New Human Rights," the necessity for a New Bill of Rights that extends traditional American freedoms to include the natural rights that truly enable groups and individuals to enjoy "life, liberty and the pursuit of happiness."

The New Bill of Rights for America's third century would include:

The right to education, preparing all children for fuller, freer lives;

The right to economic security, which includes the right to a decent job at a decent wage for all and an income maintenance program that replaces the welfare system;

The right to health, and the need for a national health policy that ensures decent health care for all;

The right, to family stability, enabling families to survive the relentless pressures of poverty and discrimination;

The right to representation, enabling minorities to achieve full participation in the political process; and

The right to safe communities, so that no neighborhood need live in fear of crime and violence.

And implicit in these rights is the right of our cities to survive, to prosper, and to flourish as the centers of our economy and of our civilization, thus fulfilling their historic role in human history.

I suggest these new rights not as vague formulations, unattainable goals toward which to strive, but as essential elements of true democracy to be enjoyed—as rights—by all of our citizens. There is no reason why this, the world's richest nation, cannot implement them within a short, realistic time frame. There is no reason why we cannot have zero-level involuntary unemployment, and not the four percent level that's supposed to be "full employment," a level incidentally, that means 8–10 percent black joblessness. There's no reason we can't have an income maintenance program built into a reformed tax structure, health and educational systems that deliver quality services to all, or a Domestic Marshall Plan that restores urban viability.

Despite the warnings against too much government, the federal share of the gross national product is about what it has always been since the 1950s. Despite alarmist warnings about higher national debt, it is lower in proportion to GNP than in the past. Despite the warnings against inflation, there is plenty of slack in the economy and we suffer not from classical inflation but from underproduction and from wasted resources.

There is a view of federal responsibilities I have called "the new minimalism." It is a view that insists on less government, less social programs, and—ultimately—fewer rights and freedoms for those on the bottom half of our social ladder. It is a view that is incompatible with a desire to extend and reinforce social rights, for it sees as exorbitant spending programs what are really basic investments in our nation's future, investments in America's third century.

We of the Urban League Movement have experience with the kinds of investment in human resources that pay off, and pay off well. For the past nine years, our Labor Advancement Program has been recruiting and training young people for jobs in the construction trades. Some of these young people were on welfare. Some of them were on street corners and some of them, yes, some of them were keeping body and soul together in hustling and in crime. Many were high school dropouts. Most were on the outermost margins of our society, part of the growing pool of invisible black people ignored by the statistics-keepers.

Over the nine years of LEAP's life, the government has invested $22 million in the Program. Last year alone, LEAP's 16,000 placements paid $31 million in taxes—or nine million more than Washington's total investment over nine years. Over the whole nine years, LEAP's placements earned a cumulative $380 million and their total taxes have come to $90 million. That means for every dollar the government put into LEAP, it got four back.

So social programs, federal spending, and a new Bill of Rights are perfectly compatible with sound resource management and practical human investment policies. The social devastation we see around us today, the blasted hopes and embittered dreams of so many millions of our people, the hunger and homelessness and bleakness that characterize so many of our cities, must inspire us to reject the prophets of the new minimalism, to restore the social concern and activism of the Second Reconstruction, and to devote our energies to securing new human rights in our third century.

A hundred years ago, on the occasion of the Centennial, Thomas Huxley said:

"As population thickens in your great cities and the pressure of want is felt, the gaunt spectre of pauperism will stalk among you . . . Truly America has a great future before her: great in toil, in care, and in responsibility; great in true glory if she be guided in wisdom and righteousness; great in shame if she fail."

History will record that the Kennedy and Johnson Administrations strove to take our country to the high road of care and responsibility, that their energies, accomplishments, and even their mistakes, were all informed by the desire to capture for America the greatness that is based on decent and righteous behavior.

It is my hope that in these first days of our third century Americans will revive that dedication and take their first steps on the long arduous journey toward true equality and justice for all.

OPPOSITION TO RATIFICATION OF THE GENOCIDE TREATY

Mr. DOMENICI. Mr. President, the issue of ratification of the United Nations Genocide Convention Treaty still remains a matter of concern to many of my New Mexico constituents. In June of this year, the Allingham-Golding Post 18 of the American Legion in Silver City, N. Mex., passed a resolution expressing its opposition to ratification of the Genocide Treaty. I would like to share this resolution with my colleagues, since it reflects the strong opposition of many concerned and loyal Americans. Accordingly, I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

(The U.N. Genocide Convention treaty should not be ratified by the Senate of the United States)

Whereas, The Genocide Convention Treaty has again been brought up for ratification in this session of the Senate, and

Whereas, North Vietnam has formally charged the U.S. with Genocide in the United Nations, and

Whereas, Article VI of our Constitution provides that Treaties made under the Authority of the United States shall be the Supreme Law of the Land, and

Whereas, The Genocide Convention Treaty invades, changes, and nullifies American Law as heretofore exclusively determined by our own Congress, our own State Legislatures and our own Courts, and

Whereas, The ratification of the Genocide Convention Treaty by the Senate would subject the combat Veteran of Vietnam to be extradited back to Vietnam and be tried for Genocide by a World Court, and

Whereas, The presumption of innocence and the safeguards under our Constitution and Bill of Rights would be denied the Veteran by the World Court, and

Be it therefore resolved, That the U.N. Genocide Convention Treaty should not be ratified by the U.S. Senate since this action would not only jeopardize the lives of the Vietnam Veterans but would also destroy the supremacy of our Constitution and the Sovereignty of the United States of America.

THE FIRST AMENDMENT—TOO STRONG A DOCTRINE?

Mr. PROXMIRE. Mr. President, retired Justice William O. Douglas, writing an introduction to Quill magazine's special September issue devoted to the first amendment, writes:

> Perhaps, as some profess, the First Amendment is too strong a doctrine for us.

Mr. Justice Douglas, of course, is a strict constructionist when it comes to the first amendment and its prohibition against interference with our basic rights as citizens. He believes that "no law" means "no law" and not, as he says some judges think it means, "Congress may make some laws."

With the recent affair over Daniel Schoor and the restrictions placed on broadcasters in covering the important debates between President Ford and Governor Carter, it is meet that we should consider the first amendment for what it is—strong medicine against those who would weaken our liberty.

Quill, the publication of the Society of Professional Journalists, Sigma Delta Chi, is to be commended for its excellent and comprehensive issue devoted to the first amendment.

Mr. Justice Douglas summarizes the issue well in his introduction.

Mr. President, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the introduction was ordered to be printed in the RECORD, as follows:

[From Quill magazine, September 1976]

THE FIRST AMENDMENT

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

INTRODUCTION BY WILLIAM O. DOUGLAS

The first amendment is a weathervane and there are ominous signs everywhere that the values it embraces may be in for stormy weather. Decisions concerning the depth and scope of first amendment rights have been momentous since the 1930s when these rights were made applicable to the States by reason of the fourteenth amendment. Various forces since World War I have worked to curtail first amendment rights in the interest of "states' rights" and of "national security." As a nation our federalism cannot allow disparate treatment—for literature, movies, public debate, speech, and press—dependent on the whims or prejudices of local groups. So far as basic freedoms are concerned there must be national standards, lest the most illiterate and the least civilized factions lower us to their prejudices and condition the mass media and national publications to the lowest common denominator.

The first amendment states that "Congress shall make no law . . . abridging the freedom of speech, or of the press." The word "no" does not seem to be ambiguous, though many judges read the words "Congress shall make no law" to mean "Congress may make some laws."

The word "freedom" may to some have elasticity. The word "speech" to others may mean something less than—or different from—the word "expression"; and the word "press" to others means only the conventional type of newspaper and does not encompass television or radio.

The word "freedom" in terms of speech or press had no restrictive meaning when the first amendment was ratified in 1791; but the idea persisted at the local or state level that "offensive" ideas should be punished. And, at that time, so far as the First Amendment was concerned, "offensive" or any other ideas could be punished, for the first amendment was a part of the Bill of Rights, which at the beginning applied only to the federal regime.[1]

The instrument necessary for change came in 1868, shortly after the Civil War, when the Fourteenth Amendment was adopted. Section One of the Fourteenth Amendment guaranteed against state action "the privileges or immunities of citizens of the United States" and it forbade the States from denying any persons "liberty" without Due Process of Law. It was not until 1931, however, that the Speech and Press Clause of the First Amendment was held to restrict the States. Thus, it has only been during the last 45 years that the States have been compelled to live up to First Amendment requirements, and it is understandable why the folklore and tradition of states rights have stood in the way of reordering state laws to conform with the federal standard.

State compliance is compelled

Today, however, in 1976—the year of our Bicentennial—any discussion of the Speech and Press Clause of the First Amendment must proceed on the assumption that what is denied the Federal Government is likewise denied the States. A provision of the Bill of Rights applicable to the States by reason of the Fourteenth Amendment is not "watered down."[2]

It has long been stated as dictum that obscenity is not a part of "speech" or "press" guaranteed by the First Amendment, but that premise has no foundation in our legal history. The justification used for banning "obscene" publications is that they are "offensive" to many people.[3] No one, however, has been able satisfactorily to define "offensive" in a neutral or objective fashion. What one person, or group of people, finds offensive might not be at all offensive to another person or group of people. With this thought in mind I started compiling a list of themes, topics, and exegeses that were "offensive" to me. The list grew and grew. What if a community's list of "offensive" utterances equaled mine? What if the community's standards, not the national standards, determined whether a speaker or publisher or merchant is sent to prison for an "obscene" publication?[4] If a community can make criminal one "offensive" idea, what bars it from making criminal another "offensive" idea? The First Amendment says nothing about "speech" or "press" that is inoffensive. It allows all utterances, all publications to be made with impunity.

All ideas are potentially inciting. The purpose of the freedom of speech and freedom of the press clauses in the First Amendment is not merely to enlighten or comfort people, but to offer challenging and provocative and annoying ideas as well. One gets the impression from reading conventional discussions of the First Amendment that the frame of discourse and debate must be within the framework of the existing system and compatible with its basic tenets. That, of course, is the Russian philosophy. Our First Amendment is designed to protect our dissenters. Ideas have a market place, and it was assumed by Jefferson and Madison that that market is open to all ideas. That has not, however, been the direction in which judge-made law has evolved.

All ideas must be protected

Beliefs under our system are sacrosanct. What one believes is beyond the reach of government. "Do you believe in God?" "Do you believe in socialism?" These are not permissible questions for House or Senate committees to ask a witness on pain of contempt. The First Amendment's broad philosophy was stated by Chief Justice Warren in *Watkins v. United States*, 354 US 178, 200, where he wrote: "There is no congressional power to expose for the sake of exposure." *Watkins*, however, was the most advanced position taken; later decisions suggested a retreat.

The battle of preservation is old

The battle to preserve individual liberties under the First Amendment is not new. In 1887, Charles B. Reynolds—an ex-Methodist minister who renounced the Bible and started preaching the gospel of free thought—was indicted, tried, and convicted under a New Jersey blasphemy statute. Robert Ingersoll was Reynolds's attorney. Ingersoll told the jury:

". . . This statute, under which this indictment is found, is unconstitutional, because it does abridge the liberty of speech; it does exactly that which the Constitution emphatically says shall not be done.

" . . . If every man has not the right to think, the people of New Jersey had no right to make a statute, or to adopt a Constitution—no jury has the right to render a verdict, and no court to pass its sentence.

". . . In other words, without liberty of thought, no human being has the right to form a judgment. Without liberty there can be no such thing as conscience, no such thing as justice. All human actions—all good, all bad—have for a foundation the idea of human liberty, and without Liberty there can be no vice, and there can be no virtue. Take the word Liberty from human speech and all the other words become poor, withered, meaningless sounds—but with that word realized, with that word understood, the world becomes a paradise.

". . . Gladly would I give up the splendors of the nineteenth century—gladly would I forget every invention that has leaped from the brain of man—gladly would I see all books ashes, all works of art destroyed, all statutes broken, and all the triumphs of the world lost—gladly, joyously would I go back to the abodes and dens of savagery, if necessary to preserve the inestimable gem of human liberty.

". . . Thomas Jefferson entertained about the same views entertained by the defendant in this case, and he was made President of the United States . . . I sincerely hope that it will never be necessary again, under the flag of the United States—that flag for which has been shed the bravest and best blood of the world, under that flag in defense of which New Jersey poured out her best and bravest blood—I hope it will never be necessary again for a man to stand before a jury and plead for the Liberty of Speech."[5]

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[1] *Barron* v. *Mayor and City Council*, 7 Pet. (32 US) 243.

[2] *Malloy v. Hogan*, 378 U.S. 1, 10 (Brennan, J.); see also *Johnson v. Louisiana*, 406 U.S. 356, 384 (Douglas J., dissenting.)

[3] *Miller v. California*, 413 U.S. 15; *Paris Adult Theatre v. Slaton*, 413 U.S. 49.

[4] *Miller v. California*, 413 U.S. 15.

Ingersoll's words, spoken almost 90 years ago, are as valid today as they were when uttered. Nevertheless, when ideas have been perceived as too threatening or too dangerous or too "offensive," courts and juries have knuckled under to the hysteria of the times. No nation made up of mature, integrated people should allow that to happen. Perhaps, as some profess, the First Amendment is too strong a doctrine for us. Perhaps those who read it as containing only "admonitions of moderation"[6] are politically more acceptable to middle-America. But the theory of law under a Constitution is to raise the level of conscience and conduct, not to cater to the lower passions and prejudices of the uninformed among us.

There is a growing tendency of an increasingly powerful government to make the citizen walk submissively to the rightest philosophies now in the ascendancy. It may be that those pressures plus the easy use of electronic surveillance and the invasion of privacy will combine to end an era that brought us close to the Jeffersonian ideal.

MAO IN PERSPECTIVE

Mr. **BUCKLEY**. Mr. President, it is astonishing that most of the recent commentary on Chairman Mao neglected to mention his credentials as one of history's most accomplished butchers—one whose record soars head and shoulders above those set by Hitler and Stalin.

One exception to the apparent amnesia that has infected the press is a column, "On Praising Mao," written by William Murchison and published recently in the Dallas Morning News.

I ask unanimous consent that Mr. Murchison's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ON PRAISING CHAIRMAN MAO

(By William Murchison)

What a great and noble leader the man must have been. "A titan of the age," as one mourner would have it. "A giant among the giants," still another declared of him. "A beacon of world thought," moreover; "supreme architect of a brilliant world order."

Of whom are we talking? Of Churchill? Of Lincoln? Of, if you care to stretch a point, Franklin Delano Roosevelt? By no means. These are merely a few of the more vulgar tributes paid by world statesmen to the late Mao Tse-tung.

There are plenty of words, to be sure, that capture the mind and spirit of Mao. But they are not words such as "beacon of world thought." They are words such as "murderer," "thug" and "barbarian."

If I recollect my Dante, the poet, when he reaches the bottom of the Inferno, finds Satan masticating on Judas and Brutus. I trust there is room left in his mouth. That is the very place for Mao.

Since what is generally known as the "epochal" Nixon visit to Peking, praises of Mao and all his works have become routine on the lips of Westerners. Mao is the man who brought China out of feudalism; who made it not only a nation but a world power; who worked wonders in reforming its agricultural and industrial techniques. Oh, yes, it is occasionally conceded, a little blood got spilt here and there, but after all . . .

One expects Mao's Western apologists to pronounce in the next breath the cosmic truth that you can't make an omelet without breaking eggs. But, then, that might invite unpleasant comparisons with Joseph Stalin, whose wizardry at the omelet pan it is no longer fashionable to praise.

Where Stalin erred, perhaps, was in allowing Westerners into the country while his purges and agricultural famines were in progress. Mao was more sensible: The 15 million to 30 million Chinese "liquidated"—what a barbarous euphemism, by the way—between 1949 and 1958 died, as it were, in the dark. No Westerners heard their cries, nor even knew their names. They were in the way; they died. That was all there was to it

Nor did Westerners take much notice when upwards of a million died during the disastrous "Great Leap Forward"—Mao's attempt to break the family spirit and to revolutionize Chinese industry.

All told, as Dr. Richard L. Walker, the noted China scholar, reckoned in a report for the Senate Judiciary Committee, "the human cost of communism in China" has so far been a minimum of 34,300,000 lives, a maximum of 62,534,000.

It is quite curious, then, to hear the author of such bloody events praised by America's secretary of state as "a titan" and by the prime minister of Sweden as "one of the greatest figures of history and humanity." It is more than curious to hear such fulsome tributes; it is revolting.

Perhaps Kissinger and the others believe the old Roman maxim obtains: De mortuis nil nisi bonum. Of the dead, say nothing but good.

That might obtain in the case of most men, but, even granting the need for diplomatic niceties, not in the case of Mao.

The problem with saying "nothing but good" about tyrants like Mao is that the exercise tends to warp the moral perspective. What has been said of Mao, by way of encomium, might equally have been said of George Washington. Is it suggested that Mao was the George Washington of his country (as, sad to say, it was suggested of Ho Chi Minh)?

The comparison is absurd. Mainland China, of a truth, is more literate than in the old pre-Mao days; it is more united; it is far more powerful and industrialized. But even apart from the bloodshed, the price for these gains has been steep—the loss of all human freedoms. Even at its worst, the old China never denied freedom of worship, or the freedom of a farmer to eat what he has grown.

This is a fact that Mao's eulogists pass blithely over. They see only the smokestacks and the blackboards; they do not see the robot movements of 800 million slaves.

The sad truth, of course, is that Western intellectuals, predominantly leftist as they are, cannot bring themselves to speak ill of leftist societies. It was different when Francc died. Here was a man of the Right. His grave was well spat upon before the earth had been thoroughly patted down.

But pas d'ennemi a gauche, as the old Popular Front slogan goes. There are no enemies to the left. It was Chairman Mao's great good fortune to be a man of the left. He could slay, he could pillage, he could rob; and even so, he could be praised, upon breathing his last, as "a giant among the giants."

What a strange world, one reflects, do we humans nowadays live in.

YOUTH OPPORTUNITY CORPS PROPOSED

Mr. **HUMPHREY**. Mr. President, young Americans from every economic and social strata are reared with the belief that hard work and self-reliance will serve them best in the pursuit of happiness and success. Tragically, today, more than 3.4 million young people in this great country are being denied the opportunity to practice these crucial American virtues; the jobs they seek do not exist.

Today the official unemployment rate for 16 to 24 year olds stands at 15 percent. Nearly 20 percent of all Americans 16 to 19 who are seeking work cannot find jobs and more than 40 percent of all black teenagers are out of work. To compound these sad and indisputable statistics, Mr. President, the fact is the numbers I just recited do not take into account those bitter and disillusioned millions who have despaired of ever, yes, I said ever, finding decent employment. Those victims of this administration's blunders and misguided management inhabit a world of despair and disillusion we cannot imagine.

And what, I ask, has this administration done to help the citizens of the United States find some dignity and respect? Where is the policy? Where is the program? Where are the jobs? Well, I will tell you. There is no policy, there is no program and there are no jobs for the young people of the United States.

Whether this cruel indifference grows out of ideological belief or mismanagement or both is beside the point. Lives are being wasted out there and I do not see President Ford or Senator DOLE or any member of this administration doing anything about it, no matter what the tone of their campaign rhetoric.

Into this void, I would like to introduce an idea. This proposal comes from Frontlash, an organization of young people who have been registering voters and involving young Americans in the political process since 1968. They call this idea a "Youth Opportunity Corps" and I believe it merits the attention of the Senate, indeed, of the Congress. I cannot believe that this country will permit the slow destruction of our most valuable national resource: our young men and women. We need their vision, we need their vigor and we need their strength. Our future depends upon them.

Mr. President, I ask unanimous consent that testimony by Mr. Chris Gersten, executive director of Frontlash, on a new proposal for "A Youth Opportunity Corps," be printed at the point in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

A YOUTH OPPORTUNITY CORPS

(By Chris Gersten)

Self-reliance and hard work are cornerstone virtues of the American work ethic, instilled in young people from birth. Today, more than 3.4 million young Americans are being denied an opportunity to practice those virtues. The jobs they seek do not exist.

We appeal to the Congress and the President and the candidates for these offices, as well as concerned business and labor organizations to understand the special problems of youth unemployment and to support measures that will give all young people an opportunity to become self-reliant upon completion of their formal education.

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[5] See Shapiro, "Blasphemy Trial," in At East (Sunday magazine of the Bergen *Evening Record*), May 20, 1973, at p. 20.

[6] L. Hand, *The Spirit of Liberty* 278 (Dilliard ed. 1960).

Some statistics: In 1968, the unemployment rate among 16–24 year olds was 8.6 percent. By 1972, the rate had jumped to 12.6 percent and today, the unemployment rate for young people is 15 per cent.

For teenagers, job prospects are very poor. Nearly 20 percent of all young people 16–19 years old who are seeking work, can't find it. Not counted are those so discouraged that they have dropped out of the job market altogether, and those forced into part-time jobs instead of the full-time work they seek.

The employment picture for blacks is very nearly hopeless. The current "official" unemployment rate for black teenagers is more than 40 percent—much higher in our inner cities.

Unemployment among youth has these special characteristics:

1. Young people, generally the least skilled and most recently hired, are generally the first to be laid off during a business downturn.

2. Today, there is a surplus of beginners in the labor force as a consequence of the surge of births that began at the end of World War II and continued until the late sixties. Since the birth rate has fallen sharply in recent years, a more normal balance between beginners and experienced workers may be expected by 1990.

3. Unemployment among youth is especially concentrated in inner cities, where handicaps stemming from a bad environment and poor education stop them from qualifying for white collar jobs that are increasingly available in big cities. Inner city unemployment also is due to the tremendous relocation of factories from cities to communities outside of metropolitan areas. These new locations are well beyond the travel range of most inner city residents.

There is no single solution to a problem that has these multiple characteristics. And without a coherent youth employment policy, millions of young Americans face an increasingly uncertain future with fear and anxiety. In the words of Stephen K. Bailey of the American Council on Education:

"The absence of a youth policy in this country is killing the natural idealism of our young people, depriving the nation of a vigor and vision it desperately needs and consigning millions of our future citizens to a dreary sense of uselessness and purposelessness. A more dispiriting beginning to our third century as a nation is hard to conceive."

It is obvious that young Americans would benefit from a general reduction in the unemployment rate. With that objective in mind, we strongly support the Humphrey-Hawkins bill currently under consideration in the Congress.

This legislation sets these goals for any youth employment policy: The bill must: (1) foster a smoother transition from school to work: (2) prepare disadvantaged youth with employment handicaps for self sustaining jobs through education training, medical services counseling and other support activities; (3) develop methods for combining training with work including apprenticeship and on-the-job training in the private sector; and (4) provide job opportunities in a variety of tasks, including conservation, public service activities, inner city cleanup and rehabilitation and other jobs of value to their states, local communities and the nation.

The Act gives the president wide latitude in the sort of programs the President may devise to fulfill the requirements of this section. Therefore, we propose a Federally-financed Youth Opportunity Corps, which could provide temporary employment in useful public services and at the same time train corps members in vocations for the future.

Although we recognize that some valuable and successful youth-training programs now exist, the Youth Opportunity Corps that we visualize would bring young people a worthy and inspiring vision of America and of their productive and honorable place in it.

Such a job corps could be employed in a variety of tasks; inner city cleanup, improving roadsides, state and national parks and support for health care are examples of the sort of work the Youth Opportunity Corps could perform.

The Opportunity Corps, with the aid of business and trade unions, could prepare members for a number of skilled trades and occupations. Those who wished to resume studies would more clearly understand the career they might like to pursue.

But this Youth Opportunity Corps would be a failure and its men and women disillusioned and bitter if there were no jobs when their year of service ended.

The corps, therefore, should be a job placement agency, which would seek to find work for all of its graduates in accordance with their aptitude, training and record.

A key role of this job placement agency would be the resettlement of inner city youth in areas where the jobs for which they are trained now exist. If the Youth Opportunity Corps can bring jobs and people together, the burden of concentrated unemployment may be relieved from our Nation's cities.

The cost of a Youth Opportunity Corps should be calculated against the cost of burgeoning unemployment and the continuing creation of an "underclass" of unemployable citizens.

In terms of money loss to the economy, the chronic joblessness of young Americans is extremely costly. Leon H. Keyserling, former chairman of the Council of Economic Advisors under President Harry Truman told an April Hyde Park Conference of Youth that he estimated the annual GNP loss from youth unemployment to be approximately $40 billion. Atlhough this is an extremely rough figure, Keyserling said, "some changes in the figures would not alter their general significance."

The cost of chronic, hopeless unemployment is not measured in dollars alone, however. One tragic yardstick we read about in the newspapers each day—the alarming jump in the rate of juvenile crime.

Young people have a need to belong. Today, in the center cities of this Nation, that normal, adolescent impulse often finds its outlet in street gangs whose activities range from petty theft to murder. Denied the opportunity to lead a normal life of work and achievement, they can obtain at least some adventure, money and status through unlawful activities.

What the Youth Opportunity Corps would offer these young people, then, is a healthy outlet for their energies and ambitions. The YOC would offer an apprenticeship in self-reliance, providing the skills that are essential for survival, self-respect and employment.

We can think of no more appropriate time in our Nation's history than 1976 for the people of the United States, through the Federal Government, to actively seek solutions to chronic unemployment among young people and to put the Nation—the entire Nation—back to work.

GAMBLING

Mr. CANNON. Mr. President, several years ago the Congress authorized the creation of a bipartisan panel which has become known as the National Commission on the Review of Gambling Policy.

As a member of this group I have been pleased to work with House and Senate colleagues and with citizens from various parts of the country appointed by the President to review the social, economic, and taxation implications of gambling in the United States and abroad.

Throughout this inquiry, which is now about to wind up its business and report to Congress, we have obtained excellent cooperation from the various State agencies involved, from the press, and public, and from most agencies of the Executive Department.

Mr. President, I regret to have to report, however, that the Internal Revenue Service has rather shamefully been unresponsive to specific questions we have raised and even to invitations to appear and assist the Commission in its search for facts. I feel that their noncooperation is regrettable and inexcusable. Only this week high officials of the Canadian Government, the United Kingdom, and the government of the Bahamas appeared on Capitol Hill to participate in a 2-day discussion of the tax policies as they affect wagering in the various countries. Commissioner Alexander chose to avoid our invitation and apparently must have believed that the invitation was not of sufficient importance to send one of his many representatives.

As a result, the Chairman of the Commission, Charles Morin, and individual members of the panel had to apologize to our foreign visitors for the absence of appropriate IRS representatives.

It is no easy task, Mr. President, to explain to Commissioner Alexander's overseas counterparts why the IRS cannot find time to respond appropriately to a congressional invitation to walk the few blocks from 10th and Pennsylvania at a time when these visitors have traveled many thousands of miles to accommodate the U.S. Congress. It is easy for me to see why the Internal Revenue Service is in such low repute among our citizens, for one is led to wonder whether "Service" should be deleted from the "Internal Revenue Service" to more accurately portray its role and I question whether the IRS considers itself an independent branch of Government.

THE PRESIDENT'S APPOINTMENTS

Mr. HUDDLESTON. Mr. President, there is an old adage that you can judge a man by the people with whom he surrounds himself. That is especially true, I believe, when talking about the Presidency, because everyone knows that a sitting President cannot possibly involve himself or even his closest aides in all the significant decisions made by the Federal Government.

That is more true today than it was 15, 10, or even 5 years ago—because Government is so complex and Government's involvement in all facets of our lives is so great.

Thus, in judging Presidential leadership it is important to look at the kinds of men and women he appoints to the various agencies—the care with which they are selected, their qualifications, and the experience and background they bring to a particular job.

I have been quite disappointed by some of the recent appointments by President Ford—and even more disappointed by the apparent motivation for these appointments.

Let me cite a recent example which involved my region of the country—and which I became personally involved.

I am speaking of the Tennessee Valley Authority, which was created by Congress in 1933 and which serves seven States of the Tennessee River Valley region.

It is not necessary to recount the many, many successes of the TVA in helping develop our region, or to detail its importance to the region's future.

At the same time, those who closely observe TVA know that it is at a turning point in its history. It has received more criticism in recent years than at any other time in its history. Environmentalists are concerned about TVA's role in the area's ecology; customers are concerned about ever-rising electrical rates; industrial users are concerned about the continued availability of power; and the average citizen is concerned that he has no input in TVA decisionmaking.

Thus, when a vacancy was created on the three-man TVA board of directors in May 1975, there was great hope in the valley that President Ford would appoint an outstanding man or woman who could give new direction and renewed leadership to this billion-dollar public corporation.

But what has President Ford done? He has tried to give us two nominees who were totally unqualified and whose sole qualification seems to have been a Republican background in a State which had an impending Republican primary.

Everyone expects the President to appoint someone of his own party, but the residents of those seven States also expect the President to appoint someone who is qualified.

The first of the President's nominees was rejected by the Senate Public Works Committee on an 11 to 1 vote. He was not only unqualified, but he also had a questionable background in various business undertakings.

The second of Mr. Ford's nominees was also rejected by the Public Works Committee on an 8 to 6 vote. He was a man the White House billed as a top executive of one of the South's major corporations—yet his confirmation hearing showed him to be nothing of the sort.

Mr. President, the TVA directly and vitally affects the lives of thousands upon thousands of persons in Tennessee, Kentucky, Alabama, North Carolina, Mississippi, Georgia, and Virginia. And it is especially crucial to the States of Kentucky, Tennessee, and Alabama.

And, yet, the President apparently has tried to use the TVA board for very narrow political considerations. That is not only unfortunate, but it also reflects very badly on the President's leadership.

His stewardship of appointments in other areas has also been weak.

He tried to appoint to the Corporation for Public Broadcasting a man who owned what amounted to a competing television network, and who naturally refused to relinquish that ownership. Once again, the nominee's political views seemed to take precedence over his qualifications. That nomination was rejected by the Senate Commerce Committee on an 11 to 6 vote.

The President sent to the Senate a nominee for the National Transportation Safety Board even after it had been publicly revealed that she had purchased stock in one of the corporations she was charged with regulating, and after other questionable practices were exposed. The committee rejected that nomination as well.

In still another area of vital concern to me, mine safety, the President resubmitted the name of a man to be Administrator of the Mining Enforcement and Safety Administration despite his poor record as Acting Administrator and despite widespread opposition in the Congress.

Once again, the appropriate committee, this time Labor and Public Welfare, was forced to kill the nomination. Like many of those mentioned previously, this nominee's chief qualification seemed to be previous work in the President's political party.

In still another case, the President nominated the former attorney general of New Hampshire to be chairman of the Interstate Commerce Commission just a few weeks before the New Hampshire Presidential primary. After the Commerce Committee raised questions, the nominee withdrew his name.

President Ford was also forced to withdraw the nomination of a man he named to head up Federal energy efforts after it was revealed that the nominee received a 10-year severance contract from the oil transport company he was formerly associated. This nomination was made with full knowledge by the White House of that arrangement.

In another case reminiscent of the TVA situation, the President nominated to the Federal Home Loan Bank Board a former Congressman who had stated during a committee markup that "people who are late in making their public housing rents ought to be hanged:"

The Senate Banking Committee, for the first time in its history, rejected this nominee 8 to 5. Then the President sent up a nominee with an obvious conflict of interest, and when he refused to resolve the conflict the committee had to kill that nomination as well.

As a result, the Federal Home Loan Bank Board has had a vacancy on its three-man board for 1½ years.

I could go on and on. But I think the point is made.

In all too many instances, President Ford has forgone the public interest in favor of narrow political expediency when making nominations to Federal agencies affecting the lives of millions of Americans.

Mr. President, the Tennessee Valley Authority, the Federal Home Loan Bank Board, the Interstate Commerce Commission, the Mining Enforcement and Safety Administration, the National Transportation Safety Board, the Federal energy offices, and the Corporation for Public Broadcasting are not intended to be dumping grounds for what can only be called political hacks and hasbeens.

I do not question the President's right to appoint members of his own party to these agencies; of course he has the right to do that. But he also has an obligation and a responsibility to appoint persons that are qualified and who can reasonably be expected to serve the public interest.

President Ford has failed in that obligation all too many times—especially in the last few months. I believe the American people have a right to expect better from the person they entrust with the Presidency of the United States.

PRESIDENT FORD AND THE VETO POWER

Mr. HUMPHREY. Mr. President, during the last 2 years President Ford has frustrated the needs of the American people by his reckless use of the veto power at a time when our Nation has been suffering from a period of economic distress unmatched since the Great Depression. In addition, the Chief Executive, by his constant application of the veto stamp, has thwarted the will of a majority of Members of both Houses of Congress and flouted the intentions of the Founding Fathers.

The framers of our Constitution believed that the veto power was a special Presidential prerogative which, like a sword, should be kept sheathed and was only to be used on special occasions such as to protect the Republic against the enactment of unconstitutional legislation. The Founding Fathers envisioned only a limited use of this unusual constitutional device. This perception of the role of the veto power was promulgated by James Madison, "Father of the Constitution," in the Federalist, Paper No. 51, in which he warned in a prescient manner that "on extraordinary occasions, it—the veto power—might be perfidiously abused."

I call to my colleagues' attention an interesting article on the use of the veto power which appeared in the September issue of the CWA News, the official journal of the Communications Workers of America. The article, entitled "President Ford and the Veto Power: Constitutional Safeguard or Arrogant Abuse?," is authored by Mr. Lou Gerber, a member of the union's legislative staff on Capitol Hill.

Mr. President, I ask unanimous consent to have this article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PRESIDENT FORD AND THE VETO POWER: CONSTITUTIONAL SAFEGUARD OR ARROGANT ABUSE?

(By Lou Gerber)

During the last two years, a period of economic distress unparalleled since the Great Depression, the presidential veto stamp has left an indelible imprint on the lives of America's working people.

Gerald Ford has vetoed 55 bills, a record that stands in marked contrast to what he said on assuming the office of the Presidency on August 14, 1974. At that time, he told the American people that the watchwords of his administration would be "communication, conciliation, compromise and cooperation." Instead, his monumental veto struggle with Congress has produced mainly confrontation and stalemate.

In his brief tenure in the White House, the President has already refused to sign more bills than former Presidents Kennedy, Johnson and Nixon vetoed during the span of their respective terms. In fact, Ford has cast more vetoes in the past 25 months than the first 16 Chief Executives—George Washington through Abraham Lincoln—cast during the first 75 years of our history as a republic.

Through his compulsive use of the veto power, the President has not only frustrated the needs of the people, but he has actually flouted the expressed intentions of our nation's Founding Fathers, blurring the lines separating the Executive and Legislative Branches of our federal government and imperiling the delicate system of checks and balances which undergirds our constitutional system.

WHAT THE FOUNDING FATHERS HAD IN MIND

The Presidential veto power sanctioned by our American Constitution derives historically from the government of ancient Rome and from the monarchies of the Middle Ages. The word "veto" means literally "I forbid." It is the Latin word which, in ancient Rome, the tribunes (representing the plebians, the common people) were authorized to use for stopping the enactment by the Senate (dominated by patricians, the aristocracy) of a law which would harm the many.

In medieval Europe, sovereigns promoted the idea of "the divine right of kings." Even in countries with parliaments, they succeeded in retaining the authority to overturn laws which they deemed inexpedient. The tradition of a powerful monarch was inherited by King George III of England, whose despotic rule helped spark the American Revolution. Of King George's use of the veto, the Declaration of Independence stated: "He has refused his Assent to Laws the most wholesome and necessary for the public good."

Given the hatred of the American colonists for the British monarchy, it is remarkable that the Founding Fathers included the veto power at all in our Constitution. But from the debates that took place at the Constitutional Convention held in Philadelphia in 1787, the writings of James Madison and Alexander Hamilton and the actions of the early American Presidents, it is clear that the framers of the Constitution envisioned only a *limited* use of the veto power by the Chief Executive.

Madison, "Father of the Constitution," told the assembled patriots in Philadelphia that the object of the veto power was twofold: to protect the integrity of the presidential office and to prevent flagrant injustices. He amplified this view in *The Federalist*, Paper No. 51, in which he warned that "on extraordinary occasions, it (the veto power) might be perfidiously abused."

Benjamin Franklin, Pierce Butler and Roger Sherman, delegates to the Philadelphia meeting, expressed the fear, prevalent among the delegates, that inclusion of the veto power in the Constitution might lead to "abuse of the executive power." In the same vein, George Mason, a Virginia delegate, charged that "the negative power in the executive did not accord with the genius of the (American) people."

As a result of such fear that a future Chief Executive might use the veto power to trample on the rights of the elected legislators, the authors of the Constitution rejected for the American President the absolute veto enjoyed by the English King. Instead, they agreed on a qualified veto under which Congress could enact a bill into law over a presidential veto if two-thirds of each house of the legislative body voted to do so.

It is significant that Edward S. Corwin, an outstanding 20th century authority on the American Presidency, wrote that the Founding Fathers believed "the President ought to reserve the veto power for measures which he deemed to be *unconstitutional*" (italics added).

The words and deeds of our nation's early Presidents indicate unmistakably that in their understanding the veto power was to be used in strictly limited circumstances. For example, seven of the first 10 vetoes by American Presidents during the first 40 years of the new nation were based on strict constitutional grounds.

George Washington vetoed no measures at all during his first term in office. He declared in this connection that a just respect for the wisdom of the legislature required a President to exercise the veto power only when his mind was made up that a particular bill was unauthorized by the Constitution. Thomas Jefferson, author of the Declaration of Independence, did not cast a single veto during his eight years in office. James Madison, a principal architect of the Constitution, exercised the veto power only seven times during his eight years as President.

As late as 1889, U.S. Senator Cushman K. Davis, a Republican from Minnesota, stated in a floor speech: "It is clear as anything from the debates when the Constitution was formed that the veto power was only to be used to exorcise unconstitutional legislation."

Almost all of our Chief Executives have been loath to wield the veto power, because they felt that this special presidential prerogative should, like a sword, be kept sheathed and resorted to only on rare occasions to protect basic constitutional and human rights which may be in jeopardy. They recognized that the veto is a sacred trust, the single most powerful weapon available to the President under the Constitution, and one to be used only under extraordinary circumstances.

PRESIDENT FORD'S VETO RECORD

Since 1789, the Legislative Branch of the government has passed and sent to the nation's 38 Chief Executives nearly 90,000 bills. Approximately 2,450 of these, slightly less than three percent of the total number, have been vetoed. In the case of 2,450 bills that the President has refused to sign, Congress has overridden the veto in 3.5 percent of the cases.

By contrast, the current occupant of the Oval Office has compiled the second worst track record, in having his vetoes overridden by Congress, of any President in the history of the Republic. Of the 55 bills which Congress has presented to him that he has refused to sign into law, 10—or 19 percent—have been passed by Congress over his veto. This means that the 94th Congress is overturning presidential vetoes at a rate which is almost six times as high as the historical average of 3.5 percent in override successes.

Andrew Johnson, who had 15 of his 28 vetoes overridden and came within one vote of removal from office by impeachment, was the only President to have more trouble with Congress than Ford in this respect.

Four days after assuming the Presidency, Ford vetoed his first bill, a measure which would have given a pay raise to deputy U.S. marshals. As a harbinger of what was to come, the President, in his veto message, charged that the bill was inflationary and budget-busting. The bill's purpose, however, was to provide a wage increase for federal law enforcement personnel who were among the millions of working people tightly caught between the twin pincers of inflation and recession.

The President's unremitting use of the veto power has distressed even his successor as House Minority Leader, Representative John Rhodes (R-Ariz.), a conservative who declared on December 5, 1974, "I think the veto power should be used sparingly." The new Minority Leader called for a "consensus government" and advocated that instead of casting a stream of vetoes, the President should consult Democratic and Republican congressional leaders in advance on legislative proposals. Otherwise, Rhodes said, Ford's vetoes could produce a "stalemate."

VETOES OF EMERGENCY BILLS

During the last two years, Congress has passed and the President has vetoed an emergency farms bill, three urgently needed jobs bills, an emergency housing bill, a critical stripmining (environmental) measure, several oil price control bills and a tax cut bill. With a stroke of the pen, the President again and again has negated the work of the hundreds of men and women who serve in the Senate and the House.

Emergency Farm Bill—On May 1, 1975, the President refused to sign a bill aimed at benefiting small, struggling family farms, and the House sustained the veto. The measure would have increased target prices for the crops of small farmers and extended the duration of their loans. The legislation was opposed by Secretary of Agriculture Earl Butz, the large corporate "penthouse" farmers and the agribusiness complex.

We often forget that rural America is not the lushgreen valleys, white picket fences and ivy-covered cottages that are shown as portraying country life on motion-picture screens. The number of family farmers has dwindled to two million and is decreasing at the rate of 1,000 a week. Although genuine farmers and their families constitute only three percent of the total population, they comprise 16 percent of those who are poor.

Emergency Jobs Bill—In early June 1975, the President vetoed a measure that would have provided funds for 900,000 jobs at a time when 8,538,000 workers (a number exceeding the population of New York City) were officially classified as unemployed. The bill would have provided public service jobs, summer jobs for youths and jobs geared for older Americans.

President Ford vetoed the bill because it would "exacerbate budgetary and economic pressures." But as Representative Glenn Anderson (D-Calif.) pointed out in the debate prior to the veto override, the same administration which was charging that the jobs bill was "inflationary" was seeking the enactment of an energy program that would cost the economy more than $30 billion.

Emergency Housing Bill—In late June 1975, the President refused to sign and the House sustained his veto of an emergency housing bill that would have provided 800,000 jobs for the hard-pressed construction industry, then, as now, suffering double-digit unemployment. The bill would also have helped middle-income families by authorizing the Department of Housing and Urban Development to give cash grants of $1,000 for down payments on new houses.

In addition, the bill provided for mortgage aid to the jobless. For example, it authorized HUD to make loans of up to $250 a month to help cover payments of principal on mortgage loans for homebuyers who had "incurred a substantial reduction in income as a result of involuntary unemployment or underemployment due to adverse economic conditions" and who were "financially unable to make the mortgage payment."

Public Works Bills—On February 19, 1976, the President vetoed another jobs bill, a public works measure that would have provided 600,000 jobs, many of which would have assisted state and local governments. The

Senate failed to override the veto. The President in July 1976 vetoed an additional public works jobs bill, that would have provided 330,000 public works jobs, but the veto was overridden by the Congress.

The callousness of these vetoes of emergency jobs bills can be seen in the perspective of their background. When Gerald Ford became President in August 1974, five million people were officially counted by the Labor Department as unemployed. That figure ultimately increased by 3.5 million. Today, it is still eight million.

The cost of President Ford's refusal to sign jobs bills can be measured in another way. It is an economic fact that for every one percent of unemployment, the nation loses $50 billion in unproduced goods and services, $14 billion in potential tax revenues that are uncollected and $2 billion in social costs in the form of food stamps, welfare and other services provided by the government. Stated differently, every one percent of unemployment costs each individual taxpayer $80 a year in taxes.

Of course, the figures on a chart can never measure the human deficit resulting from unemployment—the heartbreak of millions of unemployed and underemployed Americans and their families.

HUMAN NEEDS VETOES

As the lengthening shadow of the recession spread across the land, the President vetoed a number of "human needs" bills that the Congress had passed to assist a wide range of Americans in coping with the economic malaise.

On October 29, 1974, the President celebrated his twelfth week in his new office by casting his tenth veto. He refused to sign a bill which Congress had sent him to provide rehabilitation assistance for the handicapped, who are among the most hapless members of our society. This bill had passed the House by a vote of 334–0 and cleared the Senate on a voice vote. Thus, not a single member of Congress was recorded in opposition to the legislation, a rarity on Capitol Hill.

The measure authorized $848.1 million to carry out various rehabilitation programs and to assist blind vendors who eke out a living by operating food stands on federal property. The President, however, found the measure too expensive and his veto stamp struck again. This veto was easily overridden, 398–7 in the House and 90–1 in the Senate.

A month later, the President again pulled out the veto stamp, this time using it against Vietnam-era veterans and Korean War veterans. Congress had passed a bill authorizing increased educational benefits during this time of economic trouble for men who had served their country.

Again, the President's veto was overwhelmingly overturned by the Congress as the House voted 394–10 to enact the bill, while the Senate followed suit, 90–1.

In July 1975, the President returned unsigned to the Congress a bill to provide grants to the states for public health service programs, community mental health centers in underserved inner-city areas, migrant health care in rural areas and nurse training programs. The bill's cost totaled $1.42 billion. The President charged that the amount was exorbitant. The Senate overrode this veto, 67–15, and the House followed, 384–43.

In the next month, the President refused to sign into law the annual education appropriations bill, the basic legislation providing funds for almost every federal education program including funds for elementary and secondary education, aid to handicapped students and assistance to disadvantaged learners. The cost of the bill was $7.9 billion. This amount exceeded the Ford budget request by $1.5 billion but was almost $400 million less than the target for education spending set by Congress as part of its new budget control process.

Again, the Congress overrode the President's action, surmounting the veto on a 379–41 roll call in the House and 88–12 in the Senate.

In December 1975, the Chief Executive continued his veto spree. He rejected the Labor Department and Health, Education and Welfare appropriations measure, containing $36 billion for manpower programs, unemployment benefits, $100 million for the Occupational Safety and Health Administration as well as funds for the work of the National Cancer Institute and other HEW programs. The Senate and the House overrode the veto.

Early this year, Congress passed and sent to the White House a day care standards bill to assist working mothers. When the bill was returned with a now-familiar veto message, the House overrode the veto, but the Senate narrowly sustained it.

Perhaps the most callous of all of Ford's vetoes, however, was his refusal to sign the school lunch and child nutrition bill, whose purpose was to provide at least one good meal a day for needy and hungry youngsters in school. The President said the $2.7 billion amount was "too much," $1.2 billion more than he had requested. Congress easily overrode the veto.

ENERGY AND TAX VETOES

While the American economy continued its harrowing slide downward, the President took several additional actions against bills the Congress had passed to loose the strain on the already pinched pocketbooks of millions of wage earners and their families.

In August of 1975, the President refused to sign into law a badly needed bill to extend price controls on "old" oil. In seeking to decontrol petroleum prices, the President was forging an alliance with the multinational oil companies and the international energy cartels against the American consumer.

In late December 1975, near the end of the first session of the 94th Congress, the President vetoed a bill extending the tax cuts of 1975 into 1976. This veto was a reckless gamble with the nation's economic future. The President tried to justify his action on the grounds that the measure did not include language specifying a federal budget ceiling for fiscal 1976.

Although a compromise was later struck and tax cut legislation enacted, the President by his veto had indicated a lack of willingness to protect workers against a tax increase.

THE IMPERIAL PRESIDENT

Ironically, 200 years after the American colonists freed themselves of the tyranny of the English monarch, George III, their descendants now confront an unelected Chief Executive who behaves as if he were enthroned. By his flagrant use—or abuse—of the veto power, this imperial President has flouted the intent, if not the letter, of the Constitution as plainly stated by its framers. He has shown contempt for the elected representatives of the people, and in effect has created a new federal system on the occasion of our Bicentennial—government by veto.

THE GOVERNMENT ECONOMY AND SPENDING REFORM ACT OF 1976, S. 2925

Mr. BENTSEN. Mr. President, I understand and regret S. 2925, the so-called sunset bill, will not become law this year, but before we adjourn I want to urge my colleagues to make a commitment that this bill will be one of the first pieces of legislation we consider in the next session.

As a cosponsor I have stated my support for this important measure many times both on the floor and in committee when hearings were held. In addition, the bill contains two important sections which I have previously proposed in other legislation.

One of these sections requires that congressional committees evaluate the reporting and recordkeeping requirements imposed by Federal programs in terms of the cost to those who must fulfill these requirements and the value and use of the information gathered. In terms of the dollars and cents, of frustration and irritation, the endless tangle of paperwork imposed by Government has become unbearable. With well over 5,000 forms in use in the Federal Government, excluding all tax and banking forms, the private citizen is inundated with requests for information. Some have referred to the endless series of forms and documents as "strangulation in triplicate." Others have referred to this as "Federal forms pollution." The Federal bureaucracy generates more than 2 billion pieces of paper annually. Yet how much of this is ever used or even needed for the actual benefit and improvement of the Federal programs? The sunset bill will assure that both Federal agencies and Congress take a comprehensive look at Federal paperwork—and take steps to ease the burden.

Another vital section of the sunset bill, which I previously proposed, requires that Congress review the number of Federal employees and the salaries of Federal employees that are hired to implement any program. Legislation that I introduced last year went even further in the effort to reduce the size of the Federal Government. My legislation, the Government Reduction and Control Act, required that all bills reported out of congressional committees contain a manpower impact statement that estimated the number of people the Federal Government would have to hire if the proposed bill became law. My legislation would have also required that the President submit, along with his annual budget, a 5-year estimate of Federal personnel needs. I would like to see the sunset bill expanded along these lines. Already one out of every seven workers in this country is on some kind of Government payroll. At the end of March of 1975 the aggregate annualized payroll of the Federal Government—exclusive of the cost of benefit and overtime pay—was $31.9 billion. I am absolutely certain that some of these funds should have gone as direct benefits to the taxpayers and not to the salaries of Federal bureaucrats.

Mr. President, a measure as important as the sunset bill deserves careful consideration by the full Senate. I regret the remaining few days before adjournment do not leave the kind of time that this bill requires. However, I am confident that we will see early enactment of this measure next year.

This legislation will provide a framework within which Congress can conduct a comprehensive review of all Federal programs and activities. What is more important is that it will be done on a regular basis. I am sure it will be reassuring to the American people to know that their Representatives in Congress have this additional control over the Federal budget.

FEDERAL ENERGY ADMINISTRATION PRELIMINARY ANALYSIS OF GASOLINE LEAD PHASEDOWN

Mr. JACKSON. Mr. President, for the 2 months the oil industry trade press has been full of dire predictions of a gasoline shortage in 1977. This shortage is assumed by the industry to be the inevitable result of implementation of regulations proposed by the Environmental Protection Agency to reduce the lead content of motor gasoline.

The oil companies have buttressed their contention on the impact of lead phasedown regulations with in-house and consultant studies and reports. To date, Members of the Congress, the public, and the media have heard only the industry side of the story. We have not had the benefit of competent, timely, and objective analysis and evaluation of this issue by the appropriate and responsible Federal agencies. One reason the Federal Energy Administration was created was to provide a focus for such expertise in the face of oil industry contentions.

On August 10, as chairman of the Senate committee with responsibility for monitoring energy supplies, I wrote to both the EPA and the FEA requesting that they provide independent analyses of the claims of the oil industry with respect to lead phasedown. I am able to report that I have finally received—after considerable coaxing—the first preliminary results of the FEA's analysis. This preliminary comment by the FEA has been made available in draft form only, despite the fact that the EPA regulations which initiated the whole controversy are scheduled to go into effect in less than 2 weeks. No substantive response from the EPA has been received by the committee at all.

Why are we being stonewalled on this issue? The impact of phasedown appears to be a relatively straightforward question to answer. Either the refining sector of the oil industry is prepared to meet the EPA specifications, or it is not. One would have thought it would not require a letter from a Member of Congress to remind the relevant Federal agencies of the need to look into this question.

I believe that the reluctance of either the EPA or the FEA to answer basic questions with regard to lead phasedown is directly related to this administration's desire to decontrol motor gasoline as soon as it becomes politically feasible. The fact that the gasoline supply picture for the future is really not as rosy as the FEA would have us all believe seriously threatens these decontrol hopes. If the EPA regulations with respect to lead removal can cause gasoline shortages reminiscent of the Arab embargo, then our gasoline situation may be far more precarious than anyone—particularly the FEA—has been willing to admit.

I believe the material received by the committee this week represents only the first installment of a much-needed review of gasoline supply issues. I expect prompt delivery of the more complete analysis which the FEA has promised. The public record could stand a bit more realism about the impact of lead reduction on gasoline availability. Lead phasedown is going to take place even if EPA regulations do not mandate it because of increasing use of the catalytic converter to limit automobile emissions. Operation of the converter requires lead-free gasoline. If this very desirable result—the improvement in human health and air quality—has implications for gasoline supplies we ought to face the issue squarely and deal with it. For this administration, however, decontrol apparently has a higher priority than a direct approach to issues on their merits.

Mr. President, I ask unanimous consent that copies of the correspondence between the FEA, the EPA, the committee, and the draft FEA analysis of the impact of lead phasedown be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS,
Washington, D.C., August 10, 1976.

Hon. FRANK G. ZARB,
Administrator, Federal Energy Administration, Washington, D.C.

Hon. RUSSELL E. TRAIN,
Administrator, Environmental Protection Agency, Washington, D.C.

DEAR MR. ADMINISTRATOR: Several recent articles in the oil industry trade press have predicted a gasoline shortage in 1977 as a result of the operation of the proposed Federally ordered phasedown in the lead content of motor gasoline. These estimates of a shortfall below anticipated demand range from 175,000 barrels per day to 500,000 barrels per day. Apparently, all figures available to date are industry estimates.

Congress, in my view, should have the benefit of the written views of the relevant Federal agencies on these predictions. Both the availability and price of gasoline have significant effects on the state of the domestic economy, not to mention the lives of millions of Americans. Therefore, I am asking that your agency prepare a comprehensive analysis of this issue. I understand that a review of the impact of the lead phasedown regulations is already in progress within the executive branch. Thus, I would hope that a report to the Senate Committee on Interior and Insular Affairs—including your analyses of the issue and your recommendations, if any, for actions which should be taken could be made available to the Committee on or before August 24, 1976.

Your report should provide a general overview of the rationale for the lead phasedown rules and the ability of the refining industry to comply with them. In particular, you should include an analysis of the following questions:

(1) What will be the impact of the lead phasedown regulations proposed by the Environmental Protection Agency on the existing capacity of the domestic refining industry to produce motor gasoline and other refined petroleum products?

(2) What technological alternatives are available to the industry to meet the proposed requirements with respect to lead content?

(3) What costs are associated with these alternatives?

(4) What will be the impact of the phasedown regulations on independent and small refiners?

(5) Does your agency predict a gasoline shortage in 1977? What is the basis for this view? Please provide the key items of documentation and justification for your analysis. What is your view of the shortfall predictions which various industry sources have been making?

(6) What will be the impact of the phasedown regulations on the price of gasoline in 1977? How will the presence or absence of current Federal gasoline price and allocation controls influence your assessment of this impact?

(7) With respect to the question of costs versus benefits what effects of the proposed phasedown rules do you regard as positive or negative impacts? To what extent are you able to compare these positive and negative aspects?

Please provide the Committee with the fullest possible report with respect to this issue. If any of your staff have questions with regard to this request, please direct them to Dr. Ben Cooper of the Interior Committee staff at 224-0611.

Sincerely yours,

HENRY M. JACKSON,
Chairman.

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
Washington, D.C., August 24, 1976.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of August 10, 1976 regarding a predicted gasoline shortage in 1977 as a result of the proposed phase-down in the lead content of motor gasoline.

I have instructed my staff to review the questions you have raised; when their review has been completed I will forward this report to you.

Sincerely yours,

RUSSELL E. TRAIN.

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., August 24, 1976.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of August 10, 1976, to Mr. Zarb concerning future gasoline supplies. The Federal Energy Administration (FEA) shares the concern of the Interior and Insular Affairs Committee over the potential impact of the Environmental Protection Agency's (EPA) ordered lead phasedown for motor gasoline.

Subsequent to the Federal Register Notice issued by EPA on July 9, 1976, my office was in touch with EPA and arranged to be furnished copies of industry responses to the Notice. At the same time we also made arrangements to furnish certain data which should prove useful to EPA in its studies.

Additionally, FEA has solicited from selected members of the petroleum refining industry projections of their gasoline availabilities under several key scenarios for the peak gasoline demand months of June, July, and August of 1977 and 1978.

FEA intends to utilize the responses to EPA's Notice, the responses from selected refiners to FEA's query, and our own data resources to make an independent analysis of the effects of the proposed lead phasedown. While much of the requested material has been received during the past week, additional time is required to gather and clarify all of the data necessary to complete our analysis. Furthermore, some additional analyses will be required to respond to the specific questions raised in your letter of August 10, 1976.

We want to provide the Committee with a comprehensive reply to your letter, but in view of the above, the necessary supporting technical analyses cannot be completed by August 24, 1976. Because of the critical importance of this study and the requirement to arrive at sound conclusions and recommendations, I respectfully request that we be permitted to provide FEA's response on September 15, 1976.

Thank you for your interest in this matter. We will proceed as rapidly as possible with our work and will give you the information you requested as soon as we can:

Sincerely,

GORMAN C. SMITH,
Assistant Administrator,
Regulatory Programs.

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., September 16, 1976.
Hon. HENRY M. JACKSON,
Chairman, Committee on Interior, and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of August 10, 1976, requesting the Federal Energy Administration's (FEA) views on reports of projected gasoline shortages due to the proposed mandated lead phasedown.

As you are aware, the FEA has been working closely with the Environmental Protection Agency (EPA), to analyze and resolve the issue of the adequacy of motor gasoline supplies under the EPA's lead phasedown schedule proposal. In performing the analysis required to study this issue, it has become apparent that any meaningful answers to the questions raised in your letter will be dependent on the EPA's final action in the lead phasedown schedule. It is my understanding that the EPA will be issuing an announcement on this subject in the very near future.

As soon as the EPA's announcement is made, my staff will work with your staff to clarify your questions in view of the EPA's action and then we will forward to you the appropriate responses.

If I may be of further assistance, please let me know.

Sincerely,

GORMAN C. SMITH,
Assistant Administrator,
Regulatory Programs.

COMMITTEE ON INTERIOR AND
INSULAR AFFAIRS,
Washington, D.C., September 17, 1976.
Hon. FRANK G. ZARB,
Administrator, Federal Energy Administration, Washington, D.C.

DEAR MR. ADMINISTRATOR: Well over a month ago, I wrote to you requesting that you review and analyze the effect of the proposal announced by the Environmental Protection Agency (Federal Register, July 9, 1976) to require a graduated reduction in the lead content of gasoline. A copy of that letter is attached. The regulations implementing the lead phasedown schedule are to become effective on October 1, 1976.

As you know, there have been a number of claims brought forth by persons affiliated with the oil industry with respect to the impact of lead removal on domestic supplies of motor gasoline. To date there has been no response to these industry analyses by any Federal agency.

Gorman C. Smith, Assistant Administrator for Regulatory Programs has twice written to me—on August 24 and on September 16—requesting additional time to adjust the FEA analysis. In the meantime the oil industry trade press continues to report the alleged results of FEA's review of the data made available during surveys conducted to analyze the lead phasedown issue.

I am really quite disturbed that the EPA's proposal for lead phasedown has, at this late date, not been subjected to an analysis which can be made available to the public. I am also disturbed that the results of interim analyses have not been made available to the Committee. I am therefore requesting that you transmit by close of business Monday, September 24, the results of any analyses completed to date of the impact of the FEA proposal of July 9. I am further requesting that your response to the seven questions in my letter of August 10—when that response is made available—reflect your analysis of both the EPA proposal of July 9 and the rules actually adopted by the agency.

Sincerely yours,

HENRY M. JACKSON,
Chairman.

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., September 20, 1976.
Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: You have expressed an interest in the Federal Energy Administration's (FEA) analysis of the impact of the Environmental Protection Agency's (EPA) lead phasedown schedule on the supply of motor gasoline. In this connection, I am enclosing as Enclosure 1 a summary of our preliminary analysis based on projected gasoline availabilities of 22 large refiners for the peak summer demand months of 1977 and 1978. FEA estimates that, without implementaion of EPA's proposed lead phasedown schedule, peak summer demand can be met in both 1977 and 1978.

Inasmuch as the data initially reported to FEA by the large refiners consisted of aggregate gasoline availabilities for peak summer demand months only, we have gone back to these refiners with a more detailed questionnaire (Enclosure 2) to obtain their planned production, imports, and inventory drawdowns as well as their maximum sustained production capabilities over the entire 1977–78 period. To date 7 refiners have responded completely, and 14 have responded partially to our questions.

As soon as all responses have been received, I will be happy to provide you with the results of our analysis, based upon the responses to this questionnaire.

Sincerely,

GORMAN C. SMITH,
Assistant Administrator,
Regulatory Programs.

IMPACT ON GASOLINE SUPPLIES OF RIGID ENFORCEMENT OF EPA'S CURRENTLY ANNOUNCED LEAD PHASEDOWN SCHEDULE

BACKGROUND

To assist FEA in its decontrol findings and to assess the impact of the EPA lead phasedown schedule on the supply of motor gasoline, on July 29, FEA asked 22 large refiners (with capacities of 175 MB/D or more) for their projected gasoline availabilities for the months of June, July and August of 1977 and 1978 broken out by grade (unleaded; leaded regular; and leaded premium) for each of the following four scenarios:

1. No lead phasedown and—

(a) with facilities now operating and as currently committed and/or planned; and

(b) with no change in gasoline octane levels; and

(c) with no action to reduce non-gasoline use of high octane hydrocarbon blending components (aromatics, alcohols, etc).

2. With currently published EPA lead phasedown (see below) and other assumptions outlined in scenario 1.

October 1, 1976	1.4 g/gal
January 1, 1977	1.0 g/gal
January 1, 1978	0.8 g/gal
January 1, 1979	0.5 g/gal

3. With currently published EPA lead phasedown schedule and anticipated changes in the following to comply with this schedule:

(a) facilities now operating and commitments to include modifications and additions;

(b) gasoline octane levels; and

(c) reduction in non-gasoline use of high octane hydrocarbon blending components.

4. Same as scenario 3 with following change in EPA lead phasedown schedule:

October 1, 1976	1.4 g/gal
October 1, 1977	1.0 g/gal
October 1, 1978	0.8 g/gal
October 1, 1979	0.5 g/gal

DISCUSSION

All 22 refiners, which represent about 90% of the unleaded gasoline market and 83% of the total gasoline market, have responded, and their responses are summarized in attachment 1. For the remainder of the industry (principally small refiners), estimates of gasoline availabilities were made based on data regularly reported to FEA. These estimates were combined with availabilities reported by the large refiners' to arrive at total domestic supplies for comparison with FEA demand projections (see attachment 2). Where no lead phasedown is imposed (scenario 1) supply is sufficient to meet peak demand in both 1977 and 1978. Where the lead phasedown is imposed (scenarios 2, 3 and 4), it is assumed that inventory buildup and imports will be negligible thereby limiting small refiners' available supplies to their production which is estimated at some 800 MB/D in 1977 and 900 MB/D (due to expansions) in 1978. For scenario 3, which is considered the most realistic case, this results in a shortage of about 500 MB/D during the summer of 1977 and about 700 MB/D for the same period of 1978.

See Page 4 for additional discussion on Scenario 1 for 1978.

SUMMARY

1. Without lead phasedown (scenario 1) peak demand can be met in both 1977 and 1978.

2. With lead phasedown, shortfalls of 500 MB/D and 700 MB/D, respectively, can be expected with respect to peak 1977 and 1978 demand under scenario 3.

ADDITIONAL DISCUSSION ON SCENARIO 1 (NO LEAD PHASEDOWN) FOR 1978

In Scenario 1 for 1978 it appears from the projections in Attachment 2 that the industry can only marginally meet demand. This is not the case. It must be emphasized that large refiners' availabilities represent their plans and not necessarily their capabilities.[1] Additionally, the demand shown (7,800 MB/D) is peak summer driving season demand (June through August). Average 1978 demand is estimated by FEA to be 7,400 MB/D, and demand during the January through March period varies from 6,700 MB/D to 7,100 MB/D. Even if the industry were to be limited in 1978 to this summer's average production of 7,200 MB/D, ample capacity exists to build up inventories in the low demand months to adequately handle ptak demand months.

Additionally, it is believed that imports included with large refiners' gasoline availability projections are at relatively low levels—probably (as they were for this summer) at 100 MB/D or less. Imports averaged 204 MB/D in 1974 and 184 MB/D in 1975. It is believed that upwards of 100 MB/D of additional imports could be obtained, if needed, to augment domestic production.

Finally, for the summer of 1978, large refiners' projections reflect planned production of 2,600 MB/D of unleaded gasoline versus an FEA demand estimate of 2,400 MB/D, or an excess of some 200 MB/D. A barrel of unleaded gasoline can be equated to about 1.4 barrels of leaded gasoline.[2] Accordingly, the 200 MB/D overproduction of unleaded gasoline could be converted into some 280 MB/D of leaded gasoline, or a net increase in gasoline supplies of up to 80 MB/D. In short, with industry's capability of increasing available gasoline supplies by (1) additional off-season inventory build-up, (2) additional imports and (3) conversion of excess unleaded gasoline to leaded grades, it is considered that, barring major unforeseen technical problems, there is no question of the industry's capability of meeting 1978 projected gasoline demand including that of the peak summer driving months.

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[1] Large refiner data initially reported to FEA consists of aggregate gasoline availabilities for peak summer demand months only. FEA is now gathering availabilities broken out by planned production, imports and inventory drawdowns plus maximum sustained production capabilities over the entire 1977–1978 period.

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[2] Unleaded gasoline, which necessarily consists of very high-quality blending stocks, can be blended with lower-grade blending stocks (which otherwise would be directed to nongasoline uses), and tetraethyl lead to yield higher volumes of leaded gasoline.

ATTACHMENT 1

PROJECTED MOTOR GASOLINE AVAILABILITIES—22 LARGE REFINERS, JUNE THROUGH AUGUST (MB/D)

Scenario	1977 Unleaded	1977 Leaded regular	1977 Leaded premium	1977 Total	1978 Unleaded	1978 Leaded regular	1978 Leaded premium	1978 Total
1	2,100	3,500	1,000	6,600	2,600	3,100	800	6,500
2	2,000	3,300	900	6,200	2,400	2,800	800	6,000
3	2,000	3,400	900	6,300	2,500	3,000	800	[1] 6,200
4	2,100	3,400	1,000	[1] 6,400	2,500	3,000	800	6,300

[1] Grades do not total correctly due to rounding.

ATTACHMENT 2

MOTOR GASOLINE SUPPLY-DEMAND, JUNE THROUGH AUGUST

[Gasoline availabilities and demand are in MB/D]

Scenario	Large refiners' reported availabilities	Small refiners' availabilities (estimated)	Industry availabilities	Demand	Surplus (+) shortage (−)	Shortage (percent demand)
1977:						
1	6,600	1,200	7,800	7,600	+200	
2	6,200	800	7,000	7,600	−600	7.9
3	6,300	800	7,100	7,600	−500	6.6
4	6,400	800	7,200	7,600	−400	5.3
1978:						
1	6,500	1,300	7,800	7,800	0	
2	6,000	900	6,900	7,800	−900	11.5
3	6,200	900	7,100	7,800	−700	9.0
4	6,300	900	7,200	7,800	−600	7.7

[Telegram]

From: Federal Energy Administration, Washington, D.C.

To: See attached list.

Thank you for your prompt response to my telex of July 29, 1976, and to our requests for follow-up information. These responses disclose that we face the very real possibility of shortages of gasoline in the summer of 1977 and 1978 unless some action is taken to offset the effects of the announced EPA schedule. We are continuing to work closely with the appropriate officials of EPA in this respect.

One of the surprising aspects of the collective answers to the July 29 telex was the small difference in gasoline availability between case 3 and case 4. Case 4 slipped the overall compliance schedule by nine months to get behind the peak demand seasons for the years involved. This change increased availability during the peak demand season in 1977 by only 132 MB/D and in 1978 by only 86 MB/D. We expected the schedule postponement to make much more difference than this and would appreciate separate comment on why it did not.

To enable us to identify potential impacts with more precision and to analyze alternatives that could avoid any overall shortage we need additional detail. I appreciate the burden this places on you and earnestly solicit your cooperation so that we can work most effectively with EPA, which must make a decision in the near future on the general outlines of its enforcement policies with respect to this regulation. Accordingly, could you please report as much as possible, especially regarding items 1 and 2, of items 1 through 5 listed below by COB Friday, September 10, 1976, and the remainder as soon thereafter as possible. For each item, please report for each of three cases as follows:

Case 1:

1. With no lead phasedown—

A. With facilities now operating and as currently committed and/or planned.

B. With no change in gasoline octane levels.

C. With no action to reduce non-gasoline use of high octane hydrocarbon blending components (aromatics, alcohols, etc.).

Case 3. (There is no case 2 in this message.)

3. With currently published EPA lead phasedown schedule and anticipated changes in the following in order to comply with this schedule.

A. Facilities now operating and commitments to include modifications and additions.

B. Gasoline octane levels.

C. Reduction in non-gasoline use of high octane hydrocarbon blending components (aromatics, alcohols, etc.).

Case 4:

4. Same condition as case 3, except with the following change in EPA lead phasedown schedule:

October 1, 1976	1.4 g/gal.
October 1, 1977	1.0 g/gal.
October 1, 1978	0.8 g/gal.
October 1, 1979	0.5 g/gal.

Please note that neither octane levels nor any other variable changes from case 3 to case 4; all of the impact of the schedule change should be reflected in increased domestic production.

Please report items 1 through 5 in thousands of barrels per calendar day for each quarter of 1977 and 1978 to permit annual comparisons and to facilitate analysis of possible changes in inventory practices. As before, please report for each of three grades of gasoline: unleaded, leaded premium, and leaded regular. Volumes associated with processing agreements should be reported as production by the refiner who will take title to and dispose of the product and, to avoid double counting, should not be reported by the processing refiner.

Item 1. Maximum domestic gasoline production capability (not projected actual production, which is item 2 below) assuming maximum sustainable refinery capacity utilization. Please specify percentage used as maximum sustainable rate. For each grade of gasoline, please specify average research octane number.

Item 2. Projected actual gasoline production, specifying average research octane number for each grade and average lead content for leaded gasolines. Also, state corresponding crude oil and all other raw material input rate.

Item 3. Net sales or purchases (indicate which) from domestic gasoline production, including any exchanges of gasoline for other products (show only gasoline effects of exchanges).

Item 4. Net additions to or drawdowns from (indicate which) gasoline inventories.

Item 5. Net gasoline imports.

I appreciate that this is a burdensome request, but these data are required to enable us to trace the interactions of domestic production, inventory changes, and imports on total gasoline availability by quarter. In this way we can identify with more precision not only potential impacts of the announced EPA schedules but also the feasibility of alternative courses of action. Any comments you care to add that will help us in this task would be welcome, of course.

Please send your response to George E. Hall, Jr., Director of Product Allocation, Office of Regulatory Programs. If possible, reply by TWX or telecopier to one of the following numbers:

TWX: 710-822-9454.

Telecopier: (3M) 202-254-6715-6461 (DEX) 202-254-8906.

If reply is by mail, address as follows:

George E. Hall, Jr., Director of Product Allocation, Federal Energy Administration, Office of Regulatory Programs, Rm 6212-F, 2000 M Street, N.W., Washington, D.C. 20461.

Thank you again for your cooperation. We sincerely appreciate your help in this important undertaking.

GORMAN C. SMITH,
Assistant Administrator,
Regulatory Programs.

USER TAX ON WATER CARRIERS

Mr. FORD. Mr. President, soon we will be considering the Water Resources and Development Act. That bill includes a proposed user tax on water carriers, a provision that could drastically change our national policy on inland waterways.

Senator WALTER D. HUDDLESTON, my senior colleague, recently spoke to the National Waterway Conference in Louisville, and this speech details the background and value of a sound system of inland waterways, and the pitfall of a user tax.

Mr. President, his statement deserves review by all of us before voting on that legislation. I ask unanimous consent that his speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY SENATOR WALTER D. HUDDLESTON

It is a real pleasure for me to be here today—and a distinct pleasure to welcome the National Waterways Conference to Louisville and Kentucky. If you have had time to do some sightseeing, I think you will agree that Louisville is a growing, progressive city with unlimited potential.

And that potential is closely tied to America's water transportation system. All you have to do is look out the window of the hotel here to realize our commitment to water transportation and the nation's inland waterway system.

Furthermore, it is entirely appropriate that this group hold its meeting here in Louisville on the banks of the Ohio, because it is on this stretch of the river that the Federal Government made its initial show of concern and commitment to developing the inland waterways.

The Army Corps of Engineers first civil works function was snagging and dredging the Ohio—a function which Congress authorized in 1824 and for which it appropriated $75,000 in 1826.

That initial commitment has grown and has resulted in a transportation system that is not only the safest, but as you know, burns less fuel per ton mile than any other transportation system. And in these energy conscious days, that is a vital consideration.

But more than that, the nation's inland water transportation system has proved to be a major economic stimulus to vast regions of the nation's interior—including Louisville and other communities along the Ohio.

The Urban Studies Center of the University of Louisville did an Economic analysis of the impact of waterborne commerce on this area, and their conclusion was that "the combined direct and indirect economic impact of waterborne commerce on the Louisville metropolitan area amounted to roughly $588,437,500 in wages and salaries in 1972."

In addition, the study showed that firms employing at least 24,500 workers have been induced to locate in the Louisville area for reasons related to water transportation.

That study indicates we can expect steady growth in both domestic receipt of goods by water transportation in Louisville and in waterborne shipments out of the city.

The success story of inland water transportation has been borne out all along the Ohio. As use of the river grows each year, it is useful to keep in mind that the original justification for locks and dams on the Ohio predicted 13 million tons annually.

Well, the Ohio carried almost twice that much by 1930 when the original work was completed. Last year more than 140 million tons moved on the Ohio and 35 to 40 million tons went past this hotel where we are meeting today.

So you have picked an ideal location to talk about water transportation—we in Kentucky and Louisville are believers based on experience.

And while we are talking about navigation of the Ohio, I would like to mention two projects of particular interest to Kentucky.

While the media has carried a lot about the situation at Lock and Dam 26 in Illinois, there is a smaller problem here on the Ohio at Gallipolis Locks and Dam, which was built in the 1930's with two locks 300 and 600 feet long. Because these locks are outdated, tons have to wait an average of three hours per tow. The Corps has recommended two 1200-foot locks but only one of those has been approved by the Secretary of Army.

The key to the problem is that Gallipolis is 30 miles upstream from Huntington, West Virginia, the busiest port on the Ohio—and the six dams upstream and the 10 downstream all have at least one 1200-foot lock. I think it is imperative that we move as quickly as possible to secure authorization and funding of this new 1200-foot lock at Gallipolis.

We have also had problems along the lower Ohio this year as a result of the dry weather. A combination of this and the fact that we have not yet completed Smithland Locks and Dam have created operating delays averaging as much as 33 to 35 hours at Old Lock 50 in Western Kentucky, a half a day at Lock No. 51, and almost two days at Lock 53 in Southern Illinois, where the Corps is building a new 1200-foot lock chamber.

It is vital to all transportation on the Ohio that the Gallipolis and Smithland projects proceed as quickly and efficiently as possible.

Now that we have taken care of Kentucky and the Ohio, I would like to talk with you for a few minutes about the situation in Congress. When Harry Cook asked me to assess the position of water resource programs in the Senate and Congress, I think he looked into his crystal ball and foresaw that a major development would occur just two days before I spoke.

I assume that all of you are aware that on Wednesday of this week the Senate Public Works Committee approved legislation that would impose and phase in over a period of 10 years a system of waterway user fees that would eventually recoup 50 percent of all navigation costs of the previous fiscal year.

Perhaps just as significant as the action itself is the fact that the committee approved the user fee system on a vote of 9–4.

As far as I know, this is the first time a committee of Congress has ever endorsed the concept of user fees or charges for the inland waterways. And that very fact illustrates, I think, the position water resource and water transportation proponents find themselves in as far as Congress is concerned.

The more I thought about my assigned topic, the more I realized that it is analogous to the situation that tobacco supporters find themselves in.

As you probably know, tobacco is far and away the most important agricultural commodity in Kentucky. Without it, we would have thousands of small farmers go bankrupt or join the welfare rolls.

But because of the health issue, attacks on the tobacco price support program have become numerous and predictable. Each year an attempt is made to kill the program; each year tobacco state congressmen gather our forces and fight back; but each year the opposition grows and the attacks become more frequent. As we look to the future, it is not at all certain that the tobacco price support program will be able to survive as it now exists.

Water resource programs are in much the same situation. It's not yet a matter of circling the wagons, but the opposition is on the warpath and you saw the best evidence of that Wednesday in the Senate Public Works Committee.

And just like with tobacco, the attacks take varying and ingenious forms. The latest attack on tobacco was in the form of a graduated tax on cigarettes based on their tar and nicotine content. That clever and appealing approach is somewhat like the attack Wednesday on Locks and Dam 26 at Alton, Illinois. As you have probably heard, the committee authorized the project but that authorization came only after one attempt to kill the project and another attempt to separate it from the omnibus bill and report two different bills to the floor.

In my opinion, you can expect somewhere down the line two major attacks on the Nation's water resource programs and policies. One would be an attempt to separate project evaluation and approval from the agency (Corps) charged with project construction; and the other will be an attempt to eliminate omnibus public works bills in favor of individual project authorization and appropriation. Contrast this with the situation 10 or 15 years ago. Some who have been in the Senate much longer than I say that during that time water resource projects were never questioned. Committee chairmen and the leadership in both houses solidly backed almost any project or proposal. And nobody had ever heard of an environmentalist, much less waterway user charges and fees.

Times have changed a great, great deal, but I would quickly add that all of those changes have not been bad.

Let me illustrate my point by sharing with you some of my own personal experiences as a senator elected to serve about three and a half million people—all with differing opinions, concerns and needs.

When I was elected to the Senate in 1972, the storm clouds were gathering on several water resource projects in Kentucky. Since that time, the thunder has struck, the clouds have opened up, and those of us in public office have been inundated with opinions, criticism, mail, telegrams, petitions, angry phone calls, and visits. And one particular project was a major campaign issue in the last two state races in Kentucky.

I would venture to say that I have received more mail, pro and con, on controversial water resource projects than any other matter affecting my state. Just last month I received a petition signed by 13,000 people in opposition to one project.

I would be both stupid and derelict in my duty if I ignored that kind of expression of opinion from my constituents. That's especially true since I serve on the public works subcommittee of the Senate Appropriations Committee.

And besides that, there is a great deal of merit in the criticisms that have been levelled at some projects. As I have sat through hours and hours of hearings before that subcommittee, I am constantly amazed at how complex many of these projects are, and how much merit there is on both sides of the more controversial ones. It is not an easy matter on which to make decisions.

We do have an environmental concern today that is far greater than it was just a few years ago—we do have a very real concern about how to spend limited resources of government—we must of necessity employ some method of differentiating between good and bad projects, between those that will return economic and social benefits and those which will not—and we must use some mechanism of assuring that the beneficiaries of government expenditures either share the costs involved or return at least an equivalent benefit to the nation at large.

Those questions and issues might be of less concern if we had full employment and the government was receiving the resultant tax revenue. But we still have over seven percent unemployment; we haven't fully recovered from the recession; and the budget for Fiscal Year 1977, while relatively conservative, will still be $50 billion more than available revenues.

And that brings us back to user fees and charges. I recognize as a legitimate argument the notion that government expenditures should carry with them some burden of support by the beneficiaries, because that support can make for an efficient allocation of scarce resources, and because that support can be useful in determining whether such expenditures will indeed produce the promised return.

But I am not convinced of the wisdom of waterway user charges or fees, primarily because of my fear that it might have an adverse impact on water transportation's future by eliminating its low-cost incentive. Before any kind of fee or charge is imposed, I want to be sure that it will not have the effect of eliminating massive amounts of traffic on the waterways and thus destroying water transportation.

Still further, I have questions about the imposition of user fees in a rivers and harbors authorization bill rather than calling it what it is—a tax—and considering it in the appropriate tax-writing committees of the House and Senate.

But you should also keep in mind that the proposal adopted by the committee Wednesday provides that the question of user fees and charges be included in the National Transportation Study Commission report which must be submitted to Congress by January 15, 1978, the same date the Corps must make its user fee recommendations. And the proposal also gives Congress 60 days in which to veto any such proposed fees.

Needless to say, this proposal will be attacked on the floor of the Senate—and even if it survives there—it is highly doubtful that the House conferees would accept it.

But opponents of user fees should not be misled by the vote earlier this year on the Buckley Amendment to the tax bill, an amendment that would have imposed a system of waterway taxes. That amendment was defeated on a 71–17 vote.

That was not a true reflection of the sentiments of the Senate on this issue. Many Senators were at that point voting against any and all amendments in an effort to get a tax bill passed. So I would predict a much closer vote this time around, and it is conceivable that you could lose because the committee voted so strongly in support of the provision.

I hope that I have not been too pessimistic in sizing up your situation in Congress, but I have tried to call it as I see it. You are under the gun, partly due to changing times and partly due to changing make-up of the Congress on both sides of the aisle, and partly due to new and more pressing concerns of the American people.

If I had any advice for you, it is this: You need to do a better job of presenting your position—not only to members of Congress, but to the American public. No member of Congress can ignore his constituency, and if he or she has 10,000 people writing in opposition to a project and 150 in favor of it—well, I don't have to tell you what the result is likely to be.

I myself am still a strong believer in water transportation and water resource projects that can be done in harmony with the environment. I know from sitting on the Appropriations Committee, and from my personal experience here in Kentucky, that there is a great deal of merit in these programs.

But I wonder how many of my colleagues have a similar awareness. I wonder if they hear both sides of the issues. I wonder if they ever hear from constituents who know the economic benefits that come from many of these projects.

If they are not, we can only reach one of two conclusions: Either the evidence of those benefits does not exist, or the proponents are not doing their job of presenting their case.

And that, my friend, is up to you.

I urge you to make your case—make it publicly—make it often and persistently.

After-all, what we all want is what's best for our country and the better informed we all are—legislators and the public—the more likely we will arrive at the right decision.

THE RETIREMENT OF GEN. FRED C. WEYAND

Mr. INOUYE. Mr. President, I would like to join my colleagues in honoring the Army's Chief of Staff, Gen. Fred C. Weyand, who is retiring after 36 years of active service.

General Weyand is a longtime friend of Hawaii. His interest in the Pacific began when he was assigned as an intelligence officer in Burma and China during World War II and continued when he was assigned as G–2 of the Middle Pacific Command after the war. After a short stay at the Infantry School, he returned to the Pacific in August 1950 where he commanded an infantry battalion during the Korean war. After post-Korean war service in Washington and Berlin, General Weyand again returned to the Pacific, where he assumed command of the 25th Infantry Division at Schofield Barracks, Hawaii, in 1964 and took it to Vietnam in 1966. He served in Vietnam from 1966 to 1968 and from 1970 to 1973. In March 1973, he returned to Hawaii as commander in chief of the U.S. Army, Pacific. He was so taken by Hawaii that he intended to retire in the islands on completion of that assignment. But that was not to be. He was called to Washington to serve as Vice Chief of Staff of the Army and as Chief of Staff of the Army after General Abrams' death in office.

The Nation has been well served by having General Weyand as Chief of Staff. He has been able—because of his long service in the Pacific—to add another dimension to our basic "Europe first" strategy.

I am sad to see General Weyand retire, but I am glad to welcome him back to the "Aloha State."

ORLANDO LETELIER: CITIZEN OF CHILE—CITIZEN OF THE WORLD

Mr. McGOVERN. Mr. President, the barbaric, cowardly assassination of Orlando Letelier has deprived the world of one of its noblest men. Shortly before he was murdered, Mr. Letelier was informed by the political junta now holding power in Chile that he was no longer a Chilean citizen. The truth is that Orlando Letelier was a Chilean par excellence. He loved his country, its people, its culture, and its most worthy ideals. He mourned for those who were persecuted, imprisoned, tortured, or exiled by the grisly gang now dictating policy in Chile.

I treasured him as a friend and I admire him as one of those rare souls who understood the power of gentleness. He combined a tough-minded commitment to justice with an engaging humane spirit. He had a genuine affection for the American people and an unusual appreciation of both our strengths and our weaknesses. He, his talented wife, Isabel, and their family have added grace and honor to our National Capital. And all around this suffering world are human beings who have been touched by the decency and idealism of this splendid man. The dedicated young woman, Ronni Moffitt, who died with him, and her husband, Michael Moffitt, who narrowly escaped death, are two of the many persons whose lives were enriched by the spirit and intellectual integrity of Orlando Letelier.

We do not yet know with certainty who ordered and executed the bombing of Mr. Letelier. But if there was ever a case which demands the fullest and most persistent investigation to determine the perpetrators, it is this monstrous crime. To have one of the world's finest men and a brilliant young woman blown to pieces in the heart of our National Capital should activate every available investigative resource until these murders are solved. I intend as a citizen, as a Senator, and as an American delegate to the United Nations to increase my own efforts to arouse public concern and action against terrorism, assassination, torture, political imprisonment, and other barbaric actions which threaten humanity. If Orlando Letelier must die at the age of 44 and Ronni Moffitt must die at 25 because of the unbridled power of madmen, then there is no security for any of us.

Let us resolve that these foul murders will challenge all of us to join in the commitment to human rights which is the most lasting monument to Orlando Letelier.

Mr. President, I ask unanimous consent that two editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 22, 1976]

ORLANDO LETELIER

Orlando Letelier, an economist of deep intellect and humane spirit, saw in the election of Salvador Allende as president of Chile in 1970, an opportunity to extend genuine economic and social benefits to the Chilean people. He promptly put his experience in international finance at the Chilean revolution's disposal, serving as ambassador in Washington. His special contribution was to try—against the ever longer odds created by both sides—to lead the American and Chilean governments to an appreciation of the steps both could take for their common benefit. He had no illusions about the spiraling of events in Chile but he nonetheless returned to Santiago to become foreign minister just before President Allende was assassinated in 1973.

The new junta at once put Mr. Letelier into a concentration camp and kept him there for a year. International pressure helped free him. He came to the United States, saddened but not embittered by the American role in the Allende tragedy, to teach and write and to prepare as best he could by open political activity for the restoration of his country's democratic traditions. Even that was evidently too much for the thugs who control Chile. Earlier this month they took away his "nationality"—as if they could. Yesterday, with a Washington associate, Ronni Moffitt, he was killed in an explosion of their car in Sheridan Circle. The circumstances at the very least raise the question of political assassination.

Orlando Letelier was a rare individual, as patient in argument as he was passionate in conviction, the model of the private man prepared to act on his beliefs and to accept their public consequences. He exemplified precisely the qualities—reason, concern for the common man, and civility—which the junta is trying to suppress in his native land. Whatever may yet be proven about the junta's part in his death, his exile speaks its own comment on those who exiled him. He deserves honor; they and their rule of Chile, contempt.

[From the Washington Star, Sept. 23, 1976]

INESCAPABLE SUSPICIONS

One predictable accompaniment of any act of terrorism—the bombing murder of former Chilean ambassador Orlando Letelier here in Washington this week is no exception—is that accusations flourish in inverse proportion to the evidence. It is, quite simply, impossible to say now who planned and carried out this sordid assassination, which took an innocent life along with Dr. Letelier's. That is the sad but inescapable fact.

Yet reflexive suspicions focused upon the regime now in power in Santiago, the military junta of Gen. Augusto Pinochet Ugarte.

Fairly or unfairly? Ordinarily, and in view of the prompt protestations of innocence and sympathy from Chile, those suspicions would be out of order. But are they, as suspicions often are in such cases, groundless or implausible? They are not.

A record is before us. That record shows, if it shows nothing else, that long before the assassination, the Pinochet regime had compiled a record of shabby mistreatment of this distinguished exile.

Dr. Letelier had served as both foreign minister and defense minister under Salvador Allende before Allende was overthrown three years ago—not, let us note, without underhand assistance to his enemies by the U.S. government.

As a determined foe of the Pinochet junta who had recently made his influence felt by writing, by lobbying against foreign economic underwriting of the Pinochet economic programs, and by helping organize a broadly based all-party opposition in exile, Dr. Letelier had earned the enmity of the Santiago government.

Arrested at the collapse of the Allende government, Dr. Letelier had furthermore been sent, without accusation or trial, to a bleak and debilitating island imprisonment from which the successor government released him only after the most strenuous international representations. And probably just in time—some other distinguished political prisoners have not left Dawson Island alive. Only three weeks ago, the regime in Santiago had taken the extraordinary step—the unconstitutional step, some fellow Chilean exiles believe—of revoking Dr. Letelier's citizenship.

Who, then, if not the government that had so abused Dr. Letelier, *would* be the natural suspect after the ghastly act that took his life? Nor is his assassination an isolated event. On October 3, 1974, Gen. Carloe Prats Gonzalez, commander of the Chilean army under President Allende, died in a Buenos Aires bombing. A year later, last October, gunmen in Rome shot down another prominent Chilean politician, the vice president of the Christian Democratic government-in-exile.

This concatenation of shootings and bombings, of which Dr. Letelier's assassination is only the latest, *proves* nothing. It does, however, trace a pattern of circumstance too compelling to be casually dismissed. The only link connecting this outrage and others to the present Chilean government is the link of motivation, but there is also the evident agitation of General Pinochet's government at the damage the exiles were doing to the stability and international reputation of his junta.

On the evidence, we are not entitled to accuse—only to suspect. But suspicions are not, as we said to begin with, idle.

This whole chain of events began, of course, with the fall of the Allende regime, in whose undermining the U.S. had played a covert role. There is a lesson here if only this country and its leaders would heed it. To the extent that we interfere illegally in the internal political affairs of other nations, we assume responsibility to the same extent for the lamentable aftermath. To the extent that we not only recognize—which is standard diplomatic procedure—but actively *support* dictatorial regimes ruling in contravention of our own political values, we sanction to the same extent their violations of a fundamental human rights. Even without a final determination of blame, the murder of Dr. Letelier should exercise a sobering restraint on our recurrent zeal to control the uncontrollable flow of internal political events and fortunes abroad.

SUNSET REFORM

Mr. MUSKIE. Mr. President, the "sunset" bill is an idea whose time has finally come.

Last winter, when Senator ROTH and I first introduced this bill, we had no idea that it would catch on the way it has, both in Congress and throughout the country.

Today, the sunset bill has 59 cosponsors in the Senate.

It has been unanimously approved by the Senate Government Operations Committee.

It has been endorsed by the democratic candidate for President.

And the Rules Committee has given the sunset concept its support.

Companion legislation in the House has more than a hundred cosponsors.

All this support for a bill which would radically alter the way we do business in Congress.

Needless to say, I am pleased and gratified that we have made so much progress on this revolutionary piece of legislation in so short a period of time.

That is not to say that moving the sunset bill did not involve a great deal of work. It did, of course.

But there have been other reasons for the bill's success so far.

For many years, I have tried to explore—through the Subcommittee on Intergovernmental Relations which I chair—ways in which the operations of the Federal Government could be made more responsive to the needs of the people we represent.

The problem I have always faced is that Government reform is not an exciting show, so it is hard to focus people's attention. Moreover, reform—if it is to be meaningful—threatens the status quo, and so it is not always welcomed with open arms.

Why has sunset been different?

Because, I believe, sunset is a uniquely sound and appealing idea.

Because the need it seeks to address is one upon which everyone agrees.

And because through budget reform, we have found that change in the status quo can be very beneficial—not only to the quality of work we do but to the public's perception of Congress as a responsible and responsive institution.

There is no doubt that sunset will fundamentally change the way we do business in the U.S. Congress. As an action-forcing mechanism—a process to bring Congress closer to the results of its legislative work—sunset is truly a revolutionary idea.

But if there were ever a need for Congress to change, it is in this way—in the way we exercise control over the programs we ourselves have created, and hence over the services which Federal dollars are supposed to deliver to the American people.

Over the years, and particularly over the last two decades, the Congress has been very creative in proposing Federal answers to vexing national problems. Our intentions have always been good.

But, too often we have not followed through.

We have continued to look ahead, to anticipate new needs as they arise. But we have not looked back, to assess the failures and the successes of the past.

A fundamental assumption of sunset is that we must do both.

The sponsors of sunset have never claimed that it will be easy.

We have only said that it simply must be done.

Today I am saying to all the people all over the country who want to see this bill passed that the success of sunset so far is an encouraging sign that it will be done, and soon.

I do regret that there is not enough time to consider sunset in the Senate this year. But such a major reform does demand the most thoughtful consideration. And even were we to pass it in the Senate, there is no possibility of House action before adjournment.

I intend to push for Senate consideration of the sunset bill at the earliest possible date next year.

And I am very optimistic about our chances for success.

SUNSET REFORM

Mr. ROTH. Mr. President, today we are speaking up for an important new principle for making Government more responsive to the public. The Government Economy and Spending Reform Act of 1976 which Senator MUSKIE and I developed and jointly sponsored offers Congress a procedure to review all spending by Government and to restore the confidence of our citizens that big Government is under control. The procedures in this bill for termination, review, and reordering of our Nation's programs and priorities will assure that no Government program is immune from review.

OPEN GOVERNMENT

There has been much attention focused this year on "sunshine" reforms and "sunset" reforms. I have the distinction of being a principal sponsor of both of these reforms and can speak about the legislative intent for both. Despite the similarity of the popular names, each of these reforms was developed independently of one another.

However, together these reforms represent a major breakthrough in the conduct of Government business. The basis for these reforms is that all areas of Government conduct ought to be fully open to public scrutiny as a matter of right. The sunshine reform was a first effort to win acceptance of the principle that meetings in the departments, agencies, and the Senate itself should be open to the public as a general rule. Citizens have a basic right to know how their elected representatives and their agents in the departments conduct the public's business. We established this principle this year for the Federal Government for the first time.

The sunset proposal would establish the principle that every program must be open for review at least once every 5 years and prove its worth before being continued. No dollar of spending should be sealed from public scrutiny. There should be no sacred cows when it comes to proving the effectiveness of public programs. The sunset bill is consistent in principle and philosophy with the effort to open up all Government business to the public. I think it is an idea which is long overdue and which deserves a trial.

FISCAL REFORMS

The sunset bill is also consistent with the reforms in fiscal management and the budget process which we developed during the past Congress. The congressional budget process was established by the Budget Reform and Impoundment Control Act of 1974. The budget process establishes a procedure to set national spending totals and to keep outlays for spending functions within that ceiling. However, the budget process provides no fiscal control over the parts of the budget.

Congress cannot maintain discipline over the budget as a whole unless it can exert control over spending among the separate parts of the budget. The heart of the sunset approach is to review program spending in all functions to assure that effective programs continue and that ineffective programs be terminated.

This bill would change several of the assumptions about budget authority and the way Congress spends the tax dollars of our citizens. It would end the unspoken rule that money spent on a program in 1 year must be continued or increased in the following year. There would be no permanent authority for spending which places Government programs effectively beyond periodic review. The new assumption of program spending will be that budget authority will be renewed only when a program is shown to be worthwhile and cost effective.

NEED FOR SUNSET

In principle these new assumptions have broad appeal and have gained acceptance as a basic element of sound fiscal management. However, in practice, existing congressional procedures, provide no assurance of comprehensive review and evaluation. There is no process which gives Congress control over its spending practices and requires programs within the same spending function to be considered with other programs serving the same basic objectives. The sunset bill would establish such a procedure in Congress and assure comprehensive oversight of spending by budget function.

There is a risk with any process that the procedure will be too rigid or become a mere formalism. The termination and review cycle in S. 2925, however, provides a firm schedule of review yet retains flexibility for congressional committees in the performance of their oversight role. The sunset process establishes an action-forcing mechanism that demands periodic review, but permits committees to exercise considerable discretion in the execution of their oversight responsibilities.

Our Federal budget has grown so large that effective management is exceedingly difficult. We are making decisions daily in the Congress which have enormous impact on the national economy and the disposition of our Nation's resources. Unless we have a process which permits Congress to develop a national budget which is arrived at rationally and by choice, wasteful Federal spending will continue to burden the economy. Without a process to assure that all programs in one functional area are reviewed at the same time, the overlapping and duplicative programs will never be consolidated or weeded out.

Congress has no more important responsibility to the citizens of this country than to make Government responsive and effective. Programs which have missed their intended mark, outlived their usefulness, or failed to measure up to standards of effectiveness do not deserve to remain on the books. Congress has the responsibility to provide this oversight function to make sure Government is working.

It is evident that public confidence in the Federal Government is low. A recent Harris survey showed that a 58 to 8 percent majority of citizens believe the Federal Government is "more wasteful" than State governments. When the public demands better Government, Congress has a responsibility to examine its own role and to find a practical solution that will improve Government effectiveness. I believe the sunset bill is such a practical approach which will permit Congress to scrutinize Federal spending and answer to the American public for the performance of the Federal Government.

Public attitude surveys have shown a steadily declining confidence in Government among citizens. There is a widespread concern that Government overpromises, yet fails to deliver. And there is a general perception that Washington mismanages and spends irresponsibly. I would like to see Congress come to grips with the consequences of its free-spending attitude. I believe the public is demanding, through the elective process, a major reexamination of Government programs, Government regulation, and bureaucratic growth. I believe the public favors a reorganization of existing bureaus, and departments if necessary to make Government more effective in conducting public affairs.

The Federal Government is larger than any major corporation, yet the process in Congress for determining how our resources are spent is dominated by an antiquated network of legislative committees with overlapping jurisdictions and uncoordinated agendas. It is exceedingly difficult for 100 Senators working full-time in 18 separate committees to coordinate and manage the Nation's overall budget. It is small wonder that our Federal budget is the source of outrage and concern to many citizens today.

I commend this bill to my colleagues for their serious consideration. The bill as reported by the Government Operations Committee is the product of considerable revision and refinement. We have worked diligently in committee to put forward a proposal that is comprehensive, constructive and workable. In that, I believe we have succeeded. Undoubtedly there will be further improvement of the procedures established in S. 2925. I strongly urge the Senate to show the wisdom and the leadership to adopt the reforms in this bill. There can be no greater priority during this Congress or the next Congress than to make the Federal Government more accountable and more effective in serving the American people.

DEVELOPMENT OF SUNSET

For a moment, I would like to review the background of the development of this bill and address several questions about the bill which have been raised during our consideration.

My efforts in the area of fiscal reform are well known. I am not a newcomer to the cause of spending reform and improving Government effectiveness. In 1968 my staff identified each Federal assistance program for the first time and published a list by title and description in the 1969 listing of Federal Domestic Assistance program.

In 1971 I conducted a major survey of Federal program evaluation practices for all Federal agencies. I was in the forefront of major reforms of our procurement system. I was an early advocate for the Joint Budget Study Committee in 1972 which provided a basis for the budget reform law. I devoted great effort to the historic Budget Reform and Impoundment Control Act of 1974.

I have opposed irresponsible spending practices from the day I came to the Senate. I have urged tighter spending ceilings for Congress. I have often opposed appropriations bills on the ground that the added cost would be inflationary. I have cited numerous instances of wasteful spending in Government and been involved in achieving percentage reductions in Government energy and travel costs. However none of these efforts has satisfied me that Congress has achieved a measure of budget control and fiscal discipline necessary for sound Federal fiscal policy.

Last year I introduced legislation, S. 2390—to facilitate the consolidation of Federal assistance programs and reduce waste and duplication. I believed that our system of intergovernmental grants and aid has been unsatisfactory. The General Accounting Office cited numerous instances of waste, overlap, and confusion in the Federal assistance area in a report entitled "Fundamental Changes Are Needed in Federal Assistance to State and Local Governments," released in August 1975. This report served as a basis for the reforms which I proposed in my consolidation bill. However, the approach in S. 2390 was not as comprehensive as I believed necessary to reform spending practices in Congress and it failed to provide a mechanism to trigger responsive action in the Congress.

I began thinking about a far more comprehensive effort. The kind of reform which I envisioned is a thorough reexamination of the Federal Government that would put an end to program duplication, mismanagement, and bureaucratic overlap.

The growth in Federal programs in the last decade had outstripped the ability of Congress to review them and improve upon them. What we are left with is hundreds of programs, often serving similar objectives, but each creating added pressure for budget increases.

Last year, Senator Muskie voiced similar criticism about the record of performance in many Federal programs. Senator Muskie and I serve on the Intergovernmental Relations Subcommittee as chairman and ranking member. The subcommittee has principle responsibility in the area of intergovernmental structure and coordination.

We both agreed on the need to review the overall performance of Government programs and to develop a reform proposal that would address the major weaknesses. We agreed that the aproach should be comprehensive in scope, and workable for the Congress.

Thus from the first discussions between our staffs the sunset bill was a joint bipartisan undertaking. Part of the appeal of this legislation, which 55 other Senators have endorsed, has been the neutral process which it would establish. Despite our assumption that there are Government programs which are ineffective and duplicative, the procedures we developed prejudge no programs and subject all programs to the process for review.

The staff of the Intergovernmental Relations Subcommitte worked through the fall to develop a proposal which met these basic requirements. On February 3 we introduced our bill—E. 2925—with additional cosponsors from both parties. The subcommittee held 7 days of hearings and conducted an extensive effort to improve the basic approach and incorporate recommendations made by expert witnesses during the hearings. Numerous revisions were completed in the subcommittee and a bill was reported on May 13. The Government Operations Committee made further improvements in the bill and reported the bill unanimously on August 4.

I am especially pleased that the bill was amended to include my proposal for a comprehensive reexamination of Government structure and administration, and a sorting out of the basic responsibilities for different levels of government. This approach is modeled after the second Hoover Commission which conducted an independent and thorough review of the operation and effectiveness of Government in the 1950's. Citizen panels were organized to review all areas of Government and recommend changes. I know the effectiveness of this kind of approach first-hand because I was involved in a citizen review panel in Delaware.

The committee determined that the Hoover Commission approach as set out in title IV was more comprehensive and prefereable to the review of duplicative programs by the General Accounting Office provided for in the initial bill.

The Hoover Commission would have a broad charter to examine and review government operations. Panels of citizens could again be invited to become involved in the evaluation and reorganization process. Only those areas, such as the National Foreign Intelligence program, where access to sensitive Government secrets is necessarily limited, would be excepted from the Commission's reform charter.

KEY ISSUES

Several concerns about what sunset will mean to the legislative process if the process is fully implemented have been raised during the bill's consideration in the Government Operations Committee and during its joint referral to the Finance Committee and the Rules Committee.

WORKLOAD

First, much attention has focused on the added workload for Congress which a periodic and comprehensive review entails.

Under the zero-base review procedures programs would have to be reviewed at least once every 5 years. This would also apply for programs which are now "permanent" and do not require periodic review or renewal for budget authority. It seems to me that Congress is shrinking from its basic oversight responsibilities unless we subject programs to review at least once every 5 years.

The concern about excessive workload is a tacit admission that Congress has passed more programs than it can reasonably check up on. If this is true, Congress has not acted responsibly to control how the citizen's tax dollars are spent. The evaluation process of this bill reserves considerable discretion to the committees in determining which programs will have highest priority for review. But, unless programs are scheduled for review, there is no assurance that wasteful spending will be discovered and terminated.

ZERO-BASE REVIEW

There has also been special interest in the zero-base review procedure in this bill. Many are confused by this. First, it does not impose zero-base budgeting for the annual budget cycle. The technique of justifying a budget from zero expenditures and amounts above is used without mandating an inflexible standard of review for any committee or Federal agency. The requirements which are enumerated in the bill will give a committee considerable discretion in determining the method of review and relative concentration for each program. At the same time no program would be immune from review within a 5-year period and in no event will the review fail to provide some basis for evaluation of a program's effectiveness. This seems to be a reasonable compromise between an inflexible universal standard of review and no requirement for review at all.

I am very pleased that this sunset proposal for periodic review and renewal has been given thorough consideration. As principal cosponsor I owe a great debt of thanks to my colleagues who have examined the proposal very carefully and offered their support; and to the committees and their staffs which have devoted considerable time and effort to study the impact of the procedures in this bill.

The serious attention which has been given to this bill is both gratifying and reassuring that Congress is being responsive to the need for internal reform and improving Government effectiveness. I am concerned, however, that the great support for reform this year will go unrecorded. Unless we move forward with this legislation we risk considerable delay and dissipation of the momentum for reform. I believe this is the most important and significant reform of this decade. I urge my colleagues to record their interest in this proposal so that we can maintain the momentum for reform next year. I recognize that major reforms often require a long period for debate. I submit however, that the American public is deserving of your commitment to this proposal as a contract between the public and the Congress that reform of Government will be the first priority of the 95th Congress.

PROGRESS IN REFORMING GOVERNMENT SPENDING—THE SUNSET PROPOSAL

Mr. HUMPHREY. Mr. President, I wish to add my support for S. 3834—the Government Economy and Spending Reform Act—the so-called "Sunset" bill being discussed today. I feel that this legislation is another important step in Congress reassertion of control over Federal spending. The sunset bill will reinforce the process which began with the passage of the Budget and Impoundment Control Act of 1974.

The basic objective of this legislation is to improve the process by which Congress reviews spending, regulatory, and revenue laws. I have long felt that this process needed improvement, and I have supported the establishment of an oversight subcommittee of each standing committee for this purpose. It is of utmost importance that Congress review in a more formal fashion the many programs we have created to insure that they are performing as intended. Both my proposal for establishing oversight subcommittees and the sunset bill are movements in this direction.

During the 2 years I have served as chairman of the Joint Economic Committee, the committee has supported the objectives of the sunset legislation with many specific recommendations. Improving congressional review of Federal programs has been a longstanding interest of the committee and of mine. In 1970, for example, the committee published a report on "Economic Analysis and the Efficiency of Government." In 1972, the committee published a pioneering study "The Economics of Federal Subsidy Programs," and in 1974 we published another study on "Federal Subsidy Programs." All of these studies and reports served to emphasize and document the fact that after a program is enacted by Congress it is often forgotten. A conclusion of the 1974 study was that—

> On the whole, these studies showed that many subsidies do not work well economically, they are often directed at outmoded or non-existent objectives, they redistribute income to the affluent, and in too many cases their costs far exceed their benefits to society as a whole.

The Joint Economic Committee has played a leading role in pressing for improved congressional oversight of Federal spending.

The Joint Economic Committee has also been a strong supporter of regular review procedures for tax expenditures and I am pleased to see that provisions for this review are included in some of the "sunset" proposals. As recently as March 1976, the committee made the following recommendation to Congress:

> To gain control of the tax expenditure budget and to ensure that each provision serves a useful purpose equitably and effectively, Congress should direct its tax-writing committees to report on all tax expenditures within five years. After critical examination, each item should either be reauthorized with or without modification for a period not to exceed five years, or else eliminated. A regular five-year review cycle should be established.

In summary, Mr. President, I want to commend my colleague, Senator MUSKIE, for the fine work the has done in preparing this legislation. I also wish to express my own pride as chairman of the Joint Economic Committee in seeing another JEC recommendation appear as a concrete legislative proposal. I hope that both the House and Senate will act favorably on sunset legislation early next year.

THE SUNSET BILL

Mr. CHILES. Mr. President, I would like to share with my colleagues my views on S. 2925, the sunset bill, because I consider this bill to be one of the most important and far-reaching pieces of legislation before this Congress.

The people of Florida, and everywhere across this Nation, are clamoring for us to bring a halt to runaway Federal spending and to stop what often appears to be the aimless and senseless growth of the Federal bureaucracy. We all know the statistics about the growth in governmental payrolls and governmental agencies. Yet, we have no effective means of systematically reevaluating what we have created in light of the changing needs of the people of this Nation. It seems as though we must wait until an agency literally comes to us to complain that there is nothing to do before we finally can develop the concensus necessary to eliminate it.

This is no way to run a government and S. 2925 provides a sensible way to review ongoing programs, determine whether there is a need for them at all and whether there is any overlap with programs of similar intent. We would need a concensus in order to continue a program rather than the other way around. This is a requirement for positive action by the Congress, as proof that, in fact, the people really want to see a program continued. We would no longer need to respond to our constituents that we cannot take action to eliminate certain duplicative or outdated programs simply because the crush of the legislative calendar does not permit it. Such programs would automatically terminate, to the great relief of us all.

The bill would provide for the review of expiring programs in a way which highlights duplication and overlap. Programs aimed at the same general end-purpose, or function, would be reviewed together. These proposed functional groupings of programs do need refinement and better definition. However, the bill provides for changes in that structure as we are able to better clarify the end-purpose sought by the Federal budget.

Mr. President, I have a strong, personal commitment to reviewing the entire Federal budget on a functional mission budget basis, a basis that will show our end-purpose national needs—the real needs of the American people.

A fundamental part of a mission-budget approach is a requirement that agencies fully justify, not only the increases requested but also the need for every dollar they wish to spend. This is popularly known as "zero-based budgeting." I do not really care what it is called. I have done it in my District of Columbia appropriations subcommittee, I have seen it done in State and local governments, and I want you to know that it works.

And when such a review can be focused on an entire functional area, the results can be really impressive. Under the leadership of Senator McCLELLAN and Senator MAGNUSON in the Appropriations Committee, we held a hearing with HEW and reviewed their health programs on a functional, end-purpose basis. This approach highlighted program areas which need more careful coordination by the department if they are to achieve maximum effectiveness.

Under the leadership of Senators MUSKIE and BELLMON on the Budget Committee, we have begun to review the defense budget on a functional, end-purpose mission basis. The members of the committee were unanimous in their view that this approach was a most meaningful way to consider our defense priorities and to determine whether we are allocating our defense resources most effectively.

Mr. President, mission budgeting goes hand-in-glove with the sunset and zero-based budgeting requirements of this legislation. These provisions set the stage for a budget review in terms of the end-purpose national needs, agency missions and programs to meet those needs.

This bill is a fundamental extension of the Budget Reform Act we passed in 1974, and I wish to go on record with my colleagues that it will be a first order of business for the next session.

ZERO BASED BUDGETING AND SUNSET LEGISLATION

Mr. KENNEDY. Mr. President, it is indeed an unfortunate commentary on how we sometimes do business here in the Senate that instead of spending this time considering, debating, and voting upon the Government Economy and Spending Reform Act of 1976, we are simply standing around talking about what a good bill it is and how important it is that we consider it next year. When I go home to Massachusetts and the businessman in Boston asks why the U.S. Senate could not find enough time to tackle the problem of Government regulation and wasteful Federal expenditures, what should I tell him? Should I give him the simple, noncontroversial answer that because of the election year and shortened legislative session, there simply was not time to consider regulatory reform? Or should I point out to him that on several occasions this session some of those Senators who complain the loudest about Government regulation stifling business and about the unconscionable delays suffered by citizens at the hands of Federal agencies are the same Senators who have delayed and in some cases stifled the U.S. Senate from considering important legislation. Filibusters, procedural slights of hand and parliamentary gymnastics undertaken by a handful of members in the legislative branch is not unlike the regulatory maze, excessive number of Federal forms and slow pace of decision-making heaped upon us by the overly maligned bureaucrats in regulatory agencies. In both cases, the citizens are ill-served and the public's cynicism regarding all branches of government is exacerbated. So, when the voters ask us why we did not take the time to act on this important legislation, we can tell them that this session was hamstrung with so much filibustering on antitrust measures, attorneys fees legislation, and the like, that there was insufficient time remaining to consider other pieces of legislation.

It is unfortunate that the American people have to wait another year for this bill to pass the Senate. The zero-based budgeting and sunset approach to Federal programs is a method whose time has come. Simply put, this bill would for the first time require each Federal program to undergo systematic and careful review by the executive and legislative branches of Government every 5 years. The bill further provides that unless each program is specifically reenacted by the Congress, it will automatically terminate. This termination mechanism will act as the incentive for Congress to take seriously its review responsibilities under the bill. If properly implemented, this bill will help us solve one of the most fundamental problems of our democratic government. In recent years, Federal programs have ballooned and multiplied at dizzying speeds. In the health field alone, there are 302 different programs, administered by 11 separate Federal agencies. Domestic assistance programs number over 1,000 and require more than 50 different Government agencies to keep them operating. Without a systematic and orderly procedure to reexamine Federal programs, the Government might someday simply fall of its own weight.

One of the shining virtues of this bill is that it is absolutely neutral regarding what programs it targets for review and possible termination. Since virtually all programs will undergo this rigorous process, no sacred cows are exempted. OSHA will receive the same kind of scrutiny as the B–1 bomber. Health programs for the poor will be put under the same congressional microscope as Government subsidies to large industries. There is no intent to prejudge any of these programs simply because they, like all others, will come under periodic review. The bill simply guarantees that all these programs will receive the congressional oversight that is too often lacking or lackadaisical today.

This neutrality in the review process was extended to the tax expenditure area by Senator GLENN during the Government Operations Committee's markup on the bill. Tax expenditures are those special provisions of the tax code that provide preferential treatment for certain taxpayers in order to encourage or subsidize certain activity. These provisions are the functional equivalent of direct expenditures made through other Federal programs. Over the past decade tax expenditures have grown much faster than direct expenditures. An estimate by the Joint Committee on Internal Revenue Taxation shows that from 1967 to 1977, Federal spending will increase by 161 percent, from $158 billion to $413 billion. But, in the same 10 years, tax expenditures will grow by 176 percent, from $36 to $100 billion. And tax expenditures receive even less scrutiny than many direct expenditure programs, because they are so snugly tucked away in the dark fabric of the tax code. Tax expenditures, no less than direct expenditures, should be included in the review and termination process. I firmly support Senator GLENN's efforts in this regard. We should stubbornly resist any efforts to give tax expenditures special treatment by pardoning them from periodic congressional judgments. To exempt tax expenditures from the review process would sacrifice the bill's neutrality and jeopardize the bill itself.

Zero-based budgeting and sunset provisions, will go a long way toward giving the Congress a procedural framework for meaningful and comprehensive regulatory reform. This is why it is so important for us to act early next session on this legislation. But, the sticky task of reforming and changing particular programs will remain. This bill tells us nothing about how we should go about restructuring a complicated regulatory scheme for a particular domestic industry, or which health programs should be combined under one administrative roof and which ones should be scrapped. And when the date comes for a particular program to be reviewed, we should remember that today's broad consensus on how and when to review it will be tomorrow's bitter conflict over what to do after it is reviewed. With the cold and arbitrary dates of sunset legislation replacing public events as the determinant of when the Congress reviews particular programs and sets national priorities, we in the Congress must guard against the pitfalls of sunset legislation. We must be vigilant to avoid the process of review being dominated or even overwhelmed by the organized special forces who will be so heavily armed when their pet program comes up for review. Since the ordinary citizen has neither the time, the money nor the expertise to marshal his views on complicated regulatory issues, the special interests will be the ones prowling the halls outside the committee rooms during the course of congressional review. No legislative solution will magically solve this problem. Requiring the Congress and the executive to reach out for public input through public field hearings and other mechanisms will help. Reviewing simultaneously all the programs of an entire budget category should also help give the committees a broader perspective. Perhaps even rivalry between committees with shared or overlapping jurisdiction over the same budget function will help insure healthy debate and provide a check against the power of the special interests. But, the ultimate watchdog must be the Congress and each individual Member.

Mr. President, finally I want to commend my colleague, the Senator from Maine (Mr. MUSKIE) for his untiring and committed efforts in developing this piece of legislation. Shepherding an ambitious and controversial bill like this through the various subcommittees and full committees often spans many sessions of several Congresses. But, Senator MUSKIE through his leadership of the Intergovernmental Relations Subcommittee has in the short space of this congressional session brought this legislation to the threshold of Senate action. This is an important achievement. The shortened legislative session of the Presidential election year and the shameful tactics of delay by a few Members of this body are the only reasons Senator MUSKIE's efforts will not be completed this session. The foundation he has layed this year will allow us to act early next session. It is imperative that we do so.

SUNSET REFORM

Mr. HATHAWAY. Mr. President, I congratulate the distinguished chairman of the Senate's Subcommittee on Intergovernmental Relations for his leadership in the area of sunset legislation. During the last few years, also with the leadership of my colleague from Maine, the Congress has increasingly turned its efforts to controlling the Federal budget. With the Congress learning to establish its priorities through its Budget Committees, and Senator MUSKIE constantly reminding the Senate of the priorities it has established, I am confident that the road we have chosen is not only the right road, but one which knows no horizons.

The sunset legislation which we now have before us is nothing more than the logical extension of our new budgetary process. By establishing a process of orderly periodic review of all our Government programs, this sunset legislation enhances our ability to review our priorities annually. It would insure that we will not find ourselves locked in to the priorities of past Congresses, and perhaps just as importantly, it would enable us to respond to future priorities without the fear that they might become locked in as well.

In a way, what we are doing here is establishing a procedure for dislodging vested interests, and as every Member of this body, I am sure, knows, it is much easier to deal with new legislation that is going to establish new interest groups than it is to change legislation that deals with already established interest groups. Yet, this legislation would provide us with a mechanism for doing just that, and for that reason I think it is not only remarkable that this legislation has gotten this far, but vital that it be carried through to passage. Since action can apparently not be completed by this Congress, it should be the first order of business for the next. It is a chance for Congress to seize a legislative tool that has never been available to it in the past, and it is a chance that should not be missed.

Because of the nature of the appropriations process, the most important aspect of legislation of this type is its effect on tax expenditures. The reason I say that is because most other forms of Federal expenditures are themselves subject to the appropriations process, which means they have to undergo a certain amount of periodic review. Furthermore, for many such programs, the group that is affected is not a powerful, well-organized constituency and may not be able to resist expenditure reform by political pressure alone.

For tax expenditures neither of these two limitations apply. Most tax expenditures are enacted for an indefinite period, and establish a special tax situation for a group that is not only well organized but powerful politically. The result is that they are never the subject of review except when public pressure for tax reform builds to such a point that it is unavoidable.

This is not a rational way to legislate. Most tax expenditures remain in the code long after they have served their original usefulness, simply because the only group for whom they are of particular interest is the group who benefits. There is no Government "bureaucracy" to flag their existence for the public, and the beneficiaries are well equipped to resist the intrusions of outside reformers. Applying sunset legislation to tax expenditures would deal with this situation. To establish a set period for the review of tax expenditure provisions as this bill would do would mean that these vested interests would periodically have to defend their provisions. But by the same token, it would insure taxpayers of the ability to plan ahead, both for their own actions and for the actions of Congress. It would enable Congress, the business community, and private individuals to take taxes into account in planning investment decisions.

Legislation of this type would be similar to a bill introduced jointly in the 92d Congress by Senator MANSFIELD and the then-chairman of the Ways and Means Committee, Mr. MILLS.

As Senator MANSFIELD indicated upon introduction of his proposal in the 92d Congress, the fact that a termination date is attached to each tax expenditure provision does not indicate whether the provision is desirable or undesirable. It merely mandates a review by the Congress to determine whether a given tax expenditure should be retained, modified, or deleted from the tax law in accordance with its effectiveness in promoting its economic objectives.

I would urge the Congress to include tax expenditures within the sunset provisions. To do so implies no position on any of the tax expenditures involved, any more than applying sunset provisions to the appropriations process implies any position on any of the issues involved in those areas. Instead, it merely implies that tax expenditures, like other Federal outlays, should be subject to periodic congressional scrutiny.

The first piece of legislation I introduced as a Senator was a concurrent resolution to scrap the entire Internal Revenue Code and to start over. I had introduced the same piece of legislation as a Congressman in the House. In effect, that is what this sunset legislation would enable us to do—it would establish an orderly process for the periodic scrapping and overhaul of the Internal Revenue Code.

And I think that is exactly what it needs.

SUNSET REFORM—A TRIBUTE TO SENATORS ROTH AND MUSKIE

Mr. PERCY. Mr. President, I am very pleased that S. 2925, the Government Economy and Spending Reform Act of 1976, sponsored by Senators ROTH and MUSKIE, has been reported to the Senate.

I had hoped that it would be scheduled for consideration by the Senate during the closing days of this session of Congress although that may not occur.

I have supported the concept behind S. 2925 since it was introduced and I and my staff worked on its development in the Subcommittee on Intergovernmental Relations and the full Government Operations Committee. This legislation to put a fixed term of life on and to review all Federal spending programs—popularly known as the sunset bill—is the most comprehensive and far-reaching effort for Federal spending reform in the Senate during this session. This legislation demonstrates that Congress is serious about reforming the fiscal disorder in our national budget and spending process.

The sunset bill is part of a broader reform of government that I have been closely involved in. We began this process with the development of the Congressional Budget and Impoundment Control Act of 1974. The budget reform law established a process by which Congress sets overall spending totals and exerts more discipline over Federal fiscal policy. However, without a process to review the parts of the budget as well as the whole, the Congress cannot be in a position to pursue national goals effectively and to allocate our tax resources wisely among competing priorities.

A third element of this unfinished reform agenda is the passage of regulatory reform. Budget reform and spending reform improve fiscal management in the Congess. Reform of the regulation of the economy, however, is needed to diminish the impact of government in all areas of private enterprise.

The first priority of the next Congress must be to complete the unfinished pieces of this reform agenda. Each of these efforts can succeed only where Congress shows the political will to implement these reforms and commit itself to a new operating procedure. The success of the budget process so far has been its bipartisan acceptance as a necessary and critical improvement over past fiscal practices. We must commit ourselves in turn to the spending reform procedures in the sunset bill and the reorganization process for regulatory reform. Each will require a bipartisan commitment by the Congress.

I particularly want to commend my colleague Senator William V. Roth, Jr., the senior Senator from Delaware, for developing and sponsoring the sunset legislation. He and Senator Muskie of Maine worked as partners to develop the procedures in the bill for periodic zero-base review, termination, and renewal of all Federal programs.

For the first time we have a proposal which provides a comprehensive approach to spending reform and assures that all spending programs will be reviewed by functional area. The duplication and overlap which results from dozens of programs with similar objectives in the same area of public policy will be rationalized. The sunset proposal offers a procedure for congressional oversight and evaluation that will do more than certify a program as worthwhile. This process measures progress toward policy goals and provides a mechanism to manage our resources more effectively.

Senator Roth has been closely involved as I have been, with the reform movement. He was one of the first advocates in Congress for a reform of the congressional budget process. I commend Senator Roth for his outstanding role in developing this sunset legislation.

Senators Muskie and Roth worked together to develop a process for spending reform that would be comprehensive, permanent, and workable. They agreed upon the basic approach for spending reform in October 1975 and set to work to draft legislation which would implement this goal. The cooperative effort between Senators Muskie and Roth is an impressive display of bipartisan teamwork.

Senators Roth and Muskie completed several drafts of S. 2925. They refined the basic concepts of the sunset process and introduced the product of their efforts on February 3, 1976. The bill which they introduced has been reviewed and substantially revised through the legislative process this year. During this development process, titles I–III, which established the zero-base program review were redrafted several times.

I and my staff worked on its development in the Subcommittee on Intergovernmental Relations and the full Government Operations Committee and support the final draft now pending before the Senate.

Mr. President, I ask unanimous consent to submit the following articles for the Record which describe the development of this sunset legislation and the zero-base review procedures which it establishes. The tireless and brilliant efforts of Senators Muskie and Roth in this reform process deserves special recognition, and I commend them for their cooperation and commitment to this important reform proposal.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the National Observer, June 5, 1976]

"Sunset" Budgeting: High Noon for Federal Waste?

(By Mark R. Arnold)

The hottest political idea of the year is something called the sunset bill. It has nothing to do with day-light-saving time. It has everything to do—or so its sponsors say—with making the Federal Government more accountable and more efficient.

A response to a widely held view that the Federal bureaucracy is wasteful and inept sunset is being eagerly embraced by liberals such as Hubert Humphrey and Charles Percy and conservatives such as Barry Goldwater and James Eastland.

The measure would set a termination date—a date for the sun to set—on every Federal program. Each would be renewed only if, after rigorous analysis by Congress, its performance could justify its existence and spending level.

Every five years each Federal program would face extinction unless a "zero-based budgeting" review demonstrated its value to the nation. Such a review would weigh the effect of various levels of spending—beginning with zero, or termination—upon the program's goals. Sunset is modeled in part on the zero-based budgeting techniques instituted by former Gov. Jimmy Carter in Georgia in 1972. The measure would reverse the assumption under which most bureaucracies operate—that programs, once established, should be continued (and usually grow). Sunset, says chief Senate sponsor Edmund Muskie of Maine, "offers one of the few chances we have to clear out some bureaucratic deadwood to make way for the nation's changing agenda."

Muskie and Delaware Republican William Roth introduced the sunset bill in the Senate on Feb. 3. "We hoped to get some hearings going and build a record that would lead to passage in the next Congress," says Alvin From, staff director of Muskie's Intergovernmental Relations subcommittee, which reported the bill May 13. But the proposal has attracted so much attention—and the support of both Majority Leader Mike Mansfield and Minority Leader Hugh Scott—that the Senate could vote on it before the July recess. House action may not be far behind.

As of last week, 48 of the 100 senators and 110 of 435 House members were cosponsoring sunset or zero-based budget legislation in Congress, representing all viewpoints on the ideological spectrum. "Conservatives see this as a way of reducing the responsibilities of Government, liberals as a way of getting our house in order to take on new responsibilities," says Muskie. Adds House sponsor James Blanchard of Michigan: "This is a good-government issue, not a liberal or conservative issue."

Interest in the idea is not confined to Washington. Colorado recently became the first state to adopt sunset legislation when Gov. Richard D. Lamm signed into law a bill that swept through the legislature with strong bipartisan support. The measure requires that all of the state's 43 regulatory agencies undergo a complete performance audit every seven years. Other sunset bills have been introduced this year in the legislatures of Minnesota, Florida, Louisiana, California, Minnesota, Illinois, and Alaska.

Behind the interest in sunset legislation lies a popular reaction against the growth of government. The largest increase in public-sector spending over the past 20 years has come at the state and local levels, but the growth rate of government at all levels has exceeded the growth rate of the economy during the period, according to studies by the Senate subcommittee. One consequence: The average family's tax burden has doubled in 20 years.

The period has also seen a dramatic rise in the most visible kind of Federal aid—that earmarked for domestic social programs. The Federal Government today has roughly the same number of employes it had a decade ago (2.8 million), but they administer more than 1,000 programs of assistance to all 50 states and 80,000 units of local government. In the health field alone, 10 agencies run 228 different programs.

"Government has become out of touch and out of control," says Muskie. Proponents see the sunset bill as a way of regaining control over the services that the Federal dollar buys. This is "a logical second step," adds Muskie, to the Budget Reform Act of 1974, which gave Congress a framework to help set national priorities. "No one in the executive branch or Congress really knows if we're getting the most for the money we spend."

The sunset bill is officially known as the Government Economy and Spending Reform Act of 1976. It would require that all Federal programs—including income-tax deductions—be reauthorized every fifth year or go out of existence. The only exemptions to the termination edict are payments for interest on the national debt and programs under which individuals make payments to the Government in the expectation of future benefits, such as Social Security.

THE ZERO-BASED PROCEDURE

Programs would be grouped for review by functional purpose (all defense programs would be reviewed in one year, all health programs in another, and so on). The President would submit with his budget request a zero-based review of all programs earmarked for termination in the coming fiscal year and an independent evaluation of their effectiveness.

The appropriate committees of Congress would consider the President's zero-based reviews and evaluations, perform any additional studies deemed warranted, and recommend to the House or Senate how much—if anything—to spend on each program. Its backers believe the process would identify numerous areas of waste and duplication. "There's the potential for billions of dollars or savings," says Muskie.

The House bill introduced by freshman Democrat Jim Blanchard of Michigan is modeled after Muskie's. It has been endorsed by 106 House members, including 45 of the 75 freshman Democrats. Blanchard says the bill is particularly appealing to liberals:

"We all want new programs, but we know it's politically unacceptable these days to raise taxes to finance them. The only way to pay for them is to weed out programs that have outlived their usefulness. Zero-based budgeting is how you find them."

BENEFITS AND DRAWBACKS

The oldest and most comprehensive use of zero-based budgeting is Jimmy Carter's Georgia system, which has been continued and refined by his successor, Gov. George Busbee. National Observer interviews in Atlanta with state budget officials, agency administrators, and legislators suggest that the process can yield some benefit but that political factors limit its potential. In addition, because that system calls for annual zero-based review, some administrators complain that it causes needless paper work.

Georgia officials cannot recall a single program that has been "zero-budgeted" out of existence. But administrators say the system keeps them on their toes and makes programs more efficient. In addition, argues Clark Stevens, who oversees the system for Governor Busbee, "we can look at all expenditures and measure them off against each other better. Old programs compete for resources with new proposals, and ideas don't get squeezed out on the grounds that the money has already been committed."

POLITICS OVER PERFORMANCE?

As a governor's management tool, the Georgia system has important advantages over traditional budgeting techniques, but its utility is severely hampered because the state legislature ignores it. "We prepare a continuation budget, and so does the governor," says Georgia legislative-budget analyst Pete Hackney. "Then they decide which items in addition to that ought to be funded. If old things get cut out, it's usually because they've proved pretty unpopular."

No one has yet opposed the legislation in Congress, but numerous skeptics wonder if political considerations, rather than performance, might not sway Congress' deliberations. "Any ongoing program has a constituency around the country that is going to be mighty unhappy with anyone trying to tamper with their line into the Treasury," says a White House official.

PROGRAMS SEEN JEOPARDIZED

Sunset's backers insist that it would give reformers ammunition they now lack in facing down defenders of ineffective programs. "We'd be viewing programs as they relate to other programs and spending options, not in a vacuum as we do now," says Blanchard. "That's got to be a plus."

Another criticism holds that program evaluation is too primitive an instrument—"more art form than science," says James Lynn, director of the Office of Management and Budget—to produce the standardized measures of effectiveness that the legislation would seem to require. Lynn testifying on the Muskie bill in April, called the Senate formula "too mechanical and inflexible." His lieutenants are working with Senate aides to try to iron out the difficulties.

Requiring periodic reauthorization for all Federal spending "might put suicidal demands on Congress," worries a legislative appropriations expert. Without additional resources to undertake thorough reviews, he adds, "We might end up with a BS type of recertification procedure, a paper exercise."

PILOT PROJECTS SUGGESTED

Moreover, a functional approach to consideration of Federal spending would require a thorough realignment of the present haphazard committee structure. No longer, for example, would 17 committees of Congress have jurisdiction over energy legislation. Muskie thinks sunset would spur this needed realignment, but he concedes, "If we don't solve the jurisdiction problem, implementation will be weakened.

These problems prompt some sunset backers to conclude that the legislation should be implemented in phases, beginning with some pilot projects. "We don't want to bite off more than Congress can chew and discredit the whole idea," says a strategist for Common Cause, which is pushing sunset in Washington and in state legislatures.

Whatever approach prevails, the idea behind sunset—to force a systematic and periodic re-evaluation of Government programs—is gaining strength. Says Muskie:

"People are fed up. They read about abuses in the Medicare program and cost overruns on defense spending. They don't know if it's the tip of an iceberg or the whole iceberg. I don't know either. The fact is, nobody knows. But we, as their representatives, have an obligation to find out."

[From the Washington Post, July 21, 1976]

PROGRAMS THAT SELF-DESTRUCT

(By Neal R. Peirce)

The "sunset" law idea—to force government agencies and programs to justify their own existence or face extinction—is advancing rapidly in Congress and spreading like a prairie grassfire among the states.

Sunset measures were introduced this spring in California, Florida, Illinois and Louisiana—even before Colorado, in April. could complete action on its pioneering bill to put 40 state regulatory agencies on a seven-year life cycle. Maryland has set up a 15-member commission to study the feasibility of a sunset law.

The Colorado chapter of Common Cause, which organized the sunset idea, reports inquiries from 30 states. "I wouldn't be surprised if two dozen legislatures were debating sunset bills by next winter," says Rosalie Schiff, executive director of Colorado Common Cause

On Capitol Hill, 47 senators, of every ideological hue, are sponsoring sunset legislation requiring federal government programs, grouped by functional area, to come up for renewal every five years. Programs that couldn't pass muster would be cut back or eliminated altogether. Those that proved themselves would be given a new lease on life by Congress.

The bill cleared the Senate Intergovernmental Relations Subcommittee by a 7–0 vote May 13, and sponsors Edmund S. Muskie (D-Maine) and William V. Roth (R-Del.) hope it will reach the Senate floor this summer.

On the House side, a companion bill has more than 100 sponsors including 41 members of the freshman class lined up by chief backers James J. Blanchard (D-Mich.) and Norman Y. Mineta (D-Calif.). House committee hearings are scheduled to begin this month.

Broad support—from Common Cause to the Chamber of Commerce of the U.S.—for the sunset legislation was forthcoming during Senate hearings. Only one interest group—the veterans—had the temerity to oppose the idea in public, out of fear that Congress might cut back their benefits.

Blanchard says he's "absolutely convinced" sunset legislation will eventually pass Congress. If he's right, the results could be revolutionary: the most effective brake on federal spending and programs in modern times—perhaps ever.

Muskie and Roth see sunset as a logical extension of the new congressional budget process, now in its second year. Whereas the budget process lets Congress establish spending priorities and overall ceilings, the sunset mechanism would force Congress to make periodic decisions on whether federal programs are really working so that duplicative or unnecessary ones can be weeded out.

Up to now, bureaucratic and political pitfalls have made it almost impossible to eliminate programs or agencies once they're on the statute books.

The sunset bill tries to avoid those pitfalls in three ways. First, a triggering mechanism requires that Congress must act every five years to keep a program alive. The burden of proof is shifted to a program's backers, to show that it deserves continued life. According to Alvin From, staff director of the Senate Intergovernmental Relations Subcommittee, "it will be very hard for a committee to justify reauthorizing the Tea-Tasters Board or 228 individual health programs."

Second, the sunset measure requires that all related programs—in manpower or health or national security, for example—come up for review and a decision on extension in a single year. Under strict budget guidelines, Congress will have to decide which programs are the most worthwhile, which might be dropped or consolidated.

Finally, the sunset bill as it's now written requires a zero-based review of each federal program, to be prepared for Congress by executive agencies and the General Accounting Office. Zero-based review shows the consequences of cutting any program's budget 25 percent or more, eliminating it altogether, or providing the services another way.

The zero-based review process alarms professional budget-makers. Roy Ash, former director of the Office of Management and Budget, says that zero-based review of an average of 250 programs a year "is like attempting to jump aboard a 747 in full flight." Others say the bill is overly ambitious, would set a "papermill" in motion and create "a staggering workload." They suggest more modest pilot or test runs.

Muskie and Roth show little patience with such arguments. If Congress proceeds at the pace predicted by many critics, Roth says, "I will be dead by the time the work is completed." Much of the resistance, sunset law backers believe, stems from normal bureaucratic terror of any radical change in their way of doing business.

Even federal tax incentives are the target of a sunset provision suggested by Ohio's Sen. John H. Glenn (D). However noble their original purpose, Glenn says, tax incentives often degenerate into loopholes that cause an annual loss of $101 billion in tax revenue—as much as the entire national defense budget.

Common Cause urges a kind of sunset for Congress itself—reorganizing committees into more clear-cut functional areas and forcing members to rotate committee assignments every few years to break up "unholy" alliances between committee members and special interest lobbyists.

Even an imperfect sunset system, however, could help breathe life into the oft-neglected oversight role of the legislature, prompt the executive to be more accountable, and begin the arduous process of rescuing government from its own cumbersome inefficiencies and the nadir of public esteem where it finds itself today.

[From National Journal, May 22, 1976]

BUDGET REPORT—CONGRESS TRIES TO BREAK GROUND ZERO IN EVALUATING FEDERAL PROGRAMS

(By Joel Havemann)

The federal government is grappling with a simple but bewildering question: Are the myriad programs that it is operating doing any good?

So far, the answer in many cases is little more than a question mark. The art of evaluating the impact of federal programs—and using those evaluations to make programs better—has not evolved far beyond the stage of the cave drawing.

But in this year of disillusionment with the federal government, attempts to do a better job of evaluating federal programs are in the offing.

The most ambitious, one that has gained the approval of a Senate subcommittee and has considerable support in the House, would threaten nearly every federal program with extinction every five years. Programs could be continued only if Congress found evidence that they were working—or ignored evidence to the contrary.

A more modest effort is under way at the Office of Management and Budget (OMB), which has been wondering for two years whether to require departments and agencies to undertake more rigorous evaluations of their programs. Both OMB and the General Accounting Office (GAO) are trying to identify the pitfalls that evaluators frequently encounter and to suggest possible routes to useful program evaluation.

Congress: Sen. Edmund S. Muskie, D-Maine, is the chief author of the major congressional initiative, known alternatively as "zero-base budgeting" (because programs would be reviewed from ground zero) and the "sunset" law (because the sun could set on programs with unfavorable reviews). The Senate Subcommittee on Intergovernmental Relations, whose chairman is Muskie, reported the bill (S 2925) to its parent Government Operations Committee on May 13.

"The American people do not think they are getting their money's worth out of the tax dollars they pay," Muskie said as he opened hearings on his bill on March 17. "The legislation before us today offers the Congress a constructive, responsible measure for responding to this complaint."

Muskie and Sen. William V. Roth Jr., R-Del., who helped write the bill, hope it will result in the weeding out of programs that duplicate each other or serve no good purpose. They regard it as a logical extension of the new congressional budget process now in its second year. Where the budget process lets Congress set spending priorities, zero-base budgeting would give it a way to determine whether federal programs are meeting those priorities.

That's a difficult goal to oppose, and almost everybody is supporting it in public—except veterans' groups, which are afraid Congress might cut back programs of benefits for veterans. But there are many critics who feel Congress is incapable of making zero-base budgeting work overnight.

James T. Lynn, director of the Office of Management and Budget, warned of "unneeded paperwork and wasted effort." Commerce Secretary Elliot L. Richardson, suggesting that the bill was too ambitious, cited "the danger that it may develop into a mere mechanical exercise."

Muskie and Roth show little patience with such arguments. If Congress proceeded at the pace suggested by many critics, Roth said, "I will be dead by the time the work is completed."

In the House, Rep. James J. Blanchard, a freshman Democrat from Michigan, has introduced a bill similar to Muskie's, and 98 Members, 47 of them freshmen, are sponsoring it. Blanchard's bill (HR 11734) is scheduled for a day of hearings in the Rules Committee in June. "This zero-base approach is going to become law," he said in an interview. "I'm absolutely convinced of it."

OMB: When Lynn became OMB director early in 1975, he made program evaluation one of his priorities. "There will be a renewed emphasis on dealing with programs we have as opposed to the new," he told *National Journal* nearly a year ago.

So far, OMB's Office of Evaluation and Program Implementation has surveyed the evaluation efforts of 18 federal departments and agencies, and it has distributed two studies of the difficulties of evaluating federal programs.

But its main project—a circular directing all federal departments and agencies to prepare annual evaluation plans—has remained unsigned on Lynn's desk since December. Lynn said he is not sure that the departments and agencies, which operate hundreds of programs serving hundreds of purposes, should be required to follow uniform evaluation procedures.

Another of OMB's major management efforts—"management by objective"—has been in suspended animation since Lynn took over from Roy L. Ash as director. Federal departments and agencies have not been required to identify their most important objectives since fiscal 1975, and they have not been meeting with OMB to report progress toward objectives. The lack of dramatic results from the program evaluation effort, coupled with suspension of management by objective, has led to considerable grumbling on the part of OMB's management staff.

EVALUATION PITFALLS

The federal government is spending at least $200 million a year for program evaluation. GAO, which serves Congress, is responsible for about one-third of that total, and federal departments and agencies for the rest. The departments and agencies generally contract for evaluations of their programs with outside groups—universities, nonprofit research organizations and profit-making groups.

But it is not at all clear that the government has received its money's worth. Most experts would agree with Lynn, who told Muskie's subcommittee, "Evaluation is still a very imperfect art."

Will it work?: Why should it be so hard to tell whether a federal program is working? For one thing, it often is hard to tell what "working" means, because many programs have only the vaguest of objectives. How are evaluators to determine, for example, whether food stamps have alleviated hunger and strengthened the agricultural economy?

Even when objectives are precise and tangible, it usually is difficult to determine whether a particular program is the cause of their attainment. Cause and effect relationships are extremely insubstantial for most programs except those few that are carefully set up as scientific experiments.

Occasionally it is possible to demonstrate that a program is not doing what it is supposed to do. Much rarer are the occasions when federal policy makers do something about it. "The gap between doing evaluation and using it is very great," Allen Schick, a senior specialist in American government for the Congressional Research Service, said in an interview.

The fault lies partly with evaluators, who tend to turn out obscure, jargon-filled reports too late for decision makers to act on them. But the decision makers themselves, in Congress and the executive branch, must share the blame; often their minds are made up before the results of evaluations are in. Richardson said he was frustrated by the widespread disinterest that greeted even the best program evaluations turned out by the Department of Health, Education and Welfare (HEW) while he was Secretary from 1970–73.

Growing interest: Program evaluation is a recent phenomenon. Only in 1946 did Congress, in the Legislative Reorganization Act (60 Stat. 132), require its committees to exercise "continuous watchfulness" over the programs under their jurisdiction. Results were spotty. "Most oversight as now practiced (or faked) is a farce," John W. Gardner, chairman of Common Cause, told Muskie's subcommittee.

In the 1968 Intergovernmental Cooperation Act (82 Stat 1098), Congress asked its committees to review the results of programs of federal grants to states and cities that were authorized into the indefinite future. But there was no provision for terminating programs that did not get reviewed, and most committees have taken no action.

Theodore J. Lowi, a professor of government at Cornell University, proposed in 1969 that Congress enact a limit of five to 10 years on the life of every program. "This may ultimately be the only effective way to get substantive evaluation of a program and an agency," Lowi said.

The 1970 Legislative Reorganization Act (84 Stat. 1140) called on GAO to begin providing Congress with studies of the costs and benefits of federal programs. Congress rejected a proposal for mandatory pilot testing of new programs when it passed the 1974 Congressional Budget and Impoundment Control Act (88 Stat. 297), but it included a section expanding GAO's program evaluation duties.

GAO budgeted some $67.9 million to perform program evaluations in fiscal 1977. OMB estimated that 17 of the biggest federal departments and agencies—excluding the Defense and State Departments and part of the Treasury Department—spent $116 million in fiscal 1975 for evaluations.

These efforts hardly have been enough to blunt public criticism of federal programs. Presidential candidates such as former Govs. Jimmy Carter and Ronald Reagan are winning votes by promising to overhaul federal programs and the bureaucracy.

At the same time, the federal deficit is reaching an all-time high of about $76 billion in fiscal 1976, and it probably will exceed $50 billion in fiscal 1977. When money to pay for federal programs is so scarce, it is hard to justify those programs that may not be working.

CONGRESS

The 1974 budget reform act is forcing Congress for the first time to look at spending priorities—to figure out how to divide resources among defense, health, jobs programs and other federal functions. The zero-base budgeting bill introduced in the Senate by Muskie and in the House by Blanchard would require Congress to review virtually every spending program to see if it is worth the cost.

Muskie said he hoped a thorough examination of federal programs—as opposed to the traditional approach of studying only annual spending increments—would help Congress weed out programs that duplicated others or failed to meet their goals. "I have realized that budget reform is not an end in itself, but a major first step in a broader effort," said Muskie, an author of the budget reform act and chairman of the Senate Budget Committee.

Zero-base budgeting: The bill approved by Muskie's Intergovernmental Relations Subcommittee—a substantial revision of the bill that Muskie introduced on Feb. 3—would terminate the authorization for nearly every federal program every five years. Exempt from the "sunset" provision would be social security and other pension programs, medicare and payments on the national debt.

Programs performing similar functions would terminate in the same year, so that Congress could review them as a unit. The first to expire—national defense, foreign aid, science and law enforcement—would require reauthorization after Sept. 30, 1979. Another set of programs would follow at the end of each fiscal year, ending in fiscal 1983 with social services, welfare and revenue sharing.

No program could be continued past its expiration date unless Congress and the Administration conducted a "zero-base" review of the program. The Administration would be required to submit its zero-base review a year before each program's scheduled expiration date. The President would submit his recommendation for each program along with his annual budget request in January.

In its zero-base review, the Administration would have to analyze the consequences of eliminating the program and providing the same services through other programs. It also would have to study the levels of service it could provide if the program's funding were cut by 25 per cent or more.

Congressional authorizing committees would be directed to examine the Administration's zero-base review for all programs under their jurisdiction. Each committee would be expected to conduct its own review of each program "to the extent it considers it necessary or appropriate." The committees would have to report the results of their review by May 15 of the year its programs were scheduled for termination. This is the same date by which, according to the congressional budget process, the committees would have to report legislation authorizing the expiring programs. Bills reauthorizing programs for which no reviews were filed could be ruled out of order on the House and Senate floors.

Spending control: Muskie and Roth, the chief authors of the zero-base budgeting bill, said it is designed as another step in the effort to increase congressional control of federal spending.

Roth said in an interview that the time is ripe for a thorough reexamination of federal programs. "If there's any message coming from the presidential primaries, it's that the public is fed up with Washington," he said.

Muskie complained that many federal programs overlap; for example, federal agencies operate eight health clinics in a single District of Columbia neighborhood.

"I make this point specifically for those critics who equate spending reform with a retreat from a national commitment to solving our desperate social problems," he said. "Nothing could be further from my intent. On the contrary, spending reform offers one of the few chances we may have to locate scarce resources that are not now used effectively—and to redirect those resources where they are needed most."

Sen. John Glenn, D-Ohio, like Roth a member of Muskie's subcommittee and an author of the zero-base budgeting bill, condemned the tradition of analyzing only spending increases during budget review. "Invariably," he said, "they (federal officials) fail to ask the most serious question: What would be the impact of eliminating this program altogether or at least scaling it back?"

Support in principle: The zero-base budgeting bill met with what Lynn called a "chorus supporting the general purpose of the bill—to foster periodic quality assessment of the various activities of the federal government."

The only interest group to speak out against the bill was the Veterans of Foreign Wars of the U.S., which said the bill discriminated against veterans' benefits by including them in zero-base review while it exempted social security and medicare.

David B. Walker, assistant director of the Advisory Commission on Intergovernmental Relations (ACIR), warned that the sunset provision would jeopardize good federal programs whose enactment was difficult to achieve the first time around. He said federal agencies might spend more time justifying renewal of their programs than operating the programs.

Administration skeptics: Although they applauded the objective of the zero-base budgeting bill, Administration officials said they doubted that Congress could make it work. Lynn warned that program evaluation is too primitive to provide much information. William A. Morrill, assistant HEW secretary for planning and evaluation, said his department already conducts about 25 zero-base program reviews a year. "Experience with comprehensive zero-base reviews, at both the federal and the state levels, indicates that we need to have a much better idea of how to do it, and of its consequences, before we mandate it for all federal programs," Morrill told Muskie's subcommittee.

Morrill added that Congress has ignored the Administration when its reviews have led it to recommend the abolition of programs such as community mental health centers.

"That is because you take up one program at a time and that program's constituency rallies behind it," Muskie said. He promised that such would not be the case when all mental health programs were subject to simultaneous review, as they would be under his bill.

Deputy OMB director Paul H. O'Neill, who was consulted by Muskie's staff as it drafted the zero-base budgeting bill, complained that Congress would not even give the Administration a hearing on its pending proposals to consolidate 56 programs of federal grants into six block grant programs. (*See Vol. 8, No. 8, p. 228.*) In an interview, Alvin From, staff director of the Intergovernmental Relations Subcommittee, said, "With this zero-base process, there ain't no way we're not going to give them a hearing."

Workload: Many witnesses before Muskie's subcommittee said Congress might be biting off more than it could chew with zero-base budgeting.

Lynn warned of "unneeded paperwork and wasted effort." Richardson said, "Just as we must make priority decisions on allocating finite resources to programs, we must also choose which program evaluations can usefully be completed in a given period of time."

Even the heads of two agencies that serve Congress warned of the workload of a "sunset" law. Comptroller General Elmer B. Staats, who is head of GAO, said Congress would have to review $250 billion worth of federal spending, at fiscal 1977 levels, from ground zero.

"The capacities of the executive and legislative branches are limited," said Alice M. Rivlin, director of the Congressional Budget Office (CBO). "The types of evaluation and review proposed in this legislation could exceed these capacities and lead to changes in behavior that were mechanistic and meaningless."

Rivlin and many of the other experts said Congress should get into the business of zero-base review gradually. Some suggested a pilot test of the new process, possibly with regulatory agencies, as Colorado is trying. Lynn said legislation was not needed at all; congressional committees already have the power to direct the executive branch to conduct zero-base reviews.

Muskie would have none of this. "We have talked about program review and the monitoring functions and the oversight functions of committees for the 18 years I have been here, and nothing has ever come of it," he said.

However, he amended his original bill to make programs expire every five years instead of every four. In the new version of the bill, departments and agencies rather than congressional committees would conduct zero-base reviews.

From said that in the revised version of the bill, the sunset provision was more important than the requirement for zero-base review. "The important thing is to force a periodic reexamination of programs, regardless of the method used," he said. Even if evaluation techniques are not yet very sophisticated, he said, "it will be very hard for a congressional committee to justify reauthorizing 228 individual health programs."

The concept is one that is catching on in the states as well. In addition to Colorado's experiment with its regulatory agencies, New Jersey is applying zero-base budgeting to some of its executive agencies. State legislatures are looking at sunset provisions in California, Florida, Illinois and Louisiana.

"I wouldn't be surprised if two dozen legislatures were debating sunset bills by next winter," said Rosalie Schiff, executive director of Colorado Common Cause.

OTHER PROVISIONS

In addition to its central theme, the zero-base budgeting bill sent to the Government Operations Committee includes a number of other important provisions.

A section drafted by Roth would establish a Citizen's Bicentennial Commission to make recommendations by Sept. 30, 1979, about how to make the federal government more efficient and productive. The President would appoint eight commission members and the House and Senate five members each.

"I don't think we can wait five years" for the first cycle of zero-base program reviews, Roth said in an interview. He said the commission should go to work immediately, at a time when public pressure for government reform is great.

Glenn amended the zero-base program review to include tax expenditures—provisions of the Internal Revenue Code that exempt certain kinds of income from taxes. Glenn said any thorough review of federal activity must include tax expenditures, which are expected to cost $91.5 billion in fiscal 1977.

Another Glenn amendment would require the President to report to Congress each year not only his own budget requests but also the requests made of him by federal departments and agencies. Roth spoke out in opposition, arguing that the President should not be denied the chance to set his own budget priorities without having his departments and agencies appeal his decisions directly to Congress.

Muskie replied that the Budget Committees set spending priorities even though they make public the spending requests of other congressional committees. "Congress is entitled to consider what the President said no to as well as what he said yes to," Muskie said.

HOUSE BILL

While the effort to enact zero-base budgeting in the Senate is being led by a former presidential contender, the leaders in the House are freshmen. Blanchard said in an interview that his interest in the subject was triggered by a letter from a constituent.

"There's a big difference between a good idea and a program that works," said Blanchard, a former assistant attorney general in Michigan. "Most program I've seen in Michigan lost an awful lot between the idea and the implementation."

Blanchard introduced a bill (H.R. 8968) on July 28, 1975, that would require a comprehensive congressional review of all federal programs every two years. Then he found out that Muskie was working on a zero-base budgeting bill of his own, and he got in touch with Muskie's staff. Two days after Muskie introduced his bill on Feb. 3, Blanchard introduced an identical bill. Unlike the bill that Muskie's subcommitee ultimately approved, Blanchard's bill would make federal programs expire every four years, and it would place the burden of zero-base reviews on congressional committees.

Blanchard said he was glad Muskie got in on the act because "a celebrity like Muskie can get things going." He said he felt Muskie welcomed the support of the House freshmen. "We made it a 'good government' proposition, not a conservative proposition," he explained.

Blanchard and Rep. Norman Y. Mineta, a freshman Democrat from California, sought co-sponsors and got 96. Blanchard said no Member whom he asked in person to cosponsor his bill had turned him down.

Rep. Elliott H. Levitas, D-Ga., appearing before Muskie's subcommittee with Blanchard, Mineta and two other freshmen, said it was no coincidence that freshmen were taking the lead in the House. "We come perhaps the freshest from the public," Levitas said.

OMB

The Office of Management and Budget set up an evaluation office in January 1974 to try to establish an evaluation effort across all federal departments and agencies. "We are concerned that there be a structured and organized approch to program evaluation on a government-wide basis," said associate OMB director Fernando Oaxaca, who supervises the evaluation office.

The central initiative of the evaluation office is a circular that would direct all departments and agencies to prepare annual evaluation plans, outlining what programs they intend to analyze and what they expect to learn. However, the circular has been awaiting OMB director Lynn's signature since Dec. 19.

Clifford W. Graves, Oaxaca's deputy in charge of the evaluation office, said the circular may never be issued. Instead, he said, OMB may use its traditional roles of budget review and legislative clearance to put pressure on the departments and agencies to improve their evaluations of their programs.

Circular: As drafted by Graves's office, OMB's evaluation circular would require all departments and agencies to provide OMB every March 15 with detailed descriptions of individual evaluation projects contemplated for the coming fiscal year. In addition, the departments and agencies would describe their evaluation plans for the following fiscal year in more general terms.

Graves said the evaluation plans would force departments and agencies to make program evaluation a part of their continuing management process. He said OMB intentionally did not spell out what kinds of evaluations would be expected of each department and agency. "You should fit the technique to the problem, not the problem to the technique," he said.

The circular would require that before undertaking evaluations, agency officials would have to commit themselves to using the results of the evaluations when the time came to decide the future of the programs being evaluated. "We want to get away from using evaluations for scientific curiosity or because you think a congressional committee may ask questions about a particular program," Oaxaca said.

OMB would have an opportunity to modify department and agency evaluation plans before they took effect. Graves said that since OMB helps the President formulate Administration policy, it should have a voice in determining the issues toward which department and agency evaluations should be directed.

The circular also would require departments and agencies to make program evaluation a component of all legislative proposals that pass through OMB review on their way to Congress. Departments and agencies would be expected to lay out precise objectives in their legislative proposals, along with techniques for determining if the proposed programs met their objectives.

OMB circulated drafts of its proposed circular among the departments and agencies for comment. "I've been surprised at how positive the responses have been," Graves said.

He said the larger departments and agencies had ample opportunity to help OMB shape the circular. Evaluation officials in smaller agencies were glad to learn that OMB was showing an interest in what they were doing, he said. Among the few negative comments, according to Graves, were those from the Central Intelligence Agency, which regarded evaluation plans as another opportunity for security leaks.

Limbo: Despite the favorable comment, the evaluation circular is still sitting on Lynn's desk. Lynn is not sure that OMB should try to impose any evaluation standards, even those in the proposed circular, on all the diverse departments and agencies of the federal government. He told Muskie's subcommittee on April 6 that OMB was "determining whether we can codify the do's and don'ts of evaluation systems in an OMB circular that will do more good than harm."

Graves said Lynn was attempting to work program evaluation into the larger context of federal management in general. He said Lynn wants not only to improve program evaluation but also to reduce bureaucratic paperwork and to obtain high productivity from federal employees.

In addition, Graves said, Muskie's zero-base budgeting bill has interfered with OMB's internal plans for program evaluation. He said OMB has been working on developing a legislative alternative to Muskie's approach.

Graves said OMB very likely will put the provisions of its evaluation circular into effect informally, without actually issuing the circular. He said OMB will modify its procedures for legislative clearance to require departments and agencies to include clear statements of program objectives in their legislative proposals. OMB's budget divisions already are asking departments and agencies which programs they have evaluated recently and telling them which ones should be evaluated soon. "Why should we need a new circular just to require common-sense management?" Graves asked.

Other efforts: In addition to the proposed circular on program evaluation, Graves' office has prepared two background papers on the problems of using program evaluation in the federal government and two surveys of evaluation efforts underway in the departments and agencies.

The first of the background papers, dated May 1975, summarized the reasons why program evaluation has not proved a more helpful tool for federal officials. "Program evaluation is potentially a valuable tool for government decision making," the paper found, "but is only rarely useful to key policy makers and program managers at present."

The other background paper—a second draft is circulating among the departments and agencies—points out that federal officials have had lots of experience with the problems of designing program evaluations that provide accurate and useful information. "Unfortunately," according to the paper, "the same experience has not yet met our need for sure solutions to be employed in these cases."

The more recent of the surveys of evaluation offices in the departments and agencies, dated September 1975, found that 18 of the biggest departments and agencies were spending $116 million on program evaluation in fiscal 1976. The survey lists "key evaluation personnel" in each of the departments and agencies, along with their major efforts and their various evaluation techniques.

OMB's staff of 600, many of whom prepare the President's annual budget request, is too small to do any regular program evaluation of its own, although it uses evaluations of federal program prepared by others. Graves's staff prepares a regular inventory of agency evaluations and provides agency evaluation offices with technical advice when requested.

GAO

The General Accounting Office, established to provide Congress with technical support, spent about 45 per cent of its budget—$67.9 million in the coming fiscal year—to do program evaluation. Some of its evaluations are in response to requests from Members of Congress, and others are initiated by GAO.

GAO has emphasized cost-benefit analyses, which are only one kind of program evaluation. The 1970 Legislative Reorganization Act directed GAO to be prepared to do cost-benefit studies requested by any congressional committee.

The 1974 Congressional Budget and Impoundment Control Act, which established the new congressional budget process, also called on GAO to develop methods to evaluate federal programs. As GAO's chief executive officer, Comptroller General Staats has placed this new responsibility in GAO's Office of Program Analysis. The associate directors of this office who are most closely involved with evaluation planning are Keith E. Marvin, who is in charge of program evaluation, and Kenneth W. Hunter, whose field is program information.

Evaluation techniques: GAO is circulating a draft of a report that it intends to publish in final form later this year on how federal officials can use program evaluation to make better policy. Required by the 1974 budget reform act, the report runs through many of the hurdles faced by federal program evaluators—defining program objectives, determining accurate measures of program success and making their evaluations useful to decision markers. It suggests some approaches that might be taken by those engaged in program evaluation.

"This art is not yet sufficiently developed to permit preparation of a manual covering 'how to do it' in every situation," the report cautions. "It is only evolving. While recognizing this, we also recognize that decisions must and will be made by legislators and executives faced with the task of formulating and reformulating programs to deal with the problems of our society."

The report is directed toward those who practice program evaluation—that is, federal departments and agencies as well as GAO itself. Marvin said GAO has no way of forcing executive branch agencies to follow its lead, but he predicted that "the agencies will take it quite seriously." He said the agencies will realize that one way to give their evaluations impact in Congress will be to make them consistent with the principles set forth by GAO.

Compiling evaluations: The GAO also is working to make the bewildering array of federal program evaluations more comprehensible to Congress. "It's well known that congressional staffs are overwhelmed with information that they can't cope with," Marvin said.

In one effort, GAO is analyzing evaluations of particular kinds of programs. Marvin said the first such report to be published probably will be on evaluations of child nutrition programs.

The Agriculture Department has evaluated child nutrition programs for their impact on nutritional levels of beneficiaries, Marvin said. But it has not established a link between nutritional levels and general health, which is the goal of most child nutrition legislation. Marvin said the GAO analysis would point out gaps such as this, without trying to fill them.

In addition, GAO is preparing a compilation of all federal program evaluations during fiscal years 1973, 1974 and 1975. To make the compilation useful to congressional budget and authorizing committees, GAO will classify the evaluations according to budget account number and authorizing legislation of federal programs.

OUTLOOK

Federal officials have a long road to travel before they will have a very good idea of whether their programs are working.

Congress has only just begun to look seriously at overhauling its review of federal programs. The budget reform act of 1974 was two years in the making, and the zero-base budgeting bill that now is attracting support in the Senate and House may be no easier to enact.

Muskie said he hopes the Senate Government Operations Committee will take up his subcommittee's bill in the middle of June. Roth said he wants Congress to put zero-base budgeting in place this year, so that the President elected in November will be able to start fresh with the new process.

That is an ambitious goal. After the Senate Government Operations Committee finishes with zero-base budgeting, the bill will have to go to the Rules and Administration Committee for a review of its changes in Senate rules. The Finance Committee also may get a crack at the bill's provision that subjects tax expenditures to the same zero-base review as spending programs.

In the House, the Rules Committee has told Blanchard that it will hold a single day of hearings on his bill early in June. Blanchard said he hopes to get additional hearings from the Budget Committee.

Meanwhile, the executive branch is working on its own efforts to improve the caliber of evaluation to which it subjects federal programs. But as Graves said. OMB's central initiative—a requirement that all departments and agencies prepare annual evaluation plans—probably will be implemented only informally.

No matter what procedures Congress and the executive branch adopt, program evaluation will be only as useful as the state of the art allows it to be. As OMB Director Lynn put it, "We have begun to crawl in this area. We may even be approaching a very slow walk."

Zero-Base Budgeting in Georgia

If Jimmy Carter takes up residence in the White House next January, he would feel right at home with congressionally enacted zero-base budgeting. As governor of Georgia from 1971–75, he was one of the pioneers in the use of the budgeting technique in state government.

Peter A. Pyhrr, who helped draft the zero-base budgeting bill reported on May 13 by the Senate Intergovernmental Relations Subcommittee, was one of those who helped Carter in Georgia. Pyhrr said Carter, already interested in streamlining state government, read an article in a 1970 Harvard Business Review in which Pyhrr explained how he had brought zero-base budgeting to Texas Instruments Inc. Carter called Pyhrr and asked him to see what he could do about the Georgia bureaucracy.

Pyhrr, now a vice president of Alpha Wire Corp., said he discovered some amazing things about Georgia state government by examining programs from the ground up. "We found out that the Department of Agriculture had six beekeepers that hardly anybody knew about," he said. Those six beekeepers quickly found themselves without their old jobs.

Georgia's mental hospitals had enormous fire departments of their own that kept ordering expensive new equipment because they had nothing better to do, Pyhrr said. A study found that nearby towns could provide fire protection for the mental hospitals just as effectively and at a fraction of the cost, and the fire stations in the hospitals were abandoned.

Without a regular process such as zero-base budgeting, government officials do not take the necessary time to dig out wasteful programs like beekeeping and fire stations in mental hospitals, Pyhrr said. He said a substantial sum of money—he could not pin down a figure—was quickly saved through zero-base review of state programs in Georgia. He said Carter chose to plow most of the money back into government to make remaining programs far more effective than they had been.

Evaluating a Program's Success or Failure—It's Much Easier Said Than Done

If the federal government were to evaluate its efforts at program evaluation, it would find that on the whole, they are a failure.

All techniques for evaluating federal programs have a common goal—to bring about changes in those programs that can be improved and to eliminate those that are beyond hope. This is a goal that federal evaluation has not met.

"There is little evidence to show that evaluation generally leads to more effective social policies or programs," the Urban Institute reported in 1974. "On the contrary, the experience to date strongly suggests that social programs have not been as effective as expected and have not improved in performance following evaluation."

Joseph S. Wholey, an author of the 1974 report and director of program evaluation studies at the Urban Institute, said in a recent interview that little has happened since 1974 to change that conclusion. The problem, he said, is not so much with the evaluators as with the programs that they are asked to evaluate.

DOING EVALUATION

Federal programs, especially those aimed at complex social problems, are by their nature difficult to evaluate for success or failure. Said Fernando Oaxaca, associate director for management and operations of the Office of Management and Budget (OMB): "In these kinds of programs, where there are so many factors involved, the state of the art is not very advanced."

Program objectives: Before he can determine whether a particular program is doing what was intended of it, an evaluator must identify the program's objectives. Unfortunately, legislation establishing programs often leaves program goals fuzzy.

Wholey said Congress rarely can agree on specific objectives when it enacts a new program. It is hard enough to get a majority of the House and Senate to vote for a program, Wholey said; it would be nearly impossible to get majority support for program objectives as well.

"The vaporous wish is the eloquent but elusive language of goals put forward for most federal programs," Wholey and his Urban Institute associates wrote in 1974. "Exactly what are the 'unemployability,' 'alienation,' 'dependency' and 'community tensions' some programs desire to reduce? How would one know when a program crossed the line, successfully converting 'poor quality of life' into 'adequate quality of life?' "

Charles L. Schultze, President Johnson's budget director from 1965–67, cited the 1965 Elementary and Secondary Education Act (79 Stat 27) as an example of a program whose objectives were in the eye of the beholder.

"Some saw it as the beginnig of a large program of federal aid to public education," Schultze, a senior fellow at the Brookings Institution, wrote in 1968. "The parochial school interests saw it as the first step in providing financial assistance for parochial school children. The third group saw it as an antipoverty measure."

The problem addressed by Wholey and Schultze is easier to identify than to solve. If Congress had to spell out precise program objectives before it could act, it might never act at all.

"Legislators often are provoked by a sense of a problem, not by some firm objective," Allen Schick, a senior specialist in American government for the Congressional Research Service (CRS), told a CRS seminar in 1975. "When legislation is controversial and objectives clash, there is a tendency to paper over differences by being vague about purposes and intent."

CAUSE AND EFFECT

Even when objectives can be pinned down and their attainment can be observed, it usually is difficult to determine if federal programs are responsible. In the complex environment in which most federal programs operate, relationships of cause and effect are hard to identify.

"It's extremely difficult to know if what you're doing with the dollars is having any effect," said Blair G. Ewing, director of planning and evaluation for the Law Enforcement Assistance Administration (LEAA). "It's especially difficult to know if what you see is the result of what you do."

Ewing used the example of an LEAA program aimed at increasing citizen participation in crime prevention. One result of such a program, he said, might be that more crime victims would report crimes to police. A superficial evaluation of the program would show that it forced the crime rate up, when in fact such was not the case at all.

Wholey said Congress and the executive agencies that operate programs enacted by Congress frequently do not think through the question of whether the program really is designed to treat the problem that has been identified. It is by no means clear, Wholey said, that giving money to school districts will produce pupils who read better or that training the unemployed will result in a lower unemployment rate.

DEMONSTRATION PROJECTS

Evaluation is most effective when programs are designed carefully, like experiments in a science laboratory, to prove or disprove their value. The ideal demonstration program is tested on a limited group of individuals, who can be compared with a comparable group of persons outside the program.

To date, demonstration projects have proved of limited use. If a program might be of value, it is difficult for the federal government intentionally to withhold it from some individuals. Experimental conditions turn out to be much easier to control in science labs than in cities.

In one of the first federal experiments with a social program, 725 families in New Jersey received a "negative income tax" payment for four years from a 1967 Office of Economic Opportunity grant. Their experience was compared with that of 632 similar families that had only the traditional welfare programs available to them.

"The experiment was a highly complex undertaking, and the results are ambiguous in many instances," said David N. Kershaw, senior vice president of Mathematica Inc., the consulting firm that conducted the trial run with the negative income tax.

Kershaw said that when the experiment ended, most families that continued to need cash assistance were able to find it in other welfare programs. Many families reported that they were better off after the experiment than during it, he said.

The Urban Mass Transportation Administration (UMTS) has operated a variety of experimental programs. Ronald Kirby, director of the Urban Institute's transportation project, said UMTA has been willing to go ahead with experimental programs only if it thought the programs would be adopted in other cities. "No one had the courage to try something chancy," he said.

UMTA's Shirley Highway bus lane in Northern Virginia was successful because it was maintained after UMTA's experiment was over, Kirby said. But on the other hand, it did not add much to human knowledge about urban transportation. "The fact that buses go faster in lanes just for them was not particularly surprising," he said.

UMTA gradually undertook more daring experiments such as the dial-a-bus program in Haddonfield, N.J., from 1972 to 1975. Kirby said this project yielded less information than it might have because of the way UMTA designed the experiment.

UMTA seems to be making progress. Kirby said a current experiment in Danville, Ill., that permits the elderly and handicapped to buy taxi tickets at reduced prices should show whether a city can use its private taxi fleet to improve transportation.

USING EVALUATION

Even the most carefully prepared evaluations are not necessarily useful. Sometimes, as when they are late or written in jargon, the fault lies with the evaluators. But often there is no market for evaluation; Members of Congress and agency decision makers do not want to have their preconceptions upset by facts.

Wholey said Washington is full of "evaluation studies in search of users and uses." Said Oaxaca: "There have been hundreds of millions of dollars spent on evaluations that have ended up on somebody's shelf."

Commerce Secretary Elliot L. Richardson, who set up a system of evaluation at the Health, Education and Welfare (HEW) Department while he was HEW Secretary from 1970–73, said he was pleased with the quality of some of the evaluations that HEW produced. "However," he testified to a Senate subcommittee on March 6, "the ability of even many of the successful studies to effect changes in program direction and magnitude was modest, since resulting program proposals were either ignored or submerged in rhetoric."

TIMING

Many otherwise useful evaluations are completed only after decisions must be made about the programs being evaluated. "There are few concrete illustrations of well-developed and carefully executed evaluations that have been completed in time to affect either legislation or the decision-making process of policy makers," Howard E. Freeman, a sociology professor at the University of California at Los Angeles wrote in 1975.

Wholey pointed to the example of a requirement in the 1965 Elementary and Secondary Education Act that there be an evaluation of every project financed by grants to schools in poor neighborhoods. Wholey said the evaluations—20,000 of them, at a cost of $10 million—came in the summer, but program decisions had to be made in the previous spring.

Schick said any evaluation is too late if the program evaluated already has built up strong support from the people it serves. The summer headstart program already was serving hundreds of thousands of poor children when adverse findings were released, he said, and it was too late to do much about the program's shortcomings. "Popular programs are hard to terminate," he said, "no matter what judgments flow from the evaluations."

Jargon

Evaluations can be difficult for policy makers to digest. "Program evaluators who are social scientists frequently prepare long, jargon-laded reports," the Congressional Research Service said in a 1974 report.

Schick urged evaluators to remember that their most important readers are laymen, not technical experts. Sen. Bill Brock, R-Tenn., registered the view of an interested layman in a 1975 speech. Much of the information with which Congress is bombarded, he complained, is impossible to use. "It is not a lack of information," he said. "It is a lack of comprenhensible information."

Users

Evaluators are not prepared to assume full blame for the fact that much of their work never is used. Responsibility, they maintain, must be shared by the users.

The 1974 Congressional Research Service report found that federal departments and agencies often ask for the wrong information. Agency evaluation offices, according to the report, often are not in the mainstream of agency policy making.

Clark C. Abt, president of Abt Associates Inc., a regular evaluator of federal programs, said it is up to the departments and agencies to seek program information that will be useful to them. "What we cannot do with program evaluation," he told the 1975 Congressional Research Service seminar, "is get users or consumers of program evaluations to ask the right questions."

One of the prime users of evaluation should be Congress, which must decide the fate of many federal programs every year. "The Members of Congress need to know how important and valuable evaluation techniques can be," Sen. Brock said in a 1975 speech.

"The level of awareness and eagerness for this kind of information has escalated geometrically since 1969 and 1970," said Kenneth W. Hunter, associate director of the GAO's Office of Program Analysis. But Keith E. Marvin, an associate director of the same GAO office, added, "People on committee staffs who understand evaluation are sparse."

"The weak agency commitment to evaluation is reinforced by lack of congressional interest," Schick said. "Many committees function as program advocates rather than as program overseers, and Congress tends to be more oriented to prospective legislation than to past enactments."

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Big Government—How To Cut Waste

(By Lucia Mouat)

Washington.—A scaled-down, tight-spending federal government—a gift for taxpayers, coming in red, white, and blue ribbon in time for America's bicentennial? Or just another impossible dream?

Neither extreme, but in between, insist veteran Washington government and budget watchers.

True, the pace of talk and activity here aimed at trimming the fat from the federal bureaucracy has probably never been so intense. Some changes have already been made.

However, the speed and extent of any further moves, experts agree, depend on the sheer determination of both Capitol Hill and the White House.

The congressional obstacle course—a thicket of vested interests and overlapping committee jurisdictions—is formidable. To it is added the concern that any spending cutback could increase unemployment . . . and the need for executive and legislative branch agreement.

"It's like having the budget of Shell Oil approved by Mobil's board of directors," says one exasperated executive-branch Republican.

One man in the midst of it all, Sen. William V. Roth Jr. (R) of Delaware, offers a distinctly cautious assessment: "I'm hopeful but not overly confident."

Still, many others say that if public confidence in government is ever to be restored and, indeed, the free-enterprise system is to survive, the United States has no choice but to clamp down on federal spending, and to do it now.

They look with alarm at Great Britain, where 60 percent of all spending is already in the public sector. In the United States it is close to 37 percent.

PARE, CUT, AND CHOP

"We've got to really pare and cut and chop to keep the public sector from just continually taking over," insists Sen. Charles H. Percy (R) of Illinois.

What, then, is the real key to more efficient, effective Washington spending?

Some think nothing short of an arbitrary tax reduction, forcing the government to live more tightly, can work.

Others, while offering no panaceas, say a steady if unspectacular effort to improve management, aided by the increased use of technology, could save billions.

On shift long recommended, for instance, is more advanced financing for agencies and programs so they do not hover, as former budget official Dwight Ink puts it, "in a constant state of near chaos."

Similarly, management experts insist on more coordination in everything from ordering supplies to running programs.

Many changes would require no legislation. Numerous General Accounting Office (GAO) reports contend that millions of the $100 billion spent each year for government goods and services could be saved just by better coordination of civilian and military procurement.

Even civilian agencies, says the GAO, wasted $300 million in one recent year by buying from outside sources when identical or similar goods were available more cheaply through the General Services Administration (GSA) (the government's civilian supply and housekeeping agency).

MILLIONS IN DEFENSE SAVINGS?

Within the Department of Defense, the GAO contends, millions could be saved if each of the military services would stop emphasizing development of its own upkeep and repair. It found that only 2 percent of the $3 billion worth of depot upkeep work done in the United States in one recent year, for instance, was interservice.

Certainly many more federal dollars could be saved just by requiring federal agencies to hew more closely to regulations. Although Pentagon procurement policy, for instance, requires competitive bids be used to the maximum extent practicable, an estimated 85 percent of all defense contracts go to one-source bids.

Yet profits for many in the government consulting and contracting business, according to a new book called "The Shadow Government," are known to be extraordinarily high. The book is by Daniel Guttman and Barry Willner, of Ralph Nader's Center for the Study of Responsive Law.

Though admittedly requiring more manpower than many agencies have been able to spare, tougher enforcement of law and federal rules could also rein in the amount of fraud and administrative mistakes in assistance programs and catch some of the more casual attempts in government to bend the law.

Such watchdogging, for instance, would ask questions about (as Congress now is doing) the U.S. Army Corps of Engineers' use of 1909 "maintennace" legislation to build a new lock and dam a mile south of the present one at Alton, Illinois.

REEXAMINATION OF ROLE URGED

It would also question, as the GAO has, the use of $670,000 from a fund for flight safety and maintenance to outfit a C–135 aircraft with a specially designed galley freezer, and three bathrooms.

Even more important than efficiency and enforcing existing laws, many feel, is making sure that federal programs really do the job they set out to do.

"Improved effectiveness usually pays off many times more than improved efficiency," says Roy Ash, former head of the Office of Management and Budget (OMB). "It's easy to try to find a way to do a job with three instead of four people but if none of them are doing anything of value. . . ."

Many budget watchers feel that what is most needed is a basic reexamination of the role of government and a reshuffling of duties and priorities within budget limits.

Senator Roth, for one, suggests there

should be a national debate on the primary responsibilities of each level of government "so we won't have every level involved in every conceivable human activity."

Many changes have already been made or are under way. The GAO, for instance, which puts out about 1,000 reports a year on everything from improving controls over fraud and abuse in medicare and medicaid to assessing the weaknesses of the national grain-inspection system, claims to have saved taxpayers $1.1 billion in cash savings over the last two years.

Publicity has proved an effective tool in the fight for greater economy in government.

Getting an issue out in the open where legislators are forced to examine and debate its worth is considered more influential in swaying votes than the traditional gambit of cloakroom arm-twisting. Those who worked to defeat the U.S. SST aircraft, for instance, credit public debate with their success.

Sen. William Proxmire (D) of Wisconsin, frequently drawing from GAO reports, has dispensed "fleece of the month" awards to everyone from the Navy for a $500,000 cost overrun on the refurbishing of Vice-President Nelson A. Rockefeller's official home to energy chief Frank Zarb ("a winged wastrel of energy") for taking chartered flights while urging energy conservation.

"AWARDS" PRODUCE SOME RESULTS

While Proxmire critics dismiss some of this as "potshotting," two-thirds of the fleece awards in the past year have had some degree of success, he says. One of many factors in Defense Secretary Donald H. Rumsfeld's recent tightening of guidelines for use of military planes was Senator Proxmire's fleece award last September to the Navy for using 64 aircraft to fly 1,334 officers to a private organizational gathering at Las Vegas at a cost of $191,000—at the height of the energy crisis.

Rep. Les Aspin (D) of Wisconsin has taken similar chiding from critics for his jabs at wasteful Pentagon spending. Yet a number of projects so spotlighted have since been dropped—including an Air Force Academy plan to build a mock prisoner-of-war camp for cadet training, an annual Pentagon bombing competition, and an Army plan to build what Mr. Aspin terms the C–5A of helicopters.

Sometimes the publicity simply forces a change in funding. Former President Richard M. Nixon's long struggle to put an end to the 1897 U.S. Board of Tea Experts, for instance, ended in Congress's raising of the tea-import tax to cover the bulk of the expenses.

Watchdogs of government spending say cost-cutting probes are usually able only to skim the cream—but executive-branch agencies sometimes surmise that everything they do is under the microscope. Questionable projects are sometimes allowed to lapse or not started.

One development which budget watchers view with great promise is securing data on productivity of more than 65 percent of the federal civilian work force.

ANNUAL PRODUCTIVITY TRACED

The most recent federal report found that average annual productivity between 1967 and 1974 in the federal government went up 1.5 percent, or a little less than half as much as that in the private sector. Improved management and labor-saving devices rate most of the credit.

High on the list in improved output per employee has been the Social Security Administration (SSA), where technology is considered partly responsible.

However, the progress even there is not without pitfalls. One eight-month productivity experiment with SSA clerical employees in Baltimore saw productivity shoot up an impressive 23 percent compared with a 2 percent rise for the control group. But employee morale among the producers was low because no reward or improved rating was given.

Of all branches of government, however, it is Congress which is getting most of the public attention and prodding on spending reform.

Criticism of Congress's "tunnel vision" on appropriations (voting on each program in its own separate context) led Capitol Hill to vote its major reform to date: establishment of the Congressional Budget Office (CBO) and budget committees in both houses.

While there is some criticism now that the CBO staff is drawn from executive branch agencies and tends to duplicate the job done by the Office of Management and Budget (OMB) rather than critically examine program costs, most commend it as a strong forward step.

A strong companion effort now is under way to couple it with a periodic, hard-nosed look at whether programs and agencies leaning on the federal budget ought to be continued.

Sen. Edmund S. Muskie (D) of Maine, chairman of the Senate Budget Committee, and Senator Roth are sponsoring such a spending measure which would require a positive decision every four years to continue every program and agency.

Exempt would be interest on the federal debt, social security, and welfare payments.

Alan Schick, a Library of Congress specialist who helped draft the measure, concedes that results will probably be "more or less rather than all or nothing" but stresses, "In the war between the parts and the whole, the parts have always won unless you begin to discipline them."

"It enables us to use a yardstick instead of a meat ax for keeping a handle on employee levels," says Office of Management and Budget director James T. Lynn.

Another move under way would help Congress better evaluate programs by forcing lawmakers to be more specific about who is to be benefited.

A bill sponsored by Sen. Patrick J. Leahy (D) of Vermont, for instance, would require a GAO assessment of whether or not language is clear enough at the start for useful evaluation later. The Senator, who keeps track of his co-sponsors on a green-and-yellow peg board, says he thinks the measure could save taxpayers billions of dollars.

However, just how far any and all of these reforms move depends on the combined determination of government officials and politicians. Since the so-called energy crisis in 1973, for instance, a concerted, across-the-board federal effort has forced a 27 percent annual cutback in energy use at a savings to taxpayers of more than $1 billion a year.

WHAT THE TAXPAYER CAN DO

What can a frustrated taxpayer do besides gnash his teeth?

For a start, he can write, unite, and elect.

As many legislators see it, however, the public wants to have its cake and eat it too. The taxpayer does not want to pay a penny more, yet when it's a government subsidy aimed toward his pocket or a federally funded project in his neighborhood, he and his friends "deserve" federal help.

As Comptroller General Elmer B. Staats puts it: "Where you stand on these things depends a good deal on where you sit."

Yet most experts agree that unless there is a strong push for reform from taxpayers themselves, Washington may not move far off dead center.

"When we first started in 1969 we couldn't convince people that their money was being wasted," recalls Jim Davidson, executive director of the National Taxpayers Union. Now the job is easier, he says.

At least three courses of action are open to the concerned taxpayer.

1. He can make a point in next fall's elections of finding the candidates whose spending views most closely fit his own.

2. He can bombard Capitol Hill legislators with written protests on specific spending proposals. Congress's repeal of the mandatory seat-belt interlock cars is in part attributed to strong, frequent letters on the subject.

3. He can also ally with other taxpayers.

The National Taxpayers Union has 20,000 members and claims to have helped save taxpayers some $15 billion. It testifies on various spending proposals. It would like to see the tax bite limited to no more than 25 percent of anyone's income.

There are other less-narrowly focused organizations such as Common Cause, where the emphasis is on a few specific projects (such as defeating the B–1 bomber) but more generally on fuller debate.

United Press International political reporter Donald Lambro, who was paying one-fourth of his salary in taxes and watching firsthand as Congress passed one spending project after another, wrote a book, "The Federal Rathole" lists $25 billion worth of programs and agencies from the U.S. Botanic Gardens Congressional Florist Service to the National Institute of Education that he says could be scrapped without harm to the government or the taxpayer.

"Many of the programs I've singled out would be very nice if we could afford them," he stresses in an interview. "But the fact is this country is in debt, and we just don't have the money to spare. I never cease to be outraged about it."

[From the Chicago Tribune, Aug. 6, 1976]

"SUNSET" LAW CLEARS ONE HURDLE

The federal "sunset" bill moved a step toward enactment when the Senate Government Operations Committee approved it. It still has a long way to go—probably too far, informed observers say, to get all the way in the present session. Still, even incomplete progress is progress.

S. 2925, the "sunset" bill, provides for review at intervals no greater than five years of "those provisions of law which authorize or provide budget authority for the delivery of services or goods by the federal government," to quote the committee report. Agencies such as Social Security, where individual contributions are made and accounts kept, are exempt. The bill "does not require the re-enactment of the entire United States code every five years." But most "budget authorities" would expire if, after review, they were not extended by congressional action.

Without a "sunset" law, spending authorities have the immortality of corporations. No principles of friction or inertia bring them to a stop. As the Government Operations Committee puts it, the "rapid growth in federal programs with permanent appropriations" has led to virtually "uncontrollable" outlays. It is idle to hope that, without some fresh stimulus. Congress will critically reconsider each spending program A law requiring sponsors of continued spending to show cause for it is a simple and effective way to turn off innumerable taps into the federal treasury, taps that have been left open and have been forgotten.

Most budget authorities, it may be assumed, were originally set up for two reasons—to advance some presumably good purpose and to yield someone political advantage. On both counts, substantial economies are possible. Many a budget authority can no longer be justified.

The public is groaning under taxation and inflation, and no longer assumes that federal appropriations are somehow "free." Pragmatic politicians will find it hard to oppose the "sunset" bill openly, and many will find good reason to support it conspicuously.

[From the State Government News, June 1976]

Sunset Law Guards Public

A new dawn of concern for the public interest may spring from Colorado's sunset law.

The 1976 law requires legislative review every six years of regulatory agencies. The agencies will go out of business unless they can convince the Legislature of the need for their continued existence.

At a time when regulatory agencies are being criticized for guarding the interests of the regulated, the law sets new standards of public accountability. The review procedure calls for a performance audit of each regulatory agency and a public hearing on the agency's performance.

Criteria for determining the continued need for the agency include the agency's public service, the extent to which it has operated in the public interest, the statutory changes it has recommended which would benefit the public as opposed to the regulated, opportunities for public participation in agency rule-making and decisions, the agency's efficiency in handling formal public complaints, and the extent to which persons regulated by the agency have been required to assess industry problems which affect the public or to report on the impact of agency rules and decisions on the public.

The provisions of the act apply to 43 agencies, boards, divisions and commissions under the control of the Department of Regulatory Agencies, as well as any new regulatory agencies.

Review of the agencies will be made once every six years on a two-year staggered basis, with one third of the agencies up for review in 1977, and the rest in 1979 and 1981. If terminated, the agency continues for one year to wind up its affairs.

Kentucky already has "sunset" provisions for administrative regulations and forms. A 1974 laws requires administrative rules to be printed in a register and reviewed. The process trimmed state regulations from 2,572 to 1,601 by June 1975. Effective this June, Governor Julian M. Carroll ordered all of Kentucky's 2,000 forms abolished. Forms will be reviewed and ones in the interest of efficient government will be reissued.

Bills aimed at bringing "sunset" provisions and budgetary review to federal agencies are being considered by Congress.

Hearings were held recently on the Government Economy and Spending Reform Act of 1976 sponsored by Senators Edmund S. Muskie of Maine and William V. Roth of Delaware and Representatives James J. Blanchard of Michigan and Norman Y. Mineta of California.

The bill places all government programs and activities on a four-year reauthorization schedule and incorporates a zero-base budget review process. Unless reauthorized by Congress, the programs terminate.

Another proposal, the Regulatory Reform Act of 1976, is sponsored by Senators Charles H. Percy of Illinois and Robert C. Byrd of West Virginia and Representatives John B. Anderson of Illinois and Barbara Jordan of Texas.

The bill seeks to force adoption of federal regulatory reform measures by requiring most rules of regulatory agencies to terminate unless reforms are adopted.

Already in effect is the Federal Advisory Committee Act of 1972 which provides for the termination of each advisory committee every two years unless renewed. The act has led to the termination or merger of more than 700 federal advisory committees in its first 28 months of operation.

[From In Common magazine, Spring 1976]

Sunset Concept Can Make Government Work

An unusual coalition is building on Capitol Hill.

The uncommon allies include Common Cause, the U.S. Chamber of Commerce and such traditional political foes as Senators Barry Goldwater (R-Ariz.) and Edmund Muskie (D-Maine).

Suddenly, people and organizations who often "view each other through a barbed wire fence," as one trade journal put it, have emerged as common supporters of a major legislative idea.

The idea is the "Sunset" concept, in which programs and agencies automatically and periodically terminate unless affirmatively recreated by legislative act. It is a concept which could help citizens regain control of that vast, tangled web called the federal government.

Sunset is an action-forcing mechanism which would compel the executive and Congress to take a hard look at the programs and agencies they have created. The threat of termination would give legislators the incentive to make legislative oversight a reality, forcing them to judge the effectiveness of government efforts and to evaluate continued spending of our tax dollars for particular programs.

COLORADO CC THE ORIGINATOR

Colorado Common Cause pioneered Sunset legislation on the state level with a bill to limit the life of each of the state's 43 boards and commissions to six years. The bill was passed by the Colorado legislature on March 31 and signed into law by Gov. Richard D. Lamm.

In the preamble to the act, the legislature captured Sunset in a nutshell:

"The General Assembly finds that state government actions have produced a substantial increase in numbers of agencies, growth of programs, and proliferation of rules and regulations and that the whole process developed without sufficient legislative oversight, regulatory accountability, or a system of checks and balances ... (B)y establishing a system for the termination, continuation or re-establishment of such agencies, (the legislature) will be in a better position to evaluate the need for the continued existence of existing and future regulatory bodies."

The legislature's candid admission of its own failings and the remedy proposed by Colorado Common Cause have received national attention, and spurred action on the federal level.

200 SUNSET SPONSORS ON THE HILL

Sunset is the centerpiece of several major bills which have been introduced in both Houses of Congress. Their broad support augurs well for eventual action. Various Sunset bills have garnered 166 House co-sponsors from 43 states and 48 Senate sponsors (listed on page 20). A bill sponsored by Senator Muskie and co-sponsored by members of every political viewpoint was recently approved unanimously by a Government Operations subcommittee.

While this wide range of support may be new, the Sunset concept is not. Former Supreme Court Justice William O. Douglas, when chairman of the Securities and Exchange Commission, suggested to President Roosevelt that regulatory agencies be terminated after 10 years, arguing that they too often outlived their usefulness. According to Douglas, FDR only laughed.

We can't afford to. Roosevelt's peacetime administrations presided over a bureaucracy that was tiny by today's standards and a federal budget that never reached even $9 billion.

Now, the President presides over a maze of 1,010 federal programs—960 new ones in the past 12 years; 236 new agencies, bureaus and departments created in the past 15 years to administer them; and a federal budget which has grown from only $158 billion in 1965 to a projected $413 billion next year.

What is alarming is not the size, but the complexity, confusion and lack of coordination that plagues many government activities, and the frustration of citizens who come in contact with it. Louis Harris reported last fall that "72% of the public feel they no longer get good value for their tax dollars."

One example of how programs tend to proliferate, duplicating functions and frustrating their own purposes, turned up in a 1973 study of manpower programs in the District of Columbia. The General Accounting Office reported that in 1960 two federal agencies were administering two manpower programs through four local administrators. By 1972 there were five agencies involved in 17 manpower programs, and it took 76 local program operators to run this complex, confusing and uncoordinated effort to aid the District's unemployed.

Clearly, traditional legislative oversight procedures aren't doing their job. What little oversight is exercised occurs during the annual authorization-appropriation process, when legislators do no more than consider proposed changes from the previous year's budget; rarely does a Congressional committee ask itself, "Is this program accomplishing anything?"

The Sunset proposals under consideration in Congress are designed to ask that question about almost every program and every regulatory agency in the federal government. Among the most important of the proposed bills are:

The "Government Economy and Spending Reform Act of 1976" (S. 2925), sponsored by Senators Muskie and William V. Roth (R-Del.), S. 2925 would place all federal programs on a five-year re-authorization schedule, requiring Congress to review a full category (i.e. "income security," "agriculture," etc.) of programs every year beginning in 1979. The process would actually begin a year earlier with the preparation of "zero-base" budgeting reports by the Office of Management and Budget (OMB), the General Accounting Office (GAO) and the Congressional Budget Office (CBO). The reports would assess the achievement of the programs, recommend measures to consolidate programs with similar function, spell out the goals of the programs over the next five years, and assess their impact on the national economy. The zero base reports would define the kinds of efforts which could be undertaken and what could be achieved, given current prformance, at different levels of expenditure from zero on up.

Congress would be required to pass legislation re-enacting each program by the end of the review year, or the program would terminate. The only exceptions would be payments of interest on the national debt and programs, like Social Security, to which individuals contribute in expectation of future benefits.

The bill was reported unanimously to the Senate Government Operations Committee by a subcommittee on May 13. The full committee will hold hearings on it soon.

The "Federal Agency Pilot Termination Act of 1976" (S. 3318), sponsored by Senators Gary Hart (D-Colo.). During hearings on the Muskie-Roth bill, it was suggested that a complete five-year assessment of the entire federal government was perhaps too ambitious a project and that a few agencies should be subjected to the Sunset process on a trial basis. Sen. Hart has introduced a bill which would initiate the Sunset mechanism for six agencies, the Civil Aeronautics Board, the Federal Aviation Administration, the Occupational Safety and Health Administration, the Federal Maritime Commission, the Federal Energy Administration and the Interstate Commerce Commission. The process outlined in the bill is much the same as that in the Muskie bill, but the reviewed agencies, if continued past their first examination, would be subject to review again after six years rather than five.

The "Regulatory Reform Act of 1976" (S. 2812) sponsored by Senators Charles Percy

(R-Ill.) and Robert C. Byrd (D-W. Va.). The Act focuses on termination of regulatory agencies rather than programs. Justice Douglas warned FDR that regulatory agencies ultimately become captives of the industries they were designed to regulate; Senator Percy agrees, warning: "We cannot afford to underestimate the power of bureaucratic inertia and tenacious interest groups to delay and defuse any serious challenge to the status quo."

The Act provides for a comprehensive review of regulation in five areas of the economy over five years:

(1) banking and finance in 1977;

(2) energy and environment in 1978;

(3) commerce, transportation, and communications in 1979;

(4) food, health and safety, and unfair or deceptive trade practices in 1980; and

(5) labor, housing, government procurement and small businesses in 1981.

By March 30 of the appropriate year, the President would submit to Congress a comprehensive plan to overhaul regulatory practices in the designated area. If the President fails to submit a plan, the appropriate Congressional committees would formulate one. If no legislation is passed by December 31, the President's original plan would become law; if the President's plan is blocked by either House of Congress, but the Congress fails to enact its own plan, all rules of the agencies terminate in the designated field except those that protect public safety, encourage economic competition or protect consumer interests.

Reps. John Anderson (R-Ill.) and Barbara Jordan (D-Tex.) have sponsored the same legislation in the House.

"Agenda for Government Reform Act" (S. 3428), proposed by President Ford.

S. 3428 is similar to the Percy-Byrd bill but lacks a Sunset provision. It requires the President to submit plans to Congress to reform regulatory procedures in five areas over a period of five years. If Congress has taken no action on the plan by November 15 of each year, the President's proposal becomes the "pending order of business"—the only matter which the House and Senate may consider—until it is approved or rejected.

Although the agencies would not terminate if Congress rejects the President's reorganization plan, the mandatory consideration of the plan does provide some comprehensive review and discussion.

Each of the bills suffers from major or minor mechanical problems: the Muskie-Roth bill may indeed be too ambitious for a first attempt; the Hart bill may not be comprehensive enough; the Percy-Byrd bill is somewhat vague on which regulatory functions terminate and which ones do not if no reform legislation is passed.

But they all indicate that there is recognition on Capitol Hill of the need for real legislative oversight and an honest attempt to cut deadwood rather than simply to continue adding layer upon layer of new bureaucratic structures.

SUNSET GUIDELINES

The common denominator among most of the bills is the Sunset concept. Common Cause has proposed principles we believe are necessary for a workable, effective Sunset law.

In testimony before the Senate subcommittee which considered the Muskie Sunset proposal, John Gardner outlined ten basic guidelines for a Sunset law:

1. The program or agencies covered under the law should automatically terminate on a date certain, unless affirmatively recreated by law. This, of course, is the action-forcing mechanism which is the essence of Sunset. Without it, oversight would merely continue in its present lackadaisical manner.

2. Termination should be periodic (every six or eight years, for example) in order to institutionalize the process of re-evaluation. Sunset should not be a one-shot evaluation of government activities, but a continuing method of comprehensive oversight.

3. Introduction of the Sunset mechanism will be a learning process and should be phased in gradually, beginning with those programs to which it seems most applicable. The first year of Sunset should be viewed as an experiment and programs should be selected carefully to provide a real test for the mechanism. Certain areas, like regulatory activities, cry out for reform, while others are less suitable to the process.

4. Programs and agencies in the same policy area should be reviewed simultaneously in order to encourage consolidation and responsible pruning.

5. Consideration by the relevant committees of Congress must be preceded by competent and thorough preliminary studies. Legislators will need careful studies of the benefits of various programs condensed into a manageable package that will facilitate decisions.

6. Existing bodies (e.g., the executive agencies, the General Accounting Office) should undertake the preliminary evaluative work, but their evaluation capacities must be strengthened.

7. Substantial committee reorganization, including adoption of a system of rotation of committee members, is a prerequisite to effective Sunset oversight. The patchwork quilt of committees with which Congress struggles now would make the Sunset process cumbersome and difficult. A Sunset bill should incorporate some consolidation of the fragmented jurisdiction of Congressional committees, as well as provide for rotation of members to discourage the cozy relationship which develops over the years between long-term committee members, senior bureaucrats and special interest lobbyists.

8. The Sunset proposal should establish general criteria to guide the review and evaluation process. Some attempt should be made to ask about each program or government activity * * * standard set of questions.

9. Safeguards must be built into the Sunset mechanism to guard against arbitrary termination and to provide for outstanding agency obligations and displaced personnel. The Sunset law must contain provisions, as the Colorado law does, to see that termination does not cause the dismissal of claims against the agency, cancellation of its debts, or abridge the rights of citizens.

10. Public participation in the form of access to information and public hearings is an essential part of the Sunset process. One of the goals of Sunset is to restore public confidence in government. It can only accomplish that goal if the Sunset process is conducted in the sunshine.

A "SAD" SUNSET

Mr. BROCK. Mr. President, today we are seeing two very "sad" sunsets. One is the end of the summer. Today is the first day of fall and the Sun will be setting more quickly now; the days will be getting shorter and the nights colder. This is a natural sunset and one we can all understand.

There is, however, another "sunset" that I find a little hard to understand. That is a sunset on the so-called sunset bill, more formally called the Government Economy and Spending Reform Act of 1976. It is with deep regret that I learned yesterday that my distinguished colleague and author of the bill, ED MUSKIE, has decided not to call the bill up this Congress.

I fully understand his reasons. We only have a very few legislative days left in Congress and much work remains to be done. But that was only one of the reasons. The more important reason was that a lengthy floor debate with many, many objections was anticipated and there would not have been the time to properly debate these points. In my estimation, every objection that I have ever seen is simply a "strawman" except one. What is that one? It is work. More specifically it is hard oversight work that would have been required by our committee staffs, and, by us. But, I remind my colleagues that is what we are up here for.

In some respects the sunset bill is unnecessary. The 1946 Legislative Reorganization Act directed committees to maintain "continuous watchfulness" over programs. The 1968 Intergovernmental Cooperation Act directed committees to review all Federal grant programs. The 1970 Legislative Reorganization Act called for GAO cost/benefit analyses. And it is implicit in the Budget Act of 1974 that we should maintain close oversight.

Actually, if I had had my way, this would not have been implicit. My original budget bill that I introduced almost 4 years ago had a similar sunset provision. Unfortunately, this was dropped during the budget debate.

But, the important point is that in many respects we already have the oversight authority and certainly as a congressional body, one of our main functions in oversight.

Why do we need a sunset bill? We need it because only with the discipline of the sunset bill will the oversight work actually get done. The sunset bill will terminate programs and they will not, and cannot, be renewed unless a zero-base-review is completed. In short, it makes us do our work.

I do not think that in this era of big Goverment I need to explain in any great detail why we need a review, but let me just cite two important items. One is deficits. In fiscal year 1976 we had a deficit of $76 billion and the projection for this fiscal year is at least $50 billion. We simply cannot go on like this.

Second, what causes the deficits? Too many programs. Worse, too many overlapping and obsolete programs. According to testimony of David B. Walker, Assistant Director on ACIR, Advisory Commission on Intergovernmental Relations:

> Turning to the chief form of federal aid, categorical grants jumped from 160 in 1962, to 379 in January 1967, to approximately 498 by one count and nearly 600 by another in 1974.

He added that you can, depending upon how you count, reach the 1,200 mark in programs if you count all forms of aid—loans, insurance programs, technical assistance, shared revenues as well as cash grants. Any way you count, that is a lot of programs with undoubtedly a lot of overlap.

It is definitely time to write into law a formal procedure for review of programs, so that the good ones can be increased, the bad ones thrown out, and most important, to make sure that the dollars are actually getting to the American people, not just the Washington bureaucracy.

In short, Mr. President, we need the

sunset bill. I sincerely regret that we will not debate the bill this year. I have been a long-time supporter of the concept; I am proud to say that I am a cosponsor of the bill and I am even prouder of the fact that this bill came out of the Intergovernmental Relations Subcommittee on which I serve with the distinguished author of the bill. We worked hard on this in that subcommittee, then in the full committee, and I regret that that hard work will not bear fruit this year. I hope that this will be one of the top priorities next Congress.

THE GOVERNMENT ECONOMY AND SPENDING REFORM ACT OF 1976

Mr. WEICKER. Mr. President, S. 2925 is a most unusual and innovative bill. Unusual, in that, very few bills have come before the Senate with 58 cosponsors who cover the entire political spectrum. Innovative in that, it calls upon the legislative and executive branches to work together to cut needless Government spending and to terminate worn out, outdated, inefficient programs.

Thirty years ago, it was recommended by President Roosevelt that Federal agencies should terminate after 10 years of life. Thirty years later, Congress has before it a bill with a similar concept. S. 2925 provides a schedule of termination for Federal programs. Previous to its termination date, each program would undergo a zero-base budget review and evaluation by the legislative and executive branches. Such a review would require the identification of costs and objectives of programs and evaluation of the effectiveness of the programs. Programs found to be inactive or duplicative would hopefully not be reauthorized.

The Federal bureaucracy is the only part of our society that does not have to prove itself to its constituency. If a worker is not doing his job, he does not stay on the payroll indefinitely. So it should be with Federal programs. If the program is not performing Congress should fix it or fire it. A program should not continue just because 10 years ago an anxious Congress or a determined President pushed it through. A program should go through a continuous reevaluation process and should be reviewed on its merits as a constructive and worthwhile expenditure of the taxpayers' money.

I view S. 2925 as not only a challenge to the executive branch, but also a challenge to this body. A recent cartoon depicted the infamous character, Senator Snort, speaking before the Senate and saying:

> We should think twice before requiring the bureaus to justify their existence. . . . suppose they demand the same thing of us?

A good bulk of the work that will be required by sunset will be done by Congress and its committees. Many have said it is an impossible task. I am not so naive as to think this is not going to take an incredible effort by Congress; but, what is the purpose of Congress if not to provide effective oversight of the Federal Government for the American people?

The role of the Federal Government is to meet the needs of the American people in a quick, sensitive, efficient way. However, it seems, at times, to have lost its sense of compassion and responsiveness and has fallen behind in meeting the needs of its constituency.

It is time to untangle this amazing mass of bureaucracy and see what is there. I am afraid we may uncover our very own Frankenstein.

I have said before that the critics of Washington should be specific in their remedies, as they have not been specific in their charges. The sunset bill before us provides a very precise approach to the examination of government, its functions, and its efficiency.

S. 2925 is just the beginning of a concerted effort by the legislative branch to get this Government moving in a responsible and responsive way. So let the finger pointing end and the auditing begin.

SUNSET LEGISLATION

Mr. STEVENS. Mr. President, as a cosponsor of this measure I endorse the bill's objectives. Too many Federal programs continue because of inertia rather than need. They continue because they have been there not because they serve a useful function.

Too many other Federal programs are doing what they are meant to do but are doing it inefficiently, wasting the taxpayers' money.

By instituting a formal review process which allows the Congress to regularly consider the effectiveness and need for particular problems, we would be taking a large step toward improved efficiency in the Federal Government.

Those who have worked so hard are to be congratulated on their efforts. Hopefully the measure will be enacted in the next Congress.

There is one provision of the bill that I would like to see strengthened and that is the provision dealing with the review of administrative rules and regulations. The vast body of laws in this country is backed up by a much, much larger body of rules, regulations, directives, procedures, manuals, and orders all established by executive fiat. Very often the intent of the laws we pass is forgotten or even thwarted by these rules and regulations. Our American people are tired of overregulation.

As part of the review process in the bill, as I understand it, the committees can include in their review plans an examination of the rules and regulations promulgated under a program. Since those rules are really the clearest indication of how a program is implemented, I think such a review should be mandatory. It also seems important that the agency which deals on a day to day basis with the regulations should provide a report on any needed changes in the law or regulations to make the program more effective.

Under the bill as I understand it, the enforcement power of an agency would be suspended after the deadline and until new budget authority was approved. But existing regulations would continue in effect. Therefore, it is critical that before Congress reapproves a program it take a close and careful look at its regulations. I hope this part of the review process will be strengthened before the bill comes before us for a vote.

TRIBUTE TO MIKE MANSFIELD

Mr. GRAVEL. Mr. President, many words have been spoken in the last few days in tribute to MIKE MANSFIELD. Politicians generally cite the major legislative achievements of the man when paying tribute, followed by praise for long service and selfless devotion to the Nation. A quick summary of the man's educational background and military career shows that the man was qualified for leadership.

MIKE MANSFIELD was qualified for leadership by virtue of his educational background and military service. He has a long list of legislative achievements and has given long service and selfless devotion to the Nation.

Yet, the majority leader will be remembered for a larger contribution to the Nation and the Senate. MIKE MANSFIELD has always treated every Senator as an individual. He has shown the highest respect for the principles that guide the action of each Senator. He has never asked Senators to compromise their principles in the name of expediency. Each Senator is an individual, regardless of political or ideological affiliation, and MIKE has labored to make the Senate a body of individuals motivated by conscience and principle.

As a body guided by principle, the Senate has taken the lead in setting a high moral tone for the conduct of national affairs. Civil rights legislation, legislation designed to end the war in Vietnam, and major social welfare legislation are the products of MIKE MANSFIELD's leadership.

That is the contribution that will be sorely missed when MIKE retires. I wish for him every happiness in the future.

GOVERNOR CARTER'S TAX PROPOSAL

Mr. STEVENS. Mr. President, in the past few days much has been made of Governor Carter's statement to the Associated Press that he would increase income taxes on those families whose income is above the national "mean or median level." Apparently Mr. Carter backed down from that position once he discovered that, by definition, he would be increasing taxes for half the American families if he increased taxes for all those making more than the median income.

There is another aspect of the Governor's much vaunted overhaul of the tax system which I would like to address. During the primary races, Mr. Carter told a Massachusetts audience that he would propose eliminating the deduction for interest paid on mortgage loans in favor of some unspecified incentive to homeowners.

Since he made the statement, Mr. Carter has had enough time to come up with some particulars concerning what mechanism he would use to replace the present incentives to home ownership. In the same AP interview where he espoused increased income taxes the question was again raised concerning the mortgage tax deduction. The Governor was still very fuzzy on details and stated:

> We have in the tax code a heavy reward for those in higher-income brackets and a much lower reward for those in the low-income brackets.

Only 5 percent of all American families have an income over $33,000, if for the sake of argument we wish to consider this portion of the population as "high income." Yet, as of 1974, 64.6 percent of all American families owned their own home. Clearly, Mr. Carter's proposal to eliminate the tax deduction for interest paid on mortgage loans would have even a more negative effect than his ill-advised income tax realinement. Under the income tax idea he would hurt only half of all American families. With his mortgage scheme he would impact negatively on almost 65 percent of all American families.

What does this mean in terms of dollars and cents? On a home mortgage of $47,000 the monthly payments run about $475. For the first several years of payments 95 percent of the monthly payment is for interest charges. It is not until about the 15th year of a 30-year mortgage that a homeowner pays more on the principle than on the interest. Therefore, the family is paying approximately $5,000 a year during the first years of homeownership in interest. All of this $5,000 is tax deductible under our current system. Mr. Carter would disallow this deduction. Over the life of a 30-year mortgage of $47,000 this amounts to over $90,000 in income tax deductions that a family could no longer take if Congress were ever so foolish as to enact the Carter proposal.

I can assure Mr. Carter that in Alaska—where housing costs are higher than anywhere in our Nation—his comments on this issue will receive wide attention. Why should we be denied the added deduction in an area such as ours—our incomes are higher because costs are higher. This deduction keeps money in Alaska rather than sending it to Washington to the Federal Treasury.

Tax reform is needed, but tax reform is not so simple as this candidate would have the public believe. We, in Congress who have just finished debating the tax bill are well aware of the many problems involved. Mr. Carter keeps telling us what he would do, yet he admitted that he does not know the Tax Code and, in fact, he further admitted in the same AP interview which I have mentioned that he does not know how he feels about the tax bill which we have passed because he does not know what is in it. My advice to Mr. Carter is to stop saying how to change the present system until he knows what the present system is.

SENIOR CENTERS—WHAT THE ELDERLY WANT

Mr. CLARK. Mr. President, in 1973 the Older Americans Act was amended to include title V—Multipurpose Senior Centers. Unfortunately, title V was not funded until this year, largely because the administration has never requested funds for it. Congress, however, appropriated funds for the transitional quarter and for fiscal year 1977. Five million dollars has been allocated for the transitional quarter and every State will get its share according to its 60-and-over population. The fiscal year 1977 Labor-HEW appropriations legislation contains $20 million for senior centers.

The Senate Special Committee on Aging recently held a series of hearings on "The Nation's Rural Elderly" in three Midwestern States—Nebraska, South Dakota, and Iowa. At six different hearing sites I heard elderly witnesses tell of their efforts to establish senior centers and what those centers mean to the communities as focal points for services to the elderly.

In Rockford, Iowa, I met a particularly energetic and delightful couple, Mr. and Mrs. C. E. Judd. Mr. and Mrs. Judd have lived in Thompson, Iowa, most of their lives and have been active in attempting to get a senior center for their community. Their efforts are similar to those of older persons throughout the country.

Mr. and Mrs. Judd gave an excellent history of senior centers and described their personal efforts in establishing one. They even give recommendations for other communities who wish to establish such a center. I ask unanimous consent that their statements be printed in the Record.

There being no objection, the statements were ordered to be printed in the Record, as follows:

Statement of C. E. Judd, Thompson, Iowa

Mr. Judd. Senator Clark, Governor Blue, ladies and gentlemen, some wise person has said that a nation's greatness can begin with the manner in which it treats its old people. Most societies cherish their senior citizens, provide for them and their homes and seek their advice, and this was true in this country until about 30 years ago. Now our affluent society geared to the extravagances and conveniences of the young forces these people into comparative isolation to shift for themselves.

In many cases relatives have abandoned them, they are without transportation and many live in poverty. These people have many problems and frustrations but their most common complaint, regardless of health or economic status, is loneliness.

My remarks to the committee are directed to the need for senior centers particularly in the small communities. The concept of the Government providing meeting places for senior citizens is certainly not new. A long time ago when I was young it was common practice to provide these meeting places in county and city buildings. The courthouse often contained a large meeting room on the ground floor dedicated to the Grand Army of the Republic and was available to senior citizens at all times.

These rooms were popular gathering places for the older folks. They had organized meetings. They had various kinds of recreation, reading material and a place for sewing and quilting. With the coming of many new government services the courthouses and town halls became too crowded to afford the luxury of a meeting place for old people. In some places the men gathered at the barber shops and pool halls but these establishments no longer tolerate them.

It is very difficult in a small community to provide an adequate meeting place. In most cases the town councils are generous with the space they have but there are many demands for these meetings and they cannot be designated primarily for senior citizens nor can they tolerate such groups who just want to spend an afternoon leisurely. In some communities the room made available is at the end of a difficult stairway.

In Lake Mills the senior citizens were elated when it was announced that provision was made for a center for them. The senior citizens did considerable work in planning to make the center a reality. Later it became a community center rather than a senior citizens center. Apparently after some negotiation the senior citizens have use of the center along with the rest of the community.

In many cases senior citizens in rural areas are reluctant to ask for help from government agencies; Federal, state or local.

They feel that in doing so they would be surrendering their independence. In Leland there is a strong senior citizens club which refuses to participate in any program or activity involving public funds.

Many professional people do not adequately understand senior citizens and they are often inclined to treat them as a kindergarten class assuming that a certain period of time can be devoted to reading, another period for exercise and another for handicrafts and all present will have to take part or receive a failing grade. These older people vary greatly in their backgrounds, education, mental and physical capacities and do not all care to do the same thing at the same time.

However, I must say that our area agency staff is to be commended for their hard work and understanding of older people. A senior center should allow ample time and space for each to do his own thing either alone or in small groups. The Area Agency on Aging working with organized groups can be most effective in bringing its programs to the elderly if there is a senior center in the community, and in this manner the whole program can be more visible.

It is desirable for the entire community to recognize the presence of its seniors and generate support for their programs through public funding from county and local tax funds. Thus, the lives of these people can be enriched and the goals of the Older American Act of Congress.

Statement of Mrs. C. E. Judd, Thompson, Iowa

Mrs. Judd. Senator Clark, Governor Blue and friends, I wish to direct my remarks to the senior center at Thompson where we live. Winnebago County has about 2650 people over 60 years of age according to the 1970 census, and of these about 650 are below the poverty level. About 10 percent of the population reside in the Thompson area. The percentage below poverty is about the same as the average for the county. The town of Thompson has a population of around 700 people.

A few years ago Mr. Judd and I made a count of the senior citizens living alone in their homes and there were 56. We may have missed a few. This did not include those who are over 60 who were living with either husband or wife who were living.

In 1969 some of the seniors and other concerned people of the community decided it was time that the community took a hard look at what they were doing for their senior residents. Many things have been done for the young of the community, including much playground equipment, a swimming pool is in the process of being built, various summer recreation activities were being planned for but nothing was done for the elderly, they were on their own. As a result, the senior citizens club called The Young at Heart was organized in the fall of 1969 with 65 members. The community and the town council were very helpful and a lot of interest was generated in this project.

A building which was located on Main Street would be available for our use. It was located on street level with only two or three steps up to the door. This we could use for fixing it up. It had first been used as a hotel but through the years had many tenants, sometimes standing empty and each had taken its toll. It was in a bad state of disrepair.

It was then owned by the Veterans of Foreign Wars who had purchased it in part by donations from other groups and individuals. They did not have the money to repair the building so it was offered to the community for use as a place for group meetings. All they wanted to retain was the basement which they fixed up as a bar with an outside entrance and they wanted to retain one small room that they could use to store their equipment.

The Lions Club and the senior citizens made extensive repairs to the building. They remodeled and repaired the front of the building, put in new doors, covered with plywood, carpet and so forth. They paneled some of the rooms and painted others. They put in new ceilings and windows. They built a kitchen with cupboards, counters and a sink and remodeled a bathroom.

Organizations and individuals donated an electric stove, a refrigerator, a hot water heater, a piano, a pool table and other various supplies. As the membership of our seniors group is made up of people of many varied interests and skills we were able to do a lot of the work ourselves or sometimes we got our kids to help us. We have card parties, food sales, coffee breaks and rummage sales besides donations from members and others who raise the needed money to buy supplies.

The Young at Heart Club spent about $1,000 from their treasury besides the many, many hours of work during the years. The Lions Club members also spent much money and time. As a result we ended up with an adequate and cheerful center. There was much more repair being planned as time and finances would allow.

The Town Council was very generous and paid the bills for the heat, light and water. We were able to get chairs, large tables, card tables, games, coffee pots, coffee pot liners and so forth from Federal and state funds through the State Committee on Aging as it was then known. These moneys were administered by the OEO and Mr. Christian from Mason City was a great help in this.

When all was going fine the VFW must have decided that it was rather a lucrative thing they might have in their building so they notified each organization that they would be charged a fee for the use of the building. The seniors were to pay $10 each time we met and give 10 percent of the gross that we might have each time we had a fund raising activity. Other groups were to pay a large amount.

A protest meeting was called by the organizations using the building and as no satisfactory solution was arrived at we all found another place to meet. The Town Council cut off their support for payment of the utilities so the building is again after all these years standing idle most of the time.

The Town Council again came to our aid and offered us the use of meeting rooms in the Town Hall for our meetings. We are able to meet here once a week in the afternoons from November 1 to May 1 and in the evenings the rest of the year. It is a very tightly scheduled place though we are most grateful for what we have.

We have a congregate meal program in our town serving noon meals Mondays, Wednesdays and Fridays. The Young at Heart is the subcontractor for these meals. We rent a small old school building from the school board for the meal site. During the school year we contracted the Hot Lunch Program to prepare the meals for us and during the summer we had our own cook.

We will admit that we used poor judgment in not having a written agreement instead of a verbal one with the owners of this building in which we had the meetings for over three years but as other groups had been using it with no problems we went along in good faith. Our advice to other senior groups with like arrangements is to be sure you have a written agreement stating in detail all arrangements decided upon or agreed upon or that you might contemplate you would like to do. We all think it never could happen to us but it can and in many cases it is only four or five individuals who can call all the shots.

INFANT FOOD LABELING

Mr. MATHIAS. Mr. President, on April 17, 1975, I introduced legislation, S. 2449, which would require the label on infant foods to disclose, by percentage, the weight of all ingredients in such foods. When the Senate passed S. 641, the Consumer Food Act on March 18, 1976, included in it was a provision—section 403(i)—which achieves the purposes intended by S. 2449. Unfortunately, the House has not taken action on S. 641 or similar legislation, and it does not appear that it will do so within the remainder of the 94th Congress.

In light of the failure of S. 2449 or similar legislation to be approved by both Senate and House, I was very pleased to note that the Food and Drug Administration has recently proposed rules which would require baby food manufacturers to label their products with the percentages of some of the main ingredients. These proposed rules are a result of a petition filed early in 1975 by the Center for Science in the Public Interest and 58 Members of Congress.

I believe that consumers should be able to know what they are buying, and that products should be labeled to encourage comparative shopping, and I commend the FDA for proposing these rules to improve labeling requirements. I hope that many nutritionists and consumers submit comments to the FDA in support of adequate labeling standards for infant foods, and that the FDA acts with dispatch to review the comments and issue final regulations.

I ask unanimous consent that an article by Marian Burros of the Washington Post detailing the proposed FDA rules be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INFANT FOOD LABELING: A LONG WAY TO GO, BABY

(By Marian Burros)

How much cereal is there in a jar that contains strained cereal, egg-yolks and bacon? How much water? How much egg yolk?

Sometime after Jan. 1, 1978 the answers to such questions may appear on the jars of baby foods.

The Food and Drug Administration proposed two regulations last week that would require baby food manufacturers to label their products with the percentage of some of the ingredients they contain. Regulations governing infant food, that is food for babies under 12 months of age, would call for considerably more information than food that is to be used for children between 1 and 4 years.

These proposals, published in the Sept. 7 Federal Register, are in response to a petition filed by the Center for Science in the Public Interest (CSP) and a group of congressmen in 1975 seeking percentage of ingredient labeling. In the petition CSPI said: Because baby foods "are pureed, strained and blended it is impossible for consumers to estimate the amount of important ingredients by the taste or the appearance of the food."

The petition also said that ". . . consumers have a right to know the actual amounts of these ingredients in order to make value comparisons between products and to be in a position to evaluate the total impact of these foods on an infant's or child's diet or needs."

At the time the petition was filed, a spokesman for the group said that percentage labeling would show that much of the content of baby-food jars is nonnutritious sugar and modified food starch.

In announcing the proposal, FDA said, "There is a potential for deception because the ingredient(s) listed in the name of infant and junior foods may appear to be present in amounts greater than is actually the case."

According to FDA Deputy Commissioner Sherwin Gardner, "These proposed regulations are part of a long-standing commitment by FDA to provide consumers with precise and extensive label information so that they can make informed selections about the foods they buy and eat."

The first of the two proposals would require the percentage of the main or characterizing ingredients in infant and junior foods to be stated as part of the name of the food. For example, a product called "Green Beans, Potatoes & Ham Casserole—x% green beans, x% potatoes, x% ham.

This proposal does not go quite as far as the CSPI petition requested.

It had asked that percentages be required for any ingredient in both infant and junior foods that were found in amounts equal to or greater than those listed in the name. Thus if a product called "Cottage Cheese and Pineapple" contained 3 per cent pineapple, any other ingredients in the product at levels of 3 per cent or more would have to be listed with their percentages.

The idea of requiring certain foods to list the percentage of characterizing ingredients is not new. Under regulations governing "common or usual names," FDA requires products such as seafood cocktail to include the percentage of seafood in the name of the product.

The second proposal would require additional information on foods designated for children under 12 months of age, known as infant foods. FDA says it has authority to require special information because foods designated for infants are foods for "special dietary use" and are subject to special regulations.

The ingredient list on those labels would have to include the percentage of "each major ingredient in the product." FDA defines a major ingredient as "one which constitutes 5 per cent or more of a product."

As the proposal is presently written, ingredients that constituted less than 5 per cent of the food would simply be listed without numerical characterization.

In other words, "Strained Egg Yolks" would read: egg yolks 80%, water 19.7%, salt.

Lack of a numerical description for ingredients which are present below the level of 5 per cent, such as the salt, might confuse a label reader and the FDA official who wrote the proposal said it was a point the agency had not addressed but perhaps should.

Michael Jacobson, co-director of the Center for Science, said he is generally pleased with the proposals. He said that CSPI had asked for percentage listings when an ingredient is present at levels of 2 per cent or more, but he added, "I think it's quibbling to disagree with their 5 per cent."

Spokesmen for the two largest baby food manufacturers, Gerber and Heinz, said they had not had a chance to read the proposed regulations and would have no comment on them.

But the government relations manager for Gerber said he didn't know what labeling with ingredient percentages "would accomplish with all the variations there are in natural foods."

In seeking public comment on the proposals, FDA has asked for answers to certain questions:

What additional benefits are there to percentage labeling?

How much are consumers willing to pay for this type of labeling?

Will the labeling be misleading?

Interested parties have until Nov. 8 to submit comments addressed to: Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20852.

LEGAL OPINIONS ON POWER OF D.C. COUNCIL TO ENACT GUN CONTROL LAW

Mr. EAGLETON. Mr. President, a number of my colleagues have inquired about the scope of the District of Columbia City Council's authority regarding the enactment of gun control legislaton. So that they might better understand the law regarding this matter, I ask unanimous consent that the legal opinions on this issue of the Senate Legislative Counsel and the American Law Division of the Library of Congress be printed in the RECORD.

There being no objection, the opinions were ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., August 18, 1976.

From: American Law Division.

Subject: Firearms Control Regulations Act of 1975—Valid Exercise of the Authority Granted by Sections 1-224, 1-226 and 1-227 of the D.C. Code or Violation of Section 602(a)(9) of the D.C. Home Rule Act.

In response to your request for an analysis of the Firearms Control Regulations Act of 1975 in light of section 602(a)(9) of the District of Columbia Self-Government and Government Reorganization Act, we are enclosing a report prepared on the subject. We are also sending a copy of articles 50-55 of the D.C. Police Regulations and a copy of the Firearms Control Regulations Act.

CHARLES DOYLE,
Legislative Attorney.

FIREARMS CONTROL REGULATIONS ACT OF 1975: VALID EXERCISE OF THE AUTHORITY GRANTED BY SECTIONS 1-224, 1-226, 1-227 (REGULATION OF FIREARMS, EXPLOSIVES AND WEAPONS) OF THE D.C. CODE OR VIOLATION OF SECTION 602(a)(T) OF THE DISTRICT OF COLUMBIA SELF-GOVERNMENT AND GOVERNMENT REORGANIZATION ACT. 87 STAT. 894-95 (1973)

INTRODUCTION

The Firearms Control Regulations Act of 1975. D.C. Act No. 1-142, approved July 23, 1976 raises questions as to whether the Act is the valid exercise of authority granted by D.C. Code. Sec. 1-227, 1-226, 1-224 or a violation of the limitation imposed on the legislative authority of the D.C. City Council by section 602(a)(9) of the District of Columbia Self-Government and Government Reorganization Act, 87 Stat. 894-95(1973), D.C. Code Sec. 1-147(a)(9)(Supp. II). The conclusion of this report is that the Act is not valid.

Section 602(a)(9) provides:

The Council shall have no authority . . . to—

* * * * *

(9) enact any act, resolution, or rule with respect to any provision of title 23 (relating to criminal procedure), or with respect to any provision of any law codified in title 22 or 24 (relating to crimes and treatment of prisoners) during the twenty-four full calendar months immediately following the day on which the members of the Council first elected pursuant to this Act take office.

Sections 1-127, 1-226 and 1-224 of the D.C. Code state:

Section 1-227 Regulations relative to firearms, explosives, and weapons.

The District of Columbia Council is hereby authorized and empowered to make, and the Commissioner of the District of Columbia is hereby authorized and empowered to enforce, all such usual and reasonable police regulations, in addition to those already made under sections 1-224, 1-225, and 1-226 as the Council may deem necessary for the regulation of firearms, projectiles, explosives, or weapons of any kind in the District of Columbia.

Section 1-226 Regulations for protection of life, health, and property.

The District of Columbia Council is hereby authorized and empowered to make, and the Commissioner of the District of Columbia is hereby authorized and empowered to enforce, all such reasonable and usual police regulations in addition to those already made under sections 1-224, 1-225, as the Council may deem necessary for the protection of lives, limbs, health, comfort and quiet of all persons and the protection of all property within the District of Columbia.

Section 1-224 Police regulations authorized in certain cases.

The District of Columbia Council is hereby authorized and empowered to make and modify, and the Commissioner of the District of Columbia is hereby authorized and empowered to enforce, usual and reasonable police regulations in and for said District as follows:

First. For causing full inspection to be made, at any reasonable times, of the places where the business of pawnbroking, junk-dealing, or second-hand clothing business may be carried on.

Second. To regulate the storage of highly inflammable substances in the thickly populated portions of the District.

Third. To locate the places where licensed vendors on streets and public places shall stand, and change them as often as the public interests require, and to make all necessary regulations governing business.

* * * * *

Ninth. To regulate or prohibit loud noises with horns, gongs, or other instruments, or loud cries, upon the streets or public places, and to prohibit the use of any fireworks or explosives within such portions of the District as it may think necessary to public safety.

* * * * *

Eleventh. To prescribe reasonable penalties for the violation of any of the regulations in this section mentioned; and said penalties may be enforced in any court of the District of Columbia having jurisdiction over minor offenses, and in the same manner that such minor offenses are now by law prosecuted and punished.

BACKGROUND

Congress enacted legislation governing the carrying and selling of firearms in the District in 1892. 27 Stat. 116. Several years later it passed legislation governing the "killing of wild birds and wild animals in the District of Columbia," 34 Stat. 808(1906) which included language similar to that currently contained in D.C. Code Sec. 1-227.

When the basic provisions of title 22, chapter 32 of the D.C. Code replaced the 1982 legislation, the District's regulatory authority under the 1906 Act was left unchanged, 47 Stat. 650(1932), as amended, D.C. Code secs. 22-3201 to 22-3217.

In 1968, the District promulgated police regulations covering the possession, registration and sale of firearms and destructive devices, D.C. Police Regs Arts 50-55 The Maryland and District of Columbia Rifle and Pistol Association challenged the validity of the '68 regulations on the grounds that in enacting D.C. Code secs 22-3201 to 22-3217 Congress had preempted the field and withdrawn the delegation of legislative authority granted by D.C. Code sec. 1-227. They contended, alternatively, that the regulations exceeded the auhority granted by the 1906 legislation which they argued should be read narrowly to permit only regulations associated with hunting of wild birds and animals.

The United States Court of Appeals rejected both of these arguments, *Maryland and District of Columbia Rifle and Pistol Association, Inc.* v. *Washington*, 442 F. 2d 123(D.C. Cir. 1971). It noted that broad language contained in section 1-227 does not suggest the narrow interpretation offered and that by subsequently repealing all of the 1906 statute except the firearm regulation provision Congress intended section 1-227 to be interpreted as broadly as its language. The Court also observed with respect to the preemption issue:

"The important consideration, we think, is not whether the legislature and municipality have both entered the same field, but whether in doing so they have clashed. Statutory and local regulation may coexist in identical areas although the latter, not inconsistently with the former, exacts additional requirements, or imposes additional penalties. The test of concurrent authority, this court indicated many years ago, is the absence of conflict with the legislative will. . . .

"We find, too, from the fact that section 1-224 was not repealed, either in 1932 when the gun control law was passed or in 1958 when the 1906 wildlife legislation was repealed, a satisfying assurance that Congress, having dealt with some aspect of weapons control, left others for regulation by the District. Indeed, as we have pointed out, we cannot fathom any other purpose to be achieved by leaving section 1-227 in force. We are aware of a brief observation in the legislative history of the 1932 act that it would effect a "comprehensive program of [gun] control," but we cannot accept that as an expression of intent to preempt the entire field. Examination discloses that the 1932 act is not comprehensive with respect to rifles and shotguns, and the regulations under review demonstrate a clear design to leave the areas preempted by the statute unaffected." *Id.* at 130-32.

When Congress delegated broad general legislative authority to the City Council in the District of Columbia Self-Government and Government Reorganization Act, it restricted its grant by providing that:

The Council shall have no authority . . . to—

* * * * *

(9) enact any act, resolution, or rule with respect to any provision of title 23 (relating to criminal procedure), or with respect to any provision of any law codified in title 22 or 24 (relating to crimes and treatment of prisoners) during the twenty-four full calendar months immediately following the day on which the members of the Council first elected pursunt to this Act take office. 87 Stat. 984-95(1973), D.C. Code Sec. 1-147(a)(9).

This subsection was added to the bill by House sponsors during debate, 119 Cong. Rec. 33353(1973). Under its provisions, one of the sponsors noted, "the City Council is prohibited from making any changes in the criminal law applicable to the District. The conference committee, "agreed to transfer authority to the Council to make changes in Titles 22, 23 and 24 of the District of Columbia Code, effective January 2, 1977. . . . It is the intention of the Conferees that their respective legislative committees will seek to revise the District of Columbia Criminal Code prior to the effective date of the transfer of authority referred to." H.R. Rep. No. 93-702, 93d Cong., 1st Sess. 75 (1973). We have been unable to locate any further express indication of legislative intent as to the meaning of section 602(a) (9). Other than the language of section 404(a) there is no express indication as to whether the limitation applies to D.C. Code Sec. 1-227:

"Subject to the limitations specified in title VI of this Act [which includes sec. 602(a)(9)], the legislative power granted to the District by this Act is vested in and shall be exercised by the Council in accordance with this Act. In addition, except as otherwise provided in this Act all functions granted to or imposed upon, or vested in or transferred to the District of Columbia Council, as established by Reorganization Plan Number 3 of 1967, shall be carried out by the Council in accordance with the provisions of the Act." 87 Stat. 787(1973).

Arguments that the act is beyond the authority of the Council

Congress reserved to itself legislative jurisdiction over criminal law and procedure in the District of Columbia until January 2, 1977 by enactment of section 602(a)(9). This fact is established by the legislative history cited above and the statements contained in this year's House committee report on the bill to extend that date, H.R. Rep. No. 94-1418, 94th Cong., 2d Sess. (1976). Any act which prohibits under criminal penalty the control, transfer, offer for sale, sale, gift or deliver of destructive devices such as explosives, poison gas bombs, tear gas, and tasers; the manufacture of firearms within the District of Columbia; and the possession of pistols acquired after the effective of the Act involves the exercise of criminal legislative jurisdiction.

By enacting section 602(a)(9) Congress imposed a moratorium over the Council's legislative authority over matters covered by titles 22, 23 and 24 so that the Congress could revise the District's criminal law and procedure including especially those matters currently contained within the three titles. The District of Columbia weapons control statutes are currently all found within title 22 including provisions for licensing weapons dealers, licensing those who carry pistols and prohibiting possession of certain firearms and weapons. This is the law which Congress intended to freeze by enacting section 602(a)(9). Enactment of the Firearms Control Act alters the law with respect to those areas which Congress intended to examine in revising the D.C. criminal law and is therefore within the limitation of that section and beyond the legislative authority of the D.C. City Council until January 2, 1977.

The Firearms Control Regulations Act is an act with respect to title 22 because it is an act containing "general and permanent laws relating to the District of Columbia" which will have to be placed in the D.C. Code, 1 U.S.C. Sec. 203, and the most, in fact only, logical repository for those provisions is chapter 32 of title 22.

The Firearms Control Regulations Act is an act with respect to title 22 because it deals with many of the same subject matters contained in chapter 32 of title 22: circumstances under which a pistol may be lawfully possessed, compare D.C. Code sec. 22-3202 with D.C. Act No. 1-142, sec. 201, 202(d), 202(e), 706; licensing of those who deal in weapons, compare D.C. Code secs. 22-3209, 22-3210 with D.C. Act No. 1-142 secs. 401-409; regulation of the transfer of firearms compare D.C. Code secs. 22-3208 with D.C. Act No. 1-142 secs. 501, 502.

The Firearms Control Regulations Act is an act with respect to title 22 because it replaces and repeals D.C. Police Regulations Acts. 50-51 which deals with the same subject matter as chapter 32 of title 22, *Maryland and District of Columbia Rifle and Pistol Association, Inc.* v. *Washington*, 442 F. 2d 123 (D.C. Cir. 1971).

The Firearms Control Regulations Act is an act with respect to title 22 because the City Council intended it to supplement chapter 32 of title 22 as is evidenced by a comparison of the findings and purpose of the Act with the title of the 1932 Act which became chapter 32 of title 22: compare, "An Act to control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia . . ." 47 Stat. 650 (1932) with D.C. Act No. 1-142, sec. 2.

The Firearms Control Regulations Act is an act with respect to title 22 because even if the Council could have passed regulations containing the same provisions as an exercise of municipal legislative authority under D.C. Code secs. 1-224, 1-226, 1-227 it chose to enact a statute under legislative authority first delegated in the District of Columbia Self Government and Government Reorganization Act, 87 Stat. 774 (1973), D.C. Code sec. 1-124 (Supp. II).

The Firearms Control Regulations Act is an act with respect to title 22 because no argument to the contrary is tenable. As noted earlier, even if the Act could have been promulgated as police regulations under the authority of D.C. Code secs. 1-224, 1-226 and/or 1-227, the Council did not elect that approach. However, it seems more reasonable to conclude that section 602(a)(9) limits the authority granted by D.C. Code secs. 1-224, 1-226, 1-227. The legislative history indicates that section was intended to freeze D.C. criminal law until Congress could work a general revision. Congress could not have therefore intended to prohibit amendments to titles 22, 23 and 24 covering things like firearms control, rape, assault etc. but permitting the identical provisions to be validly enacted under the authority of D.C. Code secs. 1-224, 1-226, 1-227. Moreover, in spite of the fact that the language used in the Act, "An Act to protect the citizens of the District from loss of property, death, and injury . . . in order to promote the health, safety and welfare of the people of the District of Columbia . . ." suggests that the authority of D.C. Code sec. 1-226, ". . . police regulations . . . for the protection of lives, limbs, health, comfort and quiet of all persons and the protection of all property within the District of Columbia" was used, the Council's selection of penalties in excess of those permitted for regulations enacted under D.C. Code secs. 1-226, 1-224 negates any argument that the Act was passed pursuant to authority vested by those sections. (D.C. Code Sec. 1-224a provides that the maximum penalties established for violation of D.C. Code secs. 1-224, 1-226 may exceed imprisonment for 10 days; second and subsequent offenders of D.C. Act No. 1-142 are punishable by imprisonment for not more than 90 days, D.C. Act No. 1-142, sec. 706). The Act cannot be classified as primarily regulatory with only those criminal provisions which would be necessary to enforce any regulatory scheme because in its regulatory aspects the Act by and large simply reproduces the Police Regulations found in Articles 50-55 onto which new criminal prohibitions have been grafted, *e.g.*, prohibitions against various and sundry destructive devices, against possession of pistols by D.C. residents acquired after the effective date of the Act, and against manufacturing firearms within the District. Finally, the validity of the Act cannot be supported by reference to *Maryland and District of Columbia Rifle and Pistol Association, Inc. v. Washington*, 442 F. 2d. 123 (D.C. Cir. 1971). That case arose prior to the Home Rule Act and dealt with the issue of whether in the absence of an express limitation Congress had preempted the District's municipal legislative authority. The Firearms Control Regulations Act's validity turns on the applicability of section 602(a)(9), an express reservation of the legislative authority the District would otherwise have been delegated.

Arguments that the act is within the Council's authority

The limitation of section 602(a)(9) is a restriction on the legislative authority, most comparable to that exercised by a state legislature, which the Home Rule Act vested in the City Council. It does not restrict the Council's authority to enact municipal ordinances. If it did, Congress could have and would have made that clear either in the Act or its legislative history.

The Firearms Control Regulation Act is regulatory in nature not criminal. Most regulatory schemes provide minor criminal penalties for violation. Two of the principal differences between regulatory and criminal provisions are the extent of noncriminal matter included and the severity of the penalties imposed. The basic thrust of the Firearms Act is administrative, regulatory. Maximum penalties of 10 days and $300 are the kind of sanctions that support the administrative dealings of a municipality with its businessmen and citizens; they are not the kind of penalties one establishes as a crime control measure.

Section 602(a)(9) restricts amendments to title 22, 23 and 24. The Firearms Act does not amend any of those sections.

Finally, if Congress fails to disallow the Act, it would serve as a further indication that section 602(a)(9) was not intended to restrict D.C. Code Sec. 1-227 or even gun control regulation under its general legislative powers.

CONCLUSION

An examination of the arguments suggests that the Firearms Control Regulations Act exceeds the legislative authority delegated to the City Council. Congress in enacting section 602(a)(9) intended to freeze those areas of criminal law and procedure contained in titles 22, 23 and 24. The fact that gun control legislation for the District of Columbia was then contained in title 22 makes it inconceivable that Congress did not intend to preserve the status quo in the area of weapons control.

Of course, Congress could enact the provisions of the Firearms Control Regulations Act, or in the absence of federal legislation the City Council could enact them after January 2, 1977.

CHARLES DOYLE,
Legislative Attorney.
American Law Division, August 18, 1976.

MEMORANDUM FOR SENATOR EAGLETON

This memorandum is written pursuant to your request for the opinion of this Office with respect to the following two questions:

(1) Did the Council of the District of Columbia have the authority, under existing law, to enact the so-called "Gun Control" legislation recently adopted by the Council, namely, "An Act to protect the citizens of the District from loss of property, death, and injury, by controlling the availability of firearms in the community"?

(2) How does this Office interpret the amendment proposed by Mr. Dent to H.R. 12261 of this Congress?

QUESTION NUMBERED 1

Section 602 (a) (9) of the District of Columbia Self-Government and Governmental Reorganization Act reads, in material part, as follows:

"Sec. 602. (a) *The Council shall have no authority* to pass any act contrary to the provisions of this Act except as specifically provided in this Act, or *to*—

* * * * *

(9) *enact any act,* resolution, or rule with respect to any provision of title 23 of the District of Columbia Code (relating to criminal procedure), or *with respect to any provision of any law codified in title 22* or *24 of the District of Columbia Code* (*relating to crimes* and treatment of prisoners) *during the twenty-four full calendar months immediately following the day on which the members of the Council first elected pursuant to this Act take office.* (Underscoring supplied.)

With respect to question numbered (1) submitted to this Office, it should be noted that the "legislative vehicle" utilized by the Council in passing the so-called "Gun Control" legislation was an "act" of the Council within the meaning of section 602 (a)(9) of the District of Columbia Self-Government and Governmental Reorganization Act. If such "legislative vehicle" were a regulation as distinguished from an "act" of Council, its submission to the Congress under section 602(c) of the District of Columbia Self-Government and Governmental Reorganization Act would not have been required.

It should be further noted that the text of such "Gun Control Act" clearly amends, by overriding legislation, criminal provisions relating to gun control contained in chapter 32 of title 22 of the District of Columbia Code, and purports to legislate with respect to matters within the purview of such title.

Additionally, the so-called "Gun Control Act" of the Council was passed during the twenty-four full calendar months following the day on which the members of the Council first elected took office.

Inasmuch as such "Gun Control" legislation was an act passed by the Council, amends criminal provisions of title 22, District of Columbia Code, legislates with respect to matters within the purview of such title, and was passed by Council during such twenty-four month period, it is the opinion of this Office that the Council of the District of Columbia was prohibited by such section 602(a)(9) from passing such act.

QUESTION NUMBERED 2

With respect to your second question, the following information may be of some assistance.

H.R. 12261, as passed by the Senate and the House, reads as follows:

"That paragraph (9) of section 602(a) of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 1–147(a)(9)) is amended by striking out 'twenty-four' and inserting in lieu thereof 'forty-eight', and by inserting immediately preceding the word 'during', a comma and the words 'or with respect to any criminal offense pertaining to articles subject to regulation under chapter 32 of title 22 of the District of Columbia Code' ".

In the event that H.R. 12261 becomes law, the provisions of section 602(a)(9) of the District of Columbia Self-Government and Governmental Reorganization Act would read as follows:

Sec. 602. (a) The Council shall have no authority to pass any act contrary to the provisions of this Act except as specifically provided in this Act, or to—

* * * * *

"(9) enact any act, resolution, or rule with respect to any provision of title 23 of the District of Columbia Code (relating to criminal procedure), or with respect to any provision of any law codified in title 22 or 24 of the District of Columbia Code (relating to crimes and treatment of prisoners), *or with respect to any criminal offense pertaining to articles subject to regulation under chapter 32 of title 22 of the District of Columbia Code* during the forty-eight full calendar months immediately following the day on which the members of the Council first elected pursuant to this Act take office. (Italics indicates the "Dent" amendment.)

It is the opinion of this Office that the amendment proposed by Mr. Dent to H.R. 12261 only reaffirms the existing provisions of law contained in section 602(a)(9) of the District of Columbia Self-Government and Governmental Reorganization Act, namely, prohibiting Council from passing any act, resolution, or rule or regulation with respect to any provision of title 22 of the District of Columbia Code during a certain period.

Respectfully,

Robert C. Louthian, Jr.,
Senior Counsel.

PRESERVING OUR NATIONAL FOREST WILDERNESS

Mr. RIBICOFF. Mr. President, I am pleased to join the Senator from Idaho, Mr. Church, as a cosponsor of S. 3630, the Endangered American Wilderness Act of 1976.

This proposal represents an important further step in the fulfillment of the policy Congress established in the 1964 Wilderness Act:

> In order to assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the United States, leaving no lands designated for preservation and protection in their natural condition, it is hereby declared to be the policy of the Congress to secure for the American people of present and future generations the benefits of an enduring resource of wilderness.

The lands involved are all portions of our publicly owned national forests. These lands belong to all of us, held in common—but held, too, for those in future generations who will inherit them. Our children and grandchildren will benefit from our work to preserve for them a sampling of the untrammeled wilderness of our great land.

The people of Connecticut have a clear stake in the future of these important but unprotected wildlands because they use and benefit from wilderness. Wilderness is a valuable resource, the scene of unforgetable adventures and the invaluable experience of primitive recreation and direct contact with unmodified nature. Those experience, are as important for those in New England as for those living amid the abundance of wildlands in the West.

But while we own it, and use it, and pay our share of the cost of its administration by the Forest Service, the people have little or no true voice in decisions that determine the fate of our unprotected national forest wilderness.

Too often Government bureaucrats thousands of miles away make decisions which lead to the destruction of wilderness for short-term gain, without adequate, balanced thought of the national interest.

The category of lands treated in this new bill—the so-called de facto wilderness—best exemplifies this problem. The Forest Service has conducted huge inventories to locate the remnants of wilderness, and has held dozens of public meetings to determine public attitudes. They are drafting plans and making decisions, and as a result more and more of the remaining undeveloped portions of our national forests are being opened up for development. Much of this has happened and will continue to occur without any means for people affected by these policies to have a voice in the decisions.

The Congress must review and balance such decisions and correct allocations of public resources which have been biased by too narrow an approach. This is why I welcome this new bill, bringing the problem of America's endangered wilderness into focus for Congress and for all citizens. I congratulate the Senator from Idaho, Mr. Church, for this important conservation initiative.

I am pleased to cosponsor the Endangered American Wilderness Act of 1976 and to support this effort to "secure an enduring resource of wilderness" for all the people. What we will preserve will be only a small sample. For every acre formally designated as wilderness, literally thousands will have been developed, roaded, cut-over, and paved. And on that score, I like what David Brower, president of Friends of the Earth, wrote in his forward to the Sierra Club book "Gentle Wilderness: The Sierra Nevada"—

> Man can safely assume that for all his shortcomings, he is bright enough to carry on his civilization on the 95 percent or so of the land he has already disturbed. He is wise enough to recognize that he will not have a bright land, nor really serve himself well, if he hurries to disrupt that last five percent on the pretext that progress will otherwise cease. It won't. It will cease, however, if we cannot be kind enough to tomorrow's men to leave for them, in big wilderness, a chance to seek answers to questions we have not yet learned how to ask.

NOTICE OF HEARINGS ON IMPROVING LEGAL REPRESENTATION FOR OLDER AMERICANS

Mr. CHURCH. Mr. President, the Senate Committee on Aging will conduct hearings on September 28 and 29 on "Improving Legal Representation for Older Americans."

The September 28 hearing, which will be chaired by Senator Williams, will be held at 9:30 a.m. in room 4232 of the Dirksen Senate Office Building.

Senator Kennedy will chair the hearing on September 29 which will begin at 10 a.m. It will be held in room 457 of the Russell Senate Office Building.

PUBLIC WORKS FOR RIVERS AND HARBORS—S. 3823

Mr. MOSS. Mr. President, the amendment I submit today requests authorization of the lower Jordan River Floodway-Parkway project, in Utah. For too long flood problems along the lower Jordan have been the cause of great fear and concern to those in the community of Salt Lake City who reside in the flood plain.

The Flood Control Act of 1938 authorized the Army Corps of Engineers to investigate flood- and water-related problems in the Great Basin, of which the Jordan River Basin is a part. Under that authorization, interim investigations and one review investigation have been completed, resulting in three federally authorized flood control projects. The final feasibility report for the lower Jordan River Floodway-Parkway project has been completed and is going through the approval process within the Office of the Corps of Engineers.

Flood problems of the lower Jordan River are both severe and extensive. The lower Jordan River is the receiving stream for 101 square miles of mountain watershed and 25 square miles of developed valley lands.

Thirteen storm drains with a combined capacity of 1,870 cubic feet per second collect and convey runoff from the metropolitan area of Salt Lake City and discharge such flood flows into the Jordan River. An additional 350 cubic feet per second of potential inflow could occur from cloudburst runoff from minor drains and adjacent natural drainage areas. During such flood events the Surplus Canal is utilized to convey all flow originating above the Surplus Canal heading; however, the capacity of the Jordan River, estimated at about 500 to 800 cubic feet per second at critical locations, is inadequate to convey the total potential inflow of 2,200 cubic feet per second. Flood control improvements are needed to protect the parkway.

There is also a need to provide recreation opportunities in close proximity to the highly developed area of Salt Lake City and to upgrade the esthetics of the Jordan River and adjacent area. According to research information from the College of Natural Resources, Utah State University, and the Institute for the Study of Outdoor Recreation and Tourism, recreational facilities are needed and will experience the highest and best use when located adjacent to urban areas where people will spend the majority of their leisure and recreational time. Today's energy shortages certainly demand this type of approach. It is my opinion that the combination floodway-parkway concept, as planned for the Jordan River, fits the need for flood control, improved esthetics, and recreational facilities situated near urban areas.

I extend my support for the elements indicated in the corps' forthcoming feasibility report for the floodway-parkway program. As we conduct the improvement project to control flooding in that area, we should make use of what will obviously be improved esthetics for recreational purposes for the enjoyment of taxpayers.

The recommended plan of improvement includes modifying the natural flood plain by intermittent shallow excavation of overbank areas at critical locations and constructing setback mounded levees. The floodway-parkway would extend from 21st South Street downstream along the Jordan River about 8.5 miles to the Interstate 215 crossing. The width of the floodway would vary depending on available open land adjacent to the river. In addition to confining floodflows up to the standard project flood, the floodway-parkway would provide a series of natural areas and formal parks connected by a recreation trial system. Other proposed features include desilting basins where storm drains discharge to the Jordan River, pumps to assure storm drain flow into the Jordan River, recreation facilities, and an 800 acre-foot detention basin at the lower end of the parkway. The detention basin would provide temporary storage for flow in excess of the 500 cubic feet per second downstream channel capacity.

By increasing the flow capacity in the overbank areas, the natural channel and much of the streamside vegetation would be preserved. Reshaping and planting disturbed overbank areas would enhance the esthetics of the area and would make the river and adjacent lands more attractive. In addition, rounding the levees would help blend the development into the natural surroundings and would help restore those natural esthetics associated with the river. The proposed parkway, along with efforts planned to improve the water quality, is expected to turn the Jordan River into an attractive stream which will help fulfill the recreation and related needs of the urban area.

The total first cost of the plan has been estimated at about $28,300,000, including Federal costs of $14,150,000 and non-Federal costs of $14,150,000. Annual cost would be $2,054,000, including $316,000 in annual operation and maintenance charges. Annual benefits total $3,088,000 and include $1,728,000 in flood control benefits and $1,360,000 in recreation benefits. The overall benefit-cost ratio is 1.5 to 1.

The State of Utah and other local interests are anxious to move ahead with the project. They have already created a parkway authority and there are ongoing efforts to acquire rights-of-way. They have passed a resolution indicating willingness to provide local cooperative assurances.

Accordingly, I wish to amend the 1976 omnibus bill, to provide for authorization of construction of the lower Jordan River Floodway-Parkway, Utah, by the Corps of Engineers, provided that construction of the project shall not be undertaken by the Secretary of the Army until all feasibility reports have been completed on such projects, and until such reports have been submitted to Congress along with the Secretary's certification that in his judgment the benefits of such project will exceed the cost and that such project is physically and financially feasible.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider three nominations that have been cleared on both sides of the aisle under "New Reports," not the first one but the second, third, and fourth.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

THE JUDICIARY

The second assistant legislative clerk read the nomination of Richard M. Bilby——

Mr. ROBERT C. BYRD. Mr. President, not the first one. The nominations I refer to are Howard G. Munson, Vincent Broderick, and Susan B. Gordon.

The ACTING PRESIDENT pro tempore. The clerk will so report.

The second assistant legislative clerk proceeded to read the nominations.

Mr. ROBERT C. BYRD. Mr. President, will the clerk state the three names so we will know we are not confirming a name on which there is a hold.

The second assistant legislative clerk read as follows:

> Vincent L. Broderick, of New York, to be a U.S. district judge for the Southern District of New York; Susan B. Gordon, of New Mexico, to be an Assistant Secretary of Health, Education, and Welfare.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, there is some question as to what has happened.

I ask unanimous consent that the Senate consider the nominations of Mr. Howard G. Munson, of New York, to be U.S. district judge for the Northern District of New York; Mr. Vincent L. Broderick to be U.S. district judge for the Southern District of New York; and Susan B. Gordon to be an Assistant Secretary of Health, Education, and Welfare.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered. The nominations so stated are considered and confirmed en bloc.

Mr. GRIFFIN. Mr. President, I ask that the President of the United States be notified.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SUBMISSION OF AN AMENDMENT

GOVERNMENT ECONOMY AND SPENDING REFORM ACT—S. 3834—AMENDMENT NO. 2417

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from Ohio (Mr. GLENN), who is absent on official business, and his cosponsors, Mr. BEALL, Mr. GRAVEL, Mr. GARY HART, Mr. HASKELL, Mr. HATHAWAY, Mr. KENNEDY, Mr. LEAHY, Mr. MATHIAS, Mr. MCINTYRE, Mr. MUSKIE, and Mr. PROXMIRE, I submit an amendment to S. 3834, the "sunset" bill.

The amendment would extend the sunset concept beyond its application to Government spending programs by also requiring periodic review of tax incentives. Under the amendment, the same review procedures established by the bill for spending authorizations would also be applied to designated tax incentive provisions of the Internal Revenue Code.

At Senator GLENN's request, I ask unanimous consent that the text of the amendment and an accompanying memorandum prepared by Senator's GLENN's staff be printed in the RECORD at this point.

The PRESIDING OFFICER. The amendment will be received and printed; and, without objection, the material will be printed in the RECORD at this point.

MEMORANDUM

From the staff of Senator John Glenn.
Re S. 2925, Title V—Zero-Base Review of Tax Expenditures.
Date July 29, 1976.

I. BACKGROUND

S. 2925 (the "Sunset bill") was introduced in the Senate with 55 cosponsors and was approved by the Subcommittee on Intergovernmental Relations in May 1976. The Sunset bill requires a zero-base review of all Federal government budget authorizations, on a rotating five-year cycle. The purpose of the bill, as stated in the draft committee print, is to ". . . close the gap between Congress and the results of its legislative work—the actual delivery of goods and services which the Federal budget is intended to buy". Stated more broadly, the purpose of the Sunset bill is to bring the government under control. The Sunset bill was designed to impose discipline and control on the proliferation of Federal programs, and to restore confidence in the ability of Congress to control Federal government.

The Sunset bill terminates all provisions of the law which authorize budget authority for Federal programs. The terminations occur in yearly groups according to budget functional and subfunctional categories. As an example of this system, all health programs for the elderly will terminate at the same time regardless of their history, or of the Federal department or agency by which they are administered. All budget functions and subfunctions are grouped together in five annual categories. One category of terminations takes place on September 30, 1979, and an additional category terminates on each of the following four years. Each provision of law authorizing budget authority or spending programs will terminate again five years after its initial termination. The bill provides that by September 30 of the year before a program's termination date, certain basic information resulting from a zero-base review of the program will be submitted by the executive department to the concerned committees of Congress. The authorizing committees of Congress will review the results of the executive branch zero-base review and make recommendations about program continuation, termination, or consolidation.

II. TITLE V—ZERO-BASE REVIEW OF TAX EXPENDITURES

Title V of the Sunset bill was added to the bill by the Subcommittee on Intergovernmental Relations. This amendment imposes the same type of review procedure upon "tax expenditures" as the Sunset provision requires for on-budget governmental expenditures.

The concept of "tax expenditures" is relatively new. In an article in the Harvard Law Review in 1970, Former Assistant Secretary of the Treasury, Stanley S. Surrey, defined tax expenditures as:

> . . . Special provisions of the Federal income tax system which represent government expenditures made through that system to achieve various social and economic objectives.

The Congressional Budget and Impoundment Control Act of 1974 requires that the Budget Committee examine tax expenditures as part of overall budgetary policy. The Act defines tax expenditures as:

> . . . revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income, or which provide a special credit, a preferential rate of tax, or a deferral of tax liability.

In response to the Budget Act of 1974, certain tax expenditures have been listed with revenue estimates in the Federal budget, and discussed in Special Analysis F of the budget. In addition, an analysis of 82 Federal income tax provisions treated as tax expenditures was prepared by the staffs of the Treasury Department and the Joint Committee on Internal Revenue Taxation, and certain background material related to these tax expenditures has been compiled by the Senate Committee on the Budget.

As approved by the Subcommittee, Title V directs that a list of tax expenditures be prepared by the Joint Committee on Internal Revenue Taxation. The Title contemplates that the 95th Congress will enact provisions terminating the expenditures on this list in a five-year cycle, setting the stage for a zero-base review of these sections. The tax expenditures would be classified into budget function and subfunctional categories according to the governmental objective which they are thought to serve. The tax expenditures would be subject to zero-base review at the same time as the direct government expenditures falling within the same subfunctional budget categories.

III. IN SUPPORT OF TITLE V

It has been estimated that in 1977 the aggregate revenue loss from the tax expenditures identified in the budget is $102,046,000,000.[1] On a percentage basis, the tax expenditures identified in the budget appear to be the fastest growing segments of the Federal budget. Tax expenditures are uniquely out of control. Tax expenditures are incorporated in technical provisions of the Internal Revenue Code and their relationship to the accomplishment of Federal policy often escapes the scrutiny of the Congress and the public. Furthermore, unlike other governmental expenditures, the Government can neither identify nor control the beneficiaries of the expenditures. Any citizen can appropriate for himself governmental funds by arranging his affairs to fall within one of the tax provisions considered to be a tax expenditure.

Title V provides Congress with the mechanism to review and control tax expenditures just as the Sunset bill provides for review of direct expenditures. The Title is supported by all the reasons which have been advanced to support the Sunset bill. A stated congressional policy reviewing and controlling Federal revenues, expenditures, and programs would seem pointless if tax provisions reducing revenue by amounts in excess of $100,000,000,000 are exempted from this review.

If the tax expenditures are accorded a special status exempt from review and control, there is little doubt that they would continue to be the fastest growing part of the Federal budget. Moreover, the revenues escaping as tax expenditures could, as a budgetary matter, nullify the diligent process of review of direct expenditures.

It needs to be emphasized that S. 2925, including Title V, is a procedural reform. It is scrupulously neutral as to the outcome of the zero-base review.

A zero-base review could lead to continuation, expansion or elimination of tax expenditures. In some cases duplicative direct programs might be eliminated; in other cases, direct programs might be substituted for tax expenditures. The zero-base review is designed to make these policy alternatives available to Congress, along with information which might be helpful in selecting among them. The zero-base procedure itself would not indicate which policy option should be chosen.

There will always be controversy over tax policy between those who favor capital formation, and those who favor reduction of taxes to consumers, between conservatives and liberals. Title V will not reduce this controversy, nor will it indicate a present congressional intention to resolve this controversy in favor of one side or the other. Title V will, however, provide the Congress with the information it requires in order to evaluate the competing claims of those favoring capital formation versus consumer spending. The provision will therefore benefit Congress, while maintaining neutrality among those who seek to influence congressional policy.

1. Title V does not depend on arriving at a definition of tax expenditures

Tax expenditures are not labeled as such in the Internal Revenue Code, and the concept is not self-defining. In concept a tax expenditure is a deviation from a "normal" tax system. Today, however, there is no agreement as to what is "normal". There has been a great deal of confusion and controversy among Government officials and academic commentators on what is a "tax expenditure". It could be argued that Congress should not give legislative significance to "tax expenditures" because there is no consensus as to what a tax expenditure is.[2]

The response to this objection is that Title V does not depend upon the concept nor the definition of "tax expenditures" for identification of the Internal Revenue Code provisions which are to be reviewed. The tax expenditures to be terminated by Title V are those to be specified by action of the 95th Congress.

The provisions to be terminated are to be mandated by the Congress, not by the abstract concept of "tax expenditures". The list can be viewed as an ad hoc determination by Congress of the tax provisions which should be reviewed according to a regular cycle. Congress can specify provisions to review even while the analytical question "what is a tax expenditure?" has not been fully resolved. The list of provisions to be enacted can be expanded or contracted by future congressional action.

2. Governmental consideration of the questions raised by tax expenditures would be highly cost efficient

Belief in the argument that the questions raised by tax expenditures are too complicated to be dealt with would doom all hope of improving the performance of our Government. Basically, this argument says "Because the law is complex, you cannot review it to see if it serves congressional policy", or,

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[1] Estimates of Federal Tax Expenditures, prepared by the Joint Committee on Internal Revenue Taxation, March 15, 1976. This aggregate amount is based on an "initial impact" estimate and does not take into account the fact that if the law changed, people would change their behavior, reducing the amount of revenue which would be produced by the change in law. Furthermore, this estimate is an aggregation of the revenue estimates of each individual tax expenditure. It does not take into account the fact that in some cases the revenue gain resulting from the deletion of two tax expenditure items would be greater than the sum of individual estimates, and in some cases, the revenue gain from the whole would be less than that indicated for two or more parts.

[2] Concern might be expressed that many tax provisions that favor special groups are labeled "tax expenditures". These groups can claim that their pet provisions are not tax expenditures because they are not deviations from a "normal" tax system. The purpose of such an argument would be to escape the imagined perjorative connotations of being identified as a tax expenditure. For the purposes of Title V the fact that a provision is labeled as a "tax expenditure" does not mean that it is viewed with disfavor.

"because the government is out of control, you cannot attempt to bring it under control".

It is true that the review of tax expenditures, like any other worthwhile governmental activity, requires the exertion of considerable effort. In contrast to the substantive authorization to be reviewed under Title II of the Sunset bill, however, the governmental exertion contemplated by Title V is highly cost efficient. In order to conduct the zero-base review of direct expenditures as contemplated by the Sunset bill, literally thousands of budget authorizations must be reviewed each year. Under Title V, in contrast, there are only 82 tax expenditures which are estimated to involve a total in excess of $100,000,000,000. Although several of these expenditures involve more than one section of the Internal Revenue Code, there will be an average of fewer than 20 provisions to be reviewed in each year. Title V, therefore, reviews the loss to the Government of more than $100,000,000,000 of revenue with relatively little effort compared to that which would be required by expenditure review under the Sunset bill.

3. *Title V would not significantly interfere with the taxpayer's need for predictability in the tax law*

Each year many tax bills are introduced by members of the Congress which would change the tax laws. At the time bills are introduced it is uncertain the extent to which hearings will be held or a study will be made of the provisions of such bills. As a consequence, a typical taxpayer can rely upon very few sections of the Internal Revenue Service as being not subject to change when Congress is in session. The time and circumstances which could lead to changes in the Internal Revenue Code are basically unknowable.

Under Title V, the consideration of the change in those provisions of the Code which are identified as tax expenditures will be systemized and channelized in the five year cycle of review. When the provisions are due for their zero budget review the strengths and weaknesses of the provisions under review will be subject to careful analysis in the executive and legislative departments of the government. The review will be more meaningful than ad hoc congressional action on the bills.

Bills can be introduced to amend provisions of the Code slated for a zero-base review. As a practical matter, however, it is anticipated that most substantive reconsideration of tax expenditures will take place in connection with zero-base review. Overall, predictability as to tax laws is low today, and will not be substantially worsened by zero-base review. If Title V is enacted, taxpayers will know well in advance the year in which a particular Code provision will be subject to zero-base review. In addition, taxpayers should have confidence that the review itself will be a rational process.

4. *Title V is neutral with respect to tax expenditure provisions*

The Mills-Mansfield Act, which was proposed in 1972, called for the termination of certain tax expenditures in connection with a 3 year cycle of review. There was no coordination between those terminations and the overall review of congressional policy in the area of related budget subfunctions as contemplated by the Sunset bill. The Mills-Mansfield Act aroused tremendous opposition, much of it from churches and other charitable organizations, which deluged the Congress with mail. Some might argue that to favor Title V is to favor the repeal of the charitable deduction and other popular tax measures.

The answer to this objection is that Title V is neutral as to whether or not the provisions under review should be repealed. All that is called for is a zero-base review, and Title V does not suggest that the tax expenditures under consideration should be terminated. Furthermore, it should be pointed out that the Sunset bill terminates the Army, Navy, Air Force, Marine Corps, and the appropriations required to operate the Internal Revenue Service itself. The inclusion of these necessary government programs in the review process proves that there is no bias against the provisions which are to come under review. Because all government expenditures are to reviewed, no governmental programs are singled out for harsh treatment. For charitable organizations to argue that the charitable deduction should not be reviewed is to argue that the cost of the deduction to the Federal Government should not even be examined. The beneficiaries of tax expenditures should not be viewed as immune from review of all essential government programs. Any immunity from examination is incompatible with a rational budget process.

5. *Congress has the power to review tax expenditures*

It has been argued that the very term "tax expenditure" contemplates that the Government owns all of a citizen's property, and any amounts which the Government does not collect, are to be viewed as "expenditures". The answer to this objection is to state that Title V simply calls for the review of specified provisions in the Internal Revenue Code. Just as Congress enacted the Internal Revenue Code, it can enact legislation calling for the review of certain provisions of the Internal Revenue Code.

George F. Will complained about the "insidious notion that Government has a claim even on a lot of money it does not take from us." That Congress can tax income "from whatever source derived" is a constitutional fact, not an insidious notion. The Sixteenth Amendment gives Congress the power to impose income tax. It is not inconsistent with this Title, with the history of tax legislation, nor with the concept of private property for Congress to systematically review the provisions of the income tax code which it has enacted.

AMENDMENT NO. 2417

On page 32, after line 9, insert the following:

TITLE V—ZERO-BASE REVIEW OF TAX EXPENDITURES

PART 1—TERMINATION AND CONTINUATION OF TAX EXPENDITURE PROVISIONS

SEC. 501. (a) For purposes of this title—

(1) The term "tax expenditure provision" means any provision of the Internal Revenue Code of 1954 or any other law, or of any regulation or ruling, which allows a special exclusion, exemption, or deduction from gross income or which provides a special credit, a preferential rate of tax, or a deferral of tax liability.

(2) The term "Committee on Ways and Means" means the Committee on Ways and Means of the House of Representatives.

(3) The term "Committee on Finance" means the Committee on Finance of the Senate.

(4) The term "zero-base review" means, with respect to any tax expenditure provision, a systematic evaluation by the Committee on Ways and Means and the Committee on Finance, with the assistance of the Department of the Treasury and other appropriate departments or agencies of the Government and congressional support agencies, to determine if the merits of the tax expenditure provision justify its continuation rather than termination, or its continuation at a level less than, equal to, or greater than the existing level.

(b) For purposes of this title, the first review date for a tax expenditure provision is the termination date of such provision prescribed by law enacted pursuant to section 502, and each subsequent review date for a tax expenditure provision is the date five years following the preceding review date.

SEC. 502. (a) The Joint Committee on Internal Revenue Taxation shall conduct a study for the purpose of identifying and recommending termination dates for all tax expenditure provisions. The termination date for each tax expenditure provision shall be on December 31 of one of the five years beginning with 1979. The Joint Committee, after consultation with the Secretary of the Treasury and the Committees on the Budget of the House of Representatives and the Senate, shall submit its recommendations to the Committee on Ways and Means and the Committee on Finance as soon as practicable, but not later than April 1, 1977.

(b) During the first session of the Ninety-fifth Congress, the Congress shall complete action on a bill prescribing termination dates for all tax expenditure provisions in effect on the date of the enactment of the bill. The termination date for each tax expenditure provision shall be on December 31 of one of the five years beginning with 1979, and shall be effective with respect to taxable years beginning after the termination date of such provision.

(c) Any tax expenditure provision which is enacted after the enactment of the bill described in subsection (b) first applies to a taxable year beginning before January 1, 1980, and is to remain in effect (but for this subsection) for taxable years beginning after December 31, 1979, shall have a termination date which shall be effective with respect to taxable years beginning after December 31 of one of the five years beginning with 1979.

(d) Any tax expenditure provision which is enacted after the enactment of the bill described in subsection (b) and first applies to taxable years beginning after December 31, 1979, shall have a termination date which shall be effective with respect to taxable years beginning after December 31 of one of the five years beginning with the first taxable year to which such provision applies.

(e) Insofar as possible, termination dates shall be prescribed under subsections (b), (c), and (d)—

(1) for all tax expenditure provisions so as to provide an even distribution of the work of reviewing tax expenditure provisions during each year, and to take into consideration the economic impact of this process; and

(2) for each tax expenditure provision so as to provide for a review of such provision during the same period as the zero-base review under title II of programs having similar objectives.

(f) The Committees on the Budget of the House of Representatives and the Senate shall report to the Joint Committee on Internal Revenue Taxation and to the House of Representatives and the Senate on the relationship between the purposes of tax expenditure provisions and those of related programs as both are identified by functional and subfunctional categories, as soon as practicable, but not later than February 1, 1977.

SEC. 503. It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution (or amendment thereto)—

(1) which contains a tax expenditure provision which does not comply with section 502(c) or (d); or

(2) which continues any tax expenditure provision (whether or not in a modified form) for any taxable year beginning after the next review date for such provision, unless the report required under section 513 on the zero-base review of such provision preceding such review date has been submitted to the House of Representatives or the Senate, as the case may be.

PART 2—PROCEDURE FOR ZERO-BASE REVIEWS

SEC. 511. (a) On or before March 1 of the year preceding the year in which occurs the review date of a tax expenditure provision, the Committee on Ways and Means and the Committee on Finance shall adopt, and report to their respective Houses, a tentative plan for the zero-base review of such provision. On or before April 1 of such year, such committees shall adopt, and report to their respective Houses, a final plan for the zero-base review of such provision. The plan for zero-base review of a tax expenditure provision shall include—

(1) the priority which should be given to the zero-base review of such provision, taking into consideration the other tax expenditure provisions for which review dates occur in the same year;

(2) the criteria and standards to be applied in the zero-base review of such provision;

(3) the extent to which the elements specified in section 512 shall apply in the zero-base review of such provision;

(4) the information, analyses, and reports, if any, to be requested under section 515 from the General Accounting Office, Congressional Research Service, Office of Technology Assessment, and the Congressional Budget Office to assist the committee in the zero-base review of such provision; and

(5) the scope and detail of the reports to be submitted under section 514(a) by the Department of the Treasury and other departments and agencies which administer programs having similar objectives, and of other information and assistance to be requested under section 514(b) from the Department of the Treasury, such other departments and agencies, and any other agencies to assist the committee in conducting the zero-base review of such provision.

Either such committee may modify its final plan for the zero-base review of such provision, and report such modification to its House.

(b) Each such committee shall transmit a copy of the tentative plan for the zero-base review of a tax expenditure provision adopted by it under subsection (a) to the Department of the Treasury, and to those departments or agencies which administer programs having similar objectives, on the same day on which such plan is submitted to its House.

(c) Either such committee may consolidate the zero-base review plans of two or more tax expenditure provisions into a single report, provided that such report clearly specifies for each provision each of the matters required under subsection (a).

SEC. 512. Each zero-base review of a tax expenditure provision shall, to the extent provided in the plan adopted (or as modified) pursuant to section 511, include, but not be limited to—

(1) an identification of the objectives intended for the provision and the problem or need which the provision was intended to address;

(2) an assessment of the degree to which the original objectives of the provision have been achieved expressed in terms of the accomplishments of the provision and of the problem or need which it was intended to address. Such assessment shall employ procedures or methods of analysis which the committee determines to be appropriate to the type or character of tax expenditure provision;

(3) a statement of the accomplishments of the provision in each of the last four completed fiscal years and of the revenue losses incurred as a result of the provision;

(4) a statement of the number and types of persons benefited by the provision;

(5) an assessment of the effect of the provision on the national economy including competition, economic stability, employment, productivity, and inflation;

(6) a review of the impact of the regulations, rules, and forms (including questionnaires) issued to carry out the provision; and

(7) an analysis of the accomplishments estimated to be achieved if the provision were continued. Such analysis shall include, but not be limited to, the following revenue loss levels—

(A) The priority level of accomplishment which shall be the level (i) below which it is not feasible to continue the provision effectively, or (ii) 75 per centum of the current revenue loss, whichever is lower.

(B) If appropriate, an incremental accomplishment level which can be provided at a revenue loss between the priority level and the current level of revenue loss.

(C) If appropriate, an incremental accomplishment level above the level considered under subparagraph (B).

The information provided for each incremental revenue loss level shall include (i) a projection of the accomplishments that would be provided and (ii) a statement of the impact on the national economy.

SEC. 513. (a) The Committee on Ways and Means and the Committee on Finance shall conduct a zero-base review of each tax expenditure provision prior to the review date specified for such provision, in accord with the plan adopted pursuant to section 511.

(b) Each such committee shall submit a report of the results of each zero-base review conducted under subsection (a), together with its recommendations, to the House of Representatives or the Senate, as the case may be, on or before May 15 of the year in which occurs the review date for such provision. A committee may submit the results of the zero-base reviews of two or more related tax expenditure provisions in a single report.

(c) Whenever the Committee on Ways and Means or the Committee on Finance recommends the continuation of the tax expenditure provision under review (whether or not in a modified form) or the enactment of a new tax expenditure provision with similar objectives, the report accompanying the first bill or resolution reported by such committee which continues such provision or contains such new tax expenditure provision shall include the report required by subsection (b), or a summary thereof, and shall include but not be limited to the following—

(1) an identification of the problem or the needs that the tax expenditure provision is intended to address;

(2) a statement, to the extent practicable, in quantitative and qualitative terms of the objectives of the provision and its anticipated accomplishments;

(3) an identification of any other tax expenditure provisions or any other programs having similar, conflicting, or duplicate objectives;

(4) an assessment of the consequences of eliminating the provision, of consolidating it with another tax expenditure provision, or of reducing the revenue loss from the provision (with specific reference to section 512 (a)(6) if included in the committee plan), taking into consideration similar and duplicate tax expenditure provisions and similar or duplicate programs in the public or private sectors of the economy;

(5) an assessment of alternative methods of achieving the purposes of the provision;

(6) a justification for the continuation of the provision or for enactment of the new tax expenditure provision, as the case may be, and an explanation of the manner in which it avoids duplication of or conflict with other efforts; and

(7) a projection of the anticipated needs for and accomplishments of the provision, including an estimate of when, and the conditions under which, the provision will have fulfilled the objectives for which it was established.

SEC. 514. (a) On or before December 1 of the year preceding the year in which occurs the review date for a tax expenditure provision, the Department of the Treasury shall submit a report on such provision to the Committee on Ways and Means and the Committee on Finance, and the departments or agencies which administer programs having objectives similar to the objectives of such provision shall submit a report on such programs to such committees. The report to each such committee shall be in accord with its zero-base review plan for such provision, and may be submitted to such committee after December 1 of such year if a later date is specified in its zero-base review plan.

(b) To assist in the zero-base review process of a tax expenditure provision, the Department of the Treasury, the departments or agencies which administer programs having objectives similar to the objectives of such provision, and any other agency of the Government shall provide to the Committee on Ways and Means and the Committee on Finance such information and assistance as may be requested pursuant to its zero-base review plan for such provision.

SEC. 515. (a) On or before October 1 of the year preceding the year in which occurs the review date for a tax expenditure provision, the Comptroller General shall furnish to the Committee on Ways and Means and the Committee on Finance, the results of prior reviews of such tax expenditure provision and the results of prior audits and reviews of programs having similar objectives.

(b) At the request of the Committee on Ways and Means or the Committee on Finance pursuant to its zero-base review plan for a tax expenditure provision, the Comptroller General shall furnish to such committee information, analyses, and reports to assist it in carrying out its duties under this title.

(c) Consistent with the discharge by the Congressional Budget Office of its duties and functions under the Congressional Budget Act of 1974, the Director of the Congressional Budget Office shall, at the request of the Committee on Ways and Means or the Committee on Finance pursuant to its zero-base review plan for a tax expenditure provision, or upon his own initiative, furnish to such committee information and analyses to assist it in carrying out its duties under this title.

(d) Consistent with the discharge by the Office of Technology Assessment of its duties and functions under the Technology Assessment Act of 1972, the Director of the Office of Technology Assessment shall, at the request of the Committee on Ways and Means or the Committee on Finance pursuant to its zero-base review plan for a tax expenditure provision, furnish to such committee information, analyses, and reports to assist it in carrying out its duties under this title.

(e) At the request of the Committee on Ways and Means or the Committee on Finance pursuant to its zero-base review plan for a tax expenditure provision, the Director of the Congressional Research Service shall furnish to such committee information, analyses, and reports to assist it in carrying out its duties under this title.

On page 32, line 10, strike out "Title V" and insert in lieu thereof "Title VI".

On page 32, line 11, strike out "501" and insert in lieu thereof "601".

On page 32, line 19, strike out "502" and insert in lieu thereof "602".

On page 33, line 20, strike out "503" and insert in lieu thereof "603".

On page 35, line 1, strike out "504" and insert in lieu thereof "604".

On page 35, line 11, strike out "505" and insert in lieu thereof "605".

On page 35, line 12, after "205," strike out "and 506" and insert in lieu thereof "502, 503, 511, 512, 513, and 606".

On page 36, line 1, strike out "506" and insert in lieu thereof "606".

On page 36, line 2, after "I" insert a comma.

On page 36, line 3, strike out "and II," and insert in lieu thereof "II, and V,".

On page 36, line 3, after "I" insert "and V".

On page 36, line 7, strike the period after

"II" and insert in lieu thereof "and only the first review of a tax expenditure provisions shall be conducted under title V."

On page 36, line 11, after "II" insert "and the zero-base reviews of tax expenditure provisions under title V".

On page 36, line 13, strike out "title I" and insert in lieu thereof "titles I and V".

On page 37, line 2, after "II" insert "and the zero-base review of tax expenditure provisions under title V".

On page 37, line 11, after "II" insert "and the zero-base review of tax expenditure provisions under title V".

On page 37, line 14, after "II" insert "and the zero-base review of tax expenditure provisions under title V".

On page 37, line 15, after "in" strike out "section 105" and insert in lieu thereof "sections 105 and 503".

On page 37, line 16, strike out "section" and insert in lieu thereof "sections".

On page 37, line 17, after "II" insert a comma and "and V".

On page 37, line 19, strike out "section 105" and insert in lieu thereof "sections 105 and 503".

SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized on tomorrow, Mr. Leahy be recognized for not to exceed 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I now find that Mr. HELMS wants 15 minutes, and I ask unanimous consent that following Mr. LEAHY, Mr. HELMS be recognized for not to exceed 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two orders for the recognition of Senators already mentioned, Mr. GRIFFIN be recognized for not to exceed 10 minutes, and I be recognized for not to exceed 15 minutes.

Mr. ALLEN. Reserving the right to object, for what purpose would this be, would this be to take action under rule XXII?

Mr. ROBERT C. BYRD. Mr. President, I do not have to answer for what purpose and the Senator ought to know I am not going to attempt to do anything like that.

Mr. ALLEN. I just asked the question. What action is contemplated that would come under rule XXII?

Mr. ROBERT C. BYRD. None. The action simply is this: There is a debate tonight and I assume some Senators may want to come in tomorrow early and make some comment on the debate.

Mr. ALLEN. Very well. I withdraw my objection.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

COMMITTEE MEETINGS

COMMITTEE ON AGRICULTURE AND FORESTRY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture and Forestry be authorized to meet on September 24 to consider the Rural Electrification Administration Technical Amendments Act of 1976.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE ON COMMERCE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce be authorized to meet on September 24 to consider a nomination to the Interstate Commerce Commission.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Now, Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following calendar orders numbered—they have been cleared on both sides of the aisle—1205, page 13 on the calendar; 1207, 1209 through 1213 at the bottom of that page; 1214 at the top of page 14 through 1224 at the bottom of page 14; Calendar Order No. 1225, Calendar Order 1227, Calendar Order 1195 on page 11, and Calendar Order No. 865 on page 8.

If the Chair will just withhold for one second.

Mr. HELMS. Mr. President, will the Senator repeat the last one, please.

Mr. ROBERT C. BYRD. Calendar Order No. 865 on page 8.

Mr. GRIFFIN. Mr. President, will the Senator yield? I have to respectfully request that 865 and 1195 not be taken up at this time.

Mr. ROBERT C. BYRD. Very well.

The ACTING PRESIDENT pro tempore. Is there objection to the request?

Mr. ROBERT C. BYRD. Would the Chair indulge me for just a moment.

Mr. GRIFFIN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. GRIFFIN. Mr. President, I suggest to the Senator from West Virginia that I was in error about 1195 and that would be all right to take up.

The ACTING PRESIDENT pro tempore. Is there objection to the request?

Mr. ROBERT C. BYRD. Mr. President, I would like not to request at the moment that 1195 be taken up. Mr. Stone will make that request. I will take his place in the chair in a moment, if we can proceed with the remainder of it.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

BILL PASSED OVER

The bill (H.R. 8948), to amend the Accounting and Auditing Act of 1950 to provide for the audit by the Comptroller General, of the Internal Revenue Service and of the Bureau of Alcohol, Tobacco and Firearms, was announced as next in order.

Mr. ROBERT C. BYRD. Over.

The ACTING PRESIDENT pro tempore. The bill will be passed over.

CERTAIN LANDS IN MISSOURI AS WILDERNESS AND WILDERNESS STUDY AREAS

The Senate proceeded to consider the bill (S. 3204) to provide for the study of certain lands to determine their suitability for designation as wilderness, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert the following:

That (a), in furtherance of the purposes of the Act of January 3, 1975 (88 Stat. 2069) and the Wilderness Act (78 Stat. 890), the following area is hereby designated as wilderness and as a component of the National Wilderness Preservation System: certain lands in the Mark Twain National Forest, Missouri, which comprise twelve thousand three hundred and twenty-five acres and are generally depicted on a map entitled "Hercules Glades", dated March 1976, and shall be known as Hercules Glades Wilderness.

(b) In furtherance of the purposes of the Act of January 3, 1975, and the Wilderness Act, the following areas are hereby designated as wilderness study areas and shall be reviewed by the Secretary of Agriculture as to their suitability or nonsuitability for preservation as wilderness in accordance with the provisions of subsections (a), (d), and (e) of section 4 of the Act of January 3, 1975:

(1) certain lands in the Mark Twain National Forest, Missouri, which comprise approximately eight thousand five hundred and thirty acres and are generally depicted on a map entitled "Bell Mountain Wilderness Study Area", dated March 1976;

(2) certain lands in the Mark Twain National Forest, Missouri, which comprise approximately four thousand one hundred and seventy acres and are generally depicted on a map entitled "Rockpile Mountain Wilderness Study Area", dated March 1976;

(3) certain lands in the Mark Twain National Forest, Missouri, which comprise approximately eight thousand four hundred and thirty acres and are generally depicted on a map entitled "Piney Creek Wilderness Study Area", dated March 1976, and whose study must be completed five years from the effective date of this Act; and

(4) certain lands in the Mark Twain National Forest, Missouri, which comprise approximately six thousand eight hundred and eighty-eight acres and are generally depicted on a map entitled "Paddy Creek Wilderness Study Area", dated March 1976, and whose study must be completed five years from the effective date of this Act.

SEC. 2. The areas designated as wilderness and wilderness study areas in section 1 shall be administered in accordance with the applicable provisions of the Act of January 3, 1975, except that any reference in such provisions to the effective date of such Act shall be deemed to be a reference to the effective date of this Act.

SEC. 3. As soon as practicable after this Act takes effect, a map of the wilderness area and wilderness study areas and descriptions of their boundaries shall be filed with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such maps and descriptions shall have the same force and effect as if included in this Act: *Provided, however*, That correction of clerical and typographical errors in such maps and descriptions may be made.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill to designate certain lands as wilderness areas and wilderness study areas.

MONDAKOTA GAS CO.

The bill (S. 842) for the relief of Mondakota Gas Co., was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay out of the funds in the Treasury not otherwise appropriated, to the Mondakota Gas Company, incorporated under the laws of the State of Nevada (successors to the Mondakota Development Company, a Montana corporation), a sum to be determined at the discretion of the Secretary of the Interior not to exceed $800,000. Such sum is to indemnify, in whole or in part, the Mondakota Gas Company for damages, excluding expected earnings, incurred between November 1942 and December 1953 as a direct result of the failure of the United States to enforce the common carrier provision of section 28 of the Mineral Leasing Act of 1920 and the enactment of the Act of August 12, 1953 (67 Stat. 557, ch. 408).

LOUISIANA LANDS WILDERNESS STUDY

The Senate proceeded to consider the bill (S. 3444) to provide for the study of certain lands to determine their suitability for designation as wilderness, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert the following:

That, in furtherance of the purposes of the Act of January 3, 1975 (88 Stat. 2069) and the Wilderness Act (78 Stat. 890), the Secretary of Agriculture shall review, as to their suitability on nonsuitability for preservation as wilderness, the following lands as generally depicted on a map appropriately referenced, dated April 1974: certain lands in the Kisatchie National Forest, Louisiana, which comprise approximately ten thousand acres and are generally depicted on a map entitled "Kisatchie Hills Wilderness Study Area".

SEC. 2. The area designated for study pursuant to section 1 shall be administered, and the study shall be conducted, in accordance with the applicable provisions of the Act of January 3, 1975, except that any reference in such provisions to the effective date of such Act shall be deemed to be a reference to the effective date of this Act.

SEC. 3. As soon as practicable after this Act takes effect, a map of the wilderness study area and a description of its boundaries shall be filed with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such map and description shall have the same force and effect as if included in this Act: Provided, however, That correction of clerical and typographical errors in such map and description may be made.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ROBERTO QUISPE

The bill (S. 649) for the relief of Roberto Quispe, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act and section 21(e) of the Act of October 3, 1965, Roberto Quispe shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to special immigrants as defined in section 101(a)(27)(A) of the Immigration and Nationality Act.

DR. REYNALDO P. PEREZ, ET AL.

The bill (S. 2647) for the relief of Dr. Reynaldo P. Perez, his wife, Raquel Perez, and their child, Marie Freinde Perez, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Doctor Reynaldo P. Perez, his wife, Raquel Perez, and their child, Marie Friende Perez, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

DR. ABRAHAM HORWITZ

The bill (S. 2736) for the relief of Dr. Abraham Horwitz was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act and section 21(e) of the Act of October 3, 1965, Dr. Abraham Horwitz shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to special immigrants as defined in section 101(a)(27)(A) of the Immigration and Nationality Act.

GUY MARIUS LANGLOIS AND DIANE MIREILLE V. LANGLOIS

The bill (S. 2917) for the relief of Guy Marius Langolis and Diane Mireille V. Langolis, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act and section 21(e) of the Act of October 3, 1965, Guy Marius Langlois and Diane Mireille V. Langlois shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to special immigrants as defined in section 101(a)(27)(A) of the Immigration and Nationality Act.

GASPAR LOUIS SAYOC

The bill (S. 3490) for the relief of Gaspar Louis Sayoc, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 212(a)(23) and 245(c) of the Immigration and Nationality Act, Gaspar Louis Sayoc may have his status adjusted to that of an alien lawfully admitted to the United States for permanent residence if he is found to be otherwise admissible for permanent residence under the provisions of that Act.

SEC. 2. For the purposes of section 212(a)(14) of the Immigration and Nationality Act Gaspar Louis Sayoc shall be deemed not to have attained the age of twenty-one years.

SEC. 3. The exemptions contained herein shall apply only to grounds of exclusion which were known to the Department of State or the Department of Justice prior to the enactment of this Act.

MARIA FINEZA FORTICH

The Senate proceeded to consider the bill (S. 2894) for the relief of Maria Fineza Fortich, which had been reported from the Committee on the Judiciary with an amendment on page 1, beginning with line 9, strike out:

Act, the Secretary of State shall instruct the proper quota control officer to deduct the required number from the appropriate quota or quotas for the first year that such quota or quotas are available.

And insert in lieu thereof:

Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Maria Fineza Fortich shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MILOS FORMAN

The Senate proceeded to consider the bill (S. 2948) for the relief of Milos Forman, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert the following:

That for the purposes of the Immigration and Nationality Act, Milos Forman shall be held and considered to have satisfied the requirements of section 316 of that Act relating to required periods of residence and physical presence within the United States and may be naturalized at any time after the date of enactment of this Act if he is otherwise eligible for naturalization under the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

WALTER LOUIS MORITZ LAQUEUR AND BARBARA AUGUSTE HELENE KOCH LAQUEUR

The Senate proceeded to consider the bill (S. 3757) for the relief of Walter Louis Moritz Laqueur and his wife Barbara Auguste Helene Koch Laqueur, which had been reported from the Committee on the Judiciary with an amendment on page 1, beginning with line 7, strike through page 2, line 3, and insert the following:

physical presence requirements specified therein, and may be naturalized at any time after the date of enactment of this Act if they are otherwise eligible for naturalization under the provisions of the Immigration and Nationality Act.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Walter Louis Moritz Laqueur and his wife Barbara Auguste Helene Koch Laqueur shall be held and considered to have satisfied the requirements of section 316(a)(1) of the Immigration and Nationality Act with respect to the physical presence requirements specified therein, and may be naturalized at any time after the date of enactment of this Act if they are otherwise eligible for naturalization under the provisions of the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

SISTER MARIA LUCILA SANTOS

The Senate proceeded to consider the bill (S. 3313) for the relief of Sister Maria Lucila Santos, which had been reported from the Committee on the Judiciary with an amendment on page 1, line 4, strike "Sister Maria Lucila Santos" and insert "Lucila Domingo Santos"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Lucila Domingo Santos shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill for the relief of Lucila Domingo Santos.

SISTER ISIDARIA AVARICIO

The Senate proceeded to consider the bill (S. 3314) for the relief of Sister Isidaria Avaricio, which had been reported from the Committee on the Judiciary with an amendment on page 1, line 4, strike "Sister Isidaria Avaricio" and insert "Isidaria Gallardo Avaricio"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Isidaria Gallardo Avaricio shall be held and considered to have been lawfully admitted to the United States for permanent residence to such alien as provided for in this Act, The Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill for the relief of Isidaria Gallardo Avaricio.

SISTER LINA AFINIDAD

The Senate proceeded to consider the bill (S. 3315) for the relief of Sister Lina Afinidad, which had been reported from the Committee on the Judiciary with an amendment on page 1, line 4, strike "Sister Lina Afinidad" and insert "Felina Aranador Afinidad"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Felina Aranador Afinidad shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill for the relief of Felina Aranador Afinidad.

LEE YOUNG SOO

The Senate proceeded to consider the bill (S. 3017) for the relief of Lee Young Soo, which had been reported from the Committee on the Judiciary with amendments.

In line 6, strike "Mr." and insert "Lieutenant Colonel";

In line 8, strike "brothers" and insert "parents, brothers,";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Lee Young Soo may be classified as a child within the meaning of section 101(b)(1)(F) of such Act upon approval of a petition filed on her behalf by Lieutenant Colonel and Mrs. Duane L. Ginter, citizens of the United States, pursuant to section 204 of such Act. The parents, brothers, and sisters of the said Lee Young Soo shall not, by virtue of such relationship, be accorded any right, privilege or status under the Immigration and Nationality Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MONCHITO C. ENTENA, ET AL

The Senate proceeded to consider the bill (S. 3026) for the relief of Monchito C. Entena, Antonia V. Entena, Robert Entena, Cathleah Entena, Arvin Entena, and Eliza R. Ayala which had been reported from the Committee on the Judiciary with amendments as follows:

On page 1, line 7, strike "baby sister" and insert "babysitter";

On page 1, line 7, strike "Mr." and insert "Dr.";

On page 2, line 1, strike "fee" and insert "fees";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Monchito C. Entena, Antonia V. Entena, his wife, Robert Entena, Cathleah Entena, and Arvin Entena, their three children, and Aliza R. Ayala, sister to Antonia V. Entena, and babysitter to Dr. and Mrs. Monchito C. Entena, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by six numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MARCIANO SANTIAGO AND ELEANOR L. SANTIAGO

The Senate proceeded to consider the bill (S. 3556) for the relief of Marciano Santiago and his wife, Eleanor L. Santiago which had been reported from the Committee on the Judiciary with amendments as follows:

On page 1, line 3, strike "That notwithstanding the provisions of paragraph (14) of section 212(a) of the Immigration and Nationality Act, for purposes of the administration of such Act," and insert "That, for the purposes of the Immigration and Nationality Act,";

On page 2, line 4, strike "alien's" and insert "aliens'";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Marciano Santiago and Eleanor L. Santiago shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to the natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JACINTO VAZQUEZ CAMACHO

The bill (H.R. 7624) for the relief of Jacinto Vazquez Camacho, was considered, ordered to a third reading, read the third time, and passed.

BERNARD JULIAN PHILLIPS

The bill (H.R. 11890) for the relief of Bernard Julian Phillips, was considered, ordered to a third reading, read the third time, and passed.

HOLLIS ANTHONY MILLET

The Senate proceeded to consider the bill (H.R. 11199) for the relief of Hollis Anthony Millet, which had been reported from the Committee on the Judiciary with amendments.

On page 1, line 11, after "for" insert "the purposes of";

On page 2, line 1, strike "be a minor and to have retained his priority date for Western Hemisphere immigration" and insert "be a minor and to have acquired a priority date for Western Hemisphere immigration as of June 27, 1974".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare be authorized to meet in executive session on Friday, September 24, 1976 at 10 a.m., to consider H.R. 15246 and S. 3736, Service Contract Act amendments; S. 3262, to extend the Unemployment Assistance Act, and the nomination of Mr. Ronald Berman to be chairman of the National Endowment for the Humanities.

Mr. ALLEN. Mr. President, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent for the Senate Committee on Agriculture and Forestry to meet September 24, 1976, at 10 o'clock.

The only bill to be considered during this meeting would be H.R. 12207, the Rural Electrification Administration Technical Amendments Act of 1976.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. STONE addressed the Chair.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). The Senator from Florida.

MID-DECADE CENSUS

Mr. STONE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3688.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3688) to amend title XIII, United States Code, to provide for a mid-decade census of population, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

UP AMENDMENT NO. 479

Mr. STONE. Mr. President, on behalf of the Senator from New York, I offer an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. STONE), for himself and Mr. JAVITS, proposes an unprinted amendment No. 479.

Mr. STONE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, strike all after line 12, over through and including line 14 on page 17.

On page 10, line 18, after the word "Secretary" add the following: ", to the extent feasible,".

On page 10, line 22, after the word "population" add the following: "and population characteristics".

On page 10, line 22, after the first word "and" add the following: ", to the extent feasible,".

Mr. STONE. Mr. President, recognizing the unusual parliamentary situation facing the Senate today and the very few days left before adjournment, I am gratified that we have the opportunity to act now on S. 3688, and its companion H.R. 11337, legislation that will improve considerably the system for distributing Federal grant money to State and local governments.

Congresswoman PAT SCHROEDER of Colorado has introduced and the House of Representatives has passed a similar bill, H.R. 11337, mandating a mid-decade census. I am pleased to have been the Senate sponsor of this proposal, with the Honorable GALE MCGEE, chairman of the Post Office and Civil Service Committee, the distinguished chairman of the Census and Statistics Subcommittee, Senator Moss, and the very able Senator from Alaska (Mr. STEVENS), and just today with the added support of the distinguished Senator from New Hampshire (Mr. DURKIN).

When we enact Federal programs that deliver essential services to our citizens—needed services in education, health, environmental protection, law enforcement, and other areas—formulas are developed by which the Federal money will be channeled to the areas that are most deserving of aid.

These formulas have one primary goal: Equity. That means putting the money where the people to be served actually are.

The bill we are considering today, S. 3688, takes several giant steps forward toward that goal. The mid-decade census will benefit every single State in the country—because it will tell us precisely where we stand in relation to population size and distribution, housing characteristics and economic and social conditions every 5 years, instead of every 10 years. About one-fifth of our citizens change residence every year; with this degree of mobility, a census only once every 10 years just is not enough.

The mid-decade census bill is supported by State and local government planners, by the Office of Management and Budget and by the Bureau of the Census, by the American Statistical Association, and it has the unanimous endorsement of the House of Representatives.

I hope the Senate today will add its concurrence.

The mid-decade census wil be a very useful tool for insuring that Federal funds are distributed as equitably as possible. To try to pursue this aim even further, I introduced other legislation last year, Senate bill 1009, which would mandate the use of updated population figures in Federal aid formulas that contain a population factor. The justice of this aproach has been recognized by the Senate—which passed Senate Bill 1009 unanimously on December 15, 1975, with 36 cosponsors. The legislation is still pending in the House.

In recent months, this aproach has come under attack from some who fear it could further undermine the shaky financial condition of some of our largest metropolitan areas. I recognize that serious fiscal problems exist in these areas. But the issue of using the best available data in Federal grant aid formulas should be separated from the much weightier and more complicated economic difficulties of some of our cities. They are rooted in different causes, and their solution lies in directly confronting these problems with specific remedial program legislation.

As a result of S. 1009, my discussions with the Office of Management and Budget, and OMB's own very valid analysis, the OMB has in the last year fully implemented its Budget Circular A-46, exhibit I, which does by regulation what I sought, with the support of 36 Senate colleagues, to do by statute.

I ask unanimous consent that a copy of exhibit I be inserted in the RECORD at this point in my remarks.

There being no objection, the material was ordered to be printed in RECORD, as follows:

CIRCULAR NO. A-46—TRANSMITTAL
MEMORANDUM NO. 1
WASHINGTON, D.C.,
June 6, 1975.

To the heads of executive departments and establishments.

Subject: Amendment to Circular No. A-46, "Standard Data of Total Population Used in Distributing Federal Benefits."

Attached is Exhibit I which amends Circular No. A-46. The purpose of this amendment is to assure use of standard data on total population for all Federal programs which make use of total population data in the distribution of Federal benefits.

JAMES T. LYNN,
Director.

[Exhibit I—Circular No. A-46 Revised]

STANDARD DATA SOURCE OF TOTAL POPULATION USED IN DISTRIBUTING FEDERAL BENEFITS

PURPOSE

The purpose of Circular A-46, Exhibit I is to assure use of standard data on total population for all Federal programs which make use of total population data in the distribution of Federal benefits.

CURRENT DATA

For the purposes of this Circular the term current data means the most current, complete national series as published by the Bureau of the Census in "Current Population Reports," P-25, P-26, or related series, except where data from a decennial census conducted by the Bureau of the Census is more current.

USE OF DATA OF TOTAL POPULATION

Executive departments and establishments in distributing and/or determining eligibility for the benefits of an appropriation for a single year on the basis of data on total population shall use data which refer to the same point or period of time for each class of eligible government. The data on total population shall be the most current and comprehensive published by the Bureau of the Census. Where total population is used as the denominator of a fraction, the data for both numerator and denominator will be the most recent for which both are available. Where total population is used as the numerator of a fraction, the data for both numerator and denominator will be the most recent for which both are available.

JUSTIFICATION FOR EXCEPTION

Agencies shall request approval by the Office of Management and Budget (OMB) for use of data on total population other than the most current data published by the Bureau of the Census. The request will include identification of the program(s) affected, legislation implemented by those programs, justification for use of alternative data, and a report on consultations with the Bureau of the Census in respect to data sources.

Any agency required by legislation to use data on total population other than those required by this Circular shall notify the Office of Management and Budget prior to such use.

PROPOSED LEGISLATION

Agencies developing proposed legislation involving the use of population data will be responsible for assuring that the provisions of such legislation are consistent with the principles outlined in this Circular or for identifying and justifying any departures from such principles at the time the proposed legislation is submitted to the OMB for review pursuant to OMB Circular A-19. As part of its review process under that Circular, the OMB may request additional information and justification relating to the population data and their proposed use.

REPORT ON USE OF DATA ON TOTAL POPULATION

Executive departments and establishments shall report by August 29, 1975 on all programs the benefits of which are distributed on the basis of total population or formulas including total population as an element. The report shall separately identify for each program:

(a) Name of program and Catalog of Federal Domestic Assistance numeric identifier.

(b) Statutory basis.

(c) Data elements specified in addition to total population.

(d) Source(s) of data now used for each data element.

(e) Amount of funds distributed fiscal year 1974 and fiscal year 1975.

(f) Date of next distribution.

Mr. STONE. Mr. President, I am grateful that the administration has recognized that this is an equitable and fair way to administer the hodgepodge of Federal laws in this area.

Federal statutes now call for the use of decennial census or complete census figures in 20 percent of Federal aid programs. In the other 80 percent, they call for the use of recent population figures, but it was left to the discretion of the administrators of the Federal agencies which govern these programs to choose the figures he or she preferred.

But fortunately, the OMB regulation has now directed them to use the annual and biennial updates for total population prepared by the Census Bureau whenever relevant. I am hopeful that in the future we will be able to strengthen this commitment.

Then, perhaps, we can truly say that to the fullest extent possible, the Congress has insured that we "put the money where the people are now"—not where they were 10 or even 5 years ago.

Mr. JAVITS. Mr. President, the mid-decade census legislation, S. 3688, could have a great effect on New York State and the Northeast if passed in its present form.

As reported, the bill provides for a mid-decade census and an annual update of census figures for use in Federal programs where population is a factor. I have no serious disagreement with the part of the bill providing for a mid-decade census especially since I understand this census will not just be a compilation of total population figures but will also include population characteristics such as poverty population, number of aged and disabled, and similar groups. This factor of population characteristics is an extremely important one in areas such as New York State which are often discriminated against in the application of funding formulas. We would always receive more based on need than we would based on population alone since we do have a great number of people who fall in the poverty category or in the aged category. Thus we start behind in most cases before getting into the issue of updated census figures. Obviously any new census figures which do not take into account population characteristics could have a severe impact on the amounts of money received by New York and the Northeast generally under a great number of Federal programs. However, if the mid-decade census will include population characteristics we would have no substantial objection to it.

On the other hand, the annual update provisions of the bill present a much different question. I cannot support an annual update provision which does not allow for a report of population characteristics for the reasons I have enumerated above. Since I understand it would be very difficult to do this in an annual update situation I have opposed this portion of the bill. Further, I do not believe it is necessary to put this annual update procedure into the law since I understand that the Office of Management and Budget in its circular A-46 has requested Federal agencies to use the most recent population data that may be available. This should meet the objections of many who feel more current data is needed without enactment of statutory law in the area.

My amendment addresses the concerns I have noted by deleting section 13 of the bill which requires the Director of OMB to insure that the annually updated figures are used in Federal grant and aid programs and by changing section 8 of the bill to provide for the production of current data on population and population characteristics for major governmental areas, to the extent feasible. I believe that by not mandating the use of annually updated figures in Federal programs but providing that this updated information be gathered if possible the concerns of the fast-growing areas will be met and also the concerns of the Northeast and other similar areas will be satisfied. I appreciate Senator STONE's willingness to work out this matter in a way which deals with the concerns of both of our States.

Mr. STEVENS. Mr. President, the State of Alaska, like many other States, is experiencing tremendous growth. Thus it has a great stake in the legislation we are considering today. The mid-decade census bill, which will authorize the Secretary of Commerce to supply essential and urgently needed statistics regarding the people of the United States by taking a national census of population at the mid-decade intervals between regular decennial censuses, thereby providing demographic data every 5 years instead of every 10 years as presently authorized by law.

At the moment, our only certain recourse in the pursuit of detailed demographic information for every State, minor civil division, or community is the data collected in the decennial census. Since 1970, there have been great social changes throughout the country, particularly in the State of Alaska. It is appalling to think that we will be forced to wait until 1981 at least before we can have access to a detailed picture of the changes occurring in this decade.

The decade of the 1970's has been a crucial one in the history of Alaska. The discovery of oil and natural gas on the North Slope and the subsequent construction of the trans-Alaskan pipeline have brought many new people to our State. For others, the allure of Alaska as the one last frontier continues as a powerful attractant. During the 5-year interval between the 1970 Census of Population and July 1, 1975, the Bureau of the Census estimates our population to have grown by some 16.3 percent. Such rapid growth has made the planning of essential services necessary to insure a quality life for our new residents very difficult.

In response to a need for current information, and without hope for any solution such as a mid-decade census, concerned Alaskans have set about planning and promoting a special census of the State. Mr. President, I ask unanimous consent to have printed in the RECORD a letter I received from Mr. Robert Weeden, director of the Governor's office for State policy development and planning, concerning the special census. I must personally regret that even if we are able to complete action on mid-decade census legislation in this Congress, it will come too late to be of assistance to the people of Alaska in this decade. But the bright future of Alaska will continue for decades to come, and Americans from the lower 48 will continue to arrive in our State pursuing a future for themselves. We will need a mid-decade census of population in those coming years, just as we have needed it for many years in the past.

Mr. President, before closing I ask unanimous consent that in addition to Mr. Weeden's letter, a letter from the director of planning for the municipality of Anchorage, Mr. William H. Beaty, be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF ALASKA,
OFFICE OF THE GOVERNOR,
March 11, 1976.

Hon. TED STEVENS,
U.S. Senator, Senate Office Building, Washington, D.C.

DEAR SENATOR STEVENS: At last a bill, H.R. 11337, may be on the way to providing for a mid-decade census of population and housing. Alaska has suffered from inadequate and insufficient data ever since Statehood, but especially since the 1970 Census. Now that the State appears to be into a boom period again, the dearth of good information on which to identify needs and plan programs for Alaskans, is more than ever pronounced.

A group of interested Alaskans, both in and out of government, have been working for almost a year planning and promoting a special census in the State. If the Census is accomplished, it will be expensive and supply only a portion of the information that would be available from a nationwide population and housing census.

I urge you to support in every way possible, passage of H.R. 11337.

Sincerely,

ROBERT B. WEEDEN,
Director.

MUNICIPALITY OF ANCHORAGE,
Anchorage, Alaska, May 7, 1976.

GALE MCGEE,
Chairman, Committee on Post Office and Civil Service, U.S. Senate, Washington, D.C.

DEAR SIRS: I am in support of H.R. 11337 which would authorize a mid-decade Census. Such a Census would be particularly important for fast-growing areas like Anchorage. The population of rapidly-growing areas is often underestimated for revenue sharing when no mid-decade Special Census is taken; a mid-decade Census would allow a more accurate population estimate to be made for revenue sharing. The mid-decade Census would also allow planners to keep up to date on the effects of rapid growth of population characteristics. In Anchorage we have little information on the changes in our population characteristics caused by the construction of the Trans-Alaska Pipeline, and we are forced to use 1970 Census information, even though we know it is hopelessly out of date.

I am not in support of Congressman Ashbrook's amendment which would make answering the Census questions voluntary. This would have tremendous impact on the usefulness and accuracy of Census data, particularly for small areas such as the Anchorage Municipality. The present disclosure laws provide adequate protection for the individual without limiting the usefulness of the Census.

To repeat, I am in support of the mid-decade Census, but feel the Ashbrook amendment would have a disastrous impact on Census users.

Sincerely,

WILLIAM H. BEATY,
Director of Planning.

Mr. STONE. Mr. President, I ask that the amendment be adopted.

The amendment was agreed to.

Mr. STONE. Mr. President, I ask that the record show the Senator from New Hampshire (Mr. DURKIN) and the Senator from Alaska (Mr. STEVENS) be shown as cosponsors of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. Mr. President, I ask for third reading.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. STONE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 11337.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 11337) to amend title XIII, United States Code, to provide for a mid-decade census of population, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. STONE. Mr. President, I move to strike all after the enacting clause of H.R. 11337 and insert the language of S. 33688, as amended, therefor.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Florida.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 11337) was passed.

Mr. STONE. Mr. President, I move to reconsider that vote by which the bill was passed, and I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on the motion to reconsider the vote by which the bill was passed, and the motion to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STONE. Mr. President, I ask that S. 3688 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. Mr. President, I thank the distinguished leader and I thank the distinguished Senator from Alabama for his kindness in this matter, as well as the minority leader. Particularly, I want to thank the Senator from New York (Mr. JAVITS) for helping us to work this matter out. I think this bill, as amended, will be a beneficial bill to the country. I thank the Chair.

ORDER FOR ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9 a.m. tomorrow, in view of the additional orders which have been entered.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADJOURNMENT TO 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 9 a.m. tomorrow.

The motion was agreed to; and at 8:03 p.m., the Senate adjourned until tomorrow, Friday, September 24, 1976, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 23, 1976:

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Susan B. Gordon, of New Mexico, to be an Assistant Secretary of Health, Education, and Welfare.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Howard G. Munson, of New York, to be U.S. district judge for the northern district of New York.

Vincent L. Broderick, of New York, to be U.S. district judge for the southern district of New York.

EXTENSIONS OF REMARKS

THE POLISH NATIONAL ALLIANCE OF YOUNGSTOWN, OHIO

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. CARNEY. Mr. Speaker, on Saturday, September 18, I had the pleasure of attending a testimonial banquet for Mary C. Grabowski, commissioner for district 9 of the Polish National Alliance. The dinner was hosted by Council 46 of the Polish National Alliance in honor of Mary Grabowski's many years of dedicated service to the Polish Alliance.

During this testimonial banquet, the annual presentation of the debutantes was also made by the women's division, District 9 of the Polish National Alliance.

Mr. Speaker, the Polish National Alliance is an outstanding community-based organization which continues to provide a convenient meeting place for Polish Americans. Throughout the year, the Polish National Alliance brings its people together for the purpose of celebrating with one's own countrymen and women.

Mr. Speaker, the members of the Polish National Alliance are proud of their rich ethnic heritage and the contributions that their forefathers made to the development of this great country of ours. The Youngstown area is particularly diverse in ethnic groups, and I am proud to represent all of these groups in the U.S. House of Representatives.

At this time, I would like to insert in the RECORD the program and list of debutantes of the Polish National Alliance. The material follows:

DEBUTANTES

Dorothy Broski, Group 9, Council 6.

Parents: Mr. and Mrs. K. Broski, 9526 S. Highland Drive, Garfield Hts., Ohio.

Julia Golis, Group 827, Council 46.

Parents: Mr. and Mrs. Julian Golis, 1579 Country Club, Boardman, Ohio.

Joanne Grajewski, Group 652, Council 50.

Parents: Mr. and Mrs. Joseph V. Grajewski, 339 Garfield Avenue, Steubenville, Ohio.

Elizabeth Olak, Group 827, Council 46.

Parents: Mr. and Mrs. Joseph Olak, 414 Meadowbrook, Youngstown, Ohio.

Kristine Romanow, Group 261, Council 6.

Parents: Mr. and Mrs. Jan Romanow, 1706 Tuxedo Avenue, Parma, Ohio.

PROGRAM

National Anthems, Polanie and Youth groups.

Invocation, Rt. Rev. Msgr. Thaddeus Heruday.

Dinner

Musical Interlude, By Sujak.

Message of welcome, Walter Chmara.

Introduction of Toastmaster, Pres. of Council 46.

Toastmaster, Felix Mika.

Introduction of, Jack C. Hunter, Mayor, Youngstown, Ohio.

Introduction of guests, Toastmaster.

Presentation of honoree, Mary C. Grabowski, Commissioner District 9, PNA.

Main speaker, Aloysius A. Mazewski, President PNA.

Presentation of debutantes, Mary C. Grabowski, Commissioner District 9 PNA.

Remarks, Helen Szymanowicz, Vice-President PNA.

On stage performance, Polanie, Council 46 and Group 965, S. Filipkowski, Youth Director.

Closing remarks, Alexander A. Kopczynski, Commissioner Dist. 9, PNA.

Benediction, Rev. Marian Kecik, St. Casimer Parish, Cleveland, Oh.

Boze Cos Polske, Audience.

UNCONSTITUTIONAL EXTENSION OF PRIVATE EXPRESS STATUTES

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. ROUSSELOT. Mr. Speaker, I would like to direct the Members' attention to a recent article in the September 22 issue of the Wall Street Journal concerning the Postal Service's attempt to extend the provisions of the private express statutes to addressed advertising material. This illegal extension via agency regulations forces third-class mailers to use the Postal Service which has raised third-class rates 670 percent since the early 1950's. Clearly, this is an unconstitutional attempt to broaden the original statutory language which applied to first-class mail exclusively.

The article follows:

U.S. POSTAL SERVICE IS SUED ON MONOPOLY OF DELIVERY OF SOME ADVERTISING MATERIAL

WASHINGTON.—A group of corporate mail users said it is suing the Postal Service in an attempt to upset the government's monopoly on the delivery of certain types of advertising circulars and fliers.

The suit, filed yesterday by the Associated Third Class Mail Users, argues that the government's longtime legal monopoly on mail applies only to first-class letters and has been broadened illegally to include addressed advertising materials.

The monopoly means that addressed circulars can't be sent without third-class postage being paid to the Postal Service. Thus, businesses wishing to distribute advertising matter addressed to specific people or locations effectively are forced to use the Postal Service, which the group says has raised third-class rates 670% since the early 1950s.

The group also complains that other types of materials, such as newspapers and catalogs, have been exempted from the monopoly by the Postal Service. Thus, it says, a "discriminatory" situation exists that makes it more attractive for advertisers to distribute their brochures unaddressed, as newspaper supplements for instance, than to distribute them separately to specific people or addresses.

"Our members should be able to use private delivery companies to deliver advertising material just as can be done for magazines, catalogs and parcels," said Keith Halliday, the association's executive director.

The Postal Service said it hadn't yet seen the suit, filed in federal district court here, and thus couldn't comment. However, the service has been a zealous guardian of its monopoly delivery rights in the past and can be expected to contest the legal attack vigorously.

Though the association is disputing the monopoly status of third-class advertising mail, the suit doesn't question the government monopoly on first-class letters. That monopoly has been attacked at times in Congress, but efforts to repeal it have failed.

S. 22—COPYRIGHT REVISION ACT

HON. EDWARD W. PATTISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1976

Mr. PATTISON of New York. Mr. Speaker, the passage of this legislation is not only a great legislative accomplishment, it is an event of great historic significance.

In 1909, when the last copyright law was passed, there were few radios, no TV's no cable systems, no computers, no photocopying machines, no public broadcasting, no phonograph records, no musak, no tape recorders, and no professional sports as we know them today. Indeed, the revolution in communications technology has almost totally occurred since the turn of the century.

The impact of this revolution on the rights of creators and users of copyrightable works has been profound. It is truly astounding that the system has not totally broken down without a revision of the basic law governing the field. It is a tribute to the courts and the participants that it has not.

One major reason for a lack of revision in the past has been the rapidity of the technological change as compared with the deliberate slowness of the legislative process. As the latter would begin to address a change, some other changes would occur which required a new approach.

Two years ago, as the Subcommittee on Courts, Civil Liberties, and Administration of Justice began with a totally new membership—with the exception of Chairman KASTENMEIER—to address this legislation, it was faced with a great number of conflicts between the interests affected. Those conflicts seemed almost irreconcilable at the time. Conflicts between authors and publishers on the one hand and teachers, librarians and public broadcasters on the other; between song writers and publishers of songs against recording companies; between broadcasters and proprietors against cable TV interests and many others.

The legislative process has produced a bill full of delicate balances and compromises. All major interests have been accommodated if not totally satisfied. There is now no major opposition to this bill from any of the interests affected.

The result is a tribute to the skill and knowledge of Chairman KASTENMEIER, the other members of the subcommittee, the staff consisting of Herb Fuchs and Bruce Lehman, the register of copyrights, Ms. Barbara Ringer, her counsel, Jon Baumgarten, and the skillful and patient lobbyists representing all of the affected interests.

There remain unanswered and unaddressed issues. No doubt defects will be discovered in this legislation as it becomes operative. I hope that the subcommittee will address itself to these matters in the next and succeeding sessions of the Congress so that a major revision such as this one will never again be necessary.

THE BALANCE(S) OF POWER IV(X) STRATEGIC DEFENSIVE BALANCE

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. BRECKINRIDGE. Mr. Speaker, air defense of the Continental United States—CONUS—has become a nonsubject in recent years, despite a significant threat by Soviet Backfire bombers now entering the active Soviet inventory in considerable numbers.

Current articles in open print are nearly nonexistent, according to the Air University Librarian, who maintains a comprehensive catalog. Official requests by this office for unclassified assessments from the Department of Defense and its subsidiaries confirm that none suitable for this series are now available.

The following exposition was extracted from a Congressional Research Service study by John M. Collins, senior specialist in National Defense for the CRS, Library of Congress, entitled "United States and Soviet City Defense: Considerations for Congress." The complete analysis will soon be published. The study is as follows:

U.S. AIR DEFENSE

America's air defenses once encompassed full-scale deployment programs for weapons systems as well as early warning. Threat perceptions and budgetary priorities, not technical problems, played predominant roles in decisions to reduce our efforts.

AIR WARNING

Land- and carrier-based aircraft, plus cruise missiles of all kinds, challenge early warning systems from ground level to 100,000 feet or more in daylight, darkness, and dismal weather.

U.S. assets available to accomplish tasks were considerable in the early 1960s, when our surveillance capabilities reached their peak (see Figure 1 for statistics).

The most direct avenue of approach, then as now, was from the north. Eighty-one Distant Early Warning (DEW) stations were draped across arctic wastes from the Aleutians to the Atlantic as an outer alert perimeter. The Mid-Canada and Pine Tree Lines were positioned closer in, augmented by a generous group of gap-filler radars. Navy picket ships, Texas Towers, and Air Force early warning aircraft covered both flanks.

That complex has since been cut drastically. Picket ships, Texas Towers, gap-filler radars, and the Mid-Canada line have completely disappeared. Surveillance still in existence displays technology that, in the main, dates back two decades or more.

Remaining ground-based radars can detect high-flying (40,000 feet) aircraft and cruise missiles at a distance of about 200 nautical miles, but would be essentially useless against small cross-section targets (such as cruise missiles) skimming the surface. DEW stations and their Greenland-Iceland-U.K. extension could be easily bypassed unless assisted by offshore airborne patrols, which now operate only on call. Long-range radar coverage in the Pine Tree Line exhibits significant gaps, especially at low altitudes.

As a hedge against Soviet bomber threats in the 1980s, DOD presently is experimenting with Over-the-Horizon Backscatter (OTH-B) radars, whose fans would extend more than 1,800 nautical miles from sea level to the ionosphere (with a nominal dead zone that circles the site for 500 miles in all directions.) However, several technical problems remain. Auroral disturbances, for example, preclude surveillance of polar approaches.

FIGURE 1

Dedicated U.S. air defense assets

	Peak strength in 1960's	Present strength 1976
Interceptor squadrons:		
Active	67	6
Air National Guard	55	[1]12
SAM batteries:		
Active	228	[2]0
Army National Guard	52	0
Control and surveillance:		
EC-121 aircraft	67	6
DEW line stations	81	31
Long-range radars	188	[3]111
Gap filler radars	137	0
Radar picket ships	32	0
Texas towers	3	0

[1] Includes six F-101 squadrons now being phased out.

[2] Four Nike-Hercules and eight HAWK batteries Air Defense Command in Florida currently are under operational command of (ADCOM), but are available for overseas deployment. Three additional Nike-Hercules batteries are deployed in Alaska.

[3] Includes 64 radars in the Continental United States, 24 in Canada, 13 in Alaska, and 2 in Iceland, plus 8 civilian sets belonging to Federal Aviation Administration.

Source: Data furnished telephonically by office of Army Deputy Chief of Staff for Operations on November 4, 1975 and by the Joint Chiefs of Staff (J-5) on April and June 16, 1976.

Provided those wrinkles can be ironed out, DOD plans to deploy two sites only if Soviet bomber threats warrant: one at Cutler, Maine, the other somewhere in the Pacific Northwest. Two additional installations, one looking north, the other south, would assure complete coverage, but neither is now programmed. The remnants of our DEW Line (perhaps enhanced) and a reduced number of long-range radars will remain in operation to compensate. A small but unspecified number of Airborne Warning and Control System (AWACS) aircraft, scheduled to complete the U.S. screen in FY 1978, will add entirely new capabilities for detecting aircraft flying at low levels over land. EC-121s now in operation are effective in detecting low-flying aircraft only over land.

Suspected enemy aircraft or cruise missiles on radar screens still must be confirmed, since single sorties or small flights of unknowns may simply be friendlies off course. Manned interceptors therefore must identify friend from foe visually and/or by other means before firing.

WEAPONS SYSTEMS

The world's best interceptor aircraft, including F-101Bs, F-102As, and F-106As, furnished air defenses for CONUS in the early 1960s (the last F-106A was accepted in July, 1961). At that time, 67 active and 55 Air National Guard (ANG) squadrons, broadcast on 42 bases across the United States, were backed up by seven Bomarc anti-aircraft missile squadrons. Nike-Ajax, first deployed in 1954, provided point defenses for something like 30 key cities before the end of that decade. Those early SAMs, with conventional warheads, were replaced by nuclear-capable Nike-Hercules, which had a slant range of about 100 miles and "kill" capabilities from medium altitudes to 100,000 feet. Hawk missiles were set to shoot down low-flying Soviet aircraft by 1960. Canadian forces north of our border added depth.

Projected threats, however, never developed. Soviet heavy bomber strength peaked at about 210 turboprop Bears and jet-powered Bisons in 1966, then steadily dropped to 135, the current tally. That fact, combined with Assured Destructions policies that scorned any shield for cities, caused U.S. air defense activities to decline before deployment were complete. They continue to do so, despite the advent of Backfire jet bombers, which conceivably could strike U.S. cities without in-flight refueling, then recover in Cuba or some other "neutral" country.

Cutbacks accelerated sharply after ABM was dropped. Present programs will eliminate six ANG F-101 squadrons by the end of FY 1977, reducing interceptor strength to six F-106 squadrons in the Air National Guard and six more on active rolls. All 48 Nike-Hercules batteries assigned to Army Air Defense Command (ARADCOM) were inactivated in FY 1974. Results are reflected in Figure 1.

As one consequence, this country is now compelled to supplement dedicated interceptors with F-4 fighters from the general purpose force pool. That tack provides useful training for theater air defense crews, but their availability in wartime would not be assured. As former Defense Secretary Schlesinger put it, "a major war abroad, particularly in Europe, would require a prompt decision on the allocation of the available air defense resources between our needs at home and our needs abroad."

Attrition of aging F-106 interceptor assets will make is impossible to maintain even the present minimum number of alert sites in the late 1970s. DOD desires a replacement derived from F-14, F-15, or F-16 by the early 1980s, but has no plans to resurrect SAM defenses.

Impending improvements in command and control provide the only bright spots.

Six Semi-Automatic Ground Environment (SAGE) sites, the residue of more than 20 installed in the early 1960s, will disappear by 1981. So will our single Manual Control Center (MCC). Five Regional Operations Control Centers (ROCCs)—four in CONUS, one in Alaska—will accomplish peacetime airspace sovereignty missions in their stead. Each ROCC reportedly could handle data from 15 surveillance radars, most of which jointly serve the U.S. Armed Forces and Federal Aviation Administration, then control all intercepts in its sector.

ROCCs, however, could no more survive a missile attack than SAGE, since both are housed in buildings open to bombardment. U.S. concepts therefore call for one AWACS aircraft to be based at each ROCC. If an attack seems imminent, each AWACS will update its computer base and embark a battle management staff. Once aloft, its ability to direct defensive efforts would be much enhanced.

SOVIET AIR DEFENSE

Soviet air defenses were largely disregarded during World War II, because the Luftwaffe's long-range bombardment capabilities were shattered by the Battle of Britain, but Stalin took steps to develop an effective apparatus early in the Atomic Era.

Prototype jet interceports first appeared in 1947. Conversion from propeller-powered aircraft was complete seven years later. Early warning coverage was extended into satellite countries. Khrushchev added supersonic aircraft, refined control facilities, and introduced a surface-to-air missile (SAM) system with all-weather capabilities. In consonance with city defense concepts, the first sites comprised a ring around Moscow.

Brezhnev bolstered the accumulation so that Soviet air defenses currently contain 2,700 interceptors, featuring high-performance Foxbat and Flagon E fighters, and 12,000 missiles, including many that performed well against low-level attacks during the latest Arab-Israeli war. More than 4000 ground radars are in support. Two large over-the-horizon sets, now under construction, are worth special mention. DOD still "cannot identify a look-down, shoot-down system for the Foxbat or any other interceptor," and Moss aircraft (the Soviet AWACS) also show shortcomings, but concerted efforts to correct deficiencies seem to be in progress. Even as it stands, the aggregate without question is the world's most comprehensive and sophisticated air defense network. The challenge to U.S. bomber penetration capabilities is considerable.

U.S. AIR DEFENSE OPTIONS

Threats from manned aircraft and cruise missiles need not be intense to be significant. Defense Secretary McNamara, despite his affinity for ballistic missiles, acknowledged that antagonists, not knowing where our bombers would strike, would have to cover all important targets. Accordingly, he postulated that Soviet air defense programs "would likely be the same," whether SAC's bomber squadrons were few or many.

That street runs two ways. A few Backfire bombers and short-range SLCMs such as Shaddock pose threats to poorly-defended U.S. cities out of all proportion to their numbers. (Shaddock cruise missiles, with an estimated effective range of about 150 miles, are essentially anti-ship missiles, but their city killing capabilities are impressive, because they can reach three quarters of the U.S. population, which is close to our east and west coasts.) Still, nothing in the Soviet inventory is innovative. Sound U.S. defenses could be reinstated using technology now at our fingertips.

At least six options are open:

Stand pat with present programs until air-breathing threats can be more clearly defined.

Improve surveillance capabilities only.

Expand area coverage with currently available systems.

Add point coverage with currently available systems.

Complete R&D on improved models.

Deploy improved systems if conditions demand.

TROTSKYISM AND TERRORISM: PART XII—SOCIALIST WORKERS PARTY FRONTS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. McDONALD. Mr. Speaker—

COMMITTEE FOR DEMOCRATIC ELECTION LAWS

> It's a proper and correct procedure to exploit every possibility to utilize what cracks there are in the bourgeois-democratic system to advance our ideas. It's like taking part in their elections. It's wise to utilize a situation like this to explain our ideas to a wider audience.—James P. Cannon, Intercontinental Press, October 29, 1973.

Although the Socialist Workers Party ignored the electoral process during the first 10 years of its existence, it saw in 1948 the usefulness of electoral participation to gain a sort of "legitimacy" and as a ploy to gain publicity and media attention for its programs. However, in a number of States, the SWP was hindered from gaining ballot status by loyalty oaths and anti-Communist barriers.

The Committee for Democratic Election Laws—CODEL—was set up to coordinate support for Socialist Workers Party lawsuits challenging loyalty oaths and other provisions of State election laws. A CODEL brochure said of loyalty oaths:

> These carryovers from earlier witch-hunt days serve no purpose except to limit the rights of radicals to run for office.

In fact, the loyalty oaths served to limit as candidates those who would not swear to uphold the Constitution of the United States.

The Socialist Workers Party selected Ronald Reosti, an attorney and American Civil Liberties Union member who was the SWP's 1970 candidate for attorney general in Michigan, as CODEL's legal director. The services of Leonard B. Boudin were obtained as CODEL general counsel. Another SWP member, Judy Baumann, was named CODEL national secretary. At the 1973 Socialist Workers Party national convention, Baumann led the CODEL "tasks panel." [1]

POLITICAL RIGHTS DEFENSE FUND

According to a mailing dated September 30, 1973, "The Political Rights Defense Fund—PRDF—has been formed as an adjunct of the Committee for Democratic Election Laws" as a direct result of a series of disclosures of Government surveillance and counterintelligence activities directed at the Socialist Workers Party.

In a report to the SWP National Committee, Barry Sheppard outlined the role of the SWP's lawsuit against the FBI:

> The suit supported by the Political Rights Defense Fund is an important initiative in the context of the impact of Watergate, * * *. Of all the tendencies, on the left, we've taken the lead in this situation. We saw the opportunity and took the initiative. This has already attracted people to us who see the party taking the lead in an important fight for democratic rights; it's a fight for everyone. And we've already had unprecedented results. Never before has the FBI been forced to turn over some of its files on what they do to socialist organizations. * * * it is very damaging to the government.[2]

We have already seen that the SWP regards the courts and the electoral process as "cracks" in the "bourgeois-democratic system" which can be used to advance the SWP's program.

Sheppard clearly understands that the FBI, which is responsible for both intelligence and counterintelligence work, is extremely reluctant to have the details of its investigative techniques given to the very organizations it was investigating. The SWP leadership believes that the FBI will remain silent and not resist the lawsuit rather than explain the nature and extent of the threat posed by the SWP and its Fourth International comrades.

Sheppard stated that—

> The government's going to attack us for our internationalism.

By "internationalism" he means membership in and support of the Fourth International and its terrorist groups and allies. The SWP Organizational Secretary noted that—

> Many of the same kinds of issues that were fought out in the Smith Act trial are going to be brought out in this one too. But this time we are suing the government. They are the defendants, not us.[3]

The genesis of the SWP suit against the FBI lie in a burglary and theft of files from the FBI field office in Media, Pa., on March 8, 1971, by leftwing activists. The stolen documents were published in WIN magazine, the publication of the militant pacifist War Resisters League, March 1972. These documents provided the first public knowledge of the FBI's counterintelligence program—COINTELPRO—whose purpose was to disrupt potentially violent groups in order to prevent violence.

In December 1973, NBC reporter Carl Stern received FBI memoranda related to COINTELPRO as the result of a Freedom of Information Act lawsuit. These documents were then used by the SWP to augment a lawsuit which it had filed on July 18, 1973, in Federal District Court in New York against the FBI and various other officials. The lawsuit discovery proceedings have since been used to obtain additional FBI investigative files.

The FBI was required to turn over to the Socialist Workers Party and its attorneys raw investigative data and internal memoranda revealing FBI methods of intelligence-gathering including mail covers and surreptitious entries of SWP and YSA offices. Comparisons of informant materials has enabled the SWP to identify a number of those informants.

As a result of these disclosures, Attorney General Edward Levi has ordered the FBI to end all investigation of the Socialist Workers Party.

The national staff of the Political Rights Defense Fund includes the fol-

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Footnotes at end of article.

lowing SWP functionaries: Syd Stapleton, national secretary; [4] Janice Lynn, [5] and Cathy Perkus, [6] national field secretaries—letterhead, September 30, 1973; A letterhead dated June 15, 1976, shows that Stapleton remains PRDF national secretary; in 1973, he was an alternate member of the SWP National Committee, and in 1975, was promoted to full membership. [7] The national staff includes Cathy Perkus, Kipp Dawson,[8] Geoff Mirelowitz, [9] and Clair Moriarty, [10] all SWP members.

The lists of sponsors of the Political Rights Defense Fund in 1973 and 1976 are attached as an appendix:

APPENDIX I—PARTIAL LIST OF SPONSORS FROM PRDF LETTERHEAD DATED SEPTEMBER 30, 1973

National secretary: Syd Stapleton.

National field secretaries: Michael Arnal, Janice Lynn, and Catherine Perkus.

Sponsors:

Eric Bentley, Abe Bloom, Nat'l Peace Action Coalition.

Ann Braden, Southern Patriot.

Carl Braden, Southern Patriot.

Dr. Noam Chomsky.

Ruby Dee.

Jules Feiffer.

Ruth Gage-Colby, Women's Int'l. League for Peace & Freedom.

Vincent Hallinan.

Dr. Robert Heilbroner.

Nat Hentoff.

Philip Hirschkop, Chairman, Va. American Civil Liberties Union.

Dr. Salvador Luria.

Conrad Lynn, Nat'l. Conference of Black Lawyers.

Dwight Macdonald.

David Mc Reynolds, War Resisters League.

Arthur Miller.

George Novack.

Dr. Linus Pauling.

John Roberts, Director, Mass. American Civil Liberties Union.

Prof. David Rosenberg, Harvard Law School.

Margaret Sloan, Nat'l. Black Feminist Organization.

Gloria Steinem.

I. F. Stone.

Edith Tiger, Director, Nat'l. Emergency Civil Liberties Comm.

William Turner, ex-FBI agent.

Dr. George Wald.

Dr. Howard Zinn.

APPENDIX II—STAFF AND SPONSORS FROM PRDF LETTERHEAD DATED JUNE 15, 1976

National secretary: Syd Stapleton; National Staff: Kipp Dawson, Geoff Mirelowitz, Claire Moriarty, Cathy Perkus, Margaret Winter; Advisory board: Robert Allen, Philip Berrigan, Noam Chomsky, Ronald Dellums, Robert Heilbroner, Diana Bonnor Lewis, Eugene McCarthy, George Novack, and Edith Tiger.

SPONSORS, PARTIAL LIST

Sam Abbott.

Rev. Ralph Abernathy, pres., SCLC.

Artha Adair, v.p., Industrial Union Div., Oregon AFL–CIO.

Ruth Adams, exec. dir., Illinois ACLU.

Philip Agee.

Am. Fed. of Govt. Employees (AFGE) Local 1061, Los Angeles, AFL–CIO.

AFGE Local 1395, Chicago, AFL–CIO.

Am. Fed. of St. Cty. & Mun. Employees (AFSCME) Local 1497, Detroit, AFL–CIO.

AFSCME Local 1880, Detroit, AFL–CIO.

AFSCME Local 1930, New York, AFL–CIO.

AFSCME Local 2000, Chicago, AFL–CIO.

Eqbal Ahmad, Harrisburg 7.

Robert Allen, ed., The Black Scholar.

Louis Antal, pres., Dist. 5, UMWA.

James Aronson.

Kenneth Arrow, Nobel Laureate.

Frank Askin, corp. secy., ACLU.

Dennis Banks, Am. Indian Movement.

Richard Barnett, Inst. for Policy Studies.

Rev. Willie Barrow, v.p., Operation PUSH.

Geraldine Bean, regent, U. of Colorado.

Clyde Bellecourt, Am. Indian Movement.

Eric Bentley.

Berkeley City Council.

Louise Berman.

Daniel Berrigan.

Alvah Bessie.

Black Action Society, U. of Pittsburgh.

Abe Bloom, Nat'l. Peace Action Coalition.

Bro. Herbert X. Blyden.

Julian Bond.

Anne Braden.

Neal Bratcher, dir., AFSCME, Dist. Council 19, Illinois, AFL–CIO.

Thomas Buckley, Jr., pres., Cleveland State U. Law School.

Ned Bush, exec. v.p., E. V. Debs Foundation.

Alexander Calder.

Louisa Calder.

Jose Calderon, La Raza Unida party, Colorado.

Kay Camp.

Art Carter, Contra Costa City, Labor Council, AFL–CIO.

Charles Cassell.

Owen Chamberlain, Nobel Laureate.

Cesar Chavez.

Robert Chrisman, pub., The Black Scholar.

Ramsey Clark.

John Henrik Clarke, Hunter Coll.

Cleveland ACLU.

Walter Collins, exec. dir., SCEF.

Audrey Colom, pres., Nat'l. Women's Political Caucus.

Henry Steele Commager.

Congress of Afrikan People.

Rep. John Conyers (D-Mich.).

Vern Countryman, Harvard U.

Alberta Dannells.

Ed Davis, Nat'l. Bd., ADA.

Ossie Davis.

Emile deAntonio.

Howard Deck, pres., AFSCME Local 590, Philadelphia, AFL–CIO.

Ruby Dee.

Michael Delligatti, pres., Amal, Clothing Wkrs., Local 86, Pittsburgh, AFL–CIO.

David Dellinger.

Detroit Welfare Wkrs. Union.

Frank Donner.

Norman Dorsen, gen'l. counsel, ACLU.

Douglas Dowd.

John Duncan, exec. dir., Texas CLU.

Mahmoud El-Kati, Malcolm X Pan-African Inst.

Daniel Ellsberg.

A. Whitney Ellsworth, pub., The New York Review of Books.

Edward Ericson.

Assemblyman Arthur O. Eve, New York.

John Henry Faulk.

Jules Feiffer.

Abe Feinglass, v.p., Amal. Meat Ctrs. & Butcher Wkmen. of No. America, AFL–CIO.

Lawrence Ferlinghetti.

Jane Fonda.

Henry Foner, pres., Fur, Leather & Machine Wkrs. Jt. Bd., New York City, AFL–CIO.

Moe Foner, exec. secy., Dist. 1199, Drug & Hospital Union, New York City, AFL–CIO.

Rep. Donald Fraser (D-Minn.).

Donald Freed.

Rev. Stephen Fritchman.

Erich Fromm.

Luis Fuentes.

Ruth Gage-Colby.

Charles Garry, atty.

Maxwell Geismar.

Russell Gibbons, asst. ed., Steel Labor, United Steelwkrs. of America, AFL–CIO.

Allen Ginsberg.

Jose Gonzales, La Raza Unida party, Colorado.

Rodolfo "Corky" Gonzales, Crusade for Justice.

Carlton Goodlett, ed., S.F. Sun Reporter.

Patrick Gorman.

Sanford Gottlieb, Sane.

Father Gerald Grant, World Federalists.

James Grant, Charlotte 3.

Francine duPlessix Gray.

Dick Gregory.

Gene Guerrero, Jr., pres., Atlanta ACLU.

Jose Angel Gutierrez, La Raza Unida party.

Andrew Hacker, Queens Coll.

Vincent Hallinan.

Morton Halperin.

Pete Hamill.

Timothy Harding, Calif. State U., Los Angeles.

Sheldon Harnick.

Rev. Dr. Donald Harrington.

Michael Harrington.

Rep. Michael Harrington (D-Mass.).

Tom Hayden.

Dorothy Healy.

Joseph Heller.

Nat Hentoff.

John Hersey.

Herbert Hill, NAACP labor dir.

Lennox Hinds, pres., Nat'l. Conf. of Black Lawyers.

Philip Hirschkop, atty.

Julius Hobson.

David Hoffman, exec. dir., AFSCME Local 96, San Francisco, AFL–CIO.

Robert Horn, pres., Arizona NAACP.

H. Stuart Hughes.

Josephine Hulett, Nat'l. Comm. on Household Employment.

Human Rights Party, Michigan.

David Isbell, vice chmn., ACLU.

Abdeen Jabara, atty.

Paul Jacobs.

Almeta Johnson, pres., Cleveland Black Women Lawyers.

Russell Johnson, New Eng. coord., AFSC.

Walter Johnson, secy-treas., Retail Clerks Local 1100, San Francisco, AFL–CIO.

Irv Joyner, Comm. for Racial Justice.

David Kairys, atty.

Louis Kampf, M.I.T.

Murray Kempton.

Florynce Kennedy, Feminist party.

Rev. Muhammad Kenyatta, Black Economic Develop. Conf.

John Kerry.

State Rep. Mel King, Mass.

Kings Cty. Dem. Coalition, New York City

Fletcher Knebel.

Patrick Knight, pres., Soc. Service Employees Union Local 371, New York City, AFL–CIO.

William Kunstler, atty.

Mark Lane.

Ring Lardner, Jr.

Christopher Lasch, U. of Rochester.

Norman Lear.

Assemblyman Franz Leichter, New York.

Sidney Lens.

John Leonard, The New York Times.

David Levine.

Mickey Levine.

A. H. Levitan, atty.

Robert Jay Lifton.

Viveca Lindfors.

David Livingston, pres., Dist. 65, Distributive Wkrs. of America.

Salvador Luria, Nobel Laureate.

Florence Luscomb.

Staughton Lynd.

Conrad Lynn.

Bradford Lyttle.

Dwight MacDonald.

Olga Madar, pres., Coalition of Labor Union Women (CLUW).

Norman Mailer.

Albert Maltz.

John Marks.

Rabbi Robert J. Marx.

Father Paul Mayer.

Kevin McCarthy.

Charles T. McKinney, atty.

David McReynolds, War Resisters League.

Alan McSurley.

Margaret McSurley.

Footnotes at end of article.

Carey McWilliams.
Russell Means, Am. Indian Movement.
Michael & Robert Meeropol.
Mich. Fed. of Teachers, AFL–CIO.
Arthur Miller.
Joseph Miller, Philadelphia SANE.
Merle Miller.
Kate Millett.
Minn. Fed. of Teachers Local 59, AFL–CIO.
Minn. Women's Political Caucus.
Rep. Parren Mitchell (D-Md.).
Jessica Mitford.
Rev. Howard Moody.
Howard Moore, atty.
Jane Moore, Majority Report.
Very Rev. James Parks Morton.
Nat'l Alliance Against Racist & Political Repression.
National Lawyers Guild.
Huey P. Newton, Black Panthey party.
Kaye Northcott, ed., Texas Observer.
No. Calif. Nat'l. Women's Political Caucus.
Phil Ochs.
William O'Kain, secy-treas., AFSCME Local 1644, Atlanta, AFL–CIO.
Operation Push.
John Oster, pres., Lake Cty., Ohio AFL–CIO.
Gilbert Padilla, secy-treas., UFW, AFL–CIO.
Grace Paley.
Basil Paterson.
Linus Pauling, Nobel Laureate.
Juan Jose Pena, La Raza Unida party, New Mexico.
Peoples Party.
Philadelphia Resistance.
Channing Phillips.
Suzy Post, Nat'l Bd., ACLU.
Rev. Robert Pruitt.
Richard Purple, pres., Twin Cities AAUP.
Rep. Charles Rangel (D-NY)
Marcus Raskin, Inst. for Policy Studies.
Paula Reimers, v.p., AFT Local 2000, Detroit, AFL–CIO.
David Rein, atty.
Malvina Reynolds.
Al Richmond.
Myrian Richmond, Black Women's Coal., Atlanta.
Ramona Ripston, exec. dir. So. Calif. ACLU.
John Roberts, dir., Massachusetts CLU.
Rev. Frank Robertson, All South Church, Washington. D.C.
Margery Rosenthal, dir., Nat'l Comm. to Reopen the Rosenberg Case.
Annettee T. Rubinstein.
Muriel Rukeyser.
Kirkpatrick Sale.
Beulah Sanders, chwmn, NWRO.
San Francisco NOW.
Dore Schary.
Franz Schurmann, U. of Calif.
Pete Seeger.
Lauren Selden, exec. dir., Wash. ACLU
Evan Shirley, exec. dir. Hawaii ACLU.
Bessie Shute, chwmn., Philadelphia CLUW Affirmative Action Comm.
Mulford Q. Sibley, U. of Minnesota.
Paul Siegel, Long Island U.
Sol Silverman, pres. U. Furniture Wkrs. Local 140, New York City, AFL–CIO.
Dick Sklar.
Markaret Sloan, Nat'l. Black Feminist Org.
William Sloane, College Young Dems.
Soc. Services Local 535, California, AFL–CIO.
Susan Sontag.
Ann Sperry.
Paul Sperry.
Benjamin Spock.
Gloria Steinem.
Oscar Steiner, Nat'l. Advisory Council ACLU.
Rep. Louis Stokes (D-Oh).
Chuck Stone.
I. F. Stone.
F. W. Stover, U.S. Farmers Assn.
Kenneth Sullivan, Oh. NAACP Youth Advisor.
Percy Sutton.
Paul Sweezy, ed., Monthly Review.
Harold Taylor.
Studs Terkel.
Andres Rodriguez Torres, La Raza Unida party, Los Angeles.
Twin Cities NOW.
Edith Van Horn, int'l rep., UAW Community Action Program.
Robert Van Lierop, Africa Info. Service.
Ernesto Vigil, Crusade for Justice.
George Wald, Nobel Laureate.
Robert Wall, ex-FBI agent.
Gerald Walker, The New York Times Magazine.
Eli Wallach.
Bishop Alvin Ward.
Mary Watkins, J. B. Johnson Defense Comm.
Jack Weir, pres., Cleveland Newspaper Guild, AFL–CIO.
Rabbi Joseph Weizenbaum.
Rexford Weng, v.p., Mass. AFL–CIO.
Warren Widener, mayor, Berkeley, California.
Herb Williams, Cal. State U., San Francisco.
Rev. Hosea Williams, Atlanta SCLC.
John T. Williams, IBT Local 208, Los Angeles.
Robert F. Williams
Clifford Wilson, pres., St. Louis Coalition of Black Trade Unionists.
Wilpf, St. Louis.
Rep. Andrew Young (D-Ga)
Quentin Young, MCHR.
Gilbert Zicklin, pres., Maine CLU.
Howard Zinn, organizations for identification.

FOOTNOTES

[1] Report by SWP National Organization Secretary Barry Sheppard, adopted by the National Committee plenum, May 2, 1975, *SWP Discussion Bulletin*, Vol. 33, No. 4, June 1975, p. 21.

[2] *Idem.*

[3] *Idem.*

[4] *International Information Bulletin*, #7 in 1973, December 1973, p. 4.

[5] *Idem;* and *Party Builder, SWP Organizational Discussion Bulletin*, Vol. VIII, No. 5, August 1974, p. 25.

[6] House Committee on Internal Security Hearings, "National Peace Action Coalition and Peoples Coalition for Peace and Justice," Part 4, p. 3601.

[7] *Internal Information Bulletin*, No. 2, in 1975, October 1975, pp. 10–11; and *SWP Discussion Bulletin*, Vol. 33, No. 4, June 1975, p. 51.

[8] *Internal Information Bulletin*, #7 in 1973, December 1973, p. 8.

[9] *Ibid.*, p. 5.

[10] *Militant*, September 27, 1974, p. 8.

SOVIETS THREATEN JEWS

HON. WILLIAM J. GREEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. GREEN. Mr. Speaker, I am saddened and shocked to hear that Soviet officials are threatening Jews who plan to take part in commemorative activities at Babii-Iar later this month.

September 29 is the 35th anniversary of the massacre at Babii-Iar of 100,000 Jews. Surely this rings as one of the most heinous events in the history of humanity, a shocking reminder of man's capacity for inhumanity toward his fellow man.

I believe such reminders are important. Only if we regularly recall such painful events will we retain the vigilance to guard against their repetition in the future.

I grieve with the Jews of Kiev who lost family at Babii-Iar. There is nothing anyone anywhere can do to eliminate their sadness. But to bar them from the ritual of visiting Babii-Iar increases their suffering further and is clearly inhumane.

It is my sincere hope that the Soviet officials will reverse their stand and allow the 35th commemoration of Babii-Iar to be marked by the Jews of the region.

REPLY TO HOUSE GOP POLICY COMMITTEE ECONOMIC STATEMENT

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. HAWKINS. Mr. Speaker, on September 21, the Republican Policy Committee of the U.S. House of Representatives issued a documentary analysis, purporting to estimate the increased Federal outlays and increased Federal tax rates which the Republican Policy Committee claims would result during the 4 years through 1980 in the event that the American people decide this November that there will be a Democratic national administration come January 1977. This Republican Policy Committee document, even allowing for some expected exaggeration at election time, reaches a new level of public irresponsibility, misrepresentation, and confusion. It is an attempt to frighten the American people, on the false assumption that the people are devoid of intelligence and understanding.

The core of this Republican Political Committee document is that the election of a Democratic President would result in $217 billion of additional public spending by 1980, or aggregate additional Federal spending of $706 billion over a 4-year period. This is stated to represent a 41-percent increase in the annual rate of Federal spending within 4 years, and to necessitate a 64-percent tax increase.

Even if these estimated increases in Federal spending were deemed to have some authenticity—which they do not have—the estimated 41-percent increase in Federal outlays would compare with a more than 60-percent increase during the 4 fiscal years 1973–77, and a 114-percent increase during the 8 fiscal years 1969–77, during which years we have had a Republican national administration A large part of these increases have occurred because of the fantastic increases in interest charges against the Federal Budget coupled with huge increases in the national debt, and because of swollen Federal outlays due to massive unemployment—all due to the Nixon-Ford mismanagement of the national economy and their concurrence in the wrongful policies of the Federal Reserve Board.

These comparisons shed light upon the invalid claims of this Republican campaign document as to how much less Federal expenditures would increase if

President Ford rather than Governor Carter is the choice of the people in November.

And even if these Republican campaign document claims as to increased Federal spending were accompanied by some sensible documentation—which they are not—the claims that this increased spending would necessitate a 64-percent increase in tax rates is patently ridiculous. For no account is taken in the Republican document of the vast increases in Federal revenues which would result between now and 1980 even if the policies of the current Republican national administration were continued, and the immensely larger increases in Federal revenues which would result under a national administration dedicated to the restoration and maintenance of a full employment and full production economy.

Beyond this and in some respects even more important, this Republican Policy Committee campaign document bears no semblance to reality in its estimates of increased Federal outlays. An excellent example of this are the estimates of increased outlays if the Humphrey-Hawkins bill were to become law early in 1977. The Republican document estimates that such legislation would increased average annual Federal outlays during a 4-year period by $7.5–19.5 billion. The higher figure is pulled out of thin air, because it assumes that the last-resort public service jobs under Humphrey-Hawkins would result in about a 40-percent displacement of privately employed workers, and that the goal of reaching 3-percent unemployment by 1980 would apply to those 18 years of age and over. Obviously, this estimate is either a deliberate distortion or is based upon failure even to read the new version of Humphrey-Hawkins reported by the House Education and Labor Committee on September 16, 1976. This new version makes it categorically clear that absolutely nobody would be drawn from private employment to last-resort public service jobs, that these last-resort jobs could not be initiated until at least 2 years after enactment, and that the 3-percent unemployment goal applies to those 20 years of age and over and not to those 18 and over.

Even the lower figure of a $7.5 billion average annual cost under Humphrey-Hawkins is a gross exaggeration. It neglects the new provisions of the bill which place predominant stress upon the expansion of private employment, and which place a variety of severe limitations upon the number of last-resort public service jobs and the pay applicable to such jobs. More important, it neglects the conservative estimates of the compensating benefits which would result from all of the provisions of Humphrey-Hawkins, designed realistically to bring us to reasonably full employment and full production by 1980. These compensating benefits, comparing the outlook under Humphrey-Hawkins with the outlook under even optimistic projects of the results under continuation of current national economic policies and programs, include an average annual benefit of about $36 billion in differentially higher Federal tax collections under existing tax rates, and a benefit of about $50 billion in such tax collections in 1980 alone. These benefits also include an average annual total national production, during the 4 years, about $180 billion higher than would result from even optimistic projections of current national economic policies and programs.

It is not my function to comment in similar detail on all of the other exaggerations and distortions in this amazing Republican campaign document. But they are all subject to the same defects as the treatment of Humphrey-Hawkins in that document. They arrive at results based upon adding up the estimated costs of 74 categories of programs, including those attributed to the intentions of Governor Carter, those attributed to the Democratic platform, those attributed to programs already enacted by the Congress, and those attributed to a variety of programs proposed but not enacted by various Members of the Congress. The duplication and redundancy involved in such an approach is extreme. For many of the proposals mixed into this strange Republican brew are alternative proposals of a thoughtful and useful nature, while adoption of some of them would necessarily exclude adoption of others. Thus, this strange Republican brew puts together estimates for countercyclical programs, public employment programs, public works programs, direct stimulation to the private sector, and so forth, without considering that enactment of any one of these programs in the magnitudes estimated by the Republican campaign document would call for far less of the other efforts than those estimated by the Republican campaign document.

Next, as to each of these estimates, no compensating benefits are brought into the picture. For example, estimates are made as to the Federal costs of national health insurance, and these estimates are compared with the current costs of current programs. Yet, every informed person knows that, under current programs, the health costs imposed upon American families have been and still are soaring at an unconscionable rate, and that one of the major consequences of national health insurance would be to bring these soaring costs under control.

The Republican campaign document's estimates of the additional costs of welfare reform compare these with current welfare costs. It makes no allowance for the fact that the costs under current approaches are soaring, and that welfare reform accompanied by a full employment program would greatly reduce welfare and related costs by reducing tremendously the numbers of the unemployed. In calculating the Federal costs of welfare reform, the Republican campaign document makes no proper allowance for the favorable impact upon State and local welfare costs. Costs at all levels are paid for ultimately by the taxpayer and the consumer.

In estimating the Federal costs of a subsidy program for low-rent housing, no estimate is made of the employment, national product, and national income benefits which would result from lifting the annual volume of total housing production from what it has averaged in recent years to double this average in accord with national economic and social needs.

In estimating the costs of a revised farm and rural development program, the Republican campaign document takes no account of the benefits to the national economy, the fairer treatment of the farm population, and the anti-inflationary results of a more adequate and certain food supply, which would result from modifications in the costly and unworkable farm program of recent years and today.

In estimating the costs of improved Federal aid to education at all levels, the Republican campign document appears impervious to the beneficial economic and social effects of improved educational opportunity in its bearing upon job performance capabilities and upon the well-being of our citizens.

Strangely the Republican campaign document assumes considerable further inflation in its distorted estimates of increased Federal costs, but makes no allowance for the fact that, if such inflation in fact occurs, there will be comparable increases in the dollar value of tax collections by the Federal Government. This means, in effect, that the Republican campaign document emits horror scares as to the impact upon the Federal Budget of well considered programs designed to improve our economic performance and our social well-being. It neglects entirely that the $70 billion Federal deficit of today and the $50 billion deficit which the Republican administration itself projects for next year have resulted almost entirely from mismanagement of the national economy and from neglect of the American people's needs, and that the only road toward the reduction of the Federal deficit and toward a balanced Federal Budget by 1980 is proper management of the national economy and alert attention to the people's needs.

During 1969–75, the Republican impact upon national economic policies resulted in an average annual real economic growth of only 1.8 percent, a forfeiture of almost a trillion 1975 dollars worth of total national production, a forfeiture of $8,330 of average family income, and almost 17 million man- and woman-years of unemployment above the level of unemployment consistent with full employment. These developments have reduced Federal Budget revenues, at existing tax rates, by close to $250 billion. Enough is enough.

PERSONAL EXPLANATION

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, because I was absent from the Chamber, I missed some rollcall votes on August 30.

Had I been present and voting, I would have voted in the following manner.

"Yea" on rollcall No. 671.

"Yea" on rollcall No. 672.

"Yea" on rollcall No. 673.

"Yea" on rollcall No. 674.
"No" on rollcall No. 675.
"Yea" on rollcall No. 676.

OPPOSITION TO OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1976

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. MURPHY of New York. Mr. Speaker, in the Washington Post, Wednesday, September 22, 1976, was a full page ad by the "National Ocean Industries Association" opposing S. 521, the Outer Continental Shelf Lands Act Amendments of 1976. As the text of that advertisement clearly indicates, it is a last gasp attempt by the major oil companies, through their suppliers, to stop Congress from passing needed reforms to the 1953 OCS Act. The advertisement is full of inaccuracies, distortions, and scare words. The text itself clearly indicates that the companies represented by the National Ocean Industries Association are the suppliers of the "major oil companies" and thus subject to their bidding and demands. In fact, NOIA was originally set up by one large company, Exxon as an additional lobbying agent in its behalf. It is unfortunate, of course, that the "seven sisters" feel it is necessary not only to personally lobby against the bill, individually and through their industry organization, the American Petroleum Institute, but also now through an organization established to bolster their almost isolated opposition to S. 521.

Throughout our hearings, representatives of the seven major oil companies testified in almost the same words as to their total opposition to any amendments to the Outer Continental Shelf Lands Act. This opposition was echoed almost word for word, by the industry representative, the American Petroleum Institute. The testimony, letters, reports and statements issued by the National Ocean Industries Association can be seen as a carbon copy of the language, positions, and attitudes expressed by the seven sisters and the API.

For almost 18 months, the major oil companies have been attempting to stall needed legislation to improve the regulatory machinery for the exploitation of the mineral resources of the federally owned Outer Continental Shelf. Now, in a last blitz attempt, they are seeking to stop this legislation, coming back to Congress in a conference report after already having been passed by both Houses from being finally approved in the final days of the 94th Congress. Do not be fooled. The request for a 120-day legislative delay will be followed by more delay next Congress and ad infinitum.

You should, at this point, be receiving letters from the various oil companies, their employees, and their suppliers, in response to a call by the American Petroleum Institute, and executives of the large oil companies, for such a mail "blitzkrieg". In addition, you will be seeing and receiving editorials in some commercial journals restating the industry position word for word, and making rash statements about the proposed OCS legislation. We are attempting to respond to each and everyone of these communications so as to accurately state the facts.

As to the NOIA advertisement, the major oil companies suggest that the OCS bill will add 45 more steps to the regulatory machinery and thus add two more years to OCS development. In fact, as noted by Senator JACKSON in his CONGRESSIONAL RECORD insert of September 10, 1976 (S. 15581) the statements and chart supposedly justifying these statements are entirely misleading. I have previously detailed in the CONGRESSIONAL RECORD of June 4, 1976, at pages 16646 to 16648 a comparison of existing procedures and steps, with those required by H.R. 6218—now almost totally adopted in S. 521. A review of this chart clearly indicates there are no substantial additional administrative procedures required by the new bill. A review of the NOIA chart indicates that the steps "added", are procedures presently required, and will not cause additional delays. The OCS bill will replace many and not add to existing procedures, so as to modernize and improve them, and will provide that activities operate concurrently thus eliminating any delay in OCS development.

The OCS bill rather than leading to a loss of revenue, a deficit in the annual balances, an increase in foreign imports, and a decrease in exploratory activities, will in fact result in additional revenue to the Federal Government through use of new bidding systems, additional exploratory activity because of the involvement of additional energy companies in OCS lease sales and exploratory activities, in an increase in development of our domestic sources of energy through new diligence requirements and limitations on under or nonproduction of leaseholds.

Finally, the NOIA advertisement would appear to indicate that this bill comes out of the clear blue sky. It is a moderate attempt to reform a 23-year-old law, and has support of not only environmentalists and most coastal States, but also of almost all the gas distributors throughout the United States, many of the independent and small refiners, many of the independent and smaller service station owners, many of the smaller oil companies, the unions, including those worker's organizations which work on OCS facilities and as demonstrated by the votes in the Senate and the House, a substantial majority of the Members of Congress.

I hope you will consider the source of this advertisement and its object and oppose attempts by the major oil companies to thwart our attempts to update and modernize the antiquated Outer Continental Shelf Lands Act of 1953.

The bill does so in the following manner:

SUMMARY OF S. 521, THE OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1976

The present Outer Continental Shelf Lands Act of 1953 provides the legislative framework for the exploration, development and production of mineral resources located on or under the seabed and subsoil of the Outer Continental Shelf. S. 521 modernizes the 1953 Act by providing specific statutory guidelines, standards, and procedures, for the exploitation of oil and gas resources in the subsoil and seabed, and by the providing new authority and mandates to appropriate federal officials to assure balanced and orderly development of such resources.

S. 521 details findings, purposes, and policies as to our need to increase our domestic supply of oil and gas through the development of our nation's Outer Continental Shelf ("OCS") resources in an orderly manner, so as to protect the environment, consider alternative uses of coastal lands and waters, insure use of the best available and safest technology, and limit adverse impact on affected states and local government areas.

S. 521 specifically:

Requires the Secretary of the Interior to prepare a five-year leasing program, balancing the potential for discovering oil and gas with the potential for environmental damage and adverse impact on coastal areas;

Authorizes new bidding methods, in addition to the present front-end bonus bid system, including royalty, net profit share, and percentage leasing methods; and requires experimentation with new bidding methods on at least 33⅓ percent of all leases offered in the next five years for frontier (undeveloped) areas;

Grants new regulatory authority to the Secretary of the Interior and requires regulations to be promulgated as to the suspension or cancellation of leases and permits, in appropriate circumstances, and with appropriate safeguards and guarantees to the lessee or permit holder;

Requires production of oil and gas to be consistent with rates to insure maximum efficient and safe production;

Limits joint bidding by two major oil companies and provides for review of certain activities and procedures by the Attorney General and the Federal Trade Commission so as to promote competition;

Allows leases to be for entire geological structures or traps, or reasonable economic production units;

Authorizes federal/state joint leasing of OCS areas containing structures or traps that overlap state and federal lands;

Requires companies which obtain leases to detail their activities by:

(1) preparing exploration plans and development and production plans as to proposed activities and estimating the amount of equipment, manpower and energy needed; and

(2) submitting exploration, and development and production statements as to the impact of activities on affected coastal areas.

Requires the Secretary of the Interior to seek qualified applicants to conduct on-structure stratigraphic drilling; and authorizes him to contract for pre-lease drilling;

Requires the Secretary of the Interior to submit annual reports as to OCS leasing and production activities and, with the Attorney General, as to procedures and policies to promote competition;

Insures state participation in all OCS decisions by providing that recommendations by Governors of affected states are to be accepted unless overridden in the national interest or national security;

Authorizes states to join together, in consultation with appropriate federal agencies, to form Regional Outer Continental Shelf Advisory Boards;

Provides states with information to use in planning for, coping with and ameliorating the onshore impacts of offshore development;

Requires the Secretary of Commerce to conduct studies to develop baseline information and then to monitor areas for environmental changes;

Requires comprehensive safety regulation and enforcement, including:

(1) a new set of safety regulations to be

prepared for environmental protection, employee safety, and navigational safety;

(2) interim regulations to be prepared as to any unregulated hazardous working condition;

(3) strict enforcement of safety and environmental regulations;

(4) regular and unannounced inspections;

(5) testing of safety equipment;

(6) joint responsibility by lessees and their contractors for compliance with safety regulations;

(7) investigation of any allegation as to violation of safety regulations; and

(8) a major investigation as to every fire and oil spillage or death or serious injury.

Provides for expedited citizens' suits by one having an interest that can be adversely affected and expedited judicial review in the United States Court of Appeals of the five-year leasing program and a development plan;

Authorizes government agencies to enjoin improper activities and to enforce the Act and provides civil and criminal penalties for violation of the Act or implementing regulations;

Provides authority to the Secretary of the Interior to receive royalty or net profit shares in oil and gas and allows the Secretary of the Interior to sell oil to small refiners and sell gas to distributors in needy geographic regions;

Limits exports of any oil and gas produced in the Outer Continental Shelf;

Limits flaring of gas from any well and requires an annual review of any shut-in or flaring wells;

Allows natural gas distributing companies to participate in OCS leasing and to have oil and gas obtained by such company returned to its service area; and

Insures comprehensive oil spill protection by providing:

(1) with limited exceptions, for strict liability for spills, including clean-up and other demonstrated damages;

(2) for procedures for the settlement of claims concerning oil spills and the determination of liability, within the Department of Transportation;

(3) for unlimited liability for clean-up costs;

(4) for liability for damages up to $35 million;

(5) for an offshore pollution fund to pay for uncompensated claims, and for any damages above $35 million for an incident; and

(6) for the fund to be financed by a three-cent-per-barrel fee on oil produced from the Outer Continental Shelf, until $100 to $200 million is in the fund.

BEST WISHES FOR JEWISH NEW YEAR 5737

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. HUGHES. Mr. Speaker, I would like to wish all of my friends of the Jewish faith, both colleagues and constituents, the very best at the beginning of the Jewish new year 5737. The holidays from Rosh Hashanah on September 25 and 26 to Yom Kippur on October 4 are among the oldest and most solemn religious observances.

This is a common time of reflection and prayer by Jews all over the world, whether they worship in the freedom of countries such as the United States and Israel or under the unremitting harassment in the Soviet Union. It is a time when every one should remember the injustices and persecutions that Jews have suffered over the centuries and continue to suffer today.

Yet this holy time remains a time of hope, a time of renewed faith in God and man. As one of the passages from the evening service for Rosh Hashanah reads:

> Grant us peace, Thy most precious gift, O Thou eternal source of peace, and enable Israel to be its messenger unto the peoples of the earth. Bless our country that it may ever be a stronghold of peace, and its advocate in the council of nations. May contentment reign within its borders, health and happiness within its homes. Strengthen the bonds of friendship and fellowship among all the inhabitants of our land. Plant virtue in every soul, and may the love of Thy name hallow every home and every heart. Inscribe us in the book of life, and grant unto us a year of prosperity and joy. Praised be Thou, O Lord, Giver of peace.

SALUTE TO NASSAU COUNTY COUNCIL OF THE BOY SCOUTS OF AMERICA

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. AMBRO. Mr. Speaker, on October 1, 2, and 3, 1976, the Nassau County Council of the Boy Scouts of America, will hold its Bicentennial Scout Show in Eisenhower Park, East Meadow, N.Y. The Bicentennial Scout Show will consist of a 3-day scout encampment, hundreds of scouting demonstrations, and professional entertainment.

While scouting is not new to Nassau County in that the Nassau County Council of the Boy Scouts of America was established 60 years ago in 1916 while Nassau was a rural area, the council has grown from a few member troops until it now numbers over 350 troops with 18,000 active scouts and 9,500 adults participating in the various brands from Cub Scouting through Explorer Troops.

As the county has grown and become suburbanized, scouting has also modernized its image and today offers various challenges to its members in helping to shape the technological age in which we live while at the same time remaining true to the ideals and code of honor which have made boy scouting an honored part of the great American tradition.

In Nassau County alone over 6,000 Boy Scouts, their parents, families, and leaders have participated in special Bicentennial programs and have thus not only come to value our spelndid past but also have learned to work together toward building America's third century.

All of those involved in the organization, from its professional staff, its volunteer leaders and the thousands of young people who contribute to and benefit from Boy Scouting, are to be highly commended for the community service they perform. I am extremely proud to represent them and commend their enthusiasm and dedication before this body.

FBI EMPLOYEES AND THE COMPETITIVE SERVICE

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. DRINAN. Mr. Speaker, the Federal Bureau of Investigation has been the subject of a great deal of scrutiny over the past few years. Congressional committees, newspaper reporters, and executive branch inquiries have disclosed a wide range of abuses by that agency. Commentators have suggested many reasons for the malfeasance of the FBI. In my judgment one of the causes is the excessive and inordinate loyalty of Bureau employees toward their superiors and the FBI itself.

A hallmark of a sound and efficient civil service is not devotion to individuals or agencies. On the contrary the Code of Ethics for Government Service, adopted by the Congress, directs Federal employees to put "loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department—5 U.S.C. 7301 note. A purpose of the merit system is to provide the atmosphere so that employees may be true to that moral principle.

With the exception of the Identification Division, the employees of the FBI have never been in the classified civil service. They are expressly exempted by statute:

> All positions in the Federal Bureau of Investigation are excepted from the competitive service, and the incumbents of such positions occupy positions in the excepted service. 28 U.S.C. 536. "Excepted service" is defined as "those civil service positions which are not in the competitive service." 5 U.S.C. 2103.

Traditionally positions in the executive branch are excluded from the civil service merit system unless expressly covered by Executive order—issued pursuant to statutory authority—or by Congress itself. Consequently when the FBI was established, all of its positions were exempted from the civil service, except the Identification Division—which drew its employees from the civil service lists.

In 1938, President Roosevelt attempted to cover all FBI employees into the civil service by Executive Order 7916—which was to take effect on February 1, 1939. Apparently because of political pressure and especially the strong opposition of J. Edgar Hoover, the President suspended the operation of that order by Executive Order 8044. That same Executive Order also appointed a committee to "make a comprehensive study of methods of recruiting, testing, selecting, promoting, transferring, removing, and reinstating personnel for the positions to which this order relates, and report to the President as soon as possible its recommendations thereon."

During these attempts by President Roosevelt to bring the FBI within the civil service, Mr. Hoover was making his position well known. On April 27, 1939, he appeared before the Subcommittee on the Post Office and Civil Service:

> My request has been that the application of the civil-service laws and administration

> be not extended to the Federal Bureau of Investigation until such time as the Civil Service Commission can correct defects in the system and give us something at least as good as we now have.

The FBI appropriations bill passed with a rider which stated that none of the funds appropriated for the Bureau was to be spent on civil service employees' salaries, with the exception of the fingerprint classifiers.

Apparently yielding to congressional and FBI pressure, President Roosevelt issued a third Executive order on June 29. 1939—Executive Order 8187. It provided that during the period from July 1, 1939. to June 30, 1940, all FBI positions except fingerprint classifiers would be in the excepted service.

Mr. Hoover testified in January 1940, at the hearings for the Justice Department appropriations bill, again recommending that FBI employees be excepted from the civil service. Hoover stated that—

> Members of law-enforcing agencies, in my estimation, cannot be properly selected through a mere stereotyped examination.

He was critical of the administration of the civil service, believing that investigation of persons from the civil service registers was excessively expensive and time consuming. Executive Order 8441, dated June 12, 1940, continued the exception for all FBI employees other than the fingerprint classifiers.

In February 1941, the Presidential Commission established under Executive Order 8044, and chaired by Mr. Justice Stanley Reed, issued its report. It recommended that all administrative and technical positions—as described in Executive Order 8044—"be placed under the provisions of the Civil Service Act." It also recommended "that action under this clause be deferred."

At about the time of the report, Mr. Hoover was making his annual appearance before the Appropriations Committee. In his testimony Hoover referred to the Ramspeck Act which "would allow the President to cover employees of the FBI under civil service, contrary to the provision of the appropriations which has been carried in years past." The reviser's notes under section 2102 of title 5 stated that this authority has been superseded in part by exceptions created by statutes enacted after that date. Executive Order 8768, issued June 3, 1941—after the Commission's report—again excepted the Bureau, deleting the words "except fingerprint classifiers."

From 1942 to date, all FBI appropriation bills have carried a provision against using appropriated funds for civil service employees' compensation. This was made permanent by section 5 of the act of July 28, 1950:

> None of the funds appropriated for the Federal Bureau of Investigation shall be used to pay the compensation of any civil-service employee.

In response to a request for information on agencies in the excepted service from the Senate Committee on Post Office and the Civil Service, the Civil Service Commission issued a report in July 1973 entitled "Statutory Exceptions to the Competitive Service." In the section devoted to the Bureau, the Commission said it "sees no unique requirements which cannot be accommodated within the competitive service." The Commission further stated that it believed "continued statutory exception from the competitive service for the FBI is unwarranted."

This bill simply strikes out the exception, for the FBI, making it fall under the general rule—section 2102 of title 5—and thus under the competitive service. The Director, of course, remains exempt from this as he is subject to confirmation by the Senate, and thus not under the competitive service.

This bill will allow FBI employees to receive all of the benefits of the civil service. They will be able to transfer from the FBI to positions with agencies under the classified service. If they leave the FBI, they can be reinstated in a classified service agency without taking competitive examinations. FBI employees who are nonveterans would gain the appeal rights they now lack. The Civil Service Commission, in its report, stated that these changes would in no way diminish the high standards set for FBI employees.

HOW THE CIA WON

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Ms. ABZUG. Mr. Speaker, the following is the balance of the article which appeared in the New York Times Magazine of September 12, 1976, written by Taylor Branch, dealing with how the CIA managed "to outfox congressional investigators":

As the Pike committee sputtered to disaster, the Church committee released its report on Chile—the one case study on covert action it was permitted to make public under the terms of its deal with the C.I.A. "We negotiated with the agency people on the wording of that report, line by line," says one of the principal authors. The agency, for instance, permitted publication of the fact that the I.T.T. had funneled $350,000 into the 1970 Chilean elections, but refused to allow identification of other companies that, among them, had furnished an equivalent sum. Still, while abstract and incomplete, the report is the most comprehensive account of a C.I.A. covert action yet written.

From 1963 to 1973, the report reveals, the C.I.A. spent more than $13 million to influence Chilean politics, apart from what it spent on gathering intelligence in that country. It lavished about $3 million on the 1964 Chilean elections alone; on a per capita basis, this was twice as much as Lyndon Johnson and Barry Goldwater together spent on their Presidential campaigns that year. In 1970, President Nixon ordered the C.I.A. to encourage the Chilean military to stage a coup rather than let President Salvador Allende take power, and the agency tried unsuccessfully to do so through its agents in the military. When the commander in chief of the Chilean Army, René Schneider, opposed a coup, C.I.A. officials entered into talks with groups planning to kill him.

General Schneider was assassinated by one of these groups, but the elected Marxist President took office, and during the three years of his regime, the C.I.A. channelled $7 million in covert-action funds to a variety of Chilean unions, business groups and political parties opposed to Allende. It also spent $1.5 million supporting El Mercurio, Chile's largest newspaper, in its campaign against Allende's policies. Several of the newspaper's key employees were paid C.I.A. agents, committing espionage. The agency produced several national magazines and "a large number of books," according to the report. It had agents in most of the important sectors of Chilean society, including, at times, the Chilean Cabinet. This covert activity, plus continued liaison with the military, supplemented a slightly more overt program of constricting Chile's position in the international credit market.

Whether or not this covert action "caused" Allende's downfall and death—and official American spokesmen had been denying as late as 1973 that there had been any United States attempts to interfere with the Chilean elections—the Chile report did not make much news, nor spark much debate. C.I.A. spokesmen studiously avoided comment. They had the upper hand, and did not want to say anything that could somehow rekindle interest in covert action. That, early in 1976, could have raised the sensitive question of whether the United States was, or should be, intervening in the Italian election campaign. The issue did not come to the fore. Press reports that the agency was channeling $6 million to anti-Communist parties in Italy died out without resolution amidst the Welch and Schorr controversies.

By the time the Church committee drafted its recommendations on covert action, the political base for reforming the C.I.A. had disintegrated. The committee itself was badly divided on the issue. Accordingly, the Senators decided not to take a firm position for or against covert action, or even to push for a national political debate over its proper use. In its concluding recommendations, the committee declared that covert action "must be seen as an exceptional act," which "must in no case be a vehicle for clandestinely undertaking actions incompatible with American principles." To these vague mandates, the committee added some rather foamy standards in keeping with the professional tenor of the staff approach: "Covert operations must be based on a careful and systematic analysis of a given situation, possible alternative outcomes, the threat to American interests of these possible outcomes, and above all, the likely consequences of an attempt to intervene." These major conclusions were supplemented by the customary demand for more effective oversight by the Congress. "We tended to say that most of the hard questions should be studied," observed a task-force leader.

These recommendations amounted to a clear, though tortured, endorsement of the C.I.A.'s covert-action program. Moreover, they gave the agency enormous bargaining leverage in its efforts to keep information secret. "The problem with the C.I.A.," says F.A.O. Schwartz, "is that once you accept the kinds of things they do, it's hard to argue that they shouldn't disguise it better." Once the need for some form of covert action is conceded, it follows that the necessary apparatus should be maintained and exercised. And once it is accepted that the apparatus cannot possibly function solely under the mantle of the C.I.A., as Colby argued in a recent interview, then something else follows: Private American institutions should be enlisted in the cause.

This chain of reasoning matches the historical process by which the C.I.A. enlarged itself over the past three decades. At its creation in 1947, the C.I.A. was strictly an intelligence agency, with no authority or capability for covert action. The need for secret feats of derring-do and manipulation arose in the cold war, and quickly became the vehicle for the agency's spectacular growth. By the late 1950's, security requirements were so pressing that the C.I.A. was spinning off thousands of front companies at home and abroad. Inevitably, this led to a rationale for intrusion into domestic institutions. Even though the agency's legal charter expressly forbids it from engaging in domestic activities, the C.I.A. began making arrangements for cover with American groups, ranging from missionaries to publishing houses to some of the best-known corporations.

In pressing secrecy on the Church committee, C.I.A. officials developed the argument from the basic logic of covert action, until it applied even to justifying continuation of domestic activities. The committee gave in on point after point. Thus, the C.I.A. escaped not only serious challenge to the practice of covert action but also the risk of scandal from exposure of operations attendant to covert actions. No one knows just how much material remains buried in the Church committee files or how much the agency held back, but a brief investigation revealed an impressive list of subjects which the committee either deleted or consciously failed to explore. The numerous sources within the committee staff and the C.I.A. who described these subjects requested anonymity.

(1) Two draft sections of the report—"Techniques of Covert Action" and "Covert Action Projects: Initiation, Review, and Approval"—remain classified.

(2) So do the five covert-action case studies the committee agreed to keep secret. According to committee sources, the five countries are the Congo (now Zaire), Greece, Indonesia, Laos and Vietnam. The committee report says these studies show a pattern of covert action and penetration not unlike the one in Chile. In the Congo, covert actions began before the attempts to assassinate Patrice Lumumba and continued through the chaotic period following independence in 1960. The agency, according to C.I.A. sources, helped establish Gen. Joseph Mobutu (now President Mobutu Sese Seko) and has maintained a covert relationship with him and other key officials ever since. The relationship illustrates a C.I.A. pattern of developing ties to promising foreign politicians early in their careers and then "sponsoring" them. In Greece, covert actions spanned some of the agency's proudest achievements in helping to prevent Communist domination after World War II. Today, the agency's ties to the Greek Army and secret police remain pervasive—so much so that both Colby and Rogovin, interviewed separately, expressed fears for the stability of the present Greek Government if those ties were revealed. In Indonesia, covert action against the regime of President Sukarno persisted through the 1965 coup, in which more than one million civilians died.

(3) The committee's investigation into the use of classical espionage—obtaining information and using it to influence foreign governments—remains classified.

(4) The committee broke no new ground on the agency's use of American corporations for intelligence work, cover, or covert action. Staff director William Miller terms this a "failure." There was no exploration, for example, of the agency's work with the corporate interests of the late Howard Hughes—in spite of confirmed reports of the $300 million Glomar Explorer project for raising a sunken Soviet submarine. Senator Barry Goldwater, a member of the Church committee, states that corporations "are the third most important source of foreign intelligence, after foreign agents and satellites." Committee sources say the agency was particularly reticent about corporations because the issue opens the door to questions of domestic impact.

(5) The committee is silent on the issue of the C.I.A.'s use of American labor unions abroad, even though former agency employees, such as columnist Tom Braden, have written on the subject. One committee source says "no committee in a Democratic Congress is going after labor unions in an election year." Other sources say it was more a question of time and resources, or an unwillingness to investigate labor after deciding not to look into corporations.

(6) The committee learned of, but did not investigate, the extensive network of American professionals who have secretly assisted the C.I.A. Lawyers, for example, perform functions ranging from liaison work with other Government agencies to legal representation of C.I.A. proprietaries, or "front" organizations. One of former White House counsel John Dean's lawyers worked for a C.I.A. front, as did the chief counsel for Jeb Stuart Magruder. Paul O'Brien, attorney for the 1972 Committee to Re-elect the President, was a former C.I.A. case officer and, according to John Dean, offered the services of a C.I.A. front, a law firm in Greece, to help launder money for the Watergate cover-up. These C.I.A. ties to the Watergate case alone suggest that C.I.A. relationships, with all their political and professional implications, are not unusual among prominent Washington lawyers.

(7) The committee agreed to a C.I.A. request that it classify the details of a report on the clandestine use of American academic institutions. After noting that C.I.A. assets are employed by more than 100 colleges and universities, the report states only that its purpose is "to alert these institutions that there is a problem."

(8) After the C.I.A. issued new, restrictive guidelines for the use of American news personnel, the committee submitted to a request that it classify the details of a report on the question. Moreover, the agency refused to supply the committee with the titles of several hundred books—many of them published abroad, in English, to be sold in the United States—that it has subsidized. "We could have held hearings on the C.I.A.'s relationship to the press that would have blown the lid off," blurted a task-force leader who worked on the media study.

The Church committee's C.I.A. reports are impressive on the surface—full of bureaucratic history and weighty essays on subjects like "command and control." But the tepid conclusions and the omissions cited render the work incomplete, if not irresponsible. The contrast with the thoroughgoing investigation of the F.B.I. is striking. The main reason for this is that F.B.I. wrongdoing involved deviation from generally accepted standards for the bureau, whereas the C.I.A.'s covert actions are integral to the agency's practices. The C.I.A. investigation was more difficult because it cut much closer to the bone.

"The alternative to covert action," declares Senator Goldwater, "is war." Arguments about covert action resemble arguments about war. If the Senator's interpretation is correct, the United States has engaged in some 900 alternatives to war in the last generation, and the Congressional committees have partially unveiled a much harsher international reality than most citizens know about.

The C.I.A. operates in a world that is, in fact, hostile and cynical. The agency's environment is full of plots, betrayals and people who are less noble than they seem, and the agency is built around the notion that it can only operate under cover. Secrecy makes it more effective against ruthless enemies. Secrecy masks an element of hypocrisy necessary in a Machiavellian world. It also protects the American people from grisly facts at variance with their self-image. In this sense, the C.I.A. veterans consider themselves a true professional elite, capable of immersing themselves in a ruthless environment without losing their bearings, and of shouldering burdens for the American people that the people would not want to bear or even hear about.

A combination of events enabled the C.I.A. to prevent a debate on whether covert action—secret wars and secret alternatives to war—is justified or necessary. The C.I.A. bowled over the Pike committee and seduced the Church committee. Several sources on the Church committee assert that the outcome was the result of a strategic decision—to duck the issue, under the adverse political conditions that developed this year, so as to be able to take it up again under the authority of the new oversight committee, and perhaps with the assistance of a new Democratic Administration. There is also the hope in some quarters that these last two years of investigation and revelation have had some effect on the political climate, once so congenial to the unrestrained use of covert action, and even on the way the C.I.A. itself thinks of its role.

The record thus far, however, is not one to make for much optimism. No oversight committee is likely to have a better opportunity to control the C.I.A. than the Church and Pike committees, whose records speak for themselves, and the C.I.A. has shown itself to be quite adept at managing the political climate. The agency began these searching investigations hanging on the ropes, and clearly emerged the winner. Its powers, so unique and still largely hidden, remain essentially unchallenged.

THE INTERNATIONAL INSTITUTE OF YOUNGSTOWN, OHIO

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. CARNEY. Mr. Speaker, on Sunday, September 19, I had the pleasure of attending the kickoff meeting of the International Institute of Youngstown, Ohio, at the Franciscan Fathers Shrine in Youngstown, Ohio. Dr. Michael Novak, nationally known author and lecturer in the field of ethnicity, led an interesting discussion on the question, "Should public policy encourage ethnic pluralism?"

The international institute, throughout its 58 years of service to the greater Youngstown area, has sought to promote greater understanding between native Americans and the foreign born. For the consideration of my colleagues in the Congress, I am inserting in the RECORD some background information written by Adeline Nordgren, executive director of the international institute. Also inserted is a schedule of the activities that took place during last Sunday's kickoff meeting. The material follows:

THE INTERNATIONAL INSTITUTE

Throughout the International Institute's 58 years of service to the greater Youngstown area, it has always discouraged the use of the term "melting pot", firmly convinced that the diverse cultures of all our newcomers add strength, depth, and excitement to America. We are very gratified that the past ten years have given rise to an ethnicity movement in agreement with our most profound convictions. It gives us great pleasure to sponsor this series of symposia and to welcome you to these discussions.

WHY, THE INTERNATIONAL INSTITUTE?

In a capsule, to promote understanding between native Americans and the foreign born, and to help newcomers become part of American life and institutions.

HOW DOES THE INSTITUTE WORK?

Subtly, quietly. With people's personal private problems. Because of the very nature of the Institute's program, the community at large is not conscious of much of what it does. Its work does not have the instant visibility, or the emotional impact realized by agencies dealing with the blind, the crippled and the retarded. The work of the Institute, however, is no less significant. In talks with clients, it is apparent that *deep emotions are involved. . . .* the reuniting of families, husbands with wives, children with parents, sisters wih brothers, as well as a *special kind of guidance* that enables those who have lived so long under oppression to adjust to a land of freedom.

The International Institute's work does not end there, because it must also reach out into the community to quietly develop a climate of receptivity and acceptance toward newcomers. The nature of the Institute's work demands that a multi-functional approach be used in meeting the following objective and purposes:

1. To function as a focal point for services and information related to all the foreign born in the Greater Youngstown Area.

2. To interpret the United States to the newcomer and assist in solving problems of mutual adjustment.

3. To encourage the new American to achieve his potentials in the new environment by providing an educational and social climate sensitive to his need.

4. To preserve the values of each ethnic group and to encourage their acceptance as equal partners in American life.

5. To increase communications across racial as well as nationality lines.

6. To foster public interest in immigration and naturalization policies that are sound, humanitarian and non-discriminatory.

7. To involve all Americans in furthering inter-cultural relations and international understanding.

As the dollar shrinks, none of this becomes easier, particularly since the need is growing with changing patterns of immigration. There is much that demands attention—helping the second generation adjust, working with the lonely aged who find it impossible to learn a new language, broadening our impact on the native born through events such as the Family Folk Festival.

The International Institute is a United Appeal Agency, the allotted funding, however, does not cover budgetary needs. Additional sources of money are constantly needed to further programs. It is hoped that business and industry, foundations and the thousands of families that the Institute has helped through the decades and the thousands of others who understand and appreciate its goals and ideals, will lend a helping hand financially and through volunteer service.

ADELINE NORDGREN,
Executive Director.

SCHEDULE OF EVENTS, SEPTEMBER 19, 1976

FRANCISCAN FATHERS SHRINE

1–3 p.m.: Chicken Paprikas Dinner (continuous serving).

1–3 p.m.: Tours and Displays—

Stations of the Iron Curtain Cross, Mt. Alverna Shrine, Chapel, Multi-language library, St. Mary's Byzantine Rite Catholic Church.

Displays (located at library)—Polish artifacts, Croatian artifacts, Lebanese artifacts, Lithuanian artifacts, Ethnic Studies/slide show (St. Mary's).

Ethnic Newspapers and Books—Through the cooperation of the Youngstown Public Library.

Microfilm viewing of—

Amerikai Magyar Hirlap (Hungarian).
Il Cittandino Italo-Americano (Italian).
Youngstown Rundschau (German).
Youngstownske Slvenske Noviny (Slovak).
Books concerning ethnicity.

3:15 p.m.: Opening Ceremonies.

3:30 p.m.: Ecumenical Agape Festival (see enclosure for full program).

4:00 p.m.: Community Meeting—Dr. Michael Novak, Speaker, "The Melting Pot vs. the New Ethnicity."

5:00 p.m.: Coffee/Ethnic Pastries.

REBIRTH OF A SPLENDID THEATER—THE PABST

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. KASTEN. Mr. Speaker, part of the spirit of America in this Bicentennial Year is the spirit of restoration and historic preservation of structures with a meaningful heritage.

The Pabst Theater in Milwaukee reflects a heritage of cultural excellence worthy of restoration and preservation.

Today, this remarkable theater, built with the splendor of a European Opera House in 1895, and thought doomed to die in the late 1960's, will open its doors—restored to a degree of grandeur that it has not known since the 1890's.

In 1967, it was suggested that the Pabst be leveled. But before the year ended, the city of Milwaukee agreed to operate the theater as a city landmark. Financial support spread from the city government to the private sector and to the Federal Government—and restoration of the theater became a nationwide commitment.

The spirit of those committed to restoring this relic is a story of people who are dedicated to preserving the great cultural heritage of our Nation.

Mr. Speaker, I commend to my colleagues excerpts of an article on the Pabst restoration which appeared September 19 in the Milwaukee Journal's Sunday magazine, Insight.

PABST THEATER

(By Louise Kenngott)

The grand old belle had been scared more than once. Money losses, closings, sales. It didn't look good. Visions of another parking lot loomed large. Her friends were powerless. She was old, dingy, and in serious need of help.

She'd had a glorious lifetime. Starting on that glittering Saturday evening in 1895, she'd been hostess to the finest entertainment in the world. She'd worn her name proudly then, carved high over the front door. Pabst Theater. Milwaukee's finest.

In her youth, she favored the German theater. Every Wednesday, crowds came for the best in German language productions of Schiller, Lessing, Hauptmann, and even Ibsen. Friday evenings belonged to those with a modern flair; it was "free speech" night. The most avant garde of German poetry and plays had an audience then. But Sunday evenings were her favorite. Sundays brought operetta or light hearted comedy to the stage and standing room only crowds to the hall.

Then, with World War I, she left her German image behind—students threatened to blow her up if she didn't. So, she became, understandably enough, an American through and through.

And so she continued into middle age, gracefully whisking guests in and out of those gilded doors for concerts, plays, ballets, operas, comedies. But by 1928, the Pabst was in trouble.

The pilings on which the theater stood had rotted through. And, after 33 years of constant use, the once lavish interior needed a face lift.

So, a new foundation was laid. Unfortunately, a new interior was also devised. The original 1890s look was terribly out of date by now. After all, this was the Roaring Twenties, and art deco was the latest vogue. Out came the boxes that had graced the walls. Off came the elegant deep red wall color. Down came the crystal chandelier. Down came one-half of the grand staircase. Out came the elegant center aisle on the main floor that had reached up to the balcony in twin promenades.

Colors had a softer hue—more modern. Light fixtures were Tiffanyesque painted glass affairs. The space left by the removal of one arm of the staircase left a larger lobby for socializing, though the atmosphere had far less grandeur. There were two boxes left where 14 had once layered the theater sides.

Once again, the Pabst played hostess to a grand party of visiting artists. Caruso came; so did Bill "Bojangles" Robinson. Basso Chaliapin filled the house with his famous booming voice; violinist Fritz Kreisler was greeted with showers of bravos.

But as good as the entertainment was, the Pabst kept losing money. In 1953, Fred Pabst sold it to the Pabst Theater Foundation. Then, in 1960, the Milwaukee Common Council bought the theater from the Foundation for $250,000 and leased it back to the group for a nominal amount. It was an effort to keep the Pabst running, hopefully running in the black.

Refurbished in the 40s, the hall kept up a good appearance through good times and bad. In 1961, the aging hall was again dressed in new finery. Fresh paint was applied, and new carpets were laid. But even that didn't help. It would take a lot to restore the old luster. The Pabst was past her prime.

By 1967, gloom set in. Questioned as to whether they thought the Pabst should stand or meet the bulldozer, a surprising number of leading Milwaukeeans responded that the gracious hall was a leftover better done without. After all, the Performing Arts Center would soon open its doors—why hang onto a relic? Responses to a Common Council questionnaire suggested that a photo study of the hall should be made—and then the Pabst should be leveled.

Luckily, there were those who objected strongly to this view. And, out of negative remarks came some hope. Those who loved the theater won out. The City of Milwaukee decided, before the year was out, to operate the theater as a "city landmark" with the aid of funds from a federally assisted beautification program.

Marc A. Pfaller Associates, the architectural firm called in to work on the theater, reported that the structure needed work. Supports had to be reinforced. Electrical work had to be brought up to contemporary standards; heating needed modernization, and air conditioning had to be installed.

Plumbing, lighting, and stage equipment would have to be redone. The orchestra pit, built originally for a group of 25 or fewer players, should be deepened and enlarged. A hydraulic elevator should be added to raise and lower the pit—when raised, it would extend the stage onto a thrust platform suitable for modern theater; as it lowered, it could carry equipment, costume trunks, and props to the basement.

Then, after the technical improvements, would come the aesthetics. The grimy exterior should be sandblasted. And the interior had to be redone. Years of grit and dust had obscured all but the brightest of the ornamental paintings; the seating was crammed and the chairs were old fashioned and uncomfortable; and the curtain had the look of a relic from a haunted house.

By 1974, the City of Milwaukee decided to go ahead and do a partial renovation of the theater. Initial plans called for an expenditure of $475,000, barely enough to cover the technical problems necessary to make the Pabst a workable theater.

But the commitment had been made. The city wanted the theater restored. And as early as 1962, August Pabst, Jr., a great-grandson of Captain Frederick Pabst, builder of the theater, had promised to underwrite part of the renovation costs. As the workmen arrived at the door, the city pledged its continued support.

With the co-ordinating efforts of architect Mark A. Pfaller and his son, Mark F., contractors, artisans, electricians, started to haul heavy equipment, men and ideas into the theater. But it would be the artisans—under the direction of Conrad Schmitt Studios—who would make the changes that would be most visible to the casual visitor.

Back in 1928, Conrad Schmitt—an old Milwaukee firm of designers, decorators, and artists—first took its expertise to the Pabst Theater.

From 1928 until 1974, Conrad Schmitt Studio built its files on the Pabst Theater. Called in whenever fresh paint, modernization, or new curtains were needed, the studio came to know the quirks and beauties of the old hall. As reference, the artists kept records filled with valuable tidbits—a two inch square piece of the original curtain, for instance, and the name and color of the paints used—even the number of hours the 1928 crew worked overtime at $.85 an hour.

Conrad Schmitt is now run by a father and son team named Gruenke—Bernard O. and Bernard E. And in the late '60s, when plans for the restoration were being discussed, they suggested that the Pabst should be taken back to the way it looked on opening night, 1895.

To be sure, neither the 12 boxes nor the double staircase could be resurrected. And the great chandelier was long gone. But the mood, the *feel* of the original theater could be recaptured.

The Gruenkes and their staff consulted the Conrad Schmitt files and spent hours talking things over, and experimenting to find just the right colors for walls, moldings, and ornamental plaster work. Sometimes up to 20 colors would be tried before everyone was satisfied. Always, the paint colors were mixed by hand to get just the right, subtle shades necessary to give the hall a mellow, warm glow.

Within the hall itself, artists applied up to seven coats of paint. First came a stain killer to neutralize the paint already on the walls. Then came a primer, followed by an overall background color, the secondary color, a glaze—gold or silver—and, finally, color highlights. Every bit of paint went on by hand. Small paint brushes fit into every crack. Gold and silver came in tubes and went on with the consistency of glue. Like glue, it took 48 hours to dry.

The hallways and outside walls presented one of the restoration's most challenging problems. What could be done to make them look authentic?

Originally, the walls had an incredibly rich texture—a combination of paint and stenciling that suggested red silk brocade. Today's artists sought to partially recreate that effect, but at a reasonable cost. Young Gruenke explained how they did it:

"We used a high gloss red paint, and then, after it dried, worked on the effect," he explained. "We finally settled on using a rag, dipped in deep red varnish, rolled up and down the wall by hand. It was an unbelievably slow process, and only one man could do all the walls. The rag rolling was as individual as handwriting. If two men did it, the walls could have come out looking as different as two different handwritten letters."

By the time they finished, the artists had spent two years at the Pabst and had covered the building's interior with nearly 40 different colors of paint. But don't try to count the colors. You won't find them all.

Gruenke told why: "You don't see all the colors; you *feel* them.

Still, a lucky theatergoer or two will find that there are plenty of little bright color patches throughout the hall. They're hidden so well that they elude all but the sharpest inspection.

"Decorators love to pull tricks," said Gruenke. "They love to put little joking splashes of color in unlikely places. I won't tell you how many there are in the Pabst—or where they are. That's for theatergoers to discover. And while they're looking, they can look for the names of the artists who did the painting. Artists always sign their work; we found the 15 signatures of the painters who worked on the hall in 1928. Someday someone will find our names.

As it opens its doors this week, the same Pabst Theater which once looked like a leftover without a future can proudly claim that with persistence, farsightedness, and financial support, it is ready to start on a new life. In the last two years, dozens of skilled workmen have restored its splendor. The Pabst Brewery and family contributed $500,000 to the cause. The city gave $1.4 million, and the federal government added another $600,000.

The Pabst is not a museum, but a modern, practical, usable theater. A new Klinger pipe organ fills the two remaining boxes. A crystal chandelier, designed to fit 1895 tastes and fashion, cascades down from the ceiling. New plush seats fill the main floor and balcony—the old ones, recovered, were saved for the gallery.

In every detail, the Pabst has taken a giant step back in time; it is ready to relive the glory that began on opening night, November 9, 1895. Already, the theater is booked for nearly every night through the end of the year. The 1977 calendar is quickly filling up. The word is out—the Pabst Theater is alive again.

WYDLER FIGHTS FOR JOBS ON LONG ISLAND

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. WYDLER. Mr. Speaker, I have put together an action plan to bring jobs to the Long Island area. This is not one of those massive spending Federal programs costing billions of dollars and of which only a little trickles down to the actual job market, here where the jobs are needed.

My jobs program is a five-part program to create jobs in the Long Island area. It is not enormously expensive, and it would help Long Island keep its unemployment rates going down.

Long Island currently is in better shape than the city or State of New York. The reason is the strong and concentrated efforts we have made over the years to bring jobs to the Long Island area.

A FAIR SHARE OF OUR DEFENSE INDUSTRY

The five-part Wydler program calls for a continuing effort to keep the defense industry on Long Island strong. This requires an adequate defense budget, which I support, and secondly, a definite effort to get and maintain Federal contracts for Long Island's aerospace and defense industry. I have led the fight to keep the F-14 production lines active at Grumman and to get new contracts in both the space and defense programs. Meetings have been held with Secretary of Defense Donald Rumsfeld and Under Secretary Clements toward this end. I have made these meetings count since I speak as vice chairman of the bipartisan New York congressional delegation.

FEDERAL CONSTRUCTION CONTRACTS

The second area of intensive activity by me is to bring Federal construction projects to Long Island. These are extremely important at a time when our construction industry needs work.

We need action to stimulate activity and create jobs.

I was successful in getting the Federal Government to retain land at Mitchell Field for Federal buildings. I foresaw the need for such Federal land 10 years ago. One parcel of such land is now the site of a new building under construction for the Federal Aviation Administration. It will provide hundreds of construction jobs immediately, and 500 good-paying jobs in the years ahead, after its completion.

Down the street, on another site, I am fighting to get final approval for an $80 million Federal office building. I have fought for this project over the years, and I am now consulting with the White House on ways to get it underway in the near future.

NEW EMPLOYMENT LEGISLATION

My third area of intense activity is legislation to establish an original and unique employment program called FEED—H.R. 12727. This program is backed by many other Members of Congress, both Democrats and Republicans, and has received expression of interest from the Secretary of Treasury, William Simon.

The FEED program is also backed by county executives Ralph Caso and John Klein, who would like to bring it to Long Island and have a demonstration of the program's effectiveness.

Under the program, current amounts of money being paid as unemployment insurance to workers would be paid to employers who would create new jobs for them. Instead of paying people for doing nothing, this program would turn the money so spent into action by creating new stimulus in the economy, and people would get real jobs with a future. It would not cost a lot of money but would produce results.

HELP FOR BUILDING TRADES

My fourth area of activity is a special construction council of Long Island builders and workers. I was made chairman of this council to coordinate efforts to stimulate activity in the building trades. The council is made up of representatives of the Long Island construction industries and labor unions. Meetings have been held in Washington and back on Long Island; and efforts have been successful in meeting with banking representatives to stimulate the flow of construction money into the industry.

STIMULATE SMALL BUSINESS

The fifth area of activity is the special legislation I have proposed to give small businessmen special tax consideration. My bill—H.R. 14925—would encourage small business to create new jobs on Long Island by giving the smaller businesses lower tax rates, leaving more money for expansion. Credit would also be provided against Federal taxes of 50 percent of wages of new employees added by small business.

A NEW SPIRIT OF CONFIDENCE

I am concentrating on jobs for Long Island, but I am not unmindful of the interdependence of our area on New York City and the general health of the State. For that reason, as the dean of the Republican congressional delegation, I have worked actively with the Democratic Members to form a Northeast-Midwest Economic Advancement Coalition so that we can work together to help our New York region get a fairer share of Federal contracts and funds.

We can keep Long Island ahead of the rest of the area in the job field, and I promise to keep my efforts going strong in this area in the years ahead.

A NEW NATIONAL PARK IN SOUTHERN CALIFORNIA

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. BELL. Mr. Speaker, yesterday I introduced legislation (H.R. 15662) that calls for a new national park to be formed from most of the sprawling Camp Pendleton Marine Corps Base midway between Los Angeles and San Diego. This Federal property includes 18 miles of broad, pristine beach, numerous scenic, oak-filled canyons, three mountain chains, and several lakes and streams.

This could be the most popular national park in America. There is already a critical need for camping, hiking, and beach recreation areas in California. Camp Pendleton covers more than 125,000 acres of the last, large undeveloped coastal area in southern California.

It is time for this Federal land to be put to its best use. This unspoiled preserve between the ever-expanding Los Angeles-San Diego megalopolis is too valuable to be used exclusively as a military base. A portion of the beach and the Marine headquarters area should be left to the Marine Corps for training, but the majority of Camp Pendleton is largely unneeded by the Marines and should be turned into a national recreation area. The Marines can readily transfer their gunnery ranges and other training facilities to their training base near Palm Springs.

I am introducing a bill today that calls for the Interior Department to make a 1-year study of the feasibility and desirability of the park and its boundaries. I expect more than 6,000 campsites could be established in the mountains, canyons, and beaches, as well as enormous day-use facilities for picnicking, hiking, fishing, swimming, and surfing. The cost of establishing this park would be minimal, since the property is already publicly owned and roads and utilities are in place.

I propose that the new park be named the Santa Margarita National Recreation Area. The 200-square-mile property in northern San Diego County was originally named Rancho Santa Margarita by the early Spanish settlers. The Marine Corps took over the rancho in 1942 shortly after the United States entered World War II.

President Ford recently appealed for doubling the size of the national park system. In his August 31 statement at Yellowstone National Park, the President called for a rapid expansion of the national parks "to alleviate overcrowding problems" in recreation areas. Nowhere in the Nation is there a greater need for a new national park than in southern California. We have no national parks there. The closest is at Yosemite, hundreds of miles away in central California. And, like the other parks in the West, Yosemite is totally overwhelmed. In the past year alone, the number of visitors to Yosemite has increased by more than 60 percent. The California State park system is also inadequate.

The only way we can adequately meet the recreation needs of southern California and the millions of tourists who visit there each year is to develop Camp Pendleton as a huge national recreation area. More than 11.5 million persons now live within 2 hours driving time of Camp Pendleton. By the year 2000—less than 24 years from now—the Los Angeles-San Diego megalopolis will have a population of 15.4 million. And in the year 2020 nearly 20 million persons will be crawling over each other for space to swim, hike, and camp.

Camp Pendleton is the ideal location for a national park. The San Diego Freeway runs the length of the base along the coast, providing easy access from Los Angeles and Orange Counties to the north and San Diego County to the south. There is also easy freeway access from Riverside and San Bernardino Counties to the east. The Santa Fe railroad also parallels the freeway. There is a fine network of roads—more than 260 miles—connecting the freeway with the back country valleys and mountains. Because of these existing facilities and the public ownership of the land, the cost of converting the northern 100,000 acres of the base to a national park would be only a small fraction of the normal cost of such a recreational facility.

This Federal undertaking will ease the burden of the State of California, which is spending hundreds of millions of dollars to acquire beach and park land. The new park would complement the new State coastline protection act, passed last month by the State legislature to control development of the priceless coastal area and provide public access to the beaches.

The public need for recreational facilities now outweighs the Marine Corps' need for most of Camp Pendleton. Only 3 or 4 miles of the beach are used for amphibious training and much of the inland area is leased for farming and ranching or preserved as wilderness. The base adjoins the Cleveland National Forest to the northeast.

The Marines can readily transfer most of their gunnery ranges and many of their other training facilities to their huge base 50 miles northeast of Palm Springs. The Twentynine Palms Marine Corps Training Center is the world's largest Marine base, covering 600,000 acres. Gen. George Patton trained his tank corps nearby during World War II.

Marine Corps manpower has been sharply reduced in recent years. At the peak of the Vietnam war in 1969, there were 310,000 Marines on active duty. The corps has now been cut by 36 percent to a level of 196,000. Major Marine Corps bases are in Okinawa, Hawaii, Arizona, Virginia, North Carolina, South Carolina, and Japan.

A small corner of Camp Pendleton has already been put to other uses. The San Onofre Nuclear Generating Station was constructed on the beach in the north part of the base a decade ago. Two more nuclear generators are now under construction. And the utilities are now studying the feasibility of building four more atomic plants inland on the base.

A State beach was established on 5 miles of the Camp Pendleton coast in 1971. The San Onofre State Beach has already become the most popular campground in the State park system and a mecca for surfers and surf-fishermen. The 700-acre park is already overcrowded.

Unfortunately, the Marine Corps bitterly opposed any multiple use of Camp Pendleton. When the Atomic Energy Commission sought the site for the nuclear plant 20 years ago, the Marines fought so fiercely over the property—less than 100 acres—that it took an act of Congress to get the land. And when President Nixon ordered the Marines to allow a State park on unused beach just south of his San Clemente home, the Marine Corps even defied the wishes of their Commander in Chief. It took the intervention of Congress and the wrath of the White House to finally force the Marines, after 16 months of intransigence, to give up the beach.

I expect that the Marines will claim they need every inch of the remaining 13 miles of beach, and every hill and valley on the base. But it is obvious that they do not. In fact, the Marines have already opened up much of Camp Pendleton to camping, swimming, fishing, even hunting, for Marine Corps and other military personnel and their families. Over the recent Labor Day weekend, there were thousands of these special private citizens enjoying the miles of Marine Corps beach, while the public was jammed into San Onofre State Beach.

Camp Pendleton is a treasure-house of natural beauty. The 18-mile stretch of sandy beach is the finest in California. Surfers report the waves are the best in the country outside of Hawaii. The offshore reefs make for excellent surf-fishing. Magnificent, 6-million-year-old sandstone cliffs, carved by wind and water, reach up from the beach to the coastal plateau. From there, rolling hills reach into the interior mountain ranges. There are numerous canyons filled with huge oak and sycamore trees several centuries old. There are many ancient Indian sites around the lakes and year-round streams. At the higher elevations the forest turns to pine and alder trees. Wildlife, particularly deer, abounds.

Peaceful Indian tribes inhabited the region when the Spanish explorers arrived in California. The famed explorer Gaspar de Portola left San Diego in July of 1769 to discover the interior of the new colony. Six days out, the party made camp in a verdant valley which they named Santa Margarita in honor of the saint whose day it was. The Mission San Luis Rey was later built nearby by missionaries.

The first owner of Rancho Santa Margarita was Pio Pico, who became the first Governor of California under Mexican rule. His brother, Andres Pico, commanded the California forces against the American troops that finally conquered California and made it a U.S. territory. John Forster, an English adventurer who had married a sister of the Pico brothers, purchased the rancho in 1864. From his huge spread, "Don Juan" Forster sent cattle drives to San Francisco each spring and horses to Arizona and Utah. In 1876, he sent 1,000 horses to Chicago for the Army, breaking them during the 2,000-mile drive.

When Forster died in 1882, the rancho was sold to the O'Neill family. More than 25,000 acres were planted in barley, hay, and vegetables. At one time, 10,000 cattle grazed on the vast rancho. Even today, nearly 1,000 cattle and 15,000 sheep are raised on the base.

In 1942, shortly after Pearl Harbor, the Second War Powers Act was invoked and the Federal Government paid the O'Neill family a little more than $4 million for Rancho Santa Margarita. The land today is valued at more than $1 billion. President Roosevelt dedicated Camp Pendleton in September, 1942. He was so impressed by the history and beauty of Rancho Santa Margarita that he promised to return someday for a visit. "Reserve this room for the next ex-President of the United States," Roosevelt told the Marines as he toured the beautiful old ranch house.

Today, it is time to add a new chapter to the history of Rancho Santa Margarita. Under the National Park Service, it will become a place of beauty and recreation for all the American people.

The text of H.R. 15662 reads:

H.R. 15662

A bill to authorize a study of the feasibility and desirability of establishing a national recreation area to be known as the Santa Margarita National Recreation Area in the area in San Diego County, California, which presently constitutes Camp Pendleton

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior (hereinafter referred to as the "Secretary") shall conduct a study of the feasibility and desirability of establishing a national recreation area, to be known as the Santa Margarita National Recreation Area, in the area of San Diego County, California, which presently constitutes Camp Pendleton. Such study shall include ocean waters which are adjacent to, or included in, Camp Pendleton.

Sec. 2. In carrying out the study required under the first section of this Act, the Secretary shall consult with—

(1) other interested Federal agencies, including the Department of the Navy,

(2) the California State Department of Parks and Recreation, and

(3) the San Diego County Department of Parks and Recreation.

The Secretary shall consider in such study any relevant planning activity involving the area referred to in the first section of this Act.

Sec. 3. The Secretary shall complete the study required under the first section of this Act within one year after the date of the enactment of this Act and shall submit to the President and to the Congress within 30 days after the date of the completion of such study a written report containing the findings and recommendations of the Secretary which arise out of such study. Such report shall include—

(1) findings with respect to the scenic, natural, and recreational values of the area referred to in the first section of this Act;

(2) any recommendations the Secretary may have for the preservation of such area, and

(3) the estimated costs of establishing a national recreation area in such area.

Sec. 4. There are authorized to be appropriated $200,000 to carry out the provisions of this Act.

"OWED TO DOC MORGAN"

HON. TENNYSON GUYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. GUYER. Mr. Speaker, in recognition of the Honorable Thomas E. Morgan's distinguished service in the U.S. Congress and as outstanding chairman of the House Committee on International Relations, this original poem was given at a reception at which the committee members paid their tribute and high esteem.

It is as follows:

"Owed to Doc Morgan"

In this earthly transient stream,
Few men consummate their dream.

Congress, more than all the rest,
Seldom paints one at his best.

Solons come—some ill-begotten,
Soon are gone, and soon forgotten.

But with us—a rare exception,
Our Doc's a man of true affection.

Esteemed abroad by Queen and King,
Rulers everywhere, his praises sing.

Ambassadors in high elations,
Credit him for rich relations.

Colleagues with impartial smile,
Share approval—'cross the aisle.

Those of us who know him best,
Join hands and proudly do attest.

Some doctors' sins are neatly found,
Safely tucked beneath the ground;

But Morgan's star will not decline,
He leaves a record—true and fine.

No guile, deceit, or gross deception,
His gift, his life is sound perception.

Time will enshrine his name and face,
But no one will ever take his place.

Who can know as years increase,
What gift he left to lasting peace.

What Doc does next, no one can tell,
But in true accord, we wish him well!

—Tennyson Guyer, September 19, 1976.

INCREASING DEPENDENCE OF UNITED STATES ON IMPORTED OIL

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. FORSYTHE. Mr. Speaker, my colleagues in the House should have received today a letter signed by the four House minority members of the conference committee on S. 521, the Outer Continental Shelf Lands Act amendments. That letter details the frustration of the members concerning the way the conference was conducted and points out the unwillingness of the conference committee to responsibly attempt to deal with substantive issues.

The conference report to be brought before the House for ratification not only still contains the numerous provisions of the House-passed bill with potential for major delays in leasing and development of the OCS, but also now incorporates provision for Federal exploration for oil and gas on the OCS. The enactment of this legislation in its present form, therefore, could not only delay and possibly halt development of the oil and gas resources of the OCS so vital to the national interests of the United States but could also cost the Federal Government billions of dollars in exploration costs.

Such a bill is not a realistic attempt to produce legislation which can be signed into law but is, instead, a political attempt to embarrass the administration in an election year.

But while Congress plays politics instead of responsibly dealing with issues, our national energy situation steadily worsens. As the House acts on the conference report, I would like to bring to the attention of my colleagues in the House an article which appeared in the New York Times on August 17, 1976. Clearly, we have not learned from the experience of the 1973 oil embargo.

The article follows:

Sale of Arab Oil to United States Is Doubled—Crude Shipments in the First Half of Year Account for 12.4 Percent of Total Demand

(By William D. Smith)

The United States doubled its dependence on direct supplies of Arab-produced crude oil during the first half of 1976, according to a recent survey by The Petroleum Intelligence Weekly, an authoritative trade publication.

Crude-oil shipments from Arab nations in the first half of this year supplied the United States with 12.4 percent of its total oil demand, compared with only 6.6 percent a year earlier, according to the report. Indirect shipments from the Arab nations through Caribbean refineries and then to the United States in the form of petroleum products further increased American dependence on Arab sources, according to energy analysts.

The situation leaves the United States more vulnerable to an Arab oil embargo than at any time in its history, as a number of administration officials have recently warned.

In late July, Secretary of Commerce Elliot Richardson said, "If another embargo were imposed the results would be literally catastrophic."

ABSENCE OF THREAT

Students of oil and politics are quick to note that the Arab oil producers have not threatened an embargo. On the other hand, Frank G. Zarb, the Federal Energy Administrator, in an interview in The Mideast Report, a newsletter, noted that the Arab producers had not said "we will not resume a political embargo." "Absent of that, I have to assume that it is possible," he added.

According to the Petroleum Intelligence report, crude oil imports rose to 4.74 million barrels a day in the first half of 1976 from 3.71 million barrels a day in the first half of 1975.

SUPPLIES THROUGH CARIBBEAN

The entire increase of a million barrels a day in crude oil imports was met by Arab oil, which rose to 2.1 million barrels a day, or 44 percent, of the 4.7 million barrels a day of total imports. In 1975, Arab producers accounted for only 29 percent of crude-oil supplies.

The first half of 1976 also saw Saudi Arabia pass Venezuela as the chief supplier of crude oil and products to the United States, a position the South American country has held since before World War II.

In the first half of this year the Saudis supplied the United States with 1.09 million barrels a day of crude oil, compared with 578,000 barrels a day during the first half of last year. The Saudis also supplied some oil indirectly through the Caribbean.

Venezuelan crude supplies to the United States, on the other hand, dropped to 155,000 barrels a day from 389,000 a year earlier. Venezuelan crude was also the base for some additional 300,000 barrels of products shipped through Caribbean refineries to the United States.

Canada, the other traditional Western Hemisphere supplier of oil to American markets also cut its shipments, with exports dropping to 404,000 barrels of crude a day from 554,000 barrels a day last year.

Most Arab producers also increased their shipments to the United States. Algeria increased its exports to America to 376,000 barrels a day from 274,000; Libya raised its to 375,000 barrels a day from 129,000 barrels a day and the United Arab Emirates advanced its shipments to the United States from 90,000 barrels a day to 197,000 barrels a day.

Among the non-Arab producers, Nigeria raised its shipments to the United States to 887,000 barrels a day from 723,000 barrels a day last year while Indonesian exports rose to 484,000 barrels a day from 332,000 barrels a day in the first half of 1975.

A SUPERB JOB BY REPRESENTATIVE LINDY BOGGS

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. RHODES. Mr. Speaker, for many Americans the U.S. Capitol was the focal point of their travels to historical sites during this Bicentennial Year. Display of the Magna Carta, the visit of the Queen of England and other chiefs of state, the Centennial Safe, all added historic import to the observance by Congress of our 200th anniversary. The visitors' center on the Mall was an oasis of conveniences for the thousands who came here this summer.

As a member of the Joint Committee on Arrangements for the Commemoration of the Bicentennial of the United States of America, was particularly impressed with the efforts of our dedicated chairwoman, Representative LINDY BOGGS. She did a superb job of coordinating the many activities that formed our congressional recognition of this national birthday.

As the majority member from the House on the Board of the American Revolution Bicentennial Administration, she traveled extensively helping communities put together the various segments of what was by any account the most unique birthday observance ever put on by any nation.

Despite her heavy schedule of congressional work, her participation in many civic and humanitarian organizations, she somehow found the time to coordinate the Bicentennial.

No community effort was too small for her concern. I particularly recall her willingness to substitute for me as a speaker on the Fourth of July in a small community in the Maryland suburbs. Her remarks were extremely well received and she added a great deal to the local Bicentennial parade. I am most appreciative of this gesture by our chairwoman, and it typifies her all-out dedication to making the Bicentennial a memorable period in our Nation's history.

I join my colleagues on the committee in extending to her our appreciation for the many hours she put in, and for the successful and impressive events that were the highlights of Capitol participation in this unique observance.

CONSUMER COMMUNICATIONS REFORM ACT OF 1976

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. MOAKLEY. Mr. Speaker, Mr. James R. Reed, a resident in my Ninth Congressional District of Massachusetts, has written to me in regard to the Consumer Communications Reform Act of 1976. I believe that Mr. Reed presents a very strong and intelligent argument against this major piece of legislation, and I would like to share Mr. Reed's remarks with my colleagues.

The letter follows:

DOVER, MASS.,
September 1, 1976.

Congressman JOHN J. MOAKLEY,
JFK Federal Building,
Boston, Mass.

DEAR CONGRESSMAN MOAKLEY: I am writing to you about the "Consumer Communication Reform Act of 1976" originally introduced by Congressman Roncalio as H.R. 12323. Despite the name, it is becoming increasingly clear that this proposed legislation is actually anti-consumer, anti-communications and anti-reform. In fact, this bill, or similar legislation if enacted, would seriously hamper the future progress of data communications throughout the United States by sanctioning a monopoly in this field for the benefit of the telephone industry, primarily the Bell System.

As you know, the advent of new types of electronic business equipment linked to computers has greatly increased the nation's need for data communications services. These services are already provided to a very large degree by telephone companies and only to a lesser extent by competitive data communications companies.

Retail stores, banks and other financial institutions, insurance companies, utilities, schools, hospitals, manufacturing companies and federal, state and local government agencies, for example, depend to an increasing extent on the availability of reasonably priced data transmission services. The growth of data communications networks in recent years has greatly improved the efficiency of information processing in these fields. Thus, you can understand the grave concern felt by all of us in the information-processing industry with legislative proposals which, in effect, would make the data communications industry even less competitive than it is today.

The proposed legislation would transfer from the Federal Communications Commission to the 50 individual states the authority to determine the terms and conditions under which data terminals could be connected to any interstate telephone network. Not only is it questionable that all of the states would have the resources and capability to assume such a complex responsibility, but even worse, there is no guarantee of nationwide uniform technical requirements for connecting into such networks. Also, it is quite possible that in some states users of data terminals would be prohibited from connecting into the telephone system any equipment not supplied by the telephone industry itself. In fact, there was an attempt recently in North Carolina to ban such interconnections even in the absence of legislation such as H.R. 12323.

It is not difficult to visualize the chaotic results of permitting 50 independent regulatory agencies to establish the terms, conditions and specifications under which business equipment could be connected into the telephone system within their respective states. The situation would be somewhat analogous to giving each state the right to coin its own currency. The resulting confusion and the added costs to data communication users, and ultimately the public itself, would be staggering.

The heavily financed lobbying and public relations campaign currently being waged by the telephone industry to promote H.R. 12323 or similar legislation seeks to persuade the Congress and the public that unless there is a change in the present national policy of permitting limited competition in providing data communications services, residential telephone rates will have to be increased. It is difficult to take this argument seriously. Why should the telephone industry require a monopoly in the data transmission field in order to operate profitably?

So far as data transmission rates are concerned, lack of competition would ensure that such rates would rise out of proportion to any future increases in the costs of providing those services. In addition, with 50 independent regulatory agencies establishing different technical standards for the hundreds of types of data processing equipment linked into telephone networks, the costs to business equipment companies of developing and manufacturing all of these product variations would result in substantially higher equipment prices. These higher prices would ultimately have to be borne by the business, commercial and government users of that equipment.

The best interests of the United States and its people are, and always will be dependent upon the maintenance of a free and competitive marketplace. That is the only type of environment which requires each supplier of a product or service to offer the best it can at lowest possible price. Such an environment will be destroyed in the data communications industry if, through sanction of the federal government, only the telephone companies are allowed to provide the nation's ever growing needs in this area.

If you would like to discuss the repercussions of the proposed "Bell Bill" in greater detail, I would be happy to meet with you personally the next time you are in the District. I am confident that you will recognize the adverse impact which such legislation would have and will want to help alert your colleagues, many of whom have indicated support of this legislation, apparently without having full understanding of all its implications.

Sincerely,

JAMES R. REED.

MR. LARRY SENA, CHAIRMAN OF THE COLUMBUS DAY COMMITTEE OF YOUNGSTOWN, OHIO

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. CARNEY. Mr. Speaker, on Saturday, October 9, the Greater Youngstown Columbus Day Committee will host a parade in downtown Youngstown commemorating Christopher Columbus' discovery of America. The chairman of this committee is Mr. Larry J. Sena, a longtime friend of mine and a distinguished American of Italian descent.

Throughout his life, Larry has held a number of interesting and important positions. During the 1930's and 1940's, he had his own trucking business. He then served 18 years as Democratic committeeman and 6 years on the executive board. In 1950, Larry entered the Mahoning County sheriff's office under the late Paul J. Langley, where he was assigned to the Civil Defense Office as director of public service and also to the vice squad. As security officer under Sheriff Ray T. Davis, Mr. Sena was in charge of protecting such dignitaries as the late President John F. Kennedy, Adlai Stevenson, and various Congressmen and judges. In 1970, Larry retired from public service as a detective in the police department.

Not content to just sit around in his retirement, Larry is presently the chairman of the Greater Youngstown Columbus Day Committee, which consists of 36 Italian American organizations in Trumbull County, Mahoning County, and western Pennsylvania. He is also president of the American Veterans and Civic Associations, and vice president of the Boardman, Ohio, chapter of the American Association of Retired Persons. In addition, Larry is a member of the Greater Youngstown Crime Clinic and past State district trustee of the Fraternal Order of Police.

Larry and his wife of 33 years, the former Josephine Albanese, now reside at 4115 Lockwood Boulevard in Boardman, Ohio. They have one stepson, Samuel P. Vivelo, who is the director of services for the city of Girard, Ohio, and two granddaughters, Mrs. Linda Kay McClay and Sandee Sena.

Mr. Speaker, Larry Sena has devoted the greater part of his life to public service for the residents of the Youngstown area. Our community is truly a better place in which to live and raise a family, because of the presence of this individual. I am sure that all the citizens of Youngstown join me in expressing appreciation to Larry for the many years of tireless dedication he has brought to every job he has undertaken, and I look forward to being with my many friends in the Italian American community for the Columbus Day festivities.

CONGRESSIONAL RUDENESS TO A HEAD OF STATE

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Ms. COLLINS of Illinois. Mr. Speaker, I speak at this time on a matter that causes me very serious concern. Today the House and the Senate were scheduled to meet in joint session to receive a distinguished foreign head of state, the Honorable William Tolbert, President of Liberia. As is customary, we were to be honored by having President Tolbert deliver an address to the Members of the Congress. However, many of my colleagues did not have the courtesy to attend this event. The Senate, after first not even courteously terminating business in order to attend the gathering, answered the call to convene this session only after it had been made quite obvious to the distinguished guest and the many other visitors to the House Chamber that the Congress of the United States acted in a manner that was ill-mannered and insulting.

Mr. Speaker, I wish I did not have to use these derogatory terms to describe the action of the Congress. But, how else is one to relate these events? We would all be outraged if our President were treated in this manner by the legislative body of another land. It is simply discourteous.

I am further embarrassed by these events because President Tolbert's visit comes on the eve of the sixth annual congressional Black Caucus weekend at which time black leaders will convene to review American politics and black participation in the entire political system—both national and international. This poor congressional participation is particularly embarrassing because Liberia was the first African nation to establish diplomatic relations with the United States, doing so in 1863. I am left to conclude by the absence of Members at the joint session that this body did not feel itself obliged to welcome a foreign head of state who happens to have black skin. I surely hope this is not a telling comment on the congressional attitude toward African political leadership. I hope it is not an accurate reflection of the way we choose to treat leaders of Third World nations. I trust it says no more than that the Congress had a serious elapse of manners.

It surely was, at the least, an unexcusable event that I hope I never have to witness again.

THE HEAVY HANDED PUNCH OF ORGANIZED TEACHERS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. CRANE. Mr. Speaker, American education is clearly in a serious state of decline. Although more money is being spent on public education than ever before, less is being learned. Scholastic aptitude tests in reading and mathematics are at all-time lows.

Organized teachers, rather than admitting the difficulties and seeking to remedy them, have often denied that any problem existed. In an important series concerning the decline in education in the Washintgon Post, Jack McCurdy and Don Speitch write that—

> Powerful national and educational organizations . . . have chosen not to assume a leadership role in a search for the causes of the decline. Instead, groups such as the National Education Association and the American Association of School Administrators have tended to avoid or downplay the issue or they have sidestepped the decline by stressing current accomplishments . . .

The National Education Association, rather than showing concern about declining standards, says that the decline is, in fact, not important at all. The Post quotes an NEA official as stating that—

> Tests aren't that important and their results shouldn't be viewed with that kind of concern.

While the National Education Association shows no interest in whether students are learning, it does show an interest in partisan politics. The NEA's Political Action Committee has come out in favor of the election of the Carter-Mondale ticket and will collect some $3 million from its 1,870,000 members to engage in the political campaign.

Discussing the unusual political concern of men and women who seem totally unconcerned with their own jobs, columnist Nick Thimmesch notes that—

> Anybody who has looked at the scores of college entrance examinations knows that as public education budgets and teachers' salaries swelled across the Republic, the performance scores of pupils went down. Last year's results of Scholastic Aptitude Tests showed a record drop of 10 points. Education has become permissive, and basics suffered . . . There is danger that we are spending record amounts of money to educate a generation of ninnies.

Teachers are undermining their own integrity by engaging, as a group, in partisan political activity. Mr. Thimmesch asks:

> Is it right for these teachers' unions to adhere to a narrow, ideological point of view, especially when education is supposed to allow a wide scope of ideas? . . . If teachers think only in terms of their own economic and political interests, don't they become mechanistic and actually antiintellec-

tual? . . . Is it fair to have the nation's school children exposed to teachers who are increasingly ideologically minded and who shut out other points of view?

The situation is becoming increasingly serious. Teachers demand more pay and less work while students fail to learn even the basics of reading and arithmetic. Teacher's unions downplay educational problems and devote their energies to politics. Clearly, the American people deserve something better than this.

I wish to share with my colleagues the column, "The Heavy Handed Punch of Organized Teachers," by Nick Thimmesch, as it appeared in the September 19, 1976 issue of Human Events, and insert it into the RECORD at this time:

THE HEAVY-HANDED PUNCH OF ORGANIZED TEACHERS

(By Nick Thimmesch)

The single most powerful political punch to be thrown this fall by a special interest group belongs to the nation's teachers. Pedagogues are no longer benign or acquiescent. They want more money and say so, and they belong to labor unions. They back Carter-Mondale and a big hike in federal aid to public education. So, look out.

If the membership claims of the National Education Association (NEA) and the American Federation of Teachers (AFT) are honest, these two labor unions represent all but 100,000 of the nation's 2.2 million elementary and secondary public school teachers.

That doesn't mean that the members are robot-obedient to the NEA and AFT, but it does mean that there is an enormous concentration of power in these organizations. The leadership is militant and illiberal in its liberalism because it shuts out any conservative point of view.

The NEA's Political Action Committee (PAC) recommended that the NEA back Carter-Mondale. Some 9,000 delegates to the last convention are presently balloting on that recommendation, but the outcome will surely follow what NEA-PAC asked for. Actually, the announcement is being orchestrated to coincide with a Carter-Mondale visit to Washington, so that one or the other will be on hand to exude gratitude and receive appropriate war whoops from the assembled.

NEA-PAC will collect some $3 million from its 1,870,000 members this year to do political war. All but $731,000 will be spent on the state and local level. The money is collected by adding a $1 assessment to the regular dues checkoff. Members who do not want to donate must fill out a form for a refund. The result is most members donate because it's too much bother to collect that buck back, and besides your name goes on record as being a non-contributor.

In 1974 NEA-PAC raised $250,000 for candidates. It backed 28 candidates for the Senate and 22 were elected; 229 out of 282 NEA House candidates won. Heady with this high batting average, the NEA vowed to go all-out in 1976, and it is.

Same with the AFT, with its 475,000 members (some also belong to NEA). Albert Shanker is president, and he gave you all those lovely teacher strikes in New York City and elsewhere, causing the NEA to try to match AFT and its strike power. Nothing like competition.

Anyway, the AFT hopes to collect $400,000 for its political action fund, although it doesn't use the heavy-handed deduction technique of the NEA. Some 70 per cent of AFT's political money goes for state and local activity and candidates. The AFT, by a vote of 94 per cent of its delegates, endorsed Carter-Mondale.

But the AFT stresses that while money helps, it is the teachers who volunteer to make phone calls and work the precincts that really make a difference in an election. Nearly all their candidates are Democrats, so the AFT, like the NEA, is a big weapon against Republicans.

The NEA is power-minded. Four years ago it formed a three-million-member coalition with other public employes called CAPE. And this year it formed a political alliance with Jerry Wurf's Public Service Employes Union, the United Mine Workers and the United Auto Workers to send delegates to the Democratic National Convention. As it turned out, there were 150 NEA members as delegates and 46 AFT.

The teachers' unions are tough today because teachers were underpaid for generations, and suddenly there was a boom in numbers of school-age children, making it possible for teachers to demand. Now, with enrollments shrinking, teachers protect their economic interest. They love to get into the federal till, and they hate being asked to account for their failings.

Anybody who has looked at the scores of college entrance examinations knows that as public education budgets and teachers' salaries swelled across the Republic, the performance scores of pupils went down. Last year's results of Scholastic Aptitude Tests showed a record drop of 10 points.

Education has become permissive, and basics suffered. Grades have been inflated, and students' rights emphasized. There is danger that we are spending record amounts of money to educate a generation of ninnies. We put good money after bad, but Carter-Mondale are so pleased to have that campaign help and those votes.

Beyond the strife of the campaign, there is another basic question here, and it deals with fairness.

Is it right for these teachers' unions to adhere to a narrow, ideological point of view, especially when education is supposed to allow a wide scope of ideas? Is the good society which educators have talked about for generations a form of watered-down Swedish socialism? If teachers think only in terms of their own economic and political interests, don't they become mechanistic and actually anti-intellectual?

Is it good for the political process to have teachers glued to one party?

And finally, is it fair to have the nation's school children exposed to teachers who are increasingly ideologically minded and who shut out other points of view?

TWO HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago, on September 24, 1776, the Continental Congress approved the draft of the instructions that were to be sent, along with the treaty plan approved on September 17, to its diplomatic agents in Europe. The instructions allowed the agents to make certain minor concessions in the anticipated treaty negotiations. The agents were further advised:

> It is highly probable that France means not to let the United States sink in the present Contest. But as the Difficulty of obtaining true Accounts of our Condition may cause an Opinion to be entertained that we are able to support the War on our own Strength and Resources longer than, in fact, we can do, it will be proper for you to press for the immediate and explicit declaration of France in our Favour, upon a Suggestion that a Reunion with Great Britain may be the Consequence of delay.
>
> Should Spain be disinclined to our Cause, from an Apprehension of Danger to his Dominions in South America, you are empowered to give the strongest Assurances, that that Crown will receive no Molestation from the United States, in the Possession of those Territories.

UNION SOLDIERS

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks I include the following:

UNION SOLDIERS

(By Howard Flieger)

To most people, the idea that those in military uniform should join a union to negotiate the terms of their employment is so far out it is silly—but Congress is taking it seriously.

The American Federation of Government Employes—an affiliate of the AFL–CIO—put on its agenda a proposal to unionize soldiers, sailors, marines and airmen: our combined first line of military defense.

The union motivation is obvious. If its leaders could add to their quiver the right to represent those in uniform, their power in dealing with the Federal Government would make them one of the most awesome instruments of bargaining in the history of organized labor.

But it really isn't as simple as that. Fundamentally, the issue is whether the Government or a union is going to determine and enforce the foreign policy of the U.S.

That is why 25 of the 100 United States Senators are cosponsoring a bill to ban union activity within the armed forces.

The prolabor argument is that, since we now have armed forces composed of volunteers, the present military personnel are not so much careerists as they are civilians working in uniform and, thus, are entitled to be represented by a union the same as other workers.

Those now in uniform, the argument goes, are not there because of patriotism but because they want a good job. In that circumstance, they should be allowed to organize, safeguarded by labor's traditional and court-protected right to strike.

It may sound reasonable in peacetime. But what about war? Is a union shop steward going to decide whether America's armed forces will fight in the future?

Sen. Barry Goldwater (Rep.), of Arizona, recently told the Senate:

"It stands to reason that unionizing the uniformed military personnel of this nation would not strengthen but seriously weaken America's preparedness for any eventuality, be it a threat from the Soviet Union or some other aggressor. It would destroy the military chain of command and ruin the discipline so necessary for the proper performance of military missions. . . . When you project a military man's right to strike into a combat situation, you come up with a ridiculous situation which cannot be explained away under any circumstances."

As a matter of fact, the courts have long recognized that, even in a democracy, workers in and out of uniform are two entirely different beings. Their rights cannot be equated one with the other.

More than two decades ago, the Supreme Court said of the uniqueness of working conditions in the military:

"Its law is that of obedience. No question can be left open as to the right of command in the officer, or the duty of obedience in the soldier."

As recently as March of this year, the Supreme Court held:

"A military organization is not constructed along democratic lines and military activities cannot be governed by democratic procedures. Military institutions are necessarily far more authoritarian; military decisions cannot be made by vote of the interested participants."

This is the thing labor organizers face, once they set out to rally the armed forces under a union label. Here is one field where the nation's security cannot tolerate authority that is divided between union and management representatives. A strike in civilian life becomes mutiny in uniform.

We have no draft. No one has to serve in the armed forces against his will. Those who volunteer to do so must accept as a condition of employment the fact that they are under the discipline of a single command.

If they don't accept that, the armed forces of the United States will be nothing.

THE NEWS IS NOT ALL BAD—ASK MISSY MILLER

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. BLANCHARD. Mr. Speaker, one of the more enjoyable things about being a Member of Congress is having the opportunity to recognize outstanding achievement or public service by an individual citizen.

All too often those who excel or who give of themselves on behalf of all of us go unrecognized and unrewarded. That is most unfortunate, for they furnish a source of inspiration we can ill afford to ignore at a time when apathy and disillusionment are widespread.

With that in mind, I would like to share with my colleagues the story of Melissa Miller, a 10-year-old girl from Oak Park, Mich., who has personally collected nearly $8,000 over the last 3 years to aid in the fight against muscular dystrophy. The article appeared in the Daily Tribune published in Royal Oak, Mich., and reads:

OP GIRL, 10, COLLECTS $3,600 FOR MUSCULAR DYSTROPHY RESEARCH

The 10-year Oak Park girl did it again.

Melissa (Missy) Miller topped her own record and collected almost $3,600 for Muscular Dystrophy in a personal campaign. And she isn't finished collecting yet. Her deadline is Labor Day

It is the third year Missy has collected money to give to the Jerry Lewis Telethon. In 1975, Missy turned over $3,253 beating her 1974 record of $1,039.

"I've been doing it since Memorial Day," Missy said about her personal campaign to raise money. "I try to put in a lot of hours."

When Missy works long hours, her father does too. Jack A. Miller, 23301 Coolidge Highway, watches over Missy while she seeks donations outside Oak Park and Southfield stores.

"He's like my bodyguard," Missy said.

The young girl gets permission from the merchants before she puts on her sign and begins to ask for money. Missy said she collected $160 from the merchants alone.

Her signs asks the passerby to "please help me fight muscular dystrophy. I want people to be happy and healthy."

Missy asks for donations too. "If they give I say thank you very much," she said. "If they don't donate, I say thank you anyways. Some people have second thoughts."

"I enjoy doing it," Missy said about collecting the money. "I see lots and lots of people.

Missy got a bonus with her newly begun autograph book this summer. Several political candidates like Congressman James J. Blanchard (D-Pleasant Ridge) signed her book while she collected money and they campaigned for the August primary.

This active youngster usually collects the money an hour at a time. The rest of her day is filled with assorted activities like modern dance, tap dance and the piano. She finds time in between to get the Muscular Dystrophy funds.

CONSUMER COOPERATIVES

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. BOLLING. Mr. Speaker, helping people to help themselves has been the time-tested success story of the cooperative movement in the United States. The soundness of making available reasonable financing to farmers and their cooperatives so they can maintain independent and competitive positions in our economy was proven as long ago as the original Government loans needed to start the Farm Credit Banks were repaid.

As a cosponsor of H.R. 14829, National Consumer Cooperative Bank legislation, I believe that the expansion of this concept—the inclusion of more nonfarmers in cooperatives—is constructive action of the highest priority for the consideration of the Congress.

Mr. Speaker, I offer for the review of our colleagues an editorial from the September 1976 Today's Farmer outlining in further detail the fundamental merit of this proposal:

BANK FOR NONFARM COOPERATIVES?

Pending action in both houses of the U.S. Congress are bills to create a consumer cooperative financing program patterned after the Farm Credit System. Passage in this session is possible.

Under the proposal, the U.S. government would provide $1.25-billion in "seed money" for a National Consumer Cooperative Bank. The money could be loaned to grocery, health, auto service and other types of consumer cooperatives. The program would be supervised by a Cooperative Bank and Assistance Administration—similar to the Farm Credit Administration which supervises Federal Land Banks, Federal Intermediate Credit Banks and Banks for Cooperatives, all farmer-oriented. It would also provide technical assistance to developing consumer cooperatives.

From this point of view, the proposal has merit.

Soundness of the approach has been demonstrated by the Farm Credit Administration and Farm Credit Banks. By supplying financing on reasonable terms, they are enabling farmers and their cooperatives to maintain independent and competitive positions in the economy. And government funds used to get those banks started have long ago been repaid.

Non-farm consumer cooperatives, however, have been hampered in their formation and growth by lack of access to cooperative financing and lack of technical assistance.

A National Bank for Consumer Cooperatives could enable non-farm cooperatives to secure adequate financing for operations and expansions. It could lead to more efficient delivery of products and services to consumers and narrow the spread between production costs and consumer prices—benefitting both consumers and producers.

By involving more non-farmers in cooperatives, it could also broaden the base of cooperative understanding—which could be helpful to farmers and their cooperatives.

TRIBUTE TO THE LATE EARLE CABELL, FORMER CONGRESSMAN FROM THE FIFTH CONGRESSIONAL DISTRICT, DALLAS, TEX.

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. TEAGUE. Mr. Speaker, this week marks the anniversary of the death of my good friend, Earle Cabell.

Earle came to Congress at a difficult time of his death by A. C. Greene, Chanpillared by national and international media in the aftermath of President Kennedy's death. He restored dignity and respect for the congressional seat in which he served.

With his charming and devoted wife, Dearie, Earle made friends here in Washington and came to mean much personally to many of us.

One of the tributes paid to him at the time of his death by A. C. Greene, Channel 13 Newsroom, Dallas, Tex., is a perceptive view of Earle's service and ability which I would like to share:

EDITORIAL BY A. C. GREENE, CHANNEL 13 NEWSROOM, SEPTEMBER 24, 1975

Earle Cabell was Dallas to the core: but Dallas never understood him, even when pulling the lever on his behalf. He was a loner who did things because he felt like it, not to get votes—but he had something no Dallas politician today has enough of: charisma and conviction. If Cabell had started his political career a few years earlier and had been a younger man, he might be seriously mentioned for national nomination because he could have been of that level.

Earle Cabell may be the last Dallas politician who got into politics from family obligation. He took it as his burden. His grandfather, a Confederate general called Ol Tige Cabell, had become mayor of the frontier city almost before he got his bags unpacked when he moved here in the 70s. Earle's father Ben served eight years as county sheriff, then in 1900 became the first Dallas mayor to face such modern municipal problems as paving streets, laying sidewalks, getting a safe water supply, and franchising the transit system, and gas and electrical service.

But once into politics, Earle Cabell saw things the others failed to grasp. Beaten by Uncle Bob Thornton the first time he ran for mayor in 1959, Cabell made a surprisingly strong race against this legendary name from financial history. And Cabell discerned changes which were not, at that time, exactly blowing in the wind. He sensed popular dissatisfaction with the ruling establishment, and he became convinced the racial barriers would fall—and fall quickly.

Too old to march with them as a political career—or too old, perhaps, to create the inner zeal his perceptions called for—he nonetheless presided over the first steps Dallas took toward integration in the schools and among businesses—and named the first Negro George Allen—to a city commission since Reconstruction. Cabell even risked his political reputation by pushing hard, and unsuccessfully, for public housing at a time when federal money in Dallas, for anything but business subsidies, had a taint to it worse than adultery.

Earle Cabell wasn't particularly enlightened in philosophy: and he was far from being liberal the way his delightful wife Dearie was. But he was fair—not just cautiously in public—and he was brave in a social way. And in Dallas, that's the bravest kind of brave there is: to be something your friends and social peers tell you you mustn't be. Earle Cabell was a member of the Citizens Council—which he approved of—but he challenged its iron control of the city—which he didn't approve of. He was a businessman from a very conservative industry—dairying—but he refused to run on a business is best platform. Some of his peers—and friends—never forgave him for this disloyalty, and he bore to his death the hurt from their response.

He was, perhaps, a politician before his time—or a politician who arrived at success too late to take hold of what success seemed willing to grant him. It is ironic that he took on the two strongest conservative symbols in local politics—Thorton and Congressman Bruce Alger whom he annihilated—yet never gained the advantage this oppositon should have given him: opponents continued to call him part of the oligarchy, while others refused to acknowledge he was different from Alger. But he was, and those who knew him and worked with him recognized that with a few years and a few circumstances, Earle Cabell almost certainly would have been the first 21st century politician of Texas.

Once in Congress, Cabell seemed to find political life disappointing. Washington came too late. His dreams and restless plans—two things that characterized Earle Cabell the businessman—had been carried beyond his reach by time—if not the times. Time, and the ancient lesson our bodies eventually teach all of us: the end is nearing. His defeat by Alan Steelman was a retirement.

Rest in peace.

AMENDMENT TO H.R. 15

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. QUIE. Mr. Speaker, when the House considers H.R. 15, regulating lobbying and related activities, I intend to offer an amendment which would have the effect of including under the provisions of the act those employees of State and local governments whose function it is to deal with the Congress on matters concerning legislation. My amendment, which is printed in today's RECORD, would amend the definition of organizations to include State and local governments. The amendment would cover State or local employees who, under terms of the bill, devoted 20 percent or more of their time to activities connected with the Congress as defined in subsection (a) of section 3, or who were employed in an office located in or near the District of Columbia and met either requirement.

It is my belief that those representatives of State and local governments having an interest in matters before the Congress should be treated on the same basis as those organizations and individuals representing private organizations and associations. For example, under the bill as reported by the committee, such organizations as the Council of Chief State School Officers, the National School Boards Association, and the National Education Association would be covered. The bill as reported, however, does not cover those individuals who represent a single State and its dealings with the Congress. According to information which I have received, 21 States maintain representation offices in Washington to deal with both Congress and the executive branch. In addition, nine State education departments maintain Washington offices to deal with those matters which uniquely affect education laws and education matters. I suspect that in areas of health, welfare, housing, and transportation, similar situations exist whereby State or local governments maintain full-time or nearly full-time representation in Washington.

Questions have been raised from time to time about the potential legality of including representatives of State and local governments within the regulations proscribed by H.R. 15. I do not believe that those concerns are well founded.

H.R. 15 does not rest upon the commerce clause of the Constitution, but upon the inherent power of the Congress to take action to protect the integrity of its own processes. If State and local governments and their agencies seek to influence those processes in the manner described in this bill they should be subject to the requirements of this bill. This would impose no requirement upon the States that they regulate the activities of their employees or those of their subdivisions; it would merely make certain requirements of certain employees who are engaged in lobbying the Federal Government.

The argument that the Congress cannot constitutionally impose requirements upon representatives of State and local governments who are engaged in certain activities affecting the operation of the Congress and of the Federal Government generally has no more merit than to argue that State and local governmental employees cannot be covered by statutes making mail fraud a Federal offense. Indeed the whole Federal criminal code applies to State and local employees as well as to all other persons within the United States.

In League of Cities against Usery, the Supreme Court held that Congress could not use the power to regulate interstate commerce as a means of regulating State and local governmental control over the conditions of employment of their own employees—it did not go beyond that to say in any respect that State and local employees, even acting in their capacity as such, are beyond the reach of Federal statutes designed to regulate the conduct of individuals generally. Obviously, the provisions of a wide range of Federal laws apply to State and local governments and to their employees. Indeed, Justice Blackmun—one of the five judges forming the majority in the case—issued a separate concurring opinion to state it seemed to him that the Court's opinion—

> does not outlaw federal power in areas such as environmental protection, where the federal interest is demonstrably greater and where state facility compliance with imposed federal standards would be essential . . .

And he said that—

> with this understanding on my part of the Court's opinion, I join it.

If H.R. 15 were amended to include lobbying operations of State and local governments and their agencies it would still not impose any standards on them with which they must comply—except as their activities bring them within the scope of the act. So there would seem to be no constitutional argument against including the lobbying activities of State and local government within the scope of the bill on the same terms as the activities of private entities.

THE HISTORY OF ST. JOSEPH'S PARISH

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. OTTINGER. Mr. Speaker, I wish to share with my colleagues a part of the "external celebration" of the 75th anniversary of the Parish of St. Joseph. A dinner-dance to mark this occasion will be held on October 9 in New Rochelle.

The article follows:

THE HISTORY OF SAINT JOSEPH'S PARISH

At the turn of the twentieth century, Italy was suffering seriously from over-population, a problem which was solved partially by mass emigrations from the most overpopulated districts. Because of the apparent receptiveness and unlimited opportunities available, the United States was favored as a haven.

New York City, the melting pot of humanity, the home of many tongues, took into its fold a sizeable group of Italian immigrants, a number of these moving northward to the outlying areas. One such suburban district was the City of New Rochelle.

In May 1901, the Most Reverend Michael A. Corrigan, Archbishop of New York, hearing of the great number of Italian immigrants living in New Rochelle, sent a young priest, who had come to America just one year before, to establish a parish for the Italian people. Reverend Pasquale Manzelli was appointed the first pastor of the new parish of St. Joseph on May 26, 1901. The Italian people received the news with great joy and prepared to welcome and assist their first shepherd, in the section of West New Rochelle known as "Dutch Hill."

Father Manzelli arrived in June and found hospitality in the home of the Brudels. A small wooden building was rented on the corner of Fourth Street and St. John's Place. It was fixed up by the eager parishioners and it served as a house of worship for two years. The small building, which could accommodate about one hundred people, eventually proved insufficient for the needs of the locality. As word began to spread that an Italian speaking priest was sent to New Rochelle and had established a new Italian parish, the second in the county of Westchester, the Italian immigrants who had settled in Pelham, Larchmont, Mamaroneck, Harrison and Rye, flocked to St. Joseph's in great numbers. At last, they could express themselves in their own native tongue and fulfill their spiritual duties. The facilities of the small building became overtaxed and the two Masses were more than crowded every Sunday.

His Eminence John Cardinal Farly, who had succeeded Archbishop Corrigan as head of the archdiocese, heard of the great work of Father Manzelli among the Italian people. Through the efforts of Monsignor Francis McNichol pastor of St. Catherine in Pelham, and Father John A. Kellner, pastor of St. Gabriel in New Rochelle, this great need was brought to the atention of Mr. Adrian Iselin, a non-Catholic resident of New Rochelle, who was well known throughout the county and the city for his great charitable and philanthropic work.

Mr. Adrian Iselin promised to think it over and do what he could. Within a relatively short time he purchased a piece of land 100 feet by 200 feet on the corner of Fifth Street and Washington Avenue.

He engaged an architect to draw the plans for the new church and rectory and work was started in March 1903. The Cardinal Archbishop laid the cornerstone and one year later returned to dedicate the church on January 4, 1904. Because of ill health, Mr. Iselin, was represented by his son Adrian Jr., who presented the deeds to the new church and rectory to the Cardinal in the name of his father. The land, the buildings, and furnishings cost about $50,000. Among those present on this memorable occasion, were Countess Georgine Iselin, and Colonel and Mrs. Delaney Kane.

Father Manzelli and his parishioners were most grateful for this gift and were proud of their new church for they now had a fitting house of worship and a residence for their pastor. Father Manzelli lost no time in organizing the parish and in looking after the spiritual needs of his people. His congregation began to grow as a result of his untiring efforts. In 1909, he felt the need of someone to help with the children, so he secured the services of two Sisters of St. Francis. There being no other facilities available, the church basement was used as a school. Father Manzelli now realized that a parochial school was needed for he no longer could accommodate his children in the church basement. He also knew that his people did not have the means to provide one. Because Mr. Iselin, his great benefactor, had died in 1905, he appealed to his daughter, Georgine, Georgine Iselin, who later received the great honor of Papal Countess from Pope Pius X because of her many Catholic philanthropic deeds in Westchester, nobly rivaled her worthy father by purchasing land adjacent to the church and immediately set about erecting a school of four classrooms, a kitchen, three meeting rooms and an auditorium. At the same time she erected a convent to house the Sisters whose number was now increased to five. In all, Miss Iselin spent about $50,000 for the land, buildings and furnishings for the school and convent. On Sunday, May 12, 1912, His Eminence John Cardinal Farley laid the cornerstone and blessed both buildings.

With a complete plant now at his disposal, Father Manzelli set himself to the difficult task of solidifying his parish. Georgine Iselin always came to his rescue when he needed it most. . . . Only God knows how much she helped him and the Italian people of West New Rochelle. Four times a year she sent her check toward the support of the school and each year at graduation she donated a gold medal for Excellency to one of the school graduates. She died passed her ninetieth birthday and will always be remembered for her kindness and generosity to us and our children. She will never be forgotten by the parishioners of St. Joseph.

Father Manzelli will long be remembered by his devoted people for his untiring zeal and great courage in the face of the many seemingly insurmountable problems of his time.

He knew that to him was entrusted the great task of planting the mustard seed of faith in West New Rochelle and that he did is evidenced today. That seed has grown beyond his fondest expectations. Father Manzelli was called to his eternal reward on April 29, 1929.

The Reverend Louis Riccio, who was appointed to succeed Father Manzelli, arrived at the parish in June 1929. During the short time he was in St. Joseph's Father Riccio added two more classrooms to the school, built the playground for the children and secured the services of three more Sisters. The improvements that he made cost about $70,000. He died in retirement as a Monsignor on April 7, 1966.

The Reverend Andrew P. Botti was appointed by Patrick Cardinal Hayes, then Archbishop of New York, to succeed Father Riccio. Father Botti, arrived in the parish in January 1932. Upon his arrival, he did not find the affairs of the parish going too smoothly. There was much to be done, but little or nothing with which to do it. Many of the old problems still beset the parish; some of the old factions that had tried to hamper his predecessors now tried to hamper him. Financially the parish was not too well fixed, inasmuch as a debt of $70,000 had been incurred. Many of the parishioners were without work and other were recovering from the financial breakdown of the nation. The church funds, too, were lost in the closing of several banks in the city, over and above this, the great depression, unsuspectingly was just around the corner. Father Botti had his hands full and did not know where to turn first.

With undaunted courage and complete faith in God he faced the future. Little by little, with the help of his people, things began to change. As the depression began to recede, his people returned to work; a new spirit seemed to prevail and a religious revival had set in that taxed the capacity of the small parish. Several Masses were added to alleviate the congression. Plans were then formulated to build a larger church and school because the need was great, but they had to be abondoned due to the heavy financial burden resting on the parish. Mrs. Delancey Kane, a sister of Georgine Iselin, died in 1938, and in her will left $10,000 to the church. This unexpected help came like manna from heaven. Now for the first time Father Botti saw the light of day and was able to meet the financial obligations of the parish.

But when things looked their brightest the storm was on the horizon, World War II. The country was again in economic chaos as many men left families and jobs to serve their country. St. Joseph's future was again clouded. Father Botti did all that was humanly possible. Finally, his health failing, he asked Cardinal Spellman, then Archbishop of New York, to accept his resignation. Father Botti died in retirement on November 17, 1960. His assistant, Father Aldo Carniato, was appointed administrator. He immediately began a vast program of updating and repairing. War jobs were now producing more funds, and the people showed generosity. They also contributed because they saw things being done. Kindergarten was added to the school. But the church was still inadequate for the population of the parish. At a general meeting in October, 1945, he brought to the attention of the parishioners his plans to enlarge the church.

A debt of $35,000 was in the way. With enthusiasm and cooperation it was liquidated in two weeks. Ground was broken in March, 1948 and Mass was celebrated in the reconstructed Church in March, 1949. The extent of the modernization included a new, spacious, sanctuary, new vestibule and choir loft, and a new bell tower. The rest of the old Church was integrated with the new construction. There was also a new baptistry, stained glass windows, sacristies and a finished basement with kitchen and other facilities. Together with the Church, the rectory received an addition to create the present offices and above it quarters for the parish priests. Soon after, two more classrooms were added to the school by partitioning the old auditorium.

Years of consolidation followed. The debt was removed after a few years. Freed from financial worries, the priests were able to concentrate on doing more spiritual work in the hospitals, nursing homes and the sick at home. Societies thrived and worked together. The school reached its peak enrollment of 400 children in 1945 with a full complement of 9 Franciscan Sisters in the classrooms. By comparison since September, 1974, we have been having two Sisters in the school (an additional one came in September, 1976). At present the school has an enrollment of 145 students. One Sister acts as Principal.

On May 27, 1961, the parish celebrated its Golden Jubilee. The Most Reverend Stephen J. Donohue, Auxiliary Bishop of New York, was the celebrant at a Pontifical Mass. A dinner dance followed at the Glen Island Casino. An elegant brochure containing the history of the Church was printed and distributed. This history of the parish is reproduced in the present history with all necessary changes and additions to bring it up to date. In the following years other additions were effected in the church; new statues, marble waincotting, air conditioning, etc. There were also fund-raising affairs which eventually swelled the reserves of the church.

The time following the Golden Jubilee was also the time of Vatican Council II. The decree and guidelines of the Council brought to our parish, as elsewhere, many changes in the Liturgy, especially the use of the vernacular in the Mass and administration of the sacraments. These reforms were gradually introduced and in the main they were well received by the young.

Time inexerable marches on. With the advancing age, the once strong hand at the realm began to relent. Father Carniate's health, after some 30 years of administration, began to fail. For various reasons beyond anyone's control, school enrollment dropped to a new low. Sisters were no longer teaching in the classrooms.

Only three Sisters, the principal and two others, are in the school now, the rest were replaced by lay teachers.

Time and the elements continued also to inflict severe damage to the entire complex. The entire plant is now in need of another round of repairs, exteriorly and interiorly.

In 1973, Cardinal Cooke sent Father Mario Bastone to take over the administration of St. Joseph. In his two years stay, he organized fund-raising activities, revitalized the societies and the Liturgy and began some work of restoration. In October, 1975, he became pastor of St. Joseph's in Poughkeepsie, New York.

Monsignor Charles Rosselli was sent as pastor to succeed Father Carniato on October 4, 1975. On November 9, 1975, before an overflowing congregation, he was canonically installed by Monsignor Edward Connors, Episcopal Vicar of Westchester. In attendance were many of his friends from his former parishes, but more importantly, his new parishioners who welcomed him with warmth and respect. Through an arrangement with

Monsignor, Father Carniato retained his quarters in the rectory and at present he remains in residence with the title of Pastor Emeritus.

A joyous reception followed the installation ceremony at which the people were able to "get to know" their new pastor. Monsignor is a veteran of three former pastorates with a long list of accomplishments including the building of a parochial school and convent, rectory and Church and total physical and spiritual transformation of parishes in his charge. Many parishioners remembered him from several years (and pounds) back during his brief stint here in 1946 to 1947 as an assistant. One of his first acts was to introduce a Mass in Italian. Another welcome change was the substitution of all candle stands with automatic electric vigil lights, a boon for economy, comfort, esthetics and safety. The new lights were promptly accepted by the parishioners. He soon realized the extent of the repairs and renovation needed in all buildings. He managed to initiate a few projects requiring immediate attention for which he received Diocesan approval. The rectory which was built for three resident priests, now has four priests in residence. The new pastor's quarters had to be prepared, the falling garage renovated; the antiquated public address system in the church replaced; other additions to the windows of the rectory, to the pews of the Church, modern lights in the parking lot. Confronted with the magnitude and scope of the work, he called in representatives of the Building Commission of the Archdiocese for a study and for recommendations. Hours and days have been spent with engineers and contractors to evaluate all needs and possibilities. Their recommendations will be reviewed on location by the Archdiocesan Consultors who in turn will make their own recommendations to the Cardinal. Until then we can only take care of emergencies and isolated items and wait patiently.

It should be evident that all work to the four buildings cannot be done piecemeal; it must be done all at the same time to coordinate all the different trades and to assure better prices and better results.

Monsignor revealed that at the time the reserves were around $500,000, deposited with the archdiocese of New York.

In his letter he explained that the reserves, according to the Building Commission and the guidelines from the Cardinal, could be used for renovation work and extraordinary repairs, but not for the ordinary administration of the parish and the school; the parish has to raise the funds for the ordinary expenditures and, at present, it does not. Seemingly, the letter was not understood too well or it was just brushed aside. The platitude is too pleasant to be broken. Unfortunately, the Iselins are not around any longer with a transfusion of funds.

The parish has to do it alone. And this is one of the priorities the parish has to assign to itself as its immediate responsibility at the beginning of the fourth quarter of its existance if it wants to progress, if it wants to regain and retain its solvency, if it wants to keep its school.

In concluding, we use the sentiments, the very words of the previous history. As we draw this history of 75 years to a close, we pray that Almighty God will continue to shower His choicest blessings on the people, the priests and the Sisters of the Parish. They love Him and His house and they are ever ready to make whatever sacrifice may be necessary to see to it that the mustard seed which was planted 75 years ago and became an herb and has now blossomed into a great tree, shall never die. They want it to live forever and ever, so that their children, and their children's children, may come and find in it the comfort, the strength and the varmth of the heart of the All Loving God, just as they found it before them.

THE QUAKERS HAVE A FRIEND IN MOSHER

HON. CHARLES A. MOSHER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. MOSHER. Mr. Speaker, as the end of my tenure in this House approaches, it is natural that I begin to think back over the past 16 years—unusually tumultous years here—assessing many experiences and influences that have shaped my attitudes and my voting decisions.

Doing so, frankly I have been surprised to recognize how highly I have learned to respect and appreciate the influences—in the form of good information, attitudes, spirit, and inspiration—which are exerted with such gentle persistence and quality of insight, by the American Friends Service Committee.

Mr. Speaker, I suspect there may be a surprising number of others among us who, if they will think about it, can attest to their appreciation and respect for the useful, stimulating, sometimes provocative efforts of these friends.

On Sunday morning, July 4, speaking in my own home community of Oberlin, Ohio, at a community worship service sponsored by many denominations, to mark our Nation's Bicentennial, I stated my own belief, in part as follows:

> I was reared in an activist religious tradition, as a Congregationalist. I am convinced that religious beliefs and attitudes, if genuine, must inevitably, inextricably be a very significant part of all that dynamic complex of interests, forces, beliefs which is America—certainly including politics and government.
>
> Religious beliefs, attitudes, intuitions should be everywhere an active, influential, shaping presence in all the processes by which we make and administer policy.

Mr. Speaker, it is from that perspective that I now call to the attention of many others in the Congress, the good efforts of the American Friends Service Committee—beginning in 1917—to give contemporary expression to the religious convictions in which it is historically rooted.

This Quaker agency, which operates more than 90 projects in this country and overseas, is in its 59th anniversary year of continuing efforts to reach out to people of all beliefs with a fundamental respect for personal integrity.

I feel that a report on this organization telling us something of the Quaker experience in current U.S. history is of special importance in this Bicentennial Year.

Many remember that the Quakers founded Pennsylvania, but perhaps do not realize that Quaker concern for their fellow persons continues not only through the AFSC, but also other organizations which came out of the Religious Society of Friends.

Consequently, I think Members will be interested in the following by Louis W. Schneider, executive secretary of the American Friends Service Committee, telling something of the religious roots of this organization as well as some of its current programs around the world.

The text follows:

THE AMERICAN FRIENDS SERVICE COMMITTEE, WHAT IT IS, WHAT IT DOES

(By Louis W. Schneider)

The critical, powerful and dominant position of the United States in world affairs—and the political, economic, social, and moral realities out of which it grows—results in challenges for a religious organization, such as the American Friends Service Committee, which operates on the basis of commitments to religious and moral principles central to the Religious Society of Friends.

This is particularly the case for a nonpartisan American organization which holds dear the domestic ideals of freedom, equality and the achievement of social harmony which are too often betrayed in U.S. society at home and by U.S. actions abroad.

The conflict between American ideals and American practice is too often resolved on the basis of what we consider to be short-sighted pragmatism rather than basic American principles. At a time when many evaluate the patriotism of critics by measurement against immediate pragmatic considerations and a shallow interpretation of Americanism, it seems important to share an explanation of why the AFSC works as it does.

The 20th Century has been marked by enormous military, state and random violence and by a confrontation of national states which often breaks into war and always threatens to lead to nuclear disaster. It has also been marked by a division of the world into political and economic blocs, leading to the intense frustration of the idealism that gave birth to the United Nations and the efforts to find international solutions to the problems of disarmament, reconciliation, and transnational cooperation to deal with human, social, cultural and economic threats to a fragile biosphere. It has led to the disastrous widening of the gap between rich and poor.

It is in this alarming context that the American Friends Service Committee today seeks to find practical expression for the religious and moral imperatives of love, compassion, the dignity of each person, the non-exploitation of individuals who are blessed in the sight of God, and the growth of all persons to the fullest possible extent of their potentiality, regardless of race, sex, creed, place of national origin, or present or previous condition of political, economic, or social servitude.

We take it as primary that we should honor all people and see no person as an enemy. We agree with the observation in the Gospels that there is little merit in loving one's friends; it is in loving one's "enemies" that one is truly tested. We take it as essential that good be returned for evil. We believe that one should not do violence to one's neighbor if one would not have violence done to oneself.

Perhaps the matter that makes these beliefs the subject of persistent criticism is the fact that we do not hold that these ideals are reserved for purely personal expression but, if they are to be really significant, must be extended to all the elements of our common life in this world: to our vocations and avocations and to our public involvement in the affairs of government at home and abroad. We believe in the separation of church and state, but not of the state and private and public, social, and economic morality.

These beliefs explain our principled opposition to war, the instruments for war, and preparedness for war; our criticisms especially of our own government and society in which, as citizens, we have a responsibility; our desire to make contacts and discourse with all people—whether capitalist or communist, oppressor or oppressed, conservative or Marxist; our readiness to do what we can, in accordance with our beliefs, to give aid to the oppressed, exploited, discriminated against, and those who are feared, hated or held in contempt by others.

We find no source of pride in the Biblical reminder that those who seek to carry out religious and moral imperatives will experience the scorn and anger of others. But we can attest that this has from time to time been our experience.

We see in American democratic society the potentiality for translating into human terms the principles and beliefs we hold dear. It is the faith in this potentiality that encourages us to criticize what we perceive to be wrong and to act in every appropriate non-violent way to seek to correct wrongs—and thus, in whatever small way we can, to contribute to the achievement of a human society in this world which will incarnate the ideals of love, compassion, human dignity, mutual respect and concern, and the recognized value of each human being, all, as we see it, children of God.

The American Friends Service Committee supports people in Detroit who are facing dire hunger and it provides legal aid and information to citizens of East Jerusalem. In Mexico, in the remote village of Lagunita, Hidalgo, AFSC staff continue to aid impoverished Otomi Indians in developing fruit trees, rabbit and turkey projects and a carpentry cooperative.

While former staff members in Chile are meeting with groups in the U.S. to share their experiences of life under the repressive regime of the Junta, AFSC staff in Santiago continue to support feeding centers in shantytowns so hungry children can have a nourishing hot meal daily.

The AFSC shipped 220 tons of powdered milk to Saigon last year in addition to 33,000 pounds of acrylic yarn to be made into 50,000 children's sweaters. The organization continues to work with Great Plains Indians in this country in their efforts to gain control over the natural resources on their reservations.

Work is done with women and men enmeshed in the justice system, on problems of public schools, on several questions affecting the rights of women, and on research on U.S. food aid abroad.

In two seminars this past year in West Africa, the AFSC brought together French-speaking West Africans in an attempt to examine the impact of development on prolonged drought conditions. In Mali, AFSC staff is assisting long-range efforts to overcome the effects of drought.

Other programs are going forward among U.S. seasonal farmworkers, in a Zambian housing project and in discussions with leaders in the Middle East and in Southern Africa.

Developing public support for governmental aid to Indochina, devastated by 30 years of war, is another AFSC program, which also includes widespread public discussion of the lessons to be learned from the Vietnam conflict.

The right use of national resources is one of the issues being addressed by the B-1 Bomber/Peace Conversion Campaign, which now has the support of 30 national organizations.

How critical are questions of national priorities is pointed up vividly in some 40 regional and national community relations housing, discrimination and administration of justice.

In the months and years ahead, the AFSC will continue—as it has done since 1917—to take positive steps toward the solution of crucial problems, to support efforts to gain justice and human rights, to ease suffering, and to work for a more non-violent world.

All this is done and will be done with a constant reminder of our religious roots.

THREE CHEERS FOR OUR FARMERS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. MICHEL. Mr. Speaker, agriculture is one of the most important industries in Illinois, including the 18th District, and we are all immensely proud of the spectacular way farmers have performed and the contributions they have made to our country over the past several years.

When foreign oil prices were quadrupled 3 years ago, our Nation was faced with a tremendous potential deficit in our balance of payments, which would have jeopardized our financial standing in the world. The American farmer came to the rescue, however, by substantially increasing production and the export of farm products to nations overseas, thereby almost singlehandedly filling the void and bringing about a relative stability in our foreign financial accounts.

When there was a shortage of beef a few years back, and beef prices to the consumer rose sharply, farmers responded by substantially increasing beef production, thereby stabilizing prices.

At a time when many other groups in this country have been demanding and receiving increased Federal funds for this, that, and what have you, farmers have saved the taxpayers nearly $3 billion annually through reduced support payments.

The success and accomplishments of American agriculture during the 1970's are demonstrated by the following facts:

Total acreage for major crops has risen from 291 million acres in 1969 to 355 million estimated for 1976.

Farm exports have risen from $6.7 billion in 1970 to an estimated $22 billion this year.

The proportion of farm income resulting from Government payment has dropped from 27 percent in 1969 to just 2 percent last year.

The decades-long exodus of 30 million Americans from the farms has trickled off to the point where the decline in farm population is down to an average of just 1.2 percent annually. Conversely, enrollment in agriculture schools is rising.

Mr. Speaker, what these facts demonstrate is that agriculture has accomplished much during recent years. We can proudly point to the fact that Americans spend less of their disposable income percentagewise on food than any other people. The American taxpayer has saved a substantial sum of money, because of increased farm production, and we have witnessed a significant rise in farm income, to the point where average per capita income for farmers is now virtually even with the average for the Nation as a whole, compared with a rate of only 65 percent of the nationwide averaged during the previous decade.

This success closely parallels the deemphasis of governmental regulation and involvement in agriculture, and this is no coincidence. It represents living proof that agriculture operates best in a free economy where Government involvement is held to a minimum and farmers are left free to produce what they want to for an open market.

ESTATE TAX EXEMPTION

Farmers simply ask that Government treat them fairly and allow them to go about their tasks unencumbered by excessive regulation. Farming has long been based on the family, where farms have been passed on from one generation to another. It is simple fairness, as well as good economic policy, that they be allowed to do this without having their farms confiscated or heavily mortgaged through stiff inheritance taxes. The present estate tax exemption is no longer relevant to the current situation, and in order to rectify this, I introduced legislation last year to increase the exemption from $60,000 to $185,000.

In testifying on behalf of this legislation before the House Ways and Means Committee earlier this year, I pointed out that a typical family farm in central Illinois might average 300 acres in size, but may now be worth $450,000 in value. When the head of the family dies, the estate tax as presently constituted will likely force the surviving family members to sell as much as one-quarter of the acreage in order to pay it, or else go heavily into debt.

I told the committee:

> We ought to be working to preserve family farms, not destroy them.

I am pleased that the legislation in a somewhat altered form was included in the tax reform bill recently sent to the President. The enacted legislation is not as good as I would like to have seen it, but it does in effect gradually increase the exemption from estate and gift taxes over a 5-year period to $175,625 by providing a unified credit against such taxes. The credit will amount to $47,000 in 1981.

The bill also provides that an executor may elect to value a decedent's real property devoted to farming or other closely held businesses on the basis of such property's value as a farm or closely held business, rather than its fair market value, if this would reduce the value of the estate.

OSHA REGULATIONS

Many regulations prescribed by the Occupational Safety and Health Administration have been excessive in nature, and this is true for farming as well as other occupations. In the case of small farms, however, safety and health really relate to commonsense, and they do not have to be prescribed by Government regulation. This is why I strongly supported an amendment to our Labor-HEW appropriation bill this year which exempts farms with 10 or fewer employees from OSHA regulations. I urged support for the amendment during debate in the House Chamber by pointing out that if there is one thing that causes a reduction in farms, it is regulations of the sort that OSHA prescribes in many instances, which drive us further in the direction of large corporate farms:

> Our family farmers cannot put up with these kind of silly regulations. By enforcing these kind of unrealistic conditions on the family farmer you just force him to throw

in the towel and sell out to some corporate entity.

I am pleased to report that we achieved acceptance of this language in a conference with the Senate and that is now the law.

UNEMPLOYMENT COVERAGE

A setback for farmers occurred this summer when the House passed an unemployment compensation bill which among other things would require the coverage of agriculture workers of employers with four or more workers in 20 weeks or who pay $10,00 in quarterly wages for agriculture services. I opposed this legislation, because I did not feel there was any justification for Congress to impose any additional burdens on our farmers. Not only would this extended coverage add to a farmer's ever-growing expenses by requiring many farmers to pay unemployment compensation taxes, but it would encumber him with substantial additional paperwork. Unfortunately, the regulators, carrier the day in this instance, but hopefully, we will be able to knock this language out before Congress completes action on the legislation.

ENERGY

In order to produce, farmers need to be assured of the necessary energy supplies, and I have introduced a number of bills during the past 2 years which would stimulate increased energy production and try to place us on a self-sufficient basis as a nation. In particular, I have sought, both through legislation and through intervention in a Federal Power Commission case, to expedite approval of a natural gas pipeline from Alaska through Canada to the Midwest. We need the natural gas supplies that Alaska has in the worst way, and there is simply no reason for any more delay.

INFLATION

Inflation is one of the biggest threats to the farm family's livelihood, because it results in increases in expenses and production costs without guaranteeing any increases in farm prices. Excessive Government expenditures represent the chief cause of inflation, and there is perhaps no single Member who has made a greater effort to keep down spending than have I. I have had to vote against a number of good sounding bills with worthy objectives, not because of the goals, but simply because the cost was more than we could afford. Quite a few good sounding bills were vetoed, because of their high cost, and those vetoes to date have saved us $9.2 billion, which has resulted in a lower budget deficit by that amount. This has helped to bring down inflation to just 5.4 percent annually, and has made $9.2 billion in loan money available for private borrowing that otherwise would have been gobbled up by the Treasury.

We as a nation simply cannot afford continued undisciplined expenditures, and I for one will be continuing to do everything possible to insure that our Nation remains on a sane course, with Government policy geared toward a level of expenditures that will not impose tax and price increases on the American citizen.

A TASK FORCE TO STUDY REAL PROPERTY TAXES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. GILMAN. Mr. Speaker, middle and fixed income taxpayers have reached the limits of their ability to absorb increasingly burdensome school, local, and Government taxes, the heavy Federal and State income taxes, the escalating payments to the social security program, substantial State and municipal sales taxes and to meet the soaring costs of living in an economy strained by high levels of inflation and unemployment. This distressing economic condition and unbearable tax burden has contributed to citizen distrust, frustration and apathy. It has abused those who are most in need of assistance: the disadvantaged, the handicapped, and the economically dislocated. And, Mr. Speaker, it is the middle- and fixed-income taxpayers who pay more than their fair share of income and property taxes, who feel this burden the most, and who now require relief from this heavy strain.

Our taxpayer's plight is understood in noting the extent of taxes imposed in my congressional district in New York. For example, in the last 5 years in Orange County, N.Y., taxes soared from $49,923,043 to $90,072,806. Since 1970, property taxes for the residents of Newburgh, N.Y. more than doubled from $2,205,063 to $4,621,522, a tax rate of 58.96 per $1,000 on property assessed at full value.

For many of my constituents, whose real estate has been reassessed at 100 percent, it is not uncommon to pay real estate taxes of $2,500 on a $55,000 home, or for a taxpayer in a $40,000 home assessed in 1968 at 50 percent valuation to have paid property taxes of $1,584 and in 1975 pay a tax of $3,200 on the same home reassessed 100 percent at $80,000.

In that same period, others have experienced a threefold increase in property assessments. The special exemptions and assessments accorded to our veterans and farmers have been eroded by inflation and by increased assessments, virtually wiping out the intended assistance.

It was recently reported that in Hardenburgh, N.Y., an Ulster County village bordering on my congressional district, property taxes increased three to four times in the last 6 years with total assessed property amounting to $21 million, of which $5 million is tax exempt. Their town supervisor reported that in 1970 his school taxes were $450 and his town and county taxes were $350. His school tax this year is $2,000 and he "expects his town and county taxes to double that amount." In order to obtain relief from these crushing tax burdens, 236 Hardenburgh citizens—or half of the town's residents—have become ordained "mail-order ministers" in order to achieve a tax exempt status for their "parish house." Unfortunately, this places the burden of financing school, town and county services on the remainder of the town's populace.

Added to the grim economic picture are the increased costs of running our governmental institutions. Citizen demand for government services, fed by an inflationary economy and high rates of unemployment, has resulted in staggering burdens on most governmental programs: schools, fire and police protection, public works, and social services are expensive programs that depend primarily upon property taxes as the source of revenues, a source that has approached the limits which taxpayers can meet.

Within the past decade, the cost of social services to Rockland County, N.Y. increased by more than 1,000 percent: from $4,500,000 in 1965 to $41,900,000 in 1975. In 1965, social services constituted 37 percent of the county's total budget. Confronted with such staggering costs for demanded government service and assistance, it is no wonder that the Town of Ramapo, in Rockland County, recently adopted a resolution requesting Congress to federalize the costs of social services.

Since statistics are a cold, impersonal source of information, permit me to present a clearer picture of the urgency of this problem, by sharing with my colleagues some of the thoughts expressed by my constituents.

A government employee from Rockland County states:

> Taxes in Rockland are costing me my home—You are losing one of your staunchest supporters to high real estate taxes . . . taxes are skyrocketing and I can't afford to live here and be near my children.

Commenting on my proposed property tax relief bill, H.R. 12926, which provides a Federal income tax credit of not more than $500 to homeowners or renters whose real estate taxes or rent payments exceed 5 percent of their adjusted gross income, a senior citizen from Pearl River, N.Y. writes:

> Your property tax relief bill is . . . a step in the right direction. I am 73 and its getting worse each year. I do not want to leave Rockland County as we still have good air and water here.
>
> But this year I will have to fork over over $2,500.00 for school and county taxes.

From Newburgh, N.Y. a troubled taxpayer writes:

> It's about time the government became more realistic about what middle income is and how much an average family of 3 or 4 needs to live.
>
> My electric bill has tripled, so we build nuclear plants in foreign nations. My food bill has at least doubled, so we sell food to Russia. We sent rocket ships to Mars and play ball in enclosed stadiums. Why not grow food in climate controlled enclosed stadiums and develop nuclear energy here in the U.S.A. and what about solar energy? We can make rocket fuel but not gas! I don't understand . . . Sometimes I wonder why bother! Maybe we should all quit work and make the U.S.A. a total welfare state.
>
> How about some honest relief for the average worker? How about a cut in property tax? or income tax, or fuel bills or electric or food or insurance? My God even my insurance bills are outrageous.
>
> How about it Mr. Gilman? How about some real honest moves to help the real people in the U.S.A., the worker, the homeowner, the parent trying to put his children through school?

Well, how about it, my colleagues? Most of you have heard similar complaints. How does Government effectively respond to the needs of these citizens . . . the average American, the middle-class individual who is caught in the economic web of soaring cost-of-living expenses, unbearable Federal, State, and local taxes, intolerable levels of inflation and unemployment? It is this person who not only pays his taxes but who also supports the welfare abuses and the unemployed.

It is this same taxpayer who is also so resentful about Government waste and excessive expenditures of taxpayers dollars, who violently reacts to bribery and corruption, who is frustrated by the lack of responsiveness of our institutions to meet the needs of our citizens, and who receives a decline in the economic, political, and moral fiber of this Nation. Is it any wonder that this citizen, burdened by crushing taxes and an inflated economy, shrugs and asks: "Why bother? Why should I participate in the political process?"

What can we do to help alleviate this distressing condition? One need is abundantly clear: the Federal Government must take on the initiative in finding an alternative to the crushing tax burden being shouldered by our middle and fixed income taxpayers, and it must find an alternative to the dependence by State and local governments upon property taxes as their major source of revenues. Although real property taxes have traditionally been a State matter—and for local governments this constitutes approximately seven-eighths of their revenues—it is imperative that Federal, State, and local officials find an alternative method of financing local governmental programs. And we cannot afford anymore patchwork legislation on this subject. Federal, State, and local officials, together with interested citizens groups, must join forces to help resolve this pressing issue.

Mr. Speaker, in order to help resolve this issue, I am today introducing legislation to establish a Task Force on the Taxation of Real Property by State and Local Governments that would study and evaluate the taxation of real property by State and local governments, the effects of such taxation on certain taxpayers, and the feasibility of Federal taxation and other policies designed to reduce the dependence of State and local governments on real property taxation. This task force would be composed of representatives of State and local governments, members of the academic community, and citizens groups and associations concerned with the taxation of real property.

The task force would study the means by which State and local governments could reduce their dependence upon real property taxes including: First, the waiver by the Federal Government of its immunity to State and local taxes, second, Federal grant-in-aid and loans to State and local governments to assist such governments in providing services that otherwise are supported by real property taxes, third, the utilization of other forms of taxation in place of the real property taxes, fourth, ways to redistribute tax burdens, and fifth, the consolidation of local political subdivisions for purposes of equitable distribution of tax burdens.

The task force would also take a hard look at the need for reforming tax exempt property, including the property of Federal, State, and local governments, charitable, educational, religious, humanitarian, and philanthropic organizations, to determine whether a tax liability could be imposed on those organizations without unduly impairing their activities and contributions to society.

These tax exempt organizations place an undue strain on the tax structures of local communities. At least 45 percent of the property in Boston is reported to be tax exempt, 33 percent in both Pittsburgh and St. Louis, and 32 percent in St. Paul, Minn. In 1970, the New York State Joint Legislative Committee to Study and Investigate Real Property Tax Exemptions—of which I was a member as a New York State Assemblyman—found that the tax exempt real property in New York State amounted to $22.7 billions—or 30.1 percent of the total assessed valuation—of which $16.2 billions—or 71.4 percent—was tax exempt property located in New York City and that nearly $6.5 billions—or 28.6 percent—was located outside the city of New York. The committee also found that 39 cities in New York State were handicapped by tax exempt property ranging from more than 25 percent for Peekskill to 78 percent in Watervliet. The amount of real property that receives tax exempt status, thus eroding the local tax base upon which local government draw their revenues, indicates that tax exempt property is an important area for the task force to examine.

The task force will also be required to submit a report of its findings, conclusions, and recommendations—including legislative proposals—to the President and the Congress.

Mr. Speaker, there is an urgent need for such a task force to study real estate property taxation. I welcome the thoughts, suggestions, and support of my colleagues.

CHASE ECONOMETRICS REPORT SHOWS NEED FOR H.R. 50

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. HAWKINS. Mr. Speaker, I believe that it is absolutely vital for the Nation's economic health that the Members fully understand the dismal prospects for our economy that the next several years holds unless we enact legislation along the lines of H.R. 50, the Full Employment and Balanced Growth Act of 1976, now ready for action by this House. The latest economic forecast for the next several years just released by the Chase Econometrics organization spells it out in clear language that all can understand. In essence the report indicates that the economy is headed downward again and will begin to steadily worsen over the coming years.

Note: The full text of the new revised bill appears at pages 31021 to 31028 of the CONGRESSIONAL RECORD of Friday, September 17, 1976, and an explanation appears in the RECORD of Tuesday, Septemper 21, 1976, on pages 31702 to 31705.

The report follows:

FORECASTS OF AUGUST 25, 1976—EXECUTIVE SUMMARY

The lackluster 4.3% increase in real GNP last quarter is likely to be followed by an equally unimpressive 4.2% increase this quarter. The decline in retail sales in July, which brought them below March levels, serves as a clear indication that the consumer has recently become more cautious and pessimistic in his views about the near-term outlook. At the same time, the inflation picture is worsening. The consumer price index (CPI), which rose 4% in the first quarter and 5% in the second, is expected to increase 6½% in the current quarter and 7½% next quarter. A similar pattern can be observed for the industrial component of the wholesale price index (WPIIND) which rose 6% in the first half of the year but is expected to climb at an 8% rate in the second half.

The recent sluggish growth of the economy indicates that real GNP will grow at only a 5% rate for the next four quarters, down from our earlier estimate of 6%. As a result, the probability of shortages occurring late next year has been reduced. While this change in the forecast is relatively small in comparison to the overall GNP and employment numbers, the difference between 5% and 6% growth represents the critical zone affecting bottlenecks and shortages. While individual situations must still be monitored continuously, the chances of shortages occurring for major materials are now much less likely.

The inflation picture continues to look unsatisfactory for the next six quarters, although not quite as bad as previously projected. We expect the CPI to rise 7.5% during 1977, down from our previous estimate of 7.9%, and the WPIIND to increase 11.2%, down from 11.6%. The differences will be more marked in the second half of the year; here our estimates for the CPI and WPIIND are now 8.3% and 10.9%, down from previous forecasted values of 8.8% and 12.8% respectively. Because of the somewhat lower levels of inflation, we do not expect monetary policy to be quite as ruthlessly stringent as we had assumed earlier. We still expect short-term interest rates to rise some 250 basis points during the course of 1977, which would indicate peak levels of the Treasury bill rate at 8%, the Federal funds rate at 9%, and the prime rate at 10%. These estimates are approximately 1% lower than our earlier projections.

The forecasts of slightly lower growth, and hence of somewhat lower levels of inflation and interest rates, have virtually no effect on our forecast of a recession in 1978. The natural cyclical mechanism of the economy, plus the decline in real personal and corporate incomes due to rising rates of inflation, will accomplish this even without an assist from shortages and another credit crunch. The reasons for this are discussed in this month's ANALYSIS.

The growth in consumer spending from the recession trough in 1975.1 to present levels has been slightly above average. Even the current pause is not unusual, as retail sales have a habit of stalling in the fifth or sixth quarter of recovery and in fact have done so in every single postwar upturn. As long as real disposable income continues to rise at better than a 4% rate and credit conditions remain easy, we expect a resurgence of consumption in the coming quarters.

In contrast, the behavior of fixed business investment has been extremely disappointing. Purchases of producers durable equipment in constant dollars stood at $76.9 billion in 1975.1; last quarter they had advanced only to $77.0 billion. It is now clear that businessmen, stung by the unexpected fury of the last recession, decided to wait longer than usual in order to determine whether the current recovery would be for real. The recent pattern of new orders strongly suggests that capital spending will rise rapidly from now until mid-1977. However, once the current orders-inventories-shipments cycle has ended, the miniscule amount of momentum remaining will be insufficient to keep the economy afloat. As a result, we see the rate of real growth diminishing to 2% in the second half of 1977 and actually declining throughout most of 1978.

The downward-revised figures for the second quarter, coupled with our forecast of mediocre growth this quarter, now indicate that this recovery is less vigorous than the average postwar boom. Thus it is even more puzzling to observe the steadily worsening pace of inflation in recent months. As discussed in this month's report, this upward surge in prices cannot be tied to sharply higher unit labor costs. The increase in unit labor costs would support a rate of inflation of about 6%, but no higher. The additional inflation is due to higher prices of energy and imported raw materials, inadequate capacity in many key industries, slower growth in productivity, additional costs of government-mandated programs, and recovery of past costs which were not passed along during the past two years.

Thus in spite of some minor modifications in our forecast this month, our overall outlook for the next two years remains basically unchanged. We expect real GNP to grow at a 5% rate through mid-1977, and then decline to the 2% range in the latter half of next year. Inflation will reach the double-digit range during much of next year. These events will cumulate in an actual downturn in real GNP which is expected to last through most if not all of 1978.

FACTS REGARDING S. 521

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. MURPHY of New York. Mr. Speaker, a few weeks ago the Wall Street Journal undertook an editorial attack on what they termed "Murphy's Law," which was the Outer Continental Shelf Lands Act amendments reported by the committee which I chair, the Ad Hoc Select Committee on the Outer Continental Shelf. I responded to the editors, who published an abridged, but relatively accurate account of my position, and that of the committee's, on the legislation.

The administration has engaged in delaying tactics throughout the entire legislaitve history of this bill, and has been joined at this late date in a concentrated attack by the oil industry and lobbyists on the completed version as approved by the House and Senate conference committe a few days ago.

Such an attack on the bill was printed in the September 17 issue of the Wall Street Journal, a date which left little time for a public response to such an inaccurate and misleading piece of misinformation.

In the interests of providing the Congress with the facts regarding S. 521, which we expect to vote upon today or tomorrow, I would like to include in my remarks the full exchange of correspondence in and to the Wall Street Journal:

[From the Wall Street Journal,
Sept. 8, 1976]

[Letters to the Editor]

REPRESENTATIVE MURPHY REPLIES

Editor, The Wall Street Journal:

Your edtiorial, "Murphy's Law" (Aug. 31) is, at best, inaccurate, and in fact intentionally misleading and deceptive.

Both the Senate and the House have passed amendments to the Outer Continental Shelf Lands Act after numerous hearings. The bill was not, as you claim, "drafted" by me. It was prepared by all members of the OCS Committee and by the full House.

Your editorial makes it appear that this bill has no support. Not only is it supported by almost all coastal states and environmental groups, but is supported by the AFL–CIO, smaller oil companies and the gas distributors throughout the country. In fact, the opposition to the bill comes from the larger oil companies, the seven "sob" sisters, and not from the general energy industry. It should be remembered that these large companies are the same ones that capitulated and are capitulating to the Arabs.

You ask, "What's wrong with the current system?" It is anti-competitive, potentialy unsafe, irrational and antiquated. Present OCS leasing policies do not consider the requests for rational protection of the environment, for consideration of the legitimate interests of coastal communities, for balancing short-term against long-term needs and for improving the safety conditions for workers.

The OCS bill is recognized by most as a moderate attempt to update an outmoded 1953 law, which, despite your unsupported statements to the contrary, has not worked well.

In specific response to your misstatements, the record of offshore drilling is not superb. By discussing only the Gulf of Mexico, you failed to recognize the enormous damage resulting from the 1969 Santa Barbara oil spill. In addition, you did not mention the serious, often fatal, accidents to divers and other workers on off-shore facilities. You do not mention that the administration has reversed the policy of gradual development it undertook in the Gulf and has now decided to accelerate lease sales in all previously undeveloped areas with enormous impact on previously untouched coastal communities.

You stress that OCS administration is "financially sound." Yet in the Baltimore Canyon lease sale, Exxon—the largest oil company—was able to secure one-third of the leases offered; the top seven oil companies, either alone or as the lead party, obtained 75% to 80% of the leases. This is not competition. It is oligopoly.

Moreover, your use of the term "Mom and Pop" explorers is an insult to many multimillion dollar energy companies, including gas distributors. Smaller companies have been drilling most of the wells onshore and now seek and equal opportunity offshore. Gas distributors have been supplying natural gas to their customers for years and now seek an opportunity to eliminate the middleman and produce their own gas. Alternative systems required by the bill are not untested; they are used successfully by many foreign countries and by states now leasing or licensing their lands.

You indicate that none but the seven sisters will efficiently exploit resources. Present Interior Department regulations, which would be substantially improved by the new OCS bill, provide for strict diligence requirements and penalties for premature abandonment. In fact, as demonstrated by a recent GAO report, shut-in wells and abandonments are more likely to occur when development is by the larger oil companies rather than by the small ones.

It is unfortunate that you state that the industry "may" only get a 7% return on its investment on OCS leases. Calculation of bonus costs and exploration costs which have so far indicated a small return to producers does not take into account the fact that the fields already leased will continue to produce oil and gas for some time with a return to the government of only 16.6% per barrel. At our hearings, representatives of the oil industry indicated that they eventually expect to make a return far in excess of the 7% you suggest (Standard Oil of California and Shell indicated an eventual net income of 25% to 30%) especially in light of continually increasing prices for oil and natural gas.

You indicate that the bill requires the Interior Department to contract for exploration. There is simply no such provision in the bill. The industry and the Interior Department both agree that the 1953 OCS Act allows exploration prior to a lease sale, and in fact, such geological exploration has been conducted pre-lease since 1953. The proposed House bill does not in any way mandate government exploration, by contract or any other way.

Finally, it must be recognized that the Outer Continental Shelf is federal land—not private domain. A lease grants the right to explore, develop and produce—it does not grant the right to despoil. It is not only the desire, but the duty, of Congress to set policy, guidelines and standards for government property. It is not in the public interest to allow exploitation of public resources to be determined by a few uncontrolled companies.

JOHN M. MURPHY,
U.S. House of Representatives.
WASHINGTON.

MR. NANZ RESPONDS

Editor, The Wall Street Journal:

Congressman John Murphy's letter to you concerning your August 31 editorial on proposed Outer Continental Shelf petroleum legislation contains a number of inaccuracies and potentially misleading statements. For brevity, I wish to comment on only three points.

Mr. Murphy refers to my testimony before his committee as follows: "At our hearings, representatives of the oil industry indicated that they eventually expect to make a return far in excess of the 7% you suggest (. . . and Shell indicated an eventual net income of 25% to 30%). . . ."

Unfortunately, Mr. Murphy has confused industry's 25% to 30% share of the "eventual net income" with the 7% rate of return on its investment. In my testimony to Mr. Murphy's committee, as well as to other government bodies, I have repeatedly stressed the fact that industry makes large investments for bonuses, drilling platforms and development wells early in the cycle and must wait many years to recover its expenditures. The rate of return is the average annual rate of interest earned on an investment over the entire life of the venture and takes into account the time-lag of the receipt of income. It is this time-lag which results in a marginal rate of return of 7% for industry. On the other hand the government receives 70%-75% of the eventual net income. The government's share consists of the royalty of 16.6% per barrel plus bonuses, rents and taxes. In particular it gets a significant share of its income early in the cycle in the form of bonuses and rentals. The government's share (70%-75%) of the "profits" is certainly comparable to the "profit sharing" deals in foreign countries which some critics would tout as being more favorable.

Mr. Murphy states that ". . . the top seven oil companies either alone, or as the lead party, obtained 75%-80% of the leases. This is not competition. It is oligopoly."

As a matter of fact, in the Mid-Atlantic lease sale to which he referred, the eight largest oil companies obtained 53% of the ownership and the other 32 successful participants obtained 47%. Moreover, 141 companies other than the top eight domestic producers have participated in the last 19 OCS sales and have acquired on the average about half the interests in all of the leases.

Mr. Murphy states that, "The proposed House bill does not in any way mandate government exploration by contract or any other means." However, the proposed House bill states that "(g) at least once in each frontier area, the Secretary shall seek qualified applicants to conduct geological exploration, including core and test drilling, for oil and gas resources in those areas and subsurface geological structures of the Outer Continental Shelf which the Secretary . . . regards as having the greatest likelihood of containing significant oil and gas consumption."

In looking for intent in legislation one looks to the committee report on a bill. On page 93 of Mr. Murphy's committee report on the proposed House bill, it is stated that "Subsection (g) requires the Secretary of the Interior to secure applicants to conduct . . . drilling. . . ." The House bill says "shall seek"; the committee report says "requires . . . to secure." Is that a mandate or not?

In summary, this legislation is unnecessary and, in fact, would only disrupt the current sound and productive leasing program. Most important of all, the legislation would unnecessarily increase the federal government's role in the exploration program, result in less oil and gas found for the nation; seriously delay the development of OCS oil and gas; and increase the nation's dependence on imports.

R. H. NANZ,
Vice President, Shell Oil Co.

HOUSTON.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 21, 1976.
EDITOR,
The Wall Street Journal,
New York, N.Y.

DEAR SIR: I feel it necessary to respond to the letter of R. H. Nanz, Vice President of Shell Oil Company, published on September 17, 1976.

Mr. Nanz implicitly denies that he told our Committee that his company expected to make a return in excess of 7% on its OCS investment.

At our June 7, 1975 hearing, Mr. Nanz stated that his estimate of the 5-7% rate of return was based on the 1973 price of oil ($4 to $6) and not the 1975 or 1976 price ($12); and that companies bid on the basis that and believed that increased prices will result in a greater rate of return.

In an October 1975 study, the Bureau of Competition noted that the present discounted rate of return of 7.5% does not consider the doubling of the price of oil from 1973 to 1975 and the real discounted rate of return will be much, much higher. The Bureau cited Interior Department and economists' studies to conclude that the Government, under present bidding procedures, may not be receiving full value on its resources.

Mr. Nanz next states that I was incorrect in saying that the top seven oil companies obtained 75-80% of the Mid-Atlantic leases. My statement was that the top seven oil companies "either alone or as the lead party" obtained that percentage, and it is totally correct. The statistics are as follows: Of the 93 lease tracts awarded, Exxon obtained 30 leases; Chevron's group obtained 13 leases; Shell's group obtained 8 leases; Gulf's group obtained 3 leases; and Texaco's group obtained 2 leases. Thus, six of the largest seven oil companies obtained, either alone, or as the lead party of a group, 68 of the 93 leases or over 73% of the leases awarded.

Mr. Nanz states that the eight largest oil companies obtained "only 53% of the ownership." When a large oil company is the lead or principal party of a group, it controls that group, all exploration and production activities, and the oil and gas found. Respected journals, including the Wall Street Journal, the New York Times, the Washington Post, and the Oil and Gas Daily, recognized this when they reported that the "big winners" of the Mid-Atlantic sale were Exxon, bidding alone, and these five other majors as leaders of groups.

Finally, Mr. Nanz again raises the question of government exploration. Again, I state the proposed new OCS law does not in any way mandate government exploration. One provision, quoted by Mr. Nanz, does provide that the Interior Department is to seek qualified private exploration companies as applicants for exploration permits, at no cost to the Federal government, to conduct drilling operations in the areas of high likelihood of oil and gas. These companies have been, for twenty years, obtaining permits for pre-lease drilling off a structure believed to contain oil and gas, and most oil companies have participated in consortiums to conduct such drilling. Never before has this been called "government exploration." Now, a requirement to seek "qualified applicants" to conduct drilling on a structure believed to contain resources is such drilling. The accusation is simply inaccurate.

The House and Senate have now resolved the differences between their respective versions of the OCS Land Act Amendments of 1976. The compromise is a moderate bill that would promote the swift, orderly and efficient exploration and production of offshore oil and gas; secure a fair return for the Federal government for the leasing of federal lands; provide for the protection of the environment; insure participation by State and local governments; and improve safety conditions.

Sincerely,

JOHN M. MURPHY,
Member of Congress.

THE CONFERENCE REPORT ON THE ARTS, HUMANITIES, AND CULTURAL AFFAIRS ACT OF 1976, H.R. 12838

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mrs. MINK. Mr. Speaker, I rise to express my strong support for the conference report on H.R. 12838, the Arts, Humanities, and Cultural Affairs Act of 1976.

The House and Senate conferees have worked out a fair compromise between the House and Senate versions of this important legislation. Chief among their concerns was who would appoint members of the State humanities councils. Currently these members are appointed by the Director of the Humanities Endowment. Their counterparts on the arts council are, however, appointed by the State government and the Senate-passed legislation suggested that the State be empowered to appoint humanities council members as well.

The conferees agreed that there was a place for State influence in the humanities councils and they have provided the States with an option to appoint 50 percent of the council's membership. If they choose to make these appointments, the State must assume an increasing share of the humanities council's matching requirement. Under current procedure this matching requirement may be met with either public or private funds. If the State should choose to appoint 50 percent of the humanities council, however, the State would assume this matching requirement: 50 percent of the amount above $100,000 in the first year, 100 percent of the amount above $100,000 in the second year, and the total matching amount in the years thereafter.

I feel this is a fair compromise and will insure that those states which wish to have a larger say in Humanities will back this up with a larger financial commitment to the program. The conferees have likewise agreed on the location of the Museum Service Institute. The Senate bill would have placed the museums program in the Endowments; the House bill placed the program in HEW arguing that the significance of science and technology museums was great and these very popular museums would not readily fit into the endowments' arts and humanities interests. In fairness to the great variety of museums the House felt the best location for the Institute would be HEW. The House position has prevailed; the Museum Services Institute will be located in HEW.

With regard to the challenge grants, a new concept designed to encourage greater private contributions to the arts and humanities, the conferees agreed to a funding level of $12 million for the first year and $18 million in authorizations for the second. The Bicentennial challenge grant, a separate Senate title, has been folded into the humanities challenge grant program.

On overall funding the conferees have agreed to $93.5 million for the Arts and Humanities Endowments in fiscal year 1977, $105 million in fiscal year 1978 and such sums as may be necessary in fiscal year 1979 and fiscal year 1980. The conferees also agreed to the Senate proposal for an American Bicentennial photography and film project. The conferees agreed, however, to scale the project down from its original 4-year length and $5 million annual authorization to a 2-year program with $4 million authorized for its first year and $2 million for its second year. The conferees likewise agreed to a more modest arts education program, placing it in the Office of Education and limiting its funding to 1 year, fiscal year 1978, at a $2 million authorization level.

I urge my colleagues to give the conference report on H.R. 12838 their wholehearted support. I believe the compromise expressed in the report reflects a strong commitment to the arts and humanities and to the very important place of the endowments in American cultural life. The programs are solid and the authorization levels are realistic. I urge you to join with me in voting for this conference report.

MOST-FAVORED-NATION STATUS

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. McKINNEY. Mr. Speaker, last week, the Subcommittee on Trade of the House Ways and Means Committee conducted oversight hearings to ascertain whether or not this country should extend the most-favored-nation status to Rumania.

I am sure that a number of my colleagues are aware that Rumania has proven to be a most active participant in this arrangement. However, Hungarian Americans are rightfully upset that our Government has failed to exert the pressure necessary to keep Rumania's emigration policy open. Since the agreement on open emigration was an important factor in bringing Rumania the most-favored-nation status in the first place, I think it is very necessary that both the Trade Subcommittee and the Senate Finance Committee which is conducting similar oversight hearings, carefully review that country's compliance with this agreement. At this time, I would like to take the opportunity to share my testimony on this issue with my colleagues:

TESTIMONY OF THE HONORABLE STEWART B. MCKINNEY

Mr. Chairman, for thirteen months, Rumania has enjoyed the "most favored nation" status in trading with the United States. In granting this nondiscriminatory tariff treatment, Congress attached certain conditions for the Rumanian government to meet as an indication of its good faith. I would like to commend you and this committee for conducting these oversight hearings which will enable the Congress to determine whether this preferential treatment should be continued.

The United States, long a leader in developing international trade is committed to the principle of interdependence among all nations. This concept implies an unrestricted trade policy. However, as you know, this ideal approach has not always been reciprocated by our trading partners. In recent years, another element has been introduced to trade negotiations that goes far beyond such traditional issues as tariffs and "dumping". Specifically, I am referring to the practice of linking trading rights to human rights.

When the House considered the "most favored nation" status for Romania in July of 1975, I felt that Romania's behavior in both political and economic affairs demonstrated that she deserved such trade treatment by the United States. Among the Eastern European states—the sole exception being Yugoslavia—the firmest rejection of the Moscow-dictated foreign policy line had come from President Ceausescu's government. The independence of this approach was evidenced by Romanian relations with countries outside the Soviet sphere, most notably, the United States and Israel. In addition, she has proven her dedication to the international trading system through membership and active participation in such organizations as the INF, GATT, UNCTAD and the World Bank.

Economically, Romania has been a solid and active participant in various East-West trading arrangements. Also, her major exports can be helpful in satisfying the demands for oil equipment and other energy related materials. Other benefits that might accrue from improved U.S.-Romanian trade ties include the expansion of joint venture activity and increased penetration for American products in "East-bloc" markets.

Unfortunately, the information I have seen indicates a return to a more restrictive emigration policy on the part of the Romanian government. In the two hundred years that have passed since our country was founded on a basis of individual freedoms and human rights, we have encouraged all nations to extend this same treatment to their people. In pursuing this goal with Romania, both the President and the Secretary of State must impress on the Ceausescu government the fact that freedom of emigration must be practiced in conjunction with the "most favored nation" status; not used as a tool whereby one obtains that status, only to disregard the emigration issue in the ensuing months.

Though the trade issue is tied directly only to the emigration policy, I do not think it is possible for this committee to get a total view of the emigration problems without also examining the internal policies of the Romanian government. Certainly, the restrictive and suppressive policies which are presently being practiced against the Hungarian and German cultures within Romania do not bode well for any liberalization of the tightening emigration policy we have all witnessed in the past few months. In fact, the anti-Hungarian actions seem to be forming the backbone for a new "image" Romania wants to impress on the world. I should think that the Ceausescu government would be the first to recognize that this "image" can prove very counterproductive toward continuation of the "most favored nation" status.

Mr. Chairman, thousands of American citizens, with family ties to the country of Romania, are looking to these hearings to provide a thorough examination of the record of the past eighteen months. This committee's report, as well as the report of the Senate Finance Committee which has concluded similar hearings, will be of invaluable assistance to those of us who must determine if special preference continues to be warranted by Romania in conjunction with the Trade Act of 1974. Whatever the outcome, I think it is necessary that the United States continue to emphasize the importance of human rights as well as the economic benefits to be gained from granting such privileges. Thank you.

EVERY 10TH AMERICAN

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. DRINAN. Mr. Speaker, in recent months I have held two forums on the economic problems of older Americans in my congressional district. Over and over again we hear that large numbers of older citizens, most of whom are dependent on social security or other retirement income, simply do not have the dollars they need even for essentials. They are the most economically disadvantaged group in fighting the battle of inflation. Instead of being able to enjoy life in their later years they are plagued by worries about their survival. They give up a meal or medicine to meet a utility bill, they give up going to the doctor because medicare is costing more and paying less, and with all this giving up they must somehow be able to keep a reserve for the one cost which always must be met, the rent or property tax needed to keep a roof over their heads.

Here in Washington we hear a lot about "holding the line" on the budget and the Congress has had to fight for adequate support for programs affecting our older population. Our generation and the children of our generation are the beneficiaries of the legacy that has been left to us by the senior citizens of this land. They have kept the faith and now in troubled economic times, this Nation must keep that faith with them.

Does "social security" mean doing without one necessity so that I can afford another?—

There can be little doubt that the single most beneficial program ever enacted by Congress to provide some measure of economic security to older Americans is the social security program. We all have a stake in this program because both young and old, those who are working and those retired share in participation.

One aspect of the program which I am particularly interested in is its ability to respond to increases in the costs of goods and services that older Americans must purchase. For the most part, social security is the mainstay of an older citizen's budget.

In recent years the Congress included an automatic cost-of-living adjustor in the social security law. In 1975 the President recommended placing a 5-percent ceiling on the 8-percent increase which was due that July. The Congress soundly defeated that attempt. The cost-of-living adjustor was intended to make benefits inflation proof and it was nothing short of cruel to suggest a ceiling on the benefit increase. The Congress must act further to provide cost-of-living increases at least twice a year so that older citizens will be better able to meet cost increases as they occur.

Moreover, action must be taken to base cost-of-living increases on the real increase of costs in goods and services purchased by the older population. Currently cost-of-living increases are based upon the Consumer Price Index. This index is derived from the purchasing pattern of a family of four and in my view is an inadequate tool for measuring increased costs to the elderly. Expenditures for housing, food and medical care constitute about 70 percent of older Americans' budgets while less than 60 percent of younger workers' income is devoted to such needs.

They told me there was a cost-of-living increase coming in my SSI check—but I didn't get it—was there some mistake?—

Through a joint Federal-State arrangement, the supplemental security income program was intended to provide a minimum income floor for the aged, blind, and disabled. Because the States were never forced by law to pass along Federal cost-of-living increases in the SSI program to recipients, that intent has not been fulfilled. Just this past July many SSI beneficiaries heard of a 6.4-percent cost-of-living increase but found that it did not show up in their checks.

In the recent past the House of Representatives approved an amendment to the program which forces the States to pass along cost-of-living increases in full to SSI recipients. Although Massachusetts provided a 5-percent increase this year the amendment requires that in the future the full Federal cost-of-living increase will be realized.

> All I have is the home my husband and I bought 20 years ago and they tell me that because of it I cannot get SSI—I thought that program was supposed to help people like me—

A serious problem with this program is the restriction on home value which keeps from eligibility an individual who owns a home valued at more than $25,000. Massachusetts' law requires a 100-percent evaluation for tax purposes and this fact, along with the rising cost of property, makes the $25,000 figure totally unrealistic and inadequate for Massachusetts and most other States. Many otherwise eligible older citizens have been denied assistance merely because they have been able to hold on to their homes. Homeownership among older citizens does not stand as a sign of affluence, but more likely as a result of years of sacrifice and hard work. I recently fought for an amendment to the SSI program which was accepted by the House that would remove home value in determing eligibility for the program.

> It seems to me that what I get from one hand of the Federal Government is being taken by the other—

Increases in social security have had the cruel effect of causing reductions in other programs such as in veterans' pension. In most Federal programs where financial need determines eligibility, social security increases are considered as additional income and can result in benefit reductions from other programs. These cost-of-living increases were intended to provide a means for keeping pace with inflation and in my view are in no way a bonus.

I voted for legislation which ups the income limitation of the veterans' pension program so that this past July's cost-of-living increases will not reduce pension benefits. I also supported an amendment to a housing bill which exempts cost-of-living increases in determining the rent paid by older citizens in public housing.

One person who wrote to me about this problem stated the situation well when he said:

> It appears that what is being given by one hand of the Federal Government is being taken by the other.

In my view a more equitable solution to this problem would be to remove cost-of-living increases from consideration as income in the veterans' pension program.

> I did some work after the kids were grown but they tell me I won't get any social security even though I paid in—

Women are more likely to be alone in their later years, more often widowed, less likely to remarry and more likely to be unemployed. This group has one of the highest incidences of poverty and we must devote our attention to their special needs.

In their middle years many women lose their one source of retirement income—wife's benefits under social security. This is due to the growing divorce rate after 15 years of marriage and the fact that the social security law requires a 20-year duration for a marriage before a divorced wife can be eligible for a benefit. In my view this requirement must be modified. Women who have served as homemakers and have thus made it easier for their husbands to have careers should not be denied social security because the marriage did not last 20 years.

The social security law should also be changed to provide greater recognition to the contributions of working wives and to eliminate those situations in which a working couple receive less in social security benefits than a couple with the same total earnings where only the husband worked.

As pointed out earlier, older women are less likely to remarry but when they do they shortly find that their social security benefit is reduced almost in half. This is because the law requires that a remarried widow revert back to receiving a wife's benefit. Widows should not be discouraged from remarriage under the social security law nor should they suffer a benefit reduction.

> Has health care too become something for the "haves" and not the "have-nots"?—

A decade ago the Congress enacted the medicare law and in so doing established this Nation's commitment to protect the health of older Americans. Yet health protection has diminished through soaring medical costs and the failure of medicare to cover preventive health care costs, prescription drugs, dental and visual care, and hearing aids.

Older Americans more than the younger population have a vital need for out-of-hospital prescription drugs yet because they cannot always afford them they are likely to do without. In lieu of a national health insurance program, the medicare program should be expanded to meet these health needs which place an ever increasing drain on the budgets of older citizens. No older citizen should be forced to do without health care because it involves a choice of one necessity over another.

If the program covered preventive health care services such as a yearly physical many older citizens might be spared anguish and cost further down the line.

The Congress rejected the administration's catastrophic health insurance program because in fact this proposal would have increased costs for 97 percent of medicare hospital patients. Under the proposal a medicare patient hospitalized for 30 days would have paid $450 compared with $104, the present deductible for the first 60 days of hospitalization.

The Congress also took steps to prevent loss of medicaid coverage due to social security and SSI benefit increases.

A Government survey showed that more than a quarter of all older patients in hospitals and nursing homes throughout the United States have no medical reason for being there and could live in their homes if appropriate services were available.

With this in mind, the Congress enacted the Health Revenue Sharing Act over the President's veto of this bill. This law makes funds available for home health agencies and expands the services under home health care to include increased visiting nurse care, home aide assistance and physical therapy.

> I have made many friends at the center where I go for a hot meal and I hope the Congress will continue this program—

Eleven years ago the Congress provided the first real momentum for focusing our national attention on the unique problems of growing old in this Nation through passage of the Older Americans Act. The Older Americans Amendments of 1975 perhaps more than any other proposal, symbolized administration and congressional differences of opinion on aging issues.

The administration sought cutbacks in this program and refused to provide adequate funding levels in its budget for the programs of the act. Nonetheless Congress stood by its initial commitment. Under the act increasing numbers of older Americans participate in the hot meal program and the Meals on Wheels program and the 1975 amendments set new funding targets for the States in the areas of transportation services, in-home services such as general household tasks and legal services. Also the model projects section of the act was expanded to include ombudsmen services to nursing home residents.

> They should not put me out to pasture just because I turned 65—nothing else changed and I want to keep working—

The 1975 amendments to the Older Americans Act contained the precedent-setting move of including a prohibition on discrimination based on age in employment under any program which receives Federal financial assistance. The U.S. Civil Rights Commission was also authorized to study the problems of age discrimination in employment and report back to the Congress.

Hopefully this new law will provide the incentive for a change in mandatory retirement policies. A recent poll showed that 86 percent of the American people oppose mandatory retirement.

As we move through the last quarter of this century we must adjust to the reality that more and more of our population is 65 years of age and older. While in 1900 1 out of every 25 Americans were 65 and older, today that proportion is 1 out of every 10 amounting to 22 million citizens. And by the end of this century it has been estimated that the number will increase to 30 million or 12 percent of our population.

In the past few years the Congress has enacted programs like foster grandparents, retired senior volunteers and the senior community service employment program. Although the administration vetoed an emergency employment appropriations bill which included $30 million for the older American community service employment program, the Congress included these needed funds in another bill. It has been shown that older citizens participating in these programs have provided valuable services to their communities and coworkers.

This Nation must increase its use of the great resources of the older population and should abandon policies which assume that the individual can no longer be productive after reaching age 65.

An added encouragement to continued employment would be the removal of the restriction on earnings under the social security law. Many people who remain employed after reaching age 65 do so because they need that income to maintain a decent standard of living and they should not suffer loss of social security or a reduction in benefits because they have the opportunity to remain in the work force.

It is evident that there is a pressing need for Federal action on many fronts in addressing the problems of our older population. But legislative initiatives alone will not accomplish the important task. Whatever strides we make will serve no purpose if they are not accompanied by a change in our attitudes about old age. We must break down the isolation that keeps our older citizens from participating fully in the mainstream of American life.

DISTRICT OF COLUMBIA GUN CONTROL

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. DENT. Mr. Speaker, lest partisans promoting the District of Columbia City Council's harsh gun control proposal seek to misconstrue the reasons for yesterday's action regarding House Resolution 1447, I wish to place this event into perspective with the legislative history of the District of Columbia Self-Government and Governmental Reorganization Act as originally enacted and further clarified by H.R. 12261 (Public Law 94-402).

While I can understand the concerns of my colleague Dr. RON PAUL in offering his resolution of disapproval on this gun control proposal, I agree with you, Mr. Speaker, that action on the resolution is not in order because it is unnecessary. Congress has already dealt with the matter. Furthermore, consideration of the District's gun bill on the merits of the issue lends undeserved distinction to a measure that is illegal.

The District of Columbia City Council derives all its authority to enact legislation from the Home Rule Act. It has been established beyond doubt that the City Council's attempt to enact additional gun control measures clearly exceeds the authority delegated to the District under home rule. In section 602 (a)(9) of the Home Rule Act, Congress clearly and unambiguously forbade the Council from passing any law with respect to any provision codified in title 22 of the District of Columbia Code. Title 22 contains among other things various provisions dealing with gun control. It is difficult to conceive of broader or more inclusive language than that used in section 602(a)(9). Congress obviously intended to freeze all legislation dealing with the criminal laws of the District of Columbia, including those dealing with gun control for the 2-year period ending January 2, 1977. The language of section 602(a)(9) prohibits any amendments, alterations, modifications, or supplements of the criminal laws of the District. Thus, the passage of the Firearms Control Regulations Act of 1975 by the City Council was completely outside the scope of their authority under the Home Rule Act.

Furthermore, the recent passage of H.R. 12261, signed into law by the president on September 7, 1976 clarifies the meaning of section 602(a)(9). H.R. 12261 amended section 602(a)(9) to make clear that the City Council had no authority to pass any gun control legislation until January 3, 1977, and to extend to that prohibition until January 2, 1979.

The amendment will not affect any then existing criminal laws passed by the District of Columbia City Council, namely those passed prior to the passage of the Home Rule Act. The police regulations, promulgated in 1969, for example, are completely unaffected by the passage of the Home Rule Act or the passage of H.R. 12261. However, the Home Rule Act in section 602(a)(9) as amended by H.R. 12261 does apply—and was intended to apply—to any legislation affecting any subject dealt with in title 22 and passed between January 3, 1975, and January 2, 1979. The Firearms Control Regulations Act, enacted July 23, 1976 is a classic example of such legislation.

Despite the obvious illegalities of any D.C. gun control measure acted upon during the moratorium, Council gun control advocates have attempted to manufacture a loophole in the home rule law. They have maintained that their sweeping gun control bill was lawful under the guise of an amendment to the city's police regulations. No matter the label, it is abundantly clear that both title 22, and the Firearms Control Regulations Act, specifically deal with the subject of gun control.

The Home Rule Act prescribes avenues for Congressional disapproval of two types of action on the part of the District of Columbia government. It prescribes simple resolutions to disapprove actions amending certain portions of the law, among them the criminal law; and specifies concurrent resolutions to disapprove all other matters. The Home Rule Act does not, however, offer any means of nullifying an improper action taken by the city government. Congress simply assumed that the city would not attempt to exceed the authority delegated to it.

To wipe away any false patina of legality with which the City Council attempted to coat its bill, I introduced my amendment to H.R. 12261, which passed this body by a resounding 262-92 vote and was adopted by a voice vote in the Senate, and later signed by the President. The sense of the Congress that the D.C. gun control bill is illegal has thus been reaffirmed by H.R. 12261.

MINORITY BUSINESS PROGRAM

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Ms. ABZUG. Mr. Speaker, the National Shoe Retailer's Association have run a successful program for minority businesses since 1972. They have serviced over 575 clients and 275 stores and are currently engaged in the management and aid of 162 stores. An excellent illustration of this program is the case of Edwin Figueroa, who successfully runs two shoe stores in Manhattan and the Bronx. He has just been selected as a director of the National Shoe Retailers Association. I would like to take this opportunity to insert in the RECORD an article describing Mr. Figueroa's success:

NSRA's MINBOP DIRECTOR

(By Irving D. Brown, Administrator, MINBOP)

"Both morally and economically, we will not realize the full potential or our Nation until race or nationality is any longer an obstacle to full participation in the American marketplace." So spoke the President of the United States in 1969, and in October of that year, the Office of Minority Business Enterprise (OMBE) came to life under Executive Order No. 11458.

To implement OMBE, affiliate organizations were created throughout the United States to aid, in cooperation with the Small Business Administration and commercial banks, the procurement of equity money for minority businesses.

The National Shoe Retailers Association contract for MINBOP was granted in June 1972. It is administered by Irving D. Brown with four Deputy Administrators: John DeYoung, Ignacio Perez, Joel Sparber and Edward Snyder individually having 12 to 35 years experience in shoe store operations.

The NSRA Directors, at the Administrator's request, volunteer to aid the MINBOP Program. Their local support augments the staff by providing supplementary coverage that otherwise would be impossible with the limited budget from the OMBE grant. Since its inception, MINBOP has serviced over 575 clients and 275 stores, and is now actively enagaged in the management and technical aid to 162 stores.

Eddie and Ozzie Figueroa, Puerto Rican brothers, illustrate a case of the enterprise system's realities existent for the prospective entrepreneur. As Spanish speaking citizens, they are entitled to the full benefit of the President's orders.

Eddie Figueroa was born in Puerto Rico in 1942. His family moved to New York, where he attended school. Eddie was forced to drop out of high school in his senior year to help his family make enough money to live.

Without a high school diploma, Eddie took a job on a factory line, but he wasn't satisfied with that, and soon became a file clerk for a Wall Street firm. He held several other positions, and soon moved into retailing, first as a manager of the Ladies Sportswear Department of a New York store, and eventually at his father-in-law's family shoe store.

His father-in-law's store was not enough to support two partners, so Eddie moved on and in late 1972, he and his brother Ozzie decided to open their own shoe store.

In November 1972, the young brothers entered the MINBOP offices, referred by the South Bronx Economic Development Corporation. They had little knowledge of the shoe industry, but they were motivated to become members of the American Business Community.

A location of the West Side of New York City was selected for their store. MINBOP negotiated a lease with the landlord favorable to the appraised potential volume.

The next obstacle was financing. Two commercial banks rejected any direct loan, so the package was sent to the Small Business Administration (SBA). The SBA had no available funds, but they forwarded the package to a commercial bank for a loan acceptance with a government guarantee. The bank approved the loan and the brothers had a $32,000 loan plus their own $10,000 for a total investment of $42,000.

The allocated leasehold improvements were accomplished and the furniture and fixtures were acquired. The next step was to assist the brothers in selecting the correct vendors and stock. This was all accomplished with the managerial and technical assistance of MINBOP.

In 1975, the Figueroas came upon an opportunity in the Bronx to open another store. A burned out corner store which the landlord proposed to rebuild and rent for $2,400 per month. Eventually, the landlord offered to rent the store for $1,500 per month plus three months' concession if the alterations were performed and paid for by the brothers. They agreed and were able to rebuild the store at an incredibly low cost of $14,000. In order to capitalize this business, their original loan was re-financed for a total of $50,000, from the original $32,000. They subsequently rented the mezzanine space in the new store at $750 per month, reducing their own rental costs by one-half.

The progress of the Bronx store is proceeding at an annual rate of $150,000. This year's total volume of the two stores is expected to be $350,000, compared to $100,000 last year in one store. This was accomplished with the $50,000 loan vs. the original $32,000. They hope to continue to develop replicas of the present stores and eventually own several more.

The Directors of the NSRA were so impressed with the performance of the Figueroas and the manner in which they have created a good shoe business, that they elected Eddie Figueroa a Director of the National Shoe Retailers Association. Mr. Figueroa is the first MINBOP assisted retailer to be named to the NSRA Board. We welcome him.

DEDICATION OF THE JACHMAN RESERVE CENTER

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. LONG of Maryland. Mr. Speaker, I should like to share with my colleagues the remarks I made on September 19, 1976, at the dedication and memorialization of the new U.S. Army Reserve Center at Owings Mills, Md. The center is named in honor of Baltimore Congressional Medal of Honor recipient, S. Sgt. Isadore S. Jachman. The speech follows:

DEDICATION OF THE JACHMAN RESERVE CENTER

I commend Meyer Sokolow, past Commander of the Maryland Jewish War Veterans, for his untiring help in this tribute to Staff Sergeant Isadore S. Jachman. Secretary of the Army Martin R. Hoffman has sent as his representative a distinguished Veteran, William D. Clark, Deputy Assistant Secretary of the Army for Reserve Affairs, who himself received the Distinguished Service Cross, Silver Star and Purple Heart.

I have received a personal note from Brigadier General James A. Couttes who is unable to attend the dedication due to a temporary illness. General Couttes writes, "It was a great honor to my regiment to have Staff Sergeant Jachman in it as a gallant trooper."

Construction of the Jachman Reserve Center was begun in December 1973 and completed in March 1976. Built by the William F. Wilke Company of Parkville at a cost of $2 million, the 1,000-man reserve center will house the following units of the 97th U.S. Army Reserve Command:

818th Maintenance Company
326th Maintenance Battalion
2071st U.S. Army Reserve School
826th Military Intelligence Company
243rd Ordnance Company

Jewish Participation in American Wars—The Jewish people have an outstanding record of participation in the military history of the United States.

CIVIL WAR

10% of Jewish men served in both the Union and Confederate Armies and Navies.

7 Jews are known to have won the Congressional Medal of Honor.

There were over 600 Jewish officers: 9 Generals, 18 Colonels, 8 Lieutenant Colonels, 40 Majors, 205 Captains, 325 Lieutenants, 48 Adjutants, 25 Surgeons.

After reviewing the conspicuous service rendered by Jews during the Civil War, Mark Twain stated that any slur upon their patriotism was a slander.

SPANISH AMERICAN WAR

Although records are not complete, available sources indicate there were at least 5,000 Jews in service. [In 1898 the War Department granted over 4,000 furloughs for the observance of Rosh Hashanah and Yom Kippur.]

The number of all American troops in service was 280,000 (or 4/10 of 1% of 74 million population); the number of Jews in service was 5,000 (or 5/10 of 1% of 1 million population).

Casualties: 2% of all men under arms were wounded or killed; 2% of Jews under arms were wounded or killed.

WORLD WAR I

157,285 Jews served in World War I (2,087 from Maryland alone).

3.3% of the 90 Congressional Medals of Honor were conferred on American Jews; 200 Jews received the Distinguished Service Cross.

75% of Jews in service were in combatant branches.

While Jews were only 3% of the total population during World War I, they constituted 4% of the men in the army and navy. Over 40,000 were volunteers.

Nearly 10,000 Jews served as commissioned officers.

WORLD WAR II

550,000 Jewish men and women served during World War II—the equivalent of 37 divisions.

The number of Jews in service was equal to, or higher than, the proportion of Jews in the general population.

Almost 1/3 of the Jewish soldiers were casualties.

Close to 17,500 Jewish men and women received citations for valor and merit, many of them posthumously like Sergeant Jachman.

ISADORE S. JACHMAN, STAFF SERGEANT, COMPANY B, 513TH PARACHUTE INFANTRY REGIMENT

Young Jachman studied at the Talmudical Academy and was a graduate of Baltimore City College. He was a student at the University of Baltimore when the war broke out.

Enlisting in 1942, Jachman was assigned to Fort Benning, Georgia, as a physical training instructor. Having trained so many men to go overseas, he felt obligated to go himself and volunteered for overseas assignment.

Jachman was assigned to the 101st Airborne and in January 1945, found himself fighting in the Battle of the Bulge. The Baltimore paratrooper was awarded posthumously the Congressional Medal of Honor "for conspicuous gallantry and intrepidity above and beyond the call of duty at Glamierge, Belgium."

Transcript of Sergeant Jachman's citation: "On January 1, 1945, when his company was pinned down by enemy artillery, mortar, and small-arms fire, two hostile tanks attacked the unit, inflicting heavy casualties. Sergeant Jachman, seeing the desperate plight of his comrades, left his place of cover and with total disregard for his own safety dashed across open ground through a hail of fire and, seizing a bazooka from a fallen comrade, advanced on the tanks, which concentrated their fire on him. Firing the weapon alone, he damaged one and forced both to retire. Sergeant Jachman's heroic action, in which he suffered fatal wounds, disrupted the entire enemy attack, reflecting the highest credit upon himself and the parachute infantry."

We honor ourselves, the people of Maryland, and the people of the U.S. in honoring Isadore Jachman and in today naming this the Jachman Reserve Center.

NEWSLETTER

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. WOLFF. Mr. Speaker, from time to time I send the residents of my district in Queens and Nassau Counties a newsletter, in hopes of keeping them better informed about the activities of the Congress. I would like to share with my colleagues today my latest newsletter:

Dear Friend and Constituent, as the 94th Congress enters the final phase, it is important for me to report on my legislative efforts in your behalf as constituents, and to evaluate for you progress underway in the House of Representatives on issues affecting all Americans.

Recently, Congress passed a new piece of legislation which I co-sponsored, the "Sunshine Bill"—This opens all government agency proceedings to the public—This is long overdue. It is equally important for you to be fully aware of where your Congressman stands on the issues and his effectiveness as a legislator. Though some of my colleagues in the past have failed to inform their constituents, I have always attempted to keep you informed of my activities.

In recent issues of my Newsletter, I have dealt with specific issues of concern to our nation and our communities—the economy, drug abuse, health care. This special issue reviews legislative efforts over a succession of Congresses to bring into perspective the cause and effect of my continuing efforts to serve the constituents of the 6th Congressional District.

It is essential that you know my record and positions in the Congress—just as it is equally vital for me to know your views on the broad range of complex problems affecting our district and our nation.

Since I first entered Congress, I have striven to maintain two-way open lines of communication with my constituents, for I firmly believe that it is of paramount importance in our democracy to have all voices heard and for government representatives to provide opportunities and vehicles for citizens to express their opinions and to offer suggestions for resolving mutual problems.

To advocate and propose legislation and programs, I rely on many sources of information to guide me on the courses of action I take as your Representative. These sources are official reports, first hand investigation in the field, pertinent data gathered through intensive research, on study missions and in debate and imput provided by you, as expressed to me personally, in my mail or by response to questionnaires and surveys.

Once I have analyzed and assessed this information, I make what I consider to be the most responsible judgment on the issue. To make your voice heard I maintain one of the highest voting records in the Congress—94.5 percent on recorded votes this session alone. Be assured that this is an independent voice, reflective of your needs as well as those of your neighborhood and in the best interests of our nation.

Legislation does not happen in one day or one year, there are many steps taken before a policy becomes law, therefore, I am in this Newsletter chronicling those positions I have taken over the years to bring us up to date on legislative progress and the sequence of events that have led to today's laws.

The chronicle of legislation outlined on the following pages has been compiled from the Library of Congress and the CONGRESSIONAL RECORD. As always, I welcome your comments.

Sincerely,

LESTER L. WOLFF,
Member of Congress.

These remain difficult times for all Americans. The continuing pressure of inflationary costs has created severe strains on our nation's economic stability and has adversely affected the structure upon which our society is based. But the 94th Congress has acted and has produced a body of public law responsive to the crucial concerns of the American people.

In spite of the initial administration opposition, Congress enacted an extension of the income tax cut, major tax reform measures, an essential new jobs bill, anti-recession assistance to local governments, public works, highway and mass transit projects to accelerate construction and increase employment, and greater benefits for disabled veterans and Social Security recipients.

For the first time, the House this year considered appropriations bills for departments and agencies of the federal government on a step-by-step basis in line with spending legislation, thus proving that the new Congressional budget process is the appropriate vehicle to estimate government's funding needs and revenues and restrain excessive spending.

Congress' job was to advance economic recovery, restore cuts in vital domestic programs and sustain a strong national defense while trimming away the fat that bloats the bureaucracy. Action to meet these goals has been initiated—but a great deal more remains to be accomplished.

At the root of today's economic and social problems is the devastating impact wrought by the Vietnam War. Those years cost our nation more than $200 billion and still untold billions more in losses to our country's assets and resources in paying out veterans benefits and the like.

As one of the original co-authors of the Vietnam Disengagement Act, I co-sponsored the War Powers Act that restores to Congress its Constitutional role to determine our military involvements abroad and to prevent other Vietnams.

As you are aware, I have been battling drug abuse and illegal narcotics trafficking for many years. Vietnam was part of the blame for today's increasingly high incidence of addiction. Just think, 500,000 of our American troops were introduced to drugs during that war era—and how many are still plagued with addiction? How many of our military today in posts overseas are into the drug scene in one way or another?

My Select Committee on Narcotics Abuse and Control intends to find the answers to these questions and in the months ahead will investigate and hold hearings on the entire problem of the drug scourge. We must stop the addiction and trafficking of narcotics that has permeated our society or we will never be able to restore our nation's capability to curtail crime in the streets and enjoy a secure haven in our homes.

I am convinced that the only way we will stem crime is to attack the root causes of the evil—by eradicating the drug menace, by effective law enforcement, by enlightening education, greater employment and housing opportunities, and by strengthening our penal system through court reform and increased rehabiliation services.

Our citizens must be protected. We must seek needed change to erase the social ills that are basic to causes of crime. I am the co-sponsor of legislative measures to increase police manpower, especially in high crime urban and suburban areas and have co-authored bills to provide the victims of crime with tax deductions for their losses.

International terrorism—murder and plunder—cannot be tolerated. My amendment to cut off aid to any foreign nation that harbors international terrorists is now law included in the Foreign Aid Bill. Why should we give aid to those nations who contribute to terrorism?

United States foreign policy must come under closer scrutiny and be reviewed and redirected to adhere to the premise of American self-interest as our first consideration. We live in an interdependent world, but this does not mean we have to bankroll the world. We must be firm with those who receive our dollars and continue to beset us with problems. Foreign aid must have strings attached.

In line with this, I have consistently sounded a warning against the United States submitting to oil blackmail. The buildup of petrodollars (estimated at $1 trillion by 1980) by the oil producing nations threatens the future viability of this nation. While the world's need for oil remains critical, these third world states are using the petrodollars, our money, to gain a stranglehold on our country's assets and interests by investing heavily in U.S. industry, financial institutions, defense productions, real estate, natural resources and businesses.

I initiated the investigation by the General Accounting Office (GAO) of the Congress that substantiated my contention that the oil companies were anything but candid with the American consumer and, in fact, several were exporting domestic oil and then reimporting the same product as a foreign commodity to take advantage of favorable import regulations.

I have advocated constraints be applied on these practices and that the Justice Department strictly enforce the laws already enacted by Congress to protect the American consumer from shortages and price gouging.

Further, I oppose offshore oil drilling until such time that environmental protection safeguards are a certainty. We cannot afford a repeat of the Santa Barbara oil spill that despoiled hundreds of miles of valuable coastline. In an effort to prevent such an occurrence I authored legislation to protect Atlantic coastal areas from the threat of pollution through the establishment of marine sanctuaries.

Equally frightening as a major oil spill is the possibility that our offshore lands could be bought up, covertly or overtly, by Arab nations which then would control a substantial part of our domestic supply lines. We must instead of acquiesing to proponents of off shore oil drilling, implement a comprehensive energy program for our nation—one that involves both voluntary conservation and extensive research and development of alternate energy sources to free us from the control of the foreign oil producers.

If there is anything that has increased food prices here at home, it has been grain deals with the Soviet Union. This has been conclusively determined in another GAO report that cited these shipments abroad as responsible for the skyrocketing increases in American products from farm to table.

Since 1972, I have warned against these grain deals and that this forecast was correct has been proven in graphic terms at the supermarket check-out counters in the increased prices you pay for food. My legislation, The Export Priorities Act, would guarantee sufficient U.S. grain supplies to meet domestic needs at prices the American consumer can afford before any export commitments are permitted. This legislation would see to it that the needs of the American family are met first.

While I have been leading the effort in the Congress to deny U.S. landing rights to foreign supersonic aircraft, my concern with aircraft noise abatement has not been confined to the British-French Concorde. I have been seeking through the legislative process enactment of my bills to mandate retrofitting of existing commercial jet aircraft and to amend the Noise Control Act of 1972 to give the Environmental Protection Agency, instead of the Federal Aviation Administration, the power to control aircraft noise, for too frequently the FAA ignores the plight of people living in the wake of jet noise.

I believe, as I did five years ago, that supersonic aircraft have no place in commercial service until acceptable environmental and health standards have been instituted and are enforced to protect our citizens.

Some may not completely agree with my positions, but these are hard times and the United States must get its own house in order if we are to restore the world's and America's confidence in the future.

We must place emphasis on increasing our own economic stability first if we are ever to be able to help the unfortunate of the world who are dependent on us to survive.

We must direct our efforts towards increasing this nation's productivity through meaningful legislation if we are to recover from the economic woes that engulf our country.

Working Americans mean our nation's productivity increases—as more goods are produced, more services are provided. Working Americans mean more money is cycled back into the economy as consumer purchasing power increases. Working Americans means a greater tax base for federal, state and local governments to pay for needed services and capital improvements and vast savings in taxpayer dollars for unemployment and welfare assistance.

We must reorder our priorities to cut out the excesses of bloated budgets and bring our budget into real balance. We must use the necessary dollars for education, for the aging, the disabled and the indigent, for research and development of programs to correct the many problems confronting our nation, and for adequate medical care for all our citizens and to ease the burden of the forgotten middle America.

We must infuse new vitality into our industrial centers and rural communities. We must work to eradicate crime and poverty. We must not become isolationist but we must direct our efforts to serving America's self-interest to make a secure America from within as well as from our adversaries from without.

U.S. MARSHALS SERVICE 187TH ANNIVERSARY

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. ANNUNZIO. Mr. Speaker, today is the 187th anniversary of the U.S. Marshals Service which, since its establishment in 1789, has served the Nation courageously, conscientiously, and effectively. Throughout the years, U.S. marshals and their deputies have earned high praise in the performance of their duties, many of which have been highly dangerous. In its long and distinguished career, the U.S. Marshals Service has consistently and successfully adhered to the three words emblazoned on its emblem: Justice, integrity, and Service.

The U.S. Marshals Service was created by the Judiciary Act of 1789, which created 13 judicial districts with a marshal's office for each district. Each marshal was given two specific duties: First, to attend the district and circuit courts and also the Supreme Court when sitting in his district; and second, to execute throughout his district all lawful precepts directed to him under the authority of the United States. He was also empowered to command all necessary assistance in the execution of his duties and to appoint one or more deputies as needed.

The marshal was the original law enforcement officer in the Federal system and constituted the first line of defense on occasions of domestic disturbance. It is for the performance of law enforcement duties in the frontier areas of the new Nation that the images of U.S. marshals are ingrained in the public mind. Who can forget the fast-drawing lawmen who brought law and order to frontier towns. Hollywood and TV have successfully, if somewhat exaggerated, conveyed the marshal's life as one full of "novelty, spiced with danger and flavored with adventure."

There is no doubt that marshals' lives were often endangered. Sixty-five marshals were killed in one territory alone over a 5-year period. As late as 1889, an attorney general reported that "in certain localities no occupation is so dangerous as a faithful performance of duty by U.S. marshals."

And yet, despite incredible hardships and dangers, such marshals as Wyatt Earp, Bat Masterson, and Wild Bill Hickock helped to bring law and order to the West. In the process, they contributed significantly to the establishment of justice and the development of this great country.

Today, the activities of U.S. marshals are as crucial to our Nation as ever before. Those activities fall under two general headings: first, to support and protect the Federal judicial process and second, to perform Federal law enforcement functions for the Attorney General.

In support of the Federal judiciary, the U.S. Marshals Service is responsible for:

Court and personal security—marshals provide physical security of the courtroom and for those judges, attorneys and jurors who receive serious threats. The versatility of marshals was recently exemplified by Deputy U.S. Marshal William DeLodovico while he was assigned to protect Judge John J. Sirica. When Judge Sirica collapsed with a nearly fatal heart attack deputy DeLodovico administered the cardiopulmonary resuscitation which doctors feel may have saved the judge's life.

Service of court process—in carrying out this duty, marshals serve summonses and subpenas, arrest parole and probation violators, seize goods and subsequently sell or auction them under court orders, and collect and disburse Department of Justice and court funds.

Transportation of prisoners—during the course of a trial, marshals handle prisoners between jail and courtroom; if the prisoners are given a term of confinement, they are transported by the marshals to a penitentiary. The most recent publicized example of this activity involved Deputy U.S. Marshal Jane R. Jimenez who accompanied Patty Hearst during her recent trial.

The performance of Federal law enforcement functions for the Attorney General involves:

Control of civil disturbances—in 1971 the Marshals Service created the special operations group composed of 150 deputy marshals as a self-sustained mobile force capable of a Federal response to a civil disturbance or riot situation where military intervention is inappropriate. This group's extensive training in riot control and civil disturbance tactics and techniques makes it an invaluable tool in Federal law enforcement.

Protection of witnesses—in a crucial effort in the fight against organized crime, the Marshals Service provides protection for the witness and his family, and, if necessary, relocates them in another part of the country and gives them new identities.

Security programs—marshals serve in a liaison capacity between Defense Department and local and State authorities to arrange for local police protection for weapons in National Guard armories. They also participate in security escorts for nuclear warhead convoys in the North Central States.

Just as the U.S. Marshals Service contributed to the development of law and order and to the integrity and protection of the judicial system in the early days of our Nation, so it continues to perform those invaluable functions today. The history and contributions of the service have earned it many friends and admirers. Through their courage, devotion, and effectiveness, the men and women of the U.S. Marshals Service have long earned the admiration and gratitude of the Nation. I am certain that in the coming years they will continue to perform their duties in the same outstanding manner.

Mr. Speaker, I send my greetings to Mrs. Frank J. Higgins, executive director of the American Federation of Police, who has stimulated much interest in the U.S. Marshals Service, to the U.S. Marshal's Historical Society, Inc., and to all of the outstanding officers and members of these fine organizations. The names of the board of directors of the U.S. Marshal's Historical Society, Inc., follow as well as some of the names of the national staff of the American Federation of Police.

The board of directors of the U.S. Marshal's Historical Society, Inc. includes: Mr. Weyn Sallada, president; Honorable Donald D. Forsht, vice president; Mr. Albert Slugocki, secretary-treasurer; Honorable Jack V. Richardson, Mr. Roger P. Gibson, Mr. David R. Neff, Mr. James F. Crawford, Jr., and Mr. Robert Dale Williams.

Some of the officers of the American Federation of Police include: Chief Robert Ferguson, national president; Mr. Gerald S. Arenberg, executive vice president and director; Assistant Chief Gerald A. Strausbaugh, second vice president; Chief David E. Young, third vice president; Chief Willie W. Moore, fourth vice president; and D. B. Van Brode IV, executive secretary and treasurer.

PANAMA CANAL—PART II

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. McDONALD. Mr. Speaker, to continue my short program of placing in the RECORD information which the mass media does not disseminate, I present an article by George S. Petley dealing with the actual situation in Panama. Mr. Petley is a West Point graduate who studied history and political science at several graduate schools; he is fluent in Spanish, among other languages, and spent 2½ years in the Canal Zone. His article in the Review of the News on August 18, 1976, shows his firsthand familiarity with the situation, as well as his comprehension of the larger issues.

The article follows:

THEY'RE TRYING TO GIVE OUR CANAL TO THE REDS

(By George S. Petley)

While the mass media concentrate their efforts on developing a campaign to prepare for surrender of our sovereignty over the U.S. Canal Zone and the Panama Canal, another fundamental issue begs the asking: To whom are we trying to surrender?

Think for a moment. President Ford, Secretary of State Kissinger, and all of the official and unofficial organs of the "Liberal" Establishment are pushing just as hard and as fast as they dare to transfer control, administration, and ownership of our Canal to the present Government of Panama. Yet no one has asked the obvious questions: What evidence exists to suggest that the present Government of Panama could be depended upon to guarantee whatever U.S. interests may remain under a new treaty? What kind of people make up this Panamanian Government? How wise would it be to enter into *any* treaty with such a Government? Answers to these questions should help us to place what is happening in its proper perspective.

To begin with, the current Government of Panama, which officially calls itself a "Revolutionary Government," is a repressive dictatorship on the order of that of Idi Amin in Uganda. Political opponents are arrested without charge, tortured, murdered in the streets, and there is neither freedom of speech nor freedom of the press. Soldiers of General Omar Torrijos's *Guardia Nacional* stand armed and ready on every street corner. This is more than symbolic because the Torrijos Government came to power through a military *coup d'état*—at gun point—forcibly overthrowing the popularly elected Government of Arnulfo Arias only 11 days after President Arias took office in October 1968. No election by the people of Panama has been held since that illegal seizure of power eight long years ago, nor is any expected.

Naturally the voice of unity prevails in public. There are five daily newspapers in Panama, and every one voices essentially the same editorial comment. Since the Soviet Press Agency, Novosti, opened its offices in Panama City in January 1975, the official Communist Party Line, direct from Moscow, has been printed daily in *La Critica*. No journal dares deviate from that Line.

Panamanians who identify the Communist game plan live in fear but keep their mouths shut. They know what happened, for instance, to a Panamanian executive for Goodyear who was picked up by the *Guardia Nacional* in June of last year and held incommunicado for weeks in the military prison. His crime was that he had dared to speak out against the treaty negotiations!

Those businessmen who are so much as suspected of opposing Torrijos are confronted by the Communist-controlled labor unions with serious labor problems. The threat is ever present and very real. Recently, with the spotlight on Panama because of American concern about the negotiations, the Government has taken to deporting to Ecuador those business leaders who have been working behind the scenes to spread protest.

Earlier, when Torrijos was consolidating his authority, "disappearances" were arranged for those who opposed his dictatorial methods. Months later they would be found dead, riddled with bullet holes, and in some cases castrated. That was the fate of a prominent attorney named Ruben Miro, a Catholic priest named Hector Gallegos, and student leader Floyd Britton. Others known to have been murdered by the Torrijos regime include Andres Fistonich, Gonzales Santigo, and Andres Garcia Torres. There have been many more. The hard truth is that unwarranted arrest, torture, mutilation, and murder of the opposition are typical of the regime.

The Government of Panama has also been directly involved in smuggling heroin into the United States. In a special report issued in November 1971, Director of the U.S. Bureau of Narcotics and Dangerous Drugs John Ingersoll warned: "Panama is one of the most significant countries for the transshipment of narcotic drugs into the U.S. During the past 12 months 641 pounds of heroin were seized in the U.S. which had transited through Panama." In January 1972, Myles Ambrose, former head of the Bureau of Customs, reported that involvement in the Panama-based heroin ring "reached into the highest levels of Panamanian officialdom and included Moises Torrijos, brother of Omar Torrijos, and Panamanian Foreign Minister Juan Antonio Tack. This involvement was confirmed by BNDD officers in the Republic of Panama on February 23."

That is the same Juan Antonio Tack who signed the "Principles of Agreement" with Secretary of State Henry Kissinger which anticipates a transfer of ownership of the Canal to Panama! Moises Torrijos is today Panama's Ambassador to Algeria, seat of the Tricontinental operation founded in Havana in 1966 to coordinate terror and drug shipments on three continents. So the bosses of Panama to whom Kissinger is trying to give our Canal are not only tyrants and murderers, they are also drug pushers. And there is more.

Only one political party is now permitted in Panama, the so-called "Peoples Party," headed by Omar Torrijos. All others are outlawed. Well, most others. No restrictions are attached to members of the Communist Party who personally advise Torrijos, working with his Government and inside the University of Panama to develop revolutionary programs and prepare for guerrilla warfare against the U.S. Canal Zone.

The Rector of the University, Romulo Escobar Bethencourt, is a lifelong, self-avowed member of the Communist Party. So complete is Bethencourt's hatred of the United States that he fired a visiting American professor named Hector Roux for making a speech in which he actually dared to praise American technology. Roux was discharged within the week without a peep from anyone about "academic freedom." At the University, Bethencourt also makes sure that the Communist-controlled "Student Federation," headed by Roberto Gomez, stays on target and provides the "pressure from below" whenever it is needed. Student leader Gomez is an avowed Communist.

One of the top three or four advisors to General Torrijos, Comrade Bethencourt has also attended frequent Communist strategy conferences in Havana and has long maintained close ties with Castro. On one occasion his late friend Ché Guevara stayed at the Bethencourt home while traveling through Panama.

The increasingly overt ties with Communist Cuba are of great significance. Initially, Comrades Torrijos, Tack, and Bethencourt moved secretly to and from Cuba. They were first observed meeting in secret with Aleksei Kosygin in Havana on March 1, 1971. With the passage of time they have lowered the veil. A nonstop shuttle by Air Panama between Havana and Panama City has been operating since Panama openly extended diplomatic recognition to Communist Cuba in August 1974. It is now reported that large boxes arriving in the early morning hours from Havana carry weapons which are distributed to Communist guerrillas descending on the isthmus from Cuba and neighboring Latin American countries.

The Cuban Embassy in Panama City is at least as large as the U.S. Embassy. It contains many employees and program directors on special assignment for developing such Communist projects as educational and agrarian "reform." Castro regularly voices his support for Panama's "strugggle for liberation." And, during the most recent Torrijos visit to Cuba, Castro honored him by personally pinning the "Jose Marti Medal" on the Panamanian dictator. In his acceptance speech, Torrijos referred to Castro as an "example and a light" to be followed regardless of the cost. The controlled Panamanian press praised the close ties between the two leaders, declaring that much could be learned from the "Cuban liberation process."

Still there is no formal proof that Omar Torrijos is a member of the Communist Party, though it is widely known that he is not articulate in his Marxism. His chief claim on Communist sympathies appears to be his intense hatred of the United States—which trained him, incidentally, at Ft. Gulick in the Canal Zone. He is a notorious drunkard, was infamous as a coward while a junior officer, and has grown very wealthy on graft. But he is now boss of the ruling Peoples Party, which has great significance as we shall soon see.

Among the top Torrijos advisors is Professor Sabino Vargas, who has boasted that the 1972 Panamanian Constitution was modeled after that of Cuba. Professor Vargas is currently operating out of the Ministry of Education, implementing the New Educational Reform Movement that requires school children to accept military training similar to that provided in Communist China. A typical Vargas operation was the Sovereignty Art Contest conducted in all the schools last July. The winning picture showed the Panamanian flag being raised over the Canal while every building in the U.S. Zone was being burned. Torrijos later asked that this inspiring picture be displayed in his office.

No doubt Professor Vargas was also responsible for the symbolic burning of the 1903 Treaty which took place in every school in Panama on November 18, 1975, the anniversary of the historic signing. As chance would have it, November 18th was the same day Ellsworth Bunker returned to resume treaty negotiations with the arrogant Panamanian negotiating team. To heighten the humiliation and squeeze it for all its worth, Torrijos bid farewell to Bunker after a short visit by declaring: ". . . and don't come back until you can give us something more specific. . . ." While Ellsworth Bunker smiled his sickly smile, the Panamanian wolves called us "gutless sheep"!

With the recent resignation of Foreign Minister Juan Tack, the game of musical chairs has shifted the members of Panama's negotiating team, but all of them are bitterly anti-American and committed Marxists. They are Aquilino Boyd, who replaced Tack as Foreign Minister; Dr. Jorge Illueca, who replaced Boyd at the United Nations; Dr. Carlos Lopez Guevara; Diogenes de la Rosa; Dr. Julio Yau; and, Nander Pitty, Panama's delegate to the Organization of American States. Anyone with an ounce of sense would think twice before negotiating with such fanatics.

Other highly placed Communists who occupy advisory positions in the Torrijos Government include Carlos Changmarin, who was Panama's official representative to a Communist Party Conference at Bogota in 1974; Chief Justice Juan Materno Vasquez; and, Rodrigo Garcia and Carlos de Perez Herrera, both colonels with top assignments in the *Guardia Nacional*.

But remember, all of these men, as well as all government officials in Panama, are members of the Peoples Party, Which means that the Peoples Party is a Front for the Communists.

During late February and early March of this year the 25th Communist Party Congress met in Moscow. The first such Party Congress since 1970, it was attended by the key leaders of all the Soviet-oriented Communist Parties in the world. Its purpose was to set down the Party Line for those Comrades under discipline. For instance, the United States was represented by Carl Winter of the Communist Party, U.S.A., a member of the politburo; the Communist Party of Cuba was represented by politburo member Armando Hart Davalos; and so on down the list of Communist bosses throughout the world. But we find that Panama was represented by politburo member Cesar de Leon . . of the Peoples Party!

So the name "Peoples Party" is merely window dressing to deceive the unsuspecting and prevent the real purposes of Communist Party operations in Panama from being known. This approach is not new in the books of Communist strategy.

Castro, you will remember, played the same game. He came to power on January 1, 1959, as head of the 26th of July Movement. The Communist Party and the Revolutionary Student Directorate existed as separate entities. But in 1961 Castro merged all three under the umbrella of the Integrated Revolutionary Organization (O.R.I.), reorganizing that into the United Party of the Socialist Revolution in 1963. It was not until 1965, *six years after Castro took power*, that the Communist Party openly replaced the United Party and officially took command of all activities in Cuba, exactly as had been done in other Communist satellites.

So we are forced to conclude that the Government of Panama is a Communist Government, which means that Torrijos and his goons are merely advance agents whose purpose is to carry out Communist global strategy as directed by the Soviet Union. Consider the objective.

The third phase of Lenin's three-step plan for world conquest is the strategic encirclement of the United States. The formula recognizes the importance of the Panama Canal, which caught Lenin's eye as early as 1917, and necessitates the buildup of a powerful and very modern navy capable of dominating all the major waterways of the world.

At the 25th Party Congress, Leonid Brezhnev boasted that due to the rapidly escalated growth in Soviet naval forces the Kremlin's influence had been greatly increased throughout the world. The Soviet Navy now contains 2,732 vessels compared to 483 for the United States.

Let us remember also that the Soviet Union already has a large naval base at Alexandria, Egypt, which enables it to control the Suez-Red Sea route. It also has a major naval base at Odessa on the Black Sea to control the Dardanelles. The former British base at Aden and the former French base at Mers-el-Kebir in Algeria are now occupied by the Soviets.

Of tremendous importance is the massive buildup of Soviet naval strength in the Indian Ocean, first observed in 1972, along with its newly constructed submarine base at Visakhapatnam on the Bay of Bengal. The Strait of Malacca was made vulnerable to Soviet control by the withdrawal of U.S. forces in Southeast Asia, while control of the Strait of Gibraltar has been shaken by developments in Portugal.

When we examine this Hemisphere we recognize that control of the vital Strait of Magellan was pulled out of the fire only by the overthrow of the Allende regime in Chile, and that a major Communist campaign is now being waged against the anti-Communist Government in Santiago to regain control of that waterway for the Reds. Meanwhile, the Soviet Union has a major submarine base at Cienfuegos on the southern coast of Cuba, needing only the Panama Canal—undeniably the most important waterway in the Western Hemisphere—to dominate our sea lanes.

Yet our leaders are negotiating with a brutal dictatorship operating as the advance agent of the Soviet Union in an international chess game where the loss of the Panama Canal would so jeopardize the United States as to subject us to the threat of a Soviet ultimatum. The hard truth is that we are involved in a life and death confrontation.

OVERREGULATION OF THIS NATION'S FARMERS

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. BRECKINRIDGE. Mr. Speaker, recently I have been receiving correspondence from my district regarding the excessive government regulations on this Nation's farmers. All too often we applaud increased government programs to aid various segments of society. In the rush we forget that regulations imposed may hinder, and indeed, retard progress.

Many of our farmers feel frustrated at their inability to prevent Washington agencies from descending upon their operations with forms, questions, regulations, and even threats.

The Kentucky Farm Bureau News has recently published an excellent article relating to excessive government rulemaking. Mr. W. Wilson Hourigan, an extension specialist for the University of Kentucky, has said it well in his "Do Excessive Government Rules Restrict Farm Decision Making?", when he points out that these regulations may have an adverse impact upon our agricultural community. The article follows:

DO EXCESSIVE GOVERNMENT RULES RESTRICT FARM DECISIONMAKING?

(By W. Wilson Hourigan)

The actions of many non-agricultural government agencies and the effects of their regulations on agricultural products and the conditions under which U.S. farmers operate their farms.

Many farmers feel that their farm operations are hampered and their freedom to make management decisions limited to such a degree that efficiency in their farm business is restricted.

Farmers feel frustrated when knowledgeable farm leaders do not have the opportunity for input into policy-making decisions affecting agriculture.

In some instances a regulation pertaining to one scale of operation may not be logical for operations of a different size. For example, requirements relating to working conditions for a large migrant labor force may not be valid for a commercial farm operation with fewer laborers and even less valid for a "family-operated" farm.

Many of the regulations of the Occupational Safety and Health Act relating to agriculture, such as rules for handling anhydrous ammonia and safety requirements on farm machinery, farmers understand. However, other rules providing "safe and healthful" working conditions for laborers leave the farmer puzzled and anxious. For example, reports of requiring "portable toilets" do nothing to lessen his anxiety.

ARMY CORPS

The Army Corps of Engineers is another example of an agency affecting agriculture and farming where the farmer feels he has little input into its decisions and regulations. Traditionally, the Corps has had jurisdiction over navigable streams in the United States. More recently this jurisdiction was extended to cover "all waters of the United States." This makes a big difference to farmers relative to "point discharge" into streams and "dredge and fill" operations.

Farmers feel frustrated in not knowing to what extent Corps regulations affect their farming operation and what constitutes compliance on their part.

EPA

Farmers feel they have long had a healthy concern for the environment and that many of their farming practices contribute to an improved quality of the environment. However, many regulations and proposed regulations of the Environmental Protection Agency give cause for concern on the part of farmers.

Agriculture is among the last major sectors of the economy to be involved in water quality. In contrast to waste water from manufacturing and municipalities, there is no long tradition of identifying, correcting and regulating water pollution from agriculture.

Also, in contrast to municipalities (which can raise fees through user charges) and industries (which can pass the cost of environmental improvement facilities on to consumers), farmers have little control over the price they receive for their products. There appears to be no equitable way for passing on the cost of environmental improvement on the farm.

An illustration is EPA's proposed pollutant discharge regulations for livestock operation which could require an estimated 94,500 operators to apply for permits.

By definition, an operation that discharges measurable waste to navigable water through a man-made conveyance system; has navigable water traversing the feeding or holding area; or meets capacity standards (at least 1,000 beef animals, 700 dairy cows, 450 swine, etc.) and discharges measurable waste from a storm of lesser magnitude than a 25-year, 24-hour storm event is a "concentrated animal feeding operation" and must apply for a permit.

Of the estimated 94,500 operations affected by these provisions, 14,000 are beef, 32,000 dairy and 48,500 swine. Estimates indicate that less than 4 per cent of the operations that could be affected have capacities of more than 300 animal unit equivalents (300 beef animals, 750 swine and 210 dairy cows). Over 70 per cent of the affected operations had capacities of less than 100 beef animals, 250 swine and 70 dairy cows.

In order to comply with the proposed regulations, it is likely that affected operations would have to install systems to control discharges. These systems could include simple diversion (15 per cent), complete holding pond and pump-irrigation (45 per cent) or some intermediate system (30 per cent). For an additional 10 per cent, the least-cost method of meeting proposed regulations would be to relocate the operation.

The proposed regulations also contain a further provision for identifying a "concentrated animal feeding operation." This provision allows for "case-by-case" designation of additional operations, regardless of size, that must apply for a permit. The basis for determination of these additional operations is not specifically provided in the proposed regulations.

While a "concentrated animal feeding operation" is an example of point source water pollution, separate regulations are being considered for non-point pollution sources. It is difficult not only to define which operation of an integrated farm are "point" and "non-point" sources, but also to separate the wastes in actual practice.

Soil erosion and silt are examples of non-point source of pollution from individual farmsteads. Fearing legal action, farmers are concerned they might have action taken against them at some point in the future if non-point pollution becomes a crime and if technological standards are promulgated. This open-ended threat disturbs them.

Among the many government agencies and regulations outside agriculture that affect agriculture the examples dealt with in this article serve to illustrate the interest and concern of farmers as to the effects on their farm business.

The collective effect of regulations from several different agencies can be considerable upon an individual farm business and upon aggregate agriculture.

Mr. Speaker, the Congress, in recognition of this multipronged assault on agriculture and small businesses by Federal agencies operating without the benefit of the advice of either the Congress or those Departments—such as USDA and Commerce—having jurisdictional responsibility for the well-being and economic viability of the small operator, is paying increasing attention to the problem. It should, and will, continue to do so—as will this Member.

PERSONAL EXPLANATION

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I was absent from the

Chamber when the House voted on rollcall No. 782. Had I been present, I would have voted "yea".

A DEMAND FOR A CONGRESSIONAL INVESTIGATION INTO THE ASSASSINATION OF MR. ORLANDO LETELIER

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. DRINAN. Mr. Speaker, I attach herewith for my colleagues the first part of an article recently published in the Nation magazine by Chile's former Ambassador to the United States, Mr. Orlando Letelier, assassinated in the streets of Washington on September 21, 1976.

As a former senior economist for the Inter-American Development Bank, Mr. Letelier was in a position to be devastating in his criticism of the efforts at economic recovery of the military regime which took over by force the government of Chile—with the assistance of the CIA and the U.S. Government.

In this article Ambassador Letelier criticized bitterly the attitudes of those who desire to send Chile large sums of money regardless of the military junta's outrages against human rights.

It is disconcerting indeed, Mr. Speaker, to contemplate the enormous amount of time, effort, and money which the FBI until recently expended on a fruitless investigation of the Socialist Party in America, while apparently the FBI had no knowledge of the violence brought about in an outrageous attack of terrorism that resulted in the murder of Mr. Letelier. If the FBI and other Federal agencies cannot get to the bottom of the unbelievable terror which occurred on the streets of Washington, then Congress itself will have to investigate this vicious murder.

Former Ambassador Letelier's article follows:

THE "CHICAGO BOYS" IN CHILE: ECONOMIC "FREEDOM'S" AWFUL TOLL

(By Orlando Letelier)

It would seem to be a common-sensical sort of observation that economic policies are conditioned by and at the same time modify the social and political situation where they are put into practice. Economic policies, therefore, are introduced *in order* to alter social structures.

If I dwell on these considerations, therefore, it is because the necessary connection between economic policy and its sociopolitical setting appears to be absent from many analyses of the current situation in Chile. To put it briefly, the violation of human rights, the system of institutionalized brutality, the drastic control and suppression of every form of meaningful dissent is discussed (and often condemned) as a phenomenon only indirectly linked, or indeed entirely unrelated, to the classical unrestrained "free market" policies that have been enforced by the military junta. This failure to connect has been particularly characteristic of private and public financial institutions, which have publicly praised and supported the economic policies adopted by the Pinochet government, while regretting the "bad international image" the junta has gained from its "incomprehensible" persistence in torturing, jailing and persecuting all its critics. A recent World Bank decision to grant a $33 million loan to the junta was justified by its President, Robert McNamara, as based on purely "technical" criteria, implying no particular relationship to the present political and social conditions in the country. The same line of justification has been followed by American private banks which, in the words of a spokesman for a business consulting firm, "have been falling all over one another to make loans." (See Ann Crittenden: "Loans from Abroad Flow to Chile's Rightist Junta," *The New York Times*, February 20.) But probably no one has expressed this attitude better than the U.S. Secretary of the Treasury. After a visit to Chile, during which he discussed human rights violations by the military government, William Simon congratulated Pinochet for bringing "economic freedom" to the Chilean people (*The Times*, May 17). This particularly convenient concept of a social system in which "economic freedom" and political terror coexist without touching each other, allows these financial spokesmen to support their concept of "freedom" while exercising their verbal muscles in defense of human rights.

The usefulness of the distinction has been particularly appreciated by those who have generated the economic policies now being carried out in Chile. In *Newsweek* of June 14, Milton Friedman, who is the intellectual architect and unofficial adviser for the team of economists now running the Chilean economy, stated: "In spite of my profound disagreement with the authoritarian political system of Chile, I do not consider it as evil for an economist to render technical economic advice to the Chilean Government, any more than I would regard it as evil for a physician to give technical medical advice to the Chilean Government to help end a medical plague."

It is curious that the man who wrote a book, *Capitalism and Freedom*, to drive home the argument that only classical economic liberalism can support political democracy can now so easily disentangle economics from politics when the economic theories he advocates coincide with an absolute restriction of every type of democratic freedom. One would logically expect that if those who curtail private enterprise are held responsible for the effects of their measures in the political sphere, those who impose unrestrained "economic freedom" would also be held responsible when the imposition of this policy is inevitably accompanied by massive repression, hunger, unemployment and the permanence of a brutal police state.

THE ECONOMIC PRESCRIPTION AND CHILE'S REALITY

The economic plan now being carried out in Chile realizes an historic aspiration of a group of Chilean economists, most of them trained at Chicago University by Milton Friedman and Arnold Harberger. Deeply involved in the preparation of the coup, the "Chicago boys," as they are known in Chile, convinced the generals that they were prepared to supplement the brutality, which the military possessed, with the intellectual assets it lacked. The U.S. Senate Select Committee on Intelligence has disclosed that "CIA collaborators" helped plan the economic measures that Chile's junta enacted immediately after seizing power ("A Draconian Cure for Chile's Economic Ills," *Business Week*, January 12). Committee witnesses maintain that some of the "Chicago boys" received CIA funds for such research efforts as a 300-page economic blueprint that was given to military leaders before the coup. It is therefore understandable that after seizing power they were, as *The Wall Street Journal* (November 2, 1973) put it, "champing to be unleashed" on the Chilean economy. Their first approach to the situation was gradual; only after a year of relative confusion did they decide to implement without major modification the theoretical model they had been taught at Chicago. The occasion merited a visit to Chile by Mr. Friedman himself who, along with his associate, Professor Harberger, made a series of well-publicized appearances to promote a "shock treatment" for the Chilean economy—something that Friedman emphatically described as "the only medicine. Absolutely. There is no other. There is no other long-term solution." (The quotation is from *El Mercurio* of Santiago, March 23, 1975.)

These are the basic principles of the economic model offered by Friedman and his followers and adopted by the Chilean junta: that the only possible framework for economic development is one within which the private sector can freely operate; that private enterprise is the most efficient form of economic organization and that, therefore, the private sector should be the predominant factor in the economy. Prices should fluctuate freely in accordance with the laws of competition. Inflation, the worst enemy of economic progress, is the direct result of monetary expansion and can be eliminated only by a drastic reduction of government spending.

Except in present-day Chile, no government in the world gives private enterprise an absolutely free hand. That is so because every economist (except Friedman and his followers) has known for decades that, in the real life of capitalism, there is no such thing as the perfect competition described by classical liberal economists. In March 1975, in Santiago, a newsman dared suggest to Friedman that even in more advanced capitalist countries, as for example the United States, the government applies various types of controls on the economy. Mr. Friedman answered: "I have always been against it, I don't approve of them. I believe we should not apply them. I am against economic intervention by the government, in my own country, as well as in Chile or anywhere else" (*Que Pasa*, Chilean weekly, April 3, 1975).

This is not the place to evaluate the general validity of the postulates advanced by Friedman and the Chicago School. I want to concentrate only on what happens when their model is applied to a country like Chile. Here Friedman's theories are especially objectionable—from an economic as well as a moral point of view—because they propose a total free market policy in a framework of extreme inequality among the economic agents involved: inequality between monopolistic and small and medium entrepreneurs; inequality between the owners of capital and those who own only their capacity to work, etc. Similar situations would exist if the model were applied to any other underdeveloped, dependent economy.

It is preposterous to speak about free competition in Chile. The economy there is highly monopolized. An academic study made during President Frei's regime pointed out that in 1966 "284 enterprises controlled each and every one of the subdivisions of Chilean economic activities. In the industrial sector, 144 enterprises controlled each and every one of the subsectors. In turn, within each of these 144 manufacturing enterprises which constituted the core of the industrial sector, a few shareholders controlled management: in more than 50% of the enterprises, the ten largest shareholders owned between 90 and 100% of the capital." (*Politica y Espiritu*, No. 356; 1975.)

On the other hand, studies also conducted during the pre-Allende period demonstrated the extent to which the Chilean economy has been dominated by foreign-based multinationals. As Barnet and Muller put it in *Global Reach*, "In pre-Allende Chile, 51% of the largest 160 firms were effectively controlled by global corporations. In each of the seven key industries of the economy one to three firms controlled at least 51% of the production. Of the top twenty-two global corporations operating in the country, nineteen either operated free of all competition or shared the market with other oligopolists."

From 1971 to 1973, most of the monopolistic and oligopolistic industries were nationalized and transferred to the public sector. However, the zeal with which the military dictatorship has dismantled state participation in the economy and transferred industries to foreign ownership suggests that levels of concentration and monopolization are now at least as high as they were before the Popular Unity (Allende) Government.

An International Monetary Fund Report of May 1976 points out: "The process of returning to the private sector the vast majority of the enterprises which over the previous fifteen years, but especially in 1971–73, had become part of the public sector continued [during 1975]. . . . At the end of 1973 the Public Development Corporation (CORFO) had a total of 492 enterprises, including eighteen commercial banks. . . . Of this total, 253 enterprises . . . have been returned to their former owners. Among the other 239 enterprises . . . 104 (among them ten banks) have been sold; sixteen (including two banks) have already been adjudicated, with the completion of the transfer procedure being a matter of weeks; the sale of another twenty-one is being negotiated bilaterally with groups of potential buyers. . . ." Competitive bidding is still to be solicited for the remaining enterprises. Obviously the buyers are always a small number of powerful economic interests who have been adding these enterprises to the monopolistic or oligopolistic structures within which they operate. At the same time, a considerable number of industries have been sold to transnational corporations, among them the national tire industry (INSA), bought by Firestone for an undisclosed sum, and one of the main paper pulp industries (Celulosa Forestal Arauco), bought by Parsons & Whittemore.

There are many other examples to show that, as far as competition goes, Mr. Friedman's prescription does not yield the economic effects implicit in his theoretical model. In the first half of 1975, as part of the process of lifting regulations from the economy, the price of milk was exempted from control. With what result? The price to the consumer rose 40% and the price paid to the producer dropped 22%. There are more than 10,000 milk producers in Chile but only two milk processing companies, which control the market. More than 80% of Chilean paper production and all of certain types of paper come from one enterprise—the Compañia Manufacturera de Papeles y Cartones, controlled by the Alessandri interests—which establishes prices without fear of competition. More than fifteen foreign brands are offered in the Chilean home appliances market, but they are all in the hands of only three companies, which assemble them in Chile and determine their retail prices.

Of course, any of the followers of the Chicago School would say that, with the liberalization of the international market, as prescribed by the model, Chilean monopolies and oligopolies would be exposed to competition from abroad. However, that does not happen. Chile so lacks foreign currency that it cannot import what it needs of even the most essential goods. Still more important is the fact that foreign enterprises are not interested in sending to Chile goods which could compete with those manufactured by their own Chilean subsidiaries. Besides, in Chile the economic interests which control the manufacturing industry also control the financial apparatus and import activities. These groups are not disposed to compete with themselves. In short, the application of Friedman's theories to the real world of Chile means that the industrialists can freely "compete" at whatever price levels they choose.

Other aspects of the brand of economics taught at the University of Chicago are conveniently ignored by the junta's economic advisers. One is the importance of wage contracts freely negotiated between employers and workers; another is the efficiency of the market as an instrument to allocate resources in the economy. It is sardonic to mention the right of the workers to negotiate in a country where the Central Workers' Federation has been outlawed and where salaries are established by the junta's decree. It may also seem grotesque to speak of the market as the most effective instrument for allocating resources when it is widely known that there are practically no productive investments in the economy because the most profitable "investment" is speculation. Under the slogan "We must create a capital market in Chile," selected private groups enjoying the junta's protection have been authorized to establish so-called "financieras," which engaged in the most outrageous financial speculations. Their abuses have been so flagrant that even Orlando Saez, former president of the Chilean Industrialists' Association and a staunch supporter of the coup, could not refrain from protesting. "It is not possible," he said, "to continue with the financial chaos that dominates in Chile. It is necessary to channel into productive investments the millions and millions of financial resources that are now being used in wildcat speculative operations before the very eyes of those who don't even have a job." (*La Tercera*, April 9, 1975.)

But the crux of Friedman's prescription, as the junta never ceases to emphasize, is control of inflation. It should, according to the junta, enlist "the vigorous efforts of all Chileans." Professor Harberger declared categorically in April 1975: "I can see no excuses for not stopping inflation: its origins are well known; government deficits and monetary expansion have to be stopped. I know you are going to ask me about unemployment; if the government deficits were reduced by half, still the rate of unemployment would not increase more than 1%" (Que Pasa, April 10, 1975). According to the junta's official figures, between April and December 1975, the government deficit was reduced by approximately the 50% that Harberger recommended. In the same period, unemployment rose six times as much as he had predicted. The remedy he continues to advocate consists of reducing government spending, which will reduce the amount of currency in circulation. This will result in a contraction of demand, which in turn will bring about a general reduction of prices. Thus inflation would be defeated. Professor Harberger does not say explicitly who would have to lower their standard of living to bear the costs of the cure.

Without a doubt, excessive monetary expansion constitutes an important inflationary factor in any economy. However, inflation in Chile (or any underdeveloped country) is a far more complex problem than the one presupposed by the mechanical models of the monetarist theorists. The followers of the Chicago School seem to forget, for example, that the monopolistic structure of the Chilean economy allows the dominant firms to maintain prices in the face of falling demand. They also forget the role that so-called inflationary expectations play in generating price increases. In Chile, inflationary expectations have lately been approximating 15% per month. Looking ahead, firms prepare for rising costs by raising their own prices. This continuous price "leap-frogging" feeds a general inflationary spiral. On the other hand, in such an inflationary climate, no one with liquid assets wants to hold them. Powerful interest groups, operating without government control, can thus manipulate the financial apparatus. They create institutions to absorb any available money and use it in various forms of speculation, which thrive on and propel inflation.

CHINESE PEOPLE SPEAK OUT AGAINST MAO TSE-TUNG

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. McDONALD. Mr. Speaker, following World War II there occurred one of the greatest conquests in history—the Communist takeover of mainland China under Mao Tse-tung which forced the Government of the Republic of China in 1949 to move to the island of Taiwan—Formosa.

Since that time, the problem of the two Chinas has become a subject for extensive international discussions, with many conflicting reports. The latest information on mainland China is an analysis by the Reverend Raymond J. de Jaegher, one of the Nation's leading China experts, who speaks with the authority of vast experience.

In this report, published by the Free Pacific Association, 86 Riverside Drive, New York, N.Y. 10024, Reverend de Jaegher supplies much new information on recent events in mainland China not covered in the mass news media and prognosticates three possibilities after the death of Mao.

To make his study available to the Congress and all others concerned with United States-Asian policy questions, I quote it as part of my remarks as follows:

The Chinese People Speak Out Against Mao Tse-tung

(By Raymond J. de Jaegher)

Reverend Raymond J. de Jaegher spent over 20 years in Mainland China. He described his work there in his book, The Enemy Within (Doubleday 1952). In Vietnam for 10 years (1954–1964), Fr. de Jaegher founded two high schools, a news agency, Free Pacific Magazine (Chinese) and the Chinese-language daily paper, The New Vietnam. Each year since 1965 Fr. de Jaegher has divided his time between the U.S. and Asia. With Far Eastern experience going back to 1930, and a thorough knowledge of oriental culture, language and politics, Fr. de Jaegher is one of America's foremost Asian experts. His analyses are frequently sought by Congressmen, colleges, TV, radio and newspapers.

On April 5, 1976 the people of China spoke out openly against the despotic rule of Mao Tse-tung for the first time. In fact, they spoke out very loudly in a mass demonstration of 100,000 people and expressed in a violent way their dissatisfaction. Mao and his wife, Chiang Ching, were attacked openly, army guards were beaten by angry mobs, army barracks and army vehicles were burned. The demonstrations took place in the "Gate of Heavenly Peace Square" or, in Chinese, Tienanmen Square. The Square is the very place where Mao announced the establishment of the People's Republic in 1949, and where great parades have been held ever since. The Square is in front of the Palace of the Emperors of China—now the seat of the Chinese Communist government and the official residence of Mao. More than 100 members of the Peking workers' militia were seriously wounded, six army guards were abducted and many were wounded.

For the first time in years the leaders of Mainland China, especially Mao and his wife, were frightened. They reacted very quickly, calling for a tight control over "unrepentant capitalist roaders like Teng Hsiao Ping." Mao appointed the Minister of the Chinese Security (secret service), Hua Kuo-Feng, acting Premier and first Party Vice-Chairman. Hua Kuo-Feng practically became the official choice of Mao as his successor. This was the third time that Mao removed his hand-picked successor.

After the death of Chou En-Lai, Mao was afraid that Teng Hsiao-Ping, the successor of Chou, would become the leader of China. With his wife and the Radical group, once again he appointed a designated successor, Hua Kuo-Feng. This does not mean that Premier Hua will succeed at Mao's death automatically, because much opposition could arise during the anticipated great "power struggle" and another top Communist leader could take over the control of China.

The People's Daily, official paper of the Chinese Communist Party (CCP), declared on April 10, 1976 in an editorial entitled "A Great Victory": "Army men and civilians have turned out by the hundreds of millions, parading amid cheers and the beating of drums and gongs to hail the happy news." The happy news was the nomination of Hua Kuo-Feng, the fall of Teng Hsiao-Ping and the victory at Tienanmen. "The Heroic worker-militia of the capital," the editorial continued, "working in coordination with the people's police and army guards enforced the dictatorship of the proletariat over the handful of class enemies."

The main attack of the Radical group of Mao was against Ten Hsiao-Ping who was first designated as the successor of Premier Chou En-Lai, but the Radicals denounced Teng with the words: "His revisionist program, his revisionist line and his reactionary words and deeds are the concentrated embodiment of the desire of the bourgeoisie for restoration."

THE OCCASION OF THIS INCIDENT

Some days earlier, foreign correspondents in Peking reported that as the "Ching Ming Festival" approached (that is, the festival at which the dead are honored and their graves visited), more and more people were bringing wreaths to the Monument of the People's Heroes in the center of the Square—large wreaths with "In Memory of Chou En-Lai" written on them. The Reuters correspondent reported that on April 4 the wreaths had piled up sixty feet high around the monument—a gigantic tribute to Mr. Chou.

One of the wreaths was dedicated to Yang K'ai-Hui, Mao's second wife, who was executed by the Nationalists in the early days of the internal struggle. On the same day Agence France Presse reported from Peking that the inscription on one wreath said "Hail Chairman Mao, Beat down Indira Ghandi and Empress Ts'u Hsi (former Empress Dowager of China) and all the reactionaries who are attacking Chou En-Lai."

I have just returned from a visit of more than two months in Japan, Korea, Taiwan (Republic of China) and Hong Kong. In Hong Kong I met many people who just came out of Mainland China.

They gave me fresh news of the massive struggle now under way in almost all the provinces of China. Many young men who fled to Hong Kong told me that the riots went so far that the situation got out of hand. The Communists admitted this, saying that "the masses viciously attacked and slandered our great leader Chairman Mao and other leading comrades of the Party Central Committee." These elements shouted, "The People's Army should stand on the side of the people."

The *People's Daily* description of the events in the Square did not contain one word about wreaths bearing Chou En-Lai's name. All it said was "Early in April a handful of class enemies, on the pretext of commemorating the late Premier Chou during the Ching Ming Festival, engineered an organized, premeditated and planned counter-revolutionary political incident in Tienanmen Square in the capital. They made reactionary speeches without disguise, posted reactionary leaflets and agitated for the setting up of counter-revolutionary organizations."

The *People's Daily* description spoke also of an illegal "Committee of the People of the Capital for Commemorating the Premier." It made no mention of the most delicate point of all—the slogans opposing women rulers such as the Empress Dowager—an obvious reference to Mao's wife, Chiang Ching.

DIFFERENCE WITH THE CULTURAL REVOLUTION

The Cultural Revolution of the 1960s was initiated by Mao and backed by Lin Piao, the Minister of Defense at the time, but the incidents in Tienanmen Square indicated that there were organized groups behind the events. These groups are still active and the editorial of April 18, 1976 of the *People's Daily* confirmed the existence of organized "counter-revolutionary groups."

An explosion on April 29, 1976 at the gate of the Soviet Embassy in Peking was also attributed by the spokesman of the Radicals to the "counter-revolutionaries." These "counter-revolutionaries" are the real enemies of Mao and Chiang Ching and the Radicals know this very well.

The "counter-revolutionaries" demonstrated against Mao and his wife. The slogans of the demonstrators read "Oppose Emperor Chin Shin-Hoang" (a despotic Emperor who was the founder of the hated Chin Dynasty in 221 B.C.). Emperor Chin Shih-Hoang represented Mao in the eyes of the demonstrators. No one had seen the despotic Emperor, but everyone in China knows about the despotic and hated Mao.

"Down with the Empress Dowager" was the other slogan. The Dowager was a very selfish and brutal Empress of the Manchu Ching Dynasty which ruled China from 1881 until the beginning of this century. In the eyes of the demonstrators, of course, she represented Mao's wife, Chiang Ching.

THE AFTERMATH OF THE INCIDENT

Started in Peking at the heart of the Square, symbol of Mao's power, the riots extended to the thirty-five provinces of Mainland China. In ten of the most important provinces the disturbances were grave. In Hopei Province, the province around Peking, on April 13, 1976 a document issued by the Party Center disclosed the recent looting of rifles and grain stores by a "small handful" of persons in Paoting (Ching Yuan region).

In Honan Province the local radio station, describing the Ching Ming Festival held in the February 7 Square at Chengchow, reported. "There were counter-revolutionary political incidents and counter-revolutionary destructive activities similar to those in Tienanmen Square in the Capital. The small clique of class enemies, under the pretext of commemorating Premier Chou at the Ching Ming Festival, created counter-revolutionary public opinion, delivered counter-revolutionary speeches, posted counter-revolutionary poems and inscriptions, and turned the attack savagely against the great leader Chairman Mao and the Party Central headed by Chairman Mao."

Szechuan Province is the most populated province of China. It is also a very rich province and many prominent Communist leaders came from there. Szechuan always played an important role in China because it is the province influencing the gate to Tibet and Chinese Turkestan. In a rare disclosure, a telephone conference held by the Szechuan CCP Committee on May 7 admitted: "The so-called 'instructions' of Chairman Mao, the talks of the Central leaders and of the Premier were fabricated by class enemies, have spread far and wide in Szechuan and have caused a great deal of harm." The conference claimed that the people of Szechuan have "actively reported and exposed" sabotage activities, and that the Public Security cadres, police and militia "had battled day and night" (Szechuan Radio, May 8, 1976).

Much could also be said about Yunnan, Kiangsu, Hupeh, Kwangtung and Fukien Provinces, but we would like to say a word about *Hunan Province*, the home province of Mao Tse-tung. At a rally of Party members and cadres held on April 24, 1976 in Hunan—also the province of Premier Hua Kuo-Feng who is still first Party Secretary of Hunan—it was declared: "Everyone has actively tracked down the source of counter-revolution, dealt resolute blows at the class enemies, sabotage and disruption, and upheld revolutionary order." "We will absolutely not allow a handful of class enemies to make trouble here," the rally stated, "attack Chairman Mao, split the Party Center and sabotage the struggle against the Rightist attempt to reverse the verdicts of the people."

These few examples show very clearly that the discontent was not a local discontent in Peking, but was a large scale discontent in all the provinces of China. It is also an example of the boldness of the demonstrators who risked their lives in all these provinces and dared to oppose Mao and his wife.

THE FOUR FORGERIES

The Communists admitted that "counter-revolutionary rumors were flowing like filthy water" and that four forged documents were spread all over China. The four documents were a forged instruction of Chairman Mao; a forged document of the Central Communist Party; a forged last will and testament of Premier Chou; and a forged talk by a leader of the Party Central. Some believed these documents were authentic; some doubted the documents; because of the documents, some became more and more opposed to the government. They were identified for the first time in the May issue of *Red Flag* in an article signed by Liang Hsiao.

The great Communist magazine gave no details about the contents of these documents, saying only that "the contents were reactionary and the words poisonous. The unrepentent men on the capitalist road in the Party and the small clique of counter-revolutionary elements—what moved them to use forgery to attack the proletarian class?" He quoted Hitler's maxim that "the bigger the lie the more people will believe it." (*Red Flag*, No. 5, 1976).

Some people believe that the forged will of Chou En-Lai was produced in the Soviet Union, but published only in China. It is very interesting to learn from Mao himself that "Capitalists" are inside the Chinese Communist Party and that his three great friends—Liu Shao Chi, Lin Piao and Teng Hsiao-Ping, were also his most dangerous enemies.

AFTER MAO WHAT WILL HAPPEN IN CHINA?

A first possibility would be to return to the friendship with Russia that characterized the Stalin Era, but this would be very difficult because the Soviet Union and Mainland China cannot be allies. The Chinese people have always had a great distrust of the Soviets, especially since WW II and the excesses of the Soviet armies under Marshal Malinevski in N.E. China (Manchuria). Still some prominent Chinese Communist Party members see friendship with Russia as a possibility for China to defeat the U.S.A. and build up a Communist world.

A second possibility would be for Hua Kuo-Feng to take over as Mao's successor. He is now the First Vice-Chairman of the CCP Central, Premier of the State Council, member of the CCP Central Politbureau, and comes from Mao's home town of Hsiang Tan in Hunan. He rose very rapidly and secretly helped Mao when Lin Piao wanted to take over the leadership of China. In January 1976, after Chou's death, Hua was appointed acting Premier. On April 7, 1976 after the Peking Riots he was elevated to full premiership and first Vice-Chairman of the CCP Central. Minister of Public Security since January 1975, he was selected by Mao to be his eyes and oppose all those who would try to build up a new China without Mao's ideas after his death.

Even with all these Party positions it is not certain that at Mao's death Hua Kuo-Feng could retain his power and become Mao's successor. Some military leaders of Red China could take over and lead the mainland to a situation of greater freedom and eventual collaboration with the Republic of China.

A third possibility would be a period of general disorder in China until a new leader emerges, especially among the youth. Many of the young people are tired of their aged leaders from the revolutionary period of the 1920s and 1930s. Former Red Guards and youth leaders have a great desire to take over in China. They might join with the youth of the Republic of China and together build up a new, free China.

13TH DISTRICT OF AHEPA'S DAUGHTERS OF PENELOPE

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. ANNUNZIO. Mr. Speaker, the Daughters of Penelope is the senior women's auxiliary of the Order of AHEPA—American Hellenic Educational Progressive Association—and the 13th District of this outstanding civil organization covers the State of Illinois, Wisconsin, and eastern Missouri. Ms. Susann Kyriazopoulos, the 13th district governor, 6144 North Rockwell Avenue, in Chicago, recently wrote to me regarding the history of the Daughters of Penelope, and this history follows:

Our organization is an international one with over 400 chapters. It was founded on November 16, 1929 in San Francisco, California, by a group of women who were all relatives of AHEPANS (American Hellenic Educational Progressive Association). The name Daughters of Penelope was derived by the founder Mrs. Alexander Apostolides Sonenfeld. The loyal and faithful wife of Odysseus personified all that Mrs. Apostolides Sonenfeld sought . . . such as loyalty to her home and loyalty to her family, thus Penelope was chosen and the Daughters of Penelope were born. The first chapter was known as EOS (Dawn) showing the birth of an organization. It is also now known as the Mother Chapter. We have chapters in far away places such as Alaska, Greece, and Canada besides in the States. The Daughters of Penelope have seen as its members such people as Judge Eleizabeth Athanaskos and our own Adeline GeoKaris who now serves in our state Congress. Both the above served as Grand Presidents as did three other women from the state of Illinois . . . Zoe Rummel, Poppy Mitchell and Tina Zoumboulis.

Each area has a District Governor . . . there are 24 total and our present Grand President is from Wabash, Indiana . . . Mrs. James (Anne) Morris. The Charitable projects these chapters delve into are too numerous to speak of . . . but a few are the St. Basils Orphanage, a participant in the voluntary division of the United Nations Educational Scientific and Cultural Organization, and the Biennial Salute to Women who this year honored Betty Ford.

Mr. Speaker, the officers of the Daughters of Penelope 13th District follow:

Susann Kyriazopoulos, Governor, 6144 North Rockwell Avenue, Chicago; Mary Laris, Lieutenant Governor, 231 Army Trail Road, Bloomingdale, Illinois; Julia Constantine, Secretary, 24 W 788 75th Street, Naperville, Illinois, Mary Christopoulos, Treasurer, 3450 Lake Shore Drive, Chicago; Sophia Karas, Marshal, 8412 W. Gregory, Chicago; Constance Stathakes, Advisor, 2670 North Elm Street, River Grove, Illinois; Mariann Zurales, Advisor to Maids of Athena, 7781 South Komensky, Chicago; Suzanne Bolda, Athletic Director, 2540 Anita Drive, Brookfield, Wisconsin; Esther Starr Barrett, Historian, 5555 North California Avenue, Chicago.

AHEPA stands as a firm and enduring link between the achievements of Hellenic civilization and contemporary American society. The objects of AHEPA are:

First, to promote and encourage loyalty to the United States of America;

Second, to instruct its members in the tenets and fundamental principles of government, and in the recognition and respect of the inalienable rights of mankind;

Third, to instill in its members a due appreciation of the privileges of citizenship;

Fourth, to encourage its members to always be profoundly interested and actively participating in the political, civic, social, and commercial fields of human endeavor;

Fifth, to pledge its members to do their utmost to stamp out any and all political corruption; and to arouse its members to the fact that tyranny is a menace to life, property, prosperity, honor, and integrity of every nation;

Sixth, to promote a better and more comprehensive understanding of the attributes and ideals of Hellenim and Hellenic culture;

Seventh, to promote good fellowship, and endow its members with the perfection of the moral sense;

Eighth, to endow its members with a spirit of altruism, common understanding and mutual benevolence and helpfulness; and

Ninth, to champion the cause of education and to maintain new channels for facilitating the dissemination of culture and learning.

Mr. Speaker, these objectives are a reflection of the ideals of Greek democracy, and by its objectives, AHEPA and the Daughters of Penelope have exemplified the practice of good citizenship of Americans of Greek descent. I salute Greek Americans in Chicago and in our Nation, and especially the officers and members of AHEPA and the Daughters of Penelope.

BLOOD MONEY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. RANGEL. Mr. Speaker, I was distressed to receive in the mail recently a copy of a supplemental security income program circular issued by Social Security's Chicago Regional Office. The circular instructed that "money received from the sale of a recipient's own blood" should be treated as "unearned income."

My purpose in highlighting this SSI instruction is not to condemn the Chicago Office—regional staff were simply answering a question that had arisen in the recent two-day refresher training course given all SSA field office personnel.

Rather, this item reflects dramatically on the inadequacy of the SSI payment: $167.80 for an individual and $251.80 for a couple, effective July 1, 1976. To supplement these meager amounts, some SSI recipients in the Chicago area—aged, blind and disabled persons for whom SSI is supposed to provide at least a minimum decent living standard—have resorted to selling their own blood.

If Congress were more sensitive to the needs of our blind, aged, and disabled the Social Security Administration would have no seed for such petty and passionless detail. A national supplemental security income "system" which keeps millions on a razor's edge between life and death and counts such items as blood money can never be anything more than a failure in public policy.

HONORS MRS. STELLA PEEBLES

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1976

Mr. JONES of Tennessee. Mr. Speaker, I want to take this opportunity to recognize a wonderful and dedicated woman who lives in my district and whose fellow townspeople are going to honor next week.

She is Mrs. Stella Peebles of Henry, Tenn. Mrs. Peebles will be 91 years old on October 2, and the people of Henry, a town to whom she has given so much are going to honor her with a Stella Peebles Day on October 3. And, I might add, she certainly deserves such an honor.

Mrs. Peebles has been a civic leader in Henry all of her life. She started the first telephone switchboard there and began a hot lunch program for schoolchildren long before the Federal Government even thought about it. She has been a school teacher, a census taker, active in PTA affairs, and a very active member of the Henry Methodist Church.

Not only has she been active in trying

to make her community a better place to live, she is also a historian, having written a history of the Henry Methodist Church and she has kept a day to day diary since 1920.

Mrs. Peebles was born in 1885 and when she was 14 years old, her father died leaving her to take over the family responsibilities. She attended Bethel College to qualify as a teacher and has been committed to serving her fellow man ever since.

Mr. Speaker, I do not know what Mrs. Peebles secret to her long life is, but I am told that she has drunk one or two Dr Pepper soft drinks every day since they came on the market.

In these days, when everyone seems so caught up in day-to-day activities that they do not have any time to be concerned about their neighbor, I think Mrs. Peebles stands as an example that all of us should strive for. She has unselfishly worked for the good of the people of Henry, Tenn., and I join with them in saluting her on "Stella Peebles Day."

SENATE—*Friday, September 24, 1976*

The Senate met at 9 a.m. and was called to order by Hon. DICK CLARK, a Senator from the State of Iowa.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father whose grace is sufficient for all our needs, we thank Thee for Thy mercies which are new every morning. For this quiet moment may we rise above our baser selves and, instead of thinking about our pressing problems, may there come the lure of far horizons, the light of lifted skies. Keep before us the vision of a better nation in a better world. As our fathers trusted in Thee and were not confounded so we put our trust in Thee. Strengthen us by Thy presence and lead us through the toilsome hours to the evening with our work well done. Then grant us a period of worship and rest and the inner peace of those whose minds are stayed on Thee. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 24, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. DICK CLARK, a Senator from the State of Iowa, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. CLARK thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, September 23, 1976, be dispensed with.

Mr. ALLEN. Mr. President, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. ALLEN. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

QUORUM CALL

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Senator stand when he addresses the Chair.

Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The clerk will call the roll.

The assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 53 Leg.]

Allen
Byrd, Robert C.
Clark
Griffin
Helms
Leahy
Morgan

The ACTING PRESIDENT pro tempore. A quorum is not present.

The clerk will call the names of absent Senators.

The assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The Sergeant at Arms will execute the order of the Senate.

Pending the execution of the order, the following Senators entered the Chamber and answered to their names:

Burdick
Byrd, Harry F., Jr.
Ford
Garn
Hart, Gary
Inouye
Long
Mathias
Nunn
Pearson
Percy
Sparkman
Talmadge

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to compel the attendance of absent Senators, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Wyoming (Mr. MCGEE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), the Senator from California (Mr. TUNNEY), and the Senator from Alaska (Mr. GRAVEL) are necessarily absent.

I also announce that the Senator from Ohio (Mr. GLENN) and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. MCCLURE), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Virginia (Mr. WILLIAM L. SCOTT), the Senator from Vermont (Mr. STAFFORD), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

The result was announced—yeas 61, nays 3, as follows:

[Rollcall Vote No. 643 Leg.]

YEAS—61

Baker
Bartlett
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Church
Clark
Culver
Curtis
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Griffin
Hansen
Hart, Gary
Haskell
Helms
Hollings
Hruska
Inouye
Jackson
Javits
Johnston
Laxalt
Leahy
Long
Mathias
McClellan
McGovern
McIntyre
Morgan
Muskie
Nelson
Nunn
Packwood
Pearson
Percy
Proxmire
Randolph

Ribicoff
Roth
Scott, Hugh
Sparkman
Stennis
Stevens
Stevenson
Stone
Symington
Talmadge
Thurmond
Tower
Williams
Young

NAYS—3

Allen
Biden
Weicker

NOT VOTING—36

Abourezk
Bayh
Beall
Bellmon
Bentsen
Brock
Buckley
Chiles
Cranston
Dole
Domenici
Glenn
Goldwater
Gravel
Hart, Philip A.
Hartke
Hatfield
Hathaway
Huddleston
Humphrey
Kennedy
Magnuson
Mansfield
McClure
McGee
Metcalf
Mondale
Montoya
Moss
Pastore
Pell
Schweiker
Scott, William L.
Stafford
Taft
Tunney

So the motion was agreed to.

The PRESIDING OFFICER (Mr. Morgan). With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

THE JOURNAL

The PRESIDING OFFICER. The clerk will read the Journal.

The legislative clerk proceeded to read the Journal of Thursday, September 23, 1976.

During the reading the following occurred:

Mr. HELMS. Mr. President, may we have order so Senators may hear the reading of the Journal?

The PRESIDING OFFICER. The clerk will suspend until there is order in the Senate. Those talking please retire to the cloakroom.

The clerk will proceed.

The legislative clerk resumed the reading of the Journal.

During the reading the following occurred:

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the Journal be dispensed with.

Mr. HELMS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will proceed.

The legislative clerk resumed the reading of the Journal.

Mr. ALLEN. Mr. President, I ask unanimous consent that further reading of the Journal be dispensed with.

The PRESIDING OFFICER (Mr. Morgan). Is there objection? The Chair hears none, and it is so ordered.

QUORUM CALL

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Gary Hart). Without objection, it is so ordered.

BILL RETURNED TO CALENDAR OF GENERAL ORDERS—H.R. 8401

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, and I make this request on behalf of the two Senators from Alabama, the senior Senator and the junior Senator, that the bill, H.R. 8401, the Nuclear Fuel Assurance Act which is presently on the calendar of Subjects On The Table, be restored to the calendar of General Orders.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I appreciate the action of the distinguished assistant majority leader in obtaining unanimous consent that H.R. 8401, the Nuclear Fuel Assurance Act, be taken from the table and returned to the calendar. This is a most important bill. It is an important bill in helping solve the energy crisis that we have in this country. It involves the privatization of the nuclear enrichment field. It is a bill that has come out of the Joint Atomic Energy Committee. It is a bill that is recommended by the administration. The distinguished majority leader (Mr. Mansfield) has a letter from the President requesting action during this Congress on this bill. It is very important to the Nation, very important to the free world. I appreciate the bill's being restored to the calendar.

The bill was put on the table without consulting me or my distinguished senior colleague (Mr. Sparkman), and he entertains the same views that I do on this subject and on the need to have action by the Senate on this bill. It passed the House of Representatives and all that it needs to go to the President is action by this body.

The restoration of the bill to the calendar does give us an opportunity to call on the Senate, by a motion, to proceed to this bill, gives us the opportunity to have a vote on this important issue before the adjournment of Congress. My distinguished senior colleague (Mr. Sparkman) and I called on the majority leader to bring the bill up and he did respond to our request by asking unanimous consent that a time limit be placed on consideration of the bill, a lengthy time limit, starting with 8 hours on the bill and then, I believe, 2 hours on amendments. There were a number of objections. I recognize that there is strong opposition to the bill, but I feel that it is an issue that should be met head on by the Senate, the House having acted.

I appreciate very much the spirit of cooperation exhibited by the distinguished Senator from West Virginia (Mr. Robert C. Byrd) and the spirit of cooperation shown by the Members of the Senate who were in the Chamber and with whom this request had been cleared. We are hopeful that this bill will be called up by unanimous consent. In any event, I do anticipate that sometime next week, Senator Sparkman and I will jointly make a motion to proceed to the consideration of this bill.

Once again, I express my appreciation to the distinguished assistant majority leader.

Mr. President, for further information on the issue involved here, I ask unanimous consent that there be printed in the Record testimony which I gave before the Joint Committee on Atomic Energy on March 23, 1976, as to this bill.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

Statement of Senator James B. Allen of Alabama

opening statement

Mr. Chairman and distinguished Members of the Committee, I am pleased to be able to appear before you today inasmuch as I know that these hearings on the critical subject of the Nuclear Fuel Assurance Act, S. 2035, are dedicated to the consideration of a massive amount of expert testimony. It is my understanding that you will hear from representatives of private industry, government corporations, and cooperatives, on the proposed legislation. You will be bombarded with a host of technical details, engineering concepts, financial facts, and economic projections. In other words, the whole mix of data from which the Committee and the Congress must make a determination about—more than a national policy—a long-term determination and commitment about the future energy needs and the energy sufficiency of our nation.

I appear as an advocate for the proposition that America's free enterprise system can, should, and will do a job for the nation's energy sufficiency problem which the Government probably cannot do as well, or as efficiently, or as economically.

I certainly do not appear as a nuclear engineer, a nuclear architect, a construction expert or even as an energy expert. I come as one who has a philosophic and conceptual view of the role of government and of the competitive free enterprise system.

I shall not attempt to burden you with facts you already have or facts you will be receiving today from qualified and recognized experts. Rather, I wish to deal with the underlying philosophy which supports the concept that the private enterprise system can do something better and cheaper than the United States Government.

I should like also at this time, Mr. Chairman, to express to you and the Members of the Committee, my admiration for the diligence you have shown in considering this revolutionary but eminently practical concept of privatization of the nuclear enrichment process. Your insightful consideration of this matter has answered many of the questions I have had about the legislation and about the technical aspects of the processes we are dealing with in the proposed legislation. Your hearing record also, and quite rightly so, brought to light new problems which had not been adequately addressed in the original proposal. I believe, in the intervening time, because of your concerns, many of the problems about the President's plan have been solved. I plan to touch on this matter later in my statement.

Mr. Chairman, I wish to reiterate once again my admiration for the work of your Committee in considering this important legislation. You have focused the attention of the country, of the many industries involved, and certainly, the Members of Congress, on profound questions of public policy that face our nation now and for decades to come.

GENERAL AGREEMENTS ON THE NEED FOR AN EXPANDED NUCLEAR ENRICHMENT PROGRAM—NOW!

Before launching my layman's remarks on the subject of S. 2035, I shall assume that we are all agreed on at least five major propositions dealing with the subject of nuclear enrichment. These areas have been covered at length by Members of this Committee and by expert testimony, but I will review them very briefly.

First, there is general agreement, I believe, that the "nuclear option" must be kept open as we look to the future energy needs of our country. Second, it is patently obvious that in order to keep the nuclear option open, we need more capacity throughout the nation to produce enriched uranium in order to provide the fuel rods which in turn will drive the atomic reactors which will be coming on line in the 1980's and the 1990's and beyond. Third, I believe there is general agreement that our country must do all in its power to control, and significantly limit the growth of nuclear enrichment technology around the world and the uses to which that technology will be put. This can best be achieved by dramatically improving our domestic enrichment capacity as soon as possible, creating, I believe, the international "signal" that we intend to go to great lengths to maintain and improve our dominant technological position in the world with regard to the supply of enriched uranium. Fourth, I believe there is agreement, but perhaps not general agreement, that the cost involved in meeting the objectives of the items I have just cited, will be enormous. Fifth, and here comes the rub, there is not general agreement on how our country should achieve the goals implicit in the "agreements" I have just touched upon. I think Chairman Pastore put it most succinctly when he said on December 2 last year:

"We do not quarrel with the intent of assuring that the United States has an adequate enrichment capability to supply both domestic and foreign commitments, but we are here today to look at the specific proposals as to how we go about this important task."

PRIVATE VERSUS PUBLIC: OVERVIEW

Mr. Chairman, habits are hard to break. Furthermore, tradition can oftentimes be the enemy of progress. What is more, the institutionalization of a habit, cloaked in tradition, and operated by a bureaucracy, particularly a government bureaucracy based on generally secret technology, can stifle initiative, impede entrepreneurship, and work at cross purposes to the goals of free society.

There were, thirty years ago, good and sufficient reasons for capturing the nuclear genie in a Federal bottle. When the main thrust of uranium enrichment was directed almost totally for the defense establishment, national security mandated a Government monopoly, and rightly so. In the intervening years, we have witnessed the growth of a spin-off industry—as envisioned by the first Atomic Energy Act—the civilian nuclear power industry, which now provides approximately eight percent of the electricity generated for our nation. During this period of the growth of the civilian nuclear power generating industry, holes were punched in the cork on the Federal nuclear bottle in order to advance and stimulate the growth of civilian nuclear power and, thus, diversify our total energy system. As energy from abroad has become more scarce or dear, we realize the wisdom of the early commitment to a civilian nuclear power industry. Nevertheless, the habits and traditions of Federal control over the production, maintenance, transportation, and use of nuclear energy has, to this date, remained essentially in place. The realization of the full potential of a civilian nuclear industry has been proportionately limited.

Today we stand at a crossroad—using the President's term. We must look ahead to the next thirty-plus years of nuclear energy production and decide whether or not we have sufficient knowledge, sufficient technology, sufficient regulatory power, and, most important, sufficient faith in the free enterprise system, to launch a new era in the development of nuclear energy. We can go on as before, Mr. Chairman, but the costs, in terms of dollars spent and in terms of meeting increasing demands for nuclear power, may be higher than our economy and our citizenry is willing to pay. The Congress must soon decide whether or not there will be a "hold" on future development of the "nuclear option" causing us to creep into the 21st Century, or, whether, in contrast, we march boldly into that Century on the shoulders of a competitive market system which has provided a standard of living envied around the world.

We could not be on the launching pad today, considering the long-term implications of the privatization of nuclear enrichment, were it not for the fact that private industry is ready, willing, and able, to take up the challenge of meeting a significant proportion of our future energy needs by investing huge amounts of venture capital to create a viable and competitive industry that can, and I am convinced, will, produce the nuclear fuel we need for the future.

The provision of uranium enrichment services is already, now, essentially a commercial and industrial activity and while it is true that Government has performed the service with the cooperation of industry to date, there is no conceptual or technological reason why this same service cannot or should not be provided by private industry if private industry desires to be in this field. And it does so desire.

I should like to make a brief aside right here, Mr. Chairman, to illustrate my last point. The Joint Commitee has in its files, the statement dated December 31, 1975, from the Edison Electric Institute, regarding the proposed legislation. A key sentence therein states: "The Institute favors the prompt passage of the Nuclear Fuel Assurance Act." In the *Weekly Energy Report* for January 12, 1976, the lead article is entitled, "Utilities Moving to Support Enrichment Proposal." A week later, that same report has a headline reading, "Edison Electric Institute Lends Enthusiastic Support to Private Enrichment." The point of referring you to these headlines is to compare the current attitude of the Institute with its previous consideration of this same matter as noted in its June 1974 Report in which its position was one of doubtful support of privatization and of near advocacy of a public corporation. The Institute, which represents the major users of the sought-after enriched material, has decided that privatization is feasible, viable, profitable, attainable, and credible!

We have generally agreed that the uranium enrichment process and the uranium enrichment industry must expand rapidly over the next decade and it is my contention that such expansion should occur in the private sector of our economy rather than from within the Federal Establishment. Construction of the needed plants to increase uranium enrichment capacity into the next Century has been variously estimated to cost between 30 to 50 billions of dollars. If we take the low figure, the demands on our federal budget in this and succeeding years will obviously drain away from those budgets, available tax dollars which the electorate might rather see spent on areas of public need which can only be financed by the Government such as defense preparedness and some areas of social services.

Almost all of the testimony you have received and I strongly suspect, the testimony you will continue to receive on this subject, points to the forecast that our nation's reliance on nuclear power will grow, and perhaps by leaps and bounds. Assuming that such forecasts are accurate, it seems to follow that to maintain a Federal monopoly in the field of uranium enrichment would lead to an increasing degree of Federal control over the nation's energy supply. Such an eventuality would be a step backward rather than a step forward, and a costly one at that.

PRIVATE VERSUS PUBLIC: IS MONOPOLY RIGHT?

Passage of the Nuclear Fuel Assurance Act would encourage competition in this new industry over the long term and such competition, again over the long term, will, in my opinion, bring about lower costs, improved efficiencies, and technological advancements. Privatization will generate revenues to all levels of government. With respect to the Federal Government, there will be the payment of Federal income taxes, compensation and royalties for Government-owned discoveries and inventions used by the industry. Furthermore, privatization at this juncture, and looking forward, will avoid the political uncertainties which always surround the Federal Government's budget considerations and the Congressional appropriations process which has been needed to finance new increments of capacity for the enrichment process.

I believe the Committee must answer a philosophical question in considering this legislation and that is whether or not—in this day of growing public criticism of the centralization of Government, of the growing burden of governmental regulation, of growing disillusionment and dissatisfaction with the manner of use of tax revenues—the maintenance, strengthening, and extension of a Government monopoly over what could be a competitive industry, is viable and in the national interest?

I am reminded of a quote by Henry Ford in speaking of business monopoly that might equally be applied to the Government. He said:

"Monopoly is a wonderful word for a demagogue fishing for many little votes in behalf of a big government. But monopoly is a word specific in meaning . . . the fruits of monopoly are easy to define. They are restricted consumption, lowered standards of living, dumb management, rusting initiative, still-born invention and beclouded vision."

We may have reached that point, where the Government itself, with respect to the provision of enriched nuclear fuel, fits the description cited by the late automobile magnate.

It is commendable that Energy Research and Development Administration is willing to give up its monopoly in the field of nuclear enrichment. The fact that ERDA is willing to make such a fundamental change is indicative of the faith that the Government has in the ability of a private nuclear enrichment industry to do the job now done by the Government, and that such a private industry will grow and thrive. This is a unique situation—the Government willing to forego its monopoly position and foster private competition.

PRIVATE VERSUS PUBLIC: THE ADVANTAGES OF GOING PRIVATE

Mr. Chairman, if there is general, or even partial agreement about the need for a dramatic increase in the nuclear enrichment capacity for the nation—and I assume there is—and if we accept the projections and figures of the Administration that the "need" will require a quadrupling of capacity in the next two decades—I believe it is almost a certainty that the Congress must look for an "out" from the demands on the Federal budget of such a massive addition to our current capacity.

The means is provided in the pending bill because private industry, under controlled factors and regulated assurances, is ready, willing, and able to commit capital to the creation of such an industry. Dr. MacAvoy of the Council on Economic Advisors, when testifying earlier, pointed out that to reach even the lowest estimates for new capacity, plus meeting foreign demands for enrichment services, will call for the addition of roughly 8 to 10 additional large uranium enrichment plants of capacity equal to the average of the three existing plants.

He noted that a private enrichment industry with 10 large plants and perhaps three times as many small plants, would approximate the numbers found in already highly competitive industries in the United States.

The most obvious cost advantage in "going private" arises when one compares the monopoly-continuation alternative. If private industry creates the needed additional capacity, private, not Federal, capital will be the source of funds for the building of the necessary plants. Without this legislation, the Government would have to undertake immediately the construction of adequate facilities at enormous expense to the taxpayer. Furthermore, under privatization the Government will receive royalty payments from private enrichers for the use of Government technology and will be paid for other services rendered; such payments accrue to the taxpayer-at-large.

Comparatively speaking, the answer to the private route was provided the Committee when it requested additional economic and budgetary impact information from the Council on Economic Advisors. That data which appears in Appendix 10 of the hearings should startle any legislator who, knowingly, opts for continuation of the Government monopoly when there is a less expensive alternative. There does not appear to me, in reading those charts, to be any way of expanding Government capacity to do the job we agree must be done without dipping heavily into the taxpayer's pocket for the next fifteen years. The question is—is this really necessary? I submit that it is not.

Now, I will admit that much has been made of the "guaranty" part of the legislation, particularly with reference to the eight billion dollar figure. Certainly, that is an enormous amount of money to be guaranteeing to bring this industry into being—but look at the alternatives.

In the "worst case" scenario that has been more than adequately dwelt upon in the hearings, the Government could be "out" the $8 billion over a period of time. Frankly, I agree with most of the witnesses that such an eventuality is quite unlikely, but even were it to happen, the Government would be far from totally losing that amount of money. We must remember that the Government would be gaining the plants—in whatever stage of construction or production capacity—research and development advantages et cetera, sunk into the project(s) by the industry to that point.

In other words, one could look at the proposition this way: the Government calculatedly risks an eight billion dollar guaranty for the private industry and if something should precipitate a Government takeover of the private efforts, the Government is "richer" by the effort up to that time expended by the industry. Alternatively, the Government does not have to gamble at all—it could simply sink approximately $30 billion into the increased enrichment capacity and be done with it. I submit that that would be a poor way to use the taxpayer's dollars—this year, and in future years.

THE LEGISLATION

While I stand foursquare against the continued monopolization by the Government of the technology which will produce the new uranium enrichment facilities that we know will be needed for the future, I am aware that we cannot simply "lift-off" into a new era of privatization without adequate safeguards for the public good. Having seen the letter of Administrator Robert C. Seamans, Jr., of the Energy Research and Development Administration dated February 23 of this year, it is indeed heartening to note that the Administration and this Committee have been able to hammer out some compromises on specific sections of S. 2035 which, I believe, should provide the base from which the Committee can then take this legislation to the respective Houses of Congress for final debate and action in the very near future.

The most fundamental change in the legislation is that the principle has been established that there shall now be procedures for Congressional review and disapproval of proposed Government-private industry arrangements negotiated under the terms of the Act and within a time frame that should be acceptable to all private firms and/or consortia who submit proposals to the Energy Research and Development Administration to get into the nuclear enrichment business. The Committee has wrung a credible agreement out of the Administration on this and other sections of the bill and I am convinced that the measure is fair, workable, and protects the interests of the Government and the public as the nation moves toward the privatization of the nuclear enrichment industry.

THE PRIVATE PROPOSALS AND CONCLUSION

Mr. Chairman, in the hearings today, I know that you will be listening to weighty testimony about the various technologies dealing with the enrichment of uranium, and you will be considering the claims and counter-claims about the efficacy and time-availability of such technologies. I am not qualified to speak to you about the technical merits of one process over another, or even, to provide an input about the budgetary impact of one process versus another, or to discuss, except in general terms, the financial/equity considerations which must be addressed before a decision is made on the pending legislation.

But let me add this note: In my view, the argument, debate, or discussion about varying technologies to achieve increased nuclear enrichment capacity are of a "follow-on" nature. The decision by the Committee on the subject of privatization has to be made, one way or the other, up or down, now or perhaps never, before the technological, financial, and Government guaranty discussions have meaning or merit.

Naturally, I am hopeful the Committee will recommend to both Houses of Congress the adoption of S. 2035, with appropriate clarifying language worked out by the Committee and the Administration. Then, and only then, if the bill is passed, can the Government push the button that will make the industry jump—and soon. With the passage of the Nuclear Fuel Assurance Act, I suspect the Committee will soon be considering intensively the types of technology to be undertaken and the scope of the negotiations between ERDA and any private group or firm. The problem is time—as usual. A delayed decision by the Congress would almost seal the fate of the great potential for increasing enriched uranium fuel in time to open the "order book" for the fuel we know will be needed in the 1980's. Therefore, I urge you to bring in a decision so that ERDA and the private organizations now interested in creating this new industry can get to work.

As you know, if the bill is passed, one of the processes to be evaluated by ERDA, and the Committee, is that submitted by the Uranium Enrichment Associates (UEA) which proposes to build a gaseous diffusion nuclear enrichment plant near Dothan, Alabama. It was unfortunate that your December hearings had to focus only on the concerns about that particular proposal.

I assume that similar careful scrutiny will be given to other, competing processes, now that the field is attracting exactly the type of private competition envisioned by the proposed legislation. The UEA proposal has been a "guinea pig" for zeroing-in on the privatization concept. I know that your early look at the first of what is surely to be a large number of "private uranium enrichers," has given you a full understanding of the implications for our nation's future supply of this fuel and just exactly what may or may not be needed from the Government in order to get the enrichment problem out of the taxpayer's pocket and into the private marketplace.

The UEA decision to locate its proposed plant in Alabama was made after a thorough search of the United States for the best site for its type of plant. This search was described in the Phase III Hearings before this Committee. I am pleased that Alabama was selected and I have a few comments on the potential impact on our State should the UEA proposal be accepted and located accordingly.

The enrichment plant construction will require large amounts of skilled labor, abundant natural resources, good weather and physical/site conditions. The necessary resources are available in the region selected. We encourage industrial development in Alabama which will bring no harm to our environment and will provide good jobs and improve our economy. We feel that such a plant falls in this category.

Skilled manpower and the ability to manage large construction projects will be available for an enrichment project, as evidenced by the present construction by private enterprise of a large, two-unit, nuclear power plant in the same country. I can assure you that the people and resources of the State of Alabama will be an asset toward the successful, on time, completion and operation of a nuclear enrichment facility in our State. UEA has been working closely with the Alabama Power Company regarding the necessary power supply for an enrichment plant which will be made speedily once the Congress and the Administration make the critical decision with respect to the Nuclear Fuel Assurance Act.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST—BLACK LUNG BILL

Mr. ROBERT C. BYRD. Mr. President, I have been able to work out what I hope is an agreement that will be acceptable to all parties. I have not been able to contact all Senators, of course, but this agreement would be acceptable to Senator RANDOLPH and I believe Senator WILLIAMS, the chairman of the Committee on Labor and Public Welfare; to Senator LONG, the chairman of the Committee on Finance, and to others.

I have discussed it with the distinguished Senator from Alabama (Mr. ALLEN), and he is willing to accept the agreement. As a matter of fact, he is as interested in the legislation as I am. He can speak for himself in a moment, if he reserves the right to object.

In any event, the agreement has been cleared with those Senators, and it would be as follows:

That at such time as the black lung benefit payment bill is made the business before the Senate—obviously, that cannot be made the business before the Senate as long as the pending measure is before the Senate, on which cloture has been invoked, except by unanimous consent—but at such time as that measure is before the Senate for consideration, there would be a time limit on the bill of 1 hour, to be equally divided between the majority leader or his designee and the minority leader or his designee; that there be a time limit on any amendments thereto of 1 hour, to be equally divided in accordance with the usual form; that there be a time limit on any debatable motion or appeal or point of order, if such is submitted to the Senate for its consideration and discussion, of 20 minutes; and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Mr. President, reserving the right to object, and I shall not object, I appreciate the distinguished assistant majority leader making this request, and I certainly hope that it will be acceded to.

I believe this is one of the most important bills remaining on the calendar. It is a bill that does justice to miners throughout the country. We have a large number of miners in my State, and we all recognize the importance of the coal mining industry. It is one of the best prospects we have of solving our energy problem.

We certainly need this equitable bill, and I am delighted that we would temporarily leave the present bill, the lawyers bill, and take up this bill.

Mr. BAKER. Mr. President, reserving the right to object, I must say that, so far as the Senator from Tennessee is concerned, I am entirely sympathetic to the request.

Much good work has gone into this bill, and there is a grave need to be taken into account with respect to many people in my State and other regions of the country who suffer from black lung.

However, reluctantly, I must say that I have requests from Senators on this side of the aisle to enter an objection. Therefore, at this time, at their request, I do object.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

The PRESIDING OFFICER. The clerk will report the unfinished business.

The assistant legislative clerk read as follows:

A bill (S. 2278) relating to the Civil Rights Attorneys' Fee Awards Act of 1975.

Mr. WILLIAM L. SCOTT. Mr. President, I have an amendment at the desk and of course have 1 hour to debate this matter, as each Senator has. However, I am not going to present my amendment or talk for an hour.

I am concerned about this bill. I do not consider it a good bill, and I voted against cloture. But I am more concerned about the future of the Senate and about the action that we have taken on the floor of the Senate that has promoted perhaps a little stiffening on each side.

The distinguished Senator from West Virginia, the acting majority leader (Mr. ROBERT C. BYRD) has presented his position in a very able manner. It has been diametrically opposed by the distinguished Senator from Alabama (Mr. ALLEN).

I hear from among my colleagues suggestions that sometime in the future we may make it easier to impose cloture, that we may make cloture more meaningful, so that after cloture is imposed, we would not have any extended period of time in which to debate an issue.

I hope that some middle ground can be found, because I hear people on the other side indicate that if the rules are strengthened, that if they are made more strict, they are going to object to all unanimous-consent requests.

I believe the distinguished Senator from West Virginia, the acting majority leader (Mr. ROBERT C. BYRD), well knows that there is some innovation that can arise; that, regardless of the rules, Members of the Senate can find a way to have extended debate.

We have conflicts with our committees meeting from time to time. Sometimes we are not able to meet because of extended debate on the floor of the Senate.

Mr. President, I understand that we have a committee which is considering possible changes in the Senate rules so that we might meet in our committees in the morning and then the full Senate meet in the afternoon or evening. I do not make any comment as to the desirability of bringing that about. It may be, in part, the answer. However, I think we might also consider whether we could have our committees meet one day and have the Senate meet on the following day, alternating between the committee sessions and floor consideration. It seems to me that each Senator ought to find some way in which he could present his views to the full Senate and have them be given some consideration.

Oftentimes, under the procedure that we have, a given Senator talks to an empty Chamber and the views that he expresses on a bill or an amendment which he offers are not heard by very many Members of this body. A Senator might have a good idea, and it might be well for his colleagues to hear his arguments.

In my opinion, we ought to find some way so that we can maintain a quorum on the floor of the Senate. Some time ago during the consideration of the tax bill, as I recall, an effort was made to get the differing sides together for a limited discussion of around 10 minutes on the key issues in controversy with many of the Senators in the Chamber to hear the debate. That seemed to work out fairly well.

The entire gist of what I am saying is that we ought not to go to extremes on both sides so that those who believe in unlimited debate will abuse the privileges and those who feel that they have a responsible position in the leadership, perhaps in the majority party, wanting to get substantial legislation passed, go to the other extreme. It was illustrated yesterday, when a Member did not feel that he was being recognized, and had to shout several times, "A point of order." He was ignored by the Presiding Officer. I do not believe we ought to have to resort to such things as that.

The thrust of my argument is that we should try to find some common ground so each Senator can be heard on any issue in which he is interested for a reasonable period of time and there would be some people here, on the floor of the Senate, to hear what he has to say. In this way we would not have to take the extreme measures of having a series of time-consuming quorum calls, and could avoid any feeling that a given Senator is not being shown the courtesy that he should receive while still providing him an opportunity to present his views.

Once again, Mr. President, I do not intend to offer the amendment pending at the desk. I have material that I had previously prepared which could take around 2 hours to discuss. I was going to offer an amendment that, although it could be germane, seemed to relate more directly to the busing issue than it did to the attorneys' bill. I think it is perhaps under the same section of the code and might therefore be germane. But I raise this general question for the consideration of the distinguished Senator from Alabama (Mr. ALLEN) who may be the champion of the conservative cause here in this body, and our distinguished acting majority leader, the Senator from West Virginia (Mr. ROBERT C. BYRD). I believe that, somehow, we have to find a common meeting ground to which all of us can come and quit some of the bickering that has been evident on the floor of the Senate.

Mr. President, I yield the floor.

Mr. ALLEN. Mr. President.

The PRESIDING OFFICER (Mr. BURDICK). The Senator from Alabama is recognized.

Mr. ALLEN. I commend the distinguished Senator from Virginia for his very wise words and for the suggestions he has made for the improvement of the procedure in the Senate and the need to guarantee to each Senator the right to be heard and the right to be recognized on the floor for any action he might choose to call for, consistent with the Senate Rules. I appreciate very much his comments on that matter and his comments on the lawyers' bill.

TIME-LIMITATION AGREEMENT

HOUSE JOINT RESOLUTION 1096

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the supplemental appropriations bill is called up and made the pending business before the Senate there be a time limitation—this has been cleared with Mr. McCLELLAN, the chairman, and with the ranking minority member, Mr. YOUNG, and with others on the Appropriations Committee on both sides—on the bill of 2 hours to be equally divided between Mr. McCLELLAN and Mr. YOUNG; that there be a time limitation on any amendment thereto of 30 minutes; that there be a time limitation on any debatable motion, appeal or point of order that is submitted to the Senate for discussion of 20 minutes; and that the agreement with respect to the control and division of time be in the usual form.

Mr. ALLEN. Reserving the right to object—and I shall not object—this bill is typical of the bills that must pass the Senate before we adjourn. I have contended all along in connection with debate on this lawyers bill that we have before us that there are so many more important issues before the Senate, before the Congress, and before the country, than this lawyers bill that I am delighted to see the leadership, in effect, temporarily laying aside the lawyers bill in order to get to more important matters. I am delighted to cooperate with the leadership in this matter, and certainly I have no objection to the consideration of this supplemental appropriation bill.

Mr. GRIFFIN. Mr. President, reserving the right to object, and I shall not object, I would like to recite that since the bill will be open to amendment, the agreement provides for 2 hours debate on the bill itself, general debate, it should be understood that that time can be allocated by the managers on either side to particular amendments in the event there is an additional time required. The amendments, of course, under the rules, would have to be germane.

It had been my hope, I would say, that perhaps we could have had an agreement cutting off amendments, but I understand that is not the case.

Mr. YOUNG. Well, I may say there was hope expressed by Chairman McCLELLAN when the bill was marked up in the committee that there would not be amendments, that it not become a "Christmas tree" bill.

The provisions in the bill are now mostly mandatory like paying $200 million as a result of the damages of the Teton Dam failure, the typhoon in Guam, and just things like that.

The total bill is only about $365 million, which is very small for a supplemental bill, so we hope if there are any amendments there would be very few and, hopefully, none.

Mr. GRIFFIN. I wonder if the Senator believes 2 hours on the bill are enough and whether we should provide more than that under the circumstances not knowing what amendments will be offered?

Mr. YOUNG. I personally think 2 hours would be sufficient, but I leave that to the chairman of the committee.

Mr. GRIFFIN. I would hope and expect the leadership on both sides will discourage Senators from turning this bill into a "Christmas tree" bill. In the past that has been done, and it has been effective, and I hope that will not be the case in this situation.

The PRESIDING OFFICER (Mr. BURDICK). Is there objection? The Chair hears none, and it is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That during the consideration of H.J. Res. 1096 (Order No. 1235), Resolution making supplemental appropriations for the Department of Defense for the repair and replacement of facilities on Guam damaged or destroyed by Typhoon Pamela, and for other purposes, debate on any amendment shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the resolution, and that debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the resolution: *Provided*, That in the event the manager of the resolution is in favor of any such amendment, motion, appeal, or point of order, the time in opposition thereto shall be controlled by the Minority Leader or his designee.

Ordered further, That on the question of agreeing to the said resolution, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from Arkansas (Mr. McCLELLAN) and the Senator from North Dakota (Mr. YOUNG): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Mr. ROBERT C. BYRD. Mr. President, I would share that hope. The target date for adjournment is October 2, hopefully October 1. The supplemental appropriations bill is a bill that must pass before Congress adjourns. We may have to come along with a continuing resolution instead, if we have to, and if we have to have both, it is my understanding we would have both.

It would be my hope there would be no amendments to the bill. I have an amendment I would like to offer. I offered an amendment to the District of Columbia appropriations bill recently which, I thought, was a very meritorious amendment. It was rejected in the conference with the House. I think it would have been very beneficial to the District of Columbia, but it happened to be an amendment that was under the jurisdiction of the Interior Appropriations Subcommittee. I chair that subcommittee at the present time. At the time the measure was before my subcommittee, the matter had not ripened to the point that it was ready, and so as the District of Columbia appropriation bill came along I offered the amendment in conference, and it was rejected. I would love to propose this amendment to this bill but, in so doing, I think I would jeopardize our chances of meeting our adjournment date, so I join in the wishes of the chairman and the assistant Republican leader.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. Mr. President, the imposition of cloture from time to time is rushed into by the Senate, and it puts those who oppose legislation at a disadvantage. But, at the same time, I must say, Mr. President, the imposition of cloture and the procedure that follows the imposition of cloture can sometimes be highly constructive and can operate in the best interests of the country.

We see here examples of that in that it causes the Senate to be more selective in its choice of measures that are allowed to be brought up, and it prevents passage of measures in short order that have vast implications. But it would not be too bad in some respects—I would not be in favor of it, but it would not be too bad in some respects—to have the Senate operate under perpetual cloture. I think it might be very good in some ways in that it would hold down the number of bills that pass and would make the Senate much more selective in the bills they do pass.

REPORTS OF COMMITTEES

S. 2228

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the conference report on the Public Works and Economic Development Act may be filed. It is at the desk. I ask unanimous consent that it be allowed to come in.

Mr. ALLEN. Brought up.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Reserving the right to object, the Senator has not finished his request.

Mr. ROBERT C. BYRD. No, I am not through.

H.R. 13555

Mr. President, I ask unanimous consent that the committee report on the black lung bill be allowed to come in today. It is my understanding that the Finance Committee is acting under an order that it report that bill to the Senate today.

HOUSE JOINT RESOLUTION 1096

Mr. President, I ask unanimous consent that the committee report on the supplemental appropriation bill, when ready, be allowed to come in. That is as far as I will go with this request.

Mr. ALLEN. Reserving the right to object, and I shall not object, I commend the distinguished majority leader for bringing up these matters. Certainly I would favor both measures. Certainly I want to expedite the passage of both measures, and I am delighted to join in the request.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

The Senate continued with the consideration of the bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

AMENDMENT NO. 2388

Mr. ALLEN. Mr. President, I call up an amendment and I would like to have it stated so that we would not be voting on the pending substitute.

I call up and ask that the following amendment be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Alabama (Mr. ALLEN) proposes amendment No. 2388: On page 1, line 9, strike the word "costs'." and substitute in lieu thereof the following: "costs, but in no event shall any court of the United States order or otherwise require any officer of the United States or any State or local public official to pay to a prevailing party a reasonable attorney's fee as part of the costs except in the event such officer or State or local public official has acted in a contumacious or vexatious manner.".

UNANIMOUS-CONSENT AGREEMENT

S. 2228

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from West Virginia (Mr. RANDOLPH) be authorized to call up his conference report on S. 2228, and that there be a time limitation thereon of not to exceed 20 minutes, to be equally divided between Mr. RANDOLPH and Mr. BAKER.

Mr. BAKER. Mr. President, reserving the right to object, I take it this is the EDA conference report; is that correct?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. We have no objection.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will my distinguished senior colleague yield for a unanimous consent?

Mr. RANDOLPH. Yes, I am very happy to.

H.R. 15026

Mr. ROBERT C. BYRD. Mr. President, on H.R. 15026, a bill to amend the Federal Aviation Act of 1958 to authorize reduced fare transportation on a space-available basis for elderly persons and handicapped persons, and for other purposes, which has been referred to a Senate committee, I ask unanimous consent that it be in order for the Senator from Tennessee now to move that the committee be discharged from further consideration of that bill so it will be at the desk, and that we have a time limitation on the bill of 20 minutes, with a time limitation of 10 minutes on each amendment, and a time limitation on any debatable motion or appeal of 10 minutes.

It is my understanding that the Senator has cleared this matter with Mr. CANNON. It is my understanding it has been cleared with the Budget Committee.

I think that pretty well explains it.

Mr. ALLEN. Mr. President, reserving the right to object, and I do not plan to object, I wonder if the distinguished Senator from Tennessee would briefly state what the bill does before we agree to bring it up.

Mr. BAKER. Mr. President, reserving the right to object, in answer to the query by the Senator from Alabama, this is a House-passed bill. When it originally came over from the House, Senator CANNON asked that it be held at the desk.

As I understand it, the distinguished Senator from Alabama objected to the bill being held at the desk and it was referred to the Commerce Committee.

The procedure we will follow here is, as outlined by the distinguished assistant majority leader, I will shortly ask unanimous consent that the Commerce Committee be discharged from further consideration and at the appropriate time the bill will be called up for immediate consideration.

This bill, which permits the CAB to approve reduced air fares on a standby basis for the elderly and handicapped, passed the House of Representatives on September 21, 1976.

Mr. ALLEN. This bill must have been part of a large group of bills. The Senator from Alabama has not been opposed to it.

Mr. BAKER. That is entirely correct. There was a long list that was asked to be held at the desk and this was one.

Mr. ALLEN. I felt a victim of guilt by association, more or less.

Mr. BAKER. But those of us who supported this measure and the amendments to it are grateful to the Senator from Alabama for the opportunity to consider it.

Mr. ALLEN. I have no objection.

Mr. BAKER. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of this bill and that the bill be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Reserving the right to object, do I understand this bill is in the Commerce Committee?

Mr. BAKER. I say to the chairman, it is.

Mr. President, this is the bill Senator CANNON had asked to be held at the desk. Objection was made to holding this bill at the desk and it automatically was referred to the Commerce Committee.

We conferred with Senator CANNON this morning and he indicated that he approves of this procedure to discharge the committee from further consideration.

I assumed the chairman of the subcommittee had discussed this matter with the distinguished chairman of the full committee.

Mr. MAGNUSON. I do not recall any discussion with me. As far as I am concerned, it may be perfectly all right. But again, what is the bill, what does the bill do?

Mr. BAKER. Mr. President, I am sorry the chairman was not consulted, but having talked to the distinguished Senator who is chairman of the subcommittee, I assumed that the bill had been cleared.

This bill was passed by the House of Representatives and provides the CAB with authority to approve reduced air fares for the elderly and the disabled.

Mr. MAGNUSON. It deals with aviation; that is how the Commerce Committee had jurisdiction.

Mr. BAKER. That is correct.

Mr. MAGNUSON. I have no objection.

Mr. BAKER. Mr. President, I renew my request that the Commerce Committee be discharged.

Mr. GRIFFIN. Mr. President, I do not intend to object, but I wonder, does this reduction of fare apply across the board or is it on a standby basis?

Mr. BAKER. Approval of reduced air fares would be within the discretion of the Civil Aeronautics Board and on a standby basis.

Mr. MAGNUSON. Will the Senator yield again?

Mr. BAKER. I am happy to do that.

Mr. MAGNUSON. As I understand it, checking again now with the number of the bill, the bill is permissive and allows the airlines to reduce the fares if they so wish; is that correct?

Mr. BAKER. That is correct.

Mr. MAGNUSON. It does not direct them to do it, but it is permissive.

Mr. BAKER. Fares may be reduced for the elderly and the handicapped under terms and conditions as the board may prescribe.

Mr. MAGNUSON. All right.

The PRESIDING OFFICER (Mr. DURKIN). Without objection, it is so ordered.

TIME NOT CHARGEABLE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent the time I am consuming now not be charged against the Senator from West Virginia (Mr. RANDOLPH) or the Senator from Tennessee (Mr. BAKER), and that it not be charged against my time under cloture.

I ask unanimous consent that no time be charged against any Senator under the cloture rule that has been utilized today in discussing these unanimous-consent requests.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT

H.R. 11455

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—and this bill has been cleared on both sides—that at such time as H.R. 11455, the Indiana Dunes bill, is called up and made the business before the Senate, there be a 20-minute time limitation on the bill and a 10-minute time limitation on any amendment, debatable motion, or appeal, and that the agreement be in the usual form.

Mr. GRIFFIN. Mr. President, reserving the right to object, and I shall not, but I would like to indicate for the Record that this is agreeable to the Senator from Arizona (Mr. Fannin), the ranking member on the Republican side of the committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair and I thank all Senators.

ORDER FOR CONSIDERATION OF H.R. 15026

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the pending conference report, the Senate proceed to the consideration of the bill H.R. 15026, to amend the Federal Aviation Act of 1958 to authorize reduced fare transportation on a space-available basis for elderly persons and handicapped persons, and for other purposes, on which a time agreement has been entered, and on which both Mr. Baker and Mr. Cannon have concurred as to the time limitation, and in connection with which, the chairman (Mr. Magnuson) a few minutes ago indicated his approval.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank my colleague.

ORDER FOR CONSIDERATION OF H.R. 11455

Mr. ROBERT C. BYRD. I ask unanimous consent, Mr. President, that upon the disposition of the bill in which the Senator from Tennessee is interested, that the Senate proceed to the consideration of H.R. 11455, to amend the act establishing the Indiana Dunes National Lakeshore to provide for the expansion of the lakeshore, and for other purposes, on which a time agreement has been entered today.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT—CONFERENCE REPORT

Mr. RANDOLPH. Mr. President, I submit a report of the committee of conference on S. 2228, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Durkin). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2228) to amend the Public Works and Economic Development Act of 1965, as amended, to extend the authorization for a 3-year period, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the Record of September 23, 1976, beginning at page 32113.)

Mr. RANDOLPH. Mr. President, I thank the acting majority leader and Members of the Senate for their cooperation in arranging the schedule so that this important conference report extending the Public Works and Economic Development Act can be considered in this body.

Mr. President, the Senate is considering today the conference report on S. 2228 which extends the Public Works and Economic Development Act for 3 years through fiscal year 1979. This bill was passed by the Senate on July 2 and a companion measure was passed by the House following the Labor Day recess.

The conference committee met on two occasions to resolve the differences between the two bills. The sessions were long and fruitful. Members from both the Senate and the House worked diligently for a bill which would continue this valuable program. The bill, as agreed on by the conference, provides authorizations for a program which addresses the economic development needs of rural and urban areas. Funding is established at $1.395 billion for fiscal year 1977 and $1.650 billion for fiscal years 1978 and 1979.

The authorizations for fiscal years 1978 and 1979 contain $250 million each year for the programs of the title V regional commissions established under title V of the Public Works and Economic Development Act. These programs were, earlier in this Congress, extended through fiscal year 1977. The new program authorities provided in the Regional Development Act of 1976 for the title V commissions are continued by this measure.

The legislation agreed upon is constructive and helpful in solving the economic problems faced by the areas of the country suffering from unemployment or economic distress.

The program which this measure continues grew out of an awareness that all parts of the country were not equipped to share the general economic prosperity enjoyed by the Nation. This program, therefore, was designed to assist communities to build a sound base for the development of stable and diversified economic growth. To achieve this goal, construction of primary public works type facilities which are beyond the financial capabilities of some communities are contemplated. This program provides Federal funding to help such communities build needed public works facilities.

The intent of this program is not antirecessionary but, rather, one designed for long-term economic growth. Even though there are provisions of this program which help to soften cyclical problems, the basic thrust is long-term economic growth and development. The act has been strengthened several times since first enacted in 1965 and has been generally successful in addressing economic problems. It has made communities better places to live and created new jobs.

The Nation has recently undergone a serious economic crisis and additional cities have developed problems requiring economic development assistance. To address this problem, the conferees agreed on a new community redevelopment loan program. This new program allows a redevelopment area to submit a plan which, if approved by the Secretary of Commerce, can be the basis for obtaining an interest-free redevelopment loan. Such loan is then reloaned to communities within the area for uses which provide substantial redevelopment opportunities in the area. It was, I believe, the intention of the Senate conferees that an eligible applicant for such loan be an economic development district, city or other political subdivision of a State, or a group of such political subdivisions. Since the purpose of this loan is urban redevelopment, the conferees believe these groups are best able to administer the loan program in a manner which will achieve the desired result.

The conference committee recognized the great need for these programs in urban areas smaller than 250,000. Therefore, the eligibility criteria was amended to provide that cities of over 25,000 would be eligible for assistance under the act. Because of this expanded eligibility, the authorization for title I was increased to $425 million. This would provide a sufficient base to carry on the program without diluting the funding in rural areas of the Nation.

The conference committee also adopted the Senate provisions for a standby job opportunities program. This provision is recognition that the act should contain a means of creating jobs when a recession occurs. Appropriations under this title would only be made when unemployment exceeds 7 percent for any calendar quarter. Funds would not be appropriated for any period when unemployment is below 7 percent.

The inclusion of this authority in the act will insure a mechanism for providing jobs swiftly when the need arises. However, it should be clearly understood that serious and substantial unemployment must exist before this program is to be implemented by the Secretary.

I commend the conferees from both the Senate and the House for their efforts in working to bring forth this important legislation. I wish to particularly thank the Senate conferees, Senator Montoya, Chairman of the Economic Development Subcommittee, Senator Muskie, Senator McClure, and Senator Baker for their assistance in resolving these issues of the conference.

The 3-year extension of this economic development program approved by the conference will assist all areas in meeting their development needs. A measure of stability is also provided for the efficient operation of the program over the next 3 years. I urge the adoption of this conference report.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from New Mexico (Mr. MONTOYA).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. MONTOYA

This conference report on S. 2228 extends for three years the programs of the Economic Development Administration and the title V regional commissions.

The Administration requested a three-year extension. As chairman of the Subcommittee on Economic Development, I was surprised and pleased by this kind of agreeableness after many years of hostility toward these programs.

The bills passed by the Senate and House were in basic agreement on the period of the extension, but significant differences arose over the extent to which new areas, particularly cities, should be eligible for the programs.

The conferees are to be congratulated. After a good deal of giving on both sides, we have a bill that strengthens the Act. Both Houses believed it was important to increase the authorizations in the public works grant program from the present $250 million to $425 million and in the business loan and guarantee programs from the present authorization of $75 million to $325 million, an overall increase of $425 million in annual authorization.

The House bill provided a new program for cities, with a special designation and a special authorization. The Senate conferees believed this was a too radical departure from the existing programs. The compromise provides additional flexibility for EDA to promote assistance, particularly for cities suffering long-term economic deterioration.

The provision adopted provides loans to redevelopment areas to be reloaned for redevelopment purposes. When these loans are repaid they may go into a revolving fund of the applicant's creation for reloaning. This is an innovation in this program. I do not believe we have been entirely clear in the legislative history on who the eligible applicants for these loans may be. For now we shall be content to monitor EDA's guidelines and regulations based on their considerable experience. If changes are needed, we will consider amendments next year.

A further significant amendment lowers the eligibility threshold for cities from 250,000 to 25,000. This will undoubtedly increase the number of cities eligible for this program. We hope it will reach those places that have sufficient unemployment that have not been able to secure designation as part of a larger area such as a county or labor market area. Once again we shall monitor the affect of the amendment closely.

Finally, the Conferees have agreed to retain my Job Opportunities Program amendment, sometimes called Title X. This program was enacted in late 1974, authorizing $500 million for the 1975 calendar year for short term jobs on projects that could be completed in 12 months. Early returns on this program suggest it has been successful. Cost per job in Federal dollars is below $10,000. EDA estimates that 100,000 jobs were created through this program.

What the reauthorization of title X does is to provide a standby authority during times of high unemployment—7 percent or more nationally—to create new short-term jobs through an expansion of existing Federal programs. Slightly more than $81 million is authorized on a quarterly basis, with a maximum annual authorization of $325 million. My amendment adopted in the Senate authorized $500 million, but it became necessary to trim $175 million for distribution among other titles. I hope this authority will be utilized to aid those without a job. This is still a recession. This 3-year standby antirecession program, though modest in scope, can provide 65,000 jobs each year that unemployment remains high.

There are a good many other changes in the act, mostly of a perfecting nature. In general, we have come up with a creditable package, and I hope and trust that President Ford will sign the bill into law.

I wish to express my gratitude to the Chairman of the Public Works Committee, Senator RANDOLPH, for his guidance and help with this legislation. Senator McCLURE has been a steady, conscientious, and helpful subcommittee member on the minority side.

Mr. BAKER. Mr. President, how much time is allocated to the Senator from Tennessee?

The PRESIDING OFFICER. Ten minutes.

Mr. BAKER. Mr. President, I join in the statement of support of the distinguished chairman of the Public Works Committee regarding the conference report on S. 2228, the bill extending the Public Works and Economic Development Act for 3 additional years, through September 30, 1979.

Mr. President, I believe this is a good bill, continuing the basic programs of the EDA for 3 years. I commend the administration for, first, proposing a 3-year extension to restore stability to this program which has been subjected to a series of 1-year extensions in the past. It will enable EDA to go forward and perform its long-run mission without the uncertainty and disruptive influence occasioned by year-to-year authorizations. It will, I believe, enable EDA to pursue its role in meeting economic development needs carefully defined in kind and scope.

I also commend the leadership and support of the distinguished Senator from West Virginia for his assistance as well as his cooperation with the administration and its representatives in bringing forth this workable legislation that both the majority and the minority can support without reservation.

I would particularly pay respect to the distinguished junior Senator from Idaho (Mr. McCLURE), who is the ranking minority member of the Subcommittee on Economic Development, for his contribution. We thank him for the great amount of time and effort that he has devoted to this legislation, and for his astute insights and significant contributions in general. In addition, I commend the conferees on the part of the House who worked in the spirit of compromise.

The junior Senator from Idaho could not be present today. I ask unanimous consent that a statement by Mr. McCLURE in support of the conference report be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. BAKER. Mr. President, the junior Senator from Idaho (Mr. McCLURE) and I submitted supplemental views in the Senate report on S. 2228, the Public Works and Economic Development Act of 1976. We stated that it would be, we believed, a disservice to the ongoing successful EDA program to establish an artificial and competitive separation of rural and urban areas, as proposed by some during Senate hearings and as contained in the House bill.

We were especially concerned that unless we are careful, the existing and useful program could be destroyed by charging it with a huge, undefined task beyond its capacity.

I am pleased that the conference agreement does not contain an artificial separation or new program that would be beyond the scope of the program or ability to deliver, and I wholeheartedly support adoption of the conference agreement. The conference report does not contain any provision specifically earmarked for urban economic development. Title II of the act is amended to provide a program of long-term loans to be available for the same purposes and under the same conditions as was provided in the House urban amendment except this loan program is available to all redevelopment areas and not restricted to urban areas alone. I believe this amendment to title II will alleviate the complex and difficult problems facing urban areas by providing funds to metropolitan areas within the framework of the basic purposes and strategies of the present act.

Mr. President, in the supplemental views the Senator from Idaho (Mr. McCLURE) and myself also expressed concern about the tendency to expand authorizations beyond current levels, even though appropriations are substantially below the previously authorized amounts year after year. I point out to my colleagues that while adjustments were made among the various titles the total authorizations contained in the conference report does not exceed the total figure in the Senate-passed bill for fiscal year 1977 and are only slightly greater for fiscal years 1978 and 1979.

Mr. President, I support the conference report, recommend it to my colleagues and hope it will be enacted into law.

EXHIBIT 1

STATEMENT OF SENATOR McCLURE

Mr. President, I join with the distinguished Chairman of the Public Works Committee and fellow conferee, Mr. Randolph, in recommending to the Senate the Conference Report extending the Public Works and Economic Development Act.

In July the Senate passed S. 2228, a bill extending the authorities of the Public Works and Economic Development Act for three additional years, through September 30, 1979. The bill passed by the Senate was essentially a straight extension of the purposes and authorities of the existing program. Recognizing the long term economic distress affecting many of our urban communities, the Senate bill earmarked funds for eligible urban areas, targeting aid to these communities of greatest distress. The bill attempted to respond to urban needs within the framework of the existing program.

The bill passed by the House included several amendments to the basic EDA program, including a special, separate program for urban areas. This last section was a controversial measure and the most pressing issue facing the conference. I commend the House conferees for their efforts to resolve this section of the House bill in a way we all could support.

Instead of the special urban program, the conference agreement establishes authority for EDA to fund local revolving loan programs in any area eligible for assistance under the Act. This is a major new authority.

To apply for the new loan program authorized in Section 204, a redevelopment area must prepare a plan outlining the need for the loan fund and how it will be used. These plans should reflect other planning being carried out by the redevelopment area.

The agency now supports, through several sections of the Act, economic development planning at all levels of government. The plan required in Section 204 for receiving funds is not to replace other planning but should serve to support the goals and purposes of other economic development planning where it is appropriate and current.

Based on the plan and subject to its approval, the Secretary is authorized to make an interest free loan to redevelopment areas to be reloaned for economic development activities outlined in the plan. The repaid loans are to be placed in a revolving loan fund for reloaning for economic development purposes. Each of these loans would be subject to approval by the Secretary of Commerce. I believe the conferees intend that the initial loan would be made to the governing body of the area. The initial loan would not be made to a non-profit, private association or group. Once an area receiving the loan no longer meets the eligibility criteria of the Act, it would cease making loans under the program and funds would be returned to the Treasury.

The total authorizations of the Conference Report are $1.395 billion for fiscal year 1977 and $1.650 billion each for fiscal years 1978 and 1979. For the regular, ongoing programs of the Economic Development Administration, Titles I through IX of the Act, the Conference agreement authorizes $1.070 billion per year for fiscal years 1977, 1978 and 1979. For the Title X, Jobs Opportunities Program, a maximum of $325 million per fiscal year is authorized. The third authorization in the Conference agreement covers the programs of the Title V Regional Commissions which would be extended an additional two years by this legislation. A total of $250 million for fiscal year 1978 and fiscal year 1979 is provided for the established commissions and $5 million per year is authorized for new commissions.

One major item in conference concerned amendments to prohibitions in existing law relating to energy projects. The House bill proposed to delete all restrictions on EDA's participation in energy related projects. The Senate bill provided a limited exemption. I am glad the Conferees agreed to retain the prohibitions in existing law while providing a limited exemption.

Under the Conference agreement, before an energy project would be considered for funding, in addition to meeting the other requirements of the Act, the Secretary must make a finding that the project cannot be financed any other way. EDA would not make a wholesale move into the financing of energy projects but only as a last source of financing.

In addition to the Secretary's finding, the appropriate State or Federal regulatory body must make a finding that the facility will not compete with existing utilities or if there is a finding of competition, that the service cannot be met by the existing utility.

The House bill also proposed an amendment to the planning program established in Section 302 of the Act. I understand the new language was prompted by the lack of cooperative planning by some states with their political subdivisions as required under the Act. The Conferees agreed that it was the intent of the 1974 amendments creating the planning program to foster such cooperation, and that there was need to confirm and strengthen the intent of Congress on the need for cooperative planning among the levels of government. The Conferees, however, wanted to preserve the ability of each entity to address its own perceived problems and priorities and establish its own goals and objectives. The Conference agreement, I believe, achieves both goals—that of preserving the integrity of each entity while strengthening cooperation and interchange.

As agreed to by the Conferees, a state plan will, to the extent possible, be consistent with the goals and objectives of local planning. Where there are inconsistencies—and I expect there will be given the different perspective and programs of each level of government—the state must certify to the Secretary the inconsistencies and the reasons for them.

The process of requiring the State to show how and why the goals and objectives of its plan differ from that of local plans will foster more involvement and the working relation we envisioned in 1974.

During discussion of a proposal to add "long term deterioration" as a criteria for eligibility under the Act, the conferees agreed on the need to develop additional data and ways to measure the long term economic distress which the Act addresses. Historically, unemployment data has been the principal means of determining eligibility under the Act. The Conferees believed there are other factors such as low per capita income, decline in per capita employment, changing county business patterns, local tax effort, operating capacity ratio of industrial firms and the loss of industrial or commercial jobs which may better serve the purposes of the Act. The Secretary is directed to explore these and other possible factors to develop more meaningful measures of the long-term economic distress which this Act is designed to address.

Under the agreement reached by the Conferees, the Jobs Opportunities Program would be extended through 1979 but the annual authorization is reduced to $325 million per year from $500 million included in the Senate bill. As the funds would be made available on a quarterly basis, this means a maximum quarterly authorization of $81,250,000 when the national unemployment rate is above 7%.

The Jobs Opportunities Program extended by this legislation includes the amendments made by the Senate Public Works Committee in July of last year when it considered this program as part of the public works jobs legislation. The amendments were outlined in the Committee report on S. 1587.

Briefly, the amendments clarify and strengthen the original intent of the program. The amendments remove the Secretary of Labor from the selection process, streamline the selection criteria, and remove the restriction placed on half the appropriated funds. This last restriction has hampered, in some instances, the ability of the Secretary of Commerce to select the most job effective activities for support.

The language in the bill has also been amended to indicate that programs and projects originally sponsored by local communities or States meeting the criteria of the title receive priority consideration over wholly federally sponsored activities.

The title does not create an elaborate new program or new bureaucracy but is intended to use and strengthen ongoing programs which will create jobs. It was our thought in proposing this approach that the existing programs and expenditures of Government can be directed toward the creation of jobs more effectively if we create the means within the Department of Commerce to evaluate ongoing programs and expenditures to see which ones have the most direct and immediate effect upon the creation of job opportunities for the unemployed.

The significant feature of the program is the agency review conducted by the Secretary of Commerce. The Secretary is directed to consult and review with the various Federal agencies their proposed programs and project expenditures for the year to evaluate their job effectiveness and use in areas of high unemployment. Through the review, the best and least costly means of creating jobs for the unemployed can be promptly identified.

The special funds authorized in the bill are available for the purpose of creating, maintaining, or expanding job opportunities. Funds are available to move a program or project forward or to expand the number of jobs a particular activity could create.

Eligible activities are not limited to public works but include the wide range of activities carried out under Federal agencies including business development. Most important, the program could provide crucial funding to initiate, continue or accelerate job creating activities which would in turn provide immediate jobs. For example, funds may be used to purchase equipment necessary for expanding jobs. Funds are available to provide payrolls or salaries. All projects would be selected for their job effectiveness.

There are other amendments which I have not discussed in detail but which are explained in the statement of managers.

Mr. President, this agreement represents a compromise between the House and Senate bills and I wish to commend all the conferees—particularly the Chairman of the Conference, Mr. Roe—for their attention to the legislation and willingness to work together for a measure supported by both bodies. I note, particularly, the leadership and support of the distinguished Chairman of the Public Works Committee, (Mr. Randolph) who, has had to divide his time between the Senate and the hospital where his only nephew is gravely ill. During this period of personal sadness, he has neither faltered nor flagged in earnestly pursuing his duties to the conference, the Senate and the country.

PRIVILEGE OF THE FLOOR—H.R. 15026

I ask unanimous consent that Malcolm Sterrett, John Kirtland, Robert Ginther, and Ward White, members of the Commerce Committee staff, be accorded the privilege of the floor during the debate on the next ensuing measure, H.R. 15026.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. ALLEN. Mr. President, the time has not expired.

Mr. BAKER. Mr. President, since the distinguished senior Senator from West Virginia (Mr. RANDOLPH) is not on the floor at this time, I suggest the absence of a quorum, to be charged against my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

The call of the roll was continued.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered.

Mr. RANDOLPH. Mr. President, is it proper for me to make a parliamentary inquiry at this point?

The PRESIDING OFFICER. The Senator will state it.

Mr. RANDOLPH. This is a rollcall vote, as I understand it, on the passage of the conference report on S. 2228, the Public Works and Economic Development Act extension; is that correct?

The PRESIDING OFFICER. The Senator is correct.

ORDER FOR THE YEAS AND NAYS ON H.R. 15026

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order—I understand that Senators will wish to have the yeas and nays on the next matter which will be disposed of under the unanimous-consent order heretofore entered—so I ask unanimous consent that it be in order to order the yeas and nays on the passage of H.R. 15026.

Mr. GRIFFIN. Mr. President, reserving the right to object, is that the air space-available bill?

The PRESIDING OFFICER. The Senator is correct. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Now, on behalf of the other Senators who wish to have a yea and nay vote on that measure, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

ORDER FOR THE YEAS AND NAYS ON H.R. 11455

Mr. BAYH. Mr. President, will the Senator from West Virginia yield for a question?

Mr. ROBERT C. BYRD. I yield for a question.

Mr. BAYH. I understand the Senator from Alabama also wants to have a rollcall vote on H.R. 11455, the Indiana Dunes bill.

Mr. ALLEN. I just mentioned that that was another number.

Mr. BAYH. The Senator from Alabama said he wanted to register strong support for it. I ask unanimous consent, if I may, that we may ask for the yeas and nays on that measure.

Mr. ROBERT C. BYRD. That it be in order.

Mr. BAYH. That it be in order to order the yeas and nays on H.R. 11455.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Texas (Mr. Bentsen), the Senator from Florida (Mr. Chiles), the Senator from California (Mr. Cranston), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Colorado (Mr. Haskell), the Senator from Kentucky (Mr. Huddleston), the Senator from Wyoming (Mr. McGee), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss) and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that the Senator from Ohio (Mr. Glenn) and the Senator from Montana (Mr. Mansfield) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Oklahoma (Mr. Bellmon), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from New Mexico (Mr. Domenici), the Senator from Oregon (Mr. Hatfield), the Senator from Idaho (Mr. McClure), the Senator from Pennsylvania (Mr. Schweiker), the Senator from Virginia (Mr. William L. Scott), the Senator from Vermont (Mr. Stafford), and the Senator from Ohio (Mr. Taft) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The result was announced—yeas 70; nays 2, as follows:

[Rollcall Vote No. 644 Leg.]

YEAS—70

Allen
Baker
Bartlett
Bayh
Biden
Brooke
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Church
Clark
Culver
Curtis
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Hathaway
Hollings
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McGovern
McIntyre
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Roth
Scott, Hugh
Sparkman
Stennis
Stevens
Stevenson
Stone
Symington
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—2

Helms
Proxmire

NOT VOTING—28

Abourezk
Beall
Bellmon
Bentsen
Brock
Buckley
Chiles
Cranston
Dole
Domenici
Glenn
Hart, Philip A.
Hartke
Haskell
Hatfield
Huddleston
Mansfield
McClure
McGee
Metcalf
Mondale
Montoya
Moss
Schweiker
Scott,
William L.
Stafford
Taft
Tunney

So the conference report was agreed to.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AIR FARE REDUCTION FOR ELDERLY AND HANDICAPPED

The PRESIDING OFFICER. According to the previous order, the Senate will proceed to the consideration of H.R. 15026, which the clerk will state.

The second assistant legislative clerk read as follows:

A bill (H.R. 15026) to amend the Federal Aviation Act of 1958 to authorize reduced fare transportation on a space-available basis for elderly persons and handicapped persons, and for other purposes.

Mr. CANNON. Mr. President, the purpose of this bill is to authorize the Nation's airlines to offer reduced rate airline fares to the elderly and the handicapped. This is legislation which the Senate, on two past occasions, has passed, but it has died in the House. I am pleased that my colleagues in the House have now acted on this worthy issue and have sent to us a bill providing such authority.

I stress to my colleagues that the authority contained in this bill is permissive only. It does not require any airline to offer discounts to senior citizens or the handicapped, it simply allows them to do so if they wish. Under present law and CAB regulation, the air carriers are forbidden to offer such discounts.

I need not remind my colleagues that the elderly and the handicapped are, in many instances, denied the benefits of our Nation's fine air transportation system because of its costs. Some airlines have indicated that they would, if permitted, offer discounts to these citizens on a space-available basis. This I believe they should be permitted to do.

For these reasons, I strongly support the major provisions of this bill and urge my colleagues to give it their support as well.

Mr. President, the House has attached a nongermane amendment to this legislation which would have the effect of undoing present law requiring the Department of Defense to contract with certificated carriers, if they are ready and willing, to carry the air transport needs of the Department. This amendment is quite controversial, it has not had hearings in either House and it would reverse longstanding DOD and congressional policy which mandates the DOD use of certificated airlines in meeting DOD's air transport needs. As my colleagues are aware, the certificated airlines have placed their aircraft fleets at the disposal of the Government in the event of war or national emergency and in return for this commitment to serve the Nation's needs in an emergency, they are entitled to carry DOD's civilian air transport requirements.

UP AMENDMENT NO. 480

Mr. CANNON. Mr. President, I send to the desk an amendment which would delete this section from the bill and urge its adoption.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes unprinted amendment No. 480:

Delete sec. 3.

Mr. CANNON. Mr. President, that amendment does precisely what I said it does. It strikes out the language added by the House, which would change the longstanding DOD policy and which the Senate has already acted on in the Aviation Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. Have the yeas and nays been ordered on this amendment?

The PRESIDING OFFICER. Only on the bill.

The amendment was agreed to.

UP AMENDMENT NO. 481

Mr. CANNON. I send to the desk a second amendment and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. CANNON. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add a new section 3 to the bill as follows:

"SEC. 3. Section 401(d)(3) of the Federal Aviation Act of 1938, as amended, 49 U.S.C. 1371, is further amended to read as follows:

"'(3) In the case of an application for a certificate to engage in supplemental air transportation, the Board may issue a certificate, authorizing the whole or any part thereof, and for such periods, as may be required by the public convenience and necessity, if it finds that the applicant is fit, willing, and able properly to perform the transportation covered by the application and to conform to the provisions of this Act, and the rules, regulations, and requirements of the Board hereunder. Any certificate issued pursuant to this paragraph shall contain such limitations as the Board shall find necessary to assure that the service rendered pursuant thereto will be limited to supplemental air transportation as defined in this Act.'"

Mr. CANNON. This amendment amends section 401 of the Federal Aviation Act to make clear that supplemental airlines—or charter airlines as they are sometimes called—are not prohibited, by law, from seeking certificates to engage in scheduled air transportation.

In the past several months, my Subcommittee on Aviation has conducted extensive hearings on regulatory reform in air transportation. The administration, the Civil Aeronautics Board, and many in Congress are convinced that present airline regulation is badly outdated and in need of major change.

Particularly in the area of encouraging new and additional competition in the airline industry, we find widespread support for ending the closed-door airline system that has existed for many years. I strongly believe that new entrants should be encouraged to enter the business to provide innovative services, and existing airlines should consider new service alternatives.

In that regard, the Civil Aeronautics Board recently ruled, in an application filed by World Airways for a low-cost transcontinental air service, that the Federal Aviation Act prohibits a supplemental airline from applying for a scheduled route certificate. This bill will eliminate that legal prohibition.

The sole purpose of the proposed amendment to section 401(d)(3) is to permit the Civil Aeronautics Board to hear such cases and to grant dual certificates, if it finds that the other statutory requirements are met. It would not require the Board to grant the application of World or any other applicant, any more than the present law requires that applications for certificates of public convenience and necessity be granted. The burden, as always, would be on the applicant to prove that its proposed air transportation is in "the public convenience and necessity" and that it is "fit, willing and able" to perform such transportation.

The issue of dual certification needs attention immediately. The matter has been extensively covered in our hearings and a strong record exists indicating there is no merit in a statutory provision automatically eliminating any applicant from entering the scheduled airline business.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. MAGNUSON. Mr. President, I wonder if the President would allow me to ask a question of the Senator from Nevada?

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. MAGNUSON. As I understand it, this amendment is permissive only to the extent that the CAB must hear a case and make a determination themselves.

Mr. CANNON. The Senator is correct. The Board earlier said that they did not have the legal authority to consider those matters and this would simply give the Board the authority. It is permissive in nature. Then they must determine if the applicant should be heard.

Mr. MAGNUSON. In other words, it allows the Board to take a look at it.

Mr. CANNON. The Senator is correct.

Mr. President, I yield the floor.

The amendment was agreed to.

UP AMENDMENT NO. 482

Mr. BAKER. Mr. President, I have an amendment and I ask the clerk to report.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) proposes unprinted amendment No. 482.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert a new section as follows:

SEC. 4. (a) Section 416(b)(1) of the Federal Aviation Act of 1958 is amended by adding a colon and the following before the period at the end thereof: "*Provided, however,* That nothing in this section shall prevent the Board from granting an exemption from the requirements of section 401 so as to authorize the conduct of all-cargo air transportation in interstate air transportation, pending consideration of an application for initial certification pursuant to such section 401, if the Board finds that the issuance of such exemption is in the public interest".

(b) Section 101 of such Act is amended by renumbering paragraphs (11) through (38) thereof as paragraphs (12) through (39) and by inserting after paragraph (10) the following new paragraph:

"(11) 'All-cargo air transportation' means air transportation of property, or of property and mail, only.".

Mr. BAKER. Mr. President, on July 21, 1976, I introduced for myself, Senator BROCK, and Senator DURKIN, S. 3684, a bill to amend the Federal Aviation Act of 1958, as amended, to broaden the power of the Civil Aeronautics Board to grant relief by exemption in certain cases, and for other purposes.

On August 3, 1976, the Aviation Subcommittee of the Senate Committee on Commerce, held a public hearing on S. 3684. The testimony given at that hearing indicates that there is substantial support for enactment of an amended version of this legislation. However, because of difficulties encountered in scheduling an executive session of the Commerce Committee to consider this bill, today I intend to offer an amendment to H.R. 15026, as amended. It is a procedure, of course, which we have discussed with the leadership on both sides of the committee, the majority and the minority leadership of the Senate.

Briefly stated, the bill as introduced would amend the Civil Aeronautics Board's exemption authority pursuant to section 416(b) of the Federal Aviation Act of 1958, so as to enable the Board to grant exemptions for all-cargo operations in interstate air transportation pending a final determination on a carrier's application for initial certification. The test that would be applied would be whether the grant of an exemption would be consistent with the public interest.

Mr. President, we are all aware of the various proposals to reform or modify air transport regulation, one of which was proposed by the Subcommittee Chairman, The recent Aviation Subcommittee hearings held on several of these proposals revealed that the regulation and promotion of all-cargo service has been a dismal failure. There is ample evidence that a combination of inappropriate regulation and carrier neglect have significantly thwarted the growth and development of the all-cargo industry. Such circumstances are particularly regrettable in light of the vital and unique role which that service provides for the Nation's economy.

The Board's ability to improve this unfortunate state of affairs has been hampered by a statutory limitation upon the Board's authority to grant exemptions. The essence of S. 3684 is to provide a solution to the anomaly created by a statutory exemption power with inadequate discretion or legal authority to avoid unintended and undesirable results adverse to the very public interest which the Board is bound to promote.

I want to emphasize that this amendment is not intended to deregulate the all-cargo segment of the air transport industry. Rather, it is designed to give the Board more discretion to grant interim relief. I would also point out that the Board possesses adequate authority to condition such exemption authority with respect to, for example, aircraft type, payload capacity, markets, and other reasonable conditions which the Board may deem appropriate under specific facts. I would expect the Board to exercise sound discretion in the public interest.

Mr. President, in the hearing on this bill the Chairman of the Civil Aeronautics Board testified that, and I quote:

> The Board is sympathetic to innovative proposals. But we find ourselves handcuffed by the restrictive procedural and other requirements which the statute currently imposes. For this reason we support this legislation which woud expand the Board's powers to grant authority more easily in the all-cargo arena.

I, for one, am in favor of removing those regulatory handcuffs and I know many of my colleagues join me in that goal.

The modest expansion of the Board's exemption power as proposed in my amendment will enable the Board to act expeditiously to foster and promote needed all-cargo transportation services, whose development would be impeded or destroyed by delays inherent in the normal certification process.

For these reasons, Mr. President, I urge the Senate to approve this amendment.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. BAKER. I would be happy to yield to the distinguished chairman of the Commerce Committee.

Mr. MAGNUSON. As I understand it, this particular amendment—and I did hear some of the testimony—is permissive?

Mr. BAKER. The distinguished chairman is entirely correct. I reiterate that we are not mandating any result but rather granting permissive authority that the Board may or may not exercise.

Mr. MAGNUSON. Again this is for the Board to take a look at it and see what is in the public interest?

Mr. BAKER. That is entirely correct.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. BAKER. I would be happy to yield to the chairman of the subcommittee.

Mr. CANNON. It is also the Senator's intention that this authority would not be used in such a fashion as to put by exemption an exempted carrier in competition with a certificated carrier where they are operating on a regulated route?

Mr. BAKER. That is entirely correct.

Mr. CANNON. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment was agreed to.

NOMINATION OF GEORGE F. MURPHY, JR.

Mr. PASTORE. Mr. President, with the permission of this body I rise to speak, as in executive session, on a matter that grieves me to no end because of the clandestine maneuver that has been applied.

The Joint Committee on Atomic Energy has before it the nomination of Mr. George Murphy, Jr., Democrat, from Newton, Mass., who has been a staff member of the Joint Committee on Atomic Energy for at least 18 years. As a matter of fact, he worked with me shoulder to shoulder at the time we were considering the Nuclear Test Ban Treaty. It was largely through his efforts and through his assiduous labors that we were able to put that treaty into shape. As a matter of fact, he stood on the floor when I rose up to advocate to this body that we approve the Nuclear Test Ban Treaty.

Then, again, I introduced a resolution of nonproliferation which led to the Nonproliferation Treaty. George Murphy worked on that again, as an American with a democratic background.

He performed so well that even the Republican members of that committee suggested to the President of the United States—I had nothing to do with it—that he be appointed to the Nuclear Regulatory Commission.

Yesterday we held hearings that lasted all morning and part of the afternoon. We are meeting in executive session on next Tuesday.

But, in the meantime, five of my dear friends and Democrats on this side of the aisle have taken it upon themselves, without consulting anybody on the committee—let me repeat, without consulting anybody on the committee—to put a hold on the nomination. Mind you, we have not even acted yet. There is a hold on the nomination of a Democrat by Democrats. I do not know what was the motivation behind it, but I have learned one lesson in this body—and this may be again one of my other valedictories—that there is a group of the supposed-to-be-reformers who pretend to speak for the people of the United States. They would not dare to run for public office. When they cannot get what they want from the Joint Committee on Atomic Energy, because we will not do it their way, they sneak around and either go to another committee or they talk to somebody else.

You have the Friends of the Earth—I do not know who they are—I came from the soil, and I do not know what earth they know of—and then you have the Nader crowd, never went out to earn a dime in their lives, to work for it, and now they are telling everybody else what should make America tick, and I have been working ever since I was 9 years old. When they stand up and tell me they are more interested in death and survival than PASTORE, they do not know what they are talking about. But I give them credit for their idealism.

So where do we stand now? We stand in a position where there is a hold by five Democrats on a Democratic appointment, without consulting the members of that committee, on a man who has worked with that committee for 18 years.

Tell me where the fairness is in that. Tell me. I do not care what you do with it because I am not going to be here next year and George Murphy will still be director of that committee. But I think it would be a loss to this Nation if they do not let a man of this knowledge and knowledgeability sit on the Nuclear Regulatory Commission.

STUART SYMINGTON is for him. CLIFFORD CASE is for him. PASTORE is for him. MONTOYA is for him. PEARSON is for him. HOWARD BAKER is for him. But five people who do not even know who he is, do not even know who he is and that his name is spelled M-u-r-p-h-y—Murphy—that is his name, have put a hold on him.

And what have I done for some of these objectors? I have stood on this floor and pulled the chestnuts out of the fire for them time and again.

And without even consulting me—and I wanted that courtesy—they have gone ahead and put a hold on this nomination.

All I am asking this Senate to do is to give this nomination a clear chance. All I am asking for is that we have a limitation of debate. Let us debate the nomination on this floor and let us do away with all the sneakeroos. That is all I am asking for.

If I am hurt, I am hurt, because I think this is an insult to that committee.

Where have we gone in this illustrious body, the greatest deliberative body in the world? What has become of us, that just somebody from downtown, who never suffered, never knew what it meant to earn a hard dollar, comes up here and says, "We don't like this guy, put a hold on him."

If that is America, that is not the America I know. It is not the way I have been brought up. It is not what that flag means to me. It is not what the Senate of the United States means to me.

I hope that these men will reconsider what they have done and at least give the committee a chance to vote it up or down before they try to kill it summarily.

Mr. ALLEN. Will the Senator yield?

Mr. PASTORE. I yield.

Mr. ALLEN. I commend the distinguished Senator from Rhode Island for the statement he has made and the intensity of his feeling in this matter. I certainly appreciate and understand how he feels.

Earlier this week, I had the privilege, along with many other Senators, of telling how I felt about the distinguished Senator from Rhode Island (Mr. PASTORE). I was able, in all sincerity and with a clear conscience, to speak in glowing terms of my admiration for the distinguished Senator from Rhode Island.

I stated then that I regretted that he was leaving the U.S. Senate. Today, I find myself regretting even more that he is leaving the U.S. Senate because I find that he and I are getting closer together in our thinking about some of the issues confronting the country and some of the actions by some of the do-good agencies in this country.

I certainly recall the many occasions when the distinguished Senator, as he has stated, has pulled the chestnuts out of the fire for some of these very Senators who are placing a hold on this highly capable man.

I certainly want to assure the distinguished Senator from Rhode Island that I favor the confirmation of Mr. George Murphy.

I will certainly be agreeable to any time limit at any time on this appointment.

I feel that the distinguished Senator has been treated most shabbily and I state that the Senator from Alabama knows what it means to be treated shabbily.

Mr. PASTORE. Mr. President, I want to make my position clear. All I am asking for is that we have that clear chance of bringing that nomination out on the floor, if the committee so decides, and let us debate it. Do not kill it summarily.

You do not deal with human nature that way.

Mr. ALLEN. I certainly agree.

Mr. PASTORE. You do not crush a man that way.

I have never done it in my life and I do not like it when anybody else does it.

This man is a human being. He is a great guy. If he is not qualified, let the Senate say it. Let the Senate say it and do not let somebody on the outside that does not even know who he is or where he stands do it.

Mr. BAKER. Will the Senator yield?

Mr. PASTORE. I yield.

Mr. BAKER. I have heard many speeches, many of them vibrant and tension-packed, by the distinguished Senator from Rhode Island, but I have never heard one in which the conviction of this man and his courage comes through more fervently and clearly than it did as the Senator from Rhode Island spoke just now.

It is a matter that deserves his enthusiasm and deserves the energy he brought to this presentation, this request to his colleagues in the Senate to permit us to act on this nomination of the President of the United States.

I join him in the present hope that our colleagues will permit us to act on this nomination.

Mr. President, I listened to the testimony given in opposition to George Murphy in the Joint Committee on Atomic Energy hearings and I was struck by many things.

I was struck by the allegation that this was a hasty maneuver, that the nomination came at the last minute.

It is not a hasty maneuver. I happen to know because I suggested the nomination to the President of the United States and I want the record to show that I suggested it before I ever mentioned it to John Pastore. And not because George Murphy is a Democrat. Certainly it is not even because he is staff director for the majority on the Joint Committee on Atomic Energy, but because I thought he was the best man for the job. I suggested him on May 2, 1976.

It was not a hasty matter. There was not any delay by John Pastore or Howard Baker that brought these hearings on yesterday.

It was the calm, slow deliberations of the President of the United States, the White House, in deciding who was the best man or woman for this appointment.

There were many candidates for this job because it is an extraordinarily important, highly sensitive position, a commissioner of the Nuclear Regulatory Commission, which, in many ways, will have more to say about the future and the safety of nuclear power, not only in this country, but abroad, than many other citizens are privileged to have.

Something else occurred to me during those hearings on yesterday that I thought was important and which I was not able to say except briefly during the hearings and I want to reiterate it today.

It is an irony of sorts that those who say George Murphy cannot serve with impartiality on the Regulatory Commission because he has been staff director for the Joint Committee on Atomic Energy, because he has been in the field 18 years, because he knows the atomic energy so well, overlooked one salient factor I would also like to give particular witness to.

That is, when I first came to the Joint Committee on Atomic Energy, one of my great concerns was that the AEC, the old Atomic Energy Commission, had the dual role of permitting atomic power, on the one hand, and licensing and regulating it on the other.

The irony is that George Murphy was the staff man I turned to to help me formulate a suggestion, much of which was adopted by the administration, by the joint committee, and finally by the Congress, to separate those two.

Mr. PASTORE. Will the Senator yield?

Mr. BAKER. I am happy to.

Mr. PASTORE. If this were not so comical, it would really be tragic.

The presentation that was made was directed at the fact that because he was the director of the Joint Committee on Atomic Energy, he has been so close to the Congress that he could not exercise an impartial judgment.

So I said to the young man that appeared before that, "Let me ask you, sir, if the President of the United States saw fit to appoint John Pastore or Howard Baker, two elected U.S. Senators, to be a member of the Nuclear Regulatory Commission, would you approve or disapprove?"

And he said, "I would disapprove."

And I said, "Why?"

He said, "Because you are of the establishment."

How far have we gone with nonsense? In other words, what they are doing is an insult to the Congress. It is an insult to themselves. Anybody who signed that letter is insulting himself, because the argument that is made here is, "If you are a Member of Congress, or if you work for a Senator, for some reason you do not belong. You do not belong."

That is the tragedy of it.

Let this pass by and when Pastore picks up that newspaper back home in his rocking chair after January 1977 he is going to have a big laugh on you fellows because you have given away your birthright. That is what you are doing. Let us stop it.

Mr. DURKIN. Will the Senator yield?

Mr. PASTORE. I yield.

Mr. DURKIN. I signed that letter.

Mr. PASTORE. I know you did.

Mr. DURKIN. It was on behalf of myself and four or five others. It looked like a sweetheart deal. It looked like it was pulled off at the last moment of the session.

Mr. PASTORE. Why did you not come and ask me? You asked me when you had your contest to be elected to the Senate. You came to me then. Where are you now?

Mr. DURKIN. I think the record will show I did not come to you then.

Mr. PASTORE. Well, I do not know about the record. I am telling you right to your kisser.

Mr. DURKIN. Well, the Senator is free to use any language he wants. It looked like a sweetheart deal and the record will show——

Mr. PASTORE. What it may have looked like and what it is are two different things. If any intelligent man wants to know the facts he will go and find them. Why did you not ask me?

Mr. DURKIN. The only qualification you have is that he is a Democrat. We are not approving people here just because they are Democrats.

Mr. PASTORE. I did not say that. I said it was a disgrace that a qualified man should be held off only because he is a Democrat.

Mr. DURKIN. Are you saying we should approve everybody because he has a D. after his name?

Mr. PASTORE. No, I did not say that. Are you ashamed of being a Democrat? Who are you kidding?

I yield the floor.

Mr. MAGNUSON. Regular order.

AIR FARE REDUCTION FOR ELDERLY AND HANDICAPPED

The Senate continued with the consideration of the bill (H.R. 15026) to amend the Federal Aviation Act of 1958 to authorize reduced fare transpotration on a space-available basis for elderly persons and handicapped persons, and for other purposes.

The PRESIDING OFFICER. If there is no further amendment, third reading.

UP AMENDMENT NO. 483

Mr. TOWER. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. Tower), for himself and Mr. Bentsen, proposes an unprinted amendment No. 483.

The assistant legislative clerk proceeded to read the amendment.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, after line 2, add the following new section:

"Sec. 4. Section 406(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1376(b)) is amended by adding at the end thereof the following new sentence: "In determining compensation for any local service air carrier for the year 1966 in accordance with the provisions of this subsection, the Board shall apply Local Service Class Subsidy Rate III–A as set forth in Board order E–23850 (44 CAB 637 et seq.), except that the Board shall not apply that part of such order which requires the Board to take into account any decrease in the Federal income tax liability of such carrier for such year resulting from any net operating loss carryback pursuant to section 172 of the Internal Revenue Code of 1954.".

(b) In the event that the Civil Aeronautics Board in determining the amount of compensation to be paid to any local service air carrier for the year 1966 in accordance with the provisions of section 406(b) of the Federal Aviation Act of 1958 took into account any decrease in the Federal income tax liability for such air carrier for such year resulting from any net operating loss carryback pursuant to section 172 of the Internal Revenue Code of 1954, the Board shall redetermine the compensation to be paid to such air carrier in accordance with such section 406 (b) as amended by this Act, and shall make payment to such air carrier of any amount owed to such carrier as provided in such redetermination.

Mr. TOWER. Mr. President, this amendment is identical to a bill approved by the House Committee on Public Works and Transportation. The companion measure in the House, H.R. 12349, is currently pending on the suspension calendar of that body. I understand it will be considered by the House next week.

The amendment would mandate a redetermination of the class subsidy rate paid for the year 1966 to local service air carriers pursuant to section 406 of the Federal Aviation Act. The compensation paid to local service carriers for that year was litigated in various U.S. Courts of Appeals with respect to the Federal tax liability owed by the carriers as that liability related to net operating loss carryback pursuant to section 172 of the Internal Revenue Code.

The net effect of the litigation was a difference in treatment of two local service carriers, compared to their competitors in the industry. Ozark and Texas International would, under this amendment, receive exactly the same treatment that the other nine local service carriers received in the determination of the subsidy level for the year 1966.

There would be no discrimination in favor of these two carriers; there would be no discrimination against them. The bill mandates a redetermination for the two carriers—a redetermination that the CAB apparently feels it cannot unilaterally initiate inasmuch as the subsidy level for that year is the subject of a "final order."

Mr. President, because the amendment establishes complete equity of treatment of a class of carriers, I urge its adoption.

Mr. CANNON. Mr. President, I would simply advise my colleague that this matter has not been considered by the committee. I have discussed it with the Senator. I am aware of what this amendment does. I thought I should, in fairness, point out that the matter has not been the subject of hearings in the Senate. I will ask that the Senate work its will as it sees fit.

Mr. TOWER. If the distinguished Senator from Nevada would yield, all this will do is give Texas International and Ozark exactly the same thing that the other local service carriers have. It is to correct an inequity. It had no opposition in the House. It is on the suspension calendar over there. It was supported largely, I think, by Congressman PICKLE and Congressman ICHORD. Senator BENTSEN cosponsors it with me here.

I am sure any States which are affected by service from Texas International or Ozark Airline would appreciate our acting on this amendment in a favorable way. As it is now, all other local service carriers are given an unfair competitive advantage over Texas International and Ozark. We are simply trying to redress this imbalance which resulted from some litigation. The fact that T.I. and Ozark went into one court room and the others went into another is about what it amounts to.

The CAB simply says it cannot, on its own initiative, redetermine the rate subsidy for these carriers and, therefore, this amendment is designed to clear it up. I wish the distinguished Senator from Nevada would reconsider on this.

Mr. CANNON. I say to my colleague, I am not opposing it. I am just advising the Senate that it has not been the subject of hearings. I first learned of it yesterday. I am certainly willing to take the Senator's statement as to what the circumstances are, but I did want my colleagues to know that we had not had hearings on the amendment in the Senate.

Mr. TOWER. I thank the Senator from Nevada.

Mr. MAGNUSON. Will the Senator yield?

Mr. TOWER. I yield.

Mr. MAGNUSON. Does this mandate the CAB to do something?

Mr. TOWER. Yes, it does.

Mr. MAGNUSON. If we start doing that around here on route matters on matters between two airlines we will not have time to do anything else. That was relegated to the CAB, to make these decisions.

Mr. TOWER. It does not really mandate it, but what it does is to make it possible for the CAB on its own initiative to equalize this rate structure that is now inequitable.

Mr. MAGNUSON. The point I make is why does not the Senator suggest that in the report on this bill we suggest that they take a look at this thing and see how they can figure it out? To put into the law a directive for the CAB to do something I think is a bad precedent.

Mr. TOWER. I think we have to resort to this kind of precedent when the CAB does not believe they can, unilaterally, on their own initiative, equalize the rate structure. The CAB feels like they are mandated by judicial action to treat other local service carriers of the country better than they treat Texas International and Ozark. It is a gross inequity. It has already been addressed in the House in the committee. It is on the suspension calendar in the House and has no opposition there.

Mr. PEARSON. Will the Senator yield?

Mr. TOWER. I yield.

Mr. PEARSON. I heard about this matter for the first time last evening. I understand the situation to be precisely as the Senator from Texas indicates. As briefly as we can state it, it is my understanding that the Civil Airlines Board brought an action on this rate matter; that on the appeal the two airlines in question here did not join in the appeal. There was a favorable ruling affecting the others and the two who did not participate were left behind. What this does is to give to these two airlines the same as that which has been allowed to the other airlines.

Mr. TOWER. The Senator is correct.

Mr. President, I urge the adoption of my amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. TOWER. I yield back any time I may have.

The PRESIDING OFFICER. Is all time yielded back?

Mr. CANNON. Yes.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Texas.

The amendment was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RANDOLPH. Mr. President, as chairman of the Subcommittee on the Handicapped and as a member of both the Subcommittee on Aging and the Special Committee on Aging, I have been committed to the needs of our Nation's handicapped and elderly citizens. H.R. 15026 will provide travel opportunities that have not before existed for our handicapped and elderly Americans. This bill permits the Civil Aeronautics Board to approve reduced air fares on a standby basis for elderly Americans and handicapped persons.

The 20th century has brought about an increased need for mobility. The necessity and convenience of air travel has been well recognized; however, handicapped persons and our older Americans have frequently not been able to enjoy this convenience that is taken for granted by so many Americans. Unfortunately, these persons who most need the convenience and comfort of air travel frequently cannot afford the fares since their incomes as a group are below the average. Approximately 20 percent of handicapped Americans and 16 percent of older Americans have incomes below the poverty level.

Independence is vitally important to all of us. However, the independence of handicapped persons and older Americans has been adversely affected by lack of accommodation to the needs of these persons. I have been deeply committed to the need for a barrier-free environment. On February 7, 1975, I introduced a concurrent resolution expressing the sense of the Congress that there should be a national policy to eliminate environmental barriers that impede the mobility of disabled persons. Physically handicapped persons and elderly persons with limited mobility can particularly benefit from the availability of comfortable and convenient air travel. Available and accessible transportation plays an important part in obtaining that barrier-free environment which is so necessary for the independent living that handicapped Americans and older Americans wish to enjoy. By permitting the Civil Aeronautics Board to allow the airlines to provide discount standby fares for elderly and handicapped persons, we are taking another step toward that barrier-free environment. Reduced fares can enable handicapped and elderly persons to enjoy the mobility that air travel provides and will help to bring them into the mainstream of American life. H.R. 15026 brings a long awaited opportunity to these persons.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read the third time.

The bill was read the third time.

Mr. CANNON. Mr. President, I ask unanimous consent that the bill as amended by the Senate be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Texas (Mr. BENTSEN), the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Wyoming (Mr. MCGEE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Florida (Mr. STONE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN) and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. MCCLURE), the Senator from Vermont (Mr. STAFFORD), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 73, nays 0, as follows:

[Rollcall Vote No. 645 Leg.]

YEAS—73

Allen
Baker
Bartlett
Bayh
Biden
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Church
Clark
Culver
Curtis
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Hathaway
Helms
Hollings
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McGovern
McIntyre
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stennis
Stevens
Stevenson
Symington
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—27

Abourezk
Beall
Bellmon
Bentsen
Brock
Buckley
Chiles
Cranston
Dole
Domenici
Glenn
Hart, Philip A.
Hartke
Haskell
Hatfield
Huddleston
Mansfield
McClure
McGee
Metcalf
Mondale
Montoya
Moss
Stafford
Stone
Taft
Tunney

So the bill (H.R. 15026) was passed.

Mr. PEARSON. Mr. President, I ask unanimous consent that the bill just passed, H.R. 15026, be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 15026

An act to amend the Federal Aviation Act of 1958 to authorize reduced fare transportation on a space-available basis for elderly persons and handicapped persons, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 403(b)(1) of the Federal Aviation Act of 1958 (49 U.SC. 1373(b)(1)) is amended by striking out "to ministers of religion on a space available basis." and inserting in lieu thereof "on a space-available basis to any minister of religion, any person who is sixty years of age or older, and to any handicapped person and any attendant required by such handicapped person. For the purposes of this subsection the term 'handicapped person' means any person who has severely impaired vision or hearing, and any other physically or mentally handicapped person as defined by the Board.".

(b) Within six months after the date of enactment of this Act, the Board shall study and report to Congress on the feasibility and economic impact of air carriers and foreign air carriers providing reduced-rate transportation on a space-available basis to persons twenty-one years of age or younger.

SEC. 2. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is amended by adding at the end thereof the following new paragraph:

"(4)) Notwithstanding any other provision of this Act, any citizen of the United States who undertakes, within the State of California, the carriage of persons or property as a common carrier for compensation or hire with aircraft capable of carrying thirty or more persons pursuant to authority granted by the Public Utilities Commission of such State is authorized—

"(i) to establish service for persons and property which includes transportation by such citizen over its routes in California and transportation by an air carrier or foreign air carrier in air transportation; and

"(ii) subject to the requirements of section 412 of this title, to enter into an agreement with any air carrier or foreign air carrier for the establishment of joint fares, rates, and services for such through service.

"(B) The joint fares or rates established under clause (ii) of subparagraph (A) of this paragraph shall be the lowest of—

"(i) the sum of the applicable fare or rate for service in California approved by such Public Utilities Commission and the applicable fare or rate for that part of the through service provided by the air carrier or foreign air carrier;

"(ii) a joint fare or rate established and filed in accordance with section 403 of this Act; or

"(iii) a joint fare or rate established by the Board in accordance with section 1002 of this Act.".

SEC. 3. Section 401(d)(3) of the Federal Aviation Act of 1938, as amended, 49 U.S.C. 1371, is further amended to read as follows:

"(3) In the case of an application for a certificate to engage in supplemental air transportation, the Board may issue a certificate, authorizing the whole or any part thereof, and for such periods, as may be required by the public convenience and necessity, if it finds that the applicant is fit, willing, and able properly to perform the transportation covered by the application and to conform to the provisions of this Act, and the rules, regulations, and requirements of the Board hereunder. Any certificate issued pursuant to this paragraph shall contain such limitations as the Board shall find necessary to assure that the service rendered pursuant thereto will be limited to supplemental air transportation as defined in this Act.".

SEC. 4. (a) Section 416(b)(1) of the Federal Aviation Act of 1958 is amended by adding a colon and the following before the period at the end thereof: *"Provided, however,* That nothing in this section shall prevent the Board from granting an exemption from the requirements of section 401 so as to authorize the conduct of all-cargo air transportation in interstate air transportation, pending consideration of an application for initial certification pursuant to such section 401, if the Board finds that the issuance of such exemption is in the public interest".

(b) Section 101 of such Act is amended by renumbering paragraphs (11) through (38) thereof as paragraphs (12) through (39) and by inserting after paragraph (10) the following new paragraph:

"(11) 'All-cargo air transportation' means air transportation of property, or of property and mail, only.".

SEC. 5. Section 406(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1376(b)) is amended by adding at the end thereof the following new sentence: "In determining compensation for any local service air carrier for the year 1966 in accordance with the provisions of this subsection, the Board shall apply Local Service Class Subsidy Rate III–A as set forth in Board order E–23850 (44 CAB 637 et seq.), except that the Board shall not apply that part of such order which requires the Board to take into account any decrease in the Federal income tax liability of such carrier for such year resulting from any net operating loss carryback pursuant to section 172 of the Internal Revenue Code of 1954.".

(b) In the event that the Civil Aeronautics Board in determining the amount of compensation to be paid to any local service air carrier for the year 1966 in accordance with the provisions of section 406 (b) of the Federal Aviation Act of 1958 took into account any decrease in the Federal income tax liability for such air carrier for such year resulting from any net operating loss carryback pursuant to section 172 of the Internal Revenue Code of 1954, the Board shall redetermine the compensation to be paid to such air carrier in accordance with such section 406(b) as amended by this Act, and shall make payment to such air carrier of any amount owned to such carrier as provided in such redetermination.

INDIANA DUNES NATIONAL LAKESHORE; TRIBUTE TO FORMER SENATOR PAUL H. DOUGLAS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Calendar No. 1122, H.R. 11455, which the clerk will state.

The second assistant legislative clerk read as follows:

A bill (H.R. 11455) to amend the act establishing the Indiana Dunes National Lakeshore to provide for the expansion of the lakeshore, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert the following:

That the Act entitled "An Act to provide the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (80 Stat. 1309), as amended (16 U.S.C. 460u), is further amended as follows:

(1) The last sentence of the first section of such Act is amended by striking out " 'A Proposed Indiana Dunes National Lakeshore' dated September 1966, and bearing the number 'LNPNE-1008-ID' " and inserting in lieu thereof " 'Boundary Map, Indiana Dunes National Lakeshore', dated August 1976, and bearing the number 626-91,006".

(2) Section 3 of such Act is amended by inserting the following at the end of the first sentence: "By no later than January 1, 1977, the Secretary shall publish in the Federal Register a detailed description of the boundaries of the lakeshore. The Secretary may from time to time make minor revisions in such boundaries by publication in the Federal Register of a revised map or other boundary description.".

(3) The first sentence of subsection 4(b) of such Act is amended by inserting immediately after "was begun before" the following: "February 1, 1973, or, in the case of improved property located within the boundaries delineated on a map identified as 'A Proposed Indiana Dunes National Lakeshore', dated September 1966, and bearing the number 'LNPNE-1008-ID', which map is on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, before".

(4) Subsection 4(a) of such Act is repealed, subsection 4(b) is redesignated as section 4, and the following sentence is added to new section 4: "All rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of such property in accordance with the purposes of this Act.".

(5) (a) Section 6(a) of such Act is amended by revising the first sentence thereof to read as follows: "Except for owners of property within the area on the map referred to in the first section of this Act as unit II-B, any owner or owners, having attained age of majority, of improved property on the date of its acquisition by the Secretary may, as a condition to such acquisition, retain the right of use and occupancy of the improved property for noncommercial residential purposes for a term of twenty years, or for such lesser term as the owner or owners may elect at the time of acquisition by the Secretary".

(b) Section 6(b) of such Act is amended to read as follows:

"(b) Upon his determination that the property, or any portion thereof, has ceased to be used in accordance with the applicable terms and conditions, the Secretary may terminate a right of use and occupancy. Nonpayment of property taxes, validly assessed, on any retained right of use and occupancy shall also be grounds for termination of such right by the Secretary. In the event the Secretary terminates a right of use and occupancy under this subsection he shall pay to the owners of the retained right so terminated an amount equal to the fair market value of the portion of said right which remained unexpired on the date of termination. With respect to any right of use and occupancy in existence on the effective date of this sentence, standards for retention of such rights in effect at the time such rights were reserved shall constitute the terms and conditions referred to in section 4.".

(6) (a) Section 8(b) of such Act is amended (A) by striking out "seven members" and inserting in lieu thereof "eleven members", and (B) by striking out "and" immediately after "State of Indiana;", and (C) by striking out "Portage," immediately after "Dune Acres." and (D) by inserting immediately after "designated by the Secretary" the following: "; (7) one member who is a year-round resident of the city of Gary to be appointed from recommendations made by the mayor of such city; (8) one member who is a year-round resident of the towns of Highland, Griffith, or Schererville to be appointed from recommendations made by the board of trustees of such towns; (9) one member who is a year-round resident of the city of Portage to be appointed from recommendations made by the mayor of such city; and (10) one member who holds a reservation of use and occupancy and is a year-round resident within the lakeshore to be designated by the Secretary.".

(b) Section 8 of such Act is further amended by inserting the following new subsection (f):

"(f) The Advisory Commission is authorized to assist with the identification of economically and environmentally acceptable areas, outside the boundaries of the lakeshore, for the handling and disposal of industrial solid wastes produced by the coal-fired powerplant located in Porter County, Indiana, section 21, township 37 north, range 6 west.".

(7) Section 10 of such Act is amended to read as follows: "There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not more than $57,000,000 for the acquisition of lands and interests in lands, and not more than $8,500,000 for development. By December 31, 1978, the Secretary shall, following appropriate public hearings, develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a general management plan detailing the development of the national lakeshore consistent with the preservation objectives of this Act, indicating—

"(1) the facilities needed to accommodate the health, safety, and recreation needs of the visiting public;

"(2) the location and estimated cost of all facilities, together with a review of the consistency of the master plan with State, areawide, and local governmental development plans;

"(3) the projected need for any additional facilities within the national lakeshore.".

(8) Such Act is amended by adding at the end thereof the following:

"SEC. 11. Nothing in this Act shall diminish any existing (as of March 1, 1975) rights-of-way or easements which are necessary for high voltage electrical transmission, pipelines, water mains, or line-haul railroad operations and maintenance.

"SEC. 12. The authorization of lands to be added to the lakeshore by the Ninety-fourth Congress and the administration of such lands as part of the lakeshore shall in and of itself in no way operate to render more restrictive the application of Federal, State, or local air and water pollution standards to the uses of property outside the boundaries of the lakeshore, nor shall it be construed to augment the control of water and air pollution sources in the State of Indiana beyond that required pursuant to applicable Federal, State, or local law.

"SEC. 13. Within one year after the effective date of this section, the Secretary shall submit, in writing, to the Committees on Interior and Insular Affairs and to the Committees on Appropriations of the United States Congress a detailed plan which shall indicate—

"(1) the land which he has previously acquired by purchase, donation, exchange, or transfer for administration for the purposes of the lakeshore, and

"(2) the annual acquisition program (including the level of funding) which he recommends for the ensuing five fiscal years.

"SEC. 14. With respect to the areas on the map referred to in the first section of this Act as units II-A and III-B, if the owners of such property within six months from the effective date of this section enter into cooperative agreements acceptable to the Secretary which will (1) with respect to unit II-A, protect the environmental, ecological, and visual integrity of Cowles Bog and the area north of the dike and assure reasonable public access along the dike for interpretive purposes, and (2) with respect to unit III-B will provide reasonable public access and preserve the environmental integrity of the area, the Secretary's authority to acquire such property shall be suspended as to each such unit so long as the applicable agreement is in effect.".

(9) Section 5 of such Act is hereby repealed, and the succeeding sections are redesignated accordingly. „

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the committee amendment be agreed to and be considered as original text for the purpose of amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I yield to the distinguished Senator from Indiana, who has an amendment.

AMENDMENT NO. 2319, AS MODIFIED

Mr. BAYH. Mr. President, I call up amendment No. 2319 and send to the desk a modified copy to correct three technical errors made in the printing.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. Bayh), for himself and Mr. Hartke, Mr. Stevenson, and Mr. Percy, proposes amendment numbered 2319, as modified.

The amendment is as follows:

That the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (80 Stat. 1309), as amended (16 U.S.C. 460u), is further amended as follows:

(1) The last sentence of the first section of such Act is amended by striking out "'A Proposed Indiana Dunes National Lakeshore', dated September 1966, and bearing the number 'LNPNE–1008–ID'" and inserting in lieu thereof "'Boundary Map, Indiana Dunes National Lakeshore', dated September 1976 and bearing the number '626–91007'".

(2) Section 3 of such Act is amended by inserting the following at the end of the first sentence: "By no later than October 1, 1977, the Secretary shall publish in the Federal Register a detailed description of the boundaries of the lakeshore and shall from time to time so publish any additional boundary changes as may occur.".

(3) (a) Subsection 4(a) of such Act is repealed, subsection 4(b) is redesignated as section 4, and the following sentence is added to new section 4: "All rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of such property in accordance with the purposes of this Act.".

(b) The first sentence of section 4 of such Act is amended by inserting immediately after "was begun before" the following: "February 1, 1973, or, in the case of improved property located within the boundaries delineated on a map identified as 'A Proposed Indiana Dunes National Lakeshore', dated September 1966, and bearing the number 'LNPNE–1008–ID', which map is on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior, before".

(4) (a) Section 6(a) of such Act is amended by revising the first sentence thereof to read as follows: "Except for owners of property within the area on the map referred to in the first section of this Act as area II–B, any owner or owners, having attained the age of majority, of improved property on the date of its acquisition by the Secretary may, as a condition to such acquisition, retain the rights of use and occupancy of the improved property for noncommercial residential purposes for a term of twenty years, or for such lesser term as the owner of twenty years, or for such lesser term as the owner or owners may elect at the time of acquisition by the Secretary".

(b) Section 6(b) of such Act is amended to read as follows:

"(b) Upon his determination that the property, or any portion thereof, has ceased to be used in accordance with the applicable terms and conditions, the Secretary may terminate a right of use and occupancy. Nonpayment of property taxes, validly assessed, on any retained right of use and occupancy shall also be grounds for termination of such right by the Secretary. In the event the Secretary terminates a right of use and occupancy under this subsection he shall pay to the owners of the retained right so terminated an amount equal to the fair market value of the portion of said right which remained unexpired on the date of termination. With respect to any right of use and occupancy in existence on the effective date of this sentence, standards for retention of such rights in effect at the time such rights were reserved shall constitute the terms and conditions referred to in section 4.".

(5) Section 8(b) of such Act is amended (a) by striking out "seven members" and inserting in lieu thereof "eleven members", and (b) by striking out "and" immediately after "State of Indiana;", and (c) by striking out "Portage," immediately after Dune Acres.", and (d) by inserting immediately after "designated by the Secretary" the following: "; (7) one member who is a year-round resident of the city of Gary to be appointed from recommendations made by the mayor of such city; (8) one member to be appointed from recommendations made by a regional planning agency established under the authority of the laws of the State of Indiana and composed of representatives of local and county governments in northwestern Indiana; (9) one member who is a year-round resident of the city of Portage to be appointed from recommendations made by the mayor of such city; and (10) one member who holds a reservation of use and occupancy and is a year-round resident within the lakeshore to be designated by the Secretary.".

(6) Section 8 of such Act is further amended by inserting the following new subsection (f):

"(f) The Advisory Commission is authorized to assist with the identification of economically and environmentally acceptable areas, outside the boundaries of the lakeshore, for the handling and disposal of industrial solid wastes produced by the coal-fired powerplant in Porter County, Indiana, section 21, township 37 north, range 6 west.".

(7) Section 10 of such Act is amended to read as follows: "The Secretary may not expend more than $60,812,100 from the Land and Water Conservation Fund for the acquisition of lands and interests in lands nor more than $8,500,000 for development. By October 1, 1979, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a general management plan detailing the development of the national lakeshore consistent with the preservation objectives of this Act, indicating:

"(1) the facilities needed to accommodate the health, safety, and recreation needs of the visiting public;

"(2) the location and estimated costs of all facilities, together with a review of the consistency of the master plan with State, areawide, and local governmental development plans;

"(3) the projected need for any additional facilities within the national lakeshore; and

"(4) specific opportunities for citizen participation in the planning and development of proposed facilities and in the implementation of the general management plan generally.".

(8) Such Act is amended by adding at the end thereof the following:

"SEC. 11. Nothing in this Act shall diminish any existing (as of March 1, 1975) rights-of-way or easements which are necessary for high voltage electrical transmission, pipelines, water mains, or line-haul railroad operations and maintenance.

"SEC. 12. (a) Nothing in the Act shall be construed as prohibiting any otherwise legal cooling, process, or surface drainage into the part of the Little Calumet River located within the lakeshore: *Provided*, That this subsection shall not affect nor in any way limit the Secretary's authority and responsibility to protect park resources.

"(b) The authorization of lands to be added to the lakeshore by the Ninety-fourth Congress and the administration of such lands as part of the lakeshore shall in and of itself in no way operate to render more restrictive the application of Federal, State, or local air and water pollution standards to the uses of property outside the boundaries of the lakeshore, nor shall it be constructed to augment the control of water and air pollution sources in the State of Indiana beyond that required pursuant to applicable Federal, State, or local law.

"SEC. 13. The Secretary shall acquire the area on the map referred to in the first section of this Act as area III–B within two years from the effective date of this section only if such area can be acquired for not more than $800,000, exclusive of administrative costs of acquisition, as adjusted by the Consumer Price Index: *Provided*, That the Secretary may not acquire such area by any means after two years from the effective date of this section.

"SEC. 14. The Secretary may acquire that portion of area I–C which is shaded on the map referred to in the first section of this Act only with the consent of the owner unless the present owner attempts to sell or otherwise dispose of such area.

"SEC. 15. Within one year after the date of the enactment of this section, the Secretary shall submit, in writing, to the Committees on Interior and Insular Affairs and to the Committees on Appropriations of the United States Congress a detailed plan which shall indicate—

"(1) the lands which he has previously acquired by purchase, donation, exchange, or transfer for administration for the purpose of the lakeshore; and

"(2) the annual acquisition program (including the level of funding) which he recommends for the ensuing five fiscal years.

"SEC. 16. The Secretary may acquire only such interest in the right-of-way designated 'Crossing A' on map numbered 626–91007 as he determines to be necessary to assure public access to the banks of the Little Calumet River within fifty feet north and south of the centerline of said river.

"SEC. 17. The Secretary shall enter into a cooperative agreement with the landowner of those lands north of the Little Calumet River between the Penn Central Railroad bridge within area II–E and 'Crossing A' within area IV–C. Such agreement shall provide that any roadway constructed by the landowner south of United States Route 12 within such vicinity shall include grading, landscaping, and plantings of vegetation designed to prevent soil erosion and to minimize the aural and visual impacts of said construction, and of traffic on such roadway, as perceived from the Little Calumet River.

"SEC. 18. (a) The Secretary may not acquire such lands within the western section of area I–E, as designated on map numbered 626–91007, which have been used for solid waste disposal until he has received a commitment, in accordance with a plan acceptable to him, to reclaim such lands at no expense to the Federal Government.

"(b) With respect to the property identified as area I–E on map numbered 626–91007, the Secretary may enter into a cooperative agreement whereby the State of Indiana or any political subdivision thereof may undertake to develop, manage, and interpret such area in a manner consistent with the purposes of this Act.

"SEC. 19. By July 1, 1977, the Secretary shall prepare and transmit to the Committees on Interior and Insular Affairs on the United States Congress a study of areas III–A, III–C, and II–A, as designed on map numbered 626–91007. The Secretary shall make reasonable provision for the timely participation of the State of Indiana, local public officials, affected property owners, and the general public in the formulation of said study, including, but not limited to, the opportunity to testify at a public hearing. The record of such hearing shall accompany said study. With respect to areas III–A and III–C, the study shall (a) address the desirability of acquisition of any or all of the area from the standpoint of resource management, protection, and public access; (b) develop alternatives for the control of beach erosion if desirable, including recommendations, if control is necessary, of assessing the costs of such control against those agencies responsible for such erosion; (c) consider and propose options to guarantee public access to and use of the beach area, including the location of necessary facilities for transportation, health, and safety; (d) detail the recreational potential of the area and all available alternatives for achieving such potential; (e) review the environmental impact upon the lakeshore resulting from the potential development of said areas; and (f) assess the cost to the United States from both the acquisition of said areas together with the potential savings from the retention of rights of use and occupancy and from the retention of the boundaries of the lakeshore, as designated on map numbered 626-91007, including the costs of additional administrative responsibilities necessary for the management of the lakeshore, including the maintenance of public services in the town of Beverly Shores, Indiana. With respect to area II-A, the Secretary shall study and report concerning the following objectives: (a) preservation of the remaining dunes, wetlands, native vegetation, and animal life within the area; (b) preservation and restoration of the watersheds of Cowles Bog and its associated wetlands; (c) appropriate public access to and use of lands within the area; (d) protection of the area and the adjacent lakeshore from degradation caused by all forms of construction, pollution, or other adverse impacts including, but not limited to, the discharge of wastes and any excessive subsurface migration of water; and (e) the economic consequences to the utility and its customers of acquisition of such area.

"SEC. 20. After notifying the Committees on Interior and Insular Affairs of the United States Congress, in writing, of his intentions to do so and of the reasons therefor, the Secretary may, if he finds that such lands would make a significant contribution to the purposes for which the lakeshore was established, accept title to any lands, or interests in lands, located outside the present boundaries of the lakeshore but contiguous thereto or to lands acquired under this section, such lands the State of Indiana or its political subdivisions may acquire and offer to donate to the United States or which any private person, organization, or public or private corporation may offer to donate to the United States and he shall administer such lands as a part of the lakeshore after publishing notice to that effect in the Federal Register.".

(9) Section 5 of such Act is hereby repealed, and the succeeding sections are redesignated accordingly.

Mr. BAYH. Mr. President, I know we are operating under rather serious time restraints. But I would like to thank the distinguished Senator from Louisiana for his extra attention, patience, diligence, and understanding on this matter, as well as his dedication to the cause of parks and conservation in general which have made it possible to be where we are right now.

Mr. JOHNSTON. I thank the Senator.

Mr. PERCY. Mr. President, will the distinguished Senator yield for a unanimous-consent request?

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. JOHNSTON. Mr. President, the legislation before the Senate represents 3 years of consideration by the Committee on Interior and Insular Affairs and a decade of expectation from those who have for so long labored to preserve this unique and valuable resource.

Establishment of Indiana Dunes as a unit of the National Park System was first proposed in 1917 by Stephen Mather, the first Director of the National Park Service. The proposal was to set aside approximately 13,000 acres from Gary to Michigan City. Consideration of that proposal was interrupted by World War I although the State of Indiana did set aside 2,200 acres in 1923 as a State park.

The Indiana Dunes lie at the southern tip of Lake Michigan on a fascinating complex of towering dune ridges, moving dunes, beautiful beaches, marshes, woodlands, and bogs. The dunes were formed some 15,000 years ago as retreating glaciers and glacial lakes left remnants of ancient shorelines and a vast array of plants, ranging from tropical to arctic in origin. Both eastern and western species flourish here as well, creating an area of delight for the botanist, the nature lover and the casual walker in the woods. The dunes contain three national landmarks: Cowles Bog, Pinhook Bog, and Hoosier Prairie.

In sharp contrast to the natural and recreational potential of the dunes is the enormous concentration of industry in the area as well as more recent residential subdivisions. The Lake Michigan shoreline, virtually a wilderness when Stephen Mather first proposed the creation of a national park, is now dominated by a vast complex of steel mills including major works of United States Steel, Bethlehem Steel, Midwest Steel and Inland Steel. These works are served by the Northern Indiana Public Service Co. from a fossil fuel plant located adjacent to Cowles Bog. The power company plans to enlarge their generating capacity by the construction of a nuclear plant in the same area. As a result, many of the most significant areas of the Indiana Dunes have been lost.

In 1965, the Senate passed legislation to set aside slightly more than 11,000 acres as a national lakeshore. That acreage was reduced in the final act to the present 8,300. The past decade has been a rapid expansion of subdivision growth as well as planning for industrial expansion.

Although it is impossible to go back to 1917 or even 1965, and preserve the park which should have been established, it is imperative that those areas which can contribute significantly to the recreational and ecological integrity of the area be acquired.

Mr. President, I express my deep appreciation to the distinguished senior Senator from Indiana (Mr. HARTKE) who has been of enormous assistance to both myself and the other members of the committee in the consideration of this legislation. When the subcommittee visited the national lakeshore, he personally met us and the fact that we are considering this legislation is due principally to his deep concern for this area.

Mr. President, this is a good bill, and a necessary measure, but there is a lesson here which should not be forgotten. This measure proposes the acquisition of many areas which this body wanted to acquire a decade ago. Some of that acreage has been despoiled, some of it has been subdivided, and all of it is vastly more expensive than it was a decade ago. We can no longer create the national lakeshore which Stephen Mather wanted, we cannot even undo the impacts of the last 10 years, but we should preserve what is left. The lesson is one that the administration has not yet learned, although there is some hope given the President's recent parks message. The lesson is simply that we cannot place our priceless heritage of natural, historic, and recreational resources in cold storage to be acted on sometime later. At Indiana Dunes, we cannot accomplish now what we could have 10 years ago, and we must accept that fact.

Passage of this legislation alone, however, will not acquire this recreational area—that job will require money. The national park system will need over $700 million to acquire all the lands authorized for acquisition. Included in this total are lands in the Grand Tetons, the Grand Canyon, Big Thicket, Assateague Island as well as Indiana Dunes. The Senate has twice overwhelmingly passed legislation to increase the land and water conservation fund in order to provide the needed moneys for the national park system, national forest system, national wildlife refuge system, and the National Wild and Scenic Rivers System. Passage of this bill without the other will relegate Indiana Dunes, along with other areas such as Valley Forge, Big Thicket, Cuyahoga, Buffalo River, Sleeping Bear Dunes, and similar areas to the status of paper parks. I fervently hope that the President will act on the promises he so recently made at Yellowstone and sign both this measure and the land and water conservation fund amendments.

Mr. President, the senior Senator from Indiana has introduced an amendment which, if agreed to, will avoid the need to go to conference on this measure. The amendment would include several areas which the committee excluded from the bill and excludes some others. In view of the time frame we are all working under, I believe it is necessary that we agree to this amendment in order to assure protection of those areas on which there is mutual agreement. For the record, however, I would like to state that I, and I think the other members of the committee, would have preferred to retain the committee language especially for Crescent Dunes and the Nipsco greenbelt. The committee language would have guaranteed protection of these two areas as well as public access, but we are willing to accept this amendment to see this legislation enacted.

Mr. President, I ask unanimous consent that a brief section-by-section analysis of the proposed amendment be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

Paragraph (1) This paragraph changes the map reference to reflect the additional areas added by the amendment to the National Lakeshore.

Paragraph (2) This paragraph provides for publication in the Federal Register of the final boundaries and any subsequent boundary changes.

Paragraph (3) This paragraph provides that all retained rights of use and occupancy shall be subject to appropriate terms and conditions and places a February 1, 1973, cut off date for retention of such rights on areas added by this amendment.

Paragraph (4) This paragraph eliminates any retention of rights of use and occupancy within area 11-B due to the continuing threat of damage to the State park from private land owners and limits the term of such rights elsewhere to twenty years. The paragraph also provides for the early termination of such rights by the Secretary.

Paragraph (5) This paragraph alters the membership of the Advisory Commission.

Paragraph (6) This paragraph authorizes

the Advisory Commission to assist in the identification of alternative sites for solid waste disposal by Northern Indiana Public Service Company.

Paragraph (7) This paragraph increases the present ceiling on land acquisition expenditures to $60,812,100 and limits development expenditures to $8,500,000 and also requires the Secretary to transmit a general management plan to the Congress. The plan must contain provisions for citizen participation in the planning and development of facilities and general implementation of the plan. This section does not require public hearings on every aspect of plan implementation and final decision on the manner and extent of citizen participation is left to the Secretary.

Paragraph (8) This paragraph adds the following new sections to the Act:

SEC. 11. This section provides that this Act does not diminish any existing rights of way or easements necessary for high voltage transmission, pipelines, water mains, or line haul railroad operations and maintenance.

SEC. 12. This section provides that the Act itself does not prohibit otherwise legal activities nor does it increase pollution standards. However, the section makes clear that the hold harmless language shall not in any manner be construed as limiting or altering the Secretary's authority and responsibility to protect park resources. The Secretary has a responsibility, for example, to intervene in permit hearings where the granting of a permit might affect park resources and also to take whatever action he deems necessary, including seeking injunctive relief, to eliminate threats to park resources he deems appropriate, including seeking injunctive relief, to eliminate any threats to park resources.

SEC. 13. This section provides a two-year authorization for the acquisition of the Crescent Dunes area (III–B) provided the Secretary can acquire it for $800,000 or less. The Committee version provided for acquisition if the present owners did not enter into a cooperative agreement to protect the resource and provide public access. The Committee prefers its original version, but is willing to accept this change as a part of the overall compromise on this legislation.

SEC. 14. This section provides that the Secretary may not condemn that area of 1–C being used by Midwest Steel for settling ponds unless Midwest Steel attempts to alienate the land. In any event, the Secretary is not required to ever acquire this portion of 1–C if he does not feel that acquisition would benefit the park.

SEC. 15. This section mandates the Secretary to provide the Interior Committees with a list of acquired lands and a five-year acquisition program.

SEC. 16 and SEC. 17. These sections provide for limitations on acquisition of interests in "Crossing A" and for the Secretary to enter into a cooperative agreement for environmental protection of any roadway construction there.

SEC. 18. This section provides that the Secretary may not acquire those sections of area 1–E being used for solid waste disposal unless and until he has received a firm commitment to reclaim those sections. This section also reaffirms the Secretary's authority to enter into cooperative agreements with other entities to carry out projects which he finds to be beneficial to the park.

SEC. 19. This section provides for a study by the Secretary of the Beverly Shores area and the NIPSCO greenbelt area with a report to the Committees. The Committee would have preferred to retain its original language with respect to the NIPSCO greenbelt which would have immediately protected the area either by cooperative agreement, or, if necessary, by acquisition, but has agreed to the deletion of the area from the bill to effect this compromise.

SEC. 20. Provides that the Secretary may accept the donation of contiguous parcels and modify the boundaries of the park accordingly.

Paragraph 9. This paragraph repeals section 5 of the existing Act to eliminate the present waiver of the power of the Secretary to condemn lands subject to approved zoning ordinances.

Mr. JOHNSTON. Mr. President, this bill marks the culmination of a great deal of work, mainly on the part of the distinguished junior Senator from Indiana (Mr. BAYH) and the distinguished senior Senator from Indiana (Mr. HARTKE), as well as the Senators from Illinois (Mr. PERCY and Mr. STEVENSON) and a number of other Senators who have been extremely interested in the Indiana Dunes.

The bill as passed by the House has been reduced somewhat by the Senate bill, but I think all the important and essential areas that were contained in the House bill have been included in the Senate bill.

We have extracted from it such areas as Beverly Shores, which costs about $50,000 an acre and contains many very expensive homes. The essential and important areas all have been included—both environmentally and recreationally.

The Senators from Indiana are due a great debt of thanks by the people of their State because they have worked hard on this bill. I pay special tribute to them, not only for their hard work but also for their tenacity in getting this bill passed.

I yield to the distinguished Senator from Illinois.

Mr. PERCY. Mr. President, I ask unanimous consent that Donna Maddox, a member of my staff, have the privilege of the floor during the debate and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANNOUNCEMENT OF DEATH OF FORMER SENATOR PAUL H. DOUGLAS

Mr. PERCY. Mr. President, it is my extremely sad duty to inform the Senate of the passing today of our beloved former colleague, Senator Paul H. Douglas.

Senator Douglas served his country with dignity and distinction. He was a great American and a great son of Illinois.

Senator Douglas had a rare gift—the gift of vision—that made him a towering figure in the U.S. Senate. Throughout his long tenure of service to the people of Illinois and the people of all America, Senator Douglas provided unparalleled leadership in anticipating the role of Government in meeting the needs—and especially the human needs—of every American.

Senator Douglas was one of the most respected members of the U.S. Senate. His sense of integrity and character still stands today as a model for everyone in public life.

When I entered the Senate, I expressed the hope that I would measure up to the high standard of public service set by Paul Douglas; I express that hope again today.

I also pledged at the time of my election to the Senate to work diligently on behalf of two particular pieces of legislation that were especially important to Senator Douglas—the truth in lending bill to protect consumers and the bill to preserve the Indiana Dunes.

The truth in lending legislation that became law is a fitting tribute to Paul Douglas. The legislation that preserved the great natural treasure of the Indiana Dunes, which was further strengthened by legislation passed by the Senate today, is a living memorial to Senator Douglas.

We all extend our deepest sympathy to Mrs. Douglas and to every member of the Douglas family. They are in our thoughts and in our prayers.

I know that I share with my distinguished colleague, Senator ADLAI STEVENSON, an affection and regard for Paul Douglas as a distinguished American and a beloved friend.

Senator Douglas was my professor of economics at the University of Chicago in the late 1930's. Though we disagreed on a number of issues, we maintained a mutual feeling of friendship and affection, and we never disagreed on the goals and objectives for a better and a stronger America.

Mr. THURMOND. Mr. President, will the Senator yield me 1 minute?

The PRESIDING OFFICER. The Senator from Louisiana has the floor and controls the time.

Mr. THURMOND. Will the Senator yield me 1 minute?

Mr. JOHNSTON. I yield 1 minute.

Mr. THURMOND. Mr. President, I associate myself with the remarks made by the distinguished Senator from Illinois about former Senator Paul Douglas.

Senator Douglas and I differed on many matters, but I admired him because he went to World War II when he was entirely too old to be drafted. He was a patriotic, courageous man; he served his country well. Although we differed in many ways, I had great respect for him, because I think he was a man of courage and integrity and character.

Mr. JOHNSTON. Mr. President, the distinguished ranking minority member of the Subcommittee on Parks and Recreation is the Senator from Wyoming (Mr. HANSEN). We have a particularly good committee and a particularly good relationship, in that both the minority and the majority work in very close cohesion in trying to develop a policy for parks and recreation in this country.

The distinguished Senator from Wyoming has worked hard on this bill. I compliment him—and I compliment his staff—for the great contribution he has made in parks and recreation. If the President would take his advice in matters of parks and recreation, we would have a much better country.

Mr. STEVENSON. Mr. President, will the Senator yield to me so that I may say a few words about the late Senator Douglas?

Mr. JOHNSTON. I yield.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the time not be charged against the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. STEVENSON. I thank the Senator for yielding.

I, too, commend the Senators from Indiana for their long and successful efforts to bring this important measure to the floor of the Senate.

Mr. President, Paul Douglas was one of the great men of our time. He served his country as teacher and scholar, as combat Marine, as a courageous local official and as a Member of the Senate.

For all his long life, which ended this morning, he fought the hard fight—for the underprivileged and for the equal rights of all citizens. He fought for the development of depressed areas. He fought for causes, often without recognition, which are now in the forefront of popular concern.

Paul Douglas championed the threatened environment long before the word "ecology" came into our popular vocabulary.

Paul Douglas was fighting on behalf of the beleaguered consumer long before it was commonplace.

Senator Douglas was a champion of congressional and political reform long before Watergate.

Today we pay tribute to a man who was not only a great teacher, a distinguished public servant and a fine human being, but a visionary whose eyes and mind saw far beyond his time.

Paul Douglas began and waged the long fight to create a Dunes National Lake Shore. Today the Senate will authorize a major expansion of that monument to the courage and the vision of Paul Douglas. He did not live to see the end of that fight, nor the end of any of his struggles. But thanks to Paul Douglas, the world is a better place, the Nation is stronger and his struggles will go on. He is an inspiration to those who follow him.

Paul Douglas is at peace now. His widow, Emily, and all the members of his family have our deepest sympathy, and I hope, Mr. President, that we will honor this noble man with a suitable memorial. None would be more suitable than a Paul H. Douglas National Dunes Lake Shore. To create such a monument to Paul Douglas I will introduce a bill to change the name of the Indiana Dunes National Lake Shore to the Paul H. Douglas National Lake Shore.

Today we mourn one of the giants of the Senate. But we and his family can take comfort in the knowledge that his life, like the life of every great teacher, will be eternal in its influence.

Mr. HANSEN. Mr. President, first, let me say that it has been my very real privilege and unique opportunity to get to know and to work with the junior Senator from Louisiana. Few people in my acquaintance are more able than is he. Few people are as diligent as he in assuming and discharging responsibilities and duties. He has worked tirelessly and he has been most accommodating in making it possible for witnesses who were interested in particular pieces of legislation to be afforded an opportunity to testify before his subcommittee. I have nothing but kind words and sincere appreciation to try to express my feelings about my very good friend, Senator BENNETT JOHNSTON.

AMENDMENTS NOS. 2359, 2360, AND 2361

Mr. President, I call up the three amendments that I have at the desk and ask that they be considered en bloc.

The PRESIDING OFFICER. The amendments will be stated en bloc.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes en bloc three amendments to amendment No. 2319 as modified, numbered 2359, 2360, 2361.

The amendments are as follows:

AMENDMENT NO. 2359

In paragraph (8), delete new section 13 and substitute the following in lieu thereof:

SEC. 13. With respect to the area on the map referred to in the first section of this Act as unit III–B, if the owner within six months from the effective date of this section enters into a cooperative agreement acceptable to the Secretary which will provide reasonable public access and preserve the environmental integrity of the area, the Secretary's authority to acquire such property shall be suspended so long as the agreement is in effect.

AMENDMENT NO. 2360

In paragraph (8), new section 19, in the first sentence delete "areas III–A, III–C, and II–A" and substitute "areas III–A and III–C"; and revise the fifth (last) sentence of the section to read as follows: "With respect to area II–A, as designated on map numbered 626–91,008, if the owner within six months from the effective date of this section enters into a cooperative acceptable to the Secretary which will protect the environmental, ecological, and visual integrity of Cowles Bog and the area north of the dike, and assure reasonable public access along the dike for interpretive purposes, the Secretary's authority to acquire such property shall be suspended so long as the agreement is in effect.".

AMENDMENT NO. 2361

In paragraph (1) delete " '626–91007' " and insert in lieu thereof " '626–91008' ".

Mr. HANSEN. Mr. President, I move the adoption of all three amendments.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

Mr. JOHNSTON. Mr. President, the Senator from Wyoming and I went to the Indiana Dunes to actually inspect this property. We held hearings. We talked to the Park Service, and after a great deal of thought, it was our joint judgment that the amendments that the Senator from Wyoming is now offering were good amendments. They were not clear decisions; they were difficult decisions.

After we held hearings on the matter, we then began to talk to those from the Indiana Dunes area, particularly the two Senators from Indiana, and upon further reflection, negotiation, extended discussion, and a great deal of compromising between demands or requests from the Indiana Dunes area that were many, many millions of dollars higher than we had recommended, we fashioned a compromise which, in effect, deleted the three amendments offered now by the Senator from Wyoming. I think the compromise was a good one, an excellent one. While it exceeded in dollar value, somewhat, the wishes of our committee and its first-impression view of the matter, I think it was a good compromise.

I think that compromise ought to receive the approbation of the Senate. I think it ought to be now approved and so, for that reason, I reluctantly urge the Senate to reject the amendments of the Senator from Wyoming.

Mr. BAYH. Mr. President, I second the thoughts of the Senator from Louisiana. I would like to specifically associate myself with his remarks in describing his position on the amendments of the distinguished Senator from Wyoming and also with the remarks he made relative to the contribution the Senator from Wyoming has made in the deliberation of this bill.

I find myself in the difficult position of having to join in opposition to the amendments presented by such an extremely cooperative and likable colleague, but at this stage of the game, I must say that the compromise we have struck is a very delicate one. I think most of our colleagues understand that if we are to get concurrence in the House, we have to have something they will accept without going to conference. We have every reason to believe that, with all respect to the distinguished Senator from Wyoming, we cannot get House concurrence if these amendments are adopted.

Mr. JOHNSTON. I call for the question, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments were rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana.

Mr. BAYH. Mr. President, before moving the adoption of the amendment, I wish to associate myself with the remarks of our colleagues from Illinois relative to the important role that Senator Douglas played in this whole effort. I remember very well when I first came to the Senate, there was no Indiana Dunes National Lakeshore. I remember sitting back in the corner of the Senate floor, working with Senator Douglas and the late Senator McNamara, who was then the chairman of the Committee on Public Works, and negotiating a compromise with which we could move forward. Without Paul Douglas, I think it is fair to say we would not have an Indiana Dunes National Lakeshore. Without Paul Douglas, many other important causes would not have had a champion. We will all miss him.

Mr. President, I move the adoption of amendment No. 2319 as modified.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BAYH. Will the Senator from Louisiana yield for a question?

Mr. JOHNSTON. I am pleased to yield to my distinguished colleague.

Mr. BAYH. In the Indiana Dunes National Lakeshore bill introduced by Senator HARTKE and me in April, a statutory provision was included mandating the construction of specific fences at the time certain areas were acquired by the Secretary. It is my understanding that the committee deleted these provisions from the bill as the Secretary, under his general administrative and development authority, can construct those fences without the necessity of a specific statutory mandate.

Mr. JOHNSTON. The Senator is correct. The Secretary has the authority to construct whatever fences he deems necessary.

Mr. BAYH. I thank you, Senator JOHNSTON. It is my intent, and I believe the senior Senator from Indiana would concur with this, that the Secretary construct adequate safety fences along the eastern edge of area I–C, the western edge of area I–E and the eastern and southern edges of the 28-acre tract in area I–A (east) at the time each of those areas is acquired.

Mr. BAYH. Mr. President, I move the adoption of the committee amendment as amended.

The PRESIDING OFFICER. That has already been adopted.

If there be no further amendment, the question is on the engrossment of the amendments and the third reading of the bill.

A HISTORIC STEP FOR THE INDIANA DUNES

Mr. PERCY. Mr. President, today Congress has an opportunity to take a historic step in the struggle to save the Indiana Dunes. Along with Senators STEVENSON, BAYH, and HARTKE, I have cosponsored an amendment in the nature of a substitute to H.R. 11455. Our proposal would add over 3,600 acres of land to the already existing Indiana Dunes National Lakeshore.

Located in the midst of steel mills in a highly urbanized area, the dunes provide outdoor recreation for millions of people living in the Midwest. Since Illinois is one of the few States that does not have a national park within its borders, the dunes have become a favorite retreat for residents of Illinois. They are accessible by either rail or expressway from downtown Chicago. And one can easily see the skyline of Chicago from the lakeshore.

The first plea to save the dunes came in 1916 when Steven Mather, then director of the National Park Service, called for the creation of a national park. Years later, in the 1950's, a citizen group called the Save the Dunes Council enlisted the support of Illinois Senator Paul Douglas. He committed himself to the cause of protecting the lakeshore and in 1958 introduced legislation to preserve the dunes. However, the struggle between proponents of industrial growth and conservation groups intensified and the bill did not pass. It was not until 1966 that victory was achieved when 8,300 acres of the dunes were established as a national lakeshore.

Unfortunately, Mather's vision of 60 years ago still has not been fully realized. We still are battling to preserve some of the last remaining tracts of land worthy of inclusion. Our proposal would include not only dunes, woods, bogs, wetlands, and other parcels of land that should be protected, but it also would create buffer zones to maintain the integrity of the lakeshore.

In an essay on nature, Ralph Waldo Emerson wrote, "She shows us only surfaces, but she is a million fathoms deep."

The dunes were formed by the inexorable movement of glaciers 15,000 years ago. Today, their surfaces are endangered by the relentless encroachment of modern development. Emerson would have urged us to continue the protection of the dunes. And our proposal before Congress today would do exactly that—it would expand the lakeshore to include areas of vital national significance that generations of the future may otherwise have no opportunity to preserve.

Mr. President, I also express deep appreciation to Senator JOHNSTON for the outstanding leadership he has performed with respect to this measure.

UNIT II–A AND III–B

Mr. HANSEN. While it is certainly desirable that the National Park Service study the area referred to as unit II–A, the NIPSCO Greenbelt, for the express purpose of being in a better position to protect the existing lakeshore, this amendment removes the authority of the Secretary to acquire any interest in the area in question. Under the full committee version; the owner of this property would be required to enter into a cooperative agreement within 6 months which would protect the area as well as provide public access. Failing such a cooperative agreement, the Secretary would have full authority including the power of eminent domain to acquire the area in question. Under the amendment now being offered, no authority would be conferred. Rather than strengthening the bill, this amendment serves only to weaken what the full committee unanimously adopted.

In the case of unit III–B, Crescent Dune, the committee version would suspend the Secretary's acquisition authority so long as there is in effect an agreement providing for reasonable access and preservation of the environmental integrity of the area, such agreement to be negotiated within 6 months from the date of enactment. The sponsors of the amendment now under consideration have made no provision for such an agreement but rather condition its acquisition on a total negotiated purchase price of $800,000 plus administrative costs and adjustment due to the Consumer Price Index. Failing a negotiated purchase within 2 years, the Secretary's authority to acquire this unit would be suspended. In other words, this amendment lets the corporate owner of III–B dictate whether this dunes resource will or will not be acquired. If the corporation does not agree to the price, the Government could not acquire it. Again, if the resource is valuable enough to be preserved within the boundary—and the committee is convinced that it is—then the Government should be authorized to acquire it without restriction. To do otherwise—as the substitute proposes—would place the corporation in position to make the decision on the park boundary and not the Congress of the United States.

In both cases, the committee version provided for both reasonable public access and the preservation of the environmental integrity of the areas in question at no cost to the Federal Government. The amendment removes this provision from both parcels. Moreover, how can theq possibly have strengthened this legislation by removing entirely the authority to acquire these lands?

Mr. STEVENSON. Mr. President, I am pleased to join Senator BAYH and Senator HARTKE in sponsoring this amendment to S. 3329, expanding the Indiana Dunes National Lakeshore. It continues an effort begun more than 20 years ago by Senator PAUL H. DOUGLAS.

The 10 million people of northeastern Illinois and northern Indiana have less open space than any other major metropolitan area in the Nation. This lakeshore is the only useable national recreation area within 500 miles of northeastern Illinois and Indiana. It will be the Nation's first urban national park—and one of the most intensively used recreational resources in the Nation.

This amendment would enhance the recreational potential of the lakeshore. It would also preserve the lakeshore's unique ecological value.

Mr. President, every acre of land proposed to be acquired under this amendment serves the dual purpose of insuring the preservation of the original park while adding to its treasures. Delay means more escalating land acquisition costs, as well as more environmental degradation to the 8,000-year-old glacial lakes, lagoons, dunes and marshes that make up this wonderland. Some of the tracts proposed for acquisition in the first expansion bill in 1971 have already given way to dune buggies, bulldozers and cement mixers.

As Paul Douglas said in 1965 during his fight to create the park:

> The need is so great, and the opportunity so wondrous, that further delay cannot be permitted.

It is now 10 years later. I commend Senators BAYH, HARTKE, and JOHNSTON for their efforts and urge all our colleagues to act favorably on this amendment and continue the task begun by Senator Douglas more than 20 years ago. This amendment will not complete the task, but it is a long step forward.

Mr. BAYH. Mr. President, H.R. 11455, the Indiana Dunes National Lakeshore expansion bill, as reported by the Committee on Interior and Insular Affairs and subsequently modified pursuant to the amendment offered by Senators HARTKE, STEVENSON, PERCY, and I, represents the culmination of over 25 years of efforts to preserve the natural state of the unique Indiana Dunes topography. In 1964, the Senate passed legislation which would have established an 11,000-acre national lakeshore, similar to that which will be completed with passage of the bill we are considering today. Necessary compromises ultimately resulted in the enactment in 1966 of the existing 5,600-acre Indiana Dunes National Lakeshore. Since that time, many people have continued to toil long and hard in order to make it possible to complete the work left unfinished 10 years ago.

Legislation to expand the national lakeshore established in 1966 was first offered in the 92d Congress by me and several of my distinguished colleagues. In February of this year, the House of Representatives passed H.R. 11455 which provided for a 4,340-acre expansion of the Indiana Dunes National Lakeshore. My good friend, Congressman FLOYD FITHIAN, labored for over a year to hammer out reasonable compromises between the industries, environmental organizations and area residents concerned with expansion of the national lakeshore and is largely responsible for the excellent legislation passed by the House this year. It should also be noted that Congressman ED ROUSH, who in the 92d Congress introduced the first national lakeshore expansion bill in the House, contributed enormous amounts of time and effort to help achieve House passage of H.R. 11455.

In April of this year, my senior colleague and I, along with several other distinguished Senators, introduced S. 3329, a bill to expand the national lakeshore by more than 4,700 acres. That bill incorporated all of the land included in the House-passed bill plus several areas which I believed it was important to include in any expansion proposal.

With the cooperation of the distinguished chairman of the Subcommittee on Parks and Recreation, BENNETT JOHNSTON, expedited hearings were held to consider both the House-passed measure and S. 3329. Those hearings were followed in August by the action of the full Committee on Interior and Insular Affairs, which reported to the Senate an amendment in the nature of a substitute to H.R. 11455. That amendment was offered by Senators JOHNSTON and HANSEN, the ranking minority member of the Subcommittee on Parks and Recreation, and expressed the growing desire of many Members of this body to statutorily impose a comprehensive national parks development policy, especially for urban parks of which the Indiana Dunes is the oldest.

Subsequent to the action of the Committee on Interior and Insular Affairs, Congressman FITHIAN, Senator HARTKE, and I consulted with the people, especially those in Indiana, who had labored long and hard to achieve a substantial expansion of the national lakeshore. As a result of our detailed discussions, we approached Senator JOHNSTON with a compromise proposal which recognized the clear mandate of the Interior Committee that certain areas included in S. 3329 and the House-passed measure would not be authorized this year for inclusion in an expanded national lakeshore. That compromise proposal is essentially embodied in the amendment in the form of a substitute which has been offered by Senators HARTKE, STEVENSON, PERCY, and me and accepted today by the committee.

Mr. President, I would like to take this opportunity to express my deep gratitude to the distinguished Senator from Louisiana for the time and effort he has expended in helping develop the national lakeshore expansion legislation we are considering today. Senator JOHNSTON has shown himself to have impressive depth of knowledge of national park policy and problems which was invaluable in the shaping of this legislation; he has always been willing to discuss the legislation with me; and he has been willing to make reasonable compromises to insure expansion of the Indiana Dunes National Lakeshore and protection of the valuable natural resources in northwestern Indiana. Also to be thanked for the extensive amount of time and excellent work contributed to this legislation are Bob Szabo of Senator JOHNSTON'S staff and Jim Beirne, Chief Counsel of the Subcommittee on Parks and Recreation. Especially noteworthy is the gentlemanly manner in which Senator JOHNSTON and his staff have conducted themselves throughout the negotiations and considerations relating to national lakeshore expansion legislation.

I would also like to extend my thanks to Sylvia Troy, president of the Save the Dunes Council, and Edward R. Osann of the council's Washington office. Without their untiring efforts in behalf of the Indiana Dunes, expansion of the national lakeshore might never have been on the verge of becoming a reality.

When I introduced S. 3329 in April, I stated that it was intended to achieve four diverse but interrelated goals. Although H.R. 11455, as amended by the Hartke-Bayh substitute, incorporates major differences from that legislation, I firmly believe it substantially achieves those same goals. First, permanent protection will be afforded to presently vulnerable natural areas. Second, this bill will provide the over 7 million residents of northern Indiana and the Greater Chicago area with largely expanded recreational facilities. Third, this bill is designed to afford necessary and reasonable protection to those areas within the existing national lakeshore not adequately protected from degradation resulting from the surrounding urban environment. Finally, this bill incorporates provisions essential to the continued economic vitality of northwestern Indiana.

Given the variety of natural areas incorporated in this 3,662 acre Indiana Dunes National Lakeshore expansion bill, my colleagues may find it helpful if I include at this point an area-by-area analysis of the Hartke-Bayh amendment in the form of a substitute to H.R. 11455.

AREA I–A (EAST): OGDEN DUNES

This 41-acre addition is composed of a 13-acre wedge of land between the Penn Central Railroad tracks and the southern border of the town of Ogden Dunes and a 28-acre tract adjacent to the eastern edge of West Beach in the existing national lakeshore. The southern boundary of that 28-acre tract runs between lots Nos. 34 and 35 of the present subdivision and continues on a line running east and west.

The northern 12 acres of the 28-acre tract in area I–A (East) presents an exceptional display of the unique natural qualities of the Indiana Dunes. It is the intent of the Senators from Indiana that this area be made available for interpretation by the visiting public in the most sensitive manner possible, unencumbered by user facilities or structures. It is also the intent of the Senators from Indiana that fences along the eastern and southern edges of the 28-acre tract in area I–A (East) be constructed by the Secretary at the time that area is acquired to insure protection of residential areas outside the national lakeshore boundaries from accidental intrusion by visitors to the heavily used West Beach.

The National Park Service should give priority to acquisition of this area to insure against degradation resulting from ongoing residential construction and development.

AREA I–A (WEST): EDGEWATER DUNES

This 92–acre block consists of high wooded dunes fronting on the Lake-Porter County Line Road. It will provide a valuable buffer at the west side of West Beach.

AREA I–B: GLACIAL LAKE DUNES AND MARSHES

The 585-acre expanse of ancient cattail marshes, dune ridges and scattered oak groves is devoid of structures and prized by naturalists and geologists. It is the largest single area in the present expansion legislation and includes a strip along the north side of Route 12 and the Penn Central Railroad which will provide easy access to area I–C.

AREA I–C EASTERN BEACH AND DUNES EXTENSION

This 134-acre area is a microcosm of some of the most important ecological features of the Indiana Dunes and offers outstanding opportunities for environmental education. The new section 14 included in the Hartke-Bayh amendment authorizes the Secretary to acquire lands, which are used by the present industry owner as settling ponds, between the eastern boundary of area I–C and Burn's Waterway with the consent of the owner or if the present owner attempts to sell or otherwise dispose of such lands. It is the intent of the Senators from Indiana that the Secretary construct a fence along the eastern edge of area I–C at the time that the area is acquired to protect lakeshore visitors from the lands presently used for settling ponds.

AREA I–D: LONG LAKE EXTENSION

This 580-acre area contains a 161-acre tract of outstanding Nipissing dunes not included in the House-passed expansion bill. The remaining 419 acres are essential to the protection of the Long Lake watershed and for effective management of the national lakeshore.

AREA I–E: MILLER LAGOONS AND WOODS

This 330-acre area contains a large essentially unspoiled tract and is adjacent to the United States Steel Gary Works, thereby providing excellent possibilities for interpretation of the costs of progress. The new section 18(a) contained in the Hartke-Bayh amendment authorizes acquisition of 35 acres in the eastern section of area I–E presently used as a slag dump, contingent upon the Secretary first receiving an acceptable commitment from either a public agency or private organization to reclaim that acreage at no cost to the Federal Government.

New section 18(b) of the Hartke-Bayh amendment permits the Secretary to enter into a cooperative agreement with the State of Indiana or any political subdivision thereof to develop, manage and interpret area I–E. It should be noted that local interests, including the city of Gary, are in an advanced stage of planning for the development of a small boat harbor offshore from area I–E. It is the intent of the Senators from Indiana that the Secretary shall investigate the feasibility of local development and operation of small boat harbor facilities in this area. Subject to a timely determination by the Secretary of the consistency of such facilities with the natural and recreational values for which the lakeshore was established, the Secretary may enter into a cooperative agreement with local interests to facilitate the construction and operation of such facilities.

It is also the intent of the Senators from Indiana to have the Secretary construct a safety fence along the western edge of area I–E at the time that said land is acquired.

AREA I–F: TOLLESTON DUNE COMPLEX

This 295-acre area is ideally suited for short hikes and contains intersecting low dune ridges and swales left as a vestige of the Glacial Lake era. This area also provides a favorable location for visitor transportation facilities for users of West Beach.

AREA II–B: WAVERLY ROAD

A large part of this 139-acre area is completely surrounded by the presently authorized national lakeshore. The high estimated acquisition cost of $3,050,000 results from the existence of approximately 80 small residences within the area.

Section 4(a) of the amendment to H.R.11455 specifically singles out area II–B as the only area within the national lakeshore in which a residential property owner will not be eligible for a 20-year leaseback upon condemnation by the Secretary. The elimination of leasebacks for residents in area II–B is a direct result of pressure exerted by Indiana Gov. Otis Bowen and the Ford administration. Governor Bowen maintains elimination of ordinary leasebacks is necessary to forestall construction of a drainage canal in this area. The Senators from Indiana believe there are less severe solutions to existing drainage problems and the elimination of residential leasebacks in area II–B is an unnecessary intrusion upon the property rights of the present owners. Unfortunately, to insure enactment of national lakeshore expansion legislation this year, it was necessary that the Hartke-Bayh amendment incorporate the unwise and insensitive provisions Governor Bowen and the Ford administration desired.

AREA II–C: TREMONT TRACT

This is a 20-acre tract intended for inclusion in the existing national lakeshore but unaccountably omitted when final boundaries were established by the National Park Service.

AREA II–D: FURNESSVILLE MARSH EXTENSION

This 165-acre area consists largely of a marsh that is part of a drainage system already included in the authorized national lakeshore. In a compromise with the House passed bill, the southern boundary of area II–D has been drawn parallel to but approximately 350 feet north of the north edge of Route 20.

AREA II–E: BAILLY HOMESTEAD RIVER EXTENSION

This 166-acre area encompasses a section of the Little Calumet River and is adjacent to the Bailly Homestead area in the existing national lakeshore. Along with area IV–C, acquisition of this area will greatly increase the recreational potential of the section of the Little Calumet in the existing national lakeshore.

The Hartke-Bayh amendment to H.R. 11455 adds a new section 12 to the Indiana Dunes National Lakeshore Act (Public Law 89–761). Subsection a of new section 12 outlines the authority of the Secretary with regard to protection of the portion of the Little Calumet River located within the national lakeshore. Subsection b of new section 12 relates to the effect of the expansion legislation on applicable air and water pollution standards. Both of these subsections have been carefully balanced to ensure the essential protection from degradation of the valuable natural resources within the national lakeshore while also enabling the uninterrupted operation of nearby industries which are essential to the economic vitality of northwestern Indiana.

AREA III–B: CRESCENT DUNE

This 30-acre area is adjacent to the far eastern tip of the existing national lakeshore and is needed to provide land for the migration of nearby Mount Baldy. New section 13 of the Hartke-Bayh amendment places an $800,000, plus administrative expenses, cost acquisition ceiling on this area. The adjustment to that ceiling by the Consumer Price Index is intended to be calculated from the date of enactment of expansion legislation to the date of acquisition.

Given the degradation of area III–B threatened by the present utility owner, new section 13 also directs the Secretary to acquire this area within 2 years. It is the intent of the Senators from Indiana that the Secretary place a high priority on acquisition of this valuable pristine area, and the proviso at the end of new section 13 is not intended to prohibit acquisition if the Secretary has commenced condemnation proceedings within the designated 2 years but the actual transfer of title has been delayed beyond the 2 years by opposition to Federal acquisition from the present utility or then existing owner.

AREA IV–A: BLUE HERON PRESERVE

This 391-acre area encompasses 1½ miles of wooded stream used as a rookery by the great blue heron. Great blue heron are not common in Indiana and the loss of nesting grounds nationally has caused the blue heron to approach endangered status. It is intended that this area be made available for interpretation by the visiting public in the most sensitive manner possible.

AREA IV–C: LITTLE CALUMET RIVER—WEST SECTION

This 168-acre area encompasses the section of the Little Calumet River adjacent to the western boundary of area II–E. This section of the Little Calumet contains whitewater offering excellent recreational potential. New sections 16 and 17 of the Hartke-Bayh amendment are intended to permit the present industrial owner of specific lands within this area to retain fee ownership of those lands and to construct on them a crossing to provide access to and from indusriver. These sections are identical to those trial operations north and south of the passed by the House.

AREA V: PINHOOK BOG BUFFER ZONES

This 180-acre area is necessary to protect Pinhook Bog, which is within the existing national lakeshore, from forms of degradation not anticipated in 1966. The House passed bill provides for the inclusion of only 150 acres, but the National Park Service has requested 30 additional acres be included to insure essential protection of the bog.

AREA VI–A: HOOSIER PRAIRIE

Ninety percent of this 330-acre area was recently acquired by the State of Indiana with a matching grant from the land and water conservation fund. While the remaining acreage may be acquired by the Secretary, that part which is now in public ownership would be acquired by donation only. The prairie is included as a detached ecological preserve.

Two sections of the expansion bill not previously discussed should also be noted. Section 7 of the Hartke-Bayh amendment requires that specific opportunities be provided for citizen participation in the planning and development of proposed facilities and in the implementation of the national lakeshore general management plan to be developed by the Secretary. This section is intended to require opportunities for citizen participation, including public hearings where appropriate, whenever significant development is being considered and whenever the Secretary is or should be aware of the potential for citizen interest in administration of the national lakeshore.

The new section 20 to be added to the Indiana Dunes National Lakeshore Act by the expansion bill being considered today provides for the study by the Secretary of areas II–A, III–A, and III–C. All three of these areas were intended for inclusion within the boundaries of the national lakeshore as proposed by S. 3329, the expansion bill which Senator HARTKE and I introduced earlier this year. The eventual deletion of area II–A, the NIPSCO Greenbelt, and area III–A, the Beverly Shores Island, represents major concessions we have made to insure enactment of a viable expansion bill this year and protection of other presently vulnerable natural areas.

With respect to area II–A, it should be noted that the study area included in the Hartke-Bayh amendment differs substantially from the area II–A included in the House-passed bill. Most notably, the north-south leg of the Greenbelt has been excluded from the study area and the dump sites in the southeastern corner of the area have been added. The actions of the Indiana Senators and the Congress with respect to area II–A are not to be construed as an expression of congressional approval or disapproval of the construction permit issued by the Nuclear Regulatory Commission for construction of a nuclear powerplant at the Bailly site in the vicinity of unit II–A.

Direct dumping by the Northern Indiana Public Service Co.—Nipsco—of ash, iron oxides, and other solid wastes is being carried out in the western edge of Cowles Bog, a national natural landmark within the national lakeshore and adjacent to area II–A. Mr. President, I believe the responsibility and the cost for alleviating any adverse impact on the resources of the national lakeshore resulting from such dumping should be borne by Nipsco. Accordingly, the Secretary should take whatever action is necessary to preserve the park resorouces, including injunctive relief for continuing trespass.

Area III–A, the Beverly Shores Island, was the largest area, 652 acres, originally intended for inclusion in an expanded national lakeshore. The Committee on Interior and Insular Affairs deleted area III–A from the expansion bill because of the estimated acquisition cost of over $23 million. This was done despite the previous passage by the House of expansion legislation including area III–A. As a result of the exclusion of the Beverly Shores Island, the town board of Beverly Shores requested for administrative purposes the exclusion also of a substantial portion of area III–C.

Consequently, the Hartke-Bayh amendment to H.R. 11455 provides for a detailed study by the Secretary of both area III–A and area III–C. This study is to be completed by July 1, 1977. I introduced S. 3329 in April with the belief that the benefits of Federal acquisition of area III–A far outweigh the costs of acquisition, and I remain confident that the required study will clearly substantiate that belief.

Mr. President, I would urge my colleagues to consider the Indiana Dunes National Lakeshore expansion bill in light of our Nation's growing awareness of the need to preserve the increasingly scarce unique natural areas that have always made this one of the, if not the most, diverse and beautiful countries in the world. The Indiana Dunes is such an area and deserves the expanded protection to be afforded by H.R. 11455 as amended.

I ask unanimous consent that the statement of Senator HARTKE on H.R. 11455 may be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR HARTKE

The amendment to H.R. 11455, which we consider today would add 3,662 acres to the existing Indiana Dunes National Lakeshore in northern Indiana—an area in which Indiana takes great pride. That pride is well placed as the Indiana Dunes offers a rare opportunity for millions of Americans to study and enjoy a unique natural resource.

When my good friend and distinguished colleague, Senator Bayh, and I originally introduced our expansion bill in April of this year, we were requesting that 4,700 acres be included into the system. That figure represented an increase of some 400 acres over the expansion measure passed by the House of Representatives earlier this year, but substantially less than previous expansion bills in earlier sessions of Congress. At that time, I reflected on the history of my efforts to expand the Lakeshore and stated that time and compromise had resulted in a scaling down of the acreage to be included. Although it would add some 1,000 acres less than our April proposal, I believe that the new proposal accomplishes most of the major goals for the region which have been at the forefront of our expansion efforts.

Senator Bayh will introduce for the record a detailed analysis of the compromise amendment, so I will not duplicate that effort. I wish only to stress the importance of the passage of this measure in its present form. While I am anxious to complete Senate action on this measure, I would reiterate my determination to see that the areas which were excluded for study are eventually acquired for the Lakeshore. I am confident that after the studies are completed, Beverly Shores and the NIPSCO Greenbelt will be acquired and I intend to do everything possible to that end.

I wish to express my gratitude to the Parks Subcommittee Chairman, Senator Johnston, for his appreciation of the Indiana Dunes as a nationally significant area worthy of preservation and protection and for his willingness and patience in our efforts to reach a compromise of this expansion legislation.

It has now been a full decade since the original authorizing legislation to establish the Indiana Dunes National Lakeshore was passed by Congress. That Act, allowing for 5,600 acres of parkland, fell well short of the over 11,000 acres envisioned as optimal for quality recreation for the millions who would benefit. Since 1966, the unfinished business of expanding the Lakeshore has remained just that. We have never been closer to completing that business than now. I feel a great responsibility to those I represent, to act on this issue now, to preserve those lands which remain unprotected and which could be lost forever.

Therefore, I urge my colleagues to act favorably on this measure while the opportunity still exists.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HANSEN. I yield back my time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

H.R. 15552—COMMITTEE ON THE JUDICIARY DISCHARGE FROM FURTHER CONSIDERATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of a companion measure to S. 3646. The bill is H.R. 15552.

The PRESIDING OFFICER (Mr. STEVENS). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1208.

Mr. ALLEN. Mr. President, reserving the right to object, would the Senator make his request that it come immediately after the rollcall of the defense bill?

Mr. ROBERT C. BYRD. I withdraw it.

INDIANA DUNES NATIONAL LAKESHORE

The Senate continued with the consideration of the bill (H.R. 11455) to amend the act establishing the Indiana Dunes National Lakeshore to provide for the expansion of the lakeshore, and for other purposes.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

Mr. BAYH. Mr. President, I think it is appropriate to take 30 seconds to pay a special word of tribute for the time and effort expended on this bill by the staff of the Interior Committee, especially Jim Beirne; Bob Szabo of Senator JOHNSTON's staff; and Tony Bevinetto of Senator HANSEN's staff. I would also like to thank Mary Lu Campbell, of Senator HARTKE's staff, and Geoff Grodner and Howard Paster of my staff.

The PRESIDING OFFICER (Mr. STEVENS). The Chair is constrained to tell the Senator from Indiana that all time is yielded back.

Mr. BAYH. I appreciate the Senator from Alaska so alerting me.

The PRESIDING OFFICER. I thank the Senator.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Wyoming (Mr. MCGEE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Florida (Mr. STONE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN) and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. MCCLURE), the Senator from Vermont (Mr. STAFFORD), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 74, nays 0, as follows:

[Rollcall Vote No. 646 Leg.]

YEAS—74

Abourezk
Allen
Baker
Bartlett
Bayh
Biden
Brooke
Bumpers
Burdick

Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Church
Clark
Culver
Curtis
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Hathaway
Helms
Hollings
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McGovern
McIntyre
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott,
William L.
Sparkman
Stennis
Stevens
Stevenson
Symington
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—26

Beall
Bellmon
Bentsen
Brock
Buckley
Chiles
Cranston
Dole
Domenici
Glenn
Hart, Philip A.
Hartke
Haskell
Hatfield
Huddleston
Mansfield
McClure
McGee
Metcalf
Mondale
Montoya
Moss
Stafford
Stone
Taft
Tunney

So the bill (H.R. 11455) was passed.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

APPROVAL OF BILL

A message from the President of the United States announced that on September 21, 1976, he approved and signed the bill (S. 3669) to provide for adjusting the amount of interest paid on funds deposited with the Treasury of the United States as a permanent loan by the Board of Trustees of the National Gallery of Art.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that yesterday, September 23, 1976, he presented to the President of the United States the following enrolled bills:

S. 1404. An act for the relief of Mrs. Kyong Chu Stout;

S. 1477. An act for the relief of Beatrice Serrano-Toledo;

S. 1787. An act for the relief of Maria Lisa R. Manalo and Rogena R. Manalo;

S. 2220. An act to authorize and direct the Secretary of the Interior to reinstate oil and gas lease New Mexico 18302.

S. 2481. An act for the relief of Oscar Rene Hernandez Rustrian.

S. 2668. An act for the relief of Arturo Moreno Hernandez;

S. 2770. An act for the relief of Anthony Augustus Daley and Beverly Evelyn Daley;

S. 2830. An act for the relief of Gary A. Broyles;

S. 2956. An act for the relief of Teresa Marie Salman; and

S. 3095. An act to increase the protection of consumers by reducing permissible deviations in the manufacture of articles made in whole or in part of gold.

ORDER OF BUSINESS

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, I yield first to the Senator from West Virginia, the distinguished assistant majority leader.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, I ask unanimous consent that the distinguished Senator from Washington may proceed for not to exceed 2 minutes on a matter of making a technical correction, that he may be followed by the Senator from Wisconsin (Mr. PROXMIRE) to speak with reference to the passing of the late Senator Paul Douglas, and that then the Senate may proceed for not to exceed 5 minutes to call up the National Science Foundation conference report.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Washington.

AMENDMENT OF THE GEOTHERMAL STEAM ACT

Mr. JACKSON. Mr. President, I send a bill to the desk on behalf of Senator METCALF, Senator HANSEN, and Senator STEVENS, and I ask for its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (S. 3848) to amend the act of February 25, 1920.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read the second time at length, and the Senate will proceed to its immediate consideration.

Mr. JACKSON. Mr. President, I bring this bill before the Senate in behalf of Senator METCALF and Senator HANSEN.

Mr. President, this bill does two things. First, it corrects technical errors in the amendment to section 35 of the Mineral Lands Leasing Act which was enacted on August 4 when Congress overrode the President's veto of S. 391. These errors relate to the dates upon which revenue sharing payments to the States will be made and to the percent of mineral leasing revenues which would be paid to the State of Alaska. That percentage was inadvertently changed and my bill corrects that and leaves Alaska's share of the revenues at 90 percent. I wish to stress that my bill does not in any way change the percentage of mineral revenues which will be paid to any State.

Second, my bill contains language approved by both the House and the Senate as part of the BLM Organic Act—S. 507. These provisions relate to loans to States and local governments to relieve social and economic impacts occasioned by development of Federal minerals. The loans would be repaid from the revenue sharing payment authorized under existing law.

Mr. President, I believe that these technical corrections and the loan provisions should be enacted into law in this Congress.

Mr. President, I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I would like to thank my distinguished colleague, the chairman of the Senate Committee on Interior and Insular Affairs, for his courtesy in bringing up this bill. It has my full support, as might be inferred from the cosponsorship of the bill.

I believe it will accomplish what was intended by the Congress, and I urge its immediate passage.

Mr. JACKSON. I thank the Senator.

The PRESIDING OFFICER. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 3848

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 35 of the Act of February 25, 1920 (41 Stat. 437, 450), as amended, is further amended to read as follows: "All money received from sales, bonuses, royalties, and rentals of the public lands under the provisions of this Act and the Geothermal Steam Act of 1970, notwithstanding the provisions of section 20 thereof, shall be paid into the Treasury of the United States; 50 per centum thereof shall be paid by the Secretary of the Treasury as soon as practicable after March 31 and September 30 of each year to the State other than Alaska within the boundaries of which the leased lands or deposits are or were located; said moneys paid to any of such States on or after January 1, 1976, to be used by such State and its subdivisions, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this Act, for (i) planning, (ii) construction and maintenance of public facilities, and (iii) provision of public service; and excepting those from Alaska, 40 per centum thereof shall be paid into, reserved, appropriated, as part of the reclamation fund created by the Act of Congress known as the Reclamation Act, approved June 17, 1902, and of those from Alaska, 90 per centum thereof shall be paid to the State of Alaska for disposition by the legislature thereof: *Provided,* That all moneys which may accrue to the United States under the provisions of this Act and the Geothermal Steam Act of 1970 from lands within the naval petroleum reserves shall be deposited in the Treasury as 'miscellaneous receipts', as provided by the Act of June 4, 1920 (41 Stat. 813), as amended June 30, 1938 (52 Stat. 1252). All moneys received under the provisions of this Act and the Geothermal Steam Act of 1970 not otherwise disposed of by this section shall be credited to miscellaneous receipts.".

SEC. 2. (a) The Secretary is authorized to make loans to States and their political subdivisions in order to relieve social or economic impacts occasioned by the development of mineral leased in such States pursuant to the Act of February 25, 1920, as amended. Such loans shall be confined to the uses specified for the 50 per centum of mineral revenues to be received by such States and subdivisions pursuant to section 35 of such Act. All loans shall bear interest at a rate not to exceed 3 per centum and shall be for such amounts and durations as the Secretary shall determine. The Secretary shall limit the amounts of such loans to all States except Alaska to the anticipated mineral revenues to be received by the recipients of said loans and to Alaska to 55 per centum of anticipated mineral revenues to be received by it pursuant to said section 35 for any prospective 10-year period. Such loans shall be repaid by the loan recipients from mineral revenues to be derived from said section 35 by such recipients, as the Secretary determines.

(b) The Secretary, after consultation with Governors of the affected States, shall allocate such loans among the States and their subdivisions in a fair and equitable manner, giving priority to those States and subdivisions suffering the most severe impacts.

(c) Loans under this subsection shall be subject to such terms and conditions as the Secretary determines necessary to assure that the purpose of this subsection will be achieved. The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HANSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE MEETING DURING SENATE SESSION TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare be authorized to meet in executive session today to consider H.R. 15246 and S. 3736, Service Contract Act amendments, S. 3262, to extend the Unemployment Assistance Act, and the nomination of Mr. Ronald Berman to be chairman of the National Endowment for the Humanities.

Mr. ALLEN. I object at this time.

The PRESIDING OFFICER. Objection is heard.

DEATH OF PAUL H. DOUGLAS, FORMER U.S. SENATOR

Mr. PROXMIRE. Mr. President, I shall be very brief. Unfortunately, as the Chair knows, the great Paul Douglas died this morning. He was the U.S. Senator from Illinois from 1948 to 1966. He was a remarkable Senator. Here was a man who brought to the Senate the kind of expertise the Senate needs. He was an economist. He was president of the American Economists Association. Many years ago he wrote a definitive study of wages which was a study of how wages operate in a free society. He was the author of many bills. He was known as a liberal, but not wasteful. His career in fighting wasteful projects was one that inspired many people in the country to recognize that we should be more discriminating than we had been.

Mr. President, here was a man who was a very compassionate, caring, loving human being. He has a delightful wife, Emily Taft Douglas, who served in the Congress, incidentally, with great distinction.

Paul Douglas is mentioned for many things, but I would like to mention two, in closing. One was his remarkable sense of humor. Second, was the fact that Paul Douglas said when he was a young man he wanted to save the world. As a middle-aged man he wanted to save the United States. As an old man, he wanted to save the Indiana Dunes.

So it is appropriate that Paul Douglas died today, at a time when the Senate passed a bill for which he, I think, would be more grateful than anyone in the country. He also wanted the dunes to be named not only after himself but after Emily Douglas. I hope the Senate will do that.

I yield to the Senator from Washington.

Mr. JACKSON. Mr. President, I wish to associate myself with the distinguished Senator from Wisconsin. I had the privilege of knowing Paul Douglas for all the time he served in the U.S. Senate. He was at one time a professor at the University of Washington. He was a great mountain climber; he climbed Mount Rainier and many of our great peaks in Washington back in the 1920's.

When I was on the high school debating team, my favorite economist in terms of rallying support for my position was Paul Douglas who was then professor of economics at the University of Chicago.

Of the many men I have known who have served in this body few have had such a broad and diversified experience and, indeed, an expertise in many areas.

This man was totally committed to protecting and enhancing the environment. The Indiana dunes is one of his great monuments. In fact, he was so honorable and so gracious that when we had the early fights over the dunes and there was a controversy among the States that were involved, he asked me to introduce the bill. He did not want any credit. He asked me to introduce the bill to save the Indiana dunes, which I did for Paul Douglas.

As the Senator from Wisconsin pointed out, the dunes should be named for the Douglases, for both of them, Emily Taft Douglas and Paul Douglas.

His interest in national security was profound. He felt very deeply the importance of keeping this country committed to a strong and credible posture. At the same time, he was a very compassionate man, concerned to help the oppressed, concerned to try to improve the economy and the standard of living of our people. There was not an important area in which Paul Douglas did not take a tremendous and sensible interest. He was one of the great Members of this body and he will be sorely missed.

Mr. PROXMIRE. I yield to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I heard this morning of the death of Paul Douglas. I have lost a very personal friend, as my esteemed friend and colleague from Wisconsin knows. Paul Douglas came to the Congress in the elections of 1948. It was in that same election that I was privileged to be elected to serve in the Senate.

We came to this body together and we worked together on a host of measures. We developed a friendship over the years of our mutual service here in the Senate that to me is one of the most precious memories of my life. All during the days of Paul Douglas' retirement from the Senate, or being no longer with us, I tried from time to time to keep in touch with him.

I have been the recipient of his friendship. I have often been inspired by his words, always encouraged by his example, and always strengthened by his trust.

Paul Douglas was a giant of a man. A brilliant economist, yes. He was chairman of the Joint Economic Committee. I think it is fair to say that he gave the Joint Economic Committee in those early days of its life as a committee of this Congress genuine stature. He was respected here in this body for his capacity and ability as a debater. He needed no prepared script. He could stand up and argue with the best of them.

How well I remember the debates between Paul Douglas and the late Eugene Milliken of Colorado. How well I remember the debates between Paul Douglas and the late Robert Kerr of Oklahoma and the late Robert Taft, of Ohio, just to mention a few. Those were masterpieces, the Senate at its best.

I will never forget the time that Paul Douglas came to me and said, "Hubert, you and I ought to team up on the tax bill of 1950. We shall offer a number of amendments."

I see the distinguished chairman of the Finance Committee with us, Mr. LONG. He will be interested in this little memory of days past.

I knew very little or nothing about tax legislation. Paul said:

> We will get a group of scholars to train us.

He said, "us" because he already knew the subject but he did not want to embarrass me.

For literally weeks in my office or in the office of Senator Paul Douglas we would meet with men like Charlie Davis, who was the counsel for the Department of the Treasury, or Joe Peckman. We had a number of others whose names slip by me for the moment. They were trying to get this young Senator from Minnesota equipped to do battle with the giants of the Senate, like Walter George, of Georgia, and Eugene Milliken, of Colorado.

We were in those days meeting in the old Supreme Court Chamber, which today has, thank goodness, been refurbished. Those were some very happy days in the U.S. Senate. There was an intimacy there, and a friendship and a fellowship, that I long for even at this hour. And I remember Paul taking them on. He was sort of the MC. But after the whole thing was over, he sent a telegram to my wife which we cherish, saying something to the effect "Your HUBERT has done well." That was Professor Douglas grading his student.

That is just one of the memories I have. Senator Paul Douglas, professor, scholar, once pacifist, then a fighting Marine, a city councilman in Chicago, fighting the machine, beating it, and then, when he became a city councilman, backing the party as a loyal Democrat.

I remember when the election of 1948 was underway. Who expected that any of us were going to be elected? Harry Truman looked like he would be defeated, and there was an argument in Illinois—I was present on the occasion—as to whether Adlai Stevenson would run for Governor or Senator, or Paul Douglas would run for Governor or Senator. Quite frankly, neither one of them thought they had a chance to win, but somebody had to file, and finally, at the last minute, it was decided that Adlai Stevenson would be the candidate for Governor and Paul Douglas would be the candidate for Senator.

It appeared that there was a better opportunity for Mr. Stevenson to be elected Governor than Paul Douglas. But both of them were overwhelmingly elected.

I participated in what we called the Midwest forum—that is where I met both these distinguished men—where we were supposed to be briefed and brought up to date on the issues of the time. Paul Douglas and Emily Taft Douglas have given to Muriel and HUBERT HUMPHREY some of the happiest moments of our lives. How well I can remember dining at their home. I remember when Paul got his swimming pool; we helped christen it, so to speak.

So let me just end with a little comment here today about this good friend, not with any note of sadness, because he would not want that: He was a fighter. He struggled. He was brave. He was the epitome of integrity. He had an incisive mind. He had tenacity and perseverance on any issue to which he addressed himself. But above all, he was a great, great guy, a warm-hearted human being, a man who never let his brilliance get in the way of his sense of humanity and humility, a man who qualified to be an intellectual but had a great sense of compassion. You and I remember him as a man of deep emotions, friendly, fighting for the weak, helping the helpless, able to do battle with anyone intellectually, and a great credit to the U.S. Senate.

I think that Paul Douglas will go down in the memory of this body as one of the truly great men of the 20th century. He has gone home now to his heavenly reward. Moments like this have always made me believe in the doctrine of immortality, because the good works of this good man will live on for generations yet to come.

I thank the Senator from Wisconsin for letting me have a chance to say these words about someone I loved very much, someone whom I shall miss greatly, but someone who touched my life and made me a better person along the way.

Mr. PROXMIRE. Mr. President, before I yield to the Senator from Louisiana, let me say that I have talked with Paul Douglas often about HUBERT HUMPHREY, and how much he loved HUBERT HUMPHREY and admired him. I think there was probably nobody in public life Paul Douglas felt closer to or admired more than the great Senator from Minnesota.

I would like to point out two more things which we just cannot overlook. Many people have received credit—Presidents, Senators, Congressmen, religious leaders, and others—for the great civil rights movement over the last 20 years. To my mind, no one was more responsible than Paul Douglas. He was always a man who led in the U.S. Senate. His effective work in preventing the blocking of that legislation was the greatest. Paul Douglas was more responsible than any other person for the progress we have made on civil rights in the last generation.

Another of his remarkable achievements has been in the one-man, one-vote principle we now follow in the election of our State legislatures, due to a Supreme Court decision that was not overturned largely because of the continuing dedicated efforts of Paul Douglas, who led that fight.

I have also heard Paul Douglas many times talk about Senator LONG, and how much he enjoyed working with him. While they disagreed occasionally on a few issues, Paul Douglas had great admiration for the intelligence and ability of Senator LONG, and had great pleasure in serving under Senator LONG, or with Senator LONG, I should say, on the Finance Committee.

Mr. LONG. Mr. President, I did not know until I entered the Chamber and heard the colloquy that my friends were discussing Paul Douglas. I had not heard the news of his passing.

He was truly a giant among Senators—the kind that comes along once in many years. Paul Douglas was a Senator who fought for the less privileged, for those who were least able to care for themselves. His heart was as big as all outdoors, and he was untiring in fighting against things that he thought would provide special favors for some, particularly when he thought that we were neglecting so many who were more deserving.

I can recall when we were working on public welfare bills that it would be Paul Douglas who would insist on doing something for children. He would contend that we would pass these bills to look after the aged and disabled, but we would neglect the children. Paul's argument was that that was happening only because the children could not vote and the aged could.

I worked with him in many areas of that sort, and I also enjoyed fighting beside Paul Douglas in areas involving monopoly issues, such as base point pricing. He and I joined in a filibuster to try to prevent the enactment of a law to continue that monopolistic pricing system in effect. We passed it, and it was passed by the House, but when it got to Harry Truman's desk he vetoed it, and we did not have the votes to override the veto, so we had to abandon that cause.

Younger Senators like myself were in many respects well educated by the speeches Paul Douglas would make here on the Senate floor dealing in economic matters and the types of issues that I have discussed here.

I believe, Mr. President, that Paul Douglas will serve as an inspiration to Senators as long as there is a Senate. Senators will hear of him, they will read his biography, they will read stories others will tell of this great Senator. He was many years ahead of other Senators in his thinking. The vision of the kind of America Paul Douglas would picture is to a considerable extent what has happened in the years since he served in the Senate and in some respects the ideal that he pictured for America will be that which I am sure this Nation will some day achieve, thanks in large measure to the inspiration of such a man.

Mr. PROXMIRE. Yes.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield to the Senator from Alabama.

Mr. ALLEN. Mr. President, perhaps it is inappropriate that I comment on Senator Paul Douglas because he had already left the Senate when I came to the U.S. Senate. But I must say that during the years that he served in the Senate I admired him greatly from afar. We differed on political philosophy because certainly he was a liberal and I am of a more conservative philosophy. But I admired his great integrity. I admired his dedication. I admired his patriotism because we know that while in his forties he volunteered for service in World War II and participated in some of the invasions in the Pacific, and certainly was a patriot of the first order.

And I was impressed when the distinguished Senator from Wisconsin said that Senator Douglas was of a view that to be a liberal you did not have to be a wastrel, and as the Senator from Wisconsin was saying that I thought how true that was of the philosophy of the distinguished Senator from Wisconsin who is a liberal, but certainly is no wastrel and far from it; he is one of the great leaders in seeing that we do operate in a fiscally responsible fashion.

I remember one occasion when I met Senator Douglas at the Democratic National Convention of 1952. I remember another occasion when he came here to the Senate, to show another great quality of his which was humility, and soon after I came to the Senate in 1969 I looked up in the family gallery and there was sitting Senator Douglas. He, of course, had the privileges of the Senate floor, but he felt somehow or other that because he was no longer a Senator and because he had been defeated in his last race for the Senate he should not presume to come on the Senate floor. So I asked one of the pages to go up and ask him to come down, and he declined to do so. So I went up myself and spoke to him and urged him to come down on the Senate floor, and he again declined. So I pointed out to the distinguished Senator from Illinois (Mr. PERCY) the presence of Senator Douglas in the family gallery, and Senator PERCY, of course, was anxious to get him to come down and visit with his friends here on the Senate floor.

So he went up and persuaded Senator Douglas to come down, and all of the Members of the Senate were so delighted to see him because he certainly was a much beloved Member of the Senate.

I add that little incident to the history of this great man. I thank the distinguished Senator.

TRIBUTE TO SENATOR PAUL H. DOUGLAS OF ILLINOIS

Mr. ROBERT C. BYRD. Mr. President, Paul H. Douglas, former Senator from Illinois, passed away today at the age of 84. With his passing, this Nation lost one of its most dedicated citizens. During his 18 years of service in this body, he distinguished himself as one of our most brilliant and conscientious Members.

Senator Douglas received his undergraduate education at Bowdoin College and his doctorate from Columbia University. His field of greatest expertise was economics, and he taught this discipline and related subjects at several schools, including Illinois, Amherst, and Chicago. He also wrote numerous books and articles on economics and government.

Though Paul Douglas was widely versed in the abstract theories of the economic world, he was able to unite ideal principles with concrete action. He is credited with drafting Illinois' first old age pension act, and he helped draw up the unemployment insurance law of that State. From 1939 to 1942, he served as an alderman in Chicago. Upon leaving the Senate, he was chairman of the President's Committee on Urban Affairs and the Committee on Tax Reform.

Senator Douglas was always a versatile and energetic man. During World War II, at the age of 50, he enlisted as a private in the U.S. Marine Corps. Advancing through the ranks to the level of lieutenant colonel, he was twice wounded in combat in the Pacific. He was awarded the Bronze Star for "heroic achievement in action."

Paul Douglas was a man of massive intelligence, courageous vision, and deep compassion. He possessed a hope for America that impelled him to work tirelessly for the improvement of the lives of all our people. He was a pioneer in the areas of tax reform, civil rights, housing, social security, and urban affairs. While he was a Member of the Senate, his conscience and sensitivity served to enlighten us all.

Many men of stature, character, and ability have served in the Senate during its history. But Paul H. Douglas will be ranked as one of the most capable Senators in this century. The contributions that he made to the life of this Nation will continue to influence the lives of Americans far into the future, and the example of his career will serve to inspire the Members of this body for many generations.

Mr. MUSKIE. Mr. President, the memory of Paul Douglas will always be a reminder of a standard of integrity so rare among men as to inspire us all. He set an example of commitment to fundamental human and constitutional rights at a time when the protecton of those rights for many of our citizens was not taken for granted. The fundamental securities guaranteed in our labor and civil rights laws are, in large part, the products of his courage.

His was the leadership that assured that the most fundamental revolution in the Federal system—the reapportionment of State legislatures on a one-man, one-vote basis—was not overturned by ill-advised constitutional amendments.

We reflect here today our admiration for a great man, an exemplary Senator, and a good friend, and we are saddened at his passing. But memorials are inadequate to those whose very lives are their monuments. Of Paul Douglas we say, with Pericles, "Heroes have the whole Earth for their tomb; and in lands far from their own, where the column with its epitaph declares it, there is enshrined in every breast a record, unwritten with no tablet to preserve it, except that of the heart."

In the 8 years we served together in this body Paul became a great friend. As a native of New England and a member of the class of 1913 at Bowdoin College in Brunswick, Maine, Paul had a keen interest in my home State. We would trade stories of Maine, and of our colorful mutual friend, Sumner Pike, of Lubec, Maine.

Maine people benefitted not only from his interest, but also his commitment to the rights of the individual, his achievements as a legislator and economist, and his concern for his country and its people. I know they join me in mourning his passing.

Mr. KENNEDY. Mr. President, I join my colleagues in paying tribute to one of the great Senators of 20th century America, Paul H. Douglas of Illinois.

For a generation, he was a legend in the Senate—the epitome of the scholar-statesman, the symbol of excellence in public service, a credit to his beloved State of Illinois, a towering figure on the floor of the U.S. Senate and in our committee rooms. For 18 years, his unparalled intellect and wisdom and ability graced the Senate. For the last 4 years, I had the privilege of serving with him and working with him and learning from him, and the Senate never had a better teacher.

As Isaac Newton once said, if we see farther today, it is because we stand on the shoulders of the giants of the past. For many of us in the Senate, the issues of today should have a familiar ring, because they are also the issues for which Paul Douglas fought throughout his career in public service.

To the vested interests, he was a lifelong threat. For 7 years, they kept this professor of economics—this president of the American Economics Association who had helped to write the Social Security Act for President Roosevelt in the 1930's—for 7 years they kept him off the Finance Committee, fearful of the reforms this irrepressible idealist had in mind.

He launched many lonely fights for the public good, and he lived to see many causes finally prevail. Military waste, medicare and Federal aid to education, reapportionment and one man-one vote, tax reform and repeal of the oil depletion allowance; the minimum wage for labor and truth in lending for the consumer; the environment and the preservation of the Indiana Dunes. I would note that the bill we passed today, adding 3,000 acres to that magnificent national lakeshore, is yet another step in the journey started by Paul Douglas.

Above all, he was the leader for civil rights in the 1950's, long before the days of "We Shall Overcome." Almost single-handedly, he laid the foundation in the Senate for the progress that later came.

He was as much at home with the Marines, they said, as at a literary tea. An early advocate of U.S. intervention in World War II, he enlisted as a private in the Marines at 50. Badly wounded at both Saipan and Okinawa, his crippled arm on the Senate floor was a constant reminder of the patriotism and dedication of this Senator who fought so hard for all the causes he believed in.

He was also a close personal friend of President Kennedy and all the members of our family. When my brother first came to the Senate in 1952, they served together on the Labor Committee, and Ted Sorensen moved from Paul Douglas' office to join my brother's staff.

In March of 1959, Paul Douglas' famous article appeared in Coronet magazine, "A Catholic Can Become President." He was right, as he always was, and he had helped to make it so.

To many of us, he was the Senate's greatest liberal. When they asked the celebrated British scientist, Lord Rutherford, how he always managed to be riding the crest of the wave of modern physics, he replied, "I made the wave, didn't I?" That thought is true of Paul Douglas, too. His causes are ours, now, as we mourn his death and share the grief of his wife Emily and their children.

He was a voice for those who never had a voice before in our society. His unequaled opposition to unfairness and special privilege and injustice, his commitment to the poor and powerless and downtrodden in our society, were stated many times in the old English quatrain he liked to recite so often on the Senate floor:

> The law locks up both man and woman
> Who steals the goose from off the common,
> But lets the greater felon loose,
> Who steals the common from the goose.

Mr. HRUSKA. Mr. President, I ask unanimous consent that I may have 2 minutes for the purpose of asking immediate consideration of H.R. 15552.

The PRESIDING OFFICER. Without objection, it is so ordered.

CRIMES OF INTERNATIONAL SIGNIFICANCE

Mr. HRUSKA. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 15552.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 15552) to amend title 18, United States Code, to implement the "Convention To Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion That Are of International Significance" and the "Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents", and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Without objection, the committee is discharged and the Senate will proceed with the immediate consideration of the bill.

Mr. HRUSKA. Mr. President, this bill amends title 18 of the Criminal Code of the United States. The purpose of this bill is to implement two conventions. Both conventions have been ratified and agreed to by the Senate.

One convention is to prevent and punish the acts of terrorism taking the forms of crimes against persons and relating to extortion that are of international significance.

The other convention is on the prevention and punishment of crimes against internationally protected persons including diplomatic agents.

Mr. President, even though the Senate has given its advice and consent to ratify both conventions, the instruments of ratification have not been deposited. It is the policy of the State Department not to deposit an instrument of ratification until and unless it is assured that Federal law will permit the United States fully to discharge its treaty obligations.

This bill if enacted will permit the United States to deposit the instruments of ratification for both treaties and to become a party to them.

Mr. President, the pending bill, H.R. 15552, has a counterpart in the bill S. 3646, which was reported favorably by the Committee on the Judiciary earlier this week and which is on the Senate Calendar.

The purpose of the legislation is to implement the "Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion That Are of International Significance" and the "Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents."

BACKGROUND

Both the Organization of American States and the United Nations have begun concerted international efforts to deal with terrorist acts directed at diplomats. The OAS has drafted the "Convention To Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion That Are of International Significance"—known as the OAS Convention—and the U.N. has drafted the "Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons"—known as the U.N. Convention. These conventions are based upon a recognition that criminal acts directed at diplomatic agents seriously threaten the maintenance of normal international relations.

The United States has signed both conventions—the OAS Convention on February 2, 1971, and the U.N. Convention on December 28, 1973. The Senate has given its advice and consent to the ratification of both conventions—the OAS Convention on June 12, 1972, and the U.N. Convention on October 28, 1975. The United States will become a party to each convention upon deposit of an instrument of ratification with the appropriate international agency.

TREATY OBLIGATIONS

The OAS and U.N. Conventions seek to safeguard "internationally protected persons" from certain crimes. "Internationally protected persons" include:

> (a) a Head of State, including any member of a collegial body performing the functions of a Head of State under the constitution of the State concerned, a Head of Government or a Minister for Foreign Affairs, whenever any such person is in a foreign State, as well as members of his family who accompany him;
>
> (b) any representative or official of a State or any official or other agent of an international organization of an intergovernmental character who, at the time when and in the place where a crime against him, his official premises, his private accommodation or his means of transport is committed, is entitled pursuant to international law to special protection from any attack on his person, freedom or dignity, as well as members of his family forming part of his household.

The crimes from which these conventions seek to protect such persons include murder; kidnaping and assault; threats or attempts to commit murder, kidnaping or assault; and extortion in connection with murder, kidnaping, or assault.

Both conventions obligate a party to them to take certain action when it finds within its territory someone who has committed one of the enumerated offenses against an internationally protected person. The party must either extradite the offender to another party or try him under its own criminal laws. For example, country A is a party to the conventions. A citizen of country A kills the American Ambassador to his country. The offender then flees from country A to the United States, where he is apprehended. If the United States were a party to the conventions, it would be obligated either to extradite the offender to country A or to try him under U.S. law. The United States would have unrestricted discretion to decide which course of action to take.

Both conventions, therefore, may result in the United States exercising extraterritorial criminal jurisdiction. This would occur in the above example if the United States were to choose to try the citizen of country A for the crime of murder, since the offense occured within the territory of another country. Extraterritorial criminal jurisdiction was authorized last Congress in Public Law 93-366, which deals with aircraft hijacking.

NEED FOR LEGISLATION

Even though the Senate has given its advice and consent to ratify both conventions, the instruments of ratification have not been deposited and the United States is not yet a party to either. It is the policy of the State Department not to deposit an instrument of ratification unless it is assured that Federal law will permit the United States fully to discharge its treaty obligations. Unless this legislation is enacted, the United States would not be able fully to discharge its obligations under the Conventions.

The OAS Convention is presently in force, and the State Department expects the U.N. Convention to enter into force very shortly—only six more ratifications are needed. It is in the best interests of the United States to become a party to both. This legislation, if enacted, will permit the United States to deposit the instruments of ratification for both treaties and become a party to them.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading, was read the third time, and passed.

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ALLEN. I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Does the Senator wish a companion Senate bill indefinitely postponed?

Mr. HRUSKA. Mr. President, I ask unanimous consent that S. 3646, the companion bill, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ALLEN. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Was it not agreed that the conference report on the National Science Foundation will come up at this time?

The PRESIDING OFFICER. There is such an agreement. The Senator wishing to be recognized is not present, and the Chair is unable to recognize him.

Mr. ALLEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the bill (H.R. 12831) for the relief of Mo Chong-Pu, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 866) for the relief of Patrick Andre Tasselin and his wife, Fabienne Francoise Tasselin, with amendments in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 4583. An act for the relief of Rosina C. Beltran.

MO CHONG-PU

Mr. PASTORE. Mr. President, I am going to talk a little about Mo Chong-Pu, but I am going to ask unanimous consent that the bill be made the pending business.

The PRESIDING OFFICER. Is there objection?

Mr. DURKIN. Mr. President, reserving the right to object, will the Senator repeat his request? I did not hear it.

Mr. PASTORE. My unanimous-consent request is that it be given immediate consideration.

Mr. DURKIN. I object.

Mr. PASTORE. I move that it be made the pending business, Mr. President.

The PRESIDING OFFICER. It would take unanimous consent to waive the first two readings and to move to this bill at this time.

Mr. PASTORE. I ask unanimous consent for that purpose, but before I ask unanimous consent, do I have the floor?

The PRESIDING OFFICER. The Senator has the floor.

Mr. PASTORE. Let me explain this bill.

We have a former professor and present analyst for the Department of Education in Rhode Island who has adopted two orphans from Southeast Asia. Under the law, he can adopt only two. They found this little boy, 3 years old, with malnutrition, in a backyard in Korea, and he was dying.

This man and his lovely wife would like to adopt this boy, but he cannot adopt this boy unless we pass this bill.

If anybody wants to be that cruel, let them answer to the Man above. This is a young boy who needs a home. This is a professional in Rhode Island who is affluent enough to take care of him, is ready and willing to provide for him and to give him a home. That is what this is all about. The bill has been passed by the House without a dissenting vote.

I ask unanimous consent again, Mr. President, that it be made the pending business.

Mr. LONG. Mr. President, reserving the right to object, can we have an understanding that if this is made the pending business, some privileged matter will not be brought in to displace it while this is pendng?

The PRESIDING OFFICER. The Senator's request, as the Chair understands it, is that the Senate will proceed to the consideration of this bill, this bill only, with no amendments, and that there will be no other business until it is disposed of. Is that the Senator's motion?

Mr. PASTORE. That is the Senator's motion.

The PRESIDING OFFICER. Is there objection?

Mr. DURKIN. Mr. President, now that the distinguished Senator from Rhode Island has explained it, I have no objection.

The PRESIDING OFFICER laid before the Senate H.R. 12831, an act for the relief of Mo Chong-Pu, which was read twice by its title.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. PASTORE. Mr. President, I urge the passage of the bill.

The bill was ordered to a third reading, read the third time, and passed.

Mr. GRIFFIN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT—CONFERENCE REPORT

The PRESIDING OFFICER. The conference report on H.R. 12566 will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12566) authorizing appropriations to the National Science Foundation for fiscal year 1977, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD.)

The PRESIDING OFFICER. The question occurs on the conference report. If no one wishes to speak, the Chair will have no alternative but to put the question as to the adoption of the conference report.

Mr. LONG. What conference report?

Mr. ALLEN. The National Science Foundation.

I am sure the distinguished Senator from Massachusetts would like to speak on this matter, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY: Mr. President, the conference report on the National Science Foundation Authorization which the Senate has before it today provides $816.7 million for the Foundation's programs in fiscal year 1977. As chairman of the Special Subcommittee on the National Science Foundation, and as chairman of the Senate conferees on this legislation, I urge its adoption by the Senate.

Included in the conference agreement is a 19.5 percent increase over the fiscal year 1976 level in funding for basic research. I am pleased that our conferees were able to obtain approval of these additional funds, particularly in view of the steadily downward trend in Federal funding of basic research which has marked the last decade. The conference agreement reflects the important role which basic research must play in furthering the Nation's economic and social goals.

In addition to the funds provided in the conference agreement for basic research, the bill provides funds for the continuation of on-going NSF programs and additional increases and new initiatives in science education and in national and international needs and resources.

In the area of science education, for example, which had declined from 25 percent of the Foundation's budget in 1968 to just 7 percent in the administration's fiscal year 1977 budget request, the conferees have approved a total of $79,400,000, which includes $10,000,000 in funds to be carried over from fiscal year 1976. This is a 22 percent increase over the budget request, and will enable the Foundation to move forward with a number of potentially promising new programs.

The conference agreement increases from $300,000 to $1.2 million the authorization for the new science for citizens program. This effort will be directed to: first, improving public understanding of science, engineering and technology and their impact on public policy issues; second, facilitating the participation of experienced scientists and engineers, as well as graduate and undergraduate students, in public understanding of science, engineering and technology and their impact on public policies; and third, assisting professional societies and public interest groups in conducting forums, conferences and workshops to increase public understanding of science and technology, and their impact on public policy issues.

As this new program gets underway, I am urging the National Science Foundation to assign the highest priority to providing support for:

First, qualified scientists and engineers to work on public policy issues with significant scientific and technical components in conjunction with groups which serve important public purposes, units of State and local government, or nonprofit media organizations;

Second, internship programs for science and engineering undergraduate or graduate students to work on public policy issues with significant scientific and technical components in conjunction with groups which serve important public purposes, units of State and local government, or nonprofit media organizations, as part of their academic training;

Third, forums, conferences, and workshops on public policy issues with significant scientific and technical components;

Fourth, new and existing independent journals for the publication of research and for commissioning or publishing reports or papers generated by public interest activities to be circulated among scientists and engineers, and among the public in a form understandable by the general public;

Fifth, new and existing media programs utilizing radio or television to increase public understanding of public policy issues with significant scientific and technical components;

Sixth, groups which serve important public purposes to acquire necessary technical expertise relating to the scientific and technical aspects of public policy issues and to enable such groups to bring together in appropriate forums experts whose research has been directed to the resolution of such issues; and

Seventh, travel and related expenses incurred by scientists, engineers, or members of groups which serve important public purposes to facilitate the exchange of information regarding the scientific and technical components of public policy issues.

At the same time I am urging that lower priority be assigned to the following activities, which in my view need further evaluation prior to the commitment of the limited funds which will be available in fiscal year 1977:

First, the design and use of registries of scientists and engineers to serve as a resource to local decisionmakers, community and citizens groups, including the study of past and present registries and their effectiveness:

Second, the establishment of regional centers to support projects involving public policy issues with significant scientific and technical components, which have been proposed by State and local organizations and institutions; and

Third, the establishment of national clearinghouses with regional branches to facilitate access by scientists, engineers and the general public to research and other information and material related to the scientific and technical components of public policy issues.

The conference agreement also calls for the development of a new program plan for continuing education for scientists and engineers. This new $500,000 activity, in addition to the Foundation's ongoing $1,000,000 program in this area, is designed to enable scientists and engineers to make more valuable contributions to the Nation. The new program plan will focus on the development of special curricula and educational techniques for continuing education, and on the award of fellowships for the pursuit of courses of study which provide continuing education. It builds on the limited program in this area currently supported by the Foundation, and is targeted on experienced scientists and engineers who have been engaged in their careers for at least 5 years. It is designed to enable them to bring their knowledge up to date and to prepare for new careers in concert with changes in national priorities.

Important new funding is also provided in the conference agreement for efforts to improve the participation of minorities, women, and the handicapped in science and engineering and to encourage their employment at the Foundation. Women now comprise only 5 percent of the persons employed in this Nation in science and engineering; minorities only 4 percent. The handicapped, for which no comprehensive data has yet been developed, also appear to face serious problems of underemployment. Moreover, far too many, despite interest, attitude, and ability, have never become part of the potential pool of scientists and engineers. The conference agreement provides funds to address the problems inherent in the underrepresentation of these groups in science and engineering and to insure that the Nation does not overlook the potential contribution they can make to scientific and technological development.

The conference agreement also authorizes $1,000,000 for planning grants for the establishment of Minority Centers for Graduate Education in Science and Engineering. This new program will expand the options of the minority community in science and engineering. It will go beyond the NSF's existing minority institutions improvement program, by providing opportunities for research in universities with graduate students and postdoctoral research associates. The Centers will also expose the minority community to the latest and most sophisticated science and technology. They will serve as a source of highly trained scientists and engineers for local schools. Faculty members will serve as role models for aspiring young minority students. Expressions of support for this new program have come from educators and researchers from across the country.

The conference agreement also insures the continuation of the instructional improvement implementation program and the elementary and secondary school materials development, testing and evaluation program; $3,500,000 has been authorized for these programs. I regret that this amount is lower than the budget request of the administration, but am pleased that we were able to restore the programs—which had been eliminated completely from the House version of the authorization. The close to 200 letters which our subcommittee received in support of these programs and testimony of witnesses during the Senate hearings, including that of the National High School Science Teachers Association, were of significant assistance in the effort to restore these funds.

The conference agreement also authorizes $1,000,000 for the program "Ethical and Human Value Implications of Science and Technology." Of special importance is the conferees agreement to include ethical and value issues arising in the context of biological science and clinical medicine as priority areas for funding under this program.

A new emphasis on international scientific research, education, and policy analysis is also provided in the conference agreement. This effort will insure that U.S. science and technology makes the fullest contribution to research problems which cross national boundaries. It will focus on the alleviation of problems in the developing world that result from scientific and technical needs related to food, nutrition, and agriculture. The conferees have also strongly urged the Office of Science and Technology Policy, together with the Foundation, the Department of Commerce, the Department of Agriculture, and other appropriate agencies and organizations to conduct a study of international scientific research, education, and policy analysis. Such a study is necessary in order to delineate further activities which could contribute to the amelioration of the agricultural and nutrition problems confronting the developing world.

There will also be a new emphasis in fiscal year 1977 on interdisciplinary research through undergraduate programs, research projects which provide for apprenticeship training, fellowship programs, and arrangements for degree training, including postgraduate degrees in more than one discipline, in institutions of higher education.

Important incentives are also provided in the conference agreement for full participation by small business in NSF supported programs. Ten percent of applied research funds is set aside for small businesses. NSF is also directed to establish an Office of Small Business Research and Development to monitor all awards made to small business and to insure that the 10 percent set-aside is fully and effectively used. The Office will collect and disseminate information concerning grants awarded to small business, analyze the scientific and technical expertise which exists in the small business community, assist individual small companies in obtaining information regarding the procedures and programs of the Foundation, and recommend such changes in procedures to the Director of the Foundation and the National Science Board as may be appropriate to meet the needs of the small business community.

The conferees have also urged the Office of Science and Technology Policy, together with the Small Business Administration to prepare a comprehensive report on the scientific and technical capability which exists in the small business community. The conferees expect that this report will be carried out in collaboration with private sector organizations representing small business, and that it will address the serious gaps which exist in the data concerning the capabilities, utilization and growth potential of the small business sector in science and technology.

I am also urging the Foundation, as provided in the Senate committee report on the authorization, to review future patterns for Foundation support for basic and applied research. It is my understanding that this study is already well underway, and that it will address the role of both the academic and nonacademic sectors in the conduct of research. I hope that it will be ready for submission to the Congress by the end of the year.

Also included in the conference agreement is $1 million for research on advanced forms of energy—a program begun by the Foundation prior to the establishment of the Energy Research and Development Administration and one which the conferees have agreed should be continued, though on a smaller scale than in the past.

The conference agreement also addresses the need for increased public participation in all aspects of the Foundation's programs. Provisions to insure wider dissemination of research results and access to information are included. Significant participation by nonscientists and representatives of public groups is emphasized in the science for citizens program. Greater participation by minorities, women, and the handicapped is mandated for NSF review panels, advisory committees, and all of the other mechanisms through which the Foundation relies on the expertise of the scientific and nonscientific community.

The conference agreement also authorizes $3,000,000 for a new State science, engineering and technology program. Grants will be available to States to increase their capacity to apply science, engineering, and technology to meeting the needs of their citizens. States are entitled to grants of up to $50,000, with at least one-third of the cost to be borne by the State making the application for funding.

Amendments to the National Science Foundation Act of 1950 are also included in the conference agreement. They clarify the policymaking role of the National Science Board and provide high-level staff assistance for its members. The conference agreement also includes language designed to insure that the Foundation aids in the development of national policies to foster the application of scientific and technical knowledge to the solution of national and international problems, and to authorize the Foundation to provide full support to the White House Office of Science and Technology Policy. The conferees have also urged that the National Science Board broaden its membership to emphasize industrial, technical, and public membership.

Mr. President, the conference agreement merits the full support of the Senate. It includes virtually all of the major policy initiatives which were approved by the Senate, but which were not included in the House bill. We worked in conference for 3 months in order to get our provisions into the final bill. The conference agreement should be cleared for the President's signature as soon as possible so that these new programs and policies can be implemented promptly as the Foundation begins its fiscal year 1977 program.

Mr. ALLEN. Mr. President, I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Colorado (Mr. HASKELL), the Senator from Vermont (Mr. LEAHY), the Senator from Wyoming (Mr. MCGEE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Illinois (Mr. STEVENSON), the Senator from Florida (Mr. STONE), the Senator from Georgia (Mr. TALMADGE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Ohio (Mr. GLENN) and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Vermont (Mr. STAFFORD), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 67, nays 0, as follows:

[Rollcall Vote No. 647 Leg.]

YEAS—67

Abourezk
Allen
Baker
Bartlett
Bayh
Biden
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Church
Clark
Culver
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Gravel
Griffin
Hansen
Hart, Gary
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Long
Magnuson
McClellan
McGovern
McIntyre
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stennis
Stevens
Symington
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—33

Beall
Bellmon
Bentsen
Brock
Buckley
Bumpers
Chiles
Cranston
Curtis
Dole
Domenici
Glenn
Goldwater
Hart, Philip A.
Hartke
Haskell
Hatfield
Leahy
Mansfield
Mathias
McClure
McGee
Metcalf
Mondale
Montoya
Moss
Pearson
Stafford
Stevenson
Stone
Taft
Talmadge
Tunney

So the conference report was agreed to.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. FANNIN). The question recurs on the unfinished business.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for not to exceed 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPLEMENTARY EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1160 (S. Res. 497).

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 497) authorizing supplemental expenditures for the Committee on the Judiciary for inquiry and investigation relating to internal security.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

UP AMENDMENT NO. 484

Mr. GRIFFIN. Mr. President, on behalf of Senator Hatfield and myself, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. GRIFFIN), for himself and Mr. HATFIELD, proposes unprinted amendment No. 484:

In line 4, strike "$4,209,700" and insert "$4,189,700"; and

In line 6, strike "$295,300", and insert "$275,300".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The resolution, as amended, was agreed to, as follows:

S. RES. 497

Resolved, That S. Res. 375, Ninety-fourth Congress, agreed to March 3, 1976, is amended as follows:

(1) in section 2, strike out "$4,109,700" and insert in lieu thereof "$4,189,700".

(2) in section 11, strike out "$195,300" and insert in lieu thereof "$275,300".

Mr. GRIFFIN. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. EASTLAND. I move to lay that motion on the table.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRIFFIN. Mr. President, I thank the acting majority leader.

MINNESOTA VALLEY WILDLIFE REFUGE ACT

Mr. HUMPHREY. Mr. President, I ask unanimous consent to call up H.R. 13374.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 13374) to provide for a national wildlife refuge in the Minnesota River Valley, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Without objection, the committee is discharged from further consideration of the bill, and the Senate will proceed to its immediate consideration.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that we take no more than 2 minutes for consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, this bill is known as the Minnesota Valley Wildlife Refuge Act. It was introduced by my esteemed colleague from Minnesota (Mr. MONDALE) and myself and was acted upon in the Senate under S. 2097. The bill, of course, has passed the House and the legislation now before us will consummate the action.

This bill would create the Minnesota River Valley National Wildlife Recreation Area between Fort Snelling and Jordan, Minn.

This proposed refuge and recreation area is exciting for two reasons. First, it is within easy reach of the major metropolitan area of Minneapolis and St. Paul and will provide a vitally needed opportunity for urban residents to easily utilize a wildlife and recreation area. It also provides for the direct involvement of the State and local communities in the development and administration of the refuge and wildlife recreation area. I believe this legislation will meet the needs of our urban residents for an urban wildlife area and preserve wildlife threatened by urban development.

The area is significant for hundreds of species of migratory waterfowl, for Canadian geese which summer in the area, as well as populations of other birds, of deer, and other mammals.

The area's abundant variety of birds is widely appreciated by birdwatchers who come to view the ducks, herons, egret, bald eagles, and other occasional visitors such as pelicans. This variety and abundance of wildlife is unknown to most urban areas and we must preserve and protect this area.

Further, this legislation will not interfere with vital public services for new highways and bridges. Construction and maintenance and improvement will be permitted consistent with economic feasibility, subject to the requirement that there will be a minimum disruption of wildlife.

Navigation, vital to Minnesota agriculture, will not be affected by this legislation.

To be developed over a period of 9 years, the area will provide wildlife-oriented activities to broaden man's understanding and appreciation of the environment and will preserve a critical portion of the Minnesota River Valley with its wildlife and natural habitat, an urban wildlife area for hiking, birdwatching, photography, nature study, hunting, fishing, and other activities.

H.R. 13374 directs the Secretary of the Interior to establish and administer through the U.S. Fish and Wildlife Service a 9,500 acre wildlife refuge and to acquire lands within the boundary of this refuge within 6 years of its enactment.

Adjacent to the refuge and in cooperation with the State of Minnesota will be an 8,000 acre wildlife recreation area. Lands within the recreation area are to be acquired and administered by the State and units of local government in cooperation with the U.S. Fish and Wildlife Service.

The bill authorizes $14,500,000 to be appropriated for fiscal years 1978 through 1983 for acquisition of the refuge and wildlife recreation area lands. In addition, it authorizes to be appropriated $6 million for fiscal years 1978 through 1986 for the development of the area.

Mr. President, I cannot overemphasize the value of this natural resource near our Twin Cities in Minnesota. We now have the opportunity to assure that the pressure of urban development will not deny to future generations the opportunity to enjoy this irreplaceable natural asset.

Mr. FORD. Mr. President, today the Senate will consider H.R. 13374, legislation to create the Minnesota Valley National Wildlife Refuge in the Minneapolis-St. Paul metropolitan area. With several minor changes this bill is identical to legislation reported in June by the Senate Commerce Committee. The Senate bill was sponsored by the distinguished Senators from the State of Minnesota, HUBERT H. HUMPHREY and WALTER F. MONDALE.

Mr. President, last November Senator MONDALE and I traveled to Bloomington, Minn., to preside over a Senate Commerce Committee hearing on the Mondale-Humphrey bill. During the hearing, we took testimony from over 40 witnesses, including the Honorable Wendell R. Anderson, Governor of Minnesota; numerous Federal, State, and local government officials; representatives of the conservation community; and private citizens. After listening to these individuals, it was obvious to me that the refuge proposal had their overwhelming support. It was not until later that day, however, when Senator MONDALE took me to the heart of Minneapolis for a bird's-eye view of the proposed refuge site, that I understood the enthusiasm I had seen earlier that morning.

The Minnesota River Valley is a truly unique environmental resource. It is one of the few river valleys in the Nation that lies so close to a metropolitan area, yet remains in a natural state. The flood plain provides habitat for an abundance of wildlife, including over 275 species of migratory birds, and a variety of mammals, such as the white-tailed deer, the beaver, mink, fox, and raccoon. The valley provides a full range of outdoor recreational opportunities such as hunting, fishing, and wildlife appreciation, that are not usually available to urban residents.

However, the lower Minnesota River Valley, like too many other natural areas of the Nation, is presently threatened by development. If we do not act quickly to save this area from becoming a slab of concrete, asphalt and highrise buildings, the loss to the people of Minnesota, and I believe to the entire country, will be great.

The bill which we are considering today will prevent this loss. H.R. 13374 will direct the Secretary of the Interior to establish and administer, through the U.S. Fish and Wildlife Service, a 9,500 acre wildlife refuge in the lower Minnesota River Valley. A wildlife interpretation center will be constructed on the refuge so that visitors may have an opportunity to study and enjoy wildlife in its natural habitat. In addition, a wildlife recreation area will be established next to the refuge. Here visitors will be able to picnic, hike, and enjoy other types of recreational activities without harming valuable wildlife habitat.

The refuge portion of the area will be acquired and developed by the Secretary, while the recreation lands will be acquired and developed by the State. The legislation provides an authorization of $14.5 million for acquisition of, and $6 million for development of, these areas. The Secretary would be authorized to use a portion of this money to assist the State in the acquisition or the recreation area.

This specific spending authority would not preclude the use of land and water conservation funds for this purpose, however, any grant made in this manner would have to be consistent with the Land and Water Conservation Act and with amendments to that act contained in S. 327, which was recently approved by the Congress and sent to the President for his signature. Moneys appropriated from the land and water conservation fund for Federal purposes are not available for grant programs, so any money appropriated for grants to the State will either come from the general Treasury moneys or from the normal allocation to Minnesota under the State grant portion of the fund. In addition, land and water conservation money may not be used for acquisition of lands that can be purchased with duck stamp money.

Besides providing for the preservation of a unique natural resource, H.R. 13374 is significant in several other respects. First, it calls for the direct involvement of the State and local communities in the conservation of the refuge and recreation area. Since the Minnesota River Valley is "home" for these people, they have a special interest in preserving it. Second, the bill will establish an urban wildlife refuge, of which there are presently only a handful throughout the entire country. Enactment of this legislation will make it possible to fully utilize the wildlife resources of the Minnesota River Valley for the educational and recreational benefits of nearly 2 million people of the Twin Cities metropolitan area.

Mr. President, we owe a special word of thanks to our distinguished colleague, Senator FRITZ MONDALE, who has done so much to bring this bill to where it is today. It was a real pleasure for me to travel to Bloomington with Senator MONDALE and to observe his interaction with his constituents. It was obvious to me that they hold him in high regard. Special recognition is also due the distinguished senior Senator from Minnesota, Senator HUBERT H. HUMPHREY, who, as I mentioned earlier, cosponsored the Senate bill. Congressman LEONOR SULLIVAN, who chairs the House Merchant Marine and Fisheries Committee, and Congressman ROBERT LEGGETT, who chairs the committee's Fisheries and Wildlife Subcommittee, were particularly skillful in shepherding the measure through the House. Congressmen JAMES L. OBERSTAR, TOM HAGEDORN, and BOB FRENZEL, who sponsored H.R. 13374, were outstanding in their advocacy of the measure.

There are others in Minnesota who also deserve special recognition. Ms. Elaine Mellott, who is cochairman of the Lower Minnesota River Valley Citizens Committee, was particularly helpful in setting up the committee's Bloomington field hearing. The region III office of the U.S. Fish and Wildlife Service was quite helpful to the Commerce Committee and the Merchant Marine Committee in perfecting the proposal. Finally, I would like to express my sincere appreciation to the good people of Minnesota who took the time and effort to inform me and other Members of Congress of their support for the bill.

Mr. President, H.R. 13374 is the culmination of several years of hard work and cooperation between the residents of the Minnesota Valley, and the Federal, State, and local governments. It is a plan which will help to conserve a valuable fish and wildlife resource for future generations of Minnesotans and visitors to that State. I urge its immediate acceptance.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading, read the third time, and passed.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUMPHREY. Mr. President, I ask unanimous consent we indefinitely postpone Calendar No. 887, S. 2097.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. I thank the distinguished assistant majority leader for his helpfulness.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. HUMPHREY. And my friend, the Senator from Alabama.

ORLANDO GARZON

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3485.

The PRESIDING OFFICER (Mr. FANNIN) laid before the Senate the amendment of the House of Representatives to the bill (S. 3485) for the relief of Orlando Garzon, as follows:

> Page 1, line 8, after "Act" insert: "and the provisions of section 245(c) of that Act shall be inapplicable in this case".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendment of the House to S. 3485.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

PATRICK ANDRE TASSELIN AND WIFE

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 866.

The PRESIDING OFFICER (Mr. FANNIN) laid before the Senate the amendments of the House of Representatives to the bill (S. 866) for the relief of Patrick Andre Tasselin and his wife, Fabienne Francoise Tasselin, as follows:

> Strike out all after the enacting clause, and insert: "That for the purpose of sections 203(a)(4) and 204 of the Immigration and Nationality Act Patrick Andre Tasselin shall be held and considered to be the natural-born alien son of Howard E. Yarborough, a citizen of the United States.".
>
> Amend the title so as to read: "An Act for the relief of Patrick Andre Tasselin".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment to S. 866.

The motion was agreed to.

AMENDMENTS SUBMITTED FOR PRINTING

EXTENSION OF UNEMPLOYMENT COMPENSATION—H.R. 10210

AMENDMENT NO. 2399

(Ordered to be printed and to lie on the table.)

Mr. HUMPHREY (for himself and Mr. MONDALE) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 10210) to require States to extend unemployment compensation coverage to certain previously uncovered workers; to increase the amount of the wages subject to the Federal unemployment tax; to increase the rate of such tax; and for other purposes.

FEDERAL MINE SAFETY AND HEALTH ACT OF 1976—S. 1302

AMENDMENTS NOS. 2400 AND 2401

(Ordered to be printed and to lie on the table.)

Mr. GARN submitted two amendments intended to be proposed by him to the bill (S. 1302) to promote safety and health in the mining industry, and for other purposes.

AMENDMENTS NOS. 2403 AND 2404

(Ordered to be printed and to lie on the table.)

Mr. HANSEN submitted two amendments intended to be proposed by him to the bill (S. 1302), supra.

OMNIBUS RIVERS AND HARBORS ACT—S. 3823

AMENDMENT NO. 2402

(Ordered to be printed and to lie on the table.)

Mr. HUGH SCOTT submitted an amendment intended to be proposed by him to the bill (S. 3823) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT—S. 2278

AMENDMENT NO. 2405

(Ordered to be printed and to lie on the table.)

Mr. THURMOND (for himself and Mr. WILLIAM L. SCOTT) submitted an amendment intended to be proposed by them jointly in connection with the bill (S. 2278), supra.

AMENDMENTS NOS. 2406 THROUGH 2416

(Ordered to be printed and to lie on the table.)

Mr. THURMOND submitted 11 amendments intended to be proposed by him in connection with the bill (S. 2278), supra.

AMENDMENTS NOS. 2418 THROUGH 2439

(Ordered to be printed and to lie on the table.)

Mr. ALLEN submitted 22 amendments intended to be proposed by him in connection with the bill (S. 2278), supra.

BRETTON WOODS AGREEMENTS ACT—H.R. 13955

AMENDMENT NO. 2440

(Ordered to be printed and to lie on the table.)

Mr. PERCY submitted an amendment intended to be proposed by him to the bill (H.R. 13955) to provide for amendment of the Bretton Woods Agreements Act, and for other purposes.

BLACK LUNG BENEFITS PROGRAM—H.R. 10760

AMENDMENTS NOS. 2441 AND 2442

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted two amendments intended to be proposed by him to the bill (H.R. 10760) to amend the Federal Coal Mine Health and Safety Act to revise the black lung benefits program established under such act in order to transfer the residual liability for the payment of benefits under such program from the Federal Government to the coal industry, and for other purposes.

SUSPENSION OF IMPORT DUTY ON CERTAIN HORSES—H.R. 9401

AMENDMENT NO. 2443

(Ordered to be printed and to lie on the table.)

Mr. HUGH SCOTT. Mr. President, I am submitting an amendment today to amend the tariff schedules of the United States to provide that certain netting belts used in connection with the growing and harvesting of mushrooms be admitted free of duty.

Each netting belt is an integral part of a machine used for the growing and harvesting of mushrooms and the machine itself is imported from the Netherlands free of duty. It has been ascertained that these belts are not available from a domestic source.

By so amending the tariff schedules of the United States, the mushroom industry of this country, presently under great pressure from foreign markets, would be equitably assisted in its efforts to expand its share of its rightful market.

PARIMUTUEL WAGERING ON HORSERACING—H.R. 14071

AMENDMENTS NOS. 2444, 2445, AND 2446

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY (for himself and Mr. JAVITS) submitted three amendments intended to be proposed by them to the bill (H.R. 14071) to regulate interstate commerce with respect to parimutuel wagering on horseracing, to maintain the stability of the horseracing industry and for other purposes.

REPORTS OF THE COMMITTEE ON APPROPRIATIONS

The following reports from the Committee on Appropriations were submitted.

By Mr. MAGNUSON:

Without amendment:

S. Res. 554. A resolution disapproving the deferral of certain budget authority relating to the Rogers Memorial or Capitol Hill Hospital (Rept. No. 94–1300).

By Mr. McCLELLAN:

With amendments:

H.J. Res. 1096. A joint resolution making supplemental appropriations for the Department of Defense for the repair and replacement of facilities on Guam damaged or destroyed by Typhoon Pamela, and for other purposes (Rept. No. 94–1301).

REPORTS OF COMMITTEES

By unanimous consent, the following reports of committees were submitted:

By Mr. LONG, from the Committee on Finance:

With amendments:

H.R. 10760. An act to amend the Federal Coal Mine Health and Safety Act to revise the black lung benefits program established under such act in order to transfer the residual liability for the payment of benefits under such program from the Federal Government to the coal industry, and for other purposes (together with minority views) (Rept. No. 94–1303).

By Mr. INOUYE, from the Select Committee on Intelligence:

Without amendment:

H.R. 13615. An act to amend the Central Intelligence Agency Retirement Act of 1964 for certain employees, as amended, and for other purposes (Rept. No. 94–1304).

TOXIC SUBSTANCES CONTROL ACT — CONFERENCE REPORT (REPT. NO. 94–1302)

Mr. MAGNUSON submitted a report from the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3149) to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes, which was ordered to be printed.

ALLOCATION OF BUDGET TOTALS—REPORT NO. 94–1308

Mr. LONG, from the Committee on Finance, submitted a report entitled "Allocation of Budget Totals for Fiscal Year 1977—Second Concurrent Resolution on the Budget," which was ordered to be printed.

AUTHORIZATION FOR ADDITIONAL STATEMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all Senators may have statements printed in the RECORD today.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

JUSTICE LEWIS F. POWELL, JR.

Mr. HARRY F. BYRD, JR. Mr. President, in its monthly publication, Richmond magazine, the Metropolitan Richmond Chamber of Commerce has done a splended article on U.S. Supreme Court Justice Lewis F. Powell, Jr.

Entitled "Going Full Blast At A Job He Didn't Want," the Richmond magazine article gives a most thoughtful profile of the latest in a long and distinguished line of Virginians who have responded with great distinction to that high bench.

One of the finest, succinct descriptions of Mr. Justice Powell's credentials was that made by Ms. Jean Camper Cahn, who, as an employee of the Office of Economic Opportunity, testified in 1971 at his confirmation hearing:

> He has come to symbolize the best that the profession has to offer—a man imbued, even driven, by a sense of duty, with a passion for the law—the embodiment of man's ordered quest for dignity. Yet he is a man so curiously shy, so deeply sensitive to the hurt or embarrassment of another, so self-effacing, that it is difficult to reconcile the public and private man—the honors and the acclaim with the gentle, courteous, sensitive spirit that one senses in every conversation, no matter how casual . . .

The article notes his strong, forthright support for the free-enterprise system and his willingness to defend an orderly system of laws, patriotism, loyalty, and duty, both in his judicial opinions and in his private pronouncements.

As a conclusion to this thoughtful piece, the Richmond magazine editors have chosen a statement by Mr. Justice Powell which I believe to be one of the most revealing of the character of this great man—a Virginian of whom I am most proud and in whom I know all Virginians take great pride. In his 1972 address to the American Bar Association, Mr. Justice Powell said:

> And as to values, I was taught—and still believe—that a sense of honor is necessary to personal self-respect; that duty, recognizing an individual' s subordination to community welfare, is as important as rights; that loyalty, which is based on the trustworthiness of honorable men, is still a virtue; and that work and self-discipline are as essential to individual happiness as they are to a viable society. Indeed, I still believe in patriotism—not if it is limited to parades and flag-waving, but because worthy national goals and aspirations can be realized only through love of country and a desire to be a responsible citizen.

The editor of Richmond magazine is M. Kathleen Fair. Arthur J. Schultz is the general manager of that publication. Richard A. Velz is the chairman of the magazine advisory committee of the Metropolitan Richmond Chamber of Commerce.

I ask unanimous consent that the article on U.S. Supreme Court Justice Lewis F. Powell, Jr., from the September issue of Richmond magazine, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JUSTICE LEWIS POWELL: GOING FULL BLAST AT A JOB HE DIDN'T WANT

To many, the job of Associate Justice of the United States Supreme Court may seem like the ideal—relatively few days in court, the dignity that goes with those black robes and richly panelled chambers, the time to reflect and ponder decisions that may have far-reaching impact on generations to come, and of course, the guarantee of job tenure for life.

This is not the light in which Lewis F. Powell Jr. of Richmond saw the high court in 1969, when he wrote then-Attorney General John Mitchell, asking that he not be considered for an appointment to the Supreme Court.

"I had thought about it," Powell recalls, "and I didn't want to be a judge or to have any political job." Two years later, after being asked by President Nixon to accept appointment, he reluctantly agreed . . . "one doesn't turn the President down lightly."

Today, after nearly five years on the bench of the High Court, and after becoming a leader of the justices, he still has his misgivings about the post, and can shoot holes in the myth the public holds of the job.

First of all, the easy pace some might assume is just not there for Justice Powell. Coming on the court at age 64, after a career of working six and often seven days a week as a partner in the Richmond law firm of Hunton, Williams, Gay, Powell and Gibson, he found no reason to alter his working habits. Even during the two-month recess in July and August, Powell found no respite from his work, but merely moved the workload from Washington to borrowed offices in Richmond's U.S. Court of Appeals—and to his home in Windsor Farms. While on "vacation" this summer, Powell studied nearly 1,000 petitions to the Supreme Court.

The time for reflection and pondering is just not there, Powell has often asserted, for the case load on the Justices and their law clerks does not permit the luxury of reflection—indeed, it seldom permits the informal debate of the justices Powell deems necessary. Although he has often said that he does not particularly enjoy being a Supreme Court Justice, he throws himself into his work, and has written more opinions each session than most of his colleagues.

Why hasn't he enjoyed this work? Certainly, it has not been the workload, for he has been accustomed to long hours and short week-ends most of his working life. Rather, it is the detachment demanded by the post that forces him to remain aloof from the fray.

As an attorney, Powell delighted in the combat of the courtroom, and enjoyed advocating strenuously for his position. Indeed, he has often said that there is nothing he would rather have been than a professional athlete because every contest has a quick outcome and because athletes are idols and heroes to a nation. Powell's former law clerk, J. Harvey Wilkinson III, recalled this in his book, *Serving Justice*, and countered that being a Supreme Court Justice is more desirable because justices are not injury-prone, don't have to negotiate new contracts each year and don't get booed when they come off the field. Powell, an avid sports fan, liked the analogy, but laughingly pointed out that while the lasting contribution of a Supreme Court Justice could be considerable compared to that of the professional athlete, that for the jurist "nobody ever retires your number."

The neutrality and aloofness demanded of the justices of the High Court has tremendous impact upon their personal lives. Unlike some of the other justices, Powell had not been a judge before his appointment to the Supreme Court, and the isolation that comes with the job is something to which he has never fully adjusted. As an attorney, he and his wife, Jo, led an active social life in Richmond. He has little social life in Washington at all. The Powells seldom go to parties there, belong to no social clubs in the capital, and he seldom even has lunch with friends who are lawyers, since it would take more time than he allots himself for lunch. For that reason, he usually eats in the court cafeteria or at his desk, adding to the "demanding and cloistered" isolation that he has likened to being in a monastery.

He sees relatively little of the outside world, and has wistfully said that life now is a constant "trip between basements", from the basement parking lot of his apartment to the underground parking area at the Supreme Court. While his schedule does not permit him to pursue his favorite exercise—tennis—he confines his exercise to pacing a measured path of hallways in the Supreme Court building, averaging a mile per day.

He keeps in touch with the world by consuming two Washington newspapers and the *New York Times* daily plus reading clippings sent him from Richmond by his wife's mother. He also reads three weekly news magazines and listens to a Washington all-news radio station. "The only television I look at with any regularity is sports," he said.

Many observers have considered Powell to be both the most intellectual and moderate of the justices, and yet he does not think that his background would meet his own criteria for appointment to the High Court.

"If I could write the specifications for a man to sit on this court, apart from his basic intellectual equipment and integrity, he should have practiced law, he should have had some experience in government at the federal level and he should have been a lower court Federal judge," Powell said, noting that the only one of those specifications "I'm sure of is that I practiced law, and I did that a long time."

While Powell had not previously been a judge, he had served as a corporate attorney for 33 years, was a director of 11 large corporations including Philip Morris Inc., Ethyl Corporations and Chesapeake & Potomac Telephone Co., and had risen to heights of respect among his peers, serving as president of the American Bar Association, the American College of Trial Lawyers and the American Bar Foundation, and as a member of the U.S. Crime Commission.

Powell's background served him well to prepare for the varied issues that have faced the court. Born Sept. 19, 1907, in Suffolk, the son of the owner of the David M. Lea furniture company, he attended both the public John Marshall High School and the private McGuire's University School. There he developed an interest in history, which eventually convinced him that soldiers and lawyers have done the most in the world and that the law should be his career.

He went to Washington & Lee because he wanted to play sports, but "... I was too skinny and after I saw it was hopeless, I went out for manager of the football team and earned a letter that way my senior year."

Following law school, Powell entered the Air Force as a lieutenant, was assigned to combat intelligence and eventually became a colonel.

After the war, he practiced law, and then became involved in grass roots government, first as chairman of the charter commission that gave Richmond its council-manager form of government, and then as a member of the Richmond and Virginia school boards. He served on the Richmond school board 11 years—nine as chairman—and those were the years that were the trying times of massive resistance, and his leadership brought him both praise and damnation.

When the U.S. Senate conducted hearings for his confirmation to the Supreme Court in 1971, some detractors spoke out against his civil rights viewpoints, and expressed concern that he would become a Southern voice on the court.

Indeed, while some black leaders had mixed emotions about his appointment, a black woman, Jean Camper Cahn who at the time was with the Office of Economic Opportunity, eloquently told the Senate panel:

"He has come to symbolize the best that the profession has to offer—a man imbued, even driven, by a sense of duty, with a passion for the law—the embodiment of man's ordered quest for dignity. Yet he is a man so curiously shy, so deeply sensitive to the hurt or embarrassment of another, so self-effacing, that it is difficult to reconcile the public and private man—the honors and the acclaim with the gentle, courteous, sensitive spirit that one senses in every conversation, no matter how casual ..."

While he is from the South and a genteel man, Powell has never seen himself as "the Southerner" on the Court. In fact, he says he does not find it necessary to have members of the court from different parts of the country, but rather that they come from varying backgrounds of the practicing bar, government and political service.

He has not proven to be the Southern conservative in his court opinions, either, but has become perhaps the most moderate of the nine justices, most often providing the moderate opinion.

There, are however, some issues upon which he is not moderate. Perhaps due to his long involvement in corporate matters, he is a staunch supporter of the free enterprise system and has often spoken and written of the dangers of attacks upon that system.

Likewise, law and order and patriotism, loyalty and duty are points that he is quick to defend.

Earlier this year, he stunned many during a marathon session concerning capital punishment when he boldly indicated his support of the death penalty. Without raising his soft voice, Powell, who is known for his gentleness and restraint, cited FBI statistics showing a 50 per cent increase in the homicide rate during the past five years and said:

"It is perfectly obvious from these figures that we need some way to deter the slaughter of Americans. I use the term because that was the term used to describe the Vietnam war, and more Americans have been killed in the streets of this country than were killed on the battlefields of Vietnam."

Addressing the American Bar Association in 1972, Powell said:

"And as to values, I was taught—and still believe—that a sense of honor is necessary to personal self-respect; that duty, recognizing an individual's subordination to community welfare, is as important as rights; that loyalty, which is based on the trustworthiness of honorable men, is still a virtue; and that work and self-discipline are as essential to individual happiness as they are to a viable society. Indeed, I still believe in patriotism—not if it is limited to parades and flag-waving, but because worthy national goals and aspirations can be realized only through love of country and a desire to be a responsible citizen."

These strong feelings about the free enterprise system, patriotism and law and order are keys to why this man accepted a job to which he never really aspired. He says he accepted the appointment to the Supreme Court because it was his duty and that offered the opportunity again, it would not have altered that decision. It has been an exhilarating and stimulating experience for him since the issues presented to the Supreme Court are large, complex ones which confront and affect the condition of the nation, and in some cases, the entire world.

GULF OIL PAYMENT ALLEGATIONS

Mr. ROTH. Mr. President, I am very disappointed by the Senate Ethics Committee's vote last week against further inquiry into the charges that certain Members of Congress accepted illegal payments from Gulf Oil.

To leave these charges hanging and unresolved is, in my mind, neither fair to the public nor to those who have been accused of wrongdoing. I am disappointed that the committee did not follow the recommendations of Senator BROOKE. If the charges cannot be substantiated, that should be determined, and if they can be substantiated, that should also be determined. The only way to do so is to conduct a full inquiry and call relevant witnesses.

There has been a lot of talk about how Congress needs to regain the confidence of the public. The Ethic Committee's vote moves in precisely the opposite direction.

If there is any lesson the Congress should have learned in the past few years, it is that questions of ethics cannot be swept under the rug.

As I pointed out on this floor 3 months ago, the Congress has been using a double standard of ethics. It is more than ready to investigate allegations of wrongdoing by the executive branch and the private sector, but it has been most reluctant to clean up its own Houses. We are quite content to let somebody else, like the Department of Justice, do the job.

I was a freshman Member of the House of Representatives when the House Committee on Standards of Official Conduct was established, and my Senate colleague, former Senator John Williams, was deeply involved in the creation of its counterpart in the Senate. I shared in the enthusiasm of that time and in the hope that the new committees would be an effective means of enforcing the highest standards of conduct by the Members of Congress.

After some 10 years, time and events have proved this experiment a failure.

Certainly a major part of the problem is that members of these committees are put in a very difficult position in judging colleagues and friends, the people with whom they must work every day on other matters. It is hard for any institution to investigate itself. We recognized this when we established the Office of Special Prosecutor to investigate the Watergate affair rather than permitting the administration to conduct its own investigation.

We must recognize that the same kinds of conflicts of interest and affection hold true of the Congress.

The Select Committee To Study the Senate Committee System, the Commission on Operation of the Senate, and other bodies now studying congressional reform should give close attention to the problem of improving the system by which congressional ethics are established and enforced.

My suggestion is that a new ethics committee should be created outside the Congress, a committee composed of retired Members of Congress. It should consist of men and women of proven integrity, individuals of the caliber of a John Williams or a MIKE MANSFIELD, a Margaret Chase Smith or a PHIL HART.

They should be men and women the public knows and has confidence in. They should be men and women any Senator or Member of the House knows would act with utmost fairness and without regard to political affiliation. They should be men and women familiar with the operations of Congress, but not in a position of having to deal with Members of Congress on a day-to-day business basis.

I believe that such a panel of dedicated and respected men and women would be an effective tool for insuring the standards the public has a right to expect of its elected officials.

THE WILD FREE-ROAMING HORSES AND BURROS ACT

Mr. ABOUREZK. Mr. President, the Congress in 1971 passed the Wild Free-Roaming Horses and Burros Act to protect America's remaining wild horses and burros on Federal land from harassment capture, or death. That act has been successful insofar as stopping individual trespassers from entering upon the public's land to round up wild horses for shipment to slaughterhouses for dog food. However, Mr. President, over the past 5 years we have found that by charging the Bureau of Land Management with the administration of this act to preserve wild horses, Congress may have placed the "fox in the hen house to guard the chickens". Although private trespass has been all but abated, the Bureau of Land Management appears to have mistaken Congress' intent to protect our wild horses for all the citizens of these United States. Under the guise of "management," the Bureau of Land Management every year since the act was passed, has been involved in rounding up wild horses from the public lands. These roundups have been deemed removals and have been allegedly held because of overpopulation of these wild herds on Federal lands.

The American Horse Protection Association, a valiant nonprofit organization dedicated solely to the welfare of both wild and domestic horses, has raised the only voice in opposition to the abhorrent policies of the Bureau of Land Management as they have decreased the numbers of the wild horses whose preservation we have entrusted to them. But the patience and perseverence of the American Horse Protection Association, their lovely president, Mrs. Joan Blue, and their well-known vice chairman, Mr. Lorne Greene—has finally met with success.

Judge Charles R. Richey, U.S. District Judge, U.S. Court for the District of Columbia, ruled in the recent case of American Horse Protection Association, et al, plaintiffs, against Thomas Kleppe, et al, defendants, that the Bureau of Land Management's proposed roundup of 260 wild horses on the public lands in Idaho was illegal. Judge Richey, in reading the 1971 act as Congress meant it to be read, issued a permanent injunction against the Bureau of Land Management's proposed roundup. He found, as matter of law, that the BLM's proposal was arbitrary, capricious, and contrary to the clear mandate of the statute. Judge Richey's opinion has language which should be of interest to both the Congress, who passed the act, and the Bureau of Land Management, which Congress intended to properly administer the act.

Both Judge Richey and the American Horse Protection Association deserve Congress' thanks for their equally important roles in helping to protect and preserve part of America's heritage—the last of the wild, free-roaming horses.

I ask unanimous consent that the opinion of the Honorable Charles R. Richey be printed in the RECORD.

There being no objection, the opinion was ordered to be printed in the RECORD, as follows:

[In the U.S. District Court for the District of Columbia, Civil Action No. 76–1455, Washington, D.C., September 1, 1976]

AMERICAN HORSE PROTECTION ASSOCIATION, ET AL., PLAINTIFFS, V. THOMAS KLEPPE, ET AL., DEFENDANTS.

The above-entitled matter came on for hearing before the Honorable Charles R. Richey, United States District Judge, at 2:00 o'clock p.m.

APPEARANCES

For the Plaintiffs: Robert C. McCandless, Esq., Bernard Fensterwald, Esq., Roger Kindler, Esq., and Russell Gaspar, Esq.

For the Defendants: John E. Lindskold, Esq., Assistant United States Attorney.

EXTRACT FROM TRANSCRIPT OF PROCEEDINGS (OPINION ONLY)

The COURT. The Court has before it today for decision this action brought by the American Horse Protection Association, which is a non-profit corporation under the laws of Virginia, with offices at 3316 N Street, Northwest, and also brought by the Humane Society of the United States, another non-profit corporation organized under the laws of Delaware, with offices at 2100 L Street, Northwest, of this city.

These two plaintiffs have brought suit against the Secretary of the Department of Interior, Mr. Curtis Berklund, who is the Director of the Bureau of Land Management of the Department of the Interior; Mr. George Turcott, Associate Director of the BLM in the Interior Department; Miss Kay Wilkes, the Chief of the Division of Range of the Bureau of Land Management; and Mr. William L. Matthews, the State Director of the Idaho State office of the Bureau of Land Management of the Department of the Interior at Boise, Idaho; and Glen E. Ford, the Acting Manager of the Salmon District of the BLM, again, Salmon, Idaho.

The action asks the Court to grant a declaratory judgment and to declare that the proposed round-up is illegal and to prevent the implementation of the contract for the round-up and, in effect, to declare it not in accordance with the law and, therefore, null and void.

The plaintiff organizations also ask the Court for an injunction to enjoin the proposed round-up for the Challis Planning Unit until the two statutes that are involved in this case: namely, the Wild Free-Roaming Horses and Burros Act of 1971, and the National Environmental Protection Act, have been complied with in all respects.

There are other statutes mentioned in the complaint and the other pleadings, but those are the key ones with which we are here concerned.

The Court has listened carefully to all of the testimony by the various witnesses who have come here to Washington, some from great distances on both sides, and has examined the record, the briefs, and the pleadings, and listened carefully, as carefully as possible, to the arguments today; not only today, but throughout the hearing, of able counsel on both sides.

The Court, incidentally and parenthetically, at this point wishes to take this opportunity to thank plaintiffs' counsel for its courtesy to the Court and for its good work and craftsmanship.

The Court would like to do the same with respect to Government counsel.

I think all too often the public representatives are the forgotten and unsung heroes of our legal fraternity, and when they do a good job, they deserve, and should have, the commendation of the Court.

The Court wishes to extend the same appreciation to Government counsel.

Now, based on the considerations that I have enumerated just a few moments ago, the Court has decided to announce in an abbreviated fashion its conclusion and will file within the next few days, or maybe sooner, more copious findings and conclusions of law and issue a judgment in this case. But they will be consistent with what I am about to announce from the bench now.

First, this Court does have jurisdiction to hear and determine this case pursuant to 28 United States Code Section 1331, and the Administrative Procedures Act, as set forth in 5 United States Code Section 702.

The Court finds that the mandate of Section 3(a) of the Wild Free-Roaming Horses and Burros Act of 1971, as codified in 16 U.S.C. 1331(a), which provides that all management activities shall be at the minimum feasible level, requires, at a minimum, that before any round-up of horses or other significant management activity is undertaken, careful and detailed consideration must be given to all alternative courses of action that would have a less severe impact on the wild-horse population.

The alternative of restricting livestock grazing on the critical winter-range areas is such an alternative and would permit more horses to be left "unmanaged" in the region that is here involved, namely, the Challis Region, and would, thus, result in a lower level of management activity.

The other alternative of restricting livestock grazing—or the alternative of restricting livestock grazing—and the Court so finds—on the winter-range areas is not so impractical, particularly in the light of the alternatives that have been presented and discussed here in this court, and those which were actually considered by the defendants.

And it appears to the Court—and the Court, again, so finds—that the defendants have not given this alternative: namely, of restricting livestock grazing on the winter-range areas, the full and careful consideration that is mandated by the 1971 Wild Free-Roaming Horse and Burros Act.

And this failure to give this alternative the full and careful consideration required by the Act, in the opinion of this Court, renders the proposed action here not only arbitrary and capricious in the legal sense, but constitutes an abuse of discretion and makes the proposal contrary to the clear mandate of the statute, which I quoted a moment ago: namely, to keep all management activities at the minimum feasible level.

The defendants' determination that this Challis Region is overpopulated, and, thus, requires the removal of wild horses, requires a balancing of the data submitted to the Court by both sides, an evaluation of the data submitted to the Court by both sides, and also, most importantly, an evaluation of their credibility.

Now, taking those factors into account, the determination that this region, namely, the Challis Region, is overpopulated, and, thus, requires the removal of some various number of horses and there have been many different numbers suggested by different witnesses—taking all of these factors into consideration, the Court finds that, insofar as the Government's determination and their two basic planning documents are concerned, that they were based on inadequate or incorrect data.

The Court further finds that no reliable, up-to-date, population inventories have been made and conducted on which this Court can rely.

And it further finds that the formula for projecting the present herd size on the basis of the 1975 inventory utilized a reproduction ratio which is unsupported by, and, in fact, contradictory to, the evidence presented in this Court.

Accordingly, the determination of the number of horses to be removed in the round-up plan, in the opinion of this Court, at least, was arbitrary and capricious; and the decision to proceed with the round-up at the present time on the basis of this inadequate data was, and is, or does constitute, an abuse of discretion by the various defendants.

Now, they could have given—and the Court finds that they should have given—consideration, in both the wild horse management plan and the environmental analysis record, to what the Court finds were other, less drastic means of population control.

And, therefore, again, it must be said—and the Court so finds—that the prepared round-up here involved was arbitrary and capricious, constituted an abuse of discretion on the part of the Government defendants, and is contrary to the mandate of the statute enacted by the Congress in 1971.

The Court also is very, very troubled—and the geography is no excuse, in the opinion of this Court, when we are dealing with any endangered species or resource which has life—there is no reason for the defendants not to have planned for, and had available, the kind of professional veterinary assistance on site, as distinguished from at least 30 miles, or whatever distance it was, and the evidence is not clear at all on this point, during the round-up.

And their failure to make provisions for this, again, in the light of the testimony that injuries do occur during the course of even the most humane type of round-up, was the kind of conduct that makes this proposed round-up plan not only contrary to Section 3(b) of the Wild Horses Act, but also requires removal measures, if this is ever to be done in the future, under more humane conditions and care.

That would include, as the Court has already indicated, having veterinarians on site.

It might also be said, in this connection, that the arrangements, the casual arrangements, that were made in this connection with respect to veterinary care make this proposed action not only arbitrary and capricious, but, in the opinion of this Court, constituted a serious abuse of discretion. I hope it will not happen again in any other region, or even in this region.

Now, there can be no question, gentlemen, but that restricting livestock grazing on the critical winter-range areas in order to allow the Challis Region to sustain more wild horses is one alternative to the livestock grazing plans currently contained in this BLM draft for livestock grazing in the Challis Region.

And because the impact statement is in the so-called draft stage at this point and because my distinguished colleague, Judge Flannery, has continuing jurisdiction over the preparation and review of the BLM livestock grazing impact statements, the Court finds that it would be premature and improper to rule on the inadequacy, or alleged inadequacy, of the draft environmental impact statement for this particular Challis Region.

However, the Court concludes that, to permit the proposed round-up, as I have already indicated, to proceed during the pendency of the EIS review process would eliminate one major alternative to the grazing allotments plan proposed in that statement and would, thus, distort, perhaps forever, the analysis of costs and benefits mandated by, and required in, the other Act that is here involved, namely, the National Environmental Policy Act.

Accordingly, the decision to proceed with the proposed round-up at this time is for this additional reason not going to be permitted, and the Court will issue a declaratory judgment holding that the proposed round-up is not only illegal, but it will set aside any contract as being contrary to law, or issue a declaration that any contract to, or for, a private contractor's benefit to conduct the round-up is contrary to law and null and void, and it will enjoin any proposed round-up for the Challis Planning Unit, at least until both of these statutes, namely, the NEPA statute, the National Environmental Policy Act, and the Wild Free-Roaming Horses and Burros Act of 1971, have been complied with in all respects.

This will be put in the form of a final order and judgment as will be the findings of fact that have not been mentioned. They will be more extensive than this, but they will be consistent with what I have just said. That will be issued promptly by the Court.

As I said yesterday, I think you are entitled to know how the Court evaluated the evidence, as well as the credibility of the witnesses, and this is the Court's decision. Thank you very much.

(Whereupon, at 3:20 O'Clock, P.M., the Court adjourned.)

THE EDUCATION OF ELDRIDGE CLEAVER

Mr. PERCY. Mr. President, many of the Members of this body, I am sure, have noted the news articles relating to the return of Eldridge Cleaver and his family to the United States. However, the important point is not that Eldridge Cleaver returned, but why he returned. It seems that Mr. Cleaver's exile was an exploration into the political realities of other institutional systems that exist on this globe for the purpose of governing people. His exile became an on-the-road education in politics. In short, after 7 years of exposure to communism and repressive Socialist regimes, Mr. Cleaver chose to return to the United States. He did not return because our system is perfect, or even necessarily the best. He returned, apparently, because in our political system there is a chance to bring about change. Mr. Cleaver left this country as a revolutionary and apparently returned as a democrat. He seems now in a frame of mind to appreciate more fully and to concur with Winston Churchill's conclusion that—

> No one pretends that democracy is perfect or all wise. Indeed, it has been said that democracy is the worst form of government except all those other forms that have been tried from time to time.

I have often said that I felt communism erodes the soul and corrodes the spirit of man. In a recent interview in the Washington Post, Mr. Cleaver put it more succinctly:

> In a strange way, it was Christian and not Marxist values that I had to draw on, even in the Panthers.

Marxist politics did not provide a base for the critical value judgments necessary in the political process. It was, and is, according to Mr. Cleaver, an incomplete political philosophy. Mr. Cleaver came to learn that the dictatorship of the proletariat never ends.

I welcome Mr. Cleaver's return, if he does return as a true democrat. While his immediate fate will be determined in the courts, I hope in the future that the leadership, pride, and fire that molded the Panthers will be applied to the democratic process. Mr. Cleaver's dream may be different than mine, but we can both work together to improve the process through which those dreams are achieved. It is this process which is our most valued asset.

Mr. President, I ask unanimous consent that two articles reflecting Mr. Cleaver's current political thoughts be printed in the RECORD. The first article appeared in the Washington Post on September 1, 1976, and the second article in the September/October issue of the Humanist magazine.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 1, 1976]

ELDRIDGE CLEAVER AT EXILE'S END

(By Henry Mitchell)

"Today's my birthday," said Eldridge Cleaver over his fourth croissant at breakfast in the Mayflower Hotel yesterday, "and I'm 41."

There was a time in the late '60s when it seemed chancy that he would ever reach such a milestone. As the author of "Soul On Ice," and chief rhetorician for the Black Panthers with talk of guns and revolution and killing "pigs," he was anathema to J. Edgar Hoover, the FBI and the Nixon Administration. (Vice President Spiro Agnew was especially outraged by Cleaver's invitation to talk at the University of California.)

Then came a split within the Black Panther Party and its two main leaders, Huey Newton and Eldridge Cleaver, suddenly were enemies.

Cleaver says the split never would have occurred except for FBI efforts to spread lies within the Panther organization. FBI irregularities in handling the Black Panthers, who were seen as a national threat at the time, have been documented by the Senate Intelligence Committee report on abuses within the FBI and the CIA.

Now Cleaver is voluntarily back in the United States to face court action on a shootout that occurred April 6, 1968, between three carloads of Panthers and some Oakland, Calif., police. If found guilty, he says the maximum sentence could be 72 years in jail, or "more than I can handle."

When he surrendered last November, Cleaver returned from France and a seven-year exile that began when he fled in November 1968 to escape going to jail for parole violation (unconnected with the shootout and since dropped as a charge).

He immediately was sent to jail upon his return to await the next step of the judicial process, and made bail only on Aug. 13.

His recent freedom brought him to Washington the past four days to appear on "Meet the Press," "Good Morning America," and to see persons who are friendly or useful to him. He must return Sept. 30 for a court hearing at which a trial date may be set, or as he hopes, charges concerning the shooting will be dismissed.

"Some people say I must have made a deal, to come back voluntarily when I could have stayed legally in France. They have frozen me in my image of the '60s. They come down on you with all four feet, because there have been transformations in me they don't believe or don't understand.

"But the only deal I made, coming back to face arrest, was for the federal government to guarantee my personal safety against the Oakland police and Alameda County sheriff's office. That's the only deal there was."

Unless you count another thing he says: "I made a deal with Jesus Christ."

But if you spend a few hours with Cleaver during a few days, that remark sounds deceptively simple. It gives no hint of the tormented self-appraisal he describes, one that has led to a change in Cleaver that appears more radical than his work with the Panthers. It is the special case of the symbol turned away from its first meaning.

In November 1968, Cleaver fled to Montreal and got a plane to Cuba, a country he praised since Fidel Castro's take-over, and where Cleaver thought racism did not exist.

He says he soon was disillusioned. Just beneath the progressive surface, he says he found racism and repression.

He thought blacks were no better off in Cuba than in South Africa, and he says he noticed that even African style hair was severely frowned on, and trucks went about with barbers to cut it off.

"I learned a lot from the accusations they made against me in Cuba," he said. "I had no intention of making any trouble in Cuba, but I was under strict surveillance, and they said I was plotting with black militants. In that way I learned there were black militant movements in Cuba. There were blacks who never followed Castro down from his mountains."

After some months he went to Algeria, where he saw boys throwing rocks at black women and shouting contemptuous names at them.

He thought the "racism" there was so deep it was not even noticed, and that blacks were not supposed to stand straight and stride easily as they do in the United States. It took him some time, he says, to figure out he was called arrogant because he held himself like a man.

"And the bureaucrats—each petty official gives you a hard time, and it's calculated to drive you up the wall. Talk about a government of laws, not men—there it is every petty official and you're at his mercy.

"Nobody ever heard me say anything about Yankee ingenuity or American know-how, but it's true. They take forever to do something Americans would do right away. I wound up saying America is God's country."

Increasingly disillusioned with what he saw when he talked to ordinary people in those countries, Cleaver says he learned that "modern police are the same everywhere, and they all know how to torture—it takes a special kind of character not to do that."

He still smarted from what he felt was the injustice of his parole revocation, and despite his growing disillusionment with socialist countries he had been prepared to admire, he still felt intensely bitter about the United States.

He visited Moscow in July 1970, and later that month went to North Korea. He made a three-week trip to the People's Republic of China, North Vietnam and North Korea in August and September 1970—and everywhere he bad-mouthed America and saw merit in Communist systems.

But he returned to Algeria where his dissatisfaction with that Arab state grew. He finally found asylum in April 1973, in France.

But, he was unprepared in France for something he had not counted on. He became homesick for America.

His son, Maceo, now 7, cared nothing for American football, which always had been important to Eldridge Cleaver. Cleaver had taken his old high school football shoes with him into exile. He kept them hanging on the wall, wherever he went.

The years passed, and the Vietnam war ended. Nixon and Agnew were discredited. More blacks began to enter politics and the whole climate for blacks had changed, Cleaver thought.

"And there I was in France, comfortable enough but sitting like a bump on a log, meaning nothing to France and France nothing to me. I liked watching France, but I am not a Frenchman, it's not my country.

"I would see American blacks rising in the Democratic party and I was glad, and I'd say to myself, they will be able to help me get back to America.

"But then I saw they were not interested in having me back."

Once, years ago, he had been seriously depressed while in jail, and the prisoner in the cell above him hanged himself.

"There was a lot of commotion, with people running in cutting him down and opening doors. I heard a man say 'Well, now he is free' and I thought about that.

"I wondered if he was free. I wanted to be free, and I wondered if that was a way to do it. In the end, I rejected it.

"That was in prison. But in France I began feeling the same kind of depression again. We had a place in Paris, then I had an apartment down on the Mediterranean near Nice, at a place called Rocheville.

"I found myself going down there more and more, alone. I had my books down there. I got to thinking maybe Kathleen and the children would be better off if I was not around. If I ceased to exist.

"They could come back to America, I couldn't. I would think, 'I am standing in the way of what is best for them.' And it would bother me, because I realized this was just the way I had felt in prison, when the man hanged himself."

In early childhood, Cleaver's mother made him learn the 23d Psalm and the Lord's Prayer, but he never paid much attention to religion.

His father was a singer and a waiter at men's clubs in Little Rock, and later the father became a waiter on a crack railroad train, the Super Chief. As Cleaver remembers it, his father had a home at each end of the line, and his parents were divorced. From the time Cleaver was 10 until he was 16, he says his father was out of the picture.

"I remember him as tall, and good with the piano and with a switch. I used to dream of growing up so I could beat him up. Finally when I did grow up, he seemed to me just an old man. He used to play the piano for Dick Powell, in Arkansas, when Powell was a singer, but then Powell went to Hollywood and my father stayed behind."

At about the age of 8, Cleaver and his family moved to Los Angeles, and they lived in the suburbs where there was grass and hills and sun. He remembers football and dogs and fishing. But by age 18, he was in jail on a marijuana charge; he later returned to prison for assault, serving until 1966 when he was paroled and then joined the Panthers.

In France he thought of his past, and of his children, both born abroad in his exile, and how Maceo (named for the Cuban independence figure) paid no attention to his football shoes and was using "French gestures"—and the whole business drove Cleaver up the wall.

In Rocheville a year ago, alone and newly turned 40, Cleaver reflected that Marx—a brilliant and good man—had been his anchor throughout his adult life, and yet Marxism in worldly practice did not seem to work very well.

In the Black Panthers, the concept of class struggle gave purpose to life, and yet Cleaver noticed more and more that the questions given him to decide were not about politics or tactics but about morals.

He says he found nothing in his Marxist politics that helped him much when the question was justice or fairness "or compassion," and more and more it seemed to him that his Marxism was not a complete and full system.

"In a strange way, it was Christian and not Marxist values that I had to draw on, even in the Panthers. Even though my whole concept had been based on the Marxist dogma that religion and idealism are things to be resisted, as either sentimental or a waste of energy that should be going into the struggle."

A year ago, one night at Rocheville, he was at a real low.

"Have you ever seen the Mediterranean sky? Well, it has got stars like you never saw. And the moon, I was looking up at the moon and I saw the man in the moon, and it was my face.

"I don't mean I had any vision, I mean the shadows that could be anything took the form of a favorite picture of myself, and I was surprised. Then I saw the face in the moon was not mine, after a while, but some of my old heroes. There was Fidel Castro, then there was Mao Tse-tung. These were not visions, they were just the shape the man in the moon took.

"I was moved, and I was a little bit afraid, and I wondered if this was a premonition of death or something like that. While I watched, the face turned to Jesus Christ, and I was very much surprised. All this time I had the feeling of something big, and the stars in order, and something holy—you have to use words like that.

"I don't know when I had last cried, but many years back, but I began to cry and I didn't stop."

Cleaver, who had been talking slowly at first and with some coolness, began to speak with easiness, like a man far beyond ordinary embarrassment at talking with a stranger about the most personal things. His eyes were straight, his voice was soft, and he showed no sign of surface emotion.

"I was still crying and I got on my knees and said the Lord's Prayer, I remembered that, and then I said the 23d Psalm, because my mother had taught me that, too.

"I had read the Bible a lot of times, because it was the only book they let you have in solitary confinement in prison, so I had read it through more than once, but it never meant anything much.

"It was like I could not stop crying unless I said the prayer and the psalm and surrendered something. I saw that I had been waiting for people to help me come back to America and they didn't want me. And I saw I didn't have to wait for other people, I could do it by myself. All I had to do was surrender and go to jail.

"What could be easier than going to jail? The hard part is not going to jail, but enduring it. And I thought, 'Do I have strength to endure it?' And I knew I did.

"I wanted to go back to Paris and tell Kathleen. I was very excited. But I waited a while, and then one night when we were in bed I told her I wanted to go back.

"She sat right up in bed, I had never said it like that, and she was amazed, but I could see on her face she was happy."

Cleaver saw his lawyer in Paris, who cautioned him. But then he got in touch with

Elliot Richardson, then ambassador to England, on how to proceed with Cleaver's surrender.

First it was necessary to find out if any new charges had been added, besides those connected with the shootout, but there were no others. Arrangements then had to be made about the time and place Cleaver would turn himself in.

"I thought you got arrested any day of the week," he said, "and I was expecting the police would come and arrest me right then, but it turned out they could not accept an arrest made in France, and it seemed to me it took a long time to work out the details."

He made the decision last September and came to New York early in November. He then went to California where he entered prison and made bail Aug. 13, thanks to a Philadelphia insurance man with religious interest but not connected with Cleaver's past.

So the California jail was the green pasture and still waters to which Cleaver was led. But the future is something else again and no man knows it.

"All this stuff I used to believe in went out the window," he said. "You get a little humble in the face of forces you know nothing about."

Like the stars in their sky, the newborn people in their cribs—"This chain of life I had not known about before, they are really little miracles, you know. My passing on the breath of life twice in a row. You know, you have to marvel at it."

[From the Humanist, September–October, 1976]

ELDRIDGE CLEAVER AND THE DEMOCRATIC IDEA

(By Bayard Rustin)

Since returning last November to the United States after seven years abroad, Eldridge Cleaver was conned in various prisons and has just been released from the Alameda County jail on $100,000 bond. In marked contrast to his days as a leader of the Black Panthers when the media followed his every pronouncement, only a few stories have appeared about Cleaver. More often than not they have merely reported details of the legal maneuvers preparatory to trial. There is little real interest in his thinking, which is penetrating and incisive. If the media once seemed bent on exploiting Cleaver as good copy, they now seem determined to treat him as a curiosity, when not ignoring him.

The media, with few exceptions, have missed the significance of Cleaver's return. It was not so startling that Cleaver returned to the United States, for he had always stated his intention of doing so; and he is not the first black revolutionary to return to the United States. What was surprising was that Cleaver returned with new political views. Once the prophet of rage and violence, he returned a forceful advocate of democracy.

The political transforming of Eldridge Cleaver is one of the most profoundly interesting human dramas of our era. However, tracing his evolution is less my concern than the content and clarity of his thinking. Cleaver is saying many things that badly need saying and that are either not being said or not being said so well.

Cleaver's message is to remind us just how revolutionary the democratic idea really is. His emphasis on the importance of democracy may seem commonplace, but his views are powerful because they are the result of both theory and experience. His passionately felt beliefs have caused him to perceive the importance of turning the cliches of democracy back into ideals.

Cleaver, who once denounced the United States as "evil," "criminal," and "crazy," now describes himself as a patriot. He is certainly that, but at the same time he is both more and less. Unlike some previous refugees from totalitarian ideologies, Cleaver has not gone over to an opposite and equally extreme doctrine. Instead he is a radical democrat, who sees in the United States the best embodiment of the democratic ideal "With all its faults," he has declared, "the American political system is the freest and most democratic in the world."

To those who would attempt to stereotype Cleaver as a right-wing superpatriot, he has himself provided the best answer: "The greatest mistake we have made as a nation is to allow our shining principles to lapse so far into disuse that we misname them clichés." Thus, Cleaver's patriotism is not narrow chauvinism but a sophisticated attempt to merge national pride with the fuller implemenation of the American principles of democracy, equality, and justice. Cleaver's analysis is remarkably reminiscent of that of George Orwell, perhaps the most astute political observer of the twentieth century. Orwell criticized the British left for denigrating nationalism as necessarily reactionary and provincial. It was the patriotism of the British working class, he argued, that saved Britain from defeat at the hands of Hitler. In a letter to the *Los Angeles Times* Cleaver advanced the concept of a progressive and democratic patriotism that recognizes that "admitting our weaknesses does not negate our strengths. And glorifying in our strengths, as we rightly should, does not necessitate covering up our weaknesses."

Cleaver has not abandoned his belief in the necessity of fundamental social and economic transformations. He now insists that the method to achieve change is through democratic processes and not by violent revolution. Unlike some American radicals who have recently made a purely tactical endorsement of democracy because revolution is not likely to succeed in the United States, Cleaver has a profound appreciation of the human significance of democracy. Cleaver judges that political democracy is more important than economic democracy. It is easier, he contends, to add economic democracy to political democracy than to add political democracy to the sham economic democracy of the Communist states or the third-world dictatorships.

In the process of altering his views about democracy, Cleaver's feelings about the black struggle in America have also changed. From his experiences abroad he has concluded that the United States is far ahead of the rest of the world in solving its racial problems. In a recent interview, Cleaver outlined his perspective on black progress in the United States thusly: "Black people need to realize very fundamentally that they are full and equal citizens of the U.S. We can no longer afford to 'fence straddle' about where we are going. We can no longer afford to ask: Are we going to stay here and be integrated, or are we going to go back to Africa, as we have been saying since slavery? Are we going to separate into five states like the black Muslins used to talk about? . . . We are as much a part of the United States as any Rockefeller, and we can no longer afford to ask such questions." Not surprisingly, Cleaver has grown much closer to those mainstream black leaders he used to denounce. He has said, "I want particularly to apologize to Martin Luther King on some points. I now appreciate his awareness that the basic relationship between communities of people has to be one of love."

Cleaver's defense of democracy is all the more persuasive because he has not only lived in totalitarian countries and third-world dictatorships, but he was also once an adherent of those regimes. Indeed, Cleaver's most valuable function may be to dispel the myths about these societies. His idea of proletarian internationalism was but a concentrated version of the still persistent romanticism about the third world and a too common naïveté about the nature of Communism. Having lived in the third world, Cleaver is uniquely qualified to communicate the truths that the third world is "an empty phrase," that there are incredible differences" in the third-world countries, and that many third-world countries are tyrannies.

The analysis that Cleaver makes of Communism is penetrating and insightful. He observes that "communists strap onto people the most oppressive regimes in the history of the world. Regimes that are dictatorships, dictatorships in the name of the proletariat, not by the proletariat." Cleaver criticizes détente for propping up the Soviet regimes and concludes that if the United States is truly to be a force for democracy in the world "we have an obligation to help in the disintegration of the Soviet regime." That is a harsh judgment, to be sure, but it flows naturally from Cleaver's commitment to democracy.

Approximately a year ago, as he was preparing to leave Paris, Cleaver speculated about what he planned to do after returning to the United States. He said he wanted to be a philosopher of the left and that he wanted to write rather than become a political activist. Cleaver is, of course, inescapably a political figure. His very presence in this country forces us to confront the meaning of the sixties.

I do not know how many on the left will listen to Cleaver. Certainly they will make every effort to avoid confronting his challenge to their uncritical acceptance of political myths. Sympathizers with the radical currents of the past decade cannot help but be made uncomfortable by Cleaver's proposition that it is time to sum up the questioning process, to abandon mistaken notions, and to come to some conclusions. I suspect that, nonetheless, the intensity and intelligence of Cleaver's views will force the confrontation whether or not it is desired.

Cleaver, I am convinced, is capable of speaking to a far larger audience than his former followers and sympathizers. He may well have to endure a long apprenticeship to redeem himself in the eyes of those who still suspect him or cannot yet forgive his past. Cleaver recognizes that it may be a long time before many people will agree with him.

The return of Eldridge Cleaver to the United States is a summing up of the decade of the sixties and a sign of new possibilities. In the sixties Cleaver became an almost mythical figure for thousands of young blacks and whites; but today, I believe, he is an authentic hero. It is not a simple decision to admit that one was mistaken on fundamental issues as Cleaver has done. Though he could have lived a comfortable life as the puppet of any of a number of totalitarian states, he decided to come home even at the risk of a lengthy prison sentence.

Even in Cleaver's early writings there was a strongly humanistic strain. Unfortunately, his desire for a better world was so strong and consuming that he condemned a system that was unable to immediately meet his stringent demands for perfection and justice and embraced an ideology that was destructive of human values. It is to Cleaver's credit that he had the strength and intelligence to reevaluate his beliefs and to avoid the temptations of despair and cynicism. His change is best reflected in his comment: "Somehow, man is less grand than I would have thought. He's still OK, but he's less grand." This attitude of realism, responsible optimism, and genuine humanism undergirds Cleaver's views.

Cleaver presents an opportunity and a test for people committed to realizing the democratic idea. His will not be a political defense; there will be no "Free Eldridge" campaign. But there are many intellectuals, artists, labor leaders, and others who have joined me in working to ensure that Eldridge has adequate resources to have a fair trial. Though not all of us may agree with all of his ideas, we believe he can make valuable contributions to the discussion of pressing public issues. He has certainly made a beginning by helping to place the issue of democracy on the agenda.

ALLOCATIONS TO SENATE COMMITTEES UNDER THE SECOND CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1977—SENATE CONCURRENT RESOLUTION 139

Mr. MUSKIE. Mr. President, the Budget Committee is sending to the staff director of each Senate committee which was allocated budget authority or outlays under Senate Concurrent Resolution 139, the second concurrent resolution on the 1977 budget, a letter providing background information on the allocations.

This letter forwards to the committees a set of computer listings which show the Budget Committee's assumptions as to how the amounts allocated to the other committees are distributed by budget function. These listings are intended to assist each committee in preparing the report to the Senate required by section 302(b) of the Budget Act, a report which shows the way the committee has subdivided its allocation among its subcommittees or major programs.

We hope that each committee will be able to submit its report to the Senate prior to the adjournment of this Congress.

In addition to these listings, the letter forwards a revised version of the Senate committee allocations table printed on page 10 of the conference report on Senate Concurrent Resolution 139 (S. Rept. 94–1232). Both this table and the computer listings reflect some technical adjustments to amounts allocated for "entitlements requiring appropriations action." These adjustments do not affect the "direct spending" allocation of any committee, and have been made after consultation with staff of the committees involved.

For the information of my colleagues, I ask unanimous consent that a copy of the letter and a copy of the revised table from the conference report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 21, 1976.

Mr. ———,
Staff Director, Committee on U.S. Senate, Washington, D.C.

DEAR ———: The Second Concurrent Resolution on the 1977 Budget (S. Con. Res. 139) has been agreed to by the Congress. As required by Section 302(a) of the Congressional Budget Act, the Statement of Managers accompanying the Resolution allocates the budget authority and outlay ceilings contained in the Resolution among the committees of the Congress.

Enclosed is a copy of the "crosswalk" table from the Statement of Managers, showing allocations to Senate committees, as well as computer listings that show for each Senate committee the Budget Committee's assumptions as to how these amounts break down by budget function.

In the case of the Committees on Agriculture and Forestry, Finance, Labor and Public Welfare, and Veterans' Affairs, the listings reflect technical adjustments made since the adoption of the Resolution. These affect "entitlements requiring appropriations" only, and do not affect the direct spending totals for these Committees. These changes are due to Congressional action on or re-estimates for several programs, which while they were reflected in the "direct spending" totals for the Appropriations Committee, inadvertently were omitted from "entitlements requiring appropriations" in the crosswalk.

The attached copy of the table from the Statement of Managers also reflects these technical adjustments, as well as corrections of two minor typographical errors in the table printed in the conference report (S. Rept. 94–1232).

We hope this information will be useful to you in preparing your Committee's report to the Senate, pursuant to Section 302(b) of the Congressional Budget Act, showing how the amounts allocated to your Committee are subdivided among its subcommittees or major programs. As you know, these allocation reports now form the basis for the Senate Budget Scorekeeping Reports. Your report may be similar to the one you prepared following the First Budget Resolution. Please note, however, that Section 302(c) of the Budget Act permits your report to be limited to the *differences* between the subdivisions you reported under the First Budget Resolution, and those which apply to this latest allocation. If there are no changes in your Committee's subdivisions, the Committee is not required to submit a report (although I would appreciate a "no change" phone call).

It would be very helpful if your Section 302(b) report could be submitted prior to the adjournment of the 94th Congress. If you have any questions, or if we may be of any assistance to you in preparing your report, please contact Mike West of our staff, on 4–0561.

Best regards.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Staff Director.

SENATE COMMITTEE ALLOCATIONS PURSUANT TO SEC. 302 OF THE CONGRESSIONAL BUDGET ACT

[In billions of dollars]

[Note: This is a corrected version of the table appearing in the statement of managers on p. 10 of the conference report (S. Rept. 94–1232) on the 2d concurrent resolution on the budget, fiscal year 1977 (S. Con. Res. 139)]

Committee	Direct spending jurisdiction		Entitlement programs requiring appropriation action [1]	
	Budget authority	Outlays	Budget authority	Outlays
Appropriations	295.1	277.8		
Aeronautical and Space Sciences		(2)		
Agriculture and Forestry	1.5	.2	7.3	7.8
Armed Services	–.5	–.6	8.4	8.4
Banking, Housing and Urban Affairs	3.6	–.9	.1	.1
Commerce	1.0	.1	.2	.2
District of Columbia	(3)	(3)		
Finance	172.6	168.7	35.6	28.9
Foreign Relations	7.1	6.7	.1	.1
Government Operations	(2)	(2)		
Interior and Insular Affairs	.8	.7	.1	(4)
Judiciary	(4)	(5)	.3	.3
Labor and Public Welfare	3.7	3.9	2.5	2.6
Post Office and Civil Service	20.8	13.6	(6)	(6)
Public Works	3.6	1.0	.2	.1
Rules and Administration	(4)	(2)		
Veterans' Affairs	1.0	.4	14.3	13.4
Joint Committee on Atomic Energy	(6)	(6)		
Not allocated to committees	–58.7	–58.6		
Total	451.55	413.1	69.1	61.9

[1] These amounts are included as part of the direct spending jurisdiction of the Appropriations Committee.

[2] Less than $5,000,000.

[3] Less than $50,000,000.

[4] Less than $45,000,000.

[5] Less than $30,000,000.

[6] Less than $500,000.

Note: Details may not add to totals due to rounding.

ENERGY

Mr. FANNIN. Mr. President, I have become painfully aware of the complexities and problems of our energy situation and our struggle for energy independence. Because of the vast potential geothermal energy offers to our Nation, it would be my great pleasure to call to the attention of my colleagues the very impressive views of Mr. Joseph Barnea.

Mr. Barnea has written extensively on natural resources, especially energy, minerals, and water. He developed the "Geothermal and Mineral Exploration program" in the United Nations, and has been in charge of many seminars and conferences, including chairman of the First United Nations Symposium.

I commend the following views of Mr. Barnea to my colleagues and ask unanimous consent that they be printed in the RECORD.

There being no objection, the views were ordered to be printed in the RECORD, as follows:

Last year, Finland announced that it intended to dump seven tons of arsenic waste in the South Atlantic. Immediately a number of countries protested and Finland withdrew its proposal. The Yellowstone Geothermal area dumps more than 165 tons of arsenic into the Mississippi water system every year but the environmental agencies have neither noticed the fact nor protested. This demonstrates that geothermal resources with surface indications can only be made safe for the environment by development. Environmentalists, therefore, should be the strongest supporters of geothermal energy development. But what is the real situation today? In fact we have delays everywhere from the issue of leases on Federal land to delay of other permits and that involves practically all government organizations on the Federal level and some agencies on the State level and when we probe for the reasons of the unbelievable delays we hear again and again that the lack of environmental data and of environmental standards is the reason for the delays. Thus, in a recent publication of ERDA (Definition Reports, October 1975) we find the following statement:

"Very little data is available on the effects of geothermal energy on the environment. As a result of this lack of data and associated standards, the environmental approval process is slowed." (page III–13)

This statement is surprising and disturbing because apparently no note is taken of the long history of geothermal energy and of the experience abroad. The Romans already developed geothermal resources for medical purposes and for baths. The balneological use of geothermal resources, based on government laboratory analysis of geothermal waters and permits issued by the Ministries of Health in Europe and in Asia, has led to a thriving industry with a long history. Geothermal waters are used for drinking and other medical purpose and this is based on detailed medical analysis. How closely the balneological aspects are linked to geothermal resources can be seen by the forthcoming meeting in October of this year in Athens, Greece where the International Association of Hydrological Sciences is organizing an International Congress on Thermal Waters, Geothermal Energy and Vulcanic Systems of the Mediterranean Area. The detailed agenda includes "mineral waters suitable for drinking"—but Europe and Asia have not only a long tradition in the medical use of geothermal waters but they have also a very long history in the use of geothermal resources of various types. Lardarello is more than 70 years old and the hot water fields development in Iceland is more than 40 years old. How is it possible to overlook all the experience abroad and delay geothermal development in the U.S. on assumptions of fear and of problems, some of which do not exist? We also find not only as the ERDA report states, "a lack of data," we also find in official environmental organizations a lack of the most elementary knowledge of geothermal resources. Thus, in the Fifth Annual Report of the Council on Environmental Quality which came out last year we note the following sentence:

"Geothermal resources fall into three broadly defined categories—dry steam, hot steam, and hot water—but as yet only dry geothermal steam used to drive electric turbo-generators is considered economically inviting."

But let me use his words as put in a letter to me, "the by-products of geothermal operations for power, such as steam, distillates, thermal fluids, and heat, can be beneficially used in many situations to increase the biological carrying capacity of productivity of surrounding lands. The possibilities are many and of particular interest to me, for management of wildlife in desert areas but are just as usable in other climates and directly applicable to livestock in many situations." This statement which is ridiculous from the point of view of classification of geothermal resources is also wrong in its statement that only dry geothermal steam is economic for electricity generation. Wet steam fields generate electricity economically in New Zealand, Mexico, Japan, El Salvador and in Iceland. Moreover, the report creates the impression that non-electric uses of geothermal energy do not exist.

Geothermal fields are exploited in various parts of the world for many many years and none has ever been damaged by an earthquake. Nevertheless, some environmentalists and even ERDA speak about the possible seismic danger of developing geothermal fields without being able so far to offer any evidence. We have always argued that the development of geothermal fields by reducing their pressure, reduces the risk of earthquakes and now we find in a recent article published in "Science" describing the experiments in earthquake control in Rangel, Colorado, carried out by three geophysicists of the Geological Survey:

"The results of the experiment confirm the predicted effects of fluid pressure on earth quake activity and indicate that earthquakes can be controlled wherever we can control the fluid pressure in a fault zone". (Science 26 Mar. 76, p. 1236)

In other words where through geothermal development we will reduce fluid pressure in a field we reduce the likelihood of earthquakes.

Allow me to quote one further example of fear based on ignorance and that is the alleged short life of a geothermal field. In the recent ERDA report I quoted of October of last year, we find the following amazing statement (page III–1) "One of the most significant limits on geothermal growth rate is the risk of premature reservoir failure." I know of no single case where this has happened and the first geothermal field, Lardarello still operating is now more than 70 years old.

I do not argue that geothermal development cannot produce environmental problems, for instance, in certain geological conditions, land subsidence is a possibility, wherever we fail to recharge a field. Similarly geothermal fields may contain material which may be harmful to the environment but we have the technology to control it and therefore we are not living in a void without experience, without standards, without technology.

In order to overcome the increasing delays for geothermal development in this country, I suggest the following steps. (a) Let us send our environmental experts on the federal and state level to visit geothermal fields abroad of the various types in order to absorb the experience which exists and (b) I also suggest that before an area is opened for geothermal exploration, the U.S. Geological Survey or some other official body should carry out a detailed environmental survey so that we know the natural state of geothermal pollution before development takes place.

The environmental impact of geothermal development can also be seen in a totally different light. I have met an expert, a biologist of the U.S. Fish and Wildlife Services who believes that geothermal energy development is a most important new phenomenon for strengthening wildlife especially in arid and semi-arid areas. He believes for instance that 1500 gallons of water made available annually will allow to re-establish a bird population, that further small quantities of water will strengthen wildlife in a variety of forms. He has approached Geothermal Exploration companies which have drilled shallow temperature gradient holes and asked them to give him the hole afterwards so that he could put a windmill over it and pump a little water which often is available from such drill holes. I am proud to say that, as he told me in every case the geothermal energy industry responded favorably but he sometimes had difficulties with some government bureaucrats. I think this unique and surprising approach namely, the tremendous contribution which geothermal resources can make to our wildlife, is so important that we in UNITAR have asked him to undertake a study for us on this important matter.

Geothermal energy is, therefore, the energy resource with the lowest environmental problems. It's also the lowest in energy cost, the lowest in capital cost and the lowest in Federal government support. The last point needs further discussion. The question of the depletion allowance for geothermal resources is still not settled nor is the question of intangible drilling costs. Depletion is at the moment applicable only to dry steam but not to the other types of geothermal resources which will be the predominant types in the future. Again, we face a situation which makes very little sense. Uranium has a 22% depletion allowance but geothermal energy which often is the result of leaving the uranium safely underground, has no such depletion allowance. From a practical point of view that makes no sense. Timber has a depletion allowance as well as clam shells and oyster shells so that the uncertainty whether geothermal resources are slowly depleting or renewable resources is really immaterial. If we look at the vast sums and variety of federal support which was given to other natural resources from hydro-power to atomic energy and from stockpiling of metals to grazing rates on federal land, which are still determined by the cost of administering them, then we can only state that geothermal energy is the only energy resource which has never obtained a direct government grant. Federal Government support can be massive and many other industries have benefitted. More than $100 billion have been spent by the Federal government on highway development and $22 billion on airports and airlines—investments which stimulate the consumption of oil, the energy source we are short of. But the most reliable energy resources, more reliable even than hydro which is subject to seasonal variations, remains forgotten by the Federal Treasury, though its speedy development could make a substantial contribution to energy independence.

The one significant federal support which we all hope will soon become available, namely, the Geothermal Loan Guarantee Programme is still not out in final form, and in its draft form represents an approach which is contrary to the history of federal support of natural resources. It is based on the principle of minimizing the risk for the federal government. It is also administratively very complex. Let us compare this project with the small mineral exploration assistance programme which the Department of the Interior administers for minerals, a project simple in administration. Under this scheme the Federal Government accepts up to 75% of the risks of exploration in a project and if the exploration is successful the government share in the exploration costs must be repaid by a 5% royalty until the government investment plus interest is repaid. The project is simply evaluated through a visit by a government geologist to the project site and if the project is approved the funds are directly given to the prospector.

The examples I have given clearly indicates that we need a strong geothermal organization which will be capable of providing government services at all levels with the proper information which is available and which will draw attention to the inconsistencies and contradictions in the laws and regulations which now exist. It will also have to point out the lack of Federal geothermal support in taxation, in financing and in many other areas.

The geothermal organization which we need, must, however, include in addition to big and small companies and independents also towns and municipalities, countries and states in short all interested in geothermal resources and all who might benefit by it. The inclusion of local governmental bodies is, in my view, a necessity because some types of geothermal utilization can probably not be handled by private enterprise and cooperation with local governmental bodies can provide new ways of financing geothermal development. Moreover, we have already a beginning in local government activities such as the project of the town of Susanville or the Geothermal District Heating Law of the State of Oregon.

Geothermal resources are, in essence, local resources. All of them must be processed near the field. Even steam must be used at the field for electricity generation and only the electricity can be transported over long distances. Hot water must, however, be used within a radius of 30 miles. Geothermal resources on the local level can provide not only very low cost househeating, hospital and school heating as well as communal heating needs such as for swimming pools and road de-icing but it can also provide an essential and low cost energy source for agricultural and industrial processing, and it can also provide fresh water for local needs, water for agriculture and water for community purposes from fire fighting to many other purposes. It is not accidental that much of the geothermal development abroad was mistaken by local authorities for local needs especially for non-electric utilization of geothermal resources. We have therefore, an important task, namely to convince the people who live and work in geothermal areas of the potential benefits for themselves of geothermal resources and we have to have both their interest and their support. We should also point out, which we have failed to do so far, the considerable contribution which geothermal energy can make in a variety of forms for local employment. Even in a geothermal field used solely for electricity generation, the local employment is far higher than in an oil field. The potential benefits which governmental energy in the long run will provide for the local population is vast and not yet fully understood and realized. In the future, for instance, sewage water must be recharged for geothermal fields and thus make an early important contribution to the lowering of the existing costly programmes of municipal sewage treatment plants.

We must also realize that the use of water derived from geothermal resources is not a business in which private companies customarily engage. But in many situations the utilization of water may be both of great advantage for the local population and it may also be a cost factor which may make the overall geothermal projects economically feasible. This appears to be today the situation as regards geopressure fields and it may well be the situation in many hot water and other types of geothermal fields. I think we should think of future forms of cooperation betwen private enterprise and local government authorities. In one possible model of cooperation local authorities will buy water from the geothermal developer and provide a source of income where otherwise there would be a disposal cost. But perhaps even more important for the future is a possibility that through the issue of industrial bonds and other means of local governmental financing, local authorities could assist in the financing of geothermal exploration and development, a cooperation which would be of benefit to private companies and to the local population.

Finally it is useful to mention the tax benefits to local government authorities which will not be inconsiderable and long-lasting in their effects. Given this situation, we have to forge an alliance in a geothermal organization, an alliance that brings together private companies, big and small, with the governmental organizations on a local level. An alliance which may become a powerful instrument to overcome the numerous obstacles to geothermal development some of which I have discussed in the first part of my speech.

The new organization, in addition to all the tasks I have enumerated, will have to perform another important task, namely to overcome the general belief that geothermal energy is a regional resource, existing only in the American West. True, the surface manifestations of geothermal energy are much more plentiful in the West, however, there are many warm springs also in the Midwest and Eastern parts of the U.S. In the East and the Midwest we have very little Federal land and very little mineral exploration tradition and limited geologic knowledge. But we have a high population density and high energy costs in the East. In Manhattan Con Edision sells steam for house heating and air conditioning now at $40 per ton. Compare this with the 80 U.S. cents per ton which the steam producers at the Geyser's field obtain, today, per ton of steam they sell. Consequently, warm and hot water from geothermal resources in the East would be economic at a much higher costs than in the West. Geothermal exploration and development in the East would not only make an important contribution to the main energy-shortage areas of the U.S., but would also bring wider political, financial and other support to the geothermal industry. It would become a countrywide resource and even Wall Street would take note of it. Moreover, Congress appears to favor "nonnuclear energy sources," which "facilitate the commercial availability of adequate supplies of energy to all regions of the United States." (Federal Nonnuclear Energy Research and Development Act of 1974, sect. 5(b)(1)).

The environmental delays from which our geothermal industry is suffering today, is partly due to our neglect, to our failure to bring the unique character of geothermal resources to the knowledge of the framers of our environmental laws. There is a new possible danger looming ahead and this time we must act—namely energy efficiency and conservation standards which are being developed now, partly as a result of the new Energy Policy and Conservation Act, passed in December, 1975, and the net energy standards required by the Nonnuclear Research and Development Act of 1974. It is now up to FEA to develop these standards. The chemical industry in its voluntary system of measurement already defines efficiency rates in BTU's. What does this mean for the geothermal industry? Let me show it in one example. We need amount 24000 BTU's in the case of geothermal steam to produce one kilowatt-hour of electricity, whereas using fuel oil, producing steam, at a much higher temperature in a boiler, requires only 9000 BTU's. Thus, basing a comparison on BTU's only, fuel oil appears to be almost three times more efficient—but based on costs, namely $14 per barrel of fuel oil or $2.40 per million BTU's as compared to about 30 cents per million BTU's for geothermal, fuel oil is three times more expensive per kwh than geothermal energy. We understand the pitfalls of BTU accounting or energy accounting—but people outside our industry do not. But if net energy or similar energy calculations are carried out correctly, we can show that for practically all non-electric uses of geothermal energy, geothermal is by far the most efficient and the lowest in cost of all possible energy sources. But, as far as I have seen, no one has yet published such calculations and if we do not do it, we may suffer in the future.

The most important feature of geothermal resources and geothermal energy, namely their low cost is disregarded in public documents and appears to be unknown in Wall Street and in Congress. At a time when ERDA had to drop some solar energy projects because of their high energy costs, when shale oil producers want minimum price guarantees, when oil producers and natural gas producers want and need higher prices, when wind power requires about $2,000 per kw including storage batteries—no one points out that geothermal energy is the cheapest and most reliable source of energy we have.

The geothermal industry has never asked for price support but for equal treatment. It is the only underground energy resource which has no depletion allowance (except for dry steam) and other lax facilities, though geothermal exploration involves more risks than coal or uranium exploration. Geothermal resources, in spite of the low cost of developed geothermal energy, will not attract risk capital until the unequal treatment of geothermal resources is removed.

The task we have of overcoming the obstacles to geothermal development in this country with its very large geothermal resource base, is a challenge which calls for immediate action. The goal of energy independence begins to fade and more and more people, organizations and institutions begin to lose faith in the energy potential of this country. Even the New York Times in a recent lead?? (March 30, 1976) now supports energy interdependence stating and I quote: ". . . nor weighing the economic, social and environmental costs involved in massive expansion of domestic energy supplies, is elimination of all oil imports necessarily desirable." The contribution which the development of local energy resources can make to reducing unemployment and reducing social tension are conveniently overlooked. The very high price of imported oil is equally disregarded nor are the enviornmental costs of using imported oil for heating and many similar purposes being recognized when they could be reduced by geothermal resource development on a country-wide basis. Nineteen seventy-six may therefore shape up as a crucial year in which the geothermal industry may have to convince the American public as well as Congress that there is a vast geothermal potential in this country that the technology is available as well as geothermal entrepreneur and that the obstacles are not in resource scarcity or lack of technology but in bureaucratic obstacles which hold up the development of this massive and low cost resource. In 1976 when capital is plentiful and when we still have high unemployment, if even in this year we do not obtain public recognition of the potential for geothermal resources then we may seriously delay geothermal development and strengthen the belief of those who feel that the future increase in energy supplies should largely come from abroad. This is a year of the bicentennial in which the United States is celebrating a history of growing strength based on three basic resources for a country which wants to be strong and independent, namely, sufficient water, food and energy. Shall we allow 1976 to become the beginning of a period of energy decline? I believe therefore that in working for a strong geothermal organization which now in 1976 will attempt to speed-up geothermal development we are laying the groundwork for energy independence which must remain the basis for a strong country.

UNITED STATES PROVIDES ASSISTANCE TO INTERNATIONAL RED CROSS

Mr. ABOUREZK. Mr. President, during the tragic 17 months of fighting in Lebanon, only the International Committee of the Red Cross has been able to maintain any continuing program of medical and humanitarian relief. However, despite their continued efforts, they were constantly short of funds necessary to keep adequate supplies of medicine and basics on hand.

The United States has helped in the past by providing direct contributions to the ICRC. Earlier this month, the Congress tentatively agreed to a provision in the foreign operations appropriations bill for fiscal year 1977 that would provide a total of $20 million in humanitarian assistance to Lebanon. Part of that money is to be made available to the International Committee of the Red Cross to permit it to continue operations in Lebanon.

I was pleased to learn that the State Department has just announced that it will be providing an additional $2 million to the International Red Cross. This additional contribution, I believe, demonstrates that the U.S. humanitarian interests are still able to rise above political motivations. I commend the State Department for quickly and decively acting to provide needed assistance so that the Red Cross efforts may continue.

Mr. President, I ask unanimous consent that the text of the State Department release announcing this additional contribution be printed in the RECORD.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

United States Contributes to Relief Efforts in Lebanon

The United States, through the Agency for International Development, has provided a $2 million grant to the International Committee of the Red Cross (ICRC) in support of relief efforts in war-torn Lebanon. The grant agreement, which was signed in Geneva by American Ambassador to Switzerland Henry Catto and J. P. Hocké, Director of Operations for the ICRC, brings to $4 million the total U.S. contribution to ICRC relief efforts in Lebanon.

To date ICRC has appealed to the international community for $12.6 million to support its programs in Lebanon. The U.S. contribution accounts for some 31 percent of these appeals.

Since October, 1975 ICRC has been furnishing medicines and medical services to all sides in the Lebanese conflict. The international humanitarian organization also has supported a hospital in the southwest suburbs of Beirut and continues to provide medical aid to thousands of patients in hospitals and dispensaries in many areas of the country.

In addition to the total of $4 million which the U.S. has contributed to ICRC, approximately $6 million has been provided to the American University Hospital in Beirut to enable the hospital to continue to function in this time of need and to alleviate some of the suffering caused by the war.

TRIBUTE TO EDWARD J. HEKMAN

Mr. PERCY. Mr. President, some of us have had the opportunity to enjoy careers both in the private and public sectors of our society. I for one have found that much of what I have learned from experiences in private industry has been useful to me in my public career.

I would like to call the Senate's attention to another man who has made his experience in management of business available to management in Government. I am speaking of Edward J. Hekman, who resigned on Friday, September 17, from his post as Administrator of the Food and Nutrition Service of the Department of Agriculture.

Administrator Hekman headed the Keebler Co. before joining the Food and Nutrition Service, FNS, 7 years ago, in September of 1969. After more than 30 years as a manager in the food industry he decided to put his experience to work to make food assistance available to needy Americans.

Administrator Hekman's years at FNS have seen improvements and growth in programs that have contributed greatly to the health and well-being of mothers and children. As ranking member of the Select Committee on Nutrition and Human Needs, which has overview responsibility for FNS, I have been pleased to note that Mr. Hekman has run a Government agency as efficiently as he ran the Keebler Co. He has demonstrated that good management practices work in the public sector as well as the private sector.

Mr. President, I welcome this opportunity to take note of Administrator Hekman's departure and to commend his distinguished record of service to the American people during these 7 years that he has served as Administrator of the Food and Nutrition Service. I hope that others who have developed skills as managers in business may see fit to make their skills available to public service. In my view, the people's business is the noblest of all businesses, and it needs—it merits—the most expert management that we can give it.

THE SUNSET BILL

Mr. RIBICOFF. Mr. President, it now appears that it will not be possible to consider S. 2925, the sunset legislation, on the Senate floor this session. Since the House of Representatives has not proceeded as far as the Senate to date on this important legislation it would not have been possible to enact this legislation this session.

However, Senator Muskie has performed an invaluable service for the Congress and the country in proposing and working so hard for the enactment of the Government Economy and Spending Reform Act of 1976 (S. 2925). His Subcommittee on Intergovernmental Relations of the Government Operations Committee held extensive hearings on several bills incorporating the sunset concept. S. 2925 has benefited greatly from the many witnesses who testified. Moreover, several other Senate committees have recently begun to give consideration to the very complex issues raised by this legislation.

The work done on S. 2925 this session of Congress is by no means wasted. Senator Muskie, Senator Glenn, Senator Roth, Senator Percy, and others have by their efforts created a strong foundation for developing effective legislation in this area early next year.

I am strongly committed to the concepts underlying S. 2925. It is essential that Congress regain control over the programs it creates. Systematic procedures for reviewing Government programs periodically is essential to the accomplishment of that goal. Similarly, I believe that providing limited authorization periods for Government programs as a means of triggering serious periodic program reviews is a sensible approach. I am pleased to see that Gov. Jimmy Carter has publicly endorsed this concept and committed himself to supporting similar legislation if he is elected President.

The bill as presently drafted contains many important provisions. First, it sets forth a basic schedule for the review and termination of authorization of most Federal programs. Title II lays out the basic format for zero base reviews by congressional committees with the assistance of the executive agencies and GAO. Title II also contains deadlines which are keyed into the budget process. Title V would require periodic review of tax expenditures in a manner similar to the way appropriations are reviewed. The impact of tax provisions on Federal spending and the generating of revenue is enormous and I am hopeful that we will be able to get legislation next session which provides the same searching review for tax provisions as for any other Government expenditure. In my judgment these provisions form the nucleus of the proposal.

This year Senate committees worked diligently on this measure and much progress was made. In the Government Operations Committee, because of the persistent efforts of Senator Muskie, we were able to establish an impressive record which led to the bill being unanimously reported to the floor. In the Rules Committee, in the very short time which was available, the groundwork was laid for a cooperative effort in the next Congress. The Finance Committee, in the face of a very tight schedule, had only a very brief opportunity to consider the bill.

To reach a consensus on a bill next year will take a great deal of cooperation between these committees, but I am confident that as in the past these important issues will receive the careful consideration they deserve.

The American people are rightfully demanding that we in the Congress get the Federal Government under control. They want assurances that their tax moneys are being efficiently expended on programs that are needed and have not outlived their usefulness. I believe that the efforts of Senator Muskie and his fine staff have moved us down the road toward the achievement of that goal.

I ask unanimous consent that a summary and explanation of S. 2925 be printed in the Record.

There being no objection, the summary and explanation was ordered to be printed in the Record, as follows:

Summary and Explanation of S. 2925

S. 2925, the Government Economy and Spending Reform Act, has at its heart two principal elements designed to give Congress greater control over the programs it has enacted into law.

The first requires that all authorizations for Federal programs and all tax expenditures terminate every 5 years, unless they are re-enacted.

The second requires all programs and all tax expenditures to undergo a zero-base review by the appropriate congressional committees with the assistance of the Executive Branch and congressional support agencies, before they are reauthorized or re-enacted.

TITLE BY TITLE SUMMARY

Title I—Authorizations for New Budget Authority:

Title I sets forth the basic schedule for the review and termination for all Federal programs. It would require, according to the schedule, the termination of all provisions of law which authorize budget authority for Federal programs.

Title I applies only to provisions of law which, under the rules of the Senate and the House, serve as authorizations for appropriations bills. Thus, the Congress with the enactment of this title would not be putting itself in the position of having to review and re-enact the entire U.S. Code every five years.

A limited number of programs are exempted from the termination provisions. These programs are included in function 900 (Interest on the National Debt); subfunction 551 (Health Care Services); subfunction 601 (General Retirement and Disability Insurance) and subfunction 602 (Federal Employee Retirement and Disability). While these programs would be exempted from termination, they would be subject to review each five years as would all other Federal programs.

Title I would also require the General Accounting Office and Congressional Budget Office to identify every Federal program by functional category. For each program identified GAO would provide Congress with other pertinent information such as annual appropriations and budget authority.

In addition to its other provisions, Title I would change the rules of the Senate and House to make it out of order to consider an appropriation for any program unless the appropriation has been specifically authorized by law. Continuing appropriations excluded, this provision would mean that all appropriations would have to be made pursuant to specific authorizing legislation.

Further, the rules would be changed to make it out of order to consider re-authorization of a program unless a zero base review of that program has been prepared and submitted by the appropriate committees. This rule change is the principal enforcement mechanism of the legislation.

Title II—Zero Base Program Review:

Title II sets forth the timetable for the zero base review of government programs terminated by Title I. The timetable compliments the budget process and is designed to provide Congress with sufficient time to conduct program reviews and to make constructive use of the information provided by the Executive Branch and the congressional support agencies. The timetable for review is as follows—

On or before—

March 1 of the preceding year: Authorizing committees submit their zero-base review plans to the Congress.

September 30 of the preceding year: Executive agencies submit reports of their program review in accord with the zero-base review plan.

September 30 of the preceding year: General Accounting Office reports results of prior audits and reviews and reports and analyses to authorizing committees.

May 15 of the review year: Authorizing committees report results of their zero-base review of programs to their respective Houses.

Title II makes the completion of the zero base review the responsibility of the authorizing committees. It requires the committees to submit a plan for the zero-base review of programs by March 1 of the year preceding termination. In this way, the process provides the authorizing committees the flexibility needed to direct the scope and quality of the zero base review of the program under their jurisdiction.

Title II also defines the basic concept of the zero-base review to mean a systematic evaluation by legislative committees of government programs to determine if they merit continuation, termination or continuation at a different level of funding.

The basic elements of a zero base review would include—

(1) a statement of program objectives;

(2) an assessment of the program's success in meeting its objectives;

(3) a statement of the performance and accomplishments of the program for the previous 4 fiscal years;

(4) the number and types of persons served by the program;

(5) a statement of the number of personnel needed to carryout the program, and

(6) a review of the impact of the regulations rules and forms issued to carryout the program.

In addition to mandating the review, Title II requires the authorizing committees to report on their reviews and provide their recommendations to their respective Houses.

Title III—Continuing Review:

Title III would establish a program of continuing review for Federal programs. First, it would require GAO to notify the appropriate congressional committee each time it makes a report which discloses a deficiency in the achievement of the objectives a program, or which contains recommendations to the head of any agency. Further, the agency would be required to report to the congressional committee and to GAO every 6 months until GAO has determined that the agency has tried to correct its deficiencies.

Title III also amends the Budget and Accounting Act of 1921 to require certain additional information to be included with the President's budget. This information includes, with respect to each program, information on the specific objectives of the program for the fiscal year covered by the budget and a comparison of the achievement of the objectives for the last completed fiscal year. This provision is designed to cause the Administration to include more information in the President's budget than has been provided in the past.

Title IV—Citizen's Bicentennial Commission:

Title IV provides for the creation of a temporary commission, to be modeled after the two previous Hoover Commissions, to provide information and make recommendations to the Congress and the Executive Branch for the improvement of the operation and efficiency of the government and the appropriate restructuring and consideration of Federal administrative agencies.

Title V—Zero Base Review of Tax Expenditures:

Title V would require the termination and review over a five year period of all tax expenditures according to a schedule developed by the Joint Committee on Internal Revenue Taxation and enacted by the Senate and the House during the 95th Congress. The review and reporting of legislation re-enacting tax expenditures would follow the procedures under Title II of this Act.

Title VI—Miscellaneous:

Title VI would—

(1) require Office of Management and Budget to study the feasibility of establishing a zero base budgeting system for the Executive Branch and report its findings to Congress December 31, 1977.

(2) requires each agency head to provide the Congress with a copy of the budget request and statement of proposed expenditure which he has submitted to OMB on the day after the President submits his budget.

(3) requires each agency head to furnish to the authorizing committees of Congress any information they request regarding estimated outlays, etc.

(4) assures that nothing in the bill would require public disclosure of records which would otherwise be protected from such disclosure, and that the rules of each House of Congress shall govern committee decisions to make information public.

EMPLOYMENT OPPORTUNITIES FOR WOMEN

Mr. MATHIAS. Mr. President, in followup to my statement before the Senate the other day on the proposals by the President's Pay Agents for Federal employees cost-of-living adjustments, I would bring to my colleagues' attention a recent finding on job opportunities for women.

The article appeared in the Washington Post of Thursday, September 9. It reports the findings of the Conference Board, a business research organization.

If the predictions of this group are accurate, it further makes my point about the importance of assuring equal pay for equal work for lower general schedule Federal employees, over 70 percent of whom are women or minorities.

The President's Pay Agents, as I pointed out the other day, have recommended pay increases of only 4.51 to 4.24 percent for GS grades 1–6. At the same time, the same Agents recommend pay increases ranging from 5.4 to 11.83 percent for grades 11–18.

I have urged the President to look carefully at the inequity of this pay proposal and consider another alternative. We cannot afford to place the burden of fiscal penny pinching in Federal salaries on those grades least able to afford it at the lower grades of the civil service general schedule.

I ask unanimous consent that the Washington Post article and table D–7 of the Pay Agents' staff technical paper be printed in the RECORD.

There being no objection, the article and table was ordered to be printed in the RECORD, as follows:

FUTURE FOR WOMEN BLEAK

(By Claudia Levy)

Most employment gains for women in the next decade will be in the "lowpaying jobs they have traditionally held," the New York-based Conference Board predicts.

The business research organization says in its monthly publication that more than two-thirds of the increase in female employment is likely to be in clerical and service jobs.

Dr. Leonard Lecht, director of special projects research at the board, also predicted in the article that women will account for a higher proportion of the country's bank officials, designers and mechanical engineering technicians. He said more women also will be employed as bus drivers—mainly of school buses—and as shipping and stock clerks, "longtime male preserves."

Skilled crafts are expected to account for only 3 per cent of women's employment growth during the next decade, Lecht said, noting that more women probably will become electrical workers and auto mechanics.

But he said a majority of women will continue to work at jobs that always have been held by women. He said their escalation up the job ladder has been restricted because of a concentration of women in a small number of so-called "female jobs." They also have been concentrated in the lowest-paying occupations where they have earned below-average wages, "even when they have above-average education," he said.

Because young women tend to enter fields that already employ large numbers of women, they "help to perpetuate low earnings by assuring a steady stream of . . . additions to the supply of labor in the preponderantly female occupations," Lecht said.

As younger women continue to look for jobs as secretaries, calculating machine operators, stenographers, typists, dressmakers, child-care workers and hairdressers, they increase the likelihood that "similar concentrations of employment for women will characterize the next decade," he said.

Significant breakthroughs by women into better-paying jobs will depend on "a movement away from the traditional counseling and occupational education in the schools, changes in the career aspirations of women and more general acceptance of equal employment measures," the Conference Board said.

TABLE D7.—NUMBER AND PERCENT[1] OF FULL-TIME GENERAL SCHEDULE EMPLOYEES BY GRADE AND SEX, DECEMBER 1973

Grade	Employment				
	Number			Percent	
	Total	Male	Female	Male	Female
Total GS-1-15	1,291,057	758,578	531,002	58.8	41.1
GS-1	3,487	974	2,497	27.9	71.6
GS-2	34,486	7,098	27,150	20.6	78.7
GS-3	103,798	21,875	81,563	21.1	78.6
GS-4	161,672	39,246	122,202	24.3	75.6
GS-5	171,494	58,387	112,933	34.0	65.9
GS-6	79,461	26,038	53,394	32.8	67.2
GS-7	117,898	68,279	49,499	57.9	42.0
GS-8	25,864	14,776	11,081	57.1	42.8
GS-9	129,979	99,937	29,950	76.9	23.0
GS-10	22,376	17,120	5,252	76.5	23.5
GS-11	141,722	123,307	18,340	87.0	12.9
GS-12	128,276	118,425	9,787	92.3	7.6
GS-13	100,674	95.722	4,920	95.1	4.9
GS-14	46,404	44,617	1,761	96.1	3.8
GS-15	23,466	22,786	673	97.1	2.9

[1] Due to a small amount of unspecified data, total employments will be slightly greater than the sums of the male and female employments, and percents may not total 100 percent.

ENERGY AND RURAL AMERICA: RURALAMERICA INTERVIEW WITH BARRY COMMONER

Mr. ABOUREZK. Mr. President, the current issue of "ruralamerica," the monthly tabloid published by Rural America, Inc., carries an exclusive interview with Dr. Barry Commoner. As always, Dr. Commoner calls attention to some surprising facts and makes some very provocative points.

He points out, for instance, that farm usage of energy accounts for only 4 percent of national usage and goes on to comment:

> The production of food is so important that I think it would be foolish to say, "well, let's see if we can save part of that 4 percent," when there are so many other big percentages that could be saved.

But, Dr. Commoner does not leave it at that. He goes on to look at energy in agriculture from another standpoint. He notes that while average income per farmer has been going up since 1950 because of the declining number of farmers, net income to agriculture as a whole has gone down. "Agriculture now gets less from society for its product than it got in 1950."

He suggests that one possible explanation for this is that agriculture is more vulnerable than it used to be. He argues that what has happened in agriculture is that there has been a long trend toward the adoption of industrial techniques and such materials as intensive fertilizers as a way of reducing the dependence on nature, which has been regarded as too risky. But, says Commoner, the result of this trend has been to replace the dependence on nature with a dependence on the petrochemical industry and that is proving to be even riskier, in economic terms, and certainly less desirable from an ecological standpoint.

In agriculture, as in other sectors, it is Commoner's contention that we have concentrated on the efficient use of labor but neglected the efficient use of energy or of capital. Among other things, he says that "the ratio of capital to workers is the second highest in agriculture, of all industries. The highest one is petroleum." He suggests that what we need to do is seek a more balanced set of efficiencies.

Mr. President, I think this interview is worth calling to the attention of all of my colleagues and I ask unanimous consent that the full text be printed in the RECORD.

There being no objection, the interview was ordered to be printed in the RECORD, as follows:

RURALAMERICA INTERVIEW: DR. BARRY COMMONER

(NOTE.—Dr. Barry Commoner, noted husbander of our nation's resources and environment, is the author of "The Closing Circle," "Science and Survival," and this year's "The Poverty of Power." Commoner is Chairman of the Board of the Scientists Institute for Public Information, University Professor of Environmental Science at Washington University in St. Louis, as well as Director of the School's Center for the Biology of Natural Systems. Professor Commoner was interviewed by ruralamerica contributors Rick Sandler and John Sheehan on Independence Day in our nation's capital.)

RURALAMERICA. The food needs of America, and more importantly the world, are continuing to place strong demands on our agricultural production. How will the "energy crisis" affect farming?

COMMONER. I think it would be a terrible mistake to look to agricultural production as a way of saving energy. Agricultural production, that is the farm use of energy, is 4 percent of the total national usage. The production of food is so important that I think it would be foolish to say, "well, let's see if we can save part of that 4 percent," when there are so many other big percentages that could be saved. The use of autos and petro-chemicals, for example. So, to begin with, the way to look at the energy dependence of agriculture is not in terms of saving energy but in the effectiveness of agricultural production.

The fact that agriculture is dependent on energy leads to a harmful situation in agriculture. Take the use of fertilizer. Nitrogen fertilizer is made from natural gas; and represents, for example, 47 percent of the energy used in the production of corn. Another 19 percent is propane for drying the grain, and only 18 percent is for running the machinery. So it would make no sense in going after the 18 percent used in running the machinery. The thing you have to ask yourself is "what about the fertilizer?"

Even there it is the economics rather than energy conservation that is important. The dependence of corn production on inorganic nitrogen fertilizer means that the farmer is now dependent on the petro-chemical industry for a very important input. The use of ammonia in the U.S. is divided just about evenly between the farm and the petro-chemical industry, because it is an important ingredient in chemical synthesis. It is also produced largely by the petro-chemical industry. So you have got the farmer competing with the petro-chemical industry for this very important ingredient, but it is something that the petro-chemical industry itself makes. And governs completely economically. When the price of ammonia quadruples the petro-chemical industry doesn't care too much, and the farmer suffers.

Interdependence is the important thing. In other words, I think it would be good for a corn farmer to become less dependent on the use of ammonia. But the reason for it is not to save energy for the country. It is to make his operations less dependent on the economic dominance by the petro-chemical industry.

Now, the other advantage to using less fertilizer would be to improve the water pollution situation in agricultural areas. As you probably know, we've been doing a lot of study in this area. Our studies compared organic farms in the cornbelt area that don't use any nitrogen fertilizer at all with conventional farms. In our two-year averages, the income from crops per acre on organic and conventional farms is identical: about $133 per acre. These are mixed-crop, livestock farms.

If you look at the yields, they are slightly higher on the conventional (nitrogen fertilizer) farm, about 10-12 percent. Also the gross incomes are higher. But the net incomes are the same because the expenses are lower on the organic farm due to the enormous cost of the chemicals. I don't think there's any question that farms could back on the use of ammonia and propane. Solar dryers are very effective. This would relieve farmers of the worry of paying higher prices suddenly when the price of propane goes up.

RURALAMERICA. In your book, "The Poverty of Power," you say that ". . . the economic system ought to be designed to conform to the requirements of the production system, and the production system to conform to the requirements of the ecosystem." Is American farming tailored to the requirements of the ecological system?

COMMONER. Well, originally farming was tailored to ecology. The production system has been changed by introducing more and more industrial input, in particular petro-chemicals. Take the business of crop rotation, the use of legumes. Think about what the energetics mean. Nitrogen is essential for the growth of the plants, and a legume is a way of translating solar energy into the type of energy needed to bring nitrogen nutrients into the soil. That I would call a nice linkage—a design for the production system which links it to a renewable source of energy. This is an arrangement that can go on for quite a while; it is stable; the price won't go up. Well, in this country, we have virtually wiped out crop rotation. In the cornbelt there is no crop rotation. You can tell that from the fact that there's been a 75 percent drop in the production of legume seeds in the United States. They're hardly used.

The nitrogen in the soil has to come from somewhere. It comes from the factory. Where does the factory get the energy? It makes it out of air and uses fuel. What you've done is get your nutrients in a way that is unecological because it's a non-renewable source. In fact, while the thing is being manufactured it pollutes the air. And the price is bound to go up because of diminishing returns on this limited supply. So there's an example of switching away from an ecological dependence to a dependence on industry. That has made the farmer very economically vulnerable to manipulation by industry.

The nice thing about farming was the link to nature, but some people think that's too risky. So they link up with the petrochemical industry. That turns out to be even riskier. But I think we're going to see a return to crop rotation on economic grounds, as the price of ammonia goes up. That's what our organic farmers are doing.

Ruralamerica. How would the farmer be reimbursed for the extra cost of a return to organic farming methods?

Commoner. It would pay him more. It's in the social interest for farms to operate as closely linked to nature as possible. It prevents water pollution and air pollution. Decentralized control is better because the farmer knows what he's doing. If this results in a higher price, then it should be paid because it's in the best interests of society.

I made a plot of the gross and net income from agriculture from 1950 to the present. The gross income goes up exponentially. But the costs have also gone up so much that the net income has actually fallen, for agriculture as a whole. The average income per farmer has increased, however, because there are fewer farmers. But agriculture now gets less from society for its product than it got in 1950. Agriculture is more vulnerable than it used to be because it operates at a higher economic level. They have to borrow more money. I think that's in the interest of society as a whole, even if prices are a little bit higher.

I think that if we reorganized agriculture in this country, went back to mixed farming and the heavy use of pasture, we could probably raise as much meat as we do now but at much lower expenditures of petrochemicals and not much change in price. The only thing to say is let's rethink it and figure it out.

Ruralamerica. What's getting in the way of that change?

Commoner. A number of things. I think the most serious problem is the dominance of the family farm by the petro-chemical industry. They pretty well dictate, between them and the banks, how crops are raised. You know the story of Nebraska. The banks are called the "fence pullers." When you go for a loan they make you pull up your fences and raise corn because that's a more secure return on their loan. That's a condition on the loan. You can get a quicker return on the loan if you slap fertilizer on the soil. I imagine it would be very difficult to get a loan in order to spend five years building up the organic content of the soil, and get away from fertilizers.

The information and research has also largely been dominated by the petro industry. That's changing though. We had a meeting, the first of its kind that I know of, at our place (Washington University) a couple of weeks ago and it was very interesting. Most of the people there were from Ag schools. There's a growing minority in Ag school that is beginning to understand that the dominance of the petro industry is really not so good for farmers and we are beginning to rethink it a little. So that's beginning to change.

RURALAMERICA. Isn't it true that the mechanization of agriculture has led to increased labor productiivty? Earl Butz is fond of saying that modern agriculture methods have enabled one farmer to support 56 people. Would you like to comment on that?

Commoner. There's been a tremendous increase in labor productivity and a tremendous decrease in capital productivity. Do you know that the ratio of capital to workers is the second highest, in agriculture, of all industries? The highest one is petroleum. The labor involved in agriculture now is partly back in the factory to produce the chemicals and the tractors. It is hogwash to say that one farmer supports 56 people. It's one farmer plus an auto worker, plus a chemical worker, etc.

Take the whole business of labor productivity. How many people realize that what that really does is put people out of work. 1.9 million jobs per year are destroyed by increases in labor productivity in the United States.

Take the Humphrey-Hawkins bill. They want to solve the unemployment problem but don't mention labor productivity. It's another example of trying to deal with a problem without understanding it, instead of going at the root cause. So they support any industry that says it will create new jobs. The petro-chemical industry will come along and say they'll create ten new jobs, and wipe out 50 jobs in competing industries. And that's fine.

RURALAMERICA. What would happen were we to decrease the capital requirements and systematically decrease the labor productivity of agriculture?

Commoner. I think there will be many places in industry and agriculture where it will make good social sense to reduce labor productivity in order to save capital, to save energy, and to produce jobs. The important thing to think about is the efficiency with which resources are used. Now the only resources we use efficiently are labor. We use energy inefficiently. We use capital inefficiently. I suspect that if we take steps to improve the efficiency with which capital and energy are used, then the general costs of goods shouldn't go up. It then becomes a question of how income is to be distributed between capital and labor. The situation, described toward the end of the book, is one that the entrepreneur calls it a shortage of capital; where capital productivity has fallen and the rate of profit has fallen. What's being proposed is a reduction in the standard of living. Every report on the shortage of capital calls for cutting consumption.

RURALAMERICA. If we see a reduction in the standard of living, my first suspicion is that it won't be equal across the board.

Commoner. An article in the "Weekly Energy Report", contained a discussion by industrialists of the capital shortage and what to do about it: Gerald Gweiff, V.P. for finance at Exxon said, "The trouble is there's been too much social engineering and social enrichment and we're going to have to cut back on it."

RURALAMERICA. Isn't that similar to what President Ford said recently in Puerto Rico?

Commoner. Absolutely, that's exactly what he said. An economist from Chase Manhattan said, "Income redistribution is consumption-oriented. It takes from those who save and invest and gives to those who only spend." In other words the poor can't save, they only spend. If you're short on capital all you can do is cut consumption and foster capital (savings). What you want is people who save more relative to what they consume. That's rich people. They literally favor shifting income from the poor to the rich in order to accumulate capital.

There is no question that the drive of the private entrepreneur to accumulate capital will be to cut the standard of living, and particularly for the lower income. The point of this description is to illustrate the inability of the system to function. It can't work. It can't work! It's like a perpetual motion machine. And what it will do, of course, is to raise very serious social and political problems. You start cutting wages and then there will be some very interesting things happening.

RURALAMERICA. The Rural Electric Cooperatives have long been friends of rural America. They have provided many rural areas with reasonably priced, consumer-controlled electricity. Yet many of these cooperatives have chosen to use nuclear power sources. What do you think of this decision?

Commoner. Well, I think the first thing to say is that nuclear power is not a good investment. I'm a member of a Rural Electric Cooperative. My farm gets its power cooperatively, and I would complain if they made the decision to use nuclear power. All the evidence I know of points in the direction of nuclear power being the *most* expensive way to produce electricity. In certain parts of the country, it's cheaper than coal-fired alternatives but that advantage is going to rapidly disappear in the next few years. So I think on purely economic grounds this is the wrong way to serve the consumer.

The government seems to be moving in the direction of having fuel production, that is the enrichment step, turned over to private enterprise. The company that was thinking of taking over has already said it would have to triple the price of the operation. So it is very vulnerable to increase in price and I think it is not in the consumer's interest at all. Now, for the privately owned public utility, it makes sense because their rate is based on capitalization and why should they worry if the capitalization is high? They get paid for it.

We have a very interesting situation in Missouri right now. There, the Union Electric Company proposes to build the first nuclear power plant in the state, in Callaway County, west of St. Louis. Naturally, since the plants are very capital intensive, they have to raise $2 billion. Because of the capital shortage, they can't do it out of their own resources. So they went to the Public Utility Commission and asked for the authority to charge their customers for the interest on the loan for the plants, even though the plants are not producing electricity.

RURALAMERICA. For future expansion?

Commoner. Exactly. The thing that's interesting is that it exemplifies the fundamental issue: economics. So the environmental and consumer groups in Missouri—and I certainly encourage them—have started an initiative campaign on the right of Union Electric to charge their customers the interest on the capital. The campaign has just finished and in three days they collected about twice as many signatures as they needed. I talked to some of the people who were out gathering signatures and they said people were just grabbing the pen out of their hands to sign up. Because it got to the basic issue. I predict that it is very likely that this initiative will pass. Union Electric will then be forbidden to charge its customers for the interest on the capital. As a result, they won't build the nuclear power plant.

RURALAMERICA. What are our alternatives?

Commoner. Any reasonable energy policy has to recognize that what we have to do is shift over to renewable sources, basically solar energy. Energy conservation is required to ease the switchover.

I think the important thing is for us to understand the way in which the economic/production/social/political system is working and failing to work. To find out where the faults are; why the faults are there, and then I think we can all worry about how to correct it. My aim right now is to analyze, to diagnose, to point out what the trouble is, why we're in trouble. And I'm not at all concerned about inventing anything new, because I think people, once they're informed, can do that very well; they don't need me.

RURALAMERICA. At rural America we often talk about the low road and the high road. The high road being how we look at the future, ten and fifteen years from now. The kind of long-range decisions we think should be made, and discussed, like we've been doing. But, we also talk about the low road. How far are we going to get this year?

Commoner. Well, we have to connect those two. What immediate position, let's say, on the use of fertilizer should we have, keeping in mind the general problems we've been talking about. Many of us need to learn how to connect those things. A good example was the initiative in Missouri which is effective because it was perceptively connected to the high road question.

Another example of the low road might be the Energy Research and Development Administration (ERDA) budget. I'm going to have a very serious exercise on that in the next two weeks. I'm going to try to describe a way in which the ERDA budget ought to be recognized in a way that's practical. And at the same time reflects the fundamental realities. That's the low road.

CURBING MEAT IMPORTS

Mr. CURTIS. Mr. President, the Senate Finance Committee approved an amendment relating to meat imports introduced by myself, Senator BENTSEN of Texas, and Senator HANSEN of Wyoming. In a statement in the CONGRESSIONAL RECORD on September 22, 1976, on page 31793, the distinguished Senator from Washington inserted a statement in behalf of himself and Senators INOUYE, KENNEDY, and MUSKIE in opposition to this amendment which they describe as the Dole-Curtis amendment. Senator DOLE supports the curbing of meat imports, but could not be present.

This statement by Mr. JACKSON and in behalf of the others is totally erroneous. It is based on facts not involved in the situation. The Jackson statement says that this amendment would amend the Meat Import Act to exclude meat processing operations from foreign trade zones. This statement is totally untrue. There is no such language in the amendment.

This statement further states:

> This legislation would sound the death knell for active and proposed foreign trade zones from Maine to Hawaii.

This statement is to totally untrue. There is nothing in the amendment that would do any such thing.

The Jackson statement further says:

> One thousand needed jobs would be eliminated in Puerto Rico. Potential jobs in Minneapolis, Kansas City, and New Orleans would evaporate overnight.

This is absolutely not true.

The statement has this expression: "By effectively prohibiting the importation of meat that is processed in foreign trade zones." This likewise, is totally untrue.

This speech also refers to the amendment as an amendment "that puts meat processing operations in foreign trade zones in a less advantageous position than those operating in foreign countries." This statement is not true.

All that this proposed amendment does is to provide that the meat coming in will be counted in the quota in accordance with the Meat Import Act of 1964. This amendment in no way prohibits any activities now carried on in any foreign trade zone.

My distinguished colleagues who have made this statement have proceeded with the best intentions. I am sure that each of them is interested in the welfare of agriculture. It is apparent, however, that there has been a misunderstanding as to the provisions of the amendment which has been approved by the Committee on Finance.

The purpose of the amendment approved by the Committee on Finance is to cause our meat import program to conform with the original congressional intent of the Meat Import Act. This law was enacted in 1964. It limits the amount of fresh, frozen, and chilled beef, veal, and mutton entering the country.

The existing law is very generous toward importers. It gave Australia a guaranteed quota of approximately 375 million pounds of meat and the right to share in the future growth of U.S. consumption of beef. At the present time, Australia's allocation exceeds 630 million pounds of meat. Not satisfied with this generous treatment, a loophole was carved out. Meat was sent into the foreign trade zone of Mayaguez, Puerto Rico, cut into cubes and packaged. In doing so, the claim was made that it was processed meat, thus preventing it from being counted in the quota.

During the Finance Committee hearing, the opposition witness admitted that this meat was shipped from Puerto Rico to various processors in the United States for further processing. This is a clear admission that this meat could not be classified as having already been processed. Therefore, it honestly falls within the restraint levels in existence. In other words, it circumvents the Meat Import Act of 1964. The amendment adopted by the Finance Committee would clear this up and require that it be included in the quota.

This is no small matter. If this loophole is not closed, it will increase the imports into this country this calendar year by 60 million pounds. This is enough to supply a great many processors. The one processor who testified said he could only use 1 million pounds of it. Actually, it amounts to an importation bringing the count to the equivalent of something over 140,000 head of live cattle, more than enough to adversely affect the domestic cattle price which already is disastrously low.

Whenever our meat supplies come from domestic production, it not only stabilizes the cattle price situation, but it creates many U.S. jobs and it provides a market for the Nation's grain production. The position taken in this speech on September 22, which I have referred to, is clearly against the best interest of American agriculture.

Mr. President, I ask unanimous consent that the language of the amendment in question be printed in the RECORD.

There being no objection, the language was ordered to be printed in the RECORD, as follows:

A bill to amend section 2 of the Act of August 22, 1964, to prevent circumvention of import restrictions through the production or manufacturing of articles from foreign meat in Foreign Trade Zones, territories and possessions of the United States

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That section 2 of the Act of August 22, 1964 (Pub. L. 88-482, 19 U.S.C. 1202 note), is amended by adding the following new subsection after subsection (f):

"(g) Notwithstanding any other provisions of law, whenever foreign meat described in subsection (a) would be subject to quantitative import limitations provided by law or established pursuant to international agreement if entered for consumption directly into the customs territory of the United States, articles which are produced or manufactured in foreign trade zones of the United States or in Guam, American Samoa, the Virgin Islands or any other possession or territory of the United States from such foreign meat shall be denied entry into the customs territory of the United States unless the quantity of such foreign meat from which such articles are produced or manufactured is expressly included within limitations established pursuant to international agreements or by proclamation issued under this section, or is deducted from the quantity of meat which may be entered into the United States under the quantitative import limitations otherwise provided by law: *Provided,* That this subsection shall not apply to articles produced or manufactured from foreign meat admitted into such specified areas on or before the date of enactment of this subsection."

CONGRESSMAN ANDREW YOUNG TESTIFIES BEFORE JOINT ECONOMIC COMMITTEE ON YOUTH UNEMPLOYMENT PROGRAM

Mr. HUMPHREY. Mr. President, on September 9, the Joint Economic Committee held a hearing on the problem of high youth unemployment and what can be done to create jobs for young people.

The opening witness at this hearing was Congressman ANDREW YOUNG, one of the most knowledgeable Members of Congress on the problem of youth unemployment.

During his testimony, Congressman YOUNG promised to submit for the hearing record the details of a proposal for a national youth service program. His statement is an excellent outline for a program that would provide many of our 3.5 million unemployed young people with productive and useful jobs serving in their local communities.

I ask unanimous consent that Congressman YOUNG's statement on national youth service be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

REMARKS OF REPRESENTATIVE ANDREW J. YOUNG TO THE JOINT ECONOMIC COMMITTEE HEARING OF SEPTEMBER 9, 1976, ON YOUTH UNEMPLOYMENT

At the conclusion of my testimony, Mr. Chairman, you expressed interest in my proposal for a national voluntary youth service and asked for more details. The plan I would like to submit for your consideration is that put forward by Donald J. Eberly, Executive Director of the National Service Secretariat, at the Hyde Park Conference on Universal Youth Service in April of this year. I participated in that conference and believe that Mr. Eberly's plan is a realistic, positive proposal for addressing the problem of youth unemployment.

I also want to say a word about the cost of national voluntary youth service. The enrollment of one million young people, the figure estimated by both Mr. Eberly and Dr. Bernard Anderson, would mean a budget of some $5 billion per year. Where will the money come from? I suggest to the Joint Economic Committee that it calculate the sum of Federal monies being spent to support young people that would not be spent if they were receiving the minimum wage as members of a national voluntary youth service. Probably the major programs to consider are unemployment compensation, the summer youth program and various welfare programs. When this analysis is made, I think we shall find that the amount of new money required to operate national voluntary youth service would be substantially below its $5 billion cost.

The following excerpts from Mr. Eberly's paper refer to a program of Universal Youth Service (UYS) and to the Program for Local Service (PLS), an experimental national service program conducted by the ACTION agency.

GOALS AND PRINCIPLES

1. To accomplish needed human, social and environmental services not currently being met.

2. To permit all young people to engage in full-time service to their fellow man.

3. To guarantee to all young people a full year of work experience.

4. To enable young people to gain experience in careers of interest to them.

5. To offer to all young people cross-cultural and non-classroom learning experiences, including practical problem solving, working with people, and the acquisition of specific skills.

6. To foster among young people a sense of self-worth and civic pride.

To accomplish these goals requires a program with certain characteristics:

1. UYS must truly be open to all young people. This means paying special attention to persons who have few skills, are poorly educated, are bashful, or don't get along well with others. While giving them special services, we shall have to be careful not to separate them from others. For example, persons with few skills may do well at conservation camps where they will serve with college-educated environmentalists and where they will receive necessary training. Poorly educated persons may work on health or rescue teams with persons with more education. Those who are shy may need only the services of a friendly facilitator to assist in the first few interviews en route to finding the right position.

2. Successful development of UYS requires a transition period of about three years. The transition period serves two vital functions. First, it allows time for UYS to grow from an idea to a program involving a million or more persons. Various studies suggest that while the need for youth service workers is on the order of four to five million, the number of openings that could be filled in the next three months is not more than 250,000. It will take some time to translate national or local needs into actual positions with organizations. Another constraint on rapid growth is the size of the supervisory staff. While time demands vary greatly, the typical supervisor may expect to spend two hours per week with the UYS participant, perhaps several hours during the first week or two. Few supervisors can handle more than two or three UYS participants in addition to their regular jobs. This ratio is a limiting factor to agencies' acceptance of UYS participants until the next budget cycle permits the hiring of additional supervisory staff.

Second, the build-up period provides for experimentation within the overall program guidelines. The decentralized administration will permit, even encourage, the states and cities to test a variety of approaches for implementing the goals of UYS. There are many ways, for example, in which UYS participants can derive educational benefits from the UYS experience. These will be closely watched during the early years of the program to determine which should be incorporated into UYS and to determine the extent to which educational arrangements should remain flexible.

3. Participation should be arranged by a contract, voluntarily entered into by all parties. The contract would describe the responsibilities of the UYS participant, the supervisor, the sponsoring agency, and the funding agency. This approach would extend the choices open to applicants as well as to sponsors, minimize the possibility of misunderstanding among the parties, and establish a reference point for evaluation of the program.

4. UYS must be based soundly on the need for having services performed. Most of its potential for youth development would vanish if the work were not needed or if the UYS participants perceived the work to be of no consequence. A mandatory financial contribution by the sponsor would help to enforce the worth of their service.

5. Maximum local support of UYS should be encouraged with underwriting guaranteed by the Federal government. Past experience suggests that most cities and states would opt for maximum Federal funding. Still, there is much evidence in recent legislation showing that lower levels of government will have discretionary authority over substantial amounts of money for the purpose of meeting social needs.

6. Persons should be allowed to serve in UYS for no more than four years. A part of the UYS mission is to provide a transition into the world of work, not a lifetime job. The four-year limitation can be accomplished by regulation or by restricting UYS to a four-year cohort, such as 18–21.

ORGANIZATION OF UYS

Clearly, both the needs and the resources exist on a large scale. The process by which they are brought together will vitally affect the degree of success of the UYS effort. There are numerous possibilities, ranging from a highly centralized, tightly controlled hierarchy, replacing present Federal youth programs to the de-centralized, loosely coordinated network of limited opportunities which exists today.

In order to prevent discrimination, both overt and covert, a certain level of Federal control is necessary. Such innocent processes as recruitment and application can develop into highly sophisticated sorting procedures. The Federal government must retain the right to review and rectify such activities.

In addition to the question of Federal control, the Federal funding share can be of varying levels, and can be administered in a variety of ways. This paper recommends an underwriting approach in which Federal funds would not replace other funds already available, but in which Federal monies would be adequate to guarantee service positions to all young people who wanted them. It suggests that funds be administered by state or local levels of government, and that they be obtained from the Federal government by means of the grant-making process.

There is also the decentralization issue, as exemplified by such activities as recruitment and placement. Should all applicants apply to Washington, D.C., there to be classified and sorted and placed, or should a more personalized local mechanism be used? This paper suggests that essentially all application and placement procedures take place at the state or local level. At the same time, there would be enough common elements in all UYS programs to give UYS a clear image nationwide, and to permit certain generic recruitment activities to be undertaken on the national level.

Finally, should UYS be housed in a new agency or an old one? This paper suggests a combination. A new entity would be needed at the national level to perform a new function. At the state and local level where programs were administered, there would be no new organizations but a sometimes new coalition of existing organizations. At the level of the sponsor, where the actual UYS participant would work, new organizations would not be ruled out but the great bulk of activity would be conducted by existing organizations.

If we were constrained to operate UYS through present programs, we would probably start with the Youth Conservation Corps and ACTION's Program for Local Service. Neither of these programs is limited to a particular class of people. Then we would add a few restrictive programs such as College Work Study and selected Titles of the Comprehensive Employment and Training Act. We would try to articulate these in a way that led to no systematic discrimination. The next stage would be to bring in programs which emphasize the services to be performed. These may be found in abundance in the Department of Health, Education and Welfare, and to a somewhat lesser extent in the Departments of Justice, Housing and Urban Development, Agriculture and Interior.

The approach has a certain appeal and, given the time lag in achieving new legislation, may be the preferred way to begin UYS. The toughest problem once all the negotiations were concluded at the Federal level, would be to achieve a consistency in the articulation among programs at the state and local level. We can find a few examples of genuine and effective cooperation. The persistent problem would be in trying to achieve a replication of such cases to the end that "all young people have opportunities for full-time civilian service."

Perhaps it can be done. Even so, it may be useful to have before us another organizational model, one that comes directly from the set of UYS goals and principles.

The recommended organization for UYS is the public corporation; it would be accountable to the President and the Congress but somewhat removed from day-to-day political pressures. A suitable vehicle for fostering local initiative and decision making while retaining basic program design is the Federal grant. This mechanism can be used to fund UYS projects. In brief, the system would be organized as follows:

a. A Foundation for Universal Youth Service would be established by law. It would be a quasi-public organization, similar to the Corporation for Public Broadcasting, and would receive appropriations from Congress.

b. The Foundation would be operated by a 19-member Board of Trustees, with 12 of its members to be appointed by the President, with the advice and consent of the Senate, and following persons to serve as ex-officio members: the U.S. Commissioner of Education, the Commissioner of the Office of Youth Development, the Employment and Training Administrator of the Department of Labor, the Director of ACTION, the Director of the U.S. Forest Service, the Director of the National Park Service, and the Director of the National Youth Service Foundation.

c. Also, an Advisory Council would be created to advise the Board of Trustees on broad policy matters. It would have 24 members with at least eight under 27 years of age at the time of appointment. Members of the Board would meet at least three times a year.

d. Present Federal programs providing opportunities for youth service would remain in effect. These include the Peace Corps, VISTA, Teacher Corps, College Work Study Program, Job Corps and youth corps programs funded by the Comprehensive Employment and Training Act. The Youth Conservation Corps would be modified slightly to permit 15–17-year-olds to engage in other than strictly conservation activities and to explain UYS to the enrollees. After three years of UYS operation, Congress would examine all of these programs to determine the appropriate degree of consolidation among them.

e. The Foundation would invite units of state, regional and local governments to submit grant applications, outlining plans for the operation of UYS within the specified guidelines. The Foundation would award grants on the basis of merit and the funds available. In considering proposals the Foundation would give particular attention to the priorities allocated to job placement, accomplishment of needed services, education and training, and youth development. The ideal proposal would reveal a balance among these goals supported by participation of the respective agencies in program administration.

f. Grantees would have exclusive jurisdictions, as defined in the grant application. Thus, several cities in a given state could be UYS grantees and the state government could be the grantee for the balance of the state, as in CETA.

g. Grants would run for periods of up to three years. Upon receipt of the grant, the grantee would announce the program and invite participation by persons ages 18–24. At the same time, it would invite participation by public and private non-profit organizations interested in becoming UYS sponsors.

h. UYS would have two major options: Community Service and Environmental Service. Community service would be modeled after PLS. Applicants would interview for a wide range of local community service projects sponsored by public agencies or private non-profit organizations. Those who wished to travel in search of Community Service projects would do so at their own expense and would register with the local UYS agency. UYS would make no special provisions for them.

i. Most sponsors of the Environmental Service option would be Federal, state, or local agencies. Most environmental projects would require travel costs as well as expenditures for supplies and equipment. Such costs would be the responsibility of the sponsor, not of the Foundation. Where lodging and food were provided by the sponsor, it would be entitled to reimbursement by the UYS grantee from whose jurisdiction the participant was recruited.

The UYS operational process is outlined in the appendix. Let us examine how UYS might provide for its enrollees after completion of service, and how UYS might remain responsive to current needs.

After Service in UYS. As indicated earlier, UYS is seen in this model as a transition program. It is not a lifetime job, nor does it guarantee employment upon completion. Still, UYS should include certain features that would facilitate the employment and further education of its members.

First, UYS should be a source of information about jobs and education. This information could take the form of newsletters, job information sheets, opportunities for counselling, and referrals to such institutions as the Employment Service and the Community Education-Work Councils proposed by Willard Wirtz.

Second, UYS should certify the work performed by the participant. The certification should be of a descriptive nature, not a judgmental one. Such a certificate should enable the outgoing participants to get beyond the initial hurdle to jobs for which they are qualified.

Third, consideration should be given to offering UYS participants an educational entitlement, a GI Bill for Community Service along the lines proposed by Elliot Richardson and Frank Newman in 1972. At a time when the GI Bill for military service appears to be on the way out, and financial support packages consisting of loans, grants and work-study, are making opportunities for higher education almost universal, this is a complex issue. But if the nation wants to construct incentives for participation in UYS, an associated educational entitlement is one of the most consistent ways of doing it.*

Fourth, the Women in Community Service and Joint Action for Community Service programs of the Job Corps should be adapted for utilization by UYS. These programs utilize volunteers to recruit, counsel, and place Job Corps enrollees. It is a service that could provide special help for low-income young people without having a stigmatizing effect on the program.

A 5% Fund for Experimentation. The paper on Youth Service Milestones from 1945–75 describes the changes that have been rung on the national service idea in the past two decades. First it was viewed as a way to demonstrate our commitment to peace, then as a draft alternative, then as a means of enabling students to acquire relevant education, now as a way to solve the youth unemployment problem.

Throughout this period, there has been little change in the basic concept: All young people would be assured of opportunities for meaningful service, and underwriting would be provided by the Federal government. Hence, it is reasonable to suppose that such a program would have stood the test of time.

In the future, all signs point to greater changes over shorter periods of time. If we as a nation continue to procrastinate over the adoption of national service, there is a good chance that it will be imposed on us out of necessity. It will be a crash program, hurriedly assembled and inefficiently managed.

Even if the model youth service program outlined in this paper were adopted today, it might prove too rigid to meet the unforeseeable demands of five or ten years in the future. Such needs might be better anticipated if sufficient experimental funds were allocated to the UYS program. It is suggested that 5% of the total budget be devoted to testing new forms of youth service programs. These could range from Canada's Opportunities for Youth to Israel's several models of youth involvement. The Student Originated Studies program sponsored by the National Science Foundation might serve as a model for youth-initiated projects. Also certain cultural and public works projects falling outside the standard UYS criteria could be tested under the experimental program.

OPERATION OF UYS

The process of initially identifying UYS sponsors and participants may best be described by imagining that we are in a city or state that has just received a UYS grant. Let us trace the process first for young people and then for the sponsoring agencies.

Young people learn of UYS from numerous sources, including word-of-mouth, newspapers, radio, television, schools, colleges, youth clubs, and religious groups. Where mailing lists are available persons from 18 to 24 are sent information packets on UYS. Elsewhere, intensive efforts are made to make the packets easily available through a variety of channels.

(By the second year of UYS, many 18-year-olds will become acquainted with UYS through participation in the modified Youth Conservation Corps. These YCC camps are residential, 8-week summer camps with from 100 to 200 persons at each site. Each camp has these features:

The major part of the time is devoted to performing needed conservation and community services.

Some time is devoted to giving necessary training to the young people and to reflecting with them on what they have learned from their service experience.

The participants are informed of their options under UYS when they reach the age of 18.

Each camp has a socio-economic mix of young people which reflects the population of the surrounding area.)

A simple, one-page application form is included in the information kit. Persons interested in joining UYS complete the form and send it to the local center for processing. By return mail the applicant receives an invitation to attend a one-day orientation session to be held within one month.

For applicants who haven't yet decided which branch of UYS to join, further information and counseling is available at the orientation session. Also, pending legal and medical problems are reviewed at this time and a determination is made as to whether the application can proceed or has to await resolution of such problems. Each qualifying applicant completes a one-page resume and receives a voucher and agreement form.

The resume serves as an introduction to the potential sponsors and describes the applicant's educational background, work experience and interests.

The voucher guarantees a certain level of financial support and health care by the U.S. government in return for the performance of needed services by the applicant and compliance with the regulations by both applicant and sponsor.

The agreement form provides space for the applicant and sponsor to spell out the duties of the applicant, the training and supervisory responsibilities of the sponsor, and other particulars relevant to the job.

Next, applicants have direct access to a computer terminal where they compile a list of positions which interest them. Applicants then receive brief training in interview techniques and make appointments for one or more interviews with sponsors. Normally, officials from the Environmental Program are available at the orientation session. Agreements may be completed and the voucher signed and certified by the end of the day. For persons seeking positions with Community Service agencies, it may take several days to complete a round of interviews leading to agreement between applicant and sponsor.

The final agreement states the date of beginning service and provisions for training and transportation. UYS normally provides for one day of training on administrative matters. Work-related training is the responsibility of the sponsor and is given as part of the service period unless otherwise provided for in the agreement.

Sponsors are recruited in a somewhat similar fashion to that used for participants. Sponsorship is universally open to public and private non-profit agencies. Sponsors may request UYS participants for positions meeting certain criteria:

No displacement of employees
No political nor religious activities
No use of firearms

The sponsor certifies that it is prepared to contribute $200 per man-year of service and to provide the necessary supervision and in-service training. Also, the sponsor agrees to participate in a one-day training session before receiving any UYS participants.

Sponsors' requests are open to public review for a period of one week. Where challenges are made, the grantee investigates them and makes a determination. Those position descriptions which successfully pass through this process are entered into a computer listing, where they are immediately accessible to UYS applicants in the area. It is from this listing that applicants set up interviews and the agreement process goes forward.

Should there be more than negligible abuse of this clearance process, it would be necessary to set up formal review committees, including union officials, to pass on each application for a UYS participant.

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* Several possible models are presented in The Community Service Fellowship Planning Project by Robert L. McKee and Michael J. Gaffney, American Association of Community and Junior Colleges, One Dupont Circle, Washington, D.C. 1975. The study was funded by ACTION. In a typical model, persons in full-time community service would be entitled to $150 of educational benefits per month of services, with a minimum service period of six months.

Decisions affecting the retention or dismissal of UYS participants have to be made individually, with extenuating circumstances given due weight. Still, guidelines are needed.

The guiding principle is the participant's willingness to serve. The written agreement spells out the duties and responsibilities of both participant and supervisor. The participant who is repeatedly late for work or neglectful of agreed-upon duties appears to be giving a clear signal of an absence of a willingness to serve. Dismissal seems to be in order. By contrast, another participant simply cannot master an assigned job even while making every effort to do so. Here, an in-service training program or a lower-level job, accompanied by a re-negotiated contract, is indicated.

When sponsoring organizations fail to live up to the terms of the agreement, the participant is assisted in securing another placement and the sponsoring organization is removed from the computer listing. Participants who are dismissed for failing to comply with the terms of the agreement are normally ineligible for re-enrollment in UYS.

FOREIGN INTELLIGENCE SURVEILLANCE BILL

Mr. HRUSKA. Mr. President, I rise to comment briefly on the foreign intelligence surveillance bill, S. 3197. It now appears that this measure cannot or will not be acted upon in this session. This is indeed unfortunate.

It should be well noted, Mr. President, and a number of my colleagues alluded to it the other day, the fashion in which this bill has developed. It was a long, but constructive process which began in the Senate Judiciary Committee, with subsequent referral to the Select Intelligence Committee. Each of these committees, with the consultation of the Attorney General and a number of congressional leaders, carefully considered all aspects of this legislation.

There has been a gratifying accommodation of varying viewpoints originally held and espoused by different Members. The urgent and vital need for this legislation was clearly perceived and as a result, the bill gained bipartisan and broad-based support. It is unfortunate therefore that the Congress will be unable to act in the 94th Congress.

Mr. President, the bill creates a procedure for seeking a judicial warrant to authorize the use of electronic surveillance in the United States for foreign intelligence purposes. By providing such a procedure, the bill interposes a neutral, detached, and independent magistrate between the executive officer and the individual.

PROPER BALANCE

S. 3197 strikes a proper balance between the civil liberties of the individual and the need for this Nation to collect foreign intelligence information important to its security and its conduct of foreign affairs. In providing for a warrant, the bill should reassure the American public that no individual will be subject to electronic surveillance without a judicial warrant issued by an independent magistrate authorizing the use of such an investigative technique. In establishing a regular procedure for conducting electronic surveillance, S. 3197 insures that the Government will be empowered to collect foreign intelligence information necessary for the United States to discharge its responsibilities in this modern era.

Mr. President, the bill provides that a court order approving electronic surveillance may be granted by any one of seven district judges designated publicly by the Chief Justice of the United States. It is necessary to so limit the number of judges who will have access to this critically sensitive information in order to provide proper security measures. They will be supplied not only with the names and addresses of the persons actually subject to surveillance, the compromise or disclosure of which might seriously harm our intelligence efforts, but also with information justifying belief that such person is an agent of a foreign power. Such information, if leaked inadvertently, might expose to risk or suspicion, not just a particular operation but might put informants' lives in danger or compromise unnumbered other operations by which the information as to the targets' activities was developed. Moreover, limiting the number of judges, it will be possible for a rapid growth of expertise to be developed by these judges in this very sensitive and critical area.

PRESIDENTIAL POWERS PRESERVED

The Attorney General has testified before several committees about the careful exercise of the President's inherent power to acquire foreign intelligence information within this administration. The situations in which electronic surveillance may be utilized pursuant to the President's powers have been strictly circumscribed to encompass only activities of foreign powers or their agents; and strict procedural requirements before any electronic surveillance may be approved have been adopted. But internal safeguards, adequate and constitutional as I believe them to be, do not substitute for a judicial warrant in terms of reassuring the public that the power is being carefully and accountably exercised. Section 2528 of the bill provides for additional safeguards on the exercise of this power without meeting the obvious constitutional problems head on.

Mr. President, as the Attorney General has testified:

> The case law, although unsatisfactory in some respects, has supported or left untouched the policy of the Executive in the foreign intelligence area whenever the issue has been squarely confronted.

Two circuit courts have held that the President has a constitutional power to engage in electronic surveillance for foreign intelligence purposes and that this power may be exercised without a judicial warrant. See *United States* v. *Butenko,* 494 F. 2d 593 (3d Cir.) (en banc), cert denied, 419 U.S. 881 (1974); *United States* v. *Brown,* 484 U.S. 418 (5th Circ. 1973) cert. denied, 415 U.S. 960 (1974). While a plurality of the Circuit Court for the District of Columbia in *Zweibon* v. *Mitchell,* 516 F. 2d 594 (D.C. Cir. 1975), stated, in dictum, that the President's power with respect to foreign powers and its agents should be exercised pursuant to a judicial warrant procedure, its holding was far narrower and was consistent with the holdings in Brown and Butenko. The court held only that "a warrant must be obtained before a wiretap is installed on a domestic organization that is neither the agent of nor acting in collaboration with a foreign power." The Supreme Court has not directly confronted this issue, expressly reserving this question in *United States* v. *U.S. District Court,* the Keith case.

CRIMINAL STANDARD

There is no requirement in this bill, Mr. President, that the target of the surveillance be actually engaged in the commission of a crime. Nor should there be such a requirement.

Our espionage statutes were written before World War I, and the nature of intelligence gathering has changed a great deal in the year since that time. Much espionage today is directed at industrial processes and trade secrets. Gathering of such information even by foreign agents for the benefit of foreign powers who are not allies is generally not illegal. Yet the Government should be able to discover these clandestine activities.

Furthermore, even activities which in their completed state would constitute crimes, in incipient stages may not be illegal. Yet, unless the Government is given the tools to collect information about foreign intelligence services working at the direction of a foreign power, it may not be able to discover the completed offense. Gathering embarrassing personal information about persons for possible use as blackmail is not a Federal crime; enticing persons into personally or financially embarrassing situations is not a Federal crime. Yet when persons acting pursuant to the direction of a foreign power engage in such activities for clandestine intelligence purposes it is critical that the Government be able to use electronic surveillance not only to protect our national security but to protect the privacy and rights of those innocent individuals who might suffer if such activities went undetected.

BIPARTISAN SUPPORT

Once again, Mr. President, let me emphasize the bipartisan and widespread support that this measure has enjoyed. It was originally introduced by Mr. KENNEDY and cosponsored by Senators NELSON, MATHIAS, SCOTT of Pennsylvania, MCCLELLAN, BAYH, BYRD, and myself. The bill was reported by a vote of 14 to 1 in the Select Committee on Intelligence. This bill has received long, painstaking and intense scrutiny by both of these committees.

The bill reflects the composite views of a number of Senators who vary widely in their philosophical and ideological persuasions. But one thing is common to the bill. It is a major reform in an area of extreme complexity but of utmost importance to the survival of this Nation. This importance is shared, Mr. President, by a majority of my colleagues and I am hopeful that early in the next session of Congress positive action can be taken to enact this important legislation.

THE SUNSET BILL

Mr. STENNIS. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from me to Senator CANNON of the Rules Committee, regarding the proposed Government Economy and Spending Reform Act, known as the "sunset" bill.

I understand that this proposal will not be called up for consideration during this session, but I would like to have this statement in the RECORD in order to show the impact of this bill on the procedures of the Senate Armed Services Committee.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
September 16, 1976.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I appreciate your request for my views on S. 2925, the Government Economy and Spending Reform Act of 1976, known as the "Sunset" bill. Basically this bill does two things. First, it terminates all existing authorizations for the Department of Defense as of September 30, 1979. Secondly, it requires a zero based review and extensive reports on each separate defense program by May 15, 1979.

I fully realize that this legislation covers most of the Federal budget and I am aware of the problems of applying identical requirements to many hundreds of Federal programs. Although time has not permitted an analysis in depth, I have reviewed this legislation from the viewpoint of the Armed Services Committee and its responsibilities for the Department of Defense.

Basically, I have no disagreement with the objective of this bill of forcing improved Congressional oversight and eliminating duplicate programs, particularly some of the non-defense activities which are not annually reviewed and authorized in the manner of defense programs.

I do, however, have strong reservations, particularly as the bill relates to the Department of Defense, in that the bill imposes tremendous procedural and paperwork burdens on the committee and on Congress generally. This additional burden will make oversight more difficult due to the attention on massive budgetary detail, rather than policy matters. I shall set forth below certain requirements in this legislation, together with my comments. Among other things the bill:

(1) would terminate, as a matter of law, all military authorizations on September 30, 1979. To reenact all of the authorizations relating to the Department of Defense in titles 10, 32, 37, 38 and 50 of the U.S. Code (11 volumes of law) would be a massive task, even if no changes were made.

Incidentally, this bill would terminate the appropriation authority for military retired pay which, to say the least, would have a profound impact on the one million military retirees and their dependents in cutting off their retired pay. I might also observe that Civil Service and other Federal civilian retirement programs are exempted from the termination clause. Time has not permitted a review of the impact of terminating the hundreds of other programs throughout the U.S. Code titles just mentioned.

(2) requires, with respect to the zero based review, a 5-section *tentative* plan to be submitted by the committee to the Senate on each program. Following the tentative 5-section plan there is a requirement for a further 5-section *final* plan to be submitted under the same procedures.

Following these two reports, there is required a suggested 9-section zero based review for each program. Following these three sets of reports, the bill further requires that a 7-section report be submitted by the committee to the Senate to accompany the new authorization for each program. I have been advised that as many as 1,500 reports would be required for *each* of these four major reporting procedures with respect to the Department of Defense alone. The bill further requires that these reports be referred to the Senate, to the Executive Branch, and to the General Accounting Office. The agencies which assist the Congress in various ways (the General Accounting Office, Congressional Budget Office and others) would review and comment on hundreds of reports as would the Executive Branch agencies. These reviews would then be returned to the committee.

It is extremely hard to see how this volume of material would be of assistance to the committee members in carrying out their duties. This process would impose a workload of impossible proportions for the committee. The Government Operations Committee, I am afraid, seriously underestimated the workload which this bill would impose on the Armed Services Committee.

(3) requires that compliance with all the new procedures on defense authorizations be accomplished in one year—1979. The workload I discuss above makes any meaningful accomplishment of such a monumental task impossible.

(4) would apply the new procedures in the first year of operation to the defense category, by far the largest to be affected. Under these untested procedures, only Defense, among the large budget categories, would be reviewed in the first year. Some of the domestic programs more limited in scope might appropriately be subject to the first testing of these procedures, if they are to be enacted at all.

(5) would provide for the transfer of certain authority from elected members of Congress to various external agencies (General Accounting Office, Congressional Budget Office, Office of Technology Assessment and the Congressional Research Service). This results from the fact that the General Accounting Office would be required to furnish each committee with information with respect to programs within the committee's jurisdiction. No practical mechanism appears in the bill for committees to change the General Accounting Office determination. Thus, the General Accounting Office would be the arbiter of committee jurisdiction over the budget. I do not believe that the committees of the Senate should be required to be responsible to the General Accounting Office for any kind of determinations on the committees' own jurisdiction.

(6) requires for the first time, to my knowledge, that the committees of the Congress report, by law, both to an external agency (the General Accounting Office) and to the Executive Branch of the government which, in the case of the Armed Services Committee, would be Department of Defense and other agencies. The stockpile report, for instance, would be submitted by the committee to the General Services Administration. The Congress should not be required to report to outside agencies for the purpose of assisting the Congress in doing its own work.

(7) would subject sensitive, classified national security data to disclosure. Voluminous reports are required to be submitted to the General Accounting Office with the General Accounting Office in turn also having the authority, in law, to disseminate all of this information. The bill contains no authority for the withholding of any data in the reports, even though such information may be classified. In other words, this bill does not protect classified information. How would the National intelligence budget, 85 percent of which is in the Department of Defense, be treated under these procedures? I would point out that under this bill, a zero based review is required for all national intelligence activities with all the required reports to be submitted to the General Accounting Office and the Executive Branch, whether or not any of these agencies have need for these reports. The bill which does not provide for the public disclosure of classified data does not provide authority for withholding this data from the General Accounting Office or the Executive Branch.

(8) fails to set forth the cost of this legislation, either in the bill or the committee report, despite the legal requirement of a cost estimate as set forth in the Legislative Reorganization Act of 1970 and the Congressional Budget Act of 1974. This bill would obviously involve a huge expansion of staff personnel, computer effort and various other support, as well as the hiring of additional people in the General Accounting Office, the Congressional Budget Office and the Executive Branch to process this voluminous data. There are 22 sections in this bill which require new actions by the various agencies which assist the Congress (the General Accounting Office, Congressional Budget Office, Congressional Research Service of the Library of Congress, and the Office of Technology Assessment). These various organizations, which technically come under the legislative branch, have grown in cost from $172 million in 1970 to $489 million in 1976. The number of personnel employed in Congressional staffs has increased 44 percent since 1970. This bill will undoubtedly necessitate another large increase. The Congress, the Rules Committee and the public should know in precise terms what this bill will cost. The total annual budget for the Congress as a whole is now almost $1 billion.

(9) has a number of serious language ambiguities. With regard to defense, there is no firm definition of the term "program". Sec. 2(a)(5) states the term program "includes, but is not limited to, Government programs, which are carried out, whether in whole or in part, under regulatory authority". No definition is provided for the term authorization. Examples given in the Report of the Committee on Government Operations pertain mostly to separate responsibilities of non-defense agencies. Yet the definition of these terms is essential to understanding the bill's impact on defense.

(10) necessitates the cooperation of the Executive Branch but fails to recognize the opposition testimony by the Executive Branch on this legislation. I understand the testimony against the bill by the Executive Branch was mainly on the grounds that the procedures are too mechanical and inflexible and should be more related to real priorities for program review. Under these circumstances, it would be better to work out a more common approach with the Executive Branch next year, rather than freeze both the Congress and the Executive Branch into the untested procedures contained in S. 2925.

The Defense program is the largest program authorized on an annual basis in the Federal government. However, the procedures used by the Armed Services Committee for the annual authorization of defense programs are totally different from those contained in this bill. We now authorize over 700 research and development program elements, some 308 manpower accounts, as well as numerous procurement and construction line items. In total, some 70 percent of the Defense budget is covered directly or indirectly in a detailed fashion by these annual authorization procedures. However, there is a vast number of additional authorizing legislation for such things as military pay, retirement, organization, promotion and administration which are not authorized annually. The procedures of S. 2925 would terminate all of these authorizations, creating an enormous paper workload and would cripple both the policy oversight and the detailed legislative process now performed by the committee on an annual basis.

I would respectfully urge that the Rules Committee consider the reservations I have set forth in connection with this bill.

Sincerely,

JOHN C. STENNIS.

FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1976

Mr. PERCY. Mr. President, while S. 3197, the Foreign Intelligence Surveillance Act of 1976, will not be scheduled for a floor vote before the October 2 Senate recess, I do want briefly to state my position on this most important legislation. I regret that the Congress will not act in the foreign intelligence surveillance field because I feel that S. 3197 could go a long way toward bringing an important area of Government activity under the rule of law.

S. 3197 would establish procedures for the granting of judicial warrants to Federal agents for the electronic surveillance of a foreign power or an agent of a foreign power. A limited number of judges appointed by the Chief Justice of the United States would review applications submitted by Federal agents for electronic surveillance within the United States. An application for a warrant approving such action would be granted only if it met with certain criteria designed to protect basic constitutional rights.

In any attempt to place electronic surveillance of foreign intelligence under the control of the law, it is necessary to be sensitive to two countervailing requirements of our Government. First, it is essential to the effective conduct of the Nation's foreign policy and, indeed, in some cases to our national survival, that foreign intelligence information be gathered and analyzed. But just as important and as fundamental to our survival as a free people, is the need to protect the constitutional rights of all. In the zeal to gather information, we must not sacrifice the basic rights for which this Nation was founded: the right of privacy without Government intrusion, the freedom from unreasonable searches and seizures, and the right to hold any opinion, and to advance that opinion in speech and writing, without fear of Government intrusion or harassment.

We have all become aware of the abuses of the Federal intelligence agencies in recent years, much of this due to inadequate oversight by the Congress. The rights of many Americans have too often been overlooked in the effort to gather more information. National security has too often been used to give a cloak of legality to surveillance of loyal American citizens acting in a perfectly lawful fashion. S. 3197 is an important step toward reaching a reasonable balance between these twin needs for foreign intelligence information and for preserving our constitutional safeguards and I commend Attorney General Levi and the distinguished Senator from Massachusetts for their diligence in drafting this bill. I support the concept of this legislation because it would allow sufficient freedom for intelligence-gathering operations, while introducing the procedures to curb abuses which might occur.

While I am in basic agreement with S. 3197, I have certain concerns which I do not feel were adequately addressed in the legislation reported to the floor. Under the bill, as presently drafted, an American could be the target of electronic surveillance without probable cause having been shown that he had been involved in criminal activities. These cases would be limited to individuals who, pursuant to the orders of a foreign intelligence network, transmit information to that network. However, even with these restrictions, the present bill would allow the surveillance of Americans who are innocent of any crime.

Furthermore, surveillance without showing probable cause of criminal activity may well violate the fourth amendment to the Constitution which states that the people are to be secure "in their persons, houses, papers, and effects, against unreasonable searches and seizures" and that "no warrants shall issue but upon probable cause." An amendment to correct this deficiency, which was noted in the Church Intelligence Activities Committee report, would greatly improve the bill.

A second shortcoming of S. 3197 is its implicit acceptance of the possibility of inherent Presidential powers to order electronic surveillances even if such action is outside the scope of this bill or if certain extraordinary circumstances exist. The issue of inherent Presidential powers is a matter for the courts to determine. In my view, the Congress should remain silent until the Supreme Court has stated authoritatively whether the President has inherent powers in this area.

Finally, S. 3197, as presently drafted, would provide that a national security official, designated by the President, would be the sole person allowed to certify to a court considering a warrant application that the information to be intercepted by surveillance is the sort of foreign intelligence covered by the legislation. Under the bill, no court would have jurisdiction to review the decision of this executive official. This would mean that judicial warrants would be issued in the field of foreign intelligence surveillance when an important aspect of probable cause would have been determined not by a neutral judge but by an official of the executive branch which would itself be seeking the surveillance authority. Amendments have also been discussed to solve this problem.

The Foreign Intelligence Surveillance Act of 1976 is an important step in the right direction. It is essential that electronic surveillance be governed by legal procedures which are reviewable by the courts. I support the concept of S. 3197 and commend all those Senators who have worked so well and so long in fashioning it. If enacted into law, together with some of the changes I have discussed, this legislation would begin to restore the proper balance between the gathering of foreign intelligence information, and the protection of our basic constitutional rights.

INDICTMENT OF FBI AGENTS FOR BREAKING AND ENTERING OF THE WEATHER UNDERGROUND

Mr. CANNON. Mr. President, I would like to point out that while the Watergate revelations of the past few years have undoubtedly had a positive effect in creating a new sense of morality for all of us, they are also having a negative effect.

That negative effect can be seen in the retroactive application of the post-Watergate morality to events that occurred in this country in the turbulent 1960's and early 1970's.

I refer specifically to the current inquiry by the Department of Justice into surreptitious entries made by the FBI into the dwelling places of individuals associated with underground terrorist organizations and activities.

In the current attempt by the Justice Department to seek Federal grand jury indictments of those FBI agents involved, it seems to me that several highly pertinent factors are in danger of being overlooked.

First, what is being overlooked is the fact that far from being the common burglars any indictment today would suggest they are, these agents were loyal and professional law enforcement officers working entirely within the scope of the FBI's authority in an attempt to apprehend dangerous criminals in the foreign intelligence field.

Second, the nature, the commitment, and the actions of that terrorist underground movement is also in danger of being overlooked today. And, third, so is the whole climate or ambience of those troubled years.

In committing those surreptitious entries in 1972 and 1973, the FBI was investigating and attempting to disarm an extremist organization committed to terrorist urban warfare for the avowed purpose of bringing about a revolutionary change in our society. This was an organization whose followers were and are scornful of democratic government and of democratic institutions.

This was an organization whose members had shown a total disregard for the lives of innocent citizens, a terrorist underground organization claiming responsibility for numerous bombings throughout the United States, including the 1971 bombing of the Capitol and the 1972 bombing of the Pentagon, an underground guerrilla organization whose bomb factory in New York blew up in 1970 with such force that it gutted a three-story brick townhouse and left only scraps of the three radical bomb-makers who caused the blast.

The attempt by the FBI to counter the threat of this terrorist group committed to violence and to the destruction of our system of government was, in my opinion, justified. The attempt to immobilize this terrorist group was, in my opinion, a measured and reasonable, not an arrogant or a capricious response to the reality and the continuing threat of underground violence.

But in any case, the decision to move against this threat, the decision to break and enter the dwelling places of those who belonged to the organization and who espoused its philosophy of political action through terror and violence, was not a decision made on their own by those FBI field agents who are now facing prosecution for the crime of burglary.

On the contrary. Those agents were simply following orders to accomplish what 5 years ago was regarded as permissable and certainly justifiable law enforcement procedure against a homegrown terrorist group impossible to infiltrate and having well-documented connections with foreign elements hostile to the United States.

If there are prosecutable offenses involved in the decision to break and enter the premises where these terrorists lived and worked, responsibility for these offenses should not be fixed on the agents who made the surreptitious entries, it seems to me, but should rather be fixed at much higher levels within the Department of Justice itself, or even on still higher levels of the Federal Government.

Certainly, the courts have recognized that responsibility for governmental actions must rest at the top. Last May, the U.S. court of appeals clearly emphasized this important point when it reversed the conviction of two men involved in the breaking and entering of Daniel Ellsberg's office to obtain information about the unauthorized release of the Pentagon Papers.

This court decision is, in my opinion, directly relevant to the cases of the FBI agents now threatened with the charge of burglary in the effort of this Government to stop terrorist bombings in the United States.

To consider these responsible, professional law enforcement agents common burglars for actions taken by them under orders and in the best interests of public safety, is absurd. It represents a complete misunderstanding of what Watergate was all about and a misapplication of the so-called Post-Watergate morality of today to events and to actions that were reasonable and proper under the circumstances in which they occurred 5 years ago.

Indeed, continued outbreaks of terror and violence in this country even in this present Bicentennial year, suggest to me that the Department of Justice has more compelling responsibilities than the indictment of these agents and the inevitable further weakening of the effectiveness of the FBI.

ORLANDO LETELIER AND THE SITUATION IN CHILE

Mr. HELMS. Mr. President, a number of statements which have been made in the Senate and in the House about the murder of Orlando Letelier prompt me to offer a few remarks this morning about the implications of that terrorist act and their relationship to the present Government of Chile.

Understandably, it is very disturbing to the people of the United States when an act of political terrorism takes place on the streets of our Capital. Although such acts have taken place from time to time, we can be thankful that they still remain the exception, and that the horror of a grisly tragedy still makes a profound impact upon our people.

Although hundreds of murders routinely take place in our great cities—and cities such as, say, Detroit and New York—operate almost on a siege basis, we all recognize that the inclusion of a political element in murder goes to the very depth of our social organization and governmental institutions.

Fortunately, the United States still has the luxury of regarding such acts as exceptional. In other parts of the world, political terrorism has become routine, a cancer eating away at the social and economic organization of free society. And although there is a sentimental disposition on the part of some to regard such acts as the expression of frustration over social injustice, the fact is that political terrorism is more often the product of a calculated plan to disrupt and destroy free societies.

Such is the case in Latin America today. I do not profess to be an expert on Latin American problems, but I have made it my business to learn as much as I can about our sister republics to the south.

The intense preoccupation of our Nation with Southeast Asia and the Middle East has distracted us from our own hemisphere; yet it seems to me that if we are going to establish firm alliances in the world, and develop a close working relationship with a bloc of nations that will stand together for political and economic freedom, our future lies with South America.

While the so-called Third World turns increasingly Socialist and even Communist—and openly anti-American—a fourth world, anti-Communist and anti-Third World, is developing to the South. Whereas only 10 or 12 years ago it was believed that all of Latin America would quickly turn to socialism, one by one those countries have rejected that path.

Today at least 80 percent of the continent of South America, measured by both geography and GNP, is on the road to a new future.

Whether that future will be alined with the United States—and with our ideas of political and economic freedom—will depend greatly upon our understanding of their problems and our assistance in their present struggle to re-establish stable anti-Communist institutions in the wreckage created by socialist thinking and Communist terrorism. As things stand today, there is a greater potential for friendship with the anti-Communist nations of South America than any other substantial group of nations in the world.

That is why I traveled to South America in an attempt to see for myself what is going on. And the picture I have seen is considerably different from what is constantly portrayed in our news media, and what is often stated here on the Senate floor. Although countries such as Brazil, Argentina, Uruguay, and Chile are by no means perfect, neither is our own. Yet with our vast resources, it is difficult to understand what traumatic experiences these countries have gone through at the hands of the left. They saw their societies dismantled, first by leftwing opportunism of their politicians, destroying their economic base; then their political rights and freedoms were destroyed by acts of leftwing terrorism such as the one which occurred in Washington the other day.

It is simply not true that these countries have been dominated in the past by rich oligarchies exploiting millions living in grinding poverty. Brazil, which I visited last year, is a separate case with its vast undeveloped resources and size; but Argentina, Uruguay, and Chile, which I visited this year, are essentially middle-class countries, all of which had a highly developed welfare state—which, incidentally is one of the problems which brought them to the brink of disaster.

By any standards, their governments were far to the left of ours, but this did not spare them from violent attacks from the Communist left.

Indeed, even today, terrorism is concentrated in Mexico, Venezuela, and Colombia, all of which are already on the far left side of the spectrum. The fond image that leftwing terrorism attacks only right-wing reactionary governments is a dangerous delusion that gives us a distorted picture of what is actually happening to our neighbors—and to us.

When I went to Latin America in July, I did not go at the expense of any government, either that of the United States or any other. I went at private expense. I arranged my program in Chile through the kind offices of U.S. citizens—including a close personal friend in North Carolina who is exceedingly knowledgeable about Latin America—and Chileans in the private sector, who want the United States to have an objective view of Chile.

I talked with Chileans in every walk of life, from workingmen and schoolteachers, to businessmen and bankers, and journalists in both electronic and print media—members of my own profession. I stress this because I want to make it clear that I was not taken on a Potemkin village tour set up by the present government. Nevertheless, I also talked with President Pinochet, General Gustavo Leigh, Justice Minister Miguel Schweitzer, and Foreign Minister Patricio Carvajal.

To describe these men as thugs and gangsters, as some Senators have been doing on the Senate floor, is to speak from ignorance and prejudice. I found them to be men of impressive ability, motivated by high religious and philosophical principles and concern for their people. Within their own country they are confronted with the problem of dealing with a highly armed and disciplined revolutionary movement, dedicated to the use of terror and violence to impose communism upon the Chilean people.

We are not talking, Mr. President, about some kind of theoretical Marxism or leftist socialism, but communism pure and simple, with its ruthless abolition of all personal human rights, its brutal suppression of religious freedom, and its total perversion of society.

Let one thing be clear, Mr. President, the military group which now rules Chile did not seize power and impose itself upon the Chilean people. The Chilean military has had a long history of not involving itself in political affairs. In this case, the people of Chile themselves had to force the military into acting.

Until the final days, the military was the docile servant of the Allende government, helping a morally degenerate Marxist maintain civil order. Allende was not the fundamental cause of Chile's collapse. He was merely the last in a long line of corrupt politicians who kept bidding for votes by offering more and more socialist schemes. After 40 years of watching politicians auction away their freedom, the Chileans grew more and more disgusted with their whole political system, and Allende was elected with a mere plurality in a three-man race, and with one of the lowest voter turnouts in Chilean history. The myth that Allende was somehow the popular hero of the people seems to die hard in our country. Indeed, some of my distinguished colleagues seem to be working overtime to keep this myth alive.

In the course of his rule, Allende destroyed the Chilean constitution. When the legislature would not approve the most radical of his schemes, he imposed them by decree. His actions were condemned by formal resolutions adopted by the legislature and by opinions of the Supreme Court. He financed his Marxist programs by printing money, when it became obvious that the highly developed tax system of Chile could only provide a fraction of the revenues he wanted. He seized private businesses without even a show of legal authority, and encouraged the takeover of agriculture by communes. He set up Marxist newspapers and publishing houses, took over radio stations, and curtailed the newsprint of courageous newspapers such as the oldest and most distinguished paper in Latin America, El Mercurio.

But when he attacked the family structure, the women of Chile rose up. The installation of an atheistic and Marxist system of public instruction, the organization of schoolchildren into Marxist cells, the organization of neighborhoods into the Communist "block committee" system of espionage, such as prevails today in Cuba—all this demonstrated clearly to the mothers and housewives of Chile that Allende's design was to seize the future by perverting their children. And it was the women of Chile—the women, Mr. President—who forced the military, after many, many months of reluctant hesitation, to stand up like men, and save the nation from collapse.

Now, all of this was the system that the late, unfortunate Orlando Letelier supported and defended, even its most extreme form in its concluding days. Along with other men of the Allende government who were imposing communism on the Chilean people, he shared the burden of resentment from those trying to restore liberty, order, and justice.

I never met Mr. Letelier. He has been described as a kindly and gentle person. He may even have thought that by serving Allende he would be able to ameliorate the excesses and moderate the direction. I do not know. Nevertheless, he subsequently allowed himself to become one of the critics of the new government, and a folk hero to the leftwing clique worldwide that is trying to undermine the Chilean revolution against Allende.

For what, in effect, amounted to a declaration of treason against Chile, the Chilean Government revoked his citizenship, thereby enhancing his prestige among the leftists of the world.

Here in the United States, Orlando Letelier was picked up by the Institute for Policy Studies to head its Transnational Institute project, which is seeking to implement in the United States and elsewhere, the same kind of controlled economy that Letelier preached at the Inter-American Bank, in Chile, and elsewhere. The far-left work of the institute seeks radical changes in our concepts of private property and economic freedom, concepts which are the very bulwark of liberty and which guarantee the human rights of the individual.

It is regrettable that Letelier abused the hospitality of the United States by participating in a project that seeks to undermine our social structure, to enhance the power of government, and to redistribute the rewards of society according to the whims of a planning elite. Such concepts are alien to our social and political heritage, and while it may appear innocuous to study them on an academic level, Allende demonstrated in Chile that it took the whole repressive apparatus of a totalitarian state with 16,000 goons imported from Cuba and elsewhere to force them upon the people. Fortunately, the military was roused from its lethargy on the eve Allende's planned coup against the remnants of a once free government and forestalled further experimentation along these lines.

Who, then, is responsible for Letelier's death? The Senator from North Carolina is the first to say that he does not know. Others apparently have been quick to decide, without any evidence whatsoever, that Letelier was killed by an assassination team sent from Chile. It is a simplistic and convenient conclusion to further ideological warfare. One must always grant such a possibility in dealing with human affairs. The Chilean Government has misjudged the international poiltical impact of a number of its decisions, and one can construct the hypothesis that at some level of government an assassination team was ordered sent to the United States. The United States is said to have done the same for reasons that were thought good and sufficient at the time. But just as it has never been proved that such actions were sanctioned by the top level of U.S. leadership, it would be difficult to prove that the top level of leadership in Santiago would be willing to engage in such activities. The men I met in Santiago were basically decent and humane, and I would find it hard to believe that they would sanction anything of the sort.

It is true that Letelier, as Minister of Interior, was head of the Allende secret police, which operated in the same fashion as Communist secret police everywhere. The motive of revenge runs deep in a human nature that is flawed in everyone. One could conceive of a scenario that, with the tables turned, the former victims now seek to use their present power in an undefensible manner.

Yet that same scenario would have to include a stupidity that exceeds the imagination. At a time when Chile is desperately trying to achieve the international recognition that has been denied to them by the Left, such a deed, coming upon the eve of the opening of the United Nations and the international meeting of the central bankers of the world in Manila, would be an act of national self-destruction.

Furthermore, that same scenario would also have to include a stupidity that exploded the bomb a few hundred feet from the official residence of the Chilean ambassador, the residence where Letelier lived when he served Allende. It was a strange twist of fate on Sheridan Circle that the man who had once occupied the Chilean residence as a socialist ended his life in front of the Embassy of the Socialist Republic of Romania on the other side of the circle—an irony enhanced by Letelier's close association with Socialist Romania both during and after the Allende regime.

These circumstances alone would suggest the wisdom of not prejudging the incident. But in addition there is another hypothesis which is far more plausible than the simplistic theories already presented in the press. And this is that Letelier was a victim of assassination from the Left. The Left had the most to gain from Letelier's death: A man who was already a leftist myth could be converted into a permanent, symbolic martyr—a rallying point for indignation, publicity, congressional resolutions, speeches, and the cutting off of financial credits and assistance to Chile.

As I have already pointed out, terrorism is most often an organized tool of the Left, used coldbloodedly for political aims. Leftist terrorists do not hesitate to use terrorism against the Left, since their dogma is that personal interests and affections should be subordinated to the cause. Violence is a way of life with leftist Latin American politics—the MIR of Chile, the Tupamaros of Uruguay, the ERP of Argentina. If "socialist morality" requires the sacrifice of their own people to the cause, they do not hesitate.

Indeed, it is significant that the Institute for Policy Studies itself has a long history of involvement with violent confrontation and dissent, and it is allied with revolutionary groups abroad. The August 23 issue of Barron's magazine, in a full-scale review of the Institute's activities, had this to say about the Transnational Institute which Letelier headed:

> Channels between the respectable and violent Left remain open. For example, Tariq Ali is a Fellow of the Institute's overseas branch, the Transnational Institute; he is also a member of the United Secretariat of the Trotskyite Fourth International, which maintains contacts with terrorist groups worldwide. (An Argentine affiliate, the ERP, has committed a number of kidnappings and assassinations; Argentine police allege that $100,000 from one ransom was given to Livio Maitan of the United Secretariat.) In an interview on the Canadian Television network, Ali kept an open mind about using violence: "I would say that this is largely a tactical question, depending precisely on the degree of opposition we encounter in our struggle for socialism."

The ERP, the MIR, and the Tupamaros operate through a mechanism called the Revolutionary Coordinating Junta, which, until recent weeks, was active in Buenos Aires. In the past few weeks, the Argentine Government has been successful in smashing the leadership group of these terrorists—a move which has been roundly condemned by those now condemning the murder of Letelier in political terms. Whether the RCJ has been eliminated or not remains to be seen, but it is reasonable to believe that those who have not been killed or captured have escaped to continue their terrorist acts against Chile, Argentina, and Uruguay from the safe haven of other countries. In their desperation to bring down the governments of the countries which have rejected socialism and communism, we may assume that they will commit any act. We may also assume that, since the United States is a major power center for the world, they will seek to affect the decisions made in the United States with terrorist acts.

The Senator from North Carolina has not gathered any evidence to support either one of these two hypotheses. The proper agencies of our Government will do that. He merely points out that the events are being prejudged on a very flimsy hypothesis, when there is another hypothesis available which is much more reasonable. But it suits the purposes of those who are trying to destroy the anti-Communist Fourth World to adopt the flimsy one and to use it for emotional propaganda.

Mr. President, since the entire article from Barron's about the Institute for Policy Studies is very enlightening, I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

For Socialist Alternatives

(By David Kelley)

From an office in Washington, D.C., the Vietnam Moratorium of 1969 was organized by a 26-year-old New Leftist named Sam Brown, who spent the summer planning the demonstrations that erupted in Washington and other cities that fall. Today, Mr. Brown occupies a different office, and engages in another kind of planning: he is Treasurer of the State of Colorado.

What is a 'Sixties radical doing in a post like that? Why did he abandon political confrontation for the intricacies of finance? The answer lies in the altered character of the Left. Brown's transformation from activist to accountant illustrates a major change in direction which the Movement, in the past half decade, has undergone.

From cases like this, it is often supposed that the New Left is going respectable. There is a measure of truth to the view. Since the end of the Vietnam war, attention has largely shifted to issues of the domestic economy. And the new society which the left envisions is being sought, not through confrontation or revolution, but through piecemeal changes in institutions. They are working within the system, often at the state and local level—in pursuit, apparently, not of communism or socialism, but of "alternatives."

CHANGE IN STRATEGY

This change in strategy, however, tends to obscure an underlying continuity in purpose, which is still to bring about a socialist society, with community ownership and control of all resources. It also obscures the kind of power which the Left now can deploy, inside the system, to achieve its goal.

The Movement has no head, but it does have a center: the Institute for Policy Studies, a Washington, D.C., research organization. IPS serves as a source of funds, and a clearing-house of ideas, for a network of organizations across the country; it numbers many well-known academics among its friends and Fellows; it boasts frequent contact with the more liberal members of Congress. Paul Dickson, author of *Think Tanks*, called it "the Movement's Establishment." A staffer at a sister organization in Cambridge, Mass., describes it as a "Left public policy old-boy network."

The Institute was founded in 1963 by Marcus Raskin and Richard Barnet, who have been co-directors ever since. Its purpose, according to an early brochure, was "to carry on research on key problems of public policy and American civilization under conditions permitting close contact with the policy-making process."

SERVED ON GOVERNMENT STAFFS

Among the latter was the fact that many at the Institute—including Raskin, Barnet, Senior Fellow Arthur Waskow, and other Fellows—had served on Congressional and Executive staffs. Richard Kaufman, Associate Fellow of the Institute, simultaneously held down a job as staff economist for the Joint Economic Committee in Congress.

The Institute's activities covered a broad range. Raskin had served as aide to McGeorge Bundy on the staff of the National Security Council; Barnet had worked for the U.S. Arms Control & Disarmament Agency; correspondingly, a heavy emphasis at IPS was defense policy and national security.

Community economic development was, and remains, of particular concern to the Institute, as the centerpiece of what it calls decentralized socialism. Thus, in 1968–69, IPS Fellow Gar Alperovitz headed a task force "to devise new strategies of regional development based on the concept of the people of a region as a body corporate, able to own, develop, and hold industry on behalf of all the people." The Institute also worked with the Office of Economic Opportunity, then in its heyday, on community organizing.

ANTI-WAR DEMONSTRATIONS

Members also participated in the activism of the day. Waskow regularly took part in anti-war and other demonstrations; he helped plan the demonstrations at the Democratic National Convention in 1968. When the "Chicago 7" were indicted for conspiring to incite to riot, Institute members Raskin, Waskow, Alperovitz, Paul Goodman, and Christopher Jencks joined the Committee to Defend the Conspiracy. In November 1969, co-director Richard Barnet spoke in Hanoi condemning U.S. "aggression" in Vietnam.

Things are quieter today. True, channels between the respectable and the violent Left remain open. For example, Tariq Ali is a Fellow of the Institute's overseas branch, the Transnational Institute; he is also a member of the United Secretariat of the Trotskyite Fourth International, which maintains contacts with terrorist groups worldwide. (An Argentine affiliate, the ERP, has committed a number of kidnappings and assassinations; Argentine police allege that $100,000 from one ransom was given to Livio Maitan of the United Secretariat.) In an interview on the Canadian Television net work, Ali kept an open mind about using violence: "I would say that this is largely a tactical question, depending precisely on the degree of opposition we encounter in our struggle for socialism."

At home, co-director Raskin is a member of the Advisory Board of the Organizing Committee for the Fifth Estate, a radical group organized to counter the intelligence services; last fall, for example, its publication *Counterspy* published lists of CIA agents, one of whom was murdered shortly thereafter in Athens.

"USHERING IN A NEW SOCIETY"

Moreover, the goal, as Dickson described it, remains that of "ushering in the new society (and) doing what it can to hasten the demise of the present one." But the means, by and large, are peaceful.

As Raskin explained in an interview: "There are three basic modes that one would follow at this point in transformation (of society). One is the development of places like the Institute, "that would turn out ideas, planning, practices. . . ." Contrary to the pragmatists of other schools of thought, Raskin emphasies the power of ideas: "This country and modern nations run on ideas to a large extent." As a consequence, the Institute's theoretical products—made possible for grants from the Ford Foundation, the Stern Fund, DIB Foundation and others—are its most important tools for change.

Moreover, Raskin told us, the Left must put its ideas into practice in small-scale, local experiments. Finally, "on the political level, you have to develop a sense that there are groups within the organized political structure—Congress or the Executive—who are interested in such ideas. Otherwise no real political transformation can occur."

On the level of ideas, IPS and affiliated groups have turned out a profusion of books, studies and articles, as well as a 227-page draft prospectus for an Encyclopedia of Social Reconstruction, and a quarterly journal, Working Papers (published by the Center for the Study of Public Policy, an offshoot of IPS). From this material, together with interviews, one may draw the outlines of a political philosophy.

What makes the New Left new, as opposed to the old Left, is its pursuit of decentralization. In traditional Marxist theory, the process of production is viewed as collective, on the sole ground that cooperation is involved. Because the process is collective, goes the theory, society as a whole should own and control the means of production, and distribute the product equally. The old Left held that this should be done through the national government.

In practice, however, nationalization of a whole economy creates a massive bureaucracy. Besides crippling the economy, the bureaucracy frustrates the original goal of the Left: collective planning and decision-making. A bureaucracy, after all, is run from the top.

Instead of concluding that a full-scale economy could not be run collectively, and turning to the free market, the New Left concluded that collectivism would not work for a whole economy. It embraced smaller economic units in which such an approach might work.

Thus, in the past decade, radicals have campaigned against big business and big government alike, under the banner of "participatory democracy." The key word—participation—had a double meaning. For many on the Left, participation in the life of a group, in discussion and collective action, is an end in itself, an expression of what they see as the individual's dependence on the group.

APPLYING IT TO EDUCATION

In an IPS essay, Raskin dramatized this principle of dependence by applying it to education: " 'Cheating' should be encouraged in the Universities. We must clarify the obvious, that none of us learns alone, thinks and acts and creates without others participating . . . knowledge and learning is (sic) not a privatistic activity."

Participatory democracy is also seen as a means of reaching collective decisions about the use of economic resources. As Raskin put it, the goal is to "use the productive wealth of the society for the people in the best possible way. And the way you define the best way is through dialogue and through modes of community participation and organization, on the ward level, on the village level, on the city level."

That doesn't happen in Russia. Nor can it happen in any unit the size of a nation. Hence, for the New Left, the goal is a radically decentralized economy, in which everyone can literally come together—and participate.

However decentralized, the economic units in New Left ideology are not the individuals of capitalist theory, but communities. Indeed, the purpose of decentralization is precisely to make socialism work. As Alperovitz himself put it in a 1972 essay, the goal is to maintain "both the socialist vision and the decentralist ideal."

LARGE-SCALE TECHNOLOGY

Another motive for decentralized socialism is the New Left's campaign against large-scale technology. The old Left, claiming that socialism is better suited than capitalism to such technology, boasted that socialist states would soon outpace their capitalist competitors in the growth of heavy industry. The Soviet Union starved its people for decades trying to prove the point.

But all this has changed for the New Leftist, who are pushing what Ayn Rand has described as the "anti-Industrial Revolution." The sins of technology, as they see it, are many. Most widely publicized is the claim that technology spawns massive pollution and wastes scarce natural resources, evils which they insist cannot be cured by technology itself. Behind these charges is another, more basic: that advanced technology is too complex, for everyone to understand and make decisions about; it requires specialization. There is a feeling in the literature that people can't cope with the present scale of things, even a trace of paranoia that corporations deliberately "mystify" their technological operations to keep the populace in awe. Whatever the reasons, the result is the same. Decentralization is seen as the only way to guarantee simpler technology and keep out large-scale industry.

So much for the abstract vision; the chief work of the Institute has been to spell it out in more detail, so that concrete steps can be taken toward realization. Most importantly, the Institute has sought ways to strengthen local community government, and to expand its powers over local economic activity.

Under the aegis of the Office of Economic Opportunity, the federal poverty program in the "Sixties spawned the concept of community development corporations (CDC's). These are private, non-profit organizations, often led by radicals; they are designed to provide economic services to members of a community, and in theory are open to all who wish to join. CDC's have received millions in aid from OEO and the Model Cities program.

IPS Fellow Milton Kotler suggested in his *Neighborhood Government* (1969), that such corporations could expand their powers to the point at which they function as governments. In particular, he recommended that they be given the power to tax; to regulate business within the boundaries of the neighborhood they serve; and to acquire property by eminent domain. In this way, miniature socialist states could grow within the existing political structure.

Hand-in-hand with this political aim, the Institute also is trying to find "alternative," small-scale technologies to replace today's complex industries. IPS Associate Fellow Karl Hess, for example, has come up with a number of ideas, from plastic-bodied electric cars to urban trout farms.

The *Encyclopedia* prospectus contains an extreme, but revealing, sketch of a local energy system. "We look forward to the time when communities within a region will produce energy for the people at little or no cost. . . . The energy will be produced and disseminated through small-scale technology. . . . The people in each community will understand everything about their energy system. . . . We simply would have got rid of most of the extra high-voltage wires strung around the country; closed up the coal mines, oil and gas fields; taken down oil refineries and much of the petrochemical establishment."

MITIGATE THESE INFLUENCES

For the moment, however, self-sufficiency of this sort is seen as impossible; local economies are too much influenced by wider forces in the national and world economies. The task of finding national policies to mitigate these influences has been taken up especially by Alperovitz.

After leaving IPS in 1969 to found a sister organization, the Cambridge Institute, Alperovitz returned to Washington three years ago to form the Exploratory Project for Economic Alternatives, of which he and Jeff Faux, a former OEO official, are co-directors. EPEA is funded by a consortium of foundations—the John Hay Whitney and the Stern Fund are major sources, with the Rockefeller Foundation and a group of smaller radical foundations also contributing—and its purpose is a long report on economic trends in the next 25 years.

According to Alperovitz, these trends will radically alter the economy, and they call for national planning to deal with them. Unlike liberal planners, however, he wants the national plan to arise organically from local community plans, based on community perceptions of their own priorities.

In a background paper for a National Democratic Issues Conference last November, Faux and Alperovitz recommended, among other things, federal allocation of credit; worker and community representation on corporate boards; and the use of public job programs, such as those in the Humphrey-Hawkins bill now before Congress, which not only would give everyone a right to a job, but also would allow the federal government to create employment in communities that are losing it.

Of these approaches, the most important for the long run is public allocation of capital, which has become a key objective of the New Left. The focus is understandable. Despite a myriad of government regulations, the driving forces of the economy are still private decisions on the investment of privately owned capital. As a result, the system basically remains one of production for profit and employment by voluntary contract—two features opposed by the Left, which favors production by and for the group.

Conversely, the most effective way to eliminate private enterprise without open force is to starve it of capital. Toward this end, the Left has conceived and launched a variety of measures at the state and local, as well as the national, levels to increase government control of capital.

CHIEF OBSTACLE

The chief obstacle to decentralized socialism, in all these areas, is the large corporation; much of the literature is a catalog of its alleged evils. The basic complaint is that the corporation is run by private individuals, with private purposes, though its effects are society-wide.

In a paper described as a "management briefing" for the American Management Associations, IPS co-director Barnet claimed that "having amassed such power that whole communities are dependent upon it, the global corporation is not just another piece of private property. It is a social institution and should be treated as one."

At the heart of the claim is the belief, often stated, that corporations wield enormous economic power, with coercive effects on workers and consumers. Evidence for the belief is harder to come by. Against the corporations' defense that they are governed ultimately by consumer choices in the market, for example, Barnet cites only "a growing feeling among Americans that goods are becoming shoddier . . . and that there is very little that the consumer can do about it."

Another charge against the corporation, emphasized by Alperovitz, is that it is based inherently on growth—it "must operate to push sales and consumption and resource use as its inherent dynamic"—in a world he feels is running out of resources.

MUST BE CURTAILED

A final shortcoming of the large corporation is its control of capital, inasmuch as the bulk of investment capital exists in the form of retained corporate earnings. Such private control, says Leonard Rodberg in an essay for an IPS study requested by a group of House Democrats, is incompatible with the health of society, and must be curtailed. "One can imagine many different ways of asserting public control over the uses of private capital, ranging from regulations . . . to taxation . . . to outright nationalization."

As another step against the corporation, Barnet recommends (in his book *Global Reach*) mandatory disclosure, not only to the federal government but also to any local government where plants are located. "The books of global corporations—that is to say *all* sets—ought to be public documents." And the Institute seconds the motions popularized by Ralph Nader, such as public and worker representation on corporate boards, and federal chartering of larger companies (Barron's, May 24).

Other alternatives are less direct. "Another approach to controlling corporate power—complementary to Nader's legal strategy," writes Derek Shearer in *Working Papers*, is to set up countervailing public economic power in the form of competitive public enterprise." Such enterprises, favored by the Left for their own sake, also serve to shrink the capital available to private firms; and they can use legal privileges, such as tax exemption, to put competitive pressures on the private sector.

AN INSTITUTE OF PREVENTIVE HEALTH CARE

Mr. McGOVERN. Mr. President, earlier this year, the Select Committee on Nutrition and Human Needs held hearings which focused on the role of diet in preventive health care, and the degree to which diet affects the incidence of the killer diseases. These hearings signaled the beginning of a new and major effort by the committee to make preventive health care an integral part of our health policy and nutrition programs.

The testimony provided a sound base, and valuable insight and direction for future hearings and potential legislation. A thorough summary of those hearings has already been entered into the CONGRESSIONAL RECORD of September 1, 1976, page S15141, nevertheless, I feel that it is important to underscore a few primary facts.

Six of the ten leading causes of death in the United States have been connected to the diet: Heart disease, cancer, stroke and hypertension, diabetes, arteriosclerosis, and cirrhosis of the liver. One-third of the U.S. population is overweight to a degree which has been shown to diminish life expectancy; obesity is a risk factor in many diseases such as heart disease, hypertension, diabetes, and arthritis. Substantial preliminary evidence indicates that nutritional imbalances in the diet contribute to at least 30 percent of the cancer cases in men, and 50 percent in women. It must be emphasized that contribution does not mean causation. Nonetheless, I believe these statistics are significant.

Finally, recent studies undertaken at UCLA suggest that seven health-related behavior patterns could have more impact on our health than all the medical care that we have received or the developments in medical care since the turn of the century. Of these seven, four are related to nutrition: First, limiting alcohol consumption to one or two drinks a day; second, eating three meals a day without eating between meals; third, eating breakfast; and fourth, keeping our weight within a normal range. The other three behaviors are: regular physical exercise, 7 or 8 hours of sleep a night and not smoking cigarettes. A 45-year-old male who follows these seven behaviors could expect to live on the average until age 78, whereas if he followed three or fewer of these health habits he could expect to live on the average until age 67.

During the recent hearings Senator KENNEDY asked that "A New Perspective on the Health of Canadians: A Working Document," be added as an appendix. I am pleased that he did. This paper, issued by the Government of Canada in 1974, examines the Canadian health care system which is one of the best in the world, and finds that the traditional view of equating the level of health in Canada with the availability of physicians and hospitals is inadequate.

Future improvements in the level of health of Canadians lie mainly in improving the environment, moderating self-imposed risks, and adding to our knowledge of human biology. Mortality and morbidity data, the leading causes of death and the overall health profile of the Canadian population is comparable to that of the U.S. population.

Not surprisingly, the HEW "Forward Plan for Health, 1978–82," begins its chapter on prevention in a very similar manner:

> In recent years it has become apparent that the best hope of achieving any significant extension of life expectancy lies in the area of disease prevention. As last year's prevention theme pointed out, in the absence of a major scientific breakthrough (e.g., a cancer cure), further expansion of the Nation health system is likely to produce only marginal increases in the overall health status of the American people. Obviously, we must continue efforts to correct the inequities and the maldistribution of services in the current system, but, in the long run, the greatest benefits are likely to accrue from efforts to improve the health habits of all Americans and the environment in which they live and work.

The introduction goes on to state that a characteristic of such conditions as coronary heart disease, cancer, and violent death is that they are often correlated with factors in the environment or lifestyles of individuals that are not susceptible to direct medical solution. In last year's "Forward Plan for Health," the prevention theme urged broad discussion of the relative feasibility, costs and efficiency of the prevention options. This year's prevention theme continues the approach introduced last year, but stresses four areas of major importance: Health Education; Nutrition; Child Health; and the Environment. The "Forward Plan for Health" states that these proposals are not limited to initiatives of the Public Health Service alone or of the Federal Government, rather they apply to all segments of society, including the individual.

Hand in hand with the realization that continued over-emphasis on disease oriented, curative medicine will not significantly improve the quality of life and health of the American people, we cannot continue to pour greater and greater proportions of the U.S. GNP into health care. Over the last decade total health care spending has increased at an average annual rate of almost 12 percent, rising from $42.1 billion in fiscal year 1966 to $118.5 billion in fiscal year 1975. HEW in its "Forward Plan" estimates that health care spending will approximate $135 billion in fiscal year 1976 and could exceed $230 billion by 1980. In 1966 per capita spending was $200, by 1975 it reached $550, and it could exceed $1,000 by 1980. As a proportions of the GNP it has risen from 5.9 percent in 1966 to 8.3 percent in 1975, and could reach 10 percent by 1980. Even if inflation is allowed for, these increases in the cost of health care are far too great given the projected marginal increases in the Nation's health if we continue the present emphasis on crisis-oriented, curative health systems. At present we are spending only 5 to 10 percent of the health care dollar on preventive health programs.

Testimony at the July 27 and 28 hearings cited a Department of Agriculture study which estimated that with an adequate diet we could reduce by 25 percent the number of heart disease sufferers, and in turn save $30 billion. If everyone had proper nutritional habits we could reduce the yearly cost of medical care by up to 20 percent, according to Dr. Phil Lee, director, health policy program, School of Medicine, University of California, San Francisco.

The following USDA chart specifically delineates the magnitude of benefits or potential savings from an improved diet.

MAGNITUDE OF BENEFITS FROM NUTRITION RESEARCH*

Health problem	Magnitude of loss		Potential savings from improved diet
PART A. NUTRITION RELATED HEALTH PROBLEMS			
Heart and vasculatory	Over 1,000,000 deaths in 1967		
	Over 5 million people with definite or suspect heart disease in 1960–62		25-percent reduction.
	$31.6 billion in 1962		20-percent reduction.
Respiratory and infectious	82,000 deaths per year		
	246 million incidents in 1967		20 percent fewer incidents.
	141 million work-days lost in 1965–66		15–20 percent fewer days lost.
	166 million school days lost		Do.
	$5 million in medical and hospital costs		$1 million.
	$1 billion in cold remedies and tissues		$20 million.
Mental health	2.5 percent of population of 5.2 million people are severely or totally disabled. 25 million people have manifest disability.		10 percent fewer disabilities.
Infant mortality and reproduction	Infant deaths in 1967—79,000		50 percent fewer deaths.
	Infant death rate 22.4 per 1,000		Do.
	Fetal death rate 15.6 per 1,000		Do.
	Maternal death rate 28.0 per 100,000 live births		Do.
	Child death rate (1–4 yrs.) 96.1 per 100,000 in 1964		Reduce rate to 10 per 100,000.
	15 million with congenital birth defects		3 million fewer children with birth defects.
Early aging and lifespan	49.1 percent of population, about 102 million people have one or more chronic impairments.		10 million people without impairments
	People surviving to age 65:	Percent	
	White males	66	1 percent improvement per year to 90 percent surviving.
	Negro males	50	
	White females	81	
	Negro females	64	
	Life expectancy in years:		
	White males	67.8	Bring Negro expectancy up to White.
	Negro males	61.1	
	White females	75.1	
	Negro females	68.2	
Arthritis	16 million people afflicted		8 million people without afflictions.
	27 million work days lost		13.5 million work days.
	500,000 people unemployed		125,000 people employed.
	Annual cost $3.6 billion		$900 million per year.
Dental health	44 million with gingivitis; 23 million with advanced periodontal disease; $6.5 billion public and private expenditures on dentists' services in 1967; 22 million endentulous persons (1 in 8) in 1957; ½ of all people over 55 have no teeth.		50 percent reduction in incidence, severity and expenditures.

Footnote at end of table.

MAGNITUDE OF BENEFITS FROM NUTRITION RESEARCH*—Continued

Health problem	Magnitude of loss	Potential savings from improved diet
Diabetes and carbohydrate disorders	3.9 million overt diabetic; 35,000 deaths in 1967; 79 percent of people over 55 with impaired glucose tolerance.	50 percent of cases avoided or improved.
Osteoporosis	4 million severe cases, 25 percent of women over 40	75 percent reduction.
Obesity	3 million adolescents; 30 to 40 percent of adults; 60 to 70 percent over 40 years	80 percent reduction in incidence.
Anemia and other nutrient deficiencies	See improved work efficiency, growth and development, and learning ability	
Alcoholism	5 million alcoholics; ½ are addicted	33 percent.
	About 24,500 deaths in 1967 caused by alcohol	Do.
	Annual loss over $2 billion from absenteeism, lowered production and accident	Do.
Eyesight	48.1 percent, or 86 million people over 3 years wore corrective lenses in 1966; 81,000 become blind every year; $103 million in welfare.	20 percent fewer people blind or with corrective lens.
Cosmetic	10 percent of women ages 9 or more with vitamin intakes below recommended daily allowances.	
Allergies	32 million people (9 percent) are allergic	20 percent people relieved.
	16 million with hayfever asthma	
	7–15 million people (3–6 percent) allergic to milk	90 percent people relieved.
	Over 693 thousand persons (1 in 3,000) allergic to gluten	Do.
Digestive	8,495 thousand work-days lost; 5,013 thousand school-days lost; About 20 million incidents of acute condition annually.	25 percent fewer acute conditions.
	$4.2 billion annual cost; 14 million persons with duodenal ulcers; $5 million annual cost; 4,000 new cases each day.	Over $1 billion in costs.
Kidney and urinary	55,000 deaths from renal failure; 200 000 with kidney stones	20 percent reduction in deaths and acute conditions.
Muscular disorders	200,000 cases	10 percent reduction in cases.
Cancer	600,000 persons developed cancer in 1968; 320,000 persons died of cancer in 1968	20 percent reduction in incidence and deaths.
	PART B. INDIVIDUAL SATISFACTIONS INCREASED	
Improved work efficiency		5 percent increase in on the job productivity.
Improved growth and development	113,000 deaths from accident. 324.5 million work-days lost; 51.8 million people needing medical attention and/or restricted activity.	25 percent few deaths and work-days lost.
Improved learning ability	Over 6.5 million mentally retarded persons with I.Q. below 70; 12 percent of school age children need special education.	Raise I.Q. by 10 points for persons with I.Q. 70–80.
	PART C. INCREASED EFFICIENCY IN FOOD SERVICES	
Improved efficiency in food preparation and menu planning.		Not estimated.
Reduced losses of nutrients in food storage, handling, and preparation.		Do.
Improved efficiency in food selection		Do.
Improved efficiency in food programs		Do.

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* "Benefits from Human Nutrition Research," C. Edith Weir, Human Nutrition Research Division, Agricultural Research Service, U.S. Department of Agriculture. Issued August 1971 by Science and Education Staff, U.S. Department of Agriculture, Washington, D.C.

During the July hearings we found a consensus among the physicians as to the importance of a proper diet to the health of the American people, and its crucial role in any overall preventive health care program. I am in total agreement with Dr. Cooper, the assistant Secretary for Health, who stated that besides general self-care and self-responsibility, nutrition was most important in preventive health care.

Both Dr. Cooper in his testimony and this year's "Forward Plan for Health" mentioned the recent enactment of Public Law 94–317, which provides a new organizational focus for the overall coordination of Federal prevention policies. Public Law 94–317 directs the Secretary of DHEW to create an office within the Office of the Assistant Secretary for Health to coordinate all Department activities relating to health information, health promotion, preventive health services, and education in the appropriate use of health care.

I applaud this first step in legitimizing preventive health care, and yet I am concerned because of a statement made on the same page of the "Forward Plan for Health":

> The government's function is to enable people to make sound decisions about their health, to equip them with the information and skills and other resources to translate these decisions into action, and to aid in the removal of legal, economic, physical or other barriers that might prevent them from acting accordingly. Therefore, where this theme suggests options for action which depend on changes in people's behavior, it should be understood that as far as government actions are concerned the proposals are intended solely to provide opportunities and incentives for people to assume full responsibility for their own health.

I am concerned about this statement because it purports to be fully behind preventive health care without making the necessary Government commitment which has been lacking for so long in the field of preventive health. The Canadian Health Report cited earlier found:

> There is the paradox of everyone agreeing to the importance of research and prevention yet continuing to increase disproportionately the amount of money spent on treating existing illness. Public demand for treatment services assures these services of financial resources. No such public demand exists for research and preventive measures. As a consequence, resources allocated for research, teaching, and prevention are generally insufficient.

In light of the testimony at the committee hearings, the escalating costs of health care without commensurate returns in the Nation's overall health and the danger of insufficient commitment to preventive health, it is logical and imperative for the Federal Government to begin to place more solid and specific emphasis on the area of prevention.

I do not believe that it is necessary for us to prove, as some would suggest, exactly how much the incidence of the killer diseases could be reduced by preventive measures before the Federal Government responds.

I believe that we are at the point where reasonable people can, and should, make the public policy decisions that are suggested by the evidence outlined.

To focus thinking on this matter, I have asked the staff of the Nutrition Committee to examine the feasibility of establishing an Institute of Prevention within the National Institutes of Health. Many of the Institutes within NIH do have a division or some allocation of funds for prevention. However, these efforts are highly specific and linked to a particular illness like cancer or heart disease. As we have found with nutrition, because prevention is supposed to be everyone's concern, it comes up short changed and generally is no one's concern.

At present there is no one institute aimed at decreasing the risk factors of the major killer diseases for the society as a whole. I do not see an Institute of Prevention as a replacement for the ongoing prevention research programs of the existing institutes and other agencies, but rather as a means to centralize the effort of promoting health maintenance as opposed to disease-oriented, curative medicine.

Nutrition research and surveillance and the development of dietary goals for the Nation would be a high priority of the Institute of Prevention. Similar nutrition efforts have already been initiated in Canada and Sweden. In addition, I see the Institute examining the behavioral sociological, and environmental causes of disease. Obesity, which is now a major malnutrition problem that greatly increases the risk of heart attack and diabetes, is just one example of a health risk factor that would merit thorough examination at the Institute. If we are to effectively change our consumption pattern and the average American diet—a diet whose average daily caloric requirement has decreased as much as 100 calories per year in the last decade—we must ascertain why Americans eat as they do. I would imagine that the amount of leisure time, food advertising, anxieties, and memories of the depression, contribute as much to overconsumption by Americans as their ignorance of the medical consequences.

To me it is only a matter of commonsense and economics that within NIH there should be one Institute aimed exclusively at maintaining health and preventing illness before it strikes. We are all familiar enough with the workings of the Federal Government to know that unless there is a specific congressional mandate and an institutional focus, there will be little, if any, results. The recently signed Health Manpower Act and the increased appropriations for specific prevention programs are steps in the right direction. But in order to provide the emphasis that I believe is needed, there must be one governmental unit charged with exclusive responsibility to develop programs, to provide a surveillance and monitoring capacity and to coordinate the national effort to raise preventive health care to a par with our existing curative medical health care system.

Thus, it is only appropriate that we make at least a modest investment in the relatively underdeveloped field of prevention before we are overtaken by our mounting health care expenditures of which at least 90 percent are the result of curative health care measures. I see an Institute of Prevention as an inexpensive measure, and yet capable of a very high return on the investment.

I have decided, Mr. President, to present this idea to our colleagues before adjournment so that they may ponder the idea during the recess. I also expect to receive comments from experts in the health care field.

The Nutrition Committee will continue its investigation into the relationship between diet and disease and the entire question of preventive health services in the 95th Congress with an eye to appropriate legislative responses, including an Institute of Prevention.

AMBASSADOR ANNE ARMSTRONG

Mr. PERCY. Mr. President, last Sunday's Washington Star contained a profile of Anne Armstrong, who has been serving very successfully as our Ambassador to the Court of St. James. In the article Mrs. Armstrong comments on her experiences as ambassador and discusses the impact of her assignment on the lives of her husband Tobin and her children.

The first woman U.S. Ambassador to the United Kingdom has earned a reputation as an intelligent and effective representative of the American people, without abandoning her usual gracious manner. She says:

> My way is to sidle up to a hurdle and nudge it over quietly rather than to kick it over.

Mr. President, we are, indeed, fortunate to have Anne and Tobin Armstrong representing the United States in Great Britain. I ask unanimous consent that Joy Billington's article from the Washington Star of September 12 be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

1976: A VERY GOOD YEAR FOR ANNE AMSTRONG

(By Joy Billington)

LONDON.—Scene one, March 17: Anne Armstrong, in a long ivory silk dress with a matching coat over her shoulders and a bunch of Texas' yellow roses in her gloved hand, walks down the steps of the U.S. Embassy on the arm of an elderly courtier in a plumed hat, medals and sword.

She is handed into the late Queen Alexandra's "glass coach." The liveried postilions leap up to their seats. The coachman flicks his whip. The matched bays trot off, and the staffers standing under the giant gold eagle of the U.S. Embassy in Grosvenor Square break into applause.

The first woman ambassador to the Court of St. Jameses' is on her way to present her credentials to Queen Elizabeth II. Behind her coach two horsedrawn landaus carry Armstrong's senior staff. At the rear, a horseless carriage carries Texas rancher Tobin Armstrong, in his top hat and tailcoat.

At Buckingham Palace, the new ambassador puts into action what she's been practicing for weeks back on the ranch: the four curtsies. The court ritual begins at the door of the salon where the queen stands waiting. The first curtsy is followed by another that goes with the handshake, a third at the end of the audience and a fourth at the door, on departure. Usually it is an ambassador's wife who is curtsying. This time Tobin Armstrong comes in after a while, and makes four bows.

"She does her homework and obviously she had taken the trouble to read my biography and knew what I was interested in," Ambassador Armstrong said afterwards. "I call that a good monarch. She was also completely serious with me. There was no small female chitchat and no talk of family until my husband was invited into the room.

"She treated me exactly as she would a male ambassador. I was delighted to hear later that she spent more time with me than she had with any ambassador in recent time."

Scene two, July 8: Anne Armstrong stands at the lectern of the Washington Cathedral, her dark hair framed by a white halo hat. In front of her sit the Queen of England and President Ford, who appointed her ambassador to Great Britain. Down the nave stretch 4,000 faces, most of whom have waited hours to see the queen.

Ambassador Armstrong begins to read the First Lesson:

"After this I looked and saw a vast throng, which no one could count, from every nation, of all tribes, peoples, and languages, standing in front of the throne and before the Lamb. They were robed in white and had palms in their hands, and they shouted together:

"Victory to our God who sits on the throne, and to the Lamb!", Armstrong read the verses from Revelation, her Vassar articulation flawless, her strong voice carrying to the farthest recesses of the gothic nave.

"I couldn't have done it better myself," an Episcopal clergyman murmured as she finished.

Scene three, Aug. 19: Ambassador Armstrong is changing clothes in the Lord Provost's chambers in Aberdeen. Her day's engagements in the Scottish fishing port are over and there's no time to return to the hotel before a reception and Bicentennial concert. As she slips into a royal blue chiffon evening gown, a telephone is ringing down at the switchboard of the building. But the operators have gone off duty and President Ford can't reach her. By the time she hears that Kansas City is calling, the call has gone off the line. And it is midnight before the President catches her.

She knows by then that Sen. Robert Dole has been chosen as his running mate, and her feelings are mixed: relief and sadness.

"I'd expressed reservations, since it would have been a difficult thing for me because of my family. But if he'd called and said he wanted me to run with him, I would have said yes," she told The Star afterward.

Just a week or two earlier she'd guessed her chances as "about a million to one." Yet that week, for the third time in her life, her name was on a short list. The first time had been when Spiro Agnew resigned; the second time when Ford was looking at names for his vice president.

"I guess I was closer this time than I'd ever been," she says now. "I was considered right up to the end."

All in all, 1976 will have been an exciting year for Anne Armstrong—from the Christmas call when President Ford asked her to replace Elliot Richardson in London up to the point next January when she and other ambassadors must send their resignation letters to the White House.

In London, the 49-year-old Republican from Texas, the New Orleans-raised daughter of a wealthy coffee importer called Armant Legendre, has enjoyed a good press ranging from the serious to the frivolous.

Because she's a crack shot, she became an "Annie Oakley." The New Orleans-Foxcroft-Vassar image was less appealing than the picture of her riding those 50,000 acres on the Rio Grande. Tobin Armstrong, the 6-foot-4 rancher who'd left behind his 3,000 Santa Gertrudis became "the Gary Cooper of Grosvenor Square," the "Marlboro Man," a "Zane Grey original."

And even if Tobin wears Saville Row suits and Anne floaty dresses with trailing scarves, well, they were playing games and everyone knew they were really happier in stetsons and boots.

In terms of serious ambassadorial work she has made official visits to Wales, to NATO headquarters in Belgium, to Scotland and to violent Belfast—where she announced new U.S. efforts to curtail the illegal export of guns and explosives (said to be 85 percent American) pouring in from sympathizers of the IRA.

She met the Royals, the politicians, some miners and some factory workers. And hit the Embassy like a whirlwind, demanding briefs on everyone she was likely to run into at any function.

She encountered polite criticism that her single previous visit to England (as a graduation present from her father) seemed a sparse qualification for the job, to which she pointed out that she is a quick study.

And rode out a flurry of controversy when Tobin Armstrong took on an expenses-only assignment for Agriculture Secretary Earl Butz to promote the sale of U.S. feed grains in Europe, since the subject of food importation is an explosive one within the Common Market. Subsequently, Armstrong—who served in England during World War II as a fighter pilot on a U.S. air base—has spent more time helping his wife in her work than in pursuing the assignment. He will shortly make an East European trip to promote U.S. soybeans.

The Armstrongs have raised five children on their ranch next to the famed King Ranch, which was where they met when Anne attended a party there during her days as a junior reporter for the New Orleans Times-Picayune.

After raising her children, Armstrong started in her political career at the grass roots, winding up at the 1972 Republican National Convention as the first woman co-chairman. Next she came to Washington as a White House counselor in the Nixon administration. She defended Nixon to the end. "I sounded like the social director on the Titanic," she said later. She survived Watergate without taint, worked for Ford briefly, but headed home to Tobin in 1974. When Ford offered her the London post, her decision very much depended on Tobin Armstrong's willingness to accompany her.

Their eldest son, Barclay, 24, is now running the ranch. And Anne is pleased to note that Tobin hasn't been going back every month as they anticipated when she took the job. "He's enjoying it here. He's only been home once in three months," she says.

"There has been a certain reversal of our roles. He has been arranging for two of our boys to go to the university here, keeping up with our families at home, and of course helping me by meeting people and showing them around and by taking an interest in British agriculture.

"Tobin is very adaptable and self-confident. He's a bit 'stiff-upper-lip,' as the British would say. When he finds things difficult he doesn't talk about it."

At Winfield House, the Regents Park residence, former Ambassador Walter Annenberg's famous $1 million "refurbishment" dominates the big square red brick mansion. The great apple green salon is decorated with 19th-century Regency Chinoiserie wallpaper, Chinese Chippendale antiques, specially woven Portuguese carpets . . . all very palatial and quite the reverse of the elegant shabbiness that characterized it during the days of David and Evangeline Bruce.

The Armstrongs—who prefer to call themselves wealthy rather than rich and deny that they are "millionaires" a la Annenberg—have said they hope to manage on her salary and representational allowance of some $60,000 a year, as the Richardsons did, rather than on the $200,000 that Annenberg spent or the $110,000 he thought one could get by on. The Armstrongs brought some of their own western paintings with them, including some Remingtons. But they don't quite fit in the French Empire entrance hall, or the major salons. The Armstrongs' "family" sitting room upstairs seems more like their lifestyle: chintz, checkers, western art, photographs of the family, a bottle of clear nail varnish.

As the first woman ambassador to Great Britain, Armstrong has been careful not to create negative reactions through her clothes. "If I wore pantsuits that might distract attention from what I'm saying by perhaps causing the men to think 'ugh . . . that woman's wearing trousers'. This is a more formal city than Houston, Tex., and it is more important for my ideas to be taken seriously."

She did, however, refuse to enter a men's club by a side entrance traditionally used by women guests. It was a meeting of the Vassar Club and the other women had not rebelled, having used the club for years for their meetings. "It did bother me, however. Now they've let me in the front door perhaps they'll change their policy.

"But basically, my way is to siddle up to a hurdle and nudge it over quietly rather than to kick it over."

OF GUNS AND DEATH

Mr. PELL. Mr. President, a recent editorial in the Newport Daily News received an award from the New England Associated Press News Executives Association for newspapers of its size. This editorial, I believe, goes to the heart of the gun control issue: why a reduction in the availability of handguns is to everyone's advantage—including sportsmen, collectors, and hunters.

My own position on gun control has been consistent over the years. I believe it is possible to provide for registration of handguns, and licensing of their owners, just as we now provide for registration of automobiles and licensing of drivers. I believe that such a system would do much to protect the public from illegal and indiscriminate uses of firearms without inhibiting the honest endeavors of sportsmen, hunters, and collectors that involve guns. While my views may not go as far as those of the writer of the editorial, I believe very strongly that gun control should be of concern to everyone. Of particular importance is the lessening of the risk involved when handguns are easily available. Too often family quarrels become manslaughter cases just because a moment's passion and the accessibility of a gun lead to an irrevocable and regrettable act. Such occurrences are sad, but they are avoidable if we can limit the handgun's availability. I hope that my colleagues will learn from the wisdom in this editorial and consider with greater favor gun control legislation in the next Congress.

I ask unanimous consent that the Newport Daily News editorial, entitled "Of Guns and Death," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Newport (R.I.) Daily News, Sept. 10, 1976]

OF GUNS AND DEATHS

(The Daily News has won second place for its editorial 'Of Guns and Deaths' in the N.E. Associated Press News Executives Association contest for the best written editorial in a newspaper under 40,000 circulation during 1975. The editorial, originally published Dec. 6, 1975, was written by Elliott K. Stein.)

As if there aren't reasons enough for condemning America's handgun culture, yet another suggests itself: The understandable nervousness of policemen when confronting anyone in what otherwise could be a routine situation.

A Florida man on the way to his father's funeral became a victim himself of this aspect of the gun culture when he pulled over to compose himself while driving to the airport. A state highway patrolman stopped to investigate the car, and after requesting a license-tag check over his radio, was told the car was stolen.

Fine so far. This could have been corrected later if nervousness hadn't entered in. But when the driver made a move as though he might be resisting arrest and reaching for a weapon, the trooper drew his gun and fired it, killing the motorist. As it turned out, the car wasn't stolen and the victim was unarmed.

Another senseless death occurred in Hattiesburg, Miss., where parents left a three-year-old child and a two-year-old child alone in their car with a pistol. The three-year-old pulled the trigger, killing his younger brother.

What is so aggravating about this entire business is that reason goes out the window whenever such mindless incidents involving guns are reported and commented on. One would think that legitimate hunters would appreciate efforts being made to keep weapons out of the wrong hands. But if the past pattern holds, this editorial is likely to bring out all sorts of comments ranging from a misinterpretation of the second article of the Bill of Rights to the old nonsense about "people kill people, guns don't."

At the risk of boring those who have heard it before, we would like to repeat the obvious answer to both these arguments:

1. The full Article II of the Bill of Rights reads: "A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed." The courts have time and again ruled that the right noted in this amendment refers to bearing arms within a militia, not to individual bearing of arms.

2. Guns do indeed kill people. A woman angry at her husband might throw a plate at him, doing little or no damage. But if a gun were at hand, she might kill him, and feel sorry afterward. Lest anyone think we have hypothesized a chauvinist incident, a man with a gun could just as easily kill his wife. And the facts remain that most slayings are committed by relatives and acquaintances—not by mobsters and other criminal types.

The fact remains that accessibility to weapons has made this country one of the most dangerous on earth to live in.

The fact remains that police themselves, expert in this area of weapons, are almost universally against casual possession of guns by the general public. Having been victimized by such general possession of weapons, police understandably are ultra-nervous about people they approach, in what should be routine circumstances.

And that is one very real reason why a man on his way to his father's funeral is dead today, and a little child will never see his third birthday.

TELECOMMUNICATIONS

Mr. GOLDWATER. Mr. President, it is with great interest that I read Senator HRUSKA's remarks on page S15561 of the CONGRESSIONAL RECORD of September 10, 1976, about residential consumers and the need to assure their access to telecommunications. I share the same concerns as the senior Senator from Nebraska.

These issues are not new. They date back to the early days of the industry's development. Access to telecommunications at reasonable rates is one of the key policies of the 1934 Communications Act and has dictated the regulatory structure and pricing policies in the industry for nearly half a century.

Congress and the regulatory agencies have a continuing responsibility to see that regulation does not stray from its initial purpose of balancing the changes in technology, competition, and underlying national policy. Regulatory policies must be reassessed from time to time to assure continuing development of technology, but such development must not impede the national policy of making service "available to all." In like manner, we must not in the name of "competition" allow regulatory policies to encourage duplicative or wasteful services.

The expansion of competition in certain areas such as terminal equipment and intercity markets, inevitably poses problems created by divided responsibility. Much of the success of telecommunication service is the result of a unified and cohesive system. We must take care not to undermine in a misguided sense of competition the fundamental concepts responsible for the unparalleled development of telecommunications in this country. It would, indeed, be unfortunate to follow a course which leads to a loss of coordination, wasteful duplication of facilities, and to a restructuring of rates causing higher costs.

Abandoning the nationwide and statewide system of rate averaging could cause great hardship on the residential consumer, who has come to depend upon phone service as a utility essentially the same as electricity and water. This matter has an impact on all States, but would particularly affect smaller States, such as mine.

My State has a population of less than 2 million people. In many sparsely populated areas the citizens of Arizona regard the telephone as their most vital means of communication.

Today, there are 1,444,026 phones in Arizona, with approximately 64 phones per 100 people. The average monthly cost is now $9.

If service categories were restructured to eliminate rate averaging and repriced so as to cover all directly attributable costs and, in addition, all common corporate overhead costs, the average monthly business rates would decrease and residential exchange service rates would increase from $9 to $16.15 per main telephone. This would mean an average increase of about 79 percent to meet the revenue requirements of residential service. Obviously, the beneficiaries of a change in rate structure would not be the residential consumer whose cost is now supplemented by business services.

Now, Mr. President, I am for lower rates, but not when it means lower rates to business and higher rates for the residential consumer. Who will look after the small consumer if regulation does not protect him?

Inflation has already taken its toll upon the people of this country with increased costs of food, clothing, and other basic necessities, and Congress has extended certain tax benefits to alleviate the effects of inflation. Congress should now consider the cost effects of regulatory trends in the telecommunications industry. Basic phone service must not become a luxury placed beyond the reach of many consumers.

Though it is late in the session, it is important to emphasize these issues at this time. It is my hope that legislation will be introduced early in the 95th Congress to safeguard against the problems I have referred to and to safeguard the principles which have enabled Americans to receive the best and most efficient service in the world. We must keep in mind the mandate of the Communications Act that service be available to "all."

TESTIMONY BEFORE THE COMMITTEE ON COMMITTEES

Mr. STENNIS. Mr. President, I ask unanimous consent that a copy of my remarks before the Committee on Committees on the proposed consolidation of the Senate Armed Services Committee and the Senate Foreign Relations Committee be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF HON. JOHN C. STENNIS, A U.S. SENATOR FROM THE STATE OF MISSISSIPPI

Senator STENNIS. Mr. Chairman and gentlemen of the committee, I first want to say that I am interested in your study and in your work and in your recommendations.

We have problems that are known to you, and to some lesser degree all of us, in the particular field of energy and environment that you have just mentioned other new but urgent and demanding matters.

I am here today to speak primarily to that proposal which, in substance, says that the Foreign Relations Committee of the Senate and the Armed Services Committee of the Senate work is so related or so nearly the same that it ought to be combined, consolidated into one committee.

I don't want to talk about myself, but I do want to call your attention to this fact. I do speak from a background of having been on the Armed Services Committee since January of 1951. I am going to begin by relating some situations where those two committees have come together whenever there was an acute or an overwhelming problem, or a very grave problem, and have sat together and reported together and acted under a resolution passed by the Senate, so that every member of the Senate was in on the decision.

According to that record, and according to my recollection, that was always done and brought up when any member of either committee, or a member of the Senate, seriously considered and urged or asked that it be done.

My major point—I am coming to that one first—is that this is the proper way to take care of the situation, that it has been done all these years since 1946 and that it has worked.

I can point out too, if my memory is correct, during all that time when we have had wars and rumors of wars and crises in the Middle East and elsewhere, there has never been a time when the Senate had to be called on to decide a jurisdictional question between these two committees.

I don't think it has ever come to a vote. I can't recall it. We can't find any record of it. In other words, the chairmen and other members of these committees have worked it out among themselves and submitted a formal resolution. The two committees then acted together.

I will name these resolutions in a minute.

Mr. Chairman, I have a statement here. I think all of it is relevant. It is 13 pages. I don't want to take your time by reading it, but I think it ought to be in the record. May I ask that it be put in the record and then let me comment on certain paragraphs as I see fit?

Senator STEVENSON. Without objection, it will be printed in the record following the testimony.

Senator STENNIS. I thank the Chair.

Gentlemen of the committee, the real jurisdiction of the Senate Armed Services Committee goes back to the Constitution of the United States, which sets forth in more particularity than any other source, what the powers of the Congress shall be—to collect taxes, pay debts and to provide for the common defense and general welfare.

Then it goes on to specific clauses—to declare war, to raise and support armies, to provide and maintain a navy, to regulate the land and naval forces, call forth the militia, and to organize, arm and regulate the militia.

So there we have the emphasis, the emphasis is in the Constitution of the United States.

Coming right on down now for almost 200 years of history, the Congress has operated on its own rules drawn, of course, consistent with these provisions in the Constitution.

I referred already to these joint resolutions, but let me point out the massive amount of work that the Armed Services Committee does. I am not referring to myself but to the other members.

These are the records of the hearings this year, gentlemen (indicating the volumes of hearings) that the committee has conducted, the printed record. There are about 12 or 13 volumes of many thousands of pages. I am advised that our committee, with its subcommittees, held about 160 meetings.

That was all to take testimony from knowledgeable witnesses. For instance, the so-called McIntyre Subcommittee on Research and Development this year considered $12 billion for research, development, test and evaluation.

That included over 1600 items, line items now, in an authorization bill. They went into every single one of those line items except for a few very minor, immature, early projects, and gave a judgment on those items.

With all deference to everyone, that is the only committee—and we have done this now for years—under present operations where this is done.

That means that when anyone raises on the floor of the Senate—they have a right to raise it—any point about any one of those 1600 items, we have a man there who is qualified and willing to answer those questions.

I am talking about Senator McIntyre and his associates. The thought of its being a political matter or partisan matter never enters anyone's mind.

There is no use to go into those items now by detail, but those hearings follow our bill on, from the committee to the conference—where we have very difficult conferences because it covers so much—and on to the Appropriations Committee.

In addition thereto, we have responsibilities over a many, many billion dollar stockpile program.

Senator Cannon and his group for years and years have given the utmost available answer to all of those items in making judgment on it. We have a number pending now. This year's budget took credit—I don't say this critically of the President, but I think it is a pretty good way of bringing the matter up front—I believe it was for about $746 million that the President proposed that we sell in stockpiles.

He took credit for it to start with in the budget, which is all right. We worked on these matters and we have recommendations ready now. Those are matters that ordinarily are not thought of, which we go into.

We review all this weaponry—as Senator Goldwater knows, as he is very valuable in going into it—tanks, planes, submarines, missiles, everything—not only the research and development but we go on into production and then on down the line making judgments of most profound significance on monetary importance year after year after year in the course of one plane and its production, how many ships we are going to have, or series of ships; and submarines the same way.

That all adds up to an amazing volume of work. **Those things certainly cannot be relegated to foreign policy.**

There are many, many aspects of this work that relate to the national defense. Some call it foreign policy; but first of all, it is the nation's self-defense, and they are directly connected with many of the judgments that are made.

They are directly connected with our defense.

My point here is that you need a number of men on each one of these commitees that have concentrated and experienced and made judgments over and over on subject matters that they were primarily interested in and on which they gave leadership and formal suggestions to the Senate.

I can refer to some quite briefly. I looked over some of these names this morning. Since 1946 or 1947, when the rules were adopted on matters of foreign policy, we have had the benefit of men's minds such as Arthur Vandenberg—this is since I have been here—Bourke Hickenlooper, Tom Connally, Walter George, and Alben Barkley.

Those were members of the Foreign Relations Committee whose primary interest for years and years was directed in those courses.

On the Armed Services Committee, the late Styles Bridges, the retired Leverett Saltonstall, Richard Russell, Harry Byrd, Sr.—those men were there and especially trained in those fields with experience and were ready on an instant's notice, like when the Korean war started.

We are not going to get this same kind of talent in a committee that is going to have

to recommend on foreign policy and anticipate just when we are going to have war, and things of that kind.

But coming right on down the line, you had these men to pass on these matters who were versed in it, experienced in it, and loved it to a degree. Then when you had a need for joint consideration—hearings, recommendations, positions that the Senate should take—you had the benefit of all of them on what I would call the acute or major foreign policy matters and major military matters.

I was here when the Douglas MacArthur hearings were held. I was a very new Senator, but I got more mail on that one subject than on any subject since then. That is true with most of the Senators who were here.

It was one of the turning points in history in many ways and it was handled, and let me emphasize—virtually all these years—by Senate resolutions that were not fought because the leadership for them came from these two committees.

Let me call out the ones that I am referring to. In 1951, under Senate resolution, inquiry into the military situation in the Far East and the facts surrounding the relief of General of the Army Douglas MacArthur. That was in 1951 and elections were coming up in 1952.

In 1951 also, Senate Resolution 99 and S. Con. Resolution 18, approving the action of the President of the United States in cooperation in the common defense efforts of the North Atlantic Treaty Nations.

There was the NATO question, a very far-reaching, imposing subject that came to a head following the Marshall Plan, which came out of the Foreign Relations Committee. It came to both committees by special Senate resolution.

I remember General Eisenhower's testimony in connection with that matter; I was there as a member of the committee.

Among other things, he said, "I am willing to risk my place in history and let it stand on the success or failure of this undertaking."

That impressed me tremendously. I am no hero worshipper, and wasn't then, but that was just one of the things that I do remember as a part of the argument.

I am not being personal in this. I remember the debate in the Senate with these two committees leading, and I remember Bob Taft's sacrifice. He was a mighty big man in my estimation, particularly in his public service. I remember the sacrifice he made.

I remember Bob Taft, Sr. standing there on the floor, and saying, "Let's go it alone." That is what he believed and that is what he argued for. There was a good deal of sentiment to that effect. But the decision went the other way.

I bring that up to show you we aren't dealing with child's play here, even in our little formalities that these two committees have been through, and worked together when the occasion called for it in their judgment or the judgment of the Senate.

Moving on to another one, Senate Joint Resolution 230 expresses the determination of the U.S. with respect to the situation in Cuba. That was in 1962. Preceding that, we had had a joint meeting in 1957 on H.J. Res. 117, Middle East Resolution.

Joint meeting is not correct. It was joint hearings, joint consideration and in most of these cases a joint report. Sometimes they might have filed a separate report.

Here is a jawbreaker. In 1964, H.J. Resolution 1145 to promote the maintenance of international peace and security in Southeast Asia, the Tonkin Gulf Resolution.

There is one I have always thought and realized we didn't go into enough; both committees were too quickly satisfied with the situation.

I think I would have voted, as I did, regardless of how much we had been into it, but we didn't get all the facts. There were only two members of the body who voted against it, which shows the leadership of those two committees, even though they might not have gone into it in depth enough.

It was based on a war that I supported, although I had opposed going in there earlier. It shook this nation, though, as nothing else in my time, and in a way nothing else, has, except perhaps the war that was fought over a hundred years ago.

In 1968, we had a joint consideration regarding troop deployment in Europe. Now, there were military troops and all but deployment there was a foreign relations question.

We had, in 1976, S. 713, a Deep Seabed Mining bill.

I am going to move on now to other considerations we have had where the Armed Services Committee and the Foreign Relations Committee held hearings separately but on the same matter.

The Nuclear Test Ban Treaty in 1963, the Treaty on Nonproliferation of Nuclear Weapons in 1969, the Okinawa Reversion Treaty in 1971, the Strategic Arms Limitation Talks and ABM Treaty in 1972, and as late at 1975, the Egyptian-Israeli Sinai Agreement.

The question of foreign military aid, has always been handled by the Foreign Relations Committee. For awhile it was referred to both the Foreign Relations and Armed Services Committees, but after several years of hearings it became very clear that our committee was not making much of a contribution in this field. It was primarily a foreign relations policy matter and by common consent we dropped the idea of holding further hearings unless there was a special request.

I can't give you the year, but I remember it all, and it was by common consent.

I just think that we would back off from combining the State Department, the President's advisers and Cabinet officials, and would likewise back off quickly from consolidating the Secretary of State and the Secretary of Defense.

It is just so obvious on its face that this wouldn't do. There have got to be separate departments, separate counsel and separate advice. The whole government is entitled to it and we just have to have it in the Senate.

With equal clarity to me and with all deference to all, but with equal force, we just must have it here in the Senate. I don't think it is primarily the responsibility of the Republicans in the field of armed services to have to deal with all these treaties and everything else that comes before the Foreign Relations Committee.

I can think of that readily. I don't know what all else they do have, but if men are going to be in the Senate with finesse or knowledge and experience in this field of defense matters, we better keep a committee not confined solely to that purpose but that has as its primary purpose the consideration of those policies and actual arms and everything else that goes with an effective military machine.

Certainly, the Senate and the House are entitled to that.

I just don't see, and I speak, as I say, in deference to all, I don't see how we can ever bring them together and get any better consideration of these subject matters than is given now.

I am compelled to believe it would be far less complete and not as thorough as these major matters are given now. I personally believe that we have problems in the Senate. I am not denying that. And I want you to get into them, of course.

This matter depends so much on the attitude of the chairmen and other members of these committees. There hasn't been a scintilla of trouble in all these years toward getting these joint considerations and joint hearings.

We have had the benefit of a liaison there directly. Senator Symington has been on both committees. Senator Fulbright and I differed on many things but we never had the slightest moment of trouble and neither did Senator Russell. Senator Sparkman, the same way.

I bring that out to emphasize how close the affinities have been. There was no rivalry that I have ever seen and no contest between the committees, no one trying to kill the others' bills.

All those that I have had a chance to talk to, Mr. Chairman, are seriously concerned about this very question.

Now, we need ways to get at these problems better. In these two committees you have growing concern. I think they are both rather good working committees.

I believe the first thing we have got to do is give more time to Senators. For instance, there were nearly 600 roll call votes this year. That is not in criticism of anyone who asks for a roll call, but it is the time of 600 roll calls where 100 people are taken from what they would otherwise be doing. All of us are to blame.

I am not blaming anyone, but something has got to be done about that matter.

Another thing—and this is with great deference—we have lost the benefit on the Senate floor of what we used to have in the form of excellent debates. I mean a barrage, an exchange of ideas.

I am not talking about partisan things but about illuminating, thorough and exhaustive kinds of debates by several members on each side of a question.

Maybe I am looking to the past too much, but I know if a Senator would get up on the floor and say, "Mr. President, I want to announce to my colleagues that if I can get the floor on next Thursday, somewhere near 2 o'clock, I expect to make a speech that I believe will be of importance to the nation and of interest to the membership"—the membership would come to hear it. And that always was a very valuable speech.

That isn't the general situation now, of course. Now perhaps the best speeches are during debates on the bills.

Unfortunately, we don't get to do that now. We got to have something there on the floor that is more akin to order and the ability to hear each other.

I am just as guilty as anyone else, but we have gotten careless. That involved a matter of self-discipline.

These are just some things that we can get at, and we must get at.

I don't want to take any more time. You have been very patient with me. I had the privilege of putting all my remarks in the record. I will conclude at this point.

Senator STEVENSON. Thank you, Senator Stennis. You have served in this body for almost 30 years now and have more experience in it than all the members except for three or four.

You have been a skillful legislator and a most effective chairman of the Armed Services Committee. Your views are entitled to great respect. You certainly have my respect.

As you know, these proposals are nothing more than that. They are not recommendations. They are starting points for consideration of recommendations by the committee.

The underlying reason for the one proposal to merge these two committees was the feeling on the part of some that it was difficult to make sounder judgments on military procurement questions, on military personnel questions, on construction, and so on, without the clear perception of what the foreign policy objectives of the United States are and that the merger would at least be able to combine the committees to relate to and in support of foreign policy objectives of the national defense requirements of the United States, but relevant to military policies.

I am going to leave the questioning on that proposition to your colleagues of the Armed Services Committee, Senator Goldwater.

Let me ask one question.

Senator Church was here yesterday to argue very strenuously against this proposal.

Senator Stennis. Yes.

Senator Stevenson. Among other things, what somebody said was very close to what you said, but he also said that he was afraid that if there was a merger the Foreign Relations Committee would be devoured by the Armed Services Committee.

Are you concerned about being devoured by the Foreign Relations Committee?

Senator Stennis. I don't know. I don't know how that would go. I don't believe any committee though can give a great deal of primary and in-depth consideration to the vast number of major subjects that they would have before them.

I am not thinking of this thing in terms of who would be devoured. I wouldn't think so since you mentioned it.

The Foreign Relations Committee has prestige throughout the world. When I was a young man and interested in government, and so forth, there were people who looked to see what the Foreign Relations Committee was going to do, what were their recommendations.

As a boy, I remember the League of Nations debates, Mr. Woodrow Wilson, and all of that.

This committee emerged as the principal policy maker and judgment maker—some thought rightly and some thought wrongly. I want the Foreign Relations Committee to continue to have prestige and influence around the world.

I don't think they would be absorbed, if we tried. But you can't neglect the military. I wouldn't want to neglect it.

Senator Stevenson. Senator, assuming that the two committees remained separate but that, in the interest of reducing the number of committees or rationalizing jurisdictions, the committee recommended the creation of a Human Resources Committee, perhaps built on the Labor and Public Welfare Committee, but to include a lot of the social programs, where would you suggest the Veterans Affairs go?

Assuming the Veterans Committee was abolished as part of the reorganization, should Veterans Affairs go to Armed Services or should it go to the Human Resources Committee?

How do you feel on that question?

Senator Stennis. With the various programs, I don't want to suggest that it wouldn't fit in at all with Armed Services, but we already have a lot to do. It really fits somewhere with your human resources considerations, I would think, Senator.

Senator Stevenson. Thank you. Before turning it over to Senator Goldwater—

Senator Stennis. Pardon me a minute. We handle all this manpower and we are the ones who do go into it in-depth—civilian and military employees—I know that you have heard that the Armed Services is always for the military.

We forced reduction in the uniformed and civilian personnel of the Department of Defense for the last several years. And there are bills that were recommended and passed by the Senate, although a number didn't survive in conference but some of them did.

We forced an adjustment of NATO troops in Europe by getting more of them away from the armchairs and out into the units. I mean it is not paper work, it is actual work.

In any conference they work on us severely. But my point is we go into these things.

Senator Stevenson. Senator, you mentioned the problems of the Senate, specifically the growing number of roll calls that are made in a session. Each one of them takes 15 or 20 minutes. You mentioned the absence of or the demise of the great debates in the Senate.

Senator Stennis. Yes.

Senator Stevenson. We will be addressing ourselves to those problems, but we have had to establish some priorities.

Senator Stennis. Yes.

Senator Stevenson. Under the mandate to this comimttee, we are compelled to address ourselves to the jurisdiction of the committees. So that becomes a very large responsibility and one that we are working on now.

What are more of the problems of the Senate? What should this committee be recommending, and specifically, with regard to the jurisdiction of committees, the existing committees structure?

Do you think there are too many committees, too many committee assignments, too many subcommittees, too many conflicting committee assignments? You probably have committees meeting right now.

Senator Stennis. Yes.

Senator Stevenson. If you agree with that general complaint, which we have heard from every witness, what should we be doing about it, leaving aside now the question about Armed Services and Foreign Relations?

Senator Stennis. Again, I will have to give my background.

Frankly, I haven't kept up closely with all these developments the last several years, the addition of new committees, the Joint Committees, and all their problems.

We pass more laws, I think, than we should, and that calls for committees when you do it, or some committee work or committee surveillance. I know we have a lot of them. You would have to kind of group them.

My argument here today is on these two. It is fundamental not to try to put these two together. I don't want the military posture of this country to rest on what the diplomats in the State Department may recommend.

And I say that with all deference. I don't want our foreign policy set by the military witnesses either. I think we better have some men or separate groups versed in those two subjects to at least try to dig into them.

Senator Stevenson. Do you think the problems—again to use the word "problems"—are sufficiently serious that the Senate should, as a first order of business in the next Congress, take up reorganization of the committee system?

We have asked this I think of almost all, if not all, of the witnesses. I can't remember any exceptions. I think all the others have felt that, without committing themselves, of course, to any form of reorganization, they have committed themselves to that proposition.

Before the Senate gets locked back into the status quo, it ought to take up as the first order of business the reorganization of the committee system. How do you feel about that proposition?

Senator Stennis. I think, Mr. Chairman, this condition we are in didn't grow up overnight. It grew a little at a time. Just letting the hammer fall in one quick, drastic action would be a grave error.

You asked me for counsel on this, and I point it as I see it. Your committee should continue your valuable in-depth studies and hearings, and not try to rush anything through here and put it into the Rules of the Senate before we even get started next January.

Senator Stevenson. Senator, you are getting a little bit off. I am not suggesting that you commit yourself to the hammer or the action or any blunt instrument. It is just to take up the subject of reorganization as a first order of business, so that this process, whether it is drastic, whether it is slow, whether it is by attrition or by some other process, gets started.

Senator Stennis. Yes. A man of your depth, and am not trying to flatter you, and honest concern needs more time than you have between now and our recess, or in January, to come up with something that I think is sound.

I think you are going to have to bring the House of Representatives in. You opened the door to me on this. You have to bring them in on anything effective that you do.

If you report a bill from these combined armed services/foreign relation committee, what are they going to do when the Senate passes it? In the House of Representatives, will it be referred to the Armed Services Committee, or to the International Relations Committee?

I think when you get to the Rotunda, you'll have to turn around and come back. There won't be anybody to take it to in the House.

Senator Stevenson. Mr. Chairman, you are not suggesting that the Senate ought to wait on the House or let the House tell it how to reorganize. The House went through this exercise not long ago and it didn't wait for the Senate.

Leaving aside the joint committees, which I grant you are a special problem, do you think we should delay for the House or try to create some joint committee? We have had a Joint Legislative Operations Committee for a long time.

Senator Stennis. No. I wouldn't suggest we have a joint committee. But there must be a related or counterpart committee to take a bill to when you pass it. In 1946—that was before I came—what became known as the Monroney-LaFollette bill, I believe, the basic rule of the Senate with reference to many of these committees, was a joint undertaking of setting up House and Senate committees.

That is where they abolished the Subcommittee on the Navy, and another Subcommittee on the Army, and put them together, and it created problems in the Department of Defense and they had one committee.

Senator Stevenson. This committee on the committee system expires in February. We are supposed to have a final report by February.

Senator Stennis. I don't think that is enough reason though, Mr. Chairman, to make a quick report. You just have to ask for more time, as I see it.

I failed to stop and emphasize the importance of these conference committees, by the way. We have some real battles with the House Armed Services Committee—weeks and weeks.

I would emphasize the importance of having committees that have studied with emphasis the same things. You have to select from both the Senate and House members who have worked on the same subject who are versed in those fields, without one absorbing the other.

I think the interest of one or the other would diminish, the one subject matter or the other would diminish and would fall away as the years came and went.

Senator Stevenson. Thank you, sir.

Senator Stennis. This is a big thing, this foreign policy matter, as you know.

Senator Stevenson. Senator Goldwater.

Senator Goldwater. Mr. Chairman, I am so happy that my chairman of the Armed Services Committee is here this morning because for quite a few years you and I have talked not exactly about this suggestion but coming closer to the Foreign Relations Committee to help us in the determination of weapons systems that we have to pass on.

Senator Stennis. Yes.

Senator Goldwater. I might remind my friend that this is merely a suggestion. We have, for example, others that constitute the Interior Committee as a Committee on Energy, constitute the Committee on Public Works, a Committee on Environment, a Committee on Commerce and Transportation, and established a Science and Technology Committee.

These are by no means what we are going to suggest. They are just stages that our staff has come up with and we have come up with.

If it has done nothing else than bring you here and let you explain why you oppose this, if it has done nothing else but bring men like Senator Percy and Senator Sparkman, I think it is a great step that we have taken.

Senator Stennis. Well, you flatter us. It has got to be considered.

Senator Goldwater. As I say, your testimony and testimony of others will again have effect on whatever comes out of this committee as legislation.

My total concern, and it will remain a concern, is that we in the Armed Services Committee know a little more about what is going on in the Foreign Relations Committee for this reason. It is true that the Constitution has given us the right to declare war.

But only the President, up until recently, can send troops. We can declare war every five minutes and we don't go to war.

Senator Stennis. Yes.

Senator Goldwater. We have only had five declarations of war in the 200-odd times that we have called the troops out for this reason or that. The passage of the War Powers bill, I think, has had more effect on my feeling about this than anything else, because now the President can call the troops out, but the Congress can end the war when the time comes for it to make up its mind.

We have also, in addition to that, recently passed a control over sales of military equipment to foreign countries. Anything over $25 million has to be approved by the Congress. I think that is going to be something that the Armed Services Committee has to be interested in.

For example, in November, the Foreign Policy Committee is going to hold hearings on the Triad Weapons System. That is all right, but we ought to be in the set too.

Senator Stennis. Yes.

Senator Goldwater. The Foreign Policy Committee is meeting on the sale of F–16's to Iran, F–14's to Iran. They are not meeting on A–7's to Pakistan, but that is something that has been held up by the State Department.

All of these things are related to our Armed Services Committee. As I say, if the suggestion that we bring these two committees together has done nothing more than bring you here, I think it is worthwhile.

I think it is worthwhile that we discuss these things in public because I don't think you or I or anyone else will agree that this Senate is well run or that we are producing the kind of things we should be producing.

I will say it is up to the leadership on both sides to make these changes. I don't like to trot back and forth and make as many as 24 roll call votes in a day, 22 of which might be merely procedural.

Right now, for example, there are two Armed Services Committees in session. I am on both of them. There is an Intelligence Committee meeting. I am on that. And we have this one. I am a member of the minority party, but I am still on 14 subcommittees.

There is no way we can make this system work the way it is.

That is the whole purpose of the committee, it is the reason we are meeting today, to hear from one of our most respected and honored members. And I must say you have made a very, very strong, understandable, cogent argument against combining these two committees.

But I do hope that out of this will come some effort to bring an occasional joint hearing or a freedom to feel that a member of the Foreign Policy Committee can come in to our meetings or we can go to theirs just so that we can sort of keep ahead.

I think in the coming year, for example, just recently the National Security Council has intimated that they have changed their minds on carriers. This is important.

Senator Stennis. Yes.

Senator Goldwater. How much was that affected by decisions of the Foreign Relations Committee, the State Department, the President, and so forth?

It certainly is going to affect our decisions next year when it comes time to make up our minds whether we are going to buy big carriers, little carriers or carriers at all.

Mr. Chairman, I have no real questions on this. I think the Senator has answered all the question that I have had. He and I have talked about this. We have been in some disagreement about it, but it has been a friendly disagreement.

Senator Stennis. Yes.

Senator Goldwater. A disagreement which was a very pleasant experience because, being a Republican, I am always used to losing and he only makes you feel a little better.

Senator Stennis. Mr. Chairman, I thank the Senator for his remarks. He certainly is a very highly valuable member of our committee.

We are a little apart on this, but let's hold to these fundamentals.

Let me answer on the sales of arms and equipment. I have been in and out in my thinking. I have gone into it several times, but I always come up with the idea that that is more a Foreign Relations matter than it is an Armed Services matter.

Senator Goldwater. But we have interest in it.

Senator Stennis. We do. We are related to it.

Senator Goldwater. That is right.

Senator Stennis. You are exactly right. We are related to it, but predominantly in my thinking, it is for the Foreign Relations Committee. That is the way I see it.

But just to underscore in our committee, just to meet a few decisions like that, on the Triad, I am not raising any Cain about them having hearings on the Triad. I considered the B–1, which is a major part of the Triad, a settled matter.

We have also settled on the modern Trident submarine and we are continuing to build them. Certainly we are not thinking about taking out our long-range missiles.

But if they want to go into that as a foreign policy matter, that is all right with me. If they want a joint hearing on it, that's all right.

I thank you again very much.

Senator Stevenson. I thank you, Senator Stennis.

Senator Stennis. It has been very nice. I will put the papers together that I asked to be put in the record.

Senator Stevenson. They will be entered in the record.

(The documents to be furnished follow:)

Statement for Senator John C. Stennis, Chairman, Committee on Armed Services, U.S. Senate Before the Temporary Select Committee on Committees to Study the Committee System, September 15, 1976

Mr. Chairman, the Select Committee on Committees has a very important mission and I am pleased to have an opportunity to appear before you today.

EFFORTS OF THE COMMITTEE ON COMMITTEES

During its relatively short existence, the Committee on Committees and its staff has done much to identify many of the most troubling problems confronting the Senate. The proliferation of various special committees, the ever-increasing committee assignments, the scheduling overlaps, and so forth are having such an adverse impact on the operation of the Senate that they can no longer be ignored. Similarly, the jurisdiction of committees, particularly in new and changing areas of concern such as environment, energy and health, present major challenges to the organizational capacity of the Senate.

COMMITTEE JURISDICTION

It is the issue of committee jurisdiction, as it relates to Armed Services, that I would like to focus on today.

As I understand, the basic objectives of any effort to reorganize committee jurisdictions would be first, to create a more efficient and equitable division of labor among committees, and second, to eliminate fragmented and overlapping jurisdictions so as to allow comprehensive treatment of a functional area by a single committee. These are laudable objectives which should properly be the measuring stick for any proposed changes.

SUGGESTION TO CONSOLIDATE ARMED SERVICES AND FOREIGN RELATIONS COMMITTEES

In hearings before the Committee on Committees and in the work of its staff there have emerged many thoughtful and innovative suggestions as to changing existing committee jurisdictions. I am not familiar with all of these ideas and have not had a chance to study many of the important suggestions contained in the staff study of the Committee on Committees.

One suggestion, however, to consolidate the Foreign Relations and Armed Services Committees, is particularly disturbing to me.

A new single committee charged with both national defense and foreign policy would have an enormous workload of unwieldly proportions. The jurisdictional responsibilities would be so broad and intertwined as to preclude a clear or systematic focus. In short, this consolidation would not meet the objectives of a more efficient and equitable division of labor among committees or of placing the responsibility of a particular functional area within a single committee.

Finally, such a consolidation ignores the realities of dealing with national defense and foreign policy issues. It is essential that a distinction between national defense and foreign policy always be maintained. Consolidating these two vital subjects in one committee could have a seriously adverse effect on U.S. national defense efforts as well as U.S. foreign policy.

I would not support such a consolidation and find many others who feel the same way.

EXPLICIT CONSTITUTIONAL BASIS FOR ARMED SERVICES JURISDICTION

To appreciate the importance of a separate Senate committee to concentrate on national defense, one must begin with the U.S. Constitution. Section 8 of Article I of the Constitution summarizes the overall power of the Congress:

To collect taxes;

To pay debts, and,

To provide for the common defense and general welfare. The Constitution goes on in 6 specific clauses to describe the power of the Congress to provide for the common defense:

To declare war;

To raise and support armies,

To provide and maintain a navy,

To regulate the land and naval forces,

Call forth the militia, and,

To organize, arm and regulate the militia.

In essence, the Constitution clearly spells out what has become the jurisdiction of the Armed Services Committee. Indeed, the Senate Rules state that the Committee on Armed Services "shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to, . . . common defense generally".

This power to provide for the common defense is one of the most important of the Congress as well as the entire Government. National defense like taxation is an absolute prerequisite of Government.

Consistent with its prominent and specific inclusion in the Constitution, national defense has been treated as a separate function in the U.S. Government since the founding of the Republic. National defense and the military, whether organized in the form of the militia, the military departments, or the Defense Department, have always been handled as a separate function apart from foreign policy in both the Congressional and Executive branch. The Executive has had separate departments for defense; the Congress has had separate committees for defense.

Consolidating the performance of the defense and foreign policy functions in the Congress could have the same profound effects on our government as combining the Defense Department and the State Department or merging the Secretary of State and the Secretary of Defense. Any efficiencies or benefits that such a consolidation might have for the operation of the Senate would be dwarfed by the impact of such a change on our national defense and foreign policy.

THE VAST WORKLOAD OF ARMED SERVICES COULD NOT BE EFFECTIVELY COMBINED WITH THE WORKLOAD OF FOREIGN RELATIONS

The Armed Services Committee presently has one of the largest workloads of any Committee in the Senate. On an annual basis, the Armed Services Committee authorizes more funds than any other Committee. The procurement authorization hearings, which this year total 7315 pages, directly or indirectly cover about 70 percent of the entire Department of Defense budget. The Committee's duties for this effort are required as a matter of law.

Moreover, the Armed Services Committee is required by law to make its recommendation to the Budget Committee on the entire Defense budget which, as recommended for FY 77, totaled about $116 billion.

The following are important examples of the Committee's detailed efforts:

(a) A judgement on over 1600 individual line items, totaling over $12 billion, for research and development in the Department of Defense.

(b) A recommendation for the annual manpower levels for military and civilian defense personnel which entailed a review and judgment on 308 separate personnel accounts. It might be noted that the largest number of civilians of any of the Executive Departments is the approximate one million in the Department of Defense.

(c) Military construction projects, totaling over $3 billion, covering every state and certain locations abroad.

I would observe that the Committee's workload in recent years has often been extended to floor action on the authorization bill which consumed over seven weeks as the pending business in 1969 and over three weeks in 1971.

The 153 Committee meetings already held thus far in 1976 reflect not only the authorization process but the Committee's oversight responsibilities including West Point cheating, Navy shipbuilding claims, intelligence briefings, statutory and military nominations, and a substantial number of legislative hearings concerning the Department of Defense.

Through this authorization process, the Armed Services Committee has made substantial manpower adjustments and effected billions of dollars in budgetary savings. For example, during the last few years the Armed Services Committee has directed a major conversion of support personnel into combat personnel, from desk jobs to front-line units. During the last three years, the Committee has recommended various adjustments and economies in defense spending totaling upwards of $5 billion. These reductions were achieved at the same time that U.S. military strength was substantially improved.

Finally, on an annual basis, the Armed Services Committee authorizes and reviews various operations of the Armed Forces. In time of peace it is easy to forget that such military activities can be a massive scope and proportions. Providing the capability for U.S. participation in the Korean and Vietnam Wars was an enormous effort and responsibility on which the Armed Services Committee concentrated.

In addition to its annual workload, the Armed Services Committee has cognizance over the law contained in title 10, title 32, and elsewhere in the U.S Code relating to the regulation of the Armed Forces. This large body of law, the importance of which is not well understood, requires constant attention. It consists of thousands of pages of statutes dealing with the organization, administration, training, and procurement in the Department of Defense. For example, the Committee has recently been studying legislation governing the system of appointment, promotion, and separation of officers in the Armed Forces. The bill in its present form is almost 100 pages and has taken over two years of study by the Committee.

To be effective, a Committee must have members who are especially interested and well-versed in a particular subject. When the subject jurisdiction of a Committee becomes too broad—as would be the case in a consolidation of the defense and foreign policy—the ability of Committee members to concentrate in-depth is greatly undermined. Full and active Congressional participation is required in providing a sufficient level of military strength, directing the ever-changing development of military power and assuring civilian control over military forces. A consolidation of Armed Services with Foreign Relations can result only in reducing the amount of Committee time and attention that the Senate devotes to national defense.

Despite any consolidation the level of Committee effort required for national defense will still be the same. Furthermore, there are no efficiencies or shortcuts in dealing with this workload that would be gained from adding, in the same committee, responsibilities for foreign policy.

NATIONAL DEFENSE DESERVES THE FULL ATTENTION OF ONE COMMITTEE

It is no coincidence that the Armed Services Committee has never had difficulty defining its jurisdiction. The basis for Armed Services Committee jurisdiction has been the common defense generally and the military and Defense Departments. Unlike many other committees of the Congress, the jurisdiction of the Armed Services Committee has always been clearly understood and straightforward to apply.

It is interesting to note that in the staff proposals of the Committee on Committees, the Armed Services Committee is the only committee whose existing jurisdiction is not split apart or divided among other committees.

Any effort to adjust or expand the jurisdiction of the Armed Services Committee would inevitably result in a confusion or complication of functional activities rather than a new jurisdiction formulated according to discrete functions. In other words, consolidation of Armed Services Committee with Foreign Relations would not promote a clairification of committee jurisdiction or the systematic and comprehensive look at a single functional area. On the contrary, it would have just the opposite effect.

THE ARMED SERVICES AND FOREIGN RELATIONS COMMITTEES HAVE NOT HAD JURISDICTIONAL PROBLEMS

Mr. Chairman, I must emphasize that the Armed Services Committee has a workable jurisdiction. There has never been a problem of conflicting jurisdiction between the Armed Services and Foreign Relations Committees.

Where there were matters of mutual committee interest involving broad national policy, the jurisdictional question has been readily resolved by a joint referral and joint hearings. Never has there been a challenge to this approach. In my own experience I have seen this approach work smoothly and effectively in the following instances:

Joint referrals to Foreign Relations and Armed Services

1951: Inquiry into the military situation in the Far East and the facts surrounding the relief of General of the Army Douglas MacArthur.

1951: S. Res. 99 and S. Con. Res. 18, approving the action of the President of the United States in cooperating in the common defense efforts of the North Atlantic Treaty nations.

1957: H.J. Res. 117, Middle East Resolution.

1962: S. J. Res. 230, expressing the determination of the U.S. with respect to the situation in Cuba.

1964: H.J. Res. 1145, to promote the maintenance of international peace and security in Southeast Asia (Tonkin Gulf).

1976: S. 713, Deep Seabed Mining Bill.

There are other examples where the Armed Services Committee held separate hearings to consider the military implications of the issue which had been formally referred to the Foreign Relations Committee. Again, I recall several examples of this type of cooperation between the Armed Services and Foreign Relations Committees:

1963: Nuclear Test Ban Treaty.

1969: Treaty on Non-Proliferation of Nuclear Weapons.

1971: Okinawa Reversion Treaty.

1972: Strategic Arms Limitation Talks and ABM Treaty.

1975: Egyptian-Israeli Sinai Agreement.

DEFENSE SHOULD BE SEPARATE FROM FOREIGN POLICY

Ostensibly, there would appear to be a very close relationship between national defense and foreign policy. Both deal with foreign nations. Both depend to some extent on the other.

While they are certainly related however, national defense and foreign policy are very different functions. The primary Congressional responsibility for national defense is to ensure the preparedness, effectiveness and control of U.S. defense forces. To raise, support, and regulate the Armed Forces is crucial to the very survival of this nation. This prerequisite remains constant regardless of the particulars of any foreign policy.

Consequently, the operations of the Armed Services Committee are largely devoted to budget authorizations, weapons systems and military policy.

Foreign policy, on the other hand, goes far beyond military matters. Foreign policy must take defense capabilities into account just as defense policy must take account of foreign policy. But the formulation of foreign policy should not depend on the needs of the military. It is essential to the viability of each that they remain different.

A classic example of the differentiation between foreign policy and national defense occurred after World War II. Through the work of the Foreign Relations Committee in analyzing the economic situation in Europe, the Congress authorized the Marshall Plan. Based on the economic underpinning of the Marshall Plan, the Foreign Relations Committee was able to take action on U.S. participation in the military alliance that became known as NATO. The essential economic background and perspective for the NATO alliance could have only come from the Foreign Relations Committee. The Armed Services Committee, which had been devoting its attention to creating and reorganizing the Defense Department, would have been ill-equipped to deal with the issues surrounding U.S. participation in NATO.

To have the same Senate Committee, Executive department or cabinet officer responsible for foreign policy and national defense would create the potential for transitory or extraneous foreign policy considerations detracting from defense readiness or similarly for purely military considerations dominating U.S. foreign policy. Diplomats should not be responsible for national defense just as the military should not be charged with making U.S. foreign policy.

CONCLUSION

In my judgment, consolidation of the Armed Services and Foreign Relations Committees would not clarify or streamline the existing committee jurisdiction. It would not increase committee efficiency or improve committee performance. On the contrary, it would confuse what has been in the past a clear and non-controversial jurisdictional demarcation. It would overlap and confuse what has been in the past a clear and non-controversial jurisdiction demarcation. It would overlap and confuse what has in practice been and shall continue to be two separate functions—defense and foreign policy. Most importantly, the consolidation could serve to dilute and destroy the U.S. defense efforts and foreign policies.

Before any step is taken which could have such far-reaching effort on U.S. defense and foreign policy efforts, I suggest that it be given full study. This study should go beyond a mere examination of the effects of any change on the organization and procedures of the Senate. It should also carefully assess the effect of any change on the substantive actions of the Senate in a particular field, such as national defense or foreign policy.

ADDITIONAL OBSERVATIONS

Before closing, I would like to make a recommendation to the Committee and point out a problem that has been particularly troubling to me.

I would recommend that in any deliberations about restructuring the committee jurisdiction of the Senate you carefully consider the potential for similar action by the House of Representatives. A restructuring proposal for Senate committees that flies in the face of the practices and prerogatives of the House will surely create more difficulties than it resolves. Therefore, it would be desirable if any reorganization legislation would at some point receive consideration and action by the House.

Finally, there is one particular problem that I feel compelled to point out specially. During my first full year in the Senate in 1947 there were 138 rollcall votes. In 1957 the number of rollcalls had dropped to 111. During 1975, in contrast, there were 611 rollcall votes, or an increase of 5 to 6 times. Admittedly, as the legislative workload has increased there must be a corresponding increase in the number of rollcall votes. But in my judgment there are far too many rollcall votes on items that do not require or deserve the attention of the full Senate. A great deal of valuable time is lost as a result of these rollcalls. Reducing the number of rollcalls would be one of the simplest and more direct ways of increasing the productivity of the Senate.

ARMS SALES TO SAUDI ARABIA

Mr. PERCY. Mr. President, today the Senate Foreign Relations Committee voted on the proposed arms sales to Saudi Arabia. Involved are hundreds of millions of dollars in sales, including a wide variety of military weaponry and associated training and facilities.

In committee I supported all these sales except the $30 million in Maverick missiles, because I felt that there must be some limits on the introduction of additional high-technology weaponry in the region, that Saudi defense needs are adequately served at this time by the other substantial weaponry being provided, and that the buildup of weaponry in that country may be greater than their ability to absorb it.

I consider the leaders of Saudi Arabia to be good friends of the United States who have earned our respect for their efforts to achieve economic development in their own country and in other less-prosperous Arab nations. They have earned our respect for their efforts to achieve a lessening of tensions in the Middle East. They have earned our respect for their responsible attitude toward oil pricing. Were there any real threat to Saudi Arabia, I would not hesitate to approve the Maverick sale. But there is not. I cannot believe that any nation, Israel included, has any intention of attacking Saudi Arabia, which is widely respected in the region.

Should Saudi Arabia ever need American support to protect her sovereignty and independence, I have no doubt that America would translate our respect for the Saudis by providing it. By approving the overwhelming preponderance of the military sales to Saudi Arabia today, the Senate Foreign Relations Committee has made this clear.

SUNSET LEGISLATION

Mr. MUSKIE. Mr. President, I would like to thank and congratulate the junior Senator from Ohio (Mr. GLENN) for the hard work and thoughtful attention given to the sunset legislation.

Senator GLENN was one of the original coauthors of the bill and has helped guide it out of subcommittee and full committee and on to the Senate Calendar.

I am deeply appreciative of Senator GLENN's efforts and I ask unanimous consent that his excellent statement on the sunset legislation be printed for the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR GLENN ON THE SUNSET BILL

As a co-author with Senator Muskie, of S. 2925, the Government Economy and Spending Reform Act of 1976, I am especially pleased to see this tremendously significant legislation make the progress that it has during this session of Congress. If it is not enacted by the end of the 94th Congress, then it is absolutely imperative that it be one of the first items on the agenda for the next Congress.

I believe that this legislation meets some of the demands of the American people with respect to the way in which our government operates. What our citizens are demanding is an efficient, responsive, and competent Government, one that delivers what it promises, one that makes its decisions humanely, clearly, and understandably, and that does not proliferate and continually grow minus any rational scheme.

I believe that the Government Economy and Spending Reform Act of 1976 has the potential of coupling itself with the Congressional Budget Act to serve as a thoroughly effective mechanism by which the Congress may get a better handle on money spent by the Federal Government.

The once ever-expanding pie of Federal expenditure has begun to reach its limits. Within that limitation, competition for program priority and preference will be severe. That competition must be rational, sane, and substantive. The Government Economy and Spending Reform Act of 1976 provides a framework for serious evaluation of our programs and our spending. Basically and fundamentally, the bill requires that congressional committees take a hard look at programs under their jurisdiction and report, among other things:

First, whether they are, indeed, working as Congress intended;

Second, whether the program is duplicative of others; and

Third, the impact the program has on the national economy.

In other words, we are asking that congressional committees assume their oversight function with increased vigor and vitality and with more quantitative stringency. With the exception of programs to which individuals make payments to the Federal Government in expectation of later compensation—social security, railroad retirement, civil service retirement, medicare, et cetera—all Government programs would have to be reauthorized after stringent review every 5 years.

Additionally, I have worked to extend the sunset concept to what are commonly known as "tax expenditures"—tax incentives. To my mind this is essential if we are to effectively achieve the objectives of the bill, for example to get a firm hold on Federal spending.

It would seem to follow that if the termination and reauthorization process of the bill is confined to spending programs alone, we will leave a substantial portion of our job undone. The Congress recognized this basic problem in 1974 by including in the Congressional Budget Act the tax, as well as the spending side of the equation.

My proposal would require that each Federal tax expenditure be investigated systematically to determine whether it has been effective, whether it is being used for the purposes not originally intended by Congress, and to what extent revenue is being lost through the operation of the provision. Today there are scores of tax incentives built into the Federal income tax system. All were created with a specific goal in mind.

Some were intended to stimulate or move the economy in certain directions; others were motivated by social concerns and were intended to encourage individuals and businesses to move toward various national goals. Yet, whatever their original purposes, the fact remains that some of these tax incentives have grown to the point where they are tax loopholes, going far beyond their original purposes and eagerly sought as a means of avoiding taxes. The result has been that the revenue loss due to these tax expenditures has mounted each year to the point where, in fiscal year, 1977, it is estimated that they will approximate the amount our nation spends for defense.

Over the past years the growth of tax expenditures has in fact been at a faster rate than the growth of direct expenditures. The Joint Committee on Internal Revenue Taxation has recently estimated that in the decade from 1967 to 1977, Federal spending has climbed by 146 percent from $158 billion to the $394 billion now proposed by President Ford. In the same period, however, tax expenditures have mushroomed by 176 percent to an estimated $101 billion in fiscal year 1977 from a level of $36 billion in fiscal year 1967.

This upward trend in revenue loss gives no indication of abating. It is certainly disturbing that there are no clear limitations on how much each tax expenditure provision could ultimately cost the Treasury. Presently there is insufficient analysis of each tax expenditure to determine whether some have grown out of control and should be eliminated because the original purposes have been obscured. The limited success of efforts toward tax reform reflect how difficult it is to revoke or even modify tax expenditure provisions once they take effect and become entrenched. It is my hope that this proposal will greatly facilitate such revisions of the tax code whenever circumstances warrant them.

I strongly support this bill and I am happy to be a principal cosponsor of it. I know that we must clean up and improve our Government. Only by eliminating dead weight, inoperative, wasteful and inefficient programs can we make available the resources needed to adopt fresh, innovative, and exciting new solutions to our pressing problems of poverty, discrimination, urban decay, pollution and so on. This bill is perhaps a small procedural step that will free us from so much built-in failure, that will help restore our people's confidence in Government and will help us along the road to really moving to cure the ills of the Nation.

MEAT IMPORT ACT

Mr. HRUSKA. Mr. President, I rise in support of the amendment of the Meat Import Act offered by my distinguished colleague from Nebraska Mr. CURTIS, and the Senator from Kansas, Mr. DOLE. They are to be commended for proposing this amendment because it is significant to the well-being of our domestic livestock industry which has been beset with drastically low prices in recent times.

In the past few years our whole economy has experienced a recession, but no segment has been harder hit than the cattle industry. Examples abound of feeders who have lost, and are now losing more than $100 per head. Prices for calves have plummeted. Some ranchers and feeders have been forced out of the business, and many others are on the verge of bankruptcy.

The current market is a prime example of the difficult situation the cattle industry has encountered. Feed costs per pound of grain are estimated to be about 43 cents. When interest costs, fixed costs, and a return for labor are added, the cost can be more realistically set at 50 cents. Steers in Omaha last week were selling for 37 cents a pound. Those figures clearly illustrate the plight of the cattleman.

THE IMPORTANCE OF A FINANCIALLY SOUND CATTLE INDUSTRY

Mr. President, when times are tough for the cattleman, the whole economy of a State such as Nebraska suffers correspondingly. As an agricultural State Nebraska is extremely proud of the productivity of our farmers and ranchers. This productivity resulted in the marketing of farm products last year that had a value of $4.1 billion. Of that total, $2.4 billion came from the marketing of livestock. Specifically, cattle marketings last year in Nebraska accounted for more than $1.5 billion of the total value of agricultural products sold.

Obviously, the health and well-being of a multibillion-dollar industry has a marked effect on a State. When the cattleman loses money, the solvency of local banks and the other financial institutions that provide operating capital to him is placed in jeopardy. New machinery cannot be purchased. Local businessmen suffer because normal retail purchases are curtailed. Jobs are lost and unemployment becomes a problem. For example, even in a major metropolitan area such as Omaha, it has been estimated that more than one out of every three jobs is directly related to or dependent upon agriculture.

Mr. President, the American consumer also has a considerable interest in this matter. I am pleased that the so-called consumer groups are finally beginning to realize that the bounteous supply of food that is available at reasonable prices to all Americans can be expected to continue in the future only if the farmer and rancher receive a reasonable income for their work and investment. Nowhere else in this world can the average family expect to pay only 17 percent of its income for food.

Consumers cannot expect this situation to continue if the cattleman is either forced out of business or drastically reduces his production. A steady supply of beef will be available only if the cattleman can make a profit in producing it.

CLEAR CIRCUMVENTION OF THE MEAT IMPORT ACT OF 1964

Given these facts Mr. President, it makes no sense to allow a further price depression by continued circumvention of the meat import quotas contained in the Meat Import Act of 1964. That act is very specific. It outlines categories of meat that are to be subject to annual quota limitations. No beef that falls into one of these categories is to be imported into this country unless it is charged to the annual quota total of the importing country. The Secretary of Agriculture is specifically directed to take steps to see that the intent of the law is carried out, and that no circumvention of it occurs.

Yet, we have a situation now occuring where a clear circumvention is taking place. I refer, of course, to the current reprocessing of imported beef in the free port area of Mayaguez, Puerto Rico. Meat that is clearly subject to the quota is being shipped to Puerto Rico for processing. Dicing, deboning, or some other processing takes place, and the same meat is magically transformed into a product that technically does not fit into one of the quota categories. It is then shipped into this country and not charged against the individual country's quota, or the overall annual limitation. It is the same meat, and is a direct circumvention of the intent of Congress in passing the Meat Import Act.

The amount of meat already shipped to this country through this back door is staggering. More than 30 million pounds have been imported, and it has been estimated that as much as 70 million pounds may enter by the end of the year. A second plant is to open shortly in Puerto Rico.

Applications have been made to build plants in other free port areas. If action is not taken soon, more meat may enter this country under this scheme. If the 70-million-pound estimate is reached this year, 5 percent more meat than this year's limitation will come into the country. This is deplorable, especially in light of the current condition of our livestock industry.

Mr. President, I cannot fault the actions of the Department of Agriculture with regard to this matter. It has been making its best effort to close the loophole. Secretary Butz took early action by requesting the Foreign Trade Zones Board to use its authority to shut down the plant because of its detriment to the public interest. The Secretary also attempted to issue regulations that would require this meat to be charged to one of the appropriate categories subject to quotas, as it rightfully should be. Regrettably, both actions have been stalled by lawsuits and temporary injunctions.

It is not the fault of the Department that the circumvention continues. What is clear, however, is that it is time for the Congress to step in and expedite this matter before further damage is done to the livestock producers of this country.

NEED TO PROTECT THE POSTURE OF OUR TRADING POLICIES

Mr. President, the intent of the Meat Import Act of 1964 is clear cut. Our trading partners know by its terms what is expected of them. Faced with a similar situation, they would not hesitate to take quick, decisive action to correct it.

In fact, other beef exporting countries, including some of our major trading partners, openly discriminate against our beef producers. They do so by barring totally the entry of any U.S. beef from their countries, or by placing a heavy, unrealistic duty on such imports.

For example, the discretionary licensing systems of Australia, New Zealand, and Argentina have thwarted the influx of American beef. The European Community has a similar system, and even when limited licenses are granted, an ad valorem duty of 20 percent is extracted from the importer. On top of the ad valorem duty, a variable levy and other taxes are added so that the few American primal cuts of beef that are exported to Europe have a landed cost which is a full 85 percent higher than the actual cost of the beef. And that cost does not include any of the transportation or handling costs incurred in sending the beef to Europe. This is most unfair considering the fact that the United States, for example, has only a 7.5-percent duty on imported canned corned beef.

With such stringent requirements and even prohibitions placed on our exporting abilities, we should not hesitate to take action to maintain the integrity of our own trading law.

Mr. President, the Curtis amendment will allow us to take positive action to erase this black mark on our trading posture before it reaches greater proportions. Stated simply, it requires that any meat that would be subject to a quota when it enters a free port area must be charged to the quota after reprocessing and shipment into the customs territory of the United States. This is as it should be. It would stop the current circumvention, and carry out the intent of the Congress as expressed in the Meat Import Act of 1964. It would provide some measure of relief to the domestic livestock industry, and would be of long term benefit to the consumers of this country.

I urge adoption of the amendment.

IN SUPPORT OF THE SUNSET BILL

Mr. ALLEN. Mr. President, big government has been something like the weather in recent years—everybody complains about it but few seek to do anything about it.

I am pleased, therefore, to rise today to commend my colleagues who are doing something about it, particularly Senator MUSKIE and Senator ROTH, who are the chief sponsors of S. 2925, the Government Economy and Spending Reform Act. Commonly referred to as the "sunset" bill, this proposal would weed out programs that duplicate each other or serve no good purpose. This measure is considered by its sponsors—and rightly so, I believe—a logical extension of the new congressional budget process. Where the budget process lets Congress set spending priorities, S. 2925 would give Congress a way to determine whether Federal programs are meeting those priorities.

It would require a complete congressional review of all Federal programs every 5 years. Any program not specifically reauthorized by the 5-year review would automatically be abolished. Programs deemed worthy could be continued for up to another 5 years, but would not necessarily be maintained at their existing level of spending. Congress would start at a "zero base" in its reexamination and each program would have to be justified and its impact on overall Federal spending would have to be evaluated in order to continue.

All agencies in a related field would come up for review and evaluation simultaneously so they could be considered as a group and, if necessary, could be consolidated to eliminate overlapping and duplicating of programs.

The only exceptions to the Federal "sunset" bill would be for payment of interest on the public debt and for programs in which individuals make payments to the Federal Government in order to receive benefits later in life, such as railroad and civil service retirement, social security, and medicare.

Program evaluation is a fairly recent process. Only in 1946 did Congress, in the Legislative Reorganization Act require its committees to exercise "continuous watchfulness" over the programs under their jurisdiction.

In the 1968 Intergovernmental Cooperation Act, Congress asked its committees to review the results of programs of Federal grants to States and cities that were authorized into the indefinite future. But there was no provision for terminating programs that did not get reviewed.

The 1970 Legislative Reorganization Act called for GAO to begin providing Congress with studies of the costs and benefits of Federal programs. Congress rejected a proposal for mandatory pilot testing of new programs when it passed the 1974 Congressional Budget Impoundment Control Act, but it included a section expanding GAO's program evaluation duties.

GAO budgeted some $67.9 million to perform program evaluation in fiscal 1977. OMB estimated that 17 of the biggest Federal departments and agencies—excluding the Defense and State Departments and part of the Treasury Department—spent $116 million in fiscal 1975 for evaluations. These efforts have not been enough to blunt public criticism of Federal programs.

Since the "New Deal" days of President Franklin Roosevelt, the U.S. Government has spawned thousands of programs, and the Federal bureaucracy has grown to such proportions that in many cases it is no longer fully responsive to the needs of the people. Its heavy-handed intrusion into the affairs of local governments and individuals is meeting with increasing resentment.

The 1976 Catalog of Federal Domestic Assistance lists 1,030 programs administered by 52 Federal agencies. In fiscal year 1976, these programs provided an estimated $59.8 billion to the 50 States and nearly 80,000 units of local government. In the health field alone, there are 302 different programs administered by 11 separate Federal agencies.

Last year, regulations and legal notices issued by Federal agencies filled some 60,000 pages in the Federal Register. Things have reached the point where Americans are hard pressed to know what the law requires—let alone comply with it.

For too long, Congress has been satisfied to leave the hard work of implementing and evaluating Federal programs to the executive branch. Congress has not paid enough attention to how well the programs were working. These years of inattention to performance have taken their toll, resulting in widespread inefficiencies in many programs and a pervasive distrust of the Federal Government.

The "sunset" bill would end the unspoken rule that money spent on a program this year must be continued or increased in next year's budget, or that all of our problems can be solved with more programs and increased Federal spending. This is just not so.

While no single piece of legislation is likely to provide a total solution to the complex problems of big government, the "sunset" bill would be a major step forward in restoring congressional control over the Federal bureaucracy, in reducing spending and in restoring public confidence in government.

Mr. President, I am pleased to be a cosponsor of S. 2925. This bill would establish an effective procedure for Congress to eliminate wasteful Federal programs and put our tax dollars where they can be most effective. It is regrettable that this legislative proposal is victim this year to the relentless march of time. The bill, however, represents an idea whose time has come, and I anticipate that the 95th Congress not only will hear much about the "sunset" bill, but also will act favorably on this legislation.

HANDICAPPED CITIZENS

Mr. LAXALT. Mr. President, 200 years ago the citizens of this country fought and achieved their independence from the British. Today, in this Bicentennial Year, many Americans still continue to fight for their independence. The independence these people seek is not from the domination of another country but rather from the domination of a society which forces barriers and restrictions upon them under which no other American citizen is forced to live. I am speaking of the mentally and physically handicapped.

The handicapped form an extremely large portion of the population in this country. As an example, 1 out of 10 persons are permanently or temporarily handicapped with limited mobility. Furthermore, 10,000 people between the ages of 20 and 40 and an additional 10,000 between the ages of 40 and 60 go blind each year. In addition, it is now estimated that there are approximately 1,300,000 mentally retarded children. At least 10 percent of these children also have a hearing loss.

Handicapped people have the same desires that persons without handicaps have. They desire to live happy, productive lives. Too often, however, they are hindered in achieving their goals because of the false assumption on the part of many that they are not capable of skilled employment. Furthermore, even if an employer is willing to hire a handicapped individual, often architectural and environmental barriers prevent the individual from being able to take the job.

Besides employment handicapped individuals are constantly being held back because of discrimination they confront in schooling, transportation, and housing. This is a deplorable situation which Americans must be made aware of if these problems are ever to be corrected.

Mr. President, I am not introducing any legislation at the present time. I simply want to call to the attention of my colleagues the fight for independence of a valiant people.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Everett R. Longford, of Oregon to be U.S. marshal for the district of Oregon (reappointment).

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Friday, October 1, 1976, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

SPECIAL ORDER FOR MONDAY—TRIBUTES TO SENATOR SYMINGTON AND SENATOR PHILIP A. HART

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, following the recognition of the Senator from Oklahoma (Mr. BARTLETT) there be a period of not to exceed 2 hours under the control of the two leaders or their designees for the purpose of tributes to Senator SYMINGTON and Senator PHILIP A. HART.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR GARY HART ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that one order for the recognition of a Senator, Mr. GARY HART, be added to the list of orders for Monday, and that his order appear at the end, and that it be for the purpose only of making a statement on any of various and sundry subjects.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL HELD AT DESK—H.R. 4583

Mr. GRIFFIN. Mr. President, I ask that a message from the House on H.R. 4583 be held at the desk pending further disposition on it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I do not expect any more rollcall votes today.

ORDER TO PRINT CONFERENCE REPORT—S. 3419

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the conference report filed today on S. 3419, the toxic substance bill, be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M., MONDAY, SEPTEMBER 27, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10 a.m. Monday, next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BARTLETT ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that prior to the recognition of Mr. GRIFFIN on Monday, Mr. BARTLETT be recognized for not to exceed 15 minutes for the purpose only of making a statement. It would not necessarily be with respect to the tributes. The order was handed to me earlier, and I had forgotten to request the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. ALLEN. It is the understanding that these will be speeches only, remarks only, and that no resolutions, bills, or conference reports will be called up during this time?

Mr. ROBERT C. BYRD. That is true with respect to all of the Senators I have named in connection with the tributes. I merely named Senators so they would have control of the time on that date. But I had a previous request from Mr. BARTLETT for 15 minutes for that morning and I do not know what he wants to use his 15 minutes for. Perhaps the assistant minority leader would know.

Mr. GRIFFIN. I do not know.

Mr. ALLEN. I would want that same limitation put on that one as well. I do not believe he has in mind offering any resolutions or bills.

Mr. GRIFFIN. I believe that is all right.

Mr. ALLEN. That would be understood, then?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. And at the conclusion of these remarks we would either recess until 12 noon or get on the unfinished business, is that correct? Automatically, the unfinished business would come down.

Mr. ROBERT C. BYRD. I am just thinking. Yes, we will do one or the other.

Mr. ALLEN. I have no objection.

Mr. GRIFFIN. Will the distinguished acting majority leader yield for a comment?

Mr. ROBERT C. BYRD. Yes.

Mr. GRIFFIN. I think the notice that is being given of the opportunity to pay tribute to Senator SYMINGTON and Senator HART on Monday is very fine. Perhaps the acting majority leader might want to indicate that we have in mind setting aside time for tributes to other Senators on Tuesday and Wednesday.

Senator FANNIN and Senator FONG will be on Tuesday and Senator HRUSKA and Senator HUGH SCOTT will be on Wednesday, as I understand. Although a convening hour has not been established, I know the acting majority leader will provide the body as quickly as possible with that so the Senators will be aware of the times.

SPECIAL ORDERS FOR TUESDAY—TRIBUTES TO SENATOR FANNIN AND SENATOR FONG

Mr. ROBERT C. BYRD. Mr. President, without setting a convening hour, as the distinguished assistant Republican leader has said, for Tuesday and Wednesday, I ask unanimous consent that on Tuesday there be a period of not to exceed 2 hours under the control of the two leaders or their designees for the purpose of tributes to Senator FANNIN and Senator FONG.

Mr. ALLEN. Mr. President, reserving the right to object, and I shall not object, Senators will be recognized under the same understanding: that it would be merely for tributes only, and that would also apply to the time released to the other Senators, that same prohibition; is that not correct?

Mr. ROBERT C. BYRD. Well, it would be for the purpose of stating tributes only. Between now and Tuesday other Senators may want to come in.

Mr. ALLEN. I understand that; but what I mean is that if time is released to other Senators, they would be limited in the same way, to tributes, would they not?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. I thank the Senator.

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDERS FOR WEDNESDAY—TRIBUTES TO SENATOR HRUSKA AND SENATOR HUGH SCOTT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Wednesday, without at this time indicating a convening hour—it will be early on both days, but I am not sure at the moment how early—that on Wednesday, there be a period of not to exceed 2 hours under the control of the two leaders or their designees for the purpose of tribute to Senator HRUSKA and Senator HUGH SCOTT.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROSINA C. BELTRAN

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield to the distinguished Senator from Washington.

Mr. JACKSON. Mr. President, I call up H.R. 4583, and ask for its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4583) for the relief of Rosina C. Beltran.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice, and the Senate will proceed to its consideration.

Mr. JACKSON. Mr. President, this is private legislation involving a most meritorious immigration case.

The beneficiary of the bill is a 46-year-old native and citizen of the Philippines who entered the United States on April 5, 1972, with two of her children to care for the three children of her sister who was suffering from terminal cancer and died June 18, 1972. The children are now 14, 10, and 6 years of age. The beneficiary was appointed as guardian of her sister's children and administratix of the estate. Her husband and her four other children were paroled into the United States on March 17, 1973 for humanitarian reasons. The beneficiary's mother was a lawful permanent resident alien who would have been eligible for naturalization in 1976, at which time she would have been able to petition on behalf of Mrs. Beltran had she not passed away before that time. The Immigration and Naturalization Service has stated that there is no administrative remedy available to her by which she might adjust her status.

The purpose of the bill is to grant the status of permanent residence in the United States to Mrs. Rosina Beltran.

Mr. President, this bill passed the Senate previously in the last session. The House of Representatives has now passed it. There is unanimous agreement on the merits of the case, and I urge its passage.

The bill was ordered to a third reading, read the third time, and passed.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL PLACED ON CALENDAR—H.R. 13615

Mr. ROBERT C. BYRD. Mr. President, I make this request on behalf of the Senator from Hawaii (Mr. INOUYE). I ask unanimous consent that H.R. 13615, an act to amend the Central Intelligence Agency Retirement Act, reported today, not be referred to the Committee on Appropriations as required by section 401 of the Budget Act but be placed on the calendar. This request is being made because the Committee on Appropriations has already considered the bill and has appropriated funds contingent upon this authorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be authorized to meet on September 27 to consider a nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet on September 28 to consider several nominations; that the Subcommittee on Multinational Corporations of the Committee on Foreign Relations be authorized to meet on September 27 concerning the Grumman Corp.; that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to meet on September 29 and 30 on the role of U.S. corporations in South Africa; and that the Committee on Labor and Public Welfare be authorized to meet on September 29——

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. And that the Committee on Labor and Public Welfare be authorized to meet on September 29 on Women and Alcohol.

Mr. ALLEN. Mr. President, reserving the right to object, and I shall not object, as I understand it, these authorizations for meetings are limited to the matters referred to in the unanimous-consent agreement.

Mr. ROBERT C. BYRD. That is correct.

Mr. ALLEN. And it is not proper to consider other matters.

Mr. ROBERT C. BYRD. That is my understanding.

Mr. ALLEN. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. ROBERT C. BYRD. I yield to the distinguished Senator from Alabama.

UNANIMOUS-CONSENT REQUEST—H.R. 13955

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the pending business be set aside and that the bill H.R. 13955, an act to provide for amendment of the Bretton Woods Agreements Act, and for other purposes, be called up for final action at this time and the time for debate on the bill and individual amendments thereto offered by Senators HELMS, GRIFFIN, and STEVENSON be limited to 10 minutes with time divided equally between the chairman of the Committee on Foreign Relations and the senior Senator from Illinois.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Mr. President, reserving the right to object, and I shall not object, I prefer the request be limited not to set this bill aside that is under cloture, but that unanimous consent be given for the consideration of this bill and not set the bill aside even temporarily.

Mr. SPARKMAN. Mr. President, I withdraw the request at this time.

Mr. ALLEN. No; go ahead. All I am asking is that it be restated.

Mr. SPARKMAN. I have just been informed that the Committee on the Budget has not completed clearance yet. Therefore, I withdraw the request.

The PRESIDING OFFICER. The request is withdrawn.

UNANIMOUS-CONSENT REQUEST—S. 796

Mr. ROBERT C. BYRD. Mr. President, I have been asked by Mr. KENNEDY to send to the desk a resolution requesting a budget waiver on S. 796, to amend the Administrative Procedure Act, and I ask unanimous consent that it be referred to the Committee on the Budget for action.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Does the Senator object to my sending the resolution to the desk or does he object to the referral, or both?

Mr. ALLEN. I object to any action on the resolution.

The PRESIDING OFFICER. Objection is heard.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following Calendar numbers: No. 1199, No. 1203, No. 1206, No. 1226, and No. 1234—all of which have been cleared on both sides.

Mr. DURKIN. Mr. President, reserving the right to object, I would like to check what they are.

Mr. ROBERT C. BYRD. Let me take them up one at a time. Perhaps that would be better for the Senator.

MALPRACTICE PROTECTION FOR DEFENSE AND OTHER PERSONNEL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1199.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3954) to amend title 10 of the United States Code, to provide for an exclusive remedy against the United States in suits based upon medical malpractice on the part of military or civilian medical personnel of the armed forces, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Armed Services with an amendment to strike out all after the enacting clause and insert the following:

That (a) chapter 55 of title 10, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 1089. Defense of certain suits arising out of medical malpractice

"(a) The remedy against the United States provided by sections 1346(b) and 2672 of title 28 for damages for personal injury, including death, caused by the negligent or wrongful act or omission of any physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (including medical and dental technicians, nursing assistants, and therapists) of the armed forces, the Department of Defense, or the Central Intelligence Agency in the performance of medical, dental, or related health care functions (including clinical studies and investigations) while acting within the scope of his duties or employment therein or therefor shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or the estate of such person) whose act or omission gave rise to such action or proceeding.

"(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or the estate of such person) for any such injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true copy thereof to such person's immediate superior or to whomever was designated by the head of the agency concerned to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the action or proceeding is brought, to the Attorney General and to the head of the agency concerned.

"(c) Upon a certification by the Attorney General that any person described in subsection (a) was acting in the scope of such person's duties or employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State court.

"(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect.

"(e) For purposes of this section, the provisions of section 2680(h) of title 28 shall not apply to any cause of action arising out of a negligent or wrongful act or omission in the performance of medical, dental, or related health care functions (including clinical studies and investigations).

"(f) The head of the agency concerned or his designee may, to the extent that he or his designee deems appropriate, hold harmless or provide liability insurance for any person described in subsection (a) for damages for personal injury, including death, caused by such person's negligent or wrongful act or omission in the performance of medical, dental, or related health care functions (including clinical studies and investigations) while acting within the scope of such person's duties if such person is assigned to a foreign country or detailed for service with other than a Federal department, agency, or instrumentality or if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 1346(b) of title 28, for such damage or injury.

"(g) In this section, 'head of the agency concerned' means—

"(1) the Director of Central Intelligence, in the case of an employee of the Central Intelligence Agency;

"(2) the Secretary of Transportation, in the case of a member or employee of the Coast Guard when it is not operating as a service in the Navy; and

"(3) the Secretary of Defense in all other cases.".

(b) The table of sections at the beginning of such chapter 55 is amended by adding at the end thereof the following:

"1089. Defense of certain suits arising out of medical malpractice.".

Sec. 2. (a) The Congress finds—

(1) that the Army National Guard and the Air National Guard are critical components of the defense posture of the United States;

(2) that a medical capability is essential to the performance of the mission of the National Guard when in Federal service;

(3) that the current medical malpractice crisis poses a serious threat to the availability of sufficient medical personnel for the National Guard; and

(4) that in order to insure that such medical personnel will continue to be available to the National Guard, it is necessary for the Federal Government to assume responsibility for the payment of malpractice claims made against such personnel arising out of actions or omissions on the part of such personnel while they are performing certain training exercises.

(b) Chapter 3 of title 32, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 334. Payment of malpractice liability of National Guard medical personnel

(a) Upon the final disposition of any claim for damages for personal injury, including deaths, caused by the negligent or wrongful act or omission of any medical personnel of the National Guard in furnishing medical care or treatment while acting within the scope of his duties for the National Guard during a training exercise, the liability of such medical personnel for any costs, settlement, or judgment shall become, subject to the provisions of this section, the liability of the United States and shall be payable under the provisions of section 1302 of the Act of July 27, 1956 (31 U.S.C. 724a), or out of funds appropriated for the payment of such liability.

"(b) The liability for any claim for damages under this section against any medical personnel shall become the liability of the United States only to the extent that the liability of such medical personnel is not covered by insurance, and such liability shall not constitute coinsurance for any purpose.

"(c) Liability of the United States for damages against any medical personnel referred to in subsection (a) shall be subject to the condition that the medical personnel against whom any claim for such damages is made shall—

"(1) promptly notify the Attorney General of the claim, and in case of any civil action or proceeding brought in any court against any such personnel, deliver all process served upon such personnel (or an attested true copy thereof) to the immediate superior of such personnel or to such other person designated by the appropriate Adjutant General to receive such papers, who shall promptly transmit such papers to the Attorney General.

"(2) furnish to the Attorney General such other information and documents as the Attorney General may request, and

"(3) comply with the instruction of the Attorney General relative to the find disposition of a claim for damages.

"(d) The liability of the United States under this section shall also be subject to the condition that the settlement of any claim described in subsection (a) of this section be approved by the Attorney General prior to its finalization.

"(e) The provisions of this section shall not apply in the case of any claim for damages against any medical personnel settled under the provisions of section 715 of title 32.

"(f) As used in this section, the term—

"(1) 'Medical personnel' means any physician, dentist, nurse, pharmacist, paramedical, or other supporting personnel (including medical and dental technicians, nursing assistants, and therapists) of the Army National Guard or the Air National Guard.

"(2) 'Training exercise' means training or duty performed by medical personnel under section 316, 502, 503, 504, or 505 of this title or under any other provision of law for which such personnel are entitled to or has waived pay under section 206 of title 37.

"(3) 'Final disposition' means—

"(A) a final judgement of any court from which the Attorney General decides there will be no appeal,

"(B) the settlement of any claim, or

"(C) a determination at any stage of a claim for damages in favor of a medical personnel and from which determination no appeal can be made.

"(4) 'Settlement' means any compromise of a claim for damages which is agreed to by the claimant and approved by the Attorney General prior to its finalization.

"(5) 'Costs' includes any costs which are taxed by any court against any medical personnel, normal litigation expenses, attorney's fees incurred by any medical personnel, and such interest as any medical personnel may be obligated to pay by any court order or by statute.

"(6) 'Claim for damages' means any claim or any legal or administrative action in connection with any claim described in subsection (a) of this section.

"(7) 'Attorney General' means the Attorney General of the United States.".

(c) The table of sections at the beginning of such chapter 3 is amended by adding at the end thereof the following:

"334. Payment of malpractice liability of National Guard medical personnel.".

SEC. 3. Title III of the National Aeronautics and Space Act of 1958, as amended, is amended by redesignating section 307 as 308 and by inserting after section 306 a new section 307 as follows:

"DEFENSE OF CERTAIN MALPRACTICE AND NEGLIGENCE SUITS

"SEC. 307. (a) The remedy against the United States provided by sections 1346(b) and 2672 of title 28, United States Code, for damages for personal injury, including death, caused by the negligent or wrongful act or omission of any physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (including medical and dental technicians, nursing assistants, and therapists) of the Administration in the performance of medical, dental, or related health care functions (including clinical studies and investigations) while acting within the scope of his duties or employment therein or therefor shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or the estate of such person) whose act or omission gave rise to such action or proceeding.

"(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or the estate of such person) for any such injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true copy thereof to such person's immediate superior or to whomever was designated by the Administrator to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States Attorney for the district embracing the place wherein the proceeding is brought to the Attorney General and to the Administrator.

"(c) Upon a certification by the Attorney General that any person described in subsection (a) was acting in the scope of such person's duties or employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28, United States Code, and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State court.

"(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, United States Code, and with the same effect.

"(e) For purposes of this section, the provisions of section 2680(h) of title 28, United States Code, shall not apply to any cause of action arising out of a negligent or wrongful act of omission in the performance of medical, dental, or related health care functions (including clinical studies and investigations).

"(f) The Administrator or his designee may, to the extent that the Administrator or his designee deem appropriate, hold harmless or provide liability insurance for any person described in subsection (a) for damages for personal injury, including death, caused by such person's negligent or wrongful act or omission in the performance of medical, dental, or related health care functions (including clinical studies and investigations) while acting within the scope of such person's duties if such person is assigned to a foreign country or detailed for service with other than a Federal department, agency, or instrumentality or if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 2679(b) of title 28, United States Code, for such damage or injury.".

SEC. 4. This Act shall become effective on the date of its enactment and shall apply only to those claims accruing on or after such date of enactment.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "An Act to provide for an excessive remedy against the United States in suits based upon medical malpractice on the part of medical personnel of the armed forces, the Defense Department, the Central Intelligence Agency, and the National Aeronautics and Space Administration, and for other purposes."

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 1203, 1206, 1226, and 1234.

The PRESIDING OFFICER (Mr. HELMS). Is there objection? The Chair hears none, and it is so ordered.

COMDR. EDWARD WHITE RAWLINS

The bill (S. 3819) for the relief of Comdr. Edward White Rawlins, U.S. Navy (retired), was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembeld, That, as recommended by the chief commissioner of the Court of Claims in Rawlins v. United States, 197 Ct. Cl. 972 (1972) Court of Claims Congressional Reference Case Numbered 1-69) and, notwithstanding any other provision of law, Commander Edward White Rawlins, United States Navy (retired) shall be held and considered to have been promoted to the grade of captain on the active list of the Regular Navy as of July 1, 1947, and to have been retired in that grade on June 30, 1955.

SEC. 2. (a) The Secretary of the Treasury shall, out of any funds in the Treasury not otherwise appropriated, pay to Commander Edward White Rawlins, United States Navy (retired), the amount described in subsection (b) of this section. Such amount shall be in full satisfatcion of all claims of the said Commander Rawlins against the United States set forth in the above captioned and referenced case.

(b) The amount to be paid to the said Commander Rawlins pursuant to subsection (a) shall be equal to the difference between (1) the amount the said Commander Rawlins would have received from the Department of the Navy in active duty pay and allowances and retired pay between July 1, 1947, and the day immediately preceding the date of the enactment of this Act had he been promoted to the grade of captain on July 1, 1947, and retired in that grade on June 30, 1955, and (2) the amount of active duty pay and allowances and retired pay he actually received from the Department of the Navy between July 1, 1947, and the day immediately preceding the date of the enactment of this Act.

(c) Effective with respect to any payment of retirement pay made to the said Commander Rawlins on or after the date of enactment of this Act, the Secretary of the Navy shall pay retired pay to the said Commander Rawlins in an amount equal to the amount the said Commander Rawlins would be entitled to receive had he actually been retired in the grade of captain on June 30, 1955.

SEC. 3. No amount in excess of 20 per centum of the amount to be paid to Commander Edward White Rawlins, United States Navy (retired) in accordance with section 2(a) of this Act shall be paid to or recevied by any attorney for services rendered in connection with the claim of the said Commander Rawlins described in such section. Any person who knowingly violates the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not exceeding $1,000.

INTERNATIONAL NAVIGATIONAL RULES ACT OF 1976

The bill (H.R. 5446) to implement the Convention on the International Regulations for Preventing Collisions at Sea, 1972, was considered, ordered to a third reading, read the third time, and passed.

FERNANDO ALVES MACOS

The Senate proceeded to consider the bill (H.R. 8119) for the relief of Fernando Alves Macos, which had been reported from the Committee on the Judiciary with an amendment at the beginning of line 6, strike out "may be approved pursuant to the provisions of section 204 of that Act." and insert "may be approved nothwithstanding the provisions of sections 204(c) and 212(a)(10) of the Act.".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

DISAPPROVAL OF DEFERRAL OF CERTAIN BUDGET AUTHORITY RELATING TO ROGERS MEMORIAL OR CAPITOL HILL HOSPITAL

The resolution (S. Res. 554) disapproving the deferral of certain budget authority relating to the Rogers Memorial or Capitol Hill Hospital, was considered and agreed to, as follows:

Resolved, That the Senate disapprove the proposed deferral of budget authority for the Rogers Memorial Hospital, which deferral (D76-115) was set forth in the special message transmitted by the President to the Congress on July 28, 1976, under section 1013 of the Impoundment Control Act of 1974.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94-1300), explaining the purposes of the measure.

There being no objection, the excerpt

was ordered to be printed in the RECORD, as follows:

SUMMARY

This impoundment resolution disapproves the proposed deferral of budget authority in the amount of $4,000,000. It is reported by the Committee on Appropriations to the Senate under the provisions of title X of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 33-334 approved July 12, 1974).

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE: HEALTH RESOURCES ADMINISTRATION

Health Resources—Special medical facility

Deferral No.: D76-115.

Date proposed: July 28, 1976.

Available new budget authority	$4,000,000
Available other budget authority	0
Proposed deferral for part of year (scheduled for release)	0
Proposed deferral for entire year	**4,000,000**

Presidential rationale for proposed referral: The deferral of $4 million for the expansion and modernization of Rogers Memorial Hospital is proposed pending consideration by Congress of a reprogramming request so that all eligible construction projects in the country will have an opportunity to compete for this medical facilities construction financial assistance.

Committee recommendation and rationale: The Committee recommends that this deferral, numbered D76-115, relating to the Rogers Memorial (Capitol Hill) Hospital to be overturned and that the funds be released immediately.

The intent of Congress was very clear when the $4 million allowed for the Capitol Hill Hospital in the Second Supplemental Appropriations bill was agreed to and signed into public law on June 1, 1976 (P.L. 94-303).

These funds will allow the Hospital to develop an emergency care facility which is less than five minutes from Capitol Hill. Specifically, this will be a backup for medical care to Congress staffs, and visitors to the area. The Committee notes that this facility is the key backup unit for health care to the President when he visits Capitol Hill. Further, the General Accounting Office, in its report to the Committee, took into account the lengthy delay in submitting this request to Congress and stated that the deferral was "not timely and did not comply with the requirements of the Impoundment Control Act."

The amount which has already been provided for the Hospital will not contribute to any new beds in this area, but will simply provide updated and expanded coronary care and emergency medical services.

In recommending that this deferral be overturned and that the funds be made available immediately, the Committee reaffirms its support for this project and its continuing interest in the health care available to the residents and visitors to Washington, D.C.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider en bloc the votes by which the measures were passed.

Mr. GRIFFIN. I move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, the motion is in order.

The question is on agreeing to the motion.

The motion was agreed to.

AUTHORITY FOR COMMITTEE ON FOREIGN RELATIONS TO FILE REPORTS UNTIL MIDNIGHT TONIGHT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations have until midnight tonight to file committee reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL BUSINESS LEAGUE

Mr. JAVITS. Mr. President, this afternoon I was to have made a speech before the National Business League, meeting in Washington, composed of a large group of very distinguished businessmen, which was opened yesterday in a legislative town meeting with very distinguished people, including Members of Congress.

The National Business League is an active and established business organization of black Americans, established in 1900 by Booker T. Washington, of Tuskegee Institute, Alabama, fame. Their meeting in Washington coincided with the annual meetings of the congressional Black Caucus, the Media Women, the Operation Big Vote, and several other groups of black Americans. I accepted the invitation, but then, Mr. President, found myself engaged in a meeting of great importance of the Committee on Foreign Relations, which has just ended. That made it impossible for me to appear, as I very much wanted to—indeed, I prepared an address for the purpose—before the very distinguished National Business League, the president of which is Dr. Berkeley G. Burrell.

Mr. President, in order to honor this organization, which dedicated its 76th annual convention in Washington to the Bicentennial of our country, and because of the fact that I could not appear, I ask unanimous consent that the speech that I was to deliver to them may be printed as part of my remarks so that it can be available to their members; that a copy of the letter of invitation to me be printed as part of my remarks; and that sundry statements on the organization, its work, direction, and original inspiration from its founder may be printed as part of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATOR JAVITS' INTENDED REMARKS BEFORE THE NATIONAL BUSINESS LEAGUE, FRIDAY, SEPTEMBER 24

I am pleased to join with you in celebration of your 76th year of business endeavors in America's minority and majority communities. Certainly your founder, one of the great black Americans of his era, Booker T. Washington, was endowed with foresight when he established the first business association for the development of black enterprise in 1900. Certainly, were he alive today, he would be elated and proud to observe the many fine actions and activities of the National Business League.

Minority businesspersons, like all men and women of vision and fortitude, continue to be the backbone of our American society. In 1900 when Mr. Washington and others banded together to found your organization, historians indicate that there were 4 black owned banks, 64 drugstores, 2 insurance companies, and several small mining companies, funeral parlors, and other businesses. By 1913, that number had grown to 40,000 businesses owned and effectively operated by men and women of color. I am advised by the Commerce Department that that business growth rate is up, despite the alarming number of black business failures during this period in our economy, and that in the 4 year period between 1969 and 1972, black owned and operated businesses in New York State alone increased by 55 percent and their gross receipts increased by 92 percent.

Yet, despite this commendable growth, I am advised that blacks and other minorities in America—over 15 percent of our population—still own less than 3 percent of the businesses in our country. And, less than 1 percent of the billions of dollars received annually by U.S. businesses is realized by minority firms.

As ranking minority member of the Select Senate Committee on Small Business, I have listened intently to the cases and experiences presented by minority small business persons at hearings, through letters addressed to my attention, and through discussions with my staff and minority business constituents.

Many of the problems called to my attention by minority entrepreneurs are precipitated by factors which cannot be legislated away. Yet, I believe there are legislative and administrative solutions for a great number of the problems brought to my attention. I share your concern, expressed by your president, Dr. Berkeley Burrell, and others, with the development of viable minority business enterprise. And, I think viable is a key word in this phrase, for black businesses have fluctuated throughout the years between growth and non-growth, stability and instability, even when general market and economic conditions for society as a whole have been stable. I view the development of viable black businesses and the establishment of black businesspersons as much more than a contribution to the economic sector of American society. I view this development as a cardinal factor and contribution to American life—through the provision of leadership and positive images, not only for blacks and minorities, but whites and all Americans—in poverty areas, communities, cities, States, and in our Nation and throughout the world.

Our American society has always prided itself on its policy of insuring for all citizens equal opportunity and access to the economic mainstream of our society. This policy of promoting and advocating the integration of the disadvantaged into our system of democratic capitalism and into our economic mainstream has been continuously restated in legislation enacted by the Congress and in executive orders issued by the President and we have sought to exemplify this policy in our business oriented and economic activities on a Federal level. We now have programs in OMBE, the SBA, and over 17 other Government agencies, to assist minority entrepreneurs. Yet, as I stated in 1967 hearings on the SBA's equal opportunity loan program, our legislative and Federal program efforts have been merely a "fly speck on the wall, considering what we are up against. . . ."

Because I have long shared the relief with many of my Senate colleagues that all Americans must be afforded an opportunity for equal access to our free enterprise system, I joined several months ago with my colleague, Senator Edward Brooke of Massachusetts, in the introduction of "The Equal Opportunity Enterprise Act of 1976." We have been joined in sponsorship on that bill by Senators Kennedy, Hart (Mich), and Hollings to date. This Senate bill, the companion legislation to H.R. 12471, introduced by Congressman Parren Mitchell in the House, seeks to alleviate three of the major problems of minority businesspersons—capital formation, marketing, and management and technical assistance. It provides for mandatory subcontracting of government contracts to minority business, raises loan ceilings and authorizations, revises the 8(a) program, and establishes a committee to study, review, and propose solutions to the SBA on behalf of minority businesspersons.

In 1967 and again in 1971, I introduced a comprehensive program for setting up a domestic development bank and a separate economic opportunity corporation, to provide technical assistance to black businesses and to develop black entrepreneurship. This bill would provide for congressional chartering of a Federal bank similar to the highly successful world bank with broad powers and capability of lending, and investing in underdeveloped intercity and slum economies. In the 95th Congress, I plan to review, revise, and update that bill to reintroduce similar legislation.

During the 94th Congress, I have chaired or co-chaired a series of hearings on the problems of minorities and women in business, especially with reference to Federal Government sponsored programs and in Government contracting. As banking minority member of the Select Committee on Small Business, which assumes legislative jurisdiction over the SBA in January 1977, I plan to continue these oversight hearings and investigations with a view toward proposing additional legislation which will, if successful, alleviate many of these problems of economic discrimination.

My activities to date in the area of minority business enterprise are a result of my belief in a strong economy—my belief in America and my belief in the American people. The activities of the national business league indicate that you share these beliefs. I invite your input, assistance, and support as we continue toward our mutual goals of a strong economy, a fair society, and equal access and opportunity for all citizens in the American economic system.

NATIONAL BUSINESS LEAGUE,
Washington, D.C., September 2, 1976.

Hon. JACOB JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: Under the banner of "Economic Parity—New Spirit of '76", the National Business League, the nation's oldest national business organization, proudly announces the convening of its 76th Annual Convention at the Hyatt Regency Hotel in Washington, D.C., September 22–25, 1976.

On behalf of the Officers and Board of Directors of NBL, I take great pleasure in extending to you this sincere invitation to address the more than one thousand delegates who will join in the bi-centennial celebration of minority business.

The National Business League, founded in 1900 by Dr. Booker T. Washington, is a national federation of individuals, firms and associations engaged in business, trades and professions. Nationwide, through 120 chartered local chapters, representing 37 states and the District of Columbia, and 50 affiliated national organizations, the League has long been recognized as the primary organizational vehicle for minority business men and women.

Our 76th Convention theme reflects NBL's primary thrust for the remainder of this century—eliminating the barriers to broad participation in the economic wealth of the nation. In this bi-centennial year, the League has established the goal of achieving economic parity for Minority America by the year 2000 as its most formidable challenge. Thus this convention will analyze the crippling disparities, identify the resources and develop the short and long range plans for achieving this goal.

It is our earnest hope that you will join in this historic effort by accepting our invitation to participate in a legislative "Town Meeting", which will officially open the Convention on Thursday, September 23, 1976, at 9:00 a.m. We are also inviting Senator J. Bennett Johnston, and Representatives Parren Mitchell and Andy Young to join you on the dais. Additionally, Mr. Clarence Mitchell has agreed to moderate.

This session will explore specific legislative initiatives in the areas of minority business enterprise. It will, therefore, provide a major forum for an enlightened discussion of the bills which you and your colleagues have introduced in this area. Clearly these legislative initiatives have major implications for our constituents.

While we recognize and can appreciate your hectic and demanding schedule, we are nevertheles hopeful that our mission, and the interests of millions of Americans who view the free enterprise system as perhaps their final hope, will guide your decision on joining us in September.

Sincerely,

BERKELEY G. BURRELL,
President.

INTRODUCTION

In 1898, emerging from a shroud of secrecy and a cloak necessitated by the constricting tentacles of racism and bigotry, a secret society of Black merchants and tradesmen made its first public utterance. The "Invincible Sons and Daughters of Commerce," of Indiana, proclaimed: "We believe that race unity, along the avenues of Business and Commerce will open to us all the gateways to true and full-fledged American citizenship."

One year later, the nationally acclaimed educator and business figure, Booker T. Washington, convened what would be the organizational session of the National Negro Business League. Washington responded to what he perceived as an immediate need for greater stimulation of Black business development in drawing a delegation of more than four hundred men and women to Boston, Massachusetts.

That session marked the beginning of nationally organized federations of business people collectively contributing their skills and interests to the protection and promotion of the nation's business and economy.

Seventy-five years later, that organization returns to the city of its founding. Having endured and responded to the needs and demands of an oppressed people, the National Business League has returned to the rudimental philosophies upon which it was founded as it reiterates that initial call for collectiveness of purpose in its theme—"Unity for Economic Parity". NBL began in Boston, dedicated to promoting the financial and commercial development of Blacks and other minorities. It began with the fundamental principle that unity, business and wealth are essential to the development and security of its people.

For posterity, NBL chronicles the strides it has made toward achieving its original mission and to share a legacy and tradition of sacrifice and service that few know in a country whose history has so blatantly ignored those who laid the very cornerstones of this republic and whose labor made free enterprise a reality.

PIONEERING THE AMERICAN MAINSTREAM

In 1961, Luther H. Hodges, then United States Secretary of Commerce wrote to the members of the National Business League: "These are the days in the Nation's history when maximum development of all of the talents of the business community are urgently needed to assure our maintenance and increase in the standard of living for all Americans. This economic expansion of our business potential must be the sum total of the efforts of all segments of our business community. No longer can we afford the luxury of waste of either man power or material if we would make the American image come alive to the developing nations of the world."—League Notes, 1961.

History continually runs its recurring cycle. These words might well have been those of a contemporary figure as easily as they might have been those of the founding fathers of this nation whose faith gave life and birth to a new republic in a land called America.

It was that very philosophy which generated the creative spirit that moved the renowned Booker T. Washington to dream of institutionalizing a national organization of black business persons. His passionate devotion to this goal was founded on the belief that—"The Negro should be integrated into the affairs of the State, the Nation, and the World. He realized that Business and the building of it was basic to the rise of the race. He further knew that the Negro was not in a position to provide the finance to carry forward the needed program. To provide the funds with which to inaugurate the League, he turned to friends and through the philanthropy of Julius Rosenwald, the Rockefeller family and their Standard Oil Company, he founded the National Negro Business League."—*Convention Journal, 1952.*

After having identified these financial resources he circulated the following communique:

"After careful consideration and consultation with prominent colored people throughout the country it has been decided to organize what will be known as a National Negro Business League.

"The need of an organization that will bring the colored people who are engaged in business together for consultation and to secure information and inspiration from each other has long been felt. Out of the national organization it is expected will grow local business leagues that will tend to improve the Negro as a business factor.

"Boston has been selected as the place of meeting because of its historic importance, its cool summer climate and general favorable conditions. It is felt that the rest, recreation and new ideas which business men and women will secure from a trip to Boston will more than repay them for time and money spent.

"The date of the meeting will be Thursday and Friday, August 23 and 24, because it is felt that this is the season when business can be left with least loss. Then, too, nearly all the steamship lines and railroads have reduced their rates to Boston at that time to one fare for the round trip for the entire summer.

"Every individual engaged in business will be enitled to membership, but as far as possible the colored people in all the cities and towns of the country should take steps at once to organize local business leagues, where no such organizations already exist, and should see that these organizations send one or more delegates to represent them.

"It is very important that every line of business that any Negro man or woman is engaged in be represented. This meeting will present a great opportunity for us to show the world what progress we have made in business lines since our freedom.

"This organization is not in opposition to any other now in existence, but is expected to do a distinct work that no other organization now in existence can do as well.

Another circular, giving further information as to programme and other details of the meeting will be issued within a few weeks. All persons, whether men or women, interested in the movement are invited to correspond with, Yours very truly, Booker T. Washington. Tuskegee, Ala. June 15, 1900."

Booker T. Washington enlisted the support and participation of black entrepreneurs from every corner of this nation, and in every city and township where he could identify a black person who was engaged in any form of enterprise—he identified that as a chapter of NNBL. But his insight demanded that he do something that no other man had done before. He sought to mesh black business with black education. To his friends and fellow black business people he said: I hold that there is no hope for us as a race except that we learn to apply our education in a practical manner to the resources of our country, and to the common activity or the life of the community in which we live. No mere education will help a race except that education be applied to the natural resources and interchange of commodities as represented in such department of life as farming and business."—*Business League Bulletin, 1927*

From the outset, Washington understood the implication of his undertaking. He recounted for the benefit of the large delegation of men and women who returned to the city of Boston for the 16th Annual Convention of National Negro Business League, the advances which they had, as a race of people, achieved since the Emancipation Proclamation. Washington said, in 1862 we had practically no business enterprises in the way of mechandising; at that time among the whole race we had but 2,000 of such enterprises; at the present time we have between 43,000 and 45,000 various business establishments with total volume of trade aggregating approximately one billion dollars." He understood the concept of community spirit when he countered that figure with the warning "We are still a poor race for when you divide this up among the millions of our population it does not represent a very large per capita."—*Marching on Boston—NNBL 15th Anniversary Convention, 1915*

The picture had indeed been significantly more bleak as W.E.B. Dubois had documented in a study on the eve of the founding of the National Negro Business League. By his figures there were: 4 banks and 4 insurance companies who showed collective assets of $270,900. There were 3 savings and loan associations and 12 building and loan associations whose combined assets exceeded $165,000.

This year, two hundred years after blacks set foot on this nation and helped to create the first American enterprise through the trade of their lives into bondage—in Washington's words—"We are still a poor race, for when you divide (that which we have earned) among the millions of our population it does not represent a very large per capita.

In 1975 the federal government documented the existance of 194,000 black businesses. There are 38 black banks who boast $654,940,000 in assets; 45 savings and loan associations with $501,341,515 in total assets; and 39 insurance companies with assets of $531,760,000, and $7,515,240,000 in insurance in force. In that time, NBL has watched the creation of more than 45 major trade, business, and professional associations which have been created to assist black enterprise. Yet, for a 30 million-plus population, the per capita is still not very large.

Only nine men have followed the Founder. Only nine men have followed the path trod by a pioneer who etched an indelible mark on the profile of this nation. His predecessors inherited a distinction that was created by the mammoth shadow which the imaginative genius of Booker T. Washington cast as one said: "The League's work in the past has been most successful, and has moved along more or less inspirational lines that were possible because of the dominating personality of its Founder. We have lost him now, and the time has come for concerted, definite, constructive work, and to realize anything like sucess from our future efforts it appears that we should first decide upon a definite program of action."

The program was born and has flourished under the watchful eye of soldiers and protectors of a legacy who as leaders of the League have held high a torch emblazoned with the words of the Founder: "No people ever got upon its feet and otbained the respect and confidence of the world—which did not lay its foundations in successful business enterprises. Business, commerce and the ownership of property do not embrace all the interests of our people. But one cannot find today a race or a nation that stands erect, secure in the appreciation, respect, and confidence of the world that has not had as its foundation, ownership of the soil, in bank accounts, in habits of thrift and economy and in business enterprise."

THE BUILDER

"Today we must understand that business and government cannot build repressive and protective devices to control or punish the desperate minorities seeking equality without at the same time plunging our free enterprise system into a death struggling gutter surrounded by armed forces where customers can't get in and the businessman can't get out."—Dr. Berkeley G. Burrell—New York—1969.

The President Speaks

Commemorating the Diamond Anniversary of the founding of the National Business League—1975

Each individual who assumes the leadership of this organization, in my opinion takes an unspoken pledge to words spoken in Memorial to Booker T. Washington by Emmet J. Scott who eulogized our Founder saying: "The lighted torch he carried now passes to our hands. The work he did was work for the nation. He was not an unprofitable servant. He gave to his race and to his country all of his physical and mental vigor; he could give no more. The best, the most fruitful years of his life were spent in behalf of his fellows. His life will shine with steady radiance as the years come and go. Let us harken to the call he sounded for brave patriotic service; let us press forward, strong and unafraid, with patience and firm resolve, with the lessons of his devoted life ever before us, to advance the cause for which he was willing to live, for which he was willing to work, and finally for which he was willing to die." Since our ancestors were first bound and chained to these shores in 1619, each generation of Black Americans has been summoned to give testimony to its commitment to freedom and justice. The chronicle of those who have willingly answered that call provides a legacy to which we all pay homage. That tradition is echoed now as a call to arms—a call to bear the burden of a long and desperate struggle against social, political and economic repression.

There are those who cannot bear the burden of a long twilight struggle. They lack confidence in our capacity to survive and succeed. Yet, in the history of our oppressive form of existence, few have been granted the privilege of defending economic justice in its hour of maximum danger. Only through unity and our complete dedication can we spearhead the cause through the troubled years that lie ahead. The challenge is great yet we as black people have learned that as white America succumbs to its problems, Black America seizes that opportunity.

With the torch of economic justice our only sure reward—with history the final judge of our deeds—together we can go forth with the movement toward true parity in every phase of human endeavor. The trumpet has summoned and the weight of its heavy challenge falls squarely on our shoulders. The hour of decision has arrived. We must continue to hold high the torch. We cannot afford to spend idle hours "navel gazing" while the tide of events sweeps over and beyond us. We must use time as a tool not as a couch. We must carve out our own destiny. Today, against one of the most devastating crises to afflict this country in its history, we return to the city of our founding. On the event of the bicentennial celebration of this nation's birth, we commemorate our own renaissance from humble beginnings. We, a people born of an era of bonded slavery and indentured servitude, stand poised on the threshold of producing a plan for the recovery of America from the perils of economic disaster.

Together we mark the unification of the most powerful federation in history dedicated to the economic survival of the country and economic parity for her people. And together we must demand our rightful place among those who hold full citizenship in this democratic system. That is why the disparity between the economic systems of white America and black America must be reconciled within the context of parity.

Why parity? Because: Five per cent of the families in America control nearly ninety-five per cent of the wealth in this country. Because: The percentage of minority occupied housing units that have been classified as substandard triples that of whites. Why? Because black Americans represent thirteen per cent of the population yet collectively account for a meager seven per cent of the total money income. Because: Minorities represent seventeen per cent of the U.S. population, yet account for only four per cent of the more than twelve million business enterprises in this country, and only seven-tenths of one per cent of the total business receipts.

We cannot let the fear of confrontation, nor timidity in attempting what seems to be the impossible, impede our progression toward the true equality that is guaranteed by this country's constitution.

We must set our sights high and equip ourselves with the will to succeed. Booker T. Washington saw 43,000 black businesses gross $1 billion in business receipts in 1915. Sixty years later we documented 194,000 black businesses with a combined gross receipts at $7 billion. It took us sixty years to achieve that goal. And while we struggled to reach $7 billion, majority America was chalking up $2.5 trillion in total receipts for that same year.

This is why we are devoting our attention and expertise at this 75-year mark to the issue of parity. Because in the year 2000—things must be different—and only parity is the answer.

The year 2000—the turn of the century is less than 9,000 days away—and minority America must set its goal. Parity says that as a population, we comprise 17% of the whole and should realize profits and earnings return at that same rate. At its current rate of growth, majority America will gross $5.5 trillion in business receipts in the year 2000. Our share of that figure is $950 billion—and by right it is ours to earn.

To get there we must be involved in multi-billion dollar projects, all which require high equity investment—not small business loans. That is why we must seige our share and make "Unity for Economic Development" a reality and not just a theme.

Every opportunity must be transformed into a strategy of action. We must not wait until the plan is complete we must get into the ground floor. As the government plans its massive money give-aways, we must secure our position in line with our goals. All efforts must point toward parity and the revitalization of our centers of commerce. Our "piece of the traction" must come from the government's plans to restore the bankrupt northeastern railroad system. Our realization of the plan for a National Economic Revitalization Authority to oversee minority involvement in the country's efforts will bring life and rehabilitate the decaying communities which must support commerce. Each of these is an opportunity, and there will be more that we must draw into our focus to achieve our end.

The challenges we face are far too great and the time far too short for us to delude ourselves into believing that our problems will be solved through rhetoric or misguided individualism. Only through unity of purpose, resources and dollars will we achieve our goal.

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LEWIS H. LATIMER AMONG MINORITIES WHO HELPED MAKE MAJOR U.S. BUSINESSES

While major efforts of the National Business League have always centered on the economic well-being and future growth prospects for minority entrepreneurs, this Diamond Jubilee convention is a fitting time to honor minority engineers, inventors and scientists whose dedicated work helped establish some of the nation's leading, mainstream business and industrial companies.

One such historic figure is Lewis Howard Latimer, son of a runaway Virginia slave. Latimer developed the filament in the lamp bulb invented by Thomas A. Edison. And the lamp bulb led to the founding of the present-day General Electric Company.

For General Electric, the lamp bulb triggered the development of entirely new technologies for the generation and delivery of power which are at the heart of GE's business today. Related efforts also underlie present GE businesses in consumer products as well as in chemicals, plastics, x-ray equipment and medical systems. GE is currently ranked as the sixth largest of the 500 largest U.S. industrial and business companies.

Born in Boston, Latimer's career started shortly after the Civil War. He worked, as a draftsman for a team of patent lawyers, quickly rising to the position of chief draftsman, and he was selected to prepare drawings and patent applications for many inventions including Alexander Graham Bell's telephone.

In 1880, Latimer's work won him a position with the United States Electric Company in Bridgeport, Conn. It was there, working as an engineer, that he developed and patented a valuable process for making the carbon filaments which pre-date Edison's version. He also invented switches and bases for the lamp bulbs, and personally supervised their installation in the first electric lighting systems in New York City, Philadelphia, Montreal and London.

In 1884, Latimer joined the Edison Electric Light Company in New York as a draftsman-engineer, staying long enough to witness the formation of the Edison General Electric Company in 1889. The following year, he wrote what became an authoritative guide for electrical engineers, "Incandescent Electric Lighting—A Practical Description of the Edison System."

In 1892, when the Edison General Electric Company merged with the Thomson-Houston Company, to form the General Electric Company of today, Latimer was part of the legal staff that handled the complex arrangements associated with such mergers and continued the association as a fulltime patent consultant until he left GE in 1911.

The only black man among the original 28 members of the "Edison Pioneers"—men who had been associates of Edison before 1885—Latimer died in 1928 when he was 80 years old.

Latimer was only one of a band of minority professionals whose contributions helped establish many industries. There are others like Norbert Rillieux, the sugar industry; Jan Matzeliger, the shoe industry; Madame C. J. Walker, the hair care industry; and a cadre of scientists, doctors and inventors who developed techniques and discoveries which spawned numerous major medical products and related business organizations.

America's Bicentennial Celebrations, which begin in little more than two months, make honoring these minority pioneers doubly significant. For the Bicentennial Year will showcase hundreds of personalities, ranging from its founders to its foundlings, who contributed to the physical growth, the cultural enrichment, and the economic success that made America great.

THE GOLDEN AGE OF BLACK BUSINESS

During the next seventeen years the men that stood at the helm saw some of the most startling transitions occur in the American scene as it related to the Black populace. The period immediately preceding the Golden Age of Black Business saw several great mass migrations of rural blacks from the South to cities in the North and West, and within the South—from rural areas to urban areas.

These migrations served to create a Black market in many northern cities. These new industrial centers paid higher wages than the black Southern Laborer was accustomed to. Additionally, as a direct consequence of this dramatic increase in the black populations of many of the major cities, black businesses were established to serve these people.

While Black businesses which had been developed in the Post-Civil War era had contributed significantly to both white and black communities, the beginning of the 1920's marked a sharp reversal in that trend. For the first time, the importance of the black market to the survival of Black business was a relatively new phenomenon in the economic equation.

There is increasing evidence of progress, during the twenties, of the pooling of resources in the purchase of entire business blocks in strategic locations in cities across the country. This was the genesis of what some writers have called "Main Street" of the black community, involving a cluster of black businesses—primarily retail and service shops but also included the city's bank, savings and loan, insurance company, newspaper offices, and in some instances manufacturing facilities.

After the first World War, black disenchantment found expression in a new movement. Marcus Garvey's Back-to-Africa movement meshed interesting philosophies. He stressed economic self-sufficiency for blacks, culminating in the establishing of their own retail, distribution and production outlets; while appealing to race pride and an appreciation of the virtues of the rich African heritage of Black Americans. He had grand designs for a Black economy and started the Black Star Line (Black steamship company) and the Universal Improvement Corporation as examples.

During this period, the National Negro Business League continued to grow in total numbers and in influence throughout the nation. In line with this development—the United States government assigned organization officers to key positions. Emmett J. Scott, NNBL Secretary was appointed special assistant to the Secretary of War, in a move interpreted to allay suspicions and unrest among troops and among the civilian population at home. NNBL President Robert Morton, was appointed to do morale work among black troops serving in France.

THE CRASH

By the end of the Golden Era of the 20's, growth and development was reaching its peak at about the time of the stock market crash of 1929. Just as black people were beginning to capture "the capitalistic dream" and move ahead, especially the middle classes who had accumulated enough to invest in stocks, the crash came.

A survey of black business conducted by the National Negro Business League in 1928 in 33 major cities located in the South and Midwest, and involving 2,817 enterprises showed that these businesses were grouped in a broad range of 28 categories. While these were geared mainly in service categories, a number of indications of progress were apparent. By early 1929, at the height of the country's greatest period of prosperity, there were 80,000 businesses owned and operated by blacks.

The resulting depression that followed the crash was the worst period, economically speaking, in the history of the nation, to that date. All levels of the black population were especially hard hit, along with whites. Black workers either lost their jobs or the luckier ones accepted drastic salary cuts.

Black businesses, especially of the larger more imaginative variety were devastated by the Depression. As the economic distress of the nation deepened, more and more black banks, insurance companies, and commercial establishments failed or were liquidated. Those businesses which were lucky enough to survive had to drastically cut their staffs and work forces. Thirteen banks alone failed during that period, many having been organized as early as 1907, 1908, 1913, and 1919. Since the vast working class was the largest single source of support for black banks, the losses resulting from these failures fell heaviest upon them. It was indeed paradoxical that the leadership who served NNBL so valiantly as its president during this era was the stalwart, C. C. Spaulding of N.C. Mutual Insurance Company.

THE FORTIES

The probability of success or the possibility of failure is an inherent phenomenon that is part and parcel of the private enterprise system. The true entrepreneur is resilient.

Many black communities turned to "Buy Black", "Support Your Own" programs and drives. Partially resulting from such programs, and spurred by other factors, the local numbers of black businesses in operation, even during the depression, continued to increase—with an emphasis upon smaller ventures. By 1930 there were 103,872 black businesses in operation.

With the election of Franklin D. Roosevelt and the greatly expanded role carved out during his administration for the federal government, a new era dawned. The Works Progress Administration employed over a million blacks, including many writers, actors and musicians, under projects set up in New York and other big cities. Other New Deal programs included: The National Recovery Act (authorizing codes for certain industries, regulating minimum wages, maximum working hours); The Agriculture Adjustment Act, the Bankhead-Jones Farm Tenant Act and the Farmer Security Administration Program. A standout was the Wagner Labor Relations Act under which unskilled workers, many of whom were black and who had long been excluded from the highly selective craft unions of the A.F. of L., turned to the CIO for membership and representation. The latter organization was founded on the theory that all workers in a particular industry—should belong to the same union crossing various craft lines. The CIO welcomed blacks into its ranks and by 1940 had an estimated 210,000 black membership. Many of them had achieved new skills and mastered new crafts and assumed leading roles in these unions.

At the same time, the total number of black businesses decreased to 87,475 in 1940—marking a 16% decrease since 1930. Trade categories showed the biggest decline where: Retail merchants dropped from 28,000 to 17,000; Barbers and hairdressers from 34,000 to 28,000. The greatest increases were bankers and brokers rising from the depression catastrophe total of 267 to 907, by 1940; undertakers from 2,946 to 3,415; and restaurant owners from 10,543 to 11,263. The National Negro Business League saw a progression of new leaders.

THE PRESIDENTS—SERVANTS TO A LEGACY

In a series of lectures in 1969, the tenth president of the National Business League, Dr. Berkeley G. Burrell, chronicled milestone after milestone in recapturing the historical development of black business. He shared these thoughts with a group of students on Fisk University's campus, and until now had preserved them for future generations in the archives of NBL. But, because this document represents the first major contribution of the National Business League to the bicentennial commemoration of the birth of this nation, we have attempted to incorporate those facts in the historical documentation of business ventures fostered by black persons since the earliest centuries. The following is a personal account of the landmark developments of black business and the NBL Presidents who served during those periods. If we accept the philosophy of many historians we will support the notion that history repeats itself. That theory would also encourage us to believe that the black businessman in 20th century America is destined to reclaim a great past of commercial dominance because it has been destiny to evolve from merchant to merchandise and now toward the full swing back to merchant.

THE HISTORIC BACK DROP

The beginning of this cycle pre-dated Booker T. Washington and even the birth of America. During the early Christian Era, blacks were scattered throughout the four corners of the world and for many centuries, black merchants traded with India, China, and Europe. By the beginning of the Islamic Era, black people were moving into traditionally "white" countries both as professionals and business people, as well as slaves. It was also during this Era that three powerful black states—Ghana, Mali, and Songhay—emerged in the western Sudan. Their collective power and wealth accrued from trans-Saharan trade and profoundly influenced civilization at that time. The wide diversity of these west African tribes reflected the complex socio-economic systems of their governments. While agriculture was the basis of the economic life, specialized tradesmen were abundant. Each tribe has its own corps of craftsmen, whose skill in textile weaving, pottery, woodworking, and metallurgy would later be used in the Western Hemisphere.

At the same time, states in Western Europe were witnessing the disintegration of their feudal systems, accelerated by the shift in commerce in the 15th century from the Mediterranean to the Atlantic seacoast. This period was later known as the Commercial Revolution where new goods were introduced into the European market. The increased need for raw materials led to the exploration and cultivation of the New World and a pressing demand for a cheap and plentiful source of labor. Thus, the institution of slavery and the slave trade became a tragic consequence of the Commercial Revolution.

They turned to the black tribesmen of West Africa, who had once dominated their own commercial empires and transformed them into the human chattel of the infamous slave trade. Blacks thus helped to raise the curtain on economic life in the new world and were destined to play an ever greater role in the exploitation of its resources—once here and tied to a lifetime status of slavery. The years of servitude which followed in which black labor fueled the American Economy were later to provide the basis upon which black entrepreneurship would make itself felt in that same economy. The saga of the black man continued from merchant to merchandise to merchants. . . .

As the centuries wore on, the American colonialists themselves found out what it was like to live under prohibitive laws. England's new colonial policy threatened the economic and political freedom which they had enjoyed for generations. And thus the background of the American Revolution was one of history's greatest paradoxes; A colony with a half-million slaves went to war to support "the equality of all men and the unalienable rights of life, liberty and the pursuit of happiness." Having inched one step upward toward self-respect, the Black man in the North and South struggled to secure for himself a measure of economic independence in a still pervading atmosphere of subordination, subservience, and disrespect. Yet, the stage had been set for a new beginning to the black entrepreneurial effort.

The career of the earliest known black businessman in America even pre-dates the American Revolution. His name was Emanuel Bernoon an emancipated slave who had bought freedom from Gabriel Bernoon of Providence, Rhode Island. Contemporary accounts state that he opened a catering service in Providence, then the first ale and oyster house in that city.

Among the free blacks who sought economic independence in the post-Revolution period, Paul Cuffe was one of the most outstanding. Born in New Bedford, Massachusetts, a town deriving its livelihood from the sea. He excelled in navigation and mathematics. At the age of 21, in 1780, he built his own ship. By 1817, at his death, he held an estate of over $20,000 and a shipping empire of unparalleled esteem. A counterpart of Cuffe's in Philadelphia, James Forten was a Revolutionary War veteran and was one of the first blacks to amass a fortune as a sail manufacturer. And the chronicle of improbable achievements went on:

Henry Boyd—Black Cincinnati cabinetmaker and furniture manufacturer.

William Alexander Leidesdorff—Black import-export tycoon.

Barney Ford—Hotel entrepreneur.

Lunsford Lane—tobacconist and general merchandiser.

John C. Stanley—prosperous North Carolina barber who used wealth to invest in plantations and purchase freedom for slaves.

William Wormley—Owned the largest livery stable in Washington, D.C. in 1830.

Thomy Lafon—New Orleans entrepreneur amassed more than a half million dollars by 1860 as a cotton broker and sugar plantation-owner.

The list went on with blacks moving into careers formerly held only by white Americans. Yet the period between the mid 1800's and the turn of the century was one of few notable successes in permanency of profit. Nonetheless, their pioneering economic ventures in banking and savings and loan institutions along with a marked increase in numbers of blacks hired by other firms, set the stage for the promise of the 20th century.

RESURGENCE OF BLACK BUSINESS GROWTH

When Booker T. Washington founded the National Negro Business League in 1900, blacks had begun to show startling gains on a broader base. Three separate studies bore statistical proof to this claim. The U.S. Bureau of Census statistics, a private study by Atlanta University under the direction of Dr. W. E. B. Dubois, and a third report under the auspices of the United States Commission to the Paris Exposition of 1900, headed by Andrew F. Hilyer of Washington, D.C.—documented the fact that blacks were listed in every type of business designated in the census schedules of the period.

Even then there were black industrial giants who served as models for the nation, and generated other businesses. The Coleman Cotton Mills were established in Concord, North Carolina in 1896 by seven black men including R. B. Fitzgerald of Durham—President, E. A. Johnson—Vice President, and W. C. Coleman—Secretary/Treasurer. The capitalization was $100,000 and the plant hired 250 black people and consisted of a huge three story brick building with power facilities and adjacent structures and grounds. From this mill and the efforts of a black master mechanic employed there, a Woolen Mill capitalized at $250,000 was established in 1901.

In the twenty years that followed, the National Negro Business League enjoyed the leadership of its first two Presidents.

THE FABULOUS FIFTIES AND SIZZLING SIXTIES

A recognition began to awaken in some circles in this country during this period. It became more apparent that a country which was to play the role of world leadership, should demand that democracy be practiced at home and that minorities indeed deserved the right to equality of opportunity. The New period was characterized by civil rights struggles and advances. In a series of decisions, the United States Supreme Court struck down segregation in area after area of our national life, carrying with it edicts against discrimination. Their implementation continues to haunt an unwilling nation.

This twenty-year period was characterized by a revolution among black people generally. The Civil Rights movement developed dramatic and bold new techniques to achieve goals sought over the entire period following Emancipation. A sense of urgency consumed black people and they began to pressure for change.

New organizations came into being and new leadership emerged across the country: Dr. Martin Luther King, Jr., and the Southern Christian Leadership Conference (SCLC), the Congress of Racial Equality (CORE), the Student Non-Violent Coordinating Committee (SNCC). With these came new techniques adapted to the struggle: the bus and store boycotts, the Freedom rides, the sit-in, wade-in, the mass march. In 1963, the Centennial year of the Emancipation Proclamation, activity, ferment, protest, and pressure came to a peak. During this period of emphasis on integration, the black businessman and business community were faced with the horns of dilemma. Many of their businesses had been built under the protection of segregation in a limited black economy, constricted in a relatively few fields of endeavor, and by artificial barriers created by racial segregation patterns. They were fearful that with mass desegregation they might be integrated right out of business. Yet the businessman was sensitive to the long-range goals of the black community and the aspiration of full-citizenship.

The off-shoots of this movement were also reflected in the activities of national Black organizations. Following the insistent demands of its constituency, the National Negro Business League dropped "Negro" from its title and became the National Business League in 1956. This denoted outward recognition of its already established policy of serving the interests of all minority businessmen.

The Small Business Administration was established in 1958 as the result of pressure by white and black small business interests and the NBL constituency.

Community economic development became the watchword and the government responded with social program after program to answer the needs of economic survival. The Office of Economic Opportunity and Model Cities were two such efforts. At the same time black self-help programs emerged with community support like Dr. Thomas Mathew's National Economic Growth and Reconstruction Organization and with the help of the church Rev. Jesse Jackson's Operation Breadbasket and Rev. Leon Sullivan's Opportunities Industrialization Center to Shape.

THE SEVENTIES—TOWARD THE YEAR 2000

History has proven one prevailing truth. A business cannot survive without a healthy economic environment—that is an environment with an adequate supply of capital for the purchase of goods and services, the investment in business enterprise and the expansion of manpower and plant capacity.

As a group, Blacks represent only 13 percent of the total population of this country. In 1970 we accounted for a meager 6.5 percent of the total money income. We are again shackled with one of the most devastating economic crises in the history of the nation. Economic advisors fluctuate between the admission of repression and depression while black business people are mired in what appears to be certain death. Census Bureau statistics record the existence of 194,000 black businesses in 1975. Of that total, 163,000 or nearly eighty-four percent recorded gross receipts of only $13,000. At the same time, the relationship of these firms to total business activity has not changed significantly since 1969, when the entire minority business community accounted for only 0.7 percent of the receipts for all business firms.

Today, sixty-four percent of all minority business firms are concentrated in retail trade and selected services; ninety-four percent operate as sole proprietorships; and most are located in depressed inner-city communities where overall unemployment doubles the national average, and unemployment among teenagers frequently exceeds forty percent. The President of the United States, Gerald R. Ford wrote earlier this year.

"The urban crisis is not a single problem. It is a complex of problems, a poisonous brew concocted from all the major ills of our nation—rampant crime, inadequate educational systems, hard-core unemployment, shockingly dangerous pollution of air and water, antiquated transportation, disgraceful housing, insufficient and ineffective public facilities, deterioration of the family as a unit, lack of equal opportunity for all Americans, and an explosive failure of communication between young and older Americans, Negroes and Whites. All of these problems cry out for immediate action. The question: who does what and how?"

The National Business League answered and America is looking to this organization and its leadership. To the nation NBL said: "It is the uneconomic environment of our communities that short circuits the potential of our business ventures. What we need is a full-scale assault potential of our business ventures. What we need is a full-scale assault that addresses the larger issue of total economic development, parity for the people, and revitalization of American centers of commerce.

[From the official publication of the National Business League founded in 1900 by Booker T. Washington]

NATIONAL MEMO

BOLTON SET TO HEAD MINORITY BUSINESS RESOURCE CENTER

Kenneth E. Bolton, a former HUD administrator, was sworn in as Executive Director of the Minority Railroad Resource Center on June 7, thus paving the way for implementation of the Center's mandate to ensure minority participation in the multi-billion dollar railroad program. Operation of the Center, authorized by Title IX of the Railroad Revitalization and Regulatory Reform Act of 1976, had been thwarted for more than four months by administrative delays in the U.S. Department of Transportation.

Following swearing-in ceremonies at the Department, NBL President, Berkeley G. Burrell, urged speedy activation of the Center, and warned against any further administrative delays. He noted that the minority sector job producing and business expansion activities contemplated by the Act will be lost unless the Department uses "extraordinary measures" to place the Center into operation by September 30, the end of the current fiscal year.

Said Burrell: "We are concerned that the economic benefits and opportunities that should flow to minority communities may not be realized this year. By fiscal year '77 it will be too late because the major contract and procurement commitments will have been made." He added that no manner of administrative delay can be allowed to circumvent the clear legislative intent of the Congress when it created the Center.

The National Business League, in conjunction with numerous citizen groups and trade associations, had argued persuasively for the creation of a minority resource center to channel some of the billions of dollars authorized in the railroad revitalization effort into minority communities. As envisioned by these groups, the Center is expected to stimulate multi-million dollar activity in Minority America's economy, providing contracts, creating individual job opportunities, and producing incentives for investment.

Specifically, the Center is expected to support minorities in their effort to become a major supplier of goods and services to the railroad industry. These goods include the manufacturing of hardware components, spare parts, and capital equipment; all facets of construction, from grading and hauling to the new construction of bridges, tunnels and terminals; and a wide range of services in the areas of architectural and engineering work, legal, accounting, computer, banking, finance and insurance.

The progress of the Center's activities will be closely scrutinized by NBL, and will constitute one of the major issues at the League's 76th Annual Convention in Washington this fall.

OTHER RAIL NEWS

$1.6 million authorized for railroad resource center

The Second Supplemental Appropriations Bill of 1976 was passed by the Committee on Appropriations and signed by the President on June 1. The Committee has included an appropriation of $1,250,000, which together with the $350,000 in programmed funds which Congress has approved should be adequate to support the programs of the Minority Resource Center during fiscal year 1976 and the transition quarter. The initial budget objectives have been obtained!

Effort to secure $10 million in venture capital and bonding

NBL and a panel of experts in the surety and bonding fields met with Federal Railroad Administration director and representatives from OMBE and SBA regarding the development of a mechanism for leveraging investment capital for business development in the railroad industry. The initial talks developed into a two hour work session that explored existing programs within the federal sector that could be utiilzed, the need for systems to determine the proper distribution of funds, and generally made substantive headway in developing a comprehensive approach to solving the venture capital and bonding problems. These work sessions will continue until the mechanism is in place.

$1.75 billion northeast corridor rail project

Four architectural/engineering firms have been selected to compete for the design of the $1.75 billion federal project to upgrade rail passenger service between Washington, D.C. and Boston, Massachusetts. NBL intervened in the selection process after the request for capability statements appeared in Commerce Business Daily without any accommodation for minority business participation. The Department of Transportation issued an amendment to the Commerce Business Daily request and subsequently this paragraph appeared in the DOT press release (5/8/76) announcing the selection: "A major role for minority businesses was an important factor in the selection of these firms and will also be important in the final award of the contract for an overall contractor for the upgrading program. Each of the companies selected has described an engineering team that includes a significant role for minority business firms. Opportunities to join these teams are still open for participation by minority or small business contractors. It is expected that many subcontracts will be awarded subsequent to the final selection of one of these companies." The firms are: Bechtel, Inc.; Corridor Rail Consultants—A Consortium; DeLeuw Cather/Parsons Associates—Joint Venture; Tippet, Abbett, McCarthy, and Stratton—Joint Venture.

WILLIAM KENNEDY TO KEYNOTE 76TH ANNUAL AWARDS BANQUET

William J. Kennedy, III, 7th President of the North Carolina Mutual Life Insurance Company, will deliver the keynote Awards Banquet Address at the National Business League's 76th Annual Convention on September 24, 1976. An investment and finance expert, Mr. Kennedy is chief executive officer and Vice Chairman of the Board of Directors of the nation's largest Black insurance company. His background in the insurance industry provides an added dimension to the League's efforts in the economic development field, particularly on the issue of minority economic parity.

Kennedy, who joined North Carolina Mutual in 1950, has moved inexorably to the top of the company and now commands the national influence and acclaim befitting his unique talent. Born in Durham in 1922, Kennedy began his career with North Carolina Mutual as a messenger boy during summer vacation periods. Starting on a full time basis, he was appointed administrative assistant as his first assignment. In the Home Office, he engaged in audits in the Controller's Department and tax accounting in the Finance Department.

As has been the case with many other Home Office representatives of North Carolina Mutual, a life insurance career for Kennedy was a natural. His scholastic and practical training, including two years of U.S. Army service as lieutenant in the Medical Administrative Corps, has enabled him to render invaluable service to his Company in the areas of investments, accounting and office administration.

A graduate of Virginia State College, the University of Pennsylvania and New York University, Kennedy is married to the former Alice C. Copeland. They have one son, William J. Kennedy, IV.

CAUSE OF WOMEN LINKED TO PARITY STRUGGLE

Citing the apparently low priority the Federal Government has assigned to female business development, Mrs. Berkeley G. Burrell, successful entrepreneur and distinguished wife of NBL's tenth President, has urged women across the nation to organize their enormous numbers and join in the fight for economic parity, the League's primary thrust for the remainder of this century. Keynoting the Fourth Annual Awards Banquet of the Memphis Chapter of the National Business League, which attracted a standing room only crowd, Mrs. Burrell remarked: "The parity objective is to eliminate the barriers to broad participation in economic growth. And that, in essence, is the cause of women today. Recognizing this, I can find no more compelling a reason for women to join in the fight for parity that is being waged across this country under the leadership of the nation's oldest national business organization."

A textile and tailoring expert and owner of Burrell's Superb Cleaners, one of the largest and finest dry cleaning plants in the nation's capital, Mrs. Burrell warned an over-flowing crowd in Memphis that no advanced civilization can afford the luxury of keeping its women in bondage. She maintained that if the country is to make full and quick progress now, it is essential that women live on terms of full equality with other citizens who "happen to be men."

Emphasizing that the plight of businesswomen was distinct from the general women's liberation movement, she added: "The struggle of women in business should be viewed within the context of every able-bodied individual being equally allowed to participate in the economic benefits of the world's most industrialized nation."

One of the biggest problems that has hampered women in the past, according to Mrs. Burrell, is their lack of aggressiveness in demanding and protecting their rights. However, she noted a growing awareness of this situation, particularly among the younger segment of the population, and suggested that this new awareness will prove vital to changing the scope and perspective of the women's movement.

She concluded: "It is high time that we women organize and unite behind the parity drive. We are determined to help not only in the fight against poverty and ignorance, but to raise the social, political and economic status, and to make the role of women a more dynamic one, thus enabling us to fulfill more effectively our own needs, those of our families and those of our country."

FROM CAPITOL HILL

Small Business Growth and Job Creation Act

For the past eight months, representatives of the small and minority business communities have been examining the nation's tax structure as it relates to the small business community. For years, small business has maintained that the current tax structure places an unduly harsh burden on the one sector of the economy which accounts for nearly ninety-five percent (95%) of all business enterprises and the problems of the small business community deserves special tax reform treatment which addresses the peculiar problems of small business.

Representatives of the small business community have identified some of the more salient problems confronting this sector, and have recommended specific changes in the tax structure to address them. The Small Business Growth and Job Creation Act of 1976, introduced in the Senate on May 10, 1976, by Senator Gaylord Nelson, embodies the suggestions of eight small business organizations on key tax issues affecting the community. Highlights follow:

Title I—Small Business Independence and Continuation

Adjustment of Holding Periods:

Gain or loss on the sale of a capital asset will be short-term if it is held 1 year or less. If held more than 1 year, gain or loss will be long-term.

Individuals whose taxable income is subject to a tax rate of more than 50% will pay an alternative tax at the following rates on net long-term capital gain up to $50,000.

[In percent]

Holding period:	*Tax rate*
1 to 5 years	30
5 to 10 years	25
10 years or more	12½

Estate Tax Rates:

The $60,000 estate tax exemption should be increased to $180,000.

Estate tax rates should be as follows:

[In percent]

Taxable estate:	*Tax rate*
$0- $50,000	5
50,000- 100,000	10
100,000- 150,000	15
150,000- 200,000	20
200,000- 400,000	25
400,000- 600,000	30
600,000- 1,000,000	35

Gift Tax Rates:

An annual exemption of $9,000 and a lifetime exemption of $90,000 will be allowed in computing the amount of taxable gifts.

Gifts will be taxed at 75% of the estate tax rates proposed above.

Redemptions at Deaths: Distributions may be made by a corporation in redemption of stock to pay death taxes if the value of the stock is either (a) more than 20% of the gross estate, or (b) more than 40% of the taxable estate.

Transfers of Business Interests at Death: The beneficiary may elect to have a business interest included in the decedent's estate for estate tax purposes at the decedent's basis.

Title II—Small Business Growth Incentives

Optional Cash Basis:

Grant every business with an ending inventory of less than $200,000 the option to determine its taxable income on a "cash" basis. Accounts receivable would not be included in income, accounts payable would not be treated as expenses, and the increase in inventory would be included in the Cost of Sales.

For a presently existing business using the accrual basis, the conversion would produce a loss, which would be amortized in equal amounts over a 10 year period.

The maximum ending inventory of $200,000 would be indexed to the cost-of-living.

A taxpayer would lose this "cash" option when its ending inventory exceeded the maximum for two consecutive taxable years.

If a taxpayer voluntarily converts or is required to convert to an "accrual" basis, any income created by the conversion would be amortized over a 10-year period. If there exists any unamortized loss, from a previous conversion to a cash basis, the taxpayer would continue its amortization of such loss.

Any taxpayer who takes this "cash" option and later converts to an accrual basis would not be permitted to reconvert to the "cash" basis until its inventory was less than the maximum for two consecutive years.

Deferred Tax Credit for Unincorporated Businesses:

Allow an unincorporated business the option of computing its tax liability on a portion of its business income, as set forth on Line 13, Schedule SE, Form 1040, at the same rates as are presently applicable to corporations.

The unincorporated business income would be eligible for the alternative tax computation as follows:

(1) Taxable income less an exclusion of 70% of the self-employment income (but not to exceed the taxable income) would be subject to individual income tax rates.

(2) The amount excluded in (1) above would then be taxed at the prevailing corporate income tax rates.

(3) The difference between the tax liability incurred without the alternative tax rate and the liability incurred using the alternative tax rate would become a deferred tax liability. The deferred tax liability would be paid over a 10-year period or upon termination of the business.

(4) Example:

a. Married taxpayer, 2 dependents and itemized deductions of $3,000.

b. Income from business (Schedule C) $35,000.

c. Other non-business income of $1,000.

Graduated Investment Tax Credit:

Percentage of the cost:

(1) Property with a useful life of less than 3 years, the credit would be 0.0%.

(2) Property with a useful life of at least 3 years:

(a) 20% of the cost ranging from $0 to $4,999.

(b) 15% of the cost ranging from $5,000 to $9,999.

(c) (i) 10% of the cost ranging in excess of $9,999 if the property has a useful life of 7 years or more.

(ii) 6⅔% of the cost in excess of $9,999 if the property has a useful life of less than 7 years but 5 years or more.

(iii) 3⅓% of the cost in excess of $9,999 if the property has a useful life of less than 5 years but at least 3 years.

There would be no limitation with respect to used equipment.

If the credit exceeded the taxpayer's income tax liability, the difference would be refunded.

If the taxpayer disposes of the property before it has been held for the expected useful life, the government would recapture all or part of the previously allowed credit the same as it is under the present law.

Adjustments in Subchapter S:

All corporations with 20 or fewer stockholders should be allowed to elect to be taxed under Subchapter S.

The only requirement for this election should be a statement filed by the corporation with its tax return for the year of election and signed by an officer of the corporation to the effect that there are 20 or fewer stockholders and that the stockholders at a duly constituted meeting decided to be taxed under Subchapter S.

After a corporation has made this election, it should not be allowed to revoke it for 5 years without the permission of the Treasury Department.

Job Creation Tax Credit:

Allow a credit against taxes of 50% of wages of new employees added to the number of full-time employees in the preceding tax year. Maximum: 2 employees and $20,000 credit.

Allow a credit against taxes of 50% of wages of additional new employees who are disadvantaged (i.e., employees who have exhausted their unemployment benefits, minorities, mentally or physically handicapped). Maximums: (a) 23 employees or 10% of the full-time employees in prior year, whichever is less, and (b) $60,000 credit.

Adjustment of Depreciation Schedules:

Allow depreciation lives as follows:

(1) 2 years for highway transportation equipment. tools and dies.

(2) 5 years for all other tangible property and lease-hold improvements.

(3) 10 years for real estate.

Title III—Small Business Tax Simplification

Estimated Tax Payments: A corporation may, any time during the taxable year and on or before the 15th of the third month thereafter, file an application for refund of estimated income tax.

Net Operating Loss Adjustments: A net operating loss of a corporation which has been in business 3 years or less may be carried over to the 8 following years.

Increase in Exemption from Accumulated Earnings Tax: The accumulated earnings tax will not be imposed on a corporation which has not accumulated earnings over $500,000.

SBA SAYS MINORITIES SUFFERED LESS

In its fiscal 1975 report, the Small Business Administration maintains that even during the severe economic problems of 1975, the funding levels for 7(a) and Equal Opportunity Loan (EOL) programs, both of which incurred reductions, was not as great a loss to the minority sector as it was to the nonminority sector of the population served by SBA.

According to SBA, 7(a) loans for minorities dropped 3% in dollars and numbers. Minority reduction in the EOL program was 6% less than the Agency as a whole.

SBA STATISTICS
[Fiscal years]

	1975	1974	Percent change
7a loan programs:			
Minority Enterprise (ME)			
Numbers	2,462	2,944	16.3
Millions of dollars	137.2	171.4	19.5
Agency			
Numbers	18,184	21,312	14.7
Millions of dollars	1,247.2	1,489.5	16.2
EOL:			
Minority Enterprise			
Numbers	2,793	3,774	25.9
Millions of dollars	57.8	74.2	22.1
SBA:			
Numbers	3,613	5,290	31.7
Millions of dollars	73.6	104.0	29.2

NEWS IN BRIEF

OMBE Directors to Meet Here

The six Regional Directors of the Office of Minority Business Enterprise (OMBE) will make themselves available to meet personally with their constituents during the 76th Annual Convention in Washington this fall. Working in co-operation with OMBE's National Director, Alex Armendaris, and the National Programs Division, NBL will provide facility space at the Hyatt Regency Washington to allow its convention delegates an opportunity to discuss specific issues with the regional directors.

Small Business Groups Unite

After working together informally for years, four national and four regional small business organizations have come together to form the Council of Small and Independent Business Association (COSIBA). The eight groups include: the National Business League, the National Small Business Association, the National Federation of Independent Businesses, the National Association of Small Business Investment Companies, the Council of Smaller Enterprises, the Smaller Business Association of New England and the Smaller Manufacturers Council. Together, the eight groups represent more than half a million business firms nationwide. Through its coalition efforts, COSIBA hopes to provide a stronger and more effective voice for small business in the nation's capitol.

Advisory Council on Small Business

Noting that the small business community accounts for 55% of the nation's private, non-farm employment, and produces 48% of the gross business product, Treasury Secretary, William E. Simon, has established an Advisory Council on Small Business, to advise the Department on small business problems. Secretary Simon, who is also Chairman of President Ford's Economic Policy Board, officially commissioned the Council to allow more personal contact with a cross-section of citizens who know and understand the special problems of small business, and who can help government develop answers to them. NBL President, Dr. Berkeley G. Burrell, has agreed to represent the League on the Council.

900 Acres of Watermelons

The Pine Belt Development Association of Hattiesburg, Mississippi, has cultivated a field of 900 acres of watermelons that is being readied for shipment between June 30 and September 12, 1976. The melons will be shipped to the Midwest region of the country with scheduled stops in Chicago, Cleveland, Dayton, Cincinnati and St. Louis. For information on the shipment, contact: Al Holiday or Ben Burkett, 500D Katie Avenue, Hattiesburg, Miss. 39401, or call (601) 583–3515.

Mr. JAVITS. Mr. President, I hope that, with my having performed these duties, the Members will feel that I have done all I can to make up for the disappointment which I have suffered and which they have suffered from my inability to appear personally today, and in the hope that I may repair this lack in the very near future; also that our colleagues and other people who read the CONGRESSIONAL RECORD, as well as the members of the National Business League, may have this inserted into the CONGRESSIONAL RECORD as a memento of today's occasion of their convention.

Mr. ALLEN. Will the Senator yield?

Mr. JAVITS. I yield.

Mr. ALLEN. The Senator mentioned Booker T. Washington of Tuskegee Institute. He was a great educator and a great leader, not only of his own people, but a leader in the entire country. I believe the Senator will be interested to know that Congress has passed legislation making a certain portion of the Tuskegee campus a national historical site. They have taken over several of the buildings that were built there, on the campus, back at the turn of the century and before. They are buildings that were built on the campus by the students themselves at Tuskegee Institute.

Booker T. Washington started that institute with absolutely no financial backing. He has made it a great institution of higher learning. The institute is recognized throughout the world as a great educational institution. We are proud of it.

Alabama is fortunate to have two schools of veterinary medicine, one of them at Auburn University and the other at Tuskegee Institute. It is a great institution and we are proud of it in Alabama. We are proud of the great work of Booker T. Washington.

One thing I might say: I made a visit to the campus several months ago and it just happened on a convocation of the faculty there as they started that particular term. They called on me to make a few extemporaneous remarks. I told them of the inspiration that I had had visiting this campus and seeing this fine educational institution grow from literally nothing.

I remembered something that I had read in a book called "Words to Live By," something that Booker T. Washington said that was part of his philosophy of life. He said:

> I will allow no man to belittle my soul by making me hate him.

It is such a wonderful sentiment that I called that to the attention of the teachers there. They, of course, were familiar with it, but I think it is a great tribute to this man that that is the way he thought and the way he taught.

He was a man who could "walk with kings and Presidents nor lose the common touch." I appreciate the Senator's remarks about Booker T. Washington.

Mr. JAVITS. I thank the Senator from Alabama and I appreciate his remarks. He helps further to dispel the disappointment which I felt and which my prospective listeners felt when I got so terribly involved in the meeting of the Committee on Foreign Relations.

Mr. ALLEN. I intended to say that, among the other things they are doing down on that campus, the Forestry Division of the Department of the Interior is building a fine visitors' center on the Tuskegee campus.

Mr. JAVITS. I think that is exactly why there is so much significance to this meeting. As Booker Washington founded this 76 years ago, in 1900, this is the 76th Convention. What is so significant to me always with a man like Booker T. Washington is he shows that one can be a great leader, a great cultural figure, and yet follow a business career, be a completely rounded man, and the business does not debase the personality. On the contrary, it often makes it grow and expand.

Mr. ALLEN. The Senator, of course, is well aware that there, at the Tuskegee Institute, George Washington Carver had his brilliant career of service in scientific work.

Mr. JAVITS. That is right.

I thank the Senator from Alabama.

TREATY BETWEEN UNITED STATES AND SPAIN AUTHORIZATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3557.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 3557) to authorize the appropriation of funds necessary during the fiscal year 1977 to implement the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes.

(The amendments of the House are printed in the House proceedings of the RECORD of September 14, 1976.)

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate disagree with the House amendments and ask for a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. HELMS) appointed Mr. SPARKMAN, Mr. CHURCH, Mr. SYMINGTON, Mr. CASE, and Mr. JAVITS conferees on the part of the Senate.

AUTHORIZATION FOR CERTAIN ACTION DURING ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Vice President, the President of the Senate pro tempore, and the Acting President pro tempore be authorized to sign all duly enrolled bills and joint resolutions during the adjournment over to Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to receive messages from the other body and from the President during the adjournment over to Monday next week.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TIME FOR TRIBUTES TO SENATORS TO BE CONTROLLED BY THE LEADERSHIP

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time allotted to various Senators on Monday, Tuesday, and Wednesday for the expression of tributes to the retiring Senators, certain retiring Senators, be under the control of the majority and minority leaders or their designees, and that the same length of time be under such control as was accorded to various and sundry Senators under the orders, the reason being that I named several of the Senators without their knowledge and only for the purpose of having a Senator control the time.

The distinguished assistant Republican leader has suggested to me and, I think, very appropriately, that it would be better in this instance to have the time under the control of the leadership rather than naming certain Senators without having apprised them of the fact prior thereto. Ordinarly, the leadership does not control this length of time for special orders. But in view of the fact that these are for a specific purpose and a special purpose, that of expressing tribute, I ask unanimous consent, as I have already done in this instance, to so modify my previous request.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday, the Senate will convene, following a recess, at the hour of 10 a.m. After the two leaders or their designees have been recognized under the standing order, the Senator from Oklahoma (Mr. BARTLETT) will be recognized for not to exceed 15 minutes, for the purpose only of making a statement; following which there will be a period of not to exceed 2 hours under the control of the two leaders or their designees for the purpose of tributes to Senator SYMINGTON and Senator PHILIP A. HART; following which the Senator from Colorado (Mr. GARY HART) will be recognized for not to exceed 15 minutes for the purpose only of making a statement.

Following the consummation of the order for recognition of the Senators, the Senate will either stand in recess until 12 o'clock noon, if that hour has not yet been reached, or will resume consideration of the unfinished business. It is possible that a rollcall vote could occur as early as 12:15 p.m. I am in no position to say anything beyond that as to the hour at which a rollcall vote is likely to occur.

I would not assume that anything would occur prior to that hour by way of a rollcall vote.

During the afternoon, I would anticipate rollcall votes, and throughout the week, I anticipate long daily sessions, sessions that begin early and go late, fairly late, very late, the object being to complete our work in time for adjournment sine die on Saturday, October 2, or, hopefully, on Friday, October 1.

How successful will depend upon the progress we make and the progress that is made in the other body in the completion of our work.

On Tuesday, for the benefit of those who may read the RECORD, Tuesday morning tributes will begin early to Senators FANNIN and FONG.

On Wednesday, tributes in the nature of speeches will begin early to retiring Senators HRUSKA and HUGH SCOTT of Pennsylvania, our able minority leader.

Senators will want to keep in mind the necessity of passing the supplemental appropriation bill and a continuing resolution before adjournment. There is a possibility of Presidential vetoes that may require an attempt to override. I believe in the case of the HEW appropriation bill 10 days will expire on Wednesday of next week. I believe in the case of the antitrust legislation the 10 days will expire on Thursday of next week, so Senators will want to govern themselves accordingly.

We hope all Senators will so schedule their time as to be available in the event an override vote is necessary as late as Friday or Saturday of next week, and in the event that length of time is required to seek final enactment on the necessary appropriation bills, revenue sharing and other measures.

RECESS TO 10 A.M. ON MONDAY, SEPTEMBER 27, 1976

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 10 a.m. on Monday.

The motion was agreed to; and at 4:31 p.m., the Senate recessed until Monday, September 27, 1976, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 24, 1976:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Eugene N. S. Girard II, of Mississippi, to be an Assistant Administrator of the Agency for International Development, vice Herman Kleine, resigned.

DEPARTMENT OF STATE

Donald R. Norland, of Iowa, a Foreign Service Officer of Class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Botswana.

IN THE ARMY

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of Title 10, U.S.C., Section 3370:

ARMY NURSE CORPS

To be colonel

Allbritton, Homer J., [redacted].
Collins, Anna L., [redacted].
Cortez, Angelica, [redacted].
Cumberland, Arlene, [redacted].
Daubert, Bertha, [redacted].
Daytner, Nadine, [redacted].
Dulluh, Marly S., [redacted].
Fornes, Virginia H., [redacted].
Gidley, Johanna L., [redacted].
Flebbe, Esther R., [redacted].
Hester, Pauline W., [redacted].
Jones, Olga M., [redacted].
Kamide, Madeline, [redacted].
Kasselman, Mary J., [redacted].
Kulikowski, Edna S., [redacted].
Langston, Mable S., [redacted].
Larsen, Eileen M., [redacted].
Lassett, Joseph, [redacted].
McClelland, Eva, [redacted].
Merlino, Joseph J., [redacted].
Myers, Marguerite C., [redacted].
Ohler, Kenneth G., [redacted].
Patrick, Ralph L., [redacted].
Powell, Ann E., [redacted].
Roth, Mary C., [redacted].
Sagul, Helen M., [redacted].
Salvin, Agatha, [redacted].
Schroeder, M. Y., [redacted].
Sellers, Lois B., [redacted].
Vandever, Louise J., [redacted].
Wargo, Vincent J., [redacted].
Wehmeyer, Lillian E., [redacted].
Williams, Edith P., [redacted].
Zoll, Anna M., [redacted].

DENTAL CORPS

To be colonel

Bascove, Leonard H., [redacted].
Bean, Frank E., [redacted].
Blanch, William H., [redacted].
Bucheger, F. J., [redacted].
Calcote, Jasper D., [redacted].
Coyne, Robert M., [redacted].
Douglas, John H., [redacted].
Edmund, John M., [redacted].
Glotzer, David L., [redacted].
Gores, Robert J., [redacted].
Holt, Reed L., [redacted].
Irick, Harold W., [redacted].
Jacob, Robert I., [redacted].
Johnson, Joseph B., [redacted].
Knight, Robert S., [redacted].
Leppard, James E., [redacted].
Montgomery, Charles, [redacted].
Moseley, Durward L., [redacted].
Mowles, Danny A., [redacted].
Roe, Jere E., [redacted].
Sheperd, John R., [redacted].
Stern, Martin, [redacted].
Stringer, Joseph D., [redacted].
Tracy, Everett A., [redacted].
Warren, Ross W., [redacted].
Young, Eugene W., [redacted].

MEDICAL CORPS

To be colonel

Aarestad, Norman O., [redacted].
Bailey, Bruce H., [redacted].
Barnhart, Roger A., [redacted].
Baxter, James A., [redacted].
Berg, Bruce O., [redacted].
Bonnabeau, R. C., Jr., [redacted].
Briney, William F., [redacted].
Bushey, Robert H., [redacted].
Caddy, Gurney C., [redacted].
Carson, Samuel P., [redacted].
Cavin, Elwyn, [redacted].
Dominy, Dale E., [redacted].
Dunn, Abraham G., Jr., [redacted].
Heefner, Wilson A., [redacted].
Holloman, K. R., [redacted].
Holt, Leslie G., [redacted].
Kelsh, James M., [redacted].
Leon, Arthur S., [redacted].
Littman, John E., [redacted].
MacDonald, Neil A., [redacted].
Martin, Maurice J., [redacted].
Mitschke, John J., [redacted].
Murphy, Paul J., [redacted].
Olson, Ralph A., [redacted].
Sube, Janis, [redacted].
Waldrup, Virgil G., [redacted].

MEDICAL SERVICE CORPS

To be colonel

Barnett, Howard J., [redacted].
Canaris, Albert G., [redacted].
Chisholm, Donald F., [redacted].
Coleman, Gordon C., [redacted].
Driscoll, Willis C., [redacted].
Drucker, Charles, [redacted].
Eichner, George H., [redacted].
Gadbois, William F., [redacted].
Gold, William F., [redacted].
Goldman, Harry A., [redacted].
Haas, John K., [redacted].
Halliday, Herbert E., [redacted].
Hampton, Melvin E. Jr., [redacted].
Hassell, Joe W., [redacted].
Jones, Allen W., [redacted].
Koniski, Frank, [redacted].
Lescantz, Lawrence, [redacted].
Machlan, Edward F., [redacted].
Magenheim, Fred, [redacted].
Marasek, Harry J., [redacted].
Mixson, Marvin E., [redacted].
Moorehouse, John W., [redacted].
Mulherin, Brian J., [redacted].
Newman, Harrell G., [redacted].
Plotnick, Harold L., [redacted].
Ponder, Charles L., [redacted].
Prough, James K., [redacted].
Purcell, John F., [redacted].
Sparks, Albert K., [redacted].
Taylor, Alvin N., [redacted].
Taylor, Lawrence K., [redacted].
Tierney, John T., [redacted].
Young, Elisha A., [redacted].

ARMY MEDICAL SPECIALIST CORPS

To be colonel

Layne, Dorthea F., [redacted].
McNeill, Mary E., [redacted].
Nicolaidis, Lillian, [redacted].
Pinkston, Dorothy, [redacted].
Vandommelen, L. J., [redacted].

VETERINARY CORPS

To be colonel

Cook, John B., [redacted].
Graber, Jay E., [redacted].
Powers, Thomas E., [redacted].

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of Title 10, U.S.C., Section 3366 and 3367:

To be lieutenant colonel

Dobbs, Wesley H., [redacted].
Goble, Bobby, [redacted].
Piercy, Richard T., [redacted].
Snare, Raymond J., Jr., [redacted].

ARMY NURSE CORPS

To be lieutenant colonel

Baezreyes, Leonor, [redacted].
Burt, Margie O., [redacted].
Cherrington, Raymond, [redacted].
Crowley, Maureen A., [redacted].
Darienzo, Philip C., [redacted].
Dean, Betty Y., [redacted].
Deshong, Julia A., [redacted].
Donnelly, Glenda K., [redacted].
Duckworth, M. G., [redacted].
Gonzalez, Jose M., [redacted].
Gruetzmacher, J. M., [redacted].
Hill, Elva L., [redacted].
Irvin, Joan E., [redacted].
Jorgenson, Shirley, [redacted].
Kobel, Thomas R., [redacted].
Land, Margaret A., [redacted].
Lewis, James R., [redacted].
Mathews, Charles T., [redacted].
McCann, Shelia A., [redacted].
McKinney, Janet L., [redacted].
McQuail, Claire M., [redacted].
Mihalak, Helen A., [redacted].
Morman, Geraldine G., [redacted].
Oheren, John Thomas, [redacted].
Olshefski, Jessie W., [redacted].
Peterson, Dovie L., [redacted].
Pirington, Donna R., [redacted].
Richards, Edward F., [redacted].
Rios, Luz M., [redacted].
Simila, Carmelita R., [redacted].
Staubin, Margaret, [redacted].
Thompson, Frances M., [redacted].
Thompson, Patsy R., [redacted].
Verret, Blaise C., [redacted].
Wadkins, Peggy J., [redacted].
Waldeck, Doris J., [redacted].
Ward, Doris R., [redacted].
Wheeler, Lenea M., [redacted].
Wheeler, Peggy L., [redacted].

DENTAL CORPS

To be lieutenant colonel

Bagley, Lell O., [redacted].
Blake, Jay R., [redacted].
Brockbank, Bruce M., [redacted].
Eddlemon, Vernon S., [redacted].
Freels, Kenneth F., [redacted].
Godbold, Dunbar O., [redacted].
Grantham, Norman B., [redacted].
Kelley, Gordon E., [redacted].
Kennedy, Michael R., [redacted].
Madison, Richard D., [redacted].
Martin, Robert B., [redacted].
May, Robert H., [redacted].
McNamara, Robert W., [redacted].
Monsen, Robert M., [redacted].
Shaye, Robert, [redacted].
Smith, W. E., Jr., [redacted].
Stewart, Thomas C., [redacted].
Wahl, Norman, [redacted].
Wessar, George J., [redacted].
West, Nathaniel M., [redacted].
Wilson, Joshua H., Jr., [redacted].

MEDICAL CORPS

To be lieutenant colonel

Bryan, Albert R., [redacted].
Burbank, Mahlon K., [redacted].
Campbell, James A., [redacted].
DeJesus, Felipe N., [redacted].
Dugan, William M., Jr., [redacted].
Forlidas, Nicholas, [redacted].
Gilmartin, Richard, [redacted].
Hardin, Thomas F., Jr., [redacted].
Long, Robert G., [redacted].
Martin, James B., [redacted].
Steckler, David R., [redacted].
Trapp, George A., [redacted].
Watkins, Billy N., [redacted].

MEDICAL SERVICE CORPS

To be lieutenant colonel

Bailey, Homer S., [redacted].
Barber, Loy H., [redacted].
Becker, Henry M., [redacted].
Bennett, Lloyd M., [redacted].
Billingsley, Robert, [redacted].
Botton, Irving, [redacted].
Briant, Orlan H., [redacted].
Brown, Arthur T., [redacted].
Bryan, Charles A., [redacted].
Bunce, George E., [redacted].
Chun, Michael A. S., [redacted].
Clark, William K., [redacted].
Cohen, Melvin S., [redacted].
Coley, Virgil R., [redacted].
Conti, Corrado, [redacted].
Cullins, Alfred E., [redacted].
Cushing, James H., Jr., [redacted].
Custer, John C., [redacted].
Daniels, Ernest P., [redacted].
Davis, Thomas W., [redacted].
Dawson, Arthur W., Jr., [redacted].
Decarlo, Michael J., [redacted].
Dickerson, Charles, [redacted].
Duncan, Donald D., [redacted].
Dunson, George Lee, [redacted].
Edge, Jesse T., [redacted].
Fennell, Ralph G., [redacted].
Figuerastirado, R., [redacted].
Finch, Nathaniel H., [redacted].
Fonkalsrud, Alfred, [redacted].
Gatliff, George W., [redacted].
Gauntner, Robert L., [redacted].
Gourley, Lynn M., [redacted].
Grayson, Ernest, Jr., [redacted].
Green, Emmanuel B., [redacted].
Grolli, Frank T., [redacted].
Guren, Arthur L., [redacted].
Hall, Robert T., [redacted].
Hansen, John C., [redacted].
Hardin, James E., [redacted].
Harris, Elwin C., [redacted].
Harrison, Richard E., [redacted].
Henry, John C., [redacted].
Higgins, Ervin A., [redacted].
Jonak, Joseph R., [redacted].
Jones, Charles C., [redacted].
Kautz, Karl F., [redacted].
Kennedy, Glen M., [redacted].
Krowicki, Richard S., [redacted].
Lage, Joao V., [redacted].
Lang, Huey P., [redacted].
Lau, Edward F. C., [redacted].
Lyons, Donald K., [redacted].
MacFarlane, George, [redacted].
Marley, Henry B., [redacted].
Millard, Thomas L., [redacted].
Moran, Martin F., [redacted].
Nichols, Alex C., [redacted].
O'Connell, Raymond T., [redacted].
Petersen, Walter H., [redacted].
Peterson, Carl T., [redacted].
Phenix, Donald P., [redacted].
Pratt, Henry J., [redacted].
Proctor, Cornel P. J., [redacted].
Rochelle, Francis R., [redacted].
Roseman, Charles W., [redacted].
Rossie, William L. J., [redacted].
Schutte, Harry A., Jr., [redacted].
Seawards, Cecil K., [redacted].
Sills, Vernon D., [redacted].
Skowronski, George, [redacted].
Snavely, Charles R., [redacted].
Stewart, Roland E., [redacted].
Trover, Cullen E., [redacted].
Twitchell, Richard, [redacted].
Volz, Russell L., [redacted].
Waldinger, Conrad R., [redacted].
Wandall, William M., [redacted].
Ward, Robert K., [redacted].
White, Albert J., Jr., [redacted].
Wiggins, Charles W., [redacted].
Wilt, Chester F., [redacted].
Wood, Thomas E., [redacted].
Wray, John D., [redacted].

ARMY MEDICAL SPECIALIST CORPS

To be lieutenant colonel

Ager, Charlene L., [redacted].
Cole, Robert V. Jr., [redacted].
Duff, John M. Sr., [redacted].
Fleming, Elliott T., [redacted].
French, William C., [redacted].
Hall, Frank T., [redacted].
Kawano, Adeline A., [redacted].
Pennucci, Jean C., [redacted].
Syrjala, Edith A., [redacted].
Walker, Archie L., [redacted].
Wilson, Anna J., [redacted].

VETERINARY CORPS

To be lieutenant colonel

Gable, Donald A., [redacted].
Ferrell, John F., [redacted].
Pulliam, James D., [redacted].

The following-named officers for appointment in the Reserve of the Army of the United States, under the provisions of Title 10, U.S.C., Section 591, 593, 594:

To be lieutenant colonel

Hopper, James A., [redacted].

DENTAL CORPS

To be lieutenant colonel

Beatty, Edward J., [redacted].
Ligon, Charles R., [redacted].
Skinner, Frederick, [redacted].
Homer, John C., [redacted].
Pokorney, Robert L., [redacted].
Zulaski, John F., [redacted].

MEDICAL CORPS

To be lieutenant colonel

Barnes, Sam T., [redacted].
Brown, Paul M., [redacted].
Detata, Juan C., [redacted].
Dille, John R., [redacted].
Harden, Lewis B., [redacted].
Mobley, Joe D., [redacted].
Seymour, Donald W., [redacted].

VETERINARY CORPS

To be lieutenant colonel

Fairchild, David G., [redacted].

The following-named Army National Guard officers for appointment in the Reserve of the Army of the United States, under the provisions of Title 10, U.S.C., Section 3385:

To be colonel

Franklin, Calvin G., [redacted].
Hall, Charles A., [redacted].
Kuhn, Albert G., [redacted].
Pitsker, Cooper K., [redacted].
Wagoner, Neal E., [redacted].
Weller, Arthur A. Jr., [redacted].

To be lieutenant colonel

Atchison, Robert D., [redacted].
Bankes, Dale M., [redacted].
Bell, Harold A., [redacted].
Best, James R. W., [redacted].
Bishop, David L., [redacted].
Brashear, Jay, [redacted].
Christenson, Darwin B., [redacted].
Clark, William R., [redacted].
Damkaer, Donald M., [redacted].
Dehne, Douglas J., [redacted].
Hall, Charles K., [redacted].
Hyland, Erik J., [redacted].
Kelly, Paul A., [redacted].
Kelsey, John P., [redacted].
Ledbetter, William M., [redacted].
Lister, Benjamin E., [redacted].
McClure, Marcus O., [redacted].
McDonald, John H., [redacted].
Murphy, John L., [redacted].
Pang, Ted S. Y., [redacted].
Picard, Jack A., [redacted].
Potter, Philip L., [redacted].
Rathbun, Robert R., [redacted].
Reep, Elton D., [redacted].
Schulz, Gary E., [redacted].
Thackston, Carroll, [redacted].
Uhlman, Wesley C., [redacted].
Watson, Robinson R., [redacted].
Wood, Milton O., [redacted].
Zimmerman, Robert B., [redacted].

ARMY NURSE CORPS

To be lieutenant colonel

Maves, James L., [redacted].

MEDICAL CORPS

To be lieutenant colonel

Mohs, Frank R., [redacted].

MEDICAL SERVICE CORPS

To be lieutenant colonel

Carr, Donald E., [redacted].

EXTENSIONS OF REMARKS

REMARKS ON THE BICENTENNIAL

HON. RUSSELL B. LONG

OF LOUISIANA

IN THE SENATE OF THE UNITED STATES

Friday, September 24, 1976

Mr. LONG. Mr. President, on July 4, 1976, I was privileged to attend a most inspiring church service in Shreveport, La., at the First Baptist Church in that great city.

On that occasion, we were favored by a statement by my colleague, Senator BENNETT JOHNSTON, as well as an equally inspiring sermon by Dr. William E. Hull.

I ask unanimous consent that both of these eloquent statements be printed in the Extensions of Remarks.

There being no objection, the statements were ordered to be printed in the Extensions of Remarks:

ADDRESS OF SENATOR BENNETT JOHNSTON ON JULY 4, 1976, TO THE FIRST BAPTIST CHURCH OF SHREVEPORT, LA.

Two hundred years ago this very day, a band of patriots met in Philadelphia, mutually to pledge to one another their lives, their fortunes, their sacred honor to a revolutionary new concept and cause—independence and liberty. It was indeed a brave action, an incredibly brave action because England was one of the most powerful nations in the world preeminent in the field of naval power and army power. The colonies had absolutely no strength—no army, no navy, no government, in short, no strength, no power at all. And what these brave men were doing, if not successful, had been punishable by death as treason.

In that same year, in 1776 in China, Emperor Lung of the Ching dynasty presided over the greatest territorial expansion in the history of the country of China. In Russia, Catherine the Great, trying to become and never quite succeeding to become a benevolent despot, ruled a powerful country with a population of millions.

Both China and Russia had developed resources in foreign trade, education, art, a strong government infrastructure—in short each of these countries, both China and Russia, had a highly developed civilization, hundreds of years ahead of that in the colonies. What a contrast with today.

In this bicentennial we can congratulate ourselves on being ahead of both China and Russia in every conceivable measure of endeavor. The average Chinaman, for example, makes $300 a year. The average Russian makes $2300 a year; and the average American makes $6,640 a year. In per capita income that's 3 to 1 over Russia and 22 to 1 over China. In terms of Gross National Product we're ahead of Russia by 2 to 1 and China by 9 to 1. Three percent of the American population lives and works on the farm and yet we outproduce Russia which has 39 percent population living on the farm and China which has 75 percent of their population living on the farm. We've got more TVs, more telephones, more bathtubs, more automobiles, more jet planes, more private homes, in short more creature comforts than all the Communist world combined.

We've come closer to the elimination of poverty and want in this country than our forefathers could have ever dreamed conceivable or possible.

We beat the Russians and the Chinese in other areas—in the arts, in literature, in music, in entertainment—but the most tragic, the most telling comparison of all has to do with a look at our borders. There's a plowed strip hundreds of yards wide running down the border of East Germany and indeed, all of the Communist countries in Eastern Europe. It's a plowed strip with barbed wire on each side, patrolled by police dogs, and guarded by sentries with 50 caliber machine guns. I've flown over that plowed strip in a helicopter.

Thousands have died—thousands have died attempting to cross that plowed strip or climb that Berlin Wall attempting to escape to get to freedom. In China, thousands have died attempting that perilous swim to get to the free world. Thousands have perished, but the population of Hong Kong has more than tripled swelling that town with refugees from Communism who have successfully swum that river.

In Texas along the Rio Grande we also patrol the border, and thousands have also made that swim, but they're trying to get in, not trying to get out. And thousands each year do escape to this great country, this beacon of freedom in the world.

Now how did this come about from those humble beginnings, from that great contrast in 1776, where Russia and China started out so far ahead, and we started out so far behind? And now we've overtaken them in every measure of competition known to man.

Well some people say that it is people. Americans are a superior lot they say. Well it wasn't always so. This country was not settled by the richest, or the strongest, or the most intelligent or most educated people in the world. The English, the French, the Germans and all the rest who came to these borders were for the most part, not aristocrats, not nobility. They were mostly people fleeing—fleeing oppression or religious discrimination, and virtually all of them fleeing poverty and in poverty. They were powerless and penniless—most of them.

Some say that we made this great leap ahead of Russia and China and all the rest of the world because of resources. But other nations also have resources—to name just a few, Russia, Nigeria, Brazil—and yet these countries have always known they have the resources but will probably always be the countries of manana—not today, but manana.

What is it then that has made us what we are—that is responsible for this incredible progress? What is it that is the greatness, the essence of America? It is decidedly not things that are the essence of America. Things are nice, and we've got more of them in this country than anybody else in the world. But those who celebrate things are missing the point of this Bicentennial. Our nation is not great because of things or wealth; our nation is great because of its ideas, its ideals. It is our ideas that make us different, that set us apart, that make us unique in all the recorded history of man.

What are these ideas? You know them well. First freedom—freedom of speech, movement, thought, free enterprise—a system that rewards merit, quality, hard work and productivity. It is these freedoms in America that have unlocked that creative genius that is responsible for the invention, the innovation that has aided the search for beauty in art and letters, and literature; and brought all this into the great fruition so that in these United States the pursuit of happiness is for the most part successful. And if it's not successful, it's not the fault of the Constitution and the freedom which go with it.

Basic also to the American concept, to the American idea, is self-government. Here in the United States, men govern themselves without a master, without an emperor, without a king, without a dictator—govern themselves. Mistaken though they sometimes are, we as Americans are responsible for our own mistakes. In our system, all men are created equal before the law. No man, no President, no Senator, no Supreme Court Justice, is above the law. This *is* a government, as Lincoln said, of the people, by the people, for the people.

But the most revolutionary, unique and I think important idea of all, that we Americans have, has to do with our relationship with God and the church. We are a nation literally founded upon belief in God. The Declaration of Independence 200 years ago, called upon "a firm reliance on the protection of Divine Providence as support for this Declaration."

George Washington, in the depths of that difficulty at Valley Forge, publicly led his men in prayer. Franklin moved that each session of the Constitutional Convention begin with prayer. And every Congress since the Continental Congress has begun its deliberation in prayer.

Our Pledge of Allegiance acknowledges that we are "one nation under God, indivisible, with liberty and justice for all." It is the God-fearing, church-going people of this nation who have built it, who have sustained it, and who have led it, through 200 years of the most glorious history in the annals of mankind.

Well, if this is so, if this is a nation built upon, founded upon and dedicated to God; how is it that we can profess separation of Church and State? To the foreigner, this is a mystery more perplexing, more baffling than the Book of Revelations.

We, Americans, have always been dedicated to the idea of the dignity of man, to the sanctity of the soul and conscience of each individual. We separated Church from State not because we love the Church less, but because man's relationship with God is an entirely personal relationship. The government cannot save a man's soul or run a viable Church. And you know in history they have tried both, all in dismal failure. And the government cannot make up prayers, or print a hymnal, or preach a sermon. By the time the government removes everything that's offensive to any group in a prayer, in a prayer book, or whatever it is; then it pleases no one at all, because it's devoid of meaning and content and spirit. It just doesn't work for the government to dictate belief and religion.

For religion to be strong and free, it must be entirely separate from the government.

We, as Baptists, especially emphasize this importance of separation of Church and State. And we fiercely emphasize the personal nature of man's relationship to God. We believe a man must be saved by faith, by personal faith, by personal faith publicly expressed. The opportunity, the glory of redemption, are within the reach of every man, of each and every man and woman in this sanctuary today, and each and every man and woman anywhere in the world. But each of us, must make that decision for himself. Our spouses, our parents, can't make it for us, the preacher can't do it for us, and certainly the government can't do it for us. So it is the genius of our constitution that guarantees that this relationship between man and God, between an American citizen and his Church, shall be entirely personal and private and inviolate from government intrusion.

But if we respect man's freedom, and his free choice, and if we separate his religion from government aid, and from government compulsion, then we also guarantee his right to reject his Church, to sin and to turn from God, and so Americans by the millions have exercised this constitutional right to do just that. And indeed many of us have been concerned in recent years that as a whole nation that we have begun to turn from God and reject the church.

But I must say, in the bicentennial year, that I sense, I feel, a new spirit abroad in this land—a return to faith. It seems to me to be just beginning to be emerging. Perhaps the evidence to some of you is decidely underwhelming, but I think the evidence is there. America is hungry, I believe, for a revival, for a revitalization, of faith.

When evangelism and the gospel are assuming a brand new importance and popularity on the campuses of this nation, that tells me something. When a man in political life can run for highest political office in this nation and publicly profess to be a born-again Christian and the people respond to that, then that tells me something about this nation. But if this new spirit is beginning, it is only beginning. It, too, can be snuffed out like a candle in the breeze unless we as Americans and Christians sustain that life and that candle.

So it is important, it is indeed essential, that we rededicate ourselves to this faith—faith in our ideals, faith in our Constitution, faith in our God. To that basic faith so eloquently expressed in those familiar lines. "Our fathers God to thee, author of liberty—to thee we sing, long may our land be bright, with freedom's holy light, protect us by thy might, Great God our King."

THE CONTINUING REVOLUTION

(By William E. Hull)

(A Bicentennial Meditation delivered in the First Baptist Church, Shreveport, Louisiana, on July 4, 1976:)

He was one of those tall Texans that abound in the burgeoning city of Houston. Our paths converged in Tokyo during the 1970 Congress of the Baptist World Alliance, after which we criss-crossed the Orient together in company with other Texas and Louisiana Baptists who had signed up for the same tour.

As our relationship quickly ripened in the camaraderie of that congenial group, I began to learn what made my new-found friend really tick. For one thing, he was obviously prosperous, although not in the least ostentatious about his considerable affluence. In the cramped confines of airplanes and motorcoaches, it takes no snooping to detect that one tells time by Rolex and tucks his tickets into an Oxford jacket. Clearly feeling that he had earned his comfortable life-style, my traveling companion bristled at the mention of any counterculture intent on challenging the status quo which had legitimatized his prosperity. Remember, this was 1970 when we were in the backlash of Berkeley and Mr. Nixon was at his establishmentarian best!

His mood of defensiveness seemed to mount as we beheld the excruciating poverty which festered on the edges even of our carefully chosen tourist trails. Somehow, for him, all of this aching misery could be overcome if only these indolent peasants would practice some good old-fashioned capitalism (and maybe discover a little oil in their backyard?). His increasingly strident protest reached a climax during our days in Hong Kong. One morning we left Kowloon and drove through the New Territories up to the border of Red China. From the nearby Lok Ma Chau lookout point the guide explained that the Shum Chun River flowing through the verdant valley below defined the boundary between the two countries, then a Bamboo Curtain which no Westerner could penetrate.[1]

We sat for some time, the two of us, beholding that scene while the others went for refreshments. Struck by the beauty of the vista that opened to our eyes, I remarked: "Have you noticed that it's just as beautiful over there, on the other side of the river, as it is over here on 'our' side? Strange isn't it, how God still makes his sun rise on the evil and on the good, and sends his rain on the just and on the unjust?" (an allusion to Matthew 5:45). Becoming a bit pensive, I inquired: "Do you still pray for the Chinese, at least at Lottie Moon Offering time,[2] like we used to do before the Communists took over?" Failing to sense my mood, which was attuned neither to political nor to economic concerns, he replied with a tart little lecture on the menace of the Red Horde which quickly became a diatribe against every reform movement at home and abroad.

I sensed that the moment of truth had come when I could no longer yield to the invective of his rhetoric without bearing false witness to my convictions by a silence which implied consent. So I waited a long moment for the atmosphere to clear, took a deep breath, and responded as nonchalantly as I knew how: "Back in 1776, when a full-scale revolution was launched against the status quo, you would have been a Tory, wouldn't you?"[3] His pause matched mine in both length and depth, then came as wistful a reply as I think I shall ever near: "Yes, I suppose so. Probably after a futile protest against the rebels I would have packed up and sailed for England." Neither of us said more. It was not the time to press a point. Rather, we both looked in the mirror of history for a moment in an effort to learn from the past how to cope with the present in the light of the onrushing future. I have not seen my Texas friend since then. I wonder what his thoughts will be on this July 4 in our Bicentennial Year?

For myself, Independence Day after two hundred years means that it is still legitimate to be an American and belong to a revolution! Not, to be sure, as an exercise in anarchy, the wanton and senseless upheaval of existing structures merely for the sake of change. Rather, as the inherent privilege—indeed, the God-given responsibility—to protest against every form of tyranny which thwarts the inalienable rights of all mankind. The chance to chart a new course unfettered by tired traditions and obsolete institutions. The willingness to risk untried principles and to experiment with innovative approaches in the invincible surmise that the best is yet to be!

In his latest novel, *Trinity*, Leon Uris paraphrases Eugene O'Neill: "In Ireland there is no future, only the past happening over and over again."[4] The best bicentennial birthday present our nation could receive is a usable future, one that is genuinely new, potentially different, free from the shackles of blind fate or the necessities of historical determinism. Our forefathers spoke quite literally of exchanging an Old World for a New World. We no longer have their geographical opportunity to put an ocean between us and our past, or to carve out a new nation by conquering a territorial frontier. But July 4, if it is still valid after two hundred years, says that a new nation may yet emerge out of the old, one in which we secure afresh for ourselves and our posterity the blessings of almighty God, among which are "life, liberty, and the pursuit of happiness."

Is anything less than a bona fide revolution adequate for the staggering challenges which lie before us? With flagrant corruption abounding in high places, with slums festering, with deficits mounting, with voter apathy rampant, with national resolve dissipated—this is no time to be a Tory! While giving thanks to God for two centuries of prosperity and growth, let us not in the third century which begins today turn our backs on our founding ideals by setting sail for the Old World from whence we came. There are still caste systems to be abolished, injustices to be righted, imperial wars to be ended if only we have not lost our nerve for true revolution!

One of our authentic national legends is the story of Rip Van Winkle and his enormous nap of twenty years.[5] Returning to his village after so prolonged an absence, he found everything different. Even the signs on the old Dutch Inn had replaced the ruddy face of King George by the likeness of one called George Washington. When a suspicious crowd began to demand an explanation for his presence, Rip replied: "I am a poor quiet man, a native of this place, and a loyal subject of the king, God bless him!"[6] These words were met with angry shouts of "Tory! Spy! Away with him!" until an old woman tottered up to explain the mystery: for twenty years he had been sleeping through a revolution!

There can be no doubt that a revolution is still going on in our world: a revolution of rising expectations among the dissenfranchised masses, many of whom are literally starving to death; a revolution of equal opportunity among neglected minorities and that heretofore silent majority of womankind; a revolution of moral integrity that confers power on the just and the able rather than on the brutal and the greedy. It would be the supreme irony of our history if America becomes so intoxicated on the elixir of her success that she sleeps through the contemporary revolution. To be sure, the entrenched Torys of today can dismiss our modern patriots with labels such as "liberal" or "the New Left," which is only another way of saying: "I've got it made! Things are like I want them! So let the revolution stop!"

But the revolution will not stop! Not as long as America remains a viable dream, not as long as July 4 rolls around each year to remind us that we began as rebels, not as long as God himself is pleased to use this nation as one of the chosen instruments by which He makes all things new.

FOOTNOTES

[1] For a description of this scene see Dena Kaye, "China Without a Visa," *Saturday Review/World*, July 13, 1974, pp. 44–45.

[2] An annual offering for foreign missions contributed by churches of the Southern Baptist Convention.

[3] On religious factors in Toryism during the American Revolution see Mark Noll, "Tory Believers: Which Higher Loyalty?", *Christianity Today*, July 2, 1976, pp. 6–9.

[4] Quoted in *Mainliner*, June, 1976, p. 18, from Leon Uris, *Trinity* (Garden City: Doubleday & Company, 1976).

[5] Washington Irving, "Rip Van Winkle," *The Sketch Book* (The World's Classics, CLXXIII; London: Oxford University Press, 1912), pp. 39–63.

[6] *Ibid.*, p. 55.

SENATE—*Monday, September 27, 1976*

(Legislative day of Friday, September 24, 1976)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. DALE BUMPERS, a Senator from the State of Arkansas.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

*Lord, Thou hast been our dwelling place in all generations * * * even from everlasting to everlasting, Thou art God.*—Psalms 90: 1, 2b.

As the days pass into weeks and the weeks into years, may every day be to us a new beginning. Help us to put behind us the sins, mistakes, and failures of the past and with clean hands and pure hearts help us to do our duty as service to Thee. Show us again that Thy kingdom comes not by instant magic but by the working, plodding, striving of human beings such as those who labor in this place. Grant then *"that we may apply our hearts unto wisdom. * * * And let the beauty of the Lord our God be upon us: and establish Thou the work of our hands upon us; yea, the work of our hands establish Thou it."* Psalms 90: 12b, 17. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 27, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. DALE BUMPERS, a Senator from the State of

Arkansas, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. BUMPERS thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Friday, September 24, 1976, be approved.

Mr. ALLEN. Mr. President, reserving the right to object, since we are in the same legislative day we were in on Friday, and an objection will not call for the reading of the Journal, I object.

The ACTING PRESIDENT pro tempore. Objection is heard. Does the Senator from Michigan wish recognition?

Mr. GRIFFIN. I yield back my time.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oklahoma (Mr. BARTLETT) is recognized for not to exceed 15 minutes.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum. Let the time be taken out of the time allotted to Senator BARTLETT.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the time allotted to the minority leader, which I yielded back, be reinstated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PROGRESS TOWARD PEACE IN SOUTHERN AFRICA

Mr. GRIFFIN. Mr. President, Secretary Kissinger has just returned from a trip to southern Africa during which he sought to mediate a number of conflicts which are rapidly approaching crisis proportions. The resulting announcement by Mr. Ian Smith, accepting a procedure leading to substantive black political participation in Rhodesia, is a most encouraging event.

For the first time in many years, there is reason to believe the chance of a negotiated settlement has improved, and that the threat of racial violence is diminished. This is a welcome change for Americans of all political persuasions who are concerned about the maintenance of world peace and stability.

At the same time, it is necessary to temper our optimism, particularly in light of a statement by the so-called "first line" Presidents over the weekend. In months to come serious negotiation and a willingness to make concessions will be required by all parties if a mutually acceptable outcome is to be realized.

Recent administration statements have reflected understanding of the serious, complex nature of the black-white conflict in Southern Africa. I believe that the actions of the administration have demonstrated wisdom and restraint. Secretary Kissinger's mission was undertaken only after consultation with various African leaders. Our firm insistence that there was no substantive "American agenda" signaled our understanding that, in the final analysis, this is an African problem which requires an African solution.

Further, it should be noted that the administration had little to gain by these efforts on the domestic political scene. The fact that they were begun during an election year, even at a time when President Ford's nomination was uncertain, clearly placed the national interest in world peace above the partisan exigencies of electoral politics. This can only be considered a selfless act of statesmanship of the highest order.

The Secretary of State has recently noted the importance of minimizing great power rivalry on the continent of Africa. Over the years, numerous African leaders have expressed a similar interest. The timely achievement of a nonviolent solution to the conflict in Southern Africa is the single most important factor in realizing such a goal. With the announcement from Rhodesia, at least the first step has been taken.

Mr. President, I suggest the absence of a quorum, with the time to be charged to the time allotted to the minority leader.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives delivered by Mr. Berry, one of its clerks announced:

That the House agrees to the reports of the committee of conference on the disagreeing votes of the two Houses on the following bills:

H.R. 9019. An act to amend title XIII of the Public Health Service Act to revise and extend the program for the establishment and expansion of health maintenance organizations; and

H.R. 13035. An act to amend the National Sea Grant College and Program Act of 1966.

That the House insists upon its amendment to the bill (S. 22) for the general revision of the copyright law, title 17 of the United States Code, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. KASTENMEIER, Mr. DANIELSON, Mr. DRINAN, Mr. BADILLO, Mr. PATTISON of New York, Mr. RAILSBACK, and Mr. WIGGINS were appointed managers of the conference on the part of the House.

That the House has passed, without amendment, the following Senate bills:

S. 3330. An act for the relief of Miss Mary Vance Trent; and

S. 3651. An act to amend the Alaska Native Claims Settlement Act to provide for the withdrawal of lands for the village of Klukwan, Alaska, and for other purposes.

That the House agrees to the amendments of the Senate to the following bills:

H.R. 5503. An act for the relief of Divina Mamuad;

H.R. 7832. An act for the relief of Mrs. Jeanette Flores Byrne;

H.R. 10434. An act for the relief of Carlos Montenegro Gorbitz, doctor of medicine, Mrs. Gorbitz, and their two-year-old son;

H.R. 10793. An act for the relief of Mrs. Afaf Kanafani Yassine, Najla Yassine, Walid Yassine, Mona Yassine, and Maher Yassine;

H.R. 11722. An act to amend title 18 of the United States Code to prohibit deprivation of employment or other benefit for political contribution, and for other purposes;

H.R. 13549. An act to provide for additional income for the United States Soldiers' and Airmen's Home by requiring the Board of Commissioners of the House to collect a fee from the members of the Home; by appropriating nonjudicial forfeitures for support of the Home and by increasing the deductions from pay of enlisted men and warrant officers; and

H.R. 15068. An act to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1976 in certain disaster areas in South Carolina and Georgia.

That the House has passed the following bills, each with amendments in which it requests the concurrence of the Senate:

S. 400. An act to direct the Secretary of the Interior to conduct a one-year feasibility-suitability study of the Frederick Law Olmsted Home and Office as a national historic site; and

S. 3084. An act to amend and extend the Export Administration Act of 1969 to improve the administration of export controls pursuant to such Act, to strengthen the antiboycott provisions of such Act, to amend the Securities Exchange Act of 1934 to enhance the investor disclosure provisions of that Act, and for other purposes.

That the House agrees to the amendment of the Senate to the bill (H.R. 9460) to provide for the establishment of a constitution for the Virgin Islands, with amendments in which it requests the concurrence of the Senate.

That the House has passed the bill (S. 3035) for the relief of Alice W. Olson, Lisa Olson Hayward, Eric Olson, and Nils Olson, with an amendment in which it requests the concurrence of the Senate.

That the House recedes from its disagreement to the amendment of the Senate numbered 1 to the bill (H.R. 10339) to encourage the direct marketing of agricultural commodities from farmers to consumers, and concurs therein; and that the House recedes from its disagreement to the amendments of the Senate numbered 2 and 3 and concurs therein, each with an amendment in which it requests the concurrence of the Senate.

And that the House has passed the

following bills and joint resolution in which it requests the concurrence of the Senate:

H.R. 2106. An act for the relief of Marlene Elizabeth Holder;

H.R. 2564. An act for the relief of Franklin R. Helt;

H.R. 3376. An act for the relief of Natividad Casing and Myrna Casing;

H.R. 3377. An act for the relief of Mrs. Helen Wolski, Michael Wolski, and Steven Wolski;

H.R. 3818. An act to validate the conveyance of certain land in the State of California by the Southern Pacific Transportation Company;

H.R. 6507. An act for the relief of Chester C. Clark, Mary L. Clark, and Dorothy J. Wilbur;

H.R. 9908. An act for the relief of Daniel Crowley;

H.R. 10645. An act for the relief of Lilia Araujo;

H.R. 10757. An act for the relief of Nora L. Kennedy;

H.R. 10962. An act for the relief of Olive M. V. T. Davies and her children;

H.R. 11229. An act for the relief of Carmelline Leonora Mariano Barzaga;

H.R. 11387. An act for the relief of Patrick Andrew C. Laygo and Christina Socorro C. Laygo;

H.R. 11724. An act for the relief of Mrs. Amelia Doria Nicholson;

H.R. 11809. An act for the relief of Ljudevit Previc;

H.R. 12574. An act to authorize the Secretary of the Interior to convey the interest of the United States in certain lands in Adams County, Miss., notwithstanding a limitation in the Color-of-Title Act (45 Stat. 1069, as amended; 43 U.S.C. 1068);

H.R. 13160. An act to designate certain lands within units of the National Park System as wilderness; to revise the boundaries of certain of those units; and for other purposes;

H.R. 13964. An act for the relief of Jeanette Green, as mother of the minor child, Ricky Baker, deceased, and as widow and administratrix of the estate of Enoch Odell Baker, deceased; and for the relief of Mary Jane Baker Nolan, individually, and as widow and administratrix, of the estate of John William Baker, deceased;

H.R. 15246. An act to amend the Service Contract Act of 1965 to provide that all employees, other than bona fide executive, administrative, or professional employees, shall be considered to be service employees for purposes of such Act, and for other purposes;

H.R. 15563. An act to amend the Act of July 9, 1965 (79 Stat. 213; 16 U.S.C. 4601–17 (c), and for other purposes; and

H.J. Res. 1008. A joint resolution authorizing the President to proclaim the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week."

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 2322. An act for the relief of Lee Mee Sun.

3052. An act to authorize orientation and language training for families of certain officers and employees of the Department of Agriculture.

S. 3430. An act to amend the act approved August 18, 1970, providing for improvement in the administration of the national park System by the Secretary of the Interior and clarifying authorities applicable to the national park system, and for other purposes.

H.R. 589. An act to authorize the Secretary of the Interior to provide relief to the Santa Ynez River Water Conservation District due to delivery of water to the Santa Ynez Indian Reservation lands.

H.R. 11997. An act to amend the Internal Revenue Code of 1954 with respect to the tax treatment of certain divestitures of assets by bank holding companies.

H.R. 12987. An act to authorize appropriations for carrying out title VI of the Comprehensive Employment and Training Act of 1973, and for other purposes.

H.R. 14238. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes.

H.R. 14299. An act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes.

H.R. 15194. An act making appropriations for public works employment for the period ending September 30, 1977, and for other purposes.

The enrolled bills were subsequently signed by the Vice President.

HOUSE BILLS REFERRED

The following House bills were each read twice by their titles and referred as indicated:

H.R. 2106. An act for the relief of Marlene Elizabeth Holder; to the Committee on the Judiciary.

H.R. 2564. An act for the relief of Franklin R. Helt; to the Committee on the Judiciary.

H.R. 3376. An act for the relief of Natividad Casing and Myrna Casing; to the Committee on the Judiciary.

H.R. 3377. An act for the relief of Mrs. Helen Wolski, Michael Wolski, and Steven Wolski; to the Committee on the Judiciary.

H.R. 3818. An act to validate the conveyance of certain land in the State of California by the Southern Pacific Transportation Company; to the Committee on Interior and Insular Affairs.

H.R. 9908. An act for the relief of Daniel Crowley; to the Committee on the Judiciary.

H.R. 10645. An act for the relief of Lilia Araujo; to the Committee on the Judiciary.

H.R. 10757. An act for the relief of Nora L. Kennedy; to the Committee on the Judiciary.

H.R. 10962. An act for the relief of Olive M. V. T. Davies and her children; to the Committee on the Judiciary.

H.R. 11229. An act for the relief of Carmelline Leonora Mariano Barzaga; to the Committee on the Judiciary.

H.R. 11387. An act for the relief of Patrick Andrew C. Laygo and Christina Socorro C. Laygo; to the Committee on the Judiciary.

H.R. 11724. An act for the relief of Mrs. Amelia Doria Nicholson; to the Committee on the Judiciary.

H.R. 11809. An act for the relief of Ljudevit Previc; to the Committee on the Judiciary.

H.R. 12574. An act to authorize the Secretary of the Interior to convey the interest of the United States in certain lands in Adams County, Miss., notwithstanding a limitation in the Color-of-Title Act (45 Stat. 1069, as amended; 43 U.S.C. 1068); to the Committee on Interior and Insular Affairs.

H.R. 13160. An act to designate certain lands within units of the National Park System as wilderness; to revise the boundaries of certain of those units; and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 13964. An act for the relief of Jeanette Green, as mother of the minor child, Ricky Baker, deceased, and as widow and administratrix of the estate of Enoch Odell Baker, deceased; and for the relief of Mary Jane Baker Nolan, individually, and as widow and administratrix, of the estate of John William Baker, deceased; to the Committee on the Judiciary.

H.R. 15563. An act to amend the act of July 9, 1965 (79 Stat. 213; 16 U.S.C. 4601–17(c)), and for other purposes; to the Committee on Interior and Insular Affairs.

ORDER TO HOLD H.R. 15246 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the House, H.R. 15246, be held at the desk pending further disposition.

Mr. ABOUREZK. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. I understand that Mr. HELMS has waived his previous objection to this request.

Mr. ABOUREZK. What is the message?

Mr. ROBERT C. BYRD. H.R. 15246 is an act to amend the Service Contract Act of 1965 to provide that all employees, other than bonda fide executive, administrative, or professional employees, shall be considered to be service employees for purposes of such act.

Mr. ABOUREZK. I have no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRIBUTES TO SENATORS SYMINGTON AND PHILIP A. HART RESCHEDULED FOR SEPTEMBER 30, 1976

Mr. ROBERT C. BYRD. Mr. President, I shall utilize the time normally accorded to the majority leader.

Mr. President, on Friday I arranged for time today, not to exceed 2 hours, under the control of the two leaders or their designees, for the purpose of expressions of tribute to Senator SYMINGTON and Senator PHILIP A. HART, both of whom are retiring at the end of this Congress.

Overnight lines carried the information, the program in the RECORD carried the information, but for one reason or another various Senators have not been apprised of the fact that these tributes were to be expressed at this time. Consequently, at the request of Senator EAGLETON, and others, I ask unanimous consent that the time for expressions of tributes to Mr. SYMINGTON and Mr. PHILIP A. HART be transferred to Thursday morning, September 30, 1976, that it not exceed 2 hours, and that it be under the control of the two leaders or their designees.

Mr. ALLEN. Mr. President, reserving the right to object, and I shall not object, of course that will be under the same conditions. If we are under a cloture order, it will be for the purpose only of making these eulogies.

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. I might state that I came today prepared to deliver my eulogy. I know the distinguished Senator from West Virginia and the distinguished Senator from Michigan (Mr. GRIFFIN) also were prepared. But I certainly have no objection to passing it over.

Mr. ROBERT C. BYRD. I thank the Senator.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER AUTHORIZING TRIBUTES TO SENATORS SYMINGTON AND PHILIP A. HART TO BE A SENATE DOCUMENT

Mr. ROBERT C. BYRD. Mr. President, if any Senators, on the stated program last Friday, should submit their eulogies today at the desk, I ask unanimous consent that those eulogies be accepted but they do not appear in the RECORD of today, that they appear in the RECORD of Thursday, and that all of those tributes ultimately be compiled in a bound volume and made a Senate document.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, will the Senator yield for a comment?

Mr. ROBERT C. BYRD. Yes.

Mr. GRIFFIN. Both in respect to the tributes that were scheduled for today and those that are scheduled for Tuesday and Wednesday, we did not specify that there would be 1 hour for one Senator and another hour for another Senator. I take it that the way we will proceed is that as Senators come in during the 2-hour period they may give remarks on either Senator but that the tributes will be collected in the RECORD perhaps in separate groups.

Is that an appropriate way to proceed?

Mr. ROBERT C. BYRD. I think that is as good a way as any.

I suggest that Mr. EAGLETON be the first to be recognized on Thursday and then after Mr. EAGLETON perhaps the Republican whip could be recognized, and in that way we will have both of the tributes on track.

Mr. GRIFFIN. What I was thinking is that in the RECORD even on that day by unanimous consent we could have the tributes to Senator SYMINGTON appear in one group and the tributes to Senator PHILIP A. HART appear in another group.

Mr. ROBERT C. BYRD. I think that would be better.

I ask unanimous consent that that be the case.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. ROBERT C. BYRD. I yield.

SUBSTITUTION OF CONFEREE—S. 3091

Mr. JACKSON. Mr. President, I ask unanimous consent that in connnection with the appointment of conferees on S. 3091, which was made heretofore, the distinguished Senator from Arkansas (Mr. BUMPERS) be appointed a conferee in lieu of the Senator from Montana (Mr. METCALF), who made the request.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR—S. 2278

Mr. ABOUREZK. Mr. President, I ask unanimous consent that two members of my staff, Irene Margolis and Lynn Jacobson, have the privilege of the floor from now until the completion of the civil rights attorneys' fees measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I note that Senator BARTLETT is in the Chamber. May we proceed with his order now?

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oklahoma is recognized for not to exceed 15 minutes.

HUMPHREY-HAWKINS AND THE MARKETPLACE

Mr. BARTLETT. Mr. President, in considering the Humphrey-Hawkins approach to our Nation's economic problems, we must realize the fundamental conflict it brings into focus for us—even though that focus is often blurred by rhetoric—between relatively free market operations and centrally planned economies. This bill, S. 50, is profoundly distrustful of free market mechanisms of economic adjustment, and, with its emphasis on massive redistribution of income, presumes to define for the American people what distributive justice is—without the full knowledge of the people.

The same approach to problem solving which prescribed forced busing for the American educational system would be at work in this bill's implicit desire to turn economic decisionmaking over to Federal economic planners. This analogy may seem strange at first, but it is time we realize that a decline in economic freedoms goes hand in hand with a decline in personal freedoms, and further, that the concept of central economic planning presumes that the end justifies the means. A free marketplace may not be socially perfect, but like democracy, it works better than anything else.

Almost all of us, as parts of the economy, plan for our own good: businesses plan marketing campaigns and forecast costs and demands. I plan, and I am sure others plan. However, when the whole economy is centrally planned rather than planned by each individual in it, the situation becomes not just a matter of more and better planning for the general good, but something completely different, something inconsistent with America's basic beliefs in individual choice and freedom. The ideas of political democracy and free market economics are woven together by history and concept so strongly that any consideration of central economic planning must always take into account the consequences for our fundamental liberties.

Many of my colleagues have tried to show that S. 50 will not work, that it is an empty promise. Others in Washington have remarked that it is so vague that it is merely an innocuous campaign issue. I do not find this legislation innocuous; and it is about as vague as a steel net over the country.

As can be seen, I do not think the Humphrey-Hawkins bill is merely a matter of economic technicalities. However, it does need to be pointed out that the economics of it will not work either. It is ironic that a bill calling for more economists and more national economic policies includes that phrase from section 2b(1), that "* * * modern inflation has been due in large measure to errors in national economic policy * * *." It points out a very real problem with the bill—economists do not know enough to accomplish all of, or even very much of, what the bill calls for. The adjustments and calculations of the marketplace reflect the millions of decisions, preferences, and choices of all of us, and they cannot be duplicated or even predicted precisely by all the economists and all the computers in existence. God can plan and allocate resources on that scale, but certainly economists cannot. It is dangerously presumptuous of the sponsors of S. 50 to believe that they can. Furthermore, while the emphasis placed by S. 50 on unemployment is understandable—politically, in this election year, if for no other reason, the perfunctory mention of vague antiinflation measures—section 102(c), as well as a lack of concern for the social costs of a growing public sector are potentially disastrous.

The inflationary impetus of our already overly regulated economy would be aggravated by the nature of this bill's government-as-last-resort-employment. The high wage standards of section 402 which sets Government wages at levels comparable to those in private industry for the relevant job area, would tend to positively draw private sector labor into the government sector or cause the private sector to increase its own wage offers in order to compete with the Government, all of which would result in price increases generally. For the fact is that such Government wages, set by the Davis-Bacon Act, are most often higher than the wages private industry pays in the same geographic region. So that labor shortages for private industry, higher prices generally, and a growing number of people in Government job programs would be the likely outcome of S. 50.

I think I understate the case when I say that government-of-last resort jobs are notoriously wasteful. Listen to what an east European in Warsaw was quoted by the New York Times, August 10, as saying: "Everyone must have a job. But there is no requirement to work." It sounds awfully familiar. The incentives of the market pricing mechanism have been removed and workers have no real reason to be productive. This leads, in a rigid society, to paying wages higher than the productivity contributed by the worker, which leads to shortages of goods and services, and long lines at the stores.

All of which is further distorted in S. 50 by the fact that the definition of "last-resort" and the 3 percent unemployment goal are completely arbitrary and unrelated to changing economic conditions or realities. Putting dollar figures on the cost of these government-of-last-resort programs and the costs of the inefficiencies caused by them is really impossible without assuming away reality, but of this you can be certain: ultimately it comes from you and me, the taxpayers, and if the Government spends, we do not; and if it employs people, we do not. The more people the Government employs, the fewer the private sector can employ, and the less productive it becomes—and the less productive our Nation becomes.

Our Nation's economy has historically been fueled by the liberty and freedom of enterprise. Fortunately our people have been concerned with, and our economy has provided for, the social needs of our country. We must, however, recognize that as some in Government try to define the common good as equal distribution of income, that the freedom of us all is becoming increasingly restricted. And the environment that has been favorable to America's great productivity is being seriously eroded.

A heart devoted to individual freedom must occassionally speak bluntly. The more the Government tries to force equal distribution of income upon us, the less there will be to distribute. I say that America can best achieve social justice by nurturing an environment in which each person is guaranteed the freedom to pursue his own vision of happiness rather than by having the Government try to define and then guarantee everyone's happiness.

Can the Government do anything at all to help the economy? Yes, it can, but it must—and the people must—ever be conscious of the balance between our freedoms and economic planning "for our own good." In order to obtain the goals of human dignity, freedom, and economic security we must urge Government to remove the economic rigidities and distortions it has introduced, to prohibit monopoly forces from arising wherever they might be, and to look to the voters more closely in trying to determine the social costs of externalities such as pollution and quotas. That is, demand management, via fiscal and monetary policies, must be balanced with supply freedom. Or as Mr. Adam Smith once said,

> The statesman, who should attempt to direct private people in what manner they ought to employ their capital would not only load himself with a most unnecessary attention, but assume an authority which could safely be trusted, not only to no single person, but to no council or senate whatever, and which would nowhere be so dangerous as in the hands of a man who had folly and presumption enough to fancy himself fit to exercise it.

For all the above reasons, I believe passage of S. 50 would be a grave disservice to the American people.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Colorado (Mr. HART) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Colorado yield to me briefly for a request?

Mr. GARY HART. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank my friend.

ORDER FOR CONSIDERATION OF H.R. 10210 UPON COMPLETION OF CONSIDERATION OF S. 2278

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, upon the disposition of S. 2278, the civil rights attorneys' fees bill, if not before—and the "if not before," of course, could only occur by unanimous consent—the Senate proceed to consideration of H.R. 10210, the unemployment tax bill.

Mr. GRIFFIN. Mr. President, reserving the right to object, and I do not intend to object unless necessary, the Senator from New York (Mr. JAVITS) has an interest in this bill and has some amendments. He has left word that he will not be able to be here tomorrow. My concern is that I would not object, except I am going to have to object to protect him if there is any possibility that it will come up tomorrow.

Mr. ROBERT C. BYRD. In view of that, suppose I make the exception by saying that in any event, the measure would not come up tomorrow.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ABOUREZK. Reserving the right to object, Mr. President, I was not able to understand what the bill is.

Mr. ROBERT C. BYRD. It is the unemployment tax bill.

Mr. ABOUREZK. I have no objection.

The ACTING PRESIDENT pro tempore. There being no objection, it is so ordered.

ORDER FOR CONSIDERATION OF SUPPLEMENTAL APPROPRIATIONS BILL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, the distinguished Senator from Arkansas (Mr. MCCLELLAN), chairman of the Committee on Appropriations, may be authorized to call up the supplemental appropriation bill at some point during the day.

The ACTING PRESIDENT pro tempore. Is there objection?

The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator from Colorado.

Mr. President, I ask unanimous consent that none of the time consumed by these requests be charged against the Senator from Colorado.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Colorado is recognized.

THE ADMINISTRATION'S ENVIRONMENTAL RECORD

Mr. GARY HART. Mr. President, the environmental policies adopted over the next 4 years will, in my judgment, affect the health and welfare of the American people and the value of the Nation's natural resources for decades to come. It is, therefore, important that the American people become fully aware of the current administration's environmental record before they vote this November on our future national leadership.

Since its beginning, the Ford administration has consistently argued and lobbied for relaxing, delaying, and eliminating existing environmental regulations as well as impeding congressional attempts to develop environmental policies in new areas.

Consider the following record. I call attention first of all to the Outer Continental Shelf leasing program.

In September 1974 the Ford administration announced plans to accelerate offshore leasing of oil lands to 10 million acres annually. However, the President has consistenty opposed congressional efforts to provide for participation by the public, as well as by States and cities, in the leasing process to assure adequate consideration of the onshore impact of the leases.

Second, I mention the obvious matter of strip mining control legislation. Twice, in December 1974 and May 1975, President Ford vetoed Federal strip mining legislation which would have:

Required strip mines be restored to their original contour,

Established reclamation programs for abandoned mines,

Set environmental protection standards,

Provided for citizen participation in drafting regulations, and

Provided protection for the owners of surface rights.

In announcing his vetoes, the President claimed that the bills would have curtailed the development of domestic energy sources, caused job losses, and hurt the Nation's efforts to achieve energy independence.

None of these charges is substantiated by the testimony heard during many days of congressional hearings. Furthermore, both industry and labor agree that the uncertainty and chaos created by the failure to establish, once and for all, this Nation's strip mining policies have hurt the development of coal resources much more than the regulations called for in either of these two bills.

COAL LEASING

In June 1975 the Interior Department issued coal leasing and mining reclamation regulations for Federal coal lands which would:

Allow condemnation of privately owned lands overlying Federal coal,

Significantly weaken reclamation requirements from the twice-vetoed strip mine legislation,

Allow reclamation standards to be waived wherever the postmining use of the land differs from the premining land use, and

Allow the Interior Department to overrule Western States which had developed more stringent reclamation requirements.

Mr. President, I submit that in this area the administration has not lived up to what it claims to be its environmental record.

Mr. President, a further item is the matter of the SST.

In February 1976, the Department of Transportation decided to exempt the French-built supersonic transport, the Concorde, from Federal noise standards and allow six daily flights to Dulles Airport in Washington and JFK Airport in New York. This was done despite strong evidence that this purely luxury aircraft may cause damage to the ozone layer which protects the Earth's surface from cancer-causing ultraviolet radiation.

Further, Mr. President, in the area of funding for the Bureau of Reclamation and the Army Corps of Engineers, in his budget proposal for fiscal year 1977, President Ford overrode recommendations by OMB and CEQ and proposed huge new budgets for the Bureau of Reclamation and the Army Corps of Engineers. In July 1976, he signed legislation giving the corps and the Bureau their biggest budgets in history—over $3 billion. Part of this money will be used to construct the Garrison Diversion which will destroy eight national wildlife refuges and will pollute rivers and streams running into Canada.

Mr. President, another critical issue is the protection of air quality. The Ford administration has consistently opposed the establihment of a national policy to protect areas of this country where air quality is better than the current national standards. The administration bill, S. 594, would have completely eliminated the concept of nondegradation for the existing Clean Air Act. In so doing, the President proposed uniformly dirty air throughout the country instead of protecting and preserving clean air regions for recreational use and future generations, as well as applying the best available control technology for clean industrial growth.

Over the past 20 months, both the House and the Senate have developed nondegradation policies. The administration has vigorously opposed both of these proposals in spite of findings by the Environmental Protection Agency that they would not prevent the construction of major, economically sized industrial facilities.

In the area of automobile emission standards, the Ford administration has for years proposed and lobbied for weakening and delaying automobile emissions standards which are vital for the protection of public health.

The administration authored and heavily lobbied for the passage of an amendment to the Clean Air Act which would have placed a 5-year moratorium on stronger automobile emission controls. The administration took this position in spite of findings by the National Academy of Sciences and the Environmental Protection Agency that the standards in the present law can be met and are vital for the protection of public health.

Mr. President, these are just a few examples of Ford administration positions which are the result of weighing too heavily industry claims that environmental protection adversely affects business profitability and the economy.

Relaxing environmental standards is at best an ineffective weapon against inflation and unemployment. Relaxing standards to the detriment of public health and safety misplaces our national priorities. This Nation has at its command more effective tools to deal with national economic problems.

Relaxing standards may increase the profitability of some individual companies or industries. However, an accurate accounting of the economic gains and losses of society will show a net loss. The social costs of pollution are real. They are not reflected in the industry balance sheets. But citizens and taxpayers pay them nonetheless.

Mr. President, I am hopeful that the people of this country, in weighing their selection of a new national leader for the next 4 years, will take into serious consideration the substantial problems this country faces, on a long-term basis, concerning the allocation and wise use of our Nation's resources, including our air, our water, and our land.

This administration's record has been weighed and has been found wanting. I think it is important that the American people determine not only what environmental policies they feel are necessary for themselves but also, perhaps more importantly, for their children.

Mr. President, I yield back the remainder of my time.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER RE-REFERRING SENATE CONCURRENT RESOLUTION 161 TO THE FOREIGN RELATIONS COMMITTEE

Mr. SPARKMAN. Mr. President, I ask unanimous consent that Calendar No. 1238, Senate Concurrent Resolution 161, expressing the objection of the Congress pursuant to section 36(b) of the Arms Export Control Act to the proposed sale of missiles to Saudi Arabia, reported from the Foreign Relations Committee, be re-referred to the Foreign Relations Committee.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered, and it will be so re-referred.

RECESS FOR 1 HOUR

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess for 1 hour.

The motion was agreed to, and at 10:51 a.m. the Senate recessed until 11:51 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CLARK).

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

RECESS UNTIL 12 NOON

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until 12 noon today.

The motion was agreed to, and at 11:51 a.m., the Senate recessed until 12 noon; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MORGAN).

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

The Senate continued with the consideration of the bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

Mr. ROBERT C. BYRD. Mr. President, will the Chair state the pending business before the Senate?

The PRESIDING OFFICER. The pending business is amendment No. 2388 to the bill S. 2278. The yeas and nays have not been ordered.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. ALLEN. Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, have the yeas and nays been ordered on the Kennedy amendment?

The PRESIDING OFFICER. The yeas and nays have not been ordered on the Kennedy amendment.

Mr. ABOUREZK. I ask for the yeas and nays on the Kennedy amendment.

The PRESIDING OFFICER. It would take unanimous consent.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that it be in order at this time to ask for the yeas and nays on the Kennedy amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the Kennedy amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Has the time for tributes to our fellow Senators ended?

Mr. ROBERT C. BYRD. Mr. President, if I might advise the Senator, the period for tributes for Senator SYMINGTON and Senator PHILIP HART has been set over until Thursday. Any Senators who wish to submit their tributes today may do so. They will not be printed in today's RECORD, but will be saved until the Thursday RECORD.

Mr. JAVITS. I thank the acting majority leader.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR—H.R. 15395

Mr. HELMS. Mr. President, I ask unanimous consent that Mr. Howard Segermark, of my staff, be allowed the privilege of the floor during the consideration of H.R. 15395, and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CASE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. CASE. Objection is heard from whom, Mr. President?

The PRESIDING OFFICER. The Senator from Alabama.

Mr. CASE. From whom?

The PRESIDING OFFICER. The Senator from Alabama.

The second assistant legislative clerk resumed the call of the roll.

Mr. CASE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

OBJECTION TO PROPOSED SALE OF MISSILES TO SAUDI ARABIA

Mr. CASE. Mr. President, on Friday the Committee on Foreign Relations, by a close vote, recommended to the Senate the passage of a resolution (S. Con. Res. 161) expressing the objection of the Congress, pursuant to section 36(b) of the Arms Export Control Act, to the proposed sale of missiles to Saudi Arabia.

That action was reported to the floor, and the resolution was placed on the calendar. I should say that I was personally involved in the proceedings in the case, perhaps the chief sponsor of the action, though the resolution itself had been introduced by our colleague from Wisconsin (Mr. NELSON).

There is no doubt about the fact that everyone knew of my interest in this matter. No doubt at all. For reasons which they considered sufficient, a number of people connected, some of them, with the State Department or the administration, persuaded certain Members of the Senate to bring up this morning a motion to recommit that resolution to the Committee on Foreign Relations.

I was not notified, nor was my office, nor was any effort made to notify me or my office, which I regard as a singular breach of the kind of relationship which Members of the Senate are accustomed to show to one another; the kind of courtesy, but more than that, the kind of working trust and confidence without which this body cannot operate.

Because of that, I shall ask unanimous consent—I am not asking it at this moment—to have vacated the action taken this morning in my absence, without notice to me—an inexcusable breach of the courtesy and the consideration upon which this body depends for its operation, and which each Member of this body is entitled to rely on.

There is in addition a question, which I do not want to waive my my request, as to whether the action sending it back may well be in violation of the procedure set up in the Nelson amendment making resolutions of this kind preferred actions, capable of being brought to the floor by any Member regardless of the action taken on them by the Committee on Foreign Relations. I do not wish to waive that point, and I shall be very happy indeed to press it again at the proper time. But I make my first request solely on the ground that, contrary to the traditions of this Chamber and to the plain decency with which a Member of the Senate is entitled to expect to be treated——

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. CASE. Whether for the best of motives I do not know, it is nevertheless a breach which I regard as inexcusable. I therefore ask unanimous consent that the proceedings under which this action was taken this morning, of recommittal to the Committee on Foreign Relations of Senate Concurrent Resolution 161, be vacated.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GRIFFIN. Mr. President, will the Senator yield before he makes his request?

Mr. CASE. I withhold my request, and yield to the Senator from Michigan.

Mr. GRIFFIN. I wish to say to the Senator from New Jersey that I deeply regret I did not contact him before the action was taken this morning. We had the situation of the chairman of the Committee on Foreign Relations coming to the floor and indicating that he wanted the resolution re-referred to the Committee on Foreign Relations.

I was aware of the fact that the resolution would not have been reported, and would not be on the calendar today, except for a unanimous-consent request that was granted last Friday—a unanimous-consent request giving the committee until midnight to file reports. If that had not been done by unanimous consent, there would have been no such resolution on the calendar this morning for the chairman to refer back to committee.

As I understand the situation, this resolution was reported from committee by a close vote. There is some reason to believe, apparently, that the vote in the committee might be different if it were taken again. I was also under the impression that even if the resolution had not been re-referred, the chairman intends that the committee shall reconsider its own position with respect to the matter.

In any event, the Senator from New Jersey has made an appropriate point, and I hope there will be no objection to his request.

Mr. CASE. I appreciate that very much. I do wish to say that I certainly accept the Senator's statement that he was under the assumption that I had no objection. I do accept that, and I do accept his statement of regret, because I think it is true that it would have been normal for him to contact me in any event, and not rely on an assumption that I had been informed.

But be that as it may, the situation is different than if it had merely not been reported to the floor, actually taken to the floor under the rules, because that would involve purely a matter of time and not a matter of requiring action again by the Committee on Foreign Relations, and the Senator understands the point, I am sure.

I do not believe, and I have no reason to believe, that anyone would change his vote on this matter. Actually, it makes no difference, because the matter will be brought to the floor under the Nelson amendment regardless of the action of the committee. I am sorry that Senator ABOUREZK feels that he had to, for whatever reason I am not sure, fail to observe the ordinary courtesies that one Senator accords to another, and to recognize them, because it is really on his part—I may say this, that I think it is not an offense and I hope it will not be taken so—that it is purely an action which he takes for the purpose of being annoying, because it will not prevent the matter from being considered by the Senate as a whole. Therefore, I see no reason why he should object to it, unless he feels that he has to maintain a position so pure in opposition to any action of this kind that it cannot be challenged.

I hope he does not feel that way. I hope he will not press his objection, because I see no reason, in the way of any substantive gain to be achieved, why he should do so.

I understand that my chairman wishes to make a comment before I make the request, and I am happy to yield to him.

Mr. SPARKMAN. Yes, I appreciate that.

Mr. President, I wish to say regarding this matter that I had a call this morning from the Vice President, telling me that the administration was greatly disturbed about this matter, and calling my attention to an article that was in one of the papers yesterday I believe about the treatment or the lack of consideration that the committee seemed to have for Saudi Arabia, particularly, and how important it was due to the tremendous power that that country exercises on oil, and that it was believed that an oil embargo would likely be reinstated. The Senator will recall that in our meeting Senator JAVITS got into telephone connection with Secretary Kissinger who was flying back to the United States and talked with him about it. Secretary Kissinger was supposed to come in about 6 o'clock, and I urged that the committee stand in recess until Secretary Kissinger got here and that we have a night session in order that we might get his views.

I felt it was highly important, and I still feel that it is highly important that we have the views of Secretary Kissinger regarding this very difficult problem. But the committee by a single vote voted to go ahead and proceed with the matter.

Then this morning I had a call from the Vice President and I was told about the disturbed feeling that prevailed in the administration. I was here without the Senator from New Jersey being here. I realized that I should have called him. I did not know whether he was home or was down here yet or not. But just after doing that I did go to the telephone and call the Senator, as he remembers, and I found out that he was here, and I told him at the time that I had made a mistake by not getting in touch with him before propounding the unanimous-consent request, but it was my thought that we have a meeting of the committee tomorrow, and it would be a simple matter for it to lie over 1 day and to receive further consideration in the committee.

I did not know. I had no idea as to whether or not there would be a single vote changed. I rather think that the vote might stand just as it is. But I thought that we ought to give consideration to the views of Secretary Kissinger, who has been so closely connected with this problem and who has, I should say, done I think an excellent job in maintaining the friendship of both Saudi Arabia and Iran, and in considering these two countries particularly we ought to hear from him. And I still feel that way. I hope that in tomorrow's session we might have him to come by and give us his views, and then we could be proceeding in a much clearer fashion than we were able to the other day.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. CASE. I thank the Senator. I call the attention of the Senate to the fact that the committee did not act precipitately. The committee did not act without hearing the Secretary of State on this matter. The committee heard the Secretary of State twice on this matter, on Thursday, August 26, and on Friday, August 27.

The suggestion was made at last Friday's meeting that we might wait until the Secretary returned. The Secretary, we were advised, was on the way. I ascertained, by asking my colleagues their intentions, that we would not have a quorum of the committee available to act at the end of the day, which would have effectively made it impossible to act until at the earliest today. Senator JAVITS did raise a question about it and asked that we hear the Secretary again. He ascertained that the Secretary would be back, I think, at 5 o'clock. He was not telephoned as I had suggested might be done on the plane.

Mr. JAVITS. Mr. President, will the Senator yield at that point?

Mr. CASE. I understand Senator JAVITS wishes to make a point, and he will make it himself, of course. He did not want to talk about the line of telephone communications to the Secretary of State which was available because it might be too public a matter, and as to that question I do not know the answer. It is not a very—well, he will speak for himself in due course on that point. But my point is that all of this does not justify the kind of action that was taken this morning. It could not have been inadvertent on the part of the Senator who made this motion because he knew of my interest. It could not have been inadvertent on the part of the Vice President not to get in touch with me because he knew of my interest. Who else's interest is involved here except the interests of Senator NELSON, my own, and the members of the committee who voted as I did.

Mr. President, there is really no excuse for not revoking this action. As I said to my friend from South Dakota he will accomplish nothing in the way of substantive blocking of this action because it can be brought up as a privileged matter under the Nelson amendment regardless of any action by the committee.

But in the matter of preserving the decencies of life in this body, I ask unanimous consent that the action taken this morning be vacated.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. JAVITS. Mr. President, I am disappointed at the objection, although I am not with Senator CASE in this matter. If Senator CASE feels that he was not consulted and did not have an opportunity to say he did not want the matter re-referred his views should be sustained by us. He is the ranking member of the committee. I am the ranking member of a number of committees myself. I think one of the reasons one is a ranking member is in order to have this kind of opportunity.

I am sorry about this. I do not blame anyone because everyone has his own good and sufficient reasons for doing what he is doing and I do not challenge for a moment the sincerity, good faith, or judgment that it is in the highest public interest of any Senator on the floor, including my beloved colleague and chairman of the committee. But I am sorry about it.

I suggest this to Senator CASE and to Senator SPARKMAN. As we are having this out publicly, we might as well have it out publicly. There is no reason why Dr. Kissinger cannot appear before the committee tomorrow, or today, and develop his thesis even though the matter is reported. First, the committee may feel free to take whatever action it chooses, and I do not know that the parliamentary situation makes possible any action by the committee to bring this back to the committee, but that certainly can be explored. In addition, the action of the committee is simply advisory to the Senate. As a matter of fact, under the rule which applies to this particular case, if the committee did not act at all, the matter could be brought up by a motion to discharge the committee which would add 1 hour of debate and be handled de novo, and it is of the highest priority. So I do not think, if I may say to Senator CASE, anything whatever is lost, at least in my opinion, but I appreciate, as I have just stated, I appreciate very much his view. I am going to explain this telephone thing, too, if I may.

Mr. CASE. I am glad the Senator has

made the point. What was lost was the tradition of decency between Members of the Senate. That is what was lost.

Mr. JAVITS. Mr. President, I cannot answer that. I have said what I have to say on that subject. I am deeply grieved by it, but I cannot answer that.

I should like to explain to the Senate the so-called telephone call and what happened on Friday.

I believed that the Committee on Foreign Relations should hear the Secretary. It was my deep conviction. This was a matter which had very profound permeation for our country and very profound permeations for me, as probably the leading advocate in this Chamber and in Congress for 20 years—indeed, very much more than that, nearer 30 years—in this cause. Therefore, I felt that the matter was so critical that the Secretary should be heard.

I sought to reach him on the telephone. I had word back, given to me through the State Department, but from the plane, saying that the Secretary did not know what he could add or subtract to what already had been heard and that, therefore, he was not necessarily making the personal request to the committee to be heard. He would appear if we wished. But he was not making the personal request to be heard.

Based on that information, I withdrew my effort to delay the matter until such time—to wit, the same day—as he could be heard.

Mr. President, on the merits of this discussion, I point out that we will vote on this matter, without any question, because it has to be voted on, and it has to be action by concurrent resolution of the House and the Senate, if the action of the President in the so-called letter of offer is to be reversed.

The Senate should know that the issue is a very narrow one. It involves 650 Mavericks. Let us remember that it has already been disclosed that Saudi Arabia has a thousand. So this is not going to make it or break it, in my judgment.

I voted the other way from my beloved friend and colleague, Senator Case, upon this matter, because I thought that the issues which were involved in terms of Saudi Arabia itself—its attitude in the Arab world, its attitude toward OPEC, the consortium of oil-producing nations, and its attitude in the Arab-Israel struggle—dictated that I, as a devoted friend of the best in United States-Israel relations, should vote the other way. That will be a matter which the Senate will debate and will decide in due course. So, without blaming anybody, I say that this is one of those situations in which each of us has his own reasons for acting as he will, and it certainly is a matter of the deepest concern.

I said on Friday that I voted "no" with tears in my heart, and I say that to the Senate as well. It is my profound conviction that I am here to serve our country and the cause of peace and justice throughout the world as I see it. But I respectfully suggest to the chairman of the committee and to its ranking member that we do call Secretary Kissinger—he can come and account for his views—in the light of everything that has happened and in the light of this very serious threat of an Arab oil embargo. I think that would be one way to resolve the matter. I regret very much that the unanimous consent request which has been made apparently cannot be agreed to.

Mr. ABOUREZK. Mr. President, the Senator from New Jersey (Mr. Case) said to me a minute ago that if I were to object to this, I should explain myself, and I want to be given an opportunity to do that. He also speculated that the reason for my objection might have something to do with the purity of my position on Middle East matters, and I should like to be given an opportunity to explain that as well.

First of all, I should make it very clear to all my colleagues and to the Senator from New Jersey that my position is that neither side should be sold or given arms by the United States—neither side in the Middle East conflict. I have tried to maintain the purity of that position as long as I have been here, simply because I think it amounts to nothing more than a continued boiling of that situation, not to the advantage of anyone in the United States or elsewhere in the world.

I should like to take a look for a moment at a situation that is occurring at this time. The Committee on Foreign Relations has considered some $5 billion in arms sales, in this most recent move on the part of the administration, to countries in the Arabian Gulf area—Iran, Kuwait, Saudi Arabia, and a couple of others. I think the total is some $5 billion.

Not too many weeks ago, we voted a bill that would provide some $2 billion or $3 billion in grants—most of it in arms grants to Israel; not sales, but grants. The Committee on Foreign Relations has plucked out—if my figure is wrong, I ask Senator Case to correct me—a $30 million sale of Maverick missiles to Saudi Arabia.

Mr. CASE. I do not have the exact figure before me, but the Senator's suggestion is not out of line. The amount is not enormous. There are many other things being sold to Saudi Arabia which are many times higher in value. This is the single item on which the committee acted adversely.

Mr. ABOUREZK. It is roughly a $30 million sale—and we have agreed that it is somewhere in that vicinity—to Saudi Arabia.

On top of all this, a short time ago, in the Senate, we passed a bill called the Export Administration Act. We also had an amendment to the tax code that, in effect, would prevent or attempt to prevent the Arab countries from exercising a boycott against Israel. I voted against that measure and I spoke against it on the floor, simply because I stated—and I believe this to be a fact—that nothing we do here will prevent that boycott from taking place. In fact, all it is going to do is to make matters worse. I said that at the time, and I say it today.

There is a story in the Washington Post this morning in which the Foreign Minister of Saudi Arabia is quoted by the Middle East News Agency as saying that if Congress finally passed and sent to the President the antiboycott legislation to which I referred a moment ago on the Export Administration Act, and if it were signed, they would impose another oil embargo.

On top of all that, we are going to pluck out a lousy $30 million arms sale to the Saudi Arabians and say to this one country—not to the rest of the countries in the Middle East, not to Israel, not to Iran, not to Kuwait—from which we import 20 to 25 percent of our oil, "You're going to get a poke in the nose as a result of an arms sale." I think that is fairly insignificant, anyhow, in everybody's view. It amounts to nothing more than a slap in the face.

If we are going to do that, then I can see the escalation of this missile confrontation into something we may not want. We may not want an oil embargo. If we do get one as a result of our actions in the Senate, then we are going to start hearing people—most of them favoring Israel—say, "Let's invade the oil-producing countries and take their oil from them, as we did a few years ago."

Then we will see the Soviet Union, which like to see us in these confrontations, coming on the other side; and we may not like the result of that sequence of action at all at the time it happens.

So, to get back to the explanation of my position, my position is this: I do not really have any clout in the Committee on Foreign Relations or with respect to Middle East issues. However, I say to Senator Case that I see it as my responsibility to try to save the United States from actions which might be imposed upon it by people who cannot really see that far in the future and by other people—I do not include Senator Case in this—outside of Congress who do not give a hoot for the United States and are interested only in their own pursuits. I think that, to the extent that I can save the United States from getting into that kind of position, it is my responsibility and my solemn obligation to do so.

Mr. CASE. Mr. President, the Senator will, of course, answer to his conscience on this matter. I am certainly not going to put myself or attempt to put myself in the place of that judge.

It is not necessary to have this carefully considered in substance in the Senate, to let this irrational, wrong action that was taken this morning stand. The arguments that have been made by the Senator from South Dakota, by my beloved chairman, and by my dearly beloved colleague from New York all relate to the substance of this question, which is still open for consideration. I would be the last one to say that it should not get that kind of consideration, because the matter is enormously important. I should like just to make an observation or two on the suggestions that have been made.

One is that to say that all the countries of the Middle East should be treated equally and none of them should get any arms means simply this: that we renounce our solemn pledge when we supported the creation of Israel to see that it should survive. That is what that means. It has a fine sound to say, "No arms to any country." In substance and in fact, that policy would be to abandon a country for whose existence we are, in major part, responsible. That is the issue there.

If there were any assurance that Israel's neighbors would permit its existence, there would be no problem of solving the issues in the Middle East conflict. That does not exist, except, perhaps, for Egypt. None of the confrontation countries is willing to make that statement, publicly or privately, and their actions certainly support the unwillingness to do so. That is the issue.

Until we have confidence that Israel will be allowed to live in peace under conditions reasonably satisfactory to all the nations in that area, we would be doing less than, I think, our honor requires to treat all nations equally by refusing everyone armed assistance.

Mr. SPARKMAN, Mr. ABOUREZK, and Mr. GRIFFIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SPARKMAN. Mr. President, I say to my friend from New Jersey, the ranking minority member on the Committee on Foreign Relations, with whom I have worked closely over the years, I believe he knows that I would not willfully do anything that I felt was not in accordance with his wishes, or at least in which he would think that I was taking unfair advantage of the situation at the time. He knows we have worked together and in agreement. Each one knew all the time how the other one stood.

I want to say that I should have waited until I could get in touch with the Senator from New Jersey, and I apologize to him for having acted ahead of time. In fact, he knows that very soon after that, when I did get in touch with him, I told him that I had made a mistake.

Frankly, I did not feel that it was one of these incurable situations. I said to him when I called him that we would have it under consideration at tomorrow's meeting and no time would be lost in whatever decision was reached.

This whole situation of arms in that part of the world—and I may say arms in every part of the world—to be furnished by us is in a bad condition. The President, only a few days ago, gave us, I believe, a list of 43 different proposals that he was making—offers, he calls them—to sell arms to 43 different countries in the world. I wish to goodness we could do something that would cut down this proposition of giving arms or selling arms all over the world to the extent that we do now. We cannot live in a perfect world or under perfect conditions, but, certainly, I believe we can improve them from what they are now.

I apologize to the Senator from New Jersey for not having cleared this with him beforehand or having waited until I could clear it with him. I believe it is the first time there has ever been any slipup between the two of us, and I am sorry that it happened. I do apologize.

I assure the Senator from New Jersey that he will not find me objecting to any unanimous-consent request that he makes relating to the disposition of this matter and that certainly, tomorrow, when the committee meets, I shall do my best, in cooperation with him, I hope, to see that this matter is taken up further and receives the consideration that it ought to receive. That is about all I can say.

Mr. GRIFFIN. Mr. President, I would like to propound a parliamentary inquiry.

If Senate Concurrent Resolution 161 were still on the calendar and had not been re-referred to the Committee on Foreign Relations by unanimous consent, would it have been in order for a Senator to move for its consideration while the Senate is considering the civil rights attorneys' fees bill after cloture had been invoked?

The PRESIDING OFFICER. It would take unanimous consent to proceed to any business after cloture had been invoked.

Mr. GRIFFIN. Now, then, with this particular resolution having been re-referred to the committee, is it true, I ask the Chair, as the Senator from New Jersey (Mr. CASE) has indicated, that it would be possible, under the Nelson amendment, to move to discharge the committee from consideration of such a resolution, and that would be a privileged motion? Could that motion be made while the Senate is considering the attorneys' fees bill after invoking cloture under rule XXII?

The PRESIDING OFFICER. Only by unanimous consent.

Mr. GRIFFIN. So whether or not the resolution is on the calendar, whether or not it is referred to the committee, it would only be brought before the Senate by unanimous consent; is that correct?

The PRESIDING OFFICER. That is the opinion of the Chair.

Mr. CASE. Until cloture is completed.

Mr. GRIFFIN. Until the pending business or the unfinished business is disposed of.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRIFFIN. The only point I want to make—and now I am addressing the Senator from South Dakota—I wonder whether he really is gaining any advantage. I can fully understand the intense feelings of the Senator from New Jersey in this matter. Whether or not the resolution is on the calendar, it is not going to be brought up today until and unless we dispose of the unfinished business. I think most of us would agree that is unlikely. Thus, regardless of what we do with respect to this resolution there is nothing to prevent the chairman from having the Foreign Relations Committee tomorrow discuss this subject and have the Secretary of State before the committee, which I understand he intends to do.

Whether or not this resolution is on the calendar or has been re-referred to the committee, the committee can certainly reconsider its own position and take whatever action it deems appropriate—including action to advise the Senate that it no longer supports this particular resolution.

Mr. CASE. Mr. President, will the Senator yield?

Mr. GRIFFIN. Yes.

Mr. CASE. I appreciate what the Senator is saying. I hope his suggestion will be acceptable to the Senator from South Dakota.

I would only add this slight gloss, that if this morning anyone had objected to the reference of this matter back to the committee it could not have been done. In other words, just as any other action would require unanimous consent than that which is the pending business since we are under cloture, so that motion would have required unanimous consent and, of course, if I had been notified that would not have been done.

Mr. SPARKMAN addressed the Chair.

Mr. GRIFFIN. I yield to the distinguished Senator from Alabama.

Mr. SPARKMAN. Mr. President, I wish to speak to the Senator from New Jersey, if I may. I want to say to him, as I have already said, I will not object to any unanimous-consent request he makes dealing with this matter; and, furthermore, I must leave the floor now because I have an engagement I must keep. I hope if he makes the unanimous-consent request he will include me in it with him. I would be very happy to join with him. I have complete confidence in him and I would appreciate that being done.

Mr. CASE. Mr. President, I appreciate that very much and also what my colleague from Michigan and my other colleagues have said. I do not want to go through a futile gesture, but I would be very happy, indeed, to renew the request and join as co-requesters my colleagues from Alabama, from New York, and from Michigan.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The regular order is called for.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

The Senate continued with the consideration of the bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

Mr. ABOUREZK. Mr. President, I move to table the pending Allen amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

QUORUM CALL

Mr. ALLEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll for the purpose of ascertaining the presence of a quorum.

The second assistant legislative clerk called the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 54 Leg.]

Abourezk
Allen
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Goldwater
Griffin
Helms
Javits
Morgan
Ribicoff
Sparkman
Stone
Thurmond
Young

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

The second assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Iowa (Mr. CULVER), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Mississippi (Mr. STENNIS), the Senator from Ilinois (Mr. STEVENSON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Florida (Mr. CHILES), the Senator from New Hampshire (Mr. DURKIN), the Senator from Ohio (Mr. GLENN), and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Wyoming (Mr. HANSEN), the Senator from Pennsylvania (Mr. HUGH SCOTT), the Senator from Vermont (Mr. STAFFORD), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. FONG) is absent attending the funeral of a friend.

The result was announced—yeas 64, nays 4, as follows:

[Rollcall Vote No. 648 Leg.]

YEAS—64

Abourezk
Baker
Bartlett
Bayh
Bellmon
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Church
Clark
Cranston
Eagleton
Eastland
Fannin
Ford
Garn
Gravel
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Magnuson
Mathias
McClellan
McClure
McGovern
McIntyre
Metcalf
Morgan
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, William L.
Sparkman
Stevens
Stone
Symington
Talmadge
Thurmond
Williams
Young

NAYS—4

Allen
Biden
Goldwater
Weicker

NOT VOTING—32

Beall
Bentsen
Brock
Buckley
Cannon
Chiles
Culver
Curtis
Dole
Domenici
Durkin
Fong
Glenn
Hansen
Hart, Philip A.
Hartke
Huddleston
Humphrey
Long
Mansfield
McGee
Mondale
Montoya
Moss
Muskie
Scott, Hugh
Stafford
Stennis
Stevenson
Taft
Tower
Tunney

So the motion was agreed to.

The PRESIDING OFFICER (Mr. GARY HART). With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

MESSAGE FROM THE HOUSE

A message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House insists upon its amendment to the amendment of the Senate to the bill (H.R. 13350) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. TEAGUE, Mr. DOWNING of Virginia, Mr. MCCORMACK, Mr. FUQUA, Mr. SYMINGTON, Mr. BROWN of California, Mr. THORNTON, Mr. PRICE, Mr. YOUNG of Texas, Mr. RONCALIO, Mr. MOSHER, Mr. WYDLER, Mr. GOLDWATER, Mr. ANDERSON of Illinois, and Mr. LUJAN were appointed managers of the conference on the part of the House.

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 5503. An act for the relief of Divina Mamuad.

H.R. 7832. An act for the relief of Mrs. Janette Flores Byrne.

H.R. 9019. An act to amend title XIII of the Public Health Service Act to revise and extend the program for the establishment and expansion of health maintenance organizations.

H.R. 10434. An act for the relief of Dr. Carlos Montenegro-Gorbitz, his wife, Maria Elena Olguin de Gorbitz, and their son, Carlos Gorbitz-Olguin

H R. 10793. An act for the relief of Afaf Yassine and her children, Najla Yassine, Walid Yassine, Mona Yassine, and Maher Yassine.

H.R. 11722. An act to amend title 18 of the United States Code to prohibit deprivation of employment or other benefit for political contribution, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. METCALF).

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, September 27, 1976, he presented to the President of the United States the following enrolled bills:

S. 2322. An act for the relief of Lee Mee Sun.

S. 3052. An act to authorize orientation and language training for families of certain officers and employees of the Department of Agriculture.

S. 3430. An act to amend the act approved August 18, 1970, providing for improvement in the administration of the National Park System by the Secretary of the Interior and clarifying authorities applicable to the National Park System, and for other purposes.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

The Senate continued with the consideration of the bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Alabama. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Iowa (Mr. CULVER), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Mississippi (Mr. STENNIS), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator

from Florida (Mr. CHILES), the Senator from New Hampshire (Mr. DURKIN), the Senator from Ohio (Mr. GLENN), and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Wyoming (Mr. HANSEN), the Senator from Idaho (Mr. McCLURE), the Senator from Pennsylvania (Mr. HUGH SCOTT), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. FONG) is absent attending the funeral of a friend.

The result was announced—yeas 52, nays 20, as follows:

[Rollcall Vote No. 649 Leg.]

YEAS—52

Abourezk
Baker
Bayh
Bellmon
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Church
Clark
Cranston
Eagleton
Ford
Gravel
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Magnuson
Mathias
McGovern
McIntyre
Metcalf
Morgan
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Stafford
Stevens
Stevenson
Stone
Symington
Weicker
Williams

NAYS—20

Allen
Bartlett
Byrd,
Harry F., Jr.
Eastland
Fannin
Garn
Goldwater
Helms
Hruska
Johnston
Laxalt
Long
McClellan
Nunn
Scott,
William L.
Sparkman
Talmadge
Thurmond
Tower
Young

NOT VOTING—28

Beall
Bentsen
Brock
Buckley
Cannon
Chiles
Culver
Curtis
Dole
Domenici
Durkin
Fong
Glenn
Hansen
Hart, Philip A.
Hartke
Huddleston
Mansfield
McClure
McGee
Mondale
Montoya
Moss
Muskie
Scott, Hugh
Stennis
Taft
Tunney

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Massachusetts.

Mr. THURMOND. Mr. President, I believe that we should examine how some of these attorney's fees provisions have worked. I do not believe we have enough evidence on the effect of attorney fees provisions in the civil rights area. For this reason, I wish to present to the Senate an article from the California Law Review, volume 60, page 1656, et al., on attorneys' fees in individual and class action antitrust litigation.

This should give us some evidence of the problems encountered in the antitrust area, and these problems would probably be similar in civil rights cases.

Mr. President, quoting from this article:

CALIFORNIA LAW REVIEW, VOLUME 60, PAGE 1656 ET AL.

Section 4 of the Clayton Act provides that the victim of a violation of the antitrust laws may recover from the violator "a reasonable attorney's fee" in addition to treble damages. This provision, which finds its roots in a similar section of the Sherman Act, exists to encourage private enforcement of the antitrust laws. Congress, when enacting the Sherman Act was greatly concerned that the antitrust laws would provide remedies only for "[r]ich corporations and rich men," leaving "the great mass of the people [who] are not able to employ counsel" unable to vindicate their rights. Feeling that the primary beneficiaries of a civil remedy for antitrust violations should be "the great mass of the people," Congress in enacting this section strove to make access to the courts as feasible and rewarding as possible. The section also serves to implement the "private attorney general" notion by avoiding the necessity of government prosecutions of all violations of the antitrust laws.

Although the "reasonable attorney's fee" provision plays a key role in this scheme, Congress has not established criteria for determining a reasonable fee. Trial courts, left to their own discretion, have applied many different theories of "reasonableness" when making fee determinations. Indeed, it seems there are almost as many notions of what is reasonable as there are judges.

The sheer size of attorney fee awards alone—the most notable being 7.5 million dollars in *Trans World Airlines, Inc.* v. *Hughes*—suggests the necessity for close analysis of the rationales employed for determining these awards. Additionally, there is no overall consistency in the methods used by courts for calculating fees, and the resulting lack of predictability in the determination of attorneys' fees only decreases the incentive for private enforcement of the antitrust laws. For instance, when an attorney contemplates taking a case with a relatively small potential recovery, a private contingent fee arrangement between the client and his attorney, whereby the attorney is to receive 25 percent or 30 percent of the recovery, might be an inadequate incentive to take the case. In this situation, the court's determination of fees that the defendant must pay in addition to treble damages could, as Congress intended, provide the added financial incentive necessary to bring the case. But if the attorney thinks the court will calculate the fee primarily as a percentage of the small recovery, as is frequently done, this added incentive may be inadequate. On the other hand, if the attorney thinks the fee will be based primarily on the amount of time expended by the attorney in the litigation, as is also done, he may be more likely to take the case. Inconsistency in judicial fee determinations hinders an attorney's ability to make such a judgment, and consequently the purpose for the attorney's fee provision may not be realized to the extent possible.

Part I of this Comment analyzes various factors that courts have considered when making fee determinations in antitrust cases brought by individuals. It then suggests an approach aimed at consistency in the application and emphasis of these factors. Part II considers attorneys' fees in antitrust class actions and settlements. While the considerations that are discussed here are related only tangentially to section 4 determinations, they are nevertheless of great importance in a discussion of attorneys' fees in antitrust litigation because of the important role that attorneys' fees play in antitrust class actions in general, and settlements of such actions in particular.

I

Attorneys' fees in antitrust cases brought by individuals

A. Factors Involved in Determining Reasonable Attorneys' Fees:

1. Effect of the Agreement Between the Individual and His Attorney—

The great majority of plaintiffs' attorneys in antitrust suits have private fee arrangements with their clients. Normally a court's award of a reasonable attorney's fee, which is paid to plaintiff rather than directly to plaintiff's attorney, is merely a factor in these arrangements. With one apparent exception, courts have consistently found such private arrangements to be wholly immaterial to the judicial determination of attorneys' fees. The one case casting doubt on this principle was the district court's decision in *Farmington Dowel Products Co.* v. *Forster Manufacturing Co.*

In *Farmington*, plaintiff agreed to pay his attorney one-third of any recovery, plus any amount awarded by the court as a reasonable attorney's fee. Following a treble damage award of $327,300, the court determined that $85,000 would be a reasonable attorney's fee. It concluded, however, that the private fee arrangement was "so antipathetic to the objective and spirit of Section 4" that no statutory fee award should be made. The court reasoned that section 4 provides an award of attorney's fees in order to reimburse plaintiff for his costs of suit; consequently, the purpose of section 4 is thwarted if an attorney receives the entire court award of attorney's fees as well as one-third of the total recovery. The court stated further that diverting part of the recovery from the claimant to his attorney would frustrate the purpose of the statutory fee awards, that purpose being to encourage private treble damage actions by enabling a claimant to keep his recovery intact. The court also found it could not "in good conscience" give effect to an agreement under which counsel would receive over $190,000—more than twice what the court had found to be reasonable.

The First Circuit, finding the district court's opinion misleading and overbroad, modified the decision on appeal. It found that the district court's opinion, in effect, erroneously prevented any court award of attorney's fees where, by arrangement, the award goes directly to plaintiff's counsel. According to the circuit court, the lower court decision implied that no section 4 award (neither treble damages nor attorney's fees) could be made when a contingent fee arrangement existed between plaintiff and his attorney. Such a conclusion, the First Circuit reasoned, would truly frustrate the purpose of section 4, for it would leave private antitrust enforcement to the independently wealthy.

The court of appeals stated that although it was proper to inquire into the ethical nature of the fee arrangement between plaintiff and his counsel, the district court confused the ethical question with the completely separate issue involved in a section 4 inquiry. A court's power to prevent a client from paying excessive amounts to an attorney should not be confused with a court's role in determining a section 4 fee that is reasonable for defendant to pay the plaintiff.

The *Code of Professional Responsibility* provides ethical standards that govern the reasonable amount of compensation an attorney should receive for his services. These standards are similar to those that are relevant to section 4, but there are significant differences between a determination of reasonableness under section 4 and a similar determination under the *Code*. For purposes of the *Code*, the reasonableness of a fee arrangement should generally be viewed prospectively, according to the circumstances in which it was made. Section 4, however, contemplates a retrospective estimate of reasonableness. A fee arrangement that is contingent upon success is relevant to a determination under the *Code*, but it is not under section 4. Furthermore, a court's role in making section 4 awards is quite different from its role in exercising supervisory power over the bar. A section 4 award is very common and has only economic impact, while a court's supervisory decision involves an ethical judgment and is reserved for exceptional circumstances. A court making a section 4 award should determine whether plaintiff is paying his attorney more than is ethically acceptable. However, this should in no way affect the court's assessment against defendant, for this is part of a defendant's penalty for violating the antitrust laws. The defendant should not escape this penalty because, quite fortuitously, an objectionable fee arrangement exists between plaintiff and his attorney.

2. Nature of the Case—

The size and difficulty of the litigation has been considered by many courts to be an important factor in making section 4 determinations of attorneys' fees. Factors related to this subject, such as whether plaintiff's counsel had the benefit of a prior judgment or decree in a preceding case, the magnitude and complexity of the litigation, and the responsibility undertaken by plaintiff's counsel, are frequently considered separately, but similar considerations apply to each. When the difficulty of an attorney's task is decreased by the availability of a favorable prior judgment, or when the scope of a case is limited to terms of magnitude or complexity, a commensurate reduction in compensation is justified. Courts have not, however, developed a method for effectively measuring the impact of these factors for purposes of compensating attorneys. It is difficult, perhaps impossible, to quantify these factors in terms of dollars and cents. While the nature of the case is relevant to an award of attorneys' fees, as an isolated variable this factor is too intangible to serve as a basis for computing such fees. Whether an attorney's task is considered very difficult or quite simple, his fee must be computed after considering other factors. The true importance of the nature of the case as a criterion for determining attorney's fees would seem realistically to be only as a means for retrospective justification of the figure that is finally chosen.

3. Standing of Counsel at the Bar—

Another factor often given great importance in the fixing of attorneys' fees in antitrust cases is the standing of counsel at the bar: the attorney's reputation for general professional skill and his reputation as a litigator. But although it is a simple matter to state that plaintiff's counsel is a highly respected antitrust attorney, or that counsel displayed unusual skill and competence, it is quite difficult to translate this into a formula for computing attorneys' fees.

The importance of adequately compensating excellence seems clear. As an independent variable in computing compensation, though, a judicial evaluation of the reputation and professional skill of the litigator, like the "nature of the case" criterion, is too intangible to be of any real value. This factor likewise seems more useful as a basis for justifying a generous fee than as a basis for determining such a fee.

4. Percentage of Recovery—

Over a period of time, courts faced with the task of determining reasonable attorney's fees have developed a percentage theory of compensation based upon the award of single damages. Most courts at least refer to this theory when making attorneys' fee awards, on the premise that an attorney's compensation should bear some relation to the fruits of his labor. Examination of the charts in the appendix reveals, however, that the courts have applied this theory with little consistency. Furthermore, analysis reveals that the percentage theory's value as a determining factor in computing fees is limited at best.

Some courts have used a "fixed percentage theory as the ultimate solution to the problem of awarding attorney's fees. For example, in *Webster Motor Car Co.* v. *Packard Motor Car Co.*, the award of attorney's fees was based solely on such a theory. The court relied on four cases in which the percentage of single damages awarded to the attrorneys ranged from 20 to 26.6 and concluded that an award of approximately 23 or 24 percent would be appropriate. In similar fashion, the Tenth Circuit adopted a fixed percentage approach in holding, without explanation, that 15 percent of the amount recovered in a particular case would constitute a reasonable attorney's fee. Such hard and fast applications of the percentage theory are, however, the exception rather than the norm, and for good reason.

The rigid requirements of the "fixed" percentage theory, with its insensitivity to individual differences in antitrust suits, make it inappropriate in the great majority of cases. This was recognized in the famous case of *Trans World Airlines, Inc. v. Hughes*, where the court totally ignored the percentage theory. The court reasoned that the theory gives undue emphasis to the size of the recovery. Where there are small recoveries, the percentage theory "completely ignores professional skill and the complexity of the work involved." Conversely, where the recovery is very high, the theory can result in an excessive award. The weakness of the percentage theory can be illustrated in other situations: where plaintiffs, in order to expedite the trial, stipulate that they will not claim certain damages to which they might otherwise be entitled, or where the court acknowledges that actual damages suffered as a direct result of the antitrust violation would have been found to be far greater except for the difficulty of proof, the fixed percentage approach would be clearly unfair.

A more widely used approach rejects the set percentage formula and compares a suggested fee award with the damages recovered, to determine if such an award would "shock the conscience." The court of appeals in *Milwaukee Towne Corp. v. Lowe's Inc.*, found the trial court's fee award, amounting to more than 50 percent of the single damages, to be "shocking to our sense of reason and justice." As will be noted from the charts in the appendix, the court, relying principally on the number of hours expended by plaintiff's counsel, reduced the fees to the equivalent of 24 percent of the single damages. Similarly, the Eighth Circuit held that an attorney's fee amounting to 40 percent of the single damages "shock[ed] the conscience," but apparently concluded that an award of 26.6 percent was not unreasonable. Another court, applying the same logic but utilizing a different "conscience," awarded a fee that equaled 78 percent of the single damages, thinking it to be both reasonable and consistent with other antitrust cases.

A close examination of cases reveals that the percentage theory appears to function properly only when the amount of single damages is in a particular range, such that what seems to be a reasonable attorney's fee also happens to represent a reasonable percentage of the damages. When the amount of damages falls within this range, courts frequently use the percentage theory to compute or justify the amount of attorney fees. The range appears to be approximately $150,000 to $500,000. When the damages are not within this range, the percentage theory does not "work" and is rarely relied upon. A "reasonable" percentage is considered, for purposes of demonstration, to fall somewhere between 15 percent and 35 percent. In 34 of the cases surveyed in the appendix, single damages were outside the $150,000 to $500,000 range. Of the 34 cases, only four awarded attorneys' fees that fall *within* the "reasonable" percentage boundaries of 15 percent and 35 percent. Of the 13 cases with single damages ranging from $150,000 to $500,000, however, eight involved attorneys' fees that fall within these "reasonable" percentage boundaries, and two more are right on the borderline. It therefore appears that while the validity of the percentage theory depends on the amount of the damages involved, the validity of the fee does not depend on the percentage. Thus, despite the substantial amount of court time that is spent discussing, analyzing, and applying the percentage theory, its significance as a positive tool for actually computing attorneys' fees is limited at best.

This is not to imply that the percentage test serves no purpose. Its proper function is found in retroactively justifying the affirmation or rejection of a fee award by applying the "shock the conscience" approach. When the attorney fee *seems* unjust on its face, the situation should be examined closely. Even from this perspective, however, the value of the percentage theory is limited, for courts' "consciences" vary significantly.

5. Time Expended by the Attorneys—The number of hours expended by plaintiff's counsel in the successful litigation is an easily quantifiable standard for determining attorney's fees. Once again, however, courts have attributed various degrees of significance to this standard. They have also encountered some difficulty in calculating the exact number of hours for which plaintiff's attorney should be compensated. One court deemed the fixing of fees on an hourly or daily basis to be clearly unfair, ". . . just as a surgeon who performs a delicate and dangerous operation does not fix his fee on the number of minutes that the operation took, but rather on the whole situation." The great majority of courts, though, give at least some consideration, but in different degrees, to the number of hours spent on the litigation. Some courts have simply multiplied the number of hours times a reasonable fee per hour and have used this product as the basis for their fee determination. Most courts, however, have merely treated the number of hours as one of several factors for consideration. In only 17 of the cases surveyed is the actual number of hours expended by the attorneys even stated by the courts, and the attorney fee awards made in these cases, when divided by the number of hours, range from $4.37 to $128.00 per hour. This tremendous variance results not from vast differences of opinion concerning how much attorneys should be paid per hour, but rather from great inconsistency in the importance attributed to the time factor.

An additional problem encountered by the courts in considering the time factor is the difficulty of calculating the actual compensable attorney time. First, it is established that time spent by attorneys in seeking to obtain equitable relief such as an injunction cannot be considered in determining the attarneys' fees to be awarded. Courts have reached this conclusion because the section 4 allowance of attorneys' fees is incidental to the statutory right to damages. The courts must therefore carefully exclude from consideration all attorney hours spent in seeking such relief. Those courts that did not attribute major importance to the time factor may not have bothered to subtract such hours from the number presented to them by the attorneys; therefore the low fee per hour figures that appear on the the charts are not necessarily accurate.

Courts have also held that time spent in presenting damage claims that are not proved must be entirely disregarded. In applying this limitation, however, courts have been concerned with situations where the recovery is small in relation to an alleged large sum. In one instance, where the recovery was quite substantial, the court reasoned that the limitation did not apply because plaintiff did not fail to prove damages; the court merely rejected its particular theory of measuring damages.

A final problem with calculating compensable attorney time concerns "overpreparation" by the attorney. In lengthy, complex antitrust suits there will at times be excessive preparation and duplication of effort. While it may be difficult to measure this "wasted" time, courts are reluctant to compensate for such inefficiency. Courts must, however, carefully avoid chilling attempts to develop novel theories of law by labeling them wasted effort solely because the theories are not accepted by the courts.

B. Evaluation and Suggestions for Change: While the majority of courts have given consideration to most of the aforementioned factors when computing attorneys' fees, the significance attributed to those factors that are truly useful in determining fees has varied greatly. Several courts have pointed out that these factors are not intended to serve as precise yardsticks, but rather as guides. But in using these guides, courts have traveled many confusing and conflicting paths.

Although the legislative mandate to award "a reasonable attorney's fee" offers courts little tangible guidance, an examination of the underlying legislative purpose may be of more assistance. The fee requirement operates to a certain extent as a penalty, but this is only incidental to its primary purpose of encouraging private antitrust suits. The treble damage provision of the Clayton Act provides the economic bite. If the fee awards are too small, the incentive for attorneys to undertake similar cases in the future will be reduced. Conversely, if a fee award is too large the award exceeds its purpose of encouraging prosecution and improperly enlarge the punitive component of the amount the unsuccessful defendant must pay.

This Comment does not propose that reasonable attorneys' fees should be computed according to an inflexible formula. Instead, it proposes that all courts should subscribe to the same basic approach or method in making their fee assessments, thereby achieving some consistency in judicial determinations. Mere reference to similar factors by most courts has not solved the problem, for consistency cannot be achieved without some common framework to direct and continue the use of these factors. The problem, therefore, is to articulate a method of computing fees that gives the courts a reasonably certain yardstick against which they can measure the relevant factors, thus providing a common basis for fulfilling, but not exceeding, the legislative purpose for which the fees are awarded.

The approach suggested in this Comment is, briefly, that courts should determine reasonable attorney's fees by methods similar to those normally used to compensate defense attorneys in antitrust cases.

The most significant factor in making an assessment of fees for defense counsel is the number of hours expended by the attorney in the litigation and the amount that the attorney charges per hour. An attorney's hourly fee usually reflects many factors—such as the attorney's skill, reputation, and experience—that courts tend to consider as discrete elements when making section 4 fee determinations. A lawyer with a reputation for considerable ability and experience commands a higher fee for his time than a lawyer without such a reputation. Figuring fees according to time spent on the case also accounts for the complexity of the litigation; generally, a complex case demands more of a lawyer's time than a simple one.

Of course, the amount the defense attorney in an antitrust case charges for his services is usually not determined solely by a mathematical formula. There must be flexibility to allow consideration of certain intangible factors such as the difficulty and the importance of the case. Certainly the nature of the case and the amount involved are relevant, but only as bases for a retrospective evaluation of a particular fee determination. The testimony of expert witnesses should be encouraged for purposes of aiding the courts in making their assessments, and care should be taken to avoid compensating inefficiency.

One strong objection to the "defense attorney" approach to determining fees is that if plaintiff wins a large recovery, the attorney will want the court awarded fee to be expressed as a percentage of the recovery. Unless this is done, it may be argued, attorneys will not be sufficiently compensated in their moments of victory to offset the defeats that yielded no compensation because the cases were taken on a contingent fee basis.

While this argument has some merit, two responses may be made. First, forcing the defendant to pay this premium is unfair to defendants. When an attorney takes a case on a contingent basis, he bears the risk of going with no compensation if he should lose. To compensate for taking this risk, attorneys usually charge more than they would for cases that are not taken on a contingent basis. The greater the risk of loss, the more an attorney will want to receive if he should win. Because the unsuccessful defendant in an antitrust case must pay, at a minimum, treble damages plus some amount of attorney's fees, to require the defendant also to compensate plaintiff's attorney for taking the risk that plaintiff might lose seems particularly harsh. Essentially, the more innocent the defendant appears to be, the greater is the perceived risk that the plaintiff will lose. The defendant should not have to bear a heavier burden for not being in flagrant violation of the law. Although a plaintiff's attorney should be compensated for having assumed the risk of going without any payment, the source of this compensation should be a portion of plaintiff's treble damage recovery rather than the statutory award of a reasonable attorney's fee.

A second reason for not calculating attorneys' fees as a percentage of the recovery is that to do would run counter to the legislative purpose underlying this provision. Congress, after much debate, decided that there should be no jurisdictional minimum amount before an antitrust suit could be brought in a federal district court. If the amount of recovery plays a significant role in the determination of attorneys' fees, however, there will be, in effect, a quasi-judicial obstacle to the initiation of antitrust suits with low potential recoveries. While this reasoning offers little consolation to attorneys in cases with large recoveries, the attorney's fee provision was not written specifically with them in mind. Congress realized that it is the smaller plaintiffs, damaged to a lesser degree, who need incentive to sue. Where there are large recoveries, a private fee arrangement with the client, added to court-awarded attorney's fees, assures adequate compensation for the attorney.

A perplexing situation exists when a low treble damage recovery has been produced by attorney time worth several times that amount. In such a case, courts must balance the policies in favor of generous attorneys' fees—providing "the great mass of the people" with judicial remedies and encouraging prosecution by "private attorneys general"—against the need to discourage unwarranted lawsuits. If the case, while involving relatively low damages, nevertheless represents a significant legal or social step forward, the argument in favor of generous attorneys' fees is strong. On the other hand, it may be argued that Congress did not intend such an onerous burden to be borne by the defendant under the guise of "a reasonable attorney's fee."

The "defense attorney" approach does not provide the courts with a precise tool for assessing attorneys' fees. Indeed, it is not meant to do so. Rather, consistent use of this approach by the courts should sharpen their inquiry and provide a greatly needed yardstick against which the factors relevant to determining attorneys' fees can be measured—thereby injecting a common rationale into the congressionally required determination of what is "reasonable."

II

Attorneys' fees in antitrust class actions

Class actions, relative newcomers to antitrust litigation, have become an important enforcement device because they allow the aggregation of claims that, taken individually, are too small to prompt litigation. While hailed by some as one of history's most socially useful remedies, serious problems—principally the potential burden on judicial resources—attend the use of the mass class action. Significant steps have been taken to promote the efficient and effective use of this device. Nevertheless, there is concern that the true beneficiaries in antitrust class actions are the attorneys, not the plaintiff class members, since enormous attorneys' fees may swallow much of the class recovery. This section explores the possibility of protecting against such an occurrence. It also seeks to resolve potential tension between the normal method of compensating attorneys in class actions—from the plaintiff's recovery—and the section 4 provision that losing defendants in antitrust cases pay attorneys' fees in addition to plaintiff's damages.

A. Attorneys' Fees in Class Actions: The method of compensating successful attorneys in class actions is called the "salvage fund" theory. This theory derives from analogy to maritime salvage cases where courts, seeking to encourage future salvage operations, have compensated successful salvors generously by awarding them a share of the total salvage value. Similarly, the attorneys in class actions salvage a fund shared by the entire class and from which the litigation expenses, including legal fees, are paid. Courts have complete discretion to determine what is fair and reasonable compensation, notwithstanding a prior arrangement between the named plaintiffs and their attorneys.

Two basic reasons have been proffered in support of this method of compensation. The first treats the named parties as agents or representatives of the class, authorizing them to retain an attorney on behalf of, and to be compensated by, the class. The second and more compelling rationale is the quasi-contractual theory. According to this theory, each member of the benefited class contributes a pro rata share of the expenses; otherwise, unnamed and unknown class members would be unjustly enriched.

Unlike most antitrust cases brought by individuals, where counsel receive compensation from a combination of the recovered damages and the court determined reasonable attorneys' fees, attorneys in class suits generally accept compensation only from the fund recovered. Therefore courts, when awarding attorneys' fees in these two situations, must apply two different standards of "reasonableness." A reasonable fee in a class action is determined from the viewpoint of the case when it is first initiated, with the contingency upon success warranting higher compensation than where such contingency is irrelevant. This compensation is normally expressed in terms of a percentage of the recovered fund. In an antitrust case, however, where the losing defendant must pay "reasonable attorney's fees," it seems unfair to assess him a greater amount solely because, when the case was first initiated, there was the risk that he might not be found guilty. For this reason, it is suggested that the definition of reasonableness in section 4 determinations should be based on what a client would pay a defense attorney in an antitrust case, thus reducing the significance of the actual amount involved.

As a result of the paramount importance attributed to success and the amount of the fund recovered in compensating attorneys in class actions, attorneys will be discouraged from initiating these suits unless they are adequately compensated in their moments of victory for assuming the risk of loss. The courts have determined that class actions serve an important role in our judicial system, and they have therefore been generous in rewarding attorneys.

B. Antitrust Class Actions:

1. Attorneys' Fees in Antitrust Class Actions That Proceed to Judgment—

From the time rule 23 of the Federal Rules of Civil Procedure was amended in 1966 until the date of this publication, no antitrust class action has proceeded through trial to an actual judicial determination of damages. While to a slight degree this may be attributed to the longevity of many antitrust cases, it is primarily because most class actions are settled out of court.

If such a case were to proceed to judgment for the plaintiff class, the court would be obligated to devise a new formula for compensating attorneys. Section 4 of the Clayton Act specifies that the defendant shall pay a "reasonable attorney's fee." Moreover, the salvage fund theory, peculiar to class actions, would also appear to provide an appropriate means for compensating the attorneys in antitrust class actions. In a great many antitrust suits brought by individual plaintiffs, attorneys work on a contingency basis—agreeing to charge nothing if they lose, but requesting more than the court-determined attorney's fee if the suit is successful. The amount in excess of the court-determined fee is usually agreed upon prior to the litigation and is expressed as a percentage of the verdict.

Similar compensation is both reasonable and necessary in an antitrust class action, but it should not come from either the defendant or the plaintiff class alone. The defendant's burden should first be calculated as in any antitrust case, with the court evaluating several factors, but placing emphasis upon the amount of time expended on the litigation by plaintiff's attorney. However, the problem of compensating plaintiff's attorney for taking the case on a contingency basis would still remain. The nature of a large class action precludes the attorneys from making a fee arrangement with every member of the class prior to the litigation. Furthermore, it is unfair to allow a few members of the class, who may have a vested interest in a high attorney's fee, to establish a fee arrangement with the attorneys binding the rest of the class.

In order to provide the attorneys with additional compensation, the court should make a second calculation, determining the attorney's fee according to the salvage fund theory as it is applied in ordinary class actions. The attorney's total compensation for litigating the case should equal this latter amount, but the class recovery should only be reduced by the difference between this amount and the amount that has already been assessed against the defendant under a section 4 analysis. This approach would encourage attorneys to participate in similar actions in the future, in addition, the mandate of section 4 would be satisfied by assessing the defendant a reasonable attorney's fee, thereby protecting the individual class members from an unnecessary and unjustifiable decrease in their share of the recovery. To relieve the defendant of his statutory burden solely because the suit was brought as a class action would in effect give him a windfall for injuring a large group of persons to a minor degree rather than one person to a large degree.

A determination of the defendant's share of the fees may be more difficult in a class action than in a suit by an individual, since the cumbersome size of the action could lead to inefficient use of counsel time which should not, of course, be rewarded. Alternative tactics in a lawsuit, however, must never be confused with inefficiency. It is some consolation that the potential amount of attorneys' fees will normally be so great that both the plaintiffs and the defendant will have a strong interest in its determination. Facts, figures, and arguments presented by both sides should greatly assist the judge in determining the amount.

2. Attorneys' Fees in Antitrust Class Action Settlements—

All antitrust class actions since 1966 yielding damages to the plaintiffs have ended in settlements, and consequently settlements are a major focus of concern. The determination of attorneys' fees in such cases is extremely important because the unstructured nature of a class action settlement lends itself to the possible abuse of the class's interest through excessive attorney compensation. This situation is worsened by the fact that class action settlements need not be subjected to judicial scrutiny until a tentative settlement is reached. Therefore, the underlying concern in examining attorneys' compensation in these settlements must be to ensure that the interests of the class predominate over the personal interests of the attorneys representing the class.

The calculation and distribution of damages in a large class action is complicated, but there are, essentially, three methods for distributing damages to a class. Under the first method the defendant pays the class a certain amount of damages from which all costs of administration, including attorneys' fees, are paid. This practice virtually assures that the attorneys will be well compensated for thier efforts even though the class may recover a minimal amount.

A method more favorable to the class provides for the payment of a similar amount of damages plus compensation for the attorneys. Damages that are not claimed within a certain period revert to the defendant, however. Frequently, most of the class members in a large class action do not claim this compensation. The deterrent effect of the suit is thus diminished because the defendant is allowed to retain some of the fruits of his illegal practices.

A third method of distributing damages entails distributing all unclaimed damages to the class as a whole, rather than returning them to the defendant. The payment of attorneys' fees is either deducted from the recovery or paid separately by the defendant. This method is known as a fluid class recovery or floating fund recovery. In *Daar v. Yellow Cab Co.*, for example, the recovered fund was dispersed by lowering all cab fares in the City of Los Angeles for a specified period of time.

Any one of these procedures can yield generous compensation for the attorneys, but not all adequately protect the class itself. If the attorneys are offered a settlement following the first approach, their compensation will be guaranteed (it will come from the class's recovery): their incentive to reject such a settlement in hopes of obtaining a fluid class recovery, with costs and attorneys' fees paid separately, will consequently be reduced. This potential interference of personal interest with the just resolution of a class action makes it necessary for the courts to closely scrutinize the role of attorneys' fees in proposed settlements.

The framework for such judicial scrutiny is found in rule 23(c) of the Federal Rules of Civil Procedure, which provides that "[a] class action shall not be dismissed or compromised without the approval of the court. . . ." This requirement exists to prevent the representative of a class from neglecting the interests of the members of the class. In approving the settlement of a class action, the judge must ascertain that the settlement as proposed does not promote the interests of the attorneys at the expense of the class. The judge abuses his discretion if he relies too heavily upon the recommendations of the attorneys.

This is not meant to imply that proposed settlements necessarily ignore the interests of the class. Examples of class-oriented settlements are not difficult to find. The settlement with Hilton Hotels in *In re Hotel Telephone Charges*, for example, provided for payment of 3.8 million dollars—the total amount of single damages—into a fluid fund; class members were given 90 days to claim their share of this fund, and the remainder was distributed indirectly to the class in the form of credits on the room bill of each guest at a Hilton Hotel until the fund was exhausted. The settlement also provided for payment by defendant of the attorneys' fee, over and above the full damages, in a sum not to exceed 30 percent of the 3.8 million dollars, with the amount to be determined by a district judge. It further provided that the defendant pay the full cost of administration of the settlement, over and above the damages to the class. Such a settlement clearly separates the interests of the attorneys' fees from those of the class, and both interests appear to have been fairly treated.

Nevertheless, the great potential for overlooking class interests in the settlement procedure warrants continuing concern. The proposed settlement of a class action involving Master Charge card holders exemplifies the type of settlement that should receive particularly those analysis by a judge prior to approval. This case involved alleged violations of the federal truth-in-lending regulations, and it was alleged that the total damages to the class were as much as 10 million dollars. Under the terms of the settlement, however, no monetary damages were to be paid. The case was settled with an agreement that defendants pay only court costs and attorneys' fees, in addition to the cost of mailing out explanatory material to Master Charge card holders. Not all litigation need result in an actual award (or a large award) of monetary damages to the injured parties. Where substantial amounts of damages are alleged, though, an agreement to forego any recovery of these damages should be scrutinized closely. The lack of an effective deterrent to similar future conduct should be considered, as well as the possibility that the attorney for the class may simply ignore the interests of the class when it becomes evident he will be generously compensated.

One district court judge suggested an appealing approach to this problem after he disapproved a proposed settlement that had lumped together the class recovery with the amount to be paid to the attorneys. The judge suggested that any proposed settlements should be presented in terms of the gross consideration to the class, with the separate question of attorneys' fees left for judicial determination and award. The failure to do this, the judge stated, could lead to a "premature or inadequate settlement of a derivative or class action."

Requiring attorneys' fees to be determined by the court in every settlement of a class action would be a significant step toward ensuring the just disposition of class actions. The nature of a settlement, of course, precludes using any rigid formula in determining attorneys' fees; also, more court time would be consumed in determining attorneys' fees than is required to merely approve a private proposal for fees. Nevertheless, the benefits that can result from increased court intervention in every class action settlement are well worth the price.

Conclusion

The relationship between attorneys' fees and the initiation of antitrust suits by individuals and by classes is substantial. For this reason, Congress has provided that the violator of antitrust laws must pay "a reasonable attorney's fee" to the injured party. Courts, recognizing the importance of class actions, have generously compensated attorneys bringing such suits. This Comment has analyzed past approaches to compensating attorneys in both types of cases. In addition, suggestions are proposed that, if implemented, should promote the purposes underlying awards of attorneys' fees in antitrust litigation. Specifically, it is suggested that statutory fee determinations should place little significance on the amount of damages recovered and should look instead to the amount of work performed by the attorney. In the class action field, it is suggested that the attorneys' fees should always be clearly separated from the recovery to the class, in settlements as well as in judgments.

Mr. President, how much more time do I have?

The PRESIDING OFFICER. The Senator has 4 minutes remaining of his hour under the rule.

Mr. THURMOND. Mr. President, I have presented this article here because I think it has great bearing on this matter.

I ask unanimous consent to have printed in the RECORD a table showing attorneys' fees in relation to the amount of single damages and to the time spent on the case, published in the California Law Review in connection with the foregoing article.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

APPENDIX

ATTORNEYS' FEES IN RELATION TO THE AMOUNT OF SINGLE DAMAGES AND TO THE TIME SPENT ON THE CASE

Case	Amount of single damages	Attorney's fee	Percentage of single damages	Number of hours claimed	Fee on an hourly rate
A. C. Becken Co. v. Gemix Corp., 314 F.2d 839 (7th Cir. 1963) cert. denied, 375 U.S. 816 (1963)	$24,765	$17,500	71.0		
Advance Business Systems & Supply Co. v. SCM Corp. 287 F. Supp. 143 (D. Md. 1968)	16,714	35,875	214.0	2,614	$13.72
American Can Co. v. Bruce's Juices 187 F.2d 919 920 (5th Cir. 1951) modified on rehearing 190 F.2d 73 74 (5th Cir. 1951)	60,000	35,000	58.0		
American Can Co. v. Ladoga Canning Co. 44 F.2d 763 (7th Cir. 1930) cert. denied 282 U.S. 899 (1931)	30,000	15,000	50.0		
Armco Steel Corp. v. North Dakota 376 F.2d 206 (8th Cir. 1967)	258,355	72,500	28,00		
Bal Theatre Corp. v. Paramount Film Distrib. Corp. 206 F. Supp. 708 718 (N.D. Cal. 1962)	146,300	55,000	38.0	2,300	23.91
Bausch Mach. Tool Co. v. Aluminum Co. of America 79 F.2d 217 (2d Cir. 1935) rev'g lower court decision on other grounds and remanding for new trial	956,300	300,000	31.4		
Bergljans Farm Dairy Co. v. Sanitary Milk Producers 241 F. Supp. 476 (E.D. Mo. 1965) aff'd 368 F.2d 679 (8th Cir. 1966)	38,500	12,850	33.0	2,216	5.80
Bigeow v. RKO Radio Pictures Inc. 327 U.S. 251 254 (1946) rev'g 150 F.2d 877 (7th Cir. 1945) and aff'g the judgment of the district court	120,000	30,000	25.0	1,300	23.08
Bordonaro Bros. Theatres Inc. v. Paramount Pictures Inc. 176 F.2d 594 596 (2d Cir. 1949)	28,500	18,000	63.0		
Bowl America Inc. v. Fair Lanes Inc. 299 F. Supp. 1080 1099 (D. Md. 1969)	61,147	70,000	114.0	4,041	17.32
Cape Cod Food Prods. Inc. v. National Cranberry Association 119 F. Supp. 242 244 (D. Mass. 1954)	175,000	35,000	20.0	597	58.60
Charles A. Ramsay Co. v. Associated Bill Posters of United States and Canada, 42 F.2d 152, 156 (2d Cir. 1930), cert. denied, 282 U.S. 864, 865 (1930)	8,546	7,500	88.0		
Chattanooga Foundry and Pipe Works v. Atlanta, 203 U.S. 390 (1906)	1,500	2,500	167.0		
Clapper v. Original Tractor Cab Co., 165 F. Supp. 565, 587–89 (S.D. Ind. 1958), aff'd, 270 F.2d 616, 626 (7th Cir. 1959), cert. denied, 361 U.S. 967 (1960)	27,611	25,000	91.0	3,700	6.76
Courtesy Chevrolet, Inc. v. Tennessee Walking Horse Breeders' and Exhibitors' Ass'n. of America, 393 F.2d 75 (95h Cir. 1968), cert. denied, 393 U.S. 938 (1968)	3,400	10,000	294.0	2,289	4.37
Darden v. Besser, 257 F.2d 285 (6th Cir. 1958)	15,000	30,000	200.0	2,126	14.92
Diamond Block & Gravel Co. v. Atlas Building Prods. Co., No. 3057 (D.N.M., May 12, 1958), aff'd, 269 F.2d 950 (10th Cir. 1959), cert. denied, 363 U.S. 843 (1960)	10,000	8,000	80.0		
Emich Motors Corp. v. General Motors Corp., 181 F.2d 70, 72 (7th Cir. 1950), modified on other grounds, 340 U.S. 558 (1951)	412,000	250,000	61.0		
Farmington Dowel Prods. Co. v. Forster Mfg. Co., 297 F. Supp. 924 (D. Me. 1969), modified, 421 F.2d 61 (1st Cir. 1969)	109,100	85,000	78.0	2,540	34.00
Flintkote Co. v. Lysford, 246 F.2d 368, 373 (9th Cir. 1957), cert. denied, 355 U.S. 835 (1957)	50,000	25,000	50.0		
Fowler Mfg .Co. v. Gorlick, 415 F.2d 1248 (9th Cir. 1969), cert. denied, 396 U.S. 1012 (1970)	8,541	9,000	105.0		
Fox West Coast Theatres Corp. v. Paradise Theatre Bldg, Corp., 264 F.2d 602 (9th Cir. 1958)	20,000	10,000	50.0		
Gossner v. Cache Valley Dairy Ass'n. 307 F. Supp. 1090 (D. Utah 1970)	30,000	42,500	142.0		
Hanover Shoes, Inc. v. United Shoe Mach. Corp., 245 F. Supp. 258, 303 (M.D. Pa. 1965), vacated on other grounds, 377 F.2d 776 (3d Cir. 1967), aff'd in part on other grounds, rev'd in part on other grounds, 392 U.S. 481 (1968)	1,413,203	[1] 600,000 [2] 50,000	42.0	[3] 4,849 [4] 6,574 [2] 250	74.00 37.00 52.60
Kiefer-Stewart Co. v. Joseph Seagram & Son, Inc., 340 U.S. 211 (1951), rev'g on other grounds 182 F.2d 228 (7th Cir. 1950), and reinstating the order of the trial court	325,000	50,000	15.0		
Locklin v. Day-Glo Color Corp., 429 F.2d 873, 876 n.6 (7th Cir. 1970), cert. denied, 400 U.S. 1020 (1971)	356,793	75,000	21.0		
Milwaukee Towne Corp. v. Loews, Inc., 190 F.2d 561, 571 (7th Cir. 1951), cert. denied, 342 U.S. 909 (1952)	313,858	75,000	24.0	2,389	31.40
Montague & Co. v. Lowry, 193 U.S. 38, 48 (1904)	500	750	150.0		
Noerr Motor Freight, Inc. v. Eastern R.R. Presidents Conference, 166 F. Supp. 163, 170 (E.D. Pa. 1958), aff'd, 273 F.2d 218 (3d Cir. 1959), rev'd on other grounds, 365 U.S. 127 (1961)	217,358	200,000	92.0	4,600	43.48
North Texas Producers Ass'n v. Metzger Dairies, Inc., 348 F.2d 189, 193 (5th Cir. 1965), cert. denied, 382 U.S. 977 (1966)	365,000	25,000	68.5		
Osborn v. Sinclair Refining Co., 171 F. Supp. 37 (D. Md. 1959), rev'd and remanded, 286 F.2d 832 (4th Cir. 1960); on second appeal, $12,000 trebled was awarded, and the case was remanded for additional attorney's fees, 324 F.2d 566, 575 (4th Cir. 1963)	325	14,000	4,308.0	859	16.28
Paramount Film Distrib. Corp. v. Applebaum, 217 F.2d 101 (5th Cir. 1954), cert. denied, 349 U.S. 961 (1955)	150,000	40,000	26.7		
Perryton Wholesale, Inc. v. Pioneer Distrib. Co., Inc., 353 F.2d 618 (10th Cir. 1965), cert. denied, 383 U.S. 945 (1966)	28,442	12,500	44.0		
Richfield Oil Corp. v. Karseal Corp., 271 F.2d 709 (9th Cir. 1959), cert. denied, 361 U.S. 961 (1960)	7,900	7,500	95.0		
South-East Coal Co. v. Consolidated Coal Co., 434 F.2d 767 (6th Cir. 1970), cert. denied, 402 U.S. 983 (1971)	2,410,452	335,000	13.6		
Straus v. Victor Talking Mach. Co., 297 F. 791, 796 (2d Cir. 1924)	33,894	30,000	89.0		
Sunkist Growers, Inc. v. Winckler & Smith Citrus Prod. Co., 284 F.2d 1, 4 (9th Cir. 1960), rev'd on other grounds, 370 U.S. 19 (1962)	500,000	195,000	39.0		
Trans World Airlines, Inc. v. Hughes, 312 F. Supp. 478, 482 (S.D. N.Y. 1970), modified and aff'd, 449 F.2d 51 (2d Cir. 1971), cert. granted, 405 U.S. 915 (1972)	45,870,478	7,500,000	16.4	58,600	128.00
Twentieth Century-Fox Film Corp. v. Brookside Theatre Corp., 194 F.2d 846, 859 (8th Cir. 1952), cert. denied, 343 U.S. 942 (1952)	375,000	100,000	26.6		
Twentieth Century-Fox Film Corp. v. Goldwyn, 328 F. 2d 190, 221 (9th Cir. 1964), cert, denied, 379 U.S. 880 (1964)	100,000	100,000	100.0	12,912	7.70
Union Leader Corp. v. Newspapers of New England, Inc., 218 F. Supp. 490, 493 (D. Mass. 1963), vacated on other grounds, 333, F.2d 798 (1st Cir. 1964), cert. denied, 379 U.S. 931 (1964)	29,442	68,000	231.0		
Volasco Prods Co. v. Lloyd A. Fry Roofing Co. 308 F.2d 383, 387 (6th Cir. 1962), cert. denied, 372 U.S. 907 (1963)	100,000	60,000	60.0		
Volasco Prods. Co. v. Lloyd A. Fry Roofing Co., 346 F.2d 661, 667 (6th Cir. 1965), cert denied, 382 U.S. 904 (1965)	25,000	50,000	200.0	3,400	14.70
Washington State Bowling Proprieties Ass'n, Inc. v. Pacific Lanes, Inc., 356 F.2d 371, 373 (9th Cir. 1966), cert. denied, 384 U.S. 963 (1966)	35,000	22,500	64.0		
Webster Motor Car Co. v. Packard Motor Car Co., 166 F. Supp. 865 (D.D.C. 1955), rev'd and cross appeal concerning Attorneys' fee dismissed as moot, 243 F.2d 418 (D.C. Cir. 1975), cert. denied, 355 U.S. 822 (1957)	[5] 190,000	45,000	23–24.0		
William H. Rankin Co. v. Associated Bill Posters of United States U. & L.C., 42 F.2d 152, 156 (2d Cir. 1930), cert. denied, 282 U.S. 864–65 (1930)	101,000	50,000	50.0		

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[1] Chief counsel.

[2] Local counsel.

[3] Chief counsel—Partners.

[4] Chief counsel—Associates.

[5] Approximately.

AMENDMENT NO. 2409

Mr. THURMOND. I now call up my amendment No. 2409.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes an amendment numbered 2409:

On page 1, line 10, insert the following: "If the court in its discretion, finds that the action or proceeding is frivolous, the court will order the defendant person instituting the action or proceeding to pay a reasonable attorney's fee to the other party or parties as part of the costs.".

Mr. ABOUREZK. Mr. President, I move that the amendment be laid on the table. and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment (No. 2409) of the Senator from South Carolina (Mr. THURMOND). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. LONG), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Mississippi (Mr. STENNIS), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Florida (Mr. CHILES), the Senator from New Hampshire (Mr. DURKIN), the Senator from Ohio (Mr. GLENN), and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), and the Senator from Wyoming (Mr. HANSEN) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. FONG) is absent attending the funeral of a friend.

The result was announced—yeas 51, nays 25, as follows:

[Rollcall Vote No. 650 Leg.]

YEAS—51

Abourezk
Baker
Bayh
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Domenici
Eagleton
Ford
Gravel
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Magnuson
Mathias
McGovern
McIntyre
Metcalf
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevenson
Symington
Taft
Weicker
Williams

NAYS—25

Allen
Bartlett
Bellmon
Byrd,
  Harry F., Jr.
Eastland
Fannin
Garn
Goldwater
Helms
Hollings
Hruska
Laxalt
McClellan
McClure
Morgan
Nunn
Roth
Scott,
  William L.
Sparkman
Stevens
Stone
Talmadge
Thurmond
Tower
Young

NOT VOTING—24

Beall
Bentsen
Brock
Buckley
Cannon
Chiles
Curtis
Dole
Durkin
Fong
Glenn
Hansen
Hart, Philip A.
Hartke
Huddleston
Long
Mansfield
McGee
Mondale
Montoya
Moss
Muskie
Stennis
Tunney

So the motion to lay on the table was agreed to.

PROPOSED INTRODUCTION OF A BILL

Mr. BAYH. Mr. President, I send to the desk a bill, on behalf of my senior colleague, and request that it be held at the desk.

The PRESIDING OFFICER. For how long?

Mr. BAYH. My colleague will be here tomorrow, and I request that it be held until he is present.

Mr. ALLEN. I object, for the moment. Will the Senator please state what the bill is?

Mr. BAYH. The bill involves a staff member who died while a member of Senator HARTKE's staff.

Mr. ALLEN. I have no objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

The Senate continued with the consideration of the bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

Mr. HELMS. Mr. President, shortly, I shall call up amendment No. 2392. I shall not do so at the moment, however.

First, I point out that this bill, S. 2278, as it now stands, including the amendment proposed by the Senator from Massachusetts (Mr. KENNEDY), requires a Federal court to grant attorneys' fees to the prevailing party solely on the basis of its own discretion. My amendment incorporates an objective standard to aid judges in making their decisions.

While this requirement does set an objective, reviewable standard, it is broad enough to be responsive to the many differing situations to which the court would have to respond.

Mr. President, the Senator from North Carolina is convinced that there may be a great many Members of this body who are not fully aware of the mischief and inequity so clearly possible in the proposed legislation. If and when it is enacted, and if and when it is signed into law by the President of the United States—and the Senator from North Carolina devoutly hopes neither will happen—there will be many Senators who will regret their vote in support of this legislation.

It is labeled "Civil Rights Attorneys' Fees Awards Act." It should be labeled "The Lawyers' Relief Act of 1976," because it is just another Bicentennial bonanza proposed in the Senate to enrich the coffers of attorneys in this country.

The PRESIDING OFFICER. The Senator will suspend until the Senate is in order. Senators will please be seated and cease conversations, so that we can hear the remarks of the distinguished Senator from North Carolina.

Mr. HELMS. I thank the Chair.

This amendment would require that the parties seeking to recover legal fees demonstrate to the court, through sufficient evidence, the bad faith of the other party in maintaining the suit or in actions which preceded the suit. This bad faith standard and established judicial meaning and effect should be construed in the light of its use in the Federal rules of civil procedures. It has been interpreted by Federal courts to include dilatory and objectionable tactics before or during trial. It would include actions for which a party has been held in civil contempt. It also would include clearly spurious or frivolous defenses and vexatious, wanton, or oppressive actions during litigation.

However, just for example, let us just take one aspect of so-called civil rights—to wit, forced busing.

In one of the counties in my State, a Federal judge issued an order which resulted in one schoolbus, with one driver, being scheduled each day for the sole purpose of hauling one little boy about 27 miles, if my recollection is correct, from his home to a school across the county. The only other function of that bus during the day was to haul that little boy back home, the same 27 miles; one bus, one driver, one little boy—an appalling waste of time, money, and gasoline.

Just suppose that, if this legislation should pass the Senate, the school board in that county decided to put two little boys on that bus and, in some way, deviate from the absurd order handed down by that Federal judge. Some fee-seeking lawyer could come along and frivolously file suit against the school board, requiring an enormous amount of money being spent to defend the school board. In all probability, the school board would win the suit. Nonetheless, the school board could not recover the cost of defending itself.

There are some of us in the Senate who feel that when frivolous suits are brought and when the defendant prevails, the defendant ought to be reimbursed for his expenses. Certainly, he should not be victimized by a frivolous suit brought by an irresponsible lawyer.

Earlier, in other applications, the Senate rejected an amendment, part of which would have taken care of this situation. I want to give the Senate the chance to address this situation directly and not as part of a more complicated proposal.

AMENDMENT NO. 2392

Therefore, Mr. President, I call up my amendment No. 2392 and ask that it be stated.

The PRESIDING OFFICER (Mr. Laxalt). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. Helms) proposes an amendment to amendment No. 2347: On page 1, line 10, strike out the word "costs'." and substitute in lieu thereof the following: "costs, but in the event the prevailing party is a defendant and the court finds that the plaintiff acted in bad faith in initiating, or contumaciously or vexatiously in prosecuting, any action or proceeding to enforce a provision of sections 1977, 1978, 1979, 1980, and 1981 of the Revised Statutes, or of title II, VI, or VII of the Civil Rights Act of 1964, or of the Voting Rights Act of 1965, then the court shall award to such prevailing party defendant, other than the United States, a reasonable attorney's fee as part of the costs.'."

Mr. WILLIAM L. SCOTT. Will the Senator yield for a question at this point?

Mr. HELMS. Yes.

Mr. ABOUREZK. Mr. President, I make the point of order that the Senator may not yield for a——

The PRESIDING OFFICER. The Senator may yield for a question.

Mr. HELMS. Mr. President, I yield for a question

Mr. WILLIAM L. SCOTT. Mr. President, I want to inquire of the distinguished Senator from North Carolina as to the intention of his amendment. I am concerned that this whole bill will encourage litigation, but it appears here, from a reading of his amendment, that he refers to suits that are brought in bad faith and initiated in bad faith. Is it the intention of the amendment of the distinguished Senator to reduce the number of suits that are brought just for the purpose of stirring up litigation and to try to minimize the number of lawsuits under this bill? Does the Senator feel that perhaps the bill without his amendment would encourage an increased number of lawsuits, with the thought that the Government would bear the cost in many instances?

We are all concerned about the total cost of Government, and I believe we want to eliminate any unnecessary Government expenditures. It appears in my mind that the Senator, with his usual concern about governmental costs——

Mr. ABOUREZK. Mr. President, I now make a point of order that the Senator is not asking a question but making a speech. I make a point of order that it is in violation of rule XXII.

The PRESIDING OFFICER. The Senator from North Carolina has the floor. He may yield only for a question. Sometimes it is confusing as to when the question stops and the speech commences.

Mr. HELMS. I understand the Senator's question, and I feel that it is appropriate for him to state it fully.

Mr. WILLIAM L. SCOTT Mr. President, I am trying to find out the purpose of the amendment of the distinguished Senator. I am asking him the purpose of his amendment.

Is it intended to save the Government money?

Mr. ABOUREZK. Mr. President, a point of order. May I be recognized?

The PRESIDING OFFICER. The Senator from North Carolina still has the floor.

Mr. HELMS. I thank the Chair.

As I say, I understand the Senator's question and he is exactly right. The intent of this amendment, in part, is indeed to save the taxpayers' money, and to supply an element of equity and fair play. It is also intended to prevent further congestion in the Federal courts. Throughout this Chamber, we have Senators who are pleading for additional Federal judges for their States, and, for additional officers of the court, all of which cost money, to take care of the existing overload in our Federal courts. Here we come with a bill that can scarcely do anything but add to that congestion, encourage frivolous lawsuits, consume more time, and waste more money from the taxpayers' pocket.

Mr. WILLIAM L. SCOTT. Will the Senator yield further for a question?

Mr. HELMS. I yield for a question.

Mr. WILLIAM L. SCOTT. I do not believe the Senator is an attorney, but is he aware that in common law, there were crimes of champerty and barratry, efforts to stir up strife and litigation, and when government pays the cost of lawsuits, might that not contribute to what we might call common law barratry, to stirring up strife and litigation? Might that not be a factor, in connection with the Senator's amendment, to keep things like that from happening? If people had to pay their own bill, rather than have the government pay it for them, might that not be a step toward fiscal responsibility?

Mr. HELMS. The Senator is absolutely correct.

Mr. President, to avoid even the appearance of being dilatory, I reserve the remainder of my time. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

QUORUM CALL

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. WILLIAM L. SCOTT. I object, Mr. President.

The PRESIDING OFFICER. The objection is heard.

The assistant legislative clerk resumed the call of the roll.

Mr. HELMS. Mr. President, I ask unanmous consent that the order for the quorum call be rescinded.

Mr. WILLIAM L. SCOTT. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed and completed the call of the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 55 Leg.]

Abourezk
Allen
Burdick
Griffin
Hart, Gary
Helms
Javits
Johnston
Laxalt
Leahy
Pearson
Percy
Scott, William L.
Taft
Tower

The PRESIDING OFFICER (Mr. Laxalt). A quorum is not present. The clerk will call the names of absent Senators.

The assistant legislative clerk resumed the call of the roll.

Mr. ABOUREZK. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Dakota. The yeas and nays have been ordered, and the clerk will please call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Kentucky (Mr. Huddleston), the Senator from Louisiana (Mr. Long), the Senator from Wyoming (Mr. McGee), the Senator from South Dakota (Mr. McGovern), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Mississippi (Mr. Stennis), the Senator from Florida (Mr. Stone), the Senator from Georgia (Mr. Talmadge), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from Ohio (Mr. Glenn), the Senator from Montana (Mr. Mansfield), the Senator from New Hampshire (Mr. Durkin), and the Senator from Florida (Mr. Chiles) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Nebraska (Mr. Curtis), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Goldwater), and the Senator from Wyoming (Mr. Hansen) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. Fong) is absent attending the funeral of a friend.

The result was announced—yeas 66, nays 5, as follows:

[Rollcall Vote No. 651 Leg.]

YEAS—66

Abourezk
Baker
Bellmon
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Domenici
Eagleton
Eastland
Fannin
Ford
Garn
Gravel
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Magnuson
Mathias
McClellan
McClure
McIntyre
Metcalf
Morgan
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth

Schweiker
Scott, Hugh
Scott,
William L.
Sparkman
Stafford
Stevens
Stevenson
Symington
Taft
Thurmond
Tower
Williams
Young

NAYS—5

Allen
Bartlett
Biden
Helms
Weicker

NOT VOTING—29

Bayh
Beall
Bentsen
Brock
Buckley
Cannon
Chiles
Curtis
Dole
Durkin
Fong
Glenn
Goldwater
Hansen
Hart, Philip A.
Hartke
Huddleston
Long
Mansfield
McGee
McGovern
Mondale
Montoya
Moss
Muskie
Stennis
Stone
Talmadge
Tunney

So the motion was agreed to.

The PRESIDING OFFICER. The Senate is advised that a quorum is present.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

The Senate continued with the consideration of the bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, while the Senator from Massachusetts (Mr. Kennedy) is in the Chamber, I wonder if I might direct a question to him.

As author of the provision adding title IX to the bill, does the Senator anticipate that it will apply to cases where the question of abortion is involved?

Mr. KENNEDY. I believe the answer to that would be "No."

Mr. HELMS. In other words, the Senator is saying that even in an employment case where a woman is dismissed for having an abortion; and while there is an allegation of a constitutional right, her suit also alleges sex discrimination since only women have abortions. The answer is "No"?

Mr. KENNEDY. Title IX cases are brought solely to remedy discrimination on the basis of sex.

Mr. HELMS. So the Senator does not intend that this provision apply in cases where abortion is an issue?

Mr. KENNEDY. I do not see the point the Senator is making, quite frankly. I do not see the relevancy of the argument. The question of abortion would not generally arise under title IX, except, perhaps, with respect to regulations issued under that statute relating to health insurance benefits for employees of educational institutions. But there is no requirement for such services if, for example, they would be in conflict with basic religious tenets of the educational institution involved. I think that with both the legislative history and the application of the title's provisions in terms of the Education Act, it would not be likely to reach that particular kind of question. I think it is basically a red herring.

Mr. HELMS. Of course, it is not a red herring, I will say to the Senator, and I am sorry if he finds it disconcerting. However, inasmuch as he says he sees no relevancy in the question, I am glad to have the legislative history that has been established on this matter.

Mr. President, I regret that the yeas and nays were requested on obtaining a quorum a few minutes ago. The Senator from North Carolina wanted to expedite this matter as much as he could. I did not desire the yeas and nays being ordered on the question of establishing a quorum, but since we now have several Senators on the floor, I want to renew my request for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, I move to table the Helms amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Kentucky (Mr. Huddleston), the Senator from Louisiana (Mr. Long), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Mississippi (Mr. Stennis), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that the Senator from Florida (Mr. Chiles), the Senator from New Hampshire (Mr. Durkin), the Senator from Ohio (Mr. Glenn), and the Senator from Montana (Mr. Mansfield) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Nebraska (Mr. Curtis), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Goldwater), and the Senator from Wyoming (Mr. Hansen) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. Fong) is absent to attend the funeral of a friend.

The result was announced—yeas 55, nays 19, as follows:

[Rollcall Vote No. 652 Leg.]

YEAS—55

Abourezk
Baker
Bellmon
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Domenici
Eagleton
Ford
Gravel
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Magnuson
Mathias
McGovern
McIntyre
Metcalf
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Weicker
Williams

NAYS—19

Allen
Bartlett
Byrd,
Harry F., Jr.
Eastland
Fannin
Garn
Helms
Hruska
Laxalt
McClellan
McClure
Morgan
Nunn
Scott,
William L.
Sparkman
Talmadge
Thurmond
Tower
Young

NOT VOTING—26

Bayh
Beall
Bentsen
Brock
Buckley
Cannon
Chiles
Curtis
Dole
Durkin
Fong
Glenn
Goldwater
Hansen
Hart, Philip A.
Hartke
Huddleston
Long
Mansfield
McGee
Mondale
Montoya
Moss
Muskie
Stennis
Tunney

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, in a moment I shall call up an amendment. First, I wish to comment on the legislative and parliamentary situation in which we find ourselves.

We started deliberating on this bill, I believe, last Tuesday. At that time I expressed an opinion that this bill should have a low priority with the many important bills that are on the calendar, in conference, and in fact have been agreed on in conference. Notwithstanding that, the motion was made to proceed to consideration of this bill, which is a Senate bill and which ordinarily one would think would have very little chance of passing at this late stage of the proceedings with sine die adjournment anticipated on October 1 or October 2, Friday or Saturday, of this week.

I still fail to see the great urgency of this bill. Why should this bill have been placed at the top of all bills pending or near action in the Senate or near completion of action by Congress?

It is said to be a civil rights attorneys' awards bill, and I guess that is what it is. But it is definitely not a civil rights bill because it protects no civil right and adds no civil right. But what it does do is to assure attorneys of the collection of fees. So instead of being a civil rights bill, it is a lawyers' bill, pure and simple.

It came about, I assume, or it is stated in the report, as a result of the Alyeska Pipeline Service Co. case in 1975 which held contrary to holdings of lower courts that unless Congress had provided for the payment of attorneys' fees in civil rights actions the courts were powerless to order such fees. So they rush in right here at the closing days of Congress to provide and to guarantee these attorneys' fees.

Mr. President, this bill had its origin back before the Alyeska case, and it was introduced in 1975, according to the committee report, and was approved by the Subcommittee of the Judiciary Committee. It was never approved by the full committee. In 1975, then, I believe, it was added as on amendment to the bill S. 1279 extending the Voting Rights Act of 1965, but that bill never came up in the Senate. It was never brought up in the Senate because they decided to go with the House bill and choke off all amendments here in the Senate. As I recall, the only amendment that they agreed to was an amendment by the distinguished assistant majority leader (Mr. Robert C. Byrd), which cut the added 10-year penalty period down to 7 years. That was passed. I guess the only man in the Senate who could have gotten that amendment adopted was the distinguished assistant majority leader (Mr. Robert C. Byrd), and the reason he was able to do it was because he had rammed the bill through to near passage on a 10-year basis and then he offered a 7-year amendment which was reluctantly accepted by those supporting that bill.

So why the haste on this bill in the closing days of this Senate? We have been on it now for approximately 1 week, and I do not attach all of that importance to the bill. As a matter of fact, we would not have had as much discussion on it as we have had if it had not been for the fact that certain shortcuts were taken with respect to seeking to ram the bill through.

We have many bills that need consideration. I have been told that these bills are regarded as being "must" bills: the omnibus rivers and harbors bill, unemployment tax, supplemental appropriations, continuing resolution, foreign aid conference, the toxic substances conference, the education amendments conference, the revenue sharing conference, the mine safety bill, the black lung bill, the small business investment bill. The export bill is regarded as being very important, and many other bills are being held up because it is insisted that this bill must pass.

Many House bills need attention, and one would think that a Senate bill would have very little chance of passage if thrown into the big pot of bills in the House.

So, sometime this afternoon, before we get too much farther along, I plan to make a motion to lay this bill on the table. I am hopeful that those who do have bills that need passing will see fit to say that this bill is not as important as many other bills.

Mr. President, the committees have been turning out bills, but none of them gets on the calendar because of the pendency of this bill. I understand that the clerk's desk is stacked high with bills agreed upon in committee, reported by the committee, but they cannot go on the calendar because of the pendency of this bill. It would take unanimous consent to have those bills reported by the committee. They are reported; they are at the desk; but they have not been reported in a final sense, because we have not had any routine morning business for several days. We have not had routine morning business because of this clotured bill, which is of minor importance. It is of minor importance to me. I have no particular objection to this bill, except that it would stir up litigation that ordinarily would not be brought, and it provides subsidies for lawyers in filing these suits.

We have been very generous in the Senate and in Congress with lawyers during this session. That was the main thrust of the antitrust bill—getting lawyers' fees on a contingent fee basis. That was the main thrust of that bill. The matter of lawyers' fees is what defeated the no-fault insurance bill. We also had a bill, S. 2715, by Mr. Kennedy, that provided for paying lawyers for bringing proceedings before the various agencies.

So it seems that the thrust of much of our legislation is to see that attorneys receive fees. Sometimes they have been in the hundreds of thousands of dollars. I do not state that that would come under the present bill, but the very fact of allowing the stirring up of litigation through the payment of attorneys' fees is something that I do not believe we should do.

Attorneys' fees are provided for under many of the civil rights statutes. In fact, an unusual sentence in the committee report says, on page 3, the last two lines:

> Since 1964, every major civil rights law passed by the Congress has included or has been amended to include one or more fee provisions.

If we already have one or more fee provisions in all civil rights laws, why do they need still another?

I cannot rank this bill in importance anywhere close to at least 25 or 30 bills pending before the Senate and pending before Congress. Yet, this bill was taken off the calendar. It has been here since late June, if I am not mistaken. It could have been July.

The bill was first introduced in 1973. It had some action in the committee but was not reported. All of a sudden, in the last 2 weeks of this session, they suddenly seize upon it, to ram it through in the closing days of the session. I say that the manner in which this bill has been handled, the insistence on its passage, already has doomed to defeat in Congress many worthwhile bills.

I say parenthetically, however, that it may have doomd many bills that are not worthwhile. So it has worked both ways, I must say. However, I believe that it would have been better if we had not entered upon the consideration of this bill.

One would think that such a popular bill, taking care of attorneys, and labeled a civil rights bill, would have swept through the Senate on cloture. It received 63 votes. I daresay that if we had another cloture vote, they would not receive 63 in favor of it; because it is quite obvious that further insistence on the passage of this bill is endangering legislation that is good in some cases, legislation that is bad in other cases.

AMENDMENT NO. 2391

So, Mr. President, I am going to reserve the remainder of my time and call up Amendment No. 2391 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> At the end of the bill add the following new section:
>
> Sec. . Section 4(a) of Public Law 92-261 is amended by striking out the words "or any other equitable relief as the court deems appropriate." and substitute in lieu thereof the following: "or any other equitable relief as the court deems appropriate, except that in no event shall such relief include the award of an attorney's fee.".

Mr. ALLEN. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Dakota to table the amendment of the Senator from Alabama. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Kentucky (Mr. Huddleston), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr Montoya), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Mississippi (Mr. Stennis), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that the Senator from Florida (Mr. Chiles), the Senator from Ohio (Mr. Glenn), the Senator from Montana (Mr. Mansfield), and the Senator from South Dakota (Mr. McGovern) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Nebraska, (Mr. Curtis), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Goldwater), and the Senator from Wyoming (Mr. Hansen) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. Fong) is absent attending the funeral of a friend.

The result was announced—yeas 55, nays 20, as follows:

[Rollcall Vote No. 653 Leg.]

YEAS—55

Abourezk
Baker
Bartlett
Bellmon
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Gravel
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Magnuson
Mathias
McIntyre
Metcalf
Morgan
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Weicker
Williams

NAYS—20

Allen
Byrd,
Harry F., Jr.
Eastland
Fannin
Ford
Garn
Helms
Hruska
Johnston
Laxalt
Long
McClellan
McClure
Roth
Scott,
William L.
Sparkman
Talmadge
Thurmond
Tower
Young

NOT VOTING—25

Bayh
Beall
Bentsen
Brock
Buckley
Cannon
Chiles
Curtis
Dole
Fong
Glenn
Goldwater
Hansen
Hart, Philip A
Hartke
Huddleston
Mansfield
McGee
McGovern
Mondale
Montoya
Moss
Muskie
Stennis
Tunney

So the motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

ENROLLED BILLS SIGNED

A message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the Speaker has signed the following enrolled bills:

S. 866. An act for the relief of Patrick Andre Tasselin.

S. 3380. An act for the relief of Miss Mary Vance Trent.

S. 3485. An act for the relief of Orlando Garzón.

S. 3651. An act to amend the Alaska Native Claims Settlement Act to provide for the withdrawal of lands for the village of Klukwan, Alaska, and for other purposes.

H.R. 7624. An act for the relief of Jacinto Vazquez Camacho.

H.R. 11321. An act to suspend until July 1, 1978, the duty on certain elbow prostheses if imported for charitable therapeutic use, or for free distribution, by certain public or private nonprofit institutions.

H.R. 11890. An act for the relief of Bernard Julian Phillips.

H.R. 13035. An act to improve the national sea grant program and for other purposes.

H.R. 13549. An act to provide for additional income for the U.S. Soldiers' and Airmen's Home by requiring the Board of Commissioners of such home to collect a fee from the members of such home and by increasing deductions for the support of such home from the pay of enlisted men and warrant officers, and for other purposes.

H.R. 15068. An act to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1976 in certain disaster areas in South Carolina and Georgia.

The enrolled bills were subsequently signed by the President pro tempore.

SENATE CONCURRENT RESOLUTION 209—CORRECTIONS IN THE ENROLLMENT OF H.R. 5546

Mr. KENNEDY. Mr. President, I send to the desk a concurrent resolution, and I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER (Mr. CASE). Is there objection?

Mr. ABOUREZK. Mr. President, reserving the right to object——

Mr. KENNEDY. I will explain it.

The PRESIDING OFFICER. The Chair advises the clerk must report the resolution.

The clerk will state the concurrent resolution by title.

Mr. ABOUREZK. Mr. President, I maintain my reserving my right to object.

The PRESIDING OFFICER. The clerk will state the concurrent resolution by title.

The legislative clerk read, as follows:

S. Con. Res. 209, directing the clerk of the House of Representatives to make corrections in the enrollment of H.R. 5546.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

Mr. ABOUREZK. I have no objection.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. KENNEDY. Mr. President, this concurrent resolution simply directs the Clerk of the House of Representatives to make technical changes in the enrollment of H.R. 5546, which unanimously passed this body last week.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to, as follows:

S. CON. RES. 209

Concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 5546

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 5546), to amend the Public Health Service Act to revise and extend the programs of assistance under title VII for training in the health and allied health professions, to revise the National Health Service Corps scholarship training program, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) Strike out "and that there is no further need for the admission of alien physicians and surgeons" in section 2(c) of the bill and insert in lieu thereof "such that there is no further need for affording preference to alien physicians and surgeons in admission to the United States".

(2) Strike out "(a)(6)" in subsection (1) of section 101 and insert in clause (1) of such subsection "in subsection (a)(6)" immediately before "and inserting".

(3) In section 101(q) of the bill insert open quotation marks in clause (2) immediately after "in lieu thereof".

(4) In section 101(s) of the bill (A) strike out "1973;" in clause (A) of paragraph (2) and insert in lieu thereof "1973,", and (B) strike out "1973," in clause (A) of paragraph (3) and insert in lieu thereof "1973;".

(5) In proposed section 700(a) of the Public Health Service Act (as contained in section 201(b) of the bill) (A) strike out "of title VII", and (B) strike out "disadvantaged student scholarships" and insert in lieu thereof "scholarships for first-year students of exceptional financial need".

(6) Strike out clause (i) of proposed section 701(7)(B) of the Public Health Service Act (as contained in section 201(e)(3) of the bill) and insert in lieu thereof the following:

"(i) extend for at least one academic year and consist of (I) supervised clinical practice, and (II) at least four months (in the aggregate) of classroom instruction, directed toward preparing students to deliver health care; and".

(7) Strike out "an accredited program of studies" in proposed section 701(8)(A)(i) of the Public Health Service Act (as contained in section 201(e)(3) of the bill) and insert in lieu thereof "their studies in the program".

(8) In proposed section 701(9) of the Public Health Service Act (as contained in section 201(e)(3) of the bill) strike out "the Commonwealth of" immediately before "the Northern Mariana Islands".

(9) Strike out paragraph (11) of proposed section 701 of the Public Health Service Act (as contained in section 201(e)(3) of the bill), and insert at the end of paragraph (10) of such section closed quotation marks followed by a period.

(10) Strike out "compositions" in section 202(a)(3) of the bill and insert in lieu thereof "the composition".

(11) Insert "made" immediately before "available" in proposed section 703(a) of the Public Health Service Act (as contained in section 203 of the bill).

(12) Strike out "section" in proposed section 706 of the Public Health Service Act (as contained in section 204 of the bill) and insert in lieu thereof "sections".

(13) In proposed section 710 of the Public Health Service Act (as contained in section 208 of the bill) (A) strike "(except under section 770)", (B) insert "(1) except for grants under section 770," immediately before "in advance", (C) insert "(2)" immediately before "at such intervals", and (D) strike out, "necessary and" and insert in lieu thereof "necessary, and (3)".

(14) Insert "the" immediately after "the need of" in proposed section 721(f)(1) of the Public Health Service Act (as contained in section 301 of the bill).

(15) Insert "of veterinary medicine, optometry, podiatry, or pharmacy" immediately after "degree-granting school" in proposed section 721(f)(3) of the Public Health Service Act (as contained in section 301 of the bill).

(16) In proposed section 720(b) of the Public Health Service Act (as contained in section 302 of the bill) insert "50 percent of such sums shall be obligated for grants under subsection (a)(1) and" immediately before "50 percent of such sums".

(17) In proposed section 721(g) of the Public Health Service Act (as contained in section 303(b) of the bill) (A) insert "and" at the end of subparagraph (C) of paragraph (1), (B) strike out subparagraph (A) of paragraph (1) and redesignate subparagraphs (B), (C), and (D) of such paragraph as subparagraphs (A), (B), and (C), respectively, (C) strike out "in subparagraph (D)" and insert in lieu thereof "in subparagraph (C)", (D) strike out "grants under this section" in paragraph (2) and insert in lieu thereof "grants to entities under section", and (E) insert "the" in paragraph (2) immediately before "general practice of dentistry".

(18) In proposed section 722(a)(1) of the Public Health Service Act (as contained in section 304(a) of the bill) strike out "advice of the Council" and insert in lieu thereof "advice from the Council".

(19) Strike out "(as so designated)" in section 308(a)(4) of the bill and insert in lieu thereof "(as so redesignated)".

(20) Insert at the end of proposed section 728 of the Public Health Service Act (as contained in section 401(b)(3) of the bill) the following:

"(c) The Student Loan Marketing Association, established under part B of title IV of the Higher Education Act of 1965, is authorized to make advances on the security of, purchase, service, sell, or otherwise deal in, student loans which are insured by the Secretary under this subpart.".

(21) Strike out "any years in excess" in proposed section 729(a) of the Public Health Service Act (as contained in section 401(b)(3) of the bill) and insert in lieu thereof "any year in excess".

(22) In proposed section 731 of the Public Health Service Act (as contained in section 401(b)(3) of the bill) (A) strike out "except as provided in subsection (c))" in subsection (a)(2)(B), and (B) strike out "clause 2(d)" in subsection (b) and insert in lieu thereof "paragraph (2)(D)".

(23) In proposed section 732(b)(1) of the Public Health Service Act (as contained in section 401(b)(3) of the bill) strike out "objectives of this part" and insert in lieu thereof "objectives of this subpart".

(24) In proposed section 733, of the Public Health Service Act (as contained in section 401(b)(3) of the bill) (A) strike out "for further Federal" in subsection (d) and insert in lieu thereof "from obtaining further Federal", (B) insert ", exercise substantial effort," in subsection (d) immediately before "or comply with such requirements", and (C) strike out "the Bankruptcy Act" in subsection (g) and insert in lieu thereof "title 11 of the United States Code".

(25) In proposed section 735 of the Public Health Service Act (as contained in section 401(b)(3) of the bill) (A) insert "any" in subsection (a)(2) immediately after "in controversy, and", (B) strike out "written agreement" in subsection (c)(1) and insert in lieu thereof "written contract", (C) strike out "section 723" in subsection (c)(1) and insert in lieu thereof "section 753", and (D) strike out "subparagraphs (A) and (B)" in subsection (c)(1) and insert in lieu thereof "clauses (A) and (B)".

(26) Strike out "of this Act" in proposed section 737(1) of the Public Health Service Act (as contained in section 401(b)(3) of the bill) and insert in lieu thereof "for such fiscal year".

(27) In section 402 of the bill (A) insert "and" immediately after the semicolon at the end of paragraph (3), and (B) strike out "paragraph; and" in paragraph (4) and insert in lieu thereof "paragraph:".

(28) Strike out "while a member" in section 403(e) of the bill and insert in lieu thereof "as a member".

(29) In proposed section 742 of the Public Health Service Act (as contained in section 404 of the bill) strike out "October 1, 1981," in subsection (a) and insert in lieu thereof "October 1, 1980,".

(30) In section 406(b) of the bill (A) insert "(as in effect before the date of enactment of this Act)" immediately after "Public Health Service Act", and (B) strike out "section 744 of such Act" and insert in lieu thereof "such section".

(31) In proposed section 331 of the Public Health Service Act (as contained in section 407(b)(3) of the bill) (A) strike out "as schools of medicine" in subsection (b) and insert in lieu thereof "at schools of medicine;" (B) strike out "to the health" in subsection (c) and insert in lieu thereof "to a health"; (C) strike out "they would be" in subsection (c) and insert in lieu thereof "they may be"; (D) strike out "allowance" in subsection (d)(1)(A) and insert in lieu thereof "allowances"; (E) strike out "is equal to or exceeds" in subsection (d)(1)(B) and insert in lieu thereof "are equal to or exceed"; (F) strike out "who are members of the National Health Service Corps and who have participated in the" in subsection (f) and insert in lieu thereof "during their period of obligated service under the"; and (G) strike out "the or exceed"; (F) strike out "commissioned officers" and all that follows through "in the" in subsection (f) and insert in lieu thereof "members of the National Health Service Corps during their period of obligated service under the"; and (G) strike out "the Commonwealth of" in subsection (h)(3) immediately before "the Northern Mariana Islands".

(32) In proposed section 332 of the Public Health Service Act (as contained in section 407(b)(3) of the bill) (A) insert "and" in subsection (a)(2)(A) immediately before "community health center;", (B) insert "the" in subsection (b)(1) immediately before "number of", (C) strike out "the names of the areas" in subsection (d) and insert in lieu thereof "a descriptive list of the areas", (D) insert "there is a part of" in subsection (f)(2)(B) immediately before "such area,", and (E) strike out "is within" in subparagraph (f)(2)(B) and insert in lieu thereof "within".

(33) In proposed section 333 of the Public Health Service Act (as contained in section 407(b)(3) of the bill) (A) insert "or under section 329 as in effect before October 1, 1977" in subsection (a)(1)(D) immediately after "section 334", (B) strike out "and" after the comma at the end of subsection (b)(1) and insert in lieu thereof "or", (C) strike out "medical, dental, or other health professions" in subsection (c)(4) and insert in lieu thereof "physicians, dentists, or other health professionals", (D) strike out "which entity desires to" in subsection (f)(1) and insert in lieu thereof "and which desires to", and (E) strike out "physician's" in subsection (g)(3) and insert in lieu thereof "'physician".

(34) In proposed section 334 of the Public Health Service Act (as contained in section 407(b)(3) of the bill) (A) strike out "program;" in subsection (a)(3)(B) and insert in lieu thereof "Program;", and (B) insert ", or served by," in subsection (b)(3) immediately before "the health manpower shortage area".

(35) In proposed section 335 of the Public Health Service Act (as contained in section 407(b)(3) of the bill) (A) insert "or served by" in subsection (a) immediately before "such health manpower shortage area", (B) strike out "loan" each time it occurs in the third sentence of subsection (c) and insert in lieu thereof "such loan", and (C) insert ", for a period to be determined by the Secretary," in subsection (e)(1)(B) immediately after "cease".

(36) In proposed section 336(6) of the Public Health Service Act (as contained in section 407(b)(3) of the bill) strike out "their not making" and insert in lieu thereof "not making".

(37) In section 407(c)(3) of the bill (A) strike out "changed the name of the Advisory Council established" and insert in lieu thereof "established an Advisory Council previously established", and (B) strike out "(and placed the authority for the Advisory Council in section 337 of the Act (as added by such amendment))".

(38) In proposed section 748(b)(3)(A)(ii) of the Public Health Service Act (as contained in section 408(a) of the bill) insert "of" immediately before "work experience".

(39) In proposed section 749 of the Public Health Service Act (as contained in subsection 408(a) of the bill) (A) insert "of" in subsection (b)(3)(B) immediately before "work experience", and (B) insert "accredited" in subsection (a) immediately before "schools of public health".

(40) In proposed section 751 of the Public Health Service Act (as contained in section 408(b)(1) of the bill) (A) strike out "(not to exceed" and all that follows down through "by the individual" in subsection (f)(1)(A) and insert in lieu thereof "for a period of years (not to exceed four school years) determined by the individual, during which period the individual is pursuing a course of study described in subsection (b)(1)(B)"; (B) strike "to carry out the purposes of this subpart and" in subsection (f)(2) and insert in lieu thereof "for scholarships under this subpart and to carry out the purposes of"; and (C) strike out "the disadvantaged student scholarship program)," in subsection (g)(1) and insert in lieu thereof "scholarships for first-year students of exceptional financial need)".

(41) In proposed section 752 of the Public Health Service Act (as contained in section 408(b)(1) of the bill) (A) strike out "the date" and all that follows down through "obligated service," each time it occurs in paragraphs (1) and (2) of subsection (b) and insert in lieu thereof, "the date described in paragraph (5),"; (B) strike out "either" in subsection (b)(1) immediately before "the Regular"; (C) strike out "promptly" each time it occurs in subsection (b)(3) and insert in lieu thereof ", as soon as possible after the date described in paragraph (5),"; (D) strike out "paragraph (3)" in subsection (b)(3) and insert in lieu thereof "paragraph (2)"; (E) strike out "paragraph (4)" each time it occurs in subsection (b)(5) and insert in lieu thereof "paragraphs (1) through (4)"; (F) strike out "other than from" in subsection (b)(5)(B) and insert in lieu thereof "from an institution other than"; (G) strike out "profession under which" in subsection (d) and insert in lieu thereof "profession in which"; and (H) insert "Scholarship" in subsection (e) immediately before "Program".

(42) In proposed section 753 of the Public Health Service Act (as contained in section 408(b)(1) of the bill) strike out "subparagraph (B)" in subsection (a) and insert in lieu thereof "clause (B)".

(43) In proposed section 754 of the Public Health Service Act (as contained in section 408(b)(1) of the bill) (A) insert "(other than an individual described in subsection (b))" in subsection (a) immediately after "An individual"; (B) insert "Program" in subsection (d)(3) immediately before "(or a contract"; (C) strike out "the Bankruptcy Act" in subsection (d)(3) and insert in lieu thereof "title 11 of the United States Code"; and (D) strike out ", as specified in section 731(a)(2)(B), when" in subsection (d)(3) and insert in lieu thereof "that".

(44) In proposed section 755 of the Public Health Service Act (as contained in section 408(b)(1) of the bill) strike out "section 753(c)" in subsection (d) and insert in lieu thereof "section 754(c)".

(45) In proposed section 756(a) of the Public Health Service Act (as contained in section 408(b)(1) of the bill) strike out "subsequent fiscal year" and insert in lieu thereof "of the two succeeding fiscal years".

(46) In section 408(b) of the bill (A) insert "Public Health and" in paragraph (2)(B) immediately before "National Health Service Corps Scholarship Program", (B) strike out ", unless such individual" and all that follows through "violates such agreement".

(47) In proposed section 758(b)(1) of the Public Health Service Act (as contained in section 408(c) of the bill) insert "a" immediately before "grant under".

(48) In proposed section 759(a) of the Public Health Service Act (as contained in section 408(c) of the bill) insert "up to $8,000 per year for" immediately before "up to four years".

(49) Strike out "the date of the enactment of this Act)" each place it appears in section 409(b) of the bill and insert in lieu thereof "October 1, 1976)".

(50) In proposed section 770(b) of the Public Health Service Act (as contained in section 501(b) of the bill) (A) strike out "medicine, osteopathy," and all that follows through "subsection (f) for such" and insert in lieu thereof "either medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry with approved applications exceeds the total of the amounts appropriated for such category of schools under the appropriate paragraph of subsection (e) for such", and (B) strike out "such subsection as the" and all that follows through "such subsection to each" and insert in lieu thereof "subsection (a) as the total amounts appropriated for that year under the appropriate paragraph of subsection (e) for grants to schools of the same category as such school bears to the amount required to make grants in accordance with subsection (a) to each".

(51) In section 501(c)(3) of the bill, strike out "redesignated" and insert in lieu thereof "by redesignating it".

(52) In proposed section 770(e) of the Public Health Service Act (as contained in section 501(c)(4) of the bill) strike out

paragraph (4) and insert in lieu thereof the following:

"(4) There are authorized to be appropriated $9,739,800 for the fiscal year ending September 30, 1978, $10,462,200 for the fiscal year ending September 30, 1979, and $11,060,000 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of public health.".

(53) In section 502 of the bill, strike out "774, and 776" and insert in lieu thereof "and 774".

(54) In proposed section 771 of the Public Health Service Act (as contained in section 502 of the bill) (A) insert "or in the school year beginning in the fiscal year ending September 30, 1976, whichever is greater" in subsection (a) (1) immediately after "preceding school year", (B) strike out "on July 15, 1978" in subsection (b) (2) (B) and insert in lieu thereof "in primary care on July 15, 1977", (C) strike out "are not in" in subsection (b) (2) (C) ond insert in lieu thereof "were not in", and (D) strike out "preceding" in the second subparagraph (D) of subsection (b) (1) immediately before "fiscal year such school—".

(55) In proposed section 771 of the Public Health Service Act (as contained in section 502 of the bill) strike out the first subparagraph (D) and insert in lieu thereof the following:

"(D) The requirement under subparagraph (A) that a school of medicine have a particular percent of its filled first-year positions in its direct or affiliated medical residency training programs in primary care on a date in order to be eligible for a grant under section 770 shall be waived by the Secretary if he determines that (i) such school has made a good faith effort to comply with such requirement, and (ii) such school has at least 98 percent of such percent of such positions in primary care on such date.".

(56) In proposed section 771 of the Public Health Service Act (as contained in section 502 of the bill) insert immediately after clause (ii) of subsection (b) (2) (E) the following:

"(iii) The term 'medical residency training program' means a program which trains graduates of schools of medicine and schools of osteopathy in a medical specialty and which provides the graduate education required by the appropriate specialty board for certification in such specialty. Such term does not include a residency training program in an osteopathic hospital.".

(57) In proposed section 771 of the Public Health Service Act (as contained in section 502 of the bill) (A) redesignate the second subparagraph (D) and subparagraph (E) of subsection (b) (2) as subparagraphs (E) and (F), respectively; (B) strike out "subparagraph (C)" in subsection (b) (3) (A) and insert in lieu thereof "subparagraphs (C) and (D)"; (C) strike out "September 15, 1976" in subsection (b) (3) (B) and insert in lieu thereof "the date of enactment of the Health Professions Educational Assistance Act of 1976"; (D) strike out "were enrolled" in subsection (b) (3) (B) and insert in lieu thereof "were students"; and (E) strike out "is" in subsection (b) (3) (B) immediately after "identification".

(58) In subsection (c) of proposed section 771 of the Public Health Service Act (as contained in section 502 of the bill) (A) strike out "made and either" in paragraph (1) and insert in lieu thereof "made, either", (B) insert "or in" in paragraph (1) immediately after "submission of the plan)", (C) strike out ", in an area geographically remote from the main site of the training facilities of such school," in paragraph (2) (A), (D) strike out "or in areas in" in such paragraph and insert in lieu thereof "in an area which is geographically remote from the main site of the training facilities of such school or in", and (E) strike out "or practicing" in paragraph (2) (C) and insert in lieu thereof "or protecting".

(59) In subsection (d) of proposed section 771 of the Public Health Service Act (as contained in section 502 of the bill) (A) strike out "or subparagraph (A) or (B) of paragraph (3)" in paragraph (1) and insert in lieu thereof "of paragraph (3) or (4)", (B) strike out "and in areas" in paragraph (4) (A) and insert in lieu thereof ", either in areas", (C) strike out ", in an area geographically remote from the main site of the training facilities of such school," in paragraph (4) (B) (i), (D) strike out "or in areas in" in such paragraph and insert in lieu thereof "in an area which is geographically remote from the main site of the training facilities of such school or in", and (E) strike out "hiring" in paragraph (4) (B) (iii) and insert in lieu thereof "appointing".

(60) In subsection (e) of proposed section 771 of the Public Health Service Act (as contained in section 502 of the bill) (A) insert "of" in paragraph (2) immediately after "public health", and (B) strike out "as defined in section 721(b) (1)" in such paragraph and insert in lieu thereof "approved for such purpose by the Commissioner of Education".

(61) In proposed section 771 of the Public Health Service Act (as contained in section 502 of the bill) (A) strike out "school year ending" in subsection (g) (3) and insert in lieu thereof "school year beginning", and (B) insert "of" in clause (3) of subsection (i) immediately after "appropriate use".

(62) Section 503(a) of the bill is amended by inserting before the comma at the end of paragraph (1) the following: "in subsections (a) and (d) and 'section 770 or subsection (a) or (b) of section 788' in subsection (b)".

(63) In proposed section 212(a) (32) of the Immigration and Nationality Act (as contained in section 601(a) of the bill) insert "an" immediately before "equivalent examination".

(64) In section 601(c) (4) of the bill strike out "provided further" and insert in lieu thereof *"provided further"*.

(65) In proposed section 212(j) of the Immigration and Nationality Act (as contained in section 601(d) of the bill) (A) insert "an" in paragraph (1) (B) immediately before "equivalent examination", (B) strike out "his education" in paragraph (1) (C) and insert in lieu thereof "the education", and (C) strike out "and" immediately before clause (ii) of paragraph (1) (D).

(66) In proposed section 791 of the Public Health Service Act (as contained in section 701 of the bill) (A) strike out "ending in the fiscal year" each time it occurs in subsection (c) (2) (A) and insert in lieu thereof "beginning in the fiscal year", (B) strike out "ending in a fiscal year" in subsection (c) (2) (A) and insert in lieu thereof "beginning in a fiscal year", (C) strike out "meet" in subsection (c) (2) (B) and insert in lieu thereof "meets", (D) strike out "of paragraph (2)" in subsection (c) (3) and insert in lieu thereof "of clause (ii) of paragraph (2) (A)", (E) strike out the second sentence in paragraph (3) of subsection (c), and (F) insert after paragraph (3) of subsection (c) the following:

"(4) The Secretary may not approve or disapprove an application submitted under paragraph (1) except after consultation with the National Advisory Council on Health Professions Education.".

(67) In proposed section 792 of the Public Health Service Act (as contained in section 701 of the bill) (A) strike out "in accordance with" in subsection (b) (1) and insert in lieu thereof "described in", (B) strike out "section" in subsection (b) (2) and insert in lieu thereof "subsection", (C) insert "which is" in subsection (b) (2) immediately after "a graduate program", (D) insert "which" in subsection (b) (2) immediately before "meets", and (E) strike out "pursuant to" in subsection (c) and insert in lieu thereof "under".

(68) In proposed section 793 of the Public Health Service Act (as contained in section 701 of the bill) (A) strike out "program" in subsection (b) (1) (D) and insert in lieu thereof "activities conducted", (B) strike out "is" in subsection (c) and insert in lieu thereof "are", and (C) strike out "Congress" each time it occurs in subsection (c) and insert in lieu thereof "such Committees".

(69) In proposed section 795 of the Public Health Service Act (as contained in section 701 of the bill) (A) strike out "or to the equivalent of either" in paragraph (2) (A) and insert in lieu thereof "(or to the equivalent of either)", (B) strike out "the" in such paragraph immediately before "medical technology", (C) insert "in" in such paragraph immediately before "any of such other", (D) strike out "curriculums" each time it occurs in paragraph (2) and insert in lieu thereof "curricula", (E) strike out "by regulations" in paragraph (2) (A) and insert in lieu thereof "by regulation", and (F) insert "such other" in clause (ii) of paragraph (2) (A) immediately after "dental hygiene, or".

(70) In proposed section 796 of the Public Health Service Act (as contained in section 701 of the bill) (A) insert "to" in subsection (a) immediately after "The Secretary shall make grants", (B) strike out "allied health and nurse manpower needs of such region or State" in subsection (a) (1) and insert in lieu thereof "the needs of such region or State for allied health personnel and nurses", (C) strike out "(c) (1)" and insert in lieu thereof "(c)", (D) redesignate paragraphs (A), (B), and (C) of subsection (c) as paragraphs (1), (2), and (3), respectively, and (E) strike out "subparagraph (A)" in subsection (c) and insert in lieu thereof "paragraph (1)".

(71) In proposed section 798 of the Public Health Service Act (as contained in section 701 of the bill) (A) strike out "health or educational entity" in subsection (a) (2) and insert in lieu thereof "school, agency, or entity", (B) strike out "individuals with" in subsection (a) (2) (A) and insert in lieu thereof "disadvantaged individuals who have", (C) strike out "those individuals" each time it occurs in subsection (a) (2) and insert in lieu thereof "such individuals", and (D) strike out "an entity" each time it occurs in subsection (a) (2) and insert in lieu thereof "a school, agency, or entity".

(72) In section 702(d) of the bill (A) strike out "is needed" and insert in lieu thereof "are needed", and (B) strike out "Congress" each time it occurs and insert in lieu thereof "such Committees".

(73) In section 801 of the bill (A) insert "(a)" immediately before "Effective October 1, 1976,", (B) insert after the text of proposed section 788 of the Public Health Service Act (as contained in section 801 of the bill) a closed quotation marks and a period and insert immediately thereafter the following:

"(b) Effective November 1, 1976, section 776 of the Public Health Service Act is redesignated as section 789 of such Act, and all references to such section in title XII of such Act are redesignated accordingly.

"(c) Effective October 1, 1976, part F of title VII is amended by adding after section 789 (redesignated by subsection (b)) the following new section:".

(74) In proposed section 780(b) (1) of the Public Health Service Act (as contained in section 801 of the bill) strike out "medical" in clause (D).

(75) In proposed section 781 of the Public Health Service Act (as contained in section 801 of the bill) (A) strike out "the" in sub-

section (a) immediately before "health professions schools", (B) strike out "implementation" in subsection (a) and insert in lieu thereof "operation", (C) insert "program" in subsection (c) immediately before "shall", (D) strike out the comma in subsection (c)(1) immediately after "school" and insert in lieu thereof "and", (E) strike out "a nurse practitioner or physician assistant training program" in subsection (c)(3) and insert in lieu thereof, "a program for the training of physician assistants (as defined in section 701(7)) or nurse practitioners (as defined in section 822)", (F) strike out "other health science disciplines" in subsection (c)(4) and insert in lieu thereof "schools or programs of other health professions", (G) strike out "the geographic area" in subsection (d)(1) and insert in lieu thereof "a geographic area", (H) strike out "the medically underserved population" in such subsection and insert in lieu thereof "a medically underserved population", (I) strike out the period at the end of paragraph (1) of subsection (d) and insert in lieu thereof ", which area or population is in a location remote from the main site of the teaching facilities of the school or schools which participate in the program with such center.", (J) strike out "and" in subsection (d)(2)(C), (K) insert "area" in subsection (d)(2) immediately after "Any", (L) strike out "making contracts" in subsection (e) and insert in lieu thereof "entering into contracts", (M) insert "at least" in paragraph (1) of subsection (e) immediately before "75 percent", (N) strike out "program in the area" in subsection (e)(1) and insert in lieu thereof "center program in the area health education", (O) strike out "the program" in subsection (e)(2) and insert in lieu thereof "a program", (P) insert "a" in subsection (e)(3) immediately before "program", and (Q) strike out "such subsections" in subsection (f) and insert in lieu thereof "this section".

(76) In proposed section 782(a) of the Public Health Service Act (as contained in section 801 of the bill) (A) strike out "in the United States" each time it occurs and insert in lieu thereof "in the States", and (B) strike out "have been enrolled" each time it occurs and insert in lieu thereof "were students".

(77) In proposed section 783 of the Public Health Service Act (as contained in section 801 of the bill) (A) redesignate paragraphs (A), (B), and (C) of subsection (a) as paragraphs (1), (2), and (3), respectively; (B) strike out "(T.E.A.M.)" in paragraph (3) of subsection (a) (as so redesignated); (C) strike out "assure" in subsection (c) and insert in lieu thereof "ensure"; (D) insert "and" in subsection (a) immediately after "osteopathy,"; and "preparation of faculty members respecting programs" in subsection (d) and insert in lieu thereof "preparing faculty members to teach in programs".

(78) In proposed section 784 of the Public Health Service Act (as contained in section 801 of the bill) strike out paragraph (1) of subsection (a) and insert in lieu thereof the following:

"(1) to plan, develop, and operate approved residency training programs in internal medicine or pediatrics, which emphasize the training of residents for the practice of general internal medicine or general pediatrics (as defined by the Secretary in regulations); and".

(79) In proposed section 785 of the Public Health Service Act (as contained in section 801 of the bill) (A) insert "occupational health training and education" in subsection (a)(2) immediately after "substantially carry out"; (B) strike out "and industrial hygienists and other professionals, practicing" in subsection (a)(2)(B) and inserting in lieu thereof "industrial hygienists, and other professionals who practice"; (C) strike out "such individuals for residencies" in subsection (a)(2)(E) and inserting in lieu thereof "individuals undergoing training in medical residencies"; (D) strike out "other relevant disciplines" in subsection (a)(2)(F) and insert in lieu thereof "students and professionals in related fields"; (E) strike out "for any of the health profession disciplines dealing with problems of occupational health" in subsection (a)(2)(G) and insert in lieu thereof "for health professionals dealing with problems of occupational health"; and (F) strike out "in accordance with the requirements of subsection (a)," and "of Health, Education, and Welfare" in subsection (b).

(80) In proposed section 786 of the Public Health Service Act (as contained in section 801 of the bill) (A) strike "hospital, school of medicine of" in subsection (a) and insert in lieu thereof "private hospital, school of medicine or", (B) insert "in each fiscal year" in subsection (c) immediately after "amount appropriated", and (C) strike out "40" in subsection (d) and insert in lieu thereof "45".

(81) In proposed section 787 of the Public Health Service Act (as contained in section 801 of the bill) (A) strike out "the health professions" in subsection (a)(2)(A) and insert in lieu thereof "a health profession"; (B) strike out "those individuals" each place it appears in subsection (a)(2) and insert in lieu thereof "such individuals"; and (C) strike out "persons enrolled" in subsection (a)(2)(E) and insert in lieu thereof "students".

(82) In proposed section 788 of the Public lic Health Service Act (as contained in section 801 of the bill) (A) insert "and" immediately after the semicolon at the end of subparagraph (C) of subsection (a)(2); (B) strike out "or program" in subsection (a)(3)(A)(i) and insert in lieu thereof "or programs"; (C) strike out "it will be able" in subsection (a)(4)(A) and insert in lieu thereof "such school will be able"; (D) insert "a" immediately before "special need" and immediately before "comprehensive cost" in subparagraphs (A)(ii) and (B), respectively, of subsection (b)(1); (E) strike out insert "of" in subsection (b)(3) immediately before "a school of medicine," and insert in lieu thereof "as"; (F) strike out "section" in subsection (b)(4) and insert in lieu thereof "subsection"; (G) strike out the cost" in subsection (b)(6) and insert in lieu thereof "any comprehensive cost"; (H) strike out "the operational" in subsection (b)(6) and insert in lieu thereof "any operational"; and (I) strike out "or to develop" in subsection (b)(5) and insert in lieu thereof "and to develop".

(83) In proposed section 788 of the Public Health Service Act (as contained in section 801 of the bill) (A) strike out "emphasizing" in subsection (c) and insert in lieu thereof "which emphasize"; (B) strike out "and extenders" in subsection (c)(2); (C) strike out "organizations" in subsection (c)(3) and insert in lieu thereof "organization"; (D) strike out "extenders" in subsection (c)(3) and insert in lieu thereof "assistants"; (E) insert "to" in subsection (d) immediately before "and enter"; (F) insert "health manpower" immediately before "projects and programs" in subsection (d); (G) strike out "in the United States" in paragraph (12) of subsection (d) and insert in lieu thereof "in the States"; (H) strike out "the school receiving the grant" in subsection (f)(1)(A) and insert in lieu thereof "such school"; (I) insert "(designated under section 332)" immediately after "shortage area" in subsection (f)(1)(B); (J) insert "submitted under this subsection" in subsection (g)(2) immediately before "unless he has consulted"; and (K) strike out "the encouragement of" in subsection (c).

(884) Redesignate proposed section 789 of the Public Health Service Act (as contained in section 801 of the bill) as section 790 of such Act.

(85) In title IX of the bill strike out "Sec. 901. (a) The second" and all that follows through "consideration to applications—".

(86) In subsection (b)(1) of proposed section 830 of the Public Health Service Act (as contained in section 901 (6) of the bill) insert "to" immediately after "may make grants".

(87) In section 903 of the bill (A) insert "of Health, Education, and Welfare" in subsection (a)(1) immediately after "The Secretary", (B) strike out "or studies" in such subsection, (C) strike out "thereby" in subsection (a)(2) and insert in lieu thereof "thereon", (D) strike out "which reimburses" in subsection (b) and insert in lieu thereof "in which the Secretary reimburses such group or association", and (E) strike out the second sentence of subsection (b).

(88) Insert "clinical" in section 904(a) of the bill immediately before "facilities".

(89) In proposed section 2(f) of the Public Health Service Act (as contained in section 905 of the bill) (A) strike out "317(h)(2),", (B) strike out "1201" and insert in lieu thereof "1201(2)", (C) strike out "1410(13)" and insert in lieu thereof "1401(13)", and (D) strike out "the Commonwealth of" immediately before "the Northern Mariana Islands",

(90) In section 905 of the bill strike out subsection (b) and insert in lieu thereof the following:

"(b)(1) Sections 314(g)(4)(B), 355(5), 1002(c), 1201(2), 1401(13), and 1633(1) are amended by inserting 'the Northern Mariana Islands,' immediately after 'Puerto Rico' in each such section.

"(2) Section 318(c)(1) is amended by inserting 'the Northern Mariana Islands,' immediately after 'American Samoa,'.".

(91) Insert closed quotation marks and a period at the end of paragraph (1) of section 201(d) of the bill.

(92) In subsection (a) of proposed section 739 of the Public Health Service Act (as contained in section 401(b)(3) of the bill) strike out the closed quotation marks immediately before the period at the end thereof.

(93) In the proposed heading for part E of title VII of the Public Health Service Act (as contained in section 501(e) of the bill) strike out the period immediately after "Part E".

(94) In proposed sections 771(g)(3) and 791(c)(2)(A)(ii) of the Public Health Service Act (as contained in sections 502 and 701, respectively, of the bill) strike out "first year" each place it occurs and insert in lieu thereof "first-year".

(95) Correct spelling, punctuation, incorrect type face, and margins.

(96) Insert ", but only in such amounts as may be specified from time to time in appropriation Acts" before the period at the end of the first sentence of subsection (b) of proposed section 734 of the Public Health Service Act (as contained in section 401(b)(3) of the bill).

The PRESIDING OFFICER. Who yields time?

The Senator from Missouri.

H.R. 15136—SUBMISSION OF REPORT FROM THE COMMITTEE ON ARMED SERVICES—(S. REPT. NO. 94–1309)

Mr. SYMINGTON. Mr. President, there is a bill here which we should enact in this Congress.

The storm which hit Guam on May 21, 1976 was one of the worst on record with winds in excess of 100 knots for 6 continuous hours and with rainfall of over 27 inches in one 24-hour period.

An able member of the Senate Armed Services Committee staff visited Guam over the Labor Day period and is convinced that the scope of facility of repairs as approved by the committee should proceed at the earliest possible time.

Therefore, Mr. President, I ask unanimous consent to submit a report from the Committee on Armed Services on the bill H.R. 15136 to authorize appropriations for construction of facilities on Guam, and for other purposes.

The PRESIDING OFFICER. Is there objection?

The Chair hears none.

ORDER OF BUSINESS—H.R. 10339

The PRESIDING OFFICER. Who seeks recognition?

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 10339.

I do this at the request of Mr. McGovern. It is my understanding he has cleared this on both sides of the aisle.

Mr. GRIFFIN. Mr. President, reserving the right to object, I have to say to the acting majority leader that I am not aware of any clearance on this side.

Mr. ROBERT C. BYRD. Mr. McGovern told me this had been cleared with Mr. Dole. Mr. McGovern wishes to concur in the House amendment.

Mr. GRIFFIN. Could we withhold it temporarily?

Mr. ROBERT C. BYRD. Yes.

Mr. GRIFFIN. And I will check it.

Mr. ROBERT C. BYRD. Yes.

Mr. GRIFFIN. I thank the acting majority leader.

TITLE AND DUTIES OF THE ASSOCIATE ADMINISTRATOR FOR FINANCE AND INVESTMENT OF THE SMALL BUSINESS ADMINISTRATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 2613, on which there is a time agreement, the Small Business Investment Act.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2613) to amend the Small Business Investment Act of 1958, to change the title and duties of the Associate Administrator for Finance and Investment of the Small Business Administration.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing and Urban Affairs, with an amendment to strike out all after the enacting clause and insert the following:

That (a) section 303(c) of the Small Business Investment Act of 1958 is amended to read as follows:

"(c) Subject to the following conditions, the Administration is authorized to purchase preferred securities of any incorporated small business investment company operating under authority of section 301(d) of this Act, and to purchase, or to guarantee the timely payment of all principal and interest payments as scheduled on debentures issued by any small business investment company operating under such authority. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this subsection.

"(1) The Administration may purchase from such incorporated companies shares of nonvoting stock (or other securities having similar characteristics): *Provided*, That—

"(i) dividends are preferred and cumulative to the extent of 3 per centum of par value per annum;

"(ii) on liquidation or redemption, the Administration is entitled to the preferred payment of the par value of such securities and any unpaid such dividends to the extent retained earnings shall permit;

"(iii) the purchase price shall be at par value and, in any one sale, $50,000 or more; and

"(iv) the amount of such securities purchased and outstanding at any one time shall not exceed (A) from a company having a combined private paid-in capital and paid-in surplus of less than $300,000 and licensed on or before October 13, 1971, 200 per centum of such capital and surplus, (B) from any company having a combined private paid-in capital and paid-in surplus of $300,000 or more but less than $500,000, 200 per centum of such capital and surplus in excess of $300,000, and (C) from any company having a combined private paid-in capital and paid-in surplus of $500,000 or more, 200 per centum of such capital and surplus.

"(2) The Administration may purchase from or guarantee for any such company debentures subordinated pursuant to subsection (b) of this section (other than securities purchased under paragraph (1) of this subsection (c)): *Provided*, That—

"(i) such debentures are issued for a term of not to exceed fifteen years,

"(ii) the interest rate is determined pursuant to sections 303(b) and 317, and

"(iii) the amount of debentures purchased or guaranteed and outstanding at any one time pursuant to this paragraph (2) from a company having a combined private paid-in capital and paid-in surplus of less than $500,000 shall not exceed 300 per centum of such capital and surplus, less the amount of preferred securities outstanding under paragraph (1) of this subsection, nor from a company having a combined private paid-in capital and paid-in surplus of $500,000 or more, 400 per centum of such capital and surplus less the amount of such preferred securities.

"(3) Debentures purchased and outstanding pursuant to section 303(b) of this section may be retired simultaneously with the issuance of preferred securities to meet the requirements of subparagraph (2)(iii) of this subsection (c).

"(4) The Administration may require, as a condition of the purchase or guarantee of any securities in excess of 300 per centum of the combined private paid-in capital and paid-in surplus of a company, that the company maintain a percentage of its total funds available for investment in small business concerns invested or legally committed in venture capital (as defined in subsection (b) of this section) determined by the Administration to be reasonable and appropriate.".

(b) Section 317 of such Act is amended to read as follows:

"Sec. 317. Notwithstanding section 303(b), the effective rate of interest after October 13, 1971, during the first five years thereafter of the term of any debenture purchased by the Administration from a small business investment company under authority of section 303(c)(2), shall be the greater of 3 per centum or 3 percentage points below the interest rate determined pursuant to section 303(b). The Administration is authorized to apply interest paid to it by any such company for the period from October 13, 1971, to the effective date of this section, without interest thereon, to interest payable after such effective date.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may proceed for a couple of minutes without the time being charged to either side.

The PRESIDING OFFICER. If the Senator wants to talk on the bill, we will get the bill passed first.

Is time yielded back?

Mr. ROBERT C. BYRD. There will be some time taken on the bill.

AUTHORIZATION TO MAKE TECHNICAL AND CLERICAL CORRECTIONS—S. 3026

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections on the engrossment of S. 3026.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare be authorized to meet September 28 to consider a nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President I ask unanimous consent that the Subcommittee on Environmental Science and Technology of the Committee on Public Works be authorized to meet on September 28 on the need for more effective foresight capability in public policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT OF CONFEREES—H.R. 13350

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Jackson and the senior Senator from Rhode Island (Mr. Pastore), I move that the Senate agree to the request of the House for a conference on H.R. 13350, to authorize appropriations to the Energy Research and Development Administration, and appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. Case) appointed Mr. Pastore, Mr. Symington, Mr. Montoya, Mr. Jackson, Mr. Church, Mr. Johnston, Mr. Abourezk, Mr. Bumpers, Mr. Baker, Mr. Case, Mr. Fannin, Mr.

HANSEN and Mr. HATFIELD conferees on the part of the Senate.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, this Small Business Investment Act has a time limitation on it. I ask unanimous consent that on the disposition of that today—and it should not take long, the distinguished senior Senator from Washington (Mr. MAGNUSON) be recognized to call up the toxic substances conference report.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Reserving the right to object, and I shall not object, I wonder if the distinguished acting majority leader would give us some idea of what the schedule for today would be following the consideration of these two bills?

Mr. ROBERT C. BYRD. I am not in a position at this point, I may say, because I do not know how long the two bills will require.

Mr. ALLEN. Would the Senator be kind enough to advise us as to the approximate hour of recess or adjournment this evening?

Mr. ROBERT C. BYRD. I cannot say at this point, may I say to the distinguished Senator.

Mr. ALLEN. Does the Senator anticipate a late evening session?

Mr. ROBERT C. BYRD. I am in no position to say right at this point. If I knew, I would say.

Mr. ALLEN. I wish the Senator were.

Mr. ROBERT C. BYRD. I wish I were, also.

Mr. ALLEN. As I stated, I did not plan to object, and I will not object, but I am hopeful that next time a request is made the Senator will be able to shed some light on the question that I raise.

Mr. ROBERT C. BYRD. I hope to be able to do that.

Mr. ALLEN. I would suggest that it would be a good idea to do so if the Senator expects unanimous consent on these other matters.

Mr. ROBERT C. BYRD. Let us see what can be developed in the meantime.

Mr. ALLEN. I thank the Senator.

Mr. ROBERT C. BYRD. I thank the Senator.

TITLE AND DUTIES OF THE ASSOCIATE ADMINISTRATOR FOR FINANCE AND INVESTMENT OF THE SMALL BUSINESS ASSOCIATION

The Senate continued with the consideration of the bill (S. 2613) to amend the Small Business Investment Act of 1958, to change the title and duties of the Associate Administrator for Finance and Investment of the Small Business Administration, and for other purposes.

Mr. MORGAN. Mr. President, we are ready to proceed on S. 2613, which was reported by the Subcommittee on Small Business of the Senate Committee on Banking, Housing, and Urban Affairs. Senator GARN, the ranking minority member on that subcommittee, is present.

This is a bill which makes one technical amendment to the Small Business Investment Act and provides other amendments which are of substance.

There is no controversy, to my knowledge, about the bill, Mr. President. Senator GARN and I have conferred, and we have agreed to proceed with the bill. We have agreed to accept two amendments from Senator SPARKMAN as soon as he arrives in the Chamber.

Under the present law, the minority enterprise small business investment companies are permitted to issue preferred stock on which there is a dividend of 3 percent, cumulative. Under the present law, of course, they have to pay that dividend whenever the stock is redeemed, regardless of whether they make any money or not. This provision would change that, in that they would not be required to pay the dividend if they did not make any money.

There is some additional leverage provided for in the bill, which is explained in the committee report.

Mr. GARN. Mr. President, the legislation we are considering today, S. 2613, amendments to the Small Business Investment Act of 1958, is very important to the financial stability and future economic growth of minority or socially disadvantaged small business enterprises.

S. 2613 was introduced by myself and Senators TOWER and MORGAN as a result of hearings in July 1975, which touched on the operations of small business investment companies—SBIC's. Testimony indicated that further legislation was needed to expand the ability of specialized SBIC's to offer equity capital, long-term credit, and management assistance to small business concerns owned by socially or economically disadvantaged persons. Such specialized SBIC's are commonly referred to as MESBIC's—minority enterprise small business investment companies—or 301(d) companies from the authorizing section in the Small Business Investment Act.

There are three main provisions in the bill. One provides that section 301(d) small business investment companies would be authorized to sell two tiers of preferred stock to SBA. At present, MESBIC's may sell only one tier of preferred to SBA. The purpose of allowing another tier of preferred stock is to draw more private capital into the MESBIC program and consequently increase the financing and professional expertise available to the small businesses.

Another provision fixes the dividend rate payable to SBA on preferred stock issued by MESBIC's at 3 percent. On redemption of the preferred securities at the option of the MESBIC or on liquidation, SBA is entitled to the preferred payment of the par value and of the difference between dividends paid and what would have been paid according to the cost-of-money formula now prescribed. SBA has interpreted this to allow it a discretionary right to raise the dividend rate to the cost of money at time of purchase of the preferred stock. S. 2613 would require on liquidation or redemption, payment of the par value of the securities and any unpaid dividends only "to the extent retained earnings shall permit." It is expected that this change will encourage the formation of more MESBIC's and, of course, it will give them more capital to work with.

A third provision provides for a permanent subsidy for the first 5 years on debentures purchased by SBA from a MESBIC. In consideration of startup costs and in order to alleviate the initial debt burden for MESBIC's, they have been granted an interest subsidy on the first 5 years of 10-year debentures purchased by SBA. The rate was pegged at the greater of 3 percent or 3 percentage points below the rate certified by the Secretary of the Treasury as representing the borrowing cost of the Government for comparable remaining maturities. However, SBA was entitled to the difference between the subsidized and the full interest rate before any distribution to private shareholders could be made. In practice, the agency requires a balloon payment at the end of the debenture. The bill would substitute a permanent subsidy for the deferred one so that MESBIC's would have no interest deferment or balloon payment placed at the end of the 10-year debenture period by SBA, or at any subsequent time.

MESBIC's must be significantly increased in size in order to be of real benefit to the struggling small business community. S. 2613 provides the necessary vehicles for increasing their working capital, both from private and Government sources. MESBIC's fail because they are too small to pay their overhead expenses or because they cannot pay enough to get highly qualified people to run them.

At present funding levels, the MESBIC program is not adequate to supply needed capital for the development of the minority or socially disadvantaged business community. This legislation is a step in the right direction. I encourage my colleagues to support this earnestwhile legislation.

Mr. TOWER. Will the Senator yield?

Mr. GARN. I will be happy to yield to the Senator from Texas.

Mr. TOWER. Mr. President, I concur in the remarks made by the distinguished Senator from Utah. I think the minority enterprise small business program has been one of the best programs ever conceived in the Congress.

For too long, the two largest ethnic minorities in this country, the black and the Mexican American, have not been in the mainstream of American business. They have had difficulty acquiring capital to establish business enterprises. In relation to population, it is a very, very small ratio, indeed, of American business that is done by minority business firms.

I think this is a splendid program, and I believe this country would be far better off, we would do more for the provision of jobs and the reduction of socially disadvantaged situations, if we could move these large ethnic minorities into the mainstream of American business. I commend the Senator from Utah for his efforts. I believe this is a splendid endeavor. I urge the Senate to adopt this measure.

Mr. GARN. I thank the Senator from Texas.

Mr. HELMS. Mr. President, I associate myself with the remarks of the able Senator from Texas, the distinguished Senator from Utah, and my colleague from North Carolina. I urge approval of this legislation.

Mr. GARN. I thank the Senator from North Carolina.

Mr. MORGAN. Mr. President, I ask unanimous consent that Virginia Dono and Robert Locklin be granted the privilege of the floor during the consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I thank my distinguished colleague, the Senator from Utah, for his excellent presentation of this bill. The opportunity to consider this bill arose rather unexpectedly. He has carried on ably and well, as he has done throughout the 2 years he and I have served on this committee.

This may be the last piece of legislation which we will offer in this session. I certainly want to thank Senator GARN. He has been a very able and very interested committee member who has contributed substantially to the legislation we have gotten through the Senate.

UP AMENDMENT NO. 485

Mr. SPARKMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second legislative clerk read as follows:

The Senator from Alabama (Mr. SPARKMAN) proposes an unprinted amendment No. 485.

The amendment is as follows:

By adding at the end thereof a new section, as follows:

SEC. 3. Section 7(a) of the Small Business Act is amended by inserting in the first sentence after the words "supplies or materials;" the following: "or to finance residential or commercial construction or rehabilitation for sale or rental: *Provided, however*, That such loans shall not be used primarily for the acquisition of land;"

Mr. SPARKMAN. Mr. President, I shall be very brief. This amendment simply permits the Small Business Administration to participate in homebuilding. It does not permit the use of the funds primarily for the buying of land. I hope that the committee will accept the amendment.

Mr. MORGAN. Mr. President, I have discussed the amendment with the distinguished Senator from Alabama, and I am willing to accept it.

Mr. GARN. Mr. President, I will also accept the amendment with that clarification, that funds will not be available to homebuilders to borrow for speculation purposes.

The PRESIDING OFFICER. Is all time yielded back?

Mr. SPARKMAN. I yield back the remainder of my time.

Mr. MORGAN. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

UP AMENDMENT NO. 486

Mr. SPARKMAN. Mr. President, I send to the desk a second amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. SPARKMAN) proposes an unprinted amendment numbered 486.

The PRESIDING OFFICER. Without objection, further reading of the amendment is dispensed with.

Mr. SPARKMAN. Mr. President, I did not make such a request.

The PRESIDING OFFICER. The clerk will continue the reading of the amendment.

The legislative clerk read as follows:

By adding at the end thereof the following:

SEC. 2. The last sentence of section 308(b) of the Small Business Investment Act of 1958, as amended, is amended to read as follows: "Such companies are authorized to invest funds not reasonably needed for their current operations in direct obligations of, or obligations guaranteed as to principal and interest by, the United States or in savings accounts or certificates of deposit in any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation."

Mr. SPARKMAN. Mr. President, the reading of the amendment explains just what it does. It permits SBIC's to deposit idle funds in saving and loan associations, as they now are permitted to deposit such funds in commercial banks.

I hope the committee will accept the amendment.

Mr. GARN. Mr. President, I am willing, on the part of the minority, to accept the amendment.

Mr. MORGAN. Mr. President, as I understand the amendment, what it would do is permit SBIC's to deposit their moneys in savings and loan associations to the same extent that they do now with the banks. They can do it in both types of institutions now but they can only deposit in savings and loan associations up to the amount of their insurance. This would permit the same privilege to savings and loan associations which is now available for the banks.

In accepting this amendment for the majority, Mr. President, I would want the Senate to know and understand that I am a director in a small savings and loan association, which I started to say is nonprofit. It is a profitmaking venture, but it is a mutual savings and loan association. I did want the Senate to know that I have that possible conflict of interest, although, since it is a mutual association for the benefit of the community, I do not consider it a conflict.

Mr. GARN. Mr. President, I am happy to accept the amendment on behalf of the minority.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. SPARKMAN. I yield back the remainder of my time.

Mr. MORGAN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment, as amended.

Mr. TOWER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. On the committee amendment, or on passage?

Mr. TOWER. On passage.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. MORGAN. I yield back my time on the bill.

Mr. GARN. I yield back my time.

Mr. TOWER. Mr. President, I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Indiana (Mr. HARTKE), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Florida (Mr. CHILES), the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD), the Senator from South Dakota (Mr. McGOVERN), and the Senator from Louisiana (Mr. LONG) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 73, nays 0, as follows:

[Rollcall Vote No. 654 Leg.]

YEAS—73

Abourezk
Allen
Baker
Bartlett
Bellmon
Biden
Brooke
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Gravel
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings

Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Magnuson
Mathias
McClellan
McClure
McIntyre

Metcalf
Morgan
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker

Scott, Hugh
Scott,
William L.
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Thurmond
Tower
Weicker
Williams

NAYS—0

NOT VOTING—27

Bayh
Beall
Bentsen
Brock
Buckley
Cannon
Chiles
Curtis
Dole

Glenn
Goldwater
Hansen
Hart, Philip A.
Hartke
Huddleston
Long
Mansfield
McGee

McGovern
Mondale
Montoya
Moss
Muskie
Stennis
Talmadge
Tunney
Young

So the bill (S. 2613), as amended, was passed as follows:

S. 2613

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 303(c) of the Small Business Investment Act of 1958 is amended to read as follows:

"(c) Subject to the following conditions, the Administration is authorized to purchase preferred securities of any incorporated small business investment company operating under authority of section 301(d) of this Act, and to purchase, or to guarantee the timely payment of all principal and interest payments as scheduled on debentures issued by any small business investment company operating under such authority. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this subsection.

"(1) The Administration may purchase from such incorporated companies shares of nonvoting stock (or other securities having similar characteristics: *Provided,* That—

"(i) dividends are preferred and cumulative to the extent of 3 per centum of par value per annum;

"(ii) on liquidation or redemption, the Administration is entitled to the preferred payment of the par value of such securities and any unpaid such dividends to the extent retained earnings shall permit;

"(iii) the purchase price shall be at par value and, in any one sale, $50,000 or more; and

"(iv) the amount of such securities purchased and outstanding at any one time shall not exceed (A) from a company having a combined private paid-in capital and paid-in surplus of less than $300,000 and licensed on or before October 13, 1971, 200 per centum of such capital and surplus, (B) from any company having a combined private paid-in capital and paid-in surplus of $300,000 or more but less than $500,000, 200 per centum of such capital and surplus in excess of $300,000, and (C) from any company having a combined private paid-in capital and paid-in surplus of $500,000 or more, 200 per centum of such capital and surplus.

"(2) The Administration may purchase from or guarantee for any such company debentures subordinated pursuant to subsection (b) of this section (other than securities purchased under paragraph (1) of this subsection (c)): *Provided,* That—

"(i) such debentures are issued for a term of not to exceed fifteen years,

"(ii) the interest rate is determined pursuant to section 303(b) and 317, and

"(iii) the amount of debentures purchased or guaranteed and outstanding at any one time pursuant to this paragraph (2) from a company having a combined private paid-in capital and paid-in surplus of less than $500,000 shall not exceed 300 per centum of such capital and surplus, less the amount of preferred securities outstanding under paragraph (1) of this subsection, nor from a company having a combined private paid-in capital and paid-in surplus of $500,000 or more, 400 per centum of such capital and surplus less the amount of such preferred securities.

"(3) Debentures purchased and outstanding pursuant to section 303(b) of this section may be retired simultaneously with the issuance of preferred securities to meet the requirements of subparagraph (2) (iii) of this subsection (c).

"(4) The Administration may require, as a condition of the purchase or guarantee of any securities in excess of 300 per centum of the combined private paid-in capital and paid-in surplus of a company, that the company maintain a percentage of its total funds available for investment in small business concerns invested or legally committed in venture capital (as defined in subsection (b) of this section) determined by the Administration to be reasonable and appropriate.".

(b) Section 317 of such Act is amended to read as follows:

"Sec. 317. Notwithstanding section 303(b), the effective rate of interest after October 13, 1971, during the first five years thereafter of the term of any debenture purchased by the Administration from a small business investment company under authority of section 303(c) (2), shall be the greater of 3 per centum or 3 percentage points below the interest rate determined pursuant to section 303(b). The Administration is authorized to apply interest paid to it by any such company for the period from October 13, 1971, to the effective date of this section, without interest thereon, to interest payable after such effective date.".

Sec. 2. The last sentence of section 308(b) of the Small Business Investment Act of 1958, as amended, is amended to read as follows: Such companies are authorized to invest funds not reasonably needed for their current operations in direct obligations of, or obligations guaranteed as to principal and interest by, the United States or in savings accounts or certificates of deposit in any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.".

Sec. 3. Section 7(a) of the Small Business Act is amended by inserting in the first sentence after the words supplies or materials;" the following: or to finance residential or commercial construction or rehabilitation for sale or rental: *Provided, however,* That such loans shall not be used primarily for the acquisition of land;".

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

The Senate continued with the consideration of the bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that Kevin Murray, of my staff, Mark Koven, Steven Gordon, and Jane Yanulis, have the privilege of the floor during the debate and voting on the pending matter.

The PRESIDING OFFICER (Mr. Pell). Without objection, it is so ordered.

DIRECT MARKETING OF AGRICULTURAL COMMODITIES

Mr. HUMPHREY. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 10339.

The PRESIDING OFFICER (Mr. Pell) laid before the Senate a message from the House of Representatives announcing its action on certain amendments of the Senate to H.R. 10339, as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 1 to the bill (H.R. 10339) entitled "An Act to encourage the direct marketing of agricultural commodities from farmers to consumers", and concur therein.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 2 to the aforesaid bill, and concur therein with the following amendment:

Page 1, lines 4 and 5 of the engrossed Senate amendment, strike out [September 30, 1978, and September 30, 1979], and insert: and September 30, 1978

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the aforesaid bill, and concur therein with the following amendment:

In lieu of the matter proposed to be inserted by said amendment, insert:

EMERGENCY HAY PROGRAM

Sec. 8. In carrying out any emergency hay program for farmers or ranchers in any area of the United States under section 305 of the Disaster Relief Act of 1974 because of an emergency or major disaster in such area, the President shall direct the Secretary of Agriculture to pay 80 percent of the cost of transporting hay (not to exceed $50 per ton) from areas in which hay is in plentiful supply to the area in which such farmers or ranchers are located. The provisions of this section shall expire on October 1, 1977, and shall become effective on October 1, 1976, or on the date of enactment of this Act, whichever is later.

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, on September 15, the Senate adopted the conference report on H.R. 10339. A point of order was raised against the conference report in the House. The House then proceeded to recede from its disagreement to the Senate amendments with one change that is different from the agreement reached by the committee of conference. That change was to make the amendment relating to the hay transportation assistance program effective no earlier than October 1, 1976.

Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HUMPHREY. That completes the work, as I understand it, on that conference report. Am I correctly informed?

The PRESIDING OFFICER. The Senator is correct.

ADDITIONAL STATEMENTS

FOREIGN OIL DEPENDENCE IS THE GREATEST SCANDAL IN THE UNITED STATES OF AMERICA

Mr. BARTLETT. Mr. President, I was recently sent a very interesting speech which was given by Commissioner Wallace of the Texas Railroad Commission concerning our Nation's dependence on foreign oil. He makes some excellent points and draws excellent analogies which I think Congress should consider more fully when dealing with legislation like S. 521, the Outer Continental Shelf Land Act Amendments of 1976.

I ask unanimous consent that the speech be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

[From the Dallas Times-Herald]

Foreign Oil Dependence Is the Greatest Scandal in the U.S.A.

(By Mack Wallace)

I want to talk to you about your country. I want to talk to you about the fact that for every 100 barrels of oil that we consume (in this country), we are forced to import 44 barrels.

I want to tell you they talk about the scandals of Watergate, and they talk about the extra-curricular activities of some of our illustrious. elected officials in Washington.

But, the scandal of fuel dependence is the greatest scandal this nation has ever had to face.

And, no one wants to talk about it!

That is the sad thing, and you ask yourself why—why no one wants to talk about it in Washington.

Because they are responsible!

They took a nation which could produce more oil and gas than any other nation on earth shortly after World War II, and in 25 or 30 years they placed you in total dependence on a supply of oil from Venezuela, on a supply of oil from the Persian Gulf in the face of warnings from the Texas Railroad Commission and the Interstate Oil Compact Commission.

Not once a year, mind you, but twice a year, the Interstate Oil Compact Commission warned the executive department that this warned the United States Congress and nation would become dependent on foreign crude if they continued ridiculous regulatory policies and ridiculous pricing policies.

The Railroad Commission has urged the decontrol of natural gas prices since the day they were first controlled in 1954.

Now, as testimony of the Railroad Commission's position and the failure of the Federal Power Commission to recognize the problem they created, just a few days ago the United States Federal Power Commission raised the price of (natural) gas at the wellhead three times and said in their order that unless it went into effect immediately, it would do irreparable harm and damage.

Now, I wonder why it took them 25 years to learn that lesson and why they had to make a three-times jump overnight.

That should tell you something about a federal regulatory agency.

They have people up there (in Washington) trying to tell you how to drill for oil and gas, how to produce it, and how to refine it—people who have never had the shadow of a drilling rig fall across them.

You have a federal bureaucracy—the Federal Energy Administration—which, on some levels, is being directed by people who couldn't run a fruit stand in East Texas if the Highway Patrol flagged in the traffic and you gave them the watermelons.

We, in Texas have done our share in the production of oil and gas, and will continue to do our share. We are almost carrying the (production) burden alone.

Not two weeks ago the State of California applied to the Federal Power Commission, in sort of a secretive way, to allow them to come into Texas and buy intrastate gas that we have spent $2 billion drilling for—and paid high prices for—to take to California and burn under boilers.

Nearly eight months ago, the Railroad Commission entered an order that people would have to quit using natural gas for boiler fuel after five years.

California wants to do that!

Well, I protested it to the Federal Power Commission. I wrote them a letter and asked them to set this for a public hearing.

We cannot permit such use of Texas oil and gas by states who will not allow drilling of their coasts because they think it will mess up their beaches. They think it will upset their tourist trade.

We cannot let these people take our natural gas and waste it out there when we have a critical situation in Texas today.

We are carrying the Northeastern states. We have them on energy food stamps right now. We subsidize the Northeast.

And, what do they call us for taking care of them? Domestic Arabs!

That's how New Jersey refers to you—a domestic Arab.

Yet, we have borne the burden since World War II and will continue to bear it.

We must explore for the oil off our coasts. We must develop our coal in the United States.

Did you know that we have more coal than any nation on earth?

Why can't we use it?

Because it doesn't smell good.

Today, our nation does not produce as much oil and gas as Russia. It could if the Federal government had left you alone!

Our problem is not technology. We have more technology than any nation on earth.

We have a thing right now on one of these planets up there scooping up dirt and showing you pictures.

Now, a nation that can do that can produce enough oil and gas to support itself if it's left alone.

If industry is left alone, it could float this country away in energy.

Unfortunately, we lack the political leadership to let us use the natural resources that God has been kind enough to give this nation.

More coal than any nation on earth.

Nuclear energy. We developed it, we invented it. We destroyed Japan with atom bombs.

Japan today can bring a nuclear plant on line in five years. It takes us nine years to do and we invented it. Now that is not progress. That is not political leadership.

We have the technology.

In World War II, this state which you live in was able to furnish—for the entire Allied war effort—80 per cent of the petroleum consumed. Most of that petroleum was transported to the Northeast Coast through the Big Inch pipeline, which ran from Longview to Linden, New Jersey, and Buffalo, New York.

I asked one club how long they thought it took to build the Big Inch pipeline. You know it is 1,400 miles long.

A fellow raised his hand and said four years. I said the war was over within that length of time.

It took them 11 months and 16 days to build that 1,400-mile pipeline.

They built it across the Mississippi in flood stage, up the Alleghenies in the dead of winter, and had it delivering oil in 11 months and 16 days.

Now, after we've been to the moon, after we have improved our technology, we are trying to build another pipeline. We are trying to build one in a place called Alaska. It's only 800 miles long.

They were talking about it three years before I was on the Railroad Commission. I've been over there three years next month.

Still not a drop of oil that flows through the thing, and I understand they can't find out whether or not it is properly welded.

This is a sad commentary on a nation that tries to be progressive.

Why can't we have the Alaska crude, why can't they build an 800-mile pipeline in less than four or five years?

I talked with one old-time pipeliner—you know they fascinate me. An old-time pipeliner is something else.

When he retires, and you go by his house, he may have a Jeep, he may have a Cadillac or a pickup, or whatever, sitting out there in the yard. He has a winch on the front of it.

You may see a big, long Fleetwood Cadillac sitting out there with three or four cables running out the radiator and a Tulsa winch on it.

You know why? It's very simple.

When that old rascal gets up in the morning, he's going somewhere.

Now, a winch on the front pulls you somewhere. The one on the back pulls you out. Now, I talked to one of these old fellows.

He thought a long time, and he chewed the end of of his cigar.

He said, "Son, I've built pipelines all over the world. And I've built them without federal supervision."

He said, "Every morning we'd get up, say go that way, and if we had a mountain in the way we moved it. But, we didn't have to worry about OSHA and Pasha and Gosha and all these other things.

"When we drove up to the Mississippi, somebody said it was going to be wet, and another said jump in and let's see how deep it is—they don't do that any more.

"They measure it, put a guardrail there and they have two nursemaids to stand there and look at the Caterpillar to see if it's going to make too much noise. That will not build a pipeline."

He told me that you could build that thing in Alaska in eight months with three pickups and four shovels if they would go up there and go to work.

Now ask yourself this. How did we build the Big Inch with acetylene and oxygen in 11 months and 16 days, and we can't build that thing in Alasa with the most advanced automatic welding meachines on the face of the earth?

Now, that really doesn't speak well for welding, does it?

You know, lots of these old uphill and downhill acetylene welders could go up and put that thing together for them. We haven't got them anymore. We've got rules and regulations.

I want to do my part as a regulatory official toward seeing that this nation can produce all the energy possible to the end that we can have jobs, to the end that we can be secure.

We don't need a Republican energy policy.

We don't need a Democratic energy policy.

We don't need a Socialistic energy policy.

We need an American, bipartisan energy policy for which all can take the responsibility and all can take the credit.

There are no jobs without energy. There is no national security without energy.

If you believe there is, ask General Rommel.

When Patton's army surrounded the finest Panzer division that this world has ever known, those tanks and trucks—you can see the photographs of them today—were parked hub to hub, mile after mile, had plenty of ammunition and people—but not one drop of gasoline.

Paton's army circled in every direction. They surrounded and they shelled them to death.

And that is what will happen to us unless we can develop an ability to have a standby reserve, a production reserve in this country. Otherwise, we are going to find ourselves in a time of decline.

Russia already surpasses us in the production of oil.

They have more ships, more tanks, more men.

Anybody who thinks this nation can live in peace with the Russian ideology until the end of time is badly mistaken. They will come at you at times when you are not prepared, when you are not strong.

The peace of the world depends on the strength of the United States of America, and it depends on its political leaders so that it can remain strong.

Let me assure you, we are all bound together in common peril.

We sink or swim together. The free world sinks or swims together.

Unless we have sufficient political leadership to unite us in common purpose, believe me, we will all be destroyed by the same common peril.

TRIBUTE TO ORLANDO LETELIER

Mr. HUMPHREY. Mr. President, almost 3,000 people gathered to mourn the tragic death of Ambassador Orlando Letelier at a memorial service at St. Matthew's Cathedral yesterday afternoon, while thousands of Chileans were to mourn his loss as well, only from behind the wall of repression which has been built up between the freedom-loving people of Chile and the rest of the free world over the past 3 years. I sincerely regret that I was not able to be in attendance at the service, but I want to take this opportunity to extend my deepest sympathies to Ambassador Letelier's widow and children, as well as to be husband and family of Ronni Karpen Moffitt, who was also killed when a bomb suddenly exploded in the Ambassador's car last Tuesday morning.

I have joined with Senator KENNEDY and others in sponsoring a resolution condemning the brutal killing of Orlando Letelier and Ronni Moffitt and calling for an intensive Federal investigation of the incident. I cannot stress too strongly the need for such an investigation.

In our Bicentennial Year, when Americans everywhere are celebrating our heritage as a Nation committed to human freedom, a Nation which has historically held open its borders as a haven to those who have had to flee from persecution and oppression, we cannot afford to remain silent in the face of violations of human rights which, according to a recent study by Amnesty International, are sadly evident in over 100 countries today. Since the brutal Pinochet regime came to power in Chile in September 1973, in a country which had celebrated democratic traditions and principles for 150 years, political repression has been institutionalized to such a degree that it knows few competitors. Such acts do, indeed, threaten the rights of freedom-loving people everywhere.

The cause of human rights is one to which I have been committed throughout my years of public service. I want to make it known here that I will do everything I can to see that the restoration of democracy and the cessation of political repression in Chile becomes a reality. I hope that those listening today include not only the unfortunate victims of the junta's inhumane rule but also the perpetrators of those oppressive policies who have, until recently, counted on the acquiescence and, in fact, the support of the United States.

It is, indeed, ironic that Orlando Letelier, a great Chilean statesman and an eminent scholar, whose life was a testament to the Chilean people's struggle for human rights and social justice, should become the victim of a contrived terrorist attack here in the United States. Ambassador Letelier, who was imprisoned by the Chilean junta on the day of the coup and subsequently tortured although no formal charges were ever brought against him, was finally released a year later after constant pressure being brought to bear on the Chilean regime by public officials and concerned private citizens in the United States and other countries. He came to the United States, where he had formerly represented his country as ambassador from 1971 to 1973 during Salvador Allende's Presidency, thinking that he was at last free from the great ordeal he had suffered at the hands of the brutal Chilean dictatorship. Since his arrival here, Ambassador Letelier was an outspoken critic of the policies of the Pinochet government, and was a leader in the international community's crusade to bring about an end to the dictatorship and a reinstitution of democracy in Chile, where he dearly hoped and believed he would return in the near future to continue his important work in serving his countrymen.

Not the least of the outrages committed by the Pinochet regime is the fact that Letelier's Chilean citizenship was revoked by decree on September 10, only days before his tragic assassination. This repugnant act, which flies in the face of every internationally respected standard of basic human rights, cannot erase the fact that Letelier, who himself said, "I was born a Chilean I am a Chilean I will die a Chilean," was a great patriot who died because he placed a higher price on advancing the cause of human freedom than on protecting his own welfare. Having found what he thought was safe asylum and freedom here in the United States, he was never content to rest until all his fellow countrymen would be free once again.

Mr. President, I ask unanimous consent that an article which Orlando Letelier wrote for the New York Times a few days before his death, on the subject of his loss of Chilean citizenship, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 27, 1976]

A TESTAMENT

(By Orlando Letelier)

(On Tuesday, Orlando Letelier, who was Chilean Foreign Minister in the Government of President Salvador Allende Gossens, was killed in Washington when a bomb exploded in his car. He had been a leader of Chilean political exiles in the United States who opposed the military junta that overthrew President Allende in 1973. He wrote the following article for the Op-Ed page of The New York Times, at his own initiative, a few days before his death.)

WASHINGTON—On Sept. 10 the Chilean dictator Augusto Pinochet issued Decree No. 588, which strips me of my nationality, for "gravely threatening the essential interests of the state." This measure is just one more addition to the shameful history of the violation of human rights committed by the military junta.

In the chronicle of Latin American dictatorships, political rights have frequently been denied to critics and opponents. The Chilean junta, not to be outdone as leader in the field of such violations, has made the entire Chilean population a victim through a decree that ordered the burning of the country's electoral register. In fact, all the citizenship rights of the population have been destroyed.

Today, having exhausted this repressive mechanism they can only resort to the absurdity of pretending that those who oppose their designs are no longer part of the Chilean nation.

Needless to say, this decree violates the intent of the Constitution that applied in Chile before the rule of law was destroyed there on Sept. 11, 1973, together with the norms of international law, especially Article 15 of the Declaration of Human Rights of the United Nations. This action has no precedent in our history. Never have governments vested themselves with the authority to confer or take away Chilean nationality at will.

Because of my position as Minister of State and Ambassador [to the United States] of the constitutional Government of Chile, I was incarcerated in the concentration camp on Dawson Island until I was expelled from the country without any formal charges ever being made against me. I was not granted any of the basic rights guaranteed by the Constitution or by the laws of my country.

Among other violations, I was deprived of my passport and thus of my status as a Chilean abroad. Many of my fellow countrymen were subjected to the same arbitrary measures.

It would seem, then, that this decree constitutes a complete absurdity. But behind it one sees the logic of a totalitarian mentality, that it projects itself from within a system based on terror and vengeance. Its purpose is to intimidate those who fight from abroad for the restoration of human rights, freedom and democracy in Chile. It tries to erase a whole sector of Chileans from the history of our country, to eliminate the protagonists of a social and political ideal with deep roots in our history, which has survived persecution and is today the emblem of the struggle against tyranny.

What the junta is fighting is not so much the men who three years ago led a democratic Government but rather the ideas we represent. What they are denying is the nationality of values, such as Chilean democracy, that for 150 years constituted an example for Latin America and for the world.

What they are attempting to destroy are the political parties that channeled the aspirations of the Chilean people, its trade-union organizations, and its convivial way of life, based on the free play of ideas and respect for the human being.

Accordingly, to Pinochet none of this has any place within the Chilean nationality, and the fascist ideology that Pinochet professes can be seen in this most delirious expression of his fanaticism.

The patriotic obligation of all Chileans is to contribute to the end of the dictatorship. We do it as members of a nation and as inheritors of a tradition of freedom to which the Pinochets do not belong.

The things that destroy our nationality are the concentration camps, torture, repression and hunger. That which makes us vulnerable as a nation is the utilization of the armed forces against the Chilean people. It is all this brutal conduct and not the actions of those who want to put an end to it that isolates us today from the community of civilized nations.

The image of Chile will return to what it once was when democracy is re-established along with the human rights that have been usurped by the dictators. At that moment no one will be in any doubt about the nationality of the Chileans who are in power today. On the contrary, as such they will be made to answer to Chilean tribunals in accordance with the Chilean judicial system for crimes committed against their country.

IDAHO DAY

Mr. McCLURE. Mr. President, as part of the continuing celebration during our Bicentennial Year, my home State of Idaho was honored on Tuesday, September 21 by the city of Washington, D.C. That day was declared "Idaho Day" by the distinguished Mayor of Washington, Walter Washington, and the city government. To celebrate that occasion, 173 musicians, singers, and dancers from throughout Idaho visited and performed here in the Nation's capital.

Perhaps the most touching tributes paid to the people of Idaho, however, came from this city's young people. They came in the form of several poems, written about our great State, by fifth grade students at the John Eaton Elementary School, and fifth grade students in Mrs. Muriel Logan's class at Phoebe Hearst Elementary School. While the people of Idaho can be justly proud of the performances given by those Idahoans who traveled here; likewise Washington, D.C., can be proud of those young students who composed a fitting, sincere, and sometimes humorous tribute to the State of Idaho.

I ask unanimous consent that these 11 poems be printed in the RECORD.

There being no objection, the poems were ordered to be printed in the RECORD, as follows:

[Idaho Day, John Eaton Elementary School]

IDAHO

(By Alan Rothschild)

Idaho grows potatoes,
Why don't they grow tomatoes?
I don't know much about Idaho!
They grow sugar beets;
They also eat pig's feet
They have a Snake river and a Cake river.
Why don't I go to Idaho?

IDAHO

(By Andrew Hohlfelder)

Idaho has potatoes so why don't they have tomatoes?
Idaho has a river that makes you shiver.
Idaho has trees that are much higher than my knees.
Now, you know about Idaho!

IDAHO

(By Thomas Quinn)

Idaho is in the West
Hunting and fishing are the best,
Mountains and rivers,
Silver and gold a state where lots
of potatoes are sold.
The capital is known as Boise,
Parts of the Snake river are very noisy.
Craters of the moon is a place to see,
Sun Valley is a place to ski.
With cattle and sheep and lumber, too
Idaho's the place for me and you.

THE STATE OF IDAHO

(By Susan Whitaker)

The state of Idaho is grand,
By far the grandest in the land.
The rivers run so fast and free,
There are lots of things for you to see.

IDAHO

(By Signy Schou)

With its mountains so tall,
And its waters so clear,
Its population is small,
But its always open to deer.
In the winters it's quite cold,
Summer brings many to the outdoors,
There was once a rush for gold,
And it's filled with Indian folklore.

IDAHO

(By Stacy Aucoin)

There is a state out West,
Where the eagles make their nest;
Where the eagles soar,
Over the rivers that rush and roar.
In the state of Idaho there will be,
Mountains as tall as the eye can see,
They call them Sawtooth, Seven Devils, and White Cloud,
Where the rivers flow freely and loud

WHAT I KNOW ABOUT IDAHO

(By Mary Jane)

Idaho is famous for potatoes
Or is it tomatoes?
Well, whatever they are,
I like them anyway
I like their hearty meals,
Their mountains and sugar beet fields.
Well, that's all I know about Idaho!!!

IDAHO

(By Victor Cruz)

Potatoes and tomatoes rhyme,
But I can't think of anything that can rhyme with Idaho.
But it is a terrific state!

[Idaho Day, Phoebe Hearst Elementary School, Mrs. Muriel Logan]

IDAHO

(By Willis Thomas)

In the beautiful state of Idaho,
The hills and valleys are filled with snow,
This, my friends is the place to go,
When it's winter in Idaho.

IDAHO

(By Andrew Pike)

This is very nice to know,
That Idaho is a nice place to go.
If you go day or night,
It really is always out of sight.
Someday I would like to know,
How to get to Idaho.
Well, if I really ever go,
I'll see the best of Idaho.

IDAHO

(By Elizabeth Craig)

In the great state of Idaho,
There are a lot of things the people know;
I've never known anyone to hate,
Idaho that wonderful state;
In the state of Idaho,
The sky is always blue;
And that it why we named a street—Idaho Avenue.

LEONARD WOODCOCK PROPOSES NATIONAL YOUTH SERVICE PROGRAM

Mr. HUMPHREY. Mr. President, on September 3 of this year, Leonard Woodcock, International President of the United Auto Workers, addressed the summer commencement at the Cleveland State University, where he was awarded a much-deserved honorary doctor of laws degree.

Leonard Woodcock's subject was the high unemployment rates faced by our Nation's youth and the waste this is causing to our young pople and to our Nation.

For the Nation, the economic cost of having 4 million young workers idle comes to almost $40 billion per year in lost output.

For our young people, the cost is measured in wasted lives and lost faith in America. Mr. Woodcock calls these 4 million jobless youths a new "lost generation," and says this:

> The new lost generation we are confronted with today . . . aren't sitting in the cafes of Paris—they're standing on the street corners in Cleveland and Detroit. They want jobs that just aren't there. And they want the security and the sense of self-worth that comes from having work.
>
> Many have given up and don't even show up in the unemployment statistics released by the government. They do show up, however, in other statistics—like the skyrocketing crime rate, with its huge growth in murders, armed robberies and other serious felonies committed by those under 25. Or in the growing numbers of drug and alcohol abusers in so many of the urban areas in this country.

Youth unemployment has become a national disgrace and a national tragedy.

It is time to act. In his speech, Mr. Woodcock proposed enacting a national youth service program that would give our Nation's young people the opportunity to work on useful projects in their local communities. Here is what Mr. Woodcock says about a national youth service program:

The establishing of a program of National Youth Service would acccomplish several things. First, it could guarantee to all young people who choose to participate an opportunity to do meaningful work and to gain some level of training and job experience. It would provide many with a sense of self-worth that could be the beginning of a lifetime of productive contributions to society. Second, the program should provide real benefits to the communities receiving the human, social and environmental services performed by young people.

Such a program could make a real contribution, but it must have basic safeguards incorporated into it. It should, for example, be truly open to all young people—with special attention paid to those with few skills and limited education. The work must be meaningful and needed by the community and it must not take away existing or potential jobs that would be required if the program did not exist. The federal minimum wage must be paid as well.

In addition, there must be major involvement by young people in the planning of the program and sufficient funding to see it through. And I believe it should be largely administered at the grass-roots level to maximize the possibilities for creative local initiative and minimize the federal bureaucracy.

Within the next few days, Mr. President, I intend to introduce legislation to establish just such a national youth service program.

I ask unanimous consent that Mr. Woodcock's commencement address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE NEW "LOST GENERATION": A CALL TO ACTION

(A Speech by Leonard Woodcock, International President, United Automobile, Aerospace and Agricultural Implement Workers of America)

It is a great honor for me to be here tonight at Cleveland State University to accept this honorary Doctor of Laws degree. I want to thank Dr. Waetjen very much, as well as the trustees, faculty and students who made this possible. I'm especially proud of this degree, because of the well-deserved reputation Cleveland State has earned as a first-rate academic institution. I'm proud as well because this university is such a fine example of public education serving the needs of the urban community.

Those of you receiving undergraduate, gradute and law degrees here tonight have good reason to be proud, too, and so do your families. The long hours of study and the late nights before exams probably seem far away from this moment, but we all know the degrees you receive tonight are the result of both ability and hard work. Many of you have held down full or part-time jobs and supported families while pursuing your studies—an extremely demanding achievement.

Graduation speakers often talk about how the word "commencement" means a beginning and like to reflect on the great promise the future holds for those graduating. I'm not going to do that here tonight.

Those of you who've been out in the job market looking for employment understand why. While job prospects for the new college graduate have improved significantly from a year ago, they still are far from what they should be. Hopefully, this situation will continue to improve with the economic recovery we have been experiencing—a recovery that was triggered by the emergency tax cut which Congress made over President Ford's objections.

Rather than talk about the job market for those of you with degrees, I'd like, instead, to have you join with me in considering the problems of a different group of young people in our society.

There is, in this country, another Class of '76.

I'm talking about the four million or more young people in this country who want to work, yet have been unable to find jobs. Very simply, our society is developing a new "lost generation" of young people who have become severely alienated from our institutions because they've been rejected so often by them.

The "lost generation" of the 1920's that Gertrude Stein and others wrote about was a product of alienation, too. But it was limited to a rather small group of expatriates, a few of whom managed to translate their experience into art that lives today—or, at the very least, has managed to survive long enough to still be required reading in English 101.

The new lost generation we are confronted with today is a far different group. They aren't sitting in the cafes of Paris—they're standing on the street corners in Cleveland and Detroit. They want jobs that just aren't there. And they want the security and the sense of self-worth that comes from having work.

Many have given up and don't even show up in the unemployment statistics released by the government. They do show up, however, in other situations—like the skyrocketing crime rate, with its huge growth in murders, armed robberies and other serious felonies committed by those under 25. Or in the growing numbers of drug and alcohol abusers in so many of the urban areas in this country.

The recession of 1974 and 1975 took the youth unemployment problem from bad to worse. The official jobless rate for those under 25 was more than 16 per cent last year—almost double the rate of youth unemployment in 1968.

The official Labor Department figures indicate that in 1975 there were at least 3.6 million workers under 25 who were unemployed. Their figures do not count so-called "discouraged" workers who were unemployed and eventually stopped looking for jobs. This group brings the total number of jobless young people to more than four million—a staggering figure.

I must say that unemployment among those under 25 has always been significantly higher than for the population as a whole. Some of this differentiation can be explained by the fact that there is an obvious and even healthy tendency of young people to shift about between jobs and to go in and out of the labor force. In this period, they gain valuable knowledge about the world of work and begin to develop lifetime career goals and aspirations. While some of this could be reduced by counseling and job market information, it seems clear that young people will inevitably have a jobless rate higher than that of adult workers.

Today, however, both the rate of about 16 per cent and the sheer numbers of more than 4 million unemployed young people have far exceeded anything that can be explained or accepted by our society.

The picture is particularly bleak among black young people, with an unemployment rate of almost 30 per cent among those under 25. Among black teenagers, the unemployment rate neared 40 per cent last year—a figure viewed as conservative by many black leaders and urban officials. In June of this year, the Bureau of Labor Statistics reported the rate had climbed to 40.3 per cent for blacks, compared to 16.1 for whites of the same age.

In terms of money lost to our economy, the overall youth unemployment problem is incredibly costly. Leon Keyserling, who was chairman of the Council of Economic Advisors under President Truman, said earlier this year that he estimated the annual GNP loss from youth unemployment at approximately $40 billion.

That's a huge waste of our potential as a nation. Just as important is the human waste that $40 billion figure represents. It's hard to quantify the fear and anxiety that those four million jobless young people are experiencing. Stephen Bailey, vice president of the American Council on Education, recently summed up the situation in testimony before the Democratic National Platform Committee. He said:

"I submit that the absence of a youth policy in this country is killing the natural idealism of our young people, depriving the nation of a vigor and vision it desperately needs and consigning millions of our future citizens to a dreary sense of uselessness and purposelessness. A more disspiriting beginning to our third century as a nation is hard to conceive."

The crisis of the spirit of these young people has profound implications for the future. We're finding out more, too, about the severe negative effects that unemployment has on the body as well as the spirit.

Dr. M. Harvey Brenner, a John Hopkins University professor, recently testified before the Joint Economic Committee of the Congress. He detailed the kinds of stresses brought on by unemployment—the hormonal, physiological and psychological changes that do damage to the body. His study shows a clear link between health and recession over the last 70 years. In periods of downturn in the economy, we see correlating increases in heart attacks, cirrhosis, alcohol abuse, suicide, infant mortality and mental illness.

Dr. Brenner predicts we will be paying for the effects of the recession for years in the future, because there is a delayed reaction inherent in certain types of health problems, such as heart disease based on stress and resultant high blood pressure. His study indicates our nation can expect the following increases in recession-related disorders:

A 15 to 25 per cent increase in heart attack deaths.

A 30 to 35 per cent increase in alcoholism.

A 15 to 20 per cent increase in the infant death rate.

A 15 to 100 per cent increase in mental disorders.

A 15 to 25 per cent increase in suicides.

I'm sure all of us in this room today hope Dr. Brenner is wrong. But even if these rates rise only by half of his estimate, we still will have a tragedy of epic proportions on our hands.

These negative physical and mental effects impact heavily on jobless youths in particular. Those who have been fortunate enough to have had a job at one point most often had little opportunity obviously to accumulate seniority. The health protection they might have had briefly through union contracts is lost soon after lay-off.

Many unemployed young people, too, have never held the type of job that even provides health insurance at all.

I raised these points with you here tonight because I think all of us have a responsibility to see that this country moves quickly to meet these pressing problems. I have a great faith in our ability as a nation to respond—we have done it before, even in the darkest hours of the Great Depression of the 1930's. Indeed, there are lessons from that experience, as different as it was, that we should look at today.

In 1935, in the midst of the Depression, there were about three million young people between 16 and 24 who were out of school and out of work. That same year, President Roosevelt moved boldly to create the National Youth Administration.

It provided jobs for young people—not make-work jobs, but important work that made this country a better place to live. They built roads and bridges, rehabilitated and repaired public buildings, operated recreation programs, worked in conservation projects, and a host of other worthwhile tasks. During its life from 1935 to 1943, the NYA provided work opportunities for some 2.6 million young people.

Today, we are a far different society than we were 40 years ago, yet I believe we must move as decisively today. I don't have all the answers and I'm sure none of us here tonight do. But there are some broad directions I would suggest to you to begin to meet this tremendous problem.

First, I think we must have new leadership in Washington committed to a national full employment policy. We in the UAW have strongly supported the Full Employment and Balanced Growth Act sponsored by Senator Hubert Humphrey and Representative Augustus Hawkins. That legislation would commit the federal government to take appropriate actions to reduce adult unemployment to three per cent in not more than four years.

The bill provides for a variety of planning mechanisms that would enable us to deal with economic problems coherently, rather than dealing with them piecemeal as we do today. Within the broad framework of its full employment goals, the legislation mandates a comprehensive approach to chronic youth joblessness.

It would provide for disadvantaged youths to better deal with employment handicaps through education, training, counseling and other support activities, including methods of combining training with work such as apprenticeship programs in the private sector. And it would provide job opportunities for young people on a variety of tasks, such as conservation, inner city clean-up and rehabilitation and other public service activities of value to our communities, states and the country as a whole.

There is a second piece of legislation that has been passed by the U.S. House of Representatives and awaits action by the Senate. It is called the Young Adult Conservation Corps Act, which would provide jobs for unemployed young people under 25 on conservation projects on public lands. These young people would work in labor intensive projects, such as flood control, reforestation, recreation development and forest fire fighting. They would be paid no less than the federal minimum wage. And priority in employment would be given to youths living in counties with high unemployment rates.

The adoption of a full employment policy through democratic national planning and the creation of a young adult conservation corps would be useful steps toward dealing with the youth unemployment problem. But even if fully implemented, there would still be the need for broader youth programs. I believe we should look closely at proposals for a wide-ranging voluntary youth service program in this country.

The establishing of a program of National Youth Service would accomplish several things. First, it could guarantee to all young people who choose to participate an opportunity to do meaningful work and to gain some level of training and job experience. It would provide many with a sense of self-worth that could be the beginning of a lifetime of productive contributions to society. Second, the program should provide real benefits to the communities receiving the human, social and environmental services performed by young people.

Such a program could make a real contribution, but it must have basic safeguards incorporated into it. It should, for example, be truly open to all young people—with special attention paid to those with few skills and limited education. The work must be meaningful and needed by the community and it must not take away existing or potential jobs that would be required if the program did not exist. The federal minimum wage must be paid as well.

In addition, there must be major involvement by young people in the planning of the program and sufficient funding to see it through. And I believe it should be largely administered at the grass-roots level to maximize the possibilities for creative local initiative and minimize the federal bureaucracy.

The costs of such a program could be substantial, but if it proved effective, we would reap a major savings in criminal justice and welfare programs.

The alternatives to providing some meaningful employment opportunities for young people are expensive not only in dollars, but also in human lives. Our whole democratic system will be severely endangered if we don't move to counter the withdrawal and alienation that characterizes the new lost generation of unemployed young people today.

There are those who see the enormity of these problems and express the view that the future of this country is behind us. I disagree. I disagree strongly. It is true that our national mood has been sour and disillusioned—a product of Vietnam, Watergate and the corporate and political scandals. But such a mood is alien to our nature.

When I was coming into adulthood, we were confronted with millions of unemployed young people. But a great President told this nation the government was going to act. He said: "I have determined that we shall do something for the nation's unemployed youth, because we can ill afford to lose the skill and energy of these young men and women."

I'm optimistic that, with new leadership in Washington, we can move decisively again to provide this new lost generation with the productive options it deserves.

We can afford to do no less.

SENATOR PAUL DOUGLAS OF ILLINOIS

Mr. JAVITS. Mr. President, it is with deep sadness that I pay tribute to my dear friend and colleague, Paul Douglas of Illinois, who died last Friday at his home in Washington.

When I first came to the Senate in 1957, my partnership with him, though I had known him for years before, was cemented and fulfilled in the field of civil rights then so much to the fore in testing our fidelity to the Constitution.

He was hero in this fight, taking undisputed leadership on the majority side. The fullness of our partnership matured through the struggles over the amendment of rule XXII—the filibuster rule—and saw its fruition in the Civil Rights Act of 1964. In many other fields, domestic and foreign, I saw eye to eye with Paul Douglas; in many we differed. But on the issue of equal opportunity under the Constitution, he was a rock for all the ages and I did my utmost to join with him.

This tribute goes to all of our colleagues, many who still serve here, who formed the Bipartisan Senate Steering Committee for Civil Rights Measures, but not to anyone more than to Paul Douglas.

In his case, too, his wife, Emily, was a unique strength to him and to the civil rights cause and should be mentioned here in full measure.

Mrs. Javits and I join in most profound condolences to Mrs. Douglas and their children and grandchildren. At a time of sorrow, they have the unbelievable comfort of knowing that Paul Douglas of Illinois lived a great life, contributed enormously to his country, and deserves to stand with Abraham Lincoln as one of Illinois' most illustrious sons.

Mr. President, I ask unanimous consent to have printed in the Record the obituary of former Senator Paul Douglas which was published in the Washington Post on September 25, 1976.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Sept. 25, 1976]

Paul Douglas: Liberal Social, Economic Advocate

(By Edward A. O'Neill)

Former Sen. Paul H. Douglas (D-Ill.), who was elected to the U.S. Senate in 1948 and served three terms, ending in 1966, died yesterday at his home, 2909 Davenport St. NW. He was 84.

Death was attributed to respiratory arrest. He had been in ill health since 1969, when he suffered the first of three strokes.

Despite his illness, Sen. Douglas had published his autobiography, "In The Fullness of Time," in 1972, and continued to contribute articles on economics to numerous publications.

Paul Howard Douglas wrote in his memoirs, "Being a college professor did not make me a softy."

It is unlikely that anyone ever thought of using that old-fashioned word to describe Paul Douglas, a 6-feet-2½, 220-pounder with a nose slightly thickened by college football and boxing, an adamant supporter of liberal causes in the Senate, a combat marine twice wounded after he had passed his 50th birthday, and a man of his own mind who did not bow when he thought he was right.

One of few first-rate economists ever to serve in the Congress, Sen. Douglas represented Illinois in the Senate for 18 years as a lucid and stubborn advocate of social and economic legislation that—when he started his espousal of it in the 1940s and 1950s—was politically unpopular, but by the 1960s had become a part of the law of the land, usually with other people's names on the enacted bills.

From his earliest days as a senator, Sen. Douglas untiringly pushed civil rights legislation of the kind eventually adopted. He was an advocate of public housing, truth-in-lending, the concept of one-man, one-vote, the vote for 18-year-olds, a higher minimum wage, disclosure of union and management welfare and pension funds, Medicare, federal aid to elementary and higher education, and improved immigration laws.

Long before military waste and excessive spending became public issues, Sen. Douglas was exposing overcharges for equipment and disclosing that hundreds of retired high-ranking military officers had moved to jobs with big defense industries.

As a senator, he did not hew always to the party line; although an affable and friendly man he never really become a member of the "club." Nor did he enjoy the best of relations with two Democratic Presidents, Harry Truman and Lyndon Johnson. Mr. Truman, during an investigation of the Reconstruction Finance Corporation in which Sen. Douglas was engaged—an investigation that involved Truman friends and appointees—characterized Sen. Douglas as an "over-educated SOB." Sen. Douglas's sense of propriety also was outraged by the way Mr. Johnson ran the Senate when he was majority leader, just the kind of opposition LBJ hated. There were frequent clashes between the two men.

However, by 1966 Sen. Douglas was one of Mr. Johnson's strongest supporters and backed him fully on his Vietnam war policies, just as he had fully backed Mr. Truman during the Korean war.

Although he was a voluble and undeterred social and economic liberal, Sen. Douglas was just as stern in his support of his country's anti-Communist commitments.

He had been convinced in his own mind of the evils of communism during a visit to the Soviet Union in 1927, and by domestic communist activities in the labor movement and politics over the years. Ironically, during his political career, Sen. Douglas was frequently attacked by opponents as being pro-Russian and "soft on communism."

In 1966, when he was 74, he was opposed for re-election by a handsome and vigorous young Republican, Charles H. Percy. After a bitterly fought campaign, Sen. Douglas was badly beaten, losing by more than 420,000 votes.

Although he left the Senate a disappointed man, he by no means retired. He taught one class a week at the New School for Social Research in New York and wrote his memoirs, "In the Fullness of Time," published in 1972.

In his retirement period, with his second wife, Emily Taft, the daughter of sculptor Lorado Taft, Sen. Douglas held more or less regular seminars at his home to which old associates, students, politicians, and others were invited. Discussions ranged from poetry to economic theory.

They continued even after he suffered a stroke in 1969 that affected his right side. Another mishap occurred in 1971, when he fell getting into his swimming pool. His left knee which he had injured as a college football player, therafter was unable to support his weight. Before the latter accident, Sen. Douglas could often be seen—a bulky, rumpled man with a shock of white hair—walking about with difficulty. The 1971 knee accident confined him to a wheel chair.

Digging back into the origins of public figures in this latter third of the 20th century, it is startling to run across a statement such as that made in the opening sentence of Sen. Douglas's memoirs: "I grew up in a log cabin in the heart of the Maine woods."

In truth, the cabin was a part of a summer camp-hotel arrangement run by his stepmother's relatives, but, nonetheless, living in a log cabin under the near-frontier conditions of the turn of the century was not so much different from the early experience of one of Sen. Douglas' exemplars, Abraham Lincoln.

Sen. Douglas' father, James, a failed dry-goods merchant, was a traveling salesman who happened to be living in Salem, Mass., when his son was born March 26, 1892, James Douglas was a Maine man. Paul Douglas' mother, Annie Smith, was a Canadian from New Brunswick.

She died when he was 4. His father married the following year a young Maine woman, Florence Young. The new Mrs. Douglas found that she could not live with her husband, whom Sen. Douglas in his memoirs frankly described as a drinker and womanizer. So she took her two stepsons, Paul and his older brother, John, to Onawa, Maine, near Moosehead Lake.

Nine months of the year, the young Douglas lived the life of a boy in the wilderness. His elementary schooling by his own estimate amounted to about 1½ years of study in a class his stepmother conducted for the two Douglas boys and the children of French-Canadian section hands who worked on the Canadian Pacific Railroad that passed nearby.

His stepmother remarried when he was of high school age, and the family moved to Newport, Maine. He there had his first formal schooling and went on to Bowdoin College, where he supported himself by odd jobs as a railroad baggage man, lumberjack, door-to-door salesman, and with a small scholarship and money from his older brother who had become an electrical engineer.

At Bowdoin, Sen. Douglas was offensive center and defensive halfback on the football team and described his participation in the game as "the most thrilling experience of college life." He also was elected to Phi Beta Kappa and was on the boxing team. After Bowdoin, he went to Columbia University where he earned an M.A. in economics.

Following further graduate studies at Harvard, a place he was said to have hated, Sen. Douglas began his academic teaching career at the University of Illinois, then moved on to Reed College in Oregon. While at Reed, the United States entered World War I.

Sen. Douglas was deeply pacifistic, a man of nonviolence of extraordinary degree. After a long struggle with his conscience, in 1918 he volunteered for Army service, only to be turned down because of defective eyesight.

In 1920 he married a fellow economist Dorothy S. Wolff, whom he had met at Columbia. They were divorced in 1930. He was then working in Philadelphia for a federal agency cleaning up odds-and-ends of World War I shipping contracts.

On a visit to Westtown, a Quaker school near Philadelphia, he read John Greenleaf Whittier's "Journal of John Woolman," an early 18th century Quaker reformer. Sen. Douglas, who up to then had no formal religious affiliation, had a deep religious experience and became a "convinced" Quaker, a term used by the Society of Friends to differentiate from "birthright" Quakers.

He remained a member of the Society of Friends. However, he also embraced Unitarianism and his latest Who's Who listing shows him only as a Unitarian.

In 1920, Sen. Douglas moved to the University of Chicago as an assistant professor of economics, took a year off and earned a Ph.D. at Columbia, and by 1925 was a full professor at Chicago, then in a "golden era." He wrote "Wages and the Family" in 1925, a book that outlined a family allowance system of wage payments.

In 1929, Sen. Douglas deviated from the academic to attack Samuel Insull, operator of a Midwestern power and transit empire. The Chicago professor was surprised to find himself attacked from many sides when at the request of the Cook County Real Estate Board he undertook the job of opposing an Insull bond issue before a state regulatory agency.

Sen. Douglas' side lost, but three days after the decision, Insull fled to Paris, his paper empire in a state of collapse. He eventually was tried, but not convicted, of various frauds and died shortly afterward.

After the Insull case, Sen. Douglas was involved in public affairs. His books and outside activities had attracted attention and he did studies of unemployment in Pennsylvania and in New York for then Gov. Franklin D. Roosevelt.

At first, Sen. Douglas did not approve of Mr. Roosevelt as President. But quickly seeing what Mr. Roosevelt was accomplishing, Sen. Douglas joined the New Deal.

Sen. Douglas ran for the Chicago City Council in 1939 with the backing of both the Kelly-Nash machine and independents. He won, and began elective office as a questioning maverick and an opponent of traditional political compromise, a role he was to play until he left the U.S. Senate.

Politics was intoxicating. The professor-turned politician ran for the Democratic nomination for the U.S. Senate in 1942, this time without organization support. He was beaten. The following day, Sen. Douglas, age 50, joined the Marine Corps.

It took the personal intervention of Secretary of the Navy Frank Knox, an old friend and publisher of the Chicago Daily News, to get him in.

Since the new marine was 50, the corps tried to keep him in this country, promoting him to corporal, then sergeant, then captain. But Sen. Douglas went back to Secretary Knox and got assigned to the 1st Marine Division in the Pacific. Again the marines tried to keep him in headquarters, but he was in action at Peleliu, where he was wounded and won the Bronze Star.

On Okinawa, one of the bloodiest land battles of the Pacific war, Sen. Douglas was badly wounded, his left arm nearly severed. He spent a year in Walter Reed Hospital. He never regained more than limited use of the limb, which afterward he said he used as a "paperweight."

Sen. Douglas left the service a lieutenant colonel, and for the rest of his life was a "semper fi" marine. Behind his desk in the Senate Office Building, he kept the Marine Corps standard and the American flag. During his early years as a senator, he successfully contested attempts to merge the Marines with the Army.

Sen. Douglas' first election to the Senate in 1948 was the result of enormous effort and some political maneuvering. Illinois Democrats wanted Adlai Stevenson to run for the Senate and Sen. Douglas for governor. But the Chicago organization, then led by Col. Jacob M. Arvey, successfully plumped for Mr. Douglas as the senatorial candidate. He beat the Republican incumbent, C. Wayland (Curly) Brooks, by more than 407,000 votes.

Once in the Senate, he did not endear himself to his colleagues. He tended to lecture them rather than argue. In addition, he turned out to be a man of rectitude that some thought bordered on eccentricity.

In the light of recent history, it is hard to imagine that Sen. Douglas refused to accept any gift worth more than $2.50. He also published every year a detailed statement of all the money he received from all sources and everything he spent, down to subscriptions to back-home weekly newspapers.

He is survived by his wife, Emily Taft

Douglas, of the home; five children, John W., of Chevy Chase, Helen D. Klein, of Rockville, and Paul W., Dorothea, John and Jean Bandler, all of New York City, and nine grandchildren.

Services will be private.

The family suggests that expressions of sympathy be in the form of contributions to the Indiana Save The Dunes Council in Munster, Ind.

TRIBUTE TO SENATOR PASTORE

Mr. PELL. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from New Mexico (Mr. MONTOYA) in tribute to Senator JOHN O. PASTORE.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR MONTOYA

It truly saddens my heart to witness the departure of my Senate colleague and close friend, John Pastore. For 26 years, the United States Senate has been gifted with John Pastore's honesty, keen mind, and knowledge of the issues presented before this Chamber. Utilizing these attributes, John Pastore has been a debater in the tradition of men like Henry Clay, Daniel Webster, and John Calhoun. I feel very fortunate to have witnessed many of the debates in which the senior Senator from Rhode Island participated. His candor and oratorical ability have won over his opponents in the interest of the people of his own state and the nation.

I had the special privilege of serving on two Senate Committees with John Pastore: the Appropriations Committee and the Joint Committee on Atomic Energy. It is the latter under his able chairmanship, that further invoked the great respect I have for his honesty and straight-forward approach in addressing a wide range of complicated energy issues. These qualities, coupled with his perceptive foresight, made a strong impression on his fellow Joint Committee members. His influence on our thinking will remain long after his departure from the Committee.

During many of these committee meetings, I observed the Chairman's relentless passion to discard the peripheral and progress to the "gut" issues confronting the Joint Committee on Atomic Energy. One hearing, in particular, comes to mind to exemplify Mr. Pastore's desire for full information. Three General Electric nuclear engineers had resigned their positions because of a growing doubt over the safety of the power resource. It was during this hearing that Chairman Pastore vividly displayed the leadership characteristics that had accompanied him through his tenure as Chairman. He repeatedly spoke and questioned the witnesses on the safety problems—constantly asking for alternatives for improved safety measures. At the appropriate time, Senator Pastore reminded all listening of the magnitude of the testimony, stressing the need to inform the public. It is this sensitive responsiveness to the American people that will be sorely missed by both the Joint Committee and the United States Senate.

Even though John Pastore will be leaving the Senate this year, I am hopeful he will be available to advise and assist his former colleagues in the future. I know that his vigor and strength will keep him active in the years ahead. His contributions to his nation have been great. I am confident that in private life, these contributions will continue to be a part of his life and his work.

REGIONAL PRIMARY CONCEPT

M. McCLURE. Mr. President, the Idaho College Republican League has been in the forefront of the effort to implement the regional primary concept in Presidential elections. That concept has become the official position of the Republican Party as contained in the platform adopted in Kansas City.

Glenn Miles has provided me with a copy of the statements offered to the platform committee by two outstanding young Republicans, Jim Redinger and David Warnick. Because of the importance of their accomplishment within the Republican Party and as a tribute to their efforts, I ask unanimous consent to have these statements printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mr. McCLURE. Mr. President, the work of these young men has importance that goes beyond the workings of one political party. The hodge-podge trail which has evolved with respect to Presidential primaries leads to Congress' doorstep. And we are going to have to take a look at it in the next session.

There are those who would just as soon abandon Presidential primaries altogether, and there are those which would restrict them all to a single day. But the eventual solution will lie somewhere between these two extremes, and I think the regional primary concept offers the best alternative.

As I envision it, Congress would authorize five or six specific dates throughout the year when a Presidential primary could be held. No State would be required to hold a primary, but if it chose to do so, it would have to schedule one in conjunction with other States in its immediate region on one of the dates specified by Congress.

Congress should not dictate the rules governing each primary. If a State wants to make the decisions of the electorate binding on convention delegates, it should be free to do so. Or, if a State wants the primary to be merely an expression of opinion, that would be fine also.

The advantages of such a system are obvious. The principle of a State's right to regulate its own elections is maintained, and yet the primary situation is brought under control.

All candidates would be forced to take a look at the needs of each region, thereby giving small States like Idaho a voice in the candidate selection process it does not now have.

Candidates would be better able to allocate their financial resources and abandon such backbreaking activities as multiple cross-country flights each week.

And, no State would have a voice disproportionate to other States.

I intend to offer legislation implementing this plan early in the next Congress. If any of my colleagues are interested in helping develop the regional primary concept, I would welcome their advice and suggestions.

EXHIBIT 1

REGIONAL PRESIDENTIAL PRIMARY TASKFORCE COLLEGE REPUBLICAN NATIONAL COMMITTEE

(By Jim Redinger, University of Idaho sophomore and chairman of the taskforce, and the Idaho College Republican League and David Warnick, University of Idaho senior, co-chairman of the taskforce, student body president, and former chairman of the state CR organization.)

Statement for the Governmental Concerns and Consent of the Government Subcommittee of the Republican National Convention Resolutions (Platform) Committee, August 9, 1976 p.m.

Good afternoon, I'm Jim Redinger, representing the College Republican National Committee as chairman of their Regional Presidential Primary Taskforce. I also serve as chairman of the Idaho College Republicans. We have had a long interest in improving the presidential nomination process, and for that reason we would like to urge you to consider adding the following plank to the Republican National Platform:

The Republican Party endorses the concept of regional presidential primaries, which would group those states which choose to have presidential primaries in a common geographical area on a common date.

This idea has been endorsed by the College Republican National Committee, the Western Federation of College Republicans and several other CR groups.

The Idaho College Republicans have been chosen to present this because we led an effort to create the first three-state regional primary—which took place this year on May 25, 1976 in Oregon-Nevada-Idaho. In order to get Idaho to adopt a presidential primary we went to the people with an initiative, and although we didn't get enough signatures to get it on the ballot, we proved the desire for it and the Idaho Legislature approved that their next session.

According to the sources we've been able to find, the Pacific Northwest is where this idea originated. In 1968. Bob Packwood, then a candidate for the U.S. Senate against Democrat Wayne Morse, suggested the idea in one of his campaign news releases. In December of that year, Republican Clay Myers, Oregon Secretary of State, presented the idea to the National Conference of Secretaries of State. He suggested states should group together in holding their presidential primaries.

In 1972 Republicans Ludlow Kramer, Washington Secretary of State and Myers hosted the Pacific Rim Conference where they suggested to the Pacific Northwest states the idea of holding state presidential primaries on a common date, using the same candidates on all the ballots.

This is an example of an essential part of our state rights philosophy—states have to meet together, in this case with Republican leadership, to solve common problems.

In 1975 a meeting was held at Boston on this idea, and contrary to what the New York Times infers, it was at the urging and drive of a Republican—State Senator William Doyle (who represents the Montpelier District in the Vermont legislature). Many of the ideas discussed here came from the Pacific Rim conference. A regional primary has also been discussed in the South.

Meanwhile, at a national level, it has been Republicans providing leadership on this idea. In the U.S. Senate, the regional primary bill was introduced by Senator Packwood, Senator Mark Hatfield (R-Oregon), and Senator Ted Stevens (R-Alaska). In the House, Linda Walker, an intern for Congressman Charles Thone (R-Nebraska) compiled an analysis which suggested states choosing to have presidential primaries should be grouped together in areas on a common date. This was lifted, practically verbatim by Democratic vice-presidential nominee Walter Mondale—and what some have called the Mondale plan really doesn't deserve that name.

The trend has been towards regional primaries—besides the one in the northwest this year, we find several adjacent states going to common dates. For instance, Vermont and Massachusetts, Alabama and Georgia, and Tennessee and Kentucky.

Why does this idea deserve your consideration, and why has it been proposed, and developed by Republicans across the nation? Because simply—30 presidential primaries are too many, and one is too few.

To expand on the reasons for this proposal I present the co-chairman of this taskforce, my predecessor as state chairman, University of Idaho Student Body President David Warnick.

STATEMENT BY DAVID WARNICK

30 primaries are too many—and one is too few.

In 1968, 16 states had presidential primaries. Since then, 14 others have decided members of the party rank-and-file deserve a say in who the party's nominee for president is.

But thirty primaries creates some problems—which wouldn't be solved by reducing it to one national primary. Just as we don't want one state, or one Gallup poll to determine who our presidential nominee is, I would suggest we don't want one primary, for three reasons:

1. It would weaken the national conventions. The national Republican party really exists only once every four years and only once every four years do we meet to exchange ideas and resolve differences. For instance, this is our only opportunity to present this idea to all 50 state Republican parties at once. Unfortunately most groups don't have the funds to enable them to visit all 50 states presenting an idea, and on an idea like this we need some national discussion, and hopefully a national understanding.

A national primary would downgrade this part of our political process.

2. a national primary would make it difficult to develop new issues and new candidates. At present, the process allows an idea to catch on, and develop. Certainly that was the case in the presidential primaries this year.

3. A national primary would probably mean entire sections of the country are written off, and issues of concern to particular areas which do not affect the entire nation would be ignored.

One primary is a solution to the problem—but it's the poorest one at hand.

What are the problems with the present thirty primaries we think a grouping of the states would help correct?

1. The primary process covers too long a period. By having say, 10 dates which primaries would fall on, we could shorten the campaign period, and help retain interest in the process.

2. The checkerboard pattern of primaries, exemplified by the Tuesday when California, Ohio and New Jersey all voted on the same day, makes it difficult to efficiently use campaign funds, except by missing some areas.

3. Those of you who flew here know the problem of "jet lag" is a real one—especially if you're trying to think and react to questions. Certainly a campaign should test a candidate's stamina, but it should not be a ridiculous marathon endurance test.

4. The present system is difficult for citizens to follow and keep track of.

Those are the problems we think could be solved by adjacent states moving to common dates if they choose to have a presidential primary. And regional primaries would have the following advantages: they would allow candidates and issues to deveolp and catch on with the voters. They would insure issues common to a given region are discussed. We are a diverse nation, and the issues in the Pacific Northwest are not necessarily the one you want to hear a candidate talk about in the Border states.

When we asked ourselves—why would a regional primary benefit the Pacific Northwest? We answered it with the above reasons, and another.

A regional primary should help focus attention on the needs and strengths of the hometowns of our nation. If we're ever going to get away from the syndrome where a New York-Washington, D.C. axis dictates what issues are regarded as important, and where fresh ideas which come from "the provinces" are stifled, then we need some method of focussing attention back at the state level.

I'm sure your region may view things somewhat differently than the Pacific Northwest, and that may point out the need for our suggestion. By extension, I'm sure each of you can answer the question—would a regional primary benefit my state?

Because it would make it easier for citizens to follow, would retain the national convention system, would allow each state to hold its own election, and because thirty primaries are too many and one is too few I think we should states to cooperate and form regional primaries wherever possible. It's especially appropriate that the Republican Party endorses this idea, since it was originally developed by Republican state officials, and such efforts as the one in Idaho have attracted youth to the Republican banner.

Thank very much for your consideration. We would be glad to answer any questions.

The plank is contained in the Platfrom under the section "Government That Works": "While we oppose a uniform national primary, we encourage the concept of regional presidential primaries, which would group those states which voluntarily agree to have presidential primaries in a geographical area on a common date."

JIM REDINGER,
Alternate Delegate-Idaho Chairman-
Idaho College Republicans.
DAVID WARNICK,
President, Associated Students,
University of Idaho.

THE SUNSET BILL

Mr. BIDEN. Mr. President, last week the Senate was to have taken a second important step on the path to fiscal responsibility. The first was taken in 1974, when Congress approved the Congressional Budget Act. The second step was to be passage of what is now called "sunset legislation." This is legislation to review spending programs and wipe the useless and needless ones off the books.

Ever since I introduced my sunset bill in July 1975, I have been working toward the day when sunset legislation would finally reach the floor of the Senate. Although a sunset bill is now on the Senate calendar for action, it appears unlikely that it can be passed in this session.

I commend the distinguished chairman of the Intergovernmental Relations Subcommittee, Senator MUSKIE, for the work he has done in holding hearings on this subject and fashioning a final version of the bill. I also commend the distinguished chairman of the Government Operations Committee, Senator RIBICOFF, for bringing this bill to the floor. Both Senators were active in achieving adoption of the new congressional budget process. I am sure that this sunset concept will represent an equally important contribution to budget control.

The Federal budget is fast growing out of control. Some might say it is already out of control, but I believe it can be brought under control, if not completely mastered, if we act promptly. Federal programs proliferate by the hundreds until no one can be sure what they all do and what is worthwhile. What is worse, the amount of the Federal budget that is under the annual control of Congress has steadily grown less. Now over $300 billion, or 77 percent of our budget, is made up of so-called uncontrollables, including such diverse matters as welfare programs, child nutrition, revenue sharing, and farm subsidies. These uncontrollables make it difficult for the Appropriations and Budget Committees to do their jobs, because only one-quarter of the budget is really under their control. We had a striking example of this problem just last week when I tried to bring revenue sharing under the appropriations process. The Senate did not accept my proposal and voted to take out from under budget control some $41 billion in spending. We must bring the uncontrollables back under control and it is legislation of this type that can do it.

For 2 years now, Congress has used the new congressional budget process to hold off any new massive Federal spending programs. That is a good record. But the day may come when we need new things for our country—new initiatives in defense, in health, in housing. Where will the money come from? One answer has to be from the termination of existing programs that no longer do the job.

We are promising the American public that we will balance the budget in 1980 or 1981. And I am not sure we can do it by then. How are we going to do that? One answer has to be through trimming our existing budget programs that no longer are cost effective and have lost their justification.

This was the purpose of my sunset bill in 1975 and the committee bill now before us. Federal spending programs would be automatically terminated at the end of 5 years. Before they could be renewed, the congressional committees responsible for them would have to review them and determine whether they are still needed, whether they have worked well, whether the problem still exists. This would be a zero-base review. It would not just look at how much more a program would cost next year. It would examine the program from the ground up. The purpose would not be to find out how much more should be spent on the program. It would be to decide whether anything should be spent on it. Only after such a study could the committee propose to the Congress that a spending program be continued. And Congress would still have to pass judgment on each program.

These two elements—automatic termination and zero-base review of spending—were central to the zero-base budget bill that I introduced last year. While the mechanics have changed, the concept remains the same. Therefore, to complete the record, I ask unanimous consent that the remarks that I made upon introduction of that bill be printed at this point in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

Mr. BIDEN. Mr. President, these are hard times for many Americans. The Congress must do what it can now to meet their problems. However, while doing that, we must never lose sight of the longer range effort to reform our legislative and fiscal processes in order to prevent such things from happening again. We must accept the fact that, to some degree, it has been our failure in the past to impose adequate budget control that has led to our present situation. As economic conditions improve, we must strive to bring the Federal budget into balance. In particular, we must continue our efforts to bring the growth of Federal expenditures under control, that was begun in the summer of 1974 with the passage of the Budget Reform Act of 1974.

It is not just the size of our budget that is staggering, but even more the rate at which it is increasing. We cannot long continue such growth rates in expenditures. Just to illustrate the severity of the problem, it took this country 185 years to reach an annual expenditure from the Federal budget of $100 billion. Just 9 years later, we had reached the $200 billion level, and after 4 more years, we have exceeded $300 billion.

To look at the problem from another perspective, consider the fact that from 1955 to 1965, Federal expenditures increased at roughly 6 percent per year. From 1965 to 1974, however, Federal expenditures reached a 10-percent annual growth rate. At these rates, it will not take even another 4 years to add another $100 billion. This is intolerable.

One thing that we must do is to begin reviewing existing programs to determine whether they are still effective, and whether they are worth the money that we are putting in them. We must eliminate the wasteful ones. One thing that we have all observed is that once a Federal program gets started, it is very difficult to stop it, or even change its emphasis, regardless of its performance in the past. It is time for us to require, on a regular and continuing basis, that both the administrators of these programs and we legislators who adopt the programs, examine their operations with care and detail.

This bill proposes to require such an evaluation of existing programs.

In brief, this bill limits to 4 years the length of any spending authorization for a program. Furthermore, it requires that each committee make a detailed study of the program before renewing it for another 4-year period. The purpose is to assure a uniform scrutiny of all programs on a regular basis.

First, this bill would limit the authorization of funds for any program to not more than 4 years. The 4-year period was chosen carefully. It is long enough so that each committee will have sufficient information about the operation of each program before it is required to evaluate its continuation. On the other hand, it could cut off a wasteful program within a relatively short time after its wastefulness becomes clear. On grant-in-aid programs to State and local governments, 4 years would assure them of reasonable program stability.

Second, this bill applies to all authorizations for spending, not just to "major" expenditure programs. It does this, because I am concerned that many small spending programs might otherwise automatically be continued without careful scrutiny. Because there are so many of these, the total dollars wasted could be large, even though each individual program may not cost much. In other words, a lot of bad small programs could add up to a lot of wasted money.

Finally, the bill provides for a careful analysis of the success of each Federal program, including an evaluation by the agency that administers the program. While the exact matters to be considered are left to the discretion of each committee, among the items suggested for consideration are whether the program, in fact, has adhered to the original purpose; whether the program has made any substantial progress toward meeting the original objectives; the feasibility of alternative programs; and whether further benefits to the country would be achieved by the continuation of the program.

This bill is not a cure-all. But it does add one essential building block to our fiscal controls. It requires that every program be looked at freshly at least once every 4 years. The examination is not just of the increased cost of the program, but of the worthiness of the entire program. I am convinced that a process such as this will greatly enhance the soundness of the budget and will slow its growth. In this way, the budget will become a much more effective instrument in preventing both inflation and recession.

Mr. BIDEN. Mr. President, I think it was obvious that such legislation is needed. Anyone who is at all familiar with the growth of the Federal budget and the past spending habits of the Federal Government knows it. None the less, the studies and hearings conducted by Senator Muskie through his Intergovernmental Relations Subcommittee have provided some most convincing statistics. The subcommitee held 7 days of hearings in March and April of this year on the bill that I introduced, S. 2067, and on a similar bill introduced by Senator Muskie, S. 2925. The subcommittee received comment and suggestions from over 30 witnesses. As a result, the legislation before us today has received some important modifications which should make it even more effective.

In studying programs under the jurisdiction of just 11 of the Senate's committees the General Accounting Office counted 882 separate spending authorizations that would require review over the next 5 years. The Congressional Budget Office studied the number of budget accounts that each legislative committee would have to study. This analysis has some drawbacks because several programs may be in one budget account. Also, the same account may be studied by more than one committee. But to give an order of magnitude, the figures totaled 1,094 studies. This represents a huge workload for the committees involved. But it also represents a huge tax burden that the public is shouldering. The least we can do is begin to dig into this massive Federal operation to try to separate the good from the bad.

Looked at from a different perspective—grant programs to States and local governments—the problem is just as staggering and certainly bewildering to local officials. The catalog of Federal domestic assistance lists 1,030 different aid programs, administered by 52 different Federal agencies, and costing about $60 billion in 1976.

A study by the Department of Health, Education, and Welfare found 50 Federal programs providing some kind of help to handicapped youth. Most of these programs were administered by 14 different sections of HEW. The General Accounting Office could find no spot where all these programs were coordinated.

A most significant feature of budget control—which leads directly to the increasing need for this bill—is the growth of uncontrollables. In 1967, uncontrollables accounted for about 59 percent of the Federal budget. That proportion has now grown to about 77 percent. The cost of continuing all 1976 spending programs in the 1977 budget has been estimated at about $45 billion to $50 billion, a large part of which represents increases in uncontrollables. How long can we continue such increases without breaking our budget completely?

These are just a few of the horrifying and depressing statistics that were developed through the Intergovernmental Relations Subcommittee hearing and study. They are certainly enough to convince anyone that we must provide for automatic termination and careful review of all Federal programs. It is the least we can do for the people who pay the taxes to keep those programs going.

Mr. President, I hope that sunset legislation can be made a first order of business when Congress meets next January. It has been quite a while since I introduced my sunset legislation. The concept has received praise from all quarters for a long time. As one evidence of this, I request unanimous consent that an article appearing in the December 15, 1975, issue of U.S. News & World Report entitled "A Four-Year Hitch" be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

A Four-Year Hitch

(By Howard Flieger)

Everybody is deploring the high cost and wastefulness of government these days. Small wonder. It is popular politics. Any measure of public opinion you use will tell you that the majority of people are sick and tired of a system that seems to tax, spend and grow almost out of control.

In many ways, the situation recalls Mark Twain's observation on the weather: Everybody talks about it, but nobody does anything. Still, that isn't entirely accurate. Now and then an idea comes along for keeping government in bounds—an idea so practical in its application that it is all but overlooked in the oratory about fiscal responsibility.

Although it is not likely to produce any big headlines, such a proposal is before Congress now. If enacted, it just might stop in its tracks the topsy-like growth of federal operations.

What it would do is limit to four years the automatic financial life of any Government program authorized by Congress.

In other words, those in charge of the bureaucracy would have to convince Congress every four years that they were performing a worthwhile service and doing so efficiently. If they couldn't prove their case, they'd be out of business—automatically.

This particular proposal—it is similar to others—has been offered by Sen. Joseph R. Biden, Jr. (Dem.) of Delaware. It is cosponsored by Mike Mansfield of Montana, the Democratic Leader, and by Senators Paul Laxalt (Rep.), of Nevada and Patrick J. Leahy (Dem.), of Vermont. It gets to the heart of the problem of Big Government.

Political scientists and students of the federal system have been increasingly concerned over the fact that, once a Government program is set in motion, it tends to go on and on under its own momentum. Rarely does anyone look back to see if the situation that created it still exists, or or if those in charge are doing the job they should be doing. Sometimes an agency's annual budget is reduced a bit, but almost never does one pass out of existence. For the most part, they grow.

One of the reasons is that Congress passes legislation to create this program or that, then leaves it up to a department to see that the thing is carried out. The bureaucracy has never been noted for cutting down on the number of people and dollars it thinks it has to have to do any given job.

Thus, the Government has become by far the largest employer in the country, and a good part of the growth of its payroll is probably due to inertia.

Furthermore, the amount of tax money it spends has gone up at a rate that is truly alarming. It took 175 years for the federal budget to reach 100 billion dollars annually. Then, in the next nine years, it doubled. Now it exceeds 350 billion. At the present rate, it will top 400 billion by 1977.

Says Senator Biden:

"One thing that we have all observed is that once a federal program gets started, it is very difficult to stop it or even change its emphasis, regardless of its performance in the past. It is time for us to require on a regular and continuing basis that both the administrators of those programs and we legislators who adopt the programs examine their operaions with care and detail."

The bill would do that by limiting to four years the spending authorization for any program. Positive action by Congress would be needed to keep it going.

Four years seems just about right—long enough for a program to prove its worth and short enough to kill boondoggles before they get out of hand.

The plan is not a cure-all. It could hardly be expected to shrink the Government back to its size of a few years ago. But it might stunt its future growth. That alone would be a welcome change.

CAB'S CONSUMER ADVOCATE

Mr. BAKER. Mr. President, a story that appeared recently in the Nashville Banner, written by William Ringle, of the Garnett News Service, has come to my attention.

Mr. Ringle's article describes the operations of the Civil Aeronautics Board's Office of Consumer Advocate, which in its nearly 2 years of existence has been an independent voice on behalf of the consumer in CAB proceedings.

Mr. Ringle's article offers food for thought on the appropriate vehicle for consumer advocacy in Government and I commend it to the attention of my colleagues.

Mr. President, I ask unanimous consent that the Ringle article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

New Agency Prodding CAB—Consumer Advocate's Office More Than a "Pussycat"

(By William Ringle)

Washington.—Can a government agency survive by telling the boss, bluntly on occasion, to shape up?

The 21 months experience since the Consumer Advocate's office in the Civil Aeronautics Board was beefed up seems to indicate that the answer to that question is a qualified yes.

When the idea was broached, there were scoffers. They assumed the agency would be a pussycat for the CAB, rather than a tiger for airline users.

It would, they thought, continue essentially what it has been doing—collecting complaints from the relatively small group of airline passengers alert enough to call the CAB with their gripes, and occasionally chewing out an errant airline over lost baggage or a failure to meet timetables.

But now, although the Office of Consumer Advocate (OCA) may not be exactly a tiger, some detractors agree that they have been surprised.

For example, on May 6 the OCA publicly upbraided the CAB for letting a year pass without action in its investigation into liability for lost or damaged baggage.

In the 14 months since the investigation was launched, "the price of inaction by the board" has been the continued ability of the involved airlines to shift the costs of their baggage handling practices to consumers," said OCA director Jack Yohe in the formal brief filed with the board.

"Delay is thus costly to individual consumers and is not in the public interest."

Even some staff members of Ralph Nader's pioneering, private Aviation Consumer Action Project, who believe as a principle that consumer offices should not be inside government agencies they monitor, reluctantly agree that in some cases the Office of Consumer Advocate (OCA) has been effective.

"It's far better than anything they've got over in the Department of Transportation or the Federal Aviation Administration," says Pat Kennedy of ACAP's staff.

"Yohe's is probably the best of these kinds of offices. He keeps track of what's wrong.

"They get pretty tough with the charter flights and the tour operators, and that's important. Routinely they go in and oppose fare increases and that's a good thing. But they're pretty meek with some issues. They don't get tough enough with the airlines."

Last Jan. 20 the OCA told the CAB it had made "serious errors" after the CAB had granted Allegheny Airlines a fare increase which the OCA had opposed. Furthermore, OCA claimed there were "serious inconsistencies and inadequacies" in the board's order granting the increase.

"The gloomy (Allegheny) financial picture portrayed by the board . . . is certainly not as bad as one is led initially to believe, after the carrier's financial results over an 'extended period' are examined," said the OCA.

However, the board refused OCA's suggestion that it reconsider the increase.

Sometimes OCA acts as a sentinel. On July 9 it warned that United Air Lines was trying to insulate itself from lawsuits by passengers who had been overbooked on flights for which they had tickets and who thus are switched to some other, later flight.

In filing some proposed tariff rules, United had "blandly stated" that it may overbook, said OCA.

Legally this amounted to giving passengers advance notice of United's overbooking practices, OCA warned. United was trying to "raise a defense to suits" such as the one brought by Ralph Nader after he was overbooked on Allegheny Airlines.

If the board were to accept United's proposal, it "would be in essence sanctioning overbooking."

Besides, said the OCA, the CAB would be prejudging the outcome of its own investigation into airline overbooking (that is, selling more tickets for a flight than the airline has seats.)

On Monday the OCA called upon CAB to establish a new class of "community service" airlines. Commenting on a CAB task force's report on service to small communities, the OCA said that the regional airlines had failed to provide "true local service." Other suggestions for a means of providing it assume that such service is "undesirable, unprofitable and probably unworkable in the long run," said OCA.

Instead it advised the board to recognize the success of existing commuter airlines (also called "air taxis") and set up a system of licensing and overseeing them as part of the national air transport network.

Its authority to act as an independent advocate before the board and to become a party to cases before the board is new for the office.

Although this aspect of its work is growing, the largest share of the OCA time continues to be taken up with airline passenger complaints. After reaching about 15,000 annually in 1974, they fell off last year, this year are growing.

For the most part these are forwarded to the airline, travel agency or CAB unit involved. At first, the complainant initially gets a computer-typed printed reply from Yohe. Later he gets an explanatory letter either from OCA or the airline. When the complaint gets redress, he or she often credits the CAB.

"Your actions inspire confidence in a sometimes unresponsive and faceless government," wrote David G. Stankow, a Springfield, Ill. lawyer who had OCA assistance in winning a credit in a dispute with United.

OCA says that its actions before the board or with airlines or travel agents on behalf of passengers have saved passengers millions, OCA says.

But ACAP, declaring that OCA is essentially powerless, believes that it would be more effective if it would advise passengers in how they can file small claims suits to force airlines or travel agencies to act. In that way they might win refunds much more quickly, ACAP says.

OCA has grown from the Consumer Complaint Section in the CAB's Bureau of Enforcement.

After years of criticism from Nader, ACAP and others that it was paying more attention to the airlines than the passengers—who are among the nation's most vocal and demanding consumers—the CAB on Dec. 8, 1970 shifted Yohe, a former Pennsylvania newspaperman who had been its public information chief, to the office. Simultaneously, it was upgraded to the Office of Consumer Affairs. Although OCA spotted trends and wrote memos of advice to the CAB, as well as serving as a consumer intermediary for complaints, it lacked status as a party in CAB cases which affected policy.

That was granted and on Nov. 1, 1974 the Office of Consumer Advocate went into operation. It now numbers 22 persons—the director and his assistant, seven analysts, four researchers, three lawyers and six clerk-typists.

The test will be whether such an agency can become militant enough to represent passenger interests effectively without causing its parent organization, the CAB, to muzzle it. If it could, it might set the pattern for other government offices. ACAP believes it can't—that consumer advocacy cannot be carried on inside an agency. If this proves true, OCA would then become an argument for a separate, independent, government consumer affairs office.

Canada, at any rate, is impressed. "The importance now attached to what you are doing will be of benefit to all air travelers," Commissioner E. H. LaBorde of the Canadian Transport Commission wrote to Yohe. "We are attempting to emulate your work."

OUR FAILURE TO RATIFY THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, critics of the Genocide Convention have raised many objections to ratification of this important document. Over the 26 years that this treaty has been before the Senate these objections have been shown to be insubstantial. Yet we still have failed to ratify the convention.

Constitutional arguments have been explored. It has been demonstrated that the Genocide Convention will in no way infringe upon the constitutional rights and freedoms of an American citizen. The convention will not inhibit free speech nor will it take any powers away from the States. In fact, the Genocide Convention is an international treaty that prohibits genocide, but allows each ratifying country to adopt its own implementing legislation in conformity with its own laws.

Other objections to the convention have also proven to be insubstantial. The Genocide Convention is an international document and will not permit other countries to influence our internal domestic affairs. Nor will the convention permit nongenocidal acts to be branded as genocide. Lynching, birth control clinics, Black Panther deaths, or individual homicides cannot be labeled genocide. The convention clearly provides that in order for genocide to occur there must be intent to destroy an ethnic, religious, national, or culture group.

Former opponents of the Genocide Convention over the last 26 years, such as the American Bar Association, have realized that their objections were not valid and now fully support the treaty. It has been proven that the convention cannot harm the laws or citizens of our country, but our failure to ratify it is harming our leadership position in the worldwide struggle for human rights. We must not let specious arguments deter us any longer. The time has come for us to join the international community in condemning the crime of genocide.

PROMISING NEWS FROM INDIA

Mr. PERCY. Mr. President, I am pleased to note in the press that Chen Chao-Yuan, the first Ambassador of the People's Republic of China to India in nearly 15 years, presented his credentials in New Delhi on September 20. Earlier, Indian Ambassador K. R. Narayanan presented his credentials in Peking.

I believe this is a good sign that India and China are seeking to improve their relationship and to engage in a continuing dialog.

Another development in India is the lifting of the remaining censorship restrictions on foreign correspondents. I am hopeful that this will lead to elimination of all media censorship in India in the near future.

SETTING THE FARM RECORD STRAIGHT

Mr. HUMPHREY. Mr. President, on September 15 I had the honor of introducing Governor Jimmy Carter to the Lake Crystal, Minn. Farmfest event.

At that time I indicated some of the main reasons why I felt that the present administration had lost the trust of our farmers. I pointed out the inconsistent position which the administration has taken regarding export embargoes—urging our farmers to plant to the limit and promising them access to world markets but later invoking export embargoes in 1973, 1974, and 1975.

I also indicated that the administration had been derelict in dealing with the issue of imports and particularly in the cases of palm oil, cheese, meat, and sugar.

In the area of grain inspection, I suggested that the administration had been reluctant to face up to the growing scandal, leaving the Congress to deal with this problem alone.

I suggested that the farm bill would be up for consideration in the next session of Congress. At that time, one of the main priorities will be to consider appropriate levels for target prices and loan levels. Our farmers are clearly without any reasonable price protection at the present time, and they assume all of the risk under today's volatile market conditions.

I also suggested that the American farmer needs an administration which is helpful every year, not just every 4 years.

Our farmers have gone through a trying time. They deserve better than they have received.

Mr. President, I ask unanimous consent that my formal remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR HUBERT H. HUMPHREY

I am proud and honored to be able to introduce to the people of Minnesota the next President of the United States, Governor Jimmy Carter.

Governor Carter understands the needs, the hopes and the problems of rural America.

When I was holding hearings on rural development in 1972. I went to Tifton, Georgia. I was impressed with Governor Carter's interest in rural development and what he had done to deal with practical problems.

After eight years of embargoes, vetoes, rescissions, impoundments and misguided policies, our people are begging for some sense from Washington.

Farmers do not expect favored treatment or the dole. But they ask for the chance at a fair return on their labor and investment.

They are looking for a leader who will perform, not one who needs election year rhetoric to cover up for a dismal record.

With Secretary Butz having visited you on Monday and Senator Dole scheduled to arrive this weekend, I feel somewhat like the wholesome piece of meat between two stale slices of bread.

One area in which we have seen all too well the difference between promise and performance is in the Administration's frequent grain embargoes.

The Republicans have accused the Democrats of being willing to interfere with export markets in serious contingencies such as short supplies here in the United States.

That position, my friends, is fully consistent with the existing Export Administration Act—which was signed by one Jerry Ford.

Democrats and Republicans support the Export Administration Act, which provides that our export sales are not to be interfered with unless there are serious shortages here in the United States. And yet in 1973, 1974 and 1975 the Nixon-Ford Administration interfered with export markets when there was no shortage and in blatant disregard of established law.

These unwarranted interferences in your business have cost you millions and even billions of dollars.

The issue thus lies at the door of the Republican Administration. Are they finally prepared to obey the law, which is consistent with meeting our national security requirements? Or would they continue to make interventions which are not needed and are downright harmful?

This Administration has not shown the same interest in intervening to protect our producers against sharp increases in the importation of meat, sugar, palm oil or dairy products.

In the case of cheddar cheese, the Administration stepped up imports nearly ten fold in early 1974, leading to a disastrous drop of nearly 25 percent in prices paid to our dairy farmers in a six month period. Of course, no consumer ever saw this reflected in prices at the supermarket.

I hardly need remind our dairy farmers of the Administration's infamous Flanigan Report which called for increased dairy imports at the expense of our already hard-pressed producers.

Fortunately, I blew the whistle on that scheme and helped blow it out of the water.

In the case of palm oil, 1975 imports more than doubled from the 350 million pounds imported a year ago. But again the Administration has been reluctant even to recognize the problem, let alone act on it.

This Administration also has been most reluctant to face up to the issue of sugar imports and their impact on our domestic producers. Recently, prices have dropped well below the cost of production, and yet the Administration remains oblivious to what has been happening.

Everyone knows that our livestock producers have been hard hit by low prices over the last few years. Yet the Ford Administration has been unable to make sure that meat does not enter the free trade zone in Puerto Rico, as a means of circumventing the meat import quotas.

But now the Department of Agriculture has begun a meat promotion campaign without solving the import problem.

Congress alone has had to struggle with the problem of reforming our grain inspection system, since Secretary Butz and President Ford have been unwilling to deal with it.

The General Accounting Office's grain inspection report outlined wholesale abuses and indicated that some nations had reduced or eliminated their commodity purchases from the U.S.

And while our exports have been growing in recent years from around 50 million tons to nearly 100 million tons, the U.S.D.A. has been cutting back on its grain inspection staff.

I began hearings, introduced interim and permanent grain inspection legislation, and both bills were passed by the Senate. We also increased the funding to beef up the inspection staff.

I believe that workable reforms can be agreed upon—and, hopefully, the President will approve them.

Another major shortcoming in the Administration's farm policies is the lack of adequate price protection for producers.

Apparently Mr. Butz has learned little from the lessons of the 1920's and the days of Ezra Taft Benson in the 1950's.

I applaud the increase in our export markets, and we can, with modest investments, encourage further increases in the years ahead.

Growing world demand for our food is the reason our farmers have been saved from overproduction and low prices. But the policies of Butz have left farmers to carry all of the risk.

The only thing that has saved our farmers from calamity has been weather in the Soviet Union. I don't believe the security of American agriculture should be placed in the hands of the leaders of the Soviet Union.

We need to remember that the export market can be extremely volatile, with sharp increases one year and declines the next as weather and crop production changes occur throughout the world.

Our farmers do not need to be told that they are almost totally without price protection under the presently existing target prices and loan levels.

For wheat, the target price is $2.29 per bushel, while the loan level is $1.50 per bushel. The target price for corn is $1.57 per bushel, with the loan level at $1.25 per bushel.

This translates into a target price for wheat and corn of about 47 percent of parity. The loan level for wheat is the equivalent of 31 percent of parity, and for corn it is 38 percent of parity.

The story is the same in other commodities, with a loan program of $2.50 per bushel for soybeans.

These levels are an insult.

Thus, even the most innocent of bystanders could understand the anger of our farm producers when President Ford vetoed the one-year emergency farm bill in the spring of 1975 with its very modest increases in price protection.

Of course, this should come as no surprise. As a member of Congress, Gerald Ford voted against crucial Farm Bills in 1955, 1958 and 1973.

In the fall the Administration cut off our agricultural exports for the third time in three years.

Even Gerry Ford should know that three strikes means you are out.

Our dairy farmers have faced three Ford vetoes in the space of just over a year—bills which would have set supports at 80 or 85 percent of parity and provided for a quarterly adjustment in prices paid to farmers.

As usual, the Administration answer was that these bills would cost too much.

But now, in an election year, the Administration is making early Food for Peace commodity purchases to support market prices. There also is some talk that loan levels may be raised. You may recall that in 1972 Secretary Butz bragged about "spending money like a drunken sailor" to re-elect Richard Nixon.

America's farmers need a friend in the White House every year.

Farm producers repeatedly have been promised access to world markets and encouraged to go all out and achieve maximum production because the world needs our food.

But how many times can an Administration promise and not deliver?

With this Administration's record for trying to thwart needed investments in conservation, housing, rural development and nutrition programs for the young and elderly, what can we believe in the way of Ford election year promises?

I am reminded of Adlai Stevenson's comment that if the Republicans would stop telling lies about us, we will stop telling the truth about them.

Next year we will begin the process of developing a new farm bill. If the Republicans are returned to office you will be treated to more of the same Republican policies under which you have suffered in recent years.

We can develop a more sensible approach which recognizes the high costs of production in today's agriculture.

The task will not be easy, and it is one which requires the understanding and leadership which Governor Carter will provide.

He will not be afraid to work with agricultural cooperatives and the total spectrum of farm organizations.

He also recognizes that the prosperity of agriculture is not separate from that of other segments of our economy. We need policies to provide jobs and promote prosperity at all levels of our economy.

The nation needs to rediscover its work ethic and get away from the waste and lost production which welfare and food stamps represent.

In 1972, the Republican cry was "Four More Years." We have had four painful years, and the nation can't take any more.

This bicentennial year is the time for the Democrats to return to office and provide the courageous, forceful and forward-looking leadership for which this nation yearns.

I am happy to introduce to you the leader who will bring a brand new start for all Americans in 1977.

S. 521—THE OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1976

Mr. FANNIN. Mr. President, on Wednesday, September 22, the National Ocean Industries Association—NOIA—ran a full page advertisement in the Washington Post urging the Congress to delay consideration of S. 521, a bill to amend the Outer Continental Shelf Lands Act of 1953.

Representative JOHN MURPHY of New York inserted in the CONGRESSIONAL RECORD of September 22, 1976 (page 32056) an attack on the National Ocean Industries Association and its newspaper advertisement opposing S. 521—amendments to the Outer Continental Shelf Lands Act. Mr. MURPHY accused the association of "distortions and misinformation" and of presenting a plea "at the 12th hour." The following statement will evaluate and answer by facts the various statements or assertions made by Mr. MURPHY in his remarks in the CONGRESSIONAL RECORD.

Mr. MURPHY said:

> The ad hoc committee on the Outer Continental Shelf considered almost 200 amendments: and on the floor, the full House looked at more than 80 amendments.

Fact. There were some 8,000 pages of testimony taken from over 300 witnesses, consideration of almost 200 amendments in the committee and more than 80 amendments on the floor. But, those facts alone should be clearly indicative that Congressman MURPHY's bill lacks direction and support and is a hodgepodge of unnecessary and convoluted provisions. The extensive testimony offered by knowledgeable witnesses who actually have the knowledge, experience, and responsibility for exploring, developing, and producing hydrocarbons from the Outer Continental Shelf was almost totally ignored or rejected by the ad hoc committee. The House committee report quoted several times from environmental witnesses or State bureaucrats but not one reference was made to an industrial witness with operating experience on the Outer Continental Shelf. Clearly, the committees' minds were made up before they started and they did not want to be bothered with the facts. Most importantly, almost all of the useful amendments were defeated because there was never any apparent intent to produce a constructive bill.

Mr. MURPHY said:

> [The advertisement] claims that S. 521, by adding new regulatory measures to present statutory regime for OCS oil and gas development, will crank a delay of at least 2 years in getting OCS oil and gas out of the Continental Shelf. And this, alleges the association, will ruin its member companies . . .

Fact: NOIA has never claimed that approval of S. 521 "will ruin its member companies." Enactment of S. 521, however, will cause serious, adverse economic harm to companies and some of the service, support, or supply companies will even be forced into bankruptcy. However, NOIA, representing all facets of the ocean industries, has many companies in its membership which will not be affected by this legislation, except as all American citizens who will be seriously harmed by the unnecessary delay in the development of domestic sources of energy which will result from this legislation.

Mr. MURPHY said:

> The new regulatory requirements that S. 521 will establish replace old ones, and do not add new steps, and will not create delay.

Fact: Every Member of the Senate and House of Representatives recently received a NOIA "white paper" setting forth its position on S. 521. Attached to that "white paper" was an 8-foot flow chart setting forth in detail the 70 steps existing Federal law or regulation requires the Government and companies to comply with in opening a new offshore field. Those 70 steps, assuming everything moves smoothly and there are no undue delays, means that on an average 5 to 7 years are required to bring the first barrel of oil ashore. S. 521 will add some 45 additional reviews and procedural steps to that process which will result in a minimum delay of at least 2 years in that scheme. Senator HENRY JACKSON, chairman of the Interior and Insular Affairs Committee, recently attempted to "answer" the flow chart. However, Senator JACKSON could find only five very minor, insignificant comments to make about that flow chart.

Senator JACKSON did not attempt to make such a statement as "the new regulatory requirements that S. 521 will establish replace old ones, and do not add new steps." The flow chart has been carefully checked and rechecked by the Government agencies involved in offshore activities as well as the individual companies who must proceed in accordance with existing laws and regulations. These companies have cleary indicated that the 45 additional steps, not required today, will be required in the future, if this unfortunate legislation is allowed to proceed.

Mr. MURPHY said:

> The present OCS Lands Act is archaic and inadequate in today's world.

Fact. If the system is "antiquated," it has been judged so in the last few months. Earlier this year, the Library of Congress Congressional Research Service reported that "the OCS Lands Act of 1953 has proven adequate for the Nation's experience to date with offshore leasing." This finding was included in a report to Representative MURPHY, who commissioned the Congressional Research Service study of the effects of offshore oil and natural gas development on the coastal zone (March 1976, 64–969–0).

Mr. MURPHY said:

> The current leasing system, which is based on cash bonus bidding, is no longer working well.

Fact. In the most recent OCS oil and gas lease sale, there were 410 bids worth $3.5 billion submitted for 101 tracts. The $1.1 billion in high bids was almost double the amount the Government had expected to receive from oil companies bidding for the right to explore for oil and gas on the Mid-Atlantic OCS. This hardly supports the charge that the present leasing system is anticompetitive. Also, the undeniable facts that industry left $407 million on the table—compared to second highest bid on each tract—and the wide range of bids demonstrate both the high risk and competitiveness of the sale.

Mr. Murphy said:

> The major companies are predominating in lease sales;

Fact. In the most recent sale, the seven large companies—Amoco, Chevron, Exxon, Gulf, Mobil, Shell, and Texaco—bidding in competition with each other as full-interest bidder or as leader of a combine, were awarded 73 percent of the leases; however, the net interest of these seven companies amounted to only 48 percent, which is in proportion to their current participation in U.S. production. The remaining 52 percent is owned by 44 other smaller and independent companies who wanted to invest in the offshore activity. Mr. Murphy tries to hide this fact because it disproves his claim that majors "predominate."

Mr. Murphy said:

> The economic goal of finding a proper balance between a fair profit to the companies and a fair return to the Federal Goverment as the owner of OCS lands cannot be achieved.

Fact. The 1975 OCS statistics prepared by USGS show the total production value for the OCS—1953 through 1975—to be $23.2 billion. During this period the oil companies paid the Federal Government $19.9 billion in bonuses, royalties, and rentals. When operating costs, development costs, and taxes are added to the $19.9 billion, it is obvious that the industry is billions of dollars in the red. The royalty payments to the Government amounting to 16.7 percent of all revenues, which Representative Murphy speaks of in a disparaging manner, continue so long as there is production. The Government has no investment, no operating expenses, no taxes, and is obligated only to endorse the checks. In adition to the financial aspects, the 1953 law permitted the orderly development of oil and gas reserves in the Gulf of Mexico and resulted in that area becoming a proving ground for offshore technology that is now used worldwide.

The fact is that industry makes large investments for bonuses, drilling platforms, and development wells early in the cycle and must wait many years to recover its expenditures. The rate of return is the average annual rate of interest earned on investments over the entire life of a venture and takes into account the years of "lag time" between the initial, specualtive venture of huge amounts of capital and the receipt of income. It is this timelag which results in a marginal rate of return of 7 percent for industry. On the other hand, the Government received 70 percent to 75 percent of the eventual net income from OCS development. This comes from a 16.6 percent royalty per barrel produced, plus bonuses, rents, and taxes.

Mr. Murphy said:

> The current statutory regime is inadequate in dealing with the protection of the environment.

Fact. Government requirements for protecting the environment, for considering the interests of coastal communities, balancing short-term against long-term needs and employee safety are not found solely in the OCS Lands Act of 1953, nor should they be. The National Environmental Policy Act and its criteria for environmental impact statements, the Coastal Zone Management Act and its amendments, numerous Department of the Interior regulations, the Occupational Safety and Health Act—all of these and more—dictate the manner in which leasing and development of the OCS will occur.

Mr. Murphy said:

> It (current statutory regime) is also inadequate in dealing with the safety of the worker.

Fact. Considering the hazardous working conditions and environment, the overall safety record of the industry in the OCS has been outstanding. Industry and the USGS have safety standards which adequately cover the protection and safeguards of its workers.

An August 26 letter by Secretary of the Interior Thomas Kleppe to Senator Henry Jackson perhaps sums up this issue as well as any other:

> The bill totally confuses the assignment of responsibility for regulation of safety and health by giving the same duties of two and sometimes three separate agencies. Further, it includes restrictive, unnecessary and unwise requirements on the degree of safety that must be included in new regulations and on use of the best available and safest technology.

Mr. Murphy said:

> Opposition to the bill can be isolated to the seven large oil companies, their industry representatives, the American Petroleum Institute, and the NOIA.

Fact. In addition to the API, and NOIA, opposition to S. 521 (H.R. 6218) has come from many individual firms, both large and small, and a number of trade associations representing the "general energy industry." Included in this category are all the groups which are attempting to protect the American business enterprise systems against the forces of domination, overregulation, and eventual nationalization. Counted in these groups are the International Association of Drilling Contractors, the International Association of Geophysical Contractors, the Offshore Marine Service Association, and many others.

Mr. Murphy said:

> NOIA . . . was originally set up by Exxon to act as an individual lobbying agent in its behalf.

Fact. This one statement is more indicative than almost any other of the total disregard Mr. Murphy has for a factual statement regarding this entire issue. The "Dear Colleague" letter he sent to other members of the House of Representatives on September 22 also attempting to discredit the facts of the NOIA advertisement refers to a "blitz" and in another place to a blitzkrieg which are so reminiscent of the infamous Hitler regime of Nazi Germany. Since our minds are thus refreshed, let me say the assertion that NOIA was "originally set up by Exxon to act as an additional lobbying agent in its behalf" is simply untrue.

A better understanding is needed of the implications of this legislation. Sound legislation is based on facts—facts that can stand up in the court of public opinion—facts; not personalities; not false hopes. It is time to "heal old sores—not try to even old scores" and protect everyone's legitimate interest while getting on with the business of providing America with needed energy. Members of the Congress, therefore, should oppose S. 521.

FINANCIAL REFORM

Mr. McINTYRE. Mr. President, I wish to call to the Senate's attention two articles by Louis H. Nevins which recently appeared in the Washington Post. The articles, entitled "Financial Reform" and "Financial Restructure: Post Mortem" analyze the circumstances leading to the demise of comprehensive financial restructuring legislation in the 94th Congress. More importantly, Mr. Nevins' articles appropriately point out that in the absence of such legislation, we have done nothing to address the recurring causes of disintermediation which brings periodic havoc to our Nation's thrift industry.

Coming, as they do, from a spokesman for the thrift industry, Mr. Nevins' thoughts are particularly timely.

Mr. President, I ask unanimous consent that the two articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Washington Post, Sept. 11, 1976]

Financial Reform

(By Louis H. Nevins)

The decision to defer action on the Financial Reform Act of 1976 in the House Banking Committee this spring came as a disappointment to many who have been working for many years to modernize thrift institutions. The question now is whether it was a simple election year device of putting off a vote on a controversial issue or a conclusive rejection of the underlying economic theories that support proposals for restructuring America's thrift institutions.

A review of the background and events leading up to the House Banking Committee's decision is a useful place to begin the inquiry.

The years following World War II were largely prosperous and trouble-free for America's thrift institutions. The enormous postwar building boom was made possible by the ability of savings banks and savings and loans to attract an adequate flow of savings and to lend these funds out at relatively low rates to millions of home buyers. These were years of relative stability and the "borrow-short, lend-long" structure of thrift institutions was well suited to the economic and financial conditions of the period.

By the mid-1960s, however, the first evidence of the enormous economic and financial consequences of the fiscal mismanagement of the war in Vietnam became apparent. In 1966, when it still might have been possible to put our fiscal house in order, the White House decided not to seek a tax increase (or a cut in domestic spending) to pay for the war. Thus the Federal Reserve

Board had no alternative but to tighten monetary controls in an effort to combat inflationary pressures and market interest rates predictably soared.

Thrift institutions and housing were almost immediate victims. A new word—disintermediation—crept into the American vocabulary in 1966 to describe the phenomenon of deposits flowing out of thrift institutions and into higher-yielding government and corporate obligations. So money became difficult to obtain and expensive.

Meanwhile, the commercial banks whose shorter-term and more interest-sensitive asset structure enables earnings on their investments to rise more closely in line with their cost of funds, began to compete even more vigorously for consumer savings deposits.

Congress responded to the growing pressures on thrift institutions and housing by applying federal deposit rate ceilings to thrift institutions for the first time in September, 1966. These ceilings, commonly referred to as "Regulation Q," have been repeatedly extended. At the same time, however, the differential between the rate ceilings for thrift institutions and commercial banks has been narrowed, notably in mid-1973, so that today thrifts are able to pay only a slightly higher maximum rate than commercial banks for savings.

In the highly volatile and inflationary climate which has dominated our economy and financial markets since the mid-1960's, thrift institutions have been struck repeatedly by the disintermediation which first appeared in 1966. It happened again in 1969–70, in 1973 and once again in 1974. It was against this background, and especially the second severe housing credit shortage which occurred in 1969–70, that the momentum for financial reform and modernized thrift powers was generated.

The financial restructuring proposals which congress has been considering for three years had their genesis in the Report of the President's Commission on Financial Structure and Regulation, chaired by Reed O. Hunt, and submitted to former President Nixon shortly before Christmas of 1971. The Hunt Commission was appointed in 1970 with the charge to submit recommendations to improve the functioning of the private financial system. It was clear that a major concern was the related problem of deposit volatility at thrift institutions and recurrent instability in mortgage and housing markets.

A basic finding of the Hunt Commission was that cyclical volatility in deposit and mortgage flows was primarily a result of the over-specialization of thrift institutions that could be alleviated, in part, by modernizing their powers. They should no longer be forced to operate with balance sheets comprised primarily of very long-term CD's. The commission concluded that greater diversification and flexibility was needed on both sides of the ledger to lessen their short-run instability and strengthen their long-run ability to compete.

Hence, it recommended that thrift institutions be permitted to make short-term consumer loans, up to 10 per cent of assets, and invest in a wide range of government and corporate securities in addition to mortgages. It was the Hunt Commissions's view that the improved earnings potential and flexibility that a recomposition of the asset side would provide thrifts to pay higher, more competitive interest rates for their deposits, thereby ultimately eliminating the need for deposit rate ceilings which the commission concluded would prove less and less effective as time wore on.

The administration worked for more than a year and a half formulating legislation based on the Hunt Commission Report. The Financial Institutions Act of 1973 was finally transmitted to the Congress late in 1973. Under the leadership of the chairman of the Senate's subcommittee on financial institutions, Thomas J. McIntyre (D-N.H.), a subsequent version of this legislation—the Financial Institutions Act of 1975—passed the Senate last Dec. 11, by a vote of 79–14, with the language submitted by the administration largely intact. The "over-specialization" theory of thrift institution problems was overwhelmingly accepted by the Senate.

Early this year the scene shifted to the House. When it did, opponents of restructuring centered their attack, not so much on the underlying economic premises of the bill, but rather on its possible impact on housing. Concern had been expressed in the Senate over the impact of the legislation on the flow of funds for housing but in the House the opposition turned this concern into an obsession.

Supporters of financial restructuring have not ignored the implications for housing, as opponents have suggested. Their hypothesis is simply that while "thrifts" in the future might invest a somewhat lower percentage of their assets in residential mortgages, they would have more money to invest over-all so that the total flow into the housing sector would increase.

However, in the hope of further reassuring those legitimately concerned about housing, the administration had also recommended in its Senate-passed proposal a residential mortgage investment tax credit designed to attract investors who in recent years have shunned mortgage investments and to offset any over-all reductions in mortgage investments by thrifts, should this occur. Since tax measures must originate in the House, the Senate simply made the effective date of the bill it passed dependent on the enactment of the tax credit. But thus far the tax credit has failed to attract much interest on its own.

The writer is director-counsel of the Washington office of the National Association of Mutual Savings Banks. He is an attorney, having earlier worked for FHA and the National Association of Realtors.

Financial Restructure: Post Mortem

(By Louis H. Nevins)

Much credit for the demise of the House bill on financial restructuring has been given to America's commercial bankers; there is no question that commercial bankers exerted perhaps their most massive public effort ever.

Still, it is doubtful they could have succeeded had it not been for the help of the home builders and the AFL–CIO. If the bankers provided the muscle, the home builders and the construction trade unions provided the reason to make it "respectable" for House members, all of whom must seek re-election this November, to be against this legislation. In effect, they could say they were not so much siding with the commercial banks as they were supporting the housing industry and the jobs that industry provides.

Thus, the successful political strategy this year turned the economic arguments favoring financial restructuring upside down. Commercial bankers were artfully arguing the cause of housing to their own ends and, if home builders and labor unions were uncomfortable adjusting to their new allies, they nevertheless proved to be a formidable alliance.

Limited diversification aimed at gradually building up thrifts to compete for funds in the market place and on more nearly even terms with commercial banks—the basic theory behind restructuring proposals for the past five years—gave way to fears that such diversification would leave mortgage borrowers high and dry without any guaranteed source of mortgage funds.

In recent years, in contrast to 1973 and 1974, there have been large inflows of deposits for thrift institutions as market interest rates declined and conditions turned more favorable. House members reasoned that specialization has not worked so badly after all and opponents of the bill succeeded in sidetracking it.

But was this a permanent decision?

It must be remembered that action in the Senate and earlier in the administration occurred without much support from the savings and loan industry. Only the savings banks, the credit unions and some consumer groups supported the legislation wholeheartedly in the Senate. The savings and loan industry was much slower to board the restructuring train. Even in early 1975 savings and loans wanted only certain parts of the overall package, such as the power to transfer funds—offering their depositors checking-like services—and a streamlined investment statute.

It wasn't until hearings last winter in the House that the savings and loan industry supported financial restructuring unequivocally. By then, some of the provisions had already been watered down.

Thus, it is little wonder that the home building and real estate industries were puzzled and concerned. If they were to be persuaded to board the restructuring train by their traditional allies in the savings and loan business, it must be said that the S&L efforts to persuade were cautious at best.

But it is the guess here that the remaining recalcitrance of some in the savings and loan business will be overcome. Already more and more savings and loan leaders are becoming convinced that the "over-specialization" theory is correct. The home building and real estate industries, along with organized labor, will also be forced to take cognizance of the growing structural problems that thrifts face.

It is a fact that commercial banks continue to capture an ever-increasing share of the nation's consumer savings market. In the 10 years between 1966 and 1975 over 50 per cent of the net growth in household savings dollars went in commercial bank accounts. Undoubtedly, much of this can be attributed to the aggressive promotion of the convenience of one-stop banking (the very argument thrifts make in favor of broadening their own consumer service powers). Moreover, consumer savers have become increasingly sophisticated in recent years and they have been attracted to the obligations of government and corporate issuers available in fairly low denominations and, at times, interest rates considerably higher than thrifts can afford to pay. There is growing recognition that this has already resulted in a substantial diversion of funds away from housing-oriented thrift institutions.

One wonders, moreover, what the impact of the next serious round of distintermediation will be. It is clear that thrift institutions and therefore housing thrive in periods of stability. Yet our economy has been plagued by interest rate instability and inflation for years. And there is no guarantee that these problems have been solved.

OUR NEED FOR EFFECTIVE SMALL WARSHIPS

Mr. TAFT. Mr. President, the September issue of Sea Power magazine, the publication of the Navy League, has in it a most excellent and informative article on small warships.

Effective small warships, such as fast missile boats, are important and powerful elements in many navies throughout the world. The Soviet Union pioneered this field with its *Osa* and *Komar* classes of fast missile boats, one of which demonstrated the power of this type of warship to the world for the first time with the sinking of the Israeli destroyer *Eilat* in 1967. The Soviet Union continues to have a large number of such craft in service, including some powerful new classes of slightly larger size, such as the *Nanuchka*-class missile corvettes.

The United States has lagged seriously in developing effective small warships. Too many of our smaller warships, such as the FFG–7 class now under construction, are slow compared to foreign equivalents. Too often, as again in the case of the FFG–7 class, they are assigned a mission—antisubmarine warfare—for which that type of ship is increasingly less effective.

However, we now have underway two programs with great promise. One of these is the surface effect ship program, which I have discussed on the floor of the Senate on numerous occasions. The SES promises to give us a really effective surface ship for antisubmarine warfare—something we now lack.

The two hydrofoil programs we now have underway also promise to give us some effective small warships. The PHM program will give us useful ships for the "tattletale" role, particularly in the Mediterranean. We are also doing research and development work on a larger hydrofoil, the hydrofoil ocean combatant. I strongly support this program, which again holds promise of an effective ASW surface ship.

I believe that article from Seapower, "The Small Ships," very well describes the capabilities which small warships can provide, and our need for such craft. I ask unanimous consent that the article from Seapower be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Sea Power, September 1976]

THE SMALL SHIPS

(By James D. Hessman)

For Navymen and those in private industry involved with the PHM (patrol hydrofoil missile) program it had been a long and exciting summer—much more exciting than they would have preferred.

First, the House Appropriations Committee virtually eliminated the program by cutting $234 million from the Defense Department's fiscal year 1977 budget. Included in the total were separate funding subtotals of $92.3 million in unspent FY 1975 funds, $100.5 million in unspent FY 1976 funds, and $43.8 million requested in the current budget to cover "cost growth and escalation." Only $39 million remained in the account, barely enough to cover shutdown costs.

It was undoubtedly the additional cost growth, added to previous inflationary add-ons, which led to the committee's decision to cancel a program which, although of almost revolutionary potential, has to date produced only one operational ship: the USS PEGASUS (PHM-1), first in what was once to have been a 30-ship PHM fleet, but which has now, in the Navy's short-range plans, has been scaled down to six ships.

The Senate Appropriations Committee, quite possibly influenced by the comprehensive and cogently-worded "White Paper on Defense" issued earlier this year by Senator Robert Taft, Jr. (R-Ohio), later restored the funds deleted by its House counterpart.

(The 161-page Taft White Paper makes a strong case, in strategic and fiscal terms, for adoption of an "advanced technology" shipbuilding program—with particular emphasis on surface effect ships (SES) and hydrofoils—to build up the U.S. Navy's depleted ship inventory. Included in the Taft program would be 24 additional PHMs (at an estimated unit cost of $40 million per ship), and six HOCs (hydrofoil ocean combatants—$150 million each), as well as five AGPs, or hydrofoil "mother ships"—also $150 million each.)

Then followed a long House-Senate conference on the PHM, the B–1, and other weapons programs on which the original actions of the two bodies had differed. Finally, the committees announced on 1 September that the House had "receded" from its position. Barring a successful (and unexpected) floor challenge, therefore, the program will continue at its present authorized level of six ships, operating together as a squadron (with one support ship—expected to be included in the Navy's FY 1978 funding request).

The hydrofoil squadron will, in the wording of the Navy Department's official "position paper" on the PHM, "provide the U.S. Navy with a deployable unit of seapower and will also provide the necessary basis for development of operational procedures, doctrines, and tactics. Our studies and war games indicate that the PHM will be able to make unique contributions of its own to fleet capabilities and that it will also provide a valuable substitute for other ships in selected roles. We now need to get this new capability to sea to confirm the validity of our 'paper' conclusions."

A FOOTHOLD ON THE FUTURE

For PHM officials the welcome news from the Appropriations conferees means a new lease on life, and a foothold on the future.

It also means that, following years of construction delays and a more-than-doubling of the originally expected cost per operational ship, the program will now begin to pay off: in performance, in the number of "platforms" available to fleet commanders, and in the accumulation of the documentation, data, and operating experience needed for assignment of future missions.

PHM potential has never been seriously questioned by anyone familiar with hydrofoil technology, which was more or less accidentally discovered in 1861 by Thomas Moy, an Englishman, who observed that a boat to which he had attached winged surfaces rose out of the water when it gained speed. (Among the first Americans to experiment with hydrofoils were Wilbur and Orville Wright, and Alexander Graham Bell, who designed a 5.1-ton boat which in 1918 reached the then unheard of speed of 70.86 knots, or 81.5 mph—a record which stayed on the books until 1962.)

With a foilborne speed of "over 40 knots" (speeds in excess of 50 knots have been reported in several publications but have not been officially confirmed) the PHM could outrun anything it couldn't outgun and would thus give a combat edge to the surface forces they haven't had since the advent of nuclear submarines. Selectively used—probably in near-shore waters and/or the contested oceanic "chokepoints" of the world, such as the Dardanelles and Straits of Gibraltar—it would free the U.S. Navy's larger surface combatants, the cruisers, frigates, and destroyers, for high sea duty.

With a single OTO Melara 76mm gun and eight Harpoon surface-to-surface missiles (twice the number originally planned), the approximately 230-ton vessel is possibly ton-for-ton the most heavily armed ship in the world; it would in any case constitute a formidable challenge for any of the USSR's big surface combatants, including the new Soviet carrier KIEV.

PROBLEMS AND PERFORMERS

There are some admitted drawbacks. The PHM is somewhat short on range—"in excess of" 500 nautical miles, but considerably less than what would be needed for high-seas missions. There also have been questions raised about the endurance (of the crew as well as of the ship) at high speed in particularly heavy seas.

Some if not all of the questions about PHM performance have already been answered in the initial PEGASUS test program, the results of which were provided Congress in various hearings over the last two years by, among others, Vice Admiral James H. Doyle, Jr., Deputy Chief of Naval Operations for Surface Warfare, and Rear Admiral William L. Read, Director of Doyle's Ship Acquisition Division. Read, who (in 7 March 1975 testimony before the House Armed Services Committee's Seapower Subcommittee) described the PHM as "a fast, stealthy, seaworthy 'Giant Killer' " which would add "a new dimension to naval warfare," said he thinks it is "much more seaworthy in high seas than a conventional ship. . . . We are confident it is going to perform well in higher seas." Doyle told the same subcommittee on 19 February 1976 that "Individually or in concert with other platforms the PHM can contribute a new dimension to our order of battle," and offered the following specifics about the ship's:

—Seaworthiness (in calm water): "The contract testing which started in March 1975 is essentially complete. . . . The ship design foilborne speed, maneuverability, and take-off margin have all been demonstrated to exceed requirements. Ride quality is excellent and the ship's superb maneuverability has been proven. . . . Some higher sea state operations have been conducted and the results indicate the ship should have no difficulty in passing these tests. Forward and aft foil retraction [when not foilborne, the PHM's foils are elevated fore and aft; when "hullborne" like a conventional ship the PHM can still cruise at more than 10 knots] and extension times have shown the ship's ability to go foilborne . . . [is] well within requirements."

—Weapons testing: "The technical evaluation has also included significant weapons testing. The Mark 94 gun fire control system tracking has met its requirements and the 76 mm OTO Melara gun was fired successfully in its required modes. A Harpoon blast test vehicle was launched in October of 1975 with the ship foilborne. Both the ship and weapon performed well."

—"Producibility": "Concurrent with the test program, we have been planning for the production phase. The Navy and the contractor (The Boeing Company) are completing a series of producibility studies which have identified substantial improvements in the production process with resultant cost benefits to the Navy. Savings identified to date are estimated to be about $2.0 million per ship with possible additional savings by the time we have a production proposal from the contractor."

Doyle also told the Seapower panel there had been two relatively minor "performance difficulties" and "several propulsion system problems." Because of "higher than predicted drag," he said, the ship had been able to achieve only 94 percent of required "foilborne endurance," or range, and only 95 percent of the designed hullborne speed of 11 knots. Both performance problems, he said, were attributable to "out-of-contour hull and foil shapes" which should be corrected through improved production manufacturing techniques. He said the propulsion system problems—cracks in the inlet to the foilborne waterjet propulsor and two failures in the foilborne reduction gear—"have been thoroughly analyzed and we believe that the causes and solutions have been identified."

The big PHM problem always has been—and is—fiscal rather than technical, however. The original cost goal, set in 1972, for the 28-ship production run initially scheduled to follow the largely hand-tooled construction of the first two PHMs—planned to be used in an extensive research, development, test, and evaluation (RDT&E) program—was set at $18.0 million per ship, in fiscal year 1974 dollars.

By 1975, the higher cost of labor, the higher cost of materials, and the "learning curve impact" (read unforeseen technical problems) had hiked the unit cost to $25.6 million, plus an additional $21.5 million extra per ship caused solely by "inflation and escalation." Production start-up costs, outfitting and post-delivery, and assorted other incidentals further increased the price to $51.2 million per ship for the reduced 23-ship production run which had been rescheduled to follow RDT&E on only the first ship, PEGASUS. (Because of production delays and funding deficiencies the Navy had shifted some of the funding for PHM–2, USS HERCULES, to the PEGASUS program.)

With RDT&E costs distributed among all ships on a pro rata basis the total unit cost, on a 24-ship buy, would have been (as estimated in early 1975), some $52.4 million, or almost three times the originally estimated cost.

Much if not all of the cost growth associated with the PHM (and with virtually all other shipbuilding programs) was both unforeseeable and uncontrollable, however. Because of their size and complexity, ships have a longer gestation period from concept to operational inventory than any other type of weapon system, and for that reason are much more affected by inflation such as that which has plagued the entire U.S. economy, and particularly the shipbuilding industry, during the past several years.

The inflationary impact is even more pronounced, of course, for advanced design ships such as the hydrofoil and SES, both of which explore and exploit the far outer edges of technology.

Admiral Read told the Seapower Subcommittee last year that a Navy Audit Service review of "cost, schedule, and control factors in the PHM project" uncovered four other "principal causes of the cost and scheduling overruns" (which, if not totally controllable, perhaps should have been somewhat more foreseeable than were the materials and labor increases). Those causes, as spelled out by Read, were as follows: (a) inexperience in aluminum hull construction; (b) underestimation of welding complexity and cable installation; (c) overoptimistic cost and schedule estimates "in the face of known overrun projections"; and (d) a primary emphasis "on schedule adherence rather than on cost."

There are other cost factors, however, favoring the PHM, which are not always considered, because they are not so obvious. One is crew manning. Because its technology is so sophisticated the PHM will be able to operate with a full crew of only four officers and 17 enlisted personnel. At a time when personnel costs consume almost half the Navy's budget, out-year savings will therefore be appreciable. Considering all costs expected over a 25- to 30-year ship lifetime, in fact, it may well be that the PHM will prove to be one of the better weapons bargains now available.

A more important line on the debits and credits ledger involves what might be termed "platform" cost—a term which has important political as well as economic implications. A major bone of contention within the Navy itself, in the upper echelons of the Defense Department and at the White House, and most of all on Capitol Hill, concerns the "mix" of the future Navy: how many ships, and of what types? It amounts in some respects to a quantity-vs.-quality debate. Briefly simplified, on one side are those who want all future major combatants to be nuclear-powered. The superior operational performance, unlimited endurance, and allegedly lower lifetime operating costs of the nukes, it is argued, more than compensate for their much higher initial building costs and the much longer leadtime required for construction.

Those who speak for the "low" side of the mix say the threat is here and now and what the Navy needs is many more ships, or platforms, as soon as possible. Their answer is to build large numbers of conventionally-powered ships in series, limiting nuclear power to carriers, strike cruisers, and similar dreadnoughts.

THE PRO-PHM INTANGIBLES

In the middle of the maelstrom sits the PHM, far too small for nuclear power but, despite its relatively high cost per ton, carrying a considerably lower "cost per platform" price tag than any other U.S. Navy ship of equivalent firepower now operational or on the drawing boards.

On the high seas, for "power projection," or merely for showing the flag, a fleet commander undoubtedly would be more comfortable having an intimidating nuclear carrier and a strike cruiser or two available when needed.

But when such superships cost up to $2 billion or more per copy, and take seven or eight years to build, their numbers are obviously going to be limited. They also have two major drawbacks: Because of their power and their price tag both, they are extremely tempting targets. In addition, they're very hard to hide, particularly from satellite reconnaissance. (Which is not to say they would be easy to hit, or to put out of action.)

If the commander of the U.S. Sixth Fleet in the Mediterranean had his choice between one nuclear carrier and 40 PHMs he would probably take the carrier. (Initial construction cost of the 40 PHMs would be about the same as the estimated construction cost for the next nuclear carrier, CVNX—but personnel costs for the 840 officers and men crewing the PHMs would be only about one-eighth the cost of the estimated 6,100 personnel, including embarked air wing, assigned to the carrier.)

If the same commander had his choice between either two carriers or one carrier and 40 PHMs his decision would be more difficult. Any one ship, no matter how capable, can be in only one place at one time.

The final PHM cost factor—which could never be measured in dollars (or in millions of dollars, for that matter)—relates to that "new dimension" in naval warfare spoken of by Admirals Doyle and Read: the unprecedented speed of hydrofoils, which, combined with the accuracy and hitting power of the Harpoon, will give U.S. fleet commanders an awesome new combat capability which they do not now possess.

WHAT PRICE DETERRENCE?

How much is such capability worth? There are at least three answers:

(1) Very little, to a nation which is not at war and which knows with certainty it never again will be at war (against a stronger enemy, in any case).

(2) Quite a lot, to a nation in a "conflict situation" (as it is delicately phrased by diplomats and in the Pentagon's war games) involving another power possessing local naval "parity," or even superior naval forces.

(3) Infinitely much more, if the mere possession of capabilities such as those provided by the PHM, in conjunction with other naval power, including naval air, actually prevents a conflict situation from escalating into hot war—or tilts the combat edge in such a war to the side with the most platforms in the right place at the right time.

As of now the side with the most powerful and most technologically sophisticated (and most expensive) naval platforms is the United States. But the side with the most platforms is, by any measure, the Soviet Union.

In the USSR's extensive naval platform inventory, it is worth pointing out, are 42 patrol hydrofoils: 25 of the 50-knot, 70-ton PCHELA class (which carry several depth charges as well as four machine guns, and are used primarily for frontier and guard duties), and 17 of the later (1973) TURYA class (230 tons, 40-knot speed, carrying four 21-inch torpedoes, two 57mm and two 25mm guns, equipped with variable depth sonar and apparently intended for longer-range operations, possibly with ship- or shore-based helicopters).

Arrival in the Mediterranean at some unspecified future date of the first PHM, or the first six PHMs, will by no means tilt the naval balance of power there back toward the United States.

But it will give the then-Sixth Fleet commander a powerful and versatile new capability which he does not now possess. And it will make advance planning that much more difficult for his opposite number in the Soviet Navy.

Admiral Doyle told Congress earlier this year that the presently-funded mini-fleet of six PHMs is all that the Navy now plans—"for the time being." If, however, after all the cost and start-up problems have been successfully overcome, and if the ships themselves prove to be as valuable operationally as PHM enthusiasts believe they will be, then the Navy, the Defense Department, and the Congress may all once again "recede" from their present position and ask for more of the same.

If so, the limited green light for the program announced by House and Senate conferees on 1 September may yet prove to be the beginning of "the era of the small ships" in the ever-changing spectrum of naval warfare.

GEN. FRED C. WEYAND

Mr. SYMINGTON. Mr. President, I add my comments to those of my colleagues about a long-time and highly esteemed friend, Gen. Fred Weyand, on the occasion of his retirement this week.

I first met General Weyand when he was in legislative liaison; and those of us who knew him during that tour of duty many years ago will never forget his capacity for helping constituents with problems, also furnishing information on many military subjects to all Members of Congress.

Later it was my privilege to visit with General Weyand in Hawaii; and to watch his training of the 25th Division in preparation for his and their fighting in Vietnam. Still later, when my wife and I were in Hawaii we raised glasses to his outstanding career with his gracious wife Arline; and I remember carrying personal messages from her to him when he was commanding all our troops in the area around the Iron Triangle.

No military officer, not even that great soldier Omar Bradley from my State of Missouri, was more respected or admired by those who served with him than was Fred Weyand. Over the years he demonstrated to them as well as to those of us in Congress, that it is not necessary to be a West Pointer to become the Chief of the Army. His career began as a reserve officer at the University of California.

As was also true of General Bradley, Fred Weyand has demonstrated that you do not have to seek the spotlight to rise to the top. Taking the hard way up, serving his country in a series of tough demanding jobs in World War II—Burma and China as against the more glamorous Europe—Fred Weyand commanded "leg" infantry; and he commanded them in superlative fashion.

After his tour of combat in Vietnam he was sent to Paris as the military adviser to former Senator and Ambassador Cabot Lodge. I visited them there and the Ambassador always spoke of him in the highest terms.

In 1975 Fred Weyand went back to Vietnam to witness and report on the collapse of all we had sought to do in that sad country.

Fred Weyand never succumbed to the most dangerous sickness in Washington, namely, beginning to believe his increasingly favorable publicity.

As Omar Bradley once observed—

> Leadership in a democratic Army means firmness, not harshness; understanding, not weakness; justice, not license; humaneness, not intolerance; generosity, not selfishness; pride, not egotism.

No soldier ever exemplified those wise words in more practical fashion than General Weyand.

Mr. President, the U.S. Army is losing a great and good man. The Army will miss him. The Congress will miss him. The American people will miss him. I will miss him.

His successor, also our friend, Gen. Bernard Rogers, has some mighty big shoes to fill. It is my hope and belief that he will continue the progress already achieved by General Weyand and his predecessor, the late great Gen. Creighton Abrams.

COMMUNITY BEAUTIFICATION

Mr. FORD. Mr. President, one of the most exciting and rewarding experiences in this our Bicentennial Year is seeing people make the very words of our Constitution come alive. The preamble to the Constitution calls on everyone to "form a more perfect union," and citizens across the Nation are taking this call to heart and acting upon it.

Across our land there are many outstanding examples of community initiative and involvement, and as this session of Congress winds to a close, it is most appropriate to pay tribute to the many concerned groups and individuals who have in the best Bicentennial spirit directed their time and energy toward community betterment.

One of the finest examples of this in my State of Kentucky was exhibited in the town of Cynthiana by the Harrison County Iris Society. This organization has gone far above and beyond the call of duty in its extensive efforts toward community beautification.

The society has worked with State environmental protection agency representatives to eliminate dumps, and has sponsored a newly established county dumpster system. The society conducted a riverside cleanup and led a flower-planting campaign. A society-sponsored flower show drew wide participation and greatly promoted civic pride.

Such conscious and collective efforts to promote the community welfare are necessary today if we are to preserve and protect our heritage and environment for future generations. The members of this organization have left a living Bicentennial legacy for their community, one in which they can take much justifiable pride.

The society has received little public recognition for their commitment to the Bicentennial spirit. So, today I ask my distinguished colleagues to join me in commending the Harrison County Iris Society for its many outstanding contributions to making the community a better place to live and grow.

THE CONSUMER RIPOFF

Mr. GARN. Mr. President, while serving as ranking minority member of the Consumer Affairs Subcommittee, I have been struck by the number of groups appearing before us asserting that they speak for the consumer.

Many of these groups urge that their views be given extra weight because they do not receive funds from business. Some are even going so far as to demand that Congress fund them to appear before administrative agencies because they are not tainted with conflicts of interest as are the public interest groups with business connections.

Perhaps the most outspoken critic of special interest representation has been the Consumer Federation of America. This group prides itself on not taking money from corporations, only from nonprofit organizations, and is vocal in its opposition to organizations with business affiliations.

Recognizing the need in the legislative process for sound data, I have always been delighted to receive the testimony of the Consumer Federation of America and have encouraged other public interest and university centered groups to appear before our subcommittee. However, as a result of a recent editorial in the Wall Street Journal, I am now led to believe that the Consumer Federation of America may be influenced by interests inimical to those of the consumer.

According to the editors of the Journal, the Consumer Federation of America is waging a campaign to prevent the adoption by grocery chains of automated checkout systems using the universal product code. Under this system, the checkout clerk will no longer have to punch the price on the cash register but would merely run the item over a scanner which will register the name and price of the product on a display panel. Checkouts will be much faster, mistakes in reading a price label or button punching will be eliminated and price reduction can be passed on to the consumer beuause of the increased productivity of the checkout clerk. This sounds like a good thing for the consumer.

Apparently, the Retail Food Clerks International feel that there will be a loss of jobs and is opposing the adoption of the system. Thus, the Consumer Federation of America and the Retail Food Clerks have been lobbying shoulder-to-shoulder for local and Federal laws which would kill the advantages of the system for the grocery chain.

No one questions the rights of these two organizations to oppose universal product codes. What is disturbing is the revelation in the Journal that the Consumer Federation of America receives financial support from the Retail Food Clerks International.

But it does not end there. The administrative assistant and special counsel to the president of the Retail Clerks International is Jay Foreman whose wife, Carol Tucker Foreman, is executive director of the Consumer Federation of America.

Although I am sure that both Mr. Foreman and Mrs. Foreman feel highly motivated by the interests of their constituencies in opposing the universal product code, I see no less conflict of interest in what they are doing and the activities of public interest groups who receive funding from the business community.

Mr. President, I ask unanimous consent that the Wall Street Journal editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CONNUBIAL CONSUMERISM

More likely than not, the groceries in your pantry are labeled with a cryptic series of lines and numbers. This is the universal product code (UPC), a potential breakthrough in improving the efficiency and cutting the costs of supermarket operations. When the complete system is installed, the check-out clerk will no longer have to punch the price on the cash register but will merely run the item over a scanner which will register the name and price of the product on a display panel. Check-out will be much faster, mistakes in reading a price label or in button-punching will be eliminated, repricing can be done with an easy program change, clerks need not be so carefully trained, and stores will have a continuing record of sales and inventory.

The customer will have a receipt tape to take home which lists the name of the item as well as the price. Lines will move faster With increased productivity, supermarket costs will be cut, and therefore prices too.

Sounds like a good thing for the consumer, doesn't it? The Consumer Federation of America doesn't think so. It has been waging a fight against UPC. A CFA pamphlet describes the system as "A New Supermarket Ripoff." The CFA particularly objects that UPC makes the individual marking of prices on items unnecessary, presumably reducing "price awareness"—CFA apparently speaks for a constituency that cannot read the price on the shelf. Among other objections is that the costs (but not the savings!) of the system will be passed to the consumers, a theory which must be based on a novel view of why businesses invest in new technology.

Consumer Federation of America has been lobbying for local and federal laws requiring unit pricing, thus eliminating a quarter of the savings of UPC and perhaps killing the system altogether. Now don't get the idea that CFA is alone in this crusade. UPC could eventually eliminate perhaps one third of supermarket jobs, a possibility which has not gone unnoticed by the Retail Food Clerks International. It has been fighting shoulder to shoulder with CFA against UPC. Perhaps even closer than shoulder to shoulder. The Consumer Federation of America prides itself on not taking money from corporations, only from nonprofit organizations, such as trade unions, including you guessed it, the Retail Food Clerks International.

But that's not all. The administrative assistant and special counsel to the president of the Retail Clerks International is one Jay Foreman whose wife, Carol Tucker Foreman, is executive director of the Consumer Federation of America. Doubtless only malevolent minds would make a connection with CFA's strong interest in UPC, and Mrs. Foreman denies that there is anything more here than a "concert of interests." Concert or conflict, we'd hate to think what consumerists would do to Betty Crocker if she got caught in a similar situation.

PAUL DOUGLAS—NONE WILL QUESTION HIS GREATNESS

Mr. McINTYRE. Mr. President, I am grieved at hearing of the passing of our beloved former colleague, Paul Douglas of Illinois.

Some men tower in the Senate because they can outshout, outtalk, outmaneuver or outwit the others in this body.

Other men tower in the Senate because they have enormous talent, great intellect, a mammoth understanding of the issues we face, and a feeling of awe for the people far beyond that which blesses most of us.

Paul Douglas was one of the latter. His mind was unrivaled, his knowledge was vast, and his humaneness ranked at the top.

When I was assigned to the Banking and Currency Committee, as it was known then back in 1968, I first had a chance to know Paul Douglas intimately and to begin to appreciate his many talents, his intellect, and his personal warmth.

I remember that he had a practice of inviting one or two leaders of the administration to lunch in his Senate office along with some of his fellow Senators. He honored me with invitations to these gatherings several times. It was always worth attending because Paul kept the conversation stimulating and interesting and you always left luncheon with some new thoughts and ideas.

On the floor of the Senate, Paul Douglas always led the debate against those who would tremble and lament the fact that the national debt was growing year after year. Paul was not one of those to cower in the corner. He had great faith in America. He would point out that we were talking about numbers when we talked about the debt—that we failed to add up all of the assets of this country, the public buildings, the public lands, the natural resources under the Earth—he disproved the idea that we were bankrupt because of the national debt.

One of the delights of debate in recent history were the colloquies between the two Illinois Senators—Paul Douglas and his colleague Everett Dirksen. These two were always a joy to listen to and Paul always made comments about Senator Dirksen's long rambling comments on issues under discussion which he felt were, in reality, "charming irrelevancies."

Many people did not realize that Paul Douglas was a hero of World War II. As a distinguished college professor and one of the Nation's leading economists he probably could have stayed home but he wanted to serve his nation. He was told that if he wanted to serve he could get a commission. But this was not in character for him. He said he was no better than the next person and entered service as a buck private in the Marines.

Serving with the 1st Marine Division at Peleliu and Okinawa and other battles in the Pacific he was wounded and decorated for "heroic achievement in action." He left service as a lieutenant colonel.

The world is a little less complete without Paul Douglas. None of us will question his greatness and we will miss him.

To his distinguished wife, Emily, and to the rest of his family, we express our deep sorrow.

REPORT TO THE SENATE FROM THE COMMITTEE ON AGRICULTURE AND FORESTRY

Mr. TALMADGE. Mr. President, I ask unanimous consent that a report from the Committee on Agriculture and Forestry to the Senate pursuant to section 302(b) of the Congressional Budget and Impoundment Control Act of 1974, be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

SENATE COMMITTEE ON AGRICULTURE AND FORESTRY

Distribution of allocations from the second concurrent resolutions on the budget for fiscal year 1977—

The Part I listing below provides the Committee's distribution of its functional allocations for the programs within its "spending jurisdiction." The Part II listing provides the distribution for the Committee's "entitlement" programs.

In the following listings, each account is identified in a parenthetical notation following the account title, as being "relatively controllable" (RC) or "relatively uncontrollable" (RU). For this particular submission, the Committee adopted the relatively controllable and relatively uncontrollable classification of accounts used by the Office of Management and Budget.

The below listings of programs within the spending jurisdiction of this Committee, and the entitlement programs of interest to this Committee are based upon a printout compiled by the Congressional Budget Office.

PART I.—PROGRAMS WITHIN SPENDING JURISDICTION OF THE COMMITTEE

[In thousands of dollars]

	Distribution of committee's 1st concurrent resolution allocations for fiscal year 1977	
	Budget authority	Outlay
NATURAL RESOURCES ENVIRONMENT AND ENERGY (300)		
Department of Agriculture		
Soil Conservation Service:		
05-78-8200-0-7-301—Miscellaneous contributed funds (WAT) (RU)	1, 178	1, 131
05-78-8200-0-7-302—Miscellaneous contributed funds (CON) (RU)	322	309
Forest Service:		
05-96-8028-0-7-302—Cooperative work (trust fund) (RU)	72, 900	71, 300
05-96-9999-0-2-302—Forest Service permanent appropriations (RC)	280	278
Total spending allocation, function 300	74, 680	73, 018
AGRICULTURE (350)		
Department of Agriculture		
Agriculture Research Service: 05-18-8200-0-7-352—Miscellaneous contributed funds (RU)	725	804
Animal and Plant Health Inspection Service:		
05-21-5222-0-2-352—Animal quarantine station (RC)	327	471
05-21-9999-0-7-352—Miscellaneous trust funds (RU)	2, 632	2, 265
Cooperative State Research Service: 05-24-8200-0-7-352—Miscellaneous contributed funds (RU)	5	5
Statistical Reporting Service: 05-33-8200-0-7-352—Miscellaneous contributed funds (RU)	22	22
Economic Research Service: Miscellaneous contributed funds (RU)	2, 411	2, 411
Farmer Cooperative Service: 05-48-8200-0-7-352—Miscellaneous contributed funds (RU)	50	48
Federal Crop Insurance: 05-63-4085-0-3-351—Federal Crop Insurance Fund		−3, 605
Commodity Credit Corporation: 05-66-5210-0-2-351—National Wool Act (special fund) (RU)	42, 231	12, 500
Agricultural Marketing Service:		
05-81-5070-0-2-352—Perishable Agricultural Commodities Act fund (special fund) (RU)	1, 590	1, 820
05-81-9999-0-7-352—Agricultural Marketing Service trust funds (RC)	43, 498	44, 119
Total spending allocation, function (350)	93, 491	60, 860
COMMUNITY AND REGIONAL DEVELOPMENT (450)		
Department of Agriculture		
Farmers Home Administration: 05-75-4155-0-3-452—Rural development insurance fund (RC)	136, 551	322
Total spending allocation, function (450)	136, 551	322
INCOME SECURITY (600)		
Department of Agriculture		
Agricultural Marketing Service: 05-81-5209-0-2-604—Funds for strengthening markets income and supply (sec. 32) (RC)	11, 747	−4, 308
Food and Nutrition Service: 05-84-3506-0-1-604—Institutional nutrition support (RU)	1, 111, 000	(1)
Total spending allocation, function (600)	1, 122, 747	−4, 308
REVENUE SHARING AND GENERAL PURPOSE FISCAL ASSISTANCE (850)		
Department of Agriculture		
Forest Service:		
05-96-9997-0-2-852—Forest service permanent appropriations (special funds) (RC)	36, 640	36, 640
Do	19, 900	19, 900
Total spending allocation, function (850)	56, 540	56, 540
Total spending allocation, all functions	1, 484, 009	185, 432

PART II.—ENTITLEMENT PROGRAMS THAT REQUIRE APPROPRIATIONS COMMITTEE ACTION

AGRICULTURE (350)		
Department of Agriculture		
Agricultural Stabilization and Conservation Service: 05-60-3314-0-1-351—Dairy and beekeeper indemnity program (RU)	4, 050	4, 050
Total entitlement allocation, function (350)	4, 050	4, 050
INCOME SECURITY (600)		
Department of Agriculture		
Food and nutrition programs:		
Food stamps	5, 542, 000	5, 307, 000
Child nutrition	1, 792, 000	2, 506, 000
Total entitlement allocation, function (600)	7, 334, 000	7, 813, 000
Total entitlement allocation, all functions	7, 338, 050	7, 817, 050

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[1] Not applicable. According to the Senate Budget Committee, outlay amounts related to sec. 32 permanent budget authority are assigned to the spending jurisdiction of the Appropriations Committee.

MASS FOR ORLANDO LETELIER

Mr. KENNEDY. Mr. President, requiem mass was said yesterday for Orlando Letelier, a distinguished Chilean diplomat and economist who was murdered last week in this city. The memorial service also was for Ronnie Karpen Moffitt, a young American who was killed in the same despicable act of terrorism.

I rise today to call the attention of my colleagues again to the tragic bombing that took place in this city last week. To have known Orlando Letelier was to know a good man as well as a man of great intellectual capacity and courage.

I rise as well to repeat the demand that there be a complete and comprehensive investigation and that the guilty be brought to the bar of justice.

But I rise as well to try and make the murder of Orlando Letelier understandable to those who make foreign policy in this land.

Orlando Letelier was in Washington as a political refugee from tyranny. He was here because in his own country, a military junta has violated not only the norms of Chilean law but the most fundamental standards of law of Western civilization. It has tortured. It has killed. It has stifled every democratic freedom.

It has condoned and perpetrated the most brutal forms of violence in its own defense. In so doing, it has said that violence, from assassination to torture, are acceptable forms of conduct.

But there are others who also must ask themselves difficult questions?

Who helped the junta come to power? And who has helped it remain in power? And who has remained silent as it imposed its reign of terror?

The junta came to power after an American President was willing to deny the democratic traditions of Chile, just as he was later to deny the democratic traditions of our own country. It came to power with a welcome embrace from an administration that clearly favored an unconstitutional military junta over an elected Socialist government.

Its coming to power was defended by the current President who claimed the coup was in the "best interests of the Chilean people."

It has remained in power with the full support of this administration. With arms, with aid, with verbal and public support, the junta has been a favored client of the current administration. Its violations of human rights, its repression, its denial of democratic freedoms—all these have weighed little in the balance of foreign policy decisionmaking of this administration.

Nor can the recent rhetoric of respect for human rights that we have heard wipe away the stain that comes with the willingness to grant arms—even acting in the face of legislation approved by Congress. It was not illegal, the 11th hour arms deal with the junta this June. But it came after a conference committee had barred all new arms aid to Chile; and it was an act of cynical disregard for the junta's violation of human rights which had promoted the legislation.

Now on the streets of Washington, a man and a woman have been killed because they believed in justice and freedom. It is not enough to mourn. We must demand answers from those who have acted as if they were blind to what was occurring in Chile.

I ask unanimous consent that Orlando's own statement printed in the New York Times yesterday be printed in the RECORD along with today's editorial in the Boston Globe, a thoughtful column as always, by Mary McGrory and other articles.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 27, 1976]

A TESTAMENT

(NOTE.—On Tuesday, Orlando Letelier, who was Chilean Foreign Minister in the Government of President Salvador Allende Gossens, was killed in Washington when a bomb exploded in his car. He had been a leader of Chilean political exiles in the United States who opposed the military junta that overthrew President Allende in 1973. He wrote the following article for the Op-Ed page of The New York Times, at his own initiative, a few days before his death.)

(By Orlando Letelier)

WASHINGTON.—On Sept. 10 the Chilean dictator Augusto Pinochet issued Decree No. 588, which strips me of my nationality, for "gravely threatening the essential interests of the state." This measure is just one more addition to the shameful history of the violation of human rights committed by the military junta.

In the chronicle of Latin American dictatorships, political rights have frequently been denied to critics and opponents. The Chilean junta, not to be outdone as leader in the field of such violations, has made the entire Chilean population a victim through a decree that ordered the burning of the country's electoral register. In fact, all the citizenship rights of the population have been destroyed.

Today, having exhausted this repressive mechanism they can only resort to the absurdity of pretending that those who oppose their designs are no longer part of the Chilean nation.

Needless to say, this decree violates the intent of the Constitution that applied in Chile before the rule of law was destroyed there on Sept. 11, 1973, together with the norms of international law, especially Article 15 of the Declaration of Human Rights of the United Nations. This action has no precedent in our history. Never have governments vested themselves with the authority to confer or take away Chilean nationality at will.

Because of my position as Minister of State and Ambassador [to the United States] of the constitutional Government of Chile, I was incarcerated in the concentration camp on Dawson Island until I was expelled from the country without any formal charges ever being made against me. I was not granted any of the basic rights guaranteed by the Constitution or by the laws of my country.

Among other violations, I was deprived of my passport and thus of my status as a Chilean abroad. Many of my fellow countrymen were subjected to the same arbitrary measures.

It would seem, then, that this decree constitutes a complete absurdity. But behind it one sees the logic of a totalitarian mentality, that it projects itself from within a system based on terror and vengeance. Its purpose is to intimidate those who fight from abroad for the restoration of human rights, freedom and democracy in Chile. It tries to erase a whole sector of Chileans from the history of our country, to eliminate the protagonists of a social and political ideal with deep roots in our history, which has survived persecution and is today the emblem of the struggle against tyranny.

What the junta is fighting is not so much the men who three years ago led a democratic Government but rather the ideas we represent. What they are denying is the nationality of values, such as Chilean democracy, that for 150 years constituted an example for Latin America and for the world.

What they are attempting to destroy are the political parties that channeled the aspirations of the Chilean people, its trade-union organizations, and its convivial way of life, based on the free play of ideas and respect for the human being.

Accordingly, to Pinochet none of this has any place within the Chilean nationality, and the fascist ideology that Pinochet professes can be seen in this most delirious expression of his fanaticism.

The patriotic obligation of all Chileans is to contribute to the end of the dictatorship. We do it as members of a nation and as inheritors of a tradition of freedom to which the Pinochets do not belong.

The things that destroy our nationality are the concentration camps, torture, repression and hunger. That which makes us vulnerable as a nation is the utilization of the armed forces against the Chilean people. It is all this brutal conduct and not the actions of those who want to put an end to it that isolates us today from the community of civilized nations.

The image of Chile will return to what it once was when democracy is re-established along with the human rights that have been usurped by the dictators. At that moment no one will be in any doubt about the nationality of the Chileans who are in power today. On the contrary, as such they will be made to answer to Chilean tribunals in accordance with the Chilean judicial system for crimes committed against their country.

MURDER BY JUNTA, CHILEAN-STYLE, SHOCKS UNITED STATES

(By Mary McGrory)

WASHINGTON.—The death of Orlando Letelier at 44 would have been difficult for his family and friends under any circumstances—he was a person of princely bearing, brilliantly gifted and appealing. But the way it happened made it unspeakable. He was murdered.

His car exploded as he was driving to work last Tuesday morning. A young associate, Ronnie Karpen Moffitt, was killed. Her husband survived.

The rage was instant and universal. It was rage at the junta regime of Chile, which Letelier had opposed with all his strength and skill. And it was rage at our own leaders, who coddle and nurture that gangster government.

A spokesman for the Chilean embassy egregiously speculated that the bomb in the car might have been intended for the embassy. For those who knew Letelier, it was a further vile affront. He was a gentleman who spent his life fighting for human rights in his homeland.

In the House of Representatives, Toby Moffett, (D-Conn.), introduced a resolution condemning the murder and calling for an immediate and thorough investigation.

In the Senate, Edward Kennedy, (D-Mass.), called it "completely unacceptable political terrorism."

Sen. James Abourezk, (D-S.D.), declared that "the tyranny of the Pinochet government has now been extended to the U.S."

Richard Barnet, co-director of the Institute for Policy Studies, where Letelier worked, said there was "enough evidence to suspect that Letelier was killed by the Chilean intelligence agency (DINA)."

The evidence of how the junta treats its own citizens—the jails are full of political prisoners and torture is routine—and how it treats its dissident exiles is perhaps, for many, sufficient. In 1974, in Argentina, Gen. Carlos Prats, supreme commander-in-chief during the Marxist rule of Salvador Allende, was murdered. In Rome, in 1975, a former Christian-Democrat vice president, Bernardo Leighton, was subjected, in the company of his wife, to a machine-gun attack by DINA agents. They survived.

Letelier was a formidable adversary. He had made many friends in Washington during his two-year service as Chilean ambassador to the United States under Allende. He was versed in economics, and articulate about junta prisons, where he spent a year. He and his wife Isabel were the center of the Chilean refugees.

He explained to press and congress every new US proffer of encouragement and aid to the despots.

When Treasury Secretary William Simon, citing "progress in human rights," visited Santiago last May, and 49 prisoners were freed in his honor, Letelier provided lists to show that the release of five had been previously arranged and three were already in the United States.

"Thank you for what you are doing for my country," he would say formally after an interview. His country expelled him from citizenship two weeks ago. The accompanying edict labeled him a traitor.

A few days before his death, some of his friends received an invitation that would have galvanized him into wonted activity. It was jointly extended by the Ambassador of Chile, Manuel Trucco, and the Franciscan Friars for an Oct. 3 exhibition of paintings of the life of St. Francis of Assisi ("Lord, make me an instrument of thy peace"). It looked like another reach for respectability on the part of the junta. It turned out to be another example of the official US eagerness to help Pinochet with his image problems here.

Fr. Bartholomew Bengisser of the Franciscan monastery was distressed on the day of the murder.

"We were told it was not government-sponsored", he said.

The initiative had come from the US cultural attache in Santiago. The paintings belong to a Chilean Franciscan friary, and the loan was arranged with the collaboration of the Smithsonian.

Relations between the junta and the church in Chile have almost reached the breaking point, according to a report in the current issue of America, the Jesuit weekly. Three Chilean bishops who attended a religious conference in Ecuador were roughed up by DINA agents on their return to Santiago.

The Bishops conference thereupon issued a warning of excommunication to any who do violence to a bishop. The junta refused to publish it.

Bishop Carlos Camus, head of the conference, said, "The Catholics of Germany knew nothing of the crimes of the Gestapo, nothing of the slaughter of millions of Jews, until after the war when they were shown the films. I believe that something similar is happening in Chile. Many people do not know what is going on. Some day the truth will be known and then they will say, 'How could we have been so deceived?'"

The Ford Administration is not deceived. It prefers to look the other way. For Gerald Ford and Henry Kissinger, the junta's anti-communism covers all its sins.

[From the Boston Globe, Sept. 27, 1976]

Importing Terror

The murder of former Chilean Foreign Minister Orlando Letelier and a woman assistant in Washington, D.C., may or may not have been the work of the Chilean military government headed by August Pinochet and its secret police. But significantly, even those who would give the junta the benefit of a doubt concede that it is capable of extending its barbarism even to the U.S. Capital.

The junta's ruthlessness has been well documented, as is its indifference to international boundaries. The aristocratic Letelier was not the first former Allende adviser murdered since the military coup of 1973. A bomb killed the former commander of the Chilean army in Buenos Aires in 1974. A year later, the exiled vice president of the Chilean Christian Democratic Party was shot down in Rome. Chilean exiles and dissidents have been beaten and harassed in Argentina, Colombia, and Ecuador. Within Chile, hundreds of persons have been arrested on trumped up charges; some have then simply disappeared. Some have emerged from prison with hair raising tales of torture.

The United States bears a heavy responsibility for the turn of events in what was once Latin America's most stable democracy. Under Richard Nixon, the U.S. Government sought with little subtlety to "destabilize" the Allende regime. And in recent months, despite the heavy documentation of criminal behavior by the Pinochet government, two U.S. Cabinet Secretaries, William Simon and Henry Kissinger, have visited Chile, lending legitimacy to one of the more illegitimate regimes on earth.

It mattered not that Mr. Kissinger seized the occasion of the OAS meeting in Santiago to criticize Chile sharply for its human rights violations, or that in deference to Mr. Simon, the Chileans momentarily called off their terror tactics (only to resume them shortly after he left). The effect of the twin visits and the $125 million in private loans from American and Canadian banks granted at about the same time was to strengthen the junta just as the Congress was moving to reduce military and economic aid to Chile.

Ironically, Mr. Kissinger's intervention helped get Mr. Letelier released from a junta prison two years ago.

One hopes now that Mr. Kissinger will insist that the complete resources of the U.S. Government be brought to bear in investigating his murder, and that a full public disclosure be made of the findings. One also hopes that if there is any evidence that the Chilean secret police are operating in this country that the strongest possible protest be made to Pinochet regime.

The United States has had sad experience in its efforts to "destabilize" other governments and by now, our State Department should have learned the folly of that policy. But if there is no reason to plot a foreign government's demise, there is no reason to prop up a government that makes a mockery of democratic values.

The time seems ripe for making that point perfectly clear to Chile.

[From the New York Times, Sept. 27, 1976]

Some 2,500 Honor Murdered Chilean

Washington, September 26.—Some 2,500 persons walked in a memorial procession here today for Orlando Letelier, the former Chilean defense minister killed in a bomb explosion Tuesday, then attended a funeral mass at St. Matthew's Cathedral.

"The people of Chile have been dealt another blow," Hortensia Allende, widow of former President Salvador Allende Gossens of Chile, said in a speech preceding the requiem mass celebrated by Bishop James S. Rausch, general secretary of the United States Catholic Conference.

She blamed the military junta ruling Chile for the deaths of Mr. Letelier and Ronni Karpen Moffit, who died when a bomb exploded in Mr. Letelier's car, and demanded "that the United States pursue a thorough investigation which will unmask the perpetrators of this monstrous crime."

The mourners followed the flower-blanketed coffin of Mr. Letelier around Sheridan Circle, where the explosion took place. From there, they walked about a mile to the cathedral.

Leading them were Mr. Letelier's wife, Isabel, and Mrs. Moffit's husband, Michael.

The mourners placed flowers at the spot in front of the Rumanian Embassy where Mr. Letelier's bombed car came to rest and on the lawn to which Mr. Moffit helped his wife after the explosion.

Representatives of more than 30 embassies, including the ambassadors of Denmark, New Zealand and Trinidad, and about a dozen members of Congress attended the requiem mass, which included a vocal accompaniment by the singer Joan Baez.

[From the Washington Post, Sept. 27, 1976]

Thousands March in Memorial to Slain Letelier

(By Phil McCombs and Alice Bonner)

Thousands marched down Washington's Embassy Row yesterday and filled St. Matthew's Cathedral in a dramatic memorial to slain ex-Chilean diplomat Orlando Letelier and his associate, Ronnie Moffitt. The powerful, the exiled and the bereaved gathered to remember the pair, who they said gave their lives for human freedom in Chile.

Many wept as the strong, piercing voice of Joan Baez filled the vaulted cathedral with, "Holy, Holy, Holy. Early in the morning, our song shall rise to thee." Bishop James Rausch, General Secretary of the National Conference of Catholic Bishops, celebrated the Mass of Christian Burial and then added the voice of the Church to those denouncing the present military junta in Chile and U.S. support for it.

"The senseless violence of terror has struck in our midst," he declared in a homily, adding that the bombing death of Letelier when his car blew up at Sheridan Circle last Tuesday morning was "calculated, planned, selective." He said Americans have been "brutally reminded of the cost many have paid for our unjustified intrusion in another country's life."

Sen. George McGovern (D-S.D.) denounced "the grisly gang now dictating events in Chile," and Mrs. Salvator Allende, wife of the former Marxist president, declared that Letelier had suffered "the merciless persecution of Chilean facism."

"I call upon all civilized nations of the world and the United Nations to stand up to this serious threat," she said in Spanish through an interpreter to the audience in the Cathedral. "Orlando Letelier is a banner that will not be lowered."

One of the most moving moments came when Michael Moffitt, husband of Ronni Moffitt—and who was in the car but escaped injury—stood before the altar and said: "If the purpose of the junta and its henchmen was to silence the voice that speaks for free Chile . . . they have not silenced that voice. They have multiplied it a hundredfold."

There was sustained applause.

The FBI and metropolitan police are still seeking the killers of Letelier and Mrs. Moffitt, who died when a bomb exploded under Letelier's blue Chevelle as it rounded Sheridan Circle NW on the way to the Institute for Policy Studies, a leftist "think tank" at 1901 Q St. NW.

Letelier, 44, who served as Allende's foreign minister and minister of defense in 1973 after his tenure as Allende's ambassador to the United States, was the director of an Institute offshoot, the Trans-national Institute. Mrs. Moffitt, 25, was a fund-raiser for the Institute for Policy Studies.

Letelier was an outspoken critic of the military government of Gen. Augusto Pinochet, who came to power after Allende was ousted Sept. 11, 1973. The junta declared that Allende committed suicide in the ruins of the presidential palace, which had been rocketed by the Chilean air force.

Mrs. Moffitt, who was riding in the front seat next to Letelier, was buried Thursday in Passaic, N.J. Letelier's remains were flown to Venezuela yesterday after the service for burial by that country's government.

The memorial speeches in the cathedral at

1725 Rhode Island Ave. NW, the site of the mass for slain President John F. Kennedy in 1963, were fully as personal as they were political. McGovern said the killing of Letelier "deprived the world of one of its noblest men," and he described Mrs. Moffitt as a "brilliant young woman."

Joan Baez also sang at the gathering point for the march to the cathedral. Suntanned and wearing a bright green dress with a black mourning scarf, she recalled how she had met Letelier once at a party in Venezuela.

"You knew him a little bit and you felt you'd known him a long time, she said. "I remember that he insisted on singing and dancing all night, even with his finger broken" during his imprisonment in Chile by the junta.

IPS co-director Marcus Raskin, also speaking at the gathering point, said the Institute will issue a statement on the progress of the investigation next week. "I do feel the Department of Justice and the FBI is on trial in this case," he said.

Ex-Sen. Eugene McCarthy, who also was there, said the slaying took place in the context of U.S. "acceptance" of "a dictatorial government."

A golden Cadillac filled with flowers led what an IPS official called a march of "mourning suffused with anger" starting from the monument put up by Americans of Ukrainian ancestry to poet Taras Schevchenko, passing around Sheridan Circle where the bombing took place, going down part of Embassy Row and then south on Connecticut Avenue to Rhode Island Avenue and the cathedral.

Following the golden Cadillac was a black one containing Letelier's parents, and after that came Letelier's four sons arm-in-arm: Christian, 19; Jose, 17; Francisco, 16; and Juan Pablo, 15. They were followed by Letelier's widow, Michael Moffitt and one of Ronni Karpen Moffitt's brothers.

Then, in ranks, came other relatives, friends, scores of people connected with the IPS, a dozen ex-Chilean officials in the Allende government—all now in exile in various countries—and then the public.

The IPS released the names of nearly 40 diplomats and a dozen U.S. congressmen that an IPS spokesman said attended the funeral.

Ambassador Jose Carolos Lobo of Mozambique said he marched "to show solidarity with the people of Chile." Ambassador Jose Juan De Olloqui of Mexico said he was not there officially, but for personal reasons. U.S. Rep. George Miller (D-Calif.) said he was "not terribly close" to Letelier personally but wanted to join the march anyway.

The mood of the more than 2,000 persons in the procession was intensely solemn during the well controlled march to St. Matthews. Most walked six abreast as recommended by institute organizers, later breaking into single file to drop roses and chrysanthemums on the site of the explosion. A dozen mounted park policemen watched from the opposite side of Sheridan Circle, but metropolitan police said the entire event occurred without mishap.

There was little weeping or outward emotion except among members of the victims' families.

Most of the mourners and sympathizers wore black armbands. A few had on pink paper masks that one wearer said were to protect the identity of illegal aliens in the crowd (mostly Bolivians and Chileans, he said.) and as a symbol of "solidarity among Latinos.

"Comrade Orlando, your death will be avenged," the marchers chanted in Spanish, and "Presente," meaning "they are with us."

Although organizers of the memorial asked participants to confine their demonstrations to traditional chants and use only the oversized photographs of Moffitt and Letelier, a few carried signs saying "All corporate interests out of Chile."

As the mass progressed inside the cathedral, several hundred sympathizers remained outside in spite of the pouring rain. They sheltered themselves under trees and umbrellas and in doorways. Some sat cross-legged in the middle of the street or squatting on curbs, oblivious to the downpour.

The crowd represented "a large exile community here and some who have suffered through that kind of repression," said Pablo Buchanan, 22, whose family lives in Santiago.

A large red and white banner reading "Fascist Repression can not kill the movement to free Chile," remained aloft in the rain throughout the ceremony, which was broadcast over loudspeakers for the benefit of those outside.

A number of persons in the procession wore white armbands labelled "Legal." They were attorneys and law students organized by Antioch Law School to provide legal aid, in the event that aliens were arrested for their participation, said Antioch student Kitty Tucker.

Hundreds of the mourners came from other cities to join what some in the crowd described as "a Washington-based coalition of leftist-oriented people" from South American countries. Purple and white armbands identified the Dominican Liberation Party, represented by about 300 New Yorkers who came by bus for the memorial.

"We are fighting for the liberation of our country and we came to condemn the assassinations," Fausto Hernandez, a member of the Dominican Republic exiles, said.

"I see it (the deaths) as an extension of the Chilean fascist junta's terrorist tactics into the United States, Tucker said, expressing a feeling many Washington people in the crowd appeared to share.

As the ceremony ended, the Letelier Family escorted the casket from the cathedral to a waiting hearse.

Sympathizers greeted them with the same chants and slogans used along the procession route, raising their right fists in salute to the victims.

At one point, Michael Moffitt stepped into the crowd to shake hands with the demonstrators.

As the Gawler's hearse bore Letelier's remains away for flight to Caracas, Venezuela, where he will be buried with honors today, the crowd chanted still another battle cry: "The people united will never be defeated."

ORLANDO LETELIER: "A BEACON OF FREEDOM"

As a professional historian who both knew and admired Ambassador Orlando Letelier, I feel compelled to send this brief note. Orlando Letelier was both a gentleman and diplomat of rare intellect and even rarer humanity. He followed, personally and professionally, the Jefferson principle of "Rebellion to Tyrants Is Obedience to God." This horrible political murder, either directly or indirectly related to the fascist junta in Chile, must not go unpunished.

George Washington once wrote that America must give "to bigotry no sanction" and this guideline must surely apply to our relationship with this evil regime. The relationship of the junta to this horrible crime must be established and once that is done we must make every effort to assist in the reestablishment of basic human rights in this oppressed land. Orlando Letelier will serve as a beacon of freedom to people who love freedom everywhere. He will surely not be forgotten. Equally, the junta that now bestrides the people of Chile must and will be destroyed.

FREDERIC A. GREENHUT.

ARLINGTON.

Orlando Letelier was a Chilean leader and patriot whose critiques will continue to encourage nations who deal with the military junta in Chile to question the basis and conditions of their relationship. Letelier had obviously succeeded with reasoned and accurate commentary and once again the junta responded as only tyrannical, inhumane regimes do. It is deplorable that such actions continue to be documented in Chile and to Chileans and their friends elsewhere around the world. The murder of Orlando Letelier and Ronni Karpen Moffitt represents a threat to free speech and political debate for all of us that cannot be tolerated. We must have a thorough congressional investigation of this tragic event.

JAMES JOSEPH ROBY.

WASHINGTON.

The violent death of Orlando Letelier, former Chilean ambassador to the United States, is as unfortunate as it is brutal. It is hardly surprising that Mr. Letelier joins a distinguished but ever lengthening list of Chilean exiles assassinated abroad. Added to those eliminated abroad by sympathizers with the current regime in Chile are the many exiles who live within the borders of their country who are murdered without newspaper headlines. Orlando Letelier's death, I would suggest, is shocking because it is commonplace whether on the streets of Santiago or Washington, D.C. If the former ambassador's death is to have any meaning whatsoever, it is time that Americans face up to this fact.

JEFFREY GOLDBERG.

WASHINGTON.

The murders of Orlando Letelier and Ronni Moffitt are tragic but not surprising considering their opposition to the fascist regime in Chile, which has proven through the years since the overthrow and murder of Salvador Allende that there is no gross act it is not capable of.

Doubly tragic is the fact that the United States government continues to support the anti-democratic Chilean dictatorship. When will we learn that it is better to make friends than enemies, and that by supporting a "government" like Chile's we make far more enemies in the world than we do friends?

MARTIN W. G. KING.

WASHINGTON.

Ronni Moffitt, a 25-year-old American citizen, was killed in a car bomb blast that also killed a colleague, the former ambassador from Chile. She didn't die far from home but right here in her own country where she should have been safe from this kind of terror. Is it possible that foreign intelligence agents came into our country and carried out this dreadful thing right under the noses of our own intelligence agencies? If we are not safe from them in our own country's capital, where can we be safe?

Her death was the indirect result of an amoral foreign policy that allows us to deal with the rulers of a country even when we know they rule by terror and force, like Chile. While too much morality in a foreign policy could obstruct the practical application of that policy, one without any morality at all is just as doomed. In "A Man for All Seasons," the playwright Robert Bolt had Sir Thomas More, Lord Chancellor to Henry VIII, comment on this subject: "When statesmen forsake their own private conscience for the sake of their public duties, they lead their country by a short route to chaos." We can afford to take a moral stand on injustice and terror in dealing with our national neighbors.

J. CAROLE CLARKE.

WASHINGTON.

PSYCHOLOGICAL READJUSTMENT FOR VIETNAM VETERANS

Mr. McGOVERN. Mr. President, on September 16 H.R. 2735, the Veterans' Omnibus Health Care Act passed the Senate. Senator CRANSTON and the other members of the Senate Veterans Affairs Committee deserve our congratulations for developing this important and progressive veterans health care legislation which originated in the Senate as S. 2908.

One aspect of health care for veterans that I have emphasized as particularly necessary during the last several years has been that of psychological counseling and treatment for Vietnam veterans. As an author of legislation, S. 2771, dealing with the psychological needs and emotional problems of Vietnam veterans, I believe that such services are appropriate and directly in line with a long standing national commitment to help those who served this country in time of war cope with and overcome the residual tensions, frustrations, and mental disorders imposed on them by their wartime experiences. One of our goals for all veterans in times past has been to see that they return to their homes and families as fully productive members of American society. If we are to meet that same goal for Vietnam veterans, then we must make available special psychological readjustment services.

For this reason I was especially pleased to note that one section of H.R. 2735 addresses these needs I have mentioned and incorporates many of the same proposals I suggested in S. 2771, such as providing initial readjustment counseling to veterans upon request and any necessary follow-up mental health services to assist in treating emotional problems arising after and due to a veteran's military experience; extending some of these same services to the dependents of veterans; making available some of these services outside VA facilities; and providing an outreach program to inform veterans of the assistance available to them.

Because of the unique and controversial nature of the Vietnam war and the unusual stress and frustration encountered by so many veterans of this conflict, it is clear in numerous cases that the war did have a profoundly adverse effect upon the mental well being of veterans and their interpersonal relationships with their families.

The Federal Government does possess some responsibility for assisting those affected in overcoming or avoiding war-related emotional problems. I am glad to see that H.R. 2735 extends such assistance to veterans' dependents and I hope that a special attempt will be made to determine the war's real impact on a veteran's interpersonal functioning and family life. I believe that an invaluable resource to the Veterans' Administration in achieving these objectives can be found in the community health centers. I strongly encourage cooperative programs with these centers and other Federal facilities and veteran self-help programs to insure that maximum attention is given veterans taking advantage of the psychological readjustment provisions.

Another problem that plagues so many young veterans of the Vietnam era is that of less than honorable discharges. I am concerned that many veterans with personal adjustment problems may have other than honorable discharges which normally preclude their receipt of VA treatment. In many of these cases it appears that the psychological problems developed during the service may have contributed to the offense leading to the issuance of a less than honorable discharge. The Presidential clemency program found a very high incidence of psychological problems among Vietnam combat veterans separated for AWOL offenses after otherwise honorable military service. It is my hope that some sort of appropriate psychological readjustment assistance could be offered through the VA to veterans whose applications for discharge review and upgrading are pending before the review boards.

Mr. President, as I have stated on numerous occasions, I respect the young Americans who served their duty in Vietnam. But I recognize that they have been met so often with indifference and alienation from the very Nation that sent them to war. Unfortunately, society has bestowed on the Vietnam veterans a negative image which has been difficult for them to rectify. It might even be that such an adverse public impression has worked to reinforce negative self-images in the minds of many veterans and to dissuade those with valid and serious readjustment problems from seeking assistance for fear of the social consequences and stigma. But I believe that the psychological readjustment provisions of the Veterans Omnibus Health Care Act will help veterans to counter that image by convincing them that they deserve this assistance and by offering them this opportunity to be relieved of the powerful psychological and emotional burdens of the Vietnam war.

THE RETIREMENT OF GEN. FRED C. WEYAND

Mr. CRANSTON. Mr. President, I wish to print in the RECORD a statement by my colleague, Senator JOHN TUNNEY, honoring our fellow Californian, Gen. Fred C. Weyand. General Weyand is retiring after 36 distinguished years of service with the U.S. Army. I share Senator TUNNEY's thoughts that General Weyand is a man of whom our Nation and California in particular are justly proud. I ask unanimous consent that Senator TUNNEY's remarks be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR TUNNEY

I wish to pay tribute today to a distinguished Californian, General Fred C. Weyand, who is retiring as Chief of Staff of the United States Army after 36 years active service.

A graduate of the University of California at Berkeley, General Weyand served his country in World War II, in the Korean war, and in Vietnam. As an indication of the esteem in which he is held, he was honored last April with the California Alumni Association Award for 1975. I would like to take this occasion to insert into the record the citation presented to General Weyand at that time:

CALIFORNIA ALUMNI ASSOCIATION AWARD FOR 1975

"General Frederick Carlton Weyand, leader and patriot, you have brought much honor to your University since graduating with the class of 1939. In your 36 years in the United States Army you have served all over the world in a broad range of assignments, including legislative and diplomatic ones. As a military advisor at the Paris peace talks, and as the last American commander in South Vietnam, you took part in the making of our recent history. Now, as the Army's Chief of Staff, you are the leader of one million men and women in uniform.

"Under your skillful command the Army has become an all volunteer organization, and you have scored an impressive success in rebuilding that service as a peacetime defense force. Your more than 40 military awards and decorations, including the Distinguished Service Cross, testify to your valor and your dedication. As only the second Chief of Staff to have earned his commission through ROTC, and as one of the few non-West Pointers to achieve four-star rank, you are the exemplar of the American citizen-soldier two centuries after the first citifien-soldiers answered the call to arms. The California Alumni Association, in recognition of your contributions to maintaining peace in the world and of your service to your country, proudly confers upon you its highest honor, the California Alumni Association Award for 1975.

"Given at Berkeley this second day of April, nineteen hundred and seventy six."

The words of that citation attest strongly to the feats accomplished by General Weyand, but in a real sense, they do not and indeed, cannot express the full range of gratitude for the service he has performed. Nor can I in the brief time alloted to me here today.

However, I would like to emphasize that, while I have from time to time criticized Defense policies and programs, I have nothing but the highest respect for General Weyand. He is a soldier and a statesman of the first order. He deserves not only our praise and that of the Nation on the occasion of his retirement, but our everlasting thanks for the contributions he has made to our national security.

TRIBUTE TO SENATOR JOHN O. PASTORE

Mr. SPARKMAN. Mr. President, I am pleased to have the opportunity to join with my many colleagues in the Senate in paying tribute to Senator JOHN O. PASTORE of Rhode Island. JOHN has decided to retire after serving in the Senate for more than a quarter of a century as well as in important government positions in his own State.

I remember quite well when he came to the Senate. From the first he has been one of the hardest working, most efficient, and effective Members of the Senate. He became an expert in atomic energy matters and indeed in the whole energy field. He was a valuable member throughout the years and chairman of the Joint Committee on Atomic Energy.

JOHN PASTORE was always attentive to his duty on the floor of the Senate. He never hesitated to speak up and when he did the Senators listened because they knew they would hear words of wisdom and advice which the Senate was always ready to heed.

We shall miss JOHN PASTORE in the Senate but we shall wish for him and for his family great happiness and continuing success throughout many years to come.

TRIBUTE TO SENATOR PASTORE

Mr. TALMADGE. Mr. President, I join the Senate in paying my respects to my good friend and colleague, Senator JOHN PASTORE, of Rhode Island, on his retirement. In 26 years of service in the Senate to his State and Nation, JOHN has distinguished himself as one of the most capable and energetic men to ever sit in this body. We will all miss him very much.

I first knew JOHN when he was Governor of Rhode Island at the time that I was Governor of Georgia. I am proud of the friendship and personal and professional association we have had over the years.

Since I came to the U.S. Senate in 1957, JOHN PASTORE and I have fought many battles of concern to our respective States. We have joined forces on several occasions to fight the low-wage importation of man-made fibers and apparels that for many years devastated textile industries in Rhode Island and Georgia, and which drove thousands of American workers out of jobs. No one in the Senate needs to be reminded of the tenacity and persistence of Senator PASTORE when he sets his mind to something, and he proved himself to be an effective ally in this cause, just as he has done in every other cause with which he alined himself.

From the time that he served in the Rhode Island General Assembly in 1935, up to the present, JOHN PASTORE has demonstrated outstanding leadership and devotion to duty. He has given virtually all of his adult life to public service, and he is most deserving of high tribute from the Senate, the people of Rhode Island, and citizens of the United States.

I congratulate JOHN for a job well done and wish him every success and happiness in his retirement.

TRIBUTE TO PAUL DOUGLAS

Mr. CRANSTON. Mr. President, I wish for a few moments to reflect in sorrow, in friendship, and in tribute to the memory of Paul H. Douglas of Illinois—a truly great and gifted man—whose passing last Friday at the age of 84 is the Nation's loss.

Paul Douglas served in this body for 18 years, from January 3, 1949, until January 2, 1967. During that time, he was not an insider in the Senate Club—for his untiring, vigorous, and courageous efforts for civil rights, civil liberties, and equal employment opportunities for all people made him anathema to many of his colleagues.

But the strength and warmth of his personality, and the fundamental fairness and rectitude of his character earned him the admiration and affection of many of his colleagues. Among them, Senator JOHN F. KENNEDY was one who expressed interest in supporting Senator Douglas for the Presidency.

And he was effective: Even before the end of his first term, he had been rated "No. 1 Senator" of his day by both the Washington press corps and a national poll of political scientists.

His life represented a totality of distinguished, vigorous, and tough-minded public service—of which the years in the Senate were neither the beginning nor the end.

In the Senate, as elsewhere, he saw himself as a fighter for the interests of working people, consumers, and taxpayers, and against the special interests. And his magnificent legislative record is ample verification of that self-image: He fought for Federal aid to education, broader and more generous unemployment compensation, increased minimum wages, decent housing for all, truth in lending, medicare, broader social security coverage, strong antitrust laws, expanded rural electrification, and removal of unfair restrictions from immigration laws. And he fought with equal vigor against waste and corruption in Government, and Government subsidies for the privileged.

Paul Douglas brought a gifted intellect and a well-trained mind to grapple with the economic problems of the Nation. He was educated at Bowdoin, Harvard, and Columbia, where he obtained a master's and a doctor's degree in economics. He taught at Illinois, Reed College, and the University of Washington, before moving to the University of Chicago in 1920. By 1925, at the age of 33, he was a full professor there and author of several standard studies on labor and economic problems.

He became involved in public affairs when, in the interest of protecting consumers of Illinois from higher prices, he led an attack against the monopolistic practices of the gas and electric empire headed by Samuel Insull.

In 1934, Paul Douglas brought his economic expertise and compassion for people to the New Deal administration of President Franklin Roosevelt, serving on the Consumer Advisory Board. From then on, he never stepped back from his total commitment to public service. He helped to write the Illinois Unemployment Compensation Act of 1937, and the Federal Social Security Act.

His first elective office was Alderman on the Chicago City Council in 1939. In 1942—at age 50—he enlisted in the Marine Corps and insisted on combat service. Wounded twice in battle, he lost most of the use of his left arm from a wound suffered at Okinawa. But he never lost his capacity for fighting for that in whch he believed.

In 1948 he won his seat in the Senate, which he held until defeated for reelection in 1966, at age 74.

After leaving the Senate, Paul Douglas continued to teach, to write his autobiography, and—remaining in Washington—to be available to former colleagues and friends for consultation and conversation.

Although our Senate service never overlapped, I first met Paul Douglas in the 1940's when his wonderful wife, Emily Taft Douglas, was in the other body as Representative-at-Large for Illinois, and we have remained good friends through the years. Emily is a great person in her own right, as well as a great member of the indomitable Douglas team.

I know how she will miss him.

We all miss him.

The Nation—and, indeed, the world—will miss him.

PROPOSED NEW CRITERIA FOR REA LOANS

Mr. McGOVERN. Mr. President, on last Friday, the Committee on Agriculture and Forestry favorably considered H.R. 12207—the REA Technical Amendments Act of 1976—which seek to adjust the criterion for mandatory loans by the Rural Electrification Administration at the 2-percent interest rate.

This bill passed the House of Representatives on May 3, 1976. Hearings on it were held before the Agriculture Subcommittee on Agricultural Credit and Rural Electrification, which I chair, on September 17.

I anticipate that the measure will come before the Senate in the closing days of our current session next week.

The reasoning behind this legislation appears to be a concern on the part of the National Rural Electric Cooperative Association that unless some action is taken now we may run the risk of losing access to the 2-percent REA loan program entirely. This view is apparently shared by the administration as well.

In some respects, they are correct. There are some rural electric cooperatives who now own such a high percentage of their system that they can easily go into the commercial money markets for the funds they need at higher interest rates without substantive increases in rates for those they serve. This situation generally exists in fully developed rural areas.

I share the view that the entire 2-percent REA loan program needs to be reviewed with a possibility of adjusting its provisions to provide low interest assistance for generation loans in addition to or as a substitute for certain system improvement and transmission facility loans that are now eligible for 2-percent money.

This is a very complex issue. Congress has held only 2 days of hearings on this bill. We would be better advised to set this legislation aside in favor of a comprehensive legislative effort in the 95th Congress in relation to the 2-percent REA program.

I believe that when this measure passed the House of Representatives there was a general lack of understanding on the part of many REA supporters as to the implications of the bill. This opinion was verified in a September 16 letter from Congressmen JAMES ABDNOR and LARRY PRESSLER who wrote to me as follows:

> Although we joined the majority when this measure passed the House, we did so on the basis of what has proven to be incomplete information as to its impact on South Dakota cooperatives. It is apparent that others who supported the bill in the House may also have done so without adequate knowledge of the consequences. In light of the complexity of this matter, we believe that enactment of H.R. 12207 should be deferred pending a thorough review of its implications for rural power consumers.

Their concern is well taken. This bill is opposed by the South Dakota Rural Electric Cooperative Association, East River Electric Power Cooperative, and others in the upper great plains who recognize that the need for 2-percent money in that area has not yet peaked out.

Under this legislation, six cooperatives in my State alone will lose their eligibility for 2-percent money. We are moving into a period in the upper great plains of intensive irrigation development. Congress has funded large irrigation projects and more are on the drawing boards. The need to apply water on the land in that semiarid portion of the country is underscored, again, this year as we confront the worst drought we have had in 40 years.

With the coming of irrigation, electric power requirements for irrigators, and others who will utilize water transmission and distribution systems will skyrocket. In some rural electric cooperative areas we will have to rebuild up to 70 percent of existing line into heavy-duty line that will carry the increased power demanded for water movement from existing reservoirs to individual farming units. Without 2-percent money, many cooperatives will simply not be able to upgrade their systems to meet this increased power demand.

In this context, Mr. President, I carefully questioned the Administrator, Mr. David Hamill on how the agency would treat a loan application from a cooperative whose status might have changed under the criteria proposed in this legislation and their financial needs to accommodate a heavier load factor in their basic distribution system for irrigation purposes would create severe hardships if they were forced to pay higher interest rates—posibly the higher interest rate would make irrigation not economically feasible. Mr. Hamill in his narrative testimony carefully pointed out:

> I would remind the members of this Committee that there is a factor in the amended act and there would be a factor in the amended act, if this amendment that has been proposed and passed by the House is adopted, that wherever there would be extenuating circumstances, the Administrator has the authority to use that to make available the special rate to any eligible borrower.

As the hearing testimony developed and during the questioning period I asked Mr. Hamill the following questions:

> Senator McGovern. . . . if we move ahead on the Oahe irrigation project and, of course, I very much hope we will, and we have to undergo major upgrading in the system to take care of a considerable number of users, that you have the power and past experience indicates that you would use it to see that they are not confronted with a financial crisis?
>
> Mr. Hamill. If they were confonted with a financial crisis Senator, this would surely be the case.

For further specifics in this sensitive area I later questioned Administrator Hamill as follows:

> Senator McGovern. What I am getting at, is do we have some assurance that future administrators are going to be bound by the same essential criteria that you have set for yourself in meeting extenuating circumstances.
>
> Mr. Hamill. I indicate this became a part of the law since I have been the Administrator and it is Section 305(a)(2), and here is what it says. This is the second part of this and none is changed by the amendment.
>
> "*Provided, however,* that the Administrator may in his sole discretion make a loan at the special rate if he feels that the borrower, number one, has experienced extenuating circumstances or extreme hardship or"—
>
> And then it goes on in a couple of others that merely say the same thing, Senator McGovern.

I point out that during the course of the Administrator's testimony he continued to dwell on his authority to act in "extenuating circumstances." He did this for the most part gratuitously, stating at one point:

> But under the present act we have the authority to use the special rate . . . when in his judgment there are extenuating circumstances where he should act.

I thus indicate for the record the assurance I have been given for purposes of associating them with the legislative history of the bill that has been reported.

But even beyond that, it does not make sense to me to attempt to respond legislatively to administration decisions adverse to the REA program—when the tenure of those involved may be of limited duration. We are, after all, only a few weeks away from a national election.

Time and time again in the last few weeks—legislation has been postponed pending the results of the November 2 election. Given this situation, I do not believe that the REA program should be singled out for hasty action—when the need for that action may evaporate on Inauguration Day next January.

I can promise my colleagues in the Senate that if we can now set aside H.R. 12207—that the Subcommittee on Agricultural Credit and Rural Electrification will hold comprehensive hearings on the REA loan program in the 95th Congress. It seems to me that is the way this problem should be approached.

POLITICS AND PEOPLE

Mr. BAYH. Mr. President, an interesting article appeared in the Thursday, September 23 edition of the Wall Street Journal entitled "Politics and People." The article, by Alan L. Otten, is about a national, nonprofit, tax exempt organization called RIF—or Reading is FUNdamental. The purpose of RIF is to encourage children to read by making available inexpensive paperback books. Its premise is simple: If a child is motivated to read, he will achieve reading proficiency more easily and gain knowledge and information through reading. The program stimulates the interest of children in books by letting them select books which interest them, and by letting them keep the books they choose. As the article describes, the program is highly successful.

In 1975, an amendment was incorporated into the Education Amendments of 1974 which authorized Federal financial support of an inexpensive book distribution program. As a member of the Labor-HEW Appropriations Subcommittee, I am proud to have joined with Senator Eagleton in a successful effort to fund this provision in the fiscal 1976 second supplemental appropriations bill—the first year of funding for the program.

RIF is a tribute to the enthusiasm and initiative of private individuals who have devoted extensive time and effort to meet a public need in a most creative way. Mrs. Margaret McNamara, RIF's founder and chairman, deserves special mention in this regard.

RIF is a true "local initiative" effort which demonstrably has generated local community interest and involvement. It should, I feel, serve as a model for many Government programs which are designed to serve similar constituencies and fulfill similar public goals: Begin with a simple, practical idea; do not impose complicated regulations from on high; involve the people whom you desire to reach—in this case, children and their parents; involve and use the resources of groups with similar goals and interests—in this case, teachers, publishers, and business leaders as well as volunteers and parents; concentrate your resources where the need is greatest—in this case, poor children from the inner-cities, on Indian reservations, in "barrios," in Appalachia, in rural areas, and among migrant workers.

I sincerely hope that Federal support of this program will not interfere with its efficiency. I share with Mrs. McNamara her concern that RIF may loose its "free spontaneity and innovation." But—considering the awareness and commitment brought to RIF by its sponsors and volunteers, I feel confident that they will succeed in keeping their goals and identity. It is to be hoped that the Federal Government will take on more of the attributes of RIF than the other way around.

Mr. President, I ask unanimous consent that the Alan Otten article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Too Successful

(By Alan L. Otten)

Washington.—RIF is about to risk tampering with success.

RIF, as a great many school children and parents have reason to know, stands for Reading is Fundamental—a thriving grass-roots program that encourages young children to read by letting them choose inexpensive paperbacks that interest them and then letting them keep these books as their own. In its steady 10-year growth so far, RIF has operated with practically no federal money, using almost exclusively contributions from foundations, corporations, civic organizations and individuals.

Now, however, in an attempt to satisfy heavy and still growing demand, it has obtained a substantial infusion of federal funds. And the people who run RIF just hope this doesn't tangle them too badly in red tape and other bureaucratic byproducts.

"Will it change the character of the program?" muses Margaret McNamara, RIF's founder, volunteer board chairman and chief sparkplug. "I certainly hope not—but we would be stupid not to know that that danger is there."

Of RIF's success so far there can be little doubt. Its organizers started with a simple theory: one reason so many kids didn't read more or didn't read better might be that they were turned off by the dull and irrelevant books their teachers and parents forced them to read. If the children could choose and keep books that were truly interesting, they might realize that reading wasn't a chore but really fun—and then they'd keep on reading.

With foundation funds and the help of a few friends, Mrs. McNamara, wife of the then Secretary of Defense, set up RIF in 1966 as a non-profit organization, and tested the theory in 10 scattered pilot projects. Today, there are over 400 locally-funded, locally-operated projects in 47 states and the District of Columbia, working in more than 1,300 schools, libraries, bookmobiles, churches and recreation centers.

Though some projects extend through high school, most cater chiefly to children from pre-school through sixth grade, and principally in poorer communities. Projects range from a few score children in a rural or small town to over 75,000 in 125 New York City schools. As of a few months ago, well over five million paperbacks had been distributed to more than two million children.

The precise details of RIF projects may vary considerably, but the essential approach is the same. Parents and/or volunteers from service clubs and other local groups organize the project, raise the money, order books tailored to the community's interests, and distribute the books to the children. Money may come from businesses, from the regular budget of local civil organizations, or from the proceeds of garage and bake sales, fairs or amateur theatricals.

The tiny (13 people) national headquarters staff—financed mostly by foundations and corporate and other private contributions—services the local projects. It publishes a thick guide to available paperbacks; negotiates with book publishers for deep discounts on the paperback ordered by the local projects; and issues pamphlets and tapes telling people how to organize and run RIF units.

Sometimes the local project will condition a free book on the child's having borrowed and read four or five others. Sometimes children can buy additional books at a very cheap price. "The important thing," says national managing director Ruth Graves, "is that no child goes away from a RIF project without a book in hand, a book the child has chosen himself or herself."

The paperbacks that are chosen range from comics and math puzzle books to poetry, from fairy tales and contemporary classics like "Charlotte's Web" to books on sports or bilingual dictionaries. Many are aimed specifically at black, Hispanic or Indian children.

Does RIF actually boost reading levels? "We don't claim to teach reading," Mrs. McNamara replies. "That's the schools' job. What we do is motivate children to find out what's inside a book." But a neutral federal expert observes that "it's just common sense that if you can encourage kids to read more, they're going to learn more."

And if RIF lacks reading score results to prove its impact, it can still cite its remarkable growth record and the lyrical testimonials from teachers, principals, librarians, parents, and children themselves.

A Dallas librarian notes that RIF-exposed children "want to read everything in sight—books, newspapers, even the backs of boxes." From Owensboro, Ky., comes a report of "dramatic changes"—the "insecure, troublesome, unmotivated nonreaders have become confident, enthusiastic and successful readers." A 1975 evaluation survey financed by the Carnegie Corp. says community comments present a "unified picture of enthusiasm and support."

So why, with things going so famously, is RIF now getting the government into the act? The reason, its directors say, is this very success. Requests for new projects and new help from headquarters continue to expand at the very time that book costs are rising sharply and private givers are cutting back support. "We reached a point," declares Mrs. Graves, "where the demand for books and services was so great that we simply couldn't keep up without federal funds."

Under a law enacted late last year, about $3.4 million of federal money will be earmarked for project book purchases this school year, so long as the federal dollars are matched by locally-raised dollars. This, says Mrs. Graves, will quadruple paperback purchases. In addition, some $500,000 to $600,000 will probably be available to expand the headquarters technical assistance operation. Again, Mrs. Graves emphasized, substantial support is still needed from corporations and other private contributors.

Yet the RIF high command is very conscious of the risks in going even partly federal. "We're going to gain something and we're probably going to lose something," Mrs. McNamara guesses. "What we gain is the ability to have more projects and provide better service. What we may lose is our beautiful, free spontaneity and innovation. It will be very interesting to see what happens—to see how strong we can be in keeping our goals and our identity."

BABI YAR

Mr. PERCY. Mr. President, September 29 will be the 35th anniversary of the terrible massacre of 100,000 Jews at Babi Yar. It was a time of the most terrible horror and act of the utmost brutality.

The occasion of this anniversary provides an opportunity for Jews in the Kiev area to mourn at the monument erected there to memorialize the dead. It is an opportunity for the authorities and their Jewish constituents to meet together in a moment of caring for all who lost their lives in the holocaust and in the war. While the Soviet authorities and their Jewish community have many differences, they can at least come together in unity to memorialize the Jews of Kiev who were slaughtered at Babi Yar.

DR. ANDREW BRIMMER TESTIFIES ON THE ECONOMIC OUTLOOK

Mr. HUMPHREY. Mr. President, as part of the Joint Economic Committee's continuing effort to evaluate America's economic performance, the committee held a hearing on September 22 to evaluate the economic situation and outlook. The committee received outstanding testimony at this hearing and I would like at this time to review the testimony of one of our witnesses, Dr. Andrew Brimmer, a former member of the Federal Reserve System's Board of Governors.

The majority of recent indicators have been discouraging. Prospects for continued strong economic recovery do not look so bright as they did several months ago. As Dr. Brimmer said referring to the number of unemployed Americans seeking employment, "We will have to face squarely the question of whether the Nation's economy will be able to accommodate this mass of job seekers—most of whom seem to prefer payrolls to welfare rolls."

Dr. Brimmer noted that although there is a "general expectation for continued expansion through the remainder of the year—there is little prospect of a dramatic quickening in economic activity." In addition, he believes we face a "growth recession" in 1978 meaning that "output would be rising at a rate below its long-run potential of about 4 percent."

On the inflation front, Dr. Brimmer suggested that while the pace of inflation has improved greatly since the record pace recorded in 1974, "the core rate of inflation remains in the range of 5 to 6 percent—which is still high by historical standards." "Moreover," he said, "the basic rate of inflation is not likely to decline very much in the near future."

In general, Mr. President, we have experienced a moderate recovery from the worst recession in 40 years. And, as Dr. Brimmer noted, "the persistently high unemployment rate remains one of the most difficult economic problems." In particular he emphasized that "the rate for blacks is even more distressing." I suggest we need only to look at the 7.9 percent overall unemployment rate and the 13.6 percent unemployment rate for blacks and other minorities to grasp the loss of human potential and understand the misery which afflicts millions of Americans as a result of disastrous economic policies.

The long-term outlook, given the continuation of our present economic policies, portends no great improvement in the economic situation. Dr. Brimmer discussed a litany of economic statistical projections behind which "is a mosaic of rising unused resources—both human and physical." If his projections are correct, the unemployment rate will average 6.4 percent and there will be considerable spare capacity in the Nation's factories in 1978. Past indications make it clear that the poor, the blacks and the other minorities, those who have already suffered the most, will again be the hardest hit by a continuation of the present economic policies.

Instead of continuing on with these policies, Dr. Brimmer urged the development of a "vigorous national economic policy to achieve full employment." He stated that "the persistence of excessive slack in many plants and other facilities is itself a waste of productive potential," but he emphasized that "the continued idleness of millions of Americans—able and willing to work—is far worse. And the most tragic of all is the enforced idleness of nearly 1¾ million young people just at the point when they should be beginning useful lifetime careers."

Mr. President, we urgently need a new economic policy to achieve full employment. In view of the unused physical and human resources which abound in this country, there is no reason for us not to achieve this goal. The waste of physical and human resources is a national tragedy. The sooner we reach full employment, the better off this Nation will be.

Mr. President, I ask unanimous consent that Dr. Brimmer's thoughtful and constructive testimony be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

PROSPECT FOR OUTPUT, PRICES AND EMPLOYMENT

THE TASKS OF NATIONAL ECONOMIC POLICY

(By Andrew F. Brimmer *)

I am pleased to respond to the invitation from the Joint Economic Committee to present my ". . . overall evaluation of the

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* Dr. Brimmer is President of Brimmer & Company, Inc., a Washington, D.C.-based economic and financial consulting firm. From March 1966, through August 1974, he was a Member of the Board of Governors of the Federal Reserve Board.

growth prospects for the remainder of this year and for 1977. . . ." In presenting my views on the outlook, I want to give particular attention to the outlook for jobs. In recent weeks we have heard a great deal about the "abnormal" expansion in the participation of women in the labor force as a main cause of the noticeable rise in unemployment in recent months. I am personally disturbed by this emphasis. Although women have historically had less permanent attachment than men to the labor market, an increasing proportion of the female population is committed to careers. Consequently, we will have to face squarely the question of whether the nation's economy will be able to accommodate this new mass of job-seekers—most of whom seem to prefer payrolls to welfare roles.

In preparing to appear before this Committee, I have taken a close look at the near-term job prospects, and the picture I see is far from encouraging.

Before turning to a discussion of the results of this analysis, a brief summary can be presented here:

The nation's economy is well along in its recovery from the 1974–75 recession, but the pace of expansion has slowed noticeably. The near-term outlook is for a further slackening in activity in 1977, and we face a "growth recession" in 1978. Real gross national product (GNP—after allowing for price changes) might rise by 6.3 per cent in 1976; 5.3 per cent in 1977, and 3.5 per cent in 1978.

The pace of inflation has improved greatly since double-digit rates were being recorded in 1974. However, the core rate of inflation remains in the range of 5–6 per cent—which is still high by historical standards. Moreover, the basic rate of inflation is not likely to decline very much in the near future.

The persistently high unemployment rate (at 7.9 per cent in August) remains one of the most difficult national economic problems. But the rate for blacks (at 13.6 per cent) is even more distressing. The white labor force rate stood at 7.1 per cent in August. So far, the recovery from the 1973–75 recession has benefitted blacks to a much smaller extent than has been the case with whites.

In the near-term, there appears to be little prospect of a boom in the nation's economy. Housing and construction are particularly depressed. Despite the recent pick-up in starts (especially multi-family units) home building is likely to remain depressed for many months.

Looking ahead over the next four years, we need a greatly stepped-up national effort to achieve full employment. We should aim for an unemployment rate between 4–4½ per cent by 1980. The key stone of this policy should be a sustained annual rate of growth in real GNP in the range of 5–6 percent.

But we must also remain alert to the dangers of rekindling excessively high rates of inflation—which too much reliance on aggregate monetary and fiscal stimulus would produce. Instead, we need to put more stress on breaking supply bottlenecks and specially-targeted manpower programs.

Fundamentally, we must rely on the private sector to create the needed jobs—although more public service jobs can also be helpful—especialy to young people who now suffer permanently from depression-level rates of unemployment.

If the present configuration of national economic policies remains in place over the next four years, this nation is not likely to make any meaningful progress in closing the gaps between blacks and whites in the nation's labor market. I assume that we will recognize the real cost of this waste of human resources—and will act to correct the situation.

RECENT TRENDS IN THE NATIONAL ECONOMY

Real GNP rose at a seasonally adjusted annual rate of 4.5 per cent in the second quarter of this year. (See Table 1, attached). This represented a significant moderation in the pace of economic expansion compared with the 9.2 per cent rate of growth recorded during the January-March period. Some easing off had been expected, but the actual outcome was a surprise.

So far in 1976, consumers have been the mainspring of the economy. This is especially true of the strong rise in outlays for new cars. In contrast, business spending on plant and equipment has been particularly sluggish. Housing starts have risen only moderately. Spending by the public sector (including Federal as well as state and local governments) has not been a major source of strength for the national economy.

As the fall begins, the general expectation is for continued expansion through the remainder of the year. However, there is little prospect of a dramatic quickening in economic activity. For example, Data Resources, Inc. (DRI), whose projections I follow most closely, is forecasting real GNP to rise at an annual rate of 4.3 per cent and 4.6 per cent, respectively, in the third and fourth quarters of 1976. The unemployment rate, which averaged 7.4 per cent in the second quarter, is forecast to rise to an average of 7.5 per cent in the July-September period and to decline to about 7.3 per cent in the closing months of the year.

The overall pace of inflation (as measured by the GNP deflator—the most broadly-based of the price indexes) ran around 5.2 per cent in the second quarter of this year. During the same period, the consumer price index (CPI) advanced at an annual rate of 4.8 per cent. Both of these measures represent a significant improvement compared with the double-digit rates which prevailed in 1974. For instance, both the GNP deflator and CPI rose at an average rate of about 12 per cent in the last half of 1974.

In general, economic recovery has lifted the level of economic activity well above the recession lows. For example, in the second quarter of this year, real GNP (at an annual rate of $1,260 billion) was 8.8 per cent above that recorded during the recession trough in the first quarter of 1975. During the recovery period, industrial production has risen by 19 per cent (to 131.4, where 1967=100.) The national unemployment rate (which averaged 8.7 per cent in the second quarter of 1975) eased off to an average of 7.4 per cent in the same period of this year. However, as the pace of economic activity has slowed, the unemployment rate has risen in the last few months and stood at 7.9 per cent in August.

JOB PATTERNS IN BLACK AND WHITE

During the 1974–75 recession and subsequent recovery, the job experience of blacks differed significantly compared with that of their white counter parts. In general, blacks had to bear a disproportionate share of the burden of increased unemployment during the recession, and they have benefitted proportionately less from the subsequent recovery.

In August of this year, there were 11.0 million blacks[1] in the labor force. (Table 2.) Blacks were holding 9.5 million jobs, and 1.5 million were unemployed or looking for work. In the same month, 95.5 million people were in the civilian labor force. Total employment amounted to 88.0 million and 7.5 million workers were idle. So, in August, blacks accounted for 11.5 per cent of the civilian labor force; 10.8 per cent of total employment, and 19.9 per cent of all unemployed persons.

As mentioned above, the adverse impact of the 1974–75 recession was especially marked among blacks. For example, from September, 1974, through April, 1975—the worst phase of the recession—the total civilian labor force continued to expand. In sharp contrast, the black labor force declined somewhat—with the declines being registered mainly among adult males and teenagers of both sexes. During the same period, blacks lost their jobs at almost double the rate experienced by whites. For instance, in September, 1974, blacks held 10.9 per cent of the total jobs. But during the succeeding seven months, they accounted for 21.7 per cent of the recession-induced decline in employment. About 17.5 per cent of the climb in total joblessness over this period was borne by the black community.

So far in the recovery, blacks have not participated in the job rebound as fully as have whites. For example, between March, 1975, and August 1976, the total civilian labor force rose by 3.9 per cent; the corresponding figures for blacks and whites were 6.5 per cent and 3.6 per cent, respectively. Over the same period, total employment expanded by 4.6 per cent; black employment climbed by 6.8 per cent, and jobs held by whites rose by 4.3 per cent. However, in actual numbers, the growth of the black labor force (by 673 thousand) outstripped the rise in black employment (602 thousand). Consequently, over the 17-month period, the number of blacks without jobs rose by 5.0 per cent—while total joblessness declined by 3.0 per cent, and joblessness among whites declined by 4.7 per cent.

Reflecting these mixed trends, the total unemployment rate (which had been 7.5 per cent in June) had rebounded to 7.9 per cent in August. The rate in August for whites was 7.1 per cent. The unemployment rate for blacks in August was 13.6 per cent—almost back to the rate (13.8 per cent) for March last year. Among demographic groups, the unemployment rate for black teenagers rose somewhat (to 40.2 per cent) during this period, and that for black adult females rose to 12.3 per cent. The unemployment rate for all other groups declined—at least moderately.

The extent to which black unemployment has responded more slowly to economic recovery can be seen in the behavior of the black-white unemployment ratio. In March, 1975, the ratio was 1.77. By August, 1976, it had climbed to 1.92—reflecting the relatively greater decrease in the white unemployment rate. The same pattern was evident among adult black males and females—as well as among black youths of both sexes.

These mixed black-white employment patterns should be kept in mind as we turn to a brief assessment of the near-term outlook for the national economy.

NEAR TERM ECONOMIC PROSPECTS: IMPACT ON JOBS

At this juncture, the prospect that economic expansion will extend through 1977 seems fairly assured. However, the accumulating evidence also suggests that the pace of expansion has slowed appreciably. The main contours of economic activity in 1976 and the next two years (as forecast by DRI) are shown in Table 1. Several features of these data are worth mentioning. Real GNP, which is projected to rise by 6.3 per cent this year, may grow by 5.3 per cent in 1977 and by 3.5 per cent in 1978. If this pattern does materialize, the country would be caught in a "growth recession" two years from now—meaning that output would be rising at a rate below its long-run potential of about 4.0 per cent. Such a situation would not represent an actual recession, but it would reflect a significant slow-down in economic performance.

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[1] Most of the statistics relating to blacks used in this discussion refer to "Negroes and other races." Blacks constitute about 92 per cent of the persons in this statistical category used by the U.S. Bureau of the Census.

Real consumer spending may rise by roughly 4.1 per cent in 1978—compared with approximately 5½ per cent in 1976 and 1977. Non-residential fixed investment (which might expand by 7.9 per cent next year) may advance by only 3.2 per cent a year later. Spending on residential construction may rise by nearly 20 per cent this year—and the growth rate may then ease off to 12 per cent in 1977 and to only 2.6 per cent in 1978. Other major spending sectors may display a similar slackening pattern.

But behind these broad outlines is a mosaic of rising unused resources—both human and physical. If the projected slowdown in the rate of expansion does materialize, about 6.6 million and 6.4 million people might be unemployed in 1977 and 1978, respectively—compared with an average of 7.1 million this year. The total unemployment rate might average 7.5 per cent in 1976; 6.8 per cent in 1977, and 6.4 per cent in 1978.

The backlog of unused physical resources is typified by the projected capacity utilization rate in manufacturing. For 1976 as a whole, a 73.3 per cent operating rate is forecast. The rate is projected at 76.4 per cent in 1977 and 77.2 per cent in 1978. While these levels would represent substantial improvement over the 68.7 per cent registered in 1975, they would still leave considerable spare capacity in the nation's factories.

But of all major segments of the economy, the housing and construction sectors are likely to show the greatest weakness. For example, private housing starts may average 1.466 million in 1976. This would represent a considerable advance over the 1.163 million units started last year, but it would remain well below the 2.356 million starts recorded in 1972. Partly reflecting the expanded availability of mortgage credit during the last year or so, private starts may climb to 1.685 million in 1977. But the adverse effects of increased monetary restraint (which virtually every observer of the financial scene expects to occur next year) may shave starts to 1.649 million in 1978.

In the construction industry as a whole, employment in the second quarter remained at the depressed level reached a year earlier. In August, the unemployment rate in construction was nearly 20 per cent—compared with 7.9 per cent for the economy as a whole. If present trends continue, employment in contract construction may rise slightly during the remaining months of this year. In 1977, such employment might rise by 2.6 per cent, but the gain may amount to only 0.4 per cent in 1978.

LONG-TERM ECONOMIC OUTLOOK AND PROSPECTS FOR JOBS

At this juncture, we might look ahead to the kind of economic horizon that might be in store toward the end of this decade. On July 16 of this year, the Federal Government made public its latest long-run forecasts and projections of overall economic activity. The main features of the forecasts are shown in Table 3. Several highlights of these data should be mentioned. Real GNP (which fell by 2.0 per cent in 1975) is forecast to rise by 6.8 per cent in 1976.

Between 1975 and 1981, the real growth rate is projected to rise at an average annual rate of 5.5 per cent. However, the rate falls off sharply (to about 4.1 per cent) in the early 1980's. The rate of inflation (as measured by the CPI) might average 4.5 per cent over the entire period. But the rate in 1980–81 may average only 3.0 per cent. If this profile were to materialize, it would represent a major achievement in the campaign against inflation.

On the other hand, the unemployment rate is projected to average 5.7 per cent through the early 1980's. In 1980–81, the figure might average 4.8 per cent.

However, the rate of growth in real GNP may well be below the annual average of 5.5 per cent projected by the Administration. For example, DRI has projected real GNP to rise at an average annual rate of 5.0 per cent between 1975 and 1980—and 4.5 per cent between 1976 and 1980, thus allowing for the rebound from the recession. (See Table 4.) The DRI projection puts the average annual increase in the CPI at roughly 4.9 per cent (versus 4.5 per cent implied by the Ford Administration). Over the same period, the nation's unemployment rate may average 6.6 per cent—according to the DRI forecast compared with the Administration's 5.7 per cent.

If the actual unemployment experience during the rest of this decade turns out to be less hopeful than the Ford Administration anticipates, the results would be disappointing for the nation at large—and disastrous for the black community. This fact can be seen readily in the figures in Table 5, which shows the civilian labor force, employment, and unemployment (by race, sex, and age) in 1975 and projections for 1976 and 1980—based on the DRI projections.

Several features stand out in these figures. If the national unemployment rate were to average 4.8 per cent in 1980, it would represent substantial improvement compared with the 8.5 per cent experienced in 1975. Under this assumption, the total number of jobless blacks would decrease from 1,450 thousand in 1975 to about 950 thousand in 1975. However, their share of total unemployment would rise noticeably (from 18.4 per cent in 1975 to 20.3 per cent in 1980.). (The lower fraction in 1975 reflected the sharp rise in white unemployment induced by the recession rather than any basic improvement in blacks' position.) The black-white unemployment ratio might be back at the historical 2.0 by 1980—versus 1.78 recorded in 1975.

In conclusion, if the present national economic trends were to continue through the remainder of this decade, the effects on blacks would be particularly adverse. Under those circumstances, blacks would have little chance to resume the progress (checked by two recessions) toward closing the job and income gaps they suffer vis-a-vis whites.

NATIONAL ECONOMIC POLICY AND FULL EMPLOYMENT

As I reflect on the unfolding economic scene, I see an urgent need to mount a vigorous national economic policy to achieve full employment. The persistence of excessive slack in many plants and other facilities is itself a waste of productive potential. But the continued idleness of millions of Americans—able and willing to work—is far worse. And the most tragic of all is the enforced idleness of nearly 1¾ million young people just at the point when they should be beginning useful life-time careers. We should no longer tolerate such waste of human resources.

The evidence presented here suggests that overall economic activitiy will be expanding only moderately for the next several quarters. Real GNP might expand at an annual rate of 4½ per cent in the second half of this year and around 5.3 per cent in 1977. For 1978 as a whole, real GNP may expand by only 3½ per cent. Under these circumstances, the unemployment rate might get stuck in the neighborhood of 6½–6¾ per cent over the next several years.

Given this prospect, we need to take several steps—at the Federal Government level—to enhance the prospects of achieving full employment. Over the next four years, we should seek to reduce the national unemployment rate from the present 7.5 per cent to the range of 4–4½ per cent. To aim for a lower rate over the same period of time might put so much pressure on resources that the danger of rekindling double-digit inflation would become quite real. And we must remind ourselves that the poor segments of the population (which include a disproportion of blacks) suffer most from high rates of inflation.

But even if we get the national unemployment rate down to the neighborhood of 4½ per cent by 1980, the rate for whites may be under 4 per cent while that for black workers might still exceed 8.0 per cent. This would continue the historical 2 to 1 black-white ratio. It would represent no net improvement over a situation in which the legacy of racial discrimination and lack of opportunity has kept blacks from acquiring the skills which would premit them to compete more successfully in the nation's labor market.

As a country, we clearly need a new economic policy to achieve full employment. The central element in that policy should be a sustained rate of real economic growth in the range of 5–6 per cent for the remainder of this decade. In view of the unused physical and human resources that now exist, we clearly have the potential to achieve this goal. In particular, we still have enormous slack in the housing and construction industry. And business spending on plant and equipment is also rising much more slowly than is necessary if we are to upgrade our facilities and create the jobs we will need in the future.

But we should not be content with more stimulus for the economy as a whole. If we do too much of this, we will run the danger of rekindling excessive high rates of inflation. Rather, we must also give serious attention to the supply side of the economy. We have done little to overcome many of the bottlenecks encountered in a number of materials producing industries in 1973–74. This is especially true in industries such as paper, chemicals, and steel production. To encourage American business to get on with this task, I have been among those advocating Federal tax reform to provide more stimulus for capital information. I still think we need to assign a high priority to this goal—although the recently enacted tax measure ran in the contrary direction.

The main efforts to expand job opportunities must come in the private sector. Blacks in particular will benefit from the accelerated expansion of private sector employment. Historically, blacks have found public payrolls relatively more open than was the case in the private sector. As a result, by 1974, public sector employment represented 21.6 per cent of the total number of jobs held by blacks, but the corresponding proportion for all workers was only 16.1 per cent.

On the other hand, for some segments of the population, the Government must stand ready to provide jobs. For them, the Government must be an employer of first—and last—resort. This may be especially true of young people who might otherwise not find jobs at all. Still other workers will be needed to upgrade and maintain the nation's basic public services—provided mainly at the State and local level.

All of us blacks—as well as whites—must also be concerned with the hardening attitudes toward the expansion of equal opportunity. In fact, there is growing evidence that a countermove to the campaign for affirmative action is underway. This countermove appears in a variety of forms, but the main thrust is frequently expressed in charges of "reverse discrimination" against whites—especially against white men. But blacks are also becoming apprehensive over the extent to which the strong drive for equal opportunity on the part of white women has an adverse effect on blacks—especially on black men.

However, a close examination of employment trends in recent years suggests that—at the margin—white women have increased their share of the higher-paying jobs at a rate slightly faster than their representation in total employment. In contrast, all other

groups—black men, black women, and other minorities—have experienced relatively more modest improvements. Although white men have seen their share of total employment (and especially among better paying occupations) decline slightly in recent years, they still command the heights of the occupational ladder—with little or no challenge. Consequently, it is toward those heights that blacks and other minorities—as well as white women—must look as they seek to improve their occupational status in the years ahead.

To underpin these efforts, we need to adopt the kind of forward-looking national economic policy outlined here.

TABLE 1.—DATA RESOURCES FORECAST OF THE U.S. ECONOMY

[Billions of dollars—SAAR]

CONTROL 0824

	1976			1977			Years			
	II	III	IV	I	II	III	1975	1976	1977	1978
GNP and its components:										
Total consumption	$1, 064. 7	$1, 088. 6	$1, 117. 5	$1, 146. 8	$1, 176. 5	$1, 207. 4	$973. 2	$1, 078. 6	$1, 192. 9	$1, 305. 6
Nonresidential fixed investment	157. 9	163. 2	169. 1	175. 3	181. 2	187. 3	147. 2	160. 9	184. 2	202. 9
Residential fixed investment	65. 3	67. 3	70. 9	74. 7	78. 2	81. 3	51. 2	66. 2	79. 6	87. 2
Inventory investment	16. 0	14. 9	12. 6	15. 4	17. 5	19. 3	−14. 6	14. 6	18. 4	15. 4
Net exports	8. 1	9. 2	9. 6	7. 9	8. 0	7. 8	20. 5	8. 8	8. 0	8. 3
Total Federal	131. 2	133. 2	137. 9	139. 5	141. 3	144. 1	124. 4	132. 9	143. 8	156. 4
State and local	230. 9	236. 8	243. 0	249. 1	255. 4	261. 7	214. 5	234. 0	258. 6	283. 7
Gross national product	1, 674. 1	1, 713. 1	1, 760. 5	1, 808. 9	1, 858. 2	1, 909. 0	1, 516. 3	1, 696. 0	1, 885. 5	2, 059. 5
Real GNP (1972 dollars)	1, 259. 4	1, 272. 8	1, 287. 3	1, 305. 9	1, 324. 1	1 342. 5	1, 191. 7	1, 266. 5	1, 333. 4	1, 380. 2
Prices and wages—Annual rates of change:										
Implicit price deflator	5. 1	5. 1	6. 6	5. 3	5. 4	5. 4	9. 2	5. 3	5. 6	5. 5
Fixed weight deflator	5. 2	5. 0	6. 8	5. 4	5. 5	5. 5	9. 0	5. 6	5. 7	5. 7
Consumer Price Index	4. 8	5. 4	4. 9	4. 9	4. 9	5. 1	9. 2	5. 7	5. 0	5. 1
Wholesale price index	4. 8	3. 9	5. 6	5. 2	5. 4	5. 9	9. 3	4. 3	5. 3	5. 8
Adjusted average hourly earnings index	6. 5	6. 7	7. 0	7. 2	7. 4	7. 3	8. 9	7. 2	7. 1	6. 8
Production and other key measures:										
Industrial production (67=1)	1. 228	1. 243	1. 263	1. 285	1. 308	1. 329	1. 134	1. 235	1. 318	1. 373
Annual rate of change	7. 3	5. 0	6. 4	7. 3	7. 3	6. 6	−8. 7	8. 9	6. 7	4. 2
Housing starts (million units)	1. 439	1. 462	1. 563	1. 635	1. 675	1. 714	1. 163	1. 466	1. 685	1. 649
Retail unit car sales—total	10. 1	10. 3	10. 8	10. 9	11. 0	11. 3	8. 7	10. 3	11. 2	11. 2
Unemployment rate (percent)	7. 4	7. 5	7. 3	7. 1	6. 9	6. 7	8. 5	7. 5	6. 8	6. 4
Federal budget surplus (NIA)	−53. 5	−55. 3	−55. 9	−50. 7	−47. 2	−45. 9	−71. 3	−57. 1	−47. 2	−48. 3
Money and interest rates:										
Money supply (M1)	302. 7	306. 2	313. 0	317. 7	323. 1	328. 7	289. 5	304. 6	326. 2	345. 9
Annual rate of change	8. 6	4. 7	9. 1	6. 2	6. 9	7. 2	4. 2	5. 2	7. 1	6. 0
New AA corporation utility rate (percent)	8. 87	8. 66	8. 71	8. 82	8. 88	8. 95	9. 45	8. 78	8. 94	8. 93
New high-grade corporate bond rate (percent)	8. 50	8. 49	8. 54	8. 64	8. 68	8. 73	9. 01	8. 47	8. 73	8. 64
Federal funds rate (percent)	5. 20	5. 27	5. 59	6. 25	6. 68	7. 23	5. 82	5. 22	6. 95	7. 28
Prime rate (percent)	6. 90	7. 02	7. 12	7. 44	7. 71	8. 05	7. 86	6. 97	7. 87	8. 06
Incomes:										
Personal income	1, 362. 0	1, 393. 8	1, 433. 1	1, 469. 8	1, 511. 2	1, 555. 9	1, 249. 7	1, 380. 0	1, 535. 3	1, 691. 3
Real disposable income	890. 5	899. 9	911. 9	922. 7	935. 8	950. 2	855. 6	895. 7	943. 5	984. 2
Saving rate (percent)	7. 1	7. 1	7. 1	7. 0	7. 0	7. 2	7. 8	7. 1	7. 1	7. 4
Profits before tax	145. 3	150. 6	153. 5	157. 8	162. 4	167. 9	114. 5	147. 6	165. 6	175. 1
Profits after tax	81. 1	84. 0	85. 7	88. 1	90. 6	93. 7	65. 3	82. 6	92. 4	97. 7
4-quarter percent change	33. 0	16. 6	15. 6	10. 5	11. 8	11. 5	−13. 1	26. 5	11. 9	5. 7
Details of real GNP—Annual rates of change:										
Gross national product	4. 3	4. 3	4. 6	5. 9	5. 7	5. 7	−1. 8	6. 3	5. 3	3. 5
Total consumption	4. 0	4. 1	5. 5	5. 7	5. 5	5. 6	1. 5	5. 6	5. 3	4. 1
Nonresidential fixed investment	8. 4	9. 4	8. 4	8. 1	7. 2	7. 3	−13. 3	4. 3	7. 9	3. 2
Equipment	8. 2	11. 0	8. 9	8. 7	8. 8	9. 0	−13. 6	4. 5	8. 9	5. 3
Nonresidential construction	8. 9	6. 3	7. 3	6. 8	4. 0	3. 8	− 2. 7	3. 9	5. 9	−1. 2
Residential fixed investment	15. 3	4. 5	15. 1	14. 9	11. 9	9. 3	−14. 7	19. 6	11. 8	2. 6
Exports	4. 8	5. 9	5. 9	7. 7	10. 0	9. 3	−6. 7	5. 3	7. 6	7. 3
Imports	12. 5	1. 7	7. 1	10. 9	10. 4	11. 5	−15. 7	16. 4	9. 0	7. 7
Federal Government	2. 5	1. 7	−. 2	−. 1	. 2	2. 9	. 4	. 3	. 9	1. 5
State and local	2. 7	2. 8	3. 2	3. 4	3. 7	3. 8	2. 6	1. 9	3. 4	3. 6

Source: Data Resources Inc.

TABLE 2.—CHANGES IN THE CIVILIAN LABOR FORCE, EMPLOYMENT, AND UNEMPLOYMENT, BY COLOR, SEX, AND AGE, MARCH 1975 TO AUGUST 1976

[Thousands]

Category	March 1975		August 1976		Change: March 1975 to August 1976	
	Number	Percent dist.	Number	Percent dist.	Number	Percent dist.
CIVILIAN LABOR FORCE						
Total	91, 881	100. 0	95, 506	100. 0	3, 625	100. 0
Both sexes, 16 to 19	8, 751	9. 5	9, 114	9. 5	363	10. 0
Male, 20 plus	50, 461	54. 9	51, 758	54. 2	1, 297	35. 8
Female, 20 plus	32, 669	35. 6	34, 634	36. 3	1, 965	54. 2
White	81, 551	88. 8	84, 503	88. 5	2, 952	81. 4
Both sexes, 16 to 19	7, 840	8. 5	8, 137	8. 5	297	8. 2
Male, 20 plus	45, 346	49. 4	46, 381	48. 6	1, 035	28. 6
Female, 20 plus	28, 365	30. 9	29, 985	31. 4	1, 629	44. 7
Black	10, 330	11. 2	11, 003	11. 5	673	18. 6
Both sexes, 16 to 19	911	1. 0	977	1. 0	66	1. 8
Male, 20 plus	5, 115	5. 5	5, 377	5. 6	262	7. 2
Female, 20 plus	4, 304	4. 7	4, 649	4. 9	345	9. 5
EMPLOYMENT						
Total	84, 199	100. 0	87, 973	100. 0	3, 854	100. 0
Both sexes, 16 to 19	6, 986	8. 3	7, 310	8. 3	324	8. 4
Male, 20 plus	47, 146	56. 1	48, 684	55. 3	1, 538	39. 9
Female, 20 plus	29, 987	35. 6	31, 979	36. 4	1, 992	51. 7
White	75, 216	89. 5	78, 468	89. 2	3, 252	84. 4
Both sexes, 16 to 19	6, 441	7. 7	6, 726	7. 6	285	7. 4
Male, 20 plus	42, 611	50. 7	43, 842	49. 8	1, 231	31. 9
Female, 20 plus	26, 164	31. 1	27, 900	31. 7	1, 736	45. 0
Black	8, 903	10. 5	9, 505	10. 8	602	15. 6
Both sexes, 16 to 19	545	. 6	584	. 7	39	1. 0
Male, 20 plus	4, 535	5. 4	4, 842	5. 5	307	8. 0
Female, 20 plus	3, 823	4. 5	4, 079	4. 6	256	6. 6
UNEMPLOYMENT						
Total	7, 762	100. 0	7, 533	100. 0	−229	100. 0
Both sexes, 16 to 19	1, 765	22. 7	1, 804	23. 9	39	−17. 0
Male, 20 plus	3, 315	42. 7	3, 074	40. 8	−241	105. 2
Female, 20 plus	2, 682	34. 6	2, 655	35. 2	−27	11. 8
White	6, 335	81. 6	6, 035	80. 1	−300	131. 0
Both sexes, 16 to 19	1, 399	18. 0	1, 411	18. 7	12	−5. 2
Male, 20 plus	2, 735	35. 2	2, 539	33. 7	−196	85. 6
Female, 20 plus	2, 201	28. 4	2, 085	27. 7	−116	50. 7
Black	1, 427	18. 4	1, 498	19. 9	71	−31. 0
Both sexes, 16 to 19	366	4. 7	393	5. 2	27	−11. 8
Male, 20 plus	580	7. 5	535	7. 1	−45	19. 7
Female, 20 plus	481	6. 2	570	7. 6	89	−38. 9

TABLE 2.—CHANGES IN THE CIVILIAN LABOR FORCE, EMPLOYMENT, AND UNEMPLOYMENT, BY COLOR, SEX, AND AGE, MARCH 1975 TO AUGUST 1976—Continued

[Thousands]

	March 1975		August 1976		Change: March 1975 to August 1976	
Category	Number	Percent dist.	Number	Percent dist.	Number	Percent dist.
UNEMPLOYMENT RATES						
Total		8.5		7.9		
Both sexes, 16 to 19		20.1		19.7		
Male, 20 plus		6.6		5.9		
Female, 20 plus		8.3		7.7		
White		7.8		7.1		
Both sexes, 16 to 19		17.8		17.3		
Male, 20 plus		6.0		5.5		
Female, 20 plus		7.8		7.0		
Black		13.8		13.6		
Both sexes, 16 to 19		40.2		40.2		
Male, 20 plus		11.3		9.9		
Female, 20 plus		11.2		12.3		
Black/white ratio		1.77		1.92		
Both sexes, 16 to 19		2.26		2.32		
Male, 20 plus		1.88		1.80		
Female, 20 plus		1.44		1.79		

Source: U.S. Department of Labor, Bureau of Labor Statistics.

TABLE 3.—U.S. GOVERNMENT FORECAST OF THE NATIONAL ECONOMY, 1975–81

[Annual rates of percentage change, except as indicated]

Year	Real GNP (1972 dollars)	GNP deflator (1967=100)	Consumer Price Index (1967=100)	Unemployment rate (percent)
Actual: 1975	−2.0	8.8	9.1	8.5
Forecasts:				
1976	6.8	5.3	5.7	7.3
1977	5.7		5.4	6.4
1978	5.9		5.4	5.7
Projections:				
1979	6.3		4.7	5.1
1980	4.4		3.5	4.8
1981	3.7		2.4	4.7

Source: Executive Office of the President, Council of Economic Advisers, July 16, 1976.

TABLE 4.—LONG-TERM ECONOMIC OUTLOOK: SELECTED INDICATORS, 1975–80

		Projected		Average annual percentage change	
Category	1975 (actual)	1976	1980	1975–80	1976–80
Real GNP (BIL, 1972 dollars)	$1,186.1	$1,268.4	$1,514.8	5.0	4.5
Industrial production (1967–100)	113.4	124.6	157.6	6.8	6.1
Implicit price deflator (1972–100)	126.4	133.1	162.5	5.2	5.1
Consumer price index (1967–100)	161.2	170.4	206.3	5.0	4.9
Civilian labor force (thousands)	93,062	94,800	101,741	1.8	1.8
Employment (thousands)	85,182	87,800	97,071	2.6	2.5
Unemployment (thousands)	7,880	7,000	4,670	−8.1	−8.3
Unemployment rate	8.5	7.4	4.6	6.6	6.0

Source: Derived from DRI projections.

TABLE 5.—CIVILIAN LABOR FORCE, EMPLOYMENT, AND UNEMPLOYMENT, BY COLOR, SEX, AND AGE

[Thousands]

	1975		1976[1]		1980[1]	
Category	Number	Percent	Number	Percent	Number	Percent
CIVILIAN LABOR FORCE						
Total	93,062	100.0	94,799	100.0	101,741	100.
Youths, 16 to 19	8,910	9.6	8,963	9.5	9,803	9.6
Males, 20 and over	51,137	54.9	51,921	54.7	55,320	54.4
Females, 20 and over	33,015	35.5	33,915	35.8	36,618	36.0
Black	10,438	11.2	10,943	11.5	11,543	11.3
Youths, 16 to 19	921	1.0	1,102	1.2	1,053	1.0
Males, 20 and over	5,169	5.5	5,090	5.3	5,690	5.6
Females, 20 and over	4,348	4.7	4,751	5.0	4,800	4.7
White	82,624	88.8	83,856	88.5	90,198	88.7
Youths, 16 to 19	7,989	8.6	7,861	8.3	8,750	8.6
Males, 20 and over	45,968	49.4	46,831	49.4	49,630	48.8
Females, 20 and over	28,667	30.8	29,164	30.8	31,818	31.3
EMPLOYMENT						
Total	85,182	100.0	87,914	100.0	97,071	100.0
Youths, 16 to 19	7,140	8.4	7,267	8.3	8,563	8.8
Males, 20 and over	47,677	56.0	49,127	55.9	53,650	55.2
Females, 20 and over	30,365	35.6	31,520	35.8	34,858	36.0
Black	8,988	10.6	9,546	10.9	10,593	10.9
Youths, 16 to 19	581	.7	703	.8	793	.8
Males, 20 and over	4,559	5.4	4,591	5.3	5,360	5.5
Females, 20 and over	3,848	4.5	4,252	4.8	4,440	4.6
White	76,194	89.4	78,368	89.1	86,478	89.1
Youths, 16 to 19	6,559	7.7	6,564	7.5	7,770	8.0
Males, 20 and over	43,118	50.6	44,536	50.6	48,290	49.7
Females, 20 and over	26,517	31.1	27,268	31.0	30,418	31.4
UNEMPLOYMENT						
Total	7,880	100.0	6,885	100.0	4,670	100.0
Youths, 16 to 19	1,770	22.5	1,696	24.6	1,240	26.6
Males, 20 and over	3,460	43.9	2,794	40.6	1,670	35.8
Females, 20 and over	2,650	33.6	2,395	34.8	1,760	37.6
Black	1,450	18.4	1,397	20.3	950	20.3
Youths, 16 to 19	340	4.4	399	5.8	260	5.6
Males, 20 and over	610	7.7	499	7.3	330	7.1
Females, 20 and over	500	6.3	499	7.2	360	7.4
White	6,430	81.6	5,488	79.7	3,720	79.7
Youths, 16 to 19	1,430	18.1	1,297	18.8	980	21.0
Males, 16 to 19	2,850	36.2	2,295	33.3	1,340	38.7
Females, 16 to 19	2,150	27.3	1,896	27.6	1,400	30.0
UNEMPLOYMENT RATES						
Total		8.5		7.3		4.8
Youths, 16 to 19		19.9		18.9		12.6
Males, 20 and over		6.8		5.4		3.0
Females, 20 and over		8.0		7.1		4.8
Blacks		13.9				8.2
Youths, 16 to 19		36.9		36.2		25.7
Males, 20 and over		11.8		9.8		5.8
Females, 20 and over		11.8		10.5		7.5
Whites		7.8				4.1
Youths, 16 to 19		17.9		16.5		11.2
Males, 20 and over		6.2		4.9		2.7
Females, 20 and over		7.5		6.5		4.4

[1] Projected.

Source: Figures for 1975 are from the U.S. Department of Labor, Bureau of Labor Statistics. Figures for 1976 and 1980 were derived by author from the forecast prepared by Data Resources Inc.

INTERNATIONAL WOMEN'S YEAR COMMISSION REPORT

Mr. BAYH. Mr. President, for several days I have inserted into the RECORD portions of the International Women's Year Commission report to the Congress and the President. Today I would like to insert three more chapters of the report.

The first is entitled "Power Brokers." According to the IWY report, few women in America today can be classified as power brokers. The reasons why women do not hold positions which decide public policy and remedies for this problem are discussed.

The next chapter is "Strong Laws—Weak Enforcement." I have a particular interest in this chapter as I cochaired the Committee on Enforcement of the Laws. A strong legal foundation for elimination of sex discrimination has been laid but why does discrimination still exist?

In 1975 the work force increased by 1.5 million, of which 1.1 million were women. The chapter "Women in the Work Place" discusses employment trends, where the money is, upward mobility for secretaries, the women entrepreneur, and asks the question what are "equal work" and "equal value?"

I ask unanimous consent that these three chapters of the IWY report be printed in the RECORD for the use of my colleagues and their constituents.

There being no objection, the chapters were ordered to be printed in the RECORD, as follows:

THE POWER BROKERS

"My mother told me that I could do what I wanted to do and I believed her. I voted in 1920, in the first election after women had the right to vote. I knew then that I was going to run for public office." [67]

That is Judge Sarah T. Hughes speaking, the woman who gave the Presidential oath of office to Lyndon Baines Johnson in Dallas, Texas, just 99 minutes after John F. Kennedy was killed by an assassin's gun.

Judge Hughes, now 79 and on senior status with the Federal bench, was elected to the Texas Legislature in 1930. The Great Depression had struck only the year before.

"Of course, there were people who didn't want a woman elected to any office . . . Some people said, 'She has a husband to support her.' And that was a big, big argument then. But I talked to the people who would vote for women. I didn't spend any time on the others. And so I was elected to the legislature."

She served three terms in the legislature and, when a vacancy occurred in the Fourteenth District Court, she was nominated for the post. Her Senator fought her confirmation.

"He said I ought to be home washing dishes."

"Well, that was the first time that all the women in Texas were banded together. They might be in the kitchen, but they didn't want anyone to say that every woman had to be in the kitchen.

"I went back to Dallas and had my picture taken washing dishes for the papers. The Senate confirmed me and I became Judge of the Fourteenth District Court."

Women have made impressive gains in appointive and elective offices since Judge Hughes washed dishes 4 decades ago. In 1974, more than 1,600 women were candidates for national and State offices. Seven new Congresswomen joined the 12 incumbents. The number of women in State legislatures increased by 26 percent.

Ella T. Grasso was elected Governor of Connecticut, the first woman to be elected governor in her own right in the history of the country. Mary Ann Krupsak became the first woman Lieutenant Governor in New York State's history. In 1975 two more women were elected Lieutenant Governor: Evelyn Gandy of Mississippi and Thelma L. Stovall of Kentucky.

Nevertheless, the proportion of women currently holding elective jobs is pitifully low. Women hold, roughly, only 5 percent of all local, State, and Federal elective positions though they comprise 53 percent of the voting population and make up 39 percent of the U.S. labor force.[68]

The public seems ready to acept women in public office. A 1975 Gallup survey showed that the climate for women entering politics in America has never been more favorable. Seven in 10 Americans said the Nation would be governed as well or better if more women held political office.

So why are there so few women officeholders?

The IWY Commission, in studying the problems, found that women do not seek public jobs in any proportion to their political strength and that when they do seek office they face severe handicaps.

"From the early childhood socialization process," the Commision said, "through the assignment of adult responsibilities on the basis of rigid sex role divisions, women have been led toward the private sphere at home while men have been directed into the public sphere."

The Commission believes change must come simultaneously in education and socialization. "Help must be given the already active public women, the aspiring candidate and the American woman growing up today."

To help effect such changes the Commission asks the political parties to "adopt written plans to assure equal representation of women in all party activities, from the precinct to the national level, with special emphasis on equal representation in the delegations to all party conventions."

The Commission asks the parties:

To create an affirmative/positive action office for women, with women participating in and designing the program;

To sponsor conferences for women on State and regional levels on topics such as party policy positions, candidate development and campaign skills; and

To provide financial asistance for convention delegates and candidates.

Such help would involve more women in the political process. But once a woman is a candidate she faces many other difficulties, one of the greatest being lack of money.

GETTING ELECTED

Listen to Eddie Bernice Johnson, a nurse in Dallas, Texas, tell how she got elected to the State legislature in 1972 despite great personal and financial odds. She was a black woman in a district that was more than 50 percent white; she had no money, no campaign workers, no sponsors, nothing but spunk and "mother wit."

"I decided I was going to win," said Eddie in testimony before the Women in Public Life Conference at the LBJ Library in Austin, Texas, in November 1975.

"I didn't have a campaign manager, I didn't have a campaign headquarters . . . A young man, a professional football player, offered to be my campaign manager. I took him up on it because he said the only charge would be three meals a day and all the watermelon he could eat.

"The only other person involved was my son who was 14 at the time. He wanted me to run and win. He even enrolled in a homemaking course so he could learn to cook for himself, since he knew I couldn't take time to get his meals.

"We used my den, kitchen and the dining room table as our headquarters. The big breakfront in the dining room held the mail sacks.

"We did find enough money to buy a few yard signs and about 150 bumper stickers. The yard signs were pulled down as soon as they were put up, but the bumper stickers worked all right. You couldn't get them off once they were stuck on.

"Facing realities in the black community, the only forum was a church, and you know, Baptist churches don't mind politicians coming through now and then. So I carefully called ministers and tried to get myself scheduled for at least five churches a Sunday.

"We did fairly well, but there were a number of male ministers who had not had to deal with a female running before, especially not a black female divorcee who had been married to a black minister's son.

"Without money I did the only thing I could, I walked the streets. I called on 40 houses a night, every night I went home from work.

"Well the victory was great. I won. And my son won too."

Few women, or men for that matter, have the heroic capacity of Eddie Johnson. But almost every political race takes money. Even a minor local election is costly. In 1973, the average expense of the State legislative candidates in the Cleveland, Ohio area was at least $15,000, according to State Legislator Jinny Aveni who won as a nonincumbent that year.

Public financing of campaign expenses has been advocated as a solution to the money problem for little-known candidates and for those without private wealth. A National Campaign Finance Law went into effect in the spring of 1975, only to be greatly modified by the Supreme Court's decision of January 1976, which held unconstitutional the ceilings on spending and the enforcing agent role of the Federal Elections Commission.

Some States, too, have enacted campaign finance laws.

Originally these laws were viewed as a blessing for women candidates, because it was believed that they (the laws) would make more funds available to unknown candidates and that they would lessen the inherent advantages of the incumbents.

Now the experts are not so sure.

In commenting on the Supreme Court's ruling that some of the limitations on campaign spending are unconstitutional, Bella Abzug, New York Representative and Commission member, said that this "decision will make it harder than ever for women to run for public office. . . . Women in politics are notoriously poor and find it much tougher than men to raise money." [69]

Jane McMichael, executive director of the National Women's Political Caucus, put it this way:

". . . Women candidates are often behind from the very start and must campaign twice as effectively—with the same amount of available funds—as their opposition . . . I am inclined to refer to the new legislation as the "Incumbents,' Relief Act," for the law is just that." [70]

Because of this skepticism and because these laws are so new and untried, the IWY Commission has called for a study of State and national campaign finance statutes as they affect women candidates. It also asks a review of the franking privilege, which is a great financial boon to incumbents.

The Commission recommends that:

Footnotes at end of article.

"A special committee of the National Clearinghouse of the Federal Elections Commission, or a similar body of any newly established commission, be appointed to assess the National and State public campaign finance laws and their impact on women."

The recommendation calls for 50 percent female membership on the committee and urges that the study encompass the entire 1976 election year.

The Commission also asks that various forms of public financing be compared to determine which methods provide incentives for women to become candidates.

Attacking the financial problems of women in politics from a different direction, the Commission recommended that State legislatures consider enactment of legislation similar to that in North Dakota where the State partially subsidizes delegates to national party conventions.

Commission members heard testimony about the loneliness women in public life face, especially those holding office in villages and small towns. They saw the need for an elected woman's political network where experience can be shared and ideas exchanged.

Status and role problems also are difficult for the woman office holder. Sarah Weddington, a Texas State legislator, says that almost weekly she receives invitations for "you and your wife."

She tells about the time she was one of 10 members of the legislature who received a State bar association award for outstanding service to the legislature. On the handsome, walnut plaque engraved in gold were the words: "With grateful appreciation to the honorable Sarah Weddington for his dedication and service to the state of Texas".

Not as amusing is the case of Jeanne Bridenstine, one of three members of the Jasper County Board of Supervisors in Newton, Iowa. Six weeks after she was sworn into office early in 1975, she was still without a telephone, paperclips, rubber bands, and pencils. Even an old bookcase, being discarded by another county department, was denied her.

Mrs. Bridenstine could not get the materials because the other board members, both men, refused to approve a supervisor's budget.

The Des Moines Tribune on its editorial page said:

"Jeanne Bridenstine isn't a fresh, '20-year-old chick.' She points that out herself. But the 51-year-old new member of the Jasper County Board of Supervisors is like a breath of spring . . .

"Mrs. Bridenstine is the first woman elected to the board, and she has been having status and role problems with her two male colleagues.

"The problems and the male perpetrators of them are petty . . . Beneath the surface of this pettiness runs a deep strain of the kind of unenlightened attitude that we thought had gone out with the '60's—1860's, that is."[71]

Mrs. Bridenstine solved the office equipment problem by bringing pens and pencils from home. But she found that any motions she made were never seconded. Her motions to get $6,000 in county funds for jobs for young people, and $3,000 in county money for legal aid services for the poor, died, and were never recorded.

Board Chairman Francis Van Zante admitted to the *Des Moines Tribune* that he didn't like the idea of having a woman on the board.

"On some boards, yes," he said. "But it's really a man's job to look after the roads and the bridges."

The newspaper editorialized that his statement

". . . ignores the many women who drive cars, trucks, tractors with aplomb; . . . and who anyway would start from the same point on the road and bridge specifications as men supervisors. They all need to consult specialists. There is no masculine mystique about roads and bridges."

One year later, 1976, Mrs. Bridenstine is still without county pens and rubberbands. She still does not have an office telephone.

"But that's not so important. What is important is that the men still will not vote for any measure that I initiate. I know we differ some philosophically. But we all are Democrats. Seventy-five percent of the trouble is that I am a woman. I understand they agreed to stand together on this even before I took office."

Help for such problems (and others) is what the Commission means when it says assistance must be provided for women already active in public life. In addition to suggesting a political women's network, the Commission says:

"Technical assistance should be offered so women can stay in public life, function successfully and expand their effectiveness. The development of new organizations of political women should be supported and communication among them should be encouraged by the development of newsletters and other vehicles of communication.

THE APPOINTIVE JOB

Elected officials comprise only a part of those who govern. Much of the quality of life of Susie and John Q. Citizen today depends on the decisions of persons appointed to regulatory boards and commissions. In addition there are the thousands of advisory boards and commissions, which help to establish policy in local, State, and Federal Government.

Utility bills, the zoning rulings in cities, the station that is granted a TV license—are all determined by or regulated by appointive job holders.

"Certainly the actions of these agencies have as much gravity, long-term consequences, as many decisions made by our elected officials," says Governor of Connecticut, Ella T. Grasso.

As in elective office, women are almost invisible in appointive posts.

The Center for American Women and Politics, Eagleton Institute, a Rutgers University, studied women's roles on State boards and commissions for the IWY Commission.

The Center's research (1975) shows that in 39 States[72] 53 percent of such boards and commissions had no women members at all.

The proportion of women serving extended from a low of 8 percent in Mississippi to a high of 23 percent in Arizona, Hawaii, Iowa, and Washington.

What perhaps is even more alarming is the fact that on small boards—often the most powerful in a State—there are less likely to be any women. Seventy-eight percent of 3-member boards among these 39 States were all male. Sixty percent of 6-member boards were all male. And in the small boards the proportion of women serving is also low. Three-member boards averaged 12 percent women; 7-member boards averaged 18 percent.

Boards with at least 25 members averaged 29 percent women. In view of their size it is believed these boards are honorific or advisory rather than decisionmaking.

Thus the Commission recommends that governors set as a goal for 1980 a significant increase in women members and that by 1985 equal membership of men and women be achieved. It also asks governors to pay special attention to increasing the number of women on small boards.

The Commission recommends that a current, accurate, and centralized list of State board and commission membership be easily accessible to the public and that governors designate an officer to seek out women for appointment.

The Commission calls on women's groups in the country to work for appointment of women, and it commissioned a paper on "How to Move Women into Appointive Office." The paper is published in full in Part VI, the Appendix of this report. It will be helpful to women's groups and women candidates as well.

Since women in public life seldom have financial assets or support staff to call upon, the Commission asks that women who are appointed to office, whether on a local, State, national, or international level, be offered agency support services and reimbursement of actual expenses.

THE JUDICIARY—WHERE ARE THE WOMEN?

The Commission looked at appointments to the judiciary. In the Federal court system, in 200 years only 10 women have ever been appointed to the Federal bench. Of the current 399 authorized U.S. district judgeships and 97 authorized judgeships of the U.S. Courts of Appeal, women are actively serving in only four.[73] No woman has ever been appointed to the nine-member U.S. Supreme Court.

The State and national picture is just as bleak. In 1970 there were 11,380 judges, both elective and appointive, serving throughout the United States. Slightly over 7½ percent (869) were women.[74]

Seven women are among the 357 judges in State Courts of Last Resort; five women now serve on State Intermediate Appellate Courts.[75]

The IWY Commission recommends that the President and, where applicable, governors should significantly increase the number of women appointed to the judiciary, particularly to Appellate and Supreme Courts.

WORKING WOMEN AND THE UNIONS

"I am a grandmother and I have been a member of the I.L.G.W.U. (International Ladies Garment Workers Union) for 27 years. Altogether I have worked 35 years in the garment industry.

"The men in our union have virtually closed all the doors to advancement. The best they will allow us is token recognition and meaningless duties."

The speaker was Ida Cabral of Fall River, Massachusetts, who testified at the Massachusetts Public Hearings for IWY late in 1975.[76]

"An industry composed of 80 percent women and we cannot find one of our sex at the top of any of our regionals and not one woman heading up those large New York locals. I and my fellow workers have toiled earnestly just trying to earn a decent living . . . I am not a liberationist but I want proper respect and just rewards for the work we do . . ."

Mrs. Cabral, a buttonhole operator, knew what she was talking about. Though the I.L.G.W.U. has one woman[77] on its 23-member international board (4½ percent female representation), many rank-and-file women members view her as a token appointee. And they feel that one woman is completely inadequate considering the union's 80-percent female membership.

The I.L.G.W.U. is not the only union which has few women in policymaking positions.

The Amalgamated Clothing Workers of America have two women on a national board of 20 (10 percent representation). The membership of this union is also 80 percent female. Only half of its 737 locals are headed by women.

Footnotes at end of article.

The Retail Clerks International and the International Brotherhood of Electrical Workers, both with large female memberships, have no women on their top boards. The board of the Communications Workers of America has one woman out of 20 members.

A 1973 survey made by the Women's Burueau, Department of Labor, shows that of 4,800 reported positions on top union governing boards, only 350 jobs were held by women.

Even fewer women help negotiate contracts, though the figures are difficult to find. The United Automobile Workers, with about 14 percent of its top local offices filled by women, have less than 10 percent women bargainers.[78]

Concerned that union women are not getting benefits at the bargaining table which speak to their needs, and that they are suffering discrimination in other ways the Commission is recommending

. . . "that unions review the impact on women of all their practices, including negotiation of contracts, representation in grievances, organizing priorities and appointment of personnel, and that the unions correct any practices that are unjust to women."

In order to make union organizing possible in occupations filled primarily by women and which are presently excluded from protection by law (such as domestic workers), the Commission is recommending that the President ask Congress for legislation which would extend coverage to those occupations under the terms of the National Labor Relations Act.

The Commission, through its Women in Power Committee, questioned why women, once they are union members, do not advance more quickly into union jobs of influence. Expert witnesses cited the American socialization process which destroys a woman's motivation for leadership, and they stressed the fact that getting a union job is a political process in which women have little experience.

Barbara Wertheimer of the Cornell University Labor and Industrial Relations School told the Commission:

"Women have to learn how to operate within their locals and how to run for office effectively . . . Women leaders see themselves as helpers. They see the union as hierarchical and they feel closed out of decisionmaking. But they want to move ahead." [79]

Ana Parilla, who handles grievances for a union council of school lunch workers in New York City, is one of the women who has "moved ahead" and is not through moving upward.

Twenty-six years ago, when Mrs. Parilla arrived in the United States, she realized her heavily accented high school English was a handicap. So she got a job, joined a union, and studied.

Babies came along, three of them, and she moved into better jobs to help her husband with the bills. She went to school again to become an occupational therapist. Incredibly, she also found time to be active in her union, and when the American Federation of State and Municipal Employees' district council needed a worker with special union skills, Mrs. Parilla was chosen.

Although confident of her ability, Mrs. Parilla went back to school in order to deal more comfortably with the problems of her new job. She enrolled at the New York State School of Industrial Relations.

"What I really want to do someday is to get into union politics. And I want to help in my community because I don't think Spanish-speaking people are moving forward fast **enough."**

The IWY Commission believes there are not enough schools teaching other Anas how to succeed in the union world and it recommends that leadership programs for working women, presently conducted by industrial and labor relations schools, be greatly expanded and upgraded. Labor education departments also should include more teaching opportunities for working women.

It also asks private foundations to give special attention to research projects that will collect data on female employees and elected labor union officials, with particular emphasis on the decisionmaking level.

FOOTNOTES

[67] Judge Sarah Hughes' remarks taken from her testimony before the Women in Public Life Conference at the LBJ Library in Austin, Tex., Nov. 11, 1975.

[68] *Women in Public Office, A Biographical Directory and Statistical Analysis,* Center for American Women and Politics (CAWP), R.R. Bowker Co., Apr. 1976, p. xx.

[69] *New York Times,* Feb. 2, 1976, p. 4.

[70] Testimony of Jane McMichael before the Women in Public Life Conference at the LBJ Library in Austin, Tex., Nov. 10, 1975.

[71] *Des Moines Tribune,* Feb. 24, 1975, editorial page.

[72] States from which information was not available: Colo., Ky., Mass., Minn., Mont., N. Mex., Pa., Tenn., and Wis.

[73] Women on the Federal bench in the spring of 1976: Shirley M. Hufstedler, Judge, U.S. Court of Appeals, Ninth Circuit; June Lazenby Green, U.S. District Judge for the District of Columbia; Constance Baker Motley, U.S. District Judge for the Southern District of New York, all three appointed by President Johnson; and Cornelia G. Kennedy, U.S. District Judge, Eastern District of Michigan, appointed by President Nixon.

[74] U.S. Department of Commerce, Bureau of the Census, 1970 Census of Population, Detailed Characteristics, p(1)–dl U.S. Summary.

[75] National Center for State Courts, Denver, Colo., "Number of Women on State Supreme Courts," Sept. 22, 1975.

[76] Hearings held in Norton and Boston, Mass., Oct. 13–14, 1975, through collaboration of Wheaton College and Rep. Margaret Heckler.

[77] Mattie Jackson of Los Angeles.

[78] *New York Times,* Mar. 29, 1976, p. 34.

[79] Barbara Wertheimer, testimony before the Women in Power Committee at the Women in Public Life Conference at the LBJ Library in Austin, Tex., Nov. 10, 1975.

WOMEN IN POWER COMMITTEE [49]

PREFACE

Members of the Women in Power Committee agreed from the beginning that the real problem confronting women in American society is lack of power. Few women are in positions where policy is either made or implemented. The reasons are both simple and complex, a fabric of entwined cause and effect. History, unfortunately, documents few periods in contrast.

Rather than embark on a major study of this condition, using scholarly work available or underway, it was agreed to narrow the committee's work to four areas: labor union women in leadership roles; appointments to State boards and commissions; campaign finance laws as they affect female candidates; and full participation of women in political parties. No recommendations have been made in the highly influential fields of business, science, medicine, or law. These areas are so sexist that they could not possibly be dealt with in the 4 months allotted for consideration, though the committee hopes that funds for such studies will be made available in the future.

Notwithstanding increased attention from the media and greater public acceptance of women as participants in American public life, the proportions of women currently holding appointive or elective office are strikingly low. Women hold roughly 5 percent of all the public offices in the United States. Yet women constitute 53 percent of the voting population in the United States and about 40 percent of the U.S. labor force.

In a broad sense, women are underrepresented in public life because social conditioning and social institutions do not prepare and encourage women to assume public roles. From the early childhood socialization process through the assignment of adult responsibilities on the basis of rigid sex role divisions, women have been allocated to the private sphere at home while men have been directed into the public sphere in the world at large.

In order to increase women's participation in the public world, we must effect change in patterns of social conditioning as well as in social institutions. We must move simultaneously and steadily in several directions at once in order to broaden the aspirations of American women and to widen the routes of access to our political institutions. In educating and socializing new generations of American women, we must build women's self-confidence and motivation for participation in public life. In widening access to political institutions, we must work to remove barriers of discrimination and of ignorance. We must spread the word that political officeholding, public participation, and social responsibility are the right and the obligation of everyone.

Significant changes in patterns of public participation could be effected by modifying social conditioning and social institutions for three different groups of American women:

First, assistance must be provided to those few women who are *already active in public life*. Occasions should be provided for political women to meet and exchange ideas; sponsor conferences, workshops, seminars, and other forums for sharing experiences; and for assisting women to build a women's political network. Technical assistance should be offered to political women so that they can stay in public life, function successfully, and expand their effectiveness. The development of new organizations of political women should be supported and encouraged. Communication among them should be supported by encouraging the development of newsletters and other vehicles of communication.

Second, help must be given those women who are not yet in public life, but who are *aspiring to public participation* and who could be reached and motivated to become active. Aspiring women must be reached through educational projects, affirmative action efforts, talent banks, and special training programs. Schools of continuing education and extension divisions of colleges and universities across the country should be encouraged to design relevant programs for training mature women to become active participants in the public life of their communities.

Third, help must be given those *future American* women now growing up. Educational programs, curriculum materials, and textbooks must be developed to inspire young girls to include among their life goals an active place in public life. Schools must work to broaden options for young women

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Footnotes at end of article.

by teaching them that they can aspire to public power. Schools must work to counteract the negative effects of apathetic families, sex-stereotyping in child rearing, and an absence of role models for girls who wish to see women functioning successfully in the world outside the home.

RECOMMENDATIONS

Appointment of women to State and local boards and commissions[50]

To Governors the IWY Commission recommends that:

1. All States have available a current, accurate, and centralized list of State boards and commissions and their memberships. This listing should be easily and publicly available at cost to any interested person or organization. The currency of the list should be maintained by the appointments staff of the Governor's office and regularly monitored regarding the appointment of women.

2. In view of the facts (a) that the present range of women on State boards and commissions extends from a low of 8 percent in Mississippi to a high of 23 percent in Iowa, (b) that no State has as many as 25 percent, and (c) that a majority of the State boards and commissions have no women members,[51] Governors set as a goal for 1980 a significant increase, and by 1985 equal membership of men and women serving on all State boards and commissions. Concerted efforts should be directed toward those areas which currently have low proportions of women, with special attention to increasing the proportions of women on boards with small numbers of members.

3. Governors appoint significantly increased numbers of women as presiding officers on boards or commissions.

4. Governors designate an officer on the appointments staff to be responsible for seeking out women for appointment.

To women's groups involved in the appointment process the IWY Commission recommends that:

5. In States where there does not already exist an organized network of persons who can be called upon for women candidates to fill vacancies in State government, such networks be developed by coalitions of women's organizations or by a Commission on the Status of Women. Wherever possible groups should develop a consensus on candidate(s) for the appointment being considered.

6. Women's organizations increase efforts to secure commitments from all candidates for office to appoint women when they win election.

To foundations the IWY Commission recommends that:

7. Foundations support the efforts to establish women's centers and State-wide networks that will develop systems that aid women seeking appointments.

To Federal, State, and local governments the IWY Commission recommends that:

8. Appointees to government boards and commissions, task forces, and advisory councils on all levels be offered agency office support services and actual expense reimbursement regardless of residential location or meeting place.

Background

Norma Briggs, Executive Director of the Governor's Commission on the Status of Women (Wisconsin), in a report[52] to the Women in Power Committee, stated:

> . . . An exhaustive roster or computer full of names is democratic and superficially businesslike. However—let's face it—appointments are usually made on a personal as well as the impersonal, merit, level. The person appointed is usually honored and gratified at public recognition; the person asked to recommend a name is equally flattered.
>
> Other qualifications being equal, it is far more likely that an appointment will go to the individual who is a known supporter of the appointing authority, or at least a member of the same political party. . . . The ties of loyalty serve several purposes—apart from the rather crass concept of rewarding one's friends, there is the idea that one can better trust someone who has served on the same team; that the supporter will take more seriously the obligation to serve in the appointive position conscientiously and will be less likely to do or say anything that might publicly embarrass the current administration. . . .
>
> Instead of pouring our energies into setting up an alternative system that can at best only *suggest* candidates, I think we should reserve much of our effort to understanding and integrating the system or systems that already exist. . . . Women who are thinking of supporting a candidate should point out the incumbent's (usually sorry) record to date and extract a public commitment from their candidate that he or she will make appointments more representative of the citizenry as a whole. Once elected it is hard for her or him to go back on campaign promises, especially if she or he knows supporters are not only watching but prepared to help identify women qualified for appointment.

The following statements, based on a study of 2,134 boards and commissions in 39 States,[53] offer important insights into the paucity and uneven distribution of women on such State bodies:

> On the average, a State board or commission contains only 15 percent women. Among States the proportions range from 8 percent in Mississippi to 23 percent in Iowa, Arizona, Hawaii, and Washington. Regional variations are not large. Average proportions of women within some regions range from 12 to 17 percent.
>
> States with a higher proportion of appointed officials are slightly more likely to have a higher proportion of elected women officials. However, since the correlation is only +.4 on a scale from 0. to 10, we cannot conclude that appointment of women to boards is the same phenomenon as election to office. For example, in New Hampshire the proportion of women appointed to boards is one of the lowest (10 percent); yet New Hampshire has the highest proportion of women in the legislature (24 percent). Therefore, two separate processes may be at work determining the percent of women in these two areas of public life.
>
> The political party of the 1976 Governor does not seem to be related to the average porportion of women on State boards. On the average, the Democratic- and Republican-led States show the same proportion of female representation.
>
> Proportions do not change if either the Republican or Democratic Party has dominated in recent years.
>
> Some 53 percent of State boards and commissions have no women members. In some functional areas, women are almost totally missing!
>
> Women are more likely to be concentrated in greatest proportions on those boards concerned with the welfare of children, youth, and the aged, with an average proportion of 35 percent; health, with an average proportion of 20 percent; and education, with an average proportion of 18 percent.
>
> On the other hand, fewest women members are found on bodies concerned with labor (11 percent), public utilities (8 percent), environmental protection (7 percent), business regulatory (7 percent), economic and industrial development (6 percent), and transportation (4 percent).

Full participation of women in all activities of political parties[54]

The IWY Commission recommends that:

1. The political parties adopt written plans to assure equal representation of women in all party activities, from the precinct to the national level, with special emphasis on equal representation on the delegations to all party conventions.

The national parties create an affirmative action office for women. Women's caucuses and other women's organizations within the party should participate in the selection of its personnel and in the design of its program, which should include greatly improved financial assistance for female delegates and candidates.

National parties sponsor conferences for women on State and regional levels to cover such topics as party positions on policy issues, aid to candidates, and campaign skills.

2. National political parties, long committed to the ratification of the Equal Rights Amendment, have the direct responsibility of seeing that this amendment is ratified by the 1979 deadline. State officials elected as part of their parties should assume their responsibility in obtaining ratification.

Background

> In our delegate selection rules we have an affirmative action section, a very meaningful section, a good section. The problem with affirmative action is that even though the words are there, the commitment to those words is not always easy to watch. In other words, women and minorities are the ones who end up monitoring the commitment of the party. We always put those who are aggrieved in the position of monitoring the safeguard of their own position. We have a Compliance Review Commission that goes over State affirmative action programs. Once they are approved, the next step is missing; there is no one to monitor the program, to see that it is upheld.[55]
>
> It's a long, long story but what basically happened at the March 1974 Republican Party meeting is that we lost the key to the enforcement mechanism. The last line said, "In order to assist the States and at the request of any State, Republican National Party will so review and comment on such State programs." By a vote of 75 to 74 the national committee voted to delete this provision. This means that we as Republican women in the different States from the grass roots level are going to have to do the whole job ourselves, keep records, know the rules and try to make a base for challenge if a challenge is necessary.[56]

Judiciary study of women on the Federal bench[57]

The IWY Commission requests that the Judiciary Department (Administrative Office of the U.S. Courts) conduct a review for public distribution of all women serving and who have served on the Federal judiciary. This study should include not only names and positions of women judges, but also biographical information, the history of the appointment, and the name of the appointing official. It should include also the total number of judges and of minority judges, both male and female.

Background

Data collecting is a major concern of both the Mexico City World Plan of Action and of the IWY Commission. The historic information needed to buttress the IWY Commission's strong support for the appointment of women in the Federal judiciary is not now available.

Footnotes at end of article.

Increasing the number of women serving in the judiciary [58]

The IWY Commission recommends that the number of women serving in the judiciary be increased. The President and, where applicable, Governors should significantly increase the numbers of women appointed as judges, particularly to appellate courts and supreme courts.

Background

The Commission recommended on December 5, 1975, that the Administrative Office of the U.S. Courts do a study of women who have served or are serving on the Federal bench. According to the report sent to the IWY Commission on January 6 from William E. Foley, Deputy Director of the Administrative Office of the U.S. Courts, only 10 women have been appointed, and 7 women currently serve on the Federal courts, including one on a circuit court of appeals.

The Women's Bureau, Department of Labor, has stated that, according to the 1970 decennial census, there were a total of 11,380 "judges" throughout the United States. Of these only 869 were women. No surveys of county and city judges were located.

Recommendations on reimbursement for delegates to national political party conventions [59]

The IWY Commission recommends that State legislatures adopt North Dakota's laws and practices for reimbursement of delegates to national political party conventions.

Background

North Dakota's law reads as follows:

> 16–17–18.1 **Expenses of delegates to national conventions.**—Every delegate to a national convention of a political party recognized as such organization by the laws of the State of North Dakota, shall be paid from the State treasury the amount of his actual necessary traveling expenses, as his account may be audited and allowed by the State auditing board, for actual attendance at the convention, but in no case shall the amount so audited, allowed and paid, exceed the sum of two hundred dollars for each delegate allowed by the political party.
>
> Delegates of political parties elected for such national conventions are not subject to the direct primary laws, and shall be certified in like manner as nominations candidates of such parties for election to public office. Every such delegate to a national convention which nominated candidates for president and vice-president shall subscribe an oath of office that he will uphold the constitution and laws of the United States and North Dakota, and that he will, as such officer and delegate, to the best of his judgment and ability, faithfully carry out the wishes of his political party as expressed by the voters at said election. There is hereby appropriated out of any monies in the State treasury a sum sufficient to pay the expenses of such delegates to a national convention, which sum shall not exceed the amount provided for in this section.

The Commission's recommendation applies to both men and women. Lack of money, however, hampers women much more than men in freely participating in political life. Many families could not afford the costs of attending party conventions. Many women have at best limited control over the disposition of family funds, even when family income is adequate to cover such costs.

Public financing of campaign expenses at State and Federal levels [60]

The IWY Commission recommends that a special committee of the National Clearinghouse of the Federal Elections Commission, or a similar body of any newly established commission, be appointed to assess the national and State public campaign finance laws for their impact on women. Fifty percent of the committee members should be females, including women experienced in campaign procedures. The study should cover the entire election year of 1976. The committee should compare various forms of public financing, especially at the State level, to determine which methods provide incentive for women to become candidates. Alternative forms of qualifying for public financing should be investigated for their incentive value, including:

1. Sufficient petition signatures in lieu of money to meet qualifications for collecting public campaign funds.

2. Matching money given on a sliding ratio basis after a relatively low threshold of funds has been raised by a candidate.

3. Incumbents' franking and related privileges be limited by law, to make up for the unavailability to nonincumbents of such privileges.

Background

Women generally have limited money to run a campaign, and they have more difficulty raising money for a campaign. All relevant studies over the past 5 years support these statements. Therefore, public financing can only help female candidates. Often very little money can make the difference between filing and not filing. However, the system has not operated long enough to be evaluated as an unqualified asset for women candidates and requires careful examination. Under title II of the U.S. Code, 438(b) (under the duties of the Federal Elections Commission, the Clearinghouse Functions), the kind of study proposed by this committee is a possibility. Though the Supreme Court on January 30, 1976, struck down the enforcement functions of the Federal Elections Commission, the education and clearinghouse functions were not considered unconstitutional. The decision [61] states that these functions may continue if the commission is not reconstituted.

The newness of the law also signals the great need for public education. Few understand the law; in general, women more than men are likely to lack the legal and bookkeeping knowledge necessary to understanding.

Matching funds should not be the only way to get money. The use of petitions in lieu of money has been advocated by many appearing before Congress. The system needs careful guidelines but the general concept is worthy of study.

The proposal for matching funds is similar in purpose. A major problem with this system is raising the initial money to be matched. Broad-based fundraising is expensive. Therefore, a system with a relatively low threshold for receiving the first matching payments, but a threshold still high enough to avoid frivolous candidates, should be reviewed.

Matching funds might begin after the candidate had raised 10 to 15 percent of the total allowable campaign expenditures. A sliding scale could be developed to match earlier funds raised at a lower ratio than later funds. For example, from 15 to 25 percent of the limit, each candidate-raised dollar could receive $.50 in matching funds. After 25 percent, candidate-raised money could be matched equally up to the limit.

Incumbent privileges, such as franking, are well covered by the testimony of Jane McMichael, Executive Director of the National Women's Political Caucus, before the Committee in Austin, Texas, November 10, 1975:

> Questions concerning the constitutionality of the law have overshadowed, however, certain issues of particular concern to women candidates—issues which make it ever more difficult for women to be elected to Federal office. Thus, while certain Washington wags have dubbed the law "The Lawyers' and Accountants' Relief Act," I am more inclined to refer to the new legislation as the "Incumbents' Relief Act"—for the law is just that. In operation—as well as by congressional intent—the law will work to protect the already privileged position of the incumbent. Since most women candidates in Federal elections are challenging incumbent male officeholders, the new Federal law poses acute problems for women candidates.

Women in decisionmaking positions of American labor unions and of all collective bargaining organizations [62]

The IWY Commission recommends that:

1. Private foundations give special attention to requests, from organizations such as the Coalition of Labor Union Women and State schools of industrial and labor relations, for research projects that will collect data on female employees and elected officials in the labor unions. These studies should emphasize the level of decisionmaking.

2. Leadership programs for working women in the labor education programs conducted by industrial and labor relations schools at many postsecondary schools, be greatly expanded and upgraded. Labor education departments should be expanded, and should include more courses and more teaching opportunities for working women.

3. The confidentiality section of title VII of the Civil Rights Act of 1964 be repealed. It seriously limits public access to information needed by women seeking higher level union positions.

Background

All available evidence, often limited and out-of-date, suggests that the higher levels of decisionmaking in American unions rarely include women, even when membership in these unions is predominately female. In order to help union women as they seek these elected positions—and in some cases non-elected positions—pertinent data should be made available from unions at all levels—local, State, and national—to support these women.

Some of this information is collected by the Equal Employment Opportunity Commission under title VII of the 1964 Civil Rights Act. EEO–1 Employee Information Report asks all employers of 100 or more to report total male and female employment, plus minority male and female totals (Negro, Oriental, American Indian, and Spanish-surnamed) in categories of officials and managers, professionals, technicians, sales workers, office and clerical, skilled craftsmen, operators, laborers, and service workers. This information if made available by unions would constitute a good start in any efforts to increase the participation of women. Yet only the aggregate figures are available. All other information is confidential.

Testimony before the Women in Power Committee in Austin, Texas, November 10, 1975, by Barbara Wertheimer, Director of Trade Union Women's Studies, N.Y. School of Industrial and Labor Relations, Cornell University, underscores the need for such data:

> Three-fourths of unionized women belong to 21 labor organizations out of a total of 212 such organizations and associations. Over one-half belong to just 12. Women make up one-half or more of the members

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Footnotes at end of article.

in 26 unions or employee associations out of a total of some 212. The two big garment unions, as you might expect, lead in the number and percentage of their members who are women. Between them, the International Ladies Garment Workers Union and the Amalgamated Clothing Workers of America claim some 560,000 women members out of their total memberships of 700,000. Nine other unions in order of their numbers of women members are: International Brotherhood of Electrical Workers, Communication Workers of America, International Brotherhood of Teamsters, United Automobile Workers, Service Employees, United Steelworkers of America, International Union of Electrical Workers, Retail Clerks International Association, and the Hotel and Restaurant Workers.

Unfortunately, very little data is available on the numbers of women in decisionmaking positions in these unions.

FOOTNOTES

[49] IWY Commission members: Ella T. Grasso and Hanna Holborn Gray, Co-Chairs; Anne L. Armstrong, Bella Abzug, Audrey Rowe Colom, Winfield Dunn, Rita Z. Johnston, Ersa H. Poston, and Gerridee Wheeler. Public members: Liz Carpenter, Vice President of Hill and Knowlton; Evelyn Cunningham, consultant; Barbara H. Franklin, Commissioner of U.S. Consumer Product Safety Commission; Olga Madar, President of Coalition of Labor Union Women; Elly M. Peterson, consultant to National Center for Voluntary Action; Delores Tucker, Secretary of the Commonwealth of Pennsylvania; Julia M. Walsh, Vice-Chair of the Board of Ferris & Company; Sarah Weddington, attorney; and Betsy Wright, Director of Women's Education Fund.

Staff member, Nancy Arnesen.

The Women in Power Committee contracted for special work by the Center for the American Woman and Politics, Eagleton Institute of Politics; and Women's Educational Resources Department, University of Wisconsin Extension.

[50] Recommendations approved by Women in Power Committee Jan. 8, 1976; by IWY Commission Jan. 16, 1976.

[51] Study by the Center for American Women and Politics, Eagleton Institute of Politics, Rutgers University, "Women Currently Serving on Boards and Commissions in the States," Jan. 1976.

[52] Dec. 10, 1975, New Haven, Conn.

[53] Preliminary findings, Eagleton Institute study, *op. cit.*

[54] Recommendation approved by Women in Power Committee Dec. 17, 1975; by IWY Commission Jan. 16, 1976.

[55] From testimony given to the Women in Power Committee, Austin, Tex., Nov. 10, 1975, by Koryne Horbal, Chair of the Democratic Women's Caucus of the National Democratic Party.

[56] From testimony of Bobbie Kilberg, Republican Women's Task Force of the National Women's Political Caucus at the Women in Power Committee Meeting, Oct. 6, 1975, Wash., D.C.

[57] Recommendation approved by Women in Power Committee Dec. 4, 1975; by IWY Commission Dec. 5, 1975.

[58] Recommendation approved by Women in Power Committee Jan. 8, 1976; by IWY Commission Jan. 16, 1976.

[59] Recommendation approved by Women in Power Committee Jan. 16, 1976; by IWY Commission same day.

[60] Recommendations approved by Women in Power Committee Feb. 12, 1976; by IWY Commission Feb. 27, 1976.

[61] *Buckley* v. *Valeo,* 75 USC, sec. 436. The decision reads:

"Insofar as the powers confided in the Commission are essentially of an investigative and informative nature, falling in the same category as those powers which Congress might delegate to one of its own committees, there can be no question that the Commission as presently constituted may exercise them."

[62] Recommendations approved by Women in Power Committee Jan. 26, 1976; by IWY Commission Feb. 27, 1976. This recommendation is endorsed also by the Women in Employment Committee.

STRONG LAWS—WEAK ENFORCEMENT

This Nation now has a broad legal base to eliminate sex discrimination. This framework is made up of a series of strong laws enacted by Congress, Executive Orders issued by the President, and court decisions on those laws and orders.

Significant, precedent-setting court decisions on sex bias have been won under the Equal Pay Act of 1963 and the Civil Rights Act of 1964, as amended. These cases (which set affirmative standards on the definition of bona fide occupational qualifications,[80] maternity leave, definitions of "equal work," fringe benefits, and removing limitations on working mothers of small children) have made it easier for the women who later file complaints.

Large monetary settlements are convincing employers of the seriousness of eliminating sex discrimination in employment. For instance, since 1965 over $127 million has been awarded to 224,000 workers in back pay to correct their employers' violation of the Equal Pay Act.[81]

The Equal Employment Opportunity Commission (EEOC) has consistently issued the most forward-thinking guidelines on sex discrimination. The IWY Commission recommends that, whenever two civil rights agencies do not agree on an employment standard, the EEOC position should be adopted.

While the enforcement of nondiscrimination laws generally has been weak, as described below, the laws nevertheless had a positive impact, Many employees and educational institutions comply voluntarily, and the backing of the law has made it easier for individuals and organizations to secure voluntary change in institutions.

The most dramatic changes appear to have occurred in education, possibly because improvements are easier to document. In 1970, women represented 44.7 percent of the freshman class in institutions of higher learning; in 1973, the latest year for which data are available, 48.1 percent. In 1970, women comprised 40.2 percent of the students beginning masters or doctors programs; in 1973, 44.5 percent.[82]

First year law students in 1970 were 10.2 percent women; in 1975, 26.8 percent.[83] First-year medical students in 1970 were 11.1 percent women; in 1975, 23.8 percent.[84]

Improvement in employment is harder to assess because of the many factors that influence pay and occupation, and because the detailed data needed is secured only in decennial census years. The following are indications of significant improvement:

The 1970 census revealed some significant gains in occupational penetration by women since 1960. The proportion of women rose from 17 to 26 percent among accountants, 18 to 30 percent among bakers, 11 to 21 percent among bartenders, 10 to 28 percent among bus drivers, 18 to 28 percent among engravers, 8 to 12 percent among pharmacists, 17 to 26 percent among radio operators, and 9 to 14 percent among scientists.

Skilled craft jobs were filled by almost one-half million women in 1970, up from 277,000 in 1960.[85]

Victor R. Fuchs in an article in the *Monthly Labor Review* of May 1974 found that in spite of a very large increase in the employment of women during the decade which would tend to depress women's earnings, there was an improvement in the relative position of women. Under his formula, which factored out differences in schooling and age, the women's earnings ratio rose from 0.61 to 0.64 between 1960 and 1970.

Yet enforcement of laws and orders has been so poor that illegal discrimination remains rampant. Women are questioning the good faith and intent of the government in making legal protection a reality for millions of victims of discrimination.

Why has enforcement broken down in most places? It often breaks down before it begins. After a law is enacted, an agency responsible for administering the law must formulate and issue regulations or guidelines to implement the law. Oftentimes agencies have taken several years to draft these regulations.

For instance, title IX of the Higher Education. Amendments was enacted in 1972. Title IX prohibits sex discrimination throughout much of our Nation's educational system. The Department of Health, Education, and Welfare's (HEW) implementing regulations did not go into effect until July 1975, 3 years later.

Executive Order 11246, as amended,[86] has prohibited sex discrimination by Federal construction contractors since 1968. Yet the Office of Federal Contract Compliance Programs in the Labor Department, the administering agency, is still in mid-1976 not requiring affirmative hiring goals for women. It does, however, require such goals for minorities.

Actual enforcement begins after the regulations are issued. Or it should. But this process also is fraught with delays and difficulties.

One reason why voluntary compliance with the laws appears so weak is the failure of enforcement agencies to use their sanctions. Most women filing charges must wait years for agency action, to say nothing of time required for legal action if that becomes necessary.

The EEOC complaint backlog in the spring of 1976 topped 100,000. And sex discrimination complaints filed in 1970 with the HEW Office for Civil Rights were still waiting for processing 6 years later.

In spite of the backlog, HEW's Office of Civil Rights returned to the Treasury $2.6 million for FY 1975, about 10 percent of its budget. At the same time the same office complained that it did not have enough resources to investigate all of the complaints. And the number of new complaints in every agency grows each year.

In view of the widespread inability to handle complaints promptly and effectively, the U.S. Commission on Civil Rights has recommended that the best use of resources of the various enforcement agencies would be to focus on eliminating systemic (broadbased) discrimination.

For instance, the EEOC has been expending much of its energy on the cases of a relatively few aggrieved women (many of the cases with little precedent-setting effect), while large firms with thousands of workers openly maintain a pattern of segregation by both race and sex. These firms get off with only an admonition from EEOC.

As late as mid-1976 most women who have complained, as well as millions of discriminated-against noncomplainants, are left without redress.[87]

The Office of Federal Contract Compliance Programs, for example, has debarred (excluded from further contracts) only 11 contractors because of discrimination. Colleges

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Footnotes at end of article.

and universities feel that by precedent they are safe from having Federal funds cut off by HEW, since such funds have never been terminated because of sex discrimination.

In April 1971 the Women's Equity Action League filed a class complaint of sex discrimination against Purdue University in Lafayette, Indiana. Five years later, in April 1976, the complaint had not been resolved and the university did not have an affirmative action plan accepted by HEW.

The Commission recognizes and abhors discrimination based on race, national origin, and age. However, by its mandate, the Commission was required to address itself only to sex discrimination. In so doing, members of the Commission rejected all strategies that pit one disadvantaged group against another. In addition, the Commission feels that all laws which prohibit discrimination must be vigorously enforced by the appropriate agency.

Most of its recommendations are applicable to problems common to all American women. But it is clear that some women—the aged, minority group members, and those with limited skills in English—are doubly disadvantaged and that a special effort must be made on their behalf.

Several laws prohibit sex discrimination in employment (see Part VI, the Appendix for the chart on "Federal Laws and Regulations Prohibiting Sex Discrimination"). These laws, plus a firm base of court decisions, give working women many rights. However, women often have to go to court to win their rights under the law.

For example, Penelope Brace filed a complaint because she felt she was being discriminated against on her job.[88] The results of her action opened jobs on the Philadelphia police force to many women.

Mrs. Brace had been on the force for 8 years when she filed her complaint with the EEOC in 1973. She had applied to be a detective but had not even been allowed to take the test because she was a woman. EEOC ruled in her favor. So did the Law Enforcement Assistance Administration (LEAA), a Federal agency required by the Omnibus Crime Control and Safe Streets Act to see that funds it disperses are not used in any activity that discriminates.

LEAA was negotiating a settlement with the police department, but broke off talks when the department continued harassing Mrs. Brace. She had been discharged 3 days after filing suit against the police commissioner. She was ordered reinstated 2 months later by the City Civil Service Commission, but she was transferred and ordered to undergo a psychiatric exam.

LEAA referred the complaint to the Justice Department which secured a court order in March 1976. It provided that 100 of the next 471 vacancies are to be filled by women no later than December 1976. The separate jobs of policeman and policewoman were combined into one—police officer. Mrs. Brace is continuing a separate court suit charging harassment.

The IWY Commission surveyed the scope of employment laws and their enforcement to determine gains made for working women and areas needing improvement. While many breakthroughs and improvements have occurred, the enforcement effort must be strengthened. Too often gains come as the results of determined women like Penelope Brace, rather than as the result of actions by agencies charged with enforcing the laws.

Toward this end, the Commission made detailed recommendations for improvements to the EEOC, the Office of Federal Contract Compliance Programs, and the administrators of the Equal Pay Act. The Commission did note favorably that many court cases have been selected for processing and have won under the Equal Pay Act. In addition, the Commission wants the Office of Revenue Sharing, Department of the Treasury, to issue strengthened rules prohibiting sex bias by recipients of revenue-sharing monies.

The Commission is sympathetic to the plight of employers who receive different and sometimes conflicting advice from Federal agencies on how to implement civil rights laws. This situation is dramatized in a letter written by E. L. Strider, President of Maine's Colby College, to lawyers at the EEOC last year:

"Colby is prepared, as we have always tried to do, to comply with the law of the land, but first it would be helpful to know what the law of the land is."

The confusion arises from different employment standards on fringe benefits set by the EEOC and the Office of Federal Contract Compliance Programs, Department of Labor, both of which enforce antidiscrimination laws.

The Commission recommends that all agencies with civil rights functions adopt uniform policy guidelines on employment matters. Whenever there is a variance among agencies, the EEOC position should be the one followed because its current guidelines provide the most protection to women workers.

A "SPORTING CHANCE" FOR WOMEN

Lusia (Lucy) Harris stands 6 feet 3 inches tall, weighs 185 pounds, and is the star center for the Lady Statesmen basketball team of Delta State University in Cleveland, Mississippi. She has led her team to two national championships in the Association of Intercollegiate Athletics for Women. And the school revived basketball for girls only 3 years ago.

A physical education major just completing her junior year, Lucy hails from the cotton field community of Minter City, Mississippi (pop. 200). Following her return from participating in the World Games and the Pan American Games in South America, Lucy was honored on the Delta State campus with her own pep rally. In the fall of 1975, she became the school's first black homecoming queen on a campus that is 88 percent white.

Basketball has opened up for Lucy opportunities that she might never have had otherwise. To many sports fans, she is the best female basketball player in the country. Such opportunities have been available to boys for decades, but they are just beginning for girls, as more and more of them become interested in sports.

At Delta State, basketball for girls was reinstituted after a 40-year layoff because the students demanded it. But another force was being exerted at about the same time. That second influence is title IX, enacted in 1972, which bans sex discrimination in sports as well as in other aspects of the educational system. The combined thrust of the great interest of girls in sports participation and the new legal base has led to many changes.

For example, the girls' volleyball team at West Hempstead High School, Long Island, New York is able to practice in its own school gym now. In 1975 the girls had to walk half a mile to the Cornell Elementary School so that the boys' teams could use the high school gym. The high school director of athletics says that the elementary school gym is too small for 17-year-old boys. To accommodate the girls, he has scheduled younger boys for practice at the elementary school.

Margaret Dunkle, chair of the National Coalition for Women and Girls in Education, says:

"There has been a virtual explosion of sports opportunities for women and girls since Title IX became law in 1972. They now have legal clout to get a 'sporting chance' in schools and colleges. Title IX has given it a push, but God forbid, if it were ever repealed, we could not turn back the tide. There has simply been too much pressure from women's athletics, women in the professions, women's organizations, even parents."

This "pressure" takes many forms. Carolyn Folisi, a student at Memorial Junior High School in Lyndhurst, Ohio, liked sports. When she asked about the lack of interscholastics sports programs for girls, she was told that a fine program existed in the school system but that there wasn't enough interest for the school to implement the program.

Carolyn began to circulate petitions among the 500 girls in her school. While the boys criticized her idea as hysterical and outrageous, she collected signatures from 250 girls. And now a sports program for girls has been started, thanks to her persistence.

In Pennsylvania women used another legal avenue, the Equal Rights Amendment to that State's constitution in their efforts to end sex discrimination in sports. And they won.

Last year, the Commonwealth Court, one level below the State Supreme Court, ruled it unconstitutional to prohibit coed sports participation and practice. Specifically, the court overturned one provision of the Pennsylvania Interscholastic Athletic Association's constitution, which reads: "Girls shall not compete or practice against boys in any athletic contest."

PIAA is an association of all Pennsylvania public senior high schools (except those in Philadelphia), some public junior highs, and some private schools. It regulates competition for 17 sports, including basketball, field hockey, gymnastics, swimming, golf, and tennis.

In giving the court's opinion, Judge Genevieve Blatt said,

"If any individual girl is too weak, injury-prone, or unskilled, she may, of course, be excluded from competition on that basis but she cannot be excluded solely because of her sex without regard to her relevant qualifications."

The State Board of Education has issued regulations to provide "a comprehensive program of athletics to both boys and girls, taking into account what may be the special needs and/or interests of the students. Such a program may consist of separate teams for boys and girls in certain sports where this is desirable to maintain or develop effective male or female participation. . . ."[89]

The IWY Commission believes that opportunities for active participation in sports must be made available to all Americans, male and female. To help achieve this goal, the Commission urges that women have greater involvement in the Olympics and in other sports governance groups. It asks that the Commission on Civil Rights proceed forthwith on its study of athletics and title IX.

THE STRUGGLE IN EDUCATION

Biochemist Dr. Sharon Johnson thought that she would succeed in academia if she followed the rules as explained by her department chairman. But the rules changed when she sought tenure at the University of Pittsburgh School of Medicine.

Dr. Johnson, a Ph.D from Massachusetts Institute of Technology, was hired in 1967

Footnotes at end of article.

by Pittsburgh as an assistant professor, without tenure. Her initial 3-year appointment was renewed, giving her until June 1973 to obtain tenure or be dismissed.

The department chairman had told her that people were given tenure if they were elected to the American Society of Biological Chemists and did research. At Pittsburgh she accomplished both, the latter through a $93,000 laboratory research grant from the National Institutes of Health. She also had other grants.

Everything seemed to be going well; she had not been told of any deficiencies in either her work or her research. But in October 1971 a faculty committee met, without telling her, and voted to deny her tenure. Dr. Johnson could not discover the reasons for their decision until January 1972. The committee had said her teaching was inadequate (based on observation of four of her lectures) and her research irrelevant. They had ignored her previous 4 years of teaching and work with graduate students.

Dr. Johnson got no satisfaction on her appeal through the school's grievance procedures. Efforts to move her research lab to other schools were unsuccessful. She began to realize that being dismissed from Pittsburgh would mean the end of both her research grant and her teaching career.

In the spring of 1972 she filed sex discrimination complaints with both the EEOC and HEW. When it appeared that nothing would happen, she went to court at her own expense, winning a court injunction preventing her termination. Her lawyer believes it is the first time such an injunction has been issued against a university.

The EEOC eventually made a finding of discrimination but its conciliation attempts failed. She is still in court on her sex discrimination fight and no decision is expected until late 1976.

Tenure, of course, is not the only area of higher education where women suffer discrimination. Many articles have been written about women being hired for faculty jobs at men's expense because of affirmative action plans. But the evidence does not back this up. Statistics released in January 1976 by the National Center for Education Statistics[90] show that conditions have not improved markedly for women. The report covers both private and public institutions and shows:

1. From 1974 to 1975 the percent of women faculty remained constant at 24 percent. The number of women relative to men declined at the ranks of professor, associate professor, and instructor but increased for assistant professor, lecturer, and "undesignated rank."

2. Women's salaries increased less than men's salaries: 5.8 percent for women versus 6.3 percent for men. Furthermore, the mean salaries of men continue to exceed the mean salaries of women at every academic rank and at every level in both public and private institutions.

3. Sixty percent of men have tenure, compared to 42 percent of women.

Before the law passed in 1972, college professors were not covered by the Equal Pay Act, as Dr. Marilyn Stokstad discovered. A professor of art history at the University of Kansas in Lawrence, Dr. Stokstad hired male professors at salaries higher than hers in order to build a full doctoral program for her department. As she explains it, "I was proud to have the opportunity to do a great deal of work, even at much less pay. And, I always hoped for a raise."

Her attitude changed in 1971–72 when she worked with the American Association of University Professors' committee on women. Her group studied salaries of women in colleges and universities in the Kansas State system. Dr. Stokstad found she was one of the highest paid women at the university, although at that time she was paid $4,600 less per year than the lowest paid full professor in the department and $6,800 less than the highest paid professor. Since then, her pay scale has improved. Now, she only earns $50 a year less than the lowest paid male professor.

Because it took 3 years to issue implementing regulations for title IX, many colleges and universities did not start complying with the law until after July 1975. And, as was stated earlier, many are not following these regulations.

In view of the widespread lack of compliance and the all-too-frequent delays in handling complaints, the Commission is urging that sex bias problems be dealt with more fairly and quickly by HEW, whether the complaints are handled administratively under the Contract Compliance Program or the Public Health Service Act. The Commission says that HEW should withhold or terminate funds when necessary to assure compliance. And, in order to let people know about decisions, the Commission urges that HEW compile title IX rulings for use by its staff and the public.

In secondary schools too, women and girls find discriminatory policies. One Florida girl, Kathy Carmody, of Daytona Beach set out to change a policy and succeeded.

She wanted to study calculus, but higher math classes were closed to girls. Since there was only one teacher, the first priority was given to boys majoring in business. So, led by Kathy during the 1973–74 school year, the girls banded together and appealed to both the school board and school administrators.

"The next year there were nine girls in the class of 30," says Kathy. "However, since the change took a year, it messed up some girls' schedules because they were not able to take calculus before graduation."

In vocational education for wage earning, women's courses tend to be grouped primarily in the office category. Women are trained to be secretaries, bookkeepers, and keypunch operators and occasionally dental hygienists and computer programmers.

Marilyn Steele, Director of Planning and Community Activities, Charles Stewart Mott Foundation, in Flint, Michigan, told a congressional hearing:

"Of the 136 Office of Education (OE) instructional programs, girls comprise a majority of enrollments in only 48 areas. Girls who enroll in female-intensive vocational programs are further limited to 33 wage-earning course options."[91]

To improve educational opportunities for women, the IWY Commission urges implementation of a 1972 OE Task Force Report reviewing the impact of title IX on OE programs. Further, the Commission recommends that the Commissioner of Education, HEW, use monies available under title IV of the 1964 Civil Rights Act to fund studies on sex discrimination in education.

Clelia Steele, associate director, Project on Equal Education Rights, sums up the reaction to title IX succinctly:

"As I give talks around the country, I hear lots about how hard it's going to be to comply with Title IX, how difficult it will be to give equal opportunity to women. Well, I say that it's not a matter of difficulty or cost—it's a matter of justice. Title IX is not the *cause* of all the furor over sex discrimination. Rather, it resulted from this discrimination."

WHO GIVES CREDIT WHERE CREDIT IS DUE?

In 1975 the Equal Credit Opportunity Act, prohibiting sex or marital status discrimination in credit transactions, became effective,[92] and it was presumed that credit transactions should improve for women.

While women are generally finding it easier to obtain credit, this is not invariably the case, partly because women are not sufficiently aware of their rights in this field, and also because many of the 12 agencies which are charged with putting the law into effect have not yet established enforcement procedures. The Federal Reserve Board is responsible for issuing regulations, but other agencies share enforcement authority.

The IWY Commission, in its recommendations (see Part V) applauds the passage of the Equal Credit Opportunity Act and urges women to become familiar with it. The Commission wants all agencies involved in implementing the law to enforce regulations vigorously and train their staffs adequately.

Basically, the act and regulations provide the following rights and protections for women seeking credit. A creditor:

Cannot require a women to list alimony, child support, or maintenance payments. If she chooses to list them, the creditor shall consider such payments to the extent that these payments are likely to be made on a regular basis.

Must list on the application form the name of the appropriate Federal agency where a woman can complain if she feels that she has been discriminated against because of her sex or marital status.

Can no longer request information about the birth control practices a woman uses. Nor can a creditor ask about her childbearing intentions or whether she is able to have children. Further, a creditor can no longer assume that a woman may become pregnant at some point and leave her job to raise children, thereby eliminating the income to repay the debt.

Cannot require a woman to reapply for a new account, change the terms of her account, or close the account automatically if she has not relied solely on her spouse's income in order to receive credit and if she changes her name or marital status. A creditor must have some evidence that she is unable or unwilling to repay the debt. (Skipping several payments is generally considered such evidence.)

Must notify a woman as to whether she received the credit account or loan for which she applied. If she did not receive the credit and wants to know why, the creditor is required to explain why credit was denied.

The situation for homemakers may be different. In 42 separate property States, a homemaker who has no outside income must still give information about her husband's income, even if he does not intend to use the account. In the eight community property States[93] a different situation exists, whereby spouses are liable for each other's debts. Therefore, creditors will ask marital status and will require a husband's signature if he has a legal interest in property which is security for a loan.

One of the most flagrant credit abuses has been the refusal to give a married woman credit in her own name. This action is now illegal, but some women are still fighting it.

In 1954, Aline Fugh received a credit card from a Washington, D.C. department store. Three years later, in 1957, she married Daniel Berman and, as was customary in those days, changed her credit card account to Mr. and Mrs. Daniel Berman. (At that time, Daniel Berman was seeking his first teaching position, so it was the income of his wife that was used to secure the account.)

When he died in 1967, Aline tried to change the name on her account at the store from Mr. and Mrs. Daniel Berman to Aline Berman. She is still trying to change the name on that account. Two other stores, both women's speciality stores, changed her account name with no arguments.

Today she is the owner of one of Washington's successful downtown restaurants, Court of the Mandarins. And she asks:

"Can you imagine fighting to change the name on my credit card for 9 years? I finally told them that if they wanted a dead male instead of a live female responsible for the bills, go after him for the payment."

Footnotes at end of article.

Because they are now against the law, old attitudes about women and their financial status are beginning to change. For example, a woman is less likely to encounter the treatment given Ann Brown of Boise, Idaho when she tried to buy a house in 1975.

Ms. Brown had transferred from San Francisco to Boise to further her career with the Internal Revenue Service (IRS). First, brokers showed her cheaper houses than the price and quality she had asked for. Then a female broker showed her a house that she would buy. Next, she was told by a loan officer of the finance company which held the mortgage that the house was "out of the question for you." Ms. Brown persisted and the loan officer challenged the truth of her statement that she was earning $22,500 a year with IRS. The finance company also told her she would have to pay a higher rate of interest than it had advertised, although this was illegal.

Ms. Brown's ire finally overflowed and she went to her own bank, which gave her the loan.

Another example is the experience of Carol Knapp Lewicke and her husband Marty. Before they were granted a Veterans Administration loan to buy a house in Arlington, Virginia in 1972, they were required to give notarized statements that she would not become pregnant.

Further, his notarized statement had to say that if she became pregnant, he would agree to an abortion and that he would have a vasectomy performed. And hers specified that she would have an abortion if she became pregnant and that if she stopped taking the pill, she would agree to her husband's vasectomy.

Denial of credit to women is surprising since there is long-standing evidence that women are better credit risks than men. One study, done in the mid-1960's, "measured risk on installment credit, and found for both married and single women the bad account probability was substantially lower than for men with the same material status."[94] This confirmed an earlier study from 1941: "The classification of borrowers by sex and marital status indicates that women are better credit risks than men; and the superiority appears to be statistically significant."[95]

Because credit regulations are now so much more supportive of women, the Commission reiterates its plea that all women learn the provisions of these new regulations and where to turn for help if they feel they are the victims of discrimination.

FOOTNOTES

[80] A valid reason which would justify exclusion of all men or all women from a given job has been very narrowly defined by the courts.

[81] Not included is $6,300,000 paid by American Telephone and Telgeraph to 6,100 employees. While the violative practice was disclosed through wage-and-hour investigations, resolution throughout the AT&T system was secured through litigation by the Solicitor's Office; Department of Labor. Another consent decree in FY 1974 resulted in another $7 million to 7,000 employees.

[82] U.S. Office of Education, National Center for Educational Statistics.

[83] American Bar Association, *Annual Review of Legal Education*, 1975.

[84] *Journal of Medical Education*, Feb. 1976, p. 144.

[85] Jean Wells, "Women at Work in the United States," *Industrial and Labor Relations Review*, Winter 1975.

[86] Executive Order 11375, Oct. 13, 1967, amended E.O. 11246 to prohibit sex discrimination in employment by the Federal Government and by Federal contractors.

[87] Dr. Barbara Bergmann, "Project on the Economics of Discrimination," University of Maryland, 1976, p. 22.

[88] Alexandra Sandler, "Sex in the Office," *Philadelphia* magazine, Feb. 1976.

[89] 22 Pa. Code, Chap. 5, *Pennsylvania Bulletin*, vol. 4, no. 44, Oct. 12, 1974, p. 2171.

[90] Memorandum from Marie D. Eldridge, Administrator, National Center for Education Statistics, Department of Health, Education, and Welfare, Jan. 27, 1976.

[91] Marilyn Steele, testimony before the Subcommittee on Elementary, Secondary, and Vocational Education, Committee on Education and Labor, House of Representatives, Mar. 17, 1975, p. 8.

[92] The law was enacted by Congress in 1974, became effective in 1975, and was amended in early 1976. By April 1976 it had not yet been implemented by all 12 of its enforcing agencies.

[93] Community property States are Ariz., Calif., Idaho, La., Nev., N. Mex., Tex., and Wash.

[94] *2 Management Science*, 1964, pp. 327–340.

[95] D. Durand, "Risk Element in Consumer Installment Financing," *National Bureau of Economic Research*, Tech. Edition 74, 1941.

ENFORCEMENT OF THE LAWS COMMITTEE [64]

AFFIRMATIVE ACTION [65]

The IWY Commission recommends that the Department of Labor and all other Federal agencies monitoring the employment practices of Federal contractors be required to set up enforcement procedures, with appropriate sanctions, and to use them without delay against contractors who exclude or discriminate against qualified people because of their sex.

Background

Recent studies by the U.S. General Accounting Office and the U.S. Commission on Civil Rights have shown that requirements for affirmative action have been ineffective because of lax enforcement procedures. At the same time, affirmative action for Federal contractors has come under strong attack.

The committee believes that this is not the year to start dismantling the affirmative action regulations; rather it is the time to start enforcing them. Experience going back more than 10 years shows that mere expressions of desire for fairer hiring and promotion practices on the part of Federal contractors do not and will not do the job, and that numerical goals and timetables for hiring members of hitherto excluded groups are needed.

Footnotes at end of article.

WOMEN IN POSITIONS ADMINISTERING THE ENFORCEMENT OF LAWS [66]

The IWY Commission recommends that all agencies and organizations charged with enforcing the law, including agencies at the Federal, State, and local levels, police departments, and the military, recruit women until they recruit a representative number of women in all job caterogies and at all pay levels.

STUDY ON ATHLETICS AND PHYSICAL EDUCATION BY U.S. COMMISSION ON CIVIL RIGHTS [67]

The IWY Commission recommends that the U.S. Commission on Civil Rights conduct its planned study of "Sex Discrimination in Physical Education and Athletics" without delay, using this study to evaluate the effectiveness of title IX (Education Amendments of 1972) in eliminating sex discrimination in physical education and athletics generally in educational institutions.

Background

Sex discrimination in athletics and physical education programs has certainly been the most publicized and controversial issue surrounding implementation of title IX of the Education Amendments of 1972, which prohibits sex discrimination in federally assisted education programs.

The commissioners of the U.S. Commission on Civil Rights have approved a study of "Sex Discrimination in Physical Education and Athletics" for inclusion in the budget for FY 1977. This $183,000 study is planned to begin November 1976 and to be completed by February 1978. It would investigate such areas as:

The funding and staffing of programs, and the provision of the number and type of prpgrams provided for girls and women;

The impact of discriminatory treatment on the development of female children;

The manner in which the athletic system itself contributes heavily to the socialization of girls and boys and the imposition of limiting sex role stereotypes, as well as the impact of limiting physical abilities on the employment future of women; and

The Federal role in assuring nondiscrimination in physical education and athletics under title IX of the Education Amendments of 1972.

HEARINGS ON THE PRESIDENT'S COMMISSION ON OLYMPIC SPORTS [68]

The IWY Commission on the Observance of International Women's Year recommends that the President's Commission on Olympic Sports in its hearings include the topic of women's participation and leadership.

Background

The mandate of the President's Commission on Olympic Sports clearly includes a study of the role of participants in the governance of their own sport. Data indicates that women are discriminated against as participants and leaders in sport competition representing the United States.

Sport	Men	Number of countries	Women	Number of countries	Number of events Men	Number of events Women
Participants in World University games, Moscow, 1973:						
Basketball	325	29	186	16		
Wrestling	197					
Water polo	131					
Volleyball	262	23	174	15		
Gymnastics	89	28	43	12	6	4
Track and field	446	55	182	31	21	13
Swimming	156	29	80	16	13	9
Diving	24	14	17	10		
Tennis	51	25	36	21		
Fencing	211	29	52	15	6	2
Total	1,940		[1] 778			
Women in leadership positions—Moscow 1973 (percent):						
Coaches, women's basketball					85	15
Coaches, women's volleyball					70	30
Chef de mission, 72 countries					100	

[1] Equals 28 percent.

EXPANDING ROLE OF WOMEN IN THE GOVERNANCE OF SPORT [69]

The IWY Commission will contact national sport governing bodies, federations, associations, and committees to request that they (1) compile data on the frequency and levels of female leadership in their organizations; (2) develop affirmative action programs to bring women representatives into all levels of their sports governance structures; and (3) send copies of the data and affirmative action programs to the IWY Secretariat.

Background

As with most power structures, women are largely underrepresented in the policymaking bodies of sports organizations. For instance:

At a 1973 meeting of the General Assembly of International Federations (GAIF), there was one woman representative among the official delegates.

At a 1975 executive committee meeting of the U.S. Olympic Committee there were 2 women as official representatives among about 35 officials.

At the 1975 General Assembly of the International Federation for University Sport there was 1 woman delegate among representatives from 44 countries.

A group of sportswomen, acting as consultants for the U.S. Center for International Women's Year, agreed this kind of exclusion is characteristic of the sport organization system.

The above recommendation, calling for affirmative action, would be sent to the following groups:

National Archery Association of the United States.
Amateur Athletic Association of the United States.
Amateur Athletic Union of the United States.
National Collegiate Athletic Association.
National Federation of State High School Athletic Associations.
National Association of Intercollegiate Athletics.
National Junior College Athletic Association.
American Badminton Association.
American Association of College Basketball Coaches.
Little League Baseball.
U.S. Baseball Federation.
National Association of Basketball Coaches of the United States.
Basketball Federation of the United States of America.
International Association of Approved Basketball Officials.
Amateur Bicycle League of America.
American Canoe Association.
Amateur Fencers League of America.
U.S. Figure Skating Association.
U.S. Gymnastics Federation.
U.S. Team Handball Association.
American Association for Health, Physical Education and Recreation.
Amateur Hockey Association of the United States.
Field Hockey Association of America.
U.S. Judo Federation.
American Motorcycle Association.
National Association of Amateur Oarsmen.
U.S. Olympic Committee.
U.S. Parachute Association.
National Association of the Partners of the Alliance.
U.S. Modern Pentathlon and Biathlon Association.
National Rifle Association of America.
U.S. International Skiing Association.
U.S. Ski Association.
U.S. Soccer Football Federation.
Amateur Softball Association of America.
Sports Ambassadors.
Interservice Sports Committee.
People-to-People Sports Committee.
U.S. Collegiate Sports Council.
U.S. Lawn Tennis Association.
U.S. Table Tennis Association.
U.S. Track and Field Federation.
U.S. Track Coaches Association.
U.S. Volleyball Association.
U.S. Wrestling Federation.
Amateur Basketball Association of the United States of America.
American Horse Shows Association, Inc.
American Swimming Coaches Association.
U.S. Yacht Racing Union.
American Bowling Congress.

PROCLAMATIONS TO ENCOURAGE WOMEN IN SPORTS [70]

The IWY Commission recommends that:

1. A proclamation be issued for all Federal, State, and local recreation-oriented agencies and the President's Council on Physical Fitness and Sport, calling for program emphasis on lifetime sport opportunities for women.

2. The President issue a proclamation declaring an "Equality for Women in Sport" day during the Bicentennial Year. The sports day would honor past U.S. sports heroines and encourage schools, colleges, and other public agencies to advance present and future opportunities for women in sport, especially through compliance with title IX of the Education Amendments of 1972.

Background

Sports participation is an important aspect of the quality of life for citizens. However, participation in sports has always been emphasized more for men than for women, both in the popular press and through more institutionalized support of sports for men and boys.

Prominent men's collegiate athletic associations such as the National Collegiate Athletic Association and the National Football Coaches Association have never supported title IX prohibiting sex discrimination in education and have maintained that implementation at the collegiate level would destroy college football.

Data from research in 1969 and 1973 show the following disparities in expenditures for men's and for women's collegiate athletic programs.

Men's athletic budgets—1969 *

Class A (major football institutions):	
Average revenues	$1,397,000
Average expenses	1,322,000
Profit	75,000
Class B (college division institutions):	
Average revenues	185,000
Average expenses	247,000
Loss	−65,000
Class C:	
Average revenues	37,000
Average expenses	196,000
Loss	−65.000
Class D (major basketball with no football):	
Average revenues	69,000
Average expenses	196,000
Loss	−127,000
Class E (no football):	
Average revenues	22,000
Average expenses	54,000
Loss	−32,000

* Michael Raiborn, *Financial Analysis of Intercollegiate Athletics*, National Collegiate Athletic Association, 1970.

Women's athletic budgets—1973 *

Institutions over 20,000 students	$12,938
10,000 to 15,000 students	9,420
5,000 to 9,999 students	9,493
3,000 to 4,999 students	9,412
Under 3,000 students	3,991

* Marilyn Vincent, *Journal of Health, Physical Education and Recreation*, Mar. 1973.

REVISING THE PUBLICATION OF THE PRESIDENT'S COUNCIL ON PHYSICAL FITNESS AND SPORTS, SUGGESTIONS FOR SCHOOL PROGRAMS; YOUTH PHYSICAL FITNESS, SEPTEMBER 1973 [71]

The IWY Commission requests the President's Council on Physical Fitness and Sports to revise its 1973 publication in the following manner:

1. Eliminate unnecessary differences in standards between boys and girls appearing on pages 12, 13, 14, 31 (girls' push-ups), and 48.

2. Eliminate sexist prejudices inherent in text; pages 53 and 54, which link weight training for women to motherhood only; page 62, where only men athletes are listed for gains through interval training; pages 83, where only the "football coach" is listed as a public relations asset; page 88, where girls' role in public demonstration emphasizes dance, gymnastics, and other "form events."

Background

The committee, in making the above recommendations, takes into account three relevant facts:

Research indicates that boys' and girls' physical performance is comparable prior to puberty.

The effects of socialization appear to detrimentally affect female physical abilities at all ages.

Publications of the Federal Government should lead the way in encouraging excellence in all areas of performance from its citizens.

TITLE IX OF THE EDUCATION AMENDMENT OF 1972 [72]

The IWY Commission recommends that:

1. The Secretary of the Department of Health, Education, and Welfare (HEW) direct the Director of the Office for Civil Rights to effectively enforce title IX, including the withholding or terminating of Federal funds.

2. The Secretary of HEW instruct HEW's Office for Civil Rights to establish immediately a full compilation of all title IX rulings to date and to continue to maintain this compilation in the future, indicating that this compilation will be available to both HEW staff and the interested public.

3. The President and the executive branch oppose any amendments which would weaken the protections against sex discrimination in education guaranteed by title IX.

Background

At this time neither HEW civil rights staff nor the public has access to a compilation of rulings on, or interpretations of, title IX (which prohibits sex discrimination in federally assisted education programs). A major obstacle to meaningful compliance with title IX has been the lack of consistent, sound interpretations of the law and relevant regulations. Additionally, there has been a great deal of variation from region to region concerning the "proper" interpretation of title IX.

Because HEW staff do not have access to this information, they are unable to answer some important substantive questions on title IX, leaving schools, colleges, and the victims of sex discrimination without guidance on how to interpret the law or protect their rights.

Several legislative amendments have been introduced in Congress to weaken title IX. HEW did not oppose the "Tower Amendment" (concerning intercollegiate athletics) and the President indicated in July 21, 1975 letters to the chairs of the House and Senate committees with jurisdiction over title IX that he would "welcome Congressional hearings on [the O'Hara bill, which would exempt certain intercollegiate athletic activities from title IX]."

Until July 1975, when HEW's final regula-

Footnotes at end of article.

tion for title IX took effect, enforcement was minimal, as many complainants were told their cases would not be investigated until the regulation was final (including some whose cases were in an unambiguous, noncontroversial area and which could not possibly be affected by the final stages of the regulation process).

Since the regulation took effect, although hard information on the status of title IX cases is unavailable from HEW, there have been many indications that HEW does not intend to move forcefully against sex discrimination illegal under title IX:

According to HEW's enforcement plan for elementary and secondary school systems this year, title IX ranks eighth in priority among 12 kinds of enforcement action.

The civil rights office has scheduled only six comprehensive, system-wide reviews under title IX this year—6 out of 16,000 school districts.

According to the 1976 plan, HEW intends to investigate only a fraction of the title IX complaints it expects to receive this year. For example, while the Atlanta office expects to receive 120 complaints this year, it plans to investigate only 33. The New York office has set aside time to look into only 3 of this year's projected 52 complaints.

One HEW regional civil rights unit, the Dallas office, has notified title IX complainants that it cannot handle their complaints at this time claiming that a court order requires the office to put all its resources into resolving race discrimination cases. Several organizations have asked for an injunction to force HEW to resume acting on title IX complaints.

Although HEW argues it cannot adequately enforce the law because of "lack of resources," the civil rights office turned back over 10 percent of its budget to the Treasury unspent last year. The Administration requested no new positions for enforcement in elementary and secondary education for the current fiscal year.

HEW is currently being sued for nonenforcement of title IX as well as several other laws barring sex discrimination in education.

HEW is currently exploring the possibility of turning over some of its enforcement responsibilities, including the investigation of complaints, to the States.

In June 1975 HEW proposed new civil rights procedural rules which would relieve the Department of its current obligation to act on complaints filed under title IX and other civil rights laws. Despite strong pressure to rescind this proposal, HEW Secretary Mathews has refused to indicate that a revision will include the obligation to investigate all complaints.

HEW OFFICE FOR CIVIL RIGHTS RESOURCES AND ENFORCEMENT [73]

The IWY Commission recommends that:

1. The Office for Civil Rights, Department of Health, Education, and Welfare (HEW) immediately formally withdraw the "Consolidated Procedural Rules for Administration and Enforcement of Certain Civil Rights Laws and Authorities";

2. The Office of Management and Budget (OMB) immediately review the enforcement resources and priorities of the HEW Office of Civil Rights, and support increased appropriations if necessary to establish and maintain an effective enforcement effort under title IX of the Higher Education Amendments of 1972;

3. The Office of Civil Rights, HEW, develop and implement a complaint-processing system that would include action on current complaints at the same time the backlogged complaints are processed, in order to handle effectively all matters of discrimination without pitting one group against another.

Background [74]

The controversy over the HEW Office of Civil Rights enforcement of Executive Order 11246, as amended, (i.e., the contract compliance program) surrounds the substantive program as well as the programmatic procedures. As Congressman O'Hara stated in the hearings on the civil rights obligations of institutions of postsecondary education, "They may disagree on what HEW should have been doing, but they all agree that it hasn't been doing it." [75] The backlog in complaints is due to inadequate staffing and the *Adams* v. *Weinberger* decision in Dallas (see below, under Priorities).

Staffing. The HEW Office of Civil Rights (HEW/OCR) had 847 positions in FY 1975 and requested an increase of 60 for FY 1976, a total of 907. However, during FY 1975 HEW/OCR returned to the U.S. Treasury $2.6 million, about 10 percent of its budget.[76] Peter Holmes, former Director of HEW/OCR said that he was not aware that the funds had not been spent. After further checking, he reported that the unspent money resulted from 50 to 60 vacancies that were created in FY 1975 but had not been authorized for filling until midway through the year, in December.[77] However, even if all 60 positions had been filled at the top professional level (GS-13), the entire salary cost for all year would have been only $1.26 million. These discrepancies and the nonutilization of funds point out serious mismanagement problems which ought to be investigated by the Office of Management and Budget.

Priorities. In contrast to the funds being returned to the U.S. Treasury, Peter Holmes says that HEW/OCR's resources are so inadequate that priorities must be set or the large number of complaints will eliminate any broad compliance reviews. The court decision in *Adams* v. *Weinberger* was cited as decreeing how HEW/OCR must allocate its staff and time:

"Just recently, one part of the *Adams* v. *Weinberger* supplemental court order would, in effect, require the Department to become almost totally complaint-oriented throughout the 17 Southern and Border States in regard to enforcing Title VI with respect to race discrimination in public elementary and secondary schools. This will inevitably occur because the volume of complaints, pending and estimated, will be sufficient to occupy all of the existing elementary and secondary staff resources of at least three regional offices for the indefinite future in order to ensure compliance with the court's prescribed scheduling of resolving complaints.[78]

HEW/OCR staff members claim that they must eliminate processing of individual complaints in order to focus on the broader, more comprehensive compliance reviews. This resulted in the issuance of the "Proposed Consolidated Civil Rights Procedural Regulations." [79] Under these proposed regulations, any person or organization writing HEW about possible discrimination will get from HEW:

Notification of any planned compliance review in the next 12 months:

Referral to any other Federal, State, or local agency which has legal authority to investigate and take legal action on the case; and

Notice of any internal grievance procedure which must be instituted by the recipient according to law.

These proposed regulations raised a great clamor from women's and civil rights groups for their immediate withdrawal. A Senate resolution introduced by Senator Birch Bayh gained 52 Senate cosponsors in declaring:

"Resolved, that it is the sense of the Senate that the Department of Health, Education, and Welfare should withdraw the aforementioned proposed procedural regulations.

"And be it further resolved that if additional positions are required within the Office for Civil Rights for effective enforcement of Civil Rights laws this need should promptly be brought to the attention of the Senate.

"And be it further resolved that the Office for Civil Rights within the Department of Health, Education, and Welfare shall continue to make every effort to detect systemic discrimination through the use of annual surveys which shall be modified to encompass areas relating to discrimination based on sex and handicap." [80]

Despite the public outcry against the regulations and despite promises to incorporate changes in them, HEW/OCR on September 29, 1975, reissued the very same regulations for an additional period of comment.[81]

In October 1972, HEW/OCR issued "Higher Education Guidelines" which related the requirements of Executive Order 11246, as amended (contract compliance program), and the Office of Federal Contract Compliance's Revised Order No. 4 to colleges and universities having Federal contracts. However, according to the former Director of the Higher Education Division, HEW/OCR, the guidelines were not specific enough for institutions to know what was expected of them, and they did not provide specific guidance to HEW/OCR's regional staff for evaluating institutions' affirmative action plans (AAPs). "A Format for Development of an Affirmative Action Plan by Institutions of Higher Education" was issued in August 1975 to facilitate compliance with Executive Order 11246 and to clarify the obligations of colleges and universities to maintain acceptable AAPs.

Complaint Processing. The Higher Education Division of HEW's Office for Civil Rights enforces Executive Order 11246 for between 863 and 1,300 institutions; estimates vary. As of December 31, 1973, the HEW/OCR Higher Education Division inventory showed a total of 296 Executive order complaints (individual and class) that were considered active. The status of these complaints is described on the chart below:

	Investigations				
	Total number	Acknowledged	Completed	Letters of findings [1]	Other [2]
Individual complaints	116	4	30	23	59
Class complaints	180	128	10	23	19

[1] The letter of finding is sent to an institution after an investigation, and details what is needed to bring the institution into compliance.

[2] Other: Referred for enforcement, investigation scheduled, negotiation, or no designation.

Of the individual complaints 35 percent had been only acknowledged, 45 percent had been investigated, but a letter of finding has been issued in only 20 percent of the complaints filed. Of the class complaints, 71 percent had only been acknowledged, 18 percent had been investigated, and letters of finding were issued in 13 percent of the complaints filed. In calendar year 1974 HEW/OCR received 197 Executive order complaints and resolved 33.

AMENDING PROPOSED REGULATIONS IMPLEMENTING TITLE IX OF THE EDUCATION AMENDMENTS OF 1972 [82]

The IWY Commission recommends that the President consider the following recommendations for changes in the regulations to implement title IX of the Education Amendments of 1972:

1. Allowing complainants the option of using internal grievance procedures, if an institution has them, *or* filing complaints directly with the Department of Health, Education, and Welfare. (HEW). The complainant would, of course, have the option of both

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Footnotes at end of article.

filing with HEW and using the internal grievance procedure.

2. Developing a new provision which would require the recipient of Federal assistance to conduct and publish self-evaluation to assess its status in regard to existent sex discrimination. This evaluation should cover admission practices, financial aid, educational program access, curriculum, and athletics, as well as employment.

3. Establishing a uniform pension policy under the existing Federal legislation now covering employment. The Equal Employment Opportunity Commission (EEOC) guidelines, which require equal periodic benefits, would appear to be more equitable, and the title IX regulations should reflect this approach.

4. Deleting the references to contact sports and replacement of the athletic sections with the language of the June proposed draft.

Background

The IWY Commission has as one of its primary mandates the full and proper enforcement of existing Federal legislation banning discrimination on the basis of sex.

The regulations to implement title IX of the Education Amendments of 1972 are now awaiting approval by the President. This law is the first banning discrimination on the basis of sex in all education programs and activities receiving Federal financial assistance.

The four parts of the draft regulations that are of particular concern to the Commission as they stand appear not to reflect the intent of legislative history. The Commission urges that the President sign the regulations within the next few weeks so that the school year will begin with the regulations in place.

ENFORCEMENT OF TITLES VII AND VIII OF THE PUBLIC HEALTH SERVICE ACT OF 1971 [83]

The IWY Commission recommends that the Secretary of the Department of Health, Education, and Welfare (HEW) take immediate steps to publicize widely the provisions of the Public Health Service Act prohibiting sex discrimination in admission to Federally funded health training programs and to develop an effective enforcement program, including prompt handling of complaints and compliance reviews.

Background

Titles VII and VIII of the Public Health Service Act, 42 U.S. Code 295L–9 and 298b–2, were passed in 1971. They provide that institutions of medicine, nursing, and allied health fields which received Federal funds cannot discriminate on the basis of sex. While the coverage of the Public Health Service Act is substantially the same as title IX, it does include two situations which are exempted under title IX. The first covers admission policies to single-sex schools and prohibits discrimination on the basis of sex. The second covers admission to private undergraduate schools. If students are admitted to a specific health training program, there can be no sex discrimination in admissions. If, on the other hand, students are admitted for a course of general study and later select a health training program as a course of study, all admission policies must be free from sex discrimination. There are no affirmative action requirements.

Despite the clear language and intent of the statute, HEW did not promulgate even proposed implementing regulations until September 20, 1973 (38 *Fed. Reg.*, p. 26385). Those regulations were not issued in final form until July 7, 1975 (40 *Fed. Reg.*, p. 28572), 4 years after passage of the act. During this period, HEW conducted no meaningful enforcement activities. Moreover, since promulgation of the final regulations, the agency has given no indication of becoming any more vigorous in the enforcement of the act.

The effect of the prolonged absence of regulations and general nonenforcement is that the vast number of women intended to be the beneficiaries of the act are not aware of its existence, despite the well-documented sex discrimination which exists in health fields. In 1974, HEW received two complaints of discrimination covered by the act, and resolved neither of them. This disturbing statistic indicates a serious failure by HEW to publicize the existence of the act and to inform women of the agency's responsibilities to enforce its provisions.

MODEL COMPLIANCE REVIEWS IN EDUCATIONAL INSTITUTIONS [84]

The IWY Commission recommends that the Department of Health, Education, and Welfare (HEW), Office of Civil Rights, should conduct model contract compliance reviews of various types [85] of educational institutions: school districts on both the elementary and scondary level, doctoral-granting institutions, comprehensive colleges and universities, 2-year colleges and universities, professional schools and other specialized institutions, and liberal arts colleges. Any deficiencies uncovered during the review should receive appropriate enforcement and the results should be widely publicized.

Background

Although title IX of the Education Amendments of 1972, which prohibits sex discrimination, has been in effect for several years, the implementing administrative regulations developed by HEW were not issued until 1975. HEW has investigated very few of the over 300 complainst of sex discrimination filed against colleges and universities under Executive Order 11246, amended. The cumulative effect of these actions is that sex discrimination appears to have a low priority in HEW enforcement. This has led many community groups and concerned individuals to question HEW's sincerity in enforcing the laws against sex discrimination.

The committee's recommendation aims to get HEW to set a few models in compliance enforcement as examples for the educational community.

U.S. OFFICE OF EDUCATION TASK FORCE REPORT, A LOOK AT WOMEN IN EDUCATION [86]

The IWY Commission recommends that:

1. The Secretary of the Department of Health, Education, and Welfare (HEW) immediately authorize a followup report to analyze the progress that has been made to date on the recommendations included in *A Look at Women in Education* and to identify HEW plans for implementing those recommendations which have not yet been fully implemented.

2. The Assistant Secretary for Education at HEW take immediate steps to implement those recommendations which have not yet been implemented.

Background

After title IX of the Education Amendments of 1972 passed Congress, the Commissioner of Education appointed an internal task force to evaluate the effects of the act and to make recommendations for change. Their report, *A Look at Women in Education: Issues and Answers for HEW*, set forth specific and extensive steps for HEW to take to improve educational opportunities for girls and women. Yet over 3 years later, many of the recommendations have not been implemented by HEW, although a few have been (such as training agency staff). It is extremely important that this be done at once. HEW significantly influences education in the United States today through its regulations and by providing some $6 billion of Federal aid to education each year.

Among the recommendations included in the report were the following:

1. HEW should assure that learning materials developed with Federal funds are not sex biased by requiring that plans to avoid sex bias be a condition of funding, and by developing a guidebook for its own staff and contractors on avoiding sex bias.

2. HEW should require all applicants for funding to submit an assurance that they will comply with the requirements of title IX of the Education Amendments of 1972 (which prohibit sex discrimination in federally assisted education programs). [An assurance of this type regarding discrimination based on race, national origin, or color has been required by HEW under title VI of the 1964 Civil Rights Act for a decade.]

3. HEW should make the elimination of sex segregation in career and vocational training a priority.

4. HEW should support the development of training programs designed to help teachers and administrators recognize and overcome sex bias.

5. HEW should take steps to assure that, whenever possible, data (including that collected by the National Center for Educational Statistics) be collected by sex.

6. HEW should make efforts to sensitize Office of Education staff to the problems of sex bias through special training programs.

CIVIL RIGHTS SURVEY OF ELEMENTARY AND SECONDARY SCHOOLS [87]

The IWY Commission recommends that:

1. The Department of Health, Education, and Welfare (HEW) continue its Elementary and Secondary School Civil Rights Survey to be completed annually by all schools.

2. The survey form be revised to contain additional questions concerning sex discrimination, in order to determine institutional compliance with title IX (Education Amendments of 1972), and to collect all data by both sex and race or ethnicity in order to determine patterns of discrimination against minority females.

3. The HEW Office for Civil Rights collect all survey forms for analysis and make this information available to interested parties.

Background

A key element of an effective enforcement program is good information. HEW had collected data annually through a Civil Rights Survey of Elementary and Secondary Schools. The form has not yet been revised to add questions dealing with some aspects of implementing title IX which prohibits sex discrimination. During the summer of 1975 HEW's Office for Civil Rights (OCR) decided to collect the data biannually instead of every year. The decision was also made to send the forms only to schools with 3,000 or more students. Finally, OCR will request these school systems to complete the forms and retain them in their files, but will not require that these forms be returned to OCR for analysis and use in followup compliance reviews.

TITLE IV FUNDS OF THE 1964 CIVIL RIGHTS ACT TO END SEX SEGREGATION [88]

The IWY Commission recommends that the Secretary of the Department of Health, Education, and Welfare (HEW) instruct the Commissioner of Education to use funds available under title IV of the 1964 Civil Rights Act to end sex segregation by:

1. Revising the point system for awarding funds under this act, so that projects or training aimed at eliminating sex segregation are not at a disadvantage;

2. Seeking adequate appropriations so that projects aimed at eliminating sex segregation can be funded at an appropriate level without reducing the funds available to end segregation based on the other grounds covered by the law; and

3. Establishing a title IX information center to provide information, materials, and technical assistance to the General Assistance Centers, training institutes, and State

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Footnotes at end of article.

agency training programs funded through title IV.

Background

Title IV of the 1964 Civil Rights Act makes available funds for operating general assistance centers and for funding training institutes and State agency training aimed at eliminating segregation based on race, color, religion, national origin, or sex. Originally, title IV funds could only be used for desegregation based on race, color, religion, and national origin. However, sex was added by section 906 of title IX of the Education Amendment of 1972.

Until last year, no title IV funds were specifically aimed at desegregation based on sex, even though sex segregation has been well documented in such areas as vocational and career training and physical education.

In 1975 the Office of Education issued the first set of title IV regulations which included the 1972 provisions against sex segregation. However, under the criteria for awarding funds outlined in these regulations, applicants for funds received half as many points for activities aimed at desegregation based on sex than they did for activities aimed at eliminating other types of segregation. Consequently, few activities specifically aimed at opening these opportunities for girls and women were funded.

Additionally, even though the 1972 addition of sex as a category under title IV greatly expanded the area covered by the statute, HEW neither asked for nor received appropriations adequate to meet this obligation.

The general assistance centers funded under title IV, as well as other training programs funded under title IV, are receiving requests for information about implementing title IX of the Education Amendments of 1972 which prohibits sex discrimination in federally assisted education programs. However, these centers are at this point neither trained nor equipped to provide the types of information and materials that institutions need in order to comply with title IX. Having a title IX information center would enable these centers and training programs, which are already in operation, to provide important information concerning title IX to schools.

CREDIT[89]

The IWY Commission recommends that:

1. Each government enforcement agency promptly promulgate and publish rules and regulations to secure compliance with the Equal Credit Opportunity Act (ECOA)—particularly such agencies as the National Credit Union Administration, the Civil Aeronautics Board, the Interstate Commerce Commission, the Packers and Stockyards Administration, the Securities and Exchange Commission, and the Farm Credit Administration.

2. Each enforcement agency promptly revise all compliance forms, handbooks, and other materials used by compliance staff to reflect the requirements of the ECOA and its implementing regulations.

3. An Equal Credit Opportunity Compliance Unit be established in each enforcing agency to direct agency compliance efforts and to process ECOA complaints filed with the agency. Uniform standards and requirements for enforcing ECOA should be promulgated and utilized by the regional offices.

4. The Equal Credit Opportunity Unit of each agency establish procedures to monitor all complaint investigations and compliance reviews conducted by regional offices. The findings and remedial actions taken by regional or central offices should be described in semiannual reports issued by the Equal Credit Opportunity Unit of each agency. These reports should be available for public inspection and should be noted in the *Federal Register* quarterly.

5. Whenever an investigation or compliance review conducted by any enforcing agency indicates reasonable cause to believe that a violation of a sex discrimination prohibition of any Federal statute or executive order has occurred, the ECOA enforcing agency immediately notify the agency charged with enforcing that law or executive order. To facilitate this exchange of information, the ECOA enforcing agencies shall promptly enter into Memorandums of Understanding with other Federal agencies and these memorandums shall be published in the *Federal Register*.

6. Each Equal Credit Opportunity Compliance Unit receive adequate funding and staff to carry out its functions. It shall conduct training sessions for compliance personnel and examiners.

Background[90]

The ECOA amends the Consumer Credit Protection Act. The act became effective on October 28, 1975, and forbids creditors from discriminating against any applicant on the basis of sex or marital status. The term creditor is defined by the act to mean any person who regularly extends, renews, or continues credit, or regularly arranges for the extension of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit. Thus the act covers banks, retail credit institutions, finance companies, department stores, credit card issuers, credit unions of all kinds, and government agencies such as the Small Business Administration.

All types of credit are covered by the act, including credit for business, home financing, education, and consumer credit.

The act is enforced by two kinds of actions: private litigation and actions brought by Federal agencies specified by the statute. The area of responsibility for each agency is the same as that under other statutes.[91] The ECOA provides that violations of the act shall be treated as violations of the acts set out in the footnote, and the agencies may use whatever power and authority is available under those statutes to enforce the ECOA.

The Board of Governors of the Federal Reserve System was given responsibility for issuing regulations to enforce the ECOA for all of the Federal compliance agencies. Each compliance agency may establish rules pertaining to its compliance functions.

Generally, the Federal compliance agencies will not act to resolve individual complaints of discrimination filed with the agency. Rather, they will seek to resolve industry practices of discrimination. An individual complaint may trigger a review if the facts alleged in the complaint indicate that a pattern or practice of discrimination exists.

Civil suits may be filed under the act. An amount equal to the actual damages may be recovered. However, punitive damages may not exceed $10,000 in individual cases and class actions may not exceed the lesser of $100,000 or 1 percent of the creditor's net worth.

The Board of Governors of the Federal Reserve System has issued final regulations to implement the ECOA. They cover the following:

1. Creditors are prohibited from making any statements which would, on the basis of sex or marital status, discourage a reasonable person from applying for credit.

2. Creditors may not refuse to open a separate account to a creditworthy applicant because of his or her marital status.

3. Creditors may not inquire about an applicant's marital status if the account established is an unsecured account. This prohibition does not apply in community property States nor in States which require such information for purposes of determining finance charges or loan ceilings.

4. The use of courtesy titles (such as Mr. Mrs., Ms. or Miss) is not prohibited. However, the creditor must state that the use of such titles is optional.

5. Notice of the passage of ECOA and its provisions must be provided in all credit applications except those where application is made by telephone or orally for an amount to exceed an existing limit on the applicant's account.

6. Creditors may not prohibit applicants from establishing an account in a birth-given first name and surname or a combined surname.

7. Creditors are permitted to request and consider information concerning the applicant's spouse if the spouse will be permitted to use the account or will be contractually liable for it, or if the applicant is relying on community property or the spouse's income as a means of repayment. Creditors may also consider information concerning an applicant's former spouse, if the applicant is relying on alimony, child support, or maintenance payments from the former spouse as a means of repayment.

8. Creditors may ask and consider whether an applicant is obligated to make alimony, child support, or maintenance payments. Creditors are permitted to ask if income is derived from alimony, child support, or maintenance payments, if the creditor first informs the applicant that he or she need not disclose the information.

9. Creditors are not permitted to discount income solely because it is derived from part-time employment. However, the regulation permits creditors to consider "the probable continuity of such income in evaluating credit-worthiness." This provision has a disparate impact on women who are more likely to be employed part time than are men.

10. Creditors may not use sex or marital status in credit-scoring systems or other methods of evaluating applicants.

11. Creditors may not request information about birth control practices, child-bearing intentions, or the ability to bear children. Similarly, creditors may not use aggregate statistics or assumptions about the likelihood of any group of persons having children, nor the likelihood that such persons will receive less or no income in the future.

Final regulations to implement the ECOA were issued by the Federal Reserve Board on October 16, 1975, 12 days before the act became effective. Since that time, some enforcement agencies have been examining their procedures to enforce the act. The Federal Reserve Board's Task Force on Enforcement of the ECOA has been holding briefing sessions for staff from other agencies.

Federal Deposit Insurance Corporation. The Federal Deposit Insurance Corporation (FDIC) enforces the ECOA for all banks insured by the FDIC except those that are members of the Federal Reserve System (about 8,900).

To enforce the ECOA, the FDIC will rely on its already existing examiner system of about 1,800 examiners in 14 regional offices and the central office in Washington, D.C.

Under the ECOA, the FDIC is empowered to use whatever legal authority it has under Section 8 of the Federal Deposit Insurance Act, including the authority to issue cease and desist orders. Most compliance comes from using conciliation and negotiation. The FDIC Office of Consumer Affairs is preparing a compliance report with instructions to assist examiners in enforcing the ECOA.

Federal Trade Commission. The Federal Trade Commission (FTC) is responsible for securing compliance within the retail credit industry. FTC jurisdiction extends to about 90 percent of all creditors. The FTC will use existing mechanisms, established to enforce the Truth-In-Lending Act, to enforce the ECOA.

Footnotes at end of article.

The FTC has 12 regional offices responsible for regional creditor compliance with FTC rules and regulations. The Washington, D.C. office is responsible for compliance by national creditors.

The FTC intends to try to respond to each letter or complaint received by it which alleges discriminatory practices under the act. It may direct the individual to another appropriate agency or indicate that private litigation is available under the act.

Office of Comptroller of the Currency. The Office of Comptroller of the Currency is responsible for enforcing the act with respect to national banks. There are 14 regional offices and a central office in Washington, D.C. The office intends to secure compliance with the act by two basic means. The first is by investigating individual complaints received. The office will attempt to determine the facts surrounding the complaint through investigation and try informal methods of conciliation. It is expected that most complaints will be filed with the central office, since it will be listed on the notice of nondiscrimination received by all applicants for credit.

The second method used to enforce the act will be the examiner procedure under which the office examines about 4,700 national banks. The total number of examiners employed is about 2,000. The office tries to examine all banks three times during a 2-year period.

The office is presently revising all of the materials used by examiners to monitor compliance with all statutes under its jurisdiction, such as the ECOA. The office is particularly interested in developing specialized procedures for examining the consumer credit departments of national banks. The office believes most applicants for credit are seeking consumer credit and believes the purposes of the act will be enhanced if special attention is paid to these departments.

Federal Home Loan Bank Board. The Federal Home Loan Bank Board (FHLBB) is responsible for enforcing the ECOA among the 12 Federal Home Loan Banks and the 4,000 savings and loan association members of the FHLBB.

Complaints alleging violations of the ECOA may be filed with the Department of Housing and Urban Development (HUD), (FHLBB shares jurisdiction with HUD pursuant to the Housing and Community Development Act of 1974), with the regional supervisory agent of the FHLBB (the president of each of the 12 Federal Home Loan Banks), or with the FHLBB in Washington, D.C.

In December 1974, the FHLBB issued regulations and guidelines which prohibited sex discrimination in lending. The Housing and Community Development Act of 1974 amended title VIII of the Civil Rights Act of 1968 to prohibit discrimination based on sex in the sale, rental, or financing of housing. The act also amended the National Housing Act to prohibit sex discrimination in a "federally related mortgage loan."

Lenders making federally related mortgages may not discount the income of a married woman. Lenders are prohibited from refusing to make loans to members of one sex from requiring higher standards of credit worthiness from one sex, and from placing different requirements on loans made to members of one sex.

These regulations and guidelines are being revised by the FHLBB's Office of General Counsel and Office of Examiner Supervision to reflect the ECOA and the regulations issued by the Board of Governors of the Federal Reserve Board.

The FHLBB also intends to provide its 684 field offices with an outline of the nondiscrimination provisions of the ECOA and its regulations. A checklist of civil rights responsibilities will be included, as well as guidelines for measuring whether patterns or practices of discrimination have occurred.

National Credit Union Administration. The Administrator of the National Credit Union Administration (NCUA) is responsible for enforcing the ECOA among the Federal credit unions under the administration's jurisdiction. The administration does not appear to have taken any measures to insure compliance with the ECOA.

The NCUA publishes materials for use by Federal credit unions. Among them are: a Handbook for Federal Credit Unions; an Accounting Manual for Federal Credit Unions; a Credit Manual for Federal Credit Unions; Data Processing Guidelines for Federal Credit Unions; and an Annual Report of Operations.

The NCUA uses an examiner system for monitoring credit union compliance with the requirements of the Federal Credit Union Act. These examiners work out of six regional NCUA offices. The NCUA generally intends to use these examiners to enforce the ECOA. The NCUA has the power to issue cease and desist orders against violations of the act.

NCUA Regulations Section 701.31 requires that Federal credit unions include a nondiscrimination notice in all advertisements for loans for the purchase, improvement, repair, or maintenance of a dwelling. But nondiscrimination on the basis of sex is not included. Federal credit unions are also required to place a notice of the credit union's compliance with title VIII of the Civil Rights Act of 1968. Title VIII was amended in August 1974 to include a prohibition against discrimination based on sex. Yet NCUA regulations fail to reflect this amendment.

Civil Aeronautics Board. The Civil Aeronautics Board (CAB) is responsible for securing compliance with ECOA by all domestic air carriers and foreign air carriers subject to the Federal Aviation Act of 1958. All major air carriers are covered under this provision.

Despite the CAB's responsibility under the ECOA, there appears to be no program to enforce its provisions, and no person designated within the agency to provide relevant information.

Interstate Commerce Commission. The Interstate Commerce Commission (ICC) is responsible for securing compliance with the ECOA among all common carriers subject to Federal statutes regulating commerce. The ICC has barely begun to establish procedures to enforce the act. It has not yet determined and defined the common carriers who extend credit (Regulations Parts 1320–1329) and are covered by the act. The ICC is likely to use its existing procedures to enforce the ECOA, which include complaint investigations, cease and desist orders, and revocation or suspension of carrier authority to operate.

Packers and Stockyards Administration. The Packers and Stockyards Act of 1921 regulates the activities of those engaged in the interstate sales or shipment of livestock, meat and food products, dairy products, poultry and poultry products, and other similar goods. The Secretary of Agriculture has overall responsibility for enforcing the act. The ECOA designates the Packers and Stockyards Administration as the enforcement agency for creditors subject to the act.

There appears to be no substantive action taken by the Packers and Stockyard Administration to implement the ECOA other than the designation of regional offices as enforcement offices.

Small Business Administration. The Small Business Administration (SBA) is responsible for enforcing the ECOA in the Small Business Investment Companies subject to its jurisdiction. The SBA is in the process of revising its substantive regulations concerning small business investment companies. When this procedure is completed, the SBA intends to implement procedures which will notify all new SBA borrowers of the requirements of the ECOA. It also intends to update its own compliance procedures to reflect the requirements of the ECOA and conduct onsite reviews of small business investment companies.

Present regulations designed to carry out general Federal nondiscrimination policies do prohibit sex discrimination in financial assistance programs of the SBA. These regulations will be amended to include a prohibition against discrimination based on marital status.

The SBA intends to investigate all complaints that fall within its jurisdiction under the act. Its compliance staff numbers about 41 and there is one "duty officer" for each of the eight regional offices. The SBA may recall loans or terminate further funding for violations of the ECOA.

Securities and Exchange Commission. No information concerning procedures and enforcement mechanisms could be obtained. There appears to be lack of understanding of the requirements of the ECOA, and repeated calls to the Securities and Exchange Commission were fruitless.

Farm Credit Administration. The Farm Credit Administration (FCA) is responsible for securing ECOA compliance by 981 banks and credit associations under its jurisdiction. The FCA does not appear to have implemented a program to enforce the ECOA. It has indicated, however, that it will probably use its annual audit system as a means of monitoring compliance.

CONSISTENT POLICY GUIDELINES AMONG CIVIL RIGHTS AGENCIES [92]

The IWY Commission recommends that the President direct all agencies with civil rights functions to adopt uniform policy guidelines on public and private employment matters. Whenever there is a variance among agencies, the Equal Employment Opportunity Commission (EEOC) position should prevail because their current guidelines provide the most protection.

Background

In 1971 the Commission on Civil Rights reported a lack of coordination among agencies charged with civil rights responsibilities, resulting in "a critical misuse of limited staff resources and the dissipation of enforcement potential." Symptomatic of the problems of the failure to join forces were instances of inconsistency in the standards used by the agencies to evaluate employment practices of an employer.[93]

An informal coordinating structure set up in 1969 resulted in development by the EEOC and the Office of Federal Contract Compliance Programs (OFCCP), Department of Labor, of compatible regulations on employee selection standards (testing). To promote this informal agreement, Congress, under the leadership of Senator Jacob Javits, set up the Equal Employment Opportunity Coordinating Council.[94]

Although the agencies concerned[95] were able to issue a policy statement about the definitions of goals and quotas, variance continues among the agencies in setting uniform employment policies. For instance, EEOC and OFCCP do not currently agree on health, disability, and pension benefits. EEOC requires that employers pay premiums to assure that employees receive equal benefits,[96] but OFCCP allows employers to do either that or to pay equal premiums resulting in unequal benefits for employees.[97]

Since the courts have upheld EEOC's testing and sex discrimination guidelines, EEOC is the appropriate agency to set civil rights policy for the executive branch.

Ideally the IWY Commission would like to see the insurance companies develop unisex tables for all types of insurance to eliminate the sex-based distinctions. Until that time, the EEOC position on fringe benefits should prevail.

Footnotes at end of article.

POLICIES FOR SECRETARIES' EMPLOYMENT [98]

The IWY Commission recommends that all managers, supervisors, and personnel officials, in both private and public employment, adhere to the following principles when filing vacancies and when developing employment policies: [99]

1. The secretarial job should be viewed not only as a career in itself, but also as one access route to other professional and technical jobs.
2. Career ladders accessible to secretarial employees at all pay levels should exist, providing pathways into other occupational fields.
3. Information about all types of job and training opportunities should flow freely to all employees. A secretary should receive information not only about secretarial opportunities, but about others as well.
4. Job candidates' experience should be routinely evaluated upon their acquired skills and past performance, both in paid and unpaid positions, and not primarily upon their previous job title.
5. Training agreements (or similar mechanisms) for qualifying underutilized or dead-ended employees for more promising positions should exist in each place of employment.
6. Supervisors should be heavily involved in career development activities with their employees and should be rated quite clearly upon their attention to this aspect of managerial responsibility.
7. A prime source of talent for filling vacancies should be current employees.
8. Substantial movement should take place between secretarial jobs and other occupational fields.

SECRETARIES' PAY IN FEDERAL EMPLOYMENT [1]

The IWY Commission recommends that the U.S. Civil Service Commission (CSC) conduct a study of the extent of correlation between the grades [2] of Federal secretaries and those of their supervisors in order to determine if Federal classifiers, in setting secretaries' grades, are giving undue weight to the supervisors' grades. If the study reveals an unusually high correlation, CSC should undertake supplemental training and instructions for agency classifiers.

Background

CSC officials say that classifiers use three factors in evaluating and establishing secretaries' grades: (1) the scope of the supervisor's administrative responsibility; (2) the extent of the secretary's participation in the administrative responsibility; and (3) the secretary's steno-typing and dictating skills.[3] But many women claim that, in actual practice, the secretary's grade is tied to the supervisor's grade with the other factors being ignored. For instance, if a supervisor is a GS–14, the secretary is a GS–5; if the supervisor is a GS–15, the secretary is a GS–6, etc.

The qualification standards for secretarial jobs allow a range of grades from GS–3 to GS–11.[4] In practice, however, most secretaries cannot advance under the title of secretary beyond GS–6, except for a few select cases. To move beyond GS–6, most employees must change job titles to administrative assistant (GS–5 to –7).

If the claims are true that secretaries' grades are tied to those of their supervisors, the above-mentioned study would demonstrate it through an unnaturally high correlation between the supervisor's and secretaries' grades. This would establish, for CSC officials, that classifiers are not correctly using the standards in classifying secretaries' positions. CSC would then take appropriate action such as supplemental training for classifiers or issuance of new instructions in the Federal Personnel Manual.

DICTIONARY OF OCCUPATIONAL TITLES [5]

The IWY Commisison recommends that:

1. The Secretary of Labor be required to revise the system of job analysis and classification as used in compiling the Dictionary of Occupational Titles (DOT), as recommended by a federally funded study.[6]
2. The Secretary of Labor appoint as head of the Division of Occupational Analysis a manager who is sensitive to the biases in the DOT, as pointed out in the study, and who will initiate corrective actions.
3. The DOT staff extensively review the jobs in the expanding human services field with the aim of listing more in the DOT.
4. The DOT staff issue the DOT in looseleaf form so that parts of it can be updated periodically, and so that the 1976 publication need not be delayed.
5. The Department of Labor hold training sessions for Field Center Network personnel to educate them to some types of subtle biases in job evaluations uncovered by the DOT study.

Background

The University of Wisconsin—Extension received a Manpower Administration-funded grant to review the DOT, to analyze and assess the occupational analysis process and system, and to recommend the changes needed in the method of job analysis and in the coding of job complexity skills. First published by the U.S. Department of Labor in 1939, this encyclopedia of occupations was originally designed for the U.S. Employment Service, which now relies exclusively on its contents to define individual jobs in the world of work.

The third and most recent edition (1965) of the DOT lists and assesses the tasks of 21,741 salaried occupations. The duties of these occupations are defined in Volume I of the DOT and are arranged alphabetically by job title. Each job is listed with a six-digit numerical code identifying its place in the world of work by occupation and skill complexity. The skill complexity is always expressed by the second three digits of the code.

The length of training contracts for apprenticeships must be calculated according to the skill-complexity code (also called the worker-function code) assigned to a job. The staff reviewing the DOT soon discovered that a significant number of jobs not requiring college degrees, traditionally performed by women, are not apprenticeable because of their DOT skill-complexity codes. Assigned the lowest possible ratings, subprofessional jobs in the human services sector are depicted as occupying the bottom rung in a hierarchical world of work arranged to reflect supposed job complexity. At least 65 government agencies rely on the DOT's vision of the world of work to expend job training funds and to formulate manpower programs, policies, and procedures.

A flurry of publicity accompanied the review project's establishment. Most of it centered on the fact that the DOT rates jobs such as Marine Mammal Handler, Barber, and Bus Driver to be far superior in complexity to traditional women's work, including Foster Mother, Nursery School Teacher, and Homemaker. Perhaps because the latter jobs historically have been performed by women working without pay, the DOT portrays the sum total of their tasks as equivalent to such a DOT entry as Parking Lot Attendant, in terms of the Data-People-Things demands which are the functions expressed by the three-digit skill code.[7]

Based on the results of its work, the DOT Research Project concludes that the *Dictionary of Occupational Titles* systematically—though not purposely—discriminates against virtually all nondegreed, People-oriented women's jobs at great loss to the public in general and to women in particular. Although the project staff uncovered no conscious attempt on the part of the Division of Occupational Analysis and its field centers to downgrade the complexity of women's work, the verdict is harsh. By failing to develop the job analysis tools necessary to express interpersonal aptitudes, knowledges, and skills, the Division of Occupational Analysis has produced a DOT that shortchanges traditional women's work by inaccurate coding, and denies the existence of subprofessional jobs in the human services.

Project findings show that jobs suffering most are the salaried derivatives of homemaking and mothering, particularly those at the paraprofessional level in the fields of health, education, and welfare. Within the past 20 years, this stratum of the world of work has experienced tremendous growth, as demonstrated by a partial listing, at right, of paraprofessional jobs for which U.S. colleges and universities were offering training in 1970–71.[8] But as perceived by its technicians, the DOT's world of work has had neither the time nor the place for these nondegreed jobs and others providing caring, counseling services in health, education, and welfare.

Derivatives of homemaking and mothering which logically should have formed the foundation for occupations in the human services, are instead reduced to forms of custodial or menial work, seeming to require only the most rudimentary of interpersonal skills. For instance, Foster Mother and Homemaker (paraprofessional assistants to Caseworker, Family) are, by occupational division and skill-complexity code, depicted as domestic service jobs equivalent to Maid. Day care occupations are combined under the title Nursery School Teacher and assigned the same skill-complexity code as Babysitter. Home Attendant (Home Health Aide), the bottom rung in the nursing profession, is denied a place in the DOT's medical services industry and is given no significant relationship to Data indicative of job training and responsibility.

In sum, project findings show that the DOT's disposition of the paid derivatives of homemaking and mothering can be characterized in one or more of the following ways:

1. "Women's work" is underrated in the DOT: Using DOT job analysis theory and procedures, project researchers have shown the necessity for amending skill-complexity codes currently assigned to jobs in nutrition, child care, homemaking, and home health aide work. Among the most dramatic changes approved by the Wisconsin Center are the codes that have been determined by the Project to express Data-People-Things functions in core "women's work" jobs. From .878, the lowest possible skill-complexity level, the codes for Homemaker, Home Attendant, and Nursery School Teacher have been revised upward by the project to their proper levels of .124, .354, and .228, respectively.

2. "Women's work" is made to seem nonexistent by the DOT: Perhaps one of the harshest forms of discrimination is neglect. In its study of subprofessional jobs in child care, homemaking, and home nursing, the DOT Research Project spent more than two-thirds of its time analyzing and reporting so-called "new" jobs, many of which existed before publication of the last edition of the DOT. The study of Homemaker, for instance, led to the discovery of five separate, well-defined entries, some requiring college degrees and all fully functioning components of this important teaching-caring-counseling unit found in most social service agencies. A brief foray into home nursing via the Home Attendant revealed that a reviewing project could spend months updating the DOT's portrayal of jobs in public health

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Footnotes at end of article.

alone. But no field offered a greater challenge than day care. More than 20 new entries were prepared in the frustrating knowledge that they represent only a fraction of the jobs that should appear in the next edition of the DOT.

3. "Women's work" is undefinable under current DOT job analysis theory: DOT job analysis theory is inadequate as a means of defining the nature of People-oriented jobs at a subprofessional level. For instance, the DOT's definition of Specific Vocational Preparation fails to specify the unpaid work of homemakers and mothers among its various skill-developing experiences; therefore, salaried derivatives of homemaking and mothering frequently appear to be unskilled.

Moreover, theoreticians have placed heavy emphasis on the amount of formal education traditionally associated with a job, much to the detriment of nondegreed occupations. By virtue of their degrees, a clergyman, a urologist, an anesthesiologist, and a dean of boys are among the DOT entries receiving the highest rating for People. On the other hand, foster mother, a demanding but degreeless job entailing the rearing of children is assigned the second lowest People rating.

Once a nondegreed, People-oriented job is assigned a 7, it is generally relegated to the Service Category, where the worker assumes the functions of a servant, acting on orders, with no significant relationship to Data and a robotlike relationship to People. This, unfortunately, has been the fate of the most traditional of "women's work" since the Caring-Counseling level of People relationships does not exist in DOT theory. The fact is that the DOT's tools for expressing Data-People relationships are largely undeveloped, rendering "women's work" beyond the scope of the DOT analyst's vocabulary.

Some exceptions to a rule: The dynamics of discrimination

As stated earlier, the project found no evidence that the DOT technicians deliberately set out to discriminate against "women's work." There are two exceptions which, upon closer inspection, help to explain the pattern of sex discrimination in the DOT.

Group I: Degreed jobs and professional power. Many jobs calling for a college degree are considered "women's work": Dietitian, Home Economist, Physical therapist, and Caseworker. And yet, the DOT makes no distinction between these entries and degreed jobs associated with men. The equalizer, as previously noted, is the prerequisite college education. But just as important is the membership in a professional organization that comes with a specialist's degree.

The Division of Occupational Analysis openly acknowledges that it relies on various whitecollar professional organizations for assistance in preparing DOT entries. This collaboration can supersede the Division analyst's on-site observations and interviews. The several hundred jobs belonging to the DOT industry labeled Professional and Kindred Occupations are somehow categorized without the industry's ever being analyzed by a Division Field Center. But even when degreed jobs belong to routinely analyzed industries, such as Medical Services, their definitions may be subject to the approval of professional organizations, especially by bodies as powerful as the American Medical Asociation or the American Physical Therapy Association. Thus many degreed jobs enjoy a position in the DOT's world of work that mirrors the image promoted by their respective societies or associations.

Dependency on vested interests seriously jeopardizes any claims the DOT might make to impartiality. Of special concern to the DOT Research Project is the white-collar professional organizations' neglect and devaluation of paraprofessional jobs in health, education, and welfare. For, as the project has learned by comparing the results of fieldwork with the picture painted by some professional journals, the traditionalists among the ranks of the degreed tend to resist acknowledging the significance of that specially trained worker known variously as an aide, assistant, technician, etc.

Progressive professionals in the fields of dietetics, homemaking, education, and nursing have spoken candidly about this problem. Bernice Mallory, retired senior program officer with the Division of Vocational and Technical Education, HEW, writes about it:

"For a variety of reasons, some professionals do not want auxiliary workers as part of their organization. They may fear that the auxiliaries will take over their jobs. They may not want to give up the tasks an auxiliary can perform. They may not feel comfortable directing an auxiliary worker because they do not have competency as supervisors. They question the theory that nonprofessionals can make a contribution to the programs.

Do auxiliary workers have a place in today's society? They do. They are a significant part of the labor market and it behooves us to get with it!" [9]

Group II: Factory work and the manning tables. During the first year of the DOT Research Project, studies of hospital and school food service yielded little indication that the sex-linked, nondegreed jobs found there were miscoded in the DOT. Nor does it appear that the DOT discriminates against the many jobs performed by women in light industry.

Bias is absent in these cases because these are production jobs. Analysts generally agree that the least difficult assignment in job analysis is the Thing-oriented job. Little more than observation is required to prepare a verifiable statement of the nature and purpose of job functions.

The relative case with which Thing-oriented operations can be described, measured, and classified is one reason jobs in industry dominate the pages of the DOT. As field center analysts artlessly explained to project staff, derivatives of homemaking and mothering are generally given short shrift because they are among the most "difficult" of jobs to evaluate.

As specific proposals, the DOT study [10] recommends:

1. Review and revision of DOT job analysis theory and related structural characteristics of the DOT's world of work, including but not limited to the following:

Revision of the DOT's present Industry Arrangement, so that service occupations would be classified with the same precision accorded factory jobs to insure proper coverage and equitable treatment of subprofessional human service occupations.

Amendment of the present People "hierarchy," specifically by (1) inserting a separate Caring-Counseling level, (2) simplifying the definition of Serving, and (3) combining Diverting and Persuading to form a single function. The purpose is to facilitate analysis of People-Oriented work by providing analysts with a comprehensive list of People relationships arranged from the complex to the simple.

Elimination of the worker function level No Significant Relationship, which is represented by the numeral 8 in the three-digit skill-complexity code. The routine assignment of this rating creates confusion and misunderstanding among users of the DOT by masking real ratings on a purely arbitrary basis.

2. Immediate implementation of the Office of Equal Employment-approved plan to eliminate all reference to sex in base titles of the forthcoming edition of the DOT, in order that the world's most comprehensive source of job information not unlawfully perpetuate sex stereotyping in employment.

3. Referral upon receipt of occupational code requests (ES 282) to the Field Center system for immediate study, with documented determinations returned promptly in writing to the point of origin. The purpose is to provide manpower programs with the information necessary to carry out their mandate and to insure the inclusion of new jobs and altered codes in future editions of the DOT.

4. Development of an attitude of accountability to the user of the DOT, whereby the Division of Occupational Analysis issues supplements to the DOT frequently enough to provide an up-to-date resource for manpower training and development programs.

5. Discontinuation of DOT data collection policies favoring professional organizations and the occupations they represent, to insure fair and equitable, first-person coverage of all jobs, including paraprofessional work.

6. Development and implementation of an affirmative action plan increasing the number of women professionals at all levels within the Division of Occupational Analysis and its field centers. The purpose is to eliminate from the DOT negative attitudes toward the abilities and contributions of women.

7. Promotion of a system-wide communication by the Division of Occupational Analysis to permit field centers to pool data, to cooperate in research activities, and to establish working relationships with State manpower agencies so as to insure that future editions of the DOT are accurate and unseful.

Implementing these recommendations will not involve any major additional expense.

EEOC ACTION ON CASES DEALING WITH WORK OF EQUAL VALUE [11]

The IWY Commission recommends that the Equal Employment Opportunity Commission (EEOC) immediately file court actions in selected cases which would develop precedents for eliminating sex discrimination in wages for work of equal value.

Background

Under the Equal Pay Act of 1963 as amended by Section 906(b)(1) of the Education Amendments of 1972 and as modified by legal interpretation and court decisions, jobs are compared that involve "substantially" equal work. This is not the same as "equal pay for work of equal value," first ratified by the 1951 International Labor Organization Equal Remuneration Convention (No. 100).[12]

The Equal Pay Act mandates equal pay for male clerks and female clerks doing essentially the same work but does not require equal pay for men and women doing work of equal value, such as an electrician and an industrial nurse.

Work of equal value is just beginning to be studied, as sexism is being uncovered in job evaluation systems. The State of Washington conducted a "Comparable Worth Salary Study" of State and higher education jobs.[13] Using a point evaluation method, committees evaluated 121 jobs that engaged 70 percent or more men or women. The committees found an overall disparity of 20 percent between men's and women's jobs of comparable value, the women's being lower in all cases and the greatest discrepancy being in the higher education jobs. No doubt similar discrepancies exist in other States as well as in private and Federal employment.

Many legal scholars feel that the EEOC has the authority to bring to court cases dealing with the disparity in wages between men's work and women's work of equal value. Section 703(h) of the 1964 Civil Rights Act, as amended (the Bennett Amendment), reads:

"It shall not be an unlawful employment practice under this title for any employer to differentiate upon the basis of sex in determining the amount of wages or compensation paid or to be paid to employees of such employer if such differentiation is authorized by the provisions of section 6(d) of the Fair

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Footnotes at end of **article**.

Labor Standards Act of 1938, as amended (29 U.S.C. 206(d)).

Some persons interpret this phrasing to exclude the EEOC from entering into matters covered by the Equal Pay Act. The Equal Pay Act does not prohibit differentiation in wages on bases other than sex, such as merit and seniority. However, the legal mandate of EEOC to eliminate sex discrimination in employment could be interpreted broadly enough to cover work of equal value.

EEOC has participated recently in two relevant cases: In the *Laffey* v. *Northwest Airlines* case,[14] the EEOC filed *amicus curiae* briefs at both the district and circuit court levels stating that even if the employment practices were not a violation of the Equal Pay Act, they would be a violation of title VII of the 1964 Civil Rights Act. The court concurred at the district level; no higher opinion has been rendered. At the Federal District Court level in *Wetzel* v. *Liberty Mutual Insurance Company*, the issue lies with female claims agents and male claims adjusters. The work is basically the same for both jobs but the adjusters (males) must travel to do on-site investigations. The court agreed that this is a violation of title VII, but no opinion had been issued by December 1975.

JOB EVALUATION GUIDELINES [15]

The IWY Commission recommends that the Equal Employment Opportunity Commission (EEOC) develop and promulgate guidelines to be used to determine if job evaluation systems or other methods of determining wages, salaries, or pay rates, discriminate on the basis of sex.

Background

Frequently job evaluation systems emphasize factors most closely associated with men's jobs, such as weight lifting and working conditions, while ignoring or minimizing factors associated with women's jobs, such as manual dexterity. One example is *Laffey* v. *Northwest Airlines* (366 F. Supp. 763), now on appeal to the Circuit Court of the District of Columbia.

The court found that the airline had violated both the Equal Pay Act and title VII of the 1964 Civil Rights Act in paying pursers (primarily male) more than stewardesses (primarily female). Historical practices had resulted in pursers receiving $200 to $300 a month more, plus larger hotel allowances. In preparing for the court action, the airline hired industrial engineers who prepared job evaluations justifying the wage differential.[16] They omitted the standard evaluation factor of "hazard." Since most stewardesses were on shorter flights undergoing more takeoffs and landings, the most hazardous part of flying, while the pursers were on longer flights, the inclusion of "hazard" would have raised the stewardesses' pay rates.

Other deficiencies in various job evaluation methods which adversely affect women are: bias regarding the value of the work, based on the salary of the incumbent; failure to take into account various levels of responsibility in such jobs as secretary; arbitrary use of factors that do not apply to all jobs; and applying a job evaluation system without tailoring it to fit a specific organization.[17]

The EEOC has issued very fair guidelines on other topics (e.g., testing to determine suitability for employment and sex discrimination), to be followed by private employers. Therefore, the committee recommends that the EEOC be the agency to develop the job evaluation guidelines.

The primary effect of the guidelines would be to introduce pay comparability within one company, which would have no effect on pay rates for equal work or work of equal value between companies. There would be no substantial cost increase for EEOC to prepare these guidelines.

Footnotes at end of article.

PUBLIC OFFICIALS' HIRING PRACTICES [18]

The IWY Commission recommends that:

1. Women's organizations question all challengers and incumbents seeking election—as U.S. Representative, U.S. Senator, Governor, county executive, mayor, or other public official—about their hiring practices in the past and their future plans regarding women. The question should be included in "Voters' Guides" and other educational literature.

2. All candidates for public office issue, as part of their platform, a pledge not to discriminate on the basis of sex in their personnel practices.

Background

None of the laws covering Federal employees applies also to the legislative branch. On January 14, 1975, the U.S. House of Representatives adopted House Resolution 5, which added to Rule XLIII the following wording:

"A member, officer, or employee of the House of Representatives shall not discharge or refuse to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex or national origin."

Senate Resolution 89 introduced on February 24, 1975, by Senator Lee Metcalf, was referred to the Committee on Rules and Administration. No further action has been taken on it. The House rule is a pledge and carries no enforcement mechanism. There are no job descriptions or specific qualification criteria for jobs, as there are for the executive branch.

A 1974 study by the Capitol Hill Women's Political Caucus uncovered pay discrepancies between men and women employed by the Senate. Even among those earning $18,000 or more annually, the median salary for women was $22,627, and for men $28,091. Thirty offices employed only men at the higher salary levels, while no offices employed only females. Salary discrepancies were the greatest among press professionals where the median salary for females was $10,878 compared to the male median salary of $26,600.[19]

WOMEN IN CONSTRUCTION [20]

The IWY Commission recommends that the Office of Federal Contract Compliance Programs (OFCCP) immediately issue instructions that goals for women shall be included in all federally imposed and hometown plans when renegotiated or when initially developed. The goals for hirings at the journeyman level should be double the percentage of women working, in each craft covered in each locality, according to 1970 Bureau of the Census figures. The goals for hirings in apprenticeship programs should be 10 percent initially, increasing by 3 percent to 5 percent a year until 50 percent is reached. All OFCCP instructions on construction should be revised to include women.

Background

Under Executive order authority (Executive Order 11246, as amended), the OFCCP has concentrated on getting minority men into the construction trades. The first hometown construction plan, and probably the most famous, since ruled legal by the Supreme Court, is the Philadelphia Plan. Currently over 60 voluntary hometown or imposed plans are in effect around the country.

OFCCP has devoted most of its resources to integrating the construction trades. A 1975 General Accounting Office (GAO) study revealed that, of seven OFCCP field personnel, six were assigned to construction.[21]

OFCCP's failure to include goals for women in home-town and imposed plans is probably illegal.

In 1967, Executive Order 11246 was amended by Executive Order 11375 to add sex as one of the prohibited forms of discrimination. Part II of Executive Order 11246 (Nondiscrimination in Employment by Government Contractors and Subcontractors) was amended, setting requirements for *both* construction and nonconstruction contract compliance. The sanctions in Part III (Nondiscrimination Provisions in Federally Assisted Construction Contracts) are those listed in Part II. And, since Part III does not contain a list of prohibited forms of discrimination, the ones in Part II apply—race, color, religion, sex, or national origin. Thus, Executive Order 11246 clearly prohibits discrimination because of sex in construction as well as nonconstruction contracts.

Under current operations, compliance agencies with responsibility for construction have investigated complaints of sex discrimination in employment, but have not had the authority to require affirmative action or goal-setting by construction contractors. Many employees of compliance agencies have been pushing OFCCP for several years to do something about goals for women in construction. One compliance agency in Chicago has approached the problem in this way: In nonplan cities in the region, contractors may fill their employment goals with minority males, minority females, or white females.

OFCCP has been slow even to hear public comment about including goals for women in construction. In July 1974 OFCCP held a briefing for compliance officers on the then new Order No. 14. In response to a question from the audience, the OFCCP program manager for construction, Robert Owens, replied that OFCCP would be holding hearings shortly on women in construction. However, the first time that occurred was a hearing for the Baltimore Plan, on October 15–16, 1975.

One reason frequently cited for omitting women from goal-setting in construction is that skilled women are not available in the construction crafts. The facts demonstrate that skilled women are available in many crafts. The 1970 census[22] shows that in the Baltimore[23] metropolitan area, women were employed in the following numbers in 1970:

Craft	Men	Women	Total	Percent women
Boilermakers	409	9	418	2.15
Carpenters	8,923	109	9,032	1.21
Electricians	5,632	131	5,763	2.27
Floor layers, except tile	243	8	251	3.19
Furniture and wood finishers	196	26	218	11.93
Glaziers	253	6	259	2.32
Mechanists	4,354	118	4,472	2.64
Painters, construction, and maintenance	3,843	94	3,937	2.39
Paperhangers	140	5	145	3.45
Plumbers and pipefitters	4,649	52	4,701	1.11
Roofers and slaters	579	16	595	2.69
Sheetmetal workers and tinsmiths	2,048	27	2,075	1.30
Drywall installers and lathers	447	5	452	1.11
Furnacemen, smeltermen, and pourers	1,243	36	1,279	2.81
Metalplaters	245	4	249	1.61
Welders and flamecutters	5,055	458	5,513	8.31

These women were working in their crafts despite opposition from unions and, for the most part, denial of union membership. Since the census data is out of date, the numbers represent a minimum, since women are entering nontraditional fields, such as the skilled crafts, in increasing numbers. The Manpower Administration, through the Concentrated Employment Traning Act (CETA), is training women in the skilled crafts. As an example, the October 7, 1975, Washington Post ran an article about a joint CETA-Xerox program to train 12 women as welders—women who otherwise would have been on welfare.

In California, the number of women apprentices has increased substantially in the last 8 years from 31 to 267. While these figures are not relevant to Baltimore per se, they show what can and has been done in another locality. This is especially important because the major means for women to enter the construction crafts is through apprenticeship programs.

But on what should the proposed goals be based? In some discussions it is felt that the goals should start out with a 1 percent goal for each craft on the theory that it is as good a number as any. In reviewing the census figures on women in skilled crafts in 1970, it is apparent that certain crafts had more than 1 percent of women 6 years ago. So a 1 percent goal would be much too low in most cases as the goal for hiring journeyman craft workers. The goals for direct hirings at the journeyman level should be at least double the 1970 figures.

The real issue lies in the inclusion of women in apprenticeship training programs. Here, women do not have to prove that they have already acquired the skill elsewhere, probably at their own expense. Women with potential, like men, can be hired as apprentices and trained on the job. Since no skills are required, except the ability to pass the apprenticeship exam, we recommend a starting goal of 10 percent of all apprentices in all crafts, increasing by a range of 3 percent to 5 percent a year until a final goal of 50 percent is reached. The goals should be set on exactly the same standards used to calculate goals for minorities, and should not incorporate the double standard of percentages of women in the work force used in Revised Order No. 4.

Strides forward in integrating women into the construction crafts cannot be made unless contractors and unions believe OFCCP means to increase employment for women in the construction field. OFCCP staff will need to take strong and visible steps to correct the past lethargic performance.

In summation, the committee strongly supports goals for women in *all* hometown and imposed plans, both new ones and those coming up for renewal. Data, although incomplete and not up to date, is available on which to base goals. The key is to set goals, now, and revise them later if they become unworkable, after *strong*, good faith efforts.

WOMEN IN THE MILITARY[24]

The IWY Commission recommends that:

The President require the military services to eliminate all sex discrimination in enlistment and promotion standards and in assignment of duties at all levels, including flag rank, and to begin immediately enrolling and promoting women under the same standards as those used for men.[25]

Until the first recommendation is accomplished, the services should take immediate action to permit the prompt induction of all women volunteers who meet the present very high standards.

Professionals, education, women's, and other organizations should inform themselves about military life so that women may have full information concerning career opportunities for women in the military services as well as other careers.

Background

The report of the Department of Defense (DOD) to the IWY Interdepartmental Task Force, which contained an evaluation of a sampling of DOD programs' impact on women, underscores the increasing attention given to women as important participants in national defense.

DOD is to be commended for the various recruitment and officer commissioning programs which have in the past few years been opened to women; most recent, of course, the opening of the military academies by legislation in 1975.

It should be noted that the Navy is exploring the possibility of requesting a modification to title X of the *U.S. Code* which places restrictions on the use of women in combat to allow the assignment of women to aircraft and vessels not engaged in combat missions.

Such efforts by DOD to expand the roles and expectations of women should continue. The committee's recommendations are designed to accelerate the process of full integration of women in the armed services.

The military has long provided men with careers, medical care, training and education, and has served as a good source of upward mobility for low-income men. However, the same opportunities have not been available to women because of higher enlistment criteria for women than for men, of women not being drafted, of a quota limiting women to a small percentage of the Armed Forces, and of women being denied entrance to the military academies.

One result of these exclusionary policies could be the more rapid advance in men's educational achievements than women's during the last 20 years, perhaps due also to the benefits available under the GI Bill. Since World War II, a total of 17,148,000 persons have been enrolled in educational or training programs administered by the Veteran's Administration, but only 316,693 women or 1.8 percent of the total (including wives, widows, and daughters entitled to educational benefits). College training has been secured by 7,080,000 persons, but only 194,179 women or 2.7 percent.[26]

In 1974 Congress passed a law equalizing the age requirement for men and women;[27] previously it had been 18 for women and 17 for men. However, several differences remain in the enlistment standards for men and women.

All of the services have a regulation prohibiting enlistment of persons who have sole custody of a minor child.[28] This regulation disproportionately affects women, particularly those recently divorced or widowed.

The Army is currently being sued by the Center for Law and Social Policy on behalf of two women who were not allowed to enlist in the Army. If they had been men, they would have met the enlistment standards. The suit challenges two Army regulations which set "mental requirements" for individuals seeking to enlist.

These two regulations provide that women cannot enlist without graduating from high school, although men can do so; women must achieve written test scores up to 40 points higher than men on equivalent written tests; and women may not qualify by supplementary testing criteria, although men may do so.[29]

The Army has not demonstrated that the higher enlistment criteria for women result from a *bona fide* occupational qualification. The Army's defense is based on the following points:

1. The Army has limited the number of women who may hold Army jobs to 34,400 for FY 1975 and to no more than 50,400 in FY 1979. Allegedly this is because the primary mission of the Army is combat, and because "our country . . . does not countenance the use of women in direct combat roles."[30]

2. Differential high school matriculation and test score requirements applied to men and women are legitimate standards.

3. The Army's approach in setting enlistment criteria "is not irrational and discriminatory but based on military necessity."[31]

The Army has the second highest percentage of women, but the percentages are a quota which will not be exceeded, as shown in the following table:

PERCENT OF WOMEN IN MILITARY[1]

	Fiscal year—			
	1971	1974	1975	1978
Army	1.5	3.9	5.3	6.6
Navy	1.4	3.1	4.1	4.6
Marines	1.1	3.8	1.6	1.6
Air Force	2.0	1.5	4.9	8.5
Overall	1.6	3.5	4.6	6.2

[1] George C. Wilson, "Women Seek Equality in Combat," Washington Post, June 16, 1975, p. A3.

The Army argues that it uses the following factors in limiting the number of women: (a) the number of "combat" and "close combat support" positions, which can be filled only by men; (b) privacy of the sexes; (c) promotion opportunity and stateside rotation equity; (d) "the management factor," which is used to assure, "for the sake of fairness and morale," that men are guaranteed a certain number of the jobs considered by the Army to be most desirable; and (e) the requirement that "a balanced mix of men and women" be maintained in certain units.[32]

The military services had extremely sex-based discriminatory policies in the past. In 1970, the Navy sought to discharge a female Navy seaman who became pregnant by her fiancé and then miscarried. After she filed suit, the Navy dropped the discharge action.[33] That same year, a female Air Force officer sued the Air Force over a regulation that prohibited women from having minor dependents accompany them overseas for more than 30 days a year. The Air Force later dropped the regulation.[34] It was not until 1975 that the Pentagon switched its policy and allowed pregnant women to remain in the services.[35]

Despite these advances, differential enlistment standards and quotas still hinder career opportunities for women in the military.

IMPROVING ADMINISTRATION OF THE EQUAL PAY ACT[36]

The IWY Commission commends the Department of Labor for its enforcement of the Equal Pay Act (EPA), particularly in the selection and prosecution of precedent-setting cases, which have resulted in tens of millions of dollars being awarded to female workers. To improve some aspects of administration of the act, the Commission recommends the following:[37]

1. The Secretary of Labor should strengthen the authority and responsibilities of the Wage and Hour Administration on monitoring the implementation of equal pay provisions in the regional and area offices.

2. Since the scope of the EPA has been substantially expanded since 1963, the Secretary of Labor should greatly increase the number of compliance officers assigned to its enforcement.

3. The Wage and Hour Administration should immediately revise sections of the *Interpretive Bulletin and Field Operations Handbook* concerning pension plans, fringe benefits, maternity leave, and training programs so that they are in accord with the positions of the Equal Employment Opportunity Commission.

4. The Wage and Hour Administration should issue new guidelines which provide adequate guidance on how compliance is to be achieved for categories of employees protected by the 1972 and 1974 amendments, such as those with professional, technical, academic, or administrative positions and State and local government employees.

5. The Wage and Hour Administration should adequately define what constitutes a *bona fide* merit or seniority system, so that no system can be manipulated as an excuse

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Footnotes at end of article.

for failing to provide equal pay, in situations where substantially equal work is performed by men and women.

6. The Wage and Hour Administration should instruct compliance officers to prepare a full written report even in cases in which they believe there is no equal pay violation.

7. The Wage and Hour Administration should require that all employees be notified of an equal pay investigation of their employer, and of their rights thereunder.

8. The Wage and Hour Administration should improve program coordination of EPA matters with other Federal agencies which enforce laws prohibiting sex discrimination, so as to insure the development of consistent policies and the effective utilization of enforcement resources.

Background [38]

The first comprehensive Federal equal pay bill was introduced into Congress in 1945. Finally 18 years later, in 1963, Congress passed the Equal Pay Act requiring that men and women receive equal pay for equal work and prohibiting salary differentials based solely on sex. The EPA states:

"No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishments at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex: *Provided*, That an employer who is paying a wage rate differential in violation of this subsection shall not, in order to comply with the provisions of this subsection, reduce the wage rate of any employee."

The above section of the act was incorporated into the Fair Labor Standards Act of 1938, a labor law requiring minimum wage, overtime pay rate, and the protection of the health and safety of children. It is administered and enforced by the Department of Labor. In 1972 and 1974, the EPA was extended to cover previously exempted employees of State and local governments, executive, administrative, academic, and professional employees, and outside salesperson.[39]

EPA requires the same pay for men and women doing substantially equal work, requiring substantially equal skill, effort and responsibility under similar working conditions in the same establishment. It does not prohibit wage differentials based on bona fide seniority or merit systems, or a system measuring earnings by quantity or quality or production, or any factor other than sex.

Organization. In the Department of Labor, the Wage and Hour Division (within the Employment Standards Administration), is responsible for setting policies and procedures for enforcing the Equal Pay Act. Five professional staffs devote all of their time to the EPA.[40] There are 10 regional offices which oversee the activities of about 350 area offices.

The Office of the Solicitor is responsible for EPA lawsuits filed by the Department of Labor and reports to the Under Secretary of Labor, not the Wage and Hour Administrator. Additionally, each regional office includes a regional solicitor's office which is responsible for taking legal action when voluntary compliance is not achieved.

Policy. The principal document which explains enforcement policies under the Fair Labor Standards Act is the *Interpretative Bulletin*. The *Interpretative Bulletin* has not been revised since the coverage was extended in 1972 to professionals in educational institutions. This has caused some ambiguity in applying policies to the new area of academe, causing uncertainty for both the employer and employee, as to the criteria for compliance. An updating of the *Interpretative Bulletin* has been drafted, but approval has presumably been delayed pending several court decisions.

The Department of Labor and the courts have defined "equal work" and the criteria of "equal skill, effort and responsibility" which is required in the EPA [41] as follows:

"Equal work" has been interpreted to include "substantially equal" as well as "identical" work.[42]

"Equal skill" has been interpreted to consider such relevant skill factors as experience, training, education, and ability.

"Equal effort" is interpreted to mean the physical or mental exertion needed for the performance on the job—the degree of effort expended, not the kinds of effort. Extra tasks performed by one sex which involve added physical effort may be offset by other tasks performed by the other sex which require more mental effort.

"Equal responsibility" has been administratively interpreted as being "concerned with the degree of accountability required in the performance of the job with emphasis on the importance of the job obligation." [43]

Where discrimination exists, pay rates of the lesser paid sex must be raised to equal those of the higher paid sex.

The *Field Operations Handbook* was developed for compliance officers to provide a guide to practical questions. In April 1974, Chapter 52Q was added as a nontechnical guide for investigating academic professonals in colleges and universities.

Enforcement. The EPA gives the Department of Labor three broad powers to enforce the act:

The power to investigate possible violations of the law;

The power to conciliate or negotiate a settlement where violations are found; and

The power to litigate when efforts to secure compliance have failed.[44]

Investigations can be initiated by the Wage and Hour Division without a complaint having been filed but generally occur in response to complaints. The entire institution or company may be, but is not usually, reviewed. By limiting investigations, complaints are serviced promptly, and early and widespread compliance is obtained. Therefore, in many instances the investigation may be limited to certain departments except in cases where precedential litigation is anticipated.

Complaints may be made by telephone, letter or in person to one of the 350 Wage and Hour Offices throughout the country. An employer with two or more employees is covered. The identity of a complainant is never revealed without that person's consent. Neither is the identity of an employer revealed unless court action is necessary.

The compliance officer interviews the complainant to secure appropriate data, then schedules an initial conference with the institution or company to advise administrative officials of the review to determine the status of compliance with the EPA, and describes the basic investigation procedures, such as examination of records and transcripts, employee interviews, and the statutory authority for the investigation. A tentative determination of compliance is made. If the respondent is found to be in compliance, the case is closed with very little information being retained in the files. If a violation has been found, the employer is asked to comply with the law by raising salaries and awarding back wages to underpaid employees. The statute of limitations for back pay is 2 years for a nonwillful violation and 3 years for a willful violation.[45] If future compliance with the payment of back pay is agreed to, the institution is also encouraged to initiate a self-audit program to discover and correct any violations in areas not covered, and the results are reported to the Wage and Hour Division in writing. If a case is settled in this fashion, the institution's or company's name is not revealed.

If the organization will not agree to an administrative resolution, the case is referred to the regional solicitor's office for court enforcement. The Office of the Solicitor can bring suit on behalf of the Secretary of Labor or may find the case unsuitable for litigation because there appears to be no violation or because of lack of convincing evidence, or for other reasons. In those cases, the complainant is advised that a private suit can be filed within 3 years.

The number of complaints and the case backlogs for FY 1973–75 are shown in the tabulation [46] below:

	Fiscal year—		
	1975	1974	1973
Total complaints	2,727	2,864	2,095
Total backlog	1,790	1,388	801

The total number of complaints has increased some 23 percent from FY 1973, but the total backlog has increased by about 55 percent.

Because of the number of complaints being filed, usually an investigation is not initiated until 3 months after the filing of a complaint.[47] While the number of compliance actions decreases, the number of employees found to be underpaid and the amount of underpayment increased.

Policy Differences With EEOC. Although EPA is concerned only with wage discrimination and title VII prohibits sex discrimination in all employment practices, agreement in policies between them is essential for maximum effectiveness. The court has said that the purposes of the EPA and title VII are interrelated and must be harmonized. Nevertheless, several policies of the Department of Labor differ from those of the EEOC.

The Department of Labor requires that either an employer's contribution to a pension plan be equal or the benefits be equal. Therefore, if an employer makes the same contribution to men and women's pension plans, but women receive smaller monthly payments, the employer would be in compliance with the Department's pension policy. However, that same situation would violate the EEOC guidelines which state that all employees must receive the same benefits regardless of differences in cost.

Maternity benefits are not regarded as employment remuneration and are thus beyond the scope of the equal pay provisions. On the other hand, EEOC's guidelines require no discrimination with regard to fringe benefits, including maternity benefits.

EEOC's guidelines prohibit sex discrimination in training programs. Under Department of Labor policy, as stated in the Interpretative Bulletin, employee training programs may be available to one sex if such programs are bona fide. A narrow interpretation of this could lead to discriminatory training programs. However, the actual practice appears to differ from the stated policy. In 1974 the Wage and Hour Administrator said:

"Under certain circumstances, a bona fide training program may support a wage differential under the Equal Pay Act. (See Inter-

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pretative Bulletin, Part 800, Section 800, 148). A training program is not bona fide, however, unless it is open to both sexes. . . ." [48]

Observations. Many people consider the EPA to be the most effectively enforced Federal antisex bias civil rights statute.[49] In the first 10 years since the act became effective, over $100 million in back pay has been awarded and 600 legal actions taken.[50] But it was not until 1970 with the Wheaton Glass decision that the EPA began to assume vitality. The Supreme Court held, in the Wheaton Glass case, that "equal work required compared jobs to be 'substantially equal,' not identical." [51]

The EPA complaint procedure is informal, requiring only a telephone call, interview or a letter, rather than a notorized complaint which is required for title VII complaints. The individual complainant's name is not revealed as is generally the case with title VII, title IX, and Executive Order 11246 complaints. This protects women from possible harassment and damage to their professional careers. Because Wage and Hour can initiate reviews, the respondent institution cannot be certain that a complaint has been filed. Another advantage is that no documentation is required by the complainant. Moreover, a large percentage of cases are settled administratively, and the Department of Labor can go, and in some cases has gone, to court. The backlog in equal pay cases is considerably less than the backlog in title VII and E.O. 11246 cases.

Nevertheless, improvements can and should be made to increase the effectiveness of the safeguards of the EPA.

An updating of the *Interpretative Bulletin* to include the 1972 and 1974 extensions would give both employees and employers a more definite idea of what is required for educational institutions to be in compliance. Then employers could take definite steps to fulfill their obligations. Also, when the criteria are specified, out-of-court settlements will be facilitated.

The Equal Pay Act states that unequal pay is legal if the "differential" is based on "any other factor than sex." This section of the act should be clarified and limited to factors related to job performance.

Unequal pay is permitted by the EPA *if* it is based on a merit or seniority system. These terms have not been explained to give much guidance to the compliance officer, the employer, or the employee. A definition of the term "merit" as it applied to educational institutions is particularly needed. Until very recently, few educational institutions had uniform or specific criteria for "merit" increases. Often the decisions the three generally used criteria: quality of were subjective, and factors were beyond

Little guidance has been given in considering the term "responsibility" when applying equal pay principles. "Responsibility" has not been dealt with specifically by the courts, and it is particularly relevant to professional positions. Women often have not been delegated assignments of "responsibility" in the past; e.g., appointed to prestigious committees. Then they are paid less because they have not had "responsibility."

EEOC considers pregnancy, miscarriages, abortion, childbirth, and recovery from these as "temporary disabilities" and that these conditions should be treated on the same basis as other employees physically unable to work under health insurance or sick leave plans.[52] On the other hand, Wage and Hour does *not* include maternity benefits as a fringe benefit covered by the EPA, although retirement income and life, hospital, and accident insurance are fringe benefits covered by the EPA:

"The purpose of 29 CFR 800.100 is to exclude from wages certain payments which might otherwise be used to reduce the cash payments made to employees of a particular sex. Thus, if an employee travels on an expense allowance, or if an employee is given special maternity benefits, such payments cannot be used to justify lower wage payments. This does not relieve the employer from having to provide equal benefits, or to provide benefits based on equal contributions."

Although the 1972 extensions brought new and complex problems to the enforcement of the EPA, Wage and Hour responded to its added responsibilities in a variety of ways. By 1974, a chapter was added to the *Field Operations Handbook* [53] to guide compliance officers in investigating academic professionals. While it is not specific in all areas, it does provide some uniform policies on factors relating to academic employment. The training program for compliance officers who have spent at least 1 year in the field includes about 1 week's instruction on the EPA. During that time about 1½ days are spent on investigating simulated complaints from university professionals.[54] This revised training program is projected for the entire staff. Also, 60 persons at the GS–13 level who will be specialists in EPA and age discrimination have been authorized. They will be placed in the regional offices to provide needed expertise there.[55]

Adequate records are needed even if an institution is found to be in compliance to determine the competency of investigations. If such records are not kept, there is always the possibility that the difficult cases are not adequately pursued. A determination of compliance as well as a determination of noncompliance should be supported by specific reasons, and these reasons should be available to the complainant.

Apparently, if an employer or employee questions either the amount of settlement of Department of Labor procedures, an informal appeal can be made.[56] However, there is no requirement that either party be notified of this, and there is no publicized material on the guidelines or procedures for such an appeal. If an appeal process is operative, all persons involved should be notified, and the procedures should follow some uniform guidelines.

The Office of the Solicitor's plan to bring actions against an educational institution in each of the 10 regions in 1975 would provide a "ripple effect." Educational institutions would be likely to comply voluntarily with the EPA, thus reducing complaints and investigations in that area. Thus far, suits have been filed against seven higher educational institutions in four different regions. The Office of the Solicitor should continue to give high priority to legal actions against at least one educational institution in each region which will not voluntarily comply with the EPA.

Although Wage and Hour compliance officers are required to report violations of other laws found during an investigation, they rarely do so.[57] Other agencies should be contacted prior to an investigation in order to avoid duplication of effort.

Some persons advocate that all sex-based pay inequities encountered by other agencies be referred to Wage and Hour because Wage and Hour has a small backlog and expertise in this area. If this were done, back wages and other aspects of equal pay could not be bargained away for other issues (i.e., promotions) in a negotiated settlement.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION [58]

The IWY Commission recommends that:

1. The Equal Employment Opportunity Commission (EEOC) concentrate its efforts on initiating more commissioners' chargers against major employers, public and private, and firms which are leaders in their industry practicing systematic discrimination.

a. EEOC should establish a unit in the Office of Compliance to deal with all aspects of commissioners' charges.

b. The Office of General Counsel (OGC) should give priority to litigating systematic discrimination by filing more cases against major national and regional respondents. It should utilize and emphasize its authority under section 707 of title VII to file suits against entire industries.

c. The Special Investigations and Conciliation Division should be expanded and top management should give its activities more aggressive support.

2. EEOC be given adequate staff and resources to assure meeting its enforcement obligation under both commissioners' charges and individual charges.

3. EEOC target private educational institutions for court actions in selected cases which would develop precedents for eliminating sex discrimination in educational institutions.

4. EEOC and the Department of Justice (DOJ) jointly develop strategies for DOJ to file court actions against State and local governments and State educational institutions. Cases should be selected which would develop precedents for eliminating sex discrimination by those employers.

5. EEOC place special priority on the processing of complaints against State and local governments and educational institutions. Staff units should be established in the EEOC district offices to consolidate and process complaints against State and local governments and educational institutions.

6. EEOC make a substantial effort to upgrade the quality of training and provide sustained institutional instruction to the Equal Opportunity Specialists.

7. EEOC routinely do followup reviews of at least 25 percent of its conciliation agreements. Violations which cannot be corrected on an informal basis should be referred to OGC for court action.

8. EEOC not enter into voluntary agreements which do not impose the same requirements and standards as its conciliation agreements and consent decrees and which are not fully court-enforceable. Since the standards for voluntary agreements would then be the same as for conciliation agreements and consent decrees, responsibility for them should be transferred to the Office of Compliance and OGC. The function of the Office of Voluntary Programs should be to provide technical assistance to employers.

9. EEOC revise its personnel system to insure that staff vacancies are filled expeditiously.[59]

Background [60]

Title VII of the Civil Rights Act of 1964 provides a comprehensive prohibition on discrimination in employment. Under this title, discrimination in employment by employers, labor organizations, and employment agencies on the basis of race, religion, sex, and national origin is unlawful.[61] All employment practices including hiring, firing, promotions, compensation and other terms, privileges and conditions of employment are included. In general, all employers of 15 or more employees are covered except Federal agencies, federally owned corporations, and Indian tribes. Religious institutions are exempt only with respect to the employment of persons on the basis of religion. The enactment of the Equal Employment Opportunity Act of 1972 extended coverage to teachers and administrators in educational institutions, as well as to State and local government employees. The act does not require affirmative action unless discrimination is found and affirmative action is ordered. Almost 75 percent of the Nation's workforce, 63 million persons, are covered by this law.

Organization. Title VII created the Equal Employment Opportunity Commission to en-

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force the act. It is composed of five commissioners (not more than three from the same political party) appointed by the President with the advice and consent of the Senate for overlapping 5-year terms. The President appoints one commissioner as chairman and another as vice chairman. Initially, the commission's responsibilities were limited to conciliation of employment discrimination complaints, but the 1972 amendments gave the EEOC the authority to initiate litigation against employers when conciliation attempts failed.

The chairman is the chief administrative officer of EEOC who actually manages and directs the agency. The chairman appoints all EEOC employees (except the general counsel and regional attorneys) and directly controls planning, evaluation, budget formulation, and the letting of contracts.

The commissioners meet at the discretion of the chairman. The commissioners generally vote on policy matters such as the allocation of resources, the issuance of contracts to State and local fair-employment practices agencies, and the filing of lawsuits by the General Counsel.[62] They are responsible also for approving *amicus curiae* participation, consent decree, conciliation agreements, organizational changes, EEOC publications, and the designation of State and local agencies to which charges may be deferred. Commissioners are empowered also to conduct hearings to reveal violations of the act and to file charges of discrimination where there is reasonable cause to believe there is a violation.

There are seven regional offices in the country which supervise the 32 district offices. Charges are filed, investigated, decided, and conciliated in the district offices.

Policy. The commissioners set policy by issuing guidelines, making decisions about charges, and by approving manuals which provide guidance in interpreting the act.[63] EEOC has issued guidelines on discrimination based on sex, national origin, religion, and on testing and selecting employees. These guidelines do not have the force of law, but are often given substantial weight in court opinions.[64]

The *Guidelines on Discrimination Because of Sex* emphasizes—

"(t) he principle of non-discrimination requires that individuals be considered on the basis of individual capacities and not on the basis of any characteristics generally attributed to the group." [65]

They state that sex as a *bona fide* occupational qualification shall be interpreted narrowly (e.g., actor or shower attendant), that employer or customer preference are invalid reasons for not hiring women, that sex-oriented State employment laws are not a defense, and that separate lines of progression or seniority lists for males and females are unlawful.

The guidelines further specify that the same rules shall apply to married women as to married men and that male-female advertising of job opportunities is discriminatory. Additionally, employment agencies may not discriminate because of sex. Fringe benefits—medical, hospital, accident, life insurance and retirement benefits; profit sharing and bonus plans; leave and other terms, conditions and privileges of employment—shall be the same for women and men regardless of extra costs and whether or not the employee is the "principal wage earner." Any benefits available for spouses and families of men must be available for spouses and families of women. Pensions or retirement plans must not differentiate on the basis of sex. Disabilities related to pregnancy, miscarriage, abortion, or childbirth must be treated as any other temporary disability such as heart or hernia problems.

Overlap and Coordination. According to the General Accounting Office (GAO)

"(c) oordination between the Department (of Labor), the compliance agencies (i.e., HEW/OCR), and EEOC has not been adequate. Information was not being exchanged, and some compliance activities at contractor facilities have been duplicated." [66]

There was a Memorandum of Understanding developed between EEOC and the Office of Federal Contract Compliance in the Department of Labor in 1970 which was to reduce the duplication of compliance activities, facilitate the exchange of information, and establish procedures for processing cases against government contractors which were covered by both title VII of the 1964 Civil Rights Act and Executive Order 11246 as amended.[67] This Memorandum was never actually implemented.[68] In 1974 EEOC and OFCC signed a new Memorandum of Undersanding,[69] very similar to the 1970 Memorandum, but it provides for a task force to develop specific investigative procedures and compliance policies, as well as a provision requiring EEOC to notify OFCC of cases being considered for litigation, and to provide OFCC with findings. Under the Memorandum, individual cases of sex discrimination filed under the Executive order have been referred to EEOC since 1972 when EEOC's coverage was extended.

Enforcement. Initially, the commission's efforts were devoted to a one-on-one, complaint-oriented approach, and sought relief for the charging party without considering the institutional practices which often cause and perpetuate employment discrimination. By 1968 the commission felt that correcting systemic forms of discrimination would result in more effective compliance, and shifted conciliation to include not only relief to the charging party, but removal of discrimination practices within the organization. Although this resulted in benefits to others in addition to the charging party, it prolonged investigations and helped increase the backlog. The current Chairman, Lowell W. Perry, intends to continue developing methods of dealing with systemic discrimination:

"Much more important, however, than the number of charges processed is what we have done to deal with the mandate of Title VII, which is not to process charges but, rather, to eliminate employment discrimination. . . . While our early efforts were aimed at resolving primarily individual charges of employment discrimination, recently we have been concentrating more of our resources on resolving systemic discrimination, due to the realization that even if we were able to successfully resolve all of the more than 280,000 individual charges filed with us over the past 10 years, systemic employment practices having a disparate impact on one or more of the groups protected by Title VII would remain." [70]

Currently investigations and conciliation procedures are decentralized, and are as follows: [71] A complaint may be filed with EEOC by any person or group of persons, or their representatives, who believe they have been subjected to discrimination prohibited by title VII. Either individual or pattern complaints can be filed within 180 days of the alleged discrimination. An organization may file on behalf of persons, but must attach a notarized form from specific individuals who believe themselves to be aggrieved.

A charge is received in the district office and screened to insure that the commission has jurisdiction. If it has, the complaint is deferred to the appropriate State or local Fair Employment Practice Commission, if one exists. There are about 36 local or State agencies, known as 706 agencies,[72] which normally have 60 days in which to process the charge. When the deferral period has expired, the charge is filed in the district office and a Notice of Charge of Employment Discrimination is sent to the respondent charged. If a complaint is not deferred, a notice of a filed charge is sent within 10 days of the time it is received. An investigator locates and interviews the charging party and the employer. An Investigator's Memorandum is then prepared which summarizes the facts and makes a recommendation as to whether or not reasonable cause exists to believe that discrimination has occurred. If the Investigator's Memorandum is approved by the supervisor, a Determination Letter is prepared for the district director to sign. The district director may engage in a Pre-Determination Settlement before the letter is issued.

If no reasonable cause is found, a Notice of Right-To-Sue Letter, attached to the no-cause Determination Letter, is sent to the charging party within 90 days, and the case is closed. The Right-To-Sue letter allows the individual to bring suit in Federal District Court within 180 days.

If reasonable cause is found, the case is assigned to a conciliator who works with the charging party and the respondent to develop a written conciliation agreement. The conciliation agreement is signed by all parties, is usually in effect for 2 to 5 years, and the respondent is scheduled for a review during that period to see if conditions are being met. In 1974, 41.7 percent of conciliations were successful, a sharp increase over 1973.

Since 1964, the number of unresolved charges has continued to grow, and the total backlog was over 100,000 in 1975. Former Chairman John Powell's statistics certainly give the trend.[73]

	Charges received	Charges resolved	Total backlog
Fiscal year:			
1966	8,854	6,347	2,507
1967	9,688	5,134	7,061
1968	6,720	5,002	10,436
1969	12,148	6,343	16,242
1970	14,234	5,967	24,569
1971	22,920	11,497	35,932
1972	32,840	7,576	57,970
1973	48,899	11,940	80,516
1974	56,953	37,726	97,761
1975[1]	64,000	62,000	102,000

[1] Figures for 1975 are approximate.

It is apparent from the chart that the increased number of charges and the soaring backlog are major problems in EEOC. In February 1974, 90 percent of EEOC's active charges were in the preinvestigative and investigative stages.[74]

The commission does not pursue every case when "reasonable cause" is found. However, Right-To-Sue Letters are issued in these cases when requested, although in fact they are required to be issued routinely in these instances.

When conciliation is not successful, the case is usually referred to the Office of General Counsel for possible litigation. Before the 1972 amendments, EEOC's Office of the General Counsel was limited to filing *amicus curiae*, giving opinions to the commission, recommending cases to the Justice Department for suit, and routine work for the commission.[75] However, the 1972 amendments gave the General Counsel the power to file suit. Now the commission, while still relying heavily on voluntary conciliation, has law enforcement powers, and litigation centers across the country. They prepare and file EEOC's pleadings and briefs and represent the agency in all phases of litigation against violators of title VII within their regions.

The regional solicitors review the cases for litigation and reject up to 90 percent as unsuitable. Almost all of the remaining cases are returned to the district offices for further investigation or information. When the litigation centers decide to file suit, the case is

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forwarded to the General Counsel's Office which then submits it to the commissioners for approval. If the case is approved, it is returned to the litigation center for preparation and filing. Before filing, the respondent is given another opportunity to settle out of court.

Problems. In the 11 years since it was established, the EEOC has evolved from a small concilatory commission to one of the most prominent civil rights enforcement agencies. During that period of growth and change, the commission has experienced enormous problems which make it ineffective in resolving individual complaints of sex discrimination. The fundamental question is whether the agency as presently conceived, structured, managed, and operated is equipped to function as a modern civil rights enforcement agency.[76]

The responsibilities of the four commissioners and the chairman are not clearly defined, which has resulted in dissension over the years and requests by some commissioners for a legal opinion defining their rights and responsibilities. The dissension among the commissioners has not been limited to the term of any one chairman and may be inherent in the structure of the commission.[77] Some persons feel that EEOC is an "organizational disaster" and that, combined with poor management, has resulted in ineffective enforcement and the enormous backlog.

The present chairman recognizes the need to reorganize EEOC for more efficient operations:

"Through the reorganization, we will be able to clarify responsibility and accountability for agency operations and to assure greater responsiveness to program needs. Specifically, we hope to accomplish the following objectives: (a) increase the Executive Director's control of day-to-day operations by reducing the number of key directors he has to manage and direct; (b) separate, to a considerable extent, line operations from staff support operations; (c) give greater visibility to important personnel and labor-management relations activities; and (d) provide strong systems analysis and automatic data processing components for the agency." [78]

According to a GAO survey, "the Commission has never attempted to develop a total integrated management information system." [79]

The GAO report examined 77,402 EEOC records and found that:

The 11,433 charges deferred to State and local agencies were not returned to the Commission;

Records for 10,346 charges reported returned from a deferred agency did not show that the records had been sent to the agency;

Records for 5,186 charges reported to have been fully investigated did not show that they had been assigned to an investigator; and

Records for 8,422 charges reported to be fully investigated did not indicate that the charges were served on respondents.

In addition, EEOC calculated a backlog which was 20 percent lower than GAO's figure. A pilot process has been initiated to improve the recordkeeping.

The overwhelming backlog of complaints which reached 106,000 by March 31, 1975 [80] is considered to be one of EEOC's major problems. The goal is to keep it from increasing rather than to eliminate it. According to Commissioner Ethel Walsh, reduction of the agency's high number of unfilled positions, the introduction of improved caseload management techniques, and greater reliance on State and local agencies have decreased the rate of backlog growth. Further, "some backlog is going to be eliminated because people get tired of waiting 3 and 4 years, and they move or we cannot find them, or they just plain give up." [81] Some 10,000 charges were resolved because people gave up, moved, or were not available.

The processing of complaints is impeded by inadequate investigators. According to Commissioner Walsh, many are "not of the caliber we require and have insufficient training." [82] Former Chairman Powell, when referring to the larger number of unsuccessful conciliations, said, "the investigation of the charges is not the investigation you and I would want for litigation." [83] The GAO report indicated that the quality of investigation were very poor, often resulting in unsuccessful conciliation and certainly contributing to the 90 percent rejection rate of cases for litigation. Improved training is anticipated to help deal with these problems.

Less than half of the cases where "reasonable cause" is found was conciliated successfully. This stems partly from the quality of the investigation and partly because employers feel little incentive to conciliate when the likelihood of court action is remote. A study of EEOC's conciliation efforts between 1966–1971 concluded that the net impact of the "cause" findings and conciliation procedures was apparently small.[84]

Expanding individual complaints into pattern and practice investigations results in nondiscriminatory employment practices for large numbers of minorities and women and reduces the number of potential charges. Nevertheless, in order to provide more prompt relief for individuals, in November 1973 the EEOC changed its policy and instructed district directors that investigations did not have to be broadened to include pattern and practice if to do so would waste resources.

Although various remedial actions have been initiated, none are dramatic or far reaching. When Congress enacted the 1972 amendments and gave the Office of the General Counsel the right to file suit, EEOC was transformed from a conciliation agency to an enforcement agency requiring expansion and reorganization of the office. EEOC had become a substantially different kind of agency and should have been reorganized at that time to accommodate the change.[85]

According to George Sape, former Special Assistant to the General Counsel, the General Counsel's Office was superimposed by the President on the existing administrative structure and hasn't been integrated with the agency, with little effective coordination so necessary for effective functioning. Sape said that the investigative standards and procedures developed before the 1972 amendments have not proved adequate to support litigation.

The recommendations of the management consulting firm of Booz, Allen, and Hamilton helped to precipitate the reorganization. While the changes will correct some of the short-range problems and begin to resolve some of the long-range problems, making major changes will be difficult.

IMPROVING OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS [86]

The IWY Commission notes that there is a serious lack of public confidence in the operations of the contract compliance program because of its poor record on enforcement. The Commission recommends that:

1. The President direct the Office of Federal Contract Compliance Programs (OFCCP) to utilize its sanctions for government contractors who are found in noncompliance, including the withdrawal or termination of funds.

2. The Secretary of Labor expeditiously fill the vacancies of the Director of OFCCP and the Deputy Director with competent personnel who are knowledgeable about civil rights.

3. OFCCP immediately issue guidelines consistent with the "Guidelines on Discrimination Because of Sex" promulgated by the Equal Employment Opportunity Commission (EEOC).[87]

4. OFCCP retain all affirmative action requirements, including goals and time tables for all Federal contractors, including colleges and universities.

5. The Secretary of Labor significantly increase the staffing and resources allocated to OFCCP and should authorize the Director of OFCCP to report directly to the Secretary.[88]

6. OFCCP immediately assume jurisdiction over a compliance agency's enforcement proceeding when the compliance agency fails to adhere to the requirements set forth in Revised Order No. 4. (concerning nonconstruction contractors).[89] [90]

7. OFCCP place greater emphasis on, and allocate more of its resources to monitoring, the supply and service and industries program.[91]

8. Compliance agencies develop a system to identify all of the contractors subject to their compliance authority, with technical assistance from OFCCP.[92]

BACKGROUND [93]

Executive Order 11246 was promulgated by President Lyndon B. Johnson in 1965.[94] The order imposes equal employment opportunity requirements on Federal contractors.

Originally, Executive Order 11246 prohibited discrimination in employment based on race, creed, color, or national origin. In 1967, the order was amended and sex was added to the list of prohibited categories.[95]

The order contains two basic conditions that must be accepted by a Federal contractor. The first is a policy of nondiscrimination which covers all employees of the contractor. The second condition requires that the contractor undertake a policy of affirmative action to insure that equal employment practices are followed.[96]

An estimated 30 to 40 million workers are employed by businesses, local governments, or institutions which have Federal contracts. In FY 1974 over $50 billion in Federal contracts were awarded to nonconstruction contractors that employed about 25 million workers.[97]

The order charges the Secretary of Labor with the responsibility of implementing the order. Authority to carry out the provisions of the order has been delegated to the Director of the Office of Federal Contract Compliance Programs (OFCCP), in the Department of Labor. OFCCP has in turn designated Federal agencies as compliance agencies and they are assigned enforcement responsibilities. OFCCP's responsibilities include:

Establishing policies, orbjectives, priorities, and goals for the program;

Providing leadership, coordination, and enforcement of the program;

Reviewing and evaluating the capability and performance of each compliance agency to insure maximum progress to achieve the objectives of Executive order; and

Developing and recommending such regulations for issuance by the Secretary of Labor as are necessary for administering the Executive order.[98]

The affirmative action provisions require contractors to take certain actions to eliminate employment discrimination. OFCCP issues regulations to assist contractors in implementing the requirements. OFCCP regulations for nonconstruction contractors are set out in Revised Order No. 4.

On March 28, 1974, the Department of Labor requested that the GAO determine whether the equal employment opportunity regulations for public contracts prescribed by a State Fair Employment Practices Commission were in violation of the basic principles of Federal procurement law. The Comptroller General, in responding on July 2, 1974, to the Department's request, stated that these regulations were inconsistent with the basic principles of Federal procurement law.

The Comptroller General also advised the Department that OFCCP's

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". . . Revised Order No. 4, also seems to be in violation of the basis principles of Federal procurement law enunciated in our decisions in 47 Comptroller General 666 (1967) and 48 Comptroller General 326 (1968), in that a contractor can be defaulted under these regulations for its failure to submit an 'acceptable' affirmative action plan despite the fact that these regulations do not seem to contain any *definite* minimum standards and criteria apprising the prospective bidders of the basis upon which their compliance with the EEO (Equal Employment Opportunity) requirements will be judged."

Revised Order No. 4 is applicable to all nonconstruction contractors and was the first set of regulations requiring an affirmative action program for women. Contractors are required to conduct a utilization analysis of their workforce to determine if there are fewer women or minorities employed in each job than would be expected by their availability in the labor market. If women or minorities are shown to be under-utilized in the contractor's workforce, then the contractor must devise specific goals and timetables.

Availability is determined by considering the percentage of women or minorities in the workforce, the number of minorities and women with specific skills for the job, the existence of training institutions, and the size of minority and female unemployment in the surrounding area. The contractor must also consider women or minorities within its organization or business who could be promoted or transferred.[99]

Contractors must also establish an auditing system which measures the success of the affirmative action plan.

Revised Order No. 4 requires that contractors take remedial steps to compensate those incumbent employees who have been victims of discrimination in the past and continue to be disadvantaged by past discriminatory acts. No specific criteria for determining which incumbent employees are covered by this provision was provided until 3 years after Revised Order No. 4 was issued.

In 1974, OFCCP issued a standard Compliance Review Report which provides some guidelines for identifying these employees. Compliance reviewers are to identify job categories with substantial concentrations of women and minorities. They are then to determine if the concentration has been caused by past or present discriminatory practices. If either has occurred, then these employees are covered by Revised Order No. 4's remedial provisions.

However, neither Revised Order No. 4 nor the Standard Compliance Review Report provides any criteria for the contractor to use in making his or her own determination. Neither specifies the quality or degree of remedial action that should be taken once the employees are identified.

This failure is unjustified, for judicial determinations under title VII provide ample authority and description of remedies to be awarded victims of past and present discrimination. These include back pay, stepped-up promotion, training programs, seniority carryovers, and in at least one recent case, "front pay".[1] Front pay is a novel remedy under equal employment law but it is an extremely important one. Essentially, it requires employers to pay employees who have been wrongly excluded from promotional opportunities at a rate equal to the average present earnings of the higher skilled position from the date of the court's decree until the employees are trained and assumed the more skilled position.

Earlier this year OFCCP published for comment proposed guidelines on remedies for these employees.[2] Relief in the form of back pay awards and revised seniority systems were not described. Back pay awards were not adequately defined and OFCCP is continuing to consider the guidelines.

Affected-Class Identification and Related Remedies.[3] Of the 13 compliance agencies, 11 cited a need for improved guidance on affected-class problems and related remedies. "Affected class" refers to employees who have been discriminated against and continue to suffer the effects of that discrimination. Revised Order No. 4 states that a remedy for members of an affected class must be provided for a contractor to be found in compliance. Neither the order nor any other OFCCP guidelines establish specific criteria for remedying affected-class problems. According to an OFCCP official, remedies can include revised transfer and promotion systems and financial restitution such as back pay.

Department of Defense (DOD) and General Services Administration (GSA) compliance officers often included affected-class determinations as part of compliance reviews. However, DOD and GSA regional officials informed us that they needed additional guidance on remedies. In June 1973 DOD requested OFCCP to provide guidance on this matter.

Officials of three other compliance agencies said their officers had problems in determining whether affected-class situations existed or whether back pay was needed because OFCCP had not provided sufficient instructions or guidelines for making such determinations.

Until adequate guidance is provided, compliance agencies will be reluctant to initiate remedies when affected-class problems are identified—notwithstanding the fact that such remedies as back pay relief could act as strong deterrents to discrimination.

The Department issued a memorandum to all compliance agencies in May 1974 explaining its contract compliance program priorities and plans, which included issuing new or revised regulations on affected-class, back pay relief, and testing and selection procedures during FY 1975. In July 1974 the Department circulated proposed guidelines on selection procedures to the agencies for comment, and the Department stated that it was working with the Equal Employment Opportunity Coordinating Council on the guidelines. Also, the Department's plans called for it to respond within 10 days after receiving requests for specific guidance or clarification from compliance agencies. As of February 1975, OFCCP had not issued the new or revised regulations.

Guidelines on Sex Discrimination. OFCCP has also issued special Guidelines on Sex Discrimination.[4] The guidelines forbid contractors from discriminating on the basis of sex in employment opportunities, wages, hours, and other conditions of employment; from restricting one sex to certain job classifications because of State "protective" labor laws; and from stating a sex preference in recruitment or in advertisement. Contractors are required to take affirmative steps to recruit women for jobs from which they have previously been excluded.

The Guidelines on Sex Discrimination suffer from a number of serious defects. Contractors are permitted to maintain fringe benefit policies that have a differential effect on persons because of their sex, so long as the contractor's contributions for men and women are equal. Revised guidelines by OFCCP in 1973 set forth two alternatives: (a) the present system of equal contributions or benefits; or (b) equal benefits only. EEOC requires the latter practice.

Employers are permitted to require maternity leaves regardless of the individual's ability to continue working. In 1974, the U.S. Supreme Court held a school board's requirement that pregnant teachers terminate employment at a specified time during the pregnancy volated the due process clause of the 14th amendment.[5] The EEOC has taken the position that such policies are discriminatory.

The guidelines do not require employers to provide the same benefits for maternity as for other temporary disabilities. The EEOC's position is that lower benefits for maternity constitute sex discrimination.

Finally, the guidelines permit the use of a bona fide occupational qualification (BFOQ), without defining the narrow grounds permitting use of the BFOQ set out by the Federal courts. Proposed guidelines would define its use more narrowly but do not place the burden of establishing the BFOQ on the employer as the EEOC has.

Coverage and Enforcement. The Department of Labor designates agencies as compliance agencies with responsibility for contractors in specified industries, usually on the basis of Standard Industrial Codes, no matter which agency entered into the contract. Effective August 1, 1974, 11 agencies were designated as compliance agencies:

Atomic Energy Commission (AEC);

Department of Agriculture (USDA);

Department of Commerce;

Department of Defense (DOD);

Department of Health, Education, and Welfare (HEW);

Department of the Interior;

Department of the Treasury;

Department of Transportation;

General Services Administration (GSA);

United States Postal Service (USPS)—being transferred to GSA; and

Veterans Administration (VA).

Compliance agencies are responsible for monitoring adherence to Revised Order No. 4 through compliance reviews.

The 13[6] compliance agencies conducted about 45,400 nonconstruction compliance reviews during FY 1972, 1973, and the first three quarters of 1974. DOD and GSA performed about 26,700 reviews, or about 59 percent of all reviews.[7]

Contractors with contracts of $50,000 or more who employ 50 or more persons are required to file regular reports which set out the number of employees in nine job categories by race, sex, and national origin.[8]

Contractors are not required to file regular reports explaining any affirmative action taken and the results of that action. Therefore, no evaluation of the progress of contractors' affirmative action plans are made unless a compliance review is conducted. Only a tiny portion of all Federal contractors are subject to compliance reviews.

For FY 1973, OFCCP recommended 45,000 reviews be conducted; the Office of Management and Budget (OMB) approved a total of 39,000; the agencies actually conducted only 21,823 or 55 percent of the total number of reviews on which their budgets were based. For FY 1974, OFCCP recommended a level of 53,234 reviews, but OMB approved only 43,557. However, based on agencies' reports to OFCCP, they conducted only 12,247 reviews, or 28 percent on which their budgets were based.[9]

Various sanctions may be applied to contractors who fail to comply with the provisions of the Executive order. The cancellation, termination, or suspension of a contract or any portion thereof may be imposed. Contractors may be debarred from further government contracts. A recommendation can be made to the Department of Justice or the EEOC to commence legal proceedings.

Revised Order No. 4 sets forth procedures which must be followed before sanctions may be imposed. Generally they provide that a "show cause" notice must be issued immediately to the contractor giving him 30 days to "show cause" why sanction proceedings should not be commenced. If the contractor fails to develop and implement an acceptance affirmative action program within 30 days, the agency must immediately issue

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a notice of proposed cancellation or termination and debarment from future contracts. During the 30-day "show cause" period, the agency must attempt conciliation with the contractor to persuade him to make the necessary adjustments.

If an agency reviewing a contractor prior to the award of a contract determines that the contractor's affirmative action program does not meet the requirements of Revised Order No. 4, the agency must declare the prospective contractor "nonresponsible," which means that his bid must not be considered. First, the agency must conciliate with the bidder.

Executive Order 11246 is an ineffective tool for the enforcement of women's employment rights unless adequate information is required of contractors, compliance reviews are conducted, and sanctions are promptly imposed when contractors fail to implement required changes. The compliance agencies are primarily responsible for enforcement.

Two types of reviews of nonconstruction contracts may be conducted under present guidelines.

Prior to the awarding of any contract in excess of $1 million, the contracting agency is required to obtain a preaward clearance from the compliance agency responsible for the particular industry. If the compliance agency has not performed a compliance review of the contractor within the preceding 12 months, preaward clearance may not be granted unless the compliance agency makes a preaward review and finds the contractor in compliance.

A recent study by the General Accounting Office (GAO) indicated that the preaward requirements were not always carried out.[10] In some cases compliance agencies granted preaward clearances without conducting the required preaward compliance review. Some contracting officers were awarding contracts exceeding $1 million without requesting a preaward clearance from the compliance agency.

The GAO study also showed that the staffs of compliance agencies apparently do not understand the requirements of Revised Order No. 4 and approve affirmative action plans that violate regulations and guidelines.[11]

Twelve of the 13 compliance agencies examined by the GAO reported that they did not have complete information on all contractors for which their agencies were responsible.[12] Contractor identification is but the first step in implementing Executive Order 11246.

Finally, the GAO report revealed the reluctance of compliance agencies to begin enforcement proceedings when contractors are found to be in violation of Executive Order 11246. Lengthy conciliation efforts in violation of OFCCP regulations are used instead of the application of sanctions.

From July 1, 1971 through March 31, 1974, compliance agencies conducted about 45,400 compliance reviews. Five hundred and thirty-five show cause notices were issued (about 1.2 percent of all reviews conducted). Only two agencies imposed stronger enforcement efforts against 14 contractors. One contractor was debarred from future Federal contracts. Thirteen trucking companies were referred to the Department of Justice for legal action.

The overall effect of these various omissions has further crippled the effective use of Executive Order 11246.

FEDERAL EQUAL EMPLOYMENT OPPORTUNITY [13]

The IWY Commission recommends that:

1. The President direct the Civil Service Commission (CSC) to change its current operations so that the Federal Government adheres to the same equal opportunity and affirmative action standards as are applicable to other employers.[14]

2. CSC immediately issue instructions for development of Federal agency affirmative action plans which are similar to Revised Order No. 4, Department of Labor. These instructions should include methods for conducting underutilization analyses (cross-tabulated by sex and race or ethnicity), identifying deficiencies, setting appropriate goals, and evaluating the results.

3. CSC closely monitor agencies' implementation of action items and goals. When agencies fail to meet goals and cannot demonstrate a good faith effort, CSC should institute a program review and, if necessary, initiate enforcement proceedings. Enforcement could include, but is not limited to, quarterly reports from the agency to CSC, a personnel management evaluation survey of the agency concerned, CSC testimony on the agency's EEO status during that agency's appropriation hearings, and revocation of the agency's appointing authority.

4. CSC issue revised complaint processing regulations which provide Federal employees alleging discrimination a full and fair proceeding consistent with title VII (Civil Rights Act of 1964) standards and which provide to complainants and allegedly discriminatory officials the same rights as parties in title VII proceedings.[15]

a. CSC should adopt the same procedures governing the filing of formal complaints as those used by the Equal Employment Opportunity Commission (EEOC), allowing complainants to allege continuing discrimination, providing for less strict time limitations, and treating within the scope of the initial complaint all issues like, and related to, the specific allegations made by the individual.

b. CSC should establish an office for conducting complaint investigations at an agency's request. These investigations should use procedures consistent with title VII standards. CSC should be reimbursed by agencies for the service, and CSC should request the necessary resources from Congress.

c. All hearings should be conducted before independent hearing examiners according to procedures adequate for protecting title VII rights. Examiners should be certified based on demonstrated expertise in title VII law. Complainants should be given the right to subpoena witnesses and documentary evidence.

d. All findings of discrimination by hearing examiners should be binding on the agency unless reversed by the CSC Appeals Review Board.

5. CSC increase the frequency and quality of its evaluations of agency employment practices.[16]

a. CSC should annually conduct evaluations of more than 25 percent of all Federal facilities with more than 100 full-time employees.

b. Evaluation reviews should include a systematic investigation to determine if agency hiring, placement, or promotion practices have a disproportionately adverse impact on women.

c. Where such impact is determined, CSC should identify the "affected class" and should order the agency to provide relief to these individuals in the form of back pay and preferential status for hiring, transfer, or promotion.

Background [17]

The CSC is the regulatory agency for equal employment opportunity for Federal agencies and departments. Under the Equal Employment Opportunity Act of 1972, CSC has stepped up its equal employment opportunity (EEO) role for affirmative action plans (AAPs), processing complaints, and personnel management evaluation surveys. However, much remains to be done to bring CSC regulations into conformity with the requirements of title VII of the 1964 Civil Rights Act.

Affirmative Action Plans. Federal agencies have been required to maintain equal employment programs since the issuance of Executive Order 11246 in 1965.[18] Although CSC was charged with supervising the EEO programs, it refrained from formally approving or rejecting AAPs even after its authority was expanded in 1969 by Executive Order 11478.[19]

The 1972 amendments to title VII (Civil Rights Act of 1964) required that CSC review and approve plans on an annual basis.[20] In addition agencies were required for the first time to submit regional plans, as well as national plans. The statute states that these plans must include provisions for employee training to promote individual advancement, a description of the qualifications of EEO personnel, and the allocation of resources to the EEO program. CSC has issued instructions on the minimum requirements for all annual plans.[21]

CSC's AAP guidelines are substantially weaker than the requirements imposed on Federal contractors under Executive Order 11246. CSC's guidelines do not require Federal agencies adequately to assess the disparities in their employment profiles, or to develop goals or annual objectives for eliminating such disparities.[22]

CSC does not require all Federal agencies to develop numerical goals and timetables. CSC's position continues to be that agencies are permitted, but not required, to adopt such affirmative action objectives on their own initiative, so long as the objectives are based on the current supply of qualified minority groups and women in the recruiting area.[23]

CSC reviews about 90 national and 1,200 regional agency AAPs each year.

In October 1973, CSC noted that the most frequently occurring deficiency in agency AAPs was the failure to analyze the agency's EEO status prior to the development of the plan.[24] Thus CSC's action plan instructions direct agencies first to make an assessment to identify problems to be corrected in the plan's implementation. The assessment must consider previous evaluations conducted by the agency or CSC [25] and should include, at a minimum, an analysis of the racial, ethnic, and sex composition of the agency's work force by organizational segment and by major job groupings, as well as an analysis of available persons in the labor market and the number of jobs projected to be filled over the next year.

CSC's instructions permit agencies to group job titles into major categories, such as professional or technical, clerical and office, and executive and managerial.[26] Such groupings can seriously distort the nature of the work force, since women and minorities could be relegated to only cetrain jobs within each grouping. The instructions further imply that the analysis of occupational groupings is to be conducted separately from the analysis of oragnization segments. Another deficiency is that agencies are not required to cross-tabulate work force data by race, ethnicity, and sex.

Further, CSC's instructions fail to clearly explain how availability for the labor market is to be determined.[27] In 1974, data from the 1970 census on the percentages of women and minorities employed in major professional occupations nationally and by State were distributed to CSC and agency regional offices to be used for determining availability. Other factors, however, such as participation in the work force as a whole, and college and vocational school enrollment, are not listed as factors to be considered.[28]

The assessment is also to consider previous agency self-evaluations of the EEO program. In February 1974, CSC issued revised Guidelines for Agency Internal Evaluation of Equal Employment Opportunity Programs.[29] The evaluation is not to focus exclusively on determining whether discriminatory patterns and practices have been eliminated. CSC's guidelines on EEO program evaluation as-

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sume that the basic ingredients required by CSC in an AAP are effective if implemented and, therefore, the guidelines limit evaluation to determining to what extent the required steps have been followed.

Following the assessment of the EEO profile, the agency is instructed to develop an action plan with an introduction explaining resources and organizations for the program, a report of accomplishments, and a report of specific actions to be taken during the plan year.[30]

The introduction must describe the responsibilities of the EEO program staff, the number of full- and part-time persons assigned to EEO responsibilities, and the training provided to these persons. CSC recommends that agencies provide at least one EEO counselor in each installation with 50 or more employees, and that at least one counselor be appointed for every 500 employees.[31] It has not, however, established any recommended guideline on full-time EEO staffing. As a result, the agencies' allocations of full-time staff to EEO vary widely.

Because CSC has not required adequate reporting in the accomplishment report, agencies generally fail to report on the numbers of minoriites and women receiving the benefits of special programs or on the impact of previous action plans on minority and female employment. For example, agencies frequently report on the total number of persons who received training during the plan year without indicating the racial, ethnic, and sex composition of the trainees.

The final section of an agency AAP is the "Report of Specific Actions for the Coming Year." CSC has instructed agencies that action items are to be specific, annual objectives, based on "identified problem areas or impediments to equal employment opportunity. . . ."[32] Action items must cover eight topics: (1) organization and resources for the EEO program; (2) recruitment; (3) "Full Utilization of the Present Skills of Employees;" (4) upward mobility; (5) training and evaluation of supervisors; (6) agency participation in the community; (7) internal evaluation of the program; and (8) special programs for the economically or educationally disadvantaged. For each action item, the agency is to report the agency official responsible for implementation 'and a target date for completion.

Since CSC does not require that agencies include as an action item the setting of goals for improved changes in the employment status of minorities and women, relatively few agencies include numerical goals and timetables in their AAPs.

CSC's instructions on the development of goals[33] are vague and inferior to guidelines applicable to Federal contractors. The Department of Labor has specified that annual objectives, in percentage terms, must be greater than the work force availability, in percentage terms; otherwise, the ultimate objective would never be obtained. Agencies which do include "goals" in their affirmative action plans generally present what are, in effect, hiring objectives that even if followed would never enable the agency to reach a level of female or minority employment equivalent to the percentage which the agency has determined is available in the work force.[34] At least one agency established a hiring objective which led to a decrease in the percentage of the class whose employment status the agency had intended to improve.[35]

A second deficiency in the Commission's instructions on goals and timetables is the failure to state that agencies should consider only valid, job-related skills when determining the availability of minorities and women, or to state what the ultimate goal should be.[36]

Processing Title VII Complaints. Prior to the extension of title VII coverage to Federal employment, CSC had issued regulations governing employment discrimination complaints.[37] In 1971 congressional committees in both House and Senate criticized CSC's complaint procedures. Bias against complainants appeared to the committees to be inherent in the procedures, since the allegedly discriminatory agencies were responsible for investigating the complaints and rendering final decisions, unbound by the findings of the hearing officers. Agencies' final decisions were appealable to CSC's Board of Appeals and Review but were affirmed in most cases.[38] Finally, the committees found that the complaints system, as well as other parts of the Federal EEO program, had been seriously weakened by the Commission's narrow view of discrimination.[39] The Senate committee, whose provisions on Federal employment ultimately passed, reported that the new title VII authority was

> ". . . intended to enable the Commission to reconsider its entire complaint structure and the relationship between the employee, agency and Commission in these cases."[40]

CSC regulations in effect in 1975[41] set out detailed steps which aggrieved persons must follow in challenging employment discrimination in Federal employment. Following an informal process, complaints proceed through formal investigation and a hearing, if requested by the complainant, and are then subject to final decision by the agency head or other designated official. Complainants may file a civil action in U.S. district court after 180 days from the initiation of the complaint or after final agency action. They may also appeal the agency's final decision to CSC's Appeals Review Board.[42]

CSC regulations bar applicants[43] or employees from initiating individual complaints unless an informal complaint is first registered within 30 days of the date on which the allegedly discriminatory act occurred.[44] In addition, the complainant must allege a specific act of discrimination. The complaint is treated informally by an EEO counselor, who is directed to seek resolution of the matter. If informal measures fail, the counselor informs the aggrieved person of the right to file a formal written complaint.[45]

In the past, from 10 to 11 percent of all informal complaints developed into formal complaints, as shown in the following tabulation:[46]

	Number of persons counseled	Formal complaints	
		Number	Percent
Fiscal year:			
1972	16,883	1,834	11.0
1973	26,627	2,743	10.3
1974	31,484	3,435	10.9

When a complaint is filed, the head of the agency or designated official may reject any portion of the complaint which is of a general nature and not related to the individual.[47] In FY 1974, 10 percent of final complaint dispositions reported by agencies were rejections of complaints.[48] CSC has not issued clear guidelines specifying what types of allegations are "unrelated" to an individual complaint.[49] It has consistently held, however, that complaints alleging discrimination against a particular class of employees, of which the complainant is a member, are not within the purview of the standard complaint procedures.[50] In contrast, class and individual discrimination claims under title VII have historically been treated simultaneously, since the Federal courts have long held that employment discrimination is, by definition, class discrimination.[51]

The rule of rejecting portions of complaints not previously raised also appears to be contrary to the historic treatment of title VII complaints. Charges before the Equal Employment Opportunity Commission (EEOC) have generally been broadened, where appropriate, to encompass like and related issues to the one raised by the charging party[52] on the ground that victims of employment discrimination most often do not comprehend the complex sources of that discrimination.

If a complaint is not rejected, it is then the responsibility of the agency's EEO officer to provide for the complaint investigation.[53] The regulations do not require that investigators be certified or trained in employment discrimination matters.[54] Until September 1974, CSC provided agencies with investigators on a reimbursable basis. Effective September 3, 1974, agencies were required to assign their own staffs to investigations.[55]

CSC regulations further provide that the investigation include a thorough review of the general work environment in which the complaint arose and a comparison of the

> ". . . treatment of members of the complainant's group identified by his complaint as compared with the treatment of other employees in the organizational segment in which the alleged discrimination occurred. . . .[56]

This provision mitigates against proper analysis of the work force, since the complainant's group is to be compared with the aggregate of all other groups rather than with each separate group. In addition, the term "organizational segment" is not defined.

CSC issued guidelines in 1971 explaining in more detail how complaint investigations are to be conducted.[57] These Investigation Guidelines suffer from deficiencies, only a few of which would be eliminated in revised draft guidelines.[58] The most serious deficiency is their failure to include a correct definition of the meaning of discrimination. The guidelines implicitly adopt a definition limiting discrimination to overt acts or patterns of "unfair treatment."[59] The draft guidelines did not correct this definition,[60] despite the well established rule under title VII that illegal discrimination includes also neutral treatment which had a disparate effect on any ethnic, racial, or sex group, unless justified by some compelling, nondiscriminatory purpose.[61]

Second, the guidelines generally limit the scope of the investigation to the actions and decisions of the allegedly discriminatory agency official and to the organizational segment in which the complaint arose.[62] The proposed new guidelines would permit extending the investigation to other units under the same administrative jurisdiction but not to the agency as a whole.[63]

Third, the guidelines fail to include essential instructions on investigating a personnel action. The guidelines merely instruct the investigator to list the name, sex, race, or ethnicity of each of the candidates and their relative ranking. There are no instructions to investigate the possibility of systemic discrimination in the ranking itself or in the process by which candidates were placed on the certificate list of eligibles.[64]

Finally, both sets of Investigation Guidelines suffer from vagueness. For example, both instruct the investigator to determine whether there exists

> ". . . any improper segregation of personnel by reason of their membership in the group alleged to have been discriminated against,"[65]

but there is no explanation of the meaning of the term "improper."

The draft guidelines contained two distinct improvements over the current guidelines in that they emphasized the importance of the investigator's maintaining independence from the agency's officials, and that they permitted the investigator to collect information relevant to a basis of discrimination other than that charged by the com-

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plainant. The revisions were prepared without consulting with EEOC,[66] despite a clear request from Congress in 1972 that CSC obtain EEOC's advice on equal employment matters.[67]

CSC regulations require the agency to make a second attempt to resolve the complaint informally. If an adjustment of the complaint is not obtained, the complainant is to be notified of the proposed disposition by the agency and of the right to request a hearing. In FY 1974, slightly fewer than 25 percent of the complainants whose cases were decided had requested and received a hearing.

Hearings are closed proceedings[68] conducted by a complaints examiner, who is certified by CSC[69] and who must be an employee from another agency except in unusual circumstances. The complainant has the right to be represented by counsel and to cross-examine witnesses, but not the right to obtain information other than that collected by the agency or to subpoena documents or witnesses.[70]

To assist complaints examiners, CSC issued an examiner's handbook in April 1973, which gives instructions on preparing for and conducting a hearing, admitting and evaluating evidence, and writing recommended decisions. The Discrimination Complaints Examiners Handbook contains no guidelines or information on substantive title VII law.[71] In addition, the handbook's instruction concerning the meaning of discrimination and questions of burden of proof are contrary to the weight of authority under title VII.

The findings and recommendations of the complaints examiner are not binding on the agency unless the examiner recommends a finding of discrimination and the agency has not issued a final decision within 180 days after the complaint was filed.[72] During FY 1974, 7 percent of final agency dispositions made a finding of discrimination.[73]

Title VII authorizes the Federal complainant to file a civil action in U.S. district court if the agency does not make a decision within 180 days or within 30 days of the final agency action. A complainant may also file a civil action after appealing to CSC's Appeals Review Board.[74] In FY 1974, about 30 percent of agencies' final dispositions of complaints were appealed to the Appeals Review Board.[75] In about 75 percent of these cases, the agency decision finding no discrimination or rejecting the complaint was affirmed.

The Board reviews the record to determine if it shows that the complainant was subjected to disparate treatment.[76] It does not consider discrimination in the form of disparate impact. If disparate treatment is shown, the burden is then shifted to the agency to come forward with evidence that the treatment was justified by some lawful purpose, such as CSC or agency qualification standards. The Board does not follow or refer to judicial decisions interpreting the substantive or procedural requirements of title VII, nor does it follow the rule of *stare lecisis* with regard to its own prior decisions.[77]

Although it is well settled under title VII law that the complainant need not show direct proof of intentional discrimination and that a statistical disparity shifts the burden to the employer to show evidence of nondiscrimination, the Board does not apply this standard. In one case decided in 1973, the Board correctly followed this standard but was reversed by the commissioners.[78]

The 1972 amendments to title VII gave the Commission express authority to order reinstatement, back pay, and other relief to persons found to be victims of discrimination. However, such persons are not entitled to back pay or other retroactive relief unless the record shows that the person would have been hired or promoted but for the impermissible discrimination.[79] As a result of CSC's restrictive interpretation, full relief is rarely provided to discriminatees. In FY 1973, retroactive relief was provided in 22 (or 3 percent) of 778 cases in which action was taken to correct discrimination.[80]

The Commission maintains that it is incorrect to state that complainants face severe disadvantages throughout its procedures. "The rights of the complainant," the Commission maintains, "are fully safeguarded and the Commission standards are in fact more favorable to the complainant than is required by the courts under Title VII proceedings in the private sector."

Evaluating Agencies' Compliance. The Office of Federal Equal Employment Opportunity (FEEO) does not conduct independent reviews of the agencies' personnel systems. Instead, this review function is assigned to the Bureau of Personnel Management Evaluation and Personnel Management Evaluation Devisions within the regional offices, which are responsible for evaluating agencies' compliance with all CSC regulations.

The Bureau's headquarters and regional staffs conduct periodic on-site reviews of agency personnel practices and programs to investigate recruiting, hiring, job classification, and merit promotion practices. In addition, the Bureau conducts special inquiries focusing on labor relations or equal employment opportunity.

Altogether, there are an estimated 4,000 Federal agency installations which fall within the Bureau's responsibility to review.[81] With limited resources, the Bureau and its regional offices are not able to review a significant portion of the total facilities in a given year. Less than 15 percent of government installations are subject to the Commission's evaluation review per year.

Both special and general reviews commence with a notification to the agency and a request for certain information, which are followed by an on-site evaluation of the installation and the preparation of a final report. The EEO questionnaire requests a copy of the agency's affirmative action plan,[82] a listing of recruiting contacts, a description of the internal EEO evaluation system, a summary of formal complaints filed, and copies of any analyses made by the agency of training and advancement opportunities for women and minorities.

In addition, the questionnaire requests the agency to submit available statistical data showing the proportion of women and minorities in each grade and general occupational code, and in supervisory and nonsupervisory positions. While the statistical format suffers from some of the same deficiencies found in the Affirmative Action Plan assessment report,[83] it is superior in that it requests the agency to provide statistics showing the proportions of women and minorities hired or promoted, although not by grade levels or occupational series.

The evaluation of staffing is designed to determine whether the agency's recruitment, selection, and placement activities conform to CSC regulations, merit principles, and statutory requirements.

Attention is also to be given to patterns in placements and appointments to determine if the agency is filling positions at unnecessarily high levels or if it has limited its recruitment to sources unlikely to produce minority candidates.[84] Other than the foregoing, there are no references in these guidelines instructing advisers to review for patterns or practices having a disparate or discriminatory effect.[85]

Guidelines were issued in March 1974 concerning the conduct of a special equal employment review of an agency's practices and Affirmative Action Program. These guidelines outline the enforcement role of the CSC, the types of discrimination which should be detected, and the remedies available to correct the results of discrimination. The guidelines appear to be the first operating materials which state that the discrimination which CSC is required to eliminate is not only disparate treatment but also practices which have a disparate impact on minorities and women.

Although the CSC officially defines discrimination as disparate treatment and follows that view in the context of the regular complaints procedures, the EEO Evaluation Review Guidelines appear to contain an expanded definition including practices having a disparate impact and which cannot be explained in some way by the agency.

When an individual is found to have been discriminated against, the evaluator is to advise the employee to initiate the complaint process.[86] Nevertheless, the guidelines include examples of corrective action that may be ordered when special evaluation reviews find that individual applicants or employees were denied employment or promotion due to discrimination.[87] When patterns or practices are identified which adversely affect identifiable groups, corrective action may include back pay, retroactive promotion, or priority consideration for those individuals adversely affected.

In short, the guidelines include only examples of situations in which the evaluator comes upon a possible pattern of discrimination, but they do not provide any instructions pertaining to a systematic analysis which would uncover these patterns in the first place.

In addition to reviewing the agency personnel practices for possible discrimination, CSC's evaluation team is to assess the processing of complaints and the agency's Affirmative Action Program to determine whether the action items are being implemented and whether they are adequate to meet objective EEO needs. The only section of the Affirmative Action Review Guidelines suggesting any quantitative analysis pertains to the number of upward mobility participants, the number of target positions, and the number of participants placed in target positions.[88] The evaluator should scrutinize the agency's development of numerical objectives to assure that they are reasonable and were developed in accordance with CSC's instructions. Evaluators may recommend the use of numerical goals but are prohibited from recommending what those objectives should be.[89]

Once the evaluation has been completed, CSC prepares a report making findings and setting forth requirements and recommendations. Actions are required of agencies to correct regulatory or statutory violations. Actions are merely recommended if the evaluator determines that title VII and the Executive order have been followed, but additional measures would be useful or helpful.[90]

Evaluation reports prepared after the enactment of the title VII amendments in 1972 did not reflect any meaningful improvement in the quality of CSC's evaluation of agency personnel practices in terms of EEO.[91]

These reports indicated that CSC continued to fail to investigate the possibility of an adverse impact on minorities and women resulting from personnel practices which CSC identifies as merit system violations. Numerous criticisms were made in these reports concerning agency practices in recruitment, hiring, training, performance evaluations, and promotion procedures, but there was no indication that the evaluators considered the impact of such practices on minorities and women.

The general review reports revealed some evidence that the Commission's evaluations, themselves, might disparately affect women. Two of the reviewed reports included the results of the Commission's evaluation of the agency's position classifications. In one review, 100 percent of the reviewed positions held by females, but only 35 percent of the reviewed positions held by males, were required by the Commission to be downgraded.

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In the second report, 80 percent of the positions held by females and 60 percent of those held by males were downgraded.[92]

It appears that CSC has not made meaningful improvements since 1972 in its evaluations of agencies' personnel practices as they bear on EEO. Further, CSC has failed to exercise the expanded authority it was granted by Congress in 1972 to correct discriminatory practices and to give relief to victims of discrimination.[93]

REVENUE SHARING [94]

The IWY Commission recommends that in the administration of General Revenue Sharing (GRS), Department of Treasury, the nondiscrimination provisions should be given a high priority. Failure by recipients of GRS funds to adhere to the nondiscrimination regulations should be dealt with promptly and firmly through enforcement procedures, including the withdrawal of GRS funds. The Office of Revenue Sharing (ORS), Department of Treasury, should issue strengthened regulations and allocate adequate resources for monitoring and enforcing the nondiscrimination provisions. State and local governments should be held to the substantive standards developed by the Equal Employment Opportunity Commission, particularly with respect to selection procedures, fringe benefits, definition of *bona fide* occupational qualification, and State protective labor laws.

How revenue sharing operates [95]

GRS is administered by the ORS, Department of the Treasury. GRS funds represent new Federal funds to State and local governments and contain significantly fewer requirements than categorical grants. ORS promulgates regulations to assist recipient governments in conforming to the requirements of the act.[96]

The act appropriated $30.2 billion in aid over a 5-year period beginning January 1, 1972, and ending December 31, 1976. The payments began at an annual rate of $5.3 billion for calendar year 1972 and increased annually to $6.5 billion in calendar year 1976, with two-thirds of the total amount appropriated each year going to local governments, and the remaining one-third to the States.

The act limits primary recipients of funds to State governments, units of general government, such as counties, municipalities, townships, Indian tribes and Alaskan native villages which are the governing body, and the District of Columbia. Excluded from this definition are special government districts such as school boards, library districts, fire districts, and other special purpose districts. Over 38,000 governmental units are receiving revenue sharing funds.

State governments may use revenue sharing funds for whatever programs they believe are necessary. However, the act specifies that local governmental recipients may use the funds only for certain broad categories. "Ordinary and necessary maintenance and operating expences" may be funded for the following categories: public safety, environmental protection, public transportation, health, recreation, libraries, social services for the poor or aged, and financial administration.

Local units of government may also expend revenue sharing funds for cpaital expenditures that are otherwise authorized by law. Capital expenditures on educational or welfare facilities are permissible.[97]

The act allocates funds to recipient States according to one of two formulas: The first determines a State's share according to its population, tax effort, and per capita income; the second considers each of these factors, plus the number of urbanized population and the amount of adjusted income tax collections. The formula used is that yielding the larger amount of funds for the State.

The local entities receive their share of the State's total allocation according to a formula which considers the population, tax effort, and per capita income of residents.

The act provides a ceiling on the amount of funds a governmental unit may receive. None may receive (per capita) for more than 145 percent of the State's average (per capita) entitlement. A minimum amount of funding is provided to every governmental unit, regardless of need. Consequently, some jurisdictions receive funding that is not required by comparison with other communities.

Recipients must submit two types of reports to ORS. The first, a "planned-use report" describes how recipients intend to use the funds. The second is an "actual use" report which describes how funds were spent. Both types of reports must be published in local newspapers with wide circulation.

Nondiscrimination provision

Perhaps the most important requirement of the act is the prohibition against discrimination based on sex, race, color, or national origin, in participating in or providing the benefits of any program or activity funded in whole or part with revenue sharing funds.

The act permits ORS to take a variety of actions when discrimination occurs and the recipient refuses to comply with the act. ORS may refer the matter to the U.S. Attorney General for appropriate legal action; may exercise the powers provided by title VI of the Civil Rights Act of 1964, which includes the suspension or termination of funds; and may take any other action provided by law. The U.S. Attorney General may bring suit under the act, without a referral by ORS, if there is reason to believe that a pattern or practice of unlawful discrimination has occurred.

ORS is charged with sole responsibility to enforce the nondiscrimination provisions. All of ORS' offices are located in Washington, D.C.; it has no regional offices or staffs. The Compliance Division of ORS is responsible for monitoring the nondiscrimination provisions of the act. This division is also charged with overseeing recipients' compliance with all other requirements of the act. To carry out its responsibilities, the division conducts audits of recipients.

ORS described its compliance staff and equal rights enforcement program in 1974:

". . . although each is not a 'civil rights specialist,' the work of everyone is directly related to our civil rights compliance activities. For example, all audits include civil rights compliance, and all civil rights complaints are audited with our audit staff gathering as much information as feasible on civil rights as well as other situations of noncompliance." [98]

A special civil rights unit has been established within the Compliance Division, and employs four full-time civil rights compliance workers plus supportive staff. The Compliance Division employs a total of 74 persons. Additionally, auditors conducting general compliance audits may inquire into some of the civil rights practices of the recipient.

Audits are the principal means used by ORS to determine compliance with all of the act's requirements. Former ORS Director Graham W. Watt outlined ORS' mechanism in a statement before a subcommittee of the Congress:

". . . Rather than create a large, bureaucratic organization of auditors, investigators, analysts and other federal employees, we propose to construct and manage a comprehensive compliance system which relies upon a variety of existing audit resources, augmented as necessary by ORS staff." [99]

ORS publishes an Audit Guide and Standards for Revenue Sharing Recipients. The civil rights section sets forth eight areas for questioning by auditors. They pertain to EEO reports filed with the Equal Employment Opportunity Commission (EEOC), and other recordkeeping requirements; State or local fair employment practices agencies; whether these agencies have complaints against the recipient on file; internal civil rights enforcement by the recipient; other pending civil rights law suits against the recipient; the existence of affirmative action programs; placement of facilities funded by revenue sharing that results in an obviously discriminatory denial of benefits or services; and any policies established by the recipient concerning nondiscrimination in employment.

The civil rights review conducted according to these questions is a very limited one. ORS has indicated that only some of its auditors have received training in conducting any civil rights investigation. However, ORS argues that audits are no longer the primary means for receiving information concerning discrimination. ORS has over 250 complaints on file and has entered into agreements with the EEOC, HEW, and the Department of Justice for purposes of coordinating compliance activities.

ORS is also relying on State-conducted audits for indications of civil rights violations. Each State has an audit system for its revenue sharing funds and those given to local governmental units. ORS has entered in a formal agreement with slightly more than 40 States, to use State audit procedures to determine compliance with the requirements of revenue sharing. ORS has made these agreements only when State auditing units are independent entities or are associated with the legislative branch of the State in a manner similar to the General Accounting Office's relationship with the Congress.

ORS has generally required the State audit to incorporate ORS' Audit Guide procedures, including the limited material pertaining to nondiscrimination and civil rights activities. ORS periodically checks the State-conducted audits to determine if they are being done properly.[1] In the States in which ORS has not entered an audit agrement, ORS is relying on audits conducted by independent public and private accountants.

ORS argues that it must rely on State-conducted audits because of the sizable number of recipients (over 38,000) and its own small staff. The former Director of ORS indicated his intention that civil rights compliance reviews would be conducted with a small staff, which exercised a "managerial role rather than being involved primarily in making, individually, a substantial number of field visits and investigations." [2]

However, the State audits have not been successful in providing ORS with information concerning violations of the act's nondiscrimination provisions. One recent study indicates that of about 2,000 audits performed under agreements with ORS, from June 1974 to April 1975, 162 violations of provisions of the act or regulations were revealed. However, not one pertained to the nondiscrimination provisions.[3] At the same time, the number of complaints alleging discrimination which were filed with ORS, rose dramatically.

One obvious reason for the poor quality of information being received by ORS is that the auditors have not received any technical training to assist them in conducting the civil rights investigation. Additionally, the questions set out in the Audit Guide are far from comprehensive. Finally, auditors may not be sufficiently informed of the importance of determining that the nondiscrimination provisions of the act are complied with.

ORS' overall level of staffing is low and the staffing of its civil rights compliance unit is particularly low. Only four full-time professional employees are engaged there, compared with over 100 professional staff mem-

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bers in the Elementary and Secondary Education Division of the Office for Civil Rights of HEW. The latter is responsible for overseeing nearly 39,000 recipients of revenue sharing funds. Equally significant, is the fact that about $30.2 billion in Federal funds will be given to recipients over a 5-year period. Revenue sharing constitutes the largest single Federal grant program.

Violations of the nondiscrimination provisions can be of two general types. The first is discrimination in the employment practices of the recipient, of the recipient's contractors, and of agencies which receive revenue sharing funds for programs. The second kind of discrimination occurs in the denial of equal services and benefits to the groups protected under the act.

Another concern to women's groups and civil rights organizations has to do with the recipient's use of funds "freed up or displaced" by receipt of revenue sharing funds. Recipients can easily circumvent the nondiscrimination requirements by using moneys freed-up by revenue sharing to fund discriminatory programs by juggling entries on account books.

One Federal court has held that revenue sharing funds may not be spent indirectly for purposes prohibited by the act.[4] In that case, the city of Atlanta was permanently enjoined from using $4.5 million of revenue sharing funds to provide rebates to individuals and businesses which maintained water accounts with the city. The court stated that it was Congress' intention that revenue sharing funds be used by local units for one or more of the categories enumerated in the Act. Any circumvention of that intention was void under the act.

ORS has argued that the absence of a similar provision pertaining to discrimination prevents ORS from issuing regulations prohibiting indirect use of funds. In light of the district courts decision in the *Mathews* case, it is more likely that ORS has the affirmative obligation of insuring that revenue sharing funds are not indirectly used to fund discriminatory programs.

ORS has recently revised its regulations concerning discrimination in programs funded with revenue sharing moneys. Among the acts based on race, sex, color, and national origin which are prohibited are:

Denying any benefit or services;

Providing any benefit or service which is different from that provided others;

Subjecting persons to segregated or separate treatment;

Restricting any privileges or advantages received by others;

Treating any person differently in determining qualifications for any program, etc.;

Denying any person the opportunity to participate in a program; and

Denying any person an equal opportunity to participate as an appointed member of a planning or advisory body in connection with the use of revenue sharing funds.

Recipients are also prohibited from using criteria or methods of administration which have the effect of:

Subjecting individuals to discrimination; perpetuating the results of past discriminatory practices; and

Defeating or impairing the success of a program for individuals.

The regulations also set out some requirements for facilities built or operated with revenue sharing funds. Recipients may not select or use sites which have the effect of:

Excluding individuals from their benefits; or subjecting individuals using the facilities to other forms of discrimination.

The following tabulation[5] shows the extent to which women and minorities are employed in State and local governments:

[*In percent*]

	All minorities	Women
Type of government:		
State	14.1	42.9
County	16.3	46.9
Municipal	23.1	19.9
Township	3.9	17.4
Special district	26.0	45.4
All types	18.2	34.7

Women were at least represented in township and municipal employment.[6] These levels of government employ a larger proportion of protective service and service/maintenance workers. Each of these job categories has traditionally been closed to women.

Revenue sharing funds are being used by State and local governments which discriminate against women and minorities. Of the some 266 discrimination complaints on file with ORS, about one-half pertain to employment practices. About one-half of these allege sex discrimination. The Department of Justice has filed over 23 law suits since 1972 against State and local governments for discriminatory employment practices. In FY 1974, EEOC reported about 5,000 actionable charges against State and local governments.

Of 18 suits filed by the Justice Department pertaining to employment discrimination and revenue sharing, 14 of them involved the employment practices of public safety agencies.

ORS has relied primarily on its complaint system as well as the results of some on-site visits that were conducted in 1973, for determining which recipients were not complying with the nondiscrimination provisions. With only four full-time professional staff engaged in civil rights review and a backlog of 200 complaints, ORS is hardly in a position to monitor most of its recipients in a comprehensive fashion.

ORS has rejected the use of "pre-award" and "post-award" compliance reviews similar to those undertaken for title VI of the Civil Rights Act of 1964 and Executive Order 11246. ORS has done so because of its view that:

"Pre-award and post-award compliance reviews are terms clearly belonging to Title VI grant agencies . . . the logic of the concepts has no application to General Revenue Sharing and is, in our judgment, a concept that attaches to the Title VI categorical grant programs."

ORS must also make sure that recipient governments are aware of their obligations under the law. ORS entered into an agreement with EEOC in May 1975 to develop a "Guidebook on Equal Employment for Public Employers." The guidebook will pertain to fair employment practices as well as nondiscrimination in the provision of services and benefits, to be completed in 1976.

ORS has made a significant effort to give recipient governments notice of practices which violate the nondiscrimination provisions by distribution of the revised nondiscrimination regulations issued late in October 1975. However, an ongoing program of compliance reviews backed up by the application of sanctions for noncompliance will be necessary to give meaning to the regulations. Regulation section 51.53(d) states that compliance reviews will be scheduled by ORS with priority given to those recipients which show a significant disparity between the percentage of women or minorities in the work force and the percentage employed in recipients' programs.

Sex discrimination regulations

The new regulations adopt specific provisions for sex discrimination. The regulations set forth the recruitment and advertising procedures to be used by recipients. The regulations state generally that differentials in wages and other conditions of employment cannot be based on sex. However, they do permit employers to provide either unequal benefits or unequal contributions in insurance, pension, retirement, welfare, or other fringe-benefit programs, if the inequality is directly related to actuarial differences. ORS should have followed the position of the EEOC which permits equal benefits only.

Pregnancy must be treated as any other temporary disability. Recipient governments may not treat pregnant employees or applicants differently with respect to any employment practice or policy unless the recipient can demonstrate that the pregnancy of the individual concerned prevents her adequate job performance.

Agreements

In January 1975, ORS entered an agreement with EEOC. Under the agreement, EEOC will conduct an expansive statistical analysis of the data collected through its EEO-4 forms to determine those recipients who are likely to be greatly out of compliance.

Pursuant to another agreement between EEOC and ORS signed on October 11, 1974, the two agencies have established a joint arrangement for resolving complaints of discrimination against State and local governments and their contractors.

On request, EEOC will furnish ORS with information contained in the EEO-4 forms and copies of charges filed with EEOC. Letters of Determination and Decision pertaining to recipients will also be provided. ORS in turn will supply EEOC with noncompliance information.

In cases where EEOC has found reasonable cause to believe discrimination exists in a revenue sharing-funded activity, ORS may proceed according to its own regulations to secure compliance.

ORS has entered into similar agreements with HEW and the Department of Justice, and is trying to negotiate one with the Office of Federal Contract Compliance Programs (OFCCP). Both of these agreements, like the agreement with the EEOC, do not require ORS to accept the findings of the other agency nor take any compliance action. ORS appears to be reluctant to rely on the determinations of other agencies. With the exception of one case, concerning a school system, ORS has not conducted any compliance activities with respect to recipients referred under these agreements.

ORS has entered into similar agreements with State and local fair employment practice agencies. ORS would be in error to rely on these agencies for civil rights enforcement. They are creatures of the entities ORS is charged with monitoring, and past experience with section 706 agencies for the EEOC has not been successful with respect to public employment discrimination.

ORS' accumulating backlog of cases again raises questions about the size of the civil rights enforcement staff. As discussed above, the audit system relied on by ORS is of limited potential for achieving compliance.

ORS has not developed a reputation for aggressively enforcing valid discrimination complaints. ORS initially relies on telephone inquiries and letters (referred to as 15-day letters) requesting data to determine the validity of a complaint. It notifies the chief executive officer of the recipient when a complaint is received. If ORS believes violations have occurred and initial negotiation with the recipient has failed, ORS will conduct more telephone inquiries or on-site investigations. If investigation shows that violations have occurred, or a compliance review yields the same determination, the Governor of the State and the chief executive officer of the recipient are notified. The new regulations provide that if within 60 days the Governor fails or refuses to secure compliance, the Secretary of the Treasury may:

Refer the matter to the U.S. Attorney

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General with a recommendation that civil action be instituted;

Initiate an administrative hearing pursuant to the powers provided by title VI of the Civil Rights Act of 1964; or

Take any other action provided by law.

In the past ORS has relied on excessively long negotiations with recipients. In a case filed against the Chicago Police Department alleging racial discrimination ORS refused to defer payment even though its own investigation resulted in a finding of discrimination. ORS did not defer payment until so ordered by the U.S. district court for the District of Columbia.[7]

FOOTNOTES

[64] IWY Commission members: Elizabeth Athanasakos and Sen. Birch Bayh, Co-Chairs; Dr. Barbara Bergmann; Hon. Mary Stallings Coleman; Velma Murphy Hill; William Crawford Mercer; and Betty Smith. Public members: Margaret Dunke, Associate Director, Project on Women, American Association of Colleges; Odessa Komer, Vice President of United Auto Workers (alternate: Dorothy Haener, UAW); Dr. Carol Oglesby, Professor of Sports Psychology, Temple University; Barbara Shack, Associate Director of the New York Civil Liberties Union; Dr. Emily Taylor, Director of the Office of Women in Higher Education of the American Council on Education; Pat Vasquez, Director of the Chicana Rights Project of the Mexican American Legal Defense and Education Fund; and Addie Wyatt, Women's Affairs Department of the Amalgamated Meatcutters and Butcher Workmen of North America. Staff member: Janice Mendenhall.

The Enforcement of the Laws Committee contracted with the Women's Equity Action League for a series of studies which resulted in a chart on "Federal Laws and Regulations Prohibiting Sex Discrimination" and analyses of education, employment, housing, revenue sharing, regulatory agencies, and credit.

[65] Recommendation approved by Enforcement of the Laws Committee Dec. 4, 1975; by IWY Commission Dec. 5, 1975.

[66] Recommendation approved by Enforcement of the Laws Committee Jan. 8, 1976; by IWY Commission **Jan. 16, 1976.**

[67] Recommendation approved by Enforcement of the Laws Committee Jan. 8, 1976; by IWY Commission Jan. 16, 1976.

[68] Recommendation approved by enforcement of the Laws Committee Jan. 8, 1976; by IWY Commission Jan. 16, 1976.

[69] Recommendation approved by Enforcement of the Laws Committee Jan. 9, 1976; by IWY Commission by mail ballot Feb. 1976.

[70] Recommendation approved by Enforcement of the Laws Committee Jan. 9, 1976; by IWY Commission Jan. 16, 1976.

[71] Recommendation approved by Enforcement of Laws Committee Jan. 9, 1976; by IWY Commission Jan. 16, 1976.

[72] Recommendation approved by Enforcement of the Laws Committee Jan. 9, 1976; by IWY Commission Jan. 16, 1976.

[73] Recommendation approved by Enforcement of the Laws Committee Dec. 4, 1975; by IWY Commission Dec. 5, 1975.

[74] Some of the material in this background section was excerpted from a study prepared by Norma Raffel, "The Enforcement of Federal Laws and Regulations Prohibiting Sex Discrimination in Education," under contract with the IWY Commission.

[75] Hearings before the Special Subcommittee on Education and Labor, U.S. House of Representatives, Sept. 1974, p. 322.

[76] Letter from John D. Young, Assistant Secretary, Comptroller, HEW, to Holly Knox, Project on Equal Education Rights, Sept. 25, 1975.

[77] "Inquiry into Bias Curbed by H.E.W.," *New York Times*, Oct. 15, 1975, p. 49.

[78] Testimony of Peter Holmes, Director of HEW/OCR, to Committee on Enforcement of the Laws, Sept. 16, 1975, p. 5.

[79] *Fed. Reg.*, June 4, 1975, p. 24148.

[80] *Congressional Record*, Senate, Aug. 1, 1975, p. 24148.

[81] *Fed. Reg.*, Oct. 2, 1975.

[82] Recommendation adopted by IWY Commission May 16, 1975.

[83] Recommendation approved by Enforcement of the Laws Committee Jan. 9, 1976; by IWY Commission Jan. 16, 1976.

[84] Recommendation approved by Enforcement of the Laws Committee Sept. 16, 1975; by IWY Commission by letter, announced Dec. 5, 1975.

[85] All except elementary and secondary level school districts are classifications for higher education used by the Carnegie Commission on Higher Education.

[86] Recommendation approved by Enforcement of the Laws Committee Jan. 9, 1976; by IWY Commission Jan. 16, 1976.

[87] Recommendation approved by Enforcement, of the Law Committee Jan. 9, 1976; by IWY Commission by mail ballot Feb. 1976.

[88] Recommendation approved by Enforcement of the Laws Committee Jan. 9, 1976; by IWY Commission Jan. 16, 1976.

[89] Recommendations approved by Enforcement of the Laws Committee Jan. 8, 1976; by IWY Commission Jan. 16, 1976.

[90] This background data is excerpted from a study on credit by Denise B. Leary, WEAL Legal Defense and Education Fund, under contract with the IWY Commission.

[91] Sec. 704 of the ECOA provides that compliance with the requirements of the Act shall be enforced under:

Sec. 8 of the Federal Deposit Insurance Act, in the case of—

(a) national banks, by the Comptroller of the Currency.

(b) member banks of the Federal Reserve System (other than national banks), by the Board.

(c) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation.

Sec. 5(d) of the Home Owners' Loan Act of 1933, sec. 407 of the National Housing Act, and secs. 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions.

The Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal Credit Union.

The Acts to regulate commerce, by the Interstate Commerce Commission with respect to any common carrier subject to those Acts.

The Federal Aviation Act of 1958, by the Civil Aeronautics Board with respect to any air carrier or foreign air carrier subject to that Act.

The Packers and Stockyards Act, 1921 (except as provided in sec. 406 of that Act), by the Secretary of Agriculture with respect to any activities subject to that Act.

The Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association. Federal intermediate credit bank, and production credit association.

The Securities Exchange Act of 1934, by the Securities and Exchange Commission with respect to brokers and dealers.

The Small Business Investment Act of 1958, by the Small Business Administration, with respect to small business investment companies.

Except to the extent that enforcement of the requirements imposed under the Act is specifically committed to some other Government agency, the Federal Trade Commission shall enforce such requirements.

[92] Recommendations approved by Enforcement of the Laws Committee Dec. 4, 1975; by IWY Commission Jan. 16, 1976.

[93] *The Federal Civil Rights Enforcement Effort—1974,* "To Eliminate Employment Discrimination", vol. V, pp. 576–77.

[94] Equal Employment Opportunity Act of 1972, Public Law 92–261, sec. 715 (1972).

[95] Commission on Civil Rights, Civil Service Commission, Department of Labor, EEOC, and Department of Justice.

[96] 29 CFR, sec. 1604.9.

[97] 49 CFR, sec. 60–20.3(c).

[98] Recommendations approved by Enforcement of the Laws Committee Jan. 8, 1976; by IWY Commission Jan. 16, 1976.

[99] Substantially similar to recommendations of the Department of Health, Education, and Welfare Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[1] Recommendation approved by Enforcement of the Laws Committee Nov. 18, 1975; by IWY Commission Dec. 5, 1975.

[2] Numerical General Schedule (GS) rating which determines salary.

[3] Testimony of H. Alan McKean, Chief, Standards Division, Bureau of Policy and Standards, CSC, Oct. 16, 1975.

[4] X–118 Qualifications Standards for "Secretary, Secretary-steno or Secretary-typing, Job Series 318," CSC, June 1974.

[5] Recommendation approved by Enforcement of the Laws Committee Nov. 18, 1975; by IWY Commission Dec. 5, 1975.

[6] Patricia Naherny and Mary Witt, "Women's Work—Up from .878," University of Wisconsin—Extension, Jan. 1975, pp. 21, 22.

[7] Throughout this Background section, job titles are capitalized according to DOT practice. Unusual terms used—Data-People-Things, People-oriented, Data, etc.—reflect DOT usage.

[8] U.S. Department of Health, Education, and Welfare, *A Summary of Paraprofessional Training in Colleges and Universities 1970–71* (Wash., D.C.: U.S. Government Printing Office, 1972).

[9] Bernice Mallory, "Auxiliary Workers in Today's Society," *Journal of Home Economics*, 63:5, May 1971, p. 330.

[10] University of Wisconsin study, *op. cit*.

[11] Recommendation approved by Enforcement of the Laws Committee Nov. 18, 1975; by IWY Commission Dec. 5, 1975.

[12] Letter from Morag Simchak, Women's Activities Advisor, O/LAB–AID, to Mildred Marcy, Coordinator, IWY Secretariat, Oct. 7, 1975.

[13] "State of Washington Comparable Worth Study," Norman D. Willis & Associates, Management Consultants, Sept. 1974.

[14] 336 F. Supp. 763.

[15] Recommendation approved by Enforcement of the Laws Committee Nov. 18, 1975; by IWY Commission Dec. 5, 1975.

[16] Conversation with Dennis Clark, lawyer for the plaintiffs, Nov. 19, 1975.

[17] "Sexism in Job Evaluation Methodologies," testimony by Judith M. Collins, Cresap, McCormick, & Paget, Inc., Oct. 16, 1975.

[18] Recommendation approved by Enforcement of the Laws Committee Dec. 4, 1975; by IWY Commission by mail ballot Feb. 1976.

[19] "Sexists in the Senate," a study of differences in salary by sex among employees of the U.S. Senate, Capitol Hill Women's Political Caucus, May 1975. NOTE: Every 6 months, reports are published giving employees in the office of each Member of Congress by name, job title, length of tenure (if employed for less than the 6 months), and salary. These reports are called "Report of the Secretary of the Senate" and "Report of the Clerk of the House."

[20] Recommendation approved by Enforcement of the Laws Committee Jan. 8, 1976; by IWY Commission Jan. 16, 1976.

[21] "The Equal Employment Opportunity

Program for Federal Non-construction Contractors Can be Improved," GAO, #MWD–75–63, Apr. 29, 1975, p. 10.

[22] Bureau of the Census, vol. P6(1)D–22, "Detailed Characteristics" (Maryland), Table 171.

[23] Selected as a typical large city.

[24] Recommendation approved by Enforcement of the Laws Committee Jan. 8, 1976; by IWY Commission Jan. 16, 1976.

[25] Substantially similar to recommendations of the Citizen's Advisory Council on the Status of Women.

[26] "Women in the Military." *Women*, Citizens' Advisory Council on the Status of Women, June 1974, pp. 18–19.

[27] Public Law 93–290 (May 24, 1974), amending 10 USC 505.

[28] Personal communication from Lois J. Schiffer to Janice Mendenhall, Dec. 30, 1975.

[29] *Parise et al* v. *Schlesinger*, Civil Action No. 74–1896, D.D.C., pp. 1–2.

[30] *Ibid.*, p. 3.

[31] Complaint, sec. 9; Affidavit of Brig. Gen. James M. Wroth, Exhibit I to Defendants' Motion to Dismiss or in the Alternative for Summary Judgment, *supra*, note 4, pp. 3–6, 11.

[32] *Supra*, note 6.

[33] "A Double Standard in the Navy?", *Washington Post*, Aug. 25, 1970, p. B2.

[34] William L. Clairborne, "AF Officer Sues to Keep Her Son," *Washington Post*, Sept. 29, 1970, p. A12; and Claiborne, "Air Force Lets Officer Keep Her Son," *Washington Post*, Sept. 30, 1970, p. A1.

[35] George C. Wilson, "Pentagon Shifts on Pregnancy," *Washington Post*, July 8, 1975, p. A8.

[36] Recommendation approved by Enforcement of the Laws Committee, Jan. 9, 1976; by IWY Commission Jan. 16, 1976.

[37] These recommendations are substantially the same as the recommendations of the Commission on Civil Rights.

[38] The material in this Background section is excerpted from a study by Norma Raffel, WEAL Legal Defense and Educational Fund, under contract with the IWY Commission.

[39] The Education Amendments of 1972, 20 USC, secs. 1681–1686 (1972).

[40] U.S. Commission on Civil Rights, "To Eliminate Employment Discrimination", *The Federal Civil Rights Enforcement Effort, 1974*, vol. V, June 1975, p. 419.

[41] Albert H. Ross and Frank B. McDermott, Jr., *The Equal Pay Act of 1963: A Decade of Enforcement*, Boston College Industrial and Commercial Law Review, vol. XVI, no. 1, pp. 1–72, Nov. 1974.

[42] *Schultz* v. *Wheaton Glass Co.*, 421 F. 2d 259 (3d Cir., 1970) Cert. denied, 398 U.S. 905 (1970).

[43] 29 CFR, sec. 800, 129 (1973).

[44] 29 USC, sec. 211 (1970).

[45] Unlike other antidiscrimination laws, criminal penalties may be imposed for willful violations.

[46] Wage and Hour Division, unpublished data, July 1975.

[47] *Supra*, note 2, p. 441.

[48] Letter, Betty Southard Murphy, Aug. 12, 1974.

[49] *Supra*, note 3.

[50] *Ibid.*

[51] *Schultz* v. *Wheaton Glass Co.*, 42 F. 2d 259 (3d Cir., 1970), Cert. denied, 398 U.S. 905 (1970).

[52] EEOC Guidelines on Discrimination Because of Sex, sec. 1604.10.

[53] July 7, 1975, Response of the Department of Labor, Addendum to: "To Eliminate Employment Discrimination," *The Federal Civil Rights Enforcement Effort—1974*, p. 13.

[54] Private communication with Richard MacMillan, Branch Chief, Branch of Age Discrimination and Equal Pay, Wage and Hour Division, June 18, 1975.

[55] *Ibid.*

[56] *Supra*, note 2, p. 448.

[57] *Supra*, note 2, p. 451.

[58] Recommendations approved by Enforcement of the Laws Committee Jan. 8, 1976; by IWY Commission Jan. 16, 1976.

[59] Items 1. (b), 1.(c), 5, 7, 8, 9 are substantially similar to recommendations of the Commission on Civil Rights.

[60] This Background section is excerpted from a study by Norma Raffel, WEAL Legal Defense and Education Fund, under a contract with the IWY Commission.

[61] 42 USC, sec. 2.000e (1970).

[62] *The Federal Civil Rights Enforcement Effort—1974*, vol. V, "To Eliminate Employment Discrimination," U.S. Commission on Civil Rights, July 1975, p. 480.

[63] *Supra*, note 2, p. 506.

[64] Title 29, Labor, Chapter XIV, Part 1604, amended of the CFR.

[65] Guidelines on Discrimination Because of Sex, sec. 1604.2(a)(1)(ii).

[66] Comptroller General of the United States, *The Equal Employment Program for Federal Nonconstructive Contractors Can Be Improved.* GAO Report, Apr. 29, 1975.

[67] EEOC and Office of Federal Contract Compliance 3, Memorandum of Understanding, May 20, 1970, 35 *Fed. Reg.* 8461 (1970).

[68] *Supra*, note 2, p. 567.

[69] Equal Employment Opportunity Commission and Office of Federal Contract Compliance: Memorandum of Understanding, Sept. 11, 1974, 39 *Fed. Reg.* 35855 (1974).

[70] Lowell W. Perry, Statement Before the House Subcommittee on Equal Opportunity, Sept. 22, 1975, pp. 1, 3.

[71] John H. Powell, Jr., Chairman EEOC. Hearings before the Subcommittee on Equal Opportunities of the Committee on Education and Labor, House of Representatives on H.R. 15826, Sept. 17–19, 1974, pp. 28–29.

[72] Sec. 706 of title VII of the Civil Rights Act of 1964 contains the procedures under which charges are deferred to approved agencies.

[73] *Supra*, note 11, pp. 30–31.

[74] Augustus Hawkins, Hearings, *supra*, note 2, pp. 510–511.

[75] *Supra*, note 2, p. 490.

[76] Eleanor Holmes Norton, chairperson of the New York City Commission on Equal Opportunity, Hearings, *supra*, note 3, 11, pp. 93–105.

[77] *Ibid.*

[78] Omitted.

[79] Omitted.

[80] Ethel Bent Walsh, Hearings before House appropriation Subcommittee on State, Justice, Commerce, the Judiciary, and Related Agencies, 94th Cong., Part VI, May 6, 1975.

[81] *Ibid.*

[82] *Ibid*

[83] *Supra*, note 11, p. 41.

[84] Arvil Adams, "Toward Fair Employment and the EEOC," EEOC Contract 70–15, Aug. 31, 1972.

[85] Jones Singer, *Internal Problems Hamper EEOC Antibias Efforts*, National Journal Reports, Aug. 7, 1974, pp. 1226–1236.

[86] Recommendation approved by Enforcement of the Laws Committee Jan. 8, 1976; by IWY Commission Jan. 16, 1976.

[87] Identical or similar to Commission on Civil Rights recommendations.

[88] Identical or similar to Commission on Civil Rights recommendations.

[89] Identical or similar to Commission on Civil Rights recommendation.

[90] Identical or similar to GAO recommendations.

[91] Identical or similar to GAO recommendations.

[92] Identical or similar to GAO recommendations.

[93] This background section is excerpted from a study prepared by Denise B. Leary, WEAL, Legal Defense and Education Fund, under contract with the IWY Commission.

[94] Executive Order 11246, 3 CFR, sec. 339, 1964–1965 Compilation.

[95] Executive Order 11375, 3 CFR, sec. 684, 1966–1970 Compilation.

[96] Contractors with contracts of $10,000 or less are exempted from the order. State and local governments are exempted from the affirmative action requirements. All divisions or branches of the contractors' business are covered including those not working on the Federal contract, except for divisions of State and local governments that do not specifically participate in work under the Federal contract. Subcontractors are similarly covered.

[97] "The Equal Employment Opportunity Program for Federal Nonconstruction Contractors Can Be Improved," GAO, Apr. 29, 1975, p. 4.

[98] *Ibid*, p. 2.

[99] Memorandum to Heads of All Agencies, Technical Guidance Memo. No. 1 for Revised Order No. 4, OFCCP Director's Office, Feb. 22, 1974.

[1] *United States* v. *Detroit Edison*, 365 F. Supp. 87 (E.D. Mich. 1973).

[2] 40 Fed. Reg. 13311, Mar. 11, 1975.

[3] *Supra*, note 4, p. 15.

[4] 41 CFR, sec. 60–20.

[5] *Cleveland Board of Education* v. *La Fleur*, 414 U.S. 632 (1974).

[6] There were 13 compliance agencies prior to Aug. 1, 1974.

[7] *Supra*, note 4, p. 5.

[8] State and local governments are not required to file these reports except for educational and medical institutions.

[9] "To Eliminate Employment Discrimination," *The Federal Civil Rights Enforcement Effort—1974*, July, 1975, p. 284.

[10] The GAO selected for study 84 contracts, each exceeding $1 million, which were awarded during FY 1974 by GSA, HEW, and DOD. Compliance responsibility for these contracts was assigned to DOD, the Department of Interior, and HEW. The compliance agency or contracting agency did not comply with Department preaward requirements for 25 of the 84 contracts selected (29.8 percent).

[11] *Supra*, note 4, pp. 21–24.

[12] *Supra*, note 4, pp. 30–31.

[13] Recommendation approved by Enforcement of the Laws Committee Jan. 8, 1976; by IWY Commission Jan. 16, 1976.

[14] Substantially similar to recommendations of Commission on Civil Rights.

[15] Substantially similar to recommendations of Commission on Civil Rights.

[16] Substantially similar to recommendations of Commission on Civil Rights.

[17] This Background section is excerpted from *Federal Civil Rights Enforcement Effort*—1974, vol. V, July 1975, pp. 61–137.

[18] Executive Order 11246, Part I, 3 CFR, sec. 339 (1965).

[19] Executive Order 11476; 3 CFR, sec. 133 (1969).

[20] 42 USC, sec. 2000e–16(b).

[21] FPM Letter No. 713–22, Oct. 4, 1973. The basis for these instructions was provided in a memorandum from Robert E. Hampton, CSC Chairman, to the Heads of All Agencies and Departments, May 11, 1973.

[22] The Commission sees little real difference in philosophy between its guidelines and the regulations imposed on Federal contractors with respect to affirmative action because in the Commission's view, it directs Federal agencies to identify "potential sources of qualified minorities and women (which) appear to have not been fully tapped." Letter from Robert E. Hampton, CSC Chairman, to John A. Buggs, Staff Director, Commission on Civil Rights, May 2, 1975.

[23] Memorandum from Robert E. Hampton, CSC Chairman, to Heads of All Agencies, May 11, 1971. *See also* FPM Letter No. 713–22, Oct. 4, 1973.

[24] *Supra*, note 4.

[25] The Commission requires agencies to conduct ongoing self-evaluations of their EEO programs.

[26] *Supra*, note 4.

[27] The Commission's instructions indicate only that the analysis should include "Availability of persons, including minorities and women, having the requisite skills and training in the agency's workforce and in the labor market which the agency uses as its recruiting source. . . ." *Supra*, note 4, Appendix II (3).

[28] However, the Commission cautioned agencies about using this data alone and encouraged them to consider other factors without indicating which ones.

[29] Guidelines for Agency Internal Evaluation of Equal Employment Opportunity Programs, Personnel Management Series No. 24, CSC, (Feb. 1974).

[30] *Supra*, note 4, Appendix II.

[31] "Qualifications Guide for Collateral Assignments Involving Equal Employment Duties."

[32] *Supra*, note 4, Appendix I.

[33] *Ibid*.

[34] For example, the Department of Agriculture determined that in 1970–71, women made up 15.5 percent and minorities 3 percent of all college graduates in the agriculture fields (biology, botany, bacteriology, microbiology, biochemistry, accounting, general engineering, agriculture engineering, civil engineering, veterinary medicine, chemistry, geology, and economics). It, therefore, established a "goal" of filling 15.5 percent of all professional openings with women and 3 percent with minorities during 1974.

[35] GAO set a goal in its 1974 action plan that 10 percent of all persons hired would be white women, although the percentage of white women employed at the agency at the beginning of the plan year was 15.1 percent. The percentage of white women at the agency by the end of the plan year had fallen by .1 percent; the decrease would have been even greater if the hiring objective had been followed.

[36] The Commission believes its instructions on goals are clear since they distinguish goals from quotas and do not include a reference to general population data. Hampton letter, *supra*, note. 5.

[37] 5 CFR, sec. 713.211 *et seq*. (1969).

[38] Subcommittee on Labor of the Committee on Labor and Public Welfare, 92d Cong., 2d sess., Legislative History on the Equal Employment Opportunity Act of 1972 (Public Law 92–261), pp. 84, 423.

[39] *Id*. The Commission's complaint procedures were also strongly criticized in a report prepared by Ralph Nader's Public Interest Research Group in June 1972. See M. W. Brewer, Jr., Public Interest Research Group, *Behind the Promises: Equal Employment Opportunity in the Federal Government* (1972).

[40] *Supra*, note 21, p. 423.

[41] 5 CFR, sec. 713.211 *et seq*. (1974). The regulations adopted in 1969 were only slightly revised in 1972 following the enactment of the 1972 amendments to title VII, 5 CFR, sec. 713.211 *et seq*., 37 *Fed. Reg*. 22717 (Oct. 21, 1972). A listing of the revisions made at that time is found in FPM Letter No. 713–17, Attachment 1, Nov. 3, 1972.

[42] The name of the Board of Appeals and Review was changed in 1974 to the Appeals Review Board.

[43] The Commission strictly construes the definition of applicant for employment. It has held, for example, that a person who takes a Federal Government basic entry examination but who has not applied for employment at a specific agency is not an applicant with the Civil Service Commission or other agency and, therefore, may not file a complaint. Appeals Review Board Decision in Case No. 713–74–278, Dec. 11, 1973.

[44] The current regulations do not contain a provision included in previous regulations which permitted the filing of a complaint at any time if the alleged discrimination was continuing in nature. Compare 5 CFR, sec. 713.213 (1969) with 5 CFR, sec. 713.214 (1972). Title VII complainants may file discrimination charges with the EEOC against private employers or State and local governments within 180 days of the date of the alleged discriminatory act, 42 USC, sec. 2000c–5(e), but the statutory time limitation has been held not to apply in cases charging continuing discrimination. *Culpepper* v. *Reynolds Metals Co.*, 296 F. Supp. 1232, 1235–6, (N.D. Ga. 1969), rev'd on other grounds, 421 F.2d 888 (5th Cir. 1970).

[45] The Commission maintains that "the great majority of EEO-related issues of concern to employees are resolved informally, and some form of corrective action is taken by the agency as a result of over one-third of these contracts with counselors."

[46] Memorandum to Irving Kator, Assistant Executive Director, CSC, from Anthony W. Hudson, Director, Office of Federal Equal Employment Opportunity, CSC. Aug. 23, 1974.

[47] *Id*. 5 CFR, sec. 713.215. The complainant may challenge such a rejection by appealing to the Commission or by filing a civil action.

[48] Hudson memorandum, note 29.

[49] The Commission has merely indicated that allegations of discrimination which do not fall within the purview of the regulations are those not filed by an employee or applicant for employment in the agency where the act occurred, do not relate to an employment matter over which the agency has jurisdiction, or are not based on race, color, sex, religion, or national origin. FPM Letter No. 713–213, Sept. 21, 1973.

[50] *See*, e.g., Appeals Review Board, decision in Case No. 713–74–275, Dec. 10, 1973. The complainant alleged that an agency policy of controlling grade escalation, which applied to only two job classifications, was discriminatory on the basis of sex, since virtually all employees in the two classifications were women. The complainant was an employee in one of the two job categories.

[51] *See*, e.g., *Oatis* v. *Crown Zellerbach*, 398 F. 2d 496, 499 (5th Cir. 1968); *Jenkins* v. *United Gas Corp.*, 400 F.2d 28, 33 (5th Cir. 1968).

[52] *See*, e.g., *Sanchez* v. *Standard Brands, Inc.*, 431 F.2d 455 (5th Cir. 1970).

[53] 5 CFR, sec. 713.216.

[54] *Id*. Investigators of Federal title VII complaints may be persons with investigative experience or those who work in occupations requiring investigative skills, such as attorneys, auditors, personnel management specialists, or management analysts. FPM Letter No. 713–34, *supra*. The Commission provides training for agency investigators, and has proposed a rule which would require certification by the Commission. Hampton letter, *supra*, note 5.

[55] FPM Letter No. 713–34, June 1974. However, between Sept. 1973 and Apr. 1975, the Commission conducted 18 investigations on the requests of agencies and between Dec. 1974 and Apr. 1975 assumed jurisdiction of 62 complaint investigations because of undue delay by agencies. Hampton letter, *supra*, note 5.

[56] CFR, sec. 713.216.

[57] Investigating Complaints of Discrimination in Federal Employment, CSC, Oct. 1971 [hereinafter cited as Investigation Guidelines].

[58] Draft Investigation Guidelines (undated), provided by Anthony W. Hudson, Director, Office of Federal Equal Employment Opportunity, CSC, Nov. 1, 1974 [hereinafter cited as Draft Investigation Guidelines].

[59] The current guidelines state that the "investigation should be sufficiently comprehensive to uncover any evidence of overt discrimination and should develop enough information to bring out . . . any pattern of nonselection or unfair treatment of members of the complainant's group which might constitute evidence of discrimination . . ." Investigation Guidelines, *supra*, note 40, p. 5.

[60] The draft guidelines state that "A pattern of discrimination is established by evidence which shows disparate treatment of members of the complainant's group when compared with the treatment of members of other groups." Draft Investigation Guidelines, *supra*, note 41, pp. 29–30.

[61] *Griggs* v. *Duke Power Co.*, 401 U.S. 424 (1971).

[62] Investigation Guidelines, *supra*, note 40, p. 9. This limitation can operate severely to the disadvantage of the complainant, since statistical evidence based on the agency as a whole has been held to be highly material to an individual's case. *See*, e.g., *Robinson* v. *Warner*, No. 1654–23 (D.D.C., June 24, 1974) in which the court supplemented the administrative record with statistical evidence based on the entire Navy Command Systems Support Activity and reversed the agency's final determination of nondiscrimination.

[63] Draft Investigation Guidelines, *supra*, note 41, at 30.

[64] Investigation Guidelines, *supra*, note 40, at 15–17.

[65] Investigation Guidelines, *supra*, note 40, at 10; Draft Investigation Guidelines, *supra*, note 41, at 31.

[66] Hudson telephone interview, *supra*, note 221. The Commission consulted with representatives from agency internal EEO programs, including representatives from EEOC. However, the Commission did not consult with the EEOC Office of Compliance. Hampton letter, *supra*, note 5.

[67] Legislative History, *supra*, note 42, at 425. The Commission's staff indicated that EEOC was not consulted concerning the revision because the Commission preceived that the two agencies had basic differences in approach to investigations. According to the Commission's staff, Federal complaint investigators are to look for evidence that individuals received disparate treatment; the Commission's staff felt that EEOC investigations were directed primarily to collecting statistical evidence on the class as a whole. Hudson telephone interview, *supra*, note 29.

[68] Only persons directly connected with the complaint may attend, 5 CFR, sec. 713.218(c)(1). However, the allegedly discriminatory official is not entitled to be present. Discrimination Complaints Examiners Handbook, Office of Federal Equal Employment Opportunity, Apr. 1973, at 36.

[69] 5 CFR, sec. 713.218(a). Complaints examiners must meet the qualifications established in the Commission's GS–930 (Hearings and Appeals) Series, which is applicable to most hearing officer positions not subject to the Administrative Procedure Act. A law degree is not required but may substitute for work experience in adjudicating cases. Expertise in title VII law or employment discrimination matters is not required. Memorandum to J. Philip Bohart, Acting Director, Personnel and Labor Relations Division, from H. Alan McKean, Chief, Standards Division, Apr. 1, 1974.

[70] The complaints examiner has the authority to require agencies to produce witnesses requested by the complainant when the complaints examiner determines that the testimony is "necessary" and where it is not "administratively impracticable" for the agency to comply with the request. 5 CFR, sec. 713.218(e).

[71] CSC does, however, provide a digest of title VII cases for complaints examiners. Hampton letter, *supra*, note 5.

[72] 5 CFR, sec. 713.220(d) and 713.22(b).

[73] A finding of discrimination was made in 170 of 2,000 dispositions. Hudson memorandum, *supra*, note 221. Final dispositions include rejections or cancellations of complaints. Findings of discrimination constituted 12.8 percent of all decisions on the merits. Complaints examiners made findings of discrimination more frequently than did agencies. In the 643 cases which went to a hearing, complaints examiners recommended a finding of discrimination in

109 (16.9 percent) cases. Agencies adopted contrary findings in 26.6 percent of these cases. CSC, Office of Federal Equal Employment Opportunity, Performance by Agency and CSC Complaints Examiners in EEO Discrimination Complaint Cases During FY 1974 (undated).

[74] The Appeals Review Board, formerly called the Board of Appeals and Review, consists of nine members appointed by the Chairman of the Commission. Board members are career civil servants who serve at the pleasure of the chairman. As of Nov. 1974, the Board consisted of 6 anglo males, 1 black male, 1 Spanish surnamed male, and 1 black female, all of whom are attorneys. None of the staff or Board members, as of Nov. 1974, had had any previous experience in title VII law. Interview with William Berzak, Chairman, Appeals Review Board, Nov. 7, 1974.

[75] Of the 2,650 final dispositions, 808 were appealed to the Board during FY 1974. Appeals Review Board, Receipts and Production: EEO Appeals (Oct. 26, 1974).

[76] The Board's definition of "disparate treatment" appears to be extremely narrow. It has held, for example, that "favoritism" is not a form of discrimination prohibited by law or regulations. Appeals Review Board Decision in Case No. 713-74—285, Dec. 17, 1973, wherein the complainant alleged that supervisors showed favoritism to white employees.

[77] The decisions of the Appeals Review Board are largely ad hoc dispositions which do not refer to prior decisions of the Commission or any substantive rules of law.

[78] Minutes of the Civil Service Commission, Nov. 14, 1973, reversing Appeals Review Board Decision No. 713-73-465.

[79] *Id.* Thus, the Commission has held that where sex discrimination was found in the denial of a promotion to a female complainant, she was not entitled to retroactive relief, even though she was the top-ranked candidate for the position, on the grounds that she might have been denied the promotion on grounds other than sex, since hiring officials have some limited discretion. Appeals Review Board, Decision in Case No. 713-74-437, Mar. 14, 1974.

[80] Hudson telephone interview, *supra*, note 29. Hampton letter, *supra*, note 5.

[81] Hampton letter, *supra*, note 5.

[82] The Commission maintains that action plans have received "increased scrutiny in terms of relevance and accomplishment" since 1972. Hampton letter, *supra*, note 5.

[83] For example, the form fails to require that data be cross-tabulated by race, ethnicity, and sex, which can result in counting minority females twice.

[84] CSC Operations Letter No. 273-702, May 1, 1973, Attachment II.

[85] FPM Supp. (Int.) 273-73 (Mar. 1974). The Commission issued preliminary guidelines in December 1972, CSC Operations Memorandum 273-61, which were revised in Sept. 1973. CSC operations Letters No. 273-730, prior to final adoption in 1974. Hampton letter, *supra*, note 5.

[86] FPM Supp. (Int.) No. 273-73 (Mar. 1974) p. 66.

[87] *Id.*, p. 67. The guidelines limit the granting of retroactive relief to those persons who would have received employment or promotion but for the discrimination.

[88] FPM Letter No. 273-24 (Mar. 1974), Attachment.

[89] FPM Supp. (Int.) No. 273-73 (Nov. 1972), at A-45.

[90] *Id.*, at A-46.

[91] The Commission recently wrote that it strongly disagreed with this generalization which it notes is based on a review of only seven reports issued after the 1972 amendments. Hampton letter, *supra*, note 5.

[92] Sex data were collected on the basis of the names of individual incumbents listed in the reports. Interview with Paul Wright, Chief, Planning and Review Section, BPME, CSC, Nov. 18, 1974.

[93] The Commission maintains that the passage of the 1972 amendments to title VII required "a greater depth and intensity of evaluation, rather than a totally different approach." The Commission believes that its evaluations, and the changes which have been implemented since 1972, have been responsive to congressional intent. In addition, in its opinion, the foregoing analysis of its evaluation reports "(a) was so selective as to distort the picture, (b) paraphrased CSC findings in loaded terms, and (c) wrenched conclusions from CSC findings which go beyond what the facts would support." Hampton letter, *supra*, note 5.

[94] Recommendation approved by Enforcement of the Laws Committee Jan. 9, 1976; by IWY Commission Jan. 16, 1976.

[95] All the background information on revenue sharing is excerpted from a study by Denise B. Leary, WEAL Legal Defense and Educational Fund, under contract with the IWY Commission.

[96] Public Law 92-512.

[97] See, e.g., "One Year of Letter Rulings on General Revenue Sharing," Department of the Treasury, Office of Revenue Sharing, Mar. 1974, and Report of the Staff of the Joint Committee on Internal Revenue Taxation, "General Explanation of the State and Local Fiscal Assistance Act," U.S. Congress, Feb. 1973.

[98] Hearing on Revenue Sharing Before the Subcommittee on Intergovernmental Relations of the Senate Committee on Government Operations, 93d Cong., 2d sess., Part I, p. 52, 1974.

[99] Statement of Graham W. Watt, before the Subcommittee on Civil Rights and Constitutional Rights of the House Committee on the Judiciary, Sept. 6, 1973.

[1] ORS plans to check on 10 State-conducted audits in FY 1975 and 20 such audits in FY 1976.

[2] Testimony of Graham W. Watt, before the Subcommittee on Civil Rights and Constitutional Rights of the House Committee on the Judiciary, Sept. 6, 1973, p. 22.

[3] Civil Rights Under General Revenue Sharing, Center for National Policy Review, July 1975, p. 73.

[4] *Mathews* v. *Massell* 356 F. Supp. 291 (N.D. Ga. 1973).

[5] Minorities and Women in State and Local Government 1973, EEOC, vol. 1.

[6] Letter from Edward C. Schmults, General Counsel, Department of Treasury, to Rep. Don E. Edwards, Chairman, Subcommittee on Civil Rights and Constitutional Rights of the House Committee on the Judiciary, Oct. 24, 1973.

[7] *Robinson* v. *Shultz*, Civ. Docket No. 74-248 (D.C.C.), Dec. 1974.

Women in the Workplace

EMPLOYMENT TRENDS

Women continue to enter the labor force in great numbers. The government's economic report for January 1976 stated: "The labor force has grown by 1.5 million over the past year, with adult women accounting for 1.1 million of this increase." This massive movement of women into the labor force is spread across age groups fairly evenly.

Women in Labor Force by Age Groups [1]

Age group	Percent 1947	Percent 1974
20 to 24 years	45	63
25 to 34 years	32	52
35 to 44 years	36	55
45 to 54 years	33	55
55 to 64 years	24	41

[1] Manpower Report of the President, April 1975.

(Percents are of all women in the listed age groups.)

With over 37 million women working outside of the home, the conditions of their employment became a prime concern of the IWY Commission.

The Commission expressed concern about the effect of the economic situation on women's employment. In 1975 and early 1976 private and public employers were laying off workers many of whom were women. These women, who had frequently been the last hired, were the first fired. Many had been hired into traditionally "male jobs" or were women who had been promoted because of affirmative action programs.

Thousands of women workers could not find jobs at all because of the depressed economy. Unemployment rates since 1948 have been higher for women than for men for every year except one. The Commission pointed out that no great inroads can be made in improving the number of women employed, the kinds of jobs open to them, or their pay rates under the economic conditions existing in 1976.

The one million divorces in 1975 certainly were responsible for some of the large numbers of women entering the labor force. When only 14 percent of women are awarded alimony and when child support payments are generally less than half enough to support the children, most divorced women who have been homemakers must enter the labor force or go on welfare.

The principle of "last hired, first fired," was dealt a blow by the U.S. Supreme Court on March 24, 1976. The Court ruled that blacks who were denied jobs in violation of title VII of the Civil Rights Act of 1964 must be awarded retroactive seniority once they succeeded in getting those jobs.

This ruling appears to insure the same rights to women who were discriminated against on the basis of sex.[96] The ruling apparently supports the general concept of affirmative action, which was strongly endorsed by the IWY Commission.

In examining working women and their difficulties, the Commission specifically dealt with four areas. The Commission examined women entering the skilled crafts and blue collar jobs; secretaries; women who own their own businesses; and new ways in which pay rates are being evaluated. These are the subjects of the sections that follow. (For Commission recommendations urging enforcement of antidiscrimination employment laws, see section on "Strong Laws—Weak Enforcement.")

WHERE THE MONEY IS

There's money to be made in skilled craft jobs and some women are going after it.

To learn a trade, get a union card, and find a job are not easy tasks for women. The IWY Commission, through its Enforcement of Laws Committee, examined the barriers that keep women out of high paying crafts.

In particular, they looked into practices in the construction industry to determine how nondiscrimination laws are applied. Construction work has been a white male preserve for so long that a "macho" folklore has grown up around it. But modern technology has made nearly all construction jobs easier and has brought many of them within the capability of many women.

One such woman is Jeralee Tietz of St. Joseph, Missouri, who wanted to be an ironworker and finally succeeded, though she still earned $3.60 an hour less than a man in her job would earn.

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[96] *New York Times*, Mar. 25, 1976, p. 1. The ruling does not mean that every minority member or women who is newly hired by a company that once discriminated can get retroactive seniority. The person must prove in Federal Court that he or she was denied the job because of unlawful discrimination after title VII went into effect. Guidelines were set up for establishing such claims. What the ruling does do apparently is to support affirmative action and strengthen title VII's provisions for affirmative action as a remedy in discrimination cases.

An ironworker? Why would a woman want to be an ironworker?

"I love it," Ms. Tietz says. "You don't have the tedium of an office job. It's physical work and there's the satisfaction of seeing a structure that you helped put up."

Ms. Tietz had grown up around construction. She had been a clerk for her father, a builder, and she was married to an ironworker. One day her husband jokingly asked her to join him on his job. Why not? A clerical salary was $2.25 an hour; an ironworker earned $9.60.

So Mr. Tietz set out to teach his wife and she, like a man without specific experience, applied to the union for a permit while getting on-the-job training. The union refused her request.

She went to work anyway, but without a permit she was a nonunion apprentice on union construction. Finally she was fired when other workers threatened to walk off because of her. Disgusted, her husband quit the union and the two of them worked nonunion jobs. Their pay, however, was $6 an hour instead of $9.60.

In 1975 the couple opened their own business selling and erecting metal buildings, and Ms. Tietz filed a $100,000 sex discrimination lawsuit against the union. In May 1976 the suit was still pending.

One place where women have made a significant breakthrough in construction employment is on the Trans-Alaska pipeline. Enforcement of sex discrimination laws there is a Department of Interior responsibility.[97]

From July 1974 through December 1975 the employment of women in nontraditional, blue-collar construction jobs increased from 21 to 1702.[98] And by the end of the year women were being hired as electricians, welders, sheetmetal workers, carpenters, and pile drivers.

Melva Miller, an apprentice ironworker at Pump Station 1, Prudhoe Bay on the north slope of Alaska, is one who disproves the myth that no women want to do heavy outdoor work. Employed by Alyeska, she worked first as a "bullcook,"[99] making beds and cleaning rooms. She was earning $9.71 an hour, but when the chance came to work her way into an ironworker apprenticeship, she took it.

An Athabascan Indian, Melva was eligible for several minority training programs sponsored by the company, but she chose to learn her new trade on her own at night, after working a full 10-hour day on the cleaning job.

Now she is earning $10.01 an hour, which will increase considerably when she finishes her apprenticeship. As for long-term plans, Melva may return to college or pursue the ironworker trade. "I love welding," she says. "I don't know what I will do after the pipeline, but there are lots of opportunities for women ironworkers."

Another woman on the pipeline, attracted to a "man's" job because of the pay, is Jan Burson, a 22-year-old teamster at Five Mile Camp, the first camp north of the Yukon River.

Jan used to be a secretary in Juneau. Now she is driving a 2,800-gallon tank truck, servicing fuel plants and generators. She's making $10.03 an hour and in the eyes of Bill Clark, a heavy duty mechanic who has been in and around construction for 40 years, "She's doing as good a job as a man could possibly do."

Her foreman, Ernie Mann, says, "I'd like to see a lot of guys work as well as she does."

Jan, who is on the job 10 hours a day, is saving her paychecks for a sailboat and to continue her college education. She already has 2½ years toward a degree in environmental technology and marine biology.

Despite the good record of the Interior Department in Alaska, the Office of Federal Contract Compliance Programs (OFCCP) in the Department of Labor has never required goals for women in voluntary hometown and OFCCP-improved construction plans, such as the "Philadelphia Plan." (Under this plan contractors, unions, and representatives of the minority community met to set goals for minority hiring.)

One excuse given for not including women is the argument that there are no trained women available for these jobs. In 1975, when OFCCP held its first hearing to decide if goals for women would be a good idea in the Baltimore Plan, Federally Employed Women testified that as early as 1970 women were already working in many of the skilled construction trades.

In Baltimore alone there were 109 women carpenters; 131 women electricians; 458 welders and flamecutters.[1]

CONSTRUCTION CRAFT BY SEX[1]

Craft	Men	Women	Total	Women (percent)
Carpenters	8,923	109	9,932	1.21
Electricians	5,632	131	5,763	2.27
Floor layers (except tile)	243	8	251	3.19
Furniture and wood finishers	192	26	218	11.93
Glaziers	253	6	259	2.32
Painters, construction, and maintenance	3,843	94	3,937	2.39
Paperhangers	140	5	145	3.45
Plumbers and pipefitters	4,649	52	4,701	1.11
Roofers and slaters	579	16	595	2.69
Furnacemen, smeltermen, and pourers	1,243	36	1,279	2.81
Welders and flamecutters	5,055	458	5,513	8.31

[1] Bureau of the Census, vol. PC(1)-D22, "Detailed Characteristics." State of Maryland, table 171.

In Washington, D.C. in March 1976 Marcia Baham of Brentwood, Maryland said that although she had been an apprentice with construction experience in the United Brotherhood of Carpenters and Joiners of America for 3 years, she has had trouble holding a job because of her sex. She has filed suit in the U.S. District Court in the Capital asking the court to order that the Washington Plan be amended to include women in its affirmative action goals.

Ms. Baham has been joined in the suit by the Women Working in Construction, Wider Opportunities for Women, and three other women who say they have experienced similar sex discrimination.

Martha Tabor, a pile-driver on Washington's subway project and spokesperson for the Women Working in Construction, said in a Washington Star article April 1, 1976:

"There are about 35 to 40 women working in the skilled construction trades in the Washington metropolitan area and probably more working as laborers . . . The main difficulty is just getting the job . . . If the contractors asked for women, the unions would hire them."

In order to lift the barriers that still keep women from getting high paying jobs, the IWY Commission asks that the Office of Federal Contract Compliance Programs immediately issue instructions that goals for women be included in all imposed and voluntary home town construction plans, either initially or when they are renegotiated. Goals for hires at the journeyman level should be double the percent of women working in each craft (according to the 1970 census), and the goals for hires in apprenticeship programs should be 10 percent initially and increased by 3 to 5 percent a year until 50 percent participation is reached. The Commission also asks that all OFCCP instructions on construction be revised to include women. Also the Commission recommends that the Secretary of Labor revise regulations on apprenticeship programs relating to affirmative action plans and outreach efforts to assure that women are included.

UPWARD MOBILITY FOR SECRETARIES

Most secretaries are women. Gloria P. Green, Department of Labor economist, found recently that 78 percent of clerical workers are women. So are 91 percent of bank tellers, 87 percent of cashiers and bookkeepers, and 74 percent of payroll and timekeeping clerks.[2]

Since so many women work in clerical jobs, the IWY Commission examined the secretarial job and it recommends that supervisors and managers adhere to certain employment principles:[3]

1. The secretarial job should be viewed not only as a career in itself but also as one access route to other professional and technical jobs.
2. Career ladders, accessible to secretarial employees at all pay levels, should exist to provide pathways into other occupational fields.
3. Information about all types of job and training opportunities should flow freely to all employees. A secretary should receive information not only about secretarial opportunities but about other opportunities as well.
4. Job candidates should be routinely evaluated in terms of their acquired skills and past performance, in both paid and unpaid positions, and not primarily in terms of their previous job title.
5. Training agreements (or similar mechanisms) to qualify employees for more promising positions should exist in each place of employment.
6. Supervisors should be involved in career development activities with their employees and rated quite clearly upon their attention to this aspect of managerial responsibility.
7. A prime source of talent for filling vacancies should be current employees.
8. Substantial movement should take place between secretarial jobs and other occupational fields.

THE WOMAN ENTREPRENEUR

Women who want to go into business on their own have enormous problems. Arthur S. Flemming, chairman of the U.S. Commission on Civil Rights, calls them "staggering."

In a 1975 report he wrote:

"Our investigations reveal that minority and female-owned firms encounter problems of staggering proportions in obtaining information on federal, state, and local government contracting opportunities in time to submit bids, and in obtaining working capital necessary for active marketing and bidding.

"Minority and female entrepreneurs also encounter a great deal of skepticism regarding their ability to perform adequately on government contracts."[4]

Although Flemming was talking about women as government contractors, women in private enterprise face obstacles just as great.

The skepticism Flemming described sometimes exists even in the Small Business Administration (SBA). One Beltsville, Maryland woman told the Senate Select Committee on Small Business on February 24, 1976, her experiences in trying to get a Federal contract.

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[97] Interior also has awarded more than $50 million in contracts and purchase orders to female-owned businesses since pipeline construction began.

[98] These gains were accomplished largely through the voluntary compliance of Alyeska Pipeline Service Company, the firm responsible for the design, construction, and operation of the Trans-Alaska pipeline.

[99] The term "bullcook" dates from logging and fishing camp days when there were no women in camp and men who did the cleaning did not want an emasculating title, so "bullcook" was invented.

Footnotes at end of article.

"After 8 months of visits and phone conversations with the SBA staff, beginning in 1976, her experiences in trying to get a Fed-Enterprise Program, called 8(a). I had made it clear from the beginning that I was seeking federal contracts, and yet no one told me, a black woman, about this program.

"After I finally found out about the 8(a) and submitted a business plan, a management evaluator was sent to perform a study and complete the management development plan. The evaluator did provide some valuable technical information, but he also interjected some very disturbing and irrelevant opinions in that plan.

" . . . he completed the form with his ideas, attitudes, and answers, not necessarily mine. He described the business as 'interior design—especially contract and commercial—black female.' I do not agree the words 'black female' describe my business.

"He checked negative to the question regarding spouse's attitude toward business, when in fact I did not have a spouse.

"Another question on the form states: 'As a result of the interview, write a short narrative of the general impression *he* makes as a businessman. Is *he* articulate? Does *he* seem to have energy and drive? . . . Note any other comments you think would be pertinent."

"Following are some of the answers the evaluator gave. 'Ms. X' [name withheld at her request] is a very strong-willed, yet feminine lady. She alleges that her desire to pursue a part-time career was threatening to her ex-husband's self image (maschismo).' The remainder of his answers were so personal and irrelevant to the question that I choose not to verbalize them here."

The evaluator interjected his own value judgments into the report. She said that in his report he wrote that she wanted "slack" time to spend with her 3-year-old daughter. What she really needed, Ms. X said, were contracts to fill her "slack" time in order to put her business on its feet.

She went on to say: "I have since reported the entire matter to the SBA district office . . . and have received apologies . . . I have received my 8(a) approval but have gotten no Federal contracts or subcontracts."

SBA was created by Congress to encourage, assist, and protect the interests of small businesses; to identify and analyze their problems; to serve as voice and advocate for small business; to research and collect data; to widen opportunities for small businesses to start and to compete on an equitable basis; and to insure that small business concerns receive a fair proportion of government purchases.

Most women-owned businesses (90–95 percent) fit the SBA definition of a small business, says Susan Hager, president of the Association of Women Business Owners and president of Hager, Sharp and Klass, Inc., a Washington consulting firm. Ms. Hager says:

"Contrary to popular opinion, the typical woman business owner has not inherited an ongoing and successful business. The female entrepreneur owns a business which she started herself and oftentimes runs out of her home. The business is most likely a retail or service business. It is usually a sole proprietorship which grosses less than $25,000 a year, or is a company which has less than eight employees and grosses less than $100,000 per year." [5]

The only Department of Commerce census of women-owned businesses shows the kinds of enterprises women are most involved in.

See following table.

10 LARGEST MAJOR INDUSTRY GROUPS ACCORDING TO RECEIPTS OF FIRMS OWNED BY WOMEN: 1972 [1]

Industry group	Firms (number)	Receipts (thousands)
Eating and drinking places	27, 402	$993, 170
Miscellaneous retail	65, 265	949, 624
Food stores	16, 994	880, 724
Automotive dealers and gasoline service stations	6, 658	614, 141
Personal services	68, 298	583, 590
Real estate	28, 440	383, 208
Apparel and accessory stores	8, 391	357, 838
Construction-special trade contractors	11, 620	296, 930
Business services	21, 312	212, 330
Hotels and other lodging places	12, 546	196, 449

[1] "Women-owned Businesses: 1972," Department of Commerce, January 1976, p. 2.

When the Commission on Civil Rights asked a group of women to identify their major obtacles in obtaining contracts, more than half of them cited not only the lack of knowledge about bidding opportunities but also the lack of sufficient working capital.[6]

Not every woman in small business fails. Consider the success story of Priscilla Salazar of Denver, Colorado.

In 1974 Ms. Salazar, with the help of the Small Business Administration, obtained credit so she could open her own business, the "El Camino Real Bookstore." She not only succeeded with that; this year (1976) she landed a $200,000 Federal contract to supply educational materials to the Bureau of Indian Affairs.

Ms. Salazar had the help and encouragement of a former business associate in getting herself established. And through the assistance of the General Services Administration she became certified as a minority contractor. Space was located for her store in the Denver Federal Center and she got an SBA-backed loan from a Chicano bank, the Coronado National Bank of Denver. Within its first 9 months, the 2,000-square-foot store grossed $50,000.

"I felt there was a need for a central distribution point for bilingual materials on Chicanos and Native Americans, a place where teachers and librarians could come and browse," Ms. Salazar says. "And I certainly didn't object to making money."

Besides her walk-in store, she has also built up a large mail order business. Encouraged by her Federal contract with the Bureau of Indian Affairs, she is also thinking of adding bookmobiles to go into the rural areas of the Southwest.

She says she has had no great difficulties in her business, but she had to have her husband's signature and credit rating before she could obtain loans. She does get tired of receiving letters addressed "Dear Sir" or "Gentlemen."

She is building up a special line of scientific and technical materials and plans to add more materials by and about Chicanos and Native American women. No wonder Denver Coalition Ventures in 1975 selected her as the Outstanding Businessperson.

It is good to report also that various Federal agencies are taking an increasing interest in the woman entrepreneur. At a March 3, 1976, White House meeting on women in business, President Ford said:

". . . I am a strong believer that women have to play a major role in the business world . . . The role of women and the role of small business together should create a lively interest."

As a result of this meeting several Federal agencies will hold seminars around the country to provide technical assistance and tips on doing business with the government. The agencies also agreed to name top-level liaison persons to work with women's organizations and to help raise the consciousness levels of loan and procurement officers in regard to business women.

Inez Kaiser of Kansas City, president of the National Association of Minority Women in Business, summed up the meeting.

"We must leave united as a group of woment to work together as women in business. Today is not the end but the beginning of working on our problems—let's pool our knowledge so we all can get a piece of the pie."

The IWY Commission joins Ms. Kaiser in calling for strong efforts to help bring more women into business ownership. In recommending a number of related actions (see Part V for all recommendations), Commission asks the President to issue an Executive order establishing as national policy the full integration of women in business-related and procurement activities of the government.

The Commission also asks the President to amend Executive Order 11625 so that women are covered by programs administered by the Office of Minority Business Enterprise, which assists disadvantaged entrepreneurs.

Other recommendations ask for the collection of related data by sex, the development of outreach programs for women, an increase in the number of government contracts going to women, and monitoring of progress.

WHAT ARE "EQUAL WORK" AND "EQUAL VALUE"?

"Where is it written that an industrial nurse should be paid less than a millwright or an electrician?" asks Dorothy Haener, International Representative, United Auto Workers, Detroit, Michigan.

"When you compare educational backgrounds and the skills used, you really have to question the pay rates.

"And did you know that in most factories the secretary earns less than the floor sweeper?"

Women are beginning to ask these kinds of questions as the concept of equal pay for equal work expands into a broader concept: equal pay for work of equal value.

For instance, the Equal Pay Act requires equal pay for male clerks and female clerks doing essentially the same work, but it does not require equal pay for men and women doing work of comparable worth such as an electrician and a nurse.

Analyzing dissimilar jobs to determine their relative salary levels has been done for decades by industrial psychologists through job evaluation systems. Such systems are not performance appraisals of individuals; their purpose is to establish the worth of a variety of occupations to a business. Jobs of comparable worth then are to be paid the same salary.

The impetus of civil rights legislation and court decisions has led some industrial psychologists to look more closely at the methods used to evaluate jobs.

Judith Collins, a Chicago management consultant, says subtle sexisms frequently are presently in such evaluations.

"They may have built-in biases which weight men's jobs more than women's jobs. This, of course, means that the men get paid more money.

"Let me give you an example. Industrial psychologists typically select several factors on which jobs will be evaluated to determine their 'worth.' These factors almost always include ones associated with men's jobs such as weightlifting and working conditions. But I have never seen a study which used the factor of manual dexterity which would give more value to women's jobs."

Or, as Dr. Bert Gottleib, a well-known industrial engineer puts it, "Why is lifting weight worth more money than thinking clearly?"

The IWY Commission felt that job evaluation systems ought to be examined because of their large impact on women's salaries. Testimony was heard from several sources, including the State of Washington.

Washington State decided to examine jobs

Footnotes at end of article.

of "comparable worth" in government and higher education to see if women were getting less money for doing jobs equal in skill and responsibility to those of men.

The final report concluded that there was an overall salary gap of 20 percent between men's and women's jobs of "comparable worth," with the men on top. No "women's jobs" were paid more than $800 per month yet 10 men's jobs received over $800 per month.

The impetus for the study came, incidentally, from the Federation of State Employees.

The process used to evaluate a job's worth was as follows:

One hundred twenty-one job titles were selected for study because each was filled 70 percent or more by men or by women.

Data on job content was gathered by using an extensive questionnaire which asked, "What is the most important duty of your job?"; "What reference materials do you use?"; "What is the hardest part of the job?"; and "What records and reports do you fill out?". The focus was on job classification and duties, not on the performance of any individual.

The committees assigned points to various job components, such as interpersonal skills, knowledge, accountability, and working conditions. The points were then compiled to develop a "comparability worth" for that job.[7]

"Nothing has been done so far to implement the study," says Gisela Tabor, former executive director of the Washington State Commission on the Status of Women. "It would cost the state $55 million to equalize these pay scales."

The *Dictionary of Occupational Titles* (*DOT*), which is presently in wide use by private industry and some State and local governments, caused a roadblock in 1970 in the State of Wisconsin.

The *DOT* is published every 10 years by the Department of Labor. It lists titles and assesses the tasks of 21,741 salaried occupations. Each job is given a code with three numbers defining the occupation and another three numbers assigning a skill level.

The staff of a federally funded project, Women in Wisconsin Apprenticeship, wanted to set up a 1970 program to train disadvantaged women as day care teachers. Planners sought to implement the recommendations from the study Women's Work—Up From .878 and on the Equal Employment Opportunity Commission to develop guidelines for assessing job evaluation systems for the purpose of eliminating inherent sexism.

FOOTNOTES

[1] Women Employed in Construction Crafts, Baltimore, Md., 1970.

[2] John O'Riley, "The Outlook: Review of Current Trends in Business and Finance," *Wall Street Journal*, Mar. 8, 1976.

[3] Substantially similar to recommendations of the HEW Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[4] Minorities and Women as Government Contractors, U.S. Commission on Civil Rights, May 1975, p. 1.

[5] Testimony of Susan Hager before the Senate Select Committee on Small Business, Feb. 24, 1976.

[6] CCR Report, p. 24.

[7] Norman D. Willis and Associates, "State of Washington—Comparable Worth Study," Sept. 1974.

WOMEN IN EMPLOYMENT COMMITTEE[36]

STATISTICS ON EMPLOYED WOMEN[37]

The IWY Commission recommends that:

1. The President direct the Secretaries of Labor and Commerce to expand the collection and publication of data that identifies minority women—including those of Hispanic origin, and black, Oriental-American, and American Indian women. The data should cover employment, earnings, and union membership of such women.

2. The National Labor Relations Board include in its case records the sex and race or ethnicity of the person or persons involved and that this information be collected and made public.

Background

The December 1974 issue of the *Monthly Labor Review* contains an article, "Measuring Union-Nonunion Earnings Differences," which breaks pertinent statistics down into the following categories: all workers, white men, black men, white women, and black women. Although the Hispanic population in the United States is estimated at approximately 16 million, no statistics are offered for this important sector or for other minority groups. This seems to be typical of most data emanating from the government.

Secondly, it is impossible to obtain figures on the different groups of minority women who are members of labor unions. There are statistics on the number of women members as a class, and on the numbers of black, Hispanic-origin, and other classes of union members. However, there is no way to ascertain the number of *minority women* in the union movement.

Thirdly, at present the National Labor Relations Board keeps no record of the sex of persons with whom it deals. This information is necessary in order to learn the number of women filing charges for nonrepresentation and sex discrimination as well as other matters handled by the Board.

Since sound public policy on the economic status of women in the United States requires detailed data on their employment, earnings, union membership, and related matters, the committee feels strongly that the above recommendations should be implemented as soon as possible. The information gathered would be particularly helpful in drawing geographical profiles of the economic status of women workers and would be of great help in completing the picture of the national level.

The committee's conviction on this problem is confirmed in the World Plan of Action, adopted at the U.N. IWY World Conference at Mexico City with the support and approval of the United States:

Paragraph 161—This Plan gives high priority to National, regional, and international research activities, and data collection and analysis on all aspects of the situation of women, since adequate data and information are essential in formulating policies and evaluating progress and in effecting attitudinal and basic social and economic change;

Paragraph 162—A major difficulty in assessing the economic contribution of women at the present time is lack of or incomplete data and indicators to measure the situation of women as it affects the process of development and is in turn affected by it.

EXTENDING SERVICES OF WOMEN ENTREPRENEURS IN GOVERNMENT BUSINESS[38]

The IWY Commission recommends that the President:

1. Issue an Executive order establishing as National policy (a) the full integration of women intrepreneurs in government-wide business-related and procurement activities, including a directive to all government agencies to assess the impact of these activities on women business owners; (b) the development of outreach and action programs to bring about the full integration of women entrepeneurs into business-related government activities and procurement; (c) the development of evaluation and monitoring programs to assess progress periodically and to develop new programs; and (d) amendment of Executive Order 11625[39] to add women to its coverage and to programs administered by the Office of Minority Business Enterprise.

2. Direct the Small Business Administration (SBA) (a) to add women to the definition of socially or economically disadvantaged groups as published in the Code of Federal Regulations; (b) to develop a special outreach program to use publicity, workshops, local task forces, national and local media, and community education projects to encourage women to participate in SBA programs (particularly minority women including blacks, Hispanics, Asian-Americans, and Native Americans); and (c) to maintain all relevant data categorized by sex and race or ethnicity for monitoring and evaluation.

3. Direct all contracting agencies to increase the percentage of the annual dollar amount of procurement contracts awarded to women-owned businesses and to maintain records by sex and race or ethnicity for monitoring and evaluation.

4. Direct the General Services Administration to amend, so as to include women, the Federal Procurement Regulations requiring that all firms holding government contracts exceeding $5,000 insure that "minority business enterprises have the maximum practicable opportunity to participate in the performance of Government contracts."[40]

5. Direct the Department of Labor, Office of Federal Contract Compliance Programs (OFCCP), to assure that compliance officers monitor the awards of subcontracts in order to assure that women-owned businesses are equitably treated.

Background

In lieu of a further recommendation on the enforcement responsibilities of the OFCCP to insure against sex discrimination, the Committee on Women in Employment wishes to go on record in support of the recommendations of the Committee on Enforcement of the Laws.

In May 1975, the U.S. Civil Rights Commission released a report entitled *Minorities and Women as Government Contractors*. Of it, Chairman Arthur S. Flemming wrote:

> Our investigations revealed that minority- and female-owned firms encounter problems of staggering proportions in obtaining information on Federal, State, and local Government contracting opportunities in time to submit timely bids, and in obtaining the working capital necessary for effective marketing and bidding. Minority and female entrepreneurs also encounter a great deal of skepticism regarding their ability to perform adequately on Government contracts.

The report also notes that "Small Business Administration officials assert that assisting the development of female-owned businesses is not the current national policy."

Since most women-owned businesses are small businesses, the SBA obviously could be a formidable ally by equitably guaranteeing loans to women entrepreneurs and by getting them to participate in its programs, under the 1974 amendment to its authorizing legislation which prohibits sex discrimination. However, according to the above-mentioned report:

"In FY 1974, SBA loaned 27,485 firms a total of nearly two billion dollars, but female-owned firms . . . received 1,946 loans totaling $90,287,000. This amounted to 4.6 percent of SBA's total loans for that fiscal year.

The SBA is authorized by Congress, in section 8(a) of the Small Business Act of 1953, to contract with Federal agencies to provide goods and services, in turn subcontracting with small businesses which are owned by the "socially or economically disadvantaged." According to the SBA, women are not treated as a minority group because they represent a majority of the population.

However, because Viet-Nam veterans in 1973 were added to the definition of eligibility under the 8(a) program, a substantial basis may exist for the formal inclusion

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Footnotes at end of article.

of women, who constitute only a small fraction of the business owners in this country. Criteria for inclusion in this program are based upon the lack of opportunity to develop and maintain a competitive position in the economy because of cultural, social, or economic disadvantages. Such persons include black Americans, American Indians, Spanish-Americans, Oriental-Americans, Eskimos and Aleuts, and now Viet-Nam veterans.

According to the Civil Rights Commission, the policy that white women are not eligible in the special 8(a) program is administrative, rather than statutory, policy:

> Since the U.S. Court of Appeals for the Fifth Circuit has upheld SBA's broad discretion to determine the nature and scope of the 8(a) program and define the class of businesses eligible to participate,[41] it is within the discretion of the Administrator of SBA to decide whether women as a group are "socially or economically disadvantaged" for the purpose of participating in the 8(a) program. Despite the recent enactment of the anti-sex-discrimination legislation as an amendment to the Small Business Act, SBA's position is that women as a group are not eligible though individual women may be.[42]

The committee has noted that the SBA, in its impact evaluation statement prepared for the IWY Interdepartmental Task Force, reports that it has begun collecting more data and sharpening its evaluation of effectiveness in delivering program assistance to women in business. Moreover, the statement reports that in the future data will be kept by sex for those program areas which have failed to reflect this factor in the past.

With regard to outreach activities, the SBA impact evaluation statement sent to the IWY Commission by the Office of the Administrator says:

> Our Management Assistance Program consists primarily of workshops, small business institutes, and other training sessions which provide technical training such as information on tax problems of small business, inventory accountability, and similar management problems dealt with by the owners of small businesses. . . . This office has suggested that more women might be reached if a special effort to reach business women's groups is made.

As to contracts awarded by government agencies, the same procedure should be followed. That is, records should be kept by sex and race or ethnicity for purposes of monitoring and evaluating. Special efforts must be made to increase the overall percentage of contracts awarded to women-owned businesses. It should be noted that at present most analyses published by government agencies on contract procurement include no breakdown whatsoever by sex.

The above recommendation calls for the inclusion of women in the pertinent sections of Federal Procurement Regulations, in order that women-owned businesses may also be afforded the "maximum practicable opportunity to participate in the performance of Government contracts," as is now the case with "minority business enterprises."

Also of serious concern is the apparent failure of the OFCCP to enforce compliance with nondiscriminatory provisions of its enabling legislation as they pertain to sex. As Commissioner Barbara R. Bergmann stated in her August 1974 paper, "The Struggle of Women in the United States:"

> **Unfortunately, Americans have a habit of expressing their good intentions by passing laws, but then failing to enforce them. What is still missing in the United States is an effective strategy for implementation of anti-discrimination laws and also, frankly, the will to enforce these laws. The Office of Federal Contract Compliance is charged with taking action against Government contractors who discriminate, but has been inactive, almost moribund.**

EQUAL EMPLOYMENT OPPORTUNITY IN APPRENTICESHIP AND TRAINING PROGRAMS [43]

The IWY Commission recommends that the Secretary of Labor revise the Regulations on Nondiscrimination in Apprenticeship (Part 30—Equal Employment Opportunity in Apprenticeship and Training) to make them consistent with their stated scope and purpose. Specifically, the provisions relating to "affirmative action plans" (sec. 30.4)—including outreach efforts, goals and timetables, the "selection of apprentices" (sec. 30.5), and "existing lists of eligibles and public notice" (sec. 30.6)—should be revised to include women in order that they too may be covered by these provisions.

The Commission further recommends that sec. 30.4(c)(9) of these Regulations, which calls for "Admitting to apprenticeship persons whose age exceeds the maximum age for admission to the program, where such action is necessary to assist the sponsor in achieving its affirmative action obligations," be fully implemented with regard to the admission of women.

Background

The stated purpose of the Regulations on Nondiscrimination in Apprenticeship and Training as set forth in title 29 CFR 30, issued by the Secretary of Labor in 1971, is "to promote equality of opportunity in apprenticeship by prohibiting discrimination based on race, color, religion, national origin, or sex."

The policies and procedures established to end such discrimination apply to the recruitment, selection, employment, and training of apprentices, and to all conditions of employment and training during apprenticeship. However, some of these provisions (as mentioned above) apply only to minority groups and not to women. It is the obligation of each sponsor of an apprenticeship program to uniformly apply rules and regulations in a nondiscriminatory manner. However, the applicable regulations on affirmative action plans and goals and timetables do not include sex, nor do they recognize a need to include women in apprenticeship programs. The Commission therefore urges that the word "sex" or "women" be added wherever mention is made of minorities.

Moreover, the Commission urges that age restrictions for admission to apprenticeship programs be waived for women, in order that affirmative action plans may be fully implemented in accordance with sec. 30.4(c)(9) as quoted above. Eliminating upward age limits for women is especially important because such restrictions have the effect of perpetuating prior discrimination against females, many of whom were in their childbearing years during the eligibility period for most apprenticeship programs. Also, women who were anxious to enter apprenticeship training programs in the past and who were discriminated against because of their sex now find themselves again disqualified because of the age limits imposed.

WOMEN AND UNION ORGANIZATION [44]

The IWY Commission recommends that:

1. The President ask Congress for legislation to extend U.S. policy encouraging collective bargaining, as provided by the National Labor Relations Act (NLRA), to now-excluded occupations in which women predominate.

2. Unions review the impact on women of all their practices, including negotiation of contracts, representation in grievance proceedings, organizing priorities, and appointment of personnel, and that they correct any practices that are unjust to women.

3. The President appoint to the National Labor Relations Board (NLRB) women and men who know about the obstacles confronting workers—particularly female workers seeking to organize in traditionally non-unionized employment sectors.

Background

The NLRB is not applicable to everyone who works. But from time to time Congress amends the act to include additional groups of employees. For example, employees of hospitals operated entirely on a nonprofit basis were excepted from the act until it was amended by Congress in 1974 (Public Law 93-360). Through that amendment, approximately two and one-half million workers employed in the health care industry came under the protection of the NLRA.

Still excluded from the protection of the act, however, are domestic servants.[45] Currently, 1,141,000 women are employed as private household workers, 98 percent of them women. Yet this occupation is excluded from coverage by the NLRA.

Women constitute approximately 40 percent of the total U.S. labor force of nearly 90 million. The April 1975 statistics of the Labor Department's Employment Standards Administration, Women's Bureau, show that women represent well over a majority of the total number of persons employed in certain occupations: health workers—62.6 percent; teachers (except college)—70.9 percent; clerical workers—77.5 percent; retail sales workers—61.2 percent; and service workers—62 percent. In a 1974 paper, "The Struggle of Women in the United States," Commissioner Barbara R. Bergmann[46] made the following comment regarding occupational segregation: . . . about 70 percent of women work in occupations in which women predominate, or are over-represented . . . In 1890, women were "in their place" in clerical jobs, in elementary teaching, in nursing, in light factory work, as retail clerks, in domestic work. The same list is appropriate today.

Of the more than 35 million women workers in the United States, only about four million are members of labor unions. Consequently, most women in the labor force suffer not only from poor earnings, but also from lack of security and of benefits. As Boston Attorney J. F. Goldstein of Angoff, Goldman, Pyle and Wanger put it when testifying before this committee:

> Such issues as part-time work, employer-provided day care, childbearing sabbaticals, flexible work schedules, and opportunities for advancement are all examples of issues important to working women which will only be discussed and implemented through employees organizing and demanding results from employers.

Organization and unionization give women the right to demand certain conditions from their employers and potentially the power to exert their demands on the employer. Without unionization, the employer has no legal obligation to listen to or deal with any employee.

It is felt that many of the issues cited above could be handled efficiently, creatively, and equitably through the collective bargaining process.

In a study "Measuring Union-Nonunion Earnings Differences," published in the December 1974 *Monthly Labor Review*, Bureau of Labor Statistics economist Paul Ryscavage concludes that "union-nonunion earnings differences are substantial." In fact, the study shows that hourly wage rates for union members in craft and operative sectors were from 15–20 percent higher. For women in clerical, operative, and service jobs (those categories in which women are most numerous), union members earned from 20–25 percent more than their nonunion sisters. Thus union membership represents one means through which the economic status of employed women may be improved.

In addition to the implicit social benefits from improving women's status in the job market, there are overall gains to be won for the economy in general. As Commissioner

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Footnotes at end of article.

Bergmann stated in her aforementioned paper of 1974:

> The United States needs a vigorous program to improve the economic position of women, or the present worsening trends in women's unemployment, wages, and welfare dependence will continue and accelerate as more women enter the labor market.

The October 1975 AFL–CIO Convention declared that organizing the unorganized is "the most compelling task we face." A resolution adopted by the Convention states that "the aim and purpose of the labor movement is to advance the welfare of working people. . . . We must always keep in mind that if our standards are higher today and we enjoy the benefits of industrial democracy, it is only because others, in turn, have helped us to organize."

The organizing program adopted as part of this resolution especially emphasizes workers "for whom collective bargaining is essential for raising above even the minimum standards of decent family living; the whole range of white collar occupations, professional, technical and clerical; and employees in the many service trades."

As indicated at the outset, these are some of the very areas in which the majority of women workers are concentrated.

Moreover, the AFL–CIO strongly and effectively supported the enactment of the Civil Rights Act of 1964, as well as the Equal Employment Opportunity Act of 1972, which amended title VII by extending its coverage and empowering the Equal Opportunity Employment Commission to bring civil suit in Federal court.

"It continues to support equal opportunity as well as other forms of civil rights through the Leadership Conference on Civil Rights and its own civil rights department."[47]

Nevertheless, a review of cases filed under the Equal Pay Act and title VII of the Civil Rights Act indicates that some union practices have tended to be discriminatory with regard to women. As stated in the above-cited article:

> Among international unions and local unions, in and outside the AFL–CIO, there is much variation in policy ranging from enthusiastic support to outright hostility on the part of a few, with relative indifference on the part of most.

The article goes on to mention the positive steps taken by some unions, including the International Union of Electrical, Radio, and Machine Workers (IUE); Woodworkers; United Auto Workers (UAW); Brotherhood of Railway and Airline Clerks; Cement, Lime and Gypsum Workers; United Electrical Workers; and Textile Workers Union.

Thus, given the variety of responses to the question of discrimination based on sex, the committee believes that a review by unions of their overall practices would be most beneficial.

With regard to the third recommendation above, the Women in Employment Committee believes that only those with knowledge and experience in the field of labor relations and fair representation should be appointed to serve on the NLRB.

Original version

The committee's recommendations on organizing women as originally proposed were as follows:

1. The committee recommends (a) that women, who constitute a pool of low-wage unorganized workers employed in predominately female industries and occupations, seek the advantages of collective bargaining; and (b) that labor unions continue and intensify their organizing efforts among women.

2. The committee requests the President to ask Congress for legislation to extend current U.S. policy encouraging collective bargaining, as provided by the terms of the NLRA, to excluded occupations in which women predominate.

3. The committee requests the President to appoint to NLRB women and men (a) who know about the obstacles confronting workers—particularly female workers seeking to organize in traditionally nonunionized employment sectors, and (b) who are committed to preventing employer-created obstacles from obstructing union organization.

WOMEN AND EMPLOYMENT[48]

Because a disparate proportion of all poor families are headed by women and because women are the last hired and the first fired, the IWY Commission urges the President to assure equitable treatment of women in employment by implementing the Employment Act of 1946 and by reviewing federally funded training programs.

UNEMPLOYMENT RATES BY PERCENT, 1948–75[1]

	All workers	Men	Women
1948	3.8	3.6	4.1
1949	5.9	5.9	6.0
1950	5.3	5.1	5.7
1951	3.3	2.8	4.4
1952	3.0	2.8	3.6
1953	2.9	2.8	3.3
1954	5.5	5.3	6.0
1955	4.4	4.2	4.9
1956	4.1	3.8	4.8
1957	4.3	4.1	4.7
1958	6.8	6.8	6.8
1959	5.5	5.3	5.9
1960	5.5	5.4	5.9
1961	6.7	6.4	7.2
1962	5.5	5.2	6.2
1963	5.7	5.2	6.5
1964	5.2	4.6	6.2
1965	4.5	4.0	5.5
1966	3.8	3.2	4.8
1967	3.8	3.1	5.2
1968	3.6	2.9	4.8
1969	3.5	2.8	4.7
1970	4.9	4.4	5.9
1971	5.9	5.3	6.9
1972	5.6	4.9	6.6
1973	4.9	4.1	6.0
1974	5.6	4.8	6.7
1975	8.5	7.9	9.3

[1] Bureau of Labor Statistics.

Background

As the above table indicates, since 1948, with the exception of 1958, unemployment rates for women have been consistenly higher than for men. While the size of the gap between unemployment rates for women and men has varied over the years, there has tended to be a fairly consistent widening between the two. In 1960, for example, women had a jobless rate of 5.9 percent compared with 5.4 percent for men, a gap of 0.5 percent. In 1975, joblessness among women was 9.3 percent compared with 7.9 percent among men, a gap of 1.4 percent.

Original version

The committee's recommendation on full employment as originally proposed was as follows:

The committee recommends that we call upon our elected representatives in government to commit themselves to developing an economic bill of rights that will affirm the right of every American who is able and willing to work to a suitable job at decent wages. This is particularly important since women consistently have higher unemployment rates than men and are in need of such a policy. We need a mandate for all agencies of government, including the Federal Reserve Board, to enforce this commitment through appropriate policies. We must assure that the goal of full employment is not sacrificed in the interest of any other economic goal. We need legislation requiring the President and the Congress to prepare budgets and devise programs which will reduce unemployment to no more than 3 percent, and hopefully less.

Statistics must include discouraged job seekers, who are disproportionately women, as part of the unemployed.

FOOTNOTES

[36] IWY Commission Members: Velma Murphy Hill, Chair. Other Commission members: Weston Christopherson, Hon. Mary Stallings Coleman, Hon. Winfield Dunn, Hon. Martha Griffiths, Patricia Hutar, Ellen Groves Kirby, Ersa H. Poston, Sister Joel Read, and Betty Smith. Public members: Dr. Martha Blaxall, Treasurer of Federation of Organizations for Professional Women; Dr. Alice Cook, Professor Emerita at School of Industrial and Labor Relations at Cornell University; Walter Davis, Director of AFL–CIO Education Department; Dorothy Haener, International Representative of United Auto Workers Women's Department; Gloria Johnson, Education Director of International Union of Electrical, Radio, and Machine Workers and Treasurer of Coalition of Labor Union Women; Mary E. King, First Vice President of Association of Women Business Owners; Ada Pena, National Vice President (Midwest) of League of United Latin American Citizens; and Edith Barksdale Sloan, Executive Director of National Committee on Household Employment.

Staff member: Joan Goodin.

[37] Recommendation approved by Women in Employment Committee Feb. 18, 1976; by IWY Commission Feb. 27, 1976.

[38] Recommendation approved by Women in Employment Committee Feb. 18, 1976; by IWY Commission Feb. 27, 1976.

[39] Executive Order 11625 of Oct. 13, 1971, "Prescribing Additional Arrangements for Developing and Coordinating a National Program for Minority Business Enterprise," called for the creation of the Office of Minority Business Enterprise.

[40] Chap. 1, Part 1–1, subpart 1–1.13.

[41] *Ray Baille Trash Hauling, Inc.* v. *Kleppe*, 477 F2d 696 (5th Cir., 1973). Cert. denied Feb. 19, 1974, 415 U.S. 914

[42] U.S. Civil Rights Commission, "Minorities and Women as Government Contractors," pp. 33–34, May 1975.

[43] Recommendation approved by Women in Employment Committee Feb. 26, 1976; by IWY Commission Feb. 27, 1976.

[44] Recommendation approved by the IWY Commission Feb. 27, 1976. For the version submitted to the Commission by the Women in Employment Committee, see "Original Version," following background comments on the above recommendations.

[45] "A Layman's Guide to Basic Law Under the National Labor Relations Act," *NLRB*, U.S. Government Printing Office, 1971, p. 48.

[46] Professor of Economics and Director, Project on the Economics of Discrimination, University of Maryland. This paper was prepared for a summer school organized by the U.N. Association of Sweden and the U.N. Youth of Sweden, Kungalv, Sweden, Aug. 1974.

[47] Herbert Hammerman and Marvin Rogoff (EEOC), "The Union Role in Title VII Enforcement," Spring 1975, *Civil Rights Digest*, p. 22.

[48] Approved by IWY Commission Feb. 27, 1976. For the version submitted to the Commission by the Women in Employment Committee, see "Original Version," following background comments on this recommendation.

PROSPECTS FOR INTERNATIONAL LIMITS ON ARMS SALES

Mr. CULVER. Mr. President, today I received a letter from Secretary of State Henry Kissinger transmitting a study of "Prospects for Multilateral Conventional Arms Transfer Restraints."

This letter and the accompanying study were prepared in response to a congressional initiative last October in which over 100 Members of Congress joined me in urging the Secretary of State to "convene an international conference of major arms-producing nations to seek some rational control and coordination of what now seems to be pathological competition in foreign military sales."

Secretary Kissinger had sent an interim reply last November 28, promising "a full scale review of possible limitations on the traffic in conventional arms."

The administration's study calls global control arrangements "politically infeasible." It considers regional agreements on highly selective weapons "very difficult and perhaps impossible to negotiate." It declares that "formidable political and psychological obstacles would have to be overcome in most regions to attain meaningful restraint arrangements." And it argues that the only chance of success would come through "quiet diplomatic exchanges" rather than "the full glare of international publicity."

These are very sobering conclusions. They reflect quite accurately the present international environment in which all major producing nations want to cash in on the arms trade and the buyers want to buy all that their treasuries will allow.

Mr. President, the administration's study would appear to be a Catch 22 catalog of the imposing difficulties in arriving at any agreement among the arms-producing nations on restraint in foreign military sales.

I assure you that the 102 Members of Congress who signed the letter to Secretary Kissinger were not unmindful of these problems.

However, we felt the stakes were too high to give up without an effort. The present pathological and ever-escalating competition among nations to sell the weapons of death presents an unmistakable collision course so far as the future peace of the world is concerned.

How do we break out of this deadly cycle?

This problem is much too serious for us to surrender without a fight, without a major effort to bring this mad race under some kind of control.

Every day that the diplomats shrug their shoulders or politely wash their hands of this problem brings us that much closer to the day when these weapons will be fired in anger. But then it will be too late.

War may be inevitable between many nations, regardless of the level of arms sales. But it is probably less certain, and surely much less deadly, if the world community has tried to limit the proliferation of modern weapons.

Only a few years ago, who would have expected the United States to achieve improved relations with the People's Republic of China or strategic arms limitation agreements with the Soviet Union? Only a few months ago, what analysts would have predicted agreement by Rhodesia to a timetable for black majority rule?

Doing the "impossible" may well take a little longer, but we should still make the effort to restrain the increasing traffic in conventional armaments.

In fact, of course, it is in our long-run interest to avoid feeding regional arms races, to avoid the unwitting transfer of advanced technology, and to avoid reductions in our own combat readiness for the sake of foreign sales.

Regrettably, this administration appears to have no clear policy on our own arms sales, other than to sell as much as possible, and only a negative policy of ruling out any major effort to seek international limits. That is a prescription for disaster.

Mr. President, the world looks to the United States for moral leadership toward peace and deacceleration of the arms race. Since we account for nearly one half of the total world arms trade, clearly the responsibility is ours to initiate action before it is too late and the momentum is irreversible.

As I have suggested before, one means of creating the incentives for successful agreement is to link discussions on controls of foreign sales to discussions on the standardization of weapons with our NATO allies. Since together we account for nearly two-thirds of the world arms trade, there should be a great many areas for accommodation so that national defense industries can remain efficient and productive.

We should use every opportunity, every international forum, every private diplomatic exchange to push for restraint and cooperation. For, unless we act, then it is indeed certain that the world will be locked into this dangerous spiral toward ever larger military forces.

Mr. President, I ask unanimous consent that Secretary Kissinger's letter and the study on the prospects for international restraints be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, D.C., September 16, 1976.

Hon. JOHN C. CULVER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CULVER: On October 30, you wrote me to express your concern and that of your colleagues about the worldwide increase in the acquisition of conventional arms and to suggest that the United States initiate efforts to convene an international conference of arms suppliers, beginning with the NATO nations as a first step, on guidelines for arms sales.

In response, my letter of November 28 informed you that I had asked for a full-scale internal review of possible limitations on traffic in conventional arms, that your suggestion would be most carefully considered, and that we would keep in close touch with the Congress on the matter. That study, which addressed the problem in depth in its global and regional contexts, has now been completed, and I have enclosed a general summary of it. I hope you will find it a useful document.

As you know, the conventional arms transfer issue is highly sensitive to many governments. A more specific treatment of the issue, if set out in an official, unclassified document, would damage our relations with a number of countries and also the prospects for the kind of multilateral restraints that you and your colleagues propose. Therefore, I have asked Mr. George Vest, Director of the Department's Bureau of Politico-Military Affairs, to provide you and other Senators who may wish them confidential oral briefings as a supplement to the general discussion of the problem contained in the enclosure to this letter.

After our exchange of correspondence last fall, the Congress passed and the President signed the International Security Assistance and Arms Export Control Act of 1976. Section 202 of the Act states that it is the sense of the Congress that "the President should undertake a concerted effort to convene an international conference of major arms supplying and arms purchasing nations" to consider limits on conventional arms transfers. A report to the Congress is required within a year on efforts being made by the United States in this area. I am sure you will understand that this letter carries forward our exchange of views begun last fall and should not be read as a partial response by the Administration to the new legislation.

Copies of this letter and its enclosure are being sent to the co-signers of your letter of October 30.

Best regards,

HENRY A. KISSINGER.

PROSPECTS FOR MULTILATERAL CONVENTIONAL ARMS TRANSFER RESTRAINTS

I. TRENDS IN ARMS TRANSFERS

The value of world arms transfers,* measured in 1973 US dollars, rose from about $5.3 billion in 1965 to almost $9.6 billion in 1973 before declining to about $8.4 billion in 1974. Imports by developing countries rose from $3 billion in 1965 to a peak of $8 billion in 1973, declining to about $6 billion in 1974.

Gross figures on the arms trade mask important differences in the arms distribution pattern. Over the decade 1965–74, the rise in arms transfers was attributable primarily to the large-scale deliveries to the Near Eastern and Southeast Asian combatants and to the Persian Gulf states in the last few years of the decade. Deliveries to Latin America, South Asia, Africa and other developing regions were relatively small and relatively constant.

Some $30 billion in military goods and services remain to be delivered to the Third World under existing known contracts. Thus, the flow of military equipment to developing countries, particularly in the Near East, is likely to remain at, or above, the very high current levels for the next several years.

On the supplier side, some 50 countries exported arms during 1965–74, but eight countries accounted for more than 90% of world exports. In 1974 the US exported about $3.8 billion, or 45% of the world total. Estimated Soviet exports were $2.6 billion, or 30% of the world total. However, Soviet deliveries are probably understated because of difficulties in collecting full information and in placing a value on them. Other major exporters in descending order of magnitude were France, the United Kingdom, the PRC, the Federal Republic of Germany, Italy and Canada. NATO Europe exports in 1974 were about $1.3 billion, or about 15% of the world total.

The increasing number of countries able and willing to export or re-export arms makes

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*The term "arms transfers" may be defined in a number of ways. Statistical data in this paper are based mainly on a recent ACDA report on arms deliveries (*World Military Expenditures and Arms Transfers 1965–1974*) which defines "arms" to include weapons and ammunition, support equipment and spare parts (hardware). However, Department of Defense reports, for example, broaden the terms to include the above, *plus* training, services and construction, a definition which of course yields higher aggregate values. Except where otherwise noted, all figures are in constant *1973 US dollars*. 1974 is the latest year for which complete data are available using the ACDA methodology.

the problem of transfer controls more difficult.

While the US was the leading world arms exporter over the decade 1965–1974, about three-quarters of US exports, or $23.7 billion in current dollars, went to a few countries, most of them linked to us by alliances or less formal security ties—including $8.4 billion to NATO countries, $8 billion to South Vietnam, $3.2 billion to Israel, $2.4 billion to South Korea, and $1.6 billion to the Republic of China. With the exception of these countries, United States transfers to the developing countries during the period 1965–1974 were about $6.2 billion in current dollars (including $1.7 billion to Iran), or about 22% of world exports to developing countries. During this decade the USSR provided more arms than the US to Africa (USSR 29% of the total versus US 14%) and South Asia (USSR 58% versus US 5%); in the Near East (including Israel), US and Soviet deliveries were roughly equal (about 43% each); and in Latin America US deliveries were exceeded by those of the other principal NATO suppliers (US 34% vs other NATO 43%).

II. PAST EFFORTS TOWARD MULTILATERAL CONTROLS

A. Global Control Proposals

One approach to controlling conventional arms transfers has been proposals for their registration. In 1965 Malta introduced a resolution at the UN General Assembly calling for establishment of a UN system of publicity on arms transfers. The Maltese proposal was defeated, with the US abstaining and the USSR voting against. In 1968 Denmark proposed that the UN Secretary General ascertain the view of UN members on the registration and publication of information on arms transfers.

In the face of strong opposition, particularly from developing countries, the proposal was not brought to a vote.

At both the UN General Assembly and the 31-member Conference of the Committee on Disarmament (CCD) in Geneva, the US has urged that greater attention be given to conventional arms problems, emphasizing that suppliers as well as recipients have a responsibility in this field. However, these suggestions awakened little interest among either supplier or recipient states.

In April 1975, the US Representative to the CCD suggested that, in addition to regional arrangements, it was important to explore conventional arms control approaches not limited in geographic scope. He suggested the acceptance of some general principles as universarly applicable to the acquisition and transfer of conventional arms. Such principles, would, at least initially, largely rely on individual states for their implementation. However, self-restraint by one country would create incentive for self-restraint by others. The US Representative suggested the following illustrative principles:

States should assume responsibility for making the judgment that the arms they acquire or transfer will not have adverse effects on regional or international security;

Consultations among interested states on the possible effects of arms acquisition could be useful in preventing or alleviating regional or international tensions;

States should limit arms acquisition to those deemed indispensable for their security, to avoid the unnecessary diversion of resources from economic and social development;

The export of technical data and equipment for manufacturing arms should be subject to the same effective governmental review and authorization procedures as arms exports themselves.

There was virtually no response to this presentation, and none at all from non-aligned members of the CCD.

The lack of interest in the US suggestions to the CCD and opposition to the earlier Maltese and Danish UNGA proposals show that there is at present little disposition among governments to address, even in limited and tentative fashion, the question of universally applicable controls on conventional arms transfers.

B. Selective control efforts

Some of these entailed arms transfer restraints agreed among suppliers, while others have envisioned understandings among recipient states.

In 1950, the US, the UK, and France entered into a tripartite arrangement which sought to ensure a rough parity in arms supplied to Israel, Egypt, and Iraq, then the most powerful states in the Middle East. This effort was reasonably successful until 1955 when Egypt successfully negotiated an agreement to receive Soviet arms, using Czechoslovakia as the intermediary.

There has been a succession of UN resolutions calling for embargo of arms exports to South Africa and Southern Rhodesia and to Portugal for use in African territories. The US has observed them fully; others have not.

The only example of continuing cooperation among arms suppliers has been the system of controls on exports of strategic goods to communist countries (Yugoslavia excepted) which has been applied since 1950 by the US and some of its principal Allies through the Coordinating Committee for East-West Trade Policy of the Consultative Group (CG–COCOM).

The US has also encouraged the efforts of arms importing countries to bring about regional restraint arrangements. Prior to the November 1966 OAU conference, US Ambassadors in several African countries were instructed to suggest that the arms limitation question might be usefully discussed at that meeting. However, the subject was not raised at the meeting.

In 1966, President Johnson publicly urged the Latin American countries to avoid unnecessary military expenditures and called for regional limitations on certain classes of weapons. Despite the US effort, the Latin American countries agreed to the Punta del Este summit meeting of 1967 only to limit their military expenditures to those needed for national security in accordance with their own constitutional procedures.

In 1967 President Johnson informed the 18-nation Disarmament Committee (predecessor to the CCD) that the US was prepared to support any reasonable conventional arms limitation measures to make a regional agreement more effective, including publication or registration of arms shipments to the Middle East. This initiative led to no concrete results.

Only in Latin America have recipient countries themselves put forward proposals for restraints on conventional arms imports. None of them, however, has yet led to arms limitation agreements.

In 1958, a Costa Rican resolution at the OAS General Assembly to confer power on the Organization to determine levels of national armaments failed by a substantial vote. Two years later, Chile proposed an arms control conference, which the US supported along with Mexico, Argentina, and Brazil, but nothing came of it. In 1971, Colombia proposed a study of measures to implement the 1967 Punta del Este summit declaration (see above). The proposal drew criticism from several members. The OAS General Assembly adopted instead a Venezuelan proposal to study the meaning and scope of the Punta del Este declaration, but no specific proposals emerged. The military leaders of Bolivia, Chile, and Peru endorsed the principles of arms limitation during their tripartite talks in October 1975, but no results have yet been achieved.

The 1974 Ayacucho initiative may hold more promise of concrete arms limitations arrangements. In December 1974, the eight signatories (Argentina, Bolivia, Chile, Colombia, Ecuador, Panama, Peru, and Venezuela) of the Ayacucho Declaration expressed their intent to "make possible the effective limitation of armaments and end their acquisition for offensive purposes, so that all possible resources might be devoted to the economic and social development of every country in Latin America." Subsequently, there have been two high level meetings and several working level sessions to seek means of implementing the mandate of the Declaration.

The US has publicly supported the Ayacucho initiative, most recently in the Secretary of State's address in Houston on March 1, 1975.

III. US ARMS TRANSFER POLICY

The US has exercised considerable selective restraint in its arms supply policy through a combination of executive branch decisions, based on a balancing of potential benefits and risks, and restrictions imposed by the Congress. Considerations which have dictated restraint are the possibilities that a proposed transfer may:

Contribute to an arms race;

Lead to an outbreak or escalation of conflict;

Decrease the likelihood of conflict resolution;

Prejudice the development of international arms control arrangements;

Facilitate the development of independent national nuclear delivery capabilities;

Defer local economic and social development;

Lead to later use against the US or its Allies;

Make advanced firepower available to terrorists;

Degrade US force readiness;

Jeopardize a US technological lead; or

Lead to adverse political reactions, e.g., napalm.

Within the legislative framework established by Congress, the executive branch applies additional constraints in an effort to ensure that US arms supply activities reflect an approach balance among competing national security and foreign policy interests. In making decisions concerning arms transfers and programs, the executive branch takes into account a wide range of considerations.

The net effect of this assessment of political, military and economic interests dictates restraint in many cases rather than compliance with the arms requests of other countries. However, in some cases, such as Israel, the US has supplied arms in order to redress an existing imbalance as a means of enhancing regional stability.

In addition, the US has unilaterally imposed specific ad hoc limitations for such purposes as (a) snuffing out and preventing the renewal of a local conflict, (b) encouraging the allocation of resources to economic and social development, or (c) expressing disapproval of the actions of a particular regime.

However, the availability of multiple sources of supply in today's world has severely limited our ability to control the flow of arms unilaterally over an extended period, and experience has shown that unilateral constraints are in most cases not likely to achieve the desired effect.

US embargoes on India and Pakistan in 1965 and 1971 were followed by, and to some degree induced, large scale acquisitions by India from the USSR and by Pakistan from the PRC, France and other suppliers. Similarly, the embargo observed by the US during the Nigerian civil war resulted in purchases from the UK and the USSR. The restrictive policies of the US toward Latin America in the mid-1960's encouraged Latin American countries to turn to European sources for certain weapons systems, some of them more expensive and more advanced than those denied by the US. More recently, Turkey and Chile have not altered their policies in response to Congressionally imposed embargoes. In all of these cases, US restrictive policies have left a legacy of resentment and have caused some deterioration of our bilateral relations.

Historically, then, unilateral US imposition of both total arms embargoes and selective restraints has not only failed in most cases to limit the flow of arms to a particular country but has also reduced US influence and ability to play a constructive role in resolving conflicts. Generally, if *ad hoc* controls are to be imposed unilaterally with any success, they must be applied selectively and with short-term goals in mind, although the degree of US influence will differ, depending on the alternative which recipients see as available to them. It is equally clear that controls of this type will have no effect in most cases unless applied in cooperation with other suppliers.

The US has also, over a number of years and several administrations, put forward or supported various proposals for specific arrangements entailing multilateral arms transfer limitations, as indicated in section II above.

IV. OTHER SUPPLIER COUNTRY POLICIES

Other arms exporting states have been reluctant to enter into agreements to limit arms transfers. They have generally considered that important national interests are served by providing arms to countries where they have traditional security or political ties, where they wish to gain political entree, or where they see chances for a profitable deal. Some suppliers rely heavily on export markets to support their own defense industries and to obtain balance of payments benefits. Moreover, current and prospective oil and raw material shortages, among a variety of other factors, give some developing countries great influence on the world scene generally (or with particular major arms exporters), and the industrial countries assiduously court their favor. Thus suppliers have been generally reluctant to risk the displeasure of arms recipients which would result from controls imposed without the consent of the latter.

Third World conventional arms sales are an important element in the policies of two of our principal European allies, the UK and France. The rapid expansion and transformation of the Middle East arms market in the past few years have reinforced traditional interests and created new opportunities.

Western Europe as a whole exported $2 billion in arms to developing countries from 1973 to 1974, trailing U.S. (approximately $7 billion), and Soviet ($3.7 billion) deliveries for same period. The Near East and North Africa were the biggest customers, taking 50% of European deliveries to the Third World in 1973–74. Third World orders, particularly Arab, have come to overshadow the intra-NATO market, and most of the items exported are now first-line weapons systems provided on a cash sales basis.

Western Europe produces a broad array of modern weaponry. France and the UK, in particular, are committed to defense industries in support of their own forces. European equipment, though possibly not as advanced technically as U.S. equipment in certain areas, offers a panoply of advanced jet aircraft, ships, missiles, helicopters, armor, artillery and small arms that would enable countries of the Third World to buy most or all the conventional military equipment capabilities they might seek.

France is the major European seller, in third place behind the U.S. and USSR, with total arms transfers of about $1 billion from 1973 to 1974. The UK now ranks fourth among world sellers with 1973 and 1974 deliveries totaling about $500 million. Other European sellers (the FRG, Italy and Belgium) has significantly lower levels of arms transfers.

Foreign policy concerns, including access to oil and the development of ties to Middle East regimes, relations with former colonies, and the desire to sustain a general presence on the international stage, are particularly important elements, in varying degrees, in the arms transfer policies of the major Western European exporters.

In France and the UK, arms exports are also viewed as essential to maintain viable national defense industries and thus, by extension, relate directly to perceptions of international status and national security and sovereignty. Arms sales permit economies of scale and help finance defense industries and an R&D base which might not otherwise be sustainable. This is especially important in high technology sectors such as aircraft and electronics. The U.S. shares the general Allied interest in maintenance of a strong European defense industry.

There is, throughout Western Europe, little popular opposition to arms transfers. Indeed, opinion in some countries generally supports active arms sales policies. In contrast with the U.S., public debate in Europe on the arms transfer question has been low key and thus far has had very limited impact on the political arena.

On the other hand, all Western European countries have an interest in avoiding or curbing armed conflict in sensitive areas like the Middle East. Most would recognize the problems posed by expanding arms sales to the Third World, but all exporting countries would look vary carefully at the effect on their national interests of any specific limitation schemes and would be most reluctant to endorse proposals which would be resisted by major recipient states.

For the Soviet Union, military assistance programs have played a major foreign police role since 1955. By the end of 1975, Soviet military deliveries to Third World countries totaled approximately $12.5 billion—more than twice the amount of Soviet economic aid to such countries. The overwhelming bulk of Soviet aid has been concentrated in an area running from the Eastern Mediterranean through the Red Sea to the Arabian Sea.

In the past Soviet military assistance programs have almost invariably been motivated by political considerations. Thus, the Soviets—unlike the East Europeans who are in this business mainly for economic reasons—have offered generous discounts and liberal financial terms to a number of countries.

The results of the Soviet military aid program have been mixed. Nevertheless, Moscow continues to believe that military assistance is a useful instrument for opposing the West and furthering Soviet political interests.

Moreover, future Soviet arms transfers may serve economic interests as well. Arms deliveries to OPEC states would provide energy and hard currency remuneration essential for expansion of Soviet imports from the industrialized West. In addition, the anticipated need for East Europe to import over 30% of its crude oil needs from non-Soviet sources by 1980 may heighten Moscow's urge to barter arms for energy on the East Europeans' behalf.

At the same time, demand for Soviet arms is unlikely to slacken. The persistence of Third World local conflicts and the accumulation of wealth in OPEC states may provide both the means and incentive for these nations to diversify their sources of hardware by turning to Moscow for military aid.

Moreover, the resource-poor "Fourth World" nations will find concessionary military assistance from the Soviet Union increasingly attractive.

However, other factors may work to discourage wholesale expansion of Soviet weapons transfers. As Moscow acquires more clients the likelihood of conflict and rivalry between them will increase, and the more numerous the recipients of Soviet weaponry, the greater the risk that reversals of alignment could place Soviet equipment in the hands of regimes hostile to Moscow. The increased performance capability of weapons systems, particularly aircraft, will expand the recipients' military capabilities over a wider area, thereby threatening and possibly alienating a greater number of states. Finally, while the Soviets have hitherto refused to discuss Middle East arms control while the Israelis maintain control over the occupied territories, Brezhnev at the Twenty-Fifth Party Congress indicated Soviet willingness to discuss arms limitations in connection with a political settlement. A desire to facilitate the Geneva conference and discomfiture with rising Western arms shipments to the area may have prompted the Soviet move.

Nevertheless, historically, we know of few, if any, cases in which the Soviets flatly turned away a potential arms customer. (They have, of course, not always supplied all that clients have desired.) Moreover, since the late 1950's the Soviets have been negative or indifferent to various attempts to control conventional arms transfers on a multilateral basis. Moscow will continue to be very sensitive to developing country arguments that transfer restraints discriminate against them.

In concluding the discussion of supplier attitudes, it is important to note that subjecting the intra-NATO arms trade, or US sales to our Japanese and ANZUS allies, to international scrutiny or to the possible constraints of a broadly multilateral limitation arrangement is clearly not in our national interest or that of our Allies. We also anticipate that Moscow would flatly refuse to discuss Soviet arms transfers to other Warsaw Pact countries in any international forum. Realistically, therefore, the focus of any multilateral arms transfer restraint proposals must be on deliveries from the industrial to the developing countries.

V. THE RECIPIENT COUNTRIES

Most developing countries, almost entirely dependent on imports for their armaments, have long and consistently opposed transfer restraints as highly discriminatory in the absence of controls on the conventional arms of the producing countries. For example, they have in the past opposed even proposals calling only for international registration of arms transfers without the application of controls. The discriminatory aspect would become all the more obnoxious to the developing countries if controls on transfers were to be applied to developing country imports but not to arms shipments among developed countries. Finally, developing countries perceive the growing strategic nuclear arsenals of the two super powers as a threat to world peace incomparably greater than that posed by their own conventional armaments.

Developing country antipathy toward arms transfer restraint proposals is likely to be most intense if such a proposal is advanced in highly public fashion by one or more of the larger industrial states. Conversely, if several developing states take the initiative to put forward a regional limitations proposal (as in the case of the 1974 Ayacucho Declaration), the sponsors might welcome discreet support and encouragement from important supplier countries.

The possible contribution of conventional arms limitations to international peace and security, and the obstacles to achievement of such arrangements, vary widely from one region to the other.

Many thoughtful observers believe that the recent arms buildup in the Middle East and Persian Gulf areas poses great risks to international security and that conventional arms restraint understandings in those regions would therefore be of great benefit to the world community. Yet the intense political rivalries which fuel the competitive arming process there are also formidable obstacles to any agreement for dampening it. Moreover, the oil resources of these regions provide the means for heavy arms procurement and account, in great measure, for supplier reluctance to impose restrictions opposed by major recipients.

In the Middle East, the Arab confrontation states would not accept restrictions on their armaments unless comparable limits were imposed upon Israel. Yet the imposition of severe constraints on Israel would place a heavy strain on our bilateral relations and also entail risks of destabilizing consequences.

In the Persian Gulf, we and our West European and Japanese allies have an enormous stake in that region's energy resources and a substantial interest in encouraging the moderating influence on the Arab-Israeli dispute which some Persian Gulf States have been able to exert. However, a primary component in our relations with some of the more important Persian gulf states has been our willingness to assist them in modernizing their defense capability. These factors define the setting against which any regional arms restraint proposals would need to be considered.

Tensions in North Africa between Libya and Algeria, on the one hand, and Tunisia and Morocco on the other, have resulted in sizeable arms purchases by all four and make it unlikely that restraints could be achieved without a transformation of the political context. Since 1974 Libya and Algeria have ordered substantial quantities of military equipment from the Soviet Union, and Morocco in response has increased its arms purchases. Sources of arms for the countries of North Africa include most major suppliers. Algerian and Libyan oil revenues are ample to fund a high level of weapons purchases.

In East Asia, except in Korea, there are, strictly speaking, no arms competitions at this time. Meaningful arms restraint initiatives are not possible in the continuing atmosphere of tension in the Korean peninsula but might become so if there were movement toward more durable political and security arrangements. Among the non-communist Southeast Asian countries, there is no competitive arming and hence no motivation for arms transfer restraints among them. All but Burma are members of ASEAN, which by member preference has no security role and thus cannot serve as a vehicle for multilateral restraints. The concerns which drive members' modest military modernization programs cannot be allayed by limitations agreed among themselves, and negotiation of meaningful arms restraints with the Indochina states is not a realistic objective at the present time.

Latin America has been one of the most peaceful regions in the world and one of the most lightly armed. The region's level of military expenditures is among the lowest in the world, averaging about 2% of GNP. The bulk of such expenditure is devoted to personnel costs, while capital outlays are quite low, accounting for only about 10% of most military budgets. Furthermore, Latin American countries are caught up in national development processes, and their military defense priorities are low.

However, new pressures have begun to work in an opposite direction. A growing sense of national pride and self-assertiveness and the quest for institutional dignity encourage some military establishments to seek advanced and prestigious weapons systems as a highly visible trapping of national sovereignty. Arms *sales* (as opposed to actual deliveries) to Latin America in 1975 increased to a record high of almost $1.2 billion, more than double the 1970–74 annual average of $550 million.

Cuba's success in mounting the Angola campaign will put increased pressures on the East Coast Latin American governments to improve their defensive capabilities.

Regional arms demands are also strongly influenced by generational obsolescence. Arms purchases during recent years have resulted primarily from the generally poor material condition of major weapons systems acquired from the United States and Great Britain after WW II and the Korean War.

Despite these trends, however, budgetary and balance of payments constraints, coupled with the generally high priority given to economic development expenditures, will probably keep arms orders closer to the 1970–74 average than to the record 1975 level.

Recent history suggests that proposals for arms limitations emanating from outside the region will be resented and have little chance of adoption. However, as indicated above, eight Latin American countries have themselves, in the Ayacucho Declaration, put forward proposals for arms limitations, and the US has expressed support for their initiative.

In sub-Saharan Africa, the level of arms inventories throughout most of the region has remained quite low, relatively speaking, and most states, at least until very recently, have not acquired advanced modern weapons. There has been a long series of national revolutionary struggles and some civil wars, but no overt interstate armed conflicts and—until quite recently—few competitive arms buildups.

In the recent past, however, the trend has been toward increasing levels of arms deliveries, greater sophistication in weapons systems, and more overtly competitive arming, largely because of:

Increased Soviet arms supplies to several African nations, resulting in reactive arming by others dependent on Western sources;

Cuban-Soviet involvement in Angola and the heightened anxiety this has aroused in neighboring countries;

The prospect of escalating guerrilla warfare in Rhodesia and of possible later conflict involving Namibia and South Africa; and

Sharper irredentist and other tensions in the Horn of Africa.

African leaders have shown little interest in arms limitations and have made no proposals for mutually agreed restraints. For southern Africans, it would be unthinkable to consider arms restraints until the racial conflict in that region has been resolved. Thus, it is most unlikely that African governments themselves will come forward with proposals for such restraints. Moreover, public arms restraint initiatives coming from outside the region would be suspect as a subterfuge for maintaining the *status quo* in southern Africa and freezing African states in their present position of military and political inferiority compared to the industrial West and are thus most unlikely to receive serious consideration.

VI. CONCLUSIONS

The foregoing analysis suggests that universal control arrangements applied to a broad spectrum of conventional armaments are politically infeasible.

One might propose that major exporters agree to reduce their total arms sales to developing countries by X percent annually from a given base year, or to accept their total shipments, by value, in a recent base year as a ceiling on future shipments. This general approach would amount to a form of cartelization of the world arms trade.

Historically, cartelization has worked effectively when suppliers shared a measure of common interest (typically, to keep prices high by restricting production) and the product was relatively homogeneous (raw materials, semi-finished products).

Both prerequisites would be absent in a putative global arms producer cartel. There is no universal common political interest among the larger producers that could serve as the functional equivalent of the commercial self-interest that binds the participants in traditional cartels. Moreover, the product is exceptionally heterogeneous, running in its diversity from small arms to aircraft carriers.

A further area of possible agreement among suppliers could be the development of incentives for both suppliers and recipients to limit arms transfers. The development of feasible economic incentives for supplier states to limit their exports to developing countries is likely to be very difficult. NATO efforts to standardize Alliance weaponry could reduce pressures on the Europeans to export to the Third World since Europe's share of the NATO market might be enlarged. However, there is no guarantee that increased intra-Allied sales would impel the Europeans to cut back on Third World sales; just the opposite might be the case. Moreover, efforts to reduce pressures to export certain systems to the Third World by enlarging the NATO market for European producers might require the U.S. to bear a large portion of the financial burden of a reduction in arms exports to Europe and an increase in imports. Particularly in the case of more advanced weapons systems, a decrease in exports would reduce the ability of the U.S. to produce weapons for its own forces at a reasonable price.

A large-scale effort to substitute economic aid and trade for arms exports is likely to be strongly resisted by Third World countries as an undue interference with their right to establish their own priorities between defense and development. Any such effort would cause arms recipients to seek other sources of supply, either through increased indigenous production or through imports from those suppliers not party to the arrangement. It is highly unlikely that all potential suppliers would cooperate in a shift from arms transfers to greater economic aid and trade. If the shift applied only in the case of military grants, it would have little effect on the magnitude of world arms transfers.

Another possible means of reducing the flow of arms to developing countries would be agreement among suppliers to transfer arms only on a cash and commercial credit basis. However, the divergent interests of the suppliers in particular recipient states make it unlikely that they would be willing to conform to such a code. Even if Western countries were to agree to this procedure, the USSR would not be likely to abandon its customary practice of offering weapons at heavily discounted prices. Verification of such an arrangement would be exceedingly difficult, since it would require assurance that the price charged in all cases reflected full production cost.

However, there might be marginally better prospects for restraints of rather broad geographical application if the approach were highly selective with respect to the weapons systems to be limited. Thus supplier states might agree to limitations on the export of advanced weapons of particular utility to terrorists. Certain highly lethal, portable weapons in the hands of terrorists would pose a serious threat to targets such as automobiles, commercial aircraft, or power systems. Of particular concern are light antitank weapons and surface-to-air missiles, which are produced by few nations. Even though such systems are currently transferred widely to many countries for legitimate military use, supplier states might agree on severe limitations on their transfer. As a minimum, suppliers might agree to insist on increased security for such weapons both in stockpiles and in transit.

Nevertheless, as a practical matter, even selective restraints of this type would prove very difficult and perhaps impossible to negotiate in a broad multilateral context.

One is led to conclude that regional or sub-regional approaches to the control of arms transfers are likely to be more promising than the development of broad controls on a worldwide basis. Most states tend to establish their force requirements on the basis of the military capabilities of neighboring states rather than states outside their region. Furthermore, security conditions vary significantly from one region or subregion to another. In Latin America, for example, there is a relatively low level of tension, arms sophistication and perception of external threat. In contrast, the Near East is an area where tensions and threat perceptions are high and large amounts of advanced weaponry are present. Even within this region there are important differences between the problems of the Persian Gulf and the rivalry between Israel and the Arab confrontation states. In addition to the variations in arms demand among regions, a further obstacle the global controls arises from the major differences which exist in the military, political and economic interests of the various arms supplier states in various regions or sub-regions. Thus restraints most suppliers might find acceptable in one region might be totally unacceptable to some or to all if applied in other regions.

Restraints on arms transfers on a regional basis might come about as a result of formal arrangements or tacit understandings among regional recipients, supplier states, or combinations of both. In some regions, the most appropriate approach might be arrangements among recipients. In others, it may be more fruitful to seek mutual restraints among suppliers to the area.

However, our analysis suggests that formidable political and psychological obstacles would have to be overcome in most regions to attain meaningful restraint arrangements, whether based on supplier understandings or agreement among recipients.

In conclusion, it should be kept in mind that neither the US and its Allies, on the one hand, nor the Warsaw Pact countries on the other, would allow outside powers to limit or regulate the pattern of arms transfers among their respective alliance groupings. Therefore, proposals for multilateral arms transfer restraint, to have any chance of adoption, must be limited to arms shipments from industrial states to the developing countries.

Most developing countries would perceive any such arms transfer restraint proposals as discriminatory and designed to codify and perpetuate their military inferiority, particularly if one or more of the larger industrial states were the author of the proposal. While less developed countries are aware that heavy arms expenditures conflict with their economic and social development goals, they will jealously insist upon their sovereign right to establish their own security and development priorities and will resent advice, however well-intentioned, from the major industrial powers.

If one or another industrial country should decide to press actively for multilateral arms limitations on developing countries, the more public such efforts the more antipathy they will inspire among the governments to whom they are addressed. And the greater the resentment among the developing countries concerned, the less enthusiasm other supplier countries will have to join in the endeavor.

The foregoing discussion suggests that the most promising multilateral restraint proposals will be those that derive from initiatives taken by leaders in the region or regions concerned. This is not to argue that the larger industrial countries can play no useful role in this matter; on the contrary, their support will be helpful and perhaps essential to the success of any control arrangements worked out by recipient states. In addition, one must always hold open the possibility of arriving at informal and confidential understandings concerning arms transfers to specific areas or of certain potentially sensitive types of weapons, when and where conditions for such understandings exist. We will continue to examine our own arms exports carefully to determine when unilateral restraints would be effective in meeting our interests and preventing unconstrained arms buildups. We will also continue to seek bilateral and multilateral understandings through diplomatic contacts with other suppliers and recipients in order to achieve restraints, when such efforts appear likely to succeed. Our analysis suggests, however, that the efforts of industrial states will be more likely to bear fruit if they are pursued through quiet diplomatic exchanges than if they are exposed to the full glare of international publicity.

INVESTIGATION OF THE DEATH OF ORLANDO LETELIER

Mr. ABOUREZK. Mr. President, on behalf of Senators LEAHY, JAVITS, McGOVERN, HASKELL, TUNNEY, GARY HART, and myself, I intend to introduce a joint resolution calling upon the President to initiate a formal investigation into the death of Orlando Letelier, the former Chilean Ambassador to the United States and Minister of Defense and Foreign Affairs under Salvadore Allende.

As my colleagues are aware, Mr. Letelier and his coworker, Ronni Moffitt, were brutally murdered Tuesday when a bomb attached to the Letelier car exploded on Sheridan Circle in Washington, D.C. Both the District of Columbia police and the FBI are investigating.

The circumstances surrounding Orlando Letelier's death and the means by which it was accomplished call for more than a routine investigation. The circumstances raise the question of assassination at the direction of the Chilean junta.

Letelier was in the United States because he could no longer live safely in Chile, where he had been imprisoned and tortured by the military junta which overthrew the Allende government. Letelier was able to leave prison and Chile only through the intervention of scholars and public figures in other Latin American countries and the United States.

During his stay in the United States, Letelier was an eloquent spokesman for the cause of human rights in Chile. More recently, his criticism began to focus on the role of international finance in supporting the junta and extending its reactionary practices. Letelier, as a respected economist and diplomat, became a visible and significant opponent of Chile's ruling military clique.

Less than 2 weeks ago, the junta which had jailed and reluctantly released him decreed that Letelier was no longer a Chilean citizen. This action was supported by an allegation that Letelier had prevented the junta from obtaining a foreign loan.

Letelier's life was threatened at this time. Two other high ranking officials from the Allende government both living in exile, have been murdered in circumstances similar to those surrounding the death of Letelier and Ronni Moffitt on September 21.

Finally, any indications, however slim, that an American citizen lost her life as a result of foreign intelligence operations within our own national borders, demands thorough investigation. Such indications exist in this case. Congress' inquiry into abuses in domestic intelligence operations hardly touched on the question of whether intelligence groups attached to countries which receive support from the United States, or who we consider to be allies, are allowed to operate in this country.

Where there exists any suggestion of involvement by foreign intelligence agents in a murder on American soil, we must take extraordinary measures to ascertain whether or not there is any substance to that suggestion. If any such crime against Americans or foreign nationals in our country should occur and be ignored, political assassinations may become as frequent in our streets as they are in the streets of many unfortunate European and Latin American countries already. It is thus crucial to search out any direct or indirect links between any government or its agencies and the September 21 bombing.

The resolution requires a public, unclassified report to the Congress within 120 days of enactment. The report must certify that a full and complete investigation has been undertaken. In addition, it requires the results of the inquiry into any government involvement be made public.

As I indicated earlier, the questions raised by the death of Letelier need answers which can only be provided by the investigative resources of the executive branch. In the absence of those answers, I do not believe that the United States can continue to risk even the possibility that our economic assistance, of whatsoever kind and magnitude, may help support a regime in some way implicated in acts of international assassination.

This resolution therefore provides that the failure of the President to provide the results of the investigation with respect to possible Chilean governmental involvement will automatically terminate all assistance to that country. Unless the President can and does assure Congress and the American people that a thorough investigation into this affair has fully satisfied him that there is no evidence of direct or indirect complicity on the part of the present Chilean Government, the United States should have no hesitancy in curtailing the amount of economic assistance we provide to that country.

Because of documented violations of human rights, the United States has already cut off military assistance to Chile. In addition, we have put a limit on the amounts of economic assistance which we provide that country. We should have no hesitation in eliminating even that reduced level of assistance if it enhances the security of a government which may count assassination among its political options.

Mr. President, I regret having to introduce this resolution, but I would regret even more another crime against individuals who do no more than speak their conscience and argue peacefully for change. I urge that the Senate and the House of Representatives move rapidly to approve this resolution.

I ask unanimous consent that the full text of the resolution be printed in the Record, along with the text of a statement on the bombings by the Institute for Policy Studies, and excerpts from a study of the Chilean economy recently released by the Center for International Policy.

There being no objection, the material was ordered to be printed in the Record, as follows:

Whereas, the United States has always opened its doors to refugees from countries suffering from tyranny; and

Whereas, acts of violence and terrorism are the ultimate attack against democracy and against legitimate democratic expressions; and

Whereas, it is the policy of the United States, in accordance with its international obligations as set forth in the Charter of the United Nations and in keeping with the constitutional heritage and traditions of the United States, to promote and encourage increased respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion; and

Whereas, on September 21, 1976, the former ambassador to the United States from Chile, Orlando Letelier, was killed by a bomb explosion in Washington, D.C.; and

Whereas, Orlando Letelier had been a strong critic of the military junta in Chile, especially during his two years of exile in the United States; and

Whereas, other well-known critics of the military junta in Chile have been killed in recent years; and

Whereas, the United States has formally placed limitations on economic assistance, military assistance, sales, and sales credits for Chile as part of the International Security Assistance and Arms Export Control Act of 1976; and

Whereas, considerable doubt and speculation exists as to origin of the bomb explosion which caused the death of Orlando Letelier and another innocent passenger, now therefore be it hereby.

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled,

That (a) Immediately upon the enactment of this resolution, the President is urged to undertake a full and complete investigation into the facts and circumstances surrounding the bombing and death of Orlando Letelier in Washington, District of Columbia, on September 21, 1976.

(b) Within one hundred and twenty days after enactment of this resolution, the President shall transmit to the Congress in writing an unclassified, public report detailing the full and complete results of the investigation required by subsection (a), and shall certify to the Congress:

(1) that a full and complete investigation has been carried out by the Federal Government to determine the facts and circumstances surrounding the bombing and death of Orlando Letelier; and

(2) the results of that investigation with respect to the possible direct or indirect involvement of any part of the Government of Chile.

(c) (1) In the event of a report with respect to such investigation as required by subsection (b) of this resolution is not transmitted, no amount of economic assistance which may otherwise be made available for Chile during the period July 1, 1976 and ending September 30, 1977, shall be made available, notwithstanding any other provision of law. For purposes of this subsection, economic assistance includes any assistance of any kind which is provided, directly or indirectly, to or for the benefit of Chile, by any department, agency, or instrumentality of the United States Government.

Violations of Human Rights in Chile: The Public Record

AMNESTY INTERNATIONAL: EXCERPTS FROM REPORT ON TORTURE, LONDON 1975

Torture has been common practice during the interrogation of political prisoners; confessions extracted by torture have been considered as admissible evidence by the military tribunals. This widespread use of torture has been documented by a number of international organizations that have carried out investigations in Chile since the coup as well as by foreign diplomats, journalists and lawyers who have observed trials, leading members of the Chilean church, Chilean lawyers, the relatives of political prisoners and (naturally) the ex-prisoners themselves. A delegation from the International Federation of Human Rights, the International Movement of Catholic Jurists, and the International Association of Democratic Lawyers reported on 13 October 1973 that

. . . the delegation that went to Chile interviewed several persons that had been tortured, including a man with cigarette burns on his body, a woman with large blue bruises on her legs, and another woman who had been raped. Of 30 persons who told them of mistreatment of prisoners, some were victims of torture, others had witnessed torture and executions, and others gave second-hand accounts.

The Amnesty International delegation (1–8 November 1973) likewise confirmed individual cases of torture. They personally saw the marks of torture on prisoners then detained in the National Stadium of Santiago, the marks on prisoners who had recently been in the stadium, and those of one woman who had recently been released from a police station where she had been beaten and subjected to electric shocks. Her body showed the marks of recent and severe lacerations.

The Amnesty delegation was also informed by prison guards within the National Stadium that the Brazilian police had assisted in interrogations there and had also given a course in techniques of interrogation at the Ministry of Defence. One member of the delegation saw torture marks on Brazilian prisoners who alleged that they had been tortured by members of the Brazilian police. Officials at the Foreign Ministry vigorously denied that foreign interrogators had been present in Chile. This denial should be evaluated in a wider context of denials. For example, Chilean officials at the Ministry of Defence and Ministry of Interior said that only one case of torture had been brought to their attention although the delegation was informed that officials of the International Committee of the Red Cross had brought many similar cases to the ministries' notice before and during the period of the delegations' stay in Chile.

The Chicago Commission of Enquiry, which visited Chile in February 1974, talked to several prisoners in the *Estadio Chile* in Santiago who still showed the marks of torture. The Chicago Commission also testified to the brutal torture in the special interrogation camp of *Tejas Verdes* north of Santiago. The International Commission of Jurists and other visiting groups of foreign lawyers from Canada, Denmark, Belgium and Argentina, all asserted in April, May and June 1974 that torture was still commonplace during interrogation.

In Chile itself, Cardinal Raul Silva Henriquez issued a public statement in April condemning the 'physical and moral pressure used during interrogation.' His statement was based on a memorandum submitted to him by leading members of the Chilean church which gives the most detailed and accurate evidence to date of individual cases of torture in Chile. The document lists eight centres in the Province of Santiago alone where torture was proved to have taken place. Altogether, it lists 17 different places where severe torture is known to have taken place. The document lists 27 different methods used and describes over 100 cases of torture, including 16 cases where the prisoner died as a result of torture.

UNITED NATIONS ECONOMIC AND SOCIAL COUNCIL COMMISSION ON HUMAN RIGHTS, FEBRUARY 4, 1976

Arrest and Detention on Grounds of State Security

Prisoners are usually blindfolded for the duration of their stay in such detention centers and the interrogations are accompanied by torture. Some prisoners, apparently, do not survive this period of interrogation; others would seem to be generally kept in such places for several days or even weeks. The group was told about the case of a political prisoner who heard one of the chiefs of the secret police instruct other officials not to make an entry card for him and to tell anyone who would ask for him that he was not there. This may explain why some arrested political prisoners are said to have later "disappeared."

The World Council of Churches reported that since 11 September 1973 about 100,000 persons have been deprived of freedom, of whom 6,000 are still in detention, while 2,000 have disappeared or are missing in Santiago province alone and about 50,000 persons have left the country in order to avoid political persecution.

The evidence before the Group shows conclusively that, either in violation of their own laws or in disregard for generally accepted international human rights standards, the right to be free from arbitrary arrest and detention is not respected in Chile today.

Torture and Cruel, Inhuman and Degrading Treatment

The statements received by the Working Group show that, contrary to what has been repeatedly stated by the Chilean authorities, torture and cruel, inhuman or degrading treatment continue in Chile on a large scale. Reliable documents and written information indicate that they are still widely practiced.

The report names 77 Chileans accused of torture of political prisoners and recommends that Oswaldo Rom DINA's master torturer, be tried for crimes against humanity.

Bishop Helmut Frenz, of the Lutheran Church, stated that he himself had had conversations with General Pinochet four times, the last time in December, 1974. On that occasion he gave the President voluminous documentation on tortures and missing persons in Chile. According to this witness, President Pinochet said, "Of course we have to torture the members of the MIR because without torture they will not sing .... You are naive pastors, but you must know that national security is more important than human rights."

FRASER SUBCOMMITTEE OF THE HOUSE ON INTERNATIONAL RELATIONS: EXCERPTS FROM STATEMENT OF JOSE ZALAQUETT DAHER, DEFENSE ATTORNEY FOR POLITICAL PRISONERS, VICARIATE OF SOLIDARITY, ROMAN CATHOLIC CHURCH, CHILE, MAY 5, 1976

What has been the true extent and impact of the deaths, disappearances, arrests and tortures of individuals?

The latest statement by the Minister of the Interior, in March of 1976, if I remember well, acknowledged about 4,000 political prisoners, including those persons who are under arrest by virtue of the declaration of a state of siege without charges having been brought against them; those who are subject to criminal proceedings by a military prosecutor, and those who have been sentenced by military tribunals in time of war.

This figure is more or less exact with regard to these three kinds of prisoners. But in addition, there are a large number of prisoners that have disappeared after being arrested whom the Government does not acknowledge as even being placed under arrest . . .

With regard to how many persons have been killed, I think it is impossible to furnish an intelligent figure.

With regard to tortures and cruel, inhuman, and degrading treatment of persons in general, I can say that I agree with the more publicized reports on the subject. They unanimously point out that torture is a systematic practice, especially during the first period of the arrest while the arrested person is kept incommunicado.

At first the percentage of arrested persons subject to torture was larger than during the last year. As DINA and other secret services perfect their methods of operation and gather more information, torture becomes more select and efficient, although it continues to be a systematic and widely used practice.

What is the progress in the matter of fundamental rights?

Between the months of January and March 1976 there was a total of between 300 and 350 new detentions. This figure is much lower than the one for the last four months of 1975, when there were about 400 detentions each month, but it is not much lower than the figure for mid-1975, when there were about 160 detentions each month.

Maybe it is not pure coincidence that the reduction in detentions during mid-1975 took place at the same time as the projected visit to Chile of the Working Group of the Commission on Human Rights of the United Nations. The fact that Pinochet promised to receive this Commission was favorably accepted by the Organization of American States in May 1975.

Perhaps it is not also coincidental that the number of detentions increased abruptly immediately after General Pinochet, failing to keep his promise, announced on July 4, 1975, that he was forbidding the entrance of the working group into Chile.

Finally, perhaps it is not again coincidental that the number of new detentions decreased immediately after December 17, 1975, when the OAS agreed to hold its sixth general assembly in Santiago, Chile during June of this year. At any rate, the number of detentions continues to be very high, and at the same time, in the last months, the restrictions against other civil rights have been intensified.

As long as the Government may arrest any person without reason; as long as it may hold him indefinitely; as long as that person has no legal recourse available to him; as long as there are no fair trials for those who are prosecuted, the smallest in number; as long as a truly efficient way to prevent tortures or, in general, cruel, inhuman and humiliating treatment does not exist, I believe that we cannot speak of progress.

ORGANIZATION OF AMERICAN STATES (OAS): EXCERPTS FROM REPORT ON THE STATUS OF HUMAN RIGHTS IN CHILE, NOVEMBER 21, 1974

After a careful analysis of background information, and particularly after having made on-the-spot observations during a brief but very intensive mission, the Commission has collected information, which, after rational analysis, it feels is sufficient to assert that, under the regime instituted in Chile beginning September 11, 1973, extremely serious violations of human rights occurred.

Right to life

While executions by shooting without prior trial in the application of the so-called "law of flight," has ceased, the right to life could not be considered adequately protected in the proceedings of War Councils, which had handed down and repeatedly were handing down, death penalties in circumstances that do not satisfy the requirements of due process. The fact that the sentences had been commuted in most cases did not eliminate the certain risk to the right to life implied by such proceedings, nor was it enough to erase the tremendous harm caused to the accused and his family during the period of uncertainty as to what would finally occur. (See Article I of the American Declaration of the Rights and Duties of Man).

Right to personal safety

This right has been and was directly and seriously violated by the practice of psychological and physical abuse in the form of cruel and inhuman treatment. This is the conclusion from coinciding statements and testimony from persons of the most varied social condition, of very varied cultural levels and opposing political convictions, who were detained or were residing in widely separated places. The Commission has seen and heard persons affected as a result of such abuses and has collected convincing statements and testimony regarding cases of violation of the right of personal safety, consisting in torture, abuse and inhuman treatment which, because of their intensity and probable consequences, also involve on occasion actual threats to the right to life. The use of electric shock, the threat of harm to close relatives, sexual attacks, covering the person with a hood, blindfolding the person for weeks, etc., are reasonably proven facts. (See Articles I and XVII of the above-mentioned American Declaration.) The Commission does not assert that a "policy of torture" was practiced or might have been practiced, but it is in a position to assert that no effective "policy against torture" had been carried out.

Freedom of expression and communication of thought and of information

None of the mass communication media are free to disseminate thought or inform the public. These media operate between the extremes of censorship and self-censorship. Official pressure was being exerted also on publishing houses. As a general rule, these media could only publish news and ideas approved by the authorities. (See Article IV of the American Declaration.)

Right to personal liberty

Ten months after the events of September, around 5,500 persons remained deprived of their liberty, according to figures supplied by some of the ministers. Many of these persons had been arrested without any charges brought against them, and they continued in detention without being brought before the courts, by virtue of the authority granted by the Constitution to the President of the Republic under the supervision of the Congress. The situation was even more serious due to the fact that there were also many persons regarding whom it was not known whether they were free or imprisoned, or even whether they were living or dead. (See Articles VIII and XV of the American Declaration.)

ORGANIZATION OF AMERICAN STATES (OAS): EXCERPTS FROM SECOND REPORT ON THE SITUATION OF HUMAN RIGHTS IN CHILE, MARCH 12, 1976

Our working plans have been seriously perturbed by the attitude adopted by the Government of Chile upon receiving our requests for reports. Some requests—a minority of them—have received incomplete replies; the majority of them, and very important ones, have received no reply whatever.

Right to life

We wish to indicate that the Government of Chile informed the Commission of its intention of adopting legal measures to establish the responsibility of those persons who are accused of abuses and excesses of the power imputed to the military and police authorities, who are the subject of denunciations to this Commission or to the Chilean courts, in order that the authors of those crimes may be punished, but up to the present no report has been received concerning the adoption of any such measure.

Moreover, in the individual cases mentioned in this report, already definitively examined by the Commission, in which it is considered that the violations that are the subject of denunciations have been proved, and with respect to which recommendations have been made to the Government of Chile that it adopt the legal measures to establish responsibility for the acts and punish those responsible, the Government of Chile, up to the present, has not informed the Commission that it has taken any concrete measure to comply with the recommendations.

Finally, the facts related in this report reinforce the conviction of this Commission, already expressed in previous cases of serious and repeated violations of human rights that have occurred in other American countries, that the lack of, or delay in, investigations of such violations contributes decisively to incite the perpetration of new violations by the subordinate personnel in charge of maintaining public order and the defense of the internal security of the State, even though the carrying out of abuses and excesses may not be authorized by their hierarchical superiors.

Physical liberty of the person, habeas corpus and recurso de amparo

In conclusion, we must affirm that the right of physical liberty of the person, consecrated by the American Declaration [of the Rights and Duties of Man] in its Article I, continues to be frequently ignored by the Government of Chile, and that some of the standards issued [by the Government of Chile] more or less recently on this subject seem to be intended more to serve as instruments of propaganda rather than as effective measures for the protection of human rights, as could occur with supreme decree 187, if it is strictly applied; [we must affirm] that recourse to the system of so-called "exempt decrees," for the purpose of ordering the departure from the country of native Chileans, or for the confiscation of property, has eliminated the possibility of any moderating action by the Comptroller; and, that while decrees are being issued for the purpose of tranquilizing or confusing world opinion, the practice of arbitrary jailings and persecution and tortures continues up to the present.

These campaigns of repression are directed especially against the labor and university sectors, particularly against labor leaders (as has been indicated by the International Labor Organization) against students and against professors.

Orlando Letelier

Orlando Letelier, an economist of deep intellect and humane spirit, saw in the election of Salvador Allende as president of Chile in 1970, an opportunity to extend genuine economic and social benefits to the Chilean people. He promptly put his experience in international finance at the Chilean revolution's disposal, serving as ambassador in Washington. His special contribution was to try—against the ever longer odds created by both sides—to lead the American and Chilean governments to an appreciation of the steps both could take for their common benefit. He had no illusions about the spiraling of events in Chile but he nonetheless returned to Santiago to become foreign minister just before President Allende was assassinated in 1973.

The new junta at once put Mr. Letelier into a concentration camp and kept him there for a year. International pressure helped free him. He came to the United States, saddened but not embittered by the American role in the Allende tragedy, to teach and write and to prepare as best he could by open political activity for the restoration of his country's democratic traditions. Even that was evidently too much for the thugs who control Chile. Earlier this month they took away his "nationality"—as if they could. Yesterday, with a Washington associate, Ronni Moffitt, he was killed in an explosion of their car in Sheridan Circle. The circumstances at the very least raise the question of political assassination.

Orlando Letelier was a rare individual, as patient in argument as he was passionate in conviction, the model of the private man prepared to act on his beliefs and to accept their public consequences. He exemplified precisely the qualities—reason, concern for the common man, and civility—which the junta is trying to suppress in his native land. Whatever may yet be proven about the junta's part in his death, his exile speaks its own comment on those who exiled him. He deserves honor; they and their rule of Chile, contempt.

Institute for Policy Studies,
Washington, D.C., September 23, 1976.

Richard J. Barnet and Marcus G. Raskin, co-directors of the Institute for Policy Studies, today called upon Attorney General Edward Levi to establish a special prosecutor within the Justice Department to investigate the role of the Chilean military dictatorship and its intelligence services in the assassinations of Orlando Letelier, the program director of the Transnational Institute, and Ronni Karpen Moffitt, a research worker.

In a letter sent today, Barnet and Raskin said, "The dispirited and demoralized nature of the FBI and the cloud which hangs over the federal government as a result of unsolved assassinations and Watergate require that the Attorney General take extraordinary action to ensure that the assassins be apprehended. Unless this is done, the world community as well as the people of the United States will have strong reason to believe that the government may be complicit in a coverup—in effect, an international Watergate."

Barnet and Raskin cited three primary reasons why a special prosecutor is necessary: (1) The likelihood that the Chilean government is linked to the assassinations; (2) the close links between the junta and the intelligence agencies in this country; and (3) the continued support of the junta by the Ford administration.

Barnet and Raskin also announced they were calling upon the Senate Committee on Intelligence Activities and the House International Affairs Committee to conduct their own investigations into links between the CIA and the Chilean intelligence service, DINA. They cited the earlier report on covert action in Chile released by the Church Committee in the fall of 1975 as providing documentation of the "liaison" relationship between the CIA and Chilean intelligence, and they added that "reliable intelligence sources" had informed them that in addition to a regular exchange of information between DINA and the CIA under this liaison the CIA also had extensively "penetrated" the Chilean secret service. They pointed out that through these "penetrations," the CIA has its own secret agents working within DINA, agents whose function is to keep the CIA informed about DINA's activities. They said, "The CIA may know or may be in a position to know facts about possible DINA involvement in the murders."

At their press conference at the Institute for Policy Studies, the co-directors stated that a national memorial procession would be held on Sunday, September 26 in honor of their two slain colleagues. The procession will start at 12:30 at Sheridan Circle NW and will proceed to Saint Matthews Cathedral, 1725 Rhode Island Avenue NW, where a memorial service will be held at 3:00 PM.

Institute for Policy Studies,
Washington, D.C., September 23, 1976.

Hon. Edward Levi,
Attorney General,
U.S. Department of Justice,
Washington, D.C.

Dear Mr. Attorney General: We have asked for an immediate appointment with you to demand that a special prosecutor be established within the Justice Department to investigate the role of the Chilean military dictatorship or its para-military arms in the assassinations of Orlando Letelier, the program director of the Transnational Institute, and Ronni Karpen Moffitt, a research worker.

The dispirited and demoralized nature of the FBI and the cloud which hangs over the federal government as a result of unsolved assassinations and Watergate require that you take extraordinary action to ensure that the assassins be apprehended.

Unless this is done, the world community as well as the people of the United States will have strong reason to believe that the government may be complicit in a coverup—in effect an international Watergate.

There are three primary reasons why a special prosecutor is necessary: the likelihood that the Chilean government is linked to the assassination; the close links between the junta and intelligence agencies in this country; and the continued support of the junta by this administration.

First, there is considerable circumstantial evidence linking the Chilean government to the assassinations:

1. The pattern of assassination attempts on the lives of high ex-officials of the Chilean government who have protested the military dictatorship's activities is undeniable: In September 1974, General Carlos Prats, former Chief of Staff of the Chilean Army, and his wife were blown up by a time bomb in a car in Buenos Aires. In October, 1975, Bernardo Leighton, a leader of the Christian Democratic Party and former Vice President of Chile and his wife were machine-gunned in the streets of Rome. In September, 1976, Orlando Letelier and Ronni Karpen Moffitt were killed by methods similar to those used to kill General Prats. Prats, Leighton, and Letelier were the most prominent and visible symbols of hope for a decent alternative to the military dictatorship—a general who was devoted to the Chilean constitution, a Christian Democratic politician who was the most plausible leader of a future democratic government in Chile, and an experienced diplomat who had served his country both as ambassador and as cabinet minister.

2. The Chilean government denied Orlando Letelier his citizenship last week. Contrary to international law, the United Nations Charter and their explicit treaty obligations, the Chilean government purported to strip Letelier of his nationality. His consistent opposition to the denial of human rights within that country—a denial which has been denounced by the majority of the members of the United Nations—marked him as a public enemy of that regime. The junta is the prime—if not the only—suspect in the assassinations of Orlando Letelier and Ronni Karpen Moffitt.

3. Expert competence was needed to devise the highly directed bomb which was used to kill Orlando Letelier and Ronni Karpen Moffitt. It is unlikely that such a bomb could have been developed without techniques available only to professional demolition experts. Again the Chilean government is the only party with access to such expertise which also had a motive for killing Orlando Letelier.

4. Orlando Letelier's own sources inside of Chile had recently warned him that the Chilean junta was debating whether or not to order his murder.

5. Members of the Letelier family have been followed and have received threatening letters and phone calls. They believe that their mail was being opened.

This evidence indicates that the Chilean junta must at the very least be considered a prime suspect in the assassinations. Any serious investigation must focus on the Chilean junta, a task far beyond routine investigative procedure.

Second, investigation of the assassinations requires a full exploration of the relationships between the Central Intelligence Agency (CIA) and the Chilean National Intelligence Directorate (DINA), the junta's secret police and the prime suspect in the case. This investigation can only be handled by a special prosecutor charged with this responsibility.

The record demonstrates the close connections between the United States CIA and the junta. The Senate Select Committee on Intelligence has specifically documented how the CIA, at the direct order of President Nixon and Henry Kissinger, plotted a violent coup d'etat in 1970 to prevent Salvador Allende from taking office as President of Chile. When that failed, the CIA then worked secretly for three years to make it impossible for Allende to govern. The Senate Committee found that the CIA was actively recruiting covert agents in all sectors of the Chilean society, including the military and intelligence services. According to the Committee's staff report on covert action in Chile, the CIA entered into a close relationship with DINA after the coup:

After the (1973) coup, the CIA renewed liaison relations with the Chilean government's security and intelligence forces, relations which had been disrupted during the Allende period. Concern was expressed within the CIA that liaison with such organizations would lay the Agency open to charges of aiding political repression; officials acknowledged that, while most of CIA's support to the various Chilean forces would be designed to assist them in controlling subversion from abroad, the support could be adaptable to the control of internal subversion as well.

The Chilean junta obviously considered Orlando Letelier to be subversive, as the illegal removal of his citizenship would indicate. We must know if the CIA or any other U.S. Government agency played any role in surveilling or "controlling" Orlando Letelier's activities.

Reliable intelligence sources have told us that, in addition to its regular exchange of intelligence with DINA under liaison arrangements, the CIA has "penetrated" the Chilean service. This means the CIA has its own secret agents working within DINA, agents whose function is to keep the CIA informed about DINA's activities. The CIA may know—or may be in the position to know—facts about possible DINA involvement in the murders.

The public will continue to raise serious questions about the integrity of its government and particularly the role of the CIA both at home and abroad unless the precise nature of the relationship between the CIA and DINA is fully disclosed. A special prosecutor will insure that the full extent of CIA knowledge and activities is part of the investigation. In addition, we are also calling upon the Senate Intelligence Committee and the House International Relations Committee to carry out separate investigations of CIA-DINA ties.

Third, these assassinations would seem to be part of a continuing pattern of violation of basic human rights on the part of the Chilean junta. The United States government's consistent support for the junta in spite of its attack on its own people raises serious questions about the willingness of this administration to investigate these assassinations—questions which can be put to rest by a serious independent investigation led by a special prosecutor.

In the past year alone, the administration has avoided congressional intention on human rights issues to continue its support of the junta. The Frazer-Kennedy amendments to this year's military aid bill provided that no military aid should be given to countries which violate basic standards of human rights. Between the passage of this bill and its signature by the President, the U.S. government agreed to a 9.3 million dollar supplemental military aid package with the Chilean junta. This violation of the intent of the law is but one example of the administration's support for the junta, even in the face of contrary congressional sentiment.

The State Department still has not made the policy determinations with regard to human rights violations in countries which receive American aid. In its Alice-in-Wonderland stance with its cruel consequences, the State Department refuses to acknowledge publicly what its officials admit informally—namely that the junta engages in gross and continuing violations of human rights.

The administration's policy is particularly relevant here, for it was Orlando Letelier's dedicated efforts to protest the junta's violence and to protect its victims that marked him as a target for its assassins. It was Orlando Letelier who worked closely with the UN Human Rights Commission in developing the facts of torture, murder and terror which the junta has inflicted on the Chilean people. He also worked with members of Congress, with church officials and leaders of governments in other nations to arrange for sanctuary for the unfortunate victims of junta repression. For this and for his courageous insistence on keeping alive the spirit of a free Chile, Orlando Letelier became a victim.

The brutal, calculated assassinations of Orlando Letelier and Ronni Karpen Moffitt must be the subject of an exhaustive investigation. Given the administration's record of support for the Chilean junta in spite of its consistent violation of human rights, given the junta's likely involvement in these assassinations, and given the close working relationship between the intelligence services of the United States and the junta, we demand that a special prosecutor be appointed to conduct a thorough investigation so that the truth will be known and the guilty brought to justice.

We ask for an early meeting with you to discuss these and other matters.

Sincerely yours,

Richard J. Barnet,
Marcus G. Raskin,
Co-directors, Institute for Policy Studies.

Institute for Policy Studies,
Washington, D.C., September 23, 1976.

Senator Daniel Inouye,
Chairman, Senate Committee on Intelligence Activities, Dirksen Senate Office Building Washington, D.C.

Dear Mr. Chairman: We are writing you to request that your committee open a full investigation of the relationship between the CIA and the Chilean National Intelligence Directorate (DINA). We consider the Chilean junta, acting through DINA, to be the prime suspect in the recent assassinations of Orlando Letelier, the program director of the Transnational Institute, and Ronni Karpen Moffitt, a research worker. Considerable circumstantial evidence exists against DINA which we believe deserves your attention:

1. The pattern of assassination attempts on the lives of high ex-officials of the Chilean government who have protested the military dictatorship's activities is undeniable: In September, 1974, General Carlos Prats, former Chief of Staff of the Chilean Army, and his wife were blown up by a time bomb in a car in Buenos Aires. In October 1975, Bernardo Leighton, a leader of the Christian Democratic Party and former Vice President of Chile and his wife were machinegunned in the streets of Rome. In September, 1976, Orlando Letelier and Ronni Karpen Moffitt were killed by methods similar to those used to kill General Prats. Prats, Leighton and Letelier were the most prominent and visible symbols of hope for a decent alternative to the military dictatorship—a general who was devoted to the Chilean constitution, a Christian Democratic politician who was the most plausible leader of a future democratic coalition government in Chile, and an experienced diplomat who had served his country both as an ambassador and as a cabinet minister.

2. The Chilean government denied Orlando Letelier his citizenship just last week. Contrary to international law, the United Nations Charter, and explicit treaty obligations, the Chilean junta purported to strip Letelier of his nationality. His consistent opposition to the denial of human rights within his country—a denial that has been denounced by the majority of United Nations members—marked him as a public enemy of that regime. The Chilean junta is the prime—if not the only—suspect in the assassinations of Orlando Letelier and Ronni Karpen Moffitt.

3. Expert competence was needed to devise the highly directed bomb which was used in the killings. It is unlikely that such a bomb could have been developed without techniques available only to professional demolition experts. Again the Chilean government is the only party with access to such expertise which also had a motive for killing Orlando Letelier.

4. Orlando Letelier's own sources inside Chile had recently warned him that the Chilean junta was debating whether or not to murder him.

5. Members of the Letelier family have been followed and have received threatening letters and phone calls. They believed their mail was being opened.

The record demonstrates the close connections between the CIA and the Chilean junta. The Senate Select Committee on Intelligence has specifically documented how the CIA, at the direct order of President Nixon and Henry Kissinger, plotted a violent coup d'etat in 1970 to prevent Salvador Allende from taking office as President of Chile. When that failed, the CIA then worked secretly for three years to make it impossible for Allende to govern. The Senate Committee found that the CIA was actively recruiting covert agents in all sectors of Chilean society, including the military and intelligence services. According to the Committee's staff report on covert action in Chile, the relationship was cemented after the coup:

> After the [1973] coup, the CIA renewed liaison relations with the Chilean government's security and intelligence forces, relations which had been disrupted during the Allende period. Concern was expressed within the CIA that liaison with such organizations would lay the Agency open to charges of aiding political repression; officials acknowledged that, while most of CIA's support to the various Chilean forces would be designed to assist them in controlling subversion from abroad, the support could be adaptable to the control of internal subversion as well.

The Chilean junta obviously considered Orlando Letelier to be "subversive," as the illegal removal of his citizenship would indicate. We must know if the CIA or any other U.S. government agency played any role in surveilling or "controlling" Orlando Letelier's activities.

We call upon you to investigate the CIA's specific role, if any in the Letelier assassination and to also look into the larger question of the CIA's relationships with DINA, an organization which has systematically engaged in such practices as torture and summary execution. We believe there is no possible justification for consorting with an agency like DINA that constantly denies basic human rights.

Particularly, we believe you should investigate the CIA's "penetrations" of DINA. Reliable intelligence sources have told us that in addition to its regular exchange of information with DINA under the liaison arrangements, the CIA has recruited a wide network of secret agents inside the Chilean service. One of the functions of these agents is to keep the CIA informed about DINA's activities. The CIA may know—or may be in a position to know—facts about possible DINA involvement in the murders.

We also believe you should study the role of Cuban exiles formerly in the CIA's employ, such as convicted terrorist Dr. Orlando Bosch, who have gone to work for the Chilean junta in recent years. The CIA almost certainly has information about these Cubans, many of whom have received extensive CIA training in paramilitary methods.

It is crucial that your committee insure that the assassinations of Orlando Letelier and Ronni Karpen Moffitt receive a complete and exhaustive investigation by all agencies of the United States government. Too often in the past, political assassinations have been investigated in a manner leaving serious questions in the minds of the public. This time, your committee can be instrumental in insuring that the FBI investigate (with full CIA cooperation) in a way consistent with equal justice under law.

Sincerely,

Richard J. Barnet.
Marcus G. Raskin.

A Call to Attend a Memorial Procession

We invite you to a national memorial procession in honor of Ronni Karpen Moffitt and Orlando Letelier. We invite you not only to honor two beloved people and the cause for which they stood, but to demonstrate by the thousands from many countries in the world against the terrorism practiced by the Chilean junta, and against the kinds of policies which accept the practice of murder and torture. These barbaric policies have set the stage for this murder on American soil.

This is a march of sadness, at the loss of two fine and dedicated people. It is also a march in anger, against the people who conceived and executed the policies of violence. It is a march of determination, that the perpetrators of the murder of Orlando and Ronni be brought to justice.

Isabel Letelier, wife of Orlando Letelier; Jose, Pancho, Cristian, and Juan Pablo, sons of Orlando Letelier; Michael Moffitt, husband of Ronni Karpen Moffitt.

DR. ROBERT M. WHITE HONORED BY SMITHSONIAN INSTITUTION

Mr. MATHIAS. Mr. President, Dr. Robert M. White, Administrator of the National Oceanic and Atmospheric Administration, was awarded the Smithsonian Institution's Matthew Fontaine Maury Medal by Secretary S. Dillon Ripley today.

The Smithsonian is honoring Dr. White for distinguished service as the first Administrator of the National Oceanic and Atmospheric Administration, and for his participation in fostering research on a national level in the ocean sciences. The citation states that Dr. White has "combined the skills of a gifted Administrator with those of a human scientist;" and that he has pioneered an international cooperation in marine biology and ecology. His accomplishments deserve our recognition.

Mr. President, I call the attention of my colleagues to Dr. Robert White's specific contributions as outlined in the official news release of the Smithsonian Institution's Office of Public Affairs, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

SMITHSONIAN BESTOWS MAURY MEDAL ON DIRECTOR OF NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Dr. Robert M. White, administrator of the National Oceanic and Atmospheric Administration (NOAA), will be awarded the Smithsonian Institution's Matthew Fontaine Maury Medal on September 27 by Secretary S. Dillon Ripley, of the Smithsonian.

The presentation will take place at 10:30 a.m. in the Eisenhower Theatre of the John F. Kennedy Center for the Performing Arts during the opening ceremonies of "The United States in the World," an international conference cosponsored by the American Council of Learned Societies, the American Studies Association, and the Smithsonian.

The gold medal was established in 1970 in honor of Mr. Maury, a 19th century U.S. Naval officer recognized as the founder of the science of oceanography. The Smithsonian awards the medal for distinguished contributions in underwater ocean science, an interdisciplinary field of immense complexity whose understanding is one of mankind's greatest challenges.

Dr. White is being honored for distinguished service as the first administrator of NOAA, and for his participation in fostering research on a national level in the ocean sciences.

The citation notes that Dr. White has "combined the skills of a gifted administrator with those of a human scientist," and that he has pioneered an international cooperation in marine biology and ecology. It also lauds him for his efforts to "protect our fellow mammals who still make the seas their home."

In remarks prepared for the presentation, Secretary Ripley said that Dr. White was one of the leading scientist-administrators in the United States. He also said that the international conference provides a "most propitious opportunity for recognizing leadership in exploring knowledge about a domain on which we are all dependent—the earth's water system."

Secretary Ripley also stated that in honoring Dr. White during the celebration of the American Revolution Bicentennial, "we also are celebrating the father of oceanography in the United States—Matthew Fontaine Maury, who published his classic *Physical Geography of the Sea in 1855*."

The Maury medal was designed by the medalist C. P. Jennewein. It depicts on one side a portrait of Maury as a young man, and on the obverse, the Smithsonian Institution's oceanographic submersible Johnson-Sea-Link. The only other recipients of the medal have been Edwin Link and J. Seward Johnson awarded in January 1971.

Dr. White was appointed administrator of NOAA in February 1971. From 1965, until the establishment of NOAA in October 1970, he had been administrator of the Environmental Science Services Administration in the Department of Commerce.

Dr. White was appointed chief of the U.S. Weather Bureau (now NOAA's National Weather Service) in 1963 and served in this capacity until the Environmental Science Services Administration was formed.

NOAA provides unified management for eight major Federal organizations: the National Marine Fisheries Service, the National Weather Service, the National Ocean Survey, the Environmental Data Service, the National Environmental Satellite Service, Environmental Research Laboratories and the Offices of Coastal Zone Management and Sea Grant.

Dr. White received a bachelor's degree in geology from Harvard University in 1944, a master's degree in meteorology from Massachusetts Institute of Technology in 1949 and his doctorate in 1950. From 1952 to 1959, Dr. White was a research scientist and laboratory director at the Air Force Cambridge Research Center.

He joined the Travelers Insurance Companies at Hartford, Conn., in 1959, as head of the Travelers Weather Research Center. Later, he was associate director of the research department before being named the first president of the Travelers Research Center, Inc., when it was established in 1960.

Dr. White is a member of numerous scientific societies including the American Geophysical Union, the American Association for the Advancement of Science and the Royal Meteorological Society. In 1974, Dr. White received the Rockefeller Public Service Award for the Development and Protection of Physical Resources. In 1975, he received the David B. Stone Award from the trustees of the New England Aquarium for contributions to the environment and the community.

JOE DEBONA

Mr. RIBICOFF. Mr. President, we measure the worth of our lives in large part by the company we keep and the friends we are blessed with. Thus, it was with a deep sense of loss that I learned that Joseph S. "Joe" DeBona of New London, Conn., had died Friday, September 24, 1976. He was 64 years old.

Joe DeBona, until his retirement this year, was an editor and a columnist of great charm, wit and style for the Hartford Courant. He was a longtime friend of mine and of my family's and we will miss him very much. We extend our most heartfelt sympathy to his wife, Carol Tracey DeBona, and their daughter, Luigina, and other members of his family.

Joe, always a colorful reporter, and I first met many years ago when I was a judge in the Hartford police court. We became friends, and later, in New London neighbors. He was a decent, concerned, caring man whose sense of fairplay and justice was matched only by his vitality and humor.

He was a good newspaperman, a calling, for Joe anyway, that was made to order. Besides being an accurate, responsible, enterprising reporter who covered Connecticut for more than 25 years, Joe DeBona was a writer of unique ability, a writer of prose as warm and down to earth as he was.

His columns, which appeared in the Courant on Monday mornings, could make you laugh or cry, or both. With a simple turn of phrase, Joe could deflate the pompous just where they needed deflating—and he could in plain language describe the failings and successes and fears and hopes and delights that all of us could see in ourselves.

Joe and his family lived at 38 Neptune Avenue in New London. Our summer home was at 40 Mott Avenue, only a block or so away, in Neptune Park. Upon arriving there I would make a point to arrange to see Joe. I wanted to hear from Joe what was going on in the New London-Groton area. And nobody knew more about that than did Joe DeBona. He covered New London and Groton and the whole of southeastern Connecticut like a blanket. He knew what news was, where to find it, and how to report it. Joe DeBona always was current on things, from the latest political developments to what local restaurant was serving the best shellfish.

There was another dimension to Joe DeBona too. That could be seen in that if one cared about what was really going on—not only in New London but anywhere else, for that matter—the best source of information was not necessarily Joe but Joe's "sources," that wonderfully human parade of personalities who appeared regularly in his columns.

Those personalities included a "terrible tempered" cat named "Fluffy" that resided with the DeBonas; and an 80-year-old neighbor of theirs, Millie Lassoff, who would swim into the waters of Long Island Sound while Joe dutifully took notes. Other sources who offered their opinions on the news of the day included Joe's wife, Carol, whom he wrote about with affection; and Carol's grandfather, who favored hot gin and low taxes.

These "sources," and others, coupled with Joe's rare ability to translate the common place into events and conversations of insight and perception, gave that column of his a grace and charm that made him Monday morning "must" reading for thousands of Courant subscribers.

It was appropriate that the DeBona columns appeared on Monday morning in the Courant. Joe himself was not too fond on Monday mornings and the start of the workweek—and he suspected this feeling was shared by his readers. Once, commenting up the effect his column had on people, Joe remarked:

> It is nice to know that these stories manage to lighten those blue Mondays, for such has been my intention.

Joe DeBona, newspaperman, humorist, and friend, leaves us a legacy of good times, shared experiences, friendships, love, good reporting, and enchanting columns. He will be deeply missed and never forgotten.

Mr. President, the Hartford Courant of September 26, 1976, and the New London Day of September 25, 1976, carried articles about Joe DeBona's death. I ask unanimous consent that the articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Hartford Courant, Sept. 25, 1976]

JOE DEBONA DIES; EX-COURANT WRITER

NEW LONDON.—Joe (Joseph S.) DeBona, a humorist who wrote about a zany cat, an 80-year-old woman swimmer and other characters crossing his path around New London, died here Friday afternoon. He was 64.

His popular stories appeared in The Courant Monday mornings for many years.

DeBona was the Courant's Groton-New London bureau chief and reporter 13 years, but it was his Monday morning columns that were awaited by thousands of Connecticut readers.

There he wrote about the adventures of daily life in his home on 38 Neptune Ave., of the common people of the city, of Fluffy, the DeBona family's "terrible tempered" cat. Fluffy's "indolent" sons; the "Old Gentleman," his wife Carol's late grandfather who favored hot gin and low taxes; and especially Millie Lassoff, "the well-known swimmer" who swam New London's water while Joe took notes.

Of those columns Joe said in 1970, "It is nice to know that these stories manage to some degree to lighten those blue Mondays, for such has been my intention."

DeBona retired from The Courant Jan. 12, after a retirement party Jan. 10 at the Lighthouse Inn attended by 115 government and business leaders, judges, newsmen and policemen from the Hartford area, Rhode Island and southeastern Connecticut.

Gov. Grasso sent a poem with its lines "may you and your typewriter at long last rest with the memory of deadlines past."

* * * informed—and I grew up in Hartford during the Depression," he said. "We lived on Westbourne Parkway, right next to Keney Park. I went to then Northwest Grammar School and then to Weaver High."

"It took me five years to get out of Weaver," he candidly continued. "I was wretched in algebra and completely hopeless in Latin. I had a Latin teacher—Miss Conklin, her name was—who was dismayed by my ignorance.

" 'DeBona, you are Italian and Latin should be a snap for you,' Miss Conklin used to say. 'I just can't understand it.' Well, I couldn't understand it either, except that I had an aversion to study," DeBona said.

Rather than a speech at his retirement dinner, DeBona gave his audience a spoken column, much like dozens he had written about a conversation with his wife, a conversation that contrasted her Irish and his Italian temperaments.

Mrs. Lassoff, now 84 and confined to her home, did not speak Friday of DeBona's accomplishments as a reporter. "He was my best friend," she said. "I'll miss him so."

The popular columns began as short stories shortly after DeBona came to work for The Courant 13 years ago. Their popularity grew, and he was asked to turn them into a weekly column. He did so, but he hated the idea. Readers didn't.

"I can't get out of bed, but I wait for his stories every week," a New Britain woman wrote in a shaky hand after his columns stopped. "It seems to me that the sun only comes up on Monday mornings."

Joe DeBona knew he was writing for elderly persons. He only gave one bit of advice to the bureau chief who replaced him in Groton-New London.

He took the new man outside the office and held him by the arm on a sunny December morning and said, "Don't listen to young people when they try to tell you what's going on. They don't know. They'll learn, and they won't like it. But the old people know. They've seen it all, and they know."

He looked across the Thames River at the New London shore and said, "The only trouble is, no one listens to them."

If DeBona was feeling well, he never let his friends know it. "I'm a middle-aged fellow who feels like 100," he told an interviewer a few years ago. * * *

People at the table began to nudge each other. "It's a column. It's a Joe DeBona column," they whispered to each other. It was the last.

About every other week, trying to write a story that would please the readers he cared about and the people he called "those . . . know-it-all kids in Hartford who call themselves editors," he wrote a story reminding New London Democrats about their campaign pledge last fall—not yet fulfilled—to restore twice weekly trash collections.

City Manager C. Francis Driscoll, who upon DeBona's retirement asked if young reporters would take up the mantle of that crusade, said Friday, "I will miss his great human characteristics and sensitivity to the people he wrote about."

DeBona died at Lawrence and Memorial Hospitals.

He began his newspaper career in Hartford for the Bridgeport Herald and came to The Courant in 1963. He was named bureau chief in 1969.

He leaves his wife, Mrs. Carol Tracey DeBona, and daughter, Luigina DeBona, at home, a brother, Atty. Prospero DeBona of Runson, N.J., and a sister, Mrs. Eugene Dianne of North Canton.

The Neilan Funeral Home, 12 Ocean Ave., New London, is in charge of arrangements, which are incomplete.

[From the New London (Conn.) Day, Sept. 25, 1976]

MR. DEBONA, FORMER NEWSPAPERMAN, DIES

Joseph S. "Joe" DeBona, a veteran newspaperman whose columns and news stories reached a large segment of state readers for more than 25 years, died Friday at Lawrence Memorial Hospital.

He was 64 and resided at 38 Neptune Ave., New London.

A Hartford native who moved to New London in 1945, Mr. DeBona had worked for The Hartford Courant for 13 years, retiring Jan. 12, 1976.

From 1969 until his retirement, he served as bureau chief in Southeastern Connecticut.

Mr. DeBona was a newspaper reporter of the old school who had a knack for smelling out a news story. When he wrote features, he used a homey style and he emphasized human interest in his stories.

He had a regular following for his column which had appeared Mondays in The Courant. Three of his subjects reappeared time and again.

One was his wife, Carol Tracey DeBona, whom Mr. DeBona goodnaturedly kidded in the column.

Another was Millie Lassoff, now 84, a neighbor whose swimming exploits in cold water in Long Island Sound captured the columnist's fancy. The third was Fluffy, the terrible-tempered cat with whom he came into frequent conflict.

He previously had worked for the Bridgeport Herald and had written magazine articles for national publications. In earlier years, he had been a writer for radio programs, including "Grand Central Station" and "Manhattan at Midnight."

Possessed of a good sense of humor, Mr. DeBona could laugh at himself. He made himself the butt of jokes in conversation, but he had a keen news sense and often scooped younger reporters.

When he retired last January, more than 100 persons—including newspaper editors and reporters, judges, policemen and politicians attended a testimonial for him at the Lighthouse Inn in New London.

Mr. DeBona had been in failing health for several months.

Born Jan. 1, 1912, in Hartford, he was the son of Prospero and Luigina Andretta DeBona. He was a graduate of Weaver High School there.

Besides his widow, he is survived by a daughter, Miss Luigina DeBona, at home; a brother, Atty. Prospero DeBona of Rumson, N.J., and a sister, Mrs. Eugene Dionne of North Canton, Conn.

Funeral services and burial will be private. The Thomas L. Neilan & Sons Funeral Home is in charge of arrangements. There are no calling hours.

Donations may be made in his memory to the St. Jude's Children's Hospital, Memphis, Tenn.

NOTICE OF HEARING

Mr. WILLIAMS. Mr. President, the Senate Committee on Labor and Public Welfare will conduct a hearing on September 28, on the nomination of Dr. Edward Aguirre, to be Commissioner of Education.

The hearing will be held at 2 p.m., in room 4232 of the Dirksen Senate Office Building. Persons interested in testifying or submitting material for the RECORD should contact Donald Elisburg, room 4233, Dirksen, 224–7663.

AMENDMENTS SUBMITTED FOR PRINTING

INTERSTATE HORSERACING ACT OF 1976—H.R. 14071

AMENDMENTS NOS. 2447 THROUGH 2455

Mr. BROOKE (for himself, Mr. BUCKLEY, Mr. JAVITS, Mr. KENNEDY, and Mr.

STEVENSON) submitted nine amendments intended to be proposed by them to the bill (H.R. 14071), the Interstate Horseracing Act of 1976.

OMNIBUS RIVERS AND HARBORS ACT—S. 3823

AMENDMENT NO. 2456

Mr. METCALF. Mr. President, I am today submitting an amendment to the Water Resources Development Act of 1976 (S. 3823) which is pending on the Senate calendar. It strikes a section which would appear to increase the authorization for a fish hatchery at the recently constructed Libby Dam in northwestern Montana. However, in raising the currently inadequate $4 to $5.5 million, the Public Works Committee added a stipulation that the money be used to match State funds—a move which actually decreases the Federal share for the project and, in effect, kills our effort to secure a hatchery large enough to mitigate fish losses caused by construction of the giant dam.

The committee action was in response to my introduction of S. 3386, a bill to increase the authorization to $6.5 million. My bill also made provision for the State of Montana to operate and maintain the hatchery. Although the committee's section 40 envisions a cooperative arrangement between the State and the Federal Government, it conveniently ignores the fact that Montana cannot and should not pay between $3 and $5 million in construction costs for mitigation of fish losses resulting from a Federal project.

Section 40 merely gives the appearance of providing relief. I would prefer to amend the bill to achieve the original objective of my bill, but I know what my chances are. Therefore, rather than subject the people of northwestern Montana to the illusion that the Federal Government is at long last meeting its commitment, I shall simply move to strike the section.

ORDER FOR CONSIDERATION OF THE SUPPLEMENTAL APPROPRIATION BILL AFTER 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the orders for the recognition of Senators who wish to express their tributes to retiring Senators FANNIN and FONG, the Senate proceed to the consideration of the supplemental appropriation bill, with the understanding that it not be before 10 a.m.

Mr. GRIFFIN. Has the Senator designated a convening time for tomorrow.

Mr. ROBERT C. BYRD. Not yet. I know we are coming in as early as 9, probably as early as 8:30, and there is a possibility that we shall come in as early as 8.

Mr. GRIFFIN. I do not know that we shall get very many of the Senators out at that hour.

Mr. ROBERT C. BYRD. Can we agree that we shall not start on appropriations before 10?

The PRESIDING OFFICER. Is there objection?

The Chair hears none. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF CONFERENCE REPORT ON S. 3149 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the supplemental appropriations bill tomorrow, the Senate proceed then with the consideration of the toxic substances conference report, which had earlier been scheduled for this afternoon.

The PRESIDING OFFICER. Without objection.

Mr. ALLEN. Reserving the right to object, and I shall not object, it is understood, is it not, that the cloture requirement, that we stay on the bill that has been clotured until it has been finally disposed of, is being relaxed only for the purpose of the matters mentioned in the request, and it would not be in order for time to be yielded to others for bringing up conference reports or introducing resolutions or things of that sort. Is that not correct?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. ALLEN. I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, I think that understanding ought to be made clear.

UNANIMOUS-CONSENT REQUEST—H.R. 10760

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, notwithstanding the 3-day rule on the availability of committee reports, the Senate, upon disposition of the toxic substances conference report tomorrow, proceed to the consideration of H.R. 10760, the black lung bill. This 3-day rule can only be waived by the leaders on both sides of the aisle. I know the pressures on both sides of the aisle for this bill and I know that there are those who are opposed to it. I am constrained to ask unanimous consent that the bill be brought up tomorrow, notwithstanding the 3-day rule—which, as I understand it, would not expire before Wednesday, thus allowing the bill to be brought up normally on Thursday.

Mr. GRIFFIN. Mr. President, reserving the right to object, and I shall object, the distinguished acting majority leader is absolutely correct. There are Senators on both sides of the aisle who are very much for this legislation and would like to see it passed. On the other hand, it is controversial and does involve expense. We have had requests from Senators on this side that the 3-day rule not be waived and that there be an adequate opportunity to study the committee's report.

As I understand it, the committee's report, if it is available yet, has only been made available today. So I am not in a position to waive the 3-day rule.

I ask the Senator from West Virginia, am I correct that the report has either not been made available or is only available today? Perhaps I should ask the Chair.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRIFFIN. So, under those circumstances, I must object.

Mr. ROBERT C. BYRD. I thank the Senator. I can understand the fact that he has been put in the position by other Senators of having to object.

UNANIMOUS-CONSENT REQUEST—S. 1302

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—this time, there is no problem with committee reports—that upon the disposition of the toxic substances conference report tomorrow, the Senate proceed to the consideration of S. 1302 on mine safety.

Mr. GRIFFIN. Mr. President, at the request of another Senator, I must respectfully object.

The PRESIDING OFFICER. The objection is heard.

UNANIMOUS-CONSENT REQUEST—H.R. 13555

Mr. ROBERT C. BYRD. Mr. President, I make the same request—again, we have no problem with the availability of the conference report—with respect to H.R. 13555, an act to amend the Federal Metal and Nonmetallic Mine Safety Act.

Mr. GRIFFIN. Mr. President, I understand that that is essentially the same legislation and I must make the same objection.

The PRESIDING OFFICER. Objection is heard.

TIME LIMITATION AGREEMENT—S. 3823

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the toxic substances conference report tomorrow, the Senate proceed to the consideration of S. 3823, the omnibus rivers and harbors bill, with the following understanding: That the bill be under a time agreement. I have talked with various Senators on both sides of the aisle who tell me that they, in turn, have contacted other Senators who are interested, pro and con, for and against, and that the following agreement would be acceptable: That there be 2 hours on the bill; that there be 30 minutes on any amendment; that there be no time limit—no time limit—on user charges and no time limit on lock and dam No. 26; and that, if the bill is not disposed of within 8 hours, the leadership is authorized to set it aside.

Mr. GRIFFIN. I must say to the acting majority leader, perhaps there is an agreement that can be consummated, but I am just not aware of any. This is news to me. If we could have a few minutes to check it out, I think we may do something.

Mr. ROBERT C. BYRD. I am delighted to withdraw the request for now while some contacts are being made.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the toxic substances conference report tomorrow the Senate proceed to the consideration of the omnibus rivers and harbors bill under the conditions as previously stated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER TO CALL UP CERTAIN MEASURES AT ANY TIME DURING THIS WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the leadership be authorized at any time during the week to call up, at such time as it appears to be advisable, the continuing resolution, the conference report on the Education Act amendments, the conference report on revenue sharing, and the conference report on the foreign aid appropriations——

Mr. ALLEN. Reserving the right to object.

Mr. ROBERT C. BYRD. With the understanding, as Mr. ALLEN has pointed out earlier, that in any of these cases, no action can be taken at those times with respect to the bill that is now before the Senate, the civil rights attorneys' fee bill, and that such time may not be used to yield to other Senators for the transaction of morning business.

Mr. ALLEN. Reserving the right to object, and I do not plan to object, may I make a parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Notwithstanding the agreement that bills may be called up, would a call for the regular order displace those matters?

The PRESIDING OFFICER. A call for regular order would return the Senate to the unfinished business.

Mr. ALLEN. I thank the Chair.

Mr. ABOUREZK. What is the unfinished business?

Mr. ROBERT C. BYRD. That is the civil rights attorneys' fees bill.

Now, Mr. President, I do not believe that the distinguished Senator from Alabama—

The PRESIDING OFFICER. Is there objection to the request? The Chair hears none, and it is so ordered.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. I am in no position to presume that I can speak for the Senator from Alabama, but I do not believe it is his intention to call for the regular order on any of these measures I have mentioned, the continuing resolution, the foreign aid conference report, the revenue sharing conference report, and the education act conference report, as long as his rights are being protected with respect to the civil rights attorneys' fees bill, and if that be the case, then I would like to ask unanimous consent that in connection with those "must" measures, the continuing resolution, the foreign aid conference report—which I probably will vote against—the revenue sharing conference report, the education act conference report and, of course, the supplemental appropriation bill tomorrow, and the toxic substances conference report, I might include the provision that no call for the regular order would displace them and bring up the unfinished business.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. My intention is to protect the Senator and, at the same time, not allow any of the 100 Senators who might, for one reason or another, just want to displace the measure we have to get acted on and bring up the unfinished business.

Mr. ALLEN. What is the present request then?

Mr. ROBERT C. BYRD. The request would be that no call for the regular order—we already have consent to bring up these measures, the leadership is authorized to bring them up. I would like to ask unanimous consent that no call for the regular order would bring up the unfinished business with respect to the continuing resolution, the supplemental appropriation, the foreign aid conference report, the revenue sharing conference report, the Education Act conference report, the toxic substances conference report. I think those are the so-called must measures.

Mr. ALLEN. They are all conference reports, the ones the Senator has requested?

Mr. ROBERT C. BYRD. With the exception of the continuing resolution and the supplemental appropriation I believe they are all conference reports.

Mr. ALLEN. I do not believe that would be quite in order, this last request, because that would not prevent some nongermane amendment or some effort beyond the provisions of rule XXII to be made, if no call would be made for the regular order.

Mr. ROBERT C. BYRD. Well, just in connection with these, I say to the distinguished Senator I will join him if there is any effort to make any flank attack or end runs in connection therewith.

Mr. ALLEN. Matters other than those mentioned.

Mr. ROBERT C. BYRD. It is my desire to get these "must" measures up and get them acted upon.

Mr. ABOUREZK. Mr. President, I think the Senator would solve that by including in his unanimous-consent request that nongermane matters will not be permitted on these bills here.

Mr. ALLEN. Well, of course, amendments as something extraneous coming up on the side though, that is the point.

Mr. ROBERT C. BYRD. Let us have an agreement that if such come up then the call for the regular order would be in order.

Mr. ALLEN. Very well.

Would it be the leadership's intention to be given permission to call up these measures at any time, would it be his contemplation that a call would be made only on completion of the item of business before the Senate? In other words, he would not interrupt a matter to bring one of these up, would he?

Mr. ROBERT C. BYRD. I do not know what the Senator means by "a matter."

Mr. ALLEN. What I am talking about is would the Senator bring up one of the conference reports if he is on the continuing resolution, for instance, or would he complete whatever item of business we were on before calling one of these matters up?

Mr. ROBERT C. BYRD. Well, I do not believe the Senator really wants to put me in the position of having to answer that.

I obviously cannot answer that. It might be that a Senator who is in charge of a conference report would have an engagement, would have to leave, and for some reason or other he would want to call up his conference report while we are on the continuing resolution.

Mr. ALLEN. Very well. But if one of these conference reports is called up it would merely postpone or lay aside temporarily the matter we were on; is that not correct?

Mr. ROBERT C. BYRD. That is correct, yes.

Mr. ALLEN. I thank the Senator.

Is it also contemplated that these conference reports would be considered before returning to the lawyers' bill?

Mr. ROBERT C. BYRD. All of the conference reports?

Mr. ALLEN. Yes.

Mr. ROBERT C. BYRD. I doubt that they would all be ready. The foreign aid conference report, as I understand it, will be available tomorrow.

Mr. ALLEN. Would the Senator outline the matters or issues that will be brought up prior to a return to the lawyers' bill?

Mr. ROBERT C. BYRD. I was hoping to get consent to bring up the omnibus rivers and harbors bill.

Mr. GRIFFIN. I can say to the acting majority leader that request we can agree to.

Mr. ROBERT C. BYRD. Very well.

Now, Mr. President, this will partially answer the question of the distinguished Senator from Alabama. May I ask the Chair if I am correct thus far, that tomorrow, after the orders for the recognition of Senators have been completed, but not before 10 a.m., the Senate will proceed to the consideration of the supplemental appropriation bill, and that upon the disposition of that bill the Senate will take up the toxic substances conference report; am I correct to that point?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Had we gone beyond that point?

The PRESIDING OFFICER. We had not gone beyond that point.

Mr. ROBERT C. BYRD. I thank the Chair. I had attempted to go beyond that point by getting black lung and mine safety up and had met with objections.

ORDER FOR THE CONSIDERATION OF H.R. 14260 TOMORROW

Mr. ROBERT C. BYRD. Now, Mr. President, I ask unanimous consent—may I modify that request; I believe Senator INOUYE will not be here on Wednesday, I am not sure—that the foreign aid conference report follow the toxic substances conference report and precede the taking up of the omnibus rivers and harbors bill. That would accommodate Senator INOUYE.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Very well, I thank Mr. GRAVEL.

Now, the Education Act conference report, I do not believe I can say that it will be ready tomorrow, or can I, may I ask the distinguished Presiding Officer?

The PRESIDING OFFICER. The higher education conference report will be available, if needed, within the next hour. It will certainly be ready tomorrow.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER FOR THE CONSIDERATION OF CONFERENCE REPORT ON S. 2657 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the omnibus rivers and harbors bill, the Senate proceed to the consideration of the Education Act conference report.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR RECESS UNTIL 8:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 8:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDERS FOR TOMORROW—TRIBUTES TO SENATORS FANNIN AND FONG—CONSIDERATION OF SUPPLEMENTAL APPROPRIATION BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that immediately after the prayer by the Chaplain, Mr. DOMENICI be recognized for not to exceed 15 minutes, to be followed by Mr. BELLMON for not to exceed 15 minutes, that the tributes for the retiring Senators (Messrs. FANNIN and FONG) then begin, that the time for such tributes be under the control of the Republican leader or his designees and, in this instance, under the control of Mr. ABOUREZK on this side, who will be here until I am able to arrive, and that it be further agreed to that at no later than 10:30 a.m. tomorrow, the Senate proceed to the consideration of the supplemental appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES HELD AT DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that two messages from the House on House Joint Resolution 1008, authorizing the President to proclaim the week beginning October 3, 1976, and ending October 9, 1976, National Volunteer Fireman Week, and H.R. 6507, for the relief of Chester C. Clark, Mary L. Clark, and Dorothy J. Wilber, be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. HUGH SCOTT. Will the Senator yield for a unanimous consent?

Mr. ROBERT C. BYRD. Yes, I yield.

FOREIGN SOVEREIGNTIES IMMUNITY ACT—S. 3553—SUBMISSION OF A COMMITTEE REPORT (S. REPT. NO. 94–1310)

Mr. HUGH SCOTT. Mr. President, from the Committee on the Judiciary, I ask unanimous consent to submit a report on S. 3553, and that the report be printed.

The PRESIDING OFFICER. Without objection——

Mr. ABOUREZK. Mr. President, reserving the right to object, what is this?

Mr. HUGH SCOTT. The sovereign immunities bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADDITIONAL STATEMENTS

Mr. ROBERT C. BYRD. Mr. President, before stating the program, I ask unanimous consent that statements by Senators that have been filed at the desk be printed in the RECORD today.

The PRESIDING OFFICER. Without objection, it is so ordered.

REQUEST TO SUBMIT RESOLUTION

Mr. ABOUREZK. Mr. President, I ask unanimous consent that a statement and a resolution be allowed to be——

Mr. ALLEN. Reserving the right to object, what is the resolution?

Mr. ABOUREZK. It is a resolution on cutting off aid to Chile.

Mr. ALLEN. I know that Senator HELMS has a hold on that.

Mr. HELMS. Reserving the right to object, will the Senator restate that?

Mr. ABOUREZK. It is the bill we talked about the other night on the floor.

I am simply asking for its introduction. It is introducing a bill. It is not calling it up and not putting it on the calendar.

Mr. HELMS. I object.

The PRESIDING OFFICER. Objection is heard.

ORDER FOR ROLLCALL VOTES TO OCCUR AFTER 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be no rollcall votes tomorrow prior to the hour of 10:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I have one further unanimous-consent request.

I ask unanimous consent that the Committee on Labor and Public Welfare be authorized to meet on September 29 to consider nominations, and to consider the National Diabetes Advisory Board bill, the Service Contracts Act amendment, the Special Unemployment Assistance Act extension, and the Railroad Retirement Act amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from North Dakota.

GENERAL REVISION OF COPYRIGHT LAW

Mr. BURDICK. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 22.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, can the Senator enlighten me? I do not know what he is doing. Is it cleared on both sides?

Mr. BURDICK. This is the copyright bill. It was cleared by Senator SCOTT.

Mr. GRIFFIN. And the Senator is going to have conferees appointed?

Mr. BURDICK. That is right.

Mr. GRIFFIN. I withdraw my reservation.

The PRESIDING OFFICER (Mr. PELL) laid before the Senate a message from the House of Representatives insisting upon its amendment to the bill (S. 22) for the general revision of the copyright law, title 17 of the United States Code, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. BURDICK. I move that the Senate disagree to the amendment of the House and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. McClellan, Mr. Philip A. Hart, Mr. Burdick, Mr. Hugh Scott, and Mr. Fong conferees on the part of the Senate.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 8:30 a.m. tomorrow following a recess. After the prayer, the distinguished Senator from New Mexico (Mr. Domenici) will be recognized for not to exceed 15 minutes. He will be followed by Mr. Bellmon for not to exceed 15 minutes, after which the tributes to Mr. Fannin and Mr. Fong will be expressed, the time for such being under the control of the two leaders or their designees. Upon the disposition of those orders and no later than 10:30 a.m. the Senate will take up the supplemental appropriations bill.

After the supplemental appropriations bill has been disposed of, the Senate will take up the toxic substances conference report, upon the disposition of which the Senate will proceed to the consideration of the foreign aid conference report, upon the disposition of which the Senate will take up the rivers and harbors bill under a time agreement of 2 hours on the bill and 30 minutes on any amendment, 20 minutes on any debatable motion, appeal, or point of order if such is submitted to the Senate for its consideration, by unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. And with the further proviso that there is no time limitation on lock and dam 26, and there is no time limitation on user fees, and that if the Senate has not disposed of the bill after 8 hours, the leadership is authorized to set it aside.

Upon the disposition of the rivers and harbors bill, the Education Act conference report will be called up.

Mr. President, in the case of some of these conference reports not much time may be necessary. I think there is a fairly good chance that some of these items will not take a lot of time.

There will be rollcall votes throughout the day. I would anticipate a reasonably long day tomorrow. It is further understood that the leadership is authorized to call up at any time the continuing resolution.

A couple of additional unanimous-consent requests should be stated here.

It was earlier agreed that the unemployment tax bill, H.R. 10210, will be made the business before the Senate following the disposition of the civil rights attorneys' fees bill.

UNANIMOUS-CONSENT AGREEMENT—H.R. 10210

Mr. ROBERT C. BYRD. I would like to ask unanimous consent at this time that the leadership be authorized at any time to call up H.R. 10210, the unemployment tax bill, following the disposition of these other measures I have outlined, with the understanding that the calling up of that measure would not occur tomorrow, and that no amendment relative to civil rights attorneys' fees or other extraneous matters would be in order on that bill. I hope by saying that, I am not ruling out some other amendment that might not be germane otherwise, but in no way would be related to civil rights attorneys' fees. I do not think I should ask that no nongermane amendment be offered. I do not think I am in a position to do that. Does the distinguished Republican whip have any suggestions?

Mr. GRIFFIN. There is no time limit, is there?

Mr. ROBERT C. BYRD. There is no time limit.

Mr. ABOUREZK. I thought the understanding was if these matters were to be called up, there would be no nongermane amendments applied to them.

Mr. ROBERT C. BYRD. I could not do that with respect to the unemployment tax. We have no time agreement on it. The Senate will just have to work its will. We had obtained consent that that be called up following the civil rights attorney fees bill. It is a "must" bill before adjournment sine die.

Mr. ABOUREZK. I wonder if the Senator would be interested in putting in the provision of the unanimous-consent request that nongermane amendments would be prohibited.

Mr. ROBERT C. BYRD. I do not know that I am in a position to do that, may I say to my friend. I am not suspicious of the motives of any Senator.

Mr. GRIFFIN. I join the acting majority leader. I feel that in protecting the distinguished Senator (Mr. Javits) I would not be able to agree to such a request.

Mr. ABOUREZK. I object to the unanimous-consent request.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. I hope the Senator will not object. He will certainly be in a position to oppose any amendment which is offered. This is a "must" measure. I hope he would not object to the leadership being authorized to call it up. We are going to have to call it up before we go out.

Mr. ALLEN. Will the Senator yield?

Mr. ABOUREZK. I have one more question.

In this unemployment compensation, is it my understanding, along the lines of the discussion the Senator had with Senator Allen a minute ago, that during the proceedings on this unemployment compensation bill a call for the regular order would displace that and bring back the attorneys' fees bill?

Mr. ROBERT C. BYRD. It would.

Mr. ABOUREZK. At any time during the proceedings?

Mr. ROBERT C. BYRD. Yes, it would.

Mr. ABOUREZK. Then I have no objection.

Mr. ALLEN. Will the Senator yield?

Mr. ROBERT C. BYRD. Will the Senator allow the Chair to rule first?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. ALLEN. I believe the Senator misunderstood my concern about what might be possible under this state of affairs being projected for tomorrow and ensuing days. I was not in the slightest concerned that some of the provisions of the lawyers bill be attached to some of this other legislation. What I was concerned about was that no time be yielded or that no effort be made to do anything that was contrary to rule XXII, except insofar as agreed to in these agreements.

So if the leadership wants to add the provisions of the lawyers' bill to this other measure, I would have no objection to that, with the understanding, of course, that there is no time limitation and that measure is not under cloture. I would have no objection to that, but I would not want these permissions to farm out the time to do other things which would be contrary to rule XXII.

Mr. ROBERT C. BYRD. Very well.

Mr. GRIFFIN. Mr. President, I would like to direct one question to the distinguished acting majority leader. With respect to the agreement on the omnibus rivers and harbors bill, is it understood that time on the bill can be allocated by the respective managers on either side to particular amendments that may be offered?

Mr. ROBERT C. BYRD. Yes.

Mr. GRIFFIN. That is what I thought.

Mr. ROBERT C. BYRD. Yes. And it should be further understood that the 8-hour provision is all embracing; it covers quorum calls, amendments, et cetera. Once 8 hours is up, if we have not disposed of that bill then, within the discretion of the leadership, the leadership can take the bill down. Is that agreeable?

Mr. GRIFFIN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, no rollcall votes will occur prior to the hour of 10:30 a.m. tomorrow.

RECESS UNTIL 8:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, and with appreciation to all Senators who have made it possible to proceed in the manner we have been able to proceed, I move that the Senate stand in recess until the hour of 8:30 tomorrow morning.

The motion was agreed to; and at 6:03 p.m. the Senate took a recess until tomorrow, Tuesday, September 28, 1976, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 27, 1976:

Department of State

Lowell Bruce Laingen, of Minnesota, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United State of America to the Republic of Malta.

Robert P. Smith, of Virginia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ghana.

HOUSE OF REPRESENTATIVES—*Monday, September 27, 1976*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Whosoever will save his life shall lose it; and whosoever will lose his life for My sake shall find it.—Matthew 16:25.

Eternal Father, the Companion of our daily lives, into Thine ennobling presence we lift our all-too-human spirits. By Thy grace give to us an increasing sense of right and wrong, together with a firmness of purpose to do the right and to refuse the wrong. So may our thoughts and our actions become more and more acceptable unto Thee.

We thank Thee for our beloved America, for our Founding Fathers, and for the men and women across 200 years who have sought to make our country great. Grant us that same spirit in this day. While we glory in our past may we also be aware of the needs of the present and the opportunities for the future. Guide us in our choice of leaders and make our country a bulwark of justice and peace, unafraid as a people to find our lives by losing them in Thy service and the service of all mankind.

In the spirit of Him who gives life to all we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 5446. An act to implement the Convention on the International Regulations for Preventing Collisions at Sea, 1972;

H.R. 7624. An act for the relief of Jacinto Vazquez Camacho;

H.R. 11321. An act to suspend until July 1, 1978, the duty on certain elbow prostheses if imported for charitable therapeutic use, or for free distribution, by certain public or private nonprofit institutions;

H.R. 11890. An act for the relief of Bernard Julian Phillips;

H.R. 12831. An act for the relief of Mo Chong-Pu;

H.R. 13374. An act to provide for a national wildlife refuge in the Minnesota River Valley, and for other purposes; and

H.R. 15552. An act to amend title 18, United States Code, to implement the "Convention To Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion That Are of International Significance" and the "Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents", and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 866. An act for the relief of Patrick Andre Tasselin and his wife, Fabienne Francoise Tasselin; and

S. 3485. An act for the relief of Orlando Garzón.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12566) entitled "An act authorizing appropriations to the National Science Foundation for fiscal year 1977."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2228) entitled "An act to amend the Public Works and Economic Development Act of 1965, as amended, to extend the authorizations for a 3-year period."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 8119. An act for the relief of Fernando Alves Macos;

H.R. 3954. An act to amend title 10 of the United States Code, to provide for an exclusive remedy against the United States in suits based upon medical malpractice on the part of military or civilian medical personnel of the armed forces, and for other purposes.

H.R. 11199. An act for the relief of Hollis Anthony Millet;

H.R. 11337. An act to amend title 13, United States Code, to provide for a mid-decade census of population, and for other purposes;

H.R. 11455. An act to amend the act establishing the Indiana Dunes National Lakeshore to provide for the expansion of the lakeshore, and for other purposes; and

H.R. 15026. An act to amend the Federal Aviation Act of 1958 to authorize reduced fare transportation on a space-available basis for elderly persons and handicapped persons, and for other purposes.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3557) entitled "An act to authorize the appropriation of funds necessary during the fiscal year 1977 to implement the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SPARKMAN, Mr. CHURCH, Mr. SYMINGTON, Mr. CASE, and Mr. JAVITS to be conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a resolution of the following titles, in which the concurrence of the House is requested:

S. 649. An act for the relief of Roberto Quispe;

S. 842. An act for the relief of Mondakota Gas Co.;

S. 2647. An act for the relief of Dr. Reynaldo P. Perez, his wife, Raquel Perez, and their child, Marie Freinde Perez;

S. 2736. An act for the relief of Dr. Abraham Horwitz;

S. 2894. An act for the relief of Maria Fineza Fortich;

S. 2917. An act for the relief of Guy Marius Langlois and Diane Mireille V. Langlois;

S. 2948. An act for the relief of Milos Forman; and

S. 3017. An act for the relief of Lee Young Soo.

S. 3026. An act for the relief of Monchito C. Entena, Antonia V. Entena, Robert Entena, Cathleah Entena, Arvin Entena, and Eliza R. Ayala;

S. 3204. An act to designate certain lands as wilderness areas and wilderness study areas;

S. 3313. An act for the relief of Lucila Domingo Santos;

S. 3314. An act for the relief of Isidaria Gallardo Avaricio;

S. 3315. An act for the relief of Felina Aranador Afinidad;

S. 3444. An act to provide for the study of certain lands to determine their suitability for designation as wilderness;

S. 3490. An act for the relief of Gaspar Louis Sayoc;

S. 3556. An act for the relief of Marciano Santiago and his wife, Eleanor L. Santiago;

S. 3819. An act for the relief of Comdr. Edward White Rawlins, U.S. Navy (retired); and

S. 3848. An act to amend the Act of February 25, 1920.

The message also announced that Mr. BUMPERS be a conferee, on the part of the Senate, on the bill (S. 3091) entitled "An act to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes," vice Mr. METCALF, excused.

The message also announced that the Senate had passed a resolution of the following title:

S. RES. 554

Resolved, That the Senate disapprove the proposed deferral of budget authority for the Rogers Memorial Hospital, which deferral (D76–115) was set forth in the special message transmitted by the President to the Congress on July 28, 1976, under section 1013 of the Impoundment Control Act of 1974.

PRESIDENTIAL DEBATE LEADS TO BUDGET COMMITTEE PROJECTIONS

Mr. ADAMS. Mr. Speaker, the presidential debate of September 23 led to some questions about Budget Committee projections and when we might reasonably expect significant budget surpluses. Mentioned in the debate were some numbers which appear in a table on page 87 of the report of the Budget Committee on the second budget resolution for fiscal year 1977. I would like to briefly review these projections and be sure that everybody understands what the alternatives presented represent.

The table shows four projections of budget surpluses and deficits out to fiscal year 1981. None of these projections is a prediction of the future. Rather, they represent an extension of all Federal programs at their fiscal year 1977 levels, without policy changes. They are based on two sets of economic assumptions. Actual economic conditions will, of course, not turn out to be exactly those used in the projections, since we do not have a crystal ball capable of making perfect estimates. In addition, in all likelihood, Federal programs will be changed between now and fiscal year 1981, causing differences in outlays from those projected, and the tax laws will probably change, affecting revenue figures. However, we feel that presentation of an analysis of the type shown based on the world as it exists right now, and showing, in effect, what will happen if the Government does nothing to change policies, is extremely useful for planning and policy development.

Four sets of projections appear on page 87. Two sets assume inflationary adjustments only in those Federal programs where such adjustments are mandated by law. A list of these programs appears in another table on page 85 and includes such things as the various Federal retirement programs, medicare, and interest on the public debt. All other Federal programs are assumed not to be adjusted for inflation, and are held at fiscal year 1977 dollar levels.

Using this very narrow definition of Federal outlay commitments, and assuming in one projection continued moderate-rate recovery from the recent economic recession, a budget surplus in the neighborhood of $51 billion would develop by fiscal year 1981. However, if it is assumed that all Federal programs, not just the mandatory ones, one adjusted for inflation, the fiscal year 1981 surplus under a moderate economic recovery would be $5 billion.

Two other sets of projections on page 87 assume a somewhat more vigorous rate of economic recovery. Under these circumstances, and assuming again the very narrow definition of Federal commitments, we could achieve a surplus of $96 billion by 1981. However, if all outlays are adjusted for inflation, with a more vigorous economy, the fiscal year 1981 surplus would be $51 billion.

In the real world, of course, we can anticipate that many Federal programs, besides the ones involving mandatory increases, will be adjusted for inflation, but certainly not all will be fully adjusted. Therefore, assuming a moderate economic recovery, a budget margin in the range of $50 billion should result in calendar year 1980. If the economy is somewhat more vigorous, the budget margin would be as high as $96 billion.

These projected budget margins for fiscal year 1981 should not necessarily be regarded as surplus. They represent—given expected economic assumptions and the law as it now stands—these amounts that would be available for tax cuts, for financing new programs, or for broadening the scope of existing programs. I will include at this point the economic assumptions used in the study representing both a moderate recovery and a vigorous recovery which can provide a fiscal dividend for our Nation.

[Dollar amounts in billions]

	Calendar year 1981 economic assumptions	
	Moderate recovery	Vigorous recovery
Current dollar GNP	$2,746	$2,858
Real GNP	1,604	1,640
Unemployment	5.0	4.1
Consumer Price Index	5.0	5.1
Real growth	5.0	5.0
Revenue	$554	$597

PROVIDING FOR CONSIDERATION OF H.R. 14932, RAIL AMENDMENTS OF 1976

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1548 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1548

Resolved, That upon the adoption of this resolution it shall be in order to move, section 401(b) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14932) to amend the Regional Rail Reorganization Act of 1973, the Railroad Revitalization and Regulatory Reform Act of 1976, the Rail Passenger Service Act, and the Interstate Commerce Act. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider, section 401(b) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and said substitute shall be read for amendment by titles instead of by sections. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 14932, the House shall proceed to the consideration of the bill S. 3131, section 401(b) of the Congressional Budget Act to the contrary notwithstanding, and it shall be in order in the House to move to strike out all after the enacting clause of said Senate bill and insert in lieu thereof as one amendment in the nature of a substitute the texts of the bills H.R. 13601 and H.R. 14932 as passed by the House.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

Mr. Speaker, to the best of my knowledge there was no controversy before the Rules Committee on this rule. It is a rule that sounds more complicated than it actually is. It provides for an open rule with 2 hours of general debate; and amendment in the nature of a substitute considered as the original bill, to be read by titles instead of by sections; one motion to recommit with or without instructions.

There are a number of waivers of the Budget Act, but they are all agreed upon by everybody involved, including the Budget Committee. They are, in a sense, technical, but one of them requires some action that has been agreed to by the committee handling the bill.

As I say, I know of no objection to the rule. The rule also provides that when we finish the consideration of the bill that it will bring up, H.R. 14932, that we set up the situation where the House can go to conference with a similar Senate bill by substituting the content of the bill that will by that time have been passed, and another bill that has already been passed by the House, H.R. 13601, the Amtrak Improvement Act.

Mr. Speaker, I reserve the balance of my time.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, as my able colleague from Missouri has stated, House Resolution 1548 provides for the consideration of the bill H.R. 14932 to amend the Regional Rail Reorganization Act of 1973, the Railroad Revitalization and Regulatory Reform Act of 1976, the Rail Passenger Service Act, and the Interstate Commerce Act.

The resolution furnishes an open rule and 2 hours of general debate. It also provides for the consideration of an amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment.

Subsequent to the passage of H.R. 14932, the House shall proceed to the consideration of the bill S. 3131, and it shall be in order to strike out all after the enacting clause and insert the texts of the two House-passed bills (H.R. 13601 and H.R. 14932) as one amendment in the nature of a substitute.

Mr. Speaker, the bill H.R. 14932, the committee substitute, and the Senate bill provide new entitlements which could become effective prior to the ensuing fiscal year. Thus, each violates section 401(b) of the Congressional Budget Act. For the purpose of making the consideration of these bills in order, House Resolution 1548 waives the provisions of section 401(b) in each case.

Simply stated, Mr. Speaker, H.R. 14932 is a bill designed to modify various procedures and responsibilities related to the reorganization of the U.S. rail system.

The administration does not favor passage of the bill in its present form. It objects specifically to section 104 which increases loans for payment of obligations by $70 million and section 109 which changes the base date for employee wage computation. Also, the gentleman from Kansas (Mr. SKUBITZ) objects to section 105 of the bill which requires the Government to assume responsibility for the payment of pension benefits to a number of retired employees of several bankrupt railroads.

I would encourage my colleagues to consider these objections as we move to the consideration of the bill. Mr. Speaker, I ask that the rule be adopted.

Mr. Speaker, I reserve the balance of my time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SEBELIUS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 297, nays 0, answered "present" 3, not voting 130, as follows:

[Roll No. 808]

YEAS—297

Abdnor
Adams
Addabbo
Allen
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Aspin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Bingham
Blanchard
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burton, Phillip
Byron
Carr
Carter
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
D'Amours
Daniel, R. W.
Daniels, N.J.
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Downey, N.Y.
Drinan
Duncan, Tenn.
du Pont
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
English
Erlenborn
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Forsythe
Fountain
Fraser
Frenzel
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hannaford
Hansen
Harrington
Harris
Hawkins
Hechler, W. Va.
Helstoski
Henderson
Hicks
Hightower
Holt
Holtzman
Horton
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Keys
Kindness
Koch
Krebs
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McClory
McCloskey
McDonald
McFall
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mazzoli
Melcher
Meyner
Mezvinsky
Michel
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mottl
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Oberstar
Obey
O'Brien
O'Hara
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Price
Pritchard
Quie
Quillen
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Roush
Roybal
Runnels
Ruppe
Ryan
St Germain
Sarasin
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Nebr.
Snyder
Solarz
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Stephens
Stokes
Stratton
Studds
Sullivan
Symington
Symms
Taylor, Mo.
Teague
Thompson.
Thone
Thornton
Traxler
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Waxman
Weaver
Whalen
White
Whitehurst
Wilson, Bob
Wilson, C. H.
Wolff
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Tex.

NAYS—0

ANSWERED "PRESENT"—3

Burton, John
Harkin
Nowak

NOT VOTING—130

Abzug
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Ashley
AuCoin
Badillo
Bell
Biaggi
Biester
Blouin
Boggs
Boland
Broyhill
Burke, Fla.
Burlison, Mo.
Butler
Carney
Cederberg
Chappell
Chisholm
Clancy
Cohen
Cornell
Crane
Daniel, Dan
Danielson
Davis
Dellums
Diggs
Dodd
Downing, Va.
Duncan, Oreg.
Early
Eckhardt
Emery
Esch
Eshleman
Evans, Colo.
Flynt
Ford, Mich.
Ford, Tenn.
Frey
Giaimo
Gonzalez
Green
Hanley
Harsha
Hayes, Ind.
Hébert
Heckler, Mass.
Hefner
Heinz
Hillis
Hinshaw
Holland
Howard
Howe
Jarman
Jeffords
Jenrette
Johnson, Pa.
Jones, Okla.
Karth
Kemp
Ketchum
Krueger
Lehman
Lott
Lujan
McCollister
McCormack
McDade
McEwen
McHugh
Mathis
Matsunaga
Meeds
Metcalfe
Mikva
Milford
Mills
Mink
Mitchell, Md.
Moakley
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Nix
Nolan
O'Neill
Paul
Pepper
Peyser
Preyer
Railsback
Riegle
Rinaldo
Risenhoover
Rostenkowski
Rousselot
Russo
Santini
Sarbanes
Scheuer
Simon
Smith, Iowa
Spellman
Steelman
Steiger, Ariz.
Steiger, Wis.
Stuckey
Talcott
Taylor, N.C.
Treen
Udall
Ullman
Wampler
Whitten
Wiggins
Wilson, Tex.
Winn
Wirth
Wright
Young, Alaska
Zablocki
Zeferetti

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Anderson of Illinois.

Mr. Pepper with Mr. Cederberg.

Mr. Hébert with Mr. Dan Daniel.

Mrs. Boggs with Mr. Kemp.

Mr. Dodd with Mr. Biester.

Mr. Giaimo with Mr. Emery.

Mr. Moss with Mr. Lott.

Mr. Murphy of New York with Mr. McCollister.

Mr. Handley with Mr. Clancy.

Mr. Mitchell of Maryland with Mr. Mosher.

Mr. Zablocki with Mr. Paul.

Mr. Murphy of Illinois with Mr. Bell.

Mr. Wirth with Mr. Ketchum.

Mr. Moakley with Mr. McDade.

Mrs. Spellman with Mr. Lujan.

Mr. Zeferetti with Mr. Peyser.

Mr. Russo with Mr. Rousselot.

Mr. Santini with Mr. Broyhill.

Mr. Nix with Mr. Railsback.

Mr. Howard with Mr. Cohen.

Mr. Jenrette with Mr. Esch.

Mr. Matsunaga with Mr. McEwen.

Mr. Evans of Colorado with Mr. Burke of Florida.

Mr. Danielson with Mr. Rinaldo.

Mr. Mathis with Mr. Steiger of Arizona.

Mr. Davis with Mr. Eshleman.

Mrs. Chisholm with Mr. Talcott.

Mr. Mikva with Mr. Butler.

Mr. Chappell with Mr. Young of Alaska.

Mrs. Mink with Mr. Steiger of Wisconsin.

Mr. Diggs with Mr. Andrews of North Carolina.

Mr. Meeds with Mr. Crane.

Mr. McHugh with Mr. Winn.

Mr. McCormack with Mr. Treen.

Mr. Rostenkowski with Mr. Wiggins.

Mr. Risenhoover with Mr. Jeffords.

Ms. Abzug with Mr. Duncan of Oregon.

Mr. Badillo with Mr. Cornell.

Mr. Blouin with Mr. Downing of Virginia.

Mr. Carney with Mr. Dellums.

Mr. Ambro with Mr. Flynt.

Mr. Biaggi with Mr. Frey.

Mr. Early with Mr. Ford of Michigan.

Mr. Anderson of California with Mr. Harsha.

Mr. Green with Mr. Ford of Tennessee.

Mr. Alexander with Mr. Riegle.

Mr. Boland with Mr. Howe.

Mr. Preyer with Mr. Gonzalez.

Mr. AuCoin with Mr. Heinz.

Mr. Nolan with Mr. Jarman.

Mr. Eckhardt with Mr. Hillis.

Mr. Ashley with Mr. Holland.

Mr. Sarbanes with Mr. Steelman.

Mr. Scheuer with Mr. Jones of Oklahoma.

Mr. Smith of Iowa with Mr. Stuckey.

Mr. Burlison of Missouri with Mr. Mills.

Mr. Simon with Mr. Johnson of Pennsylvania.

Mr. Taylor of North Carolina with Mr. Milford.

Mr. Udall with Mr. Karth.

Mr. Metcalfe with Mr. Wampler.

Mr. Krueger with Mr. Lehman.

Mr. Wright with Mr. Whitten.

Mr. Ullman with Mr. Hayes of Indiana.

Mr. Charles Wilson of Texas with Mr. Hefner.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
September 24, 1976.

Hon. CARL ALBERT,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 5:00 P.M. on Friday, September 24, 1976, and said to contain a message from the President wherein he transmits H.R. 5465, an Act to provide additional retirement benefits for certain employees of the Bureau of Indian Affairs and the Indian Health Service who are not entitled to Indian preference, to provide greater opportunity for advancement and employment of Indians, and for other purposes, and a veto message thereon.

With kind regards, I am,

Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

ADDITIONAL RETIREMENT BENEFITS FOR CERTAIN EMPLOYEES OF BUREAU OF INDIAN AFFAIRS AND INDIAN HEALTH SERVICE—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94–624)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning, without my approval, H.R. 5465, a bill which would provide special retirement benefits to certain non-Indian employees of the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS) who are adversely affected by Indian preference requirements.

I strongly support the objective of having Indians administer the Federal programs directly affecting them. I am familiar with and understand the concern of non-Indian employees of these agencies about their long-term career prospects because of Indian preference. But H.R. 5465 is the wrong way to deal with this problem.

This bill is designed to increase employment opportunities for Indians by providing special compensation to non-Indian employees in BIA and IHS who retire early. It seeks to accomplish this purpose by authorizing payment of extraordinary retirement benefits under certain conditions to non-Indian employees of these agencies who retire before 1986—benefits more liberal than those available to any other group of Federal employees under the civil service retirement system. I believe that this approach will result in inequities and added costs that far exceed the problem it is attempting to solve—a problem which is already being addressed through administrative actions by the agencies involved.

H.R. 5465 would provide windfall retirement benefits to a relatively small number of the non-Indian employees of these agencies. The Indian employees and other non-Indian employees in these same agencies would not receive these benefits. The eligible employees are not in danger of losing their jobs. Because they may face a limited outlook for promotion, the bill would pay these employees costly annuities even though they had completed substantially less than a full career. Payments could be made at age 50 after only 20 years of Federal service, of which as little as 11 years need be Indian-agency service. Their annuities would be equivalent to the benefits it would take the average Federal employee until age 60 and 27 years of service to earn.

This would seriously distort and misuse the retirement system to solve a problem of personnel management for which there are far more appropriate administrative solutions. The Departments of the Interior and Health, Education, and Welfare have established special placement programs to help non-Indian employees who desire other jobs. I am asking the Chairman of the Civil Service Commission to make certain that those placement efforts are rigorously pursued with all agencies of the Federal Government.

Further, these Departments assure me that many non-Indian employees continue to have ample opportunity for full careers with Indian agencies if they so desire. Accordingly, H.R. 5465 represents an excessive, although well-motivated, reaction to the situation. Indian preference does pose a problem in these agencies, but it can and should be redressed without resort to costly retirement benefits.

I am not prepared, therefore, to accept the discriminatory and costly approach of H.R. 5465.

GERALD R. FORD.

THE WHITE HOUSE, *September 24, 1976.*

The SPEAKER. The objections of the President will be spread at large upon the Journal and the message and bill will be printed as a House document.

Mr. HENDERSON. Mr. Speaker, I ask unanimous consent that the message, together with the accompanying bill, be referred to the Committee on Post Office and Civil Service.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
September 27, 1976.

Hon CARL ALBERT,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 7:30 P.M. on Friday, September 24, 1976, and said to contain a message from the President wherein he transmits H.R. 13655, An Act to establish a five-year research and development program leading to advanced automobile propulsion systems, and for other purposes, and a veto message thereon.

With kind regards, I am,

Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

AUTOMOTIVE TRANSPORT RESEARCH AND DEVELOPMENT ACT OF 1976—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94–625)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning, without my approval, H.R. 13655, the "Automotive Transport Research and Development Act of 1976."

This bill would establish a five-year research and development program within the Energy Research and Development Administration (ERDA) leading to the development of advanced automobile propulsion systems, advanced automobile subsystems, and integrated test vehicles to promote the development of advanced alternatives to existing automobiles. The major objective of the program would be the development and construction of integrated test vehicles which would incorporate advanced automobile engines into complete vehicles conforming to Federal requirements for safety, emissions, damageability, and fuel economy. Such development would unnecessarily duplicate existing authorities and extend into areas private industry is best equipped to pursue.

Both ERDA and the Department of Transportation (DOT), the two Federal agencies which would be most directly affected by this program, already have sufficient authority to accomplish the objectives of this bill. Under the authority of the Energy Reorganization Act of 1974 and the Federal Non-nuclear Energy Research and Development Act of 1974, ERDA's Highway Vehicle Systems Program is presently proceeding with the development of new automobile engine systems to the point where several prototype systems can be demonstrated in vehicles on the road. Under my fiscal year 1977 budget, ERDA will continue to emphasize the development of such advanced engines designed to meet higher levels of fuel economy and lower emissions.

Ongoing DOT programs under the authority of the Department of Transportation Act, the National Traffic and Motor Vehicle Safety Act of 1966, and the Motor Vehicle Information and Cost Savings Act are currently sponsoring advanced automobile research that, except for advanced automobile engines, will achieve the purposes of this bill. Detailed design development for two versions of a Research Safety Vehicle should be completed before the end of this year. Under my fiscal year 1977 budget, DOT will have sufficient funds for its advanced automobile research and development activities.

The Federal government, through ERDA and DOT, can play an important role in exploring the research areas that must be developed before advanced automobiles are produced which meet the Nation's conservation goals—especially in the critical area of new engine research. However, it must be recognized that private industry has substantial expertise and interest in the development and production of advanced automobiles.

The appropriate Federal role in this area should be confined to research and development only, and not extend into borderline commercial areas which private industry is best able to perform.

This highly complex technological program, moreover, would eventually require a massive spending program not reflected in the bill's $100 million start-up authorizations for the first two years of the program. This bill would unnecessarily expand research and development programs now underway, and would provide no commensurate benefit for the taxpayers who must pay for this program. I am therefore returning the bill without my approval.

GERALD R. FORD.

THE WHITE HOUSE, *September 24, 1976.*

The SPEAKER. The objections of the President will be spread at large upon the Journal, and the bill and message will be printed as a House document.

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that further consideration of the bill and the veto message from the President on H.R. 13655, the Automotive Transport Research and Development Act of 1976, be postponed until Wednesday, September 29, 1976.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 3557, AUTHORIZING FUNDS NECESSARY TO IMPLEMENT PROVISIONS OF TREATY OF FRIENDSHIP AND COOPERATION BETWEEN UNITED STATES AND SPAIN

Mr. MORGAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3557) to authorize the appropriation of funds necessary during the fiscal year 1977 to implement the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes, insist on the House amendments thereto, and agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania? The Chair hears none, and appoints the following conferees: Messrs. MORGAN, ZABLOCKI, FASCELL, ROSENTHAL, SOLARZ, BROOMFIELD, and WINN.

BIPARTISAN GOLF TOURNAMENT ON WORKING DAY

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise her remarks.)

Mrs. SCHROEDER. Mr. Speaker, once again the Republican and Democratic leadership have scheduled a golf tournament on a workday. In a bipartisan effort, our congressional duffers went golfing this morning in the Congressional Golf Tournament.

I have nothing against playing golf on weekends or holidays, but I do protest golfing when the House is supposed to be working. It is especially depressing when the links are more important to us than the pressing legislative business of the House scheduled for its last week of session.

Last year's Congressional Golf Tournament had 62 Members playing on taxpayers' time. The drizzling rain today might cut down on the numbers this year, but not on the folly of this symbol of the old boys' club syndrome which permeates this Chamber.

PERMISSION FOR SUBCOMMITTEE ON RETIREMENT INCOME AND EMPLOYMENT OF SELECT COMMITTEE ON AGING TO SIT TODAY DURING 5-MINUTE RULE

Mr. RANDALL. Mr. Speaker, I ask unanimous consent that the Subcommittee on Retirement Income and Employment of the Select Committee on Aging be permitted to sit this afternoon during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

CONFERENCE REPORT ON H.R. 12566, AUTHORIZING APPROPRIATIONS FOR NATIONAL SCIENCE FOUNDATION FOR FISCAL YEAR 1977

Mr. SYMINGTON submitted the following conference report and statement on the bill (H.R. 12566) authorizing appropriations to the National Science Foundation for fiscal year 1977:

CONFERENCE REPORT (H. REPT. NO. 94–1689)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12566) authorizing appropriations to the National Science Foundation for fiscal year 1977, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "National Science Foundation Authorization Act, 1977."

AUTHORIZATION FOR ACTIVITIES OF THE NATIONAL SCIENCE FOUNDATION

SEC. 2. (a) There is authorized to be appropriated to the National Science Foundation for the fiscal year 1977, for the following categories:

(1) Mathematical and Physical Sciences and Engineering, $231,525,000.

(2) Astronomical, Atmospheric, Earth and Ocean Sciences, $244,850,000.

(3) Biological, Behavioral, and Social Sciences, $130,425,000.

(4) Science Education Programs, $69,400,000.

(5) Research Applied to National Needs, $69,000,000.

(6) Scientific, Technological, and International Affairs, $22,000,000.

(7) Program Development and Management, $43,500,000.

(b) The National Science Foundation shall recommend and encourage the pursuit of national policies designed to foster research and education in science and engineering, and the application of scientific and technical knowledge to the solution of national and international problems.

(c) The National Science Foundation is authorized and directed to provide assistance to the Office of Science and Technology Policy established by the "Presidential Science and Technology Advisory Organization Act of 1976" (42 U.S.C. 6611).

(d) Notwithstanding any other provision of this or any other Act not less than 10 per centum of the amount authorized for category (5) of subsection (a) of this section shall be expended to small business concerns.

(e)(1) The National Science Foundation shall establish uniform procedures for establishing the responsibility for material published with the assistance of or under the sponsorship of the Foundation. The Foundation shall also establish procedures for reporting on the utilization of research projects assisted under the program "Research Applied to National Needs".

(2) The National Science Foundation shall arrange for the dissemination of all substantive technical reports through the National Technical Information Service of the Department of Commerce.

(3) In the conduct of the energy research and development activities under the "Research Applied to National Needs" category, the National Science Foundation shall coordinate all new energy research project awards with the Administrator of the Energy Research and Development Administration or his designee.

(f) The Director of the National Science Foundation is authorized and directed to conduct a feasibility study of operating the peer review system used in the evaluation of grant proposals within the Foundation so as to assure that the identity of the proposer is not known to the reviewers of the proposal. Any such system shall be considered to supplement and not to supplant the peer review system in operation in the Foundation on the date of enactment of this Act.

(g) No funds may be transferred from any particular category listed in section 2(a) to any other category or categories listed in such section if the total of the funds so transferred from that particular category would exceed 10 per centum thereof, and no funds may be transferred to any particular category listed in section 2(a) from any other category or categories listed in such section if the total of the funds so transferred to that particular category would exceed 10 per centum thereof, unless—

(1) a period of thirty legislative days has passed after the Director or his designate has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Technology of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate a written report containing a full and complete statement concerning the nature of the transfer and the reason thereof, or

(2) each such committee before the expiration of such period has transmitted to the Director written notice to the effect that such committee has no objection to the proposed action.

INTERNATIONAL SCIENTIFIC RESEARCH, EDUCATION, AND POLICY ANALYSIS

SEC. 3. The National Science Foundation is authorized and directed to support basic and applied research and education programs, and to conduct and support policy analysis, information dissemination, and international cooperative programs consistent with the Nation's foreign policy objectives designed to make the results of scientific research conducted abroad more readily available to United States scientists, engineers, and technologists, to promote international cooperation in science and technology, to assist in the resolution of critical and emerging problems with significant scientific or technical components, such as world food and population problems, and to insure full coordination of these programs with related activities conducted by other Federal agencies and organizations. The Director of the National Science Foundation shall consult with the Secretary of State to assure that the programs authorized under this section are consistent with the foreign policy objectives of the United States.

INTERDISCIPLINARY RESEARCH

SEC. 4. The National Science Foundation is directed to encourage and promote the conduct of interdisciplinary research through broadly based undergraduate interdisciplinary education programs, interdisciplinary research projects which provide for apprenticeship training, interdisciplinary fellowship programs, and arrangements for degree training, including postgraduate degrees in more than one discipline, in institutions of higher education.

SCIENCE FOR CITIZENS

SEC. 5. (a) The National Science Foundation is authorized and directed to conduct an experimental "Science for Citizens Program" and an augmented Public Understanding of Science Program under which funds will be available for pilot projects to:

(1) improve public understanding of science, engineering and technology and their impact on public policy issues.

(2) facilitate the participation of experienced scientists and engineers as well as graduate and undergraduate students in helping the public understand science, engineering and technology and their impact on public policies; and

(3) assist nationally recognized professional societies and groups serving important public purposes in conducting a limited number of forums, conferences, and workshops to increase public understanding of science and technology, and of their impact on public policy issues, after consideration of the following eligibility factors:

(A) the extent to which the proposal of the society or group will contribute to the development of facts, issues, and arguments relevant to public policy issues having significant scientific and technical aspects, and

(B) the ability of the society or group, using its own resources, to conduct such forums, conferences, and workshops.

(b) One or more review panels shall be established for the purpose of evaluating applications for awards under this section. The membership of each review panel shall have balanced representation from the scientific and nonscientific communities and the public and private sectors.

(c) No contract, grant or other arrangement shall be made under this Section without the prior approval of the National Science Board.

(d) To assist the Congress in evaluating activities initiated pursuant to this Section, the Director of the National Science Foundation, in consultation with a review panel having a balanced representation from the scientific and nonscientific community and the public and private sectors, is directed to prepare a comprehensive analysis and assessment of such activities to be submitted to the House Committee on Science and Technology and the Senate Committee on Labor and Public Welfare, not later than October 31, 1977. An interim report is required no later than March 1, 1977.

CONTINUING EDUCATION IN SCIENCE AND ENGINEERING

SEC. 6. (a) The National Science Foundation shall develop a program plan for continuing education in science and engineering in order to enable scientists and engineers who have been engaged in their careers for at least five years to pursue courses of study designed to—

(1) provide them with new knowledge, techniques, and skills in their special fields; or

(2) acquire new knowledge, techniques, and skills in other fields which will enable them to render more valuable contributions to the Nation.

(b) The program plan developed under this section shall include, but not be limited to—

(1) the development of special curricula and educational techniques for continuing education in science and technology; and

(2) the award of fellowships to scientists and engineers to enable them to pursue courses of study which provide continuing education in science and engineering.

(c) The Foundation is directed to provide the House Committee on Science and Technology and the Senate Committee on Labor and Public Welfare, not later than March 1, 1977, with a detailed report on the program plan developed under this section, including recommendations for its implementation in fiscal year 1978.

MINORITIES, WOMEN, AND HANDICAPPED INDIVIDUALS

SEC. 7. (a) The Director of the National Science Foundation shall initiate an intensive search for qualified women, members of minority groups, and handicapped individuals to fill executive level positions in the National Science Foundation. In carrying out the requirement of this subsection, the Director shall work closely with organizations which have been active in seeking greater recognition and utilization of the scientific and technical capabilities of minorities, women, and handicapped individuals. The Director shall improve the representation of minorities, women, and handicapped individuals on advisory committees, review panels, and all other mechanisms by which the scientific community provides assistance to the Foundation. The Director of the National Science Foundation shall report quarterly to the Congress on the status of minorities, women, and handicapped individuals and activities undertaken pursuant to this section.

(b) Notwithstanding any other provisions of this or any other Act, the National Science Foundation shall, with funds available from the program "Minorities, Women, and Handicapped Individuals in Science" conduct experimental forums, conferences, workshops or other activities designed to improve scientific literacy and to encourage and assist minorities, women, and handicapped individuals to undertake and to advance in careers in scientific research and science education.

(c)(1) In order to promote increased participation by minorities in careers in science and engineering, the National Science Foundation is authorized and directed to make available planning and study grants for programs including, but not limited to, minority Centers for Graduate Education in Science and Engineering in accordance with this subsection.

(2) The grants for Minority Centers for Graduate Education shall be used to determine the need for and feasibility of developing Centers to be established at geographically dispersed educational institutions which—

(A) have substantial minority student enrollment;

(B) are geographically located near minority population centers;

(C) demonstrate a commitment to encouraging and assisting minority students, researchers, and faculty;

(D) have an existing or developing capacity to offer doctoral programs in science and engineering;

(E) will support basic research and the acquisition of necessary research facilities and equipment;

(F) will serve as a regional resource in science and engineering for the minority community which the Center is designed to serve; and

(G) will develop joint educational programs with nearby undergraduate institutions of higher education which have a substantial minority student enrollment.

(3) The Director, in consultation with groups which have been active in seeking greater recognition of the scientific and technical capabilities of minorities, shall establish criteria for the award of the grants, and shall report to the Committee on Science and Technology of the House of Representatives and the Committee on Labor and Public Welfare of the Senate on the results of activities including an evaluation and assessment of the entire program carried out under this subsection, not later than March 1, 1977.

OFFICE OF SMALL BUSINESS RESEARCH AND DEVELOPMENT

SEC. 8. The National Science Foundation is authorized and directed to establish an Office of Small Business Research and Development. The Foundation through the Office of Small Business Research and Development and in cooperation and consultation with the Small Business Administration shall—

(1) foster communication between the National Science Foundation and the small business community, and insure that the set-aside for small business concerns provided under this Act or any other Act authorizing appropriations for the National Science Foundation is fully and effectively utilized:

(2) collect, analyze, compile, and publish information concerning grants and contracts awarded to small business concerns by the Foundation, and the procedures for handling proposals submitted by small business concerns:

(3) assist individual business concerns in obtaining information regarding programs, policies, and procedures of the Foundation, and assure the expeditious processing of proposals by small business concerns based on scientific and technical merit:

(4) recommend to the Director and to the National Science Board such changes in the procedures and practices of the Foundation as may be required to enable the Foundation to draw fully on the resources of the small business research and development community: and

(5) make quarterly reports to the Congress concerning the activities of the Office of Small Business Research and Development.

NATIONAL SCIENCE BOARD

SEC. 9. (a) Section 4 of the National Science Foundation Act of 1950 is amended by inserting before the period at the end of subsection (a) a comma and the following: "within the framework of applicable national policies as set forth by the President and the Congress".

(b) Section 4(g) of such Act as redesignated by this section is amended—

(1) by inserting after "the Director," the following: "after consultation with the Chairman of the Board"; and

(2) by striking out "GS–15" and inserting in lieu thereof "GS–18".

LIMITATION

SEC. 10. (a) In addition to such sums as are authorized by section 2, not to exceed $6,000,000 is authorized to be appropriated for fiscal year 1977, for expenses of the National Science Foundation incurred outside the United States to be paid for in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States.

(b) Appropriations made pursuant to this Act may be used, but not to exceed $5,000 for official consultation, representation, or other extraordinary expenses upon the approval or authority of the Director of the National Science Foundation, and his determination shall be final and conclusive upon the accounting offices of the Government.

(c) Appropriations made pursuant to this Act shall remain available for obligation, for expenditure, or for obligation and expenditure, for such period or periods as may be specified in Acts making such appropriations.

INFORMATION REQUIREMENT

SEC. 11. Notwithstanding any other provision of this or any other Act, the Director of the National Science Foundation shall keep the Committee on Science and Technology of the House of Representatives and the Committee on Labor and Public Welfare of the Senate fully and currently informed with respect to all of the activities of the National Science Foundation.

And the Senate agree to the same.

Olin E. Teague,
James W. Symington,
Don Fuqua,
Walter Flowers,
Charles A. Mosher,
Managers on the Part of the House.

Edward M. Kennedy,
Claiborne Pell,
Walter F. Mondale,
Alan Cranston,
Thomas F. Eagleton,
Paul Laxalt,
Robert T. Stafford,
Richard S. Schweiker,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12566) National Science Foundation Authorization Act, 1977, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the actions agreed upon by the managers and recommended in the accompanying conference report:

The amendment of the Senate struck out all after the enacting clause in the House bill and substituted new language. The committee of conference agreed to accept the Senate amendment with certain amendments and stipulations proposed by the conferees.

The National Science Foundation requested authorization in the amount of $796,000,000 for Fiscal Year 1977, plus $6,000,000 in excess foreign currencies. The House authorized $795,000,000 and $6,000,000 in excess foreign currencies. The respective Senate figures were $826,400,000 and $6,000,000.

The committee of conference recommended $810,700,000, plus $6,000,000 in excess foreign currencies. This figure is $15,700,000 more than authorized by the House and $15,700,000 less than authorized by the Senate for Fiscal Year 1977.

The specific actions taken by the conference are as follows:

SECTION 2—AUTHORIZATION ACTIVITIES

A. Funds

1. For Mathematical and Physical Sciences and Engineering, the budget request of the National Science Foundation was $233,250,000. The House authorized $230,400,000 and the Senate authorized $233,250,000. The conferees agreed on $231,525,000.

2. For Astronomical, Atmospheric, Earth and Ocean Sciences, the budget request of the National Science Foundation was $245,000,000. The House authorized $242,700,000 and the Senate authorized $247,000,000. The conferees agreed on $244,850,000, which includes $20,200,000 for the program "Oceanographic Facilities and Support."

3. For Biological, Behavioral, and Social Sciences, the budget request of the National Science Foundation was $132,350,000. The House authorized $128,500,000 and the Senate authorized $132,350,000. The conferees agreed on $130,425,000.

4. For Science Education Programs, the budget request of the National Science Foundation was $55,000,000. The House authorized $64,000,000 and the Senate authorized $70,200,000. The conferees agreed on $69,400,000. An amount of $10,000,000 from fiscal year 1976 deferrals is being carried over, thereby providing a total of $79,400,000 which includes the following recommended amounts:

(a) $16,000,000 for Graduate Student Support;

(b) $6,100,000 for Student Oriented Programs;

(c) $2,500,000 for a Minorities, Women, and Handicapped Individuals in Science Program;

(d) $800,000 for Instructional Improvement Implementation;

(e) $14,500,000 for the Comprehensive Assistance to Undergraduate Science Education Program;

(f) $6,000,000 for the Research Initiation and Support Program;

(g) $2,700,000 for Elementary and Secondary School Materials Development Testing and Evaluation;

(h) $3,100,000 for Technological Innovation in Education;

(i) $4,600,000 for Alternatives in Higher Education;

(j) $1,500,000 for Continuing Education for Scientists and Engineers;

(k) $1,400,000 for Faculty Research Participation;

(l) $600,000 for Problem Assessment;

(m) $2,500,000 for Basic Research in Science Education;

(n) $1,200,000 for a Science for Citizens Program including an augmented Public Understanding of Science Program;

(o) $1,000,000 for planning and study grants for programs including, but not limited to, Minority Centers for Graduate Education in Science and Engineering;

(p) $5,000,000 for Minority Institutions Improvement;

(q) $1,000,000 for Ethical and Human Value Implications of Science and Technology.

5. For Research Applied to National Needs, the budget request of the National Science Foundation was $64,900,000. The House authorized $63,900,000 and the Senate authorized $68,100,000 for such program and the Senate authorized an additional amount of $8,000,000 for a State Science, Engineering, and Technology Program. The conferees agreed on $69,000,000 for the combination of both such programs, which includes the following recommended program amounts:

(a) Consolidation of the State Science, Engineering, and Technology Program with the $3,600,000 Intergovernmental Science Program and an increase of $3,000,000 for a total amount of $6,600,000.

(b) $8,400,000 for the program "Earthquake Engineering."

(c) $1,000,000 for the support of especially promising proposals for small scale research on advanced forms of energy.

6. For Scientific, Technological, and International Affairs, the budget request of the National Science Foundation was $22,000,000. The House authorized $22,000,000 and the Senate authorized $24,000,000. The conferees agreed on $22,000,000.

7. For Program Development and Management, the House, the Senate, and the conferees approved the Foundation request for $43,500,000.

B. Program instructions

1. Section 2(a)(4)—Science Education

a. Under the program Comprehensive Assistance to Undergraduate Science Education, priority is to be given to applications from four-year and two-year institutions of higher education which do not grant a doctor's degree in science or engineering.

b. Under the program Research Initiation and Support, not less than 40 per centum shall be available on a competitive basis to institutions of higher education granting doctoral degrees in the sciences or engineering—

(1) which received research support from the National Science Foundation during the fiscal year 1976, and

(2) for which Foundation support and other Federal research and development support to that institution per graduate student in science and engineering was substantially less than the national average of such support per graduate student in science and engineering, as determined by criteria established by the Foundation;

c. The program Problem Assessment is to include studies to assess and re-appraise the area of pre-college science education with particular emphasis on the appropriate role to be played by the National Science Foundation. It is emphasized that such studies should encompass a broad spectrum of views including parents, science teachers, school administrators, school boards, and the publishing industry.

d. The program Ethical and Human Value Implications of Science and Technology is to include ethical and value issues arising in the context of physical science, biological science, and clinical medicine.

2. Section 2(a)(5)—Research Applied to National Needs

a. Under the consolidated State Science, Engineering and Technology Program and Intergovernmental Science Program the $3,000,000 increase authorized is to be allocated as follows:

(1) $2,500,000 for study grants for States. $50,000 will be made available to each of the States to pay for the Federal share of the cost of the study grants. The Federal share of the study grants shall not exceed 66⅔ per centum. These grants are to be used by the States to identify and analyze potentially useful ways in which States and local governments can increase their capabilities for using science, engineering and technology in meeting the needs of their citizens, including consideration of the establishment of science and technology policy offices within both the Executive and Legislative Branches. Reports on the results of these study grants will be submitted to the National Science Foundation for evaluation by the Foundation and by the Office of Science and Technology Policy in the Executive Office of the President. After such an evaluation a determination will be made by the Administration and by the Congress as to the scope and size of future programs in this area.

(2) $400,000 for regional or national forums and workshops. These funds are to be allocated for the purpose of sponsoring regional or national forums and workshops on matters related to the Intergovernmental Science Program. These forums and workshops will serve as an adjunct to the study grants provided above.

(3) $100,000 for evaluation of the Intergovernmental Science Program. The National Science Foundation will support an evaluation of the previous and current elements of the Intergovernmental Science Program, and the National Science Foundation together with the Office of Science and Technology Policy will consider the results of this evaluation in making recommendations as to future programs in this area.

b. The support of energy research proposals is authorized, provided such proposals do not duplicate programs supported by the Energy Research and Development Administration and provided that they are fully coordinated with that Administration.

C. Policy and administration

1. Section 2(b)

The Senate included a provision amending the National Science Foundation Act of

1950 to reflect the Foundation's responsibility for the development of national policies to foster both basic and applied research and education both in the sciences, as heretofore, and also in the important field of engineering. The Foundation's obligation to recommend policies designed to support the application of scientific and technical knowledge to the solution of both national and international problems was enunciated. The House bill included no comparable provision.

The conferees agreed to include the substance of this provision, but agreed that its purpose could be accomplished without an amendment to the Foundation's organic act.

2. Section 2(c)

The Senate bill included a section authorizing the Foundation to provide specific assistance to the Office of Science and Technology Policy. The House bill included no comparable provision.

The conferees agreed that a more general provision would be sufficient and have included such a provision in the bill.

3. Section 2(d)

Section 2(d) is identical to section 101 (b)(3)(C) of the Senate bill and section 2(a) (4) of the House bill.

4. Section 2 (e) and (f)

The Senate bill included a section requiring an acknowledgment of support and responsibility for findings, dissemination of reports through the National Technical Information Service of the Department of Commerce, reports on the utilization of applied research, and a feasibility study of 'blind' peer review. The House bill included no comparable provisions.

The conferees agreed that the purpose of this section could be accomplished with more general language, and such language is included in the bill.

5. Section 2(g)

Section 2(g) is identical to section 102(e) of the Senate bill and section 7 of the House bill.

SECTION 3—INTERNATIONAL SCIENTIFIC RESEARCH, EDUCATION, AND POLICY ANALYSIS

The Senate bill included a section directing the Foundation to exercise fully its authority to initiate efforts to focus scientific and technical resources on international food and nutrition problems as a priority area within its overall mission to promote the progress of science. The House bill included no comparable provision.

The conferees agreed to adopt the policy statement included in the Senate bill.

The conferees also strongly urge the Office of Science and Technology Policy, together with the Foundation, the Department of State, the Agency for International Development, the Department of Commerce, the Department of Agriculture and other appropriate agencies and organizations to conduct a study of international scientific research, education, and policy analysis. It is the view of the conferees that such a study is necessary in order to delineate further activities which could contribute to the amelioration of such problems as the agricultural and nutrition problems confronting the developing world.

SECTION 4—INTERDISCIPLINARY RESEARCH

The Senate bill included a provision directing the Foundation to continue to encourage and promote interdisciplinary research and to explore opportunities to exploit multidisciplinary cooperation in existing programs for research, education, and training. The House bill included no comparable provision.

The conferees agreed to adopt the Senate provision.

SECTION 5—SCIENCE FOR CITIZENS

The Senate bill included a section authorizing $3 million for a "Science for Citizens Program" including an augmented Public Understanding of Science Program. The House bill authorized $300,000 for a more limited program.

The conferees have agreed to fund an experimental Science for Citizens Program including an augmented Public Understanding of Science Program at a level of $1,200,000 in fiscal year 1977. Because of the concerns expressed by some over the Foundation's lack of experience in dealing with public groups, the conferees have stipulated that direct assistance to such groups will be limited to proposals requesting support for forums, conferences and workshops to increase public understanding of the scientific and technical aspects of public policy issues. The forums, workshops and conferences funded under this program are to explore a broad spectrum of points of view. Further, no contract, grant or other arrangement is to be made under the Science for Citizens Program to any person who is required to comply with the registration requirement of Section 308(a) of the Federal Regulation of Lobbying Act (2 U.S.C. 267a).

The conferees also direct the Foundation to develop further information, including contract studies as necessary, concerning the implications of NSF assistance to nonprofit citizen organizations, drawing on pertinent scientific, public policy, technical and legal materials, and to report to the House Committee on Science and Technology and to the Senate Committee on Labor and Public Welfare on the impact of such assistance on the Foundation and on public participation in governmental processes by January 31, 1977.

SECTION 6—CONTINUING EDUCATION IN SCIENCE AND ENGINEERING

The Senate bill included a section authorizing $1,000,000 for a new program of continuing education in science and engineering in addition to the $1,000,000 requested by the Foundation. The House bill included no comparable provision but authorized $1,000,000 for continuing education in science and engineering as part of the total Science Education Program.

The conferees agreed to authorize $1,500,000 for continuing education in science and engineering, including $500,000 for the development of a program plan for continuing education in science and engineering, and to require a detailed report on that plan, including recommendations for its implementation in fiscal year 1978, not later than March 1, 1977. The conferees expect that this report will also include an analysis of information on the employment and availability of scientific, engineering and technical manpower and an assessment of the extent to which a federally-supported continuing education program could alleviate unemployment and underemployment among scientists and engineers and lead to the greater application of their skills to the solution of the problems the Nation is facing in areas of civilian science and technology.

SECTION 7—MINORITIES, WOMEN, AND HANDICAPPED INDIVIDUALS

The Senate bill included a number of provisions relating to the underrepresentation of minorities, women and handicapped individuals in science and engineering. Several of these provisions were not included in the House bill.

The conferees agreed to adopt the Senate provisions directing the Foundation to initiate an intensive search for qualified women, minorities and handicapped individuals to fill executive level positions at the Foundation, and to improve the representation of minorities, women and handicapped individuals on advisory committees, review panels and all other means by which the scientific community provides assistance to the Foundation. The Foundation is also directed to report quarterly on these activities—a report which the conferees recommend be included as part of the quarterly reporting system already established by the Foundation.

The conferees also approved the authorization of $2,500,000 for a program "Minorities, Women, and Handicapped Individuals in Science" for experimental forums, conferences, workshops and other activities designed to improve scientific literacy and to encourage and assist minorities, women and handicapped individuals to undertake and to advance in careers in scientific research and science education.

For the continuation of the program "Minority Institutions Improvement" $5,000,000 was approved.

The conferees also agreed to authorize $1,000,000 for planning and study grants for programs including, but not limited to, Minority Centers for Graduate Education in Science and Engineering. Criteria for the award of grants under this program are to be established in consultation with groups which have been active in seeking greater recognition of the scientific and technical capabilities of minorities. An evaluation and assessment of these activities is to be submitted to the Foundation not later than March 1, 1977.

Recognizing the care and thoughtful planning which must go into this new program if it is to be effective and the importance of the report which will be presented to the Congress on the results of the program, the conferees strongly urge the Director of the Foundation to appoint an Advisory Committee, including minority scientists, to participate in the evaluation and assessment of these activities.

SECTION 8—OFFICE OF SMALL BUSINESS RESEARCH AND DEVELOPMENT

The Senate bill included a section directing the National Science Foundation to establish within the Office of Government and Public Programs an Office of Small Business Research and delineating its responsibilities. The House bill included no comparable provision.

The conferees agreed to adopt a number of the Senate provisions, but did not specify where the Office was to be located within the organizational structure of the Foundation. The conferees emphasized their support, however, of a Foundation-wide program to expand small business participation. The Foundation is also directed to report quarterly on these activities—a report which the conferees recommend be included as part of the quarterly reporting system already established by the Foundation.

The conferees also agreed to urge the Office of Science and Technology Policy, together with the Small Business Administration and the Foundation, to prepare a comprehensive report on the scientific and technical capability which exists in the small business community.

The conferees expect that this report will be carried out in collaboration with private sector organizations representing small business, and that it will address the serious gaps which exist in the data concerning the capabilities, utilization, and growth potential of the small business sector in science and technology.

SECTION 9—NATIONAL SCIENCE BOARD

The Senate bill included a section amending the National Science Foundation Act of 1950 as it relates to the mission, composition, and staffing of the National Science Board. The House bill included no comparable provision.

The conferees agreed to adopt the Senate provision amending the National Science Foundation Act to assure that the policies which the National Science Board establishes for the Foundation are "within the framework of applicable national policies as set forth by the President and the Congress." This addition establishes essential coordination between policies which the Board may set for the Foundation and those enumerated in Title 1 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601–6602).

The conferees also agreed to adopt the Senate provision amending the National Science Foundation Act to raise the maximum grade level for staff for the National Science Board to the equivalent of the top grade in the classified service (GS–18). The $800 million budget for which the Board is responsible requires that it be supported by the best scientific and technical assistance obtainable within the Federal Government. The scaling upward of the grade level at which staff can be compensated is a partial attempt to address this very real need, and is expected by the conferees to result in the early appointment of staff members to serve the Board.

In order to ensure that the National Science Board keeps pace with its responsibilities and the broadened mission of the National Science Foundation, and to provide representation of the interests of all scientific fields, all levels of academic institutions, and all citizens, the conferees agreed to strongly recommend that: (1) persons eminent in the industrial sector be included in the membership of the Board; (2) greater attention should be given to Board representation by scientists whose special field is education research and by science educators from undergraduate institutions; (3) members of the Board be selected so as to provide representation from a diversity of fields and differing points of view; and (4) the National Academy of Engineering, the Sea Grant Association, the American Association of Community and Junior Colleges, and organizations which focus on the interests of minorities, women and the handicapped be added as sources of recommendations for nominations to the Board.

The conferees also strongly urge the National Science Board to continue to make annual reports to the President and to the Congress on the status and health of science and of its various disciplines, and to continue with the Science Indicators series begun in 1972. Reports made by the Board may also include such recommendations as the Board may deem timely and appropriate.

SECTION 10—LIMITATION

Section 10 is identical in purpose to sections 4, 5, and 6 of the House bill and sections 401, 402, and 403 of the Senate bill.

SECTION 11—INFORMATION REQUIREMENT

The Senate bill included a section requiring the Director of the National Science Foundation to keep the Committee on Science and Technology of the House of Representatives and the Committee on Labor and Public Welfare of the Senate fully and currently informed with respect to all activities of the Foundation. The House bill included no comparable provision.

The conferees agreed to adopt the Senate provision on the basis that the precedent of including this provision in recent annual authorization legislation requires the provision to be included for it to remain in effect.

OTHER ACTIONS TAKEN BY THE CONFEREES

Advisory Council to the National Science Foundation

The Senate bill included a provision requiring that, if an Advisory Council to the National Science Foundation is established, at least one-fourth of its members must be non-scientists. The Senate bill also stipulated that the Council must furnish advice to the Board and the Director on broad policy matters relating to the activities of the Foundation, particularly science research and education policy, and that it must promote public understanding and access to information concerning the activities of the Foundation. The House bill included no comparable provision.

The conferees have not included these provisions in the bill as reported, but strongly urge that the above criteria be considered should the Director decide to establish such a Council.

Alan T. Waterman Award

The House bill included a provision authorizing the National Science Foundation to continue during fiscal year 1977 the Alan T. Waterman Award for research or advanced study in the mathematical, physical, medical, biological, engineering, social, or other sciences. The Senate bill did not include this provision.

The conferees have not included this provision because it is the opinion of the conferees that the Alan T. Waterman Award was established as a permanent program for which annual appropriations are authorized by the National Science Foundation Authorization Act, 1976 (42 U.S.C. 1881a).

OLIN E. TEAGUE,
JAMES W. SYMINGTON,
DON FUQUA,
WALTER FLOWERS,
CHARLES A. MOSHER,
Managers on the Part of the House.

EDWARD M. KENNEDY,
CLAIBORNE PELL,
WALTER F. MONDALE,
ALAN CRANSTON,
THOMAS F. EAGLETON,
PAUL LAXALT,
ROBERT T. STAFFORD,
RICHARD S. SCHWEIKER,
Managers on the Part of the Senate.

PERMISSION TO FILE CONFERENCE REPORT ON S. 2657, HIGHER EDUCATION ACT OF 1965

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the managers on the part of the House have until midnight tonight to file a conference report on the Senate bill S. 2657, to extend the Higher Education Act of 1965, to extend and revise the Vocational Education Act of 1963, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

CONFERENCE REPORT

(H. REPT. No. 94–1701)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2657) to extend the Higher Education Act of 1965, to extend and revise the Vocational Education Act of 1963, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Education Amendments of 1976".

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TITLE I—HIGHER EDUCATION

PART A—COMMUNITY SERVICES AND CONTINUING EDUCATION

EXTENSION AND REVISION OF PROGRAM

SEC. 101. (a) Section 101 of the Higher Education Act of 1965 (hereafter in this title referred to as "the Act") is amended to read as follows:

"APPROPRIATIONS AUTHORIZED

"SEC. 101. (a) For the purpose of (1) assisting the people of the United States in the solution of community problems such as housing, poverty, government, recreation, employment, youth opportunities, transportation, health, and land use by enabling the Commissioner to make grants under this title to strengthen community service programs of colleges and universities, (2) supporting the expansion of continuing education in colleges and universities and (3) supporting resource materials sharing programs, there are authorized to be appropriated $40,000,000 for the fiscal years 1977, 1978, and 1979.

"(b) For the purpose of carrying out a program for the promotion of lifelong learning in accordance with the provisions of part B, there are authorized to be appropriated, $20,000,000 for fiscal year 1977, $30,000,000 for fiscal year 1978, and $40,000,000 for fiscal year 1979.".

(b) Title I of such Act is amended—

(1) (A) by amending the heading of section 102 to read as follows:

"DEFINITION OF COMMUNITY SERVICE PROGRAM AND CONTINUING EDUCATION PROGRAM";

(B) by inserting "(a)" after the section designation of such section 102; and

(C) by inserting at the end thereof the following new subsections;

"(b) For purposes of this title the term 'continuing education program' means postsecondary instruction designed to meet the educational needs and interests of adults, including the expansion of available learning opportunities for adults who are not adequately served by current educational offerings in their communities.

"(c) For purposes of this title, the term 'resource materials sharing programs' means planning for the improved use of existing community learning resources by finding ways that combinations of agencies, institutions, and organizations can make better use of existing educational materials, communications technology, local facilities, and such human resources as will expand learning opportunities for adults in the area being served.";

(2) by amending section 103(a) to read as follows:

"SEC. 103. (a) From the sums appropriated pursuant to section 101 for any fiscal year which are not reserved under section 106(a), the Commissioner shall allot to each State an amount which bears the same ratio to such sums as the population of such State bears to the population of all the States, except that, for any fiscal year beginning on or after October 1, 1976, no State shall be alloted from such sums less than the amount which such State received during the fiscal year beginning July 1, 1975."

(3) by striking out "community service programs" in section 104 and inserting in lieu thereof "community service and continuing education programs, including resource material sharing programs,";

(4) by striking out so much of section 105 (a) as precedes paragraph (1) and inserting in lieu thereof the following:

"SEC. 105. (a) Any State desiring to receive its allotment of funds under this part for use in community service and continuing education programs, including resource material sharing programs, shall designate or create a State agency or institution which has special qualifications with respect to solving community problems and which is broadly representative of institutions of higher education in the State which are competent to offer community service and continuing education programs, including resource material sharing programs, and shall submit to the Commissioner a State plan. If a State desires to designate for the purpose of this section an existing State agency or institution which does not meet these requirements, it may do so if the agency or institution takes such action as may be necessary to acquire such qualifications and assure participation of such institutions, or if it designates or creates a State advisory council which meets the requirements not met by the designated agency or institution to consult with the designated agency or institution in the preparation of the State plan. A State plan submitted under this part shall—".

(5) (A) by inserting "or combination" after "and institution" in section 105(a)(2); and

(B) by striking out "community service programs" each place it appears in such section and inserting in lieu thereof "community service and continuing education programs, including resource materials sharing programs,";

(6) (A) by inserting "and combinations thereof" immediately after "institution of higher education" each place it appears in section 105(a)(3);

(B) by striking out "community service programs" each place it appears in such section and inserting in lieu thereof "community service and continuing education programs, including resource materials sharing programs,"; and

(C) by striking out "in the light of information regarding current and anticipated community problems in the State" in subparagraph (C) of such section;

(7) by striking out "community service programs" in section 105(a)(4) and inserting in lieu thereof "community service and continuing education programs, including resource materials sharing programs,";

(8) by inserting "or combinations thereof" after "institutions of higher education" in section 105(a)(5);

(9) by striking section 105(a)(6) and inserting in lieu thereof the following:

"(6) assurances that all institutions of higher education in the State have been given the opportunity to participate in the development of the State plan."; and

(10) by inserting immediately after section 105(b) the following new subsection:

"(c) The Commissioner shall not by standard, rule, regulation, guideline, or any other means, either formal or informal, require a State to make any agreement or submit any data which is not specifically required by this part.".

(c) Section 107(a) of the Act is amended by striking out "$25,000" and inserting in lieu thereof "$40,000".

(d) Section 109 of the Act is amended to read as follows:

"JUDICIAL REVIEW

"SEC. 109. If a State's plan is not approved under section 105(b) or a State's eligibility to participate in the program is suspended as a result of the Commissioner's action under section 108(b), the State may within sixty days after notice of the Commissioner's decision institute a civil action in an appropriate United States district court. In such an action, the court shall determine the matter de novo.".

(e) Title I of the Act is further amended by redesignating sections 111, 112, and 113, and any references thereto, as sections 112, 113, and 114, respectively, and inserting immediately after section 110 the following new section:

"TECHNICAL ASSISTANCE AND ADMINISTRATION

"SEC. 111. (a) The Commissioner is authorized to reserve not to exceed 10 per centum of the amount appropriated for any fiscal year pursuant to section 101(a) in excess of $14,500,000 for the purpose of this section.

"(b) From funds reserved under subsection (a) of this section, the Commissioner shall provide technical assistance to the States and to institutions of higher education. Such technical assistance shall—

"(1) provide a national diffusion network to help assure that effective programs are known among such States and institutions;

"(2) assist with the improvement of planning and evaluation procedures; and

"(3) provide information about the changing enrollment patterns in postsecondary institutions, and provide assistance to such States and institutions in their efforts to understand these changing patterns and to accommodate them.".

"(c) The Commissioner shall provide for coordination between community service and continuing education programs (including resource materials sharing programs) conducted by him with all other appropriate offices and agencies, including such offices and agencies which administer vocational education programs, adult education programs, career education programs, and student and institutional assistance programs.".

(f) (1) Section 112 of the Act (as redesignated by subsection (e)) is amended—

(A) by striking out "the Commissioner, who shall be Chairman," in subsection (a); and

(B) by striking out "through June 30, 1975" in subsection (f) and inserting in lieu thereof "until the programs authorized by this part are terminated".

(2) The text of section 113 of the Act (as redesignated by subsecton (e)) is amended to read as follows: "Nothing in this section shall modify any authority under the Act of May 8, 1914 (Smith-Lever Act), as amended (7 U.S.C. 341-348).".

(g) by inserting before the section heading of section 101 the following:

"PART A—COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS";

(2) by striking out "this title" each time it appears in section 102 through section 112 of such title, and inserting in lieu thereof "this part"; and

(3) by adding at the end thereof the following new part:

"PART B—LIFELONG LEARNING

"FINDINGS

"SEC. 131. The Congress finds that—

"(1) accelerating social and technological change have had impact on the duration and quality of life;

"(2) the American people need lifelong learning to enable them to adjust to social, technological, political and economic changes;

"(3) lifelong learning has a role in developing the potential of all persons including improvement of their personal well-being, upgrading their workplace skills, and preparing them to participate in the civic, cultural, and political life of the Nation;

"(4) lifelong learning is important in meeting the needs of the growing number of older and retired persons;

"(5) learning takes place through formal and informal instruction, through educational programs conducted by public and private educational and other institutions and organizations, through independent study, and through the efforts of business, industry, and labor;

"(6) planning is necessary at the national, State, and local levels to assure effective use of existing resources in the light of changing characteristics and learning needs of the population;

"(7) more effective use should be made of the resources of the Nation's educational institutions in order to assist the people of the United States in the solution of community problems in areas such as housing, poverty, government, recreation, employment, youth opportunities, transportation, health, and land use; and

"(8) American society should have as a goal the availability of appropriate opportunities for lifelong learning for all its citizens without regard to restrictions of previous education or training, sex, age, handicapping condition, social or ethnic background, or economic circumstance.

"SCOPE OF LIFELONG LEARNING

"SEC. 132. Lifelong learning includes, but is not limited to, adult basic education, continuing education, independent study, agricultural education, business education and labor education, occupational education and job training programs, parent education, postsecondary education, preretirement and education for older and retired people, remedial education, special educational programs for groups or for individuals with special needs, and also educational activities designed to upgrade occupational and professional skills, to assist business, public agencies, and other organizations in the use or innovation and research results, and to serve family needs and personal development.

"LIFELONG LEARNING ACTIVITIES

"SEC. 133. (a) The Assistant Secretary shall carry out, from funds appropriated pursuant to section 101(b), a program of planning, assessing, and coordinating projects related to lifelong learning. In carrying out the provisions of this section, the Assistant Secretary shall—

"(1) foster improved coordination of Federal support for lifelong learning programs;

"(2) act as a clearinghouse for information regarding lifelong learning, including the identification, collection, and dissemination to educators and the public of existing and new information regarding lifelong learning programs which are or may be carried out and supported by any department or agency of the Federal Government;

"(3) review present and proposed methods of financing and administering lifelong learning, to determine—

"(A) the extent to which each promotes lifelong learning,

"(B) program and administrative features of each that contribute to serving lifelong learning,

"(C) the need for additional Federal support for lifelong learning, and

"(D) procedures by which Federal assistance to lifelong learning may be better applied and coordinated to achieve the purposes of this title;

"(4) review the lifelong learning opportunities provided through employers, unions, the media, libraries and museums, secondary schools and postsecondary educational institutions, and other public and private organizations to determine means by which the enhancement of their effectiveness and coordination may be facilitated;

"(5) review existing major foreign lifelong learning programs and related programs in order to determine the applicability of such programs in this country;

"(6) identify existing barriers to lifelong learning and evaluate programs designed to eliminate such barriers; and

"(7) to the extent practicable, seek the advice and assistance of the agencies of the Education Division (including the Office of Education, the National Institute of Education, the Fund for the Improvement of Postsecondary Education, and the National Center for Education Statistics), other agencies of the Federal Government, public advisory groups (including the National Advisory Councils on Extension and Continuing Education, Adult Education, Career Education, Community Education, and Vocational Education), Commissions (including the National Commission on Libraries and Information Sciences and the National Commission on Manpower Policy), State agencies, and such other persons or organizations as may be appropriate, in carrying out the Commission's responsibilities, and make maximum use of information and studies already available.

The review required by clause (3) of this subsection shall include—

"(i) a comparative assessment of domestic and foreign tax and other incentives to encourage increased commitment of business and labor;

"(ii) a study of alternatives such as lifelong learning entitlement programs or educational vouchers designed to assist adults to undertake education or training in conjunction with, or in periods alternative to employment;

"(iii) review of possible modifications to existing Federal and State student assistance programs necessary to increase their relevance to the lifelong learning needs of all adults;

"(iv) the organization and design of funding for pre- and post-retirement training and education for the elderly; and

"(v) modifications to Federal and State manpower training, public employment, unemployment compensation, and similar funding programs so as to better facilitate lifelong education and training and retraining, for employment.

"(b) After consultation with appropriate State agencies, the Assistant Secretary is authorized—

"(1) to assist in the planning and assessment, to determine whether in such State there is an equitable distribution of lifelong learning services to all segments of the adult population;

"(2) to assist in assessing the appropriate roles for the Federal, State, and local governments, educational institutions and community organizations; and

"(3) to assist in considering alternative methods of financing and delivering lifelong learning opportunities, including—

"(A) identification of State agencies, institutions, and groups that plan and provide programs of lifelong learning,

"(B) determination of the extent to which programs are available geographically,

"(C) a description of demographic characteristics of the population served,

"(D) analysis of reasons for attendance in programs of lifelong learning, and

"(E) analysis of sources of funds for the conduct of life-long learning programs, and the financial support of persons attending programs of lifelong learning.

"(c) The Assistant Secretary is authorized, with respect to lifelong learning, to assess, evaluate the need for, demonstrate, and develop alternative methods to improve—

"(1) research and development activities;

"(2) training and retraining people to become educators of adults;

"(3) development of curricula and delivery systems appropriate to the needs of any such programs;

"(4) development of techniques and systems for guidance and counseling of adults and for training and retraining of counselors;

"(5) development and dissemination of instructional materials appropriate to adults;

"(6) assessment of the educational needs and goals of older and retired persons and their unique contributions to lifelong learning programs;

"(7) use of employer and union tuition assistance and other educational programs, educational and cultural trust funds and other similar educational benefits resulting from collective bargaining agreements, and other private funds for the support of lifelong learning;

"(8) integration of public and private educational funds which encourage participation in lifelong learning, including support of guidance and counseling of workers in order that they can make best use of funds available to them for lifelong learning opportunities; and

"(9) coordination within communities among educators, employers, labor organizations, and other appropriate individuals and entities to assure that lifelong learning opportunities are designed to meet projected career and occupational needs of the community, after consideration of the availability of guidance and counseling, the availability of information regarding occupational and career opportunities, and the availability of appropriate educational and other resources to meet the career and occupational needs of the community.

"(d) In carrying out the provisions of this section the Assistant Secretary is authorized to enter into agreements with, and to make grants to, appropriate State agencies, institutions of higher education, and public and private nonprofit organizations.

"(e) In carrying out the provisions of this section, the Assistant Secretary shall issue reports summarizing research and analysis conducted pursuant to this section, and shall develop the resources and capability to analyze and make recommendations regarding specific legislative or administrative proposals which may be considered by the President or by the Congress.

"REPORTS

"SEC. 134. The Assistant Secretary shall transmit to the President and to the Congress a report on such results from the activities conducted pursuant to this part as may be completed by January 1, 1978, together with such legislative recommendations as he may deem appropriate. The Assistant Secretary shall similarly report annually thereafter.".

PART B—COLLEGE LIBRARY ASSISTANCE AND LIBRARY TRAINING AND RESEARCH

EXTENSION OF AUTHORIZATION

Sec. 106. The first sentence of section 201 (b) of the Act is amended by striking out all that follows "authorized to be appropriated" and inserting in lieu thereof "$110,000,000 for fiscal 1977, $115,000,000 for fiscal year 1978, and $120,000,000 for fiscal year 1979.".

REVISION OF RESEARCH LIBRARY RESOURCES

Sec. 107. Part C of title II of the Act is amended to read as follows:

"PART C—STRENGTHENING RESEARCH LIBRARY RESOURCES

"FINDINGS AND PURPOSE

"Sec. 231. (a) The Congress finds that—

"(1) education, scholarship, and research are significant to the scientific, economic, and cultural development of the Nation, and that steady advances in the social and natural sciences are essential to solve the problems of a complex society;

"(2) the Nation's major research libraries are often an essential element in undergraduate education, and are essential to advanced and professional education and research; and

"(3) the expansion in the scope of educational and research programs and the rapid increase in the worldwide production of recorded knowledge have placed unprecedented demands upon major research libraries, requiring programs and services that strain the capabilities of cooperative action and are beyond the financial competence of individual or collective library budgets.

"(b) It is the purpose of this part to promote research and education of higher quality throughout the United States by providing financial assistance to major research libraries.

"APPROPRIATIONS AUTHORIZED

"Sec. 232. There are authorized to be appropriated $10,000,000 for the fiscal year 1977, $15,000,000 for fiscal year 1978, and $20,000,000 for fiscal year 1979.

"ELIGIBILITY FOR ASSISTANCE

"Sec. 233. For the purposes of this part, the term 'major research library' means a public or private nonprofit institution, including the library resources of an institution of higher education, an independent research library, or a State or other public library, having library collections which are available to qualified users and which—

"(1) make a significant contribution to higher education and research;

"(2) are broadly based and are recognized as having national or international significance for scholarly research;

"(3) are of a unique nature, and contain material not widely available; and

"(4) are in substantial demand by researchers and scholars not connected with that institution.

"(b) No institution receiving a grant under this part for any fiscal year may be eligible to receive a basic grant under section 202 of this title for that year.

"EQUITABLE DISTRIBUTION OF ASSISTANCE

Sec. 234. The Commissioner shall establish criteria designed to achieve regional balance in the allocation of funds under this part which is reasonable in light of the requirements of section 233.

"LIMITATIONS

"Sec. 235. (a) No grant may be made under this part for books, periodicals, documents, or other related materials to be used for sectarian instruction or religious worship, or primarily in connection with any part of the program of a school or department of divinity.

"(b) Not more than 150 institutions may receive a grant under this part.

"CONSULTATION WITH STATE AGENCY

"Sec. 236. Each institution receiving a grant under this part shall periodically inform the State library administrative agency and the State agency, if any, concerned with the educational activities of all institutions of higher education in the State in which such institution is located, of its activities under this part.".

PART C—STRENGTHENING DEVELOPING INSTITUTIONS

EXTENSION OF AUTHORIZATION

Sec. 111. Section 301(b) of the Higher Education Act of 1965 is amended by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1979".

REMOVAL OF RESTRICTIONS ON WAIVERS

Sec. 112. Section 302(a)(2) of the Act is amended by striking out ", except that such grants may not involve an expenditure of funds in excess of 1.4 per centum of the sums appropriated pursuant to this title for any fiscal year".

PART D—STUDENT ASSISTANCE

BASIC EDUCATIONAL OPPORTUNITY GRANTS

Sec. 121. (a) Section 411(a)(1) of the Act is amended by striking out "June 30, 1975" and inserting in lieu thereof "September 30, 1979".

(b)(1) Section 411(a)(2)(A)(i) of the Act is amended by striking out "$1,400" and inserting in lieu thereof "$1,800".

(2) The amendment made by paragraph (1) of this subsection shall be effective for academic year 1978–1979 and thereafter.

(c) Divisions (i) and (ii) of section 411(a)(3)(A) of the Act are amended to read as follows:

"(3)(A)(i) Not later than July 1 of each calendar year, the Commissioner shall publish in the Federal Register a schedule of expected family contributions for the academic year which begins after July 1 of the calendar year which succeeds such calendar year for various levels of family income, which, except as is otherwise provided in division (ii), together with any amendments thereto, shall become effective July 1 of the calender year which succeeds such calendar year. During the thirty-day period following such publication the Commissioner shall provide interested parties with an opportunity to present their views and make recommendations with respect to such schedule.

"(ii) The schedule of expected family contributions required by division (i) for each academic year shall be submitted to the President of the Senate and the Speaker of the House of Representatives not later than the time of its publication in the Federal Register. If either the Senate or the House of Representatives adopts, prior to the first day of October next following the submission of said schedule as required by this division, a resolution of disapproval of such schedule, the Commissioner shall publish a new schedule of expected family contributions in the Federal Register not later than fifteen days after the adoption of such resolution of disapproval. Such new schedule shall take into consideration such recommendations as may be made in either House in connection with such resolution and shall become effective, together with any amendments thereto, with respect to grants to be made on or after the first day of July next following. The Commissioner shall publish together with such new schedule, a statement identifying the recommendations made in either House in connection with such resolution of disapproval and explaining his reasons for the new schedule.".

(d) Section 411(a)(3)(B) of the Act is amended—

(1) by inserting at the end of division (ii) the following new subdivision:

"(VI) Any educational expenses of other dependent children in the family.".

(2) by inserting immediately after "student)" in division (iii) the following: ", and including any amount paid under the Social Security Act to, or on account of, the student which would not be paid if he were not a student and one-half any amount paid the student under chapters 34 and 35 of title 38, United States Code,"; and

(3) by striking out division (iv).

(e) Section 411(b) of the Act is amended by striking division (ii) of paragraph (3)(B) and redesignating subsequent divisions accordingly, and by redesignating paragraph (4) and any references thereto as paragraph (5) and inserting after paragraph (3) a new paragraph as follows:

"(4)(A) If the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by 15 per centum or less, then all of excess funds shall remain available for making payments under this subpart during the next succeeding fiscal year.

"(B) If the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by more than 15 per centum, then all of such funds shall remain available for making such payments but payments may be made under this division only with respect to entitlements for that fiscal year.".

(f) Section 411 (b)(3)(C) of the Act is repealed.

(g) Section 411(b)(5) of the Act (as redesignated by subsection (e)) is amended by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1979".

(h) Section 411 of the Act is amended by adding at the end thereof the following new subsection:

"(d) (1) In addition to payments made with respect to entitlements under this subpart, each institution of higher education shall be eligible to receive from the Commissioner the payment of $10 per academic year for each student enrolled in that institution who is receiving a basic grant under this subpart for that year. Payment received by an institution under this subsection shall be used first to carry out the provisions of section 493A of this Act and then for such additional administrative costs as the institution of higher education determines necessary.

"(2) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection. If the sums appropriated for any fiscal year for making payments under this subsection are not sufficient to pay in full the amounts provided for in paragraph (1), then such amount will be ratably reduced. In case additional funds become available for making payments for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced."

(i) Section 411 of the Act is further amended by adding at the end thereof the following additional subsection:

"(e)(1) The Commissioner shall enter into agreements with not less than two nor more than five States for the processing by such States of all applications of their residents (through an instrumentality or agent selected by such State) for grants made under this subpart for the academic year beginning after July 1, 1977, on condition that any State grants which are subsidized in part by Federal funds, during the period for which State processing of basic education opportunity grants applications is carried out by the State, will be available to eligible State residents for use at the majority of educational institutions outside that State which are eligible institutions under subpart 1 of this part. No later than ninety days after termination of the agreements, the Commissioner shall report to the Congress on the experience with multiple State processing, including its impact on the delivery of student aid to students, and including recommendations concerning whether the option of processing applications for grants under this subpart should be made available to all States having the capacity to do so.

"(2) Any State entering into an agreement with the Commissioner shall—

"(A) not be required, without the State's consent, to perform services in excess of those required of any private agency or organization with whom the Commissioner has a contract to perform similar application processing, except such additional services as may be necessary to produce processing services of a type and quality equivalent to those produced, through the same or other means; and

"(B) be required to determine student eligibility for awards under this subpart solely on the basis of criteria set forth in this subpart and regulations promulgated by the Commissioner pursuant thereto.

"(3) The Commissioner shall promulgate such regulations as may be necessary—

"(A) to determine a fair per unit fee for application processing which, if the Commissioner has a contract with an agency or organization to perform similar application processing, shall be no more than the amount paid by the Commissioner per application for the same academic year to any such agency or organization; and

"(B) to otherwise carry out the purposes of this subsection.

"(4) Nothing contained in this section or other enactments of law shall be construed to prohibit any eligible State under subsection (c) of this section from—

"(A) employing student application forms that solicit information required for both the determination of eligibility under this subpart and for the determination of eligibility under the postsecondary educational grant programs of such State; and

"(B) coordinating the eligibility announcements of State post-secondary educational grants and grants under this subpart.

"(5) No State which enters into an agreement with the Commissioner may impose any fee or other charge upon a student for processing of the student's application for a grant under this subpart.".

SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

Sec. 122. (a) Section 413(b)(1) of the Act is amended by striking out July 1, 1975" and inserting in lieu thereof October 1, 1979".

(b) Section 413(b)(4) of the Act is amended by striking out "464" and inserting in lieu thereof "494".

STATE STUDENT INCENTIVE GRANTS

SEC. 123. (a) Section 415A(b) of the Act is amended by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1979", and by adding at the end thereof the following new paragraph:

"(3) Sums appropriated pursuant to paragraphs (1) and (2) for any fiscal year shall remain available for payments to States for the award of student grants under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.".

(b) Section 415C(b) of the Act is amended by redesignating clauses (4) and (5) of such section, and all references thereto, as clauses (5) and (6), respectively, and by inserting after clause (3) thereof the following new clause:

"(4) provides that, effective with respect to any academic year beginning on or after July 1, 1977, and nonprofit institutions of higher education in the State are eligible to participate in the State program;".

(c)(1) Section 415A(b)(2) of the Act is amended by inserting before the period a comma and the following: "and to make bonus allotments to States pursuant to section 415E".

(2) Section 415B(b) is amended by striking out the word "Sums" and inserting in lieu thereof the following: "Subject to the provisions of section 415E, sums".

(3) Subpart 3 of part A of title IV of the Act is amended by inserting at the end thereof the following new section:

"BONUS ALLOTMENTS FOR STATE STUDENT INCENTIVE GRANT PROGRAMS

"SEC. 415E. Whenever the sum appropriated pursuant to this subpart for any fiscal year is in excess of $75,000,000 the Commissioner shall allot, from 33⅓ per centum of such excess sums, to each State having an agreement under section 428(b) an amount which bears the same ratio to such sum as the number of students in attendance at institutions of higher education in such State bears to the total number of students in such attendance in all such States.".

SPECIAL PROGRAMS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS

SEC. 124. (a) Section 417A(b) of the Act is amended by inserting before the period a comma and the following: "and $200,000,000 for each of the fiscal years ending prior to October 1, 1979".

(b)(1) Section 417B(a) of the Act is amended by striking out "section 417A(a)" and inserting in lieu thereof "subsection (b) of this section".

(2) The matter preceding paragraph (1) of section 417B(b) of the Act is amended to read as follows:

"(b) Services provided through grants and contracts under this subpart shall be specifically designed to assist in enabling youths from low-income families who have academic potential, but who may lack adequate secondary school preparation, who may be physically handicapped, or who may be disadvantaged because of severe rural isolation, to enter, continue, or resume programs of postsecondary education, including—".

(3) Section 417B(b)(1)(A) of the Act is amended by inserting after the comma the following: "especially such youths who have delayed pursuing postsecondary educational training,".

(4) The first sentence of section 417B(b) of the Act is amended by—

(A) striking out "and" at the end of clause (3) of such sentence,

(B) striking out the period at the end of clause (4) of such sentence and inserting in lieu thereof a semicolon and the word "and", and

(C) adding at the end thereof the following new clause:

"(5) a program of paying up to 90 per centum of the cost of establishing and operating or expanding service learning centers at institutions of higher education and other postsecondary educational institutions serving a substantial number of disadvantaged students which—

"(A) will provide remedial and other special services for students who are enrolled or accepted for enrollment at that institution, and

"(B) will serve, as a concentrated effort, to coordinate and supplement the ability of that institution to furnish such services to such students.".

(5) Section 417B(b) of the Act is amended by adding at the end thereof the following new sentence: "Before making a grant or entering into a contract under clause (5) of the first sentence of this subsection the Commissioner may require any institution subject to such a contract or grant to submit an application containing or accompanied by such information, including the ability of that institution to pay the non-Federal share of the costs of the project to be assisted, as is essential to carry out the requirements of that clause.".

(c) Section 417B of the Act is amended by adding at the end thereof the following new subsections:

"(e) In making grants or entering into contracts under clause (1) or (5) of subsection (b) of this section the Commissioner may permit students or youths from other than low-income families, not to exceed one-third of the total served, to benefit by the projects to be assisted pursuant to that grant or contract.

"(f)(1) The Commissioner is authorized to enter into contracts with institutions of higher education and other appropriate public agencies and nonprofit private organizations to provide training for staff and leadership personnel who will specialize in improving the delivery of services to students assisted under this subpart.

"(2) Financial assistance under this subsection may be used for (A) the operation of short-term training institutes designed to improve the skills of participants in such institutes, and (B) the development of in-service training programs for such personnel."

"(g) The Commissioner shall not make grants to programs authorized under clause (5) of subsection (b) of this section in any fiscal year in which the amount appropriated for carrying out this subpart is less than $70,331,000.".

"(h) It is the intention of the Congress to encourage, whenever feasible, the development of individualized programs for disadvantaged students assisted under this subpart.".

EDUCATIONAL INFORMATION PROGRAM

SEC. 125. Part A of title IV of the Act is amended by redesignating subpart 5, and all references thereto, as subpart 6, and by inserting immediately after subpart 4 the following new subpart:

"SUBPART 5—EDUUCATIONAL INFORMATION

"PROGRAM AUTHORIZATION

"SEC. 418A. (a) The Commissioner shall, in accordance with the provisions of this subpart, make grants to States to pay the Federal share of the cost of planning, establishing, and operating Educational Information Centers to provide educational information, guidance, counseling, and referral services for all indidivuals, including individuals residing in rural areas.

"(b)(1) For the purpose of enabling the Commission to carry out this subpart, there are authorized to be appropriated $20,000,000 for fiscal year 1977, $30,000,000 for fiscal year 1978, and $40,000,000 for fiscal year 1979.

"(2) The Commissioner shall allocate funds appropriated in each year under this subpart to each State submitting a plan approved under section 418B an amount which bears the same ratio to such funds as the population of such State bears to the population of all the States, except that for each fiscal year no State which submitted an approved plan shall receive from such funds less than $50,000 for that year. In making allocations under this paragraph, the Commissioner shall use the latest available actual data, including data on previous participation, which is satisfactory to him.

"(c) The Federal share of the cost of planning, establishing, and operating Educational Information Centers for any fiscal year under this subpart shall be 66⅔ per centum, and the non-Federal share may be in cash or in kind.

"(d) For the purposes of this subpart, the term 'Educational Information Center' means an institution or agency, or combination of institutions or agencies, organized to provide services to a population in a geographical area no greater than that which will afford all persons within the area reasonable access to the services of the Center. Such services shall include—

"(1) information and talent search services designed to seek out and encourage participation in full-time and part-time postsecondary education or training of persons who could benefit from such education or training if it were not for cultural or financial barriers, physical handicap, deficiencies in secondary education, or lack of information about available programs or financial assistance;

"(2) information and referral services to persons within the area served by the Center, including such services with regard to—

"(A) postsecondary education and training programs in the region and procedures and requirements for applying and gaining acceptance to such programs;

"(B) available Federal, State, and other financial assistance, including information on procedures to be followed in applying for such assistance;

"(C) available assistance for job placement or gaining admission to postsecondary education institutions including, but not limited to, such institutions offering professional, occupational, technical, vocational, work-study, cooperative education, or other education programs designed to prepare persons for careers, or for retraining, continuing education, or upgrading of skills;

"(D) competency-based learning opportunities, including opportunities for testing of existing competencies for the purpose of certification, awarding of credit, or advance placement in postsecondary education programs;

"(E) guidance and counseling services designed to assist persons from the area served by the Center to identify postsecondary education or training opportunities, including part-time opportunities for individuals who are employed, appropriate to their needs and in relationship to each individual's career plans; and

"(F) remedial or tutorial services designed to prepare persons for postsecondary education opportunities or training programs, including such services provided to persons enrolled in postsecondary education institutions within the area served by the Center.

Services may be provided by a Center either directly or by way of contract or other agreement with agencies and institutions within the area to be served by the Center.

"(e) Nothing in this subpart shall be construed to affect funds allocated to the establishment and operation of Educational Opportunity Centers for the disadvantaged pursuant to section 417B(b)(4) of this part.

"ADMINISTRATION OF STATE PROGRAMS

"SEC. 418B. (a) Each State receiving a grant under this part is authorized in accordance with its State plan submitted pursuant to subsection (b) of this section, to make grants to, and contracts with, institutions of higher education, including institutions with vocational and career education programs, and combinations of such institutions, public and private agencies and organizations, and local education agencies in combination with any institution of higher education, for planning, establishing, and operating Educational Information Centers within the State.

"(b) Any State desiring to receive a grant under this subpart shall submit for the approval of the Commissioner a State plan, which shall include—

"(1) a comprehensive strategy for establishment or expansion of Educational Information Centers, designed to achieve the goal, within a reasonable period of time, of making available within reasonable distance to all residents of the State the services of an Educational Information Center;

"(2) assurances concerning the source and availability of State, local, and private funds to meet the non-Federal share of the cost of the State plan required by section 418A (c); and

"(3) such other provisions as are essential to carry out the provisions of this subpart.".

VETERANS' COST-OF-INSTRUCTION PAYMENTS

SEC. 126. (a)(1) Section 420(a)(1) of the Act is amended by striking out "June 30, 1975" and inserting in lieu thereof "September 30, 1979".

(2) Section 420(a) of the Act is amended by adding at the end thereof the following:

"(3) During the period beginning July 1, 1976, and ending September 30, 1977, each institution which has qualified for payment under this section for the preceding year shall be entitled during such period, notwithstanding paragraph (1), to a payment under this section, if the number of persons referred to in such paragraph (1), equals whichever is the lesser of (A) at least the number of such persons who were in attendance at such institution during the preceding academic year less the number of such persons whose eligibility for educational assistance under chapter 34 of title 38, United States Code, expired on May 31, 1976, by virtue of section 1662(c) of such title, or (B) at least the minimum number of such persons necessary to establish eligibility to entitlement under paragraph (1) during the preceding academic year less the number of such persons whose eligibilty for educational assistance under chapter 34 of title 38, United States Code, expired on May 31, 1976, by virtue of section 1662(c) of such title."

(b) Section 420(c)(1)(B)(iii) of the Act is amended by inserting "(with special emphasis on educationally disadvantaged veterans)" after "outreach", and by inserting "(with special emphasis on the veteran-student services program under section 1685 of such title 38)" after "programs".

(c) Section 420 of the Act is amended by adding at the end thereof the following new subsections:

"(f) The Commissioner, in carrying out the provisions of this section, shall seek to assure the coordination of programs assisted under this section with programs carried out by the Veterans' Administration pursuant to title 38 of the United States Code, and the Administrator of Veterans' Affairs shall provide all assistance, technical consultation, and information otherwise authorized by law as necessary to promote the maximum effectiveness of the activities and programs assisted under this section.

"(g) The program provided for in this section shall be administered by an identifiable administrative unit in the Office of Education."

(d) Not later than ninety days after the enactment of this Act, the Commissioner shall prepare and submit to the Congress a report containing a summary of the activities and programs (including the number and characteristics of veterans served) at institutions of higher education receiving assistance under section 420 of the Higher Education Act of 1965 (relating to veterans' cost-of-instruction payments) and a description of the steps taken (and the results thereof) to carry out his responsibility under subsection (c)(1) of that section to monitor and determine the adequacy of efforts by such institutions.

FEDERAL AND STATE INSURED LOAN PROGRAMS

SEC. 127. (a) Part B of title IV of the Act is amended to read as follows:

"PART B—FEDERAL, STATE, AND PRIVATE PROGRAMS OF LOW-INTEREST INSURED LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

"STATEMENT OF PURPOSE AND APPROPRIATIONS AUTHORIZED

"SEC. 421. (a) The purpose of this part is to enable the Commissioner (1) to encourage States and nonprofit private institutions and organizations to establish adequate loan insurance programs for students in eligible institutions (as defined in section 435), (2) to provide a Federal program of student loan insurance for students or lenders who do not have reasonable access to a State or private nonprofit program of student loan insurance covered by an agreement under section 428 (b), (3) to pay a portion of the interest on loans to qualified students which are made by a State under a direct loan program meeting the requirements of section 428(a)(1)(B), or which are insured under this part or under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 428 (c)(1)(A), and (4) to guarantee a portion of each loan insured under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 428(a)(1)(C).

"(b) For the purpose of carrying out this part—

"(1) there are authorized to be appropriated to the student loan insurance fund (established by section 431) (A) the sum of $1,000,000, and (B) such further sums, if any, as may become necessary for the adequacy of the student loan insurance fund,

"(2) there are authorized to be appropriated, for payments under section 428 with respect to interest on student loans and for payments under section 437, such sums for the fiscal year ending June 30, 1966, and succeeding fiscal years, as may be required therefor,

"(3) there is authorized to be appropriated the sum of $17,500,000 for making advances pursuant to section 422 for the reserve funds of State and nonprofit private student loan insurance programs,

"(4) there are authorized to be appropriated (A) the sum of $12,500,000 for making advances after June 30, 1968, pursuant to sections 422 (a) and (b), and (B) such sums as may be necessary for making advances pursuant to section 422(c), for the reserve funds of State and nonprofit private student loan insurance programs, and

"(5) there are authorized to be appropriated such sums as may be necessary for the purpose of paying an administrative cost allowance in accordance with section 428(f) to State and nonprofit institutions and organizations with which the Commissioner has an agreement under section 428(b).

Sums appropriated under clauses (1), (2), (4), and (5) of this subsection shall remain available until expended, and sums appropriated under clause (3) of this subsection shall remain available for advances under section 422 until the close of the fiscal year ending June 30, 1968.

"(c) For purposes of carrying out this part—

"(1) the Commissioner shall develop and execute a plan designed to encourage the establishment of student loan insurance program by each State which does not have such a program covered by an agreement pursuant to section 428(b);

"(2) the Commissioner shall make a report to the Congress within 180 days after the enactment of the Education Amendments of 1976, containing a description of the plan developed according to paragraph (1) accompanied by a timetable for the execution of such plan; and

"(3) the Commissioner shall make a report to the Congress before June 30, 1977, which shall include—

"(A) a description of the activities the Commissioner and his designees have undertaken pursuant to paragraph (1),

"(B) a description of such State's plans to establish a program meeting the requirements of section 428(b), and

"(C) the Commissioner's recommendations to the Congress as to what changes in law, or policy would encourage the establishment of such a program in all States without such programs.

"ADVANCES FOR RESERVE FUNDS OF STATE AND NONPROFIT PRIVATE LOAN INSURANCE PROGRAMS

"SEC. 422. (a)(1) From the sums appropriated pursuant to clauses (3) and (4)(A) of section 421(b), the Commissioner is authorized to make advances to any State with which he has made an agreement pursuant to section 428(b) for the purpose of helping to establish or strengthen the reserve fund of the student loan insurance program covered by that agreement. If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Commissioner determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Commissioner may make advances for such year for the same purpose to one or more nonprofit private institutions or organizations with which he has made an agreement pursuant to section 428(b) in order to enable students in the State to participate in a program of student loan insurance covered by such an agreement. The Commissioner may make advances under this subsection both to a State program (with which he has such an agreement) and to one or more nonprofit private institutions or organizations (with which he has such an agreement) in that State if he determines that such advances are necessary in order that students in each eligible institution have access through such institution to a student loan insurance program which meets the requirement of section 428(b)(1).

"(2) No advance shall be made after June 30, 1968, unless matched by an equal amount from non-Federal sources. Such equal amount may include the unencumbered non-Federal portion of a reserve fund. As used in the preceding sentence, the term 'unencumbered non-Federal portion' means the amount (determined as of the time immediately preceding the making of the advance) of the reserve fund less the greater of (A) the sum of (i) advances made under this section prior to July 1, 1968, (ii) an amount equal to twice the amount of advances made under this section after June 30, 1968, and before the advance for purposes of which the determination is made, and (iii) the proceeds of earnings on advances made under this section, or (B) any amount which is required to be maintained in such fund pursuant to State law or regulation, or by agreement with lenders, as a reserve against the insurance of outstanding loans.

"(3) Advances pursuant to this subsection shall be upon such terms and condition (including conditions relating to the time or times of payment) consistent with the requirements of section 428(b) as the Commissioner determines will best carry out the purposes of this section. Advances made by the Commissioner under this subsection shall be repaid within such period as the Commissioner may deem to be appropriate in each case in the light of the maturity and solvency of the reserve fund for which the advance was made.

"(b)(1) The total of the advances to any State prior to July 1, 1968, pursuant to subsection (a) may not exceed an amount which bears the same ratio to 2½ per centum of $700,000,000 as the population of that State aged eighteen to twenty-two, inclusive, bears to the total population of all the States aged eighteen to twenty-two inclusive. The amount available, however, for advances to any State for each fiscal year ending prior to July 1, 1968, shall not be less than $25,000, and any additional funds needed to meet this requirement shall be derived by proportionately reducing (but not below $25,000 per year) the amount available for advances to each of the remaining States. Advances to nonprofit private institutions and organizations prior to July 1, 1968, pursuant to subsection (a) may be in such amounts as the Commissioner determines will best achieve the purposes for which they are made, except that the sum of (1) advances to such institutions and organizations for the benefit of students in any State plus (2) the amounts advanced to such State, may not exceed the maximum amount which may be advanced to that State pursuant to the first two sentences of this subsection.

"(2) The total of the advances from the sums appropriated pursuant to clause (4)(A) of section 421(b) to nonprofit private institutions and organizations for the benefit of students in any State and (B) to such State may not exceed an amount which bears the same ratio to such sums as the population of such State aged eighteen to twenty-two, inclusive, bears to the population of all the States aged eighteen to twenty-two, inclusive, but such advances may otherwise be in such amounts as the Commissioner determines will best achieve the purposes for which they are made. The amount available, however, for advances to any State shall not be less than $25,000, and any additional funds needed to meet this requirement shall be derived by proportionately reducing (but not below $25,000) the amount available for advances to each of the remaining States.

"(3) For the purposes of this subsection, the population aged eighteen to twenty-two, inclusive, of each State and of all the States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

"(c)(1) From sums appropriated pursuant to section 421(b)(4)(B), the Commissioner shall advance to each State which has an agreement with the Commissioner under section 428(c) with respect to a student loan insurance program, an amount determined in accordance with paragraph (2) of this subsection to be used for the purpose of making payments under the State's insurance obligations under such program.

"(2)(A) Except as provided in subparagraph (B), the amount to be advanced to each such State shall be equal to the greater of (i) $50,000, or (ii) 10 per centum of the principal amount insured by such agency on those loans on which the first payment of principal became due during the fiscal year immediately preceding the fiscal year in which the advance is made.

"(B) The amount of any advance determined according to subparagraph (A) of this paragraph shall be reduced by (i) the amount of any advance or advances made to such State pursuant to this subsection at an earlier date, and (ii) the amount of the unspent balance of the advances made to a State pursuant to subsection (a).

"(C) For purposes of subparagraph (B) the unspent balance of the advances made to a State pursuant to subsection (a) shall be that portion of the balance of the State's reserve fund (remaining at the time of the State's first request for an advance pursuant to this subsection) which bears the same ratio to such balance as the Federal advances made and not returned by such State, pursuant to subsection (a), bears to the total of all past contributions to such reserve fund from all sources (other than interest on investment of any portion of the reserve fund) contributed since the date such State executed an agreement pursuant to section 428(b).

"(3) The earnings, if any, on any investments of advances received pursuant to this subsection must be used for making payments under the State's insurance obligations.

"(4)(A) No repayment of any advances made pursuant to this subsection shall be required until such time as the sum of the advances under this subsection exceeds 20 per centum of the State's outstanding insurance obligation determined in accordance with subparagraph (B) of this paragraph.

"(B) For purposes of this paragraph, a State's outstanding insurance obligation shall be determined by subtracting from the total principal amount of loans insured by the State since it entered into an agreement pursuant to section 428(b), the total principal amount of loans insured by such State which have been fully repaid by the borrower, the State itself, or the Commissioner, and loans which have been canceled.

"(C) At such time as advances pursuant to this subsection reach the level indicated in subparagraph (A) of this paragraph, the amount of any excess shall be paid over to the Commissioner in a lump sum at the beginning of each fiscal year for deposit in the fund established by section 431.

"(5) Advances pursuant to this subsection shall be made to a State—

"(A) in the case of a State which is actively carrying on a program under an agreement pursuant to section 428(b) which was entered into before the effective date of this subsection, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the two succeeding calendar years after the date so requested; and

"(B) in the case of a State which enters into an agreement pursuant to section 428(b) on or after the effective date of this subsection, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the four succeeding calendar years after the date so requested of the advance.

"(6)(A) If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Commissioner determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Commissioner may make advances pursuant to this subsection for such year for the same purpose to one or more nonprofit private institutions or organizations with which he has made an agreement pursuant to subsection (c), as well as subsection (b), of section 428 and subparagraph (B) of this paragraph in order to enable students in that State to participate in a program of student loan insurance covered by such agreements.

"(B) The Commissioner may enter into an agreement with a private nonprofit institution or organization for purposes of this paragraph under which such institution or organization—

"(i) agrees to establish within such State at least one office with sufficient staff to handle written and telephone inquiries from students, eligible lenders, and other persons in the State, to encourage maximum commercial lender participation within the State, and to conduct periodic visits to at least the major eligible lenders within the State,

"(ii) agrees that its insurance will not be denied any student because of his choice of eligible institutions or the student's lack of need, and

"(iii) certifies that it is neither an institution, nor has any substantial affiliation with an institution.

"EFFECTS OF ADEQUATE NON-FEDERAL PROGRAMS

"SEC. 423. (a) Except as provided in subsections (b) and (c), the Commissioner shall not issue certificates of insurance under section 429 to lenders in a State if he determines that every eligible institution has reasonable access in that State to a State or private nonprofit student loan insurance program which is covered by an agreement under section 428(b).

"(b) The Commissioner may issue certificates of insurance under section 429 to a lender in a State—

"(1) for insurance of a loan made to a student borrower who does not, by reason of his residence, have access to loan insurance under the loan insurance program of such State (or under any private nonprofit loan insurance program which has received an advance under section 422 for the benefit of students in such State), or

"(2) for insurance of all of the loans made to student borrowers by a lender who satisfies the Commissioner that, by reason of the residence of such borrowers, such lender will not have access to any single State or nonprofit private loan insurance program which will insure substantially all of the loans such lender intends to make to such student borrowers.

"(c) The Commissioner shall not deny, because of any provision of this section, a certificate of insurance under section 429 to any eligible lender which is an eligible institution if such lender has previously executed an agreement with the Commissioner pursuant to section 433 of this part, unless the Commissioner determines, based upon studies and surveys satisfactory to him, that access to a loan by all eligible students who make an active and diligent effort to obtain a loan under this part will be otherwise available. In order to carry out the provisions of the preceding sentence the Commissioner shall periodically assess the availability of loans to eligible students through studies and surveys undertaken by him and through review of properly conducted studies and surveys made available to him.

"SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM

"SEC. 424. (a) The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 435) to students covered by Federal loan insurance under this part shall not exceed $1,400,000,000 for the fiscal year ending June 30, 1972, $1,600,000,000 for the fiscal year ending June 30, 1973, $1,800,000,000 for the fiscal year ending June 30, 1974, $2,000,000,000 for each of the fiscal years ending June 30, 1975, and 1976, and $2,000,000,000 for the period from July 1, 1976, to September 30, 1976, and for each of the succeeding fiscal years ending prior to October 1, 1981. Thereafter, Federal loan insurance pursuant to this part may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this part, to continue or complete their educational program; but no insurance may be granted for any loan made or installment paid after September 30, 1985.

"(b) The Commissioner may, if he finds it necessary to do so in order to assure an equitable distribution of the benefits of this part, assign, within the maximum amounts specified in subsection (a), Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

"LIMITATIONS ON INDIVIDUAL FEDERALLY INSURED LOANS AND ON FEDERAL LOAN INSURANCE

"SEC. 425. (a) (1) The total of loans made to a student in any academic year or its equivalent (as determined by the Commissioner) which may be covered by Federal loan insurance under this part may not exceed $2,500 in the case of a student who has not successfully completed a program of undergraduate education, or $5,000 in the case of a graduate or professional student (as defined in regulations of the Commissioner), except—

"(A) that in the case of a loan to a student who is or will be in his first year of a program of undergraduate education, and who has not previously enrolled in such a program which is made by an eligible lender as described in section 435(g) (1) (D) or which is made or originated (as defined in section 433(b)) by an eligible institution, the loan may not exceed the lesser of $2,500 or 50 per centum of the estimated cost of attendance (calculated in accordance with the provisions of section 428(a) (2) (C) (i)),

"(B) that in the case of a loan made or originated (as defined in section 433(b)) by an eligible institution which is made to a student for his first academic year of postsecondary education, the loan may exceed $1,500 only if it is to be disbursed in two or more installments none of which exceeds one-half of the loan, with the interval between the first and second of such installments being not less than one-third of the period of enrollment for which the student received the loan, and

"(C) in cases where the Commissioner determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high cost of education.

The annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit.

"(2) The aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed $7,500, in the case of any student who has not successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner and including any loans which are insured by the Commissioner under this part, or by a State or nonprofit institution or organization with which the Commissioner has an agreement under section 428(b), made to such person before he became a graduate or professional student).

"(b) (1) (A) Except as provided in subparagraph (B), the insurance liability on any loan insured by the Commissioner under this part shall be 100 per centum of the unpaid balance of the principal amount of the loan plus interest, except that—

"(i) if, for any fiscal year, the total amount of payments under section 430 by the Commissioner to any eligible lender as described in section 435(g) (1) (D) exceeds 5 per centum of the sum of the loans made by such lender which are insured by the Commissioner and which were in repayment at the end of the preceding fiscal year, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (C), shall be equal to 90 per centum of the amount of such portion;

"(ii) if, for any fiscal year, the total amount of such payments to such a lender exceeds 9 per centum of such sum, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (c), shall be equal to 80 per centum of the amount of such portion.

"(B) Notwithstanding subparagraph (A), the provisions of clauses (i) and (ii) shall not apply to any eligible lender as described in section 435(g) (1) (D) for the fiscal year in which such lender begins to carry on a loan program insured by the Commissioner, or for any of the four succeeding fiscal years.

"(C) The applicable date with respect to a loan made by an eligible lender as described in section 435(g) (1) (D) shall be—

"(i) the 90th day after the adjournment of the next regular session of the appropriate State legislature which convenes after the date of enactment of the Education Amendments of 1976, or

"(ii) if the primary source of lending capital for such lender is derived from the sale of bonds, and the constitution of the appropriate State prohibits a pledge of such State's credit as security against such bonds, the day which is one year after such 90th day.

"(2) For the purposes of this subsection, the sum of the loans made by a lender which are insured by the Commissioner and which are in repayment shall be the original principal amount of loans made by such lender which are insured by the Commissioner reduced by (A) the amount the Commissioner has been required to pay to discharge his insurance obligations under this part, (B) the original principal amount of loans insured by the Commissioner which have been fully repaid, (C) the original principal amount insured on those loans for which payment of first installment of principal has not become due pursuant to section 427(a) (2) (B) or such first installment need not be paid pursuant to section 427(a) (2) (C), and (D) the original principal amount of loans repaid by the Commissioner under section 437.

"(3) For the purposes of this subsection, payments by the Commissioner under section 430 to an assignee of the lender with respect to a loan shall be deemed payments made to such lender.

"(4) The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 430 or 437 of this part.

"SOURCES OF FUNDS

"SEC. 426. Loans made by eligible lenders in accordance with this part shall be insurable by the Commissioner whether made from funds fully owned by the lender or from funds held held by the lender in a trust or similar capacity and available for such loans.

"ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF FEDERALLY INSURED STUDENT LOANS

"SEC. 427. (a) A loan by an eligible lender shall be insurable by the Commissioner under the provisions of this part only if—

"(1) made to a student who (A) has been accepted for enrollment at an eligible institution or, in the case of a student already attending such institution, is in good standing there as determined by the institution, (B) is carrying at least one-half of the normal fulltime workload as determined by the institution, and (C) has agreed to notify promptly the holder of the loan concerning any change of address; and

"(2) evidenced by a note or other written agreement which—

"(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under the applicable law, create a binding obligation, endorsement may be required,

"(B) provides for repayment (except as provided in subsection (c)) of the principal amount of the loan in installments over a period of not less than five years (unless sooner repaid or unless the student, during the nine- to twelve-month period preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than ten years beginning not earlier than nine months nor later than one year after the date on which the student ceases to carry at an eligible institution at least one-half the normal fulltime academic workload as determined by the institution, except—

"(i) as provided in clause (C) below,

"(ii) that the period of the loan may not exceed fifteen years from the execution of the note or written agreement evidencing it,

(iii) that the note or other written instrument may contain such provisions relating to repayment in the event of default in the payment of interest or in the payment of the cost of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Commissioner in effect at the time the loan is made, and

"(iv) that the lender and the student,

after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, may agree to a repayment schedule which begins earlier, or is of shorter duration, than required by this subparagraph, except that in the event a student has requested and obtained a repayment period of less than five years, he may at any time prior to the total repayment of the loan, have the repayment period extended so that the total repayment period is not less than five years.

"(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period (i) during which the borrower is pursuing a full-time course of study at an 'eligible institution', or is pursuing a course of study pursuant to a graduate fellowship program approved by the Commissioner, (ii) is not in excess of three years during which the borrower is a member of the Armed Forces of the United States, (iii) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, (iv) not in excess of three years during which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973, or (v) during a single period, not in excess of twelve months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment, and any such period shall not be included in determining the ten-year period or the fifteen-year period provided in clause (B) above,

"(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed and defined by the Secretary (within the limits set forth in subsection (b)) on a national, regional, or other appropriate basis, which interest shall be payable in installments over the period of the loan except that, if provided in the note or other written agreement, any interest payable by the student may be deferred until not later than the date upon which repayment of the first installment of principal falls due, in which case interest that has so accrued during that period may be added on that date to the principal,

"(E) provides that the lender will not collect or attempt to collect from the borrower any portion of the interest on the note which is payable by the Commissioner under the part, and that the lender will enter into such agreements with the Commissioner as may be necessary for the purposes of section 437,

"(F) entitles the student borrower to accelerate without penalty repayment of the whole or any part of the loan,

"(G) provides that, in the case of each loan insured by the program, the eligible institution attended by the borrower at the time of the loan will be notified of such insurance and the name of the lender making the loan, and such notification will be made either by (i) the prompt transmittal of such information to the institution by the insurer or the lender, or (ii) a requirement of the insurer, as a condition of its insurance, that the lender shall transmit any checks for the proceeds of such loan directly to the eligible institution for delivery to the borrower;

"(H) the funds borrowed by a student are disbursed by check payable to the order and requiring the endorsement of such student, and

"(I) contains such other terms and conditions, consistent with the provisions of this part and with the regulations issued by the Commissioner pursuant to this part, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Commissioner with respect to such loan.

"(b) No maximum rate of interest prescribed and defined by the Secretary for the purposes of clause (2)(D) of subsection (a) may exceed 7 per centum per annum on the unpaid principal balance of the loan.

"(c) The total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not unless the borrower and the lender otherwise agree, be less than $360 or the balance of all of such loans (together with interest thereon), whichever amount is less, except that in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than $360 or the balance of all such loans, whichever is less.

"FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS

"SEC. 428. (a)(1) Each student who has received a loan for study at an eligible institution—

"(A) which is insured by the Commissioner under this part;

"(B) which was made under a State student loan program (meeting criteria prescribed by the Commissioner), and which was contracted for, and paid to the student, within the period specified by paragraph (5); or

"(C) which is insured under a program of a State or of a nonprofit private institution or organization which was contracted for, and paid to the student, within the period specified in paragraph (5), and which—

"(i) in the case of a loan insured prior to July 1, 1967, was made by an eligible lender and is insured under a program which meets the requirements of subparagraph (E) of subsection (b)(1) and provides that repayment of such loan shall be in installments beginning not earlier than sixty days after the student ceases to pursue a course of study (as described in subparagraph (D) of subsection (b)(1)) at an eligible institution, or

"(ii) in the case of a loan insured after June 30, 1967, is insured under a program covered by an agreement made pursuant to subsection (b),

shall be entitled to have paid on his behalf and for his account to the holder of the loan a portion of the interest on such loan under circumstances described in paragraph (2).

"(2)(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall—

"(i) have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which he is in attendance in good standing (as determined by such institution), which—

"(I) sets forth such student's estimated costs of attendance and

"(II) sets forth such student's estimated financial assistance; and

"(ii) meet the requirements of subparagraph (B).

"(B) For the purposes of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if such student's adjusted family income at the time of execution of the note or written agreement evidencing such loan—

"(i) is less than $25,000; or

"(ii) is equal to or greater than $25,000 and the eligible institution has provided the lender with a statement evidencing a determination of need and recommending a loan in the amount of such **need**.

"(C) For the purposes of paragraph (1) and this paragraph—

"(i) a student's estimated cost of attendance means, for the period for which the loan is sought, the tuition and fees applicable to such student together with the institution's estimate of other expenses reasonably related to attendance at such institution, including, but not limited to, the cost of room and board, reasonable commuting costs, and costs for books;

"(ii) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under parts A, C, and E of this title, plus other scholarship, grant, or loan assistance;

"(iii) the term 'eligible institution' when used with respect to a student is the eligible institution at which the student has been accepted for enrollment or, in the case of a student who is in attendance at such an institution, at which the student is in good standing (as determined by such institution);

"(iv) the determination of need and the amount of a loan recommended by an eligible institution under subparagraph (B)(ii) with respect to a student shall be determined by subtracting from the estimated cost of attendance at such institution the total of the expected family contribution with respect to such student (as determined by means other than one formulated by the Commissioner under subpart 1 of part A of this title) plus any other resources or student financial assistance reasonably available to such student.

"(D) For the purposes of this paragraph, the adjusted family income of a student shall be determined pursuant to regulations of the Commissioner in effect at the time of the execution of the note or written agreement evidencing the loan. Such regulations shall provide for taking into account such factors, including family size, as the Commissioner deems appropriate. In the absence of fraud by the lender, such determination of the need of a student under this paragraph shall be final insofar as it concerns the obligation of the Commissioner to pay the holder of a loan a portion of the interest on the loan.

"(3)(A) Except as provided in paragraph (8), the portion of the interest on a loan which a student is entitled to have paid on his behalf and for his account to the holder of the loan pursuant to paragraph (1) of this subsection shall be equal to the total amount of the interest on the unpaid principal amount of the loan which accrues prior to the beginning of the repayment period of the loan, or which accrues during a period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in subsection (b)(1)(M) of this section or in section 427(a)(2)(C); but, except as provided in paragraph (8) of this subsection, such portion of the interest on a loan shall not exceed, for any period, the amount of the interest on that loan which is payable by the student after taking into consideration the amount of any interest on that loan which the student is entitled to have paid on his behalf for that period under any State or private loan insurance program. The holder of a loan with respect to which payments are required to be made under this section shall be deemed to have a contractual right, as against the United States, to receive from the Commissioner the portion of interest which has been so determined. The Commissioner shall pay this portion of the interest to the holder of the loan on behalf of and for the account of the borrower at such times as may be specified in regulations in force when the applicable agreements entered into pursuant to subsection (b) was made, or, if the loan was made by a State or is insured under a program which is not covered by such an agreement, at such times as may be specified in regulations in force at the time the loan was paid to the student.

"(B) If (i) a State student loan insurance program is covered by an agreement under subsection (b), (ii) a statute of such State limits the interest rate on loans insured by such program to a rate which is less than 7 per centum per annum on the unpaid principal balance, and (iii) the Commissioner determines that section 428(d) does not make such statutory limitation inapplicable and that such statutory limitation threatens to impede the carrying out of the purposes of this part, then he may pay an administrative cost allowance to the holder of each loan which is insured under such program and which is made during the period beginning on the sixtieth day after the date of enactment of the Higher Education Amendments of 1968 and ending 120 days after the adjournment of such State's first regular legislative session which adjourns after January 1, 1969. Such administrative cost allowance shall be paid over the term of the loan in an amount per annum (determined by the Commissioner) which shall not exceed 1 per centum of the unpaid principal balance of the loan.

"(4) Each holder of a loan with respect to which payments of interest are required to be made by the Commissioner shall submit to the Commissioner, at such time or times and in such manner as he may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Commissioner to determine the amount of the payment which he must make with respect to that loan.

"(5) The period referred to in subparagraphs (B) and (C) of paragraph (1) of this subsection shall begin on the date of enactment of this Act and end at the close of September 30, 1981, except that, in the case of a loan made or insured under a student loan or loan insurance program to enable a student who has obtained a prior loan made or insured under such program to continue his educational program, such period shall end at the close of September 30, 1985.

"(6) No payment may be made under this section with respect to the interest on a loan made from a student loan fund established under title II of the National Defense Education Act of 1958 or part E of this title.

"(7) Nothing in this or any other Act shall be construed to prohibit or require, unless otherwise specifically provided by law, a lender to evaluate the total financial situation of a student making application for a loan under this part, or to counsel a student with respect to any such loan, or to make a decision based on such evaluation and counseling with respect to the dollar amount of any such loan.

"(8) (A) In the case of any eligible lender (other than an eligible institution or an agency or instrumentality of a State), which is approved by the Commissioner pursuant to subparagraph (B) of this paragraph for the purpose of authorizing multiple disbursements and which enters into a binding agreement with a student to make a loan—

"(i) for which the student is entitled to have a portion of the interest paid on his behalf under this section, and

"(ii) the proceeds of which loan are to be paid to the student in multiple disbursements over the period of enrollment for which the loan is made, but not to exceed twelve months,

the amount of the interest payment and the amount of any special allowance payment to be paid under section 438 shall be determined as if the entire amount to be made available for that period of enrollment had been disbursed on the date on which the first installment thereof was disbursed, and any increase in the rate of interest on the loan attributable to such multiple disbursements shall not be deemed to violate any provision of this part relating to the maximum rate of interest on such loan. The provisions of this paragraph shall apply only in the case of loans paid in multiple disbursements, in accordance with regulations of the Commissioner, based on the need of the student for the proceeds of such loan over the course of the academic year.

"(B) The Commissioner may approve an eligible lender for the purposes of this paragraph if he determines—

"(i) that such lender is making or will be making a substantial volume of loans on which an interest subsidy is payable under this section, and

"(ii) that such lender has sufficient experience and administrative capability in processing such loans to enable the lender to make such multiple disbursements in accordance with regulations issued by the Commissioner under this subparagraph.

"(9) With respect to any loan for which a portion of the interest is payable under this section, in the case of a student attending an eligible institution which is located in other than a State, the determinations to be made (except determinations of good standing) and the statement to be provided by such institution under paragraph (2)(A)(i) and (2)(B)(ii) of this subsection shall be made and provided by (A) the Commissioner in the case of a loan described by paragraph (1)(A), (B) the State in the case of a loan described by paragraph (1)(B), or (C) the State or a nonprofit private institution or organization as the case may be, in the case of a loan described by paragraph (1)(C).

"(b)(1) Any State or any nonprofit private institution or organization may enter into an agreement with the Commissioner for the purpose of entitling students who receive loans which are insured under a student loan insurance program of that State, institution, or organization to have made on their behalf the payments provided for in subsection (a) if the Commissioner determines that the student loan insurance program—

"(A) authorizes the insurance of not less than $1,000 nor more than $2,500 in the case of a student who has not successfully completed a program of undergraduate education, or $5,000 in the case of a graduate or professional student (as defined in regulations of the Commissioner), except—

"(i) that the program may not authorize the insurance of a loan which is made by an eligible lender as described in section 435(g)(1)(D) or which is made or originated (as defined in section 433(b)) by an eligible institution to a student who has not successfully completed a program of undergraduate education in an amount in excess of $2,500 or 50 per centum of the estimated cost of attendance (calculated in accordance with section 428(a)(2)(C)(i)),

"(ii) that the program may not authorize the insurance of a loan in excess of $1,500 for an academic year which is made or originated (as defined in section 433(b)) by an eligible institution, and is made to a student for his first academic year of postsecondary education, unless the loan is to be disbursed in two or more installments, none of which exceeds one-half of the loan, with the interval between the first and second of such installments being not less than one-third of the period of enrollment for which the student received the loan, and

"(iii) in cases where the Commissioner determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high costs of education,

but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit;

"(B) provides that the aggregate insured unpaid principal amount for all such insured loans made to any students shall not at any time exceed $7,500, in the case of any student who has not successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner and including any loans which are insured by the Commissioner under this part, or by a State or nonprofit institution or organization with which the Commissioner has an agreement under section 428(b), made to such person before he became a graduate or professional student);

"(C) authorizes the insurance of loans to any individual student for at least six academic years of study or their equivalent (as determined under regulations of the Commissioner);

"(D) provides that (i) the student borrower shall be entitled to accelerate without penalty the whole or any part of an insured loan, (ii) except as provided in subparagraph (M) of this paragraph, the period of any insured loan may not exceed fifteen years from the date of execution of the note or other written evidence of the loan, and (iii) the note or other written evidence of any loan, may contain such provisions relating to repayment in the event of default by the borrowers as may be authorized by regulations of the Commissioner in effect at the time such note or written evidence was executed;

"(E) subject to subparagraphs (D) and (L) of this paragraph and except as provided by subparagraph (M) of this paragraph, provides that repayment of loans shall be in installments over a period of not less than five years (unless the student, during the nine- to twelve-month period preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than ten years beginning not earlier than nine months nor later than one year after the student ceases to pursue a full-time course of study at an eligible institution, except—

"(i) that, if the program provides for the insurance of loans for part-time study at eligible institutions, the program shall provide that such repayment period shall begin not earlier than nine months nor later than one year after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution;

"(ii) that the lender and the student, after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload, as determined by the institution, may agree to a repayment schedule which begins earlier, or is of shorter duration, than required by this subparagraph, except that in the event a student has requested and obtained a repayment period of less than five years, he may at any time prior to the total repayment of the loan have the repayment period extended so that the total repayment period is not less than five years;

"(F) authorizes interest on the unpaid balance of the loan at a yearly rate not in excess of 7 per centum per annum on the unpaid principal balance of the loan (exclusive of any premium for insurance which may be passed on to the borrower);

"(G) insures not less than 80 per centum of the unpaid principal of loans insured under the program;

"(H) does not provide for collection of an excessive insurance premium;

"(I) provides that the benefits of the loan insurance program will not be denied any student who is eligible for interest benefits under section 428(a)(1) and (2) except in the case of loans made by an instrumentality of a State or eligible institution;

"(J) provides that a student may obtain insurance under the program for a loan for any year of study at an eligible institution;

"(K) in the case of a State program, provides that such State program is administered by a single State agency, or by one or more nonprofit private institutions or organizations under supervision of a single State agency;

"(L) provides that the total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not be less than $360 or the balance of all such loans (together with interest thereon), whichever amount is less, unless the borrower and the lender otherwise agree, except that, in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than $360 or the balance of all such loans, whichever is less;

"(M) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid during any period (i) during which the borrower is pursuing a full-time course of study at an eligible institution, or is pursuing a course of study pursuant to a graduate fellowship program approved by the Commissioner, (ii) not in excess of three years during which the borrower is a member of the Armed Forces of the United States, (iii) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, (iv) not in excess of three years during which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973, or (v) during a single period, not in excess of twelve months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment;

"(N) provides that in the case of each loan insured by the program that the eligible institution attended by the borrower at the time of the loan will be notified of such insurance and the name of the lender making the loan, and such notification will be made either by (i) the prompt transmittal of such information to the institution by the insurer or the lender, or (ii) a requirement of the insurer, as a condition of its insurance, that the lender shall transmit any checks for the proceeds of such loan directly to the eligible institution for delivery to the borrower;

"(O) provides that funds borrowed by a student are disbursed by check payable to the order and requiring the endorsement of such student;

"(P) provides that the borrower shall, within four months after ceasing to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, contact the holder of his loan to negotiate the terms of his repayment obligations, and

"(Q) requires the borrower to promptly notify the holder of the loan concerning any change of address.

"(2) Such an agreement shall—

"(A) provide that the holder of any such loan will be required to submit to the Commissioner, at such time or times and in such manner as he may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Commissioner to determine the amount of the payment which he must make with respect to that loan;

"(B) include such other provisions as may be necessary to protect the financial interests of the United States and promote the purposes of this part, including such provisions as may be necessary for the purpose of section 437, and as are agreed to by the Commissioner and the State or nonprofit private organization or institution, as the case may be; and

"(C) provide for making such reports, in such form and containing such information, as the Commisisoner may reasonably require to carry out his function under this part, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

"(c)(1)(A) The Commissioner may enter into a guaranty agreement with any State or any nonprofit private institution or organization with which he has an agreement pursuant to subsection (b), whereby the Commissioner shall undertake to reimburse it, under such terms and conditions as he may establish, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal and accrued interest of any insured loan with respect to which a portion of the interest is payable by the Commissioner under subsection (a), or would be payable under such subsection but for the borrower's lack of need. Except as provided in subparagraph (B) of this paragraph and in paragraph (7), the amount to be paid a State or nonprofit private institution or organization as reimbursement under this subsection shall be equal to 80 per centum of the amount expended by it in discharge of its insurance obligation incurred under its loan insurance program.

"(B) Any State or any nonprofit private institution or organization which has entered into a supplementary agreement under section 428A of this Act whereby the Commissioner agrees to reimburse the State or nonprofit private institution or organization, under such terms and conditions as he may establish, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal and accrued interest of any such insured loan in an amount equal to 100 per centum of the amount expended by it in the discharge of its insurance obligation incurred under its loan insurance program, except that—

"(i) if, for any fiscal year, the amount of such reimbursement payments by the Commissioner under this subsection exceeds 5 per centum of the loans which are insured by such institution or organization under such program and which were in repayment at the end of the preceding fiscal year, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 90 per centum of the amount of such excess; and

"(ii) if, for any fiscal year, the amount of such reimbursement payments, exceeds 9 per centum of such loans, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 80 per centum of the amount of such excess.

"(C) For purposes of this subsection, the amount of loans of a State or nonprofit private institution or organization which are in repayment shall be the original principal amount of loans insured by it reduced by (i) the amount the insurer has been required to pay to discharge its insurance obligations under this part, (ii) the original principal amount of loans insured by it which have been fully repaid, (iii) the original principal amount insured on those loans for which payment of the first installment of principal has not become due pursuant to section 428 (b)(1)(E) or such first installment need not be paid pursuant to section 428(b)(1)(M), and (iv) the original principal amount of loans repaid by the Commissioner under section 437.

"(2) The guaranty agreement—

"(A) shall set forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, to insure proper and efficient administration of the loan insurance program, and to assure that due diligence will be exercised in the collection of loans insured under the program;

"(B) shall provide for making such reports, in such form and containing such information, as the Commission may reasonably require to carry out his functions under this subsection, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports;

"(C) shall set forth adequate assurance that, with respect to so much of any loan insured under the loan insurance program as may be guaranteed by the Commissioner pursuant to this subsection, the undertaking of the Commissioner under the guaranty agreement is acceptable in full satisfaction of State law or regulation requiring the maintenance of a reserve.

"(D) shall provide that if, after the Commissioner has made payment under the guaranty agreement pursuant to paragraph (1) of this subsection with respect to any loan, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after such payment by the Commissioner), there shall be paid over to the Commissioner (for deposit in the fund established by section 431) such proportion of the amounts of such payments as is determined (in accordance with paragraph (6)) to represent his equitable share thereof, but shall not otherwise provide for subrogation of the United States to rights of any insurance beneficiary: *Provided*, That, except as the Commissioner may otherwise by or pursuant to regulation provide, amounts so paid by a borrower on such a loan shall be first applied in reduction of principal owing on such loan;

"(E) shall set forth adequate assurance that an amount equal to each payment made under paragraph (1) will be promptly deposited in or credited to the accounts maintained for purposes of section 422(c); and

"(F) may include such other provisions as may be necessary to promote the purposes of this part.

"(3) To the extent provided in regulations of the Commissioner, a guaranty agreement under this subsection may contain provisions which permit such forebearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer.

"(4) For purposes of this subsection, the terms 'insurance beneficiary' and 'default' shall have the meanings assigned to them by section 430(e).

"(5) In the case of any guaranty agreement entered into prior to September 1, 1969, with a State or nonprofit private institution or organization with which the Commissioner has in effect on that date an agreement pursuant to subsection (b) of this section, or section 9(b) of the National Vocational Student Loan Insurance Act of 1965, made prior to the date of enactment of this subsection, the Commissioner may, in accordance with the terms of this subsection, undertake to guarantee loans described in paragraph (1) which are insured by such State, institution, or organization and are outstanding on the date of execution of the guaranty agreement, but only with respect to defaults occurring after the execution of such guaranty agreement or, if later, after its effective date.

"(6)(A) For the purpose of paragraph (2) (D) the Commissioner's equitable share of payments made by the borrower pursuant to such paragraph shall be that portion of the payments remaining after the State or the nonprofit private institution or organization with which the Commissioner has an agreement under this subsection has deducted from such payments (i) a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan and (ii) an amount equal to the administrative costs of collection of the loan and the administrative costs of preclaims assistance for default prevention (as such terms are defined in subparagraph (B) of this subsection) reimbursed pursuant to subsection (f), to the extent such costs do not exceed 30 per centum of such payments.

"(B) For the purposes of this paragraph, the term—

"(i) 'administrative costs of collection of the loan' means any administrative costs incurred by a guaranty agency which are directly related to the collection of the loan on which a default claim has been paid to the participating lender, including the attributable compensation of collection personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to the collection activity), attorney's fees, fees paid to collection agencies, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency whether or not attributable and

"(ii) 'administrative costs of preclaim assistance for default prevention' means any administrative costs incurred by a guaranty agency which are directly related to providing collection assistance to the lender on a delinquent loan, prior to the loan's being legally in a default status, including the attributable compensation of appropriate personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to the collection activity), fees paid to locate a missing borrower, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency whether or not attributable,

subject to such additional criteria as the Commissioner may by regulation prescribe.

"(7)(A) Notwithstanding paragraph (1)(B), the amount to be paid a State or a nonprofit private institution or organization for any fiscal year—

"(i) which begins on or after the effective date of this paragraph; and

"(ii) which is either the fiscal year in which such State, institution, or organization begins to actively carry on a student loan insurance program which is subject to a guarantee agreement under this subsection, or is one of the four succeeding fiscal years,

shall be 100 per centum of the amount expended by such State, organization, or institution in discharge of its insurance obligation insured under such program.

"(B) The Commissioner shall continuously monitor the operations of those States and nonprofit private institutions or organizations to which the provisions of subparagraph (A) are applicable and revoke the application of such subparagraph to any such State or nonprofit private institution or organization which he determines has not exercised reasonable prudence in the administration of such program.

"(d) No provision of any law of the United States (other than sections 427(a)(2)(D) and 427(b) of this Act) or of any State (other than a statute applicable principally to such State's student loan insurance program) which limits the rate or amount of interest payable on loans shall apply to a loan—

"(1) which bears interest (exclusive of any premium for insurance) on the unpaid principal balance at a rate not in excess of 7 per centum per annum, and

"(2) which is insured (A) by the United States under this part, or (B) by a State or nonprofit private institution or organization under a program covered by an agreement made pursuant to subsection (b) of this section.

"(e)(1) Each eligible institution shall be eligible to receive from the Commissioner the payment of $10 per academic year for each student enrolled in that institution who is in receipt of a loan described in paragraph (1) of subsection (a) of this section, for that year. Payments received by an institution under this subsection shall be used first by the institution to carry out the provisions of section 493A of this Act and then for such additional administrative costs as that institution determines necessary.

"(2) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection. If the sums appropriated for any fiscal year for making payments under this subsection are not sufficient to pay in full the amounts provided for in paragraph (1), then such amount will be ratably reduced. In case additional funds become available for making payments for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

"(f)(1)(A) The Commissioner is authorized to make payments in accordance with the provisions of this paragraph to any State or any nonprofit private institution or organization with which he has an agreement under subsection (b) of this section, for the purposes of—

"(i) the administrative costs of promotion of commercial lender participation;

"(ii) the administrative costs of collection of loans;

"(iii) the administrative costs of preclaims assistance for default prevention; or

"(iv) other such costs related to the student loan insurance program subject to such agreement.

The total amount of payments for any fiscal year made under this paragraph shall not exceed one-half of 1 per centum of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such State, or institution or organization. If the sums appropriated for any fiscal year for making payments under this paragraph are not sufficient to pay in full the amounts provided for which such States, institutions, and organizations are eligible, then such amount will be ratably reduced. In case additional funds become available for making payments for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

"(B) Each State or nonprofit private institution or organization to which subparagraph (A) of this paragraph applies shall spend not less than ¼ of the payments received pursuant to this paragraph on the purposes described in clause (i) of subparagraph (A), not less than ½ of such payments on the purposes described in clauses (ii) and (iii) of subparagraph (A), and the remaining amount of such payments on the purpose described in clause (iv) of such subparagraph.

"(2)(A) The Commissioner is authorized to make payments in accordance with the provisions of this paragraph to any State or any nonprofit private institution or organization with which he has a supplemental guaranty agreement under section 428A(a)(2) of this Act for the purposes of—

"(i) the administrative costs of promotion of commercial lender participation;

"(ii) the administrative costs of collection of loans;

"(iii) the administrative costs of preclaims assistance for default prevention; or

"(iv) other such costs related to the student loan insurance program subject to such agreement.

The total amount of payments for any fiscal year made under this paragraph shall not exceed an additional one-half of 1 per centum of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such State, or institution or organization. If the sums appropriated for any fiscal year for making payments under this paragraph are not sufficient to pay in full the amounts provided for which such States, institutions, and organizations are eligible, then such amount will be ratably reduced. In case additional funds become available for making payments for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

"(B) The provisions of subparagraph (B) of paragraph (1) shall apply to any payments made under subparagraph (A) of this paragraph.

"(3) For the purpose of this subsection, the term—

"(A) 'administrative costs of promotion of commercial lender participation' means any administrative costs incurred by an insurer which are directly related to supervising, training, or informing eligible lenders or prospective eligible lenders or inducing such lenders to improve or expand their program participation, and such costs may include (i) the costs of planning and executing instructional seminars and the costs of attending other meetings with lenders, (ii) the costs of obtaining or producing instructional or promotional materials or equipment for distribution to, or use with, lenders, (iii) postage costs associated with the distribution of instructional or promotional materials to lenders, (iv) an appropriate share of the costs of establishing branch offices to serve the needs of lenders which are geographically distant from such insurer's primary business location, and (v) an appropriate share of the compensation of personnel whose primary responsibility is the training, supervising, or recruiting of lenders, but not including personnel whose primary responsibilities are the performing or supervising such duties as relate to the routine processing of borrower applications for loans or the maintenance of supporting records but in no case shall any such costs include any overhead expenses of such insurer associated with the insurer's primary business location.

"(B) 'administrative costs of collection of loans' means any administrative costs incurred by a guaranty agency which are directly related to the collection of loans on which default claims have been paid to participating lenders, including the compensation of collection personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to collection activities), attorney's fees, fees paid to collection agencies, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency, and

"(C) 'administrative costs of preclaim assistance for default prevention' means any administrative costs incurred by a guaranty agency which are directly related to providing collection assistance to lenders on delinquent loans, prior to the loans being legally in a default status, including the compensation of appropriate personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to collection activities) fees paid to locate missing borrowers, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency,

subject to such additional criteria as the Commissioner may by regulation prescribe.

"(4)(A) No payment may be made under paragraph (1) of this subsection unless the State or the nonprofit private institution or organization submits to the Commissioner an application at such time, at least annually, in such manner, and containing or accompanied by such information, as the Commissioner may reasonably require. Each such application shall—

"(i) contain provisions designed to demonstrate the capability of carrying out a necessary and successful program of collection of and preclaim assistance for the loan program subject to that agreement;

"(ii) set forth an estimate of the costs which are eligible for payment under the provisions of this subsection;

"(iii) provide for such administrative and fiscal procedures, including an audit, as are necessary to carry out the provisions of this subsection; and

"(iv) set forth assurances that the State or the nonprofit private institution or organization will furnish such data and information, including where necessary estimates, as the Commissioner may reasonably require to carry out the provisions of this subsection.

"(B) No payment may be made under paragraph (2) of this subsection unless the State or the nonprofit private institution or organization submits to the Commissioner an application, at such time, at least annually, in such manner, and containing or accompanied by such information as the Commissioner may reasonably require. Each such application shall—

"(i) set forth assurances that the student loan insurance program subject to the supplemental guaranty agreement complies with clauses (A) through (F) of paragraph (2) of section 428A(a);

"(ii) contain provisions designed to demonstrate the capability of carrying out a necessary and successful program of collection of and preclaim assistance for the loan program subject to that agreement;

"(iii) set forth an estimate of the costs which are eligible for payment under the provisions of this subsection;

"(iv) provide for such administrative and fiscal procedures, including an audit, as are necessary to carry out the provisions of this subsection; and

"(v) set forth assurances that the State or the nonprofit private institution or organization will furnish such data and information, including where necessary estimates, as the Commissioner may reasonably require to carry out the provisions of this subsection.

"(g) If a nonprofit private institution or organization (1) applies to enter into an agreement with the Commissioner under subsections (b) and (c) with respect to a student loan insurance program to be carried on in a State with which the Commissioner does not have an agreement under subsection (b), and (2) as provided in the application, undertakes to meet the requirements of section 422(c)(6)(B)(i), (ii), and (iii), the Commissioner shall consider and act upon such application within 180 days, and shall forthwith notify the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives of his actions.

"LOAN INSURANCE SUPPLEMENTAL GUARANTY AGREEMENT

"SEC. 428A. (a)(1) The Commissioner may enter into a supplemental guaranty agreement, annually, with any State or any nonprofit private institution or organization having a guaranty agreement under section 428(c)(1) whereby the Commissioner shall undertake to reimburse the State or nonprofit private institution or organization, under such terms and conditions as he may establish, in an amount determined in accordance with section 428(c)(1)(B), if the Commissioner determines that the student loan insurance program—

"(A) authorizes the insurance of loans in any amount up to a maximum of $2,500 (in the case of a student who has not successfully completed a program of undergraduate education) or $5,000 (in the case of a graduate or professional student) to any individual student in any academic year or its equivalent (as determined under regulations of the Commissioner), which limit shall not be deemed exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any such year in excess of such annual limit; and provides that the aggregate insured unpaid principal amount of all such insured loans made to any student shall be any amount up to a maximum of $7,500 in the case of any student who has successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner and including any loans which are insured by the Commissioner under this part, or by a State or nonprofit institution or organization with which the Commissioner has an agreement under this part, made to such person before he became a graduate or professional student);

"(B) insures not less than 100 per centum of the unpaid principal of the loans insured under the program, whether or not such loans are eligible for interest subsidies under this part;

"(C) provides for the insurance of loans for part-time study at an eligible institution in the same manner as is provided under the Federal student loan insurance program;

"(D) provides no restrictions with respect to the insurance of loans for students who are otherwise eligible for loans under such program if such a student is a legal resident of the State and if such a student is accepted for enrollment in or is attending an eligible institution outside that State;

"(E) provides no restrictions with respect to eligible institutions that are residential institutions which are more onerous than eligibility requirements for institutions under the Federal student loan insurance program, unless (i) that institution is ineligible under regulations for the limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is ineligible pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility issued under the Federal student loan insurance program, or (ii) there is a State constitutional prohibition affecting the eligibility of such an institution; and

"(F) provides (i) for the eligibility of the eligible institutions as lenders under reasonable criteria, unless (I) that eligible institution is eliminated as a lender under regulations for the limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of such an institution as a lender, and (ii) assurances that the State or nonprofit private institution or organization will report to the Commissioner not later than July 1, 1977, and annually thereafter, concerning such criteria, including any special requirements for the eligibility of such lenders, procedures in effect under such program to limit, suspend, or terminate such lenders, a list of applications of such lenders, a summary of actions taken on such applications, and a list of the names of all such lenders within the State.

"(2) The Commissioner may enter into a supplemental guaranty agreement, annually, with any State or any nonprofit private institution or organization having a guaranty agreement under section 428(c)(1) for the purpose of qualifying such State or nonprofit private institution or organization for payment of administrative cost allowances under section 428(f)(2) if the Commissioner determines that the student loan insurance program—

"(A) authorizes the insurance of loans in any amount up to a maximum of $2,500 (in the case of a student who has not successfully completed a program of undergraduate education) or $5,000 (in the case of a graduate or professional student) to any individual student in any academic year or its equivalent (as determined under regulations of the Commissioner), which limit shall not be deemed exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any such year in excess of such annual limit; and provides that the aggregate insured unpaid principal amount of all such insured loans made to any student shall be any amount up to a maximum of $7,500 in the case of any student who has successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner and including any loans which are insured by the Commissioner under this part, or by a State or nonprofit institution or organization with which the Commissioner has an agreement under this part, made to such person before he became a graduate or professional student);

"(B) insures not less than 100 per centum of the unpaid principal of the loans insured under the program, whether or not such loans are eligible for interest subsidies under this part;

"(C) provides for the insurance of loans for parttime study at an eligible institution in the same manner as is provided under the Federal student loan insurance program;

"(D) provides no restrictions with respect to the insurance of loans for students who are otherwise eligible for loans under such program if such a student is a legal resident of the State, or if such a student is accepted for enrollment in or is attending an eligible institution within that State;

"(E) provides no restrictions with respect to eligible institutions that are residential institutions which are more onerous than eligibility requirements for eligible institutions under the Federal student loan insurance program, unless (i) that eligible institution is ineligible under regulations for the limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is ineligible pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility issued under the Federal student loan insurance program, or (ii) there is a State constitutional prohibition affecting the eligibility of such an institution;

"(F) provides (i) for the eligibility of the eligible institutions as lenders under reasonable criteria, unless (I) that eligible institution is eliminated as a lender under regulations for the limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of such an institution as a lender, and (ii) assurances that the State or nonprofit private institution or organization will report to the Commissioner not later than July 1, 1977, and annually thereafter, concerning such criteria, including any special requirements for the eligibility of such lenders, procedures in effect under such program to limit, suspend, or terminate such lenders, a list of applications of such lenders, a summary of actions taken on such applications, and a list of the names of all such lenders within the State.

"(b) Each supplemental guaranty agreement entered into under subsection (a)—

"(1) shall set forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, to insure proper and efficient administration of the loan insurance program, and to insure that due diligence will be exercised in the collection of loans insured under the program;

"(2) shall set forth adequate assurance that the requirements of paragraph (1) or paragraph (2) of subsection (a) of this section, as the case may be, are met;

"(3) shall provide for the making of such reports, in such form, and containing such information as the Commissioner may reasonably require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports;

"(4) shall set forth adequate assurance that, with respect to so much of any loan insured under the loan insurance program as may be guaranteed by the Commissioner pursuant to subsection (a) of this section, the undertaking of the Commissioner under the supplemental guaranty agreement is acceptable in full satisfaction of State law or regulation requiring the maintenance of a reserve;

"(5) shall provide that if, after the Commissioner has made payment under the supplemental guaranty agreement pursuant to this section with respect to any loan, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after such payment by the Commissioner), there shall be paid over to the Commissioner (for deposit in the fund established by section 431) such portion of the amount of such payments as is determined (in accordance with regulations prescribed by the Commissioner) to represent his equitable share thereof, but shall not otherwise provide for subrogation of the United States to the rights of any insurance beneficiary: *Provided*, That, except as the Commissioner may otherwise by or pursuant to regulation provide, amounts so paid by a borrower on such a loan shall be first applied in reduction of principal owing on such loan; and

"(6) may include such other provisions as may be necessary to promote the purposes of this part.

"(c)(1) To the extent provided in regulations of the Commissioner, a supplemental guaranty agreement under this section may contain provisions which permit such forbearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer.

"(2) For purposes of this section, the terms 'insurance beneficiary' and 'default' shall have the meanings assigned to them by section 430(e).

"CERTIFICATE OF FEDERAL LOAN INSURANCE—EFFECTIVE DATE OF INSURANCE

"SEC. 429. (a)(1) If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Commissioner may require, and otherwise in conformity with this section, the Commissioner finds that the applicant has made a loan to an eligible student which is insurable under the provisions of this part, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

"(2) Insurance evidenced by a certificate of insurance pursuant to subsection (a)(1) shall become effective upon the date of issuance of the certificate, except that the Commissioner is authorized, in accordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance was made. Such insurance shall cease to be effective upon sixty days' default by the lender in the payment of any installment of the premiums payable pursuant to subsection (c).

"(3) An application submitted pursuant to subsection (a)(1) shall contain (A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Commissioner pursuant to subsection (c), and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statements during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Commissioner may prescribe by or pursuant to regulation.

"(b)(1) In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each student loan made by an eligible lender as provided in subsection (a), the Commissioner may, in accordance with regulations consistent with section 424, issue to any eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Commissioner, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Commissioner's judgment will best achieve the purpose of this subsection while protecting the financial interest of the United States and promoting the objectives of this part, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Commissioner and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Commissioner from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Commissioner in the absence of fraud or misrepresentation of fact or patent error.

"(2) If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a student a line of credit extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the coverage of that certificate except as may be specifically provided therein; but, subject to the limitations of section 424, the Commissioner may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) or by inclusion of such insurance on comprehensive coverage under this subsection for the period or periods in which such future loans or payments are made.

"(c) The Commissioner shall, pursuant to regulations, charge for insurance on each loan under this part a premium in an amount not to exceed one-fourth of 1 per centum per year of the unpaid principal amount of such loan (excluding interest added to principal), payable in advance, at such times and in such manner as may be prescribed by the Commissioner. Such regulations may provide that such premium shall not be payable, or if paid shall be refundable, with respect to any period after default in the payment of principal or interest or after the borrower has died or becomes totally and permanently disabled, if (1) notice of such default or other event has been duly given, and (2) requests for payment of the loss insured against has been made or the Commissioner has made such payment on his own motion pursuant to section 430(a).

"(d) The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned as security by such lender only to another eligible lender, and subject to regulation by the Commissioner.

"(e) The consolidation of the obligations of two or more federally insured loans obtained by a student borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a), the Commissioner may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation; if they are covered by a single comprehensive certificate issued under subsection (b), the Commissioner may amend that certificate accordingly.

"DEFAULT OF STUDENT UNDER FEDERAL LOAN INSURANCE PROGRAM

"SEC. 430. (a) Upon default by the student borrower on any loan covered by Federal loan insurance pursuant to this part, and prior to the commencement of suit or other enforcement proceedings upon security for that loan, the insurance beneficiary shall promptly notify the Commissioner, and the Commissioner shall if requested (at that time or after further collection efforts) by the beneficiary, or may on his own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount has been determined. The 'amount of the loss' on any loan shall, for the purposes of this subsection and subsection (b), be deemed to be an amount equal to the unpaid balance of the principal amount and interest accrued from the date of submission of a valid default claim (as determined by the Commissioner) to the date on which payment is authorized by the Commissioner, reduced to the extent required by section 425(b). Such beneficiary shall be required to meet the standards of due diligence in the collection of the loan.

"(b) Upon payment of the amount of the loss pursuant to subsection (a), the United States shall be subrogated for all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Commissioner on a loan after deduction of the cost of that recovery (including reasonable administrative costs) exceeds the amount of the loss, the excess shall be paid over to the insured. The Commissioner may, in attempting to make recovery on such loans, contract with private business concerns, State student loan insurance agencies, or State guaranty agencies, for payment for services rendered by such concerns or agencies in assisting the Commissioner in making such recovery. Any contract under this subsection entered into by the Commissioner shall provide that attempts to make recovery on such loans shall be fair and reasonable, and do not involve harassment, intimidation, false or misleading representations, or unnecessary communications concerning the existence of any such loan to persons other than the student borrower.

"(c) Nothing in this section or in this part shall be construed to preclude any forbearance for the benefit of the student borrower which may be agreed upon by the parties to the insured loan and approved by the Commissioner, or to preclude forbearance by the Commissioner in the enforcement of the insured obligation after payment on that insurance.

"(d) Nothing in this section or in this part shall be construed to excuse the holder of a federally insured loan from exercising reasonable care and diligence in the making and collection of loans under the provisions of this part. If the Commissioner, after reasonable notice and opportunity for hearing to an eligible lender, finds that it has substantially failed to exercise such care and diligence or to make the reports and statements required under section 428(a)(4) and section 429(a)(3), or to pay the required Federal loan insurance premiums, he shall disqualify that lender for further Federal insurance on loans granted pursuant to this part until he is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence or comply with such requirements, as the case may be.

"(e) As used in this section—

"(1) the term 'insurance beneficiary' means the insured or its authorized assignee in accordance with section 429(d); and

"(2) the term 'default' includes only such defaults as have existed for (A) one hundred and twenty days in the case of a loan which is repayable in monthly installments, or (B) one hundred and eighty days in the case of a loan which is repayable in less frequent installments.

"INSURANCE FUND

"SEC. 430. (a) There is hereby established a student loan insurance fund (hereinafter in this section called the 'fund') which shall be available without fiscal year limitation to the Commissioner for making payments in connection with the default of loans insured by him under this part, or in connection with payments under a guaranty agreement under section 428(e). All amounts received by the Commissioner as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Commissioner in connection with his operations under this part, any excess advances under section 422(e)(4)(C), and any other moneys, property, or assets derived by the Commissioner from his operations in connection with this section, shall be deposited in the fund. All payments in connection with the default of loans insured by the Commissioner under this part, or in connection with such guaranty agreements shall be paid from the fund. Moneys in the fund not needed for current operations under this section may be invested in bonds or other obligations guaranteed as to principal and interest by the United States.

"(b) If at any time the moneys in the fund are insufficient to make payments in connection with the default of any loan insured by the Commissioner under this part, or in connection with any guaranty agreement made under section 428(c) or 428(a)(1), the Commissioner is authorized, to the extent provided in advance by appropriations Acts, to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Commissioner with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Commissioner from such fund.

"LEGAL POWERS AND RESPONSIBILITIES

"SEC. 432. (a) In the performance of, and with respect to, the functions, powers, and duties vested in him by this part, the Commissioner may—

"(1) prescribe such regulations as may be necessary to carry out the purposes of this part;

"(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and action instituted under this subsection by or against the Commissioner shall survive notwithstanding any change in the person occupying the office of Commissioner or any vacancy in that office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Commissioner or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 509, 517, 547, and 2679 of title 28 of the United States Code;

"(3) include in any contract for Federal loan insurance such terms, conditions, and covenants relating to repayment of principal and payment of interest, relating to his obligations and rights and to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Commissioner determines to be necessary to assure that the purposes of this part will be achieved; and any term, condition, and covenant made pursuant to this clause or any other provisions of this part may be modified by the Commissioner if he determines that modification is necessary to protect the financial interest of the United States;

"(4) subject to the specific limitations in this part, consent to the modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note or other instrument evidencing a loan which has been insured by him under this part;

"(5) enforce, pay, or compromise, any claim on, or arising because of, any such insurance or any guarantee agreement under section 428(c); and

"(6) enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption.

"(b) The Commissioner shall, with respect to the financial operations arising by reason of this part—

"(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act; and

"(2) maintain with respect to insurance under this part an integral set of accounts, which shall be audited annually by the General Accounting Office in accordance with principles and procedures applicable to commercial corporate transactions, as provided by section 105 of the Government Corporation Control Act, except that the transactions of the Commissioner, including the settlement of insurance claims and of claims for payments pursuant to section 428, and transactions related thereto and vouchers approved by the Commissioner in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government.

"(c)(1)(A) For loans insured after December 31, 1976, or in the case of each insurer after such earlier date where the data required by this subsection are available, the Commissioner and all other insurers under this part shall collect and accumulate all data relating to (i) loan volume insured and (ii) defaults reimbursed or default rates according to the categories of loans listed in subparagraph (B) of this paragraph.

"(B) The data indicated in subparagraph (A) of this paragraph shall be accumulated according to the category of lender making the loan and shall be accumulated separately for lenders who are (i) eligible institutions, (ii) State or private, nonprofit direct lenders, (iii) commercial financial institutions who are banks, savings and loan associations, or credit unions, and (iv) all other types of institutions or agencies.

"(C) The Commissioner may designate such additional subcategories within the categories specified in subparagraph (B) as he deems appropriate.

"(D) The category or designation of a loan shall not be changed for any reason, including its purchase or acquisition by a lender of another category.

"(2)(A) The Commissioner shall collect data under this subsection from all insurers under this part and shall publish not less often than once every fiscal year a report showing loan volume guaranteed and default data for each category specified in subparagraph (B) of paragraph (1) of this subsection and for the total of all lenders.

"(B) The reports specified in subparagraph (A) of this paragraph shall include a separate report for each insurer under this part including the Commissioner, and where an insurer insures loans for lenders in more than one State, such insurer's report shall list all data separately for each State.

"(3) For purposes of clarity in communications, the Commissioner shall separately identify loans made by the lenders referred to in clause (i) and loans made by the lenders referred to in clause (ii) of paragraph (1)(B) of this subsection.

"(d)(1) The functions of the Commissioner under this part listed in paragraph (2) of this subsection may be delegated to employees in the regional offices of the Office of Education established pursuant to section 403(c)(2) of the General Education Provisions Act.

"(2) The functions which may be delegated pursuant to this subsection are—

"(A) reviewing applications for loan insurance under section 529 and issuing contracts for Federal loan insurance, certificates of insurance, and certificates of comprehensive insurance coverage to eligible lenders which are financial or credit institutions subject to examination and supervision by an agency of the United States or of any State;

"(B) receiving claims for payments under section 430(a), examining those claims, and pursuant to regulations of the Commissioner, approving claims for payment, or requiring lenders to take additional collection action as a condition for payment of claims; and

"(C) certifying to the central office when collection of defaulted loans has been completed, compromising or agreeing to the modification of any Federal claim against a borrower (pursuant to regulations of the Commissioner issued under section 432(a)), and recommending litigation with respect to any such claim.

"INSTITUTIONAL LENDERS

"SEC. 433. (a)(1) An eligible institution may not act as an eligible lender or originate loans under this part unless it has in effect an agreement with the Commissioner under which it agrees (A) to make such loans to no more than 50 per centum of the students in attendance at the institution who are not graduate or professional students (as defined in regulations of the Commissioner), and (B) that it will not make such a loan under this part to a student, other than a graduate or professional student (as defined in regulations of the Commissioner), who has not previously received a loan from such institution until such student has provided the institution with either (i) a statement from an eligible lender (other than an eligible institution or a State or an agency of a State or a private nonprofit agency designated by a State) that the borrower sought a loan from it and was denied such loan, or (ii) a sworn statement by the borrower that the lender from which he sought such a loan declined to provide the statement described in clause (i).

"(2) Whenever the Commissioner determines, that the termination of the eligible institution's status as a lender under paragraph (1) would be a hardship to the present or prospective students of the eligible institution after considering the management of that institution, the opportunities that institution provides to economically disadvantaged students, and related factors, the Commissioner shall waive the provisions of such paragraph with respect to that institution.

"(b)(1) An eligible institution shall be deemed to have originated a loan for purposes of this section if it has had delegated to it by an eligible lender a substantial portion of the functions and responsibilities normally performed by a lender prior to the making of a loan, such as interviewing the applicant for the loan, explaining the applicant's responsibilities under the loan, obtaining completion of necessary forms, obtaining necessary documentation, or verifying that the student is eligible for the loan.

"(2) For purposes of this section, a loan is made or originated on the date of the first disbursement of any proceeds of the loan.

"PARTICIPATION BY FEDERAL CREDIT UNIONS IN FEDERAL, STATE, AND PRIVATE STUDENT LOAN INSURANCE PROGRAMS

"SEC. 434. Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the Director of the Bureau of Federal Credit Unions, have power to make insured loans to student members in accordance with the provisions of this part relating to federally insured loans, or in accordance with the provisions of any State or nonprofit private student loan insurance program which meets the requirements of section 428(a)(1)(C).

"DEFINITIONS FOR STUDENT LOAN INSURANCE PROGRAM

"SEC. 435. As used in this part:

"(a) The term 'eligible institution' means (1) an institution of higher education, (2) a vocational school, or (3) with respect to students who are nationals of the United States, an institution outside the United States which is comparable to an institution of higher education or to a vocational school and which has been approved by the Commissioner for purposes of this part, except that such term does not include any such institution or school which employs or uses commissioned salesmen to promote the availability of any loan program described in section 428(a)(1) at that institution or school.

"(b) The term 'institution of higher education' means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, or who are beyond the age of compulsory school attendance,. (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose or, if not so accredited, (A) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose by which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time or, (B) is an institution whose credits are accepted on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term includes any public or other nonprofit collegiate or associate degree school of nursing and any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (1), (2), (4), and (5). If the Commissioner determines that a particular category of such schools does not meet the requirements of clause (5) because there is no nationally recognized accrediting agency or association qualified to accredit schools in such category, he shall, pending the establishment of such an accrediting agency or association, appoint an advisory committee, composed of persons specially qualified to evaluate training provided by schools in such category, which shall (i) prescribe the standards of content, scope, and quality which must be met in order to qualify schools in such category to participate in the program pursuant to this part, and (ii) determine whether particular schools not meeting the requirements of clause (5) meet those standards. For purposes of this subsection the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

"(c) The term 'vocational school" means a business or trade school, or technical institution or other technical or vocational school, in any State, which (1) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit from the training offered by such institution; (2) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations; (3) has been in existence for two years or has been specially accredited by the Commissioner as an institution meeting the other requirements of this subsection; and (4) is accredited (A) by a nationally recognized accrediting agency or association listed by the Commissioner pursuant to this clause, (B) if the Commissioner determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Commissioner pursuant to this clause, and (C) if the Commissioner determines there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by and advisory committee appointed by him and composed of persons specially qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools in order for loans to students attending them to be insurable under this part and shall also determine whether particular schools meet those standards. For the purpose of this subsection, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations and State agencies which he determines to be reliable authority as to the quality of education or training afforded.

"(d) The term 'collegiate school of nursing' means a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing.

"(e) The term 'associate degree school of nursing' means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

"(f) The term 'accredited' when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education.

"(g)(1) Except as provided in paragraphs (2), (3), and (4), the term 'eligible lender' means—

"(A) a National or State chartered bank, a mutual savings bank, a savings and loan association, or a credit union which—

"(i) is subject to examination and supervision by an agency of the United States or of the State in which its principal place of operation is established, and

"(ii) does not have as its primary consumer credit function the making or holding of loans made to students under this part unless it is a bank which is wholly owned by a State;

"(B) a pension fund as defined in the Employees Retirement Income Security Act;

"(C) an insurance company which is subject to examination and supervision by an agency of the United States or a State;

"(D) in any State, a single agency of the State or a single nonprofit private agency designated by the State;

"(E) an eligible institution which meets the requirements of paragraphs (2), (3), and (4) of this subsection and which has signed an agreement pursuant to section 433; and

"(F) for purposes only of purchasing and holding loans made by other lenders under this part, the Student Loan Marketing Association or an agency of any State functioning as a secondary market.

"(2) To be an eligible lender under this part, an eligible institution—

"(A) shall employ at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending such institutions; and

"(B) shall not be a home study school.

"(3) The term eligible lender does not include any eligible institution in any fiscal year immediately after the fiscal year in which the Commissioner determines, after notice and opportunity for a hearing, that for each of two consecutive years 15 per centum or more of the amount of the loan described in section 428(a)(1) made with respect to students at that institution and repayable in each such year is in default, as defined in section 430(e)(2).

"(4) Whenever the Commissioner determines that—

"(A) there is reasonable possibility that an eligible institution may, within one year after a determination is made under paragraph (3), improve the collection of loans described in section 428(a)(1), so that the application of paragraph (3) would be a hardship to that institution, or

"(B) the termination of the lender's status under paragraph (3) would be a hardship to the present or prospective students of the institution, often considering the management of that institution, the ability of that institution to improve the collection of loans, the opportunities that institution offers to economically disadvantaged students, and other related factors, the Commissioner shall waive the provisions of paragraph (3) with respect to that institution. Any determination required under this paragraph shall be made by the Commissioner prior to the termination of an eligible institution as a lender under the exception of paragraph (3). Whenever the Commissioner grants a waiver pursuant to this paragraph he shall provide technical assistance to the institution concerned in order to improve the collection rate of such loans.

"(h) The term 'line of credit' means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

"(i) The term 'due diligence' requires the utilization by a lender, in the servicing and collection of loans insured under this part, of collection practices at least as extensive and forceful as those generally practiced by financial institutions for the collection of consumer loans.

"DISTRICT OF COLUMBIA STUDENT LOAN INSURANCE PROGRAM

"SEC. 436. (a) The government of the District of Columbia is authorized (1) to establish a student loan insurance program which meets the requirements of this part for a State loan insurance program in order to enter into agreements with the Commissioner for the purposes of this title, (2) to enter into such agreements with the Commissioner, (3) to use amounts appropriated for the purposes of this section to establish a fund for such purposes and for expenses in connection therewith, and (4) to accept and use donations for the purposes of this section.

"(b) Notwithstanding the provisions of any applicable law, if the borrower, on any loan insured under the program established pursuant to this section, is a minor, any otherwise valid note or other written agreement executed by him for the purposes of such loan shall create a binding obligation.

"(c) There are authorized to be appropriated such amounts as may be necessary for the purposes of this section.

"REPAYMENT BY THE COMMISSIONER OF LOANS OF BANKRUPT, DECEASED, OR DISABLED BORROWERS

"SEC. 437. (a) If a student borrower who has received a loan described in clause (A), (B), or (C) of section 428(a)(1) dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Commissioner), then the Commissioner shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

"(b) If a student borrower who has received a loan described in clause (A), (B), or (C) of section 428(a)(1) is relieved of his obligation to repay such loan, in whole or in part, through a discharge in bankruptcy, the Commissioner shall repay the amount of the loan so discharged.

"SPECIAL ALLOWANCES

"SEC. 438. (a) In order to assure (1) that the limitation on interest payments or other conditions (or both) on loans made or insured under this part, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable, (2) that incentive payments on such loans are paid promptly to eligible lenders, (3) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, and (4) that participating lenders will have a better and more accurate way of assessing the rate of such payments for current and prospective quarters, the Congress finds it necessary to establish an improved method for the determination of the quarterly rate of the special allowance on such loans, and to provide for a thorough, expeditious and objective examination of alternative methods for the determination of the quarterly rate of such allowance.

"(b)(1) A special allowance shall be paid for each of the three-month periods ending March 31, June 30, September 30, and December 31 of every year and the amount of such allowance paid to any holder with respect to any three-month period shall be a percentage of the unpaid balance of disbursed principal (not including unearned interest added to principal) of all eligible loans held by such holder during such period.

"(2)(A) Subject to subparagraphs (B) and (C) and paragraph (4), the special allowance paid pursuant to this subsection shall be computed (i) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (ii) by subtracting 3.5 per centum from such average, and (iii) by rounding the resultant per centum upward to the nearest one-eighth of 1 per centum.

"(B) Except as provided in paragraph (4), if the special allowance computed according to subparagraph (A) would (i) cause the special allowance for any twelve-month period during the period ending September 30, 1977, to exceed 3 per centum, the special allowance rate to be paid for such period shall be reduced to the highest one-eighth of 1 per centum rate interval which would not cause such excess.

"(C) Except as provided in subparagraph (4), if the special allowance computed according to subparagraph (A) would (i) cause the special allowance for any twelve-month period after October 1, 1977, to exceed 5 per centum, the special allowance rate to be paid for such period shall be reduced to the highest one-eighth of 1 per centum rate which would not cause such excess.

"(3) Subject to paragraph (4) the special allowance determined for any such three-month period shall be payable at such time, after the close of such period, as may be specified by or pursuant to regulations promulgated under this section. The holder of a loan with respect to which any such allowance is to be paid shall be deemed to have a contractual right, as against the United States, to receive such allowance from the Commissioner.

"(4)(A) If payment of the special allowance payable under this section or of interest payments under section 428(a) with respect to a loan have not been made within thirty days after the Commissioner has received an accurate, timely, and complete request for payment thereof, the special allowance payable to such holder shall be increased by an amount equal to the daily interest accruing on the special allowance and interest benefits payments due the holder.

"(B) Such daily interest shall be computed at the daily equivalent rate of the special allowance rate computed pursuant to paragraph (3) plus 7 per centum and shall be paid for the latter of (i) the thirty-first day after the receipt of such request for payment from the holder, or (ii) the thirty-first day after the final day of the period or periods covered by such request, and shall be paid for each succeeding day until, and including, the date on which the Commissioner authorizes payment.

"(C) For purposes of reporting to the Congress the amounts of special allowances paid under this section, amounts of special allowances paid pursuant to this subparagraph shall be segregated and reported separately.

"(5) As used in this section, the term 'eligible loan' means a loan which is insured under this part, or made under a program covered by an agreement under section 428(b) of this Act.

"(b) The Commissioner shall pay the holder of an eligible loan at such time or times as are specified in regulations, a special allowance prescribed pursuant to subsection (a), subject to the condition that such holder shall submit to the Commissioner, at such time or times and in such manner as he may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary and the Commissioner to carry out their functions under this section and to carry out the purposes of this section.

"(c) The Commissioner shall adopt or amend appropriate regulation pertaining to programs carried on under this part to prevent, where practicable, any practices which he finds have denied loans to a substantial number of students. Regulations issued under section 2(a)(6)(B)(ii) of the Emergency Insured Student Loan Act of 1969 shall remain in effect until superseded or amended under this subsection, but not payments shall be made under such Act after the effective date of this section.

"(d) There are authorized to be appropriated such sums as may be necessary for special allowances authorized by this section.

"(e) In order to assure (i) that the limitation on interest payments or other conditions (or both) on loans made or insured under this part, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable, (ii) that incentive payments on such loans are paid promptly to eligible lenders, (iii) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, and (iv) that participating lenders will have a better and more accurate way of assessing the rate of such payments for current and prospective quarters, there is established a Committee on the Process of Determining Student Loan Special Allowances (hereinafter in this section referred to as the 'Committee'). The Committee shall be composed of—

"(1) the Commissioner of Education;

"(2) the Secretary of Health, Education, and Welfare;

"(3) the Secretary of Treasury;

"(4) a representative of State and nonprofit private institutions and organizations participating under an agreement under section 428(b);

"(5) a student financial aid administrator of an eligible institution (as defined in section 435 (g)(2));

"(6) a business officer of an eligible institution (as defined in section 435(g)(2));

"(7) a representative of participating eligible lenders other than one defined in section 435(g)(1)(E);

"(8) a student at an eligible institution (as defined in section 435(g)(2)); and

"(9) a representative of the Student Loan Marketing Association, designated by the Board of Directors of the Association.

"(f) The Commissioner shall appoint the members of the Committee described in paragraphs (4), (5), (6), (7), and (8) of subsection (e) of this section, after consultation in the case of those members appointed under each such paragraph, with nationally-recognized orgaizations of such persons or agencies.

"(g)(1) No later than October 1, 1977, the Committee shall prepare and submit to the President of the Senate and the Speaker of the House of Representatives a report of their findings and recommendations for an improved method or methods for the determination of the quarterly rate of the special allowance paid under this Act which they believe will carry out the objectives set forth in subsection (a) of this section.

"(2) The Committee shall make every effort to reach a unanimous decision with respect to the method for the determination of the quarterly rate of the special allowance established under this section.

"(3) In developing the method for the determination of the quarterly rate of the special allowance under this section, the Committee shall consider—

"(A) the experiences of students, and eligible lenders under the method prescribed in this section, and under the method in operation prior to the enactment of this section,

"(B) the administrative costs of various types of eligible lenders under this part,

"(C) relevant and widely available financial indicators which accurately reflect the costs of capital invested in programs under this part, or substitute financial indicators which equitably represent the cost of such capital,

"(D) an administrative mechanism necessary to produce a prompt and rapidly disseminated determination of the quarterly rate of the special allowance, in order to avoid delays in the determination and dissemination of that rate and in the actual payment of the special allowance to eligible lenders, and

"(E) such other factors as the Committee considers necessary to carry out the purposes of this section.

"(4) In carrying out its responsibilities under this section, the Committee shall be given the full cooperation and assistance of the official in the Office of Education directly responsible for the administration of this part B of title IV of the Higher Education Act of 1965 and such other appropriate officials of the Office of Education as the Committee deems appropriate.

"(5) In order to assist the Committee to carry out its functions under this section, the Commissioner of Education is authorized to hire consultants, and to enter into contracts, and pay the costs of such contracts from funds regularly appropriated for the purpose of administering programs authorized by this part.

"(6) The Commissioner of Education shall convene the first session of the Committee within sixty days after the date of enactment of the Education Amendments of 1976. The Chairman of the Committee shall be selected by those members who are not officials of the Federal Government from among themselves.

"(7) The Committee is not authorized to employ permanent employees or to lease or obtain the use of permanent offices or to take other steps to extend its period of service beyond the time necessary to complete its responsibilities under this section.

"(8) The Committee shall cease to exist ten days after the submission of the report prescribed in paragraph (1) of this subsection.

"STUDENT LOAN MARKETING ASSOCIATION

"SEC. 439. (a) The Congress hereby declared that it is the purpose of this section (1) to establish a Government-sponsored private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for insured student loans, insured by the Commissioner under this part or by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428(b), and which will provide liquidity for student loan investments; and (2) in order to facilitate secured transactions involving insured student loans, to provide for perfection of security interests in insured student loans either through the taking of possession or by notice filing.

"(b)(1) There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the 'Association'). The Association shall have succession until dissolved. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident thereof. Offices may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.

"(2) The Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

"(3) There is hereby authorized to be appropriated to the Secretary of Health, Education, and Welfare $5,000,000 for making advances for the purpose of helping to establish the Association. Such advances shall be repaid within such period as the Secretary may deem to be appropriate in light of the maturity and solvency of the Association. Such advances shall bear interest at a rate not less than (A) a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such advances, adjusted to the nearest one-eighth of 1 per centum, plus (B) an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses. Repayments of such advances shall be deposited into miscellaneous receipts of the Treasury.

"(c)(1) The Association shall have a Board of Directors which shall consist of twenty-one persons, one of whom shall be designated Chairman by the President.

"(2) An interim Board of Directors shall be appointed by the President, one of whom he shall designate as interim Chairman. The interim Board shall consist of twenty-one members, seven of whom shall be representative of banks or other financial institutions which are insured lenders pursuant to this section, seven of whom shall be representative of educational institutions, and seven of whom shall be representative of the general public. The interim Board shall arrange for an initial offering of common and preferred stocks and take whatever other actions are necessary to proceed with the operations of the Association.

"(3) When, in the judgment of the President, sufficient common stock of the Association has been purchased by educational institutions and banks or other financial institutions, the holders of common stock which are educational institutions shall elect seven members of the Board of Directors and the holders of common stock which are banks or other financial institutions shall elect seven members of the Board of Directors. The President shall appoint the remaining seven directors, who shall be representative of the general public.

"(4) At the time the events described in paragraph (3) have occurred, the interim Board shall turn over the affairs of the Association to the regular Board so chosen or appointed.

"(5) The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

"(6) The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Association and shall discharge all such executive functions, powers, and duties.

"(d)(1) The Association is authorized, subject to the provisions of this section, pursuant to commitments or otherwise, to make advances on the security of, purchase, service, sell, or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured by the Commission under this part or by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428 (b).

"(2) Any warehousing advance made under paragraph (1) of this subsection shall not exceed 80 per centum of the face amount on an insured loan. The proceeds from any such advance shall be invested in additional insured student loans.

"(3) Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security interest in insured student loans created on behalf of the Association or any eligible lender as defined in section 435(a) may be perfected either through the taking of possession of such loans or by the filing of notice of such security interest in such loans in the manner provided by said State law for perfection of security interests in accounts.

"(e) The Association, pursuant to such criteria as the Board of Directors may prescribe, shall make advances on security or purchase student loans pursuant to subsection (d) only after the Association is assured that the lender (A) does not discriminate by pattern or practice against any particular class or category of students by requiring that, as a condition to the receipt of a loan, the student or his family maintain a business relationship with the lender, except that this clause shall not apply in the case of a loan made by a credit union, savings and loan association, mutual savings bank, institution of higher education, or any other lender with less than $50,000,000 in deposits, and (B) does not discriminate on the basis of race, sex, color, creed, or national origin.

"(f)(1) The Association shall have common stock having a par value of $100 per share which may be issued only to lenders under this part, pertaining to guaranteed student loans, who are qualified as insured lenders under this part or who are eligible institutions as defined in section 435(a) (other than an institution outside the United States).

"(2) Each share of common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors. Voting shall be by classes as described in subsection (c)(3).

"(3) The common stock of the Association shall be transferable only as may be prescribed by regulations of the Secretary of Health, Education, and Welfare, and, as to the Association, only on the books of the Association. The Secretary of Health, Education, and Welfare shall prescribe the maximum number of shares of common stock the Association may issue and have outstanding at any time.

"(4) To the extent that net income is earned and realized, subject to subsection (g)(2), dividends may be declared on common stock by the Board of Directors. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

"(g)(1) The Association is authorized, with the approval of the Secretary of Health, Education, and Welfare, to issue nonvoting preferred stock with a par value of $100 per share. Any preferred share issued shall be freely transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(2) The holders of the preferred shares shall be entitled to such rate of cumulative dividends and such shares shall be subject to such redemption or other conversion provisions as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

"(3) In the event of any liquidation, dissolution, or winding up of the Association's business, the holders of the preferred shares shall be paid in full at par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

"(h)(1) The Association is authorized with the approval of the Secretary of Health, Education, and Welfare and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein.

"(2) The Secretary of Health, Education, and Welfare is authorized, prior to July 1, 1982, to guarantee payment when due of principal and interest on obligations issued by the Association in an aggregate amount determined by the Secretary in consultation with the Secretary of the Treasury.

"(3) To enable the Secretary of Health, Education, and Welfare to discharge his responsibilities under guarantees issued by him, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of Health, Education, and Welfare with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the months preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There is authorized to be appropriated to the Secretary of Health, Education, and Welfare such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

"(i) The Association shall have power—

"(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

"(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

"(3) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business:

"(4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

"(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

"(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

"(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

"(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them and fix the penalty thereof; and

"(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

"(j) The accounts of the Association shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants, licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States, except that independent public accountants licensed to practice by such regulatory authority after December 31, 1970, and persons who, although not so certified or licensed, meet, in the opinion of the Secretary, standards of education and experience representative of the highest standards prescribed by the licensing authorities of the several States which provide for the continuing licensing of public accountants and which are prescribed by the Secretary in appropriate regulations may perform such audits until December 31, 1975. A report of each such audit shall be furnished to the Secretary of the Treasury. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the Secretary shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Association and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians.

"(k) A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than six months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement (showing intercorporate relations) of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Association, together with such recommendations with respect thereto as the Secretary may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary of Health, Education, and Welfare and to the Association.

"(l) All obligations issued by the Association shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the Association pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 14(b)(2) of the Federal Reserve Act, be deemed to be an agency of the United States.

"(m) In order to furnish obligations for delivery by the Association, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Board of Directors may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Association. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custoday of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

"(n) The Association shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress a report of its operations and activities during each year.

"FIVE-YEAR NONDISCHARGEABILITY OF CERTAIN LOAN DEBTS

"SEC. 439A. (a) A debt which is a loan insured or guaranteed under the authority of this part may be released by a discharge in bankruptcy under the Bankruptcy Act only if such discharge is granted after the five-year period (exclusive of any applicable suspension of the repayment period) beginning on the date of commencement of the repayment period of such loan, except that prior to the expiration of that five-year period, such loan may be released only if the court in which the proceeding is pending determines that payment from future income or other wealth will impose an undue hardship on the debtor or his dependents.

"(b) Subsection (a) of this section shall be effective with respect to any proceedings begun under the Bankruptcy Act on or after September 30, 1977.

"CRIMINAL PENALTIES

"SEC. 440. (a) Any person who knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery any funds, assets or property provided or insured under this part shall be fined not more than $10,000 or imprisoned for not more than five years, or both; but if the amount so embezzled, misapplied, stolen or obtained by fraud, false statement, or forgery does not exceed $200, the fine shall be not more than $1,000 and imprisonment shall not exceed one year, or both.

"(b) Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with an application for a finding by the Commissioner under section 435(b)(4) (A) or (B), for the purpose of qualifying an educational institution as an eligible institution under this part shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(c) Any person who knowingly and willfully makes any false statement to, furnishes any false information to, or conceals any material information in connection with the assignment of a loan, which is insured under this part, to another eligible lender, shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(d) Any person who knowingly and willfully makes an unlawful payment to an eligible lender as an inducement to make, or to acquire by assignment, a loan insured under this part shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(e) Any person who knowingly and willfully destroys any application for a loan which is insured under this part, any application for insurance of a loan under this part, or destroys or conceals any other record relating to the making or insuring of loans under this part with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.".

(b) The amendment made by subsection (a) of this section of this Act shall become effective October 1, 1976, except as otherwise provided therein, and to the extent such amendment makes changes in such part B which affect student loans, such changes shall apply to outstanding loans as well as to loans made after the amendment becomes effective, except that—

(1) the changes made in sections 425(a), 427(a)(1)(C), 427(a)(2)(G) and 428(b)(1)(A), (B), and (P) shall become applicable with respect to loans to cover the costs of education for periods of enrollment beginning on or after October 1, 1976;

(2) section 422(c) shall become effective October 1, 1977;

(3) section 428(f) shall become effective October 1, 1976;

(4) the changes made in section 428(a)(2) shall become applicable with respect to the determination of interest subsidies on loans to cover the costs of education for periods of enrollment beginning on or after 30 days after the date of enactment of this Act;

(5) the new section 433 shall become effective with respect to loans made to cover the costs of education for periods of enrollment beginning on or after October 1, 1976;

(6) the changes in section 428(c) with respect to the amount of Federal guarantee payments shall become effective with respect to payments to reimburse States and nonprofit private institutions and organizations with which the Commissioner has an agreement under section 428(c) of such part which are made on or after October 1, 1976; and

(7) section 438 shall become effective with respect to fiscal quarters beginning after December 31, 1976.

(c)(1). Section 2(a)(7) of the Emergency Insured Student Loan Act of 1969 is amended by striking out "October 1, 1976" and inserting in lieu thereof "January 1, 1977."

(2) Effective October 1, 1977, the Emergency Insured Student Loan Act of 1969 is repealed.

WORK-STUDY PROGRAM

SEC. 128. (a) Section 441(b) of the Act is amended—

(1) by striking out the word "and" after "1974,", and

(2) by inserting before the period a comma and the following: "$420,000,000 for the fiscal year ending June 30, 1976, and the transitional period beginning July 1, 1976, and ending September 30, 1976, $450,000,000 for the fiscal year ending September 30, 1977, $570,000,000 for the fiscal year ending September 30, 1978, $600,000,000 for the fiscal year ending September 30, 1979, $630,000,000 for the fiscal year ending September 30, 1980, $670,000,000 for the fiscal year ending September 30, 1981, and $720,000,000 for the fiscal year ending September 30, 1982.

(b) Section 443(b) of the Act is amended by striking "461" and inserting in lieu thereof "491", and by inserting before the period at the end thereof the following: ", and includes a combination of such institutions which have entered into a cooperative arrangement, or have designated or created a public or private nonprofit agency, institution, or organization to act on their behalf.".

(c)(1) Section 444(a)(1) of the Act is amended by striking out the word "public" the second time it appears and by inserting in lieu thereof "Federal, State, or local public agency", and by inserting "agency or" before the word "organization" the second time it appears in such section.

(2) Section 444(a)(2) of the Act is amended to read as follows:

"(2) provide that funds granted an institution of higher education, pursuant to section 443, may be used only to make payments to students participating in work-study programs, except that an institution may use a portion of the sums granted to it to meet administrative expenses in accordance with section 493 of this Act, may use a portion of the sums granted to it to meet the cost of a job location and development program in accordance with section 447 of this part, and may transfer funds in accordance with the provisions of section 496 of this Act;".

(3) Section 444(a)(4) of the Act is amended to read as follows:

"(4) provide that no student in a work-study program under this part shall be required to terminate that employment during a semester (or other regular enrollment period) at the time income derived from any additional employment together with such work-study income is in excess of the determination of the amount of such student's need for that semester under clause (3) of this subsection, but when such excess income equals $200 or more, continued employment under a work-study program shall not be subsidized with funds appropriated under this part;".

(4) Section 444(a)(7) of the Act is amended to read as follows:

"(7) include provisions to make employment under such work-study program reasonably available (to the extent of available funds) to all eligible students in the institution in need thereof, and to make equivalent employment offered or arranged by the institution reasonably available (to the extent of available funds) to all students in the institution who desire such employment; and".

(d) Section 447 of the Act is amended to read as follows:

"JOB LOCATION AND DEVELOPMENT PROGRAMS

"SEC. 447. (a) The Commissioner is authorized to enter into agreements with eligible institutions under which such institution may use not more than 10 per centum of $15,000 of its allotment under section 446, whichever is less, to establish or expand a program under which such institution, separately, in combination with other eligible institutions, or through a contract with a nonprofit organization, locates and develops jobs for currently enrolled students which are suitable to the scheduling and other needs of such students.

"(b) Agreements under subsection (a) shall—

"(1) provide that the Federal share of the cost of any program under this section will not exceed 80 per centum of such cost.

"(2) provide satisfactory assurance that funds available under this section will not be used to locate or develop jobs at an eligible institution;

"(3) provide satisfactory assurance that the institution will continue to spend in its own job location and development programs, from sources other than funds received under this section, not less than the average expenditures per year made during the most recent three fiscal years preceding the effective date of the agreement;

"(4) provide satisfactory assurance that funds available under this section will not be used for the location or development of jobs for students to obtain upon graduation, but rather for the location and development of jobs available to students during and between periods of attendance at such institution;

"(5) provide satisfactory assurance that the location or development of jobs pursuant to programs assisted under this section will not result in the displacement of employed workers or impair existing contracts for services;

"(6) provide satisfactory assurance that Federal funds used for the purpose of this section can realistically be expected to help generate student wages exceeding in the aggregate the amount of such funds and that if such funds are used to contract with another organization, appropriate performance standards are part of such contract; and

"(7) provide that the institution will submit to the Commissioner an annual report on the uses made of funds provided under this section and an evaluation of the effectiveness of such program in benefiting the students of such institution.".

COOPERATIVE EDUCATION

SEC. 129. (a) Title IV of the Act is further amended by striking out part D and any references thereto.

(b) Title VIII of the Act is amended to read as follows:

"TITLE VIII—COOPERATIVE EDUCATION

"APPROPRIATIONS AUTHORIZED

"SEC. 801. (a) There are authorized to be appropriated—

"(1) for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, $13,000,000;

"(2) for the fiscal year 1977, $15,000,000;

"(3) for the fiscal year 1978, $20,000,000;

"(4) for the fiscal year 1979; $25,000,000; and

"(5) for each of the fiscal years 1980, 1981, and 1982, $25,000,000, to enable the Commissioner to make grants pursuant to section 802 to institutions of higher education, or to combinations of such institutions, for the planning, establishment, expansion, or carrying out by such institutions or combinations of programs of cooperative education. Such programs shall provide alternating periods of academic study and of public or private employment, the latter affording students not only the opportunity to earn the funds necessary for continuing and completing their education but so far as practicable, giving them work experience related to their academic or occupational objectives.

"(b) There are further authorized to be appropriated—

(1) $1,000,000 for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976;

"(2) $1,500,000 for the fiscal year 1977;

"(3) $2,500,000 for the fiscal year 1978; and

"(4) $3,000,000 for each of the fiscal years 1978, 1979, 1980, 1981, and 1982,

to enable the Commissioner to make training, demonstration, or research grants or contracts pursuant to section 803.

"(c) Appropriations under this title shall not be available for the payment of compensation of students for employment by employers under arrangements pursuant to this part.

"GRANTS FOR PROGRAMS OF COOPERATIVE EDUCATION

"SEC. 802. (a) From the sums appropriated pursuant to subsection (a) of section 801, and for the purposes set forth therein, the Commissioner is authorized to make grants to institutions of higher education that have applied therefor in accordance with subsection (b) of this section, in amounts not in excess of $175,000 to any one such institution for any fiscal year, and to combinations of such institutions (that have so applied) in amounts not to exceed an amount equal to the product of $125,000 times the number of institutions participating in such combination, for any fiscal year.

"(b) Each application for a grant authorized by subsection (a) of this section shall be filed with the Commissioner at such time or times as he may prescribe and shall—

"(1) set forth programs or activities for which a grant is authorized under this section;

"(2) specify the portion or portions of such programs or activities which will be performed by a nonprofit organization or institution other than the applicant and the compensation to be paid for such performance;

"(3) provide that the applicant will expend during such fiscal year for the purpose of such program or activity not less than was expended for such purpose during the previous fiscal year;

"(4) provide that the applicant shall make such reports and keep such records as are essential to insure that the applicant's programs or activities are conducted in accordance with the provisions of this part;

"(5) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this part; and

"(6) include such other information as is essential to carry out the provisions of this part.

"(c) No institution of higher education may receive, individually or as a participant in a combination of such institutions, grants under this section for more than five fiscal years. No such institution or combination thereof may receive—

"(1) a grant in excess of 100 per centum of the total administrative cost for the first of such fiscal years;

"(2) a grant in excess of 90 per centum of such cost for the second of such years;

"(3) a grant in excess of 80 percentum of such cost for the third of such years;

"(4) a grant in excess of 60 per centum of such cost for the fourth of such years; or

"(5) a grant in excess of 30 per centum of such cost for the fifth of such years.

Any provision of law to the contrary notwithstanding, the Commissioner shall not waive the provision of this subsection.

"(d) In approving applications under this section, the Commissioner shall give special consideration to applications from institutions of higher education for programs which show the greatest promise of success because of—

"(1) the extent to which programs in the academic discipline with respect to which the application is made have had a favorable reception by employers,

"(2) the commitment of the institution of higher education to cooperative education as demonstrated by the plans which such institution has made to continue the program after the termination of Federal financial assistance, and

"(3) such other factors as are consistent with the purposes of this section.

"GRANTS AND CONTRACTS FOR TRAINING AND RESEARCH

"SEC. 803. From the sums appropriated pursuant to subsection (b) of section 801, the Commissioner is authorized, for the training of persons in the planning, establishment, administration, or coordination of programs of cooperative education, for projects demonstrating or exploring the feasibility or value of innovative methods of cooperative education, or for research into methods of improving, developing, or promoting the use of cooperative education programs in institutions of higher education, to—

"(1) make grants to or contracts with institutions of higher education, or combinations of such institutions, and

"(2) make grants to or contracts with other public or private nonprofit agencies or organizations, when such grants or contracts will make an especially significant contribution to attaining the objectives of this section.".

DIRECT LOAN PROGRAM

SEC. 130. (a) Section 461(b) of the Act is amended by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1979".

(b) Section 461(b)(2) of the Act is amended by striking out "June 30, 1976" and inserting in lieu thereof "September 30, 1979", and by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1979".

(c) Section 463(a) of the Act is amended by redesignating clauses (4) and (5) as clauses (5) and (6), respectively, and inserting immediately after paragraph (3) the following new clause:

"(4) provide that where a note or written agreement evidencing a note has been in default for (A) one hundred and twenty days, in the case of a loan which is repayable in monthly installments, or (B) one hundred and eighty days, in the case of a loan which is repayable in less frequent installments, notice of such default shall be given to the Commissioner in a report describing the total number of loans from such fund which are in such default, and made to the Commissioner at least semiannually;".

(d) Section 464(b) of the Act is amended by striking ", upon notice to the Commissioner,".

(e) Section 464(c)(1)(A) of the Act is amended by inserting immediately before the semicolon at the end thereof the following: ", except that such period may begin earlier than nine months after such date upon the request of the borrower".

(f) Section 464(c)(1)(C) of the Act is amended to read as follows:

"(C) may provide, at the option of the institution in accordance with regulations of the Commissioner, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to him from a student loan fund assisted under this part shall be at a rate equal to not less than $30 per month, except that the institution may, subject to such regulations, permit a borrower to pay less than $30 per month for a period of not more than one year where necessary to avoid hardship to the borrower, but without extending the ten-year maximum repayment period provided for in clause (A) of this paragraph;".

(g)(1) Section 464(c)(1) of the Act is amended by redesignating clauses (F) and (G) as (G) and (H), respectively, and by inserting after clause (E) the following new clause:

"(F) shall provide that the liability to repay the loan shall be canceled upon the death of the borrower, or if he becomes permanently and totally disabled as determined in accordance with regulations of the Commissioner;".

(2) The amendments made by this subsection shall take effect on June 23, 1972.

(h)(1) Section 466 of the Act is amended by striking out "June 30, 1980" wherever it appears and inserting in lieu thereof "September 30, 1984".

(2) Section 466 of the Act is further amended by striking out "December 31, 1980" wherever it appears and inserting in lieu thereof "March 31, 1985".

(3) Section 466(b) of the Act is amended by striking out "June 30, 1974" and inserting in lieu thereof "September 30, 1978".

(4) Section 466(c) of the Act is amended by striking out "July 1, 1980" and inserting in lieu thereof "October 1, 1984".

STUDENT CONSUMER INFORMATION

SEC. 131. (a) Section 493 of the Act is amended—

(1) by striking out "3 per centum" in subsection (a) and inserting in lieu thereof "4 per centum";

(2) by inserting "(1)" following "1958," and by inserting before the period a comma and the following: "and (2) shall be used by such institution to carry out the provisions of section 493A of this Act";

(3) by striking "$125,000" in subsection (b) and inserting in lieu thereof, "$325,000"; and

(4) by adding at the end of said section, the following new subsection:

"(c) Payment received by an institution under this section shall be used first to carry out the provisions of section 493A of this Act and then for such additional administrative costs as the institution of higher education determines necessary.".

(b) Subpart 1 of part F of title IV of the Act is further amended by inserting immediately after section 493 the following new sections:

"INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS

"SEC. 493A. (a)(1) Effective July 1, 1977, each institution of higher education and each eligible institution which receives payments under sections 411(d), 428(e) or 493 of this title, as the case may be, shall carry out information dissemination activities to prospective students and to enrolled students who request information regarding financial assistance under this title. The information required by this section shall be produced and be made readily available, through appropriate publications and mailings, to all current students and to any prospective student upon request. The information required by this section shall accurately describe—

"(A) the student financial assistance programs available to students who enroll at such institution,

"(B) the method by which such assistance is distributed among student recipients who enroll at such institution,

"(C) any means, including forms, by which application for student financial assistance is made and requirements for accurately preparing such applications and the review standards employed to make awards for student financial assistance,

"(D) the rights and responsibilities of students receiving financial assistance under this title,

"(E) the cost of attending the institution, including (i) tuition and fees, (ii) books and supplies, (iii) estimates of typical student room and board costs or typical community costs, and (iv) any additional cost of the program in which the student is enrolled or expresses a specific interest,

"(F) the refund policy of the institution for the return of unearned tuition and fees or other refundable portion of cost, as described in clause (E) of this subsection,

"(G) the academic program of the institution, including (i) the current degree programs and other educational and training programs, (ii) the instructional, laboratory, and other physical plant facilities which relate to the academic program, (iii) the faculty and other instructional personnel, and (iv) data regarding student retention at the institution and, when available, the number and percentage of students completing the programs in which the student is enrolled or expresses interest, and

"(H) each person designated under subsection (b) of this section, and the methods by which and locations in which any person so designated may be contacted by students and prospective students who are seeking information required by this subsection.

"(2) For purposes of this section, the term 'prospective student' means any individual who has contacted an institution of higher education or an eligible institution requesting information for the purpose of enrolling in that institution.

"(b) Effective July 1, 1977, each institution of higher education or eligible institution, as the case may be, which receives payments authorized under section 411(d), 428(e), or section 493 of this title shall designate an employee or group of employees who shall be available on a full-time basis to assist students or potential students in obtaining information as specified in the preceding subsection. The Commissioner may, by regulation, waive the requirement that an employee or employees be available on a full-time basis for carrying out responsibilities required under this section whenever an institution of higher education or eligible institution, as the case may be, in which the total enrollment, or the portion of the enrollment participating in programs under this title at that institution, is too small to necessitate such employee or employees being available on a full-time basis. No such waiver may include permission to exempt any such institution from designating a specific individual or a group of individuals to carry out the provisions of this section.

"(c) Within 120 days after the date of enactment of the Education Amendments of 1976, the Commissioner shall begin to make available to institutions of higher education and eligible institutions descriptions of Federal student assistance programs including the rights and responsibilities of student and institutional participants, in order to (1) assist students in gaining information through institutional sources, and (2) assist institutions in carrying out the provisions of this section, so that individual and institutional participants will be fully aware of their rights of responsibilities under such programs.

"STUDENT AND INFORMATION SERVICES

"SEC. 493B. In order to assist in the expansion and improvement of campus student aid information services, the Commissioner shall—

"(1) survey institutional practices of providing students with complete and accurate information about student financial aid, including the employment of part-time financial aid counselors under work-study programs, hiring other part-time persons from the community, using campus or community volunteers, and communicating through use of publications or technology; collect institutional evaluations of such practices; and disseminate the information described in this clause;

"(2) convene meetings of financial aid administrators, students, and other appropriate representatives to explore means of expanding campus financial aid information services and improving the training of part-tme individuals involved in such services;

"(3) whenever possible, include student peer counselors and other part-time financial aid personnel in training programs sponsored by the Office of Education; and

"(4) make recommendations to Congress not later than October 1, 1977, concerning his findings and legislative proposals for improving the use and quality of services of part-time campus financial aid personnel.

"STUDENT FINANCIAL ASSISTANCE TRAINING PROGRAM

"SEC. 493 C(a.) It is the purpose of this section to make incentive grants available to the States to be administered, in consultation with statewide financial aid administrator organizations, for the purpose of designing and developing programs to increase the proficiency of institutional and State financial aid administrators in all aspects of student financial aid.

"(b) There are hereby authorized to be appropriated $280,000 for each year ending prior to October 1, 1978, for equal division among the States.

"(c) To receive a grant under this section a State must provide appropriate assurance to the Commissioner that the grant will be matched from State funds by an amount at least equal to the amount of the grant.

"(d) From the funds otherwise allotted to the States for subpart 2 of part A, and for part C and part E of this title for States which have obtained a grant under this section, the Commissioner shall transfer to such State an amount equal to .05 per centum of such funds or $10,000, whichever is less, and shall reduce such State allotment by that amount.

"(e) A State which desires to obtain a grant under this section for any fiscal year shall submit an application therefor through or by the State agency administering its program of student grants, or if such agency does not exist, through or by any agency or organization designated for such purpose by the State, at such time or times, and containing such information as may be required by such regulations as the Commissioner may prescribe for the purpose of enabling the Commissioner to disburse the funds."

ELIGIBILITY FOR STUDENT ASSISTANCE

SEC. 132. Section 497 of the Act is amended by adding at the end thereof the following new subsection:

"(e) Any student assistance received by a student under this title shall entitle the student receiving it to payments only if—

"(1) that student is maintaining satisfactory progress in the course of study he is pursuing, according to the standards and practices of the institution at which the student is in attendance, and

"(2) that student does not owe a refund on grants previously received at such institution under this title, or is not in default on any loan from a student loan fund at such institution provided for in part E, or a loan made, insured, or guaranteed by the Commissioner under this title for attendance at such institution.".

FISCAL RESPONSIBILITY

SEC. 133. (a) Title IV of the Act is further amended by adding after section 497 the following new sections:

"FISCAL ELIGIBILITY OF INSTITUTIONS

"SEC. 497A. (a) Notwithstanding any other provisions of this title, or of section 434(c) of the General Education Provisions Act, the Commissioner is authorized to prescribe such regulations as may be necessary to provide for—

"(1) a fiscal audit of an eligible institution with regard to any funds obtained by it under this title or obtained from a student who has a loan insured or guaranteed by the Commissioner under this title;

"(2) the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid under this title;

"(3) the establishment by each eligible institution under part B responsible for furnishing to the lender the statement required by section 428(a) (2) (A) (i), of policies and procedures by which the latest known address and enrollment status of any student who has had a loan insured under this part and who has either formally terminated his enrollment, or failed to re-enroll on at least a half-time basis, at such institution, shall be furnished either to the holder (or if unknown, the insurer) of the note, not later than sixty days after such termination or failure to re-enroll; and

(4) the limitation, suspension or termination of the eligibility for any program under this title of any otherwise eligible institution, whenever the Commissioner has determined, after reasonable notice and opportunity for hearing on the record, that such institution has violated or failed to carry out any provision of this title or any regulation prescribed under this title, except that no period of suspension under this section shall exceed sixty days unless the institution and the Commissioner agree to an extension or unless limitation or termination proceedings are initiated by the Commissioner within that period of time.

"(b) The Commissioner shall, for the purpose of carrying out the provisions of this section with respect to subpart 1 or part A of this title, enter into special arrangements with institutions of higher education at which students receiving basic grants under that subpart are enrolled. The Commissioner shall include special provisions designed to carry out the provisions of this section in agreements with institutions of higher education under section 413C, in agreements with eligible institutions under section 443, and in agreements with institutions of higher education under section 463.

"(c) Upon determination that an eligible institution has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates, the Commissioner may suspend or terminate the eligibility status for any or all programs under this title of any otherwise eligible institution, in accordance with procedures specified in paragraph (a) (3), until he finds that such practices have been corrected.

"(d) The Commissioner shall publish a list of State agencies which he determines to be reliable authority as to the quality of public post-secondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistance programs.

"(e) For the purpose of this section the term 'eligible institution' means any such institution described in section 435(a) of this Act.".

(b) (1) Any regulations for the carrying out of section 438, as in effect on the date immediately prior to the effective date of this subsection shall be deemed to remain in force until amended or superseded by new regulations of the Commissioner.

(2) Within 120 days of the effective date of this subsection, the Commissioner is directed to issue a comprehensive revision of the regulations heretofore prescribed for the carrying out of section 438, for the purpose of modifying such regulations, to the extent possible, to make them applicable to all programs under title IV of the Act.

PART E.—EDUCATION PROFESSIONS DEVELOPMENT

REVISION OF TITLE V

SEC. 151. (a) (1) The heading of title V of the Act is amended to read as follows:

"TITLE V—TEACHER CORPS AND TEACHER TRAINING PROGRAMS".

(2) Part A of such title is repealed.

(3) Title V of the Act is amended—

(A) by striking out

"PART B—ATTRACTING AND QUALIFYING TEACHERS",

and

(B) by striking out

"Subpart 1—Teachers Corps".

(4) (A) Subpart 2 of part B, and parts C, D, and E of such title are repealed.

(B) Part F of title V of the Act is amended by adding at the end thereof a new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 555. There are authorized to be appropriated for the purposes of carrying out this part $25,000,000 for each of the fiscal years ending prior to October 1, 1977.".

(C) Effective September 30, 1977, part F of such title is repealed.

(5) (A) Section 511(a) of the Act (as amended by section 152(a) (1)) is amended by striking out "subpart" and inserting in lieu thereof "part".

(B) Section 512 of the Act is amended by striking out "subpart" and inserting in lieu thereof "part".

(C) Section 513 of the Act is amended by striking out "subpart" and inserting in lieu thereof "part".

(b) The amendments made by subsection (a) (except the amendment made by paragraph 4(C) thereof) shall take effect on September 30, 1976.

TEACHER CORPS

SEC. 152. (a) (1) Section 511 of the Act is amended by inserting "(a)" after the section designation and by adding at the end thereof the following:

"(b) For the purpose of carrying out the provisions of this part there are authorized to be appropriated $50,000,000 for the fiscal year 1977, $75,000,000 for the fiscal year 1978, and $100,000,000 for the fiscal year 1979.".

(2) Section 511(a) of the Act (as redesig-

nated by paragraph (1) of this subsection) is further amended by striking out the words "and teacher aides" both places they appear and inserting in lieu thereof a comma and the following: "teacher aides, and other educational personnel".

(b) Section 513(a) of the Act is amended—

(1) by striking out "two" the first time it appears in paragraph (1), and inserting in lieu thereof "five" and by inserting after "teacher aides" the following: "and other educational personnel";

(2) by striking out in paragraph (3) "teaching teams, each of which shall consist of an experienced teacher and a number of teacher-interns who, in addition to teaching duties, shall be afforded time by the local educational agency for a teacher-intern training program carried out under the guidance of an experienced teacher" and inserting in lieu thereof "Teacher Corps programs each of which shall include teacher-intern teams led by experienced teachers, and may include additional experienced teachers, teacher aides, and other educational personnel, who may be afforded time by the local educational agency for a training program carried out"; and

(3) by amending paragraph (7) to read as follows:

"(7)(A) make available technical assistance to State and local educational agencies and institutions of higher education for carrying out arrangements entered into under this title; and

"(B) provide planning, technical assistance, monitoring, documenting, disseminating, and evaluation services for arrangements made under this title;".

(c) Section 513(b) of the Act is amended by striking out "for teacher-interns while teaching" and inserting in lieu thereof "for Teacher Corps members while serving".

(d) Section 315 of the Act is further amended by adding at the end thereof the following new subsections:

"(e)(1) No arrangement may be entered into under the provisions of paragraph (1), (2), (3), (5), or (6) of subsection (a) of this section unless that arrangement is prepared with participation of an elected council which shall be representative of the community in which the project subject to that arrangement is located and of the parents of the students of the elementary or secondary schools, or both, to be served by any such project.

"(2) Each council selected pursuant to this subsection shall participate with the local educational agency or institution of higher education, or both, in the planning, carrying out, and evaluation of projects subject to arrangements under paragraphs (1), (2), (3), (5), and (6) of subsection (a) this section.

"(3) The Commissioner is authorized in each fiscal year to arrange for the payment of necessary secretarial and administration expenses of each council elected pursuant to the provisions of this subsection for the purposes of carrying out its functions under this subsection.

"(f) The Commissioner shall establish procedures seeking, with respect to the Teacher Corps members enrolled after the date of enactment of the Education Amendments of 1976, goal of having approximately five individuals who are at the time of enrollment, or who previously have been, employed as teachers by local educational agencies to one individual who has not been so employed. The Commissioner may waive the procedure established under this subsection if he makes a determination that there are insufficient qualified applicants to maintain the goal sought by this subsection, or that there are insufficient employment opportunities for individuals who are not so employed, and submits a report to the Congress of such a determination.

"(g) Notwithstanding any other provision of law, the Commissioner shall develop and establish specific criteria for entering into arrangements under this part in order to assist applicants for assistance under this part to develop proposals to be submitted. Criteria established under this subsection shall be used by the Commissioner in selecting proposals under this title.".

(e) Section 514 of the Act is amended by adding at the end thereof the following new subsection:

"(f) The Commissioner is authorized to compensate local educational agencies for released time for educational personnel of the agency who are being trained in Teacher Corps projects assisted under this title.".

TEACHER TRAINING PROGRAMS

SEC. 153. (a) Title V of the Act is further amended by inserting immediately before the heading of section 511 the following:

"PART A—TEACHER CORPS PROGRAM"

and by adding at the end thereof the following new part:

"PART B—TEACHER TRAINING PROGRAMS

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 531. There are authorized to be appropriated $75,000,000 for the fiscal year 1977 and for each of the fiscal years ending prior to October 1, 1979, to carry out the provisions of this part. Of the sums so appropriated for any fiscal year not less than 10 per centum shall be available for each of the programs authorized by sections 532 and 533

"TEACHER CENTERS

"SEC. 532. (a)(1) The Commissioner is authorized to make grants to local educational agencies in accordance with the provisions of this section to assist such agencies in planning, establishing, and operating teacher centers.

"(2) For the purpose of this section, the term 'teacher center' means any site operated by a local educational agency (or a combination of such agencies) which serves teachers, from public and nonpublic schools of a State, or an area or community within a State, in which teachers, with the assistance of such consultants and experts as may be necessary, may—

"(A) develop and produce curricula designed to meet the educational needs of the persons in the community, area, or State being served, including the use of educational research findings or new or improved methods, practices, and techniques in the development of such curricula; and

"(B) provide training to improve the skills of teachers to enable such teachers to meet better the special educational needs of persons such teachers serve, and to familiarize such teachers with developments in curriculum development and educational research, including the manner in which the research can be used to improve their teaching skills.

"(b) Each teacher center shall be operated under the supervision of a teacher center policy board, the majority of which is representative of elementary and secondary classroom teachers to be served by such center fairly reflecting the makeup of all schoolteachers, including special education and vocational education teachers. Such board shall also include individuals representative of, or designated by, the school board of the local educational agency served by such center, and at least one representative designated by the institutions of higher education (with departments or schools of education) located in the area.

"(c)(1) Any local educational agency desiring to receive a grant under this section shall make application therefor at such time, in such manner, and containing or accompanied by such information, as the Commissioner may by regulation require. Each application shall be submitted through the State educational agency of the State in which the applicant is located. Each such State agency shall review the application, make comments thereon, and recommend each application the State agency finds should be approved. Only applications so recommended shall be transmitted to the Commissioner for his approval.

"(2) Any local educational agency which has submitted an application in accordance with paragraph (1) of this subsection which is dissatisfied with the action of the appropriate State educational agency may petition the Commissioner to request further consideration by the State educational agency.

"(d) In approving any application under this section, the Commissioner shall insure that there is adequate provision for the furnishing of technical assistance to, and dissemination of information derived from, the proposed teacher center by the appropriate State educational agency. Such State agency shall be adequately compensated by the Commissioner for such review of applications, recommendations, submissions, technical assistance, and dissemination services.

"(e) Any local educational agency having an application approved under this section may contract with an institution of higher education to carry out activities under, or provide technical assistance in connection with, such application.

"(f) Notwithstanding the provisions of subsection (a)(1) of this section with respect to the requirement that teacher centers be operated by local educational agencies, 10 per centum of the funds expended under this section may be expended directly by the Commissioner to make grants to institutions of higher education to operate teacher centers, subject to the other provisions of this section.

"TRAINING FOR HIGHER EDUCATION PERSONNEL

"SEC. 533. (a) The Commissioner is authorized to make grants to institutions of higher education to assist such institutions in the training of individuals—

"(1) preparing to serve as teachers, including guidance and counseling personnel, administrative personnel, or education specialists in institutions of higher education if such individuals are (A) from cultural or educational backgrounds which have hindered such individuals in achieving success in the field of education, or (B) preparing to serve in educational programs designed to meet the special needs of students from such backgrounds; or

"(2) serving as teachers, including guidance and counseling personnel, administrative personnel, or education specialists in institutions of higher education, if such individuals are to be trained to meet changing personnel needs, such as in areas determined to be national priority areas pursuant to section 532 of this title.

"(b) Grants made under this section may be used only to assist in paying the cost of courses of training or study, including short term or regular institutes, symposia or other inservice training, for teachers, including guidance and counseling personnel, administrative personnel, or educational specialists in institutions of higher education.".

PART F—FINANCIAL ASSISTANCE FOR THE IMPROVEMENT OF UNDERGRADUATE INSTRUCTION

EXTENSION OF AUTHORIZATION

SEC. 156. (a) Section 601(b) of the Act is amended by striking out that part of the text thereof which precedes "to enable" and inserting in lieu thereof the following: "There are authorized to be appropriated $60,000,000 for each of the fiscal years ending prior to October 1, 1979,".

(b) Section 601(c) of the Act is amended by striking out that part of the text thereof which precedes "to enable" and inserting in lieu thereof the following: "There are authorized to be appropriated $10,000,000 for each of the fiscal years ending prior to October 1, 1979,".

REVISION OF MAINTENANCE OF EFFORT

SEC. 157. (a) Section 604(b) of the Act is amended by striking out all after the first sentence of such section and inserting in lieu thereof the following: "The Commissioner shall establish basic criteria for making determination under this subsection.".

(b) Section 604 of the Act is amended by adding at the end thereof the following new subsection:

"(c) An institution of higher education shall be eligible for a grant for a project pursuant to this part in any fiscal year only if such institution has expended from current funds available for that year for instructional and library purposes, other than personnel costs, during the preceding fiscal year an amount not less than the amount expended, per equivalent full-time student or in the aggregate, whichever is less, by such institution from current funds for such purposes during the second preceding fiscal year. A combination of institutions of higher education shall be eligible for such a grant in accordance with regulations of the Commissioner prescribing requirements for maintenance of effort. The Commissioner shall establish basic criteria for making determinations under this subsection, and may waive so much of the requirement of this subsection as he determines is equitable in accordance with objective criteria of general applicability.".

PART G—CONSTRUCTION OF ACADEMIC FACILITIES

EXTENSION OF PROGRAM

SEC. 161. (a) Section 701(b) is amended by striking out "June 30, 1974, and June 30, 1975" and inserting in lieu thereof "prior to October 1, 1979".

(b) Section 721(b) is amended by striking out "for the fiscal year ending June 30, 1975" and inserting in lieu thereof "for each of the fiscal years ending prior to October 1, 1979".

(c) Section 741(b) is amended by striking out "for the fiscal year ending June 30, 1975" and inserting in lieu thereof "for each of the fiscal years ending prior to October 1, 1979".

(d) Section 745(c)(2) is amended by striking out "July 1 of each of the four succeeding years" and inserting in lieu thereof, "the first day of each fiscal year during the period ending September 30, 1979".

(e) Section 762(a) is amended by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1979".

REVISION OF PROGRAM

SEC. 162. (a) Title VII of the Act is amended—

(1) by inserting ", RECONSTRUCTION AND RENOVATION" immediately after "CONSTRUCTION" in the heading of such title;

(2) by inserting ", RECONSTRUCTION, AND RENOVATION" immediately after "CONSTRUCTION" each place it appears in the headings of Parts A, B and C of such title;

(3) by inserting ", reconstruction, or renovation" immediately after "construction" each place it appears in sections 701(a), 701(c)(1), 703(c)(1), 704(a)(2)(A), 705(a), 705(b), 706(a)(1), 707(a)(2), 707(c)(1), 741(a)(2), 742(a)(3), 745(a), 745(e)(3), 746(a)(1), 781(a), 781(b), 782(3), and 782(5);

(4) by inserting "reconstructed or renovated" after "constructed," in section 705(b), section 781, and section 782(1);

(5) by striking out "construction" in section 707(a)(2)(F) and inserting in lieu thereof, "project"; and

(6) by inserting "reconstruct or renovate" after the word "construct" in section 742(a)(4).

(b) Section 701(c) of the Act is amended by inserting "an appropriate amount, but in no case less than" immediately before "24 per centum".

(c) Section 704(b) of the Act is amended to read as follows:

"(b) The Commissioner shall not disapprove any State plans submitted under this section unless he determines after reasonable notice and opportunity for hearing and comment, that the plan is inconsistent with a specific provision of this section or other relevant sections of this title."

(d) Section 705(a) of the Act is amended by striking out "on the campus of such institution".

(e) Section 721(a) of the Act is amended by inserting "(1)" immediately after "(a)" and by adding at the end thereof the following new paragraph:

"(2) The Commissioner is authorized to make grants to or enter into contracts with institutions of higher education for the construction of facilities for model intercultural programs designed to integrate the educational requirements of substantive knowledge and language proficiency.".

(f) Section 743(b)(5) of the Act is amended by inserting before the semicolon the following: "including (A) the granting of a temporary moratorium on the repayment of principal or interest or both to any institution of higher education or higher education building agency the Commissioner finds to be temporarily unable to make such repayment without undue financial hardship, if such institution or agency presents, and the Commissioner approves, a specific plan to make such repayment including a schedule for such repayment, and (B) the granting to any such institution or agency for which he has authorized a loan under this part prior to January 1, 1976, of the option to pay into the fund established under section 744 an amount equal to 75 per centum of the total current obligation of the institution or agency under this part, in full accord and satisfaction of such total current obligation, if such institution or agency desiring to exercise such an option makes payment from non-Federal sources prior to October 1, 1979.".

(g)(1) Section 745(b) of the Act is amended by striking out "section 744(b)(2)" and inserting in lieu thereof "section 742(b)".

(2) Section 745(c)(2) of the Act is amended by striking out "four" and inserting in lieu thereof "six", and by inserting before the period at the end thereof a comma and the following: "and October 1, 1977 and on October 1 of each of the succeeding fiscal years".

(h) Section 762(a) of the Act is amended by striking out "Office of Emergency Planning" and inserting in lieu thereof "Office of Emergency Preparedness".

(i) Title VII of the Act is further amended by redesignating Part E and all references thereto as Part F and by inserting immediately after Part D the following new part:

"PART E—RECONSTRUCTION AND RENOVATION

"SEC. 771. (a) The Commissioner is authorized to make grants from funds appropriated under section 701(b), grants from funds appropriated under section 721(b), loans from funds appropriated under section 741(b), or loans, to the extent provided in advance by appropriations Acts, from any unused amounts in the fund established under section 744, notwithstanding any prior restrictions on the use of such unused amounts, to institutions of higher education and to higher education building agencies for the reconstruction or renovation of academic facilities if the primary purpose of such reconstruction or renovation is—

"(1) to enable such institutions to economize on the use of energy resources, or

"(2) to enable such institutions to bring their academic facilities into conformity with the requirements of—

"(A) the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968, or

"(B) environmental protection or health and safety programs mandated by Federal, State or local law, if such requirements were not in effect at the time such facilities were constructed.

"(b)(1) In determining whether the primary purpose of a proposed reconstruction or renovation is to conserve energy, the Commissioner shall consult with other Federal agencies which have specific expertise in energy conservation.

"(2) In determining whether the primary purpose of a proposed reconstruction or renovation is to enable such facility to meet environmental protection standards or health or safety requirements imposed under law, the Commissioner shall consult with the appropriate Federal, State or local agency responsible for the administration of such law.

"(3) In determining whether the primary purpose of a proposed reconstruction or renovation is to enable such facility to comply with the Act of August 12, 1968, the Commissioner shall consult with the Architectural and Transportation Barriers Compliance Board and the Administrator of General Services.

"(c) A loan pursuant to this section shall be repaid within such period not exceeding twenty years as may be determined by the Commissioner."

(j) Section 782 of the Act is amended—

(1) by inserting immediately before the period at the end of paragraph (1)(B) in section 782 the following: ", except that the term 'academic facilities' may include any facility described in clause (v) to the degree that such facility is owned, operated, and maintained by the institution of higher education requesting the approval of a project; and that funds available for such facility under such project shall be used solely for the purpose of conversion or modernization of energy utilization techniques to economize on the use of energy resources; and that such project is not limited to facilities described in clause (v) of this subsection"; and

(2) by striking out paragraph (2) of such section and inserting in lieu thereof the following:

"(2)(A) The term 'construction' means (i) erection of new or expansion of existing structures, and the acquisition and installation of initial equipment therefore; or (ii) acquisition of existing structures not owned by the institution involved; or (iii) a combination of either of the foregoing. For the purposes of the preceding sentence, the term 'equipment' includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, except books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term 'initial equipment' means equipment acquired and installed in connection with construction; and the terms 'equipment', 'initial equipment', and 'built-in equipment' shall be more particularly defined by the Commissioner by regulation.

"(B) The term 'reconstruction or renovation' means rehabilitation, alteration, conversion, or improvement (including the acquisition and installation of initial equipment, or modernization or replacement of such equipment) of existing structures. For the purposes of the preceding sentence, the term 'equipment' includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, except books, curricular and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term 'initial equipment' means equipment acquired and installed either in connection with construction as defined in paragraph (2)(A), or as part of the rehabilitation, alteration, conversion, or improvement of an existing structure, which structure would otherwise not be adequate for use as an academic facility; the terms 'equipment', 'initial equipment', and 'built-in equipment' shall be more particularly defined by the Commissioner by regulation; and the term 'rehabilitation, alteration, conversion, or improvement' includes such action as may be necessary to provide for the architectural needs of, or to remove architectural barriers to, handicapped persons with a view toward increasing the accessibility to, and use of, academic facilities by such persons.".

"(c) The Commissioner may allow a fellowship recipient to interrupt his studies for a period not to exceed twelve months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program, except that the Commissioner shall make no payments to the fellowship recipient for such period for stipends, travel expenses, or allowances for dependents or payments to institutions pursuant to the recipient's fellowship award.

"AWARD OF FELLOWSHIPS AND APPROVAL OF GRADUATE PROGRAMS

"SEC. 923. (a) The total number of fellowships authorized by section 922(a) to be awarded during a fiscal year shall be awarded by the Commissioner on such bases as he may determine, except that recipients of such fellowships shall be individuals who have been admitted or who are enrolled in graduate or professional programs approved by the Commissioner and who are pursuing, a course of study leading to a degree of doctor of philosophy, doctor of arts, or an equivalent degree. The Commissioner shall approve a graduate program of an institution of higher education only upon his finding that the application contains satisfactory assurance that the institution will provide special orientations and practical experiences designed to prepare its fellowship recipients (1) for academic careers at some level of education beyond the high school, or (2) for other than academic careers in professional career fields of importance to the national interest, as determined by the Commissioner.

"(b) In determining priorities and procedures for the award of fellowship under this section the Commissioner shall—

"(1) take into account present and projected needs for highly trained individuals in all areas of education beyond high school,

"(2) take into account present and projected needs for highly trained individuals in other than academic career fields of high national priority,

"(3) consider the need to prepare a larger number of individuals from minority groups, especially from among such groups who have been traditionally underrepresented in colleges and universities, but nothing contained in this clause shall be interpreted to require any educational institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of individuals of that group participating in or receiving the benefits of this program, in comparison with the total number or percentage of individuals of that group in any community, State, section, or other area,

"(4) assure that consideration in awarding fellowships under this part is given (A) to individuals who have demonstrated their competence outside of a higher education setting for at least two years subsequent to the completion of their undergraduate studies, or (B) to individuals with varied backgrounds and experiences who have acquired such backgrounds and experiences in other than academic settings,

"(5) seek to achieve a reasonable equitable geographical distribution of graduate programs approved under this section, based upon such factors as student enrollments in institutions of higher education and population.

"(c) No fellowship shall be awarded under this part for study at a school or department of divinity.

"FELLOWSHIP STIPENDS

"SEC. 924. (a) The Commissioner shall pay to individuals awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(b) The Commissioner shall (in addition to the stipends paid to individuals under subsection (a)) pay to the institution of higher education at which such person is persuing his course of study such amounts as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

"FELLOWSHIP CONDITIONS

"SEC. 925. (a) An individual awarded a fellowship under the provisions of this part shall continue to receive payments provided in section 924 only during such periods as the Commissioner finds that he is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Commissioner.

"(b) The Commissioner is authorized to require reports containing such information in such form and to file at such times as he determines necessary from any person awarded a fellowship under the provisions of this part. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Commissioner, stating that such person is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded.".

(c)(1) Section 941 of the Act is amended to read as follows:

"AWARD OF PUBLIC SERVICE FELLOWSHIPS

"SEC. 941. (a) During the fiscal year ending June 30, 1973, and each of the succeeding fiscal years ending prior to October 1, 1979, the Commissioner is authorized to award not to exceed five hundred fellowships in accordance with the provisions of this part for graduate or professional study for persons who plan to pursue a career in public service. Such fellowships shall be awarded for such periods as the Commissioner may determine, but not in excess of thirty-six months except that the Commissioner may provide by regulation for the granting of such fellowships for a period of study not to exceed one twelve-month period in addition to the thirty-six month period set forth in this section under special circumstances which the Commissioner determines would most effectively serve the purposes of this part. The Commissioner shall make a determination to provide such a twelve-month extension of an award to an individual fellowship recipient upon review of an application for such extension by the recipient.

"(b) In addition to the number of fellowships authorized to be awarded by subsection (a) of this section, the Commissioner is authorized to award fellowships equal to the number previously awarded during any fiscal year under this section but vacated prior to the end of the period for which they were awarded; except that each fellowship awarded under this subsection shall be for such period of study, not in excess of the remainder of the period for which the fellowship which it replaces was awarded, as the Commissioner may determine.

"(c) The Commissioner may allow a fellowship recipient to interrupt his studies for a period not to exceed twelve months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program, except that the Commissioner shall make no payments to the fellowship recipient for such period for stipend, travel expenses, or allowances for dependents or payments to institutions pursuant to the recipient's fellowship award.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part.".

(2) Section 942 of the Act is amended by striking out the "and" at the end of clause (1), by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon and the word "and" and by inserting at the end thereof the following new clauses:

"(3) attract persons other than recent college graduates to pursue a career in public service; and

"(4) provide additional training for individuals who by past activities, occupation, or training have demonstrated a commitment to a career in public service.".

(3)(A) Section 943(4)(A) of the Act is amended by inserting after "enter" the following: "or continue in".

(B) Section 943(4)(B) of the Act is amended by inserting after the word "enter" the following: "or continue in".

(4) Section 944(b) of the Act is amended by inserting before the period at the end thereof a comma and the following: "except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.".

(d)(1) Section 961(b)(1) of the Act is amended by striking out "two" and by inserting after "fiscal years" the following: "ending prior to October 1, 1979".

(2) The third sentence of section 961(c) is amended by striking out "to exceed 3 years" and inserting in lieu thereof the following: "in excess of thirty-six months, except that the Commissioner may provide by regulation for the granting of such fellowships for a period of study not to exceed one twelve-month period in addition to the thirty-six-month period set forth in this section under special circumstances which the Commissioner determines would most effectively serve the purposes of this part. The Commissioner shall make a determination to provide such a twelve-month extension of an award to an individual fellowship recipient upon review of an application for such extension by the recipient".

(3) Section 961 of the Act is amended by

adding at the end thereof the following subsection:

"(d) The Commissioner may allow a fellowship recipient to interrupt his studies for a period not to exceed twelve months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program, except that the Commissioner shall make no payments to the fellowship recipient for such period for stipends, travel expenses, or allowances for dependents or payments to institutions pursuant to the recipient's fellowship award.".

(4) Section 963 of the Act is amended to read as follows:

"STIPENDS AND INSTITUTIONS OF HIGHER EDUCATION ALLOWANCES

"SEC. 963. (a) The Commissioner shall pay to persons awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(b) The Commissioner shall (in addition to the stipends paid to persons under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study, such amounts as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.".

(5) Section 966 of the Act is amended by striking out "July 1, 1978" and inserting in lieu thereof "October 1, 1979".

(e) Title IX of the Act is amended by inserting after part D the following new part:

"PART E—ANNUAL FELLOWSHIP REPORT

"REPORT ON GRADUATE FELLOWSHIPS AND ASSISTANCE

"SEC. 971. (a) Within one hundred and twenty days after the end of each fiscal year during which grants or fellowships are awarded under the provisions of this title the Commisisoner shall prepare and submit to the Congress a report which—

"(1) specifies the authority for and amount of each grant or fellowship so awarded;

"(2) identifies the institutions which received such grants; and

"(3) identifies the institutions which students receiving such fellowships attended.

"(b) Each report required by this section shall contain an evaluation which—

"(1) examines the extent to which grants or fellowships awarded under this title emphasized studies relating to—

"(A) innovation in the field of graduate education;

"(B) emerging fields of knowledge;

"(C) areas of overriding national concern; or

"(D) the education and employment of personnel in areas which the Commissioner finds to be of special need; and

"(2) examines the extent to which grants and fellowships awarded under this title made substantial progress toward achieving the purposes of the various parts of this title under which they were awarded.".

LAW SCHOOL CLINICAL ASSISTANCE PROGRAM

SEC. 172. Section 1103 of the Act is amended by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1979".

PART I—COMMUNITY COLLEGES AND STATE POSTSECONDARY PLANNING

EXTENSION AND REVISION OF TITLE X

SEC. 176. (a) (1) The heading of title X of the Act is amended to read as follows:

"TITLE X—ESTABLISHMENT AND EXPANSION OF COMMUNITY COLLEGES".

(2) Such title is amended by striking out

"PART A—ESTABLISHMENT AND EXPANSION OF COMMUNITY COLLEGES

"Subpart 1—Statewide Plans"

and inserting in lieu thereof:

"PART A—STATEWIDE PLANS".

(3) Section 1001(a) of the Act is amended by striking out "subpart" and inserting in lieu thereof "part".

(4) Section 1001(b)(1) of the Act is amended to read as follows:

"(b)(1) There as authorized to be appropriated $15,700,000 for each of the fiscal years ending prior to October 1, 1979, to carry out the provisions of this section.".

(5) Section 1001 of the Act is further amended by striking the last sentence of subsection (c) and inserting in lieu thereof: "The Commissioner shall not disapprove any plan unless he determines, after reasonable notice and opportunity for hearing and comment, that it is inconsistent with the requirements set forth in this section.".

(b)(1) Such title is further amended by striking out "Subpart 2" in the heading following section 1001 and inserting in lieu thereof "Part B".

(2)(A) Section 1011(a) of the Act is amended by striking out "subpart" and inserting in lieu thereof "part".

(B) Section 1011(b) of the Act is amended to read as follows:

"(b) For the purpose of carrying out this part, there are authorized to be appropriated $150,000,000 for each of the fiscal years ending prior to October 1, 1979.".

(3) Section 1012(b) of the Act is amended by striking out "subpart" and inserting in lieu thereof "part".

(c) Part B of title X of the Act as in effect prior to the amendments made by subsection (b) of this section is repealed.

(d) The amendments made by paragraphs (1), (2), (3) of subsection (a), paragraphs (1), 2(A), (3) of subsection (b), and subsection (c) shall take effect on September 30, 1977.

EXPANSION GRANTS

SEC. 177. Section 1014 of the Act is amended to read as follows:

"EXPANSION GRANTS

"SEC. 1014. (a) The Commissioner is authorized to make grants, consistent with the terms of the appropriate State plan approved under section 1001, to existing community colleges to enable them to carry out the provisions of subsections (b) and (c) of this section. Of the funds appropriated for subpart 2 of this part, the Commissioner shall make grants pursuant to subsection (b), before making grants under any other subsection or section of this subpart, until such time as he determines all approved requests relating to subsection (b) have been funded.

"(b) The Commissioner is authorized to make grants to eligible institutions to assist them in modifying their educational programs and instructional delivery systems to provide educational programs especially suited to those persons whose educational needs have been inadequately served, especially those among the handicapped, older persons, persons who can attend only part-time, and persons who otherwise would be unlikely to continue their education beyond the high school. Such programs may include, but are not limited to, methods designed to eliminate such barriers to student access as inflexible course schedules, location of instructional programs, and inadequate transportation.

"(c) The Commissioner is also authorized to make grants to eligible institutions to assist them in expanding their enrollment capacity or in establishing new educational sites as documented in the State plan. Any grants related to facilities may only be made to institutions which have provided the Commissioner with such assurances as he requires that they have first explored the possibilities of using existing facilities on the campus of the applying institution, existing facilities in the community which are suitable and available for educational programs without unreasonable cost to the institution, and explored the willingness of other institutions within a reasonable commuting distance to provide educational programs, or space or other components of an educational delivery system, through contract or other agreement with the institution.".

REVISION OF DEFINITION OF COMMUNITY COLLEGE

SEC. 178. Paragraphs (2) and (3) of section 1018 of the Act are amended to read as follows:

"(2) admits as regular students persons who are high school graduates or the equivalent, or beyond the age of compulsory school attendance;

"(3) provides a postsecondary education program leading to an associate degree or acceptable for credit toward a bachelor's degree;".

AUTHORIZATION FOR STATEWIDE PLANNING

SEC. 179. (a) Section 1203 of the Act is amended by redesignating subsection (c) as subsection (d) and by inserting immediately after subsection (b) the following new subsection:

"(c) The Commissioner is authorized to make grants to State commissions established pursuant to section 1202(a), and to interstate compact postsecondary educational agencies approved by the Commissioner for the purpose of this subsection, applying jointly for the purpose of this subsection, to enable the participating commissions to plan, develop, and carry out interstate cooperative postsecondary education projects designed to increase the accessibility of postsecondary educational opportunities for the residents of the participating States and to assist such States to carry out postsecondary education programs in a more effective and economical manner.".

(b) Section 1203(d) of the Act (as redesignated by this section) is amended to read as follows:

"(d)(1) There are authorized to be appropriated such sums for each fiscal year ending prior to October 1, 1979, to carry out the provisions of this section other than subsection (c) of this section.

"(2) There are authorized to be appropriated $2,000,000 for each fiscal year ending prior to October 1, 1979, to carry out the provisions of subsection (c) of this section.".

PART J—GENERAL PROVISIONS

DEFINITIONS

SEC. 181. Section 1201(a) of the Act is amended by inserting immediately after the second sentence the following new sentence: "Such terms also includes a public or nonprofit private educational institution in any State which, in lieu of the requirement in clause (1), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution.".

ANTIDISCRIMINATION AMENDMENT

SEC. 182. Title XII of the Act is amended by adding at the end thereof the following new sections:

"ANTIDISCRIMINATION

"SEC. 1207. Institutions of higher education receiving Federal financial assistance may not use such financial assistance whether directly or indirectly to undertake any study or project or fulfill the terms of any contract containing an express or implied provision that any person or persons of a particular race, religion, sex, or national origin be barred from performing such study, project, or contract, except no institution shall be barred from conducting objective studies or projects concerning the nature, effects, or prevention of discrimination, or have its curriculum restricted on the subject of discrimination, against any such person.".

FUNDING REQUIREMENT

SEC. 183. Title XII of the Act is amended by adding at the end thereof (after the section added by section 182) the following new section:

"FUNDING REQUIREMENT

"SEC. 1208. (a) Except as provided in subsection (b)—

"(1) if the sum of the appropriations available for carrying out subparts 1 and 2 of part A, and parts C and E, of title IV in fiscal year 1978 equals or exceeds an amount equal to the greater of—

"(A) $2,800,000,000; or

"(B) the sum of the appropriations available for carrying out subparts 1 and 2 of part A, and parts C and E, of title IV in fiscal year 1977,

no payments, awards, or grants may be made from the portion of the funds appropriated therefor in excess of such amount unless the sum of the appropriations available for carrying out title I, part C of title VII, and title X equals or exceeds 50 per centum of such amount; and

"(2) if the sum of the appropriations available for carrying out subparts 1 and 2 of part A, and parts C and E, of title IV in fiscal year 1979 equals or exceeds an amount equal to the greater of—

"(A) $3,100,000,000; or

"(B) the sum of the appropriations available for carrying out subparts 1 and 2 of part A, and parts C and E, of title IV in fiscal year 1978,

no payments, awards, or grants may be made from the portion of the funds appropriated therefor in excess of such amount unless the sum of the appropriations available for carrying out title I, part C of title VII, and title X equals or exceeds 50 per centum of such amount.

"(b) The provisions of subsection (a) shall not be effective for any fiscal year in which the sum of the appropriations available for carrying out title I, part C of title VII, and title X equals or exceeds $215,000,000.

"(c) The provisions of section 414 of the General Education Provision Act shall not apply to the provisions of this section.".

TITLE II—VOCATIONAL EDUCATION

EXTENSION OF CERTAIN VOCATIONAL EDUCATION PROGRAMS

SEC. 201. (a) Section 102(a) of the Vocational Education Act of 1963 is amended by striking out the first sentence and inserting in lieu thereof: "There are authorized to be appropriated $500,000,000 for the fiscal year ending September 30, 1977, for the purposes of carrying out parts B and C of this title.".

(b) Section 102(b) of such Act is amended by striking out the first sentence and inserting in lieu thereof the following: "There are also authorized to be appropriated $30,000,000 for each fiscal year ending prior to October 1, 1977 for the purpose of section 122(a)(4)(A).".

(c) The first sentence of section 102(c) of the Vocational Education Act of 1963 is amended by inserting immediately after "1975," the following: "and $40,000,000 for the fiscal year ending September 30, 1977,".

(d) Section 103(d)(2) is amended by striking out the first sentence and inserting in lieu thereof the following:

"The allotment ratios shall be promulgated by the Commissioner for each fiscal year between October 1 and December 31 of the preceding fiscal year.".

(e) Section 104(a)(4) of such Act is amended by striking out "five" and inserting in lieu thereof "seven".

(f) Section 104(a)(5) of such Act is amended by striking out "1976" and inserting in lieu thereof "1977".

(g) Section 142(a) of such Act is amended by striking out "and" after "1970,", by striking out "five" and inserting in lieu thereof "six", and by inserting immediately after "succeeding fiscal years" the following: ", and $20,000,000 for the fiscal year ending September 30, 1977".

(h) Section 151(b) of such Act is amended by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1976".

(i) Section 152(a)(1) of such Act is amended by striking out "July 1, 1975," and inserting in lieu thereof "October 1, 1976".

(j) Section 153(d)(2) of such Act is amended by striking out that part thereof which follows "not exceed $5,000,000" and inserting in lieu thereof the following: "for fiscal year 1976.".

(k) The first sentence of section 161(a)(1) of such Act is amended by striking out "and" after "$35,000,000", by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1976", and by inserting immediately after "$50,000,000," the following: "and for the fiscal year ending September 30, 1977, $45,000,000,".

(l) The first sentence of section 161(c) of such Act is amended by striking out "five" and inserting in lieu thereof "seven".

(m) Section 172(a) of such Act is amended by striking out "and" after "$50,000,000,", by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1976", and by inserting immediately after "$75,000,000," the following: "and for the fiscal year ending September 30, 1977, $25,000,000,".

(n) Section 181(a) of such Act is amended by striking out "July 1, 1975," and inserting in lieu thereof "October 1, 1976, and $15,000,000 for the fiscal year ending September 30, 1977, for".

(o) Section 189(b) of such Act is amended by striking out "and" after "1969", by striking out "July 1, 1975," and inserting in lieu thereof "October 1, 1976, and $5,000,000 for the fiscal year ending September 30, 1977,".

(p) Section 193 of such Act is amended by striking out "for the fiscal year ending June 30, 1975" and inserting in lieu thereof "for each of the fiscal years ending prior to October 1, 1976, and $10,000,000 for the fiscal year ending September 30, 1977,".

(q) Part F of title V of the Higher Education Act of 1965 is amended by adding at the end thereof a new section to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 555. There are authorized to be appropriated for the purposes of carrying out this part $25,000,000 for each of the fiscal years ending prior to October 1, 1977.".

REVISION OF THE VOCATIONAL EDUCATION ACT OF 1963

SEC. 202. (a) The Vocational Education Act of 1963 is amended to read as follows:

"TITLE I—VOCATIONAL EDUCATION

"PART A—STATE VOCATIONAL EDUCATION PROGRAMS

"DECLARATION OF PURPOSE

"SEC. 101. It is the purpose of this part to assist States in improving planning in the use of all resources available to them for vocational education and manpower training by involving a wide range of agencies and individuals concerned with education and training within the State in the development of the vocational education plans. It is also the purpose of this part to authorize Federal grants to States to assist them—

"(1) to extend, improve, and, where necessary, maintain existing programs of vocational education,

"(2) to develop new programs of vocational education,

"(3) to develop and carry out such programs of vocational education within each State so as to overcome sex discrimination and sex stereotyping in vocational education programs (including programs of homemaking), and thereby furnish equal educational opportunities in vocational education to persons of both sexes, and

"(4) to provide part-time employment for youths who need the earnings from such employment to continue their vocational training on a full-time basis,

so that persons of all ages in all communities of the State, those in high school, those who have completed or discontinued their formal education and are preparing to enter the labor market, those who have already entered the labor market, but need to upgrade their skills or learn new ones, those with special educational handicaps, and those in postsecondary schools, will have ready access to vocational training or retraining which is of high quality, which is realistic in the light of actual or anticipated opportunities for gainful employment, and which is suited to their needs, interests, and ability to benefit from such training.

"Subpart 1—General Provisions

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 102. (a) There are authorized to be appropriated $880,000,000 for fiscal year 1978, $1,030,000,000 for fiscal year 1979, $1,180,000,000 for fiscal year 1980, $1,325,000 for fiscal year 1981, and $1,485,000 for fiscal year 1982, for the purpose of carrying out subparts 2 and 3 of this part.

"(b) There are also authorized to be appropriated $35,000,000 for fiscal year 1978, $40,000,000 for fiscal year 1979, $45,000,000 for fiscal year 1980, $50,000,000 for fiscal year 1981, and $50,000,000 for fiscal year 1982, for the purpose of carrying out subpart 4 of this part.

"(c) There are also authorized to be appropriated $55,000,000 for fiscal year 1978, $65,000,000 for fiscal year 1979, $75,000,000 for fiscal year 1980, $80,000,000 for fiscal year 1981, $80,000,000 for fiscal year 1982 for the purpose of carrying out subpart 5 of this part.

"(d) There are also authorized to be appropriated $25,000,000 for fiscal year 1978 and for each fiscal year ending prior to October 1, 1982, for the purpose of assisting States in—

"(1) preparing the five-year plans required under section 107;

"(2) preparing the annual program plans and accountability reports, including the collection of necessary data, required to be submitted under section 108;

"(3) conducting the evaluations required by section 112; and

"(4) State administration of vocational education programs assisted under this act.

"ALLOTMENTS AMONG STATES

"SEC. 103. (a)(1)(A) Subject to the provisions of subsection (d) of this section, from the sums appropriated pursuant to section 102(a), the Commissioner shall first reserve an amount equal to 5 per centum of such sums. From the amount so reserved, the Commissioner shall transfer an amount, not to be less than $3,000,000 but not to exceed $5,000,000 in any fiscal year, to the National Occupational Information Coordinating Committee established pursuant to section 161, and the remainder of the amount so reserved shall be used by the Commissioner for programs of national significance under subpart 2 of part B.

"(B)(i) From the remainder of the sums appropriated pursuant to section 102(a), the Commissioner is authorized to reserve for purposes of this subparagraph an amount approximately equivalent to the same percentage of that appropriation as the population aged fifteen to twenty-four, inclusive, which is eligible to receive educational benefits as Indians from the Bureau of Indian Affairs is to the total population of all the States aged fifteen to twenty-four, inclusive, except that such amount shall not exceed 1 per centum of such remaining appropriation.

"(ii) For purposes of this subparagraph, the term 'Act of April 16, 1934' means the Act entitled 'An Act authorizing the Secretary of the Interior to arrange with States or territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes', enacted April 16, 1934 (48 Stat. 596; 25 U.S.C. 452–457).

"(iii) The Commissioner is directed, upon the request of any Indian tribe which has contracted with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934, to enter into a contract or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the purposes of this Act, except that such contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this sentence. From any remaining funds reserved pursuant to division (i) of this subparagraph (B), the Commissioner is authorized to enter into an agreement with the Commissioner of the Bureau of Indian Affairs for the operation of vocational education programs authorized by this Act in institutions serving Indians described in division (i) of this subparagraph (B), and the Secretary of the Interior is authorized to receive these funds for that purpose. For the purposes of this Act, the Bureau of Indian Affairs shall be deemed to be a State board; and all the provisions of this Act shall be applicable to the Bureau as if it were a State board.

"(2) From the remainder of the sums appropriated pursuant to section 102(a) and from all of the sums appropriated pursuant to sections 102 (b), (c), and (d), the Commissioner shall allot to each State for each fiscal year—

"(A) an amount which bears the same ratio to 50 per centum of the sums being allotted as the product of the population aged fifteen to nineteen, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

"(B) an amount which bears the same ratio to 20 per centum of the sums being allotted as the product of the population aged twenty to twenty-four, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

"(C) an amount which bears the same ratio to 15 per centum of the sums being allotted as the product of the population aged twenty-five to sixty-five, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States; and

"(D) an amount which bears the same ratio to 15 per centum of the sums being allotted as the amounts allotted to the State under paragraphs (A), (B), and (C) for such years bears to the sum of the amounts allotted to all the States under paragraphs (A), (B), and (C) for such year.

"(b) (1) The amount of any State's allotment under subsection (a) for any fiscal year which is less than $200,000 shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotments to each of the remaining States under such subsection, but with such adjustments as may be necessary to prevent the allotment of any of such remaining States from being thereby reduced to less than that amount.

"(2) The amount of any State's allotment under subsection (a) for any fiscal year which the Commissioner determines will not be required for such fiscal year for carrying out the program for which such amount has been allotted shall be available, from time to time, for reallotment, on such dates during such year as the Commissioner shall fix, on the basis of criteria established by regulation, among other States, except that funds appropriated under section 102(b) may only be reallotted for the use set forth in section 140. Any amount reallotted to a State under this subsection for any fiscal year shall remain available for obligation during the next succeeding fiscal year and shall be deemed to be part of its allotment for the year in which it is obligated.

"(c) (1) The allotment ration for any State shall be 1.00 less the product of—

"(A) 0.50; and

"(B) the quotient obtained by dividing the per capita income for the State by the per capita income for all the States (exclusive of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), except that (i) the allotment ratio in no case shall be more than 0.60 or less than 0.40, and (ii) the allotment ratio for Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be 0.60.

"(2) The allotment ratios shall be promulgated by the Commissioner for each fiscal year between October 1 and December 31 of the fiscal year preceding the fiscal year for which the determination is made. Allotment ratios shall be computed on the basis of the average of the appropriate per capita incomes for the three most recent consecutive fiscal years for which satisfactory data are available.

"(3) The term 'per capita income' means, with respect to a fiscal year, the total personal income in the calendar year ending in such year, divided by the population of the area concerned in such year.

"(4) For the purposes of this section, population shall be determined by the Commissioner on the basis of the latest estimates available to him.

"(d) The amount of any State's allotment under this section from appropriations provided under section 102, for any fiscal year shall not be less than the total amount of payments made to the State under allotments determined under this Act for the fiscal year ending June 30, 1976.

"(e) From the sums allotted to a State under this section from appropriations made under section 102(a), 80 per centum of such sums shall be available to each State for the purpose of carrying out subpart 2 of this part and 20 per centum shall be available for the purpose of carrying out subpart 3 of this part.

"STATE ADMINISTRATION

"SEC. 104. (a) (1) Any State desiring to participate in the programs authorized by this Act shall, consistent with State law, designate or establish a State board or agency (hereinafter in this Act referred to as the 'State board') which shall be the sole State agency responsible for the administration, or for the supervision of the administration, of such programs. The responsibilities of the State board shall include—

"(A) the coordination of the development of policy with respect to such programs;

"(B) the coordination of the development, and the actual submission to the Commissioner, of the five-year State plan required by section 107 and of the annual program plan and accountability report required by section 108; and

"(C) the consultation with the State advisory council on vocational education and other appropriate State agencies, councils, and individuals involved in the planning and reporting as required by section 107 and 108.

Except with respect to those functions set forth in the preceding sentence, the State board may delegate any of its other responsibilities involving administration, operation, or supervision, in whole or in part, to one or more appropriate State agencies.

"(2) Each State board shall certify to the Commissioner, as part of its annual program plan and accountability report submitted pursuant to section 108, any delegation of its responsibilities for administration, operation, or supervision of vocational education programs under this Act to other appropriate State agencies, setting forth the specific responsibility delegated and the specific agency involved.

"(3) Each State board shall also certify to the Commissioner, as part of its five-year plan and as part of its annual program plan and accountability report, that each of the agencies, councils, and individuals required to be involved in formulating the five-year plan and the annual plan and report have been afforded the opportunity to be involved in accordance with the provisions of this Act.

"(b) (1) Any State desiring to participate in the programs authorized by this Act shall also assign such full-time personnel as may be necessary to assist the State board in fulfilling the purposes of this Act by—

"(A) taking such action as may be necessary to create awareness of programs and activities in vocational education that are designed to reduce sex stereotyping in all vocational education programs;

"(B) gathering, analyzing, and disseminating data on the status of men and women students and employees in the vocational education programs of that State;

"(C) developing and supporting actions to correct any problems brought to the attention of such personnel through activities carried out under clause (B) of this sentence;

"(D) reviewing the distribution of grants by the State board to assure that the interests and needs of women are addressed in the projects assisted under this Act;

"(E) reviewing all vocational education programs in the State for sex bias;

"(F) monitoring the implementation of laws prohibiting sex discrimination in all hiring, firing, and promotion procedures within the State relating to vocational education;

"(G) reviewing and submitting recommendations with respect to the overcoming of sex stereotyping and sex bias in vocational education programs for the annual program plan and report;

"(H) assisting local educational agencies and other interested parties in the State in improving vocational education opportunities for women; and

"(I) making readily available to the State board, the State and National Advisory Councils on Vocational Education, the State Commission on the Status of Women, the Commissioner and the general public, information developed pursuant to this subsection.

"(2) From the funds appropriated to carry out subpart 2, each State shall reserve $50,000 in each fiscal year to carry out this subsection.

"(3) For the purposes of this subsection, the term 'State' means any one of the fifty States and the District of Columbia.

"STAFF AND LOCAL ADVISORY COUNCILS

"SEC. 105. (a) Any State which desires to participate in programs under this Act for any fiscal year shall establish a State advisory council, which shall be appointed by the Governor or, in the case of States in which the members of the State board of education are elected (including election by the State legislature), by such board. Members of each State advisory council shall be appointed for terms of three years except that (1) in the case of the members appointed for fiscal year 1978, one-third of the membership shall be appointed for terms of one year each and one-third shall be appointed for terms of two years each, and (2) appointments to fill vacancies shall be for such terms as remain unexpired. Each State advisory council shall have as a majority of its members persons who are not educators or administrators in the field of education and shall include as members one or more individuals who—

"(1) represent, and are familiar with, the vocational needs and problems of management in the State;

"(2) represent, and are familiar with, the vocational needs and problems of labor in the State;

"(3) represent, and are familiar with, the vocational needs and problems of agriculture in the State;

"(4) represent State industrial and economic development agencies;

"(5) represent community and junior colleges;

"(6) represent other institutions of higher education, area vocational schools, technical institutes, and postsecondary agencies or institutions which provide programs of vocational or technical education and training;

"(7) have special knowledge, experience, or qualifications with respect to vocational education but are not involved in the administration of State or local vocational education programs;

"(8) represent, and are familiar with, public programs of vocational education in comprehensive secondary schools;

"(9) represent, and are familiar with, nonprofit private schools;

"(10) represent, and are familiar with, vocational guidance and counseling services;

"(11) represent State correctional institutions;

"(12) are vocational education teachers presently teaching in local educational agencies;

"(13) are currently serving as superintendents or other administrators of local educational agencies;

"(14) are currently serving on local school boards;

"(15) represent the State Manpower Services Council established pursuant to section 107 of the Comprehensive Employment and Training Act of 1973;

"(16) represent school systems with large concentrations of persons who have special academic, social, economic, and cultural needs and of persons who have limited English-speaking ability;

"(17) are women with backgrounds and experiences in employment and training programs, and who are knowledgeable with respect to the special experiences and problems of sex discrimination in job training and employment and of sex stereotyping in vocational education, including women who are members of minority groups and who have, in addition to such backgrounds and experiences, special knowledge of the problems of discrimination in job training and employment against women who are members of such groups;

"(18) have special knowledge, experience, or qualifications with respect to the special educational needs of physically or mentally handicapped persons;

"(19) represent the general public, including a person or persons representing and knowledgeable about the poor and disadvantaged; and

"(20) are vocational education students who are not qualified for membership under any of the preceding clauses of this paragraph.

Members of the State advisory council may not represent more than one of the above-specified categories. In appointing the State advisory council the Governor or the State board of education, as the case may be, shall insure that there is appropriate representation of both sexes, racial and ethnic minorities, and the various geographic regions of the State.

"(b) Not less than ninety days prior to the beginning of any fiscal year in which a State desires to receive a grant under this Act, the State shall certify the establishment of, and membership of, its State advisory council to the Commissioner.

"(c) Each State advisory council shall meet within thirty days after certification has been accepted by the Commissioner and shall select from among its membership a Chairman. The time, place, and manner of meeting, as well as council operating procedures and staffing, shall be as provided by the rules of the State advisory council, except that such rules must provide for not less than one public meeting each year at which the public is given an opportunity to express views concerning the vocational education program of the State.

"(d)(1) Each State advisory council shall advise the State board in the development of the five-year State plan submitted under section 107 and the annual program plan and accountability report submitted under section 108 and shall advise the State board on policy matters arising out of the administration of programs under such plans and reports.

"(2) Each State advisory council shall also evaluate vocational education programs, services, and activities assisted under this Act, and publish and distribute the results thereof.

"(3) Each State advisory council shall prepare and submit to the Commissioner and to the National Advisory Council created under section 162, through the State board, an annual evaluation report, accompanied by such additional comments of the State board as the State board deems appropriate, which (A) evaluates the effectiveness of vocational education programs, services, and activities carried out in the year under review in meeting the program goals set forth in the five-year State plan submitted under section 107 and the annual program plan and accountability report submitted under section 108, including a consideration of the program evaluation reports developed by the State pursuant to section 112 and of the analysis of the distribution of Federal funds within the State submitted by the State board pursuant to section 108, and (B) recommends such changes in such programs, services, and activities as may be deemed necessary.

"(4)(A) Each State advisory council shall identify, after consultation with the State Manpower Services Council, the vocational education and employment and training needs of the State and assess the extent to which vocational education, employment training, vocational rehabilitation, and other programs assisted under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and (B) comment, at least once annually, on the reports of the State Manpower Services Council, which comments shall be included in the annual report submitted by the State advisory council pursuant to this section and in the annual report submitted by the State council pursuant to section 107 of the Comprehensive Employment and Training Act of 1973.

"(e) Each State advisory council is authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable it to carry out its functions under this Act and to contract for such services as may be necessary to carry out its evaluation functions, independent of programmatic and administrative control by other State boards, agencies, and individuals.

"(f)(1) There are hereby authorized to be appropriated $8,000,000 for fiscal year 1978, $8,500,000 for fiscal year 1979, $9,000,000 for fiscal year 1980, $10,000,000 for fiscal year 1981, and $8,000,000 for fiscal year 1982, for the purpose of making grants to State advisory councils to carry out the functions specified in this section. From the sums appropriated pursuant to this subsection, the Commissioner shall, subject to the provisions of the following sentence, make grants to State advisory councils to carry out the functions specified in this section, and shall pay to each State advisory council an amount equal to the reasonable amounts expended by it in carrying out its functions under this Act in such fiscal year, except that no State advisory council shall receive an amount to exceed $200,000 or an amount less than $75,000. In the case of Guam, American Samoa, and the Trust Territory of the Pacific Islands, the Commissioner may pay the State advisory council in each such jurisdiction an amount less than the minimum specified in the preceding sentence if he determines that the council can perform its functions with a lesser amount.

"(2) The expenditure of these funds is to be determined solely by the State advisory council for carrying out its functions under this Act, and may not be diverted or reprogramed for any other purpose by any State board, agency or individual. Each council shall designate an appropriate State agency or other public agency, eligible to receive funds under this Act, to act as its fiscal agent for purposes of disbursement, accounting, and auditing.

"(g)(1) Each eligibile recipient receiving assistance under this Act to operate vocational education programs shall establish a local advisory council to provide such agency with advice on current job needs and on the relevancy of courses being offered by such agency in meeting such needs. Such local advisory councils shall be composed of members of the general public, especially of representatives of business, industry, and labor; and such local advisory councils may be established for program areas, schools, communities, or regions, whichever the recipient determines best to meet the needs of that recipient.

"(2) Each State board shall notify eligible recipients within the State of the responsibilities of such recipients under the provisions of paragraph (1); and each State advisory council shall make available to such recipients and the local advisory councils of such recipients such technical assistance as such recipients may request to establish and operate such councils.

"GENERAL APPLICATION

"SEC. 106. (a) Any State desiring to receive the amount for which it is eligible for any fiscal year pursuant to this Act shall, through its State board, submit to, and maintain on file with, the Commissioner a general application providing assurances—

"(1) that the State will provide for such methods of administration as are necessary for the proper and efficient administration of the Act;

"(2) that the State board will cooperate with the State advisory council on vocational education in carrying out its duties pursuant to section 105 and with the agencies, councils, and individuals specified in sections 107 and 108 to be involved in the formulation of the five-year State plan and of the annual program plans and accountability reports;

"(3) that the State will comply with any requests of the Commissioner for making such reports as the Commissioner may reasonably require to carry out his functions under this Act;

"(4) that funds will be distributed to eligible recipients on the basis of annual applications which—

"(A) have been developed in consultation (i) with representatives of the educational and training resources available in the area to be served by the applicant and (ii) with the local advisory council required to be established by this Act to assist such recipients,

"(B)(i) describe the vocational education needs of potential students in the area or community served by the applicant and indicate how, and to what extent, the program proposed in the application will meet such needs, and (ii) describe how the findings of any evaluations of programs operated by such applicant during previous years, including those required by this Act, have been used to develop the program proposed in the application,

"(C) describe how the activities proposed in the application relate to manpower programs conducted in the area by a prime sponsor established under the Comprehensive Employment and Training Act of 1973, if any, to assure a coordinated approach to meeting the vocational education and training needs of the area or community, and

"(D) describe the relationship between vocational education programs proposed to be conducted with funds under this Act and other programs in the area or community which are supported by State and local funds;

and that any eligible recipient dissatisfied with final action with respect to any application for funds under this Act shall be given reasonable notice and opportunity for a hearing;

"(5)(A) that the State shall, in considering the approval of such applications, give priority to those applicants which—

"(i) are located in economically depressed areas and areas with high rates of unemployment, and are unable to provide the resources necessary to meet the vocational education needs of those areas without Federal assistance, and

"(ii) propose programs which are new to the area to be served and which are designed to meet new and emerging manpower needs and job opportunities in the area and, where relevant, in the State and the Nation; and

"(B) that the State shall, in determining the amount of funds available under this Act which shall be made available to those applicants approved for funding, base such distribution and economic, social and demographic factors relating to the need for vocational education among the various populations and the various areas of the State, except that—

"(i) the State will use as the two most important factors in determining this distribution (I) in the case of local educational agencies, the relative, financial ability of such agencies to provide the resources necessary to meet the need for vocational education in the areas they service and the relative number or concentration of low-income families or individuals within such agencies, and (II) in the case of other eligible recipients, the relative financial ability of such recipients to provide the resources necessary to initiate or maintain vocational education programs to meet the needs of their students and the relative number or concentration of students whom they serve whose education imposes higher than average costs, such as handicapped students, students from low-income families, and students from families in which English is not the dominant language; and

"(ii) the State will not allocate such funds among eligible recipients within the State on the basis of per capita enrollment or through matching of local expenditures on a uniform percentage basis, or deny funds to any recipient which is making a reasonable tax effort solely because such recipient is unable to pay the non-Federal share of the cost of new programs,

"(6) that Federal funds made available under this Act will be so used as to supplement, and to the extent practicable, increase the amount of State and local funds that would in the absence of such Federal funds be made available for the uses specified in the Act, and in no case supplant such State or local funds; and

"(7) that the State will make provision for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to eligible recipients under this Act);

"(8) that funds received under this Act will not be used for any program of vocational education (except personnel training programs under section 135, renovation programs under subpart 4 of part B, and homemaking programs under subpart 5 of this part which cannot be demonstrated to prepare students for employment, be necessary to prepare individuals for successful completion of such a program, or be of significant assistance to individuals enrolled in making an informed and meaningful occupational choice as an integral part of a program of orientation and preparation;

"(9) that the State has instituted policies and procedures to insure that copies of the State plan and annual program plan and accountability report and all statements of general policies, rules, regulations, and procedures issued by the State board and by any State agencies to which any responsibility is delegated by the State board concerning the administration of such plan and report will be made reasonably available to the public; and

"(10) that the funds used for purposes of section 110(a) are consistent with the State plan submitted pursuant to section 613(a) of the Education of the Handicapped Act.

"(b) Such general application shall be considered to be the general application required to be submitted by the State for funds received under the Vocational Education Act of 1963 under the provisions of subsection (b) of section 434 of the General Education Provisions Act.

"FIVE-YEAR STATE PLANS

"SEC. 107. (a)(1) Any State desiring to receive funds under this Act shall submit to the Commissioner, during fiscal year 1977 and during each fifth fiscal year occurring thereafter, a State plan for vocational education for the five fiscal years succeeding each such fiscal year. In formulating this plan, the State board shall involve the active participation of—

"(A) a representative of the State agency having responsibility for secondary vocational education programs, designated by that agency;

"(B) a representative of the State agency, if such separate agency exists, having responsibility for postsecondary vocational education programs, designated by that agency;

"(C) a representative of the State agency, if such separate agency exists, having responsibility for community and junior colleges, designated by that agency;

"(D) a representative of the State agency, if such separate agency exists, having responsibility for institutions of higher education in the State, designated by that agency;

"(E) a representative of a local school board or committee, as determined by State law;

"(F) a representative of vocational education teachers, as determined by State law;

"(G) a representative of local school administrators, as determined by State law;

"(H) a representative of the State Manpower Services Council appointed pursuant to section 107(a)(2)(A)(i) of the Comprehensive Employment and Training Act of 1973, designated by that council;

"(I) a representative of the State agency or commission responsible for comprehensive planning in postsecondary education, which planning reflects programs offered by public, private nonprofit and proprietary institutions, and includes occupational programs at a less-than-baccalaureate degree level, if such separate agency or commission exists, designed by that agency or commission; and

"(J) a representative of the State advisory council on vocational education, designated by that council.

This participation shall include at least four meetings during the planning year between representatives of the State board and representatives of all of these agencies, councils, and individuals, meeting as a group. The first of these meetings shall be before the plan is developed; the second meeting shall be to consider the first draft of the plan; the third meeting shall be to consider the draft of the plan rewritten to reflect the results of the second meeting; and the fourth meeting shall be to approve the final plan. If these agencies, councils, and individuals, and the State board are not able to agree upon the provisions of the State plan, the State board shall have the responsibility for reaching a final decision on those provisions; but the State board shall include in the plan (a) the recommendations rejected by the board, (b) the agency, council, or individual making each such recommendation, and (c) the reasons of the State board for rejecting these recommendations. Any agency or council described above which is dissatisfied with any final decision of the State board may appeal the board's decision to the Commission. In such a case the Commissioner shall afford such agency or council and the State board reasonable notice and opportunity for a hearing and shall determine whether the State board's decision is supported by substantial evidence, as shown in the State plan, and will best carry out the purposes of the Act. Any agency or State board dissatisfied with a final action of the Commissioner under this subsection may appeal to the United States Court of Appeals for the circuit in which the State is located in accordance with the procedure specified in section 434(d)(2) of the General Education Provisions Act.

"(2) The State board shall, during the years in which it formulates any five-year plan required under this section, conduct a series of public hearings, after giving sufficient public notice, throughout all regions of the State in order to permit all segments of the population to give their views on the goals which ought to be adopted in the State plan, including the courses to be offered, the allocations of responsibility for these courses among the various levels of education and among the various institutions of the States, and the allocations of local, State, and Federal resources to meet those goals. These views shall be included in the final State plan with a description of how such views are reflected in the plan; and if particular views are not reflected, then the plan shall set out the reasons for rejecting them.

"(b) The five-year State plans shall be submitted to the Commissioner by the July 1st preceding the beginning of the first fiscal year for which such plan is to take effect and shall—

"(1) assess the current and future needs for job skills within the State and, where appropriate, within the pertinent region of the country, through consideration of the latest available data of present and projected employment, including the data available under section 161;

"(2) set out explicitly the goals the State will seek to achieve by the end of the five-year period of the State plan in meeting the need for particular job skills identified through the assessment undertaken in accordance with paragraph (1), including (A) a description of these goals in terms of—

"(i) the courses and other training opportunities to be offered to achieve those skills,

"(ii) the projected enrollments of those courses and other training opportunities,

"(iii) the allocations of responsibility for the offering of those courses and training opportunities among the various levels of education and among the various institutions of the State, and

"(iv) the allocations of all local, State, and Federal financial resources available in the State among these courses and training opportunities, levels of education, and institutions within the State,

and (B) the reasons for choosing these courses and training opportunities, enrollments, allocations of responsibilities, and allocations of resources;

"(3)(A) set out explicitly the planned uses of Federal, State, and local vocational education funds for each fiscal year of the State plan and show how these uses will enable the State to achieve these goals, including (i) a description of these uses of funds in terms of the elements listed in clauses (2)(A)(i) through (2)(A)(iv) above, and (ii) the reasons for choosing these particular uses, except that the State will continue to use approximately the same amount of its State grant under subpart 2 of this part for programs in secondary schools during fiscal years 1978 and 1979 as it had been used during fiscal years 1975 and 1976 unless the State is able to demonstrate in its five-year plan the need to shift funds from such use:

"(B)(i) set out explicitly the uses which the State intends to make of the funds available to it under this Act, as those uses are set out in sections 120, 130, 140, and 150, and set out the reasons for choosing such uses; and (ii) set out explicitly the uses which the State intends to make of these funds to meet the special needs of handicapped and disadvantaged persons and persons who have limited English-speaking ability;

"(4)(A) set forth policies and procedures which the State will follow so as to assure equal access to vocational education programs by both women and men including—

"(i) a detailed description of such policies and procedures,

"(ii) actions to be taken to overcome sex discrimination and sex stereotyping in all State and local vocational education programs, and

"(iii) incentives, to be provided to eligible recipients so that such recipients will—

"(I) encourage the enrollment of both women and men in nontraditional courses of study, and

"(II) develop model programs to reduce sex stereotyping in all occupations; and

"(B) set forth a program to assess and meet the needs of persons described in section 120(b)(1)(L) which shall provide for (i) special courses for such persons in learning how to seek employment, and (ii) placement services for such graduates of vocational education programs and courses; and

"(5) set out criteria which have been developed for coordinating manpower training programs conducted by prime sponsors established under the Comprehensive Employment and Training Act of 1973 with vocational education programs assisted under this Act and for coordinating such vocational education programs with such manpower training programs.

"ANNUAL PROGRAM PLANS AND ACCOUNTABILITY REPORTS

"SEC. 108. (a)(1) Any State desiring to receive funds under this Act shall submit to the Commissioner an annual program plan and accountability report for each of the fiscal years included in the five-year State plan. In formulating this plan and report, the State board shall involve the active participation of the agencies, councils, and individuals who are required to be involved in formulating the five-year State plan as described in section 107. This participation shall include at least three meetings during each fiscal year between representatives of the State board and representatives of all of these agencies, councils, and individuals, meeting as a group. The first of these meetings shall be before the plan and report is developed; the second meeting shall be to consider the draft of the plan and report; and the third meeting shall be to approve the final plan and report. If these agencies, councils, and individuals, and the State board are not able to agree upon the provisions of the plan and report, the State board shall have the same responsibility for reaching a final decision on those provisions as it has for reaching a final decision on the five-year State plan under section 107; and the same requirements shall be applicable concerning inclusion of rejected recommendations, appeal of the board's decision to the Commissioner, and judicial review as are applicable to the five-year State plan under section 107.

"(2) The State board shall, during each fiscal year, conduct a public hearing, after giving sufficient public notice, on the annual planning and accountability report in order to permit all segments of the population to give their views on the provisions of the plan and report. These views shall be included in the final plan and report with a description of how such views are reflected in the plan and report; and if particular views are not reflected, then the plan and report shall set out the reasons for rejecting them.

"(b) The annual program plan and accountability report shall be submitted to the Commissioner by the July 1st preceding the beginning of the fiscal year for which the plan is to be effective. This plan and report shall contain:

"(1) planning provisions which—

"(A) set out any updating of the five-year State plan deemed necessary to reflect later or more accurate employment data or a different level of funding than was anticipated;

"(B)(i) set out explicitly how the State during that fiscal year will comply with the uses of Federal, State, and local funds proposed for that fiscal year in the five-year plan, including a description of these uses in terms of the elements listed in clauses (2)(A)(i) through (2)(A)(iv) of section 107, and describe how these uses of funds may differ from those proposed in the five-year plan and give the reasons for any such changes;

"(ii) set out explicitly the uses which the State intends to make of the funds available to it under this Act for that fiscal year, as those uses are set out in sections 120, 130, 140, and 150, and describe how those uses may differ from the uses proposed in the five-year plan and give the reasons for any such changes, and set out explicitly the proposed distribution of such funds among eligible recipients, together with an analysis of the manner in which such distribution complies with the assurance given in the general application under section 106(a)(5) relating to the distribution of Federal funds; and

"(C) show the results of the—

"(i) coordination of programs funded under this Act with manpower training programs and of manpower training programs with programs funded under this Act;

"(ii) compliance of the State plan with the provision contained in section 107(b)(4)(A) concerning providing equal access to programs by both men and women; and

"(iii) participation of local advisory councils required to be established under section 105(g); and

"(2) reporting provisions which—

"(A) show explicitly the extent to which the State during the fiscal year preceding the submission of the plan and report has achieved the goals of the five-year plan and the degree to which the uses of Federal, State, and local funds proposed for that fiscal year in the plan have been complied with, including a description of these goals and uses in terms of the elements listed in clause (2)(A)(i) through (2)(A)(iv) of section 107(b);

"(B) show explicitly how funds available under this Act have been used during that fiscal year, including a description of the uses of these funds among the authorized uses of funds set out in sections 120, 130, 140, and 150, and including a description of the distribution of these funds among local educational agencies and other eligible recipients in conformity with the requirements contained in section 106(a)(5), and give the results achieved with these funds; and

"(C) contain a summary of the evaluations of programs required to be conducted by section 112 and a description of how the information from these evaluations has been, or is being, used by the State board to improve its programs.

"SUBMISSION OF PLANS; WITHHOLDING AND JUDICIAL REVIEW

"SEC. 109. (a)(1) The Commissioner shall not approve a five-year State plan submitted under section 107 until he has made specific findings, in writing, as to the compliance of such plan with the provisions of this Act and he is satisfied that adequate procedures are set forth to insure that the assurances of the general application submitted under section 106 and the provisions of the State plan will be carried out.

"(2) The Commissioner shall not approve an annual program plan and accountability report submitted under section 108 until he has made specific findings, in writing, as to the compliance of such plan and report with the provisions of this Act, he is satisfied that adequate procedures are set forth to insure that the assurances of the general application submitted under section 107 are being carried out, and he is satisfied that the annual plan and report shows progress in achieving the goals set forth in the five-year State plan.

"(3)(A) In carrying out the provisions of this subsection, the Commissioner shall provide for appropriate review of each State's five-year plan and annual program plan and report by the various agencies administering programs within the Office of Education related to the vocational education programs being proposed under the State plan or the program plan and report.

"(B) In carrying out the provisions of this subsection, the Commissioner shall not approve a State plan or annual program plan and report until he has received assurances that the personnel assigned to review programs within the State to assure equal access by both men and women under the provisions of section 104(b) have been afforded the opportunity to review the plan or program plan and report.

"(C) In carrying out the provisions of this subsection, the Commissioner shall not approve a State plan or annual program plan and report unless the State has complied in compiling this plan or program plan and report with the nationally uniform definitions and information elements which have been developed pursuant to section 161.

"(b)(1) The Commissioner shall not finally disapprove any State plan or program plan and report submitted under this Act, or any modification thereof, without first affording the State board submitting the plan or program plan and report reasonable notice and opportunity for a hearing.

"(2) The Commissioner shall not disapprove any plan or program plan and report submitted under this Act solely on the basis of the distribution of State and local expenditures for vocational education.

"(c) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State board, finds that—

"(1) the State plan or program plan and report has been so changed that it no longer complies with the provisions of this Act, or

"(2) in the administration of the plan or program plan and report there is a failure to comply substantially with any such provision,

the Commissioner shall notify such State board that no further payments will be made to the State under this Act (or, in his discretion, further payments to the State will be limited to programs under or portions of the State plan or program plan and report not affected by such failure) until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, the Commissioner shall make no further payments to such State under this Act (or shall limit payments to programs under, or portions of, the State plan or program plan and report not affected by such failure).

"(d) A State board which is dissatisfied with a final action of the Commissioner under this section may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner, or any officer designated by him for that purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set aside such action, in whole or in part, temporarily or permanently, but until the filing of the record the Commissioner may modify or set aside his action. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.

"(e)(1) If any eligible recipient is dissatisfied with the final action of the State board or other appropriate State administering agency with respect to approval of an application by such eligible recipient for a grant pursuant to this Act, such eligible recipient may, within sixty days after such final action or notice thereof, whichever is later, file with the United States court of appeals for the circuit in which the State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the State board or other appropriate State administering agency. The State board or such other agency thereupon shall file in the court the record of the proceedings on which the State board or such other agency based its action, as provided in section 2112 of title 28, United States Code.

"(2) The findings of fact by the State board or other appropriate administering agency, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the State board or other such agency to take further evidence, and the State board or such other agency may thereupon make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings.

"(3) The court shall have jurisdiction to affirm the action of the State board or other appropriate administering agency or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(f)(1) The Commissioner shall prescribe and implement rules to assure that any hearing conducted under section 434(c) of the General Education Provisions Act in connection with funds, made available from appropriations under this Act shall be held within the State of the affected unit of local government or geographic area within the State.

"(2) For the purposes of paragraph (1)—

"(A) the term 'unit of local government' means a county, municipality, town, township, village, or other unit of general government below the State level; and

"(B) the term 'geographic area within a State' means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

"NATIONAL PRIORITY PROGRAMS

"SEC. 110. (a) For each fiscal year, at least 10 per centum of each State's allotment under section 103 shall be used to pay 50 per centum of the cost of vocational education for handicapped persons.

"(b)(1) For each fiscal year, at least 20 per centum of each State's allotment under section (103) shall be used to pay 50 per centum of the cost of vocational education for disadvantaged persons (other than handicapped persons), for persons who have limited English-speaking ability, and for providing stipends authorized under section 120(b)(1)(G).

"(2) From the funds used by a State pursuant to paragraph (1), each State shall use an amount equivalent to the same percentage of the funds reserved pursuant to that paragraph as the population aged fifteen to twenty-four, inclusive having limited English-speaking ability is to the total population of the State aged fifteen to twenty-four, inclusive, for providing vocational education for such persons with limited English-speaking ability, except that such amount shall not exceed the full sum used pursuant to paragraph (1).

"(c) For each fiscal year, at least 15 per centum of each State's allotment under section 103 shall be used to pay 50 per centum of the cost of vocational education for (1) persons who have completed or left high school and who are enrolled in organized programs of study for which credit is given toward an associate or other degree, but which programs are not designed as baccalaureate or higher degree programs, and (2) persons who have already entered the labor market, or are unemployed, or who have completed or left high school and who are not described in paragraph (1).

"(d) Each State shall use, to the maximum extent possible, the funds required to be used for the purposes specified in subsections (a) and (b) to assist individuals described in those subsections to participate in regular vocational education programs.

"PAYMENTS TO STATES

"SEC. 111. (a)(1) The Commissioner shall pay, from the amount available to each State for grants under this part (except subpart 5) to eligible recipients, an amount equal to—

"(A) 50 per centum of the cost of carrying out its annual program plan as approved pursuant to section 109, other than programs and activities for persons described in section 110;

"(B) 50 per centum of the cost of vocational education programs for persons with special needs described in section 110 (a), (b), and (c); and

"(C) 100 per centum of the cost of vocational education programs described in sections 122(f), 133(b), and 140;

except that in the case of the Trust Territory of the Pacific Islands and American Samoa, such amount shall be equal to 100 per centum of such expenditures.

"(2)(A) In addition, the Commissioner shall pay, from the amount available to each State for administration of State plans appropriated under section 102(d), an amount equal to the Federal share of the cost of administration of such plan.

"(B) For the purpose of this paragraph, the Federal share for any fiscal year shall be 50 per centum, except that (1) for fiscal year 1978 it shall be 80 per centum and for fiscal year 1979 it shall be 60 per centum, and (2) whenever the Commissioner determines in exceptional circumstances that for the fiscal year preceding fiscal year 1978 State and local expenditures for vocational education in a State exceed ten times the Federal expenditure for vocational education in that State, and that the State has an appropriate, economic, and efficient State administration of the program, the Commissioner shall set the Federal share for fiscal year 1978 for that State in excess of the Federal share specified in clause (1), but not to exceed 100 per centum.

"(b)(1) No payments shall be made in any fiscal year under this Act to any local educational agency or to any State unless the Commissioner finds, in the case of a local educational agency, that the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of vocational education by that agency for the fiscal year preceding the fiscal year for which the determination was made was not less than such combined fiscal effort per student or the aggregate expenditures for that purpose for the second preceding fiscal year or, in the case of a State, that the fiscal effort per student or the aggregate expenditures of that State for vocational education in that State for the fiscal year preceding the fiscal year for which the determination was made was not less than such fiscal effort per student or the aggregate expenditures for vocational education for the second preceding fiscal year.

"(2) No payments shall be made in any fiscal year under this Act to any postsecondary educational institution unless the Commissioner finds that the aggregate amount or the amount per student spent by such institution from current funds for vocational education purposes for the fiscal year preceding the fiscal year for which the determination was made was not less that such amount spent by such institution from current funds for the second preceding fiscal year.

"FEDERAL AND STATE EVALUATIONS

"SEC. 112. (a) In order for the Federal government to assist the States in operating the best possible programs of vocational education—

"(1) the Commissioner shall within four months of the receipt of a State's annual program plan and accountability report transmit to that State board an analysis of such plan and report, including suggestions for improvements in the State's programs and findings contained in any program or fiscal audits performed in that State pursuant to paragraph (2); and

"(2) the Bureau of Occupation and Adult Education shall, in at least ten States a fiscal year during the period beginning October 1, 1977, and ending September 30, 1982, conduct a review analyzing the strengths and weaknesses of the programs assisted with funds available under this Act within those States; and the Department of Health, Education, and Welfare shall, in the same period, conduct fiscal audits of such programs within those States.

"(b)(1) In order for the States to assist local educational agencies and other recipients of funds in operating the best possible programs of vocational education—

"(A) each State shall, during the five-year period of the State plan, evaluate the effectiveness of each program within the State being assisted with funds available under this Act; and the results of these evaluations shall be used to revise the State's programs, and shall be made readily available to the State advisory council; and

"(B) each State shall evaluate, by using data collected, wherever possible, by statically valid sampling techniques, each such program within the State which purports to impart entry level job skills according to the extent to which program completers and leavers—

"(i) find employment in occupations related to their training, and

"(ii) are considered by their employers to be well-trained and prepared for employment,

"except that in no case can pursuit of additional education or training by program completers or leavers be considered negatively in these evaluations.

"(2) Each State, in formulating its plans to fulfill these requirements, shall annually consult with the State advisory council which shall assist the State in developing these plans, monitor the evaluations conducted by the State, and use the results of these evaluations in compiling its annual report required by section 105.

"(c) The Commissioner shall prepare and submit annually to the Congress, within nine months of the termination of each fiscal year, a report on the status of vocational education in the country during that fiscal year. This report shall include data on the information elements developed in the national vocational education data reporting and accounting system and an analysis of such data, and a summary of the findings of the reviews and audits required by paragraph (2) of subsection (a) and of the evaluations performed pursuant to paragraphs (1) and (2) of subsection (b).

"Subpart 2—Basic Grant

"AUTHORIZATION OF GRANTS AND USES OF FUNDS

"Sec. 120. (a) From the sums made available for grants under this subpart pursuant to section 103, the Commissioner is authorized to make grants to States to assist them in conducting vocational education programs in accordance with the requirements of this subpart.

"(b)(1) Grants to States under this subpart may be used, in accordance with five-year State plans and annual program plans approved pursuant to section 109, for the following purposes:

"(A) vocational educational programs;

"(B) work study programs as described in section 121;

"(C) cooperative vocational education programs as described in section 122;

"(D) energy education programs as described in section 123;

"(E) construction of area vocational education school facilities;

"(F) support of full-time personnel to perform the duties described in section 104(b);

"(G) the provision of stipends, subject to the restriction contained in paragraph (2), which shall not exceed reasonable amounts, as prescribed by the Commissioner pursuant to regulations, for students entering or already enrolled in vocational education programs, if those students have acute economic needs which cannot be met under work-study programs;

"(H) placement services for students who have successfully completed vocational education programs, subject to the restriction contained in paragraph (2);

"(I) industrial arts programs where such programs will assist in meeting the purposes of this Act;

"(J) support services for women who enter programs designed to prepare individuals for employment in jobs which have been traditionally limited to men, including counseling as to the nature of such programs and the difficulties which may be encountered by women in such programs, and job development and job followup services;

"(K) day care services for children of students in secondary and postsecondary vocational education programs;

"(L) vocational education for—

"(i) persons who had solely been homemakers but who now, because of dissolution of marriage, must seek employment;

"(ii) persons who are single heads of households and who lack adequate job skills;

"(iii) persons who are currently homemakers and part-time workers but who wish to secure a full-time job; and

"(iv) women who are now in jobs which have been traditionally considered jobs for females and who wish to seek employment in job areas which have not been traditionally considered job areas for females, and men who are now in jobs which have been traditionally considered jobs for males and who wish to seek employment in job areas which have not been traditionally considered job areas for males; and

"(M) construction and operation of residential vocational schools as described in section 124.

"(2) No funds shall be used for the purposes specified in subparagraph (G) or (H) of paragraph (1) unless the State board first makes a specific finding in each instance of funding that the funding of this particular activity is necessary due to inadequate funding in other programs providing similar activities or due to the fact that other services in the area are inadequate to meet the needs.

"WORK STUDY PROGRAMS

"Sec. 121. (a) Funds available to the States under section 120 may be used for grants to local educational agencies for work-study programs which—

"(1) are administered by the local educational agencies and are made reasonably available (to the extent of available funds) to all youths in the area served by such agency who are able to meet the requirements of paragraph (2);

"(2) provide that employment under such work-study programs shall be furnished only to a student who (A) has been accepted for enrollment as a full-time student in a vocational education program which meets the standards prescribed by the State board and the local educational agency for vocational education programs assisted under this Act, or in the case of a student already enrolled in such a program, is in good standing and in full-time attendance, (B) is in need of the earnings from such employment to commence or continue his vocational education program, and (C) is at least fifteen years of age and less than twenty-one years of age at the commencement of his employment, and is capable, in the opinion of the appropriate school authorities, of maintaining good standing in his vocational education program while employed under the work-study program;

"(3) provide that, pursuant to regulations of the Commissioner, no student shall be employed under such work-study program for more than a reasonable number of hours in any week in which classes in which he is enrolled are in session, or for compensation which exceeds payments under comparable Federal programs, unless the student is attending a school that is not within a reasonable commuting distance from his home, when the compensation may be set by the Commissioner at a higher level;

"(4) provide that employment under such work-study program shall be for the local educational agency or for some other public or nonprofit private agency or institution; and

"(5) provide that, in each fiscal year during which such program remains in effect, such agency shall expend (from sources other than payments from Federal funds under this section) for the employment of its students (whether or not in employment eligible for assistance under this section) an amount that is not less than its average annual expenditure for work-study programs of a similar character during the three fiscal years preceding the fiscal year in which its work-study program under this section is approved.

"(b) Each State in operating work-study programs from funds made available under section 120 shall—

"(1) adopt policies and procedures which assure that Federal funds used for this purpose will be expended solely for the payment or compensation of students employed pursuant to the work-study programs meeting the requirements of subsection (a); and

"(2) set forth principles for determining the priority to be accorded applications from local educational agencies for work-study programs, which principles shall give preference to applications submitted by local educational agencies serving communities having substantial numbers of youths who have dropped out of school or who are unemployed, and provide for undertaking such programs, insofar as financial resources available therefore make possible, in the order determined by the application of such principles.

"(c) Students employed in work-study programs assisted pursuant to this section shall not by reason of such employment be deemed employees of the United States, or their service Federal service, for any reason.

"COOPERATIVE VOCATIONAL EDUCATION PROGRAMS

"Sec. 122. Funds available to the States under section 120 may be used for establishing or expanding cooperative vocational education programs through local educational agencies with the participation of public and private employers. Such programs shall include provisions assuring that—

"(a) funds will be used only for developing and operating cooperative vocational programs as defined in section 195(18) which provide training opportunities that may not otherwise be available and which are designed to serve persons who can benefit from such programs;

"(b) necessary procedures are established for cooperation with employment agencies, labor groups, employers, and other community agencies in identifying suitable jobs for persons who enroll in cooperative vocational education programs;

"(c) provision is made, where necessary, for reimbursement of added costs to employers for on-the-job training of students enrolled in cooperative programs, provided such on-the-job training is related to existing career opportunities susceptible of promotion and advancement and which do not displace other workers who perform such work;

"(d) ancillary services and activities to assure quality in cooperative vocational education programs are provided for, such as preservice and inservice training for teacher coordinators, supervision, curriculum materials, travel of students and coordinators necessary to the success of such programs, and evaluation;

"(e) priority for funding cooperative vocational education programs through local educational agencies is given to areas that have high rates of school dropouts and youth unemployment;

"(f) to the extent consistent with the number of students enrolled in nonprofit private schools in the area to be served, whose educational needs are of the type which the program or project involved is to meet, provision has been made for the participation of such students;

"(g) Federal funds used for the purposes of this section will not be commingled with State or local funds; and

"(h) such accounting, evaluation, and followup procedures as the Commissioner deems necessary will be provided.

"ENERGY EDUCATION

"SEC. 123. (a)(1) Funds available to States under section 120 may be used to make grants to postsecondary educational institutions to carry out programs for the training of miners, supervisors, technicians (particularly safety personnel), and environmentalists in the field of coal mining and coal mining technology, including acquisition of equipment necessary for the conduct of such program.

"(2) Grants made under this section shall be made pursuant to applications which describe with particularity a program for the training of miners, supervisors, and technicians in the field of coal mining and coal mining technology, including provision for supplementary demonstration projects or short-term seminars, which program may include such curriculums as (A) the extraction, preparation, and transportation of coal, (B) the reclamation of coal mined land, (C) the strengthening of health and safety programs for coal mine employees, (D) the disposal of coal mine wastes, and (E) the chemical and physical analysis of coal and materials, such as water and soil, that are involved in the coal mining process.

"(b) Funds available under section 120 may also be used to make grants to postsecondary educational institutions to carry out programs for the training of individuals needed for the installation of solar energy equipment, including training necessary for the installation of glass paneled solar collectors and of wind energy generators, and for the installation of other related applications of solar energy.

"RESIDENTIAL VOCATIONAL SCHOOLS

"SEC. 124. (a) Funds available to the States under section 120 may be used for the construction, equipment, and operation of residential schools to provide vocational education (including room, board, and other necessities) for youths, at least fifteen years of age and less than twenty-one years of age at the time of enrollment, who need full-time study on a residential basis in order to benefit fully from such education. In using funds available under section 120 for this purpose, the States shall give special consideration to the needs of large urban areas and isolated rural areas having substantial numbers of youths who have dropped out of school or who are unemployed.

"(b) No funds made available under section 120 may be used for the purposes of this section for residential vocational schools to which juveniles are assigned as the result of their delinquent conduct or in which the students are segregated because of race.

"Subpart 3—Program Improvement and Supportive Services

"AUTHORIZATIONS OF GRANTS AND USES OF FUNDS

"SEC. 130. (a) From the sums made available for grants under this subpart pursuant to section 103 the Commissioner is authorized to make grants to States to assist them in improving their vocational education programs in providing supportive services for such programs in accordance with the provisions of this subpart.

"(b) Grants to States under this subpart may be used, in accordance with five-year State plans, and annual program plans approved pursuant to section 109, for the following purposes:

"(1) research programs as described in section 131:

"(2) exemplary and innovative programs as described in section 132;

"(3) curriculum development programs as described in section 133;

"(4) provision of guidance and counseling services, programs, and activities as described in section 134;

"(5) provision of pre-service and in-service training as described in section 135; and

"(6) grants to overcome sex bias as described in section 136.

"RESEARCH

"SEC. 131. (a) Funds available to the States under section 130(a) may be used for support of State research coordination units and for contracts by those units pursuant to comprehensive plans of program improvement involving—

"(1) applied research and development in vocational education;

"(2) experimental, developmental, and pilot programs and projects designed to test the effectiveness of research findings, including programs and projects to overcome problems of sex bias and sex stereotyping;

"(3) improved curriculum materials for presently funded programs in vocational education and new curriculum materials for new and energing job fields, including a review and revision of any curricula developed under this section to insure that such curricula do not reflect stereotypes based on sex, race, or national origin;

"(4) projects in the development of new careers and occupations, such as—

"(A) research and experimental projects designed to identify new careers in such fields as mental and physical health, crime prevention and correction, welfare, education, municipal services, child care, and recreation, requiring less training than professional positions, and to delineate within such career roles with the potential for advancement from one level to another;

"(B) training and development projects designed to demonstrate improved methods of securing the involvement, cooperation, and commitment of both the public and private sectors toward the end of achieving greater coordination and more effective implementation of programs for the employment of persons in the fields described in subparagraph (A), including programs to prepare professionals (including administrators) to work effectively with aides; and

"(C) projects to evaluate the operation of programs for the training, development, and utilization of public service aides, particularly their effectiveness in providing satisfactory work experiences and in meeting public needs;

and

"(5) dissemination of the results of the contracts made pursuant to paragraphs (1) through (4), including employment of persons to act as disseminators, on a local level, of these results.

"(b) No contract shall be made pursuant to subsection (a) unless the applicant can demonstrate a reasonable probability that the contract will result in improved teaching techniques or curriculum materials that will be used in a substantial number of classrooms or other learning situations within five years after the termination date of such contract.

"EXEMPLARY AND INNOVATIVE PROGRAMS

"SEC. 132. (a) Funds available to the States under section 130(a) may be used for contracts, as part of the comprehensive plans of program improvement mentioned in section 131(a), for the support of exemplary and innovative programs, including—

"(1) programs designed to develop high quality vocational education programs for urban centers with high concentrations of economically disadvantaged individuals, unskilled workers, and unemployed individuals;

"(2) programs designed to develop training opportunities for persons in sparsely populated rural areas and for individuals migrating from farms to urban areas;

"(3) programs of effective vocational education for individuals with limited English-speaking ability;

"(4) establishment of cooperative arrangements between public education and manpower agencies, designed to correlate vocational education opportunities with current and projected needs of the labor market; and

"(5) programs designed to broaden occupational aspirations and opportunities for youth, with special emphasis given to youth who have academic, socioeconomic, or other handicaps, including—

"(A) programs and projects designed to familiarize elementary and secondary school students with the broad range of occupations for which special skills are required, and the requisites for careers in such occupations; and

"(B) programs and projects to facilitate the participation of employers and labor organizations in postsecondary vocational education.

"(b) Every contract made by a State for the purpose of funding exemplary and innovative projects shall give priority to programs and projects designed to reduce sex stereotyping in vocational education and shall, to the extent consistent with the number of students enrolled in nonprofit private schools in the area to be served whose educational needs are of the type which the program or project involved is to meet, provide for the participation of such students; and such contract shall also provide that the Federal funds will not be commingled with State or local funds.

"CURRICULUM DEVELOPMENT

"(c) The annual program plan and accountability report covering the final year of financial support by the State for any such program or project shall indicate the proposed disposition of the program or project following the cessation of Federal support and the means by which successful or promising programs or projects will be continued and expanded within the State.

"SEC. 133. (a) Funds available to the States under section 130(a) may be used for contracts for the support of curriculum development projects, including—

"(1) the development and dissemination of vocational education curriculum materials for new and changing occupational fields and for individuals with special needs, as described in section 110; and

"(2) the development of curriculum and guidance and testing materials designed to overcome sex bias in vocational education programs, and support services designed to enable teachers to meet the needs of individuals enrolled in vocational education programs traditionally limited to members of the opposite sex,

"(b) No contract shall be made pursuant to subsection (a) unless the aplicant can demonstrate a reasonable probability that the contract will result in improved teaching techniques or curriculum materials that will be used in a substantial number of classrooms or other learning situations within five years after the termination date of such contract,

"VOCATIONAL GUIDANCE AND COUNSELING

"SEC. 134. (a) Not less than 20 per centum of the funds available to the States under section 130(a) shall be used to support programs for vocational development guidance and counseling programs and services which, subject to the provsiions of subsection (b), shall include—

"(1) initiation, implementation, and improvement of high quality vocational guidance and counseling programs and activities;

"(2) vocational counseling for children, youth, and adults, leading to a greater understanding of educational and vocational options;

"(3) provision of educational and job placement services, including programs to prepare individuals for professional occupations or occupations requiring a baccalaureate or higher degree, including followup services;

"(4) vocational guidance and counseling training designed to acquaint guidance counselors with (A) the changing work patterns of women, (B) ways of effectively overcoming occupational sex stereotyping, and (C) ways of assisting girls and women in selecting careers solely on their occupational needs and interests, and to develop improved career counseling materials which are free;

"(5) vocational and educational counseling for youth offenders and adults in correctional institutions;

"(6) vocational guidance and counseling for persons of limited English-speaking ability;

"(7) establishment of vocational resource centers to meet the special needs of out-of-school individuals, including individuals seeking second careers, individuals entering the job market late in life, handicapped individuals, individuals from economically depressed communities or areas, and early retirees; and

"(8) leadership for vocational guidance and exploration programs at the local level.

"(b) Each State which chooses to fund activities described in paragraphs (1) or (2) of subsection (a) of this section shall use those funds, insofar as is practicable, for funding programs, services, or activities by eligible recipients which bring individuals with experience in business and industry, the professions, and other occupational pursuits into schools as counselors or advisors for students, and which bring students into the work establishments of business and industry, the professions, and other occupational pursuits for the purpose of acquainting students with the nature of the work that is accomplished therein, and for funding projects of such recipients in which guidance counselors obtain experience in business and industry, the professions, and other ocupational pursuits which will better enable those counselors to carry out their guidance and counseling duties.

"VOCATIONAL EDUCATION PERSONNEL TRAINING

"SEC. 135. (a) Funds available to the States under section 130(a) may be used to support programs or projects designed to improve the qualifications of persons serving or preparing to serve in vocational education programs, including teachers, administrators, supervisors, and vocational guidance and counseling personnel, including programs or projects—

"(1) to train or retrain teachers, and supervisors and trainers of teachers, in vocational education in new and emerging occupations;

"(2) which provide in-service training for vocational education teachers and other staff members, to improve the quality of instruction, supervision, and administration of vocational education programs, and to overcome sex bias in vocational education programs;

"(3) which provide for exchange of vocational education teachers and other personnel with skilled workers or supervisors in business, industry, and agriculture (including mutual arrangements for preserving employment and retirement status and other employment benefits during the period of exchange), and the development and operation of cooperative programs involving periods of teaching in schools providing vocational education and of experience in commercial, industrial, or other public or private employment related to the subject matter taught in such school;

"(4) to prepare journeymen in the skilled trades or occupations for teaching positions;

"(5) to train and to provide in-service training for teachers and supervisors and trainers of teachers in vocational education to improve the quality of instruction, supervision, and administration of vocational education for persons with limited English-speaking ability and to train or retrain counseling and guidance personnel to meet the special needs of persons with limited English-speaking ability; and

"(6) which provide short-term or regular-session institutes designed to improve the qualifications of persons entering or reentering the field of vocational education in new and emerging occupational areas in which there is a need for such personnel.

"(b) A State may include in the terms of any grant or contract under this section provisions authorizing the payment, to persons participating in the training programs supported under this section, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as the Commissioner may determine, pursuant to regulations, consistent with prevailing practices under comparable programs.

"GRANTS TO ASSIST IN OVERCOMING SEX BIAS

"Special for the disadvantaged

"SEC. 136. Funds available to the States under section 130(a) may be used to support activities which show promise of overcoming sex stereotyping and bias in vocational education.

"Subpart 4—Special Programs for the Disadvantaged

"SEC. 140. (a) From the sums made available for grants under this subpart pursuant to sections 102 and 103, the Commissioner is authorized to make grants to States to assist them in conducting special programs for the disadvantaged (defined in section 195(16)) in accordance with the requirements of this subpart.

"(b)(1) Grants to States under this subpart shall be used, in accordance with five-year State plans and annual program plans approved pursuant to section 109, for allocation within the State to areas of high concentrations of youth unemployment and school dropouts, and shall be used to pay the full cost of vocational education for disadvantaged persons.

"(2) Such funds may be granted to eligible recipients only if (A) to the extent consistent with the number of students enrolled in nonprofit private schools in the area to be served whose educational needs are of the type which the program or project involved is to meet, provision has been made for the participation of such students, and (B) effective policies and procedures have been adopted which assure that Federal funds made available under this subpart to accommodate students in nonprofit private schools will not be commingled with State or local funds.

"Subpart 5—Consumer and Homemaking Education

"CONSUMER AND HOMEMAKING EDUCATION

"SEC. 150. (a) From the sums made available for grants under this subpart pursuant to sections 102 and 103, the Commissioner is authorized to make grants to States to assist them in conducting consumer and homemaking education programs.

"(b) Grants to States under this subpart may be used, in accordance with five-year State plans and annual program plans approved pursuant to section 109, solely for (1) educational programs in consumer and homemaking education consisting of instructional programs, services, and activities at all educational levels for the occupations of homemaking including but not limited to, consumer education, food and nutrition, family living and parenthood education, child development and guidance, housing and home management (including resource management), and clothing and textiles which (A) encourage participation of both males and females to prepare for combining the roles of homemakers and wage earners; (B) encourage elimination of sex stereotyping in consumer and homemaking education by promoting the development of curriculum materials which deal (i) with increased numbers of women working outside the home, and increased numbers of men assuming homemaking responsibilities and the changing career patterns for women and men and (ii) with appropriate Federal and State laws relating to equal opportunity in education and employment; (C) give greater consideration to economic, social, and cultural conditions and needs especially in economically depressed areas and such courses may include where appropriate bilingual instruction; (D) encourage outreach programs in communities for youth and adults giving considerations to special needs such as, but not limited to, aged, young children, school-age parents, single parents, handicapped persons, educationally disadvantaged persons, and programs connected with health care delivery systems, and programs providing services for courts and correctional institutions; (E) prepare males and females who have entered or are preparing to enter the work of the home; (F) emphasize consumer education, management of resources, promotion of nutritional knowledge and food use, and parenthood education to meet the current societal needs, and (2) ancillary services, activities and other means of assuring quality in all homemaking education programs such as teacher training and supervision, curriculum development, research, program evaluation, special demonstration, and experimental programs, development of instructional, materials, exemplary projects, provision of equipment, and State administration and leadership.

"(c) Notwithstanding the provisions contained in section 111(a), from a State's allotment determined under section 103 for any fiscal year from the funds appropriated pursuant to section 102(c), the Commissioner shall pay to such State an amount equal to 50 per centum of the amount expended for the purposes set forth in subsection (b), except that the Commissioner shall pay an amount to each State equal to 90 per centum of the amount used in areas described in subsection (d).

"(d) At least one-third of the Federal funds were made available under this section to each State shall be used in economically depressed areas or areas with high rates of unemployment for programs designed to assist consumers and to help improve home environments and the quality of family life.

"PART B—NATIONAL PROGRAMS

"SUBPART 1—GENERAL PROVISIONS

"FEDERAL ADMINISTRATION

"SEC. 160. (a) There is established in the United States Office of Education a Bureau of Occupational and Adult Education (hereinafter in this Act referred to as the 'Bureau'), which shall be responsible for (1) the Administration of all the programs authorized by this Act and the Adult Education Act, (2) functions of the Office of Education relating to manpower training and development, (3) functions of that Office relating to postsecondary vocational, technical, and occupational training funded under this Act, (4) the administration of any other Act of Congress vesting authority in the Commissioner for vocational, occupational, and adult education, and (5) the administration of those portions of any Act of Congress relating to career education which are relevant to the purposes of other Acts of Congress administered by the Bureau.

"(b)(1) The Bureau shall be headed by a person (appointed or designated by the Commissioner) who is highly qualified in the fields of vocational, technical, and occupational education, who is accorded the rank of Deputy Commissioner, and who shall be compensated at the rate specified for grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code.

"(2) Additional positions are created for, and shall be assigned to, the Bureau as follows:

"(A) three positions to be placed in grade 17 of such General Schedule, one of which shall be filled by a person with broad experience in the field of junior and community college education,

"(B) seven positions to be placed in grade 16 of such General Schedule, at least two of which shall be filled by persons with broad experience in the field of postsecondary-occupational education in community and junior colleges, at least one of which shall be filled by a person with broad experience in education in private proprietary institutions, and at least one of which shall be filled by a person with professional experience in occupational guidance and counseling, and

"(C) three positions which shall be filled by persons at least one of whom is a skilled worker in a recognized occupation, another is a subprofessional technician in one of the branches of engineering, and the other is a subprofessional worker in one of the branches of social or medical services, who shall serve as senior advisers in the administration of the programs in the Bureau.

"(3) The Commissioner shall assign to the Bureau, by the end of fiscal year 1978, at least 50 per centum more persons to directly administer the programs authorized under this Act than were assigned to directly administer this Act during fiscal year 1976.

"VOCATIONAL EDUCATION DATA AND OCCUPATIONAL INFORMATION DATA SYSTEMS

"SEC. 161. (a)(1) The Commissioner and the Administrator of the National Center for Education Statistics shall, by September 30, 1977, jointly develop information elements and uniform definitions for a national vocational education data reporting and accounting system. This system shall include information resulting from the evaluations required to be conducted by section 112 (as such section will be in effect on October 1, 1977) and other information on vocational—

"(A) students (including information on their race and sex),

"(B) programs,

"(C) program completers and leavers,

"(D) staff,

"(E) facilities, and

"(F) expenditures.

"(2) In developing this system, the Commissioner and the Administrator shall endeavor as much as possible to make the system compatible with the occupational information data system developed pursuant to subsection (b) and other information systems involving data on programs assisted under the Comprehensive Employment and Training Act of 1973.

"(3)(A) After the completion of the development of these information elements and uniform definitions pursuant to paragraph (1), the Administrator shall immediately begin to design, implement, and operate this information system which shall be in full operation for the fiscal year beginning October 1, 1977.

"(B) Any State receiving assistance under this Act shall cooperate with the Administrator in supplying the information required to be submitted by the Administrator and shall comply in its reports with the information elements and definitions developed jointly by the Administrator and the Commissioner pursuant to paragraph (1). Each State shall submit this data to the Administrator in whatever form he requires; and, whenever possible, this reporting shall include reporting of data by labor market areas within the State.

"(4) The Administrator shall have the responsibility for updating this national vocational education information and accounting system and for preparing annual acquisition plans of data for operating this system. These plans shall be submitted to the Commissioner for his review and comment.

"(b)(1) There is hereby established a National Occupational Information Coordinating Committee which shall consist of the Commissioner, the Administrator, the Commissioner of Labor Statistics, and the Assistant Secretary for Employment and Training. This Committee, with funds available to it under section 103(a) (as such section will be in effect on October 1, 1977), shall—

"(A) in the use of program data and employment data, improve coordination between, and communication among, administrators and planners of programs authorized by this Act and by the Comprehensive Employment and Training Act of 1973, employment security agency administrators, research personnel, and employment and training planning and administering agencies at the Federal, State, and local levels;

"(B) develop and implement, by September 30, 1977, an occupational information system to meet the common occupational information needs of vocational education programs and employment and training programs at the national, State, and local levels, which system shall include data on occupational demand and supply based on uniform definitions, standardized estimating procedures, and standardized occupational classifications; and

"(C) assist State occupational information coordinating committees established pursuant to paragraph (2).

"(2) By September 30, 1977, each State receiving assistance under this Act and under the Comprehensive Employment and Training Act of 1973 shall establish a State occupational information coordinating committee composed of representatives of the State board, the State employment security agency, the State Manpower Services Council, and the agency administering the vocational rehabilitation program. This committee shall, with funds available to it from the National Coordinating Committee established pursuant to paragraph (1), implement on occupational information system in the State which will meet the common needs for the planning for, and the operation of, programs of the State board assisted under this Act and of the administering agencies under the Comprehensive Employment and Training Act of 1973.

"NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION

"SEC. 162. (a) The National Advisory Council on Vocational Education, established pursuant to section 104(a) of the Vocational Education Act of 1963, in effect prior to the enactment of the Education Amendments of 1976, shall continue to exist during the period for which appropriations are authorized under this Act. Individuals who are members of the Council on the date of the enactment of this Act may continue to serve for the terms for which they were appointed. Members appointed to succeed such individuals shall be appointed by the President for terms of three years. The Council shall consist of twenty-one members, each of whom shall be designated as representing one of the categories set forth in the following sentence. The National Advisory Council shall include individuals—

"(1) representative of labor and management, including persons who have knowledge of semiskilled, skilled, and technical employment;

"(2) representative of new and emerging occupational fields;

"(3) knowledgeable in the field of vocational guidance and counseling;

"(4) representing the National Commission for Manpower Policy created pursuant to title V of the Comprehensive Employment and Training Act of 1973;

"(5) representing nonprofit private schools;

"(6) who are women with backgrounds and experiences in employment and training programs, who are knowledgeable with respect to problems of sex discrimination in job training and in employment, including women who are members of minority groups and who have, in addition to such backgrounds and experiences, special knowledge of the problems of discrimination in job training and employment against women who are members of such groups;

"(7) knowledgeable about the administration of State and local vocational education programs, including members of school boards and private institutions;

"(8) experienced in the education and training of handicapped persons and of persons of limited English-speaking ability (as defined in section 703(a) of the Elementary and Secondary Education Act of 1965);

"(9) familiar with the special problems and needs of individuals disadvantaged by their socioeconomic backgrounds;

"(10) having special knowledge of postsecondary and adult vocational education programs;

"(11) familiar with the special problems of individuals in correctional institutions; and

"(12) representative of the general public who are not Federal employees, including parents and students, except that they must not be representative of categories (1) through (11), and who shall constitute not less than one-third of the total membership.

"The National Council shall have as a majority of its members persons who are not educators or administrators in the field of education. In appointing the National Advisory Council, the President shall insure that there is appropriate representation of both sexes, racial and ethnic minorities, and the various geographic regions of the country. The President shall select the chairman. The National Advisory Council shall meet at the call of the Chairman, but not less than four times a year.

"(b) The National Advisory Council shall—

"(1) advise the President, Congress, Secretary, and Commissioner concerning the administration of, preparation of general regulations and budget requests for, and operation of, vocational education programs supported with assistance under this Act;

"(2) review the administration and operation of vocational education programs under this Act, and other pertinent laws affecting vocational education and manpower training (including the effectiveness of such programs in meeting the purposes for which they are established and operated), make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this Act and such other pertinent laws) to the President, Congress, Secretary, and Commissioner;

"(3) make such other reports or recommendations to the President, Congress, Secretary, Commissioner, or head of any other Federal department or agency as it may deem desirable;

"(4) (A) identify, after consultation with the National Commission for Manpower Policy, the vocational education and employment and training needs of the Nation and assess the extent to which vocational education, employment training, vocational rehabilitation, and other programs under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and (B) comment, at least once annually, on the reports of the National Commission, which comments shall be included in one of the reports submitted by the National Advisory Council pursuant to this section and in one of the reports submitted by the National Commission pursuant to section 505 of the Comprehensive Employment and Training Act of 1973;

"(5) conduct such studies, hearings, or other activities as it deems necessary to enable it to formulate appropriate recommendations;

"(6) conduct independent evaluations of programs carried out under this Act and publish and distribute the results thereof; and

"(7) provide technical assistance and leadership to State advisory councils established pursuant to section 105, in order to assist them in carrying out their responsibilities under this Act.

"(c) There are authorized to be appropriated $450,000 for the fiscal year ending September 30, 1978, $475,000 for the fiscal year ending September 30, 1979, and $500,000 for each of the fiscal years ending prior to September 30, 1982 for the purposes of this paragraph. The Council is authorized to use the funds appropriated pursuant to the preceding sentence to carry out its functions as set forth in this section and to engage such technical assistance as may be required to assist it in performing these functions.

"Subpart 2—Programs of National Significance

"PROGRAM IMPROVEMENT

"SEC. 171. (a) Funds reserved to the Commissioner under section 103 for programs under this part shall be used primarily for contracts, and in some cases for grants, for—

"(1) activities authorized by sections 131, 132, 133, 134, 135, and 136, if such activities are deemed to be of national significance by the Commissioner;

"(2) support of a national center for research in vocational education, chosen once every five years, which center shall be a nonprofit agency, shall be assisted by an advisory committee appointed by the Commissioner, shall have such locations, including contracts with one or more regional research centers, as shall be determined by the Commissioner after consultation with the national center and its advisory committee taking into consideration the vocational education research resources available, geographical area to be served by research activities, and shall, either directly or through other public agencies—

"(A) conduct applied research and development on problems of national significance in vocational education;

"(B) provide leadership development through an advanced study center and inservice education activities for State and local leaders in vocational education;

"(C) disseminate the results of the research and development projects funded by the center;

"(D) develop and provide information to facilitate national planning and policy development in vocational education;

"(E) (i) act as a clearinghouse for information on contracts made by the States pursuant to section 131, section 132, and section 133 and on contracts made by the Commissioner pursuant to this section; and (ii) compile an annotated bibliography of research, exemplary and innovative program projects, and curriculum development projects assisted with funds made available under this Act since July 1, 1970; and

"(F) work with States, local educational agencies, and other public agencies in developing methods of evaluating programs, including the follow-up studies of program completers and leavers required by section 112, so that these agencies can offer job training programs which are more closely related to the types of jobs available in their communities, regions, and States; and

"(3) training and development programs as described in section 172.

"(b) (1) The Commissioner shall not make a grant pursuant to paragraph (1) of subsection (a) unless the applicant can demonstrate a reasonable probability that such grant will result in improved teaching techniques or curriculum materials that will be used in a substantial number of classrooms or other learning situations within five years after the termination date of such grant.

"(2) Every contract made by the Commissioner for the purpose of funding exemplary and innovative projects pursuant to paragraph (1) of subsection (a) shall, to the extent consistent with the number of students enrolled in nonprofit private schools in the area to be served whose educational needs are of the type which the project involved is to meet, provide for the participation of such students; and such contract shall also provide that the Federal funds will not be commingled with State or local funds.

"(3) The Commissioner shall, from the funds made available to him under this section, make contracts to convert to use in local educational agencies, in private nonprofit schools, and in other public agencies, curriculum materials involving job preparation which have been prepared for use by the armed services of the United States.

"(4) There is hereby established a Coordinating Committee on Research in Vocational Education, within the Education Division of the Department of Health, Education, and Welfare which shall be composed of the Director of the National Institute of Education, the Commissioner, and Director of the Fund for the Improvement of Postsecondary Education, or their representatives. This Committee shall—

"(A) develop a plan for each fiscal year (i) establishing national priorities for the use of funds available to these agencies for vocational education research, career education research, education and work research, development, exemplary and innovative program projects, and curriculum development projects; and (ii) coordinating the efforts of these agencies in seeking to achieve these national priorities in order to avoid duplication of effort; and

"(B) develop an effective management information system on the projects funded pursuant to this plan in order to achieve the best possible monitoring and evaluation of these projects and the widest possible dissemination of their results.

"(5) (A) From the sums reserved to the Commissioner under section 103 for this part, the Commissioner may pay all or part of the costs of contracts and grants authorized by this section.

"(B) Funds reserved for contracts and grants under this section shall be available for expenditure until expended, unless a law is enacted in specific restriction of this subsection; and these funds may be used for contracts and grants for a period not to exceed three fiscal years.

"TRAINING AND DEVELOPMENT PROGRAMS FOR VOCATIONAL EDUCATION PERSONNEL

"SEC. 172. (a) From funds available to him under section 103, the Commissioner shall provide (1) opportunities for experienced vocational educators to spend full time in advance study of vocational education for a period not to exceed three years in length; (2) opportunities for certified teachers who have been trained to teach in other fields to become vocational educators, if those teachers have skills and experience in vocational fields for which they can be trained to be vocational educators; and (3) opportunities for persons in industry who have skills and experience in vocational fields for which there is a need for vocational educators, but who do not necessarily have baccalaureate degrees, to become vocational educators.

"(b) (1) In order to meet the needs in all States for qualified vocational education personnel (such as administrators, supervisors, teacher educators, researchers, guidance and counseling personnel, and instructors in vocational education programs) the Commissioner shall make available leadership development awards in accordance with the provision of this subsection only upon his determination that—

"(A) persons selected for awards have had not less than two years of experience in vocational education or in industrial training, or military technical training; or, in the case of researchers, experience in social science research which is applicable to vocational education;

"(B) persons receiving such awards are currently employed or are reasonably assured of employment in vocational education and have successfully completed, as a minimum, a baccalaureate degree program; and

"(C) persons selected are recommended by their employer, or others, as having leadership potential in the field of vocational education and are eligible for admission as a graduate student to a program of higher education approved by the Commission under paragraph (2).

"(2) (A) The Commissioner shall, for a period not to exceed three years, pay to persons selected for leadership development awards such stipends (including such allowances or subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(B) The Commissioner shall, in addition to the stipends paid to persons under subparagraph (A), pay to the institution of higher education at which such person is pursuing his course of study such amount as the Commissioner may determine to be consistent with the prevailing practices under comparable federally supported programs not to exceed the equivalent of $4,500 per person per academic year or its equivalent, and $1,000 per person per summer session or its equivalent, but any amount charged such person for tuition and nonrefundable fees and deposits shall be deducted from the amount payable to the institution of higher education under this subsection. Any funds from grants received under this paragraph which remain after deducting normal tuition fees, and deposits attributable to such students, shall be used by the institution receiving such funds for the purpose of improving the program of vocational education offered by that institution.

"(3) The Commissioner shall approve the vocational education leadership development program of an institution of higher education only upon finding that—

"(A) the institution offers a comprehensive program in vocational education with adequate supporting services and disciplines such as education administration, guidance and counseling, research, and curriculum development;

"(B) such program is designed to further substantially the objective of improving vocational education through providing opportunities for graduate training of vocational education teachers, supervisors, and administrators, and of university level vocational education teacher educators and researchers; and

"(C) such programs are conducted by a school of graduate study in the institution of higher education.

"(4) In order to meet the needs for qualified vocational education personnel such as teachers, administrators, supervisors, and teacher educators, in vocational education programs in all the States, the Commissioner in carrying out this section shall apportion leadership development awards equitably among the States, taking into account such factors as the State's vocational education enrollments, and the incidence of youth unemployment and school dropouts in the State.

"(5) Persons receiving leadership awards under the provisions of this subsection shall continue to receive the payments provided in paragraph (3) only during such periods as the Commissioner finds that they are maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field of vocational education in an institution of higher education, and are not engaging in gainful employment, other than part-time employment by such institution in teaching, research, or similar activities, approved by the Commissioner.

"(6) From the funds reserved to the Commissioner pursuant to section 103 for this part, the Commissioner shall make awards meeting the requirements of paragraphs (1) through (5) of this subsection.

"(7) In approving training and development programs for vocational education personnel, the Commissioner shall give special consideration to programs which are designed to familiarize awardees with new curricular materials in vocational education.

"(8) For purposes of this subsection, the term 'institution of higher education' means any such institution as defined under section 1201(a) of the Higher Education Act of 1965.

"(c)(1) In order to meet the need to provide adequate numbers of teachers and related classroom instructors in vocational education and in order to take full advantage of the education which has been provided to already certified teachers who are unable to find employment in their fields of training and of individuals employed in industry who have skills and experiences in vocational fields, the Commissioner shall make available fellowships in accordance with the provisions of this subsection to such individuals upon his determination that—

"(A) individuals selected for such fellowships are presently certified, or had been so certified within the last ten years, by a State as teachers in elementary and secondary schools or in community and junior colleges, and have past or current skills and experiences in vocational fields for which they can be trained to be vocational educators; or

"(B) individuals selected for such fellowships are individuals employed in industry (who need not be baccalaureate degree holders) who have skills and experiences in vocational fields for which there is a need for vocational educators, and that individuals receiving such awards have been accepted by a teacher training institution in a program to assist those persons in gaining the skills to become a vocational educator.

"(2)(A) The Commissioner shall, for a period not to exceed two years, pay to persons selected for fellowships under this subsection stipends (including such allowances for subsistence and other expenses for such person and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(B) The Commissioner shall, in addition to the stipends paid to persons under paragraph (1), pay to the institution of higher education at which such person is pursuing his course of study such amount as the Commissioner may determine to be consistent with the prevailing practices under comparable federally supported programs not to exceed the equivalent of $4,500 per person per academic year or its equivalent, and $1,000 per person per summer session or its equivalent, but any amount charged such person for tuition and nonrefundable fees and deposits shall be deducted from the amount payable to the institution of higher education under this subsection. Any funds from grants received under this pragaraph which remain after deducting normal tuition, fees, and deposits attributable to such students, shall be used by the institution receiving such funds for the purpose of improving the program of vocational education offered by that institution.

"(3) The Commissioner shall approve the program at an institution of higher education which has as its purpose assisting certified teachers or assisting persons from industry in becoming vocational education teachers upon finding that—

"(A) the institution offers a comprehensive program in vocational education with adequate supporting services and disciplines such as education administration, guidance and counseling, research, and curriculum development; and

"(B) such program is available to persons receiving these fellowships so that they can receive the same type of education and training being offered in the institution for undergraduate students who are preparing to become vocational education teachers.

"(4) In order to meet the needs for qualified vocational education teachers in vocational education programs in all the States, the Commissioner in carrying out this subsection shall apportion fellowships equitably among the States, taking into account such factors as the State's vocational education enrollments, and the incidence of youth unemployment and school dropouts in the State.

"(5) Persons receiving fellowships under the provisions of this subsection shall continue to receive the payments provided in paragraph (2) only during such periods as the Commissioner finds that they are maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field of vocational education in an institution of higher education, and are not engaging in gainful employment, other than part-time employment by such institution in teaching, research, or similar activities, approved by the Commissioner.

"(6) From the funds reserved to the Commissioner pursuant to section 103 for this part, the Commissioner shall make awards meeting the requirements of paragraphs (1) through (5) of this subsection.

"(7) In carrying out this subsection, the Commissioner shall, before the beginning of each fiscal year, publish a listing of the areas of teaching in vocational education which are presently in need of additional personnel and of the areas which will have need of additional personnel in the future; and the Commissioner shall, in making the fellowships under the authority of this subsection, grant these fellowships, to the maximum degree possible, to persons who are seeking to become teachers in the area identified by the Commissioner as needing additional teachers.

"Subpart 3—Bilingual Vocational Training

"STATEMENT OF FINDINGS

"SEC. 181. The Congress hereby finds that one of the most acute problems in the United States is that which involves millions of citizens, both children and adults, whose efforts to profit from vocational education are severely restricted by their limited English-speaking ability because they came from environments where the dominant language is other than English; that such persons are therefore unable to help to fill the critical need for more and better educated personnel in vital occupational categories; and that such persons are unable to make their maximum contribution to the Nation's economy and must, in fact, suffer the hardships of unemployment or underemployment. The Congress further finds that there is a critical shortage of instructors possessing both the job knowledge and skills and the dual language capabilities required for adequate vocational instruction of such language-handicapped persons and to prepare such persons to perform adequately in a work environment requiring English language skills, and a corresponding shortage of instructional materials and of instructional methods and techniques suitable for such instruction.

"GENERAL RESPONSIBILITIES OF THE COMMISSIONER

"SEC. 182. (a) The Commissioner and the Secretary of Labor together shall—

"(1) develop and disseminate accurate information on the status of bilingual vocational training in all parts of the United States;

"(2) evaluate the impact of such bilingual vocational training on the shortages of well-trained personnel, the unemployment or underemployment of persons with limited English-speaking ability, and the ability of such persons to acquire sufficient job skills and English language skills to contribute fully to the economy of the United States; and

"(3) report their findings annually to the President and the Congress.

"(b) The Commissioner shall consult with the Secretary of Labor with respect to the administration of this part. Regulations and guidelines promulgated by the Commissioner to carry out this part shall be consistent with those promulgated by the Secretary of Labor pursuant to section 301(b) of the Comprehensive Employment and Training Act of 1973 and shall be approved by the Secretary of Labor before issuance.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 183. There are authorized to be appropriated $60,000,000 for the fiscal year ending September 30, 1978, $70,000,000 for the fiscal year ending September 30, 1979, $80,000,000 for the fiscal year ending September 30, 1980, $90,000,000 for the fiscal year ending September 30, 1981, and $80,000,00 for the fiscal year ending September 30, 1982, to carry out the provisions of sections 184, 186, and 188 of this part, except that 65 per centum of such amounts shall be available only for grants and contracts under section 184, 25 per centum shall be available only for grants and contracts under section 186, and 10 per centum shall be available only for grants and contracts under section 188.

"AUTHORIZATION OF GRANTS

"SEC. 184. (a) From the sums made available for grants under this section pursuant to section 183, the Commissioner is authorized to make grants to and enter into contracts with appropriate State agencies, local educational agencies, postsecondary education institutions, private nonprofit vocational training institutions, and to other nonprofit organizations especially created to serve a group whose language as normally used is other than English in supplying training in recognized occupations and in new and emerging occupations, which shall include instruction in the English language designed to insure that participants in the training will be assisted to pursue such occupations in environments where English is the language normally used, and to enter into contracts with private for-profit agencies and organizations, to assist them in conducting bilingual vocational training programs for persons of all ages in all communities of the United States which are designed to insure that vocational training programs are available to all individuals who desire and need such bilingual education.

"(b) The Commissioner shall pay to each applicant which has an application approved under section 189B an amount equal to the total sums expended by the applicant for the purposes described in section 185 and set forth in that application.

"USE OF FEDERAL FUNDS

"SEC. 185. Grants and contracts under section 184 may be used, in accordance with applications approved under section 189B, for—

"(1) bilingual vocational training programs for persons who have completed or left elementary or secondary school and who are available for education by a postsecondary educational institution;

"(2) bilingual vocational training programs for persons who have already entered the labor market and who desire or need training or retraining to achieve year-round employment, adjust to changing manpower needs, expand their range of skills, or advance in employment; and

"(3) training allowances for participants in bilingual vocational training programs subject to the same conditions and limitations as are set forth in section 111 of the Comprehensive Employment and Training Act of 1973.

"AUTHORIZATION OF GRANTS FOR INSTRUCTOR TRAINING PROGRAMS

"SEC. 186. (a) From the sums made available for grants and contracts under this section pursuant to section 183, the Commissioner is authorized to make grants to and enter into contracts with States, or educational institutions, either public or private, to assist them in conducting training for instructors of bilingual vocational training programs, and whenever the Commissioner determines that it will contribute to carrying out the purposes of this part, to make grants to, and enter into contracts with, States or educational institutions either public or private, to assist them in conducting training for instructors in bilingual vocational education programs.

"(b) The Commissioner shall pay to each applicant which has an application approved under section 189B an amount equal to the total sums expended by the applicant for the purposes described in section 187 and set forth in that application.

"USE OF FEDERAL FUNDS

"SEC. 187. Grants and contracts under section 186 may be used, in accordance with applications approved under section 189B, for—

"(1) providing preservice training designed to prepare persons to participate in bilingual vocational training or vocational education programs as instructors, aides, or other ancillary personnel such as counselors, and inservice and development programs designed to enable such personnel to continue to improve their qualifications while participating in such programs; and

"(2) fellowships or traineeships for persons engaged in such preservice or inservice training.

"AUTHORIZATION OF GRANTS FOR DEVELOPMENT OF INSTRUCTIONAL MATERIALS, METHODS, AND TECHNIQUES

"SEC. 188. (a) From the sums made available for grants and contracts under this section pursuant to section 183, the Commissioner is authorized to make grants and enter into contracts with States, public and private educational institutions, and to other appropriate nonprofit organizations, and to enter into contracts with private for-profit individuals and organizations, to assist them in developing instructional material, methods, or techniques for bilingual vocational training.

"(b) The Commissioner shall pay to each applicant which has an application approved under section 189B an amount equal to the total sums expended by the applicant for the purposes described in section 189 and set forth in that application.

"USE OF FEDERAL FUNDS

"SEC. 189. Grants and contracts under section 188 may be used, in accordance with applications approved under section 189B, for—

"(1) research in bilingual vocational training;

"(2) training programs designed to familiarize State agencies and training institutions with research findings and successful pilot and demonstration projects in bilingual vocational training;

"(3) experimental, developmental, and pilot programs and projects designed to test the effectiveness of research findings; and

"(4) other demonstration and dissemination projects.

"APPLICATIONS

"SEC. 189A. (a) A grant or contract for assistance under this part may be made only upon application to the Commissioner at such time, in such manner, and containing or accompanied by such information as the Commissioner deems necessary. Each such application shall—

"(1) provide that the activities and services for which assistance under this part is sought will be administered by or under the supervision of the applicant;

"(2)(A) in the case of assistance under section 184, set forth a program for carrying out the purposes described in section 185,

"(B) in the case of assistance under section 186, set forth a program for carrying out the purposes described in section 187, and

"(C) in the case of assistance under section 188, set forth a program for carrying out the purposes described in section 189;

"(3) in the case of assistance under section 184, set forth a program of such size, scope, and design as will make a substantial contribution toward carrying out the purposes of this part;

"(4) in the case of assistance under section 186—

"(A) describe the capabilities of the applicant institution, including a listing of the vocational training or vocational education courses offered by that institution, together with appropriate accreditation by regional or national associations, if any, and approval by appropriate State agencies of the course offered,

"(B) set forth the qualifications of the principal staff who will be responsible for the training program, and

"(C) contain a statement of the minimum qualifications of the persons to be enrolled in the training program, a description of the selection process for such persons, and the amounts of the fellowships or traineeships, if any, to be granted to persons so enrolled; and

"(5) in the case of assistance under section 188, set forth the qualifications of the staff who will be responsible for the program for which assistance is sought.

"(b) No grant or contract may be made under section 184 directly to a local educational agency or a postsecondary educational institution or a private vocational training institution or any other eligible agency or organization unless that agency, institution, or organization has submitted the application to the State board established under section 104 of this Act, or in the case of a State that does not have such a board, the similar State agency, for comment and includes the comment of that board or agency with the application.

"APPLICATION APPROVAL BY THE COMMISSIONER

"SEC. 189B. (a) The Commissioner may approve an application for assistance under this subpart only if—

"(1) the application meets the requirements set forth in subsection (a) of the previous section;

"(2) in the case of an application submitted for assistance under section 184 to an agency, institution, or organization other than the State board established under section 104 of this Act, the requirement of subsection (b) of the previous section is met;

"(3) in the case of an application submitted for assistance under section 184 or section 186 the Commissioner determines that the program is consistent with criteria established by him, where feasible, after consultation with the State board established under section 104 of this Act, for achieving equitable distribution of assistance under this subpart within that State; and

"(4) in the case of an application submitted for assistance under section 186 the Commissioner determines that the applicant institution actually has an ongoing vocational training program in the field for which persons are being trained; and that the applicant institution can provide instructors with adequate language capabilities in the language other than English to be used in the bilingual job training program for which the persons are being trained.

"(b) An amendment to an application shall, except as the Commissioner may otherwise provide, be subject to approval in the same manner as the original application.

"Subpart 4—Emergency Assistance for Remodeling and Renovation of Vocational Education Facilities

"PURPOSE

"SEC. 191. It is the purpose of this part to provide emergency assistance, for a limited period of time, to local educational agencies in urban, and rural areas which are unable to provide vocational education designed to meet today's manpower needs due to the age of their vocational education facilities or the obsolete nature of the equipment used for vocational training, in order to assist such agencies in the modernization of facilities and equipment and the conversion of academic facilities necessary to assure that such facilities will be able to offer vocational education programs which give reasonable promise of employment, including the remodeling and renovation of such facilities to make the facilities comply with the requirements of the Act of August 2, 1968, commonly known as the Architectural Barriers Act of 1968.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 192. There are authorized to be appropriated $25,000,000 for fiscal year 1978, $50,000,000 for fiscal year 1979, $75,000,000 for fiscal year 1980, and $100,000,000 for fiscal year 1981, to carry out the purpose of this part.

"APPLICATIONS

"SEC. 193. (a) Any local educational agency desiring to receive assistance under this subpart shall submit to the Commissioner, through its State board, an application therefor, which application shall set forth—

"(1) a description of the facility to be remodeled or renovated, including the date of construction of such facility and the extent of reconstruction necessary to enable such facility to provide a modern program of vocational education;

"(2) a description of the equipment to be replaced or modernized with the assistance of funds made available under this subpart;

"(3) a description of the extent to which the modernization or conversion of facilities and equipment, if assisted with funds made available under this subpart, would be consistent with, and further the goals of, the five-year State plan developed pursuant to section 107;

"(4) the financial ability of the local educational agency to undertake such modernization without Federal assistance;

"(5) assurances that the facility to be remodeled or renovated will meet standards adopted pursuant to the Act of August 12, 1968;

"(6) the extent of State and local funds available to match Federal funds made available under this subpart, together with the sources and amounts of such funds;

"(7) such other information as the State board determines to be appropriate; and

"(8) such other information as the Commissioner may require by regulation.

"(b) In approving applications submitted under this subpart, the Commissioner shall apply only the following criteria:

"(1) the need for such assistance, taking into account such factors as—

"(A) the age and obsolescence of the facilities and equipment for which emergency modernization assistance is sought,

"(B) the rate of youth unemployment in the labor market area served by the local educational agency,

"(C) the number of youth aged seventeen through twenty-one residing in the labor market area served by the local educational agency who are unemployed, and

"(D) the percentage such youth represent, as compared with the vocational education enrollment in the local educational agency,

"(E) the ability of the facility to comply with the standards adopted pursuant to the Act of August 12, 1968 (42 U.S.C. 4151–4156), commonly known as the Architectural Barriers Act of 1968; and

"(2) the degree to which the modernization of facilities and equipment proposed in the application afford promise of achieving the goals set forth in the five-year plan developed pursuant to section 107.

"(c) The Commissioner shall range all approved applications according to their relative need for assistance and, except as provided in subsection (d), shall pay, from sums appropriated for this part, 75 per centum of the cost of such approved applications, until such appropriation shall be exhausted.

"(d) The Commissioner shall consult with the Administrator of General Services and the Architectural and Transportation Barriers Compliance Board to determine whether the proposed remodeling or renovation will meet standards adopted pursuant to the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968.

"(e) Upon a finding, in writing, that a local educational agency with an approved application is suffering from extreme financial need and would not, because of the limitation of Federal financial assistance to 75 per centum of the cost of the approved project, be able to participate in the program authorized by this subpart, the Commissioner may waive such limitation and may pay the full cost of the approved project.

"PAYMENT

"SEC. 194. (a) Upon his approval of an application for assistance under this subpart, the Commissioner shall reserve from the appropriation available therefor the amount required for the payment of the Federal share of the cost of such application as determined under subsection (c) or (d) of section 193.

"(b) The Commissioner shall pay to the applicant such reserved amount, in advance or by way of reimbursement, and in such installments consistent with established practice, as he may determine.

"PART C—DEFINITIONS

"DEFINITIONS

"SEC. 195. As used in this Act—

"(1) The term 'vocational education' means organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree; and, for purposes of this paragraph, the term 'organized education program' means only (A) instruction related to the occupation or occupations for which the students are in training or instruction necessary for students to benefit from such training, and (B) the acquisition, maintenance, and repair of instructional supplies, teaching aids and equipment; and the term 'vocational education' does not mean the construction, acquisition or initial equipment of buildings or the acquisition or rental of land.

"(2) The term 'area vocational education school' means—

"(A) a specialized high school used exclusively or principally for the provision of vocational education to persons who are available for study in preparation for entering the labor market, or

"(B) the department of a high school exclusively or principally used for providing vocational education in no less than five different occupational fields to persons who are available for study in preparation for entering the labor market, or

"(C) a technical or vocational school used exclusively or principally for the provision of vocational education to persons who have completed or left high school and who are available for study in preparation for entering the labor market, or

"(D) the department or division of a junior college or community college or university operating under the policies of the State board and which provides vocational education in no less than five different occupational fields, leading to immediate employment but not necessarily leading to a baccalaureate degree, if it is available to all residents of the State or an area of the State designated and approved by the State board, and if, in the case of a school, department, or division described in (C) or (D), if it admits as regular students both persons who have completed high school and persons who have left high school.

"(3) The term 'school facilities' means classrooms and related facilities (including initial equipment) and interests in lands on which such facilities are constructed. Such term shall not include any facility intended primarily for events for which admission is to be charged to the general public.

"(4) The term 'construction' includes construction of new buildings and acquisition, expansion, remodeling, and alteration of existing buildings, and includes site grading and improvement and architect fees.

"(5) The term 'Commissioner' means the Commissioner of Education.

"(6) The term 'Secretary' means the Secretary of Health, Education, and Welfare.

"(7) The term 'handicapped', when applied to persons, means persons who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired persons who by reason thereof require special education and related services, and who, because of their handicapping condition, cannot succeed in the regular vocational education program without special educational assistance or who require a modified vocational education program.

"(8) The term 'State' includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"(9) The term 'State board' means a State board designated or created by State law as the sole State agency responsible for the administration of vocational education, or for supervision of the administration of vocational education in the State.

"(10) The term 'local educational agency' means a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or political subdivision in a State, or any other public educational institution or agency having administrative control and direction of a vocational education program.

"(11) The term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

"(12) The term 'postsecondary educational institution' means a nonprofit institution legally authorized to provide postsecondary education within a State for persons sixteen years of age or older, who have graduated from or left elementary or secondary school.

"(13) The term 'eligible recipient' means a local educational agency or a postsecondary educational institution.

"(14) The term 'National Advisory Council' means the National Advisory Council on Vocational Education continued under section 162.

"(15) The term 'industrial arts education programs' means those education programs (A) which pertain to the body of related subject matter, or related courses, organized for the development of understanding about all aspects of industry and technology, including learning experiences involving activities such as experimenting, designating, constructing, evaluating, and using tools, machines, materials, and processes and (B) which assist individuals in the making of informed and meaningful occupational choices or which prepare them for entry into advanced trade and industrial or technical education programs.

"(16) The term 'disadvantaged' means persons (other than handicapped persons) who have academic or economic handicaps and who require special services and assistance in order to enable them to suceed in vocational education programs, under criteria developed by the Commissioner based on objective standards and the most recent available data.

"(17) The term 'low-income family or individual' means such families or individuals who are determined to be low-income according to the latest available data from the Department of Commerce.

"(18) The term 'cooperative education' means a program of vocational education for persons who, through written cooperative arrangements between the school and employers, receive instruction, including required academic courses and related vocational instruction by alternation of study in school with a job in any occupational field, but these two experiences must be planned and supervised by the school and employers so that each contributes to the student's education and to his or her employability. Work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time in fulfilling the cooperative program.

"(19) The term 'curriculum materials' means materials consisting of a series of courses to cover instruction in any occupational field which are designed to prepare persons for employment at the entry level or to upgrade occupational competencies of those previously or presently employed in any occupational field.

"(20) For the purposes of this Act, the term 'administration' means activities of a

State necessary for the proper and efficient performance of its duties under this Act, including supervision, but not including ancillary services."

RELATED AMENDMENTS

SEC. 203. (a)(1) Section 107(a)(2)(A) of the Comprehensive Employment and Training Act of 1973 is amended by redesignating clauses (iii) through (vii) (and any cross references thereto) as clauses (iv) through (viii) respectively, and by inserting immediately after clause (ii) the following new clause:

"(iii) one representative of the State Advisory Council on Vocational Education created pursuant to section 105 of the Vocational Education Act of 1963;".

(2) Section 107(b) of the Comprehensive Employment and Training Act of 1973 is amended by adding at the end thereof a new paragraph (4) to read as follows:

"(4)(i) identify, after consultation with the State Advisory Council on Vocational Education, the employment and training and vocational education needs of the State and assess the extent to which employment training, vocational education, vocational rehabilitation, and other programs assisted under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and (ii) comment at least once annually, on the reports of the State Advisory Council on Vocational Education, which comments shall be included in the annual report submitted by the Council pursuant to this section and in the annual report submitted by the State Advisory Council pursuant to section 105 of the Vocational Education Act of 1963.".

(b)(1) Section 502(a) of the Comprehensive Employment and Training Act of 1973 is amended by striking out "eleven members" in paragraph (2) and inserting in lieu thereof "ten members", by redesignating such paragraph (2) (and any cross reference thereto) as paragraph (3), and by inserting immediately after paragraph (1) the following new paragraph:

"(2) a representative of the National Advisory Council on Vocational Education created pursuant to section 162 of the Vocational Education Act of 1963; and".

(2) Section 503 of the Comprehensive Employment and Training Act of 1973 is amended by striking out "and" after paragraph (4), redesignating paragraph (5) (and any cross reference thereto) as paragraph (6), and by inserting immediately after paragraph (4) the following new paragraph:

"(5)(i) identify, after consultation with the National Advisory Council on Vocational Education, the employment and training and vocational education needs of the Nation and assess the extent to which employment training, vocational education, vocational rehabilitation, and other programs assisted under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and (ii) comment, at least once annually, on the reports of the National Advisory Council on Vocational Education, which comments shall be included in one of the reports submitted by the National Commission pursuant to this section and in one of the reports submitted by Education pursuant to section 162 of the Vocational Education Act of 1963; and",

EFFECTIVE DATES AND REPEALERS

SEC. 204. (a)(1) Section 201 shall be effective upon date of enactment.

(2) Sections 202 and 203 shall be effective on October 1, 1977, except that—

(A) the amendments made by the revised section 102(d) (relating to an authorization of appropriations for planning) and sections 107 (relating to planning during fiscal year 1977) shall be effective upon enactment, and

(B) the amendments made by section 103(a)(1) (relating to reserving funds for the National Occupational Information Coordinating Committee) and section 161 (relating to the national vocational education data reporting and accounting system and the National Occupational Information Coordinating Committee and similar State committees) shall be effective upon enactment.

(b) Upon the effective date of section 202, individuals who are members of the State advisory councils on vocational education may continue to serve for the terms for which they were appointed, except that no such member may serve for more than two fiscal years after such effective date unless reappointed pursuant to the amendments contained in that section.

(c) Effective October 1, 1977, there are hereby repealed—

(1) title V, part F of the Education Professions Development Act,

(2) title X, part B of the Higher Education Act, and

(3) section 1071 of the Higher Education Act.

TITLE III—EXTENSIONS AND REVISIONS OF OTHER EDUCATION PROGRAMS

PART A—EXTENSION AND REVISION OF RELATED PROGRAMS

EXTENSION OF TITLE III OF THE NATIONAL DEFENSE EDUCATION ACT OF 1958

Sec. 301. (a) The first sentence of section 301 of the National Defense Education Act of 1958 is amended by striking out "June 30, 1977" and inserting in lieu thereof "September 30, 1978".

(b) The second sentence of such section is amended by striking out "July 1, 1977" and inserting in lieu thereof "October 1, 1978".

EXTENSION AND REVISION OF TITLE VI OF THE NATIONAL DEFENSE EDUCATION ACT OF 1958

SEC. 302. (a) The heading of title VI of the National Defense Education Act of 1958 is amended to read as follows: "TITLE VI—FOREIGN STUDIES AND LANGUAGE DEVELOPMENT".

(b) Title VI of the National Defense Education Act of 1958 is amended by redesignating section 603 as section 604 and by inserting after section 602 the following new section:

"GRANT PROGRAM TO PROVIDE CULTURAL UNDERSTANDING

"SEC. 603. (a) The Congress finds that—

"(1) the well-being of the United States and its citizens is affected by policies adopted and actions taken by, or with respect to, other nations and areas; and

"(2) the United States must afford its citizens adequate access to the information which will enable them to make informal judgments with respect to the international policies and actions of the United States.

It is, therefore, the purpose of this section to support educational programs which will increase the availability of such information to students in the United States.

"(b) The Commissioner is authorized, by grant or contract, to stimulate locally designed educational programs to increase the understanding of students in the United States about the cultures and actions of other nations in order to better evaluate the international and domestic impact of major national policies.

"(c) Grants or contracts under this section—

"(1) may be made to any public or private agency or organization, including, but not limited to, institutions of higher education, State and local educational agencies, professional associations, educational consortia, and organizations of teachers;

"(2) may include assistance for in-service training of teachers and other education personnel, the compilation of existing information and resources about other nations in forms useful to various types of educational programs, and the dissemination of information and resources to educators and educational officials upon their request, but shall not be used for the development of new curriculums or the acquisition of equipment or remodeling of facilities; and

"(3) may be made for projects and programs at all levels of education, and may include projects and programs carried on as part of community, adult, and continuing education programs.".

(c) Section 604 of such Act (as so redesignated by subsection (b) of this section) is amended by striking out everything after "75,000,000" and inserting in lieu thereof the following: "for such fiscal year ending prior to October 1, 1977, to carry out the provisions of this title, except that no funds shall be made available in any fiscal year for carrying out programs under section 603 until at least $15,000,000 has been made available in such fiscal year for carrying out the provisions of sections 601 and 602.".

(d) Section 602 of such Act is amended by adding in the first sentence, after "directly or by", the following: "grant or".

EXTENSION OF THE INTERNATIONAL EDUCATION ACT OF 1966

SEC. 303. Section 105(a) of the International Education Act of 1966 is amended to read as follows:

"SEC. 105. (a) There are authorized to be appropriated $10,000,000 for fiscal year 1977, for the purpose of carrying out the provisions of this title.".

PART B—OTHER EDUCATION PROGRAMS

EXTENSION AND REVISION OF THE EMERGENCY SCHOOL AID ACT

SEC. 321. (a) Section 704(a) of the Emergency School Aid Act is amended by inserting after "1976" a comma and the following: "and $1,000,000,000 for the period beginning July 1, 1976, and ending September 30, 1979, except that of the sums available under section 708(a), the Assistant Secretary is limited in the use of such sums to an amount, not more than 5 percent, which may be used for providing compensatory services to students who had previously received such services funded in whole or in part under title I of the Elementary and Secondary Education Act of 1965, but who are no longer receiving such services as a result of attendance area changes under a desegregation order or plan issued after August 21, 1974".

(b) Section 704 of the Emergency School Aid Act is amended by inserting "(b)" immediately before "From" and by inserting at the end thereof the following:

"(c) There are authorized to be appropriated, in addition to the sums authorized under subsection (a) of this section, $50,000,000 for fiscal year 1977, and $100,000,000 for fiscal year 1978, for the purpose of carrying out section 708(a), relating to special programs and projects. The provisions of section 705, relating to apportionment among the States, shall not apply to sums appropriated pursuant to this subsection.".

(c)(1) Section 704 of the Emergency School Aid Act is amended by adding at the end thereof (following the subsection added by subsection (b) of this section) the following new subsection:

"(d) There are authorized to be appropriated in addition to the sums authorized under subsection (a) of this section $25,000,000 for fiscal year 1977 and $50,000,000 for fiscal year 1978, for the purpose of carrying out activities specified in paragraphs (13) through (15) of section 707(a) of this Act. The provisions of section 705, relating to apportionment among the States, shall not apply to sums appropriated pursuant to this subsection.".

(2) 707(a) of such Act is amended by

adding after paragraph (12) of such section the following new paragraphs:

"(13) Planning and design of, and conduct of programs in, magnet schools.

"(14) The pairing of schools and programs with specific colleges and universities and with leading businesses.

"(15) The development of plans for neutral site schools.".

(3) Section 720 of such Act is amended—

(A) by inserting after paragraph (8) the following new paragraph:

"(9) The term 'magnet school' means a school or education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.";

(B) by redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively;

(C) by inserting after paragraph (11) (as redesignated by this paragraph) the following:

"(12) The term 'neutral site school' means a school that is located so as to be accessible to substantial numbers of students of different racial backgrounds."; and

(D) by redesignating paragraphs (11), (12), (13), (14), and (15) as paragraphs (13), (14), (15), (16), and (17), respectively.

(d) Section 716(b) of the Emergency School Aid Act is amended by striking out "September 30, 1976" and inserting in lieu thereof "September 30, 1979".

EXTENSION OF THE ALLEN J. ELLENDER FELLOWSHIP PROGRAM

SEC. 322. Section 5 of the joint resolution approved October 19, 1972 (Public Law 92–506; 86 Stat. 908), relating to the Allen J. Ellender fellowship program, is amended by striking out "two" and by inserting after "years" the following: "ending prior to October 1, 1976, $750,000 for each of the fiscal years 1977 and 1978, and $1,000,000 for fiscal year 1979 and for each of the fiscal years ending prior to October 1, 1982".

MAINTENANCE OF EFFORT

SEC. 323. (a) (1) Section 143 (c) (2) of the Elementary Secondary Education Act of 1965 is amended by inserting "per student or the aggregate expenditures" immediately after "combined fiscal effort" each time that term occurs.

(2) Section 307(c) of such Act is amended by inserting "per student or the aggregate expenditures" after "fiscal effort" each time that term occurs.

(3) Section 403(a)(11) of such Act is amended to read as follows:

"(11) gives satisfactory assurance that the aggregate amount to be expended per student or the aggregate expenditure by the State, its local educational agencies, and private schools in such State from funds derived from non-Federal sources for programs described in section 421(a) and section 431 (a) for the preceding fiscal year were not less than the amount per student expended or the aggregate expenditure for the second preceding year.".

(4) Section 307 (b) of the Adult Education Act is amended to read as follows:

"(b) No payment shall be made to any State from its allotment for any fiscal year unless the Commissioner finds that the fiscal effort per student or the amount available for expenditure by such State for adult education from non-Federal sources for the preceding fiscal year was not less than such fiscal effort per student or such amount available for expenditure for such purposes from such sources during the second preceding fiscal year, but no State shall be required to use its funds to supplant any portion of the Federal share.".

(5) Section 710 (a) (13) of the Emergency School Aid Act is amended to read as follows:

"(13) provides that the applicant has not reduced its fiscal effort per student or the aggregate expenditure for the provision of free public education for children in attendance at the school of such agency for the fiscal year for which assistance is sought under this title to less than that of the second preceding fiscal year;".

(b) The General Education Provisions Act is amended by inserting after section 431 the following new section:

"MAINTENANCE OF EFFORT DETERMINATION

"SEC. 431A. (a)(1) In prescribing regulations for carrying out the requirements of section 403(a)(11) of the Elementary and Secondary Education Act of 1965 and section 307(b) of the Adult Education Act, the Commissioner shall—

"(A) determine the amount so expended on the basis of per pupil or aggregate expenditures:

"(B) prescribe that the requirement for each such section is met for any fiscal year for which notification is given under subparagraph (C) if, for such year, the fiscal effort per student or the amount expended is not less than the allowable percentage reduction for that agency from its fiscal effort per student or the amount expended by that agency in its base year; and

"(C) requires that each agency intending to use the provisions of this section shall notify the Commissioner.

"(2) For purposes of paragraph (1)(B) of this subsection—

"(A) an agency's base year for the period in which such paragraph is effective shall be the fiscal year determined by that agency to be such base year in the first fiscal year for which such notification is given by that agency, except that such base year so determined shall be—

"(i) the fiscal year preceding such fiscal, year for which notification is given; or

"(ii) the second fiscal year preceding such year of notification; and

"(B) an agency's allowable percentage reduction for any fiscal year shall be a percentage reduction from the fiscal effort per student or the amount expended in its base year determined by that agency which, when added to the sum of any such percentage reductions previously determined by that agency for purposes of paragraph (1)(B), does not exceed 5 percent.

"(b)(1)(A) In any case in which exceptional circumstances exist, the Commissioner may, in accordance with the provisions of this subparagraph, waive, for any fiscal year, the requirement of section 403(a)(11) of the Elementary and Secondary Education Act of 1965, of section 307(b) of the Adult Education Act, and of this section, if he determines such waiver to be equitable in order to reflect such circumstances, including those resulting from decreasing enrollments or fiscal resources of the relevant local educational agency, or the State, or both. In any case in which a waiver under this subparagraph is granted, the Commissioner shall reduce the amount of the Federal payment for the current fiscal year in the exact proportion to which the fiscal effort per student or the amount expended was less than 100 percent for the second preceding fiscal year as required by section 403(a)(11) of the Elementary and Secondary Education Act of 1965, and by section 307(b) of the Adult Education Act.

"(B) In any case in which very exceptional circumstances exist, the Commissioner may waive, for any fiscal year, the requirement of section 403(a)(11) of the Elementary and Secondary Education Act of 1965, of section 307(b) of the Adult Education Act, and of this section, if he determines such waiver to be equitable in order to reflect such circumstances, including those resulting from decreasing enrollments or fiscal resources of the relevant local educational agency, or the State, or both.

"(2)(A) In any case in which exceptional circumstances exist with respect to a local educational agency, the Commissioner may, in accordance with the provisions of this subparagraph, waive, for one fiscal year only with respect to such local educational agency, the requirement of section 143(c)(2) of the Elementary and Secondary Education Act of 1965 if he determines such waiver to be equitable in order to reflect such circumstances, including those resulting from decreasing enrollments or fiscal resources of the relevant local educational agency or the State, or both. In any case in which a waiver under this subparagraph is granted, the Commissioner shall, for one fiscal year only, reduce the amount of the Federal payment for the current fiscal year in the exact proportion to which the fiscal effort per student of that agency or the amount expended by that agency was less than 100 percent for the second preceding fiscal year as required by section 143(c)(2) of the Elementary and Secondary Education Act of 1965.

"(B) In any case in which very exceptional circumstances exist with respect to a local educational agency, the Commissioner may waive for one fiscal year only, with respect to such local educational agency the requirement of section 143(c)(2) of the Elementary and Secondary Education Act of 1965 if he determines such waiver to be equitable in order to reflect such circumstances, including those from decreasing enrollments or fiscal resources of such local educational agency.

"(3) The Commissioner shall establish objective criteria of general applicability to carry out the waiver authority contained in this subsection.

"(c) This section shall be effective with respect to each requirement to which it applies, during the period which begins on the date of the enactment of the Education Amendments of 1976, and ends on the date of termination of the program to which the requirement applies. For purposes of the preceding sentence, a program shall be considered to terminate on September 30 of the fiscal year, if any, during which such program is automatically extended pursuant to section 414 of the General Education Provisions Act.".

PARTICIPATION OF NONPUBLIC SCHOOL CHILDREN

SEC. 324. Section 406(e) of the Elementary and Secondary Education Act of 1965 is amended by inserting after "he" the following: "may waive such requirements and".

WOMEN'S EDUCATIONAL EQUITY

SEC. 325. (a) The first sentence of section 408(f)(1) of the Education Amendments of 1974 (the Women's Educational Equity Act of 1974) is amended by striking out "an" and inserting in lieu thereof "a National".

(b) Section 408(f)(3) of the Education Amendments of 1974 is amended—

(1) by striking out "and" at the end of clause (C) of such section,

(2) by striking out the period at the end of clause (D) and inserting in lieu thereof a semicolon, and

(3) by inserting at the end thereof the following new clauses:

"(E) make such reports as the Council determines appropriate to the President and the Congress on the activities of the Council; and

"(F) disseminate information concerning the activities of the Council under this section.".

(c) Section 408(f) of the Education Amendments of 1974 is amended by striking out the subsection designation "(f)" the second time it appears in such section and inserting in lieu thereof "(g)".

STATE EQUALIZATION PLANS

SEC. 326. Section 842(a)(1) of the Education Amendments of 1974, relating to assistance to States for State equalization plans, is amended by striking out "July 1, 1977" and inserting in lieu thereof "October 1, 1978".

INDOCHINA REFUGEE CHILDREN ASSISTANCE ACT OF 1976 AND SIMILAR PROGRAMS

SEC. 327. The provisions of section 414 of the General Education Provisions Act, relating to the contingence extension of applicable programs, shall not apply to the Indochina Refugee Children Assistance Act of 1976, or to any program of financial assistance for educational purposes for Indochinese refugee children.

HOLD HARMLESS RELATING TO TITLE IV OF ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 328. Section 401 of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new subsection:

"(d) There are authorized to be appropriated for obligation by the Commissioner during the fiscal year ending September 30, 1978, such sums as may be necessary for the purpose of increasing the allotment under section 402(a)(2) for that year to any State to a level of funding which equals the amounts of funds received by that State for the fiscal year ending June 30, 1974, for programs under title II, title III, title V, and sections 807 and 808 of this Act, and title III (except for section 305) of the National Defense Education Act of 1958.".

AMENDMENT TO ADULT EDUCATION ACT

SEC. 329. Section 309 of the Adult Education Act is amended by striking out "15 per centum" and inserting in lieu thereof "10 per centum".

AMENDMENTS RELATING TO PUBLIC LAW 874, EIGHTY-FIRST CONGRESS

SEC. 330. (a) Section 5(d)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by adding at the end thereof the following new subparagraph:

"(C) In the application of subparagraph (A) of this paragraph to any State having a program described in such subparagraph (A) in effect on the date of the enactment of the Education Amendments of 1976, no payment may be withheld from and no repayment may be required of any State or local educational agency for any period prior to promulgation of final regulations, or, if the State is not in conformance with such regulations, until July 1, 1977.".

(b)(1) Section 5(c)(1) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended to read as follows:

"(1) He shall first allocate to each local educational agency which is entitled to a payment under section 2 an amount equal to 100 per centum of the amount to which it is entitled as computed under that section for such fiscal year and he shall further allocate to each local educational agency which is entitled to a payment under section 3 an amount equal to 25 per centum of the amount to which it is entitled as computed under section 3(d) for such fiscal year.".

(2) Section 5(c)(2) of such Act is amended—

(A) by striking out "; and" at the end of clause (F) and inserting in lieu thereof a period, and (B) by striking out clause (G).

(3) Section 5(c)(3) of such Act, as so amended by striking out "sections 2, 3, and 4" and inserting in lieu thereof "sections 3 and 4".

(4) The amendments made by this subsection shall take effect on July 1, 1975.

PART C—CAREER EDUCATION AND CAREER DEVELOPMENT

PURPOSE

SEC. 331. It is the purpose of this part to provide Federal assistance to States to enable them to plan for the development of career education and career development programs and activities for individuals of all ages, and to plan for the improvement of existing programs and activities, in the areas of awareness, exploration, planning, and decisionmaking of individuals served with regard to career opportunities and career development throughout the lifetimes of such individuals, through—

(1) planning for the development of information on the needs for career education and career development for all individuals;

(2) planning for the promotion of a national dialogue on career education and career development designed to encourage each State and local educational agency to determine and adopt the approach best suited to the needs of the individuals served by each such agency;

(3) planning for the assessment of the status of career education and career development programs and practices, including a reassessment of the stereotyping of career opportunities by race or by sex;

(4) planning for the demonstration of the best of the current career education and career development programs and practices by planning to develop and test exemplary programs and practices using various theories, concepts, and approaches with respect to career education and through planning for a nationwide system of regional career education centers;

(5) planning for the training and retraining of persons for conducting career education and career development programs; and

(6) developing State and local plans for implementing programs designed to ensure that every person has the opportunity to gain the knowledge and skills necessary for gainful or maximum employment and for full participation in our society according to his or her ability.

AUTHORIZATION OF APPROPRIATIONS; ALLOTMENT

SEC. 332. (a) There are authorized to be appropriated for the purpose of this part $10,000,000, for fiscal year 1978. The provisions of section 414 of the General Education Provisions Act shall not apply to the authorization made by this subsection.

(b)(1) From the sums appropriated under this part, the Commissioner of Education shall reserve an amount not to exceed $2,000,000, for the purpose of carrying out section 335 of this part.

(2) From the remainder of the sums appropriated under this part, the Commissioner shall reserve such amount, not to exceed 3 per centum thereof, as he may determine necessary and shall allot such amount among the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands, according to their relative need for assistance under this part.

(3)(A) Of the remainder of the sums appropriated, the Commissioner shall allot to each State $100,000, and of the remainder of the sums appropriated the Commissioner shall allot to each State an amount which bears the same ratio to such sums for such year as the population of the State bears to the population of all States, for purposes of carrying out section 331.

(B) For purposes of this paragraph, the term "State" means any of the several States and the District of Columbia.

(c) The Federal share of funds allotted to States under this part shall not exceed 80 per centum of the total cost of the planning undertaken pursuant to this part.

PROGRAM ADMINISTRATION

SEC. 333. The provisions of this part shall be carried out by the Commissioner through the Office of Career Education established pursuant to section 406(c) of the Education Amendments of 1974.

USE OF FUNDS

SEC. 334. Any State desiring to receive the amount for which it is eligible for any fiscal year pursuant to this part shall agree to submit to the Commissioner by December 31, 1978, a report on any planning undertaken pursuant to this part. Such report shall be in such form as the State may desire, and may include planning proposals for—

(1) extending career education and career development programs and services to all individuals in the State;

(2) extending the concept of the education process beyond the school into the area of employment and community affairs, and relating the subject matter curriculums of schools to the needs of individuals to function in society;

(3) the implementation of new concepts in career education and career development and for the replication of concepts which have demonstrated success;

(4) the development of training programs, including inservice training programs, for teachers, counselors, other educators, and administrators;

(5) fostering cooperative arrangements with such community groups and agencies as the public employment services, vocational rehabilitation service, community mental health agencies, education opportunity centers, and other community resources concerned with vocational development guidance and counseling, in order to avoid unnecessary duplication in the provision of services in the community or area to be served; and

(6) inventories of State, local, and private resources available for the development of career education and career development programs and services.

CAREER INFORMATION

SEC. 335. (a) The Commissioner shall provide, either directly or by grant or contract, for—

(1) the gathering, cataloging, storing, analyzing, and disseminating information related to the availability of, and preparation for, careers in the United States, including information concerning current career options, future career trends, and career education;

(2) the ongoing analysis of career trends and options in the United States, using information from both the public and private sectors, including such sources as the Bureau of Labor Statistics, the Department of Commerce, the Tariff Commission, economic analysts, labor unions, and private industry;

(3) the publication of periodic reports and reference works using analysis prepared pursuant to this section and containing exemplary materials from the career education field, including research findings, results, and techniques from successful projects and programs, and highlights of ongoing analyses of career trends in the United States; and

(4) the conduct of seminars, workshops, and career information sessions for the purpose of disseminating to teachers, guidance counselors, other career educators, administrators, other educational personnel, and the general public information compiled and analyzed under this section.

(b) In carrying out the provisions of this part, and to the extent practicable, the Commissioner shall (1) make use of existing offices, centers, clearinghouses, and research capabilities, (2) coordinate among the offices, centers, clearinghouses, and research capabilities in carrying out his career information responsibilities, and (3) use the career information capabilities of the Education Division.

NATIONAL ADVISORY COUNCIL

SEC. 336. The National Advisory Council for Career Education established pursuant to section 406(g) of the Education Amendments of 1974 shall, in addition to its duties under that section, advise the Commissioner with respect to the implementation of this part.

PART D—GUIDANCE AND COUNSELING

FINDINGS

SEC. 341. The Congress finds that—

(1) guidance and counseling activities are an essential component to assure success in achieving the goals of many education programs;

(2) lack of coordination among guidance and counseling activities supported jointly or separately by Federal programs and by State and local programs has resulted in an underutilization of resources available for such activities; and

(3) increased and improved preparation of education professionals is needed in guidance and counseling, including administration of guidance and counseling programs at the State and local levels, with special emphasis on inservice training which takes educational professionals into the workplaces of business and industry, the professions, and other occupational pursuits, and that increased and improved use of individuals employed in such pursuits are needed for effective guidance and counseling programs, including (A) bringing persons employed in such pursuits into schools, and (B) bringing students into such workplaces for observation of, and participation in, such pursuits, in order to acquaint the students with the nature of the work.

APPROPRIATIONS AUTHORIZED

SEC. 342. (a) There are authorized to be appropriated $20,000,000 for each of the fiscal years 1978 and 1979, to carry out the provision of this part.

(b)(1) There are authorized to be appropriated $3,000,000 for fiscal year 1977, for purposes of grants to States made by the Commissioner for programs, projects, and leadership activities designed to expand and strengthen counseling and guidance services in elementary and secondary schools.

(2) No sums are authorized to be appropriated under section 401(a) of the Elementary and Secondary Education Act of 1965 for fiscal year 1977, for the purpose of making grants under part B (Libraries and Learning Resources) of title IV of such Act, for such fiscal year which represent the amount authorized to be appropriated under paragraph (1) of this subsection.

(3)(A) The Commissioner shall allot the amounts appropriated under this subsection among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this subsection. In addition, he shall allot from such amounts to (i) the Secretary of the Interior the amounts necessary for the programs, projects, and activities authorized by this subsection for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior; and (ii) the Secretary of Defense the amounts necessary for the programs, projects, and activities authorized by this subsection for children and teachers in the overseas dependents schools of the Department of Defense. The terms upon which payment for such purposes shall be made to the Secretary of the Interior and the Secretary of Defense shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this subsection.

(B) From the amounts appropriated to carry out this subsection, the Commissioner shall allot to each State from such amounts an amount which bears the same ratio to such amounts as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all the States. For the purposes of this subparagraph, the term "State" shall not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands. The number of children aged five to seventeen, inclusive, in a State and in all the States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

(C) The amount of any State's allotment under subparagraph (A) or subparagraph (B) to carry out this subsection which the Commissioner determines will not be required to carry out this subsection shall be available for reallotment from time to time, on such dates as the Commissioner may fix, to other States in proportion to the original allotments to such States under subparagraph (A) or subparagraph (B) but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subparagraph from funds appropriated under this subsection shall be deemed a part of its allotment under subparagraph (A) or subparagraph (B).

ADMINISTRATION

SEC. 343. (a) The Commissioner shall establish or designate an administrative unit within the Education Division for purposes of—

(1) carrying out provisions of this section;

(2) providing information regarding guidance and counseling as a profession, guidance and counseling activities of the Federal Government, and to the extent practicable, activities of State and local programs of guidance and counseling; and

(3) advising the Commissioner on coordinating guidance and counseling activities included in all programs which he is authorized to carry out, and, to the extent he deems practicable, how such activities may be coordinated with other programs of the Federal Government and State and local guidance and counseling programs.

(b) The Commissioner may reserve an amount not to exceed 5 per centum of the sums appropriated under this part to carry out the provisions of this section.

PROGRAM AUTHORIZED

SEC. 344. (a) The Commissioner is authorized, on a competitive basis, to enter into contracts and make grants to State and local educational agencies, to institutions of higher education, and to private nonprofit organizations to assist them in conducting institutes, work shops, and seminars designed to improve the professional guidance qualifications of teachers and counselors in State and local educational agencies and nonpublic elementary and secondary school systems, including opportunities for teachers and guidance counselors in such agencies and systems to obtain experience in business and industry, the professions, and other occupational pursuits and including, for the purpose of such improvement, such programs, services, or activities which bring individuals with experience in such pursuits into schools as counselors or advisors for students, and which bring students into the workplaces of such pursuits to acquaint students with the nature of the work and to provide training for supervisory and technical personnel in such agencies and systems having responsibilities for guidance and counseling, and to improve supervisory services in the field of guidance and counseling.

(b) The Commissioner is authorized to make grants to States to assist them in carrying out programs to coordinate new and existing programs of guidance and counseling in the States.

TITLE IV—GENERAL EDUCATION PROVISIONS

SURVEY OF AVAILABILITY OF QUALIFIED TEACHERS

SEC. 401. (a) Section 406(b) of the General Education Provisions Act is amended by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(5) conduct a continuing survey of institutions of higher education and local educational agencies to determine the demand for, and the availability of, qualified teachers and administrative personnel, especially in critical areas within education which are developing or are likely to develop, and assess the extent to which programs administered in the Education Division are helping to meet the needs identified as a result of such continuing survey.".

(b) Section 406(d)(1) of the General Education Provisions Act is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and", and by adding at the end thereof the following new subparagraph:

"(D) clearly sets forth areas of critical need for additional qualified education personnel in local education agencies and, after discussion and review by the Advisory Council on Education Statistics, identifies priorities within projected areas of need, and includes recommendations of the Council with respect to the most effective manner in which the Nation and the Federal Government may address such needs.".

(c) Section 406(g) of the General Education Provisions Act is amended by striking out "for the fiscal year ending June 30, 1977" each time it appears and inserting in lieu thereof "for each of the fiscal years ending prior to October 1, 1978".

EXTENSION OF FUND FOR IMPROVEMENT OF POSTSECONDARY EDUCATION

SEC. 402. (a) Section 404 of the General Education Provisions Act is amended by striking out "SUPPORT FOR" in the heading of such section and inserting in lieu thereof "FUND FOR THE".

(b) Section 404(e) of the General Education Provisions Act is amended by striking out "for the fiscal year ending June 30, 1975" and inserting in lieu thereof "for each succeeding fiscal year ending prior to October 1, 1979".

NATIONAL INSTITUTE OF EDUCATION

SEC. 403. (a) Section 405(b)(2) of the General Education Provisions Act is amended to read as follows:

"(2) The Institute shall, in accordance with the provisions of this section, seek to improve education in the United States through concentrating the resources of the Institute on the following priority research and development needs—

"(A) improvement in student achievement in the basic educational skills, including reading and mathematics;

"(B) overcoming problems of finance, productivity, and management in educational institutions;

"(C) improving the ability of schools to meet their responsibilities to provide equal educational opportunities for students of limited English-speaking ability, women, and students who are socially, economically, or educationally disadvantaged;

"(D) preparation of youths and adults for entering and progressing in careers; and

"(E) improved dissemination of the results of, and knowledge gained from, educational research and development, including assistance to educational agencies and institutions in the application of such results and knowledge.".

(b)(1) Section 405(c)(1) of the General Education Provisions Act is amended by striking out "Eight members" and inserting in lieu thereof "A majority of the members", and by adding at the end thereof the following new sentence: "The members of the Council shall be appointed so that the Council shall be broadly representative of the general public; of the education professions, including practitioners and researchers; and of the various fields of education, including preschool, elementary and secondary, postsecondary, continuing, vocational, special, and compensatory education.".

(2) Section 405(c)(2) of the General Education Provisions Act is amended by striking out "and" immediately before "(B)" in the first sentence and by inserting immediately before the period at the end of such sentence the following: ", and (C) the term of office of each member shall expire on September 30 of the year in which such term would otherwise expire, unless a successor to such member has not been appointed and confirmed by the Senate by such date, in which case such member shall continue to serve until a successor has been appointed and confirmed."

(3) Section 405(c)(3) of the General Education Provisions Act is amended by adding at the end thereof the following new sentence: "The Council may employ, without the approval of the Director, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, not to exceed seven technical and professional employees, as the Council deems necessary to carry out its functions.".

(c) Section 405(e) of the General Education Provisions Act is amended by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively, and by inserting immediately after paragraph (1) the following new paragraphs:

"(2) Funds appropriated pursuant to subsection (b) for any fiscal year may be expended on projects and activities to disseminate (A) information on the results of educational research and development; and (B) other educational information. Projects and activities funded under this paragraph may include cooperative and jointly funded arrangements for such dissemination utilizing individuals who may be designated as 'Education Extension Agents'. Employment opportunities at the local level which are generated and funded through projects and activities carried out under the preceding sentence of this paragraph shall be made available to residents of the area to be served, if any such residents are qualified for, and apply for, such employment.

"(3) The Director may establish and mainmain research fellowships in the Institute, with such stipends and allowances, including travel and subsistence expenses, as the Director may deem necessary to procure the assistance of highly qualified research fellows from the United States and abroad.".

(d) Section 405 of the General Education Provisions Act is amended by redesignating subsection (g) and subsection (h), and any reference thereto, as subsection (i) and subsection (j), respectively, and by inserting immediately after subsection (e) the following new subsections:

"(f)(1) In carrying out the functions of the Institute under this section, the Director shall, in accordance with the provisions of this subsection, make grants to, and enter into contracts with—

"(A) regional educational laboratories established by public agencies or private nonprofit organizations; and

"(B) research and development centers established by institutions of higher education or by interstate agencies established by compact which operate subsidiary bodies established to conduct postsecondary educational research and development.

"(2) No grant shall be made and no contract entered into under this subsection unless—

"(A) proposals for assistance under this subsection are solicited from regional educational laboratories and research and development centers by the Director;

"(B) proposals for such assistance are developed by the regional educational laboratories and the research and development centers in consultation with the Director;

"(C) proposals are submitted in an application, containing or accompanied by such information as is essential to carry out the provisions of this section, including assurances that the laboratory or center involved will—

"(i) be responsible for the conduct of the research and development activities;

"(ii) prepare a long-range plan relating to the conduct of such research and development activities;

"(iii) ensure that information developed as a result of such research and development activities, including new educational methods, practices, techniques, and products, be disseminated;

"(iv) provide technical assistance to appropriate educational agencies and institutions; and

"(v) to the extent practicable, provide training for individuals, emphasizing training opportunities for women and members of minority groups, in the use of new educational methods, practices, techniques, and products developed in connection with such activities; and

"(D) the Director determines that the proposed activities will be consistent with the education research and development program and dissemination activities which are being conducted by the Institute.

"(3)(A) The Director shall establish a Panel for the Review of Laboratory and Center Operations composed of not less than 10 members nor more than 20 members who shall be appointed by the Director from written recommendations submitted by edcational laboratories and research and development centers which have submitted applications under the provisions of this subsection, and by associations of professional, commercial, scholarly, and educational associations, particularly associations or organizations engaged in educational research.

"(B) The Panel shall—

"(i) review, and prepare recommendations on, initial long-range plans submitted under paragraph (2)(C)(ii);

"(ii) review the operation of the laboratories and centers receiving assistance under this subsection and make recommendations for the improvement and continuation of individual laboratories and centers and for the support of new laboratories and centers; and

"(iii) not later than January 1, 1979, submit a final report to the Director and to the Congress containing such recommendations as the Panel considers appropriate and such interim reports as the Panel considers appropriate.

"(C) Each member of the Panel who is not an officer or employee of the United States shall, while engaged in the business of the Panel, be entitled to receive compensation at not to exceed the daily rate specified at the time of such service for Grade GS–18 under section 5332 of title 5, United States Code, including travel time. While so serving on the business of the Panel away from his home or regular place of business, each such member shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons intermittently employed in the Government service.

"(D) The Director, for the use of the Panel, and pursuant to the recommendations of the Panel, is authorized—

"(i) to appoint, without regard to the provisions of title 5, United States Code, governing appointments in competitive service, and fix the compensation for, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general pay rates, such professional, technical, and clerical personnel as may be necessary; and

"(ii) to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

"(4) No regional educational laboratory or research and development center receiving assistance under this subsection shall by reason of the receipt of such assistance be ineligible to receive any other assistance from the Institute authorized by law.

"(g)(1) There is established within the Institute a Federal Council on Educational Research and Development (hereinafter in this subsection referred to as the 'Federal Council').

"(2) The Federal Council shall be composed of representatives of Federal agencies engaged in research and development relating to education, and shall include, but not be limited to, a representative designated by the Secretary of Defense, a representative designated by the Secretary of Labor, the Director of the National Institutes of Education, the Director of the National Institute of Health, the Director of the National Science Foundation, the Director of the Office of Child Development of the Department of Health, Education, and Welfare, and the Commissioner of Education.

"(3) The President shall designate the Director of the Institute to be the Chairman of the Federal Council.

"(4) The President shall appoint additional representatives of Federal agencies and may alter the membership of the Federal Council from time to time as he considers necessary to meet changes in Federal programs or in the organization of the executive branch of the Federal Government.

"(5) The Federal Council shall—

"(A) advise, and consult with, the Director of the Institute with respect to major problems arising in connection with carrying out the purposes of the Institute;

"(B) promote coordination between the programs and activities of the Institute and related programs and activities of other Federal agencies, including the joint support of activities to the extent such support is appropriate;

"(C) make an annual report to the Congress and the President on the status of educational research and development in the United States, including (i) a catalog of federally assisted programs in educational research and development; (ii) a report of the most significant findings of such research and development; and (iii) recommendations with respect to the manner in which such Federal research and development efforts may be improved; and

"(D) make recommendations to the Congress and the President with respect to effective means for the dissemination throughout the United States of information relating to educational research and development, and carry out an assessment of existing efforts used by Federal agencies for the dissemination of such information.

"(h)(1) In conducting educational research under subsection (e) which deals with specific education programs or the target populations of such programs, the Director shall consult with the appropriate administrators of such programs within appropriate Federal agencies.

"(2) The head of any Federal agency which conducts educational research or provides financial assistance for such research shall consult with the Director with respect to the design of programs of such research.".

(e) Section 405(j) of the General Education Provisions Act, so as redesignated by subsection (d), is amended by adding at the end thereof the following new sentence: "There are also authorized to be appropriated for such purpose $100,000,000 for fiscal year 1977 and $200,000,000 for each of fiscal years 1978 and 1979.".

TECHNICAL REVISION RELATING TO PROHIBITION AGAINST FEDERAL CONTROL

SEC. 404. (a) Section 421 of the General Education Provisions Act is amended by inserting "(except as otherwise provided)" after "part".

(b) Section 432 of the General Education Provisions Act is amended by striking out all the matter preceding "shall" and inserting in lieu thereof the following: "No provision of any applicable program".

REGULATIONS

SEC. 405. (a)(1) Section 431 of the General Education Provisions Act is amended by striking out "SEC. 431. (a)" and inserting in lieu thereof "(2)" and by inserting immediately after the section heading the following:

"SEC. 431. (a)(1) For the purpose of this section, the term 'regulation' means any rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed by the Commissioner.".

(2)(A) Section 431(a)(2) of such Act, as redesignated by this section, is amended by striking out "Rules, regulations, guidelines, or other published interpretations or orders" and inserting in lieu thereof "Regulations".

(B) Such section 431(a)(2) is further amended by striking out "rules, regulations, guidelines, interpretations, or orders" and inserting in lieu thereof "regulations".

(b)(1) Section 431(b)(1) of such Act is amended by striking out "standard, rule, regulation, or requirement of general applicability" and inserting in lieu thereof "proposed regulation".

(2) Section 431(b)(2)(A) of such Act is amended by striking out "standard, rule, regulation, or general requirement" and inserting in lieu thereof "regulation".

(c) Section 431(c) of such Act is amended by striking out "rules, regulations, guidelines, interpretations, or orders" and inserting in lieu thereof "regulations".

(d)(1) Section 431(d)(1) of such Act is amended by striking out "standard, rule, regulation, or requirement of general applicability" and inserting in lieu thereof "regulation".

(2) Section 431(d)(1) of such Act is further amended by striking out "standard, rule, regulation, or requirement" each time it appears and inserting in lieu thereof "regulation".

(3) Section 431(d)(2) of such Act is amended by striking out "standard, rule, regulation, or requirement" each time it appears and inserting in lieu thereof "regulation".

(e)(1) Section 431(e) of such Act is amended by striking out "standard, rule, regulation, or requirement" and inserting in lieu thereof "regulation".

(2) Section 431(e) of such Act is further amended by striking out "proposed standard, rule, regulation, or requirement of general applicability" and inserting in lieu thereof "final regulation".

(f) Section 431(g) of such Act is amended by striking out "rules, regulations, and guidelines" each time it appears and inserting in lieu thereof "final regulations".

(g) The heading of section 431 of such Act is amended to read as follows:

"REGULATIONS: REQUIREMENTS AND ENFORCEMENT"

CONTROL OF PAPERWORK

SEC. 406. Section 406 of the General Education Provisions Act is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g)(1)(A) In order to eliminate excessive detail and unnecessary or redundant information requests, the Secretary and the Commissioner shall, in accordance with the provision of this subsection, coordinate the collection of information and data acquisition activities of the Education Division and the Office for Civil Rights.

"(B) For the purpose of this subsection, the term—

"(i) 'information' has the meaning given it by section 3502 of title 44, United States Code; and

"(ii) 'educational agency or institution' means any public or private agency or institution which is the recipient of funds under any applicable program, including any preschool program.

"(C) The Commissioner shall establish and provide staff personnel to operate information collection and data acquisition review and coordination procedures to be directed by the Administrator for the National Center for Education Statistics. The procedures shall be designed to review proposed collection of information and data acquisition activities in order to advise the Commissioner and the Secretary with respect to whether such activities are excessive in detail or unnecessary or redundant.

"(2)(A) The Administrator shall assist each bureau or agency directly responsible for an applicable program, and the Office for Civil Rights, in performing the coordination required by this subsection, and shall require of each such bureau, agency, and office—

"(i) a detailed justification of how information once collected will be used; and

"(ii) an estimate of the man-hours required by each educational agency or institution to complete the requests.

"(B) Each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during the 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator on the collection of information and data acquisition activity.

"(C) Nothing in this subsection shall be construed to interfere with the enforcement of the provisions of the Civil Rights Act of 1964 or any other nondiscrimination provisions of Federal law.

"(3) The Administrator shall, insofar as practicable, and in accordance with the provisions of this title, provide educational agencies and institutions with summaries of the information collected and the data acquired by the Education Division and the Office for Civil Rights.

"(4) The Administrator shall, insofar as practicable, develop a common set of definitions and terms after consultation with the head of each bureau or agency directly responsible for the administration of an applicable program.

"(5) The Commissioner shall prepare as part of the annual report to the Congress provisions relating to the progress made by the Secretary, the Commissioner, and the Administrator in meeting the objectives of this subsection and make to the Congress whatever legislative recommendations necessary for meeting the objectives.".

ADMINISTRATIVE HEARINGS

SEC. 407. Section 440 of the General Education Provisions Act is amended by inserting "(a)" immediately after "SEC. 440" and by adding at the end thereof the following new subsection:

"(b) The extension of Federal financial assistance to a local educational agency may not be limited, deferred, or terminated by the Secretary on the ground of noncompliance with title VI of the Civil Rights Act of 1964 or any other nondiscrimination provision of Federal law unless such agency is accorded the right of due process of law, which shall include—

"(1) at least 30 days prior written notice of deferral to the agency, setting forth the particular program or programs which the Secretary finds to be operated in noncompliance with a specific provision of Federal law;

"(2) the opportunity for a hearing on the record before a duly appointed administrative law judge within a 60-day period (unless such period is extended by mutual consent of the Secretary and such agency) from the commencement of any deferral;

"(3) the conclusion of such hearing and the rendering of a decision on the merits by the administrative law judge within a period not to exceed 90 days from the commencement of such hearing, unless the judge finds by a decision that such hearing cannot be concluded or such decision cannot be rendered within such period, in which case such judge may extend such period for not to exceed 60 additional days;

"(4) the limitation of any deferral of Federal financial assistance which may be imposed by the Secretary to a period not to exceed 15 days after the rendering of such decision unless there has been an express finding on such record that such agency has failed to comply with any such nondiscrimination provision of Federal law; and

"(5) procedures, which shall be established by the Secretary, to ensure the availability of sufficient funds, without regard to any fiscal year limitations, to comply with the decision of such judge.".

STUDENT ADMISSION PRACTICES

SEC. 408. Section 440 of the General Education Provisions Act, as amended by section 407, is further amended by adding at the end thereof the following new subsection:

"(c) It shall be unlawful for the Secretary to defer or limit any Federal financial assistance on the basis of any failure to comply with the imposition of quotas (or any other numerical requirements which have the effect of imposing quotas) on the student admission practices of an institution of higher education or community college receiving Federal financial assistance.".

EXTENSION OF REPORTING DATES FOR CERTAIN PROGRAMS

SEC. 409. (a) Section 403(c)(3) of the General Education Provisions Act is amended by striking out "November 1" and inserting in lieu thereof "February 1".

(b) Section 422(b) of the General Education Provisions Act is amended by striking out "March 31" and inserting in lieu thereof "June 30".

(c) Section 4(b)(1) of the Special Projects Act is amended by striking out "February 1" and inserting in lieu thereof "March 1".

(d)(1) Section 825(a) of the Education Amendments of 1974 is amended by striking out "June 30, 1976" and inserting in lieu thereof "August 31, 1977".

(2) Section 825(c) of such Act is amended by striking out "December 1, 1976" and inserting in lieu thereof "August 31, 1977".

TREATMENT OF INDIAN POSTSECONDARY SCHOOLS

SEC. 410. The Act of November 2, 1921 (25 U.S.C. 13) is amended by adding at the end thereof the following new undesignated paragraph:

"Notwithstanding any other provision of this Act or any other law, postsecondary schools administered by the Secretary of the Interior for Indians, and which meet the definition of an 'institution of higher education' under section 1201 of the Higher Education Act of 1965, shall be eligible to participate in and receive appropriated funds under any program authorized by the Higher

Education Act of 1965 or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions.".

PRESIDENTIAL ADVISORY COUNCILS

"SEC. 411. Section 443(b) of the General Education Provisions Act is amended to read as follows:

"(b) Members of Presidential advisory councils shall continue to serve, regardless of any other provision of law limiting their terms, until the President appoints other members to fill their positions.".

AMENDMENT RELATING TO SEX DISCRIMINATION

SEC. 412. (a) Section 901(a) of the Education Amendments of 1972 is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out "This" in paragraph (6) and inserting in lieu thereof "this";

(3) by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon; and

(4) by adding at the end thereof the following new paragraphs:

"(7) this section shall not apply to—

"(A) any program or activity of the American Legion undertaken in connection with the organization or operation of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or

"(B) any program or activity of any secondary school or educational institution specifically for—

"(i) the promotion of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or

"(ii) the selection of students to attend any such conference;

"(8) this section shall not preclude father-son or mother-daughter activities at an educational institution, but if such activities are provided for students of one sex, opportunities for reasonably comparable activities shall be provided for students of the other sex; and

"(9) this section shall not apply with respect to any scholarship or other financial assistance awarded by an institution of higher education to any individual because such individual has received such award in any pageant in which the attainment of such award is based upon a combination of factors related to the personal appearance, poise, and talent of such individual and in which participation is limited to individuals of one sex only, so long as such pageant is in compliance with other nondiscrimination provisions of Federal law.".

(b) The amendment made by subsection (a) shall take effect upon the date of the enactment of this Act.

TITLE V—TECHNICAL AND MISCELLANEOUS PROVISIONS

PART A—TECHNICAL AMENDMENTS

TECHNICAL AMENDMENTS

SEC. 501. (a) The Education Amendments of 1974 is amended—

(1) in section 101(a)(3) by inserting ", 122, and 123" immediately after "121" and by inserting ", 127, and 128, respectively", immediately after "126" and before the period;

(2) in section 103(a)(2) by inserting "of section 301(b)" immediately after "The second sentence" and by striking out "and each of the five succeeding fiscal years,";

(3) in section 305(a) by inserting "(b)(1)" immediately before "The amendments made by paragraphs (1) and (2)" which follows the matter in quotation marks in paragraph (3) of such subsection;

(4) in section 402(a)(2) by striking out "July 24, 1954" and inserting in lieu thereof "July 26, 1954";

(5) in section 405 by striking out "(f)(1) The Commissioner shall establish or designate a clearing-" the second time it appears therein and by inserting in lieu thereof "(3) Appointments to the advisory council shall be completed";

(6) in section 406(e) by striking out "November 1, 1975" and inserting in lieu thereof "May 1, 1976";

(7) in section 406(g)(4) by striking out "November 1, 1975" and inserting in lieu thereof "May 1, 1976";

(8)(A) in section 408(d)(2)(B) by striking out "(a)" and inserting in lieu thereof "(d)(1)";

(B) in section 408(d) by striking out paragraph (3) and redesignating paragraph (4) as paragraph (3);

(C) in the third sentence of section 408(f)(1) by inserting "from among the members indicated in clause (A)" after "Chairman";

(D) in section 408(f)(4) by striking out "not later than a year" and inserting in lieu thereof "not later than twenty months";

(9) in section 511(b) by striking out "July 1, 1974" and inserting in lieu thereof "July 1, 1975";

(10) in section 516(a) by striking out "433" and inserting in lieu thereof "443";

(11) in section 612(b)(1) by striking out "to the Office" in the second sentence and inserting in lieu thereof "to the Bureau";

(12) in section 645 by striking out "Elementary" and inserting in lieu thereof "Emergency";

(13) in section 821(c) by amending the first sentence thereof to read as follows: "The Institute shall make interim reports to the President and to the Congress not later than December 31, 1976, and September 30, 1977, and shall make a final report thereto no later than September 30, 1978, on the result of its study conducted under this section.";

(14)(A) in section 822(a) by striking out "one year after the date of enactment of this Act" and inserting in lieu thereof "December 31, 1976";

(B) in section 822(b) by striking out "one year after the date of enactment of this Act" and inserting in lieu thereof "six months after the completion of the survey authorized by subsection (a)";

(15) in section 823(2) by striking out "than one year after the effective date of this Act" and by inserting in lieu thereof "than December 31, 1975";

(16) in section 824(b) by striking out "one year after the date of enactment of this Act" and by inserting in lieu thereof "January 31, 1976";

(17) by amending the first sentence of section 825(b) to read as follows: "The Secretary shall request each State educational agency to take the steps necessary to establish and maintain appropriate records to facilitate the compilation of information specified in subsection (a) and to submit such information to him no later than June 1, 1976.";

(18) in section 826(a) by—

(A) inserting "of a representative sample of school" after "investigation and study"; and

(B) striking out in paragraph (1) "sixty days after the enactment of this Act" and inserting in lieu thereof "July 1, 1975";

(19) in section 826(b) by striking out "Within fifty days after the enactment of this Act, the" and by inserting in lieu thereof "The", by striking out "sixty days after the date of enactment of this Act" and by inserting in lieu thereof "July 1, 1975", and by striking out in the second sentence "the date of enactment of this Act" and by inserting in lieu thereof "such date";

(20) in section 837 by inserting "of the Higher Education Act of 1965" after "section 1001(b)(1)";

(21) in section 845(c) by striking out "708(a)" and by inserting in lieu thereof "732(a)" and by striking out "continued" and inserting in lieu thereof "continue"; and

(22) in section 845(f) by striking out "310(b)" and inserting in lieu thereof "311(b)".

(b)(1) Title I of the Elementary and Secondary Education Act of 1965 is amended—

(A) in section 125 by striking out "Except as provided in section 843 of the Education Amendments of 1974, no" and inserting in lieu thereof "No";

(B) in section 126(b) by striking out "clauses (2), (5), (6), and (7) of section 103(a)," and inserting in lieu thereof "sections 103(a)(2), 121, 122, and 123,";

(C) in section 141(a)(13) by striking out "140" and inserting in lieu thereof "150";

(D) in section 141(a)(14)(A) by inserting "eligible" after "children"; and

(E) in section 151(g) by striking out "January 31, 1975" and inserting in lieu thereof "February 1, 1975", and by striking out "January 31" the second time it appears and inserting in lieu thereof "February 1";

(2) The amendment made by paragraph (1)(A) shall take effect on July 1, 1975.

(c) Section 204(b) of the Elementary and Secondary Education Act of 1965 is amended by striking out "1973" and inserting in lieu thereof "1978".

(d) Title VII of the Elementary and Secondary Education Act of 1965 is amended—

(1) in section 731(c) by striking out "November 1, 1975" and inserting in lieu thereof "November 1, 1976" and by striking out "of 1977" and by inserting in lieu thereof "February 1, 1978";

(2) in section 732(c) by striking out "November 1" and inserting in lieu thereof "March 31";

(3) in section 742 by inserting "of the National Institute of Education" after "Director" each place it appears.

(e)(1) Section 403(b) of the Elementary and Secondary Education Act of 1965 is amended by inserting at the end thereof the following new paragraph:

"(5) During the fiscal year preceding the first fiscal year for which funds are appropriated pursuant to any part of this title, the State educational agency may use administrative funds available to the State under any program specified in section 401(c) for the purpose of carrying out the requirements of this subsection.".

(2) Section 431(a)(2) of the Elementary and Secondary Education Act of 1965 is amended by striking out "or private educational organizations".

(f) The General Education Provisions Act is amended—

(1) in section 434(b)(1)(A) by adding after the first sentence the following new sentence: "The provisions of the preceding sentence shall also apply in the case of a State or other jurisdiction in which there is only one local educational agency or in which the State educational agency is also the only local educational agency.";

(2) in section 437(a) by striking out "within sixty days" and inserting in lieu thereof "within ninety days"; and

(3) in section 437(b) by striking out "October 15" and inserting in lieu thereof "March 31".

(g) Section 310A(b)(2)(A) of the Adult Education Act is amended by striking out "approval" and inserting in lieu thereof "approved".

(h) Sections 652(b)(3), 652(b)(4), and 652(b)(5) of the Education of the Handicapped Act each are amended by striking out "grant and contract" and inserting in lieu thereof "grant or contract".

(i) Section 709(a) of the Emergency School Aid Act is amended by inserting "Assistant" before "Secretary".

(j)(1) Section 194(b) of the Vocational Education Act of 1963 is amended by striking out "Secretary" and inserting in lieu thereof "Commissioner".

(2) Section 197(a)(2) of such Act is amended by striking out "to an agency" and inserting in lieu thereof "by an agency".

(k) (1) Section 301 of the National Defense Education Act of 1958 is amended by striking out "1977" and inserting in lieu thereof "1978".

(2) Section 651(a) of the Education Amendments of 1974 is amended by striking out "1977" and inserting in lieu thereof "1978".

(3) The amendments made by paragraph (1) of this subsection shall be effective on and after July 1, 1974.

(l) Section 801(j) of the Elementary and Secondary Education Act of 1965 is amended by inserting "IV," after "titles II, III,".

(m) (1) Section 103(a) of the National Defense Education Act of 1958 is amended by striking out "Puerto Rico," after "such term does not include".

(2) Section 402(a) (1) of such Act is amended by striking out "3 per centum" and inserting "1 per centum" in lieu thereof.

(3) Section 1008(A) of such Act is amended by striking out "Puerto Rico,".

(n) Section 403(17) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by striking out "(but not including" and inserting in lieu thereof "; but at the option of a local educational agency, such term need not include", and by striking out "residing in nonproject areas)" and inserting in lieu thereof "residing in nonproject areas".

(o) Section 125 of the Elementary and Secondary Education Act of 1965 is amended by striking out "State agency" both places it appears and inserting in lieu thereof "State".

(p) Section 151(i) of the Elementary and Secondary Education Act is amended by adding at the end thereof the following new sentence: "In carrying out the provisions of this section, the Commissioner shall place priority on assisting States and local educational agencies to conduct evaluations and shall, only as funds are available after fulfilling that purpose, seek to conduct any national evaluations of the program.".

(q) Section 406(g) of the General Education Provisions Act is amended by striking out "for the fiscal year ending June 30, 1977" both times it appears and by inserting in lieu thereof "for each of the fiscal years ending prior to October 1, 1978".

(r) Section 406(e) of the Elementary and Secondary Education Act of 1965 is amended by inserting after "he" the following: "may waive such requirements and".

PART B—MISCELLANEOUS AMENDMENTS

REPORTS ON HIGH SCHOOL EQUIVALENCY PROGRAM AND COLLEGE ASSISTANCE MIGRANT PROGRAM

SEC. 521. (a) (1) The Secretary of Health, Education, and Welfare, in consultation, where appropriate, with the Secretary of Labor, shall prepare and submit to the Congress not later than six months after the date of the enactment of this Act reports on programs and activities authorized by sections 417A and 417(B) of the Higher Education Act of 1965, and on programs operated by the Department of Labor known as the High School Equivalency Program and College Assistance Migrant Program authorized under section 303 of the Comprehensive Employment and Training Act of 1973. The reports required by this subsection may include material from existing studies as well as such material prepared by Federal agencies and by contractors, consultants, and experts, as the Secretary of Health, Education, and Welfare deems necessary.

(2) The reports required by this subsection shall examine the purposes, administration, and effectiveness of the programs described in paragraph (1) and shall determine if and to what extent each of such programs should be administered by the Office of Education, and if so, how the administration of such programs in the Office of Education should be structured to best achieve the purposes of such programs.

(b) The Secretary of Labor shall administer and directly fund the existing programs known as the High School Equivalency Program and the College Assistance Migrant Program from the national account portion of funds appropriated for title III, section 303 of the Comprehensive Employment and Training Act of 1973 during fiscal year 1977, at the level at which they were funded during fiscal year 1976.

REPORT OF REORGANIZATION OF EDUCATION DIVISION

SEC. 522. (a) The Secretary of Health, Education, and Welfare shall conduct a study in order to determine the extent to which reorganization of the Education Division of the Department of Health, Education, and Welfare is necessary to appropriate.

(b) The Secretary of Health, Education, and Welfare shall transmit to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives, no later than June 30, 1977, a report with respect to the study required by subsection (a), together with such recommendations as the Secretary deems appropriate.

STUDIES OF VOCATIONAL EDUCATION

SEC. 523. (a) The Commissioner of Education shall carry out a study of the extent to which sex discrimination and sex stereotyping exist in all vocational education programs assisted under the Vocational Education Act of 1963, and of the progress that has been made to reduce or eliminate such discrimination and stereotyping in such programs and in the occupations for which such programs prepare students. The Commissioner shall report the results of such study, together with any recommendations with respect thereto, to the Congress within two years after the date of the enactment of this Act.

(b) (1) In addition to the other authorities, responsibilities, and duties conferred upon the National Institute of Education (hereinafter in this section referred to as the "Institute") by section 405 of the General Education Provisions Act, as amended by this Act, the Institute shall undertake a thorough evaluation and study of vocational education programs, including such programs conducted by the States, and such programs conducted under the Vocational Education Act of 1963, and other related programs conducted under the Comprehensive Employment and Training Act of 1973 and by the State Post-Secondary Commissions authorized by the Education Amendments of 1972. Such a study shall include—

(A) a study of the distribution of vocational education funds in terms of services, occupations, target populations, enrollments, and educational and governmental levels and what such distribution should be in order to meet the greatest human resource needs for the next 10 years;

(B) an examination of how to achieve compliance with, and enforcement of, the provisions of applicable laws of the United States;

(C) an analysis of the means of assessing program quality and effectiveness;

(D) depending on the level of funding available to the Institute, not more than three experimental studies to be administered by the Institute, in cases where the Institute determines that such experimental programs are necessary to carry out the purpose of clauses (A) through (C) and the Commissioner of Education and the Secretary of Labor are authorized, notwithstanding any provision of any other law, at the request of the Institute, to approve the use of grants which educational or other agencies are eligible to receive under such Acts (in cases where such agencies agree to the uses of such grants), in order to carry out such experimental programs;

(E) findings and recommendations, including recommendations for changes in such Acts or for new legislation, with respect to the matters studied under clauses (A) through (E); and

(F) a review and evaluation of the effectiveness of programs funded under subpart 5 of part A of the Vocational Education Act of 1963 (as such Act is in effect on October 1, 1977), and to make recommendations for the redirection and the improvement of programs at all levels funded under such subpart.

(2) The Institute shall make an interim report to the President and to the Congress not later than September 30, 1979, and shall make a final report to the President and to the Congress no later than September 30, 1980, on the result of its study conducted under this section, except that the report required pursuant to paragraph (1) (F) shall be transmitted to the President and the Congress not later than January 15, 1979. Any other provision of law, rule, or regulation to the contrary notwithstanding, such reports shall not be submitted to any review outside of the Institute before their transmittal to the Congress, but the President and the Commissioner may make to the Congress such recommendations with respect to the content of the reports as each may deem appropriate.

(3) Sums made available pursuant to section 102 of the Vocational Education Act of 1963 (as such Act is in effect on the date of the enactment of this Act) and sections 102 and 103 of the Vocational Education Act of 1963 (as such Act is in effect on October 1, 1977) shall be available to carry out the administrative and direct cost requirements of the provisions of this section. These funds shall not exceed $1,000,000 per year for each of the fiscal years ending prior to October 1, 1979. Ten per centum of the funds made available under this section shall be made available for purposes of carrying out the provisions of paragraph (1) (F).

(4) (A) The Institute shall submit to the Congress, within 10 months after the date appropriations become available to carry out this section, a plan for the study to be conducted under this section. The Institute shall not commence such study until the first day after the close of the first period of 30 calendar days of continuous session of the Congress after the date of the delivery of such plan to the Congress.

(B) For purposes of subparagraph (A)—

(i) continuity of session is broken only by an adjournment of the Congress sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than 30 days to a day certain are excluded in the computation of the 3-day period.

DEPARTMENTAL DAY CARE CENTER

SEC. 524. Notwithstanding any other provision of law, the Secretary of Health, Education, and Welfare is authorized by contract or otherwise to establish, equip, and operate day care center facilities for the purpose of serving children who are members of households of employees of the Department of Health, Education, and Welfare. The Secretary is authorized to establish or provide for the establishment of appropriate fees and charges to be chargeable against the Department employees or others who are beneficiaries of services provided by such facilities to pay for the cost of their operation and to accept money, equipment, or other property donated for use in connection with the facilities. No appropriated funds may be used for the equipping or operation of any centers provided under this authority. The prohibition made by the preceding sentence shall not preclude the provision of appropriate donated space nor the purchase of the initial equipment for the centers, except that the cost of such equipment shall be reimbursed over the expected life of such equipment, not to exceed 10 years.

WAYNE MORSE CHAIR OF LAW AND POLITICS

SEC. 525. (a) The Commissioner of Education (hereinafter in this section referred to as the "Commissioner") is authorized to provide financial assistance in accordance with the provisions of this section to assist in establishing the Wayne Morse Chair of Law and Politics at the University of Oregon, of Eugene, Oregon.

(b)(1) For purposes of this section, the Federal share of the cost of establishing the Wayne Morse Chair of Law and Politics shall not exceed 50 per centum.

(2) No financial assistance under this section may be made except upon an application at such time, in such manner, and containing or accompanied by such information, as the Commissioner may reasonably require.

(c) There are authorized to be appropriated such sums, not to exceed $500,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

PART C—TRANSITION PERIOD; EFFECTIVE DATES

TRANSITION PERIOD

SEC. 531. There are authorized to be appropriated such sums as may be necessary for the period July 1, 1976, through September 30, 1976, to carry out each program authorized by this Act and each program amended by this Act, except for any program which is to become effective in fiscal year 1977 or thereafter.

EFFECTIVE DATES

SEC. 532. The provisions of this Act and the amendments made by this Act shall take effect 30 days after the date of the enactment of this Act except—

(1) as specifically otherwise provided; and

(2) that each amendment made by this Act (not subject to clause (1) of this section) providing for authorization of appropriations shall take effect July 1, 1976.

And the House agree to the same.

CARL D. PERKINS,
FRANK THOMPSON, Jr.,
JOHN BRADEMAS,
JAMES G. O'HARA,
AUGUSTUS F. HAWKINS,
WILLIAM D. FORD,
PATSY T. MINK,
LLOYD MEEDS,
SHIRLEY CHISHOLM,
MARIO BIAGGI,
IKE F. ANDREWS,
BILL LEHMAN,
JAIME BENITEZ,
MIKE BLOUIN,
ROBERT J. CORNELL,
PAUL SIMON,
EDWARD P. BEARD,
LEO C. ZEFERETTI,
GEORGE MILLER,
RON MOTTL,
TIM L. HALL,
ALBERT H. QUIE,
JOHN M. ASHBROOK,
ALPHONZO BELL,
JOHN N. ERLENBORN,
EDWIN D. ESHLEMAN,
JOHN BUCHANAN,
JAMES M. JEFFORDS,
BILL GOODLING,
VIRGINIA SMITH,
Managers on the Part of the House.

CLAIBORNE PELL,
JENNINGS RANDOLPH,
HARRISON A. WILLIAMS, Jr.,
EDWARD M. KENNEDY,
THOMAS F. EAGLETON,
ALAN CRANSTON,
W. D. HATHAWAY,
J. GLENN BEALL, Jr.,
JACOB JAVITS,
RICHARD S. SCHWEIKER,
ROBERT T. STAFFORD,
BOB TAFT, Jr.,
Managers on the Part of the Senate.

JOINT EXPLANATION STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2657) to extend the Higher Education Act of 1965, to extend and revise the Vocational Education Act of 1963, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—AMENDMENTS TO THE HIGHER EDUCATION ACT

Duration

Throughout the Higher Education title of the Senate bill, the program authorized by the Higher Education Act were extended through September 30, 1982. The House amendment, with some exceptions indicated below, extended all Higher Education programs through September 30, 1977. The conference substitute provides for a three year extension of all Higher Education program through September 30, 1979, except for the guaranteed Loan Program, which is extended through fiscal year 1981, College Work Study and Cooperative Education, which are extended through fiscal year 1982, and the International Education Act, which is extended through fiscal year 1977.

AMENDMENTS TO TITLE I—COMMUNITY SERVICES AND CONTINUING EDUCATION

The Senate bill added as a new authority support for lifelong learning opportunities to the existing community service and continuing education authority of Title I of the Higher Education Act of 1965. The House amendment added as new uses of Title I funds support for the expansion of continuing education in colleges and universities and resource materials sharing programs. The managers agree to a substitute which combines in Part A the authorities for assisting community service programs and postsecondary continuing education, including resource materials sharing programs. Support for lifelong learning is incorporated in a new part B of Title I.

The House amendment authorized $60 million for fiscal year 1977 only. The Senate bill authorized a total of $40 million for part A (Community Services) and B (Continuing Education), and $40 million for part C (Lifelong Learning) for each fiscal year through fiscal year 1982. The Senate bill made additional requirements for priority funding for community services programs in the $40 million authorized for parts A and B and for limited purposes in part C. The conference substitute authorizes an annual appropriation of $40 million for part A (commmunity services and continuing education) for fiscal year 1977, 1978 and 1979. The authorizations for part B (lifelong learning), is $20 million for fiscal year 1977, $30 million for fiscal year 1978 and $40 million for fiscal year 1979.

The House amendment provided new definitions for "continuing education program" and "resource materials sharing programs". The Senate receded with an amendment providing that continuing education program means postsecondary instruction designed to meet the needs and interests of adults, including the expansion of available learning opportunities for those not adequately served by current offerings in their communities. The definition of resource materials sharing program is also modified to clarify the managers belief that resource materials sharing programs are to be directed toward better use of resources currently available in the community rather than as an authority for purchases of educational materials.

The House amendment, but not the Senate bill, modified the allotment formula for funds under title I. Current law provides that each State first receives $100,000, after which the funds remaining are allotted to the States on the basis of population. Under the House amendment, funds were first allotted on the basis of population, then adjustments were made to make sure that each State received at least $100,000, and Guam, American Samoa, the Virgin Islands and Puerto Rico receive at least $25,000 each. The Senate recedes with an amendment providing that in no case will a State's or sovereignty's allotment for Part A of title I be less than the amount received by that State or sovereignty in fiscal year 1975.

The House amendment provided that only a State agency shall submit the State plan. The Senate bill extended present law, which allows an institution with special qualifications to submit these State plans. The House recedes.

The House amendment included continuing education and resources materials sharing programs as programs that may be included in the State plan. As part of the substitute with respect to the structure of part A of title I these new authorities are included in the State plan.

The House amendment, but not the Senate bill, permitted consortia to receive funds as well as single institutions of higher education. The Senate recedes.

The House amendment struck the requirement the evaluations of the part A of Title I program must take into account information about community problems. The Senate recedes.

The House amendment deleted existing authority giving the Commissioner discretion as to reports and record-keeping. The Senate recedes.

The House amendment required that there be assurances that all institutions within a State be given the opportunity to participate in the development of a State plan. The Senate recedes.

The House amendment limited the Commissioner's rulemaking authority with respect to agreements and data submission. The Senate recedes with an amendment clarifying that the limitation applies to all of Title I.

The Senate bill added a new part B which authorized grants for postsecondary continuing education programs. States must submit a supplement to their State plan provided in part A. Funds were allotted on the basis of State adult population with one-half of 1 percent State minimum. Federal funds were limited to two-thirds of program cost. The House amendment had no comparable provision. The Senate recedes in light of the managers decision to combine continuing education with community service program authority.

Both the Senate bill and the House amendment reserved funds for Title I technical assistance. The bill permitted reservation of 10 percent of funds in excess of 14.5 million dollars in parts A and B. The House amendment permitted reservation of 5 percent of all Title I funds when appropriations exceeded 15 million dollars. The House recedes limiting this set aside to part A of Title I. Under the Senate bill, the Commissioner provided the technical assistance. Under the House amendment, the assistance is to be provided by the Bureau of Postsecondary Education. The House recedes.

The Senate bill provided that technical assistance is for facilitating establishment of programs, a nationwide exchange of information, and adoption of successful techniques. The House amendment provided for a national diffusion network and the provision of information about changing enrollment patterns. The Senate recedes.

The Senate bill directed the Commissioner to consider the effects of assisting programs under Part A of Title I on the support of research, the dissemination of information, the retraining of professionals, and Office of Education policies which affect part-time students. The Senate recedes.

The Senate bill required the Commissioner to coordinate postsecondary continuing education programs with other Office of Education programs. The House recedes.

The Senate bill required the Commissioner of Education to establish or designate a clearing house for postsecondary continuing education information. The Senate recedes. The managers considered this provision as unnecessarily duplicative of other informational authority already granted the Commissioner under the conference agreement.

The Senate bill permitted States receiving postsecondary continuing education grants to use up to 10 percent of the grant for statewide planning. The Senate recedes. The managers in no way wish to have the deletion of this provision construed to mean that there is no need for planning in the field of postsecondary continuing education. However, the managers feel that any planning initiatives in this area which do not fall within the responsibilities for developing a state plan under Part A of Title I should be assumed by the comprehensive statewide planning commissions, popularly referred to as State 1202 Commissions. Comprehensive and coordinated planning for education opportunities for adults is a better approach than continuing to give more limited planning responsibilities to a variety of planning commissions in the postsecondary field.

The Senate bill, but not the House amendment, added a new part C for planning, assessing, and coordinating lifelong learning activities. The House recedes with an amendment providing authority for assessment, evaluation, demonstration, and the development of alternative methods to improve lifelong learning. The Assistant Secretary for Education is given the major responsibility for carrying out the provisions of this Part. The managers believe that the broad coverage of the statute means that various components of the Education Division will be engaged in carrying out the program.

In the Senate bill lifelong learning was defined as programs intended to affect the knowledge, skills, and attitudes of persons who have left the traditionally sequenced educational system. The conference substitute sets out an illustrative list of the types of education that may be included within the scope of lifelong learning.

The Senate bill required the Commissioner to use specifically reserved funds appropriated for planning, assessing, and coordinating projects related to lifelong learning. No set asides of funds for any particular portion of the lifelong learning authority are provided in the substitute developed by the managers.

The Senate bill authorized the Commissioner to enter into agreements with and make grants to appropriate State agencies, public and private non-profit agencies and organizations, and institutions of higher education to carry out the lifelong learning program. The substitute continues this authority. However, the managers wish to make clear that they do not intend that the limited funds expected to be available under this authority be concentrated in a few large-scale efforts toward the establishment of major new lifelong learning programs. Rather, that portion of appropriated funds designated for "demonstration" projects should be used to support a number of different activities to develop and expand the use of new ideas, stimulate better coordination among various sponsors of lifelong learning programs, try new approaches to serving the educational needs of persons not now adequately served, etc. These projects should focus on doing what other public support has not been able to do. They should not be used, except in unusual circumstances, for carrying on the kinds of research or training activities other federal programs are authorized to carry out.

The House amendment, but not the Senate bill, amended the existing judicial review section to provide for a trial de novo in the district court. The Senate recedes with an amendment striking that portion of the House amendment which provided that the Commissioner would have the burden of proof that the State plan or its administration is a variance with the provisions of Title I.

The House amendment, but not the Senate bill, deleted the requirement that the Commissioner of Education be a member and chairman of the Advisory Council on Extension and Continuing Education. The Senate recedes.

AMENDMENT TO TITLE II—COLLEGE LIBRARY ASSISTANCE

The Senate bill, but not the House amendment, added a new part C to Title II providing assistance for major research libraries including institutional, independent, and public research libraries. $10 million was authorized for fiscal year 1977, $15 million for fiscal year 1978, and $20 million for fiscal year 1979. The House recedes with an amendment setting the maximum number of libraries that may be assisted under part C at 150.

AMENDMENTS TO TITLE III—DEVELOPING INSTITUTIONS

Present law establishes a ceiling of 1.4 percent of the funds that may be granted to institutions that get a waiver of the full five years of existence by virtue of the fact that the institution is located on or near an Indian reservation or a substantial population of Indians if the Commissioner determines such a waiver will increase higher education for Indians. The House amendment but not the Senate bill eliminated this 1.4 percent ceiling on grants. The Senate recedes.

AMENDMENTS TO TITLE IV—STUDENT FINANCIAL ASSISTANCE

Basic grants

The Senate bill increased the ceiling for basic educational opportunity grants to $1,800 effective in the academic year 1977–78. The House amendment retained the existing ceiling of $1,400. The conference substitute provides for a ceiling of $1,400 for academic year 1977–78, and $1,800 in subsequent academic years.

The House amendment moved the annual date of submission to the Congress of a family contribution schedule from February 1 to July 1 of the preceding year, and moved the deadline for possible Congressional disapproval of such schedule from May 1 to October 1 of the previous year. The House amendment also provided that when such a schedule is disapproved by the Congress, the Commissioner was to publish in the Federal Register, together with the new schedule, a full statement identifying the recommendations made in connection with such disapproval and explaining in full any discrepancy between the new schedule and such recommendations. The conference substitute requires that the Commissioner must publish an explanation of his reasons with the new schedule. The Commissioner need not publish the explanation in the Federal Register. The existing requirement that the new schedule itself be published in the Federal Register is retained.

The House amendment, but not the Senate bill, provided for the inclusion of educational expenses for dependent children in determining the expected family contribution. The Senate recedes.

Existing law provides that Social Security payments to or on behalf of a student which would not be paid if he were not a student, shall be considered as "effective family income". The House amendment provided that one-half of any funds received by a student under the GI Bill and related VA programs should also be considered. The Senate recedes.

The Senate bill provided for the carryover of unused basic grant funds during the first three months of a new fiscal year, solely for use in paying entitlements established during the preceding year. The House amendment provided for the carryover of such funds for a full fiscal year without restriction. The Senate recedes with an amendment limiting the carry-over authority to situations where the surplus is in excess of 15% of the available amount.

The Senate bill, but not the House amendment, struck provisions of present law providing for limitations on basic grants to 50% or 60% of need in cases where the program is not fully funded. The House recedes.

The Senate bill, but not the House amendment, provided for a payment to each participating institution of $15 per year for each student receiving a basic grant, to be utilized for carrying out the student information programs also prescribed by the Senate bill, and for other administrative costs. The House recedes with an amendment reducing such payments to $10.

The House amendment, but not the Senate bill, provided for a three or more-year pilot program of state processing of Basic Grant applications. Participating states would be required to permit interstate portability of SSIG funds. The conference substitute includes the House provision, with amendments to strike a House requirement that such an agreement be for no less than three years, and to assure that the per unit processing fee which the Commissioner is authorized to provide by regulation for States engaging in the pilot program shall not be more than the amount paid per application to any other organization or agency with which the Commissioner has an agreement during the same year for the provision of similar services.

State student incentive grants

The Senate bill expanded eligibility in the SSIG program to students in all non-profit institutions of higher education. The House recedes with an amendment making this change effective with respect to academic years beginning after June 30, 1977. The managers want to emphasize that this amendment is intended to broaden student access to this program by requiring States to extend eligibility to students in all non-profit institutions. While the conference substitute does not require States to include students in other educational institutions, neither does it require that the States exclude students at such institutions if they now make them eligible, nor does it contain any suggestion that the Congress intends to foreclose State options with regard to the question of the eligibility of students at such schools.

The House amendment provided for the carry-over of excess SSIG funds through the succeeding fiscal year. The Senate recedes.

The House amendment eliminated the distinction between initial and continuing grants in the State Student Incentive Grant program. The House recedes.

The Senate bill, but not the House amendment, required portability of State Student Incentive Grants from any State that does not contribute 150% of the Federal payment to that State for the program. The Senate recedes.

The Senate bill, but not the House amendment, provided for the additional allotment of SSIG funds to states having loan guarantee agencies. When the appropriation exceeded $50 million, but was less than $200 million, half of the total above $50 million was to be allotted among such states on the basis of their share of the national enrollment total which is in attendance in that state. When the appropriation was $200 million or more, all of the excess was to be allotted to states having loan guarantee agencies. The House recedes with an amendment which provides that whenever the appropriation for SSIG exceeds $75 million, one-third of such excess shall be apportioned as provided in the Senate bill among the states having guarantee agencies.

TRIO

The Senate bill changed the description of the "Talent Search" program to provide an emphasis on identifying youths who have delayed postsecondary educational training, and encouraging them to undertake such educational training. The House recedes.

The Senate bill but not the House amendment provided for special focus programs designed to concentrate assistance on students who desire postsecondary education but are disadvantaged because of severe rural isolation, and programs to prepare students for particular careers in which disadvantaged individuals are substantially under-represented. The conference substitute in lieu of the Senate provision emphasizes the participation of students disadvantaged because of severe rural isolation in programs authorized under this subpart.

The Senate bill but not the House amendment created a new program for the payment of 90% of the costs of operating and establishing service learning centers at institutions of postsecondary education serving substantial numbers of disadvantaged students which would (A) provide remedial and other special services for students at such institutions, and (B) serve as a concentrated effort to coordinate and supplement the ability of such institution to furnish such services. The House recedes with an amendment prohibiting the Commissioner from making any grants for the purpose of establishing such centers in any fiscal year in which the appropriations under this subpart do not exceed $70,331,000, the amount appropriated for Fiscal Year 1976. It is not the intention of the managers to suggest any ceiling (other than that contained in the authorizing language) on appropriations for these programs, but it is their intention to assure that the funds currently utilized for existing programs under this subpart shall not be diverted to the new centers. They are to be funded out of additional funding when and as soon as the Congress makes such funding available. The managers wish further to emphasize that it is not their intention that the service learning centers will be established on campuses where the existing program of special services for disadvantaged students is in operation. While these programs are not identical in all respects, they are sufficiently similar that their presence on the same campus would be duplicative and wasteful use of scarce resources.

The managers also wish to emphasize that service learning centers need not be concentrated on campuses where the number of disadvantaged students is disproportionately high. The managers believe that institutions which serve a broad cross-section of the student population should be encouraged and assisted to create such centers with the intention of broadening the availability of postsecondary educational opportunity for students served thereby.

The Senate bill provided authority to the Commissioner to require an institution entering into a grant or contract for the establishment of a service learning center to submit an application providing such information, including the ability of the institution to pay the non-Federal share of the project, as he deemed necessary. The House recedes with an amendment limiting the information which the Commissioner can request to that which is essential to carrying out the requirements of the section.

The Senate bill provided that in the existing Talent Search program, and in the new Service Learning Centers, the Commissioner can permit the participation of students from other than low-income families up to one-third of the total number of students or youths to be served in projects assisted under this program. The House recedes.

The Senate bill further provided for the establishment of programs to provide staff and leadership training for persons wishing to specialize in improving the delivery of services to disadvantaged students assisted under this subpart. The Senate amendment provided for short-term and inservice training programs, to which the House recedes, and internships and graduate fellowships, from which the Senate recedes.

The Senate bill further amended Section 417B, by stating that it is the intention of the Congress to encourage, whenever feasible, the development of individualized programs for disadvantaged students assisted under this subpart. The House recedes. Obviously, it is not the intention of the managers to authorize the proliferation of "programs" beyond the five which Section 417B authorizes. However, it is intended, to the maximum extent feasible, that there be packaging of assistance under the several programs authorized by this subpart to better meet the individualized needs of each student assisted.

The Senate bill authorized the creation of a National Center for Postsecondary Opportunity within the Office of Education, and directed that that Center should coordinate and evaluate programs under this subpart, identify and assess innovative and effective programs, and perform other duties spelled out in the legislation to improve the use of the resources available. The Senate recedes on this provision. The conferees believe that these duties can and should be performed by the Commissioner even in the absence of statutory direction, but that they have not been adequately performed to date. The job can be done with the people and organizational chart now at hand, and no new structures are needed.

The Senate bill, but not the House amendment, added a new program of Educational Outreach Centers providing grants to States designed to seek out and encourage all individuals, including those in rural areas, to attend institutions of postsecondary education or training. Funds allocated according to a formula based on the number of actual or prospective basic grants recipients in each State with a minimum allotment of $50,000 per State. Federal funds were available to pay not more than 75% of the cost. The House recedes with amendments, changing the name of the centers to Educational Information Centers, basing the allocation of funds on the total population of the State, reducing the Federal share to 66⅔ percent of total project costs, and confining the provisions which the Commissioner may require in a State plan submitted with an application for a grant under this subpart to information specified in the statute, and "such other provisions as are essential to carrying out the provisions of this subpart".

Veterans cost-of-instruction

The Senate bill, but not the House amendment, directed the Administrator of Veterans Affairs to provide assistance, technical consultation and information as necessary to promote maximum effectiveness of the VCOI program. The House recedes.

The Senate bill directed the Commissioner 90 days after enactment to submit to the Congress a summary report of activities and programs under VCOI and a description of the steps taken to monitor efforts by participating institutions. The House amendment required an annual report from each institution to the Commissioner and from the Commissioner to the Congress containing such information and any information he deems appropriate. The House recedes.

Guaranteed student loans

The House amendment, but not the Senate bill, included a requirement that the Commissioner develop and implement a plan to encourage States to establish guarantee agencies. The plan had to be developed within ninety days and a description of it as well as a timetable for its execution had to be submitted to the Congress. Before June 30, 1977 the Commissioner was to submit another report describing activities carried out under the plan, a description of each State's plan to establish a guarantee program or the reasons for not establishing one, and the Commissioner's recommendations for changes in law or policy that would encourage States to establish loan guarantee programs. The conference substitute extended the deadline for the submission of the original plan to 180 days after enactment of this provision, and removed the requirement that the Commissioner describe the State's reason for not establishing an agency.

The House amendment, but not the Senate bill, added a program of incentives to begin or expand state guarantee agencies, in the form of a program of advances to state and private nonprofit student loan insurance agencies for making payments of insurance obligations. Agencies operating on September 30, 1977 will get advances for three years, new agencies will be entitled to advances for five years. Private nonprofit agencies will receive advances only when a State has no agency and the private nonprofit agency agrees to certain conditions. The House amendment authorized appropriations for making payments under this subsection for FY 1978 and later. The Senate recedes.

The Senate bill extended the period during which first time borrowers under the program can get loans insured by the Commissioner through fiscal 1982. The House amendment extended this period through fiscal 1980. The conference substitute extends this authority through fiscal year 1981.

Existing law provides that a student may borrow up to $2,500 per year. The House amendment but not the Senate bill revised annual and aggregate loan limits for students receiving loans as follows:

(A) An undergraduate student borrowing from a state or educational institution could not borrow more than $2,500 or one-half the estimated cost of attendance, whichever is less.

(B) A first year undergraduate student could borrow more than $1,500 from an educational institution only if the proceeds were disbursed in two or more installments.

(C) A graduate or professional student could borrow up to $5,000 per year.

(D) Aggregate loan amounts were increased for graduate students from the present $10,000 to $15,000 for all insured loans.

The Senate recedes with an amendment providing that the half-cost limitation applied to students borrowing from a state direct lender or an educational institution shall apply only in the student's first year of undergraduate instruction. An identical set of differences relating to loan limits under state guaranteed programs was resolved in an identical manner.

The House amendment, but not the Senate bill, added a requirement that a loan is insurable by the Commissioner only if made to a student who agrees to notify promptly the holder of the note of any change of address. The Senate recedes.

The Senate bill, but not the House amendment, struck the provision that a lender making a loan insured by the Commissioner require an endorser when the borrower is a minor and his or her signature would not create a binding obligation. Instead the Senate bill provided that a borrower could not raise the legal defense of infancy. The Senate recedes.

The Senate bill provided that a borrower could, prior to the start of the repayment period, specifically request that a loan insured by the Commissioner be repaid in less than five years. If the student has requested and obtained such a shorter repayment period he may, prior to paying the loan in full extend repayment to five years. The House amendment provided that a lender and student could agree to a schedule that started earlier than nine months after the student had left school or which was less than five years. In addition, the House amendment provided that such a loan shall not be considered in default until the lender has offered, and the borrower refused, an alternative repayment schedule which lasts from five to ten years. The conference substitute merges the objectives sought by both these provisions and adopts language granting the lender and the borrower permission to agree to a repayment period which begins earlier, or is of shorter duration than the standards set in the statute, but assuring the student of the right to extend the total repayment period to five years, if he is unable to meet a repayment period shorter than five years. The Senate bill and the House amendment also had an identical difference with respect to loans guaranteed by state agencies, and came to the same resolution of the issue.

In both the State and Federal insurance programs, the Senate bill, but not the House amendment, allowed the grace period to continue while a student is pursuing a course of study under a graduate fellowship program. The House recedes.

Both the Senate bill and the House amendment provided for a single period of one year during which a student's payment under Federal or State insurance programs may be deferred during unemployment but:

(a) The House amendment made such a deferral subject to agreement from the holder; the Senate bill does not. The House recedes.

(b) The House amendment described such unemployment as "seeking and unable to find employment". The Senate amendment referred to a period when the borrower is unemployed. The Senate recedes.

The House amendment but not the Senate bill, required that to be insurable by the Commissioner a note must provide that the borrower contact the holder to negotiate repayment terms within four months after ceasing to attend an eligible institution on at least a half-time basis. The House recedes.

The House amendment, but not the Senate bill, in both the State and Federal insurance program required that loan proceeds be dispersed by check requiring the borrower's endorsement and noting that such endorsement is an acceptance of the loans terms, and setting forth the substance of the terms of the loan.

The House recedes, with an amendment providing that the loan proceeds must be disbursed by check, requiring the student's endorsement, but without attaching any further requirements for the actual instrument of disbursement. The managers were anxious to avoid excessive paperwork and any language that seemed in any way to provide for a conditional endorsement of the loan check. They concluded that their objective of making certain that the borrower knows he is getting a loan would be served by other provisions of the law, and by the simple requirement that he endorse a check for the loan, without calling into question the negotiability of the check.

The House amendment required in both the federally-insured and state-insured programs, that the schools be advised of the insurance of the loan and the name of the lender. In both cases, it was provided that this requirement could (but need not be) met by requiring that the check be sent to the school for delivery to the student. The Senate recedes.

The House amendment, but not the Senate bill, allowed the lender and the borrower to agree to payments of less than $360 annually. The Senate recedes.

The Senate bill, but not the House amendment, permitted a husband and wife who both have guaranteed loans to be covered by a single minimum payment of $360 per year. The House recedes.

The House amendment, but not the Senate bill, eliminated the $2,000 annual limit on loans qualifying for interest subsidy benefits without a statement from an institution recommending an excess over $2,000. The Senate recedes.

Both the Senate bill and the House amendment increased the income level below which a student qualifies automatically for interest subsidy benefits from the current $15,000 adjusted family income. The Senate bill, but not the House amendment, increased the income level to $25,000 adjusted family income 30 days after enactment. The House amendment but not the Senate bill, increased the income level to $20,000 effective October 1, 1976, then to $25,000 effective October 1, 1977. The House recedes.

The House amendment, but not the Senate bill, deleted language requiring the Commissioner to pay an administrative allowance in States whose usury laws prohibited the payment of 7 percent interest. The House recedes.

The Senate bill, but not the House amendment, provided that an eligible lender may be approved by the Commissioner for the purpose of making multiple disbursements if the Commissioner determines that such lender will make a substantial volume of loans and that the lender's experience and administrative capacity are sufficient. The House recedes.

The House amendment, but not the Senate bill, provided that if borrowers eligible for interest subsidy benefits are studying at an eligible institution abroad then statements required from the institution to qualify for interest subsidies shall be provided by the Commissioner, or the State, or the State or private nonprofit institution or organization as the case may be. The Senate recedes.

The House amendment required the eligible institution to notify the lender or insurer of the loan of the borrower's enrollment status and last known address. The Senate bill authorized the Commissioner to prescribe regulations under which the institution must provide the latest known address and enrollment status upon request to the Commissioner, to the insurer, or the holder of the loan. The House recedes with an amendment requiring the institution to establish policies and procedures for notifying the holder or insurer of the loan of such change of enrollment status. Failure to meet this requirement under Part B would subject the eligible institution to limitation, suspension, or termination under section 497A.

The House amendment increased the level of federal reinsurance payments to State and private non-profit guarantee agencies from 80 percent of losses to 100 percent except that: (a) if the default rate for any State or private non-profit guarantee agency exceeds 5 percent in any year the reinsurance rate declines to 90 percent for the excess between 5 percent and 9 percent (b) if the default rate for any State or private nonprofit guarantee exceeds 9 percent the reinsurance rate declines to 80 percent for the excess over 9 percent, and (c) reinsurance is provided for accrued interest as well as principal.

The Senate bill provided for annual supplemental guaranty agreements between the Commissioner and State agencies which have guaranty agreements under section 428(c)(1) that provide for administrative cost allowances and reinsurance of 95 percent of the State's losses if State agencies conform standards of participation of students to present direct Federal program standards of student participation, as follows: (a) the State program authorizes $2,500 yearly individual loan limits, and $7,500 and $10,000 aggregate limits for undergraduate and graduate students respectively, (b) the State program insures all insurable loans at 100 percent, (c) the State program provides for the insurance of loans to part-time students, (d) the State program does not restrict access to loans for State residents, or students attending institutions within the State, and (e) the State program provides no restrictions on eligible residential institutions which are more onerous than the requirements of the Federal student loan insurance program; unless an institution is ineligible for participation under regulations providing for limitation, suspension, or termination or not eligible because of a State constitutional provision.

The Senate bill provided for a further supplemental agreement under which a state agency could receive 100% Federal reinsurance if, in addition to complying with the conditions set forth above, it made eligible institutions eligible to be lenders under the same terms and conditions as in the Federal program.

The conference substitute merged the provisions described above and related differences as follows: in order to qualify for reinsurance at a rate higher than 80%, a state guarantee agency must enter into a supplemental agreement providing that they must—

(a) authorize yearly their aggregate loan limits identical to those prescribed for the Federal program by this statute;

(b) guarantee on insurable loans at 100%;

(c) provide for the insurance of loans to part-time students;

(d) provide for the insurance of loans to residents of the state whether they are attending eligible institution in the state or outside the state;

(e) provide no restrictions on eligible residential institutions which are more onerous than the requirements of the Federal program (unless an institution is ineligible for participation under regulations providing the limitation, suspension or termination of such eligibility, or because a State constitutional provision); and

(i) provide for the insurance of the State agency of loans made by eligible institutions and

(ii) assurances that the guarantors will report to the Commissioner annually concerning their administration of this provision.

Such provisions need not be the same as those provided under the Federal insurance program, but may not be arbitrary, capricious, or so designed as effectively to make the State's compliance with the provision an empty formality, or to exclude all, or virtually all school lenders.

If a State agency meets the requirements of such a supplemental agreement, and its default rate remains at 5 percent or less, its losses will be reinsured at 100 percent. If its default rate exceeds 5 percent and does not exceed 9 percent, its losses over 5 percent will be reinsured at 90 per centum. When its default rate exceeds 9 percent, the excess losses are reinsured at 80 percent.

(The default rate for purposes of this provision is defined as being the original principal amount of loans insured by it reduced by (i) the amount the insurer has been required to pay to discharge its insurance obligations under this part, (ii) the original principal amount of loans insured by it which have been fully repaid, (iii) the original principal amount on those loans which have not entered into repayment status because they are in the "grace" period after graduation or because they are in deferral status while the borrower is in the armed services or other specified forms of public service, and (iv) amounts repaid by the Commissioner because of death, disability or bankruptcy.)

In addition to setting reinsurance rates on the basis of the optional supplemental agreements, the Senate bill provided that states entering into such agreements could receive annual administrative cost allowance payments from the Commissioner not to exceed 2.5 per centum of the annual original amount of loans insured by them, subject to the supplemental agreement, and in repayment status in that year. The House amendment contained a provision reimbursing State agencies for a portion of administrative costs. The payment could not exceed 1 percent of the total principal amount of new loans insured in a fiscal year and one-fourth of the money had to be used for various services to promote lender participation in the program. Payments were to be made at least quarterly.

Under the conference substitute guarantee agencies are eligible to receive an administrative cost allowance equal to ½ percent of the total principal amount of the loans insured by them. The agencies must use one-half of this allowance for administrative costs of preclaims assistance for default prevention and collection of defaulted loans, one-quarter of the allowance for the administrative costs of promoting commercial lender participation, and the balance of the allowance may be used for other administrative costs. Guarantee agencies also may retain up to 30% of their collections on reinsured defaulted loans to cover administrative costs of preclaims assistance for default prevention and collection of defaulted loans. An agency which has signed a supplemental reinsurance agreement and further agrees to insure loans to all eligible students accepted for enrollment or attending an eligible institution within such agency's state, regardless of the state of residency of those students, may receive an additional administrative allowance equal to ½ percent of the total principal amount of the loans insured by it, and that allowance may be used for general administrative expenses.

The House amendment, but not the Senate bill, set the reinsurance rate for new State or non-profit private guarantee agencies at 100% for the first five years. After that the rate would be governed by the reinsurance rate provisions described above. The Senate recedes with an amendment directing the Commissioner to continuously monitor new agencies during this five year period. The managers want to point out that they are not inviting states to establish new state guarantee agencies, indulge in imprudent lending practices, enjoy 100% Federal reinsurance for five years, and then pull out of the program. The Commissioner is instructed to keep the operations and default rates of newly created state agencies under careful and continuing scrutiny, and if he should conclude that such an agency is not carrying out its responsibilities under this part in a normally prudent manner, he is directed to intervene vigorously with such agencies in order to secure an improved performance, or failing that, to terminate their Sec. 428(b) agreements.

The Senate bill set forth further conditions on the optional supplementary agreements described above, that State agencies must meet specified administrative requirements, including sound fiscal procedures, adequate reporting and record keeping and maintenance of adequate reserve funds. The House recedes.

Existing law allows states to make direct loans to students, which can be insured by the Commissioner under the same terms and conditions as he insures loans from other lenders. The House amendment contained language to conform the *insurance rates* for such lenders to the *reinsurance rates*. The amendment provided for State agencies which serve as guarantors, providing that state direct lenders whose default rates, as defined in the reinsurance rate provisions described above, are below 5%, will have 100% insurance. Those whose default rates exceed 5% but do not exceed 9% will have 90% insurance on such excess and those whose default rates are above 9% will have 80% insurance on such excess. The House amendment also provided for these state agency lenders, as for the state agency guarantors, 100% coverage during the first five years of their operation. The conference substitute includes the House provisions with an additional provision for 100% insurance to existing state direct lending agencies until 90 days after the end of the next regular session of the State Legislature after the enactment of this bill. An additional one-year delay is provided in the case of States whose constitutions would have to be amended. The managers recognized that some states could, for statutory or constitutional reasons, immediately come into compliance with the limits which this amendment imposes on state direct lenders, and the provision affords such states time to alter their statutory or constitutional arrangement in order to receive the 100% insurance coverage.

Under the House amendment, but not the Senate bill, guaranty agreements were to have included provisions for adequate and timely assistance by the parties to the agreement to States and lenders before the student loan goes into default. The House recedes.

The House amendment, but not the Senate bill, provided that where there is no State student loan insurance program covered by an agreement with the Commissioner, and a private non-profit agency which meets specified statutory criteria, applies to enter into such an agreement, the Commissioner must act on such an application within 90 days and notify the Committee on Labor and Public Welfare and the Committee on Education and Labor if such an application is denied. The Senate recedes with an amendment extending such period to 180 days and deleting the requirement that the Commissioner state the reasons for his actions.

The Senate bill, but not the House amendment, provided for the payment to each participating educational institution of $10 per year for each student receiving a guaranteed loan. Such payments were only for purposes specified in the Senate bill. The House recedes with clarifying amendment that such payments are not entitlements.

The House amendment, but not the Senate bill, provided for the payment of interest on the Commissioner's default payments to lenders. The Senate receded with an amendment providing that only claims which the Commissioner determines are valid claims which have met the standards of due diligence shall have interest paid from date of submission. Submitted claims which do not meet this standard shall not bear any interest. The interest payable would be the amount accruing to the date of "authorization by" the Commissioner, rather than "payment by" the Commissioner, as provided in the House bill.

The House amendment provided that the Commissioner would be allowed to contract with private collection agencies, state student loan insurance agencies or state guarantee agencies for recovery of defaulted loans in the Federal direct program. Such contract shall provide the practices of private collection agencies' collection shall be in accordance with standards set by the Commissioner. The Senate receded with an amendment striking the words "private collection agencies" and inserting in lieu thereof "private business concerns", and striking language which prescribed that in setting standards for such contracts the Commissioner would be determining that the contractor's practices are fair and reasonable. The managers retained the language that the practices had to be fair and reasonable, did not involve harassment, intimidation, false or misleading representation or unnecessary communications concerning the existence of any such loan to persons other than the borrower. In amending this House provision, the managers intend to assure that any outside concern with which the Commissioner has contracted should follow ethical practices, and that their selection for contract by the Commissioner would not carry with it any inference of a warranty by the Commissioner, or that such a concern was "approved by the United States Government". The managers wish to assure that no such contractual relationship be utilized by any concern or agency to give a misimpression of Federal Government authority to their operations in this or any other collection undertaking. The managers direct that any contract made under this authority contain specific provisions to prohibit any such erroneous representation.

The House amendment made a technical amendment to Section 431 (Standard Loan Insurance Fund) to meet procedural requirements of the new Congressional budget process. The Senate recedes.

The House amendment, but not the Senate bill, required the Commissioner to publish a quarterly report on loan volume and default data. The report was to show such data according to the type of original lender distinguishing between—

(i) eligible institutions

(ii) state or private nonprofit direct lends

(iii) commercial lenders

(iv) other institutions and such subcategories as the Commissioner shall deem appropriate.

Senate recedes with clarifying amendments so that the reports are annual (not quarterly), that only reasonably retrievable data is included, that new data collection begins with the calendar year and that the restrictions on communications by the Commissioner are revised.

The Managers wish to emphasize the importance of this requirement. One of the major problems in the guaranteed loan program has been a widespread public confusion among various participants of the program. The program has been plagued with an annoying though understandable, ambiguity as to what kinds of lenders, borrowers, and guarantors were experiencing or causing various problems. A process of sorting out different types of lenders and their differing experiences in the program will be helpful, not only in clarifying public impressions of the program, but in assisting the Congress when next it must legislate in this field.

The House amendment repealed a long unused authority under Sec. 433 of the Act for the Commissioner to make direct loans to students at vocational schools. The Senate recedes.

The House amendment but not the Senate bill established new section 433 restricting the eligibility of states and educational institutions to be lenders to those having agreements with the Commissioner to comply with the limits set forth in this section. The House provision said that state direct lenders could not lend to more than 50% of the undergraduate students at any eligible institution in such a State. The Senate recedes with an amendment raising that figure to 75%. The effective date for this new section 433 is 60 days after enactment.

The House amendment prevented an eligible school from lending to more than 50% of its eligible undergraduate students. The Senate recedes with an amendment that such limitation could be waived by the Commissioner if its operation would work a hardship on the students at the institution.

The House amendment further provided that an eligible institution had to agree not to make any loan to an undergraduate student who had not previously received a loan from that institution unless the student provided the school with a statement from an eligible lender other than a state lender or school lender, that the student had sought a loan from such lender and had been refused. The Senate recedes with an amendment that if a student could not obtain such a statement from an eligible lender to whom the student had applied, and who had refused, the student could substitute a sworn statement that he had so applied, to such a lender, and had been refused. This provision of the conference substitute also contains the language of the House amendment which provides that an eligible institution will be deemed to have originated a loan if another eligible lender has delegated to it a substantial portion of the functions and responsibilities normally performed by a lender.

The Senate bill, but not the House amendment, excluded from the definition of eligible institution any school which employs or uses commissioned salesmen to promote the availability of the loan program at their school. The House recedes.

The House amendment, but not the Senate bill, expanded (for the guaranteed loan program) the definition of institution of higher education by including public or other nonprofit institutions which admit as regular students non-high school graduates who are beyond the age of compulsory school attendance. The Senate recedes. The managers wish to reiterate that the intention of this amendment (which, in fact, merely conforms to a similar amendment made to title XII of HEA), is to *expand* the universe of schools and students eligible to participate. There is no intention to exclude students at any school now eligible, from participating in the loan program.

The House amendment but not the Senate bill changed the definition of eligible lender—

(a) by barring commercial lenders whose primary consumer credit function is the making or holding of guaranteed loans;

(b) by requiring school lenders to have at least one full-time financial aid administrator;

(c) by barring home-study schools as lenders; and

(d) by permitting the Commissioner to set further criteria for school lender participation.

The Senate recedes with an amendment retaining in the definition only items (a), (b) and (c) as listed above, and with the understanding among the Conferees that primary consumer credit function means more than half of consumer credit business of the lender is in loans insured under Part B.

The Senate bill, but not the House amendment, excluded from the definition of eligible lender any school at which, for each of two consecutive years, the default rate on loans made to students at such school reaches 15%. The Commissioner could waive this provision and provide technical assistance to a school where he determines that they can improve their performance within a year, or that termination of lender status would work a hardship on the present or prospective students of that institution. The House recedes.

The Senate bill requires that, before the Commissioner can deny a certificate of insurance to a school lender, he must ascertain that access to loans by all who make an active and diligent effort to secure a loan will otherwise be unavailable. In connection with this provision, the Commissioner must periodically assess the availability of loans by studies and surveys made by him and of properly conducted studies made by others.

The conference substitute amends section 423 of the Act, which governs the issuance of certificates of insurance. Under this provision, as revised, the Commissioner cannot deny because of any provision of this section, the continuation of an agreement for a school to act as a lender which the Commission has issued, as an administrative practice, to carry out provisions of section 423, or an individual certificate of insurance to an eligible institution acting as a lender if such lender has previously entered into an agreement with the Commissioner under section 433 of existing provisions of law this amendment incorporates in section 433, unless the Commissioner makes the determinations that students who make an effort are able to obtain loans from another lender. The Commissioner is directed to undertake studies and surveys of loan availability so that he may carry out this provision. The Commissioner shall also review studies of loan availability undertaken by schools, lenders, and guarantee agencies, and other competent organizations. He is expected to encourage such organizations which are able to make studies by affording them technical assistance, data sharing, and study or design of studies to increase their usefulness to him in carrying out responsibilities under this section.

Managers note that documentation required under section 433(a) of the conference substitute can serve as one possible source of data by which the Commissioner can make the determinations required by this subsection.

The House amendment defines "due diligence." The Senate receded with clarifying amendments. In implementing this definition, the Commissioner is directed to take such steps as may be necessary to assure that the specific elements of due diligence are not used as a pro forma check list so that lenders avoid taking the same precautions on Federal guaranteed loans as they take when collection of their own loan funds are being made. By conforming due diligence to practices of financial institutions, the Managers recognize that lender practice varies geographically and by type of lender. The Commissioner is given flexibility to assure that each lender is making a bona fide effort as measured by comparable lender practices before any claim is paid.

The House amendment, but not the Senate bill, provides for the repayment by the Commissioner of the full amount of any indebtedness under this program, including state guaranteed loans discharged in bankruptcy. The Senate recedes.

The House repealed the Emergency Insured Student Loan Act which now provides authority for the Secretary of HEW to establish the quarterly special allowance rate payable on each loan insured under this part. Present law establishes a 3 percent ceiling on the allowance. The House amendment provided that the special allowance shall be set automatically each quarter at a rate (between one and five percent) which is 3½ percent below the market rate on 91-day Treasury bills averaged over the preceding quarter.

The House amendment also required that the Commissioner pay interest on special allowance and interest benefit claims beginning 31 days after the receipt of those claims by the Commissioner.

The Senate bill extended the existing provisions of the Emergency Insured Student Loan Act through 1982, and provided for the establishment of a committee to propose alternative methods for the determination of the special allowance. The Committee recommendations were to be submitted to the House Education and Labor and Senate Labor and Public Welfare Committees. Upon the concurrence of those Committees such alternative method would have gone into effect immediately. In effect the conference substitute adopts the House procedure for setting a special allowance, making it effective for the quarter beginning on January 1, 1977, but setting the range within which such allowance may be paid prior to October 1, 1977 at between zero and three percent the maximum prescribed in current law. After October 1, 1977, the ceiling under this procedure rises to five percent as authorized in the House Amendment.

Simultaneously, a Committee, substantially as provided for in the Senate bill, will be appointed, and charged with examining alternative methods of setting the rate of the special allowance. The Committee is to be composed of Federal officials and representatives of the areas of expertise enumerated in the Senate bill. The Senate recedes from its proposal that the new method would be established after consultation and with the concurrence of, the appropriate committees of the Congress. Instead, the Committee is directed, not later than October 1, 1977, to present its findings to the Congress for such legislative action.

The substitute provides for the repeal as of October 1, 1977 of the Emergency Student Loan Insurance Act, which contains the authority for the present method of computing the special allowance, as provided in the House amendment, with a proviso that no special allowance payments are to be made under that act once the procedure under Sec. 438 is in operation.

The managers recognize that the scope of the conference did not permit them to put the new automatic rate mechanism into effect immediately, but in the interest of a smooth and expeditious transition to the kind of predictability which all lenders have urged be instituted in this area of the program, the managers do urge upon the Secretary that he adopt the procedure set forth in the conference substitute in his calculation of the special allowance for the remaining quarters of the operation of this authority under the Emergency Student Insured Loan Act, and that he publicly announce to the lending community that he is so doing. This would be an act which would preceptibly heighten lender confidence in the program.

The House amendment, but not the Senate bill, provided that the Student Loan Marketing Association shall for purposes of jurisdiction in civil action be deemed to be a resident of the District of Columbia. The Senate recedes.

The House amendment and the Senate bill both provided for a five-year delay in the discharge in bankruptcy of any loan insured under this program. The House amendment allowed earlier discharge only if the repayment of the loan will impose an undue hardship on future income or wealth. The Senate provision was effective 30 days after enactment. The House provision was effective on September 30, 1977 or one year after enactment, whichever is later. The Senate recedes with an amendment specifying that the finding of hardship will be made by the appropriate court.

The House amendment made the new provision for advance payments, the provision for a one percent administrative allowance, and the provision for the new special allowance procedure effective October 1, 1977. All other GSLP amendments made by the House amendment were effective on or with respect to loans for school terms beginning after October 1, 1976. The Senate bill contained a general effective date of 30 days after enactment, unless otherwise specifically noted. The conference substitute makes all new provisions effective on or with respect to loans made for periods of enrollment beginning after October 1, 1976, except that the new provision for advance payments under Sec. 422(c) is effective October 1, 1977. The administrative allowances provided for under Sec. 428(f) is effective upon enactment and the income limit for subsidized loans under Sec. 428(a)(2)(B) is effective 30 days after enactment. The new procedure for establishing the special allowance rate goes into effect the quarter beginning January 1, 1977.

The House amendment provided felony penalties (up to five years imprisonment or $10,000 fine, or both) for persons who embezzle, misapply, steal, or obtain by fraud, false statement, or forgery, any funds in any program in title IV. If the funds involved are less than $200, misdemeanor penalties (up to one year imprisonment, or $1,000 fine or both) were provided. The Senate bill contained several provisions applying criminal penalties only to the Guaranteed Loan Program, the bill provided felony penalties for persons who destroy applications or records with intent to defraud the United States; and also provided misdemeanor penalties for persons (a) making false statements in regard to USOE recognition of an accrediting agency, (b) making false statements in the assignment of a loan, and (c) bribery in making or acquiring by assignment a loan. The Senate bill, but not the House amendment, provided that all funds under title IV must be maintained as separate accounts and not comingled with any other funds, except as expressly provided in this title (i.e., in matching programs such as work-study, direct loans, and state student incentive grants). The House recedes with a substitute amendment which applies new criminal provisions of law only to activities carried on under the Guaranteed Student Loan Program. The substitute provides felony penalties for any person convicted of embezzlement, fraud, theft, forgery in the program, and misdemeanor penalties for those supplying false information in connection with a determination of institutional eligibility or loan assignment. Unlawful payments in connection with loan assignment are also outlawed. The managers have included prohibitions on these activities when done in connection with the Guaranteed Student Loan Program. This, however, should not be construed to mean that the managers believe that 18 U.S.C. is inapplicable to this or other programs carried out under the provisions of federal education statutes.

College work-study

The Senate bill extended the Work-Study authorization through fiscal year 1982. The House amendment made Work-Study a permanent program. The House recedes with an amendment extending the program through FY 1982.

The House amendment, but not the Senate bill, defined the term eligible institution to include consortia. The Senate recedes.

Current law permits college work-study students to be employed on work in the public interest for a public or private non-profit organization. The Senate bill, but not the House amendment, substituted the phrase "Federal, state or local public agency" for "public". The House recedes.

The Senate bill prohibited an institution from terminating a student's work-study employment during a semester, solely on the grounds that he has independently sought additional employment, and that his combined salaries exceeded the institution's determination of his need for that semester. The House amendment provided that an institution was not required to terminate a student's employment solely because the student had earned enough to meet his documented need. The student's employment could continue after meeting his computed need, but the institution could not use work-study funds to pay the student. The conference substitute draws on the intent of both the House and Senate to give more flexibility in the awarding of student aid, with the intent of allowing a student to continue his employment during any semester without the institution's having to "recapture" other aid previously awarded to the student. The managers recognize the need to coordinate all student aid and the fact that this program is meant to meet "documented need." We believe there is a need, however, to reduce the present discouragement toward employment. The managers note that, for the conference substitute to be meaningful, the Commissioner must adjust his regulations for the Supplemental Education Opportunity Grant program and the National Direct Student Loan program. The conference urges the Commissioner to implement the new provision in work-study by immediately notifying schools of this change and amending his regulations to allow for a $200 technical "overaward," rather than the current $100, when the student's income is derived from employment.

The Senate bill, but not the House amendment, required participating institutions to assure that they would make work-study or equivalent employment reasonably available to the extent of available funds to all students in the institution who desire such employment in lieu of present language requiring such employment to be made available to all "eligible" students in "need". The House recedes with an amendment retaining only that part of the Senate bill which requires institutions to seek to make equivalent employment available to all students who desire such employment.

The Senate bill, but not the House amendment, required the employment of student counselors with work-study funds on the basis of a formula related to school enrollment. Such counselors shall provide students with information and counseling described in Section 493A. The conference substitute drops this mandatory language from the work-study authority but, in their agreement with regard to student information services, gives substantial emphasis to the concept of peer counseling. The managers endorse the idea of using student peer counselors to assist financial aid officers in making useful and accurate information available to students. Many institutions are already successfully using students for this purpose. We are also interested in other means to improve information services on campuses. Nevertheless, the managers consider peer counseling an important proposal and will carefully evaluate the information generated by the requirements in Section 131.

The Senate bill, but not the House amendment, extended existing authority for the program of Work-Study for Community Services Learning (Sec. 447). The Senate recedes.

The House amendment, but not the Senate bill, created a "job location and development program" permitting eligible institutions to use not more than 10 percent or $15,000 from their work-study allocation separately or in combination with other institutions or through a contract with a non-profit organization to locate and develop off-campus student jobs. The Federal share of the costs of such program was not to exceed 80 percent. Maintenance of effort and non-displacement provisions were included. The Senate recedes.

Cooperative education

The Senate bill extended the Cooperative Education Program through FY 1982. The House amendment moved Cooperative Education to title VIII and made it a permanent program. The conference substitute extends the Cooperative Education Program through fiscal year 1982, and makes it a new title VIII of the Act.

The House amendment, but not the Senate bill, allowed grants to be made to combinations of institutions. The Senate recedes.

The Senate bill raised the maximum grant to a single institution from $75,000 to $150,000.

The House amendment raised the maximum grant to $200,000 for a single institution, but provided that the grant to a combination of institutions not exceed $150,000 times the number of institutions in the combination. The House recedes with an amendment setting the maximum grant at $175,000 for a single institution, or $125,000 per institution for institutions within consortia.

The House amendment, but not the Senate bill, added a requirement that program applications specify the portion of the program which will be performed by other non-profit institutions and organizations, and the compensation to be paid to them. The Senate recedes.

The House amendment, but not the Senate bill limited the required reports by applicants to "such reports . . . and records as are *essential*" in lieu of present requirements of "such reports . . . as the Commissioner may reasonably require . . .", and limited the gathering of other information to such as "is essential", instead of whatever "the Commissioner may deem necessary." The Senate recedes.

The House amendment extended the length of an institution's permitted participation in this grant program from a maximum of three years to a maximum of five, with the requirement that the Federal share of the total program could not exceed 100% in the first year, 80% in the second year, 60% in the third year, 40% in fourth year, 20% in the final year, and forbidding the Commissioner to waive this phase-out schedule. The Senate recedes with an amendment changing the ceiling on the Federal share to no more than 90% in the second year, 80% in the third year, 60% in the fourth year, and 30% in the final year. It is the intent of the managers that an institution which is in the third (or earlier) year of a co-op project under existing law may be eligible for additional years up to a total of five, but that the ceiling on the Federal share should be calculated as though this provision had been in effect from the beginning of such project. (e.g., an institution now in its third year may receive support for that project for two additional years, with a Federal ceiling of 60% in the next year, and 30% in the final year.)

The conference agreement does not contain the House definition of administrative costs. The managers expect that the Commission will appropriately define such costs.

The House amendment, but not the Senate bill, added a new requirement that directs the Commissioner to give priority to programs which show the greatest promise of success because of (1) the extent to which programs in the academic discipline with respect to which the application is made have had a favorable response from employers or (2) the commitment of the institutions to cooperative education as demonstrated by the size and scope of the program. The conference substitute amends this subsection to direct the Commissioner to give special consideration, among other factors, to those projects which show the greatest promise of success on the basis of their favorable response among employers, and the commitment of the institutions to cooperative education, but striking reference to "size and scope" of such commitment. The managers recognize the difficulty of measuring intensity of commitment by purely quantitive indicia, but they continue to support the basic purpose of this provision which is to focus Federal seed money under this title to those institutions who are likely to begin a serious on-going cooperative education program and to invest their own time, energy and resources in it after the Federal money is no longer there.

National direct student loan program

The House amendment required that the institution submit, at least semi-annually, a report describing the total number of its loans which have been in default for 120 days, in the case of loans repayable in monthly installments, or 180 days in the case of loans repayable in less frequent installments, allowed the eligibility of a student who is not in good standing for loan payment to be suspended without notification to the Commissioner, allowed loan repayment to begin earlier than 9 months after the student leaves school, if the borrower so requests and the school agrees, and allowed the student to repay his loan at less than $30 per month (current minimum) where this is necessary to avoid hardship, but without extending the 10-year repayment period. The Senate recedes with an amendment restricting the student's right to have his $30 per month repayment obligation reduced, to a period not to exceed one year.

The Senate bill repealed the cancellation provisions of section 465 for all loans made after the enactment of this bill. The Senate recedes.

General provisions

The House amendment increased the present ceiling of $125,000 on the amount an institution may receive as reimbursement for its costs of administration to $225,000, and increased the allowable payment to 5% of the administration's allocation. The Senate bill increased this ceiling to $400,000, and provided for the allocation of these funds [and payments of $10 per guaranteed loan and $15 per basic grant] for its new section 493A providing for institutional and financial aid information services to students.

The House amendment required institutions to use the money received under this section exclusively to meet the costs of providing financial aid services directly to students. The Senate bill required institutions to provide information to prospective and enrolled students regarding financial assistance, including data on availability and eligibility for student aid, the costs of attendance, the refund policy and the institution's academic program.

The House amendment, but not the Senate bill, required each institution having an agreement or contract under title IV to establish a fair and equitable refund policy pursuant to regulations to be developed in concert with student organizations, other interested parties, and relevant federal agencies. The institutions also must produce and circulate appropriate publications and mailings to current and prospective students. Institutions participating in student assistance programs must also provide assurances to the Commissioner that the availability of such assistance has not and will not result in an increase in charges to federally aided students.

The Senate bill required designation of one or more persons who, in the aggregate, shall be available on a full time basis, to perform the functions of a student financial aid officer, subject to waiver by the Commissioner. The Commissioner could issue regulations for carrying out these provisions, and for one year after enactment, waive any provision where an institution was making satisfactory progress and would be able to comply within such one year period. The House recedes with amendments increasing the ceiling on administrative allowances to $325,000 per institution, and lowering the rate of administrative allowance from 5% to 4% of the allocation. Elsewhere in the substitute, the House receded on the $10 payment per guaranteed loan, and the $15 payment per basic grant, with an amendment reducing the latter to $10.

The House recedes on the Senate student information provisions, with amendments delaying the effective date of the student information requirements on educational institutions (but *not* of the payments otherwise linked with them) until July 1, 1977. The conference substitute requires that the Commissioners dissemination of materials begin within 120 days of enactment.

The managers did not accept a House provision which would have given to the Commissioner considerable authority to set criteria for "fair and equitable" refund policies. The conference substitute requires institutions to publish information about their refund policies. The managers state that they do not intend this new requirement to be used to justify federal regulations specifying the exact criteria institutional refunds policies must meet.

The Senate bill expanded the Commissioner's authority (now in the guaranteed loan program) only for limitation, suspension or termination of the eligibility of an institution to 3 programs—basic grants, work-study, and direct loans—if he has determined, after affording due notice and opportunity for a hearing, that such institution has violated regulations under this section. The House amendment gave the Commissioner the same limitation, suspension, and termination powers for eligibility of institutions under all programs of this title; provided that no suspension should exceed 60 days, unless the institution and the Commissioner agree to an extension or unless limitation or termination proceedings are initiated within that period of time. The Senate recedes with an amendment clarifying that the Commissioner must initiate such proceedings.

The Senate bill, but not the House amendment, authorized the Commissioner to enter into special arrangements for the carrying out of this section with institutions where basic grant recipients are enrolled. He was authorized to include relevant provisions in his regular agreements under the work-study and direct loan programs. The House recedes. The managers want to emphasize that these special arrangements are not to be considered as contracts within the meaning of the Family Educational Rights and Privacy Act.

The House amendment, but not the Senate bill, provided for the suspension or termination of institutions determined to be guilty of false advertising or substantial misrepresentation. The Senate recedes with an amendment striking references to false advertising which the managers believe is included in substantial misrepresentation.

The House amendment extended the section 438 limitation, suspension, and termination regulations, currently in force, for the guaranteed loan program until the Commissioner's new regulations amend or supersede them, and provided that within 90 days after the effective date of this subsection, the Commissioner must issue a revision of section 438 regulations to make them applicable to all of Title IV of the Act. The Senate recedes, with an amendment changing the 90 day period for revision of regulations to 180 days.

The House amendment, but not the Senate bill, added a new Section 499A to establish a program of Federal-State matching funds to establish State programs to train student financial aid administrators. The Senate recedes.

Section 499 of the Higher Education Act, as it presently reads, established, in the Office of Education, an Advisory Council on Student Financial Aid. The House amendment utilized section 499 for other language in effect repealing this provision. The Senate bill was silent in effect continuing the provision. The House recedes.

The House amendment, but not the Senate bill, added a new section 499B, that provides for ratable reductions when funds are unavailable for paying entitlements under title IV. This provision would apply only in the event that the statute creating the entitlement provided no alternative method of reducing payments, and does not apply to the guaranteed loan program. The House recedes with an amendment.

The House recedes with the understanding among the managers that the House amendment is unnecessary in that each program in title IV, other than the entitlement provisions of part B, is governed by ratable reduction provisions or alternative methods of reducing payments.

The House amendment, but not the Senate bill, permitted the student to receive assistance under title IV only if he is maintaining satisfactory work in his course of study. The Senate recedes.

The House amendment, but not the Senate bill, permitted the student to receive assistance only if he does not owe a refund on previous grants received or is not in default on loan made under this title. The Senate recedes with an amendment limiting this provision to grants or loans made for attendance at the institution the student is attending.

The Senate bill empowered the Commissioner to prescribe audit and fiscal responsibility regulations, for institutions which receive funds under the basic grant, work-study, and direct loan programs. The House amendment extended similar authority to the Commissioner with respect to all other title IV programs. The Senate recedes.

The Senate bill required that the Commissioner, in consultation with the Secretary of Labor, prepare a report on the TRIO programs and the HEP and CAMP programs administered by the Department of Labor so that Congress might reach an informed determination as to their proper organization and needed interrelation. The House amendment gave the Commissioner 180 days to prepare such a report with the Secretary of Labor, so that it may be determined if and to what extent these programs should be restructured and administered by the Office of Education. The conference substitute contains an amendment requiring consultation with the Secretary of Labor only "where appropriate". The requirement is addressed to a study of the "Trio" programs which are only administered by the Office of Education, and to the HEP/CAMP programs, which are currently administered by the Department of Labor, it is not considered appropriate to involve the Secretary of Labor in consultations regarding the "Trio" programs.

The House amendment directed the Secretary of Labor to administer and fund the HEP and CAMP programs from funds appropriated through section 303 of C.E.T.A. Such funding must be maintained at existing levels for FY 1976. The Senate recedes.

AUTHORIZATION LEVELS—TITLE IV

Most of the "dollar differences" between the Senate bill and the House amendment with regard to student financial assistance, arose only in connection with, and were resolved with, the duration question. Those student aid programs on which the two Houses had other differing dollar figures were as follows:

1. Special Services for Disadvantaged Students. The Senate bill authorized $200 mil-

lion for each year, the House bill $250 million. The House recedes.

2. Educational Information Centers. The Senate bill authorized $50 million per year, the House authorized no such program. The House recedes.

3. College Work-Study. The differences and resolutions were as follows:

FY 1977—Senate: $420 million; House: $540 million. Conference: $480 million.

FY 1978, 79, and 80—No difference.

FY 1981—Senate: $670 million; House: "such sums." House recedes.

FY 1982—Senate: $720 million; House: "such sums." House recedes.

4. Cooperative Education. The differences were as follows:

FY 1977—Senate: $16.5 million; House: $16 million.

FY 1978—Senate: $22.5 million; House: $20 million.

FY 1979—Senate: $28 million; House: $24 million.

FY 1980, 81, and 82—Senate: $28 million: House: $27 million.

The House recedes.

AMENDMENTS TO TITLE V—EDUCATION PROFESSIONS DEVELOPMENT

The Senate bill repealed all of the existing title V (Education Professions Development Act) effective September 30, 1976, except the teacher corps program, and added new authorities for teacher training programs, all through fiscal year 1982. The House amendment extended current title V programs, without change, at the existing authorization level of $450 million through fiscal year 1977. The House recedes with amendments discussed below.

Teacher Corps

The Senate bill broadened the purpose of the Teacher Corps to reach "other educational personnel." The House recedes.

The Senate bill extended the time the Commissioner may contract for a teacher corps program from two years to five. The House recedes.

The Senate bill struck existing language limiting teacher teams to an experienced teacher and teacher-interns and substituted the concept of a "teacher corps program" including teachers, teacher-interns and other educational personnel. The House recedes with an amendment that permits, but does not require, local educational agencies to afford released time for training programs.

Existing law authorizes technical assistance to local educational agencies and institutions of higher education. The Senate bill authorized such assistance to State educational agencies and expands the authority to including "planning, monitoring, documenting, disseminating and evaluation services". The House recedes.

The Senate bill required the election of a council to assist each Teacher Corps project in planning, carrying out, and evaluation; the Commissioner may pay administrative expenses of each council. The House recedes with a technical amendment.

The Senate bill required the Commissioner to establish procedures for requiring a ratio in Teacher Corps of five currently employed teachers to one person who is not so employed; waiver is allowed, with a report to Congress if used. The House recedes with an amendment that changes the personnel ratio provided in the Senate bill to a goal. The managers understand that Teacher Corps projects now involve as many as 10 times the number of currently employed teachers as those who have not previously been employed as teachers. The intent of the revised Section 513(f) is to involve somewhat greater numbers of younger inexperienced persons who desire to prepare for a teaching career through participation in Teacher Corps, but who have not previously been employed by a local educational agency. These inexperienced individuals include both those with college degrees qualifying them for certification and those without teaching credentials. The goal of approximately one such person to approximately five teachers is a goal for the whole program, not necessarily to be reflected in each individual project.

The Senate bill required that specific criteria be established for entering into authorized arrangements under this title and that such criteria be used in selecting proposals. The House recedes.

The Senate bill authorized the Commissioner to compensate local education agencies for any personnel participating in Teacher Corps under released time. The House recedes. The managers accept this authority with the understanding the Commissioner will use the authority in a limited way only when he determines that a particular local education agency is confronted with unusual financial difficulties such that the continuation of the Teacher Corps program would be jeopardized without federal compensation. The managers further expect that compensation will be necessary for only a few days per month during the school year.

The Senate bill required the National Center for Education Statistics, subject to the guidance and supervision of a Council established under the Senate bill to conduct surveys on teacher availability, demand, training needs, etc., and submit an annual report to Congress. The managers agree to a substitute giving the National Center for Education Statistics less extensive responsibilities which are aimed at more clearly identifying current and projected needs for qualified education personnel. The managers feel strongly that both schools and institutions of higher education can do better planning and develop better programs if there is a continuing survey of educational needs and an assessment of the personnel available and needed to meet those needs. The managers expect that the Secretary of HEW will take into account this new responsibility for NCES in selecting new members for the Advisory Council so that the membership of the Advisory Council contains experts in the area of assessing the supply and demand of education personnel.

Senate bill directed the Commissioner to appoint a 15-member Council on Teacher Training Surveys and Assessments which, at least once a year, would assess the availability of qualified teachers and administrative personnel to meet service needs in national priority education areas. Such areas are those which require legislation or a report from the Council. When the Council determines such a need, it shall report to Congress, after having published for comments in the Federal Register. It shall then submit to the Congress a plan for carrying out its recommendations and publish the plan in the Federal Register. Within 90 days, the Commissioner shall submit a cost estimate to Congress. The plan shall be implemented only upon a specific appropriation. The Senate recedes.

Teacher centers

The Senate bill authorized the Commissioner to make grants to local education agencies to assist in planning, establishing, and operating teacher centers to develop and produce curricula and provide in-service training. Each teacher center is to be operated under the supervision of a policy board. State agency approval of any application to the Commissioner for a teacher center is required. Any local education agency may appeal to the Commissioner for further consideration by the State agency when it is dissatisfied with the action of the State agency. The Commissioner is to assure that State agencies provide technical assistance and compensate State agencies for these services. Teacher centers may contract with institutions of higher education. The Commissioner may grant 10 percent of the funds to institutions of higher education to operate teacher centers.

The House recedes with an amendment providing that at least one representative on each policy board must be designated by institutions of higher education in the area which have departments or colleges of education and insuring that the classroom teachers on each policy board fairly reflect the makeup of all teachers, including special education and vocational education teachers. The managers intend this provision to permit a local education agency to place parents of children or other nonteachers on the policy board. The managers note that NIE has been involved in Teacher Centers, as have several State and local governments. We expect the Commissioner to develop and coordinate the implementation of this new authority with these other agencies.

Training of higher education personnel

The Senate bill authorized a new program of Training for Higher Education Personnel, providing grants to institutions of higher education for the training of (1) individuals preparing to serve as faculty or staff in higher education if such individuals are either (A) from cultural or educational backgrounds which have hindered them in achieving success in education, or (B) preparing to serve in educational programs serving students from such backgrounds; or (2) individuals already serving as faculty or staff if they are to be trained to meet changing personnel needs. The House recedes.

The Senate bill limited grants under this section to costs of courses of training, including institutes and symposia, and to fellowships and traineeships. The House recedes with an amendment deleting the authority to make grants for fellowships and traineeships. The Senate bill allowed the Commissioner to provide for stipends to individuals assisted under this section. The Senate recedes.

Graduate programs

The Senate bill authorized a new program of Grants for Improvement of Graduate Programs of Education; grants would go to institutions of higher education for a wide range of uses related to graduate education programs. The Senate bill excluded grants to institutions which do not have accreditation from a nationally recognized accrediting agency which is determined by the Commissioner to be a reliable authority on teacher training programs. The Senate recedes.

AMENDMENTS TO TITLE VI—IMPROVEMENT OF UNDERGRADUATE INSTRUCTION

The Senate bill, but not the House amendment, authorized the Commissioner to waive maintenance of effort requirements under Title VI under objective criteria of general applicability. The House recedes with an amendment that would permit an institution of higher education to use either aggregate expenditures or full-time equivalent enrollment as the basis for determining whether it had maintained effort.

AMENDMENTS TO TITLE VII—ACADEMIC FACILITIES

The House amendment amended the purpose of title VII throughout to include the renovation and modernization, as well as the construction of academic facilities. The Senate bill dealt separately within the title with loans for reconstruction and renovation. The conference substitute permits title VII grant and loan funds to be used for reconstruction and renovation.

The House amendment, but not the Senate bill, changed the 24 percent setaside of the title VII appropriation for public community colleges and technical institutes, to a floor of the same amount. The Senate recedes.

The House amendment, but not the Senate bill, provided that the Commissioner may not disapprove a State plan unless he determines, after opportunity for hearing and comment, that the plan is inconsistent with specific provisions of the title. The Senate recedes with a technical amendment insuring that there be "reasonable notice" and opportunity for hearing.

The House amendment provided that a project will be eligible for title VII grant funds if it will result in increased institutional ability to significantly economize on the use of energy. The conference substitute provides that funds for energy conservation projects are to be authorized in a new section 771 of the Act. It also incorporates a provision that insures that the purposes of grants would encompass expansion of extension and continuing education in off-campus locations.

The House amendment, but not the Senate bill, added to the criteria which the Commissioner must set for State plans, special priority and consideration for programs aimed at energy conservation (applicable at the institution itself, or applicable to the physical plants of other enterprises), and at meeting the costs and requirements of environmental protection, safety, and health programs mandated by law. The House recedes with an amendment providing that authority for using loan and grant funds for these purposes will be incorporated in section 771 and that no special priority will be required for such projects in State plans.

The Senate bill, but not the House amendment, authorized the Secretary to make grants for the construction of facilities for model intercultural programs. The House recedes. The conference agrees to this discretionary authority for making special purpose grants for model intercultural programs with the understanding that adequate notice will be given to all interested institutions, with a reasonable time to make an application, and that all applications received will be given equitable treatment in the making of any decisions on federal funding.

The House amendment, but not the Senate bill, limited loan eligibility to projects which will aid in reaching the goals established in section 705(a). No special preference for particular projects is incorporated in the conference substitute.

The Senate bill, but not the House amendment, provided that the interest paid on the construction loan program loans shall not be less than one quarter of one percentage point above the average annual interest rate on all interest obligations of the United States, striking the 3 percent ceiling in present law. The Senate recedes.

The Senate bill, but not the House amendment, prohibited the Commissioner from foreclosing on any loan if he determines that the recipient is unlikely ever to be capable of repaying such a loan. The Senate recedes.

The Senate bill authorized the Commissioner to grant a temporary moratorium on repayment of principal or interest on a loan if the borrower is temporarily unable to make repayment without undue financial hardship and if the borrower presents, and the Commissioner approves, a repayment schedule. The House recedes.

The Senate bill authorized the Commissioner to accept up to 75 percent of the institution's current obligation as full payment of its loan obligation, if the payment is made prior to October 1, 1979. The House recedes with an amendment requiring the amount to equal 75 percent of the current obligation on the loan.

Present law provides for an annual increase of $13,500,000 in the ceiling on the payment of interest grants. The Senate bill continues this automatic increase through October 1, 1981. The House amendment provided for increases through January 1, 1976. The House recedes with an amendment extending the authority through FY 1979.

The Senate bill added a new section 747 to part C, authorizing reconstruction and renovation loans from unsued amounts in the fund under section 744, to fund energy conservation projects, to come into compliance with Federal health and safety laws, or with the Architectural Barriers Act of 1968. The Commissioner is directed to consult appropriate Federal agencies to determine project eligibility. The conference substitute incorporates these provisions in a new part E of title VII. Under the Senate bill, loans were to be repaid in no less than 20 years and were to be interest-free if paid in five years. The conference substitute retains the 20 year limit, but drops the early repayment premiums.

Present law explicitly excludes health professions facilities under this Title. The House language permitted funding for projects to improve the energy efficiency of such facilities. The Senate recedes with an amendment to clarify the House provision. It is not the intention of the managers to change in any way the basic thrust of present law. Schools defined in the exclusionary language and facilities used for such schools remain barred from access to Title VII as a source of funds for the construction of new facilities, or their renovation or reconstruction, except in those circumstances where a project designed to increase the efficient use of energy resources on a given campus involves renovation or reconstruction of an energy facility which also happens to be an energy source (e.g. heating, lighting, air conditioning) for such an otherwise excluded facility.

AMENDMENTS TO TITLE VIII—NETWORKS FOR KNOWLEDGE

The Senate bill extended the authorization for Networks for Knowledge through fiscal year 1982. The House amendment terminated this program. The Senate recedes.

AMENDMENTS TO TITLE IX—GRADUATE PROGRAMS

The Senate bill extended HEA, title IX, part A (Grants to Institutions), part B (Graduate Fellowships), part C (Public Service Fellowships) and part D (Fellowships for Other Purposes), with amendments; created a new part E (Annual Report); and repealed part F. The House amendment extended existing law (Parts A, B, C, D) and (F) (Graduate School Assistance). The House recedes.

The Senate bill changed existing law to give the Commissioner authority to award all fellowships on such bases as he may determine (current law stipulates that at least one-third shall be awarded to individuals accepted for study in approved graduate schools of their choice). The House recedes. By dropping the mandatory requirement that at least one-third of the fellowships be granted directly to students, the managers intend that all fellowships under this part shall be awarded to students based on merit and that such students shall be allowed to choose which institutions, from among those approved by the Commissioner, they wish to attend.

The Senate bill expanded current law to allow for fellowship recipients to be preparing for careers other than academic careers at some level beyond the high school. The House recedes.

The Senate bill dropped the current requirement that one-half of new fellowship recipients must have demonstrated competence outside of higher education for two years subsequent to completion of their undergraduate study and includes a more general "consideration be given" to individuals with experience outside the academic setting. The House recedes. The managers intend this provision to provide the Commissioner with increased flexibility for awarding fellowships in order to provide a broader base of potential recipients within the framework of priorities and procedures stipulated in Section 923(b).

AMENDMENT TO TITLE X COMMUNITY COLLEGES

The House amendment, but not the Senate bill, provided that the Commissioner may not disapprove a State plan under title X unless he determines, after opportunity for public hearings and comment that it is inconsistent with requirements of this section of the statute. The Senate recedes with a technical amendment providing for "reasonable notice" and the opportunity for public hearings.

The House amendment, but not the Senate bill, broadened the purpose of expansion 1014(b) authorizing grants to existing community colleges to help them in adapting educational programs and educational delivery systems to provide programs especially suited to those whose educational needs have been inadequately served, specifically, the handicapped, older persons, part-time students, and others who otherwise would be unlikely to continue their education. A new subsection (c) would provide for grants to assist institutions in expanding their enrollment capacity and in establishing new sites. The amendment provided for the funding of all approved applications under subsection (b) before funding any other applications under subsection (c) or any other provisions of this subpart of title X, dealing with establishment and expansion grants. The Senate recedes.

The House amendment, but not the Senate bill, amended provisions for leasing grants from 5 years to 3 years. The maximum Federal share was fixed for the 3-year period on a declining scale of 90 percent for the first year, 50 percent for the second year, and 10 percent for the third year. The House recedes.

The House amendment, but not the Senate bill, made three changes in the definition of a community college for purposes of this title as follows: (a) in section 1018(2) the words "at least 18 years of age" are stricken, and the words "beyond the age of compulsory school attendance" are inserted; (b) in section 1018(3) the words "two-year" are stricken before "postsecondary"; and (c) the words "and also provides programs of postsecondary, vocational, technical, occupational, and specialized education" are stricken at the end of section 1018(3). The Senate recedes on all three changes.

The managers accepted House proposals to amend the definition of eligible institutions for purposes of title X so as not to exclude any institution which is serving the educational needs described in this title. The managers wish to stress that the institutions to benefit under title X must continue to be institutions which offers comprehensive curriculums including both academic and occupationally-related programs. The managers also wish to stress that where there are institutions competing for limited resources under title X the Commissioner will give preference to those institutions which are offering the type of program which can best carry out the objectives of title X.

The Senate bill repealed part B of title X (occupational education programs). The House amendment continued the authorization for part B through fiscal year 1977. The House recedes.

AMENDMENT TO TITLE XI—LAW SCHOOL CLINICAL EXPERIENCE

The Senate bill extended title XI (Law School Clinical Experience). The House amendment repealed this title. The House recedes.

AMENDMENTS TO TITLE XII—GENERAL PROVISIONS

The House amendment, but not the Senate bill, broadened the definition of an institution of higher education to include public or private non-profit institutions that admit as regular students those beyond the age of compulsory school attendance in the state in which the institution is located. The managers note that almost half the states now require public postsecondary institutions to enroll any person beyond the age of compulsory school attendance. By adopting this change in the Higher Education Act, the conference report will reflect what states have already decided and reflect the fact that many individuals who have not completed the formal requirements for high school are nevertheless qualified for and could benefit from various kinds of postsecondary education. Obviously, this change should not be interpreted as an encouragement for high school students to leave high school after they have passed their state's age of compulsory attendance, nor should it be interpreted as encouragement for institutions of postsecondary education to recruit high school students. The managers emphasize that this amendment will not terminate the eligibility for federal assistance of any institution that was eligible under previous law.

The Senate bill, but not the House amendment, provided for specific funds to be authorized for interstate planning activities. The House recedes.

The House amendment, but not the Senate bill, added a new section to title XII which provided that in any year in which the aggregate appropriations for student assistance under title IV (other than for GSLP) exceeded $2,500,000,000, no part of such excess could be used unless the aggregate appropriations for title I, part C of title VII, and part A of title X were at least equal to such excess, within the limits authorized for those titles and those parts. The Senate recedes, with an amendment as follows: (1) the title IV programs counted in arriving at the "trigger figure" are BEOG, SEOG, College Work-Study and NDSL; (2) the "trigger figure" for FY 1978 is $2.8 billion, or the total available for those four title IV programs in FY 1977, whichever is greater; (3) the "trigger figure" for FY 1979 is $3.1 billion or the total available for the four title IV programs in FY 1978, whichever is greater; (4) in a year when the "trigger" operates, it shall not require expenditures for the benefiting programs in excess of $215 million; (5) when the "trigger" operates, it shall only require appropriations for half of the amount of the excess over trigger; and (6) the "trigger" mechanism will operate only for two years, and is not subject to the automatic extension provisions of the General Education Provisions Act.

AMENDMENT TO TITLE VI OF NDEA

The House amendment, but not the Senate bill, changed the name of title VI of NDEA to Foreign Studies and Language Development. The Senate recedes.

The House amendment, but not the Senate bill, authorized the Commissioner to carry out programs to increase the understanding of students of cultures and actions of other nations to better evaluate the international and domestic impact of major national policies. This program would not be funded until programs under sections 601 and 602 were funded at least at the level of $15,000,000. The Senate recedes.

The Senate bill, and the House amendment, contained prohibitions against institutions of higher education using federal financial assistance directly or indirectly to undertake any studies or projects or to fulfill the terms of any contract containing an express or implied provision that any person or persons of a particular race, religion, sex, or national origin be barred from performing such study, project, or contract. The Senate bill, however, contained a proviso that nothing in the section shall be deemed to affect any in-house study or project of an institution of higher education.

The House recedes with an amendment providing that institutions of higher education are not barred from conducting objective studies on the nature or effects or prevention of discrimination.

The House amendment, but not the Senate bill, prohibited the use of funds under the amendments made by the House amendment to title VI of NDEA, for any program involving any aspect of the religion of secular humanism. The House recedes. In dropping this House amendment to the language and foreign studies program, the managers point out that no funds in this bill, or in any other federal Act, provide funds for the support of religious instruction. This action leaves "secular humanism," to the extent that it is treated as or regarded as a religion, with no special advantage or disadvantage in education legislation as is true of any religion.

The House amendment, but not the Senate bill, permitted section 602 research to be funded by grants, as well as through contracts. The Senate recedes.

The Senate bill, but not the House amendment, provided for the extension of the International Education Act of 1966 through fiscal year 1982. The House recedes with an amendment providing that the Act shall be extended for a single year with an authorization of $10 million. The managers on the part of the House note that the House Committee on International Relations now has jurisdiction over this program, and that Committee has asked that the International Education Act be extended for one year pending a thorough review during the first session of the 95th Congress. It is the expectation of the managers on the part of the House that the Secretary will study the provisions of the Act and make a report to the House International Relations Committee by April 1, 1977, with respect to the implementation of the program and its recommendations on its possible revision and continued authorization.

AUTHORIZATIONS—EXCLUDING TITLE IV

As with title IV, the bulk of the "dollar differences" between the Higher Education Act program authorization in the Senate bill and the House amendment, stemmed from the difference in duration. The House amendment authorized most appropriations only through FY 1977, and the Senate bill's figures for most of the programs were at the same levels for each year from FY 1977 through FY 1982. The conference substitute provides for a three-year extension of each of the old programs outside of Title IV, and, except as noted, provides for the same level of authorization for each year.

There were no differences in authorization levels between the two bills, or between them and existing law on the authorizations for the following:

Title III (Developing Institutions), $120 million.
Title VI (Improving Undergraduate Instruction), $70 million.
Title VII (Academic Facilities Grants and Loans), $580 million.
Title IX (Graduate Programs), $50 million plus such sums.
Title X (Community Colleges), $165.7 million.
NDEA-VI (Language Development), $75 million.

The two bills did have different proposals on the following titles:

Title I (Community Services and Continuing Education):
House, $60 million.
Senate, $40 million.
Conference resolution, $40 million.
(Lifelong Learning, addition to Title I):
House, $0.
Senate, $40 million.
Conference resolution: $20 million (FY 77); $30 million (FY 78); $40 million (FY 79).
Title V (Education Professions Development):
House, $450 million total.
Senate:
Teacher Corps: $50 million (FY 77); $75 million (FY 78); $100 million (FY 79), and subsequent years.
Teacher Training: $75 million (FY 77); $75 million (FY 78); $75 million (FY 79), and subsequent years.
Teacher Assessment: $.5 million (FY 77); $.5 million (FY 78); $.5 million (FY 79), and subsequent years.
Conference Resolution:
Teacher Corps: $50 million (FY 77); $75 million (FY 78); $100 million (FY 79).
Teacher Training: $75 million (FY 77); $75 million (FY 78); $75 million (FY 79).
Title VIII (Networks for Knowledge):
House, $0.
Senate, $15 million.
Conference resolution, Senate recedes.
Title XI (Law School Clinical Experience):
House, $0.
Senate, $7.5 million.
Conference resolution, House recedes.
Title XII (Statewide Planning):
House, Such Sums.
Senate, $6,000,000.
Conference resolution, House recedes.
International Education Act:
House, $0.
Senate, $40,000,000.
Conference resolution, $10,000,000 (FY 1977 only).

TITLE II—VOCATIONAL EDUCATION

Extension of programs through fiscal year 1977.—The Senate bill extends all programs under the Vocational Education Act through fiscal year 1977 at the same levels of authorizations as provided in the present law for fiscal year 1976, except for the bilingual vocational education programs which is increased to $40 million in both the Senate bill and the House amendment. The House amendment, in general, reduces these authorizations and repeals the authorizations for the residential schools programs.

The Senate recedes.

Revision of Law.—The Senate bill rewrites completely existing law effective in fiscal year 1978. The House amendment amends existing provisions of the Vocational Education Act.

The House recedes.

Declaration of purpose.—The Senate bill rewrites the Statement of Purpose to emphasize that the purpose is to assist States in improving planning in the use of all available resources for vocational education and manpower training by involving a wide range of agencies and individuals for the development of the plan. It authorizes Federal grants to extend, improve, and where necessary, maintain vocational education programs and authorizes programs of vocational education to overcome sex discrimination and sex stereotyping.

The House amendment has only one amendment to present law, namely, emphasizing that vocational training is to be available to persons of all ages regardless of sex, race, religion or national origin.

The House recedes with an amendment clarifying the Senate provision to specify that the States are to use their Federal funds to develop and carry out vocational education programs so as to overcome sex discrimination and sex stereotyping in those programs.

The managers have agreed to add to the Act a provision in the Declaration of Purpose, a provision authorizing funds to hire personnel to assist the States, and authority for grants to help overcome sex bias in order to encourage the States to carry out all programs of vocational education in such a manner as to be free from sex discrimination and sex stereotyping and in order to encourage the States to take vigorous action to overcome sex discrimination and sex stereotyping in vocational education.

These provisions are not meant, however, to add to the authority of the Department of Health, Education, and Welfare in carrying out its responsibilities under Title IX of the Education Amendments of 1972, nor are they intended to give the Department authority to prescribe for the States particular goals or quotas or the particular methods to be used in achieving these objectives. In explaining our reasons for adopting these provisions, the managers of course, do not mean to diminish the authority of the Department in carrying out its responsibilities under Title IX.

As regards the Senate provision limiting maintenance of programs to those situations only "where necessary", which provision the House recedes to, the managers wish to state that, while the conference report as a whole stresses the use of Federal funds as a catalyst for development of new programs States and localities would otherwise not be able to afford, it also recognizes that there may often be situations in which use of Federal assistance to support on-going programs is fully justified.

The phrase "where necessary" is intended to convey this dichotomy. The determination of necessity is to be made by appropriate State and local officials. The phrase is not intended to authorize the Commissioner of Education to apply a strict litmus test of absolute necessity before an on-going program can be funded. However, it is intended to encourage States to use their limited amount of Federal funds to invest in the often-expensive start-up costs of new programs.

In determining whether to continue ongoing programs, it is the managers' intention that States consider the results of the evaluations of local programs which they are required to conduct under the revised Act. They also intend, however, that the State must consider the recommendations of local school districts on whether to continue programs since there may be some limited situations where the evaluations of the programs do not fully show the success of such programs.

The managers wish to make clear that this limitation on the use of Federal funds is meant to include those situations where school districts have such limited local resources that they find it very difficult to operate vocational education programs from their own funds. Federal funds in those situations are clearly intended to be used to maintain local programs, if local resources are unable to do so.

Authorizations for fiscal 1978 and subsequent years.—The Senate bill authorizes appropriations for fiscal years 1978 through 1982. The House amendment continues the permanent authorization of appropriations contained in current law for the basic State grant but broadens its effect to include most funds under the Act through adopting the block grant approach to the Act. The new block grant in the House amendment folds all the separate programs contained in the present Vocational Education Act except for the home economics and bilingual vocational training programs, into one grant to the States. All the authorizations in the House amendment which are not included in the State block grant expire in fiscal year 1981.

The conference report authorizes programs through fiscal year 1982 and consolidates programs as described later in this statement.

Office of Women.—The Senate bill but not the House amendment, authorizes an annual appropriation of $5.1 million for fiscal year 1978 through fiscal year 1982 to enable states to establish or designate an office for women which shall assist the state board in fulfilling the purpose of the Act by creating awareness of programs designed to reduce sex stereotyping in vocational education; gathering, analyzing, and disseminating data on the status of men or women students and employees; developing and supporting actions to correct problems; reviewing the distribution of grants; monitoring the implementation of laws pohibiting sex discrimination; and developing an annual report of the status of women in vocational education. From the funds appropriated, each state in which such an office has been established shall receive $100,000.

The House recedes with an amendment which requires the States to use funds available for this purpose to assign such fulltime personnel as may be necessary to assist the State board in fulfilling the purposes of this Act. The managers wish to make clear that the placement of this provision of the conference report in the section of the revised Act concerning State administration is not meant in any way to show an intention that the State must assign such personnel to the State board or that funds used for this purpose must be matched according to percentages set out for State administrative purposes under the revised Act.

In receding to the Senate bill on the functions which are to be performed by these personnel, the House recedes with an amendment which deletes the requirement for an annual report from such personnel and instead requires more generally that these personnel work to make readily available the information which they develop pursuant to their duties.

Transfer of funds—The Senate bill requires the Commissioner to reserve and transfer to the Secretary of Labor up to $5 million annually for the conduct of studies and projections of manpower needs upon the request of education officials and advisory councils having responsibility under the title.

The House amendment requires the Commissioner to reserve 5% of the amounts appropriated for the block grants for two purposes: a transfer of not less than $3 million but not more than $5 million a year to the National Occupational Informational Coordinating Committee and the remainder for national programs.

The Senate recedes.

Indian programs.—The House amendment, but not the Senate bill, authorizes the Commissioner to reserve certain funds (not in excess of 1 percent of the appropriation) for contracts for vocational education with Indian tribes and organizations and for programs to be operated by the Bureau of Indian Affairs.

The Senate recedes. The managers, however, wish to make clear that the creation of this setaside of funds for Indian programs is not meant to relieve the States of their responsibility to serve all their citizens in need of vocational education, including Indians.

Allotments.—The Senate bill continues the allocation formula contained in existing law for allotment of funds for the basic vocational education program. (Other categorical programs also retain their existing allotment formulas.) It eliminates the $10,000 minimum allotment per state for the basic vocational educational program which is contained in present law.

The House amendment, due to the consolidation of most categorical programs into block grants to the states, allocates all these funds under the block grants according to the formula contained in present law for the basic grants. The House amendment also increases the minimum grants per state or territory from the $10,000 contained in present law for basic grants to $200,000 for the block grants. In addition, the House amendment contains a hold harmless provision to fiscal year 1976 for all states for all funds received under the Act.

The Senate recedes, except for the new categorical programs accepted by the managers from the Senate bill.

State Planning.—(a) The Senate bill requires each State to designate or establish a State planning commission made up of representatives of certain designated State agencies, if such agencies exist, plus other interested parties. If a representative of each of the designated State agencies certifies to the Commissioner that the agency has had an opportunity to be an active participant in the planning process, the Commissioner shall waive the requirement for a State planning commission.

The House amendment revises the planning requirements in the present Act to require the State board of vocational education to involve actively in formulating the three-year State plan certain specified State education and manpower agencies. This participation must include during the planning year at least one meetiing of the State board and of all the other State agencies, meeting as a group.

(b) The House amendment, but not the Senate bill, provides that if any State agency required to be involved in this planning is dissatisfied with the contents of the State plan, then that agency can appeal to the Commissioner of Education. The Commissioner must uphold the decisions of the State board in writing the plan if these decisions are based on substantial evidence as contained in the State plan, but the Commissioner's action is made subject to judicial review.

(c) The Senate bill provides for the development of a single comprehensive statewide long-range plan covering a four to six-year period, plus an annual program plan which would update the provisions of the long range plan. The House amendment provides for the submission of two three-year State plans, one to be effective from fiscal years 1978 through 1980 and the other to be effective from 1981 through 1983, but does not require the submission of annual State plans.

(d) The Senate bill provides that one and one-quarter percent of each State's allotment may be used for planning, but not less than $150,000 nor more than $300,0000 shall be available to any State.

The House amendment creates a new authorization of appropriations of $25 million a year to be used in formulating the State plan, as well as to be used in assisting the States in evaluating the programs and in collecting the data required under the Act.

The Senate recedes with an amendment which includes the Senate bill's listing of agencies as those who are to be involved in the planning, specifies that the planning is to be conducted through four meetings during the planning year, requires the State board to set out its recommendations from the agencies, councils, and individuals required to be involved in the plans which have been rejected in the final plan and gives the reasons for such rejections, modifies the standards for the Commissioner's review of the plan to include a judgment on whether the plan "best carries out the purposes of the Act" and requires the State board to include in the final plan recommendations received in the public hearings and the reasons for rejecting any such recommendations.

The managers wish to make clear that upon appeal to the Commissioner of the final State plan by an affected agency or council the Commissioner must include in his review of the State plan a determination of whether the procedural requirements of the Act have been fulfilled by the State.

In giving the Commissioner authority upon appeal to determine whether the plan proposed by the State board best carries out the purposes of the Act, the managers do not intend to give the Commissioner any authority unilaterally to change a State's plan. Rather, he must disapprove the plan in its entirety and return it to the State for revision.

The Senate also recedes with an amendment requiring a five-year State plan and an annual plan and accountability report. The Senate recession also includes placing the use of Federal funds for State administration in the authorization of appropriations for planning, evaluations, and data collections.

State Advisory Councils.—(a) The Senate bill provides that each State advisory council shall include at least one representative each of management, labor and agriculture within the State plus at least one representative each from various levels of institutions, private vocational education, and State correctional institutions. In appointing the council the Governor shall insure that there is appropriate representation of both sexes, racial and ethnic minorities and various geographic regions of the State.

The House amendment includes a new provision for staggered three-year terms for members of the advisory council and also newly requires that a majority of the members of each council must be non-educators. The House amendment expands the membership of State councils to include representation from the State Manpower Services Council, of private non-profit schools, of women with backgrounds familiar with sex discrimination, of vocational education teachers, of local school superintendents, and of a local school board.

(b) The House amendment, but not the Senate bill, expands the duties of the advisory councils to assisting in the establishing of local advisory councils, to identifying the manpower as well as the vocational education needs of the State, and to commenting on the reports of the State Manpower Services Council.

(c) The Senate bill authorizes $8 million for fiscal 1978 and each of the four succeeding fiscal years, with minimum grants of $50,000 and maximum grants of $150,000.

The House amendment authorizes $8 million for fiscal 1978, $8.5 million for fiscal 1979, $9 million for fiscal 1980 and $10 million for fiscal 1981 for these councils with minimum grants of $100,000 and maximum grants of $300,000 (with the councils in the outlying areas subject to receiving lesser amounts).

(d) The House amendment, but not the Senate bill, revises present law in a number of regards to emphasize the independence of the State advisory councils, both programmatically and administratively, from the State boards of vocational education.

(e) The House amendment requires the State advisory councils to establish a system of local advisory councils, whose memberships are to be chosen by a method approved by the State board of vocational education in agreement with the State advisory council. (The Senate bill does not mandate any specific mechanism for appointment of local advisory councils but the annual program plan must reflect the involvement of local advisory councils representing business, labor and community institutions.)

(f) The House amendment, but not the Senate bill, amends the Comprehensive Employment and Training Act to require that the State Manpower Services Councils identify the vocational education as well as the manpower needs of the State and to comment on the reports of the State advisory council on vocational education. The House amendment, but not the Senate bill, amends the Comprehensive Employment and Training Act to require that a representative of the State advisory council on vocational education serve on each State's Manpower Services Council.

On subsection (a), the House recedes to the Senate amendments and the Senate recedes to the House amendments, since both sets of amendments complement one another.

On subsection (b) the Senate recedes.

On subsection (c) the Senate recedes with an amendment setting minimum grants at $75,000 a State and maximum grants at $200,000.

On subsection (d) the Senate recedes.

On subsection (e) the Senate recedes with an amendment specifying that each eligible recipient receiving assistance under the Act to operate programs must establish a local advisory council composed of members of the general public. Each State board must notify these agencies of this responsibility, and each State advisory council on vocational education must make available to these agencies and the council such technical assistance as they may request.

On subsection (f) the Senate recedes. The managers wish to make clear their intention that this newly imposed duty on the State's Manpower Services Council to identify and assess manpower and vocational education needs in the State, and the identical duty newly placed upon the State advisory council, may be jointly performed by such councils if such councils determine that such joint efforts are possible within each one of the States. Furthermore, we encourage the same type of cooperation in the performance of similar duties by the National Advisory Council on Vocational Education and the National Manpower Commission.

Long-range plan.—The Senate bill provides that the planning commission shall develop a comprehensive statewide long-range plan covering a period of 4 to 6 years which the State board for vocational education, if it approves the plan, shall submit to the U.S. Commissioner. He does not have authority to disapprove the plan. Such plan shall take into account the needs for trained manpower in the State together with actual and projected enrollments; existing capabilities and facilities for vocational education together with needs for such education in all parts of the State; give thorough consideration to the most effective means for utilizing all existing institutions in the States; develop general procedures for delegation of responsibilities for implementation of vocational education programs; develop procedures to assure continuous planning and evaluation; and develop criteria for coordinating manpower training programs with vocational education programs.

The House amendment requires two three-year State plans, one to be effective from fiscal 1978 through fiscal 1980, and the second to be effective from fiscal 1981 through 1983. These three-year plans must set out an assessment of the need for job skills and explicit descriptions of the courses, enrollments, allocations of responsibility among institutions, and allocations of all resources, to meet the identified job needs. These plans must also set out the reasons for choosing these courses, enrollments, and allocations.

The House amendment, but not the Senate bill, contains a provision requiring States to use approximately the same amount of Federal resources for high school vocational programs during fiscal years 1978 and 1979 as they used during fiscal years 1975 and 1976. The House amendment, but not the Senate bill, also requires the State to set out in its three-year plan its policies and proposed actions to overcome sex discrimination and sex stereotyping.

The Senate recedes with an amendment requiring the submission of a 5-year State plan and combining provisions of the House and Senate bills.

State administration.—The House amendment modifies present law by making it explicit that the State board may delegate any of its responsibilities to other agencies within the State, except for policy development, development of the State plan, and consultation with the State advisory council and other State education and manpower agencies.

Under the general application section the Senate bill provides that a State board may delegate its responsibilities, in whole or in part, consistent with the long-range plan approved by the State board.

The Senate recedes with an amendment clarifying the role of the State board to be that of coordinating development of policy and the development of the plans and reports required under the Act. The Senate recession also includes an amendment requiring the State board to certify to the Commissioner as part of its five-year plan and annual plan and accountability report, that each of the agencies, councils and individuals required to be involved in formulating the plans and reports have been afforded the opportunity to be involved in accordance with the provisions of the Act.

General Application.—The Senate bill, but not the House amendment, provides that the State board shall maintain on file with the Commissioner a general application which includes assurances that the State will establish or designate an office for women; that funds will be distributed to eligible recipients on the basis of annual applications which describe the vocational education needs of potential students, and how proposed programs will be coordinated with other education and training programs; that priority in approval of applications will be given to those which propose programs for persons with special needs, are located in poor areas and those with high rates of unemployment, and propose programs new to the area to be served; that funds will not be distributed on a per capita basis; that any dissatisfied potential recipient shall be given an opportunity for a hearing; and that funds will not be used for programs which can not be demonstrated to prepare students for employment, (with certain exceptions).

The House amendment also provides for a general application. It differs from the Senate bill in that it sets out explicitly that the State board must cooperate with the State advisory council and with the other State education and manpower agencies in formulating the State plan and reports; sets out that the two most important factors to be used in distributing funds under the Act are to be the relative financial ability of the agencies and the number or concentration of low-income or higher cost students; requires that the State consider local evaluations in approving local applications; and requires that the State plan be consistent with the State plan adopted under the Education of the Handicapped Act.

The Senate recedes to the House amendments and the House recedes to the Senate bill, since these provisions propose similar changes.

Annual plans and reports.—(a) The Senate bill provides for an annual program plan which serves as an application for funds for the upcoming year and as a report on the State's distribution of funds among eligible recipients for the preceding fiscal year, together with an analysis of that State's program in the light of the long-range plan. In addition, the Senate bill provides that the plan will set forth a study of the procedures the State will follow to permit equal access to vocational education programs by both men and women.

The House amendment contains an annual accountability report which sets forth information on the State's distribution of funds in the preceding fiscal year but which does not contain information concerning proposed distribution of funds. The annual accountability report must include a summary of program evaluations and must use data which conform to the newly required nationally uniform definitions and information elements.

(b) The Senate bill provides that the Commissioner shall approve each State's annual program plan only after he has made specific findings, in writing, that such plan complies with the Act.

The House amendment requires the Commissioner to approve each State's annual accountability report if it is found to be in conformity with the Act. The Commissioner must also send to the State board an analysis of this report including suggestions for improvements in the State programs.

(c) The Senate bill, but not the House amendment, requires the Commissioner to submit each State's annual program plan to the Director of Bilingual Education in the United States Office of Education for review and evaluation of that part of the plan relating to vocational education for persons with limited English speaking ability.

(d) The Senate bill, but not the House amendment, provides that the Commissioner shall not approve a State plan until he has received assurances that that State's Office for Women has reviewed the plan and that the State board has given due consideration to the needs of female students and has provided assurances that all programs are designed to attract individuals of both sexes.

(e) The Senate bill, but not House amendment, provides that the Commissioner shall not disapprove any annual program plan solely on the basis of the distribution of State and local funds for vocational education.

On subsection (a) the House recedes to the Senate amendments, and the Senate recedes to the House amendments, with these provisions being combined wherever possible since they propose similar changes in the law. The Senate recession also includes an amendment requiring the active participation of the same State agencies, councils, and individuals required to be involved in the five-year plan to be involved in the development of the annual plan and report in the same manner, except that this participation must involve three meetings during each year.

On subsection (b) the House recedes to the Senate on the provision concerning the approval of the program plan and report, and the Senate recedes to the House on the provision requiring the Commissioner to send an analysis of the plan and report to the State.

On subsection (c) the House recedes to the Senate with an amendment requiring the Commissioner to provide appropriate procedures for agencies operating the programs related to vocational education programs within the Office of Education to comment on the State plans.

On subsection (d) the House recedes with an amendment requiring an assurance that the personnel assigned to perform the duties concerning sex discrimination and sex stereotyping have been afforded an opportunity to review the plan.

On subsection (e) the House recedes.

Approval of the plans.—(a) The Senate bill provides that no comprehensive long-range plan or annual program plan may be submitted to the Commissioner until that plan has been approved by the State board for vocational education. If the State board rejects either plan, in whole or part, it shall return to the plan to the State planning commission along with its suggested changes.

There is not comparable provision in the House amendment because the State board for vocational education has the final responsibility of reaching decisions on the State plan with a right of appeal being given to dissatisfied State agencies to appeal to the Commissioner of Education.

(b) The House amendment, but not the Senate bill, permits the Commission to disapprove the state's three-year plan if it does not conform with the Act. The Commissioner must give any such state reasonable notice and an opportunity for a hearing before such disapproval. Under the Senate bill the Commissioner has no authority to disapprove a State's long-range plan.

(c) The Senate bill, but not the House amendment, provides that the Commissioner may disapprove the annual program plan of a state if he finds that it does not comply with the provisions of the Act. Such decision is subject to judicial review. Under the House amendment there is no annual program plan, only an annual accountability report. The Commissioner must approve the report if it conforms to the Act.

On subsection (a) the Senate recedes.

On subsection (b) the Senate recedes.

On subsection (c) the House recedes.

Federal Administration.—(a) The Bureau of Occupational and Adult Education is presently required to exist in the U.S. Office of Education under Title X of the Higher Education Act. The Senate bill does not affect those provisions.

The House amendment, however, transfers those provisions to the Vocational Education Act and conforms those provisions to the Act.

(b) The House amendment, but not the Senate bill, requires the Commissioner to assign to the Bureau, beginning in fiscal year 1977, at least as many persons to directly administer the vocational education program as were assigned in fiscal year 1967.

(c)(1) The House amendment, but not the Senate bill, requires the Bureau of Occupational and Adult Education to conduct, between fiscal 1978 and fiscal 1981, a comprehensive review of each State's administration of programs under the Act. The Department of Health, Education, and Welfare, during the same period, shall conduct a comprehensive fiscal audit of such programs within each such State. The conclusions reached through these reviews and audits must be shared with the States by the Commissioner.

(2) The Senate bill, but not the House amendment, provides that the Commissioner shall annually submit to Congress a report evaluating the operation of vocational education in at least five States. In selecting States for evaluation he shall establish three classifications including an urban classification and a rural one and shall evaluate the programs in at least one State substantially representative of each classification. Prior to the submission of the report to Congress he shall make it available to the State being evaluated for comment. The report shall contain the reasons for the selection of the particular States evaluated. To the extent funds are available the Commissioner is encouraged to conduct evaluations in more than five States.

(d) The House amendment, but not the Senate bill, requires the Commissioner to prescribe rules within 60 days of the enactment of these amendments requiring that any hearing in connection with withholding of funds under this Act be conducted within the boundaries of the relevant school district, local government or State.

On subsection (a) the Senate recedes.

On subsection (b) the Senate recedes with an amendment requiring the Commissioner to assign to the Bureau by the termination of fiscal year 1978 at least 50% more persons to directly administer the vocational education program as were assigned in fiscal 1976.

The managers wish to make clear their intention that the personnel who will have to be assigned to the Bureau must not be taken away from assignments in the Bureau for the Education of the Handicapped and from assignments dealing with student aid programs.

On subsection (c) the Senate recedes to the House provision concerning audits and the House recedes to the Senate provision concerning evaluation reports with an amendment combining these provisions.

On subsection (d) the Senate recedes with an amendment requiring that the hearing be conducted within the State of the affected jurisdiction.

Evaluations.—The House amendment, but not the Senate bill, requires each State to conduct within the three-year period of the State plan an evaluation of the programs within the State being assisted with Federal funds. Each program purporting to impart entry-level job skills must be evaluated by using data collected by statistically valid sampling techniques on the effects of the program on school completers and leavers.

The Senate recedes with an amendment requiring these provisions be included in the same section of the law as are the provisions requiring Federal audits and evaluations.

Data collection.—The House amendment, but not the Senate bill, requires the Department of Health, Education, and Welfare to develop a national vocational education reporting and accounting system according to a prescribed time schedule. This system must contain certain specified data elements. The House amendment also requires the establishment of a National Occupational Information Coordinating Committee consisting of representatives from the Departments of Labor and Health, Education, and Welfare to better coordinate the manpower and vocational education programs and to develop more current job information for administrators of these programs. Each State must also establish a comparable committee.

The Senate recedes with an amendment requiring that the data requirement be fulfilled by September 30, 1977.

The managers are aware of the fact that a committee presently exists composed of members of the U.S. Office of Education and of the U.S. Department of Labor dealing with the use of employment data in vocational education. We hope that this committee can be revised to fulfill the new requirements in the Act for the National Occupational Information Coordinating Committee.

National priority programs.—(a) The Senate bill continues existing minimums for vocational education for the handicapped, disadvantaged, and postsecondary and adult education. However, the bill requires matching of each of these minimums with $2 of state and local funds for every $3 of Federal funds.

The House amendment likewise continues the minimums contained in present law for the handicapped, disadvantaged, and postsecondary and adult vocational education and includes new matching requirements for the handicapped and disadvantaged. However, the House amendment also increases the minimum requirement for the disadvantaged from 15 percent to 25 percent of each state's grant. The House amendment defines "postsecondary education" and "adult education" separately, and includes both in the existing 15 percent minimum. It permits the funds for the disadvantaged to be used for special programs for the disadvantaged, work study programs, and stipends, and requires that to the maximum extent possible funds for the disadvantaged and handicapped must be used to assist them in participating in regular programs.

(b) The Senate bill, but not the House amendment, requires that at least 5 percent of the basic allotment of any state which the Commission finds to have areas of high concentrations of persons of limited English speaking ability shall be used to pay the cost of vocational education for such persons, with 2 state and local dollars matching every 3 Federal dollars.

(c) The Senate bill, but not the House amendment, continues a separate authorization of funds to pay the full cost of vocational education for disadvantaged persons in areas of high concentrations of youth unemployment and school dropouts. Such programs must make adequate provision for participation of nonpublic school children. The House amendment retains authority for States to fund these programs, but makes it permissive under the block grant.

(d) The Senate bill, but not the House amendment, provides for a separate authorization of funds to pay the full cost of vocational education in areas of each state having high concentrations of individuals with limited English speaking ability. These programs must make provision for the participation of nonpublic school children.

On subsection (a) the Senate recedes with an amendment requiring a 50% match of State and local funds for the Federal funds which are spent for postsecondary and adult education and reducing the minimum for the disadvantaged to 20%.

On subsection (b) the House recedes with an amendment requiring States to provide vocational education for persons of limited English speaking ability within the States to the same extent that such persons are of the population in the State aged 15-24. These funds are to be provided from the funds reserved for the disadvantaged.

On subsection (c) the House recedes with an amendment making the special program for the disadvantaged a separate subpart of the bill.

On subsection (d) the Senate recedes.

Payments.—(a) The Senate bill provides for a 60-40 match for all national priority programs. The House amendment requires a 50 percent match of state and local funds for Federal funds required to be used for the disadvantaged and the handicapped. There is no special matching provision in the House amendment for the funds required to be used for postsecondary and adult vocational education.

(b) The Senate bill provides that the Federal share for state administration shall be 50 percent except that it shall be 85 percent for fiscal 1978 and 70 percent for fiscal 1979. This percentage may be waived whenever the Commissioner determines that a state is matching Federal funds at a rate which is twice the national average matching ratio or 10 to one. The House amendment requires a 75 percent match for state administration in fiscal 1978 and a 50 percent match in fiscal 1979 and thereafter.

(c) The Senate bill, but not the House amendment, includes evaluation within the definition of administration. The House amendment contains a separate authorization of appropriations for evaluations and planning.

(d) The Senate bill requires local educational agencies and states to maintain a combined fiscal effort, but allows the Commissioner to waive a portion of this requirement if available tax resources are reduced. The House amendment applies to local educational agencies and other public agencies, and allows combined fiscal effort to be calculated on a per student or on an aggregate basis.

(e) The Senate bill, but not the House amendment, provides for maintenance of effort by postsecondary educational institutions, except that the Commissioner may waive for postsecondary educational institutions so much of the maintenance of effort requirement as he determines to be equitable.

On subsection (a) The House recedes to the Senate on the postsecondary and adult matching requirement, and the Senate recedes to the House on the 50% matching.

On subsection (b) the House recedes with an amendment requiring 80% in fiscal year 1978, 60% in fiscal year 1979, and 50% in fiscal year 1980, and permitting in exceptional circumstances a waiver for States in 1978.

On subsection (c) the Senate recedes.

On subsection (d) the Senate recedes.

On subsection (e) the House recedes with an amendment deleting the waiver.

Vocational guidance and counseling.—The Senate bill, but not the House amendment, creates a new program for vocational guidance and counseling with authorizations of $25 million for fiscal 1978, $35 million for fiscal 1979, $45 million for fiscal 1980, $55 million for fiscal 1981, and $75 million for fiscal 1982. Funds under this program can be used for guidance and counseling programs, job placement, training of counselors in changing work patterns of women and ways of overcoming sex stereotyping, counseling for youths and adults in correctional institutions, and establishment of vocational resource centers.

The House recedes with an amendment authorizing guidance and counseling as part of the State's block grant and authorizing the Commissioner to conduct such programs from the funds reserved to him. The House also recedes with an amendment which requires emphasis being placed on guidance counselors going into the work place and people from work environments being brought into the schools.

Block grant.—The House amendment, but not the Senate bill, consolidates all the categorical programs under the present Vocational Education Act into a single block grant to the States, except for the bilingual and home economics programs. This block grant authorizes the expenditure of funds on all the categorical programs presently contained in the Act and adds authorization for States to fund the development of instructional materials to do away with sex stereotyping, vocational education for displaced homemakers, provision of stipends, support services for women, and daycare services.

The Senate recedes with an amendment requiring that 20% of the funds for this block grant must be used for the purpose of program improvement and supportive services.

Innovation.—The Senate bill, but not the House amendment, continues categorical authority for exemplary programs and projects. Fifty percent of the funds are reserved to the Commissioner for programs and projects meeting specified national needs and priorities. The remainder of the funds are available to the States for programs of State or national priority. No program of national significance may be supported for a period of more than three years unless the Commissioner determines that an extra year is necessary. States must also limit programs to three years and must include in the annual program plan for the final year the proposed disposition of the program when Federal funds cease and the means by which successful programs will be continued by the State.

The House amendment authorizes the State as part of the block grant to fund projects leading to program improvement through contracts. The authority to make grants is not retained from present law, and every contract made by a State must show a reasonable probability that it will result in improved teaching techniques or curriculum materials within five years after the termination date of such contract.

The Senate recedes with an amendment incorporating the research, innovation, curriculum development, training, guidance and counseling and sex bias authorizations into a general authority involving 20% of the sums reserved under the block grant.

Work Study.—The Senate bill retains separate authorization for vocational work study but eliminates the limitations on hours of work or possible income ceilings contained in existing law. The House amendment authorizes a State as part of its block grant to fund work study programs and states that students are not to be employed more than a reasonable hours a week or have compensation exceeding payments under comparable Federal programs. The House amendment also expands the class of eligible employers to include nonprofit private agencies.

The Senate recedes.

Cooperative Education.—The Senate bill basically continues the cooperative education program contained in existing law but limits Federal funds to cooperative programs and does not authorize support of ancillary services. The House amendment authorizes a State, as part of the block grant, to fund cooperative education programs.

The Senate recedes.

Consumer Homemaking Education.—The House amendment, but not the Senate bill, specifically encourages programs assisted with Federal home economics funds to lead to the elimination of sex stereotyping by promoting the development of curriculum materials dealing with the increased numbers of women working outside the home and the increased numbers of men assuming home making responsibilities and dealing with appropriate State and Federal laws relating to equal opportunity in education and development. The House amendment, but not the Senate bill, also encourages these funds to be used for outreach programs into the community.

The Senate recedes with an amendment specifically authorizing use of funds for programs involving clothing and textiles.

Emergency Assistance for Remodeling and Renovation.—The Senate bill, but not the House amendment, authorizes $25 million for fiscal 1978, $50 million for fiscal 1979, $75 million for fiscal 1980, and $100 million for fiscal 1981 for emergency assistance to urban and rural school districts with old or obsolete facilities and equipment. In approving applications the Commissioner shall apply criteria concerning the age of the facilities and the number and percentage of unemployed youth. Facilities assisted under this part must be brought into conformity with the Architectural Barriers Act. Federal funds will pay 75 percent of the assistance of the project unless the applicant is suffering extreme financial need and would not be able to contribute 25 percent.

The House recedes.

Energy Education.—The Senate bill, but not the House amendment, authorizes $6 million for fiscal 1978 and $15 million for each of the four succeeding fiscal years for grants to postsecondary institutions for training of miners, supervisors, technicians, and environmentalists in the field of coal mining and coal mining technology and for grants for solar energy education. ($1 million in fiscal 1978 and $5 million for each of the succeeding four years shall be available only for solar energy education.)

The House recedes with an amendment incorporating grants for energy education into the State basic block grant.

Grants to assist in overcoming sex bias.—The Senate bill, but not the House amendment, authorizes $5 million annually through fiscal 1982 to pay 75 percent of the cost of activities which show promise of overcoming sex stereotyping and bias and vocational education.

The House recedes with an amendment authorizing States to fund these programs with their basic grants and authorizing the Commissioner to fund these programs from the funds reserved to him.

National Programs.—(a) The Senate bill continues separate authority for vocational research with 50 percent of the funds reserved to the Commissioner for research in vocational education, training of researchers, experimental demonstration projects, development of new curricula and development of projects involving new careers.

The House amendment consolidates into one reservation of funds to the Commissioner, authority to fund national programs of vocational research and national programs of leadership development and teacher training. The funds the Commissioner decides to use for research can be used only for contracts for applied research, exemplary projects, curriculum development, and dissemination of the results of these projects. The Commissioner must use some of these research funds to support a national center for research in vocational education whose responsibilities are outlined in the legislation. No contract for research may be made by the Commissioner unless there is a reasonable probability that it will result in improved teaching techniques or curriculum materials within 5 years. The Commissioner must also with these funds convert for civilian use curriculum materials prepared on vocational education by the military. Lastly, there is established a coordinating committee on research in vocational education within the education division of the Department of Health, Education, and Welfare.

(b) The Senate bill provides that the amount available to the states shall be used to pay 75 percent of the costs of the state research coordinating unit and for grants and contracts to pay 90 percent of the cost of research and training programs, experimental programs for youths with special needs, and dissemination. The House amendment authorizes a state as part of its block grant to fund research, exemplary projects, and curriculum development by contracts made through the research coordinating unit.

(c) The Senate bill continues separate authorizations to the Commissioner for curriculum development. The House amendment includes this authority as part of the Commissioner's programs of national significance.

The conference agreement provides that the Commissioner shall reserve 5% of the funds available under the authorization for State grants to be used by him for national programs of research, innovation, curriculum development, the elimination of sex bias, and leadership awards. Similar provisions dealing with these programs in the Senate bill and House amendment are combined. The Commissioner must support a national center for vocational education research from these funds.

Personnel training.—(a) The Senate bill continues separate authority for programs designed to improve the qualifications of persons serving or preparing to serve in vocational education programs through training, retraining, in-service training, and exchange of personnel. The House amendment authorizes the state as part of its block grant to fund these types of programs.

(b) The Senate bill basically continues existing law authorizing leadership development awards for qualified vocational education personnel. The House amendment authorizes the Commissioner to fund leadership development awards from the funds reserved for programs of national significance.

The House amendment also adds to this authority of the Commissioner an authorization to also provide grants to individuals who are presently certified as teachers and who want to become vocational education teachers and to persons in industry who have necessary skills to become vocational educators. The House amendment repeals from present law the requirement that the state boards of vocational education must approve the programs offered by graduate schools which awardees attend.

The conference agreement authorizes States to fund pre- and in-service training as part of their basic State grants and authorizes the Commissioner to fund those programs as well as leadership awards.

Bilingual vocational training.—The Senate bill and the House amendment both authorize a categorical program of bilingual vocational training. The Senate bill speaks in terms of bilingual vocational training programs whereas the House amendment speaks in terms of bilingual vocational education. The Senate bill but not the House amendment provides that 65 percent of the funds shall be available for bilingual vocational training, 25 percent for instructor training, and 10 percent for development of instructional materials, methods, and techniques. The House amendment, but not the Senate bill, emphasizes that a purpose of the training is to prepare persons to perform adequately in an environment requiring English language skills.

The House recedes to the Senate provision concerning allocation of funds, and the Senate recedes to the House amendments concerning the purpose of the training.

Definitions.—(a) The Senate bill defines "vocational education" to mean organized educational programs, services, and activities, including guidance and counseling which are directly related to preparation for employment or for retraining for employment with less than a baccalaureate level.

The House amendment defines vocational education as training or retraining except for those programs requiring a baccalaureate or a higher degree; and the term training or retraining is limited to actual instruction and the acquisition of instructional supplies.

(b) The Senate bill amends the term "area vocational school" to eliminate the requirement that the department of a junior or a community college must be under the supervision of the State boards. The House amendment amends this requirement to state that such an institution must be operating under the policies of the State board.

(c) The Senate bill, but not the House amendment, defines the term "State educational agency" as that agency primarily responsible for the State supervision of public elementary and secondary schools.

(d) The Senate bill, but not the House amendment, defines "eligible recipient" as a local educational agency or post-secondary education institution.

(e) The Senate bill, but not the House amendment defines "National Advisory Council" as the National Advisory Council on Vocational Education.

(f) The House amendment clarifies the definition of "industrial arts programs".

(g) The House amendment, but not the Senate bill, defines "disadvantaged" as being economically or educationally disadvantaged.

(h) The House amendment, but not the Senate bill, defines "low-income family or individual" as those so determined according to the latest available data.

(i) The House amendment, but not the Senate bill, contains a definition of "cooperative education."

(j) The House amendment, but not the Senate bill, contains a definition of "curriculum materials."

On subsection (a) the provisions are combined.

On subsections (c), (d), and (e) the House recedes.

On subsections (b), (f), (h), (i), and (j) the Senate recedes.

On subsection (g) the Senate recedes with an amendment requiring that the persons identified as disadvantaged be in need of additional services to qualify for assistance.

National Advisory Council.—The Senate bill adds to the membership of the National Advisory Council representatives of new and emerging occupational fields, and individuals familiar with the special experiences and problems of women, and familiar with the special problems of the individuals in correctional institutions. In appointing the Council, the President shall insure that there is appropriate representation of both sexes, racial and ethnic minorities, and the various geographical regions. The Senate bill expands the activities of the Council to provide that it advises the President, Congress, and Secretary, makes such reports as it deems desirable, and conducts studies and hearings. The Senate bill authorizes $250,000 for each fiscal year through 1982 for employment of technical personnel, and such sums as may be necessary to enable the Council to carry out its other functions.

The House amendment adds to the National Council representatives of nonprofit private schools and women with experiences in sex discrimination. The House amendment also requires that a majority of the membership must be non-educators. The National Council must also comment on the reports of the National Manpower Commission. There are authorized to be appropriated $450,000 for fiscal 1978, $475,000 for fiscal 1979, and $500,000 each for fiscal 1980 and 1981 for all activities of the Council. The Council is authorized to receive gifts and transfers of funds from other agencies, in order to carry out its functions. The Comprehensive Employment and Training Act is amended to require representation of the National Advisory Council on Vocational Educational Education on the National Manpower Commission and to require the National Commission to identify the vocational education as well as the manpower needs of the nation and to comment on the reports of the National Advisory Council.

The conference agreement combines the provisions of the Senate bill and House amendment, but the House authorization of appropriations is retained.

Studies.—(a) The House amendment, but not the Senate bill, requires the Commissioner of Education to conduct a study on the extent to which sex discrimination and sex stereotyping are being eliminated in programs assisted under the Act. The report must be submitted to Congress within two years.

(b) The House amendment, but not the Senate bill, requires the National Institute of Education to conduct a thorough study of vocational education programs and other related programs. The final report must be submitted to Congress and to the President no later than September 30, 1980. Funds under the Vocational Education Act, not to exceed $2 million per year, shall be used to conduct this study.

(c) The House amendment, but not the Senate bill, requires the NIE, as part of the study described above, to evaluate the effectiveness of home economics programs and to make recommendations for their redirection and improvement. This report must be submitted no later than January 15, 1979. Ten percent of the funds available for the general NIE report must be used for this purpose.

The Senate recedes with an amendment limiting the study by the National Institute of Education to no more than $1 million a year.

Repealers.—Both the Senate bill and the House amendment repeal part B of title X of the Higher Education Act (occupational education). However, the House amendment also extends title X, part B, in another part of the bill.

The House recedes to the Senate repeal of title X, part B.

TITLE III—EXTENSIONS AND REVISIONS OF OTHER EDUCATION PROGRAMS

Emergency School Aid.—The Senate bill, but not the House amendment, extends the authorization for the Emergency School Aid Act through fiscal 1979 with a total authorization of $1 billion for fiscal 1977 through fiscal 1979. The House recedes.

The Senate bill, but not the House amendment, authorizes an additional appropriation of $100 million per year through fiscal 1982 for special programs and projects. This appropriation would not be subject to the State apportionment formula. The House recedes with an amendment which limits such additional authorization to $50,000,000 for fiscal year 1977, and $100,000,000 for fiscal year 1978.

The Senate bill, but not the House amendment, authorizes an additional $250 million annually for fiscal 1977 through 1979 for the purposes of (1) construction, rehabilitation, and operation of magnet schools; (2) pairing of schools and programs with specific colleges and universities and with leading businesses; (3) development of plans for and the construction of neutral site schools; and (4) construction and development of educational parks. In addition, the Senate bill, but not the House amendment, extends the life of the National Advisory Council on Equality of Educational Opportunity until the expiration of the Emergency School Aid Act.

The substitute agreed to in conference provides that such authorization shall be limited to $25,000,000 for fiscal year 1977 and $50,000,000 for fiscal year 1978, eliminates assistance for educational parks, limits support for magnet schools to planning and design of, and conduct of programs in, such schools, and eliminates support for construction in the case of neutral site schools. The programs which can be conducted under the conference substitute in magnet schools are those which are otherwise authorized by the Act to be conducted by local school districts.

The conference substitute also incorporates the provisions of the Senate bill which extends the National Advisory Council.

The conference agreement limits to no more than 5% of the discretionary funds the authority of the Assistant Secretary of Education to support projects of compensatory education for children who had been participating in title I, Elementary and Secondary Education Act, programs, but who had been transferred to non-title I schools pursuant to a desegregation order or plan issued after August 21, 1974.This amendment is necessary to take into account situations such as have occurred in Boston, Massachusetts, and Wichita, Kansas, where desegregation plans have transferred children away from attendance areas eligible for title I programs, thereby denying them much needed services. In addition, the conferees hope that administrators of the title I program in the Office of Education will continue to work with local school officials in Boston, Wichita, and other districts in similar situations in an effort to make these essential services available to eligible children within the parameters of the present law.

Under present law the Assistant Secretary can use all of his funds, if he so desires, for providing compensatory services for children who had formerly been receiving such services in Title I schools. Under this amendment he is restricted in this authority. The managers intend naturally that any school district applying for these funds must fulfill all the other requirements contained in the Act for this purpose, and affirm their understanding that other funds under the Act can be used for the same purpose pursuant to the other provisions in the Act.

Allen J. Ellender Fellowship Program.—The Senate bill, but not the House amendment, extends the Allen J. Ellender Fellowship program through 1982. The House recedes.

Maintenance of effort.—The Senate bill amends title IV of the Elementary and Secondary Education Act of 1965 (the consolidation title) to provide that States, local educational agencies, and private schools must maintain effort at the level of the second preceding fiscal year. Current law requires an aggregate State and local maintenance of effort for the preceding year. The Senate bill also amends the Adult Education Act to provide for a maintenance of effort against the second preceding fiscal year. The Senate bill also amends the Vocational Education Act of 1963 to permit the Commissioner to waive a portion of the maintenance of effort requirement if available tax resources are reduced and amends the Act to include postsecondary educational institutions in the maintenance of effort requirement but to permit a waiver of so much of that requirement as he determines equitable.

The House amendment amends titles I, III, and IV of the Elementary and Secondary Education Act of 1965, the Emergency School Aid Act, and the Vocational Education Act of 1963 to require maintenance of effort either on a per-student basis or in aggregate dollar amounts.

The conference substitute includes: (a) the measurement of maintenance of effort on the basis of per pupil or aggregate expenditures for titles I, III, IV of the Elementary and Secondary Education Act of 1965, the Adult Education Act, the Emergency School Aid Act, and the Vocational Education Act of 1963; (b) the measurement for such requirements on the basis of first preceding fiscal year in relation to second preceding fiscal year for title IV of the Elementary and Secondary Education Act of 1965, and the Adult Education Act, and (c) the inclusion of postsecondary institutions assisted under the Vocational Education Act of 1963 in the maintenance of effort requirement in such Act.

The Senate bill amends the General Education Provisions Act to provide that the Commissioner, in prescribing regulations for title IV of the Elementary and Secondary Education Act of 1965 and the Adult Education Act shall determine per pupil expenditures and prescribe that maintenance of effort requirements are met if the amount expended in the preceding fiscal year was at least 95% of the amount expended in the second preceding year. If this requirement is not met, the Commissioner shall reduce the Federal payment by the percentage by which effort was not maintained. In exceptional circumstances he may waive the maintenance of effort requirement, pursuant to objective criteria of general applicability.

The House amendment amends the General Education Provisions Act to permit the Commissioner to waive for one fiscal year provisions requiring local maintenance of effort upon a determination that very exceptional circumstances exist that year which render unobtainable the compliance with such provisions and that every possible effort has been made by the local educational agency to maintain its effort.

The conference substitute amends the General Education Provisions Act and provides, from date of enactment through the termination date of the programs authorized under title IV of the Elementary and Secondary Education Act of 1965 and of the Adult Education Act, an allowable reduction of no more than 5% during such period without any loss in applicable Federal payments. The agency chooses a base year from which the allowable reduction is to be calculated, which must be either the fiscal year preceding the fiscal year of notification, or the second preceding fiscal year. During the period in which the reduction of effort provision is in effect, an agency may distribute its allowable reduction over the number of fiscal years in which it chooses to utilize the reduction.

The conference substitute further provides that the Commissioner may waive for one fiscal year at a time maintenance of effort requirements in statutory provisions affecting these programs in exceptional circumstances (including such circumstances resulting from decreasing enrollments or fiscal resources) to provide a proportional reduction of Federal payments in relation to such reduction by the agency. The conference substitute provides a second waiver authority to the Commissioner under very exceptional circumstances, and in which he shall provide for no reductions in Federal payments or other penalties.

The conference substitute further provides a similar waiver authority to the Commissioner for maintenance of effort requirements under Title I, Elementary and Secondary Education Act of 1965, except that such waiver shall be granted for one year only, and is applicable to local educational agencies only. The managers intend, however, that implementation of this waiver authority will be carried out in a manner consistent with existing decisionmaking practices and relationships among the Commissioner, State agencies, and local educational agencies, under the Elementary and Secondary Act, title I operations.

The conference agreement further provides that: an agency shall notify the Commissioner when it intends to utilize the allowable reduction provision, or to request a waiver of maintenance of effort requirements. The managers intend that the Commissioner shall periodically inform the Labor and Public Welfare Committee of the U.S. Senate and the Education and Labor Committee of the U.S. House of Representatives and make available to the general public in an appropriate manner such notification and his decisions.

The managers intend that, for purposes of the conference substitute, the term "very exceptional circumstances" shall include circumstances in which:

(a) the tax base of a local educational agency has decreased very significantly, e.g. removal of property from the tax roll because of urban renewal, government acquisition of previously taxed property in substantial amounts, or natural disaster of taxable property;

(b) the capacity to raise funds is out of the control of a local education agency because of a very substantial need to reduce fiscal resources, or fiscal resources have been diverted very significantly to other functions which are not within the control of the board;

(c) situations that occur in States where State law requires that each school district must go to the voters for special levies to meet operating expenses over and above those guaranteed by the State; and further, State law prohibits a school district from trying more than twice in any one year to obtain voter approval of a school maintenance and operation levy. The managers would expect the Commissioner to assure that the school district had made every possible effort to comply before granting a waiver.

The managers intend that the Comptroller General of the United States shall conduct a study of the effort of provisions of law which require, with respect to any program for which an administrative head of an education agency has administrative responsibility as provided by law or by delegation of authority pursuant to law, maintenance of effort by States or by local educational agencies, and of the effect of the percent reduction, waiver, and proportional reduction of the requirements of certain provisions contained in the amendment made by the conference substitute and shall report the results of such study, including any recommendations, to the Committee on Labor and Public Welfare of the Senate and to the Committee on Education and Labor of the House of Representatives, not later than January 1, 1978.

Follow the Child.—The Senate bill, but not the House amendment, provides that funds under title I of the Elementary and Secondary Education Act of 1965 may be used for the education of title I children who are transferred to a nontitle I school as a result of a desegregation order or plan. No funds can be used for such purpose unless the money available for title I programs in the school from which such child is transferred is greater than the money in the preceding year. The Senate recedes.

Women's Equity Council.—The Senate bill, but not the House amendment, makes technical amendments to the Women's Educational Equity Act authorizing a national advisory council to report to the Congress and disseminate information concerning its activities. The House recedes.

Participation of Women in the Consolidated program.—The Senate bill, but not the House amendment, amends the Library and Learning Resources Program, contained in part B of title IV of the Elementary and Secondary Education Act of 1965, to require that material purchased should be non-sex biased. The Senate bill also amends part C of title IV of such Act dealing with innovative programs, to include programs and demonstration projects to expand educational opportunities for women. The Senate recedes. The managers fully support the intent of this provision of the Senate to eliminate sex stereotyping in textbooks and other educational materials, but believe that any specific legislative requirement in this area would raise constitutional questions under the First Amendment. The managers believe that local educational agencies must deal with this problem in the exercise of their traditional authority and control over curriculum and course content.

National Peace Academy.—The Senate bill, but not the House amendment, establishes a Commission on Proposals for a National Academy of Peace and Conflict Resolution. Under the provisions of the Senate bill for which an authorization of $200,000 is provided, the Commission shall undertake a study to consider a national academy, the feasibility of making grants to existing institutions of higher education, and other alternative proposals. The Commission shall submit a report to the President and Congress no later than one year after the date of enactment of this Act. The Senate recedes. The managers wish to urge the appropriate Committees of the Senate to give further study to this proposal to create a National Peace Academy and to encourage the appropriate committee in the House to conduct hearings on such proposal.

Study of Student financial assistance.—The Senate bill, but not the House amendment, directs the General Accounting Office to conduct a detailed analysis of the extent and effects of the Federal Government's regulations of educational institutions based solely upon the presence of students receiving Federal aid. The General Accounting Office shall report its findings to the Labor and Public Welfare Committee and the Education and Labor Committee within 9 months. The Senate recedes. The managers agree that a Congressional request shall be made of the General Accounting Office for the conduct of such a study.

Impact aid equalization.—The Senate bill, but not the House amendment, provides that in the application of equalization regulations under the Impact Aid Program, no payment may be withheld from and no repayment required of any State already counting impact aid funds in its State formula prior to promulgation of final regulations on July 1, 1977. The House recedes.

State equalization plan.—The Senate bill, but not the House amendment, extends until October 1, 1978, the period during which States may submit plans to the Commissioner for reimbursement of exepnses for State equalization plans. The House recedes.

Indochina refugee children.—The Senate bill, but not the House amendment, provides that the contingent extension provisions of the General Education Provisions Act shall not apply to the Indochina Refugee Children Assistance Act of 1976. The House recedes.

Miscellaneous Amendments.—The House amendment, but not the Senate bill, would amend title IV of the Elementary and Secondary Education Act of 1965 to authorize State educational agencies to retain up to 2% of any funds appropriated for part B of that title (Libraries and Learning Resources) for State-level programs, projects, and leadership activities designed to expand and strengthen counseling and guidance services in elementary and secondary schools. Except for a five percent setaside for State administrative funds. State educational agencies are presently required to pass through all title IV funds to local educational agencies in the State. The Senate recedes, with an amendment which provides an equivalent authorization for these services for fiscal year 1977, and which provides that an amount representing such authorization for that year is not authorized to be appropriated for that year under title IV for grants under part B thereof.

Section 309 of the Adult Education Act presently provides that each State must use at least 15 percent of its State grant for special programs and teacher training. The House amendment, but not the Senate bill, would lower this amount to 10 percent of a State's grant. The Senate recedes. The Managers do not intend that States should greatly reduce special programs and teacher training in adult education, unless the amounts of Federal funds available to States for regular adult education programs is less than amounts available in previous years. In 1974, PL 93–380 altered adult education special programs and teacher training from a program administered directly by U.S. Commissioner to a setaside of 15% in the State allotment. However, in a number of States, a change in allocation formula in that same law reduced amounts available in adult education for regular programs. The managers intend to provide flexibility to those States to continue programs, but wish to emphasize the continuing importance of special programs and teacher training as a vital component of a balanced State program for adult education.

The House amendment, but not the Senate bill, would amend P.L. 81–874 to restore to full payments the amounts paid under entitlements due to the presence of Federal land within school districts (section 2 of the Act). Those payments had been reduced to 60 percent of entitlements by P.L. 93–380. The Senate recedes.

The House amendment, but not the Senate bill, would amend the consolidation of programs under title IV of the Elementary and Secondary Education Act of 1965 to provide a separate authorization of appropriations in order to increase allotments under that title to any State to a level of funding which that State had been receiving under the separate categorical programs consolidated in title IV in fiscal year 1974. The Senate recedes.

The House amendment, but not the Senate bill, forbids the making of grants or contracts or the giving of support under the General Education Provisions Act for any purpose in connection with certain curriculum programs and materials. The House recedes.

Career education and career development.—The Senate bill, but not the House amendment, authorizes a new program of career education and career development, with $25 million authorizd for FY 1978, $35 mililon for FY 1979, $45 million for FY 1980, $55 million for FY 1981, and $75 million for FY 1982. Up to 10% or $2 million, whichever is less, is reserved for program administration, of which at least 75% must be used for gathering, cataloging, and disseminating information on career education, periodic reports, analyses, and career information training sessions. Funds would be distributed among the States on the basis of population. Federal funds could not exceed 80% of the cost of programs, declining to 50% when the appropriation exceeds $55 million. States shall submit an annual program plan for development and improvement of career education and career development programs, including extending career education throughout the State and beyond the school, implementation of new concepts, training programs, and cooperative arrangements. The program would be administered through the existing office of Career Education, and the National Advisory Council on Career Education would have its functions expanded to advice on this program.

The House recedes, with an amendment which limits this provision to planning activities only, and which limits the program to an authorization of $10,000,000 for fiscal year 1978. The managers have limited this provision to planning because we hope Congress next year will address itself to a major bill implementing career education.

Guidance and counseling.—The Senate, bill, but not the House amendment, authorizes a new program of guidance and counseling, with an annual authorization of $20 million for each fiscal year through 1982. The Commissioner shall establish or designate an administrative unit within the Education Division to carry out this program and coordinate guidance and counseling activities in all programs. The Commissioner may make competitive contracts and grants with public and nonprofit private agencies and organizations for institutes, work shops, and seminars designed to improve the professional guidance qualifications of teachers and counselors, and to provide training for supervisory personnel. The House recedes, with an amendment which reduces the reservation for administration and specifies that such activities may include activities providing opportunities for guidance and counseling personnel to gain experience in work environments outside the schools.

TITLE IV.—EDUCATION ADMINISTRATION

Title IX Amendments.—(a) The Senate bill, but not the House amendment, amends Title IX of the Education Amendments of 1972 (relating to sex discrimination) to remove from the applicability of that title any program or activity relating to Boys State, Boys Nation, Girls State or Girls Nation. The House recedes. In carrying out these amendments, the managers intend that the exceptions created by these amendments to Title IX are specifically limited to these situations.

The Senate bill, but not the House amendment, also amends Title IX by stating that father-son or mother-daughter activities cannot be precluded by that section, but if such activities are provided for students of one sex, opportunities for reasonably comparable activities shall be provided for students of the other sex.

The Senate bill and the House amendment both amend Title IX to remove from applicability any scholarship award by an institution of higher education to an individual because of personal appearance, poise, or talent. The Senate bill differs, however, in that it speaks of "such" award as being excluded under Title IX whereas the House amendment speaks of "an" award. The Senate bill also differs in that it states that the pageant must be in compliance with other nondiscrimination provisions of Federal law. The House recedes.

Improvement of Postsecondary Education.—The Senate bill extends the Fund for the Improvement of Postsecondary Education through fiscal year 1982; the House amendment extends it through fiscal year 1977. In addition, the House amendment recaptions section 404 of the General Education Provisions Act to make it read "Fund for the Improvement of Postsecondary Education". The House recedes with an amendment which extends the program through fiscal year 1979.

Regulations.—The Senate bill, but not the House amendment, clarifies the provisions of section 431 of the General Education Provisions Act, relating to congressional disapproval of regulations, by making it clear to which HEW issuances the disapproval authority applies.

The House recedes.

National Institute of Education

Members of National Council

The House amendment provided that members of the National Council on Educational Research shall be representatives of the general public, educational professions, and various fields of education. The Senate bill did not contain any similar provision.

The Senate recedes.

Terms of Council Members

The Senate bill provided that a member of the Council shall serve until a successor is appointed. The House amendment contained the same provision and provided that such successor must be confirmed by the Senate.

The Senate recedes.

Council Staff

The House amendment, but not the Senate bill, provided that the Council may employ not more than 7 technical and professional employees to assist the Council in carrying out its functions. These employees may be hired without the approval of the Director of the Institute and without regard to certain provisions of title 5, United States Code.

The Senate recedes.

Director's Grade Level

The Senate bill provided that the Director of the Institute shall be compensated at the rate provided for level IV of the Executive Schedule under section 5316 of title 5, United States Code. The House amendment did not change existing law which provides that the Director shall be compensated at the rate provided for level V of the Executive Schedule.

The Senate recedes.

Education Extension Agents

The House amendment, but not the Senate bill, provided that funds may be used for the dissemination of: (1) information relating to the results of educational research and development programs; and (2) other educational information. Projects to carry out such dissemination may include cooperative arrangements utilizing the services of individuals who may be designated as "Education Extension Agents.". Employment opportunities in connection with such projects shall be made available to residents of the area to be served, to the extent such residents are qualified for such employment.

The Senate recedes. The managers wish to make it clear that intermediate education agencies, where they exist, may serve as the agency employing the Extension Agents.

Educational Laboratories and Centers

(a) The Senate bill, but not the House amendment, provided that not less than 25 percent of the funds appropriated to carry out the functions of the Institute shall be made available only for grants or contracts with regional educational laboratories and research and development centers.

The Senate recedes.

(b) The Senate bill, but not the House amendment, required the Director to enter into grants and contracts with regional educational laboratories and with research and development centers established by institutions of higher education.

The House recedes with an amendment clarifying that research and development centers may be operated by interstate agencies established by compact which operate subsidiary bodies established to conduct postsecondary educational research and development as is the case under existing law, which the House amendment continued.

The managers wish to emphasize their intent that the quality of work of those institutions making applications be considered as an important criterion for funding. Further, the managers do not intend that the phrase "the Director shall make grants and enter into contracts with" be construed to require the Director to fund proposals which do not meet the quality standards of the Institute.

(c) The Senate bill, but not the House amendment, provided that the Director may not enter into any grants or contracts with required labs and centers unless (1) proposals for assistance are solicited from regional educational laboratories and research and development centers; (2) such proposals are developed in consultation with the Director; (3) proposals are submitted in an application, containing such information as the Director may require, which assures that the laboratory or center involved will (A) be responsible for the conduct of research and development activities and the evaluation of such activities; (B) disseminate information developed in connection with such activities; (C) provide technical assistance to appropriate educational agencies and institutions; and (D) provide training to individuals in the use of new educational methods; (4) the Director determines that the proposed activities are consistent with the educational research and development program conducted by the Institute; and (5) a Panel established by the Director has reviewed the proposal and made recommendations regarding the proposal.

The conference substitute follows the Senate bill, except that the conference substitute provides, with respect to applications submitted to the Director, that such applications shall contain such information as is essential to carry out the provisions of the grant program. The conference substitute requires laboratories and centers submitting applications to provide assurances which are the same as those contained in the Senate bill, except that the conference substitute provides that such laboratories and centers need only to ensure that information will be disseminated, and that training for individuals shall be provided to the extent practicable.

The conference substitute also eliminates the requirement that the Panel for the Review of Laboratory and Center Operations review proposals before grants are awarded. The conference substitute requires a laboratory or center submitting an application to provide assurances that such laboratory or center will prepare a long-range plan relating to the conduct of research and development activities. The Panel is required to review, and prepare recommendations with respect to, initial long-range plans prepared by such laboratories and centers.

(d) The Senate bill, but not the House amendment, required the Director to establish a Panel for the Review of Laboratory and Center Operations, composed of not less than 10 members nor more than 20 members appointed by the Director from a list of nominees submitted by regional educational laboratories and research and development centers, by associations engaged in educational research, and by other similar associations. The Panel was required to review proposals, review the operations of laboratories and centers, and submit an annual report to the Director of the Institute and to the Congress. Members of the Panel serve for terms of 5 years. Nongovernment members of the Panel are entitled to compensation at the rate specified for Grade GS-18. Such members also are entitled to travel expenses, including per diem in lieu of subsistence, in the same manner as persons intermittently employed in the Government service. The Director of the Institute is authorized to employ professional, technical, and clerical personnel and to procure the services of experts and consultants.

The conference substitute follows the Senate bill, except for the following differences. The conference substitute provides that members of the Panel shall be appointed by the Director from written recommendations submitted by educational laboratories and research and development centers. The managers intend that all laboratories and centers eligible to submit applications be given the opportunity to submit recommendations as to the Panel membership. In addition, associations of professional, commercial, scholarly, and educational associations are eligible to submit recommendations for panel membership.

The conference substitute requires the Panel to review initial long-range plans, rather than to review proposals submitted by laboratories and centers.

The final report of the Panel is to be submitted by January 1, 1979. The managers urge the Panel to submit its report to the Director before submitting such report to the Congress, in order to provide the Director with an opportunity to supplement the report with his comments. The managers wish to make clear, however, that any such referral of the Panel's report shall not be used to delay transmission of the report to the Congress. In the event the comments of the Director are not forthcoming within a reasonable period of time, the Panel's report would be submitted without comment.

The conference substitute omits the provisions of the Senate bill relating to the terms of office applicable to members of the Panel.

The managers, with respect to the Institute's building a national capacity for educational research and development, encourage the Institute to work out a system whereby all regions of the Nation can be served by educational laboratories.

(e) If the Director of the Institute disregards any recommendations submitted by the Panel, the Senate bill required the Director to report to the Panel in writing with respect to his reasons for disregarding the recommendations of the Panel.

The Senate recedes. The managers wish to emphasize, however, that they expect that the Director will inform the Panel, in such fashion, without any statutory requirement.

(f) The Senate bill provided that any regional educational laboratory or research and development center which receives assistance under the provisions of the Senate bill shall not, as a result of the receipt of such assistance, be ineligible for the receipt of any other assistance from the Institute.

The House recedes.

Federal Council on Educational Research and Development

The House amendment, but not the Senate bill, established within the Institute a Federal Council on Educational Research and Development composed of at least 17 statutorily-required members; the Director of NIE is chairman.

The Federal Council was required to: (1) advise, and consult with, the Director of the Institute regarding problems arising in connection with carrying out the purpose of the Institute; (2) coordinate the policies and operations of the Institute; (3) promote coordination between programs of the Institute and related programs of other Federal agencies; (4) make an annual report to the Congress and to the President which reviews the status of educational research and development in the United States and which includes a catalog of federally assisted educational research and development programs, a report of the findings of such research and development, and recommendations for the improvement of Federal research and development efforts; and (5) make recommendations to the Congress and to the President regarding means for the dissemination throughout the United States of information relating to educational research and development, and assess methods used by Federal agencies for the dissemination of such information.

The conference substitute follows the House amendment, except that the conference substitute reduces the number of statutorily-required members of the Federal Council to include the following: a representative designated by the Secretary of Defense, a representative designated by the Secretary of Labor, the Director of the National Institute of Education, the Director of the National Institute of Health, the Director of the National Science Foundation, the Director of the Office of Child Development of the Department of Health, Education, and Welfare, and the Commissioner of Education.

The modification made by the conference substitute is intended to emphasize the major Federal agencies which should be an integral part of the Federal Council.

The managers expect that the President will appoint to the Council officials representing the various Federal agencies engaged in research relating to education.

The managers wish to make clear that, while the Federal Council will carry on an advisory function to the Director of the Institute, this should in no way be construed to be a policy-making function. The managers do not intend for this advisory function to interfere with the policy determinations of the National Council on Educational Research and of the Institute.

The conference substitute eliminates the provision of the House amendment which required the Federal Council to coordinate the policies and operations of the Institute. The conference substitute requires the Federal Council to promote coordination between programs and activities of the Institute and related programs and activities of other Federal agencies, including the joint support of activities to the extent such joint support is appropriate.

Authorizations

The following amounts were authorized by the Senate bill and the House amendment to carry out the functions of the Institute:

FISCAL YEAR	SENATE BILL	HOUSE AMENDMENT
1976 (including transition period).	Such sums as may be necessary.	No provision.
1977 to 1979	$500,000,000 for the entire 3-fiscal-year period.	$100,000,000 for fiscal year 1977, $120,000,000 for fiscal year 1978, and $140,000,000 for fiscal year 1979.
1980 to 1982	Such sums as may be necessary.	No provision.

The conference substitute authorizes $100,000,000 for fiscal year 1977 and $200,000,000 for each of the fiscal years 1978 and 1979.

Consultation

The House amendment, but not the Senate bill, provided that the Director of the Institute shall, in conducting educational research dealing with specific education programs, consult with the appropriate Federal administrators of such programs. It also required the head of any Federal agency which conducts educational research to consult with the Director of the Institute with respect to such research.

The Senate recedes.

Presidential Advisory Councils.—The House amendment, but not the Senate bill, would amend section 433(b) of the General Education Provisions Act. That section presently provides that if the President fails to appoint a member to fill a vacancy on a Presidential advisory council within sixty days after it occurs (or after the effective date of the statute creating such a council), then the Secretary shall immediately appoint a member to fill such vacancy. Instead, the House amendment provides that members whose terms have expired would continue to serve until their successors are named. The Senate recedes.

Prohibition of Federal Control.—The Senate bill, but not the House amendment, provides that Federal control of education is prohibited in all Education Division programs, whether or not they are specifically listed. The House recedes.

Improved Educational Research Programs for Women.—The Senate bill, but not the House amendment, amends the National Institute for Education and the Fund for Improvement of Post-Secondary Education to stress attention to activities and programs for women. The Senate recedes. The managers recognize the need for such research, and that the Institute and the Fund, under existing authority, are carrying out many such research projects.

Paperwork.—The Senate bill provides that the Secretary and the Commissioner shall coordinate data collection activities of the Education Division and the Office for Civil Rights, in order to eliminate excessive detail and unnecessary or redundant information. The National Center for Education Statistics shall assist in such coordination, and shall require of each office a detailed justification of how information will be used and the number of man-hours required to collect it. Agencies and institutions subject to data requests, and their representative organizations, may comment within 30 days prior to the transmittal of the request to the Office of Management and Budget. Nothing shall be construed to interfere with the enforcement of the Civil Rights Act or of other nondiscrimination provisions. The Commissioner shall report annually on his progress in cutting down on paperwork.

The House amendment vests the coordinating authority in the National Center for Education Statistics. In addition to submission of a detailed justification and estimate of man-hours, each agency must state the sources of funds for each request for information. In addition, under the House amendment, the Center must, upon request, provide the Committee on Education and Labor and the Committee on Labor and Public Welfare with objective descriptions of the best means in which to formulate legislation in order to avoid redundant information requests and excessive detail. The House recedes.

Equal Educational Opportunities Act Amendment.—The House amendment, but not the Senate bill, amends the Equal Educational Opportunities Act by removing from section 203(b) the following phrase: "except that the provisions of this title are not intended to modify or diminish the authority of the Federal courts of the United States to enforce fully the Fifth and Fourteenth Amendments to the Constitution of the United States." The House recedes.

Administrative Hearing.—The House amendment, but not the Senate bill, gives a State or local educational agency or institution of higher education, community college, school, agency offering a preschool program, or other educational institution the right of due process of law, including a hearing before an administrative law judge, before the extension of Federal funds to such agency or institution through grant, loan, contract, student assistance, or any other programs may be limited, deferred or terminated by the Secretary except that this provision does not apply to Part B of Title IV of the Higher Education Act (insured loan program). The agreement reached in conference adopts a substitute which limits the provision to local educational agencies with respect to the nondiscrimination provisions of Federal law, which provides for a 30-day prior written notice requirement, a hearing on the record within 60 days from the commencement of any deferral, the conclusion of the hearing and decision within 90 days of commencement of the hearing, and a deferral period not to exceed 15 days after a decision is rendered, unless there has been an express finding of failure to comply, and requires procedures to insure the availability, without fiscal year limitation, of sufficient funds to comply with the decision of the administrative law judge.

The amendments sets up the procedures for the deferral and/or limitation of Federal financial assistance to local educational agencies and does not address the question of the Secretary's authority to limit or defer Federal financial assistance in this area. The Conferees wish to state that this language, by its adoption, does not imply, one way or the other, that the Secretary does or does not possess the authority to defer or limit Federal financial assistance to institutions of higher education or community colleges.

Goals and Quotas.—The House amendment but not the Senate bill, makes it unlawful for the Secretary of HEW to require the impositions of quotas, goals, or any other numerical requirements on the student admission practice of an institution of higher education or community college, and funds cannot be deferred or limited on the basis of failure to comply with such numerical requirement.

The Senate recedes, with an amendment which makes unlawful deferral or limitation of funds on the basis of failure to comply with imposed quotas or numerical requirements having the effect of quotas.

The conferees wish to state that this language, by its adoption, does not imply, one way or the other, that the Secretary does or does not possess the authority to defer or limit Federal financial assistance to institutions of higher education or community colleges on other grounds.

Extension of certain reporting dates.—The Senate bill, but not the House amendment, extends the reporting dates for the Commissioner's personnel report, the Commissioner's annual report, the spending plan under the Special Projects Act, and the Safe Schools Act report, to reflect the change in the fiscal year and for other administrative reasons. The House recedes.

Indian postsecondary schools.—The Senate bill, but not the House amendment, makes postsecondary schools operated by the Bureau of Indian Affairs eligible to participate in Education Division programs, if they meet the other eligibility criteria for the program. The House recedes.

TITLE V.—TECHNICAL AND MISCELLANEOUS EDUCATION AMENDMENTS; TRANSITION PERIOD AND EFFECTIVE DATES

Technical Amendments.—Certain technical amendments appear in the House amendment, but not in the Senate bill. All of these technical amendments are corrections of errors, updatings of reporting dates, and so forth, of provisions appearing in the Education Amendments of 1974 (Public Law 93-380). The Senate recedes.

The House amendment, but not the Senate bill would amend the "hold-harmless" provision for State agency programs under title I of the Elementary and Secondary Education Act to include those programs in Puerto Rico. The Senate recedes.

Reorganization of the Education Division.—The Senate bill, but not the House amendment, reorganizes the Education Division, placing all programs under the Commissioner, who is promoted to a level III of the Executive Schedule. The existing Assistant Secretary position, a level IV, is repealed. Day-to-day operation of the Office of Education would be the responsibility of a new Administrative Deputy Commissioner, at Executive Level IV, subject to Senate confirmation. Appropriate changes are made in existing law to reflect the reorganization. In all instances, statutory references to the "Assistant Secretary for Education" are changed to the "Commissioner of Education". With one exception, no specific statutory authority is given to the Administrative Deputy Commissioner. The provisions are effective on January 1, 1977. The Senate recedes, with an amendment which directs the Secretary of Health, Education, and Welfare to study and report, by June 30, 1977, on the need for reorganization of the Education Division.

Wayne Morse Chair of Law and Politics.—The Senate bill, but not the House amendment, authorizes the Commissioner to pay up to two-thirds of the cost of establishing the Wayne Morse Chair of Law and Politics at the University of Oregon; $500,000 is authorized to be appropriated. The House recedes, with an amendment directing that the Federal share be no more than 50 percent of the cost. The managers expect that any funds appropriated for this purpose will be released by the Commissioner to the University only as the University documents that it has raised portions or all of the non-Federal share.

Department Day Care Centers:—The Senate bill, but not the House amendment, authorizes the Secretary of Health, Education, and Welfare to establish and operate a day care facility for children of Health, Education, and Welfare employees and to accept contributions for use in connection with such day care facilities. The House recedes with an amendment under which such facilities may be established, but for which appropriated funds may not be used for equipping or operation of such facilities, although appropriate space may be donated, and initial equipment (if the cost is reimbursed over the life, not in excess of 10 years, of such equipment) may be purchased.

Transition period and effective dates.—The Senate bill, but not the House amendment, has a general authorization for the transition quarter. The Senate bill also has a general effective date of 30 days after enactment of the legislation, except where other effective dates are specifically noted in the bill. The House amendment has no general effective date. All provisions of the Vocational Education Act, except for the one-year extension of programs, the provision requiring assignment of personnel to the Bureau of Occupational and Adult Education, the provision requiring the studies, and the provision requiring improved data collection, are effective on October 1, 1977. The provision authorizing planning grants for vocational education for fiscal year 1977 is effective only for that fiscal year. Changes in the National Institute of Education are effective upon date of enactment. The substitute agreed to in conference combines the provisions of the Senate bill and the House amendment.

CARL D. PERKINS,
FRANK THOMPSON, Jr.,
JOHN BRADEMAS,
JAMES G. O'HARA,
AUGUSTUS F. HAWKINS,
WILLIAM D. FORD,
PATSY T. MINK,
LLOYD MEEDS,
SHIRLEY CHISHOLM,
MARIO BIAGGI,
IKE F. ANDREWS,
BILL LEHMAN,
JAIME BENITEZ,
MIKE BLOUIN,
ROBERT J. CORNELL,
PAUL SIMON,
EDWARD P. BEARD,
LEO C. ZEFERETTI,
GEORGE MILLER,
RON MOTTL,
TIM L. HALL,
ALBERT H. QUIE,
JOHN M. ASHBROOK,
ALPHONZO BELL,
JOHN N. ERLENBORN,
EDWIN D. ESHLEMAN,
JOHN BUCHANAN,
JAMES M. JEFFORDS,
BILL GOODLING,
VIRGINIA SMITH,
Managers on the Part of the House.

CLAIBORNE PELL,
JENNINGS RANDOLPH,
HARRISON A. WILLIAMS, Jr.,
EDWARD M. KENNEDY,
THOMAS F. EAGLETON,
ALAN CRANSTON,
W. D. HATHAWAY,
J. GLENN BEALL, Jr.,
JACOB JAVITS,
RICHARD S. SCHWEIKER,
ROBERT T. STAFFORD,
BOB TAFT, Jr.,
Managers on the Part of the Senate.

RAIL AMENDMENTS OF 1976

Mr. ROONEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14932) to amend the Regional Rail Reorganization Act of 1973, the Railroad Revitalization and Regulatory Reform Act of 1976, the Rail Passenger Service Act, and the Interstate Commerce Act.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 14932, with Mr. ROUSH in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule the gentleman from Pennsylvania (Mr. ROONEY) will be recognized for 1 hour and the gentleman from Kansas (Mr. SKUBITZ) will be recognized for 1 hour.

The Chair recognizes the gentleman from Pennsylvania (Mr. ROONEY).

Mr. ROONEY. Mr. Chairman, the reported bill contains a number of essential amendments to the Regional Rail Reorganization Act of 1973, the Railroad Revitalization and Regulatory Reform Act of 1976 and the Interstate Commerce Act. This bill is designed primarily to clarify some of the provisions contained in the landmark legislation enacted by this Congress last February—The Railroad Revitalization and Regulatory Reform Act of 1976.

Based on the experience of implementing the Rail Act of 1976 during the past seven months since it was enacted, the committee has determined that a number of essential amendments should be made to the previous rail legislation in order to clarify the original congressional intent, correct oversights, and correct provisions now found to be improper.

One problem relates to the Office of Rail Public Counsel. The Rail Act of 1976 provides that the President nominate a Director by April 5. To date he has not nominated a candidate for this office. Consequently, the Public Counsel is precluded from participating in many of the important rulemaking proceedings now underway. The reported bill provides a means for the existing Public Counsel to continue to function until the President nominates and the Senate confirms a successor.

One of the most significant problems addressed by the reported bill pertains to the inability to pay the operating expenses of the railroads in reorganization incurred immediately prior to conveyance to ConRail and other acquiring railroads. Failure to timely pay the amounts due to employees, suppliers, shippers and railroads for the goods and services provided is a breach of a commitment made by the Government. These goods and services were provided in the waning days before the reorganization, based on a Government promise that timely payment would be made, in order to preclude a disruption to rail service and prevent disruptions in ordinary business relationships. The claimants, particularly the numerous small organizations, are suffering severe cash flow problems by the failure to receive payment in a timely manner for their materials.

The reported bill attempts to rectify this situation by increasing USRA's loan authority by $70 million. Thus, there should be adequate funds to immediately pay a substantial portion of amounts due all claimants rather than have payment deferred until the estates of the bankrupt railroads are settled in the courts. The increase in loan authority will not be at any cost to the Government as the loans are being made at an interest rate slightly higher than the interest rate paid by the Government to borrow the funds. The loans are to be repaid by the estates of the bankrupt railroads and the committee was informed that after the estates are settled there will be sufficient funds in the estates to repay the loans.

Another serious problem that has developed which the reported bill will rectify pertains to the inability of a number of States and others to reach an agreement with the trustees of the bankrupt railroads for service on rail branch lines not included in the reorganization. The trustees are reluctant to enter into agreements for fear that the value of its property established for purposes of reimbursement for operating on branch lines to be subsidized will prejudice their case in the litigation for the overall value of the property transferred in the reorganization. In order that these branch lines can continue to be operated as intended by the Rail Act of 1976, the reported bill specifically excludes from court evidence any agreement for branch line operations in any future cases involving the overall valuation of property.

The reported bill also rectifies an unintended inequity between contract and noncontract employees deprived of employment with regard to fringe benefits. Existing legislation provides that displacement allowances for contract employees shall include protection for medical insurance, life insurance, and voluntary relief plans. Unfortunately, however, existing legislation fails to provide these same protections to noncontract employees. The reported bill corrects this oversight because there is no solid reason to discriminate among employees of the bankrupt railroads solely on the basis of whether or not their employment was governed by a collective bargaining agreement.

Another problem with regard to employee displacement allowances pertains to the formula for determining the amount of the allowances. The original legislation provided that the allowances would be determined based on the wages received by the employees during the 12-month period preceding displacement. In computing the amounts due to each employee it was found that this time period was not consistent causing an unnecessary administrative burden. In correcting this problem the act was amended to specify a uniform time period for all employees. This amendment, however, inadvertently created another problem in that it precluded the inclusion of a 10-percent nationwide wage increase in the computation of the allowances. As this omission is patently unfair the reported bill again amends the act so that the computation for displacement allowances can be made as originally intended.

Other amendments in the reported bill include provisions to:

First. Expand previously granted deficiency judgment protection to cover actions other than for cash;

Second. Clarify transfer of rail properties to the State of Rhode Island;

Third. Expand the types of claims eligible for loans from USRA to ConRail and other acquiring carriers to include health, life insurance, and pensions for retirees and accrued vacations for employees;

Fourth. Specify the order in which escrowed funds from the estates will be used and the amounts collected as accounts receivable, and/or other current assets, or loan proceeds can be used to pay obligations of the estates eligible for loans notwithstanding prior agreements;

Fifth. Clarify that ConRail is not required to assume preconveyance obligations of the estates of the bankrupt railroads under collective-bargaining agreements and FELA;

Sixth. Provide more flexibility for the loan guarantee program established by the Rail Act of 1976 with regard to the evaluation of the security for the loans and the dividend restrictions during the period of the loans; and

Seventh. Study whether waste disposal conveyances should be required on passenger and freight trains.

I am sure that you all are very aware of the importance of this bill. As I have said, if it is not enacted, considerable hardship will be inflicted on employees and suppliers by the failure to receive timely payment for their goods and services; noncontract employees deprived of employment will be unfairly treated; contract employees deprived of employment will not receive the full amount of the allowances to which they are entitled; and a number of branch lines will unnecessarily cease to be operated. I therefore urge your support of this bill.

Mr. BAUMAN. Mr. Speaker, will the gentleman from Pennsylvania yield?

Mr. ROONEY. I am happy to yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman for all his many courtesies in recent months dealing with this legislation.

Mr. Chairman, in the last few days a number of shippers in Maryland and other States served by ConRail have received notice from ConRail regarding the termination of service on April 1 of 1977, unless State and local subsidies are provided on a 90 to 10 matching basis, 90 percent Federal and 10 percent local funds.

I am wondering whether or not the bill in any way deals with continuing 100 percent Federal subsidies or are there any provisions that might affect that financing?

Mr. ROONEY. This bill does not affect the subsidies provision. It does, however, provide a means whereby those States can reach an agreement with the estates for operating the branch lines in accordance with the subsidy provisions.

Mr. BAUMAN. Mr. Chairman, if the gentleman will yield further, in other words, the 90 to 10 formula will take effect next April?

Mr. ROONEY. Yes; that is true.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman from Pennsylvania.

Mr. ROONEY. Mr. Chairman, I reserve the balance of my time.

Mr. SKUBITZ. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. MADIGAN).

Mr. MADIGAN. Mr. Chairman, on page 58 of the bill at section 202, the bill calls for as the title states a Midwest rail study, which is a provision adopted first in the Transportation Subcommittee and then in the full Committee on Interstate and Foreign Commerce.

The Members may recall, Mr. Chairman, that in the 93d Congress there was a reorganization which divided the transportation responsibilities of the Congress, which previously had been entirely with the Committee on Interstate and Foreign Commerce. Under the reorganization, railroads only stayed with the Committee on Interstate and Foreign Commerce. Other forms of transportation were transferred to the Committee on Public Works.

I understand that since the passage of this bill out of the Committee on Interstate and Foreign Commerce, the staff of the Committee on Public Works has objected to the inclusion of section 202, the "Midwest Rail Study," in this ConRail bill on the basis that it invades the purview of their responsibility as the Committee on Public Works. I understand further that either the gentleman from West Virginia (Mr. STAGGERS) or the gentleman from Pennsylvania (Mr. ROONEY) at an appropriate time will offer an amendment to delete this section of this bill.

I intend to oppose that amendment, Mr. Chairman, not because I think that their argument about purviews of responsibilities is with or without merit, but simply because there is nothing in this section of this bill which in any way interferes with the work of the Committee on Public Works. Nothing in this section of this bill says that anything will be built or that anything will not be built.

All that this section of the bill does is ask for a study of the impact upon the Midwest rail system of proposed waterway improvements that are under design or under plan by the U.S. Army Corps of Engineers. This section of the bill merely says that the Secretary of the Department of Transportation and the Interstate Commerce Commission shall study these plans and shall determine what, if any, impact these plans have upon the rail transportation system in the Midwest, particularly in the State of Illinois, the State which I represent.

I do not see how there could be anything wrong with the Congress of the United States asking for a study by the Secretary of Transportation and the Interstate Commerce Commission of a proposal that everyone agrees would have a substantial effect upon transportation in the midwestern United States. All this provision in this bill does is merely ask that this study be made, and that the findings of that study be available to the Secretary of the Army and to the Members of the U.S. Congress.

I think that anytime this Congress or this Government undertakes to make substantial changes in the way that freight will move in the midwestern part of the United States, or any other part of the United States, that a comprehensive study of that by educated and informed people in the Department of Transportation, and the process of making those studies available to the Congress, cannot be anything but a good procedure.

I want the members of the Committee of the Whole to understand that there is nothing in this section of this bill that in any way interferes with the works of the Committee on Public Works. It only requires that the study be made, and the results of the study be made available to us and to the Secretary of the Army.

Mr. SKUBITZ. Mr. Chairman, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, later this afternoon I will offer an amendment to the ConRail bill now pending which embodies legislation offered earlier this year by myself, together with the gentleman from Virginia (Mr. DOWNING) and the gentleman from Delaware (Mr. DU PONT).

The amendment seeks to bring about the acquisition by a private solvent company of the railroads now under ConRail control which are located on the Delmarva Peninsula, south of Wilmington, Del., running down to Cape Charles, Va. This entire area, part of which I represent and part of which is represented by the two coauthors of this legislation, has suffered greatly in recent years because of the bankruptcy of the Penn Central Railroad, and more recently because of the plans which ConRail has to cut off service beginning next April 1 for many parts of the Delmarva Peninsula.

As those who have been close to the railroad situation know, up until last March it was thought that one of the best run and most profitable railways in the United States, the Southern Railway, would be able to acquire all of the lines on the Delmarva Peninsula. But because of the terms of the 1973 Railway Reorganization Act, the railroad unions were given an inordinate amount of power which, in the final analysis in these negotiations, was used to veto Southern's acquisition of the Delmarva lines.

The amendment I will offer, along with my colleagues, says simply that if at the end of this long road of negotiations, the acquiring rail line and the rail unions involved are unable to reach an agreement, then the rail employees who wish to continue with the line will be required to come aboard with the new company under the existing rules and regulations of the company which acquires the lines. This is one method by which we will finally be able to rescue the Delmarva Peninsula from declining rail service and economic harm.

I point out to the members that when the Grand Teton Dam collapsed, with loss of lives and millions of dollars of damage, Congress stepped in to assist. We have many parts of the country suffering from drought, and we authorized a rather extensive hay subsidy program for farmers. There is no less an economic problem for the people who live on Delmarva.

It is to me totally inconsistent with the wishes of the Congress, as I understood them to be in 1973, that one small handful of recalcitrant union leaders can use our area as an example of union power in the rail field and harm hundreds of thousands of people.

Mr. Chairman, I would hope that when the amendment is offered that we could have the support of the committee members and the support of the House.

Mr. ROONEY. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Chairman, I rise in support of H.R. 14932, the Rail Amendments of 1976. I urge that the House promptly pass these needed amendments to the Regional Rail Reorganization Act of 1973 and the Rail Revitalization Act of 1976. Under the rule, if this bill is passed, it will be substituted for the Senate bill, S. 3131, together with the Amtrak authorization, which has already passed the House as a separate measure. Time is of the essence, if we are able to go to conference and to complete action before we adjourn.

It may seem to my colleagues that the railroads, like the poor, are always with you and that we cannot seem to get through a session of Congress without at least one urgent railroad bill. I think, however, that Congress can take credit, because of its past actions on the Regional Rail Reorganization Act—RRRA—and the Rail Revitalization Act—the so-called Quad R Act—for the fact that improved rail service continues in the northeast region. The purpose of the bill before us today is to complete the enormously complex reorganization of the bankrupt railroads, which was begun by the prior legislation.

The provision of this bill, which is of the greatest importance, is the increase in the U.S. Railway Association's loan authority under section 211(h) of the RRRA. When we passed the Rail Revitalization Act of 1976, we included this provision for the payment of certain claims against the bankrupt railroads by the successor corporation, ConRail, which would act as agents for the bankrupts. To pay these claims, ConRail would borrow from USRA and repay these loans as it recovered from the bankrupt estates. ConRail's claims against the bankrupts would be direct expenses of administration, and thus would have the highest priority. If ConRail is not repaid by the estates within 3 years, USRA is authorized to forgive these loans to ConRail, in which case, USRA would have a priority claim against the bankrupts. Thus, it can be assumed there will be no direct cost to the Government for these loans which will eventually be recovered.

Claims to be paid under section 211(h), as originally passed, included claims of employees, shippers, other railroads, and suppliers of goods and services. It was considered essential that these potential claimants be assured of prompt payment of their claims against the bankrupts, when ConRail took over the bankrupt lines on April 1. In the months prior to conveyance, the trustees of the bankrupts were preparing to get out of the railroad business and were obviously not interested in buying supplies for the future use of ConRail. Further, if they had been faced with the prospect of a lengthy wait for payment of loss and damage claims, shippers would have routed their traffic around the Penn Central and the other systems. The purpose of section 211(h) was, in the words of the statute, "to avoid disruptions in ordinary business relationships." The assurance of payment to the claimants helped to accomplish the remarkably smooth takeover of the railroads' operations by ConRail on April 1, 1976. On April Fool's Day, ConRail fooled everybody by beginning operations with scarcely a hitch, a very pleasant and welcome surprise for those of us who remember the near chaos that ensued after the Pennsy merged, or rather collided with, the New York Central.

The 1974 act authorized USRA to make up to $230 million in loans to ConRail for the payment of these so-called preconveyance claims. This figure was agreed on during the lengthy negotiations with DOT which led up to the passage of the Quad R Act. At that time, it was assumed that this loan authority, combined with available assets of the estates, would be sufficient to meet the eligible claims. At that time, it was the clear understanding of participants in the negoiations with DOT that if the $230 million were insufficient, the Department would support an increase. Unfortunately, because of certain court decisions and interpretations of the law, it is now clear that $230 million is not enough. It is equally unfortunate that the DOT has not supported the increase in loan authority needed to meet what must be considered a moral obligation of the Congress. The committee believes that by increasing the loan authority to $300 million and making it a revolving fund that there will be sufficient funds available over time to meet the estimated shortfall between eligible claims and available funds of $286.6 million.

This bill also corrects certain omissions in the Rail Revitalization Act by making eligible the payment of medical and life insurance benefits for contract, noncontract and retired employees.

It has been the intention of Congress throughout the difficult and complicated restructuring of the bankrupt railroads that employees, both union members and nonunion personnel, be protected against the impact of this drastic reorganization. These amendments fulfill that purpose.

I know that you will be told that the increase in section 211(h) is not needed now, that it is some sort of Treasury raid for the benefit of big corporations who can afford to wait. While some large business will receive payment for claims because they continued to do business with the bankrupts in good faith because of section 211(h), there are many small claimants who will be directly helped. For example, I have received a letter from a constituent who retired from the Erie Lackawanna, a bankrupt railroad whose lines are now part of ConRail. The Erie-Lackawanna trustees have already stopped paying his small pension of $81.89 a month. Now he has been notified that his group life insurance plan will be terminated and to maintain his life insurance coverage he must increase his monthly life insurance payments from $27.84 to $118.32 a month. And this man's sole source of income is his annuity from railroad retirement.

Passage of this bill will allow this retired employee's pension and life insurance benefits to be restored. There are thousands more retired railroad employees in the same situation. I intend to keep faith with these employees, as well as suppliers and shippers, who relied on the assurances that their claims would be promptly paid, by voting for this bill. I am convinced that without this loan program for the payment of claims, the orderly assumption of rail operations by ConRail would not have been possible. Because these people dealt in good faith with the bankrupt railroads in the days prior to conveyance, ConRail got off to a smooth start, is already providing better rail service, and its cash flow is above the original estimates made by USRA. I think Congress must keep its part of the bargain by making these loans, not grants, but loans which will be repaid by the bankrupt estates available to ConRail so that these eligible and meritorious claims can be promptly paid.

Mr. ROONEY. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Chairman, if my colleague, the gentleman from Pennsylvania (Mr. ROONEY), will indulge me for a moment, I would like to clarify several points regarding rail service in New York State.

I introduced legislation, H.R. 13138, which would have provided 1 year in which to continue the search for a private line carrier to purchase the Erie-Lackawanna and Reading Lines in New York's southern tier area. These lines had passed to ConRail when the Chessie System elected not to acquire the Erie-Lackawanna line.

The distinguished subcommittee chairman was most gracious in scheduling, and personally conducting, a full day of testimony on this proposal in Elmira, N.Y., on June 26, 1976.

Subsequent to the testimony by Mr. Edward G. Jordan of ConRail at the meeting, my colleague, the gentleman from Pennsylvania, assured us that there would be no need for remedial legislation, in view of the remarks of the ConRail chairman.

Mr. ROONEY. Mr. Chairman, if the gentleman will yield, that is exactly correct. In fact, my reassurance was based upon Mr. Jordan's unequivocal response to a question posed by the gentleman from New York (Mr. LUNDINE), at page 40 of the hearings record, which I wish to quote, in part:

> Mr. LUNDINE. Do I understand that you are telling the committee that it is your objective to maintain at least as good and perhaps better rail service to this region than we have had before?

Mr. Jordan's response was:

> Most assuredly. It is our goal to improve that service to the point where we bring back to the railroad some of the business we have lost.

I can assure the gentleman from New York (Mr. MURPHY) that they are going to have better service in the southern tier of New York. Mr. Jordan has assured the committee that they are going to spend $43 million initially to upgrade the tracks and facilities in that area. I believe that Mr. Jordan and ConRail are going to provide the people of New York better service.

It has been said on a few occasions that perhaps New York would like to take over the southern tier. As I said during the hearings we had in Elmira, N.Y. I do not think it is feasible.

Mr. MURPHY of New York. Mr. Chairman, the purpose, of course, as it was clearly brought out, would be an abandonment, a tacit abandonment, and the gentleman makes that point. I note that Mr. Jordan's statement which the chairman of the subcommittee characterized as a commitment in correspondence with me, and which appears in the report, was the sole reason that my New York colleagues have acquiesced to the recommendation of the subcommittee chairman that we not amend this legislation.

It is essential that ConRail be given a chance to stand on its own feet with minimal congressional pressure, but it also is essential that the price of ConRail profitability not be economic extinction for many communities.

I have discussed these views with ConRail's able vice president, John L. Sweeney, and I have told him this is a matter of vital concern to the entire New York delegation. The subcommittee chairman also knows of the great interest of our Governor in this issue.

I have been reassured by ConRail's willingness to discuss these questions in good faith. Mr. Sweeney has assured me that ConRail does not intend to upset rate parity within the Port of New York, nor does ConRail intend to institute rates which would be discriminatory between ports.

Finally, I note in correspondence with me on July 30, 1976, there is included the statement that ConRail will prepare, as the gentleman just said, a 5-year plan indicating additional improvements to be undertaken. That is included in House Report 94–1479, at pages 66 and 67, and I assume the report will be forthcoming.

Mr. ROONEY. Mr. Chairman, if the gentleman will yield, it is my understanding that report will be available within the next few months.

Mr. MURPHY of New York. Mr. Chairman, I hope it will be available prior to the end of the calendar year, because it is absolutely essential that the 5-year plan be readied as soon as possible, and that it may be made available to Congress and to the public at the earliest possible date.

In the interim, I hope that ConRail will appreciate our concern and keep us abreast of their thinking. It is vitally important that these matters be discussed openly and candidly. We in New York will be carefully studying ConRail's actions in the southern tier and, unless they are at variance with the statements of the corporation's management, we can conclude, I believe, that this matter will be resolved.

Mr. ROONEY. Mr. Chairman, I have discussed this problem with the gentleman from New York on numerous occasions. I have also discussed it with Governor Carey. I can assure the gentleman that I, too, will be following the developments in the State of New York. The chairman of the Board of ConRail has assured me that the people of New York will get much better service, and they would have had better service had they had a better carrier there and as we had hoped earlier they would have.

Mr. MURPHY of New York. Mr. Chairman, I hope they will receive better service because the southern tier of New York is somewhat in economic competition with the northern tier of Pennsylvania.

On behalf of the New York delegation and leadership, I would like to thank the chairman of the subcommittee for his complete fairness in dealing with New York's rail problems.

Mr. SKUBITZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in many ways I am embarrassed to be on the House floor at this 11th hour with a piece of legislation which contains no absolutely essential provisions, but in balance turns out to be more good than bad. In the best of times such a bill can create a legislative nightmare. In these times it creates both legislative and genuine nightmares.

H.R. 14932 does make some substantive and clarifying changes in existing law which will improve the Railroad Revitalization and Regulatory Reform Act of 1976. All of us in this body can be justly proud of the fact that this Congress, during the closing days of the first session, passed the first meaningful legislation on railroads in over a quarter of of a century.

The Railroad Revitalization and Regulatory Reform Act was landmark legislation. It also was a massive piece of legislation affecting almost every facet of rail transportation. Its sheer size alone accounts for the fact that some of the provisions in this bill now before us correct oversights in our earlier piece of legislation. Unfortunately, it was not until midsummer that the subcommittee began dealing with this bill which has affectionately become known as "Son of ConRail."

During the deliberations at full committee I introduced and had adopted nine amendments which substantially improved the bill we were originally considering. At that time, I was convinced that H.R. 14932 had been improved sufficiently to urge its prompt enactment. Unfortunately, that is not the case. There are a number of provisions still remaining in H.R. 14932 which need to be modified if this legislation is to see the light of day.

I am sad to say that the very first provision in this bill—section 101—represents a veiled effort to obtain the job of rail public service counsel for Gray Staples. I do not make this charge lightly, and at an appropriate time I shall give the full details of what is behind the seemingly harmless amendment to the 4-R Act contained in section 101. When I discovered the full impact of section 101, I realized that in effect we have a private relief bill as the beginning of the "Son of ConRail." Perhaps the most difficult provision contained in the bill is contained in section 104. Section 104 amends section 211(h) of the Regional Rail Reorganization Act of 1973. Let me take a minute to explain what section 211(h) is, why it originally was enacted, and how it works.

Section 211 permits the U.S. Government to advance money to ConRail so that certain debts of the Penn Central and other bankrupt railroads can be promptly paid. Eventually, after the bankrupt estates are completely settled, the United States will be reimbursed for this advancing of money. The justification for section 211(h), which is in existing law, is that many suppliers and workers continue to do business with the Penn Central and other bankrupt railroads based on the assurance that the United States would make sure they were eventually paid. The law spells out certain categories of entitlement for funds under this section. By in large, most of the funds are earmarked to pay obligations to employees arising out of labor contracts. In addition, there are provisions which would permit suppliers and other railroads to receive money which was due to them as a result of providing services between roughly November of 1975 and April 1, 1976, when ConRail took over.

The issue surrounding section 211(h) involves the amount of loan authority which is necessary to be given in order to meet the obligations under this act.

Under existing law there is authorized to be borrowed $230 million. That amount of money, together with the $466 million which is available from the bankrupt estates, provides an ample supply of money for meeting most of the claims.

However, there is some shortfall. Section 104 increases the amount of money in the total pot by $70 million. The $230 million original authorization is increased to $300 million.

At my insistence, there was another amendment made to section 211(h). That amendment would make certain that any new money coming to the bankrupt railroads would be channeled into 211(h) account so that additional creditors, given the priority of section 211(h), could be paid. I particularly had in mind a couple of court cases which have held large amounts of Penn Central money in escrow for use at some future time. Should a higher court find that the lower court erred when it set certain funds in escrow accounts, those moneys could be used to repay the 211(h) loans.

I do intend to offer an amendment which permits some flexibility in this automatic earmarking of funds from the bankrupt estates. Attorneys for the Penn Central visited my office and pointed out that the reorganization plan is currently under consideration which would permit the estates to pay a portion of the back taxes owed to the various States and localities formerly served by the Penn Central. They argued that my original amendment was so tight that it would not permit the accumulation of any money by the bankrupt estates which might be necessary under a reorganization plan. As a result of those discussions, I have an amendment which has been approved by the Secretary of Transportation which would permit the Secretary to waive this provision if, in his judgment the reorganization plan required him to do so. I am advised that the attorneys for the Penn Central have accepted this compromise.

The bill also extends the section 211 (b) loan authority to the situation where retired railroad employees are adversely affected because railroads have no money to pay them continued pension benefits. Personally, I had difficulty justifying this amendment since it could set the dangerous precedent of Congress picking up retirement plans for every bankrupt company in the country. However, I finally concluded that the actual situation in this case is so unique that human justice requires full consideration for these unfortunate individuals who are now suffering simply because of the mismanagement of the companies they formerly worked for.

There is a provision in the bill, section 106, which serves to clear up an unexpected difficulty arising under the present law with respect to subsidized local rail service. As you know, Mr. Chairman, thousands of miles of railroad track were discontinued when ConRail took over. In many of those cases the States and localities chose to have the service continue under a subsidy program provided under the act. To have such a subsidy program work it was, of course, necessary to have the States and localities lease or rent or otherwise acquire the tracks which had been abandoned by the bankrupt railroads.

The bankrupt railroads either offered to sell their track at ridiculously high prices or refused to talk to States or local governments because they were afraid that any realistic negotiations would affect the court's final judgment on the value of the bankrupt property. Practical difficulty caused by the unwillingness of the bankrupt railroads to set a fair and reasonable price is resolved by section 106. Simply stated, section 106 does but two things.

First, it states that price should be based on use rather than value of the land.

Second, it provides that none of the negotiated figures are admissable in court in the evaluation case. This protects the railroads and makes certain that those States and communities who want to have subsidized service can move forward with their plans.

The employee displacement allowance provided under title V of the act is, in effect, made more liberal by changing the dates upon which the base period salary is computed. The effect of the change in date is that affected workers will be able to use a full 12 months at 10-percent wage increase rather than the 10 months under existing law. These additional 2 months correct what, in reality, was an oversight when we first considered the matter in the 4-R act.

The remainder of title I simply contains some technical amendments and permits attorneys' fees to be exempt from chapter 77 of the bankruptcy act, therefore falling within the scrutiny of the ICC and treats noncontract employees the same as contract employees for most of the benefit provisions under the act.

In title II of the bill the language relating to the loan guarantee provisions of 4-R Act is changed to clarify when dividends can and cannot be paid. For the most part, dividends cannot be paid until a railroad has repaid its loan, although a railroad is permitted to pay dividends to the extent that dividends had been paid prior to obtaining the loan. It would be unrealistic for this body to completely exclude all dividends, since railroads need to encourage anyone and everyone to invest in their properties if they are to become financially sound once again.

Section 202 of title II, contained what for me was a very important study. The midwest rail study would have zeroed in on whether or not there is any sound justification for lock and dam No. 26. Personally, I believed that the carefully worded provision contained in section 206 falls exclusively within the jurisdiction of the Interstate and Foreign Commerce Committee.

However, the Public Works and Transportation Committee asserted jurisdiction prior to the time we went to Rules. At that time, the chairman of the full committee and the chairman of the subcommittee agreed to delete this provision because of pressure from the Public Works Committee.

I suppose that water carriers will feel once again they have triumphed in the Halls of Congress. Let me assure my colleagues that I intend to continue my fight to see that water carriers are eventually treated by the same set of rules now facing railroads and motor carriers. I intend at the earliest possible time, if I am back in the next Congress, to reintroduce my bill which would impose a users tax on water carriers. I think that it is a disgrace for all of us involved in transportation to close our eyes to the fact that one segment of transportation is getting fat on public subsidy without paying one red cent to help maintain our Nation's waterways.

Titles III and IV of the bill contain relatively minor provisions. Title III corrects the discontinuance and abandonment procedures by including in the law some words inadvertently left out during the drafting on the 4-R Act. Title IV simply requires a study to determine whether or not disposal of solid waste on passenger trains is a hazard.

Mr. Chairman, this bill does have provisions in it which, in balance, are more good than bad. Nevertheless, I want to assure my colleagues that failure of this bill would not create any harm to the United States or to the railroads. I, for one, would like to see us pass this bill, but I would not at this late date care to go to conference with the other body to resolve any issues.

I might also add that I would object to taking up the bill in any amended form should the other body choose to amend what I have considered is a basic bill. I realize that there will be some amendments offered on the floor today. I will support some and I will oppose some. Once we have finished our work, I think it is safe to say that it is time for us to forget about railroads until the next Congress.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, I wanted to ask the gentleman a question. I understand the gentleman will introduce a bill in the next session to impose a user charge on the traffic on navigable waters.

Mr. SKUBITZ. On one condition, I may say to my friend, the gentleman from Kentucky (Mr. SNYDER): If I am fortunate enough to be back in the Congress.

Mr. SNYDER. I hope the gentleman will be here, but will the gentleman also include giving the barge lines the same subsidies as are given the rail lines?

Mr. SKUBITZ. Yes, if there is any subsidy given. Yes, to regulated barge lines if they will meet and pay their share of the construction cost of the waterways, and their share of the construction of the locks, and their share of the cost of the maintenance. That is what I ask them to do.

Mr. ROONEY. Mr. Chairman, I yield to the distingiushed gentleman from West Virginia, the chairman of the full committee (Mr. STAGGERS) such time as he may consume.

Mr. STAGGERS. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding.

I congratulate both the chairman of the subcommittee and the ranking minority member for their presentation of the contents of the bill and for the work they have done in bringing the bill to the full committee and to the floor. I also congratulate the Members on both sides of the aisle and the staff for the work they have done.

Mr. Chairman, I rise in support of this legislation.

It is designed primarily to clarify some of the provisions contained in the landmark legislation enacted by this Congress last February—the Railroad Revitalization and Regulatory Reform Act of 1976. It will make it easier for all parties concerned to carry out the original intent of Congress embodied in that legislation.

Title I contains amendments to the Regional Rail Organization Act of 1973.

The most significant provision of this title is section 104 which deals with loans made by the U.S. Railway Association to ConRail to pay existing obligations of the bankrupt railroads in order to avoid disruption in ordinary business relationships. For example, this will permit suppliers who continued to furnish supplies to the bankrupt railroads before ConRail took over their operation to receive immediate payment for their claims rather than wait until the estates of the bankrupt railroads are settled in the courts. This will enable ConRail to maintain a continuing relationship with needed suppliers and also give to ConRail a high priority claim against the estate of the bankrupt railroads for reimbursement upon settlement of those estates by the courts.

In the original legislation we provided for payment of employee claims arising under collective bargaining agreements. This bill would expand the employee claims to include adequate funding for payment of employee claims under voluntary relief plans which provide benefits in the event of sickness, accident, disability, or death and to which both the bankrupt railroad and the employee members made contributions. We have also provided funding for payment of medical and life insurance benefits for employees, whether or not they were governed by a collective bargaining agreement.

We feel there is no valid reason to discriminate among employees of the bankrupt railroads solely on the basis of whether or not their employment was governed by a collective bargaining agreement.

In order to meet these expanded claims, we have increased the amount of money available for loans from $230 million to a maximum of $300 million outstanding at any one time.

Title II deals with amendments to the 1976 act.

In this title we provide that, in determining whether or not the United States had adequate security for a guarantee issued by the Secretary for purposes of railroad rehabilitation and improvement, the Secretary may take into consideration the prospective earning power of any equipment or facilities improved or rehabilitated, as well as the value of that equipment and the prospective earning power of the applicant. The Secretary may take into consideration any one of these factors or any combination of them to determine whether or not the United States has adequate security. This will make it easier for marginal railroads to obtain the financing they need to rehabilitate our Nation's railroads.

I would like to call your attention to one particular section of this title. It is section 202 dealing with a Midwest rail study. It provides for a study of the impact of changes in the lock system on the Mississippi upon railroads. The object of this study was the proposed improvements on lock and dam 26. The Committee on Public Works has objected to the inclusion of this provision as being a matter over which they also should have jurisdiction. We will offer an amendment to delete this section in its entirety. There has been a separate bill introduced on this subject and it was jointly referred to both the Committee on Public Works and Transportation and to this committee.

Title III deals with amendments to the Interstate Commerce Act.

The amendments contained in this title are primarily technical amendments. For example, it provides that the authority of the Interstate Commerce Commission with respect to discontinuance and abandonment procedures will not extend to spur lines or to any street railway not operated as part of a general rail system.

This has always been true under existing law and this language was inadvertently omitted from the 1976 act.

Title IV provides for an environmental study of the effects of a provision of the Rail Passenger Service Act exempting railroad vehicles used in intercity passenger service from any requirement for installation of containerized waste disposal systems. It requires the Secretary of Health, Education, and Welfare to report to the Congress his recommendations to balance environmental considerations with operating and financial considerations of the railroad industry.

We will offer an amendment to this title to provide that this legislation will take effect October 1, 1976. This will avoid any technical problems with the Budget Act. It would be almost impossible for this legislation to be signed into law before October 1, but, because we are considering it before that date and some of the employee benefits provided in title I constitute "new entitlements" under the Budget Act, it is necessary to assure that none of these benefits will be payable before the new fiscal year beginning October 1.

Mr. ROONEY. Mr. Chairman, I yield to the distinguished gentleman from Ohio (Mr. SEIBERLING) such time as he may consume.

Mr. SEIBERLING. Mr. Chairman, I would like to ask the distinguished chairman of the subcommittee a question with respect to the advantages and features of the bill. This pertains to subsection 301 of the bill, which is an amendment to section 2(a) of the Interstate Commerce Act, as I read it. Is ConRail subject to the rail line abandonment provisions of the Interstate Commerce Act as amended by this bill?

Mr. ROONEY. Yes; it is.

Mr. SEIBERLING. Therefore, if ConRail should abandon a line, even if it were done pursuant to the plan required by the Railroad Reorganization Act, they still have to go through the procedures outlined in this bill.

Mr. ROONEY. That is correct.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, I have one other specific question with respect to the amendment made by section 301 (b) of the bill, which amends section 1(a)(4) of the Interstate Commerce Act. It says that if a certificate of abandonment is issued without an investigation, then the abandonment can take effect on the effective date of the certificate, but if it is issued after an investigation, it cannot take effect until after 120 days.

As I understand that, all that means is that in case no one objects to the abandonment, no investigation is required. Is there any other reason why an investigation might not have to take place, even though there might be an objection?

Mr. ROONEY. Mr. Chairman, as I understand, the investigation must take place if there is an objection.

Mr. SEIBERLING. Mr. Chairman, I thank the gentleman from Pennsylvania.

Mr. LUNDINE. Mr. Chairman, I rise in support of H.R. 14932, the Rail Act Amendments bill. Since the acquisition of the bankrupt railroads by ConRail on April 1, 1976, I have been deeply concerned about the ability of a rail monopoly in the Northeast to deliver adequate rail service to shippers. The conveyance of the former Erie-Lackawanna Railroad to ConRail has had a major impact in the Southern Tier of New York State. This is a region that has long been dependent on industrial rail service to preserve its economic stability. Quality rail service in this area is absolutely vital to future growth and development.

In April, I joined with my distinguished colleague from New York (Mr. MURPHY) in introducing H.R. 13138 in an effort to maintain the viability of the Northeast railroads for possible subsequent transfer to a profitable private carrier. I believed then, as I do now, that a competitive rail system would insure the best possible rail service to shippers in my region.

This proposal has been thoroughly examined over the past few months through extensive discussions and through testimony presented in Elmira, N.Y., during hearings of the Subcommittee on Transportation and Commerce. I appreciate the careful and conscientious consideration that the gentleman from Pennsylvania (Mr. ROONEY) has given to the unique problems of the Southern Tier.

My most severe apprehensions have been quieted by the public commitment of Mr. Edward G. Jordan, chief executive officer of ConRail, that substantial rehabilitation will be undertaken on the former Erie-Lackawanna lines in the Southern Tier and that the quality of service to shippers in this area will exceed that provided by the Erie-Lackawanna. Because of these commitments by ConRail, I now find it advisable to support H.R. 14932 without the inclusion of strict subsequent transfer provisions.

A second reason for my support of this legislation centers around a very human problem that affects many railroad retirees in the Southern Tier. Following the April 1 conveyance of the bankrupt railroads to ConRail, a dispute arose between ConRail and the bankrupt estates over responsibility for coverage of pension and life insurance benefits for displaced noncontract retirees. Without the important provisions in this bill that provide for continuance of these benefits, many retirees of the former Erie-Lackawanna, Lehigh Valley, and Penn Central railroads could face serious hardships. I am grateful that the committee has included provisions to alleviate this harmful situation.

I believe that H.R. 14932 will effectively resolve many unforeseen difficulties that have arisen as a result of the conveyance of the bankrupt railroads to ConRail. I urge my colleagues to support this important legislation.

Mr. GILMAN. Mr. Chairman, today the House has under consideration H.R. 14932, the rail amendments of 1976, which is designed to correct deficiencies in the Regional Rail Reorganization Act of 1973, the Rail Revitalization and Regulatory Reform Act of 1976, and the Interstate Commerce Act. While I fully recognize the intent of this legislation, I would like to take this opportunity to inform my colleagues of some of the problems I have encountered while dealing with the Consolidated Rail Corp. and to urge that a more intense review of the corporation is necessary before the Congress authorizes any further appropriations.

My colleagues will recall that congressional approval of the creation of this corporation was granted only after all Members were assured, after many months of hearings and negotiations, that implementation of the final system plan was the most efficient and economically feasible means of reorganizing the Nation's bankrupt railroads. The Congress was assured that those rail lines included in the final system plan would be upgraded and operated by ConRail. Lines designated to be transferred to a solvent carrier, and under terms to be concluded after congressional approval had been obtained, would become part of the ConRail system, if by chance, something occurred preventing such transfer. We were assured that no serious problems were anticipated and that therefore, the Erie-Lackawanna Railroad, as well as the Delmarva Peninsula Railroad would become part of a solvent, competing railroad. Now, however, just a few months subsequent to congressional approval, the regions serviced by these railroads are suddenly confronted with the lack of any guarantee for rail service.

Implementation of the unified ConRail concept has eliminated any and all effective competition to ConRail in the northeast sector, creating a monopoly and offering no alternative to users who must bow to the dictates of ConRail.

Competition would compel ConRail to be more responsive to the rail needs of the region. Completion of restoration projects outlined in the final system plan would be done more expeditiously and efficiently, rather than at ConRail's convenience.

One of my overriding concerns for the past 2 years for rail service in my region, has been the repair of the fire-damaged Poughkeepsie Railroad bridge. On May 8, 1974, the rail span, owned by the former Penn Central Railroad, was severely damaged by fire and the repair project, while universally acknowledged to be of vital importance, has been wrought with so many delays that it makes suitable material for a course in government procrastination. This bridge, included in the final system plan and designated for reconstruction. After numerous conferences with representatives of the Consolidated Rail Corp. regarding the completion of this reconstruction project, I was informed that ConRail considers that the final system plan is not final but only a recommendation and that they are under no obligation to follow that plan because they are now operating under the unified ConRail system, without any competing railroad.

ConRail has stated that this repair project was only included in the plan because of the Chessie's anticipated utilization of the Poughkeepsie Railroad bridge. ConRail, because of their method of rerouting traffic through Selkirk in upstate New York, have found no use for the bridge route and consequently, have no intention of repairing the bridge facility.

The restoration and full use of this bridge route has been advocated by three States and major planning agencies of this region since the original reports of the Secretary of U.S. Department of Transportation on the Northeast and Midwest region rail crisis.

Moreover, the Selkirk detour is not the best route for rail traffic between some 10 States in the East and Southeast and

Connecticut, New York City, and Long Island. Traffic moving on this Southwest-Northeast axis would be better served by the Poughkeepsie bridge rail route.

Many communities, not only in New York, but Connecticut as well, have been adversely affected by the disruption of service resulting from the bridge disrepair. This situation is imposing a severe economic impact on many areas in southeastern New York.

My colleagues, this is but one example of ConRail's inattention to the rail problems of my region. Intense congressional oversight will be necessary so that ConRail complies with the mandate of Congress of providing adequate rail service.

Mr. DOWNING of Virginia. Mr. Speaker, I rise in full support of the amendments offered by my distinguished colleague from Maryland, Bob Bauman.

I joined with Mr. Bauman and our colleague from Delaware, Mr. du Pont, on March 24 of this year to introduce legislation that we hoped would resolve an extremely serious situation affecting thousands of lives and jobs on the Delmarva Peninsula. That situation still exists today despite emergency measures taken to provide interim rail service by ConRail for those on the peninsula.

The situation was brought about by a very small number of union employees who refused to accept employment terms offered them by Southern Railway, the company which this Congress had enabled to take over trackage on the peninsula being abandoned by the failing Penn Central Railroad. As a result of the dispute, the vital rail service to businesses and industries on the peninsula was jeopardized, and what can be described at best as tentative service has been provided by ConRail. There is no guarantee that the States of Virginia, Maryland, and Delaware will be able to find funds for continued ConRail service in the future.

The people on the Delmarva Peninsula deserve adequate rail service that can be provided to them only by a viable, solvent railroad company that does not depend entirely on public moneys for continued operation.

This is clearly a case of the minority's being in the wrong, and being in a position to do irreparable harm to the majority of hard-working farmers and businessmen on the peninsula who rely on the railroads for their livelihoods. I urge my colleagues to support the Bauman amendments and give the people on the Delmarva Peninsula a fighting chance to continue leading productive lives.

Mr. FLOOD. Mr. Chairman, I rise in support of the bill, "The Rail Act Amendments of 1976." I know I need not detail my strong interest in this bill and my long involvement in the process which eventually resulted in the creation of ConRail and what will—we all hope—eventually be the salvation of a viable rail system in the Northeast.

That interest was and is for me a natural one. The Northeast, and particularly those areas such as mine which are rich in natural resources, are crisscrossed by thousands of miles of rail lines. These lines were constructed many, many years ago and the decline of the rail transportation industry was potentially the greatest economic tragedy to strike this Nation. Because of the work of the Interstate Commerce Committee, led and directed by my friend and colleague, Fred Rooney, this Congress was able to avert that severe disaster and for this the Congress deserves great praise.

So for years now I have been working with that committee, with the rail industry, labor, shippers, and countless others of this ConRail system. We have not been able to please everyone, but we knew that from the beginning. The object was, and is now, to create and maintain a rail system which will be economically viable and at the same time not infringe the rights—vested or otherwise—which may be possessed by the railroads or their workers.

To a large extent this was accomplished in the original ConRail legislation; however, supplementary legislation is often required on a bill of this magnitude.

Therefore, the current amendments. The perpetuation of the Office of Public Counsel is a must and the current bill insures that it will continue to function pending action by the President and the Senate. Additionally, equity is secured for noncontract employees who were displaced by the ConRail bill by provisions which insure protection for them for their life insurance and health insurance.

Additionally, fairness is increased in the loan guarantee program. Prospective economic value is considered for loan purposes and this has been a particularly vexing problem in my own congressional district. Proposed industrial parks, and the like, may now be included in consideration of a valuation of the applicant.

We have come a long way since February of 1976 when we first passed the ConRail program; and it is a sign both of the serious commitment which this Congress has to continuation of that program, and of the degree of care with which it is implementing the program that the Commerce Committee has so soon added these technical and vitally needed amendments. I heartily endorse the bill.

Mr. SKUBITZ. Mr. Chairman, I have no more requests for time. I yield back the balance of my time.

Mr. ROONEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read by titles the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce, now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and sections according to the following table of contents may be cited as the "Rail Amendments of 1976."

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TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

ADEQUATE REPRESENTATION

Sec. 101. Section 205(d)(7) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 715(d)(7)) is amended to read as follows:

"(7) employ and utilize, until such time as the Director of the Office of Rail Public Counsel has been appointed and confirmed and has taken office, the services of attorneys and such other personnel as may be necessary (A) to protect properly the interests of those communities and users of rail service which, for whatever reason (such as size or location), might not otherwise be adequately represented in the course of the reorganization process under this Act, and (B) to perform, pursuant to section 27 of the Interstate Commerce Act (49 U.S.C. 26b), the functions and duties of the Office of Rail Public Counsel.

The funds authorized to be appropriated to the Office of Rail Public Counsel by section 27(6) of the Interstate Commerce Act (49 U.S.C. 26b(6)) are authorized to be made available for purposes of carrying out the provisions of paragraph (7) of this subsection.".

DEFICIENCY JUDGMENT PROTECTION

Sec. 102. (a) Section 206(d)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)(5)) is amended by adding at the end thereof the following new sentence: "Except as otherwise provided with respect to the Corporation pursuant to section 303(c)(2) of this Act, the Corporation, its Board of Directors, and its individual directors shall not be liable to any party, for money damages or in any other manner, solely by reason of the fact that the Corporation transfers property to the National Railroad Passenger Corporation, or to any State (or any local or regional transportation authority), pursuant to section 303 of this Act, to meet the needs of commuter or intercity rail passenger service.".

(b) The first sentence of section 303(c)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c)(5)) is amended to read as follows: "Whenever the special court, pursuant to subsection (b)(1) of this section, orders the transfer or conveyance of rail properties—

"(A) designated under section 206(c)(1)(C) or (D) of this Act, to the Corporation or any subsidiary thereof, the United States shall indemnify the Corporation against any costs or liabilities imposed on the Corporation as the result of any judgment entered against the Corporation, with respect to such properties, under paragraph (2) of this subsection; and

"(B) to the National Railroad Passenger Corporation, a profitable railroad operating in the region, a State, or a responsible person (including a governmental entity), the United States shall indemnify the National Railroad Passenger Corporation, such profitable railroad, State, or responsible person against any costs or liabilities imposed thereon as a result of any judgment entered against the National Railroad Passenger Corporation, such profitable railroad, State, or responsible person, as the case may be, under paragraph (3) of this subsection,

plus interest on the amount of such judgment at such rate as is constitutionally required.".

EXPIRATION OF OPTIONS

SEC. 103. Section 206(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)) is amended by adding at the end thereof the following new paragraph:

"(7) Any option which is conveyed to the Corporation by a railroad in reorganization, or a railroad leased, operated, or controlled by a railroad in reorganization, with respect to the acquisition by the Corporation, on behalf of a State or a local or regional transportation authority, of rail properties designated under section 206(c)(1)(D) of this title, shall be deemed to remain outstanding and in effect until 7 days after the date of enactment of the Rail amendments of 1976, notwithstanding any contrary provision in such option. The exercise by the Corporation of any such option shall be effective if it is made prior to the expiration of such 7-day period and in the manner prescribed in such option.".

LOANS FOR PAYMENT OF OBLIGATIONS

SEC. 104. (a) Section 211(h)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(1)) is amended to read as follows:

"(h) LOANS FOR PAYMENT OF OBLIGATIONS.—(1)(A) The Association is authorized, subject to the limitations set forth in section 210(b) of this title, to enter into loan agreements, in amounts not to exceed, at any given time, $300,000,000 in the aggregate principal amount, with the Corporation, the National Railroad Passenger Corporation, and any profitable railroad to which rail properties are transferred or conveyed pursuant to section 303(b)(1) of this Act, under which the Corporation, the National Railroad Passenger Corporation, and any profitable railroad entering into such agreement will agree to meet existing or prospective obligations of the railroads in reorganization in the region which the Association, in accordance with procedures established by the Association, determines should be paid by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, on behalf of such railroads in reorganization, in order to avoid disruptions in ordinary business relationships. Such obligations shall be limited to—

"(i) amounts claimed by suppliers (including private car lines) of materials or services utilized or purchased in current rail operations;

"(ii) claims by shippers arising from current rail services;

"(iii) payments to railroads for settlement of current interline accounts and all other current accounts and obligations;

"(iv) claims of employees arising under the collective-bargaining agreements of the railroads in reorganization in the region and subject to section 3 of the Railway Labor Act (including claims for accrued vacation and wages and similar claims arising in connection with labor and services performed);

"(v) claims of all employees or their personal representatives for personal injuries or death and subject to the provisions of Employers' Liability Act (45 U.S.C. 51–60);

"(vi) amounts required for adequate funding of accrued pension benefits existing at the time of a conveyance or discontinuance of service under employee pension benefit plans described in section 505(a) of this Act;

"(vii) amounts required to provide adequate funding for payment, when due, of claims deriving from membership in any employee voluntary relief plan which provides benefits to its members and their beneficiaries in the event of sickness, accident, disability, or death, and to which both a railroad in reorganization and employee members have made contributions; and

"(viii) amounts required to provide adequate funding for payment, when due, of medical and life insurance benefits for employees (whether or not their employment was governed by a collective bargaining agreement) on account of their service with a railroad in reorganization prior to the date of conveyance pursuant to section 303(b)(1), and for individuals who retired, prior to such date of conveyance, from service with a railroad in reorganization.

"(B) The Association shall make a loan pursuant to subparagraph (A) of this paragraph if, notwithstanding any other requirement of this subsection, it finds that the Corporation, the National Railroad Passenger Corporation, or a profitable railroad is entitled to a loan pursuant to section 303(b)(6), 504(e), or 504(g) of this Act, or if, with respect to an obligation referred to in subparagraph (A) of this paragraph, it finds that—

"(i) provision for the payment of such obligation was not included in the financial projections of the final system plan;

"(ii) such obligation arose from rail operations prior to the date of conveyance of rail properties pursuant to section 303(b)(1) of this Act and is, under other applicable law, the responsibility of a railroad in reorganization in the region, and a claim is presented to a railroad in reorganization or the Corporation within 2 years after the date of enactment of the Rail Amendments of 1976;

"(iii) the Corporation, the National Railroad Passenger Corporation, or a profitable railroad has advised the Association that the direct payment of such obligation by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad is for services or materials, the furnishing of which served to avoid disruptions in ordinary business relationships prior to the date of conveyance of rail properties pursuant to section 303(b)(1) of this Act, or is necessary to avoid postconveyance disruptions in ordinary business relationships;

"(iv) the transferor is unable to pay such obligation within a reasonable period of time; and

"(v) with respect to loans made to the Corporation, the procedures to be followed by the Corporation, in seeking reimbursement from a railroad in reorganization in the region for an obligation paid on its behalf under this subsection, have been jointly agreed to by the Finance Committee and the Corporation, and the joint agreement provides—

"(I) for the Corporation to receive reimbursement from the Association for any expenses incurred in seeking reimbursement from any railroad in reorganization in the region for an obligation paid on its behalf under this subsection; and

"(II) for a joint stipulation of the exact procedures the Corporation must undertake to avoid the finding, referred to in paragraph (6)(A)(i) of this subsection, that it has not exercised due diligence.".

(b) Section 211(h)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(2)) is amended—

(1) by inserting immediately before the period at the end of the first sentence thereof the following: "and for the payment of only those accounts payable which relate to obligations of the estates identified in paragraph (1) of this subsection"; and

(2) by adding at the end thereof the following new sentences: "Nothing in this subsection shall be construed as permitting any district court of the United States having jurisdiction over the reorganization of a railroad in reorganization in the region to enjoin, restrain, or limit the Corporation, the National Railroad Passenger Corporation, or a profitable railroad from applying, to payment of the obligations of the estates identified in paragraph (1) of this subsection, amounts collected as (A) accounts receivable pursuant to this paragraph, (B) cash or other current assets identified pursuant to paragraph (3) of this subsection, or (C) proceeds of loans pursuant to paragraph (1) of this subsection. Any agency agreement executed prior to the date of the enactment of the Rail Amendments of 1976 shall be deemed amended to the extent necessary to conform such agreement or order to the provisions of this paragraph. Nothing in this paragraph shall be construed to affect any payment made prior to such date of enactment with respect to obligations other than those identified in paragraph (1) of this subsection.".

(c) Section 211(h)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(4)) is amended by adding at the end thereof the following new subparagraph:

"(D) Any funds held in an escrow account by a railroad in reorganization on the date of enactment of the Rail Amendments of 1976 which are thereafter determined to be cash and other current assets of the estate for purposes of paragraph (3) of this subsection shall be applied as follows—

"(i) first, to the reduction of any outstanding loans to the Corporation by the Association, pursuant to paragraph (1) of this subsection, the proceeds of which were used to discharge obligations of such railroad in reorganization;

"(ii) second, to the Association to the extent of any such loans which have been forgiven pursuant to paragraph (5) of this subsection; and

"(iii) third, to the payment of any remaining obligations of such railroad in reorganization, in accordance with the provisions of the agency agreement entered into pursuant to paragraph (2) of this subsection.".

(d) Section 211(h)(5)(B) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(5)(B)) is amended by adding at the end thereof the following new sentences: "The Corporation, the National Rail Passenger Corporation, or a profitable railroad, as the case may be, shall, with respect to each direct claim for reimbursement pursuant to paragraph (4) of this subsection, file a proof of administrative expense claim with the trustees of the railroad in reorganization from whom reimbursement is sought. Each such proof of administrative expense claim shall set forth, by category and amount, the obligations of such railroad in reorganization which were paid pursuant to such paragraph (4).".

(e) The first sentence of section 210(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 720(b)) is amended to read as follows: "The aggregate principal amount (exclusive of interest or additions to principal on account of accrual of interest) of obligations issued by the Association under this section which may be outstanding at any one time shall not exceed $345,000,000.".

PROTECTION OF EMPLOYEES' PENSION BENEFITS

SEC. 105. Section 303(b)(6) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(6)) is amended by striking out the period at the end of the last sentence thereof and inserting in lieu thereof the following: ", except that in any case in which the Corporation, on or after the date of transfer or assignment as provided by this paragraph, terminates in whole or in part any such plan, the benefits under which are not guaranteed under title IV of the Employee Retirement Income Security Act of 1974, the Corporation shall guarantee the payment when due of the accrued pension benefits provided for thereunder at the time of termination. The Corporation shall be entitled to a loan pursuant to section 211(h) of this Act in an amount required for the adequate funding of accrued pension benefits under all plans transferred or assigned to the Corporation in accordance with this paragraph (whether or not terminated by the Corporation). For purposes of such section 211(h) and notwithstanding any other provision of Federal or State law, amounts required for such adequate funding shall be deemed to be expenses of administration of the respective estates of the railroads in reorganization, due and payable as of the date of transfer or assignment of the plans to the Corporation.".

BASIS FOR COMPENSATION

SEC. 106. Section 304(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(d)) is amended by adding at the end thereof the following new paragraph:

"(4) No determination of reasonable payment for the use of rail properties of a railroad reorganization in the region, and no determination of value of rail properties of such a railroad (including supporting or related documents or reports of any kind) which is made in connection with any lease agreement, contract of sale, or other agreement or understanding which is entered into after the date of enactment of the Rail Amendments of 1976—

"(A) pursuant to this section; or

"(B) pursuant to section 402 of this Act or section 17 of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613),

shall be admitted as evidence, or used for any other purpose, in any civil action, or any other proceeding for damages or compensation, arising under this Act".

COLLECTIVE BARGAINING AND FELA CLAIMS

SEC. 107. (a) Section 504(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(e)) is amended by inserting immediately after the first sentence thereof the following new sentences: "Any liability of an estate of a railroad in reorganization to its employees which is assumed, processed, and paid, pursuant to this subsection, by the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier shall remain the preconveyance obligation of the estate of such railroad for purposes of section 211(h)(1) of this Act. The Corporation, the National Railroad Passenger Corporation, an acquiring carrier, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such obligations are discharged or paid.".

(b) Section 504(g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(g)) is amended by adding at the end thereof the following new sentences: "Any liability of an estate of a railroad in reorganization which is assumed, processed, and paid, pursuant to this subsection, by the Corporation or an acquiring railroad shall remain the preconveyance obligation of the estate of such railroad for purposes of section 211(h)(1) of this Act. The Corporation, an acquiring railroad, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such obligations are discharged or paid.".

EMPLOYEE DISPLACEMENT ALLOWANCE

SEC. 108. (a) Section 505(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(b)) is amended—

(1) in paragraph (1) thereof, striking out "February 26, 1975" and inserting in lieu thereof "January 1, 1975";

(2) in paragraph (3) thereof, by striking out "February 26, 1975" and inserting in lieu thereof "January 1, 1975";

(3) in paragraph (4) thereof, by striking out February 26, 1975" and inserting in lieu thereof January 1, 1975".

(b) Section 505(b)(1)(B) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(b)(1)(B)) is amended by inserting immediately after "(B)" the following: "with respect to a protected employee who has been deprived of his employment,".

(c) Section 505 (g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775 (g)) is amended by adding at the end thereof the following:

"In addition, protected employees displaced as a result of an acquisition pursuant to section 206(d)(4) of this Act (which acquisition was consummated pursuant to section 508 of this title) shall, upon acceptance of employment offered by the Corporation, be entitled to the benefits of paragraphs (1) and (2) of this subsection.".

NONCONTRACT EMPLOYEES

SEC. 109. (a) Section 505 (i)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(i)(2)) is amended by inserting immediately after the first sentence thereof the following new sentence: "Such resolution procedure shall be the exclusive means available to the parties for resolving such dispute, and any arbitration decision rendered shall be final and binding on all parties.".

(b) Section 505(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(i)) is amended by adding at the end thereof the following new paragraph:

"(3) Except as otherwise provided in this title, a protected employee whose employment is not governed by the terms of a collective bargaining agreement and who has been deprived of employment shall not, during the period in which he is entitled to protection, be placed in a worse position with respect to any voluntary relief plan benefits or preretirement benefits provided under any life or medical insurance plan, except that the level of benefits to which such an employee is entitled under this paragraph shall not exceed the level of benefits which is afforded to the Corporation's active noncontract employees of comparable age, position, and level of compensation.".

(c) Section 505(b)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775 (b)(4)) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to any noncontract employee whose noncontract position has been abolished.".

EXEMPTIONS

SEC. 110. Section 601(b)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791(b)), is amended by striking out the third and fourth sentences thereof and inserting in lieu thereof the following: "Thereafter, the district court of the United States which has jurisdiction of the estate of any such railroad in reorganization at the time of such conveyance shall proceed to reorganize or liquidate such railroad in reorganization pursuant to such section 77, in accordance with a fair and equitable plan which complies with the requirements of such section, or such court may convert the proceedings into a bankruptcy proceeding pursuant to any other applicable section or chapter of the Bankruptcy Act, if the court finds that such action would be in the best interests of such estate.".

TECHNICAL AMENDMENTS

SEC. 111. (a) Section 211(h)(6)(A)(i) of the Regional Rail Reorganization Act (45 U.S.C. 721(h)(6)(A)(i)) is amended by striking out "paragraph (1)(E)" and inserting in lieu thereof "paragraph (1)(B)(v)".

(b) Section 303(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743 (c)) is amended—

(1) in paragraph (2)(A) thereof, by striking out "securities, certificates of value of the Corporation" and inserting in lieu thereof "securities and certificates of value";

(2) in paragraph (2)(A) thereof, by striking out "it has" and inserting in lieu thereof "they have";

(3) in paragraph (2)(B) thereof, by striking out "Corporation's securities, certificates of value" and inserting in lieu thereof "securities and certificates of value";

(4) in paragraph (2)(B) thereof, by striking out "other securities, certificates of value" and inserting in lieu thereof "other securities"; and

(5) in the fourth sentence of paragraph (3) thereof, by striking out "section 303(a) (2)" and inserting in lieu thereof "subsection (a)(2) of this section".

TITLE II—AMENDMENTS TO THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

OBLIGATION GUARANTEES

SEC. 201. (a) Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831) is amended by striking out subsection (c) thereof and inserting in lieu thereof the following new subsection:

"(c) FULL FAITH AND CREDIT.—All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States of America backed by the full faith and credit of the United States of America.".

(b) Section 511(h) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(h)) is amended—

(1) in paragraph (1) hereof, by inserting "(A)" immediately after "secured", and by inserting immediately before the semicolon the following ", or (B) in the case of the rehabilitation or improvement of leased equipment, by the lease"; and

(2) by amending paragraph (5) thereof to read as follows—

"(5) the prospective earning power of the applicant, or the value or prospective earning power of any equipment or facilities to be improved, rehabilitated, or acquired (or any combination of the foregoing), is sufficient to provide the United States with reasonable security and protection in the event of default by the obligor, in the case of repossession by the holder of the obligation, or in the case of possession, purchase, or assumption of the lease by the Secretary, except that if the value or prospective earning power of such equipment or facilities is equal to or greater than the amount of the obligation to be guaranteed, the Secretary may not, on the basis of the lack of prospective earning power of the applicant, find that the United States will not be provided with the reasonable security and protection referred to in this paragraph; and".

(c) Section 511(j) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(j)) is amended to read as follows:

"(j) CONDITIONS OF GUARANTEES.—(1) The Secretary shall, before making, approving, or extending any guarantee or commitment to guarantee any obligation under this section, require the obligor to agree to such terms and conditions as are sufficient, in the judgment of the Secretary, to assure that, as long as any principal or interest is due and payable on such obligation, such obligor—

"(A) will not make any discretionary dividend payments, except as provided in paragraph (2) of this subsection; and

"(B) will not use any funds or assets from railroad operations for nonrail purposes,

if such payments or use will impair the ability of such obligor to provide rail services in an efficient and economic manner or will adversely effect the ability of such obligor to perform any obligation guaranteed by the Secretary.

"(2) An obligor shall not be restricted with respect to making dividend payments from its net income for any fiscal year, if such payments do not exceed—

"(A) when compared to the net income of such obligor for such fiscal year, the ratio which aggregate dividends paid by such obligor, during the 5 fiscal years prior to the granting of the earliest loan guarantee then outstanding under this section, bore to aggregate net income of such obligor for such period; or

"(B) 50 per centum of the total additions to the retained income of such obligor (computed on a cumulative basis and giving cognizance to dividends paid) during the period commencing with the fiscal year prior to the granting of the earliest loan guarantee then outstanding under this section,

whichever is greater.

"(3) The restrictions on the payment of dividends set forth in paragraph (1)(A) of this subsection shall not apply with respect to an obligation guaranteed under this section if, in the event of a default by the obligor, the Secretary would be subrogated to the rights of the lender under section 77 (i) of the Bankruptcy Act.".

MIDWEST RAIL STUDY

SEC. 202. Title IX of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210; 90 Stat. 147) is amended by adding at the end thereof the following new section.

"SEC. 907. (a) The Secretary shall conduct a comprehensive study of freight transportation in the Midwest. Such study shall include, but not be limited to, a determination to the maximum extent feasible of the impact of changes in the capacity of the lock system of the Mississippi River and Illinois Waterway Navigation System upon—

"(1) railroad revenues, service, the ability to attract capital, and continued economic viability;

"(2) railroad branch lines;

"(3) continued capability to provide service;

"(4) shippers dependent upon rail service;

"(5) communities beyond the economic service area of the waterway mode; and

"(6) need for subsidies to railroads.

Such study shall also include a determination of the probable freight to be moved in the Midwest in the next 10 years and the next 25 years, and the most economically efficient method of moving such freight, considering the total private and public costs for the entire region.

"(b) The Secretary shall, within one year after the date of enactment of the Rail Amendments of 1976, submit to the Congress the study required by subsection (a) of this section. The Secretary of the Army and the Commission shall cooperate with the Secretary in preparation of such study. In carrying out its duties under this section, the Commission shall submit to the Secretary of the Army the findings of the Commission with respect to whether the expenditure of Federal funds on any constructure or reconstruction affecting the capacity of the lock system on the Mississippi River and the Illinois Waterway Navigation System is required to meet the needs of the public convenience and necessity for adequate freight transportation services in the Midwest.".

TECHNICAL AMENDMENTS

SEC. 203. (a) Section 308(d)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (15 U.S.C. 80a–3 note) is amended by striking out "subsection (c)" and inserting in lieu thereof "subsection (b)".

(b) Section 504(a)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 824(a)) is amended by inserting "and equipment" immediately after "railroad's facilities".

(c) Section 511(h) of the Rail Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(h)) is amended by striking out "PREQUISITES FOR GUARANTEES." and inserting in lieu thereof "PREQUISITIES FOR GUARANTIES.".

(d) Section 809(a)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 1a note) is amended by striking out "abandoned" and inserting "abandoned since 1970" immediately after "railroad rights-of-way".

TITLE III—AMENDMENTS TO THE INTERSTATE COMMERCE ACT

DISCONTINUANCE AND ABANDONMENT PROCEDURES

SEC. 301. (a) Section 1a(1) of the Interstate Commerce Act (49 U.S.C. 1a(1)) is amended by adding at the end thereof the following new sentence: "The authority granted to the Commission under this section shall not apply to (a) abandonment or discontinuance with respect to spur, industrial, team, switching, or side tracks if such tracks are located entirely within one State, or (b) any street, suburban, or interurban electric railway which is not operated as part of a general system of rail transportation.".

(b) Section 1a(4) of the Interstate Commerce Act (49 U.S.C. 1a(4)) is amended—

(1) by adding immediately before the last sentence thereof the following new sentence: "If such certificate is issued without an investigation pursuant to paragraph (3) of this section, actual abandonment or discontinuance may take effect, in accordance with such certificate, on the effective date of such certificate."; and

(2) in the last sentence thereof, by inserting immediately after "issued" the following: "after an investigation pursuant to such paragraph (3)".

TECHNICAL AMENDMENTS

SEC. 302. (a) The second sentence of section 5(16) of the Interstate Commerce Act (49 U.S.C. 5(16)) is amended by striking out "paragraph (16)" and inserting in lieu thereof "paragraph (17)".

(b) The first sentence of section 17(9)(e) of the Interstate Commerce Act (49 U.S.C. 17(9)(e)) is amended by striking out "section" and inserting in lieu thereof "paragraph".

(c) Section 5b(5)(a)(iii) of the Interstate Commerce Act (49 U.S.C. 5b(5)(a)(iii)) is amended by striking out "section 15(7)" and inserting in lieu thereof "section 15(8)".

(d) Section 13(5) of the Interstate Commerce Act (49 U.S.C. 13(5)) is amended by adding at the end thereof the following: "Nothing in this paragraph shall affect the authority of the Commission to institute an investigation or to act in such investigation as provided in paragraphs (3) and (4) of this section.".

(e) The final sentence of section 15(19) of the Interstate Commerce Act (49 U.S.C. 15 (19)) is amended by striking out "section 2" and inserting in lieu thereof "section 1, 2".

(f) Section 22(2) of the Interstate Commerce Act (49 U.S.C. 22(2)) is amended—

(1) by inserting immediately after "under section 5a" the following: "or section 5b"; and

(2) by striking out "said section 5a" and inserting in lieu thereof "such section 5a or paragraph (8) of such section 5b".

(g) Part I of the Interstate Commerce Act (49 U.S.C. 1 et seq.) is amended by inserting immediately before section 28 the following center heading:

"DISCRIMINATORY STATE TAXATION".

TITLE IV—GENERAL PROVISIONS

ENVIRONMENTAL STUDY

SEC. 401. The Secretary of Health, Education, and Welfare shall, within 12 months after the date of enactment of this Act, submit a report to the Congress with respect to the environmental effects of section 306(i) of the Rail Passenger Service Act (45 U.S.C. 546(i)) and the financial effects on the National Railroad Passenger Corporation and the railroad industry of any repeal or modification of such section 306(i). Such report shall contain such recommendations as the Secretary may consider necessary or appropriate to balance environmental considerations with operating and financial considerations of the railroad industry, including recommendations with respect to equipping new railroad rolling stock and retrofitting existing railroad rolling stock.

Mr. ROONEY (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there amendments to title I?

AMENDMENT OFFERED BY MR. DEVINE

Mr. DEVINE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DEVINE: Page 42, line 20, strike "and".

Page 43, line 4, strike out period and insert in lieu thereof "; and" immediately after line 4, insert the following:

"(ix) Any claim arising out of a contract between a railroad in reorganization and the National Railroad Passenger Corporation to provide a suitable railroad passenger station in any case in which such railroad in reorganization sold a railroad passenger station pursuant to condemnation and prior to April 1, 1976. Such claim shall be submitted by the President of the National Rail Passenger Corporation for an amount necessary for a temporary rail passenger station and when submitted shall be deemed a valid claim eligible for payment under this section."

Mr. DEVINE. Mr. Chairman, for 6 or 7 years, most of the railroads in the Northeast were bankrupt. During their bankruptcy, some of the railroads entered into transactions involving their rail passenger stations without consulting Amtrak. The result of this is that in some cases, Amtrak is placed in a position of having no station to serve the passengers of major cities.

In Columbus, for example, Penn Central sold its station to the city of Columbus pursuant to condemnation. The Ohio Center is planned to be constructed on the site of the old station. Once that building is constructed, Amtrak will have a new and modern station.

In the meantime, it will be necessary for Amtrak to build a temporary station. The responsibility for that cost of approximately $650,000 should rest with the trustees of the Penn Central. The reason for this is that when Amtrak agreed to take over the rail passenger service of Penn Central, the Penn Central Co. and all other railroads agreed to provide station facilities for Amtrak for a period of not less than 25 years. My amendment simply includes a category in 211(h) whereby Amtrak can receive funds for the building of temporary station facilities whenever the bankrupt railroad has sold their old passenger station out from under them and without their consent. This again, is a situation where the money expended by Amtrak should eventually be repaid by the trustees of the bankrupt Penn Central. In the meantime, it will permit the people of Columbus to have a rail passenger station.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Devine).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROONEY

Mr. ROONEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Rooney: Strike section 202 in its entirety and renumber section 203 as section 202.

Mr. ROONEY. Mr. Chairman, this section, entitled "Midwest Rail Study" would require the Secretary of Transportation to study the impact of waterway transportation on railroads in the Midwest, particularly with regard to the effects of proposed improvements to lock and dam 26 at Alton, Ill.

This amendment was included in the bill because the Department of Transportation expressed serious concerns that the projects for improving the waterway systems were not being studied on a systematic basis. It has been alleged that these projects could have serious adverse economic effects on hard-pressed midwestern railroads and rail dependent shippers. Thus, if this is the case, the financial assistance to be provided to improve the waterway system could very possibly be counterproductive to the massive financial assistance for railroads provided by the Rail Act of 1976.

Mr. Madigan, Mr. Skubitz, and myself introduced H.R. 14479 on June 20 to provide for a study on the effect the waterway improvements would have on other modes of transportation and to place a 1-year moratorium on the waterway improvements until the completion of this study. This bill was jointly referred to the Committees on Interstate and Foreign Commerce and Public Works on Transportation.

In order to expedite the matter, in an attempt to eliminate the joint jurisdiction, the amendment in the reported bill modified H.R. 14479 by restricting the study to the effect on railroads rather than on all modes of transportation, and dropping the requirement for a 1-year moratorium.

Nevertheless, I understand that the Committee on Public Works still has joint jurisdiction in this matter. This being the case, and since the Committee on Public Works cannot consider this matter immediately, this bill can be delayed to a point whereby it would be impossible to consider it during this session of Congress.

I know that the gentleman from Illinois (Mr. Madigan) and my colleague, the ranking minority member (Mr. Skubitz) and myself are very concerned about this matter, but nevertheless I think at this time that it should be deleted from the bill.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield for the purpose of a question?

Mr. ROONEY. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I would like to ask the gentleman from Pennsylvania if he believes that improving the waterway system can have a negative economic impact on the viability of the competing railroad system.

Mr. ROONEY. Yes. That was the purpose of the amendment.

Mr. MADIGAN. Is the gentleman aware that the U.S. Army Corps of Engineers testified before the U.S. Senate that this proposed improvement on the Mississippi River would have an adverse economic impact on the railroads?

Mr. ROONEY. I am aware of that, and I agree with the gentleman from Illinois.

Mr. MADIGAN. If the gentleman from Pennsylvania had his way then, if I understand what he is saying, notwithstanding the objection of the Committee on Public Works, it would be the gentleman's preference to have this section in the bill and have this study made if he were able to determine all by himself whether or not that ought to be done. Is that correct?

Mr. ROONEY. Yes.

Mr. MADIGAN. I thank the gentleman.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I agree wholeheartedly with the remarks of the chairman.

Mr. ROONEY. Mr. Chairman, if the gentleman from Kansas (Mr. Skubitz) will yield, if we are both back in 1977, I will cosponsor his legislation.

Mr. SKUBITZ. Mr. Chairman, will the gentleman agree with me that this is a very good example—he may not agree that the Congress committed a grave error when it began segmentizing transportation problems by giving to one committee control over railroads, to another committee control over waterways, to another committee control over trucks. Such action makes it impossible to develop a sound transportation system in this country.

One of the first acts that this Congress ought to pass when it convenes next year is to consolidate all transportation in one committee so that we can work out a sound transportation system.

Mr. ROONEY. Mr. Chairman, if the gentleman will yield, either that or have one committee. I prefer one committee dealing with all modes of transportation.

Today we are the only first-class country in the world with a second-class transportation system.

Mr. SKUBITZ. I buy that.

Mr. MADIGAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the distinguished gentleman from Pennsylvania (Mr. Rooney) and the distinguished gentleman from Kansas (Mr. Skubitz) have pointed out the difficulties that exist in Congress when we divide the transportation responsibilities between two or three committees. While it may be true that waterways per se are under the umbrella of the Committee on Public Works, the negative economic impact from waterway improvements is under the purview of the Committee on Interstate and Foreign Commerce and the Subcommittee on Transportation and Commerce, and that is our responsibility, the responsibility of the gentleman from Kansas (Mr. Skubitz), the gentleman from Pennsylvania (Mr. Rooney), myself, and other members of that subcommittee, and it is for that reason that the gentleman from Pennsylvania (Mr. Rooney) and I originally introduced a bill which was later included as an amendment in this ConRail bill.

Mr. Chairman, I want to read to the Members of the Committee of the Whole, if I may, this language from a report of the Congressional Budget Office on this very subject:

> On the one hand, the federal government directly subsidizes the barge lines by providing free waterway facilities and justifies that subsidy on the often challenged ground that water transportation is cheaper than and, therefore should preempt, rail transportation for a certain type and amount of traffic. ConRail precedent, stands ready temporarily to aid bankrupt rail lines; expecting those railroads to regain their financial health and to repay that aid. Continued waterway subsidies can be a cause of railroad bankruptcy and, thereby, necessitate the initial rail assistance. Furthermore, the waterway subsidy can undermine the plans for repayment of that rail assistance and, thereby, force a decision on a permanent form of direct railroad subsidy. The potential for realizing the serious budget consequences of this policy conflict could not be greater than in the Midwest, since the Mississippi River is the nation's primary inland waterway and, as noted above, seven midwestern railroads are already experiencing financial difficulties.

As I said earlier, Mr. Chairman, during the period of general debate, nothing in this section of this bill in any way takes anything away from the Committee on Public Works. Nothing in this section of the bill says that anything can be built or that anything cannot be built. All this section of the bill says is that the experts on transportation in the Federal Government, the Department of Transportation and the Interstate Commerce Commission, will study these things and will make their studies available, both to the

Secretary of the Army and to the U.S. Congress. That is all we are doing here.

Mr. Chairman, I urge opposition of the Committee of the Whole to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. ROONEY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. MURPHY of New York: Page 38, immediately after line 10, insert the following new section:
>
> RAIL MARINE FREIGHT SERVICE; OPTIONS
>
> SEC. 102. (a) The last sentence of section 206(d)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)(5)) is amended by inserting immediately after "passenger service" the following: "or for purposes of providing rail marine freight floating service".
>
> (b) Section 303(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743 (c)) as amended, is amended by adding at the end thereof the following new paragraph:
>
> "(6) Whenever the Corporation exercises an option to acquire, or acquires, interests in rail marine freight floating equipment pursuant to the recommendations of the final system plan, and the Corporation thereafter makes such floating equipment available to a profitable railroad operating in the region, a State, or a responsible person (including a government entity), the United States shall indemnify—
>
> "(A) the Corporation against any costs or liabilities imposed on the Corporation as the result of any judgment entered against it, with respect to such equipment, under paragraph (2) of this subsection; and
>
> "(B) such profitable railroad, State, or responsible person against any costs or liabilities imposed thereon as the result of any judgment entered against such profitable railroad, State, or responsible person under paragraph (3) of this subsection,
>
> plus interest on the amount of such judgment at such rate as is constitutionally required.".
>
> (c) Section 206(d)(7) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d) (7)) is amended by inserting immediately after "acquisition" the following: "by the Corporation pursuant to the final system plan".
>
> Make an appropriate change in the table of contents on page 36.

Mr. MURPHY of New York (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MURPHY of New York. Mr. Chairman, the amendments I propose would make explicit the intent of Congress in approving the USRA Final System Plan as it applies to the Port of New York.

As the plan recognizes, volume II, page 10:

> New York Harbor is the only port on the Eastern seaboard where, because of a lack of direct rail access, car-float operations are required to serve docks and other locations.

The plan recommended, volume I, page 11:

> USRA recommends that the New York harbor float service be continued, * * * and the floating services be provided by the independent dock carriers (Brooklyn Eastern District Terminal and the New York Dock Railway.

To enable these independent dock carriers to undertake the floating service previously performed by the bankrupt line-haul carriers, and to prevent "disruption or loss of service," within the meaning of the Railroad Revitalization Act of 1973, the plan further recommended—volume II, page 10:

> All remaining float equipment in the area still owned by the railroads in reorganization should be made available for the rehabilitation. All floating equipment now owned by the line haul carriers would be made available to the terminal companies at incentive prices.

These recommendations in the USRA Final System Plan were, to a degree, "a promise made to the ear but broken to the hope." The plan—volume I, page 263—designated to ConRail an option to purchase four tugboats and nine car floats of the Penn Central, but it developed that two of the designated tugs had already been sold, one of the two remaining lacks a propeller, and one of the car floats is inoperable.

In addition, I am informed that the Erie-Lackawanna still has available three tugs and five car floats for which the New York State Department of Transportation has made an offer of subsidy, but which have yet to be made available for service in New York Harbor.

Mr. Chairman, my amendment would simply make explicit ConRail's right to exercise its designated option under the Final System Plan, with full protection from liability for its officers and directors and full deficiency judgment protection. It would also enable either ConRail or the New York State Department of Transportation to acquire the remaining floating equipment of the Erie-Lackawanna to carry out the intent of Congress in the final system plan.

As stated in a letter to me from the distinguished chairman of the subcommittee, which is reprinted at page 68 of the committee report:

> It is my understanding that it has always been the Congressional intent that the marine operations in New York Harbor be covered by the 1973 Act and consequently the equipment and facilities not be disposed of by the estates and the operations be eligible for continuation payments.

I have discussed this amendment with the ConRail and subcommittee staffs, and it has been favorably received by both groups. I trust that it is also acceptable to the chairman.

Mr. ROONEY. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Pennsylvania.

Mr. ROONEY. Mr. Chairman, I wish to commend the gentleman from New York (Mr. MURPHY) for offering this amendment. There is no objection to the amendment on this side of the aisle.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I have examined the amendment. I think it is a good amendment, and I accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. MURPHY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROONEY

Mr. ROONEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ROONEY: Page 38, strike out line 11 and all that follows through page 40, line 18, and redesignate the subsequent sections accordingly.
>
> Page 36, in the table of contents, strike out "Sec. 102. Deficiency judgment protection." and "Sec. 103. Expiration of Options.", and redesignate the subsequent items accordingly.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, may I ask the gentleman, is this the same provision we took care of in the USRA bill?

Mr. ROONEY. Yes. These amendments have already been included in the USRA Authorization Act passed last week and are therefore redundant at this time.

Mr. SKUBITZ. Mr. Chairman, we have no objection on this side of the aisle, and I urge passage of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. ROONEY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROONEY

Mr. ROONEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ROONEY: Page 59, immediately after line 21, insert the following new subsection:
>
> (c) The first sentence of section 511(a) of the Rail Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(a)) is amended by inserting immediately before the period at the end thereof the following: ", or to develop or establish new railroad facilities".
>
> Redesignate the following subsections accordingly.

Mr. ROONEY. Mr. Chairman, this amendment merely clarifies existing law regarding rehabilitation and improvement of rail facilities to permit loans for guarantees for construction of new facilities. Presently, loan guarantees are permitted for "capital improvements" but this term is not defined in the act and therefore it is not clear whether it is permissible to finance new construction. I believe that financing new construction should be permissible otherwise the financing would be limited to improving only the status quo. The present financial condition of many railroads effectively prevents further debt or equity financing for sorely needed new construction. This amendment could not change any of the conditions for loan guarantees—notably, the Secretary of Transportation can exercise his discretion in assuring that loan guarantees for new facilities are fully justified pursuant to the conditions presently prescribed in section 511 of the act.

The CHAIRMAN. The question is on

the amendment offered by the gentleman from Pennsylvania (Mr. ROONEY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SKUBITZ

Mr. SKUBITZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SKUBITZ: On page 41, beginning at line 24, strike all of the material through line 4 on page 42.

Renumber the subparagraphs accordingly.

Mr. SKUBITZ. Mr. Chairman, the DOT asks that this provision be struck from the provisions of 211(h) because it is a matter which has already been decided by the courts. Judge Fulham determined that ConRail, rather than the bankrupt railroads, was to be liable for accrued vacation. Judge Fulham apparently relied on the intent of Congress and personally I believe that he was wrong.

However, that is a matter to be decided when the case is appealed. That case is presenty on appeal and it is felt that Judge Fulham's decision will be overturned. If Judge Fulham's decision is overturned, these claims automatically will fall within the benefits of section 211(h). Once they have fallen within the scope of 211(h), it will become clear that the money must be paid back at some date when the bankrupt estates are finally liquidated.

As it is now contained in the bill, a contrary finding by the court would mean that approximately $180 million would be given to ConRail as a grant. Such a course of action, I submit, should be taken up as a regular authorizing bill and not tucked into the provisions of 211(h).

I urge that my amendment be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. SKUBITZ).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BAUMAN: On page 53, after line 20, insert the following new section 111 and renumber succeeding sections accordingly;

SEC. 111. The Regional Railroad Reorganization Act of 1973, as amended, is amended by striking section 508(a)(1) of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 778(a)(1)) and substituting the following: "In the event of an acquisition pursuant to the final system plan by, or of a subsequent transfer pursuant to this Act to an acquiring railroad from either the Corporation or a railroad in reorganization, the employment of any employee of the selling railroad (whether the Corporation or a railroad in reorganization) who accepts employment on the railroad properties or facilities (including operating rights) so acquired, and who is subject to protection under section 505 of this title, shall be governed by the collective-bargaining agreement applicable to such employee's craft of class that is in effect on the line of the acquiring railroad that connects with the railroad properties or facilities so acquired, in the absence of an agreement to the contrary between the acquiring railroad and the representative of such employee prior to the effective date of such acquisition. The acquiring railroad shall afford to every such employee, and to its own employees who are adversely affected by such acquisition, the protection and benefits (except as to rules and working conditions) specified in section 505 of this title. For purposes of this subsection, the National Railroad Passenger Corporation shall be deemed to be an acquiring railroad, with respect to employees described in section 501(3) of this title.".

Mr. BAUMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. BAUMAN. Mr. Chairman, this amendment is familiar, I think, to both the majority and minority members of this subcommittee. It was originally proposed as legislation offered earlier this year by the gentleman from Virginia (Mr. DOWNING), the gentleman from Delaware (Mr. DU PONT) and myself. It would amend section 508 of the 1973 Regional Railroad Reorganization Act so as to remove the power the rail unions involved have used to veto proposed acquisitions by private railroads simply because the unions do not agree with them.

The amendment grows out of the extreme economic difficulty which has been imposed upon the people of the Delmarva Peninsula by the unions' use of section 508 as it is presently written.

More than a year ago the Southern Railroad proposed to acquire all of the former Penn Central rail lines south of Wilmington on the Delmarva Peninsula. Had this been done, it would have continued rail service from Norfolk, Va., across Chesapeake Bay up to Wilmington including a great many of the spur routes located in my district and in the districts of the other two cosponsors. Southern proposed to spend up to $35 million to upgrade these deteriorating railways.

Last March when we got down to the end of the negotiations, it was clear that one of the rail unions, the Brotherhood of Railway and Airline Clerks with only 55 members involved, was able to veto the Southern acquisition because of highly unreasonable demands as to future job rights. Despite the efforts of Secretary of Transportation, William Coleman, the union would not agree to this acquisition and, of course, their power to veto came directly from this section in the 1973 act, which I believe to be a clear mistake.

This means that three-quarters of a million people in the Delmarva area are being put in economic jeopardy, and the jobs of a great many other workers, union and nonunion are also being put in jeopardy. On April 1, next year, when the present full Federal subsidy ends, much of this rail service will end. On September 23, ConRail sent a letter to many of the rail shippers and users in this area telling them the service will be cut off. The best possible solution would be to permit these rail lines to be acquired by a private rail company such as Southern.

I honestly believe that the only way that this problem can be solved is to reopen the door for negotiations by Southern. I have been assured that they are still interested. This amendment would allow new negotiations and would provide simply that any railroad workers who accept employment on the acquiring railroad—in this case possibly Southern—would be governed by the collective bargaining agreements then in existence on the acquiring railroad line to the extent that the two parties could not agree. This would get around the veto by the unions that the 1973 act allowed.

I would hope that, since the Congress created this problem, giving this inordinate power to the unions the committee would be willing to accept this amendment.

Mr. DU PONT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment just offered by the gentleman from Maryland (Mr. BAUMAN) and would like to associate myself with his remarks.

I think the problems that have been placed upon the Delmarva Peninsula by the decisions made in the previous Railway Organization Act to which the gentleman from Maryland referred are perhaps not fully understood by most of the Members, and I think it worth while to spend a moment just to touch upon them.

Delaware, a large portion of Maryland, and a very small portion of the State of Virginia lie on the Delmarva Peninsula. Rail service to that peninsula is vital to our agriculture, and agriculture is the primary industry of our peninsula. Three years ago a freighter in the Chesapeake & Delaware Canal ran into and broke down for some months the only railroad bridge across that canal, thus sealing off the Delmarva Peninsula from effective rail service. A car float was started at the other end at Norfolk, and that worked well as a relief valve. But the point to be made is that without that rail service the agricultural business and the agribusiness of the Delmarva Peninsula was in very serious danger. Fertilizer could not come in; produce could not go out; and our biggest industry was in danger of suffering a very severe economic catastrophe.

The same thing is going to happen next year when rail service stops because of this reorganization plan. As the gentleman from Maryland said, one small union that was not willing to go along with the contract provisions that had been accepted by everyone else involved is going to be in the position of shutting down this rail service. I do not believe we can let that happen. I do not believe there is any unfairness involved in asking that existing collective-bargaining agreements apply to the new railroad that would be acquiring the lines. I would strongly urge the adoption of the amendment offered by the gentleman from Maryland.

Mr. ROONEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment is nothing more than compulsory arbitration. I understand that the negotiations between the Southern Railway and the union broke down because the union could not agree to accept the work agreement of the acquiring railroad. That amendment would force the union to accept that agreement. I understand the Eastern Shore wanted to come in there and take it over, but unfortunately the legislation required for that purpose was stricken from the bill during the committee workup. Nevertheless, I have not heard from anyone in the Delmarva Peninsula that they are not being adequately served by ConRail. Therefore, I rise in opposition to the amendment. It is nothing more than compulsory arbitration, and I urge my colleagues not to support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN).

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 13, noes 18.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BAUMAN: Page 63, immediately after line 5, insert the following new section:

DELMARVA RAIL STUDY

SEC. 402. The Interstate Commerce Commission shall, within 6 months after the date of enactment of this Act, submit a report to the Congress with respect to the problems of and need for rail transportation on the Delaware-Maryland-Virginia Peninsula. Such report shall include—

(1) an analysis of why the acquisitions proposed under the final system plan with respect to rail properties on such peninsula were not consummated; and

(2) recommendations with respect to the continuation or extension of viable rail transportation service on such peninsula.

Make an appropriate conforming change in the table of contents on page 37.

Mr. BAUMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. BAUMAN. Mr. Chairman I have discussed with the members of the subcommittee on both sides of the aisle the possibility of accepting this amendment which requires not only an immediate ICC study of the problems of rail service on the Delmarva Peninsula but also an investigation into why the acquisition by Southern Railway failed. The amendment will instruct the ICC to fully consider this matter and report back to the Congress within six months, including recommendations for possible changes in the existing law as my earlier amendment suggested are needed. At least this will keep the door open for a possible acquisition of the Delmarva rails by Southern Railway or some other private railway. I do not believe the Conrail system can do the job and we must do all we can do to solve this problem.

I hope the committee will accept this amendment.

Mr. ROONEY. Mr. Chairman, if the gentleman will yield, the chairman has examined the Delmarva study and has no objection on this side.

Mr. SKUBITZ. Mr. Chairman, if the gentleman will yield, I think this is a good amendment. I support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROONEY

Mr. ROONEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROONEY: Page 63, immediately after line 5, insert the following new section:

EFFECTIVE DATE

SEC. 404. The provisions of this Act and the amendments made by this Act shall take effect on October 1, 1976.

Make an appropriate conforming change in the table of contents on page 37.

Mr. ROONEY. Mr. Chairman, this amendment is merely technical in that it establishes an effective date as of the next fiscal year in the event that this bill is enacted before October 1. The Budget Committee informed the committee after a rule had been granted by the Committee on Rules, that since eligibility for section 211(h) loans is provided by this bill for certain claimants not included in the Rail Act of 1976, we are technically in violation of the Budget Act. This violation will not occur if the bill is effective after October 1. The Budget Committee informed this committee that it has no objection to this amendment and in fact, prefers this amendment to the alternative of granting an exception to the Budget Act. As it is highly unlikely that this bill will be enacted before October 1, it can be seen that this amendment is merely technical.

Mr. SKUBITZ. Mr. Chairman, I have examined the amendment. It is acceptable on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. ROONEY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SKUBITZ

Mr. SKUBITZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SKUBITZ: Page 46, line 11, strike out "Any" and insert in lieu thereof: "Unless and to the extent that the Secretary advises the court having jurisdiction over the railroad in reorganization that a plan of reorganization of such railroad is acceptable to the Secretary and requires a different disposition, and the Secretary has not subsequently advised the court otherwise, any".

Mr. SKUBITZ. Mr. Chairman, before I explain this amendment, I would like to explain one of the provisions in the bill. That provision is section 104(d).

Section 104(d) was placed in the bill at my insistence. Simply stated, it requires that if any monies of the bankrupt railroads which are now held in escrow accounts are ever freed up by the courts, they should be used to pay off some of the money loaned under 211(h). It is my understanding that well over $100 million is now tied up, because the courts have felt that it should be placed in an escrow account to protect certain employee rights. USRA, the Department of Transportation, and ConRail disagree with the court's interpretation in this matter.

Several weeks ago, representatives of the Penn Central trustees visited my office with great concern about 104(d). They pointed out that some of the reorganization plans presently under consideration by the bankrupt railroad would envision using the escrowed money to pay taxes to local governments. A number of meetings between the trustees, the Department of Transportation, and our staffs followed the meeting I had.

This amendment represents a compromise which I believe is agreeable to everyone. The compromise simply states that should the situation arise where a reorganization plan can only be undertaken through the use of some of these escrowed monies, the Secretary may waive the provisions of 104(d).

Mr. Chairman, I urge the adoption of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. SKUBITZ).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROONEY

Mr. ROONEY. Mr. Chairman, I offer an amendment.

The Clerk reads as follows:

Amendment offered by Mr. ROONEY: Page 47, after line 22, insert the following new section:

PAYMENT FOR PERSONAL INJURY CLAIMS

SEC. 105. Section 213 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 723) is amended by redesignating subsection (b) thereof as subsection (c), and by inserting immediately after subsection (a) thereof the following new subsection:

"(b) PERSONAL INJURY CLAIM PAYMENTS.—The Secretary is authorized, after the date of conveyance pursuant to section 303(b)(1) of this Act, to make payments to the trustees of any railroad in reorganization for purposes of discharging obligations of such railroad to nonemployee claimants for personal injuries suffered during the period such railroad has been in reorganization. Such payments shall be made by the Secretary upon such reasonable terms and conditions as the Secretary establishes, except that no such payment shall be made unless the proposed recipient agrees to use sums received pursuant to this subsection solely for purposes of discharging obligations described in the preceding sentence.".

And renumber the other sections accordingly.

Mr. ROONEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ROONEY. Mr. Chairman, the new section which I am proposing amends section 213 of the Regional Rail Reorganization Act of 1973 to authorize the Secretary of Transportation to pay the trustees of railroads in reorganization sums necessary to satisfy claims by nonemployees for personal injuries suffered during the period between when the railroad went into bankruptcy and its transferred to another carrier.

Section 213 of the 1973 act was designed by Congress to keep the railroads running after bankruptcy providing funding necessary for the railroads to meet their operating expenses during the reorganization period. The claimants which my amendment is designed to assist have been judged to be due certain sums, because of injuries suffered through no fault of their own. Similar claims against profitable railroads are promptly paid—out of operating expenses. I am merely proposing that these persons receive the same treatment as they would receive if their claims were against a profitable railroad. There does not appear to me to be any reason why these claims cannot be paid out of operating funds the same as any other expense.

When this matter was considered in committee it was argued that these claims should not be paid out of Government loaned funds because the claims have no connection to any action taken by the Government. That is, the funds were loaned to keep the railroads operating and these accident victims had nothing to do with keeping the railroads operating. This argument is fatuous. As I said, claims for these victims should be as much an operating expense as payroll. Furthermore, over $6 million of the funds authorized and appropriated "to keep the railroads operating" were just recently committed to be spent on Northeast corridor improvements. It seems incongruous to me to spend operating funds for improvements and at the same time contend that these claims should not be paid from operating funds, because the claimants are not railroad employees. In fact, I strongly suspect that these funds were recently committed for this dubious purpose of improvements in order to assure that the funds would not be available for the purpose of paying these claims.

Twelve million dollars of authorized funds in section 213 of the 1973 act were not appropriated because it was not clear at the time that the funds would be necessary. I believe that a necessity has been established and that the funds should be appropriated. Certainly there is more necessity to pay these victims than improve the Northeast corridor.

It was also argued that these claimants need not be paid at this time because they will, under normal bankruptcy procedures, be give na high priority in the settlement of the estates.

It is true that these claims are given a high priority in the normal settlement of bankrupt estates. However, it should be recognized that the claimants will have to wait for a plan of reorganization to be approved before they can be paid. No one can predict when a reorganization plan for these estates will go into effect. I, for one, would find little comfort in telling a widow with children that some day she will be paid in such a reorganization plan—particularly when a plan may be years away and we have an opportunity to provide prompt payment.

It was further argued that these claimants are the same as victims of the W. T. Grant Co. and that it would set a dangerous precedent to provide relief for claimants of all bankrupt companies. Again, this is a fatuous argument. The Government did not take any action to keep this company operating as was done in the case of railroads. The analogy between the Grant Co. and railroads further breaks down when it is remembered that the Grant Co. did not operate after bankruptcy—the victims we are talking about had accidents after bankruptcy because the Government desired the railroads to keep operating.

I urge the adoption of this amendment.

Mr. SKUBITZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I dislike very much to stand here today and oppose the amendment of my colleague, because the gentleman from Pennsylvania has been so cooperative all the way through with amendments that I have introduced; but I think this body ought to know just what we are doing by this amendment.

Mr. Chairman, the amendment offered by the gentleman from Pennsylvania (Mr. Rooney) completely deviates from the principle used throughout the bill of paying claims that, in effect, arose out of commitments by individuals or companies to keep the bankrupt railroads going until we could do something here in the Congress. These third party interest claims involve the claims of the man who has been hit by a train, any individual.

Mr. Chairman, in the full committee the gentleman from Pennsylvania (Mr. Rooney) tried to have these claims funded under section 213 of the 1973 act. This would have meant a grant of some $20 million to the bankrupt railroads.

Mr. Chairman, while I feel sorry for the individuals who happened to have been hit by a Penn-Central train or a Lehigh Valley train and now have to wait for money because these lines are bankrupt, I think we are setting a very dangerous precedent here if we provide this kind of money to the bankrupt railroads. If we give it to a bankrupt railroad, why not pay any bankrupt company to take care of parties that may have been injured? What is to stop us from paying every court case against the W. T. Grant Co., which is now in bankruptcy?

What is to stop us from paying every personal injury claim affecting the corner garage which is in bankruptcy? This is a dangerous precedent, and I question whether this body ought to accept it.

Mr. STAGGERS. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, similar claims against profitable railroads are properly paid out of operating expenses, and this amendment just proposes that these persons receive the same treatment as they would receive if their claims were against a profitable railroad. That is they would be paid right away. There does not appear to be any reason why these claims cannot be paid out of operating funds the same as any other expense.

I would think that if somebody gets hurt, I think he ought to be paid in a timely manner and not have to wait an unreasonable length of time. I think this is a good amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Rooney).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROONEY

Mr. ROONEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Rooney: Page 48, strike out line 22 and insert in lieu thereof:

BASIS FOR COMPENSATION; REIMBURSEMENT FOR RAIL SERVICE

Page 48, line 23, insert "(a)" immediately after "Sec. 106.".

Page 49, immediately after line 15, insert the following new subsection:

(b) Section 304(e)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 144(e)) is amended by redesignating subparagraph (C) thereof as subparagraph (D), and by inserting immediately after subparagraph (B) thereof the following new subparagraph:

"(C) For purposes of the obligation of the Secretary to reimburse the Corporation (or a profitable railroad) or States, local public bodies, and agencies thereof under subparagraphs (A) and (B) of this paragraph, the level of rail passenger service shall be determined on the basis of train miles, car miles, or some other appropriate indicia of scheduled train movements. Programs to correct deferred maintenance on rolling stock, right-of-way, and other facilities which are designed to maintain service, meet on-time performance, and maintain a reasonable degree of passenger comfort (and costs incurred incident thereto), shall be included within the meaning of the term "loss" as used in subparagraph (A) of this paragraph and within the meaning of the term "additional costs" as used in subparagraph (B) of this paragraph and section 17(a)(2) of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613(a)(2)).".

Make an appropriate change in the table of contents on page 37.

Mr. ROONEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ROONEY. Mr. Chairman, the purpose of this amendment is to clarify the meaning of the term "quality of service" as it is used in the Railroad Revitalization and Regulatory Reform Act of 1976 as it is applied to commuter service. Consequently, there is some confusion in determining the requirements of the Federal share of emergency assistance payments.

In many areas, prior to April 1, 1976, when the respective predecessor bankrupt railroads were operating the commuter services, the lack of normal maintenance procedures on track and equipment represented a state of substantial deferred maintenance and as a result the quality of service steadily deteriorated. Therefore, when ConRail assumed the responsibility for the operation of commuter services, it was unclear as to whether ConRail should maintain the same level of service or the same level of deterioration of service. For example, there are many instances where coach doors will not remain shut in winter, or will not remain open in summer, resulting from a lack of adequate preconveyance maintenance procedures. This, coupled with the old equipment built over a half-century ago, has increased the frequency and acuteness of problems such as these. Unless the level of maintenance is upgraded to provide a catchup for past deferred maintenance techniques, the rate of deterioration will simply continue.

Lacking specific guidelines in this area, ConRail cannot, without violating the no-cross subsidy edict, afford to risk funds for correcting these problems, unless it has some assurance that UMTA will construe work such as this, to fall within the realm of existing level of service and, therefore, including them as compensable items for costs incurred.

Indicative of the environment of uncertainty attached to the definition is the UMTA guideline which states:

> . . . changes in train quality or attractiveness of service, or significant changes in costs, may be considered to constitute changes in service level.

This leaves ConRail in a position of not knowing whether it will be compensated for improving the quality and attractiveness of service until after the fact when the expenditures are audited.

As the intent of Congress to allow ConRail to be compensated for providing an attractive and quality commuter service as opposed to continuing the bankrupt railroad practices of deferred maintenance, the clarifying amendment allows ConRail to provide a quality service with assurance of retroactive compensation. It also enables the commuter authorities, as intended by Congress, to continue the same level of payments and to not experience further deterioration.

Mr. HOWARD. Mr. Chairman, I rise in support of the amendment which would add a new provision in section 106 of the bill. The proposed amendment amends section 304(e)(5) of the regional rail reorganization act of 1973.

Its purpose is to simply clarify that the inclusion of deferred maintenance as a reimbursable item under section 17 of the urban mass transportation act is permissable. Section 17 was enacted in order to provide financial assistance for the preservation of commuter rail passenger service in the States affected by implementation of the final system plan. Federal subsidies are available for the purpose of maintaining this service at levels existing prior to the conveyance of the properties to ConRail. Some of this maintenance was deferred by the railroads in bankruptcy during the period prior to conveyance. Examples of deferred maintenance items are deterioration of air conditioning systems, repair of windows, doors, and lavatories, and items affecting the safety and comfort of passengers. These items affecting quality of service are considered by ConRail and the commuter authorities as essential factors for maintaining a proper level of commuter service.

The amendment does not call for any new or additional authorizations of money. It would benefit commuters by helping to restore basic quality service. I urge the enactment of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. ROONEY).

The amendment was agreed to.

Mr. ROONEY. Mr. Chairman, I have no further amendments.

Mr. SKUBITZ. Mr. Chairman, I have no further amendments.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose, and the Speaker having resumed the chair, Mr. ROUSH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 14932) to amend the Regional Rail Reorganization Act of 1973, the Railroad Revitalization and Regulatory Reform Act of 1976, the Rail Passenger Service Act, and the Interstate Commerce Act, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the future of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present. The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 317, nays 49, not voting 64, as follows:

[Roll No. 809]

YEAS—317

Abzug
Adams
Addabbo
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashbrook
Aspin
Badillo
Baldus
Baucus
Bauman
Beard, R.I.
Bedell
Bergland
Biaggi
Biester
Bingham
Blanchard
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burton, John
Butler
Byron
Carney
Carr
Carter
Cederberg
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Conyers
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gilman
Ginn
Gonzalez
Goodling
Gude
Guyer
Hagedorn
Hall, Ill.
Hall, Tex.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Henderson
Hicks
Hightower
Hillis
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hyde
Jacobs
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
Keys
Koch
Krebs
Krueger
LaFalce
Leggett
Lehman
Lent
Lloyd, Calif.
Long, La.
Long, Md.
Lott
Lundine
McClory
McCloskey
McEwen
McFall
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Milford
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nowak
Oberstar
Obey
O'Brien
O'Hara
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Ruppe
Ryan
St Germain
Sarasin
Satterfield
Schneebeli
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Tsongas
Udall

Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wolff
Wydler
Wylie
Yatron
Young, Tex.
Zablocki

NAYS—49

Abdnor
Allen
Archer
Armstrong
Bafalis
Beard, Tenn.
Bennett
Bevill
Broomfield
Burleson, Tex.
Burlison, Mo.
Clancy
Clawson, Del
Collins, Tex.
Conlan
de la Garza
Gibbons
Goldwater
Gradison
Grassley
Haley
Hammerschmidt
Hansen
Hutchinson
Ichord
Jones, Okla.
Kasten
Kelly
Kindness
Lagomarsino
Landrum
Latta
Levitas
Lloyd, Tenn.
McDonald
Martin
Miller, Ohio
Montgomery
Mottl
Nichols
Paul
Poage
Robinson
Runnels
Sebelius
Snyder
Symms
Taylor, Mo.
Young, Fla.

NOT VOTING—64

Alexander
Anderson, Calif.
Anderson, Ill.
Ashley
AuCoin
Bell
Blouin
Boggs
Burke, Fla.
Burton, Phillip
Chappell
Corman
Crane
Danielson
Downing, Va.
Duncan, Oreg.
Esch
Eshleman
Evans, Colo.
Flynt
Ford, Tenn.
Green
Hébert
Heinz
Hinshaw
Holland
Howe
Jarman
Jeffords
Lujan
McCollister
McCormack
McDade
McHugh
Matsunaga
Mikva
Mink
Mosher
Moss
Nix
Nolan
O'Neill
Pepper
Peyser
Riegle
Rousselot
Roybal
Russo
Santini
Sarbanes
Scheuer
Steelman
Steiger, Ariz.
Talcott
Treen
Ullman
Wampler
Winn
Wirth
Wright
Yates
Young, Alaska
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Anderson of Illinois.
Mr. Zeferetti with Mr. Young of Alaska.
Mr. Russo with Mr. Steelman.
Mr. Moss with Mr. Ashley.
Mr. Blouin with Mr. Sarbanes.
Mr. Santini with Mr. Bell.
Mr. O'Neill with Mr. Rousselot.
Mr. Nix with Mr. Jarman.
Mr. Matsunaga with Mr. Danielson.
Mr. Hébert with Mr. Burke of Florida.
Mr. Pepper with Mr. Mosher.
Mrs. Mink with Mr. Riegle.
Mr. Ford of Tennessee with Mr. Winn.
Mr. Wirth with Mr. Crane.
Mr. Evans of Colorado with Mr. Jeffords.
Mr. Corman with Mr. Scheuer.
Mr. Chappell with Mr. Downing of Virginia.
Mr. Phillip Burton with Mr. Wampler.
Mr. AuCoin with Mr. Lujan.
Mr. Alexander with Mr. Esch.
Mr. Anderson of California with Mr. Treen.
Mr. Mikva with Mr. McDade.
Mr. McHugh with Mr. Duncan of Oregon.
Mr. Nolan with Mr. Talcott.
Mr. Roybal with Mr. Eshleman.
Mr. Ullman with Mr. Green.
Mr. Flynt with Mr. Peyser.
Mr. Holland with Mr. McCollister.
Mr. McCormack with Mr. Howe.
Mr. Wright with Mr. Yates.
Mr. Young of Georgia with Mr. Heinz.

Messrs. LEVITAS, ABDNOR, and HALEY changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend the Regional Rail Reorganization Act of 1973, the Railroad Revitalization and Regulatory Reform Act of 1976, and the Interstate Commerce Act.".

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, pursuant to House Resolution 1548, I call up from the Speaker's table for immediate consideration the Senate bill S. 3131, to amend the Rail Passenger Service Act to provide financing for the National Railroad Passenger Corporation, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Staggers moves to strike out all after the enacting clause of the Senate bill S. 3131, and insert in lieu thereof, the text H.R. 13601 and H.R. 14932 as passed, as follows:

That this Act, divided into titles and sections according to the following table of contents, may be cited as the "Rail Transportation Improvement Act".

TITLE I—AMTRAK IMPROVEMENT

Sec. 101. Short title.
Sec. 102. Authorization of appropriations.
Sec. 103. Security guards.
Sec. 104. Incentive payment contract; Amtrak acquisitions.
Sec. 105. Adequacy of service regulations.
Sec. 106. Entertainment and promotional expenses.

TITLE II—RAIL AMENDMENTS

Sec. 201. Short title.
Sec. 202. Adequate representation.
Sec. 203. Rail marine freight service; options.
Sec. 204. Loans for payment of obligations.
Sec. 205. Payment for personal injury claims.
Sec. 206. Protection of employees' pension benefits.
Sec. 207. Transfer to implement Northeast Corridor.
Sec. 208. Basis for compensation; reimbursement for rail service.
Sec. 209. Authority of the Interstate Commerce Commission.
Sec. 210. Collective bargaining and FELA claims.
Sec. 211. Employee displacement allowance.
Sec. 212. Noncontract employees.
Sec. 213. Exemptions.
Sec. 214. Obligation guarantees.
Sec. 215. Discontinuance and abandonment procedures.
Sec. 216. Technical amendments.

TITLE III—GENERAL PROVISIONS

Sec. 301. Environmental study.
Sec. 302. Delmarva rail study.
Sec. 303. Effective date.

TITLE I—AMTRAK IMPROVEMENT

SHORT TITLE

Sec. 101. This title may be cited as the "Amtrak Improvement Act of 1976".

AUTHORIZATION OF APPROPRIATIONS

Sec. 102. (a) The second sentence of section 601(a) of the Rail Passenger Service Act (45 U.S.C. 601(a)) is amended—

(1) by striking out "$355,000,000 for fiscal year 1977" in clause (1) and inserting in lieu thereof "$430,000,000 for fiscal year 1977"; and

(2) by striking out "and $110,000,000 for fiscal year 1977" in clause (2) and inserting in lieu thereof "$140,000,000 for fiscal year 1977, and $140,000,000 for fiscal year 1978; (3) for the payment of additional operating expenses of the Corporation as a result of operation and maintenance of rail service in the Northwest Corridor pursuant to title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210), $68,000,000 for fiscal year 1977 and $75,000,000 for fiscal year 1978, except that such funds shall not be used for payment of operating losses of commuter rail services or rail freight services; and (4) for the payment of the principal amount of obligations of the Corporation (other than leases) which are guaranteed by the Secretary pursuant to section 602 of this Act, $25,000,000 for fiscal year 1978".

(b) Section 602(d) of the Rail Passenger Service Act (45 U.S.C. 602(d)) is amended by inserting immediately after the first sentence thereof the following new sentence: "Such $900,000,000 maximum shall be reduced by an amount equal to the total principal amount of such securities, obligations, or loans paid by the Corporation from funds made available pursuant to clause (4) of section 601(a) of this Act.".

SECURITY GUARDS

Sec. 103. Section 305 of the Rail Passenger Service Act (45 U.S.C. 545) is amended by adding at the end thereof the following new subsection:

"(i) The Corporation is authorized to employ security awards for purposes of providing security and protection for rail passengers of the Corporation and for rail properties owned by the Corporation. Security guards employed by the Corporation may be employed without regard to any provision of State law setting forth licensing, residency, or related requirements applicable to security guards or persons employed in similar positions.".

INCENTIVE PAYMENT CONTRACTS; AMTRAK ACQUISITIONS

Sec. 104. (a) Section 402(a) of the Rail Passenger Service Act (45 U.S.C. 562(a)) is amended by inserting immediately after the first sentence thereof the following: "The Corporation shall not enter into any contract under this subsection providing for any incentive payment to a contracting railroad or regional transportation agency for a level of service or performance equal to or less than the level of service or performance provided by such railroad or agency before the date such contract was entered into and, in no event, shall any such contract provide for an incentive payment on any basis other than a train-by-train basis or for any level of on-time performance for any train not operated within 5 minutes of its scheduled time for not less than 90 percent of its scheduled operations. The Commission may, on its own motion or on petition by any interested party, initiate a proceeding to determine whether the terms of any incentive payment contract are in compliance with the preceding sentence and, within 30 days after any such proceeding is initiated, shall issue such orders as it may deem necessary to carry out the provisions of such preceding sentence (including orders approving, disapproving, or requiring renegotiation of such contract).".

(b) Section 402(a) of the Rail Passenger Service Act (45 U.S.C. 562(a)) is further amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the Corporation will be deemed to have 'acquired' tracks, rights-of-way, and other facilities if it has obtained a present legal or equitable interest in such facilities by any form of lease or purchase, including a long-term contract of sale or lease with option to purchase.".

ADEQUACY OF SERVICE REGULATIONS

Sec. 105. (a) Section 308(c) of the Rail Passenger Service Act (45 U.S.C. 548(c)) is amended by adding at the end thereof the following new sentence: "Beginning March 15, 1977, the Commission shall include in the report required by this subsection a detailed listing of requests filed with the Commission by the Corporation to issue, modify, or grant an exemption from, and regulation referred to in section 801 of this Act, relating to adequacy of service, together with the results of any Commission action with respect to such requests.".

(b) Section 801(a) of the Rail Passenger Service Act (45 U.S.C. 641(a)) is amended by inserting immediately after the first sentence thereof the following new sentence: "No regulation issued by the Commission under this section shall require the Corporation or any railroad providing intercity rail passenger service to provide food service other than during customary dining hours.".

ENTERTAINMENT AND PROMOTIONAL EXPENSES

SEC. 106. Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended by adding at the end thereof the following new subsection:

"(c) The Secretary shall, within 90 days after the date of enactment of this subsection, establish guidelines to govern the expenditure of funds by the Corporation for entertainment and promotional expenses incurred by any officer or employee of the Corporation. Such guidelines shall include provisions prohibiting any expenditure by the Corporation to pay (1) the cost, in whole or in part, of membership in any private social or athletic club incurred by any officer or employee of the Corporation, and (2) the cost of alcoholic beverages purchased by any such officer or employee for entertainment purposes and not for resale in the ordinary course of business."

TITLE II—RAIL AMENDMENTS

SEC. 201. This title may be cited as the "Rail Amendments of 1976".

ADAQUATE REPRESENTATION

SEC. 202. Section 205(d)(7) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 715(d)(7)) is amended to read as follows:

"(7) employ and utilize, until such time as the Director of the Office of Rail Public Council has been appointed and confirmed and has taken office, the services of attorneys and such other personnel as may be necessary (A) to protect properly the interests of those communities and users of rail service which, for whatever reason (such as size or location), might not otherwise be adequately represented in the course of the reorganization process under this Act, and (B) to perform, pursuant to section 27 of the Interstate Commerce Act (49 U.S.C. 26b), the functions and duties of the Office of Rail Public Counsel.

The funds authorized to be appropriated to the Office of Rail Public Counsel by section 27(6) of the Interstate Commerce Act (49 U.S.C. 26b(6)) are authorized to be made available for purposes of carrying out the provisions of paragraph (7) of this subsection.".

RAIL MARINE FREIGHT SERVICE; OPTIONS

SEC. 203. (a) The last sentence of section 206(d)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)(5)) is amended by inserting immediately after "passenger service" the following: "or for purposes of providing rail marine freight floating service".

(b) Section 303(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743 (c)) as amended, is amended by adding at the end thereof the following new paragraph:

"(6) Whenever the Corporation exercises an option to acquire, or acquires, interests in rail marine freight floating equipment pursuant to the recommendations of the final system plan, and the Corporation thereafter makes such floating equipment available to a profitable railroad operating in the region, a State, or a responsible person (including a government entity), the United States shall indemnify—

"(A) the Corporation against any costs or liabilities imposed on the Corporation as the result of any judgment entered against it, with respect to such equipment under paragraph (2) of this subsection; and

"(B) such profitable railroad, State, or responsible person against any costs or liabilities imposed thereon as the result of any judgment entered against such profitable railroad, State, or responsible person under paragraph (3) of this subsection,

plus interest on the amount of such judgment at such rate as is constitutionally required.'.

(c) Section 206(d)(7) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716 (d)(7)) is amended by inserting immediately after "acquisition" the following: "by the Corporation pursuant to the final system plan".

LOANS FOR PAYMENT OF OBLIGATIONS

SEC. 204. (a) Section 211(h)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(1)) is amended to read as follows:

"(h) LOANS FOR PAYMENT OF OBLIGATIONS.—(1)(A) The Association is authorized, subject to the limitations set forth in section 210(b) of this title, to enter into loan agreements, in amounts not to exceed, at any given time, $300,000,000 in the aggregate principal amount, with the Corporation, the National Railroad Passenger Corporation, and any profitable railroad to which rail properties are transferred or conveyed pursuant to section 303(b)(1) of this Act, under which the Corporation, the National Railroad Passenger Corporation, and any profitable railroad entering into such agreement will agree to meet existing or prospective obligations of the railroads in reorganization in the region which the Association, in accordance with procedures established by the Association, determines should be paid by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, on behalf of such railroads in reorganization, in order to avoid disruptions in ordinary business relationships. Such obligations shall be limited to—

"(i) amounts claimed by suppliers (including private car lines) of materials or services utilized or purchased in current rail operations;

"(ii) claims by shippers arising from current rail services;

"(iii) payments to railroads for settlement of current interline accounts and all other current accounts and obligations;

"(iv) claims of all employees or their personal representatives for personal injuries or death and subject to the provisions of Employers' Liability Act (45 U.S.C. 51–60);

"(v) amounts required for adequate funding of accrued pension benefits existing at the time of a conveyance or discontinuance of service under employee pension benefit plans described in section 505(a) of this Act;

"(vi) amounts required to provide adequate funding for payment, when due, of claims deriving from membership in any employee voluntary relief plan which provides benefits to its members and their beneficiaries in the event of sickness, accident, disability, or death, and to which both a railroad in reorganization and employee members have made contributions;

"(vii) amounts required to provide adequate funding for payment, when due, of medical and life insurance benefits for employees (whether or not their employment was governed by a collective bargaining agreement) on account of their service with a railroad in reorganization prior to the date of conveyance pursuant to section 303(b)(1), and for individuals who retired, prior to such date of conveyance, from service with a railroad in reorganization; and

"(viii) any claim arising out of a contract between a railroad in reorganization and the National Railroad Passenger Corporation to provide a suitable railroad passenger station in any case in which such railroad in reorganization sold a railroad passenger station pursuant to condemnation and prior to April 1, 1976. Such claim shall be submitted by the President of the National Rail Passenger Corporation for an amount necessary for a temporary rail passenger station and when submitted shall be deemed a valid claim eligible for payment under this section.

"(B) The Association shall make a loan pursuant to subparagraph (A) of this paragraph if, notwithstanding any other requirement of this subsection, it finds that the Corporation, the National Railroad Passenger Corporation, or a profitable railroad is entitled to a loan pursuant to section 303(b)(6), 504(e), or 504(g) of this Act, or if, with respect to an obligation referred to in subparagraph (A) of this paragraph, it finds that—

"(i) provision for the payment of such obligation was not included in the financial projections of the final system plan;

"(ii) such obligation arose from rail operations prior to the date of conveyance of rail properties pursuant to section 303(b)(1) of this Act and is, under other applicable law, the responsibility of a railroad in reorganization in the region, and a claim is presented to a railroad in reorganization or the Corporation within 2 years after the date of enactment of the Rail Amendments of 1976;

"(iii) the Corporation, the National Railroad Passenger Corporation, or a profitable railroad has advised the Association that the direct payment of such obligation by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad is for services or materials, the furnishing of which served to avoid disruptions in ordinary business relationships prior to the date of conveyance of rail properties pursuant to section 303(b)(1) of this Act, or is necessary to avoid postconveyance disruptions in ordinary business relationships;

"(iv) the transferor is unable to pay such obligation within a reasonable period of time; and

"(v) with respect to loans made to the Corporation, the procedures to be followed by the Corporation, in seeking reimbursement from a railroad in reorganization in the region for an obligation paid on its behalf under this subsection, have been jointly agreed to by the Finance Committee and the Corporation, and the joint agreement provides—

"(I) for the Corporation to receive reimbursement from the Association for any expenses incurred in seeking reimbursement from any railroad in reorganization in the region for an obligation paid on its behalf under this subsection; and

"(II) for a joint stipulation of the exact procedures the Corporation must undertake to avoid the finding, referred to in paragraph (6)(A)(i) of this subsection, that it has not exercised due diligence.".

(b) Section 211(h)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(2)) is amended—

(1) by inserting immediately before the period at the end of the first sentence thereof the following: "and for the payment of only those accounts payable which relate to obligations of the estates identified in paragraph (1) of this subsection"; and

(2) by adding at the end thereof the following new sentences: "Nothing in this subsection shall be construed as permitting any district court of the United States having jurisdiction over the reorganization of a railroad in reorganization in the region to enjoin, restrain, or limit the Corporation, the National Railroad Passenger Corporation, or a profitable railroad from applying, to payment of the obligations of the estates identified in paragraph (1) of this subsection, amounts collected as (A) accounts receivable pursuant to this paragraph, (B) cash or

other current assets identified pursuant to paragraph (3) of this subsection, or (C) proceeds of loans pursuant to paragraph (1) of this subsection. Any agency agreement executed prior to the date of the enactment of the Rail Amendments of 1976 shall be deemed amended to the extent necessary to conform such agreement or order to the provisions of this paragraph. Nothing in this paragraph shall be construed to affect any payment made prior to such date of enactment with respect to obligations other than those identified in paragraph (1) of this subsection.".

(c) Section 211(h)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721 (h)(4)) is amended by adding at the end thereof the following new subparagraph:

"(D) Unless and to the extent that the Secretary advises the court having jurisdiction over the railroad in reorganization that a plan of reorganization of such railroad is acceptable to the Secretary and requires a different disposition, and the Secretary has not subsequently advised the court otherwise, any funds held in an escrow account by a railroad in reorganization on the date of enactment of the Rail Amendments of 1976 which are thereafter determined to be cash and other current assets of the estate for purposes of paragraph (3) of this subsection shall be applied as follows—

"(i) first, to the reduction of any outstanding loans to the Corporation by the Association, pursuant to paragraph (1) of this subsection, the proceeds of which were used to discharge obligations of such railroad in reorganization;

"(ii) second, to the Association to the extent of any such loans which have been forgiven pursuant to paragraph (5) of this subsection; and

"(iii) third, to the payment of any remaining obligations of such railroad in reorganization, in accordance with the provisions of the agency agreement entered into pursuant to paragraph (2) of this subsection.".

(d) Section 211(h)(5)(B) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(5)(B)) is amended by adding at the end thereof the following new sentences: "The Corporation, the National Rail Passenger Corporation, or a profitable railroad, as the case may be, shall, with respect to each direct claim for reimbursement pursuant to paragraph (4) of this subsection, file a proof of administrative expense claim with the trustees of the railroad in reorganization from whom reimbursement is sought. Each such proof of administrative expense claim shall set forth, by category and amount, the obligations of such railroad in reorganization which were paid pursuant to such paragraph (4).".

(e) The first sentence of section 210(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 720(b)) is amended to read as follows: "The aggregate principal amount (exclusive of interest or additions to principal on account of accrual of interest) of obligations issued by the Association under this section which may be outstanding at any one time shall not exceed $345,000,000.".

PAYMENT FOR PERSONAL INJURY CLAIMS

SEC. 205. Section 213 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 723) is amended by redesignating subsection (b) thereof as subsection (c), and by inserting immediately after subsection (a) thereof the following new subsection:

"(b) PERSONAL INJURY CLAIM PAYMENTS.—The Secretary is authorized, after the date of conveyance pursuant to section 303(b)(1) of this Act, to make payments to the trustees of any railroad in reorganization for purposes of discharging obligations of such railroad to nonemployee claimants for personal injuries suffered during the period such railroad has been in reorganization. Such payments shall be made by the Secretary upon such reasonable terms and conditions as the Secretary establishes, except that no such payment shall be made unless the proposed recipient agrees to use sums received pursuant to this subsection solely for purposes of discharging obligations described in the preceding sentence.

PROTECTION OF EMPLOYEES' PENSION BENEFITS

SEC. 206. Section 303(b)(6) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(6)) is amended by striking out the period at the end of the last sentence thereof and inserting in lieu thereof the following: ", except that in any case in which the Corporation, on or after the date of transfer or assignment as provided by this paragraph, terminates in whole or in part any such plan, the benefits under which are not guaranteed under title IV of the Employee Retirement Income Security Act of 1974, the Corporation shall guarantee the payment when due of the accrued pension benefits provided for thereunder at the time of termination. The Corporation shall be entitled to a loan pursuant to section 211(h) of this Act in an amount required for the adequate funding of accrued pension benefits under all plans transferred or assigned to the Corporation in accordance with this paragraph (whether or not terminated by the Corporation). For purposes of such section 211(h) and notwithstanding any other provision of Federal or State law, amounts required for such adequate funding shall be deemed to be expenses of administration of the respective estates of the railroads in reorganization, due and payable as of the date of transfer or assignment of the plans to the Corporation.".

TRANSFERS TO IMPLEMENT NORTHEAST CORRIDOR

SEC. 207. The first sentence of section 303 (e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c)) is amended by striking out "title" and inserting in lieu thereof "title, or which are made to the National Railroad Passenger Corporation from the Corporation at any time to carry out the purposes of title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 or of section 601(d) of this Act)".

BASIS FOR COMPENSATION; REIMBURSEMENT FOR RAIL SERVICE

SEC. 208. (a) Section 304(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(d)) is amended by adding at the end thereof the following new paragraph:

"(4) No determination of reasonable payment for the use of rail properties of a railroad in reorganization in the region, and no determination of value of rail properties of such a railroad (including supporting or related documents or reports of any kind) which is made in connection with any lease agreement, contract of sale, or other agreement or understanding which is entered into after the date of enactment of the Rail Amendments of 1976—

"(A) pursuant to this section; or

"(B) pursuant to section 402 of this Act or section 17 of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613),

shall be admitted as evidence, or used for any other purpose, in any civil action, or any other proceeding for damages or compensation, arising under this Act.".

(b) Section 304(e)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744 (e)) is amended by redesignating subparagraph (C) thereof as subparagraph (D), and by inserting immediately after subparagraph (B) thereof the following new paragraph:

"(C) For purposes of the obligation of the Secretary to reimburse the Corporation (or a profitable railroad) or States, local public bodies, and agencies thereof under subparagraphs (A) and (B) of this paragraph, the level of rail passenger service shall be determined on the basis of train miles, car miles, or some other appropriate indicia of scheduled train movements. Programs to correct deferred maintenance on rolling stock, right-of-way, and other facilities which are designed to maintain service, meet on-time performance, and maintain a reasonable degree of passenger comfort (and costs incurred incident thereto), shall be included within the meaning of the term "loss" as used in subparagraph (A) of this paragraph and within the meaning of the term "additional costs" as used in subparagraph (B) of this paragraph and section 17(a)(2) of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613(a)(2)).".

AUTHORITY OF THE INTERSTATE COMMERCE COMMISSION

SEC. 209. Section 304(j) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(j)) is amended—

(1) by striking out paragraph (1) thereof and inserting in lieu thereof the following:

"(1)(A) Except as provided in subparagraph (B) of this paragraph, no local public body which provides mass transportation services by rail, and which is otherwise subject to the Interstate Commerce Act shall, with respect to the provision of such services, be subject to the Interstate Commerce Act or to rules, regulations, and orders promulgated under such Act, if the interstate fares, or the ability to apply to the Interstate Commerce Commission for changes thereto, of such local public body is subject to approval or disapproval by a Governor of any State in which it provides services.

"(B) Any local public body described in subparagraph (A) of this paragraph shall continue to be subject to applicable Federal laws pertaining to (i) safety, (ii) the representation of employees for purposes of collective bargaining, and (iii) employment retirement, annuity, and unemployment systems or any other provision pertaining to dealings between employees and employers."; and

(2) by striking out paragraph (2)(B) thereof and inserting in lieu thereof the following:

"(B) 'mass transportation services' means transportation services described in section 12(c)(5) of the Urban Mass Transportation Act (49 U.S.C. 1608(c)(5)) which are provided by rail.".

COLLECTIVE BARGAINING AND FELA CLAIMS

SEC. 210. (a) Section 504(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(e)) is amended by inserting immediately after the first sentence thereof the following new sentences: "Any liability of an estate of a railroad in reorganization to its employees which is assumed, processed, and paid, pursuant to this subsection, by the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier shall remain the preconveyance obligation of the estate of such railroad for purposes of section 211(h)(1) of this Act. The Corporation, the National Railroad Passenger Corporation, an acquiring carrier, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211 (h) of this Act (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such obligations are discharged or paid.".

(b) Section 504(g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(g)) is amended by adding at the end thereof the following new sentences: "Any liability of an estate of a railroad in reorganization which is assumed, processed, and paid, pursuant to this subsection, by the Corporation or an acquiring railroad shall remain the preconveyance obligation of the estate of such railroad for purposes of section 211(h)(1) of this Act. The Corporation, an acquiring railroad, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such obligations are discharged or paid.".

EMPLOYEE DISPLACEMENT ALLOWANCE

SEC. 211. (a) Section 505(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(b)) is amended—

(1) in paragraph (1) thereof, by striking out "February 26, 1975" and inserting in lieu thereof "January 1, 1975";

(2) in paragraph (3) thereof, by striking out "February 26, 1975" and inserting in lieu thereof "January 1, 1975"; and

(3) in paragraph (4) thereof, by striking out "February 26, 1975" and inserting in lieu thereof "January 1, 1975".

(b) Section 505(b)(1)(B) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(b)(1)(B)) is amended by inserting immediately after "(B)" the following: "with respect to a protected employee who has been deprived of his employment,".

(c) Section 505(g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(g)) is amended by adding at the end thereof the following:

"In addition, protected employees displaced as a result of an acquisition pursuant to section 206(d)(4) of this Act (which acquisition was consummated pursuant to section 508 of this title) shall, upon acceptance of employment offered by the Corporation, be entitled to the benefits of paragraphs (1) and (2) of this subsection.".

NONCONTRACT EMPLOYEES

SEC. 212. (a) Section 505(1)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(1)(2)) is amended by inserting immediately after the first sentence thereof the following new sentence: "Such resolution procedure shall be the exclusive means available to the parties for resolving such dispute, and any arbitration decision rendered shall be final and binding on all parties.".

(b) Section 505(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(1)) is amended by adding at the end thereof the following new paragraph:

"(3) Except as otherwise provided in this title, a protected employee whose employment is not governed by the terms of a collective bargaining agreement and who has been deprived of employment shall not, during the period in which he is entitled to protection, be placed in a worse position with respect to any voluntary relief plan benefits or preretirement benefits provided under any life or medical insurance plan, except that the level of benefits to which such an employee is entitled under this paragraph shall not exceed the level of benefits which is afforded to the Corporation's active noncontract employees of comparable age, position, and level of compensation.".

(c) Section 505(b)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(b)(4)) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to any noncontract employee whose noncontract position has been abolished.".

EXEMPTIONS

SEC. 213. Section 601(b)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791(b)), is amended by striking out the third and fourth sentences thereof and inserting in lieu thereof the following: "Thereafter, the district court of the United States which has jurisdiction of the estate of any such railroad in reorganization at the time of such conveyance shall proceed to reorganize or liquidate such railroad in reorganization pursuant to such section 77, in accordance with a fair and equitable plan which complies with the requirements of such section, or such court may convert the proceedings into a bankruptcy proceeding pursuant to any other applicable section or chapter of the Bankruptcy Act, if the court finds that such action would be in the best interests of such estate.".

OBLIGATION GUARANTEES

SEC. 214. (a) Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831) is amended by striking out subsection (c) thereof and inserting in lieu thereof the following new subsection:

"(c) FULL FAITH AND CREDIT.—All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States of America backed by the full faith and credit of the United States of America.".

(b) Section 511(h) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(h)) is amended—

(1) in paragraph (1) thereof, by inserting "(a)" immediately after "secured", and by inserting immediately before the semicolon the following ", or (B) in the case of the rehabilitation or improvement of leased equipment, by the lease"; and

(2) by amending paragraph (5) thereof to read as follows—

"(5) the prospective earning power of the applicant, or the value or prospective earning power of any equipment or facilities to be improved, rehabilitated, or acquired (or any combination of the foregoing), is sufficient to provide the United States with reasonable security and protection in the event of default by the obligor, in the case of repossession by the holder of the obligation, or in the case of possession, purchase, or assumption of the lease by the Secretary, except that if the value or prospective earning power of such equipment or facilities is equal to or greater than the amount of the obligation to be guaranteed, the Secretary may not, on the basis of the lack of prospective earning power of the applicant, find that the United States will not be provided with the reasonable security and protection referred to in this paragraph; and".

(c) Section 511(j) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(j)) is amended to read as follows:

"(j) CONDITIONS OF GUARANTEES.—(1) The Secretary shall, before making, approving, or extending any guarantee or commitment to guarantee any obligation under this section, require the obligor to agree to such terms and conditions as are sufficient, in the judgment of the Secretary, to assure that, as long as any principal or interest is due and payable on such obligation, such obligor—

"(A) will not make any discretionary dividend payments, except as provided in paragraph (2) of this subsection; and

"(B) will not use any funds or assets from railroad operations for nonrail purposes,

if such payments or use will impair the ability of such obligor to provide rail services in an efficient and economic manner or will adversely effect the ability of such obligor to perform any obligation guarantee by the Secretary.

"(2) An obligor shall not be restricted with respect to making dividend payments from its net income for any fiscal year, if such payments do not exceed—

"(A) when compared to the net income of such obligor for such fiscal year, the ratio which aggregate dividends paid by such obligor, during the 5 fiscal years prior to the granting of the earliest loan guarantee then outstanding under this section, bore to aggregate net income of such obligor for such period; or

"(B) 50 per centum of the total additions to the retained income of such obligor (computed on a cumulative basis and giving cognizance to dividends paid) during the period commencing with the fiscal year prior to the granting of the earliest loan guarantee then outstanding under this section,

whichever is greater.

"(3) The restrictions on the payment of dividends set forth in paragraph (1)(A) of this subsection shall not apply with respect to an obligation guaranteed under this section if, in the event of a default by the obligor, the Secretary would be subrogated to the rights of the lender under section 77(j) of the Bankruptcy Act.".

DISCONTINUANCE AND ABANDONMENT PROCEDURES

SEC. 215. (a) Section 1a(1) of the Interstate Commerce Act (49 U.S.C. 1a(1)) is amended by adding at the end thereof the following new sentence: "The authority granted to the Commission under this section shall not apply to (a) abandonment or discontinuance with respect to spur, industrial, team, switching, or side tracks if such tracks are located entirely within one State, or (b) any street, suburban, or interurban electric railway which is not operated as part of a general system of rail transportation.".

(b) Section 1a(4) of the Interstate Commerce Act (49 U.S.C. 1a(4)) is amended—

(1) by adding immediately before the last sentence thereof the following new sentence "If such certificate is issued without an investigation pursuant to paragraph (3) of this section, actual abandonment or discontinuance may take effect, in accordance with such certificate, on the effective date of such certificate."; and

(2) in the last sentence thereof, by inserting immediately after "issued" the following: "after an investigation pursuant to such paragraph (3)".

TECHNICAL AMENDMENTS

SEC. 216. (a) Section 211(h)(6)(A)(1) of the Regional Rail Reorganization Act (45 U.S.C. 721(h)(6)(A)(1)) is amended by striking out "paragraph (1)(E)" and inserting in lieu thereof "paragraph (1)(B)(v)".

(b) Section 303(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c)) is amended—

(1) in paragraph (2)(A) thereof, by striking out "securities, certificates of value of the Corporation" and inserting in lieu thereof "securities and certificates of value";

(2) in paragraph (2)(A) thereof, by striking out "it has" and inserting in lieu thereof "they have";

(3) in paragraph (2)(B) thereof, by striking out "Corporation's securities, certificates of value" and inserting in lieu thereof "securities and certificates of value";

(4) in paragraph (2)(B) thereof, by striking out "other securities, certificates of value" and inserting in lieu thereof "other securities"; and

(5) in the fourth sentence of paragraph (3) thereof, by striking out "section 303 (a)(2)" and inserting in lieu thereof "subsection (a)(2) of this section".

(c) Section 308(d)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (15 U.S.C. 80a–3 note) is amended by striking out "subsection (c)" and inserting in lieu thereof "subsection (b)".

(d) Section 504(a)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 824(a)) is amended by inserting "and equipment" immediately after "railroad's facilities".

(e) The first sentence of section 511(a) of the Rail Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(a)) is amended by inserting immediately before the period at the end thereof the following: ", or to develop or establish new railroad facilities".

(f) Section 511(h) of the Rail Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(h)) is amended by striking out "PREQUISITES FOR GUARANTEES." and inserting in lieu thereof "PREREQUISITES FOR GUARANTEES.".

(g) Section 809(a)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 1a note) is amended by striking out "abandoned" and inserting "abandoned since 1970" immediately after "railroad rights-of-way".

(h) The second sentence of section 5(16) of the Interstate Commerce Act (49 U.S.C. 5(16)) is amended by striking out "paragraph (16)" and inserting in lieu thereof "paragraph (17)".

(i) The first sentence of section 17(9)(e) of the Interstate Commerce Act (49 U.S.C. 17(9)(e)) is amended by striking out "section" and inserting in lieu thereof "paragraph".

(j) Section 5b(5)(a)(iii) of the Interstate Commerce Act (49 U.S.C. 5b(5)(a)(iii)) is amended by striking out "section 15(7)" and inserting in lieu thereof "section 15(8)".

(k) Section 13(5) of the Interstate Commerce Act (49 U.S.C. 13(5)) is amended by adding at the end thereof the following:

"Nothing in this paragraph shall affect the authority of the Commission to institute an investigation or to act in such investigation as provided in paragraphs (3) and (4) of this section.".

(l) The final sentence of section 15(19) of the Interstate Commerce Act (49 U.S.C. 15(19)) is amended by striking out "section 2" and inserting in lieu thereof "section 1, 2".

(m) Section 22(2) of the Interstate Commerce Act (49 U.S.C. 22(2)) is amended—

(1) by inserting immediately after "under section 5a" the following: "or section 5b"; and

(2) by striking out "said section 5a" and inserting in lieu thereof "such section 5a or paragraph (8) of such section 5b".

(n) Part I of the Interstate Commerce Act (49 U.S.C. 1 et seq.) is amended by inserting immediately before section 28 the following center heading:

"DISCRIMINATORY STATE TAXATION".

TITLE III—GENERAL PROVISIONS

ENVIRONMENTAL STUDY

SEC. 301. The Secretary of Health, Education, and Welfare shall, within 12 months after the date of enactment of this Act, submit a report to the Congress with respect to the environmental effects of section 306 (i) of the Rail Passenger Service Act (45 U.S.C. 546(i)) and the financial effects on the National Railroad Passenger Corporation and the railroad industry of any repeal or modification of such section 306(i). Such report shall contain such recommendations as the Secretary may consider necessary or appropriate to balance environmental considerations with operating and financial considerations of the railroad industry, including recommendations with respect to equipping new railroad rolling stock and retrofitting existing railroad rolling stock.

DELMARVA RAIL STUDY

SEC. 302. The Interstate Commerce Commission shall, within 6 months after the date of enactment of this Act, submit a report to the Congress with respect to the problems of and need for rail transportation on the Delaware-Maryland-Virginia peninsula. Such report shall include—

(1) an analysis of why the acquisitions proposed under the final system plan with respect to rail properties on such peninsula were not consummated; and

(2) recommendations with respect to the continuation or extension of viable rail transportation service on such peninsula.

EFFECTIVE DATE

SEC. 303. The provisions of this Act and the amendments made by this Act shall take effect on October 1, 1976.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "An act to amend the Rail Passenger Service Act to provide financing for the National Railroad Passenger Corporation, to amend the Regional Rail Reorganization Act of 1973 to increase the amount of loan authority under section 211(h)(1) of such Act, and for other purposes.".

A motion to reconsider was laid on the table.

Similar House bills H.R. 13601 and H.R. 14932 were laid on the table.

APPOINTMENT OF CONFEREES ON S. 3131, RAIL AMENDMENTS OF 1976

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill S. 3131, an act to amend the Rail Passenger Service Act to provide financing for the National Railroad Passenger Corporation, to amend the Regional Rail Reorganization Act of 1973 to increase the amount of loan authority under section 211(h)(1) of such act, and for other purposes, with the House amendments thereto, insist on the amendments of the House, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. STAGGERS, ROONEY, ADAMS, METCALFE, SANTINI, SKUBITZ, and MADIGAN.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 14932, Rail Amendments of 1976.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

APPROVING THE SALE OF CERTAIN NAVAL VESSELS

Mr. BENNETT. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 3734) to approve the sale of certain naval vessels, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. SCHULZE. Reserving the right to object, Mr. Speaker, I would appreciate it if the gentleman would give us a brief explanation of this measure.

Mr. BENNETT. Mr. Speaker, will the gentleman yield?

Mr. SCHULZE. I yield to the gentleman from Florida.

Mr. BENNETT. I thank the gentleman for yielding.

Mr. Speaker, the Armed Services Committee considered Senate bill S. 3734 on September 21, and voted unanimously to report the bill to the House.

This is a very simple bill. It does two things.

First, it will authorize the sale of 45 old, obsolete ships which the Navy has certified to be excess to its needs to 11 foreign countries. The nations are: Argentina, China, Colombia, Germany, Greece, Iran, Korea, Pakistan, Philippines, Spain, and Venezuela.

The Chief of Naval Operations, Admiral Holloway, has certified that none of the ships is essential to the defense of the United States. I would like to read his letter to you:

CHIEF OF NAVAL OPERATIONS,
September 16, 1976.

Hon. CHARLES E. BENNETT,
Chairman, Subcommittee on Seapower and Strategic and Critical Materials, House of Representatives, Washington, D.C.

DEAR CHAIRMAN BENNETT: The purpose of this letter is to seek your assistance and the assistance of your Subcommittee in obtaining prompt Congressional action on the bill S. 3734, which is scheduled for a hearing before your Subcommittee on September 16, 1976.

This bill represents a consolidation of 12 legislative proposals submitted to the Congress by the Secretary of the Navy between May 9, 1975, and July 19, 1976. The ship transfers proposed by S. 3734 involve a total of 45 naval vessels and 11 foreign countries. Of the 45 vessels, 35 are currently in the possession of the country on loan or lease. The remainder are in the custody of the United States Navy awaiting the Congressional authority for transfer.

To extend the service of these vessels for use by the United States would require a major investment to overhaul and to modernize these ships which would still have limited capability and could not cope with the threat we face today on the high seas. I have certified that these vessels are not essential to the defense of the United States, and each of the 12 proposals forwarded to Congress contained a statement to that effect.

Although these vessels are no longer capable of the extended deployments or rigorous use concomitant with service in the United States Navy, they provide a significant improvement in the naval capabilities of the foreign countries. The increased capabilities of our allies strengthen our mutual defense agreements and benefit the defense posture of the United States.

All of the ship transfers proposed by the Department of the Navy as contained in S. 3734 are in reaction to requests by the Government or Navy of the foreign country to whom the transfer is to be made. These ships have already been included in the foreign country's budgetary planning, and a delay in the transfer could result in that navy losing the funds for the purchase.

In July 1976, I attended the Fourth International Seapower Symposium at the Naval War College in Newport, Rhode Island, and had the opportunity to meet and talk with many chiefs of friendly foreign navies. As a result of these discussions, I am acutely aware of the importance and value which the requesting friendly navies attach to these vessels. Therefore, I strongly urge that your Committee take favorable action on S. 3734 in order to obtain Congressional approval of these transfers prior to the adjournment of the 94th Congress.

Sincerely,

J. L. HOLLOWAY III.

Of the 45 ships to be sold, 35 are already on loan or lease to foreign countries.

The vessels are no longer capable of meeting the deployments and vigorous use in overseas areas required of a U.S. Navy ship. Even if we made a major investment to overhaul and modernize these ships, they would still have a very limited capability. The nations receiving these ships will be able to use them effectively in their home waters.

Secondly, the bill would amend subsection 7307(b)(1) of title 10, United States Code, by increasing the minimum weight to 3,000 tons.

The committee recommends adoption of the Senate bill in its present form. The increase in the minimum from 2,000 to 3,000 tons will have the effect of reducing our legislative workload considerably in the case of future sales.

The reason that this bill is before the House is that subsection 7307(b)(1), the so-called Byrd amendment requires statutory authorization for the transfer to a foreign country of any naval vessel less than 20 years old or more than 2,000 tons in weight. Any naval vessel over 20 years old and under 2,000 tons could be transferred after notification of the transfer lay before the Armed Services Committee for 30 days while Congress was in session. Before the Byrd amendment, only a limited number of naval vessels carried on the Naval Vessel Register required statutory approval for their transfer.

Senate bill 3734 was passed by the Senate on August 25, 1976, by voice vote. It is noncontroversial and I know of no opposition to it from any source.

I urge that the House approve S. 3734.

Mr. SCHULZE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate bill as follows:

S. 3734

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President may sell, subject to such terms and conditions as he may determine and at a price not less than the value thereof in United States dollars, three destroyers to the Government of Argentina; two landing ships dock and one auxiliary repair dry dock to the Government of the Republic of China; one destroyer to the Government of Colombia; four destroyers to the Government of the Federal Republic of Germany; seven destroyers and two tank landing ships to the Government of Greece; one repair ship and one auxiliary repair dry dock to the Government of Iran; seven destroyers and one landing craft repair ship to the Government of the Republic of Korea; two destroyers to the Government of Pakistan; one landing craft repair ship and one inshore patrol craft to the Government of the Philippines; five destroyers and three tank landing ships to the Government of Spain; one landing craft repair ship, one tank landing ship, and one auxiliary repair dry dock to the Government of Venezuela.

(b) All expenses involved in the sales authorized by this Act shall be charged to funds provided by the recipient government. The authority of the President to sell vessels under this Act shall terminate two years after the date of enactment of this Act.

SEC. 2. Subsection (b)(1) of section 7307 of title 10, United States Code, is amended by striking out "2,000" and inserting in lieu thereof "3,000".

Mr. SPENCE. Mr. Speaker, I rise in support of S. 3734.

This bill is simple, clear and sensible. It permits the transfer of 45 older naval vessels to 11 countries for an expected return of about $11 million. Thirty-five of the 45 ships are already being used by the countries to which they will be sold. In accordance with the provisions of title 10 of the United States Code, the Chief of Naval Operations has certified that none of these ships is any longer essential to the defense of the United States.

In addition the bill would increase the minimum weight of ships requiring statutory approval of their transfer from 2,000 to 3,000 tons. Notice of the transfer of these ships will still have to lie before the Armed Services Committees for 30 days while Congress is in session. This will lighten the legislative workload of the House while still retaining oversight over the proposed transfers.

I know of no questions or opposition which has been raised against this bill in either committee or in the Senate.

I urge its approval.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BENNETT. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed, S. 3734.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

CONFERENCE REPORT ON H.R. 14260, MAKING APPROPRIATIONS FOR FOREIGN ASSISTANCE AND RELATED PROGRAMS

Mr. PASSMAN. Mr. Speaker, I call up the conference report on the bill (H.R. 14260) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1977, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 21, 1976.)

Mr. PASSMAN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. PASSMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report that is presented to you today contains $5,133,707,000 for foreign aid funding which is $684,063,000 below the budget requests, $286,646,909 below the fiscal year 1976 funding level, $300,209,000 above the House bill and $260,058,000 below the Senate bill. I might point out that none of the increase above the House bill is for military assistance or military credit sales because the figures for these two items were identical in both bills.

The bill contains $1,750,000,000 in funding for Israel which consists of $1 billion for military credit sales, $735,000,000 for security supporting assistance and $15 million for assistance to Soviet refugees.

As everyone knows, the House conferees must go to conference and be prepared to compromise with our Senate counterparts or we would never reach an agreement on the bill. No one is ever completely satisfied with a compromise but I think the House conferees have brought back a good bill which can be supported by the House.

The House provision to prohibit assistance to Mozambique and Angola has been deleted. However, it is our understanding that none of the funds in this bill will be used to provide assistance to Mozambique and Angola. I believe all the parties involved in this agreement are satisfied with the administration's assurances that they will not provide assistance to Angola and Mozambique unless they come before Congress and request a specific appropriation for this purpose.

Mr. Speaker, I insert the following table which lists the amounts contained in the conference agreement:

	New Budget Authority					Conference compared with—			
	Enacted fiscal year 1976	Estimates fiscal year 1977	House fiscal year 1977	Senate fiscal year 1977	Conference fiscal year 1977	Fiscal year 1976 enacted	Fiscal year 1977 estimates	House bill	Senate bill
TITLE I.—FOREIGN ASSISTANCE ACT ACTIVITIES									
FUNDS APPROPRIATED TO THE PRESIDENT									
Economic assistance									
Food and nutrition, development assistance	$426,600,000	[14]$536,500,000	$475,000,000	$535,000,000	$505,000,000	$78,400,000	—$31,500,000	$30,000,000	—$30,000,000
Population planning and health, development assistance	[1] 146,400,000	[15] 228,300,000	200,000,000	[38] 228,300,000	[38] 214,000,000	67,600,000	—14,300,000	14,000,000	—14,300,000
Education and human resources development, development assistance	60,800,000	[16] 78,600,000	70,000,000	70,000,000	70,000,000	9,200,000	—8,600,000		
Technical assistance, energy, research, reconstruction and selected development problems, development assistance	57,400,000	74,000,000	70,000,000	64,000,000	67,000,000	9,600,000	—7,000,000	—3,000,000	3,000,000
Subtotal	691,200,000	917,400,000	815,000,000	897,300,000	856,000,000	164,800,000	—61,400,000	41,000,000	—41,300,000
Loans	(300,000,000)	(462,500,000)	(300,000,000)	[39](300,000,000)	(300,000,000)		(—162,500,000)		
Grants	(391,200,000)	(454,900,000)	(515,000,000)	(597,300,000)	(556,000,000)	(164,800,000)	(101,100,000)	(41,000,000)	(—41,300,000)
International organizations and programs	[3] 175,250,000	[17] 213,650,000	[31] 170,000,000	[40] 197,000,000	[48] 187,000,000	11,750,000	—26,650,000	17,000,000	—10,000,000
United Nations Environment Fund	7,500,000	5,000,000	5,000,000	10,000,000	10,000,000	2,500,000	5,000,000	5,000,000	
American schools and hospitals abroad	19,800,000	7,300,000	19,800,000	17,300,000	19,800,000		12,500,000		2,500,000
American schools and hospitals abroad (special foreign currency program)	(7,000,000)	(7,000,000)	(7,000,000)	(7,000,000)	(7,000,000)				
John McCormack center, St. John's Medical College (Special foreign currency program)	(13,650,000)					(—13,650,000)			
Indus Basin Development Fund, grants	9,000,000	[18] 15,750,000		15,750,000	15,750,000	6,750,000		15,750,000	
Indus Basin Development Fund, loans	10,000,000					—10,000,000			
Contingency fund	5,000,000	10,000,000	5,000,000		5,000,000		—5,000,000		5,000,000
International disaster assistance	[4] 70,000,000	25,000,000	25,000,000	25,000,000	25,000,000	—45,000,000			
African development program	5,000,000					—5,000,000			
Cyprus relief and rehabilitation	25,000,000	[20](10,000,000)				—25,000,000			
International narcotics control	37,500,000	34,000,000	34,000,000	34,000,000	34,000,000	—3,500,000			
Payment to the Foreign Service Retirement and Disability Fund	16,680,000	16,680,000	16,680,000	16,680,000	16,680,000				
Overseas training (special foreign currency program)	(200,000)	(400,000)	(400,000)	(400,000)	(400,000)	(200,000)			
Payment to International Fund for Agricultural Development	[2] 200,000,000					—200,000,000			
Lebanon relief and rehabilitation		[19] 20,000,000		20,000,000	20,000,000	20,000,000		20,000,000	
Subtotal	1,271,930,000	1,264,780,000	1,090,480,000	1,233,030,000	1,189,230,000	—82,700,000	—75,550,000	98,750,000	—43,800,000
Middle East Special Requirements Fund									
Middle East special requirements fund	[5] 50,000,000	35,000,000	[32] 35,000,000	23,000,000	[39] 23,000,000	—27,000,000	—12,000,000	—12,000,000	
Israel-United States Binational Industrial Research and Development Foundation									
Israel-United States Binational Industrial Research and Development Foundation (special foreign currency program)		[21] (30,000,000)					(—30,000,000)		
Security Supporting Assistance									
Security supporting assistance	[6] 1,689,900,000	[22] 1,873,900,000	[33] 1,674,400,000	[41] 1,745,500,000	[49] 1,734,700,000	44,800,000	—139,200,000	60,300,000	—10,800,000
Operating Expenses of the Agency for International Development									
AID operating expenses	194,600,000	193,100,000	193,000,000	[42] 191,300,000	192,000,000	—2,600,000	—1,100,000	—1,000,000	700,000
Total	3,206,430,000	3,366,780,000	2,992,880,000	3,192,830,000	3,138,930,000	—67,500,000	—227,850,000	146,050,000	—53,900,000
Military Assistance									
Military assistance:									
Regular appropriation	225,000,000	[23] 294,000,000	[34] 247,300,000	[43] 247,300,000	[43] [34] 247,300,000	22,300,000	—46,700,000		
Appropriation to liquidate contract authority	(275,000,000)	[24] (41,000,000)				(—275,000,000)	(—41,000,000)		
International Military Education and Training									
International military education and training	23,000,000	[25] 32,200,000	[34] 25,000,000	[44] 25,000,000	[44] [34] 25,000,000	2,000,000	—7,200,000		
Inter-American Foundation									
Inter-American Foundation (limitation on obligations)	(7,500,000)	(7,018,000)	(7,000,000)	(7,000,000)	(7,000,000)	(—500,000)	(—18,000)		
Total, title I	[7] 3,454,430,000	[26] 3,692,980,000	[35] 3,265,180,000	[45] 3,465,130,000	[33] 3,411,230,000	—43,200,000	—281,750,000	146,050,000	—53,900,000
TITLE II—FOREIGN MILITARY CREDIT SALES									
Foreign military credit sales	[8] 1,065,000,000	[27] 840,000,000	[34] [36] 740,000,000	[46] 740,000,000	[34] [46] 740,000,000	—325,000,000	—100,000,000		
Total, title I and II, new budget (obligational) authority	4,519,430,000	4,532,980,000	4,005,180,000	4,205,130,000	4,151,230,000	—368,200,000	—381,750,000	146,050,000	—53,900,000

	New Budget Authority					Conference compared with—			
	Enacted fiscal year 1976	Estimates fiscal year 1977	House fiscal year 1977	Senate fiscal year 1977	Conference fiscal year 1977	Fiscal year 1976 enacted	Fiscal year 1977 estimates	House bill	Senate bill
TITLE III—FOREIGN ASSISTANCE (OTHER)									
Independent Agency									
ACTION—International Programs: Peace Corps	[9] $81,266,000	$67,155,000	[37] $71,000,000	[47]$ 81,000,000	[50] $80,000,000	−$1,266,000	$12,845,000	$9,000,000	−$1,000,000
Department of Health, Education, and Welfare									
Cuban refugee assistance	85,000,000	82,000,000	82,000,000	82,000,000	82,000,000	−3,000,000			
Special assistance to refugees from Cambodia, Vietnam, and Laos in the United States	([10])	50,000,000	50,000,000	50,000,000	50,000,000	50,000,000			
Department of State									
Migration and refugee assistance	[11] 9,023,000	10,000,000	10,000,000	15,000,000	10,000,000	977,000			−5,000,000
Assistance to refugees from the Soviet Union and other Communist countries in Eastern Europe	15,000,000		15,000,000	15,000,000	15,000,000		15,000,000		
United States emergency refugee and migration assistance fund	[12] 15,000,000					−15,000,000			
Funds Appropriated to the President									
International Financial Institutions:									
Asian Development Bank:									
Paid-in capital	24,126,982	24,127,000	12,064,000	24,127,000	24,127,000	18		12,063,000	
Callable capital	96,507,927	96,508,000	48,254,000	96,508,000	66,350,000	−30,157,927	−30,158,000	18,096,000	−30,158,000
Special funds	25,000,000	[21] 25,000,000				−25,000,000	−25,000,000		
Total	145,634,909	145,635,000	60,318,000	120,635,000	90,477,000	−55,157,909	−55,158,000	30,159,000	−30,158,000
Inter-American Development Bank:									
Paid-in capital		[28] 40,000,000	20,000,000	40,000,000	20,000,000	20,000,000	−20,000,000		−20,000,000
Callable capital		[28] 200,000,000	100,000,000	400,000,000	200,000,000	200,000,000		100,000,000	−200,000,000
Fund for special operations	225,000,000	[29] 250,000,000	100,000,000		50,000,000	−175,000,000	−200,000,000	−50,000,000	50,000,000
Total	225,000,000	490,000,000	220,000,000	440,000,000	270,000,000	45,000,000	−220,000,000	50,000.000	−170,000,000
International Development Association	320,000,000	[30] 430,000,000	320,000,000	375,000,000	375,000,000	55,000,000	−55,000,000	55,000,000	
Investment in African Development Fund	[2] 5,000,000	[21] 10,000,000		10,000,000	10,000,000	5,000,000		10,000,000	
Total, title III	900,923,909	1,284,790,000	828,318,000	1,188,635,000	982,477,000	81,553,091	−302,313,000	154,159,000	−206,158,000
TITLE IV—EXPORT-IMPORT BANK OF THE UNITED STATES									
Limitation on program activity	(5,619,945,000)	(6,334,443,000)	(6,334,443,000)	(6,334,443,000)	(6,334,443,000)	(714,498,000)			
Limitation on administrative expenses	[13] (11,682,000)	(12,081,000)	(12,081,000)	(12,081,000)	(12,081,000)	(399,000)			
Total	(5,631,627,000)	(6,346,524,000)	(6,346,524,000)	(6,346,524,000)	(6,346,524,000)	(714,897,000)			
Grand total, new budget (obligational) authority, titles I, II, and III	5,420,353,909	5,817,770,000	4,833,498,000	5,393,765,000	5,133,707,000	−286,646,909	−684,063,000	300,209,000	−260,058,000
Total, title IV									
Total, NB(O)A	5,420,353,909	5,817,770,000	4,833,498,000	5,393,765,000	5,133,707,000	−286,646,909	−684,063,000	300,209,000	−260,058,000

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[1] Placed a floor of $103,000,000 on funds which could be used for population planning.

[2] Contained in the 2d supplemental, fiscal year 1976.

[3] Placed a limitation of $20,000,000 on the UNICEF program and earmarked not less than $1,000,000 for the International Atomic Energy Agency to strengthen safeguards and inspections.

[4] Earmarked $25,000,000 only for Guatemala disaster relief. Includes $25,000,000 as provided in the 2d supplemental, fiscal year 1976, for disaster relief for the Italy earthquake.

[5] Contained a provision prohibiting the use of these funds for the UN Relief and Works Agency.

[6] Earmarked $700,000,000 for Israel, $695,000,000 for Egypt, $72,500,000 for Jordan, $80,000,000 for Syria and $65,000,000 for Greece.

[7] Except for the contingency fund, prior year unobligated balances reappropriated.

[8] Earmarked not less than $1,500,000,000 for Israel out of the aggregate credit sale ceiling of $2,374,700,000. The authorization bill only authorized appropriations of $1,039,000,000 for this item and released Israel from repayment of one-half of her contractual liability ($750,000,000).

[9] Includes $440,000 as provided in the 2d supplemental, fiscal year 1976. Earmarks $7,559,000 for an increase in readjustment allowances ($125).

[10] $100,000,000 was appropriated for this item in fiscal year 1975 and was made available until June 30, 1976. In addition, $43,000,000 will be transferred into this account from the Department of State account.

[11] Includes $23,000 as provided in the 2d supplemental ,fiscal year 1976. Placed a limitation of $3,054,390 on funds available for the U.S. Refugee Program.

[12] Includes $10,000,000 as provided in the 2d supplemental, fiscal year 1976.

[13] Includes an increase in limitation of $270,000 as provided in the 2d supplemental, fiscal year 1976.

[14] Includes a decrease of $1,400,000 submitted in S. Doc. 94–212.

[15] Includes a decrease of $1,600,000 submitted in S. Doc. 94–212.

[16] Includes a decrease of $500,000 submitted in S. Doc. 94–212.

[17] Includes a $1,000,000 budget amendment for the International Atomic Energy Agency submitted in H. Doc. 94–477 and a $40,000,000 budget amendment for an additional amount for the UN Relief and Works Agency submitted in S. Doc. 94–219.

[18] Submitted as a budget amendment in S. Doc. 94–219.

[19] Submitted as a budget amendment in S. Doc. 94–220.

[20] Requested under security supporting assistance.

Footnotes continued on following page.

[21] Submitted as a budget amendment in S. Doc. 94–220.

[22] Includes a $7,000,000 budget amendment for Spain submitted in S. Doc. 94–190 and a $85,000,000 budget amendment for Zaire, Zambia, and other southetn African countries submitted in S. Doc. 94–212.

[23] Includes a $15,000,000 budget amendment for Spain submitted in S. Doc. 94–190.

[24] Submitted as a budget amendment in S. Doc. 94–190. Also requested authority for section 506 drawdowns of $67,500,000.

[25] Includes a $1,300,000 budget amendment submitted in S. Doc. 94–190.

[26] Prior year unobligated balances requested to be reappropriated.

[27] This amount would be used to finance a credit sales program of $2,059,600,000 of which $1,000,000,000 would be for Israel. Administration has requested authority to forgive Israel from repayment of $500,000,000 of credit sales and to provide credit sales on a concessionary basis.

[28] Submitted as a budget amendment in S. Doc. 94–163.

[29] Includes a $200,000,000 budget amendment submitted in S. Doc. 94–163 and a $50,000,000 budget amendment submitted in S. Doc. 94–220.

[30] Includes a $55,000,000 budget amendment submitted in S. Doc. 94–220.

[31] Places a limitation of $20,000,000 on the UNICEF program and earmarkes not less than $1,000,000 for the International Atomic Energy Agency to strengthen safeguards and inspections.

[32] Includes a provision prohibiting the use of these funds for the UN Relief and Works Agency.

[33] Earmarks $735,000,000 for Israel, $700,000,000 for Egypt, $70,000,000 for Jordan, $80,000,000 for Syria and $10,000,000 for Cyprus.

[34] No funds to be used to provide assistance to the Government of Uruguay.

[35] Except for the contingency fund, prior year unobligated balances reappropriated.

[36] Earmarks not less than $1,000,000,000 for Israel out of the total aggregate credit sales ceiling.

[37] Of this amount, $10,058,000 shall be for Peace Corps volunteer readjustment allowance.

[38] Earmarks $15,000,000 for training of auxiliary or paramedical personnel.

[39] Places a limitation of $210,000,000 on loans to be repaid within forty years, $60,000,000 on loans to be repaid within thirty years and $30,000,000 on loans to be repaid within twenty years.

[40] Places a limitation of $20,000,000 on the UNICEF program, earmarks not less than $1,000,000 for IAEA to strengthen safeguards and earmarks not less than $110,000,000 for the UN Development Program.

[41] Earmarks $735,000,000 for Israel, $700,000,000 for Egypt, $70,000,000 for Jordan, $5,000,000 for Cyprus, $55,000,000 for Portugal, $80,000,000 for Syria, $20,000,000 for Zaire, $20,000,000 for Zambia, $14,000,000 for Botswana and regional training programs, and $7,000,000 for Spain when the treaty between the United States and Spain is ratified.

[42] Places a limitation of not to exceed $84,300,000 for AID-Washington operating expenses.

[43] Includes a proviso that $15,000,000 shall be available only upon ratification of the treaty between the U.S. and Spain.

[44] Includes a proviso that $2,000,000 shall be available only upon ratification of the treaty between the U.S. and Spain.

[45] Unobligated balances reappropriated.

[46] Earmarks not less than $1,000,000,000 for Israel out of the total aggregate credit sale ceiling.

[47] Earmarks $50,063,000 only for direct support of volunteers and $4,100,000 for overseas technical support of volunteers.

[48] Places a limitation of $20,000,000 on the UNICEF program, earmarks not less than $1,000,000 for IAEA to strengthen safeguards and earmarks not less than $100,000,000 for the UN Development Program.

[49] Earmarks $735,000,000 for Israel, $700,000,000 for Egypt, $70,000,000 for Jordan, $17,500,000 for Cyprus, $55,000,000 for Portugal, $80,000,000 for Syria, $20,000,000 for Zaire, $20,000,000 for Zambia, $14,000,000 for Botswana and regional training programs, and $7,000,000 for Spain when the treaty between the U.S. and Spain is ratified.

[50] Earmarks $49,563,000 only for direct support of volunteers and $3,600,000 for overseas technical support of volunteers.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. PASSMAN. I yield to the distinguished gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman from Louisiana for yielding.

When this bill passed the House some weeks ago it contained a prohibition that the gentleman just referred to, offered by the gentleman from Illinois (Mr. CRANE), who was unable to be here today because of a commitment in Illinois. But, as I understand it, the gentleman from Illinois spoke with the President of the United States and received his assurances that although there is no prohibition written into the bill against aid to Mozambique and Angola, there will be none of these funds used by the administration for that purpose without prior authorization by the Congress.

Mr. PASSMAN. The gentleman from Illinois spoke with the President and the gentleman from Illinois is completely satisfied with the assurance given to him that none of the funds in this bill can be used for that purpose.

Mr. BAUMAN. I thank the gentleman.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I thank the gentleman from Louisiana for yielding.

I sometimes refer to the gentleman as the father of foreign aid.

Incidentally, let me say I think we are all going to miss my good friend, the gentleman from Louisiana, because he has done a very fine job over the years on the foreign aid bills.

I do know one thing I have to be somewhat critical on and I would like to have the opinion of my friend on this. The gentleman has referred already to the give and take in a conference in order to arrive at a compromise and of course we win some and lose some. But one thing I find interesting and I would direct my friend's attention to the report as it relates to IDA. We had a vote on this and there were almost 170 votes in favor of cutting IDA. I think there were 166 or 167. That indicates to me a very substantial interest in holding the line if not indeed cutting that particular appropriation, but I notice not only was it not cut but also we come back with $55 million over the House figure.

I would ask my friend, the able gentleman from Louisiana, if he did not leave the House on that date thinking there was a substantial feeling that we should reduce IDA. I notice on amendment No. 41 we have increased it from $320 million to $375 million.

Mr. PASSMAN. Subsequent to the consideration of this bill by the House, the administration amended its request by an additional $55 million for fiscal year 1977 for the International Development Association. I might say to my distinguished friend, the gentleman from Ohio, that I share his convictions about the excessive amount for IDA. However, in light of the fact that the House and the Senate had previously authorized a cumulative figure for IDA much higher than that thus far appropriated, we felt it appropriate to accept the higher Senate proposed figure while holding the line $55 million below the administration's request for fiscal year 1977. This was the very best compromise we could work out.

Mr. ASHBROOK. The gentleman indicates there was a request from the budget. Is he saying it was from the Office of Management and Budget or where did the request come from?

Mr. PASSMAN. Yes, it was from the OMB. We are $55 million below the amended request.

Mr. ASHBROOK. I thank the gentleman. I am sorry that he yielded on this. It completely runs against the House wishes as indicated. I hope the next time we will be able to curb some of the excessive funding on the IDA.

Mr. PASSMAN. Overall, I might say to the gentleman, we have made some very substantial reductions below the budget requests. We brought this bill back to the House $684 million below the budget requests.

Mr. ASHBROOK. I thank the distinguished gentleman from Louisiana.

Mr. SHRIVER. Mr. Speaker, this conference report on the fiscal 1977 foreign aid appropriations bill contains $5,133,707,000 for all titles. That is $684 million below the President's budget request. It is $287 million below the fiscal 1976 appropriations for foreign aid.

The conference agreement is a reasonable compromise between the House and Senate bills. It is $260 million or 5 percent lower than the Senate bill, while it is $300 million or 6 percent above the House bill.

The bill reflects the higher priority being given to developmental and humanitarian assistance programs. A total of $856 million is included for the development assistance programs administered by the Agency for International Development—such programs as food and nutrition, population planning, and health, education, and human resources development, and technical assistance. That means we are recommending nearly one-quarter more for these economic development and humanitarian programs over last year.

At the same time, the amount recommended for foreign military credit sales is down substantially from last year. The conference report includes $740 million for military sales; last year it was over a billion dollars.

So while AID's economic aid programs are going up by one-fourth, military aid is going down by nearly one-third, compared to last year.

There are no funds in this bill for Angola or Mozambique. I regret that the House position specifically prohibiting aid to these countries was deleted by the Senate, and that the conference has agreed to drop the House language. However, it is our understanding that no funds will be used in these two countries.

The whole question of the Africa package is tied closely to the efforts currently being made by our Secretary of State to avoid bloodshed in South and East Africa. The outlook today is not encouraging. But the administration—the President and the Secretary of State—have strongly urged that specific language regarding any African countries be deleted so as not to complicate an already very difficult negotiating situation.

With the assurance that no funds will be used for Angola and Mozambique, the conferees have agreed to include funds for selected African countries: Zaire, Zambia and Botswana. These three countries constitute the heartland of southern Africa; they are critically important to any regional settlement which might be worked out.

As I said, the situation is very unclear. But the conferees believe we should give the Secretary of State the tools he says he needs right now to try to avoid wholesale war in Africa. We have taken a similar position in regard to funds in this bill for the Middle East.

For the Middle East package, the bill includes under the security supporting assistance account $735 million for Israel, $700 million for Egypt, $70 million for Jordan, and $80 million for Syria. In addition, Israel is authorized up to $1 billion in foreign military credit sales and $12 million for assistance to refugees going to Israel from the Soviet Union and East European countries. The total going to Israel is $1,747,000,000.

Continued funding in the amount of $23 million is recommended for the Middle East special requirements fund—a relatively small amount, but critically important to the maintenance of peace in that area. These funds support the activities of the U.S. Sinai Mission, which monitors Egyptian and Israeli adherence to the Sinai Disengagement Agreement.

Quickly summarizing other items in the bill, the Peace Corps would get $80 million, slightly lower than last year but almost $13 million above the budget request. The House position was maintained in regard to the American Schools and Hospitals Abroad program—$20 million is recommended for this program which results in high visability of U.S. contributions to better education and health in underdeveloped countries.

For the International Financial Institutions, a compromise was worked out under the Asian Development Bank will get $90,477,000; the Inter-American Development Bank will get $270 million; and the International Development Association of the World Bank will get $375 million.

While it was not subject to conference action, the bill recommends the requested program level of $6.3 billion for the Export-Import Bank. This Bank regularly pays dividends to the U.S. Treasury, and it greatly aids U.S. interests by stimulating commercial sales of U.S. products in the underdeveloped countries.

Humanitarian funds are included for programs in Cyprus and in Lebanon, when the conflict there has subsided. Final funding is provided for the U.S. contribution to the Indus Basin Development Fund. Thirty-four million dollars is included for the international narcotics control program.

Mr. Speaker, this conference report includes important funds to further U.S. interests around the world, to provide humanitarian and development assistance to some of the poorest countries in the world, and to maintain peace in several volatile regions. I urge the adoption of the report.

Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. Conte).

Mr. CONTE. Mr. Speaker, I thank my good friend, the gentleman from Kansas, who does such a good job in bringing about this bill.

Mr. Speaker, I rise in support of this conference report providing appropriations for our foreign assistance program and certain related institutions and agencies.

Before I begin to outline the excellent compromise contained in this bill, I would briefly like to pay tribute to our chairman, the gentleman from Louisiana (Mr. Passman). As things stand now, this will be the last foreign aid bill managed by the gentleman from Louisiana, and I think it is appropriate to take a minute to recognize a colleague who has served in this House for some 30 years, and who has served as chairman of the Foreign Operations Appropriations Subcommittee since 1955.

As a member of that subcommittee for all except 2 years since I was first elected to Congress in 1958, I have worked closely with the chairman on the development of our foreign assistance program. During that time, we have certainly had our differences. But I believe it is fair to say that no one in this House has a better or deeper understanding of our foreign assistance program than the gentleman from Louisiana. And he has always approached that program from the position of wanting to do what was right for the United States, in a spirit of patriotism.

I would simply like to take this opportunity to congratulate the gentleman on his many fine years of service in this House, to commend him for his stewardship of the foreign assistance program over those years, and to thank him for his able leadership of the Foreign Operations Subcommittee.

The conference report before us represents a significant improvement over the House-passed bill, and an excellent compromise with the Senate measure.

For food and nutrition, we have provided $505 million. This amount will enable us to help less developed countries increase their food production in order to avert widespread starvation. This assistance is consistent with our pledges at the World Food Conference and the United Nations seventh special session to increase technical and financial assistance to the growing problem of world food shortages.

For population planning, we have provided $214 million. Rapid population growth is the single largest drain on the world's food supply, and increased funding of population programs is probably the single best investment in foreign assistance that we can make.

For international organizations, we have provided $187 million, with $100 million earmarked for the United Nations Development Programme. This amount will permit an increase in our contributions to the United Nations Relief Works Agency, which is performing increasingly valuable work on refugee relief in the Middle East.

We have provided $20 million for Lebanon relief and rehabilitation assistance. The need for this humanitarian assistance is desperate. The civil war in Lebanon has left the wounded and sick without assistance, and has destroyed the homes of thousands of Lebanese. With our highest hopes for the success of the new Government, we are providing assistance for the vital relief and rehabilitation work which must be done.

For Cyprus, we provided $17.5 million. Although it would be possible to justify, and the need remains for, an appropriation many times that amount, we will continue our assistance to the refugees on that strife-torn island.

Finally, I am particularly pleased to report that we agreed on $375 million for the International Development Association of the World Bank.

The United States is currently in default on the fourth replenishment of this fund, and this appropriation will permit us to live up to our agreement. The IDA has made significant contributions to increasing the standard of living in the poorest countries of the world, and I am pleased that we have come out of conference with the authorized amount for this item.

These were the major areas of dispute in conference, Mr. Speaker, and I believe that they were resolved in favor of a humanitarian response to the needs and aspirations of the less developed nations of the world.

This is an excellent bill, and I urge my colleagues to adopt this conference report.

Mr. YATES. Mr. Speaker, will the gentleman yield for a correction?

Mr. CONTE. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, the excellent services of the gentleman from Louisiana have been over a period of 30 years, rather than 25 years.

Mr. CONTE. Thirty years in the House, 25 in the committee.

Mr. YATES. I see. I thank the gentleman.

Mr. SHRIVER. Mr. Speaker, I want to pay tribute also to the chairman of the committee, the gentleman from Louisiana (Mr. Passman). I know of his tremendous efforts in behalf of his district and in the best interests of the United States. He will be sorely missed in the next Congress, not only in connection with his efforts on this bill, but for many other things.

Mr. Speaker, I congratulate the gentleman for his dedication.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. SHRIVER. I yield to the distinguished minority leader, the gentleman from Arizona (Mr. Rhodes).

Mr. RHODES. Mr. Speaker, I thank my good friend from Kansas for yielding to me.

This, I am told, will be the last bill the gentleman from Louisiana will handle on the floor of the House. I served as a member of the Foreign Operations Subcommittee of the Appropriations Committee for a number of years. Part of that time I was the ranking minority member of the subcommittee and served very closely with the gentleman from Louisiana.

I have never had anything but the most kind treatment at his hand. There has never been a time when I felt that the gentleman from Louisiana was doing anything other than working for the best interests of all the people of the United States; and in fact, the people of the world. He has had a long, distinguished career as a Member of the House of Representatives. He will be sorely missed, not only by the people of his district in Louisiana, but by all of us here who have known him and who have worked with him for so long.

I wish him the very best of everything in his retirement, and assure him that he will always have a warm welcome whenever he comes to the floor of the House of Representatives or to the home or the district of this gentleman from Arizona. So, to my good friend, I say the best of everything, and thank you for more than I can ever say.

The SPEAKER pro tempore (Mr. Murtha). The gentleman from Louisiana is recognized.

Mr. PASSMAN. Mr. Speaker, I yield such time as he may consume to the distinguished Speaker of the House, the gentleman from Oklahoma (Mr. Albert).

Mr. ALBERT. Mr. Speaker, this is a sad day for Members of the House who have, year after year, watched the distinguished gentleman from Louisiana as he has outlined to the Members the various aspects of our foreign aid bills. Although I am leaving with him, to see the gentleman leave also brings sadness to me because he and I both sat out there somewhere on January 3, 1947, and for the first time, when Joe Martin was Speaker, we took the oath of office together. We have served continuously together in this Chamber term after term ever since.

During all that time I have known the gentleman well. I have loved the gentleman. I have been to his home in Monroe, La., I have been out to his beautiful lodge. I have hunted in the beautiful Mississippi bottomlands which cross the eastern side of his district. He comes from a great part of the United States.

The gentleman has been a great servant of this House of Representatives. He has always been a friend of mine. As long as I breathe, he always will be.

Mr. PASSMAN. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Texas, the chairman of the Committee on Appropriations (Mr. MAHON).

Mr. MAHON. Mr. Speaker, I rise to extend a special salute to the chairman of the subcommittee, the distinguished gentleman from Louisiana (Mr. PASSMAN). He has been associated with these foreign aid programs and our international policies over the years, becoming chairman of the Foreign Aid Subcommittee during the 84th Congress. He has had other important assignments on other subcommittees, such as the Subcommittee on Agriculture and Related Agencies, the Subcommittee on Public Works, Treasury, Postal Service, and otherwise.

Mr. Speaker, I once served, in the early days of foreign aid, on this subcommittee. I served on the Herter committee in the late 1940's, at which time the Marshall plan was considered and placed into effect.

I have seen the gentleman from Louisiana try to hold the line on foreign aid bills, try to do his duty on various legislative provisions and try to assist his colleagues in the Congress and the people of the country. In handling legislation he has put the welfare of his country first.

So I wish to congratulate him upon a distinguished record of service. It has not been always a pleasant service. There are many complaints about the foreign aid program, a program which is distasteful to him and to other Members of the House of Representatives; but with the many problems confronting us and our relationships to the nations of the world, certain things have been required, and the gentleman from Louisiana has done a very outstanding job. He has been successful in making huge, astronomical reductions over the years in foreign aid requests. He has tried to look after the taxpayers' interests in handling this bill.

So I think we all owe him a special vote of gratitude. He has been a stalwart servant of the House of Representatives in a most difficult legislative area. He has ably and successfully handled the legislation assigned to his subcommittee. It is good that we take note of his accomplishments and give him a vote of thanks today.

OTTO, our friendship shall continue as you leave the House of Representatives and let me wish for you every happiness in your continued efforts to serve humanity in whatever role you may choose when you go back to your native State.

Mr. PASSMAN. Mr. Speaker, if I may just take a moment, I think I should remind the Members that the gentleman from Oklahoma (Mr. ALBERT) and I are both retiring from this Congress.

As the Speaker knows, he did visit my home district, if I recall, many years ago, and we had the privilege of hunting together. I certainly want to extend an invitation to the gentleman from Oklahoma to return to Louisiana whenever he gets a chance.

Mr. CEDERBERG. Mr. Speaker, this is the last regular foreign aid bill to be brought before this body by our most distinguished colleague from Louisiana, OTTO PASSMAN. He has chaired the Foreign Aid Subcommittee since the 84th Congress, and has handled every foreign aid bill with a unique combination of high expertise, frugality, and statesmanship.

His country and this House will miss him very much, and I wish him well in the years ahead.

Mr. PASSMAN. Mr. Speaker, I have no further requests for time.

GENERAL LEAVE

Mr. SHRIVER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report under consideration and on the life, character, and public service of the gentleman from Louisiana (Mr. PASSMAN).

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. SHRIVER. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Speaker, as the junior member of the Subcommittee on Foreign Operations on the minority side, I rise in support of the conference report but, more particularly, to compliment the distinguished chairman of our subcommittee.

Certainly one does not have to be on the Subcommittee on Foreign Operations very long to know that the knowledge of the distinguished subcommittee chairman, OTTO PASSMAN, concerning our foreign aid programs is certainly unsurpassed by any Member. One does not have to be on that subcommittee long to know that his desire is, in the best bipartisan manner, to have that subcommittee serve the best interests of all the people of the country and all the people of the world. His leadership is certainly unsurpassed.

The gentleman from Louisiana has been a chairman who has been considerate, who has been fair, who is ultimately knowledgeable, and who will be missed very sorely in his field. Many parts of our foreign aid program indeed stand as a monument to OTTO PASSMAN, and I know that his efforts will long continue to be remembered.

Mr. PASSMAN. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from Louisiana.

Mr. PASSMAN. Mr. Speaker, may I take this opportunity to thank all of my colleagues in the House for the beautiful compliments they have paid me.

Mr. Speaker, it has been a great experience to have served in this body for the past 30 years. I believe we have made a little mark in history, if it is nothing more than having had our names printed in the CONGRESSIONAL RECORD, which will, of course, be permanent.

In any event, Mr. Speaker, I have immensely enjoyed working in this House. I want especially to thank the members of my committee who have worked so beautifully, so diligently, and so long for and on behalf of the American taxpayers for these many years.

Mr. Speaker, I thank the gentleman from Pennslyvania (Mr. COUGHLIN) for yielding.

Mr. COUGHLIN. Mr. Speaker, I thank the gentleman.

Mr. FRASER. Mr. Speaker, amendment No. 5 of the conference committee report on the Foreign Assistance Act for fiscal year 1977, H.R. 14260, states "that of the amount made available for loans, not to exceed $210 million shall be available for loans repayable in 40 years, not to exceed $60 million shall be available for loans repayable in 30 years and not to exceed $30 million shall be available for loans repayable in 20 years."

We are concerned with the arbitrary nature of these provisions both with regard to the amount of funds involved and the terms to be applied. The legislative mandate which has been given to the AID program is specifically aimed at directing highly concessional resources to the poor countries in an effort to address the fundamental problems of inadequate levels of food production, nutrition, health, and education.

At the same time AID recognized that some developing countries with higher levels of income and productive capacity still have major problems in meeting the basic needs of their people.

In recognition of this need to differentiate between countries, AID has instituted a new policy on differential loan terms. A set of criteria has been developed to evaluate the economic condition of the developing countries. Based on these criteria, AID has determined that harder loan terms; that is, 25 years including 5-year grace period as contrasted to 40 years including a 10-year grace period—would be applied in fiscal year 1977 to a number of loan recipients whose economies are strong enough to service less concessional flows. The important fact here is that the terms and amounts were based on a careful evaluation of the countries' economic circumstances rather than filling an arbitrary quota.

In light of AID's program and policy of applying loan terms consistent with the countries' circumstances as indicated by quantifiable criteria, I would hope that in next year's legislative action on the AID program it would be possible to exclude these arbitrary restrictions on loan terms and quotas so as to permit AID to continue to allocate assistance in a more systematic manner according to LDC needs and financial conditions.

Mr. OTTINGER. Mr. Speaker, I commend the Foreign Operations Subcommittee and its chairman, Mr. PASSMAN, for their hard work on this important and difficult piece of legislation.

Particularly, I want to congratulate and thank the gentleman from Louisiana (Mr. PASSMAN) and the House conferees for adopting the Senate figure for the United Nations Environment Fund—UNEP—which doubles the House-adopted figure to $10 million.

UNEP, in its 4 years of existence, has taken an active role in essential programs which affect the environmental health of the whole world. At the moment, UNEP is engaged in a massive program to clean up the Mediterranean Sea bed, which is threatened for extinction within the next century. Because of its success with the Mediterranean project, UNEP has extended its work in marine pollution control and hopes to initiate projects in the Persian Gulf, the Caribbean, and West African coastal waters.

UNEP has also assisted in establishing warning systems for tropical cyclones in the countries of Bangladesh, Burma, India, Sri Lanka, and Thailand. UNEP has written environmental policy on food production with an emphasis on increased production in tropical areas of Africa through pest and insect control. UNEP is working to set a 10-year moratorium on commercial whaling; it is involved in a desert control program in the Sudan; a worldwide toxic chemicals project; and an "Earth Watch" program, or global environmental monitoring system.

Certainly, all of these programs deserve the strong support of the United States, and we have truly "shown our colors" in the figures included in this conference report.

Mr. RANGEL. Mr. Speaker, I rise in enthusiastic support of the conference report to the foreign assistance appropriations bill for fiscal year 1977. Particularly I would like to address myself to those provisions relating to American assistance to nations in the southern region of Africa.

The Secretary of State, with the endorsement of the President, outlined a new policy for southern Africa at Lusaka, Zambia on April 29, 1976. His statement of objectives included support for self-determination, majority rule, equal rights, and human dignity for all people of the region.

The importance of this approach is underscored by events in the region. Last year the situation in southern Africa assumed a new and more critical dimension with the involvement of Cuban forces in Angola and the emergence of the Soviet Union as the principal supplier of arms to liberation groups.

I believe that is is in our national interest to do what we can to avoid escalating violence, outside intervention by the Soviet Union and Cuba, and threats to the U.S. access to the resources of the region.

The conferees have agreed on a total African package of $54 million. Zaire and Zambia are each to receive $20 million, and the remaining $14 million going to Botswana and for regional training programs. Passage of this report is necessary if the United States is to begin to assume a more positive relationship with the nations of Africa.

Both Zaire and Zambia are attempting to achieve a peaceful settlement to the crisis in southern Africa. However their attempts will not succeed unless they receive the financial support they need to continue their efforts. Copper, a mainstay of both their economies, is witnessing a sharp decline in prices, and thus the economies of Zaire and Zambia are faltering. Their ability to receive imports and export their products has been decreased, as a result of major transportation routes being closed to them in light of their defeat in Angola.

Botswana is heavily dependent on the Rhodesian railway which passes through Rhodesia and terminates in South Africa. Closure of the Botswana-Rhodesia border and a prolonged absence of rail facilities would have disastrous effects on the Botswana economy, with economic losses probably running in excess of $100 million.

The United States has for too long been negligent with respect to providing financial assistance to African nations. Recent events in Rhodesia and South Africa indicate that the black majorities in these nations will no longer remain content without full equality. Our moral duty is to support these efforts for majority rule. The funds provided in this legislation enable us to get involved in this effort before it becomes a bloody confrontation throughout the whole of Africa. In order to help avoid this I would urge my colleagues to vote to adopt this conference report.

Mr. ASHBROOK. Mr. Speaker, I urge the defeat of the conference report on H.R. 14260, making foreign assistance appropriations for fiscal year 1977. This legislation continues the same wasteful spending that has characterized our foreign aid program for the past 30 years.

The conference report approves budget outlays totaling more than $5.1 billion. This is $300 million above the already ridiculous $4.8 billion measure that passed the House in June of this year. I cannot justify such an incredible giveaway, especially at a time when our Government has run up a $125 billion deficit in only the past 2 years.

The amount of taxpayers' money poured into foreign aid since the end of World War II is simply staggering. In three decades the United States has given away more than $181 billion in economic and military assistance. That figure includes $143 billion in direct grants and $38 billion in so-called loans.

Despite these vast sums of money our foreign aid program can only be called a failure. It has had little impact on raising the standard of living for the world's poor. Nor has it made us popular in the eyes of the world. This shabby treatment accorded the United States in the United Nations—even by those who benefit from our largess—is a constant reminder of the failure of the foreign aid program.

I find it especially disheartening that the conferees have further increased U.S. contributions to international organizations. The conference report provides $90,477,000 to the Asian Development Bank rather than the $60,318,000 proposed by the House; $270 million to the Inter-American Development Bank rather than the House-passed $220 million and $375 million to the International Development Association as opposed to the $320 million found in the House version.

Such increases cannot be justified. They are a further waste of the taxpayers' money.

As my colleagues will recall, I offered an amendment to reduce U.S. contributions to the International Development Association by $128 million. The United States has provided 35 percent of the overall contribution made to the IDA which in turn has used 40 percent of those resources for India.

I felt that the need for this amendment was well documented by the evidence. In fact, the majority report of the Committee on International Relations contained as categorical an indictment of the IDA as one could expect. Page 42 of the committee report stated:

> The Committee finds it difficult to justify India's receiving 40 percent of IDA's resources when that country has shown little commitment to helping its poor, has moved away from democracy and toward authoritarianism, has squandered huge sums on military spending and nuclear development, and has done much to weaken international restraints on the spread of nuclear weapons.

Unfortunately, my amendment to reduce U.S. contributions to the IDA was rejected 165 to 229. And now the conferees have added another $55 million to an already unsupportable appropriation. This is simply ridiculous.

I urge my colleagues to defeat this wasteful legislation. It is time to start placing America's interests first.

Mr. REUSS. Mr. Speaker, I voted for the Foreign Assistance Appropriation Act last June 29. But I must vote against today's conference report, for two reasons.

First, the amount in the House-passed bill has been increased in the conference report by $300 million.

Second, the Congress has been rightly concerned about the systematic torture and murder that is being practiced by a number of Latin American countries, including Chile. With that in mind, we provided in the Inter-American Development Bank Act of May 31, 1976, in section 28(a), the following rule with respect to the Inter-American Development Bank:

> The United States Executive Director of the Bank is authorized and directed to vote against any loan, any extension of financial assistance, or any technical assistance to any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture

or cruel, inhumane, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person, unless such assistance will directly benefit the needy people in such country.

There are now pending before the Inter-American Development Bank at least four loans to Chile. One of them, a $21 million industrial loan, has already been approved by the Bank Board over the dissenting vote of the U.S. Executive Director. Three other loans, including a preinvestment study and a pulp and paper export loan, are currently under consideration. Last week, on September 21, Orlando Letelier, former Foreign Minister, Defense Minister, and Ambassador to the United States of the elected Government of Chile, and Ronni Karpen Moffitt, administrative assistant at the Institute for Policy Study in Washington, D.C., were brutally murdered in Washington by a time bomb placed by terrorists. Since the present government of Chile came to power by murder, and subsists by torture, the call for a thorough investigation of the bombing seems in no way farfetched.

From the beginning, I have vigorously supported the Inter-American Development Bank, and its goal of hemispheric cooperation and economic development. I hope to signal by my vote today that the people of the United States wish to place limits on the aid they give any international organization which, in the words of the act of May 31, 1976, extends financial assistance "to any country which engages in a consistent pattern of gross violations of internationally recognized human rights."

Mr. PASSMAN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 216, nays 155, not voting 59, as follows:

[Roll No. 810]

YEAS—216

Abzug
Adams
Addabbo
Ambro
Annunzio
Aspin
Badillo
Beard, R.I.
Bergland
Biaggi
Biester
Bingham
Blanchard
Boland
Bolling
Bonker
Brademas
Breaux
Breckinridge
Brodhead
Brooks

Broomfield
Brown, Mich.
Buchanan
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Carney
Carr
Cederberg
Chisholm
Clay
Cohen
Collins, Ill.
Conable
Conte
Corman
Cotter
Coughlin
D'Amours
Daniel, R. W.

Daniels, N.J.
Delaney
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Erlenborn
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian

Flood
Florio
Foley
Ford, Mich.
Forsythe
Fraser
Frenzel
Fuqua
Giaimo
Gilman
Goldwater
Gonzalez
Gradison
Gude
Guyer
Hall, Ill.
Hamilton
Hanley
Hannaford
Harrington
Harris
Hawkins
Hayes, Ind.
Heckler, Mass.
Helstoski
Hicks
Hillis
Holtzman
Horton
Howard
Hughes
Hyde
Johnson, Pa.
Jones, Ala.
Jordan
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Leggett
Lehman
Lent
Lloyd, Calif.
Long, La.
Long, Md.
Lundine
McClory
McCloskey
McEwen
McFall

McKay
McKinney
Madden
Madigan
Maguire
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Moore
Moorhead, Pa.
Morgan
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nowak
Oberstar
Obey
O'Brien
O'Hara
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pickle
Preyer
Price
Pritchard
Quie
Railsback
Rangel
Rees
Regula
Rhodes
Richmond
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal

Rostenkowski
Roybal
Ryan
St Germain
Sarasin
Sarbanes
Schroeder
Schulze
Seiberling
Sharp
Shriver
Simon
Sisk
Smith, Iowa
Solarz
Spellman
Stanton, J. William
Stanton, James V.
Stark
Steiger, Wis.
Stephens
Stokes
Stratton
Symington
Thompson
Traxler
Treen
Tsongas
Udall
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Whalen
Whitehurst
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wydler
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki

NAYS—155

Abdnor
Allen
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Baldus
Baucus
Bauman
Bedell
Bennett
Bevill
Blouin
Bowen
Brinkley
Brown, Calif.
Brown, Ohio
Broyhill
Burgener
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conyers
Cornell
Daniel, Dan
Davis
de la Garza
Dellums
Dent
Derrick
Devine
Dickinson
Duncan, Tenn.
du Pont
Edwards, Ala.
Emery
English
Evans, Ind.

Flowers
Fountain
Frey
Gaydos
Gibbons
Ginn
Goodling
Grassley
Hagedorn
Haley
Hall, Tex.
Hammerschmidt
Hansen
Harkin
Harsha
Hechler, W. Va.
Hefner
Henderson
Hightower
Holt
Hubbard
Hungate
Hutchinson
Ichord
Jacobs
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Landrum
Latta
Levitas
Lloyd, Tenn.
Lott
McDonald
Mahon
Mann
Martin
Mathis

Melcher
Michel
Milford
Miller, Calif.
Miller, Ohio
Mills
Moffett
Montgomery
Moorhead, Calif.
Mottl
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nichols
Paul
Pettis
Pike
Poage
Pressler
Quillen
Randall
Reuss
Risenhoover
Roberts
Robinson
Rose
Roush
Runnels
Ruppe
Satterfield
Sebelius
Shipley
Shuster
Sikes
Skubitz
Slack
Smith, Nebr.
Snyder
Spence
Staggers
Steed
Stuckey
Studds
Sullivan
Symms
Taylor, Mo.
Taylor, N.C.

Teague
Thone
Thornton

Waggonner
Weaver
White

Whitten
Wylie
Young, Fla.

NOT VOTING—59

Alexander
Anderson, Calif.
Anderson, Ill.
Ashley
AuCoin
Beard, Tenn.
Bell
Boggs
Burke, Fla.
Chappell
Conlan
Crane
Danielson
Downing, Va.
Duncan, Oreg.
Esch
Eshleman
Evans, Colo.
Evins, Tenn.

Flynt
Ford, Tenn.
Green
Hébert
Heinz
Hinshaw
Holland
Howe
Jarman
Jeffords
Lujan
McCollister
McCormack
McDade
McHugh
Matsunaga
Mikva
Mink
Mosher
Moss

Nix
Nolan
O'Neill
Pepper
Peyser
Riegle
Rousselot
Russo
Santini
Scheuer
Schneebeli
Steelman
Steiger, Ariz.
Talcott
Ullman
Wampler
Wilson, C. H.
Wright
Young, Alaska
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Moss for, with Mr. Russo against.

Mr. Matsunaga for, with Mr. Santini against.

Mr. Anderson of Illinois for, with Mr. Schneebeli against.

Mrs. Mink for, with Mr. Eshleman against.

Mrs. Boggs for, with Mr. Crane against.

Mr. Heinz for, with Mr. Conlan against.

Mr. Jeffords for, with Mr. Chappell against.

Mr. McDade for, with Mr. Beard of Tennessee against.

Mr. Talcott for, with Mr. Young of Alaska against.

Mr. McHugh for, with Mr. Wampler against.

Mr. O'Neill for, with Mr. Rousselot against.

Mr. Pepper for, with Mr. Burke of Florida against.

Mr. Zeferetti for, with Mr. McCollister against.

Mr. AuCoin for, with Mr. Downing of Virginia against.

Mr. Anderson of California for, with Mr. Evins of Tennessee against.

Mr. Danielson for, with Mr. Flynt against.

Mr. McCormack for, with Mr. Nolan against.

Mr. Mikva for, with Mr. Lujan against.

Mr. Nix for, with Mr. Hébert against.

Until further notice:

Mr. Alexander with Mr. Duncan of Oregon.

Mr. Ashley with Mr. Jarman.

Mr. Esch with Mr. Evans of Colorado.

Mr. Ford of Tennessee with Mr. Bell.

Mr. Holland with Mr. Green.

Mr. Mosher with Mr. Howe.

Mr. Wright with Mr. Charles H. Wilson of California.

Mr. Ullman with Mr. Peyser.

Mr. Scheuer with Mr. Riegle.

Mr. Steelman with Mr. Steiger of Arizona.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 3: Page 2, line 15, after "pended" insert: "*Provided further*, That of the funds made available for population planning and health, not less than $15,000,000 shall be only available for programs providing training to auxiliary or paramedical personnel who will be engaged in the delivery of health and family panning services to rural areas."

MOTION OFFERED BY MR. PASSMAN

Mr. PASSMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PASSMAN moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 5: Page 3, line 11, insert: "*Provided,* That of the amount made available for loans, not to exceed $210,000,000 of such amount shall be available for loans repayable within forty years following the date on which the funds were initially made available under the loan: *Provided further,* That not to exceed $60,000,000 of such amount shall be available for loans repayable within thirty years following such date: *Provided further,* That not to exceed $30,000,000 of such amount shall be available for loans repayable within twenty years following such date."

MOTION OFFERED BY MR. PASSMAN

Mr. PASSMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PASSMAN moves that the House recede from its disagreement to the amendment of the Senate numbered 5 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 7: Page 4, line 3, insert: "That not less than $110,000,000 shall be available only for the United Nations Development Program:".

MOTION OFFERED BY MR. PASSMAN

Mr. PASSMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PASSMAN moves that the House recede from its disagreement to the amendment of the Senate numbered 7 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert "$100,000,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 17: Page 6, line 18, insert: None of the funds made available under this Act for "Food and nutrition, Development Assistance," "Population planning and health, Development Assistance," "Education and human resources development, Development Assistance," "Technical assistance, energy, research, reconstruction, and selected development problems, Development Assistance," "International organizations and programs," "United Nations Environment Fund." "American schools and hospitals abroad," "Indus Basin Development Fund, grants," "International narcotics control," "Middle East special requirements fund," "Security supporting assistance," "Operating Expenses of the Agency for International Development," "Military assistance," "International military education and training," "Inter-American Foundation," "Peace Corps," "Cuban refugee assistance," "Special assistance to refugees from Cambodia, Vietnam, and Laos in the United States," "Migration and refugee assistance," or "Assistance to refugees from the Soviet Union or other Communist countries in Eastern Europe," shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operations not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for fiscal year 1977 without the approval of the Appropriations Committees of both Houses of the Congress.

MOTION OFFERED BY MR. PASSMAN

Mr. PASSMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PASSMAN moves that the House recede from its disagreement to the amendment of the Senate numbered 17 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"None of the funds made available under this Act for "Food and nutrition, Development Assistance," "Population planning and health, Development Assistance," "Education and human resources development, Development Assistance," "Technical assistance, energy, research, reconstruction, and selected development problems, Development Assistance," "International organizations and programs," "United Nations Environment Fund," "American schools and hospitals abroad," "Indus Basin Development Fund, grants," "International narcotics control," "Middle East special requirements fund," "Security supporting assistance," "Operating Expenses of the Agency for International Development," "Military assistance," "International military education and training," "Inter-American Foundation," "Peace Corps," "Cuban refugee assistance," "Special assistance to refugees from Cambodia, Vietnam, and Laos in the United States," "Migration and refugee assistance," or "Assistance to refugees from the Soviet Union or other Communist countries in Eastern Europe," shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operations not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for fiscal year 1977 unless the Appropriations Committees of both Houses of the Congress are previously notified fifteen days in advance."

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 20: Page 8, line 8, insert: "$25,000,000 shall be allocated for Cyprus, $55,000,000 shall be allocated for Portugal, $80,000,000 shall be allocated to Syria."

MOTION OFFERED BY MR. PASSMAN

Mr. PASSMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PASSMAN moves that the House recede from its disagreement to the amendment of the Senate numbered 20 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: "$17,500,000 shall be allocated for Cyprus, $55,000,000 shall be allocated for Portugal,".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 21: Page 8, line 11, insert: "$14,000,000 shall be allocated for Botswana and for regional training programs, not to exceed $20,000,000 shall be allocated to Zaire, and not to exceed $20,000,000 shall be allocated to Zambia."

MOTION OFFERED BY MR. PASSMAN

Mr. PASSMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PASSMAN moves that the House recede from its disagreement to the amendment of the Senate numbered 21 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 23: Page 8, line 15, insert: ": *Provided further,* That $7,000,000 of this appropriation shall be available only upon ratification of the Treaty of Friendship and Cooperation Between Spain and the United States of America."

MOTION OFFERED BY MR. PASSMAN

Mr. PASSMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PASSMAN moves that the House recede from its disagreement to the amendment of the Senate numbered 23 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 24: Page 8, line 23, strike out: "$193,000,000" and insert "$191,300,000".

MOTION OFFERED BY MR. PASSMAN

Mr. PASSMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PASSMAN moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein with an amendment, as follow: In lieu of the sum proposed by said amendment, insert "$192,000,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 26: Page 9, line 9, insert: "*Provided further,* That $15,000,000 of this appropriation shall be available only upon ratification of the Treaty of Friendship and Cooperation Between Spain and the United States of America."

MOTION OFFERED BY MR. PASSMAN

Mr. PASSMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PASSMAN moves that the House recede from its disagreement to the amendment of the Senate numbered 26 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 27: Page 9, line 16, insert: ": *Provided,* That $2,000,000 of this appropriation shall be available only upon ratification of the Treaty of Friendship and Cooperation Between Spain and the United States of America."

MOTION OFFERED BY MR. PASSMAN

Mr. PASSMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PASSMAN moves that the House recede from its disagreement to the amendment of the Senate numbered 27 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 35: Page 14, line 15, and strike out: "$71,000,000: *Provided,* That of this amount $10,058,000 shall be for Peace Corps volunteer readjustment allowances, as authorized by Public Law 94–130" and insert "$81,000,000: *Provided,* That of this amount $50,063,000 shall be available for the direct support of volunteers: *Provided further,* That no less than $4,100,000 of this amount shall be available only for the overseas technical support of volunteers."

MOTION OFFERED BY MR. PASSMAN

Mr. PASSMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PASSMAN moves that the House recede from its disagreement to the amendment of the Senate numbered 35 and concur therein with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: "$80,000,000: *Provided*, That of this amount $49,563,000 shall be available for the direct support of volunteers: *Provided further*, That no less than $3,600,000 of this amount shall be available only for the overseas technical support of volunteers".

The motion was agreed to.

A motion to reconsider the votes by which the action was taken on the several motions was laid on the table.

GENERAL LEAVE

Mr. PASSMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the conference report on the bill, H.R. 14260.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

CONTINUING APPROPRIATIONS, 1977

Mr. MAHON. Mr. Speaker, pursuant to the order of the House on Thursday last, I call up the joint resolution (H.J. Res. 1105) making continuing appropriations for the fiscal year 1977, and for other purposes, and ask unanimous consent that the joint resolution be considered in the House as in the Committee of the Whole.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 1105

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1977, namely:

SEC. 101. Such amounts as may be necessary for continuing the following activities, not otherwise provided for, which were conducted in the fiscal year 1976 or the period ending September 30, 1976, but at a rate for operations not in excess of the current rate:

activities under the Public Health Service Act;

activities under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970;

activities under the District of Columbia Medical and Dental Manpower Act of 1970;

activities under section 602 of Public Law 94-63;

activities under the Higher Education Act;

activities under the Vocational Education Act;

activities under the National Defense Education Act;

activities under the General Education Provisions Act;

activities under title VI of the Comprehensive Employment and Training Act; and

activities of the Commission on Federal Paperwork.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1976, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) March 31, 1977, whichever first occurs.

SEC. 103. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in 31 U.S.C. 665(d)(2), but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 104. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 105. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 106. No appropriation or fund made available or authority granted pursuant to this joint resolution shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during either the fiscal year 1976 or the transition period ending September 30, 1976.

SEC. 107. Any appropriation for the fiscal year 1977 required to be apportioned pursuant to 31 U.S.C. 665, may be apportioned on a basis indicating the need (to the extent any such increases cannot be absorbed within available appropriations) for a supplemental or deficiency estimate of appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees and to active and retired military personnel. Each such appropriation shall otherwise be subject to the requirements of 31 U.S.C. 665.

SEC. 108. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

SEC. 109. For an additional amount for the Soil Conservation Service for watershed and Flood Prevention Operations for emergency measures for runoff retardation and soil erosion prevention, and provided by section 216 of the Flood Control Act of 1950 (33 U.S.C. 701b-1) in addition to funds provided elsewhere, $12,000,000, to remain available until expended.

With the following committee amendment:

On page 4, after line 14, insert:

SEC. 109. For an additional amount for the Soil Conservation Service for Watershed and Flood Prevention Operations for emergency measures for runoff retardation and soil erosion prevention, as provided by section 216 of the Flood Control Act of 1950 (33 U.S.C. 701b-1) in addition to funds provided elsewhere, $12,000,000, to remain available until expended.

The committee amendment was agreed to.

Mr. MAHON. I move to strike the requisite number of words.

The SPEAKER. The gentleman from Texas is recognized.

Mr. MAHON. Mr. Speaker, with the conference report just agreed to by the House, we have now cleared all the regular appropriation bills for the new fiscal year which begins at midnight this coming Thursday. This is the first time that all the regular bills will have cleared the Congress before the new fiscal year in recent history. Of course, this was made possible in part by the change in the fiscal year incorporated in the Congressional Budget Act of 1974.

Nonetheless, Mr. Speaker, it is still necessary to have a modified continuing resolution for the new fiscal year.

This is regrettable. We had hoped that it would not be necessary and the Committee on Appropriations did everything reasonably possible to avoid a continuing resolution.

It is necessary to have a modified continuing resolution to provide interim financing authority for certain programs under the jurisdiction of the Subcommittee on Appropriations for the Departments of Health, Education, and Welfare because certain basic authorization bills were not completed in time for inclusion in the regular bill which passed the House on June 24 and was finally sent to the President the week before last.

The resolution now before the House provides continuing authority for ongoing programs not otherwise provided for until March 31, 1977. Unless such authority is provided, on Friday morning there will be no funds available for certain health and education programs including major activities in the fields of higher education, health manpower, vocational education, alcohol abuse, and others.

These activities are provided for at the current rate.

Personally, I would rather have supported a lower level of funding for some of the programs provided for in this resolution. I would point out that the budget proposed to sharply reduce and to terminate some of these programs. However, it is clear that Congress, by virtue of its actions on pertinent authorization bills and otherwise, has indicated that these programs should be continued. In view of the mechanics of continuing resolutions and considering other factors, it was decided to continue these programs at the current rate. This was the best that could be done under the circumstances.

I would say further, Mr. Speaker, that this continuing resolution is only effective until March 31, 1977. It covers only half the fiscal year. It would not be appropriate to undertake to assign a dollar figure to the continuing resolution. The next Congress will have to consider a supplemental bill to provide annual appropriations for the programs contained in the pending measure for which basic authorization was not available in a timely fashion.

Mr. Speaker, one of the three cardinal principles embraced in the Congressional Budget Act was the provision for more timely congressional decisions impacting on the budget. Paramount to this cornerstone of congressional budget reform was the provision for early or advanced authorization in order to complete action on appropriations. While some progress has been made in this area, the situation this year was far from ideal.

In its March 15 report to the Budget Committee, the Committee on Appropriations addressed the subject of timely authorizations. Under the unanimous-consent request just agreed to, I ask that the pertinent excerpt from that report be included in the RECORD at this point:

TIMELY AUTHORIZATIONS FOR APPROPRIATIONS

The budget control legislation mandates that a well-ordered sequence of events occur in the legislative process so that the objectives of the Act might be fulfilled. The key ingredients are timely action on bills providing authorizations for appropriations and the appropriations bills themselves. Traditionally the appropriations bills are reported on a timely basis once authorizing legislation is made available. It is the authorization process that in the past has resulted in frequent delays. Without timely action on *all* authorizations, the process cannot work as envisioned.

The Joint Study Committee on Budget Control in its final report in April 1973, expressed the opinion that appropriation bills could be speeded up appreciably if the authorizations did not occur in the same year as the appropriations and in fact recommended that "authorizations take effect no earlier than the fiscal year after the fiscal year in which they are enacted." In other words, it was contemplated that authorizations would be in place in advance of the commencement of the budget and appropriations process.

The House version of the Congressional Budget Act contained a requirement that authorization bills be reported by March 15. Under the circumstances, this decision represented an acceptable benchmark in a workable legislative budget timetable. However, the Senate version of the bill, and ultimately the conference agreement, provided for reporting authorizing legislation by May 15, two months later than the House bill required. This date change is presenting serious problems.

Early last fall the committee began struggling with a schedule for handling the fiscal year 1977 appropriations bills within the framework of the new budget legislation and has now implemented a plan which calls for concluding all subcommittee hearings in April and marking up all appropriation bills between April 26 and May 7. The Full Committee would then consider all subcommittee recommendations between May 24 and June 4. A summary report of Committee recommendations would be rendered to the House pursuant to Section 307 of the budget act and all appropriation bills would be considered by the House between June 15 and July 2. This would leave about six work-weeks for Senate and final conference action on spending measures before the mid-September date for action on the Second Concurrent Resolution.

Obviously, if authorizing committees wait to report legislation until the deadline of May 15, it will have a minimal impact or no impact on appropriation bill mark-ups which must be concluded by May 7. If the new budget process is to succeed—an objective to which this Committee is dedicated—the legislative machinery of the House must be timed to produce auhorizing legislation in advance of the May 15 date contained in the law. While considerable effort has been directed at accelerating the consideration of authorizing legislation, the Committee notes that during this session very few bills containing major authorizations for 1977 appropriations have come to the House floor.

If authorizations are not available in a timely manner in such sensitive areas as national defense, international affairs, health, education, science, energy, and others, the legislative budget process will flounder, and the Congress will have forfeited a rare opportunity to implement effectively its will in setting national priorities and establishing legislatve budget controls.

Mr. Speaker, in my judgment there is no practical alternative but to enact the continuing resolution now under consideration.

At this point I would like to yield to the gentleman from Pennsylvania (Mr. FLOOD), chairman of the Appropriations Subcommittee which has jurisdiction over the funding for the health and education programs provided for by this measure.

Mr. FLOOD. Mr. Speaker, I move to strike the last word.

Mr. Speaker, the joint resolution before us is a standard continuing resolution designed primarily to cover ongoing programs that are normally in the Labor-HEW appropriation bill. These programs were not in the regular bill simply because they were not authorized.

We did not have any law; therefore, we could not make an appropriation.

Mr. Speaker, I remember some time ago the discussions on the procedures under the new Budget Act. There was some feeling that a continuing resolution would no longer be necessary under new procedures of the Congressional Budget Act. But unfortunately we still do have problems with late authorizations.

Frankly, it appears that this problem will still confront us next year because there are several major authorizations that will expire in the year 1977, such as library service, community service, the CETA program, cancer research, heart and lung research, health planning. Those are just a half dozen of the really big ones. Of course, delay in authorization means delay in appropriation. And that is why we need continuing resolutions.

The Members will recall that we deferred consideration of unauthorized programs of the Labor-Health, Education, and Welfare appropriation bill for 1977. We did not have authorization for health manpower, higher education, vocational education, public service jobs under title VI of the Comprehensive Employment and Training Act, and several other programs. Funds for these programs, by the way, expire September 30, so a continuing resolution is needed to keep them going at the current rate until we can put together a supplemental appropriations bill in the next Congress.

There are a couple of special problems which are set forth in the report that accompanies the resolution.

No. 1, we want to be sure the 1976 level of 260,000 jobs for CETA is continued and maintained so no layoffs might occur in that title VI of CETA. Another problem arose in the basic opportunity grants program. There is a shortage of about $200 million in the funds for the current academic year. Apparently the student participation will be somewhere over 80 percent, and we appropriated for this on the basis of 74 percent. So what we propose to do is allow HEW to use funds available under this continuing resolution in order to meet the expected shortage of funds in the BOG program. This includes the necessary funds for the administration of that program.

Mr. Speaker, this is essentially the standard continuing resolution which we enact year after year. We do not stop; we do not cut back; we do not expand the existing programs. We do not start new programs. We keep things going at the current rate until the appropriations bill can be enacted.

We do not like to do this, as I said before, but we have no other choice.

Mr. Speaker, I urge the adoption of the resolution.

Mr. MICHEL. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I do not intend to oppose the resolution, but I do feel the Members ought to be aware of some of the total figures, particularly, that are involved in the continuing resolution.

In fiscal 1976, the programs covered by this resolution were funded at a level of $5.3 billion, and the comparable budget request for fiscal year 1977 was $2,489,937,000.

We are, in this resolution, funding these programs at a rate that will take us $2.4 billion over the budget. If we add this to the $4 billion that the regular Labor-HEW bill is over the budget, it is obvious we are bent on exceeding the budget by a total of $6.4 billion. I think we ought to all be aware of that. And this does not include the increases we may add in supplementals next spring.

I think all of us would probably bet a few nickels on the fact that there would be a supplemental request. To be sure, there are some contingencies involved here which should be noted. The President's budget did not include any funds for title VI jobs, service jobs, because he had asked for funds in fiscal 1976 to continue the program at the current level of 260,000 jobs through December and then phase out the program.

This continuing resolution would extend the current level, and that in itself involves $2.2 billion annually, through March. We should recall that this program under title II is presently funded through January. The result is that an additional $1.5 billion over the budget would be needed to fund these jobs at the continuing resolution level through September.

In HEW we are by this joint resolution funding a series of health programs, including health manpower, at an annual level of $476 million in this resolution. That is $85 million over the budget.

Various education programs are being

funded here at a level of $2.9 billion compared to a comparable budget request of $2.1 billion. Much of this include student assistance programs, and it should be noted that the original budget request was submitted prior to the shortfall in the basic grants program which the chairman of our subcommittee, the gentleman from Pennsylvania (Mr. Flood) discussed just a moment ago. Even with the higher level in this resolution, based on a revised request, we will still probably be short by $175 million to $200 million.

We have attempted to make this continuing resolution as simple as possible in order to expedite the business of the House and the Congress looking for an early adjournment.

Mr. Speaker, there is just one other little item that we did not take up and which I feel I must mention. On this item it is my hope that the Senate will provide for some accommodation. This has to do with the extension of the life or the funding of the President's Commission on Olympic Sports, which was being funded out of reprogramed money from HEW. A few weeks ago the other body approved a reprograming request of $180,000 to extend the life of the Commission through January 1977. The Department of HEW now says it is unable to reprogram additional funds to extend the life of that Commission.

I would hope that in the other body the continuing resolution would make an exception and provide the additional money to give the Commission an extended life through January so that an appropriate report of the recommendations and findings of the Commission, which does include a number of Members of Congress, may be written. Without the additional time, I do not see how the Commission can conclude its work in such a fashion as to be worthy of the membership of that commission.

Mr. Speaker, again I urge the adoption of this joint resolution.

Mr. MAHON. Mr. Speaker, I move the previous question on the joint resolution and the amendment thereto to final passage.

The previous question was ordered.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks to House Joint Resolution 1105, and that I may be permitted to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 14496, RESOURCE CONSERVATION AND RECOVERY ACT OF 1976

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1533 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1533

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14496) to provide technical and financial assistance for the development of management plans and facilities for the recovery of energy and other resources from discarded materials and for the safe disposal of discarded materials, and to regulate the management of hazardous waste. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and part A of said amendment shall be read for amendment by titles instead of by sections. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 14496, the Committee on Interstate and Foreign Commerce shall be discharged from the further consideration of S. 2150, and it shall then be in order in the House to move to strike out all after the enacting clause of said Senate bill and insert in lieu thereof the text of H.R. 14496 as passed by the House.

The SPEAKER. The gentleman from Missouri (Mr. Bolling) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. Quillen), pending which I yield myself such time as I may consume.

Mr. Speaker, on page 2, lines 8 to 9, there is a printing error. The reference to "part A" of the committee amendment in the nature of a substitute should be to "part I." I, therefore, ask unanimous consent to correct this printing error.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. BOLLING. Mr. Speaker, this is a straightforward rule, with 2 hours of general debate, 1 hour for the Committee on Interstate and Foreign Commerce, and 1 hour for the Committee on Science and Technology, with the usual open rule, amendments under the 5-minute rule, consideration of the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce as an original bill, part I of said amendment to be read by title instead of by section, and one motion to recommit, with or without instructions, so as to get to conference with the Senate in an expedited fashion.

Mr. Speaker, there was no opposition, as I remember it, to the rule in the Committee on Rules.

Therefore, Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Missouri (Mr. Bolling) has described the rule.

This measure needs to be enacted into law.

Mr. Speaker, I have no requests for time. I support the rule and I support the measure. I reserve the balance of my time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CONTE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas **374, nays 0,** not voting 56, as **follows:**

[Roll No. 811]

YEAS—374

Abdnor
Abzug
Adams
Addabbo
Allen
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Aspin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.

Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Heckler, Mass.
Hefner
Helstoski
Henderson
Hicks
Hightower
Hillis
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Martin
Mann
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nowak
Oberstar
Obey
O'Brien
O'Hara
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Ryan
St Germain
Sarasin
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki

NAYS—0

NOT VOTING—56

Alexander
Anderson, Calif.
Anderson, Ill.
Ashley
AuCoin
Bell
Boggs
Broomfield
Burke, Fla.
Chappell
Crane
Danielson
Duncan, Oreg.
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Flynt
Ford, Tenn.
Green
Hébert
Hechler, W. Va.
Heinz
Hinshaw
Holland
Howe
Jarman
McCollister
McCormack
McDade
Matsunaga
Mikva
Mink
Moss
Nix
Nolan
O'Neill
Passman
Pepper
Peyser
Riegle
Rousselot
Russo
Santini
Sarbanes
Scheuer
Steed
Steelman
Steiger, Ariz.
Talcott
Ullman
Wampler
Wilson, C. H.
Wright
Young, Alaska
Zeferetti

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Anderson of Illinois.
Mr. Matsunaga with Mr. Young of Alaska.
Mr. O'Neill with Mr. Bell.
Mr. Zeferetti with Mr. Hechler of West Virginia.
Mr. Charles H. Wilson of California with Mr. Heinz.
Mr. Russo with Mr. Wampler.
Mr. Pepper with Mr. Riegle.
Mr. Hébert with Mr. Rousselot.
Mr. Chappell with Mr. Jarman.
Mr. Danielson with Mr. McCollister.
Mr. Evans of Colorado with Mr. Steiger of Arizona.
Mr. Flynt with Mr. Passman.
Mr. Ford of Tennessee with Mr. Eshleman.
Mr. Mikva with Mr. Evins of Tennessee.
Mr. McCormack with Mr. Crane.
Mr. Ullman with Mr. Green.
Mr. Wright with Mr. Esch.
Mrs. Mink with Mr. Howe.
Mr. Moss with Mr. Burke of Florida.
Mr. Nix with Mr. Duncan of Oregon.
Mr. AuCoin with Mr. McDade.
Mr. Ashley with Mr. Broomfield.
Mr. Anderson of California with Mr. Sarbanes.
Mr. Alexander with Mr. Talcott.
Mr. Santini with Mr. Scheuer.
Mr. Holland with Mr. Steed.
Mr. Nolan with Mr. Steelman.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

The motion to reconsider was laid on the table.

REQUEST FOR COMMITTEE OF CONFERENCE TO FILE CONFERENCE REPORT ON H.R. 12572, THE GRAIN STANDARDS AMENDMENTS

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the committee of conference of the House Committee on Agriculture have until midnight tonight to file the conference report on the bill H.R. 12572, the grain standards amendments.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, this is the inspection for what?

Mr. FOLEY. This is the conference report on the grain inspection.

Mr. BAUMAN. I wonder if the gentleman from Washington would withdraw his request at this point. Otherwise I am afraid I would be constrained to object.

Mr. FOLEY. Mr. Speaker, I withdraw the request.

RESOURCES CONSERVATION AND RECOVERY ACT OF 1976

Mr. ROONEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 14496, to provide technical and financial assistance for the development of management plans and facilities for the recovery of energy and other resources from discarded materials and for the safe disposal of discarded materials, and to regulate the management of hazardous waste.

The SPEAKER. The question is on the motion offered by the gentleman from Washington.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 14496, with Mr. McKAY in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Pennsylvania (Mr. ROONEY) will be recognized for 30 minutes, the gentleman from Kansas (Mr. SKUBITZ) will be recognized for 30 minutes, the gentleman from California (Mr. BROWN) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. ESCH) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Pennsylvania (Mr. ROONEY).

Mr. ROONEY. Mr. Chairman, we have before us today a bill which for the first time will enable us to take action to prevent the contamination of our air, water, and land by substances which can cause serious damage to human health and to the environment.

Of the 2.8 billion tons of waste generated in this country every year, 23 million tons have already been identified by the Environmental Protection Agency as potentially hazardous. Experts in the field regard that estimate as far below the actual amount of hazardous waste being generated and disposed of without regard for the safety of the public health or the environment. At present EPA lacks the authority to protect health and the environment from these often lethal substances which are dumped on the land indiscriminately or disposed of in the nearest landfill without regard to the presence of underground water supplies or the danger of poisoning by contact.

To protect public health and the environment from these wastes, this bill establishes regulatory authority over disposal of the wastes while maintaining the freedom of industry to produce them, since they are often unavoidable byproducts of the manufacturing process.

The bill does, however, provide a system for identifying these dangerous wastes and tracking them in commerce to their final disposition. This legislation will insure that these wastes are deposited only where they will pose no threat to human health or the environment by requiring that hazardous waste disposal sites include environmental safeguards and receive a permit to accept hazardous wastes.

Although hazardous wastes are an important consideration under this bill they are not the only waste material problem we face. Each year approximately 3 billion tons of material are deposited on the land with little if any environmental planning or control. Local governments are hard pressed to deal with the growing mountains of trash as land available for waste disposal becomes scarce and expensive.

This bill provides Federal grant money to the States and local governments so they will jointly search for solutions to their waste disposal problems on a regional basis which is more effective than the "every man for himself" approach which has caught 50 of our largest cities without enough disposal capacity to meet their needs.

This bill provides that all open dumps, those pits and piles which breed flies, rats, and disease will be closed so that adventurous children will no longer suffer their dangers and the environment will no longer suffer their degradation.

While these are strong measures, this bill is not merely proscriptive. It is prescriptive as well. It provides EPA the authority to assist communities in establishing resource recovery systems which can retrieve from waste, steel, aluminum, paper, and other valuable components, as well as energy. It directs the Department of Commerce to encourage industry to recognize these recovered components as a valuable urban ore. It also directs Federal agencies to review their procurement specifications and to establish a preference for recovered materials where their use will not affect product performance.

In this way it is hoped that the alternatives to landfill will be adopted by local governments and that the fledgling resource recovery industry will create many new jobs. Federal leadership in the purchase of goods made with recovered materials should spur State and local governments and private industry to greater use of these materials, providing a market for recovered resources and slowing the drain of this Nation's finite virgin resources.

This legislation is desperately needed if we are to end the pollution of the underground water which supplies 50 percent of our population with drinking water. It is needed if the States and local governments are to successfully deal with the growing problem of waste disposal and if we are to avoid major Federal expenditures for solid waste management. It is necessary if we are to avoid directly interfering with the productive process of this Nation in the interest of reducing the amount of waste generated.

Virtually all of the groups affected by the growing solid waste problem are in support of this bill. The industries who generate industrial wastes; the unions whose members depend on those industries for jobs and whose lifestyle contributes to the increasing volume of post-consumer wastes; the environmental groups; the State and local governments who have traditionally borne the responsibilities for solid waste management—all these groups support this legislation. I ask my colleagues in the House to likewise support this legislation.

Mr. ROONEY. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Chairman, I rise in support of this bill.

Mr. Chairman, this legislation represents work that has been undertaken by the committee not only in this Congress, but in the last Congress as well. In the last Congress, the subcommittee headed by the distinguished Member from Florida, Mr. ROGERS, conducted numerous hearings on the subject of solid waste. During this Congress, the distinguished subcommittee chairman, Mr. ROONEY, and myself conducted hearings during the first session of the Congress concerning what should be done to strengthen solid waste legislation. Last spring, we held a symposium at the Library of Congress which included experts in all of the fields related to solid waste disposal and solid waste management.

The legislation now before us represents the culmination of several years of study involving the matter of resource conservation and recovery. I am pleased to say that this particular bill has the full endorsement of the administration and the chairman of the subcommittee is to be congratulated for his painstaking work with the Office of Management and Budget, assuring a piece of legislation which will not be vetoed.

I realize that there may be some Members who will be concerned about the fact that floor action on this measure is taking place at such a late date. In some ways, I, too, share their concern. I share the concern because I fear that some Members may feel that the committee action on this bill was taken in haste. That is not the case. The committee action on this bill was after due deliberation and careful consideration. The fact that the legislation is on the floor at this 11th hour simply means that painstaking care was exercised in this development. That painstaking care has resulted in a piece of legislation which will have far-reaching effect on America and is accepted by all of those who will be affected by the legislation.

State governments were consulted before the State plans provisions were written into this bill; county and local governments were consulted so as to benefit from their experience in the matter of solid waste. In addition to that, leaders of industry were called in to evaluate the best way for us to regulate the hazardous waste materials generated by industry.

The bill represents the most comprehensive piece of environmental legislation to be considered by this Congress. It is true that since 1965, there has been a Solid Waste Disposal Act. The Federal Government's role, however, in that Solid Waste Disposal Act has been extremely limited. EPA could issue guidelines and issue publications, but they could not issue any regulations. Consequently, the state of solid waste is worse today than it was when that act became law in 1965.

Under this bill, there is created in EPA an Office of Solid Waste Management. That Office is given high visibility and a Deputy Assistant Administrator is placed in charge of the Office. The Office is also given power to issue regulations. The regulations fall basically into two broad categories: First, the acceptance of State plans which are spelled out in title 4 of the bill. The State plans must include provisions which eliminate open dumps within a period of 5 years. Moreover, the State plans must include provisions which will assure that landfill operations are in fact sanitary; and second, control of hazardous wastes disposal. Many manufacturing companies in this country have hazardous wastes as a byproduct of their operations.

For example, in the steel industry, arsenic is a byproduct that has no use and must be disposed of. Since we have previously regulated with great strictness the quality of the air and the quality of our water, the usual methods of disposal became obsolete. Manufacturers then began to dispose these dangerous chemicals and dangerous byproducts on the ground. Naturally, that lead to seepage into our water supply and in many cases contaminated the air. The one big loophole in the environmental legislation was the disposal of solid waste.

Under this bill, States can take over the enforcement of the hazardous waste disposal program. However, the hazardous waste disposal program must include safeguards to make certain that all disposal is conducted in a safe manner. To insure that such disposal is conducted in a safe manner, there is the requirement that permits be issued to disposers of hazardous solid wastes.

In addition to the permits to disposers of hazardous waste, there is the requirement that a manifest system be developed so that a clear trail can be established for the movement of hazardous waste from the site of origin to the site of disposal. I might add that at this time there are about 224 disposers of hazardous solid waste in the country.

In addition to the regulatory power given to EPA with regard to solid waste, this bill establishes a role for the Department of Commerce. The Department's role would be to encourage greater use of recycled materials in the products that we use on a day-to-day basis. In addition, the Department would be encouraged to help private companies develop effective means for recovering our valuable resources from the waste stream that is generated in the country.

In addition, the bill requires that the Federal Government in its procurement policies give a greater preference to the purchase of goods and materials utilizing recycled materials. Here is an opportunity for the Federal Government to assert a leadership role in changing the consumption of virgin materials now followed by the country. With the enactment of this legislation, we will begin to place a higher value on the use of secondary materials rather than primary materials in the products we use.

Mr. Chairman, this legislation has a companion bill in the Senate, S. 2150. The major differences between the two bills are, in my judgment, stylistic. Our legislation was written as a freestanding piece of new legislation. The Senate, for reasons of committee jurisdiction, amended the 1965 Solid Waste Disposal Act.

Since we are now in the 11th hour of this Congress, we have decided to do all that is possible to avoid having to have a conference with the Senate. Therefore, the chairman and I have prepared an amendment which would restyle our bill to make it an amendment to the 1965 Solid Waste Disposal Act. In addition, we have adopted some provisions contained in the Senate bill which were not included in the House measure.

The Senate's "solid waste" terminology was agreed to be used instead of the House's "discarded materials" terminology.

The Senate definitions of solid waste and solid waste management have been included.

Although the basic House mechanism for State plans and financial assistance were retained, States were given an overall term of 5 years to close all open dumps.

An additional authorization of $25 million for each of fiscal year's 1978 and 1979 for equipment and construction in rural areas was included.

State grant authorizations were raised by $5 million for each of fiscal years 1978 and 1979. This money can be used for engineering surveys, market studies, and similar projects but it cannot be used for construction or land purchase.

Antitrust exemptions were dropped.

The Justice Department will commence all suits.

Federal facilities will be subject to State law and regulation.

Traditional review procedures were made consistent with the Clean Air and Clean Water Acts.

An interagency committee to conduct a resource conservation study was added.

Authorizations for grants were lowered by $17.5 million, and $35 million was added to authorizations running to the Administrator.

I believe these changes are minor in nature and actually add to the substance and workability of the Solid Waste Act. Therefore, I urge my colleagues to adopt the substitute version of the House bill and to send this measure to the other body for what will undoubtedly be immediate approval and enactment of this legislation into law.

Mr. Chairman, I yield such time as he may require to the ranking minority member of the committee, the gentleman from Ohio, Mr. DEVINE.

Mr. DEVINE. Mr. Chairman, I rise in support of this bill which was reported from our committee after considerable hard work and long and fruitful negotiations. This bill, as reported from our committee, had the complete support of the administration and the Office of Management and Budget. In an effort to avoid a conference, some provisions from the Senate bill have been added, but in my judgment it will still fall within a category which can be approved by the President.

Resource conservation and recovery is not a new subject matter for my area of the country. The city of Columbus has been in the forefront of solid waste management. Today Columbus has a model system of collection, transfer, and shredding. There are four giant shredders strategically located in Columbus, Ohio, so that all the discarded material collected by the city is shredded in a way to make sure a minimum amount of land is used for disposing of our solid waste.

This fall the citizens of Columbus will decide whether to move to a second state in the area of solid waste utilization. The shredded material now available in Columbus makes an excellent fuel for producing electricity. It may be that in the near future the street lights of Columbus, which are now supplied by the Columbus municipal light plant, will be supplied by electricity produced from the burning of solid waste.

Mr. Chairman, this bill gives EPA regulatory authority over solid waste. It does so, however, in a manner which assures a strong role and control by the States. In many ways this bill represents a model of Federal-State cooperation.

I believe that the time for enactment of a meaningful solid waste law is now, and I urge the passage of this bill.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Chairman, I rise in support of this excellent legislation. The solid waste bill brought to this House by the Commerce Committee contains a substantial section dealing with research and development related to solid waste. I just want to make a point or two by way of explanation.

Our committee held comprehensive hearings on research and development needs, marked up a bill and reported it out unanimously from the full committee. That legislation was then sent to the Committee on Interstate and Foreign Commerce where, in an example of excellent cooperation between the two committees, and the chairmen of the respective subcommittees, myself and Chairman ROONEY, as well as Chairman TEAGUE and Chairman STAGGERS, the research and development section was incorporated as a separate part of the bill which we have before us today. So much by way of explanation of the joint committee action.

I want to commend this bill to the consideration of all the Members as illustrating the way in which two committees, motivated by a desire to cooperate, can achieve a laudable goal in the construction of a vital piece of legislation.

Now I want to move on to describe in some detail why we need this bill. I will begin with a few words on the problem we are addressing.

Many kinds of waste are covered by the term "solid waste." About 2.8 billion tons of all kinds of solid waste are generated every year in the United States. Of this, about 1,783 million tons are from mining; 687 million tons are agricultural; 260 million tons are industrial; 135 million tons are municipal; and 7 million tons are sewage sludge. These last two categories usually attract the most attention and present the worst problem because both our populations and the wastes are concentrated in the same places. Because of the volume of municipal waste generated and its concentration, municipal landfills are about to reach their capacity.

Nationally, we spend about $3.5 billion to collect and dispose of municipal solid waste. This is the second largest expenditure of our Nation's larger cities.

A problem one encounters in dealing with municipal solid waste is its extremely variable composition—any process for handling the waste stream must be able to handle many different materials in various forms and shapes. Of course, this is why so much waste continues to be merely dumped or buried.

However, one can also look at the solid waste stream and say that whatever its composition, much of it is burnable, or can be converted to fuels, so it represents a source of energy. The waste stream also contains other valuable materials—steel and aluminum to name just two.

Traditional methods of disposal have not only ignored the resources contained in the waste stream but have caused adverse environmental impacts. For example, land disposal—either in open dumps or in landfills—has led to contamination of water supplies. This occurs when rainwater filters through the dump or landfill and picks up contaminants from the waste. The leached contaminants can be, and in some cases have been carried on to springs or to underground aquifers thus contaminating drinking water sources. Clearly once an aquifer is contaminated it is very difficult to reverse the process. Some waste is burned in incinerators which not only wastes energy but also contributes to air pollution. Nevertheless, incineration is still popular because it greatly reduces the bulk of materials to be disposed of. Finally, many dumps or landfills are operated in such a way that they are a local blight—odors, rats, and windblown debris all contribute to their negative environmental impact.

Resource recovery is a constructive alternative approach to traditional solid waste management methods. Extracting reuseable materials reduces the volume of waste needing disposal. Burning the waste in a waterwall incinerator can reduce the volume needing disposal and also provide steam or other forms of energy. Unfortunately, at the present time there is a certain amount of technological risk associated with many methods of resource recovery—they do not always work the way they are planned. This element of technological risk, coupled with other risks such as variable markets for scrap, often make it difficult for a city to obtain financing for a resource recovery operation. Another technical problem is that many smaller cities do not generate sufficient tonnage of waste to make resource recovery practical using today's technology.

At this point I would like to describe the major provisions of part 2 of the bill and then explain why I feel they are needed. The broad authority to conduct research, development, and demonstrations on solid waste and resource recovery in the Solid Waste Disposal Act is amended by this bill to provide that R.D. & D. programs be carried out by EPA in several specific areas:

On small-scale and low-technology resource recovery systems—this will help the smaller cities;

On methods to improve the performance characteristics of recovered resources—to improve marketability;

On improvements in land disposal practices—to make landfills truly sanitary;

On sludge management including resource recovery—an emerging problem as new air and water pollution controls more sludges;

On hazardous wastes—to reduce their environmental impact; and

On adverse effects on air quality from waste disposal or energy recovery—to develop clean ways to burn wastes.

The bill also has several other provisions designed to increase the effectiveness of the R.D. & D. activities. The bill provides for: First. A management program to insure that promising innovations move speedily from research, through development into demonstration. We call this the "pipeline" concept.

Second. Cooperation between EPA and ERDA on energy recovery from solid waste.

Third. An information program to make research results available.

Fourth. A set of 11 special studies to provide input to research planning.

Fifth. Limits to full-scale demonstration projects.

Sixth. A mechanism for coordinating of regulatory policy and research goals within EPA, specifically an intra-agency coordinating committee.

To carry out these provisions the bill authorizes $10 million in fiscal years 1978 and 1979 for the 11 special studies, and $35 million for fiscal year 1978 for the other activities. In relation to funding I would like to say that we are dealing here with a technology with immediate practical applications. Thus a relatively small investment in R.D. & D. may have a quick payoff in reducing the operating budgets of our towns and cities.

Full-scale demonstration projects are expected to contribute greatly to the elimination or reduction of the technological risk associated with resource recovery. For this reason I would now like to describe briefly the limits to full-scale demonstration projects which are contained in the bill. Because full-scale demonstrations are very costly, the EPA should closely investigate each proposed project before funding it. The bill states that a demonstration can be funded only if it is truly innovative, if it will meet all environmental regulations, if it is not likely to be carried out without Federal assistance, and if the Federal interest in the project can be appropriately disposed of at its conclusion.

The bill further provides that EPA shall seek cost sharing with local agencies, and shall not operate such projects in-house. These last provisions are intended to increase local participation in demonstrations. Intensive local participation will make the projects more open and more realistic—less of a laboratory experiment. In addition, the bill provides that all obligations of funds for demonstration projects must be completed in 10 years. This deadline is intended to put EPA on notice that they must plan for a program of finite life—at some point normal private development should take over. On the other hand it does not dictate a wasteful "crash" program.

I would like to point out that the criteria for demonstration programs contained in the provisions of this bill are very consistent with those contained in a report entitled "Analysis of Federally Funded Demonstration Projects." This report was done by the Rand Corp. for National Bureau of Standards experimental technology incentives program. That Rand study determined the characteristics of successful Federal demonstration projects, and their findings agree well with the guidelines provided in this bill.

The Government Operations Committee held oversight hearings on solid waste earlier this year and issued a report entitled "Solid Waste—Materials and Energy Recovery; 25th Report by the Committee on Government Operations, June 30, 1976." This bill is completely consistent with the findings and recommendations in that report. In fact, one of their strongest recommendations calls for close coordination between EPA and ERDA, and this is specifically provided for in the new paragraph 204(b)(1) of the Solid Waste Disposal Act. One might therefore say that this bill is supported by the work of three committees—Commerce, Science, and Government Operations.

One final point should be made. The research program in part 2 of the bill is supportive of the regulatory provisions in part I. The Commerce part of the bill regulates disposal of hazardous wastes and our part of the bill provides for a backup research program. Similarly, the Commerce bill provides for a ban on open dumping and upgrading of dumps to sanitary landfills. Our part of the bill provides for a research program to improve land disposal practices. This is another example of the way the two parts of the bill fit together.

I can summarize by saying that part 2 of the bill has three main thrusts:

First. It emphasizes R.D. & D. in certain areas of need such as small-scale resource recovery systems for smaller cities.

Second. It encourages efficient management and execution of the R.D. & D. program through such approaches as the "pipeline" management concept; the intra-agency coordinating committee within EPA, and the 11 special studies.

Third. It encourages efficient utilization of research results by actively making such information available to all potential users.

In closing, let me state that this bill addresses real problems in a most constructive way and I urge your support of it.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Califonria. I yield to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Chairman, I have the privilege of serving on both committees which considered this legislation. I commend my friend, the gentleman from California (Mr. BROWN), for his very excellent work, as well as the Committee on Interstate and Foreign Commerce. I think it is very excellent legislation.

The gentleman from Pennsylvania (Mr. ROONEY) has done a fine job on it, as well.

Mr. OTTINGER. Mr. Chairman, the combination of implementing technology already available and of furthering badly needed research and demonstration to solve problems dealing with our mounting problem of disposal and reuse of used material is aptly joined in this legislation.

Waste material from our increasingly overpackaged lives has increased extraordinarily in the past years. All of us are aware in our own communities of the problem of what to do with waste materials. And now we are told that by 1990 the amount of so called "postconsumer waste" will be twice what it was in 1973. The cost of trash collection and disposal is already more than $3.5 billion for local governments. Communities have in the past years tried to set up recycling centers for the reuse of waste materials. Some of these centers have indeed returned bottles and paper back into use, but mainly I think the centers have served as sparks to bring this problem to the forefront. We cannot rely on citizen good will to cart waste back and forth. We have got to have a national program and national planning. This is what this legislation does and I commend those who have worked so hard to bring it forward today.

I am particularly interested in seeing us take advantage of the energy potential in waste which cannot be easily recycled into reusable resources. I have seen figures to imply that we could be generating 3 percent of our energy needs from municipal solid waste systems within the next 5 years.

What is needed is again to overcome the problem we continually seem to face in introducing new technology—we need to show communities what is available. We also need to perfect some of the emerging technology so that we would not begin programs that will have too many bugs that will sour communities on this important endeavor. We need to get going.

Mr. BROWN of California. I thank the gentleman for his remarks.

Mr. SKUBITZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Chairman, today

we are considering a vital piece of legislation, H.R. 14496, the Resource Conservation and Recovery Act of 1976. This bill is a major commitment of Federal assistance to State and local government efforts to meet the mounting problems associated with the 3 to 4 billion tons of solid waste generated annually in a comprehensive and effective manner. I compliment the Committee on Interstate and Foreign Commerce and the Committee on Science and Technology for their conscientious efforts in bringing forth this critical and timely legislation.

I had intended to offer an amendment to this bill to address what I firmly believe is a deficiency in this legislation. My amendment would have encouraged the reuse and recycling of beverage containers. It would have required a 5-cent refund value, redeemable upon return of the empty container, on all beer and soft drink bottles and cans. Additionally, it would have provided a 3-year phasein period for implementation of that requirement, and a phaseout of the detachable opening device on cans, commonly known as the flip-top.

There are many compelling reasons why this type of legislation is needed. Here are what I consider to be some of the most important.

ENERGY SAVINGS

The national energy savings resulting from implementation of a national returnable beverage container system would amount to approximately 245 trillion Btu's per year—enough to supply the electrical energy needs of New York and Chicago for 1 year—or the equivalent of some 50 million barrels of oil per year. If compared to other sources of energy, it is equivalent to the combined output of twelve 1,000-megawatt nuclear powerplants. By switching to returnables we could reduce the container industry's energy consumption by 42 percent. Therefore, you can readily see that the long-range potential benefits, in terms of energy savings, are enormous.

SOLID WASTE

The United States produces over 80 billion beverage containers a year. Of this amount, over 8 million tons of beer and soft drink containers per year are discarded. Beverage containers constitute between 60 and 80 percent of all litter by volume. Beverage containers are also the most rapidly growing segment of all municipal solid waste, increasing at a rate of 10 percent a year. Reliable projections estimate that with passage of beverage container legislation the United States would be able to reduce beverage container solid waste by 70 percent or 7.2 million tons by 1980.

RESOURCE SAVINGS

The savings in resources resulting from passage of this legislation are tremendous. It is estimated that 530,000 tons of aluminum, 1.5 million tons of steel, and 5.2 million tons of glass would be saved on an annual basis.

CONSUMER COSTS

The consumer spends 30 to 40 percent more for beverages in throwaway containers than in returnables. In terms of actual cost to the consumer this amounts to 2 cents more on a beverage purchased in a one-way bottle and 5 cents more on a beverage in a can. Translated into total yearly costs to the consumer, it has been estimated that consumers pay $1.5 billion more for beverages in throwaways than they would for the equivalent amount in returnables.

LITTER REDUCTION

It has been estimated that well over $500 million is spent annually disposing of beverage containers. Both Vermont and Oregon, States that have had returnable beverage container laws on the books for several years, have experienced significant reductions in their container litter counts, ranging between 60 and 80 percent.

There are several reasons I am not offering the amendment. First and foremost, with the adoption of the EPA guidelines discussed below, substantial progress is being made toward its goal to be accomplished by my amendment. An attempt was to be made to kill or postpone these guidelines. The implementation of these guidelines will provide valuable information and experience. It was important that these guidelines be preserved. With time fast ebbing in the session, both opponents and proponents of these guidelines and my amendment recognized that a prolonged debate or the addition of amendments might imperil this important legislation, and we decided to defer action.

Second, it is anticipated that shortly a study will be released by FEA which will shed more light on these issues. This study will make a later attempt more propitious.

Third, State referendums are pending, as well as actions in State legislatures. The results of these efforts will assist members in learning of the desires of their constituents.

Let us now examine the EPA guidelines.

The Environmental Protection Agency is making laudable efforts by promulgating beverage container guidelines for Federal facilities. The purpose of these guidelines is consistent with the statutory directives of the Solid Waste Disposal Act of 1965 (Public Law 89–272) as amended by the Resource Recovery Act of 1970 (Public Law 91–512). The guidelines would simply require implementation of a returnable beverage container system on all Federal facilities.

EPA estimates that the use of a returnable beverage container system on Federal facilities will result in energy savings equivalent to as much as 2,000 barrels of oil per day. The anticipated annual material savings could amount to as much as 6,000 tons of aluminum, 24,000 tons of steel, and 80,000 tons of glass. The guidelines are a small but important step forward.

Many opponents of these guidelines base their objections on the erroneous assumption that the guidelines will have a severe adverse impact on employment in the container manufacturing industry. This is not true, because the guidelines do not require either implicitly or explicitly, the use of any particular beverage container in preference to another. No matter what types of containers are used—bottles or cans or both—their return for reuse or recycling will bring about savings in energy and important raw materials. It should also be pointed out that in no way will these guidelines affect the distributors who supply the Federal facilities. Furthermore, these Federal facilities comprise only 2 to 4 percent of the national beverage market.

These guidelines have not been promulgated without a great deal of thought and a successful test.

A test program to reduce litter and solid waste is being conducted at Yosemite National Park in California. The program involves the placement of a 5-cent deposit on each can or bottle of beer or soft drink sold in the park. The deposit is refunded when the empty containers are returned to 1 of the 18 park redemption centers. The U.S. Environmental Protection Agency is monitoring the experiment by the park's concessionaire, the Yosemite Park and Curry Co.

At the latest count about 72 percent of all containers sold are being returned, a rate that compares favorably with experiences in Oregon and Vermont under their State laws requiring deposits refundable on return of empty containers. Last year the Yosemite Park and Curry Co., ran a voluntary recycling center and collected about a ton of empty containers over the year. This year under the refundable deposit system about a ton of returned cans and bottles are collected each week.

Most beverages sold at Yosemite National Park are in aluminum cans, but some are in tin-coated steel cans and some in glass bottles, mainly nonrefillable. The Yosemite Park and Curry Co., ships bottles and cans, along with old newspapers and cardboard, to Fresno, Calif., and sells them for recycling.

The test of the Yosemite refund system started May 17, 1976, and continued through September 19, 1976, or longer. The concessionaire company, to support this program, has news articles about the test running continuously in two park publications, the Yosemite Guide and the Yosemite Sentinel; posters are prominently displayed, and nightly talks by U.S. park rangers to park visitors incorporate information about the program.

It is interesting to note that under a nondeposit voluntary program the year before only 1 ton of containers were returned the whole year. Under the new deposit program 1 ton a week is being returned.

The guidelines will be phased in first through the Department of Defense with further study.

The test will involve exchanges, commissaries, clubs, messes, and package stores at the following Army, Navy, Air Force, and Marine Corps locations.

First, the Department of Defense—DOD—has selected 10 installations on which the Environmental Protection Agency's—EPA—beverage container guidelines will be test implemented for 1 year. The purpose of this DOD test is to evaluate the economic impacts of these guidelines on the military resale system, which includes exchanges, commissaries, clubs, messes, and package stores.

Since the test sites were selected as being representative installations from several categories of military bases in Conus, the results of this test will assist DOD in determining which categories of installations will implement the guidelines on a permanent basis. This determination of which Federal facilities will implement the beverage containers guidelines is to be made by all affected agencies within 1 year after the guidelines were published as final, which was on September 21, 1976.

The EPA hopes to learn how effective this program will be from an ecological and energy conservation viewpoint. The containers that are returned will be collected by each outlet that sells beverages on an installation, and will be disposed of through metal or glass reclamation companies. The goals of this program are to clean up litter, reclaim reusable materials, and save energy needed to produce more cans and bottles from raw materials.

At each installation participating in the program, throwaway cans and nonreturnable bottles will be stamped or marked with the notation that a 5-cent deposit is required. The money will be refunded when the container is returned to any return depository on the installation. Sale of beverages for consumption at the location of the sale; that is, clubs, messes—are exempt from the program.

Among the precepts of the program are evaluating costs of retrieving the 5-cent containers, handling costs for cooperage, storage, and sanitation of returned containers and pickup and disposal problems.

The Secretary of Defense will evaluate the report of the test and determine if the costs and benefits make it worthwhile.

It is clear to the proponents of the beverage container legislation that the preservation of these guidelines is a very significant step forward.

It is also clear that a large majority of our citizens concur in the need for this type of legislation according to a nationwide public opinion poll conducted for the Federal Energy Administration by the Opinion Research Corp. The results showed that 73 percent of the people polled were in favor of a nationwide deposit system for beverage containers, while only 15 percent were opposed. This approval rating is low when compared with the public support this measure has enjoyed in both Vermont and Oregon, a testament to the fact that returnable beverage container systems work, and work well.

One more word. Some of the most adamant opponents of this type of legislation contend that it would have severe adverse effects on employment in the container manufacturing industry. The origins of these concerns is the prediction, in various estimates of the impact of national beverage container legislation, that a major shift in the container mix from cans and nonrefillable bottles to refillable bottles would result from such legislation. Those estimates predict that a shift of national scope away from nonrefillable containers would cause the employment dislocations that these opponents fear. I would dispute the contention that serious economic dislocations will occur. A study which will soon be released by the Federal Energy Administration is reported to indicate that given passage of a national returnable beverage container law, the market share of cans will remain essentially stable. It will further indicate that not only will severe economic dislocations not occur, but a net gain in jobs will accompany implementation of a national system.

I would conclude by saying that we have made significant and substantial gains this year. The EPA guidelines have been published and will be implemented in the near future without fear of congressional veto.

Mr. MYERS of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support the passage of H.R. 14496, the Resource Conservation and Recovery Act of 1976.

Mr. Chairman, this legislation is the product of the cooperative efforts of the Science and Technology Committee and the Interstate and Foreign Commerce Committee. I believe the work of the two committees was complementary and has resulted in a more effective and comprehensive bill than could have been reported by either committee acting alone.

The solid waste problem has grown to alarming proportions in recent years. About 2.8 billion tons of solid waste are generated in this country every year. Mining and agricultural activities account for almost 2.4 billion tons, while the remainder comes from municipal and industrial sources. Although the latter accounts for a relatively small portion of the total, it represents a significant problem for State and local authorities. Municipal and industrial wastes naturally are concentrated around our urban areas. Thus, the disposal problem is aggravated by the high population density and its accompanying constraints on available land.

The irony of this situation is that much of the municipal waste contains valuable materials as well as having a meaningful energy content. H.R. 14496 addresses both resource recovery and the energy potential of solid waste.

An old saying is that "every cloud has a silver lining." The cloud of solid waste not only has a silver lining, but also a lining containing valuable steel, copper, aluminum, cast iron, wood pulp, and glass. The challenge and the opportunity exist for us to improve our solid waste disposal capability while at the same time recovering these materials. While the recovery of useful materials from solid waste has gone on for many years, the "salvage" business has been erratic. It has used relatively unsophisticated means to collect those materials which were easily retrievable and readily marketable. Thus, it has only tapped the surface of those materials recoverable from solid waste.

The Resource Conservation and Recovery Act would establish a program to improve our technology and equipment to extract useful materials over a broad spectrum of solid waste. The technology must be developed to efficiently separate useful materials from a complicated stream of solid waste. The legislation emphasizes that improved technology need not always mean complicated, sophisticated technology. Sophisticated technology can produce superior results but it often entails expensive equipment and machinery which are prone to breakdowns. Also, such systems usually require specially trained operators and specialized technicians for repairs. For a large urban area these aspects might not present a serious problem but for small- to medium-sized areas they would. Hence it is also necessary to develop simple, straightforward ways of resource recovery. This would make resource recovery systems easier to operate and maintain, and would increase the opportunity for their widespread use.

The second major feature of solid waste is its potential as a source of energy. Bulk municipal waste typically has a heat value of between 4,600 and 5,500 British thermal units—Btu's—per pound. By comparison, a pound of coal yields about 12,000 Btu. Thus, the energy content of municipal waste is great enough to make it a viable energy source. H.R. 14496 would augment existing programs in this area by providing for full-scale demonstration projects to test promising but unproven new technologies for the combustion or conversion of solid waste into useful forms of energy.

H.R. 14496 addresses the issue of the adverse environmental effect of solid waste disposal. It directs the Administrator to conduct studies and research on land disposal practices, hazardous waste disposal and sludge treatment. Of course the environment will be helped indirectly by the resource recovery and energy conversion aspects of the legislation, because they will reduce the amount of true waste which must be disposed.

The bill directs that special studies be conducted in specific areas where more knowledge is needed. These studies will provide the factual basis for future research, legislation, and policy practices. The studies include glass and plastic waste recovery; a survey of existing and promising techniques for energy conversion; front-end separation systems and mining wastes.

H.R. 14496 recognizes that in dealing with both solid waste disposal, energy conversion and environment effects it cuts across the responsibilities of the Environmental Protection Agency—EPA—and the Energy Research and Development Administration—ERDA. To insure that this program is carried out smoothly the bill emphasizes that the EPA and ERDA cooperate and coordinate their activities. An intraagency coordinating committee is established to insure that within the EPA itself this effort receives the attention and priority which it deserves.

The bill authorizes $35 million for fiscal year 1978 to carry out the general provisions of part II and $10 million for fiscal year 1978 and fiscal year 1979 to carry out the special studies. It also includes an improved reporting and disclosure provision for EPA employees who administer this act. The "Sunshine Regulations" will increase public confidence in the performance of EPA employees and reduce any temptation for self-serving action which might exist.

Mr. Chairman, as our committee report details, millions of tons of paper, valuable metals, glass, and other waste materials which could be reused or burned for their energy value, are discarded. At the same time in many areas of the country we are running out of places to put our trash. This bill represents a major congressional commitment to the solution of these problems. It shows that we are willing to face our solid waste problems and provide the funds for development of constructive, environmentally sound solutions. The time for congressional action to reduce this waste is now. We must recapture these valuable materials. We cannot afford to throw away billions of Btu's. We must solve environmental problems in waste disposal.

The bill is not just an attempt to solve urban waste disposal problems. It addresses the needs of our smaller municipalities by authorizing development of models for small scale resource recovery. The bill recognizes that rural and small town areas of our country have waste problems and addresses the needs of these regions as well as the well-publicized needs of our urban neighbors.

Mr. Chairman, I believe the Resource Conservation and Recovery Act is well-balanced and comprehensive legislation. I urge the Members to join me in supporting it.

Mr. DRINAN. Mr. Chairman, I rise in strong support of the Resource Conservation and Recovery Act, H.R. 14496. This legislation will significantly aid our States, cities, and towns in developing plans and methods to alleviate America's huge solid waste problems. In addition, H.R. 14496 will focus our efforts on utilizing municipal trash and other wastes as a resource, whose energy content and recycled materials can yield rich dividends.

I have been particularly active in the area of energy recovery from solid waste, Mr. Chairman, and from my involvement here, I can attest to the fact that H.R. 14496 will greatly accelerate Federal efforts in "mining" the energy potential in trash. I know that many of my colleagues in this Chamber share my interest in resource recovery, as 103 Members of Congress have now cosponsored my Solid Waste Energy and Resource Recovery Act, H.R. 12380. I am pleased to say that the bill now before the House includes almost all of the provisions of my Solid Waste Act, and I can therefore enthusiastically endorse H.R. 14496 to the many Members who have cosponsored my original legislation.

It is unusual that an environmental bill such as the Resource Conservation and Recovery Act should be so instrumental in bringing about new energy supplies, but this is exactly what new solid waste technologies have accomplished. Conservative estimates indicate that the energy which was available from municipal solid waste in 1973 alone was equal to:

The amount of energy needed to light every home and office in the United States;

Twenty-eight percent of the oil projected to be delivered through the Alaskan pipeline;

Ten percent of all the coal consumed by utilities in 1973; or

Four point six percent of the fuel consumed by all utilities in 1973.

More recent figures from the Environmental Protection Agency and the MITRE Corp. show that the solid waste energy potential is now greater than the equivalent of 200 million barrels of oil per year or 500,000 barrels of oil per day.

Mr. Chairman, the energy aspects of H.R. 14496 are extremely important, but we cannot ignore the very substantial environmental advances which we will be making at the same time through the passage of this legislation. The disposal of municipal trash has become an enormous problem for America's towns and cities. Total postconsumer waste increased from 125 million tons in 1971 to 135 million tons in 1973, and it is now expected to rise to 225 million tons by 1990.

Even if this country is able to implement a waste reduction program and quadruple the amount of solid waste which we now process through resource recovery facilities, we will still be faced with having to dispose of 30 million more tons of trash in little more than 10 years from now. This means that we cannot tolerate slow progress in this area. Unless a truly accelerated program is begun in which we greatly increase the number of resource recovery facilities in operation, the United States could find itself sinking in its own mountains of solid waste.

I would like to address myself to one additional environmental problem which is addressed by H.R. 14496, and that is the significant threat of sludge. Sludge represents one of the newest and fastest-growing environmental problems now facing many American cities and towns. Nearly 300 million tons of wet sludge is being generated in the United States each year, but the methods which our municipalities have found to dispose of the sludge are hardly satisfactory. Cities on both the east and west coasts are dumping the sludge in our oceans in huge quantities, and one hardly needs a crystal ball to predict the future harm which could result from this practice. Indeed, according to the General Accounting Office, the lax enforcement of ocean dumping regulations has allowed wastes to be dumped in the Atlantic Ocean which exceed safety levels 100 times over for heavy metals such as mercury and cadmium.

Mr. Chairman, while we are being increasingly exposed to the dangers of sludge, our scientists and engineers know surprisingly little about this substance, its properties, and safe methods of disposal. Ideally, we should be able to use sludge to produce energy or make fertilizer for farming purposes. But there are many problems to be worked out with both of these methods. H.R. 14496 therefore authorizes a very extensive study and investigation of sludge and the ways in which it may be profitably utilized.

The research and development on sludge which is called for by the Resource Conservation and Recovery Act is a good beginning. Yet in view of the urgency of the problem, I would suggest that the Congress turn its attention to more comprehensive legislation in the very next session. I have introduced the Sludge Management Act, H.R. 14638, which over 30 Members of Congress have already cosponsored in the short time since it was originally filed on June 30, 1976. This bill could be the framework for new legislation in this area, though as I have indicated, the bill now before us does make a worthy beginning in the assault against sludge.

Mr. Chairman, I have worked very closely with both the House Commerce and Science and Technology Committees as they have drafted, marked up, and finally reported out the Resource Conservation and Recovery Act, and I commend their efforts. The bill provides a balanced program for substantially accelerating the recovery of valuable energy and recycled materials from solid waste. I know that the results which H.R. 14496 will bring about will be of lasting importance to cities and towns throughout the United States.

I wholeheartedly urge my colleagues to support the Resource Conservation and Recovery Act as it is considered on the House floor today.

Mr. WINN. Mr. Chairman, I endorse H.R. 14496, the Resource Conservation and Recovery Act of 1976.

The disposal of solid waste has become an ever-increasing dilemma for our urban areas. The research and development title of H.R. 14496 seeks to bring a focus to the Federal R. & D. effort in this area. The objectives of this effort include not only the physical disposal of solid waste but also ways to convert waste into useful forms of energy and to minimize the adverse environmental impact of waste disposal.

In particular, the bill addresses the need to develop small-scale systems using simple technology which could be readily used in small towns or in city subdivisions; to improve separation systems so that useful materials can be easily salvaged; to improve sludge disposal practices; and to investigate the effect of incinerator emissions on air quality.

In addition the bill would authorize 11 special studies to zero in on specific areas of widespread concern. They include the sludge byproduct of coal-based synthetic fuel operations; automobile tires; glass and plastic waste; and waste from mineral excavations.

The Federal focus is furthered by reinforcing EPA's role in collecting, coordinating, and disseminating information on solid waste management and resource recovery. EPA will act as a clearinghouse of information for groups wishing to embark on solid waste programs. The EPA is encouraged to help State and local agencies in evaluating and monitoring waste disposal systems.

In earlier years we often discarded valuable resources out of ignorance. A century ago gold prospectors in Nevada cursed the greyish deposits which hampered their search for gold. Later they discovered what they were cursing was silver. Today many persons have the same attitude toward solid waste and they are similarly ignoring a valuable resource. H.R. 14496 is designed to undertake the studies and the research necessary to effectively tap the potential of solid waste for material reclamation and energy production.

Mr. Chairman, the solid waste problem in this country has literally been building up for years. H.R. 14496 is responsible legislation which permits us to cope with the problem before we are buried under it. I urge the Members' support for H.R. 14496.

Mr. ROGERS. Mr. Chairman, I rise in support of H.R. 14496, the Resource Conservation and Recovery Act of 1976. This bill comes 10 years after the first congressional initiative in this area, when Congress enacted the Solid Waste Disposal Act of 1965. In 1970, we expanded that act, with the passage of the Resource Recovery Act of 1970, establishing grants for research and demonstration of ways to reduce the environmental impact of solid waste disposal and promote the recovery of energy and raw materials. Both of these laws were major initiatives, and the experience under them has been extensively considered, in the 93d Congress by the Subcommittee on Health and Environment, and in the 94th Congress by the Subcommittee on Transportation and Commerce.

In reporting H.R. 14496 to the House the sense of urgency which first prompted action in this area remains: we are told that five of our major cities have already run out of landfill area and 50 will run out within 5 years. But events since 1970 have given us a new sense of urgency demanding that the further steps of this legislation be taken.

The first is our increased understanding of the health risks of hazardous substances being dumped into our surroundings. I do not have to remind the Members of the House, who are aware of instances in their own districts, of the recent experiences with Kepone, PBB's, and PCB's. But these are just nationally known examples of what we have discovered is a pervasive problem—how to keep discarded hazardous substances out of our drinking water and food supplies. Under this bill, for the first time, we will identify these substances and keep track of them to a proper disposal site.

A second area of increased awareness resulted from the Arab oil embargo of October 1973, which served to point up a domestic energy situation which was already developing into an "energy crisis." In 1970, we had written into the law that EPA should include energy recovery in the solid waste demonstration and research program. Now it has become much more important to develop this additional national energy source. And I might say that the economics of energy recovery have now changed, thanks to the OPEC quadrupling of oil prices, so that the cost of producing energy from waste can compare favorably with that of conventional fossil fuels.

A third area in which our awareness had increased is in the need for a national materials policy. It is difficult to recall, after our experience with this extraordinarily deep recession, that there was a period in 1973 when our offices were beleaguered with complaints from those who were unable to find enough newsprint, enough copper or steel, enough foundry products, to do business. We still receive intermittent reports of such shortages, even with our industrial plants running at three-fourths of their capacity. And we find that raw materials are among greatest causes of the inflation which is still with us. Congress has established a National Commission on Shortages and Scarcities to study this paradoxical situation, and I think the bill we are considering today will play an important part in our ability to manage our natural resources in some rational way.

Finally, our experience under the 1965 and 1970 acts has shown that the current lack of areawide or statewide planning is a major impediment to our progress in handling discarded materials. On this point, I would note that Florida is one of the six States which have started areawide planning for alternatives to present methods of solid waste disposal.

In short, these experiences have shown us that we must do more, now, to solve discarded-materials problems which are part of a larger picture than we suspected in passing the original law in 1965. This legislation will assist our local and State governments in solving their discarded-materials problems, will provide for national protection against the improper disposal of hazardous substances, and will strengthen the research program initiated under the previous legislation. As such I think it will be a major contribution to the public health, to our energy independence, and to our economic well-being, and I urge each Member of the House to support its passage.

Mr. TEAGUE. Mr. Chairman, I rise in support of the bill Chairman STAGGERS is bringing before you today, H.R. 14496, because part 2 of the bill was developed in the Committee on Science and Technology.

You have before you a bill that represents the best cooperative efforts of both committees, and I think that fact strongly recommends its passage. I would like to take just a few minutes to describe how this cooperative effort came to pass.

Exercising the Science Committee's jurisdiction over environmental research, we held hearings—before Mr. BROWN's Subcommittee on the Environment and the Atmosphere—on solid waste research and development earlier this year.

Subsequently, in cooperation with Chairman STAGGERS and Chairman ROONEY, we drafted a research, development, and demonstration bill responsive to points made in the hearings. We had no controversy in marking up this bill, it was ordered reported by a unanimous voice vote of the full Science Committee on August 10, and the report was filed on September 1, 1976.

We had previously agreed with Chairman STAGGERS that they would incorporate our bill into theirs so that the combined bill would represent a comprehensive approach to the various problems in solid waste management and resource recovery. Also, the combined bill is comparable in scope to the Senate-passed bill, S. 2150.

The House Interstate and Foreign Commerce Committee did make our language part 2 of their bill, as agreed, and that is why we are here together today. I am very happy to be able to report on this example of constructive cooperation between committees, and I thank Chairman STAGGERS and Chairman ROONEY for their help.

I want to emphasize that this bill had broad support in our committee. The bill was developed through our Subcommittee on the Environment and the Atmosphere because most of the problems addressed are environmental in nature. You and the Members also know that recovery of energy from solid waste is an important new area of technology. In fact, the availability of energy from solid waste will undoubtedly "pull" the development and implementation of new technologies for dealing with waste. For this reason the bill was developed with close cooperation between Mr. BROWN's Subcommittee on the Environment and the Atmosphere and the Energy Research, Development, and Demonstration Subcommittee. The chairman and the ranking minority member of that energy subcommittee, Mr. MCCORMACK and Mr. GOLDWATER, included additional views in our report, and their first sentence states very well one major reason why the bill should be passed. They said:

> This legislation represents a major milestone in the continuing Congressional efforts to forge an effective coordination of our Nation's energy and environmental research and development programs.

We asked for, and received, an open rule, because I feel the House should be able to work its will. On the other hand I feel that our part of the bill is in good shape—we have worked hard on it—and I do not believe any significant amendments are needed.

In sum, Mr. Chairman, I think we need this bill, and I hope all the Members can support it.

Mr. FRASER. Mr. Chairman, I want to indicate my support for the Resource Conservation and Recovery Act, H.R. 14496.

I am particularly pleased that the Interstate and Foreign Commerce Committee has added a provision to section 406 of this bill which will enable the metropolitan council in Minnesota to undertake discarded materials planning. In most metropolitan areas, regional planning is carried out by councils of governments—COG's—which are composed of representatives of local governments. In the seven county Minneapolis-St. Paul metropolitain area, however, areawide planning is the responsibility of the metropolitan council.

Unlike the COG's, the council is not composed of local elected officials. Instead, its 15 members are appointed by the Governor of Minnesota.

The metropolitan council already has broad authority under State law to undertake planning in the area of resource conservation. Section 406 of this bill will enable the council to continue this important responsibility.

Mr. LEGGETT. Mr. Chairman, we are considering today one of the most pressing and difficult environmental problems—the disposal of solid wastes, or discarded materials—that now confronts the Nation. H.R. 14496, the Resource Conservation and Recovery Act of 1976, takes a three-pronged approach to solving the problems associated with solid waste. The bill would establish mandatory Federal controls on the disposition of hazardous wastes, a program of grants to encourage the States to develop management plans for discarded materials, and an expanded EPA effort on solid waste R. & D.

Solid waste clearly represents a problem of enormous and growing dimensions. The amount of solid waste or discarded materials which the Nation must now dispose of is variously estimated to total between 3 and 4 billion tons per year. That figure is expected to grow about 8 percent annually over the next decade. The most widespread method of disposing of all this discarded material is via sanitary landfill.

Our approach to dealing with the solid waste problem ought to focus basically on three considerations. The foremost is that the disposal of these enormous masses of materials poses a major danger both to the health and safety of our people and to the quality of the environment. Moreover, land to be used for disposal operations is becoming increasingly scarce and expensive, which is one reason why the hazardous practice of ocean dumping is becoming more prevalent.

Disposal of solid wastes can have a number of adverse impacts. Contamination of ground water by leachate from land disposal, or of surface water by runoffs from landfills, is one of the foremost problems. Landfills also can pollute the air through incineration or evaporation, and they increase the risk of fires and explosions.

The costs of collection and disposal, now estimated at $3.5 billion a year nationally, are an enormous burden. And they can only go up as landfill sites become harder to find. Furthermore, it will become more and more difficult for landfills and incinerators to meet pollution control standards.

The implication of these constraints is that we must find ways to cut the amount of solid waste which must be disposed of. We must make a major effort to develop advanced resource recovery techniques, which will enable us to produce energy and other resources and recycled materials.

Such an approach will benefit us doubly. Not only will we reduce the dimensions of the waste disposal problem, we will also reduce consumption of energy, raw materials, and other resources.

For just in the energy sphere, there is evidence that the energy potential of America's solid waste is the equivalent of more than 200 million barrels of oil a year, which is over a quarter of the oil expected to be delivered through the Alaska pipeline.

As the first step toward implementing this multifaceted approach to the solid waste problem, title I of H.R. 14496 would establish an Office of Discarded Materials within EPA with authority to implement the act. This office would provide both technical and financial assistance to State, regional, and local agencies which were developing discarded materials plans or hazardous waste management programs.

Title II would confer on EPA authority to establish minimum standards for hazardous wastes. EPA would have authority to identify those which are hazardous, and in what quantities, qualities, and concentrations, as well as determine which disposal methods pose hazards. States would, however, have the power to develop and implement their own standards program, if it was the equivalent of Federal standards and regulations. EPA would issue regulations to govern those sources which generate or transport hazardous waste, as well as those which treat, store, or dispose of it. The Administrator would also have the power to recommend methods of treatment, storage, or disposal and to provide technical assistance to operators of facilities performing these functions.

The bill would also establish, in title IV, a procedure for States and regions to develop comprehensive plans, in conformance with EPA guidelines, for handling all discarded materials. The States would have to meet a number of minimum requirements for sanitary and environmentally sound disposal of these materials. One of the primary aims of this part of the bill is to encourage close cooperation between State and local governments in implementing effective disposal plans.

Even with improved waste disposal planning and management, we know that to really get a handle on this problem we will need both improved disposal techniques and new resource recovery technologies. It is the purpose of part II of the bill to promote research and development in both of these areas. This provision would authorize EPA to conduct research, development, and demonstration projects in sludge management, air quality, and other waste disposal areas as well as studies of 11 different resource recovery and related subjects.

The bill would authorize a total of $241 million under part I for implementation of the new authorities, hazardous waste and discarded materials planning assistance, and other purposes. Part II would provide $45 million for the various types of R. & D. contemplated by the bill.

Mr. Chairman, these sums are small compared to the need to find solutions to this difficult and growing problem. I urge my colleagues to support this bill as a necessary step in that direction.

The CHAIRMAN. If there are no further requests for time, pursuant to the rule, the Clerk will now read by titles part I of the committee amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce, now printed in the bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 14496

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PART I

TITLE I—GENERAL PROVISIONS

SHORT TITLE AND TABLE OF CONTENTS

SEC. 101. This Act, together with the following table of contents, may be cited as the "Resource Conservation and Recovery Act of 1976":

PART I

TITLE I—GENERAL PROVISIONS

Sec. 101. Short title and table of contents.
Sec. 102. Congressional findings.
Sec. 103. Objectives.
Sec. 104. Definitions.
Sec. 105. Governmental cooperation.
Sec. 106. Application of Act and integration with other Acts.

TITLE II—OFFICE OF DISCARDED MATERIALS; AUTHORITIES OF THE ADMINISTRATOR

Sec. 201. Office of Discarded Materials.
Sec. 202. Authorities of Administrator.
Sec. 203. Supervision of litigation.
Sec. 204. Development, evaluation, and dissemination of information.
Sec. 205. Resource recovery and conservation panels.
Sec. 206. Study on mining waste.
Sec. 207. Sludge study.
Sec. 208. Grants for discarded tire disposal.
Sec. 209. Annual report.
Sec. 210. General authorization.

TITLE III—HAZARDOUS WASTE MANAGEMENT

Sec. 301. Identification and listing of hazardous waste.
Sec. 302. Standards applicable to generators of hazardous waste.
Sec. 303. Standards applicable to transporters of hazardous waste.
Sec. 304. Standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities.
Sec. 305. Permits for treatment, storage, or disposal of hazardous waste.
Sec. 306. Authorized State hazardous waste permit programs.
Sec. 307. Inspections.
Sec. 308. Federal enforcement.
Sec. 309. Retention of State authority.
Sec. 310. Effective date.
Sec. 311. Authorization of assistance to States.

TITLE IV—STATE OR REGIONAL DISCARDED MATERIALS PLANS

Sec. 401. Objectives of title.
Sec. 402. Federal guidelines for plans.
Sec. 403. Minimum requirements for approval of plans.
Sec. 404. Criteria for sanitary landfills; sanitary landfills required for all disposal.
Sec. 405. Upgrading of open dumps.
Sec. 406. Procedure for development and implementation of State plan.
Sec. 407. Approval of State plan; Federal assistance.
Sec. 408. Federal assistance.
Sec. 409. Repeal of existing authority

TITLE V—DUTIES OF THE SECRETARY OF COMMERCE IN RESOURCE CONSERVATION AND RECOVERY

Sec. 501. Functions.
Sec. 502 Development of specifications for secondary materials.
Sec. 503. Development of markets for recovered materials.
Sec. 504. Technology promotion.
Sec. 505. Information exchange.

TITLE VI—FEDERAL RESPONSIBILITIES

Sec. 601. Application of Federal, State, and local law to Federal facilities.
Sec. 602. Federal procurement.

Sec. 603. Cooperation with Environmental Protection Agency.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Employee protection.
Sec. 702. Citizen units.
Sec. 703. Imminent hazard.
Sec. 704. Petition for regulation.
Sec. 705. Separability.

PART II

Sec. 2001. Short title.
Sec. 2002. Findings.
Sec. 2003. Definitions.
Sec. 2004. Continuing studies, research, etc.
Sec. 2005. Special studies, information, full scale facilities, and coordinating committee.
Sec. 2006. Authorization of appropriations.
Sec. 2007. Sunshine regulations.

CONGRESSIONAL FINDINGS

SEC. 102. (a) ENVIRONMENT AND HEALTH.—The Congress finds with respect to the environment and health, that—

(1) although land is too valuable a national resource to be needlessly polluted by discarded materials, most discarded materials are disposed of on land in open dumps and sanitary landfills;

(2) disposal of discarded materials and hazardous waste in or on the land without careful planning and management can present a danger to human health and the environment;

(3) as a result of the Clean Air Act, the Water Pollution Control Act, and other Federal and State laws respecting public health and the environment, greater amounts of discarded material (in the form of sludge and other pollution treatment residues) have been created, while, similarly, inadequate and environmentally unsound practices for the disposal or use of discarded material have created greater amounts of air and water pollution and other problems for the environment and for health;

(4) open dumping is particularly harmful to health, contaminates drinking water from underground and surface supplies, and pollutes the air and the land;

(5) hazardous waste presents, in addition to the problems associated with discarded material, special hazards for health and requires a greater degree of regulation than does discarded material; and

(6) alternatives to existing methods of land disposal must be developed if problems associated with projected increases in the volume of discarded materials and hazardous waste are to be alleviated.

(b) MATERIALS.—The Congress finds with respect to materials, that—

(1) millions of tons of recoverable material which could be used are needlessly buried each year;

(2) methods are available to separate usable materials from other discarded materials; and

(3) the recovery and conservation of such materials can reduce the dependence of the United States on foreign resources and reduce the deficit in its balance of payments.

(c) ENERGY.—The Congress finds with respect to energy, that—

(1) discarded materials represent a potential source of solid fuel, oil, or gas that can be converted into energy;

(2) the need exists to develop alternative energy sources for public and private consumption in order to reduce our dependence on such sources as petroleum products, natural gas, nuclear and hydroelectric generation; and

(3) technology exists to produce usable energy from discarded materials.

OBJECTIVES

SEC. 103. The objectives of this Act are to promote the protection of health and the environment and to conserve valuable material and energy resources by—

(1) establishing a cooperative effort among the Federal, State, and local governments and private enterprise in order to recover valuable materials and energy from discarded material;

(2) providing technical and financial assistance to State and local governments and interstate agencies for the development of discarded material plans (including resource recovery systems) which will promote improved discarded material management techniques (including more effective organizational arrangements), new and improved methods of collection, separation, and recovery of discarded material, and the environmentally safe disposal of nonrecoverable residues;

(3) prohibiting future open dumping on the land and requiring the conversion of existing open dumps to facilities which do not pose a danger to the environment or to health; and

(4) regulating the treatment, storage, transportation, and disposal of hazardous wastes which have adverse effects on health and the environment.

DEFINITIONS

SEC. 104. As used in this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "discarded material" means any garbage, refuse, sludge, or other waste, including solid, liquid, semisolid, or contained gaseous material from any source.

(3) The terms "discarded material planning", "discarded material management" and "comprehensive planning" include planning or management respecting resource recovery and resource conservation.

(4) The term "Federal agency" means any department, agency, or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including any Government corporation, and the Government Printing Office.

(5) The term "hazardous waste" means a discarded material, or combination of discarded materials, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may—

(A) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or

(B) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

(6) The term "hazardous waste generation" means the act or process of producing hazardous waste.

(7) For purposes of Federal financial assistance, the term "implementation" does not include the acquisition, leasing, construction, or modification of facilities or equipment or the acquisition, leasing, or improvement of land and after December 31, 1979, such term does not include salaries of employees due pursuant to title IV of this Act.

(8) The term "long-term contract" means, when used in relation to discarded material supply, a contract of sufficient duration to assure the viability of a resource recovery facility (to the extent that such viability depends upon discarded material supply).

(9) The term "manifest" means the form used for identifying the quantity, composition, and the origin, routing, and distination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(10) The term "municipality" (A) means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law, with responsibility for the planning or administration of discarded material management, or an Indian tribe or authorized tribal organization or Alaska Native village or organization, and (B) includes any rural community or unincorporated town or village or any other public entity for which an application for assistance is made by a State or political subdivision thereof.

(11) The term "open dump" means a site for the disposal of discarded material which is not a sanitary landfill within the meaning of section 404.

(12) The term "person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, any interstate body.

(13) The term "procurement item" means any device, good, substance, material, product, or other item whether real or personal property which is the subject of any purchase, barter, or other exchange made to procure such item.

(14) The term "procuring agency" means any Federal agency, or any State agency or agency of a political subdivision of a State which is using appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract.

(15) The term "recoverable" refers to the capability and likelihood of being recovered from discarded material for a commercial or industrial use.

(16) The term "recovered material" means material which has been collected or recovered from discarded material.

(17) The term "recovered resources" means material or energy recovered from discarded material.

(18) The term "resource conservation" means the reduction of overall resource consumption, and utilization of recovered resources.

(19) The term "resource recovery" means the recovery of material or energy from discarded material.

(20) The term "resource recovery facility" means any facility at which discarded material is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing discarded material for reuse.

(21) The term "regional authority" means the authority established or designated under section 406.

(22) The term "sanitary landfill" means a facility for the disposal of discarded material which meets the criteria published under section 404.

(23) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(24) The term "State authority" means the agency established or designated under section 407.

(25) The term "storage", when used in connection with hazardous waste, means the containment of hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste.

(26) The term "treatment", when used in connection with hazardous waste, means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

(27) The term "virgin material" means a raw material, including previously unused copper, aluminum, lead, zinc, iron, or other

metal or metal ore, any undeveloped resource that is, or with new technology will become, a source of raw materials.

GOVERNMENTAL COOPERATION

SEC. 105. (a) INTERSTATE COOPERATION.—The provisions of this Act to be carried out by States may be carried out by interstate agencies and provisions applicable to States may apply to interstate regions where such agencies and regions have been established by the respective States and approved by the Administrator. In any such case, action required to be taken by the Governor of a State, respecting regional designation shall be required to be taken by the Governor of each of the respective States with respect to so much of the interstate region as is within the jurisdiction of that State.

(b) CONSENT OF CONGRESS TO COMPACTS.—The consent of the Congress is hereby given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for—

(1) cooperative effort and mutual assistance for the management of discarded materials or hazardous waste (or both) and the enforcement of their respective laws relating thereto, and

(2) the establishment of such agencies, joint or otherwise, as they may deem desirable for making effective such agreements or compacts.

No such agreement or compact shall be binding or obligatory upon any State a party thereto unless it is agreed upon by all parties to the agreement and until it has been approved by the Administrator and the Congress.

APPLICATION OF ACT AND INTEGRATION WITH OTHER ACTS

SEC. 106. (a) APPLICATION OF ACT.—Nothing in this Act shall be construed to apply to (or to authorize any State, interstate, or local authority to regulate) any activity or substance which is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151 and following), the Safe Drinking Water Act (42 U.S.C. 300f and following), the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1401 and following), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 and following) except to the extent that such application (or regulation) is not inconsistent with the requirements of such Acts.

(b) INTEGRATION WITH OTHER ACTS.—The Administrator shall integrate all provisions of this Act for purposes of administration and enforcement and shall avoid duplication, to the maximum extent practicable, with the appropriate provisions of the Solid Waste Disposal Act (42 U.S.C. 3251 and following), the Clean Air Act (42 U.S.C. 1857 and following), the Federal Water Pollution Control Act (33 U.S.C. 1151 and following), the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 and following), the Safe Drinking Water Act (42 U.S.C. 300f and following), the Marine Protection Research and Sanctuaries Act of 1972 (33 U.S.C. 1401 and following) and such other Acts of Congress as grant regulatory authority to the Administrator. Such integration shall be effected only to the extent that it can be done in a manner consistent with the goals and policies expressed in this Act.

TITLE II—OFFICE OF DISCARDED MATERIALS: AUTHORITIES OF THE ADMINISTRATOR

OFFICE OF DISCARDED MATERIALS

SEC. 201. The Administrator shall establish within the Environmental Protection Agency an Office of Discarded Materials (hereinafter referred to as the "Office") to be headed by a Deputy Assistant Administrator of the Environmental Protection Agency. The duties and responsibilities (other than duties and responsibilities relating to research and development) of the Administrator under this Act and under the Solid Waste Disposal Act (42 U.S.C. 3251 and following) (as modified by applicable reorganization plans) shall be carried out through the Office.

AUTHORITIES OF ADMINISTRATOR

SEC. 202. (a) AUTHORITIES.—In carrying out this Act, the Administrator is authorized to—

(1) prescribe, in consultation with Federal, State, and regional authorities, such regulations as are necessary to carry out his functions under this Act;

(2) consult with or exchange information with other Federal agencies undertaking research, development, demonstration projects, studies, or investigations relating to discarded materials;

(3) provide technical and financial assistance to States or regional agencies in the development and implementation of discarded materials plans and hazardous waste management programs;

(4) consult with representatives of science, industry, agriculture, labor, environmental protection and consumer organizations, and other groups, as he deems advisable; and

(5) utilize the information, facilities, personnel, and other resources of Federal agencies, including the National Bureau of Standards and the National Bureau of the Census, on a reimbursable basis, to perform research and analyses and conduct studies and investigations related to resource recovery and conservation and to otherwise carry out the Administrator's functions under this Act.

(b) REVISION OF REGULATIONS.—Each regulation promulgated under this Act shall be reviewed and, where necessary, revised not less frequently than every three years.

SUPERVISION OF LITIGATION

SEC. 203. Nothwithstanding any other provision of law, in any civil action under this Act brought by the Administrator against any officer, employee, department, agency, or instrumentality of the United States, the Administrator shall have exclusive authority to commence and supervise the litigation of such action and any appeal of such action (including appeal or writ of certiorari in the Supreme Court) in his own name by any attorney of the Environmental Protection Agency designated by him for such purpose, unless the Administrator authorizes the Attorney General to do so. The Administrator shall inform the Attorney General of the exercise of such authority and such exercise shall not preclude the Attorney General from intervening under any other authority of law on behalf of the United States in such action and any appeal of such action.

DEVELOPMENT, EVALUATION, AND DISSEMINATION OF INFORMATION

SEC. 204. (a) COLLECTION OF INFORMATION.—The Administrator shall develop and evaluate information on—

(1) methods and costs of the collection of discarded materials;

(2) discarded materials management practices, including data in the different management methods and the cost, operation, and maintenance of such methods;

(3) the amounts and percentages of resources (including energy) that can be recovered from discarded materials by use of various discarded materials management practices and various technologies;

(4) methods available to reduce the amount of discarded materials that are generated;

(5) existing and developing technologies for the recovery of energy or materials from discarded materials and the costs, reliability, and risks associated with such technologies;

(6) hazardous waste, including damage incidents as a result of the disposal of hazardous wastes; inherently and potentially hazardous wastes; methods of neutralizing, storing, transporting, treating, labeling, or properly disposing of hazardous wastes; facilities that properly store, treat, or dispose of hazardous wastes;

(7) methods of financing resource recovery facilities or, sanitary landfills, or hazardous waste treatment facilities, whichever is appropriate for the entity developing such facility or landfill (taking into account the amount or nature of discarded material or hazardous waste reasonably expected to be available to such entity); and

(8) the availability of markets for the purchase of resources, either materials or energy, recovered from discarded materials.

(b) REFERENCE LIBRARY AND DISSEMINATION OF INFORMATION.—The Administrator shall establish and maintain a central reference library for the materials collected pursuant to subsection (a) of this section and the actual performance and cost effectiveness records and other data and information with respect to—

(1) the various methods of energy and materials recovery from discarded material.

(2) the various systems and means of resource conservation,

(3) the various systems and technologies for collection, transport, storage treatment, and final disposition of discarded material, and

(4) other aspects of discarded materials and hazardous waste management.

Such central reference library shall also contain, but not be limited to, the model codes and model accounting systems developed under this section, the information collected under subsection (e) (relating to resource conservation and recovery), and, subject to the confidentiality required pursuant to section 1905 of title 18 of the United States Code, information provided by resource recovery panels which has been acquired by such panels in the conduct of their functions under this Act and which may be of value to Federal, State, and local authorities and other persons. Such information shall, to the extent practicable, be published and shall be made available to State and local governments and other persons at reasonable times and subject to such reasonable charges as may be necessary to defray expenses of making such information available. The administrator shall also implement a program for the rapid dissemination of information relating to all such aspects of discarded materials and hazardous waste management, including the results of any research, developments, demonstrations, investigations, experiments, surveys, studies relating to discarded materials or hazardous wastes that are undertaken by other Federal agencies.

(c) MODEL CODES.—The Administrator is authorized, in cooperation with appropriate State and local agencies, to recommend model codes, ordinances, and statutes, including codes, ordinances, and statutes designed to implement title IV of this Act.

(d) MODEL ACCOUNTING SYSTEM.—In order to assist State and local governments in determining the costs and revenues associated with the collection and disposal of discarded material and with resource recovery operations, the Administrator shall develop and publish a recommended model cost and revenue accounting system applicable to the collection, disposal, and other discarded material management functions of State and local governments. Such systems shall be in accordance with generally accepted accounting principles. The Administrator shall periodically, but not less frequently than once every five years, review such accounting system and revise it as necessary.

(e) INFORMATION CONCERNING RESOURCE CONSERVATION AND RECOVERY.—The Administrator shall collect and make available (through public education programs, publications, or other appropriate means), information concerning the activities of the Office pertaining to research, development, feasibility and operation of resource conservation and recovery facilities, and any other technical, managerial, financial, or market aspect of such facilities.

(f) COOPERATION WITH STATE AND LOCAL AUTHORITIES.—In collecting and disseminating information under this section, the Administrator shall coordinate his actions and cooperate to the maximum extent possible with State and local authorities.

RESOURCE RECOVERY AND CONSERVATION PANELS

SEC. 205. (a) ESTABLISHMENT AND COMPOSITION.—The Administrator shall establish within the Office, Resource Recovery and Conservation Panels, each to be composed of four members. Each such Panel shall have—

(1) one member with expertise in the financing of resource recovery facilities and in product marketing for products of resource recovery operations,

(2) one member with expertise in techniques, methods, and systems of resource conservation,

(3) one member with expertise in the technology of resource recovery, and

(4) one member with special knowledge respecting the legal and institutional barriers to effective and successful resource recovery efforts.

Such members may be officers or employees of the Environmental Protection Agency or officers or employees of any other agency of the United States either detailed to the Administrator on a reimbursable basis or assigned under contract or cooperative agreement.

(b) DUTIES.—Resource Recovery and Conservation Panels shall—

(1) assist State, local, and regional authorities in planning the construction and operation of resource recovery facilities pursuant to title IV of this Act, and

(2) study and provide assistance to State and local governments respecting programs for resource conservation and programs for resource recovery, including the financial, marketing, technical, legal, and institutional aspects of such programs.

STUDY ON MINING WASTE

SEC. 206. (a) STUDY AND REPORT.—The Administration shall undertake a study and publish a report on discarded material resulting from mining. Such study shall include an analysis of—

(1) the sources and volume of discarded material generated per year from mining;

(2) present disposal practices;

(3) potential dangers to human health and the environment from surface runoff of leachate and air pollution by dust;

(4) alternatives to current disposal methods;

(5) the cost of those alternatives in terms of the impact on mine product costs; and

(6) potential for use of discarded material as a secondary source of the mine product.

(b) AUTHORIZATION.—There is authorized to be appropriated $500,000 for each of the fiscal years 1978 and 1979 to carry out this section.

SLUDGE STUDY

SEC. 207. (a) STUDY AND REPORT.—The Administrator shall undertake a comprehensive study and publish a report on sludge. Such study shall include an analysis of—

(1) what types of discarded material (including sewage and pollution treatment residues and other residues from industrial operations, such as extraction of oil from shale and coal slurry pipeline operations) should be classified, because of their common characteristics, as sludge;

(2) the effects of air and water pollution regulation on the creation of large volumes of sludge;

(3) the amounts of sludge originating in each State and in each industry producing sludge;

(4) methods of processing and disposal of such sludge, including the cost, efficiency, and effectiveness of such methods;

(5) alternative methods for the use of sludge; and

(6) methods to reclaim areas which have been used for the disposal of sludge or which have been damaged by sludge.

In addition to such study, the Administrator is authorized to carry out commercial demonstration projects for the use of sludge in a manner which is environmentally sound and protective of human health.

(b) AUTHORIZATION.—There is authorized to be appropriated $500,000 for each of the fiscal years 1978 and 1979 to carry out this section.

GRANTS FOR DISCARDED TIRE DISPOSAL

SEC. 208. (a) GRANTS.—The Administrator shall make available grants equal to 5 percent of the purchase price of tire shredders (including portable shredders attached to tire collection trucks) to those eligible applicants best meeting criteria promulgated under this section. An eligible applicant may be any private purchaser, public body, or public-private joint venture. Criteria for receiving grants shall be promulgated under this section and shall include the policy to offer any private purchaser the first option to receive a grant, the policy to develop widespread geographic distribution of tire shredding facilities, the need for such facilities within a geographc area, and the projected risk and viability of any such venture. In the case of an application under this section from a public body, the Administrator shall first make a determination that there are no private purchasers interested in making an application before approving a grant to a public body.

(b) AUTHORIZATION.—There is authorized to be appropriated $750,000 for each of the fiscal years 1978 and 1979 to carry out this section.

ANNUAL REPORT

SEC 209. The Administrator shall transmit to the Congress and the President, not later than ninety days after the end of each fiscal year, a comprehensive and detailed report on all activities of the Office during the preceding fiscal year. Each such report shall include—

(1) a statement of specific and detailed objectives for the activities and programs conducted and assisted under this Act and the Solid Waste Disposal Act;

(2) statements of the Administrator's conclusions as to the effectiveness of such activities and program in meeting the stated objectives and the purposes of this Act (or the Solid Waste Disposal Act), measured through the end of such fiscal year;

(3) a summary of outstanding discarded material problems confronting the Administrator, in order of priority;

(4) recommendations with respect to such legislation which the Administrator deems necessary or desirable to assist in solving problems respecting discarded material;

(5) all other information required to be submitted to the Congress pursuant to any other provision of this Act; and

(6) the Administrator's plans for activities and programs respecting discarded material during the next fiscal year.

GENERAL AUTHORIZATION

SEC. 210. (a) GENERAL ADMINISTRATION—There are authorized to be appropriated to the Administrator for the purpose of carrying out the provisions of this Act, $46,250,000 for the fiscal year ending September 30, 1978, and $51,250,000 for the fiscal year ending September 30, 1979.

(b) RESOURCE RECOVERY AND CONSERVATION PANELS.—Not less than 20 percent of the amount appropriated under subsection (a) shall be used only for purposes of Resource Recovery and Conservation Panels established under section 205 (including travel expenses incurred by such panels in carrying out their functions under this Act).

(c) HAZARDOUS WASTE—Not less than 30 percent of the amount appropriated under subsection (a) shall be used only for purposes of carrying out title III of this Act (relating to hazardous waste) other than section 311.

TITLE III—HAZARDOUS WASTE MANAGEMENT

IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

SEC. 301. (a) CRITERIA FOR IDENTIFICATION OR LISTING.—Not later than eighteen months after the date of the enactment of this Act, the Administrator shall, after notice and opportunity for public hearing, and after consultation with appropriate Federal and State agencies, develop and promulgate criteria for identifying the characteristics of hazardous waste, and for listing hazardous waste, which should be subject to the provisions of this title, taking into account toxicity, persistence, and degradability in nature, potential for accumulation in tissue, and other related factors such as flammability, corrosiveness, and other hazardous characteristics. Such criteria shall be revised from time to time as may be appropriate.

(b) IDENTIFIATION AND LISTING.—Not later than eighteen months after the date of enactment of this Act, and after notice and opportunity for public hearing, the Administrator shall promulgate regulations identifying the characteristics of hazardous waste, and listing particular hazardous wastes (within the meaning of section 104 (4)), which shall be subject to the provisions of this title. Such regulations shall be based on the criteria promulgated under subsection (a) and shall be revised from time to time thereafter as may be appropriate.

(c) PETITION BY STATE GOVERNOR.—At any time after the date eighteen months after the enactment of this title, the Governor of any State may petition the Administrator to identify or list a discarded material as a hazardous waste. The Administrator shall act upon such petition within ninety days following his receipt thereof and shall notify the Governor of such action. If the Administrator denies such petition because of financial considerations, in providing such notice to the Governor he shall include a statement concerning such considerations.

STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

SEC. 302. Not later than eighteen months after the date of the enactment of this Act, and after notice and opportunity for public hearings and after consultation with appropriate Federal and State agencies, the Administrator shall promulgate regulations establishing such standards, applicable to generators of hazardous waste identified or listed under this title, as may be necessary to reasonably protect human health and the environment. Such standards shall establish requirements respecting—

(1) recordkeeping practices that accurately identify the quantities of such hazardous waste generated, the constituents thereof which are significant in quantity or in potential harm to human health or the environment, and the disposition of such wastes;

(2) labeling practices for any containers used for the storage, transport, or disposal of such hazardous waste such as will identify accurately such waste;

(3) use of appropriate containers for such hazardous waste;

(4) furnishing of information on the gen-

eral chemical composition of such hazardous waste to persons transporting, treating, storing, or disposing of such waste;

(5) use of a manifest system to assure that all such hazardous waste generated is designated for treatment, storage, or disposal in treatment, storage, or disposal facilities other than facilities on the premises where the waste is generated) for which a permit has been issued as provided in this Act; and

(6) submission of reports to the Administrator (or the State agency in any case in which such agency carries out an authorized permit program pursuant to this title at such times as the Administrator (or the State agency if appropriate) deems necessary, setting out—

(A) the quantities of hazardous waste identified or listed under this title that he has generated during a particular time period; and

(B) the disposition of all hazardous waste reported under subparagraph (A).

STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

SEC. 303. (a) STANDARDS.—Not later than eighteen months after the date of enactment of this Act, and after opportunity for public hearings, the Administrator, after consultation with the Secretary of Transportation and the States, shall promulgate regulations establishing such standards, applicable to transporters of hazardous waste identified or listed under this title, as may be necessary to reasonably protect human health and the environment. Such standards shall include but need not be limited to requirements respecting—

(1) recordkeeping concerning such hazardous waste transported, and their source and delivery points;

(2) transportation of such waste only if properly labeled,

(3) compliance with the manifest system referred to in section 302(5); and

(4) transportation of all such hazardous waste only to the hazardous waste treatment, storage, or disposal facilities which the shipper designates on the manifest form to be a facility holding a permit issued under this title.

(b) COORDINATION WITH REGULATIONS OF SECRETARY OF TRANSPORTATION.—In case of any hazardous waste identified or listed under this title which is subject to the Hazardous Materials Transportation Act (88 Stat. 2156; 49 U.S.C. 1801 and following), the regulations promulgated by the Administrator under this title shall be consistent with the requirements of such Act and the regulations thereunder. The Administrator is authorized to make recommendations to the Secretary of Transportation respecting the regulations of such hazardous waste under the Hazardous Materials Transportation Act and for addition of materials to be covered by such Act.

STANDARDS APPLICABLE TO OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

SEC. 304. Not later than eighteen months after the date of enactment of this Act, and after opportunity for public hearings and after consultation with appropriate Federal and State agencies, the Administrator shall promulgate regulations establishing such performance standards, applicable to owners and operators of facilities for the treatment, storage, or disposal of hazardous waste identified or listed under this Act, as may be necessary to reasonably protect human health and the environment. Such standards shall include. but need not be limited to, requirements respecting—

(1) maintaining records of all hazardous wastes identified or listed under this title which are treated, stored, or disposed of, as the case may be, and the manner in which such wastes were treated, stored, or disposed of;

(2) satisfactory reporting, monitoring, and inspection and compliance with the manifest system referred to in section 302(5);

(3) treatment, storage, or disposal of all such waste received by the facility pursuant to such operating methods, techniques, and practices as may be satisfactory to the Administrator;

(4) the location, design, and construction of such hazardous waste treatment, disposal, or storage facilities;

(5) contingency plans for effective action to minimize unanticipated damage from any treatment, storage, or disposal of any such hazardous waste;

(6) the maintenance of operation of such facilities and requiring such additional qualifications as to ownership, continuity of operation, training for personnel, and financial responsibility as may be necessary or desirable; and

(7) compliance with the requirements of section 305 respecting permits for treatment, storage, or disposal.

No private entity shall be precluded by reason of criteria established under paragraph (6) from the ownership or operation of facilities providing hazardous waste treatment, storage, or disposal services where such entity can provide assurances of financial responsibility and continuity of operation consistent with the degree and duration of risks associated with the treatment, storage, or disposal of specified hazardous waste.

PERMITS FOR TREATMENT, STORAGE, OR DISPOSAL OF HAZARDOUS WASTE

SEC. 305. (a) PERMIT REQUIREMENTS.—Not later than eighteen months after the date of the enactment of this Act, the Administrator shall promulgate regulations requiring each person owning or operating a facility for the treatment, storage, or disposal of hazardous waste identified or listed under this title to have a permit issued pursuant to this section. Such regulations shall take effect on the date provided in section 310.

(b) REQUIREMENTS OF PERMIT APPLICATION.— Each application for a permit under this section shall contain such information as may be required under regulations promulgated by the Administrator, including information respecting—

(1) estimates with respect to the composition, quantities, and concentrations of any hazardous waste identified or listed under this title, or combinations of any such hazardous waste and any other discarded material, proposed to be disposed of, treated, transported, or stored, and the time, frequency, or rate at which such hazardous waste is proposed to be disposed of, treated, transported, or stored; and

(2) the site at which such hazardous waste or the products of treatment of such hazardous waste will be disposed of, treated, transported to, or stored.

(d) PERMIT REVOCATION.—Upon a determination by the Administrator (or a State, if applicable), of compliance by a facility for which a permit is applied for under this section with the requirements of this section and section 304, the Administrator (or the State) shall issue a permit for such facilities. In the event permit applicants propose modification of their facilties, or in the event the Administrator (or the State) determines that modifications are necessary to conform to the requirements under this section and section 304, the permit shall specify the time allowed to complete the modifications.

(d) PERMIT REVOCATION.—Upon a determination by the Administrator (or by a State, in the case of a State having an authorized hazardous waste program under section 306) of noncompliance by a facility having a permit under this title with the requirements of this section or section 304, the Administrator (or State, in the case of a State having an authorized hazardous waste program under section 306) shall revoke such permit.

AUTHORIZED STATE HAZARDOUS WASTE PROGRAMS

SEC. 306. (a) FEDERAL GUIDELINES.—Not later than eighteen months after the date of enactment of this Act, the Administrator, after consultation with State authorities, shall promulgate guidelines to assist States in the development of State hazardous waste programs.

(b) AUTHORIZATION OF STATE PROGRAM.— Any State which seeks to administer and enforce a hazardous waste program pursuant to this title may develop and, after notice and opportunity for public hearing, submit to the Administrator an application, in such form as he shall require, for authorization of such program. Within ninety days following submission of an application under this subsection, the Administrator shall issue a notice as to whether or not he expects such program to be authorized, and within ninety days following such notice (and after opportunity for public hearing) he shall publish his findings as to whether or not the conditions listed in items (1), (2), and (3) below have been met. Except wth respect to Federal facilities and instrumentalities (which shall remain subject to the Federal program), such State is authorized to carry out such program in lieu of the Federal program under this title in such State and to issue and enforce permits for the storage, treatment, or disposal of hazardous waste unless, within ninety days following submission of the application the Administrator notifies such State that such program may not be authorized and, within ninety days following such notice and after opportunity for public hearing, he finds that (1) such State program is not equivalent to the Federal program under this title, (2) such program is not consistent with the Federal or State programs applicable in other States, or (3) such program does not provide adequate enforcement of compliance with the requirements of this title.

(c) INTERIM AUTHORIZATION.—Any State which has in existence a hazardous waste program pursuant to State law upon the date of enactment of this Act, before the date ninety days after the date required for promulgation of regulations under sections 302, 303, 304, and 305, submit to the Administrator evidence of such existing program and may request a temporary authorization to carry out such program under this title. The Administrator shall, if the evidence submitted shows the existing State program to be substantially equivalent to the Federal program under this title, grant an interim authorization to the State to carry out such program in lieu of the Federal programs (except with respect to Federal facilities and instrumentalities which shall remain subject to the Federal program) pursuant to this title for a twenty-four month period beginning on the date six months after the date required for promulgation of regulations under sections 302 through 305.

(d) EFFECT OF STATE PERMIT.—Any action taken by a State under a hazardous waste program authorized under this section shall have the same force and effect as action taken by the Administrator under this title.

(e) WITHDRAWAL OF AUTHORIZATION.— Whenever the Administrator determines after public hearing that a State is not administering and enforcing a program authorized under this section in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw authorization of such program and establish a Federal program pursuant to this title. The Administrator shall not withdraw authorization of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

INSPECTIONS

SEC. 307. (a) ACCESS ENTRY.—For purposes of developing or assisting in the development of any regulation or enforcing the provisions of this title, any person who generates, stores, treats, transports, disposes of, or otherwise handles hazardous wastes shall, upon request of any officer or employee of the Environmental Protection Agency, duly designated by the Administrator, or upon request of any duly designated officer employee of a State having an authorized hazardous waste program, furnish or permit such person at all reasonable times to have access to, and to copy all records relating to such wastes. For the purposes of developing or assisting in the development of any regulation or enforcing the provisions of this title, such officers or employees are authorized—

(1) to enter at reasonable times any establishment or other place maintained by any person where hazardous wastes are generated, stored, treated, or disposed of;

(2) to inspect and obtain samples from any person of any such wastes and samples of any containers or labeling for such wastes.

Each such inspection shall be commenced and completed with reasonable promptness. If the officer or employee obtains any samples, prior to leaving the premises, he shall give to the owner, operator, or agent in charge a receipt describing the sample obtained and if requested a portion of each such sample equal in volume or weight to the portion retained. If any analysis is made of such samples, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

(b) AVAILABILITY TO PUBLIC.—Any records, reports, or information obtained from any person under this section shall be available to the public, except that upon a showing satisfactory to the Administrator (or the State, as the case may be) by any person that records, reports, or information, or particular part thereof, to which the Administrator (or the State, as the case may be) has access under this section if made public, would divulge information entitled to protection under section 1905 of title 18 of the United States Code, the Administrator (or the State, as the case may be) shall consider such information or particular portion thereof confidential in accordance with the purposes of that section.

FEDERAL ENFORCEMENT

SEC. 308. (a) COMPLIANCE ORDERS.—(1) Except as provided in paragraph (2), whenever on the basis of any information the Administrator determines that any person is in violation of any requirement of this title, the Administrator shall give notice to the violator of his failure to comply with such requirement. If such violation extends beyond the thirtieth day after the Administrator's notification, the Administrator may issue an order requiring compliance within a specified time period or the Administrator may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction.

(2) In the case of a violation of any requirement of this title where such violation occurs in a State which is authorized to carry out a hazardous waste program under section 306, the Administrator shall give notice to the State in which such violation has occurred thirty days prior to issuing an order or commencing a civil action under this section.

(3) If such violator fails to take corrective action within the time specified in the order, he shall be liable for a civil penalty of not more than $25,000 for each day of continued noncompliance and the Administrator may suspend or revoke any permit issued to the violator (whether issued by the Administrator or the State).

(b) PUBLIC HEARING.—Any order or any suspension or revocation of a permit shall become final unless, no later than thirty days after the order or notice of the suspension or revocation is served, the person or persons named therein request a public hearing. Upon such request the Administrator shall promptly conduct a public hearing. In connection with any proceeding under this section the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures.

(c) REQUIREMENTS OF COMPLIANCE ORDERS.—Any order issued under this section shall state with reasonable specificity the nature of the violation and specify a time for compliance and assess a penalty, if any, which the Administrator determines is a reasonable period and penalty taking into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements.

(d) CRIMINAL PENALTY.—Any person who knowingly—

(1) transports any hazardous waste listed under this title to a facility which does not have a permit under section 305 (or 306 in the case of a State program),

(2) disposes of any hazardous waste listed under this title without having obtained a permit therefor under this title,

(3) makes any false statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained, or used for purposes of compliance with his title.

shall, upon conviction, be subject to a fine of not more than $25,000 for each day of violation, or to imprisonment not to exceed one year, or both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

RETENTION OF STATE AUTHORITY

SEC. 309. Upon the effective date of regulations under this title no State or political subdivision may impose any requirements less stringent than those authorized under this title respecting the same matter as governed by such regulations, except that if application of a regulation with respect to any matter under this title is postponed or enjoined by the action of any court, no State or political subdivision shall be prohibited from acting with respect to the same aspect of such matter until such time as such regulation takes effect.

EFFECTIVE DATE

SEC. 310. (a) PRELIMINARY NOTIFICATION.—Not later than ninety days after promulgation or revision of regulations under section 301 identifying by its characteristics or listing any substance as hazardous waste subject to this title, any person generating or transporting such substance or owning or operating a facility for treatment, storage, or disposal of such substance shall file with the Administrator (or with States having authorized hazardous waste permit programs under section 306) a notification stating the location and general description of such activity and the identified or listed hazardous wastes handled by such person. Not more than one such notification shall be required to be filed with respect to the same substance. No identified or listed hazardous waste subject to this title may be transported, treated, stored, or disposed of unless notification has been given as required under this subsection.

(b) EFFECTIVE DATE OF REGULATION.—The regulations under this title respecting requirements applicable to the generation, transportation, treatment, storage, or disposal of hazardous waste (including requirements respecting permits for such treatment, storage, or disposal) shall take effect on the date six months after the date of promulgation thereof (or six months after the date of revision in the case of any regulation which is revised after the date required for promulgation thereof).

AUTHORIZATION OF ASSISTANCE TO STATES

SEC. 311. (a) There is authorized to be appropriated $25,000,000 for each of the fiscal years 1978 and 1979 to be used to make grants to the States for purposes of assisting the States in the development and implementation of authorized State hazardous waste programs.

(b) Amounts authorized to be appropriated under subsection (a) shall be allocated among the States on the basis of regulations promulgated by the Administrator, after consultation with the States, which take into account, the extent to which hazardous waste is generated, transported, treated, stored, and disposed of within such State, the extent of exposure of human beings and the environment within such State to such waste, and such other factors as the Administrator deems appropriate.

TITLE IV—STATE OR REGIONAL DISCARDED MATERIALS PLANS

OBJECTIVES OF TITLE

SEC. 401. The objectives of this title are to assist in developing and encouraging methods for the disposal of discarded materials which are environmentally sound and which maximize the utilization of valuable resources and to encourage resource conservation. Such objectives are to be accomplished through Federal technical and financial assistance to States or regional authorities for comprehensive planning pursuant to Federal guidelines designed to foster cooperation among Federal, State, and local governments and private industry.

FEDERAL GUIDELINES FOR PLANS

SEC. 402. (a) GUIDELINES FOR IDENTIFICATION OF REGIONS.—For purposes of encouraging and facilitating the development of regional planning for discarded materials management, the Administrator, within one hundred and eighty days after the date of enactment of this Act and after consultation with appropriate Federal, State, and local authorities, shall by regulation publish guidelines for the identification of those areas which have common discarded material management problems and are appropriate units for planning regional discarded material management services. Such guidelines shall consider—

(1) the size and location of areas which should be included,

(2) the volume of discarded material which should be included, and

(3) the available means of coordinating regional planning with other related regional planning and for coordination of such regional planning into the State plan.

(b) GUIDELINES FOR STATE PLANS.—Not later than eighteen months after the date of enactment of this Act and after notice and hearing, the Administrator shall, after consultation with appropriate Federal, State, and local authorities, promulgate regulations containing guidelines to assist in the development and implementation of State discarded materials management plans (hereinafter in this title referred to as "State plans"). The guideline shall contain methods for achieving the objectives specified in section 401. Such guidelines shall be reviewed from time to time, but not less frequently than every three years, and revised as may be appropriate.

(c) CONSIDERATIONS FOR STATE PLAN GUIDELINES.—The guidelines promulgated under subsection (b) shall consider—

(1) the varying regional, geologic, hydrologic, climatic, and other circumstances un-

der which different discarded material practices are required in order to insure the reasonable protection of the quality of the ground and surface waters from leachate contamination, the reasonable protection of the quality of the surface waters from surface runoff contamination, and the reasonable protection of ambient air quality;

(2) characteristics and conditions of collection, storage, processing, and disposal operating methods, techniques and practices, and location of facilities where such operating methods, techniques, and practices are conducted, taking into account the nature of the material to be disposed;

(3) methods for closing or upgrading open dumps for purposes of eliminating potential health hazards;

(4) population density, distribution, and projected growth;

(5) geographic, geologic, climatic, and hydrologic characteristics;

(6) the type and location of transportation;

(7) the profile of industries;

(8) the constitutents and generation rates of waste;

(9) the political, economic, organizational, financial, and management problems affecting comprehensive discarded material management;

(10) types of resources recovery facilities and resource conservation systems which are appropriate; and

(11) available new and additional markets for recovered material.

MINIMUM REQUIREMENTS FOR APPROVAL OF PLANS

SEC. 403. In order to be approved under section 407, each State plan must comply with the following minimum requirements—

(1) The plan shall identify (A) the responsibilities of State, local, and regional authorities in the implementation of the State plan, (B) the distribution of Federal funds to the authorities responsible for development and implementation of the State plan, and (C) the means for coordinating regional planning and implementation under the State plan.

(2) The plan shall prohibit the establishment of new open dumps within the State, and contain requirements that all discarded material (including discarded material originating in other States, but not including hazardous waste) shall be (A) utilized for resource recovery or (B) disposed of in sanitary landfills (within the meaning of section 404(a)) or otherwise disposed of in an environmentally sound manner.

(3) The plan shall provide for the closing or upgrading of all existing open dumps within the State pursuant to the requirements of section 405.

(4) The plan shall provide for the establishment of such State regulatory powers as may be necessary to implement the plan.

(5) The plan shall provide that no local government within the State shall be prohibited under State or local law from entering into long-term contracts for the supply of discarded material to resource recovery facilities.

(6) The plan shall provide for such resource conservation or recovery and for the disposal of discarded material in sanitary landfills or any combination of such practices so as may be necessary to use or dispose of such material in a manner that is environmentally sound.

CRITERIA FOR SANITARY LANDFILLS; SANITARY LANDFILLS REQUIRED FOR ALL DISPOSAL

SEC. 404. (a) CRITERIA FOR SANITARY LANDFILLS.—Not later than one year after the date of enactment of this Act, after consultation with the States, and after notice and public hearings, the Administrator shall promulgate regulations containing criteria for determining which facilities shall be classified as sanitary landfills and which shall be classified as open dumps within the meaning of this Act. At a minimum, such criteria shall provide that a facility may be classified as a sanitary landfill and not an open dump only if there is no reasonable probability of adverse effects on health or the environment from disposal of discarded material at such facility. Such regulations may provide for the classification of the types of sanitary landfills.

(b) DISPOSAL REQUIRED TO BE IN SANITARY LANDFILLS, ETC.—For purposes of complying with section 403(2) each State plan shall prohibit the establishment of open dumps and contain a requirement that disposal of all discarded material within the State shall be in compliance with such section 403(2).

(c) EFFECTIVE DATE.—The prohibition contained in subsection (b) shall take effect on the date six months after the date of promulgation of regulations under subsection (a) or on the date of approval of the State plan, whichever is later.

UPGRADING OF OPEN DUMPS

SEC. 405. (a) OPEN DUMPS.—For purposes of this Act, the term "open dump" means any facility or site where discarded material is disposed of which is not a sanitary landfill which meets the criteria promulgated under section 404 or a facility for disposal of hazardous waste.

(b) INVENTORY.—Not later than one year after promulgation of regulations under section 404, the Administrator, with the cooperation of the Bureau of the Census, shall publish an inventory of all disposal facilities or sites in the United States which are open dumps within the meaning of this Act. For purposes of applying the 20 percent requirement contained in subsection (c), such inventory shall classify such facilities and sites on a State-by-State basis in five categories on the basis of the potential hazards to health and the environment.

(c) CLOSING OR UPGRADING OF EXISTING OPEN DUMPS.—For purposes of complying with section 403(2), each State plan shall contain a requirement that all existing disposal facilities or sites for discarded materials in such State which are open dumps listed in the inventory under subsection (b) shall comply with such measures as may be promulgated by the Administrator to eliminate health hazards and minimize potential health hazards. The requirement contained in this subsection shall apply to all disposal facilities or sites in the State in order of the degree of health and environmental hazards presented and at the rate of 20 per centum per year of the total number within such State classified under the inventory published under subsection (b), beginning on the date of publication of such inventory.

PROCEDURE FOR DEVELOPMENT AND IMPLEMENTATION OF STATE PLAN

SEC. 406. (a) IDENTIFICATION OF REGIONS.—Within one hundred and eighty days after publication of guidelines under section 402 (a) (relating to identification of regions), the Governor of each State, after consultation with local elected officials, shall promulgate regulations based on such guidelines identifying the boundaries of each area within the State which, as a result of urban concentrations, geographic conditions, markets, and other factors, is appropriate for carrying out regional discarded materials management. Such regulations may be modified from time to time (identifying additional or different regions) pursuant to such guidelines.

(b) IDENTIFICATION OF STATE AND LOCAL AGENCIES AND RESPONSIBILITIES.—(1) Within one hundred and eighty days after the Governor promulgates regulations under subsection (a), for purposes of facilitating the development and implementation of a State plan which will meet the minimum requirements of section 403, the State, together with appropriate elected officials of general purpose units of local government, shall jointly (A) identify an agency to develop the State plan and identify one or more agencies to implement such plan, and (B) identify which discarded material functions will, under such State plan, be planned for and carried out by the State and which such functions will, under such State plan, be planned for and carried out by a regional or local authority or a combination of regional or local and State authorities. If a multi-functional regional agency authorized by State law to conduct discarded material planning and management (the members of which are appointed by the Governor) is in existence on the date of enactment of this Act, the Governor shall identify such authority for purposes of carrying out within such region clause (A) of this paragraph. A State agency identified under this paragraph shall be established or designated by the Governor of such State. Local or regional agencies identified under this paragraph shall be composed of individuals at least a majority of whom are elected local officials.

(2) If planning and implementation agencies are not identified and designated or established as required under paragraph (1) for any affected area, the governor shall, before the date two hundred and seventy days after promulgation of regulations under subsection (a), establish or designate a State agency to develop and implement the State plan for such area.

(d) INTERSTATE REGIONS.—(1) In the case of any region which, pursuant to the guidelines published by the Administrator under section 402(a) (relating to identification of regions), would be located in two or more States, the Governors of the respective States, after consultation with local elected officials, shall consult, cooperate, and enter into agreements identifying the boundaries of such region pursuant to subsection (a).

(2) Within one hundred and eighty days after an interstate region is identified by agreement under paragraph (1), appropriate elected officials of general purpose units of local government within such region shall jointly establish or designate an agency to develop a plan for such region. If no such agency is established or designated within such period by such officials, the Governors of the respective States may, by agreement, establish or designate for such purpose a single representative organization including elected officials of general purpose units of local government within such region.

(3) Implementation of interstate regional discarded material management plans shall be conducted by units of local government for any portion of a region within their jurisdiction, or by multijurisdictional agencies or authorities designated in accordance with State law, including those designated by agreement by such units of local government for such purpose. If no such unit, agency, or authority is so designated, the respective Governors shall designate or establish a single interstate agency to implement such plan.

(4) For purposes of this title, so much of an interstate regional plan as is carried out within a particular State shall be deemed part of the State plan for such State.

APPROVAL OF STATE PLAN; FEDERAL ASSISTANCE

SEC. 407. (a) PLAN APPROVAL.—The Administrator shall, within six months after a State plan has been submitted for approval, approve or disapprove the plan. The Administrator shall approve a plan if he determines that—

(1) it meets the minimum requirements of section 403; and

(2) it contains provision for revision of such plan, after notice and public hearing, whenever the Administrator, by regulation, determines—

(A) that revised regulations respecting

minimum requirements have been promulgated under section 403 with which the State plan is not in compliance;

(B) that information has become available which demonstrates the inadequacy of the plan to effectuate the purposes of this title; or

(C) that such revision is otherwise necessary.

The Administrator shall review approved plans from time to time and if he determines that revision or corrections are necessary to bring such plan into compliance with the minimum requirements promulgated under section 403 (including new or revised requirements), he shall, after notice and opportunity for public hearing, withdraw his approval of such plan. Such withdrawal of approval shall cease to be effective upon the Administrator's determination that such plan complies with such minimum requirements.

(b) ELIGIBILITY OF STATES FOR FEDERAL FINANCIAL ASSISTANCE.—(1) The Administrator shall approve a State application for financial assistance under this title, and make grants to such State, for fiscal year 1978 if such State and local and regional authorities within such State have complied with the requirements of section 406 within the period required under such section and if such State has a State plan which has been approved by the Administrator under this title.

(2) The Administrator shall approve a State application for financial assistance under this title, and make grants to such State, for fiscal year 1979 if such State was eligible for assistance as provided in paragraph (1) for fiscal year 1978 and if the Administrator determines that the State plan continues to be eligible for approval under subsection (a) and is being implemented by the State.

(3) Upon withdrawal of approval of a State plan under subsection (a), the Administrator shall withhold Federal financial and technical assistance under this title and under the Solid Waste Disposal Act (other than such technical assistance as may be necessary to assist in obtaining the reinstatement of approval) until such time as such approval is reinstated.

(c) EXISTING ACTIVITIES.—Nothing in this title shall be construed to prevent or affect any activities respecting discarded material planning or management which are carried out by State, regional, or local authorities unless such activities are inconsistent with a State plan approved by the Administrator under this title.

FEDERAL ASSISTANCE

SEC. 408. (a) AUTHORIZATION OF FEDERAL FINANCIAL ASSISTANCE.—There are authorized to be appropriated $40,000,000 for fiscal year 1978 and $50,000,000 for fiscal year 1979 for purposes of making grants to the States for the development and implementation of State plans under this title.

(b) STATE ALLOTMENT.—The sums appropriated in any fiscal year shall be allotted by the Administrator among all States, in the ratio that the population in each State bears to the population in all of the States, except that no State shall receive less than one-half of 1 per centum of the sums so allotted in any fiscal year. No State shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for other than nonrecurrent expenditures for discarded material management control programs will be less than its expenditures were for such programs during fiscal year 1975, except that such funds may be reduced by an amount equal to their proportionate share of any general reduction in State spending ordered by the Governor or legislature of such State. No State shall receive any grant for discarded material management programs will be so used as to supplement and, to the extent practicable, increase the level of State, local, regional, or other non-Federal funds that would in the absence of such grant be made available for the maintenance of such programs.

(c) DISTRIBUTION OF FEDERAL FINANCIAL ASSISTANCE WITHIN THE STATE.—Seventy per centum of the Federal assistance allotted to the States under subsection (c) shall be allocated by the State receiving such funds to State, local, regional, and interstate authorities carrying out planning and implementation of the State plan. Such allocation shall be based upon the responsibilities of the respective parties as determined pursuant to section 406(b). Thirty per centum of the Federal assistance allotted to States under subsection (b) shall be available to provide assistance to municipalities with a population of five thousand or less, or counties with a population of ten thousand or less, which municipalities and counties are not within a metropolitan area or are not within a region identified under section 406 for discarded materials management, in order that such communities may meet their responsibilities under the State plan as determined pursuant to section 406(b).

(d) TECHNICAL ASSISTANCE.—The Administrator may provide technical assistance to State and local governments for purposes of developing and implementing State discarded material plans. Technical assistance respecting resource recovery and conservation may be provided through resource recovery and conservation panels, established in the Environmental Protection Agency under title II, to assist the State and local governments with respect to particular resource recovery and conservation projects under consideration and to evaluate their effect on the State plan.

(e) SPECIAL COMMUNITIES.—(1) The Administrator, in cooperation with State and local officials, shall identify communities within the United States (A) having a population of less than twenty-five thousand persons, (B) having discarded waste disposal facilities in which more than 75 per centum of the discarded material disposed of is from areas outside the jurisdiction of the community, and (C) which have serious environmental problems resulting from the disposal of such discarded materials.

(2) There is authorized to be appropriated to the Administrator $2,500,000 for each of the fiscal years 1978 and 1979 to make grants to be used for the conversion, improvement, or consolidation of existing discarded material disposal facilities, or for the construction of new discarded material disposal facilities, or for both, within communities identified under paragraph (1). Not more than one community in any State shall be eligible for grants under this paragraph and not more than one project in any State shall be eligible for such grants.

(3) Grants under this subsection shall be made only to projects which the Administrator determines will be consistent with an applicable State plan approved under title IV and which will assist in carrying out such plan.

REPEAL OF EXISTING AUTHORITY

SEC. 409. Section 207 of the Solid Waste Disposal Act is hereby repealed.

TITLE V—DUTIES OF THE SECRETARY OF COMMERCE IN RESOURCE CONSERVATION AND RECOVERY

FUNCTIONS

SEC. 501. The Secretary of Commerce shall encourage greater commercialization of proven resource recovery technology by providing—

(1) accurate specifications for recovered materials;

(2) stimulation of development of markets for recovered materials;

(3) promotion of proven technology; and

(4) a forum for the exchange of technical and economic data relating to resource recovery facilities.

DEVELOPMENT OF SPECIFICATIONS FOR SECONDARY MATERIALS

SEC. 502. The Secretary of Commerce, acting through the Bureau of Standards, shall within one year and after public hearing, publish uniform specifications for the classification of recovered materials with regard to their physical and chemical properties and characteristics and establish an index of the ability of materials so classified to replace virgin materials in various industrial, commercial, and governmental uses. In establishing such index, the Secretary shall, to the extent feasible, provide such information as may be necessary to assist Federal agencies in complying with the procurement requirements of section 602(c)(1)(A)(ii). Such index shall be developed first with respect to procurement items purchased by the Federal Government in large quantities.

DEVELOPMENT OF MARKETS FOR RECOVERED MATERIALS

SEC. 503. The Secretary of Commerce shall within two years after the enactment of this Act take such actions as may be necessary to—

(1) identify the geographical location of existing or potential markets for recovered materials;

(2) identify the economic and technical barriers to the use of recovered materials; and

(3) encourage the development of new uses for recovered materials.

TECHNOLOGY PROMOTION

SEC. 504. The Secretary of Commerce is authorized to evaluate the commercial feasibility of resource recovery facilities and to publish the results of such evaluation, and to develop a data base for purposes of assisting persons in choosing such a system.

INFORMATION EXCHANGE

SEC. 505. (a) MEETINGS.—The Secretary of Commerce may provide for meetings for the exchange of information concerning all aspects of discarded material management, including any information respecting patents, technologies, and processes.

(b) NOTICE; ATTENDANCE.—Meetings held for purposes of subsection (a) shall permit attendance by persons involved in the generation, treatment, disposal, or any aspect of the management of discarded material. Such meetings shall be preceded by timely and adequate notice with identification of the agenda of such meetings to the Attorney General and the Federal Trade Commission, and shall be initiated and chaired by the Secretary of Commerce or his delegate.

(c) RECORD.—A full and complete record, and where practicable a verbatim transcript, shall be kept of any meeting held, and a full and complete record shall be kept of any communication made (other than in a meeting) between or among participants. or potential participants. Such record or transcript shall be deposited, together with any agreement resulting therefrom, with the Secretary of Commerce, and shall be available to the Attorney General and the Federal Trade Commission.

(d) SUBMISSION AND PUBLICATION OF AGREEMENTS.—Any agreement for the exchange of any information entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission twenty days before being implemented. Any such agreement or plan of action shall be available for public inspection and copying in accordance with section 552 of title 5, United States Code; except that matter may not be withheld from disclosure under section 552(b) of such title on grounds other than the grounds specified in section 552(b)(1), (b)(3), or so much of (b)(4) as relates to trade secrets.

(e) ANTITRUST DEFENSE.—(1) There shall be available as a defense to any civil or criminal action brought under the antitrust laws (or any similar State law) in respect to actions taken to develop or carry out an agreement for the exchange of information under this subsection (provided that such actions were not taken for the purpose of injuring competition) that—

(A) such actions were taken in the course of developing an agreement pursuant to this section, or to carry out an agreement in accordance with this section, and

(B) such persons complied with the requirements of this section and the rules promulgated thereunder.

(2) Persons interposing the defense provided by this subsection shall have the burden of proof, except that the burden shall be on the person against whom the defense is asserted with respect to whether the actions were taken for the purpose of injuring competition.

(f) APPLICATION OF SECTION.—No provision of this section shall be construed as granting immunity for, or as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any act or practice which occurred prior to the date of enactment of this Act or subsequent to its expiration or repeal.

TITLE VI—FEDERAL RESPONSIBILITIES

APPLICATION OF FEDERAL, STATE, AND LOCAL LAW TO FEDERAL FACILITIES

SEC. 601. (a) FEDERAL REGULATIONS TO APPLY TO FEDERAL FACILITIES FOR PURPOSES OF TITLE IV.—(1) The Administrator shall promulgate regulations which shall apply to any property, facility, or activity of the United States in lieu of any State plan approved under title IV. Such regulations shall require compliance by each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government with the guidelines and other requirements of title IV (not including the minimum requirements specified in section 430 (1), (4), and (5) or such other requirements as are applicable only to State or local governments). For purposes of applying such guidelines and other requirements, such regulations shall be treated as a State plan applicable only to the property, facilities, and activities of the United States.

(2) Nothing in any State plan approved under title IV or in any other State or local law shall apply to the same aspect of any property, facility, or activity of the United States as is subject to regulations promulgated under paragraph (1), and for purposes of applying the requirements of title IV to be carried out by State and local governments, such property, facilities, and activities shall not be taken into account.

(3) (A) Whenever, on the basis of any information, the Administrator determines that any department, agency, or instrumentality is in violation of any requirement of a regulation promulgated under paragraph (1), the Administrator shall give notice to the violator of his failure to comply with such requirement. If such violation extends beyond the thirtieth day after the Administrator's notification, the Administrator may issue an order requiring compliance within a specified time period or the Administrator may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction.

(B) If such violator fails to take corrective action within the time specified in the order, he shall be liable for a civil penalty of not more than $25,000 for each day of continued noncompliance.

(C) Any order issued under this paragraph shall state with reasonable specificity the nature of the violation and specify a time for compliance and assess a penalty, if any, which the Administrator determines is a reasonable period and penalty taking into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements.

(b) FEDERAL AND LOCAL LAW RESPECTING HAZARDOUS WASTE.—Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government having jurisdiction over any property or facility, or engaged in any activity with respect to hazardous waste shall be subject to, and comply with, all Federal requirements under title III and for purposes of such title (including actions taken by the Administrator under sections 307 and 308) the term "person" includes any department, agency, or instrumentality of the United States.

(c) EXEMPTIONS.—The President or his designee may exempt any facility or activity or any department, agency, or instrumentality in the executive branch from compliance with the requirements of title III if he determines it to be in the national security interest of the United States to do so. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's or his designee's making of a new determination. The Administrator shall ascertain the exemptions granted under this subsection and shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year.

FEDERAL PROCUREMENT

Sec. 602. (a) APPLICATION OF SECTION.—Except as provided in subsection (b), a procuring agency shall comply with the requirements set forth in this section and any regulations issued under this section, with respect to any purchase or acquisition of a procurement item where the purchase price of the item exceeds $10,000 or where the quantity of such items or of functionally equivalent items purchased or acquired in the course of the preceding fiscal year was $10,000 or more.

(b) PROCUREMENT SUBJECT TO OTHER LAW.—Any procurement by any procuring agency which is subject to regulations of the Administrator (promulgated before the date of enactment of this Act) under section 211 of the Solid Waste Disposal Act shall not be subject to the requirements of this section to the extent that such requirements are inconsistent with such regulations.

(c) REQUIREMENTS.—(1) (A) After two years after the date of enactment of this Act each procuring agency shall procure items composed of the highest percentage of recovered materials practicable consistent with maintaining a satisfactory level of competition. The decision not to procure such items shall be based on a determination that such procurement items—

(i) are not reasonably available within a reasonable period of time;

(ii) fail to meet the performance standards set forth in the applicable specifications or fail to meet the reasonable performance standards of the procuring agencies; or

(iii) are only available at an unreasonable price.

Any determination under clause (ii) shall be made on the basis of the index of the Bureau of Standards in any case in which such material is covered by such index.

(B) Agencies that generate heat, mechanical, or electrical energy from fossil fuel in systems that have the technical capability of using recovered material and recovered-material-derived fuel as a primary or supplementary fuel shall use such capability to the maximum extent practicable.

(C) Contracting officers shall require that vendors certify the percentage of the total material utilized for the performance of the contract which is recovered materials.

(d) SPECIFICATIONS.—(1) All Federal agencies that have the responsibility for drafting or reviewing specifications for procurement item procured by Federal agencies shall, in reviewing those specifications, ascertain whether such specifications violate the prohibitions contained in subparagraphs (A) through (C) of paragraph (2). Such review shall be undertaken not later than eighteen months after the date of enactment of this Act.

(2) In drafting or revising such specifications, after the date of enactment of this Act—

(A) any exclusion of recovered materials shall be eliminated;

(B) such specification shall not require the item to be manufactured from virgin materials; and

(C) such specifications shall require reclaimed materials to the maximum extent possible without jeopardizing the intended end use of the item.

(e) GUIDELINES.—The Administrator, after consultation with the Administrator of General Services, the Secretary of Commerce (acting through the Bureau of Standards), and the Public Printer, shall prepare, and from time to time revise, guidelines for the use of procuring agencies in complying with the requirements of this section. Such guidelines shall set forth recommended practices with respect to the procurement of recovered materials and items containing such materials and shall provide information as to the availability, sources of supply, and potential uses of such materials and items.

(f) PROCUREMENT OF SERVICES.—A procuring agency shall, to the maximum extent practicable, manage or arrange for the procurement of discarded material management services in a manner which maximizes energy and resource recovery.

COOPERATION WITH ENVIRONMENTAL PROTECTION AGENCY

SEC. 603. All Federal agencies having functions relating to discarded material or hazardous waste shall cooperate to the maximum extent permitted by law with the Administrator in carrying out his functions under this Act and shall make all appropriate information, facilities, personnel, and other resources available, on a reimbursable basis, to the Administrator upon his request.

TITLE VII—MISCELLANEOUS PROVISIONS

EMPLOYEE PROTECTION

SEC. 701. (a) GENERAL.—No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

(1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this Act;

(2) testified or is about to testify in any such proceeding; or

(3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this Act.

(b) REMEDY.—(1) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section may within thirty days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the "Secretary") alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

(2) (A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within thirty days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person

acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this paragraph. Within ninety days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(B) If in response to a complaint filed under paragraph (1) the Secretary determines that a violation of subsection (a) of this section has occurred, the Secretary shall order (i) the person who committed such violation to take affirmative action to abate the violation, (ii) such person to reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, (iii) compensatory damages, and (iv) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complainant upon which the order was issued.

(c) Review.—(1) Any person adversely affected or aggrieved by an order issued under subsection (b) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

(2) An order of the Secretary, with respect to which review could have been obtained under paragraph (1), shall not be subject to judicial review in any criminal or other civil proceeding.

(d) Enforcement.—(1) Whenever a person has failed to comply with an order issued under subsection (b)(2), the Secretary shall file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages. Civil actions filed under this subsection shall be heard and decided expeditiously.

(2) Any nondiscretionary duty imposed by this section is enforceable in mandamus proceeding brought under section 1361 of title 28, United States Code.

(e) Exclusion.—Subsection (a) of this section shall not apply with respect to any employee who, acting without direction from his employer (or the employer's agent), deliberately causes a violation of any requirement of this Act.

CITIZENS SUITS

Sec. 702. (a) In General.—Except as provided in subsection (b) or (c) of this section, any person may commence a civil action on his own behalf—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any requirement of this Act;

(2) against the Administrator where there is alleged failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator.

Any action under paragraph (a)(1) of this subsection shall be brought in the district court for the district in which the alleged violation occurred. Any action brought under paragraph (a)(2) of this subsection may be brought in the district court for the district in which the alleged violations occurred or in the District Court of the District of Columbia. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such regulation or order, or to order the Administrator to perform such act or duty as the case may be.

(b) Actions Prohibited.—No action may be commenced under paragraph (a)(1) of this section—

(1) prior to sixty days after the plaintiff has given notice of the violation (A) to the Administrator, (B) to the State in which the alleged violation occurs, and (C) to any alleged violator of such requirement; or

(2) if the Administrator or State has commenced and is diligently prosecuting a civil or criminal action in a court of the United States or a State to require compliance with such requirement.

(c) Notice.—No action may be commenced under paragraph (a)(2) of this section prior to sixty days after the plaintiff has given notice to the Administrator that he will commence such action. Notice under this section shall be given by registered mail. Any action respecting a violation under this Act may be brought under this section only in the judicial district in which such alleged violation occurs.

(d) Intervention.—In any action under this section, the Administrator, if not a party may intervene as a matter of right. In any action referred to in subsection (b)(1)(B) in a court of the United States any person may intervene as a matter of right.

(e) Costs.—The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, wherever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, requiring the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedures.

(f) Other Rights Preserved.—Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or requirement relating to the management of discarded material or hazardous waste, or to seek any other relief (including relief against the Administrator or a State agency).

IMMINENT HAZARD

Sec. 703. Notwithstanding any other provision of this Act, upon receipt of evidence that the handling, storage, treatment, transportation or disposal of any discarded material or hazardous waste is presenting an imminent and substantial endangerment to health or the environment, the Administrator may bring suit on behalf of the United States in the appropriate district court to immediately restrain any person for contributing to the alleged disposal to stop such handling, storage, treatment, transporting or disposal or to take such other action as may be necessary.

PETITION FOR REGULATION

Sec. 704. Any person may petition the Administrator for the promulgation, amendment, or repeal of any regulation under this Act. Within a reasonable time following receipt of such petition, the Administrator shall take action with respect to such petition and shall publish notice of such action in the Federal Register, together with the reasons therefor.

SEPARABILITY

Sec. 705. If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

PART II

SHORT TITLE

Sec. 2001. This title may be cited as the "Solid Waste Research and Development Act of 1976".

FINDINGS

Sec. 2002. The Congress finds and declares that—

(1) the economic and population growth of our Nation, and the improvements in the standards of living enjoyed by our population, have required increased industrial production to meet our needs, and have made necessary the demolition of old buildings, the construction of new buildings, and the provision of highways and other avenues of transportation, which together with related industrial, commercial, domestic, and agricultural operations, have resulted in a rising tide of scrap, discarded, and waste materials;

(2) the continuing concentration of our population in expanding metropolitan and other urban areas has presented these communities with serious financial, management, intergovernmental, and technical problems in the disposal of solid wastes resulting from the industrial, commercial, domestic, and other activities carried on in such areas;

(3) many of the cities in the United States will be running out of suitable solid waste disposal sites within five years unless immediate action is taken;

(4) inefficient and improper methods of disposal of solid waste result in scenic blights, create serious hazards to the public health, including pollution of air and water resources, accident hazards, and increase in rodent and insect vectors and disease, have an adverse effect on land values, create public nuisances, and otherwise interfere with community life and development;

(5) efforts to reduce air and water pollution have often placed more of the pollution burden on the land;

(6) recycling and reuse of solid waste including use of such waste as a secondary source of energy can prevent the unnecessary depletion of our limited national resources and energy supplies;

(7) electricity and steam, and solid, liquid, and gaseous fuels can be produced from solid waste, using a number of systems currently under development;

(8) at present efforts to recover resources from solid waste are scattered and fragmented with the heaviest financial burden for the development and implementation of resource recovery systems falling on local municipal governments;

(9) for resource recovery to become more effective and widely practiced, there is needed a Federal program to develop and make available information on resource recovery; and

(10) in order to assist State, regional, and local agencies and the private sector in carrying out their solid waste management responsibilities, there is needed a well-coordinated Federal program of research, development, and demonstration, including the collection and dissemination of information.

DEFINITIONS

Sec. 2003. Section 203 of the Solid Waste Disposal Act (42 U.S.C. 3252) is amended by adding at the end thereof the following new paragraphs:

"(11) The term 'demonstration' means the initial exhibition of a new technology process or practice or a significantly new combination or use of technologies, processes or practices, subsequent to the development stage, for the purpose of proving technological feasibility and cost effectiveness.

"(12) the term 'sludge' means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effects.".

CONTINUING STUDIES, RESEARCH, ETC.

SEC. 2004. (a) Section 204(a) of the Solid Waste Disposal Act (42 U.S.C. 3253(a)) is amended by striking out "and" at the end of paragraph (4), striking out the period at the end of paragraph (5) and substituting a semicolon, and adding the following new paragraphs at the end thereof:

"(6) small scale and low technology solid waste management systems, including but not limited to, resource recovery source separation systems;

"(7) methods to improve the performance characteristics of resources recovered from solid waste and the relationship of such performance characteristics to available and potentially available markets for such resources;

"(8) improvements in land disposal practices for solid waste (including sludge) which may reduce the adverse environmental effects of such disposal and other aspects of solid waste disposal on land, including means for reducing the harmful environmental effects of earlier and existing landfills, means for restoring areas damaged by such earlier or existing landfills, means for rendering landfills safe for purposes of construction and other uses, and techniques of recovering materials and energy from landfills;

"(9) methods for the sound disposal of, or recovery of resources, including energy, from, sludge (including sludge from pollution control and treatment facilities, coal slurry pipelines, and other sources);

"(10) methods of hazardous waste management including methods of rendering such waste environmentally safe; and

"(11) any adverse effects on air quality (particularly with regard to the emission of heavy metals) which result from solid waste which is burned (either alone or in conjunction with other substances) for purposes of disposal or energy recovery.".

(b) Section 204(b) of such Act is amended to read as follows:

"(b)(1) In carrying out his functions pursuant to this Act, and any other Federal legislation respecting solid waste or discarded material research, development, and demonstrations, the Administrator shall establish a management program or system to insure the coordination of all such activities and to facilitate and accelerate the process of development of sound new technology (or other discoveries) from the research phase, through development, and into the demonstration phase.

"(2) Any energy-related research, development, or demonstration project for the conversion, including bioconversion, of solid waste carried out by the Environmental Protection Agency or by the Energy Research and Development Administration pursuant to this or any other Act shall be administered in accordance with the May 7, 1976, Interagency Agreement between the Environmental Protection Agency and the Energy Research and Development Administration on the Development of Energy from Solid Wastes, and specifically, that in accordance with this agreement, (A) for those energy-related projects of mutual interest, planning will be conducted jointly by the Environmental Protection Agency and the Energy Research and Development Administration, following which project responsibility will be assigned to one agency; (B) energy-related portions of projects for recovery of synthetic fuels or other forms of energy from solid state shall be the responsibility of the Energy Research and Development Administration; (C) the Environmental Protection Agency shall retain responsibility for the environmental, economic, and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines published pursuant to section 209(a), and any applicable State or regional solid waste management plan; and (D) any activities undertaken under provisions of sections 204A and 204B as related to energy; as related to energy or synthetic fuels recovery from waste; or as related to energy conservation shall be accomplished through coordination and consultation with the Energy Research and Development Administration.".

(c) Section 204(c) of such Act is amended to read as follows:

"(c) (1) In carrying out subsection (a) of this section respecting solid waste research, studies, development, and demonstration, except as otherwise specifically provided in section 204C(d), the Administrator may make grants to or enter into contracts (including contracts for construction) with, public agencies and authorities or private persons.

"(2) Contracts for research, development, or demonstrations or for both (including contracts for construction) shall be made in accordance with and subject to the limitations provided with respect to research contracts of the military departments in title 170, United States Code, section 2353, except that the determination, approval, and certification required thereby shall be made by the Administrator.

"(3) Any invention made or conceived in the course of, or under, any contract under this Act shall be subject to section 9 of the Federal Nonnuclear Energy Research and Devolpment Act of 1974 to the same extent and in the same manner as invention made or conceived in the course of contracts under such Act, except that in applying such section, the Environmental Protection Agency shall be substituted for the Energy Research and Development Administration and the words 'solid waste' shall be substituted for the word 'energy' where appropriate.".

SPECIAL STUDIES, INFORMATION, FULL-SCALE FACILITIES, AND COORDINATING COMMITTEE

SEC. 2005. The Solid Waste Disposal Act (42 U.S.C. 3251 and following) is amended by inserting the following new sections after section 204:

"SPECIAL STUDIES; PLANS FOR RESEARCH, DEVELOPMENT, AND DEMONSTRATIONS

"SEC. 204A. (a) The Administrator shall undertake a study and publish a report on resource recovery from glass and plastic waste, including the technological and economic problems associated with such recovery.

"(b) The Administrator shall undertake a systematic study of the composition of the solid waste stream and of anticipated future changes in the composition of such stream and shall publish a report containing the results of such study and quantitatively evaluating the potential utility of such components.

"(c) For purposes of determining priorities for research on recovery of materials and energy from solid waste and developing materials and energy recovery research, development, and demonstration strategies, the Administrator shall review, and make a study of, the various existing and promising techniques of energy recovery from solid waste (including, but not limited to, waterwall furnace incinerators, dry shredded fuel systems, pyrolysis, densified refuse-derived fuel systems, anerobic digestion, and fuel and feedstock preparation systems). In carrying out such study the Administrator shall investigate with respect to each such technique—

"(1) the degree of public need for the potential results of such records, development, or demonstration,

"(2) the potential for research, development, and demonstration without Federal action, including the degree of restraint on such potential posed by the risks involved, and

"(3) the magnitude of effort and period of time necessary to develop the technology to the point where Federal assistance can be ended.

"(d) The Administrator shall undertake a comprehensive study and analysis of, and publish a report on, systems of small-scale and low technology solid waste management, including household resource recovery and resource recovery systems which have special application to multiple dwelling units and high density housing and office complexes. Such study and analysis shall include an investigation of the degree to which such systems could contribute to energy conservation.

"(e) The Administrator shall undertake research and studies concerning the compatibility of front-end source separation systems with high technology resource recovery systems and shall publish a report containing the results of such research and studies.

"(f) The Administrator shall conduct a detailed and comprehensive study on the adverse effects of solid wastes from active and abandoned surface and underground mines on the environment, including, but not limited to, the effects of such wastes on humans, water, air, health, welfare, and natural resources, and on the adequacy of means and measures currently employed by the mining industry, Government agencies, and others to dispose of and utilize such solid wastes and to prevent or substantially mitigate such adverse effects. In furtherance of this study, the Administrator shall, as he deems appropriate, review studies and other actions of other Federal agencies concerning such wastes with a view toward avoiding duplication of effort and the need to expedite such study. The Administrator shall publish a report of such study and shall include appropriate findings and recommendations for Federal and non-Federal actions concerning such effects.

"(g) The Administrator shall undertake a comprehensive study and publish a report on sludge. Such study shall include an analysis of—

"(1) what types of solid waste (including but not limited to sewage and pollution treatment residues and other residues from industrial operations such as extraction of oil from shale liquefaction and gasification of coal and coal slurry pipeline operations) shall be classified as sludge;

"(2) the effects of air and water pollution legislation on the creation of large volumes of sludge;

"(3) the amounts of sludge originating in each State and in each industry producing sludge;

"(4) methods of disposal of such sludge, including the cost, efficiency, and effectiveness of such methods;

"(5) alternative methods for the use of sludge including agricultural applications of sludge and energy recovery from sludge; and

"(6) methods to reclaim areas which have been used for the disposal of sludge or which have been damaged by sludge.

"(h) The Administrator shall undertake a study and publish a report respecting discarded motor vehicle tires which shall include an analysis of the problems involved in the collection, recovery of resources including energy, and use of such tires.

"(i) The Administrator shall conduct research and report on the economics of, and impediments to, the effective functioning of resource recovery facilities.

"(j) The Administrator shall undertake a comprehensive study and analysis of and publish a report on the environmental, social, and economic effects, cost-effectiveness, and efficiency of waste reduction systems or proposals which may, or could be, voluntarily implemented by Federal, State, and local authorities and the private sector. Such study and analysis shall include an investigation of the degree to which such waste reduction systems or proposals could result in energy conservation.

"(k) The Administrator shall undertake a comprehensive study and analysis of and publish a report on systems to alleviate the hazards to aviation from birds congregating and feeding on landfills in the vicinity of airports.

"(l) The Administrator shall complete the research and studies, and submit the reports, required under subsections (b), (c), (d), (e), (f), (g), and (k) not later than October 1, 1978. The Administrator shall complete the research and studies, and submit the reports, required under subsections (a), (h), (i), and (j) not later than October 1, 1979. Upon completion, each study specified in subsections (a) through (k) of this section, the Administrator shall prepare and submit to the intra-agency coordinating committee established under section 204D a plan for research, development, and demonstration respecting the findings of the study and shall submit any legislative recommendations resulting from such study to appropriate committees of Congress.

"COORDINATION, COLLECTION, AND DISSEMINATION OF INFORMATION

"SEC. 204B. (a) The Administrator shall collect and coordinate information on—

"(1) methods and costs of the collection of solid waste;

"(2) solid waste management practices, including data on the different management methods and the cost, operation, and maintenance of such methods;

"(3) the amounts and percentages of resources (including energy) that can be recovered from solid waste by use of various discarded materials management practices and various technologies;

"(4) methods available to reduce the amount of solid waste that is generated;

"(5) existing and developing technologies for the recovery of energy or materials from solid waste and the costs, reliability, and risks associated with such technologies;

"(6) hazardous solid waste, including incidents of damage resulting from the disposal of hazardous solid wastes; inherently and potentially hazardous solid wastes; methods of neutralizing or properly disposing of hazardous solid wastes; facilities that properly dispose of hazardous wastes;

"(7) methods of financing resource recovery facilities or, sanitary landfills, or hazardous solid waste treatment facilities, whichever is appropriate for the entity developing such facility or landfill (taking into account the amount of solid waste reasonably expected to be available to such entity);

"(8) the availability of markets for the purchase of resources, either materials or energy, recovered from solid waste; and

"(9) research and development projects respecting solid waste management.

"(b)(1) The Administrator shall establish and maintain a central reference library for (A) the materials collected pursuant to subsection (a) of this section and (B) the actual performance and cost effectiveness records and other data and information with respect to—

"(i) the various methods of energy and resource recovery from solid waste,

"(ii) the various systems and technologies for collection, transport, storage, treatment, and final disposition of solid waste, and

"(iii) other aspects of solid waste and hazardous solid waste management.

Such central reference library shall also contain, but not be limited to, the model codes and model accounting systems developed under this section, the information collected under subsection (d), and, subject to any applicable requirements of confidentiality, information respecting any aspect of solid waste provided by officers and employees of the Environmental Protection Agency which has been acquired by them in the conduct of their functions under this Act and which may be of value to Federal, State, and local authorities and other persons.

"(2) Information in the central reference library shall, to the extent practicable, be collated, analyzed, verified, and published and shall be made available to State and local governments and other persons at reasonable times and subject to such reasonable charges as may be necessary to defray expenses of making such information available. The Administrator shall also implement a program for the rapid dissemination of information relating to all aspects of solid waste and hazardous solid waste management, including the results of any research, development, demonstrations, investigations, experiments, surveys or studies relating to solid waste or hazardous solid wastes that are undertaken by the Administrator or by other Federal agencies.

"(c) In order to assist State and local governments in determining the costs and revenues associated with the collection and disposal of solid waste and with resource recovery operations, the Administrator shall develop and publish a recommended model cost and revenue accounting system applicable to the solid waste management functions of State and local governments. Such system shall be in accordance with generally accepted accounting principles. The Administrator shall periodically, but not less frequently than once every five years, review such accounting system and revise it as necessary.

"(d) The Administrator is authorized, in cooperation with appropriate State and local agencies, to recommend model codes, ordinances, and statutes, providing for sound solid waste management.

"(e) The Administrator shall collect and make available (through public education programs, publications, or other appropriate means), information concerning the activities of the Environmental Protection Agency pertaining to research, development, feasibility, and operation of resource conservation and recovery facilities, and any other technical, managerial, financial, or market aspect of such facilities.

"FULL-SCALE DEMONSTRATION FACILITIES

"SEC. 204C. (a) The Administrator may enter into contracts with public agencies or authorities or private persons for the construction and operation of a full-scale demonstration facility under this Act, or provide financial assistance in the form of grants to a full-scale demonstration facility under this Act only if the Administrator finds that—

"(1) such facility or proposed facility will demonstrate at full scale a new or significantly improved technology or process, a practical and significant improvement in discarded material management practice, or the technological feasibility and cost effectiveness of an existing, but unproven technology, process, or practice, and will not duplicate any other Federal, State, local, or commercial facility which has been constructed or with respect to which construction has been (determined as of the date action is taken by the Administrator under this Act),

"(2) such contract or assistance meets the requirements of section 204 and meets other applicable requirements of this Act,

"(3) such facility will be able to comply with the guidelines published under section 209 and with other laws and regulations for the protection of health and the environment,

"(4) in the case of a contract for construction or operation, such facility is not likely to be constructed or operated by State, local, or private persons or in the case of an application for financial assistance, such facility is not likely to receive adequate financial assistance from other sources, and

"(5) any Federal interest in, or assistance to, such facility will be disposed of or terminated, with appropriate compensation, within such period of time as may be necessary to carry out the basic objectives of this Act.

"(b) No obligation may be made by the Administrator for financial assistance under this Act for any full-scale demonstration facility after the date ten years after the enactment of this section. No expenditure of funds for any such full-scale demonstration facility under this Act may be made by the Administrator after the date fourteen years after such date of enactment.

"(c)(1) Wherever practicable, in constructing, operating, or providing financial assistance under this Act to a full-scale demonstration facility, the Administrator shall endeavor to enter into agreements and make other arrangements for maximum practicable cost sharing with other Federal, State, and local agencies, private persons, or any combination thereof.

"(2) The Administrator shall enter into arrangements wherever practicable and desirable, to provide monitoring of full-scale solid waste facilities (whether or not constructed or operated under this Act) for purposes of obtaining information concerning the performance, and other aspects, of such facilities. Where the Administrator provides only monitoring and evaluation instruments or personnel (or both) on funds for such instruments or personnel and provides no other financial assistance to a facility notwithstanding section 204(c)(3), title to any invention made or conceived of in the course of developing, constructing, or operating such facility shall not be required to vest in the United States and patents respecting such invention shall not be required to be issued to the United States.

"(d) After the date of enactment of this section, the Administrator shall not construct or operate any full-scale facility (except by contract with public agencies or authorities or private persons).

"INTRA-AGENCY COORDINATING COMMITTEE

"SEC. 204D. (a) The Administrator shall establish an Intra-Agency Coordinating Committee (hereinafter in this section referred to as the 'Committee') to promote coordination of the research goals of the Environmental Protection Agency with regulatory functions of the Agency respecting solid waste.

"(b) The Committee shall be comprised of nine members including the Administrator who shall act as Chairman. Eight members shall be selected by the Administrator from among officials of the Environmental Protection Agency responsible for the conduct of research, development, and demonstration and from among officials of the Agency engaged in the regulatory and implementation programs of the Agency respecting solid waste. The United States Resource Recovery Corporation may designate a representative who shall be permitted to attend and observe meetings of the Committee.

"(c)(1) The Committee (A) shall stimulate the flow of information from personnel engaged in the regulatory and implementation programs of the Agency to personnel engaged in the planning of research, development, and demonstration programs and in the establishment of research goals and (B) shall recommend and propose research goals and plans. The Committee shall not oversee the execution of research, development, and demonstration programs, but shall determine whether or not appropriate research goals are being set and met in a timely fashion.

"(2) The Committee shall actively participate in the development of plans and budgets for research by the Agency prior to the annual submission of the Agency's budget to the Office of Management and Budget.

"(3) Reports of the special studies, research, and demonstration provided for in section 204, 204A, and 204C shall be provided to the Committee which shall incorporate them into research plans proposed by the Committee as may be appropriate. The Committee shall report on the actions, if any, taken by the Agency pursuant to such studies.

"(4) The Committee shall also receive and incorporate into its research plans other significant studies, reports, and information recommending research programs respecting solid waste. When appropriate it shall report on the actions, if any, taken by the Agency pursuant to such studies, reports, and other information.

"(5) The Committee shall meet as often as necessary, but not less than twice annually as follows:

"(A) at least once annually, during the time when the Agency is formulating its annual budget submission for the coming fiscal year, and

"(B) at least once annually, to recommend and propose research goals and plans and to review progress of the Environmental Protection Agency toward meeting research goals.

"(6) The Committee shall report annually to the President and to Congress. Such report shall be included, as a separate part, in a comprehensive annual report submitted by the Administrator to the President and Congress. Dissenting Committee members may report in an independent part of such comprehensive report.

"(d) The Committee is authorized and encouraged to seek the views of other agencies in formulating its recommendations and proposals for research.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2006. Section 216 of the Solid Waste Disposal Act (42 U.S.C. 3259) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 216. (a) There are authorized to be appropriated not to exceed $35,000,000 for the fiscal year 1978 to carry out sections 204, 204B, 204C, 204D, and 205 of this Act.

"(b) There are authorized to be appropriated not to exceed $10,000,000 for the fiscal years 1978 and 1979 to carry out section 204A of this Act.".

SUNSHINE REGULATIONS

SEC. 2007. The Solid Waste Disposal Act (42 U.S.C. 3251) is amended by adding the following new section at the end thereof:

"SUNSHINE REGULATIONS

"SEC. 217. (a) Each officer or employee of the Administrator who—

"(1) performs any function or duty under this Act; and

"(2) has any known financial interest in any person who applies for or receives financial assistance under this Act

shall, beginning on February 1, 1977, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(b) The Administrator shall—

"(1) act within ninety days after the date of enactment of this Act—

"(A) to define the term 'known financial interest' for purposes of subsection (a) of this section; and

"(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provision for the filing of such officers and employees of such statements and the review by the Administrator of such statements; and

"(2) report to the Congress on June 1, 1978, and of each succeeding calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(c) In the rules prescribed under subsection (b) of this section, the Administrator may identify specific positions within the Environmental Protection Agency which are of a nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

"(b) Any officer or employee who is subject to, and knowingly violates, this section shall be fined not more than $2,500 or imprisoned not more than one year, or both.".

Mr. ROONEY (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ROONEY

Mr. ROONEY. Mr. Chairman, I offer an amendment in the nature of a substitute, and I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

(The amendment in the nature of a substitute is as follows:)

Amendment in the nature of a substitute offered by Mr. ROONEY: Strike out all after the enacting clause and insert in lieu thereof the following:

Page 94, strike out line 11 and all that follows down through line 26 on page 192 and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Resource Conservation and Recovery Act of 1976".

AMENDMENT OF SOLID WASTE DISPOSAL ACT

SEC. 2. The Solid Waste Disposal Act (42 U.S.C. 3251 and following) is amended to read as follows:

"TITLE II—SOLID WASTE DISPOSAL

"SUBTITLE A—GENERAL PROVISIONS

"SHORT TITLE AND TABLE OF CONTENTS

"SEC. 1001. This title (hereinafter in this title referred to as 'this Act'), together with the following table of contents, may be cited as the 'Solid Waste Disposal Act':

"SUBTITLE A—GENERAL PROVISIONS

"Sec. 1001. Short title and table of contents.
"Sec. 1002. Congressional findings.
"Sec. 1003. Objectives.
"Sec. 1004. Definitions.
"Sec. 1005. Governmental cooperation.
"Sec. 1006. Application of Act and integration with other Acts.
"Sec. 1007. Financial disclosure.
"Sec. 1008. Solid waste management information and guidelines.

"SUBTITLE B—OFFICE OF SOLID WASTE; AUTHORITIES OF THE ADMINISTRATOR

"Sec. 2001. Office of Solid Waste.
"Sec. 2002. Authorities of Administrator.
"Sec. 2003. Resource recovery and conservation panels.
"Sec. 2004. Grants for discarded tire disposal.
"Sec. 2005. Annual report.
"Sec. 2006. General authorization.

"SUBTITLE C—HAZARDOUS WASTE MANAGEMENT

"Sec. 3001. Identification and listing of hazardous waste.
"Sec. 3002. Standards applicable to generators of hazardous waste.
"Sec. 3003. Standards applicable to transporters of hazardous waste.
"Sec. 3004. Standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities.
"Sec. 3005. Permits for treatment, storage, or disposal of hazardous waste.
"Sec. 3006. Authorized State hazardous waste permit programs.
"Sec. 3007. Inspections.
"Sec. 3008. Federal enforcement.
"Sec. 3009. Retention of State authority.
"Sec. 3010. Effective date.
"Sec. 3011. Authorization of assistance to States.

"SUBTITLE D—STATE OR REGIONAL SOLID WASTE PLANS

"Sec. 4001. Objectives of subtitle.
"Sec. 4002. Federal guidelines for plans.
"Sec. 4003. Minimum requirements for approval of plans.
"Sec. 4004. Criteria for sanitary landfills; sanitary landfills required for all disposal.
"Sec. 4005. Upgrading of open dumps.
"Sec. 4006. Procedure for development and implementation of State plan.
"Sec. 4007. Approval of State plan; Federal assistance.
"Sec. 4008. Federal assistance.
"Sec. 4009. Rural communities assistance.

"SUBTITLE E—DUTIES OF THE SECRETARY OF COMMERCE IN RESOURCE CONSERVATION AND RECOVERY

"Sec. 5001. Functions.
"Sec. 5002. Development of specifications for secondary materials.
"Sec. 5003. Development of markets for recovered materials.
"Sec. 5004. Technology promotion.

"SUBTITLE F—FEDERAL RESPONSIBILITIES

"Sec. 6001. Application of Federal, State, and local law to Federal facilities.
"Sec. 6002. Federal procurement.
"Sec. 6003. Cooperation with Environmental Protection Agency.
"Sec. 6004. Applicability of solid waste disposal guidelines to executive agencies.

"SUBTITLE G—MISCELLANEOUS PROVISIONS

"Sec. 7001. Employee protection.
"Sec. 7002. Citizen suits.
"Sec. 7003. Imminent hazard.
"Sec. 7004. Petition for regulation; public participation.
"Sec. 7005. Separability.
"Sec. 7006. Judicial review.
"Sec. 7007. Grants or contracts for training projects.
"Sec. 7008. Payments.
"Sec. 7009. Labor standards.

"SUBTITLE H—RESEARCH, DEVELOPMENT, DEMONSTRATION, AND INFORMATION

"Sec. 8001. Research, demonstrations, training, and other activities.

"Sec. 8002. Special studies; plans for research, development, and demonstrations.
"Sec. 8003. Coordination, collection, and dissemination of information.
"Sec. 8004. Full-scale demonstration facilities.
"Sec. 8005. Special study and demonstration projects on recovery of useful energy and materials.
"Sec. 8006. Grants for resource recovery systems and improved solid waste disposal facilities.
"Sec. 8007. Authorization of appropriations.

"CONGRESSIONAL FINDINGS

"SEC. 1002. (a) SOLID WASTE.—The Congress finds with respect to solid waste—

"(1) that the continuing technological progress and improvement in methods of manufacture, packaging, and marketing of consumer products has resulted in an ever-mounting increase, and in a change in the characteristics, of the mass of material discarded by the purchaser of such products;

"(2) That the economic and population growth of our Nation, and the improvements in the standard of living enjoyed by our population, have required increased industrial production to meet our needs, and have made necessary the demolition of old buildings, the construction of new buildings, and the provision of highways and other avenues of transportation, which, together with related industrial, commercial, and agricultural operations, have resulted in a rising tide of scrap, discarded, and waste materials;

"(3) that the continuing concentration of our population in expanding metropolitan and other urban areas has presented these communities with serious financial, management, intergovernmental, and technical problems in the disposal of solid wastes resulting from the industrial, commercial, domestic, and other activities carried on in such areas;

"(4) that while the collection and disposal of solid wastes should continue to be primarily the function of State, regional, and local agencies, the problems of waste disposal as set forth above have become a matter national in scope and in concern and necessitate Federal action through financial and technical assistance and leadership in the development, demonstration, and application of new and improved methods and processes to reduce the amount of waste and unsalvageable materials and to provide for proper and economical solid-waste disposal practices.

"(b) ENVIRONMENT AND HEALTH.—The Congress finds with respect to the environment and health, that—

"(1) although land is too valuable a national resource to be needlessly polluted by discarded materials, most solid waste is disposed of on land in open dumps and sanitary landfills;

"(2) disposal of solid waste and hazardous waste in or on the land without careful planning and management can present a danger to human health and the environment;

"(3) as a result of the Clean Air Act, the Water Pollution Control Act, and other Federal and State laws respecting public health and the environment, greater amounts of solid waste (in the form of sludge and other pollution treatment residues) have been created. Similarly, inadequate and environmentally unsound practices for the disposal or use of solid waste have created greater amounts of air and water pollution and other problems for the environment and for health;

"(4) open dumping is particularly harmful to health, contaminates drinking water from underground and surface supplies, and pollutes the air and the land;

"(5) hazardous waste presents in addition to the problems associated with nonhazardous solid waste, special dangers to health and requires a greater degree of regulation than does nonhazardous solid waste; and

"(6) alternatives to existing methods of land disposal must be developed since many of the cities in the United States will be running out of suitable solid waste disposal sites within five years unless immediate action is taken;

"(c) MATERIALS.—The Congress finds with respect to materials, that—

"(1) millions of tons of recoverable material which could be used are needlessly buried each year;

"(2) methods are available to separate usable materials from solid waste; and

"(3) the recovery and conservation of such materials can reduce the dependence of the United States on foreign resources and reduce the deficit in its balance of payments.

"(d) ENERGY.—The Congress finds with respect to energy, that—

"(1) solid waste represents a potential source of solid fuel, oil, or gas that can be converted into energy;

"(2) the need exists to develop alternative energy sources for public and private consumption in order to reduce our dependence on such sources as petroleum products, natural gas, nuclear and hydroelectric generation; and

"(3) technology exists to produce usable energy from solid waste.

"OBJECTIVES

"SEC. 1003. The objectives of this Act are to promote the protection of health and the environment and to conserve valuable material and energy resources by—

"(1) providing technical and financial assistance to State and local governments and interstate agencies for the development of solid waste management plans (including resource recovery and resource conservation systems) which will promote improved solid waste management techniques (including more effective organizational arrangements), new and improved methods of collection, separation, and recovery of solid waste, and the environmentally safe disposal of nonrecoverable residues;

"(2) providing training grants in occupations involving the design, operation, and maintenance of solid waste disposal systems;

"(3) prohibiting future open dumping on the land and requiring the conversion of existing open dumps to facilities which do not pose a danger to the environment or to health;

"(4) regulating the treatment, storage, transportation, and disposal of hazardous wastes which have adverse effects on health and the environment;

"(5) providing for the promulgation of guidelines for solid waste collection, transport, separation, recovery, and disposal practices and systems;

"(6) promoting a national research and development program for improved solid waste management and resource conservation techniques, more effective organizational arrangements, and new and improved methods of collection, separation, and recovery, and recycling of solid wastes and environmentally safe disposal of nonrecoverable residues;

"(7) promoting the demonstration, construction, and application of solid waste management, resource recovery, and resource conservation systems which preserve and enhance the quality of air, water, and land resources; and

"(8) establishing a cooperative effort among the Federal, State, and local governments and private enterprise in order to recover valuable materials and energy from solid waste.

"DEFINITIONS

"SEC. 1004. As used in this Act:

"(1) The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(2) The term 'construction,' with respect to any project of construction under this Act, means (A) the erection or building of new structures and acquisition of lands or interests therein, or the acquisition, replacement, expansion, remodeling, alteration, modernization, or extension of existing structures, and (B) the acquisition and installation of initial equipment of, or required in connection with, new or newly acquired structures or the expanded, remodeled, altered, modernized or extended part of existing structures (including trucks and other motor vehicles, and tractors, cranes, and other machinery) necessary for the proper utilization and operation of the facility after completion of the project; and includes preliminary planning to determine the economic and engineering feasibility and the public health and safety aspects of the project, the engineering, architectural, legal, fiscal, and economic investigations and studies, and any surveys, designs, plans, working drawings, specifications, and other action necessary for the carrying out of the project, and (C) the inspection and supervision of the process of carrying out the project to completion.

"(2A) The term 'demonstration' means the initial exhibition of a new technology process or practice or a significantly new combination or use of technologies, processes or practices, subsequent to the development stage, for the purpose of proving technological feasibility and cost effectiveness.

"(3) The term 'disposal' means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

"(4) The term 'Federal agency' means any department, agency, or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including any Government corporation, and the Government Printing Office.

"(5) The term 'hazardous waste' means a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may—

"(A) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or

"(B) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

"(6) The term 'hazardous waste generation' means the act or process of producing hazardous waste.

"(7) The term 'hazardous waste management' means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous wastes.

"(8) For purposes of Federal financial assistance (other than rural communities assistance), the term 'implementation' does not include the acquisition, leasing, construction, or modification of facilities or equipment or the acquisition, leasing, or improvement of land and after December 31, 1979, such term does not include salaries of employees due pursuant to subtitle D of this Act.

"(9) The term 'intermunicipal agency' means an agency established by two or more municipalities with responsibility for planning or administration of solid waste.

"(10) The term 'interstate agency' means an agency of two or more municipalities in different States, or an agency established by two or more States, with authority to provide for the disposal of solid wastes and serving two or more municipalities located in different States.

"(11) The term 'long-term contract' means, when used in relation to solid waste supply, a contract of sufficient duration to assure the viability of a resource recovery facility (to the extent that such viability depends upon solid waste supply).

"(12) The term 'manifest' means the form used for identifying the quantity, composition, and the origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment or storage.

"(13) The term 'municipality' (A) means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law, with responsibility for the planning or administration of solid waste management, or an Indian tribe or authorized tribal organization or Alaska Native village or organization, and (B) includes any rural community or unincorporated town or village or any other public entity for which an application for assistance is made by a State or political subdivision thereof.

"(14) The term 'open dump' means a site for the disposal of solid waste which is not a sanitary landfill within the meaning of section 4004.

"(15) The term 'person' means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body.

"(16) The term 'procurement item' means any device, good, substance, material, product or other item whether real or personal property which is the subject of any purchase, barter, or other exchange made to procure such item.

"(17) The term 'procuring agency' means any Federal agency, or any State agency or agency of a political subdivision of a State which is using appropriated Federal funds for such procurement, or any person contracting with only such agency with respect to work performed under such contract.

"(18) The term 'recoverable' refers to the capability and likelihood of being recovered from solid waste for a commercial or industrial use.

"(19) The term 'recovered material' means material which has been collected or recovered from solid waste.

"(20) The term 'recovered resources' means material or energy recovered from solid waste.

"(21) The term 'resource conservation' means reduction of the amounts of solid waste that are generated, reduction of overall resource consumption, and utilization of recovered resources.

"(22) The term 'resource recovery' means the recovery of material or energy from solid waste.

"(23) The term 'resource recovery system' means a solid waste management system which provides for collection, separation, recycling, and recovery of solid wastes, including disposal of nonrecoverable waste residues.

"(24) The term 'resource recovery facility' means any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse.

"(25) The term 'regional authority' means the authority established or designated under section 4006.

"(26) The term 'sanitary landfill' means a facility for the disposal of solid waste which meets the criteria published under section 4004.

"(26A) The term 'sludge' means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effects.

"(27) The term 'solid waste' means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

"(28) The term 'solid waste management' means the systematic administration of activities which provide for the collection, source separation, storage, transportation, transfer, processing, treatment, and disposal of solid waste.

"(29) The term 'solid waste management facility' includes (A) any resource recovery system or component thereof, (B) any system, program, or facility for resource conservation, and (C) any facility for the treatment of solid wastes, including hazardous wastes, whether such facility is associated with facilities generating such wastes or otherwise.

"(30) The terms 'solid waste planning', 'solid waste management', and 'comprehensive planning' include planning or management respecting resource recovery and resource conservation.

"(31) The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(32) The terms 'State authority' means the agency established or designated under section 4007.

"(33) The term 'storage', when used in connection with hazardous waste, means the containment of hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste.

"(34) The term 'treatment', when used in connection with hazardous waste, means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amennable for recovery, amennable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

"(35) The term 'virgin material' means a raw material, including previously unused copper, aluminum, lead, zinc, iron, or other metal or metal ore, any undeveloped resource that is, or with new technology will become, a source of raw materials.

"GOVERNMENTAL COOPERATION

"SEC. 1005. (a) INTERSTATE COOPERATION.—The provisions of this Act to be carried out by States may be carried out by interstate agencies and provisions applicable to States may apply to interstate regions where such agencies and regions have been established by the respective States and approved by the Administrator. In any such case, action required to be taken by the Governor of a State, respecting regional designation shall be required to be taken by the Governor of each of the respective States with respect to so much of the interstate region as is within the jurisdiction of that State.

"(b) CONSENT OF CONGRESS TO COMPACTS.—The consent of the Congress is hereby given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for—

"(1) cooperative effort and mutual assistance for the management of solid waste or hazardous waste (or both) and the enforcement of their respective laws relating thereto, and

"(2) the establishment of such agencies, joint or otherwise, as they may deem desirable for making effective such agreements or compacts.

No such agreement or compact shall be binding or obligatory upon any State a party thereto unless it is agreed upon by all parties to the agreement and until it has been approved by the Administrator and the Congress.

"APPLICATION OF ACT AND INTEGRATION WITH OTHER ACTS

"SEC. 1006. (a) APPLICATION OF ACT.—Nothing in this Act shall be construed to apply to (or to authorize any State, interstate, or local authority to regulate) any activity or substance which is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151 and following), the Safe Drinking Water Act (42 U.S.C. 300f and following), the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1401 and following), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 and following) except to the extent that such application (or regulation) is not inconsistent with the requirements of such Acts.

"(b) INTEGRATION WITH OTHER ACTS.—The Administrator shall integrate all provisions of this Act for purposes of administration and enforcement and shall avoid duplication, to the maximum extent practicable, with the appropriate provisions of the Clean Air Act (42 U.S.C. 1857 and following), the Federal Water Pollution Control Act (33 U.S.C. 1151 and following), the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 and following), the Safe Drinking Water Act (42 U.S.C. 300f and following), the Marine Protection Research and Sanctuaries Act of 1972 (33 U.S.C. 1401 and following) and such other Acts of Congress as grant regulatory authority to the Administrator. Such integration shall be effected only to the extent that it can be done in a manner consistent with the goals and policies expressed in this Act and in the other acts referred to in this subsection.

"FINANCIAL DISCLOSURE

"SEC. 1007. (a) Each officer or employee of the Administrator who—

"(1) performs any function or duty under this Act; and

"(2) has any known financial interest in any person who applies for or receives financial assistance under this Act

shall, beginning on February 1, 1977, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(b) The Administrator shall—

"(1) act within ninety days after the date of enactment of this Act—

"(A) to define the term 'known financial interest' for purposes of subsection (a) of this section; and

"(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provision for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

"(2) report to the Congress on June 1, 1978, and of each succeeding calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(c) In the rules prescribed under subsection (b) of this section, the Administrator may identify specific positions within the Environmental Protection Agency which are of a nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

"(d) Any officer or employee who is subject to, and knowingly violates, this section shall be fined not more than $2,500 or imprisoned not more than one year, or both.

"SOLID WASTE MANAGEMENT INFORMATION AND GUIDELINES

"SEC. 1008. (a) GUIDELINES.—Within one year of enactment of this section, and from time to time thereafter, the Administrator shall, in cooperation with appropriate Federal, State, municipal, and intermunicipal agencies, and in consultation with other interested persons, and after public hearings, develop and publish suggested guidelines for solid waste management. Such suggested guidelines shall—

"(1) provide a technical and economic description of the level of performance that can be attained by various available solid waste management practices (including operating practices) which provide for the protection of public health and the environment;

"(2) not later than two years after the enactment of this section, describe levels of performance, including appropriate methods and degrees of control, that provide at a minimum for (A) protection of public health and welfare; (B) protection of the quality of ground waters and surface waters from leachates; (C) protection of the quality of surface waters from runoff through compliance with effluent limitations under the Federal Water Pollution Control Act, as amended; (D) protection of ambient air quality through compliance with new source performance standards or requirements of air quality implementation plans under the Clean Air Act, as amended; (E) disease and vector control; (F) safety; and (G) esthetics; and

"(3) provide minimum criteria to be used by the States to define those solid waste management practices which constitute the open dumping of solid waste or hazardous waste and are to be prohibited under title IV of this Act.

Where appropriate, such suggested guidelines also shall include minimum information for use in deciding the adequate location, design, and construction of facilities associated with solid waste management practices, including the consideration of regional, geographic, demographic, and climatic factors.

"(b) NOTICE.—The Administrator shall notify the Committee on Public Works of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives a reasonable time before publishing any suggested guidelines, pursuant to this section of the content of such proposed suggested guidelines.

"SUBTITLE B—OFFICE OF SOLID WASTE; AUTHORITIES OF THE ADMINISTRATOR

"OFFICE OF SOLID WASTE

"SEC. 2001. The Administrator shall establish within the Environmental Protection Agency an Office of Solid Waste (hereinafter referred to as the 'Office') to be headed by a Deputy Assistant Administrator of the Environmental Protection Agency. The duties and responsibilities (other than duties and responsibilities relating to research and development) of the Administrator under this Act (as modified by applicable reorganization plans) shall be carried out through the Office.

"AUTHORITIES OF ADMINISTRATOR

"SEC. 2002. (a) AUTHORITIES.—In carrying out this Act, the Administrator is authorized to—

"(1) prescribe, in consultation with Federal, State, and regional authorities, such regulations as are necessary to carry out his functions under this Act;

"(2) consult with or exchange information with other Federal agencies undertaking research, development, demonstration projects, studies, or investigations relating to solid waste;

"(3) provide technical and financial assistance to States or regional agencies in the development and implementation of solid waste plans and hazardous waste management programs;

"(4) consult with representatives of science, industry, agriculture, labor, environmental protection and consumer organizations, and other groups, as he deems advisable; and

"(5) utilize the information, facilities, personnel, and other resources of Federal agencies, including the National Bureau of Standards and the National Bureau of the Census, on a reimbursable basis, to perform research and analysis and conduct studies and investigations related to resource recovery and conservation and to otherwise carry out the Administrator's functions under this Act.

"(b) REVISION OF REGULATIONS.—Each regulation promulgated under this Act shall be reviewed and, where necessary, revised not less frequently than every three years.

"RESOURCE RECOVERY AND CONSERVATION PANELS

"SEC. 2003. The Administrator shall provide teams of personnel, including Federal, State, and local employees or contractors (hereinafter referred to as 'Resource Conservation and Recovery Panels') to provide States and local governments upon request with technical assistance on solid waste management, resource recovery, and resource conservation. Such teams shall include technical, marketing, financial, and institutional specialists, and the services of such teams shall be provided without charge to States or local governments.

"GRANTS FOR DISCARDED TIRE DISPOSAL

"SEC. 2004 (a) GRANTS.—The Administrator shall make available grants equal to 5 percent of the purchase price of tire shredders (including portable shredders attached to tire collection trucks) to those eligible applicants best meeting criteria promulgated under this section. An eligible applicant may be any private purchaser, public body, or public-private joint venture. Criteria for receiving grants shall be promulgated under this section and shall include the policy to offer any private purchaser the first option to receive a grant, the policy to develop widespread geographic distribution of tire shredding facilities, the need for such facilities within a geographic area, and the projected risk and viability of any such venture. In the case of an application under this section from a public body, the Administrator shall first make a determination that there are no private purchasers interested in making an application before approving a grant to a public body.

"(b) AUTHORIZATION.—There is authorized to be appropriated $750,000 for each of the fiscal years 1978 and 1979 to carry out this section.

"ANNUAL REPORT

"SEC. 2005. The Administrator shall transmit to the Congress and the President, not later than ninety days after the end of each fiscal year, a comprehensive and detailed report on all activities of the Office during the preceding fiscal year. Each such report shall include—

"(1) a statement of specific and detailed objectives for the activities and programs conducted and assisted under this Act;

"(2) statements of the Administrator's conclusions as to the effectiveness of such activities and programs in meeting the stated objectives and the purposes of this Act, measured through the end of such fiscal year;

"(3) a summary of outstanding solid waste problems confronting the Administrator, in order of priority;

"(4) recommendations with respect to such legislation which the Administrator deems necessary or desirable to assist in solving problems respecting solid waste;

"(5) all other information required to be submitted to the Congress pursuant to any other provision of this Act; and

"(6) the Administrator's plans for activities and programs respecting solid waste during the next fiscal year.

"GENERAL AUTHORIZATION

"SEC. 2006. (a) General Administration.—There are authorized to be appropriated to the Administrator for the purpose of carrying out the provisions of this Act, $35,000,000 for the fiscal year ending September 30, 1977, $38,000,000 for the fiscal year ending September 30, 1978, and $42,000,000 for the fiscal year ending September 30, 1979.

"(b) RESOURCE RECOVERY AND CONSERVATION PANELS.—Not less than 20 percent of the amount appropriated under subsection (a) shall be used only for purposes of Resource Recovery and Conservation Panels established under section 2003 (including travel expenses incurred by such panels in carrying out their functions under this Act).

"(c) HAZARDOUS WASTE.—Not less than 30 percent of the amount appropriated under subsection (a) shall be used only for purposes of carrying out subtitle C of this Act (relating to hazardous waste) other than section 3011.

"SUBTITLE C—HAZARDOUS WASTE MANAGEMENT

"IDENTIFICATION AND LISTING OF HAZARDS WASTE

"SEC. 3001. (a) CRITERIA FOR IDENTIFICATION OR LISTING.—Not later than eighteen months after the date of the enactment of this Act, the Administrator shall, after notice and opportunity for public hearing, and after consultation with appropriate Federal and State agencies, develop and promulgate criteria for identifying the characteristics of hazardous waste, and for listing hazardous waste, which should be subject to the provisions of this subtitle, taking into account toxicity, persistence, and degradability in nature, potential for accumulation in tissue, and other related factors such as flammability, corrosiveness, and other hazardous characteristics. Such criteria shall be revised from time to time as may be appropriate.

"(b) IDENTIFICATION AND LISTING.—Not later than eighteen months after the date of enactment of this Act, and after notice and opportunity for public hearing, the Administrator shall promulgate regulations identifying the characteristics of hazardous waste, and listing particular hazardous wastes (within the meaning of section 1004(4)), which shall be subject to the provisions of this subtitle. Such regulations shall be based on the criteria promulgated under subsection (a) and shall be revised from time to time thereafter as may be appropriate.

"(c) PETITION BY STATE GOVERNOR.—At any time after the date eighteen months after the enactment of this title, the Governor of any State may petition the Administrator to identify or list a material as a hazardous waste. The Administrator shall act upon such petition within ninety days following his receipt thereof and shall notify the Governor of such action. If the Administrator denies such petition because of financial considerations, in providing such notice to the

Governor he shall include a statement concerning such consideration.

"STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

"SEC. 3002. Not later than eighteen months after the date of the enactment of this section, and after notice and opportunity for public hearings and after consultation with appropriate Federal and State agencies, the Administrator shall promulgate regulations establishing such standards, applicable to generators of hazardous waste identified or listed under this subtitle, as may be necessary to protect human health and the environment. Such standards shall establish requirements respecting—

"(1) recordkeeping practices that accurately identify the quantities of such hazardous waste generated, the constituents thereof which are significant in quantity or in potential harm to human health or the environment, and the disposition of such wastes;

"(2) labeling practices for any containers used for the storage, transport, or disposal of such hazardous waste such as will identify accurately such waste;

"(3) use of appropriate containers for such hazardous waste;

"(4) furnishing of information on the general chemical composition of such hazardous waste to persons transporting, treating, storing, or disposing of such wastes;

"(5) use of a manifest system to assure that all such hazardous waste generated is designated for treatment, storage, or disposal in treatment, storage, or disposal facilities (other than facilities on the premises where the waste is generated) for which a permit has been issued as provided in this subtitle; and

"(6) submission of reports to the Administrator (or the State agency in any case in which such agency carries out an authorized permit program pursuant to this subtitle at such times as the Administrator (or the State agency if appropriate) deems necessary, setting out—

"(A) the quantities of hazardous waste identified or listed under this subtitle that he has generated during a particular time period; and

"(B) the disposition of all hazardous waste reported under subparagraph (A).

"STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

"SEC. 3003. (a) STANDARDS.—Not later than eighteen months after the date of enactment of this section, and after opportunity for public hearings, the Administrator, after consultation with the Secretary of Transportation and the States, shall promulgate regulations establishing such standards, applicable to transporters of hazardous waste identified or listed under this subtitle, as may be necessary to protect human health and the environment. Such standards shall include but need not be limited to requirements respecting—

"(1) recordkeeping concerning such hazardous waste transported, and their source and delivery points;

"(2) transportation of such waste only if properly labeled,

"(3) compliance with the manifest system referred to in section 3002(5); and

"(4) transportation of all such hazardous waste only to the hazardous waste treatment, storage, or disposal facilities which the shipper designates on the manifest form to be a facility holding a permit issued under this subtitle.

"(b) COORDINATION WITH REGULATIONS OF SECRETARY OF TRANSPORTATION.—In case of any hazardous waste identified or listed under this subtitle which is subject to the Hazardous Materials Transportation Act (88 Stat. 2156; 49 U.S.C. 1801 and following), the regulations promulgated by the Administrator under this subtitle shall be consistent with the requirements of such Act and the regulations thereunder. The Administrator is authorized to make recommendations to the Secretary of Transportation respecting the regulations of such hazardous waste under the Hazardous Materials Transportation Act and for addition of materials to be covered by such Act.

"STANDARDS APPLICABLE TO OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

"SEC. 3004. Not later than eighteen months after the date of enactment of this section, and after opportunity for public hearings and after consultation with appropriate Federal and State agencies, the Administrator shall promulgate regulations establishing such performance standards, applicable to owners and operators of facilities for the treatment, storage, or disposal of hazardous waste identified or listed under this subtitle, as may be necessary to protect human health and the environment. Such standards shall include, but need not be limited to, requirements respecting—

"(1) maintaining records of all hazardous wastes identified or listed under this title which is treated, stored, or disposed of, as the case may be, and the manner in which such wastes were treated, stored, or disposed of;

"(2) satisfactory reporting, monitoring, and inspection and compliance with the manifest system referred to in section 3002 (5);

"(3) treatment, storage, or disposal of all such waste received by the facility pursuant to such operating methods, techniques, and practices as may be satisfactory to the Administrator;

"(4) the location, design, and construction of such hazardous waste treatment, disposal, or storage facilities;

"(5) contingency plans for effective action to minimize unanticipated damage from any treatment, storage, or disposal of any such hazardous waste;

"(6) the maintenance of operation of such facilities and requiring such additional qualifications as to ownership, continuity of operation, training for personnel, and financial responsibility as may be necessary or desirable; and

"(7) compliance with the requirements of section 3005 respecting permits for treatment, storage, or disposal.

No private entity shall be precluded by reason of criteria established under paragraph (6) from the ownership or operation of facilities providing hazardous waste treatment, storage, or disposal service where such entity can provide assurances of financial responsibility and continuity of operation consistent with the degree and duration of risks associated with the treatment, storage, or disposal of specified hazardous waste.

"PERMITS FOR TREATMENT, STORAGE, OR DISPOSAL OF HAZARDOUS WASTE

"SEC. 3005. (a) PERMIT REQUIREMENTS.—Not later than eighteen months after the date of the enactment of this section, the Administrator shall promulgate regulations requiring each person owning or operating a facility for the treatment, storage, or disposal of hazardous waste identified or listed under this subtitle to have a permit issued pursuant to this section. Such regulations shall take effect on the date provided in section 3010 and upon and after such date the disposal of any such hazardous waste is prohibited except in accordance with such a permit.

"(b) REQUIREMENTS OF PERMIT APPLICATION.—Each application for a permit under this section shall contain such information as may be required under regulations promulgated by the Administrator, including information respecting—

"(1) estimates with respect to the composition, quantities, and concentrations of any hazardous waste identified or listed under this subtitle, or combinations of any such hazardous waste and other solid waste, proposed to be disposed of, treated, transported, or stored, and the time, frequency, or rate of which such waste is proposed to be disposed of, treated, transported, or stored; and

"(2) the site at which such hazardous waste or the products of treatment of such hazardous waste will be disposed of, treated, transported to, or stored.

"(c) PERMIT ISSUANCE.—Upon a determination by the Administrator (or a State, if applicable), of compliance by a facility for which a permit is applied for under this section with the requirements of this section and section 3004, the Administrator (or the State) shall issue a permit for such facilities. In the event permit applicants propose modification of their facilities, or in the event the Administrator (or the State) determines that modifications are necessary to conform to the requirements under this section and section 3004, the permit shall specify the time allowed to complete the modifications.

"(d) PERMIT REVOCATION.—Upon a determination by the Administrator (or by a State, in the case of a State having an authorized hazardous waste program under section 3006) of noncompliance by a facility having a permit under this title with the requirements of this section or section 3004, the Administrator (or State, in the case of a State having an authorized hazardous waste program under section 3006) shall revoke such permit.

"(e) Any person who—

"(1) owns or operates a facility required to have a permit under this section which facility is in existence on the date of enactment of this Act,

"(2) has complied with the requirements of section 3010(a), and

"(3) has made an application for a permit under this section

shall be treated as having been issued such permit until such time as final administrative disposition of such application is made, unless the Administrator or other plaintiff proves that final administrative disposition of such application has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application.

"AUTHORIZED STATE HAZARDOUS WASTE PROGRAMS

"SEC. 3006. (a) FEDERAL GUIDELINES.—Not later than eighteen months after the date of enactment of this Act, the Administrator, after consultation with State authorities, shall promulgate guidelines to assist States in the development of State hazardous waste programs.

"(b) AUTHORIZATION OF STATE PROGRAM.—Any State which seeks to administer and enforce a hazardous waste program pursuant to this subtitle may develop and, after notice and opportunity for public hearing, submit to the Administrator an application, in such form as he shall require, for authorization of such program. Within ninety days following submission of an application under this subsection, the Administrator shall issue a notice as to whether or not he expects such program to be authorized, and within ninety days following such notice (and after opportunity for public hearing) he shall publish his findings as to whether or not the conditions listed in items (1), (2), and (3) below have been met. Such State is authorized to carry out such program in lieu of the Federal program under this subtitle in such State and to issue and enforce permits for the storage, treatment, or disposal of hazardous waste unless, within ninety days following submission of the application the Administrator notifies such State that such program may not be authorized and, within ninety days following such notice and after opportunity for public hearing, he finds that (1) such State program is not equivalent to the Federal program under this subtitle, (2) such program is not consistent with the Federal or State programs applicable in other States, or (3) such program does not provide adequate enforcement of compliance with the requirements of this subtitle.

"(c) INTERIM AUTHORIZATION.—Any State which has in existence a hazardous waste program pursuant to State law before the date ninety days after the date required for promulgation of regulations under sections 3002, 3003, 3004, and 3005, submit to the Administrator evidence of such existing program and may request a temporary authorization to carry out such program under this subtitle. The Administrator shall, if the evidence submitted shows the existing State program to be substantially equivalent to the Federal program under this subtitle, grant an interim authorization to the State to carry out such program in lieu of the Federal program pursuant to this subtitle for a twenty-four month period beginning on the date six months after the date required for promulgation of regulations under sections 3002 through 3005.

"(d) EFFECT OF STATE PERMIT.—Any action taken by a State under a hazardous waste program authorized under this section shall have the same force and effect as action taken by the Administrator under this subtitle.

"(e) WITHDRAWAL OF AUTHORIZATION.—Whenever the Administrator determines after public hearing that a State is not administering and enforcing a program authorized under this section in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw authorization of such program and establish a Federal program pursuant to this subtitle. The Administrator shall not withdraw authorization of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

"INSPECTIONS

"SEC. 3007. (a) ACCESS ENTRY.—For purposes of developing or assisting in the development of any regulation or enforcing the provisions of this subtitle, any person who generates, stores, treats, transports, disposes of, or otherwise handles hazardous wastes shall, upon request of any officer or employee of the Environmental Protection Agency, duly designated by the Administrator, or upon request of any duly designated officer or employee of a State having an authorized hazardous waste program, furnish or permit such person at all reasonable times to have access to, and to copy all records relating to such wastes. For the purposes of developing or assisting in the development of any regulation or enforcing the provisions of this title, such officers or employees are authorized—

"(1) to enter at reasonable times any establishment or other place maintained by any person where hazardous wastes are generated, stored, treated, or disposed of;

"(2) to inspect and obtain samples from any person of any such wastes and samples of any containers or labeling for such wastes.

Each such inspection shall be commenced and completed with reasonable promptness. If the officer or employee obtains any samples, prior to leaving the premises, he shall give to the owner, operator, or agent in charge a receipt describing the sample obtained and if requested a portion of each such sample equal in volume or weight to the portion retained. If any analysis is made of such samples, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

"(b) AVAILABILITY TO PUBLIC.—Any records, reports, or information obtained from any person under this section shall be available to the public, except that upon a showing satisfactory to the Administrator (or the State, as the case may be) by any person that records, reports, or information, or particular part thereof, to which the Administrator (or the State, as the case may be) has access under this section if made public, would divulge information entitled to protection under section 1905 of title 18 of the United States Code, the Administrator (or the State, as the case may be) shall consider such information or particular portion thereof confidential in accordance with the purposes of that section, except that such record, report, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act, or when relevant in any proceeding under this Act.

"FEDERAL ENFORCEMENT

"SEC. 3008. (a) COMPLIANCE ORDERS.—(1) Except as provided in paragraph (2), whenever on the basis of any information the Administrator determines that any person is in violation of any requirement of this subtitle, the Administrator shall give notice to the violator of his failure to comply with such requirement. If such violation extends beyond the thirtieth day after the Administrator's notification, the Administrator may issue an order requiring compliance within a specified time period or the Administrator may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction.

"(2) In the case of a violation of any requirement of this subtitle where such violation occurs in a State which is authorized to carry out a hazardous waste program under section 3006, the Administrator shall give notice to the State in which such violation has occurred thirty days prior to issuing an order or commencing a civil action under this section.

"(3) If such violator fails to take corrective action within the time specified in the order, he shall be liable for a civil penalty of not more than $25,000 for each day of continued noncompliance and the Administrator may suspend or revoke any permit issued to the violator (whether issued by the Administrator or the State).

"(b) PUBLIC HEARING.—Any order or any suspension or revocation of a permit shall become final unless, no later than thirty days after the order or notice of the suspension or revocation is served, the person or persons named therein request a public hearing. Upon such request the Administrator shall promptly conduct a public hearing. In connection with any proceeding under this section the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures.

"(c) REQUIREMENTS OF COMPLIANCE ORDERS.—Any order issued under this section shall state with reasonable specificity the nature of the violation and specify a time for compliance and assess a penalty, if any, which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements.

"(d) CRIMINAL PENALTY.—Any person who knowingly—

"(1) transports any hazardous waste listed under this subtitle to a facility which does not have a permit under section 3005 (or 3006 in the case of a State program),

"(2) disposes of any hazardous waste listed under this subtitle without having obtained a permit therefor under this subtitle,

"(3) makes any false statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained, or used for purposes of compliance with this subtitle,

shall, upon conviction, be subject to a fine of not more than $25,000 for each day of violation, or to imprisonment not to exceed one year, or both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

"RETENTION OF STATE AUTHORITY

SEC. 3009. Upon the effective date of regulations under this subtitle no State or political subdivision may impose any requirements less stringent than those authorized under this subtitle respecting the same matter as governed by such regulations, except that if application of a regulation with respect to any matter under this subtitle is postponed or enjoined by the action of any court, no State or political subdivision shall be prohibited from acting with respect to the same aspect of such matter until such time as such regulation takes effect.

"EFFECTIVE DATE

"SEC. 3010. (a) PRELIMINARY NOTIFICATION.—Not later than ninety days after promulgation or revision of regulations under section 3001 identifying by its characteristics or listing any substance as hazardous waste subject to this subtitle, any person generating or transporting such substance or owning or operating a facility for treatment, storage, or disposal of such substance shall file with the Administrator (or with States having authorized hazardous waste permit programs under section 3006) a notification stating the location and general description of such activity and the identified or listed hazardous wastes handled by such person. Not more than one such notification shall be required to be filed with respect to the same substance. No identified or listed hazardous waste subject to this subtitle may be transported, treated, stored, or disposed of unless notification has been given as required under this subsection.

"(b) EFFECTIVE DATE OF REGULATION.—The regulations under this subtitle respecting requirements applicable to the generation, transportation, treatment, storage, or disposal of hazardous waste (including requirements respecting permits for such treatment, storage or disposal) shall take effect on the date six months after the date of promulgation thereof (or six months after the date of revision in the case of any regulation which is revised after the date required for promulgation thereof).

"AUTHORIZATION OF ASSISTANCE TO STATES

"SEC. 3011. (a) There is authorized to be appropriated $25,000,000 for each of the fiscal years 1978 and 1979 to be used to make grants to the States for purposes of assisting the States in the development and implementation of authorized State hazardous waste programs.

"(b) Amounts authorized to be appropriated under subsection (a) shall be allocated among the States on the basis of regulations promulgated by the Administrator, after consultation with the States, which take into account, the extent to which hazardous waste is generated, transported, treated, stored, and disposed of within such State, the extent of exposure of human beings and the environment within such State to such waste, and such other factors as the Administrator deems appropriate.

"SUBTITLE D—STATE OR REGIONAL SOLID WASTE PLANS

"OBJECTIVES OF SUBTITLE

SEC. 4001. The objectives of this subtitle are to assist in developing and encouraging methods for the disposal of solid waste which are environmentally sound and which maximize the utilization of valuable resources and to encourage resource conservation. Such objectives are to be accomplished through Federal technical and financial assistance to States or regional authorities for comprehensive planning pursuant to Federal guidelines designed to foster cooperation among Federal, State, and local governments and private industry.

"FEDERAL GUIDELINES FOR PLANS

"SEC. 4002. (a) GUIDELINES FOR IDENTIFICATION OF REGIONS.—For purposes of encouraging and facilitating the development of regional planning for solid waste management, the Administrator, within one hundred and eighty days after the date of enactment of this section and after consultation with appropriate Federal, State, and local authorities, shall by regulation publish guidelines for the identification of those areas which have common solid waste management problems and are appropriate units for planning regional management services. Such guidelines shall consider—

"(1) the size and location of areas which should be included,

"(2) the volume of solid waste which should be included, and

"(3) the available means of coordinating regional planning with other related regional planning and for coordination of such regional planning into the State plan.

"(b) GUIDELINES FOR STATE PLANS.—Not later than eighteen months after the date of enactment of this section and after notice and hearing, the Administrator shall, after consultation with appropriate Federal, State, and local authorities, promulgate regulations containing guidelines to assist in the development and implementation of State solid waste management plans (hereinafter in this title referred to as 'State plans'). The guidelines shall contain methods for achieving the objectives specified in section 4001. Such guidelines shall be reviewed from time to time, but not less frequently than every three years, and revised as may be appropriate.

"(c) CONSIDERATIONS FOR STATE PLAN GUIDELINES.—The guidelines promulgated under subsection (b) shall consider—

"(1) the varying regional, geologic, hydrologic, climatic, and other circumstances under which different solid waste practices are required in order to insure the reasonable protection of the quality of the ground and surface waters from leachate contamination, the reasonable protection of the quality of the surface waters from surface runoff contamination, and the reasonable protection of ambient air quality;

"(2) Characteristics and conditions of collection, storage, processing, and disposal operating methods, techniques and practices, and location of facilities where such operating methods, techniques, and practices are conducted, taking into account the nature of the material to be disposed;

"(3) methods for closing or upgrading open dumps for purposes of eliminating potential health hazards;

"(4) population density, distribution, and projected growth;

"(5) geographic, geologic, climatic, and hydrologic characteristics;

"(6) the type and location of transportation;

"(7) the profile of industries;

"(8) the constituents and generation rates of waste;

"(9) the political, economic, organizational, financial, and management problems affecting comprehensive solid waste management;

"(10) types of resource recovery facilities and resource conservation systems which are appropriate; and

"(11) available new and additional markets for recovered material.

"MINIMUM REQUIREMENTS FOR APPROVAL OF PLANS

"SEC. 4003. In order to be approved under section 4007, each State plan must comply with the following minimum requirements—

"(1) The plan shall identify (in accordance with section 4006(b)) (A) the responsibilities of State, local, and regional authorities in the implementation of the State plan, (B) the distribution of Federal funds to the authorities responsible for development and implementation of the State plan, and (C) the means for coordinating regional planning and implementation under the State plan.

"(2) The plan shall, in accordance with section 4005(c), prohibit the establishment of new open dumps within the State, and contain requirements that all solid waste (including solid waste originating in other States, but not including hazardous waste) shall be (A) utilized for resource recovery or (B) disposed of in sanitary landfills (within the meaning of section 4004(a) or otherwise disposed of in an environmentally sound manner.

"(3) The plan shall provide for the closing or upgrading of all existing open dumps within the State pursuant to the requirements of section 4005.

"(4) The plan shall provide for the establishment of such State regulatory powers as may be necessary to implement the plan.

"(5) The plan shall provide that no local government within the State shall be prohibited under State or local law from entering into long-term contracts for the supply of solid waste to resource recovery facilities.

"(6) The plan shall provide for such resource conservation or recovery and for the disposal of solid waste in sanitary landfills or any combination of practices so as may be necessary to use or dispose of such waste in a manner that is environmentally sound

"CRITERIA FOR SANITARY LANDFILLS; SANITARY LANDFILLS REQUIRED FOR ALL DISPOSAL

"SEC. 4004. (a) CRITERIA FOR SANITARY LANDFILLS.—Not later than one year after the date of enactment of this section, after consultation with the States, and after notice and public hearings, the Administrator shall promulgate regulations containing criteria for determining which facilities shall be classified as sanitary landfills and which shall be classified as open dumps within the meaning of this Act. At a minimum, such criteria shall provide that a facility may be classified as a sanitary landfill and not an open dump only if there is no reasonable probability of adverse effects on health or the environment from disposal of solid waste at such facility. Such regulations may provide for the classification of the types of sanitary landfills.

"(b) DISPOSAL REQUIRED TO BE IN SANITARY LANDFILLS, ETC.—For purposes of complying with section 4003(2) each State plan shall prohibit the establishment of open dumps and contain a requirement that disposal of all solid waste within the State shall be in compliance with such section 4003(2).

"(c) EFFECTIVE DATE.—The prohibition contained in subsection (b) shall take effect on the date six months after the date of promulgation of regulations under subsection (a) or on the date of approval of the State plan, whichever is later.

"UPGRADING OF OPEN DUMPS

"SEC. 4005. (a) OPEN DUMPS.—For purposes of this Act, the term 'open dump' means any facility or site where solid waste is disposed of which is not a sanitary landfill which meets the criteria promulgated under section 4004 and which is not a facility for disposal of hazardous waste.

"(b) INVENTORY.—Not later than one year after promulgation of regulations under section 4004, the Administrator, with the cooperation of the Bureau of the Census, shall publish an inventory of all disposal facilities or sites in the United States which are open dumps within the meaning of this Act.

"(c) CLOSING OR UPGRADING OF EXISTING OPEN DUMPS.—Any solid waste management practice or disposal of solid waste or hazardous waste which constitutes the open dumping of solid waste or hazardous waste is prohibited, except in the case of any practice or disposal of solid waste under a timetable or schedule for compliance established under this section. For purposes of complying with section 4003(2), each State plan shall contain a requirement that all existing disposal facilities or sites for solid waste in such State which are open dumps listed in the inventory under subsection (b) shall comply with such measures as may be promulgated by the Administrator to eliminate health hazards and minimize potential health hazards. Each such plan shall establish, for any entity which demonstrates that it has considered other public or private alternatives for solid waste management to comply with the prohibition on open dumping and is unable to utilize such alternatives to so comply, a timetable or schedule for compliance for such practice or disposal of solid waste which specifies a schedule of remedial measures, including an enforceable sequence of actions or operations, leading to compliance with the prohibition on open dumping of solid waste within a reasonable time (not to exceed 5 years from the date of publication of the inventory under subsection (b)).

"PROCEDURE FOR DEVELOPMENT AND IMPLEMENTATION OF STATE PLAN

"SEC. 4006. (a) IDENTIFICATION OF REGIONS.—Within one hundred and eighty days after publication of guidelines under section 4002(a) (relating to identification of regions), the Governor of each State, after consultation with local elected officials, shall promulgate regulations based on such guidelines identifying the boundaries of each area within the State which, as a result of urban concentrations, geographic conditions, markets, and other factors, is appropriate for carrying out regional solid waste management. Such regulations may be modified from time to time (identifying additional or different regions) pursuant to such guidelines.

"(b) IDENTIFICATION OF STATE AND LOCAL AGENCIES AND RESPONSIBILITIES.—(1) Within one hundred and eighty days after the Governor promulgates regulations under subsection (a), for purposes of facilitating the development and implementation of a State plan which will meet the minimum requirements of section 4003, the State, together with appropriate elected officials of general purpose units of local government, shall jointly (A) identify an agency to develop the State plan and identify one or more agencies to implement such plan, and (B) identify which solid waste functions will, under such State plan, be planned for and carried out by the State and which such functions will, under such State plan, be planned for and carried out by a regional or local authority or a combination of regional or local and State authorities. If a multifunctional regional agency authorized by State law to conduct solid waste planning and management (the members of which are appointed by the Governor) is in existence on the date of enactment of this Act, the Governor shall identify such authority for purposes of carrying out within such region clause (A) of this paragraph. Where feasible, designation of the agency for the affected area designated under section 208 of the Federal Water Pollution Control Act (86 Stat. 839) shall be considered. A State agency identified under this paragraph shall be established or designated by the Governor of such State. Local or regional agencies identified under this paragraph shall be composed of individuals at least a majority of whom are elected local officials.

"(2) If planning and implementation agencies are not identified and designated or established as required under paragraph (1) for any affected area, the governor shall, before the date two hundred and seventy days after promulgation of regulations under subsection (a), establish or designate a State agency to develop and implement the State plan for such area.

"(c) Interstate Regions.—(1) In the case of any region which, pursuant to the guidelines published by the Administrator under section 4002(a) (relating to identification of regions), would be located in two or more States, the Governors of the respective States, after consultation with local elected officials, shall consult, cooperate, and enter into agreements identifying the boundaries of such region pursuant to subsection (a).

"(2) Within one hundred and eighty days after an interstate region is identified by agreement under paragraph (1), appropriate elected officials of general purpose units of local government within such region shall jointly establish or designate an agency to develop a plan for such region. If no such agency is established or designated within such period by such officials, the Governors of the respective States may, by agreement, establish or designate for such purpose a single representative organization including elected officials of general purpose units of local government within such region.

"(3) Implementation of interstate regional solid waste management plans shall be conducted by units of local government for any portion of a region within their jurisdiction, or by multijurisdictional agencies or authorities designated in accordance with State law, including those designated by agreement by such units of local government for such purpose. If no such unit, agency, or authority is so designated, the respective Governors shall designate or establish a single interstate agency to implement such plan.

"(4) For purposes of this subtitle, so much of an interstate regional plan as is carried out within a particular State shall be deemed part of the State plan for such State.

"APPROVAL OF STATE PLAN; FEDERAL ASSISTANCE

"Sec. 4007. (a) Plan Approval.—The Administrator shall, within six months after a State plan has been submitted for approval, approve or disapprove the plan. The Administrator shall approve a plan if he determines that—

"(1) it meets the requirements of paragraphs (1), (2), (3), and (5) of section 4003; and

"(2) it contains provision for revision of such plan, after notice and public hearing, whenever the Administrator, by regulation, determines—

"(A) that revised regulations respecting minimum requirements have been promulgated under paragraphs (1), (2), (3), and (5) of section 4003 with which the State plan is not in compliance;

"(B) that information has become available which demonstrates the inadequacy of the plan to effectuate the purposes of this subtitle; or

"(C) that such revision is otherwise necessary.

The Administrator shall review approved plans from time to time and if he determines that revision or corrections are necessary to bring such plan into compliance with the minimum requirements promulgated under section 4003 (including new or revised requirements), he shall, after notice and opportunity for public hearing, withdraw his approval of such plan. Such withdrawal of approval shall cease to be effective upon the Administrator's determination that such complies with such minimum requirements.

"(b) Eligibility of States for Federal Financial Assistance.—(1) The Administrator shall approve a State application for financial assistance under subtitle, and make grants to such State, if such State and local and regional authorities within such State have complied with the requirements of section 4006 within the period required under such section and if such State has a State plan which has been approved by the Administrator under this subtitle.

"(2) The Administrator shall approve a State application for financial assistance under this subtitle, and make grants to such State, for fiscal year 1978 and 1979 if the Administrator determines that the State plan continues to be eligible for approval under subsection (a) and is being implemented by the State.

"(3) Upon withdrawal of approval of a State plan under subsection (a), the Administrator shall withhold Federal financial and technical assistance under this subtitle (other than such technical assistance as may be necessary to assist in obtaining the reinstatement of approval) until such time as such approval is reinstated.

"(C) Existing Activities.—Nothing in this subtitle shall be construed to prevent or affect any activities respecting solid waste planning or management which are carried out by State, regional, or local authorities unless such activities are inconsistent with a State plan approved by the Administrator under this subtitle.

"FEDERAL ASSISTANCE

"Sec. 4008. (a) Authorization of Federal Financial Assistance.—(1) There are authorized to be appropriated $30,000,000 for fiscal year 1978 and $40,000,000 for fiscal year 1979 for purposes of making grants to the States for the development and implementation of State plans under this subtitle.

"(2)(A) The Administrator is authorized to provide financial assistance to States, counties, municipalities, and intermunicipal agencies and State and local public solid waste management authorities for implementation of programs to provide solid waste management, resource recovery, and resource conservation services and hazardous waste management. Such assistance shall include assistance for facility planning and feasibility studies; expert consultation; surveys and analyses of market needs; marketing of recovered resources; technology assessments; legal expenses; construction feasibility studies; source separation projects; and fiscal or economic investigations or studies; but such assistance shall not include any other element of construction, or any acquisition of land or interest in land, or any subsidy for the price of recovered resources. Agencies assisted under this subsection shall consider existing solid waste management and hazardous waste management services and facilities as well as facilities proposed for construction.

"(B) An applicant for financial assistance under this paragraph must agree to comply with respect to the project or program assisted with the applicable requirements of sections 4005 and Subtitle C of this Act and apply applicable solid waste management practices, methods, and levels of control consistent with any guidelines published pursuant to section 1008 of this Act. Assistance under this paragraph shall be available only for programs certified by the State to be consistent with any applicable State or areawide solid waste management plan or program.

"(C) There are authorized to be appropriated $15,000,000 for each of the fiscal years 1978 and 1979 for purposes of this section.

"(b) State Allotment.—The sums appropriated in any fiscal year under subsection (a)(1) shall be allotted by the Administrator among all States, in the ratio that the population in each State bears to the population in all of the States, except that no State shall receive less than one-half of 1 per centum of the sums so allotted in any fiscal year. No State shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for other than nonrecurrent expenditures for solid waste management control programs will be less than its expenditures were for such programs during fiscal year 1975, except that such funds may be reduced by an amount equal to their proportionate share of any general reduction of State spending ordered by the Governor or legislature of such State. No State shall receive any grant for solid waste management programs unless the Administrator is satisfied that such grant will be so used as to supplement and, to the extent practicable, increase the level of State, local, regional, or other non-Federal funds that would in the absence of such grant be made available for the maintenance of such programs.

"(c) Distribution of Federal Financial Assistance Within the State.—The Federal assistance allotted to the States under subsection (b) shall be allocated by the State receiving such funds to State, local, regional, and interstate authorities carrying out planning and implementation of the State plan. Such allocation shall be based upon the responsibilities of the respective parties as determined pursuant to section 4006(b).

"(d) Technical Assistance.—The Administrator may provide technical assistance to State and local governments for purposes of developing and implementing State plans. Technical assistance respecting resource recovery and conservation may be provided through resource recovery and conservation panels, established in the Environmental Protection Agency under subtitle B, to assist the State and local governments with respect to particular resource recovery and conservation projects under consideration and to evaluate their effect on the State plan.

"(e) Special Communities.—(1) The Administrator, in cooperation with State and local officials, shall identify communities within the United States (A) having a population of less than twenty-five thousand persons, (B) having solid waste disposal facilities in which more than 75 per centum of the solid waste disposal is from areas outside the jurisdiction of the communities, and (C) which have serious environmental problems resulting from the disposal of such solid waste.

"(2) There is authorized to be appropriated to the Administrator $2,500,000 for each of the fiscal years 1978 and 1979 to make grants to be used for the conversion, improvement, or consolidation of existing solid waste disposal facililties, or for the construction of new solid waste disposal facilities, or for both, within communities unidentified under paragraph (1). Not more than one community in any State shall be eligible for grants under this paragraph and not more than one project in any State shall be eligible for such grants.

"(3) Grants under this subsection shall be made only to projects which the Administrator determines will be consistent with an applicable State plan approved under this subtitle.

and which will assist in carrying out such plan.

"RURAL COMMUNITIES ASSISTANCE

"Sec. 4009. (a) In General.—The Administrator shall make grants to States to provide assistance to municipalities with a population of five thousand or less or counties with a population of ten thousand or less or less than twenty persons per square mile, and not within a metropolitan area, for solid waste management facilities (including equipment) necessary to meet the requirements of section 4005 of this Act or restrictions on open burning or other requirements arising under the Clean Air Act or the Federal Water Pollution Control Act. Such assistance shall only be available—

"(1) to any municipality or county which could not feasibly be included in a solid waste management system or facility serving an urbanized, multijurisdictional area because of its distance from such systems;

"(2) where existing or planned solid waste management services or facilities are unavailable or insufficient to comply with the requirements of section 4005 of this Act; and

"(3) for systems which are certified by the State to be consistent with any plans or programs established under any State or areawide planning process.

"(b) ALLOTMENT.—The Administrator shall allot the sums appropriated to carry out this section in any fiscal year among the States in accordance with regulations promulgated by him on the basis of the average of the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States, the ratio which the population of counties in each State having less than twenty persons per square mile bears to the total population of such counties in all the States, and the ratio which the population of such low-density counties in each State having 33 per centum or more of all families with incomes not in excess of 125 per centum of the poverty level bears to the total population of such counties in all the States.

"(c) LIMIT.—The amount of any grant under this section shall not exceed 75 per centum of the costs of the project. No assistance under this section shall be available for the acquisition of land or interests in land.

"(d) APPROPRIATIONS.—There are authorized to be appropriated $25,000,000 for each of the fiscal years 1978 and 1979 to carry out this section.

"SUBTITLE E—DUTIES OF THE SECRETARY OF COMMERCE IN RESOURCE AND RECOVERY

"FUNCTIONS

"SEC. 5001. The Secretary of Commerce shall encourage greater commercialization of proven resource recovery technology by providing—

"(1) accurate specifications for recovered materials;

"(2) stimulation of development of markets for recovered materials;

"(3) promotion of proven technology; and

"(4) a forum for the exchange of technical and economic data relating to resource recovery facilities.

"DEVELOPMENT OF SPECIFICATIONS FOR SECONDARY MATERIALS

"SEC. 5002. The Secretary of Commerce, acting through the National Bureau of Standards, and in conjunction with national standards-setting organizations in resource recovery, shall, after public hearings, and not later than two years after the date of the enactment of this Act, publish guidelines for the development of specifications for the classification of materials recovered from waste which were destined for disposal. The specifications shall pertain to the physical and chemical properties and characteristics of such materials with regard to their use in replacing virgin materials in various industrial, commercial, and governmental uses. In establishing such guidelines the Secretary shall also, to the extent feasible, provide such information as may be necessary to assist Federal agencies with procurement of items containing recovered materials. The Secretary shall continue to cooperate with national standards-setting organizations, as may be necessary, to encourage the publication, promulgation and updating of standards for recovered materials and for the use of recovered materials in various industrial, commercial, and governmental uses.

"DEVELOPMENT OF MARKETS FOR RECOVERED MATERIALS

"SEC. 5003. The Secretary of Commerce shall within two years after the enactment of this Act take such actions as may be necessary to—

"(1) identify the geographical location of existing or potential markets for recovered materials;

"(2) identify the economic and technical barriers to the use of recovered materials; and

"(3) encourage the development of new uses for recovered materials.

"TECHNOLOGY PROMOTION

"SEC. 5004. The Secretary of Commerce is authorized to evaluate the commercial feasibility of resource recovery facilities and to publish the results of such evaluation, and to develop a data base for purposes of assisting persons in choosing such a system.

"Subtitle F—Federal Responsibilities

"APPLICATION OF FEDERAL, STATE, AND LOCAL LAW TO FEDERAL FACILITIES

"SEC. 6001. Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any solid waste management facility or disposal site, or (2) engaged in any activity resulting, or which may result, in the disposal of solid waste or hazardous waste shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting control and abatement of solid waste or hazardous waste disposal in the same manner, and to the same extent, as any person is subject to such requirements, including the payment of reasonable service charges. Neither the United States, nor any agent, employee, or officer thereof, shall be immune or exempt from any process or sanction of any State or Federal court with respect to the enforcement of any such injunctive relief. The President may exempt any solid waste management facility of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

"FEDERAL PROCUREMENT

"SEC. 6002. (a) APPLICATION OF SECTION.—Except as provided in subsection (b), a procuring agency, shall comply with the requirements set forth in this section and any regulations issued under this section, with respect to any purchase or acquisition of a procurement item where the purchase price of the item exceeds $10,000 or where the quantity of such items or the functionally equivalent items purchased or acquired in the course of the preceding fiscal year was $10,000 or more.

"(b) PROCUREMENT SUBJECT TO OTHER LAW.—Any procurement, by any procuring agency, which is subject to guideline regulations of the Administrator under section 6004 (as promulgated before the date of enactment of this Act under comparable provisions of prior law) shall not be subject to the requirements of this section to the extent that such requirements are inconsistent with such regulations.

"(c) REQUIREMENTS.—(1)(A) After two years after the date of enactment of this Act, each procuring agency shall procure items composed of the highest percentage of recovered materials practicable consistent with maintaining a satisfactory level of competition. The decision not to procure such items shall be based on a determination that such procurement items—

"(i) are not reasonably available within a reasonable period of time;

"(ii) fail to meet the performance standards set forth in the applicable specifications or fail to meet the reasonable performance standards of the procuring agencies; or

"(iii) are only available at an unreasonable price.

Any determination under clause (ii) shall be made on the basis of the guidelines of the Bureau of Standards in any case in which such material is covered by such guidelines.

"(B) Agencies that generate heat, mechanical, or electrical energy from fossil fuel in systems that have the technical capability of using recovered material and recovered-material-derived fuel as a primary or supplementary fuel shall use such capability to the maximum extent practicable.

"(C) Contracting officers shall require that vendors certify the percentage of the total material utilized for the performance of the contract which is recovered materials.

"(d) SPECIFICATIONS.—(1) All Federal agencies that have the responsibility for drafting or reviewing specifications for procurement item procured by Federal agencies shall, in reviewing those specifications, ascertain whether such specifications violate the prohibitions contained in subparagraphs (A) through (C) of paragraph (2). Such review shall be undertaken not later than eighteen months after the date of enactment of this section.

"(2) In drafting or revising such specifications, after the date of enactment of this section—

"(A) any exclusion of recovered materials shall be eliminated;

"(B) such specification shall not require the item to be manufactured from virgin materials; and

"(C) such specifications shall require reclaimed materials to the maximum extent possible without jeopardizing the intended end use of the item.

"(e) GUIDELINES.—The Administrator, after consultation with the Administrator of General Services, the Secretary of Commerce (acting through the Bureau of Standards), and the Public Printer, shall prepare, and from time to time revise, guidelines for the use of procuring agencies in complying with the requirements of this section. Such guidelines shall set forth recommended practices with respect to the procurement of recovered materials and items containing such materials and shall provide information as to availability, sources of supply, and potential uses of such materials and items.

"(f) PROCUREMENT OF SERVICES.—A procuring agency shall, to the maximum extent practicable, manage or arrange for the procurement of solid waste management services in a manner which maximizes energy and resource recovery.

"(g) EXECUTIVE OFFICE.—The Office of Procurement Policy in the Executive Office of the President, in cooperation with the Administrator, shall implement the policy expressed in this section. It shall be the responsibility of the Office of Procurement Policy to coordinate this policy with other policies for Federal procurement, in such a way as to maximize the use of recovered resources, and to annually report to the Congress on actions taken by Federal agencies and the progress made in the implementation of such policy.

"COOPERATION WITH ENVIRONMENTAL PROTECTION AGENCY

"Sec. 6003. All Federal agencies having functions in relation to solid waste or hazardous waste shall cooperate to the maximum extent permitted by law with the Administrator in carrying out his functions under this Act and shall make all appropriate information, facilities, personnel, and other resources available, on a reimbursable basis, to the Administrator upon his request.

"APPLICABILITY OF SOLID WASTE DISPOSAL GUIDELINES TO EXECUTIVE AGENCIES

"Sec. 6004. (a) Compliance.—(1) If—

"(A) an Executive agency (as defined in section 105 of title 5, United States Code) has jurisdiction over any real property or facility the operation or administration of which involves such agency in solid waste disposal activities, or

"(B) such an agency enters into a contract with any person for the operation by such person of any Federal property or facility, and the performance of such contract involves such person in solid waste disposal activities,

then such agency shall insure compliance with the guidelines recommended under section 1008 and the purposes of this Act in the operation or administration of such property or facility, or the performance of such contract, as the case may be.

"(2) Each Executive agency which conducts any activity—

"(A) which generates solid waste, and

"(B) which, if conducted by a person other than such agency, would require a permit or license from such agency in order to dispose of such solid waste,

shall insure compliance with such guidelines and the purposes of this Act in conducting such activity.

"(3) Each Executive agency which permits the use of Federal property for purposes of disposal of solid waste shall insure compliance with such guidelines and the purposes of this Act in the disposal of such waste.

"(4) The President shall prescribe regulations to carry out this subsection.

"(b) Licenses and Permits.—Each Executive agency which issues any license or permit for disposal of solid waste shall, prior to the issuance of such license or permit, consult with the Secretary to insure compliance with guidelines recommended under section 1008 and the purposes of this Act.

"Subtitle G—Miscellaneous Provisions

"EMPLOYEE PROTECTION

"Sec. 7001. (a) General.—No person shall fire, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this Act or under any applicable implementation plan, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act or of any applicable implementation plan.

"(b) Remedy.—Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary of Labor for a review of such firing or alleged discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary of Labor shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to such alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary of Labor shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein and his findings, requiring the party committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no such violation, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subparagraph shall be subject to judicial review in the same manner as orders and decisions of the Administrator or subject to judicial review under this Act.

"(c) Costs.—Whenever an order is issued under this section to abate such violation, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) as determined by the Secretary of Labor, to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

"(d) Exception.—This section shall have no application to any employee who, acting without direction from his employer (or his agent) deliberately violates any requirement of this Act.

Employment Shifts and Loss.—The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the administration or enforcement of the provisions of this Act and applicable implementation plans, including, where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such administration or enforcement. Any employee who is discharged, or laid off, or threatened with discharge or layoff, or otherwise discriminated against by any person because of the alleged results of such administration or enforcement, or any representative of such employee, may request the Administrator to conduct a full investigation of the matter. The Administrator shall thereupon investigate the matter and, at the request of any party, shall hold public hearings on not less than five days' notice, and shall at such hearings require the parties, including the employer involved, to present information relating to the actual or potential effect of such administration or enforcement on employment and on any alleged discharge, layoff, or other discrimination and the detailed reasons or justification therefor. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Administrator shall make findings of fact as to the effect of such administration or enforcement on employment and on the alleged discharge, layoff, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the Administrator or any State to modify or withdraw any standard, limitation, or any other requirement of this Act or any applicable implementation plan.

"CITIZEN SUITS

"Sec. 7002. (a) In General.—Except as provided in subsection (b) or (c) of this section, any person may commence a civil action on his own behalf—

"(1) against any person (including (a) the United States, and (b) any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any permit, standard, regulation, condition, requirement, or order which has become effective pursuant to this Act; or

"(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator.

Any action under paragraph (a)(1) of this subsection shall be brought in the district court for the district in which the alleged violation occurred. Any action brought under paragraph (a)(2) of this subsection may be brought in the district court for the district in which the alleged violation occurred or in the District Court of the District of Columbia. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such regulation or order, or to order the Administrator to perform such act or duty as the case may be.

"(b) Actions Prohibited.—No action may be commenced under paragraph (a)(1) of this section—

"(1) prior to sixty days after the plaintiff has given notice of the violation (A) to the Administrator; (B) to the State in which the alleged violation occurs; and (C) to an alleged violator of such permit, standard, regulation, condition, requirement, or order; or

"(2) if the Administrator or State has commenced and is diligently prosecuting a civil or criminal action in a court of the United States or a State to require compliance with such permit, standard, regulation, condition, requirement, or order: *Provided, however,* That in any such action in a court of the United States, any person may intervene as a matter of right.

"(c) Notice.—No action may be commenced under paragraph (a)(3) of this section prior to sixty days after the plaintiff has given notice to the Administrator that he will commence such action, except that such action may be brought immediately after such notification in the case of an action under this section respecting a violation of section 212 of this Act. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation. Any action respecting a violation under this Act may be brought under this section only in the judicial district in which such alleged violation occurs.

"(d) Intervention.—In any action under this section, the Administrator, if not a party, may intervene as a matter of right.

"(e) Costs.—The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, requiring the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

"(f) Other Rights Preserved.—Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or requirement relating to the management of solid waste or hazardous waste, or to seek any other relief (including relief against the Administrator or a State agency).

"IMMINENT HAZARD

"Sec. 7003. Notwithstanding any other provision of this Act, upon receipt of evidence that the handling, storage, treatment, transportation or disposal of any solid waste or hazardous waste is presenting an imminent and substantial endangerment to health or the environment, the Administrator may bring suit on behalf of the United States in the appropriate district court to immediately restrain any person for contributing to the alleged disposal to stop such handling, storage, treatment, transportation, or disposal or to take such other action as may be necessary. The Administrator shall provide notice to the affected State of any such suit.

"PETITION FOR REGULATIONS; PUBLIC PARTICIPATION

"Sec. 7004. (a) Petition.—Any person may petition the Administrator for the promulgation, amendment, or repeal of any regulation under this Act. Within a reasonable time following receipt of such petition, the Administrator shall take action with respect to such petition and shall publish notice of such action in the Federal Register, together with the reasons therefor.

"(b) Public Participation.—Public participation in the development, revision, implementation, and enforcement of any regulation, guideline, information, or program under this Act shall be provided for, encouraged, and assisted by the Administrator and the States. The Administrator, in cooperation with the States, shall develop and publish minimum guidelines for public participation in such processes.

"SEPARABILITY

"Sec. 7005. If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

"JUDICIAL REVIEW

"Sec. 7006. Any judicial review of final regulations promulgated pursuant to this Act shall be in accordance with sections 701 through 706 of title 5 of the United States Code, except that—

"(1) a petition for review of action of the Administrator in promulgating any regulation, or requirement under this Act may be filed only in the United States Court of Appeals for the District of Columbia. Any such petition shall be filed within ninety days from the date of such promulgation, or after such date if such petition is based solely on grounds arising after such ninetieth day. Action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil or criminal proceedings for enforcement; and

"(2) in any judicial proceeding brought under this section in which review is sought of a determination under this Act required to be made on the record after notice and opportunity for hearing, if a party seeking review under this Act applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the information is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

"GRANTS OR CONTRACTS FOR TRAINING PROJECTS

"Sec. 7007. (a) General Authority.—The Administrator is authorized to make grants to, and contracts with, any eligible organization. For purposes of this section the term "eligible organization" means a State or interstate agency, a municipality, educational institution, and any other organization which is capable of effectively carrying out a project which may be funded by grant under subsection (b) of this section.

"(b) Purposes.—(1) Subject to the provisions of paragraph (2), grants or contracts may be made to pay all or a part of the costs, as may be determined by the Administrator, of any project operated or to be operated by an eligible organization, which is designed—

"(A) to develop, expand, or carry out a program (which may combine training, education, and employment) for training persons for occupations involving the management, supervision, design, operation, or maintenance of solid waste disposal and resources recovery equipment and facilities; or

"(B) to train instructors and supervisory personnel to train or supervise persons in occupations involving the design, operation, and maintenance of solid waste disposal and resource recovery equipment and facilities.

"(2) A grant or contract authorized by paragraph (1) of this subsection may be made only upon application to the Administrator at such time or times and containing such information as he may prescribe, except that no such application shall be approved unless it provides for the same procedures and reports (and access to such reports and to other records) as required by section 207(b) (4) and (5) (as in effect before the date of the enactment of Resource Conservation and Recovery Act of 1976) with respect to applications made under such section (as in effect before the date of the enactment of Resource Conservation and Recovery Act of 1976).

"(c) Study.—The Administrator shall make a complete investigation and study to determine—

"(1) the need for additional trained State and local personnel to carry out plans assisted under this Act and other solid waste and resource recovery programs;

"(2) means of using existing training programs to train such personnel; and

"(3) the extent and nature of obstacles to employment and occupational advancement in the solid waste disposal and resource recovery field which may limit either available manpower or the advancement of personnel in such field.

He shall report the results of such investigation and study, including his recommendations to the President and the Congress.

"PAYMENTS

"Sec. 7008. (a) Payments of grants under this Act may be made (after necessary adjustment on account of previously made (underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Administrator may determine.

"(b) No grant may be made under this Act to any private profitmaking organization.

"LABOR STANDARDS

"Sec. 7009. No grant for a project of construction under this Act shall be made unless the Secretary finds that the application contains or is supported by reasonable assurance that all laborers and mechanics employed by contractors or subcontractors on projects of the type covered by the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5), will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with that Act; and the Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

"Subtitle H—Research, Development, Demonstration, and Information

"RESEARCH, DEMONSTRATIONS, TRAINING, AND OTHER ACTIVITIES

"Sec. 8001. (a) General Authority.—The Administrator, alone or after consultation with the Administrator of the Federal Energy Administration, the Administrator of the Energy Research and Development Administration, or the Chairman of the Federal Power Commission, shall conduct, and encourage, cooperate with, and render financial and other assistance to appropriate public (whether Federal, State, interstate, or local) authorities, agencies, and institutions, private agencies and institutions, and individuals in the conduct of, and promote the coordination of, research, investigations, experiments, training, demonstrations, surveys, public education programs, and studies relating to—

"(1) any adverse health and welfare effects of the release into the environment of material present in solid waste, and methods to eliminate such effects;

"(2) the operation and financing of solid waste disposal programs;

"(3) the planning, implementation, and operation of resource recovery and resource conservation systems and hazardous waste management systems, including the marketing of recovered resources;

"(4) the production of usable forms of recovered resources, including fuel, from solid waste;

"(5) the reduction of the amount of such waste and unsalvageable waste materials;

"(6) the development and application of new and improved methods of collecting and disposing of solid waste and processing and recovering materials and energy from solid wastes;

"(7) the identification of solid waste components and potential materials and energy recoverable from such waste components;

"(8) small scale and low technology solid waste management systems, including but not limited to, resource recovery source separation systems;

"(9) methods to improve the performance characteristics of resources recovered from solid waste and the relationship of such performance characteristics to available and potentially available markets for such resources;

"(10) improvements in land disposal practices for solid waste (including sludge) which may reduce the adverse environmental effects of such disposal and other aspects of solid waste disposal on land, including means for reducing the harmful environmental effects of earlier and existing landfills, means for restoring areas damaged by such earlier or existing landfills, means for rendering landfills safe for purposes of construction and other uses, and techniques of recovering materials and energy from landfills;

"(11) methods for the sound disposal of, or recovery of resources, including energy, from, sludge (including sludge from pollution control and treatment facilities, coal slurry pipelines, and other sources);

"(12) methods of hazardous waste management, including methods of rendering such waste environmentally safe; and

"(13) any adverse effects on air quality (particularly with regard to the emission of heavy metals) which result from solid waste which is burned (either alone or in conjunction with other substances) for purposes of disposal or energy recovery.

"(b) Management Program.—(1)(A) In carrying out his functions pursuant to this Act, and any other Federal legislation respecting solid waste or discarded material research, development, and demonstrations, the Administrator shall establish a management program or system to insure the coordination of all such activities and to facilitate and accelerate the process of development of sound new technology (or other discoveries) from the research phase, through development, and into the demonstration phase.

"(B) The Administrator shall (i) assist, on the basis of any research projects which are developed with assistance under this Act or without Federal assistance, the construction of pilot plant facilities for the purpose of investigating or testing the technological feasibility of any promising new fuel, energy, or resource recovery or resource conservation method or technology; and (ii) demonstrate each such method and technology that appears justified by an evaluation at such pilot plant stage or at a pilot plant stage developed without Federal assistance. Each such demonstration shall incorporate new or innovative technical advances or shall apply such advances to different circumstances and conditions, for the purpose of evaluating design concepts or to test the performance, efficiency, and economic feasibility of a particular method or technology under actual operating conditions. Each such demonstration shall be so planned and designed that, if successful, it can be expanded or utilized directly as a full-scale operational fuel, energy, or resource recovery or resource conservation facility.

"(2) Any energy-related research, development, or demonstration project for the conversion including bioconversion, of solid waste carried out by the Environmental Protection Agency or by the Energy Research and Development Administration pursuant to this or any other Act shall be administered in accordance with the May 7, 1976, Interagency Agreement between the Environmental Protection Agency and the Energy Research and Development Administration on the Development of Energy from Solid Wastes and specifically, that in accordance with this agreement, (A) for those energy-related projects of mutual interest, planning will be conducted jointly by the Environmental Protection Agency and the Energy Research and Development Administration, following which project responsibility will be assigned to one agency; (B) energy-related portions of projects for recovery of synthetic fuels or other forms of energy from solid waste shall be the responsibility of the Energy Research and Development Administration; (C) the Environmental Protection Agency shall retain responsibility for the environmental, economic, and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines published pursuant to section 1008, and any applicable State or regional solid waste management plan; and (D) any activities undertaken under provisions of sections 8002 and 8003 as related to energy; as related to energy or synthetic fuels recovery from waste; or as related to energy conservation shall be accomplished through coordination and consultation with the Energy Research and Development Administration.

"(c) Authorities.—(1) In carrying out subsection (a) of this section respecting solid waste research, studies, development, and demonstration, except as otherwise specifically provided in section 8004(d), the Administrator may make grants to or enter into contracts (including contracts for construction) with, public agencies and authorities or private persons.

"(2) Contracts for research, development, or demonstrations or for both (including contracts for construction) shall be made in accordance with and subject to the limitations provided with respect to research contracts of the military departments in title 10, United States Code, section 2353, except that the determination, approval, and certification required thereby shall be made by the Administrator.

"(3) Any invention made or conceived in the course of, or under, any contract under this Act shall be subject to section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 to the same extent and in the same manner as inventions made or conceived in the course of contracts under such Act, except that in applying such section, the Environmental Protection Agency shall be substituted for the Energy Research and Development Administration and the words 'solid waste' shall be substituted for the word 'energy' where appropriate.

"(4) For carrying out the purpose of this Act the Administrator may detail personnel of the Environmental Protection Agency to agencies eligible for assistance under this section.

"SPECIAL STUDIES; PLANS FOR RESEARCH, DEVELOPMENT AND DEMONSTRATIONS

"Sec. 8002. (a) Glass and Plastic.—The Administrator shall undertake a study and publish a report on resource recovery from glass and plastic waste, including a scientific, technological, and economic investigation of potential solutions to implement such recovery.

"(b) Composition of Waste Stream.—The Administrator shall undertake a systematic study of the composition of the solid waste stream and of anticipated future changes in the composition of such stream and shall publish a report containing the results of such study and quantitatively evaluating the potential utility of such components.

"(c) Priorities Study.—For purposes of determining priorities for research on recovery of materials and energy from solid waste and developing materials and energy recovery research, development, and demonstration strategies, the Administrator shall review, and make a study of, the various existing and promising techniques of energy recovery from solid waste (including, but not limited to, waterwall furnace incinerators, dry shredded fuel systems, pyrolysis, densified refuse-derived fuel systems, anerobic digestion, and fuel and feedstock preparation systems). In carrying out such study the Administrator shall investigate with respect to each such technique—

"(1) the degree of public need for the potential results of such research, development, or demonstration,

"(2) the potential for research, development, and demonstration without Federal action, including the degree of restraint on such potential posed by the risks involved, and

"(3) the magnitude of effort and period of time necessary to develop the technology to the point where Federal assistance can be ended.

"(d) Small-Scale and Low Technology Study.—The Administrator shall undertake a comprehensive study and analysis of, and publish a report on, systems of small-scale and low technology solid waste management, including household resource recovery and resource recovery systems which have special application to multiple dwelling units and high density housing and office complexes. Such study and analysis shall include an investigation of the degree to which such systems could contribute to energy conservation.

"(e) Front-End Source Separation.—The Administrator shall undertake research and studies concerning the compatibility of front-end source separation systems with high technology resource recovery systems and shall publish a report containing the results of such research and studies.

"(f) Mining Waste.—The Administrator, in consultation with the Secretary of the Interior, shall conduct a detailed and comprehensive study on the adverse effects of solid wastes from active and abandoned surface and underground mines on the environment, including, but not limited to, the effects of such wastes on humans, water, air, health, welfare, and natural resources, and on the adequacy of means and measures currently employed by the mining industry, Government agencies, and others to dispose of and utilize such solid wastes and to prevent or substantially mitigate such adverse effects. Such study shall include an analysis of—

"(1) the sources and volume of discarded material generated per year from mining;

"(2) present disposal practices;

"(3) potential dangers to human health and the environment from surface runoff of leachate and air pollution by dust;

"(4) alternatives to current disposal methods;

"(5) the cost of those alternatives in terms of the impact on mine product costs; and

"(6) potential or use of discarded material as a secondary source of the mine product.

In furtherance of this study, the Administrator shall, as he deems appropriate, review studies and other actions of other Federal agencies concerning such wastes with a view toward avoiding duplication of effort and the need to expedite such study. The Administrator shall publish a report of such study and shall include appropriate findings and recommendations for Federal and non-Federal actions concerning such effects.

"(g) Sludge.—The Administrator shall undertake a comprehensive study and publish a report on sludge. Such study shall include an analysis of—

"(1) what types of solid waste (including but not limited to sewage and pollution treatment residues and other residues from industrial operations such as extraction of oil from shale liquefaction and gasification of coal and coal slurry pipeline operations) shall be classified as sludge;

"(2) the effects of air and water pollution legislation on the creation of large volumes of sludge;

"(3) the amounts of sludge originating in each State and in each industry producing sludge;

"(4) methods of disposal of such sludge, including the cost, efficiency, and effectiveness of such methods;

"(5) alternative methods for the use of sludge, including agricultural applications of sludge and energy recovery from sludge; and

"(6) methods to reclaim areas which have been used for the disposal of sludge or which have been damaged by sludge.

"(h) Tires.—The Administrator shall undertake a study and publish a report respecting discarded motor vehicle tires which shall include an analysis of the problems involved in the collection, recovery of resources including energy, and use of such tires.

"(i) Resource Recovery Facilities.—The Administrator shall conduct research and report on the economics of, and impediments to, the effective functioning of resource recovery facilities.

"(j) Resource Conservation Committee.—(1) The Administrator shall serve as Chairman of a Committee composed of himself, the Secretary of Commerce, the Secretary of Labor, the Chairman of the Council on Environmental Quality, the Secretary of Treasury, the Secretary of the Interior, and a representative of the Office of Management and Budget, which shall conduct a full and complete investigation and study of all aspects of the economic, social, and environmental consequences of resource conservation with respect to—

"(A) the appropriateness of recommended incentives and disincentives to foster resource conservation;

"(B) the effect of existing public policies (including subsidies and economic incentives and disincentives, percentage depletion allowances capital gains treatment and other tax incentives and disincentives) upon resource conservation and the likely effect of the modification or elimination of such incentives and disincentives upon resource conservation.

"(C) the appropriateness and feasibility of restricting the manufacture or use of categories of consumer products as a resource conservation strategy;

"(D) the appropriateness and feasibility of employing as a resource conservation strategy the imposition of solid waste management charges on consumer products, which charges would reflect the costs of solid waste management services, litter pickup, the value of recoverable components of such product, final disposal, and any social value associated with the nonrecycling or uncontrolled disposal of such product; and

"(E) the need for further research, development, and demonstration in the area of resource conservation.

"(2) The study required in paragraph (2) (D) may include pilot scale projects, and shall consider and evaluate alternative strategies with respect to—

"(A) the product categories on which such charges would be imposed;

"(B) the appropirate state in the production of such consumer product at which to levy such charge;

"(C) appropriate criteria for establishing such charges for each consumer product category;

"(D) methods for the adjustment of such charges to reflect actions such as recycling which would reduce the overall quantities of solid waste requiring disposal; and

"(E) procedures for amending, modifying, or revising such charges to reflect changing conditions.

"(3) The design for the study required in paragraph (2)(D) of this subsection shall include timetables for the completion of the study. A preliminary report putting forth the study design shall be sent to the President and the Congress within six months following enactment of this section and followup reports shall be sent six months thereafter. Each recommendation resulting from the study shall include at least two alternatives to the proposed recommendation.

"(4) The results of such investigation and study, including recommendations, shall be reported to the President and the Congress not later than two years after enactment of this subsection.

"(5) There are authorized to be appropriated not to exceed $2,000,000 to carry out this subsection.

"(k) Airport Landfills.—The Administrator shall undertake a comprehensive study and analysis of and publish a report on systems to alleviate the hazards to aviation from birds congregating and feeding on landfills in the vicinity of airports.

"(l) Completion of Research and Studies.—The Administrator shall complete the research and studies, and submit the reports, required under subsections (b), (c), (d), (e), (f), (g), and (k) not later than October 1, 1978. The Administrator shall complete the research and studies, and submit the reports required under subsections (a), (h), (i), and (j) not later than October 1, 1979. Upon completion, each study specified in subsections (a) through (k) of this section, the Administrator shall prepare a plan for research, development, and demonstration respecting the findings of the study and shall submit any legislative recommendations resulting from such study to appropriate committees of Congress.

"(m) Authorization of Appropriations.—There are authorized to be appropriated not to exceed $8,000,000 for the fiscal years 1978 and 1979 to carry out this section other than subsection (j).

"COORDINATION, COLLECTION, AND DISSEMINATION OF INFORMATION

"Sec. 8003. (a) Information.—The Administrator shall develop, collect, evaluate and coordinate information on—

"(1) methods and costs of the collection of solid waste;

"(2) solid waste management practices, including data on the different management methods and the cost, operation, and maintenance of such methods;

"(3) the amounts and percentages of resources (including energy) that can be recovered from solid waste by use of various discarded materials management practices and various technologies;

"(4) methods available to reduce the amount of solid waste that is generated;

"(5) existing and developing technologies for the recovery of energy or materials from solid waste and the costs, reliability, and risks associated with such technologies;

"(6) hazardous solid waste, including incidents of damage resulting from the disposal of hazardous solid wastes; inherently and potentially hazardous solid wastes; methods of neutralizing or properly disposing of hazardous solid wastes; facilities that properly dispose of hazardous wastes;

"(7) methods of financing resource recovery facilities or, sanitary landfills, or hazardous solid waste treatment facilities, whichever is appropriate for the entity developing such facility or landfill (taking into account the amount of solid waste reasonably expected to be available to such entity);

"(8) the availability of markets for the purchase of resources, either materials or energy, recovered from solid waste; and

"(9) research and development projects respecting solid waste management.

"(b) Library.—(1) The Administrator shall establish and maintain a central reference library for (A) the materials collected pursuant to subsection (a) of this section and (B) the actual performance and cost effectiveness records and other data and information with respect to—

"(i) the various methods of energy and resource recovery from solid waste,

"(ii) the various systems and means of resource conservation,

"(iii) the various systems and technologies for collection, transport, storage, treatment, and final disposition of solid waste, and

"(iv) other aspects of solid waste and hazardous solid waste management.

Such central reference library shall also contain, but not be limited to, the model codes and model accounting systems developed under this section, the information collected under subsection (d), and, subject to any applicable requirements of confidentiality, information respecting any aspect of solid waste provided by officers and employees of the Environmental Protection Agency which has been acquired by them in the conduct of their functions under this Act and which may be of value to Federal, State, and local authorities and other persons.

"(2) Information in the central reference library shall, to the extent practicable, be collated, analyzed, verified, and published and shall be made available to State and local governments and other persons at reasonable times and subject to such reasonable charges as may be necessary to defray expenses of making such information available.

"(c) Model Accounting System.—In order to assist State and local governments in determining the costs and revenues associated with the collection and disposal of solid waste and with resource recovery operations, the Administrator shall develop and publish a recommended model cost and revenue accounting system applicable to the solid waste management functions of State and local governments. Such system shall be in accordance with generally accepted accounting principles. The Administrator shall periodically, but not less frequently than once every five years, review such accounting system and revise it as necessary.

"(d) Model Codes.—The Administrator is authorized, in cooperation with appropriate State and local agencies, to recommend model codes, ordinances, and statutes, providing for sound solid waste management.

"(e) Information Programs.—(1) The Administrator shall implement a program for the rapid dissemination of information on solid waste management, hazardous waste management, resource conservation, and methods of resource recovery from solid waste, including the results of any relevant research, investigations, experiments, surveys, studies, or other information which may be useful in the implementation of new or improved solid waste management practices and methods and information on any other technical, managerial, financial, or market aspect of resource conservation and recovery facilities.

"(2) The Administrator shall develop and implement educational programs to promote citizen understanding of the need for environmentally sound solid waste management practices.

"(f) Coordination.—In collecting and disseminating information under this section, the Administrator shall coordinate his actions and cooperate to the maximum extent possible with State and local authorities.

"(g) Special Restriction.—Upon request, the full range of alternative technologies, programs or processes deemed feasible to meet the resource recovery or resource conservation needs of a jurisdiction shall be described in such a manner as to provide sufficient evaluative basis from which the jurisdiction can make its decisions, but no officer or employee of the Environmental Protection Agency shall, in an official capacity, lobby for or otherwise represent an agency position in favor of resource recovery or resource conservation, as a policy alternative for adoption into ordinances, codes, regulations, or law by any State or political subdivision thereof.

"FULL-SCALE DEMONSTRATION FACILITIES

"Sec. 8004. (a) Authority.—The Administrator may enter into contracts with public agencies or authorities or private persons for the construction and operation of a full-scale demonstration facility under this Act, or provide financial assistance in the form of grants to a full-scale demonstration facility under this Act only if the Administrator finds that—

"(1) such facility or proposed facility will demonstrate at full scale a new or significantly improved technology or process, a practical and significant improvement in discarded material management practice, or the technological feasibility and cost effectiveness of an existing, but unproven technology, process, or practice, and will not duplicate any other Federal, State, local, or commercial facility which has been constructed or with respect to which construction has begun (determined as of the date action is taken by the Administrator under this Act),

"(2) such contract or assistance meets the requirements of section 8001 and meets other applicable requirements of this Act,

"(3) such facility will be able to comply with the guidelines published under section 1008 and with other laws and regulations for the protection of health and the environment,

"(4) in the case of a contract for construction or operation, such facility is not likely to be constructed or operated by State, local, or private persons or in the case of an application for financial assistance, such facility is not likely to receive adequate financial assistance from other sources, and

"(5) any Federal interest in, or assistance to, such facility will be disposed of or terminated, with appropriate compensation, within such period of time as may be necessary to carry out the basic objectives of this Act.

"(b) Time Limitation.—No obligation may be made by the Administrator for financial assistance under this subtitle for any full-scale demonstration facility after the date ten years after the enactment of this section. No expenditure of funds for any such full-scale demonstration facility under this subtitle may be made by the Administrator after the date fourteen years after such date of enactment.

"(c) Cost Sharing.—(1) Wherever practicable, in constructing, operating, or providing financial assistance under this subtitle to a full-scale demonstration facility, the Administrator shall endeavor to enter into agreements and make other arrangements for maximum practicable cost sharing with other Federal, State, and local agencies, private persons, or any combination thereof.

"(2) The Administrator shall enter into arrangements, wherever practicable and desirable, to provide monitoring of full-scale solid waste facilities (whether or not constructed or operated under this Act) for purposes of obtaining information concerning the performance, and other aspects, of such facilities. Where the Administrator provides only monitoring and evaluation instruments or personnel (or both) or funds for such instruments or personnel and provides no other financial assistance to a facility, notwithstanding section 8001(c)(3), title to any invention made or conceived of in the course of developing, constructing, or operating such facility shall not be required to vest in the United States and patents respecting such invention shall not be required to be issued to the United States.

"(d) Prohibition.—After the date of enactment of this section, the Administrator shall not construct or operate any full-scale facility (except by contract with public agencies or authorities or private persons).

"SPECIAL STUDY AND DEMONSTRATION PROJECTS ON RECOVERY OF USEFUL ENERGY AND MATERIALS

"Sec. 8005. (a) Studies.—The Administrator shall conduct studies and develop recommendations for administrative or legislative action on—

"(1) means of recovering materials and energy from solid waste, recommended uses of such materials and energy for national or international welfare, including identification of potential markets for such recovered resources, the impact of distribution of such resources on existing markets, and potentials for energy conservation through resource conservation and resource recovery;

"(2) actions to reduce waste generation which have been taken voluntarily or in response to governmental action, and those which practically could be taken in the future, and the economic, social, and environmental consequences of such actions;

"(3) methods of collection, separation, and containerization which will encourage efficient utilization of facilities and contribute to more effective programs of reduction, reuse, or disposal of wastes;

"(4) the use of Federal procurement to develop market demand for recovered resources;

"(5) recommended incentives (including Federal grants, loans, and other assistance) and disincentives to accelerate the reclamation or recycling of materials from solid wastes, with special emphasis on motor vehicle hulks;

"(6) the effect of existing public policies, including subsidies and economic incentives and disincentives, percentage depletion allowances, capital gains treatment and other tax incentives and disincentives, upon the recycling and reuse of materials, and the likely effect of the modification or elimination of such incentives and disincentives upon the reuse, recycling and conservation of such materials;

"(7) the necessity and method of imposing disposal or other charges on packaging, containers, vehicles, and other manufactured goods, which charges would reflect the cost of final disposal, the value of recoverable components of the item, and any social costs associated with nonrecycling or uncontrolled disposal of such item; and

"(8) the legal constraints and institutional barriers to the acquisition of land needed for solid waste management, including land for facilities and disposal sites;

"(9) in consultation with the Secretary of Agriculture, agricultural waste management problems and practices, the extent of reuse and recovery of resources in such wastes, the prospects for improvement, Federal, State, and local regulations governing such practices, and the economic, social, and environmental consequences of such practices; and

"(10) in consultation with the Secretary of the Interior, mining waste management problems, and practices, including an assessment of existing authorities, technologies, and economies, and the environmental and public health consequences of such practices.

"(b) Demonstration.—The Administrator is also authorized to carry out demonstration projects to test and demonstrate methods and techniques developed pursuant to subsection (a).

"(c) Application of Other Sections.—Section 8001 (b) and (c) shall be applicable to investigations, studies, and projects carried out under this section.

"GRANTS FOR RESOURCE RECOVERY SYSTEMS AND IMPROVED SOLID WASTE DISPOSAL FACILITIES

"Sec. 8006. (a) Authority.—The Administrator is authorized to make grants pursuant to this section to any State, municipal, or intermunicipal agency for the demonstration of resource recovery systems or for the construction of new or improved solid waste disposal facilities.

"(b) Conditions.—(1) Any grant under this section for the demonstration of a resource recovery system may be made only if it (A) is consistent with any plans which meet the requirements of subtitle D of this Act; (B) is consistent with the guidelines recommended pursuant to section 1008 of this Act; (C) is designed to provide areawide resource recovery systems consistent with the purposes of this Act, as determined by the Administrator, pursuant to regulations promulgated under subsection (d) of this section; and (D) provides an equitable system for distributing the costs associated with construction, operation, and maintenance of any resource recovery system among the users of such system.

"(2) The Federal share for any project to which paragraph (1) applies shall not be more than 75 percent.

"(c) Limitations.—A grant under this section for the construction of a new or improved solid waste disposal facility may be made only if—

"(A) a State or interstate plan for solid waste disposal has been adopted which applies to the area involved, and the facility to be constructed (i) is consistent with such plan, (ii) is included in a comprehensive plan for the area involved which is satisfactory to the Administrator for the purposes of this Act, and (iii) is consistent with the guidelines recommended under section 1008, and

"(B) the project advances the state of the art by applying new and improved techniques in reducing the environmental impact of solid waste disposal, in achieving recovery of energy or resources, or in recycling useful materials.

"(2) The Federal share for any project to which paragraph (1) applies shall be not more than 50 percent in the case of a project serving an area which includes only one municipality, and not more than 75 percent in any other case.

"(d) Regulations.—(1) The Administrator shall promulgate regulations establishing a procedure for awarding grants under this section which—

"(A) provides that projects will be carried out in communities of varying sizes, under such conditions as will assist in solving the community waste problems of urban-industrial centers, metropolitan regions, and rural areas, under representative geographic and environmental conditions; and

"(B) provides deadlines for submission of, and action on, grant requests.

(2) In taking action on applications for grants under this section, consideration shall be given by the Administrator (A) to the public benefits to be derived by the construction and the propriety of Federal aid in making such grant; (B) to the extent applicable, to the economic and commercial viability of the project (including contractual arrangements with the private sector to market any resources recovered); (C) to the potential of such project for general application to community solid waste disposal problems; and (D) to the use by the applicant of comprehensive regional or metropolitan area planning.

"(e) Additional Limitations.—A grant under this section—

"(1) may be made only in the amount of the Federal share of (A) the estimated total design and construction costs, plus (B) in the case of a grant to which subsection (b)(1) applies, the first-year operation and maintenance costs;

"(2) may not be provided for land acquisition or (except as otherwise provided in paragraph (1)(B)) for operating or maintenance costs;

"(3) may not be made until the applicant has made provision satisfactory to the Administrator for proper and efficient operation and maintenance of the project (subject to paragraph (1)(B)); and

"(4) may be made subject to such conditions and requirements, in addition to those provided in this section, as the Administrator may require to properly carry out his functions pursuant to this Act.

For purposes of paragraph (1), the non-Federal share may be in any form, including, but not limited to, lands or interests therein needed for the project or personal property or services, the value of which shall be determined by the Administrator.

"(f) Single State.—(1) Not more than 15 percent of the total of funds authorized to be appropriated for any fiscal year to carry out this section shall be granted under this section for projects in any one State.

"(2) The Administrator.—Shall prescribe by regulation the manner in which this subsection shall apply to a grant under this section for a project in an area which includes all or part of more than one State.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 8007. There are authorized to be appropriated not to exceed $35,000,000 for the fiscal year 1978 to carry out the purposes of this subtitle (except for section 8002).".

SOLID WASTE CLEANUP ON FEDERAL LANDS IN ALASKA

Sec. 3. (a) The President shall direct such executive departments or agencies as he may deem appropriate to conduct a study, in consultation with representatives of the State of Alaska and the appropriate Native organizations, to determine the best overall procedures for removing existing solid waste on

Federal lands in Alaska. Such study shall include, but shall not be limited to, a consideration of—

(1) alternative procedures for removing the solid waste in an environmentally safe manner, and

(2) the estimated costs of removing the solid waste.

(b) The President shall submit a report of the results together with appropriate supporting data and such recommendations as he deems desirable to the Committee on Public Works of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives not later than one year after the enactment of the Solid Waste Utilization Act of 1976. The President shall also submit, within six months after the study has been submitted to the committees, recommended administrative actions, procedures, and needed legislation to implement such procedures and the recommendations of the study.

SEC. 4. (a) In order to demonstrate effective means of dealing with contamination of public water supplies by leachate from abandoned or other landfills, the Administrator of the Environmental Protection Agency is authorized to provide technical and financial assistance for a research program to control leachate from the Llangollen Landfill in New Castle County, Delaware.

(b) The research program authorized by this section shall be designed by the New Castle County areawide waste treatment management program, in cooperation with the Environmental Protection Agency, to develop methods for controlling leachate contamination from abandoned and other landfills that may be applied at the Llangollen Landfill and at other landfills throughout the Nation. Such research program shall investigate all alternative solutions or corrective actions, including—

(1) hydrogeologic isolation of the landfill combined with the collection and treatment of leachate;

(2) excavation of the refuse, followed by some type of incineration;

(3) excavation and transportation of the refuse to another landfill; and

(4) collection and treatment of contaminated leachate or ground water.

Such research program shall consider the economic, social, and environmental consequences of each such alternative.

(c) The Administrator of the Environmental Protection Agency shall make available personnel of the Agency, including those of the Solid and Hazardous Waste Research Laboratory (Cincinnati, Ohio), and shall arrange for other Federal personnel to be made available, to provide technical assistance and aid in such research. The Administrator may provide up to $250,000, of the sums appropriated under the Solid Waste Disposal Act to the New Castle County areawide waste treatment management program to conduct such research, including obtaining consultant services.

(d) In order to prevent further damage to public water supplies during the period of this study, the Administrator of the Environmental Protection Agency shall provide up to $200,000 in each of fiscal years 1977 and 1978, of the sums appropriated under the Solid Waste Disposal Act for the operating costs of a counter-pumping program to contain the leachate from the Llangollen landfill.

Mr. ROONEY. Mr. Chairman, this amendment is in the nature of a substitute for the text of H.R. 14496.

This substitute text is basically the same structure as the text of H.R. 14496 except that it is an amendment to the Solid Waste Disposal Act rather than a freestanding piece of legislation.

This substitute text is agreed upon by both the majority and minority of the committee and I have received positive indications from the Senate Public Works Committee that this substitute will be acceptable to them.

As stated the substitute is basically the same as H.R. 14496, with the principal differences being:

First. It's an amendment to the Solid Waste Disposal Act rather than free standing;

Second. It takes the Senate definition of resource conservation;

Third. It adds $25 million a year for grants to rural communities;

Fourth. Permits States to develop their own schedule for closing open dumps within a 5-year period rather than requiring each State to close up its open dumps at the rate of 20 percent per year; and

Fifth. Requires Federal facilities to comply with State and local solid waste plans.

For the above reasons I recommend this amendment pass.

Mr. DU PONT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, there is an extremely serious problem in New Castle County, Del., because the Llangollen Estates refuse site is polluting the aquifer that many residents of New Castle County depend upon for drinking water.

The leachate from the abandoned Llangollen landfill has contaminated several private wells and is endangering a nearby public water supply wellfield, which has produced up to 4.5 million gallons per day, and an industrial wellfield with a yield of almost 2 million gallons per day.

In fact, the industrial wells are already showing evidence of leachate contamination.

The Llangollen landfill is located approximately 2 miles southwest of the city of New Castle. It was sited in a sand and gravel pit and was operated for the county as a receptacle for municipal and industrial wastes, including liquid chemical wastes. More than 2 million cubic yards of wastes were deposited in this 56-acre landfill between 1960 and 1968. Subsequent geologic investigations have confirmed that portions of the landfill lie on top of sands that are inclined southeastward and provide recharge into the wellfields. Pumpage from the large wells of Artesian Water Co., and the Amoco Chemical Corp. has created depressions which provide for the migration of the leachate-polluted water from the landfill toward the wells.

Since the discovery of leachate in the aquifer in the spring of 1972, the pollutant concentrations have increased markedly and the extent of contamination within the aquifer has grown. Realizing the imminent threat to the wells, the county installed recovery wells between the landfill and the Artesian Water Co. wellfield in hopes of restricting further leachate migration. This action by the county, combined with the effects of pumping restrictions at the Artesian have temporarily stabilized the leachate movement.

These measures can only be considered temporary, however. Consultants for the county have investigated several alternative actions, but, due to a variety of factors, little headway had been made toward implementing a final solution. It is important to note that the alternative of abandoning the aquifer was not considered a viable option in light of the existing water supply problems in the county. Three basic alternatives were explored as possible solutions to the aquifer contamination: First, hydrogeologic isolation of the landfill combined with the collection and treatment of leachate; second, excavation of the refuse, followed by some type of incineration; and, third, excavation and transportation of the refuse to another landfill or the ocean. The three alternatives have two outstanding similarities: One being that their feasibility is doubtful, and the other, the tremendous costs associated with each.

Uncertainty exists as to the effectiveness of hydrogeologic isolation of the landfill in providing a final solution to the aquifer degradation within a definite period of time. This doubt stems from a lack of knowledge about the "life span" of the refuse in terms of leachate-generation capabilities. The capital and operating costs are conservatively estimated at $15 million at present value. Onsite incineration, the second alternative considered, involves capital costs ranging from $15 to $25 million. Several incineration techniques were preliminarily evaluated by the county's consultant, including conventional and steam-generating incinerators, the Union Carbide Purox system, fluid-bed incineration, and the Black Clawson hydro-disposal system.

Serious questions remain about the technical feasibility of all of them. While the third alternative noted is the least expensive, about $10 million, and offers a relatively rapid absolute solution, its use entails serious environmental and political problems. Removal to an existing landfill would require extensive environmental controls and would result in an early retirement of that landfill. Construction of a new landfill to receive the refuse would require extensive controls, and would certainly encounter intense political opposition. In addition, the problems associated with transporting such highly offensive material through populated areas is obvious.

To date, New Castle County has spent almost $2 million in studying and monitoring the problem, and in providing temporary abatement measures. These costs plus minimum corrective costs of at least $10 million are still much less than the overall long-term costs of abandoning the aquifer, in terms of damage and replacement costs. Thus, while the need for correcting the situation is fully appreciated, the affected jurisdictions are hesitant to commit the additional large amounts of money required—$10 to $25 million—particularly for actions which may not provide a satisfactory solution. There is a definite need for further study of the possible solutions to this problem.

Measures to control the production and movement of leachate from completed landfills are highly experimental with very little study accomplished beyond the hypothetical stage. The information and monitoring data already collected at Llangollen provide a significant base upon which alternatives can be developed that would be applicable for use in handling leachate problems in other areas of the country.

I was prepared to offer an amendment to authorize a total of $650,000 of which $250,000 will be allocated to accomplishing a technical, thorough study of the Llangollen landfill problem. This study should be structured in such a way as to not only provide the safest, most practical solution to the problem, but that should also extend the experiences and information learned in this study to the national implications of the landfill leachate problem. While the leachate problem in New Castle County has been identified by EPA solid waste staff as one of the worst in the country, EPA is certain that this problem is not unique.

Hopefully, what we learn from the New Castle County experience will enable other areas to better cope with the problem. The other $400,000 authorized in the amendment will go to pay the operating costs to contain the leachate for 2 more years, since the county has already spent $2 million and cannot really justify additional expenditures for interim measures. The study is to be conducted under the joint cooperation of New Castle County and the Environmental Protection Agency.

Mr. Chairman, I appreciate the cooperation of the committee in including the amendment I was going to offer in the committee substitute, so that it will become law.

I urge my colleagues to support the bill.

Mr. Chairman, if I might have the attention of the gentleman from Pennsylvania (Mr. ROONEY), I was prepared to offer an amendment concerning the problems of the Llangollen land bill in New Castle, Del., but I have had an opportunity to read the substitute amendment offered by the gentleman from Pennsylvania (Mr. ROONEY) which is now pending.

It is my understanding that the text of my amendment, which was indeed the language adopted by the Senate and passed in its bill, has been included in the gentleman's amendment; is that correct?

Mr. ROONEY. Mr. Chairman, if the gentleman will yield, I appreciate the gentleman's bringing that to my attention. The language is included in the Senate version and in the substitute.

Mr. du PONT. Mr. Chairman, I thank the gentleman.

Mr. BROWN of California. Mr. Chairman, I rise in support of the amendment in the nature of a substitute offered by the gentleman from Pennsylvania (Mr. ROONEY).

Mr. Chairman, I have had the opportunity to review the substitute which has been drafted and submitted in an effort to expedite the consideration of the slightly different views of the Senate. Considering the very late time in this session this amendment will help us to get Senate concurrence and to get the bill on the President's desk. Mr. Chairman, I am reasonably sure that he will want to sign it.

Mr. Chairman, the substitute is an excellent substitute, and I am thoroughly in support of it.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Pennsylvania (Mr. ROONEY).

The amendment in the nature of a substitute was agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. SISK) having assumed the Chair, Mr. MCKAY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 14496) to provide technical and financial assistance for the development of management plans and facilities for the recovery of energy and other resources from discarded materials and for the safe disposal of discarded materials, and to regulate the management of hazardous waste, pursuant to House Resolution 1533, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. du PONT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 367, nays 8, not voting 55, as follows:

[Roll No. 812]

YEAS—367

Abzug
Adams
Addabbo
Allen
Ambro
Andrews, N.C.
Andrews,
  N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chisholm
Clancy
Clausen,
  Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cornell
Cotter
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Hall, Ill.
Hall, Tex.
Hamilton
Hammer-
  schmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Henderson
Hicks
Hightower
Hillis
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hungate
Hyde
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead,
  Calif.
Moorhead, Pa.
Morgan
Mosher
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson,
  Calif.
Pattison, N.Y.
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Ryan
St Germain
Sarasin
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa

Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki

NAYS—8

Abdnor
Hansen
Hutchinson
Kelly
McDonald
Paul
Symms
Taylor, Mo.

NOT VOTING—55

Alexander
Anderson, Calif.
Anderson, Ill.
AuCoin
Bedell
Bell
Boggs
Broomfield
Burke, Fla.
Chappell
Coughlin
Crane
Danielson
Duncan, Oreg.
Esch
Eshleman
Evans, Colo.
Flynt
Ford, Tenn.
Green
Gude
Haley
Hébert
Heinz
Hinshaw
Holland
Hughes
Jarman
Lent
McCollister
McCormack
McDade
Matsunaga
Mink
Moss
Murphy, N.Y.
Nix
Nolan
Passman
Pepper
Peyser
Riegle
Russo
Santini
Sarbanes
Scheuer
Steelman
Steiger, Ariz.
Steiger, Wis.
Talcott
Ullman
Wampler
Wright
Young, Alaska
Zeferetti

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Anderson of Illinois.

Mr. Matsunaga with Mr. Young of Alaska.

Mr. Zeferetti with Mr. Bell.

Mr. Russo with Mr. Heinz.

Mr. Pepper with Mr. Wampler.

Mr. Hébert with Mr. Riegle.

Mr. Chappell with Mr. Haley.

Mr. Danielson with Mr. Jarman.

Mr. Evans of Colorado with Mr. McCollister.

Mr. Flynt with Mr. Steiger of Arizona.

Mr. Ford of Tennessee with Mr. Eshleman.

Mr. McCormack with Mr. Gude.

Mr. Murphy of New York with Mr. Crane.

Mrs. Mink with Mr. Green.

Mr. Moss with Mr. Esch.

Mr. Nix with Mr. Lent.

Mr. AuCoin with Mr. Burke of Florida.

Mr. Hughes with Mr. Duncan of Oregon.

Mr. Anderson of California with Mr. McDade.

Mr. Alexander with Mr. Broomfield.

Mr. Santini with Mr. Sarbanes.

Mr. Holland with Mr. Talcott.

Mr. Nolan with Mr. Scheuer.

Mr. Passman with Mr. Peyser.

Mr. Ullman with Mr. Steelman.

Mr. Wright with Mr. Steiger of Wisconsin.

Mr. Bedell with Mr. Coughlin.

Mrs. LLOYD of Tennessee changed her vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. McFALL). Pursuant to the provision of House Resolution 1533, the Committee on Interstate and Foreign Commerce is discharged from the further consideration of the Senate bill (S. 2150) to amend the Solid Waste Disposal Act to authorize State program and implementation grants, to provide incentives for the recovery of resources from solid wastes, to control the disposal of hazardous wastes, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves to strike out all after the enacting clause of the Senate bill, S. 2150, and insert in lieu thereof the provisions of the bill, H.R. 14496, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "to provide technical and financial assistance for the development of management plans and facilities for the recovery of energy and other resources from discarded materials and for the safe disposal of discarded materials, and to regulate the management of hazardous waste."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 14496, was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 14496, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

REQUEST TO APPOINT THREE ADDITIONAL CONFEREES ON S. 3131

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to appoint three additional conferees on the Senate bill (S. 3131) to amend the Rail Passenger Service Act to provide financing for the National Railroad Passenger Corporation, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. SKUBITZ. Mr. Speaker, I reserve the right to object to the request.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Speaker, one of the gentlemen on our side worked very hard on this bill and wants to be one of the conferees. We have two Democrats and one Republican and that makes the full subcommittee.

Mr. SKUBITZ. Mr. Speaker, I understood the gentleman to say he wanted to increase the number of Members on the subcommittee; is this correct?

Mr. STAGGERS. Mr. Speaker, if the gentleman will yield further, on the conferees, one Republican and two Democrats.

Mr. SKUBITZ. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

AMENDING TITLE 10 OF UNITED STATES CODE IN SUITS BASED UPON MEDICAL MALPRACTICE

Mr. NEDZI. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 3954) to amend title 10 of the United States Code, to provide for an exclusive remedy against the United States in suits based upon medical malpractice on the part of military or civilian medical personnel of the armed forces, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert: That (a) chapter 55 of title 10, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 1089. Defense of certain suits arising out of medical malpractice

"(a) The remedy against the United States provided by sections 1346(b) and 2672 of title 28 for damages for personal injury, including death, caused by the negligent or wrongful act or omission of any physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (including medical and dental technicians, nursing assistants, and therapists) of the armed forces, the Department of Defense, or the Central Intelligence agency in the performance of medical, dental, or related health care functions (including clinical studies and investigations) while acting within the scope of his duties or employment therein or therefor shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or the estate of such person) whose act or omission gave rise to such action or proceeding.

"(b) The Attorney General shall defend any action or proceeding brought in any court against any person referred to in subsection (a) of this section (or the estate of such person) for any such injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true copy thereof to such person's immediate superior or to whomever was designated by the head of the agency concerned to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the action or proceeding is brought, to the Attorney General and to the head of the agency concerned.

"(c) Upon a certification by the Attorney General that any person described in subsection (a) was acting in the scope of such person's duties or employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto.

Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State court.

"(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect.

"(e) For purposes of this section, the provisions of section 2680(h), of title 28 shall not apply to any case of action arising out of a negligent or wrongful act or omission in the performance of medical, dental, or related health care functions (including clinical studies and investigations).

"(f) The head of the agency concerned or his designee may, to the extent that he or his designee deems appropriate, hold harmless or provide liability insurance for any person described in subsection (a) for damages for personal injury, including death, caused by such person's negligent or wrongful act or omission in the performance of medical, dental, or related health care functions (including clinical studies and investigations) while acting within the scope of such person's duties if such person is assigned to a foreign country or detailed for service with other than a Federal department, agency, or instrumentality or if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 1346(b) of title 28, for such damage or injury.

"(g) In this section, 'head of the agency concerned' means—

"(1) the Director of Central Intelligence, in the case of an employee of the Central Intelligence Agency;

"(2) the Secretary of Transportation, in the case of a member or employee of the Coast Guard when it is not operating as a service in the Navy; and

"(3) the Secretary of Defense, in all other cases.".

(b) The table of sections at the beginning of such chapter 55 is amended by adding at the end thereof the following:

"1089. Defense of certain suits arising out of medical malpractice.".

SEC. 2. (a) The Congress finds—

(1) that the Army National Guard and the Air National Guard are critical components of the defense posture of the United States;

(2) that a medical capability is essential to the performance of the mission of the National Guard when in Federal service;

(3) that the current medical malpractice crisis poses a serious threat to the availability of sufficient medical personnel for the National Guard; and

(4) that in order to insure that such medical personnel will continue to be available to the National Guard, it is necessary for the Federal Government to assume responsibility for the payment of malpractice claims made against such personnel arising out of actions or omissions on the part of such personnel while they are performing certain training exercises.

(b) Chapter 3 of title 32, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 334. Payment of malpractice liability of National Guard medical personnel

"(a) Upon the final disposition of any claim for damages for personal injury, including death, caused by the negligent or wrongful act or omission of any medical personnel of the National Guard in furnishing medical care or treatment while acting within the scope of his duties for the National Guard during a training exercise, the liability of such medical personnel for any costs, settlement, or judgment shall become, subject to the provisions of this section, the liability of the United States and shall be payable under the provisions of section 1302 of the Act of July 27, 1956 (31 U.S.C. 724a), or out of funds appropriated for the payment of such liability.

"(b) The liability for any claim for damages under this section against any medical personnel shall become the liability of the United States only to the extent that the liability of such medical personnel is not covered by insurance, and such liability shall not constitute coinsurance for any purpose.

"(c) Liability of the United States for damages against any medical personnel referred to in subsection (a) shall be subject to the condition that the medical personnel against whom any claim for such damages is made shall—

"(1) promptly notify the Attorney General of the claim, and in case of any civil action or proceeding brought in any court against any such personnel, deliver all process served upon such personnel (or an attested true copy thereof) to the immediate superior of such personnel or to such other person designated by the appropriate Adjutant General to receive such papers, who shall promptly transmit such papers to the Attorney General.

"(2) furnish to the Attorney General such other information and documents as the Attorney General may request, and

"(3) comply with the instructions of the Attorney General relative to the final disposition of a claim for damages.

"(d) The liability of the United States under this section shall also be subject to the condition that the settlement of any claim described in subsection (a) of this section be approved by the Attorney General prior to its finalization.

"(e) The provisions of this section shall not apply in the case of any claim for damages against any medical personnel settled under the provisions of section 715 of title 32.

"(f) As used in this section, the term—

"(1) 'Medical personnel' means any physician, dentist, nurse, pharmacist, paramedical, or other supporting personnel (including medical and dental technicians, nursing assistants, and therapists) of the Army National Guard or the Air National Guard.

"(2) 'Training exercise' means training or duty performed by medical personnel under section 316, 502, 503, 504, or 505 of this title or under any other provision of law for which such personnel are entitled to or has waived pay under section 206 of title 37.

"(3) 'Final disposition' means—

"(A) a final judgment of any court from which the Attorney General decides there will be no appeal,

"(B) the settlement of any claim, or

"(C) a determination at any stage of a claim for damages in favor of a medical personnel and from which determination no appeal can be made.

"(4) 'Settlement' means any compromise of a claim for damages which is agreed to by the claimant and approved by the Attorney General prior to its finalization.

"(5) 'Costs' includes any costs which are taxed by any court against any medical personnel, normal litigation expenses, attorney's fees incurred by any medical personnel, and such interest as any medical personnel may be obligated to pay by any court order or by statute.

"(6) 'Claim for damages' means any claim or any legal or administrative action in connection with any claim described in subsection (a) of this section.

"(7) 'Attorney General' means the Attorney General of the United States.".

(c) The table of sections at the beginning of such chapter 3 is amended by adding at the end thereof the following:

"334. Payment of malpractice liability of National Guard medical personnel.".

SEC. 3. Title III of the National Aeronautics and Space Act of 1958, as amended, is amended by redesignating section 307 as 308 and by inserting after section 306 a new section 307 as follows:

"DEFENSE OF CERTAIN MALPRACTICE AND NEGLIGENCE SUITS

"SEC. 307. (a) The remedy against the United States provided by sections 1346(b) and 2672 of title 28, United States Code, for damages for personal injury, including death, caused by the negligent or wrongful act or omission of any physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (including medical and dental technicians, nursing assistants, and therapists) of the Administration in the performance of medical, dental, or related health care functions (including clinical studies and investigations) while acting within the scope of his duties or employment therein or therefor shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or the estate of such person) whose act or omission gave rise to such action or proceeding.

"(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or the estate of such person) for any such injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true copy thereof to such person's immediate superior or to whomever was designated by the Administrator to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States Attorney for the district embracing the place wherein the proceeding is bought to the Attorney General and to the Administrator.

"(c) Upon a certification by the Attorney General that any person described in subsection (a) was acting in the scope of such person's duties or employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28, United States Code, and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State court.

"(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, United States Code, and with the same effect.

"(e) For purposes of this section, the provisions of section 2680(h) of title 28, United States Code, shall not apply to any cause of action arising out of a negligent or wrongful act of omission in the performance of medical, dental, or related health care functions (including clinical studies and investigations).

"(f) The Administrator or his designee may, to the extent that the Administrator or his designee deem appropriate, hold harmless or provide liability insurance for any person described in subsection (a) for damages for personal injury, including death, caused by such person's negligent or wrongful act or omission in the performance of medical, dental, or related health care functions (including clinical studies and investigations) while acting within the scope of such person's duties if such person is assigned to a foreign country or detailed for service with other than a Federal department, agency, or instrumentality or if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 2679 (b) of title 28, United States Code, for such damage or injury.".

SEC. 4. This Act shall become effective on the date of its enactment and shall apply only to those claims accruing on or after such date of enactment.

Amend the title so as to read: "An Act to provide for an exclusive remedy against the United States in suits based upon medical malpractice on the part of medical personnel of the armed forces, the Defense Department, the Central Intelligence Agency, and the National Aeronautics and Space Administration, and for other purposes.".

Mr. NEDZI (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentleman might offer a short explanation.

Mr. NEDZI. Mr. Speaker, if the gentleman will yield. As you will recall, H.R. 3954 is legislation passed by the House on July 21, 1975, which would immunize defense medical personnel from individual liability in malpractice suits arising from actions within the scope of their official duties by application of the Federal Tort Claims Act.

The Senate has amended our bill so as to include medical personnel of the Central Intelligence Agency and the National Aeronautics and Space Administration within its coverage. The Senate amendments also provide Federal indemnification for National Guard medical personnel from malpractice liability while they are operating in a training status with Federal pay.

Each of these Senate amendments are worthwhile additions to an important piece of legislation. The administration supports this bill in its present form, and I am unaware of any objection to this bill.

Mr. BAUMAN. I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

A motion to reconsider was laid on the table.

AUTHORIZING ADMISSION OF ADDITIONAL FOREIGN NATIONALS TO COAST GUARD ACADEMY

Mr. BIAGGI. Mr. Speaker. I ask unanimous consent to take from the Speaker's desk the bill (H.R. 11407) to amend title 14, United States Code, to authorize the admission of additional foreign nationals to the Coast Guard Academy, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, strike out all after line 8, over to and including line 13 on page 2, and insert:

"(b) The President may designate not more than 36 foreign nationals whom the Secretary may permit to receive instruction at the Academy.

"(c) A person receiving instruction under this section is entitled to the same pay and allowances, to be paid from the same appropriations, as a cadet appointed pursuant to section 182 of this title. A person may receive instruction under this section only if his country agrees in advance to reimburse the United States, at a rate determined by the Secretary, for the cost of providing such instruction, including pay and allowances, unless a waiver therefrom has been granted to that country by the Secretary. Funds received by the Secretary for this purpose shall be credited to the appropriations bearing the cost thereof, and may be apportioned between fiscal years.

Mr. BIAGGI (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BIAGGI. Mr. Speaker, H.R. 11407, as passed by the House, on May 18, 1976, would consolidate existing provisions of law authorizing the training of 4 Philippine nationals and 20 nationals from the American Republics, at the Coast Guard Academy. It would add a new provision to authorize the training of an additional 12 nationals from other countries. It would also continue the provisions of existing law to authorize payment for the training of the Philippine nationals under appropriated funds for the Academy, and to require the training costs for other nationals to be borne by their own governments.

In its amendment to the bill, the Senate consolidated the three categories into one category of 36 foreign nationals without distinction as to specific countries or areas involved. In addition, the Senate amendment provides that the trainees may be paid from the same appropriations as a regular Academy cadet is paid, provided that his country agrees in advance to reimburse the United States for the cost of his instruction, including his pay and allowances. Flexibility in the cost of instruction for individual training is included by authorizing the Secretary to grant waivers to individual countries for the instruction costs, when that action is warranted.

The Senate amendment is germane and would involve no additional costs to the bill as passed by the House. The House should, therefore, concur in the Senate amendments.

The SPEAKER pro tempore. It there objection to the request of the gentleman from New York to consider the Senate amendment?

There was no objection.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO FILE CONFERENCE REPORT ON S. 2981

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs may have until midnight tonight to file a conference report on Senate bill S. 2981.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, will the gentleman from Washington please tell us what this bill refers to?

Mr. MEEDS. I will inform the gentleman that this is the conference report on the Indian Claims Commission Authorization Act.

Mr. BAUMAN. I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

CONFERENCE REPORT (H. REPT. NO. 94–1695)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2981) to authorize appropriations for the Indian Claims Commission for fiscal year 1977, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with the following amendment: In lieu of the matter proposed to be stricken by the House amendment, insert the following:

That there is authorized to be appropriated to carry out the provisions of the Indian Claims Commission Act (25 U.S.C. 70), during fiscal year 1977, not to exceed $1,650,000.

SEC. 2. Section 23 of the Act entitled "An Act to create an Indian Claims Commission, to provide for the powers, duties, and functions thereof, and for other purposes", approved August 13, 1946 (60 Stat. 1049, 1055), as amended (86 Stat. 115; 25 U.S.C. 70v), is hereby amended by striking said section and inserting in lieu thereof the following:

"DISSOLUTION OF THE COMMISSION AND DISPOSITION OF PENDING CLAIMS"

SEC. 23. The existence of the Commission shall terminate at the end of fiscal year 1978 on September 30, 1978, or at such earlier time as the Commission shall have made its final report to the Congress on all claims filed with it. Upon its dissolution, the records and files of the Commission in all cases in which a final determination has been entered shall be delivered to the Archivist of the United States. No later than December 31, 1976, the Indian Claims Commission may certify and transfer to the Court of Claims all cases which the Commission determines it cannot completely adjudicate by September 30, 1978. In addition, the Commission may, at any time prior to September 30, 1978, certify and transfer to the Court of Claims any case which it determines cannot be completely adjudicated prior to the dissolution of the Commission. Jurisdiction is hereby conferred upon the Court of Claims to adjudicate all such cases under the provisions of section 2 of the Indian Claims Commission Act: *Provided*, That section 2 of said Act shall not apply to any cases filed originally in the Court of Claims under section 1505 of title 28, United States Code. Upon dissolution of the Commission, all pending cases including those on appeal shall be transferred to the Court of Claims for adjudication on the same basis as those authorized to be transferred by this section.

SEC. 3. Section 28 of such Act of August 13, 1946, as amended (25 U.S.C. 70v-2), is amended by striking said section and inserting in lieu thereof the following:

"STATUS REPORT TO CONGRESS"

"SEC. 28. The Commission shall, on the first day of the 95th Congress, submit a report to the Committees on Interior and Insular Affairs of the Senate and House of Representatives on those cases which it has transferred pursuant to section 23 of this Act, as amended. In addition, the Commission shall submit a report to said Committees at six month intervals thereafter showing the progress made and the work remaining to be completed by the Commission, as well as the status of each remaining case, along with the projected date for its completion."

And the House agrees to the same.

ROY A. TAYLOR,
LLOYD MEEDS,
ROBERT G. STEPHENS, Jr.,
THEODORE M. RISENHOOVER,
JAMES P. JOHNSON,
Managers on the Part of the House.
HENRY M. JACKSON,
LEE METCALF,
J. BENNETT JOHNSTON,
JAMES ABOUREZK,
PAUL J. FANNIN,
DEWEY F. BARTLETT,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2981) authorizing appropriations for fiscal year 1977 for the Indian Claims Commission and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck all those provisions after the authorizing section which extended the life of the Indian Claims Commission to September 30, 1980, and the Senate disagreed to the House amendment.

The Committee of Conference recommends that the Senate recede from its disagreement to the amendment of the House and agree to such amendment with an amendment. The differences between the Senate bill, the House amendment thereto, and the amendment to the House amendment agreed to in conference are noted below except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

S. 2981 as passed by the Senate on April 9, 1976, had two purposes. The first is to authorize an appropriation of $1,650,000 for fiscal year 1977. The second is to extend the life of the Commission by three and one half years to September 30, 1980 in order to provide a sufficient period of time to complete its work. The Commission still has some 140 cases pending final adjudication, most of which could be completed by 1980.

The House Interior and Insular Affairs Committee added an amendment to the House authorization bill (H.R. 11909) which would have extended the life of the Indian Claims Commission to September 30, 1980. The House Committee amendments also included procedures for an orderly transfer of unfinished cases to the Court of Claims. However, the full House voted in favor of an amendment offered by Mr. Meeds to strike the extension language. Thus, H.R. 11909 as passed on August 3, 1976, is a simple authorization bill.

The conferees agreed to accept a compromise that would extend the life of the Commission for one and one-half years until September 30, 1978. Additionally, the conferees agreed to the following provisions:

(1) All cases which the Commission determined it could not complete by September 30, 1978, would be transferred to the Commission no later than December 31, 1976.

(2) All cases remaining under the jurisdiction of the Commission, but which are incomplete on September 30, 1978, would be transferred on that date to the Court of Claims for completion, pursuant to the existing language of the Act.

(3) The Commission is required to report to the Committees on Interior and Insular Affairs of the Senate and House of Representatives on the first day of the 95th Congress those cases which it transferred to the Court of Claims by December 31, 1976. It is further required to make semi-annual reports thereafter on its progress on remaining cases.

The Committee on Conference firmly intends that the Indian Claims Commission shall transfer by December 31, 1976, all cases of an accounting nature in which no proceedings have been initiated. Additionally, it firmly expects that all other cases which the Commission determines that it cannot completely adjudicate by September 30, 1978 shall also be transferred by December 31, 1976.

The Committee of Conference is adamantly opposed to any further extensions of the Commission beyond the September 30, 1978 dissolution date. Therefore, all those cases which cannot be completed by that date should be transferred by the Indian Claims Commission to the Court of Claims.

ROY A. TAYLOR,
LLOYD MEEDS,
ROBERT G. STEPHENS, Jr.,
THEODORE M. RISENHOOVER,
JAMES P. JOHNSON,
Managers on the Part of the House.
HENRY M. JACKSON,
LEE METCALF,
J. BENNETT JOHNSTON,
JAMES ABOUREZK,
PAUL J. FANNIN,
DEWEY F. BARTLETT,
Managers on the Part of the Senate.

NAMING VISITORS' CENTER AT SLEEPING BEAR DUNES NATIONAL LAKESHORE THE "PHILIP A. HART VISITORS' CENTER"

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the Senate bill (S. 3843) to name the Visitors' Center at the Sleeping Bear Dunes National Lakeshore the "Philip A. Hart Visitors' Center."

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. DINGELL. Mr. Speaker, reserving the right to object—and I will not—I want to commend the chairman of the subcommittee, the gentleman from North Carolina (Mr. TAYLOR) for having brought this bill up.

Mr. Speaker, I rise in support of legislation (S. 3843) to name the Visitors' Center in the Sleeping Bear Dunes National Lakeshore the "Philip A. Hart Visitors' Center." As our esteemed Senator from Michigan prepares to take leave of the Congress after serving so faithfully the people of our State and Nation, I can think of no more fitting tribute that we could bestow as a gesture of our deep affection and friendship.

It was the Senator's long, hard-fought battle that created Sleeping Bear Dunes Lakeshore in 1970, the most scenic area on all of Lake Michigan. Against a backdrop of beautiful inland lakes and forested hillsides are the towering sand dunes and sandy beaches which forever remain preserved for generations to come.

Sleeping Bear upon completion will cover some 70,000 acres of national lakeshore including North and South Manitou Islands, which by Indian legend gave this place its name. Its recreational values offering clean beaches for sunbathing, water for swimming, boating, and fishing, as well as picturesque settings for hiking trails and family picnic spots are no less rivaled by its vast educational value to scientists and students who continue to study its abundance of flora and fauna and its glacial heritage.

We owe much to the vision and foresight of the man who helped preserve this natural monument. We remember well his words:

> When we battle for a Sleeping Bear Dunes National Park, it is not essentially shoreline and scenic countryside that we seek to preserve. It will hopefully provide a place for the renewal of the human spirit.

Just as the majestic Sleeping Bear is the world's largest moving sand dune, Senator PHILIP A. HART stands tall among many.

I urge support of this bill.

Mr. VANDER JAGT. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to my colleague from Michigan, in whose district the Visitors' Center is located.

Mr. VANDER JAGT. Mr. Speaker, I can conceive of no recognition more deserved or appropriate than that which this bill would extend to the Honorable PHILIP A. HART, U.S. Senator from Michigan. S. 3843 would designate the visitors' center at the Sleeping Bear Dunes National Lakeshore, located in northwest Michigan's Benzie and Leelanau counties, as the Philip A. Hart Visitors Center.

The story of the Lakeshore's authorization by Congress in 1970 is one of the classic legislative struggles in the field of conservation policy. Throughout a 10-year debate that raged within and outside the Halls of Congress, PHIL HART displayed uncommon dedication and vision, and a capacity for compromise that is the essential core of American lawmaking.

This beautiful dune and its surroundings, including two offshore islands, is now coming under the protection of the National Park Service. All of us who brought the legislative battle to a conclusion and joined Senator HART in the agreements which became Public Law 91-479, and all of the American people who now and in the future will come to know this magnificent landscape, owe

PHIL HART their deepest gratitude for a noble case well fought.

As indicated by the Senate's recent decision naming one of its buildings for him, PHIL HART's contributions to his country have been extraordinary. But among the most valued of his many legislative victories, the enactment of the Sleeping Bear bill must rank at the top. I know it to be one of the Senator's most satisfying achievements in Congress. That those persons who enjoy the scenic, inspirational and recreational qualities of "the Bear" should know of his great spirit and concern for the future of this country is most fitting. Conservation does not just happen, nor is it a daily occurrence. It comes about only rarely, when someone of great vision and ability undertakes unceasingly to build public awareness of its need. This was PHIL HART's opportunity and his victory.

As PHIL HART leaves the Congress, he should know of the Nation's appreciation for his untiring efforts to make the American dream a reality for all generations.

I urge the enactment of this legislation.

Mr. TAYLOR of North Carolina. Mr. Speaker, if the gentleman will yield,

This bill, already passed by the Senate, would simply name the primary visitor center at the Sleeping Bear Dunes National Lakeshore in Michigan after Senator PHILIP HART. Senator HART was most interested in the legislation which established the Sleeping Bear Dunes National Lakeshore, and I believe it would be a fitting tribute to name this visitor center after the Senator. As we all know, Senator HART is retiring from the Senate this year and I believe this would be a timely expression of our recognition of his good work on this and many other measures.

Mr. SEBELIUS. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Kansas (Mr. SEBELIUS).

Mr. SEBELIUS. I thank the gentleman for yielding.

Mr. Speaker, I would state that we have no objection to this bill being passed at this time.

Mr. DINGELL. Mr. Speaker, I thank the gentleman.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3843

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Visitors' Center at the Sleeping Bear Dunes National Lakeshore shall hereinafter be known as, and is hereby designated as, the "Philip A. Hart Visitors' Center."

Mr. NEDZI. Mr. Speaker, it is altogether fitting that Sleeping Bear Dunes National Lakeshore be named after Senator PHIL HART.

All who joined in the extended effort to preserve this quiet and beautiful Michigan shoreline area know that the moving force, the indispensable man was PHIL HART. He stayed with it month after month, year after year, and a place of extraordinary tranquility was saved.

PHIL HART, a man of quiet passion, was farseeing, and determined in this legislative struggle. He led by example. And for hundreds of years to come new American generations will have as a part of their heritage the Sleeping Bear Dunes.

PHIL deserves our thanks and merits the many tributes which are coming to him. This small tribute today is "on all fours," as we lawyers say. Historically and personally it is appropriate in every way.

I urge the adoption of the resolution.

Mrs. SULLIVAN. Mr. Speaker, there are many things we could appropriately name after the senior Senator from Michigan, PHILIP A. HART, for he truly represents the finest human qualities and dedicated service we have had in public life in this country.

I have been one of his greatest admirers since we served together in the 1960's on the National Commission on Food Marketing, which consisted of five Senators, five Members of the House, and five public members appointed by President Lyndon B. Johnson. Unlike many commissions which have been created from time to time, this one worked very hard, particularly the House and Senate Members, holding hearings in many different parts of the country and supervising a series of staff studies which gave us the most comprehensive information on our complex food marketing system that we have ever had.

Senator HART gave real leadership to the Commission from his vantage point as the leading Senate expert on antitrust matters and as one of the outstanding supporters and advocates of consumer causes in the Congress. With all of the other demands on his time, he gave not merely his share but an extra measure of his time and intellect to the work of that Commission. I was deeply impressed by the insight he brought to this investigation.

Prior to that association, I worked with Senator HART in his long and successful effort to bring some order to the packaging chaos in America's supermarkets, where it was impossible for even the most prudent shopper to figure out the better buy between competing brands or even between different sizes of the same brand of products. The Fair Packaging Act of 1966 was not as strong a bill as he tried to enact, but even with the compromises which had to be made in its provisions it was a major step forward in an important area of consumer concern.

And his work on insurance problems, particularly on credit insurance, helped pave the way for inclusion of credit insurance disclosure and regulation in the Truth in Lending Act of 1968—an achievement which we could not have accomplished in the Banking and Currency Committees if it had not been for Senator HART's pioneering investigations in the Senate Judiciary Committee and his critical reports of abuses in this field.

Senator HART was the first Member of Congress to receive the distinguished public service award of the Consumer Federation of America. I was deeply proud the following year to become the first recipient of that award to become the first recipient of that award in the House. Recently, we were both honored by the National Consumers League with that organization's Trumpeter Award, one which I especially treasure because it also put me in the same "league" with PHILIP A. HART.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

AMENDING THE NATIONAL TRAILS SYSTEM ACT (82 STAT. 919)

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 15122) to amend the National Trails System Act (82 Stat. 919), and for other purposes, which passed the Committee on Interior and Insular Affairs unanimously.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. SEBELIUS. Mr. Speaker, reserving the right to object, will the gentleman explain to us what this bill is about?

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from North Carolina (Mr. TAYLOR).

Mr. TAYLOR of North Carolina. Mr. Speaker, this is an omnibus bill which would provide that eight additional trail routes be studied by the Department of Interior and Agriculture under the National Scenic Trails Act of 1968. The studies will identify the potential recreation opportunities that might be made available in case these long-range trails are established.

The studies will be made and will be reported back for another Congress, which will then have the benefit of information established in reaching the decision as to whether or not the scenic trails shall be established.

Mr. SEBELIUS. Mr. Speaker, further reserving the right to object, I would like to ask the chairman one more question. Does this bill have the support of Members whose districts are involved?

Mr. TAYLOR of North Carolina. If the gentleman will yield, yes, every Member whose district is involved does support the legislation, and, so far as I know, signed the bills.

Mr. SEBELIUS. Mr. Speaker, I support this bill, H.R. 15122, which will add eight trail routes to the study list for national scenic trails, under terms of the National Trails System Act.

There has been no controversy associated with these study candidates. These studies will be coordinated by the Bureau of Outdoor Recreation. However, the U.S. Forest Service, National Park Service, and other Federal agencies which administer lands adjacent to or across the routes of these study areas will be deeply involved in these studies from beginning to end, as it will be these Federal agencies which will most likely administer these trails if they are finally established later on by specific act of Congress.

The committee, in its review of several past studies submitted pursuant to the study provisions of the parent act, expressed its strong concern that these studies be complete documents—that all aspects be thoroughly assessed and documented in the final report, irrespective of the final outcome or recommendation of the study report.

Mr. Speaker, the National Trails System Act is an existing law which has not received sufficient implementation attention. I would hope that with the enactment of this bill providing for additional routes of study, that we can see more serious attention come forth to get this program moving.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the bill, as follows:

H.R. 15122

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Trails System Act (82 Stat. 919; 16 U.S.C. 1241 et seq.) is amended as follows:

In section 5(c), add the following new paragraphs:

"(15) Bartram Trail, extending through the States of Georgia, North Carolina, South Carolina, Alabama, Florida, Louisiana, Mississippi, and Tennessee.

"(16) Daniel Boone Trail, extending from the vicinity of Statesville, North Carolina, to Fort Boonesborough State Park, Kentucky.

"(17) Desert Trail, extending from the Canadian border through parts of Idaho, Washington, Oregon, Nevada, California, and Arizona, to the Mexican border.

"(18) Dominguez-Escalante Trail, extending approximately two thousand miles along the route of the 1776 expedition led by Father Francisco Atanasio Dominguez and Father Silvestre Velez de Escalante, originating in Santa Fe, New Mexico; proceeding northwest along the San Juan, Dolores, Gunnison, and White Rivers in Colorado; thence westerly to Utah Lake; thence southward to Arizona and returning to Santa Fe.

"(19) Florida Trail, extending north from Everglades National Park, including the Big Cypress Swamp, the Kissimme Prairie, the Withlacoochee State Forest, Ocala National Forest, Osceola National Forest, and Black Water River State Forest, said completed trail to be approximately one thousand three hundred miles long, of which over four hundred miles of trail have already been built.

"(20) Indian Nations Trail, extending from the Red River in Oklahoma approximately two hundred miles northward through the former Indian nations to the Oklahoma-Kansas boundary line.

"(21) Nez Perce Trail extending from the vicinity of Wallowa Lake, Oregon, to Bear Paw Mountain, Montana.

"(22) Pacific Northwest Trail, extending approximately one thousand miles from the Continental Divide in Glacier National Park, Montana, to the Pacific Ocean beach of Olympic National Park, Washington, by way of—

"(A) Flathead National Forest and Kootenai National Forest in the State of Montana;

"(B) Kaniksu National Forest in the State of Idaho; and

"(C) Colville National Forest, Okanogan National Forest, Pasayten Wilderness Area, Ross Lake National Recreation Area, North Cascades National Park, Mount Baker, the Skagit River, Deception Pass, Whidbey Island, Olympic National Forest, and Olympic National Park in the State of Washington."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 2112) to authorize the Secretary of the Interior to conduct a study with respect to the feasibility of establishing the Bartram Trail as a national scenic trail, a bill similar to the one just passed, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2112

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (c) of section 5 of the National Trails System Act is amended by adding at the end thereof the following:

"(15) Bartram Trail, which extends from Mobile, Alabama, through the area of Montgomery, Alabama, to the Alabama and Georgia State border about due east of Montgomery, Alabama; continues through Georgia to the area of Savannah, Georgia, thence south to the Georgia and Florida State border; and terminates in the area of Manatee Springs, Florida, after passing through the area of Jacksonville, Florida, and south along the Saint Johns River to Lake George, and thence through the Alachua Savanna to the Suwannee River.".

MOTION OFFERED BY MR. TAYLOR OF NORTH CAROLINA

Mr. TAYLOR of North Carolina. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TAYLOR of North Carolina moves to strike out all after the enacting clause of the Senate bill (S. 2112) and to insert therefor the provisions of H.R. 15122, as passed by the House.

The SPEAKER pro tempore. The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the National Trails System Act (82 Stat. 919), and for other purposes."

A similar House bill (H.R. 15122) was laid on the table.

A motion to reconsider was laid on the table.

AMENDING THE WILD AND SCENIC RIVERS ACT

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 15422) to amend the Wild and Scenic Rivers Act, and for other purposes, which passed the Committee on Interior and Insular Affairs unanimously.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. SEBELIUS. Mr. Speaker, reserving the right to object, I would like to ask the chairman if he will tell us about the titles included in this bill, the various sections?

Mr. TAYLOR of North Carolina. If the gentleman will yield, the bill provides for the inclusion of a part of the Flathead and Missouri Rivers in Montana and a segment of the Obed River in Tennessee into the wild and scenic rivers system.

Mr. SEBELIUS. Further reserving the right to object, Mr. Speaker, may I ask the gentleman, does this bill have the support of the Members in whose districts the various rivers are located?

Mr. TAYLOR of North Carolina. Mr. Speaker, if the gentleman will yield, I would state that the Members not only support it but they have been bothering me all summer, begging me to get the bill in shape so it could be brought to the House and passed.

Mr. SEBELIUS. Mr. Speaker, I thank the gentleman for that explanation, and I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentleman from North Carolina?

Mr. BAUCUS. Reserving the right to object, Mr. Speaker, I shall not object, but I wish to tell the gentleman from Kansas (Mr. SEBELIUS), as one Member from Montana, that this bill certainly has the wholehearted support of at least this Member.

I would also like to thank the gentleman from North Carolina (Mr. TAYLOR) for his very able leadership. I would like the gentleman to know that the people of Montana are very grateful for the subcommittee chairman's work, and they are very thankful for the subcommittee chairman's expeditious help on this bill. This bill will greatly enhance the quiet beauty of the State of Montana as well as enhance the economic values, particularly in terms of tourism which means so much to us in Montana.

Mr. Speaker, I strongly support this bill and especially its designation of parts of Montana's Flathead River as a wild and scenic river.

Because the Flathead River was specified by the Wild and Scenic Rivers Act for study, the Forest Service filed a complete study and recommendation for such designation in 1974. When the administration failed to move on these recommendations, I introduced this portion of the omnibus bill. It adopts the conclusions of the Forest Service study and designates parts of the Flathead River as wild, scenic, or recreational as declared by the National Wild and Scenic Rivers Act of 1968—Public Law 90-543; section 1B.

Mr. Speaker, intense public interest has been generated by announced plans of a Canadian firm, Rio Algon Mines, Ltd., to mine vast quantities of coal along a Canadian tributary of the Flathead River, Cabin Creek in British Columbia. These mining operations could severely pollute the Flathead River, damaging the environment and destroying several unique species of wildlife in Montana. The U.S. Department of State has emphasized the importance of including the Flathead River as wild and scenic to strengthen their negotiating position in joint consultations with the Governments of Canada, British Columbia, and Montana to determine means of preventing pollution.

I think the recommendations from the exhaustive study conducted by the Forest Service plus the strong public support received by my office and by the Subcommittee on National Parks and Recreation reveal that portions of this river are eminently qualified for designation under the act.

The Forest Service's recommendations would designate lands within one-quarter mile on either side of the river as wild, scenic, or recreational. Approximately 58,400 acres would be affected along the specified 219 miles of river. Nearly 60 percent of this land is federally owned and under the administration of the Forest Service, with a large portion within Glacier National Park. Less than 20 percent is privately owned.

The Forest Service's proposal recommends that each Federal agency retain its current jurisdiction upon enactment of a wild and scenic rivers designation, that State lands designated under the act be administered according to cooperative agreements, and that private lands within the management zone be administered by the Forest Service only to the extent required by the act and in accordance with easements negotiated with the private owners.

Scenic easements, compensated by fees based on current property values, would protect the river's natural beauty. These easements would not allow the public to enter the property without the owner's consent. Nor would they deny landowners the right to grow crops or livestock, to maintain roads, to rebuild or repair buildings, to sell the property or bequeath it to heirs.

Scenic easements would, however, exclude new industrial activity. prohibit the accumulation of trash, preserve the general topography of the land, limit tree cutting, limit billboards, and require approval of new construction. Some limited commercial development, such as campgrounds, might be permitted.

The Forest Service study states that access easements would be needed in only two locations, because publicly owned land within and adjacent to the management zone affords ample access to the river. The terms of scenic, commercial, and access easements vary somewhat according to the classification of lands within the management zone.

The Flathead wild and scenic river proposal reflects extensive interagency consultations at the local, State, and Federal levels. A public advisory committee was formed to consult at every stage in the preparation of a management plan. Public meetings were held regularly, a questionnaire survey was made, and special meetings were held with representatives of area landowners.

Mr. Speaker, it is vitally important to the people in my district that this bill be enacted. I firmly believe that progress, economic growth, and energy development are fully compatible with protection of the Flathead. In fact, a major industry throughout the Flathead Basin, recreation tourism, may well depend on designation as a wild and scenic river.

This concludes my remarks on the bill.

May I also submit two letters clarifying the status of one portion of the proposed wild and scenic river designation and relating that designation to the proposed Great Bear Wilderness Area.

INLAND FOREST RESOURCE COUNCIL,
Missoula, Mont., September 13, 1976.

Attention: Steve Browning.

Hon. MAX BAUCUS,
U.S. House of Representatives,
Cannon House Office Building,
Washington, D.C.

DEAR MAX: I was finally able to review H.R. 10747 which would classify the Flathead River under the National Wild and Scenic Rivers System. I have found one major area of concern which you may be able to provide some help. The proposal to classify the segment of the Middle Fork of the Flathead River that lies within the proposed Great Bear Wilderness Study Area may be premature. If the enabling legislation passes, the Forest Service will be required to study the Great Bear Area for possible inclusion in the Wilderness System during the next 19 months. It is quite likely that the results of this study will recommend that at least a portion of the Great Bear Area will not be proposed for Wilderness, but will be recommended for other uses including the harvest of timber. Since H.R. 10747 proposes that this segment of the river be classified as Wild, the bill may, therefore, create a stumbling block for any other management programs that might be chosen for the adjacent area as a result of the Great Bear Study.

As you follow the Middle Fork south from Highway 2 to the Bob Marshall Wilderness boundary, there are two major concerns. Logging access has already been constructed from Highway 2 south along the river for about two miles to Dirty Face Creek, at this point the river enters a rugged canyon which continues to the vicinity of Granite Creek. At this point the river valley flattens into a broad expanse of low rolling lodgepole valleys which generally surround the Schafer Meadows. This flat rolling lodgepole area continues to the Bob Marshall Wilderness boundary. The area between Granite Creek and the Bob Marshall boundary is our other area of major concern. We are anticipating that the Great Bear Wilderness Study will identify this area as one which has other resource values which preclude the classification of Wilderness. If the study identifies resource uses such as timber harvest that require development and access, it will be necessary to allow for road crossings across the river corridor to allow for development south of Schafer Meadows. The Wild Rivers Classification of this section of river would eliminate, or at least complicate, access of development south of the river.

Since the Middle Fork of the Flathead is an integral part of the Great Bear Area the two should be studied together. Any future management of the area is contingent upon the outcome of the Great Bear Study. We would, therefore, recommend that this segment of the river remain unclassified, or in Scenic status until such time as the final outcome of the Great Bear Study is known. Meanwhile there can be no degradation of wild or scenic qualities because the Forest Service is committed to a Wilderness form of management until their studies are complete and land use plans developed. From a practical standpoint, approximately one half of the Great Bear Study Area would not be roaded or developed under any circumstances, and included within this area is approximately one half of the length of the river segment. The other half of the river segment flows through areas with high timber values, and some limited access through the river corridor will be necessary to efficiently manage this resource.

We are hopeful that it is not too late to allow some modification of your proposal. Thank you for any help you may give us.

Sincerely,

LARRY B. BLASING,
Resource Forester.

WASHINGTON, D.C.,
September 23, 1976.

Mr. LARRY B. BLASING,
Resource Forester,
Inland Forest Resource Council,
Missoula, Mont.

DEAR LARRY: Thank you for your letter requesting clarification of Congressional intent regarding river road crossings within the Schafer Meadows region of the proposed Flathead Wild and Scenic River. I understand your concern that decisions about the Flathead take into account decisions about whether to designate the general area as Wilderness within the proposed Great Bear Wilderness Area.

Of course, if this area is not designated Wilderness within the proposed Great Bear Wilderness Area, many other land use decisions could flow from that decision. For example, the Forest Service might then determine that logging or other developed land uses are appropriate for the area and that building a road across the Flathead is the only way for these uses to be developed.

If this eventually proves to be the case, Congress could then certainly explore the usefulness of changing that portion of the Flathead's designation from "Wild" to another classification. The land use decisions Congress makes today under the Act are firm, but not immutable.

With best personal regards, I am,

Sincerely,

MAX BAUCUS.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. MOFFETT. Mr. Speaker, reserving the right to object, I, too, shall not object. My particular concern is with the Housatonic River that is included for study purposes in this bill. That is a river that flows from the foothills of the Berkshire Mountains down to Long Island Sound. It is a river that provides some of the best trout fishing and whitewater canoeing in America.

Mr. Speaker, I want to thank the distinguished chairman of the subcommittee for his help in this legislation and say that it is very important to us. We really appreciate his work.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mrs. LLOYD of Tennessee. Mr. Speaker, reserving the right to object, I shall not object, and I, too, would like to thank the very able chairman of our subcommittee for his work in preserving the Obed River in Tennessee, a very distinctive spot of beauty.

Mr. Speaker, I am one of the Members who has been following the gentleman from North Carolina (Mr. TAYLOR) around asking him to get this legislation on the floor and passed. I certainly appreciate the gentleman's efforts.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. MELCHER. Mr. Speaker, reserving the right to object and I shall not object, but I do want to thank the chairman of the subcommittee, the gentleman from North Carolina (Mr. TAYLOR), for bringing this bill to the floor. I thank all the Members of the House for their patience and consideration and for their efforts in assisting those of us from Montana to pass the omnibus wild and scenic rivers bill designating portions of the Flathead River and 149 miles of the Missouri River for that purpose.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. MILLER of Ohio. Mr. Speaker, reserving the right to object, I do so for the purpose of requesting from the chairman of the subcommittee some information as to the amount of the cost of the bill.

I see on page 7 of the report there is shown a cost for land acquisition of $10,519,000. I see in another area on page 21 there is a cost shown for studies of $2,175,000.

What I would like to know is this: What is the total cost of the bill?

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Speaker, the total cost for preserving the three rivers is $10,519,000, plus a $400,000 cost for development. The figure of $2,175,000 that the gentleman read is a restatement of some existing law. That is not affected by this bill.

Mr. MILLER of Ohio. So the total cost of the bill is $10,919,000?

Mr. TAYLOR of North Carolina. That is the cost for acquisition of land, that is correct.

Mr. MILLER of Ohio. Mr. Speaker, I thank the gentleman from North Carolina, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the bill as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—FLATHEAD, MONTANA

SEC. 101. Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271 et seq.) is amended by adding the following new paragraph at the end thereof:

"(13) FLATHEAD, MONTANA.—The North Fork from the Canadian border downstream to its confluence with the Middle Fork; the Middle Fork from its headwaters to its confluence to the South Fork; and the South Fork from its origin to the Hungry Horse Reservoir, as generally depicted on the map entitled 'Proposed Flathead Wild and Scenic River Boundary Location' dated February 1976; to be administered by agencies of the Department of the Interior and Agriculture as agreed upon by the Secretaries of such Departments or as directed by the President. Action required to be taken under subsection (b) of this section shall be taken within one year from the date of enactment of this paragraph. For the purposes of this river, there are authorized to be appropriated not more than $6,719,000 for the acquisition of lands and interest in lands.".

TITLE II—MISSOURI, MONTANA

SEC. 201. Section 3(a) of the Act is further amended by adding at the end thereof the following new paragraph:

"(14) MISSOURI, MONTANA.—The segment from Fort Benton one hundred and forty-nine miles downstream to Robinson Bridge, as generally depicted on the boundary map entitled 'Missouri Breaks Freeflowing River Proposal', dated October 1975, to be administered by the Secretary of the Interior. For the purposes of this river, there are authorized to be appropriated not more than $1,800,000 for the acquisition of lands and interests in lands.".

SEC. 202. After consultation with the State and local governments and the interested public, the Secretary shall, pursuant to section 3(b) of the Wild and Scenic Rivers Act and within one year of enactment of this Act—

(1) establish detailed boundaries of the river segment designated as a component of the National Wild and Scenic Rivers System pursuant to section 1 of this Act (hereinafter referred to as the "river area"): *Provided*, That the boundaries of the portion of the river area from Fort Benton to Coal Banks Landing and the portion of the river area within the boundaries of the Charles M. Russell National Wildlife Range shall be drawn to include only the river and its bed and exclude all adjacent land except significant historic sites and such campsites and access points as are deemed necessary by the Secretary, and to which the Secretary finds no reasonable alternative, as set forth in the management plan required pursuant to clause (2) of this section; and

(2) determine, in accordance with the guidelines in section 2(b) of the Wild and Scenic Rivers Act, which of the three classes—wild river, scenic river, or recreation river—best fit portions of the river segment, designate such portions in such classes, and prepare a management plan for the river area in accordance with such designation.

SEC. 203. (a) The Secretary of the Interior (hereinafter referred to as the "Secretary") shall manage the river area pursuant to the provisions of this Act and the Wild and Scenic Rivers Act, and in accordance with the provisions of the Taylor Grazing Act (48 Stat. 1269), as amended (43 U.S.C. 315), under principles of multiple use and sustained yield, and with any other authorities available to him for the management and conservation of natural resources and the protection and enhancement of the environment, where such Act, principles, and authorities are consistent with the purposes and provisions of this Act and the Wild and Scenic Rivers Act.

(b)(1) The Secretary may acquire land and interests in land only in accordance with the provisions of this Act and the Wild and Scenic Rivers Act and the limitations contained in section 6 of that Act and only: (A) at Fort Benton for the visitor facility as provided in subsection (g)(2) of this section; (B) at the site of Fort McKenzie; (C) in that portion of the river area downstream from Fort Benton to Coal Banks Landing for historic sites, campsites, and access points in accordance with section 2(1) of this Act; and (D) in that portion of the river area downstream from Coal Banks Landing so as to provide, wherever practicable and necessary for the purposes of this Act and the Wild and Scenic Rivers Act, rim-to-rim protection for such portion.

(2) In accordance with section 6(b) of the Wild and Scenic Rivers Act, the Secretary shall not acquire fee title to any lands by condemnation under the authority of that Act or this Act, except that the Secretary may use condemnation when necessary and within the limitations on acquisition set forth in clause (1) of this subsection to clear title, acquire scenic easements, or acquire such other easements as are reasonably necessary to give the public access to the river segment within the river area and to permit its members to traverse the length of said river area or of selected portions thereof.

(3) The Secretary shall, to the extent feasible, give priority in expenditure of funds pursuant to this Act for the acquisition and development of campsites and historic sites, including the site of the visitor center at Fort Benton and the site of Fort McKenzie.

(c) Consistent with the provisions of this Act and the Wild and Scenic Rivers Act, the Secretary may issue easements, licenses, or permits for rights-of-way through, over, or under the lands in Federal ownership within the river area, or for the use of such lands on such terms and conditions as are in accordance with the provisions of this Act, the Wild and Scenic Rivers Act, and other applicable law.

(d) The Secretary is authorized to permit the construction of a bridge across the river in the general vicinity of the community of Winifred, Montana, in order to accommodate the flow of north-south traffic. Such construction shall be in accordance with a plan which is mutually acceptable to the Secretary and State and local highway officials, and which is consistent with the purposes of this Act and the Wild and Scenic Rivers Act.

(c) To the extent and in a manner consistent wth the purposes of the Wild and Scenic Rivers Act the Secretary shall permit such pumping facilities and associated pipelines as may be necessary to assure the continuation of an adequate supply of water from the Missouri River to the owners of lands adjacent to the river and for future agricultural use outside the river corridor. The Secretary is authorized to permit such pumping facilities and associated pipelines for use for fish, wildlife, and recreational uses outside the river corridor.

(f) The Secretary shall permit hunting and fishing in the river area in accordance with applicable Federal and State laws, except that he may designate zones where, and periods when, no hunting or fishing shall be permitted for reasons of public safety or administration.

(g)(1) The Secretary, acting through the Bureau of Land Management, shall exercise management responsibilities in the river area for:

(A) the grazing of livestock;

(B) the application of the United States mining and mineral leasing laws;

(C) the management of fish and wildlife habitat;

(D) the diversion and use of water for agricultural and domestic purposes;

(E) the acquisition of lands and interests therein;

(F) the administration of public recreational uses of, and any historic sites and campsites in, the river area; and

(G) all other management responsibilities except those set forth in paragraph (2) of this subsection.

(2) The Secretary, acting through the National Park Service, shall be responsible for the construction, operation, and management of any visitor facility in or near Fort Benton which is found necessary in accord-

ance with the management plan developed pursuant to section 2 and the provision, at such facility, or interpretive services for the historic, archeological, scenic, natural, and fish and wildlife resources of the area.

TITLE III—OBED, TENNESSEE

Sec. 301. Section 3(a) of the Act is further amended by adding the following new paragraph at the end thereof:

"(15) Obed, Tennessee.—The segment from the western edge of the Catoosa Wildlife Management Area to the confluence with the Emory River; Clear Creek from the Morgan County line to the confluence with the Obed River, Daddys Creek from the Morgan County line to the confluence with the Obed River; and the Emory River from the confluence with the Obed River to the Nemo bridge as generally depicted and classified on the stream classification map dated December 1973. The Secretary of the Interior shall take such action, with the participation of the State of Tennessee as is provided for under subsection (b) within one year following the date of enactment of this paragraph. The development plan required by such subsection (b) shall include cooperative agreements between the State of Tennessee acting through the Wildlife Resources Agency and the Secretary of the Interior. Lands within the Wild and Scenic River boundaries that are currently part of the Catoosa Wildlife Management Area shall continue to be owned and managed by the Tennessee Wildlife Resources Agency in such a way as to protect the wildlife resources and primitive character of the area, and without further development of roads, campsites, or associated recreational facilities unless deemed necessary by that agency for wildlife management practices. The Obed Wild and Scenic River shall be managed by the Secretary of the Interior. For the purposes of carrying out the provisions of this Act with respect to this river, there are authorized to be appropriated such sums as may be necessary, but not to exceed $2,000,000 for the acquisition of lands or interests in lands and not to exceed $400,000 for development.".

TITLE IV—HOUSATONIC, CONNECTICUT

Sec. 401. Subsection (a) of section 5 of the Act is further amended by adding at the end thereof the following:

"(58) Housatonic, Connecticut: The segment from the Massachusetts-Connecticut boundary downstream to its confluence with the Shepaug River.".

TITLE V—SECTION IV AMENDMENT

Sec. 501. Subsection (b) of section 4 of the Act is amended by deleting the final sentence thereof.

TITLE VI—FEATHER, CALIFORNIA

Sec. 601. Subsection (a) of section 3 of the Act is further amended by striking the paragraph numbered (3) and inserting in lieu thereof:

"(3) Feather, California.—The entire Middle Fork downstream from the confluence of its tributary streams one kilometer south of Beckwourth, California; to be administered by the Secretary of Agriculture.".

COMMITTEE AMENDMENTS

The SPEAKER pro tempore (Mr. McFall). The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: Page 2, line 13, strike out "lands.'." and insert "lands. No funds authorized to be appropriated pursuant to this paragraph shall be available prior to October 1, 1977.'."

Page 2, line 24, strike out "lands.'." and insert "lands. No funds authorized to be appropriated pursuant to this paragraph shall be available prior to October 1, 1977.'."

Page 4, line 21, strike out "section 2(1)" and insert "section 202(1)".

Page 7, line 19, strike out "section 2" and insert "section 202".

Page 9, lines 4 and 5, strike out "development.'." and insert "development. No funds authorized to be appropriated pursuant to this paragraph shall be available prior to October 1, 1977.'."

Mr. TAYLOR of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendments be considered as read, printed in the Record, and considered en bloc.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The committee amendments were agreed to.

AMENDMENT OFFERED BY MR. TAYLOR OF NORTH CAROLINA

Mr. TAYLOR of North Carolina. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Taylor of North Carolina: Page 10, after line 4, insert the following new title:

"TITLE VII—PIEDRA, COLORADO

"Sec. 701. Paragraph (47) of section 5(a) of the Act is amended by striking out 'including the tributaries and headwaters on national forest lands'."

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from North Carolina (Mr. Taylor).

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 1506) to designate a segment of the Missouri River, Mont., as a component of the National Wild and Scenic Rivers System, and ask for its consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1506

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 906, 907), as amended (16 U.S.C. 1271, 1274(a) et seq.), is further amended by adding at the end thereof the following new paragraph:

"(11) Missouri, Montana.—The segment from Fort Benton one hundred and forty-nine miles downstream to Robinson Bridge, as generally depicted on the boundary map entitled 'Missouri Breaks Freeflowing River Proposal', dated October 1975, to be administered by the Secretary of the Interior. There are authorized to be appropriated such sums as are necessary for the purpose of this river segment.".

Sec. 2. After consultation with the State and local governments and the interested public, the Secretary shall, pursuant to section 3(b) of the Wild and Scenic Rivers Act and within one year of enactment of this Act—

(1) establish detailed boundaries of the river segment designated as a component of the National Wild and Scenic Rivers System pursuant to section 1 of this Act (hereinafter referred to as the "river area"): *Provided,* That the boundaries of the portion of the river area from Fort Benton to Coal Banks Landing shall be drawn to include only the river and its bed and exclude all adjacent land except significant historic sites and such campsites and access points as are deemed necessary by the Secretary, and to which the Secretary finds no reasonable alternative, as set forth in the management plan required pursuant to clause (2) of this section; and

(2) determine, in accordance with the guidelines in section 2(b) of the Wild and Scenic Rivers Act, which of the three classes—wild river, scenic river, or recreation river—best fit portions of the river segment, designate such portions in such classes, and prepare a management plan for the river area in accordance with such designation.

Sec. 3. (a) The Secretary of the Interior (hereinafter referred to as the "Secretary") shall manage the river area pursuant to the provisions of this Act and the Wild and Scenic Rivers Act, and in accordance with the provisions of the Taylor Grazing Act (48 Stat. 1269), as amended (43 U.S.C. 315), under principles of multiple use and sustained yield, and with any other authorities available to him for the management and conservation of natural resources and the protection and enhancement of the environment, where such Act, principles, and authorities are consistent with the purposes and provisions of this Act and the Wild and Scenic Rivers Act.

(b)(1) The Secretary may acquire land and interests in land only in accordance with the provisions of this Act and the Wild and Scenic Rivers Act and the limitations contained in section 6 of that Act and only: (A) at Fort Benton for the visitor facility as provided in subsection (g)(2) of this section; (B) at the site of Fort McKenzie; (C) in that portion of the river area downstream from Fort Benton to Coal Banks Landing for historic sites, campsites, and access points in accordance wtih section 2(1) of this Act; and (D) in that portion of the river area downstream from Coal Banks Landing so as to provide, wherever practicable and necessary for the purposes of this Act and the Wild and Scenic Rivers Act, rim-to-rim protection for such portion.

(2) In accordance with section 6(b) of the Wild and Scenic Rivers Act, the Secretary shall not acquire fee title to any lands by condemnation under the authority of that Act or this Act, except that the Secretary may use condemnation when necessary and within the limitations on acquisition set forth in clause (1) of this subsection to clear title, acquire scenic easements, or acquire such other easements as are reasonably necessary to give the public access to the river segment within the river area and to permit its members to transverse the length of said river area or of selected portions thereof.

(3) The Secretary shall, to the extent feasible, give priority in expenditure of funds pursuant to this Act for the acquisition and development of campsites and historic sites, including the site of a visitor center at Fort Benton and the site of Fort McKenzie.

(c) Consistent with the provisions of this Act and the Wild and Scenic Rivers Act, the Secretary may issue easements, licenses, or permits for rights-of-way through, over, or under the lands in Federal ownership within the river area, or for the use of such lands on such terms and conditions as are in accordance with the provisions of this Act, the Wild and Scenic Rivers Act, and other applicable law.

(d) The Secretary is authorized to permit the construction of a bridge across the river in the general vicinity of the community of Winifred, Montana, in order to accommodate the flow of north-south traffic. Such construction shall be in accordance with a plan which is mutually acceptable to the Secretary and State and local highway officials, and which is consistent with the purposes of this Act and the Wild and Scenic Rivers Act.

(e) The Secretary is authorized to permit for agricultural purposes such pumping facilities and associated pipelines within the river area as may be necessary in order to assure the continuation of an adequate supply of water from the Missouri River to the owners of lands adjacent to the river within the river area.

(f) The Secretary shall permit hunting and fishing in the river area in accordance with applicable Federal and State laws, except that he may designate zones where, and periods when, no hunting or fishing shall be permitted for reasons of public safety or administration.

(g) (1) The Secretary, acting through the Bureau of Land Management, shall exercise management responsibilities in the river area for:

(A) the grazing of livestock;

(B) the application of the United States mining and mineral leasing laws;

(C) the management of fish and wildlife habitat;

(D) the division and use of water for agricultural and domestic purposes;

(E) the acquisition of lands and interests therein;

(F) the administration of public recreational uses of, and any historic sites and campsites in the river area; and

(G) all other management responsibilities except those set forth in paragraph (2) of this subsection.

(2) The Secretary, acting through the National Park Service, shall be responsible for the construction, operation, and management of any visitor facility in or near Fort Benton which is found necessary in accordance with the management plan developed pursuant to section 2 and the provision, at such facility, of interpretive services for the historic, archeological, scenic, natural, and fish and wildlife resources of the area.

MOTION OFFERED BY MR. TAYLOR OF NORTH CAROLINA

Mr. TAYLOR of North Carolina. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Taylor of North Carolina moves to strike all after the enacting clause of the Senate bill S. 1506 and insert in lieu thereof the provisions of H.R. 15422, as passed, as follows:

TITLE I—FLATHEAD, MONTANA

Sec. 101. Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271 et seq.) is amended by adding the following new paragraph at the end thereof:

"(13) Flathead, Montana.—The North Fork from the Canadian border downstream to its confluence with the Middle Fork; the Middle Fork from its headwaters to its confluence to the South Fork; and the South Fork from its origin to the Hungry Horse Reservoir, as generally depicted on the map entitled 'Proposed Flathead Wild and Scenic River Boundary Location' dated February 1976; to be administered by agencies of the Departments of the Interior and Agriculture as agreed upon by the Secretaries of such Departments or as directed by the President. Action required to be taken under subsection (b) of this section shall be taken within one year from the date of enactment of this paragraph. For the purposes of this river, there are authorized to be appropriated not more than $6,719,000 for the acquisition of lands and interest in Lands. No funds authorized to be appropriated pursuant to this paragraph shall be available prior to October 1, 1977.".

TITLE II—MISSOURI, MONTANA

Sec. 201. Section 3(a) of the Act is further amended by adding at the end thereof the following new paragraph:

"(14) Missouri, Montana.—The segment from Fort Benton one hundred and forty-nine miles downstream to Robinson Bridge, as generally depicted on the boundary map entitled 'Missouri Breaks Freeflowing River Proposal', dated October 1975, to be administered by the Secretary of the Interior. For the purposes of this river, there are authorized to be appropriated not more than $1,800,000 for the acquisition of lands and interests in lands. No funds authorized to be appropriated pursuant to this paragraph shall be available prior to October 1, 1977.".

Sec. 202. After consultation with the State and local governments and the interested public, the Secretary shall, pursuant to section 3(b) of the Wild and Scenic Rivers Act and within one year of enactment of this Act—

(1) establish detailed boundaries of the river segment designated as a component of the National Wild and Scenic Rivers System pursuant to section 1 of this Act (hereinafter referred to as the "river area"): *Provided*, That the boundaries of the portion of the river area from Fort Benton to Coal Banks Landing and the portion of the river area within the boundaries of the Charles M. Russell National Wildlife Range shall be drawn to include only the river and its bed and exclude all adjacent land except significant historic sites and such campsites and access points as are deemed necessary by the Secretary, and to which the Secretary finds no reasonable alternative, as set forth in the management plan required pursuant to clause (2) of this section; and

(2) determine, in accordance with the guidelines in section 2(b) of the Wild and Scenic Rivers Act, which of the three classes—wild river, scenic river, or recreation river—best fit portions of the river segment, designate such portions in such classes, and prepare a management plan for the river area in accordance with such designation.

Sec. 203. (a) The Secretary of the Interior (hereinafter referred to as the "Secretary") shall manage the river area pursuant to the provisions of this Act and the Wild and Scenic Rivers Act, and in accordance with the provisions of the Taylor Grazing Act (48 Stat. 1269), as amended (43 U.S.C. 315), under principles of multiple use and sustained yield, and with any other authorities available to him for the management and conservation of natural resources and the protection and enhancement of the environment, where such Act, principles, and authorities are consistent with the purposes and provisions of this Act and the Wild and Scenic Rivers Act.

(b) (1) The Secretary may acquire land and interests in land only in accordance with the provisions of this Act and the Wild and Scenic Rivers Act and the limitations contained in section 6 of that Act and only: (A) at Fort Benton for the visitor facility as provided in subsection (g) (2) of this section; (B) at the site of Fort McKenzie; (C) in that portion of the river area downstream from Fort Benton to Coal Banks Landing for historic sites, campsites, and access points in accordance with section 202(1) of this Act; and (D) in that portion of the river area downstream from Coal Banks Landing so as to provide, wherever practicable and necessary for the purposes of this Act and the Wild and Scenic Rivers Act, rim-to-rim protection for such portion.

(2) In accordance with section 6(b) of the Wild and Scenic Rivers Act, the Secretary shall not acquire fee title to any lands by condemnation under the authority of that Act or this Act, except that the Secretary may use condemnation when necessary and within the limitations on acquisition set forth in clause (1) of this subsection to clear title, acquire scenic easements, or acquire such other easements as are reasonably necessary to give the public access to the river segment within the river area and to permit its members to traverse the length of said river area or of selected portions thereof.

(3) The Secretary shall, to the extent feasible, give priority in expenditure of funds pursuant to this Act for the acquisition and development of campsites and historic sites, including the site of the visitor center at Fort Benton and the site of Fort McKenzie.

(c) Consistent with the provisions of this Act and the Wild and Scenic Rivers Act, the Secretary may issue easements, licenses, or permits for rights-of-way through, over, or under the lands in Federal ownership within the river area, or for the use of such lands on such terms and conditions as are in accordance with the provisions of this Act, the Wild and Scenic Rivers Act, and other applicable law.

(d) The Secretary is authorized to permit the construction of a bridge across the river in the general vicinity of the community of Winifred, Montana, in order to accommodate the flow of north-south traffic. Such construction shall be in accordance with a plan which is mutually acceptable to the Secretary and State and local highway officials, and which is consistent with the purposes of this Act and the Wild and Scenic Rivers Act.

(e) To the extent and in a manner consistent with the purposes of the Wild and Scenic Rivers Act the Secretary shall permit such pumping facilities and associated pipelines as may be necessary to assure the continuation of an adequate supply of water from the Missouri River to the owners of lands adjacent to the river and for future agricultural use outside the river corridor. The Secretary is auhtorized to permit such pumping facilities and associated pipelines for use for fish, wildlife, and recreational uses outside the river corridor.

(f) The Secretary shall permit hunting and fishing in the river area in accordance with applicable Federal and State laws, except that he may designate zones where, and periods when, no hunting or fishing shall be permitted for reasons of public safety or administration.

(g) (1) The Secretary, acting through the Bureau of Land Management, shall exercise management responsibilities in the river area for:

(A) the grazing of livestock;

(B) the application of the United States mining and mineral leasing laws;

(C) the management of fish and wildlife habitat;

(D) the diversion and use of water for agricultural and domestic purposes;

(E) the acquisition of lands and interests therein;

(F) the administration of public recreational uses of, and any historic sites and campsites in, the river area; and

(G) all other management responsibilities except those set forth in paragraph (2) of this subsection.

(2) The Secretary, acting through the National Park Service, shall be responsible for the construction, operation, and management of any visitor facility in or near Fort Benton which is found necessary in accordance with the management plan developed pursuant to section 202 and the provision, at such facility, of interpretive services for the historic, archeological, scenic, natural, and fish and wildlife resources of the area.

TITLE III—OBED, TENNESSEE

Sec. 301. Section 3(a) of the Act is further amended by adding the following new paragraph at the end thereof:

"(15) Obed, Tennessee.—The segment from the western edge of the Catoosa Wildlife Management Area to the confluence with the Emory River; Clear Creek from the Morgan County line to the confluence with the Obed River, Daddys Creek from the Morgan County line to the confluence with the Obed River; and the Emory River from the confluence with the Obed River to the Nemo bridge as generally depicted and classified on the stream classification map dated December 1973. The Secretary of the Interior shall take such action, with the participation of the State of Tennessee as is provided for under subsection (b) within one year following the date of enactment of this paragraph. The development plan required by such subsection (b) shall include cooperative agreements between the State of Tennessee acting through the Wildlife Resources Agency and the Secretary of the Interior. Lands within the Wild and Scenic River boundaries that are currently part of the Catoosa Wildlife Management Area shall continue to be owned and managed by the Tennessee Wildlife Resources Agency in such a way as to protect the wildlife resources and primitive character of the area, and without further development of roads, campsites, or associated recreational facilities unless deemed necessary by that agency for wildlife management practices. The Obed Wild and Scenic River shall be managed by the Secretary of the Interior. For the purposes of carrying out the provisions of this Act with respect to this river, there are authorized to be appropriated such sums as may be necessary, but not to exceed $2,000,000 for the acquisition of lands or interest in lands and not to exceed $400,000 for development. No funds authorized to be appropriated pursuant to this paragraph shall be available prior to October 1, 1977.".

TITLE IV—HOUSATONIC, CONNECTICUT

SEC. 401. Subsection (a) of section 5 of the Act is further amended by adding at the end thereof the following:

"(58) Housatonic, Connecticut: The segment from the Massachusetts-Connecticut boundary downstream to its confluence with the Shepaug River.".

TITLE V—SECTION IV AMENDMENT

SEC. 501. Subsection (b) of section 4 of the Act is amended by deleting the final sentence thereof.

TITLE VI—FEATHER, CALIFORNIA

SEC. 601. Subsection (a) of section 3 of the Act is further amended by striking the paragraph numbered (3) and inserting in lieu thereof:

"(3) FEATHER, CALIFORNIA.—The entire Middle Fork downstream from the confluence of its tributary streams one kilometer south of Beckwourth, California; to be administered by the Secretary of Agriculture.".

TITLE VII—PIEDRA, COLORADO

SEC. 701. Paragraph (47) of section 5(a) of the Act is amended by striking out 'including the tributaries and headwaters on national forest lands."

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To amend the Wild and Scenic Rivers Act, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 15422) was laid on the table.

AMENDING THE LAND AND WATER CONSERVATION FUND ACT OF 1965, AS AMENDED

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 11061) to amend the Land and Water Conservation Fund Act of 1965, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. SEBELIUS. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from North Carolina if he would explain the purpose of this bill.

Mr. TAYLOR of North Carolina. Mr. Speaker, if the gentleman will yield, this bill addresses an administrative difficulty which has arisen in the fee collection program carried out for many of our national parks. The intention of the bill is to redefine the entrance permit which may be sold for short-term use in various of these areas. As I understand it, under the present system, a daily entrance permit is sold, but for those visitors who buy the 1-day permit and remain inside the park at campgrounds or lodging for several days, no further fee is generally collected. However, if that same visitor should choose or be forced to stay in a campground or lodging outside the park and return to it each day for several days, he would be required to pay an entrance fee each time.

The bill, sponsored by our colleague Representative BERNIE SISK, would simply permit the National Park Service to sell a short-term entrance permit which would be good for a period of several days. This should mean that we will no longer discriminate between those who chose to stay inside or outside a national park area during the time of their visit.

We are encouraging the building of privately owned campgrounds just outside our national parks and the building of motels and other lodging facilities near but outside of parks.

This bill adds fairness and dignity to the free system.

Mr. SEBELIUS. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the bill, as follows:

H.R. 11061

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection 4(a) of the Land and Water Conservation Fund Act of 1965, as amended, is amended by redesignating paragraphs "(3)" and "(4)" as "(4)" and "(5)", respectively, and inserting the following new paragraph following paragraph (2):

"(3) For persons who choose not to purchase the annual permit and for whom the single visit permit is not suitable, the administering Secretary shall establish permits at reasonable fees entitling the purchaser and his party to enter a single designated area during a period of not more than fifteen consecutive days, during which time period, as indicated on the permit, the purchaser and his party shall be allowed to leave and reenter the area at any time. Except for the time limitation, such permits shall, as to the single area designated, entitle the purchaser to the same benefits as the 'Golden Eagle' referred to in paragraph (1) of the subsection, and the purchaser shall be subject to the same limitations in such paragraph.".

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 1, beginning on line 3, strike out all after the enacting clause and insert in lieu thereof the following:

That subsection 4(a) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended (16 U.S.C. 4601–4 et seq.), is further amended by striking out paragraph (2) and inserting the following in lieu thereof:

"(2) Reasonable admission fees for a single visit at any designated area shall be established by the administering Secretary for persons who choose not to purchase an annual permit. A 'single visit' means a more or less continuous stay within the designated area. Payment of a single visit admission fee shall authorize exits from and re-entries to a single designated area for a period of from one to fifteen days, such period to be defined for each designated area by the administering Secretary based upon a determination of the period of time reasonably and ordinarily necessary for such a single visit."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING ARCHITECT OF THE CAPITOL TO PERFORM CERTAIN WORK ON AND MAINTAIN THE HISTORICAL SECTIONS OF THE CONGRESSIONAL CEMETERY FOR A 2-YEAR PERIOD, AND AUTHORIZING A STUDY BY THE SECRETARY OF THE INTERIOR TO FORMULATE PROPOSALS FOR RENOVATION AND PERMANENT MAINTENANCE OF SUCH SECTIONS BY THE UNITED STATES

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 13789) to authorize the Architect of the Capitol to perform certain work on and maintain the historical sections of the Congressional Cemetery for a 2-year period, and to authorize a study by the Secretary of the Interior to formulate proposals for renovation and permanent maintenance of such sections by the United States.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. SEBELIUS. Mr. Speaker, reserving the right to object, will the gentleman from North Carolina explain for us the purpose of this legislation?

Mr. TAYLOR of North Carolina. Mr. Speaker, if the gentleman from Kansas will yield, the Congressional Cemetery, which is owned by the Christ Episcopal Church, is a significant historic property which served as an early burying ground for deceased Members of Congress, particularly in the early 19th century. A number of other distinguished Americans were also interred at this location. Unfortunately, in recent years, the church and its congregation have not been able to provide the maintenance to the cemetery which it deserves. Although several volunteer organizations have been actively interested in its preservation, there is a critical need for some maintenance work to be performed to prevent the loss of historic markers and the further deterioration of the area's condition.

H.R. 13789 would permit the Architect of the Capitol to undertake necessary maintenance of this site during the next 2 fiscal years. Some $250,000 is authorized for this purpose. In addition, the Architect is to report back to the committees of the Congress on any recommendations for further maintenance and restoration of the cemetery beyond that time.

Mr. Speaker, the Joint Committee on Bicentennial Arrangements is most interested in this measure. The committee had identified this maintenance work at Congressional Cemetery as being an appropriate and needed portion of what the Congress can do during the upcoming several years to preserve the historic character of our immediate surroundings.

Mr. SEBELIUS. Mr. Speaker, I thank the gentleman for his explanation and withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The clerk read the bill, as follows:

H.R. 13789

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to the provisions of subsection (b), the Architect of the Capitol is authorized to perform such work as may be necessary to prevent further deterioration of, and to maintain, those sections of the cemetery located in the District of Columbia known as the Congressional Cemetery which are of historical significance, including those sections in which former Members of the Senate and House of Representatives are buried.

(b) Before commencing any work under subsection (a), the Architect of the Capitol shall obtain the consent and approval of the person or persons who have legal responsibility for the care and maintenance of the cemetery and shall enter into such agreements with them as may be necessary to carry out the provisions of such subsection. Such agreements shall include provisions protecting the liability of the Architect of the Capitol and the employees of his Office.

(c) To carry out the provisions of subsection (a), there are authorized to be appropriated the sum of $175,000 for the fiscal year ending September 30, 1977, and the sum of $75,000 for the fiscal year ending September 30, 1978.

SEC. 2. (a) The Secretary of the Interior shall conduct a study for the purpose of formulating proposals for renovation and permanent maintenance by the United States of those historical sections of the Congressional Cemetery referred to in the first section of this Act. The Secretary shall report the results of such study to the Senate and the House of Representatives not later than September 30, 1977.

(b) To carry out the provisions of subsection (a), there is authorized to be appropriated the sum of $50,000 for the fiscal year ending September 30, 1977.

COMMITTEE AMENDMENTS

The **SPEAKER** pro tempore. The Clerk will report the first committee amendment.

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that the committee amendments be considered as read, considered en bloc, printed in the RECORD and open to amendment at any point.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The committee amendments are as follows:

Page 2, line 2 strike "buried." and insert "buried, and including any such work in the remainder of the cemetery as he determines to be necessary to protect the historical sections."

Page 2, line 14, strike "1977," and insert "1978,".

Page 2, line 15, strike "1978." and insert "1979."

Page 2, lines 16 through 22, strike out all of section 2 and insert in lieu thereof the following:

"SEC. 2. (a) The Architect of the Capitol shall conduct a study for the purpose of determining the continuing maintenance and preservation needs for those historical sections of the Congressional Cemetery referred to in the first section of this Act, including the costs which he estimates would be associated with various maintenance actions which he may recommend for the cemetery. He shall transmit such study to the Committees on Interior and Insular Affairs of the Senate and House of Representatives not later than September 30, 1978.

"(b) To carry out the provisions of subsection (a), there is authorized to be appropriated not to exceed $50,000 for the fiscal year ending September 30, 1978."

The committee amendments were agreed to.

Mr. TAYLOR of North Carolina. Mr. Speaker, the Congressional Cemetery, which is owned by the Christ Episcopal Church, is a significant historic property which served as an early burying ground for deceased Members of Congress, particularly in the early 19th century. A number of other distinguished Americans were also interred at this location. Unfortunately, in recent years, the church and its congregation have not been able to provide the maintenance to the cemetery which it deserves. Although several volunteer organizations have been actively interested in its preservation, there is a critical need for some maintenance work to be performed to prevent the loss of historic markers and the further deterioration of the area's condition.

H.R. 13789 would permit the Architect of the Capitol to undertake necessary maintenance of this site during the next 2 fiscal years. Some $250,000 is authorized for this purpose. In addition, the Architect is to report back to the committees of the Congress on any recommendations for further maintenance and restoration of the cemetery beyond that time.

Mr. Speaker, the Joint Committee on Bicentennial Arrangements is most interested in this measure. The committee had identified this maintenance work at Congressional Cemetery as being appropriate and needed.

Mr. PICKLE. Mr. Speaker, in connection with H.R. 13789, a bill to authorize the Architect of the Capitol to perform certain work on and maintain the historical sections of the Congressional Cemetery for a 2-year period, and to authorize a study by the Secretary of the Interior to formulate proposals for renovation and permanent maintenance of such sections by the United States, I would like to commend the chairman of the committee for his expeditious handling of this matter, that was passed by the House today.

It is particularly appropriate in this Bicentennial year that this historical cemetery receive some attention. This bill was sponsored by the Joint Committee on the Bicentennial, and our chairman Representative LINDY BOGGS, has worked long and hard on this project.

While there was no controversy concerning the bill, it would have been easy for it to get lost during these few remaining days. I am happy that these 4½ acres are to receive the attention they need to preserve our heritage.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize the Architect of the Capitol to perform certain work on and maintain the historical sections of the Congressional Cemetery and to study and formulate proposals for renovation and permanent maintenance of such sections by the United States.".

A motion to reconsider was laid on the table.

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill S. 3441, to authorize the Architect of the Capitol to perform certain work on and maintain the historical sections of the Congressional Cemetery for a 2-year period, and to authorize a study by the Secretary of the Interior to formulate proposals for renovation and permanent maintenance of such sections by the United States.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3441

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to the provisions of subsection (b), the Architect of the Capitol is authorized to perform such work as may be necessary to prevent further deterioration of, and to maintain, those sections of the cemetery located in the District of Columbia known as the Congressional Cemetery which are of historical significance, including those sections in which former Members of the Senate and House of Representatives are buried.

(b) Before commencing any work under subsection (a), the Architect of the Capitol shall obtain the consent and approval of the person or persons who have legal responsibility for the care and maintenance of the cemetery and shall enter into such agreements with them as may be necessary to carry out the provisions of such subsection. Such agreements shall include provisions protecting the liability of the Architect of the Capitol and the employees of his Office.

(c) To carry out the provisions of subsection (a), there are authorized to be appropriated the sum of $175,000 for the fiscal year ending September 30, 1977, and the sum of $75,000 for the fiscal year ending September 30, 1978.

SEC. 2. (a) The Secretary of the Interior shall conduct a study for the purpose of formulating proposals for renovation and permanent maintenance by the United States of those historical sections of the Congressional Cemetery referred to in the first section of this Act. The Secretary shall report the results of such study to the Senate and the House of Representatives not later than September 30, 1977.

(b) To carry out the provisions of subsection (a), there is authorized to be appropriated the sum of $50,000 for the fiscal year ending September 30, 1977.

MOTION OFFERED BY MR. TAYLOR OF NORTH CAROLINA

Mr. TAYLOR of North Carolina. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TAYLOR of North Carolina moves to strike out all after the enacting clause of the Senate bill S. 3441 and to insert in lieu thereof the provisions of H.R. 13789 as passed by the House, and that the title of the bill be amended so as to conform to the action of the House, as follows:

That (a) subject to the provisions of subsection (b), the Architect of the Capitol is authorized to perform such work as may be necessary to prevent further deterioration of, and to maintain, those sections of the cemetery located in the District of Columbia known as the Congressional Cemetery which are of historical significance, including those sections in which former Members of the Senate and House of Representatives are buried, and including any such work in the remainder of the cemetery as he determines to be necessary to protect the historical sections.

(b) Before commencing any work under subsection (a), the Architect of the Capitol shall obtain the consent and approval of the person or persons who have legal responsibility for the care and maintenance of the cemetery and shall enter into such agreements with them as may be necessary to carry out the provisions of such subsection. Such agreements shall include provisions protecting the liability of the Architect of the Capitol and the employees of his Office.

(c) To carry out the provisions of subsection (a), there are authorized to be appropriated the sum of $175,000 for the fiscal year ending September 30, 1978, and the sum of $75,000 for the fiscal year ending September 30, 1979.

SEC. 2. (a) The Architect of the Capitol shall conduct a study for the purpose of determining the continuing maintenance and preservation needs for those historical sections of the Congressional Cemetery referred to in the first section of this Act, including the costs which he estimates would be associated with various maintenance actions which he may recommend for the cemetery. He shall transmit such study to the Committees on Interior and Insular Affairs of the Senate and House of Representatives not later than September 30, 1978.

(b) To carry out the provisions of subsection (a), there is authorized to be appropriated not to exceed $50,000 for the fiscal year ending September 30, 1978.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize the Architect of the Capitol to perform certain work on and maintain the historical sections of the Congressional Cemetery and to study and formulate proposals for renovation and permanent maintenance of such sections by the United States.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 13789) was laid on the table.

PROVIDING FOR THE ADDITION OF THE NAMES OF THE STATES OF ALASKA AND HAWAII TO THE LIST OF THE 48 STATES INSCRIBED UPON THE WALLS OF THE LINCOLN NATIONAL MEMORIAL

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the Senate bill S. 64, to provide for the addition of the names of the States of Alaska and Hawaii to the list of the 48 States inscribed upon the walls of the Lincoln National Memorial.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. SEBELIUS. Mr. Speaker, reserving the right to object, will the gentleman explain for us the purpose of this legislation?

Mr. TAYLOR of North Carolina. Mr. Speaker, if the gentleman will yield. The Lincoln Memorial, at the time of its construction, was designed to emphasize the unity of the States which President Lincoln was able to restore. Around the structure are carved the names of the 48 States of the Union which existed at the time of the memorial's construction. Since that time, the States of Alaska and Hawaii have been added to the Union and it seems appropriate that they be given some recognition at this site, as well.

As reported by the Committee on Interior and Insular Affairs, S. 64 would permit the Secretary of the Interior to investigate and recommend some appropriate means by which this commemoration can take place, consistent with the preservation of the appearance of the national memorial and its design. The Secretary would be required to have any proposal approved by the Commission of Fine Arts and the National Capital Planning Commission, and also to submit his proposal to the Congress. If all parties are in agreement on the measures to be taken, then the Secretary may proceed to carry out the plan.

Mr. SEBELIUS. Mr. Speaker, could the gentleman tell us what costs are associated with this measure?

Mr. TAYLOR of North Carolina. The bill authorizes up to $20,000 to be expended from the operating funds of the National Park Service for this project. It is expected that some simple and appropriate recognition of the later inclusion of these two great States of the Union can be included at the Lincoln Memorial for no more than this cost.

Mr. SEBELIUS. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. SEIBERLING. Mr. Speaker, reserving the right to object, I would just like to add that having gone over and looked at the Lincoln Memorial after this bill came before our committee and we had hearings, it was my personal conclusion that there is no way that additional State names can be added to the base of the memorial or the walls without impairing the architectural and esthetic qualities of the memorial. However, this bill does not require any particular solution to this problem but merely a study as to what is a suitable way to memorialize the two additional States. Any proposal must be approved by the various commissions that the chairman, the gentleman from North Carolina (Mr. TAYLOR), mentioned before it can even be submitted to the Congress. So I think that there is no likelihood that the memorial will be desecrated or impaired in any way. I take it that that is the consensus of the committee and that the chairman would agree with that interpretation.

Mr. TAYLOR of North Carolina. Yes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 64

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of adding the names of Alaska and Hawaii to the existing list of names of the forty-eight States inscribed on the walls of the Lincoln National Memorial, the Secretary of the Interior is authorized and directed to take such action as may be necessary to inscribe on the walls of such memorial, at an appropriate place in a manner and style consistent with the existing inscriptions of the names of the forty-eight States, the names of the States of Alaska and Hawaii. Such authorization is contingent on approval of the design and plans for such inscriptions by the Commission of Fine Arts, the National Capital Planning Commission, and the Advisory Council on Historic Preservation.

SEC. 2. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

With the following committee amendment:

Page 1, beginning on line 3, strike out all after the enacting clause and insert in lieu thereof the following:

That, for the purpose of providing appropriate commemoration at the Lincoln National Memorial of the addition of the States of Alaska and Hawaii to the Union, the Secretary of the Interior is authorized and directed to study the feasibility of and make recommendations for the recognition at an appropriate place at such memorial of the addition to the Union of the States of Alaska and Hawaii. Such recommendations shall after review and approval by the Commission of Fine Arts, the National Capital Planning Commission, and the Advisory Council on Historic Preservation be submitted to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives of the United States. If, at the end of sixty days (not counting days on which the Senate or the House of Representatives has adjourned for more than three consecutive days) following receipt of such recommendations, neither Committee has adopted a resolution of disapproval, the Secretary is authorized and directed to carry out said recommendations.

SEC. 2. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, but not to exceed $20,000. No funds authorized to be appropriated pursuant to this Act shall be available prior to October 1, 1977.

Mr. TAYLOR of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the committee amendment be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The committee amendment was agreed to.

Mrs. MINK. I rise in support of S. 64 which provides for appropriate commemoration of the States of Alaska and Hawaii at the Lincoln National Memorial.

The names of 48 of the 50 States are inscribed on the exterior walls of the Lincoln Memorial. Alaska and Hawaii are the two which entered the Union "too late" to receive this same recognition.

Long ago I noticed this omission and by letter called it to the attention of the Department of the Interior but no action was initiated. All of our States should be on the same plane and accorded equal recognition. The Lincoln Memorial is a symbol of the struggle for equality of all humankind. Adding the names of Alaska and Hawaii to an appropriate place in the Lincoln Memorial, admittedly only a small task, would be truly symbolic of the spirit of equality especially notable in this Bicentennial Year.

The bill authorizes the Secretary of the Interior to make recommendations for adding the names of Alaska and Hawaii at an appropriate place on the Lincoln Memorial. The Secretary is directed to carry out the recommendations, which are subject to review and approval by the Commission of Fine Arts, National Capital Planning Commission, and the Advisory Council on Historic Preservation, if, after submission to both Senate and House Committees on Interior and Insular Affairs, neither adopts a resolution of disapproval.

Mr. Speaker, this bill is long overdue and we should take immediate steps to correct the omission of these two States admitted to the Union in 1958 and 1959 by inserting their names on the finest and most glorious of all our national monuments.

The Senate bill was ordered to be read a third time, was read the third time and passed.

The title was amended so as to read: "An act to provide for the recognition of the States of Alaska and Hawaii at the Lincoln National Memorial, and for other purposes."

A motion to reconsider was laid on the table.

AMENDING THE ACT ESTABLISHING THE CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 13714) to amend the act approved January 8, 1971, establishing the Chesapeake and Ohio Canal National Historical Park, to provide that a segment of the Chesapeake and Ohio Canal shall be designated in honor of the memory of Justice William O. Douglas, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. SEBELIUS. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from North Carolina to explain the purpose of this legislation.

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. I thank the gentleman for yielding.

Justice Douglas was one of the moving parties in preserving the C. & O. Canal and eventually in helping Congress secure a C. & O. Canal National Historical Park. It is a long threadlike park running up the Potomac River. At one time it looked as though the canal would be destroyed and a highway constructed. It seemed suitable to our committee to dedicate a section—it is about a 3-mile section and it is the section that he loved most—of this canal to Justice Douglas and place his name on the appropriate markers and including references to this dedication in the interpretive literature distributed by the park.

This is similar action to that taken a few minutes ago in recognizing Senator HART, and similar to the action of the Congress a few years ago in recognizing William Ryan at the Gateway National Recreation Area when the visitor center was dedicated to him.

Mr. SEBELIUS. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the bill as follows:

H.R. 13714

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7 of the Act approved January 8, 1971 (84 Stat. 1978), establishing the Chesapeake and Ohio Canal National Historical Park, is amended by changing "SEC. 7." to "SEC. 7. (a)", and inserting the following new subsection:

"(b) The Secretary shall take such action as may be necessary and appropriate to designate the three-mile segment of the Chesapeake and Ohio Canal between locks 22 and 24, from Pennyfield Lock to Riley's Lock at Seneca Aqueduct, as the 'Justice William O. Douglas Level'; and any map or other information of the United States depicting the Chesapeake and Ohio Canal shall refer to the foregoing segment of the canal as the 'Justice William O. Douglas Level'. The Secretary is authorized to take such action as he deems appropriate to provide for suitable markers for the designated level.".

Mr. TAYLOR of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that the bill be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the act approved January 8, 1971, establishing the Chesapeake and Ohio Canal National Historical Park, to provide that a segment of the Chesapeake and Ohio Canal shall be designated in honor of Justice William O. Douglas, and for other purposes."

A motion to reconsider was laid on the table.

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 2742) to dedicate the Chesapeake and Ohio Canal National Historical Park to Justice William O. Douglas in grateful recognition of his contributions to the people of the United States, a similar bill to H.R. 13714 just passed, and I ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate bill as follows:

S. 2742

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Chesapeake and Ohio Canal National Historical Park, as described in the Chesapeake and Ohio Canal Development Act (16 U.S.C. 410y—410y-6), is hereby dedicated to Justice William O. Douglas in grateful recognition of his long and outstanding service to the people of the United States as a teacher, writer, jurist, and naturalist. The Secretary of the Interior shall have the words "Dedicated to Justice William O. Douglas" prominently displayed on all existing and future signs bearing the name "Chesapeake and Ohio Canal National Historical Park" or any abbreviation thereof, and shall take such other appropriate actions as may be necessary to call to the attention of the public the fact that such park has been so dedicated.

SEC. 2. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

MOTION OFFERED BY MR. TAYLOR OF NORTH CAROLINA

Mr. TAYLOR of North Carolina. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TAYLOR of North Carolina moves to strike out all after the enacting clause of the Senate bill, S. 2742, and insert in lieu thereof the provisions of H.R. 13714, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time and passed.

The title was amended so as to read: "A bill to amend the act approved January 8, 1971, establishing the Chesapeake and Ohio Canal National Historical Park, to provide that a segment of the Chesapeake and Ohio Canal shall be designated in honor of Justice William O. Douglas, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 13714, was laid on the table.

AUTHORIZING THE ESTABLISHMENT OF THE EUGENE O'NEILL NATIONAL HISTORIC SITE

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 9126) to authorize the establishment of the Eugene O'Neill National Historic Site, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. SEBELIUS. Mr. Speaker, reserving the right to object, I would like to ask the chairman of the subcommittee if he would explain this bill.

Mr. TAYLOR of North Carolina. Mr. Speaker, if the gentleman will yield, we conducted hearings on legislation which would establish this national historic site in the State of California. The area contains the home occupied by the great American playwright during the time he completed some of his finest writing. The home and grounds have already been recognized as a national landmark for their national significance, but since the time of the previous hearings on this measure, the State of California has appropriated funds to be used for the purchase of the site, and I understand it is the intention of the State to negotiate an agreement for the continued operation and maintenance of the home and grounds by a foundation which will protect the property and make it available for public use.

The home is virtually surrounded by an existing park, so the bill permits the Secretary to enter into a cooperative agreement which would insure the continued protection of this site. The Secretary is authorized to supply technical and planning assistance and is further authorized to declare this home and property as the Eugene O'Neill National Historic Site.

Mr. SEBELIUS. Mr. Speaker, I withdraw my reservation of objection.

Mr. SKUBITZ. Mr. Speaker, further reserving the right to object, I would like to ask a question of the chairman of the subcommittee. Are we considering this bill at the moment in the Committee of the Whole? The gentleman will recall I asked about offering an amendment to the bill.

The SPEAKER pro tempore. The Chair would state to the gentleman we are considering this bill in the House as in Committee of the Whole.

Mr. SKUBITZ. Will an amendment be in order at this point?

The SPEAKER pro tempore. When the committee amendment is reported, then the gentleman's amendment will be in order.

Mr. SKUBITZ. I thank the Chair.

I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the bill, as follows:

H.R. 9126

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to accept the donation of, or purchase with funds donated for the acquisition of, all or any part of the property (comprising approximately fourteen acres) and improvements thereon at Danville, California, formerly owned by Eugene O'Neill. When acquired, such property shall be designated as the Eugene O'Neill National Historic Site and shall be used as a national public memorial and community cultural center in commemoration of the contribution of Eugene O'Neill to American literature and drama.

SEC. 2. The national historic site established pursuant to this Act shall be administered by the Secretary of the Interior in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 461–467). The Secretary of the Interior is authorized to enter into cooperative agreements with the Eugene O'Neill Foundation, Tao House, to preserve, interpret, restore, program, adapt for public use and/or provide technical assistance for the Eugene O'Neill National Historic Site in accordance with the provisions of this Act.

COMMITTEE AMENDMENT

The SPEAKER. The Clerk will report the committee amendment. The Clerk read as follows:

Committee amendment: Page 1, beginning on line 3, strike out all after the enacting clause and inserting in lieu thereof the following:

That the property (comprising approximately fourteen acres) and improvements thereon at Danville, California, formerly owned by Eugene O'Neill, is recognized for its historic significance, and is found to be an appropriate location for commemorating the contribution of Eugene O'Neill to American literature and drama. The Congress finds that this property should be protected and maintained as a National Historic Site to serve as a lasting public memorial to the life and work of Eugene O'Neill.

SEC. 2. The Secretary of the Interior is authorized to enter into an agreement, satisfactory to him, with the Governor of the State of California providing for the acquisition, protection, and maintenance of the property as described in section one of this Act by the State of California, a political subdivision thereof, or any competent and responsible organization, acceptable to both the State and the Secretary. Upon conclusion of that agreement, the Secretary is authorized to designate the property as the Eugene O'Neill National Historic Site by publication of notice thereof in the Federal Register.

SEC. 3. In conjunction with the development and operation of the historic site provided for by this Act, the Secretary is authorized to render to the operating agency such assistance, including but not limited to, technical advice and planning assistance, as he deems appropriate to promote public understanding and appreciation of the significant role of Eugene O'Neill in the history of American literature and drama; *Provided,* That before any such assistance is rendered by the Secretary, the agreement referred to in section 2 of this Act shall have been concluded.

SEC. 4. The Secretary shall not obligate or expend any Federal funds for the acquisition, development or operation of the Eugene O'Neill National Historic Site. No provision of this Act, however, shall be construed as to limit in any way the ability of the managing agency of the historic site to request other Federal funding which may be available for the purposes of protecting and maintaining the site.

Mr. TAYLOR of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the amendment and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

AMENDMENT OFFERED BY MR. SKUBITZ TO THE COMMITTEE AMENDMENT

Mr. SKUBITZ. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. SKUBITZ to the committee amendment: On Page 2, before line 13, insert: "Title I"

On Page 3, after line 24, insert:

"TITLE II

"SEC. 201. The Secretary of the Interior is authorized to accept, subject to the consummation of the cooperative agreement referred to in Section 202, the donation of the Cherokee Strip Living Museum in Arkansas City, Kansas, and may administer such museum in accordance with such authorities as are available to him.

"SEC. 202. The Secretary may enter into a cooperative agreement with any responsible and competent organization satisfactory to him for the management and operation of the museum, and is authorized to render such technical advice and operating assistance as he may deem appropriate, the conditions of which are to be provided for in the cooperative agreement."

Mr. SKUBITZ (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. SKUBITZ. Mr. Speaker, this is a simple amendment which I have discussed with the chairman of the committee and the ranking minority member.

This amendment provides for the Secretary of the Interior to accept the donation of the Cherokee Strip Living Museum, subject to the successful negotiation of a cooperative agreement between the Secretary and the donor, as to the terms of its donation and continued operation and maintenance.

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Is this an entirely different project from the Eugene O'Neill Historic Site?

Mr. SKUBITZ. That is right.

Mr. TAYLOR of North Carolina. Who owns it?

Mr. SKUBITZ. It is owned by the city of Arkansas City, Kans.

Mr. TAYLOR of North Carolina. Is it paid for?

Mr. SKUBITZ. Yes.

Mr. TAYLOR of North Carolina. Will it be donated to the Federal Government, in the event that a suitable cooperative agreement can be worked out?

Mr. SKUBITZ. It will be donated.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Kansas (Mr. SKUBITZ) to the committee amendment.

The amendment to the committee amendment was agreed to.

The SPEAKER pro tempore. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "To authorize the establishment of the Eugene O'Neill National Historic Site, to provide for a cooperative agreement in the operation of the Cherokee Strip Living Museum, and for other purposes."

A motion to reconsider was laid on the table.

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on International Affairs be discharged from further consideration of the Senate bill, S. 2398, a bill similar to the one just passed, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

MOTION OFFERED BY MR. TAYLOR OF NORTH CAROLINA

Mr. TAYLOR of North Carolina. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Taylor of North Carolina moves to strike out all after the enacting clause of the Senate bill, S. 2398, and insert in lieu thereof the provisions of the bill, H.R. 9126, as passed, as follows:

That the property (comprising approximately fourteen acres) and improvements thereon at Danville, California, formerly owned by Eugene O'Neill, is recognized for its historic significance, and is found to be an appropriate location for commemorating the contribution of Eugene O'Neill to American literature and drama. The Congress finds that this property should be protected and maintained as a national historic site to serve as a lasting public memorial to the life and work of Eugene O'Neill.

Sec. 2. The Secretary of the Interior is authorized to enter into an agreement, satisfactory to him, with the Governor of the State of California providing for the acquisition, protection, and maintenance of the property as described in section 1 of this Act by the State of California, a political subdiviison thereof, or any competent and responsible organization, acceptable to both the State and the Secretary. Upon conclusion of that agreement, the Secretary is authorized to designate the property as the Eugene O'Neill National Historic Site by publication of notice thereof in the Federal Register.

Sec. 3. In conjunction with the development and operation of the historic site provided for by this Act, the Secretary is authorized to render to the operating agency such assistance, including but not limited to, technical advice and planning assistance, as he deems appropriate to promote public understanding and appreciation of the significant role of Eugene O'Neill in the history of American literature and drama: *Provided*, That before any such assistance is rendered by the Secretary, the agreement referred to in section 2 of this Act shall have been concluded.

Sec. 4. The Secretary shall not obligate or expend any Federal funds for the acquisition, development, or operation of the Eugene O'Neill National Historic Site. No provision of this Act, however, shall be construed as to limit in any way the ability of the managing agency of the historic site to request other Federal funding which may be available for the purposes of protecting and maintaining the site.

TITLE II

Sec. 201. The Secretary of the Interior is authorized to accept, subject to the consummation of the cooperative agreement referred to in section 202, the donation of the Cherokee Strip Living Museum in Arkansas City, Kansas, and may administer such museum in accordance with such authorities as are available to him.

Sec. 202. The Secretary may enter into a cooperative agreement with any responsible and competent organization satisfactory to him for the management and operation of the museum, and is authorized to render such technical advice and operating assistance as he may deem appropriate, the conditions of which are to be provided for in the cooperative agreement.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To authorize the establishment of the Eugene O'Neill National Historic Site, to provide for a cooperative agreement in the operation of the Cherokee Strip Living Museum, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 9126, was laid on the table.

GENERAL LEAVE

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the eight bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

DESIGNATING CERTAIN LANDS AS WILDERNESS

Mr. MELCHER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 15446) to designate certain lands as wilderness, and I inform the Members of the House that several committee amendments are necessary to straighten out some problems with the consideration of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

Mr. SISK. Mr. Speaker, reserving the right to object, I have asked for this time for the purpose of directing some questions to the gentleman from Montana (Mr. Melcher) regarding an issue that I am concerned about that I think is a part of this bill. As this bill is brought to the House floor, does it contain at the present time a matter concerning the Kaiser Ridge in connection with the change of status from national forest lands to wilderness on the part of what is called Kaiser Ridge in California?

Mr. MELCHER. Mr. Speaker, if the gentleman will yield, the gentleman is correct. The Kaiser Ridge proposal is in the bill, but one of the committee amendments is to delete Kaiser Ridge and has been authorized by the Committee on Interior and Insular Affairs to be offered to the bill.

Mr. SISK. Mr. Speaker, let me ask the gentleman from Montana further, is it a fact that this morning initially I was approached, hopefully to not object to this procedure, on the basis that there was to be an understanding that the bill would be offered without Kaiser Ridge and that the gentleman from Montana would yield for an amendment to the gentleman from California (Mr. Krebs) to restore it to the bill?

Mr. MELCHER. Mr. Speaker, if the gentleman will yield further, the gentleman and I have had several discussions during the last few days, but in the shape the bill is reported from the House the other procedure is necessary. The committee amendment that was authorized was to delete it, rather than the other way.

Mr. SISK. Mr. Speaker, I asked for this reservation to indicate my very strong opposition to the inclusion of Kaiser Ridge. This particular feature of this legislation is opposed strongly by the National Forest Service. It is proposed by the timber industry in California.

It is opposed by the local home builders in my particular area.

It is opposed by a number of labor groups, including the millworkers in my particular area.

It does affect several hundred jobs, because we are dealing with a matter that concerns the sale of 80 million board-feet of timber.

Mr. Speaker, I just feel it is most unfortunate that this bill was not brought in here in a separate process, so that the matter could be discussed. As I say, I am very much opposed to this procedure.

Mr. Speaker, I am not going to object. I have been called upon and compelled by my colleague, who is a good friend of mine, the gentleman from California (Mr. Krebs), not to object; but I do want to express my very strong feeling, as I had expressed it to the gentleman from Montana previously.

I just simply feel that, as I said, this is an unfortunate situation that this is brought here in the form in which it is brought up.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

Mr. SKUBITZ. Mr. Speaker, reserving the right to object, I understand that one member of the subcommittee who is not here has no objection, but did request that certain amendments be made to the bill. Were those amendments placed in this bill?

Mr. MELCHER. They are committee amendments, and I am endeavoring to offer them.

Mr. SKUBITZ. I thank the gentleman, and I withdraw my reservation of objection.

Mr. MELCHER. Mr. Speaker, as reported and amended by the Committee on Interior and Insular Affairs, H.R. 15446 designates as wilderness about

155,000 acres within 16 separate national wildlife refuges located in 11 States; designates as wilderness about 235,000 acres in three national forests located in three States; and designates as wilderness study areas eight such areas in several national forests located in three States.

Mr. Speaker, the Wilderness Act of 1964 gave the Forest Service, Fish and Wildlife Service and National Park Service 10 years from the date of enactment—September 3, 1964—to review certain lands under each agency's jurisdiction and report to the President their recommendations as to wilderness suitability of such lands. In turn, the President is required to submit his recommendations to the Congress. Only the Congress can include an area in the National Wilderness Preservation System by enactment of appropriate legislation. Unfortunately, during the early stages of the 10-year review period, the agencies did not move as rapidly in reviewing lands under their jurisdiction as directed by the act and a large number of areas were not submitted to the Congress until after the deadline in late 1974. Thus, a large backlog of areas to be considered by this Congress was created. H.R. 15446 reduces the backlog of areas recommended by the President by incorporating 17 areas in the National Wilderness Preservation System. The Wilderness Act does not affect the authority of the Congress to enact wilderness legislation absent an agency recommendation and H.R. 15446 contains one wilderness area and eight wilderness study areas which were not recommended by the President. Since enactment of the Wilderness Act in 1964 75 units containing about 4.3 million acres have been added to the National Wilderness Preservation System, not including the 18 units and about 365,000 acres encompassed by H.R. 15446. Well over one-half of these units have been added since 1973.

Mr. Speaker, wilderness is an ecological condition where all values and uses are administered to maintain a natural condition. No two wildernesses are exactly alike, although some are similar; and no two wildernesses can or should be administered in an identical fashion. Some are administered primarily for primitive recreational benefits, some primarily for wildlife benefits, parts of others primarily for watershed values and for endangered wildlife protection, while still others are administered to maintain scenic values. None is administered for one single use or purpose in its entirety, but rather to provide a proper mix of multiple values. Management emphasis of most wilderness areas is often primarily directed toward a single overriding value on a part of the area and primarily toward multiple values on other parts of the wilderness. A case in point is the Fitzpatrick Wilderness in Wyoming, where the bulk of the area will be administered for a mix of multiple values, while a part will be administered primarily to maintain a natural ecological condition to preserve habitat for bighorn sheep. Since the Forest Service, in cooperation with the Wyoming Game and Fish Department, may be required in the future to maintain herd size through a temporary trapping and transplanting program, the Wilderness Act does not preclude this program or the temporary use of a vehicle, when determined by the Forest Service to be the minimum necessary to do the job.

I also wish to point out to my colleagues that the committee excluded a small 10-acre tract from the eastern part of the Hercules-Glades Wilderness so that a public access point could be provided by the Forest Service. This exclusion, deleted so that public access can be assured without infringing on adjacent private property rights, would not diminish the wilderness value of the remainder of the area. While often valuable from a resource evaluation standpoint, mineral surveys are not required by the Wilderness Act. However, section 4(d)(2) does require that the Secretary of the Interior shall develop and conduct, in consultation with the Secretary of Agriculture, a planned, recurring program to survey the mineral potential of all national forest wilderness area to determine the mineral values, if any, that are present. This provision of the wilderness law will apply to this area.

MEDICINE LAKE WILDERNESS, MONTANA

The Medicine Lake Wilderness is located within the Medicine Lake National Wildlife Refuge, Roosevelt and Sheridan Counties, northeastern Montana, about 20 miles west of the North Dakota line and 40 miles south of Canada. Medicine Lake National Wildlife Refuge, containing, about 31,457 acres, was established by Executive order in 1935 and was acquired principally from private landowners.

The wilderness contains 11,366 acres and consists of two units—Medicine Lake of about 9,100 acres, and Sandhills of about 2,200 acres. The Medicine Lake unit includes the entire lake and all islands within the lake. The Sandhill unit is a grassland shrub complex located in the southeastern part of the wildlife refuge. The lake itself is located in one of the prehistoric beds of the Missouri River which at one time looped far to the north of its present location.

The Medicine Lake National Wildlife Refuge and Wilderness is situated in the central waterfowl flyway on the edge of the great prairie pothole duck production area. Ducks, geese, swans, sandhill cranes, and endangered whooping cranes use the area as they move to and from their northern breeding grounds. Over three-fourths of all wild ducks hatched in the coterminous States originally came from this prairie pothole region.

In addition, Medicine Lake has been well known for the large number of colonial nesting birds. White pelicans, double-crested cormorants, ringbill, and California gulls nest on the islands and points of the lake. Sharptail grouse, ring-necked pheasants, and gray partridges are year-round resident upland game species. White-tail deer, mule deer, and antelope are hunted on the wildlife refuge.

Wilderness designation will not affect current cooperative farming activities outside the wilderness or grazing programs. Income to Sheridan and Roosevelt Counties through the existing revenue sharing program would not be affected by wilderness status of two units within the Medicine Lake National Wildlife Refuge.

UL BEND WILDERNESS, MONT.

UL Bend Wilderness is located within UL Bend National Wildlife Refuge, Phillips County, east-central Montana. UL Bend National Wildlife Refuge, containing about 46,264 acres, was established in 1967 partly from lands already withdrawn for wildlife conservation purposes in the Charles M. Russell Range and partly from lands acquired from private land owners. The wildlife refuge name is derived from a hairpin curve in the Missouri River.

The wilderness contains 20,890 acres and consists of two units—one unit comprising some 17,905 acres embracing most of the bend itself, and another unit located in the western part of the wildlife refuge which comprises about 2,895 acres. About 1,200 acres of State-owned lands are included in the wilderness. Negotiations are underway to exchange these lands for Federal lands outside the wildlife refuge. Elevations range from 2,250 feet to 2,700 feet above sea level.

The northern boundary of the wildlife refuge is bordered by public domain and private lands while Fort Peck Reservoir—Missouri River—forms the southern boundary of the wildlife refuge and wilderness. Along the river, rugged ridges and coulees characterize the shoreline which is commonly referred to as the "Missouri River Breaks." Although the water level in Fort Peck Reservoir fluctuates seasonally, the elevation at full pool is 2,250 feet above sea level and the wilderness boundary is above this level. While the administration recommended special language to cover certain Coast Guard activities, this is not necessary because the actual use area involved is not within the wilderness and, further, the Wilderness Act does not preclude installation of devices for public safety purposes when the minimum is wilderness.

Wilderness designation would not affect the current payment to Phillips County under the Wildlife Refuge Revenue Sharing Act nor livestock grazing program, since previously existing grazing is a resource activity permitted by the Wilderness Act. A small cabin is located in the bend unit and will continue to be utilized for administrative purposes.

As indicated by their journals, Lewis and Clark were the first known white men to observe what is now called UL Bend. At that time, the area was the unconfined home of bison and many other forms of wildlife. Evidence of Indian teepee rings, artifacts, and buffalo jumps are still found in the area and a variety of wildlife species, including the endangered black-footed ferret, still are present. It is particularly fitting in this, the Nation's Bicentennial Year, that a small portion of a vast wilderness which was explored by Lewis and Clark over 170 years ago be dedicated as wilderness, our country's highest form of land dedication.

ELKHORN WILDERNESS STUDY AREA, MONTANA

The Elkhorn wilderness study area is located within Deerlodge and Helena National Forest, west-central Montana, about 15 miles south of Helena, the State capital. The designated wilderness study area contains about 77,346 acres. Two spectacular landmarks—Elkhorn and Crow Peaks—both well over 9,000 feet in elevation, dominate the landscape of the area.

In 1967, the Forest Service initiated a national inventory of all national forest roadless and undeveloped areas 5,000 acres in size or larger and of smaller areas contiguous to existing primitive areas or wilderness. The inventory identified a total of 1,449 such areas encompassing about 56 million acres. Then, in the early 1970's the Forest Service conducted a nationwide review of the inventoried areas to select areas with the most merit for specific study as possible additions to the National Wilderness Preservation System. Out of the inventory of 1,449 areas, 274 areas were selected as wilderness study areas. Of this number, 36 areas were selected in Montana. The Elkhorn wilderness study area is basically one of the roadless areas identified by the Forest Service in its inventory of all roadless areas, but was not selected by the Forest Service as wilderness study area through the nationwide review process.

Despite widespread local and national interest in the future of the Elkhorn Mountains, the Forest Service proceeded with a plan of management for the area, with an objective of proceeding with multiple-use management and development. As part of its plan, the Forest Service indicated a need to build a road through the Tizer Basin, presently undisturbed and critical summer and fall habitat utilized by an elk herd of about 500 animals. The Tizer Basin area also serves as an important calving ground for the elk herd. Moose, mountain lion and other wildlife normally associated with a wilderness condition are also found within the Elkhorn wilderness study area. The road plan, intended to provide a means of harvesting marginal timber resources, caused considerable local comment and statewide focus on the entire Elkhorn roadless area.

The Subcommittee on Public Lands held a field public hearing in Helena, Mont., on September 6, 1976, to record public comment on the merits of the Forest Service plan, especially as related to the elk herd. While diverse views were expressed at the hearing concerning future management of the Elkhorns, most agreed that a short period to further study the wilderness option of the Elkhorns would not particularly hinder current plans, management, or uses. The committee feels that a 22-year period for a detailed wilderness study by the Forest Service, followed by appropriate review by the Congress, would not be burdensome since timber resources are not large in the area and other commercial resources are minimal.

The Elkhorn wilderness study area now furnishes excellent wilderness and other types of recreational opportunities including quality hunting and fishing. Existing public uses would continue during the wilderness study period. In addition, existing private rights, such as mine patents or mining claims, are not affected by wilderness study status nor is access to private properties or special use permit areas changed.

The Elkhorn mountains represent an important watershed for the Helena and Townsend Valley, providing stable and quality flows of water for downstream ranch, domestic, and industrial use. The northern part of the study area supplies municipal water for the town of East Helena. Water quality and flows, and water rights pertinent thereto, are important factors in designating the Elkhorn wilderness study area. These values, important to many persons far removed from the area, would continue to be protected.

Include the following:

U. S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., September 17, 1976.

Hon. JAMES A. HALEY,
Chairman, House Interior and Insular Affairs Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: It is my understanding that your Committee has under consideration S. 1026 in the House of Representatives, which includes provisions to designate wilderness areas in the U L Bend and Medicine Lake National Wildlife Refuges in Montana. The Senate provision for Medicine Lake (section 1(a)(13) of the bill) is identical to that submitted by President Ford in his December 4, 1974, wilderness message; accordingly, this Department supports its enactment.

The Senate provision for U L Bend (section 1(a)(15)) differs from the Administration proposal in minor respects. The Senate bill would designate as wilderness approximately 20,890 acres of the refuge, whereas the Administration proposal was for 19,693 acres. However, the U.S. Fish and Wildlife Service proposal for U L Bend originally called for 20,893 acres of wilderness; some 1,200 acres were deleted from the final proposal because they are state school lands. The Service has been attempting to acquire these school lands and believes they are well qualified for wilderness status. We have no objection to their designation as potential wilderness.

The other difference between the Senate bill and the Administration proposal for U L Bend lies in the omission from the Senate bill of certain special provisions concerning the Fort Peck Reservoir and the jurisdiction of the Coast Guard to preserve maritime safety within wilderness areas. We would have preferred that these special provisions remain in the legislation. However, in this case, so long as it is clear that omission of the special provisions does not preclude the activities mentioned therein, we believe that the legislative history will be sufficient to carry out the Administration's intent. Accordingly, we support the enactment of the U L Bend wilderness proposal in S. 1026.

Sincerely yours,

CURTIS BOHLEN,
Acting Assistant Secretary for Fish, Wildlife and Parks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 11, line 14, strike out "fifteen" and insert in lieu thereof "nineteen".

H.R. 15446 designates as wilderness about 123,246 acres in several National Wildlife Refuges and about 300,115 acres in several National Forests. H.R. 15446 also designates several wilderness study areas in National Forests. These areas are located in 15 states and together total about 423,361 acres designated as wilderness and approximately 510,018 acres as designated wilderness study areas.

H.R. 15446 and H.R. 15447 (an identical bill) introduced by Mr. Melcher and others, are the result of consideration of all or parts of the following bills: H.R. 2905, Mr. Lujan; H.R. 2906, Mr. Lujan; H.R. 2975, Mr. Burlison of Missouri; H.R. 3030, Mr. Lloyd of California and others; H.R. 3507, Mr. Steiger of Arizona and others; H.R. 3508, Mr. Steiger of Arizona and others; H.R. 3656, Mr. Krebs; H.R. 5563, Mr. Chappell; H.R. 5568, Mr. Clausen of California; H.R. 5589, Mr. Johnson of California and others; H.R. 5893, Mr. Udall; H.R. 7788, Mr. Krebs and others; H.R. 7819, Mr. Krebs and others; H.R. 9265, Mr. Roncalio; H.R. 10618, Mr. Lloyd of California; H.R. 11143, Mr. Lloyd of California and others; H.R. 12458, Mr. Bafalis; H.R. 12821, Mr. Symington; H.R. 14524, Mr. Udall and others; H.R. 14530, Mr. Symington and others; H.R. 14779, Mr. Alexander; S. 74; S. 75; S. 392; S. 1026; and S. 1391.

The committee amendment was agreed to.

AMENDMENTS OFFERED BY MR. MELCHER

Mr. MELCHER. Mr. Speaker, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. MELCHER: Page 4, after line 14, add the following new subsections:

"(k) certain lands in the Medicine Lake National Wildlife Refuge, Montana, which comprise approximately eleven thousand three hundred and sixty-six acres, which are depicted on a map entitled 'Medicine Lake Wilderness Proposal', dated November 1973, and which shall be known as the Medicine Lake Wilderness;

"(l) certain lands in the UL Bend National Wildlife Refuge, Montana, which comprise approximately twenty thousand eight hundred and ninety acres, which are depicted on a map entitled 'UL Bend Wilderness Proposal', dated June 1976, and which shall be known as the UL Bend Wilderness;".

Page 4, line 15, change "(l)" to "(m)".

Page 4, line 21, change "(m)" to "(n)".

Page 5, lines 3 through 9, delete all of paragraph (n).

Page 6, line 21 through page 7, line 9, delete all of paragraphs (3) and (4).

Page 11, line 2, delete "and".

Page 11, line 15, change "Act." to "Act; and".

Page 11, line 15, after "Act." add the following: "In conducting his review, the Secretary of Agriculture, in consultation with the Secretary of the Interior, shall identify any potential utility corridors within or contiguous to the study area, review any adverse effects such corridors may have on the wilderness character of such area, determine whether any such corridor is necessary, and, if a determination of necessity is made, select a route and design which will minimize such effects. Nothing in this section shall be construed as prohibiting the siting of any such corridor within the boundaries of any area recommended by the President for wilderness preservation pursuant to this Act or designated by the Congress and;

(8) certain lands in the Deer Lodge and Helena National Forests, in Montana, which

comprise approximately seventy-seven thousand three hundred and forty-six acres and which are generally depicted on a map entitled 'Elkhorn Wilderness Study Area' and dated April 1976. The Secretary shall complete his review and report his findings to the President and the President shall submit to the United States Senate and the House of Representatives his recommendation with respect to the designation of the Elkhorn Wilderness Study area as wilderness not later than two years after the date of enactment of this Act."

Page 12, line 5, change "eight" to "four".

Mr. MELCHER (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. MELCHER. Mr. Speaker, these are committee amendments which were worked out and approved by the Committee on Interior and Insular Affairs. The committee amendments deal with three wilderness areas in Montana which have been approved by the Senate. Two of them are national wildlife refuge wilderness areas, Medicine Lake Wilderness and UL Bend Wilderness in eastern Montana. Both of these areas were contained in S. 1026, which passed the Senate on July 21.

Another addition is to add the Elkhorn Mountains in the Helena and Deer Lodge National Forests to the wilderness study section of the bill. Also, the committee authorized four amendments deleting Sandia Mountain Wilderness, N. Mex.; Manzano Mountain Wilderness, N. Mex.; and Oregon Islands Wilderness, Oreg., from the bill, and reported them separately.

Another amendment authorized by the committee directs that transmission line corridor potentials be incorporated in the wilderness study of the Great Bear Wilderness study area in Montana. Finally, the bill has been changed to make certain technical changes and corrections, including certain corrections to conform to Senate-passed bills containing designated wilderness study areas.

The SPEAKER pro tempore. The question is on the amendments offered by the gentleman from Montana.

The amendments were agreed to.

AMENDMENT OFFERED BY MR. MELCHER

Mr. MELCHER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MELCHER: Page 6, lines 10 thru 14, delete all of paragraph (2).

Mr. MELCHER. Mr. Speaker, this amendment is the Kaiser Ridge Wilderness proposal. By the authorization of the committee, I have offered it as a separate amendment so that it can be stricken from the bill if that is the will of the House.

Mr. KREBS. Mr. Speaker, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from California.

Mr. KREBS. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, this particular bill, which is known as the Kaiser Wilderness Area, was passed by the Senate and was to be placed on the Suspension Calendar a week ago today. It was removed from the Suspension Calendar because of the objection of one Member, my good friend from California (Mr. SISK).

The fact remains that this wilderness area is totally in my district and in no one else's district. I would ask the chairman of the subcommittee, the gentleman from Montana, to withdraw his amendment. Since, apparently, the gentleman does not wish to do so, I will ask for a recorded vote.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, I think the majority sentiment of the committee, in the light of what has happened, is to defeat this amendment. The gentleman from Montana is required to offer it because of the action of the committee, but I hope the amendment will be defeated.

Mr. Speaker, I hope the amendment will be defeated.

Mr. JOHNSON of Colorado. Mr. Speaker, will the gentleman yield?

Mr. KREBS. I yield to the gentleman from Colorado (Mr. JOHNSON).

Mr. JOHNSON of Colorado. I thank the gentleman for yielding.

Mr. Speaker, I would like to endorse what the gentleman from Arizona had to say. I do not have any particular interest in getting involved in a dispute with the gentleman from California, but the gentleman from California (Mr. KREBS) is the Representative of the area involved. He is the one who is going to have to take the heat that is involved if there is any heat to be taken as a result of this kind of a decision. He has ably represented his constituency.

I agree with the gentleman from Arizona.

Mr. KREBS. Mr. Speaker, I thank the gentleman.

I would point out that this amendment did pass both the full committee and the subcommittee by a substantial margin.

Mr. SISK. Mr. Speaker, I move to strike the last word.

Mr. Speaker, we are seeing a procedure which I outlined earlier as being a situation where the skids were greased. We never had an opportunity for this issue to stand on its own bottom, so to speak. I might say that the people involved in connection with the millworkers and the timber industry are basically in my district. I represented this particular area, I might say to my good friend, the gentleman from Colorado, for 20 years. I know this area quite well. I agree that the specific area, Kaiser Ridge, is now in my colleague's district. But the point at issue is the majority of the people in connection with the timber industry, in connection with labor in the area. which actually takes part in my district, in Oak Arrow, in Norfolk, and other mill towns in the area, are very much opposed to this particular legislation.

I might say the National Apartments Union is opposed to this particular legislation. So there are a number of people involved, I am not accusing my good friend from California (Mr. KREBS) of engineering this particular part, but we are actually preserving a back-door playground for some 200 or 300 cabin owners in the area of a beautiful area.

Mr. Speaker, as I said earlier, this is unfortunate that the matter comes up in this form, and I would hope, of course, that the amendment offered, I am assuming in good faith, by the gentleman from Montana (Mr. MELCHER) be adopted.

Mr. MILLER of California. Mr. Speaker, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Speaker, I think it should be clear to the Members of the House on this side of the aisle that 24 out of 28 Members signed a letter of support for inclusion of this area in the bill. When it was offered in the committee there was overwhelming support in the committee to occlude the Kaiser Ridge area. When the amendment was offered in the committee to take it out, there was not a quorum present. There were only five members of the committee present at that time.

Mr. Speaker, I ask the House to reject this amendment.

Mr. KREBS. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from California (Mr. KREBS).

Mr. KREBS. I thank the gentleman for yielding.

Mr. Speaker, I think the gentleman inadvertently left out that 24 members out of the 28 members of the Democratic delegation from California signed the letter urging the Speaker to place this bill on the Suspension Calendar. That is the type of broad support it has from the California delegation.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Montana (Mr. MELCHER).

The amendment was rejected.

The SPEAKER pro tempore. Are there further amendments?

Mr. MELCHER. Mr. Speaker, we have no further amendments.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. MELCHER. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 1026) to designate certain lands as wilderness, a bill similar to the one just passed, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The Clerk read the Senate bill as follows:

S. 1026

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a), in accordance with subsection (c) of section 3 of the Wilderness Act (78 Stat. 890, 892), the following lands are hereby designated as wilderness and, therefore, as components of the national wilderness preservation system:

(1) certain lands in the Simeonof National Wildlife Refuge, Alaska, which comprise approximately twenty-five thousand one hundred and forty acres, are depicted on a map entitled "Simeonof Wilderness—Proposed" and dated January 1971, and shall be known as the Simeonof Wilderness;

(2) certain lands in the Big Lake National Wildlife Refuge, Arkansas, which comprise approximately two thousand six hundred acres, are depicted on a map entitled "Proposed Big Lake Wilderness" and dated June 1976, and shall be known as the Big Lake Wilderness;

(3) certain lands in Chassahowitzka National Wildlife Refuge, Florida, which comprise approximately twenty-three thousand three hundred and sixty acres, are depicted on a map entitled "Proposed Chassahowitzka Wilderness" and dated June 1976, and shall be known as the Chassahowitzka Wilderness;

(4) certain lands in the J. N. "Ding" Darling National Wildlife Refuge, Florida, which comprise approximately two thousand eight hundred and twenty-five acres, are depicted on a map entitled "Proposed J. N. 'Ding' Darling Wilderness" and dated June 1976, and shall be known as the J. N. "Ding" Darling Wilderness.

(5) certain lands in the Lake Woodruff National Wildlife Refuge, Florida, which comprise approximately one thousand one hundred and forty-six acres are depicted on a map entitled "Proposed Lake Woodruff Wilderness" and dated June 1976, and shall be known as the Lake Woodruff Wilderness.

(6) certain lands in the Crab Orchard National Wildlife Refuge, Illinois, which comprise approximately four thousand and fifty acres, are depicted on a map entitled "Crab Orchard Wilderness Proposal" and dated January 1973, and shall be known as the Crab Orchard Wilderness;

(7) certain lands in the Lacassine National Wildlife Refuge, Louisiana, which comprise approximately two thousand eight hundred and fifty-four acres, are depicted on a map entitled "Lacassine Wilderness Proposal" and dated January 1974, and shall be known as the Lacassine Wilderness;

(8) certain lands in Agassiz National Wildlife Refuge, Minnesota, which comprises approximately four thousand acres, are depicted on a map entitled "Agassiz Wilderness Proposal" and dated November 1973, and shall be known as the Agassiz Wilderness;

(9) certain lands in the Tamarac National Wildlife Refuge, Minnesota, which comprise approximately two thousand one hundred and thirty-eight acres, are depicted on a map entitled "Tamarac Wilderness Proposal" and dated January 1973, and shall be known as the Tamarac Wilderness.

(10) certain lands in the Mingo National Wildlife Refuge, Missouri, which comprise approximately seven thousand acres, are depicted on a map entitled "Proposed Mingo Wilderness" and dated June 1976, and shall be known as the Mingo Wilderness;

(11) certain lands in the Fort Niobrara National Wildlife Refuge, Nebraska, which comprise approximately four thousand six hundred and thirty-five acres, are depicted on a map entitled "Fort Niobrara Wilderness Proposal" and dated November 1973, and shall be known as the Fort Niobrara Wilderness;

(12) certain lands in the Swanquarter National Wildlife Refuge, North Carolina, which comprise approximately nine thousand acres; are depicted on a map entitled "Swanquarter Wilderness Proposal" and dated December 1973, and shall be known as the Swanquarter Wilderness;

(13) certain lands in the Medicine Lake National Wildlife Refuge, Montana, which comprise approximately eleven thousand three hundred and sixty-six acres, are depicted on a map entitled "Medicine Lake Wilderness Proposal" and dated November 1973, and shall be known as the Medicine Lake Wilderness;

(14) certain lands in the Red Rock Lakes National Wildlife Refuge, Montana, which comprise approximately thirty-two thousand three hundred and fifty acres, are depicted on a map entitled "Red Rock Lakes Wilderness Proposal" and dated January 1974, and shall be known as the Red Rock Lakes Wilderness;

(15) certain lands in the UL Bend National Wildlife Refuge, Montana, which comprise approximately twenty thousand eight hundred and ninety acres, and are depicted on a map entitled "Proposed UL Bend Wilderness" and dated June 1976, and shall be known as UL Bend Wilderness;

(16) certain lands in the Oregon Islands National Wildlife Refuge, Oregon, which comprise approximately four hundred and fifty-four acres, are depicted on a map entitled "Proposed Oregon Islands Wilderness" and dated June 1976, and shall be known as Oregon Islands Wilderness; and

(17) certain lands in the San Juan Islands National Wildlife Refuge, Washington, which comprise approximately three hundred and fifty-three acres, are depicted on a map entitled "Proposed San Juan Islands Wilderness" and dated June 1976, and shall be known as the San Juan Islands Wilderness.

(b)(1) As soon as practicable after this Act takes effect, maps of the areas designated as wilderness pursuant to subsection (a) of this section (hereinafter referred to as "wilderness areas") and legal descriptions of their boundaries shall be filed with the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives, and such maps and descriptions shall have the same force and effect as if included in this Act: *Provided, however,* That corrections of clerical and typographical errors in such maps and descriptions may be made by the Secretary of the Interior.

(2) The maps and descriptions of boundaries of the wilderness areas shall be on file and available for public inspection in the offices of the United States Fish and Wildlife Service, Department of the Interior.

SEC. 2. The wilderness areas shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

MOTION OFFERED BY MR. MELCHER

Mr. MELCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MELCHER moves to strike out all after the enacting clause of the Senate bill S. 1026 and to insert in lieu thereof the provisions of H.R. 15446, as passed, as follows:

DESIGNATION OF WILDERNESS AREAS WITHIN THE NATIONAL WILDLIFE REFUGE SYSTEM

SECTION 1. In accordance with subsection 3(c) of the Wilderness Act (78 Stat. 892), the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(a) certain lands in the Simeonof National Wildlife Refuge, Alaska, which comprise approximately twenty-five thousand one hundred and forty-one acres, which are depicted on a map entitled "Simeonof Wilderness Proposal", dated January 1971, and which shall be known as the Simeonof Wilderness;

(b) certain lands in the Big Lake National Wildlife Refuge, Arkansas, which comprise approximately two thousand six hundred acres, which are depicted on a map entitled "Big Lake Wilderness Proposal", dated June 1976, and which shall be known as the Big Lake Wilderness;

(c) certain lands in the Chassahowitzka National Wildlife Refuge, Florida, which comprise approximately twenty-three thousand three hundred and sixty acres, which are depicted on a map entitled "Chassahowitzka Wilderness Proposal", dated March 1975, and which shall be known as the Chassahowitzka Wilderness;

(d) certain lands in the J. N. "Ding" Darling National Wildlife Refuge, Florida, which comprise approximately two thousand eight hundred and twenty-five acres, which are depicted on a map entitled "J. N. 'Ding' Darling Wilderness Proposal", dated March 1975, and which shall be known as the J. N. "Ding" Darling Wilderness;

(e) certain lands in the Lake Woodruff National Wildlife Refuge, Florida, which comprise approximately one thousand one hundred and forty-six acres, which are depicted on a map entitled "Lake Woodruff Wilderness Proposal", dated June 1976, and which shall be known as the Lake Woodruff Wilderness;

(f) certain lands in the Crab Orchard National Wildlife Refuge, Illinois, which comprise approximately four thousand and fifty acres, which are depicted on a map entitled "Crab Orchard Wilderness Proposal", dated January 1973, and which shall be known as the Crab Orchard Wilderness;

(g) certain lands in the Lacassine National Wildlife Refuge, Louisiana, which comprise approximately three thousand three hundred acres, which are depicted on a map entitled "Lacassine Wilderness Proposal", dated June 1976, and which shall be known as the Lacassine Wilderness;

(h) certain lands in the Agassiz National Wildlife Refuge, Minnesota, which comprise approximately four thousand acres, which are depicted on a map entitled "Agassiz Wilderness Proposal", dated November 1973, and which shall be known as the Agassiz Wilderness;

(i) certain lands in the Tamarac National Wildlife Refuge, Minnesota, which comprise approximately two thousand one hundred and thirty-eight acres, which are depicted on a map entitled "Tamarac Wilderness Proposal", dated January 1973, and which shall be known as the Tamarac Wilderness;

(j) certain lands in the Mingo National Wildlife Refuge, Missouri, which comprise approximately eight thousand acres, which are depicted on a map entitled "Mingo Wilderness Proposal", dated March 1975, and which shall be known as the Mingo Wilderness;

(k) certain lands in the Red Rock Lakes National Wildlife Refuge, Montana, which comprise approximately thirty-two thousand three hundred and fifty acres, which are depicted on a map entitled "Red Rock Lakes Wilderness Proposal", dated January 1974, and which shall be known as the Red Rock Lakes Wilderness;

(l) certain lands in the Medicine Lake National Wildlife Refuge, Montana, which comprise approximately eleven thousand three hundred and sixty-six acres, which are depicted on a map entitled "Medicine Lake Wilderness Proposal", dated November 1973, and which shall be known as the Medicine Lake Wilderness;

(m) certain lands in the UL Bend National Wildlife Refuge, Montana, which comprise approximately twenty thousand eight hundred and ninety acres, which are depicted on a map entitled "UL Bend Wilderness Proposal", dated June 1976, and which shall be known as the UL Bend Wilderness;

(n) certain lands in the Fort Niobrara National Wildlife Refuge, Nebraska, which comprise approximately four thousand six hundred and thirty-five acres, which are depicted on a map entitled "Fort Niobrara Wilderness Proposal", dated November 1973, and which shall be known as the Fort Niobrara Wilderness;

(o) certain lands in the Swanquarter National Wildlife Refuge, North Carolina, which comprise approximately nine thousand acres, which are depicted on a map entitled "Swanquarter Wilderness Proposal", dated December 1973, and which shall be known as the Swanquarter Wilderness;

(p) certain lands in the San Juan Islands National Wildlife Refuge, Washington, which comprise approximately three hundred and fifty-five acres, which are depicted on a map entitled "San Juan Islands Wilderness Proposal", dated August 1971 (revised July 1976), and which shall be known as the San Juan Wilderness.

DESIGNATION OF WILDERNESS AREAS WITHIN THE NATIONAL FOREST SYSTEM

SEC. 2. (a). In accordance with the subsection 3(b) of the Wilderness Act (78 Stat. 891), the area in the Shoshone National Forest in Wyoming classified as the Glacier Primitive Area, with the proposed additions thereto and deletions therefrom, comprising an area of approximately one hundred and ninety-seven thousand six hundred acres as generally depicted on a map entitled "Glacier Wilderness Proposed", dated March 1975 (revised August 1976), is hereby designated as the "Fitzpatrick Wilderness" and, therefore, as a component of the National Wilderness Preservation System.

(b) In furtherance of the purposes of the Wilderness Act (78 Stat. 890), the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Sierra National Forest in California, which comprise about twenty-two thousand five hundred acres, as generally depicted on a map entitled "Kaiser Wilderness Proposed", dated August 1976 and shall be known as Kaiser Wilderness;

(2) certain lands in the Mark Twain National Forest in Missouri, which comprise about twelve thousand three hundred and fifteen acres, as generally depicted on a map entitled "Hercules-Glades Wilderness, Proposed", dated March 1976, and shall be known as the Hercules-Glades Wilderness;

DESIGNATION OF WILDERNESS STUDY AREAS WITHIN THE NATIONAL FOREST SYSTEM

SEC. 3. (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890) and in accordance with the provisions of subsection 3(d) of that Act (78 Stat. 892, 893), relating to public notice, public hearings, and review by State and other agencies, the Secretary of Agriculture shall review, as to its suitability or nonsuitability for preservation as wilderness, each wilderness study area designated by or pursuant to subsection (b) of this section and report his findings to the President. The President shall advise the United States Senate and the House of Representatives of his recommendations with respect to the designation as wilderness of each such area on which the review has been completed, together with a map thereof and a definition of its boundaries.

(b) Wilderness study areas to be reviewed pursuant to this section include—

(1) certain lands in the Angeles and San Bernardino National Forests in California, which comprise approximately fifty-two thousand acres, and which are generally depicted on a map entitled "Sheep Mountain Wilderness, Proposed", and dated February 1974. The Secretary shall complete his review and report his findings to the President and the President shall submit to the United States Senate and the House of Representatives his recommendations with respect to the designation of the Sheep Mountain Wilderness Study Area as wilderness not later than two years after the date of enactment of this Act;

(2) certain lands in the Mendocino National Forest in California, which comprise approximately thirty-seven thousand acres, and which are generally depicted on a map entitled "Snow Mountain Wilderness Proposed", and dated June 1971. The Secretary shall complete his review and report his findings to the President and the President shall submit to the United States Senate and the House of Representatives his recommendations with respect to the designation of the Snow Mountain Wilderness Study Area as wilderness not later than two years after the date of enactment of this Act;

(3) certain lands in the Mark Twain National Forest in Missouri, which comprise approximately eight thousand five hundred and thirty acres, and which are generally depicted on a map entitled "Bell Mountain Wilderness Study Area", and dated March 1976. The Secretary shall complete his review and report his findings to the President and the President shall submit to the United States Senate and the House of Representatives his recommendations with respect to the designation of the Bell Mountain Wilderness Study Area as wilderness not later than five years after the date of enactment of this Act;

(4) certain lands in the Mark Twain National Forest in Missouri, which comprise approximately six thousand eight hundred and eighty-eight acres, and which are generally depicted on a map entitled "Paddy Creek Wilderness Study Area", and dated March 1976. The Secretary shall complete his review and report his findings to the President and the President shall submit to the United States Senate and the House of Representatives his recommendation with respect to the designation of the Paddy Creek Wilderness Study Area as wilderness not later than five years after the date of enactment of this Act;

(5) certain lands in the Mark Twain National Forest in Missouri, which comprise approximately eight thousand four hundred and thirty acres, and which are generally depicted on a map entitled "Piney Creek Wilderness Study Area", and dated March 1976. The Secretary shall complete his review and report his findings to the President and the President shall submit to the United States Senate and the House of Representatives his recommendation with respect to the designation of the Piney Creek Wilderness Study Area as wilderness not later than five years after the date of enactment of this Act;

(6) certain lands in the Mark Twain National Forest in Missouri, which comprise approximately four thousand one hundred and seventy acres, and which are generally depicted on a map entitled "Rockpile Mountain Wilderness Study Area", and dated March 1976. The Secretary shall complete his review and report his findings to the President and the President shall submit to the United States Senate and the House of Representatives his recommendation with respect to the designation of the Rockpile Mountain Wilderness Study Area as wilderness not later than five years after the date of enactment of this Act;

(7) certain lands in the Flathead and Lewis and Clark National Forests in Montana, which comprise approximately three hundred ninety-three thousand acres, and which are generally depicted on a map entitled "Great Bear Wilderness-Proposed", and dated November 1975 (revised August 1976). The Secretary shall complete his review and report his findings to the President and the President shall submit to the United States Senate and the House of Representatives his recommendation with respect to the designation of the Great Bear Wilderness Study Area as wilderness not later than nineteen months after the date of enactment of this Act; and in conducting his review, the Secretary of Agriculture, in consultation with the Secretary of the Interior, shall identify any potential utility corridors within or contiguous to the study area, review any adverse effects such corridors may have on the wilderness character of such area, determine whether any such corridor is necessary, and, if a determination of necessity is made, select a route and design which will minimize such effects. Nothing in this section shall be construed as prohibiting the siting of any such corridor within the boundaries of any area recommended by the President for wilderness preservation pursuant to this Act or designated as wilderness by the Congress, and

(8) certain lands in the Deer Lodge and Helena National Forests, in Montana, which comprise approximately seventy-seven thousand three hundred and forty-six acres and which are generally depicted on a map entitled "Elkhorn Wilderness Study Area" and dated April 1976. The Secretary shall complete his review and report his findings to the President and the President shall submit to the United States Senate and the House of Representatives his recommendation with respect to the designation of the Elkhorn Wilderness Study area as wilderness not later than two years after the date of enactment of this Act.

(c) Nothing herein contained shall limit the President in proposing, as part of his recommendations to Congress, the alteration of existing boundaries of any wilderness study area or recommending the addition to any such area of any contiguous area predominantly of wilderness value. Any recommendation of the President to the effect that such area or portion thereof should be designated as "wilderness" shall become effective only if so provided by an Act of Congress.

(d) Subject to existing private rights, the wilderness study areas designated by this Act shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System, except that such management requirement shall not extend beyond a period of four years from the date of submission to the Congress of the President's recommendation concerning the particular study area. Already established uses may be permitted to continue, subject to such restrictions as the Secretary of Agriculture deems desirable, in the manner and degree in which the same was being conducted on the date of enactment of this Act.

ADMINISTRATIVE PROVISIONS

SEC. 4. Except as otherwise provided in this Act, all primitive area classifications of areas herein designated as wilderness are hereby abolished.

SEC. 5. As soon as practicable after this Act takes effect, a map of each wilderness study area and a map and a legal description of each wilderness area shall be filed with the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives, and each such map and description shall have the same force and effect as if included in this Act: *Provided, however*, That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture.

SEC. 6. Wilderness areas designated by this Act shall be administered in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be the effective date of this Act, and any refer-

ence to the Secretary of Agriculture shall be deemed to be a reference to the Secretary who has administrative jurisdiction over the area.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 15446) was laid on the table.

GENERAL LEAVE

Mr. MELCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

PERMITTING USE OF UNSWORN DECLARATIONS UNDER PENALTY OF PERJURY AS EVIDENCE IN FEDERAL PROCEEDINGS

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 15531) to permit the use of unsworn declarations under penalty of perjury as evidence in Federal proceedings.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. HYDE. Mr. Speaker, reserving the right to object, will the gentleman from Missouri (Mr. HUNGATE) explain this bill for us to some extent?

Mr. HUNGATE. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Missouri.

Mr. HUNGATE. Mr. Speaker, this bill is designed to do away with the requirement that all affidavits be sworn to before a third party—usually a notary public. Present law requires verification of the truthfulness of an affidavit by sworn oath, before it can be used in a Federal court or administrative proceeding. Any one who makes a false statement in a document subscribed to under oath is subject to the penalty of perjury.

H.R. 15531 would permit written, unsworn declarations to be used in lieu of sworn declarations. The legislation allows a person to subscribe to the truth of the contents of a document by signing it subject to the penalty of perjury. Such a procedure is similar to the one already in use for the Federal income tax form 1040. With a 1040 form a taxpayer signs, under penalty of perjury, that the contents of his return are true. The bill contains three exceptions where an unsworn declaration may not be substituted for a sworn declaration. It cannot be used for: First, depositions; second, oaths of office; or third, documents required to be signed before a specified official other than a notary.

I should like to point out that the bill does not change any of the elements of the offense of perjury. H.R. 15531 only seeks to include unsworn declarations made under penalty of perjury within the scope of the general perjury statute (18 U.S.C. § 1621).

The State of California has had the procedure embodied in this bill in effect for approximately 19 years. The experience under the California statute has been positive. The California Bar Association has supported the idea as being helpful to attorneys, their clients, and to the efficient administration of the judicial system. The inconvenience of requiring all affidavits to be given under oath can be avoided by this bill. H.R. 15531 would also end the need to certify and document the authority of the person giving an oath and the authenticity of his seal. With affidavits made out of the country this can be an especially tedious task.

The bill has received bipartisan support in the Judiciary Committee and no opposition to the legislation has been discovered. It was favorably reported out of committee by a 30 to 0 vote. The California Bar Association and the American Bar Association have endorsed the purpose behind this legislation. The Department of Justice also supports the bill. I would urge the Congress to adopt this proposal.

Before closing I should like to congratulate my two colleagues from California on the Judiciary Committee (Mr. DANIELSON and Mr. WIGGINS) who were instrumental in bringing this matter to the attention of the Congress.

Mr. HYDE. Mr. Speaker, permit me to say that I do not want to take undue time of this House, but as the record will show, I have previously heaped extravagant praise on the chairman of the subcommittee for the great job he did.

I hope this is not the last appearance here on the floor in this session or in this Congress of the gentleman from Missouri (Mr. HUNGATE). The gentleman has been a great person and a wonderful subcommittee chairman, and I congratulate him.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. MURPHY of Illinois. Mr. Speaker, reserving the right to object, will the gentleman explain his proposal in more detail? Not being a member of the Committee on the Judiciary, I am not very familiar with the contents of his proposal.

Mr. HUNGATE. Mr. Speaker, if the gentleman will yield, I will be happy to explain further.

The bill is designed to do away with the requirement that all affidavits be sworn to before a third party, usually a notary public. In the legal business, as the gentleman knows, parties sometimes have to look for a notary public, and on Sunday one might be hard to find. If somebody is overseas and a document has to be executed, then the process becomes quite cumbersome. If someone is over there and runs into that, they have to get someone to certify that the officer has been authorized to take oaths, and then they have to authenticate the man who certified his right to do it.

This bill is to enable us to use the same procedure as we do if we want to subscribe to the truth of a document by signing it under a statement made subject to the penalties of perjury, as we now do with income tax returns. It does not change any elements in the defense of perjury, and it would still keep the requirements in place in those cases such as the taking of depositions and oaths of office on documents.

Mr. MURPHY of Illinois. In other words, they are excluded?

Mr. HUNGATE. Yes, that is right.

Mr. MURPHY of Illinois. How about statements to Federal officials such as Customs officials and IRS agents who identify themselves as special agents?

Mr. HUNGATE. I do not think this bill would make any change in that law.

Mr. MURPHY of Illinois. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the bill as follows:

H.R. 15531

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 115 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1746. Unsworn declarations under penalty of perjury

"Wherever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, verification, certificate, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated, in substantially the following form:

"(1) If executed without the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date).

(Signature)'.

"(2) If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date).

(Signature)'.

(b) The table of sections for chapter 115 of title 28, United States Code, is amended by adding at the end the following new item:

"1746. Unsworn declarations under penalty of perjury.".

SEC. 2. Section 1621 of title 18, United States Code, is amended to read as follows:

"§ 1621. Perjury generally

"Whoever—

"(1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or

"(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title

28, United States Code, willfully subscribes as true any material matter which he does not believe to be true;

is guilty of perjury and shall, except as otherwise expressly provided by law, be fined not more than $2,000 or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.".

SEC. 3. Section 931 of title 10, United States Code, is amended to read as follows:

"§ 931. Art. 131. Perjury.

"Any person subject to this chapter who in a judicial proceeding or in a course of justice willfully and corruptly—

"(1) upon a lawful oath or in any form allowed by law to be substituted for an oath, gives any false testimony material to the issue or matter of inquiry; or

"(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, subscribes any false statement material to the issue or matter of inquiry;

is guilty of perjury and shall be punished as a court-martial may direct.".

SEC. 4. Section 152 of title 18, United States Code is amended by inserting immediately after the second paragraph the following new paragraph:

"Whoever knowingly and fraudulently makes a false declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, in or in relation to any bankruptcy proceeding; or".

SEC. 5. The fourth paragraph of section 1546 of title 18, United States Code, is amended by inserting immediately after "under oath" the following: ", or as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribes as true,".

SEC. 6. Section 1623(a) of title 18, United States Code, is amended by inserting immediately after "under oath" the following: "(or in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code)".

SEC. 7. Section 287(b) of the Immigration and Nationality Act (8 U.S.C. 1357(b)) is amended—

(1) by inserting immediately after "to whom such oath has been administered" the following: "(or who has executed an unsworn declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code)"; and

(2) by inserting immediately after "give false evidence or swear" the following: "or subscribe under penalty of perjury as permitted under section 1746 of title 28, United States Code)".

SEC. 8. Section 5 of the Act entitled "An Act to provide for the licensing of marine radiotelegraph operators as ship radio officers, and for other purposes", approved May 12, 1948 (46 U.S.C. 229e), is amended by inserting in the third paragraph immediately after "oath or affirmation" the following: "(or to the truth of any unsworn declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code)".

SEC. 9. Section 4445 of the Revised Statutes of the United States (46 U.S.C. 231) is amended by inserting in the third paragraph immediately after "oath or affirmation" the following: "(or to the truth of any unsworn declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code)".

SEC. 10. Section 26 of the Act entitled "An Act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1920", approved June 30, 1919 (25 U.S.C. 399), is amended by inserting in the tenth paragraph immediately after "under oath" the following: "or in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code,".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

REQUEST FOR APPOINTMENT OF THREE ADDITIONAL CONFEREES ON S. 3131, AMTRAK IMPROVEMENT ACT OF 1976

Mr. STAGGERS. Mr. Speaker, again I ask unanimous consent that the Speaker be authorized to appoint three additional conferees on the Senate bill (S. 3131), Amtrak Improvement Act of 1976.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, the gentleman from Kansas earlier made an objection to this request. I do not see the gentleman on the floor right now.

Mr. STAGGERS. Mr. Speaker, if the gentleman will yield, I can assure the gentleman that the gentleman from Kansas had informed me that he would not object if he were here.

Mr. BAUMAN. Mr. Speaker, although I do not question the statement of the gentleman from West Virginia (Mr. STAGGERS), since the gentleman from Kansas is absent, I think I will have to object in his absence, and I do object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

CONFERENCE REPORT ON H.R. 5546, HEALTH PROFESSIONS EDUCATIONAL ASSISTANCE ACT OF 1976

Mr. STAGGERS. Mr. Speaker, I call up the conference report on the bill (H.R. 5546), to amend the Public Health Service Act to revise and extend the programs of assistance under title VII for training in the health and allied health professions, to revise the National Health Service Corps program, and the National Health Service Corps scholarship training program, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

POINT OF ORDER

Mr. ADAMS. Mr. Speaker, I make a point of order on the conference report.

The SPEAKER pro tempore. The gentleman from Washington will state his point of order.

Mr. ADAMS. Mr. Speaker, the conference agreement on H.R. 5546, the Health Professions Assistance Act of 1976, contains a provision which appears to provide borrowing authority which is not subject to advance appropriations. Consequently, it would be subject to a point of order under section 401(a) of the Congressional Budget Act.

Section 401(a) provides:

> It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which provides new spending authority described in subsection (c)(2)(A) or (B) (or any amendment which provides such new spending authority), unless that bill, resolution, or amendment also provides that such new spending authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation acts.

Section 401(c)(2)(B) of the Budget Act defines spending authority as authority "to incur indebtedness—other than indebtedness incurred under the second Liberty Bond Act—for the repayment of which the United States is liable, the budget authority for which is not provided in advance by appropriation acts." This form of spending authority is commonly known as borrowing authority.

The conference report accompanying H.R. 5546 contains a provision creating a student loan insurance fund under section 734 of the Public Health Service Act.

Clearly, the requirement that the Secretary of the Treasury purchase these obligations constitutes borrowing authority.

And since the provision contains no requirement that the authority be limited to amounts provided in advance in appropriation acts, it appears to give rise to a section 401(A) point of order.

The fact that the provision relates to default payments which might arise pursuant to a loan guarantee program does not bring the provision within the "loan guarantee" exception to section 401 of the Budget Act. Although the loan guarantee itself may not be subject to advance appropriation, the default payment made pursuant to the provision in question does not constitute a loan guarantee and it is fully subject to the requirements of section 401.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from West Virginia, the chairman of the committee.

Mr. STAGGERS. Mr. Speaker, I concede the point of order.

Mr. Speaker, I have a motion.

The SPEAKER pro tempore. The gentleman from West Virginia (Mr. STAGGERS) concedes the point of order.

Therefore, the point of order is sustained.

The Clerk will report the Senate amendment in disagreement.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Speaker, it was my understanding that the gentleman from West Virginia (Mr. STAGGERS) called up a conference report, and a point of order was made against that conference report, which was sustained.

Is the conference report still before the House, Mr. Speaker?

The SPEAKER pro tempore. The conference report is not, but the Senate amendment in disagreement is; and a motion will be offered, the Chair will state to the gentleman from Maryland, that could cure the point of order. Therefore, if the gentleman will bear with us for the sake of orderly procedure, we will have this matter properly before the House.

The SPEAKER pro tempore. The Clerk will report the Senate amendment in disagreement.

The Clerk read as follows:

Strike out all after the enacting clause and insert:

SHORT TITLE; REFERENCE TO ACT

Section 1. (a) This Act may be cited as the "Health Professions Educational Assistance Act of 1976".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

(c) Except as otherwise specifically provided, the amendments made by this Act shall take effect on October 1, 1976.

(d) The Secretary of Health, Education, and Welfare (not later than 6 months after the date of enactment of this Act) shall submit to the Congress recommendations for legislation which may be necessary with regard to implementing the amendments made by this Act without disrupting the continuity of present programs.

FINDINGS AND DECLARATION OF POLICY

Sec. 2. (a) The Congress hereby finds and declares that—

(1) the availability of high quality health care to all Americans is a national goal;

(2) the availability of high quality health care is, to a substantial extent, dependent upon—

(A) the availability of qualified health professions personnel; and

(B) the availability of adequate numbers of physicians engaged in the delivery of primary care, including family practice, general internal medicine, and general pediatrics, and in the various specialties; but numbers which do not exceed the needs for physicians in such specialties;

(3) there are many areas in the United States which are unable to attract adequate numbers of health professions personnel to meet their health care needs;

(4) physician specialization has resulted in inadequate numbers of physicians engaged in the delivery of primary care;

(5) standards for licensure of physicians permit many graduates of medical schools located in foreign countries to practice although they do not meet the standards applied to graduates of medical schools located in the United States and no minimum standard of competence is assured.

(b) The Congress further finds and declares that—

(1) health professions personnel are a national health resource and the Federal Government shares the responsibility of assuring that such qualified personnel are available to meet the health care needs of the American people;

(2) it is therefore appropriate to provide support for the education and training of such personnel;

(3) at the same time it is appropriate to provide such support in a manner which will assure the availability of health professions personnel to all of the American people.

(c) The Congress further finds and declares that—

(1) the quality and availability of health care in the United States affects interstate commerce;

(2) the lack of adequate health care for individuals in the United States often results in illness which may result in unemployment, an increased rate of absence from employment, and reducing the ability of such individuals to engage in activities which affect interstate commerce, and has a depressant effect on general business conditions;

(3) low quality health care or unavailability of health care in an area in a State may discourage the movement of persons in that area from other areas and from other States and thereby adversely affect the movement of industry and other activities between States;

(4) virtually all drugs, biologicals, medical devices, and medical appliances and equipment utilized in the provision of health care move in interstate commerce;

(5) many persons, especially those residing in metropolitan areas which cross State boundaries, move between States in order to receive health care;

(6) a nationwide program of service of health professions personnel in areas and institutions with shortages of such professionals, of certification of postgraduate physician training positions, and of minimum standards for licensure of physicians and dentists will remove an undue burden on interstate commerce;

(7) that substantial numbers of physicians receiving residency training in a State subsequently practice in other States;

(8) that one of the consequences of specialty maldistribution of physicians is increased escalation in the cost of medical care; and

(9) that the Federal Government pays an increasing percentage of the Nation's medical care costs and that such percentage is in excess of 40 percent and is increasing.

TITLE I—EXTENSION OF CURRENT AUTHORITIES THROUGH FISCAL YEAR 1977

EXTENSION

Sec. 101. (a) Section 312(a) (relating to traineeships for public health personnel) is amended by inserting ", $9,120,000 for the fiscal year ending June 30, 1976 and $9,900,000 for the fiscal year ending September 30, 1977" after "1974".

(b) Section 313(a) (relating to grants for graduate training in public health) is amended by inserting ", $5,500,000 for the fiscal year ending June 30, 1976 and $6,000,000 for the fiscal year ending September 30, 1977" after "1974".

(c) Section 313(c) (relating to grants for administration of public health programs) is amended by inserting "$5,900,000 for the fiscal year ending June 30, 1976 and $6,400,000 for the fiscal year ending September 30, 1977" after "1974,".

(d) Section 720 (relating to grants for construction of teaching facilities) is amended by inserting "$95,000,000 for the fiscal year ending June 30, 1976 and $103,000,000 for the fiscal year ending September 30, 1977" after "1974,".

(e) Section 721 (relating to the approval of applications) is amended by—

(1) inserting "(A)" after "(2)" of subsection (b);

(2) adding at the end of paragraph (2) of subsection (b) the following:

"(B) in the case of an affiliated clinical facility an application which is approved by a school of veterinary medicine, optometry, podiatry or pharmacy with which the clinical facility is affiliated, which otherwise complies with the requirements of this part, may be filed by any public or other nonprofit agency, for the purpose of establishing or expanding a regional health professions school, provided that only that portion of the project to construct the clinical facility which the Secretary determines to be reasonably attributable to the need of such school for the facility for teaching purposes shall be regarded as the project with respect to which payments may be made under section 722.";

(3) inserting before the semicolon at the end of subparagraph (A) of paragraph (1) of subsection (d) the following: "particularly through the development of regional health professions schools"; and

(4) adding at the end thereof the following new subsections:

"(e) The Secretary in approving applications for assistance under this section shall give special consideration to applicants developing regional health professions schools.

"(f) For the purposes of this part the term 'regional health professions schools' refers to interstate programs in which states with existing degree-granting schools set up cooperative programs with other states which may or not have such schools. The structure of these regional programs may be (1) a shared curriculum between two or more schools, or (2) a single campus program which two or more states cooperatively finance and control.".

(f) Section 729 (relating to loan guarantees and interest subsidies) is amended—

(1) by striking "June 30, 1974" in subsection (a) and (b) and inserting in lieu thereof "September 30, 1977"; and

(2) by striking "June 30, 1974" in subsection (e) and inserting in lieu thereof "September 30, 1977".

(g) Section 742 (relating to health professions student loans) is amended by inserting "and $36,000,000 for the fiscal year ending June 30, 1976 and $39,100,000 for the fiscal year ending September 30, 1977" after "1975" the first time it appears.

(h) Section 767 (42 U.S.C. 295e–1) (relating to grants for training, traineeships, and fellowships in family medicine) is amended by—

(1) inserting "and $27,000,000 for the fiscal year ending June 30, 1976, $39,000,000 for the fiscal year ending September 30, 1977, $40,000,000 for the fiscal year ending September 30, 1978, $45,000,000 for the fiscal year ending September 30, 1979, and $50,000,000 for the fiscal year ending September 30, 1980," after "1974";

(2) amending paragraphs (1) and (2) to read as follows:

"(1) to plan, develop, and operate, or participate in, an approved professional training program (including continuing education, approved residency and internship programs in family medicine) in the field of family medicine for medical and osteopathic students, interns (including interns in internships in osteopathic medicine), residents, or practicing physicians;

"(2) to provide financial assistance (in the form of traineeships and fellowships) to medical and osteopathic students, interns (including interns in internships in osteopathic medicine), residents, practicing physicians, or other medical personnel, who are in need thereof, who are participants in any such program, and who plan to specialize or work in the practice of family medicine;";

(3) striking all after "and operate" in paragraph (3) and inserting in lieu thereof "a program for the training of physicians who plan to teach in family medicine training programs; and"; and

(4) adding after paragraph (3) the following new paragraph:

"(4) to provide financial assistance (in the form of traineeships and fellowships) to physicians who are participants in any such program and who plan to teach in a family medicine training program.".

(i) (1) Paragraph (1) of section 770(j) (relating to capitation grants) is amended by inserting ", $123,000,000 for the fiscal year ending June 30, 1976 and $133,700,000 for the fiscal year ending September 30, 1977" after "1974".

(2) Paragraph (2) of section 770(j) (relating to capitation grants) is amended by inserting ", $27,000,000 for the fiscal year ending June 30, 1976 and $29,300,000 for the fiscal year ending September 30, 1977" after "1974".

(j) Section 771(a)(6) relating to startup and conversion assistance) is amended by (1) striking "and a like amount for each of the next two fiscal years" and (2) by inserting ", $4,700,000 for the fiscal year ending June 30, 1976 and $5,100,000 for the fiscal year ending September 30. 1977" after "1972".

(k) Section 772(d) (relating to special project grants and contracts) is amended by inserting ", $37,583,000 for the fiscal year ending June 30, 1976 and $40,852,000 for the fiscal year ending September 30, 1977" after "1974,".

(l) Section 773(a) (relating to financial distress grants) is amended by inserting ", $5,000,000 for the fiscal year ending June 30, 1976 and $5,400,000 for the fiscal year ending September 30, 1977" after "1974".

(m) Section 774(e) (relating to health manpower initiative awards) is amended by inserting ", $37,875,000 for the fiscal year ending June 30, 1976, and $41,170,000 for the fiscal year ending September 30, 1977" after "1974".

(n) Section 780 (relating to scholarship grants), is amended (1) by striking out "the next fiscal year" in subsection (b) and inserting in lieu thereof "the next three fiscal years", (2) by striking out "July 1, 1974" in such subsection and subsection (c)(1)(B) and inserting in lieu thereof "October 1, 1977", (3) by striking out in subsections (b) and (c)(1)(B) "June 30, 1975" and inserting in lieu thereof "September 30, 1977" and (4) by striking out "two" in subsection (c)(1) (A) and inserting in lieu thereof "four".

(o) (1) Section 792(b) (relating to allied health special improvement grants) is amended by inserting "$10,500,000 for the fiscal year ending June 30, 1976 and $11,400,000 for the fiscal year ending September 30, 1977" after "1974".

(2) Section 792(c)(1) (relating to allied health special projects and contracts) is amended by inserting ", $14,158,000 for the fiscal year ending June 30, 1976 and $15,400,000 for the fiscal year ending September 30, 1977" after "1974".

(3) Section 793(a) (relating to allied health traineeships) is amended by inserting ", $3,563,000 for the fiscal year ending June 30, 1976 and $3,900,000 for the fiscal year ending September 30, 1977" after "1974".

(4) Section 794A(b) (relating to allied health full utilization grants and contracts) is amended by inserting ", $100,000 for the fiscal year ending June 30, 1976 and $109,000 for the fiscal year ending September 30, 1977" after "1974".

(p) Section (relating to Public Health and National Health Service Corps scholarships) is amended by inserting ", $22,500,000 for the fiscal year ending June 30, 1976 and $40,000,000 for the fiscal year ending September 30, 1977" after "1975".

(q) Section 329(h) (relating to the National Health Service Corps) is amended by inserting "and $34,000,000 for the fiscal year ending September 30, 1977" after "1976".

(r) (1) Section 747(d) (42 U.S.C. 294g) is amended by striking "two" and inserting in lieu thereof "eight".

(2) Section 785(e) (42 U.S.C. 295g–11) is amended—

(A) by striking "two" in paragraph (1) and inserting in lieu thereof "eight";

(B) by striking "two" in paragraph (2) and inserting in lieu thereof "eight"; and

(C) by striking "July 1, 1974" in paragraph (2) and inserting in lieu thereof "October 1, 1979".

(s) Section 771(b)(2) is amended by striking "July 1, 1974" and by inserting in lieu thereof "October 1, 1978" and by striking "June 30, 1975" and by inserting in lieu thereof "September 30, 1979".

TITLE II—GENERAL PROVISIONS

SEC. 201. (a) Effective October 1, 1978, title VII is amended by—

(1) repealing sections 311, 312, 701 through 711, 726, 727, 744, 746, 769A, 769B, 772, 780, 781, 791, 792, 794A, 794B, 794C, 794D, 795(4), 796, 797, and 798; and

(2) the sections in column 1 and all references thereto are redesignated as the sections listed in column 2 and transferred to the appropriate place:

Column 1	Column 2	Column 1	Column 2
225	751	747	749
331	338	774	759
332	339	771	768B
329	330	773	778
330	329	776	787
728	724	724	701
729	725	725	702
740	726	799	703
741	745	799A	704
742	746	795	791
743	747	793	792
745	748		

(3) (A) Section 767 (42 U.S.C. 295e–1) (relating to Grants for Training, Traineeships, and Fellowships in Family Medicine) as enacted by Public Law 92–157 (section 107(b); 85 Stat. 457) is redesignated as section 760.

(B) Section 768 (42 U.S.C. 295e–2) (relating to Grants for support of Postgraduate training programs for physicians and dentists) as enacted by Public Law 92–157 (section 107(b); 85 Stat. 458) is redesignated as section 768A.

(C) Section 785 (42 U.S.C. 295g–11) (relating to Scholarship Grants for Study Abroad) as enacted by Public Law 92–157 (section 106(b)(6); 85 Stat. 453) is redesignated as section 750.

(b) The heading for part A of title VII is amended to read as follows:

"PART A—GENERAL PROVISIONS"

(c) The heading for part H of title VII is repealed.

(d) Section 701 (as redesignated by section 201) is amended by striking "As used in this part and parts C, E, and F—" and inserting in lieu thereof "For the purposes of this title:".

(e) The heading for part D of title VII of the Act is redesignated as part E.

SEC. 202. Section 703 (as redesignated by section 201) is amended to read as follows:

"ADVANCE FUNDING

"SEC. 703. (a) An appropriation under an authorization of appropriations for grants or contracts under this title for any fiscal year may be made at any time before that fiscal year and may be included in an Act making an appropriation under such authorization for another fiscal year; but no funds may be made available from any appropriation under such authorization for obligation for such grants or contracts before the fiscal year for which such appropriation is authorized.".

"(b) Contracts under this title may be entered into without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).".

SEC. 203. Part A of title VII is amended by adding after section 704 the following new sections:

"DELEGATION

"SEC. 705. The Secretary may delegate the authority to administer any program authorized by this title to the administrator of the central or a regional office or offices of the Department of Health, Education, and Welfare, except that the authority—

"(1) to review, and prepare comments on any application for a grant or contract under any such program, and

"(2) to make such a grant or enter into such a contract,

shall not be delegated to any administrator of, or officer in, a regional office of the Department.

"RECORDS AND AUDITS

"SEC. 706. (a) Each entity which receives a grant, loan, loan guarantee, or interest subsidy or which enters into a contract with the Secretary under this title, shall establish and maintain such records as the Secretary shall by regulation or order require. Such records shall include, among other things, records which completely disclose the amount and disposition of the total amount of funds received by such entity, the total cost of any project or undertaking for which funds were received, and the total amount of that portion of the total cost of any project or undertaking received by or allocated to such entity from other sources, and such other records as will facilitate an accurate audit.

"(b) Each entity which received a grant or entered into a contract under this title shall have an annual financial audit of any books, accounts, financial records, files, and other papers and property which relate to the disposition or use of any funds received under such grant or contract and such other funds received by or allocated to any project or undertaking for which any funds received under this Act were used, and any other funds received under this Act. Each such entity shall be responsible for providing and paying for such audit. For purposes of assuring accurate, current, and complete disclosure of the disposition or use of the funds received, each such audit shall be conducted by and certified to be accurate by an independent certified public accountant utilizing the principles of the American Institute of Certified Public Accountants. A report of each such audit shall be filed with the Secretary at such time and in such manner as he may require.

"(c) The Secretary may specify, by regulation, the form and manner in which such records, required by subsection (a), shall be established and maintained.

"(d) A student recipient of a scholarship, traineeship, loan, or loan guarantee under this title shall not be required to establish or maintain the records required under subsection (a) or provide for an audit required under subsection (b).

"(e) (1) Each entity which is required to establish and maintain records or to provide for an audit under this section shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises upon a reasonable request therefor.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to carry out the purposes of this subsection.

"TRAINING IN BILINGUAL AND BICULTURAL AWARENESS: STUDY

"SEC. 707. (a) Any entity which is seeking assistance under this Act which provides training in facilities providing health services to an area where a substantial proportion of the individuals served is of limited English-speaking ability shall include in its application for such assistance assurances satisfactory to the Secretary that it will (1) place special emphasis on the recruitment and training of personnel who are competent in the predominant language other than English spoken by such individuals, and (2) plan, develop, and operate projects (including clinical training, team training, and continuing education) to increase the awareness by trainees of the cultural sensitivities of such individuals with limited English-speaking ability as such sensitivities are applicable to health and health care services.

"(b) (1) The Secretary shall arrange for the conduct of a study or studies to determine the effectiveness of health training institution admissions examinations in evaluating accurately the potential and ability of the student applicant from a population group of limited English-speaking ability to participate in and successfully complete the educational program. Such study or studies shall particularly consider the extent of any cultural bias in admissions examinations utilized by such institutions.

"(2) Not later than 12 months after the date of enactment of this subsection, the Secretary shall report to the Congress on the findings and recommendations of the study required under subsection (a) or studies and the steps he has taken, or proposes to take, to carry out such findings and recommendations, including recommendations for any necessary legislation.

"INTERDISCIPLINARY HEALTH PRESONNEL TRAINING

"SEC. 708. (a) In providing assistance under this Act to any health profession, allied health profession, or nurse training institution, or to any other public or nonprofit private entity for the training of health personnel, the Secretary shall take affirmative steps to encourage the development of programs for cooperative interdisciplinary training among schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, nursing, public health, and allied health, emphasizing (1) the use of the team approach to the delivery of health services, (2) the training of physician assistants and extenders and nurse practitioners with physicians and expanded function dental auxiliaries with dentists, and (3) the training of physicians, dentists, nurses, and other health professionals in the organization, management, and effective utilization of such extenders, practitioners, and auxiliaries.

"(b) Not later than 120 days after the date of enactment of this section, the Secretary shall report to the appropriate Committees of the House of Representatives and the Senate on the steps he has taken and regulations issued to carry out the provisions of subsection (a) of this section.

"PRESERVATION OF ACADEMIC FREEDOM

"SEC. 709. It is hereby expressly declared that it is the intent of the Congress to supersede any and all laws of the States and political subdivisions thereof insofar as they may now or hereafter prevent the training (or research related to such training) authorized by this Act or regulations or interpretations promulgated pursuant thereto. Any law, regulation, or ordinance purporting to limit such training (or research relating to such training) shall be null and void.

"HEALTH PROFESSIONS DATA

"SEC. 710. (a) The Secretary shall establish a program to collect, compile, and analyze health professions data which shall initially include data respecting all physicians and dentists in the United States, its territories and possessions. The Secretary is authorized to expand the program to include, whenever he determines it necessary, the collection, compilation and analysis of health professions data respecting pharmacists, optometrists, podiatrists, veterinarians, public health personnel, audiologists, speech pathologists, health care administration personnel, nurses, allied health personnel, medical technologists, and such other health personnel in the United States, its territories and possessions. Such data shall include data respecting the training, licensure status (including permanent, temporary, partial, limited, or institutional), place or places of practice, professional specialty, practice characteristics, place and date of birth, sex, socio-economic background and such other demograhic information regarding health professional personnel as the Secretary may require.

"(b) (1) The Secretary shall collect the available information described in paragraph (1) from appropriate local, State, and Federal agencies and other appropriate sources.

"(2) The Secretary shall conduct or enter into contracts for the conduct of analytic and descriptive studies of the health professions, including but not limited to, evaluations and projections of the supply, and requirements for the health professions by specialty and geographic location.

"(c) (1) Any entity which maintains a record of individually identifiable personal data (hereinafter referred to as 'personal data') shall—

"(A) comply with the requirements of subsection (d); and

"(B) not transfer any such data to a program entity without the prior informed consent of the individual whose personal data is to be transferred.

"(2) For purposes of this section, the term 'program entity' means the Department or any public or private entity which collects, compiles, or analyzes health professions data under a grant, contract, or other arrangement with the Secretary.

"(d) Any entity which maintains a record of personal data and any program entity shall—

"(1) inform an individual asked to supply personal data for the system whether he is legally required, or may refuse, to supply the data requested, and also of any specific consequences for him, which are known to the organization, of providing or not providing such data;

"(2) inform an individual, upon his request, whether he is the subject of personal data in the program, and, if so, make such data fully available to the individual, upon his request, in a form comprehensive to him;

"(3) assure that no use of personal data is made that is not within the stated purposes of the program as reasonably understood by the individual, unless an informed consent of the individual has been explicitly obtained;

"(4) inform an individual, upon his request, about the uses made of personal data about him, including the identity of all persons and organizations involved and their relationships with the program; and

"(5) assure that no personal data are made available from the program in response to a demand for such data made by means of compulsory legal process, unless the individual to whom the data pertain has been notified of the demand.

"(e) (1) The Secretary is authorized to make grants and to enter into contracts with States (or an appropriate nonprofit private entity in a State) for the purpose of establishing a uniform health professions data reporting system.

The Secretary shall determine the amount and scope of any such contract.

"(2) To be eligible for a grant or contract under this subsection a State or entity shall submit an application in such form and manner and containing such information as the Secretary shall require. Such application shall include reasonable assurances, satisfactory to the Secretary, that—

"(A) such State (or State in which an entity under a contract is located) will establish a program of mandatory annual registration of the health professions personnel described in paragraph (1) who reside or practice in such State and of health institutions licensed by such State, which registration shall include such information as the Secretary shall determine to be appropriate;

"(B) such State or entity shall collect such information and report it to the Secretary in such form and manner as the Secretary shall prescribe;

"(C) such State or entity shall comply with the requirements of subsections (c) and (d).

"(f) For purposes of providing the Secretary with information described in paragraph (1), each school which receives financial support under section 770 shall annually report to the Secretary information, determined to be appropriate by the Secretary, respecting the students which attend such school. The Secretary may collect such additional data respecting students of the health professions as he determines to be appropriate.

"(g) (1) The Secretary shall provide technical assistance to the State and political subdivisions thereof in the development of systems (including model laws) concerning confidentiality and comparability of data collected pursuant to this subsection.

"(2) (A) Notwithstanding any other provision of law, the personal data collected by the Secretary or any program entity shall not be made available or disclosed by the Secretary or any program entity to any person, or public or private entity except if such person or public or private entity is responsible for the collection, compilation, or analyses of such data and in such case such disclosure shall be limited to such purposes.

"(B) Subject to all applicable laws regarding confidentiality, only the data collected by the Secretary under this section which is not personal data shall be made available to bona fide researchers and policy analysts (including the Congress) for the purposes of assisting in the conduct of studies respecting health professions personnel.

"(h) The Secretary shall assemble and submit to the President and Congress not later than September 1 of each year a report on the status of health professions personnel in the United States, which report shall include a description and analysis of the data collected pursuant to this section. Such report may be included as part of the report made under section 308(a) (2) (C).

"TUITION COSTS

"SEC. 711. The Secretary shall by regulation establish criteria for determining allowable increases in tuition and other educational costs for which he shall be responsible for payment under any provision of this Act after the date of enactment of the Health Professions Educational Assistance Act of 1976.

"SEC. 712. The Commissioner of Education shall—

"(1) not recognize any entity for purposes of accrediting graduate medical education, or

"(2) revoke recognition, in the case where he has recognized an entity for purposes of accrediting graduate medical education,

which has or proposes to accredit a residency graduate program in medical education in a hospital which is not contractually affiliated with an accredited United States school of medicine or osteopathy.

"SEC. 713. (a) Any entity which (1) maintains a postgraduate physician training position in a primary care specialty, and (2) receives a grant, loan, loan guarantee, or interest subsidy or which enters into a contract with the Secretary under this title, shall to the maximum extent feasible establish or restructure a reasonable number of its postgraduate physician training positions in each primary care specialty, as sharing schedule positions.

"(b) For purposes of this section, 'sharing schedule positions' are postgraduate physician training positions which are limited to an average of two persons sharing one such position in a fiscal year and each such person shall for each such year—

"(1) expend three-fourths or two-thirds of the total training time in such position;

"(2) receive three-fourths or two-thirds of the total credit toward qualifying for Board certification for such position;

"(3) receive one-half of the total salary for such position; and

"(4) receive the full employee benefits for such position except where otherwise limited by Federal law,

"(c) For purposes of this section, the term 'primary care specialty' means family practice, general internal medicine, general pediatrics, and general obstetrics and gynecology.".

STUDY RELATING TO CHIROPRACTIC HEALTH PROFESSIONS

SEC. 204. (a)(1) The Secretary shall arrange for the conduct of a study or studies to determine the national average annual per student educational cost of providing education programs which lead to a degree of doctor of chiropractics.

(2) Such study shall be completed and an interim report thereby submitted not later than March 30, 1978, and a final report not later than January 1, 1979, to the Secretary, the Committee on Labor and Public Welfare of the Senate, and the Committee on Interstate and Foreign Commerce of the House of Representatives.

(3) Such study shall develop methodologies for ascertaining the average annual cost of chiropractic education, and the factors that affect any variation among schools with respect to their average annual per student educational costs. The study shall employ the most recent data available from the chiropractic schools in the United States at the time of the study.

(4) The study shall also determine the current demand for chiropractic services throughout the United States and shall develop methodologies for determining if current supply of chiropractors is sufficient to meet this demand.

(5) The study shall include an analysis of the current costs of chiropractic services by type of service and shall include an analysis of such costs over the past five years.

(6) The report shall include recommendations concerning how the Federal Government can utilize educational cost per student data to determine the amount of capitation grants which might be provided under the Public Health Service Act.

(b) The Secretary shall enter into an agreement with an appropriate nonprofit group or association to conduct such a study under an arrangement which reimburses for actual expenses incurred by such group or association in conducting such a study. Such expenses will be paid by the Secretary.

The provisions of this section shall take effect on the date of enactment of this Act.

SEC. 205. EFFECTIVE DATES.—Except as otherwise specifically provided herein, the amendments made by this title shall take effect on October 1, 1978.

TITLE III—STUDENT ASSISTANCE

STUDENT LOAN AGREEMENTS

SEC. 301. (a) The heading of part C of title VII of the Act is amended by striking "LOANS" and by inserting in lieu thereof "ASSISTANCE".

(b) Subsection (a) of section 740 is amended by striking "as provided in section 721(b)(1)(B)".

(c) Subsection (b) of section 740 is amended by—

(1) striking ", except as provided in section 746," each time it appears;

(2) striking ", and that while the agreement remains in effect no such student who has attended such school before July 1, 1975, shall receive a loan from a loan fund established under section 204 of the National Defense Education Act of 1958";

(3) striking "and" at the end of paragraph (4), redesignating paragraph (5) as paragraph (6), and inserting after paragraph (4) the following new paragraph:

"(5) provide that the school shall advise, in writing, each applicant for a loan from the student loan funds of the provisions of section 741 under which outstanding loans from the student loan fund may be paid (in whole or in part) by the Secretary; and".

LOAN PROVISIONS

SEC. 302. (a) Subsection (a) of section 741 is amended to read as follows:

"(a) Loans from a student loan fund (established under section 740) may not exceed for any student for each academic year (or its equivalent) the sum of—

"(1) the cost of tuition for that year at the school, and

"(2) $2,500.".

(b) Subsection (e) of section 741 is amended by striking out "3 per centum" and inserting in lieu thereof "7 percent".

(c) The amendment made by subsections (a) and (b) shall apply with respect to loans made after June 30, 1976, from student loan funds established under section 740 of the Public Health Service Act.

(d) Subsection (f)(1)(B) of section 741 is amended to read as follows:

"(B) who obtained one or more loans from a loan fund established under this part; and".

(e) In the case of any individual who, on or after November 18, 1971, and before the date of enactment of this Act, met the requirements of subparagraphs (A) and (B) of section 741(f)(1) of the Public Health Service Act and who practiced his profession in an area described in subparagraph (C) of such section (as in effect before the date of the enactment of this Act) while a member of the National Health Service Corps or as an officer of the Regular or Reserve Corps of the Public Health Service or as a civilian employee of the Public Health Service, the individual shall, for purposes of section 741 (f) of such Act, be deemed to have entered into the agreement required by such subparagraph (C) with respect to that practice. Except that any such individual must make application for such payment by the Secretary on or before January 1, 1977.

(f) No individual who is a student in a school of medicine or osteopathy and who will graduate from such school after June 30, 1978, shall be eligible to receive a loan under this section after October 1, 1976 unless such student is of exceptional financial need (as defined by regulations of the Secretary).

AUTHORIZATION OF APPROPRIATIONS

SEC. 303. (a) Section 742(a) is amended to read as follows:

"(a)(1) Subject to the provisions of section 757(c), for the purpose of making Federal capital contributions into the student loan funds of schools which have established such funds under section 740, there are authorized to be appropriated $22,000,000 for the fiscal year ending September 30, 1978, $24,000,000 for the fiscal year ending September 30, 1979 and $26,000,000 for the fiscal year ending September 30, 1980.

"(2) No school medicine or osteopathy shall receive a Federal capital contribution—

"(A) for the fiscal year ending September 30, 1978, of an amount greater than 50 percent of the Federal capital contribution received by such school in the fiscal year ending September 30, 1977,

"(B) for the fiscal year ending September 30, 1979, of an amount greater than 25 percent of the Federal capital contribution received in the fiscal year ending September 30, 1977, and

"(C) for any fiscal year beginning after September 30, 1979.".

DISTRIBUTION OF ASSETS

SEC. 304. Section 743 is amended by striking out "June 30, 1977" and "September 30, 1977" each place they occur and inserting in lieu thereof "September 30, 1981" and "December 31, 1982", respectively.

LOANS TO SCHOOLS

SEC. 305. (a) The health professions education fund created within the Treasury by section 744(d)(1) of the Public Health Service Act shall remain available to the Secretary of Health, Education, and Welfare for the purpose of meeting his responsibilities respecting participation in obligations acquired under section 744 of such Act. The Secretary shall continue to deposit in such fund all amounts received by him as interest payments or repayments of principal on loans under such section 744.

(b) There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to enable the Secretary to make payments under agreements entered into under section 744(b) of the Public Health Service Act before June 30, 1975.

(c) Section 742(b) is amended (1) by striking out ", and for loans pursuant to section 744" in paragraph (1); and (2) by striking out "whether as Federal capital contributions or as loans to schools under section 744" in paragraph (3).

(d) Section 743(b) is amended by striking out "(other than so much of such fund as relates to payments from the revolving fund established by section 744(d))".

INSURED LOANS TO STUDENTS

SEC. 306. Effective October 1, 1978, title VII is amended by—

(1) redesignating parts C, D, E, and G as parts D, E, F, and H,

(2) repealing the headings for part F and subparts I and II thereof,

(3) repealing the heading for subpart II of part D (as redesignated) and redesignating subpart I as subpart II, and

(4) inserting after section 729 the following:

"PART D—STUDENT ASSISTANCE

"Subpart I—Federal Program of Insured Loans to Graduate Students in Health Professions Schools

"STATEMENT OF PURPOSE AND APPROPRIATIONS AUTHORIZED

"SEC. 730. (a) The purpose of this subpart is to enable the Secretary to provide a Federal program of student loan insurance for students in eligible institutions as defined in section 740.

"(b) For the purpose of carrying out this subpart (other than section 744) there are authorized to be appropriated for administrative purposes and to establish a student loan insurance fund (established by section 737) (A) the sum of $1,500,000 and (B) such further sums, if any, as may become necessary for the adequacy of student loan insurance fund for the fiscal year ending September 30, 1978, and such sums as may be required for administrative purposes in succeeding fiscal years. Sums appropriated under this subsection shall remain available until expended.

"SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM

"SEC. 731. (a) The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 740) to students covered by Federal loan insurance under this subpart shall not exceed $500,000,000 for the fiscal year ending September 30, 1978; $510,000,000 for the fiscal year ending September 30, 1979; and $520,000,000 for the fiscal year ending September 30, 1980. Thereafter, Federal loan insurance pursuant to this subpart may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this subpart, to continue or complete their educational program. No insurance may be granted for any loan made or installment paid after September 30, 1982.

"(b) The Secretary may, if necessary to assure an equitable distribution of the benefits of this subpart, assign, within the maximum amounts specified in subsection (a), Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

"LIMITATIONS ON INDIVIDUAL FEDERALLY INSURED LOANS AND ON FEDERAL LOAN INSURANCE

"SEC. 732. (a) The total of the loans made to a student in any academic year which may be covered by Federal loan insurance under this subpart may not exceed $10,000 in the case of a student enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or public health, or $7,500 in the case of a student enrolled in a school of pharmacy. The aggregate insured unpaid principal amount for all such insured loans made to any student under this program shall not at any time exceed $50,000 in the case of a student enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, public health or podiatry, or $37,500 in the case of a student enrolled in a school of pharmacy. The annual insurable limit per student shall not be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit.

"(b) The insurance liability on any loan insured by the Secretary under this part shall be 100 percent of the unpaid balance of the principal amount of the loan plus interest. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of this subpart.

"SOURCES OF FUNDS

"SEC. 733. Loans made by eligible lenders in accordance with this subpart shall be insurable by the Secretary whether made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans.

"ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF FEDERALLY INSURED STUDENT LOANS

"SEC. 734. (a) A loan by an eligible lender shall be insurable by the Secretary under the provisions of this subpart only if—

"(1) made to a student who—

"(A) has been accepted for enrollment at an eligible institution,

"(B) is in good standing at an eligible institution as determined by the institution,

"(C) has been authorized by the institution as a borrower under this program,

"(D) has agreed that all funds received under such loan shall be used solely for tuition, and all other reasonable educational expenses incurred by such student, including fees, books, and laboratory expenses,

"(E) does not receive funds during any concurrent fiscal year pursuant to the general program of Federal, State, or privately insured loans provided in sections 421 to 438 of the Higher Education Act, and

"(F) in the case of a pharmacy student has satisfactorily completed 3 years of training, and

"(2) evidenced by a note or other written agreement which—

"(A) is made without security and without endorsement, except in the case of a minor where such note or other written agreement executed by him would not, under the applicable law, create a binding obligation, in which case an endorsement may be required.

"(B) provides for repayment (except as provided in subsection (c)) of the principal amount of the loan in installments over a period of not less than 10 years (unless sooner repaid) nor more than 15 years beginning not earlier than 9 months nor later than 12 months after the date on which the student completes his internship or residency training but in no case later than 3 years after he ceases to carry, at an eligible institution, the normal full-time academic workload as determined by the institution, except (i) as provided in clause (C) below, (ii) that the period of the loan may not exceed 23 years from the execution of the note or written agreement evidencing it, and (iii) that the note or other written instrument may contain such provisions relating to repayment in the event of default in the payment of interest or in the payment of the cost of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Secretary in effect at the time the loan is made,

"(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period (i) during which the borrower is pursuing a full-time course of study at an eligible institution, (ii) during any period during which the borrower is a participant in an accredited internship or residency program, (iii) not in excess of 3 years, during which the borrower is a member of the Armed Forces of the United States, (iv) not in excess of 3 years during which the borrower is in service as a volunteer under the Peace Corps Act, or (v) not in excess of 3 years during which the borrower is in service as a full-time volunteer under title I of the Domestic Volunteer Service Act of 1973, and any such period shall not be included in determining the 15-year period or the 23-year period provided in clause (B) above,

"(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed and defined by the Secretary (within the limits set forth in subsection (b)) on a national, regional, or other appropriate basis, which interest shall be payable in installments over the period of the loan,

"(E) entitles the student borrower to accelerate, without penalty, repayment of the whole or any part of the loan, and

"(F) contains such other terms and conditions consistent with the provisions of this subpart and with the regulations issued by the Secretary pursuant to this subpart, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay to the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Secretary with respect to such loan.

"(b) No maximum rate of interest prescribed and defined by the Secretary for the purpose of clause (2)(d) of subsection (a) may exceed 10 percent per annum on the unpaid principal balance of the loan. All interest shall be compounded semiannually.

"(c) The total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this subpart, shall not be less than the annual interest on the outstanding principal.

"CERTIFICATE OF FEDERAL LOAN INSURANCE—EFFECTIVE DATE OF INSURANCE

"SEC. 735. (a)(1) If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Secretary may require, and otherwise in conformity with this section, the Secretary finds that the applicant has made a loan to an eligible student, which is insurable under the provisions of this subpart, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

"(2) Insurance evidenced by a certificate of insurance pursuant to subsection (a)(1) shall become effective upon the date of issuance of the certificate. The Secretary is authorized, in accordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance was made. Such insurance shall cease to be effective upon 60 days' default by the lender in payment of any installment of the premiums payable pursuant to subsection (c).

"(3) An application submitted pursuant to subsection (a)(1) shall contain (A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Secretary pursuant to subsection (c), and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statements during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Secretary may prescribe by or pursuant to regulation.

"(b)(1) If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a student, a line of credit extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be included in the coverage of that certificate except as may be specifically provided therein.

"(2) Subject to the limitations of section 731, the Secretary may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) or by inclusion of such insurance on comprehensive coverage under this subsection for the period or periods in which such future loans or payments are made.

"(c) The Secretary shall, pursuant to regulations, charge for insurance on each loan under this subpart a premium in an amount not to exceed 2 percent per year of the unpaid principal amount of such loan (excluding interest added to principal), payable in advance, at such times and in such manner as may be prescribed by the Secretary. Such regulations may provide that such premium shall not be payable, or if paid shall be refundable, with respect to any period after default in the payment of principal or interest or after the borrower has died or becomes totally and permanently disabled, if (1) notice of such default or other event has been duly given, and (2) requests for payment of the loss insured against has been made or the Secretary has made such payment on his own motion pursuant to section 736(a).

"(d) The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned as security by such lender only to another eligible lender, and subject to regulation by the Secretary.

"(e) The consolidation of the obligations of 2 or more federally insured loans obtained by a student borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a), the Secretary may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation. If the loans thus consolidated are covered by a single comprehensive certificate issued under subsection (b), the Secretary may amend that certificate accordingly.

"DEFAULT OF STUDENT UNDER FEDERAL LOAN INSURANCE PROGRAM

"SEC. 736. (a) Upon default by the student borrower on any loan covered by Federal loan insurance pursuant to this subpart, and prior to the commencement of suit or other enforcement proceedings upon security for that loan, the insurance beneficiary shall promptly notify the Secretary and the Secretary shall, if requested (at that time or after further collection efforts) by the beneficiary, or may on his own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount has been determined. The 'amount' of the loss on any loan shall, for the purposes of this subsection and subsection (b), be an amount equal to the unpaid balance of the principal amount and interest.

"(b) Upon payment by the Secretary of the amount of the loss pursuant to subsection (a), the United States shall be subrogated for all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Secretary on a loan after deduction of the cost of that recovery (including reasonable administrative costs) exceeds the amount of the loan, the excess shall be paid over to the insured.

"(c) Nothing in this section or in this subpart shall be construed to preclude any forbearance for the benefits of the student borrower which may be agreed upon by the parties to the insured loan and approved by the Secretary or to preclude forbearance by the Secretary in the enforcement of the insured obligation after payment on that insurance.

"(d) Nothing in this section or in this subpart shall be construed to excuse the holder of a federally insured loan from exercising reasonable care and diligence in the making and collection of loans under the provisions of this subpart. If the Secretary, after reasonable notice and opportunity for hearing to an eligible lender, finds that it has substantially failed to exercise such care and diligence or to make the reports and statements required under section 733(a)(3), or to pay the required Federal loan insurance premiums, he shall disqualify that lender for further Federal insurance on loans granted pursuant to this subpart until he is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence or comply with such requirements, as the case may be.

"(e) As used in this section—

"(1) the term 'insurance beneficiary' means the insured or its authorized assignee in accordance with section 735(d); and

"(2) the term 'default' includes only such defaults as have existed for (A) 120 days in the case of a loan which is repayable in monthly installments, or (B) 180 days in the case of a loan which is repayable in less frequent installments.

"(f) The Secretary may cause to be reduced Federal reimbursements or payments for health services under any Federal law to borrowers who are practicing their professions but have defaulted or refuse to pay on their loans in amounts up to the remaining balance of such loans.

"(g) A debt which is a loan insured or guaranteed under the authority of this subpart may be released by a discharge in bankruptcy under the Bankruptcy Act only if such discharge is granted after the five-year period (exclusive of any applicable suspension of the repayment period) beginning on the date of commencement of the repayment period of such loan.

"STUDENT LOAN INSURANCE FUND

SEC. 737. (a) There is hereby established a student loan insurance fund (hereinafter in this section called the 'fund') which shall be available without fiscal year limitation to the Secretary for making payments in connection with the default of loans insured by him under this subpart. All amounts received by the Secretary as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Secretary in connection with his operations under this subpart, and any other moneys, property, or assets derived by the Secretary from his operations in connection with this section, shall be deposited in the fund. All payments in connection with the default of loans insured by the Secretary under this subpart, or in connection with such guaranty agreements shall be paid from the fund. Moneys in the fund not needed for current operations under this section may be invested in bonds or other obligations guaranteed as to principal and interest by the United States.

"(b) If at any time the moneys in the fund are insufficient to make payments in connection with the default of any loan insured by the Secretary under this subpart, the Secretary is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

"POWERS AND RESPONSIBILITIES

"SEC. 738. (a) In the performance of, and with respect to, the functions, powers, and duties vested in him by this subpart, the Secretary may—

"(1) prescribe such regulations as may be necessary to carry out the purposes of this subpart;

"(2) sue and be sued in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this subpart without regard to the amount in controversy, and action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in that office. No attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this subpart from the application of sections 507(b) and 2679 of title 28 of the United States Code and of section 316 of title 5 of such Code;

"(3) include in any contract for Federal loan insurance such terms, conditions, and covenants relating to repayment of principal and payment of interest, relating to his obligations and rights and to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Secretary determines to be necessary to assure that the purposes of this subpart will be achieved; and any term, condition, and covenant made pursuant to this clause or any other provisions of this subpart may be modified by the Secretary if he determines that modification is necessary to protect the financial interest of the United States;

"(4) subject to the specific limitations in this subpart, consent to the modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note or other instrument evidencing a loan which has been insured by him under this subpart; and

"(5) enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right or redemption.

"(b) The Secretary shall, with respect to the financial operations arising by reason of this subpart—

"(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act; and

"(2) maintain with respect to insurance under this subpart an integral set of accounts, which shall be audited annually by the General Accounting Office in accordance with principles and procedures applicable to commercial corporate transactions, as provided by section 105 of the Government Corporation Control Act, except that the transactions of the Secretary, including the settlement of insurance claims and transactions related thereto and vouchers approved by the Secretary in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government.

"(c)(1) The Secretary may enter into an agreement with a participant under this subpart under which the Secretary shall pay the principal and interest due on any loan insured under this subpart and the participant agrees to serve either as a member of the National Health Service Corps or in private practice (as determined by the Secretary) in a health manpower shortage area (designated under section 331).

"(2) The Secretary may not pay more than $10,000 of such insured loan obligation in any one calendar year and the participant shall be obligated to practice his profession either as a member of the National Health Service Corps or in private practice (as determined by the Secretary) for not less than 12 months in a health manpower shortage area for each year that the Secretary assumes the obligation for making payments on behalf of the participant under this subsection.

"(3) If at any time a participant for whom the Secretary is making payments under this subsection terminates his practice in a health manpower shortage area such participant shall be obligated to resume the original obligation under this subpart.

"PARTICIPATION BY FEDERAL CREDIT UNIONS IN FEDERAL, STATE, AND PRIVATE STUDENT LOAN INSURANCE PROGRAMS

"SEC. 739. Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the Director of the Bureau of Federal Credit Unions, have power to make insured loans to eligible students in accordance with the provisions of this subpart relating to Federal insured loans.

"DEFINITIONS

"SEC. 740. As used in this subpart:

"(a) The term 'eligible institution' means a school of medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, veterinary medicine, and public health within the United States.

"(b) The term 'school of medicine, osteopathy, or dentistry, optometry, pharmacy, podiatry, veterinary medicine, and public health' means any school accredited by a nationally recognized accrediting agency approved by the Secretary, and legally authorized within a State or the District of Columbia to train members of the professions indicated or, if not so accredited (A) is an institution with respect to which the Secretary has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (B) is an institution whose credits are accepted on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. For purposes of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

"(c) The term 'eligible lender' means an agency or instrumentality of a State (excluding an eligible institution as defined in subsection (a) of this section) a financial or credit institution, an insurance company which is subject to examination and supervision by an agency of the United States or of any State, or a pension fund approved by the Secretary for this purpose.

"(d) The term 'line of credit' means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

"REPAYMENT BY THE SECRETARY OF LOANS OF DECEASED OR DISABLED BORROWERS

"SEC. 741. If a student borrower who has received a loan dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan from the fund.

"ELIGIBILITY OF INSTITUTIONS

"SEC. 742. (a) Notwithstanding any other provision of this subpart, the Secretary is authorized to prescribe such regulations as may be necessary to provide for—

"(1) a fiscal audit of an eligible institution with regard to any funds obtained from a student who has received a loan insured under this subpart,

"(2) the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid with respect to funds obtained from a student who has received a loan insured under this subpart, and

"(3) the limitation, suspension, or termination of the eligibility under this subpart of any otherwise eligible institution, whenever the Secretary has determined, after notice and affording an opportunity for hearing, that such institution has violated or failed to carry out any regulation prescribed under this part.

"RELATIONSHIP TO STUDENT LOAN MARKETING ASSOCIATION

"SEC. 743. (a) For purposes of providing liquidity, student loans insured by the Secretary under this subpart shall be eligible for purchase or warehousing advances by the Student Loan Marketing Association established pursuant to section 439 of the Higher Education Act of 1965.

"RECORDS

"SEC. 744. The Secretary shall require and further specify in regulations that each eligible institution (1) record the name, address, postgraduate destination, and identifying information for each borrower under this subpart it has authorized under section 734, and make such records available to lenders and to the Secretary upon request, and (2) if the institution is a school of medicine, osteopathy, or dentistry, insure that no more than 50 percent of the students in each class are borrowers under section 734.

"INTEREST SUBSIDY

"SEC. 745. (a) Every student enrolled in an eligible institution who has received a loan which is insured by the Secretary under this subpart and whose school has—

"(1) complied with the requirements of—

"(A) sections 770 and 771 (if such school is a school of medicine, osteopathy or dentistry);

"(B) section 772 (if such school is a school of veterinary medicine, optometry, pharmacy, podiatry); or

"(C) section 781 (if such school is a school of public health); and

"(2) notified the Secretary, in such manner as he may prescribe, that funds appropriated pursuant to section 770, section 772, or section 781 in any year, which such school would otherwise be entitled to receive by reason of such student's enrollment, may be paid to subsidize the interest owed in such year on such student's insured loan;

shall be entitled to have paid on his behalf and for his account by the Secretary to the holder of such loan either an amount equal to one-half of the annual interest owed on such loan for such year, or the amount to which the school in which the student is enrolled would otherwise have been entitled to receive in such year under section 770, section 772 or section 781 (whichever is applicable) by reason of his enrollment, whichever is less.

"(b) The Secretary shall pay the interest subsidy authorized by this section to the holder of a loan on behalf of and for the account of the borrower insured under this subpart at such times and in such manner as may be specified in regulations issued by him and in force when the applicable loan agreement was entered into. The holder of a loan with respect to which payments are required to be made under this section shall have a contractual right as against the United States to receive or have payments made on his behalf from the Secretary the portion of interest required herein to be paid.

"(c) Funds appropriated under section 770, section 772 or section 781 (whichever is applicable) shall be used by the Secretary in any year to make an interest subsidy payment on behalf of a borrower, who has made application for such payment in a manner and form as may be prescribed by the Secretary, and who has received a loan insured under this subpart, when the Secretary determines that, for such year—

"(1) the borrower is enrolled as a full-time student at an eligible institution,

"(2) the institution in which the borrower is enrolled has given notice to the Secretary that the borrower has not been counted in computing the amount of its annual grant under section 770, section 772 or section 781 (whichever is applicable) for such year,

"(3) the amount of the interest payment for which the borrower has applied does not exceed an amount equal to one-half of the annual interest owed on such loan for such year, or the amount to which the school in which the student is enrolled would otherwise have been entitled to receive in such year under section 770, section 772 or section 781 (whichever is applicable) by reason of his enrollment, whichever is less,

"(4) such institution has complied with the requirements of sections 770 and 771, section 772 or section 781 (whichever are applicable).

"(d) Subject to the provisions of section 757(c), there are authorized to be appropriated such additional sums as may be required to carry out the provisions of this section.".

SCHOLARSHIP GRANTS

SEC. 307. Effective October 1, 1978, part D (as redesignated) is amended by adding after subpart III the following:

"Subpart IV—Scholarships; Financial Need; Study Abroad; and Incentive Awards

"SCHOLARSHIPS FOR STUDENTS OF EXCEPTIONAL FINANCIAL NEED

"SEC. 758. (a) The Secretary may make grants to public or nonprofit schools of medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, and veterinary medicine for scholarships to be awarded by such schools to students thereof who are of exceptional financial need and who are in their first year of postbaccalaureate study at such schools.

"(b) The amount of the grant provided under subsection (a) to each such school for each academic year shall be in relation to the projected (based on applications for admission and as determined by regulations of the Secretary) number of full-time, first-year students of such school who are or will be in their first year of postbaccalaureate study at such school and who are of exceptional financial need (as determined under regulations of the Secretary).

"(c)(1) Scholarships may be awarded by schools from grants under subsection (a) only to individuals who have been, or will be, accepted by them for enrollment as full-time students in their first year of postbaccalaureate study at such school.

"(2) Any such scholarship awarded for an academic year shall consist of (A) a stipend of $400 per month for 12 months for academic years which begin September 30, 1978, except that such stipend shall be annually increased by a percentage equal to the percentage of the increase in the salaries of Federal employees, (B) tuition, and (C) all other reasonable education expenses incurred by the participant, including fees, books, and laboratory expenses.

"(d) Grants under subsection (a) may be paid in advance or by way of reimbursement, at such intervals as the Secretary may find necessary and with appropriate adjustments on account of overpayments or underpayments previously made.

"(e) Subject to the provisions of section 757(c), for the purpose of making grants under this section, there is authorized to be appropriated $16,000,000 for the fiscal year ending September 30, 1978, $17,000,000 for the fiscal year ending September 30, 1979, and $18,000,000 for the fiscal year ending September 30, 1980.

"LISTER HILL SCHOLARSHIP PROGRAM

"SEC. 758A. (a) The Congress finds and declares that—

"(1) an essential element in maintaining the health of the people of the United States is the continued assurance of trained health manpower, capable of delivering the highest quality of health care;

"(2) despite the fact that the health care system in the United States is in general the finest system in the world, quality health care is not always available to those persons residing in depressed urban areas or rural areas; and

"(3) quality health care is a right of citizens regardless of the area in which they reside, and that the delivery of such quality health care was always an objective of Lister Hill during his service to the people of his State and the Nation in the Congress of the United States.

"(b) It is the purpose of this section to assist in securing quality health care for all citizens, through the establishment of a medical scholarship program.

"(c) In addition to other assistance available under this Act, the Secretary shall annually make grants to at least ten individuals (to be known as Lister Hill scholars) for medical school scholarships of up to four years and up to $8,000 per year each in accordance with the provisions of this subpart, who agree to enter into the family practice of medicine in areas described in subsection (a) of section 784. Grants made under this section shall be made from funds appropriated under subsection (d).

"(d) There are authorized to be appropriated to carry out the purposes of this section $80,000 for the fiscal year ending September 30, 1977, $160,000 for the fiscal year ending September 30, 1978, $240,000 for the fiscal year ending September 30, 1979, and $320,000 for the fiscal year ending September 30, 1980. For the fiscal year ending September 30, 1981 and for each succeeding fiscal year, there are authorized to be appropriated such sums as may be necessary to continue to make such grants to students who (prior to October 1, 1980) have received such a grant under this section during such succeeding fiscal year.".

TITLE IV—NATIONAL HEALTH SERVICE CORPS

REVISION OF NATIONAL HEALTH SERVICE CORPS PROGRAM

SEC. 401. (a) Part C of title III is amended by inserting immediately below the heading for such part the following:

"Subpart I—General Provisions".

(b) Section 330 is amended to read as follows:

"Subpart II—National Health Service Corps Program

"NATIONAL HEALTH SERVICE CORPS

"SEC. 330. (a) There is established, within the Service, the National Health Service Corps (hereinafter in this subpart referred to as the 'Corps') which (1) shall consist of those officers of the Regular and Reserve Corps of the Service and such other civilian members as the Secretary may designate, and (2) shall be utilized by the Secretary to improve the delivery of health services in health manpower shortage areas as defined in section 331(a).

"(b) The identifiable administrative unit within the Department which administers sections 720, 770, and 776 shall concur in the issuance of regulations, guidelines, funding priorities, application forms, grant and contract awards, prior to the issuance thereof, with respect to the National Health Service Corps established under section 330 and the National Health Service Corps Scholarship Program established under section 751.".

SEC. 402. Title III is amended by inserting after section 330 the following new sections:

"DESIGNATION OF HEALTH MANPOWER SHORTAGE AREAS

"SEC. 331. (a) For purposes of this subpart the term 'health manpower shortage areas' means (A) an area in an urban or rural area (which need not conform to the geographic boundaries of a political subdivision and which is a rational area for the delivery of health services) which the Secretary determines has a health manpower shortage, or (B) a population group which the Secretary determines has such a shortage, or (C) a public or nonprofit private medical facility (as defined under section 1633(13)) or other public facility which the Secretary determines has such a shortage.

"(b) The Secretary shall annually designate areas, population groups, medical facilities, or other public facilities as health manpower shortage areas. In so doing, the Secretary shall take into consideration the following:

"(1) ratios of available health manpower to the population under consideration for designation;

"(2) factors indicative of a need for health services with special consideration of infant mortality rates and notwithstanding the supply of health manpower;

"(3) the percentage of physicians serving such area, population group, medical facility, or other public facility who are employed by hospitals and who are graduates of foreign medical schools;

"(4)(A) the recommendations of each health systems agency designated under section 1515 for a health service area which includes all or any part of the area, population group, medical facility or other public facility under consideration for designation; or

"(B) the recommendations of the State health planning and development agency (designated under section 1521) if such area or population group, medical facility, or other public facility is within a health service area (or areas) for which no health systems agency has been designated;

"(5) the recommendation of the Governor of each State which includes all or part of the areas, population groups, medical facilities, or other public facilities under consideration for designation.

"(c) Prior to the designation of a public facility, including a Federal, medical facility or other public facility as a health manpower shortage area, the Secretary shall advise such facility, in writing, of such proposed designation and request comments within 30 days with respect to such designation.

"(d) The Secretary shall give written notice, of the designation of a health manpower shortage area, within 60 days from the date of such designation, to—

"(1) the Governor of each State which includes all or part of the areas, population groups, medical facilities, or other public facilities so designated;

"(2)(A) each health systems agency designated under section 1515 for a health service area which includes all or any part of the area, population group, medical facility, or other public facility so designated; or

"(B) the State health planning and development agency of the State (designated under section 1521) if such area or population group, medical facility, or other public facility is within a health service area for which no health systems agency has been designated; and

"(3) appropriate public or nonprofit private entities which are located in such areas so designated.

"(e) The Secretary shall report to Congress (1) not later than October 1, 1978, the criteria used by him in designating health manpower shortage areas under this section, and (2) not later than January 1, 1979, the identity and number of health manpower shortage areas meeting such criteria.

"ASSIGNMENT OF CORPS PERSONNEL

"SEC. 332. (a)(1) The Secretary may assign members of the Corps to provide, under regulations promulgated by the Secretary, health services in a health manpower shortage area if—

"(A) a public or nonprofit private entity, located in such area or representing such population group, or operating a medical facility, or other public facility makes application to the Secretary for such assignment; and

"(B) such application has been approved by the Secretary; and

"(C) an agreement has been entered into between the entity which has applied and the Secretary, in accordance with section 333.

"(2) Individuals may be assigned to a Federal health care facility, but only upon the request of the head of the department or agency of which such facility is a part.

"(b)(1) In considering such an application, the Secretary shall take into consideration (A) the relative need of the area, population group, medical facility, or other public facility, for which the application was submitted, for the health services which may be provided by Corps members; (B) the willingness of individuals in the area or population group or at the medical facility or other public facility and the appropriate governmental agencies or health entities, to assist and cooperate in providing effective health services; and (C) comments from medical, osteopathic, dental or other health professions societies, if any, or from medical, dental, or other health professions serving the area, population group, medical facility, or other public facility.

"(2) In considering such an application, the Secretary shall give priority to the assignment of Corps members to areas, population groups, medical facilities or other public facility with the greatest health manpower shortages, as determined under section 331.

"(3) In considering such an application, the Secretary shall give special consideration to entities which will utilize physician assistants, nurse practitioners, or expanded function dental auxiliaries to provide for stability in medical personnel (to include, if necessary, Corps support for such personnel.).

"(c) Corps members shall be assigned to entities in health manpower shortage areas on the basis of determinations made under subsection (b) and without regard to the ability of the individuals in such area, or population group, medical facility, or other public facility to pay for such services.

"(d) In making the assignment of a Corps member, the Secretary shall seek to match the characteristics of the member (and the member's spouse (if any)) with those of the area, population group, medical facility or other public facility to which such member may be assigned in order to increase the probability of the member remaining to serve the area, population group, medical facility or other public facility upon completion of his assignment period.

"(e) The Secretary may (1) provide technical assistance to entities seeking assignment of Corps members, and (2) conduct such information programs in such areas for such population groups, medical facilities, or other public facilities as may be necessary to inform the public and nonprofit private entities serving such areas, population groups, medical facilities, or other public facilities of the assistance available by virtue of the designation of a health manpower shortage area.

"(f) The Secretary shall directly conduct, or enter into contracts for the conduct of studies for improving the methods of assignments of Corps members to health manpower shortage areas. Such studies shall include, but not be limited to—

"(1) the characteristics of physicians, dentists, and other health professionals who are more likely to remain in practice in health manpower shortage areas,

"(2) the characteristics including utilization and reimbursement patterns of areas which have been able to retain health manpower personnel, and

"(3) the appropriate conditions for the utilization of physician assistants, nurse practitioners, and expanded function dental auxiliaries in health manpower shortage areas.

"(g) Section 214 shall not apply to commissioned officers in the Regular or Reserve Corps of the Service who are members of the National Health Service Corps and who have participated in the National Health Service Corps Scholarship Program.

"(h) Notwithstanding any other law, or any State law to the contrary, any member of the Corps, licensed to practice his profession in any State, territory, or possession of the United States shall, while serving in the Corps, be allowed to practice his profession in any State, territory, or possession of the United States.

"COST SHARING

"SEC. 333. (a) The Secretary shall require, as a condition to the approval of an application under section 332, that the entity which submitted the application enter into an agreement for a specific assignment period (not to exceed 3 years) with the Secretary under which—

"(1) the entity shall be responsible for charging, in accordance with paragraph (2) for health services provided by those Corps members assigned;

"(2) the entity shall take such action as may be reasonable for—

"(A) the collection of third party reimbursements for such health services (including payments from a Federal agency, an agency of a State or local government, or other third party if it is responsible for all or part of the cost of such health services provided under the authority of this subpart; and

"(B) the collection, on a fee-for-service or other basis, from such agency or third party the portion of such cost for which it would be so responsible (and in determining the amount of such cost which such agency or third party would be responsible, the health services provided by a Corps member shall be considered as being provided by private practitioners);

"(3) the entity shall pay to the United States, as prescribed by the Secretary in each calendar quarter (or other period as may be specified in the agreement) during which any Corps member is assigned to such entity, the sum of—

"(A) the portion of the salary (including amounts paid in accordance with section 329 (c)) and allowances of each Corps member received by such member during such calendar quarter (or other period) while such member was assigned to such entity;

"(B) for each Corps member assigned to such entity, an amount which bears the same ratio to the amount paid under section 751 to or on the behalf of such Corps member as the number of days of obligated service provided by such member during such quarter (or other period) bears to the number of days in his period of obligated service under such program; and

"(C) one-eighth of the amount paid to such entity under the provisions of section 334(b);

"(4) the entity shall meet such other requirements concerning the support for the provision of health services by Corps members, as the Secretary may require by regulation; and

"(5) the entity shall prepare and submit to the Secretary an annual report, in such manner and form, as the Secretary may require.

"(b)(1) The Secretary may waive in whole or in part the requirements of subsection (a)(3) for an entity if he determines that the entity is financially unable to meet such requirement or if he determines that compliance with such requirement would unreasonably limit the ability of tne entity to provide for the support of the provision of health services by Corps members.

"(2) Any entity, which is located in a health manpower shortage area and in which a significant percentage of the residents of such area are elderly, living in poverty, or have other characteristics which would indicate an inability to repay the amounts required in subsection (a)(3) shall be exempt from the provisions of such subsection. Any amounts of funds retained by such entity, in accordance with the provisions of this section, shall be used by such entity for the improvement of the capability of such entity to deliver health services to the residents of such area.

"(c) The excess (if any) of the amount collected by an entity in accordance with subsection (a)(2) over the amount paid to the United States in accordance with subsection (a)(3) shall be used by the entity to expand and improve the provision of health services to the population for which the entity submitted an application or to recruit and retain health manpower to provide health services for such population.

"(d) Any person who receives health services provided by a Corps member under this subpart shall be charged for such services on a fee-for-service or other basis, at a rate approved by the Secretary, pursuant to regulations. Such rate shall be computed in such a way as to permit the recovery of the value of such services, except that if such person is determined under regulations of the Secretary to be unable to pay such charge, the Secretary shall provide for the furnishing of such services at a reduced rate or without charge.

"(e) Funds received by the Secretary under an agreement entered into under this section shall be deposited in the Treasury as miscellaneous receipts and shall be disregarded in determining the amounts of appropriations to be requested and the amounts to be made available from appropriations made under such section to carry out this subpart.

"(f) Upon the expiration of the assignment period, specified in the agreement entered into under this section, no new assignment of Corps members may be made for such area, population group, medical facility, or other public facility unless an application is submitted in accordance with section 332 for such new assignment. The Secretary may not approve such application unless—

"(1) the requirements of section 332 are met;

"(2) the Secretary has conducted an evaluation of and has determined that—

"(A) there is a continued need for health manpower in the area for the population group, medical facility or other public facility;

"(B) that there has been efficient utilization of Corps members, of the growth of the health care practice of the Corps members assigned to such entity;

"(C) that there is general community support for the assignment of Corps members to the entity;

"(3) the Secretary has determined that—

"(A) such area, population group, medical facility, or other public facility has made continued efforts to secure its own health manpower;

"(B) there has been sound fiscal management of the health care practice of the Corps members assigned, including efficient collection of fee-for-service, third-party, and other appropriate funds;

"(C) there has been appropriate and efficient utilization of such Corps members; and

"(4) a new agreement has been entered into between the entity which has applied and the Secretary in accordance with this section.

"USE OF HEALTH FACILITIES

"SEC. 334. (a)(1) Notwithstanding any other provision of law, the Secretary may (A) to the maximum extent feasible make such arrangements as he determines necessary to enable Corps members to utilize the health facilities of the health manpower shortage area, in providing health services and if there are no health facilities in or serving such area, the Secretary may arrange to have Corps members provide health services in the nearest health facilities of the Service, or the Secretary may lease or otherwise provide facilities in such area for the provision of health services; (B) make such arrangements as he determines are necessary for the use of equipment and supplies of the Service and for the lease or acquisition of other equipment and supplies; and (C) secure the permanent, or temporary services of physicians, dentists, nurses, administrators, and allied health personnel.

"(2) If such an area is being served (as determined under regulations of the Secretary) by a hospital or other health care delivery facility of the Service, the Secretary may, in addition to such other arrangements as he may make under paragraph (1), arrange for the utilization of such hospital or facility by Corps members in providing health services, but only to the extent that such utilization will not impair the delivery of health services and treatment through such hospital or facility to persons who are entitled to health services and treatment, through such hospital or facility.

"(b) The Secretary may make one loan, without interest, to any entity, with an approved application under section 332, which demonstrates to the satisfatcion of the Secretary, that it cannot readily meet the cost of providing facilities. Such loan shall be made to assist such entity in meeting the costs (1) of establishing medical, dental, or other health profession practices, including the development of medical practice management systems; (2) acquiring equipment for use in providing health services; (3) renovating buildings to establish health facilities; and (4) establishing appropriate continuing education programs and opportunities. No loan may be made under this subsection unless an application therefor is submitted to, and approved by, the Secretary. The amount of any loan shall be determined by the Secretary, except that no loan may exceed $75,000.

"(c)(1) The Secretary, in accordance with such regulations as he may promulgate, may make one grant to an entity with an approved application under section 332, in lieu of a loan, which demonstrates to the satisfaction of the Secretary that it is financially unable to meet the full cost of providing facilities. Such grant shall be made to assist such entity in meeting the costs described in clauses (1) through (4) of subsection (b).

"(2) No grant may be made under this subsection unless an application therefor is submitted to and approved by the Secretary.

"(3)(A) The amount of any grant made under this subsection shall not exceed $15,000 or 50 percent of the cost of providing such facilities, whichever is less.

"(B) No grant may be made to an entity under this subsection unless the entity demonstrates to the satisfaction of the Secretary that it will provide an amount of funds, in cash or in kind, equal to the grant for purposes of subsection (a).

"(4) No grant may be made under this subsection to an entity which has received a loan under subsection (b).

"(d) Upon the expiration of the assignment of all Corps members in a health manpower shortage area, the Secretary may (notwithstanding any other provision of law) sell equipment and other property of the United States utilized by such members in providing health services to any appropriate local entity. Sales made under this subsection shall be made at the fair market value (as determined by the Secretary) of the equipment or such other property except that the Secretary may waive, in whole or in part, such requirement to obtain fair market value, if he determines that the entity is financially unable to meet such requirement.

"(e)(1)(A) It shall be unlawful for any hopital to deny an authorized physician or dentist member of the Corps admitting privileges, when such Corps member otherwise meets the professional qualifications established by the hospital for granting such privileges and agrees to abide by the published bylaws of the hospital and the published bylaws, rules, and regulations of its medical staff.

"(B) Any hospital which is found by the Secretary, after notice and an opportunity for a hearing on the record, to have violated this subsection shall upon such finding cease to receive and be eligible to receive any Federal funds under this Act, and shall be liable to the United States for a civil penalty of $10,000.

"(2) For purposes of this subsection, the term 'hospital' includes a State or local public hospital, a private profit hospital, a private nonprofit hospital, a general or special hospital, and any other type of hospital (excluding a hospital owned or operated by an agency of the Federal Government), and any related facilities.

"REPORTS

"SEC. 335. The Secretary shall report to Congress no later than December 1 of each year—

"(a) the number, identity, and priority of all health manpower shortage areas designated in the calendar year in which the report is made and the number of health manpower shortage areas which the Secretary estimates will be designated in the calendar year in which the report is made;

"(b) the number of applications filed under section 332 in such calendar year for assignment of Corps members and the action taken on each such application;

"(c) the number and types of Corps members assigned in such preceding year to provide health services in health manpower shortage areas, the number and types of additional Corps members which the Secretary estimates will be assigned to provide such services in the calendar year in which the report is submitted, and the need for additional members for the Corps;

"(d) the recruitment efforts engaged in for the Corps in such preceding year and the number of qualified persons who applied for service in the Corps;

"(e) the total number of patients seen and patient visits recorded during such preceding year in each area where Corps members were assigned;

"(f) the number of health personnel electing to remain, after termination of their service in the Corps, to provide health services in health manpower shortage areas, the number of such personnel who do not make such election, and their reasons (as reported to the Secretary) for not making such election;

"(g) the results of evaluations made under section 333(f)(2), and determinations made under section 333(f)(3), during such preceding year; and

"(h) the total amount (A) charged during such preceding year for health services by Corps members, (B) collected in such year by entities in accordance with agreements under section 333 and paid to the Secretary in such year under such agreements.

"AUTHORIZATION OF APPROPRIATION

"SEC. 336. (a) Subject to the provisions of section 757(c), to carry out the purposes of this subpart, there are authorized to be appropriated $47,000,000 for the fiscal year ending September 30, 1978; $57,000,000 for the fiscal year ending September 30, 1979; and $70,000,000 for the fiscal year ending September 30, 1980.

"(b) An appropriation under an authorization under subsection (a) for any fiscal year may be made at any time before that fiscal year and may be included in an Act making an appropriation under an authorization under paragraph (1) for another fiscal year; but no funds may be made available from any appropriation under such authorization for obligation under this subpart before the fiscal year for which such appropriation is authorized.".

SCHOLARSHIPS

SEC. 403. (a) Effective October 1, 1978 section 751 (as redesignated by section 201) is amended to read as follows: "Subpart III—National Health Service Corps Scholarships.

"NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM

"SEC. 751. (a) The Secretary shall establish the National Health Service Corps Scholarship Program (hereinafter in this subpart referred to as the 'Program') to assure an adequate supply of trained physicians, dentists, and other health professionals for the National Health Service Corps (hereinafter in this subpart referred to as the 'Corps').

"(b) To be eligible for acceptance and continued participation in the Program, each individual must—

"(1) be accepted for enrollment, or be enrolled, as a full-time student in an accredited (as determined by the Secretary) educational institution (hereinafter in this subpart referred to as 'school') in the United States, its territories or possessions;

"(2) pursue an approved course of study, and maintain an acceptable level of academic standing (as determined by the Secretary), leading to a degree in medicine, osteopathy, dentistry, or another health profession;

"(3) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Service or be eligible for selection for civilian service in the Corps;

"(4) submit an application for acceptance in the Program for a minimum of 2 years (unless the application is for a one or two year renewal of the initial two-year application); and

"(5) enter into a written contract with the Secretary under section 754, to (A) accept at least two years of scholarship (as described in (c)(1) of such section) or one year of scholarship in the case of a renewal of an original two-year agreement and (B) serve for a period of time equal to one year for each year for which a scholarship was received, in the Corps as either a commissioned officer in the Regular or Reserve Corps or as a civilian member of the Corps as such individual may elect at the time of initiation of such service.

"(c) The Secretary shall give initial priority in acceptance of applicants for participation in the Program to those individuals who have previously received such scholarships or scholarships under section 758, and thereafter priority to those individuals who will be entering their first year at such schools and special consideration to those individuals who reside in designated medically underserved areas.

"(d)(1) Each participant in the Program shall, while pursuing such a course of study, receive a scholarship for each academic year of such course of study (not to exceed 4 years), in accordance with the written contract entered into under section 754. A participant's scholarship shall consist of (A) a stipend of $400 per month for 12 months for academic years which begin September 1978 and thereafter, except, that such stipend shall be annually increased by a percentage equal to the percentage of the increase in the salaries of Federal Employees, (B) tuition, and (C) all other reasonable education expenses incurred by the participant, including fees, books, and laboratory expenses.

"(2) The Secretary may contract with any school in which participants in the Program are enrolled for the payment to the school of the tuition and other educational expenses of such participants. Payment to such institutions may be made without regard to section 3648 of the Revised Statutes (31 U.S.C. 529).

"(3) In the case where the Secretary has not entered into such contract with a school, the Secretary shall reimburse participants in the Program for the actual cost of tuition and other educational expenses authorized in this subsection.

"(e) Notwithstanding any other provision of law, persons undergoing academic training under the Program shall not be counted against any employment ceiling affecting the Department of Health, Education, and Welfare.

"(f) The Secretary shall report to Congress not later than December 1 of each year—

"(1) the number and type of health profession training of students receiving scholarships under this program;

"(2) the schools at which such students are receiving their training;

"(3) the number of applications filed under this section in the current and prior academic years; and

"(4) the amount of tuition paid in the aggregate and at each school for the current and prior academic year.".

(b) Title VII of the Act is amended by adding after section 751 the following new sections:

"OBLIGATED SERVICE

"SEC. 752. (a)(1) Each participant in the Program shall provide service, as a member of the Corps, for a period equal to one year of such service for each year for which a scholarship was received under the Program.

"(2) The period of obligated service for each participant shall begin upon graduation from a school, except that the Secretary may at the request of a participant who is a physician or dentist, defer the beginning of such service for the period of time (not to exceed three years) required for the participant to complete internship, residency or other advanced clinical training. The Secretary shall give priority to those participants who request such deferral for the purpose of completing such internship, residency or advanced clinical training in a designated under-served area; or in the specialties of family practice, general internal medicine, general pediatrics, general obstetrics and gynecology. Periods in internship, residency or other advanced clinical training shall not satisfy any period of obligated service under this section.

"(b)(1) Each participant in the Program shall, not less than 30 days prior to appointment as a member of the Corps, elect to be appointed as a commissioned officer in the Regular or Reserve Corps of the Service or as a civilian under the civil service.

"(2) Not less than 30 days prior to the date a participant must make his election under paragraph (1), the Secretary shall provide to such participant sufficient information regarding the advantages and disadvantages of each alternative (including the provisions of section 216) to enable such participant to make an election on an informed basis. All information provided under this paragraph shall be written in a manner calculated to be understood by the average participant in the Program.

"(c) One year from the date of the inception of the period of obligated service and each year thereafter, during such period, each member of the Corps and each individual who has been released, by the Secretary, from their Corps service to serve in private practice under the conditions of section 753, shall file a report with the Secretary which shall include his activities over the past year, including such other information as the Secretary may require.

"(d) Notwithstanding any other provision of this title, if the Secretary determines that an individual who is or has been a participant in the Program demonstrates exceptional promise for medical research, the Secretary may permit such individual to perform his service obligation under the Research Service Award program established under section 472(c).

"PRIVATE PRACTICE

"SEC. 753. (a) The Secretary may release any individual who has entered into a written contract under section 754, from the service obligation if such individual applies for such release and enters into a written agreement with the Secretary to engage on a full-time basis in the private clinical practice (including service as a salaried employee in an entity directly providing health services) of medicine, dentistry, or of another health profession in which trained—

"(1) in an area which has been designated as a health manpower shortage area under section 331 and which has a priority for the assignment of Corps members under section 332(b)(2);

"(2) in an area which has a sufficient financial base to sustain such practice and provide such individual income equal to the income of members of the Corps; and

"(3) for a period of one year for each academic year of training for which the individual received a scholarship under the Program.

"(b) An agreement entered into under subsection (a) shall—

"(1) provide that during the period of private practice—

"(A) any person who receives health services provided by such individual in connection with such private practice will be charged for such services at the usual and customary rate prevailing in the area in which such services are provided, except that if such person is unable to pay such charge such person shall be charged at a reduced rate or without charge; and

"(B)(i) such individual in providing health services in connection with such private practice shall not discriminate against any person on the basis of such person's ability to pay for such services or because payment for the health services provided to such person will be made under the insurance program established under part A or B of title XVIII of the Social Security Act or under a State plan for medical assistance approved under title XIX of such Act;

"(ii) For purposes of clause (1)(A), the Secretary shall by regulation prescribe the method for determining a person's ability to pay a charge for health services and the method for determining the amount of the fee (if any) to be charged such person based on such ability; and

"(2) contain such additional provisions as the Secretary may require to assure that the medical practice of such individual will be in accordance with the requirements of good medical practice in effect for Corps members (as established under regulations of the Secretary). Such requirements shall include, but not be limited to—

"(A) medical record systems;

"(B) professional coverage arrangements; and

"(C) hours of practice.

"ACCEPTANCE FOR PROGRAM: CONTRACT

"SEC. 754. (a) The Secretary shall notify each individual who has an approved application for participation in the Program, in writing of such approval. The Secretary shall offer to each such individual schorlarships in accordance with this subpart. Such offer shall include—

"(1) the approval;

"(2) all necessary forms (and instructions) required to be completed by such individual;

"(3) a fair summary of the rights and liabilities (contractual and statutory) of the individual upon his acceptance of the scholarship, including—

"(A) penalty provisions;

"(B) liquidated damages;

"(C) applicable administrative and judicial procedures; and

"(D) such other information as may be necessary for such individual's understanding of the Program and the Corps and the individual's participation therein; and

"(4) a copy of the contract to be entered into by such individual.

"(b) The written contract to be entered into between the Secretary and the individual shall contain—

"(1) an agreement whereby—

"(A) the Secretary agrees to provide such individual with scholarships for a specified number of years and to accept (subject to the availability of appropriated funds for carrying out the agreement) such student into the Corps (or for equivalent service as otherwise provided in this part); and

"(B) the individual agrees to accept such scholarships and to serve for a specified period in an area to which he is assigned by the Secretary as a member of the Corps, the civil service, or as a private practitioner under section 753; and

"(2) a provision that any financial obligation of the United States and any obligation of the student which is conditioned thereon, is contingent upon adequate funds made available to the Secretary (as determined by him) from funds appropriated to carry out such contract and other contracts entered into under this section;

"(3) penalty provisions;

"(4) liquidated damages;

"(5) applicable administrative and judicial procedures; and

"(6) all other matters affecting the rights and liabilities of the parties.

"(c) All information and materials furnished under this section (including the contract) to the prospective participant shall be written in a manner calculated to be understood by the average prospective participant and shall be furnished not later than 45 days prior to the time such individual must accept such scholarship offer.

"TERMINATION OF STUDIES

"SEC. 755. (a) When a participant in the Program is dismissed from a school for failure to meet academic standing requirements or for disciplinary reasons or voluntarily terminates medical, osteopathic, dental, or other health professions training, any obligation of such individual, under sections 752 and 756 shall be canceled without prejudice. If such individual subsequently receives a degree in medicine, osteopathy, dentistry, or another health profession any obligation which had been canceled shall be reinstated effective upon the date of receipt of such degree.

"(b) Any obligation of a participant in the Program shall be canceled upon the death of such individual.

"(c) The Secretary shall by regulation provide for the waiver or suspension of any obligation for service or to repay money applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.

"(d) Whenever an individual who has entered into a written contract under section 754 fails to enroll as a first year student such individual shall be liable to the United States for the sum of $1,500 as liquidated damages.

"(e) Whenever an individual who has (1) submitted an application for a National Health Service Corps scholarship under Section 751, (2) agreed in writing to accept such scholarship, and (3) enrolled as a student in a school of medicine or osteopathy fails to accept such scholarship, if offered, such individual shall be liable to the United States for the sum of $1,500 as liquidated damages.

"RECOVERY

"SEC. 756. (a) If, for any reason, an individual who has entered into a written contract under section 754 breaches his contract obligations which relate to his performance of such contract (which include among other obligations, the obligation to accept a scholarship for each year agreed to and the obligation to serve in the Corps for the number of years agreed to), the United States shall be entitled to recover damages from such individuals of an amount determined in accordance with the formula

$$A=3\phi\left(\frac{t-s}{t}\right)$$

in which 'A' is the amount the United States is entitled to recover, 'Φ' is the sum of the amount paid under this part to or on behalf of such person and the interest on such amount which would be payable if at the time it was paid it was a loan bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States; 't' is the total number of months in such person's service obligation; and 's' is the number of months of such obligation served by him in accordance with section 752. Any amount of damages which the United States is entitled to recover under this section shall, within the 60-day period beginning on the date of the breach of the written contract become due, be paid to the United States.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 757. (a) Subject to the provisions of subsection (c) to carry out the Program, there are authorized to be appropriated $85,000,000 for the fiscal year ending September 30, 1978, $150,000,000 for the fiscal year ending September 30, 1979, and $233,000,000 for the fiscal year ending September 30, 1980.

"(b) Of the sums authorized to be appropriated under this section—

"(1) not less than—

"(A) $68,000,000 for the fiscal year ending September 30, 1978;

"(B) $120,000,000 for the fiscal year ending September 30, 1979; and

"(C) $190,000,000 for the fiscal year ending September 30, 1980,

shall be used for scholarships for medical and osteopathic students,

"(2) not less than—

"(A) $12,000,000 for the fiscal year ending September 30, 1978,

"(B) $24,000,000 for the fiscal year ending September 30, 1979, and

"(C) $36,000,000 for the fiscal year ending September 30, 1980,

shall be used as scholarships for dental students.

"(c) Funds appropriated under sections 757 and 758 shall not be less than 50 percent of the funds appropriated under section 770(e).".

TRANSITIONAL PROVISIONS

SEC. 404. (a) Except as provided in subparagraph (b), the amendment made by section 402 of this subsection shall apply with respect to scholarships awarded under the Public Health and National Health Service Corps Scholarship Program from appropriations for such Program for fiscal years beginning after June 30, 1976.

(b) The provisions of section 225(f)(1) of the Public Health Service Act (as in effect on June 30, 1976) prescribing the financial obligation of a participant in the Public Health and National Health Service Corps Scholarship Training Program who fails to complete an active duty service obligation incurred under that Program shall apply to any individual who received a scholarship under such Program for any academic year beginning before September 30, 1978, irrespective of whether such individual received such a scholarship after that date, unless such individual agrees to meet his active duty service obligation (or the remaining part thereof) through the private practice of his profession under an agreement entered into under section 756 of the Public Health Service Act (as amended by this section), in which case the provisions of section 747(h) of such Act (as amended by this section) shall apply to such individual if he violates such agreement.

(c) Periods of internship or residency served before September 30, 1978, in a facility of the National Health Service Corps or other facility of the Public Health Service in accordance with an agreement entered into under section 225(b) of the Public Health Service Act (as in effect prior to September 30, 1978) shall be credited toward satisfying a service obligation incurred under the Public Health and National Health Service Corps Scholarship Training Program as revised by the Act.

TITLE V—POSTGRADUATE PHYSICIAN TRAINING

SEC. 501. Title VII is amended by inserting after section 711 the following:

"PART B—POSTGRADUATE PHYSICIAN TRAINING

"NATIONAL COUNCIL ON POSTGRADUATE PHYSICIAN TRAINING

"SEC. 712. (a) There is established in the Public Health Service the National Council on Postgraduate Physician Training (hereinafter in this part referred to as the 'National Council').

"(b) The National Council shall consist of 24 members. The Assistant Secretary for Health, the Chief Medical Director of the Veterans' Administration, the Assistant Secretary for Health and Environment of the Department of Defense, and an individual from the Department chosen by the Secretary of Health, Education, and Welfare shall be ex officio members of the Council. The remaining members shall be appointed by the Secretary (within 6 months of the enactment of this section) without regard to the provisions of title V, United States Code, relating to appointments in the competitive service from persons who are not officers or employees of the United States Government as follows:

"(1) Twelve members shall be appointed from among doctors of medicine or osteopathy. Of the 12—

"(A) two shall be representatives of schools of medicine or university health science centers;

"(B) two shall be associated with the medical departments of hospitals which maintain postgraduate physician training programs and which are not university health science centers;

"(C) five shall be representatives of physician specialty organizations, including one each from family medicine and other primary care specialties;

"(D) two shall be representatives of national physician organizations; and

"(E) one shall be in the private practice of medicine.

"(2) Two members shall be administrators or assistant administrators of hospitals which maintain postgraduate physician training programs.

"(3) One member shall be representative of the health insurers.

"(4) One member shall be representative of health systems agencies as defined in section 1512 of this Act.

"(5) One member shall be representative of and shall be a student in a residency program.

"(6) Three members shall be appointed from and shall be representative of the general public. The Secretary shall not appoint under this paragraph any individual who (A) is a provider of health care (as defined in section 1531(3)) or (B) has any significant financial interest in the provision of health care services or in entities engaged in the provision of such services or in producing or supplying drugs or other articles for individuals and entities engaged in the provision of such services, or an individual who has any fiduciary interest in such entities. The members of the National Council shall select a chairman from among their own number.

"(c) The Secretary shall appoint members to fill any vacancies among the appointed members of the National Council.

"(d) Members of the National Council, while attending meetings or conferences thereof, or otherwise serving on business of the National Council, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding for any day (including traveltime), the daily equivalent of the effective rate for grade GS-18 of the General Schedule, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

"(e)(1) The National Council may appoint and fix the pay of such staff personnel as it deems desirable. Such personnel shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(2) The National Council may procure temporary and intermittent services to the same extent as is authorized by section 3109 (b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

"(f) The National Council shall cease to exist 4 years after the enactment of this section.

"DUTIES OF THE NATIONAL COUNCIL

"SEC. 713. (a) The National Council shall, within 2 years of the enactment of this section, conduct studies and other activities (and make recommendations to the Secretary based thereon) relevant to the various matters relating to the postgraduate training of physicians specifically including the following:

"(1) The commissioning and supervision of a study or studies of physician specialty distribution in the United States and its possessions, including—

"(A) an analysis of the distribution among the several medical specialties of postgraduate physician training positions;

"(B) numerical goals for the distribution of postgraduate physician training positions among the several medical specialties;

"(C) a recommendation as to how regions may be defined for purposes of implementing those goals;

"(D) a recommendation as to how those goals should be applied across the regions described in clause (B);

"(E) a timetable for achieving those goals; and

"(F) positive and negative incentives that may be utilized to assure implementation of those goals.

"(2) The development of collaborative working relationships with each physician specialty organization to determine and assist its individual activities with respect to the number and location of practitioners within each such specialty.

"(3) An assessment of the need for financial support for postgraduate physician training especially training in the specialties of family practice, general internal medicine and general pediatrics.

"(4) An assessment of the service needs of hospitals and other health institutions, the role of postgraduate physician trainees in meeting such needs, and alternate means of meeting such needs.

"(5) An assessment of the educational component of postgraduate physician training programs.

"(6) An assessment of the impact of practice in the United States by graduates of medical schools located in foreign nations on the present and future health care in the United States and foreign nations.

"(b) Upon completion of the study or studies referred to in clause (1), the National Council, working with physician specialty organizations, State governments, national, regional, and local associations of health services providers, health planning organizations, and health insurers, shall, for a period of 18 months, advise and assist institutions in implementing the goals developed by that study or studies.

"RECOMMENDATIONS OF THE SECRETARY

"SEC. 714. The Secretary shall, not later than 6 months prior to the expiration of this section, report to the Congress:

"(1) the status of the specialty and geographic distribution of postgraduate physician training positions (both filled and unfilled) and of practicing physicians;

"(2) the changes in distribution of such positions and physicians which have occurred and which may be expected to occur;

"(3) what changes in the goals originally recommended by the National Council are advisable, together with a discussion of the reasons for such recommended changes; and

"(4) what authority he may require to insure implementation of those goals as modified by his recommended changes.".

TITLE VI—FOREIGN MEDICAL GRADUATES

SEC. 601. (a) Section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182a) is amended by renumbering paragraphs (15) through (31) as (16) through (32), respectively, and by inserting after paragraph (14) the following:

"(15)(A) Aliens who are graduates of a medical school and are coming to the United States principally to perform services as members of the medical profession, except such aliens who have passed parts I and II of the National Board of Medical Examiners Examination (or equivalent examination as determined by the Secretary of Health, Education, and Welfare) and who are competent in oral and written English.

"(B) The exclusion of aliens under this paragraph shall apply to special immigrants defined in section 101(a)(27)(A) (other than the parents, spouses, or children of United States citizens or of aliens lawfully admitted for permanent residence), to nonpreference immigrant aliens described in section 203(a) (8), and to preference immigrant aliens described in section 203(a)(3) and (6).".

(b)(1) Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101 (a(15)) is amended as follows:

(A) Subparagraph (H)(i) is amended by inserting before the semicolon ", and who, in the case of a graduate of a medical school coming to the United States to perform services as a member of the medical profession, is coming pursuant to an invitation from a public or nonprofit private educational or research institution or agency in the United States to teach or conduct research, or both, at or for such institution or agency".

(B) Subparagraph (H)(ii) is amended by inserting before the semicolon ", but this clause shall not apply to graduate of medical schools coming to the United States to perform services as members of the medical profession".

(C) Subparagraph (H)(iii) is amended by inserting before the semicolon ", other than an alien who is coming to the United States to receive graduate medical education or training".

(D) Subparagraph (J) is amended by inserting "and who, if he is coming to the United States to participate in a program under which he will receive graduate medical education or training, also meets the requirements of section 212(e)(2)" before "and the alien spouse".

(2) Section 212(e) of such Act (8 U.S.C. 1182(e)) is amended to read as follows:

"(e)(1) No person admitted under section 101(a)(15)(J) or acquiring such status after admission—

"(A) who came to the United States or acquired such status in order to receive graduate medical education or training, or

"(B)(i) whose participation in the program for which he came to the United States was financed in whole or in part, directly or indirectly, by an agency of the Government of the United States or by the government of the country of his nationality or his last residence, or

"(ii) who as of the time of admission or acquisition of status under section 101(a) (15) (J) was a national or resident of a country which the Secretary of State, pursuant to regulations prescribed by him, had designated as clearly requiring the services of persons engaged in the field of specialized knowledge or skill in which the alien was engaged.

shall be eligible to apply for an immigrant visa, or for permanent residence, or for a nonimmigrant visa under section 101(a) (15) (H) or section 101(a) (15) (L) until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of at least 2 years following departure from the United States: *Provided*, That upon the favorable recommendation of the Secretary of State, pursuant to the request of an interested United States Government agency, or of the Commissioner of Immigration and Naturalization after he has determined that departure from the United States would impose exceptional hardship upon the alien's spouse or child (if such spouse or child is a citizen of the United States), or that the alien cannot return to the country of his nationality or last residence because he would be subject to persecution on account of race, religion, or political opinion, the Attorney General may waive the requirement of such two-year foreign residence abroad in the case of any alien whose admission to the United States is found by the Attorney General to be in the public interest: And provided further, That, except in the case of an alien described in clause (A), the Attorney General may, upon the favorable recommendation of the Secretary of State, waive such two-year foreign residence requirement in any case in which the foreign country of the alien's nationality or last residence has furnished the Secretary of State a statement in writing that it has no objection to such a waiver in the case of such alien.

"(2) The additional requirements referred to in section 101(a) (15) (J) for an alien who is coming to the United States under a program under which he will receive graduate medical education or training are:

"(A) A school of medicine or of one of the other health professions, which is accredited by a body or bodies approved for the purpose by the Commissioner of Education, has agreed in writing to provide the graduate medical education or training under the program for which the alien is coming to the United States or to assume responsibility for arranging for the provision thereof by an appropriate public or nonprofit private institution or agency, except that, in the case of such an agreement by a school of medicine, any one or more of its affiliated hospitals which are to participate in the provision of the graduate medical education or training must join in the agreement;

"(B) Before making such agreement, the accredited school has been satisfied that the alien has passed parts I and II of the National Board of Medical Examiners Examination (or equivalent examination as determined by the Secretary of Health, Education, and Welfare), has competency in oral and written English, will be able to adapt to the educational and cultural environment in which he will be receiving his education or training, and has adequate prior education and training to participate satisfactorily in the program for which he is coming to the United States;

"(C) The alien has made a commitment to return to the country of his nationality or last residence upon competion of his education or training for which he is coming to the United States (including any extension of the duration thereof under subparagraph (D)), and the government of the country of his nationality or last residence has provided a written assurance, satisfactory to the Secretary of Health, Education, and Welfare, that upon such completion and return he will be appointed to a position in which he will fully utilize the skills acquired in such education or training in the government of that country or in an educational or other appropriate institution or agency in that country; and

"(D) The duration of the alien's participation in the program for which he is coming to the United States is limited to not more than 2 years, except that such duration may be extended for one year at the request of the government of his nationality or last residence, if (i) such government provides a written assurance, satisfactory to the Secretary of Health, Education, and Welfare, that the alien will, at the end of such extension, be appointed to a position in which he will fully utilize the skills acquired in such education or training in the government of that country or in an educational or other appropriate institution or agency in that country, and (ii) the accredited school providing or arranging for the provision of his education or training agrees in writing to such extension, and (iii) such extension is for the purpose of continuing the alien's education or training under the program for which he came to the United States.

"(E) Notwithstanding the provisions of paragraphs (A) through (D) and commencing on the date of enactment of this paragraph and until December 31, 1980, aliens (not exceeding the number of aliens participating in an accredited program described in this subparagraph on the date of enactment of this subparagraph) may participate in an accredited program of graduate training where such program of graduate training is in a medical facility where such program would otherwise be substantially disrupted.".

(c) Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding the following at the end thereof:

"(41) The term 'graduates of medical school, means aliens who have graduated from a medical school or who have qualified to practice medicine in a foreign state.".

(d) The amendments made by this section shall take effect July 1, 1976.

Sec. 602. The Congress hereby finds and declares that there is no longer an insufficient number of physicians and surgeons in the United States and that the Secretary of Labor should immediately remove physicians and surgeons from the Schedule A established by regulations pursuant to section 212(a) (14) of the Immigration and Nationality Act (8 U.S.C. 1182(a) (14)).

TITLE VII—STANDARDS FOR STATE LICENSURE OF PHYSICIANS AND DENTISTS

Sec. 701. Effective October 1, 1978, title VII is amended by adding after section 795 the following:

"Part J—Licensure Standards

"STANDARDS FOR STATE LICENSURE OF PHYSICIANS AND DENTISTS

"Sec. 796. (a) As used in this section the term—

"(1) 'physician' means a doctor of medicine or a doctor of osteopathy.

"(2) 'dentist' means a doctor of dentistry.

"(3) 'State agency' means the department, commission, board, or other agency of a State which is charged by the law of that State with the administration of laws and regulations regarding licensure of physicians and dentists.

"(b) (1) Within 2 years of the date of enactment of this section, the Secretary shall, in consultation with appropriate professional organizations, and in cooperation with any recognized national professional testing organization or organizations—

"(A) develop and establish model standards for State licensure of physicians and dentists;

"(B) prepare appropriate examinations for the licensing and procedures for the relicensing of physicians and dentists; and

"(C) develop appropriate standards for continuing education programs for physicians and dentists.

"(2) Such standards shall include a level of satisfactory performance on an initial and subsequent examinations, the demonstration of written and spoken proficiency in the English language, completion of a specific number of hours of continuing education and compliance with such other requirements as are determined to be appropriate for the evaluation and assurance of competence to practice medicine or dentistry.

"(c) The Secretary shall submit a report no later than October 1, 1978, jointly to the Committee on Labor and Public Welfare of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives, on minimum standards for State licensure of physicians and dentists. Such report shall include the standards concerning the assurance of the initial and continued competency of such physicians and dentists, and any legislative recommendations the Secretary deems appropriate.

"(d) (1) The Secretary may make grants to a State agency to assist a State to plan, develop, or operate a State system for the initial licensure and subsequent renewals of such licensure for physicians and dentists, which will meet the standards established by the Secretary under this section.

"(2) Subject to the provisions of section 757(c), there are authorized to be appropriated for purposes of this subsection $3,000,000 for the fiscal year beginning September 30, 1978; $4,000,000 for the fiscal year beginning September 30, 1979; and $5,000,000 for the fiscal year beginning September 30, 1980.".

TITLE VIII—GRANTS FOR SCHOOLS OF MEDICINE, OSTEOPATHY, AND DENTISTRY

GRANT AMOUNTS; AUTHORIZATIONS

Sec. 801. (a) Effective October 1, 1978, section 770 is amended to read as follows:

"CAPITATION GRANTS TO SCHOOLS OF MEDICINE, OSTEOPATHY, AND DENTISTRY

"Sec. 770. (a) Grant Computation.—The Secretary shall make annual grants to schools of medicine, osteopathy, and dentistry for the support of the educational programs of such schools. The amount of the annual grant to each such school with an approved application shall be computed as follows:

"(1) Each school of medicine and osteopathy shall receive—

"(A) $1,800 for each full-time student enrolled in such school in fiscal year 1978;

"(B) $1,900 for each full-time student enrolled in such school in fiscal year 1979; and

"(C) $2,000 for each full-time student enrolled in such school in fiscal year 1980.

"(2) Each school of dentistry shall receive—

"(A) $1,800 for each full-time student enrolled in such school in fiscal year 1978;

"(B) $1,900 for each full-time student enrolled in such school in fiscal year 1979; and

"(C) $2,000 for each full-time student enrolled in such school in fiscal year 1980.

"(b) Enrollment Determinations.—

"(1) For purposes of this section and section 771 regulations of the Secretary shall include provisions relating to the determination of the number of students enrolled in a school or in a particular year-class in a school on the basis of estimates, on the basis of the number of students who in an earlier year were enrolled in a school or in a particular year-class, or on such other basis as he deems appropriate for making such determination, and shall include methods of making such determination when a school or a year-class was not in existence in an earlier year at a school.

"(2) For purposes of this section and sections 771, and 782 the term 'full-time students' (whether such term is used by itself or in connection with a particular year-class) means students pursuing a full-time course of study leading to a degree of doctor of medicine, doctor of osteopathy, doctor of dentistry, or an equivalent degree. In the case of a training program at a school designed to permit the students enrolled in such program to complete, within 6 years after completing secondary school, the requirements for degree of doctor of medicine, doctor of dentistry or an equivalent degree, or doctor of osteopathy, the term 'full-time students' shall only include students enrolled on a full-time basis in the last 4 years of such program and for purposes of sections 771 and 782, students enrolled in the first of the last 4 years of such program shall be considered as first-year students.

"(c) Applications for New Schools.—In the case of a new school of medicine, osteopathy, or dentistry, which applies for a grant under this section in the fiscal year preceding the fiscal year in which it will admit its first class, the enrollment for the purposes of subsections (a) and (b) shall be the number of full-time students which the Secretary determines, on the basis of assurances provided by the school, will be enrolled in the school, in the fiscal year after the fiscal year in which the grant is made.

"(d) Psychiatric Residencies.—In making grants under section 770 the Secretary, in the case of a school of medicine, shall seek to assure that calculated in the national aggregate for each academic year there are an appropriate percentage of all filled residencies (direct and affiliated) in psychiatry.

"(e) Authorization of Appropriations.—Subject to the provisions of section 757(c), there are authorized to be appropriated $147,000,000 for the fiscal year ending September 30, 1978; $162,000,000 for the fiscal year ending September 30, 1979; $177,000,000 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of medicine, osteopathy and dentistry based on the number of full-time students enrolled in such schools.".

(b) The heading for part E of title VII is amended to read as follows:

"Part F—Grants to Schools of Medicine, Osteopathy, Dentistry, Veterinary Medicine, Optometry, Pharmacy, and Podiatry".

GRANT REQUIREMENTS

Sec. 802. Title VII is amended by adding, after section 770, the following new section:

"ELIGIBILITY FOR CAPITATION GRANTS

"Sec. 771. (a) In General.—The Secretary shall not make a grant under section 770 to any school in a fiscal year beginning October 1, 1978, and in each fiscal year thereafter, unless the application for the grant meets the following requirements:

"(1) The application shall contain or be supported by assurances satisfactory to the Secretary that the first-year enrollment of full-time students in the academic year beginning after the fiscal year in which the grant applied for is to be made will not be less than the first-year enrollment of such students in the school in the preceding academic year; and

"(2) The application shall contain or be supported by assurances satisfactory to the Secretary that the applicant will expend in carrying out its functions as a school of medicine, osteopathy or dentistry, as the case may be, during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction) as determined by the Secretary from non-Federal sources which is at least as great as the amount of funds expended by such applicant for such purpose (excluding expenditures of a nonrecurring nature) in the fiscal year preceding the fiscal year for which such grant is sought.

"(b)(1) Schools of Medicine and Osteopathy.—The Secretary shall not make a grant under section 770 to any school of medicine or osteopathy in the fiscal year beginning October 1, 1978, and in fiscal years thereafter, unless such school establishes mechanisms to provide, in a form and manner satisfactory to the Secretary, that—

"(A) Except as provided in subparagraph (B), the required percentage for a school for each academic year (as defined in paragraph (4)) of places available for full-time students, excluding students in their fourth year of study, at such school shall be retained for persons who—

"(i) in the case of first-year students, prior to (a) their admission to such schools, or (b) November 1 of each year, and

"(ii) in the case of second- and third-year students, prior to November 1 of each year, have submitted applications for National Health Service Corps scholarships under section 751 and have agreed in writing to accept such scholarships.

"(B) The provisions of subparagraph (A) shall not apply if the assured national goal for National Health Service Corps scholarships for each academic year (as defined in paragraph (5)) has been substantially met (as defined in paragraph (6)).

"(C) In the event that the assured national goal for National Health Service Corps scholarships for each academic year (as defined in paragraph (5)) has not been substantially met (as defined in paragraph (6)), the provisions of subparagraph (A) shall become effective for the academic year beginning immediately after the academic year in which such goal had not been substantially met and for all academic years thereafter and the provisions of subparagraph (B) shall no longer apply.

"(2) Schools of Medicine.—The Secretary shall not make a grant under section 770 to any school of medicine in the fiscal year beginning October 1, 1977, and in fiscal years thereafter, unless such school establishes mechanisms to provide, in a form and manner satisfactory to the Secretary that each medical school shall have at least the required percentage for each academic year (as defined in paragraph (5)) of its filled residencies (direct and affiliated of all schools of medicine) in family practice, general internal medicine, general pediatrics, and general obstetrics and gynecology;

"(3) For purposes of paragraphs (2) and (5), residences in a hospital or other medical institution or facility affiliated (to the extent and in the manner prescribed by the Secretary) with a school shall be considered residencies of such school.

"(4) For purposes of subsection (b)(1), the term 'required percentage for a school for each academic year' means—

"(A) for the academic year beginning in the calendar year 1977, at least 25 percent (based on such percentage of the full-time students, enrolled in such school's first-year class, during the preceding academic year);

"(B) for the academic year beginning in the calendar year 1978, at least 30 percent (based on such percentage of the full-time students, enrolled in such school's first-year class, during the preceding academic year); and

"(C) for the academic year beginning in the calendar year 1979, at least 35 percent (based on such percentage of the full-time students, enrolled in such school's first-year class, during the preceding academic year.

"(5) For purposes of subsection (b)(2), the term required percentage for each academic year means—

"(A) for the academic year beginning in the calendar year 1977, at least 42 percent of which not more than 7 percent may be residencies in general obstetrics and gynecology (calculated on a per school basis);

"(B) for the academic year beginning in the calendar year 1978, at least 47 percent of which not more than 7 percent may be residencies in general obstetrics and gynecology (calculated on a per school basis); and

"(C) for the academic year beginning in the calendar year 1979, at least 57 percent of which not more than 7 percent may be residencies in general obstetrics and gynecology (calculated on a per school basis).

"(6) (A) In the case of a student who has entered a contract under section 754, a renewal thereof may not be counted for purposes of paragraphs (1), (4), and (5).

"(B) In the case of a student who has submitted an application for a National Health Service Corps scholarship under section 751 and has never been offered such scholarship, such student may be counted for purposes of paragraphs (1), (4), and (5), once each academic year in which he submits such application.

"(C) In the case of a student who has failed to accept a National Health Service Corps Scholarship when offered such scholarship, such student may not be counted for purposes of paragraphs (1), (4), and (5) when such student submits an application for such a scholarship thereafter.

"(c) Schools of Dentistry.—The Secretary shall not make a grant under section 770 to any school of dentistry in the fiscal year beginning October 1, 1978 and in fiscal years thereafter, unless such school establishes mechanisms to provide, in a form and manner satisfactory to the Secretary, that—

"(1) except as provided in subparagraph (2), for each academic year beginning in the calendar year 1977, 1978, and 1979, up to 20 percent, but not less than 10 percent as determined by the Secretary pursuant to paragraph (B) (calculated on a per school basis) of places available for full-time students, excluding students in their fourth year of study, at such school shall be retained for persons who—

"(A) in the case of first-year students, prior to (a) their admission to such school, or (b) November 1 of each year, and

"(B) in the case of second- and third-year students, prior to November 1 of each year, have submitted applications for National Health Service Corps scholarships under section 751 and have agreed in writing to accept such scholarships.

"(2)(A) The provisions of subparagraph (1) shall not apply if, for each such academic year, the percentage (calculated in the national aggregate) as determined by the Secretary pursuant to paragraphs (1) (A) and (B) and up to 20 percent, but not less than 10 percent of the full-time students in the first year classes of all schools have submitted applications for National Health Service Corps scholarships under section 751 and have agreed in writing to accept such scholarships or 92.5 percent of the funds required to be used from those funds authorized to be appropriated under section 757 for scholarships for dental students for each fiscal year have been obligated.

"(B) In the event that the conditions specified in subparagraph (A) have not been met, the provisions of subparagraph (1) shall become effective for the academic year beginning immediately after the academic year in which such conditions had not been met and for all academic years thereafter and the provisions of subparagraph (2) shall no longer apply.

"(3) The Secretary shall, in cooperation with appropriate national dental organizations, develop and submit to Congress by October 1, 1977, (1) proposed criteria for determining dental manpower shortage areas, (2) the number and location of shortage areas meeting such criteria, and (3) national goals for the number of dental students, who, prior to their admission to dental school have submitted applications for scholarships under section 751 and have agreed in writing to accept such scholarships.

"(4) To be eligible for a grant under this section a school of dentistry shall—

"(i) (I) develop, establish, and operate a program to train dental students in the organization and management of multiple auxiliary dental team practices in accordance with regulations of the Secretary, or

"(II) maintain a first-year enrollment of full-time students for each academic year, beginning in the calendar year 1977 and for each academic year thereafter, which exceeds the number of such students enrolled in the academic year beginning in the calendar year of 1976—

"(A) by 10 percent of such number if such number was not more than 100, or

"(B) by 5 percent of such number, or 10 students, whichever is greater, if such number was more than 100; and

"(ii) provide that at least 70 percent of filled positions in dental specialty programs in excess of filled positions in dental specialty programs for the academic year which began in calendar year 1976, will be in general dentistry or pedodontics.

"(d) The Secretary may waive the requirements of subparagraphs (I) or (II) of subsection 4(i) with respect to any school upon written notification by the appropriate accreditation body that compliance by such school with such requirements will prevent such school from meeting the accreditation standards of such body.

"(e) DATE OF REQUIRED PERCENTAGE DETERMINATION.—Only for the purposes of determining the percentages required to be met under subsections (b)(1) and (c), close of business on July 1, of each year shall be the date on which those full-time first year students who have submitted applications for scholarships under section 751 and have entered into written contracts under section 754 and have been accepted by a school, shall be deemed to have agreed to attend such school.".

EFFECTIVE DATE

SEC. 803. The amendments made by this title shall take effect October 1, 1978.

TITLE IX—GRANTS FOR SCHOOLS OF VETERINARY MEDICINE, OPTOMETRY, PHARMACY, AND PODIATRY

SEC. 901. Effective October 1, 1978, part F (as redesignated) of title VII is amended by adding the following new section:

"CAPITATION GRANTS TO SCHOOLS OF VETERINARY MEDICINE, OPTOMETRY, PHARMACY, AND PODIATRY

"SEC. 772. (a) GRANT COMPUTATION.—The Secretary shall make annual grants to schools of veterinary medicine, optometry, pharmacy, and podiatry for the support of the education program of such schools. The amount of the annual grant to each such school with an approved application shall be computed as follows:

"(1) Each school of veterinary medicine shall receive—

"(A) $1,350 for each full-time student enrolled in such school in fiscal year 1978;

"(B) $1,425 for each full-time student enrolled in such school in fiscal year 1979; and

"(C) $1,500 for each full-time student enrolled in such school in fiscal year 1980.

"(2) Each school of optometry shall receive—

"(A) $775 for each full-time student enrolled in such school in fiscal year 1978;

"(B) $830 for each full-time student enrolled in such school in fiscal year 1979; and

"(C) $885 for each full-time student enrolled in such school in fiscal year 1980.

"(3) Each school of pharmacy shall receive—

"(A) $650 for each full-time student enrolled in such school in fiscal year 1978;

"(B) $690 for each full-time student enrolled in such school in fiscal year 1979; and

"(C) $730 for each full-time student enrolled in such school in fiscal year 1980.

"(4) Each school of podiatry shall receive—

"(A) $775 for each full-time student enrolled in such school in fiscal year 1978;

"(B) $830 for each full-time student enrolled in such school in fiscal year 1979; and

"(C) $885 for each full-time student enrolled in such school in fiscal year 1980.

"(b) APPORTIONMENT OF APPROPRIATIONS.—Notwithstanding subsection (a), if the aggregate of the amounts of the grants to be made in accordance with such subsection for any fiscal year to schools of veterinary medicine, optometry, pharmacy, or podiatry with approved applications exceeds the total of the amounts appropriated for such grants, the amounts of a school's grant with respect to which such exists shall for such fiscal year be an amount which bears the same ratio to the amount determined for the school under such subsection as the total of the amounts appropriated for that year for grants to schools of the category as such school bears the amount required to make grants in accordance with such subsection to the schools of that category with approved applications.

"(c) ENROLLMENT DETERMINATIONS.—

"(1) For purposes of this section and section 772, regulations of the Secretary shall include provisions relating to the determination of the number of students enrolled in a school or in a particular year-class in a school on the basis of estimates, on the basis of the number of students who in an earlier year were enrolled in a school or in a particular year-class, or on such other basis as he deems appropriate for making such determination, and shall include methods of making such determination when a school or a year-class was not in existence in an earlier year at a school.

"(2) For the purposes of this section and sections 772 and 782 the term 'full-time students' (whether such term is used by itself or in connection with a particular year-class) means students pursuing a full-time course of study leading to a degree of doctor of veterinary medicine or an equivalent degree, doctor of optometry or an equivalent degree, bachelor or master of science in pharmacy or equivalent degrees, doctor of podiatry or an equivalent degree.

"(d) AUTHORIZATION OF APPROPRIATIONS.—Subject to the provisions of section 757(c) there are authorized to be appropriated $30,000,000 for the fiscal year ending September 30, 1978; $32,000,000 for the fiscal year ending September 30, 1979; and $34,000,000 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of veterinary medicine, optometry, pharmacy, and podiatry based on the number of full-time students enrolled in such schools.

"(e) ELIGIBILITY FOR CAPITATION GRANTS.—The Secretary shall not make a grant under this section to any school in a fiscal year beginning October 1, 1978 and in each fiscal year thereafter, unless the application for the grant meets the following requirements:

"(1) The application shall contain or be supported by assurances satisfactory to the Secretary that the first-year enrollment of full-time students in the academic year beginning after the fiscal year in which the grant applied for is to be made will not be less than the first-year enrollment of such students in the school in the preceding school year; and

"(2) The application shall contain or be supported by assurances satisfactory to the Secretary that the applicant will expend in carrying out its functions as a school of veterinary medicine, optometry, pharmacy, or podiatry, as the case may be, during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Secretary) from non-Federal sources which is at least as great as the amount of funds expended by such applicant for such purpose (excluding expenditures of a nonrecurring nature) in the fiscal year preceding the fiscal year for which such grant is sought.

"(3)(A) In the case of schools of veterinary medicine, optometry, and podiatry, the application shall contain or be supported by assurances satisfactory to the Secretary that for the first academic year beginning after the close of the fiscal year in which such grant is made, and for the following school year, the first-year enrollment of full-time students in such school will exceed the number of such students enrolled in the preceding school year—

"(i) by 5 percent of such number if such number was not more than 100; or

"(ii) by 2.5 percent of such number, or five students, whichever is greater, if such number was more than 100; or

"(B) In the case of schools of optometry, the application shall contain or be supported by assurances satisfactory to the Secretary that for the first academic year beginning after the close of the academic year in which such grant is made at least 25 percent (or 50 percent if the applicant is a nonprofit private school of optometry) of the first-year enrollment of full-time students in such school will be comprised of students who are residents of States in which there are no accredited schools of optometry;

"(C) In the case of schools of podiatry, the application shall contain or be supported by assurances satisfactory to the Secretary that for the first academic year beginning after the close of the academic year in which such grant is made at least 40 percent of the first-year enrollment of full-time students in such school will be comprised of students who are residents of States in which there are no accredited schools of podiatry; or

"(D) In the case of schools of veterinary medicine, the application shall contain or be supported by assurances satisfactory to the Secretary that for the first academic year beginning after the close of the academic year in which such grant is made at least 40 percent of the first year enrollment of full-time students in such school will be comprised of students who are residents of States in which there are no accredited schools of veterinary medicine.

The Secretary is authorized to waive (in whole or in part) the requirement of paragraph (3) of this subsection if he determines, after receiving the written recommendation of the appropriate accreditation body or bodies (as defined in section 721(b)(1)), that compliance by such school with the assurances required by such subsection will prevent such school from maintaining its accreditation.

"(4) In the case of schools of pharmacy, the application shall contain or be supported by assurances satisfactory to the Secretary that the school shall provide each student with a training program in clinical pharmacy, including the following program elements:

"(A) One clinically trained full-time faculty member for every fifteen students in the last year of the program.

"(B) Inpatient and outpatient clinical pharmacy clerkship experience, including interactions with physicians and other health professionals.

"(C) Training in drug information retrieval and analysis in the context of actual patient problems.

"(5) In the case of schools of veterinary medicine, the application shall contain or be supported by assurances satisfactory to the Secretary that the clinical training shall emphasize predominantly care to food- and fibre-producing animals.".

TITLE X—PUBLIC HEALTH AND HEALTH ADMINISTRATION

Sec. 1001. (a) Title VII is amended by inserting after section 773 the following new part:

"Part H—Public Health and Health Administration

"Subpart I—Public Health

"CAPITATION GRANTS FOR ACCREDITED SCHOOLS OF PUBLIC HEALTH

"Sec. 781. (a) Grant Computation.—The Secretary shall make annual grants to accredited schools of public health for the support of the educational programs of such accredited schools. The amount of the annual grant to each such accredited school with an approved application shall be computed as follows:

"(1) Each accredited school of public health shall receive an amount equal to the product of—

"(A) (i) $1,225 in fiscal year 1978, and

"(ii) $1,300 in fiscal year 1979, or

"(iii) $1,375 in fiscal year 1980, and

"(B) the sum of (i) multiplied by the number of full-time students enrolled in such accredited school in such year, and (ii) the number of full-time equivalents of part-time students, determined pursuant to subparagraph (3), enrolled in such accredited school in such year.

"(2) For purposes of this section, regulations of the Secretary shall include provisions relating to the determination of the number of students enrolled in an accredited school or in a particular year-class in an accredited school on the basis of estimates, on the basis of the number of students who in an earlier year were enrolled in an accredited school or in a particular year-class, or on such other basis as he deems appropriate for making such determination, and shall include methods of making such determination when an accredited school or a year-class was not in existence in an earlier year at an accredited school.

"(3) For purposes of subparagraph (1) the number of full-time equivalents of part-time students enrolled in an accredited school of public health for any year is a number equal to—

"(i) the total number of credit hours of instruction in such year for which part-time students of such accredited school, who are pursuing a course of study leading to a graduate degree in public health or an equivalent degree, have enrolled, divided by

"(ii) the greater of—

"(I) the number of credit hours of instruction which a full-time student of such accredited school was required to take in such year, or

"(II) 9, rounded to the next highest whole number.

"(b) Apportionment of Appropriations.—Notwithstanding subsection (a), if the aggregate of the amounts of the grants to be made in accordance with such subsection for any fiscal year to accredited schools of public health with approved applications exceeds the total of the amounts appropriated for such grants, the amount of a school's grant with respect to which such exists shall for such fiscal year be an amount which bears the same ratio to the amount determined for the accredited school under such subsection as the total of the amounts appropriated for that year for grants to accredited schools of the category as such accredited school bears the amount required to make grants in accordance with such subsection to the accredited schools of that category with approved applications.

"(c) Eligibility for Capitation Grants.—The Secretary shall not make a grant under this section to any accredited school in a fiscal year beginning after September 30, 1978, unless the application for the grant meets the following requirements:

"(1) The application shall contain or be supported by assurances satisfactory to the Secretary that the first-year enrollment of full-time students and full-time equivalents of part-time students in the school year beginning after the fiscal year in which the grant applied for is to be made will not be less than the first-year enrollment of such students in the accredited school in the preceding school year.

"(2) The application shall contain or be supported by assurances satisfactory to the Secretary that the applicant will expend in carrying out its functions as an accredited school of public health during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Secretary) from non-Federal sources which is at least as great as the amount of funds expended by such applicant for such purpose (excluding expenditures of a nonrecurring nature) in the fiscal year preceding the fiscal year for which such grant is sought.

"(3) The application shall contain or be supported by assurances satisfactory to the Secretary that for the first school year beginning after the close of the fiscal year in which such grant is made, and for the following school year, the first-year enrollment of full-time students in such accredited school will exceed the number of such students enrolled in the preceding school year—

"(A) by 5 percent of such number if such number was not more than 100; or

"(B) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100.

The Secretary is authorized to waive (in whole or in part) the requirement of paragraph (3) of this subsection if he determines, after receiving the written recommendation of the appropriate accreditation body or bodies (as defined in section 721(b)(1)), that compliance by such accredited school with the assurances required by such subsection will prevent such accredited school from maintaining its accreditation and the quality of its training.

"(d) Authorizations of Appropriations.—Subject to the provisions of section 757(c) there are authorized to be appropriated $9,500,000 for the fiscal year ending September 30, 1978; $10,000,000 for the fiscal year ending September 30, 1979; and $10,500,000 for the fiscal year ending September 30, 1980, for payments under grants under this section to accredited schools of public health.

"GRANTS FOR GRADUATE PROGRAMS IN HEALTH ADMINISTRATION

"Sec. 782. (a) From funds appropriated under subsection (d), the Secretary shall make annual grants to public or nonprofit private educational entities (except schools of public health) to support the graduate educational programs of such entities in health administration, hospital administration, and health planning (including schools of social work).

"(b) The amount of the grant for any fiscal year under subsection (a) to an educational entity with an application approved under subsection (e) shall be equal to the amount appropriated under subsection (d) for such fiscal year divided by the number of educational entities which have applications for grants for such fiscal year approved under subsection (c).

"(c)(1) No grant may be made under subsection (a) unless an application therefor has been submitted to the Secretary before such time as he shall by regulation prescribe and has been approved by the Secretary. Such applications shall be in such form, and submitted in such manner, as the Secretary shall by regulation prescribe.

"(2) The Secretary may not approve an application submitted under paragraph (1) unless—

"(A) such application—

"(i) contains assurances satisfactory to the Secretary that in each academic year (as defined in regulations of the Secretary) for which the applicant receives a grant under subsection (a)—

"(I) at least 25 individuals will complete the graduate educational program of the entity for which such application is submitted; and

"(II) such entity shall expend or obligate at least $100,000 in funds from non-Federal sources to conduct such programs;

"(ii) contains such other information as the Secretary may by regulation prescribe; and "(B) the program for which such application was submitted has been accredited for the training of individuals for health administration, hospital administration, or health planning by a recognized body or bodies approved for such purpose by the Commissioner of Education and meet such other quality standards as the Secretary shall by regulation prescribe.

"(d) There are authorized to be appropriated for payments under grants under this section $3,000,000 for the fiscal year ending September 30, 1977; $3,250,000 for the fiscal year ending September 30, 1978; $3,500,000 for the fiscal year ending September 30, 1979; and $3,750,000 for the fiscal year ending September 30, 1980.

"SPECIAL PROJECTS FOR ACCREDITED SCHOOLS OF PUBLIC HEALTH AND GRADUATE PROGRAMS IN HEALTH ADMINISTRATION

"Sec. 783. (a) The Secretary may make grants to assist accredited schools of public health in meeting the costs of special projects to develop new programs or to expand existing programs in—

"(1) biostatistics or epidemiology,

"(2) health administration, health planning or health policy analysis and planning,

"(3) environmental or occupational health, or

"(4) dietetics and nutrition.

"(b)(1) The Secretary may make grants to assist those public or nonprofit educational entities (including graduate schools or social work) which have accredited programs in accordance with subsection (2) in meeting the costs of special projects to develop new programs or to expand existing programs in—

"(A) biostatistics or epidemiology,

"(B) health administration, health planning or health policy analysis and planning,

"(C) environmental or occupational health, or

"(D) dietetics and nutrition."

"(2) For purposes of this section, an accredited program is a graduate program accredited for the training of individuals in health administration, health planning, or health policy analysis and planning by a recognized body or bodies approved by the Commissioner of Education and meets such other quality standards as the Secretary may by regulation prescribe.

"(c) Subject to the provisions of section 757(c) there are authorized for the purpose of making payments pursuant to grants under this section $5,000,000 for the fiscal year ending September 30, 1978; $5,500,000 for the fiscal year ending September 30, 1979; and $6,000,000 for the fiscal year ending September 30, 1980.

"TRAINEESHIPS

"Sec. 784. (a) The Secretary may make grants to accredited schools of public health and to those public or nonprofit private educational entities (including graduate accredited schools of social work) which have accredited programs in accordance with section 783(b), for traineeships to train students enrolled in such schools and programs.

"(b)(1) No grant for traineeships may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary by regulation may prescribe. Traineeships under such a grant shall be awarded in accordance with such regulations as the Secretary shall prescribe. The amount of any such grant shall be determined by the Secretary and payments under such a grant may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

"(2) Traineeships awarded under grants made under subsection (a) shall provide for such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

"(3) In awarding traineeships under this section, each applicant shall assure to the satisfaction of the Secretary that at least 80 percent of the funds received under this section shall go to—

"(A) individuals who—

"(i) have previously received a postbaccalaureate degree, or

"(ii) have three years experience in employment in health services, and

"(B) are pursuing a course of study in—

"(i) biostatistics or epidemiology,

"(ii) health administration, health planning, or health policy analysis and planning,

"(iii) environmental or occupational health, or

"(iv) dietetics or nutrition.

"(c) Subject to the provisions of section 757(c), for payments under grants under subsection (a) there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1978; $11,000,000 for the fiscal year ending September 30, 1979; and $12,000,000 for the fiscal year ending September 30, 1980.".

(b) The amendments made by this title shall take effect October 1, 1978.

"ASSISTANCE FOR SELECTION AND TRAINING OF PROFESSIONAL STANDARDS REVIEW ORGANIZATION STAFF

"SEC. 785. (a) The purpose of this section is to enhance and improve the performance of Professional Standards Review Organizations (including organizations which meet the requirements of section 1169 (a) and (b) of the Social Security Act) through a program of selecting and training effective lay staff of such organizations.

"(b) The Secretary shall carry out the purposes of the program described in subsection (a) by making grants to, or entering into contracts with, any public or nonprofit private agency, institution, or organization which can demonstrate the ability to assist in carrying out such program in an effective manner.

"(c) In carrying out the program described in subsection (a) and making the grants and contracts under subsection (b), the Secretary shall give priority to the selection and training of top-level executive staff and of those staff charged with the structuring, analysis, and interpretation of statistical and related data produced by or made available to Professional Standards Review Organizations.

"(d) For carrying out the purposes of this section there is hereby authorized to be appropriated for each of the three fiscal years beginning October 1, 1977, $2,500,000.".

TITLE XI—ALLIED HEALTH PERSONNEL

SEC. 1101. Effective October 1, 1978, part H (as redesignated) is amended by adding after section 792 the following:

"PROJECT GRANTS AND CONTRACTS

"SEC. 793. (a) The Secretary shall make grants and enter into contracts to assist eligible entities in meeting the costs of planning, developing, operating, and evaluating projects to—

"(1) establish a regional or State system for the coordination and management of education and training at various levels for allied health personnel and nurses within and among educational institutions and their clinical affiliates for the purpose of assuring that allied health and nurse manpower needs of the region or State are substantially met;

"(2) provide for the training and retraining of allied health personnel;

"(3) establish meaningful career ladders and programs of advancement for practicing allied health personnel;

"(4) establish new or improved methods of credentialing allied health personnel, including techniques for appropriate recognition (through equivalency and proficiency testing or otherwise) of previously acquired training or experience, developed in coordination with the Secretary's program under section 1123 of the Social Security Act.

"(b)(1) No grant may be made or contract entered into under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(2) The amount of any grant under subsection (a) shall be determined by the Secretary. Payments under such grants may be made in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary finds necessary.

"(c)(1) For purposes of subsection (a), the term 'eligible entities' means those entities which have had an application approved under paragraph (1) and which are—

"(A) schools, universities, or other educational entities which provide for allied health personnel education and training meeting such standards as the Secretary may by regulation prescribe,

"(B) States, political subdivisions of States, or regional and other public bodies representing States or political subdivisions of States or both, or

"(C) any entity which has a working arrangement (meeting such requirements as the Secretary may by regulation prescribe) with an entity described in subparagraph (A).

"(2) For purposes of this title, the term 'allied health personnel' means individuals with training and responsibilities for supporting, complementing, or supplementing the professional functions of physicians, dentists, and other health professionals in the delivery of health care to patients.

"(d)(1) Subject to the provisions of section 757(c) for the purpose of making payments under grants and contracts under subsection (a), there are authorized to be appropriated $27,200,000 for the fiscal year ending September 30, 1978; $30,000,000 for the fiscal year ending September 30, 1979; and $32,500,000 for the fiscal year ending September 30, 1980.

"(2) In each fiscal year for which funds are authorized to be appropriated under this subsection, 50 percent of the funds appropriated shall be reserved for award to training centers for allied health professions.

"TRAINEESHIPS FOR ADVANCED TRAINING OF ALLIED HEALTH PERSONNEL

"SEC. 794. (a) The Secretary may make grants to public and nonprofit private entities for traineeships provided by such entities for the advanced training of allied health personnel to teach in training programs for such personnel or to serve in administrative or supervisory positions.

"(b)(1) No grant may be made under subsection (a) unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe.

"(2) Payments under such grants (A) shall be limited to such amounts as the Secretary finds necessary to cover the cost of tuition and fees of, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for, the trainees; and (B) may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

"(c) Subject to the provisions of section 757(c) for the purposes of making payments under grants under subsection (a), there are authorized to be appropriated $4,500,000 for the fiscal year ending September 30, 1978; $5,000,000 for the fiscal year ending September 30, 1979; and $5,500,000 for the fiscal year ending September 30, 1980.

"EDUCATIONAL ASSISTANCE TO DISADVANTAGED INDIVIDUALS IN ALLIED HEALTH TRAINING

"SEC. 795. (a)(1) For the purpose of assisting individuals who, due to socioeconomic factors, are financially or otherwise disadvantaged (including individuals who are veterans of the Armed Forces with military training or experience in the health field) to undertake education to enter the allied health professions, the Secretary may make grants to and enter into contracts with schools of allied health, State and local educational agencies, and other public or private nonprofit entities to assist in meeting the costs described in paragraph (2).

"(2) A grant or contract under paragraph (1) may be used by the health or educational entity to meet the costs of—

"(A) identifying, recruiting, and selecting such individuals with a potential for education or training in the allied health professions,

"(B) facilitating the entry of those individuals into such an entity,

"(C) providing counseling or other services designed to assist those individuals to complete successfully their education at such an entity,

"(D) providing, for a period prior to the entry of those individuals into the regular course of education of such an entity, preliminary education designed to assist them to complete successfully such regular course of education at such an entity, or referring such individuals to institutions providing such preliminary education, and

"(E) publicizing existing sources of financial aid available to persons enrolled in the education program of such an entity or who are undertaking training necessary to qualify them to enroll in such a program.

"(b) Subject to the provisions of section 757(c), for payments under grants and contracts under subsection (a) there are authorized to be appropriated $1,100,000 for the fiscal year ending September 30, 1978; $1,200,000 for the fiscal year ending September 30, 1979; and $1,300,000 for the fiscal year ending September 30, 1980.".

TITLE XII—SPECIAL PROJECT GRANTS AND CONTRACTS

SEC. 1201. Effective October 1, 1978, title VII is amended by inserting after section 773 the following:

"Subpart II—Special Project Grants and Contracts

"GRANTS AND CONTRACTS

"SEC. 775. The Secretary may make grants and enter into contracts with any public or nonprofit private hospital, or school of medicine, or school of osteopathy, or a school of dentistry, or a graduate school of psychology, or a graduate school of social work, or any other public or nonprofit private entity to carry out the special projects described in section 776.

"SPECIAL PROJECTS

"Sec. 776. The projects eligible for grants and contracts under section 777 are as follows:

"(a) Programs for Physician Assistants and Expanded Function Dental Auxiliaries.—(1) Projects to plan, develop, and operate or maintain programs for the training of physician assistants.

"(2) Projects to plan, develop, and operate or maintain programs for the training of expanded function dental auxiliaries.

"(3) (A) No grant or contract may be made under paragraph (1) or (2) unless the application therefor contains or is supported by assurances satisfactory to the Secretary that the school or entity receiving the grant or contract, has appropriate mechanisms for placing graduates of the training program, with respect to which the application is submitted, in positions for which they have been trained.

"(B) No grant may be made or contract entered into for a project to plan, develop, and operate a program for the training of physician assistants or expanded function dental auxiliaries unless the application for the grant or contract contains assurances satisfactory to the Secretary that the program will upon its development meet all of the provisions (as provided in regulations of the Secretary) of paragraph (4) (A) or (B) as the case may be, and no grant may be made or contract entered into for a project to maintain such a program unless the application for the grant or contract contains assurances satisfactory to the Secretary that the program meets the regulations which are in effect under such paragraphs.

"(4) (A) (i) The term 'program for the training of physician assistants' means an educational program which (I) has as its objective the education of individuals who will, upon completion of their studies in the program be qualified to provide health care under the direct supervision of a physician and (II) meets regulations prescribed by the Secretary with subparagraph (ii).

"(ii) After consultation with appropriate professional organizations, the Secretary shall (within 180 days after the date of enactment of this subsection) prescribe regulations for programs for the training of physician assistants. Such regulations shall, as a minimum, require that such programs—

"(I) extend for at least one academic year and consist of supervised clinical practice, and at least four months (in the aggregate) of classroom instruction directed toward preparing students to deliver health care; and

"(II) have an enrollment of not less than 8 students.

"(B) (i) The term 'program for the training of expanded function dental auxiliaries' means an educational program which (I) has as its objective the education of individuals who will, upon completion of an accredited program of studies, be qualified to provide dental care under the supervision of a dentist, and (II) meets regulations prescribed by the Secretary in accordance with subparagraph (ii).

"(ii) After consultation with appropriate professional organizations, the Secretary shall (within 180 days after the date of enactment of this subsection) prescribe regulations for the program for the training of expanded function dental auxiliaries. Such regulations shall, as a minimum, require that such programs—

"(I) consist of supervised clinical practice and classroom instruction directed toward preparing students to assist in the delivery of dental care; and

"(II) have an enrollment of not less than 8 students.

"(5) The Secretary shall assure that the making of grants and entering into contracts under paragraph (1) shall be integrated with the making of grants and entering into contracts under section 882.

"(b) Start-Up Grants.—(1) Projects (A) to assist in the planning, development, or initial operation of new schools of medicine, osteopathy, or dentistry (i) which will conduct exceptionally innovative programs for training students in the ambulatory primary care in cooperation with accredited psychiatric practitioners or programs, as appropriate, or (ii) which will have as a major objective the provision of training opportunities for individuals from disadvantaged backgrounds, or (B) to assist in the planning, development, expansion, or initial operation of regional health profession schools granting a degree in one or more of the following professions: medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry or public health.

"(2) No grant shall be made or contract entered into under this subsection unless the Secretary determines that there is a national or regional need for additional numbers of the respective health professions concerned.

"(3) No grant shall be made or contract entered into under paragraph (1) (A) unless the Secretary has received adequate assurances that the proposed project will make a substantial contribution to the more effective or efficient training of physicians or dentists.

"(4) The Secretary shall give special consideration to each application for assistance under this section for—

"(A) schools which will be located in a health manpower shortage area (as defined in section 331); or

"(B) schools of medicine or osteopathy which would be located in a State which has no other such schools.

"(5) No grant shall be made or contract entered into under this subsection unless the Secretary has received adequate assurances from the applicant relating to financial and other resources and such other conditions as the Secretary may require.

"(6) The amount of any grant or contract under this subsection shall be determined by the Secretary. Payments under such grants or contracts may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

"(7) Payments pursuant to grants or contracts under this section may be made for (A) planning, (B) acquisition or renovation of facilities as necessary, and (C) other costs of establishment and initial operation of schools.

"(8) Projects to meet the planning costs for the training of students, enrolled in the last two years of a school—

"(A) the facilities of which are other than the principal teaching facilities of the school receiving the grants and which are existing Federal health care facilities or are other public or private health care facilities;

"(B) which are located in an area in which a medically underserved population resides.

No grant may be made under this paragraph with respect to any project unless before the fiscal year for which the grant is to be made a project has received at least $100,000 from non-Federal sources and has been approved by the legislature of the State in which it is located.

"(c) Area Health Education Center Programs.—(1) Projects to assist in the planning, development, and implementation of area health education center programs.

"(2) For the purpose of this subsection the term 'area health education center program' means a program which is organized and operated in a manner described and which is capable, as determined by the Secretary, of performing each of the functions described in paragraph (3). The Secretary shall, by regulation, establish standards and criteria for the requirements of this subsection.

"(3) An area health education center program shall be a cooperative program of one or more medical or osteopathic schools and one or more nonprofit private or public area health education centers.

"(A) Each medical or osteopathic school participating in an area health education center shall—

"(i) provide for the active participation in such program by individuals who are associated with the administration of the school, each of the departments (or specialties if the school has no such departments) of internal medicine, pediatrics, obstetrics and gynecology, surgery, psychiatry, and family medicine;

"(ii) provide that no less than 10 percent of all undergraduate medical or osteopathic clinical education of the school will be conducted in a geographic area or a medically underserved population served by an area health education center and at locations under the sponsorship of such center;

"(iii) be responsible for, or conduct, a nurse practitioner or physician assistant training program which gives special consideration to the enrollment of individuals from, or intending to practice in, the geographic area or a medically underserved population served by the area health education center of the program; and

"(iv) provide for the active participation of at least 2 other health science disciplines (including a school of dentistry if there is one affiliated with the university with which the school of medicine or osteopathy is affiliated) in the educational program conducted in the geographic area or a medically underserved population served by the area health education center.

"(B) Each area health education center shall—

"(i) provide for or conduct health education services, including but not limited to education in nutrition evaluation and counseling, throughout a specifically designated geographic area or a medically underserved population;

"(ii) assess the health manpower needs of the geographic area or a medically underserved population and assist in the planning and development of training programs to meet such needs;

"(iii) provide for or conduct an accredited family practice or general internal medicine residency training program with no fewer than six individuals beginning such program in each year;

"(iv) make continuing medical education opportunities available to all physicians and other health professionals practicing within the geographic area or a medically underserved population served by the center;

"(v) provide continuing medical education and other support services to all national health service corps practice sites (established under section 331) within the geographic area or a medically underserved population served by the center;

"(vi) encourage the utilization of nurse practitioners and physician assistants within the area served by the center, including the recruitment of individuals for training in such professions at the participating medical or osteopathic schools;

"(vii) arrange and support educational opportunities for medical and other students at health facilities, ambulatory care centers, and health agencies throughout the geographic area or a medically underserved population served by the center;

"(viii) arrange and support programs, including continuing education programs, to increase the competence of physicians and other health professionals and allied health personnel in areas of disease prevention;

"(ix) have an advisory board of which at least 75 percent of the members shall be individuals, both health service providers and consumers, who reside in the geographic area or a medically underserved population served by the center.

"(4) The Secretary is authorized to enter into contracts with medical and osteopathic schools, which have cooperative arrangements with area health education centers, for the planning, development, and operation of area health education center programs. In making contracts under this section the Secretary shall assure that—

"(A) 75 percent of the total funds provided to any school shall be expended by an area health education program in the geographic area or a medically underserved population served by the centers;

"(B) not more than 75 percent of the total operating funds of the program in any year shall be provided by the Secretary;

"(C) no contract shall provide funds solely for the planning or development of such program for a period of longer than two years; and

"(D) no contract is entered into until each health systems agency serving all or a portion of the area proposed to be included in the geographic area or a medically underserved population of such area health education program has approved the contract.

"(5) For the fiscal year ending September 30, 1978, and for the next fiscal year there are authorized to be appropriated such sums as may be necessary to continue payments to entities under contracts entered into under section 774 of the Public Health Service Act (as in effect on June 30, 1975) for area health education center programs, except that no payment shall be made to an entity under such a contract in the fiscal year ending September 30, 1979, unless the entity provides assurances satisfactory to the Secretary that not later than September 30, 1978, the program for which the payment is to be made will be a program described in section 783 of such Act (as so redesignated) and the entity and its application will meet the requirements of section 784. Such payments may be made only from such sums for the periods and the amounts specified in such contract. In making contracts under this section, the Secretary shall give special consideration to programs which will serve areas which have been designated as health manpower shortage areas.

"(6) After October 1, 1978, the Secretary shall assess the program of grants under section 784 (as so redesignated) to determine the effect of the projects funded under such grants on the distribution of health manpower and on the access to and the quality of health care in the areas in which such projects are located. Not later than September 30, 1979, the Secretary shall submit to the Congress a report on the assessment conducted under this subsection.

"(d) (1) FINANCIAL DISTRESS.—

"(A) (i) Projects to meet the costs of operation of any school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, and public health if they are in serious financial distress, or

"(ii) Projects to meet accreditation requirements, if they have special need to be assisted in meeting such requirements, and

"(B) To carry out appropriate operational, managerial and financial reforms on the basis of information obtained in comprehensive cost analysis study or on the basis of other relevant information.

"(2) Any grant under this subsection may be made upon such terms and conditions as the Secretary determines to be reasonable and necessary, including requirements that the school agree—

"(A) to disclose any financial information or data deemed by the Secretary to be necessary to determine the sources or causes of that school's financial distress,

"(B) to conduct a comprehensive cost analysis study in cooperation with the Secretary, and

"(C) to carry out appropriate operational, managerial, and financial reforms (as the Secretary may require), including the security of increased financial support from State or local governmental units or the increasing of tuition on the basis of information obtained in the course of a comprehensive cost analysis study or on the basis of other relevant information.

"(3) An application for a grant under this subsection must contain or be supported by assurances satisfactory to the Secretary that the applicant will expend in carrying out its function of a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or public health as the case may be, during the fiscal year for which such grant is sought an amount of funds (other than funds for construction, as determined by the Secretary) from non-Federal sources which is at least as great as the average amount of funds expended by such applicant for such training in the preceding two years.

"(4) In the case of a school which has received a grant under this subsection in the immediately preceding fiscal year, the amount granted to that school under this section in any fiscal year may not exceed 75 percent of the amount granted to that school under this subsection in that immediately preceding fiscal year.

"(5) The Secretary may provide to any school eligible for a grant under this subsection technical assistance to enable the school to conduct a comprehensive cost analysis study of its operations, to identify operational inefficiencies, or to develop or carry out appropriate operational, managerial, and financial reforms.

"(6) The Secretary shall prepare and submit on or before September 30, 1978, a report on the administration of this subsection. Such report shall give special emphasis to a description of the results of the cost analysis study carried out under paragraph (2) (B) and the operational, managerial, and financial reforms instituted under paragraph (2) (C).

"(e) GRANTS FOR TRAINING TRAINEESHIPS, AND FELLOWSHIPS IN GENERAL INTERNAL MEDICINE AND GENERAL PEDIATRICS.—(1) Projects to plan, develop, and operate an approved residency program in internal medicine or pediatrics which emphasize the training of residents for practice of general internal medicine or general pediatrics (as defined by the Secretary in regulations).

"(2) Projects which provide financial assistance (in the form of traineeships and fellowships) to residents who are participants in any such program, and who plan to specialize or work in the practice of general internal medicine or general pediatrics.

"(f) HUMAN BEHAVIOR AND PSYCHIATRY IN MEDICAL AND DENTAL PRACTICE.—(1) Projects to develop curriculums and primary care training programs in human behavior in the context of medical and dental practice in cooperation with accredited psychiatric practitioners or programs.

"(2) Projects to train health professionals to consult with and to develop working relationships between primary care physicians and psychiatrists.

"(3) Projects to train primary care physicians, dentists, and other health professionals to better understand human behavior in the context of medical and dental practice.

"(g) SPEECH PATHOLOGY, AUDIOLOGY, BIOANALYSIS, AND MEDICAL TECHNOLOGY.—Projects to encourage and assist in the planning, study, development, and implementation of graduate speech pathology, audiology, bioanalysis and medical technology training programs.

"(h) HUMANISM IN HEALTH CARE.—Projects to encourage and assist in the planning, study, development, and implementation of programs, particularly through centers of humanistic medicine, which include no less than 5 health professionals, to increase and diffuse knowledge which could increase the emphasis on humanism in health care and which would utilize such knowledge in the education and training of physicians, dentists, and other health personnel.

"(i) BIOMEDICAL EDUCATIONAL PROGRAMS.—(1) Projects to establish programs in biomedical education that combine undergraduate and medical training to educate primary care physicians, who, pursuant to a written agreement, undertake to provide health care to medically underserved populations. Such grants may be made to institutions which by contract or other agreements obtain instructional or related services from accredited schools of medicine as a part of the combined training.

"(2) Only 'institutions of higher education' as defined in section 1201(a) of the Higher Education Act of 1965, are eligible for assistance under this subsection.

"(j) EDUCATION OF UNITED STATES CITIZENS RETURNING FROM FOREIGN MEDICAL SCHOOLS.—Projects to plan, develop, and operate programs or substantially expand existing programs—

"(1) (A) to train United States citizens who have been enrolled in medical schools in foreign countries before July 1, 1976 and who have passed part I of the examination offered by the National Board of Medical Examiners, to enable them to meet the requirements for enrolling in schools of medicine or osteopathy in the United States as full-time students with advanced standing; or

"(B) to train United States citizens who have transferred from medical schools in foreign countries in which they were enrolled and who have enrolled in schools of medicine or osteopathy in the United States as full-time students with advanced standing before July 1, 1976.

The cost for which a grant under this subsection may be made may include the cost of identifying deficiencies in the medical school education of citizens of the United States who have been enrolled in foreign medical schools, the development of materials and methodology for correcting such deficiencies, and specialized training designed to prepare such United States citizens for enrollment in schools of medicine or osteopathy in the United States as full-time students with advanced standing. A grant under this paragraph may be made only for the cost of such programs for one school year.

"(2) More than one school of medicine or osteopathy may join in the submission of an application for a grant under paragraph (1).

"(3) The Secretary may not approve an application for a grant under this subsection unless such application contains assurances satisfactory to the Secretary that, every individual who—

"(A) satisfactorily completes the training program for which such grant is to be made will be qualified to be accepted for enrollment as a full-time student with advance standing in the school or schools which submitted such application, and

"(B) will be accepted for enrollment as a full-time student with advance standing in the school, or in one of the schools, which submitted such application.

"(4) Any school of medicine or osteopathy which receives a grant under this subsection in the fiscal year ending September 30, 1978, shall submit to the Secretary before June 30, 1979, a report on the deficiencies (if any) identified by the school in the foreign medical education of the students training by such school under the program for which such grant was made. The Secretary shall compile the reports submitted under the preceding sentence, and before September 30, 1979 submit to the Congress his analysis and evaluation of the information contained in such reports.

"(k) GRANTS FOR BILINGUAL HEALTH CLINICAL TRAINING CENTERS.—Projects for the purpose of establishing no more than four bilingual health clinical training centers, in affiliation with schools of medicine or osteopathy located in areas where a substantial proportion of the population is of limited English-speaking ability, which centers shall place special emphasis on the recruitment and training of personnel who are competent in the predominant language, other than English, spoken by individuals in such population, and shall plan, develop and operate projects (including clinical training, team training, and continuing education programs), in coordination with activities carried out under section 707, to increase the awareness of staff and trainees of the cultural sensitivities of such individuals with limited English-speaking ability as such sensitivities relate to health and health care services.

"(l) PROJECT GRANTS AND CONTRACTS FOR SCHOOLS OF OPTOMETRY, PHARMACY, AND PODIATRY.

"(1) SCHOOLS OF OPTOMETRY.—Projects to—

"(A) establish an affiliation between optometric training programs and medical, osteopathic, and other health professions training programs and academic institutions,

"(B) establish cooperative arrangements between optometric training programs and medical, osteopathic, and other health professions training programs and institutions,

"(C) plan, develop, and operate residency training programs in special optometric service or in meeting the optometric needs of special populations, or

"(D) plan, develop, and operate educational programs which provide training in the early detection and diagnosis of health problems which are accompanied by visual or ocular symptoms.

"(2) SCHOOLS OF PHARMACY.—

"(A) Projects to—

"(i) establish an affiliation between clinical pharmacy training programs and medical, osteopathic, and other health professions training programs and academic institutions, or

"(ii) establish cooperative arrangements between clinical pharmacy training programs and medical and osteopathic training in academic institutions.

"(B) Projects to improve, expand, or establish—

"(i) programs for the teaching of pharmacy in hospitals, extended care facilities and other clinical settings,

"(ii) programs for the teaching of clinical pharmacy or clinical pharmacology training, or both, and

"(iii) programs to train pharmacists to assist physicians and counsel patients on the appropriate use and effects of and reactions to drugs.

"(3) SCHOOLS OF PODIATRY.—Projects to—

"(A) establish an affiliation between podiatric training programs and medical, osteopathic, and other health professions, training programs and academic institutions, or

"(B) establishing cooperative arrangements between podiatric training programs and medical, osteopathic, and other health professions training programs and academic institutions.

"(4) TECHNICAL ASSISTANCE.—If the Secretary does not approve an application for a grant or contract under this section he shall advise the applicant of the reasons for disapproval of the application and provide the applicant such technical and other nonfinancial assistance as may be appropriate to enable the applicant to submit an approvable application.

"(m) GRANTS TO SCHOOLS OF SOCIAL WORK IN HEALTH CARE.—Projects to—

"(1) promote interprofessional training programs in health care with schools such as schools of medicine, osteopathy, public health, and nursing; and

"(2) establish and improve programs to increase the number and improve the training of social workers specializing in health care, particularly in long-term care, chronic illness, and primary care; and to develop programs for training social workers in health training and policy analysis.

"(n) HEALTH MANPOWER DEVELOPMENT GRANTS AND CONTRACTS.—

"(1) Projects to—

"(A) encourage new approaches to education in such health professions, including curriculum improvement, experimental teaching programs, and advances in the various fields of related education, to increase the effectiveness and promote the more efficient training and use of health professions personnel;

"(B) develop programs for cooperative interdisciplinary training among schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, nursing, public health, and allied health, including projects for training in the use of the team approach to the delivery of health services;

"(C) conduct demonstration programs of continuing education for physicians and dentists designed to increase the retention of such professionals in health manpower shortage areas or to specifically increase the competence with which specific clinical services are provided;

"(D) provide for increased emphasis on, and training (including continuing education) in, clinical pharmacy, clinical pharmacology, pharmakinetics, and drug information and counseling;

"(E) to provide for promotion of rational prescribing practices and training for prevention and intervention in the abuse of prescription and nonprescription drugs including the effects of drug-drug, drug-food, and drug-alcohol interreactions;

"(F) provide increased emphasis on, and training in, the aging process, including the social, behavioral, and biomedical aspects of the aging process, and training in the diagnosis, treatment, and prevention of diseases and related problems of the aged;

"(G) establish and expand programs for training health professionals in the science of human nutrition and the application of such science to health;

"(H) encourage and assist the development of programs to increase and diffuse knowledge to emphasize humanism in health care and to utilize such knowledge in the education of physicians and other health personnel;

"(I) assist in the development or operation of programs for health manpower planning, including cooperative programs among health and education planning bodies, in order that appropriate resource allocations can be made for health manpower education programs;

"(J) establish and operate programs designed to provide increased emphasis on, and training in, rehabilitation medicine and encourage greater knowledge of and sensitivity toward the special health problems of handicapped individuals;

"(K) encourage and assist in the development of programs to train physicians and other health professionals in prevention, diagnosis, treatment and rehabilitation of persons suffering from alcohol abuse and alcoholism;

"(L) establish and expand programs, including continuing education programs, to increase the competencies of health profession personnel in areas of prevention;

"(M) develop programs and demonstrations for appropriate health manpower for the trust territories and incorporated trust territories of the United States; and

"(N) plan, develop, operate, expand or evaluate predoctoral training programs for medical and osteopathic students in the field of family medicine; and

"(O) provide traineeships (including costs of training, fees, stipends, travel and subsistence expenses and dependency allowances) for full-time students to secure part of their education under a preceptor in primary health care (as designated by the Secretary) or in any field of health care when such training takes place in an area designated by the Secretary as a health manpower shortage area.

"(o) ENVIRONMENTAL HEALTH EDUCATION GRANTS.—Projects to provide financial support for the development of curriculums in the areas of environmental health, occupational health, and preventive medicine, such project grants to be jointly reviewed by the Bureau of Health Manpower Advisory Council and the National Institute of Environmental Health Science Advisory Council.

"(p) PROBLEMS RELATING TO WOMEN.—Projects to train primary care physicians, dentists, and other health professionals to better understand and have greater sensitivity toward the special health problems of women.

"(q) REGIONAL HEALTH PROFESSIONS SCHOOLS.—(1) The Secretary may make grants to or enter into contracts with public or nonprofit private entities or organizations for surveys or other activities to determine the feasibility of developing or expanding regional health professions schools or entities in various geographic locations throughout the United States, granting degrees in one or more of the following health professions: medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, and public health.

"(2) Grants may be awarded or contracts entered into under this subsection under such terms and conditions as may be prescribed by the Secretary.

"(3)(A) The Secretary may make grants to or enter into contracts with public or nonprofit private regional health professions schools or entities, or with combinations thereof, to assist in the planning, development, construction, and initial operation of new schools and the renovation, improvement and expansion of existing schools granting a degree in one or more of the following professions: medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, and public health.

"(B) Payments made by the Secretary pursuant to grants and contracts under this section may be made for (i) planning and design, (ii) construction, acquisition, renovation and rehabilitation of facilities as necessary, and (iii) other costs of establishment, renovation, expansion, improvement and operation of schools.

"(C) No grant shall be awarded or contract executed under this subsection unless the Secretary has received adequate assurances from the proposed health professions school or entity relating to financial and other resources and such other conditions as the Secretary may require.

"(D) No grant shall be awarded or contract entered into under this subsection unless the Secretary determines that there is a national or regional need for the health professions concerned or that the development or expansion of a regional health professions training program will lead to a more effective and efficient program of training.

"(4) Applicants eligible for assistance under this section shall be considered to be eligible applicants for assistance under any other provision of title VII.

"(r) Primary Dental Care Development.—Projects for curriculum development, training and demonstration of programs in general dentistry or perodontics.

"(s) United States Citizens Trained Abroad.—Projects to train citizens of the United States who have completed all of the formal requirements of a medical school located outside the United States and who have passed part I of the examination offered by the National Board of Medical Examiners, in a one year postgraduate, clinically oriented educational program within such medical and osteopathic schools and their affiliated hospitals for the purpose of enabling those individuals to subsequently enroll in approved residency training programs in the United States.

"(t) Psychology Training Programs.—For projects at graduate schools of psychology or associations of such schools to (1) promote interprofessional clinical training programs in health care with schools such as schools of medicine, osteopathy, public health, and nursing; and (2) establish and improve programs to increase the number and improve the training of clinical psychologists, particularly in long-term care, chronic illness, and primary care.

"(u) Implications of Advances in Biomedical Research.—Projects providing for increased emphasis on the ethical, legal, and moral implications of advances in biomedical research and technology with respect to the effects of such advances on individuals and society.

"(v) Dietetic Residencies.—(1) Projects to plan, develop, and operate, or participate in an approved professional dietetic training program (including continuing education and approved residency programs in dietetics) for medical students, interns, residents, and practicing physicians.

"(2) Projects to provide financial assistance (in the form of traineeships and fellowships) to medical students, interns, residents, practicing physicians, or other medical personnel who are in need thereof, who are participants in a program under paragraph (1), and who plan to specialize or work in the practice of dietetics.

"(3) Projects to plan, develop, and operate in other approved training programs in the field of dietetics.

"(w) Regional Systems of Continuing Education.—Projects to promote, through consortia of health professions schools and health services providers, community-based training of health professionals, regional systems of continuing education, rotation of health professions teaching staff to community health services facilities, or other programs to upgrade skills of health professionals in the community.

"(x) (1) There are authorized to be appropriated to carry out the purposes of this section $110,000,000 for the fiscal year ending September 30, 1978, $120,000,000 for the fiscal year ending September 30, 1979, and $130,000,000 for the fiscal year ending September 30, 1980.

"(2) From appropriations made available under paragraph (1) the Secretary shall allot not less than 50 percent of such appropriations for the purposes of subsection (a) through (d) of this section.

"EDUCATIONAL ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

"Sec. 758. (a) (1) For the purpose of assisting individuals from disadvantaged backgrounds as determined in accordance with criteria prescribed by the Secretary, to undertake education to enter a health profession, the Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, public health, dentistry, veterinary medicine, optometry, pharmacy, and podiatry and other public or private nonprofit health or educational entities to assist in meeting the costs described in paragraph (2).

"(2) A grant or contract under paragraph (1) may be used by the health or educational entity to meet the cost of—

"(A) identifying, recruiting, and selecting individuals from disadvantaged backgrounds, as so determined, for education and training in the health professions,

"(B) facilitating the entry of those individuals into such a school,

"(C) providing counseling or other services designed to assist those individuals to complete successfully their education at such a school,

"(D) providing, for a period prior to the entry of those individuals into the regular course of education of such a school, preliminary education designed to assist them to complete successfully such regular course of education at such a school, or referring such individuals to institutions providing such preliminary education, and

"(E) publicizing existing sources of financial aid available to persons enrolled in the education program of such a school or who are undertaking training necessary to qualify them to enroll in such a program.

"(b) There are authorized to be appropriated $20,000,000 for fiscal year 1976, $20,000,000 for fiscal year 1977, and $20,000,000 for fiscal year 1978, for payments under grants and contracts under subsection (a).".

TITLE XIII — OCCUPATIONAL HEALTH TRAINING AND EDUCATION CENTERS

Sec. 1301. Effective October 1, 1977, title VII is amended by adding after section 796 the following:

"Part K—Occupational Health Training

"OCCUPATIONAL HEALTH TRAINING AND EDUCATION CENTERS

"Sec. 798. (a) (1) The Secretary shall, by grants, assist public or private nonprofit colleges or universities, to establish, operate, and administer occupational health training and education centers through cooperative arrangements between schools of medicine and schools of public health (or other qualified departments or schools within such colleges or universities which are qualified to participate in carrying out activities set forth in this section).

"(2) To be eligible for a grant under this section, the applicant must demonstrate to the Secretary that it has or will have available full-time faculty members with training and experience in the field of occupational health and support from other faculty members trained in the occupational health sciences and other relevant disciplines and medical and public health specialties and that it will substantially carry out activities including, but not limited to—

"(A) the establishment and operation of a new graduate training program or, where appropriate, the substantial expansion of an existing graduate training program in the field of occupational health;

"(B) the development of curriculums and operation of continuing education for physicians, nurses, and industrial hygienists, and other professionals, practicing full- or part-time in the field of occupational health in order to upgrade their proficiency in delivering such services;

"(C) the establishment and operation of projects designed to increase admissions to and enrollment in occupational health programs of individuals who by virtue of their background and interests are likely to engage in the delivery of occupational health services;

"(D) the establishment of traineeships for industrial hygiene students;

"(E) the establishment and operation of medical residencies in the field of occupational health at a level of financial support comparable to that provided to such individuals for residencies in other medical specialties.

"(F) the establishment and operation of traineeships in the field of occupational health for medical students, residents, nursing students, nurses, physicians, sanitarians, and other relevant disciplines;

"(G) the establishment and operation of short-term traineeships for continuing education in the field of occupational health for any of the health profession disciplines dealing with problems of occupational health; and

"(H) the appointment of full-time staff for the center, who have training, experience and demonstrated capacity for leadership in the field of occupational health.

"(b) To the extent feasible, the Secretary shall approve, in accordance with the requirements of subsection (a), at least 10 such centers and at least one of which shall be located in each region of the Department of Health, Education, and Welfare.

"(c) Subject to the provisions of section 757(c), for the purpose of making grants to carry out this section, there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1977, $5,000,000 for the fiscal year ending September 30, 1978, $8,000,000 for the fiscal year ending September 30, 1979, and $10,000,000 for the fiscal year ending September 30, 1980.".

TITLE XIV—ASSISTANCE FOR CONSTRUCTION OF AMBULATORY PRIMARY HEALTH CARE TEACHING FACILITIES

Sec. 1401. Section 720 of the Act is amended to read as follows:

"Sec. 720. (a) (1) The Secretary may make grants, to a public or nonprofit private entity, to assist in the construction of ambulatory, primary care teaching facilities for the training of physicians and dentists.

"(2) For purposes of this section, the term 'ambulatory, primary care teaching facilities' means areas dedicated for the training of students in the diagnosis and treatment of ambulatory patients and primarily in the specialties of family practice, general pediatrics, general internal medicine, dentistry, and pedodontics. Such areas may include examination rooms, clinical laboratories, libraries, classrooms, offices, and other areas for clinical or research purposes necessary for, and appropriate to the conduct of comprehensive ambulatory, primary care training of physicians and dentists in such specialties.

"(b) (1) In making grants under this section, the Secretary shall provide that no grant shall—

"(A) exceed 50 percent of the total cost of such facility; or

"(B) exceed $1,000,000 for any such facility.

"(2) (A) In making grants under this section, the Secretary shall give special consideration, in regard to funding (i) to applicants who received or who will receive a grant or contract under section 767 and (ii) to applicants for projects in States which have no such facilities.

"(B) The Secretary may make concurrent awards under this section and section 767.

"(c) (1) Subject to the provisions of section 757(c) there are authorized to be appropriated $80,000,000 for the fiscal year ending September 30, 1978, and $40,000,000 for the fiscal year ending September 30, 1979.

"(2) Funds appropriated under this section may be expended by the Secretary in the year of appropriation or the subsequent two fiscal years.".

LOAN GUARANTEES AND INTEREST SUBSIDIES

SEC. 1402. (a) Subsections (a) and (b) o section 729 are amended by striking "June 30, 1974" and inserting in lieu thereof "September 30, 1980".

(b) The second sentence of section 729(e) is amended by striking out "and" after "June 30, 1973," and by striking out the period at the end thereof and by inserting in lieu thereof a comma and the following: $3,000,000 for the fiscal year ending September 30, 1978, $3,000,000 for the fiscal year ending September 30, 1979, and $3,000,000 for the fiscal year ending September 30, 1980.".

(c)(1) The third sentence of section 729(a) is amended to read as follows: "No such loan guarantee may, except under special circumstances and under such conditions as are prescribed by regulations, apply to any amount which, when added to any grant under this part or any other law of the United States, exceeds 90 percent of the cost of the construction of the project.".

(2) The amendment made by paragraph (1) shall apply with respect to loans guaranteed under section 729(a) of the Public Health Service Act (redesignated section 727(b) by section 304(b) of this Act) after June 30, 1976.

(d) Subsection (a) of section 729 is amended by inserting "or the Federal Financing Bank" after "non-Federal lender".

SEC. 1403. (a) Section 721(b) is amended to read as follows:

"(b) A grant under this part may be made only if the application therefor is approved by the Secretary upon his determination that—

"(1) the applicant meets the eligibility conditions set forth in section 720;

"(2) the application contains or is supported by reasonable assurances that (A) the facility is intended to be used for purposes for which the application has been made, (B) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, and (C) sufficient funds will be available, when construction is completed, for effective use of the facility for the training for which it is being constructed;

"(3) the plans and specifications are in accordance with regulations relating to minimum standards of construction and equipment;

"(4) the application contains or is supported by adequate assurance that any laborer or mechanic employed by a contractor or subcontractors in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a–5, known as the Davis-Bacon Act).

The Secretary of Labor shall have with respect to the labor standards specified in paragraph (7) the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).".

(b) Section 721 is amended by striking subsections (c), (d), and (e), in their entirety.

SEC. 1404. (a) Section 722 is amended by—

(1) repealing subsections (a) and (d); and

(2) redesignating subsections (b) and (c) as subsections (a) and (b) respectively.

(b) Section 723 is amended to read as follows:

"SEC. 723. If, within 20 years after completion of any construction for which funds have been received under this part—

"(a) the applicant or other owner of the facility shall cease to be a public or nonprofit private entity; or

"(b) the facility shall cease to be used for the training purposes for which such funds were provided, unless the Secretary determines, in accordance with regulations which he shall promulgate, that there is a significant public purpose and good cause for releasing the applicant or other owner from the obligation to do so; or

"(c) the facility is used for sectarian instruction or as a place for religious worship.

The United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.".

(c) Section 726 is repealed.

(d) Section 727(a) is amended by striking "institutions" each time it appears and by inserting in lieu thereof "entities".

(e) Section 728 is amended by—

(1) striking "(1)"; and

(2) striking "and (2) to State or interstate planning agencies established to plan programs for relieving shortages of training capacity for health personnel.".

(f) The heading for part B of title VII of the Act is redesignated as part C.

SEC. 1404. The amendments made by this title shall take effect October 1, 1978.

TITLE XV—MISCELLANEOUS

NURSE TRAINEESHIPS

SEC. 1501. (a) Section 822 (42 U.S.C. 296m) is amended by—

(1) inserting in the last sentence of paragraph (1) of subsection (a) "for the training of nurse practitioners who will practice in urban or rural health manpower shortage areas (as defined in section 331) and" after "contracts for programs";

(2) inserting after subsection (a) the following:

"(b)(1) The Secretary may make grants and enter into contracts with schools of nursing, medicine, and public health, public or nonprofit private hospitals, and other nonprofit entities to establish and operate traineeship programs to train nurse practitioners who are residents of urban or rural health manpower shortage areas (as defined in section 331).

"(2) Traineeships funded under this subsection shall include 100 percent of the costs of tuition, reasonable living and moving expenses (including stipends), books, fees, and necessary transportation.

"(3) A traineeship funded under this paragraph shall not be awarded unless the recipient enters into a commitment with the Secretary to practice his new profession in an urban or rural health manpower shortage area (as defined in section 331).".

(3) redesignating subsections (b), (c), and (d) and all references thereto as subsections (c), (d), and (e), respectively.

(b) Clause (3) of section 830(a) is repealed.

(c) The amendments made by this section shall become effective upon the date of enactment of this Act.

SPECIAL MANPOWER PROGRAMS

SEC. 1502. Section 301 of the Public Health Service Act is amended by inserting:

"(i) Make grants-in-aid to universities, hospitals, laboratories, and other public or private institutions for such projects as are recommended by the National Advisory Environmental Health Sciences Council for the purpose of providing institutional as well as individual support for curriculum development and support of predoctoral, postdoctoral and special manpower development programs, such support to include, but not to be limited to, stipends, special allowances and training research costs associated with such environmental health sciences manpower development projects.".

HEALTH PLANNING

SEC. 1503. (a) Section 1512(b)(3)(c)(ii)(I) is amended by inserting "optometrists," after "nurses,".

(b) Section 1531(3)(A) is amended by inserting "optometrist," after "podiatrist,".

TITLE XVI—RADIATION HEALTH SAFETY

SHORT TITLE

SEC. 1601. This title may be cited as the "Radiation Health and Safety Act of 1975".

SEC. 1602. It is the purpose of this title to—

(a) assure adequate training of radiologic technologists by providing for the establishment of criteria and minimum standards for accrediting schools for the training of radiologic technologists;

(b) provide for the establishment of criteria and minimum standards for the licensure of radiologic technologists; and

(c) provide for State adoption and administration of programs for the accreditation of education institutions training radiologic technologists and programs for the licensure of radiologic technologists, with authority for the Secretary to take necessary action in the absence of State action.

SEC. 1603. Title III of the Public Health Service Act is amended by inserting after section 360F, the following:

"Subpart 3.—Radiologic Technologists

"DECLARATION OF PURPOSE

"SEC. 360G. The Congress finds and declares—

"(a) that, consistent with the recommendations of the National Council on Radiation Protection and Measurement and the International Commission on Radiological Protection, it is in the national interest and in the interest of public health and safety to minimize exposure of the public to potentialily hazardous radiation from all sources;

"(b) while the operation and the use of radiologic equipment and methods is essential in modern medicine, even the most advanced radiologic equipment and procedures will not adequately protect the health and safety of either the consumer-patient subjected to radiologic procedures or the individuals performing such radiologic procedures, including their progeny, unless the individuals performing radiologic procedures are fully qualified by reason of training and experience in the operation of radiologic equipment or in the performance of radiologic procedures so as to avoid unnecessary consumer-patient and operator exposure to unnecessary radiation and to assure efficacious consumer-patient radiologic services;

"(c) that it is in the overall public health interest to have an adequate and continuing supply of well-trained radiologic technologists and that any person who operates radiologic equipment or administers radiologic procedures to consumer-patients should be required to demonstrate competence by training, experience, and examination;

"(d) that the protection of the public health and safety from unnecessary exposure to potentially hazardous radiation from all sources is the primary responsibility of State and local government, within minimum criteria and standards established by the Federal Government; and

"(e) that, consistent with the recommendations of (1) the National Advisory Committee on Radiation to the Surgeon General in 1966, (2) the Secretary's Task Force on Environmental Health and Related Problems in June 1967, (3) the Surgeon General's Medical X-ray Advisory Committee on Public Health Considerations in Medical Diagnostic Radiology in October 1967, (4) the 1970 report of the Secretary to the Congress pursuant to the Radiation Control for Health and Safety Act of 1968, (5) the National Academy of Sciences-National Research Council's Advisory Committee on the Biological Effects of Ionizing Radiations in November 1972, and (6) the Conference of Radiation Control Program Directors in May 1974, it is in the national interest and in the interest of public health and safety to provide for mandatory licensure of persons administering potentially hazardous radiation to consumer-patients.

"RECOMMENDED CRITERIA AND STANDARDS

"SEC. 360H. (a) The Secretary shall, as soon as practicable but not later than one year after the date of enactment of this subpart, develop and issue criteria and minimum standards for the accreditation of education institutions conducting programs for the training of radiologic technologists and for use in the accreditation of education institutions conducting programs for the training of medical and dental practitioners, dental hygienists, and dental assistants. Such criteria and standards shall be published in the Federal Register.

"(b)(1) The Secretary shall, as soon as practicable, but not later than one year after the date of enactment of this subpart, develop and issue to the States criteria and minimum standards for licensure of radiologic technologists, and provide such other advice and assistance to the States as he deems necessary for the effective implementation of this subpart. Such criteria and minimum standards shall distinguish between the following categories of specialization: senior radiologic technologists, medical radiologic technologists, dental radiologic technologists, radiation therapy technologists, nuclear medicine technologists, photo-roentgen technician, and technologist-in-training. The Secretary may provide in such criteria and minimum standards that graduation from an educational institution for the training of radiologic technologists accredited pursuant to this subpart satisfies the requirements for a provisional license as a technologist-in-training conditioned on licensure within one year in one or more categories of specialization. Such criteria and standards shall be published in the Federal Register. The Secretary may designate other categories of specialization or levels of competence for the purpose of licensure if he finds that such additional categories are required to assure adequate protection of public health from unnecessary radiation exposure or to assure efficacious consumer-patient radiologic services.

"(2) The Secretary shall, concurrent with the development and issuance of criteria and standards under paragraph (1) of this section, review and evaluate any voluntary certification programs in existence on the date of enactment of this subpart, and he shall, based on such review and evaluation, determine whether such programs meet the criteria and standards issued pursuant to this section. If he is satisfied that a program meets such criteria and standards he shall, within one year thereafter, license those individuals who have been certified under such programs in the appropriate categories of specialization established pursuant to paragraph (1) of this subsection.

"(c) In establishing criteria and minimum standards under this section the Secretary shall consult with the Environmental Protection Agency, State health departments, and appropriate professional organizations.

"(d) The Secretary shall give to the States such other advice and assistance as will foster enactment and enforcement of appropriate laws and standards. Such advice and assistance may include model laws and training curriculums, and training aids.

"(e) The Secretary shall, from time to time, revise the criteria and standards issued by him pursuant to this subpart.

"ACCREDITATION AND LICENSURE

"SEC. 3601. (a) The training and licensure of radiologic technologists who intend to apply radiation to humans for diagnostic or therapeutic purposes in any State or States shall be subject to the provisions of this subpart.

"(b) Consistent with the policy declaration of this subpart, State and local governments shall be encouraged to minimize exposures of the public to potentially hazardous radiation from all sources and shall not be displaced by Federal action except as otherwise provided under subsection (c) or (d).

"(c) Upon issuance of the criteria and minimum standards pursuant to section 360H for the accreditation of educational institutions, the Governor of a State may file with the Secretary a letter of intent that such State will within two years of the issuance of the criteria and minimum standards adopt as a minimum, the standards of accreditation of educational institutions issued by the Secretary. If, after two years, a State fails to adopt such standards, or is unable to adopt such standards or more stringent standards, the minimum standards issued by the Secretary for the accreditation of educational institutions shall become the standards in such State. If the Secretary determines that such State standards are consistent with the criteria and minimum standards issued pursuant to section 360H; that an adequate means of enforcement by State action is provided; and that the State program is consistent with the purposes of this subpart, such State standards shall be the standards applicable in such State.

"(d) Upon application of a Governor, the Secretary may grant an extension under subsection (c) for not more than two years if after review the Secretary determines that good faith efforts have been made by the State and reasonable assurance is provided that an effective program to implement the purposes of this subpart will be provided by the State within the period of the extension.

"(e)(1) After receiving any criteria and minimum standards issued pursuant to section 360H for the licensure of radiologic technologists, the Governor of a State may file a letter of intent that such State will within two years of the issuance of the criteria and minimum standards adopt as a minimum the standards for licensure of radiologic technologists issued by the Secretary. If, after two years, a Governor fails to adopt such standards, or is unable to adopt such standards or more stringent standards, the minimum standards issued by the Secretary for licensure of radiologic technologists shall become the standards in such State. If the Secretary determines that such State standards are consistent with the criteria and minimum standards issued pursuant to section 360H; that an adequate means of enforcement by State action is provided; and that the State program is consistent with the purposes of this subpart, such State standards shall be the standards applicable in such State.

"(2) Notwithstanding any other provision of this section, in the case of a State which has, prior to the effective date of standards and criteria promulgated pursuant to this subpart, established standards for the accreditation or licensure of radiologic technologists, such State shall be deemed to be in compliance with this section unless the Secretary determines, after notice and hearing, that the standards of such State do not meet the minimum standards prescribed by the Secretary pursuant to this section or the conditions for approval of a State program set forth in paragraph (1) of this subsection.

"(f) The Secretary may authorize appropriate professional organizations to provide accreditation and licensing under this section if he determines that such organization will adhere to the criteria and minimum standards issued pursuant to section 360H. For the purposes of accreditation, the Secretary shall, to the maximum extent practicable, consistent with the purposes of this subpart, utilize organizations recognized by the Commissioner of Education for such purposes.

"(g) The Secretary may make grants to States or professional organizations designated pursuant to subsection (f) of this section in an amount up to two-thirds of the first year and one-third of the second year costs of planning, developing, or establishing programs to carry out the purposes of this subpart.

"(h) The Secretary may make grants to educational institutions under title VII of this Act to carry out the purposes of this subpart.

"(i) The Secretary shall annually review programs established pursuant to this subpart and shall suspend the effectiveness of any standards or regulations as to accreditation or as to licensure with respect to any State or certified professional licensing organization designated pursuant to subsection (f) when he determines that the program of any State or organization is inconsistent with the purposes of this subpart or with revised criteria and minimum standards issued pursuant to subsection 360H(e).

"PROHIBITED ACTS

"SEC. 360J. (a) Upon the effective date or regulations and standards established pursuant to the subpart, it shall be unlawful for an individual to apply potentially hazardous radiation to humans for diagnostic or therapeutic purposes unless he is a licensed medical practitioner (including licensed chiropractors and licensed osteopaths), a licensed dentist, a licensed dental hygienist, or holds a valid radiologic technologist license issued in accordance with standards promulgated pursuant to section 360H, except, for a licensed photo-roentgen technologist or a licensed technologist-in-training who must be under the supervision of a radiologist or a more specialized radiologic technologist as provided for in section 360H.

"(b) The district courts of the United States shall have jurisdiction, for cause shown, to restrain violations of this section. The district courts of the United States shall also have jurisdiction in accordance with section 1355 of title 28 of the United States Code to enforce the provisions of this section.

"(c)(1) Any violation of this subsection by an individual applying potentially hazardous radiation to human beings for diagnostic or therapeutic purposes shall be subject to a civil penalty of not more than $1,000. For the purposes of this section, any such violation shall be with respect to each act or omission made unlawful by this section.

"(2) Any such civil penalty may on application be remitted or mitigated by the Secretary. In determining the amount of such penalty, or whether it should be remitted or mitigated and in what amount, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, may be deducted from any sums owing by the United States to the person charged.

"(d) Actions under this section may be brought in the district court of the United States for the district wherein any act or omission or transaction constituting the violation occurred, or in such court for the district where the defendant is found or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found.

"(e) Nothing in this subpart shall be construed as requiring the Secretary to report for the institution of proceedings minor violations of this subpart whenever he believes that the public interest will be adequately served by a suitable written notice or warning.

"(f) The remedies provided for in this section shall be in addition to and not in substitution for any other remedies provided by law.".

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment in disagreement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves that the House recede from its disagreement to the amendment of the Senate to the bill H.R. 5546, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE: REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Health Professions Educational Assistance Act of 1976".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress finds and declares that—

(1) the availability of high quality health care to all Americans is a national goal;

(2) the availability of high quality health care is, to a substantial extent, dependent upon—

(A) the availability of qualified health professions personnel; and

(B) the availability of adequate numbers of physicians engaged in the delivery of primary care, including family practice, general internal medicine, and general pediatrics, and in the various specialties, but numbers which do not exceed the need for physicians in such specialties;

(3) there are many areas in the United States which are unable to attract adequate numbers of health professions personnel to meet their health care needs; and

(4) physician specialization has resulted in inadequate numbers of physicians engaged in the delivery of primary care.

(b) The Congress further finds and declares that—

(1) health professions personnel are a national health resource and the Federal government shares the responsibility of assuring that such qualified personnel are available to meet the health care needs of the American people;

(2) it is therefore appropriate to provide support for the education and training of such personnel; and

(3) at the same time it is appropriate to provide such support in a manner which will assure the availability of health professions personnel to all of the American people.

(c) The Congress further finds and declares that there is no longer an insufficient number of physicians and surgeons in the United States and that there is no further need for the admission of alien physicians and surgeons under the Immigration and Nationality Act.

TITLE I—EXTENSION OF CURRENT AUTHORITIES THROUGH FISCAL YEAR 1977

EXTENSION

SEC. 101. (a)(1) Section 312(a) (relating to traineeships for professional public health personnel) is amended (A) by striking out "and" after "1973,", and (B) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $9,900,000 for the fiscal year ending September 30, 1977".

(2) Section 313(a) (relating to project grants for graduate training in public health) is amended (A) by striking out "and" after "1973,", and (B) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $6,000,000 for the fiscal year ending September 1977".

(3) Section 313(c) is amended (A) by striking out "and" after "1973,", and (B) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $6,400,000 for the fiscal year ending September 30, 1977".

(b) Section 329(h) (relating to the National Health Service Corps) is amended (1) by striking out "and" after "1975;", and (2) by striking out "1976" and inserting in lieu thereof "1976; and $34,000,000 for the fiscal year ending September 30, 1977".

(c) Section 720 (relating to grants for construction of teaching facilities) is amended (1) by striking out "and" after "1975;" and (2) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $103,000,000 for the fiscal year ending September 30, 1977".

(d) Section 729 (relating to loan guarantees and interest subsidies) is amended—

(1) by striking "June 30, 1974" in subsections (a) and (b) and inserting in lieu thereof "September 30, 1977"; and

(2) by inserting after "1974" in subsection (e) the following: ", or in any of the next three fiscal years".

(e) Section 742 (relating to health professions student loans) is amended (1) by striking out "and" after "1975," the first time it occurs, and (2) by inserting after "1976" the following: ", and $39,100,000 for the fiscal year ending September 30, 1977".

(f) Section 747(d) (relating to loans for students in foreign medical schools) is amended by striking out "two" and inserting in lieu thereof "four".

(g) The section 767 entitled "GRANTS FOR TRAINING, TRAINEESHIPS, AND FELLOWSHIPS IN FAMILY MEDICINE" is amended (1) by striking out "and" after "1973,", and (2) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $39,000,000 for the fiscal year ending September 30, 1977".

(h) The section 768 entitled "GRANTS FOR SUPPORT OF POST-GRADUATE TRAINING PROGRAMS FOR PHYSICIANS AND DENTISTS" is amended—

(1) by striking out "for the fiscal year ending June 30, 1974" in subsection (a) and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976"; and

(2) by inserting "or in the next two fiscal years" after "1974," in subsection (b)(3)(B).

(i) Section 769(a) (relating to grants for training for health professions teaching personnel) is amended by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976."

(j) Section 769A (relating to grants for computer technology) is amended by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, and September 30, 1977".

(k)(1) Paragraph (1) of section 770(j) (relating to capitation grants) is amended (A) by striking out "and" after "1973", and (B) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $133,700,000 for the fiscal year ending September 30, 1977".

(2) Paragraph (2) of such section is amended (A) by striking out "and" after "1973,", and (B) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $29,300,000 for the fiscal year ending September 30, 1977".

(l) Section 771(a)(6) (relating to start-up assistance) is amended (1) by striking out "two fiscal years" and inserting in lieu thereof "four fiscal years, and not to exceed $5,100,000 for the fiscal year ending September 30, 1977", (2) by striking out "July 1, 1974" in subsection (b)(2) and inserting in lieu thereof "October 1, 1977", and (3) by striking out "June 30, 1975" in such subsection and inserting in lieu thereof "September 30, 1978".

(m) Section 772(d) (relating to special project grants and contracts) is amended (1) by striking out "and" after "1973,", and (2) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $40,852,000 for the fiscal year ending September 30, 1977".

(n) Section 773(a) (relating to financial distress grants) is amended (1) by striking out "and" after "1973,", and (2) by striking out "for the fiscal year ending June 30, 1974" the first time it appears and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $5,400,000 for the fiscal year ending September 30, 1977".

(o) Section 774(e) (relating to education initiative awards) is amended (1) by striking out "and" after "1973,", and (2) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $41,170,000 for the fiscal year ending September 30, 1977".

(p) Section 780 (relating to scholarship grants) is amended (1) by striking out "the next fiscal year" in subsection (b) and inserting in lieu thereof "the next three fiscal years", (2) by striking out "1974" in such subsection and subsection (c)(1)(B) and inserting in lieu thereof "1976", (3) by striking out in subsections (b) and (c)(1)(B) "June 30, 1975" and inserting in lieu thereof "September 30, 1977" and (4) by striking out "two" in subsection (c)(1)(A) and inserting in lieu thereof "four".

(q) The section 785 entitled "'SCHOLARSHIP GRANTS FOR STUDY ABROAD" is amended (1) by striking "two" in subsection (e)(1) and inserting in lieu thereof "four", (2) by striking out "June 30, 1975" in subsection (e)(2) and inserting in lieu thereof September 30, 1977", and (3) by striking out in such subsection "1974" and inserting in lieu thereof "1976".

(r) Section 786 (relating to physician shortage area scholarships) is amended (1) by striking out "June 30, 1975" in the second sentence and inserting in lieu thereof "September 30, 1977", and (2) by striking out "1974" in that sentence and inserting in lieu thereof "1976".

(s)(1) Section 792(b) (relating to special improvement grants) is amended (A) by striking out "and" after "1973,", and (B) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $11,400,000 for the fiscal year ending September 30, 1977".

(2) Section 792(c)(1) (relating to special projects) is amended (A) by striking out "and" after "1973;", and (B) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $15,400,000 for the fiscal year ending September 30, 1977".

(3) Section 793(a) (relating to traineeships for advanced training) is amended (A) by striking out "and" after "1973,", and (B) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $3,900,000 for the fiscal year ending September 30, 1977".

(4) Section 794A(b) (relating to assistance for recruitment) is amended (A) by striking out "and" after "1973;", and (B) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and $109,000 for the fiscal year ending September 30, 1977".

(t) Section 225(i) (relating to Public Health and National Health Service Corps scholarships) is amended (1) by striking out "and" after "1974,", and (2) by striking out "for the fiscal year ending June 30, 1975" and inserting in lieu thereof "each for the fiscal years ending June 30, 1975, and June 30, 1976, and $40,000,000 for the fiscal year ending September 30, 1977".

TITLE II—GENERAL PROVISIONS

NEW GENERAL PROVISIONS

SEC. 201. (a) Sections 701 through 711 are repealed.

(b) The following section is inserted in part A of title VII:

"LIMITATION ON USE OF APPROPRIATIONS

"SEC. 700. (a) Notwithstanding any other provision of law, with respect to any fiscal year beginning after September 30, 1977, no funds appropriated for such fiscal year may be made available for obligation or expenditure for the purpose of carrying out any provision of this title if the sum of the amounts appropriated for such fiscal year for scholarships under subpart IV of part C of title VII (relating to National Health Service Corps scholarships) and for the purpose of making grants under section 758 (relating to disadvantaged student scholarships) is less than the lesser of—

"(1) the sum of the amounts authorized to be appropriated for such fiscal year under such subpart and section, or

"(2) 50 percent of the sum of the amounts appropriated for such fiscal year under this title.

"(b) Subsection (a) shall not apply with respect to a fiscal year if less than 75 percent of the sum of the amounts authorized to be appropriated for such fiscal year under paragraphs (1), (2), and (3) of section 770 (e) (relating to capitation grants for medical, osteopathic, and dental schools) is appropriated for such fiscal year under such paragraphs.".

(c) Sections 724, 725, 799, and 799A are transferred to part A, inserted after section 700 (added by subsection (b)), and redesignated as sections 701, 702, 703, and 704, respectively.

(d)(1) The heading for part A of title VII is amended to read as follows:

"PART A—GENERAL PROVISIONS".

(2) The heading for part H of title VII is repealed.

(e) Section 701 (as so redesignated) is amended—

(1) by striking out "As used in this part and parts C, E, and F—" and inserting in lieu thereof "For purposes of this title:";

(2) by inserting "or an equivalent degree" after "degree in public health" in paragraph (4); and

(3) by adding at the end the following new paragraphs:

"(7)(A) The term 'program for the training of physician assistants' means an educational program which (i) has as its objective the education of individuals who will, upon completion of their studies in the program, be qualified to effectively provide health care under the supervision of a physician and (ii) meets regulations prescribed by the Secretary in accordance with subparagraph (B).

"(B) After consultation with appropriate professional organizations, the Secretary shall (within 180 days after the date of enactment of this paragraph) prescribe regulations for programs for the training of physician assistants. Such regulations shall, as a minimum, require that such a program—

"(i) extend for at least one academic year and consist of—

"(I) supervised clinical practice, and

"(II) at least four months (in the aggregate) of classroom instruction,

directed toward preparing students to deliver health care; and

"(ii) have an enrollment of not less than eight students.

"(8)(A) The term 'program for the training of expanded function dental auxiliaries' means an educational program which (i) has as its objective the education of individuals who will, upon completion of an accredited program of studies, be qualified to assist in the provision of dental care under the supervision of a dentist and (ii) meets regulations prescribed by the Secretary in accordance with subparagraph (B).

"(B) After consultation with appropriate professional organizations, the Secretary shall (within 180 days after the date of enactment of this paragraph) prescribe regulations for programs for the training of expanded function dental auxiliaries. Such regulations shall, as a minimum, require that such a program—

"(i) extend for at least one academic year and consist of—

"(I) supervised clinical practice, and

"(II) at least four months (in the aggregate) of classroom instruction,

directed toward preparing students to deliver dental care; and

"(ii) have an enrollment of not less than eight students.

"(9) The term 'State' includes, in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"(10) The term 'Department' means the Department of Health, Education, and Welfare.

"(11) The term 'medical residency training program' means a program which trains graduates of schools of medicine and schools of osteopathy in a medical specialty recognized by the Liaison Committee for Specialty Boards established jointly by the American Board of Medical Specialties and the Council on Medical Education of the American Medical Association and which provides the graduate education required by the specialty board (recognized by such Liaison Committee) for certification in such specialty. Such term does not include a residency training program in an osteopathic hospital.".

ADVISORY COUNCIL

SEC. 202. (a)(1) The second sentence of subsection (a) of section 702 (as so redesignated) is amended to read as follows: "Of the appointed members of the Council (1) twelve shall be representatives of the health professions schools assisted under programs authorized by this title, including at least six persons experienced in university administration and at least four representatives of schools of veterinary medicine, optometry, pharmacy, podiatry, and public health, and entities which may receive a grant under section 791, (2) two shall be full-time students enrolled in health professions schools, and (3) six shall be members of the general public.".

(2) Section 702 (as so redesignated) is amended by adding at the end thereof the following new subsection:

"(d) Section 14 of the Federal Advisory Committee Act shall not apply with respect to the Council.".

(3) The amendment made by paragraph (1) with respect to compositions of the National Advisory Council on Health Professions Education shall apply with respect to appointments made to the Council after October 1, 1976, and the Secretary of Health, Education, and Welfare shall make appointments to the Council after such date in a manner which will bring about, at the earliest feasible time, the Council composition prescribed by the amendment.

(b)(1) Section 702 (as so redesignated) is amended by striking out "E, and F" in subsection (a) and inserting in lieu thereof "E, F, and G".

(2) Section 702 (as so redesignated) is amended by striking out "parts A and G" in subsections (b) and (c) and inserting in lieu thereof "subpart II of part G".

ADVANCE FUNDING AUTHORITY

SEC. 203. Section 703 (as so redesignated) is amended to read as follows:

"ADVANCE FUNDING

"SEC. 703. (a) An appropriation under an authorization of appropriations for grants or contracts under this title for any fiscal year may be made at any time before that fiscal year and may be included in an Act making an appropriation under such authorization for another fiscal year; but no funds may be made available from any appropriation under such authorization for obligation for such grants or contracts before the fiscal year for which such appropriation is authorized.

"(b) Subsection (a) shall not apply with respect to grants under section 770 (relating to capitation).".

RECORDS AND AUDITS, CONTRACTS

SEC. 204. Part A of title VII is amended by adding after section 704 (as so redesignated) the following new sections:

"RECORDS AND AUDITS

"SEC. 705. (a) Each entity which receives a grant, loan, loan guarantee, or interest subsidy or which enters into a contract with the Secretary under this title, shall establish and maintain such records as the Secretary shall by regulation or order require. Such records shall include, among other things, records which completely disclose the amount and disposition of the total amount of funds received by such entity, the total cost of any project or undertaking for which funds were received, and the total amount of that portion of the total cost of any project or undertaking received by or allocated to such entity from other sources, and such other records as will facilitate an audit conducted in accordance with generally accepted auditing standards.

"(b) Each entity which received a grant or entered into a contract under this title shall have an annual financial audit of any books, accounts, financial records, files, and other papers and property which relate to the disposition or use of any funds received under such grant or contract and such other funds received by or allocated to any project or undertaking for which any funds received under this Act were used, and any other funds received under this Act. Each such entity shall be responsible for providing and paying for such audit. For purposes of assuring accurate, current, and complete disclosure of the disposition or use of the funds received, each such audit shall be conducted by and certified to be accurate by an independent certified public accountant utilizing generally accepted auditing standards. A report of each such audit shall be filed with the Secretary at such time and in such manner as he may require.

"(c) The Secretary may specify, by regulation, the form and manner in which such records, required by subsection (a), shall be established and maintained.

"(d) A student recipient of a scholarship, traineeship, loan, or loan guarantee under this title shall not be required to establish or maintain the records required under subsection (a) or provide for an audit required under subsection (b).

"(e)(1) Each entity which is required to establish and maintain records or to provide for an audit under this section shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of such entity upon a reasonable request therefor.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives shall have the authority to carry out the purposes of this subsection.

"CONTRACTS

"SEC. 706. Contracts authorized by this title may be entered into without regard to section 3648 and 3709 of the Revised Statutes (31 U.S.C. 529, 41 U.S.C. 5).".

DELEGATION OF AUTHORITY

SEC. 205. Part A of title VII is amended by adding after section 706 (added by section 204) the following new section:

"DELEGATION

"SEC. 707. The Secretary may delegate the authority to administer any program authorized by this title to the administrator of a central or regional office or offices of the Department, except that the authority—

"(1) to review, and prepare comments on the merit of, any application for a grant or contract under any such program for purposes of presenting such application to the National Advisory Council on Health Professions Education, and

"(2) to make such a grant or enter into such a contract,

shall not be delegated to any administrator of, or officer in, a regional office or offices of the Department.".

HEALTH PROFESSIONS DATA

SEC. 206. Part A of title VII is amended by adding after section 707 (added by section 205) the following new section:

"HEALTH PROFESSIONS DATA

"SEC. 708. (a) The Secretary shall establish a program, including a uniform health professions data reporting system, to collect, compile, and analyze data on health professions personnel which shall initially include data respecting all physicians and dentists in the United States and its territories and possessions. The Secretary is authorized to expand the program to incude, whenever he determines it necessary, the collection, compilation, and analysis of data respecting pharmacists, optometrists, podiatrists, veterinarians, public health personnel, audiologists, speech pathologists, health care administration personnel, nurses, allied health personnel, medical technologists, and any other health personnel in States designated by the Secretary to be included in the program. Such data shall include data respecting the training, licensure status (including permanent, temporary, partial, limited, or institutional), place or places of practice, professional specialty, practice characteristics, place and date of birth, sex, and socioeconomic background of health professions personnel and such other demographic information regarding health professions personnel as the Secretary may require.

"(b)(1) In carrying out subsection (a), the Secretary shall collect available information from appropriate local, State, and Federal agencies and other appropriate sources.

"(2) The Secretary shall conduct or enter into contracts for the conduct of analytic and descriptive studies of the health professions, including evaluations and projections of the supply of, and requirements for, the health professions by specialty and geographic location.

"(3) The Secretary is authorized to make grants and to enter into contracts with States (or an appropriate nonprofit private entity in any State) for the purpose of participating in the program established under subsection (a). The Secretary shall determine the amount and scope of any such grant or contract. To be eligible for a grant or contract under this paragraph a State or entity shall submit an application in such form and manner and containing such information as the Secretary shall require. Such application shall include reasonable assurances, satisfactory to the Secretary, that—

"(A) such State (or nonprofit entity within a State) will establish a program of mandatory annual registration of the health professions personnel described in subsection (a) who reside or practice in such State and of health institutions licensed by such State, which registration shall include such information as the Secretary shall determine to be appropriate;

"(B) such State or entity shall collect such information and report it to the Secretary in such form and manner as the Secretary shall prescribe; and

"(C) such State or entity shall comply with the requirements of subsection (e).

"(c) For purposes of providing the Secretary with information under this section, each school which receives financial support under section 770 shall annually report to the Secretary information, determined to be appropriate by the Secretary, respecting the students who attend such school. The Secretary may collect such additional data respecting students of the health professions as he determines to be appropriate.

"(d) The Secretary shall assemble and submit to the President and Congress not later than September 1 of each year a report on the status of health professions personnel in the United States, which report shall include a description and analysis of the data collected pursuant to this section. Such report may be included as part of the report made under section 308(a)(2)(C).

"(e)(1) The Secretary and each program entity shall in securing and maintaining any record of individually identifiable personal data (hereinafter in this subsection referred to as 'personal data') for purposes of this section—

"(A) inform any individual who is asked to supply personal data whether he is legally required, or may refuse, to supply such data and inform him of any specific consequences, known to the Secretary or program entity as the case may be, of providing or not providing such data;

"(B) upon request, inform any individual if he is the subject of personal data secured or maintained by the Secretary or program entity, as the case may be, and make the data available to him in a form comprehensible to him;

"(C) assure that no use is made of personal data which is not within the purposes of this section unless an informed consent has been obtained from the individual who is the subject of such data; and

"(D) upon request, inform any individual of the use being made of personal data respecting such individual and of the identity of the individuals and entities which will use the data and their relationship to the programs under this section.

"(2) Any entity which maintains a record of personal data and which receives a request from the Secretary or a program entity for such data for purposes of this section shall not transfer any such data to the Secretary or to a program entity unless the individual whose personal data is to be so transferred gives an informed consent for such transfer.

"(3)(A) Notwithstanding any other provision of law, personal data collected by the Secretary or any program entity under this section may not be made available or disclosed by the Secretary or any program entity to any person other than the individual who is the subject of such data unless (i) such person requires such data for purposes of this section, or (ii) in response to a demand for such data made by means of compulsory legal process. Any individual who is the subject of personal data made available or disclosed under clause (ii) shall be notified of the demand for such data.

"(B) Subject to all applicable laws regarding confidentiality, only the data collected by the Secretary under this section which is not personal data shall be made available to bona fide researchers and policy analysts (including the Congress) for the purposes of assisting in the conduct of studies respecting health professions personnel.

"(4) For purposes of this subsection, the term 'program entity' means any public or private entity which collects, compiles, or analyzes health professions data under a grant, contract, or other arrangement with the Secretary under this section.

"(f) In carrying out his responsibilities under this section, the Secretary shall not be subject to the provisions of chapter 35 of title 44, United States Code.

"(g) The Secretary shall provide technical assistance to the States and political subdivisions thereof in the development of systems (including model laws) concerning confidentiality and comparability of data collected pursuant to this section.".

SHARED SCHEDULE RESIDENCIES

SEC. 207. Part A of title VII is amended by adding after section 708 (added by section 206) the following new section:

"SHARED SCHEDULE RESIDENCY TRAINING POSITIONS

"SEC. 709. (a) Any entity which—

"(1) maintains a medical residency training program in family practice, general internal medicine, general pediatrics, or general obstetrics and gynecology, and

"(2) receives any Federal assistance, shall establish or restructure and maintain, to the maximum extent feasible, a reasonable number of physician training positions in such program as shared schedule positions.

"(b) The Secretary shall report to Congress not later than January 1, 1979, on entities' compliance with subsection (a) and shall include in such report recommendations for legislation to ensure compliance with such subsection.

"(c) For purposes of subsection (a), the term 'shared schedule position' means a physician training position in a medical residency training program which is shared by two individuals and in which each individual—

"(1) engages in at least two-thirds but not more than three-fourths of the total training prescribed for such position,

"(2) receives for each year in such position an amount of credit for certification in the medical specialty for which the position provides training which is equal to the amount of training engaged in in such year,

"(3) receives at least one-half of the salary for such position, and

"(4) receives all applicable employee benefits.".

PAYMENT UNDER GRANTS

SEC. 208. Part A of title VII is amended by adding after section 709 (added by section 207) the following new section:

"PAYMENT UNDER GRANTS

"SEC. 710. Grants made under this title (except under section 770) may be paid in advance or by way of reimbursement, at such intervals and on such conditions as the Secretary may find necessary and with appropriate adjustments on account of overpayments or underpayments previously made.".

PAYMENT FOR TUITION AND OTHER EDUCATION EXPENSES

SEC. 209. Part A of title VII is amended by adding after section 710 (added by section 208) the following new section:

"PAYMENT FOR TUITION AND OTHER EDUCATIONAL COSTS

"SEC. 711. The Secretary shall by regulation establish criteria for determining allowable increases in tuition and other educational costs for which he shall be responsible for payment under any provision of this title after the date of enactment of the Health Professions Educational Assistance Act of 1976.".

TITLE III—ASSISTANCE FOR CONSTRUCTION OF TEACHING FACILITIES

REGIONAL HEALTH PROFESSIONS PROGRAMS

SEC. 301. Section 721 is amended by adding after subsection (e) the following new subsection:

"(f)(1) An application for a grant under subsection (a) for the fiscal year ending September 30, 1977, for an affiliated clinical facility for the establishment or expansion of a regional health professions program may be filed by any public or other nonprofit agency if the application is approved by the school of veterinary medicine, optometry, podiatry, or pharmacy with which the facility is affiliated. Only that portion of the project to construct such a facility which the Secretary determines to be reasonably attributable to the need of regional health professions program for the facility for teaching purposes shall be regarded as the project with respect to which payments may be made under section 722.

"(2) In considering application for grants under subsection (a) for the fiscal year ending September 30, 1977, the Secretary shall give special consideration to applications for facilities for the establishment or expansion of regional health professions programs.

"(3) For the purposes of this subsection, the term 'regional health professions program' refers to an interstate program (A) in which a State with an existing degree-granting school sets up a cooperative program with another State (or other States) which does not have such a school, and (B) which provides for (i) a shared curriculum between two or more schools, or (ii) a single campus which is cooperatively financed and controlled by two or more States.".

GRANT AUTHORITY; AUTHORIZATIONS

SEC. 302. Section 720 is amended to read as follows:

"GRANT AUTHORITY; AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 720. (a)(1) The Secretary may make grants to assist in the construction of teaching facilities for the training of physicians, dentists, pharmacists, optometrists, podiatrists, veterinarians, and professional public health personnel.

"(2)(A) The Secretary may make grants to public and nonprofit private entities to assist in the construction of ambulatory, primary care teaching facilities for the training of physicians and dentists.

"(B) For purposes of this section, the term 'ambulatory, primary care teaching facilities' means areas dedicated for the training of students in the diagnosis and treatment of ambulatory patients and primarily in the specialties of family practice, general pediatrics, general internal medicine, general dentistry, and pedodontics. Such areas may include examination rooms, clinical laboratories, libraries, classrooms, offices, and other areas for clinical or research purposes necessary for, and appropriate to, the conduct of comprehensive ambulatory, primary care training of physicians and dentists in such specialties.

"(b) For payments under grants under this part there is authorized to be appropriated $40,000,000 for the fiscal year ending September 30, 1978, $40,000,000 for the fiscal year ending September 30, 1979, and $40,000,000 for the fiscal year ending September 30, 1980. Of the sums appropriated under this subsection for any fiscal year 50 percent of such sums shall be obligated for grants under subsection (a)(2).".

APPLICATIONS

SEC. 303. (a)(1) Section 721(b)(1) is amended by inserting "under section 720(a)(1)" after "for a grant".

(2) Section 721(b)(2) is amended by inserting "for a grant under section 720(a)(1)" after "an application" the first time it appears.

(3) Sections 721(b)(3) and 721(c) are each amended by striking out "grant under this part" and inserting in lieu thereof "grant under section 720(a)(1)".

(4) Section 721(d) is amended by inserting "under section 720(a)(1)" after "for grants".

(5) Section 721(e) is amended by inserting "for a grant under section 720(a)(1)" after "of applications".

(b) Section 721 is amended by adding after subsection (f) (added by section 301) the following new subsection:

"(g)(1) A grant under section 720(a)(2) may be made only if the application therefor is approved by the Secretary upon his determination that—

"(A) the applicant meets the eligibility conditions set forth in section 720(a)(2);

"(B) the application contains or is supported by reasonable assurances that (i) the facility is intended to be used for purposes for which the application has been made, (ii) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, and (iii) sufficient funds will be available, when construction is completed, for effective use of the facility for the training for which it is being constructed;

"(C) the plans and specifications are in accordance with regulations relating to minimum standards of construction and equipment;

"(D) the application contains or is supported by adequate assurance that any laborer or mechanic employed by a contractor or subcontractors in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act).

The Secretary of Labor shall have with respect to the labor standards specified in subparagraph (D) the authority and functions set forth in Reorganizaton Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

"(2) In making grants under this section 720(a)(2) the Secretary shall give special consideration to entities which have been awarded grants or received contracts under section 781, 784, or 786 (relating to area health education centers, general internal medicine and general pediatrics, and family medicine and general practice of dentistry).".

(c) Subsection (e) of section 721 is amended by adding at the end the following new sentence: "In considering applications submitted for a grant under section 720(a)(1) for the cost of construction of teaching facilities for the training of physicians, the Secretary shall give special consideration to projects in States which have no such facilities.".

GRANT AMOUNTS

SEC. 304. (a) Subsection (a) of section 722 is amended to read as follows:

"(a)(1) The amount of any grant under section 720(a)(1) for construction of a project shall be such amount as the Secretary determines to be appropriate after obtaining advice of the Council, except that (A) no grant for any project may exceed 80 percent of the necessary costs of construction, as determined by the Secretary of such project.

"(2) The amount of any grant under section 720(a)(2) for construction of a facility shall be such amount as the Secretary determines to be appropriate, except that no grant for any facility may exceed the lesser of—

"(A) 50 percent of the total cost of such facility, or

"(B) $1,000,000.".

(b)(1) Subsection (d) of section 722 is amended by striking out "under this part" and inserting in lieu thereof "under section 720(a)(1)".

(2) Subsection (d) of section 722 is amended by striking out "(within the meaning of part A of this title)".

RECAPTURE

SEC. 305. Section 723 is amended—

(1) by striking out "paid under this part" and inserting in lieu thereof "under a grant under section 720(a)(1)".

(2) by inserting "(a)" before "If",

(3) by redesignating paragraphs (a), (b), and (c) as paragraphs (1), (2), and (3), respectively, and

(4) by adding at the end the following:

"(b) If, within 20 years after completion of any construction for which funds have been paid under a grant under section 720(a)(2)—

"(1) the applicant or other owner of the facility shall cease to be a public or nonprofit entity;

"(2) the facility shall cease to be used for the training purposes for which such funds were provided, unless the Secretary determines, in accordance with regulations which he shall promulgate, that there is a significant public purpose and good cause for releasing the applicant or other owner from the obligation to do so; or

"(3) the facility is used for sectarian instruction or as a place for religious worship,

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.".

LOAN GUARANTEES AND INTEREST SUBSIDIES

Sec. 306. (a) Subsections (a) and (b) of section 729 are each amended by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1980".

(b) The second sentence of section 729 (e) is amended by striking out "and" after "June 30, 1973," and by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "$2,000,000 in the fiscal year ending September 30, 1978, $3,000,000 in the fiscal year ending September 30, 1979, and $3,000,000 in the fiscal year ending September 30, 1980.".

(c) The third sentence of section 729(a) is amended to read as follows: "No such loan guarantee may, except under special circumstances and under such conditions as are prescribed by regulations, apply to any amount which, when added to any grant under this part or any other law of the United States, exceeds 90 percent of the cost of the construction of the project.".

(d) Subsections (a) and (b) of section 729 are each amended by inserting "or the Federal Financing Bank" after "non-Federal lender".

EFFECTIVE DATE

Sec. 307. (a) The amendments made by sections 302 through 305 shall apply with respect to grants made under part B of title VII of the Public Health Service Act from appropriations under section 720 of such Act for fiscal years beginning after September 30, 1977.

(b) The amendment made by section 306 (c) shall apply with respect to loans guaranteed under section 729(a) of the Public Health Service Act (redesignated section 726 (a) by section 308(d) of this Act) after September 30, 1977.

TECHNICAL AND CONFORMING AMENDMENTS

Sec. 308. (a) Section 721(c) is amended—

(1) by striking out "section 770(f) of this Act" in paragraph (2) and inserting in lieu thereof "section 771";

(2) by striking out the sentence at the end of paragraph (2);

(3) by striking out paragraph (5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively;

(4) by striking out "and" at the end of paragraph (5) (as so redesignated), by striking out the period at the end of paragraph (6) (as so designated) and inserting in lieu thereof "; and", and by inserting after paragraph (6) the following:

"(7) the application contains or is supported by adequate assurance that any laborer or mechanic employed by a contractor or subcontractors in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similiar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a–5, known as the Davis-Bacon Act). The Secretary of Labor shall have with respect to the labor standards specified in paragraph (7) the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)."; and

(5) by striking out "725" in the last sentence and inserting in lieu thereof "702".

(b) Section 726 is repealed.

(c) Section 727(a) is amended by striking out "institutions" each time it appears and inserting in lieu thereof "entities".

(d) Sections 727, 728, and 729 are redesignated as sections 724, 725, and 726, respectively.

TITLE IV—STUDENT ASSISTANCE; NATIONAL HEALTH SERVICE CORPS

INSURED LOANS TO STUDENTS

Sec. 401. (a) Effective October 1, 1976, subpart II of part C of title VII is repealed.

(b) Effective October 1, 1977, part C of title VII is amended by—

(1) amending the heading for part C to read as follows:

"Part C—Student Assistance";

(2) redesignating subpart I of such part as subpart II, and by amending the heading for such subpart to read as follows:

"Subpart II—Student Loans"; and

(3) inserting immediately below the heading to such part the following new subpart:

"Subpart I—Federal Program of Insured Loans to Graduate Students in Health Professions Schools

"STATEMENT OF PURPOSE AND APPROPRIATIONS AUTHORIZED

"Sec. 727. (a) The purpose of this subpart is to enable the Secretary to provide a Federal program of student loan insurance for students in eligible institutions.

"(b) For the purpose of carrying out this subpart there are authorized to be appropriated (1) for the fiscal year ending September 30, 1978, to the student loan insurance fund (established by section 734) the sum of $1,500,000 and of such further sums, if any, as may become necessary for the adequacy of student loan insurance fund and for the purpose of administering this subpart; and (2) for fiscal years thereafter such sums as may be necessary for the purpose of administering this subpart. Sums appropriated under this subsection shall remain available until expended.

"SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM

"Sec. 728. (a) The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 737), to students covered by Federal loan insurance under this subpart shall not exceed $500,000,000 for the fiscal year ending September 30, 1978; $510,000,000 for the fiscal year ending September 30, 1979; and $520,000,000 for the fiscal year ending September 30, 1980. Thereafter, Federal loan insurance pursuant to this subpart may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this subpart, to continue or complete their educational program; but no insurance may be granted for any loan made or installment paid after September 30, 1982.

"(b) The Secretary may, if necessary to assure an equitable distribution of the benefits of this subpart, assign, within the maximum amounts specified in subsection (a), Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

"LIMITATIONS ON INDIVIDUAL FEDERALLY INSURED LOANS AND ON FEDERAL LOAN INSURANCE

"Sec. 729. (a) The total of the loans made to a student in any academic year or its equivalent (as determined by the Secretary) which may be covered by Federal loan insurance under this subpart may not exceed $10,000 in the case of a student enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or public health, and $7,500 in the case of a student enrolled in a school of pharmacy. The aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed $50,000 in the case of a student enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or public health, and $37,500 in the case of a student enrolled in a school of pharmacy. The annual insurable limit per student shall not be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit.

"(b) The insurance liability on any loan insured by the Secretary under this subpart shall be 100 percent of the unpaid balance of the principal amount of the loan plus interest. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 733 or 738.

"SOURCES OF FUNDS

"Sec. 730. Loans made by eligible lenders in accordance with this subpart shall be insurable by the Secretary whether made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans.

"ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF FEDERALLY INSURED STUDENT LOANS

"Sec. 731. (a) A loan by an eligible lender shall be insurable by the Secretary under the provisions of this subpart only if—

"(1) made to student who—

"(A) has been accepted for enrollment at an eligible institution;

"(B) is in good standing at an eligible institution as determined by the institution;

"(C) is pursuing a full-time course of study at an eligible institution;

"(D) in the case of a student in a school of medicine, osteopathy, or dentistry, has been authorized by the institution in accordance with section 739(b)(2) to receive a loan under this subpart;

"(E) has agreed that all funds received under such loan shall be used solely for tuition and other reasonable educational expenses, including fees, books and laboratory expenses, incurred by such student;

"(F) for the school year for which such loan is made, receives no funds from a loan insured under a Federal, State, or nonprofit program provided or assisted under part B of title IV of the Higher Education Act of 1965; and

"(G) in the case of a pharmacy student, has satisfactorily completed three years of training; and

"(2) evidenced by a note or other written agreement which—

"(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under the applicable law, create a binding obligation, an endorsement may be required;

"(B) provides for repayment (except as provided in subsection (c)) of the principal amount of the loan in installments over a period of not less than 10 years (unless sooner repaid) nor more than 15 years beginning not earlier than 9 months after the date on which the student completes his internship or residency training, and not later than the earlier of 12 months after such date or of 3 years after the date he ceases to carry, at an eligible institution, the normal full-time academic workload as determined by the institution, except (i) as provided in clause (C) below, (ii) that the period of the loan may not exceed 23 years from the date of execution of the note or written agreement evidencing it, and (iii) that the note or other written instrument may contain such provisions relating to repayment in the event of default in the payment of interest or in the payment of the cost of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Secretary in effect at the time the loan is made;

"(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period (i) during which the borrower is pursuing a full-time course of study at an eligible institution, (ii) not in excess of three years during which the borrower is a participant in an accredited internship or residency program, (iii) not in excess of three years, during which the borrower is a member of the Armed Forces of the United States, (iv) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, (v) not in excess of three years, during which the borrower is a member of the National Health Service Corps, or (vi) not in excess of three years during which the borrower is in service as a full-time volunteer under title I of the Domestic Volunteer Service Act of 1973, and any such period shall not be included in determining the 15-year period or the 23-year period provided in clause (B) above;

"(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed and defined by the Secretary (within the limits set forth in subsection (b)) on a national, regional, or other appropriate basis, which interest shall be compounded semiannually and payable in installments over the period of the loan;

"(E) entitles the student borrower to accelerate without penalty repayment of the whole or any part of the loan; and

"(F) contains such other terms and conditions consistent with the provisions of this subpart and with the regulations issued by the Secretary pursuant to this subpart, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay to the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Secretary with respect to such loan.

"(b) No maximum rate of interest prescribed and defined by the Secretary for the purpose of clause (2)(d) of subsection (a) may exceed 10 percent per annum on the unpaid principal balance of the loan.

"(c) The total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this subpart, shall not be less than the annual interest on the outstanding principal.

"CERTIFICATE OF FEDERAL LOAN INSURANCE—EFFECTIVE DATE OF INSURANCE

"SEC. 732. (a)(1) If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Secretary may require, and otherwise in conformity with this section, the Secretary finds that the applicant has made a loan to an eligible student which is insurable under the provisions of this subpart, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

"(2) Insurance evidenced by a certificate of insurance pursuant to subsection (a)(1) shall become effective upon the date of issuance of the certificate, except that the Secretary is authorized, in accordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance was made. Such insurance shall cease to be effective upon 60 days' default by the lender in the payment of any installment of the premiums payable pursuant to subsection (c).

"(3) An application submitted pursuant to subsection (a)(1) shall contain (A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Secretary pursuant to subsection (c), and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statements during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Secretary may prescribe by or pursuant to regulation.

"(b)(1) In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each student loan made by an eligible lender as provided in subsection (a), the Secretary may, in accordance with regulations consistent with section 728, issue to an eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Secretary, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Secretary's judgment will best achieve the purpose of this subsection while protecting the financial interest of the United States and promoting the objectives of this part, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Secretary and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Secretary from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Secretary in the absence of fraud or misrepresentation of fact or patent error.

"(2) If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a student, a line of credit extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the coverage of that certificate except as may be specifically provided therein; but, subject to the limitations of section 728, the Secretary may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) or by inclusion of such insurance in comprehensive coverage under this subsection for the period or periods in which such future loans or payments are made.

"(c) The Secretary shall, pursuant to regulations, charge for insurance on each loan under this subpart a premium in an amount not to exceed 2 percent per year of the unpaid principal amount of such loan (excluding interest added to principal), payable in advance, at such times and in such manner as may be prescribed by the Secretary. Such regulations may provide that such premium shall not be payable, or if paid shall be refundable, with respect to any period after default in the payment of principal or interest or after the borrower has died or become totally and permanently disabled, if (1) notice of such default or other event has been duly given, and (2) requests for payment of the loss insured against has been made or the Secretary has made such payment on his own motion pursuant to section 733(a).

"(d) The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned as security by such lender only to another eligible lender, and subject to regulation by the Secretary.

"(e) The consolidation of the obligations of two or more federally insured loans obtained by a student borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a), the Secretary may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation. If the loans thus consolidated are covered by a single comprehensive certificate issued under subsection (b), the Secretary may amend that certificate accordingly.

"DEFAULT OF STUDENT UNDER FEDERAL LOAN INSURANCE PROGRAM

"SEC. 733. (a) Upon default by the student borrower on any loan covered by Federal loan insurance pursuant to this subpart, and after a substantial collection effort (including, if appropriate, commencement of a suit) as determined under regulations of the Secretary, the insurance beneficiary shall promptly notify the Secretary and the Secretary shall, if requested (at the time or after further collection efforts) by the beneficiary, or may on his own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount has been determined.

"(b) Upon payment by the Secretary of the amount of the loss pursuant to subsection (a), the United States shall be subrogated for all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Secretary on a loan after deduction of the cost of that recovery (including reasonable administrative costs) exceeds the amount of the loss, the excess shall be paid over to the insured.

"(c) Nothing in this section or in this subpart shall be construed to preclude any forbearance for the benefit of the student borrower which may be agreed upon by the parties to the insured loan and approved by the Secretary or to preclude forbearance by the Secretary in the enforcement of the insured obligation after payment on that insurance.

"(d) Nothing in this section or in this subpart shall be construed to excuse the holder of a federally insured loan from exercising reasonable care and diligence in the making of loans under the provisions of this subpart and from exercising a substantial effort in the collection of loans under the provisions of this subpart. If the Secretary, after reasonable notice and opportunity for hearing to an eligible lender, finds that the lender has failed to exercise such care and diligence, to exercise such substantial efforts, to make the reports and statements required under section 732(a)(3), or to pay the required Federal loan insurance premiums, he shall disqualify that lender for further Federal insurance on loans granted pursuant to this subpart until he is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence or comply with such requirements, as the case may be.

"(e) As used in this section—

"(1) the term 'insurance beneficiary' means the insured or its authorized assignee in accordance with section 732(d);

"(2) the term 'amount of the loss' means, with respect to a loan, the unpaid balance of the principal amount and interest on such loan; and

"(3) the term 'default' includes only such defaults as have existed for (A) 120 days in the case of a loan which is repayable in monthly installments, or (B) 180 days in the case of a loan which is repayable in less frequent installments.

"(f) The Secretary may, after notice and opportunity for a hearing, cause to be reduced Federal reimbursements or payments for health services under any Federal law to borrowers who are practicing their professions and have defaulted on their loans insured under this subpart in amounts up to the remaining balance of such loans.

"(g) A debt which is a loan insured under the authority of this subpart may be released by a discharge in bankruptcy under title II of the United States Code only if such discharge is granted after the expiration of the five-year period beginning on the first date, as specified in section 731(a)(2)(B), when repayment of such loan is required.

"STUDENT LOAN INSURANCE FUND

"SEC. 734. (a) There is hereby established a student loan insurance fund (hereinafter in this section referred to as the 'fund') which shall be available without fiscal year limitation to the Secretary for making payments in connection with the default of loans insured by him under this subpart. All amounts received by the Secretary as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Secretary in connection with his operations under this subpart, and any other moneys, property, or assets derived by the Secretary from his operations in connection with this section shall be deposited in the fund. All payments in connection with the default of loans insured by the Secretary under this subpart shall be paid from the fund. Moneys in the fund not needed for current operations under this section may be invested in bonds or other obligations guaranteed as to principal and interest by the United States.

"(b) If at any time the moneys in the fund are insufficient to make payments in connection with the default of any loan insured by the Secretary under this subpart, the Secretary is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, but only in such amounts as may be specified from time to time in appropriations Acts. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such funds.

"POWERS AND RESPONSIBILITIES

"SEC. 735. (a) In the performance of, and with respect to, the functions, powers, and duties vested in him by this subpart, the Secretary may—

"(1) prescribe such regulations as may be necessary to carry out the purposes of this subpart;

"(2) sue and be sued in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this subpart without regard to the amount in controversy, and action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in that office. No attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this subpart from the application of sections 517 and 547 of title 28 of the United States code;

"(3) include in any contract for Federal loan insurance such terms, conditions, and covenants relating to repayment of principal and payment of interest, relating to his obligations and rights and to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Secretary determines to be necessary to assure that the purposes of this subpart will be achieved; and any term, condition, and covenant made pursuant to this clause or any other provisions of this subpart may be modified by the Secretary if he determines that modification is necessary to protect the financial interest of the United States;

"(4) subject to the specific limitations in the subpart, consent to the modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note or other instrument evidencing a loan which has been insured by him under this subpart; and

"(5) enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right or redemption.

"(b) The Secretary shall, with respect to the financial operations arising by reason of this subpart—

"(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act; and

"(2) maintain with respect to insurance under this subpart an integral set of accounts.

"(c)(1) The Secretary may enter into a written agreement with a borrower under which the Secretary agrees to assume the obligation of paying an amount, not to exceed $10,000 in any 12-month period, toward the principal and interest due on any loan made to the borrower and insured under this subpart and the borrower agrees to serve, either as a member of the National Health Service Corps or in private practice pursuant to section 723 (as determined by the Secretary), in a health manpower shortage area (designated under section 332) which is described in subparagraphs (A) and (B) of section 753(a)(2) for a continuous period of (A) not less than 12 months for each 12-month period the Secretary assumes such obligation under the agreement, or (B) 24 months, whichever is greater.

"(2) Except as provided in paragraphs (3) and (4), if an individual, who has entered into a written contract under paragraph (1), for any reason breaches his contract obligations with respect to serving in a health manpower shortage area for the period specified in the agreement, the United States shall be entitled to recover damages from such individual in an amount equal to three times the amount paid by the Secretary under the agreement to or on behalf of such individual. Any amount of damages which the United States is entitled to recover under this paragraph shall be paid to the United States not later than one year after the date of the breach of such contract obligations.

"(3) The United States shall not be entitled to recover any damages from an individual under paragraph (2) upon the death of the individual.

"(4) The Secretary shall by regulation provide for the waiver or suspension of payment of any or all of the damages to which the United States is entitled under paragraph (2) whenever the Secretary determines that compliance by an individual with the agreement which was breached is impossible or would involve extreme hardship to the individual and that recovery of such damages with respect to the individual would be unconscionable.

"PARTICIPATION BY FEDERAL CREDIT UNIONS IN FEDERAL, STATE, AND PRIVATE STUDENT LOAN INSURANCE PROGRAMS

"SEC. 736. Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the Director of the Bureau of Federal Credit Unions, have power to make insured loans to eligible students in accordance with the provisions of this subpart relating to Federal insured loans.

"DEFINITIONS

"SEC. 737. As used in this subpart:

"(1) The term 'eligible institution' means, with respect to a fiscal year, a school of medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, veterinary medicine, and public health within the United States that is receiving, or the Secretary determines is eligible to receive, a grant under section 770 of this Act.

"(2) The term 'school of medicine, osteopathy, or dentistry, optometry, pharmacy, podiatry, veterinary medicine, and public health' means any school legally authorized within a State to train members of the professions indicated and accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that a new school which (by reason of no, or an insufficient period of operation) is not, at the time of application for insurance for a loan under this subpart, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited for purposes of this part if the Commissioner of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of the first entering class in such school.

"(3) The term 'eligible lender' means an eligible institution, an agency or instrumentality of a State, a financial or credit institution (including an insurance company) which is subject to examination and supervision by an agency of the United States or of any State, or a pension fund approved by the Secretary for this purpose.

"(4) The term 'line of credit' means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

"REPAYMENT BY THE SECRETARY OF LOANS OF DECEASED OR DISABLED BORROWERS

"SEC. 738. If a student borrower who has received a loan dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan from the fund established under section 734.

"ELIGIBILITY OF INSTITUTIONS

"SEC. 739. (a) Notwithstanding any other provision of this subpart, the Secretary is authorized to prescribe such regulations as may be necessary to provide for—

"(1) a fiscal audit of an eligible institution with regard to any funds obtained from a student who has received a loan insured under this subpart;

"(2) the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid with respect to funds obtained from a student who has received a loan insured under this subpart; and

"(3) the limitation, suspension, or termination of the eligibility under this subpart of any otherwise eligible institution, whenever the Secretary has determined, after notice and affording an opportunity for hearing, that such institution has violated or failed to carry out any regulation prescribed under this subpart".

"(b) The Secretary shall by regulation—

"(1) require an eligible institution to record and make available to a lender and to the Secretary upon request, the name, address, postgraduate destination, and other reasonable identifying information for each student of such institution who has a loan insured under this subpart; and

"(2) in the case of an eligible institution which is a school of medicine, osteopathy, or dentistry, require such institution to establish procedures to insure that no more than 50 percent of the students in each class in the institution are authorized to have loans insured under this subpart.".

STUDENT LOAN AGREEMENTS

SEC. 402. Section 740 is amended—

(1) by striking out "of Health, Education, and Welfare" in subsection (a);

(2) by striking out ", except as provided in section 746," in paragraphs (2) and (3) of subsection (b);

(3) by striking out ", and that while the agreement remains in effect" and all that follows through "National Defense Education Act of 1958; and" in subsection (b)(4) and inserting in lieu thereof a semicolon;

(4) by redesignating paragraph (5) of subsection (b) as paragraph (6), and inserting after paragraph (4) of such subsection the following new paragraph: and

"(5) provide that the school shall advise, in writing, each applicant for a loan from the student loan fund of the provisions of section 741 under which outstanding loans from the student loan fund may be paid (in whole or in part) by the Secretary; and".

LOAN PROVISIONS

SEC. 403. (a) Subsection (a) of section 741 is amended to read as follows:

"(a) Loans from a student loan fund (established under an agreement with a school under section 740) may not exceed for any student for each school year (or its equivalent) the sum of—

"(1) the cost of tuition for such year at such school, and

"(2) $2,500.".

(b) Subsection (e) of section 741 is amended by striking out "3 per centum" and inserting in lieu thereof "7 percent".

(c) The amendments made by subsections (a) and (b) shall apply with respect to loans made after September 30, 1977, from student loan funds established under section 740 of the Public Health Service Act.

(d) Subsection (f)(1)(B) of section 741 is amended to read as follows:

"(B) who obtained one or more loans from a loan fund established under this subpart; and".

(e) In the case of any individual who, on or after November 18, 1971, and before the date of enactment of this Act, met the requirements of subparagraphs (A) and (B) of section 741(f)(1) of the Public Health Service Act and who practiced his profession in an area described in subparagraph (C) of such section (as in effect before the date of the enactment of this Act) while a member of the National Health Service Corps or as an officer of the Regular or Reserve Corps of the Public Health Service or as a civilian employee of the Public Health Service, the individual shall, for purposes of section 741 (f) of such Act, be deemed to have entered into the agreement required by such subparagraph (C) with respect to that practice if such individual makes application to the Secretary, not later than January 1, 1977, for payment by the Secretary under section 741(f)(2) of such Act.

(f) A student in a school of medicine or osteopathy who will graduate from such school after June 30, 1979, shall be eligible to receive a loan under section 741 of the Public Health Service Act after October 1, 1977 only if such student is of exceptional financial need (as defined by regulations of the Secretary).

AUTHORIZATION OF APPROPRIATIONS

SEC. 404. Effective October 1, 1977, subsection (a) of section 742 is amended to read as follows:

"(a) For the purpose of making Federal capital contributions into the student loan funds of schools which have established such funds under section 740, there are authorized to be appropriated $26,000,000 for the fiscal year ending September 30, 1978, $27,000,000 for the fiscal year ending September 30, 1979, and $28,000,000 for the fiscal year ending September 30, 1980. For the fiscal year ending September 30, 1981, and each of the two succeeding fiscal years, there are authorized to be appropriated to the Secretary such sums as may be necessary to enable students who have received a loan under this part for any academic year ending before October 1, 1981, to continue or complete their education.".

DISTRIBUTION OF ASSETS

SEC. 405. Section 743 is amended by striking out "June 30, 1977" and "September 30, 1977" each place they occur and inserting in lieu thereof "September 30, 1983" and "December 31, 1983", respectively.

LOANS TO SCHOOLS AND TECHNICAL AND CONFORMING AMENDMENTS

SEC. 406. (a)(1) Sections 744 and 746 are repealed.

(2) Section 745 is redesignated as section 744.

(b) The health professions education fund created within the Treasury by section 744 (d)(1) of the Public Health Service Act shall remain available to the Secretary of Health, Education, and Welfare for the purpose of meeting his responsibilities respecting participations in obligations acquired under section 744 of such Act. The Secretary shall continue to deposit in such fund all amounts received by him as interest payments or repayments of principal on loans under such section 744. If at any time the Secretary determines the moneys in the fund exceed the present and any reasonable prospective future requirements of such fund, such excess may be transferred to the general fund of the Treasury.

(c) There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to enable the Secretary to make payments under agreements entered into under section 744(b) of the Public Health Service Act before September 30, 1977.

(d) Section 742(b) is amended (1) by striking out ", and for loans pursuant to section 744" in paragraph (1), and (2) by striking out "whether as Federal capital contributions or as loans to schools under section 744" in paragraph (3).

(e) Section 743(b) is amended by striking out "(other than so much of such fund as relates to payments from the revolving fund established by section 744(d))".

REVISION OF NATIONAL HEALTH SERVICE CORPS PROGRAM

SEC. 407. (a) Part C of title III is amended by inserting immediately below the heading for such part the following:

"Subpart I—General Provisions".

(b) Title III is amended—

(1) by striking out section 329;

(2) by redesignating sections 331 and 332 as sections 339 and 340, respectively; and

(3) by inserting immediately after section 330 the following new subpart:

"Subpart II—National Health Service Corps Program

"NATIONAL HEALTH SERVICE CORPS

"SEC. 331. (a) There is established, within the Service, the National Health Service Corps (hereinafter in this subpart referred to as the 'Corps') which (1) shall consist of such officers of the Regular and Reserve Corps of the Service and such civilian personnel as the Secretary may designate (such officers and personnel hereinafter in this subpart referred to as 'Corps members') and (2) shall be utilized by the Secretary to improve the delivery of health services in health manpower shortage areas as defined in section 332(a).

"(b) The Secretary shall conduct at schools of medicine, osteopathy, dentistry, and, as appropriate, nursing and other schools of the health professions and at entities which train allied health personnel, recruiting programs for the Corps and the Scholarship Program.

"(c) The Secretary may reimburse applicants for positions in the Corps for actual and reasonable expenses incurred in traveling to and from their places of residence to the health manpower shortage area (designated under section 332) in which they would be assigned for the purpose of evaluating such area with regard to being assigned in such area. The Secretary shall not reimburse an applicant for more than one such trip.

"(d)(1) The Secretary may, under regulations promulgated by the Secretary, adjust the monthly pay of each member of the Corps who is directly engaged in the delivery of health services in a health manpower shortage areas as follows:

"(A) During the first 36 months in which such a member is so engaged in the delivery of health services, his monthly pay shall be increased by an amount (not to exceed $1,000) which when added to the member's monthly pay and allowance will provide a monthly income competitive with the average monthly income from a practice of an individual who is a member of the profession of the Corps member, who has equivalent training, and who has been in practice for a period equivalent to the period during which the Corps member has been in practice.

"(B) During the period beginning upon the expiration of the 36 months referred to in subparagraph (A) and ending with the month in which the member's monthly pay and allowances is equal to or exceeds the monthly income he received for the last of such 36 months, the member shall receive in addition to his monthly pay and allowances an amount which when added to such monthly pay and allowance equals the monthly income he received for such last month.

"(C) For each month in which a member is directly engaged in the delivery of health services in a health manpower shortage area in accordance with an agreement with the Secretary entered into under section 741(f)(1)(C), under which the Secretary is obligated to make payments in accordance with section 741(f)(2), the amount of any monthly increase under subparagraph (A) or (B) with respect to such member shall be decreased by an amount equal to one-twelfth of the amount which the Secretary is obligated to pay upon the completion of the year of practice in which such month occurs.

For purposes of subparagraphs (A) and (B), the term 'monthly pay' includes special pay received under chapter 5 of title 37 of the United States Code.

"(2) In the case of a member of the Corps who is directly engaged in the delivery of health services in a health manpower shortage area in accordance with a service obligation incurred under the Scholarship Program, the adjustment in pay authorized by paragraph (1) may be made for such a member only upon satisfactory completion of such service obligation, and the first 36 months of such member's being so engaged in the delivery of health services shall for purposes of paragraph (1)(A), be deemed to begin upon such satisfactory completion.

"(e) Corps members assigned under section 333 to provide health services in health manpower shortage areas shall not be counted against any employment ceiling affecting the Department.

"(f) Sections 214 and 216 shall not apply to commissioned officers in the Regular or Reserve Corps of the Service who are members of the National Health Service Corps and who have participated in the Scholarship Program.

"(g) The administrative unit which administers section 770—

"(1) shall participate in the development of regulations, guidelines, funding priorities, and application forms, and

"(2) shall be consulted by, and may make recommendations to, the Secretary in the review of applications and proposals for, and the awarding of, grants and contracts,

with respect to the Corps.

"(h) For the purposes of this subpart:

"(1) The term 'Department' means the Department of Health, Education, and Welfare.

"(2) The term 'Scholarship Program' means the National Health Service Corps Scholarship Program established under section 751.

"(3) The term 'State' includes, in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"DESIGNATION OF HEALTH MANPOWER SHORTAGE AREAS

"SEC. 332. (a)(1) For purposes of this subpart the term 'health manpower shortage area' means (A) an area in an urban or rural area (which need not confrom to the geographic boundaries of a political subdivision and which is a rational area for the delivery of health services) which the Secretary determines has a health manpower shortage, (B) a population group which the Secretary determines has such a shortage, or (C) a public or nonprofit private medical facility or other public facility which the Secretary determines has such a shortage.

"(2) For purposes of this subsection, the term 'medical facility' means a facility for the delivery of health services and includes—

"(A) a hospital, State mental hospital, public health center, outpatient medical facility, rehabilitation facility, facility for long-term care, community mental health center, migrant health center, community health center;

"(B) such a facility of a State correctional institution or of the Indian Health Service;

"(C) such a facility used in connection with the delivery of health services under section 321 (relating to hospitals), 322 (relating to care and treatment of seamen and others), 323 (relating to care and treatment of Federal prisoners), 324 (relating to examination and treatment of certain Federal employees), 325 (relating to examination of aliens), or 326 (relating to services to certain Federal employees), or part D of title III (relating to services for persons with Hansen's disease); and

"(D) a Federal medical facility.

"(b) The Secretary shall establish by regulation, promulgated not later than May 1, 1977, criteria for the designation of areas, population groups, medical facilities, and other public facilities, in the States, as health manpower shortage areas. In establishing such criteria, the Secretary shall take into consideration the following:

"(1) The ratio of available health manpower to number of individuals in an area or population group, or served by a medical facility or other public facility under consideration for designation.

"(2) Indicators of a need, notwithstanding the supply of health manpower, for health services for the individuals in an area or population group or served by a medical facility or other public facility under consideration for designation, with special consideration to indicators of—

"(A) infant mortality,

"(B) access to health services, and

"(C) health status.

"(3) The percentage of physicians serving an area, population group, medical facility, or other public facility under consideration for designation who are employed by hospitals and who are graduates of foreign medical schools.

"(c) In determining whether to make a designation, the Secretary shall take into consideration the following:

"(1)(A) The recommendations of each health systems agency (designated under section 1515) for a health service area which includes all or any part of the area, population group, medical facility, or other public facility under consideration for designation.

"(B) The recommendations of the State health planning and development agency (designated under section 1521) if such area, population group, medical facility, or other public facility is within a health service area for which no health systems agency has been designated.

"(2) The recommendations of the Governor of each State in which the area, population group, medical facility, or other public facility under consideration for designation is in whole or part located.

"(d) In accordance with the criteria established under subsection (b) and the considerations listed in subsection (c), the Secretary shall designate, not later than November 1, 1977, health manpower shortage areas in the States, publish the names of the areas, population groups, medical facilities, and other public facilities so designated, and at least annually review and, as necessary, revise such designations.

"(e) Prior to the designation of a public facility, including a Federal medical facility, as a health manpower shortage area, the Secretary shall give written notice of such proposed designation to the chief administrative officer of such facility and request comments within 30 days with respect to such designation.

"(f) The Secretary shall give written notice of the designation of a health manpower shortage area, not later than 60 days from the date of such designation, to—

"(1) the Governor of each State in which the area, population group, medical facility, or other public facility so designated is in whole or part located;

"(2)(A) each health systems agency (designated under section 1515) for a health service area which includes all or any part of the area, population group, medical facility, or other public facility so designated; or

(B) the State health planning and development agency of the State (designated under section 1521) if such area, population group, medical facility, or other public facility is within a health service area for which no health systems agency has been designated; and

"(4) appropriate public or nonprofit entities which are located or which have a demonstrated interest in the area so designated.

"(g) Any person may recommend to the Secretary the designation of an area, population group, medical facility, or other public facility as a health manpower shortage area.

"(h) The Secretary shall conduct such information programs in areas, among population groups, and in medical facilities and other public facilities designated under this section as health manpower shortage areas as may be necessary to inform public and nonprofit private entities which are located or have a demonstrated interest in such areas of the assistance available under this title by virtue of the designation of such areas.

"ASSIGNMENT OF CORPS PERSONNEL

"SEC. 333. (a)(1) The Secretary may assign members of the Corps to provide, under regulations promulgated by the Secretary, health services in or to a health manpower shortage area during the assignment period (specified in the agreement described in section 334) only if—

"(A) a public or nonprofit private entity, which is located or has a demonstrated interest in such area makes application to the Secretary for such assignment;

"(B) such application has been approved by the Secretary;

"(C) an agreement has been entered into between the entity which has applied and the Secretary, in accordance with section 334; and

"(D) in the case of an application made by an entity which has previously been assigned a Corps member for a health manpower shortage area under an agreement (entered into under section 334) which has expired, the Secretary has (i) conducted an evaluation of the continued need for health manpower for the area, the use of Corps members previously assigned to the area, community support for the assignment of Corps members to the area, the area's efforts to secure health manpower for the area, and fiscal management by the entity with respect to Corps members previously assigned and (ii) on the basis of such evaluation has determined that—

"(I) there is a continued need for health manpower for the area;

"(II) there has been appropriate and efficient use of Corps members previously assigned to the entity for the area;

"(III) there is general community support for the assignment of Corps members to the entity;

"(IV) the area has made continued efforts to secure health manpower for the area; and

"(V) there has been sound fiscal management, including efficient collection of fee-for-service, third-party, and other appropriate funds, by the entity with respect to Corps members previously assigned to such entity.

"(2) Corps members may be assigned to a Federal health care facility, but only upon the request of the head of the department or agency of which such facility is a part.

"(b) The Secretary may not approve an application under this section for assignment of a Corps member to a health manpower shortage area unless the Secretary has afforded—

"(1) each health systems agency (designated under section 1515) for a health service area which includes all or part of the area in which the area, population group, medical facility, or other public facility so designated is located, and

"(2) if there is a part of such area, population group, medical facility, or other public facility located within a health service area for which no health systems agency has been designated, the State health planning and development agency (designated under section 1521) of the State in which such part is located,

an opportunity to review the application and submit to the Secretary its comments respecting the need for, and proposed use of, the Corps member requested in the application.

"(c) In considering, and giving approval to, applications made under this section for the assignment of Corps members, the Secretary shall—

"(1) give priority to an application which provides for the assignment of Corps members to an area, population group, medical facility, or other public facility with the greatest health manpower shortage, as determined under criteria established under section 332(b);

"(2) give special consideration to an application which provides for the use of physician assistants, nurse practitioners, or expanded function dental auxiliaries;

"(3) take into consideration the willingness of individuals in the area or population group, or at the medical facility or other public facility, and of the appropriate governmental agencies or health entities, to assist and cooperate with the Corps in providing effective health services; and

"(4) take into consideration comments of medical, osteopathic, dental, or other health professional societies serving the area, population group, medical facility, or other public facility, or, if no such societies exist, comments of medical, dental, or other health professions serving the area, population group, medical facility, or other public facility.

"(d) The Secretary shall assign Corps members to entities in health manpower shortage areas without regard to the ability of the individuals in such areas population groups, medical facilities, or other public facilities to pay for such servces.

"(e) In making the assignment of a Corps member to an entity in a health manpower shortage area which has had an application approved under this section, the Secretary shall seek to assign to an area a Corps member who has (and whose spouse, if any, has) those characteristics which are characteristics which increase the probability of the member's remaining to serve the area upon completion of his assignment period.

"(f)(1) The Secretary shall provide technical assistance to a public or nonprofit private entity which is located or has a demonstrated interest in a health manpower shortage area which entity desires to make an application under this section for assignment of a Corps member to such area.

"(2) The Secretary shall provide, to public and nonprofit private entities which are located or have a demonstrated interest in a health manpower shortage area to which area a Corps member has been assigned, technical assistance to assist in the retention of such member in such area after the completion of such member's assignment to the area.

"(3) The Secretary shall provide, to health manpower shortage areas to which no Corps member has been assigned, (A) technical assistance to assist in the recruitment of health manpower for such areas, and (B) current information on public and private programs which provide assistance in the securing of health manpower.

"(g) The Secretary shall conduct, or enter into contracts for the conduct of studies of the methods of assignments of Corps members to health manpower shortage areas. Such studies shall include studies of—

"(1) the characteristics of physicians, dentists, and other health professionals who are more likely to remain in practice in health manpower shortage areas;

"(2) the characteristics, including utilization and reimbursement, patterns, of areas which have been able to retain health manpower personnel; and

"(3) the appropriate conditions for the assignment and use of nurse practitioners, physician's assistants, and expanded function dental auxiliaries in health manpower shortage areas.

"(h) Notwithstanding any other law, any member of the Corps licensed to practice medicine, osteopathy, or dentistry in any State shall, while serving in the Corps, be allowed to practice such profession in any State.

"COST SHARING

"SEC. 334. (a) The Secretary shall require, as a condition to the approval of an application under section 333, that the entity which submitted the application enter into an agreement for a specific assignment period (not to exceed 4 years) with the Secretary under which—

"(1) the entity shall be responsible for charging in accordance with subsection (d) for health services provided by Corps members assigned to the entity;

"(2) the entity shall take such action as may be reasonable for the collection of payments for such health services, including, if a Federal agency, an agency of a State or local government, or other third party would be responsible for all or part of the cost of such health services if it had not been provided by Corps members under this subpart, the collection, on a fee-for-service or other basis, from such agency or third party, the portion of such cost for which it would be so responsible (and in determining the amount of such cost which such agency or third party would be responsible, the health services provided by Corps members shall be considered as being provided by private practitioners);

"(3) the entity shall pay to the United States, as prescribed by the Secretary in each calendar quarter (or other period as may be specified in the agreement) during which any Corps member is assigned to such entity, the sum of—

"(A) the portion of the salary (including amounts paid in accordance with section 331 (d)) and allowances of any Corps member received by such member during such calendar quarter (or other period) while such member was assigned to such entity;

"(B) for any Corps member assigned to such entity, an amount which bears the same ratio to the amount paid under the Scholarship Program to or on the behalf of such Corps member as the number of days of obligated service provided by such member during such quarter (or other period) bears to the number of days in his period of obligated service under such program; and

"(C) if such entity received a loan under section 335(c), an amount which bears the same ratio to the amount of such loan as the number of days in such quarter (or other period) during which any Corps members were assigned to the entity bears to the number of days in the assignment period after such entity received such loan; and

"(4) the entity shall prepare and submit to the Secretary an annual report, in such form and manner, as the Secretary may require.

"(b)(1) The Secretary may waive in whole or in part the application of the requirement of subsection (a)(3) for an entity if he determines that the entity is financially unable to meet such requirement or if he determines that compliance with such requirement would unreasonably limit the ability of the entity to provide for the adequate support of the provision of health services by Corps members.

"(2) The Secretary may waive in whole or in part the application of the requirement of subsection (a)(3) for any entity, which is located in a health manpower shortage area in which a significant percentage of the individuals are elderly, living in poverty, or have other characteristics which indicate an inability to repay, in whole or in part, the amounts required in subsection (a)(3).

"(3) In the event that the Secretary grants a waiver under paragraph (1) or (2), the entity shall be required to use the total amount of funds collected by such entity in accordance with subsection (a)(2) for the improvement of the capability of such entity to deliver health services to the individuals in the health manpower shortage area.

"(c) The excess (if any) of the amount of funds collected by an entity in accordance with subsection (a)(2) over the amount paid to the United States in accordance with subsection (a)(3) shall be used by the entity to expand and improve the provision of health services to the individuals in the health manpower shortage area for which the entity submitted an application or to recruit and retain health manpower to provide health services for such individuals.

"(d) Any person who receives health services provided by a Corps member under this subpart shall be charged for such services on a fee-for-service or other basis, at a rate approved by the Secretary, pursuant to regulations. Such rate shall be computed in such a way as to permit the recovery of the value of such services, except that if such person is determined under regulations of the Secretary to be unable to pay such charge, the Secretary shall provide for the furnishing of such services at a reduced rate or without charge.

"(e) Funds received by the Secretary under an agreement entered into under this section shall be deposited in the Treasury as miscellaneous receipts and shall be disregarded in determining the amounts of appropriations to be requested and the amounts to be made available from appropriations made under section 338 to carry out this subpart.

"PROVISION OF HEALTH SERVICES BY CORPS MEMBERS

"SEC. 335. (a) In providing health services in a health manpower shortage area, Corps members shall utilize the techniques, facilities, and organizational forms most appropriate for the area, population group, medical facility, or other public facility, and shall, to the maximum extent feasible, provide such services (1) to all individuals in such health manpower shortage area regardless of their ability to pay for the services, and (2) in connection with (A) direct health services programs carried out by the Service, (B) any other direct health services program carried out in whole or in part with Federal financial assistance, or (C) any other health services activity which is in furtherance of the purposes of this subpart.

"(b)(1) Notwithstanding any other provision of law, the Secretary may (A) to the maximum extent feasible make such arrangements as he determines necessary to enable Corps members to utilize the health facilities in or serving the health manpower shortage area in providing health services; (B) make such arrangements as he determines are necessary for the use of equipment and supplies of the Service and for the lease or acquisition of other equipment and supplies; and (C) secure the permanent, or temporary services of physicians, dentists, nurses, administrators, and other health personnel. If there are no health facilities in or serving such area, the Secretary may arrange to have Corps members provide health services in the nearest health facilities of the Service or may lease or otherwise provide facilities in or serving such area for the provision of health services.

"(2) If the individuals in or served by a health manpower shortage area are being served (as determined under regulations of the Secretary) by a hospital or other health care delivery facility of the Service, the Secretary may, in addition to such other arrangements as he may make under paragraph (1), arrange for the utilization of such hospital or facility by Corps members in providing health services, but only to the extent that such utilization will not impair the delivery of health services and treatment through such hospital or facility to individuals who are entitled to health services and treatment through such hospital or facility.

"(c) The Secretary may make one loan to any entity with an approved application under section 333 to assist such entity in meeting the costs of (1) establishing medical, dental, or other health profession practices, including the development of medical practice management systems; (2) acquiring equipment for use in providing health services; (3) renovating buildings to establish health facilities; and (4) establishing appropriate continuing education programs. No loan may be made under this subsection unless an application therefor is submitted to, and approved by, the Secretary. The amount of any loan shall be determined by the Secretary, except that no loan may exceed $50,000.

"(d) Upon the expiration of the assignment of all Corps members to a health manpower shortage area, the Secretary may (notwithstanding any other provision of law) sell to any appropriate local entity equipment and other property of the United States utilized by such members in providing health services. Sales made under this subsection shall be made at the fair market value (as determined by the Secretary) of the equipment or such other property; except that the Secretary may make such sales for a lesser value to an appropriate local entity, if he determines that the entity is financially unable to pay the full market value.

"(e) (1) (A) It shall be unlawful for any hospital to deny an authorized physician or dentist member of the Corps admitting privileges, when such Corps member otherwise meets the professional qualifications established by the hospital for granting such privileges and agrees to abide by the published bylaws of the hospital and the published bylaws, rules, and regulations of its medical staff.

"(B) Any hospital which is found by the Secretary, after notice and an opportunity for a hearing on the record, to have violated this subsection shall upon such finding cease to receive and to be eligible to receive any Federal funds under this Act or under titles XVIII or XIX of the Social Security Act.

"(2) For purposes of this subsection, the term 'hospital' includes a State or local public hospital, a private profit hospital, a private nonprofit hospital, a general or special hospital, and any other type of hospital (excluding a hospital owned or operated by an agency of the Federal Government), and any related facilities.

"ANNUAL REPORTS

"SEC. 336. The Secretary shall submit an annual report to Congress on May 1 of each year, and shall include in such report with respect to the previous calendar year—

"(1) the number, identity, and priority of all health manpower shortage areas designated in such year and the number of health manpower shortage areas which the Secretary estimates will be designated in the subsequent year;

"(2) the number of applications filed under section 333 in such year for assignment of Corps members and the action taken on each such application;

"(3) the number and types of Corps members assigned in such year to health manpower shortage areas, the number and types of additional Corps members which the Secretary estimates will be assigned to such areas in the subsequent year, and the need for additional members for the Corps;

"(4) the recruitment efforts engaged in for the Corps in such year and the number of qualified individuals who applied for service in the Corps in such year;

"(5) the number of patients seen and the number of patient visits recorded during such year with respect to each health manpower shortage area to which a Corps member was assigned during such year;

"(6) the number of Corps members who elected, and the number of Corps members who did not elect, to continue to provide health services in health manpower shortage areas after termination of their service in the Corps and the reasons (as reported to the Secretary) of members who did not elect for their not making such election;

"(7) the results of evaluations and determinations made under section 333(a) (1) (D) during such year; and

"(8) the amount charged during such year for health services provided by Corps members, the amount which was collected in such year by entities in accordance with agreements under section 334, and the amount which was paid to the Secretary in such year under such agreements.

"NATIONAL ADVISORY COUNCIL

"SEC. 337. (a) There is established a council to be known as the National Advisory Council on the National Health Service Corps (hereinafter in this section referred to as the 'Council'). The Council shall be composed of fifteen members appointed by the Secretary as follows:

"(1) Four members shall be appointed from the general public to represent the consumers of health care, at least two of whom shall be individuals who are residents of, members of, or served by Corps members assigned to, a health manpower shortage area.

"(2) Three members shall be appointed from medical, dental, and other health professions.

"(3) One member shall be appointed from a State health planning and development agency (designated under section 1521), one member shall be appointed from a Statewide Health Coordinating Council (designated under section 1524), and one member shall be appointed from a health systems agency (designated under section 1515).

"(4) Three members shall be appointed from the Service, at least two of whom shall be members of the Corps directly engaged in the provision of health services in a health manpower shortage area.

"(5) Two members shall be appointed from the National Council on Health Planning and Development (established under section 1503).

No individual who is a provider of health care (as defined in section 1531(3)) may be appointed as a member of the Council under paragraph (1), (3), or (5). The Council shall consult with, advise, and make recommendations to, the Secretary with respect to his responsibilities in carrying out this subpart, and shall review and comment upon regulations promulgated by the Secretary under this subpart.

"(b) (1) Member of the Council shall be appointed for a term of three years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term. No member shall be removed, except for cause. Members may be reappointed to the Council.

"(2) Members of the Council (other than members who are officers or employees of the United States), while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive for each day (including traveltime) in which they are so serving the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule; and while so serving away from their homes or regular places of business all members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5 of the United States Code for persons in the Government Service employed intermittently.

"(c) Section 14 of the Federal Advisory Committee Act shall not apply with respect to the Council.

"AUTHORIZATION OF APPROPRIATION

"SEC. 338. (a) To carry out the purposes of this subpart, there are authorized to be appropriated $47,000,000 for the fiscal year ending September 30, 1978; $57,000,000 for the fiscal year ending September 30, 1979; and $70,000,000 for the fiscal year ending September 30, 1980.

"(b) An appropriation under an authorization under subsection (a) for any fiscal year may be made at any time before that fiscal year and may be included in an Act making an appropriation under an authorization under subsection (a) for another fiscal year; but no funds may be made available from any appropriation under such authorization for obligation under this subpart before the fiscal year for which such appropriation is authorized.".

(c) (1) The amendment made by subsections (a) and (b) shall apply only with respect to fiscal years beginning after September 30, 1977, except that the Secretary of Health, Education, and Welfare shall carry out the activities described in section 332 of the Public Health Service Act (as added by such amendment) after the date of enactment of this Act.

(2) (A) Any area for which a designation under section 329(b) of the Public Health Service Act (as in effect on September 30, 1977) was in effect on such date and in which National Health Service Corps personnel were, on such date, providing, under an assignment made under such section (as so in effect), health care and services for persons residing in such area shall, effective October 1, 1977, be considered under subpart II of part C of title III of such Act (as added by subsection (b) of this section) to (i) be designated a health manpower shortage area (as defined by section 332 of such Act (as so added)), and (ii) have had an application approved under section 333 of such Act (as so added) for the assignment of Corps personnel unless, as determined under subparagraph (B) of this paragraph, the assignment period applicable to such area (within the meaning of section 334 (as so added)) has expired.

(B) The assignment period (within the meaning of such section 334) applicable to an area described in subparagraph (A) of this paragraph shall be considered to have begun on the date Corps personnel were first assigned to such area under section 329 of such Act (as in effect on September 30, 1977).

(C) In the case of any physician or dentist member of the Corps who was providing health care and services on September 30, 1977, under an assignment made under section 329(b) of such Act (as in effect on September 30, 1977), the number of the months during which such member provided such care and services before October 1, 1977, shall be counted in determining the application of the additional pay provisions of section

331(d) of such Act (as added by subsection (b) of this section) to such number.

(3) The amendment made by subsection (b) which changed the name of the Advisory Council established under section 329 of the Public Health Service Act (and placed the authority for the Advisory Council in section 337 of such Act (as added by such amendment)) shall not be construed as requiring the establishment of a new Advisory Council under such section 337; and the amendment made by such subsection with respect to the composition of such Advisory Council shall apply with respect to appointments made to the Advisory Council after October 1, 1977, and the Secretary of Health, Education, and Welfare shall make appointments to the Advisory Council after such date in a manner which will bring about, at the earliest feasible time, the Advisory Council composition prescribed by the amendment.

(d)(1) Section 741(f)(1)(C) is amended by striking out all that follows after "in a State" and inserting in lieu thereof "in a health manpower shortage area designated under section 332;".

(2) The amendment made by paragraph (1) shall apply with respect to agreements entered into under section 741(f) of the Public Health Service Act after September 30, 1977.

SCHOLARSHIPS AND PUBLIC HEALTH TRAINEESHIPS

SEC. 408. (a) Effective October 1, 1977, part C of title VII is amended by adding at the end thereof the following new subpart:

"Subpart III—Traineeships for Students in Schools of Public Health and Other Graduate Programs

"TRAINEESHIPS FOR STUDENTS IN SCHOOLS OF PUBLIC HEALTH

"SEC. 748. (a) The Secretary may make grants to accredited schools of public health for traineeships to train students enrolled in such schools.

"(b)(1) No grant for traineeships may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary by regulation may prescribe. Traineeships under such a grant shall be awarded in accordance with such regulations as the Secretary shall prescribe. The amount of any such grant shall be determined by the Secretary.

"(2) Traineeships awarded under grants made under subsection (a) shall provide for such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

"(3) In awarding traineeships under this section, each applicant shall assure to the satisfaction of the Secretary that at least the percent specified in paragraph (4) of the funds received under this section shall go to individuals who—

"(A)(i) have previously received a postbaccalaureate degree, or

"(ii) have three years work experience in health services; and

"(B) are pursuing a course of study in—

"(i) biostatistics or epidemiology,

"(ii) health administration, health planning, or health policy analysis and planning,

"(iii) environmental or occupational health, or

"(iv) dietetics or nutrition.

"(4) The percent referred to in paragraph (3) is—

"(A) 45 percent for grants made for the fiscal year ending September 30, 1978,

"(B) 55 percent for grants made for the fiscal year ending September 30, 1979, and

"(C) 65 percent for grants made for the fiscal year ending September 30, 1980, and in succeeding fiscal years.

"(c) For payments under grants under subsection (a), there are authorized to be appropriated $7,500,000 for the fiscal year ending September 30, 1978; $8,000,000 for the fiscal year ending September 30, 1979; and $9,000,000 for the fiscal year ending September 30, 1980.

"TRAINEESHIPS FOR STUDENTS IN OTHER GRADUATE PROGRAMS

"SEC. 749. (a) The Secretary may make grants to public or nonprofit private educational entities, including graduate schools of social work but excluding schools of public health, which offer a program in health administration, hospital administration, or health policy analysis and planning, which program is accredited by a body or bodies approved for such purpose, by the Commissioner of Education and which meets such other quality standards as the Secretary by regulation may prescribe, for traineeships to train students enrolled in such a program.

"(b)(1) No grant for traineeships may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary by regulation may prescribe. Traineeships under such a grant shall be awarded in accordance with such regulations as the Secretary shall prescribe. The amount of any such grant shall be determined by the Secretary.

"(2) Traineeships awarded under grants made under subsection (a) shall provide for such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

"(3) In awarding traineeships under this section, each applicant shall assure to the satisfaction of the Secretary that at least 80 percent of the funds received under this section shall go to individuals who (A) have previously received a postbaccalaureate degree, or (B) have three years work experience in health services.

"(c) For payments under grants under subsection (a), there are authorized to be appropriated $2,500,000 for the fiscal year ending September 30, 1978; $2,500,000 for the fiscal year ending September 30, 1979; and $2,500,000 for the fiscal year ending September 30, 1980.".

(b)(1) Effective October 1, 1977, section 225 is repealed and part C of title VII (as amended by subsection (a)) is amended by adding after subpart III the following new subpart:

"SUBPART IV—NATIONAL HEALTH SERVICE CORPS SCHOLARSHIPS

"NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM

"SEC. 751. (a) The Secretary shall establish the National Health Service Corps Scholarship Program (hereinafter in this subpart referred to as the 'Scholarship Program') to assure an adequate supply of trained physicians, dentists, and nurses for the National Health Service Corps (hereinafter in this subpart referred to as the 'Corps') and, if needed by the Corps, podiatrists, optometrists, pharmacists, graduates of schools of veterinary medicine, graduates of schools of public health, graduates of programs in health administration, graduates of programs for the training of physician assistants, expanded function dental auxiliaries, and nurse practitioners (as defined in section 822), and other health professionals.

"(b) To be eligible to participate in the Scholarship Program, an individual must—

"(1) be accepted for enrollment, or be enrolled, as a full-time student (A) in an accredited (as determined by the Secretary) educational institution in a State and (B) in a course of study or program, offered by such institution and approved by the Secretary, leading to a degree in medicine, osteopathy, dentistry, or other health profession;

"(2) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Service or be eligible for selection for civilian service in the Corps;

"(3) submit an application to participate in the Scholarship Program; and

"(4) sign and submit to the Secretary, at the time of submittal of such application, a written contract (described in subsection (f)) to accept payment of a scholarship and to serve (in accordance with this subpart) for the applicable period of obligated service in a health manpower shortage area.

"(c) In disseminating application forms and contract forms to individuals desiring to participate in the Scholarship Program, the Secretary shall include with such forms—

"(1) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under section 754 in the case of the individual's breach of the contract; and

"(2) such other information as may be necessary for the individual to understand the individual's prospective participation in the Scholarship Program and service in the Corps.

The application form, contract form, and all other information furnished by the Secretary under this subpart shall be written in a manner calculated to be understood by the average individual applying to participate in the Scholarship Program. The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Scholarship Program on a date sufficiently early to insure that such individuals have adequate time to carefully review and evaluate such forms and information.

"(d) In determining which applications under the Scholarship Program to approve (and which contracts to accept), the Secretary shall give priority—

"(1) first, to applications made (and contracts submitted) by individuals who have previously received scholarships under the Scholarship Program or under section 758; and

"(2) second, to applications made (and contracts submitted)—

"(A) in the school year ending in the fiscal year beginning October 1, 1977, by individuals who are entering their first or second year of study in a course of study or program described in subsection (b)(1)(B) in such school year; and

"(B) in each school year thereafter, by individuals who are entering their first year of study, in a course of study or program described in subsection (b)(1)(B) in such school year.

"(e)(1) An individual becomes a participant in the Scholarship Program only upon the Secretary's approval of the individual's application submitted under subsection (b)(3) and the Secretary's acceptance of the contract submitted by the individual under subsection (b)(4).

"(2) The Secretary shall provide written notice to an individual promptly upon the Secretary's approving, under paragraph (1), of the individual's participation in the Scholarship Program.

"(f) The written contract (referred to in this subpart) between the Secretary and an individual shall contain—

"(1) an agreement that—

"(A) subject to paragraph (2), the Secretary agrees (i) to provide the individual with a scholarship (described in subsection (g)) in each such school year or years (not to exceed four school years), during which the individual is pursuing a course of study described in subsection (b)(1)(B), as shall be determined by the individual, and (ii) to accept (subject to the availability of appropriated funds for carrying out subpart II of part C of title III) the individual into the Corps (or for equivalent service as otherwise provided in this subpart); and

"(B) subject to paragraph (2), the individual agrees—

"(i) to accept provision of such a scholarship to the individual;

"(ii) to maintain enrollment in a course of study described in subsection (b)(1)(B) until the individual completes the course of study;

"(iii) while enrolled in such course of study, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary, by the educational institution offering such course of study); and

"(iv) to serve for a time period (hereinafter in the subpart referred to as the 'period of obligated service') equal to—

"(I) one year for each school year for which the individual was provided a scholarship under the Scholarship Program, or

"(II) two years,

whichever is greater, in a health manpower shortage area (designated under section 332) to which he is assigned by the Secretary as a member of the Corps, or as otherwise provided in this subpart;

"(2) a provision that any financial obligation of the United States arising out of a contract entered into under this subpart and any obligation of the individual which is conditioned thereon, is contingent upon funds being appropriated to carry out the purposes of this subpart and subpart II of part C of title III;

"(3) a statement of the damages to which the United States is entitled, under section 754, for the individual's breach of the contract; and

"(4) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with the provisions of this subpart.

"(g)(1) A scholarship, provided to a student for a school year under a written contract under the Scholarship Program or under section 758 (relating to the disadvantaged student scholarship program), shall consist of—

"(A) payment to, or (in accordance with paragraph (2)) on behalf of, the student of the amount (except as provided in section 711) of—

"(i) the tuition of the student in such school year; and

"(ii) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the student in such school year; and

"(B) payment to the student of a stipend of $400 per month (adjusted in accordance with paragraph (3)) for each of the 12 consecutive months beginning with the first month of such school year.

"(2) The Secretary may contract with an educational institution, in which a participant in the Scholarship Program is enrolled, for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in paragraph (1)(A). Payment to such an educational institution may be made without regard to section 3648 of the Revised Statutes (31 U.S.C. 529).

"(3) The amount of the monthly stipend, specified in paragraph (1)(B) and as previously adjusted (if at all) in accordance with this paragraph, shall be increased by the Secretary for each school year ending in a fiscal year beginning after September 30, 1978, by an amount (rounded to the next highest multiple of $1) equal to the amount of such stipend multiplied by the overall percentage (as set forth in the report transmitted to the Congress under section 5303 of title 5, United States Code) of the adjustment (if such adjustment is an increase) in the rates of pay under the General Schedule made effective in the fiscal year in which such school year ends.

"(h) Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, while undergoing academic training, shall not be counted against any employment ceiling affecting the Department.

"(i) The Secretary shall report to Congress on December 1 of each year—

"(1) the number, and type of health profession training, of students receiving scholarships under the Scholarship Program;

"(2) the educational institutions at which such students are receiving their training;

"(3) the number of applications filed under this section in the school year beginning in such year and in prior school years; and

"(4) the amount of tuition paid in the aggregate and at each educational institution for the school year beginning in such year and for prior school years.

"(j) The administrative unit which administers section 770 shall—

"(1) participate in the development of regulations, funding priorities, and application forms, and

"(2) be consulted by, and may make recommendations to, the Secretary in the review of applications for scholarships and grants,

with respect to the Scholarship Program.

"OBLIGATED SERVICE

"SEC. 752. (a) Except as provided in section 753, each individual who has entered into a written contract with the Secretary under section 751, shall provide service in the full-time clinical practice of such individual's profession as a member of the Corps for the period of obligated service provided in such contract.

"(b)(1) The Secretary shall notify each individual required to provide service under the Scholarship Program, not later than 60 days before the date such individual is required to begin the period of such obligated service, of the opportunity of such individual to serve in the full-time clinical practice of his profession either as a commissioned officer in either the Regular or Reserve Corps of the Service or as a civilian member of the Corps. The Secretary shall include in such notice sufficient information regarding the advantages and disadvantages to each alternative to enable an individual to make a decision on an informed basis.

"(2) To be eligible to provide obligated service as a commissioned officer in the Service, an individual shall notify the Secretary, not later than 30 days before the date the individual is required to begin the period of such obligated service, of the individual's desire to provide such service as such an officer.

"(3) If an individual who has notified the Secretary under paragraph (2) qualifies for an appointment as such an officer, the Secretary shall promptly appoint the individual as a commissioned officer of the Regular or Reserve Corps and of the Service and shall designate the individual as a member of the Corps. If an individual who has notified the Secretary under paragraph (3) does not so qualify, the Secretary shall promptly appoint such individual in accordance with paragraph (4).

"(4) Except as provided in paragraph (3) and in section 753, the Secretary shall appoint each individual, as soon as possible after the date described in paragraph (5), to serve in the full-time clinical practice of his profession as a civilian member of the Corps.

"(5)(A) With respect to an individual receiving a degree from a school of medicine, osteopathy, or dentistry, the date referred to in paragraph (4) shall be the date upon which the individual completes the training required for such degree, except that the Secretary shall, at the request of such individual, defer such date until the end of the period of time (not to exceed three years) required for the individual to complete an internship, residency, or other advanced clinical training. No such period of internship, residency, or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subpart.

"(B) With respect to an individual receiving a degree other than from a school of medicine, osteopathy, or dentistry, the date referred to in paragraph (4) shall be the date upon which the individual completes his academic training leading to such degree.

"(c) An individual shall be considered to have begun serving a period of obligated service—

"(1) on the date such individual is appointed as an officer in a Regular or Reserve Corps of the service or as a member of the Corps, or

"(2) in the case of an individual who has entered into an agreement with the Secretary under section 753, on the date specified in such agreement,

whichever is earlier.

"(d) The Secretary shall assign individuals performing obligated service in accordance with a written contract under the Scholarship Program to health manpower shortage areas in accordance with subpart II of part C of title III. If the Secretary determines that there is no need in a health manpower shortage area (designated under section 332) for a member of the profession under which an individual is obligated to provide service under a written contract, the Secretary may detail such individual to serve his period of obligated service as a full-time member of such profession in such unit of the Department as the Secretary may determine.

"(e) Notwithstanding any other provision of this title, if the Secretary determines that an individual who is or has been a participant in the Program demonstrates exceptional promise for medical research, the Secretary may permit such individual to perform his service obligation under the National Research Service Award program established under section 472.

"PRIVATE PRACTICE

"SEC. 753. (a) The Secretary shall release an individual from all or part of his service obligation under section 752(a) if the individual applies for such a release under this section and enters into a written agreement with the Secretary under which the individual agrees to engage for a period equal to the remaining period of his service obligation in the full-time private clinical practice (including service as a salaried employee in an entity directly providing health services) of his health profession—

"(1) in the case of an individual who is performing obligated service as a member of the Corps in a health manpower shortage area on the date of his application for such a release, in the health manpower shortage area in which such individual is serving on such date; or

"(2) in the case of any other individual, in a health manpower shortage area (designated under section 332) which (A) has a priority for the assignment of Corps members under section 333(c), and (B) has a sufficient financial base to sustain such private practice and to provide the individual with income of not less than the income of members of the Corps.

In the case of an individual described in paragraph (1), the Secretary shall release the individual from his service obligation under this subsection only if the Secretary determines that the area in which the individual is serving meets the requirement of subparagraph (B) of paragraph (2).

"(b) The written agreement described in subsection (a) shall—

"(1) provide that during the period of private practice by an individual pursuant to the agreement—

"(A) any person who receives health services provided by the individual in connection with such practice will be charged for such services at the usual and customary rate prevailing in the area in which such services are provided, except that if such person is unable to pay such charge, such person shall be charged at a reduced rate or not charged any fee; and

"(B) the individual in providing health services in connection with such practice shall not discriminate against any person on the basis of such person's ability to pay for such services or because payment for the health services provided to such person will be made under the insurance program established under part A or B of title XVIII of the Social Security Act or under a State plan for medical assistance approved under title XIX of such Act; and

"(2) contain such additional provisions as the Secretary may require to carry out the purposes of this section.

For purposes of paragraph (1)(A), the Secretary shall by regulation prescribe the method for determining a person's ability to pay a charge for health services and the method of determining the amount (if any) to be charged such person based on such ability.

"BREACH OF SCHOLARSHIP CONTRACT

"SEC. 754. (a) An individual who has entered into a written contract with the Secretary under section 751 and who fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part of a scholarship under such contract, shall in addition to any service or other obligation or liability under the contract, be liable to the United States for the amount of $1,500 as liquidated damages.

"(b) An individual who has entered into a written contract with the Secretary under section 751 and who—

"(1) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary),

"(2) is dismissed from such educational institution for disciplinary reasons; or

"(3) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract, before the completion of such training. in lieu of any service obligation arising under such contract shall be liable to the United States for the amount which has been paid to him, or on his behalf, under the contract.

"(c) If an individual breaches his written contract by failing (for any reason) either to begin such individual's service obligation in accordance with section 752 or 753 or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula

$$A=3\phi\left(\frac{t-s}{t}\right)$$

in which 'A' is the amount the United States is entitled to recover, 'ϕ' is the sum of the amount paid under this subpart to or on behalf of the individual and the interest on such amount which would be payable if at the time it was paid it was a loan bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States; 't' is the total number of months in the individual's period of obligated service and 's' is the number of months of such period served by him in accordance with section 752 or a written agreement under section 753. Any amount of damages which the United States is entitled to recover under this subsection shall, within the one-year period beginning on the date of the breach of the written contract, be paid to the United States.

"(d)(1) Any obligation of an individual under the Scholarship Program (or a contract thereunder) for service or payment of damages shall be canceled upon the death of the individual.

"(2) The Secretary shall by regulation provide for the waiver or suspension of any obligation of service or payment by an individual under the Scholarship Program (or a contract thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual and if enforcement of such obligation with respect to any individual would be unconscionable.

"(3) Any obligation of an individual under the scholarship (or a contract thereunder) for payment of damages may be released by a discharge in bankruptcy under the Bankruptcy Act only if such discharge is granted after the expiration of the five-year period beginning on the first date, as specified in section 731(a)(2)(B), when payment of such damages is required.

"SPECIAL GRANTS FOR FORMER CORPS MEMBERS TO ENTER PRIVATE PRACTICE

"SEC. 755. (a) The Secretary may make one grant to an individual (other than an individual who has entered into an agreement under section 753)—

"(1) who has completed his period of obligated service in the Corps, and

"(2) who has agreed in writing—

"(A) to engage in the private full-time clinical practice of his profession in a health manpower shortage area (designated under section 332 and described in paragraphs (1) and (2) of section 753(a)) for a period (beginning not later than one year after the date he completed his period of obligated service in the Corps) of not less than one year;

"(B) to conduct such practice in accordance with the provisions of section 753(b)(1); and

"(C) to such additional conditions as the Secretary may require to carry out the purposes of this section;

to assist such individual in meeting the costs of beginning the practice of such individual's profession in accordance with such agreement, including the costs of acquiring equipment and renovating facilities for use in providing health services, and of hiring nurses and other personnel to assist in providing health services. Such grant may not be used for the purchase or construction of any building.

"(b) The amount of the grant under subsection (a) to an individual shall be—

"(1) $12,500, if the individual agrees to practice his profession in accordance with the agreement for a period of at least one year, but less than two years: or

"(2) $25,000 if the individual agrees to practice his profession in accordance with the agreement for a period of at least two years.

"(c) The Secretary may not make a grant under this section unless an application therefor has been submitted to, and approved by, the Secretary.

"(d) If the Secretary determines that an individual has breached a written agreement entered into under subsection (a), he shall, as soon as practicable after making such determination, notify the individual of such determination. If within 120 days after the date of giving such notice, such individual is not practicing his profession in accordance with the agreement under such subsection and has not provided assurance satisfactory to the Secretary that he will not knowingly violate such agreement again, the United States shall be entitled to recover from such individual an amount determined under section 753(c), except that in applying the formula contained in such section, 'ϕ' shall be the sum of the amount of the grant made under subsection (a) to such individual and the interest on such amount which would be payable if at the time it was paid it was a loan bearing interest at the maximum legal prevailing rate, 't' shall be the number of months that such individual agreed to practice his profession under such agreement, and 's' shall be the number of months that such individual practices his profession in accordance with such agreement.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 756. (a) There are authorized to be appropriated for scholarships under this subpart $75,000,000 for the fiscal year ending September 30, 1978, $140,000,000 for the fiscal year ending September 30, 1979, and $200,000,000 for the fiscal year ending September 30, 1980. For the fiscal year ending September 30, 1981, and for each subsequent fiscal year, there are authorized to be appropriated such sums as may be necessary to continue to make scholarship awards to students who have entered into written contracts under the Scholarship Program before October 1, 1980.

"(b) Of the sums appropriated under this section (1) 90 percent shall be obligated for scholarships for medical, osteopathic, and dental students, and (2) 10 percent of such 90 percent shall be obligated for scholarships for dental students.".

(2)(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) of this subsection shall apply with respect to scholarships awarded under the National Health Service Corps Scholarship Program from appropriations for such Program for fiscal years beginning after September 30, 1977.

(B) The provisions of section 225(f)(1) of the Public Health Service Act (as in effect on September 30, 1977) prescribing the financial obligation of a participant in the National Health Service Corps Scholarship Program who fails to complete an active duty service obligation incurred under that Program shall apply to any individual who received a scholarship under such Program for any school year ending before September 30, 1977, irrespective of whether such individual received such a scholarship after that date, unless such individual agrees to meet his active duty service obligation (or the remaining part thereof) through the private practice of his profession under an agreement entered into under section 753 of the Public Health Service Act (as added by this subsection), in which case are the provisions of section 754 of such Act (as added by this subsection) shall apply to such individual if he violates such agreement.

(C) Periods of internship or residency served before September 30, 1976, in a facility of the National Health Service Corps or other facility of the Public Health Service in accordance with an agreement entered into under section 225(b) of the Public Health Service Act (as in effect before that date) shall be creditable in satisfying a service obligation incurred under the Public Health and National Health Service Corps Scholarship Program as revised by this subsection.

(c) Effective October 1, 1977, part C of title VII (as amended by subsections (a) and (b)) is amended by adding after subpart IV the following new subpart:

"Subpart V—Other Scholarships

"SCHOLARSHIPS FOR FIRST-YEAR STUDENTS OF EXCEPTIONAL FINANCIAL NEED

"SEC. 758. (a) The Secretary shall make grants to a public or nonprofit school of medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, or veterinary medicine which is accredited as provided in section 1721(b)(1)(B), for scholarships to be awarded by the school to full-time students thereof who are of exceptional financial need, and who are in their first year of study at such school in the school year ending in the fiscal year in which such grant is made.

"(b)(1) Scholarships may be awarded by a school from grant under subsection (a) only to individuals who have been accepted by it for enrollment as full-time students in their first year of study at such school.

"(2) A scholarship awarded to a student for a school year under a grant made under subsection (a) shall be the scholarship described in section 751(g).

"(3) For purposes of this section, the term 'first year of study' means, with respect to a student of a school other than a school of pharmacy, the student's first year of postbaccalaureate study at such school.

"(c) The Secretary shall distribute grants under this section among all schools of the health professions, but shall give priority in distributing such grants to schools of medicine, osteopathy, and dentistry.

"(d) For the purpose of making grants under this section, there is authorized to be appropriated $16,000,000 for the fiscal year ending September 30, 1978, $17,000,000 for the fiscal year ending September 30, 1979, and $18,000,000 for the fiscal year ending September 30, 1980.

"LISTER HILL SCHOLARSHIP PROGRAM

"SEC. 759. (a) The Secretary annually shall make grants to at least 10 individuals (to be known as Lister Hill scholars) for scholarships of up to four years of medical school if such individuals agree to enter into the family practice of medicine in a health manpower shortage area in accordance with this section. Grants made under this section shall be made only from funds appropriated under subsection (b).

"(b) There are authorized to be appropriated to carry out the purposes of this section $80,000 for the fiscal year ending September 30, 1977, $160,000 for the fiscal year ending September 30, 1978, $240,000 for the fiscal year ending September 30, 1979, and $320,000 for the fiscal year ending September 30, 1980. For the fiscal year ending September 30, 1981 and for each succeeding fiscal year, there are authorized to be appropriated such sums as may be necessary to continue to make such grants to students who (prior to October 1, 1980) have received such a grant under this section during such succeeding fiscal year.".

SCHOLARSHIPS

SEC. 409. (a) Effective October 1, 1976, subparts I, II, and III of part F of title VII are repealed.

(b) The Secretary of Health, Education, and Welfare during the period beginning October 1, 1976, and ending September 30, 1979, may (1) make grants under section 780 of the Public Health Service Act (as in effect before the date of the enactment of this Act) to public and nonprofit private schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, and pharmacy to enable such schools to continue making payments under scholarship awards to individuals enrolled and in good standing as full-time students who initially received such awards out of grants made to the schools under such section 780 for fiscal years ending October 1, 1976, and (2) make scholarship grants under section 784 of such Act (as in effect before the date of the enactment of this Act) to individuals enrolled and in good standing as medical students who initially received such grants before October 1, 1976.

TITLE V—GRANTS FOR HEALTH PROFESSIONS SCHOOLS

GRANT AMOUNTS; AUTHORIZATIONS

SEC. 501. (a) Section 770(a) is amended to read as follows:

"(a) GRANT COMPUTATION.—The Secretary shall make annual grants to schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, and podiatry for the support of the education programs of such schools. The amount of the annual grant to each school with an approved application shall be computed for each fiscal year as follows:

"(1) Each school of medicine, osteopathy, and dentistry shall receive—

"(A) for the fiscal year ending September 30, 1978, $2,000 for each full-time student enrolled in such school in the school year beginning in such fiscal year,

"(B) for the fiscal year ending September 30, 1979, $2,050 for each full-time student enrolled in such school in the school year beginning in such fiscal year, and

"(C) for the fiscal year ending September 30, 1980, $2,100 for each full-time student enrolled in such school in the school year beginning in such fiscal year.

"(2)(A) Each school of public health shall receive for the fiscal year ending September 30, 1978, and for each of the next two fiscal years an amount equal to the product of—

"(i) $1,400, and

"(ii) the sum of (I) the number of full-time students enrolled in such school in the school year beginning in such fiscal year, and (II) the number of full-time equivalents of part-time students, determined pursuant to subparagraph (B), for such school for such school year.

"(B) For purposes of subparagraph (A) the number of fulltime equivalents of part-time students for a school of public health for any school year is a number equal to—

"(i) the total number of credit hours of instruction in such year for which part-time students of such school, who are pursuing a course of study leading to a graduate degree in public health or an equivalent degree, have enrolled, divided by

"(ii) the greater of (I) the number of credit hours of instruction which a full-time student of such school was required to take in such year, or (II) 9,

rounded to the next highest whole number.

"(3) For the fiscal year ending September 30, 1978, and for each of the next two fiscal years, each school of veterinary medicine shall receive $1,450 for each full-time student enrolled in such school in the school year beginning in such fiscal year.

"(4) For the fiscal year ending September 30, 1978, and for each of the next two fiscal years, each school of optometry shall receive $765 for each full-time student enrolled in such school in the school year beginning in such fiscal year.

"(5) For the fiscal year ending September 30, 1978, and for each of the next two fiscal years, each school of pharmacy (other than a school of pharmacy with a course of study of more than four years) shall receive $695 for each full-time student enrolled in such school in the school year beginning in such fiscal year. Each school of pharmacy with a course of study of more than four years shall receive $695 for each full-time student enrolled in the last four years of such school. For purposes of section 771, a student enrolled in the first year of the last four years of such school shall be considered a first-year student.

"(6) For the fiscal year ending September 30, 1978, and for each of the next two fiscal years, each school of podiatry shall receive $965 for each full-time student enrolled in such school in the school year beginning in such fiscal year.".

(b) Subsection (b) of section 770 is amended to read as follows:

"(b) APPORTIONMENT OF APPROPRIATIONS.—Notwithstanding subsection (a), if the aggregate of the amounts of the grants to be made in accordance with such subsection for any fiscal year to schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry with approved applications exceeds the total of the amounts appropriated under subsection (f) for such grants, the amount of a school's grant with respect to which such excess exists shall for such fiscal year be an amount which bears the same ratio to the amount determined for the school under such subsection as the total of the amounts appropriated for that year under subsection (f) for grants to schools of the same category as such school bears to the amount required to make grants in accordance with such subsection to each of the schools of that category with approved applications.".

(c)(1) Subsections (c), (d), (e), (f), and (g) of section 770 are repealed.

(2) Subsection (h) of section 770 is (A) redesignated as subsection (c), and (B) is amended to read as follows:

"(c) ENROLLMENT DETERMINATIONS.—

"(1) For purposes of this section, regulations of the Secretary shall include provisions relating to the determination of the number of students enrolled in a school or in a particular year-class in a school on the basis of estimates, on the basis of the number of students who in an earlier year were enrolled in a school or in a particular year-class, or on such other basis as he deems appropriate for making such determination, and shall include methods of making such determination when a school or a year-class was not in existence in an earlier year at a school.

"(2) For purposes of this section, the term 'full-time students' (whether such term is used by itself or in connection with a particular year-class) means students pursuing a full-time course of study leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, bachelor or master of science in pharmacy or an equivalent degree, doctor of optometry or an equivalent degree, doctor of veterinary medicine or an equivalent degree, or doctor of podiatry or an equivalent degree or to a graduate degree in public health or equivalent degree. In the case of a training program of a school designed to permit the students enrolled in such program to complete, within six years after completing secondary school, the requirements for degree of doctor of medicine, doctor of dentistry or an equivalent degree, or doctor of osteopathy, the term 'full-time students' shall only include students enrolled on a full-time basis in the last four years of such program and for purposes of section 771, students enrolled in the first of the last four years of such program shall be considered as first-year students.".

(3) Subsection (i) of section 770 is amended (A) by inserting ", public health" after "dentistry", (B) by striking out "and (b)", and (c) redesignated as subsection (d).

(4) Subsection (j) of section 770 is redesignated as subsection (e) and is amended to read as follows:

"(e) AUTHORIZATIONS OF APPROPRIATIONS.—

"(1) There are authorized to be appropriated $124,182,000 for the fiscal year ending September 30, 1978, $131,683,800 for the fiscal year ending September 30, 1979, and $139,400,100 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of medicine.

"(2) There are authorized to be appropriated $8,680,000 for the fiscal year ending September 30, 1978, $9,337,750 for the fiscal year ending September 30, 1979, and $10,159,000 for the fiscal year ending September 30, 1980, for payments under grants under this section for schools of osteopathy.

"(3) There are authorized to be appropriated $43,798,000 for the fiscal year ending September 30, 1978, $45,409,550 for the fiscal year ending September 30, 1979, and $46,909,800 for the fiscal year ending September 30, 1980, for payments under grants under this section for schools of dentistry.

"(4) There are authorized to be appropriated $7,166,000 for the fiscal year ending September 30, 1978, $7,296,800 for the fiscal year ending September 30, 1979, and $7,411,600 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of public health.

"(5) There are authorized to be appropriated $10,219,600 for the fiscal year ending September 30, 1978, $10,548,750 for the fiscal year ending September 30, 1979, and $10,705,350 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of veterinary medicine.

"(6) There are authorized to be appropriated $3,204,585 for the fiscal year ending September 30, 1978, $3,272,670 for the fiscal year ending September 30, 1979, and $3,366,000 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of optometry.

"(7) There are authorized to be appropriated $16,939,970 for the fiscal year ending September 30, 1978, $17,110,205 for the fiscal year ending September 30, 1979, and $17,363,050 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of pharmacy.

"(8) There are authorized to be appropriated $2,267,750 for the fiscal year ending September 30, 1978, $2,270,645 for the fiscal year ending September 30, 1979, and $2,285,120 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of podiatry.".

(d) For the fiscal year ending September 30, 1978, and for each of the next two fiscal years, there are authorized to be appropriated such sums as may be necessary to continue to make annual grants to schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, and podiatry under section 770(a) of the Public Health Service Act (as in effect on September 30, 1977) based on the number of enrollment bonus students (determined in accordance with subsections (d) and (e) of section 770 of such Act (as so in effect)) enrolled in such schools who were first-year students in such schools for school years ending before September 30, 1977, except that the amount of any grant made to such a school from sums appropriated under this subsection may not exceed the amount of the grant the school received in the fiscal year ending September 30, 1977, based on the number of such students enrolled in it.

(e) Effective October 1, 1977, the heading for part E of title VII is amended to read as follows:

"Part E.—Grants To Improve the Quality of Schools of Medicine, Osteopathy, Dentistry, Public Health, Veterinary Medicine, Optometry, Pharmacy, and Podiatry".

(f) The amendments made by subsections (a), (b), and (c) shall apply with respect to appropriations under section 770 of the Public Health Service Act, and grants under that section, for fiscal years beginning after September 30, 1977.

GRANT REQUIREMENTS

Sec. 502. Effective with respect to fiscal years beginning after September 30, 1977, part E of title VII is amended (1) by striking out sections 771, 772, 773, 774, and 776, and (2) by adding after section 770 the following new section:

"ELIGIBILITY FOR CAPITATION GRANTS

"Sec. 771. (a) In General.—The Secretary shall not make a grant under section 770 to any school in a fiscal year beginning after September 30, 1977, unless the application for the grant contains, or is supported by, assurances satisfactory to the Secretary that—

"(1) the first-year enrollment of full-time students in the school in the school year beginning in the fiscal year in which the grant applied for is to be made will not be less than the first-year enrollment of such students in the school in the preceding school year; and

"(2) the applicant will expend in carrying out its functions as a school of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry, as the case may be, during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Secretary) from non-Federal sources which is at least as great as the amount of funds expended by such applicant for such purpose (excluding expenditures of a nonrecurring nature) in the fiscal year preceding the fiscal year for which such grant is sought.

"(b)(1) Medical Schools.—To be eligible for a grant under section 770 each school of medicine shall, in addition to the requirements of subsection (a), meet the applicable requirements of paragraphs (2) and (3).

"(2)(A)(i) Unless, as determined under subparagraph (B), the number of filled first year positions on July 15, 1977, in direct or affiliated medical residency training programs in primary care is at least 35 percent of the number of filled first year positions on that date in all direct or affiliated medical residency training programs, to be eligible for a grant under section 770 for the fiscal year ending September 30, 1978, a school of medicine shall have on July 15, 1978, at least 35 percent of its filled first year positions, as determined under subparagraph (B), and (b), in its direct or affiliated medical residency training programs in first year positions in such programs in primary care.

"(ii) Unless, as determined under subparagraph (B), the number of filled first year positions on July 15, 1978, in direct or affiliated medical residency training programs in primary care is at least 40 percent of the number of filled first year positions on that date in all direct or affiliated medical residency training programs, to be eligible for a grant under section 770 for the fiscal year ending September 30, 1979, a school of medicine shall have on July 15, 1979, at least 40 percent of its filled first year positions, as determined under subparagraph (B), and (b), in its direct or affiliated medical residency training programs in first year positions in such programs in primary care.

"(iii) Unless, as determined under subparagraph (B), the number of filled first year positions on July 15 of any year (beginning with 1979) in direct or affiliated medical residency training programs in primary care is at least 50 percent of the number of filled first year positions on that date all direct or affiliated medical residency training programs, to be eligible for a grant under section 770 for the fiscal year ending on September 30 of the following year, a school of medicine shall have on July 15 of such following year at least 50 percent of its filled first year positions, as determined under subparagraphs (C) and (D), in its direct or affiliated medical residency training programs in first year positions in such programs in primary care.

"(B) The Secretary shall determine what percent of all the positions filled, as of July 15, 1977, and July 15 of each subsequent year, in all direct or affiliated medical residency training programs are filled positions in such programs in primary care. In determining the number of such positions on July 15, 1978, or on July 15 of a subsequent year, the Secretary shall deduct from such number a number equal to the number of individuals who were in a first year position in any direct or affiliated medical residency training program in primary care as of July 15 of the previous year and who on the date for which the determination is to be made were not in any direct or affiliated medical residency training program in primary care. Each determination under this subparagraph shall, not later than 45 days after the date for which the determination is made, be published in the Federal Register and reported in writing to each school of medicine in the States and to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate.

"(C) In determining if a school of medicine meets an applicable requirement of clause (i), (ii), or (iii) of subparagraph (A) for a fiscal year, the number of filled first year positions in direct or affiliated medical residency training programs of such school in primary care on July 15 in such fiscal year shall be reduced by the number of individuals who were in a first year position in a direct or affiliated medical residency training program of such school in primary care on July 15 in the previous fiscal year and who on July 15 in the fiscal year to which the requirement applies are not in a direct or affiliated medical residency training program of such school in primary care. Each determination, with respect to a school, under this subparagraph shall, not later than 45 days after the date on which the determination is made, be reported in writing to such school and to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate.

"(D) The percent of filled first year positions which a school is required to have on a date under subparagraph (A), in order to be eligible for a grant under section 770, shall be waived by the Secretary if he determines (i) that such school has made a good faith effort to comply with such percent requirement, and (ii) the school has at least 98 percent of such percent of its positions filled on such date.

"(E) The Secretary shall not make any grant under section 770 to a school of medicine for any fiscal year if the Secretary, after providing notice and opportunity for a hearing, determines that in the preceding fiscal year such school—

"(i) terminated or failed to renew an affiliation with a medical residency training program for the purpose of meeting the requirements of this paragraph, and

(ii) after such a termination or failure to renew, provided support for such medical residency training program (including any interchange of medical residents, students, or faculty between the school and such program, the offering of any faculty position at such school to any individual on the staff of such entity who has any responsibility for such program, or the provision or receipt by such school of any funds for such program)

"(F) For purposes of this paragraph:

"(i) The term 'direct or affiliated medical residency training program' means a medical residency training program with which a school of medicine is affiliated or has a similar arrangement (including any arrangement which provides for any interchange of medical residents, students, or faculty between the school and such program, the offering of any faculty position at such school to any individual on the staff of such entity who has any responsibility for such program, or the provision or receipt by such school of any funds for such program), as determined under regulations of the Secretary, or which is primarily conducted in facilities owned by a school of medicine.

"(ii) The term 'primary care' means general internal medicine, family medicine, or general pediatrics.

"(3)(A) To be eligible for a grant under section 770 a school of medicine shall, in its application for such grant, give assurances satisfactory to the Secretary that, except as provided in subparagraph (C), the school will reserve positions in the school year beginning immediately before the fiscal year for which such grant is applied for students described in subparagraph (B).

"(B) No later than August 16, 1977, and August 15 of each of the next two years, the Secretary shall identify the citizens of the United States who, before September 15, 1976, were enrolled in a school of medicine not in a State and who by the date of the identification is made under this subparagraph—

"(i) successfully completed at least two years in such school of medicine, and

"(ii) successfully completed part I of the National Board of Medical Examiners' examination (or any successor to such examination).

The Secretary shall equitably apportion a number of positions adequate to fill the needs of students described in subparagraph (B) among the schools of medicine in the States.

"(C) A school of medicine shall not be required to enroll a student described in subparagraph (B) if—

"(i) the individual does not meet, as determined under guidelines established by the Secretary by regulation, the entrance requirements of the school (other than requirements related to academic qualifications or to place of residence), or

"(ii) enrollment of such individual will, as determined by the Secretary after consultation with the appropriate accreditation body result in the school's not meeting the accreditation standards of such body.

"(D) The Secretary may waive the requirements of this paragraph upon a finding that, because of the inadequate size of the population served by the hospital or clinical facility in which such school conducts its clinical training, compliance by such school with such assurances will prevent such school from providing high quality clinical training for the students added by the application of this paragraph to such school.

"(c) Schools of Osteopathy.—(1) To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of osteopathy shall, in addition to the requirements of subsection (a), submit to the Secretary and have approved by him before the grant applied for is made, a plan to train full-time students in ambulatory care settings in the school year beginning in the fiscal year for which the grant is made and in each school year thereafter beginning in a fiscal year for which such a grant is made and in areas osteographically remote from the main site of the teaching facilities of the applicant (or any other school of osteopathy which has joined with the applicant in the submission of the plan), areas in which medically underserved populations reside.

"(2) More than one applicant may join in the submission of a plan described in paragragh (1). No plan may be approved by the Secretary unless—

"(A) the application for a grant under section 770 of each school which has joined in the submission of the plan contains or is supported by assurances satisfactory to the Secretary that all of the full-time students who will graduate from such school will upon graduation have received, in an area geographically remote from the main site of the training facilities of such schools, at least 6 weeks (at least 3 of which shall be consecutive) of clinical training or in areas in which medically underserved populations reside;

"(B) the plan contains a list of the areas where the training under such plan is to be conducted, a detailed description of the type and amount of training to be given in such areas, and provision for periodic review by experts in osteopathic education of the desirability of providing training in such areas and of the quality of training rendered in such areas;

"(C) the plan contains a specific program for the appointing, as members of the faculty of the school or schools submitting the plan, of practicing physicians to serve as instructors in the training program in such areas; and

"(D) the plan contains a plan for frequent counseling and consultation between the faculty of the school or schools at the main site of their training facilities and the instructors in the training program in such areas.

"(d) Schools of Dentistry.—(1) To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of dentistry shall, in addition to the requirements of subsection (a), meet the requirements of paragraph (2) and of subparagraphs (A) or (B) of paragraph (3).

"(2) In the school year beginning in the fiscal year ending September 30, 1978, and in each school year thereafter beginning in a fiscal year for which a grant under section 770 is applied for, at least 70 percent of a school of dentistry's filled positions in dental specialty programs which are in excess of the number of filled positions in its programs in the school year beginning in the fiscal year ending September 30, 1977, shall be positions in dental specialty programs in general dentistry or pedodontics.

"(3) A school of dentistry shall maintain an enrollment of full-time first-year students, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under section 770 is applied for, which exceeds the number of full-time, first-year students enrolled in such school in the school year beginning in the fiscal year ending September 30, 1976—

"(A) by 10 percent of such number if such number was not more than 100, or

"(B) by 5 percent of such number, or 10 students, whichever is greater, if such number was more than 100.

"(4)(A) A school of dentistry shall submit to the Secretary and have approved by him before the grant applied for is made, a plan to train full-time students in ambulatory care settings in the school year beginning in the fiscal year for which the grant is made and in each school year thereafter beginning in a fiscal year for which such a grant is made and in areas geographically remote from the main site of the teaching facilities of the applicant (or any other school of dentistry, which has joined with the applicant in the submission of the plan) or in areas in which medically underserved populations reside.

"(B) More than one applicant may join in the submission of a plan described in subparagraph (A). No plan may be approved by the Secretary unless—

"(i) the application for a grant under section 770 of each school which has joined in the submission of the plan contains or is supported by assurances satisfactory to the Secretary that all of the full-time students who will graduate from such school will upon graduation have received, in an area geographically remote from the main site of the training facilities of such school, at least 6 weeks (in the aggregate) of clinical training or in areas in which medically underserved populations reside;

"(ii) the plan contains a list of the areas where the training under such plan is to be conducted, a detailed description of the type and amount of training to be given in such areas, and provision for periodic review by experts in dental education of the desirability of providing training in such areas and of the quality of training rendered in such areas;

"(iii) the plan contains a specific program for the hiring, as members of the faculty of the school or schools submitting the plan, of practicing dentists to serve as instructors in the training program in such areas of the teaching facilities of such school; and

"(iv) the plan contains a plan for frequent counseling and consultation between the faculty of the school or schools at the main site of their training facilities and the instructors in the training program in such areas.

"(e) Schools of Public Health.—(1) To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of public health shall, in addition to the requirements of subsection (a), maintain an enrollment of full-time, first-year students, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under section 770 is applied for, which exceeds the number of full-time, first-year students enrolled in such school in the school year beginning in the fiscal year ending September 30, 1976—

"(A) by 5 percent of such number if such number was not more than 100, or

"(B) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100.

"(2) The Secretary may waive (in whole or in part) application to a school of public health the requirement of paragraph (1) if the Secretary determines, after receiving the written recommendation of the appropriate accreditation body or bodies (as defined in section 721(b)(1)) that compliance by such school with such requirement will prevent it from maintaining its accreditation.

"(f) Schools of Veterinary Medicine.—(1) To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of veterinary medicine shall, in addition to the requirements of subsection (a), meet the requirements of paragraph (2) and paragraph (3) or (4).

"(2) An application of a school of veterinary medicine for a grant under section 770 shall contain or be supported by assurances satisfactory to the Secretary that the clinical training of the school shall emphasize predominantly care to food-producing animals or to the fibre-producing animals, or to both types of animals.

"(3) A school of veterinary medicine shall maintain an enrollment of full-time, first-year students, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under section 770 is applied for, which exceeds the number of full-time, first-year students enrolled in such school in the school year beginning in the fiscal year ending September 30, 1976—

"(A) by 5 percent of such number if such number was not more than 100, or

"(B) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100.

"(4) An application of a school of veterinary medicine shall contain or be supported by assurances satisfactory to the Secretary that for the school year beginning in the fiscal year for which a grant is made under section 770 at least 30 percent of the enrollment of full-time, first-year students in such school will be comprised of students who are residents of States in which there are no accredited schools of veterinary medicine.

"(g) Schools of Optometry.—(1) To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of optometry shall, in addition to the requirements of subsection (a), meet the requirement of paragraph (2) or (3).

"(2) A school of optometry shall maintain an enrollment of full-time, first-year students, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under section 770 is applied for, which exceeds the number of full-time, first-year students enrolled in such school in the school year beginning in the fiscal year ending September 30, 1976—

"(A) by 5 percent of such number if such number is not more than 100, or

"(B) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100.

"(3) An application of a school of optometry shall contain or be supported by assurances satisfactory to the Secretary that for the school year ending in the fiscal year for which a grant is made under section 770 at least 25 percent (or 50 percent if the applicant is a nonprofit private school of optometry) of the first year enrollment of full-time students in such school will be comprised of students who are residents of States in which there are no accredited schools of optometry.

"(h) SCHOOLS OF PODIATRY.—(1) To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of podiatry shall, in addition to the requirements of subsection (a), meet the requirements of paragraph (2) or (3).

"(2) A school of podiatry shall maintain an enrollment of full-time, first-year students, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under section 770 is applied for, which exceeds the number of full-time, first-year students enrolled in such school in the school year beginning in the fiscal year ending September 30, 1976—

"(A) by 5 percent of such number if such number was not more than 100, or

"(B) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100.

"(3) An application of a school of podiatry shall contain or be supported by assurances satisfactory to the Secretary that for the school year beginning in the fiscal year for which a grant is made under section 770 at least 40 percent of the enrollment of full-time, first-year students in such school will be comprised of students who are residents of States in which there are no accredited schools of podiatry.

"(i) SCHOOLS OF PHARMACY.—To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of pharmacy's application for such a grant shall, in addition to the assurances required by subsection (a), contain or be supported by assurances that each student who is enrolled in the school will before graduation undergo a training program in clinical pharmacy, which shall include (1) an inpatient and outpatient clerkship experience in a hospital, extended care facility, or other clinical setting; (2) interaction with physicians and other health professionals; (3) training in the counseling of patients with regard to the appropriate use and reactions to drugs; and (4) training in drug information retrieval and analysis in the context of actual patient problems.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 503. (a) Section 775 is redesignated section 772 and is amended—

(1) by striking out "section 770, 771, 772, or 773" each place it occurs and inserting in lieu thereof "section 770",

(2) by inserting ", public health" after "dentistry" in subsection (b),

(3) by striking out "this part" in subsection (c) and inserting in lieu thereof "section 770",

(4) by striking out "section 770, 771, or 773" in subsection (d)(1) and inserting in lieu thereof "section 771", and

(5) by amending subsection (d)(3) to read as follows:

"(3) provides for such fiscal control and accounting procedures and reports, including the use of such standard procedures for the recording and reporting of financial information, as the Secretary may prescribe, and access to the records of the applicant, as the Secretary may require to enable him to determine the costs to the applicant of its program for the education or training of students.".

(b) Sections 312 and 313 are repealed.

(c) The amendments made by this section shall take effect October 1, 1977.

TITLE VI—FOREIGN MEDICAL GRADUATES

LIMITATION ON IMMIGRATION OF FOREIGN MEDICAL GRADUATES

SEC. 601. (a) Section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182 (a)) is amended by (1) striking out the period at the end thereof and inserting a semicolon in lieu thereof, and (2) by adding at the end thereof the following new paragraph:

"(32) Aliens who are graduates of a medical school and are coming to the United States principally to perform services as members of the medical profession, except such aliens who have passed parts I and II of the National Board of Medical Examiners Examination (or equivalent examination as determined by the Secretary of Health, Education, and Welfare) and who are competent in oral and written English. The exclusion of aliens under this paragraph shall apply to special immigrants defined in section 101(a)(27)(A) (other than the parents, spouses, or children of United States citizens or of aliens lawfully admitted for permanent residence), to nonpreference immigrant aliens described in section 203(a) (8), and to preference immigrant aliens described in section 203(a) (3) and (6).".

(b) Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a) (15)) is amended as follows:

(1) Subparagraph (H)(i) is amended by inserting before the semicolon ", and who, in the case of a graduate of a medical school coming to the United States to perform services as a member of the medical profession, is coming pursuant to an invitation from a public or nonprofit private educational or research institution or agency in the United States to teach or conduct research, or both, at or for such institution or agency".

(2) Subparagraph (H)(ii) is amended by inserting before the semicolon ", but this clause shall not apply to graduates of medical schools coming to the United States to perform services as members of the medical profession".

(3) Subparagraph (H)(iii) is amended by inserting before the semicolon ", other than to receive graduate medical education or training".

(4) Subparagraph (J) is amended by inserting "and who, if he is coming to the United States to participate in a program under which he will receive graduate medical education or training, also meets the requirements of section 212(j)" before ", and the alien spouse".

(c) Section 212(e) of such Act (8 U.S.C. 1182(e)) is amended—

(1) by striking out "whose (i)" and inserting in lieu thereof "(i) whose";

(2) by striking out "or" immediately before "(ii)";

(3) by inserting immediately before "shall be eligible" in the first sentence the following: "or (iii) who came to the United States or acquired such status in order to receive graduate medical education or training,"; and

(4) by inserting ", except in the case of an alien described in clause (iii)," immediately after "provided further, That".

(d) Section 212 of such Act (8 U.S.C. 1182) is amended by inserting at the end thereof the following new subsection:

"(j)(1) The additional requirements referred to in section 101(a)(15)(J) for an alien who is coming to the United States under a program under which he will receive graduate medical education or training are:

"(A) A school of medicine or of one of the other health professions, which is accredited by a body or bodies approved for the purpose by the Commissioner of Education, has agreed in writing to provide the graduate medical education or training under the program for which the alien is coming to the United States or to assume responsibility for arranging for the provision thereof by an appropriate public or nonprofit private institution or agency, except that, in the case of such an agreement by a school of medicine, any one or more of its affiliated hospitals which are to participate in the provision of the graduate medical education or training must join in the agreement;

"(B) Before making such agreement, the accredited school has been satisfied that the alien has passed parts I and II of the National Board of Medical Examiners Examination (or equivalent examination as determined by the Secretary of Health, Education, and Welfare), has competency in oral and written English, will be able to adapt to the educational and cultural environment in which he will be receiving his education or training, and has adequate prior education and training to participate satisfactorily in the program for which he is coming to the United States;

"(C) The alien has made a commitment to return to the country of his nationality or last residence upon completion of his education or training for which he is coming to the United States (including any extension of the duration thereof under subparagraph (D)), and the government of the country of his nationality or last residence has provided a written assurance, satisfactory to the Secretary of Health, Education, and Welfare, that upon such completion and return he will be appointed to a position in which he will fully utilize the skills acquired in such education or training in the government of that country or in an educational or other appropriate institution or agency in that country; and

"(D) The duration of the alien's participation in the program for which he is coming to the United States is limited to not more than 2 years, except that such duration may be extended for one year at the request of the government of his nationality or last residence, if (i) such government provides a written assurance, satisfactory to the Secretary of Health, Education, and Welfare, that the alien will, at the end of such extension, be appointed to a position in which he will fully utilize the skills acquired in such education or training in the government of that country or in an educational or other appropriate institution or agency in that country, and (ii) the accredited school providing or arranging for the provision of his education or training agrees in writing to such extension, and (iii) such extension is for the purpose of continuing the alien's education or training under the program for which he came to the United States.

"(2)(A) Except as provided in subparagraph (B), the requirements of subparagraphs (A) through (D) of paragraph (1) shall not apply between the effective date of this subsection and December 31, 1980, to any alien who seeks to come to the United States to participate in an accredited program of graduate medical education or training if there would be a substantial disruption in the health services provided in such program because such alien was not permitted, because of his failure to meet such requirement to enter the United States to participate in such program.

"(B) In the administration of this subsection, the Attorney General shall take such action as may be necessary to ensure that the total number of aliens participating (at any time) in programs described in subparagraph (A) does not, because of the exemption provided by such subparagraph, exceed the total number of aliens participating in such programs on the effective date of this subsection.".

(e) Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding the following at the end thereof:

"(41) The term 'graduates of medical school' means aliens who have graduated from a medical school or who have qualified to practice medicine in a foreign state.".

(f) The amendments made by this section shall take effect ninety days after the date of enactment of this section.

TITLE VII—PUBLIC AND ALLIED HEALTH PERSONNEL

PUBLIC AND ALLIED HEALTH PERSONNEL

SEC. 701. (a) Effective October 1, 1977, part G of title VII is amended to read as follows:

"Part G—Programs for Personnel in Health Administration and in Allied Health

"Subpart I—Public Health Personnel

"GRANTS FOR GRADUATE PROGRAMS IN HEALTH ADMINISTRATION

"SEC. 791. (a) From funds appropriated under subsection (d), the Secretary shall make annual grants to public or nonprofit private educational entities (including schools of social work and excluding accredited schools of public health) to support the graduate educational programs of such entities in health administration, hospital administration, and health planning.

"(b) The amount of the grant for any fiscal year under subsection (a) to an educational entity with an application approved under subsection (c) shall be equal to the amount appropriated under subsection (d) for such fiscal year divided by the number of educational entities which have applications for grants for such fiscal year approved under subsection (c).

"(c) (1) No grant may be made under subsection (a) unless an application therefor has been submitted to the Secretary before such time as he shall by regulation prescribe and has been approved by the Secretary. Such application shall be in such form, and submitted in such manner, as the Secretary shall by regulation prescribe.

"(2) The Secretary may not approve an application submitted under paragraph (1) unless—

"(A) such application—

"(i) contains assurances satisfactory to the Secretary that in the school year (as defined in regulations of the Secretary) ending in the fiscal year for which the applicant receives a grant under subsection (a) that—

"(I) at least 25 individuals will complete the graduate educational programs of the entity for which such application is submitted; and

"(II) such entity shall expend or obligate at least $100,000 in funds from non-Federal sources to conduct such programs;

"(ii) contains assurances satisfactory to the Secretary that such entity shall maintain a first-year enrollment of full-time students in the programs, for the school year ending in the fiscal year ending September 30, 1978, and for each school year thereafter ending in a fiscal year for which a grant under this section is applied for, which exceeds the number of full-time, first year students enrolled in such programs in the school year ending in the fiscal year ending September 30, 1976—

"(I) by 5 percent of such number if such number was not more than 100, or

"(II) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100; and

"(iii) contains such other information as the Secretary may by regulation prescribe; and

"(B) the program for which such application was submitted has been accredited for the training of individuals for health administration, hospital administration, or health planning by a recognized body or bodies approved for such purpose by the Commissioner of Education and meet such other quality standards as the Secretary shall by regulation prescribe.

"(3) The Secretary may waive (in whole or in part) the requirements of paragraph (2) with respect to any school upon written notification by the appropriate accreditation body or bodies that compliance with the assurances required by such paragraph will prevent such school from meeting the accreditation standards of such body or bodies. The Secretary may not approve or disapprove such an application except after consultation with the National Advisory Council on Health Professions Education.

"(d) There are authorized to be appropriated for payments under grants under this section $3,250,000 for the fiscal year ending September 30, 1978, $3,500,000 for the fiscal year ending September 30, 1979, and $3,750,000 for the fiscal year ending September 30, 1980.

"SPECIAL PROJECTS FOR ACCREDITED SCHOOLS OF PUBLIC HEALTH AND GRADUATE PROGRAMS IN HEALTH ADMINISTRATION

"SEC. 792. (a) The Secretary may make grants to assist accredited schools of public health in meeting the costs of special projects to develop new programs or to expand existing programs in—

"(1) biostatistics or epidemiology,

"(2) health administration, health planning or health policy analysis and planning,

"(3) environmental or occupational health, or

"(4) dietetics and nutrition.

"(b) (1) The Secretary may make grants to assist those public or non-profit educational entities (including graduate schools of social work) which have accredited programs in accordance with paragraph (2) in meeting the costs of special projects to develop new programs or to expand existing programs in—

"(A) biostatistics or epidemiology,

"(B) health administration, health planning or health policy analysis and planning,

"(C) environmental or occupational health, or

"(D) dietetics and nutrition.

"(2) For purposes of this section, an accreditated program is a graduate program accredited for the training of individuals in health administration, health planning, or health policy analysis and planning by a recognized body or bodies approved by the Commissioner of Education and meets such other quality standards as the Secretary may by regulation prescribe.

"(c) There are authorized for the purpose of making payments pursuant to grants under this section $5,000,000 for the fiscal year ending September 30, 1978; $5,500,000 for the fiscal year ending September 30, 1979; and $6,000,000 for the fiscal year ending September 30, 1980.

"STATISTICS AND ANNUAL REPORT

"SEC. 793. (a) The Secretary shall, in coordination with the National Center for Health Statistics (established under section 306), continuously develop, publish, and disseminate on a nationwide basis statistics and other information respecting public and community health personnel, including—

"(1) detailed description of the various types of activities in which public and community health personnel are engaged,

"(2) the current and anticipated needs for the various types of public and community health personnel, and

"(3) the number, employment, geographic locations, salaries, and surpluses and shortages of public and community health personnel, the educational and licensure requirements for the various types of such personnel, and the cost of training such personnel.

"(b) (1) The Secretary and each program entity shall in securing and maintaining any record of individually identifiable personal data (hereinafter in this subsection referred to as 'personal data') for purposes of this section—

"(A) inform any individual who is asked to supply personal data whether he is legally required, or many refuse, to supply such data and inform him of any specific consequences, known to the Secretary or program entity as the case may be, of providing or not providing such data;

"(B) upon request, inform any individual if he is the subject of personal data secured or maintaind by the Secretary or program entity as the case may be and make the data available to him in a form comprehensible to him;

"(C) assure that no use is made of personal data which is not within the purposes of this section unless as informed consent has been obtained from the individual who is the subject of such data; and

"(D) upon request, inform any individual of the use being made of personal data respecting such individual and of the identity of the individuals and entities which will use the data and their relationship to the program under this section.

"(2) Any entity which maintains a record of personal data and which receives a request from the Secretary or a program entity to use such data for purposes of this section shall not transfer any such data to the Secretary or to a program entity unless the individual whose personal data is to be so transferred gives an informed consent for such transfer.

"(3) (A) Notwithstanding any other provision of law, personal data collected by the Secretary or any program entity for purposes of this section may not be made available or disclosed by the Secretary or any program entity to any person other than the individual who is the subject of such data unless (i) such person requires such data for purposes of this section, or (ii) in response to a demand for such data made by means of compulsory legal process. Any individual who is the subject of personal data made available or disclosed under clause (ii) shall be notified of the demand for such data.

"(B) Subject to all applicable laws regarding confidentiality, only the data collected by the Secretary under this section which is not personal data shall be made available to bona fide researchers and policy analysts (including the Congress) for the purposes of assisting in the conduct of studies respecting health professions personnel.

"(4) For purposes of this subsection, the term 'program entity' means any public or private entity which collects, compiles, or analyzes health professions data under an arrangement with the Secretary for purposes of this section.

"(c) The Secretary shall submit annually to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate a report on—

"(1) the statistics and other information developed pursuant to subsection (a), and

"(2) the activities conducted under this subpart, including an evaluation of such activities.

Such report shall contain such recommendations for legislation as the Secretary determines is needed to improve the programs authorized under this subpart. The Office of Management and Budget may review such report before its submission to Congress, but the Office may not revise the report or delay its submission beyond the date prescribed for its submission and may submit to Congress its comments respecting such report. The first report under this subsection shall be submitted not later than December 1, 1978.

"(d) For purposes of this section, the term 'public and community health personnel' means individuals who are engaged in—

"(1) the planning, development, monitoring, or management of health care or health care institutions, organizations, or systems,

"(2) research on health care development and the collection and analysis of health statistics, data on the health of population groups, and any other health data,

"(3) the development and improvement of individual and community knowledge of health (including environmental health and preventive medicine) and the health care system, or

"(4) the planning and development of a healthful environment and control of environmental health hazards.

"SUBPART II—ALLIED HEALTH PERSONNEL

"DEFINITIONS

"SEC. 795. For the purposes of this subpart:

"(1) the term 'allied health personnel' means individuals with training and responsibilities for (A) supporting, complementing, or supplementing the professional functions of physicians, dentists, and other health professionals in the delivery of health care to patients, or (B) assisting environmental engineers and other personnel in environmental health control and preventive medicine activities.

"(2) The term 'training center for allied health professions' means a junior college, college, or university—

"(A) which provides, or can provide, programs of education leading to a baccalaureate or associate degree or to the equivalent of either or to a higher degree in the medical technology, optometric technology, dental hygiene, or any of such other of the allied health professions curriculums as are specified by regulations, or which, if in a junior college provides a program (i) leading to an associate or equivalent degree, (ii) of education in optometric technology, dental hygiene, or curriculums as are specified by regulation, and (iii) acceptable for full credit toward a baccalaureate or equivalent degree in the allied health professions or designed to prepare the student to work as a technician in a health occupation specified by regulations of the Secretary,

"(B) which provides training for not less than a total of twenty persons in such curriculums,

"(C) which, if in a college or university which does not include a teaching hospital or in a junior college, is affiliated (to the extent and in the manner determined in accordance with regulations) with such a hospital, and

"(D) which is (or is in a college or university, which is) accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, or which is in a junior college which is accredited by the regional accrediting agency for the region in which it is located or there is satisfactory assurance afforded by such accrediting agency to the Secretary that reasonable progress is being made toward accreditation by such junior college, except that an applicant for a grant under this subpart which does not at the time of application meet the requirement of clause (B) shall be deemed to meet such requirement if the Secretary finds there is reasonable assurance that the unit will meet the requirement of clause (B) prior to the beginning of the academic year following the normal graduation date of the first entering class in such unit.

"(3) The term 'nonprofit' as applied to any training center for allied health profession means such a training center which is an entity, or is owned and operated by an entity, no part of the net earnings of which inures or may lawfully inure, to the benefit of any private shareholder or individual; and as applied to any entity means an entity no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual.

"PROJECT GRANTS AND CONTRACTS

"SEC. 796. (a) The Secretary shall make grants and enter into contracts with eligible entities to assist them in meeting the costs of planning, developing, demonstrating, operating, and evaluating projects relating to:

"(1) Establishment of regional or State systems for the coordination and management of education and training at various levels for allied health personnel and nurses within and among educational institutions and their clinical affiliates for the purpose of assuring that allied health and nurse manpower needs of such region or State are substantially met.

"(2) Establishment of new roles and functions for allied health personnel and methods for increasing the efficiency of health manpower through more effective utilization of allied health personnel in various practice settings.

"(3) Establishment of new or improved methods of credentialing allied health personnel, including techniques for appropriate recognition (through equivalency and proficiency testing or otherwise) of previously acquired training or experience, developed in coordination with the Secretary's program under section 1123 of the Social Security Act.

"(4) Establishment of methods of recruitment, training, and retraining of allied health personnel.

"(5) Establishment of meaningful career ladders and programs of advancement for practicing allied health personnel.

"(6) Establishment of continuing education program for practicing allied health personnel.

"(b)(1) No grant may be made or contract entered into under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(2) The amount of any grant under subsection (a) shall be determined by the Secretary.

"(c)(1) For purposes of subsection (a), the term 'eligible entities' means entities which are—

"(A) schools, universities, or other educational entities which provide for allied health personnel education and training and which meet such standards as the Secretary may by regulation prescribe;

"(B) States, political subdivisions of States, or regional and other public bodies representing States or political subdivisions of States or both; or

"(C) entities which have a working arrangement (meeting such requirements as the Secretary may by regulation prescribe) with an entity described in subparagraph (A).

"(d)(1) For the purpose of making payments under grants and contracts under subsection (a), there are authorized to be appropriated $22,000,000 for the fiscal year ending September 30, 1978; $24,000,000 for the fiscal year ending September 30, 1979; and $26,000,000 for the fiscal year ending September 30, 1980.

"(2) In each fiscal year for which funds are authorized to be appropriated under this subsection, not less than 50 percent of the funds appropriated shall be reserved for award to training centers for allied health professions.

"TRAINEESHIPS FOR ADVANCED TRAINING OF ALLIED HEALTH PERSONNEL

"SEC. 797. (a) The Secretary may make grants to public and nonprofit private entities for traineeships provided by such entities for the advanced training of allied health personnel to teach in training programs for such personnel or to serve in administrative or supervisory positions.

"(b)(1) No grant may be made under subsection (a) unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe.

"(2) Payments under such grants shall be limited to such amounts as the Secretary finds necessary to cover the cost of tuition and fees of, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for, the trainees.

"(c) For the purposes of making payments under grants under subsection (a), there are authorized to be appropriated $4,500,000 for the fiscal year ending September 30, 1978; $5,000,000 for the fiscal year ending September 30, 1979; and $5,500,000 for the fiscal year ending September 30, 1980.

"EDUCATIONAL ASSISTANCE TO DISADVANTAGED INDIVIDUALS IN ALLIED HEALTH TRAINING

"SEC. 798. (a)(1) For the purpose of assisting individuals who, due to socioeconomic factors, are financially or otherwise disadvantaged (including individuals who are veterans of the Armed Forces with military training or experience in the health field) to undertake education to enter the allied health professions, the Secretary may make grants to and enter into contracts with schools of allied health, State and local educational agencies, and other public or private nonprofit entities to assist in meeting the costs described in paragraph (2).

"(2) A grant or contract under paragraph (1) may be used by the health or educational entity to meet the costs of—

"(A) identifying, recruiting, and selecting such individuals with a potential for education or training in the allied health professions;

"(B) facilitating the entry of those individuals into such an entity;

"(C) providing counseling or other services designed to assist those individuals to complete successfully their education at such an entity;

"(D) providing, for a period prior to the entry of those individuals into the regular course of education of such an entity, preliminary education designed to assist them to complete successfully such regular course of education at such an entity, or referring such individuals to institutions providing such preliminary education; and

"(E) publicizing existing sources of financial aid available to persons enrolled in the education program of such an entity or who are undertaking training necessary to qualify them to enroll in such a program.

"(b)(1) No grant may be made or contract entered into under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(2) The amount of any grant under subsection (a) shall be determined by the Secretary.

"(c) For payments under grants and contracts under subsection (a) there are authorized to be appropriated $1,000,000 for fiscal year ending September 30, 1978, $1,000,000 for fiscal year ending September 30, 1979, and $1,000,000 for fiscal year ending September 30, 1980.".

STUDIES AND STATISTICAL REPORT ON ALLIED HEALTH PERSONNEL

SEC. 702. (a) The Secretary of Health, Education, and Welfare shall conduct and complete, not later than two years after the date of enactment of this Act, studies—

(1) to identify the various types of allied health personnel and the activities in which such personnel are engaged and the various training programs currently offered for allied health personnel;

(2) to establish classifications of allied health personnel on the basis of their activities, responsibilities, and training;

(3) using appropriate methodologies, to determine the cost of educating and training allied health personnel in each such classification; and

(4) to identify the classifications in which there are a critical shortage of such personnel and the training programs which should be assisted to meet that shortage.

(b) In addition, the Secretary shall, in coordination with the National Center for Health Statistics (established under section 306 of the Public Health Service Act), develop, publish, and disseminate on a nationwide basis a report containing statistics and other information respecting allied health personnel, including—

(1) detailed descriptions of the various types of such personnel and the activities in which such personnel are engaged,

(2) the current and anticipated needs for the various types of such health personnel, and

(3) the number, employment, geographic locations, salaries, and surpluses and shortages of such personnel.

(c)(1) The Secretary and each program entity shall in securing and maintaining any record of individually identifiable personal data (hereinafter in this subsection referred to as 'personal data') for purposes of this section—

(A) inform any individual who is asked to supply personal data whether he is legally required, or may refuse, to supply such data and inform him of any specific consequences, known to the Secretary or program entity as the case may be, of providing or not providing such data;

(B) upon request, inform any individual if he is the subject of personal data secured or maintained by the Secretary or program entity, as the case may be, and make the data available to him in a form comprehensible to him;

(C) assure that no use is made of personal data which is not within the purposes of this section unless an informed consent has been obtained from the indivdual who is the subject of such data; and

(D) upon request, inform any individual of the use being made of personal data respecting such individual and of the identity of the individuals and entities which will use the data and their relationship to the studies made or information collected under this section.

(2) Any entity which maintains a record of personal data and which receives a request from the Secretary or a program entity for data for purposes of this section shall not transfer any such data to the Secretary or to a program entity unless the individual whose personal data is to be so transferred gives an informed consent for such transfer.

(3)(A) Notwithstanding any other provision of law, personal data collected by the Secretary or any program entity for purposes of this section may not be made available or disclosed by the Secretary or any program entity to any person other than the individual who is the subject of such data unless (i) such person requires such data for purposes of this section, or (ii) in response to a demand for such data made by means of compulsory legal process. Any individual who is the subject of personal data made available or disclosed under clause (ii) shall be notified of the demand for such data.

(B) Subject to all applicable laws regarding confidentiality, only the data collected by the Secretary under this section which is not personal data shall be made available to bona fide researchers and policy analysts (including the Congress) for the purposes of assisting in the conduct of studies respecting health professions personnel.

(4) For purposes of this subsection, the term "program entity" means any public or private entity which collects, compiles, or analyzes health professions data under an arrangement with the Secretary for purposes of this section.

(d) The Secretary shall submit, not later than two years after the date of enactment of this Act, to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate—

(1) a report on the results of the studies conducted under subsection (a);

(2) the report developed under subsection (b); and

(3) a report on, including an evaluation of, activities conducted under subpart II of part G of title VII of the Public Health Service Act (relating to allied health personnel).

The report described in paragraph (3) shall contain such recommendations for legislation as the Secretary determines is needed to improve the programs authorized under such subpart. The Office of Management and Budget may review such report before its submission to Congress, but the Office may not revise the report or delay its submission beyond the date prescribed for its submission and may submit to Congress its comments respecting such report.

(e) For the purposes of this section, the term "allied health personnel" means individuals with training and responsibilities for (1) supporting, complementing, or supplementing the professional functions of physicians, dentists, and other health professionals in the delivery of health care to patients, or (2) assisting environmental engineers and other personnel in environmental health control and preventive medicine activities.

TITLE VIII—SPECIAL PROJECTS

GRANTS AND CONTRACTS

SEC. 801. Effective October 1, 1976, part F of title VII is amended to read as follows:

"PART F—GRANTS AND CONTRACTS FOR PROGRAMS AND PROJECTS

"PROJECT GRANTS FOR ESTABLISHMENT OF DEPARTMENTS OF FAMILY MEDICINE

"SEC. 780. (a) The Secretary may make grants to schools of medicine and osteopathy to meet the costs of projects to establish and maintain academic administrative units (which may be departments, divisions, or other units) to provide clinical instruction in family medicine.

"(b) The Secretary may not approve an application for a grant under subsection (a) unless such application contains—

"(1) assurances satisfactory to the Secretary that the academic administrative unit with respect to which the application is made will (A) be comparable to academic administrative units for other major clinical specialties offered by the applicant, (B) be responsible for directing an amount of the curriculum for each member of the student body engaged in an education program leading to the awarding of the degree of doctor of medicine or doctor of osteopathy which amount is determined by the Secretary to be comparable to the amount of curriculum required for other major clinical specialities in the school, (C) have a number of full-time faculty which is determined by the Secretary to be sufficient to conduct the instruction required by clause (B) and to be comparable to the number of faculty assigned to other major clinical specialties in the school, and (D) have control over a three-year approved or provisionally approved medical residency training program in family practice or its equivalent as determined by the Secretary which shall have the capacity to enroll a total of no less than twelve interns or residents per year; and

"(2) such other information as the Secretary shall by regulation prescribe.

"(c) There are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1978, $15,000,000 for the fiscal year ending September 30, 1979, and $20,000,000 for the fiscal year ending September 30, 1980, for payments under grants under subsection (a).

"AREA HEALTH EDUCATION CENTERS

"SEC. 781. (a) For the purpose of improving the distribution, supply, quality, utilization, and efficiency of health personnel in the health services delivery system and for the purpose of encouraging the regionalization of educational responsibilities of the health professions schools, the Secretary may enter into contracts for projects to assist in the planning, development, and implementation of area health education center programs.

"(b) An area health education center program shall be a cooperative program of one or more medical or osteopathic schools and one or more nonprofit private or public area health education centers.

"(c) Each medical or osteopathic school participating in an area health education center shall—

"(1) provide for the active participation in such program by individuals who are associated with the administration of the school, each of the departments (or specialties if the school has no such departments) of internal medicine, pediatrics, obstetrics and gynecology, surgery, psychiatry, and family medicine;

"(2) provide that no less than 10 percent of all undergraduate medical or osteopathic clinical education of the school will be conducted in an area health education center and at locations under the sponsorship of such center;

"(3) be responsible for, or conduct, a nurse practitioner or physician assistant training program which gives special consideration to the enrollment of individuals from, or intending to practice in, the area served by the area health education center of the program; and

"(4) provide for the active participation of at least 2 other health science disciplines (including a school of dentistry if there is one affiliated with the university with which the school of medicine or osteopathy is affiliated) in the educational program conducted in the area served by the area health education center.

"(d)(1) Each area health education center shall specifically designate the geographic area in which it will serve, or shall specifically designate the medically underserved population it will serve (such area or population with respect to such center in this section referred to as 'the area served by the center').

"(2) Each area health education center shall—

"(A) provide for or conduct training in health education services, including education in nutrition evaluation and counseling, in the area served by the center;

"(B) assess the health manpower needs of the area served by the center and assist in the planning and development of training programs to meet such needs;

"(C) provide for or conduct a medical residency training program in family medicine or general internal medicine and in which no fewer than six individuals are enrolled in first-year positions in such program;

"(D) provide opportunities for continuing medical education (including education in disease prevention) to all physicians and other health professionals (including allied health personnel) practicing within the area served by the center;

"(E) provide continuing medical education and other support services to the National Health Service Corps members serving within the area served by the center;

"(F) encourage the utilization of nurse practitioners and physician assistants within the area served by the center and the recruitment of individuals for training in such professions at the participating medical or osteopathic schools;

"(G) arrange and support educational opportunities for medical and other students at health facilities, ambulatory care centers, and health agencies throughout the area served by the center; and

"(H) have an advisory board of which at least 75 percent of the members shall be individuals, including both health service providers and consumers, from the area served by the center.

Any health education center which is participating in an area health education center program in which another center has a medical residency training program described in subparagraph (C) need not provide for or conduct such a medical residency training program.

"(e) The Secretary is authorized to enter into contracts with medical and osteopathic schools, which have cooperative arrangements with area health education centers, for the planning, development, and operation of area health education center programs. In making contracts under this section the Secretary shall assure that—

"(1) 75 percent of the total funds provided to any school shall be expended by an area health education program in the area served by the centers;

"(2) not more than 75 percent of the total operating funds of the program in any year shall be provided by the Secretary; and

"(3) no contract shall provide funds solely for the planning or development of such program for a period of longer than two years.

"(f) For the purpose of this section the term 'area health education center program' means a program which is organized and operated in a manner described in subsection (b) and which is capable, as determined by the Secretary, of performing each of the functions described in subsection (d)(2). The Secretary shall, by regulation, establish standards and criteria for the requirements of such subsections.

"(g) There are authorized to be appropriated to carry out the provisions of this section $20,000,000 for the fiscal year ending September 30, 1978, $30,000,000 for the fiscal year ending September 30,1979, and $40,000,000 for the fiscal year ending September 30, 1980.

"EDUCATION OF RETURNING UNITED STATES STUDENTS FROM FOREIGN MEDICAL SCHOOLS

"SEC. 782. (a) The Secretary may make grants to schools of medicine and osteopathy in the United States to plan, develop, and operate programs—

"(1) to train United States citizens who have been enrolled in medical schools in foreign countries before the date of enactment of the Health, Professions Educational Assistance Act of 1976, to enable them to meet the requirements for enrolling in schools of medicine or osteopathy in the United States as full-time students with advanced standing; or

"(2) to train United States citizens who have transferred from medical schools in foreign countries in which they were enrolled before the date of enactment of the Health Professions Educational Assistance Act of 1976, and who have enrolled in schools of medicine or osteopathy in the United States as full-time students with advanced standing.

The costs for which a grant under this subsection may be made may include the cost of identifying deficiencies in the medical school education of the United States citizens who have been enrolled in foreign medical schools, the development of materials and methodology for correcting such deficiencies, and specialized training designed to prepare such United States citizens for enrollment in schools of medicine or osteopathy in the United States as full-time students with advanced standing.

"(b) More than one school of medicine or osteopathy may join in the submission of an application for a grant under subsection (a).

"(c) Any school of medicine or osteopathy which receives a grant under this subsection in the fiscal year ending September 30, 1978, shall submit to the Secretary before June 30, 1979, a report on the deficiencies (if any) identified by the school in the foreign medical education of the students trained by such school under the program for which such grant was made. The Secretary shall compile the reports submitted under the preceding sentence, and before September 30, 1979, submit to the Congress his analysis and evaluation of the information contained in such reports.

"(d) There are authorized to be appropriated for the purposes of this section $2,000,000 for the fiscal year ending September 30, 1977, $2,000,000 for the fiscal year ending September 30, 1978, $3,000,000 for the fiscal ending September 30, 1979, and $4,000,000 year ending September 30, 1980.

"PROGRAMS FOR PHYSICIAN ASSISTANTS, EXPANDED FUNCTION DENTAL AUXILIARIES AND DENTAL TEAM PRACTICE

"SEC. 783. (a) The Secretary may make grants to and enter into contracts with public or nonprofit private schools of medicine, osteopathy, dentistry and other public or nonprofit private entities to meet the costs of projects to—

"(A) plan, develop, and operate or maintain programs for the training of physician assistants (as defined in section 701(7));

"(B) plan, develop, and operate or maintain programs for the training of expanded function dental auxiliaries (as defined in section 701(8)); and

"(C) plan, develop, and operate or maintain a program to train dental students in the organization and management of multiple auxiliary dental team practice (T.E.A.M.) in accordance with regulations of the Secretary.

"(b) No grant or contract may be made under subsection (a) unless the application therefor contains or is supported by assurances satisfactory the Secretary that the school or entity receiving the grant or contract, has appropriate mechanisms for placing graduates of the training program, with respect to which the application is submitted, in positions for which they have been trained.

"(c) The Secretary shall assure that the making of grants and entering into contracts under this section shall be integrated with the making of grants and entering into contracts under section 830.

"(d) The costs for which a grant or contract under this section may be made include costs of preparation of faculty members respecting programs for the training of physician assistants and expanded function dental auxiliaries.

"(e) For payments under grants and contracts under this section, there is authorized to be appropriated $25,000,000 for the fiscal year ending September 30, 1978, $30,000,000 for the fiscal year ending September 30, 1979, and $35,000,000 for the fiscal year ending September 30, 1980.

"GRANTS FOR TRAINING, TRAINEESHIPS, AND FELLOWSHIPS IN GENERAL INTERNAL MEDICINE AND GENERAL PEDIATRICS

"SEC. 784. (a) The Secretary may make grants to and enter into contracts with schools of medicine and osteopathy to meet the costs of projects—

"(1) to plan, develop, and operate an approved medical residency training program in internal medicine or pediatrics, which emphasize the training of residents for practice of general internal medicine or general pediatrics (as defined by the Secretary in regulations);

"(2) which provide financial assistance (in the form of traineeships and fellowships) to residents who are participants in any such program, and who plan to specialize or work in the practice of general internal medicine or general pediatrics.

"(b) There are authorized to be appropriated to carry out the provisions of this section $10,000,000 for the fiscal year ending September 30, 1977, $15,000,000 for the fiscal year ending September 30, 1978, $20,000,000 for the fiscal year ending September 30, 1979, and $25,000,000 for the fiscal year ending September 30, 1980.

"OCCUPATIONAL HEALTH TRAINING AND EDUCATION CENTERS

"SEC. 785. (a)(1) The Secretary shall, by grants, assist public or private nonprofit colleges or universities, to establish, operate, and administer occupational health training and education centers through cooperative arrangements between schools of medicine and schools of public health (or other qualified departments or schools within such colleges or universities which are qualified to participate in carrying out activities set forth in this section).

"(2) To be eligible for a grant under this section, the applicant must demonstrate to the Secretary that it has or will have available full-time faculty members with training and experience in the field of occupational health and support from other faculty members trained in the occupational health sciences and other relevant disciplined and medical and public health specialties and that it will substantially carry out activities including, but not limited to—

"(A) the establishment and operation of a new graduate training program, or where appropriate, the substantial expansion of an existing graduate training program in the field of occupational health;

"(B) the development of curricula and operation of continuing education for physicians, nurses, and industrial hygienists, and other professionals, practicing full- or part-time in the field of occupational health in order to upgrade their proficiency in delivering such services;

"(C) the establishment and operation of projects designed to increase admissions to and enrollment in occupational health programs of individuals who by virtue of their background and interests are likely to engage in the delivery of occupational health services;

"(D) the establishment of traineeships for industrial hygiene students;

"(E) the establishment and operation of medical residencies in the field of occupational health at a level of financial support comparable to that provided to such individuals for residencies in other medical specialties;

"(F) the establishment and operation of traineeships in the field of occupational health for medical students, residents, nursing students, nurses, physicians, sanitarians, and other relevant disciplines;

"(G) the establishment and operation of short-term traineeships for continuing education in the field of occupational health for any of the health profession disciplines dealing with problems of occupational health; and

"(H) the appointment of full-time staff for the center, who have training, experience and demonstrated capacity for leadership in the field of occupational health.

"(b) To the extent feasible, the Secretary shall approve, in accordance with the requirements of subsection (a), at least 10 such centers and at least one of which shall be located in each region of the Department of Health, Education, and Welfare.

"(c) For the purpose of making grants to carry out this section, there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1977, $5,000,000 for the fiscal year ending September 30, 1978, $8,000,000 for the fiscal year ending September 30, 1979, and $10,000,000 for the fiscal year ending September 30, 1980.

"FAMILY MEDICINE AND GENERAL PRACTICE OF DENTISTRY

"SEC. 786. (a) The Secretary may make grants to, or enter into contracts with, any public or non-profit hospital, school of medicine or osteopathy, or to or with a public or private nonprofit entity (which the Secretary has determined is capable of carrying out such grant or contract).

"(1) to plan, develop, and operate, or participate in, an approved professional training program (including a continuing education program or an approved residency internship program in the field of family medicine for medical and osteopathic students, interns (including interns in internships in osteopathic medicine), residents, or practicing physicians;

"(2) to provide financial assistance (in the form of traineeships and fellowships) to medical and osteopathic students, interns (including interns in internships in osteopathic medicine), residents, practicing physicians, or other medical personnel, who are in need thereof, who are participants in any such program, and who plan to specialize or work in the practice of family medicine;

"(3) to plan, develop, and operate a program for the training of physicians who plan to teach in family medicine training programs; and

"(4) to provide financial assistance (in the form of traineeships and fellowships) to physicians who are participants in any such program and who plan to teach in a family medicine training program.

"(b) Secretary may make grants to any public or nonprofit private school of dentistry or accredited postgraduate dental training institution—

"(1) to plan, develop, and operate an approved residency program in the general practice of dentistry; and

"(2) to provide financial assistance (in the form of traineeships and fellowships) to residents in such a program who are in need of financial assistance and who plan to specialize in the practice of general dentistry.

"(c) Not less than 10 percent of the amount appropriated to make grants under this section shall be made available for grants under subsection (b).

"(d) There are authorized to be appropriated to make grants under this section $40,000,000 for the fiscal year ending September 30, 1978. $45,000,000 for the fiscal year ending September 30, 1979, and $50,000,000 for the fiscal year ending September 30, 1980.

"EDUCATIONAL ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

"SEC. 787. (a) (1) For the purpose of assisting individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, to undertake education to enter a health profession, the Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, public health, dentistry, veterinary medicine, optometry, pharmacy, and podiatry and other public or private nonprofit health or educational entities to assist in meeting the costs described in paragraph (2).

"(2) A grant or contract under paragraph (1) may be used by the health educational entity to meet the cost of—

"(A) identifying, recruiting, and selecting individuals from disadvantaged backgrounds, as so determined, for education and training in the health professions,

"(B) facilitating the entry of those individuals into such a school,

"(C) providing counseling or other services designed to assist those individuals to complete successfully their education at such a school,

"(D) providing, for a period prior to the entry of those individuals into the regular course of education of such a school, preliminary education designed to assist them to complete successfully such regular course of education at such a school, or referring such individuals to institutions providing such preliminary education, and

"(E) publicizing existing sources of financial aid available to persons enrolled in the education program of such a school or who are undertaking training necessary to qualify them to enroll in such a program.

"(b) There are authorized to be appropriated $20,000,000 for the fiscal year ending September 30, 1978, $20,000,000 for the fiscal year ending September 30, 1979, and $20,000,000 for the fiscal year ending September 30, 1980, for payments under grants and contracts under subsection (a).

"PROJECT GRANT AUTHORITY FOR START-UP ASSISTANCE, FINANCIAL DISTRESS INTERDISCIPLINARY TRAINING, AND CURRICULUM DEVELOPMENT

"SEC. 788. (a) (1) In the case of any new school of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry which begins instruction after July 1, 1974, the Secretary may, after taking into account—

"(A) the ability of such school to use a grant under this subsection to (i) accelerate the date it will begin instruction, or (ii) increase the number of students in its entering class, and

"(B) the other resources available to such school, make a grant to such school for each year such school is a new school (as determined under paragraph (5)). No school may receive a grant under this subsection unless the Secretary estimates that the number of full-time students enrolled in its first school year of operation will exceed twenty-three.

"(2) The Secretary shall determine the amount of any grant under this subsection; but no such grant to any school may exceed—

"(A) in the case of the year preceding the first year in which such school has students enrolled, an amount equal to the product of $10,000 and the number of full-time students which the Secretary estimates will enroll in such school in such first year;

"(B) in the case of the first year in which such school has students enrolled, an amount equal to the product of $7,500 and the number of full-time students enrolled in such school in such year;

"(C) in the case of the second year in which such school has students enrolled, an amount equal to the product of $5,000 and the number of full-time students enrolled in such school in such year;

"(D) in the case of the third year in which such school has students enrolled, an amount equal to the product of $2,500 and the number of full-time students enrolled in such school in such year.

Estimates by the Secretary under this subsection of the number of full-time students enrolled in a school may be made on the basis of assurances provided by the school.

"(3) A grant may not be made under this subsection unless an application for such grant is submitted to, and approved by, the Secretary. The Secretary shall give priority to applications which provide for projects which—

"(A) assist in the planning, development, or initial operation of a new school of medicine, osteopathy, or dentistry (i) which will conduct exceptionally innovative programs for training students in ambulatory primary care in cooperation with accredited psychiatric practitioners or program, as appropriate, or (ii) which will have as a major objective the provision of training opportunities for individuals from disadvantaged backgrounds;

"(B) assist in the planning, development, expansion, or initial operation of a regional health profession school granting a degree in one or more of the following professions: medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or public health; or

"(C) the Secretary determines will meet a national or regional need for members of the profession to be trained in the new school for which the application is submitted.

"(4) The Secretary shall give special consideration to each application of a school for a grant under this subsection—

"(A) which application contains or is reasonably supported by assurances, that, because of the use that the school will make of existing facilities (including Federal medical or dental facilities), it will be able to accelerate the date on which it will begin its teaching program;

"(B) which school will be located in a health manpower shortage area (designated under section 332); or

"(C) which school is a school of medicine or osteopathy which will be located in a State which has no other such school.

"(5) For purposes of this subsection, any school of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry shall be considered a new school for any year if such year is the year preceding the first year in which such school has students enrolled, such first year, and the next two years.

"(b) (1) The Secretary may make grants to and enter into contracts with, schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or public health for the purposes of assisting in—

"(A) (i) meeting the costs of operation of any school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, and public health if they are in serious financial distress, or

"(ii) meeting accreditation requirements, if they have special need to be assisted in meeting such requirements, and

"(B) carrying out appropriate operational, managerial, and financial reforms on the basis of information obtained in comprehensive cost analysis study or on the basis of other relevant information.

"(2) Any grant under this subsection may be made upon such terms and conditions as the Secretary determines to be reasonable and necessary, including requirements that the school agree—

"(A) to disclose any financial information or data deemed by the Secretary to be necessary to determine the sources or causes of that school's financial distress,

"(B) to conduct a comprehensive cost analysis study in cooperation with the Secretary, and

"(C) to carry out appropriate operational, managerial, and financial reforms (as the Secretary may require), including the securing of increased financial support from State or local governmental units or the increasing of tuition on the basis of information obtained in the course of a comprehensive cost analysis study or on the basis of other relevant information.

"(3) An application for a grant under this subsection must contain or be supported by assurances satisfactory to the Secretary that the applicant will expend in carrying out its function of a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or public health as the case may be, during the fiscal year for which such grant is sought an amount of funds (other than funds for construction, as determined by the Secretary) from non-Federal sources which is at least as great as the average amount of funds expended by such applicant for such training in the preceding two years.

"(4) In the case of a school which has received a grant under this subsection in the immediately preceding fiscal year, the amount granted to that school under this section in any fiscal year may not exceed 75 percent of the amount granted to that school under this subsection in that immediately preceding fiscal year.

"(5) The Secretary may provide to any school eligible for a grant under this subsection technical assistance to enable the school to conduct a comprehensive cost analysis study of its operations, to identify operational inefficiencies, or to develop or carry out appropriate operational, managerial, and financial reforms.

"(6) The Secretary shall prepare and submit on or before September 30, 1978, a report on the administration of this subsection. Such report shall give special emphasis to a description of the results of the cost analysis study carried out under paragraph (2)(B) and the operational, managerial, and financial reforms instituted under paragraph (2)(C).

"(c) The Secretary may make grants to any health profession, allied health profession, or nurse training institution, or to any other public or nonprofit private entity for the encouragement of the development of programs for cooperative interdisciplinary training among schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, nursing, public health, and allied health, emphasizing—

"(1) the use of the team approach to the delivery of health services,

"(2) the training of physician assistants and extenders and nurse practitioners with physicians and expanded function dental auxiliaries with dentists, and

"(3) the training of physicians, dentists, nurses, and other health professionals in the organization, management, and effective utilization of such extenders, practitioners, and auxiliaries.

"(d) The Secretary may make grants and enter into contracts with any health profession, allied health profession, or nurse training institution, or any other public or nonprofit private entity for projects and programs such as—

"(1) speech pathology, audiology, bioanalysis, and medical technology;

"(2) establishing humanism in health care centers;

"(3) biomedical combined educational programs;

"(4) cooperative human behavior and psychiatry in medical and dental education and practice;

"(5) bilingual health clinical training centers;

"(6) curriculum development in schools of optometry, pharmacy and podiatry;

"(7) social work in health care;

"(8) health manpower development;

"(9) environmental health education and preventive medicine;

"(10) the special medical problems related to women;

"(11) the development or expansion of regional health professions schools;

"(12) training of citizens of the United States from foreign health professions schools to enable them to enroll in residency programs in the United States;

"(13) psychology training programs;

"(14) ethical implications of biomedical research;

"(15) establishment of dietetic residencies;

"(16) regional systems of continuing education;

"(17) computer technology;

"(18) training of professional standards review organization staff;

"(19) training of health professionals in human nutrition and its application to health;

"(20) health manpower development for the Trust Territories and incorporated Trust Territories of the United States; and

"(21) training in the diagnosis, treatment, and prevention of the diseases and related medical and behavioral problems of the aged.

"(e)(1) There are authorized to be appropriated to carry out the provisions of this section (other than the provisions of subsections (f) and (g)) $25,000,000 for the fiscal year ending September 30, 1978, $25,000,000 for the fiscal year ending September 30, 1979, and $25,000,000 for the fiscal year ending September 30, 1980.

"(2) From the sums authorized to be appropriated under paragraph (1) not more than—

"(A) $5,000,000 may be obligated or expended for the purposes of subsection (a), and

"(B) $5,000,000 may be obligated or expended for the purposes of subsection (b).

"(f)(1) The Secretary may make grants to any school of medicine to meet the planning costs for projects for the training of students, enrolled in the last two years of such school, in facilities—

"(A) which are other than the principal teaching facilities of the school receiving the grant and which are existing Federal health care facilities or are other public or private health care facilities; and

"(B) which are located in a health manpower shortage area.

No grant may be made under this paragraph with respect to any project unless before the fiscal year for which the grant is to be made the project has received at least $100,000 from non-Federal sources and has been approved by the legislature of the State in which it is located.

"(2) For payments under grants under paragraph (1), there are authorized to be appropriated $400,000 for the fiscal year ending September 30, 1977.

"(g)(1) The Secretary may make grants to public and nonprofit private institutions of higher education and hospitals and other health care delivery facilities which are engaged in the development of new schools of medicine to assist such institutions and facilities in meeting the costs of employing faculty, acquiring equipment, and taking such other action related to the initial operation of a school of medicine as may be necessary for the proposed schools to meet the eligibility requirements for a grant under subsection (a) of this section.

"(2) No application for a grant under paragraph (1) may be approved by the Secretary unless the application contains or is supported by assurances satisfactory to the Secretary that—

"(A) with the assistance provided under the grant applied for the applicant will be able to accelerate the date on which the school of medicine being developed by the applicant will be able to begin its teaching program,

"(B) there is a reasonable indication of non-Federal financial resources for development and operation of such school, and

"(C) the school of medicine will emphasize training programs in family medicine and will improve access to health care for residents of the geographical regions in which such training programs are located.

The Secretary may not approve or disapprove an application unless he has consulted with the body recognized by the Commissioner of Education as the accrediting body for schools of medicine respecting approval of the application.

"(3) No institution or facility may receive more than one grant under this subsection. For payment under grants under this subsection, there is authorized to be appropriated $1,500,000 for the fiscal year ending September 30, 1977 and $1,500,000 for the fiscal year ending September 30, 1978.

"(4) Upon graduation of the second class from each school of medicine for which a grant was made under this subsection, the Secretary shall report to the Congress on the ability of the school of medicine to improve access to health care for residents of the geographical regions in which the clinical training programs of the school are located.

"GENERAL PROVISIONS

"SEC. 789. Except as otherwise provided in this part:

"(1) No grant may be made or contract entered into under this part unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe. The Secretary may not approve or disapprove any application for a grant or contract under this part except after consultation with the National Advisory Council on Health Professions Education.

"(2) Payments by recipients of grants or contracts under this part for (A) traineeships shall be limited to such amounts as the Secretary finds necessary to cover the cost of tuition and fees of, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees; and (B) fellowships shall be limited to such amounts as the Secretary finds necessary to cover the cost of advanced study by, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for, the fellows.

"(3) The amount of any grant or contract under this part shall be determined by the Secretary. Contracts may be entered into under this part without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).".

TRANSITIONAL PROVISIONS AND REPORT ON AREA HEALTH EDUCATION CENTERS

SEC. 802. (a) For the fiscal year ending September 30, 1978, and for the next fiscal year there are authorized to be appropriated such sums as may be necessary to continue payments to entities under contracts entered into under section 774 of the Public Health Service Act (as in effect on September 30, 1977) for projects for area health education centers, except that no payment shall be made to an entity under such a contract in the fiscal year ending September 30, 1979, unless the entity provides assurances satisfactory to the Secretary that not later than September 30, 1979, the project for which the payment is to be made will be a project described in subsection (a) of section 781 of such Act (as added by this Act) and the entity and its application will meet the requirements of subsections (b), (c), and (d) of such section. Such payments may only be made from such sums for the periods and amounts specified in such contracts.

(b) After October 1, 1978, the Secretary of Health, Education, and Welfare shall assess the program of contracts under section 781 of the Public Health Service Act (as so added) to determine the effect of the projects funded under such contracts on the distribution of health manpower and on the access to and the quality of health care in the areas in which such projects are located. Not later than September 30, 1979, the Secretary shall submit to the Congress a report on the assessment conducted under this subsection.

TITLE IX—MISCELLANEOUS

NURSE TRAINEESHIPS

SEC. 901. (a) The second sentence of section 830(b) is amended to read as follows: "In making grants for traineeships under this section, the Secretary shall give special consideration to applications—

SEC. 901. Section 830 is amended—

(1) by striking out in subsection (a) "There are authorized" and all that follows through "1978," and inserting in lieu thereof "(1) The Secretary may make grants to public or private nonprofit institutions";

(2) by redesignating paragraphs (1), (2), (3), and (4) of subsection (a) as subparagraphs (A), (B), (C), and (D);

(3) by striking out subsection (b) and inserting in lieu thereof the following:

"(2) In making grants for traineeships under this subsection, the Secretary shall give special consideration to applications for traineeship programs (A) for the training of nurse practitioners who will practice in health manpower shortage areas (designated under section 332), and (B) for traineeship programs which conform to guidelines established by the Secretary under section 822(a)(2)(B).";

(4) by striking out "section" in subsection (c) and inserting in lieu thereof "subsection";

(5) by redesignating subsection (c) as paragraph (3); and

(6) by adding at the end thereof the following:

"(b)(1) The Secretary may make grants and enter into contracts with schools of nursing, medicine, and public health, public or nonprofit private hospitals, and other nonprofit entities to establish and operate traineeship programs to train nurse practitioners who are residents of a health manpower shortage area (designated under section 332).

"(2) Traineeships funded under this subsection shall include 100 percent of the costs of tuition, reasonable living and moving expenses (including stipends), books, fees, and necessary transportation.

"(3) A traineeship funded under this subsection shall not be awarded unless the recipient enters into a commitment with the Secretary to practice as a nurse practitioner in a health manpower shortage area (designated under section 332).

"(c) There are authorized to be appropriated for the purposes of this section $15,000,000 for the fiscal year ending June 30, 1976, $20,000,000 for the fiscal year ending September 30, 1977, and $25,000,000 for the fiscal year ending September 30, 1978.".

HEALTH PLANNING

SEC. 902. (a) Section 1512(b)(3)(c)(ii)(I) is amended by inserting "optometrists," after "nurses,".

(b) Section 1531(3)(A) is amended by inserting "optometrist," after "podiatrist,".

(c) The amendments made by subsections (a) and (b) shall take effect on the date of enactment of this Act.

STUDY RELATING TO CHIROPRACTIC HEALTH PROFESSIONS

SEC. 903. (a)(1) The Secretary shall arrange for the conduct of a study or studies to determine the national average annual per student educational cost of providing education programs which lead to a degree of doctor of chiropractics.

(2) Such study shall be completed and an interim report thereby submitted not later than March 30, 1978, and a final report not later than January 1, 1979, to the Secretary, the Committee on Labor and Public Welfare of the Senate, and the Committee on Interstate and Foreign Commerce of the House of Representatives.

(3) Such study shall develop methodologies for ascertaining the average annual cost of chiropractic education, and the factors that affect any variation among schools with respect to their average annual per student educational costs. The study shall employ the most recent data available from the chiropractic schools in the United States at the time of the study.

(4) The study shall also determine the current demand for chiropractic services throughout the United States and shall develop methodologies for determining if current supply of chiropractors is sufficient to meet this demand.

(5) The study shall include an analysis of the current costs of chiropractic services by type of service and shall include an analysis of such costs over the past five years.

(b) The Secretary shall enter into an agreement with an appropriate nonprofit group or association to conduct such a study under an arrangement which reimburses for actual expenses incurred by such group or association in conducting such a study. Such expenses will be paid by the Secretary.

(c) The provisions of this section shall take effect on the date of enactment of this Act.

STUDIES OF TRAINING IN BILINGUAL AND BICULTURAL AWARENESS AND OF ADMISSIONS EXAMINATIONS OF PERSONS FROM POPULATION GROUPS OF LIMITED ENGLISH-SPEAKING ABILITY

SEC. 904. (a) The Secretary of Health, Education, and Welfare shall conduct, or arrange for the conduct of, a study of the adequacy of the efforts of health professions schools which provide training in facilities which serve populations of limited English-speaking ability (1) in recruiting and training individuals who are competent in the predominant language (other than English) spoken by such populations, and (2) in conducting programs to increase the awareness of such individuals of the cultural sensitivities of such populations.

(b) The Secretary of Health, Education, and Welfare shall conduct, or arrange for the conduct of, a study or studies or determine the effectiveness of health training institution admissions examinations in evaluating accurately the potential and ability of the student applicant from a population group of limited English-speaking ability to participate in and successfully complete the educational program. Such study or studies shall particularly consider the extent of any cultural bias in admissions examinations utilized by such institutions.

(c) Within one year of the date of enactment of this Act the Secretary shall report to the Congress the findings made in the studies conducted pursuant to subsection (a) and (b), recommendations for administrative action and legislation, and the steps taken to carry out such action.

DEFINITION OF STATE

SEC. 905. (a) Section 2(f) is amended to read as follows:

"(f) Except as provided in sections 314(g)(4)(B), 317(h)(2), 318(c)(1), 331(h)(3), 355(5), 361(d), 701(9), 1002(c), 1201(2), 1410(13), 1531(1), and 1633(1), the term 'State' includes, in addition to the several States, only the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands."

(b)(1) Section 361(d) is amended by adding at the end thereof the following: "For purposes of this subsection, the term 'State' includes, in addition to the several States, only the District of Columbia.".

(2) Section 1410 is amended by adding after paragraph (12) the following new paragraph:

"(13) The term 'State' includes, in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.".

(3) Sections 314(g)(4)(B), 317(h)(2), 355(5), 1002(c), 1201(2), and 1683(1) are amended by inserting "the Commonwealth of the Northern Mariana Islands," immediately after "Puerto Rico," in each such section.

(4) Section 318(c)(1) is amended by inserting "The Commonwealth of the Northern Mariana Islands," immediately after "American Samoa,".

LABOR CERTIFICATION

SEC. 906. (a) The Secretary of Health, Education, and Welfare shall (not later than one year after the date of the enactment of this Act) develop sufficient data to enable the Secretary of Labor to make equitable determinations with regard to applications for labor certification by graduates of foreign medical schools.

(b) The data required under subsection (a) shall include the number of physicians (by specialty and by percent of population) in a geographic area necessary to provide adequate medical care, including such care in hospitals, nursing homes, and other health care institutions, in such area.

(c) The Secretary of Health, Education, and Welfare shall develop such data after consultation with such medical or other associations as may be necessary.

Mr. STAGGERS (during the reading). Mr. Speaker I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The Speaker pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. BAUMAN. Mr. Speaker, I reserve the right to object to the unanimous consent request made by the gentleman from West Virginia (Mr. STAGGERS).

My inquiry of the Chair is the same as I made before, and that is that in view of the fact that a point of order has been made to any consideration of the conference report, is the motion that is being made to agree with the Senate amendment to the amendment of the House deleting the offending phrase?

The SPEAKER pro tempore (Mr. McFALL). When a conference report is ruled out of order, as this one was, then the Senate amendment in disagreement is before the House. This motion, if passed, would remedy the point of order that was made.

Mr. BAUMAN. The only reason the gentleman from Maryland has asked the guidance of the Chair on this is that this is a somewhat new parliamentary procedure to the gentleman from Maryland. My understanding is that the gentleman from West Virginia is about to proceed with a discussion of the conference report which, as I understand, is not before the House.

The SPEAKER pro tempore. The Chair will state that the gentleman from West Virginia is going to discuss his motion which will correct the offending language against which the point of order was made.

Mr. BAUMAN. I thank the Speaker.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. MICHEL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. MICHEL. My parliamentary inquiry is this, Mr. Speaker, could the Chair advise us how many disagreeing amendments there are if there is no conference report to be adopted?

The SPEAKER pro tempore (Mr. McFALL). The Chair will advise the gentleman there is only one amendment and that is in the nature of a substitute and it is a very long amendment, it is about three-quarters of an inch thick and the reading of the Senate amendment was dispensed with.

The Chair understands that the offending language which was objected to by the chairman of the Committee on the Budget, the gentleman from Washington (Mr. ADAMS) which gave rise to the point of order is not in the motion now before the House.

Mr. MICHEL. I thank the gentleman.

The SPEAKER pro tempore. The gentleman from West Virginia (Mr. STAGGERS) will be recognized for 30 minutes and the gentleman from Kentucky (Mr. CARTER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this amendment consists of the provisions of the conference report and an amendment which makes the Secretary's authority to make payments in connection with the default of loans insured by him under the Federal loan insurance program, subject to appropriation acts.

Mr. Speaker, the conference report on health manpower legislation combines the best features of the House bill, the Senate amendment and a constructive proposal of the administration. Implementation of this report will move this Nation a long way toward overcoming the geographic maldistribution of its health professionals through assuring scholarship support for physicians, dentists, and other health professionals who voluntarily choose to serve medically underserved areas upon completion. It will influence our medical and dental schools to place greater emphasis on the training of undergraduates and residents in primary care, and it will terminate our reliance on graduates of foreign medical schools, most of whom are ill trained by U.S. standards.

Mr. Speaker, let me briefly explain the major provisions of the report.

CAPITATION SUPPORT FOR SCHOOLS OF MEDICINE, DENTISTRY, AND OSTEOPATHY

First, the existing program of capitation awards to schools of the health professions is extended, with revisions in the conditions to receipt of such awards designed to meet national needs. The most important of these conditions are those applicable to schools of medicine, osteopathy and dentistry.

There are two conditions applicable to schools of medicine. The first will assure increased training in primary care specialties. It provides that each school must on July 15, 1978, have at least 35 percent of its first-year residency positions in family medicine, general internal medicine, and general pediatrics. This percentage is increased to 40 percent in 1979, and 50 percent in 1980. However, these requirements will not apply in any year if, on July 15 of the preceding year, the national average of first-year residency positions constituted at least the percentage that otherwise would be applicable school by school.

The second provision is designed to deal with the deplorable situation whereby U.S. citizens receive training in medical schools abroad and return to this country to practice medicine without proper training. This provision requires medical schools receiving capitation support to participate in a national program under which U.S. citizens who were enrolled in foreign medical schools prior to the date of enactment of the report and who pass part I of the National Board of Medical Examiners examination will be accepted into the third year of U.S. schools. Provision is made for waiver of this requirement if accreditation of a school would be threatened or if, because of the inadequate size of the population served by facilities in which schools conduct their training, compliance would prevent high quality training.

As a condition to receipt of capitation, a school of osteopathy must conduct so-called remote-site training programs in which each of its students will receive at least 6 weeks of training either in areas geographically remote from the main site of its teaching facilities or in areas in which medically underserved populations reside. Properly designed and supported remote site training programs can have a positive effect on a decision of students to deliver primary care in rural areas.

Schools of dentistry must meet requirements respecting training in primary dental care as well as requirements either to expand enrollment or conduct remote site training. First, dental schools receiving capitation support must maintain at least 70 percent of its residency positions which are in excess of the number of such positions in the school's programs in the school year beginning in fiscal year 1977 in general dentistry or pedodontics. Second, such dental schools must either increase enrollment or participate in a remote-site training program in which all of its students will receive at least 6 weeks training either in areas geographically remote from the main teaching site or in areas in which medically underserved populations reside. Thus, each dental school receiving capitation support will make significant contributions to meet the national need for increased training in primary dental care. In addition such schools will either help overcome the acknowledged shortage of dentists in this country or participate in programs designed to alleviate the geographic maldistribution of dentists.

CONSTRUCTION AUTHORITY

The legislation continues the existing authority for construction of teaching facilities and adds a significant new authority which authorizes funds for the construction of ambulatory, primary care teaching facilities for the training of physicians and dentists. This authority, which will be valuable in the implementation of requirements for remote site training by schools of osteopathy and dentistry, as well as a supplement to the special project authorities for area health education centers, family medicine, and general internal medicine and pediatrics, will help insure that our medical and dental students receive more exposure during their training to ambulatory care.

SPECIAL PROJECT GRANTS AND CONTRACTS

Mr. Speaker, the conference report contains new authority for several special projects designed to combat geographic and specialty maldistribution of our physicians and dentists. The most significant special projects include:

First. Authority to support area health education centers, which provide training of undergraduate and graduate students of the health professions in geographically remote areas or serving medically underserved populations.

Second. Programs for the establishment of departments of family medicine, with provisions to insure that such departments are comparable to academic administrative units for other major clinical specialties in schools.

Third. Programs for the training of medical and osteopathic residents in family medicine and of dental residents in the general practice of dentistry.

Fourth. A program authorizing for the first time badly needed financial support for residency training in general internal medicine and general pediatrics.

Fifth. Programs for the training of physicians' assistants and expanded function dental auxiliaries, who provide extremely valuable and time saving assistance to physicians and dentists in the delivery of health care.

Sixth. A program authorizing the training of U.S. students who are enrolled in foreign medical schools in order that they may be able to pass part I of the National Board of Medical Examiners and enroll in the third year of U.S. medical schools.

NATIONAL HEALTH SERVICE CORPS SCHOLARSHIPS

Mr. Speaker, the proposed legislation contains important revisions to the National Health Service Corps scholarship program, which, if properly implemented, will make significant inroads in the geographic maldistribution of our physicians, dentists and other health professionals. Under the scholarship program, students receiving such scholarships become obligated to serve in a medically underserved area—which may be a geographic area, an area in which a medically underserved population resides, or a facility in need of health professsionals—for 1 year for each year of scholarship support he or she received, but not less than 2 years. Authorizations for this valuable and immensely popular program are as follows: $75 million for fiscal year 1978, $140 million for fiscal year 1979, and $200 million for fiscal year 1980.

In addition, the legislation contains a so-called funding-trigger which will help insure that sufficient funds are appropriated for National Health Service Corps scholarships. Under this provision, no funds appropriated under the conference report for fiscal years 1978, 1979, or 1980 may be available for obligation or expenditure if the sum of the amounts appropriated for National Health Service Corps scholarships and scholarships for disadvantaged students is less than the lesser of the sum of the amounts authorized to be appropriated for such programs, or 50 percent of the sum of the amounts appropriated under the conference report. This provision does not, however, apply if less than 50 percent of the amounts authorized to be appropriated for capitation grants for schools of medicine, osteopathy, and dentistry is appropriated for such purposes. In the view of the conferees, this provision will insure that the medical, osteopathic, and dental schools which are being asked to provide solutions to critical national health manpower needs will receive ample capitation support, while also providing sufficient funds to help insure that the geographic maldistribution problems which affect our rural and inner city areas are overcome.

AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT

Finally, Mr. Speaker, the legislation addresses the critical and sensitive national issue involved in the affording of preferences to alien physicians under existing provisions of the Immigration Act. Unfortunately, the vast majority of alien physicians that enter this country are ill trained by U.S. standards and many have an inability to properly communicate with their patients. All available studies indicate that FMG's provide second-class care to the U.S. population; it is no secret that many are used by hospitals and mental health facilities as inexpensive labor. For this reason, the legislation contains amendments to the Immigration and Nationality Act, which have been developed in close consultation with the Judiciary Committee, which render aliens ineligible for preference priority and for the nonpreference category under the act unless they have passed parts I and II of the National Board of Medical Examiners examination and are competent in the English language. In addition, the conference report adds new provisions to the act which require that in order for an alien physician to enter the United States on an exchange visa—so-called J-visa—he must participate in a program sponsored by a U.S. school of medicine or other recognized educational institution, have passed parts I and II of the National Board of Medical Examiners examination, and make a commitment to return to his country of origin after completion of his education in the United States. Under these provisions, Mr. Speaker, the United States still will be a valuable international resource for the training of qualified alien physicians but our reliance on poorly trained FMG's will cease, and physicians who are much more badly needed in their countries of origin will no longer be encouraged to abandon their countries to practice medicine in the United States.

Mr. Speaker, I wanted to clarify to my colleagues the provisions of the conference report with respect to residency programs not affiliated with schools of medicine or osteopathy. Under the Senate amendment, programs not so affiliated were to be terminated. This provision was not accepted by the conferees, principally because of the concern of the conferees with its impact on family medicine residency programs. The American Academy of Family Practice indicated that well over one-quarter of all family practice residencies are not affiliated. Most of these unaffiliated residencies are high quality programs which serve as important resources to bring primary care physicians to smaller cities and rural areas where shortages exist. The overwhelming majority of these programs are accredited by the American Academy of Family Practice. In an important sense, these unaffiliated residency programs represent a means of remedying the geographic and specialty maldistribution of physicians which has denied access to medical care to persons living in underserved areas.

In lieu of the provisions of the Senate amendment, the conferees adopted a provision which requires that if the Secretary determines that a school of medicine has disaffiliated with a medical residency training program for the purpose of compliance with a capitation requirement that a certain specified percentage of its residency programs be in primary care but continues to provide training support for such a program, he is to deny such school capitation support.

Mr. Speaker, this is one of the most important pieces of legislation adopted by the Interstate and Foreign Commerce Committee since I have been its chairman. It attacks, on a voluntary basis, the problems of geographic and specialty maldistribution of our health professionals. It will halt the rapid influx of ill-trained foreign medical graduates into this country under preference status. It will insure that our Nation's health professions schools continue to be national resources and that they continue to respond to national needs. This bill can be supported by the entire body, and I urge its adoption.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I rise in support of the motion on H.R. 5546, the Health Professions Educational Assistance Act of 1976.

The original legislation to extend the 1971 act was introduced on May 1, 1974. The Subcommittee on Health and the Environment held more than 2 weeks of legislative hearings on the proposal, deliberated in executive session for several months, and, on October 3, 1974, reported a vastly different piece of legislation to the Committee on Interstate and Foreign Commerce based on the issues which had arisen during hearings and markup. Although the 1974 legislation passed the House and was the subject of conference, the 93d Congress adjourned before conferees could agree.

The 1974 legislation was reintroduced in February of 1975, slightly modified, and passed by the House in July of 1975 with one major amendment. The provision of the committee bill which would have established a commission to control the number and distribution of all medical residency programs in the United States was defeated.

During subcommittee and committee deliberations over the past 2½ years, six major issues have been identified as having a significant impact on access to quality health care delivery in this country: First, the geographic distribution of health manpower; second, the specialty distribution of physicians; third, the supply of health manpower; fourth, the impact of foreign medical graduates; fifth, the financial stability of health professions schools; and sixth, the emerging roles of midlevel health practitioners. In my view, the provisions of the conference report on H.R. 5546 represent a comprehensive response to these issues.

FINANCIAL STABILITY OF HEALTH PROFESSIONS SCHOOLS

In the mid-1960's, a considerable number of health professions schools were on the verge of financial collapse. Because of this critical situation, in 1968 legislation was enacted which authorized the award of special project grants to health professions schools for seven purposes, one of which was to assist schools in serious financial difficulties. Of the $54 million obligated for special project grants in fiscal year 1970, nearly $39 million was awarded for financial distress grants to 109 schools, including sixty of the 102 medical schools and 30 of the 51 dental schools. This demonstrated need led to the development in 1971 of "capitation" grants, institutional support based on a fixed amount of money per student per year, contingent upon agreements of schools to increase enrollment.

A divergence of opinion on the issue of financial stability has developed since the enactment of the 1971 act. The health professions schools have advanced the proposition that every school is entitled to capitation, with no strings attached, with bonuses for increased enrollment of projects to meet national needs. The administration has voiced the opinion that capitation support should be phased out or returned to special project grant status and that health professions students, because of their potentially high incomes, should assume a greater portion of the costs of their education.

The conference report strikes a middle ground between these two positions. It continues the program of capitation support to health professions schools on the premise that such schools and their students are national resources. Because they are national resources, however, capitation support is conditioned on such schools assuming responsibility for national needs.

GEOGRAPHIC DISTRIBUTION

The increases in the supply of health professionals over the past decade, while significant, have not alleviated problems with respect to the geographic maldistribution of health manpower. In fact, the geographic maldistribution of manpower has worsened over the past 10 years. More and more physicians and other health professionals are locating in suburbs and medium-sized urban communities at the expense of rural and inner city populations. One of the reasons for this phenomenon is that health professions training programs generally located in large urban areas offer their students little exposure to practice situations in rural or inner city areas and seem to instill in their students the concept that the only way to practice modern health care is to practice in a major medical center, in close proximity to a full-service hospital. Another reason for geographic maldistribution is the feeling of professional isolation many practitioners experience, particularly when located in rural areas.

The conference report on H.R. 5546 responds to this issue in several respects. First, it would vastly expand the National Health Service Corps scholarship program which provides generous scholarship support to health professions students, especially medical, osteopathic and dental students, in exchange for service in medically underserved areas upon graduation or completion of postgraduate clinical training. The conferees rejected the Senate amendment's proposal that a percentage of medical, osteopathic, and dental students be required to accept such scholarships on the grounds that the proposal threatened to establish a so-called track system in our Nation's health professions schools and, that the demand for National Health Service Corps scholarships has far exceeded their supply.

Second, the conference report requires osteopathic schools, as a quid pro quo for receipt of institutional support, to provide each of its students with 6 weeks of training in sites geographically remote from the main site of the training facilities or in sites where medically underserved populations reside. This training will offer such students an opportunity to experience firsthand what the practice of their profession is really like. In addition, because it requires the active participation as members of the faculty of health professionals actually practicing in the designated sites, it should help to alleviate the feelings of isolation expressed by such practitioners. This re- as an option to enrollment increase as a mote site training provision is included quid pro quo for receipt of capitation support.

Finally, the conference report provides substantial funds for the support of area health education center programs. Under this authority a consortium of health professions schools is eligible to receive support under contracts to establish area health education centers which are to provide remote site training opportunities for students, continuing educating for health professionals practicing in the area, and health services for the residents of the area. The University of North Carolina has been operating such a program for several years, and virtually all the evidence indicates that the program has been an enormous success, both in encouraging young graduates to locate in underserved areas and in retaining health professionals in such areas by linking them to the university network.

SPECIALTY DISTRIBUTION

Another major problem threatening the efficacy of our medical care system is specialty maldistribution of physicians. Two principal reasons exist for the present irrationality in distribution of physicians by specialty, both of which can be traced to the numbers and types of postgraduate medical residency positions available to medical school graduates today. First, institutions have a strong incentive, both financially and for prestige, to establish large, nonprimary care medical residency training programs; and second, programs and positions in specialty and sub-specialty training are approved by a plethora of residency review committees with no meaningful effort to achieve a reasonable proportion of positions available in the various specialties. In addition, most undergraduate and postgraduate medical education programs are not geared to primary medical care. The net result is that less than 40 percent of all physicians are in primary care specialties and only 35 percent of medical residents are in primary care residency programs.

The conference report responds to the specialty maldistribution crisis in several ways. First, it requires that, by July 15, 1977, 35 percent of all first year medical residency positions affiliated with medical schools must be in the primary care specialties of family medicine, general internal medicine, and general pediatrics. If such percentage is not attained, then, in order for a medical school to receive institutional support for academic year 1978–79, 35 percent of its first year residency positions on July 15, 1978, must be in primary care specialties. Forty percent of all first year affiliated residency positions nationally must be in primary care on July 15, 1978; otherwise each school, in order to receive institutional support for academic year 1979–80 must have, on July 15, 1979, 40 percent of its first year residency positions in primary care specialties.

Finally, unless 50 percent of all first year affiliated residency positions are in primary care on July 15, 1979, then each medical school, in order to receive institutional support for school year 1980–81, must have 50 percent of its first year positions in primary care specialties. Because many nonprimary care specialties require that students receive a year of training in primary care prior to entry into a nonprimary care residency position, the conference report provides for a deduction of the number of people who switched from a primary care to a nonprimary care specialty in determining the number of first-year primary care positions. In addition, the Secretary is authorized to determine that, in the event that the percentage requirement is not met nationally and each school is required to meet the percentage individually, if a school has made a good faith effort to comply and has attained 98 percent of the required percentage, such school may receive institutional support.

Second, the conference report provides substantially increased support for family medicine residency programs, and new authority for grants to support general internal medicine and general pediatrics residency programs, and grants to medical and osteopathic schools to establish and maintain family medicine departments. In addition, authority is provided to assist in the construction of ambulatory, primary care training centers. These programs of support for primary care training are essential, in light of the disparity in reimbursement patterns between ambulatory and hospital based specialties, if we are to encourage the expansion of primary care training programs.

THE SUPPLY OF HEALTH MANPOWER

From its inception in 1963, assistance to schools and students of the health professions has been targeted with one primary goal—increasing the supply of health manpower. Remarkable strides have been made in the past 10 years in increasing the enrollments of health professions schools. Medical school enrollment has nearly doubled since 1963, and other health professions schools have made similar gains. Because of the significant increases in supply that Federal assistance has afforded in the past, experts disagree on whether the absolute numbers of health personnel must be further increased. Complicating any projection of need for manpower are questions surrounding possible increased demand upon passage of some form of national health insurance, and whether this country will continue to rely upon graduates of foreign medical schools to provide health care services.

The conference report requires, as conditions of eligibility for receipt of institutional support, a modest enrollment increase for schools of public health and graduate programs in health and provides an optional enrollment increase for schools of dentistry, podiatry, optometry, and veterinary medicine. In addition, schools of medicine are required to participate in a national program to enroll qualified U.S. citizens who transfer from foreign medical schools in their third year. Under the provisions of the conference report, the Secretary is to apportion among each school of medicine an equitable share of the total number of U.S. citizens who were enrolled in foreign medical schools prior to the date of enactment of the report, who have successfully completed 2 years of training in such a school, and who have successfully passed part I of the National Board of Medical Examiners' examination. No school would be required to enroll an individual who did not meet nonacademic entrance requirements other than residency requirements, nor would such a school be required to participate if such participation would threaten the schools' accreditation or if inadequate clinical facilities exist in which to train additional students.

The conferees expect the Secretary of HEW to promptly notify the schools of their obligations under the provision and to assist both the schools and the eligible students in reaching mutually satisfactory admission arrangements. Of course, in instances in which, for example, one school decides to admit more than its apportioned share of eligible applicants, or where an insufficient number of eligible students apply to a particular school, or where an eligible student determines to continue his education in a foreign medical school, the conferees intend that the Secretary exercise judgment consonant with the spirit of this provision and see to it both that the eligible students are treated fairly and that no medical school is arbitrarily penalized for being unable to comply fully despite good-faith efforts.

It is not the conferees' intent, in including this requirement, either to encourage or condone the practice of U.S. citizens receiving their medical education in foreign medical schools if such persons intend to practice medicine in the United States. Rather, it is intended to remedy an unfortunate situation which currently exists. In the view of the conferees, the current situation, in which thousands of U.S. citizens are presently enrolled in foreign medical schools in which, in most cases, the education they are receiving is not of the quality provided by U.S. medical schools and is being taught in a language other than English, is a situation which deserves the immediate attention of the Department of Health, Education, and Welfare, the American Medical Association, and the Association of American Medical Colleges. The conferees believe that it is in the best interests of the U.S. health care system to permit those U.S. citizens who have successfully completed two years of medical education in a foreign medical school and who have passed part I of the National Board of Medical Examiners' examination to complete their education in U.S. medical schools. However, the conferees intend that this provision not be extended beyond the life of the conference report and that individuals planning a career in medicine become cognizant of this fact.

FOREIGN MEDICAL GRADUATES

The increasing reliance on graduates of foreign medical schools to provide health services in the United States, and the growing acceptance of this reliance by hard-pressed health facilities is an issue of increasing national concern. Foreign medical graduates, whose ability to deliver quality medical care is questionable both as to professional competence and as to mastery of the nuances of the English language, now constitute more than 20 percent of the active physicians practicing in the United States today and more than one-third of the number of physicians in certain specialties.

Foreign medical graduates enter the United States as postgraduate physician trainees under exchange study programs in which it is intended that the physician receive advanced training in the United States and return to his country of origin. In actual practice, however, most choose to remain in this country. Others enter under preference categories of the Immigration and Nationality Act because the Secretary of Labor has determined that there is a shortage of physicians in this country.

The conference report amends the Immigration and Nationality Act to provide that only those foreign medical graduates who have passed parts I and II of the National Board of Medical Examiners' examination and who have demonstrated competency in oral and written English are eligible to enter the United States as physicians. It further requires physicians entering the United States under the exchange study program to have passed parts I and II of the National Board of Medical Examiners' examination, to make a firm commitment to return to their country of origin within 2 years—3 years at the request of the government of their nationality—of admittance, and to participate in an accredited postgraduate training program. Finally, the conference report requires the Secretary of HEW to provide data on the supply and distribution of physicians in this country to the Secretary of Labor to enable him to make determinations with respect to the need for alien physicians.

MIDLEVEL HEALTH PROFESSIONALS

Within the past decade, three new categories of health professionals have joined the ranks of health practitioners—physician assistants, nurse practitioners, and expanded function dental auxiliaries. These individuals function as midlevel health professionals and perform many of the same tasks in the provision of health care that once had been the sole province of physicians and dentists, thus freeing health professionals for more demanding medical and dental problems.

The primary goal, and advantage, of the new health practitioner is to allow physicians and dentists to practice more efficiently. A physician, for instance, practicing with two new health practitioners can see almost twice as many patients in the same period as a physician practicing alone.

In addition, there is an advantage with respect to the availability of care. Since it is generally conceded that one of the reasons why physicians and dentists are reluctant to locate in underserved areas is that they will be professionally isolated and inundated by the demands of the community, physician assistants and expanded function dental auxiliaries can provide valuable support to the decisions of physicians and dentists to practice or remain in practice in such areas.

The conference report contains provisions encouraging the training of physician assistants and expanded function dental auxiliaries by providing project grant support for training programs for such purposes. In addition, project grant support is also available to train physicians and dentists in the use and management of new health practitioners. In the view of the conferees, these training programs will make a significant contribution to the quality and availability of health care in the future.

A portion of the statement of managers describing the utilization of expanded function dental auxiliaries has engendered a considerable amount of controversy and confusion. Although the statement speaks in terms of expanded function dental auxiliaries packing, carving, and finishing amalgams, it was not the intent of the conferees to mandate the curriculums of training programs for such individuals beyond the minimum size of the class, the minimum duration of the course of study, and the minimum amount of clinical training which must be provided in such a training program.

Mr. Speaker, this legislation represents the product of nearly 3 years of deliberation by the Subcommittee on Health and the Environment and, in my view, is one of the most important measures that has been presented to this body for consideration during this Congress. It is designed to continue to provide financial assistance to schools and students of the health professions. More importantly, it is designed to reverse several critical trends in the American health care system today and will chart the course for health care delivery through the next decade. It will reverse the geographic maldistribution of health manpower and provide needed health care services to underserved populations. It will reverse the pattern of specialty maldistribution and increase the number of primary care physicians in this country. It will stem the influx of ill-trained, alien physicians into this country. It will provide for the training of new types of health personnel to supplement the duties of our health professionals. And it will help increase the supply of manpower in the health professions in which shortages exist.

Mr. Speaker, I take great pride in urging every Member of this body to support the conference report.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Illinois.

Mr. MICHEL. I thank the gentleman for yielding.

Will the gentleman advise us what the total cost of this bill is now as it comes back to the House?

Mr. ROGERS. For 3 years it is $2,285,000,000.

Mr. MICHEL. If the gentleman will yield further, how does that figure compare with the House-passed bill?

Mr. ROGERS. The House bill was $1,760,000,000.

Mr. MICHEL. If the gentleman would yield further, we have an increase from the other body, then, of a half billion dollars?

Mr. ROGERS. As the gentleman knows, this goes for 1978, 1979, and 1980. I think, too, the gentleman would be interested in knowing that the actual authorization of the Congress approved for this legislation in fiscal year 1974 was $1,148,000,000. That was for 1 year. For 3 years here it is only $2,285,000,000.

Mr. MICHEL. I thank the gentleman.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this conference report on H.R. 5546—the Health Professions Educational Assistance Act of 1976—which revises and extends the programs of assistance under title VII of the Public Health Service Act.

This legislation extends the existing authorities relating to health manpower through fiscal year 1976 at the fiscal year 1974 authorization levels.

It also includes line-item authorizations for fiscal year 1977 provided in the Senate bill and makes substantive revisions for fiscal year 1977 in the existing construction authority to include support for regional health programs.

The major provisions of this legislation apply beginning in fiscal year 1978 and extend through fiscal year 1980.

This legislation provides Federal support in a number of areas to improve the quality, quantity, and distribution of, health manpower.

This bill provides a high level of capitation support to schools of medicine, dentistry, and osteopathy of about $2,000 per student.

Other health professions schools, such as schools of public health, veterinary medicine, and so on are also eligible for capitation support at lower levels.

However, in order to receive this form of Federal assistance the legislation contains certain requirements.

For example, schools of medicine will have to have an increasing number of filled first-year residencies in primary care over the next few years to receive capitation.

Nevertheless, the conferees backed away from original Senate approach which would have applied the percentage requirements on a school-by-school basis from the beginning.

Instead, the conferees adopted an approach which builds upon an essentially voluntary philosophy.

We have structured the bill so that medical schools will have an opportunity to meet each year's percentage requirements on a national basis first.

Thus, in order for all schools to receive capitation in the first year, 35 percent of all filled first-year residencies would have to be in primary care.

The requirement for the second year of the legislation is 40 percent and the requirement for the third year is fifty percent. Thus it is the goal of the conferees that 50 percent of all filled first-year residencies would be in primary care on a nationwide basis by 1980.

And, for purposes of counting, primary care includes residencies in family practice, primary internal medicine, and primary pediatrics.

However, if in any year the national goal is not met, then the required percentage will have to be met on a school-by-school basis for each school which wishes to receive capitation support.

Even if the school-by-school determination does come into effect for 1 year there is still an opportunity to meet the national goal in the following year so that the so-called trigger can be reset if the national goal is met.

It is my sincere hope that medical schools will make a strong effort to meet the national goals, so that the school-by-school determination will never occur.

It has always been my goal to preserve the Nation's medical research efforts and the training of needed specialists at such outstanding institutions as the Sloan Kettering Institute for Cancer Research or the M. D. Anderson Tumor Clinic.

What is needed is to achieve an appropriate balance between our country's primary care needs and our schools' specialty training programs in such a way so as not to disrupt the fine achievements of our specialty schools.

A second major goal of this legislation is to expand the National Health Service Corps scholarship program.

Under this program, which is based on voluntarism, students agree to practice in a medically underserved area in exchange for receiving scholarship support for their training.

Included in the definition of "health manpower shortage area" will be any public or nonprofit private facility which the Secretary of HEW determines has a shortage.

In this way, the Corps participants will be assigned to both urban and rural areas of greatest need.

Mr. Speaker, I have long supported this program because it is based on a voluntary approach—of solving our Nation's health manpower distribution problems. Such an approach ultimately provides better results, I feel, than mandated requirements. I hope this program will be well funded.

This bill also authorizes a new program of federally insured loans for students who are enrolled in health professions schools.

In addition to this bill's support for health professions schools and students this legislation authorizes funding for two types of construction projects:

Those which assist in the construction of teaching facilities for the training of physicians, dentists, pharmacists, optometrists, podiatrists, veterinarians, and professional public health personnel and those which assist in the construction of ambulatory, primary care, teaching facilities for the training of physicians and dentists.

In addition this bill provides specific authority for the support of area health education centers.

Known as AHEC's, these centers are designed to improve the distribution, supply, quality, utilization, and efficiency of health personnel in the health delivery system.

Project grants for establishment of family medicine departments are also included in the reported conference bill.

This legislation also authorizes grants for training, traineeships, and fellowships in general internal medicine and general pediatrics as well as support for the operation of family medicine and general dentistry residency programs.

These provisions as well as others are intended to achieve a common goal. That goal is to provide Federal support for increased training and efficient use of primary health care personnel so that the health needs of our citizens can be met.

I strongly support this goal and I urge that the bill be considered favorably.

Mr. Speaker, there are also several provisions which I am pleased were not included in the final version of this health manpower legislation.

For example, the so-called pay-back provision from the House-passed bill was not accepted by the conferees.

This provision, which I fought during the House debate on this bill last summer, would have required each student to pay the Federal Government the amount of money a school had received as capitation support during his years there.

Although the payback provision could have been waived at the rate of 1 year of service for each year of capitation support, if the student practiced in a medically underserved area after graduation, I feel this requirement was undesirable, unnecessary, and probably unconstitutional and I am glad it was excluded from the conference bill.

In addition, this legislation does not contain the Senate's provision concerning Federal standards for licensure of physicians and dentists.

Finally—the conferees did not accept the provision which would have allowed a superseding of State laws in cases where they prevented training under the Public Health Service Act.

Mr. Speaker, while I am supportive of the general provisions of this legislation I would like to record my disagreement with one particular section of the managers' statement—page 129—concerning the training of expanded function dental auxiliaries.

It is my view that this particular provision is in clear violation of the intent of Congress since this language was removed from the Senate bill on the floor of the Senate—and since this language was never addressed in the House bill—or in the conference.

Surely it is not the intent of the conferees to dictate curriculum content by this section of the managers' statement.

Mr. Speaker, I would also like to make two comments on the special projects grant authority in the bill.

As you know a long list of projects is included in this section which authorizes $25 million for each of the 3 years of the legislation.

First, with respect to item No. 9, "Environmental health education and preventive medicine," this language was included here, in part, as a result of an agreement in the conference.

We agreed to remove "preventive medicine and environmental health" from an earlier section in the bill concerning grants for graduate programs in health administration with the understanding that these two categories would be included with special projects.

There are a number of schools and programs which provide training in environmental health or preventive medicine which are not in schools of public health and thus not eligible for that funding.

It is important, therefore, in awarding project grants under this section of the bill to take into consideration programs of environmental health and preventive medicine which may be outside of schools of public health.

The field of preventive medicine, in particular, is one in which I have had a longstanding interest and which I feel holds great promise in saving not only lives but taxpayers' dollars.

Second, with respect to project grant category No. 6, "Curriculum development in schools of optometry, pharmacy, and podiatry," I feel some clarification is needed.

The House-passed bill contained line-item authorization for podiatry and optometry schools which included authority to plan, develop, and operate residency training programs in special optometric service or for educational programs which provide training in early detection and diagnosis of health problems which are accompanied by visual or ocular symptoms.

While the Senate amendment contained the same specific authority it did not authorize a line item.

It is important to note that these special types of projects are eligible to make application under the broad special project grant authority of the bill for the specific programs which are outlined in both the House bill and the Senate amendment and in the reports of the two committees.

In conclusion, Mr. Speaker, I support this legislation which is designed to improve the quality, distribution, and availability of health manpower in this country.

Although the authorizations are high, I submit that this money will be well-spent.

In fact, by providing needed health professionals' services to underserved areas of this country we can expect in the long run to save money by reducing the amount which would otherwise have been spent on costly, untreated illness.

I urge favorable consideration of this legislation.

Thank you, Mr. Speaker.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Speaker, I just wanted to join in support of this legislation. It is a piece of legislation that has been worked on over a period of several years.

I particularly want to commend the chairman of the subcommittee, the gentleman from Florida (Mr. ROGERS) and the ranking minority member, the gentleman from Kentucky (Mr. CARTER) for the excellent work they put in to produce this piece of legislation. I think it will go a long way in helping resolve the problems of maldistribution of physicians both by specialty and geographically in this country, and it will provide access to health care for all of our people.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding.

As I understand the motion before us, the House is in effect presented with all of the language of the conference report on H.R. 5546 with the exception that the amendment offered cures the budget problem about which the gentleman from Washington (Mr. ADAMS), chairman of the Budget Committee, expressed concern. Therefore, the only change in the conference report is the amendment offered under this motion to correct or cure the budget and to have this act comply with the Budget Act; is that correct?

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I thank the gentleman for yielding.

The gentleman from California is correct.

Mr. ROUSSELOT. If the gentleman would yield further, so that the chairman of the committee and my ranking minority member here can assure us that the measure before us by motion is no different from the conference report except the curative amendment recommended by the gentleman from Washington (Mr. ADAMS)?

Mr. STAGGERS. If the gentleman from Kentucky would yield further, the gentleman from California is correct.

Mr. ROUSSELOT. I thank the gentleman.

Mr. CARTER. Mr. Speaker, the chairman of the committee did explain that correctly, and I would say we have worked a long time on this legislation. In my opinion, it is the best health manpower bill that has ever come before the House.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from North Carolina.

Mr. BROYHILL. I thank the gentleman for yielding.

Mr. Speaker, I join in urging the Members to support this conference report. I understand that the administration has expressed some concern about portions of this bill.

Mr. Speaker, I will include at this point in my remarks some of my responses to those particular objections from the administration.

Mr. Speaker, I rise in support of H.R. 5546, the health manpower bill.

This bill is not perfect, but in my opinion, it goes a long way toward solving some of the long-standing problems facing our health delivery system in America. There is a real need for an improvement in the accessibility to quality medical care, increasing the number of physicians in primary care and this legislation is a step in that direction.

As the Secretary of HEW stated in a letter to the chairman of the Interstate and Foreign Commerce Committee (Mr. STAGGERS):

> **. . . the issues regarding the appropriate Federal role in supporting the health professions education are some of the most fundamental and far-reaching in the health field.**

In the same letter to Chairman STAGGERS, Secretary Mathews expressed the hope that the provisions of the conference report would be sufficiently close to the administration bill so that they could recommend it to the President.

I believe that the conference report meets this criterion and that the administration should approve it. However, the administration has informed us that it will not.

I understand and appreciate the administration's concern about this bill—in some cases, I agree with it. But I would point out that several of the most important positions of the administration are incorporated in toto in the conference report and in many other areas, the conferees closely followed the administration's approach and initiative.

I. MAJOR PROVISIONS—ADMINISTRATION'S APPROACH AND INITIATIVE

Some of the major provisions of the bill incorporate the principles enunciated in the administration's statements on the health manpower bills.

Among them:

THE DENIAL OF APPROVAL OF UNAFFILIATED RESIDENCIES

In Secretary Mathews letter to Chairman STAGGERS, the HEW stated that it wanted to "preclude formal disaffiliation in which a contract or letter of affiliation may be destroyed, but for all practical purposes the hospital continues to receive full or nearly full residency training assistance from the school."

This was the principle embodied in the conference report.

Senate amendment No. 169 was deleted but disaffiliation for the sole purpose of not being counted in the number of primary care residencies was prohibited.

THE NATIONAL HEALTH SERVICE CORPS

The administration wanted to expand health service delivery to underserved areas through the National Health Service Corps program.

This was the goal accepted by the conferees. Although the method adopted by the conference report differs somewhat from that of the administration, the result is the same.

The administration wanted to reserve places for the NHSC for first-year medical students as a means of expanding the service of the Corps. While the conferees discarded this method, we did structure the funding for the Corps to achieve the same goal, without the administrative burdens that would have resulted from the administration's program.

RESIDENCY REQUIREMENTS AS A CONDITION OF CAPITATION

The principle behind this requirement is to increase the number of primary care doctors.

The administration endorsed this principle and suggested a phase in of a required number of 1st-, 2d-, and 3d-year residencies that each school would be required to have in primary care.

The conferees again agreed with the stated goal of the administration, and also injected some flexibility into the residency requirements. We adopted a plan which would set residency requirements for the training of more physicians in primary care fields as one of the conditions for receiving capitation, by setting national goals first, rather than embarking on a mandatory program at this time.

By reducing the percentage schedule as suggested by HEW, the conferees have insured that the incentives will remain which encourage doctors to enter primary health care. It was felt that HEW's original proposal was too rigid, would be difficult to administer, and could prove to be self-defeating if dissatisfication appeared in the early days of the program. Thus, support for an alternative to this approach was generated.

In addition, instead of requiring each and every medical school to meet the first year percentage—national goals would be met. Only when—and if—primary care residencies fall short of these national goals, will the school-by-school determination be triggered.

Moreover, if in any year following this school-by-school approach, the national goals are again met, then the trigger "recocks" and once more only national goals are required.

Allowing each school to establish its own unique mix of residencies, is in the best tradition of American medicine.

Forcing every school to meet a specific national goal is not in the best interest of all.

These were some of the major areas in which the conferees incorporated the stated goals of the administration—in most cases changing the methods to achieve these goals, only to introduce more flexibility into the program to make it more attractive to participating schools so they voluntarily share in the efforts to meet national needs.

II. OTHER PROVISIONS WHICH MODIFY THE BILLS TO THE ADMINISTRATION POSITION

There were other areas in the conference report with which the administration had difficulties. Again, I would point out that this is not an ideal report or a perfect program. But the conferees have gone a long way toward modifying both bills towards the administration's position within the scope of the conference.

CONSOLIDATION OF PROGRAMS

The administration has stated that it does not support this bill because it fails to consolidate the programs in an effort to economize in administrative costs. However, the conferees have gone in this direction by consolidating many of the special project grant authorities contained in the Senate version. At the same time we must recognize the need for like item appropriations for such programs as area health educational centers.

ACROSS-THE-BOARD REDUCTION OF CAPITATION AMOUNTS

The administration wanted capitation reduced across the board. The conferees took the middle position in most cases where the House and Senate differed in amount.

It was felt that if the capitation grants were cut too much, we would defeat the whole purpose of the bill. That is to encourage the training of more physicians, dentists, and others in health care professions, and to make health services more readily available to people where they live.

REGULATION OF ALL RESIDENCY TRAINING PROGRAMS

We would also like to remind Members that during House consideration of this bill, we were successful in deleting one of the most onerous provisions of the original bill and one which the administration had vehemently opposed. The regulation of all residency training programs was deleted before passage by the House. This major cause of administration opposition is not contained in the bill which we are considering today.

III. AREAS OF 100-PERCENT AGREEMENT

In other areas the conferees followed the administration lead to the letter. Provisions which the administration found objectionable were deleted by the conference:

LICENSURE AND CONTINUING EDUCATION STANDARDS

The provision to require the Secretary of HEW to develop and establish model standards for State licensure, relicensure exams, and continuing education for dentists and physicians was not accepted.

This was in accordance with the stated position of the administration.

PREEMPTION OF STATE LAWS

The Senate bill contained a section which would have had the effect of overturning various State laws that prevent or limit certain training which may be mandated by the PHS Act. This language was dropped by the conferees and again, this was in accordance with the stated position of the administration.

MANDATED CONTRACTS

The House bill would have required the Secretary to contract with the National Academy of Sciences for a study of allied health personnel.

The administration was opposed to the mandatory nature of these contracts and so this authority was made discretionary.

RADIOLOGICAL HEALTH AND SAFETY

The Senate bill would have required the Secretary of HEW to establish Federal criteria and mandatory minimum standards for educational programs preparing radiologic technologists, medical, and dental practitioners, and also for licensure of radiologic technologists.

The administration opposed this and it was deleted from the conference report.

CONCURRENCE REQUIREMENT

The Senate bill required the HEW administrative unit to concur in administrative actions, such as writing regulations.

The administration opposed this and the conferees rejected this language and substituted the requirement that the unit participate in the development of such administrative action.

IV. FINAL AREAS OF DISAGREEMENT

Those areas enumerated above are areas of general concern to the administration and were expressed in the HEW letter to Chairman STAGGERS. I hope that I have shown that they are not of sufficient magnitude to warrant the opposition of my colleagues in the House.

In more specific terms, the administration said that it will oppose this bill because it adds new Federal subsidy programs and expands Federal programs which the President asked to be terminated. These are areas in which the conference report and the administration do not agree.

The administration opposed the Federal support of veterinary, optometric, pharmaceutical, and podiatry schools—VOPPS. This is a clear-cut and reasoned opposition—but I would point out that the conferees' hands were tied in this regard: Both the House and Senate versions contained provisions for Federal support of VOPPS. These programs received the support of the House and the Senate and could not be deleted.

The administration also called for the retention of the payback of student loans. The conference deleted this instead.

While on the surface it may be desirable to endorse payback to the Federal Government, in the long run the conferees decided that it would only hamper the program. The Federal Government is getting what it has stated is its primary objective namely, an improvement in the geographic and specialty distribution of doctors. This is the goal of this legislation. Payback provisions would only discourage young doctors from entering the program, would be difficult to administer by the medical schools, was strongly objected to by the medical profession, and would have done little, if anything, to improve the distribution of physicians in underserved areas which is the stated goal of the administration and also the goal of this bill.

Mr. Speaker, I believe that there is a real and crying need in America for an improvement in the quality, accessibility, and geographic and specialty distribution of doctors. I also believe that on balance, this conference report will go a long way toward seeing that improvement is realized.

There are provisions with which I do not agree overall and on balance, it is a bill to which we can point with pride and I ask my colleagues' support of it.

Mr. STAGGERS. Mr. Speaker, I will take just one moment to say that this will double the number of doctors in our medical schools by 1981 and help with money for the medical schools. I congratulate the members of the subcommittee who were all interested in the work on this legislation and were very active in handling this bill. I congratulate them and the staff.

Virtually all of the provisions originally included in the House bill remain, with the exception of minor wording changes. The Senate bill followed the House bill generally, but it added a number of provisions. The conferees agreed to two major Senate provisions, including one authorizing a citizen to sue in Federal court to put a stop to a hazardous condition, if the Federal Government or the State agency fails to act after 60 days' notice. The other major provisions would add funds in fiscal year 1978 so that each State could, if it wanted, to increase its staff of pipeline safety inspectors.

Pipeline safety is a matter of major concern. Last year we had 14 deaths nationwide, due to pipeline explosions. So far this year, there have been 76 deaths due to these explosions. This represents a frightening increase. It means we must do more to promote pipeline safety. The amendments as set forth in the conference report, will help to promote safety by enlisting local citizens and by paying for more inspectors. The citizen's civil action section of the bill enables a local citizen—who spots a hazardous condition which violates the pipeline safety regulations—to notify the Secretary of Transportation or his State agency about the hazard. If the Secretary does nothing about correcting the hazard for 60 days, the citizen can go to court and get a court order against the pipeline company to have the violation corrected immediately.

The citizen gets nothing out of it except his own and his neighbor's safety. If he wins his case, he can be reimbursed for his legal fees and the cost of any expert witnesses. If he loses his lawsuit, he has to pay all of his own expenses and he may also have to pay expenses of the defendant, if the court finds his suit was unreasonable.

This provision for a citizen's civil suit is not new. It has been included in at least nine different statutes, beginning with the Consumer Product Safety Act back in 1972. The toxic substances legislation, which we recently agreed to, had a similar provision as it originally cleared the House. The Energy Policy Coordination Act and the Clean Air Act also have permitted these kinds of suits to be brought by private citizens if the Government officials do nothing. So, this is nothing new. Furthermore, we have been very careful not to create 11th amendment problems. Suits will be brought in Federal court against companies in violation of the regulations. A State agency can only be sued to the extent permitted by the 11th amendment. But it may intervene if it wants to as a matter of right. The purpose of the pipeline safety program has been to encourage States to take the lead in promoting safety. The Federal Government gives the incentive of paying one-half of the costs of a State's program, once it meets certain minimum standards. But some States do not have enough inspectors to spot hazardous conditions, and 13 States have no inspectors at all.

To get those States to improve their programs, the conferees agreed to accept the Senate proposal to fund the costs of the inspectors, but we modified it to pay for only 1 year. After that year is up, the State must pick up the costs of keeping those inspectors as part of its regular program. If the State agency does not maintain those inspectors for 2 years, it must pay the cost back to the Federal Government. This 1-year funding will get the State inspection programs started. Hopefully, once the State begins its inspection program with these additional inspectors, it will find itself committed to a more effective safety program.

In funding these additional inspectors, we will not be affecting the coming fiscal year. The money will be committed out of 1978 funds.

Mr. Speaker, I move the previous question on the motion.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia.

The motion was agreed to.

A motion to reconsider was laid on the table.

DIRECTING CLERK OF HOUSE TO MAKE CORRECTIONS IN ENROLLMENT OF H.R. 5546

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of House Concurrent Resolution 767, directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 5546.

The Clerk read the concurrent resolution as follows:

H. Con. Res. 767

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 5546), to amend the Public Health Service Act to revise and extend the programs of assistance under title VII for training in the health and allied health professions, to revise the National Health Service Corps scholarship training program, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) Strike out "and that there is no further need for the admission of alien physicians and surgeons" in section 2(c) of the bill and insert in lieu thereof "such that there is no further need for affording preference to alien physicians and surgeons in admission to the United States".

(2) Strike out "(a) (16)" in subsection (l) of section 101 and insert in clause (1) of such subsection "in subsection (a) (6)" immediately before "and inserting".

(3) In section 101(q) of the bill insert open quotation marks in clause (2) immediately after "in lieu thereof".

(4) In section 101(s) of the bill (A) strike out "1973;" in clause (A) of paragraph (2) and insert in lieu thereof "1973,", and (B) strike out "1973," in clause (A) of paragraph (3) and insert in lieu thereof "1973;".

(5) In proposed section 700(a) of the Public Health Service Act (as contained in section 201(b) of the bill) (A) strike out "of title VII", and (B) strike out "disadvantaged student scholarships" and insert in lieu thereof "scholarships for first-year students of exceptional financial need".

(6) Strike out clause (i) of proposed section 701(7) (B) of the Public Health Service Act (as contained in section 201(e) (3) of the bill) and insert in lieu thereof the following:

"(i) extend for at least one academic year and consist of (I) supervised clinical practice, and (II) at least four months (in the aggregate) of classroom instruction, directed toward preparing students to deliver health care; and".

(7) Strike out "an accredited program of studies" in proposed section 701(8) (A) (i) of in section 201(e) (3) of the bill) and insert in lieu thereof "their studies in the program". the Public Health Service Act (as contained

(8) In proposed section 701(9) of the Public Health Service Act (as contained in section 201(e) (3) of the bill) strike out "the Commonwealth of" immediately before "the Northern Mariana Islands".

(9) Strike out paragraph (11) of proposed section 701 of the Public Health Service Act (as contained in section 201(e) (3) of the bill), and insert at the end of paragraph (10) of such section closed quotation marks followed by a period.

(10) Strike out "compositions" in section 202(a) (3) of the bill and insert in lieu thereof "the composition".

(11) Insert "made" immediately before "available" in proposed section 703(a) of the Public Health Service Act (as contained in section 203 of the bill).

(12) Strike out "section" in proposed section 706 of the Public Health Service Act (as contained in section 204 of the bill) and insert in lieu thereof "sections".

(13) In proposed section 710 of the Public Health Service Act (as contained in section 208 of the bill) (A) strike "(except under section 770)", (B) insert "(1) except for grants under section 770," immediately before "in advance", (C) insert "(2)" immediately before "at such intervals", and (D) strike out "necessary and" and insert in lieu thereof "necessary, and (3)".

(14) Insert "the" immediately after "the need of" in proposed section 721(f) (1) of the Public Health Service Act (as contained in section 301 of the bill).

(15) Insert "of veterinary medicine, optometry, podiatry, or pharmacy" immediately after "degree-granting school" in proposed section 721(f) (3) of the Public Health Service Act (as contained in section 301 of the bill).

(16) In proposed section 720(b) of the Public Health Service Act (as contained in section 302 of the bill) insert "50 percent of such sums shall be obligated for grants under subsection (a) (1) and" immediately before "50 percent of such sums".

(17) In proposed section 721(g) of the Public Health Service Act (as contained in section 303(b) of the bill) (A) insert "and" at the end of subparagraph (C) of paragraph (1), (B) strike out subparagraph (A) of paragraph (1) and redesignate subparagraphs (B), (C), and (D) of such paragraph as subparagraphs (A), (B), and (C), respectively, (C) strike out "in subparagraph (D)" and insert in lieu thereof "in subparagraph (C)", (D) strike out "grants under this section" in paragraph (2) and insert in lieu thereof "grants to entities under section", and (E) insert "the" in paragraph (2) immediately before "general practice of dentistry".

(18) In proposed section 722(a) (1) of the Public Health Service Act (as contained in section 304(a) of the bill) strike out "advice of the Council" and insert in lieu thereof "advice from the Council".

(19) Strike out "(as so designated)" in section 308(a) (4) of the bill and insert in lieu thereof "(as so redesignated)".

(20) Insert at the end of proposed section 728 of the Public Health Service Act (as contained in section 401(b) (3) of the bill) the following:

"(c) The Student Loan Marketing Association, established under part B of title IV of the Higher Education Act of 1965, is authorized to make advances on the security of, purchase, service, sell, or otherwise deal in, student loans which are insured by the Secretary under this subpart.".

(21) Strike out "any years in excess" in proposed section 729(a) of the Public Health Service Act (as contained in section 401(b) (3) of the bill) and insert in lieu thereof "any year in excess".

(22) In proposed section 731 of the Public Health Service Act (as contained in section 401(b) (3) of the bill) (A) strike out "(except as provided in subsection (c))" in sub-

section (a) (2) (B), and (B) strike out "clause 2(d)" in subsection (b) and insert in lieu thereof "paragraph (2) (D)".

(23) In proposed section 732(b) (1) of the Public Health Service Act (as contained in section 401(b) (3) of the bill) strike out "objectives of this part" and insert in lieu thereof "objectives of this subpart".

(24) In proposed section 733 of the Public Health Service Act (as contained in section 401(b) (3) of the bill) (A) strike out "for further Federal" in subsection (d) and insert in lieu thereof "from obtaining further Federal", (B) insert ", exercise substantial effort," in subsection (d) immediately before "or comply with such requirements", and (C) strike out "the Bankruptcy Act" in subsection (g) and insert in lieu thereof "title 11 of the United States Code".

(25) In proposed section 735 of the Public Health Service Act (as contained in section 401(b) (3) of the bill) (A) insert "any" in subsection (a) (2) immediately after "in controversy, and", (B) strike out "written agreement" in subsection (c) (1) and insert in lieu thereof "written contract", (C) strike out "section 723" in subsection (c) (1) and insert in lieu thereof "section 753", and (D) strike out "subparagraphs (A) and (B)" in subsection (c) (1) and insert in lieu thereof "clauses (A) and (B)".

(26) Strike out "of this Act" in proposed section 737(1) of the Public Health Service Act (as contained in section 401(b) (3) of the bill) and insert in lieu thereof "for such fiscal year".

(27) In section 402 of the bill (A) insert "and" immediately after the semicolon at the end of paragraph (3), and (B) strike out "paragraph; and" in paragraph (4) and insert in lieu thereof "paragraph:".

(28) Strike out "while a member" in section 403(e) of the bill and insert in lieu thereof "as a member".

(29) In proposed section 742 of the Public Health Service Act (as contained in section 404 of the bill) strike out "October 1, 1981," in subsection (a) and insert in lieu thereof "October 1, 1980,".

(30) In section 406(b) of the bill (A) insert "(as in effect before the date of enactment of this Act)" immediately after "Public Health Service Act", and (B) strike out "section 744 of such Act" and insert in lieu thereof "such section".

(31) In proposed section 331 of the Public Health Service Act (as contained in section 407(b) (3) of the bill) (A) strike out "as schools of medicine" in subsection (b) and insert in lieu thereof "at schools of medicine"; (B) strike out "to the health" in subsection (c) and insert in lieu thereof "to a health"; (C) strike out "they would be" in subsection (c) and insert in lieu thereof "they may be"; (D) strike out "allowance" in subsection (d) (1) (A) and insert in lieu thereof "allowances"; (E) strike out "is equal to or exceeds" in subsection (d) (1) (B) and insert in lieu thereof "are equal to or exceed"; (F) strike out "who are members of the National Health Service Corps and who have participated in the" in subsection (f) and insert in lieu thereof "during their period of obligated service under the"; and (G) strike out "the or exceed"; (F) strike out "commissioned officers" and all that follows through "in the" in subsection (f) and insert in lieu thereof "members of the National Health Service Corps during their period of obligated service under the"; and (G) strike out "the Commonwealth of" in subsection (h) (3) immediately before "the Northern Mariana Islands".

(32) In proposed section 332 of the Public Health Service Act (as contained in section 407(b) (3) of the bill) (A) insert "and" in subsection (a) (2) (A) immediately before "community health center;", (B) insert "the" in subsection (b) (1) immediately before "number of", (C) strike out "the names of the areas" in subsection (d) and insert in lieu thereof "a descriptive list of the areas", (D) insert "there is a part of" in subsection (f) (2) (B) immediately before "such area,", and (E) strike out "is within" in subparagraph (f) (2) (B) and insert in lieu thereof "within".

(33) In proposed section 333 of the Public Health Service Act (as contained in section 407(b) (3) of the bill) (A) insert "or under section 329 as in effect before October 1, 1977" in subsection (a) (1) (D) immediately after "section 334", (B) strike out "and" after the comma at the end of subsection (b) (1) and insert in lieu thereof "or", (C) strike out "medical, dental, or other health professions" in subsection (c) (4) and insert in lieu thereof "physicians, dentists, or other health professionals", (D) strike out "which entity desires to" in subsection (f) (1) and insert in lieu thereof "and which desires to", and (E) strike out "physician's" in subsection (g) (3) and insert in lieu thereof "physician".

(34) In proposed section 334 of the Public Health Service Act (as contained in section 407(b) (3) of the bill) (A) strike out "program;" in subsection (a) (3) (B) and insert in lieu thereof "Program;", and (B) insert ", or served by," in subsection (b) (3) immediately before "the health manpower shortage area".

(35) In proposed section 335 of the Public Health Service Act (as contained in section 407(b) (3) of the bill) (A) insert "or served by" in subsection (a) immediately before "such health manpower shortage area", (B) strike out "loan" each time it occurs in the third sentence of subsection (c) and insert in lieu thereof "such loan", and (C) insert ", for a period to be determined by the Secretary," in subsection (e) (1) (B) immediately after "cease".

(36) In proposed section 336(6) of the Public Health Service Act (as contained in section 407(b) (3) of the bill) strike out "their not making" and insert in lieu thereof "not making".

(37) In section 407(c) (3) of the bill (A) strike out "changed the name of the Advisory Council established" and insert in lieu thereof "established an Advisory Council previously established", and (B) strike out "(and placed the authority for the Advisory Council in section 337 of the Act (as added by such amendment))".

(38) In proposed section 748(b) (3) (A) (ii) of the Public Health Service Act (as contained in section 408(a) of the bill) insert "of" immediately before "work experience".

(39) In proposed section 749 of the Public Health Service Act (as contained in section 408(a) of the bill (A) insert "of" in subsection (b) (3) (B) immediately before "work experience", and (B) insert "accredited" in subsection (a) immediately before "schools of public health".

(40) In proposed section 751 of the Public Health Service Act (as contained in section 408(b) (1) of the bill) (A) strike out "(not to exceed" and all that follows down through "by the individual" in subsection (f) (1) (A) and insert in lieu thereof "for a period of years (not to exceed four school years) determined by the individual, during which period the individual is pursuing a course of study described in subsection (b) (1) (B); (B) strike "to carry out the purposes of this subpart and" in subsection (f) (2) and insert in lieu thereof "for scholarships under this subpart and to carry out the purposes of"; and (C) strike out "the disadvantaged student scholarship program)," in subsection (g) (1) and insert in lieu thereof "scholarships for first-year students of exceptional financial need)".

(41) In proposed section 752 of the Public Health Service Act (as contained in section 408(b) (1) of the bill) (A) strike out "the date" and all that follows down through "obligated service," each time it occurs in paragraphs (1) and (2) of subsection (b) and insert in lieu thereof "the date described in paragraph (5),"; (B) strike out "either" in subsection (b) (1) immediately before "the Regular"; (C) strike out "promptly" each time it occurs in subsection (b) (3) and insert in lieu thereof ", as soon as possible after the date described in paragraph (5), "; (D) strike out "paragraph (3)" in subsection (b) (3) and insert in lieu thereof "paragraph (2)"; (E) strike out "paragraph (4)" each time it occurs in subsection (b) (5) and insert in lieu thereof "paragraphs (1) through (4)"; (F) strike out "other than from" in subsection (b) (5) (B) and insert in lieu thereof "from an institution other than"; (G) strike out "profession under which" in subsection (d) and insert in lieu thereof "profession in which"; and (H) insert "Scholarship" in subsection (e) immediately before "Program".

(42) In proposed section 753 of the Public Health Service Act (as contained in section 408(b) (1) of the bill) strike out "subparagraph (B)" in subsection (a) and insert in lieu thereof "clause (B)".

(43) In proposed section 754 of the Public Health Service Act (as contained in section 408(b) (1) of the bill) (A) insert "(other than an individual described in subsection (b))" in subsection (a) immediately after "An individual"; (B) insert "Program" in subsection (d) (3) immediately before "(or a contract"; (C) strike out "the Bankruptcy Act" in subsection (d) (3) and insert in lieu thereof "title 11 of the United States Code"; and (D) strike out ", as specified in section 731(a) (2) (B), when" in subsection (d) (3) and insert in lieu thereof "that".

(44) In proposed section 755 of the Public Health Service Act (as contained in section 408(b) (1) of the bill) strike out "section 753(c)" in subsection (d) and insert in lieu thereof "section 754(c)".

(45) In proposed section 756(a) of the Public Health Service Act (as contained in section 408(b) (1) of the bill) strike out "subsequent fiscal year" and insert in lieu thereof "of the two succeeding fiscal years".

(46) In section 408(b) of the bill (A) insert "Public Health and" in paragraph (2) (B) immediately before "National Health Service Corps Scholarship Program", (B) strike out ", unless such individual" and all that follows through "violates such agreement".

(47) In proposed section 758(b) (1) of the Public Health Service Act (as contained in section 408(c) of the bill) insert "a" immediately before "grant under".

(48) In proposed section 759(a) of the Public Health Service Act (as contained in section 408(c) of the bill) insert "up to $8,000 per year for" immediately before "up to four years".

(49) Strike out "the date of the enactment of this Act)" each place it appears in section 409(b) of the bill and insert in lieu thereof "October 1, 1976".

(50) In proposed section 770(b) of the Public Health Service Act (as contained in section 501(b) of the bill) (A) strike out "medicine, osteopathy," and all that follows through "subsection (f) for such" and insert in lieu thereof "either medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry with approved applications exceeds the total of the amounts appropriated for such category of schools under the appropriate paragraph of subsection (e) for such", and (B) strike out "such subsection as the" and all that follows through "such subsection to each" and insert in lieu thereof "subsection (a) as the total amounts appropriated for that year under the appropriate paragraph of subsection (e) for grants to schools of the same category as such schools bears to the amount required to make grants in accordance with subsection (a) to each".

(51) In section 501(c) (3) of the bill, strike out "redesignated" and insert in lieu thereof "by redesignating it".

(52) In proposed section 770(e) of the Public Health Service Act (as contained in section 501(c)(4) of the bill) strike out paragraph (4) and insert in lieu thereof the following:

"(4) There are authorized to be appropriated $9,739,800 for the fiscal year ending September 30, 1978, $10,462,200 for the fiscal year ending September 30, 1979, and $11,060,000 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of public health.".

(53) In section 502 of the bill, strike out "774, and 776" and insert in lieu thereof "and 774".

(54) In proposed section 771 of the Public Health Service Act (as contained in section 502 of the bill) (A) insert "or in the school year beginning in the fiscal year ending September 30, 1976, whichever is greater" in subsection (a)(1) immediately after "preceding school year", (B) strike out "on July 15, 1978" in subsection (b)(2)(B) and insert in lieu thereof "in primary care on July 15, 1977", (C) strike out "are not in" in subsection (b)(2)(C) and insert in lieu thereof "were not in", and (D) strike out "preceding" in the second subparagraph (D) of subsection (b)(1) immediately before "fiscal year such school—".

(55) In proposed section 771 of the Public Health Service Act (as contained in section 502 of the bill) strike out the first subparagraph (D) and insert in lieu thereof the following:

"(D) The requirement under subparagraph (A) that a school of medicine have a particular percent of its filled first-year positions in its direct or affiliated medical residency training programs in primary care on a date in order to be eligible for a grant under section 770 shall be waived by the Secretary if he determines that (i) such school has made a good faith effort to comply with such requirement, and (ii) such school has at least 98 percent of such percent of such positions in primary care on such date.".

(56) In proposed section 771 of the Public Health Service Act (as contained in section 502 of the bill) insert immediately after clause (ii) of subsection (b)(2)(E) the following:

"(iii) The term 'medical residency training program' means a program which trains graduates of schools of medicine and schools of osteopathy in a medical specialty and which provides the graduate education required by the appropriate specialty board for certification in such specialty. Such term does not include a residency training program in an osteopathic hospital.".

(57) In proposed section 771 of the Public Health Service Act (as contained in section 502 of the bill) (A) redesignate the second subparagraph (D) and subparagraph (E) of subsection (b)(2) as subparagraphs (E) and (F), respectively; (B) strike out "subparagraph (C)" in subsection (b)(3)(A) and insert in lieu thereof "subparagraphs (C) and (D)"; (C) strike out "September 15, 1976" in subsection (b)(3)(B) and insert in lieu thereof "the date of enactment of the Health Professions Educational Assistance Act of 1976"; (D) strike out "were enrolled" in subsection (b)(3)(B) and insert in lieu thereof "were students"; and (E) strike out "is" in subsection (b)(3)(B) immediately after "identification".

(58) In subsection (c) of proposed section 771 of the Public Health Service Act (as contained in section 502 of the bill) (A) strike out "made and either" in paragraph (1) and insert in lieu thereof "made, either", (B) insert "or in" in paragraph (1) immediately after "submission of the plan)", (C) strike out ", in an area geographically remote from the main site of the training facilities of such school," in paragraph (2)(A), (D) strike out "or in areas in" in such paragraph and insert in lieu thereof "in an area which is geographically remote from the main site of the training facilities of such school or in", and (E) strike out "or practicing" in paragraph (2)(C) and insert in lieu thereof "of practicing".

(59) In subsection (d) of proposed section 771 of the Public Health Service Act (as contained in section 502 of the bill) (A) strike out "of subparagraphs (A) or (B) of paragraph (3)" in paragraph (1) and insert in lieu thereof "of paragraph (3) or (4)", (B) strike out "and in areas" in paragraph (4)(A) and insert in lieu thereof ", either in areas", (C) strike out ", in an area geographically remote from the main site of the training facilities of such school," in paragraph (4)(B)(i), (D) strike out "or in areas in" in such paragraph and insert in lieu thereof "in an area which is geographically remote from the main site of the training facilities of such school or in", and (E) strike out "hiring" in paragraph (4)(B)(iii) and insert in lieu thereof "appointing".

(60) In subsection (e) of proposed section 771 of the Public Health Service Act (as contained in section 502 of the bill) (A) insert "of" in paragraph (2) immediately after "public health", and (B) strike out "as defined in section 721(b)(1)" in such paragraph and insert in lieu thereof "approved for such purpose by the Commissioner of Education".

(61) In proposed section 771 of the Public Health Service Act (as contained in section 502 of the bill) (A) strike out "school year ending" in subsection (g)(3) and insert in lieu thereof "school year beginning", and (B) insert "of" in clause (3) of subsection (i) immediately after "appropriate use".

(62) Section 503(a) of the bill is amended by inserting before the comma at the end of paragraph (1) the following: "in subsections (a) and (d) and 'section 770 or subsection (a) or (b) of section 788' in subsection (b)".

(63) In proposed section 212(a)(32) of the Immigration and Nationality Act (as contained in section 601(a) of the bill) insert "an" immediately before "equivalent examination".

(64) In section 601(c)(4) of the bill strike out "provided further" and insert in lieu thereof *"provided further"*.

(65) In proposed section 212(j) of the Immigration and Nationality Act (as contained in section 601(d) of the bill) (A) insert "an" in paragraph (1)(B) immediately before "equivalent examination", (B) strike out "his education" in paragraph (1)(C) and insert in lieu thereof "the education", and (C) strike out "and" immediately before clause (ii) of paragraph (1)(D).

(66) In proposed section 791 of the Public Health Service Act (as contained in section 701 of the bill) (A) strike out "ending in the fiscal year" each time it occurs in subsection (c)(2)(A) and insert in lieu thereof "beginning in the fiscal year", (B) strike out "ending in a fiscal year" in subsection (c)(2)(A) and insert in lieu thereof "beginning in a fiscal year", (C) strike out "meet" in subsection (c)(2)(B) and insert in lieu thereof "meets", (D) strike out "of paragraph (2)" in subsection (c)(3) and insert in lieu thereof "of clause (ii) of paragraph (2)(A)", (E) strike out the second sentence in paragraph (3) of subsection (c), and (F) insert after paragraph (3) of subsection (c) the following:

"(4) The Secretary may not approve or disapprove an application submitted under paragraph (1) except after consultation with the National Advisory Council on Health Professions Education.".

(67) In proposed section 792 of the Public Health Service Act (as contained in section 701 of the bill) (A) strike out "in accordance with" in subsection (b)(1) and insert in lieu thereof "described in", (B) strike out "section" in subsection (b)(2) and insert in lieu thereof "subsection", (C) insert "which is" in subsection (b)(2) immediately after "a graduate program", (D) insert "which" in subsection (b)(2) immediately before "meets", and (E) strike out "pursuant to" in subsection (c) and insert in lieu thereof "under".

(68) In proposed section 793 of the Public Health Service Act (as contained in section 701 of the bill) (A) strike out "program" in subsection (b)(1)(D) and insert in lieu thereof "activities conducted", (B) strike out "is" in subsection (c) and insert in lieu thereof "are", and (C) strike out "Congress" each time it occurs in subsection (c) and insert in lieu thereof "such Committees".

(69) In proposed section 795 of the Public Health Service Act (as contained in section 701 of the bill) (A) strike out "or to the equivalent of either" in paragraph (2)(A) and insert in lieu thereof "(or to the equivalent of either)", (B) strike out "the" in such paragraph immediately before "medical technology", (C) insert "in" in such paragraph immediately before "any of such other", (D) strike out "curriculums" each time it occurs in paragraph (2) and insert in lieu thereof "curricula", (E) strike out "by regulations" in paragraph (2)(A) and insert in lieu thereof "by regulation", and (F) insert "such other" in clause (ii) of paragraph (2)(A) immediately after "dental hygiene, or".

(70) In proposed section 796 of the Public Health Service Act (as contained in section 701 of the bill) (A) insert "to" in subsection (a) immediately after "The Secretary shall make grants", (B) strike out "allied health and nurse manpower needs of such region or State" in subsection (a)(1) and insert in lieu thereof "the needs of such region or State for allied health personnel and nurses", (C) strike out "(c)(1)" and insert in lieu thereof "(c)", (D) redesignate paragraphs (A), (B), and (C) of subsection (c) as paragraphs (1), (2), and (3), respectively, and (E) strike out "subparagraph (A)" in subsection (c) and insert in lieu thereof "paragraph (1)".

(71) In proposed section 798 of the Public Health Service Act (as contained in section 701 of the bill) (A) strike out "health or educational entity" in subsection (a)(2) and insert in lieu thereof "school, agency, or entity", (B) strike out "individuals with" in subsection (a)(2)(A) and insert in lieu thereof "disadvantaged individuals who have", (C) strike out "those individuals" each time it occurs in subsection (a)(2) and insert in lieu thereof "such individuals", and (D) strike out "an entity" each time it occurs in subsection (a)(2) and insert in lieu thereof "a school, agency, or entity".

(72) In section 702(d) of the bill (A) strike out "is needed" and insert in lieu thereof "are needed", and (B) strike out "Congress" each time it occurs and insert in lieu thereof "such Committees".

(73) In section 801 of the bill (A) insert "(a)" immediately before "Effective October 1, 1976, (B) insert after the text of proposed section 788 of the Public Health Service Act (as contained in section 801 of the bill) a closed quotation marks and a period and insert immediately thereafter the following:

"(b) Effective November 1, 1976, section 776 of the Public Health Service Act is redesignated as section 789 of such Act, and all references to such section in title XII of such Act are redesignated accordingly.

"(c) Effective October 1, 1976, part F of title VII is amended by adding after section 789 (redesignated by subsection (b)) the following new section:".

(74) In proposed section 780(b)(1) of the Public Health Service Act (as contained in section 801 of the bill) strike out "medical" in clause (D).

(75) In proposed section 781 of the Public Health Service Act (as contained in section 801 of the bill) (A) strike out "the" in subsection (a) immediately before "health professions schools", (B) strike out "implementation" in subsection (a) and insert in

lieu thereof "operation", (C) insert "program" in subsection (c) immediately before "shall", (D) strike out the comma in subsection (c)(1) immediately after "school" and insert in lieu thereof "and", (E) strike out "a nurse practitioner or physician assistant training program" in subsection (c)(3) and insert in lieu thereof "a program for the training of physician assistants (as defined in section 701(7)) or nurse practitioners (as defined in section 822)", (F) strike out "other health science disciplines" in subsection (c)(4) and insert in lieu thereof "schools or programs of other health professions", (G) strike out "the geographic area" in subsection (d)(1) and insert in lieu thereof "a geographic area", (H) strike out "the medically underserved population" in such subsection and insert in lieu thereof "a medically underserved population", (I) strike out the period at the end of paragraph (1) of subsection (d) and insert in lieu thereof ", which area or population is in a location remote from the main site of the teaching facilities of the school or schools which participate in the program with such center.", (J) strike out "and" in subsection (d)(2)(C), (K) insert "area" in subsection (d)(2) immediately after "Any", (L) strike out "making contracts" in subsection (e) and insert in lieu thereof "entering into contracts", (M) insert "at least" in paragraph (1) of subsection (e) immediately before "75 percent", (N) strike out "program in the area" in subsection (e)(1) and insert in lieu thereof "center program in the area health education", (O) strike out "the program" in subsection (e)(2) and insert in lieu thereof "a program", (P) insert "a" in subsection (e)(3) immediately before "program", and (Q) strike out "such subsections" in subsection (f) and insert in lieu thereof "this section".

(76) In proposed section 782(a) of the Public Health Service Act (as contained in section 801 of the bill) (A) strike out "in the United States" each time it occurs and insert in lieu thereof "in the States", and (B) strike out "have been enrolled" each time it occurs and insert in lieu thereof "were students".

(77) In proposed section 783 of the Public Health Service Act (as contained in section 801 of the bill) (A) redesignate paragraphs (A), (B), and (C) of subsection (a) as paragraphs (1), (2), and (3), respectively; (B) strike out "(T.E.A.M.)" in paragraph (3) of subsection (a) (as so redesignated); (C) strike out "assure" in subsection (c) and insert in lieu thereof "ensure"; (D) insert "and" in subsection (a) immediately after "osteopathy,"; and (E) strike out "preparation of faculty members respecting programs" in subsection (d) and insert in lieu thereof "preparing faculty members to teach in programs".

(78) In proposed section 784 of the Public Health Service Act (as contained in section 801 of the bill) strike out paragraph (1) of subsection (a) and insert in lieu thereof the following:

"(1) to plan, develop, and operate approved residency training programs in internal medicine or pediatrics, which emphasize the training of residents for the practice of general internal medicine or general pediatrics (as defined by the Secretary in regulations); and".

(79) In proposed section 785 of the Public Health Service Act (as contained in section 801 of the bill (A) insert "occupational health training and education" in subsection (a)(2) immediately after "substantially carry out"; (B) strike out "and industrial hygienists, and other professionals, practicing" in subsection (a)(2)(B) and inserting in lieu thereof "industrial hygienists, and other professionals who practice"; (C) strike out "such individuals for residencies" in subsection (a)(2)(E) and inserting in lieu thereof "individuals undergoing training in medical residencies"; (D) strike out "other relevant disciplines" in subsection (a)(2)(F) and insert in lieu thereof "students and professionals in related fields"; (E) strike out "for any of the health profession disciplines dealing with problems of occupational health" in subsection (a)(2)(G) and insert in lieu thereof "for health professionals dealing with problems of occupational health"; and (F) strike out "in accordance with the requirements of subsection (a)," and "of Health, Education, and Welfare" in subsection (b).

(80) In proposed section 786 of the Public Health Service Act (as contained in section 801 of the bill (A) strike "hospital, school of medicine of" in subsection (a) and insert in lieu thereof "private hospital, school of medicine or", (B) insert "in each fiscal year" in subsection (c) immediately after "amount appropriated", and (C) strike out "40" in subsection (d) and insert in lieu thereof "45".

(81) In proposed section 787 of the Public Health Service Act (as contained in section 801 of the bill) (A) strike out "the health professions" in subsection (a)(2)(A) and insert in lieu thereof "a health profession"; (B) strike out "those individuals" each place it appears in subsection (a)(2) and insert in lieu thereof "such individuals"; and (C) strike out "persons enrolled" in subsection (a)(2)(E) and insert in lieu thereof "students".

(82) In proposed section 788 of the Public Health Service Act (as contained in section 801 of the bill) (A) insert "and" immediately after the semicolon at the end of subparagraph (C) of subsection (a)(2); (B) strike out "or program" in subsection (a)(3)(A)(i) and insert in lieu thereof "or programs"; (C) strike out "it will be able" in subsection (a)(4)(A) and insert in lieu thereof "such school will be able"; (D) insert "a" immediately before "special need" and immediately before "comprehensive cost" in subparagraphs (A)(ii) and (B), respectively, of subsection (b)(1); (E) strike out "of," in subsection (b)(3) immediately before "a school of medicine," and insert in lieu thereof; (F) strike out "section" in subsection (b)(4) and insert in lieu thereof "subsection"; (G) strike out "the cost" in subsection (b)(6) and insert in lieu thereof "any comprehensive cost"; (H) strike out "the operational" in subsection (b)(6) and insert in lieu thereof "any operational"; and (I) strike out "or to develop" in subsection (b)(5) and insert in lieu thereof "and to develop".

(83) In proposed section 788 of the Public Health Service Act (as contained in section 801 of the bill) (A) strike out "emphasizing" in subsection (c) and insert in lieu thereof "which emphasize"; (B) strike out "and extenders" in subsection (c)(2); (C) strike out "organizations" in subsection (c)(3) and insert in lieu thereof "organization"; (D) strike out "extenders" in subsection (c)(3) and insert in lieu thereof "assistants"; (E) insert "to" in subsection (d) immediately before "and enter"; (F) insert "health manpower" immediately before "projects and programs" in subsection (d); (G) strike out "in the United States" in paragraph (12) of subsection (d) and insert in lieu thereof "in the States"; (H) strike out "the school receiving the grant" in subsection (f)(1)(A) and insert in lieu thereof "such school"; (I) insert "(designated under section 332)" immediately after "shortage area" in subsection (f)(1)(B); (J) insert "submitted under this subsection" in subsection (g)(2) immediately before "unless he has consulted"; and (K) strike out "the encouragement of" in subsection (c).

(84) Redesignate proposed section 789 of the Public Health Service Act (as contained in section 801 of the bill) as section 790 of such Act.

(85) In title IX of the bill strike out "Sec. 901. (a) The second" and all that follows through "consideration to applications—".

(86) In subsection (b)(1) of proposed section 830 of the Public Health Service Act (as contained in section 901(6) of the bill) insert "to" immediately after "may make grants".

(87) In section 903 of the bill (A) insert "of Health, Education, and Welfare" in subsection (a)(1) immediately after "The Secretary", (B) strike out "or studies" in such subsection, (C) strike out "thereby" in subsection (a)(2) and insert in lieu thereof "thereon", (D) strike out "which reimburses" in subsection (b) and insert in lieu thereof "in which the Secretary reimburses such group or association", and (E) strike out the second sentence of subsection (b).

(88) Insert "clinical" in section 904(a) of the bill immediately before "facilities".

(89) In proposed section 2(f) of the Public Health Service Act (as contained in section 905 of the bill) (A) strike out "317(h)(2),", (B) strike out "1201" and insert in lieu thereof "1201(2)", (C) strike out "1410(13)" and insert in lieu thereof "1401(13)", and (D) strike out "the Commonwealth of" immediately before "the Northern Mariana Islands".

(90) In section 905 of the bill strike out subsection (b) and insert in lieu thereof the following:

"(b)(1) Sections 314(g)(4)(B), 355(5), 1002(c), 1201(2), 1401(13), and 1633(1) are amended by inserting 'the Northern Mariana Islands,' immediately after 'Puerto Rico' in each such section.

"(2) Section 318(c)(1) is amended by inserting 'the Northern Mariana Islands,' immediately after 'American Samoa,'.".

(91) Insert closed quotation marks and a period at the end of paragraph (1) of section 201(d) of the bill.

(92) In subsection (a) of proposed section 739 of the Public Health Service Act (as contained in section 401(b)(3) of the bill) strike out the closed quotation marks immediately before the period at the end thereof.

(93) In the proposed heading for part E of title VII of the Public Health Service Act (as contained in section 501(e) of the bill) strike out the period immediately after "Part E".

(94) In proposed sections 771(g)(3) and 791(c)(2)(A)(ii) of the Public Health Service Act (as contained in sections 502 and 701, respectively, of the bill) strike out "first year" each place it occurs and insert in lieu thereof "first-year".

(95) Correct spelling, punctuation, incorrect type face, and margins.

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of House Concurrent Resolution 767, that it be considered as read and printed in the Record, and that I be allowed to explain the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. STAGGERS. Mr. Speaker, this concurrent resolution simply allows the Clerk of the House of Representatives to make technical corrections. It makes no substantive changes whatsoever.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF ADDITIONAL CONFEREES ON S. 3131, AMTRAK IMPROVEMENT ACT OF 1976

Mr. STAGGERS. Mr. Speaker, for the third time I make a unanimous-consent request that the Speaker be allowed to appoint three additional conferees on the bill S. 3131, the Amtrak Improvement Act of 1976.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. SKUBITZ. Mr. Speaker, reserving the right to object, when we had before us the bill S. 3131, the chairman of the committee asked that we enlarge the number of conferees. I objected at that time.

I have talked to the chairman of the committee and I have agreed that I was willing to do it, but I was absent when the gentleman from West Virginia made his request a few minutes ago, and the gentleman from Maryland (Mr. BAUMAN) objected on my behalf.

Mr. Speaker, I have no further objection to the enlargement of the number of members of the committee. I wonder if the gentleman from Maryland (Mr. BAUMAN) would withdraw his reservation of objection.

Mr. BAUMAN. I have no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. MICHEL. Mr. Speaker, further reserving the right to object, will the gentleman from West Virginia advise us who the additional members of the conference will be?

Mr. STAGGERS. Mr. Speaker, if the gentleman will yield, the additional members will be the gentleman from New Jersey (Mr. FLORIO), the gentleman from Illinois (Mr. RUSSO), and the gentleman from Ohio (Mr. DEVINE).

Mr. Speaker, the chairman of the committee has talked to the ranking minority member, the gentleman from Ohio (Mr. DEVINE), and he had no objection when I talked to him.

Mr. MICHEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and without objection, appoints the following conferees: Messrs. FLORIO, RUSSO, and DEVINE.

There was no objection.

CONFERENCE REPORT ON H.R. 12838, ARTS, HUMANITIES, AND CULTURAL AFFAIRS ACT OF 1976

Mr. BRADEMAS. Mr. Speaker, I call up the conference report on the bill (H.R. 12838) to amend and extend the National Foundation on the Arts and Humanities Act of 1965, to provide for the improvement of museum services, to establish a challenge grant program, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 20, 1976.)

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 5546, the Health Professions Education Assistance Act of 1976.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BRADEMAS. Mr. Speaker, I am pleased to report to the House that after extensive negotiations between the Committee on Labor and Public Welfare of the other body and the Committee on Education and Labor on H.R. 12838, the Arts, Humanities, and Cultural Affairs Act, we have reached an agreement which is embodied in the conference report now under consideration.

Mr. Speaker, I want first to express appreciation for the efforts of the members of the committee who have worked and cooperated in bringing this matter to a successful resolution.

In particular, Mr. Speaker, I would like to thank the distinguished chairman of the Education and Labor Committee, the gentleman from Kentucky (Mr. PERKINS) and the distinguished ranking minority member of the Education and Labor Committee, (Mr. QUIE) for their important contributions to this bill.

Mr. Speaker, I would be remiss if I did not also thank the Members from the other body for their contributions, in particular the major sponsor of the bill there, the distinguished junior Senator from Rhode Island (Mr. PELL) and the distinguished senior Senator from New York (Mr. JAVITS).

Mr. Speaker, let me make these brief observations. The conference report is similar in many respects to the bill that passed the House on April 26. The House bill was ordered reported by the Subcommittee on Select Education, which I have the honor to chair, by a unanimous bipartisan vote. Further, the bill was reported from the Education and Labor Committee by a vote of 29 ayes and no nays.

Mr. Speaker, the House thereafter passed the bill by an overwhelming margin of 279 to 59.

AUTHORIZATIONS

The conference report extends for 4 more years the authorizations for the National Endowments on the Arts and Humanities and provides for several new initiatives to increase support for cultural activities in the United States.

The total authorization for fiscal year 1977 is $250 million, the same total authorized in the House bill, and, I might add, a figure $2 million below the amount authorized for the current fiscal year and below the amount requested by the administration in its bill. The conference measure for fiscal year 1978 provides a total of $300 million for the programs it authorizes.

Mr. Speaker, the conference report extends support through fiscal year 1980 for the arts and humanities endowments at $93.5 million each for fiscal year 1977, $105 million for each endowment in fiscal year 1978 and such sums as Congress finds necessary for fiscal years 1979 and 1980. These amounts are slightly less than the authorization proposed by the House bill; however, the authorization for the matching of funds donated to the endowments is identical to the figures in the House bill—$20 million for fiscal year 1977 and $25 million for fiscal year 1978.

STATE HUMANITIES COUNCILS

Mr. Speaker, the provision in the conference report for funding State humanities councils is similar to that in the House bill. This section is intended to help these groups develop adequate programs and should provide the State humanities programs a greater degree of stability by assuring that a minimum of Federal funds is available for their activities.

The conference report provides, as does the House bill, for the funding of any State humanities council, whether created as a State agency or a voluntary organization, and requires that there be allocated by the National Humanities Endowment at least $200,000 per State, or 20 percent of all humanities endowment moneys for the support of State humanities programs. This requirement, which has characterized the State arts programs, to their great benefit, will offer similar stability for the State humanities programs.

In addition, to encourage State participation in the humanities program, the conference report entitles each State to appoint half the members to its humanities council, provided that: First, for the first fiscal year in which the State desires to make such appointments, the State must match—from State funds—50 percent of that portion of the Federal financial assistance received by the grant recipient which exceeds $100,000; second, for the second fiscal year, the State must match—from State funds—100 percent of that portion of the Federal financial assistance which exceeds $100,000; and third, in each fiscal year thereafter, the State must match—from State funds—the total amount of Federal financial assistance. Two members of the State humanities council would be appointed by the State regardless of the matching provision.

MUSEUM SERVICES

Mr. Speaker, in speaking of the initiatives contained in the conference report, I would like first to comment on a significant new provision in the bill, the museum services program.

This title, which is similar to the measure in the House bill, establishes an Institute of Museum Services in the Department of Health, Education, and Welfare to provide assistance to all types of museums for exhibits, educational programs, professional curatorial training, conservation of collections, travelling programs, and general operating expenses.

The new institute will be administered by a director approved by the President with the advice of a Presidentially appointed board broadly representative of all types of museums, including those relating to science, history, technology, and art as well as zoos and botanical gardens. The board of the institute will also include five nonvoting members: The Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, and the Commissioner of Education.

The conference agreement authorizes amounts for grants for the museum program identical to the provision in the House bill, $15 and $25 million, respectively, for the first 2 years of the program and such sums as Congress may determine for fiscal years 1979 and 1980.

CHALLENGE GRANTS PROGRAM

Second, Mr. Speaker, I want to say a word about the new challenge grants program, which authorizes both the National Arts and Humanities Endowments to make, to cultural institutions in great need, awards of one Federal dollar to match $3 in probate funds. In establishing a separate challenge grant program under the basic authority of each endowment, as was provided in the House bill, the conference agreement also authorizes the funding of Bicentennial projects by the National Endowment for the Humanities.

Each challenge grant program is authorized $12 and $18 million for fiscal years 1977 and 1978, respectively.

PHOTOGRAPHY AND FILM PROJECT

Mr. Speaker, the conference report also authorizes two modest programs which can contribute significantly to the cultural life of America.

The first, the American Bicentennial photography and film project—authored by Senator MONDALE of Minnesota—establishes a 2-year program of grants to be administered by the National Endowment for the Arts. The conference agreement authorizes $4 million for the first year of this special project and $2 million for the second.

ARTS EDUCATION

Second, Mr. Speaker, the conference report authorizes $2 million for fiscal year 1978 to carry out the arts education program established by the Elementary and Secondary Education Amendments of 1974 in the Office of Education. This authorization is in addition to any other sums provided for this worthwhile and innovative program.

CONCLUSION

Mr. Speaker, I urge Members of the House to give their strong support to this measure to aid the arts, humanities, and cultural activities of our Nation.

This measure provides the assistance needed to help stimulate artistic and scholarly endeavors.

This legislation builds solidly on the achievements of existing State arts and humanities programs and adds new incentives for humanities programs by assuring them of yearly funding.

The bill also makes significant new contributions to the cultural life of America, particularly through the innovations contained in the challenge grant and museum services programs.

Mr. Speaker, in conclusion, let me once more remind Members that the measure before us has enjoyed overwhelming bipartisan support during consideration of the legislation earlier this year. I trust that there will be equally strong support on both sides of the aisle for the conference report before us.

Mr. Speaker, at this point I yield to the gentleman from Minnesota (Mr. QUIE), who has made such a splendid contribution to this legislation, for such comments as the gentleman may wish to make.

Mr. Speaker, I reserve the balance of my time.

Mr. QUIE. Mr. Speaker, I thank the gentleman from Indiana for yielding.

Mr. Speaker, I want to say to my colleagues that this conference report ought to receive strong support from the House for extending the National Foundation on the Arts and Humanities.

Mr. Speaker, I rise in strong support of the conference report on the bill to extend the National Foundation on the Arts and Humanities. The bill that we bring back to the House is a good one because we retained all of those provisions which made the original House bill good.

In conference we took some significant action which will affect the endowments for many years.

First and foremost we retained the concept of parity between the two endowments and second, we kept the basic existing structure of State humanities councils.

To me, the concept of parity or equal funding between the two endowments was and is essential. I recognize that quite often the activities of the humanists are not as visible as those of the performing or creative arts, yet humanistic endeavors are every bit as important. Our society needs the activities of our humanistic institutions—libraries, educational organizations, historical societies, and scholarly endeavors and they should exist and function to their maximum. To me, freedom of expression and thought are reflected in the goals and objectives of both of the endowments. Keeping them equal in stature and authorizations we allow them to continue the great work they have carried out over the last 10 years. Because of parity, they will be able to continue their efforts without unnecessary competition and rivalry for funding.

Let me point out to my colleagues one change that we did make in the States humanities councils. The basic structure of the humanities councils within each State is retained. One of the controversial points that had to be resolved in conference was the Senate's insistence that the members of humanities councils within each State be appointed exclusively by the Governor. Although makeup and membership is retained, the conferees adopted a proviso which will allow a State to appoint one-half of the members of the council if the State matches the Federal money. Without matching money, each Governor will be able to appoint only two members to the council within his or her State. If a State desires to appoint 50 percent of the members of the humanities council, it must:

First. During the first year match 50 cents of State money for every $1 of Federal money for all dollars it receives over $100,000.

Second. After the first year, the State would be required to match dollar for dollar from State-appropriated funds or 100 percent of the Federal money that the State receives.

Third. The State would be able to immediately appoint 50 percent of the membership of the State's humanities program.

Fourth. In the event that the State does not match available Federal moneys in the second year, the State appointees would be removed.

Fifth. If the State does not opt to go into this matching arrangement, then the Governor would be eligible to appoint only two members to the Humanities Council within that State.

The conferees retained another important feature from the House bill which I believe holds the promise of bringing new dollars into both the arts and the humanities with only a minimal investment by the Federal Government. You are all aware that the arts and humanities in this country are both experiencing financial problems and although more institutions are working very hard to find additional income, new sources are always necessary. We established in this legislation that each endowment may have the authority to issue "challenge grants" in the form of contracts or grants to public agencies or nonprofit organizations to raise the financial level of support. The Federal Government will "challenge" these institutions to raise three new dollars to match every Federal dollar that is provided. In this way, it is my hope that new dollars from public and private sources will be generated.

Both the House and the Senate bills had provisions to establish an Institute for Museum Services which authorizes funds to help museums to set up exhibits, provide education and training, traveling programs and general operating expenses. The major difference was that the Senate placed the institute under the umbrella of the National Foundaiton, where the House bill placed the Institute in HEW. The new institute will be in HEW.

Two other minor programs were authorized. One established a 2-year program for each State to do a photography and film survey of the State during the Bicentennial year and called for the National Arts Endowment to bring all of the works together. The conferees also authorized $2 million for the ongoing arts education program which is in the Office of Education.

And finally, the conference-reported bill contains total authorization levels for each fiscal year which are the House-passed figures. The following is a breakdown of the authorization levels:

AUTHORIZATION FUNDING LEVELS

[In millions of dollars]

Category	Fiscal year— 1977	1978	1979	1980
Arts endowment	93.5	105.0	s/s	s/s
Treasury funds	10.0	12.5	s/s	s/s
Humanities endowment	93.5	105.0	s/s	s/s
Treasury funds	10.0	12.5	s/s	s/s
Challenge grants:				
Arts	12.0	18.0	s/s	s/s
Humanities	12.0	18.0	s/s	s/s
Museums	15.0	25.0	s/s	s/s
Photo and film project	4.0	2.0		
Arts education	0	2.0		
Total	250.0	300.0	s/s	s/s

Mr. Speaker, I think the legislation is good and it will provide substantial benefits to our national life. As I have said on other occasions, when the history of this country as it stands today is written, I do not believe historians will be pointing primarily to our armed might as the real strength of this Nation, they will not be looking back with pride at the wealth and affluence that we enjoyed; but rather, they will point to the works produced by the American people, the works which fall into the realm of the arts and humanities.

As we enter our third century, I am impressed with what I have learned of the works, goals, and dreams of Americans during our first 200 years. The words of our Founding Fathers whose vision and plans still stand as the basis of our free society. I believe that the work that the arts and humanities carry out holds the essence of what has been passed down to us and I believe that any encouragement that we can give to the arts and humanities will not only be beneficial to all Americans today, but for all of those who come after us.

I must say to my colleagues that the gentleman from Indiana did an outstanding job in standing up for the position of the House. I cannot recall a conference where the House came out closer to its own positions than this one. In fact, not one of the main principles we had was really compromised or lost in any way. We did, naturally, have to work out some differences, but we retained all of the substance.

Also, Mr. Speaker, I would like to draw one thing to the attention of the gentleman from Indiana in regard to the States Humanities Councils. I understand that representatives of the 50 States met in Seattle on August 12, and are making plans to form a national organization of State-based Humanities Councils. The next meeting is to be held November 5 and 6, 1976, in Chicago. I have no objection to a national organization being formed; in fact, I would encourage it in order that the various States Humanities Councils might learn from each other.

I would object, however, if a national organization for States Humanities Councils was in any way funded by the National Endowment on the Humanities. If that were the case, it would lessen the potential organization's independence from the endowment, and would mean that the endowment would, directly or indirectly, be funding whatever lobbying or political activities a national organization might engage in.

I would ask the gentleman from Indiana if he would agree with me in my views.

Mr. BRADEMAS. If the gentleman will yield, I share his concern, and in order to assure the independence of the activities of such groups, I think it far preferable that they rely on funds from the private sector.

Mr. QUIE. I thank the gentleman from Indiana.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I wonder if the gentleman could tell me what has happened to Mr. Berman. I understand the Senate is giving him a rather hard time. I hate to prejudice his case, but as I look at his administration I would have to say that I think he has done a very competent job down there.

As the gentleman from Minnesota knows, I have never been a real strong supporter of some of the goings-on of some of these agencies, but nevertheless I have been impressed with his ability, and it seems that the Senate is giving him a rather hard time.

Mr. QUIE. It is my understanding that the other body, the committee, was not able to get a quorum last Friday and they will be working to get a quorum tomorrow. This is the last week in which they can confirm his appointment. So, I guess Mr. Berman, who I think has been doing an outstanding job—and I commend him for the work he has done—and who has been effective, has got this week only. He had better have his fingers crossed as to whether the other body is actually going to act.

Mr. ASHBROOK. Maybe it is a case of doing too good a job, but it seems rather strange that someone of his caliber would be held up. I would hate to prejudice his case because I imagine my support would be a sort of kiss of death.

Mr. QUIE. I would say to the gentleman that I doubt that would be the case, because I think people who have observed the gentleman's work in committee and here on the floor recognize that while the gentleman perhaps does not agree with the amount of money that is going into the program, we have always respected his honesty and integrity in stating and working for his positions.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Illinois.

Mr. MICHEL. Would the gentleman be so kind as to advise the Members as to how much money is involved in this conference report?

Mr. QUIE. The funding level for each endowment in the first year is $93.5 million; the second year, $105 million for each of the endowments.

Then, we have challenge grants, which in the first year would be $12 million for each of the endowments and $18 million in the second year.

For the museums, $15 million the first year and $25 million the second year. Photo and film project, which is for only 2 years, $4 million for the first year and $2 million for the second year. Arts education has an authorization of $2 million in 1978 only.

So that makes a total for 1977 of $250 million, and for 1978, $300 million.

Mr. MICHEL. How does that compare with the House-passed bill?

Mr. QUIE. If I recall correctly, the totals are identical.

Mr. MICHEL. How does that compare with the budget figure?

Mr. QUIE. I believe that there are three programs that the administration does not agree with. The museums, for $15 million and $25 million for fiscal years 1977 and 1978, with such sums thereafter; the photo film project at $4 million and $2 million for fiscal years 1977 and 1978; and $2 million for art education in fiscal year 1978 are the programs not requested by the administration. The authorizations in the basic programs for each endowment are lower than the administration requested. Overall we are slightly higher than the total requested by the administration.

Mr. MICHEL. I thank the gentleman.

Mr. BRADEMAS. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. THOMPSON), a member of the committee.

Mr. THOMPSON. Mr. Speaker, I would like to express my appreciation to my distinguished friend and colleague, the gentleman from Indiana (Mr. BRADEMAS), the chairman of the subcommittee, the chairman of the full committee, the gentleman from Kentucky, and the ranking minority member of the committee, the gentleman from Minnesota (Mr. QUIE).

These programs have been nothing short of a spectacular nationwide success. They are programs which reflect the interest in the arts and in the humanities, which so many millions of Americans have been waiting so many years through which to express themselves. I think that the conference did a splendid job, that it is a splendid piece of legislation, and I certainly do urge its adoption.

Mr. BRADEMAS. Mr. Speaker, I thank my colleague, the gentleman from New Jersey (Mr. THOMPSON).

Mr. Speaker, I would like to take a moment, as these times do not often come, to express my own personal appreciation for the work of the gentleman from New Jersey on this legislation, of which he was, it should be noted, the father in the House of Representatives. I think he has every right to a measure of pride in seeing what his original initiative has wrought. Indeed, I think that in the last year or two he has great reason to take pride in the enactment of the American Folk Life Center, of which he was also the sponsor. In addition, he was the original sponsor of the legislation establishing the John F.

Kennedy Cultural Center which has just celebrated its fifth anniversary.

So I want to take this occasion to thank him warmly for what he has had to say and to thank him still more warmly for his own contribution in strengthening cultural opportunities in our country.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. I thank the gentleman for yielding.

Mr. Speaker, I certainly want to add my comments to that. I think we all know this has happened. I cannot but think there are few windows shaking over the river's side now. Our retired colleague used to refer to our good friend as Mr. Watchdog. I think he meant it, in the best sense and warm and personal sense. I certainly want to add those remarks. I know if Mr. Gross were here today, that is what he would say.

Mr. MILLER of Ohio. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. I thank the gentleman for yielding.

Mr. Speaker, I rise to ask a question of the gentleman from Indiana (Mr. BRADEMAS).

I understood a little while ago, when the gentleman from Indiana was discussing some of the changes of the bill, under the American Bicentennial Year photography and film project section, the House agreed to one provision of the Senate bill that had a provision for such sums as may be necessary for fiscal year 1979 and 1980, the amount being $4 million for 1977 and $2 million for 1978.

Now, it says that 75 percent of the appropriation shall be allocated to States in equal amounts in 1977 and not more than 50 percent will be allocated to States for the year 1978. That is on page 28 of the conference report.

Mr. BRADEMAS. I thank the gentleman.

Mr. MILLER of Ohio. Mr. Speaker, my question is this: With the Federal Government not having a surplus in the Treasury and with some of the States having surpluses, it would seem to me they should be allowed to spend their own funds for this purpose, and I think it is a very commendable purpose. Nevertheless, the States have a surplus, and in addition to that, they are receiving Federal revenue-sharing funds that the Federal Government is borrowing to give to the States. So my question is: Why do we not allow the States to pay for their own projects?

Mr. BRADEMAS. Mr. Speaker, I will simply say to the gentleman that the States are, of course, perfectly free and perfectly at liberty to pay for their own projects. It was not the judgment of the managers of the House and Senate conference that this would, however, be the best remedy to encourage this particular program. We came to a different judgment than the judgment that the gentleman from Ohio (Mr. MILLER) has made.

Mr. MILLER of Ohio. Mr. Speaker, if

Mr. BRADEMAS. Mr. Speaker, there the gentleman will yield further, I would assume that many of the States would pay for their own projects if we at the Federal level did not hold out the carrot and say, "Here it is. Just make your application, and the money will come to you automatically."

is no question about the fact that the gentleman from Ohio (Mr. MILLER) has that point of view. However, it is one with which the members of the conference did not agree.

Mr. MILLER of Ohio. Mr. Speaker, I thank the gentleman.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to the distinguished chairman of the committee.

Mr. PERKINS. Mr. Speaker, this conference report represents a continuation of the programs of the National Foundation on the Arts and the Humanities which was established in 1965 with the enactment of Public Law 89-209. Since that time the act has been extended—and expanded—to meet the ever-increasing public demand for exposure to culture, the arts, and the humanities.

And, Mr. Speaker, the Foundation by and large, has met these challenges in an effective way. The Foundation has become the success that it has because of outstanding leadership in the Congress and in the programs themselves.

In particular, our colleagues, JOHN BRADEMAS and FRANK THOMPSON have provided great leadership in the development of this legislation, and in monitoring the programs of the Foundation. I would like also to commend our colleague, Congressman QUIE, the ranking member of the committee for his strong contribution to this legislation. In addition, I would like to commend Members on both sides of the aisle who were instrumental in reporting out this significant bipartisan effort.

It is apparent that there is wide support in the Congress for this legislation. H.R. 12838 was ordered reported out of the Committee on Education and Labor on April 6, 1976, by a unanimous vote of 29 to 0. There was not a single vote in opposition. The strong support of the House was evident on April 26, when the bill passed the House with a vote of 279 to 59. The conference report before us contains a number of important Senate provisions—including all of the important House provisions—and should therefore attract even greater support.

H.R. 12838 is a rather modest bill in terms of authorizations; $250 million is authorized for fiscal year 1977 for programs carried on by the Foundation and $300 million is authorized for fiscal year 1978. The total fiscal year 1977 authorization represents a slight reduction over the fiscal year 1976 authorization. But, in addition to extending the existing programs in the arts and the humanities through fiscal 1980—that is, 4 additional years—the bill provides for several new promising programs.

It is not my intent to discuss every aspect of the bill. However, I do wish to emphasize some of the areas which, in my judgment, hold great promise.

The new challenge grant program will stimulate new private initiative and support for the cultural institutions in great financial need. This program has come about in part as a result of the good work accomplished in Kentucky through its innovative Governor's challenge grant program. The challenge grants would be available to cultural institutions in great need throughout the Nation, and would provide one Federal dollar for every $3 of private money.

The new Institute of Museum Services, as provided in the conference report would concentrate on operating programs as opposed to "special projects." In addition, support would be available to all types of museums including those of technology, science, art, and history, and to zoos and botanical gardens as well. There is presently no existing authority which can provide this type of support.

Authorized also are grants under the Endowment for the Arts to States for an American Bicentennial photography and film project, which will provide us with a valuable and historic self-portrait of our Nation.

State participation in humanities programs is encouraged in H.R. 12838. For example, each State would be entitled to appoint half the members of its Humanities Council, provided that the State matched its Federal support. The emphasis on State participation in this bill should do much to open up the world of culture to an ever-increasing number of Americans.

As I have said, Mr. Speaker, this bill has the strong bipartisan support of Members on both sides of the aisle. In my judgment, it is a very good bill, and deserves the unanimous approval of this body. I strongly urge adoption of the conference report.

Mr. BRADEMAS. Mr. Speaker, I thank the chairman of the committee.

Mrs. MINK. Mr. Speaker, I rise to express my strong support for the conference report on H.R. 12838, the Arts, Humanities and Cultural Affairs Act of 1976.

The House and Senate conferees have worked out a fair compromise between the House and Senate versions of this important legislation. Chief among their concerns was who would appoint members of the State humanities councils. Currently these members are appointed by the Director of the Humanities Endowment. Their counterparts on the arts councils are, however, appointed by the State government and the Senate-passed legislation suggested that the State be empowered to appoint humanities council members as well.

The conferees agreed that there was a place for State influence in the humanities councils and they have provided the States with an option to appoint 50 percent of the council's membership. If they choose to make these appointments, the State must assume an increasing share of the humanities council's matching requirements. Under current procedure this matching requirement may be met with either public or private funds. If the State should choose to appoint 50 percent of the humanities council, however, the State would assume this matching requirement: 50 percent of the amount above $100,000 in the first year, 100 percent of the amount above $100,000 in the second year and the total matching amount in the years thereafter.

I feel this is a fair compromise and will insure that those States which wish to have a larger say in humanities will back this up with a larger financial commitment to the program. The conferees have likewise agreed on the location of the Museum Services Institute. The Senate bill would have placed the museums program in the endowments; the House bill placed the program in HEW arguing that the significance of science and technology museums was great and these very popular museums would not readily fit into the endowments' arts and humanities interests. In fairness to the great variety of museums the House felt the best location for the Institute would be HEW. The House position has prevailed; the Museum Services Institute will be located in HEW.

With regard to the challenge grants, a new concept designed to encourage greater private contributions to the arts and humanities, the conferees agreed to a funding level of $12 million for the first year and $18 million in authorizations for the second. The Bicentennial challenge grant, a separate Senate title, has been folded into the humanities challenge grant program.

On overall funding the conferees have agreed to $93.5 million for the Arts and Humanities Endowments in fiscal year 1977, $105 million in fiscal year 1978 and such sums as may be necessary in fiscal year 1979 and fiscal year 1980. The conferees also agreed to the Senate proposal for an American Bicentennial Photography and Film Project. The conferees agreed, however, to scale the project down from its original 4-year length and $5 million annual authorization to a 2-year program with $4 million authorized for its first year and $2 million for its second year. The conferees likewise agreed to a more modest arts education program, placing it in the Office of Education and limiting its funding to 1 year—fiscal year 1978—at $2 million authorization level.

I urge my colleagues to give the conference report on H.R. 12838 their wholehearted support. I believe the compromise expressed in the report reflects a strong commitment to the arts and humanities and to the very important place of the endowments in American cultural life. The programs are solid and the authorization levels are realistic. I urge you to join with me in voting for this conference report.

Mr. PRESSLER. Mr. Speaker, I was delighted to see the arts and humanities bill pass today. It represents education at its best. It represents a change for the arts and humanities to reach rural and small town communities in my State of South Dakota. And it represents a chance for ethnic, cultural, and educational activities to continue and to grow across our country. Some say it is a wasteful program—I acknowledge there is some waste—but it is an investment in the minds, hands, and hearts of our countrymen.

Mr. PERKINS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 12168, NATURAL GAS PIPELINE SAFETY ACT AMENDMENTS OF 1976

Mr. STAGGERS. Mr. Speaker, I call up the conference report on the bill (H.R. 12168) to amend the Natural Gas Pipeline Safety Act of 1968 to authorize additional appropriations, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

POINT OF ORDER

Mr. BROWN of Ohio. Mr. Speaker, I make a point of order against the conference report on H.R. 12168 on the grounds that it violates clause 3 of rule 28 of the House of Representatives in that it contains a modification beyond the scope of issues committed to the conference committee.

The SPEAKER pro tempore. Does the gentleman from Michigan (Mr. DINGELL) desire to be heard on the point of order?

Mr. DINGELL. Mr. Speaker, I do ask to be heard on the point of order, but I think that the gentleman from Ohio (Mr. BROWN) has the right to be heard on his point of order before I am heard in opposition thereto. The gentleman has made an assertion, but he has not told us why that happens to be so.

The SPEAKER pro tempore. Does the gentleman from Ohio (Mr. BROWN) desire to be heard on his point of order?

Mr. BROWN of Ohio. I do, Mr. Speaker. I paused for the purpose of allowing the gentleman from Michigan (Mr. DINGELL) to be asked if he wanted to be heard on the point of order, as I was sure he would want to be heard.

Mr. Speaker, the Senate bill contained a section 16 on citizen's civil actions which provided that any person may commence a civil action for injunctive relief against any person who is alleged to be in violation of the Pipeline Safety Act. Such a civil action could not be commenced prior to 60 days after the party had given notice to the Secretary of Transportation. The conferees adopted this provision but added language in section 17(b)(1) which stated that the plaintiff must also give notice "to the applicable State agency in the case of a State which has been certified under section 5(a)."

This is clearly beyond the scope of the matters committed to conference because it expands the section of the citizen's suit provision by bringing into citizen's actions State enforcement agencies and subjecting potential defendants not only to suits by the Department of Transportation which has been notified of a potential citizen's action, but also of State enforcement agencies which have been so notified.

In other words, the language added by the conferees has the potential to trigger State actions against defendants because now the States, as well as the Federal Government, will by law be informed of alleged violations which private parties think exist. By so expanding the notice requirements of section 17 this provision added in conference expands the potential liability of defendants.

This provision has then, from the standpoint of the defendant's liabilities, been expanded substantially beyond the matters committed to conference, and as such the language of section 17 is beyond scope and in violation of rule 27 of the House.

Mr. Speaker, I cite as examples of matters that have been rules beyond the scope, where determinations have been made, the following:

> (1) Expanding a provision dealing with a pay adjustment for federal employees compensated under "statutory" pay systems to include federal employees covered under other pay systems was held beyond scope. (Deschler's Procedure 33, Sec. 15.3)
>
> (2) Expanding a provision dealing with federal employees' pay to include a maximum pay limitation applicable to Congressional employees when this provision was in neither the Senate bill nor the House amendment, is grounds for sustaining a point of order with respect to scope. (Deschler's Procedure 33, Sec. 15.3)

Mr. Speaker, I insist upon my point of order and feel that that offending section, if removed from the legislation or the conference report, would perhaps take care of the point of order problem.

Mr. Speaker, I am still concerned about the whole panoply of citizen's suit problems that are presented by the legislation and will speak to those in a moment.

The SPEAKER pro tempore. (Mr. McFALL). Will the gentleman from Ohio (Mr. BROWN) advise the Chair specifically as to what language in the conference report he objects to. The Chair has the conference report before it.

Mr. BROWN of Ohio. Yes, Mr. Speaker. It is in the conference report on page 4, approximately the seventh line. The language to which I object says, "(or to the applicable State agency in the case of a State which has been certified under section 5(a) . . ."

Mr. DINGELL. Mr. Speaker, if the gentleman will yield, will the gentleman restate that, please. I am looking for it, and I do not find it.

Mr. BROWN of Ohio. It is under subparagraph (b), in paragraph (1) on page 4, about the seventh line; it says as follows:

> Prior to the expiration of 60 days after the plaintiff has given notice of such alleged violation to the Secretary (or to the applicable State agency in the case of a State which has been certified under section 5(a).

Then Mr. Speaker, parenthetical matter has been added in subsection (b)(2), beneath that, which says as follows:

> If the Secretary (or such State agency) has commenced and is diligently pursuing administrative proceedings or the Attorney General of the United States (or the chief law enforcement officer of such State) . . .

Mr. Speaker, none of those parentheticals were in the Senate bill. They were added in the language at the conference; and therefore, I suggest they are beyond the scope of the conference and do add to the State consideration matters which were neither in the Senate bill nor in the House bill.

The SPEAKER pro tempore. Does the gentleman from Michigan (Mr. DINGELL) wish to be heard on the point of order?

Mr. DINGELL. Yes, Mr. Speaker. I rise in opposition to the point of order.

I first cite several sections of Cannon's Procedures, most specifically section 3265, section 3266 and section 3267.

Mr. Speaker, section 3265 states:

> Where all of a bill after the enacting clause is stricken out, the conference report may include any germane provision.

Section 3266 says:

> Where an entire bill has been stricken out and a new text inserted, the conferees exercise broad authority and may discard language appearing both in the bill and the substitute.

Then section 3267 states:

> When a section is stricken out and a new text inserted, the conferees may incorporate any germane matter.

Mr. Speaker, I would point out to the Chair that the Senate took the entire language of the House bill and struck out the entirety of the House bill. I would also point out that then the Senate and the House went to conference on two entirely and distinctly different pieces of legislation. But, just conceding, only for the purpose of the point of order of the gentleman from Ohio (Mr. BROWN) and for no other reason, I would point out that the Senate put in (b), what we are discussing here, requiring that no civil action may be commenced here prior to 60 days after this new law relating to any violator, only and in such manner as the Secretary by regulation may require.

This is the very broad authority for the Secretary to issue rules and regulations.

So the Secretary had the broadest kind of discretion to impose a whole broad series of responsibilities on potential litigants under this law. Then the House and the Senate in conference kept the 60-day requirement but they added in lieu of the language about which the gentleman from Ohio complains which, in a parenthetical statement says: Requiring the notice be given to the applicable State agency in the case where a State has been certified under section 5(a) and in which the violation is alleged to have occurred, and to any person who is alleged to have committed such violation.

Then the other part of the language to which the gentleman from Ohio complains, which is that they would have to be given to the Attorney General of the United States, which is required in the original Senate bill, and to the chief law enforcement officer of the State.

That is not a burden on anybody other than the litigant who had a potential for enormously broad responsibilities for notice to meet those requirements which were imposed in terms of notice by the Secretary of Transportation.

Mr. Speaker, we have got to know that what is involved here is the fundamental philosophy of the fact that that which requires to the greatest degree possible the actions which are taken, be taken through the State certification process.

The language of which the gentleman from Ohio (Mr. BROWN) complains is, in effect, a limitation. Before the individual can initiate suit, he has to do the things which are imposed upon him by the language of the original Senate bill. He has to give certain notices, where we require again that he give certain notices and let certain amounts of time pass. The notice which he must give is the notice which is required by section (2). It has to be given to the Attorney General, or the chief law enforcement officer of the State, who would probably have to appear and defend if, under this, the prior litigant were to be pursuing a remedy against the pipeline and trying to go around the certification by suing the United States, where the certification has occurred, without regard for the State agency.

So, Mr. Speaker, we have two applicable circumstances here. First of all, this is not new matter, a new subject, or anything of that sort, because under existing law the State is certified to enforce pipeline safety standards. Therefore, we are not giving the State agency or anyone any new authority here under the Pipeline Safety Act to enforce the standards. We are simply modifying the notice changes required to be given and which is clearly within the scope, which is clearly germane, and which is not new matter inserted from without the boundaries of the House and the Senate versions, which do happen to be the broad difference, remembering that the Senate took the entire House bill, struck out all after the enacting clause, and inserted totally new matter.

Under the practices cited by me, Mr. Speaker, it is quite clear that the conferees have the broadest discretion to come back with anything which is germane, as I have cited to the Chair.

The SPEAKER pro tempore. Does the gentleman from Ohio wish to be heard on the point of order?

Mr. BROWN of Ohio. Mr. Speaker, I wish to emphasize the point that as the language was originally drawn in the Senate legislation which was in conference, the citizens suit contemplated only notification of the Federal agency. In the legislation as it came out of conference, we have now added the notification to the State agency which by the nature of the State agency in the legislative conference package now becomes an enforcement agency, also by the fact that the notification is given to them. The Senate amendment did not contemplate making the State agency an enforcement agency. The conference expanded it into the State agency being an enforcement agency, and the House had no such language at all.

Mr. DINGELL. Mr. Speaker, I have to be heard on that point. Mr. Speaker, we did not expand it to make the State agency an enforcement agency to any degree not previously indicated.

The point of order that the gentleman makes relates to the notice that has to be given, and that is the language cited. He is totally in error.

Mr. BROWN of Ohio. It relates to the citizen's suit provisions, I might say to the gentleman.

The SPEAKER pro tempore (Mr. McFALL). The Chair is prepared to rule.

The Chair has listened to the arguments and read the statement of the managers and would state that the precedents cited by the gentleman from Michigan (Mr. DINGELL) have since 1970 been somewhat outmoded by the new rule which the Chair will cite.

The last portion of the language cited by the gentleman from Ohio in parentheses is in the opinion of the Chair new language which conceptually was in neither the House bill nor the Senate amendment, is not within the scope of the conference, and is a violation of rule XXVIII, clause 3, which states:

> . . . nor shall their report include a modification of any specific topic, question, issue, or proposition committed to the conference committee by either or both Houses if that modification is beyond the scope of that specific topic, question, issue, or proposition as so committed to the conference committee.

While the Chair agrees with the gentleman from Michigan that notification to the relevant State agency is contemplated by existing law and is within the scope of conference, that provision added by the conferees which would prohibit citizens' suits if a State attorney general has commenced judicial proceedings appears to the Chair to inject a new exception from the citizens civil action authority which was not contemplated in the Senate version or in existing law.

The Chair on that one basis sustains the point of order.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. STAGGERS moves that the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment.

The SPEAKER pro tempore. The Clerk will report the Senate amendment in disagreement.

PARLIAMENTARY INQUIRY

Mr. BROWN of Ohio. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BROWN of Ohio. At what point is the amendment that has been presented amendable?

The SPEAKER pro tempore. The amendment is not amendable unless the gentleman from West Virginia yields for that purpose.

Mr. STAGGERS. I do not yield because I believe the amendment should be reported.

Mr. BROWN of Ohio. Mr. Speaker, I have a further parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BROWN of Ohio. If the amendment of the gentleman from West Virginia is voted down, then is a further amendment in order?

The SPEAKER. Another motion would then be in order.

Mr. BROWN of Ohio. And that motion could be made by the gentleman from Ohio?

The SPEAKER. It depends on what the preferential motion might be at that point.

The Chair cannot guarantee who would be eligible to make the motion.

The Clerk will report the Senate amendment.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert: That this Act may be cited as the "Natural Gas Pipeline Safety Act Amendments of 1976".

SEC. 2. Section 2 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671) is amended—

(1) by striking out "; and" at the end of paragraph (8) thereof and inserting in lieu thereof the following: ", except that it shall not include any facility which transports gas from an interstate gas pipeline to a direct sales customer purchasing gas for its own consumption;";

(2) by redesignating paragraph (9) thereof as (10) thereof; and

(3) by inserting after paragraph (8) thereof the following new paragraph:

"(9) 'Interstate pipeline transportation' means pipeline facilities and transportation of gas within a State which are not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act, except that such term shall include pipeline facilities within a State which transport gas from an interstate pipeline to a direct sales customer within such State purchasing gas for its own consumption; and".

SEC. 3. Section 3(b) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1672 (b)), is amended—

(1) by adding before the word "testing," in the second sentence thereof, the following: "emergency plans and procedures,"; and

(2) by amending the last sentence thereof to read as follows: "Any State agency may adopt additional or more stringent standards for intrastate pipeline transportation if such standards are compatible with the Federal standards. No State agency may adopt or continue in force any standards applicable to interstate transmission facilities, after the Federal standards become effective.".

SEC. 4. Section 4(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1673) is amended by adding the following new sentence at the end thereof: "The Committee shall meet at least twice during each calendar year.".

SEC. 5. (a) Section 5(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1674 (a)) is amended—

(1) by striking out "pipeline facilities and the transportation of gas (not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act) within a State" in the first sentence thereof and inserting in lieu thereof "intrastate pipeline transportation";

(2) by striking out "pipeline facilities and transportation of gas" in clause (1) thereof and inserting in lieu thereof "transportation";

(3) by amending clause (2) thereof to read as follows: "has adopted each Federal safety standard established under this Act as of the date of the certification which is applicable to such transportation or, with respect to each such standard which was established less than 120 days before the date of such certification, is taking such steps as are necessary under State law to adopt such standard;";

(4) by striking out "and" at the end of clause (3) thereof;

(5) by redesignating clause (4) thereof as clause (5) thereof; and

(6) by inserting the following new clause immediately after clause (3) thereof:

"(4) is encouraging and promoting programs designed to prevent damage to natural gas pipelines and other subsurface utility equipment as a consequence of any excavation activity; and".

(b) Section 5(b) of such Act (49 U.S.C. 1674(b)) is amended by striking out all that begins with "With respect to" and ends with "actions to—" and inserting in lieu thereof the following: "With respect to any intrastate pipeline transportation for which the Secretary does not receive a certification under subsection (a) of this section, the Secretary may, by agreement with a State agency (including a municipality) authorize such agency to assume responsibility for, and carry out on behalf of the Secretary as it relates to intrastate pipeline transportation the necessary actions to—".

(c) Section 5(c) of such Act (49 U.S.C. 1674(c)) is amended—

(1) by redesignating paragraphs (2), (3), and (4) thereof as paragraphs (3), (4), and (5) respectively;

(2) by striking out "section 15(b)" and inserting in lieu thereof "section 17(b)," and by striking out "paragraph (1)" and inserting in lieu thereof "paragraphs (1) and (2)" in newly redesignated paragraph (c) thereof; and

(3) by striking out paragraph (1) thereof and inserting in lieu thereof the following two new paragraphs immediately after "(c)":

"(1) Except as otherwise provided in this section, if an application is submitted not later than September 30 in any calendar year, the Secretary shall pay out of funds appropriated or otherwise made available—

"(A) one hundred percent (but not to exceed $60,000 for each State) of the cost of not more than three full-time inspectors, as determined by regulations issued by the Secretary taking into account the needs of the respective States, and

"(B) up to 50 percent of the cost of such other personnel, equipment, and activities of a State agency reasonably required, during the following calendar year to carry out a safety program under a certification under subsection (a) or an agreement under subsection (b) of this section or to act as agent of the Secretary with respect to interstate transmission facilities.

"(2) The Secretary may, after notice and consultation with a State agency, withhold all or any part of the funds for a particular State agency if he determines that such State agency—

"(A) is not satisfactorily carrying out a safety program under a certification under subsection (a) or an agreement under subsection (b) of this section, or

"(B) is not satisfactorily acting as agent of the Secretary with respect to interstate transmission facilities.

No such payment may be made unless the State agency making application under this subsection gives assurances satisfactory to the Secretary that the State agency will provide the remaining cost of such a safety program and that the aggregate expenditures of funds of the State, exclusive of Federal grants, for gas safety programs will be maintained at a level which does not fall below the average level of expenditures for the last two fiscal years—

"(A) preceding the fiscal year for which the State agency is making application for payments made pursuant to subsection (c) (1) (A) of this section, or

"(B) preceding the date of enactment of this section with respect to payments for which the State agency is making application pursuant to subsection (c) (1) (B) of this section.".

(d) The first sentence of section 5(d) of such Act (49 U.S.C. 1674(d)) is amended to read as follows: "A certification which is in effect under subsection (a) of this section shall not apply with respect to any new or amended Federal safety standards established after the date of such certification for intrastate pipeline transportation pursuant to this Act.".

SEC. 6. Section 7 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1676) is amended by adding at the end thereof the following new sentence: "The Commission may not attach any condition to the issuance of a certificate of public convenience and necessity, or to the exercise of rights granted under such a certificate, if such condition requires the applicant to comply with any safety standards for pipeline facilities or for the transportation of gas other than safety standards prescribed by the Secretary.".

SEC. 7. The first sentence of section 11 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1680) is amended to read as follows: "Each person who engages in intrastate pipeline transportation shall file with the Secretary or, with the appropriate State agency if a certification or an agreement pursuant to section 5 of this Act is in effect, a plan for inspection and maintenance of each such pipeline facility owned or operated by such person, and any changes in such plan, in accordance with regulations prescribed by the Secretary or appropriate State agency.".

SEC. 8. Section 14(a)(1) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1683 (a)(1)) is amended by striking out "accidents" and inserting in lieu thereof "leak repairs, accidents".

SEC. 9. The Natural Gas Pipeline Safety Act of 1968 is amended by redesignating section 15 thereof as section 17 thereof and by inserting the following two new sections after section 14 thereof:

"CONSUMER EDUCATION

"SEC. 15. Each person who engages in the transportation of gas shall, in accordance with the regulations prescribed by the Secretary, conduct a program to educate the public on the possible hazards associated with gas leaks and on the importance of reporting gas odors and leaks to appropriate authorities. The Secretary is authorized to develop materials suitable for use in such education programs.

"CITIZEN'S CIVIL ACTION

"SEC. 16. (a) Except as provided in subsection (b), any person may commence a civil action for mandatory or prohibitive injunctive relief, including interim equitable relief, whenever such action constitutes a case or controversy against any person who is alleged to be in violation of a provision of this Act or of an order or regulation issued under this Act. The district courts of the United States shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties.

"(b) No civil action may be commenced (1) prior to 60 days after the moving party has given notice of the alleged violation to the Secretary and to any alleged violator in such manner as the Secretary may by regulation require; or (2) if the Secretary has commenced and is diligently pursuing administrative proceedings or the Attorney General has commenced and is diligently pursuing judicial proceedings with respect to such alleged violation.

"(c) In any action under this section, the Secretary (with the concurrence of the Attorney General) or the Attorney General may intervene as a matter of right.

"(d) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or at common law to seek enforcement of any provision, order, or regulation or to seek any other relief.

"(e) In any action under this section the court may, in the interest of justice, award the costs of suit, including reasonable attorney's fees and reasonable expert witnesses fees to a prevailing plaintiff. Such court may, in the interest of justice, award such costs to a prevailing defendant whenever such action is unreasonable, frivolous, or meritless. For purposes of this subsection a reasonable attorney's fee is a fee (1) which is based upon (A) the actual time expended by an attorney in providing advice and other legal services in connection with representing a person in an action brought under this subsection, and (B) such reasonable expenses as may be incurred by the attorney in the provision of such services, and (2) which is computed at the rate prevailing for the provision of similar services with respect to actions brought in the court which is awarding such fee.

"(f) As used in this section the term 'person' includes a governmental entity.".

Sec. 10. Section 17 of the Natural Gas Pipeline Safety Act of 1968 (48 U.S.C. 1684), as redesignated under section 9 of this Act, is amended to read as follows:

"AUTHORIZATION FOR APPROPRIATIONS

"Sec. 17. (a) There are authorized to be appropriated for purposes of carrying out this Act (other than section 5(c) of this Act) not to exceed $2,850,000 for the fiscal year ending June 30, 1976; not to exceed $650,000 for the transitional fiscal period ending September 30, 1976; not to exceed $4,500,000 for the fiscal year ending September 30, 1977; and not to exceed $5,000,000 for the fiscal year ending September 30, 1978.

"(b) There are authorized to be appropriated for purposes of carrying out section 5(c) of this Act, not to exceed $2,500,000 for the fiscal year ending June 30, 1976, and the transitional fiscal period ending September 30, 1976; not to exceed $4,500,000 for the fiscal year ending September 30, 1977; and not to exceed $4,500,000 for the fiscal year ending September 30, 1978.".

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Staggers moves that the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Natural Gas Pipeline Safety Act Amendments of 1976".

Sec. 2. Section 15 of the Natural Gas Pipeline Safety Act of 1968 is amended—

(1) in subsection (a) thereof, by striking out "and" after "June 30, 1975," and by inserting "$500,000 for the period beginning July 1, 1976, and ending September 30, 1976, $4,664,000 for the fiscal year ending September 30, 1977, and $5,000,000 for the fiscal year ending September 30, 1978," after "June 30, 1976,"; and

(2) in subsection (b) thereof, by striking out "5(c)" and inserting in lieu thereof "5(c) and (f)", and by striking out "and" after "June 30, 1975," and by inserting ", $2,500,000 for the fiscal year ending September 30, 1977, and $4,500,000 for the fiscal year ending September 30, 1978" after "June 30, 1976".

Sec. 3. Section 2 of the Natural Gas Pipeline Safety Act of 1968 is amended—

(1) by striking out "; and" at the end of paragraph (8) and inserting in lieu thereof ", except that it shall not include any pipeline facilities within a State which transport gas from an interstate gas pipeline to a direct sales customer within such State purchasing gas for its own consumption;"; and

(2) by redesignating paragraph (9) as paragraph (10), and inserting after paragraph (8) the following new paragraph:

"(9) 'Intrastate pipeline transportation' means pipeline facilities and transportation of gas within a State which are not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act, except that it shall include pipeline facilities within a State which transport gas from an interstate gas pipeline to a direct sales customer within such State purchasing gas for its own consumption; and".

Sec. 4. Section 3(b) of the Natural Gas Pipeline Safety Act of 1968 is amended—

(1) by inserting "emergency plans and procedures," after "inspection," in the second sentence thereof; and

(2) by amending the last sentence thereof to read as follows: "Any State agency may adopt additional or more stringent standards for intrastate pipeline transportation if such standards are compatible with the Federal minimum standards. No State agency may adopt or continue in force any such standards applicable to interstate transmission facilities, after the Federal minimum standards become effective.".

Sec. 5 (a) Section 5(a) of the Natural Gas Pipeline Safety Act of 1968 is amended—

(1) in the first sentence thereof, by striking out "pipeline facilities and the transportation of gas (not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act) within a State" and inserting in lieu thereof "intrastate pipeline transportation";

(2) in clause (1) thereof, by striking out "pipeline facilities and transportation of gas" and inserting in lieu thereof "transportation";

(3) by striking out "(2) has adopted each Federal safety standard applicable to such pipeline facilities and transportation of gas established under this Act as of the date of the certification;" and inserting in lieu thereof (2) has adopted, as of the date of the certification, each Federal safety standard established under this Act which is applicable to such transportation or, with respect to each such Federal safety standard established within one hundred and twenty days before the date of the certification, is taking steps pursuant to State law to adopt such standards;"; and

(4) by striking out "and (4)" and inserting in lieu thereof "(4) is encouraging and promoting programs designed to prevent damage to pipeline facilities as a consequence of excavation activity; and (5)".

(b) Section 5(b) of such Act is amended by striking out "With respect to" and all that follows down through "actions to—" and by inserting in lieu thereof the following: "With respect to any intrastate pipeline transportation for which the Secretary does not receive an annual certification under subsection (a) of this section, the Secretary may, by agreement with a State agency (including a municipality) authorize such agency to assume responsibility for, and carry out on behalf of the Secretary as it relates to intrastate pipeline transportation the necessary actions to—".

(c) The first sentence of section 5(d) of such Act is amended to read as follows: "A certification which is in effect under subsection (a) of this section shall not apply with respect to any new or amended Federal safety standard established for intrastate pipeline transportation pursuant to this Act after the date of such certification.".

(d) Section 5 of such Act is amended by adding at the end thereof the following new subsection (f):

"(f) (1) During the fiscal year ending September 30, 1978, the Secretary shall, in accordance with regulations issued by the Secretary taking into account the needs of the respective States, pay to each State agency out of funds appropriated or otherwise made available one hundred percent of the cost (not to exceed $60,000 for each State agency) of not more than three full-time natural gas pipeline safety inspectors in addition to, and not in lieu of, the number of natural gas pipeline safety inspectors maintained by such State agency in calendar year 1977.

"(2) Not later than September 30, 1977, any State may apply to receive funds under paragraph (1) for the calendar year 1978.

"(3) Each State agency which receives funds under paragraph (1) shall continue to maintain during calendar years 1979 and 1980 not less than the number of full-time natural gas pipeline safety inspectors which were maintained by such State agency in calendar year 1978.

"(4) Any State in which the State agency fails to meet its obligations under paragraph (3) shall reimburse the Secretary for a sum equal to 50 percent of the funds received by such State under this subsection in proportion to which such State agency has failed to meet its obligations.".

Sec. 6. The first sentence of section 11 of the Natural Gas Pipeline Safety Act of 1968 is amended to read as follows: "Each person who engages in the transportation of gas or who owns or operates intrastate pipeline transportation facilities shall file with the Secretary or, if a certification or an agreement pursuant to section 5 of this Act is in effect, with the appropriate State agency, a plan for inspection and maintenance of each facility used in such transportation and owned or operated by such person, and any changes in such plan, in accordance with regulations prescribed by the Secretary or appropriate State agency.".

Sec. 7. Section 14(a) (1) of the Natural Gas Pipeline Safety Act of 1968 is amended by striking out "accidents" and inserting in lieu thereof "leak repairs, accidents,".

Sec. 8. The Natural Gas Pipeline Safety Act of 1968 is amended by adding at the end thereof the following:

"CONSUMER EDUCATION

"Sec. 16. Each person who engages in the transportation of gas shall, in accordance with the regulations prescribed by the Secretary, conduct a program to educate the public on the possible hazards associated with gas leaks and on the importance of reporting gas odors and leaks to appropriate authorities. The Secretary may develop materials suitable for use in such education programs.

"CITIZEN'S CIVIL ACTION

"Sec. 17. (a) Except as provided in subsection (b), any person may commence a civil action for mandatory or prohibitive injunctive relief, including interim equitable relief, against any other person (including any State, municipality, or other governmental entity to the extent permitted by the eleventh amendment to the Constitution, and the United States) who is alleged to be in violation of this Act or of any order or regulation issued under this Act. The district courts of the United States shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties.

"(b) No civil action may be commenced under subsection (a) with respect to any alleged violation of this Act or any order or regulation issued under this Act—

"(1) prior to the expiration of 60 days after the plaintiff has given notice of such alleged violation to the Secretary (or to the applicable State agency in the case of a State which has been certified under section 5(a) and in which the violation is alleged to have occurred), and to any person who is alleged to have committed such violation; or

"(2) if the Secretary (or such State agency) has commenced and is diligently pursuing administrative proceedings or the Attorney General of the United States (or the chief law enforcement officer of such State) has commenced and is diligently pursuing judiciary proceedings with respect to such alleged violation.

Notice under this subsection shall be given in such manner as the Secretary shall prescribe by regulation.

"(c) In any action under subsection (a), the Secretary (with the concurrence of the Attorney General) or the Attorney General may intervene as a matter of right.

"(d) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or at common law to seek enforcement of this Act or any order or regulation under this Act or to seek any other relief.

"(e) In any action under this section the court may, in the interest of justice, award the costs of suit, including reasonable attorney's feels and reasonable expert witnesses fees, to a prevailing plaintiff. Such court may, in the interest of justice, award such costs to a prevailing defendant whenever such action is unreasonable, frivolous, or meritless. For purposes of this subsection a reasonable attorney's fee is a fee (1) which is based upon (A) the actual time expended by an attorney in providing advice and other legal services in connection with representing a person in an action brought under this section, and (B) such reasonable expenses as may be incurred by the attorney in the provision of such services, and (2) which is computed at the rate prevailing for the provision of similar services with respect to actions brought in the court which is awarding such fee.

"(f) For purposes of this section, a violation of any safety standard or practice of any State shall be deemed to be a violation of this Act or of any order or regulation under this Act only to the extent that such standard or practice is not more stringent than the comparable Federal minimum safety standard."

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. BROWN of Ohio. Mr. Speaker, again reserving the right to object, at what point does the gentleman from Ohio have an opportunity to speak in opposition to the motion?

The SPEAKER. The gentleman from Ohio is entitled to 30 minutes on the motion. Both sides are entitled to speak, each side is entitled to 30 minutes.

Mr. BROWN of Ohio. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. STAGGERS. Mr. Speaker, I would just like to say that this bill has been very carefully considered. During the last year there were 14 deaths because of pipeline explosions in this land. During this present year, to date, there have been 76 deaths, showing the higher incidence of accidents from these explosions.

It is time for the Congress to do something about the accidents unless we do not consider that human lives are worth anything, in which case we could just let these human lives go.

We have tried to put on more inspectors and enlist the aid of citizens who live along these pipelines to be helpful in trying to insure safety for the American people.

At first these pipelines were inspected only by the States. Then the gas pipeline people came to the Congress and said: "We have so many different types of regulations for different States. We would like to have those regulations unified and have some national standards set up to make the pipelines safe all over America."

This was done by this Congress. We do have a responsibility since we took over regulation of the pipelines and set up these standards.

Because the deaths have increased, as I said, from 14 during the previous year up to 76 at the present time this year, we feel that certainly shows there is something wrong and that we need to do something.

This bill attempts to address that situation. With that in mind, I urge passage of the bill as amended.

Mr. BROWN of Ohio. Mr. Speaker, I rise in opposition to the motion.

Mr. Speaker, I was reluctant to make the point of order and I am reluctant to oppose the conference report as it is written, but I feel that as a responsible Member of this body I must do so for a number of reasons.

The conference report accompanying H.R. 12168, the Natural Gas Pipeline Safety Act Amendments of 1976, has in it language which at no stage of the game was considered by the House of Representatives, and that is a provision for citizen suits. The point of order was sustained on the expansion of what had been a Senate action on citizen suits to embrace the responsibility of States. That is a vehicle for getting the opportunity to strike from this conference report the references to citizen suits.

Now, as the Speaker may recall, when H.R. 12168 was initially before the House, I urged my colleagues to vote for its passage on the grounds that I felt, and I still do feel, that the House bill represented a reasonable compromise between several competing and very legitimate interests. Most importantly, I felt that the House bill adequately addressed the need to protect all citizens from the very real hazards associated with gas leaks. Although I believe that the language reported from the conference does strengthen portions of the Federal natural gas pipeline safety program, it significantly weakens part of that program and represents anything but a compromise.

The House-Senate conferees adopted a provision, section 17, contained in the Senate bill which would permit any citizen, irrespective of his knowledge of pipeline safety, to sue to enjoin possible violations of the Federal Pipeline Safety Standards. Permitting private citizens to bring enforcement actions against alleged violators of Federal laws makes sense in some circumstances, and I have in the past supported legislation containing citizen suit provisions; however, in this case, permitting such suits against a public utility or an agency regulating a public utility seems particularly ill-advised.

First of all, the suit provision has the potential of taking enforcement out of the hands of the Office of Pipeline Safety Operations, the governmental entity which Congress established in 1968 specifically to enforce and promulgate pipeline safety standards, and place it in the hands of the courts.

The Natural Gas Pipeline Safety Act now provides for full judicial review instances of noncompliance, sets full compliance standards and civil penalties, preserves common law or tort liability rights of affected parties and establishes the power to enforce compliance and punish violators. The citizen suit provision, which the conferees adopted, seriously undermines this enforcement mechanism previously established by Congress, and in the words of Secretary of Transportation Coleman in his July 20, 1976, letter to the chairman, the gentleman from West Virginia (Mr. STAGGERS), "could involve the Department in endless litigation . . ."

In addition, as Secretary Coleman also correctly pointed out, such a provision "fails to recognize the weight that should be accorded the expertise of the agency that is given the responsibility to enforce the law."

The second and most disturbing aspect of allowing citizen suits in this area is the likelihood that innocent customers, other consumers of the pipeline, will be irreparably injured should pipeline operations be shut down, even temporarily, as a result of a suit. It is clear that if a customer is injured as a result of a suit brought under this provision, no legal remedy is available to give the injured party a right to recover damages. The only risk a citizen plaintiff has in bringing such an action for mandatory or prohibitive injunctive relief is the risk that he may be required to pay the costs of suit to a prevailing defendant if the action he brought is proven to be unreasonable, frivolous, or meritless. This offers no protection for the innocent gas customer of a defendant gas line and practically no risk for a plaintiff who may wish to harass a utility or an enforcement agency or community because he has been disgruntled by billing disputes, labor strife, taxes, services, or other similar occurrences.

Proponents of the citizen enforcement provision contained in H.R. 12168 pointed out that no civil action can be commenced until 60 days after the plaintiff has given notice of the alleged violation to the Secretary of Transportation or the appropriate State agency. In addition, if the Secretary or the appropriate State agency has already commenced an administrative or judicial proceeding with respect to the alleged violation, no action can be brought. This fails to recognize that formal administrative or judicial proceedings may not be brought because the Secretary or appropriate State agency does not feel that the alleged violation rises to the level of formal administrative or judicial action, or even that there has been a violation of the Federal safety standards.

Under present law, enforcement of regulations established by the OPSO is divided between Federal and State governments. The Federal Government has the primary responsibility with respect to safety regulation of interstate transmission lines. The State agency, by certifying that the State has laws and machinery to enforce requirements which match or exceed those established by the OPSO, can assume most aspects of the safety regulation over the intrastate gas facilities within the State. Where a State cannot or does not certify, the law provides that Federal OPSO enforces the safety regulations of both inter- and intrastate lines. Mr. Speaker, by involving private citizens in this complex mechanism, the Congress would seriously threaten its effectiveness.

No citizens suit language was contained in any of the bills upon which hearings were held, nor was there any opportunity for public comment prior to the time of the Senate bill, because the citizens suit provision was contained, was reported out of the committee. Legislating in this manner often leads to bad legislation, and that is what has occurred here. For this reason, I urge the Members to vote against the amendment of the gentleman from West Virginia so that we may have an amendment to strike the citizens suit provisions.

Now, again what we are up against here is that a citizen, for whatever reason he may wish to do so, may sue the Pipeline Safety Office or sue the utility, and take to court the possibility of an injunction against that utility, closing down the utility. The person then who is suffering because the utility is closed down, whether it is—as is the case which exists in our family—an elderly couple who suddenly is without gas service in their home, or whether it is a business person who has his gas shut off because the court says that there may be some danger to customers, suffers. They have no recourse of recovery should the pipeline be closed down by the suit.

If the suit is frivolous, then the guy who brings the suit does not have somebody else pay for the suit. He has to pay for it, but the person injured by the shutdown has no place to go for recovery. This opens the opportunity for harassment not only of the Office of Pipeline Safety and the utility, but of everybody who is served by that utility. It seems to me that it is particularly unwise on that basis.

Mr. COLLINS of Texas. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Texas.

Mr. COLLINS of Texas. I would like to just join the gentleman from Ohio and sum up what is involved in this bill. We are talking about international pipelines that cross our planet. We are talking about an interstate pipeline situation that covers our country to the extent of 1.4 million miles. That is like crossing the country 500 different times.

Now, it does not refer to the gas lines that are within the city, and that is where most of the accidents happen. In these old pipeline systems such as in New York, Boston or Philadelphia, the cities have problems. This refers only to the interstate pipelines.

Mr. BROWN of Ohio. I might say to the gentleman that the State-regulated pipelines will be covered under this legislation. The problem arises from the fact that somebody who is disgruntled in a community, say with the pipeline or with the community itself which may have the pipeline in it, has the opportunity, by taking a citizens suit, to shut down the pipeline of that community if he can get a court to shut it down by enjoining operation of the pipeline because the citizens suit has raised the question of whether or not the pipeline is safe or whether or not the regulations of the Office of Pipeline Safety have been properly enforced, and whether the rules have been met.

Mr. COLLINS of Texas. I think the gentleman from Ohio is exactly right, because what he is saying is that with gas a major issue in this country, we no longer will be worried just about gas as it originates at the wellhead. We are going to have suits; we are going to have suits unlimited under this program. If they sue, they are entitled to full legal expenses; the attorney is entitled to full expenses; the expert witness is entitled to full expenses, and they will be suing. The bill does provide a 64-percent increase in the amount of allocation. This was an adequately funded program, but when they start suing, there will not be enough money in the United States to pay for the suits.

Mr. BROWN of Ohio. The bill provides for the Office of Pipeline Safety and State agencies to enforce the safety standards. What I want to take out by the defeat of the motion offered by the gentleman from West Virginia (Mr. STAGGERS) is the citizens suit provision, which can do irreparable damage to customers of pipelines.

And, frankly, I do not think we want to do that. I think we do not want to close down the pipeline of the concern of some citizens who may have other motives, the safety of citizens of that community.

Mr. STAGGERS. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. DINGELL), a member of the committee.

Mr. DINGELL. Mr. Speaker, the gentleman from Ohio, who is my good friend and a very valuable member of the Committee on Interstate and Foreign Commerce, is dead wrong in his interpretation of the language here. In point of fact, this is not anything that has not been fixed by the House before, because citizens suits are authorized in the Deep Water Port Act of 1944, the Consumer Products Safety Act, the Emergency Policy Conservation Act, the Safe Drinking Water Act, the Endangered Species Act, the Noise Control Act of 1972, the Marine Protection and Conservation Act of 1972, the Federal Water Pollution Control Act of 1972, and the Clean Air Act Amendments of 1970.

The gentleman from Ohio assumes—and in this he is totally in error—that the remedy which would be asserted against the pipeline company would be shutting the pipeline company down.

That is not so. It is not so.

The conference committee has brought back a proposal which allows citizens after 60 days notice to file suit.

The gentleman from Ohio—and he is my good friend—if he were a lawyer he would know that an injunction never issues until after a full hearing on the merits. It is required as a part of the general equity practice that the court find that there be irreparable damage, that there be no other remedy in law, and that the issuance of the injunction is the only way that the evil complained of can be cured.

More important, my colleague should know that the issuance of remedies in equitable suits are very broad. A writ of mandamus to fix the pipeline could be required. A writ against the enforcement authority to require them to carry out the law as it should be carried out, even a temporary restraining order or a temporary injunction, could not be issued without a showing that there would be irreparable injury, no monetary damage would suffice, that there was no other remedy at law, and that that law require that this, the issuance of an injunction, be the mechanism, and only could a temporary injunction be issued if there had been a hearing. A temporary restraining order can only be issued under the most remarkable and extraordinary circumstances. In any instance, the probabilities are that the court would issue an order mandatorily requiring that the broken valve be fixed, or something of that sort.

Now, the gentleman indicated these are problems which exist in the city. That is true; pipeline problems do exist in the city. Not long ago in Indianapolis two city blocks went up because of a leak. It is true, though, that they exist also in rural areas.

Not too long back there was a leak in a pipeline in the middle of a farmer's field. That killed several people. It turned on the ignition of the farmer's pick-up truck, and he and the passengers of the truck were incinerated. A fire was started that lasted for a number of days, and in addition to that, a crater 20 feet across in the field was blown.

Mr. Speaker, I do not think it is too much to ask that where this kind of peril exists, we will allow citizens, under these very narrowly restricted rights, to initiate suits. Now, what are those? It includes notice to the Attorney General. That is notice to the Attorney General, the chief law enforcement officer of the State. It requires the passage of 60 days, during which the persons involved could come forward, including the pipeline that fixed the leak in order to correct the abuses, or the State agency, if it was to be a participant, or the Federal agency, if it was to be a participant, could take the necessary steps to bring into conformity their regulations with the requirements of law and to abate and terminate the threat of irreparable harm.

Mr. Speaker, I repeat, this is a threat of irreparable harm to a citizen.

Mr. BROWN of Ohio. Mr. Speaker, I want to read the language of the legislation as found in section 17. The language which I would propose to strike if we vote down the proposal of the gentleman from West Virginia (Mr. STAGGERS) says this:

> "SEC. 17. (a) Except as provided in subsection (b), any person may commence a civil action for mandatory or prohibitive injunction relief, including interim equitable relief, against any other person (including any State, municipality, or other governmental entity to the extent permitted by the eleventh amendment to the Constitution . . ." and so forth, to get prohibitive or injunctive relief.

Now, the gentleman from Michigan (Mr. DINGELL) cites several examples of places where one can get, through a citizen's suit, enforcement actions against the Federal Government to require them to enforce Federal regulations. I appreciate that, and I might support that in this instance, but the problem is that the gentleman has gone beyond that.

The gentleman has gone to the opportunity to get an injunction to shut down the pipeline and and thereby open up the opportunity of injury to those customers and consumers of the pipeline on the basis of having an individual citizen who does not have any special knowledge about the operation of that pipeline make these decisions.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I do not think that the gentleman wants to create this kind of legislative history that he is creating. The provision we are speaking of, as a matter of law, would not result in the shutting down of the pipeline because that affects the rights of all the other pipeline users.

Mr. BROWN of Ohio. That is right. That is exactly what I object to.

Mr. DINGELL. Under ordinary equity practice that would not be done. Under ordinary equity practice that would only be done as a very last resort, and this bill does not provide for that.

Mr. BROWN of Ohio. Mr. Speaker, this bill provides 60 days for the Office of Pipeline Safety to look at the proposed suit. They may think it has no merit, and they may say, "Never mind. We are not going to take any action."

However, at that point the citizen involved can still go to court and get injunctive relief, and therein lies the problem.

Mr. DINGELL. Mr. Speaker, will the gentleman yield further?

Mr. BROWN of Ohio. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, if we are going to make legislative history, I want to make sure that we are making good legislative history.

The hard fact of the matter is that if at that point the citizen still insisted on going into court, the affected parties would come in and show the corrective measures that have been taken, or the Federal pipeline safety people would come in and say that this suit is without merit.

They would first decide the suit on the merits, and then they would look into the question as to whether or not the injunction should issue and, if the injunction should issue, in what form it should issue and against whom.

The question would then be: Are they going to issue a mandatory injunction to correct an evil, or are they going to issue an injunction saying they will shut the pipeline down? They would not issue that injunction which would result in shutting the pipeline down except under the most extraordinary circumstances.

Mr. BROWN of Ohio. Mr. Speaker, the gentleman has a great deal of confidence in the courts, which I must say I do not share. The standards which the gentleman cites may not in fact be the standards of all courts to which a request for injunctive relief may be taken, and that request for injunctive relief is clearly provided for in the language of the legislation.

It is my hope, Mr. Speaker, that we will vote down the proposal of the gentleman from West Virginia (Mr. STAGGERS) in the hope of removing this ill-considered citizen's suit provision from this measure. If we vote down the language of the gentleman from West Virginia (Mr. STAGGERS), I will then offer an amendment which will strike section 17 and take out the citizen's suit provisions.

It allows for the opportunity under normal administrative procedures, under normal citizen opportunities at law, for some kind of relief by the citizen, but by particular action of the Office of Pipeline Safety to maintain the safety of the pipeline without endangering the customers of that pipeline and subjecting them to the possibility that they will be without gas service because an individual citizen has seen a danger that may be real or unreal.

Mr. STAGGERS. Mr. Speaker, I yield myself 2 additional minutes.

Mr. Speaker, I will speak just briefly, if I might.

There are just two parts to this bill.

Very simply, it has been brought to our attention that there are just too many accidents happening in this country.

Mr. Speaker, the question is whether this Congress wants to put money or materials or inconveniences against human lives.

Mr. BROWN of Ohio. Mr. Speaker, if the gentleman will yield, I agree with that part of the legislation. That is why I hate to see it messed up with the citizen suit proposition.

Mr. STAGGERS. Mr. Speaker, the citizen suit section is the other part of it.

The gentleman from Ohio (Mr. BROWN) has been berating that.

I would just like to say this to him: The report says, and this is right in there, that in any action taken, the court may award the charges or whatever the costs are to the plaintiff, but he may not, in which case the plaintiff gets nothing out of this.

Mr. Speaker, the gentleman from Ohio talks as though the citizen is going to sue and get all kinds of money. He does not get one penny, not one penny; and he may not even get the costs from the one he has brought the suit against.

Mr. Speaker, there is not a citizen in America of whom I know who wants to go to court and say, "We will spend a lot of money and not get reimbursed." The reason is that if he loses the suit, this says that he may have to pay the defendant's cost of the litigation.

I would like to go just a little bit further because, from what the gentleman has said, it looks as though anybody who is suing can come in and get millions of dollars out of it, maybe. Actually, Mr. Speaker, he cannot get one single penny.

We are enlisting the citizens of America in this effort. If they see something bad, if they see a broken pipeline, or if they see a leak, they can go to court after 60 days. They notify the officials and if, after 60 days, there has been nothing done, they can say: "We do not want to live with this hazard." If nothing is done about it, then they can bring a suit, but they cannot get one penny and cannot do a thing for 60 days.

Mr. Speaker, we need people who are interested in knowing what is going on so that they can go to the court and say to the court, "Here is something that has existed for 60 days. We have been complaining about it, and it has not been corrected, and we might be blown up tomorrow night along with our families, and something has to be done."

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I might say to the gentleman from West Virginia (Mr. STAGGERS) that I never suggested the person conducting the citizen's suit was going to recover anything.

Mr. STAGGERS. That was my impression—and I think everybody in this room had the same impression—that somebody was going to sue and get a lot of money.

Mr. Speaker, I yield myself 2 additional minutes.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Ohio.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Michigan.

Mr. BROWN of Ohio. Mr. Speaker,

what I suggested was not that the person bringing the suit would recover any money. What I suggested was that if, under the law, the plaintiff was successful in closing down a pipeline, then the people injured would have no place to go for any kind of recovery. They would be harmed as customers and as consumers of the pipeline that has been shut down.

Mr. DINGELL. Mr. Speaker, the answer is that they are not going to shut the pipeline down, the first instance. The answer is that they are going to fix the pipeline and do all things else that were necessary. They would only shut the pipeline down, under this language, if, in accordance with the law of equity, there was no other way in which the evil complained of could be corrected.

Mr. Speaker, the gentleman from Ohio (Mr. BROWN) is either in error, or he is misled, or he is misleading the House.

Mr. BROWN of Ohio. Mr. Speaker, if the gentleman will yield further, if the language were so limited, I might support it. Unfortunately, it is not so limited. It does not provide that opportunity, and I hope it does not appear in the gentleman's community because, if he supports this position, he will have to explain it to his constituents.

Mr. STAGGERS. Mr. Speaker, in conclusion let me say that it is not a question of citizens coming in and getting a lot of money, it is not that, it is to correct an inequity, and that is all.

Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS).

The question was taken and the Speaker announced that the ayes appear to have it.

Mr. BROWN of Oho. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 199, nays 151, not voting 80, as follows:

[Roll No. 813]

YEAS—199

Abzug
Adams
Addabbo
Allen
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bonker
Brademas
Breckinridge
Brodhead
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Chisholm
Clancy
Clay
Cleveland
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
D'Amours
Daniels, N.J.
Danielson
Dellums
Dent
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Fraser
Gaydos
Giaimo
Gibbons
Gilman
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hayes, Ind.
Hechler, W. Va.
Hefner
Helstoski
Hillis
Holtzman
Horton
Howard
Howe
Hughes
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Koch
Krebs
LaFalce
Leggett
Lent
Lloyd, Calif.
Long, Md.
Lundine
McCloskey
McFall
McHugh
Madden
Maguire
Mann
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Pa.
Morgan
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Neal
Nedzi
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Perkins
Peyser
Pike
Pressler
Preyer
Price
Pritchard
Randall
Rangel
Reuss
Richmond
Rinaldo
Rodino
Roe
Rogers
Rooney
Rostenkowski
Roush
Roybal
Ryan
St Germain
Schroeder
Seiberling
Sharp
Sikes
Simon
Smith, Iowa
Solarz
Spellman
Staggers
Stark
Stokes
Stuckey
Studds
Sullivan
Thompson
Thone
Traxler
Udall
Van Deerlin
Vander Veen
Vanik
Walsh
Waxman
Weaver
Whalen
Wirth
Wolff
Wydler
Yates
Yatron
Young, Ga.
Zablocki

NAYS—151

Abdnor
Alexander
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bevill
Boggs
Bowen
Breaux
Brinkley
Brooks
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Butler
Byron
Carter
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cochran
Collins, Tex.
Conable
Conlan
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
du Pont
Edwards, Ala.
Emery
English
Flowers
Forsythe
Fountain
Frenzel
Frey
Fuqua
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Henderson
Hightower
Holt
Hubbard
Hutchinson
Hyde
Ichord
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
Lagomarsino
Latta
Levitas
Lloyd, Tenn.
Long, La.
Lott
Lujan
McClory
McDonald
McEwen
McKay
McKinney
Mahon
Martin
Mathis
Michel
Miller, Ohio
Mollohan
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Myers, Pa.
Natcher
Nichols
O'Brien
Passman
Paul
Pettis
Pickle
Poage
Quie
Quillen
Railsback
Regula
Rhodes
Risenhoover
Roberts
Robinson
Rousselot
Runnels
Ruppe
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Shipley
Shriver
Shuster
Slack
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steed
Stratton
Symms
Taylor, Mo.
Thornton
Treen
Vander Jagt
Waggonner
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Winn
Wylie
Young, Fla.
Young, Tex.

NOT VOTING—80

Anderson, Calif.
Anderson, Ill.
AuCoin
Bell
Bolling
Broomfield
Brown, Calif.
Burke, Fla.
Cohen
Coughlin
Crane
Delaney
Duncan, Oreg.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Flynt
Ford, Tenn.
Green
Gude
Haley
Hawkins
Hébert
Heckler, Mass.
Heinz
Hicks
Hinshaw
Holland
Hungate
Jacobs
Jarman
Karth
Keys
Landrum
Lehman
McCollister
McCormack
McDade
Madigan
Matsunaga
Milford
Mink
Mosher
Moss
Nix
Nolan
Pattison, N.Y.
Pepper
Rees
Riegle
Roncalio
Rose
Rosenthal
Russo
Santini
Sarbanes
Scheuer
Sisk
Skubitz
Stanton, James V.
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Symington
Talcott
Taylor, N.C.
Teague
Tsongas
Ullman
Vigorito
Wampler
Wilson, C. H.
Wilson, Tex.
Wright
Young, Alaska
Zeferetti

The Clerk announced the following pairs:

Mr. Matsunaga with Mr. Anderson of Illinois.

Mr. Zeferetti with Mr. Steiger of Arizona.

Mr. Pepper with Mr. Heinz.

Mr. Hébert with Mr. Young of Alaska.

Mr. Evans of Colorado with Mr. Bell.

Mr. Flynt with Mr. Wampler.

Mr. Ford of Tennessee with Mr. Jarman.

Mr. McCormack with Mr. McCollister.

Mr. Moss with Mr. Eshleman.

Mrs. Mink with Mr. Crane.

Mr. AuCoin with Mr. Esch.

Mr. Nix with Mr. Burke of Florida.

Mr. Santini with Mr. McDade.

Mr. Nolan with Mr. Talcott.

Mr. Holland with Mr. Broomfield.

Mr. Green with Mr. Steelman.

Mr. Riegle with Mr. Coughlin.

Mr. Duncan of Oregon with Mr. Cohen.

Mr. Scheuer with Mr. Erlenborn.

Mr. Delaney with Mr. Evins of Tennessee.

Mr. Anderson of California with Mr. Gude.

Mr. Brown of California with Mrs. Heckler of Massachusetts.

Mr. Eilberg with Mr. Madigan.

Mr. Hawkins with Mr. Haley.

Mr. Charles H. Wilson of California with Mr. Landrum.

Mr. Vigorito with Mr. Hicks.

Mr. Teague with Mr. James V. Stanton.

Mrs. Keys with Mr. Karth.

Mr. Jacobs with Mr. Steiger of Wisconsin.

Mr. Russo with Mr. Stephens.

Mr. Rosenthal with Mr. Skubitz.

Mr. Lehman with Mr. Wright.

Mr. Hungate with Mr. Rees.

Mr. Sarbanes with Mr. Mosher.

Mr. Rose with Mr. Milford.

Mr. Sisk with Mr. Taylor of North Carolina.

Mr. Pattison of New York with Mr. Ullman.

Mr. Roncalio with Mr. Charles Wilson of Texas.

Mr. Tsongas with Mr. Symington.

Mr. CHAPPELL changed his vote from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEHMAN. Mr. Speaker, with respect to the bill, H.R. 12168, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished majority leader of the program for the balance of today and tomorrow, or whatever other information the gentleman from Massachusetts would like to share with the House.

Mr. O'NEILL. Mr. Speaker, will the distinguished minority leader, the gentleman from Arizona (Mr. RHODES) be kind enough to yield?

Mr. RHODES. I am happy to yield to the distinguished majority leader.

Mr. O'NEILL. Mr. Speaker, may I say at this particular time that I can see in sight adjournment sine die for Friday night if we continue at the pace we are going. We have completed the work for today.

Mr. Speaker, the work for tomorrow will be as has been scheduled. The Private Calendar is in order for Tuesday.

We will then have the conference report on S. 521, Outer Continental Shelf; then H.R. 15, regulating lobbying and related activities under an open rule with 4 hours of debate. The rule has already been adopted.

In addition, we will have whatever conference reports which may come over.

REQUEST FOR HOUR OF MEETING TOMORROW

Mr. O'NEILL. Mr. Speaker, in view of the fact that we would like to keep the record intact and seeing that we complete tomorrow's work, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 o'clock a.m. tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. MILLER of Ohio. Mr. Speaker, reserving the right to object, today we have had many bills on the floor, and have more people on the floor now than we had all day long. I am wondering whether the people that are here now understand what took place today in this House?

We had many pieces of legislation. Many of the bills were approved, yet we did not even have a copy. I think it is time that we slow down the process. If we come in at 10 o'clock in the morning, we will still have more and more bills that will be shoved through.

We had a conference report on arts and humanities costing about $550 million that was approved just a few minutes ago. We had a conference report on the Educational Assistance Act of 1976, when is was requested as to what an amendment would do, the Speaker stated that it was an amendment about three-quarters of an inch thick. When we get legislation according to the thickness of amendments, then we are in trouble.

We had a lot of other bills such as H.R. 15531, with no bill or report, but it was passed. I could go down the list: This is only a partial list of what was on the floor today, because we did not have a list. It was not printed, and neither were many of the bills or the reports.

Therefore, Mr. Speaker, I object to coming in at 10 o'clock in the morning.

MOTION OFFERED BY MR. O'NEILL

Mr. O'NEILL. Mr. Speaker, I move that when the House adjourns today, it adjourn to meet at 10 o'clock tomorrow morning.

The SPEAKER. The question is on the motion offered by the gentleman from Massachusetts.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MILLER of Ohio. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 300, nays 14, not voting 116, as follows:

[Roll No. 814]

YEAS—300

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baldus
Baucus
Bauman
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Blanchard
Blouin
Boggs
Boland
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
de la Garza
Dellums
Dent
Derrick
Derwinski
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
du Pont
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Emery
English
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grassley
Guyer
Hagedorn
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Hayes, Ind.
Hechler, W. Va.
Hefner
Helstoski
Hightower
Hillis
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McEwen
McFall
McHugh
McKay
McKinney
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Quie
Quillen
Randall
Rangel
Regula
Reuss
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rooney
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Ryan
Sarasin
Satterfield
Schneebeli
Schroeder
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
Staggers
Stark
Steed
Stokes
Stratton
Studds
Symms
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Traxler
Udall
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Waggonner
Walsh
Whalen
White
Wilson, Bob
Winn
Wirth
Wolff
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Tex.

NAYS—14

Brown, Ohio
Clawson, Del
Collins, Tex.
Conlan
Devine
Dickinson
Kindness
McDonald
Miller, Ohio
Myers, Ind.
Paul
Schulze
Snyder
Treen

NOT VOTING—116

Anderson, Calif.
Anderson, Ill.
AuCoin
Beard, R.I.
Beard, Tenn.
Bell
Bingham
Bolling
Bonker
Broomfield
Brown, Calif.
Burke, Fla.
Butler
Cederberg
Cohen
Cotter
Coughlin
Crane
Davis
Delaney
Diggs
Duncan, Oreg.
Duncan, Tenn.
Edgar
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Flynt
Ford, Tenn.
Giaimo
Gradison
Green
Gude
Haley
Harrington
Harsha
Hawkins
Hébert
Heckler, Mass.
Heinz
Henderson
Hicks
Hinshaw
Holland
Hungate
Jacobs
Jarman
Jeffords
Johnson, Colo.
Karth
Keys
Landrum
McCollister
McCormack
McDade
Madden
Madigan
Matsunaga
Meyner
Milford
Mink
Mosher
Moss
Nix
Nolan
Pattison, N.Y.
Pepper
Perkins
Pettis
Pritchard
Railsback
Rees
Richmond
Riegle
Rogers
Roncalio
Rose
Rosenthal
Russo
St Germain
Santini
Sarbanes
Scheuer
Sisk
Skubitz
Stanton, J. William
Stanton, James V.
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stuckey
Sullivan
Symington
Talcott
Teague
Thompson
Tsongas
Ullman
Vigorito
Wampler
Waxman
Weaver
Whitehurst
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Wright
Young, Alaska
Young, Ga.
Zablocki
Zeferetti

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. HUGHES. Mr. Speaker, I was not present during the vote on H.R. 14496, the Resource Conservation and Recovery Act of 1976.

Had I been present, I would have voted "aye."

Mr. Speaker, at the time I was on the Senate side with Senator HARRISON A. WILLIAMS, Director of NAFEC, Robert Faith, in connection with a project which is extremely important to my district.

THE HONORABLE F. EDWARD HÉBERT

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Louisiana (Mr. Waggonner) is recognized for 60 minutes.

Mr. WAGGONNER. Mr. Speaker, when F. Edward Hébert came to Congress 36 years ago as a young freshman Representative, he had already acquired a national reputation as a seasoned, no-nonsense investigative newspaper reporter and editor. He had uncovered and published accounts of political wrongdoings that shook the State of Louisiana from top to bottom and became forever known as the Louisiana Scandals. His fearless seeking after facts and truth—no matter where the search for that truth might lead—won Eddie professional recognition for courage in journalism.

He brought that same courage, that same determination and that same dedication to ferreting out the facts to his congressional career. Eddie's objectivity and fairness has been recognized and admired on both sides of the aisle.

Eddie Hébert, after 36 years in Congress, still is quick to tell anyone: "I'm only a reporter on sabbatical leave." His sabbatical leave will come to an end when the 94th Congress adjourns this year. But the legacy he leaves in Congress, the impression he has made on the careers of many other Members, and the influence he has had on the direction and shape of this Nation during his time in public office shall remain.

His is a legacy all Americans can be proud of. During his service in Congress, Eddie Hébert has been a workhorse not a showhorse. We have worked together, shoulder to shoulder, on many occasions. I can say from personal experience that Eddie Hébert approaches each new task with a dedication and vigor of a man young in spirit. He tempers this youthful enthusiasm with the commonsense and wisdom that 75 years of living life to its fullest has brought. Kipling wrote of walking with kings and keeping the common touch. Eddie Hébert has walked with kings and presidents, the famous and powerful; but throughout it all he has remained close to the people who elected him and whom he serves so well.

A total stranger can meet Eddie Hébert, and in short order two things will happen—he will no longer be a stranger and he will know where Eddie calls home. It is New Orleans. And it is Eddie's city. From Bourbon Street to city hall, from the waterfront along the Mississippi River, to the lakefront along Lake Pontchartrain, Eddie covered the Crescent City as a young, street-wise reporter. It was his news beat; and it was his first great love.

Eddie never left New Orleans in spirit. Anyone who has ever been in his office knows that it is full of reminders of the city he loves and represents so ably. In fact, he introduced Washington to many New Orleans customs and celebrations and has become one of the best ambassadors of goodwill for Louisiana. In 1946 he was among the original organizers of the Louisiana State Society's annual Mardi Gras ball. He reigned as the first king of the Washington Mardi Gras and worked hard to make the celebration one of the Capital City's most elaborate and colorful pageants.

It took a greater love—the love for his country—to draw Eddie Hébert away from his hometown and his State. A deep sense of the duties of citizenship and a desire to work in service to the Nation forced him into public life. His skill and talents as a Representative of the people have been well recognized. The voters of his district have honored him by returning him to office for 18 terms in Congress—a record of service longer than anyone else ever to serve in the U.S. Congress from Louisiana. His leadership as the dean of the Louisiana congressional delegation has been an inspiration, not only to his fellow Louisiana colleagues, but to Members from throughout the country. This personal touch of leadership and inspiration will be greatly missed when he retires.

During his years in the House, Eddie Hébert has served with distinction on the District of Columbia Committee, the House Un-American Activities Committee, the Committee on Standards of Official Conduct and the Armed Services Committee. As chairman of the Armed Services Committee from 1971 through 1974, Eddie has gained additional respect for his solid position in favor of military preparedness.

To each of these assignments, he has brought a probing and perceptive insight sharpened by his years as an investigative newspaper reporter. His skill at digging for facts have made him a valuable member of several investigative committees. His probing for the right answers has led many reforms and has saved taxpayers millions of dollars which might have been spent unwisely.

During his first term as a freshman Congressman on the District of Columbia Committee, Eddie headed an investigation of the District of Columbia Police Department which led to its complete reorganization. He was instrumental in improving conditions in the District of Columbia jail, establishment of the Department of Corrections, and creation of a District alcoholic clinic.

Eddie served as chairman of the vitally important Investigating Subcommittee of the Armed Services Committee for 11 years. Here he directed many congressional investigations. They have led to the exposure of overcharges in defense contracts which resulted in recovery of millions of dollars in overcharges.

One of the most sensitive and controversial investigations that Eddie chaired was the 1970 probe into the My Lai incident. The strong report charged that the Army, the State Department and the South Vietnamese authorities had tried to cover up the tragedy with a "blanket of silence." Eddie admits that it was the toughest assignment of his career. But as I said before, Eddie Hébert is not afraid to search for the truth no matter where the facts might lead. It took real political and personal courage to bring the facts to light—but that is the kind of man he is.

The country had seen his political courage many years before when he served on the House Un-American Activities Committee during the famous Alger Hiss investigation. Again, he won fame by seeking the truth and not acting as a rubber stamp for anyone. Eddie was critical of some committee members for the methods used in conducting the investigation. He charged that some members placed a higher value on national headlines than on national security. He believed in the necessity of the national security probes, but because of his political and personal independence and honesty, Eddie was removed from the committee on the subterfuge that he was not a lawyer.

Eddie has known the stings of politics that come from being his own man. But through it all he was true to his conscience and became known to his colleagues as a man of his word. His straightforwardness is refreshing. If he says something his word is his bond and you can always count on him to stand behind it.

F. Edward Hébert is a man of so many accomplishments that in the time we have today they could not all be listed. His years of stewardship as chairman of the Armed Services Committee are marked by accomplishment. Our military has a strong friend and staunch supporter in Eddie Hébert. But while he has worked to help build and maintain a U.S. military force capable of defending this country against all enemies, he has been a trusted watchdog of the taxpayers dollars. New weapons systems, military bases and training programs were always given the closest scrutiny by Chairman Hébert. His goal has always been a stronger national defense, not simply more military hardware. To see to it that the country he has devoted his life to serving is protected and safeguarded by its Armed Services, and that our soldiers, sailors, and airmen are given the equipment and support they need to do their job is one of Eddie's greatest accomplishments. The American people owe him a debt of deep gratitude for his steadfast determination to keep America strong and free.

It is with a deep sense of personal privilege that I can say that Eddie Hébert is my friend.

Eddie's sabbatical leave is about over. He is about to return to a well-deserved private life. His beloved New Orleans is about to regain one of her most outstanding native sons.

No man ever achieves the heights that Eddie Hébert has without help, support, and understanding. I have discussed his personal assets and talents, but I have not yet mentioned one of his greatest assets—his charming wife Gladys. She has stood by his side through the good times and bad. For everything that Eddie has accomplished, a large measure of the credit is deserved by Gladys.

I know that retirement will free Eddie and Gladys to more fully enjoy the companionship of their beautiful daughter Dawn and their four grandchildren.

Eddie Hébert will be missed on Capitol Hill. His legacy will remain, but the warmth and camaraderie of his personal presence will be surely missed. The House of Representatives, the Congress and the Nation is better for his having been here.

Mr. Speaker, I now yield to our friend, the gentlewoman from Louisiana (Mrs. BOGGS).

Mrs. BOGGS. Mr. Speaker, to join my colleagues in the House of Representatives in paying tribute to our truly distinguished friend, EDDIE HÉBERT, brings me mixed feelings of regret and delight.

Regret because I shall sorely miss his daily counsel and wisdom in this House, to which he has devotedly given the bulk of his adult life. However, I certainly realize that EDDIE has more than earned a rest and return to private life and I know that he will continue to contribute his efforts and insights to our Nation.

And, of course, I do enjoy the special privilege of representing the New Orleans district "next door" to his own, so that I will have more opportunity than others among my colleagues to continue what has been a long and dear friendship with EDDIE HÉBERT and his beautiful wife, Gladys.

Hale and EDDIE came to the House of Representatives together more than three decades ago. We have experienced many changes in our country since that time, and EDDIE's special contributions to our national security through his valuable committee leadership have been an important positive force in seeing the Nation through many trying times.

I wish Hale were here with us to salute his longtime colleague whom he admired and respected. I know he would agree with us today that EDDIE HÉBERT has compiled a distinguished record of devoted service to the Nation he loves.

Mr. WAGGONNER. Mr. Speaker, I yield to the distinguished gentleman from Louisiana (Mr. PASSMAN).

Mr. PASSMAN. Mr. Speaker, I could write a book about the greatness of F. EDWARD HÉBERT but I would rather be brief and maybe I can say it better.

This is a sad day for many of us in the House of Representatives. I say this because the Congress and the country are losing one of their most valuable legislators in the loss of our beloved and esteemed colleague, F. EDWARD HÉBERT of Louisiana.

The record of F. EDWARD HÉBERT is a most impressive one. Prior to ED's coming to the Congress he was one of the South's most noted newspaper editors, having at one time been the editor of the prestigious newspaper, New Orleans States. As a Member of the House of Representatives, ED HÉBERT has established a record of service to our country that will soar as a bright example to generations yet unborn. His contribution to a strong national defense is second to none.

When he retires on January 3, 1977, he will have served 36 years in the House of Representatives. This is longer than any other Louisianian has served in the U.S. Congress, and that includes the U.S. Senate. Indeed, millions of Americans know that not only the United States, but the world, is a better place in which to live for EDDIE HÉBERT's having lived in it.

Mr. WAGGONNER. Mr. Speaker, I yield now to the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Speaker, I thank my colleague, the gentleman from Louisiana (Mr. WAGGONNER), for yielding.

Mr. Speaker, Congressman F. EDWARD HÉBERT has served the First Congressional District of Louisiana and his country for more years than I have been alive. His record has been one of outstanding patriotism and love of country which has been demonstrated by his unyielding defense of America.

While many have had occasion to disagree with positions taken by Congressman HÉBERT, there are none who have questioned his integrity and honesty in fighting for those positions that he deemed to be in the best interest of our country.

The U.S. House of Representatives and Louisiana, in particular, will sadly miss the leadership that our "Dean" has provided over these past years. I feel that those of us in the Louisiana delegation were particularly fortunate in having EDDIE as our leader and most importantly as our friend. To know him is to respect him even though some disagree with him.

With the retirement of our Dean, the House loses yet another member who has the unique characteristic of fighting for the principles that he holds dear. I feel that the Congress will be a little weaker because of his retirement, but much wiser for his having been here.

EDDIE has always inserted after his name in parenthesis the phonetical pronunciation (A'bear). It can proudly be said that the whole Nation now knows not only how to pronounce HÉBERT, but understands the principles that have guided his 36 years in the House of Representatives. May his well-earned retirement be happy, healthy, and prosperous.

Mr. WAGGONNER. Mr. Speaker, I yield now to the distinguished gentleman from Florida (Mr. SIKES), but before yielding let me say this is one of the whales in this Government.

Mr. SIKES. Mr. Speaker, I thank the distinguished and able gentleman from Louisiana, my good friend (Mr. WAGGONNER), for making it possible and giving the Members of the House the opportunity to tell of our regard and appreciation for EDDIE HÉBERT.

Thirty-six years ago the oath of office was administered to more than 80 freshmen congressmen. Among these were two young men, one from Florida and one from Louisiana. I was the Floridian and EDDIE HÉBERT was the other. The distinguished gentleman from Mississippi (JAMIE WHITTEN) came here a few months later. We are all that are left of the class who came in the 77th Congress.

The years have passed faster than we could ever have dreamed possible. Now EDDIE HÉBERT, one of the greatest of all time, is leaving us. His departure will be a very distinct loss to the Nation, to the House of Representatives, and to the State, and a great personal loss to me for he has been one of my best friends and closest confidants for more than three decades.

There is no more beloved or respected Member of the House today. No one who has contributed more to a strong and proud America—this man is a great American.

EDDIE came to us from the city room of the New Orleans States where he served as a reporter, and, later, as city editor. He has never lost the edge, the toughness and the persistence that made him a great reporter and editor. I remember he once said that he had run for Congress not because he wanted to become a professional politician but because he felt it would make him a better newsman.

He began his career as a journalist shortly after completing his education at Tulane University. In 1933, he was on the scene when Fulgencio Batista overthrew the Cuban Government, beginning his on-again, off-again career as that unhappy country's strongman. EDDIE's persistence netted him the first interview with Batista by an American journalist.

In 1939, as city editor of the States, he sent reporters and photographers to document the use of illegally donated materials at the home of Louisiana Governor, Richard Leche. He pursued the story and the resulting investigation on corruption brought dozens of State officials to trial, including Governor Leche, himself.

The following year, EDDIE HÉBERT came to Washington and the good people of the First District have sent him back ever since. We owe them a debt of gratitude for their foresight and continuing confidence.

During his more than three decades of service, Congressman HÉBERT developed an unparalleled expertise in military affairs; first, by serving on the Naval Affairs Committee and then, after the legislative reorganization of 1946, on the new Armed Services Committee where we served together until I moved to the Appropriations Committee in 1949.

He also put his journalistic experience to good use in the forties as a member of the Un-American Activities Committee. There, he brought men of questionable loyalty under close scrutiny, fearlessly exposing them to the searing light of publicity.

Congressman HÉBERT's service on the Armed Services Committee will always be regarded as his greatest contribution to the Nation. Over the years, he studied the issues tirelessly, becoming one of America's foremost experts on defense matters. Chairman Carl Vinson and Mendel Rivers both relied heavily on his knowledge and ability and, in 1971, on the death of Chairman Rivers, EDDIE HÉBERT became chairman of the Armed Services Committee.

His 4 years' chairmanship will be regarded as a most distinguished tenure. I know this from personal experience for it has been my distinct privilege, as chairman of the Military Construction Subcommittee, and as ranking member of the Defense Subcommittee of the Appropriations Committee, to work closely with EDDIE over the years. He came to the chairmanship at a perilous time for our Nation and he has conducted both himself and the affairs of his committee in a brave and forthright manner.

The long stalemate in Vietnam had created an irrational reaction against our military establishment. Certain elements in our society capitalized on this understandable war-weariness by attempting to emasculate our military capabilities. EDDIE HÉBERT stopped them in their tracks. He knew that in the hard, cold light of international power politics, only the nation that can successfully defend itself can hope to survive when there are strong predator nations who are our adversaries. That strength and our demonstrated willingness to use it are the only credible checks we have on the insatiable ambitions of foes that have never refrained from coercing or dominating a weaker nation but who have never dared attack a stronger one.

All of us know that policies of appeasement and military weaknesses were the primary causes of World War II. We must continue our determination to see that the United States, in its dealings with Soviet Russia, will not repeat the mistakes Britain and France made in their attempts to deal with Hitler.

Chairman HÉBERT fought successfully to preserve our military strength, yet, during his tenure, there was always a free exchange of ideas in the Armed Services Committee. Each member was given a chance to be heard, to question witnesses, to propound his or her point of view.

We are very fortunate today that Chairman HÉBERT successfully resisted the pressures for a dangerous unilateral diminution of our defense forces. He can also take much of the credit for improvements we have made in the military forces and in their weapons and equipment in recent years.

When EDDIE and I came to Washington, he confided that he expected to serve a short time here and then resume his career as an editor and reporter. It was a great stroke of good fortune for America that he chose to stay on in Washington.

One of EDDIE HÉBERT's greatest assets has been his lovely and gracious wife, Gladys. They have made a happy and a highly successful team. Gladys has shared the friendships which have been extended to them and helped to make them more meaningful. She, too, will be greatly missed in Washington. I join with a host of other friends who wish for both of them all the best on their retirement.

Mr. WAGGONNER. Mr. Speaker, I yield to my colleague, the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, I thank the distinguished gentleman from Louisiana for yielding to me. I would like to join my other colleagues who have already spoken in tribute to EDDIE HÉBERT for his long service in the Congress on the eve of his retirement from this body. A number of Members, the gentlewoman from Louisiana and the gentleman from Florida, have already spoken about the fact that it was a distinguished youthful class of Congressmen that came in back in 1940. I happened to come to the Capitol in 1940 myself, not as a Member of this body, of course, but as a staff member. I can remember very clearly the distinguished new Members from Louisiana, not only EDDIE HÉBERT who had been touted nationally for his job in reporting events in Louisiana, but also a very handsome debonair and very young Member, the gentleman from Louisiana (Mr. Hale Boggs) who came in at the same time with the gentleman from Louisiana (Mr. HÉBERT).

Certainly when I came back here to Congress as a Member in 1959 I was happy to renew my acquaintance with both those individuals. I prize the fact that both of them have been and were very good friends of mine. EDDIE HÉBERT I had the opportunity to know particularly well as a member of the Committee on Armed Services. Although I did not always agree with the gentleman on every matter in the committee or on the floor, I came to realize that he was one of the very important and significant members of that committee and has achieved a great deal.

People have referred to it previously in general terms, but as a member of that committee I think I know a little something of the contribution that the gentleman made. He was chairman of the investigating subcommittee, for example, when I came to Congress. People have talked about how the Committee on Armed Services has been supposedly just a stooge of the Pentagon, but EDDIE HÉBERT as chairman of that investigating subcommittee made it clear that he was in charge of his investigation and he was not stooging for the Pentagon or anybody else. He came up with a hard-hitting investigation of retired military officers going into private industry and selling back to the Government in their own offices and developed legislation to prevent that kind of abuse.

The gentleman from Louisiana (Mr. HÉBERT) was the chairman of the committee that investigated the Mylai incident. While the Pentagon itself was very hesitant in dealing with that particular tragedy, EDDIE HÉBERT's committee pulled no punches and came out, in my judgment, with the most significant hard-hitting and factual account of that tragedy long before any of the official documents were available. That was something that took courage and something that took guts.

Another contribution of which few people are aware, but EDDIE HÉBERT himself recognized cost him something, was a fight against what has been known as recomputation; that is to say increasing the payment of retired military personnel every time the active duty pay of armed services personnel went up.

The gentleman from Louisiana (Mr. HÉBERT) came to realize some time ago that it would be impossible to continue that program, because not only would it jeopardize us from giving the emphasis in pay to the active forces where it was needed in recruitment, but it could also bankrupt the country.

So, he courageously stood out against that program, and he has saved the taxpayers literally hundreds of millions of dollars. I doubt whether there are very many Members of this body who are aware of that fact. I do not think that there are, perhaps, many Members who would have had the courage to do what Mr. HÉBERT did.

He was for a strong Navy. He stood up for the right of the Congress to control our defense program and our defense expenditures, rather than being lobbied and being leaned on by those in the Pentagon.

Probably his crowning achievement and the realization of a lifelong ambition was his interest in the best of medical attention for personnel in the armed services, when he got the House and Senate to approve and the President to sign into law legislation creating an Armed Services University for the medical professions—popularly known as "Hébert College." That university will be opened this fall, and the first students will be entering. It is a real tribute to his leadership and to the job that he did.

So, I think that as EDDIE steps down from his responsibilities here, he can look back on his accomplishments with a great deal of satisfaction. Truly, he was one of the real titans in the House of Representatives, and I think that those of us who had the privilege of serving with him are not only going to miss him, but we are going to be grateful that he served in this body. We are going to wish that there were others with that kind of stature who could follow in his footsteps.

To EDDIE HÉBERT and to his lovely wife Gladys, I wish many happy years in retirement. I am sure that they will be filled with happiness and with further service to the State of Louisiana and to the country.

Mr. RHODES. Mr. Speaker, the adjournment of the 94th Congress will mark the end of more than three decades of outstanding service to Louisiana and the Nation by our colleague, F. EDWARD HÉBERT.

During his 36 years in the House EDDIE HÉBERT has been a staunch advocate of preparedness. As chairman of the Armed Services Committee, he has fought hard to keep this Nation's military establishment strong, to preserve peace and to defend us from aggression. He has insisted that we have a mobile, hard-hitting defense system tuned to the perils of a world where aggressors are still tempted to inflict their designs on other nations.

He has earned the respect of Members from both sides of the aisle with his keen judgment, fairness, and dedication. His service on the Un-American Activities Committee helped protect our country from subversion, and his efforts on the Standards of Official Conduct Committee helped establish a code of ethics for the membership of the House.

It has been my privilege to have served with EDDIE HÉBERT during a substantial portion of his time in this legislative body. He has been a warm personal friend, and I have valued his counsel over the years.

I know that EDDIE HÉBERT will continue to have a great interest in our defenses and in the workings of the Congress. I join my colleagues in congratulating him on a long and distinguished career in the House and wish him many years of happy and fulfilling retirement in whatever activities he pursues.

Mr. MAHON. Mr. Speaker, it is a pleasure for me to join my colleagues in paying tribute to EDDIE HÉBERT.

As a member and chairman of the Committee on Armed Services, EDDIE HÉBERT has been a tower of strength in the security of this Nation. He has made a tremendous contribution to the Nation's defense. His leadership in this area has been outstanding, and the entire country, and indeed the free world, owes a debt of gratitude to EDDIE HÉBERT.

The word "patriot" is not often heard anymore, but it accurately describes EDDIE HÉBERT. For truly this man has been a patriot, through both good and bad times.

He has been a man of strong dedication, not afraid to stick by his convictions and principles. Everyone may not have always agreed with EDDIE HÉBERT, but they always knew where he stood.

For many years EDDIE and I have worked closely together on defense matters, and I consider it a privilege to have had this opportunity and to count him as a friend.

EDDIE, the best of luck to you and Gladys as you return to your beloved New Orleans.

Mr. PRICE. Mr. Speaker, today we bid farewell to one of the mighty stalwarts of this House. F. EDWARD HÉBERT—or EDDIE HÉBERT, as we have come to know him through the years. EDDIE HÉBERT leaves for retirement after more than 36 years of unequaled service in the House of Representatives. Here is a giant of a man—not only intellectually, but physically—who has had two major careers in life—journalism and politics. But he has had more successes in those careers than a dozen men together could achieve. As a newspaperman in the 1920's and 1930's he was a general reporter, investigative reporter, entertainment writer, political reporter, and columnist. During the nearly 25 years in the newspaper field, he interviewed the great stars and those who were destined for stardom in their respective fields, producing memorable articles which have stood the test of time.

As you may know, EDDIE HÉBERT and I have several shared interests. We were both reporters. We were at one time fellow sportswriters. And when our lives came side by side in the legislative arena of Congress, we found ourselves serving together on the House Armed Services Committee. I have watched EDDIE HÉBERT work on our committee and its all-important Investigative Subcommittee where he established a remarkable reputation as a warrior against waste in the Defense Department. He has always exercised a great sense of fairness. Indeed, as chairman of the committee, he set a precedent for guaranteeing that junior members of the committee would be heard and able to express their views. He has always been hard set in support of a strong defense for America. But he would never be a patsy and support everything the Defense Department wanted without questioning it. In fact, there are Defense witnesses who bear the scars of his unsparing interrogation. I am sure they feel he lived up to the phonetic description given in his own biography to the pronunciation of his name—A Bear.

One cannot capsule the great achievements of this masterful legislator in the short time we have today.

Certainly each of the Members of Congress here today who have had the signal privilege of knowing and working with EDDIE HÉBERT, know and understand the great sense of loss that I and all of this House shall feel with the departure of EDDIE HÉBERT. His contributions to our national security have saved the taxpayers of America many millions of dollars. His identification as the "watchdog of the Pentagon" was accurate and thoroughly merited.

Unfortunately, a myth had been created in recent years that somehow EDDIE HÉBERT was less than "tough" on the Pentagon. Nothing could be farther from the truth. Witness as a matter of fact one of his most recent actions just before he departed this Chamber. He introduced legislation which would restore to the Congress much of the authority now vested in the Pentagon to unilaterally reshape our Armed Forces.

I have unbounded admiration for EDDIE HÉBERT and know that when the final tally is in, he will be ranked among the truly greats who have graced the Halls of the Congress of the United States.

Speaking for the members of the Committee on Armed Services, on the majority side and echoing the sentiments of those on the minority side, we wish you Godspeed and happiness in your well deserved and earned retirement.

Mr. LONG of Louisiana. Mr. Speaker, 3½ decades ago, the rush of events catapulted a tough-minded newspaper reporter into the glare of public life. From the relative security of the reporter's observation tower, EDDIE HÉBERT stepped swiftly and courageously into the arena of national politics where his performance helped influence the development of our Nation during its most turbulent times. From World War II through Watergate and the birth of a new political morality, EDDIE has served his constituents with unswerving political courage and dedication to duty.

I am proud to stand here today and express my personal admiration for a respected colleague. EDDIE HÉBERT has always had the character and the courage to stand by his beliefs. As is always true among independent-minded legislators, we have not always agreed on the issues. The U.S. Congress is at its best a forum for debate and dissent. We are a government of consensus—not acclamation. Majority rules. We strive for collective wisdom through the inspired and impassioned disagreement of individuals. In this context, EDDIE HÉBERT has been the consummate Congressman. His participation in the sometimes agonizing process of representative government has been noble. His impact on those events that have defined our Nation's destiny has been historic.

In this era of situational morality and relative ethics, a man of strong political courage becomes harder and harder to find. EDDIE HÉBERT is such a man. He is an example for all of us to emulate. In the House of Representatives in particular few can match EDDIE's unyielding adherence to what he feels is right.

In good times and in bad, in the midst of praise or criticism, EDDIE has upheld those ideals and principles in which he believes. When it would have been easier to "go along" for the sake of compromise, EDDIE HÉBERT stood by his convictions. For centuries, mankind has given medals to soldiers for physical acts of bravery and trophies to athletes for agility and strength. But moral courage and strength of character have never been properly rewarded. We now have a chance to express to EDDIE HÉBERT the respect and admiration he has earned during his 36 years in the House of Representatives.

The legacy EDDIE leaves in Congress, the impression he has made on the careers of his colleagues, and the influence he has had on this Nation are an inspiration for all of us.

We have worked together shoulder to shoulder many times. I can say from personal experience that EDDIE HÉBERT approaches each new task with a dedication and vigor of a man half his age.

Kipling wrote of walking with Kings and keeping the common touch. EDDIE HÉBERT has walked with Kings and Presidents, the famous and powerful. But through it all, he remained close to the people who elected him.

It took a love of country to draw EDDIE HÉBERT away from his beloved New Orleans and Louisiana. The voters of Louisiana's First District have honored him by electing him to Congress for 18 terms—a record of service longer than anyone else ever to represent Louisiana in the U.S. Congress. His strength as the dean of the Louisiana congressional delegation has been an inspiration not only to his Louisiana colleagues but to Members from other States as well.

EDDIE HÉBERT has known the political stings that strike those who stick to principle. But through it all, he has been true to his conscience and has gained a reputation as a man of his word. His straightforwardness and candor are refreshing. If he says something, he means it. Colleagues can count on EDDIE HÉBERT to stand by his word.

EDDIE HÉBERT will be missed on Capitol Hill. His legacy will remain. The Government and the Nation are better because he served.

Mr. FLOOD. Mr. Speaker, on an occasion such as this, it is hard to find adequate words to express one's regret that a friend is departing. For truly, few men in the annals of this great House of Representatives have made the impact of F. EDWARD HÉBERT of Louisiana.

Back in 1972, Mr. Speaker, I went to the city of New Orleans, at the invitation of EDDIE HÉBERT, to address the annual meeting of the Louisiana Historical Society. It was an elegant charming evening, as only an evening can be in the hospitable city of New Orleans. We were all gathered in the historic Antoinne's restaurant. It was an evening of oratory, of mutual admiration, of toasts and more toasts, of gracious introductions and flowing spirit. I was introduced to the gathering by my friend EDDIE, as only EDDIE can make an introduction. When I rose to speak to the distinguished gathering, I told a little story, which a few minutes later, would show me how small the world really is. During the course of the introduction, EDDIE mentioned that this was my first trip to his historic city, and how warm and wonderful I was being accepted and received, and how he looked forward to my return on many occasions again. In my initial remarks, I was quick to point that this was not my first visit to New Orleans, that in fact I had been there in the late 1920's as the lead player in a traveling theatre group doing the play "White Cargo." The audience enjoyed the identity, but afterward HÉBERT had one up on me.

> Hell, FLOOD, I've known you longer than you think. When you were the leading man in "White Cargo," I was the moonlighting press agent for the Tulane Theatre and I watched you on the stage. . . .

And so, that is the way it has been. HÉBERT and I started on a stage in New Orleans, and for the past 30 years or more we have been sharing the same stage here in Washington. And when the curtain goes down this week on the congressional career of F. EDWARD HÉBERT, it will mark the last performance of a virtuoso par excellence, and one of the greatest men to ever play on any stage.

The limitations of time and the spirit of this occasion do not allow for me to recount the many times when EDDIE HÉBERT and I have joined forces in battle. Nor time does not allow for me to expound on the greatness of a man who perhaps more than anyone in this Congress has done so much to make America the greatest military might on the face of the Earth.

EDDIE HÉBERT and I always shared at least one common concern, and that concern was the defense posture of the United States. He was on Armed Services, and I was on Defense appropriations. We worked together, we planned together, and always, we fought together, for programs and the causes in which we believed. In the tradition of great men who protected our Nation's defense, men like Mendel Rivers, Carl Vinson, Allen Ellender, and Hale Boggs, yes it is in this tradition that the name of F. EDWARD HÉBERT shall ever be enshrined in the history of the United States, as the advocate of America first in war, and America first in peace. It is with men like these great men that F. EDWARD HÉBERT will always be remembered, a true Christian, a true American, and a prime advocator of the might of the United States of America.

Mr. Speaker, I commend to you today that the closing of the 94th Congress will mark the closing of one of the greatest careers of anyone who has served in this House, that of F. EDWARD HÉBERT of the great State of Louisiana. Au revoir, EDDIE, and thanks for a job well done for the United States of America.

Mr. BURLESON of Texas. Mr. Speaker, I rise to join my colleagues in honoring our friend, the Honorable F. EDWARD HÉBERT, who is retiring from the House of Representatives after many years of distinguished service.

Those of us who have served with EDDIE over the years will miss him a great deal and his great contributions, particularly in the area of the Armed Services Committee.

EDDIE will have many other pursuits, I know upon his return to Louisiana and I wish him the very best.

Mr. MONTGOMERY. Mr. Speaker, over the years, there have been those who have characterized EDDIE HÉBERT as a "friend of the military." I have always thought it was more appropriate to characterize him as a friend of the American people because he had the wisdom and the good sense to press for a strong and viable national defense structure for his fellow Americans. His primary concern and consideration has always been what our Nation needs to defend itself and to remain in a position of strength in the never ending diplomatic negotiations with other countries of the world.

As the 94th Congress draws to a close, and thus the long and distinguished career of F. EDWARD HÉBERT, I am acutely aware that we will be losing a colleague that can never really be replaced. We will be losing the services of a man who is unsurpassed in his knowledge and understanding of our defense needs. The fact that his authoritative voice for a strong defense will no longer resound through the Halls of Congress will be a loss for we who had the privilege of serving with him and a loss for the American people.

At the same time, I am thankful that the people of America were able to profit from his distinguished public service for 36 years. I might also add that I commend the people of New Orleans for having the wisdom to elect EDDIE HÉBERT for 18 successive terms of office.

Mr. Speaker, I shall miss EDDIE HÉBERT next year in the Armed Services Committee because we will no longer have the benefit of his probing questions for Pentagon officials to justify their defense request. Neither will we have the benefit of his keen insight into ways to reduce our defense spending without impairing our defense abilities.

It is very seldom that the Congress produces a lawmaker of EDDIE HÉBERT'S leadership and wisdom. I am proud to have been able to serve with him and to have known him as a valued colleague.

Mr. EVINS of Tennessee. Mr. Speaker, I wish to join with my colleagues in paying tribute to our esteemed colleague, the Honorable F. EDWARD HÉBERT of Louisiana, as he prepares to take leave of the House of Representatives after 36 years of faithful service.

My friend EDDIE HÉBERT was already a three-term Member when I was sworn in by Speaker Rayburn in 1947. His advice and counsel have been most helpful to younger Members through the years.

Through those years Congressman HÉBERT has had tough assignments that have thrust him into the middle of controversy. He has handled all of them as one would expect a competent, hard-hitting newspaper reporter to do—letting the chips fall where they will.

It was as city editor of a New Orleans newspaper that EDDIE HÉBERT learned how to ask the tough questions and to dig out the hidden facts—skills which have served him well as a Member of Congress.

I have observed Chairman HÉBERT'S performance first-hand in handling legislation in many instances. He has won most of his battles, but we have found him to be a man who can take defeat as he can take victory. On occasion he has had to accept adversity, and he has always done so with grace and magnanimity.

Congressman HÉBERT'S service has included membership on the District of Columbia Committee, the old Naval Affairs Committee, the House Committee on Un-American Activities, the Committee on Ethics, and the House Armed Services Committee.

It has been on the Armed Services Committee that Congressman HÉBERT has played his most prominent role, ever fighting for a strong national defense. He has been an able and forceful chairman.

Few Members can claim his knowledge of military affairs or needs, an accumulation of "inside" facts and information covering the military, naval, air, and marine needs of one major war and two not-so-minor wars since he first came to Congress 11 months before Pearl Harbor.

As chairman of the Armed Services Committee, he has faced difficult years. Technical advances in the art of warfare have required painstaking study by those Members of Congress charged with the responsibility of recommending approval of one costly new weapons program after another. However, Chairman HÉBERT has met this challenge and his advice generally has been followed by the Congress.

As chairman of the Armed Services Committee from 1971 through 1974, Mr. HÉBERT earned respect for his dignity, his objectivity, and fairness in carrying out the responsibilities of his committee.

I have enjoyed knowing and working with EDDIE HÉBERT—a great American—and I wish him happiness and success in his retirement from Congress.

Mr. ABDNOR. Mr. Speaker, when our distinguished colleague returns to his home State of Louisiana upon the completion of his splendid service in the U.S. Congress, nowhere should the American flag fly higher and be held in greater esteem than in his home community of New Orleans.

For truly, Congressman HÉBERT has been in the forefront of the enlightened, stalwart leadership that has always had as its objective the fervent desire to keep this Nation No. 1 in defense and by doing so preventing the World War no one wants.

The monuments to Mr. HÉBERT'S leadership are many—a defense system that has continually been ahead in the development and use of the most sophisticated technology which could be devised by the mind of man; a flexibility in response enabling our forces to be on the ready virtually any place in the world that could be termed a hot spot of danger to our security; and a continuing modernization that continually gives greater emphasis and impetus to individual accomplishment and contributions to the defense structure.

Mr. Speaker, the Nation loses a great American with the retirement of Congressman HÉBERT. I am confident, however, that while he returns to his home in

Louisiana, the determination of his efforts in behalf of our country will always remain in this body as an example and incentive to continue working for a strong national defense on the basis that our strength stands as the world's best hope for peace.

Mr. KETCHUM. Mr. Speaker, it is with great pleasure that I offer my own words of fond farewell to our good friend and longtime colleague, Mr. HÉBERT. Also, may I say how very much I appreciate having the opportunity to express this fine man's many accomplishments today.

Not only the State of Louisiana, nor this Congress, but indeed all Americans will lose the finest of legislators when Mr. HÉBERT retires from this body. Never once in his 35 years of dedicated service has EDDIE HÉBERT relaxed the standards of excellence he has always set for his own performance. While I myself have only been privileged to work with Mr. HÉBERT in the Congress for 4 short years, that association has more than convinced me of the outstanding contributions he has made. He is, indeed, living proof of the statement that good newspapermen often make good legislators. He has brought to the halls of Congress a dogged determination to see behind the issues, to know them thoroughly, and to act accordingly—and firmly. He has demonstrated a willingness to hear both sides of a given issue; he has invariably practiced fairness and objectivity, and he has conducted himself in an admirable manner which one hopes other legislators who follow him will emulate.

Above and beyond these commendable characteristics of Mr. HÉBERT's, I admire him for his strong position in one vital area: our national defense. I have long maintained that the greatest social service this Nation has to offer its citizens is freedom—yet neither that freedom, nor any of the social benefits we are able to provide would mean anything if we were unable to protect and defend them. Perhaps more than any other legislator, Mr. HÉBERT has recognized this. He has dedicated years of conscientious effort to assuring that our national defense posture remains second to none, and has stood solidly and respectfully behind a high level of military preparedness.

Glancing at the Congressional Directory, one can see that Mr. HÉBERT has modestly chosen to say little about himself. It is particularly fitting that this should be his option; a man such as EDDIE HÉBERT has proven over and over again through actions rather than words his great worth.

I know that all my colleagues will deeply miss the presence of this strong and capable man. He has, indeed, provided responsive representation to his constituency, guidance to this body, and leadership to every citizen in our country. I wish him all the very best as he prepares to leave the Congress, and know it can safely be said that he stands among those who will never be forgotten.

Mr. BROOKS. Mr. Speaker, for the past 36 years the citizens of the First Congressional District of Louisiana have been represented in this body by the distinguished and able gentleman, F. EDWARD HÉBERT.

He has been an eloquent and effective spokesman for them, and it has been a privilege and pleasure to work with him.

As chairman of the Armed Services Committee, he has earned the respect and admiration of his colleagues and the Nation for his diligent and dedicated contributions for a strong national defense.

I deeply value his friendship and it is with sincere personal affection and professional respect that I join in honoring him today. His presence in the House of Representatives will be deeply missed.

Mr. STAGGERS. Mr. Speaker, it is with great pride, but also with some sadness, that I rise to pay tribute to my dear friend and distinguished colleague, F. EDWARD HÉBERT, on the eve of his retirement from Congress.

I have served with EDDIE HÉBERT in the House for almost 28 years, over a quarter of a century. He was here to give me guidance when I first entered Congress. We have stood shoulder to shoulder and side by side on many important issues. We have served together jointly over the years, always having the same objective—the advancement of our Nation.

EDDIE HÉBERT is a good true friend, a man of honor, a man of his word, and a great American.

The Scriptures say, "A man that hath friends must show himself friendly." EDDIE HÉBERT has a multitude of friends. Someone has said, "There can be no true greatness without humility." EDDIE HÉBERT possesses this virtue. In him the elements of love and humility and kindness and brilliance are so mixed that it truly can be said: "Here is a man. When comes such another?"

I think EDDIE HÉBERT is the kind of man Emerson had in mind when he wrote:

> Not gold, but only men, can make a Nation
> great and strong,
> Men, who for truth and honor's sake,
> Stand fast and suffer long.
> Brave men who work when other men
> sleep,
> Who dare while others fly,
> They build a Nation's pillars deep,
> And lift them to the sky.

One of my favorite Scriptural quotations is a passage from Proverbs: "Seest thou a man diligent in his business? He shall stand before kings." EDWARD HÉBERT was diligent in his business and he has walked with kings and presidents and the great men of this Earth, yet, he never lost the common touch.

He has served under seven Presidents in his 36 years in this House.

He served in the House of Representatives and on the same committee with three of the Presidents, President John F. Kennedy, President Lyndon B. Johnson, and President Richard M. Nixon.

This Nation owes much to EDDIE HÉBERT, especially for his work as chairman of the Armed Services Committee helping to keep our Nation's defenses strong.

He was always an outspoken advocate for the National Guard and other Reserve units of the military. He fought hard to preserve the draft. He saved our ROTC system. He was always a forceful champion of our men and women in the military.

Perhaps some of his best work was done during the 10 years Mr. HÉBERT served as chairman of the powerful Investigating Subcommittee of the Armed Services Committee.

Under HÉBERT's leadership, this subcommittee became one of the most highly respected in Congress. Chairman HÉBERT was always fair and impartial in his hearings, but he was a tough interrogator.

It has been estimated that billions of dollars have been saved the taxpayers through the alertness of the Hêbert subcommittee and millions more have been recovered on overcharges in defense contracts.

In 1972, a 22-year-old dream became a reality for EDDIE HÉBERT when the Congress overwhelmingly approved his bill to establish a Uniformed Services University of the Health Sciences. My colleague calls it a "West Point for Doctors."

EDDIE HÉBERT once said, "I am a hawk, but no dove could want peace more than I do." He is a "hawk" for a strong national defense, not wars. He realizes that only through a strong national defense will we be able to preserve the peace.

Chairman HÉBERT has received so many awards it is impossible to mention them all.

I am delighted that he has turned over his papers and library to Tulane University where they will be contained in a special section of the university's archives, where they will be retained for generations to come, to learn of this great and good man.

EDDIE, we all wish you many more years of happiness with your gracious wife and fine family.

There is a portrait of Chairman HÉBERT which hangs in the Armed Services Committee hearing room. That portrait has an American flag in the lapel of HÉBERT's coat. The President noted this at the unveiling and said of HÈBERT, "He not only wears that flag in his lapel, he wears it in his heart."

How true that is. EDWARD HÉBERT is a great American and a true patriot. God bless you—we love you and we wish you well in the years ahead.

Mr. BOLAND. Mr. Speaker, I would like to join with my colleagues in paying tribute to F. EDWARD HÉBERT, who is retiring from Congress at the end of this session.

EDDIE HÉBERT has represented his district for 36 years, longer than any other Member ever elected from the State of Louisiana. This long term of service is a clear tribute from the people of the First District to his hard work here and his dedication to the people back home.

I have known EDDIE HÉBERT for my entire 24 years in Congress and have always been impressed with his knowledge of the workings of Congress and especially with his expertise in the area of national defense. With years of service on the House Armed Services Committee, and 4 years as chairman, EDDIE HÉBERT has distinguished himself as a true patriot with the best interests of America at heart.

We owe many aspects of our strong national defense to the efforts of EDDIE HÉBERT.

Mr. Speaker, I would like to join with my colleagues in wishing EDDIE HÉBERT the best of luck in all future endeavors. He will be missed here.

Mr. DE LA GARZA. Mr. Speaker, it is hard for me to conceive of a House of Representatives in which there is no EDDIE HÉBERT. When I came here in January 1965, he already was a seasoned Member. As I soon found out, he was more than generous with his time and counsel with respect to freshmen Members. I was among the many who benefited from this trait of his.

Through the years since I entered the House, EDDIE HÉBERT has been my trusted adviser and my good friend. He has rendered notable service as a legislator to the Nation. His strong and determined stand for military preparedness has inspired me and many others who are convinced that an adequate defense establishment is a top priority for our country.

As a member of the old Naval Affairs Committee and of the Armed Services Committee and as chairman of the latter from 1971 through 1974, he has been a leader in efforts to keep the United States strong. He knew the necessity. During his 36 years as a Member of this House, he saw World War II, the Korean conflict, and the war in Vietnam. In a world where such catastrophic events can occur there is no substitute for military preparedness.

It is a tribute to the good judgment of the people of the First District of Louisiana that year after election year they chose EDDIE HÉBERT as their Representative. His concern for them and their problems was never lessened by his activities as a national figure. He never forgot where he came from and why he was here.

I am saddened by the knowledge that EDDIE HÉBERT will retire at the end of this session. Yet, Mr. Speaker, I know as my colleagues know, that if ever a man has earned retirement it is he. I hope and pray that he will find rich pleasure in the golden years ahead and that he will never forget all of us who leaned on him and gloried in his friendship. We certainly will never forget him. We will remember EDDIE HÉBERT, often our mentor and always our friend.

Mr. MURPHY of New York. Mr. Speaker, one can hardly condense 36 years of service to the Nation in the U.S. Congress into a few brief moments of respect and admiration. Yet that is what we must do here today; each of us taking note of the passing of an era with the departure of our good friend and colleague, EDDIE HÉBERT.

He has, by the virtue of hard work and dedicated application to the problems of his constituents in Louisiana's First Congressional District, risen to a place where very few men in the history of this Nation have been—at the very top, among the most experienced and dedicated leaders this Congress has ever known.

There are currently only three Members of this body who have served a longer time in Congress. Yet EDDIE has determined that 18 consecutive terms is enough, and the people of Louisiana must try to replace the irreplaceable.

As a legislator, he has been among the most effective and exceptionally gifted leaders to have served in Congress. Almost every one of us has had the benefit of the years of experience and insight that he has brought to the legislative process. He has earned the respect and admiration of two generations of Congressmen who have served with him and learned from him, and his record of accomplishments should earn him the same respect for generations to come.

As chairman of the Armed Services Committee, he solidified his position in favor of military preparedness, bringing a strength to this country that was unequalled. He had known the political side of war, having been in the Congress in the first days of World War II, and on through the Korean conflict, and the Vietnam war. He knew that military strength is one of the mainstays of our form of democracy. Yet he has not been a cliché politician—his background as an investigative newspaper reporter brought an objectivity and fairness to his legislative pursuits that was recognized on both side of the aisle, and which will be sorely missed.

EDDIE HÉBERT has served in the Congress longer than any other person from Louisiana. His people knew they had the very best in Congress.

Mr. TAYLOR of North Carolina. Mr. Speaker, it was with a feeling of loss to the U.S. Congress and the American people that I learned of Congressman F. EDWARD HÉBERT's plans to retire from the U.S. House of Representatives. His congressional career has been a long and distinguished one.

Congressman HÉBERT is a patriotic American who loves this country and has fought to keep it strong. He stood solidly behind military preparedness but has proved to be no patsy for the Pentagon. Under his chairmanship, the Armed Services Committee tackled military procurement and construction authorization legislation with enthusiasm and scrupulous examination. Those of us who have served with him in the Congress recognize and appreciate his objectivity and fairness. He will be greatly missed.

We must remember, however, that with every beginning there must be an ending. Thomas Wolfe, who before his death resided in the congressional district which I represent, said, "Years flow by like water and men go home again."

As ED HÉBERT leaves this institution, I hope that his years of retirement will be long, productive, pleasant and useful as his public service career has been. I wish for him many years of health and happiness.

Mr. STEED. Mr. Speaker, during the years I have served in Congress, no classification of legislation has been more important or received more attention than that of national security. America is still a strong nation today because the Congress always has had many dedicated Members who saw to it that resources to maintain a strong defense capability have been provided.

No single leader in national security has served in the last quarter century who brought more ability, dedication, or results to this work for a strong America than our retiring good friend from Louisiana, Honorable F. EDWARD HÉBERT.

My opportunity to have a close opportunity to know and observe his work on national securities matters partly stemmed from the fact that I represent a congressional district that contains three outstanding military installations. At no time did the needs of these activities arise that Mr. HÉBERT failed to respond. And yet, despite his ardent efforts to build and preserve a strong defense arm, his devotion to the eradication of waste and duplication never abated.

One of the most controversial and difficult positions in the House is the chairmanship of the Armed Services Committee. Mr. HÉBERT filled this office with great distinction. He earned the admiration and respect of all who had an opportunity to work with, or observe, his services.

I also enjoyed a warm personal relationship with EDDIE. Both of us worked as newspapermen before coming to Congress and I found many areas in which we could relate with pleasure to both. I regret to see this stalwart for America retire, but I wish him the very, very best as he leaves us.

Mr. TEAGUE. Mr. Speaker, the Congress is about to lose one of its truly towering figures, the gentleman from Louisiana, and my friend, EDDIE HÉBERT. Two books have been written about this man, but I doubt that even these books have really told the full story of the man or his career. This could well be true because a great part of knowing EDDIE HÉBERT simply could not be found or understood through bare print; you would have to be with him and talk with and see him at work. You would have to see him in committee and hear him on the floor of the House to have any true comprehension of "the man."

EDDIE came to the Congress in 1941, but before that he was a star reporter and a newspaper editor. He carried to the Congress the attitudes and the perceptiveness of a newspaperman. But probably much more importantly, he brought to the Congress one of the most colorful personalities that this House has seen. There is almost an aura of glamour surrounding EDDIE HÉBERT. When you get to know him, you become aware, for example, that he has known, and frequently been of great help to, many of the outstanding people in show business. Some of them he actually started on their careers. He has that something extra that sets him apart from ordinary men, a touch of sophistication that is apparent whether he is sitting as a member or as chairman of a committee or is speaking here on the floor.

Upon his departure at the end of this session, he will have served 36 years in the House of Representatives, longer than anyone in the history of the State of Louisiana. During that time he has served on investigative committees and has been chairman of one of the most famous of them, the Committee on Investigations of the House Armed Services Committee.

Every one of these positions that he has held he has handled with a flair that is his hallmark. If EDDIE was sitting either as a member or a chairman of a committee, the room was always full because the public knew that if he was involved the hearing was going to be just a little bit different than the usual congressional hearing. EDDIE has that peculiar genius that is given to some to invest anything he undertakes with a color and a verve and a drama that ultimately permeates all of those around him, the committee members and the audience, to the point that they, too, feel that they are actors, and participate in the hearings.

All of this points to EDDIE HÉBERT as a most unusual man, but I am not expressing only my own opinion here. This same opinion is held by the toughest critics of all, the newspaper reporters who have covered him and the committee staff members know that EDDIE runs a hearing like nobody else. One staff member who served with him a long time and under some difficult circumstances has stated publicly many times that of all chairmen with whom he had worked he had never known one that took a more responsible or more mature view of what a congressional hearing was all about than EDDIE HÉBERT. This is the greatest of compliments from one of those who know all of us best of all.

Congress has had its giants over the years, and EDDIE HÉBERT has been one of them. All of us individually, and the Congress as a whole, will be diminished by his loss. EDDIE has been like a fine wine at the peak of its age and flavor.

The Congress will not be quite the same when he is gone.

Mr. ADDABBO. Mr. Speaker, I rise to join my colleagues in honoring the distinguished Member from Louisiana, the Honorable F. EDWARD HÉBERT, who will be retiring from this body after 36 years of service.

It has been my privilege to serve with EDDIE HÉBERT in the House and to witness his legislative ability and expertise in the area of military preparedness. As chairman of the House Armed Services Committee from 1971 through 1974, he earned the respect of Members on both sides of the aisle for his bipartisan approach to the defense needs of the Nation.

In addition to his service on the Armed Services Committee, EDDIE sat on the District Committee, the Naval Affairs Committee, the House Un-American Activities Committee, and the Committee on Standards of Official Conduct.

As EDDIE retires from the Congress I want to congratulate him on a brilliant record of achievement and wish him every success in the future.

Mr. LOTT. Mr. Speaker, it must be considered an honor to speak on the long and eventful career of F. EDWARD HÉBERT of Louisiana. The distinguished Congressman has served in the House of Representatives for more consecutive terms than any individual from the State of Louisiana, and has become known in the last 36 years for his sharp investigative skills, his willingness to listen, and his ever-present sense of humor. Mr. HÉBERT has been commended many times for his effective work as chairman of both the House Armed Services Committee and the House Armed Services Investigations Subcommittee, in addition to his permanent chairmanship of region 4 of the House of Representatives. He has also been a highly visible member of numerous other committees during his illustrious career.

Mr. HÉBERT, born and educated in New Orleans, gained much of his understanding and concern for human nature through his notable work as a reporter for both the New Orleans States and Times-Picayune. Throughout his newspaper career, Mr. HÉBERT was frequently in contact with important political, sports, and entertainment personalities, and, because of his insights into such men as Huey Long and Fulgencio Batista, gained the admiration and support of the combined political organization. In 1940, Mr. HÉBERT was first elected to the Congress of the United States from the First District of Louisiana, which he has continuously represented in his fullest capacity to this date. As F. EDWARD HÉBERT has served the South, so too has he served the Nation.

Mr. NEDZI. Mr. Speaker, I have greatly enjoyed my years of association with F. EDWARD HÉBERT on the House Armed Services Committee. I shall miss him.

The House of Representatives is a great teacher. One of the things a new Member often learns is that the impressions one has from afar regarding the more celebrated House figures does not always square with the realities at close hand. Or, to be more accurate, it sometimes happens that those who have liberal, compassionate images in the media, may not in fact be warm human beings but utterly cynical and calculating. On the other hand, some with reputations as narrow conservatives are often very reasonable, engaging, and full of human qualities when encountered at first hand.

What I am trying to say is that when one gets beyond ideological labels, and media images, and catch phrases, the real person emerges in a different outline than what one has been led to expect. All this is a long preface by way of saying that we should not judge F. EDWARD HÉBERT by his white suit.

EDDIE HÉBERT has served in the Congress for 36 years. The last 2 years, the closing chapter of a long public career, might have been rather sorry years had they happened to a weaker man. But EDDIE HÉBERT is going out in style, strong, witty, and with head held high.

I know I will be able to say in the future as I am saying now that I had the good fortune as a young Member of Congress to sit at the same table with Carl Vinson, "The Old Swamp Fox", and F. EDWARD HÉBERT, "The Bear From New Orleans".

When F. EDWARD HÉBERT became chairman of the House Armed Services Committee in 1971, a very important and drastic change occurred. Some may not know it and others may prefer to slide over it, but Mr. HÉBERT opened up the process.

It was not too long ago when $20 billion military authorization bills were whooped through the House with less than an hour of debate. When Mr. HÉBERT became chairman, however, these same bills were debated fully and extensively. No unfair restrictions were placed on offering of amendments. I can testify to this personally as the coauthor of the Nedzi-Whalen amendment when the House cast its first substantive vote on ending the Vietnam war.

You do not have to agree with Mr. HÉBERT's philosophy, and I do not in large measure, to agree that he was fair, both in scheduling debate on the floor and in allowing a variety of views in committee. Regardless of his own views, he kept the process open and allowed countervailing forces a decent chance to alter the final legislative product on military matters.

But it is for his other human qualities that I will most remember F. EDWARD HÉBERT.

He is a man of considerable wit. He is perceptive, anecdotal, and cultivated. It was never a chore to serve with him on the most tedious or complicated matters of weaponry, of budget, or of manpower.

Congressmen come and go, many fade into obscurity, EDDIE HÉBERT is one I will always remember.

Mr. CEDERBERG. Mr. Speaker, the approach of the end to another Congress conjures up images of both contentment and sadness. Contentment because we have finished our work and sadness because it signals the retirement of many of our colleagues.

One of the most prominent, and most respected, is our dear friend, F. EDWARD HÉBERT, who is ending a remarkable career that spans 36 years. I would like to add my best wishes to those of my colleagues, for a fulfilling retirement that will complement his illustrious term of public service.

Unfortunately, we sometimes forget to note, and to say thanks, for a job well done until the opportunity is lost. Let me use this time to insure that my hearty appreciation for EDDIE's tremendous contribution to this House, to this Congress, and to this Nation, is communicated to everyone.

Over the years, his distinguished service on the District Committee, the Naval Affairs Committee, the House Un-American Activities Committee, the Committee on Standards of Official Conduct, and the Armed Services Committee has not gone unnoticed. He can truly be proud of his meritorious record, especially of the 3 years until 1974 when he served as chairman of the Armed Services Committee. His dedication, patriotism, and sense of duty have set him apart from other men. Indeed, he will be an irreplaceable cog in the legislative machinery. His presence will be sorely missed.

Louisiana can rightfully be proud of their native son, who has served in the Congress longer than any other from that historical State. Drawing on his background as a prominent journalist while there, EDDIE demonstrated an unerring sense of objectivity and fairness that won him the respect of both sides of the aisle.

His investigative skills proved to be invaluable while he served in the Congress. Few items missed his thorough scrutiny. He knew what the Nation and the voters expected of a Congressman and, throughout his career, he lived up to that high standard. His constituents can attest to his accomplishment. In that feeling, they are also echoing our sentiments.

Therefore, once again, I say thanks, Eddie. It has been my pleasure and honor to have served with you these many years. I hope the future will continue to offer the recognition and personal satisfaction of which you are deserving.

Mr. MOORE. Mr. Speaker, I rise in tribute to my colleague and fellow Louisianian, the distinguished Representative from the First District, the Honorable F. Edward Hébert.

Congressman Hébert has chosen this time to lay aside the burdens of office he has borne with such distinction over the years. He has served the people of Louisiana in the House of Representatives for 36 years, a longer period of time than any other Louisianian.

But Edward Hébert's service cannot be accurately assessed merely on the basis of longevity; nor should he be judged only on how well he served the people of the First District, though he served them surpassingly well. He is a man whose breadth of vision and record of achievement are truly national in scope.

Congressman Hébert began his career as a newspaper reporter for the New Orleans States. He has a nose for the big story and the perseverance to seek it out. He was the first American journalist to interview Fulgencio Batista after that dictator began his career by overthrowing the Cuban Government in 1933.

Later, as city editor of the States, he investigated and published the story of the Louisiana scandals. He detailed the corruptions of Governor Long and his successors, and won for the States Delta Sigma Chi's award for courage in journalism in 1939.

Edward Hébert's career in Congress has been characterized by the same clarity of perception and bulldog tenacity. In his early years in the House he served on the Naval Affairs Committee and the Un-American Activities Committee, where he took part in the famous investigation of Alger Hiss.

He has been a member of the Armed Services Committee since its inception, serving as its chairman from 1971 to 1975. It was in that position that he made his greatest contributions to the security of the United States.

He became chairman of the committee in 1971, following the death of L. Mendel Rivers, of South Carolina. Both Mr. Rivers, and his predecessor, Carl Vinson, had been strong, effective chairmen, whose efforts had helped build and maintain our national defense.

From the very start, Chairman Hébert made it clear that he intended to follow the same course, but he was to face, during his tenure as head of the committee, a far greater challenge than had confronted either of his predecessors.

America, in 1971, was engaged in the seemingly endless Vietnam conflict. The citizens of the United States were weary, and certain elements capitalized on this feeling in a misguided effort to seriously reduce our military strength.

In this difficult period, Chairman Hébert stood like a rock against criticism of our national military establishment. He fought with success against rash attempts to slash the defense budget, and hence, American military strength, below the minimum required to safeguard the Nation.

Congressman Hébert was primarily responsible for bestowing a great honor on the capitol city of Baton Rouge, my hometown, when he saw to it that the Navy named one of its nuclear-powered attack submarines the U.S.S. *Baton Rouge*. This is the only warship ever named for the city of Baton Rouge. Mrs. Hébert christened this vessel at its launching and the Congressman gave one of his greatest speeches calling for a strong national defense at this occasion on April 26, 1975.

He believes that a powerful, well-equipped Army, Navy, Air Force, and Marine Corps are the best safeguard of our security and the peace of the entire world. He correctly judged that the nations which count themselves enemies of our democratic political system and free enterprise economy will respect us and honor their agreements with us only so long as we maintain our forces at peak strength and readiness. I concur strongly and absolutely in his wise judgment.

It is largely due to the tireless efforts of F. Edward Hébert that our Armed Forces have come through the difficult post-Vietnam period without serious injury; furthermore, their strength and efficiency are actually improving. This is also due to the labors of the distinguished Member representing the First District of Louisiana.

In addition to his efforts on behalf of our national defense, he was also a warm and friendly supporter of freshmen Congressmen, such as myself. He went out of his way to clear all obstacles to my being sworn in and helped me to learn the ways of the House as quickly as possible. He always stood ready to help.

The American people owe "Eddie" Hébert an enormous debt of gratitude. I join with my colleagues in saluting him on the occasion of his retirement.

Mrs. HOLT. Mr. Speaker, it is with real pleasure and sadness that I rise at this time to pay tribute to my friend and colleague, F. Edward Hébert.

During my few years of working with Eddie Hébert, I have always found him to be a dynamic and effective legislator, ever ready to share his knowledge and his insights.

While he served as chairman of the House Armed Services Committee, I was deeply impressed by his grasp of the essentials of defense, his utter dedication to keeping our country strong, and his unfailing fairness in the conduct of committee business.

I will miss working with Mr. Hébert, as I am sure we all will. He has brought much to Washington with him and will leave behind him solid evidence of his command of the needs of this country and his toughness in confronting serious problems involving military preparedness.

I hope to continue to learn from this great man in the years to come.

Mr. BENNETT. Mr. Speaker, on the occasion of the retirement of F. Edward Hébert from the U.S. Congress I am honored to speak of my high esteem for this outstanding Federal legislator. I have served with him on the House Armed Services Committee for a quarter of a century; and have served with him also on the Committee on Standards of Official Conduct. Under his leadership as chairman of the House Armed Services Committee major steps were taken to improve the national defense posture of the United States; and very important things done for the welfare of those in the ranks of our military. One of his most outstanding achievements was in the establishment of the medical school to train physicians for military service. This is but one of his many great achievements. It would take too long for me to outline them all; but it is a pleasure for me to pay well deserved tribute to this outstanding man and outstanding legislator. His service to his district, State, and Nation and to mankind will always be a monument to his leadership and great character.

Mr. CHARLES H. WILSON of California. Mr. Speaker, it gives me great pleasure on this occasion to pay tribute to my esteemed colleague and good friend, the gentleman from Louisiana, F. Edward Hébert. I have been honored and privileged to serve with the Congressman on the House Armed Services Committee, and the Nation is indeed fortunate to have had him as chairman of that committee between 1971 and 1974.

But this is only one of the many areas in which F. Edward Hébert has distinguished himself. In his 36 hard-working years in Congress he has served with distinction on the District Committee, the Naval Affairs Committee, the House Un-American Activities Committee and the Committee on Standards of Official Conduct. All the while, he responded promptly and effectively to constituents in the First Congressional District of Louisiana.

I have observed and admired the way F. Edward Hébert has brought to the Congress his early talent as an investigative reporter for the New Orleans States and Times-Piscayune newspapers, and I have seen the way that the citizens of Louisiana and the Nation have benefited from these skills of perceptive examination and of analysis.

When my colleague retires at the end of this session, Congress, the American people, and the citizens of Louisiana will have lost a valued and trusted leader, a great patriot who always worked in their best interests.

I salute my departing friend now, and in doing so, I congratulate his Louisiana constituents on having enjoyed the benefits of Eddie Hébert's great talents for so long a time.

Mr. DAVIS. Mr. Speaker, I am proud to be able to take part in these tributes to our beloved colleague, F. Edward Hébert. For if it were not for Eddie Hébert, I may well never have been elected to this body.

In April of 1971, I was running in a special election called because of the death of my predecessor, the late L. Mendel Rivers. My opposition was formidable; as a matter of fact, he is now the Governor of South Carolina. While in my case, it was my first try for elective office.

Needless to say, there were not a lot of officeholders who were anxious to stick their necks out in my behalf. But there was one, and I am speaking of the man we honor today.

EDDIE HÉBERT had just succeeded to the chairmanship of the Armed Services Committee, and was undoubtedly very busy. But he immediately offered to help me out and came to Charleston to speak in my behalf. And he gave me the impetus I needed for victory.

So you see, Mr. Speaker, EDDIE HÉBERT occupies a very special place in my heart. But there is more to be said about him than mere personal gratitude. There is the debt that is owed him by all the country.

For F. EDWARD HÉBERT is one of those rare legislative giants who has molded this country's history throughout his career in Congress. And he has devoted that career to insuring that America would have a defense capability second to none.

In his 36 years in Congress, EDDIE HÉBERT has proved his wisdom countless times. He has earned our respect and admiration a thousand times over.

Mr. Speaker, I hope that your retirement will be happy and fruitful in every way. But I also hope that you will break away from New Orleans once or twice a year to visit and share your wisdom with us.

Mr. Speaker, thank you and GBY.

Mr. KAZEN. Mr. Speaker, when a member has served 18 terms in this body when he has risen to rank fourth among all Members in seniority, his departure is bound to leave an obvious vacancy among us. When that man is EDDIE HÉBERT, he will leave heartaches among those of us who counted him as a counselor, a leader and most of all, a friend.

EDDIE had an outstanding career as a newspaperman before he became a participant in politics, and in fact it was his campaign against the remnants of the Huey Long machine in Louisiana that caused him to be sent to the House in 1941. Members of my generation in the House knew him for his vigilant work on the Armed Services Committee, but he made important contributions earlier when the Alger Hiss-Whittaker Chambers case was before the Un-American Activities Committee, when he led an injuiry that brought reorganization of the District of Columbia Police Department, and in his diligent service to his constituents and the Democratic Party.

He has served us all as a watchdog over the Department of Defense. I am pleased that my duty on the Armed Services Committee came from his call to action, and though I missed membership while he was chairman of the committee, his wisdom continued to provide a beacon of leadership.

He has contributed much to the service of his country. He has always believed that our Nation's defense should be second to none, and has used his experience and his position to assure that strength. Among his achievements, produced by his tenacity, has been the creation of the Uniformed Services University of the Health Sciences, a dream of his for many years and now a reality to protect the health of our military personnel.

There was always light from EDDIE HÉBERT, and there was warmth, too, a warmth of friendship I shall always cherish even though we no longer serve together.

Mr. DERWINSKI. Mr. Speaker, F. EDWARD "EDDIE" HÉBERT certainly merits the commendation of the Members of the House for his long and effective service. It is a privilege to join so many of my colleagues in saluting EDDIE on his retirement from an outstanding career as a Member of Congress.

His loyalty to the principals and dedication to the interests of his constituents and the Nation have earned him the respect of all who know him. I have never known him to place party loyalty above national interest. Throughout his career, he has set the highest standard for public service.

During his 36 years as a Member of Congress, he has been an outstanding leader in the great tradition of Southern legislators. When he retires at the end of this session, EDDIE will have served longer than any other congressional Member from Louisiana. He has been honored by having his portrait placed not only in the Carl Vinson Room, the Armed Services Committee's main hearing room; but also in the Louisiana State Museum. His New Orleans charm and quick wit will be sorely missed.

During his congressional career, he has been recognized as a productive, energetic and dedicated leader. He has served with special distinction on the Naval Affairs Committee, the House Un-American Activities Committee and especially as chairman of the Armed Services Committee from 1971 through 1974.

EDDIE has earned great respect for his strong support of national defense preparedness. His legislative record attests to his understanding of the importance of a strong military.

His objectivity and insight have been a great asset for his chairmanship of the House Investigations Subcommittee, and his journalistic background has been instrumental in his sharp insight into legislative issues.

He is an outstanding public servant who has compiled an enviable record of achievement, caring not only for the needs of his State but also on the national level. He will be long remembered for his knowledge and devotion to the strength of our Armed Forces.

Mrs. Derwinski joins me in extending our every good wish to EDDIE and his wife, Gladys, for many happy and healthy years in retirement.

Mr. McDONALD. Mr. Speaker, it is with a great deal of sadness that I join in this special order to bid farewell and Godspeed to my friend and colleague F. EDWARD HÉBERT. During the short time I have been here, and privileged to serve on the House Committee on Armed Services with him, I have been particularly struck by his knowledge and patriotic concern for the defenses of this Nation. I am sorry to see him leave, because we need more staunch defenders of our Armed Services in the Congress, not fewer. We can only hope that his successor shares his ability and dedication, but his will be a hard act to follow. The House of Representatives can ill afford to lose his expertise and leadership. Too many men of experience are leaving these halls and this is to be regretted. In my view, the Nation will suffer for it.

"EDDY" also served on the House Committee on Un-American Activities, and would have been the chairman of that committee, but for some skulduggery amongst the hierarchy of the House at the time. And, that is too bad. He would have been a great chairman of that committee also, as he appreciated the fact that not all our Nation's enemies are from without, but also from within. He has a great deal of knowledge and appreciation of internal security matters which will be missed.

Certainly, the people of Louisiana have been faithfully served for 36 years and better than that, the United States and the Congress have been faithfully served. My best wishes to you in any of your future endeavors.

Mr. NICHOLS. Mr. Speaker, I want to thank our colleague, JOE WAGGONNER, for arranging for this special order so that those of us who have been especially close to our great friend, EDDIE HÉBERT, can say a few words as the time approaches when he will be leaving the Congress.

I first knew of EDDIE HÉBERT some 37 years ago when I played football with the Auburn team against Tulane in late September in the Sugar Bowl stadium in New Orleans. EDDIE was sports editor for the New Orleans Times Picayune, and he covered that game which had to be called off on Saturday and was played on the following Monday due to several days of heavy rains which resulted in 2 feet of water on the field at playing time.

Prior to coming to the Congress, I knew Congressman HÉBERT by reputation as a strong supporter of the defense of this country and, when I arrived as a freshman Congressman in January 1967, I made every attempt to get on his committee, chaired at that time by the late Mendel Rivers. There were no vacancies on the Democratic side of the Armed Services Committee then but 2 years later, through the help of Mendel Rivers, EDDIE HÉBERT and other colleagues in the Congress, I became a member of what I believe to be the most important committee in the Congress.

In the intervening years, it has been a privilege serving with this great American, and I know of no man in the Congress who has done more or who believes stronger in or who has worked harder toward strengthening the overall defense posture of this country than EDDIE HÉBERT. EDDIE will be remembered for his many accomplishments in the Congress but of all of his achievements, and there are many, perhaps history will record that his most significant and far-reaching accomplishment would be his sponsorship and passage, through the help of many Members of this body, that legislation which created the Uniformed Services University of the Health Sciences.

Mr. Speaker, the Armed Services of this country will forever be indebted to this great man from the Bayou State for his foresight in creating this great medical school which will soon be graduating trained doctors to serve the health needs of the armed services along with their dependents of these United States.

EDDIE will be missed in this Congress but certainly our loss will be Louisiana's gain. I am a better man and a better Congressman for having had the privilege of knowing and being associated with EDDIE HÉBERT. My best wishes to him and his lovely wife in their retirement years in their beloved home in New Orleans.

Mr. HÉBERT. Mr. Speaker, I want to sincerely thank my colleagues who once again have been most generous. I hope I continue to merit your confidence.

This is goodbye.

Over the years since 1941 I have spoken on this floor many times.

But this is the last time.

My service in this House has has been the most profoundly satisfying experience of my life; in very real fact it has been my life. I could not leave here with joy, but neither do I leave with regret. To leave with joy, would be a denial of all that this House has meant to me. To leave with regret would mean that my backward look over all those years would present a picture of something other than the deep sense of fulfillment that I feel for this the greatest experience that can be given an American.

So, I leave without joy or regret, and I leave only because it is time to leave.

I am 75 years old and the fox-trot has turned into a waltz. And, regardless of what the poet says, time is not an endless song. The song does end and quiet comes.

When I came to this House in 1941, I came, I thought, as a reporter on sabbatical, I joined a body that was watching a vicious war in Europe that could not help but ultimately involve our own country. And at the end of that year we were in it.

We were not prepared for war, and it took a long time for us to assemble and train a fighting force. We were, indeed, the "arsenal of democracy" during the time it took us to train our men and women, but a lot of time was lost because of our smug dependence for the security provided by two vast oceans. Maginot lines that today are as meaningless as the real one proved to be.

I learned, and all of us of that time learned, a bitter lesson: Weakness invites aggression. I will return to this theme.

I have served in this House with great men, with towering figures. I have served with three men who became Presidents of the United States: John Kennedy, Lyndon Johnson, and Richard Nixon. In all, I have served under seven Presidents. And I have served during these 36 years with giants of the House: Sam Rayburn, Carl Vinson, Mendel Rivers, Dewey Short, John McCormack, among others. Some have called these people titans, and rightly so. They were true leaders, men who impressed their personalities on this House and on the legislation that was enacted during their times.

Some years ago I expressed a view about the Congress that I would repeat today. At that time I said:

> This national Congress is a great institution. There one sees all races, all creeds, all nationalities, all types of political thought and theory. It is a great melting pot of cross-country ideas and expressions; a vast proving ground for new ideas and new thoughts in government; a gigantic platform from which is expressed the views of every section of the country—a forum where freedom of speech and freedom of the press are supreme. There is no hamper on speech. A member of Congress may say what he thinks and what he likes and there is no one to nag him. The youngest members have as much right on the floor as the oldest members. The lowest ranking member is given equal privileges with the Speaker and the majority and minority leaders. There is no censorship of the Congressional Record. It is the freest press in all the world.

But long before those words I have just quoted, as a matter of fact back in 1935, several years before I was in Congress, I said:

> A man cannot get to Congress unless he is elected by the people, and if Congress is lax in its responsibility, then charge the error to the people who elected the undesirable members of Congress. It is within the power of the people, if they will only exercise that power, to turn out any and all members of Congress who do not represent their constituency properly; that is the reason a member of the House must give an accounting of his stewardship every two years; that is the reason why a member of the House of Representatives can only acquire his seat by direct election of the people; that is the reason that the method of selecting the members of the House of Representatives alone has not changed since the Constitution was written.
>
> More guilty than anyone else for what we have in government today are the majority of qualified voters in America who failed to exercise their right of ballot in the last presidential election (which at the time I was speaking was the Presidential election of 1948). It is shocking to record that in this republic the people did not take the time, or have interest enough in the welfare of their nation, to vote in the last presidential election. They slept on their rights and cannot blame anyone else for what is happening today in this country. That majority who stayed away from the polls is guilty of contributory negligence to the crime of poor citizenship.

Over the years it has been my consistent view that, next to the passage of legislation, the most important single function of the Congress is the proper exercise of its investigative responsibilities. I myself have been the chairman of an investigative committee and have served on others. All too frequently it is the only way in which the Congress can discover the real truth and convey this truth to the people of the country.

But with the powerful authority of the congressional committee to investigate there is the concomitant responsibility to conduct the investigation in strict accordance with not only the rules of propriety but with a strong sense of fairness and justice to those who are involved in the investigation.

I have always believed that before any testimony is taken in public where controversial issues are involved, and where the facts sought to be revealed may involve the good name or reputation of an individual, the committee itself should be cognizant of what testimony is to be offered.

I think it of the greatest importance that if an accusation is to be made against an individual, that individual should have the right and the privilege of denying the accusation under the protection of an executive session of the committee.

I believe that if the accused makes a flat denial of the charges and there is no other substantiating evidence except the mere assertion or accusation of the accuser, then I do not believe the charges should be given public emphasis. In such circumstances I most certainly would subscribe to the policy that it is better for 99 guilty to escape than that 1 innocent man be hanged.

During the 1950's I was engaged in several investigations and I said at that time that there appeared to be a trend that most of the political news was developed from radio and television programs or from congressional hearings that were staged for radio, television, and the newsreels. I pointed out that it was unfortunate indeed that most of the Capitol Hill investigations in those years were designed for the Klieg lights. I said then and I believe now, that newsmen and cameramen have contributed in great part to all of the difficulties surrounding congressional hearings. The newsmen and the cameramen built the event up in advance and then complained that freedom of the press would be violated if the committees tried to bar them from the proceedings.

When I first became chairman of the Investigating Committee—and that was long before the ruling by Speaker Rayburn against television coverage of congressional hearings—I ruled out television coverage of congressional hearings—I ruled out television, and I would rule it out today. I had a great deal of experience with television hearings, particularly during my membership on the Committee on Un-American Activities. That, incidentally, was the first time a congressional hearing was televised. I believe that the glaring Klieg lights and microphones placed the witness at a distinct disadvantage. On the other side of the table, I believe it stimulates Members of Congress to become ham actors instead of legislators and investigators.

This is not to say that I do not believe that the public has a right to know what goes on in these hearings, but they do have their representatives there in both members of the press and radio.

I am quite certain that there are Members of the House on the floor today who look upon me as overly conservative, with ideas and ideals that are rooted in another age.

These Members have the right to this view, and they had the opportunity to express that view only last year. And they did. I would like to point out however that—and here I refer to both my days as an investigating committee chairman and my days, which are unending, of my fight against the enemy that is communism—that never have I in any hearing, in any investigation tolerated anything but the fairest of procedures and tactics.

Some 10 years ago I pointed out that the great danger in fighting a totalitarian state, whether it be Fascist or Communist, is that we adopt, or are liable to adopt, the very same methods and thought controls that we are fighting. I said at that time that that should not happen to us in our fight against communism. I said we could not sacrifice our freedom and the rights of individuals to fight communism because we do not need to do so. We are strong enough and are powerful enough to fight communism with American methods.

The methods which are embedded in our Constitution, the right of trial by jury, the right to face the accuser, all of these things and many more must be preserved if we are to keep this Nation the great free Nation we have come to love and honor. I said those words almost 10 years ago and I say those words again today, and I say them because I deeply believe them.

In 1943 I became a member of the Naval Affairs Committee and served on it until it and the Military Affairs Committee were joined and became the Committee on Armed Services. This is a total of 34 years devoted to the study of the needs of our armed services and to the enactment of legislation to provide the means that have kept our Nation strong. No one can have a higher goal. I have already referred to the fact that I entered the Congress just before World War II and learned with a deep sense of shock that this country was almost fully unprepared to defend itself, let alone provide a force that could join in defeating Hitler and the axis powers. We were caught unprepared and, with the rest of the world, found ourselves in danger of being conquered by highly trained and effective military forces. I learned a profound lesson at that time. I have never forgotten it.

Then and there I formed a determination that I would dedicate myself to insuring that America never again found itself in that position. To some extent I think that I have been successful, that I have contributed to a strong military force capable of defending this country.

But it is my very real fear that there is now a tendency to take our national security for granted, to look upon our military forces as something that are almost automatically created, that will always be there to fight for our freedom. Yes, I believe that we are taking very much too much for granted.

We see a growing number of Members of this House who perhaps reflect a public attitude, that feel that we pay too much attention, appropriate too much money for our military forces. We do not seem to have learned the lesson of World War II. And, the danger is no less today than it has been in the fearsome past.

I am encouraged by the change in attitude that I saw this year with respect to the defense budget. But we must continue to ask ourselves whether there can be any real belief that the intentions of the Soviet Union are any different today than they have been in the past. Can we have any faith in the belief expressed by so many today that the Soviet Union has changed its spots and now wishes to live in peace with this country and with the rest of the world?

When we look at the number of men in the military forces of the Soviet and their satellites, when we count their aircraft and their rapidly growing naval force, can we read these signs as indicating anything other than a firm intention to continue to engage in aggressive action against the free world? My answer to all of these questions is "No."

There has been nothing less than a wholly unprecedented buildup in both strategic and conventional forces by the U.S.S.R. This is mere statistical fact. Both the objectives and the means to achieve these objectives remain the same as they have always been in the minds of the Soviet leaders, and the vast increase that we have seen in their forces over the past several years can lead us to no other conclusion. The Soviet Union remains an implacable enemy, intent upon imposing its form of government upon the rest of the world.

Some years ago I chaired a subcommittee of the Armed Services Committee that devoted some 6 weeks to hearings on civil defense. We took testimony from over 100 witnesses that included people as diverse as Dean Sayre and Dr. Teller. Through those hearings I developed a real understanding of the civil defense program that surpasses anything of its kind in the world. Now, we can ask ourselves why, if the Soviet Union is intent on peace and peaceful coexistence with the rest of the world does it feel that it is necessary to spend the tremendous sums of money that it has in this protective program for its leaders and its people? I do not find this at all an unreasonable question. And I read the answer as meaning that the Soviet Union gives very serious thought to a preemptive strike against the United States and plans to have the means whereby it can withstand the inevitable strike in return from the United States.

We have received testimony in the Armed Services Committee that the present defense budget is based in very substantial part on the belief that the current SALT talks will prove to be successful. I do not have the same kind of faith in the SALT talks. I think that the safety of this country rests today and will rest for the foreseeable future on our own perceived strength. I have a sincere hope that the SALT talks will lessen tensions. I hope that they will lead to a limitation on arms.

But until those conditions have truly come about I see no alternative other than a military force and a military capability that would deter the very thought of aggressive action against this country.

Mr. Speaker, it is probably little more than a cliché to note that Washington is a different place than it used to be. Jack Kennedy's Washington was a different place from Eisenhower's, and Jerry Ford's is different from Nixon's.

Everybody wore a black homburg when Ike was sitting in the White House, and nobody wore a hat at all when Jack was there. In the past, the changes have been more changes of style or mood, short-term differences that were pretty much on the surface and made little difference in the flow of history.

Lately, though, Washington has changed again, and this time the changes that have come about will probably have deep and lasting effects on the Congress, on the way our laws are made, on the way hearings are held, and, of course, ultimately on the people of the country themselves.

It is my own observation that the changes have come about in three major areas: The composition and the mood of the Congress, the new procedures for establishing the Federal budget, and the changes in the rules of the House.

Only a few years ago—a very few years ago—the President's defense budget would be transmitted to the Congress where it would be dealt with by a committee that was quite stable in its composition. Being on the House Armed Services Committee was a mark of prestige that was sought after—and understandably—by many Members of the Congress. Once they got on the committee they stayed there. In this way, and over a long period of years, a great deal of expertise was developed by the members of the committee; they understood the military services, understood their needs, indeed sometimes it was clear that the committee members understood the needs of the services and the needs of the country far better than those who ran the show from the Pentagon. That, Mr. Speaker, and my colleagues, has changed, and changed radically.

In those days the chairman of the committee was truly in charge of the proceedings. He was, of course, a man of long service on the committee and there was virtually nothing that was presented in the way of testimony to the committee that had not been heard by him in one form or another many times before. The chairman of the committee, always joined by the ranking minority member because there was little or no partisanship on the Armed Services Committee, provided leadership and guidance and background and wisdom that had been accumulated over a very long period of time. The proceedings were orderly, the testimony was well understood, and the judgments rendered by the committee were sound and well conceived.

When the bill was brought to the floor of the House the debate was spirited and penetrating but the atmosphere on the floor was one of restraint and dignity because all Members of the House had full confidence in the committee, and were well aware that the committee was expert in its membership and in its staff. There would, of course, be differences expressed be very various members of the House during the debate.

Perhaps a parochial interest had not been properly included within the bill, or perhaps specifically excluded during the always lengthy hearings on the defense bill.

But as I say, it was an orderly proceeding. The chairman was a man of truly evident leadership and knowledge and his task, for the most part on the floor was to explain rather than persuade. Those days appear to be gone forever. Now everybody is an expert on defense and on the defense budget. When the hearings begin, the chairman, through no fault of his own, no longer truly dominates the proceedings. The chairman is constantly looking over his shoulder to see how the caucus feels about things. And the atmosphere of a hearing, and the deliberations themselves are very different than they used to be.

In the hearings themselves there seems to be among some of the newer Members a very identifiable feeling of distrust toward defense witnesses. No statement of a witness from the Department of Defense goes unchallenged, even though it would appear perfectly clear to an objective observer that the facts are indeed as they are being presented, the threat is as real as it's being portrayed, and the response to the threat has been carefully thought out and is now embodied in the request being made of the Congress, with the Armed Services Committee as the agent of the Congress to hold the hearings and determine the recommendations that will be made to the House itself.

The time is now gone when a committee—any committee at all, not just the Armed Services Committee—handles its own legislation and makes its own recommendations for passage of the bill that finally came out of committee. Although the expertise of everybody is more noticeable in the field of defense, in actual fact it permeates all areas of committee action, and action on the floor itself.

So, what we have seen in the very recent past in the Congress is a revolution. And, speaking of expertise, I believe that I am not only an expert on some aspects of this revolution, but a victim.

In January 1975, the Democratic caucus, made up of all the Democratic Members of the House, was successful in ousting three committee chairmen. Another did himself in, and a fifth, although maintaining the chairmanship of his committee, had his power significantly reduced.

When the dust had settled, Mr. Poage of Texas, Mr. Patman of Texas, Mr. Mills of Arkansas; and I, were no longer chairmen and Mr. Mahon of Texas had his power to appoint subcommittee chairmen snatched from him.

These actions, spearheaded by liberal Democratic Members with the help of 75 freshman Congressmen, dealt a devastating blow to the congressional seniority system through which chairmen have been traditionally designated.

I think it is very important to understand how this revolution came about. The mastermind behind it all was Common Cause, an antidefense lobbying group which holds itself out to represent the interest of the common man—the average citizen—in the Nation's Capital. And Common Cause was helped by the Committee for an Effective Congress.

I think it pertinent, too, to understand that Common Cause is actually a promoter of cause pretty far to the left of center. There is nothing wrong with this as long as it openly admits what it is trying to do. But Common Cause disguises its true colors.

John Gardner has been the driving force behind Common Cause. It was he who engineered the "revolution," as far back as 1969 when he was with the Urban Coalition. At that time he was saying that the conservative committee chairmen should be replace. He continued that philosophy when he became the No. 1 man at Common Cause, which I might mention, receives support from the liberal Ford Foundation and the Rockefeller Foundation and others of the same turn of mind.

Mr. Speaker, Common Cause conducted one of the harshest campaigns against conservative chairmen I have ever seen, surpassing even those I covered as a newspaperman back in the days of Huey Long in Louisiana.

We all remember the "Report on House Committee Chairmen" which Common Cause published and sent to every Member of Congress and to the news media. It was a highly misleading document, five pages of which were devoted to me.

Based on the premise that the seniority system needed reform, a minority of 152 Members of 435 in the House of Representatives has taken control. In my opinion they, in trun, are being profoundly influenced by Common Cause, and nobody elected Common Cause to anything.

Common Cause and the Congressmen who follow its line of thought, a group, I might point out, which is always advocating that the public has a right to know, used the secret ballot in the Caucus to get rid of the Southern conservatives. It would have been more in the high tradition of the House to vote their convictions for all to see. But no; a secret ballot.

What the Caucus has won is to turn chairmanships into mere political plums. Now a chairman has to be elected every 2 years by the Caucus, therefore he campaigns for the position and tries to please everybody. That, to my mind, is no way to run a committee. You have got to be able to be tough to show leadership, and to say "no" when the occasion demands it without any regard as to how your decision will sit with outsiders.

Additionally, this liberal minority of 152 Members tell you: Vote the way we say or we will strip you of your power and committee assignments. Is that representative government? In our system there must be room for divergent views in the Democratic Party.

I am in Congress to reflect the views of my constituents, and since I have been elected 18 times, I must have been doing something right. Nevertheless, one of the arguments used against me was the fact I did not vote enough times with the Democrats. Am I here to represent my constituents or the Democratic Party?

I know why I am here, and I operate no differently today than I did in the past, and I would not change anything if it was in my power to turn back the calendar. I leave here after 36 years with a clear conscience, knowing that I have served the people who elected me to the best of my ability.

These so-called reforms, so fervently adopted, have hampered the 94th Congress tremendously. The record of this Congress will verify that, and the situation can only get worse before it gets better.

The real solution, I believe, lies outside of the Congress itself. It lies with the American people who have the responsibility of sending capable, level-headed Representatives to Washington, "Representatives" who are exactly what that word means, that are beholden to no one but their constituency.

And now goodby to all my friends,
For this is where the Journey ends.
I pray my work has passed the test
Of how to serve my country best.
If this be true, then I leave content
With no regret, and confident
That you who stay, and those who come
Can look back on a job well done.
Again, Farewell to every friend
Hébert's Journey is at its End.

GENERAL LEAVE

Mr. WAGGONNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my Special Order this evening, the Honorable F. Edward Hébert.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

IN SUPPORT OF HOUSE JOINT RESOLUTION 1008 PROCLAIMING THE WEEK OF OCTOBER 3 AS "NATIONAL VOLUNTEER FIREMEN WEEK."

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Derwinski) is recognized for 5 minutes.

Mr. DERWINSKI. Mr. Speaker, in the drive toward adjournment, Congress sometimes is justifiably criticized for its legislative sins of omission as well as commission.

Happily, we did act constructively last week in an action which went largly unnoticed. I refer to House approval of House Joint Resolution 1008, authorizing and requesting the President to issue a proclamation designating the week beginning October 3 as "National Volunteer Firemen Week." It represents justly deserved recognition for our Nation's 1 million volunteer firefighters. I hope the Senate will quickly follow up on this highly commendable joint resolution.

In this day and age when it is becoming increasingly evident that fewer and fewer people are taking an active role in community life, it is highly encouraging to report that there are still approximately 1 million volunteer firefighters in the United States. Volunteers still outnumber full-time, paid firefighters by about 4 to 1.

Further, it should be noted that firemen daily risk their lives in service to their communities.

Volunteer firefighters play a unique role in our society. These men for the most part are the first line of defense against fire, destruction of property, and the providing of emergency services to small and often large communities throughout our country.

The volunteer fire departments also play a very positive and often unique role in serving as a focal point of community activity. Support of a volunteer fire department by individual citizens and civic groups within a community is a stimulating force in maintaining identity and community pride.

Mr. Speaker, to sum up, volunteer firemen, on or off duty, perform an essential and indispensable service to their communities. They are to be applauded for their heroism and many contributions to our American way of life.

TV VIEWING AND ITS RELATIONSHIP TO AGGRESSIVE AND VIOLENT BEHAVIOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

Mr. RAILSBACK. Mr. Speaker, I find it discouraging to hear that from 1974 to 1975, the number of violent crimes committed in this country increased by 5 percent—a sizable increase for 1 short year. Yet this increase is indicative of the overall rise in the number of violent crimes occurring between 1960 and 1975. Within those 15 years, the number of violent crime arrests rose 156.4 percent. What I find most saddening is that the number of juvenile violent crime arrests increased 293.4 percent for that same time. Somewhere, something is going wrong.

At the same time, I find another trend in the American lifestyle, greater exposure to television, especially violent television. According to census findings, 96 percent of all American households have at least one television set, and 99 percent of all American households with children or adolescents have at least one television set. These sets are on for an average of over 6 hours every day. It would be hard to deny that television has played a significant part in the development of its viewers.

Television has made it possible to bring new worlds into one's living room in a very real and vivid manner. Sometimes this is good, and perhaps sometimes it is not.

By the age of 12, the average child will have seen 101,000 violent episodes and over 13,400 deaths. The child will have spent twice as much time in front of the television set as in the classroom. Studies have been done to determine the effects of viewing television violence, and most have found that it can alter attitudes, behavior, or perception of social reality.

University of Utah researchers recently reported on children who view television heavily: The "normal emotional responses to human suffering become blunted and this desensitization may easily cause not only major increases in our society of acts of personal aggression but also a growing attitude of indifference and nonconcern for the victims of real-life violence."

In April of this year, the Annenberg School of Communications of the University of Pennsylvania found in a study made by that school that heavy viewers of television, both adults and children, significantly overestimate the extent of violence and anger in the world, and thus face the world with an attitude of fear and mistrust.

One cannot assume that the coexistence of rising crime and violent television establishes a causal link between the two. In fact it would be foolish to do so. But, by the same token, it would be foolish to ignore the possibility that they might be related.

Since I have begun expressing my own interest in this matter, I have received numerous letters from people in my district—the 19th District of Illinois—reflecting their concern as well. It has also been brought to my attention that the National Parent-Teacher Association is launching a project to study television violence and its effects on children. Their project will include a seminar and a series of eight hearings in major cities across this country. To me, this kind of response indicates that the relationship between television violence and behavior is one that is contemplated by others than myself.

I am today introducing a resolution expressing the concern of Congress in this area, and asking those responsible for TV programing to take these trends into account. The resolution further encourages studies of the interrelations between TV viewing and aggressive, and violent, behavior in children and adults.

I am not suggesting that Congress should throw its weight around and begin making demands. I do not feel that is at all necessary. What I do feel is that Congress considers this Nation's people to be the most valuable national resource. What I do suggest is that we express our concern about that which may harm those people, on whose behalf we serve.

REQUEST FOR REMOVAL OF NAME AS COSPONSOR OF "MEDICAL FREEDOM OF CHOICE ACT"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman woman from New Jersey (Mrs. FENWICK) is recognized for 5 minutes.

Mrs. FENWICK. Mr. Speaker, I would like to have my name removed from the list of cosponsors to the Medical Freedom of Choice Act (H.R. 15179).

Before I can cosponsor a bill that would repeal the 1962 amendment to the Food, Drug, and Cosmetic Act, which requires a new drug to be proven not only safe but effective before it may be marketed, I would require that the new drugs include on their labels, that they have not been proven by the Food and Drug Administration to be effective. Until this is provided for in the bill, I cannot be a cosponsor.

HON. SILVIO CONTE RECEIVES "HONOR AWARD" OF PRESIDENT'S COUNCIL ON PHYSICAL FITNESS AND SPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 5 minutes.

Mr. WHALEN. Mr. Speaker, our distinguished colleague from Massachusetts, Representative SILVIO O. CONTE, has once again bestowed honor upon the House of Representatives. In a recent White House ceremony, Congressman CONTE received the "Honor Award" of the President's Council on Physical Fitness and Sports.

In the past 5 years, only 10 people have received this honor.

Congressman CONTE's best known sports activity hits the headlines every summer with the Congressional baseball game. As manager-player of the Republican team, CONTE has been respected as a stern taskmaster and conditioner, and his teams have soundly whipped the Democratic opponents on 12 of the last 14 outings.

In being recognized by the President's Council on Physical Fitness and Sports, CONTE was honored for a lifetime of dedication to physical fitness, sports, and outdoor activities.

He has been the sponsor of several bills focusing on sports and physical fitness, including legislation to declare a National Coaches Day and to create a National Bicycle Trails System. He is serving on key panels, including the Migratory Bird Conservation Commission and the House Select Committee on Professional Sports. The Council also cited CONTE for his "personal contributions to encourage long-distance marathon running."

Since his days as a football star at Boston College, CONTE has been recognized as a fierce competitor, an aggressive winner, and a gracious sportsman.

I am pleased to apprise my colleagues of this award to our distinguished colleague. Upon receiving the honor award, CONTE had these words on physical fitness.

"It is my prescription of genuine participatory citizenship. It can be achieved in many ways and I am just thankful that I have been able to do my bit to encourage others to take advantage of the opportunities that present themselves everyday to people in all walks of life."

For the RECORD, I am submitting the resolution of the President's Council on Physical Fitness and Sports which accompanied this honor award:

RESOLUTION

Whereas, Congressman Silvio O. Conte has been a leading advocate of cycling as the sponsor of the National Trails Act; and

Whereas, he has consistently served as an example and inspiration to his Congressional colleagues through participation as a coach and trainer of a variety of Congressional sporting activities; and

Whereas, he has always been highly supportive of secondary school athletics and the coaching profession through his personal involvement in their activities; and

Whereas, he has made personal contributions to encourage long distance and marathon running;

Therefore, be it resolved that Congressman Silvio O. Conte be administered the Honor Award of the President's Council on Physical Fitness and Sports in recognition of his personal commitment and leadership in support of the national program of physical fitness and sports.

THE FAILING OF THE F-14

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. CHARLES H. WILSON) is recognized for 60 minutes.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I rise today to present for the record of this distinguished body the disturbing story of the world's most expensive jet fighter, the Navy/Grumman F-14 Tomcat.

The F-14 was to have been the Navy's secret treasure for the remainder of the 21st century. Its long range would permit it to hit enemy aircraft and missiles far from the fleet. The AWG-9 radar/Phoenix missile combination would track 24 targets and attack 6 simultaneously. It would have a movable wing and a powerful new engine that would make it superior as a dogfighter should any enemy planes slip through the long-range defenses.

The findings of an exhaustive report prepared at my request by the General Accounting Office and the results of my own intensive study present, instead, a weapons program which has been scandalized by questionable corporate dealings, disgraced by ballooning costs and racked by a myriad of technical deficiencies. Serious doubts have been cast on the F-14 and its ability to perform as the primary defender of the U.S. fleet.

The F-14 has been neither on time nor on cost. Just this month Congress was asked to approve a $24.5 million reprograming request for a program whose costs have already swelled 40 percent. The Tomcat has been an obvious financial boondoggle manufactured by a company out to gouge the Government for all it can before it folds from its own blundering.

Buffered from reality by its political connections, Grumman Aerospace Corp. has produced for our security a plane ostentatiously unable to perform the important missions assigned it. In 1975 the average F-14 was inoperable two-thirds of the time. With banana-republic efficiency, great numbers of these $22 million birds sit on the ground, looted for spart parts.

Exactly what will be required to put this aircraft in the air, even minimally able to function in America's defense? My efforts as a ranking member of the House Armed Services Committee to obtain a complete and realistic appraisal of this imbroglio and its solutions have met with little success.

Our only remaining strategy is to cut losses now and hold the line on dubious spending proposals. This refers to undeniably forthcoming appeals to reengine the Tomcat and increase the number of aircraft ordered. Neither have military merit, both will serve only to perpetuate the incompetence of the present program.

The Navy and Grumman Aerospace Corp. signed the F-14 contract on February 3, 1969. A total procurement package, it provided for research and development as well as firm fixed-price production over an 8-year span.

Grumman's original bid for the airframe work, made in the fall of 1968, contained a ceiling of $2.58 billion. An independent Navy estimate predicted that costs would actually reach $2.89 billion. Despite this, in what can only be interpreted as an attempt to encourage irresponsibility in one of its favorite contractors, the Navy requested that Grumman reduce its bid $474 million to $2.4 billion. Although still $100 million higher than McDonnell Douglas, Grumman snared the contract.

Grumman's pricing was based on unrealistic inflation expectations and an overly optimistic estimate of the company's future business base. Instead of using an inflation rate based on actual experience in the post-Vietnam period of 1965 to 1968, the company used a 10-year history of inflation. This manipulation rationalized a 3-percent-per-year labor cost increase and a 2.5 percent materials cost growth figure—predictably, the inflation rate doubled and tripled.

Later, in 1972 Grumman claimed a loss and halted the F-14 production line, and the Navy allowed the contract to drop. However, the unprecedented renegotiation which followed cannot be passed off as the result of inflation and other unexpected costs. The officers of Grumman Aerospace, a company which receives 90 percent of its business from the Government, are not children—they surely knew how to bid on a contract. No, it is clear that Grumman reduced its bid low enough to buy the award and 4 years later the country had to bail them out.

There is, by the way, considerable question over the validity of Grumman's claim that they would lose $545 million on the original contract and it is debatable whether adequate criteria for restructuring ever materialized. Counted among projected losses were $140 million in profits, and calculations included the restructuring of certain subcontracts when these subcontractors had testified that they would hold. In another attempt to magnify projected losses, in September 1972, Grumman sold some profitable assets to the American Aviation Corp., a private manufacturer 80 percent of whose common stock was owned by Grumman.

In the face of such conflicting evidence, the decision to bailout was no doubt eased by the fact that the former chairman of CREEP, Clark MacGregor, had just signed on as vice president of United Technologies, a company which stood to lose at least $1 billion worth of business had the F-14 project been discontinued. Not so coincidentally, two close Nixon associates, W. P. Clements and J. Fred Buzhardt, were members of the Government negotiating committee. Formerly head of the Texas Committee to Re-Elect the President, Mr. Clements was, as he is now, the Deputy Secretary of Defense; Mr. Buzhardt was a General Counsel for the Office of the Secretary of Defense. Recent evidence of then-President Richard Nixon's personal interest in the lifesaving sale of F-14's to Iran is only another example of a remarkable relationship.

Grumman's contract is now negotiated yearly. Even though realistic target prices are available, the new contracts are funded to the ceiling, allow Grumman up to 8.9 percent profit and have no penalty clause for late delivery. Surely one may ask if this is reasonable, especially in view of the fact that this was a sole source deal, at greater cost to the Government than contracted for under competitive procurement.

In another round of corporate deception, Grumman made a $2.8 million profit by reinvesting money from cash loans received from the Navy.

As a consequence of the company's loss of commercial credit in 1972 the Navy set up an "advance payment pool account" to provide Grumman with short-term credit at a 6⅞ percent interest rate. Raised from $20 to $36 million in September, the Navy loaned Grumman an additional $18 million on December 12, 1972, 1 day after the company announced the halt of production on the F-14 contract. In direct response, critics in Congress passed the landmark Bailout Control Act requiring the Defense Department to obtain congressional approval for any such loan in excess of $25 million.

In August 1974, the Senate refused a Navy request to increase payments to $100 million when it was disclosed that the corporation had invested at least $24 of the $52 million in short-term securities. Applying the profit of nearly $3 million against the interest rate, the effective rate of interest paid by Grumman for the Government loans was 2.3 percent.

Just as Grumman's financial situation became an impossible embarrassment to the Navy the aerospace corporation turned to another benefactor, the oil-rich Shah of Iran. In September 1974, Grumman obtained a $200 million loan from a consortium of banks, including the National Bank of Iran.

Iran's participation in refinancing Grumman was directly related to that Government's interest in buying 80 F-14's. For Grumman, this $2.2 billion sale came at a time of serious financial difficulty. The Iranian loans and purchases became critical factors in the company's survival.

Official U.S. objections to the sale, anticipated by more rational men, never surfaced. It was Nixon, himself, who removed any obstacles to the transaction with his infamous visit to the Shah in 1972. The State and Defense Departments remained unconsulted by a deranged administration and a desperate firm out only to save itself.

We live today with the deformed fruits of this misguided policy—large increases in sales to Iran exempted from the normal interagency review and an escalating arms race in the most volatile region of the world.

Aside from these major foreign policy implications, this setup has also increased the price of the F-14 to the American taxpayer. While the Navy insists the sale saves us $300 million in recovered research and development costs, the stretchout in production to accommodate the Shah will increase the total program a whopping $646 million.

This short account of the evolution of the Tomcat fully explains the story which followed. A buy-in, repeated bailouts, routine tolerance of defense industry excesses and political back-scratching—all are reflected in cost overruns, shattered schedules, fiery crashes and a multimillion dollar plane that is incapable of accomplishing its mission.

On this contract, termed by one high-ranking official as a "flagrant buy-in," total program costs have increased $2.5 billion to $8,676.1 million or 40 percent from the development estimate, while the quantity of production aircraft has decreased by 72. The cost per plane has increased 64 percent, bringing the cost of each F–14 equipped with the Phoenix missile—used only with this aircraft—to over $22 million.

While Grumman is currently producing on time, a cursory look at the program's history will show that airframe deliveries, engine development and service trials all experienced slippages. Most important were the delays throughout the testing: the first and second Navy Preliminary Evaluations—NPE—were 7 and 9 months late, respectively; BIS—to determine whether an aircraft is suitable for military application—was 8 months late in starting. When they finished, approval for service use was 1½ years late.

Actually, after 36 months of testing at the Navy's aviation test center at Patuxent River, Md., the board concluded last year that not all necessary development work had been completed and that the F–14 could not be considered an adequately tested aircraft. They advised that the F–14 not be given service acceptance until 400 discrepancies had been cleared. This recommendation, however, was quickly vetoed by the Washington office.

Such lackadaisical schedule performance caused a high overlap in development and production, making less data available at key decision points, maximizing the uncertainty factor and retrofit costs. Contempt for proper testing procedures is evidenced by the fact that, since deployment, the F–14's have spent much of the time on the ground, too dangerous to fly after a series of malfunctions and mishaps.

Of the original 11 F–14's allocated for R. & D., 8 have thus far crashed. In comparison, of 20 of the Air Force's new F–15 air-superiority fighters similarly allocated, not one has been lost.

In all, 17 F–14's have crashed—see appendix I. Twelve of the aircraft have been lost, five sustained major damage at a cost to the Navy of more than $270 million. For a plane which the Navy and Grumman term an unqualified technical success, I find its brief history most notable for the frequent failures.

Another of these expensive jet fighters perished in the Atlantic Ocean just last week, after one of its two engines malfunctioned during a takeoff. Three of the deck crew were injured, but the two occupants of the plane ejected safely. Five others who trusted their lives to this shell of metal have not been so lucky.

Problems plague the TF–30 engine, made by the Pratt and Whitney Aircraft Division of United Technologies. In the last 2 years five planes have suffered substantial damage and four have been demolished due to faulty engines.

Three F–14's have gone down as a result of blade failures in the first stage fan section, where normal foreign object damage (FOD), aggravated by the sea air, has caused the blades to break off completely. The permanent fix for this malfunction, a redesigned blade, will not be available for another year and one-half. In the meantime, daily visual inspection is required, supplemented by eddy current inspection of FOD.

Two F–14 Tomcats, both deployed on the U.S.S. *Enterprise*, crashed into the sea within 12 days of each other, and one more perished off the California coast—all the result of a third stage fan disc/blade failure, caused by violent vibrations induced by excessive wear of the air seal between the second and third engine stages. After each accident the Navy had to ground and inspect its entire F–14 fleet. Navy personnel had to remove engines with over 100 hours of flight time, unstack fan sections, open compressor cases and inspect fan sections, bleed ducts, and fuel lines. An interim fix was finally decided upon and orders prevented engines from flying until it was incorporated.

In addition, upon the return from their Mediterranean debut, 75 percent of the F–14's aboard the *John F. Kennedy* were decked by problems with the retaining rivets between the second stage turbine air seal and shroud, and needed to be lifted off the carrier. Had these planes taken to the sky, excessive friction could well have caused more fatal crashes. Directives now require that all engines with 250 hours of flight time be removed and new engine rotors, rivets, blades and shrouds installed, an overhaul costing 150 man-hours.

To the dismay of all, an F–14 lost last March because of a fire in the port engine had incorporated all existing engine fixes. Baffled, the Navy slapped on restrictions constraining the flight envelope to less than 4g—a limitation which would effectively prevent the fighter from dogfighting. Also announced were plans to install a containment shield around the powerplant. Conservative conjectures estimate a cost of $86 million for this fix which will, hopefully, prevent blades which have broken or come off from cutting fuel or control lines and thereby causing a catastrophic failure.

The galling problem is that the TF–30 is far from a new machine, having been around since 1959. Pratt & Whitney slightly modified it, but the engine was to be one of several proven, off-the-shelf items to reduce the risk involved in developing the Tomcat. Instead, this engine is the No. 1 readiness degrading item; associated fix and inspection procedures are costly in labor hours, flying time, and maintenance funds.

This same engine powers the Air Force fleet of F/FB–111 aircraft. There, engine troubles have caused eight of these planes to crash in the last 24 months, killing two men. Problems with the TF–30 have grounded A and E model F–111's three times so far this year.

Many other technical deficiencies sap the strength of the costly fighter. The flight envelope has been restricted because of a tendency for the aircraft to stall in midair at high altitudes. This could be due to the plane's clean air problem—a situation in which the engine does not receive a steady flow of smooth air.

The flap/slat drive sets tend to lock in place, asymmetric sensors are failing at a high rate, and the drive shafts have experienced failures as a result of sudden flap reversals. It was this impairment which caused the crash of at least one Tomcat last June, killing the two men aboard. In all, the additional maneuverability which might have accrued from the variable sweep-wing design has been mightily reduced.

The computer signal data converter—CSDC—which converts data from all avionics systems to a form readable by the pilot, has experienced memory alteration problems, attributable to excessive heating of the system without the provision of proper cooling air. Careless workmanship and faulty quality have caused a significant number of data removals. The central air data computer—CADC—which transforms inputs from sensors outside the aircraft into information for the aircrew and the flight control system, and the CSDC have also experienced unusual water intrusion problems.

Electrical wiring faults have been exposed, again due to shoddy work and skimpy materials. Although the Navy denies that a final determination has yet been made, the cost to rewire will be in excess of a quarter million dollars per plane.

Several interface problems exist with the Sparrow—AIM–7E, F and Sidewinder—AIM–9G, H, L missiles, also causing a serious loss of capability.

In aggregate, system reliability and operational readiness of the F–14 have been radically lower than stated goals. The service set 1,600 hours between failures as the objective for the AWG–15 fire control system; actual experience has brought a failure every 94 hours—short of the goal by 94 percent. The CSDC and CADC fail original reliability specifications by 87 and 99 percent respectively. The deadly impact of these figures hits home when one realizes that an aircraft cannot be flown when the central air data computer is down, and weapons cannot be fired without the use of these other two systems.

Navy brass contend that the TF–30 engine is meeting its reliability milestone of 350 hours between overhauls. A review of reality tends to contradict this—to provide improved-strength rivets, engines have been overhauled after 250 hours, 100 hours short of their aim. Furthermore, the poor performance areas outlined above continue to cause unscheduled maintenance every 32 hours.

This past July saw the grounding of 50 F–14 jet fighters because fatigue tests on the landing gear bulkhead showed that it broke twice as early as expected. Original requirements specified replacement every 250 carrier landings, but the part is now limited to 125 flights.

The long-range, air-to-air Phoenix missile, the F–14's primary weapon system, has failed to meet some reliability requirements, notably the prescription for mean flight hours between failure while carried on the aircraft.

According to GAO, the captive flight reliability rate is quite low, short of the desired 323 hours by a significant margin.

The availability of this crucial missile has also been greatly affected by the erraticism of the AWG-9 radar. This weapon control system is a consistent headache and is ranked among the top readiness degrading items in the most recent RISE summary.

What is more, serious difficulties have been encountered with the missile-on-board-aircraft test—MOAT—and the Versatile Avionics Shop Test—VAST. These are automated stations for testing missile and avionics components installed in the F-14. Experience has found that failures cannot always be verified and problems cannot always be isolated to the proper system. Deficiencies have been found in the software interface between the VAST station and the unit to be tested. Without adequate usage of these shipboard programs, many elements cannot be quickly and reliably tested and repaired, so more parts must be consumed.

Dangerously low component reliability and problems with VAST and MOAT are seriously compounded by the mismanagement of spares.

Supply support problems have been instrumental in limiting F-14 operations. Shortages in supplies have had to be compensated for by cannibalization; in fact, most of the parts that have made successful operations possible have been removed from other F-14 aircraft. During deployment from the U.S.S. *Constellation*, 94 percent of all F-14 sorties required cannibalization to permit takeoff. In the Pacific fleet, alone, in excess of 1,086 parts were taken from F-14's during a 2-month time span. The situation at Miramar Naval Air Station in California is symptomatic of the dilemma. There, more than 5 of these planes were used as supply bins, remaining inoperable for longer than a year, and 24 were down more than 3 months.

Unfortunately, this is not a difficulty new to the Tomcat program. In May 1975, the General Accounting Office charged the Grumman Corp. with exhibiting serious weaknesses in the management of spare parts. At the same time, the agency criticized the Navy for exercising virtually no control over the situation and cited them with questionable buying practices that resulted in considerable cost increases. Among other conclusions, the congressional watchdog office found that there were discrepancies of about $21 million involving parts included in a sample test of entries in the contractor's principal inventory control report; and that Grumman's accounting system permitted costs incurred on numerous orders to be commingled, making it difficult for Navy negotiators to relate the costs to specific orders. They also charged that the value of the parts Grumman reported to the Navy as the amount the company was accountable for was $28 million less than the amount shown in a Grumman internal management report as having been ordered.

The magnitude of undependable equipment and supply support problems is indicated by the fact that the fleetwide operational readiness of the F-14 perilously deteriorated from 39 percent in 1944 to 26 percent in early 1976, considerably less than one-half of official Navy objections. An operationally ready aircraft is defined by the Navy as "a safety flyable aircraft with operable mission subsystems essential for the performance of one or all of its primary missions." Poor preparedness, then, has had a serious impact on the effectiveness of the F-14 weapon system.

Navy scenarios require that the F-14 Phoenix perform two missions. The aircraft's primary role is to defend the fleet against antiship missiles by establishing maritime air superiority. It also has the important task of air-to-air combat and close air support, termed force projection. With this paradigm in mind, Grumman's inability to meet original contract specifications in certain key areas appears quite alarming.

The vehicle which relieved Grumman of its responsibilities is the contract modification known as "Trade Fair." This trade-off requires the aerospace corporation to update 11 test and evaluation aircraft, while in return the Navy has waived weight, range, minimum fuel flow, cruise ceiling, maximum speed at 40,000 feet, and fuel dump specifications. Thus, reach and loiter time—essential components of fleet air defense—and maneuverability for air combat have all been sacrificed. The Navy has admitted that Trade Fair will seriously circumscribe the plane's potential, but find themselves helpless in the face of Grumman's paralyzing incompetency.

Furthermore, the recent investigation by GAO has uncovered several areas in which the F-14/Phoenix, in its maritime air superiority role, would be unable to defeat the enemy. Illuminated weaknesses include the defense against high-speed, high-altitude targets; performance in an electronic countermeasure environment—ECM; an inability to defeat clustered targets; and limitations on the Sparrow missile. Constrained by problems inherent in depending on the E-2C early warning system and lacking the capability for long-range target identification, the potency of the $500,000 multishot Phoenix is crippled by the fact that the crew must visually identify the enemy.

It is also widely acknowledged that the TF-30 cannot generate enough thrust to make the plane a first-rate fighter. While it can probably engage the current threat, the F-14 could be blasted from the sky by the new VTOL fighter recently deployed by the Soviets.

This was demonstrated in recent exercises between the Navy jet and the Marine Corps/Harrier AV-8. In 16 simulated battles the F-14 failed to maintain air superiority in close-in, air-to-air combat over a plane that closely resembles the new Russian YAK-36.

Of course, the Navy would like to reengine the F-14. The original scheme was to put this engine in the first 67 planes, then switch to the advanced technology engine—ATE, the F-401. Begun as a joint program with the Air Force's F-100, this engine was being designed by Pratt & Whitney to have higher thrust, lower weight, and improved fuel consumption to extend range. However, when the Congress deleted funds for the F-401 in fiscal year 1975, the project was in excess of $200 million overrun, 2 years late, technicaly deficient, and had failed repeated attempts to sustain a 60-hour substantiation test. See Appendix II. It was low on thrust, too high on fuel consumption, and had an afterburner performance only matching that of the TF-30. The Navy spent $346 million and 4 years developing an engine that was not significantly better than the engine already in the aircraft.

It is no wonder. The Air Force Scientific Advisory Board's ad hoc Committee on Turbine Engines, aside from opening the program up to charges of a Pratt & Whitney buy-in, concluded that the company accepted too high a degree of technological risk and did not apply full corporate design capabilities in the F100/F401 development. See appendix III.

Navy experts estimate that $180 million and 40 months would be required to complete development of a modified version of the F401. It should be noted that the engine now being proposed by Pratt & Whitney would still be short of original designations. Under Specification Change Notice 571, afterburning thrust would be cut by about 2,000 pounds to under 27,000 pounds and military nonmaximum thrust—without afterburner—would be cut 11 percent to 16,000 pounds. And if the performance of its sister engine, the F100 is any indication, operational and reliability problems will persist even then.

In an effort to broaden its options, Congress this year authorized and appropriated $15 million to reopen hardware competition for the ATE. General Electric's F101X and the F401(571) are expected to contend.

However, I disagree that the plane should be reengined at all. While I acknowledge that the F-14's ability to perform as a dogfighter would be somewhat improved, the installation of an ATE would actually degrade the execution of its primary maritime air superiority task. Improvements would be offset by greater fuel usage, shortened range, and decreased time on station. According to GAO:

> Normally, the F-14A is expected to counter antiship missile launch platforms or the missiles themselves once they have been launched. The situations in which enemy fighters will be encountered for air-to-air combat are limited because of the distance the carrier operates from land masses. In those situations in which the carriers are within the range of the enemy fighters the F-18 could be relied on to counter the fighter threat. The F-18 is intended to supplement the F-14A and according to the Navy has an advantage over the F-14A in the air-to-air combat role. (See appendix IV.)

Grumman would have us reinstate development for a more powerful engine, in the words of Chairman of the Board George Skurla, to "expand and extend" the F-14's marketing potential. Saudi Arabia recently told the Navy it would like to acquire the F-14, but only if the aircraft had a new engine. I would certainly deny, however, that U.S. taxpayers should finance Grumman's foreign sales efforts to the tune of a $2 billion program.

It is, of course, disappointing that this expensive plane has failed expectations so miserably. It is a shame that we are paying $22 million for a fighter that we already know can be defeated. But the time has come for the Navy to cease proposing expensive fixes and start reanalyzing its alternatives.

The F–14 does not have to be configured as a dogfighter. The Tomcat's raison d'etre, the Phoenix missile, can still be utilized to enable the plane to perform its fleet air defense role, and the F–18 can take over much of the air-to-air combat load. This lower cost airplane has a distinct margin of superiority over the F–14 at all speeds and altitudes in the dogfight arena, where its smaller size and its excellent design for acceleration, excess power and agility can be utilized.

With this in mind, let us consider the economy of several options. We could spend millions to fix the present engine and $1.5 billion to procure and install a new one.

We could possibly suspend the F–14 production line until the ATE is ready 3 years from now. But the Navy swears this action would carry $2.3 billion in penalties.

We might do nothing, and allow the TF–30 to fly in its present state. A dangerous course, it appears, both for the pilots and for a future generation which might recognize the ocean only as the junkyard for totaled Tomcats.

I would propose that we patch up the TF–30 and utilize the F–18, already to be procured as a replacement for the aging F–4 and A–7. GAO concludes that:

> The improvements offered by the F401-(571) . . . are not primarily in the F–14's major role of maritime air superiority but in air-to-air combat, a force projection role which could possibly be better fulfilled by the F–18 aircraft.

The Navy and the Congress would do well to heed these words and refrain from reembarking on an ill-fated project that has already squandered $1 billion in tax money and which would raise the price of the F–14 to a preposterous $26 million per plane.

In addition, Congressman JIM LLOYD and I have recently called upon the Secretary of the Navy to certify the modifications currently planned for the turbofan engine. We requested that all alternatives be considered and assurances given that the containment fix is the optimum solution. I have submitted the response for the record. See appendix V.

Finally, another decision which will undoubtedly face the Defense Department and the Congress in the near future is whether to hasten the production rate and increase the planned buy of F–14's. The quantity was cut from the original figure of 469 to 313 in 1971, but after the contract dispute was resolved in 1973, program numbers have steadily climbed to 403 in 1976. Further increases to 540 aircraft are reportedly under consideration.

I urge that the Congress reject any attempt to enlarge this unfortunate program, whether by small increments or by great jumps, or continue to procure for the defense of this Nation a largely unworkable aircraft in need of major and costly revisions. The F–18 has proven that there are other, more cost- and mission-effective alternatives.

It is high time that the Congress assert its responsibility to the taxpayer and assure the legacy of a strong America for our children. That we have been negligent in this respect is clear, because our country's front line Navy fighter is a plane of diminished mission strength that dares rarely to leave the carrier deck. We have devoted $6 billion and 7 years to the development and production of a weapon system that is not yet combat worthy.

How many more times are we going to bail out Grumman and Pratt & Whitney? Let us redesign from our mistakes and recover our vigilance. We must demand cooperation from the Navy and honesty from hungry contractors, who for too long have been compensated for their own incompetence.

I suggest that other Members read the valuable study, "Review of the F–14A/Phoenix Weapon System," completed by the General Accounting Office. I would then exhort my colleagues to join me in serving notice that, hereafter, all demands for the F–14 will face strenuous inspection from this side of the Hill:

List of F–14A Crashes and Aircraft Losses as of Sept. 15, 1976

(Based on GAO Compilation Updated through mid-September)[1]

(Provided by Congressional Research Service)

1. Dec. 30, 1970, Bethpage, N.Y.—Aircraft No. 157980 (first prototype) lost on second flight. Hydraulic equipment failure resulted in loss of flight control systems on landing approach.

2. Jun. 30, 1972, Patuxent River, Md.—Aircraft No. 157989 lost. Pilot caused accident; aircraft was flown into the water.

3. Jun. 20, 1973, Point Mugu, Calif.—Aircraft No. 157985 lost. Missile struck aircraft during launch, causing fuel leak and subsequent fire.

4. May 13, 1974, Bethpage, N.Y.—Aircraft No. 157981 damaged. Engine fire caused by hydrazene fitting improperly installed by Grumman maintenance personnel. Aircraft currently used as static test equipment.

5. Aug. 19, 1974, Bethpage, N.Y.—Aircraft No. 157982 damaged. Engine stall resulted in vibration causing a missile cone to fragment and become ingested into the engine. Aircraft restored to flying condition.

6. Sept. 19, 1974, Patuxent River, Md.—Aircraft No. 157987 damaged. Vibration of third-stage fan disk caused engine fire and explosion which caused the engine fairing mounting assembly and the fairing skirt to fail and be drawn into the engine duct. Aircraft was repairable.

7. Jan. 2, 1975, USS Enterprise—Aircraft No. 158982 lost. Probably caused by failure of third fan disk in port engine compressor, which caused a fire and loss of control of the aircraft.

8. Jan. 14, 1975, USS Enterprise—Aircraft No. 159001 lost. Failure of third fan disk of engine compressor caused fire in starboard engine.

9. Jun. 24, 1975, Oceana, Va.—Aircraft No. 159432 damaged. Explosion and fire in port engine, caused by contractor installation of defective first-stage fan blade, ruptured fuel and hydraulic lines. Aircraft was repairable.

10. Aug. 5, 1975, USS Kennedy—Aircraft No. 159007 lost. Carrier arresting gear failed, resulting in loss of aircraft over the edge of carrier.

11. Oct. 29, 1975. Miramar, Calif.—Aircraft No. 159590 lost. Failure of third-stage fan blade, which exited the fan case, causing an explosion and fire. A powerplant change was in effect, but aircraft was allowed to fly without its being incorporated.

12. Mar. 5, 1976, Patuxent River, Md.—Aircraft No. 159826 lost. Investigation not completed as of mid-1976.

13. Mar. 25, 1976, Miramar, Calif.—Aircraft No. 159461 lost. Cause undetermined as of mid-1976, but an engine fire was involved and all available powerplant changes had been made.

14. May 4, 1976, Fallon, Nev.—Aircraft damaged but repairable. Investigation not completed as of mid-1976.

15. Jun. 21, 1976, Miramar, Calif.—Aircraft lost in crash probably caused by human error, according to preliminary inquiry.[2]

16. Jun. 23, 1976, Miramar, Calif.—Aircraft lost in crash probably resulting from mechanical malfunction not related to engine, according to preliminary inquiry.[3]

17. Sep. 14, 1976, USS Kennedy—Aircraft lost overboard in international waters north of Scotland while preparing for take off. Accident reportedly caused by malfunctions of the engine, fuel control system, and brakes.[4]

Appendix II

[From U.S. News and World Report, August 2, 1976]

Inside Story of a Troubled Plane That Will Cost Taxpayers Billions

This is the anatomy of a 2.5-billion-dollar bureaucratic blunder, a decision made five years ago that is coming back to haunt the taxpayer today.

The story concerns the F–14 Tomcat, which, as the Navy claims, may be the "world's best fighter plane"—when it is flying. Too often it isn't.

For a year and a half, the F–14 has spent much of the time on the ground, too dangerous to fly, after a series of malfunctions and crashes.

How did this situation come about? Could it have been avoided? Who was responsible? And what, in the end, will it cost the taxpayer?

To get the answers, *U.S. News & World Report* reviewed the 10-billion-dollar F–14 program from its inception nearly a decade ago, drawing on congressional testimony, on interviews with those involved and on key documents obtained from the Pentagon under the Freedom of Information Act.

HIGH HOPES

The F–14 was to have been the Navy's dream plane for the remainder of this century. Its capability was to be twofold:

It would have long range and a radar-and-missile system that would permit it to knock down enemy planes and missiles far from the fleet.

It would, in addition, have a maneuverable wing and a powerful new engine that would make it superior as a "dogfighter" if any enemy planes slipped through its long-range defenses.

The plan for building the plane was a model, too, designed to avoid all those difficulties that had plagued big defense contracts in the past. To reduce the risk of costly technological problems, the first of the Tomcats would be equipped with an existing, trustworthy engine. Meanwhile, a new and far more powerful engine would be developed.

Only when that engine had been fully tested would it go into planes on the production line. The Navy hoped to buy more than 700 F–14s, with the old engine in fewer than 100 of them.

The contract for the aircraft with Grumman Aerospace Corporation was signed in

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[1] GAO. Review of the F–14A/Phoenix Weapon System, Aug. 3, 1976. p. 18–19.

[2] Navy Lifts F–14 Flight Ban after inquiry into Crashes. New York Times, Jul. 11, 1976. p. 19.

[3] Ibid.

[4] George C. Wilson. Navy Ready to Raise F–14; Soviets Nearby. Washington Post. Sept. 17, 1976. p. A1.

January, 1969, shortly before the Johnson Administration left office. The Pratt & Whitney division of United Aircraft Corporation (now United Technologies Corporation) was signed to a joint contract to develop and build new engines for both the F–14 and the Air Force's new F–15 fighter plane.

That smooth, logical plan, however, quickly began to come apart. Inflation boosted development costs. Grumman ran into severe financial problems. The new engine fell behind schedule. Congress cut the plane order nearly in half. Costs soared: 12, 14, 16, 18, finally more than 20 million dollars each, making the F–14 the most expensive fighter plane in history.

The stage was set for the 2.3-billion-dollar blunder.

Members of Congress, led by Senator William Proxmire (Dem.), of Wisconsin, wanted to kill the F–14 and replace it with a cheaper, lightweight fighter.

Grumman, faced with bankruptcy, threatened to halt production. Defense officials feared that, if they adjusted the program, that would break the contract with Grumman and might mean the death of the F–14.

The "solution" to the problem that was eventually to prove so costly first appeared in a formerly classified Pentagon memo from Deputy Defense Secretary David Packard to Navy Secretary John H. Chaffee on Feb. 25, 1971.

In cautious language, Mr. Packard suggested that the Navy simply go ahead with production of the model with the older engine. Switching to the new engine, he said, "may not warrant the additional risk and cost."

Two critical meetings, limited to top Defense and Navy officials plus technical experts, were held in Mr. Packard's office on May 27 and June 22, 1971.

Formerly secret documents presented at the June 22 meeting are among those obtained under the Freedom of Information Act. They show that four options were considered, ranging from production of the plane with the old engine to stopping production until the new engine was ready.

LOOKING BACK

It would have been best to stop and wait for the new engine, says R. Adm. John Alvis, who was not involved at that time but who is now program manager for the plane.

"In the long run," he says, "that would have been the cheapest thing to do, and today we'd have a fighter much more reliable and capable. But at the time? It would have been political suicide."

The decision to go ahead with the old engine avoided the kind of open fight that, in the antimilitary atmosphere of the early '70s, might have caused Congress to kill the program. But it also meant that the entire fleet of F–14s would be equipped with an engine developed more than a decade ago.

In effect, the decision was to go ahead with a plane known to be underpowered for its role in close-in combat.

At first, Pentagon officials publicly contended that work on the new engine would be pushed and that it would be fitted into the plane as soon as possible. But it quickly became apparent that the steam had gone out of the development program.

Although pilots badly wanted the greater power that a new engine would give them, the Navy might have been able to get along with the less-powerful power plant since the F–14 would still be capable of its long-range defense job.

NEW SETBACK

Then something unexpected happened: The old reliable engine of the F–14 began acting up.

On Jan. 2, 1975, the port engine on an F–14 flying off the U.S.S. *Enterprise* in the Western Pacific exploded. Admiral Alvis says the effect was similar to a hit from a 57-mm antiaircraft shell. The plane was lost at sea.

On Jan. 14, 1975, the starboard engine on another Tomcat from the *Enterprise* blew up. Another loss at sea.

Use of the planes was restricted, and engine changes were ordered. But an engine blew up on Oct. 29, 1975, at Miramar Naval Air Station, Calif., and another plane was lost.

Navy experts now think they know what caused those crashes and how to solve the problem. But there has been a new and more ominous development.

Three more planes, all late models with all the "fixes," have been lost this year at Miramar—on March 25, June 21 and June 23.

Although only one of these three accidents apparently was caused by engine failure, F–14 experts are fearful that the changes made to correct early problems may have created new and still undiagnosed troubles in the fighter plane.

If the Navy had successfully completed development of the new engine, it would now have the option of replacing the defective older engines. But, as a result of that decision made five years ago, the Navy is caught in this position: Even if it decides on a belated plan to develop a new engine it will still have to repair the old engine to keep the F–14s flying at least under the early 1980s.

Says Admiral Alvis: "We've got to fix that engine."

The bills flowing from the decision of five years ago to drop the new engine will continue to pour in for years to come, and it is possible to make only a rough guess now of what the total eventually will be.

One of the first jolts came almost immediately after the engine decision, and it cost the taxpayers more than half a billion dollars. When members of Congress were told about it, they couldn't believe their ears.

This is what happened: The Navy and Air Force had a joint contract with Pratt & Whitney to develop and build two similar engines, one for the F–14, the other for the Air Force F–15. When the Navy told Pratt & Whitney it had decided not to buy its engines, that broke the contract. As a result, the Air Force had to negotiate a new contract—and ended up paying 532 million dollars more than under the old agreement.

R. Adm. L. A. Snead, one-time project manager for the F-14 program, later acknowledged to members of the House Armed Services Committee that most of the money could have been saved if the Navy and Air Force had simply "put our heads together."

Before the development program for the new F-14 engine came to a halt, 346 million dollars had been spent—nearly 200 million over original estimates—and experts said that another 200 million would have been needed to complete the job.

But even those sums may look small in comparison with coming bills.

On July 1, Congress agreed to provide up to 15 million dollars for a competition between Pratt & Whitney and General Electric Company for development of a new engine for the F-14. The Senate and House agreed that "the problems with the current engine and the need for more power for the F-14 airplane dictate the need for the new engine."

This is the way the costs now add up:, The 200-million-dollar overrun on the engine development and the 532 million lost through failure of the Air Force and Navy to consult each other total more than 700 million. Now it is expected to cost 183 million to complete development and another 1.5 billion dollars to buy and install new engines. Add on 93 million to fix the ailing engines now in use, and you come to the 2.5-billion-dollar blunder.

If the new program goes through, the work will not be completed until well into the 1980s, and the full cost of the fateful decision of 1971 may well soar into additional millions of dollars.

WHO IS TO BLAME?

Even with hindsight, it is hard to pinpoint blame, but there clearly is enough to go around. As specialists in defense affairs see it:

Those members of Congress who opposed the F-14 and managed to cripple but not kill it own a share of the blame.

The top Defense and Navy officials who decided to build an underpowered plane also deserve a portion.

The big defense contractors whose promises outran their performances bear at least some of the responsibility.

Now authorities foresee the possibility of a new blunder lurking in the dilemma that still exists:

Which would be the bigger mistake, to spend millions to repair the current F–14 engines and then billions more to replace them—or to risk the nation's safety by sending an outclassed plane into some future conflict?

APPENDIX III

EXCERPT FROM AIR FORCE SCIENTIFIC ADVISORY BOARD'S SPECIAL REPORT ON TURBINE ENGINES, JANUARY 1976

F100

Development conditions

There was a moderate degree of risk in the achievement of the performance objectives for the F100 based on the technology available at program inception. But in the drive for large thrust/weight ratio, there was a high degree of risk in the achievement of the structural and mechanical integrity and durability goals. Throughout the development program, when trades were necessary between performance and durability, performance was held inviolate. (It should be noted that this was in compliance with current Military Standards.)

Pratt and Whitney (PW) originally bid $700M for the development of the F100 (Air Force) and F401 (Navy) models of the engine. Contract negotiations drove this price down to $450M. During the course of development, $1,000M of 3600 funds was spent, $300 of which was for the F401. Thus, $700M was spent on the F100, precisely the original bid for both models of the engine.

The Air Force contracted for only ten development engines, which led to holdups in development testing (including a schedule slippage of eighteen months in the altitude testing portion), contributing significantly to the rise in development cost.

The priorities of the SPO and PW were aimed primarily toward the short-term accomplishment of a successful endurance test rather than toward the longer term goal of an operational fleet of engines with good performance and acceptable durability, reliability, and maintenance cost.

Current status

A number of severe engine problems were identified and corrected during the engine development process. However, some of the engine operational problems and engine reliability problems still exist (see Final Report of the F100 Executive Review Group, May 1975). The more significant problems are:

1. The augmentor is not operational in the high altitude, low mach number region of the flight envelope because of problems in three separate regimes of augmentor operation. The first of these limits is a failure to obtain augmentor starts on command (often called mislight). Secondly, when the augmentor is operating, blowout occurs during the sequencing operation of the multizone fuel system. The third problem is a rich combustion instability (rumble) which occurs at high augmentor power.

2. Compressor stalls occur at low power (off-idle) during rapid throttle movements.

3. A number of problems exist in the engine trim process which affect the performance, stability, and durability of the engine and consume resources in the field. Engine trim is a customizing process by which each specific engine and its control system are matched to achieve specified engine performance. The majority of these problems result from an incomplete understanding of the characteristics of the hard-tooled production engines as a function of ambient temperature and pressure during both ground and flight operations. Other problems related to engine trim result from the unavailability of adequate trim procedures and from deficiencies in the ground support equipment required for engine trim.

4. Structural integrity and reliability problems exist in key components of the engine, notably the second stage turbine blades, the augmentor/nozzle assembly, the number four bearing, and the control system.

The augmentor operational problems generally existed at the time of engine qualification. The onset of serious verification of augmentor operational capability was intentionally delayed until late in the engine development process. This delay occurred because the configurations of several upstream components (e.g., fan, compressor, and turbine) were undergoing changes, and augmentor operability is sensitive to the configuration of these components. Sufficient time was not allowed to develop the specified augmentor operational characteristics before the engine was qualified for production.

A short-term fix identified for the augmentor rumble problem has been to add a feature to the control system which locks out the maximum power fuel segment five in the affected flight region. The long-term fix seems at this time to require an extensive and expensive redesign of the bypass and augmentor sections, that does not appear to be cost effective.

One of the most significant perspectives in the current status of the engine is the significantly increasing complexity of the power control system as more and more problem-solving features are added. For example, some of the significant control features which were included initially, have been added, or are being considered, to resolve system problems are: Rotor speed lockup, minimum burner pressure limit, closed loop idle, hot fuel mix, fuel type fix, engine upmatch plus the segment five lockout discussed above.

The structural integrity and durability of several key components of the engine is marginal in their current configuration. The fan disc, under current usage at Luke AFB, has an expected life of five years compared to ten years for other major rotating parts, as a result of low cycle fatigue due to many partial throttle transients. The compressor drive turbine will have reduced life due to a 50°F increase in turbine inlet temperature (TIT) to offset a shortfall in fan and compressor efficiency. An inadequate stress analysis of the double second stage turbine vane assembly failed to identify a cracking problem which will cause high scrappage rates at overhaul. The combustor has a shorter life than predicted due to inadequate cooling.

It is important to note that the missing profile, hence engine usage, to which the engine was originally designed and the endurance test spectrum used to prove integrity/durability, vary markedly from the actual composite mission profile to which the engine is being subjected in the field. It appears that the Air Force could have done a much better job than it did in predicting the environment the engine would see particularly the frequency and extent of partial throttle movements. The impact of these transients on the low cycle fatigue and thermal stress properties of the engine has been a key source of many of the design deficiencies which have had to be corrected.

The SPO and PW are pursuing fixes to these problems, but at this late date in the engine production program such fixes are very expensive. By the time the fixes are validated, a large number of the engines will have been built. The fixes will thus have to be retrofitted rather than incorporated during production.

Contractor performance

Pratt and Whitney did not apply the full corporate design capabilities in the development of the F–100. The Florida Research and Development Center turbine engine experience base was limited to the J58, a short-life, special purpose engine. The considerable information and experience at East Hartford, available from a progression of turbine development programs, did not get completely transferred to the F100 program.

The corporate management accepted a degree of technological risk which was inconsistent with the development schedule and funding.

Air Force management

The specifications for the original design and for the endurance test provided by the Air Force to the contractor did not properly represent the structural and thermal environment which the engine must endure under current usage. In the interest of expediency, the Air Force waived many parts of the Military Qualification Test (MQT) other than the endurance test. The engine was accepted for production even though the augmentor performance was known to be indequate. TIT was increased by 50°F to maintain desired performance without an analysis of the impact on durability and life cycle costs.

Along with the contractor, the Air Force accepted technological risks inconsistent with the time and money allocated for the development of such an advanced engine.

APPENDIX IV

EXCERPT FROM GAO REPORT ENTITLED REVIEW OF THE F–14A/PHOENIX WEAPON SYSTEM, AUGUST 3, 1976

CHAPTER 5—STATUS OF THE F401 ENGINE

The Navy plans to continue the development of the F401 engine although no decision has been made as to how it will be used. The cost to complete this effort is estimated to be about $183 million in addition to about $346 million already spent by the Navy as of March 31, 1976. If the engine is used with the F–14 an additional $1.5 billion could be incurred for production, retrofit, and support. The improvements offered by the F401 are not primarily related to the F–14's major mission of maritime air superiority but rather to its equally important force projection mission, especially in air-to-air combat. Since the F–18 is intended to supplement the F–14A in the air-to-air combat role, there is a question of the need to increase the capabilities of the F–14A in view of the costs and benefits to be derived.

Background

The Navy originally planned two versions of the F–14 weapon system—the F–14A and the F–14B—using two different engines. The F–14A now in production is powered by the TF30–P–412A engine (TF30), a derivative of the engine developed under the Navy's F–111B program. The F–14B was to use a new, more powerful advanced technology engine, the F401–PW–400 (F401), which would increase the capability of the force projection mission. The Navy had originally planned to use the F401 in the 68th aircraft coming off the production line, and to eventually retrofit the earlier F14s.

The F401 engine development program was begun jointly with the Air Force's F100 program in 1970. The Air Force completed development of its model in 1973, and it is currently being used in the F–15 aircraft; it will also be used with the F–16. The F401 uses the same engine core as the F100 but is designed to provide greater thrust.

Initial development

In a January 1973 preliminary flight rating test, the Navy's F401 prototype did not achieve the thrust desired and had to be redesigned. Later flight testing revealed that at high altitude and low speed a pilot could not jam the throttle from idle to afterburner position without risking engine stall. Because of this problem and because the testing had served its purpose, flight testing was halted in March 1974, after only 33 hours of contractor flight testing and a one-flight Navy evaluation.

A redesigned F401 failed two late 1973 preliminary flight rating tests, once because of a quality control problem and the other time because of a turbine durability problem. Turbine blades, spacers, and disks all failed in the engine's high temperature environment. Because of these failures and a lack of additional funding, the Navy's development program on the redesigned F401 was suspended in December 1973 after 6,000 hours of sea level static and simulated altitude testing.

In May 1974, the engine contractor (Pratt and Whitney Aircraft) proposed to fix the redesigned F401 and take the engine through a military qualifications test. While the Navy was evaluating this proposal, the Congress reduced F401 development funding included in the fiscal year 1975 budget request. The House Appropriations Committee noted in August 1974 that the Navy had not selected an aircraft to use with the engine and that consequently no requirement for a new engine existed. Further funding for development would be considered by the Congress when the Navy adequately justified its need for a new engine. The Congress did, however, appropriate $4.6 million to pay for prior F401 effort.

For fiscal year 1976, the Congress appropriated $2 million to complete documenting prior F401 work. The Senate Appropriations Committee recommended, however, that several options be kept open for jet aircraft engine development.

Plans for continuing development and production

In July 1975, Pratt and Whitney proposed a 12-month demonstration program which could eventually lead to an F401 military qualifications test. As a result of this proposal, the Navy is considering several engines: the redesigned F401, called the F401 (571); the uprated TF30; the F100N, which is an F401(571) with reduced afterburner fuel flow; an advanced F401, called the A26C; and a version of the B–1 bomber's F101 engine.

At the Navy's request, Pratt and Whitney submitted in January 1976 an expansion of its July 1975 proposal. The proposed F401 (571) program would last 2 years and could phase into a 24-month full-scale development program as early as October 1976 with a military qualifications test in September 1978.

Favoring the January 1976 proposal, the Navy has submitted a letter to the Congress outlining its plan for the F401(571) and requesting congressional support and funding. The plan is to provide $7 million for the program (the $2 million not yet used and still available for fiscal year 1976, plus the $5 million requested for fiscal year 1977). Pratt and Whitney plans to provide additional funds, for a total of $12.0 million.

Potential costs

According to the Navy, about $346 million for F401 research and development had been spent as of March 31, 1976. An additional $183 million in fiscal year 1976 dollars is expected to be needed between 1976 and 1980 to develop the F401(571) through a military qualifications test.

	[Millions]
Engine development	$102
Flignt tests and engineering	26
Flight test support, eight prototype engines, and a component improvement program to make the engine more reliable	55
Total	183

Approximately 4,000 hours of testing will be needed, including endurance testing, performance testing, functional (including stability) testing, and special testing, such as for corrosion. Barring unforeseen problems, the F401(571) could be available for the last 60 F-14s produced.

The Navy estimates that in 1976 dollars, the F401(571) unit production price would be about $1.4 million. This is about $250,000 more per engine than the TF30 if the latter were purchased in quantities of 1,000 engines. The total procurement, retrofit, and incremental support cost in 1976 dollars for 1,000 F401(571)s is estimated to be about $1.5 billion. Accordingly, total estimated potential costs for the program could be as follows:

	[Millions]
Further development	$183
Procurement, retrofit, and incremental support	1,500
Total	1,683

Plans for F401 use

In July 1975, the Chief of Naval Operations cited the need for improvement in the F-14A engine's intermediate and maximum afterburner thrust. Better intermediate thrust would save fuel for air-to-air combat and increase combat time, loiter ability, or radius of action. Improved afterburner thrust would improve aircraft maneuverability. According to the Navy, the F-14A can meet today's threat with the TF 30 engine, but will need the F401(571) with its increased thrust to counter the 1985-1990 fighter threat.

Although the Navy has stated that it is considering various options for the F401 (571), no decision has been made on how the engine will actually be used. The most likely plan is to retrofit the F401(571) in all F-14s.

We were advised by the Navy that there are no definite plans for use of the replaced TF30 engines. Pratt and Whitney, however, is independently studying several alternatives. These include using the TF 30 as spares for future domestic or foreign sales, or with a potential attack version of the F-14.

Comparison of TF 30- and F401(571)-powered aircraft

A comparison of F401(571) static test data and TF 30 demonstrated flight test data shows both improvements and degradations in F401(571) performance. Improvements include increased acceleration, specific excess power, and sustained "G" performance. These improvements are most important to the F-14A in its force projection mission, especially in air-to-air combat. Improvements are offset by less specific range, decreased loiter time, and greater minimum fuel flow, all of which affect the F-14A's major mission of maritime air superiority. The primary improvement offered by the engine in the maritime air superiority mission is in the aircraft's ability to reach its combat station more quickly. According to Navy officials, this shorter reaction time is important against high-altitude intercepts. A comparison of key aircraft performance specifications using various engines is included in appendix VI.

Normally, the F-14A is expected to counter antiship missile launch platforms or the missiles themselves once they have been launched. The situations in which enemy fighters will be encountered for air-to-air combat are limited because of the distance the carrier operates from land masses.

In those situations in which the carriers are within the range of enemy fighters the F-18 could be relied on to counter the fighter threat. The F-18 is intended to supplement the F-14A and according to the Navy has an advantage over the F-14A in the air-to-air combat role. In the maritime air superiority role the F-14A with the Phoenix missile has an advantage over the F-18.

The Deputy Secretary of Defense in a statement on October 21, 1975, before the Senate Appropriations Subcommittee concerning the need for the F-18 stated—

"the F-14A, with its Phoenix missile system, is a superb all-weather fleet air defense interceptor. This is what it was designed to do and it will be unexcelled in that role for the foreseeable future. It is, of course, excellent also in the more usual fighter roles. But it is large and complex—it is expensive to acquire and to maintain. We simply do not need all of this capability for every role. We simply cannot afford the space, the manpower, and the cost of using the F-14 for all these roles. * * * The F-18 * * * is clearly superior to the F-14 in air combat maneuvering and, like the F-16, will change the basic tactics of air combat and will meet the threat in this area well into the future. * * * The F-14 system with Phoenix missiles dominates in long-range intercept situations, while the performance and agility of the F-18 dominate in scenarios involving classical mixed force air combat at shorter range. * * * The overall mix of F-14 fighter-interceptors and the F-18 fighter-attack aircraft provide the most relief on space, logistics, and support while simultaneously improving mission flexibility and effectiveness."

Data is not yet available to compare TF30 and F401(571) reliability and maintainability. However, the Navy expects the F401(571) to average about 100 hours between stops for unscheduled maintenance, compared to 32 hours for the TF30. Further, design changes in the F401(571) will allow easier engine removal during maintenance, resulting in fewer maintenance hours per flight hour.

Conclusion

Although the Navy has not made a decision concerning the use of the F401(571) engine once it has been developed, it appears that the F-14 aircraft is the platform with which it most likely would be used. The improvements offered by the F401(571), however, are not primarily in the F-14's major role of maritime air superiority but in air-to-air combat, a force projection role which could possibly be better fulfilled by the F-18 aircraft.

Recommendation

We recommend that the Secretary of Defense thoroughly examine plans for the use of the F401(571) engine prior to the expenditure of additional funds for continued development. The examination should consider, as a minimum, the high cost of developing, producing, and retrofitting the F401(571) into the F-14 aircraft and the benefits to be derived.

APPENDIX V

DEPARTMENT OF THE NAVY,
Washington, D.C., August 27, 1976.

Hon. CHARLES H. WILSON,
House of Representatives,
Washington, D.C.

DEAR MR. WILSON: This is in reply to your letter of July 30, 1976, signed jointly with Congressman Jim Lloyd, concerning problems with the TF-30 engines for the F-14 Tomcat. You seek assurance that, in resolving these problems, all alternatives will be considered, including the costs involved in shutting down TF-30 engine production lines until modifications can be completed.

As you note in your letter, it will be necessary to invest about $86 million in various TF-30 engine reliability improvement modifications. Although a portion of this cost will be funded within Navy resources, I readily acknowledge that correction of these engine problems will be expensive.

I can assure you that alternatives have been considered in our efforts to correct these problems. We have assessed the impact of suspending TF-30 engine production until all modifications are ready for installation. The results of this assessment indicate that this approach to resolving the problem would cost the Government about $80 million in Pratt and Whitney overhead and re-start costs, in addition to the $86 million for the engine modifications. A suspension of engine production would also disrupt the F-14 production line resulting in potential cost penalties as well as a decrease in the Navy's ability to meet operational commitments.

We are convinced that TF-30 interim fixes and inspection procedures will be adequate to prevent loss of aircraft beyond normal attrition until the final modifications can be made. I, therefore, feel that we are proceeding in the safest, most cost-effective manner toward a long-term solution to this problem; a solution which is in the best interest of both national defense and the taxpayer.

Your continued interest in the F-14 program is appreciated.

A similar response has been provided to Congressman Jim Lloyd.

Sincerely yours,

JACK L. BOWERS,
Acting Secretary of the Navy.

APPENDIX VI

[This is an Unclassified Digest Furnished in lieu of a report containing classified security information]

COMPTROLLER GENERAL'S REPORT TO THE CONGRESS

REVIEW OF THE F-14A/PHOENIX WEAPON SYSTEM, DEPARTMENT OF DEFENSE

Digest

A major mission of the F-14A/Phoenix weapon system is to defend the fleet against attacks by antiship missiles. The Navy calls this the "maritime air superiority" mission. The system has an equally important air-to-air combat and close-air-support role which the Navy calls the "force projection" mission.

The System's primary maritime air superiority weapon is the airborne Phoenix missile, which can be used against both enemy missiles and launch platforms. For force projection against enemy fighters, the F-14A is armed with the Sparrow and Sidewinder missiles and the M61 20mm gun. Close air support weapons have not yet been cleared for use with the F-14A.

GAO's review of the system included an evaluation of Department of Defense data concerning its mission capabilities; its current operational readiness; its technical performance and problems; the status of plans for a new engine; and cost and production.

The following important matters were noted during the review.

There are areas where the capability of the threat could exceed the demonstrated capability of the F-14A/Phoenix in its maritime air superiority mission.

The F-14A has demonstrated that it can successfully engage the current Soviet fighter threat. According to the Navy, however, its capability against future threats could be marginal.

The average operational readiness rate of the F-14A was 37.2 percent during calendar year 1975. This low rate has been attributed to equipment problems and inadequate supply support and may not be unusual for aircraft at about the same stage of deployment as the F-14A. The Air Force's F-15 aircraft, for example, experienced an average rate of about 33 percent during calendar year 1975 at Luke Air Force Base. It should be noted, however, that there are differences in the Navy's and Air Force's definitions of operational readiness.

Spare parts shortages were present at the Miramar and Oceana Naval Air Stations, and on both cruises in which the F–14A took part. Many F–14As have been maintained in operating condition through the process of removing (cannibalizing) parts from other aircraft.

The F–14A contractor was granted relief from achieving certain contractual performance specifications in return for modernizing 11 F–14A aircraft at an estimated cost to the contractor of $10.3 million.

Avionics reliability has been extremely low. For several major systems the reliability achieved ranges from about 6 percent to 14 percent of the desired objective.

The F–14A has experienced 14 crashes resulting in 9 aircraft losses. The losses amount to about $161.6 million in procurement cost. Six of the crashes have been attributed to major technical problems with the engine, and it is suspect in the seventh.

The Navy could spend a total of about $1.7 billion to complete development and equip the entire F–14 fleet with a new engine, the F401(571). The new engine offers improvements which are most important to the F–14A in its force projection mission, especially in air-to-air combat. These improvements, however, are offset by less specific range, decreased loiter time, and greater minimum fuel flow, all of which degrade the system's performance in the maritime air superiority mission. The primary maritime air superiority mission improvement offered by the engine is the shorter time required by the aircraft to reach its combat station.

Since September 30, 1973, program unit cost estimates have increased from $18.30 million to $20.21 million for the F–14A and from $453,000 to $515,000 for the Phoenix. With the exception of certain cost decreases which did not affect overall estimated program cost, all of the cost changes have been adequately explained and supported.

Some of the increases in the cost of the F–14A are the result of reductions in program quantities, annual procurements, and production rates. If future procurements and production rates were increased, reduction in unit costs could be achieved.

GAO recommends that the Secretary of Defense determine the reasons for the F–14A's supply shortages and take the necessary steps, in conjunction with the Navy, to improve the situation.

GAO also recommends that the Secretary of Defense thoroughly examine the plans for the use of the F401(571) engine prior to the expenditure of additional funds for its continued development. The examination should consider, as a minimum, the high cost of developing, producing, and retrofitting the F401(571) into the F–14 aircraft and the benefits to be derived.

Although GAO did not obtain formal agency comments, the report has been discussed informally with cognizant Navy officials and their comments have been considered in its preparation.

CONGRESSIONAL SALUTE TO THEODORE A. SWINARSKI, ESTEEMED CHICAGO DEMOCRATIC LEADER AND OUTSTANDING AMERICAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FARY) is recognized for 5 minutes.

Mr. FARY. Mr. Speaker, on Wednesday evening, October 6, the residents of my congressional district will assemble at the Lexington House in Hickory Hills, Ill., to honor Theodore A. Swinarski, one of our State's outstanding leaders who has devoted his lifetime in exemplary service to all of our people at municipal, county, and State government levels in his many high offices of public trust as State representative, State senator, superior court clerk, and for the past 20 years served as committeeman of the 12th Ward Regular Democratic Party. He was also appointed as secretary and treasurer of the Cook County Forest Preserve District—1956–58.

The quality of leadership and sincerity of purpose that Ted Swinarski has imparted to our people are mirrored in his many accomplishments, and the warmth of his friendship that have won him the confidence and support of all of us who have had the good fortune to know him.

His involvement in the needs and problems of the community goes back 50 years. He was always a major bulwark of strength in the Democratic Party from his early days in its organizational structure, and throughout his career as ward committeeman.

Ted was born in Chicago on November 25, 1905 and was one of four children born to Jacob and Lucille Swinarski who were of Polish origin. He was educated in the Chicago school system. He married Ann Miller on June 13, 1932, and from this union two children, Diane and Donald, were born.

Ted served with distinction in the State of Illinois, city of Chicago, and Cook County, and has been a lifelong Democrat. In the city of Chicago he was a committeeman of the 12th Ward Regular Democratic Party, and is serving in that position at the present time.

In 1948 he was elected as a Democrat to the Illinois House of Representatives from the Fourth District, and was overwhelmingly elected for 5 terms for his exemplary performance in this high office of public trust.

Ted was appointed as clerk of the superior court to fill a vacancy from 1958 to 1960, and was then reelected to this position in 1960 receiving the highest vote cast in Cook County. He was elected to the Illinois State Legislature as senator of the 25th District of Illinois, and served in that capacity with outstanding distinction.

In 1964 while clerk of the superior court, a bill was passed whereby the superior court system in Cook County was changed to the circuit court system. With the consolidation of the new court system, he was then appointed to the position as associate clerk of the circuit court which position he is serving at the present time.

As committeeman of the 12th ward, Ted Swinarski's office is always open to the public in providing service and assistance. Over the years he has championed numerous youth community projects with youth achievement awards and scholarships given to the winners of local Olympic games. He also sponsors an annual safety patrol bicycle parade for the youth of the 12th ward, in addition to basketball, football, baseball, and swimming teams for the purpose of instilling confidence and spirit in the youth through competitive competition.

In the field of senior citizenship, he extends his arms to each and all, and is a member of many Chicago civic, religious, and fraternal organizations.

By honoring Ted Swinarski we of the 12th Ward Regular Democratic Party are expressing our gratitude to a man who always had the welfare of others foremost in mind, and a man who remained loyal to his many friends. It is men such as Ted Swinarski to whom the Polish community can justifiably point with pride as an example of what people of Polish heritage can contribute to our American way of life.

The chairman of the arrangements for the testimonial dinner for October 6 is Edward F. Obrzut, master of ceremonies, Hon. John McCollom, judge of the circuit court of Cook County, Hon. JOHN G. FARY, U.S. Congressman of the Fifth Congressional District, State Senator Richard M. Daley, State Senator Leroy W. Lemke, State Representative Edmund Kornowicz, State Representative Robert Terzich, State Representative John Vitek, State Representative Walter Kozubowski, Alderman George H. Kwak, Frank J. Bishop, secretary, and various other civic and business leaders.

Mrs. Elizabeth Bishop will present Mrs. Swinarski with a gift in appreciation for her support and the encouragement given to her husband in the dedicated work which they jointly performed over the years.

We salute Ted Swinarski, esteemed Democratic leader and outstanding American.

PAUL H. DOUGLAS, U.S. SENATOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS), is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, I wish to join my colleagues in the House and Senate in paying tribute to one of the great figures in American public life of this century, the former U.S. Senator, Paul H. Douglas, of Illinois, who was elected to the Senate in 1948 and served three terms there. He died on September 24, 1976.

Paul Douglas was, as all those who came to know him will attest, an extraordinary person.

A distinguished economist, he was a pioneer on a wide spectrum of social and economic measures, including minimum wage, disclosure of union and management welfare pension funds, medicare, and assistance to schools and colleges.

He was a vigorous champion of civil rights and more liberal immigration laws.

Even as he fought vigorously for human rights in his own country he was a vigorous foe of communism.

And he became, at a time when many were not sensitive to such issues, a model of integrity in the conduct of his office.

Mr. Speaker, I came to have a great personal affection and admiration for Senator Douglas whom I knew from my own earliest races for Congress in Indiana.

He campaigned for me and with us on two occasions in my congressional district, and I remember still how touched I was when he called, before the second of these, to ask if he could come to Indiana to campaign for me. This experience, I am sure my colleagues in both bodies will agree, Mr. Speaker, is not common but it was characteristic of Paul Douglas that he should seek to encourage a young person in his ambition for public service.

Paul Douglas, Mr. Speaker, was a model U.S. Senator and his personality and record will live in the pages of the history of our country as an inspiration for all who choose a career in electoral politics.

I am grateful to have known Senator Douglas and proud to have been able to call him a friend. To his widow and family I extend my deepest sympathy.

Mr. Speaker, I insert at this point in the RECORD an article by Charles Kaiser published in the New York Times of September 25, 1976:

FORMER SENATOR PAUL H. DOUGLAS DIES; LIBERAL ILLINOIS DEMOCRAT WAS 84

(By Charles Kaiser)

Former Democratic Senator Paul H. Douglas, a champion of liberal causes who represented Illinois for 18 years, died yesterday at his home in Washington. He was 84.

His life was a series of paradoxes. A political reformer, he was sent to the Senate in 1948 with the help of the Chicago Democratic machine. A Quaker by conviction, he became a decorated Marine in World War II. A country boy from a backwoods farm, he became a famous economist.

He combined the moral rectitude of New England, where he was born, with the crusading liberalism of the Middle West, where he spent most of his adult years. When his service in the Senate ended in 1966 with his defeat by Charles H. Percy, he returned to his first career as an academic, joining the faculty at the New School for Social Research.

WROTE ECONOMICS BOOK

In 1920 Mr. Douglas joined the faculty at the University of Chicago to teach economics, and he gained a national reputation in the field with the publication in 1930 of "Real Wages in the United States," followed four years later by "The Theory of Wages."

His greatest contribution is considered to be the early work he did on the production function—the mathematical analysis that relates labor to capital—which ushered in the modern era of analysis of production by economists.

Almost all his life, he was drawn to unpopular causes. As a member of the National Recovery Administration's council on consumer finance in 1934, he raised the question of truth-in-lending, and the N.R.A. suggested that he resign.

He was a leader of the protest against the Memorial Day Massacre at the Republic Steel plant in Chicago. The police killed 10 people that day, and he said it did not seem proper. Some of Chicago's civic leaders suggested that he be dismissed from his job as a professor.

WON CHICAGO RACE IN 1939

Mr. Douglas first ran for elective office in 1939, and in the face of a split in the Democratic machine won a seat as a Chicago alderman.

Three years later he ran unsuccessfully for the Senate, and the day after his defeat enlisted as a private in the marines. Because of pacifist leanings he delayed volunteering in World War I; when he finally did so toward the end of the war, he was turned down for bad eyesight.

In 1942, with the help of his old friend, Secretary of the Navy Frank Knox, he was given a combat assignment. He won the Bronze Star for service at Peleliu, where he was injured. He was injured again at Okinawa, and was discharged in November 1946 as a lieutenant colonel after 14 months in hospitals.

When the Democratic machine reluctantly gave him its blessing to challenge the incumbent Republican Senator, C. Wayland Brooks, in the 1948 election, Mr. Douglas was still essentially an academician, a man who walked with an air of brooding abstraction.

But he had the wit and a sense of drama that endeared him to voters. When Douglas addressed an empty chair, crossing the platform from time to time to speak "in behalf of" his absent opponent. The device delighted his audience and he repeated it across the state.

He won the election by more than 400,000 votes and entered the Senate with two other freshmen, Lyndon B. Johnson from Texas and Hubert H. Humphrey of Minnesota.

BORN IN MASSACHUSETTS

Paul Howard Douglas was born March 26, 1892, in Salem, Mass. the son of James Howard Douglas, a traveling salesman. His mother, Annie Smith, died when he was 4, and he was brought up by an uncle on a farm near Moosehead Lake in Maine.

He graduated in 1913 from Bowdoin College, where he was Phi Beta Kappa and won a football letter. He took his masters degree in 1915 at Columbia University. Columbia awarded him his Ph.D. in 1921, a year after he had started teaching at the University of Chicago.

When he reached the Senate he hung the portraits of two Renaissance scholars on the wall of his office—an oil of Erasmus, and a pencil sketch of Sir Thomas More.

"These two fellows are important to me," Senator Douglas once told a visitor. "They are a good brake, or a sort of warning signal, at least."

"You see," he continued, "both of them were professors of sorts. One went into politics and lost his head. The other stayed out and kept his. I find it very useful to ponder which was the smarter of the two."

REMEMBERED BY A COLLEAGUE

The scholarly man was hailed as a visionary yesterday by many of his colleagues. Representative Abner J. Mikva, an Illinois Congressman and a protege of Senator Douglas, noted that "almost every one of the items we're discussing this week in Congress were issues he was discussing in the '40's and '50's—financial disclosure by senators and representatives, public financing of campaigns, sunshine laws—these were all his ideas," Mr. Mikva said.

Senator Douglas operated effectively within the Senate though he never became one of the "inner circle." Among the habits that annoyed some of his colleagues were his insistence on annually publishing his income and net worth and his rule that neither he nor his staff would accept a gift worth more than $2.50.

"He was a liberal who was also simultaneously concerned about what things cost—that was a very rare combination," said Newton N. Minow, a Chicago lawyer who was active in Senator Douglas' early campaigns, and who later became chairman of the Federal Communications Commission in the Kennedy Administration.

While Senator Douglas opposed Government waste and mismanagement, "he also always wanted the Government to do things that were going to help the disadvantaged," Mr. Minow said.

ALLIANCE WITH DALEY

His accommodation with the political machine of Mayor Richard J. Daley was also somewhat unusual: "Daley would never tell him how to vote on an issue, and Douglas would never tell him how to run the organization," Mr. Minow recalled.

Perhaps Senator Douglas' most important contribution was in the area of civil rights. Long before it was a popular position, he fought for those rights, and the Civil Rights Act of 1964 and the Voting Rights Act of 1965 incorporated many of his proposals.

He also fought against tax loopholes, as early as 1951. In that year he and Senator Humphrey held the floor for several days, trying to close loopholes in the Revenue Act of 1951, a tax measure. They achieved minimal success.

Senator Humphrey once said that no man had his name on "more major issues, major bills, and major legislation, than Paul Douglas."

Some of his liberal friends were dismayed by the Senator's strong support of the Vietnam war, which continued into the early 1970's. But like his other beliefs in civil rights and civil liberties, his convictions about the so-called domino theory would not be compromised.

"If we get out of Vietnam," he once asked, "how will we defend Thailand and stop the Communists from taking the Malay Peninsula? And if they take that, what protects India?"

A year after he left the Senate, Mr. Douglas was appointed by President Johnson to head the National Commission on Urban Problems. On Dec. 14, 1968, the commission recommended a system of Federal revenue sharing with the states and the cities to encourage the consolidation of local governments within a metropolitan area.

Mr. Douglas and his staff found that a third of the country's population was still ill-housed, and the reports' findings did not please Mr. Johnson.

The former Senator's memoirs, "In the Fullness of Time," were published in 1972.

The Senator's first marriage to Dorothy S. Wolff ended in divorce in 1930. He is survived by his widow, the former Emily Taft, and five children: Paul Douglas Jr. of New York City, John Douglas, a Washington lawyer, Mrs. Jean Bandler of New York City, Dorothea John, also of New York, and Helen Klein, of Rockville, Md.

A private funeral service will be held in Washington.

THAT 38-YEAR INVESTIGATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 15 minutes.

Ms. ABZUG. Mr. Speaker, I wish to share with my colleagues an editorial which appeared in the Washington Post of September 27, 1976, regarding the FBI's investigation of dissident and extremist organizations. The editorial describes the incredible lengths to which the FBI went in investigating some groups which were engaged in nothing more than exercising their first amendment rights.

As chairwoman of the Government Operations Subcommittee on Government Information and Individual Rights, which has oversight of the Privacy Act of 1974, I have been keenly aware of the requirements of that act which prohibit certain kinds of files from being maintained by Federal agencies. When I read of Clarence Kelley's disclosure that the FBI's domestic caseload had been reduced from 21,414 investigations to 626 current cases, my immediate query was: Will the FBI notify the subjects of the files on the closed cases and allow them to exercise their rights under the Privacy Act? I am certain that many of these files deal with matters describing how an individual exercises rights guaranteed by the first amendment; yet the maintenance of such files is prohibited by the Privacy Act.

The editorial also refers to the FBI's counterintelligence program—COINTELPRO. I am the sponsor of a bill, H.R. 12039, which would require the FBI to notify every individual and organization subjected to that program as well as many other improper or illegal intelligence activities. The Justice Department has agreed to notify a selected few of the victims of COINTELPRO, and this should be a precedent for their notifying the 20,000 subjects of the discontinued files. However, the notification program conducted by the Department of Justice in the COINTELPRO case has been inadequate. I hope that they will now undertake to make complete disclosure to the individuals or organizations who are the subjects of files which should not have been opened in the first place.

I was also struck with the misallocation of resources which must have gone into the maintenance of such an enormous and apparently unnecessary caseload. Mr. Speaker, what are the agents who are working on over 20,000 cases now doing?

My subcommittee also has jurisdiction of the Freedom of Information Act and it is well known that the FBI is almost a year behind in responding to Freedom of Information Act requests. Under the law, they are supposed to respond within 10 days. Surely, some of the personnel freed up as a result of the cutback could be allocated to freedom of information work. Also, international terrorist activities have occurred right here in Washington, D.C., with the infamous murder of Orlando Letelier and Ronni Moffitt. Again, I would suggest that some of the FBI personnel freed up as a result of the cutback be used to solve this hideous murder.

The editorial follows:

THAT 38-YEAR INVESTIGATION

It was the first appearance of the director of the FBI before the new Senate Intelligence Committee, and Clarence Kelley's disclosures made the most of it. Mr. Kelley announced that the FBI's domestic intelligence caseload had been reduced by 97 per cent, from 21,414 investigations in 1973 to 626 cases currently. This was, Mr. Kelley said, in line with the bureau's new emphasis on "quality over quantity." It's not every day that an agency of government announces the virtual abolition of an activity, and the significance of Mr. Kelley's announcement cannot be overemphasized, for it represents further evidence that the FBI is emerging from the dark shadow of its past.

But it ought not to be forgotten that Mr. Kelley's announcement is also a stark indictment of that past. His very use of the words "quality over quantity" in describing the elimination of practically all domestic intelligence cases tends to confirm what many had suspected about the bureau's activities: that the FBI had become a bureaucracy in relentless pursuit of political groups that gave top FBI officials ideological or social offense.

And nothing better illustrates this point than the saga of the FBI and the Socialist Workers Party. It may never be known or understood what aroused the interest of J. Edgar Hoover's FBI in the SWP back in 1938. One might guess that it was the inevitable result of a time of great concern about communism, socialism and "isms" generally. Still nothing can justify or excuse the infiltration, bugging and harassment of a legitimate political party in the manner of the FBI operation. That the FBI enterprise lasted for 38 years and was closed down by the Justice Department only two weeks ago defies all understanding.

To this day, the FBI's justification for this affront to the democratic process has not been made public. No particular crime was alleged, no violence on the part of the SWP was suggested, and no evidence of espionage was brought forward as far as we know. In short, none of the reasons a police agency should have for being interested in a political group appears to have played any part in the FBI's decision.

Nevertheless, the FBI had 1,600 informers in the SWP over those four decades, and 66 of them were still functioning in the party at the time the Justice Department finally decided enough was enough. The SWP has brought a $40 million lawsuit against the FBI and others associated with the campaign against the party. In one poignant paragraph, the lawsuit says that the party has been so thoroughly infiltrated that it is impossible for its leaders to tell when some aspects of the party's work might have been directed by FBI infiltrators.

Within the FBI, there appears to have been no brakes and no place where the effort was evaluated or where some rigorous standard was set for what constituted a proper use of agency manpower. Surely any such review at any point along the way in nearly 40 years might have suggested to someone at the top of the agency that perhaps it would do well to shut down the Socialist Workers desk.

Instead, something quite different appears to have happened: What was done to the SWP was done to others. By the mid-1960s, that kind of operation was standard operating procedure, and it even had a name of its own, COINTELPRO, standing for counterintelligence program. The program had as its major and enduring target the Communist Party, of course, but it soon came to include many others. The same slovenly standards for what should be a target of government attention applied to all—they needed only to have offended some FBI standard of conduct, or to have had the name "black" or "liberation" in their title. Some had shown violent tendencies, but many, if not most, had not.

Regardless, they were spied upon, had their mail covered, their phones tapped, their meetings bugged. They became the victims of government-sponsored pranks and dirty tricks, some quite deadly. As far as anyone can tell, the biggest intelligence yield from the FBI's labors in the Socialist Workers' vineyard was a great deal of intelligence, if we can use that word, on the sex lives of SWP members, stuff that is no business of the FBI.

As Mr. Kelley's Senate testimony suggests, there is a great struggle going on to clean up the FBI and make it a police agency again and not a malevolent busybody. That effort is laudable and necessary. But those files of dirty information about members of the SWP and other groups should have been destroyed long ago. An FBI task force at the Justice Department is now in the process of studying the accumulation of such files to determine their future disposition. Where the files contain information about the personal lives of individuals having no bearing on crimes and law enforcement, that material should be destroyed—period. This kind of information has a great potential for harm—and virtually no potential for good.

Others have obligations too. Those of us who were pleased to leave all the crime-busting and Red-chasing to the FBI without asking what they were doing can see now why citizens should continue to show an active interest in what government does in our name—and what Congress does on our behalf. The FBI had so many friends in Congress it never had to give any real account of itself. The bureau has said that it sent reports to the various Attorneys General over the years describing COINTELPRO. Practically all living former Attorneys General express surprise at that, claiming to have heard little or nothing of the sort of thing now coming out. That is not good enough. Those responsible in the executive branch should be put on notice that the public expects them to know what the government's police agencies are doing. Not knowing, in these situations, is not a matter of mere ignorance, it is a matter of gross negligence.

TRIBUTE TO SENATOR PAUL DOUGLAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. PRICE) is recognized for 5 minutes.

Mr. PRICE. Mr. Speaker, I would like to pause for a few moments today in memory of my friend, Senator Paul Douglas, who passed away last week.

Paul Douglas served in the U.S. Senate for 18 years, and in that time came to be known as one of the most respected and effective men ever to serve in that body from Illinois.

Paul Douglas was, for most of his 84 years, a public servant at heart. In his early career, he served as a scholar, with appointments to the faculty of the University of Illinois and other of our Nation's most distinguished universities. Before he came to Washington, he served both his State and his country on numerous advisory boards and commissions, and was decorated for his service in World War II. He wrote several books as well.

He came to the Senate in 1948, and served there through 1966. He combined his ability to work with others and his expertise in many fields, most notably economics, to become one of the most knowledgeable, most effective, most respected, and most popular men in the Senate.

It was my pleasure over the years to be associated with Paul Douglas, not only when we were colleagues in the Congress but after he returned to private life. He will be deeply missed by all of us who respected him immensely.

LEGISLATION OBJECTING TO PROPOSED ARMS SALE TO GOVERNMENT OF THE PHILIPPINES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. BEDELL) is recognized for 5 minutes.

Mr. BEDELL. Mr. Speaker, I am introducing today a resolution objecting to the proposed $74 million arms sale to the repressive Government of the Philippines. I believe the official policy of the United States should be to discourage this unyielding dictatorship and it is to this end—not to weaken the armed forces of the Philippines—that I submit this resolution.

Mr. Speaker, in the words of someone who has recently visited the Philippines, "there is nothing benign about this regime." For 4 years this country has been diverted from its long tradition of democracy by a military rule which has caused an appalling incidence of torture and abridgement of human rights.

By selling arms to this regime, the United States is encouraging it and activities which are totally incompatible with the principles for which our Nation stands. I urge the Congress of the United States to oppose this sale.

The text of the resolution follows:

CONCURRENT RESOLUTION

Disapproving certain proposed sales to the Philippines of defense articles and services

Resolved by the House of Representatives (the Senate concurring), That the Congress objects to the proposed sale to the Philippines of 11 F–5E aircraft and related defense articles and training, such proposed sale being described in the certification submitted by the President, pursuant to section 36(b)(1) of the Arms Export Control Act, to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate on September 1, 1976 (Transmittal No. 7T–44).

SEC. 2. The Congress objects to the proposed sale to the Philippines of 97 105-Millimeter howitzers and related defense articles and services, such proposed sale being described in the certification submitted by the President, pursuant to section 36(b)(1) of the Arms Export Control Act, to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate on September 1, 1976 (Transmittal No. 7T–53).

A TESTAMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 15 minutes.

Ms. HOLTZMAN. Mr. Speaker, I was deeply angered and disturbed by the terrorist killing of former Chilean Foreign Minister, Orlando Letelier. The Letelier killing should be thoroughly investigated, and in this respect I was pleased to cosponsor a resolution calling for a thorough investigation of the murder.

Ironically, just a few days before his death, Mr. Letelier wrote an article for the New York Times about the repressive dictatorship in Chile. Undoubtedly, his courageous opposition to that regime cost him his life.

The text of his article, which I commend to colleagues, follows:

A TESTAMENT

(By Orlando Letelier)

WASHINGTON.—On Sept. 10 the Chilean dictator Augusto Pinochet issued Decree No. 588, which strips me of my nationality, for "gravely threatening the essential interests of the state." This measure is just one more addition to the shameful history of the violation of human rights committed by the military junta.

In the chronicle of Latin American dictatorships, political rights have frequently been denied to critics and opponents. The Chilean junta, not to be outdone as leader in the field of such violations, has made the entire Chilean population a victim through a decree that ordered the burning of the country's electoral register. In fact, all the citizenship rights of the population have been destroyed.

Today, having exhausted this repressive mechanism they can only resort to the absurdity of pretending that those who oppose their designs are no longer part of the Chilean nation.

Needless to say, this decree violates the intent of the Constitution that applied in Chile before the rule of law was destroyed there on Sept. 11, 1973, together with the norms of international law, especially Article 15 of the Declaration of Human Rights of the United Nations. This action has no precedent in our history. Never have governments vested themselves with the authority to confer or take away Chilean nationality at will.

Because of my position as Minister of State and Ambassador [to the United States] of the constitutional Government of Chile, I was incarcerated in the concentration camp on Dawson Island until I was expelled from the country without any formal charges ever being made against me. I was not granted any of the basic rights guaranteed by the Constitution or by the laws of my country.

Among other violations, I was deprived of my passport and thus of my status as a Chilean abroad. Many of my fellow countrymen were subjected to the same arbitrary measures.

It would seem, then, that this decree constitutes a complete absurdity. But behind it one sees the logic of a totalitarian mentality, that it projects itself from within a system based on terror and vengeance. Its purpose is to intimidate those who fight from abroad for the restoration of human rights, freedom and democracy in Chile. It tries to erase a whole sector of Chileans from the history of our country, to eliminate the protagonists of a social and political ideal with deep roots in our history, which has survived persecution and is today the emblem of the struggle against tyranny.

What the junta is fighting is not so much the men who three years ago led a democratic Government but rather the ideas we represent. What they are denying is the nationality of values, such as Chilean democracy, that for 150 years constituted an example for Latin America and for the world.

What they are attempting to destroy are the political parties that channeled the aspirations of the Chilean people, its trade-union organizations, and its convivial way of life, based on the free play of ideas and respect for the human being.

Accordingly, to Pinochet none of this has any place within the Chilean nationality, and the fascist ideology that Pinochet professes can be seen in this most delirious expression of his fanaticism.

The patriotic obligation of all Chileans is to contribute to the end of the dictatorship. We do it as members of a nation and as inheritors of a tradition of freedom to which the Pinochets do not belong.

The things that destroy our nationality are the concentration camps, torture, repression and hunger. That which makes us vulnerable as a nation is the utilization of the armed forces against the Chilean people. It is all this brutal conduct and not the actions of those who want to put an end to it that isolates us today from the community of civilized nations.

The image of Chile will return to what it once was when democracy is re-established along with the human rights that have been usurped by the dictators. At that moment no one will be in any doubt about the nationality of the Chileans who are in power today. On the contrary, as such they will be made to answer to Chilean tribunals in accordance with the Chilean judicial system for crimes committed against their country.

THE NEW AGENDA BEFORE THE AMERICAS

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, 1 month ago I was pleased to report to the House on peacekeeping activities by the Organization of American States with respect to the border dispute between Honduras and El Salvador. I am equally pleased today to report another significant step toward resolution of that long-festering problem. The distinguished Secretary General of the OAS, Alejandro Orfila, has advised me that both countries have "determined to move forward their discussions within the framework of the OAS" and have invited the Secretary General to serve as moderator. I believe that this decision by both El Salvador and Honduras is an important indication of their confidence both in the OAS and in Secretary General Orfila. I am sure I speak for the entire House in expressing the hope that these talks will finally resolve this dispute between two important hemisphere friends of the United States.

Mr. Speaker, last week Secretary General Orfila delivered an important address before the National Press Club on issues confronting the nations of our hemisphere. I would like to take this opportunity to call to the attention of the House Mr. Orfila's speech entitled, "The New Agenda Before the Americas":

THE NEW AGENDA BEFORE THE AMERICAS

It is a pleasure for me to meet again with the members and friends of the National Press Club.

May I underscore that today we celebrate a new anniversary of the independence of the five Central American countries—Guatemala, El Salvador, Honduras, Nicaragua and Costa Rica. Since the unfortunate war between El Salvador and Honduras in 1969 the OAS has played a decisive role in restoring peace and provided a forum for the two countries to solve their problems.

Last year—as Ambassador of Argentina—I spoke to you in a different capacity than I do today. However, then as now I have found myself not only among friends but regretting that your profession is not mine.

As one who shares your conviction that effective communication is the first step to mutual understanding, I have long admired the profession of journalism for helping us all to better know and relate to each other. In my view journalism stands in the same relationship to human society as the medical profession stands to the human body: it discovers changes taking place, it carries out research, it reports its findings and it helps cure ills.

When he invited me to speak to you again, the Press Club President, Robert Alden, suggested that I deal with some of the main multilateral issues of concern in our hemisphere today and their impact on the future of relationships between the United States and Latin America.

Before discussing some of today's major issues, however, I suggest we should not overlook that Latin America and the United States have had many ups and downs in their relationship. This perspective should not only give us cause for some optimism but it may also help us to recognize that the past is not necessarily prologue. The future, in other words, is what we make it.

I make this point specifically because I believe that—even though they have forged a spirit of cooperation to make this region the most peaceful on our planet—Latin America and the United States may be at a historical crossroads where they can either go forward in cooperation or backward in disarray.

Within this framework, there are several pressing challenges which, I believe, require critical examination. These include:

The challenge of the new development agenda before the Americas.

The strengthening of the OAS' role as the principal multilateral forum of the Americas.

The resurgence of hemispheric concerns for the protection of human rights.

THE NEW DEVELOPMENT AGENDA

The foremost challenge ahead is that beyond long-standing security issues a new agenda is at hand in the Americas—not just the traditional one of the past but the agenda of integral human development: political, cultural, economic and social, for the millions of Americans who remain outside the mainstream of contemporary life and opportunity.

We of the Americas concur with the frequent assertion that development is the new name for peace. And the OAS, I believe, has the obligation to speak out if that peace is in any way threatened.

Throughout the post-war period Latin America has, of course, made economic and social progress. There has been a reasonable growth of production, economies and exports have been diversified, and nontraditional industries have appeared upon the scene. These advances have coincided with growing complexities in the social structure and with greater opportunities for individual advancement.

But this is only part of the picture. The more important part is evident from a comparison of the hemisphere's past with its future. Twenty five years ago Latin America had the same population as the United States. Twenty five years from now Latin America will have 600 million people—twice the number projected for the United States. In this situation the crucial test for Latin American countries will be to provide millions of new jobs, increase food production, further reduce severe poverty, educate millions of citizens and modernize their societies.

Not everyone is fully aware of the dimensions of this new agenda. However, I think it critical for us to grasp that hemispheric debate is centering around several major areas of concern which are closely linked to each other. Aside from pending bilateral matters such as the future of the Panama Canal, Latin America now believes that to confront this agenda it must discover newer and more adequate instruments so as to increase income from exports while stabilizing markets for primary products; rapidly accelerate the expansion of trade; transfer technology in ways adapted to national needs; provide a code of conduct for multinational corporations; promote joint venture investment; and re-channel foreign assistance so that debt financing becomes less burdensome and alternative financing opportunities are opened up.

We in this hemisphere especially recognize that the priority issue on the development agenda is for Latin America to generate more foreign exchange without going deeper and deeper into debt. It seems evident that Latin America must seek ways and means to expand export earnings to help finance the heavy international debt burden.

THE U.S. AND THE NEW AGENDA

I lay bare no diplomatic secrets when I take note that during the past decade Latin America has generally found the United States wanting in confronting this newer, more complex and less tractible hemispheric development agenda. While we can take some comfort that the OAS has provided the forum for heated debate, as, for example, on the exclusionary provisions of the U.S. Trade Act, we should be concerned that solutions have not been easy to come by.

It would be wrong not to observe that in some major ways the United States has supported Latin America's development initiatives and given them strong encouragement and support. It must be pointed out, however, that the great experiments in multilateral cooperation, such as the Alliance for Progress, have withered away.

Newer attempts to lay different bases for collective effort, such as the Dialogue of Tlatelolco in 1974, have not achieved a level of organized endeavor comparable to that of the Alliance for Progress, nor have they helped institute a process for making significant response to urgent problems that await solutions.

Nonetheless, this year Secretary Kissinger has made a number of major policy overtures and important proposals to reverse that situation of drift and indecision. Congressional bodies have also been re-evaluating the U.S. "special relationship" with Latin America in the light of these changing conditions. We at the OAS welcome this renewed U.S. interest in Latin America and we agree that further U.S. neglect of our region could only imperil hemispheric peace and harmony.

While bilateral solutions to hemispheric problems are indeed necessary and useful from time to time, the long-lasting inter American forum provided by the OAS should be the bulwark of hemispheric relationships. It is within this framework where the new development agenda of the Americas should be realistically thrashed out and dealt with.

If the OAS is to expand the hemisphere's dialogue on the development question and enlarge its ability to open the door for new cooperative relationships between Latin America and the United States in a whole range of areas, its capacities must be strengthened and maintained on a secure and sound basis.

In June, in Santiago, Chile, the General Assembly—the supreme organ of the OAS—gave the OAS Secretariat greater responsibility for revamping OAS programs and personnel needs and requirements to meet the newer challenges faced by our Organization.

We are proceeding on schedule to modernize OAS politics, programs and practices. As the OAS is streamlined and modernized, a number of projects which no longer serve their original purpose are being revamped or reorganized. In some cases this also means displacement, regrettably, of employees with records of long and satisfactory service to the cause of hemispheric unity.

As Secretary General I am attempting to carry out this reorganization with a sense of fairness and openness.

THE DEFENSE OF HUMAN RIGHTS

Since 1960, critical leadership in protection of human rights in the Americas has been provided by the OAS Commission on Human Rights. The independence, thoroughness, and objectivity with which it goes about its business are widely acknowledged. This year, its work gained for it new recognition within the OAS General Assembly.

It is essential that the OAS provide such hemispheric leadership, giving real meaning to the words "human rights" and "human dignity." These must be perceived not as mere legal concepts or rhetorical expressions; they must be deeply felt, and honored in practice.

I think that a right whose violation finds no thorough redress in the administration of justice is a right with no real meaning or existence. Old civilizations have understood that full protection of human rights requires an international judicial instance. The European Court of Human Rights is the most outstanding example of how at an international level it is possible to provide complete enforcement for human rights.

So, true protection of human rights among us may involve the creation of a judicial body of an inter American nature which may be called upon to investigate and to judge alleged violations of human rights.

In this sense, an important precedent was established in November 1969 when twelve Latin American countries signed the Inter-American Convention on Human Rights.

Only two nations—Colombia and Costa Rica—have so far ratified this convention and it has therefore not entered into effect. The Convention authorizes the creation of an Inter American Court of Human Rights, an international juridical organism endowed with faculties for determining violations of rights or liberties protected by the Convention. The Court would be able to order measures for redressing violations of human rights.

I believe an important way for us to demonstrate respect for the protection of human rights in this hemisphere is not only to identify every alleged violation but also to encourage the implementation of an international judicial process to fully guarantee the respect of those rights.

I think we must do everything possible to expand our inter American standards and practices to defend human rights wherever they are threatened. No persons, group or movement, no matter what their motives, no matter what their objectives, no matter what their role in society, can justify themselves if their actions rely upon violence and destruction of human life.

Human rights is an all embracing, indivisible concept. It requires protection against violation of human rights and redress once those rights are violated. It cannot be restricted to certain beneficiaries. It encompasses all citizens without qualifications. Thus, with the same eagerness, due process of law should be demanded for those who have not received the benefit of a fair trial, and effective defense for the innocent bystander or the public servant threatened by the blow of treacherous violence should be provided.

CONCLUSION

All Americans have a mutual obligation to build up hemispheric solidarity and this obligation applies equally to all our peoples. Our hemisphere should not be one where two great forces—the United States and Latin America—are in contention. It must, rather be a fully integrated continent, where Costa Ricans and Chileans, Ecuadorians and Panamanians, Jamaicans, and Bolivians, north and south Americans all must work together, cooperate and understand one another. Latin America and the United States have no choice but to be equal partners in a combined and permanent commitment to integral development of this hemisphere.

This means we must put a permanent end to an isolation from each other. We should strive to fashion the entire hemisphere—including the United States—into a single community—America. Latin America has no doubt that all of us as Americans must seek to fullfill Bolivar's dream of "America fashioned into the greatest nation in the world, greatest not so much by her area and wealth as by her freedom and glory."

We celebrate two central hemispheric milestones this year, the Declaration of Independence of the United States in 1776 and the convening of the Congress of Panama in 1826—the first inter-American assembly. However, it would hardly be appropriate not to sense that the Jeffersonian right to life, liberty and the pursuit of happiness is not yet a reality for millions of Americans in this hemisphere.

CAT CONTROVERSY

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, today I received a letter, dated September 21, 1976, from T. D. Nicholson director of the

American Museum of Natural History, the original of which was sent to our colleague, JOHN M. MURPHY, in response to his letter of August 31. Our colleague asked for the comments of the Director on the statement I made during the debate on the Ottinger amendment to the Toxic Substances Control Act which took place on August 23, 1976. As our colleagues may recall, the Ottinger amendment would have required that—

> Except that in prescribing tests the Administrator (of EPA) in his or her discretion shall give preference to available tests which do not involve the use of animals if such tests provide an adequate and accurate means for ascertaining the effect of a chemical substance or mixture on humans and the environment.

The exchange of correspondence between Mr. Nicholson and our colleague, Mr. MURPHY, was prompted by the concern of many people that the experiments conducted on cats by the American Museum of Natural History are not warranted. My concern in raising that issue along with others on the humane treatment of animals is that we explore the entire question of the treatment of animals in an appropriate manner. I offer this recommendation since one of the major issues of consistent concern to my constituents—as reflected by my mail—mail of many of my colleagues as well—has been the humane treatment of animals.

Because of this intense concern, I have proposed H.R. 11112, legislation establishing a Commission on the Humane Treatment of Animals which will be the subject of hearings before the Agriculture Subcommittee on Livestock and Grain on Thursday, September 30. Obviously, Mr. Speaker, there is no possibility of legislation being enacted this year on that subject in the few days which are left to us. However, I will reintroduce the bill on the first day of the new Congress, assuming that I am here, and I hope that the bill will work its way to the floor for a vote in the forthcoming year.

I do think it only fair that I place in the RECORD the letter received from Mr. Nicholson as well as the material to which he refers in his letter:

SEPTEMBER 21, 1976.

Hon. JOHN M. MURPHY,
Congress of the United States,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MURPHY: Please forgive the delay in answering your August 31st letter. I have had a difficult time keeping up with my correspondence this summer, responding, for example, to inquiries from forty Federal legislators. In any case, I am pleased that you have asked for my comments on Congressman Koch's remarks as recorded in the August 23, 1976 Congressional Record.

First, a few words about the circumstances. In response to his request and my subsequent invitation, Mr. Koch visited the facilities on August 11, unexpectedly accompanied by a member of his staff, a photographer, two news reporters from WNBC radio, and a man named Henry Spiro, a free-lance writer whose material sometimes appears in a New York weekly newspaper called Our Town. The principal investigator, Dr. Lester Aronson, was hospitalized at the time. I had offered to reschedule the visit, or to arrange for a second visit when Dr. Aronson would be available. Mr. Koch chose his own time to come, and only Ms. Madeline Cooper, Research Fellow, was available to help him.

Dr. Jerome G. Rozen, Jr., Deputy Director for Research at the Museum, and I accompanied Mr. Koch and his group. He spent about one and one-half hours touring the facilities and talking to Ms. Cooper, with occasional comments by me or Dr. Rozen, comments and questions from the reporters, flash photographs being taken frequently. The procedure was informal and conversational. The rooms and areas visited were small for a group of this size, and neither the circumstances nor the environment lent themselves to a spirit of objective and orderly inquiry.

I recall somewhat differently the specific conversation that was the basis for Mr. Koch's remarks. Ms. Cooper had stated, in response to questioning, that male cats are at times exposed to a female, and sometimes exposed to a rabbit or to a stuffed toy. This prompted Mr. Koch to question her further. Ms. Cooper did not state or imply that the purpose was to score the cat in a multiple choice situation. Rather, she tried to explain that it is a reasonably well-known aspect of cat sexual behavior that a male will attempt to mount a wide variety of animate and inanimate objects. The purpose in the procedure she described was to observe the sexual behavior of the male cat in a variety of circumstances in order to detect and compare evidence of hypo- or hyper-sexuality.

I am not surprised that Mr. Koch may have misunderstood, considering the relatively disorganized environment in which the conversation took place. This was by no means a formal inquiry. I do think it unfair, however, that he would reach a conclusion concerning the merits and relevance of this project, even if only a "gut reaction," and that he should promulgate it publicly on the basis of an hour-and-a-half conversation with an assistant, in circumstances not conducive to dispassionate review. He must realize that the very extensive training and experience that Dr. Aronson and Ms. Cooper bring to their work cannot be compressed fairly into so brief an episode. There is much more about this work that Mr. Koch could have known, that he should have known if and before he intended to express a judgment publicly.

The best way to determine whether any given project is scientifically worthwhile is to obtain the review and the opinions of persons competent to judge it. Dr. Aronson's project has been reviewed four times in recent years by different review groups, including the Experimental Psychology Study Section and the National Advisory Child Health and Human Development Council. A word about these two bodies:

The Experimental Psychology Study Section, Division of Research Grants, NIH, consists of 14 scientists chosen on the basis of documented expertise in their field and competent to provide peer review of applications submitted to them. This group most recently reviewed and approved Dr. Aronson's work for scientific merit in April 1974.

The National Advisory Child Health and Human Development Council includes as ex-officio members the Director, NIH, as Chairman; the Chief Medical Officer of the Veterans Administration or his representative; a medical officer designated by the Secretary of Defense; and a member designated by the Director, Office of Child Development. Fourteen additional members are appointed by the Secretary, Department of Health, Education and Welfare, from among leaders in the fields of fundamental sciences, medical sciences, education, or public affairs. It was in June 1974 that this group most recently reviewed Dr. Aronson's work for relevance and other factors and approved its support for three years.

In addition to these formal reviews which, in competition for very limited NIH extramural research funds, have consistently given Dr. Aronson's research very high ratings for scientific quality and relevance, we can cite the records of publication and citation as evidence of professional opinion. Both involve review and evaluation by competent persons either as anonymous referees or as colleagues whose work is influenced by Dr. Aronson's methods and findings; in both, Dr. Aronson's record is excellent. Several of his earlier papers are considered "classics" in his field; the Citation Index shows that his research reports are used very frequently by other scientists. A number of scientists have written me and told me that Dr. Aronson's work is highly meritorious and significantly important, and I would have no trouble collecting many more statements to similar effect were I to solicit them.

The research project in question has been supported for many years by the National Institute of Child Health and Human Development. That agency has a mandate from Congress, through the Population Research Center, to encourage basic research on reproductive behavior. Among the objectives is to contribute to the understanding of and eventually to alleviate distressful human problems such as the treatment of sexual disorders, impotence, frigidity, infertility and overpopulation. While we all know that there are no guarantees in science, especially in basic research when it is exploring the unknown, it has been the consistent judgment that Dr. Aronson's work is particularly relevant to and holds great promise for that objective.

Specifically to the discusion raised by Mr. Koch, sexual deviants often attempt sexual acts with animals, with inanimate objects, with children. Dr. Aronson's present work—investigating the physiological basis of hypersexuality—would appear of special significance with respect to this problem. Among its aim is to show that injury to the amygdala (a small area of the brain) in cats may increase their sexual interest in inappropriate objects. This could mean that this area of the brain normally serves to limit such deviant behavior. This in turn could lead neurologists to a target on which they may "zero in" with respect to understanding and treating some human sexual disorders, including those that sometimes manifest themselves in behavior that is criminal and injurious to innocent persons.

The attacks by anti-vivisectionists on Dr. Aronson's work have aroused a reponse that concerns us. Most of our mail on the subject is extreme, hasty, incorrect, or false in its judgment and criticism. Much of it is obscene, some is threatening. No legal action has been instituted, no evidence has been presented or suggested that could lead to inquiry by agencies of law enforcement. On the contrary, the additional reviews that we have requested or encouraged have reconfirmed our compliance with legal and ethical standards and principles, and they have verified the significance and relevance of the work. Unfortunately, as is often the case, the charges are easily couched in sensational language, in lurid headlines, that are difficult to refute in the restrained, precise manner that a responsible and respected institution must adhere to.

In fairness to Mr. Koch, of course, Ms. Cooper may not have answered his questions in a way that would lead easily to an understanding and assessment of the work in terms that a non-professional would grasp. In fairness to Ms. Cooper as well, that is not her job; she was employed for her experience and skill in scientific investigation and in communicating in the language and methods of science, not for her expository skill in the environment of Mr. Koch's visit. It may also be especially important to note that, at the time of his visit and when he presented his remarks to Congress, Mr. Koch may not have received from the National Institutes of Health and the Secretary of Health, Education and Welfare the opinions he had requested. He has certainly had access to them by now, however. Perhaps he has already used them to correct the unfortunate impressions that his remarks could convey. The enclosed, as you may see, certainly contain sufficient "expert opinion" on which to amend the record.

I was pleased to read your well-considered comments in the Congressional Record opposing the Ottinger amendment. For what it is worth, I extend my wholehearted support. I did have two thoughts you might wish to consider:

If I can judge by the kinds of pressures brought to bear on Secretary Matthews as a result of the small but very vocal minority now criticizing our work, I would be concerned over the problems that the Administrator of the Toxic Substance Control Act might face in exercising his discretion with respect to the proposed amendment. In our case, the scientific judgment of the appropriate authorities of NIH have certainly been questioned and ridiculed on other than scientific issues.

I recall reading in Science a few weeks ago an article dealing with the potential toxicity of the metabolic by-products of substances that are not of themsleves harmful to an organism. This would seem to be a danger that testing on non-animal substitutes might not detect.

I do apologize for the length of this reply to your letter, and for the bulk of the enclosures. But I did wish to cover the subject in a reasonably complete way. I hope that it will help you in replying to constituents. If I can help further, please let me know.

Sincerely,

T. D. NICHOLSON,
Director.

The following dialog took place during the debate on the Toxic Substances Control Act on August 23. It is my statement in support of the Ottinger amendment which read:

> . . . that in prescribing tests the Administrator (of the EPA) in his or her sole discretion shall given preference to available tests which do not involve the use of animals if such tests provide an adequate and accurate means for ascertaining the effect of a chemical substance or mixture on humans and the environment.

Regrettably the amendment failed:

Mr. KOCH. Mr. Chairman, I rise in support of the amendment. I think it is a good one, and let me tell the Members why I think it is a good amendment. I am not someone who is an antivivisectionist. I believe that there is appropriate experimentation on animals to be done. That includes basic research; that includes matters which would relate to the welfare and the health of humankind as well as animals that are not human. But, obviously there are limitations, and wherever it is possible to use nonanimal substances for experimentation, surely that is to be preferred instead of the use of animals.

I do not think anyone would want to quarrel with that. But even those who would not want to quarrel with it are always reluctant, so to speak, to enter the battle because in some way or other we think we are going to limit the scope of experimentation and impose restraints on those who "know better" than we do.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. KOCH. I yield to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. I thank the gentleman for yielding.

Who is to determine whether other experimentation is adequate? Is it going to be the court, or is it going to be a scientist?

Mr. KOCH. I will read the amendment. The amendment says:

> ". . . except that in prescribing tests the Administrator in his or her discretion shall give preference to available tests which do not involve the use of animals if such tests provide an adequate and accurate means for ascertaining the effect of a chemical substance or mixture on humans and the environment."

It seems to me the amendment is very carefully drawn so as to allow that discretion to the Administrator, who certainly should know whether or not there are adequate substitutes.

Why would the gentleman not want to use a nonanimal substitute, if one is available, in the discretion of the Administator?

Mr. ECKHARDT. If the gentleman will yield to permit me to answer the question, I would say he would have the discretion, clearly, if we did not put this in the bill. I would hope he would lean in the discretion of humaneness.

Mr. KOCH. Let me tell the gentleman why it does not always happen.

Mr. ECKHARDT. The thing is that this discretion, as I understand it, is limited to a situation where there is not an adequate or an accurate means for ascertaining the effects of a chemical substance.

Mr. KOCH. Let me tell the gentleman a story, which happens to be true and which happens to be current.

In the city of New York today, the Museum of Natural History is engaging, quite properly, in experimentation with respect to basic research. But there are those who believe—and I am one of them—that the experimentation that they are undertaking with respect to cats is unwarranted.

That is a layman's opinion, and I have asked the National Institutes of Health for its opinion on it. I happen to have a lay opinion which will not decide for me what I will ultimately do without getting a more expert opinion, but it is a gut reaction.

I want to tell the Members what happened when I went to the Museum of Natural History, at the request of constituents who were distressed that the museum had received a grant from the Federal Government, NIH, to engage in an experimentation on cats relating to hyper- and hyposexuality. My constituents were told, based on the grant application, that this museum was going to engage in the following experimentation:

One, it was going to blind the cats. The fact is that they never did that. I want to make that very clear. But it was one of the programs that it was allowed to engage in under the grant that it received. And, second, it was going to surgically affect the penises of kittens to ascertain what effect that would have on sexuality, in addition to other experimentation. So I went to the museum and I asked them to tell me what it is that they were actually doing, and they asked me if I would like to go in and see the cats in their cages. I said yes, and I went there, and there was about 35 cats. They appeared well treated, in the sense that they were in clean cages, and they did not seem to be in any pain. So I said to the doctor who was explaining what was happening, "What do you do here? What is the purpose of this experiment?" And she said, "Well, the purpose is to look at the effects of hyper- and hyposexuality in cats. We find," said she, "that if you take a normal male cat and you place that cat in a room with a female cat that is in heat," said the professor, "the male cat would mount the female cat."

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. KOCH was allowed to proceed for 2 additional minutes.)

I said, "That sounds very reasonable to me."

Then she said, "Now, if you take a cat, a male cat, and you put lesions in its brain—"

I interrupted and asked, "What are lesions?"

She said, "Well, you destroy part of the brain cells."

I asked, "What happens then?"

She said, "Well, if you take that male cat that has lesions in its brain and you place it in a room with a female cat and a female rabbit, the cat will mount the rabbit."

I said to her, "How does the rabbit feel about all this?"

There was no response.

Then I said to this professor, "Now, tell me, after you have taken a deranged male cat with brain lesions and you place it in room and you find that it is going to mount a rabbit instead of a female cat, what have you got?"

There was no response.

Then I ask, "How long, by the way, have you been doing this?"

She said, "Since the early 1940's."

I said, "How much has this cost the Government?"

She said, "$435,000."

Mr. Chairman, I tell this story, not because I am prepared to say that experimentation on cats is wrong. I repeat I am not an antivivisectionist. I am simply saying that there is a role here for lay persons and an opportunity for people to be interested in what is taking place in this field, and where we can explore any of these basic problems with nonanimal substitutes, if that is possible, then we should. Where it is not possible and if the project is scientifically worthwhile—and I am not the one to suggest which projects are worthwhile; I am going to leave that to the Administrator—then obviously it should proceed.

All the amendment offered by the gentleman from New York (Mr. OTTINGER) does is it says that the Administrator in his discretion shall give preference to nonanimal tests wherever those are available, and that is on the basis of the facts as I have outlined them.

The CHAIRMAN. The time of the gentleman from New York (Mr. KOCH) has expired.

(By unanimous consent, Mr. KOCH was allowed to proceed for 1 additional minute.)

Mr. KOCH. Mr. Chairman, on that basis would the gentleman not wish to support this Ottinger amendment?

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield, I think that the cat and rabbit situation may be most interesting, and it would be more interesting if they used a male rabbit and a female cat. However, it seems to me it is far beside the point. This is an experiment for the sake of experimentation.

What we are talking about is experimentation with respect to a poison. If it affects a cat or a rabbit, it will probably, or may possibly, affect a person.

Mr. KOCH. Mr. Chairman, if the gentleman will bear with me, I repeat if there is no other way, if there is no nonanimal substitute available, the gentleman from New York (Mr. OTTINGER) and I do not disagree with the gentleman from Texas. What we are saying is that there ought to be consideration given to the use of nonanimal substitutes when they are available.

Mr. Chairman, I think this is a very reasonable amendment, and I urge the Committee to accept it.

PRESIDENT FORD'S REFUSAL TO INTERVENE, AS COMMANDER IN CHIEF, IN THE WEST POINT CHEATING CRISIS

(Mr. CHARLES H. WILSON of California asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CHARLES H. WILSON of California. Mr. Speaker, as a member of the Military Personnel Subcommittee of the House Armed Services Committee, I have become closely involved in the extensive and painful cheating scandal which has opened the administration of West Point's honor code to strong question. With the release of cadet affidavits accusing 687 graduates, first- and secondclassmen of honor violations, the futures of a great many fine young men, and of the U.S. Military Academy itself, have also been placed in jeopardy.

Several serious concerns have been raised regarding the legality of Secretary of the Army Hoffmann's proposed solution of this pervasive institutional crisis. Mr. Hoffmann's 1-year expulsion and readmission program for members of the class of 1977 has also been criticized for the discriminatory repercussions it will have on those qualified candidates from the Army's active ranks and reserves who look to the Secretary's competitive nominations for their "slot" at West Point.

In the interest of time and of justice, several cadets and their defense attorneys, Mr. Michael T. Rose, Mr. Henry B. Rothblatt and Capt. David E. Brockway, applied to President Ford to intervene, in his capacity as Commander in Chief, in order to salvage this deteriorating situation. With the hope of clarifying or further explicating the problem and its alternative solutions, I submit for the examination of my colleagues the memorandum which Mr. Ford has declined to act upon:

To: President Gerald R. Ford, Commander-In-Chief, The White House, Washington, D.C.

Subject: Motion and request for intervention and redress of wrongs under the provisions of article 138, Uniform Code of Military Justice (10 USC § 938).

1. We the undersigned, on behalf of ourselves and other members of the United States Corps of Cadets, United States Military Academy, West Point, New York, respectfully request from you Mr. President as the Commander-in-Chief of the Armed Forces of the United States an examination into the regulations, procedures and policies implemented by the Superintendent, United States Military Academy and the Secretary of the Army regarding the Cadet Honor Code and System in the aftermath of the Electrical Engineering 304 take home examination. We are pending imminent separation from the Military Academy.

2. The examination was administered to 823 cadets in the Class of 1977 on 3 March 1976. It was turned in for a grade on or about 17 March 1976. Subsequently, evidence of cheating or unauthorized collaboration on the examination was uncovered by the Department of Electrical Engineering.

3. Under the Cadet Honor Committee procedures a total of 117 cadets were investigated for possible Honor Code violations; 101 cadets were referred to 12 member Cadet Honor Boards and eventually 48 cadets were recommended for separation and 3 other cadets resigned.

4. Thereafter the Superintendent of the Military Academy suspended the functions of the Cadet Honor Committee and instituted an unprecedented system of Internal Review Panels consisting of two officers and one cadet or three officers. The function of the panels was to investigate and refer cases of cadets accused of collaborating on the EE 304 take home examination to Boards of Officers for disposition. All cadets were subject to appear before the Internal Review Panels, even those who had previously been cleared by the Cadet Honor System.

5. Eventually some 202 Cadets had formal allegations of cheating made against them by the Internal Review Panels and had their cases referred to Boards of Officers. However, sworn testimony by members of the faculty of the Department of Electrical Engineering indicated that between 400 and 600 of the 823 cadets who took the examination probably engaged in cheating, collaboration or toleration.

6. The Cadet Honor Code states simply that "Cadets will not lie, cheat or steal, nor tolerate those who do." The single sanction for a violation of the Honor Code, no matter how minor, is separation from the Military Academy. The Honor Code and the system for its implementation have heretofore been the property of the Corps of Cadets.

7. Boards of Officers sustained honor code violation allegations against 103 cadets and cleared 52. Prior to 23 August 1976 an additional 13 cadets resigned for EE304 Honor Code violations.

8. On 23 August 1976, Lieutenant General Sidney B. Berry, the Superintendent of the United States Military Academy, and the Honorable Martin R. Hoffman, Secretary of the Army, appeared before the Subcommittee on Manpower and Personnel, Committee on Armed Services, United States Senate. The Secretary stated that the institution shared responsibility with the cadets for the breakdown of the Honor Code and System at the Military Academy. The Secretary then proposed a plan, implemented by the Superintendent, USMA Regulation 1–6 (23 August 1976), whereby cadets would be separated from the USMA but could, by voluntarily admitting to an Honor Code violation and resigning, reapply for admission to the Academy. We believe that this proposal under the circumstances is inadequate and that the regulation is invalid.

9. As of 16 September 1976 the following events had occurred:

110 cadets had resigned from the Corps of Cadets;

93 cadets had stated an intention to reapply for admission to the Military Academy.

These figures include:

13 cadets who resigned prior to the announcement of the Secretary's proposal;

62 cadets who had resigned after having had allegations of honor violations sustained against them by Boards of Officers;

6 cadets who had been cleared of allegations by Boards of Officers;

6 cadets who were pending Boards of Officers;

23 cadets who had not been previously detected or implicated in the EE 304 cheating investigation.

10. The deadline was 7 September 1976 for cadets not implicated in the EE 304 cheating investigation to resign and take advantage of the Secretary's proposal. A cadet whose case had been referred to a Board of Officers prior to 7 September 1976 could resign at any time to include 10 days after the Secretary of the Army takes final action on the Superintendent's recommendation that a cadet should be separated from the Academy.

11. Mr. President, all of us as members of the United States Corps of Cadets believe that the Cadet Honor Code is and should remain a fundamental concept of our training and education at the Military Academy. We also realize that collaboration or cheating on the EE 304 exam may be deserving of some form of punishment. We do not feel however that under the circumstances this indiscretion is indicative of basic flaws of our character or lack of veracity. We believe that many aspects of the Cadet Honor System are overly rigid, arbitrary, disfunctional and unrealistic. Every responsible source, including military officers, cadets and Members of Congress, agrees that the number of cadets involved in violating the Cadet Honor Code on the EE 304 take home examination is several hundred more than the number of cadets processed by the Officer Boards.

12. As cadets we also feel that the Superintendent and Secretary of the Army have wronged us and the Corps of Cadets in the following ways:

A. Creating and permitting a system of education and training which while on the one hand encourages collaboration and cooperation with fellow cadets on a daily basis, on the other hand inflicts unreasonably harsh and excessive punishment for minor infractions stemming from similar collaboration and cooperation.

B. Arbitrarily and unlawfully abandoning the Cadet Honor System in order to deal with Honor Code violations arising out of the Electrical Engineering 304 take home examination which perhaps half of the Class of 1977 did not consider a moral transgression.

C. Creating Internal Review Panels and procedures which denied us as cadets the opportunity to be judged by our elected peers as well as basic guarantees of Constitutional due process.

D. Inducing cadets to resign and accept stigmatization as Cadet Honor Code violators without an assurance of readmission or acceptance into the Corps of Cadets, and without legal authority to do so.

E. Subjecting us to increased pressures and hostility in order to precipitate our resignation and possible abandonment of our desire to become career commissioned officers of the Regular Army of the United States, while at the same time refusing to recognize the roots of the problems inherent in the inflexible system which currently exists at the Military Academy.

13. A more detailed explanation, both factual and legal, of these wrongs have been prepared by our attorneys. These are set forth in the attached Amended Complaint and Memorandum of Law filed in the Federal District Court for the Southern District of New York on 16 September 1976.

14. Mr. President, we have appealed to every source known to us in an attempt to resolve our problem. We have petitioned the Superintendent on numerous occasions for redress of our grievances without success.

As early as 3 May 1976 our attorneys, on our behalf, petitioned the Secretary of the Army for an impartial investigation by non-Academy personnel of the conduct of the authorities at the Academy in administering the investigation of the honor violations connected with the EE 304 exam. This was denied.

On 2 August 1976 we submitted a Request for an Impartial Board of Inquiry to the Secretary of Defense. We have received no response.

Since the 23 August 1976 proposal announced by the Secretary of the Army, our attorneys have sought legitimate modifications of the Secretary's proposal to include redress for what we believe to have been wrongs committed against us. They have sought definitive guidance on the Superintendent's implementation of the Secretary's proposal (USMA Regulation 1-6 (23 August 1976)). These requests have been ignored.

15. It is at this juncture, Mr. President, that we appeal to you as Commander-in-Chief and as the source of all appointments to the Military Academy to intervene in this matter. Based upon your examination of the wrongs which have been committed against us we respectfully request:

A. That the Secretary of the Army be directed not to separate any cadet from the Military Academy for an honor violation arising from the EE 304 take home examination.

B. That we be permitted to remain at the Military Academy to complete our training and education in preparation for a commission in the Regular Army.

C. That cadets who have submitted resignations be permitted to return to the USMA immediately or in the alternative be assured the right to return to the Academy next academic year.

D. That all charges and allegations arising from the Electrical Engineering 304 take home examination be dismissed.

E. That an in-depth inquiry into the causes of the Honor Code dilemna at the USMA be conducted with a goal toward making recommendations for implementing a fair and equitable Honor System.

SUBVERSION OF CONGRESS ON RESCISSIONS

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, on September 8 I brought to the attention of the House correspondence I have been having with the General Accounting Office and the administration concerning the late reporting of rescissions R76–46 through 49. Although these rescissions in fact began on July 1, 1976, they were not reported by the President until July 28, nearly a month later.

Correspondence I included in the CONGRESSIONAL RECORD of September 8 made clear that it was GAO's opinion that this late reporting was a violation of the spirit of the Budget and Impoundment Control Act, but that under the Budget Act GAO had no authority to rule that the rescission began on the earlier date—and that therefore the 45-day period Congress has to approve the rescission also began to run on the earlier date.

Given this defect in the Budget Act, and given the assurance by the administration that the late reporting was a bureaucratic error rather than a deliberate effort to frustrate the intent of the act. I wrote the President suggesting he establish his good intentions in this regard by releasing the funds proposed for rescission on September 17—the 45th legislative day under the act after July 1—rather than September 29—the 45th day after July 28.

This action, of course, would help insure the funds would be obligated before the expiration of the transition quarter after which some of the funds would no longer be available in any case. I have recently received a response to my suggestion from Paul O'Neill, Deputy Director of the Office of Management and Budget. The text of the letter follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., September 17, 1976.
Hon. RICHARD L. OTTINGER,
House of Representatives,
Washington, D.C.

DEAR MR. OTTINGER: The President has asked me to respond to your letter of August 30, 1976, expressing concern that we are subverting the intent of the Impoundment Control Act. The concern is with regard to the timing of transmittal of proposed rescissions R76-46 through 76-49, transmitted in a special message to the Congress on July 28, 1976.

It is certainly not our intention to subvert the Impoundment Control Act. When the Congress passes appropriations so late, as in this case, that only a relatively short time remains in the period in which they are expected to be used, a problem of timing arises. If it is determined that funds cannot be used effectively, recommendations must be made to the President under the terms of the Impoundment Control Act and he must transmit a message to the Congress.

The time that passed between enactment of the Second Supplemental and the transmittal of these rescission proposals was used to give careful consideration to each proposal and to hear many different viewpoints before deciding on the proposals. It is still our view that these rescission proposals are justified and that the Congress should, therefore, be given the full 45 days the law provides to act on the recommendations.

At the same time, we recognize the need to avoid actions that would preclude the use of funds if the Congress does not agree to rescission proposals. The Departments of Agriculture and Health, Education, and Welfare have been informed that, since there appears to be a reasonable doubt that the Congress will rescind the four proposals, they should immediately take those actions necessary to insure that all possible funds will be obligated if funds are released on September 29, the end of the 45-day period established by the Impoundment Control Act. Specifically, we have instructed the agencies to take the same actions, short of actual obligation, that would be taken if funds had been released on September 17 instead of September 29. The effect of our direction is substantially equivalent to releasing the funds today.

For the Department of Agriculture Child nutrition program (R76-46), the funds will be available until expended. Therefore, there is no danger of the funds lapsing at the end of the Transition Quarter and, in fact, we are informed that they can all be obligated before October 1.

For the Department of Health, Education, and Welfare, the Assistant Secretary, Comptroller of HEW has assured us that the obligations that will occur will be no different than what would happen if the funds in question were released on September 17.

Like the Child nutrition program, the education impact aid funds (R76-48) are available until expended. Therefore, no funds will lapse at the end of the Transition Quarter.

While funds for State equalization grants (R76-47) will expire on September 30, HEW assures us that obligations can take place before any funds are lapsed.

Funds for Education for the handicapped (R76-49) will be made available to all States who have submitted the required plans for use of the funds. However, the Department has on hand a very limited number of applications in approvable form. For this reason, those funds which cannot be made available will lapse. This lapse would also occur if the funds were released on September 17 and, in fact, would have occurred if no rescission had been proposed.

It is our continuing desire to report fairly to the Congress under the Impoundment Control Act. Every effort will be made to transmit rescission proposals in a way that will provide an opportunity for the funds to be used if the Congress disapproves the action taken.

We hope that the action taken and the information provided have dispelled your concerns.

Sincerely yours,
PAUL H. O'NEILL,
Deputy Director.

All things considered I think this letter can be interpreted as a limited "victory," but with respect to the funds in question only. The OMB action, though not as extensive as I requested, does appear to insure that the paperwork involved in obligating the funds will be speeded up and that the expiration of the transition quarter alone will not prevent funds from being obligated—though as the letter makes clear, in certain cases there may be other, unrelated, reasons why the funds would not be spent.

From a broader policy perspective, however, I do not think this letter represents a change of position by OMB. Since it is OMB's contention that the delayed reporting was an error, not a deliberate policy of delay, from their point of view there is no "policy" to change, and they could decide to deliberately delay reporting in any future case, thereby subjecting congressional action on rescissions under the Budget Act. It is this problem which legislation I have introduced (H.R. 13155) addresses.

Very simply, my bill would create a mechanism whereby Congress could take positive action to indicate its intention of not approving a rescisson request. At the point of such action, the funds would have to be released, thereby shortening considerably the 45-day waiting period, a period which often stretches to more than 100 days when actually applied because of congressional recesses.

Unfortunately, my legislation, as well as other bills along similar lines, with more than 90 cosponsors, has not been acted upon in this Congress. In an effort to move the bill forward, I have sent the following letter to the chairman of the House Budget Committee:

WASHINGTON, D.C., *September 22, 1976.*
Hon. BROCK ADAMS,
Chairman, House Budget Committee,
U.S. House of Representatives.

DEAR BROCK: I have read with considerable interest your Committee's Status Report on Rescissions and Deferrals of September 15, particularly the section relating to the President's eighteenth rescission message.

My interest in this matter stems from previous correspondence I had with the General Accounting Office on the question of the delayed reporting, and from a subsequent exchange of letters I had with the Administration urging that the funds proposed for rescission be released on September 17 (the 45th day under the Act after July 1) rather than September 29 (the 45th day after July 28). A copy of the OMB reply to my suggestion is enclosed.

While this response is encouraging with respect to these particular rescissions, it is clear that the problem of OMB withholding funds *proposed* for rescission until the expiration of the 45-day period remains. Since the 45 days often becomes more than 100 days, thanks to Congressional recesses, the problem is all the more serious, and be expected to continue, particularly as Congress adjourns.

To correct this defect in the Budget Act I have introduced H.R. 13155 which, along with other similar bills introduced by Congressmen Drinan and Baucus, has more than ninety cosponsors. To date the Rules Committee has not acted on these bills.

My own research on the subject has convinced me first, this problem is a serious one that is likely to continue, and second, that there is a consensus on the need for legislation. With that in mind, I would encourage you as Chairman of the House Budget Committee to make clear to the Rules Committee the need for prompt action on this legislation.

Sincerely,

RICHARD L. OTTINGER,
Member of Congress.

Though it now appears to be too late in this Congress for action, there is no question that this defect in the Budget Act will be with us regardless of what administration is in office next year, and I hope legislation such as that which I have proposed will be a top-priority item for the 95th Congress.

CURBING ABUSES OF MEDICAID AND MEDICARE

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I am today introducing legislation which is designed to curb fraud in the medicaid and medicare health delivery systems and to guard against sloppy and inefficient administration of these valuable programs.

The recent revelations of inflated costs and haphazard medical practices of some unscrupulous providers are shocking.

For they mean that the aged and needy are not receiving proper health care and that tax dollars are being wasted.

Mr. Speaker, we must not countenance these abuses, and I hope that Congress will approve this legislation before adjournment.

I am gratified to report that progress has been made. In the other body, Senator TALMADGE of Georgia has introduced this legislation and the Senate has already attached major sections of the bill to H.R. 12961, a bill to amend the Social Security Act.

In the House, our distinguished colleagues, Congressmen PAUL ROGERS of Florida and DAN ROSTENKOWSKI of Illinois, have introduced this legislation as well.

Briefly, Mr. Speaker, this measure would:

Create a Central Office of Fraud and Abuse Control in the U.S. Department of Health, Education, and Welfare and conduct investigations of medicaid and medicare fraud.

Provide data and support for investigations by U.S. and State attorneys.

Require disclosure of complete information regarding services, fees, and profits from medicaid and medicare providers.

Raise penalties on medicare and medicaid fraud from misdemeanors, with a maximum 1-year sentence and fine of $10,000, to a felony, with a maximum 5-year sentence and $10,000 fine.

Mr. Speaker, I believe that the steps which this bill would undertake to clean up the medicaid and medicare systems, to assure the provision of these services to millions of poor and elderly Americans as Congress intended and to save precious tax dollars are essential.

HARVEST HOUSE FOR GOLDEN YEARS

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, as chairman of the Subcommittee on Select Education, I have had the opportunity to witness the many efforts throughout the country which have been undertaken to provide programs on behalf of older Americans.

As the number of older persons increases, there will be greater need for programs designed to maintain the dignity and sense of personal identity of those who have contributed so much to our society. They are our parents, our teachers, and our mentors. In their mature years we should encourage efforts to insure not only their physical health but also their mental and emotional wellbeing.

Models for such activities do exist and I am placing in the RECORD an article from the August 22, 1976, issue of the South Bend Tribune's Michiana magazine which effectively describes one of these programs.

[From the South Bend Tribune's Michiana magazine, Aug. 22, 1976]

LEARNING FOREVER INSTITUTE

(By Louis Hasley)

The office door stood invitingly open, and I was just stepping inside when the telephone rang. Sister Madeleine motioned me to a chair. I could hear only one end of the conversation, similar to ones which must have taken place scores of times in the last two years, but it went like this:

"Forever Learning Institute, Sister Madeleine speaking.

"Why, yes, I'd be happy to. We completed our fourth semester last May with an enrollment of just under 300 older adults. We had only 115 in our first semester two years ago.

"We teach about 40 courses.

"No, they are not credit courses, but they're taught both by retired and by active professors and other educators, persons of special talent.

"No, there are no tests or exams.

"Oh, no, we're not all Catholic—over one-third of our students are Protestant, Jewish or declare no religious preference.

"There's no special age requirement. Most of our students would appear to be retired, but about one out of 10 listed their age on our last questionnaire as under 50.

"Oh, yes, we do have men students—enthusiastic ones—but only about 15 per cent of the total enrollment. We'd like more lots more. We think lots of men are missing a fine opportunity.

"We charge $10 a course, but there are tuition scholarships available for persons of low income.

"Yes, it's definitely a way of keeping alive and alert.

"I think you'd enjoy our free Wednesday lectures and our other activities, and our newsletters.

"Let me take your name and address. I'll send you a brochure. Hope to meet you in person when we begin our fall semester in September.

"Thanks for calling."

This one-sided conversation serves well as an introduction to the Forever Learning Institute. It is now about to begin its third year after two years of birthing, growth and acceptance by hundreds of older adults in the Michiana community. It's beautiful setting at 107 S. Greenlawn, South Bend, borders on E. Jefferson Blvd.; it is housed in an attractive up-to-date building standing on spacious grounds fenced by tall ornamental iron palings.

Many residents of the South Bend area know the site as the old Vincent Bendix estate. The surrounding high iron fence looks impressive, and if the place consequently seems formidable, forget it and go right in. For once inside the Forever Learning Institute, you will find warmth, friendliness and a relaxed air of dynamic serenity. Even the casual visitor feels a kind of subdued excitement, sensing that he is part of a prevailing spirit of adventure and can continue to be a part of it by just returning.

Excitement?

Yes. Not from scrambling and scurrying, but arising from the continuing cooperative venture of these hundreds of persons in retirement or pre-retirement, alert older adults who by no means have thrown in the towel or made any final concession to age, health or the pursuit of satisfying hobbies associated with learning experiences. Here people of grammer school, high school, or college education mix on an informal basis and share in their personal and impersonal concerns. There are no prerequisites for enjoying either the courses or the activities the Institute has to offer.

THE GENTLE EYE OF A SMALL HURRICANE

In the recent past, retirement was symbolized by a musty shelf, or a rocking chair, or a permanent seat in front of the TV tube. Now such institutions as the FLI have shown that satisfying activities can give new zest to persons in their later years.

The FLI provides concerts, lectures, films, exhibits, tours and above all, study courses, and though there is a small charge for the courses, all other activities are without charge to the public.

The 40-odd courses offered each semester are so varied that persons with normal interests should find something to their liking. Some students take as many as four or five in a semester.

Courses are offered in arts and crafts, painting, languages, music, philosophy, ballroom dancing (potential Queens of the Stardust Ballroom?), theology, science, bridge, business, psychology, social science, literature, writing, culinary arts and tailoring.

But they are not strenuous or exacting—at least need not be. The student participates to the degree he chooses. No pressure, no sweat, unless self-induced. But many an older citizen has experienced in them a quickening, a new life, a shared enjoyment, an exhilaration, and sometimes even an achievement that he had not believed possible.

Work of the Forever Learning Institute is fundamentally serious. It has carefully thought-out goals. These goals aim to provide a variety of intellectual, social and cultural stimuli not merely to forestall the feelings of boredom and uselessness often experienced by older adults, but also to provide opportunities for enthusiastic experiences in socializing, learning, recreation and even counseling on the problems of aging.

The person most responsible for the daily operation and ongoing remarkable success of the FLI is its executive director, Sister Madeleine Adamczyk. The Institute's newsletter recently referred to her as "the gentle eye of a small hurricane."

As a dedicated member of her religious community, the Sisters of Saint Joseph (landladies of the FLI), she maintains quiet, but dynamic, warmth while in the midst of the many concerns of her position. She holds a bachelor's degree in English, a master's in psychology, and, from Canada's Ottawa University, a doctorate in psychology and counseling.

Sister Madeleine was a member of the 1971 White House Conference on Aging and belongs to the Gerontological society. As a specialist in the problems of aging, she is the author of a book, "Becoming," and has given workshops on awareness across the land. And she has held several responsible offices among the sisters of her order.

THE EFFORTS OF VOLUNTEERS

The Institute has an administrative staff of four: Sister Madeleine, her assistant, Judy Deardorff; a part-time secretary, Patricia Bradley; and a man-around-the-house, Greg Kroll. These are the only persons on salary. There are of course other helpers—some 25 enthusiastic volunteers who play host to visitors; serve as library aides, receptionists and typists; plan and implement the annual fall open house and other gatherings; and provide refreshments for various events, including a Christmas party.

Another of the key contributions is that of the more than 40 volunteer faculty members. To say that 90 per cent of the doings of the FLI is the work of volunteers would appear to be no exaggeration.

Behind these volunteers still is another group that determines policy and guidance, an 18-member advisory board with Brother Kieran Ryan, C.S.C., as chairman, and including such persons as City Councilman Roger Parent; Housing Authority and governmental expert, Jesse L. Dickinson; publicist Mary Fischer; Rabbi Elliot Rosenstock; and the Institute's founder, Father Louis J. Putz, C.S.C.

When Father Putz retired emeritus in theology from the University of Notre Dame in 1974, he decided that mere leisure time was not for him. Known as a religious writer, founder of the original Aquinas Library and Bookshop, an initiator of the Christian Family Movement, and founder and long-time president of Fides Publishers, he launched the Harvest House project, the establishment of a series of nine centers open to older adults of all faiths, in South Bend, Mishawaka and Elkhart.

He conceived the Forever Learning Institute as "the educational arm of Harvest House," and set about organizing and applying for funds from private, diocesan and foundation sources. With both faith and good works, and the cooperation of numerous persons willing to lend their talents, the Institute has proposed, although it has a continuing need of on-going funds.

A VERY ACTIVE PROGRAM

One of the most popular activities of the FLI is the Wednesday afternoon series of lectures, films and concerts. Chosen for broad general interest, these are presented by professors, performers, artists, media personalities and civic leaders of the Michiana area. After each presentation, audience and speaker repair to the Friendship Room for coffee, cookies and conversation.

Another FLI project, one that has attracted capacity registration, is a professionally scripted and implemented series of seminar sessions constructed by AIM—Action for Independent Maturity, a division of AARP, the American Association for Retired Persons. This project is aimed at preparing persons looking forward to retirement to deal successfully with problems of health, safety, housing, location, legal affairs, attitude and role adjustments, use of leisure time, income and financial planning. Presentation of each of the sessions is reinforced by participating subject experts drawn from the Michiana community. Four such series, of eight sessions each, will be provided by the FLI through the coming fall, winter and spring.

Several other advantages have been offered by persons at FLI. These have included services of a licensed beautician, free income tax assistance, and free flu shots. The institute's library of approximately 3,000 volumes and its crowded magazine rack welcomes browsers and borrowers.

Harvest House and its subsidiary, the Forever Learning Institute, have had imput from Massachusetts to Florida and California. There have been inquiries, visitors in considerable number from a distance, and a few modest imitators. (One visitor from California was investigating how to set up a similar project.)

Groups have come in by bus from several hundred miles away. In the last year a guild of 33 women from the Cleveland area spent two days at the FLI. A group of 45 senior citizens came from Chicago; 18 from Pennsylvania; 16 from Fort Wayne; and 20 from the ranks of St. Mary's College alumnae.

Last April, 82 South Chicago Senior Citizens celebrated Bicentennial Friendship Day with the students of the FLI. In attending conferences on related topics, FLI leaders have learned of no place of like advantages anywhere in the country.

All signals are "go" for the academic year ahead. Registration begins Sept. 7. An open house and "showoff" is scheduled for Sept. 12. Classes, which ordinarily meet only once a week on either Tuesday, Wednesday or Thursday, begin on Sept. 21.

What of the future of the FLI?

"We have only scratched the surface in meeting the needs of hundreds, perhaps thousands, of older adults in the area," says Sister Madeleine. "But we're gaining and becoming better known. We look for another substantial increase in enrollments this fall."

In view of the goals of the Forever Learning Institute, its personnel and the record already achieved, it seems fair to conclude that it is highly successful in providing rich opportunities for improvement in the quality, productivity and dignity of older people in the Michiana region.

REPRESENTATIVE ALBERT H. QUIE SPEAKS TO THE NATIONAL REHABILITATION ASSOCIATION

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I am pleased to insert in the Record an address by my friend and distinguished colleague from Minnesota, the Honorable Albert H. Quie, delivered to the National Rehabilitation Association on September 20, 1976, at its annual convention in Hollywood, Fla.

Mr. Quie, who ably serves as the ranking minority member of the Education and Labor Committee, has made an excellent statement as to the value of rehabilitation to our handicapped citizens.

The text of the address follows:

Albert H. Quie Speaks to the National Rehabilitation Association

In March, President Ford signed into law the Rehabilitation Extension Act of 1976. Through Public Law 94-230, the Congress and the Administration renewed the commitment to the disabled of this nation and the Vocational Rehabilitaion program. Given the unfortunate legislative experiences the program has had over the past few years, this new law (which extends the program for two more years) is our way of saying to the disabled of the nation that we believe in you, in your value to society, and we support programs which help you in your efforts to live contributing and independent lives.

VOCATIONAL REHABILITATION TODAY

The Vocational Rehabilitation program is still popular and highly respected today, and although we in the Congress are more conscious than ever before about the needs of the disabled, our unquestioning and unrestricted commitment no longer exists. Mere words and phrases regarding the handicapped are no longer sufficient to produce results. As the entire world is changing, so are the people involved with those who are handicapped. More than ever before, the disabled as consumers of programs and services have become vocal and are exhibiting outspoken leadership in behalf of their own cause. This new leadership is articulate and aggressive in pursuing what is perceived to be the solutions to the problems handicapped persons themselves face today.

At the same time, state agencies, along with individuals and organizations that provide services are also changing. Outlooks and attitudes are being reconsidered, redefined, and in some cases being replaced with new methods of helping the disabled to achieve their goals. Those who provide services are working under extreme pressures. I am confident however from what I have seen and read, that they are moving in a manner which seeks to continue the outstanding work of the past.

Although I view the consumer and agency movements in a very positive manner, I recognize that these movements by their very nature may contradict each other. They may foster competition and set in motion forces which are often at odds with one another. It is ironic that as people attempt to perform good deeds and do what they consider to be right, personal philosophies or methods of operating clash. I am concerned that the net result could limit forward movement or even be counter-productive. This activity at work in the handicapped world today comes at a time when there is fierce competition for the limited federal, state and local dollars available to all public programs which serve various segments of society. As the handicapped community struggles for dollars, the education, environmental, highway, defense and agriculture lobbies (to mention just a few) are also fighting for the same limited resources.

RESOURCES FOR REHABILITATION

Through my years in Congress, I have worked to increase the dollars for Vocational Rehabilitation and I have been pleased to see Title I, the Basic State Services program, grow from $236 million in fiscal year 1967, to $720 million this year. But in spite of the fact the authorization levels are identical to the appropriations levels, we know that there is not enough money to do the job. We also realize the problem is more than money. Anyone involved with rehabilitation knows that money alone does not get a person who is injured in an automobile accident into a hospital or through a rehabilitation program, or back to work; to do all this takes people exerting time, energy, skills, concern and love.

There are only so many people and each is limited. With limited personnel and facilities, as well as limited dollars, difficult choices must be made as to how and where resources will be placed and used.

I vividly remember attending a hearing in 1972 on the Vocational Rehabilitation Act when a colleague of mine asked Dr. Samuel Kountz (the surgeon who has performed more kidney operations than anyone else in the world) how he made decisions. He was asked, "Because your time is limited and you cannot help every patient you see, how do you as a physician decide who will be served and who will be turned away?" Dr. Kountz replied, "those decisions are always difficult to make", and he added he "didn't have any magical formulas." My colleague then asked rhetorically: "Based upon your answer, how do we as legislators write bills in which we select who will live and who will die?" Obviously, no one here wants any human being to die, or for that matter, even be denied services which may help that individual to achieve his or her full potential. But the fact remains that hard choices must be made because the personnel, the dollars and the facilities simply do not exist to reach every person in need and with programs as extensive as needed. This is a goal which we will continue to reach for, but it will not be attained in the foreseeable future.

COMMITMENT TO THE HANDICAPPED

In the meantime we must address the questions and the problems we see today, not as dreamers but as realists. I must stress that being realistic does not mean being hard or cruel or devoid of compassion, because even the most feeling among you knows you cannot do everything if money, personnel or facilities are not available.

Legislators as well as counselors and teachers are human and every day we make decisions and judgments based upon the capacity God has given us. We're not always right but hopefully our decisions are based upon careful, thoughtful consideration of the information we have. We often cast votes or make choices which are unpopular but when push comes to shove and discussions have ended, some action must be taken.

Over the past few years I have heard an increasing amount of criticism of the Vocational Rehabilitation program which not only implies that it may not be as good as we think it is, but goes further to claim that it is not meeting mandates that we set down in the law. I have never felt that the program was perfect, any program can be improved. But as I look at the men and women who work in vocational rehabilitation, I see the same level of dedication and commitment today as in the past. I see people working hard every day. Because of my view of rehabilitation, I have become somewhat discouraged and saddened when I hear blanket charges, innuendos and condemnations of all state agencies without substantiation or documentation. There is no doubt that not every counselor or facility is perfect, and they make mistakes. But I have yet to see evidence that any disabled individual has been denied services because of malice on the part of a counselor or a state agency.

Overall, the program is working well; clients are still being served and are being placed in productive jobs. There is always room for improvement and I will always continue to push for better and improved services. Until I see documented evidence that the program is not doing what Congress has intended, I will stand 100 percent in back of it. To use an old cliché, I for one do not intend to "throw the baby out with the bathwater." Vocational Rehabilitation is not a new or untested program; it is 56 years old and has proven itself. I believe that the program can and will improve and grow if the thoughtful and purposeful considerations which have characterized it in the past continue.

SERVING SEVERELY HANDICAPPED

I am certainly aware of the problems confronting rehabilitation today, and I am painfully conscious of the fact that the legislative process is at least in part responsible for it. I refer of course to the priority which we establish to serve the severely handicapped. The information that I have been receiving from throughout the country indicates that in spite of the fact that most state agencies are making a good faith effort to serve the more difficult and "nontraditional" cases there still seems to be considerable confusion as to specifically who the "severely handicapped" are. The confusion stems from the fact that the term "severely handicapped" was not adequately defined in 1973 in Public Law 93–112 in which the initial priority was established by the Congress.

As all of you will clearly recall, the Rehabilitation legislation encountered difficulty in '72 and '73 and was vetoed not once but twice. Whenever a bill is vetoed by the President, the Congress may override or sustain the veto. If a veto is sustained, the task falls to the Congress to rewrite the bill is such a manner as to make it acceptable to the President so that it can be signed into law. After the Rehabiltation bill was vetoed a second time, the Congress totally rewrote the legislation during the third conisderation, and deleted many of the original provisions.

Politics is often called the art of the possible and in spite of the fact that ideas may be good and sound, or a program or policy is needed, there are times when compromises are made and desirable portions are omitted in order to insure that a bill becomes law. All legislators at some time have failed to see items which they felt were important enacted into law. This was certainly true in my case regarding the severely handicapped provision because I joined with Congressman John Brademas in developing the original program designed to serve "individuals who are so severely handicapped that they did not have the potential to return to work but who might benefit from rehabilitation services in order to live independently."

It was my feeling that there were rehabilitation services which could help individuals to such an extent that they would no longer need costly attendants or services, that they could be able to care for themselves, and although they would not be "gainfully employed" in the traditional sense there could be a saving for the taxpayers by reducing the need of attendants or supplementary care. More important, it would allow disabled individuals to live with some degree of independence. Although Congressman Brademas and I believed the idea was a good one, when it came down to a choice between getting the bill that would continue the overall program signed into law or holding out for that particular program at that time, the responsible choice was to drop the new program and insure the continuation of the existing basic program.

Although we dropped the new proposal, we did make a change in the basic Title I program when agencies were required to change their emphasis on the types of clients they serve. Our intent was to provide services for clients, regardless of their disability, who were generally considered to be the more difficult cases or the "most severely handicapped."

When you consider that we were attempting to add a new program and at the same time change an existing one using basically the same definition to describe a particular population to be served; and then consider the vetoes, compromises and rewrites which took place, I can see why some confusion exists throughout the country as to what is the intent of the law. I also recognize that the Congress often has a propensity for using language which the Executive Branch has difficulty in interpreting when regulations are written.

This is one issue we definitely intend to address and clarify when we take up the legislation again.

At times Members of Congress hear that what we clearly meant regarding a particular law or provision of one is difficult to implement. We who serve on authorizing committees try to avoid this but I know that it sometimes happens. When we view programs under our jurisdiction we try to do so in an objective way and try to consider the national implications of each. As we develop legislation, we should review all aspects and not just those items which are important to or may benefit a few. There are always special interests advocating particular programs, causes or approaches. Some demand change while others work to retain the status quo. Whenever we do mandate a change which alters a traditional manner of operating, it takes time to implement these changes, although many program supporters want things to happen quickly. Change rarely happens overnight and it may take years even when people and agencies fully cooperate. Certainly I too would prefer immediate change but I feel that it is essential that once changes are made that all parties involved work continuously in good faith to carry them out.

I can sympathize with the frustrations of the disabled who want laws implemented and action taken immediately. I also understand the way bureaucracies generally work, and am aware of the pressures state VR agencies are facing as they fight for the identity of their agencies.

ACCOUNTABILITY OF SERVICES

I was asked to speak about the subject of accountability as the Congress sees it, and share with you the view that we are entering a new era in human services and that there are new ground rules for identifying results. I can best illustrate what is happening by describing how I have reacted to charges a few people have made during the past year, claiming that the individualized written rehabilitation plan and the mandate that the most severely handicapped individuals receive priority services are not being carried out. Given the confusion regarding the development of the language on the severely handicapped which I just described, I can fully understand why states are having difficulty interpreting the meaning, let alone carrying out, the law. Also, since there was a delay of almost two years before the RSA promulgated the regulations covering the individualized plan, I can also understand why there is some frustration that it is not being implemented 100%. But I am concerned about the charge that the severely handicapped are not being served.

It would be very easy for me as a supporter of the cause of the handicapped, to take these charges (and I must point out that they are only coming from a few individuals) and lash out at the bureaucracy; or I could even attempt to tighten up or change the law. But the responsible way of operating and one which I think reflects the approach the Congress is taking to particular problems, is to ask for specific documentation. We have asked that the individuals making the charges bear the burden of proof and responsibility for the charges. We have asked that names of individuals who have been discriminated against, the names of counselors or agencies involved, plus a description of the specific problem be sent to us so that we can follow through and conduct a thorough inquiry. We have also asked those making charges to give us a breakdown by state so that we can determine whether problems which are alleged to exist in the program are unique to one counselor, to one state, or whether they exist in all fifty states.

There is no doubt in my mind that not every handicapped individual is receiving all of the services that he or she might want or need, but I have yet to see clear documentation that there are abuses so numerous and widespread as to justify changing the law or even doing away with the program.

I must point out that we are not seeking out negative examples to show problems which may exist in the rehabilitation program, but neither do we condone them if and when they do exist. We have made these requests in response to allegations which have been made. Our goal in the future will be the same as in the past, that is to continue our work to strengthen programs and services for handicapped persons and to try to correct problems or circumstances which deter or limit full implementation of this goal. We will put concern for the handicapped first; before agencies or the personnel of agencies. The individual written agreements should provide an excellent vehicle for accountability.

FAITH IN REHABILITATION

As I conclude this morning, I must reflect upon my feelings about Vocational Rehabilitation and why I think it is important. I know it is not a perfect system and I know that people who are disabled and handicapped, if given a choice, wouldn't choose to be either. Rehabilitating an individual can be a difficult experience for both the client and the counselor. Not all disabled persons are eager to be rehabilitated, often because of fear of the system or lack of information or understanding about it. I can think of Annie Sullivan, who worked with Helen Keller, and the experiences each of them had. Anyone who saw the film or the play, "The Miracle Worker" and knows anything about Miss Keller's early training knows how difficult the process can be. Maybe Helen Keller wanted to communicate, but she didn't know how. Annie Sullivan helped her to find the way. The world is a better place because Annie Sullivan persevered and help to unlock the talent and wisdom Helen Keller had inside of her, which enabled her to make such a great contribution to all the world.

Annie Sullivan and Helen Keller had a love-hate relationship and this relationship is similar to relationships we see throughout the country between clients and counselors today. Fortunately, not all cases are as difficult as Miss Keller's but I know many are. The rehabilitation program works because of the bond and the trust that exist between a client and a counselor. Counselors are professionals who make judgments and recommendations; these judgments and recommendations work and have real meaning when they are developed and shared with the client. The relationships that emerge work when people have faith in one another.

I have faith in you and wish you well in your efforts to make the lives of disabled persons better.

Thank you for inviting me to participate in your national conference.

PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, I was unable to be present for the last moments of the session of the House of Representatives of Thursday, September 23, 1976, because of a longstanding commitment in my district. As a result, I missed the final two votes of the day. Had I been present, I would have voted "yes" on rollcall 804, a vote on the rule providing for consideration of the Public Disclosure of Lobbying Act. I would also would have voted "yes" on rollcall 807, the vote to approve the conference report on the Health Maintenance Organizations Amendments of 1976.

I also was unable to return to the floor of the House for the beginning of the session of Monday, September 27, 1976, and, as a result, missed the first votes of the session. Had I been present, I would have voted "yes" on rollcall 808 which provided for consideration of the Rail Amendments of 1976, and I would have voted "yes" on rollcall 809, the vote on final passage of the bill.

I would have voted "yes" on rollcall 810, the vote to approve H.R. 14260, the conference report on the fiscal year 1977 foreign aid appropriations, and "yes" on rollcall 811 which provided for consideration of H.R. 14496, the Resource Conservation and Recovery Act.

COMMEMORATION OF THE JEWS WHO DIED AT BABI YAR DURING WORLD WAR II

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, the Soviet Union recently dedicated a 50-foot monument outside of Kiev to memorialize the slaughter of hundreds of thousands of Soviet citizens at Babi Yar in the fall and winter of 1941.

Among the victims of this despicable act were over 100,000 Jewish men, women, and children. However, the inscription on the Soviet monument omits all references to the Jewish victims. This Soviet burial of the memory of Jewish suffering and sacrifice is almost as shameful as the Nazi burial of murdered Jews in unmarked graves.

On Wednesday, September 29, 1976, Jews from all over the Soviet Union are planning a march to the monument to express their grief over the Nazi atrocities committed against all Soviet citizens. The Soviet Government has actively attempted to prohibit this memorial march from occurring. Last week, the KGB warned several leading members of the Jewish community that any observance at Babi Yar would be punishable by the imposition of long prison terms.

The Soviet Government has systematically denied Jews the right to study their heritage, to observe their tradition and to emigrate freely to their homeland. Now, the Soviet Union is denying even the basic human right to remember the dead.

The Soviet Union's refusal to permit this march of commemoration violates the spirit of the Helsinki accords and the spirit of many other international documents. In more direct terms, the conduct of the Soviet Union violates the most basic values upon which all civilized behavior depends.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Blouin (at the request of Mr. O'Neill), until 2:30 p.m. today, on account of official business.

Mr. Corman (at the request of Mr. O'Neill), after 4 p.m. on Friday, September 24, on account of official business.

Mr. Jeffords (at the request of Mr. Rhodes), for today, 12 noon to 3:30 p.m., on account of official business.

Mr. Matsunaga (at the request of Mr. O'Neill), for this week, on account of official business.

Mr. Pepper (at the request of Mr. O'Neill), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Pressler) to revise and extend their remarks and include extraneous material:)

Mr. Derwinski, for 5 minutes, today.

Mr. Railsback, for 5 minutes, today.

Mrs. Fenwick, for 5 minutes, today.

Mr. Whalen, for 5 minutes, today.

(The following Members (at the request of Mr. Lloyd of California) to revise and extend their remarks and to include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Charles H. Wilson of California, for 60 minutes, today.

Mr. Fary, for 5 minutes, today.

Mr. Baucus, for 10 minutes, today.

Mr. Brademas, for 5 minutes, today.

Mr. Koch, for 10 minutes, today.

Ms. Abzug, for 15 minutes, today.

Mr. Price, for 5 minutes, today.

Mr. Bedell, for 5 minutes, today.

Ms. Holtzman, for 15 minutes, today.

Mr. Lloyd of California, for 60 minutes, September 29.

Mr. Bevill, for 60 minutes, September 30.

Mr. Flood, for 60 minutes, September 30.

Mr. Brademas, for 60 minutes, September 30.

Mr. Fraser, for 60 minutes, September 30.

Mr. Waggonner, for 10 minutes, September 30.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Charles Wilson of California to revise and extend his remarks and include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,573.

Mr. Adams, to revise and extend his remarks in the body of the Record immediately preceding consideration of House Resolution 1548.

Mr. Howard, to revise and extend his remarks immediately following Mr. Rooney on his amendment on behalf of Mr. Howard on H.R. 14932.

Mr. Cederberg, immediately prior to general leave request on conference report on H.R. 12460 today.

(The following Members (at the request of Mr. Pressler) and to include extraneous matter:)

Mr. Guyer.

Mr. McClory in two instances.

Mr. Burgener.

Mr. Findley.

Mr. Del Clawson.

Mr. Schulze.

Mr. Heinz in five instances.

Mr. Derwinski in two instances.

Mr. Fish.

Mr. Wydler in two instances.

Mr. Bob Wilson in two instances.

Mr. Wiggins.

Mr. Abdnor.

Mr. Coughlin.

Mr. Mosher.

Mr. Gilman in two instances.

Mr. Esch.

Mr. MICHEL in two instances.

Mr. SKUBITZ.

Mr. ROUSSELOT in two instances.

Mr. PRESSLER.

(The following Members (at the request of Mr. LLOYD of California) and to include extraneous material:)

Mr. STEPHENS.

Mr. MCDONALD in three instances.

Mr. MAZZOLI.

Mr. DOWNEY of New York in two instances.

Mr. DINGELL in three instances.

Mr. ANNUNZIO in six instances.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. BROWN of California in 10 instances.

Mr. FLYNT.

Mr. MURPHY of Illinois.

Mr. FARY.

Mr. MOORHEAD of Pennsylvania.

Mr. GAYDOS in two instances.

Mr. BOLAND in two instances.

Mr. RICHMOND.

Mr. TEAGUE.

Mr. STUDDS.

Ms. ABZUG in five instances.

Mr. BURKE of Massachusetts.

Mr. ROE.

Mrs. SULLIVAN in two instances.

Mr. MOFFETT.

Mr. HELSTOSKI.

Mr. ROSENTHAL.

Mr. BRECKINRIDGE.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4583. An act for the relief of Rosina C. Beltran;

H.R. 5446. An act to implement the Convention on the International Regulations for Preventing Collisions at Sea, 1972;

H.R. 5503. An act for the relief of Divina Mamuad;

H.R. 7624. An act for the relief of Jacinto Vazquez Camacho;

H.R. 7832. An act for the relief of Mrs. Janette Flores Byrne.

H.R. 9019. An act to amend title XIII of the Public Health Service Act to revise and extend the program for the establishment and expansion of health maintenance organizations;

H.R. 10434. An act for the relief of Dr. Carlos Montenegro-Gorbitz, his wife, Maria Elena Olguin de Gorbitz, and their son, Carlos Gorbitz-Olguin;

H.R. 10793. An act for the relief of Afaf Yassine and her children, Najla Yassine, Walid Yassine, Mona Yassine, and Maher Yassine;

H.R. 11321. An act to suspend until July 1, 1978, the duty on certain elbow prostheses if imported for charitable therapeutic use, or for free distribution, by certain public or private nonprofit institutions;

H.R. 11722. An act to amend title 18 of the United States Code to prohibit deprivation of employment or other benefit for political contribution, and for other purposes;

H.R. 11890. An act for the relief of Bernard Julian Phillips;

H.R. 12831. An act for the relief of Mo Chong-Pu;

H.R. 13035. An act to improve the national sea grant program, and for other purposes;

H.R. 13374. An act to provide for a national wildlife refuge in the Minnesota River Valley, and for other purposes;

H.R. 13549. An act to provide for additional income for the U.S. Soldiers' and Airmen's Home by requiring the Board of Commissioners of such home to collect a fee from the members of such home and by increasing deductions for the support of such home from the pay of enlisted men and warrant officers, and for other purposes;

H.R. 15068. An act to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1976 in certain disaster areas in South Carolina and Georgia; and

H.R. 15552. An act to amend title 18, United States Code, to implement the "Convention To Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion That Are of International Significance" and the "Convention on the Provision and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents", and for other purposes.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 866. An act for the relief of Patrick Andre Tasselin;

S. 3380. An act for the relief of Miss Mary Vance Trent;

S. 3485. An act for the relief of Orlando Garzon; and

S. 3651. An act to amend the Alaska Native Claims Settlement Act to provide for the withdrawal of lands for the village of Klukwan, Alaska, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following titles:

On September, 23, 1976:

H.R. 10612. An act to reform the tax laws of the United States;

H.R. 11149. An act to amend section 2 of the act entitled "An Act to incorporate the National Society of the Daughters of the American Revolution";

H.R. 13325. An act to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the U.S. Railway Association, and for other purposes;

H.R. 14298. An act to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes; and

H.R. 15193. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes.

On September 27, 1976:

H.R. 589. An act to authorize the Secretary of the Interior to provide relief to the Santa Ynez River Water Conservation District due to delivery of water in the Santa Ynez Indian Reservation lands.

H.R. 11997. An act to amend the Internal Revenue Code of 1954 with respect to the tax treatment of certain divestitures of assets by bank holding companies;

H.R. 12987. An act to authorize appropriations for carrying out title VI of the Comprehensive Employment and Training Act of 1973, and for other purposes;

H.R. 14238. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes;

H.R. 14299. An act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes; and

H.R. 15194. An act making appropriations for public works employment for the period ending September 30, 1977, and for other purposes.

ADJOURNMENT

Mr. WAGGONNER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 8 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, September 28, 1976, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4066. A communication from the President of the United States, transmitting proposed supplemental appropriations for the U.S. Postal Service for fiscal year 1976, the transition quarter, and fiscal year 1977 (H. Doc. No. 94–626); to the Committee on Appropriations and ordered to be printed.

4067. A letter from the Under Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Food Stamp Act of 1964, as amended, for the purpose of extending the date by which State agencies must begin withholding, at the option of the recipient, the amount of any title IV Social Security Act grant needed to purchase the recipient's food stamp allotment and distributing the food stamp allotment along with the reduced cash grant; to the Committee on Agriculture.

4068. A letter from the District of Columbia Auditor, transmitting a report on the financial impact of military service credits on the police and fire retirement system, pursuant to section 455 of Public Law 93–198; to the Committee on the District of Columbia.

4069. A letter from the Director, Office of Regulatory Review, Department of Health, Education, and Welfare, transmitting proposed final regulations for the Basic Skills Group and for the Education and Work Group in the National Institute of Education, Department of Health, Education, and Welfare, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

4070. A letter from the Associate Administrator for Administration, Department of Transportation, transmitting notice of proposed changes in the Department's system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4071. A letter from the Administrator, Federal Energy Administration, transmitting a report covering the period April-June 1976, on imports of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; reserves and production of crude oil, natural gas, and coal; refinery activities; and inventories, pursuant to section 11(c)(2) of Public Law 93–319; to the Committee on Interstate and Foreign Commerce.

4072. A letter from the Director, Passport Office, Department of State, transmitting the annual report of the Passport Office for fiscal year 1976; to the Committee on International Relations.

4073. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to section 112 (b) of Public Law 92–403; to the Committee on International Relations.

4074. A letter from the Secretary of Commerce, transmitting the third annual report on ocean dumping research, covering calendar year 1975, pursuant to section 201 of Public Law 92–532; to the Committee on Merchant Marine and Fisheries.

4075. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on Fairport Harbor, Ohio (H. Doc. No. 94–627); to the Committee on Public Works and Transportation and ordered to be printed with illustrations.

4076. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on Wears Creek, Jefferson City, Mo. (H. Doc. No. 94–628); to the Committee on Public Works and Transportation and ordered to be printed with illustrations.

4077. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on Neches River and tributaries, Salt Water Barrier at Beaumont, Tex. (H. Doc. No. 94–629); to the Committee on Public Works and Transportation and ordered to be printed with illustrations.

4078. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on Bear River, Calif. (H. Doc. No. 94–630); to the Committee on Public Works and Transportation and ordered to be printed with illustrations.

4079. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on New Jersey Coastal Inlets and Beaches—Barnegat Inlet to Longport (H. Doc. No. 94–631); to the Committee on Public Works and Transportation and ordered to be printed with illustrations.

4080. A letter from the Administrator of General Services, transmitting a prospectus proposing alterations at the Wheeling, W. Va., Federal Building and Courthouse, pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

4081. A letter from the Federal cochairman, Ozarks Regional Commission, transmitting a copy of the new Ozarks Regional Commission economic development action plan; to the Committee on Public Works and Transportation.

4082. A letter from the Administrator of Veterans' Affairs, transmitting a report on cases in which an institution, approved for veterans benefits, uses deceptive advertising or enrollment practices, pursuant to 38 U.S.C. 1796(c); to the Committee on Veterans' Affairs.

RECEIVED FROM THE COMPTROLLER GENERAL

4083. A letter from the Comptroller General of the United States, transmitting his review of the proposed rescission of budget authority contained in the message from the President dated September 8, 1976 (House Document No. 94–601), pursuant to section 1014(b) of Public Law 93–344 (H. Doc. No. 94–632); to the Committee on Appropriations and ordered to be printed.

4084. A letter from the General Counsel, U.S. General Accounting Office, transmitting a report on the release of budget authority required to be made available for obligation pursuant to section 1013(b) of the Impoundment Control Act of 1974; to the Committee on Appropriations.

4085. A letter from the Comptroller General of the United States, transmitting a report on U.S. industry's capability to produce rail and crossties needed to rehabilitate the Nation's railroad track; jointly to the Committees on Government Operations, and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on September 23, 1976, the following reports were filed on September 24, 1976*]

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 8002. A bill to designate certain lands in the Point Reyes National Seashore, Calif., as wilderness, to designate Point Reyes National Seashore as a natural area of the National Park System, and for other purposes; with amendments (Rept. No. 94–1680). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 9126. A bill to authorize the establishment of the Eugene O'Neill National Historic Site, and for other purposes; with an amendment (Rept. No. 94–1681). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 13789. A bill to authorize the Architect of the Capitol to perform certain work on and maintain the historical sections of the Congressional Cemetery for a 2-year period, and to authorize a study by the Secretary of the Interior to formulate proposals for renovation and permanent maintenance of such sections by the United States; with amendments (Rept. 94–1682). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 15122. A bill to amend the National Trails System Act (82 Stat. 919), and for other purposes (Rept. No. 94–1683). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. S. 64. An act to provide for the addition of the names of the States of Alaska and Hawaii to the list of the 48 States inscribed upon the walls of the Lincoln National Memorial; with amendments (Rept. No. 94–1684). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMPSON: Committee on House Administration. H. Res. 1557. A resolution to provide for the expense of the investigations and studies to be conducted by the Select Committee on Assassinations; with an amendment (Rept. No. 94–1685). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. H. Res. 1563. A resolution providing additional funds for the expenses of the Committee on House Administration to provide for maintenance and improvement of ongoing computer services for the Committee on Appropriations and the Committee on the Budget of the House of Representatives; without amendment (Rept. No. 94–1686). Referred to the House Calendar.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 13714. A bill to amend the act approved January 8, 1971, establishing the Chesapeake and Ohio Canal National Historical Park, to provide that a segment of the Chesapeake and Ohio Canal shall be designated in honor of the memory of Justice William O. Douglas, and for other purposes; with an amendment (Rept. No. 94–1687). Referred to the House Calendar and ordered to be printed.

[*Filed on September 27, 1976*]

Mr. BROOKS: Committee on Government Operations. A report on chemical dangers in the workplace (Rept. No. 94–1688). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE: Committee of Conference. A conference report on H.R. 12566 (Rept. No. 94–1689). Ordered to be printed.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 15007. A bill to provide for the preservation and enhancement of critical habitat for migratory waterfowl and other wetlands-dependent migratory birds of the Pacific Flyway in the Grasslands area of the San Joaquin Valley, Calif.; with amendments (Rept. No. 94–1690). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 8643. A bill to authorize the home production of beer; with amendments (Rept. No. 94–1692). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 8989. A bill to amend the Internal Revenue Code of 1954 to provide the same tax exemptions and general tax treatment to recognize Indian tribes as are applicable to other governmental units; with an amendment (Rept. No. 94–1693). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 11486. A bill to amend the Internal Revenue Code of 1954 to modify the requirements regarding private operating foundations; with amendments (Rept. No. 94–1694). Referred to the Committee of the Whole House on the State of the Union.

Mr. MEEDS: Committee of Conference. A conference report on S. 2981 (Rept. No. 94–1695). Ordered to be printed.

Mr. JONES of Alabama: Committee on Public Works and Transportation. H.R. 10811. A bill to designate the new Poe Lock on the St. Marys River at Sault Sainte Marie, Mich., as the "John A. Blatnik Lock" (Rept. No. 94–1696). Referred to the House Calendar.

Mr. JONES of Alabama: Committee on Public Works and Transportation. H.R. 10811. A bill to provide that the reservoir formed by the lock and dam referred to as the "Jones Bluff Lock and Dam" on the Alabama River, Ala., shall hereafter be known as the R. E. "Bob" Woodruff Reservoir (Rept. No. 94–1697). Referred to the House Calendar.

Mr. ROBERTS: Committee on Veterans' Affairs. H.R. 12896. A bill to name the Veterans' Administration hospital located at 13000 North 30th Street, Tampa, Fla., the "James A. Haley Veterans' Administration Hospital"; with amendments (Rept. No. 94–1698). Referred to the House Calendar.

Mr. JONES of Alabama: Committee on Public Works and Transportation. H.R. 13948. A bill to designate the U.S. Army Engineer waterways experiment station in Vicksburg, Miss., as the "Will M. Whittington Waterways Experiment Station" (Rept. No. 94–1699). Referred to the House Calendar.

Mr. ROBERTS: Committee on Veterans' Affairs. H.R. 15671. A bill to name the Veterans' Administration hospital located at 200 Springs Road, Bedford, Mass., the "Edith Nourse Rogers Memorial Veterans' Hospital" (Rept. No. 94–1700). Referred to the House Calendar.

Mr. PERKINS: Committee of conference. Conference report on S. 2657 (Rept. No. 94–1701). Ordered to be printed.

Mr. JONES of Alabama: Committee on Public Works and Transportation. H.R. 15636. A bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes; with amendments (Rept. No. 94–1702). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. EILBERG: Committee on the Judiciary. H. Res. 1558. A resolution opposing the granting of permanent residence in the United States to certain aliens (Rept. No. 94–1691). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of North Dakota:

H.R. 15701. A bill granting the consent of Congress to the compact or agreement between the States of North Dakota and Minnesota with respect to the boundary between the States; to the Committee on the Judiciary.

By Mr. BEDELL (for himself and Mr. Mr. Pressler):

H.R. 15702. A bill to amend the Agricultural Act of 1949 to provide for increased benefits with regard to disaster relief for any farmer who plants wheat, feed grains, cotton, or rice in excess of his or her allotments for the commodity; to the Committee on Agriculture.

By Mr. COHEN (for himself, Mr. Bedell, Mr. Breckinridge, Mrs. Heckler of Massachusetts, Mr. Koch, Mr. Lehman, Mrs. Spellman, Mr. Bob Wilson, and Mr. Won Pat):

H.R. 15703. A bill to provide for quality assurance and utilization control in home health care under the medicare, medicaid, and social services programs in accordance with a plan to be developed by a commission specifically established for that purpose; jointly to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. FINDLEY (for himself, Mr. Burgener, Mr. Corman, Mr. Diggs, Mr. Heinz, Mr. Kindness, Mr. Lent, Mr. Pritchard, Mr. Shriver, Mrs. Spellman, Mr. Stark, and Mr. Wydler):

H.R. 15704. A bill to terminate age discrimination in employment; to the Committee on Education and Labor.

By Mr. GUDE:

H.R. 15705. A bill to amend the Public Health Service Act to advance a national attack on digestive diseases; to the Committee on Interstate and Foreign Commerce.

By Mr. JACOBS (for himself, Mr. Mann, Mr. Gude, and Mr. Patterson of California):

H.R. 15706. A bill to establish the Federal right of every unemancipated child to be supported by such child's parent or parents and, therefore, to confer upon certain local courts of the District of Columbia and every State and territory of the U.S. jurisdiction to enforce such right regardless of such child's residence; to the Committee on the Judiciary.

By Mr. WYDLER:

H.R. 15707. A bill to amend the Housing and Community Development Act of 1974 for the purpose of prohibiting the Secretary of Housing and Urban Development from requiring, as a condition of receiving a community development grant pursuant to title I of such act, additional housing for low- or moderate-income persons in a community which has a significant number of residents who receive governmental assistance and for whom adequate housing is presently available; to the Committee on Banking, Currency and Housing.

By Mr. YATES:

H.R. 15708. A bill to designate the Indiana Dunes National Lakeshore as the "Paul H. Douglas National Lakeshore"; to the Committee on Interior and Insular affairs.

By Mr. BRADEMAS:

H.R. 15709. A bill to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. FRASER (for himself, Mr. Badillo, Mr. Blouin, Mr. Bonkers, Mrs. Burke of California, Ms. Chisholm, Mr. Downey of New York, Mr. Flood, Mr. Harrington, Mr. Koch, Mr. Moakley, Mr. Murphy of New York, Mr. Nix, Mr. Nolan, Mr. Pepper, Mr. Patterson of California, Mr. Scheuer, and Mrs. Schroeder):

H.R. 15710. A bill to amend title II of the Social Security Act to create portability in social security by permitting married couples to elect to combine their earnings in any year for benefit purposes, and to make other changes designed to foster the more equitable treatment of individuals and families under the social security program; to the Committee on Ways and Means.

By Mr. HUNGATE:

H.R. 15711. A bill to provide for a quarterly question period in which the President shall answer questions posed by Representatives and Senators; to the Committee on Rules.

By Mr. TAYLOR of Missouri:

H.R. 15712. A bill to amend section 2 of the act of August 22, 1964, to provide that articles which are produced or manufactured in foreign-trade zones from foreign meat shall, upon their entry into the customs territory of the United States, be subject to certain import restrictions; to the Committee on Ways and Means.

By Mr. SKUBITZ:

H.R. 15713. A bill to amend the Watershed Protection and Flood Prevention Act for the purpose of improving procedures by which the Federal Government assists construction work relating to watershed areas; to the Committee on Agriculture.

Mr. Mr. BRODHEAD (for himself, Mr. Dan Daniel, Mrs. Keys, Mr. Leggett, Mr. Lott, Mr. Roybal, Mr. Simon, and Mr. Murphy of New York):

H.J. Res. 1110. Joint resolution providing for the designation of the week beginning October 3, 1976, and ending October 9, 1976, as "National Gifted Children Week"; to the Committee on Post Office and Civil Service.

By Mr. MEEDS (for himself, Mr. Adams, Mr. Bonker, Mr. Foley, Mr. Hicks, Mr. McCormack, and Mr. Pritchard):

H.J. Res. 1111. Joint resolution to provide for the establishment of a Commission to examine the effect of Northwest Indian Off-Reservation Treaty Fishing Rights, and for other purposes; jointly to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mr. BRODHEAD (for himself and Mr. Blanchard):

H. Con. Res. 768. Concurrent resolution disapproving a proposed sale of defense articles and services to Saudi Arabia (7T–15); to the Committee on International Relations.

By Mr. BRODHEAD (for himself and Mr. Blanchard):

H. Con. Res. 769. Concurrent resolution disapproving a proposed sale of defense articles and services to Saudi Arabia (7T–21); to the Committee on International Relations.

By Mr. BRODHEAD (for himself and Mr. Blanchard):

H. Con. Res. 770. Concurrent resolution disapproving a proposed sale of defense articles and services to Saudi Arabia (7T–39); to the Committee on International Relations.

By Mr. LONG of Maryland (for himself, Mr. Murphy of New York, Mr. Weaver, and Mr. Quie):

H. Con. Res. 771. Concurrent resolution expressing the sense of Congress respecting action by the Consumer Product Safety Commission against defective home canning lids; to the Committee on Interstate and Foreign Commerce.

By Mr. THOMPSON:

H. Con. Res. 772. Concurrent resolution authorizing the printing of materials relating to the Presidential debates between James E. Carter and Gerald R. Ford; to the Committee on House Administration.

By Mr. BEDELL (for himself, Mr. Koch, Mr. Stark, and Mr. Harrington):

H. Con. Res. 773. Concurrent resolution disapproving certain proposed sales to the Philippines of defense articles and services; to the Committee on International Relations.

By Mr. BROOKS (for himself, Mr. Ashbrook, Mr. Cleveland, Mr. Giaimo, and Mr. O'Hara):

H. Res. 1574. Resolution to amend the House rules for the purpose of assisting in the reduction of the number of committees meeting on certain days of each month; to the Committee on Rules.

By Mr. RAILSBACK:

H. Res. 1575. Resolution expressing the sense of the House of Representatives that the effect on our society of the level of violence depicted on television requires more consideration and study; to the Committee on Interstate and Foreign Commerce.

MEMORIAL

Under clause 4 of rule XXII:

467. The SPEAKER presented a memorial of the Legislature of the State of California, relative to solar energy, which was referred to the Committee on Science and Technology.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. LAGOMARSINO:

H.R. 15714. A bill for the relief of Mrs. Frances Parker; to the Committee on the Judiciary.

By Mr. MURPHY of New York:

H.R. 15715. A bill for the relief of Col. George Benson, U.S. Army, Retired; to the Committee on International Relations.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

583. By the SPEAKER: Petition of the Election Commission of the Territory of Guam, relative to the results of a referendum presented to the people of Guam regarding their future status; to the Committee on Interior and Insular Affairs.

584. Also, petition of the National Water Supply Improvement Association, Fountain Valley, Calif., relative to the technological crisis in American water resources development; to the Committee on Interior and Insular Affairs.

585. Also, petition of the city council, Konawa, Okla., relative to the Consumer Communications Reform Act of 1976; to the Committee on Interstate and Foreign Commerce.

586. Also, petition of the council of the county of Maui, Wailuku, Hawaii, relative

to regulating the importation of foreign sugar into the United States; to the Committee on Ways and Means.

587. Also, petition of the American Association of Retired Persons, and Retired Teachers Association of America Chapter of Maui County 686, Kahului, Hawaii, relative to inequities in taxation to homes and property for the elderly senior handicapped, disabled, blind, widows, and children who own real property for their own residence; to the Committee on Ways and Means.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of September 23, 1976, page 32165.

HOUSE JOINT RESOLUTIONS

H.J. Res. 1076. August 30, 1976. Post Office and Civil Service. Designates the week beginning October 3, 1976, and ending October 9, 1976, as "National Gifted Children Week."

H.J. Res. 1077. August 30, 1976. Banking, Currency and Housing. Establishes the National Commission on Housing for the Elderly which shall have responsibility for investigating specified aspects of Federal housing for the elderly.

H.J. Res. 1078. August 30, 1976. Judiciary. Proposes a constitutional amendment to assure that the total outlays of the Government during any fiscal year do not exceed the total receipts of the Government during such fiscal year and that the Federal indebtedness is eliminated.

H.J. Res. 1079. August 30, 1976. Judiciary. Proposes a constitutional amendment which provides that no person shall be elected or appointed a term as President, Vice President, Senator, or Representative if such person would attain the age of 65 years before taking office for such term, and no person who has attained the age of 65 years may be an ambassador, public minister or consul, judge of the Supreme Court, or any other officer of the United States who is appointed by the President, by and with the advice and consent of the Senate.

H.J. Res. 1080. August 30, 1976. Post Office and Civil Service. Designates September 8 of each year as "National Cancer Prevention Day."

H.J. Res. 1081. August 31, 1976. Post Office and Civil Service. Designates May 1 of each year as "National Private Security Guard Day."

H.J. Res. 1082. September 1, 1976. Judiciary. Proposes an amendment to the Constitution which gives the States exclusive jurisdiction over all public schools within the State.

H.J. Res. 1083. September 2, 1976. Post Office and Civil Service. Designates September 8 of each year as "National Cancer Prevention Day."

H.J. Res. 1084. September 2, 1976. Judiciary. Proposes an amendment to the Constitution which includes unborn offspring within the definition of "person" for purposes of the fifth and fourteenth Articles of Amendment to the Constitution.

H.J. Res. 1085. September 8, 1976. Government Operations. Expresses the general policy of the United States Government to rely upon private commercial sources for the goods and services required to meet Government needs.

H.J. Res. 1086. September 8, 1976. Judiciary. Proposes an amendment to the Constitution of the United States to provide for a single six-year term for the President and a six-year term for the Vice President.

H.J. Res. 1087. September 8, 1976. Judiciary Proposes an amendment to the Constitution of the United States limiting to six the number of consecutive Congresses in which Senators and Representatives may serve. Limits the application of this amendment to congresses beginning after its ratification.

H.J. Res. 1088. September 8, 1976. Judiciary. Proposes an amendment to the Constitution of the United States to provide for a single six-year term for the President, and to limit to six the number of consecutive Congresses in which Senators and Representatives may serve.

H.J. Res. 1089. September 9, 1976. Judiciary; International Relations. Directs the President to proclaim that Valentyn Moroz shall be an honorary citizen of the United States. Urges the Soviet Union to allow Moroz to accept the invitation of Harvard University for the 1976–77 academic year.

H.J. Res. 1090. September 9, 1976. Post Office and Civil Service. Designates the week of September 19 through September 25, 1976, as "National Flower Week."

HOUSE CONCURRENT RESOLUTIONS

H. Con. Res. 721. August 25, 1976. International Relations. Expresses the sense of the Congress that the President should have the recent North Korean violations of the armistice agreement placed on the agenda of the United Nations.

H. Con. Res. 722. August 25, 1976. International Relations. Expresses the sense of the Congress that the President should have the recent North Korean violations of the armistice agreement placed on the agenda of the United Nations.

H. Con. Res. 723. August 25, 1976. Education and Labor. Expresses the sense of the Congress that the President call a White House Conference on Marriage and the Family in order to establish a national understanding of the role played by marriage and the family in the development of a viable society.

H. Con. Res. 724. August 26, 1976. International Relations. Expresses the sense of the Congress that the President should have the recent North Korean violations of the armistice agreement placed on the agenda of the United Nations.

H. Con. Res. 725. August 30, 1976. International Relations. Expresses the sense of the Congress that Georgi Vins should be released from imprisonment and that the Government of the Soviet Union should allow him and all other religious believers within its borders to worship God freely.

H. Con. Res. 726. August 31, 1976. International Relations. Expresses the sense of the Congress that Georgi Vins should be released from imprisonment and that the Government of the Soviet Union should allow him and all other religious believers within its borders to worship God freely.

H. Con. Res. 727. August 31, 1976. Post Office and Civil Service. Expresses the sense of the Congress that the Director of the Office of Management and Budget should defer implementation of regulations regarding the provision of services to the Federal Government by private contractors.

H. Con. Res. 728. September 1, 1976. Sets forth the congressional budget for the United States Government for the fiscal year 1977. Specifies the appropriate level of new budget authority and the estimated budget outlays for each major functional category.

H. Con. Res. 729. September 1, 1976. International Relations. Expresses the sense of the Congress that Georgi Vins should be released from imprisonment and that the Government of the Soviet Union should allow him and all other religious believers within its borders to worship God freely.

H. Con. Res. 730. September 1, 1976. International Relations. Expresses the sense of the Congress that Georgi Vins should be released from imprisonment and that the Government of the Soviet Union should allow him and all other religious believers within its borders to worship God freely.

H. Con. Res. 731. September 1, 1976. International Relations. Expresses the sense of the Congress that the President should have the recent North Korean violations of the armistice agreement placed on the agenda of the United Nations.

H. Con. Res. 732. September 1, 1976. Agriculture. Calls for a combined effort by the Government and private sector to attain the objectives of land and water conservation.

H. Con. Res. 733. September 2, 1976. Ways and Means. Calls for limitations upon the importation of mushrooms into the United States.

H. Con. Res. 734. September 2, 1976. Veterans' Affairs. Expresses the sense of the Congress that the Secretary of Defense shall inter an Unknown Soldier from the Vietnam war in Arlington National Cemetery.

H. Con. Res. 735. September 2, 1976. Veterans' Affairs. Expresses the sense of the Congress that the Secretary of Defense shall inter an Unknown Soldier from the Vietnam war in Arlington National Cemetery.

HOUSE RESOLUTIONS

H. Res. 1501. August 30, 1976. Post Office and Civil Service. Expresses the sense of the House of Representatives that the United States Postal Service shall not close or suspend the operation of any Post Office unless there is a clear and compelling need to do so.

H. Res. 1502. August 30, 1976. Rules. Amends the Rules of the House of Representatives to assure and to regulate television and radio coverage of the House of Representatives.

H. Res. 1503. August 31, 1976. Elects Tom Steed of Oklahoma to serve as Chairman of the House Committee on Small Business.

H. Res. 1504. August 31, 1976. Elects Richard H. Ichord of Missouri to serve on the House Committee on Small Business.

H. Res. 1505. August 31, 1976. House Administration. Provides that, pursuant to the provisions of the Presidential Recordings and Materials Preservation Act, the House of Representatives hereby disapprove specified sections of the regulations proposed by the Administrator of General Services in his report to the House submitted on April 13, 1976.

H. Res. 1506. August 31, 1976. International Relations. Expresses the regrets of the House of Representatives over the trial and sentencing of citizens of South Korea for joining in a declaration calling for the restoration of democracy in South Korea.

H. Res. 1507. August 31, 1976. Sets forth the rule for consideration of H.R. 14238.

H. Res. 1508. August 31, 1976. Rules. Creates a House Select Committee on the Fiscal Problems of Cities which shall identify the nature and cause of problems afflicting large cities which face severe fiscal imbalance.

H. Res. 1509. August 31, 1976. International Relations. Expresses the sense of the House of Representatives that the President should not extend diplomatic or other recognition to the Transkei territory.

H. Res. 1510. August 31, 1976. Sets forth the rule for consideration of H.R. 3605.

H. Res. 1511, August 31, 1976. Sets forth the rule for the consideration of H.R. 6684.

H. Res. 1512. August 31, 1976. Sets forth the rule for consideration of H.R. 14886.

H. Res. 1513. September 1, 1976. House Administration. Directs that there be printed as a House document a record of the Bicentennial Captive Nations Week proclamations.

H. Res. 1514. September 1, 1976. Rules. Amends Rule XI of the Rules of the House of Representatives to provide that committee funds shall not be used for travel unless its official nature is established by resolution approved by majority vote of the committee involved.

H. Res. 1515. September 1, 1976. Armed Services. Expresses the sense of the House that funds should be appropriated to activate and operate the *U.S.S. Sanctuary* as a permanent active duty hospital ship, and to provide immediate assistance to the wounded in Lebanon.

EXTENSIONS OF REMARKS

PROSPECTS FOR UNITED STATES-CUBA TRADE

HON. CHARLES A. MOSHER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. MOSHER. Mr. Speaker, I wish to call to the attention of the House an article that appeared in yesterday's edition of Parade magazine. It presents a cogent analysis of this Nation's slowly evolving trade relations with Cuba, a subject which should be of interest to the Members of Congress and to the public at large.

I am very pleased to note, Mr. Speaker, that the article is authored by my legislative assistant, Marc Rosenberg.

Marc had developed considerable experience as a journalist before he came to work for me 3 years ago. As a former country editor and publisher myself, I have encouraged him to continue writing and he has established himself as a recognized freelance writer. Of course, all such work is done "afterhours," on his own free time.

This past summer, Marc spent most of his vacation time on a trip to Cuba. He paid his own way and went with the knowledge and approval of our State Department. Both our Government and the Cuban's recognized that he was traveling in his role as a journalist.

Yesterday's article in Parade, one of the largest circulation weekly newsmagazines in the country, was one of several that Marc Rosenberg has written after his visit to Cuba. Because of the topical nature of this piece, I commend it to your attention.

IS THE U.S. INCHING TOWARD CUBAN TRADE?

(By Marc H. Rosenberg)

HAVANA.—American businessmen and farmers, always looking for major new markets overseas, may soon be finding one in a locale virtually unthinkable a few years ago—Fidel Castro's Cuba.

Despite the trade embargo imposed by the U.S. in 1962, American products are already reaching Cuba by roundabout—though perfectly legal—means, and a broad easing of restrictions is seen by some observers as likely by next spring.

And though there is opposition in Congress, the first signs of an easing U.S. trade policy toward Cuba began to appear a little over a year ago. "We were just a phone call away from sitting down and establishing with the Cubans an agenda for discussions," says Rep. Charles Whalen (R., Ohio), who visited Cuba and talked to Castro in January, 1975.

But two events effectively halted all forward progress—avowed support by Castro for the Puerto Rican independence movement and his dispatch of Cuban troops to fight in the Angola civil war.

"Acceleration of their Puerto Rican rhetoric kind of cooled it off," acknowledges Whalen. "This was before Angola became an issue, one that would give anyone pause."

Nevertheless, indirect American trade with Cuba is going on right now, and in ever growing quantities. That's because of an action taken in July, 1975, by the Organization of American States, a hemispheric grouping of nations. Under the new OAS policy, individual member countries were allowed to follow their own paths in Cuban trade. Then, in August, federal rules were changed, permitting foreign-based subsidiaries of U.S. companies to trade with Cuba.

U.S. CARS IN HAVANA

As a result, American firms have begun to conduct business with Cuba through subsidiaries in third countries such as Argentina, Canada and Mexico. The results may be seen clearly in the large number of American-model automobiles on the streets of Havana. In 1975 the Cubans imported 17,000 cars and trucks from Chevrolet, Dodge and Ford subsidiaries in Argentina. Official government cars in Havana appear to consist almost entirely of new Ford Falcons, and the city's taxicab fleet is in the process of switching to Chevy Novas. The only difference between these cars and their U.S. counterparts is that their speedometers are marked in kilometers and they don't have seat belts that buzz.

To ship goods to Cuba, U.S. subsidiaries abroad are required to have trade licenses issued by the Commerce Department. From Oct. 1, 1975, to June 30, 1976, 186 such licenses were issued to subsidiaries in 19 foreign countries. They covered a broad variety of items, including autos, agricultural pesticides, glue, industrial boilers and X-ray equipment, with a stipulation that no more than 20 percent of the components of any product shipped to Cuba could be of U.S. manufacture.

The maximum potential values of all these permits is $295 million worth of sales, and over half that sum—$177 million—is earmarked for what the Treasury Department describes as the "sale of third-country grains and cereals to Cuba."

It's agricultural produce like this that the Cubans need most desperately, for their tropical climate makes it impossible to grow enough cereal and grain of their own.

Some authorities suspect that much of the food Havana is now importing from other countries actually is U.S.-grown and has been "laundered" by international traders before being shipped to Cuba. In this connection, it is noted that the U.S. is sending large quantities of corn, wheat and other grains to the Soviet Union, which in turn is shipping large quantities of these foodstuffs to Cuba.

Among those favoring an open resumption of trade with Castro is Rep. John Breaux (D., La.), a staunch political conservative who represents one of the nation's major rice-producing areas. If and when direct trade is restored, rice is expected to be one of the commodities most demanded by Cubans.

FARMERS "DYING FOR AN OUTLET"

Breaux says he expects to see some movement on trade resumption once the Presidential election in November is over. "Our policy now allows U.S. multinational companies to deal with Cuba through their subsidiaries but prevents direct sales by the American farmer, who is really dying for an outlet. American farmers by and large are free-trade advocates."

The Congressman, who visited Cuba last January, says that the Cubans have been getting most of their rice from China but are seeking other sources because of ideological differences with Peking and because the import supplies are inadequate. Recalling that Cuba was once this country's greatest single export market for rice, he says that U.S. farmers could sell over $30 million worth a year if trade were resumed. The Commerce Department estimates that if full and normal trade relations were restored, U.S. exports to Cuba might total between $300 and $350 million.

Many Congressmen, however, remain unconvinced of the desirability of opening U.S. trade with Castro. The Florida delegation, whose constituency includes many anti-Castro Cuban refugees, is particularly opposed. Democratic Sen. Richard B. Stone of that state believes it would be wrong to deal with Cuba because of its uncompensated confiscation of U.S. business and property, its military intervention in Angola, and conditions in Cuba's political prisons. Rep. Claude B. Pepper (D., Fla.) says he still wants the U.S. to carry out the "commitment" it undertook during the abortive Bay of Pigs invasion. Also strongly opposed is Rep. Dante B. Fascell (D., Fla.).

Sen. Jesse Helms (R., N.C.), a leading conservative spokesman, comments: "I, too, look forward to the day when Cuba will rejoin the nations of the Western Hemisphere on an equal standing, but I do not look forward to that prospect until such basic human rights as the right to free speech, to private property and individual freedom are respected in that nation. . . . Reparations for seizures of American property must be preliminary to any fair and just settlement between the United States and Cuba."

Most observers are agreed that, even if Washington ends its trade embargo, there can never be a return to the old pre-Castro days when the United States utterly dominated Cuba's foreign trade.

Says Alberto Betancourt Roa, head of the Chamber of Commerce of Cuba: "U.S. companies don't know the Cuban market. They know it as it was, but they don't know it now."

Representative Whalen feels that U.S. businessmen can't expect to resume their old ways. "Most of them aren't used to doing business with Communists," he says. "Once the doors are opened, you just are not going to have a bunch of American businessmen running all over the island."

He points out, moreover, that large multinational corporations already have one advantage—their experience in dealing with the Socialist economies of Eastern Europe and mainland China. And Alexander Izett, a British executive whose company has traded with Cuba for many years, notes that "American companies will have to compete with the best European firms"—some of which have been selling to Castro for a decade.

So far, the official U.S. line remains that the embargo will continue until Havana shows a change of attitude. Asked about the prospect of normalized trade relations, an official at the Commerce Department's Bureau of East-West Trade told Parade: "We're not willing to discuss anything like that until the Cubans adopt a more responsible foreign policy."

READY TO TALK

Nevertheless, the Cubans indicate they're ready to open talks at any time and especially would welcome the opportunity to purchase U.S. farm produce. They'd even accept a quiet easing of the U.S. embargo without any public renunciation from Washington. "Your President can find many ways to bring an end to the blockade," says José Viera Linares, Deputy Minister of Foreign Affairs. "When it is lifted, we will know. It does not need to be published on the front page."

Instead, perhaps the story will appear on the financial page, under Rice Futures.

HAMILTON SUPPORTS LEGISLATION AFFECTING LOW-INCOME INDIVIDUALS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. HAMILTON. Mr. Speaker, I am pleased that the 94th Congress has taken several steps in 1975 and 1976 to assist low-income Americans. Bills which have passed the Congress and been signed into law include the following:

First. School lunches: Makes the school lunch and breakfast programs available to more children and reduces the prices of the lunches; continues for 1 year the summer food program for camps for low-income children; and extends the WIC program for 2 years, a program which helps improve the diet of expectant women, infants and children.

Second. Child care centers: Provides additional Federal funding for day care centers serving low-income families.

Third. Older Americans: Continues the community service jobs program for low-income older workers.

Fourth. Housing: Continues the subsidized public housing and rental subsidy programs and improves the home ownership loan program for low-income Americans.

Fifth. Social security: By blocking an effort by President Ford to limit social security cost-of-living increases to 5 percent, the Congress assured that social security recipients received in July 1975 the full 8-percent increase due them by law. Under this same law, which provides for automatic cost-of-living benefit increases, beneficiaries received a 6.4-percent increase in July 1976.

Several issues of concern to needy individuals are still working their way through the legislative process. I am hopeful that action will be completed on them before the 94th Congress adjourns. These issues include:

Tax reform: A bill which extends the individual tax reductions and the $35 tax credit through next year; makes permanent the increase in standard deductions; and expands the allowable deductions for child care.

Food stamps: Legislation which revises eligibility standards and simplifies application procedures.

Energy: A bill which authorizes a grant program to assist low-income families insulate and weatherize their homes.

Community action programs: A proposal increasing the Federal share of funding for local community action agencies.

Supplemental security income program: A bill which simplifies the administration of the SSI program and makes a number of improvements in the eligibility standards.

Mr. Speaker, the Congress must continue to give the highest priority to legislation to help low-income persons. The 94th Congress has taken several worthwhile steps, but much remains to be done.

NATIONAL JUNIOR GIRLS' SLO-PITCH SOFTBALL CHAMPIONS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. GAYDOS. Mr. Speaker, the Central Pharmacy girls' softball team from the Mon-Yough Valley of southwestern Pennsylvania, which I have the honor of representing, recently won the National Junior Girls Slo-Pitch Softball Championship at Satellite Beach, Fla.

That feat alone is worthy of public recognition but the manner in which these girls captured the title would warm the heart of Grantland Rice or any other sportswriter. After losing its opening game and teetering on the brink of elimination, Central Pharmacy went on to win 10 straight games over 2 days, an effort that would tax the stamina of any professional ballplayer.

Central Pharmacy, which posted a 29–6 season record, was to play its first game on a Thursday morning. Rain, however, forced a postponement—until 3 a.m. the following day. I chuckle at the thought of what the brawny, male counterparts of these young women in professional ball would say if they were routed from warm beds at 2 a.m. and told to be on the playing field within the hour.

Nevertheless, that is what these young women had to do. The early hour may have been a factor in their 5–1 loss to a Louisiana entry. Another loss would eliminate Central, so the team was forced to stage what has to be one of the greatest comebacks in sports history.

Following its early morning loss, the team played again that afternoon and won. It played five more games the next day and four the day after, the final day of competition. Its 10-game winning streak was capped with an 11–5 lacing of Chicago in the championship event. Central's victims were: Alabama, 3–1; Seattle, Wash., 11–6; Oklahoma City, 5–4; Richmond, Va., 11–7; Kentucky, 10–5; Tampa, Fla., 11–0; host team, Satellite Beach, 7–1; Florida State, 5–3, and Chicago, twice, 6–2 and 11–5.

Some of the individual statistics are nothing short of amazing. Jayne McCarty, the only girl in the 39-team field to hit a ball over the fence, drove in a total of 18 runs and accumulated a lusty .486 batting average. Linda Bumford pitched every game, compiling a 2.10 earned run average and .484 batting average. Laura Louden hit .425, Sue Filson, .400 and Bev Morris, Vicki Cornman, and Vicki Navroli all batted over .300.

What makes Central Pharmacy's title winning performance all the more remarkable is the fact this is the first season the team has played together. And, although it had a sponsor, the members raised much of the $5,000 needed for the trip through various fundraising efforts. Gail Tamok, comanager, emphasized the girls' conduct, on and off the field, captured the hearts of the tournament's directors and spectators. It is with pride and pleasure, therefore, I introduce these champions:

Central Pharmacy players—Cheryl Reinhard, Vicki Navaroli, Lori Chontos, Beverly Morris, Jayne McCarty, Debbie Helsel, Coleen McCormley, Stephanie Buck, Vicki Cornman, Linda Bumford, Sue Filson, Sue Cislo, Laura Louden, Diane Kugler, Maryann Welsh, Kathy Shutlzaberger; managers—Gail Tamok and Walt Louden; coaches—Andy Chontos and Janet Antoncic.

Mr. Speaker, on behalf of my colleagues in the Congress of the United States, I extend to these extraordinary young women our official congratulations for a truly remarkable accomplishment.

SYNFUELS BILL NOT A "BUDGET BUSTER"

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, had consideration of the various amendments offered to the Teague substitute taken place concerning H.R. 12112, proponents as well as opponents would have been asked to consider the legislation's so-called budget-busting content.

Throughout the days and weeks preceding the vote on House Resolution 1545, the charge was made that H.R. 12112 would force the Congress to exceed its own budget resolution limits and cause it to compromise its own Budget Committees' efforts.

This type of situation could occur again. To assist my colleagues in furthering their understanding of the character of the financial assistance provisions sought through H.R. 12112, it seems fitting to include for the RECORD a letter which I have received from the distinguished chairman of the House Committee on the Budget.

His comments clearly establish the fact that the bill contained no budget-busting provisions; that, contrary to it being possibly subject to a point of order on that charge, it was not; and significantly, the budget resolution had made an allowance of $500 million in authority for the appropriation of borrowing authority for this program.

I believe those who followed this issue will find the appended letter of interest.

The letter follows:

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, D.C., September 23, 1976.

Hon. WILLIAM S. MOORHEAD,
Chairman, Subcommittee on Economic Stabilization, Committee on Banking, Currency and Housing, Washington, D.C.

DEAR BILL: I apologize for not having replied sooner to your letter requesting my views regarding the budget impact of the Teague amendment substitute for H.R. 12112. The bill was not subject to a point of order and the Budget Committee had no established position other than stated in this letter which did not seem to be necessary for the debate or I would have telephoned to you.

That bill is simply an authorization measure, and thus does not have a budget impact. Furthermore, the loan guarantee authorities in that bill will not become effective until they have been approved in a prior appropriation bill, thus making them subject to essential appropriations controls.

Further, the budget resolution has made an allowance of $500 million in budget authority for the appropriation of borrowing authority for this program when the appropriations action is taken. Whereas this may not be sufficient to put the whole authorization in H.R. 12112 into effect, this does not mean that authorizing the larger amount in H.R. 12112 would violate our budget allowances. Thus, the bill raises no Budget Act or budget resolution problems, even though after the authorities were made available in an appropriations act, they would increase the contingent liabilities of the Federal Government.

With warmest regards,

BROCK ADAMS,
Chairman.

BARBARA BUEHLMAN AND A ROUND LAKE, ILL., SUCCESS STORY

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. McCLORY. Mr. Speaker, I want to take this opportunity to salute a teacher, a large group of fine student musicians, a school system, and a community.

Not long ago, the Round Lake, Ill., junior high school band, directed by Miss Barbara Buehlman, won a gold medal in competition with 60 other bands at the Florida World International Music Festival. To make that trip possible, band supporters and residents of Round Lake in my 13th Congressional District helped raise $20,000.

Miss Buehlman is coordinator of fine arts and director of the middle school concert band and the senior high school symphonic band in Round Lake. She also is secretary-treasurer of the Illinois Grade School Music Association and business manager and assistant conductor of the North Shore concert band.

Mr. Speaker, perhaps we hear more today about the problems of education than its successes. But when Miss Buehlman talks about music and teaching, she talks in terms of joy. Let me quote two paragraphs from a recent interview with her which appeared in the Lakeland Publications:

> Music is everywhere in this world. You can't do anything without finding it. You find music in television, on the radio, in movies, in offices, and stores. You find it everywhere because it gives joy. Students can find this kind of joy by learning to play an instrument and do it well.
>
> Band does something special for children, too. It gives them a sense of belonging to a group and working together for a final product. That's something you can't get from a math or English class.

Miss Buehlman believes that a child's musical career is at its most critical point at the beginning when encouragement is required to keep interest and motivation alive. To share her concepts in teaching, Miss Buehlman and coauthor Ken Whitcomb have produced a complete course in teaching band called "Sessions in Sound."

Mr. Speaker, it is my privilege to pay tribute to an educational success story. In common with any such endeavor, it is the result of people working creatively with people—a gifted teacher, students who care and want to succeed, supportive parents, and a well-run school system that makes all this possible.

I congratulate Miss Buehlman, the talented Round Lake schools' band musicians, their families, and the Round Lake area schools.

HEINZ URGES VOTE FOR RESOURCE RECOVERY BILL

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. HEINZ. Mr. Speaker, I would like to express my strong support for H.R. 14496, the Resource Conservation and Recovery Act of 1976 that is scheduled to come before the House today.

As my colleagues know, H.R. 14496 establishes a new office in EPA to help State and local agencies develop programs for managing discarded materials, recovering useful resources and protecting the environment. It also expands research and demonstration activities under the Solid Waste Disposal Act to include new studies and cooperation by EPA and ERDA aimed at turning our trash into an energy source.

This year alone, Mr. Speaker, Americans will contribute 360 million tons of waste to the gross national trashpile.

For the most part, this waste will lie unused, contributing to our environmental problems when it could be part of the solution to our energy, environment and raw materials needs.

The waste that we throw away could become the energy equivalent of 400,000 barrels of oil a day.

It could yield 7 percent of our iron, 8 percent of our aluminum and 14 percent of our paper.

At the same time, Mr. Speaker, industry will dispose of more than 380 million wet tons of industrial wastes—much of it hazardous and much of it unregulated.

H.R. 14496 offers a unique opportunity to turn our national trashpile into a national resource. And, it offers a chance to regulate the disposal of wastes that have become a menace to our physical and environmental health.

Equally important, Mr. Speaker, is the fact that the legislation, for the most part, leaves the development of these programs to the States, with minimal Federal intervention.

Mr. Speaker, earlier this year the Citizens Advisory Council to the Pennsylvania Department of Environmental Resources issued a report on the need for a comprehensive program of solid waste management.

The report specifically noted that:

> What Pennsylvania and the Nation needs is a program to reduce waste at its source, recycle resources in the waste stream that can be reclaimed and reused, and dispose of those which cannot be in an ecologically and economically sound fashion.

H.R. 14496 goes a long way toward meeting that goal and I urge my colleagues to vote for it.

FIRST BASEBALL PENNANT IN PHILADELPHIA IN 26 YEARS

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. SCHULZE. Mr. Speaker, the people of the city of Philadelphia and its metropolitan area have had much to celebrate over the past few years.

First, the city exploded with excitement as the Flyers, the premier team in the National Hockey League, became the first expansion team to capture the coveted Stanley Cup, hockey's highest award. Not only did the Flyers win the cup in 1973–74, but won it again in 1974–75.

The second big celebration was, of of course, the celebration of America's 200th birthday. The city of Philadelphia, where so many of the greatest moments of the birth of our Nation took place, became the foremost center of attraction to the millions of Americans who set out from all four corners of this Country to share in the excitement, the glory, the romance, and the history of this great Nation.

A third event which put Philadelphia in the forefront of this Nation's activity came just recently when it hosted the first of the "Great Debates" between President Ford and his challenger as we are about to choose the man who will lead us into our third century. Where else, but in Philadelphia, could the first debate between the men running for the highest office in the land have been held?

Well, as if the Flyers, the Bicentennial, and the debates were not enough for the city of Philadelphia, enter the Phillies, the best baseball team in the game today.

Yesterday, the Phillies defeated the Montreal Expos to clinch first place in the National League East Division. This victory brings to the people of Philadelphia and the metropolitan area, for the first time since 1950 when the famous "Whiz Kids" were the darlings of the baseball world, a major league baseball pennant.

To many Phillies fans, this accomplishment is perhaps more significant than any of the other events I have mentioned.

For the past few years the Phillies have fought hard to build a winning team eager for a championship. Last year they almost succeeded, this year their dream came true.

Now, admittedly, the Phillies had their moments of crisis, especially during a 10-game, nail-biting losing streak late in the season. But the Philadelphia fans, hungry for baseball glory, never lost faith in the team and supported them through that most trying experience.

It paid off.

It is a credit, not only to the ball club for having weathered the storm and bounced back to take the title, but also to the loyal fans, over 2 million of them, who in time of doubt, stuck by their champs all the way.

It is with great pleasure that I recognize the members of this team which has brought so much excitement, entertainment, and pride to the city of Philadelphia and the metropolitan area:

PHILADELPHIA PHILLIES—1976 EAST DIVISION CHAMPS

Owner: Mr. Ruly Carpenter.

Manager: Danny Ozark.

Coaches: Bobby Wine, Ray Ripplemeyer, Bill Demars.

PLAYERS

Gary Maddox, Jay Johnstone, Bob Boone, Tony Taylor, Tim McCarver, Bobby Tolan, Larry Bowa, Tommy Hutton, Wayne Twitchell, Ron Reed, Steve Carlton, Jim Lonborg, and Jim Kaat.

Terry Harmon, Greg Luzinski, Dick Allen, Mike Schmidt, Ollie Brown, Jerry Martin, Johnny Oates, Dave Cash, Tug McGraw, Gene Garber, Ron Schueler, Tom Underwood, and Larry Christenson.

MASA HONORS AREA ATHLETES

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. GAYDOS. Mr. Speaker, for the past 7 years the McKeesport Athletic Sports Association has publicly recognized the past achievement of certain individuals in the field of sports. A few days ago MASA once again singled out for special tribute several "old timers" whose feats added new luster to the area's already gleaming athletic reputation.

More than 500 persons attended this year's banquet at the White Oak American Legion Post to applaud the 1976 MASA honorees. I would like to insert their names into the RECORD for the attention of my colleagues.

McKeesport National Bank Awards—Bernie Leech, Al Widany, Frank Korbar, Tony Kastan and Walter Winters, baseball; Tony Roma, boxing; Rocco Tedesco, softball; Richard Despotakis, Garrett Kynor and Frank Kopriver, sponsors, and Charles Gorun, officials.

District 15, USWA, Awards—Anthony Paterra and Herbert Palm, baseball; Stanley Kuzio and Ziggy Gall, softball; Al Pishko and Thomas Gilmore, football; Andy Konrad, boxing, and Marty Sudzina, track.

William E. Lickert Local Teamster's 205 Awards—Edward Chute, football; Nick Tate, Arthur Codeluppi and James Sherry, baseball. Julius J. Lenart; Memorial Awards—Joseph Lapkowicz and Andrew Petach, football; Anthony Messina, softball.

Dave Jenkins Memorial Awards—Clyde Hayes, baseball; Bobby Mulgado, all sports, and Earl Jenkins, softball. Joe Gaydos Congressional Award—Robert and Dorothy Couglin, humanitarianism: Ted McFarland Renzie Lounge Awards—Russ Fenton, softball; Joe Puskarich, all sports.

Bob Kula Viking Lounge Award—Glenn Shample, official. Chick Davies Award — Walter Miller, basketball; MASA Golden Quill Award—Eleanor Kratzer, journalism. Thomas O'Neil Award—Albert Gessner, baseball.

Among the many prominent individuals who participated in the formal program honoring the above mentioned awardees were: Samuel R. Vidnovic, a popular sports figure in the Mon-Yough Valley and an outstanding master of ceremonies, who presented the awards; Steve Lesko, toastmaster; Mayor Thomas Fullard of McKeesport; James Loizes, former chief of police in McKeesport, and the Revs. Theodore I. Pollard and Wes Kughen, who delivered the invocation and benediction.

Mr. Speaker, the award committee of MASA devotes many hours of hard work each year in selecting its honorees. It is truly a labor of love for the committee annually must select the award winners from more than 300 nominees. On behalf of my colleagues in the Congress of the United States, I would like to extend to this committee the officers and members of MASA, which seeks to perpetuate for the future the athletic heroics of the past, our official congratulations and best wishes for future success.

DR. EDWARD D'ALESSIO BECOMES FIRST LAY PERSON TO HEAD OUR LADY OF THE ELMS COLLEGE

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. BOLAND. Mr. Speaker, on September 29, Dr. Edward R. D'Alessio will be sworn in as the fifth president of the College of Our Lady of the Elms in Chicopee, Mass. Dr. D'Alessio will become the first lay person to be inaugurated as the president of the 4-year liberal arts college for women.

In becoming president of the College of Our Lady of the Elms, Dr. D'Alessio caps 9 years of service within the U.S. Catholic Conference. He joined the U.S.C.C. in 1967, as a staff member, and in 1970 he became the first lay person to head the division of elementary and secondary education. In this post Dr. D'Alessio served as the spokesman for the conference in matters relating to the education of children in Catholic elementary and secondary schools. Another vital function of this post was to represent Catholic school interests before Federal agencies, congressional committees, the White House, and various public and nonpublic educational groups.

Throughout 1975, Dr. D'Alessio served as the Catholic schools representative in the department of education.

A highly regarded scholar of education, Dr. D'Alessio has written and lectured widely on the role of nonpublic education in our society. He established "Catholic Schools Week" as an annual national event. Cosponsored by the U.S.C.C. and the National Catholic Educational Association, the "week" is a yearly observance focusing public attention on the merits and special contributions of Catholic schooling.

A native of New Jersey, Dr. D'Alessio was educated at Seton Hall University and earned his doctorate at Fordham University in 1967. He has also served as a professor and lecturer at both Seton Hall and Fordham Universities.

Rarely has one man possessed such outstanding credentials for a job as Dr. D'Alessio possesses for the presidency of the College of Our Lady of the Elms. His presence is sure to be of great benefit to the college and the community. I wish him best of luck as he assumes this important post.

ED ZALAR DAY

HON. TENNYSON GUYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. GUYER. Mr. Speaker, I wish to bring to your attention the efforts of Mr. Ed Zalar, an outstanding citizen who is being given the distinction of having a day named for him. October 15 will be named "Ed Zalar Day" in Lima, Ohio. For the past 4 years Ed has been conducting a kind of crash course for ex-convicts to give them an opportunity to regain their dignity, confidence, and self-esteem through a program called PREP, parole rehabilitation employment program.

Ed is truly a great asset to the community of Lima. His unselfish devotion as director of PREP has shown amazing results because he treats the ex-convicts as human beings with a potential to become productive and respectable members of society. As a result of Ed's work, the city of Lima has changed its attitude toward the treatment of former offenders, and has become more interested in crime prevention. Lima employers find Ed's clients to be willing workers. They hire them on their merits as workers without discriminating against them because of their past offenses. The really productive programs are those that help people move from assistance to self-reliance. Ed Zalar has certainly shown this to be true as a result of his work with PREP.

A few excerpts from the Catholic Chronicle pay tribute to Ed's program.

PREP operates out of Goodwill Industries of Lima, 949 South Main Street, and is funded through the Bureau of Vocational Rehabilitation. PREP started as a pilot program through Goodwill Industries in Columbus, Ohio in 1969 and has spread to four other cities in Ohio: Akron, Dayton, Lima, and Toledo.

Ed Zalar's efforts have sparked wide community support that includes the mayor, law enforcement and parole authorities, church and civic groups, and a key segment—business and industry, which provide the jobs.

Supporters cite Zalar's dedication and enthusiasm. More basic to their support is performance: The program works.

Ed said the recidivism rate of program graduates is 22 percent compared to a national average of 70 percent.

PREP operates on a 5-week cycle. The

first 2 weeks are for class sessions. The last 3 weeks are for job hunting. Each enrollee gets $55 a week for food, lodging, and transportation.

The classroom has a work atmosphere. Days are spent completing practice applications, having mock interviews with employers, writing business letters, writing résumés, and viewing film strips.

Several businessmen volunteer their expertise. A videotape recorder provides instant replay of interviews, which are critiqued. Enrollees are taken on tours of local industries.

Zalar believes "the program is designed to develop realistic concepts of work while the men are seeking security through employment. We try to create an atmosphere of respect, with a feeling of caring for a person. We stress living in the present—not in the past—and with an eye toward the future.

"We present facts and allow the man to make choices—how to go about getting a job, not just filling out applications. We try to restore dignity. The men are stripped of that and degraded when they come out of prison. They are hostile. Hostile feelings are played out through role playing."

Each 5-week session ends with a graduation dinner at a local restaurant. Plant managers, personnel directors, bankers, engineers, private employment service directors—all who have shared in the program attend. Each client receives a diploma for completing PREP's "Plan for Action" and has an opportunity to speak.

More than 400 persons—about 5 percent of them women—have gone through PREP during Zalar's 4 years as director. Mrs. Jane Whitney of the Bureau of Vocational Rehabilitation office in Lima estimated that about 60 percent of those who go through the program "find work and function satisfactorily."

Zalar, who coached football at Delphos St. John High School for 8 years in the 1960's lapsed into football terminology when speaking of his work. He said:

> It's very uplifting. It's like scoring a touchdown or making a beautiful play. But even more, because it is seeing someone become a productive person, a taxpayer, citizen of the community, provider, a person looked up to—one who has raised himself up.

70001 LTD.

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. BURGENER. Mr. Speaker, between 750,000 and 1 million young people drop out of high school every year in this country. And too many of them end up as unemployment statistics. The highest chronic rate of unemployment in our Nation is found among our young people—and that is a tragic waste of our most valuable national resource.

It is also true that projections by the Department of Labor indicate that the greatest source of jobs today and in the next several years is in the area of retailing and distribution.

I am pleased to note that there is a manpower training program which matches this area of chronic unemployment with the area of most jobs. It is called 70001 Ltd., which is a nonprofit organization serving 16- to 22-year-old school dropouts who are unemployed and otherwise disadvantaged. With the support of the American Retail Federation and many other business concerns, 70001 helps these young people find jobs and careers in the field of distribution and retail.

In February of this year, the Department of Labor contracted with 70001 Ltd. to expand its operations. Within the first 10 weeks of the signing of that contract, a total of 532 young people entered the 70001 programs located in 14 cities. Nearly 70 percent of them were placed into jobs, primarily in the field of distribution. And as of May 31, approximately 60 percent of all the young people in 70001 were on the job, while the remaining 50 percent were preparing for employment or were between jobs.

70001 Ltd. has a program that works. It matches an area of chronic unemployment with the area providing the most jobs. It deserve our support.

A REQUEST FOR CITIZEN INPUT

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. MURPHY of Illinois. Mr. Speaker, 2 years ago Congress passed a bill with far-reaching consequences for the American people. The bill established a Commission on Federal Paperwork. The purpose of that Commission was to investigate reporting requirements of the various Federal agencies and recommend to Congress changes that would ease the paperwork burden for the American people.

Knowing the time and money involved in meeting all the paperwork requirements of the small businessman, I cosponsored a bill to bring relief to this segment of the work force. The Commission is an outgrowth of this bill.

The Commission has been in existence for 1 year and has clearly demonstrated that it can deal effectively with the paperwork burdens faced by the small businessman, educator, consumer, farmer, and taxpayer. It was created by Congress and has lived up to congressional intent in fulfilling its stated purpose.

It should be pointed out that the Commission has worked within its allotted budget. It has not come to Congress requesting additional moneys nor has it come seeking additional time. It will complete its work within the timeframe set down by Congress and will submit its final report in October of 1977.

To continue to be effective, the Commission needs citizen input. I am asking my constituents to participate in the Commission's work by advising me of their paperwork problems with the Federal Government. This will help me to help them reduce Government redtape, unnecessary paperwork and bureaucracy.

The Commission has worked with a number of citizens in such problem areas as pension plans, Office of Education, Census Bureau's company organization survey, and occupational and health. It works to help reduce the time and money involved in complying with burdensome reporting requirements.

The Commission has an impressive list of accomplishments. Congress passed legislation to eliminate schedule A of IRS form 941. It did so based upon the Commission's findings that businesses would save $250 million by submitting this form annually instead of quarterly. And according to Government Accounting Office estimates, the Government's savings amount to $20 million.

Because of recommendations made by members of the Commission to various Government agencies, paperwork has been reduced by 237,960,480 Federal forms. Resultant savings have reached over $10 million and 2 million man-hours.

The proposed Customs Paperwork Reduction Act will save small importers millions of dollars. It will also speed up the processing of travelers.

Twenty-six recommendations have been made to reduce the paperwork burden under the Occupational Safety and Health Act. If only two of these recommendations are adopted, the Commission estimates that there will be a savings to over 4 million businesses of $42 million.

These are only a few of the proposals which have already been adopted or put forth for future enactment. They have one goal in common: reducing or eliminating paperwork. Whether a person owns a business or merely fills out an IRS form, he can find a helping hand eager and willing to assist him.

I take this opportunity to stress the importance of public participation at the Government level. I am asking my constituents to write. By giving the name and number of any burdensome report or form, an attempt can be made to zero in on the specific problem. Together we can work to find a solution to this bureaucratic maze of paperwork.

CONGRESSMAN HENRY HELSTOSKI SUPPORTS REVISION OF COPYRIGHT LAWS

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. HELSTOSKI. Mr. Speaker, the first general revision of the copyright laws was passed by the House on September 22, 1976 by a vote of 316 to 7.

In an effort to assure consideration of this issue before the 94th Congress adjourned, the sponsors of the House version tailored their bill to resemble the Senate measure, S. 22, which they passed in February 1976.

Both bills increased the length of the copyright term, set new guidelines for photocopying in libraries and schools, and brought two groups—cable television systems and jukebox owners—under copyright liability for the first time.

Congressman HELSTOSKI, in expressing support for this legislation, stated that:

> The provisions contained in this bill are long overdue. This is the first revision of the copyright laws since 1909 and I am pleased to see that we have approved a measure to address this situation by correcting the inequities contained in the present law.

SOVIET JEWS COMMEMORATE BABI YAR

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. YATES. Mr. Speaker, for the benefit of my colleagues, I would like to note that the 29th of September will mark the 35th anniversary of one of the most terrible tragedies of World War II. This will be the anniversary of a catastrophe where more than 100,000 Soviet Jewish men and women died. I speak of the tragedy of Babi Yar.

In the fall of 1941, 100,000 Jews of Kiev and its suburbs were shot dead at Babi Yar. As a result, it has become the symbol for the whole world, a symbol of the tragedy of the Jewish people.

Sadly, for those Soviet Jews who want to commemorate that day—it seems that there will only be trouble from the Soviet authorities.

On September 20, Mr. Anatoly Sharansky, of Moscow, arranged a press conference for three Jews from Kiev. At the conference it was revealed that the three were called in by the KGB and warned that if "there is an attempt to repeat your Jewish tricks—to commemorate Babi Yar—you will be arrested and sentenced to many years of imprisonment. We do not want any of your dirty Zionist flowers."

At this press conference the correspondents were given copies of a letter which was signed by more than 90 Jews from 13 different cities, and which was sent to the city officials in Kiev. It was addressed to the First Secretary of the Communist Party of the Soviet Union and the First Secretary of the Gorsoviet—town council of Kiev.

It said:

> On September 29, 1976, it will be the 35th anniversary of the tragedy at Babi Yar. In the autumn of 1941, 100,000 Jews of Kiev and its suburbs were shot dead by Fascists at this place. Babi Yar has become the symbol for all the world of the tragedy of the Jewish people. We appeal to you with the request not to prevent the Jews who wish to participate in the ceremony of solemn mourning on this day in accordance with Jewish national tradition and to defend us from all possible provocation.

They, then, addressed the following letter to Jewish communities in the free world:

> Dear friends: The 29th of September 1976 is the 35th anniversary of the tragedy at Babi Yar. Babi Yar is the most outstanding and the most tragic place of the catastrophe of Soviet Jewry where more than 100,000 of our brothers and sisters lie in death. The Fascists tried to destroy all the Jews physically and contemporary anti-Semites try to wipe out every memory of the sacrifice and suffering of our people. For many years now, Babi Yar has been the only place of the Holocaust where Jews are not permited to pay their respects to the memory of their slaughtered brethren. Only under the pressure of public opinion did the Soviet authorities finally agree to put a monument at Babi Yar—pressure of world public opinion in the free world—but the aim of this monument is the same, to wipe out the memory of the fact that the people who were buried here were Jews. Even the burial ground is now a prohibited place. The KGB of Kiev has already started a campaign of harassment against those Jews who would like, on this tragic date, to commemorate the tragedy of Babi Yar. Babi Yar has become the symbol of the extreme suffering of our people. Dear brothers and sisters: We are calling on you to commemorate and pay homage to the memory of the more than 100,000 Jews savagely butchered at Babi Yar and we urge you to attempt to send representatives on this day to take part in the solemn rites at this spot in accordance with our time-honored Jewish tradition.

This letter reminds us, once more, that for the Jews in the Soviet Union, there is no freedom . . . a distressing thought as the Jewish New Year is about to begin. Let us hope the New Year will bring a change in the official Soviet policy toward the Jews, that they will be allowed to enjoy the human rights to which they are entitled.

FREEDOM OF CHOICE

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. ABDNOR. Mr. Speaker, South Dakotans have long cherished freedom of choice for all of their activities and endeavors. One of their greatest concerns through the years has been maintaining their freedom to choose whether or not to join a labor union as a condition of employment. Repeatedly they have reaffirmed their belief that membership in a union should not be required for a person to hold a job.

The depth of South Dakota's concern for the right to work was recently reflected in the President's Corner of the South Dakota State Employees Organization News. Calling right to work "a basic American freedom," Ronald R. Merriman, president of the SDSEO, made some comments which merit the consideration of my colleagues in the House:

> RIGHT TO WORK—A BASIC AMERICAN FREEDOM
>
> "The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization or association." This is a basic freedom we should all wish to maintain. Why? The answer should be obvious. In 15 states where the right-to-work laws have been abolished, public employees are compelled to pay dues or agency fees to a union whether they desire to or not.
>
> South Dakota is one of 32 states which still retains the right-to-work law for public employees under the protection of Section 14 (b) of the Taft-Hartley Act. Labor unions have spent millions of dollars in an effort to bring about the repeal of Section 14(b). These millions have come from dues paid by millions of wage earners forced to pay these dues in order to work for a living.
>
> Presidential candidates Udall, Jackson, Brown and Carter, courting union support, favor repeal of Section 14(b) of the Taft-Hartley Act and the abolishment of the states' right-to-work laws. President Ford strongly favors the right to work; and Reagan says that he is "leaning . . . very heavily toward right to work".
>
> A recent study by Opinion Research Corporation revealed that 75% of the American public feels a worker in industry should be able to "hold a job whether or not he belongs to a union". Ironically, 49% of union workers polled were opposed to compulsory unionism while 49% were in support . . . 2% no opinion.
>
> Our state right-to-work law and Section 14(b) of the Taft-Hartley Act are the lock on the door, the removal of either will bring compulsory unionism into South Dakota.
>
> During the recent economic recession in our country, the states with the least unemployment and strongest economic profile were those that retain the right-to-work law.
>
> The prestigious U.S. Advisory Commission on Intergovernmental Relations recently completed a study of public employee labor-management relations and concluded that: "While recognition of the right to membership is fundamental, of equal importance is the principle that no public employee should be required or coerced into joining an organization as a condition of employment." They added, "the right to refrain is just as basic and precious as the right to join . . . when the right to join becomes a duty, obviously freedom of choice becomes merely a catch word."
>
> The South Dakota State Employees Organization is an ardent supporter of your right of free choice . . . to belong or not to belong; and annually we deliver this message to the state legislature in support of our right-to-work law.
>
> The right to work IS a basic freedom . . . a freedom of choice we should openly support and protect in South Dakota.
>
> Ronald R. Merriman

PERSONAL ANNOUNCEMENT

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. STUDDS. Mr. Speaker, on Tuesday, September 14, I missed several record votes because I was on my way to Massachusetts to vote in the primary elections which were held that day. On roll No. 722, adoption of the rule for consideration of S. 2371, regulation of mining in areas of the national park system, I would have voted yea. On roll No. 723, passage of H.R. 15319, habeas corpus rules, I would have voted yea. On roll No. 724, passage of H.R. 14940, Implementation of the Treaty of Friendship and Cooperation between the United States and Spain, I would have voted yea. Roll No. 725 was a recorded quorum call. On roll No. 726, adoption of the first committee amendment to S. 2371, I would have voted no. On roll No. 727, adoption of the Duncan substitute amendment to the Ketchum amendment to S. 2371, I would have voted no. Lastly, Mr. Speaker, I would have voted yea on roll No. 728, the final passage of S. 2371. On Thursday, September 23, I missed roll No. 807, passage of the conference report on H.R. 9019, Health Maintenance Organization Amendments of 1976. On that rollcall I would have voted yea.

NATIONAL VOLUNTEER FIREMEN'S WEEK

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. WOLFF. Mr. Speaker, as a cosponsor of the joint House-Senate resolution proclaiming October 3–9 as National Volunteer Firemen's Week, I am pleased to note its unanimous passage by the House. The swift approval of this resolution bespeaks the full knowledge and appreciation of the Congress for the 1 million volunteer firefighters across our Nation who spend their time, and often risk their lives, in the service of their friends, and their community.

The volunteer fireman is one of our Nation's oldest traditions, and it is heartening that in an age of increasing technology and expertise, the concept of the volunteer fireman is still viable. Indeed, were it not for the volunteer, we scarely would have a large-scale fire department anywhere in the Nation. For as the resolution notes, only 200,000 remain to fill the ranks of firefighters once the volunteers are taken from the list.

The fact that our country is still able to rely on the volunteer for the bulk of our fire protection is proof that the volunteer is able to keep up with the advanced training, the new techniques, and the sophisticated equipment which is so necessary today.

We have come a long way from the old hand-pump cart pulled by eager men, and chased by a Dalmatian dog, but the spirit of the old volunteer fire companies remains today, and will, I am confident, continue to motivate our young people to enter into the service of their community in this honorable—and indispensable—calling, the volunteer fireman.

Thank you, Mr. Speaker. I am pleased to present for the RECORD a copy of House Joint Resolution 1008, calling for a National Volunteer Firemen Week:

H. J. RES. 1008

Whereas volunteer firemen have played an essential role in this country all throughout its history;

Whereas one million of the country's one million two hundred thousand firefighters are volunteer firemen;

Whereas, because of their skills in applying life-supporting techniques and their awareness of fire safety precautions, volunteer firemen plan an important role at their regular places of employment, especially in industrial plants, large office buildings, hospitals, and other places where there are heavy concentrations of people; and

Whereas volunteer firemen provide a lifesaving service to the communities in which they live: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen's Week", and calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

REPUBLICAN HUMOR

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. BOB WILSON. Mr. Speaker, "Republicans have a great sense of humor," says Steve Skubik, president of the American Society of Political Humorists.

His book "Republican Humor" quotes over 100 leading Republicans and contains 380 humorous and witty savings.

President Gerald R. Ford's foreword to the book is an excellent explanation of the need for politicians to have a sense of humor.

President Ford wrote:

In my remarks to the Congress after being sworn in as our 38th President, I said: "Truth is the glue that holds government together, not only our Government, but civilization as well." I believe this with all my heart.

But government and the political process need not be pompous and unsmiling. The national costume does not have to be a stuffed shirt. Humor can be the lubricant that eases our journey through life.

I have now spent 27 years in American politics and I have seen first-hand the therapeutic effect of a timely or timeless joke. In the words of Kahlil Gibran: "A sense of humor is a sense of proportion."

In politics, a sense of proportion and a sense of humor should be written into the job description of every legislator and administrator. Officials who can laugh together can work together. The aisle separating Republicans and Democrats need never be so wide that it can't be bridged by good humor.

Fortunately for all of us in government—federal, state, and local—political humor is alive and well in America. Sometimes the humor is inadvertent. I still feel for the master of ceremonies at a mid-West banquet I attended in 1974. At the conclusion of the program, so that we could keep to our schedule, he asked the audience to keep their seats until the Presidential party had left. But his actual words had a life of their own. He said "Ladies and gentlemen, this concludes our program but would you please remain in your seats—while the President is removed from the hall!"

Sometimes humor is strangely prophetic. On March 9, 1968, as Minority Leader of the House of Representatives, I was asked to be the Republican speaker at the annual dinner of the Gridiron Club in Washington, D.C. This organization of distinguished journalists and their guests, gets together once a year for a fun evening of political satire and commentary. The audience is so prestigious, a waiter could spill soup in any direction and not miss a celebrity.

In March of 1968, election fever was beginning to spread. Speculation as to who would be the Republican and Democratic nominees for President and Vice President became the unofficial theme of the evening. And so, with tongue firmly planted in cheek, I decided to announce my own intentions. I turned to Hubert Humphrey, who was then Vice President of the United States, and solemnly assured him that I had absolutely no designs on his job.

I then added: "I love the House of Representatives, despite the long, irregular hours. Sometimes, though, when it's late and I'm tired and hungry—on that long drive home to Alexandria—as I go past 1600 Pennsylvania Avenue, I do seem to hear a little voice saying: "If you lived here, you'd be home now."

In 1968, I had no inkling of how loud that little voice might get.

I believe in laughter. I look on it as one of the precious gifts that God has given to mankind. I admire, as Walter Scott did, the "wit that loves to play, not wound."

Americans are a diverse people living together in many different styles and places. We are united more by the way we look at things than by the traditional ties of blood or belief or battles long forgotten. And when we are able to look at the brighter side of our troubles, and the lighter side of our struggles, and see the smile that lies just below the surface of our neighbor's face, we Americans are at our very best.

"Republican Humor" by Stephen J. Skubik and Hal E. Short is published by Acropolis Books Ltd., Washington, D.C.

ABORTION AS ELECTION ISSUE REQUIRES MANNERS, BALANCE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. MAZZOLI. Mr. Speaker, perhaps no issue now before Congress surpasses abortion for controversy.

I would like to share with my colleagues the following editorial which appeared in the Record, the Louisville Archdiocesan newspaper.

This editorial advocates calmness, restraint, civility, and fairness in dealing with an issue which has often generated antagonism, frustration, and emotionalism.

I believe it is an excellent description of healthy dissent in America, and it is particularly relevant in light of the position abortion has taken in the 1976 elections.

The article follows:

ABORTION AS ELECTION ISSUE REQUIRES MANNERS, BALANCE

The 1976 Presidential campaign got off to a bit of a surprising start last week as an undisciplined group of anti-abortion demonstrators in Scranton surrounded and jostled Governor Carter. It was an unpleasant spectacle, these highly motivated people taking part in an unfortunate drama that can only further alienate people from their very serious cause: finding the best possible way to guarantee a right to quality life for all, especially for the helpless unborn.

The very temper and actions of the demonstrators may be an apt measure of the frustration of those Catholics and other religous people who want so desperately to get a hearing for their cause, but find so few willing to listen. In this regard, we are pleased with Jimmy Carter's decision to invite such protestors to use his own appearances as a peaceable forum for expression of their views.

The simple fact of the matter is this: unless there is civility and fairness in communicating the anti-abortion position, that cause itself will receive less and less of a hearing.

Attempting to overwhelm and coerce the convictions of others is hardly an ethical or effective way of making a point. Rudeness and rowdiness (in contrast to responsible and firm dissent) generally have not worked in legal and political struggles. In the struggle against abortion, such behavior can only be counter-productive.

Instead of antagonizing those in disagreement, convinced pro-life people could find this autumn an unusually fine opportunity to present their case to the nation with firmness, politeness and understanding of others. The American Catholic bishops and 43 per cent of American Roman Catholics recently polled support a constitutional amendment as the best way to insure the human right to life. But large groupings of other ethically concerned Americans, and 48 per cent of those Catholics recently polled, do not favor such an amendment. To be sure, many of these are personally adamant against the taking of fetal life, but they do not choose to give their personal convictions the force of law.

If such a large bloc of persons—even within Catholicism—are to be convinced of the proamendment position, careful logic and avoidance of vituperation will be more necessary than ever. And if this fall season offers an immense opportunity to Catholics, it also presents two clear dangers to be avoided besides the incivility already noted.

First, it will be necessary to avoid the reductionism of a one-issue campaign. More than ever before, Catholics will have to stress the *comprehensiveness* of a pro-life position. Undoubtedly, abortion strikes at the heart of innocent life itself and so has a special urgency to it. Furthermore, abortion reveals a callousness about the reverence for life and humanity not in individuals alone, but in communities and civilizations as well. But the abortion question must always be seen in the wider context of human dignity issues, or else it becomes in the public eye nothing more than a peculiar obsession.

As William Shannon, a Catholic writer, recently noted in the *New York Times* (Sept. 4), reverting to a one-item American agenda can endanger all the rest of the great Catholic social causes, as well as rendering the issue of abortion itself politically impossible. The abortion question must always be seen as part of a wider spectrum of moral and social causes: the elderly, the handicapped, the impoverished and oppressed, the ill-housed and the outcast. Archbishop Thomas J. McDonough of Louisville gave clear expression to such an insight in his 1973 pastoral letter "To Be Present in the Heart of the World:"

"If we are to be persuasive champions of human life and dignity in one area, we must be such champions in every area. As Catholics we must oppose unflinchingly every form of social injustice, violence and discrimination which undermines the conditions of life which God intends for all His children."

A second danger is that of political exploitation. Catholics, never especially known for political naivete, run a risk in this election campaign of being patronized at best and possibly badly exploited. The American bishops are "disappointed" with Carter's position and "encouraged" but "not satisfied" with Ford's. Governor Carter has added a nun to his "Catholic desk" and President Ford goes through a sudden flurry of appearances with Catholics and their bishops. For all their activity, the candidates should not be encouraged to presume that Catholics will vote as a tight political bloc this year. Rather, it behooves a thoughtful people—on all sides of the political fences—to be on their guard, to weigh out promises and to sound out genuineness and realism of every position.

The Catholic tradition has from the beginning had a real leaven to bring to American life. It is our special task this presidential election year to keep that leaven from going sour.

REMARKS BY REPRESENTATIVE MILLER

HON. DEL CLAWSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. DEL CLAWSON. Mr. Speaker, on September 12 our distinguished colleague from Ohio, Congressman CLARENCE MILLER, addressed the centennial celebration of Rio Grande College located in his district. His remarks about the growth and contributions of this fine Ohio school and the serious threat it and every other institution of higher learning now face at the hands of the Federal bureaucracy are poignant and deserve the attention of this body.

REMARKS BY REPRESENTATIVE CLARENCE MILLER, RIO GRANDE COLLEGE—RIO GRANDE COMMUNITY COLLEGE

It is a distinct honor and pleasure to join you on this occasion to observe the 100th birthday of Rio Grande College. I share your deep sense of pride on this occasion and I know that the future will be just as rewarding as the past has proven to be.

This is a unique occasion: We are here today celebrating the centennial of a great institution of learning while America celebrates her bicentennial. It is fitting that the school has selected "hand in hand with America . . . a proud heritage" as its theme for observing the school's anniversary. Just as our Nation reflects upon its proud past and looks toward the future with optimism and renewed faith in our democratic system, so too does the college look forward to its second century of being an integral part of southeastern Ohio's growth.

There is, of course, another significant point to be underscored today: This marks the second year of operation of the Rio Grande Community College. Rio Grande's proud history has always been marked by innovative ideas. That tradition continues today with the joint venture of the college and the community college working together for the improvement of the Ohio Valley. Never before in the history of higher education in this country has there been an educational experiment identical to that in progress here. The Rio Grande concept is unparallelled: A 2-year, State-supported community college operating within the framework of an existing 4-year private institution. The result is access to quality education at a cost affordable to the people the schools are designed to help. The schools are part of the community, and the community is literally a part of the schools.

As important as it is today to pay tribute to the 100th anniversary of Rio Grande College, I believe it is equally important that we express our gratitude to all those affiliated with the partnership of Rio Grande—Rio Grande Community College. With it, this region is setting the pace for imaginative educational leadership. The excellence personified by these institutions will be used as a standard throughout the Appalachian area and the measure of success we have witnessed . . . as a result of Rio Grande foresight . . . will be pursued by sister institutions across the nation.

It is an understatement of the highest order to say that Rio Grande College has contributed to the social and economic growth of southeastern Ohio during the past century. Rio Grande College has not only contributed significantly to that development, but the school has been a major factor behind this region's advancement. It is not coincidental that as the school has grown and expanded, so, too, has the region grown.

Probably the most important resource the school has supplied to the region has been its steady supply of well-trained, highly motivated teachers. The school has trained thousands of teachers. Many have chosen to remain in southeastern Ohio and educate the young people enrolled in our primary and secondary systems. It is gratifying to parents and school administrators alike to know that those teachers graduating from Rio Grande bring with them impeccable educational credentials. Even in a period of teacher surplusses, school superintendents come to Rio Grande College to recruit. That fact, in itself, is testimony to the reputation the college has earned among school systems throughout Ohio and neighboring States.

I noted only a moment ago that the social and economic foundation of this region is tied directly to the strength of our educational system. Let's face it: A teacher must first be taught. Then that individual must be able to adequately arm students with the skills necessary to obtain gainful employment and compete in the job market. The end result of the educational system is a matter of economics. A poorly trained teacher will not become a good teacher. And in turn, students under the influence of an unprepared teacher will not be exposed to the educational skills necessary to participate in today's technological society. Unprepared to meet the demands of the modern job market, the student of a poor educational system falls further behind and quite possibly becomes a burden to be carried by society instead of becoming a contributor to it. The snowball . . which ends up with society being presented either a well-educated young man or woman, or a poorly equipped job seeker—essentially begins with the manner in which teachers are taught.

It begins here.

The Appalachian Regional Commission conducted a survey which dealt with teachers and the educational environment of the Appalachian area. The general findings of the survey are interesting, and I would like to share some of those conclusions with you. The profile of the Appalachian teacher shows that the typical teacher:

Was born in Appalachia.

Went to high school there (83 percent of those surveyed).

Received their bachelor's degree there (90 percent of those surveyed).

Received that degree in the last 10 years.

Has spent nearly his or her entire teaching career in the same State.

Received adequate training to meet the demands of the teaching assignment.

Finds graduate courses on educational methods available within 25 miles of home or school.

With regard to job satisfaction, it is interesting to note that the arc survey of Appalachian elementary and secondary teachers pointed to the following as reasons to continue in Appalachian school systems:

Respect for and from fellow teachers.

Teaching latitude: the opportunity to apply innovative teaching ideas and techniques.

Respect within the community.

Teaching subjects for which they were trained. The key element in this poll, I feel, reflects back to my earlier comments: That teachers in the Appalachian area are well prepared for their assignments and with southeastern Ohio in mind we say Rio Grande "keep up the good work."

Yes, Rio Grande has a glorious tradition of independence, diversity, and innovation. With its emphasis on quality education rather than quantity enrollment, Rio Grande has been uniquely responsive to the individual needs of its students and the community it serves.

But I regret to say that Rio Grande's institutional and academic freedom is being seriously threatened by what has been happening in Washington. Rio Grande, and every other institution of higher learning in this country are being magnetized into a Federal orbit of control, coercion and compliance.

Since 1960, college campuses across America have received over $50 billion in Federal dollars. This year alone nearly $10 billion will be channeled from Washington to universities and colleges.

This money has made many things possible: Expanded research, new facilities, tuition help and so on. But there is a Catch-22 to this financial reservoir. Every penny has a bureaucratic string attached as to how the recipient institution is to use it. Once into the Federal pot, educators are finding they are spending more time complying with an endless stream of Federal redtape and less on teaching their students.

Every regulation which governs the use of Federal education money means complex record keeping, routine inspections, and court litigation for non-compliance. Federal regulations cost America's colleges and universities $2 billion a year—about what they raise through voluntary contributions. That overhead is money being diverted from already shortchanged instructional needs.

Let me give just some examples of what happens under bureaucratic regulation. The University of Illinois may have to spend $557,000 to correct a minor violation of the OSHA law. The school it seems must repair an elevated walkway connecting the buildings on one of its campuses: The solid granite slabs forming its bannisters fall five inches short of the 42-inch OSHA specification.

Because Stanford University's 6,000 chrome plated fire extinguishers were not red like Federal bureaucrats require, the school wrapped the offending devices in redtape.

Using its power of the purse, the Federal bureaucracy has created a complex maze of regulations which has become an administrative nightmare for our colleges. Schools are forced to hire more lawyers to talk to HEW lawyers and install computer capacities to store and retrieve data the bureaucrats may want. Last year, the University of North Carolina devoted its computers for 6 months to supply HEW reports. One report alone at that school consisted of 1187 pages and weighed 12 pounds.

If a college does not bend and comply to the will of the bureaucrats, no matter how costly it may be or how questionable its purpose may be, it runs the danger of being cut off completely from its Federal assistance. This blatant coercion and intimidation, ladies and gentlemen, disrupts the educational process, threatens institutional autonomy and endangers academic freedom.

Once you are into the Federal till for even a penny, you are in all the way. Escaping the tentacles of the Federal bureaucracy is next to impossible as many administrators have found out.

As of Ocotber 1, 1975, HEW has ruled that any college whose students receive Federal loan and grant money is considered a "recipient institution" subject to the full range of Government control. Brigham Young University in Utah and Hillsdale College in Michigan, neither of which receives direct Federal money for any of its programs, have gone to court to challenge and nullify the HEW edicts. I hope they win their battle and I think they should, if they lose, Hillsdale College students will lose their $200,000 in financial aid and Brigham Young University enrollees will lose $7 million. But American higher education will lose much more.

If this menacing form of Government intervention stands now, the strings will be drawn tighter and Washington will tell Rio Grande and any other college what it can and cannot teach in the classroom. HEW already has proposed that it review all college curriculums to ferret out what it believes inappropriate to be taught. Government censorship is in a holding pattern waiting to descend when the fog clears the runway.

We must take a giant step in leashing the "Federal monster." By reforming our tax laws to encourage even higher levels of voluntary contributions to higher education and permit tax credits to parents for the education of their children, Congress can ease the dependence on Washington for education money. By following a sound fiscal policy that balances revenues and expenditures, Congress can curb the inflation that plagues every college and every family budget. By exercising effective, vigilant oversight of agency actions and vetoing regulations inconsistent with the law, Congress can regain control over a runaway, unelected bureaucracy.

The task of defending freedom against arbitrary Government intervention is a challenge for all of us to meet. It is the very same challenge that inspired our forefathers to create a new nation. This is an historic occasion: our nation is 200 years old and the college is half that age.

It is appropriate, I feel, on noting both anniversaries that we should inspire people's enthusiasm and urge them to remember who Americans are, what Americans have done, and what they can, and must, do. All Americans, young and old, rich and poor, revolutionary and conservative, must come together to preserve the hope of freedom, which our Nation has held like a torch before the rest of the world for two centuries. As we face not only the culmination of 200 years of American national life, we must prepare to meet the challenges to our souls, hearts, and to our faith as a people. The real challenges we face are not solely physical . . . the challenge we face . . . which we must face together—is one of will, a national and individual commitment to our country and to ourselves that we must get on with the task of reaching for the American ideal.

The bicentennial offers us a unique opportunity—the opportunity to take a long look backward, but more importantly, the opportunity to look forward, to rekindle the spirit that in 200 years built 13 weak and dependent colonies into one of the strongest nations in the world. This is the purpose of our Bicentennial Celebration—a rededication to American values, to reaffirm our strength and potential as a free people working together to achieve great goals, not only for ourselves, but for all people in the world

Our revolutionary forebearers put aside their hesitation and proclaimed their independence. We, in 1976, should proclaim our independence from the fear of tomorrow. We should reassert our courage that our nation can and will build a better future for all.

The pleasure has been mine in joining with you today. The credit for this observation is yours. And the challenge to make the next 100 years just as successful and educationally satisfying is ours. For all of those who share our deep sense of appreciation for your work, and for the ever-lasting impact Rio Grande has made on the lifestyle of southeastern Ohio, I congratulate you.

PERSONAL EXPLANATION

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. MOFFETT. Mr. Speaker, I intend to insert today, in the RECORD a statement regarding three recorded votes I missed because of personal reasons. Had I been present, I would have voted in the following manner:

Rollcall No. 800, copyright law revision, S. 22, "yea."

Rollcall No. 803, synthetic fuels, House Resolution 1545, "nay."

Rollcall No. 807, health maintenance organizations, H.R. 9019, "yea."

FEDERAL RESERVE DEDICATES ROBERT LATHAM OWEN PARK

HON. ROBERT G. STEPHENS, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. STEPHENS. Mr. Speaker, on Monday, September 20, ceremonies were conducted at the new Federal Reserve building named for former Chairman William McChesney Martin. The Martin Building is located at the intersection of Virginia Avenue and Fourth Street in Washington and at the apex of this junction is the beautiful, small park and fountain dedicated in memory of and in recognition of the great contributions to the formation of our Federal Reserve System by the late Senator from Oklahoma, Robert Latham Owen.

The dedication plaque honoring Senator Owen rests on the granite just above the magnificent fountain. It reads:

> Robert Latham Owen, 1856–1947
>
> Teacher, lawyer, banker, businessman and statesman, member, Cherokee Indian Nation, U.S. Senator from Oklahoma, 1907–1925; proponent and the first chairman of the Senate Banking and Currency Committee; a principal advocate and cosponsor of the Glass-Owen bill creating the Federal Reserve System. The bill was signed into law as the Federal Reserve Act by President Woodrow Wilson on December 23, 1913.

The program was commenced at 3 p.m. in the bright autumn sunlight by a welcome from Federal Reserve Governor Stephen Gardner, former Deputy Secretary of the Treasury.

Dr. Arthur F. Burns, distinguished Chairman of the Federal Reserve Board, next presented an informative biographical sketch of Senator Owen and cited his outstanding work in the formative period of establishment of the great monetary policy agency of the United States, the Federal Reserve System.

Assistant Secretary Nathaniel P. Reed, head of the Department of Interior's Fish and Wildlife and Parks Division, with highly appropriate remarks, accepted the park for the United States.

Also participating in the ceremony was Speaker of the House CARL ALBERT of Oklahoma, who presented an inspiring eulogy on the life and accomplishments of his fellow Oklahoman, Senator Owen, whom the Speaker had known personally and for whom he expressed a deep respect and personal affection.

The ceremonies were concluded by a splendid display of the new fountain. Because of the significance of this dedication, I asked the participants to allow me to insert some of their remarks in the CONGRESSIONAL RECORD, not only for my colleagues today but for the future when historians will evaluate the contributions of Senator Robert Latham Owen to our form of government. I insert these remarks in the RECORD:

SPEECH OF SPEAKER CARL ALBERT, U.S. HOUSE OF REPRESENTATIVES, OWEN PARK DEDICATION

Chairman Burns, members of the Board of Governors of the Federal Reserve System, colleagues and friends:

I am delighted to participate in the dedication of the Robert Latham Owen Park. I have often thought that proper recognition of Senator Owen's services in the creation and monitoring of the Federal Reserve System has been too long neglected.

Although Robert Latham Owen was born in Lynchburg, Virginia, his ties to Oklahoma were long and deep. He was the son of Robert L. Owen, President of the Virginia and Tennessee Railroad, and Narcissa Chisholm, of the Cherokee Nation.

From the time he began practicing law in Tahlequah, Indian Territory, which is now the State of Oklahoma until his death in Washington, D.C. in 1947, Senator Owen was a student of law and banking.

We take great pride in his service to the State of Oklahoma, one of its initial Senators when Oklahoma became a State until his retirement on March 3, 1925.

His influential role in legislation creating the Federal Reserve Board has already been told here. Senator Owen was also an advocate of the direct election of Senators and he was instrumental in bringing about the adoption of the 16th Amendment dealing with income taxes and the 17th Amendment treating of the direct election of Senators.

He was a great servant of Oklahoma and a great servant of the Nation. It is altogether fitting that this park site front on the Federal Reserve Board's new building.

On a personal note, Senator Owen was a very close friend of mine. When I first came to Congress in January 1947, he was still living although he was blind at the time and more than 90 years of age. I remember with keen appreciation our frequent conversations, when I was just beginning my political career.

Robert Latham Owen, a life-long advocate of improved Indian affairs, a dedicated politician in the finest sense of the word, a keen student of monetary matters, and an advocate of government reform in general—we salute you.

REMARKS OF ARTHUR F. BURNS, ROBERT LATHAM OWEN PARK DEDICATION

Mr. Speaker, Members of Congress, honored guests: It gives me pleasure to welcome you here today as we dedicate this park to Robert Latham Owen. A fitting tribute to this great American is overdue.

My predecessor, William McChesney Martin, long believed that Senator Owen should be honored for his contributions to the Federal Reserve. I recognized this need shortly after I joined the Board in 1970. My interest in Senator Owen was stimulated by the late Wright Patman, then Chairman of the House Banking Committee, who felt that Senator Owen's accomplishments had been ignored. Fortunately, the development of a park adjoining our new building presents an opportunity to fulfill the dream of a public tribute that many of us have shared.

It is a curious coincidence of history that the authors of the Federal Reserve Act—Robert Latham Owen and Carter Glass—were both born in Lynchburg, Virginia. Indeed, President Woodrow Wilson, the principal reformer of the Nation's monetary system, was born not too far from Lynchburg, in Staunton, Virginia.

Perhaps it was Senator Owen's Indian ancestry—his mother was a member of the Cherokee Indian Nation—that led him to settle eventually in the Oklahoma territory where he became interested in banking and finance. In 1890, when he was 34 years old, Robert Owen organized the First National Bank of Muskogee and became its president, a post he retained for 10 years. His interest in monetary matters was heightened by the financial panic of 1893 when his bank, like many others at that time, suffered heavy withdrawals of deposits.

Before the turn of the century, Robert Owen had already prepared himself for his later work by visiting the central banks of England, France, and Germany, with the aim of learning how they shielded their economies from financial panics. He also visited Canada, as yet unsupported by a central bank, with the same purpose. By 1900, while still a private citizen, Owen had developed a proposal for emergency curency, which he hoped would be attached to a bill by Senator Aldrich, then Chairman of the Senate Finance Committee.

When Oklahoma was admitted to the Union in 1907, Owen became one of the State's senators. In the next several years he introduced bills that aimed to provide a more flexible supply of money and credit, to guarantee bank deposits, and to expand regulatory power over national banks.

Soon after Woodrow Wilson was elected President, Owen urged the Senate to establish a separate committee on banking and currency. This was accomplished by Senate Resolution in March 1913, and Senator Owen was named its first Chairman.

President Wilson's inaugural address made monetary reform one of the top priorities of his Administration, and placed Owen's new committee in the forefront of the legislative effort that followed. The Glass-Owen bill, as the reform bill was then called, was signed into law on December 23, 1913, and the Federal Reserve System became a reality.

Owen's view of the Federal Reserve is perhaps best conveyed in a statement he made in November, 1913, before the Federal Reserve Act was signed into law. Owen stated as follows:

"This Federal Reserve Board will be a supreme court of American finance, safeguarding the commercial interests of this Nation, protecting our gold reserve, protecting our banking system, protecting our commercial system, protecting the individual credit of the private citizen, and giving him a fair deal in the struggle of commercial and business life, and seeing to it that every citizen shall receive the just amount of credit to which he is entitled by character and by resources."

The Federal Reserve System has become an enduring testimony to the foresight of Robert Latham Owen and his colleagues in the Congress. In recalling today Senator Owen's vision and honoring his memory, we at the Federal Reserve are also rededicating our efforts in behalf of the economic welfare of the American people.

REMARKS OF NATHANIEL P. REED, ASSISTANT SECRETARY OF THE INTERIOR FOR FISH AND WILDLIFE AND PARKS, AT THE ROBERT LATHAM OWEN PARK DEDICATION

Today marks a milestone in the National Park Service's effort to help provide Americans a vivid and accurate account of our national history and heritage. As Assistant Secretary of the Department of the Interior which is responsible for overseeing the great natural and historical resources of our National Park System, I take special pleasure in commemorating such a unique American as Robert Latham Owen. These occasions are indeed one of the most satisfying aspects of my job.

Senator Owen's career was marked with a dedication to a broad range of political and social issues. From his efforts on behalf of the rights of Indians to his concern for the financial stability of this country which he so dearly loved, Senator Owen demonstrated steadfastness that earned him the respect of those who knew him.

All of you are aware of the Senator's contributions to the Federal Reserve System as its legislative founder. His guiding interest in the creation and welfare of that institution secured it the necessary foundation to act as the leader among monetary interests. His continued interest in the functioning of the Federal Reserve System was particularly evident during the depression years.

But Senator Owen's efforts extended beyond an interest in financial matters of public policy. This is demonstrated by his advocating the direct election of United States Senators and his call for a Federal income tax. Both concerns were adopted in 1913 with the passage of the 16th and 17th Amendments. Senator Owen was instrumental in securing the passage of these great Amendments.

It is thus in the light of his varied and constructive career that I salute the late Senator Owen. The Department of the Interior and I as its representative are honored to share in today's recognition of a truly great American, and happily accept this park into our system.

Speaking for the National Park Service and National Capitol Parks, I would like to acknowledge and thank the leadership of the Federal Reserve Board for their superb cooperation which led to the establishment of this lovely park.

RALPH W. WILLIAMS, CREATOR OF THE "BRECK GIRL," DIES

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. BOLAND. Mr. Speaker, on September 21, 1976, the world lost one of its best portrait artists. On that day, Ralph William Williams, of Canton, Mass., died at the age of 67.

Ralph Williams is best known for his creation of the Breck Shampoo Girl for the John Breck Co., a subsidiary of the American Cyanamid Co. of Wayne, N.J.

The eye-pleasing pastel portraits of nonprofessional models in natural poses have appeared in Breck shampoo ads for years and comprise the longest continuous campaign in advertising history.

The advertising campaign, along with developments in the personal care field, helped contribute to the growth of the Breck Co. from a single proprietorship to a worldwide distributor.

Internationally recognized for his portrait work in pastels, Mr. Williams recently presented Bicentennial commemorative pastel drawings of Martha Washington and Mrs. Gerald Ford. These two drawings were gifts of the American Cyanamid Co. Mr. Williams was at his easel working on a pastel of the 1976 America's Junior Miss when he was stricken with an apparent heart attack.

Ralph Williams will be greatly missed by the employees of the John Breck Co. In his 22 years with the company he proved himself to be a sensitive man who gave generously of his special talents.

I would like to extend my condolences to his wife, Mrs. Marion Williams and his son, Donald R. Williams. I would also like to extend my condolences to plant manager Thomas Glynn and all of the employees of the John Breck Co.

AUTO EMISSION CONTROL AMENDMENT SPONSORS URGE CONFERENCE ADOPT HOUSE-PASSED STANDARDS, CITE FUEL AND CONSUMER SAVINGS, AIR QUALITY AND JOB PROTECTION

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. DINGELL. Mr. Speaker, Congressman JAMES T. BROYHILL and I are urging House and Senate conferees on the Clean Air Act amendments to adopt the House-passed Dingell-Broyhill (Train) auto emission control standards. House conferees are to meet this afternoon prior to meeting again with the Senate Tuesday, September 28.

The House-adopted amendment contained the auto emission standards recommended to Congress and supported by Administrator Russell Train of the Environmental Protection Agency.

We have cited new studies containing data supporting the House position in terms of air quality protection and benefits, total energy savings, auto fuel efficiency, consumer auto purchase and maintenance savings, job protection, and total environmental protection.

We have released to the conferees the new comparative documentation on the auto issue pointing out the consequences of the severe fuel waste and higher consumer cost impacts that would result under the more stringent Senate bill. There would be no statistically significant gains in air quality due to tighter Senate standards in comparison with the House bill—Train standards.

Total waste in gasoline under Senate auto standards, compared to savings of the House bill, would be 13.55 billion gallons of gasoline, 1979–85; or 1.93 billion gallons of gasoline wasted each year. This would equal 126,000 barrels of oil a day. We compute that increased consumer costs under the Senate bill would be $28.72 billion in constant dollars for purchase, equipment, and maintenance costs for new car fleets, 1979–85, during the auto model years that the two bills differ. This data, and the air quality data, is based on the April 8, 1976, Environmental Protection Agency, Department of Transportation, and Federal Energy Administration analysis of auto emission schedules.

In urging conference approval of the House position, it is obvious that there would be less damage to the total environment with less onshore and offshore oil drilling and pipeline construction. There would be less dependence on foreign oil.

In an additional persuasive document we have released for the conference, the Chase Econometric Associates, Inc., macroeconomic impact of alternative automobile emission standards, dated September 21, 1976, predicts further serious consequences of the Senate standards. Chase is a respected economic modeling institution.

The Chase comparison of the House and Senate emission levels predicts the Senate bill would result in an 8 to 16 percent fuel economy loss in automobile efficiency during the 1979 through 1985 period. In 1980 and 1981 the fuel penalty would be 16 percent and in 1985 it would be 8 percent on the Senate standards.

Chase predicts, based on 1975 dollars, a 10 million annual new car fleet, and a 10-year lifetime for each car: that increased consumer maintenance and new car purchase cost per each auto would be $220 and $150, respectively, for each year beginning in model year 1980 under the Senate standards.

Chase predicts lost automobile sales under the Senate standards would result in 6.25 million units, 1979 through 1985.

Additional unemployment would result from the Senate standards according to Chase. In 1979 for example, the job loss would be 80,000 and in 1980 it would increase to 190,000. Peak unemployment under the Senate bill would be reached in 1982 with 330,000 additional workers unemployed. Chase stated that the areas of the Nation hardest hit by such unemployment would be those already suffering high jobless rates.

The Chase macroeconomic impact analysis utilized as its source the joint EPA-DOT-FEA, April 8, 1976, analysis.

The Dingell-Broyhill (Train) amendment was adopted, 224 to 169, September 15, by the House of Representatives. The House that same day overwhelmingly defeated, 313 to 75, standards that were more stringent than the original House Commerce Committee reported clean air bill and only slightly less stringent than the severe Senate-adopted emission levels.

The House bill (Train) extends 1977 auto standards through 1979, tightens standards for 1980 and 1981, and reaches the most stringent levels of the Senate version in 1982 for hydrocarbons—HC—and carbon monoxide—C—while placing the authority for establishing the oxides of nitrogen—NO_x—standard within the EPA for 1982 and thereafter.

We also cite the report by the Federal Task Force on Motor Vehicle Goals Beyond 1980, dated September 2, 1976, in which it states in the summary—"Other questions pertaining to lower NO_x standards have prompted many to suggest that the Administrator of EPA should be granted authority to set the—NO_x—standard based upon health needs and availability of technology." We note that the task force study also predicted fuel economy losses from 6 to 12 percent due to stringent auto emission systems.

On air quality, we additionally point out that the air quality, noise, and health panel report, March 1976, notes in its discussion of a NO_x data base that "there is a paucity of data available to describe any dose response estimates for NO_x." That is information from EPA based on a single study on lower respiratory health effects. The air quality measurements of that study—Chattanooga, Tenn., 1968–69—were reported by many to be of poor quality and the results were to a degree contradictory.

In a final point addressing the advantages of the House auto emission schedule, the House-adopted—Train—amendment provides "for certain auto engineering research and development to go forward. The House—Train—standards do not lock out the use of any other potential engine, driveline, and emission control equipment combinations for autos. It is certain that any NO_x standard more stringent than 1.5 grams per mile will rule out in the next several years the development of a variety of alternative technologies such as CVCC and the planned introduction of diesel engines by two or more companies, GM, VW, and others."

Of the recent EPA fuel mileage announcement concerning 1977 automobiles, and the fact of improved gasoline mileage, we point out that those emission standards for 1977 are identical to the House and Senate standards for 1978, but that the severe fuel penalties and costs will occur under the Senate standards beginning in 1979 and onward. Our comparative analysis documentation we have released to the conference makes this very clear; that we are comparing the two sets of emission standards where they differ, 1979 through 1985.

Mr. Speaker, we again urge along with the other 222 House Members who voted for passage of the Dingell-Broyhill—Train—auto emission control schedule, that the House and Senate conferees adopt the House position on auto emissions for the conference report.

COPING WITH ILLEGAL ALIENS

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. McCLORY. Mr. Speaker, another of the great deficiencies of this 94th Congress is the failure to enact legislation to stem the flow of illegal aliens into our country.

This inexcusable record is resulting in hardship and unemployment to American citizens—and a flouting of American law which is creating havoc in many communities including housing shortages, strains on the welfare system and unconscionable burdens to many local school systems.

Mr. Speaker, an editorial in the Thursday, September 23 issue of the Chicago Tribune laid it on the line with regard to this complex problem. I commend to my colleagues the Tribune's analysis and admonition in the hope that it will inspire those who return here next year to decisive action:

> COPING WITH ILLEGAL ALIENS
>
> It's comforting to think of the United States as sheltering arms outstretched to welcome poor, unwanted aliens to the land of freedom and bounty. What's wrong with this image is that there are now about 6 million aliens illegally living in the United States—250,000 of them in Chicago alone. In many areas, they are swamping welfare programs and free medical facilities, overwhelming local school systems with needs for special bilingual education, adding to unemployment, and generally trying to live outside the law until they can wangle some kind of legal status, usually by illegal means.
>
> Most illegal aliens come from Mexico and

Latin America. Leonard Chapman, commissioner of the U.S. Immigration and Naturalization Service (INS), estimates that nearly 10 per cent of Mexico's entire official population is already living illegally in the United States. Most illegal aliens come for economic reasons, pushed by growing unemployment and population pressures at home and lured here by jobs and welfare programs. And many are helped by professional smugglers or by professionals who furnish illegal documents.

So great is the number of illegal entries into the United States that they threaten to undermine our efforts to maintain orderly limitations on immigration. To cope with the growing problem, the General Accounting Office has urged Congress to enact stiffer penalties for professional smugglers and for counterfeiters of documents. Even with these stiffer laws, the GAO fears, the number of illegal aliens entering and staying on in this country will continue to increase.

Professional smuggling of aliens, particularly from deep inside Mexico, is growing enormously, according to the new report. Many large organized rings now actively recruit aliens for smuggling into the United States. Only a small percentage of smugglers are caught; only about half of those who are captured are prosecuted, and a majority of these are charged with misdemeanors instead of felonies. Even those convicted usually pay only a small fine or serve a short jail sentence and are soon back in business.

There is also a profitable, flourishing business in providing illegal aliens with counterfeit, altered, or stolen documents that permit them to enter and/or stay in the United States. At least half of the illegal aliens in Chicago are believed to have used illicit documents.

Most commonly forged are alien registration receipt cards, which entitle the holder to all the privileges of citizenship except the right to vote and hold public office. Also frequently used are genuine birth certificates of deceased Americans, easily obtained from unwary local officials. Once presented to obtain Social Security cards and other identification, such birth certifications are then passed on to other aliens. Sham marriages to American citizens are also arranged for fees; such marriages permit aliens to obtain immigrant visas immediately and open the way to bring in relatives.

It somehow goes against the American humanitarian grain to hunt down, prosecute, convict, and deport illegal aliens, who are often willing to work at hard, poorly paid jobs. But the problem has become acute and will soon become intolerable. Immigration laws are too easily violated. Welfare programs and school systems are too often overwhelmed. And aliens themselves are often victimized by professional smugglers and counterfeiters.

The GAO report to Congress proposes several further remedies: laws prohibiting the employment of illegal aliens; new alien identification cards with better safeguards against counterfeiting; more careful regulations to prevent illegal aliens from obtaining legal resident status; and deportation of legal resident aliens convicted of smuggling.

Employers of migrant labor protest that outlawing the employment of illegal aliens would put an almost impossible burden on them and that illegal aliens are generally willing to take harder jobs at lower wages than other workers, even the unemployed. This is not a valid objection; it is rather part of the problem. With a welfare system that encourages people to remain unemployed rather than take jobs they regard as beneath their dignity, we reap the worst of both worlds: soaring welfare costs and soaring illegal immigration.

The INS acknowledges that the proposals would provide only a finger in a dike that is already bursting. Congress should provide these remedies, of course. But it should also take a long, hard look at the entire problem of illegal aliens in the United States. If Americans are indeed willing to open immigration gates to Mexicans and Latin Americans in unlimited numbers, it should be done openly and legally, with full understanding of the consequences to our economy and culture. Otherwise, immigration laws should be completely and honestly enforced, and the package should properly include changes in our welfare system. It's intolerable to permit the vast, illegal subculture of aliens to continue to grow and to overwhelm efforts to provide welfare and jobs for our own citizens.

COOLEY'S ANEMIA TESTIMONY

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. SCHEUER. Mr. Speaker, on September 13, 1976, in New York City during hearings on my bill, H.R. 14497, the National Health Insurance for Mothers and Children Act, excellent testimony was given by the Cooley's Anemia Blood and Research Foundation.

Those who testified are Mr. Al Addessi, president of the Brooklyn chapter of the foundation, Ms. Dina Bennett, who works with the young adult members of the Brooklyn chapter, Mr. Paul Bianchi, chairman of the legislative committee of the national foundation, and Mr. Ira Brody, executive director of the national foundation.

I would like to share with my colleagues some of the information I received about the work of the foundation, particularly the marvelous work being done in Brooklyn. As many know, Cooley's anemia is a genetic blood disorder, found in children whose ancestors were native to the countries surrounding the Mediterranean Sea. From the first year of life, these children must undergo frequent blood transfusions in order to maintain a red blood cell count sufficient for survival. The cost of treatment for this disease is very expensive, and in many cases the care is prohibitive for all except the wealthy.

In Brooklyn, however, over 600 persons are paid up members of the chapter, and have undertaken a number of voluntary programs to care for these children. Because of their blood bank drives, there have been enough volunteer blood donors so that no child in Brooklyn with this disease has had to pay for blood in the last 15 years. The Brooklyn chapter has also established and equipped a hemotology room at Long Island College, which provides the opportunity for children to be transfused and have other medical needs taken care of, generally by the same physicians and nurses, in a pleasant atmosphere. Until this room was established, many times children would be transfused in emergency rooms, almost never having the same personnel attend them.

The Brooklyn chapter also provides ambulance service for children who require it.

All these services are provided for by various fund drives, including dinner dances and other functions.

Mr. Speaker, this is a fine, voluntary effort, the kind that all too frequently goes unrecognized, and that is why I have brought it to your attention.

So that my colleagues may better understand the nature of the disease, and the concerns the national foundation has with my bill, I insert it at this point in the RECORD:

TESTIMONY OF THE COOLEY'S ANEMIA BLOOD AND RESEARCH FOUNDATION CONCERNING H.R. 14497, THE NATIONAL HEALTH INSURANCE FOR MOTHERS AND CHILDREN ACT

(The Cooley's Anemia Blood and Research Foundation for Children, Inc., is the only national, voluntary, non-profit organization concerned solely with the disease called Cooley's Anemia. The Foundation is an active member of the American Association of Blood Banks, the Ad Hoc Committee to establish an American Blood Commission, and the Hemolytic Anemia study group sponsored by the National Heart and Lung Institute. Also, the Foundation maintains contact with other organizations concerned with the problems affecting Cooley's Anemia victims. For further information contact Mr. Paul J. Bianchi, National Legislative Chairman, 63 Dartmouth Street, Garden City. New York 11530, telephone (516) 437-5052.)

Mr. Scheuer, Senator Javits, and members of this committee, we are very pleased to testify on the legislative proposals both of you have sponsored. We are very grateful to you for your sponsorship of this legislation, which, when passed, will be enormously beneficial to our children.

Both of you gentlemen are on the committees which passed the Control Cooley's Anemia Control Act, and its recent amendment into a comprehensive genetic diseases program, so you know a good deal already about Cooley's Anemia, but because of the vital importance of this legislation, and in order to establish a record for further consideration by the Congress, we submit to you the comprehensive statement made by Senator Edward F. Kennedy about the disease, in the Senate on May 1, 1975.

"Cooley's Anemia is an inherited blood disease characterized by a diminished production of hemoglobin, the substance in red blood cells which enables them to carry oxygen to the tissues of the body. The result of this inadequate production of hemoglobin is a particular form of anemia. Dr. Thomas B. Cooley, an American physician, discovered, and labeled this disease around 1925.

Cooley's Anemia, also known as Mediterranean anemia or thalassemia major, is found in children whose ancestors were native to the countries surrounding the Mediterranean Sea. In America, these children are of predominantly Greek and Italian origin, although because of widespread intermarriage the disorder is also found in children of Irish, Scandinavian, Jewish, oriental, and Turkish descent.

There are two forms of Cooley's anemia: The severe form: called thalassemia major; and the carrier of trait form, thalassemia minor. The difference between these forms depends on whether the individual has inherited half or all of the genetic code or defective hemoglobin synthesis from his parents. Following Mendelian laws, two carriers of the trait who marry may have the possibility of producing the trait in 50 percent of their offspring, and the disease, Cooley's anemia, in 25 percent of their offspring.

Individuals with the carrier form of thalassemia minor are not handicapped with any physical defects; in fact the only physical sign or symptom of the trait may be a change in the size and shape of the red blood cells

Individuals with the carrier form of the disorder have normal health. The trait—thalassemia minor—never increases in severity or becomes the severe form of the disease. At present the chief method of detecting the carrier form involves a number of hematologic tests including electrophoresis.

Thalassemia major is usually detectable during the first year of life; its early signs include pallor, listlessness, loss of appetite, and irritability. An examination of the victim's blood will show changes in the size, shape, and numbers of red blood cells, and a variety of abnormal characteristics in special properties of the blood cells in addition to severe anemia. Individuals with thalassemia major rarely live beyond the age of 20, and from their first year of life have to undergo frequent blood transfusions in order to maintain a blood count sufficient for survival.

The anemia itself is basically caused by a reduction in the rate at which red blood cells are formed in the bone marrow and released to the blood stream. In Cooley's anemia, these defective red blood cells do not survive more than one-third to one-half of the life span of normal red blood cells. There is often an enlargement of the spleen which causes further complications in the rate of blood cell production. The anemia created from this low rate of production leads to severe handicaps in its young victims.

Children suffering from this disease tend to be small for their age because bone growth is poor. In addition, they suffer malformed bone development leading to brittle, easily broken bones. The child afflicted with Cooley's anemia cannot usually engage in strenuous physical activities since the anemia causes fatigue.

There is no known cure for Cooley's anemia. At present the only effective treatment is supportive therapy such as the administration of blood transfusions to alleviate the constantly recurring anemia. Some children require transfusions several times a week; some very rarely.

There are no statistics available on the exact number of cases of Cooley's anemia in the United States. It is estimated though that there are approximately 200,000 individuals in this country who are carriers of the trait.

The treatment for thalassemia is thus time-consuming and expensive, both in materials and in the use of skilled manpower. It is available without direct cost and only the tiny minority of patients who happen to be living in a community which provides specialized medical treatment. Most thalassemia patients live in areas distant from transfusion services and hospital staff skilled in the transfusion of small children; in other places where the service is available, the cost is prohibitive for all except the wealthy. And when all the effort has been made, most patients will still die in adolescence and few will live beyond the age of 21 years."

We would like to stress, sadly, that last statement—"few will live beyond the age of 21 years." It is for this reason that your bill is of crucial importance to our concerns, as nearly 100% of the patients who have this disease will be covered by the programs.

Comprehensive treatment programs for our children are extremely costly, both as to blood products and their transfusion. We know, by surveys of our families, that many have more than one child with the disease, and each child frequently requires more than $2,000 per year in blood services just to keep alive.

We have read your bill, and have the following comments to make:

(2) *The Finding and Declaration of Purpose.*—We believe that your assertion is correct, that this type of bill is a logical first step toward our goal of a universal health care program in the United States. We would, of course, prefer a national health insurance scheme such as that posed by Senator Kennedy, which would give us an all embracing health care program, especially inasmuch as there may be the possibility in the near future of some kind of breakthrough which would permit the patients currently with this disease to live longer than the age of 18, at which point it will be necessary to have some kind of comprehensive program to take care of them.

(3) *Free Choice by Patient and Practitioner.*—This is vital to us since so many of our patients currently go to a physician that they have been working with for some time and whom they trust. Consequently, we are very much in favor of this particular kind of program.

(4) *Observance of Religious Beliefs.*—We agree totally with the statement that nothing in this act shall interfere with the religious beliefs of citizens. We are especially concerned that nothing in this legislation be understood to indicate that the Federal Government will be involved in any way in a proposed program of abortion or abortion counselling.

As to section (102), *Eligibility of Benefits.*—We are agreeable to this legislation which would provide from birth to the age of 18 years and for all pregnant women.

We would prefer at this time not to deal with the administration of the program but concentrate on the various provisions as they would affect us specifically.

Section (202) *Standards for Qualified Institutions.*—In regard to this section, we would want to make sure that centers that are or might be established for the care of Cooley's Anemia patients would be qualified as institutional providers under this act.

As to the benefits to the children themselves, we would agree with the element of section (211) which deals with Covered Professional Services, section (212) which deals with Covered In Patient Hospital Services, section (213), Covered Nursing Home Services, section (214) Covered Home Health Services, section (215) Covered Diagnostic Services.

We are generally in agreement with section (216) which covers Rehabilitation, Social, and Mental Health Services, with the exception that we would express our concern about the psychiatric and psychological services and social work services being limited to sixty visits annually, as the language of the bill states, "in an organized setting". Our concern is that given the nature of the disease, and the way some parents look at the disease, it may well be difficult for families to be treated in group therapy as might otherwise be the case.

We would like to comment on section (217), the Covered Drugs and Biologicals as well, simply because there is no other indication here as to whether blood is included. We are hopeful that you can include blood and its derivatives and components under this particular section (this seems to be the only section where such inclusion could be made). Of course, for our patients, payment for blood is vital. If we are forced, as we so often are now, to provide volunteers to give blood in order to have the transfusions made, much of our time and energy are taken up with just this task. Thus, there would be less time available to care for the child.

Additionally, in regard to Part 3 concerning maternity benefits, you should know that we support these particular provisions that you have set forth.

Generally, those are the comments that we have to make about the bill. We support it wholeheartedly as a Foundation and pledge ourselves to do anything within our power to see that this legislation will pass. It cannot come soon enough for us or our children.

We will be pleased to answer any questions.

BRITISH STUDY CALLS FOR FAST BREEDER POSTPONEMENT

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. COUGHLIN. Mr. Speaker, I wish to bring to my colleagues' attention the significant results of a British Royal Commission study into that nation's fast-breeder program.

As reported in the September 23, 1976, edition of the Washington Post, the 200-page Royal Commission report cited extreme security dangers in fast-breeder reactor development, as well as substantial environmental and health risks.

The commission, chaired by an eminent nuclear physicist and member of Britain's Atomic Energy Authority, recommended postponement of the fast-breeder program for as long as possible.

For my colleagues who missed the coverage of this important study, I submit the text of the Washington Post's article into the RECORD:

BRITISH BODY SEES DANGER IN FAST BREEDER REACTORS

(By Bernard D. Nossiter)

LONDON, September 22.—A Royal Commission today warned that a rapid expansion of nuclear power could arm terrorists with a chilling weapon to blackmail society.

The commission singled out the fast breeder reactor, which produces more plutonium than it consumes, as offering a particularly vulnerable point. A plutonium economy, the study said, would enable "a sufficiently determined group with the necessary expertise" to construct a "crude bomb" with an explosive force of up to as much as 100 tons of TNT.

Resisting the demands of such a group, the commission said, "would present any government with an appalling dilemma."

For this and other reasons, the scientists urged Britain to abondon plans for a big buildup in fast breeders. Instead, the government was urged to stay with its present program of thermal reactors and develop new energy sources for future needs.

The 200-page report came from the Royal Commission on environmental pollution, a standing body here. Its outgoing chairman is an eminent nuclear physicist, Sir Brian Flowers, rector of the Imperial College of Science and Technology and a member of Britain's Atomic Energy Authority.

Royal Commissions are frequently more independent of executive wishes than presidential commissions in the United States and more closely resemble U.S. congressional studies.

The environmental team acknowledged that it strayed beyond its terms of reference and moved into a political area for which it had no special equipment. Even so, its standing is such that its recommendations are likely to have a powerful effect here and pose grave problems for the fast breeder proponents.

The report said there are no unacceptable risks of accident with the present thermal plants, although their spread to technologically backward countries of the Third World is a new danger.

If an accident in a nuclear power plant releases 10 per cent of its radioactive gases, the study estimated, up to 350 of 300,000 people living in a semiurban radius of 16 miles would die of lung, throat or thyroid cancer.

The same accident in a fast breeder plant, however, would increase the toll by 10 to 100 times, with up to 35,000 cancer deaths. Plutonium is both more toxic and more explosive than fuels.

The problem, the study made clear, is the rapid buildup planned for fast breeder plants. Britain now produces 10 tons of plutonium a year, will turn out 250 tons in 2000 and 2,500 in 2030. In contrast, the U.S. figure for 2020 is put at a whopping 30,000 tons.

Then, the study said, plutonium becomes a commodity like any other and the world is in a plutonium economy.

The commission said it was unconvinced that the British government was alive to the dangers this posed, a conclusion promptly disputed by Peter Shore, the environmental minister.

Moreover, even if the government took measures to guard against plutonium thefts and sabotage, the resulting network of security measures—informers, wiretapping, mail opening and the like—would impose an intolerable strain on the liberties of Britons, the report said.

The case for fast breeders, said the commission, is unproven and they should be postponed as long as possible.

NEW YORK BRIDGES NEED HELP

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. HEINZ. Mr. Speaker, one of the most serious transportation problems facing this country is that of bridge safety. Recently, the Federal Highway Administration reported a need to replace more than 34,000 deficient bridges on the Federal-aid highway system alone.

Recently I introduced the Bridge Safety Act of 1976—H.R. 14890—to dramatically increase Federal aid to repair or reconstruct unsafe bridges.

The problem of unsafe bridges is a nationwide one. To illustrate this, I offer to my colleagues' attention an article that appeared in the magazine section of the New York Daily News on Sunday, September 26, entitled "Countdown for NYC Bridges."

The article, by Bob Reiss, offers a good study of why our bridges have gone into disrepair, and what must be done to save them. I commend the article to my colleagues.

I would also urge that while reading it, they keep in mind words from the GAO in a report last year to Congress: "Our principal conclusion about the bridge problem is that it is of such magnitude that the marshaling of all pertinent highway programs, including the safety programs, is needed to make any prompt progress."

The article follows:

Countdown for NYC Bridges

(By Bob Reiss)

When our bridges were built, no one foresaw the day they would begin to deteriorate due to lack of maintenance. Has that day now arrived? One hundred and forty thoussand cars use the Queensboro Bridge every working day. Their drivers move along in bumper-to-bumper traffic, 145 feet up, listening to radios, planning the day ahead, watching the sun glitter off riverfront apartment windows. Like thousands of other New York commuters, they can't get to work unless they cross a river.

Underneath them, if the day is hot, the Queensboro expands up to four inches. In the evening it contracts again. To facilitate this movement, engineers say a part of the bridge called "rollers" must be working. The rollers are like ball bearings on which the bridge slides back and forth when the temperature changes.

Until recently, however, the rollers were frozen, caked with rust.

On rainy days, the water collects in pockets all along the bridge and stays there, sometimes for days. On a newer bridge, a streamlined one like the Verrazano, the rain would simply drop into the river. But the Queensboro, opened in 1909, has too many flat surfaces and not enough clearance between parts. In addition, a number of drains have been asphalted over, workmen report. And even if the asphalt were to be taken away, the bridge inspector says the drainpipes are often too clogged or cracked to function. As a result the rain combines with salt on the bridge to form an acid. The acid eats steel. City officials say such an acid was responsible for the collapse of a section of the West Side Highway several years ago.

"More than 90% of the deterioration and defects in the Queensboro is caused by water, water in combination with salt, sand, dirt and debris," says an engineering study on the bridge conducted for the city in 1972 and published in 1973.

Although city officials, union spokesmen and engineers agree that the Queensboro Bridge is *not presently dangerous*, many observers say it is in trouble, a victim of 30 years of deferred maintenance, budget and manpower cutbacks and state legislation which has resulted in the city's inability to obtain $15 million in rehabilitation money for the bridge, money the city was sure it could get until a year ago.

Richard DiLorenzo, field representative of District Council 37 of State, County and Municipal Employes, says that the city started cutting back on bridge maintenance after World War II. A spokesman for Highways Commissioner Anthony Ameruso denies this, but former Transportation Administrator Michael Lazar says, "Deferred maintenance has been one of the hallmarks of bridges in this city. A bridge structure does not have constituents. A bridge member does not complain."

Like other past and present city officials (present officials refuse to comment directly on bridge conditions and will talk only through a public relations man), Lazar stresses that potentially dangerous situations are given immediate attention.

But Jim Bishop, president of the city's bridge painters' local, isn't so sure. Wasn't the West Side Highway unsafe *before it* collapsed? But officials insist the city has *learned* from the West Side Highway.

Bishop and some people in the Highways Department say that five or 10 more years of deferred maintenance on the Queensboro could result in another West Side Highway, although an official spokesman denied this. "The bridge is in fair condition and is in need of timely rehabilitation to insure that excessive deterioration does not take place and that the structure retains its soundness," he said.

"The bridge needs to be painted," says Bishop. "The West Side Highway was built around the same time as the George Washington Bridge, only the bridge is still in good condition. It was painted when it was supposed to be."

No one is saying Bishop has no interest in getting bridges painted and getting more jobs for his men, but three engineers queried agreed that one of the best ways to keep a bridge from starting to rot is with a good coat of paint. The paint is lead, and lead protects steel from saltwater corrosion. If a bridge isn't painted every eight or nine years, it starts to deteriorate, Bishop says, and much of the deterioration can't be fixed by late painting, but only by going to extra expense.

Highways Department spokesmen say the Queensboro was last given a major painting in 1967, and deny allegations by Bishop that parts of the bridge were only painted every other cycle. They also say a $3 million paint job is planned for the bridge, though it depends on federal aid which is unlikely at present.

Likewise, it's difficult to get money for maintenance. A driver stalled in traffic on the Queensboro recently watched a crew of five cleaning pockets on the side of the road. A short while ago there were three such crews on that bridge. Now there is one.

"Maintenance is insufficient to remove the accumulation of dirt and debris at vulnerable places on the bridge," says the 1973 report (conducted by Steinman, Boynton, Gronquist and London, consulting engineers). "While the bridge is in generally satisfactory condition there are (17) items listed in the report requiring immediate attention to maintain the structural integrity of the bridge. A superficial examination of the bridge gives the impression that the structure is performing its intended function to carry traffic without too many problems. But our inspection revealed many problems literally below the surface."

Some of the more important "problems" cited were immovable rollers, "solidly packed rust" on movable parts, asphalted-over drainage systems and deteriorating concrete. The report also recommended that the city stop salting the bridge in the winter and use cinders instead.

Today, four years later, the rollers have only recently been freed, some drains are still not functioning, and the bridge is still salted because cinders or sand can clog drains, according to Kevin Kadlec, city director of operations for the Highways Department. Also cinders have to be removed, which takes money.

In March 1976 a team from the District Council of State, County and Municipal Employes inspected the Queensboro Bridge and reported the bridge understaffed. Some sections had not been cleaned in years while workmen were being used part time on arterial highways, the report said, and went on to cite spalling concrete, rust, corrosion of rollers, leakage and a cracked abutment.

"The report was basically correct," says Frank Valentine, engineer in charge of the bridge.

On the same day, the union officials, who were checking safety conditions for workmen, visited other Brooklyn and Queens bridges and reported:

Two feet of water in the pit of the Greenpoint Ave. Bridge (where the gears are) and multiple massive cracks in the foundation. City spokesmen say pumps are supposed to keep the pit area clear of water and insist the cracks are not dangerous. The worst that could happen would be a little road sag, says Jerry Bianco, engineer in charge of city bridge operations. He also says the condition will be repaired in the near future. The union's DeLorenzo said the cracks will some day cause the bridge locks to tilt when raised.

Vandalism of towers, switches, lights and wires in the Cropsey Ave. and Carroll St. bridges in Brooklyn and the North Channel Bridge in Queens.

Four feet of water in the pit of the Metropolitan Ave. Bridge.

Rotted-out pans on the Williamsburg Bridge. The pans are designed to prevent objects from falling from the bridge roadway to the streets below. City officials acknowledge the condition but say funds are needed elsewhere.

The report also quoted Ed Rubin, city engineer in charge of the Brooklyn, Queens and Staten Island bridges, as saying, "No one wants to make a commitment for bridge repairs. Understaffing has resulted in many bridges not being opened periodically, and bridges must be opened so parts can be greased and prevent freeze-ups."

"The report was fairly correct," says Rubin.

In the case of the Queensboro and Williamsburg bridges, understaffing has increased deterioration, observers agree. Iron Workers foreman Mark Terry of the Williamsburg Bridge says that he's 10,000 man-hours behind on maintenance. He stresses, however, that the bridge is in good condition.

And one engineer who formerly worked on the Queensboro Bridge declared: "The bottom line has been reached. In order to *maintain* the bridge in its present condition, not even improve it, the work force should consist of approximately 20 laborers, 10 carpenters, 5 electricians and 12 iron workers."

Terry said the bridge currently is staffed by 8 laborers, 4 carpenters, 4 electricians and 8 ironworkers. And these workers, according to union official DiLorenzo, also have to work on highways, because two years ago the bridge department was suddenly put in charge of 1,100 viaducts without getting a manpower increase.

"That's when things get bad," said the engineer. But he added that bad does not necessarily mean dangerous. A bridge can deteriorate for years and still not be dangerous, he said. For instance, Jim Bishop of the Painters' Union showed this reporter a column in the Queensboro Bridge which he said was in terrible condition. It looked terrible to *me*, and a bridge inspection report made in February (no work has been done since then on the column) concurred: Column n 1–61 has severe corrosion of lacing bars and visible signs of deterioration and web and flanges on the south side of the column are severely corroded and deteriorated and web has through holes. This condition is due to poor drainage and needs immediate attention.

However, bridge inspector Leo Benson, who wrote the report, explains that although the bridge is in bad condtion, it is not presently dangerous. Like other places on the bridge he calls "severely corroded" or "deteriorated" in his reports, the column is surrounded by areas which are in good condition. Problems are localized on the bridge, he says, and in that particular place, if nothing is done for another couple of years, Benson says the road may sag.

"When you have that kind of sag you have the beginning of failure," declares consulting engineer Bernard Lippe. "I wouldn't want to ride on the road at that point."

Benson says that at one time the Queensboro had a full-time inspector who could check 2 or 3% of the bridge a day. Subsequently, inspection was cut to once a week then to once every two weeks. Now Benson says he sometimes gets to the Queensboro only once a month. Like other bridge department personnel, he's busy on arterial highways. Benson admits this means that a problem on the bridge might not be caught until it is too late. And with the bridge slowly deteriorating, observers says problems will occur more frequently. "Nothing is going to happen now," Benson says. "But it's all part of a pattern which could become problematic in several years if nothing is done."

Fortunately, work on the column mentioned above can be done by bridge maintenance crews, say workmen. But other repairs will require special contracts, and special contracts require money.

Indeed, the city has so little money that it purposely allowed at least one bridge to deteriorate so much it had to be closed, according to one Highways Department official who does not want to be named. The Hunters Point Ave. Bridge in Queens was closed because engineers said it was too dangerous for vehicular traffic. But long before, the city had decided to let the bridge go and use repair money elsewhere. It carried only 6,000 vehicles a day and was adjudged expendable.

City officials estimate that repairs on the Queensboro would cost $15 million. Says George Toth, director of the City Arterial Design Department, which would be drawing up plans for work on the bridge: "We're a long way from the West Side Highway but we have to do something quick."

Under the Federal Aid to Urban Systems Program, instituted in 1973, Toth and other city officials were confident they could obtain the money for the Queensboro. The federal government was to pay 70% of the costs, the state the rest. But in 1974 the state legislature passed a law that the state would fund projects only on state roads. Since the Queensboro Bridge is not a state road, and is not attached to a state road, it suddenly became up to the city to provide 30% of the funding.

To show how little rehabilitation money the city can raise, Toth says that New York couldn't even provide 30% of the design money, which is $75,000. In addition, Toth estimates a two-to-three year interval between design work and actual construction on the bridge, which continues to deteriorate.

Meanwhile the city is trying to convince federal officials to release their 70% share of the rehabilitation budget even if nothing comes from the state. There is also a need to show the federal government that localities need help in maintaining projects, not just in building them.

"We have to change our philosophy in this country," says Kevin Kadlec. "Federal money is available for reconstruction but not for maintenance. The philosophy is to replace and not to repair. To go up and repair the Queensboro Bridge is nowhere near as glamorous as building a new one. We have to sell the idea that monies in the federal highway trust fund should be used to maintain roadways, too."

IMPORTANT DECISION

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. DINGELL. Mr. Speaker, the Federal Energy Administration has recently made an important decision: One that directly affects every energy user in this country, which is another way of saying everyone.

The administration had earlier indicated its intention to consider issuing a class exception to its regulations to allow petroleum refiners to "bank," so as to be able to charge more later on, certain of their increased costs. The increased costs are not those which are attributable to the increased price of crude oil, but stem from other causes, such as increased management salaries.

On Thursday, September 23, the Administrator of the FEA indicated that he is persuaded by the facts available to him that this problem should be handled not by issuing a class exception for all refiners, but rather on a case-by-case basis. I applaud his decision, and commend him for making it.

In order to provide greater detail on this issue, and for the benefit of my colleagues, I attach a statement on the subject which I issued on September 23, and the letter from Mr. Zarb which describes the action which he proposes to take, and the justification for his action:

STATEMENT OF THE HONORABLE JOHN D. DINGELL REGARDING FEA REFINER CLASS EXCEPTION PROPOSAL

On August 9, 1976, the Federal Energy Administration published in the *Federal Register* a notice which proposed to grant a class exception for refiners. I was distressed by this class exception proposal because I believe it could have had the effect of retroactively forgiving violations of FEA regulations and could have increased the fuel bill of U.S. consumers by as much as $1.3 billion.

My concerns regarding this proposal related to several of the procedural implications which could have been drawn from it, rather than to the propriety of individual exception relief to a specific refiner, based upon hardship or inequity. Specifically, I was concerned about the suggestion made in a recent newspaper article in the Wall Street Journal that FEA was considering relieving refiners from compliance with its regulations solely because they misunderstood the regulations or received erroneous guidance from FEA.

This concern was reinforced by statements in the Federal Register relating to the good faith nature of the violations. Specifically, the statement was made by FEA that "refiners may have concluded in good faith that recoupment on a proportional basis was permitted . . . ." The sentence following this statement is significant: "FEA hereby proposes a class exception to authorize cost recovery retroactively . . . ." The proximity of these statements could have been interpreted as indicating that FEA intended to accept the good faith of the violator as a complete defense to enforcement action for violations of the regulation. I have repeatedly criticized this position as contrary to the principles of equity and inappropriate to the question of restitution where overcharges to the consumer are concerned. As importantly, this position could prejudice the future ability of the agency to enforce violations of its regulations.

Finally, my greatest reservation and strongest criticism regarding the agency's proposal related to the possible use of the class exception as a means for granting exceptions relief. I was particularly concerned that this procedure could result in the grant of exception relief to all refiners who were members of the class on the basis of class hardship or class inequity. Such a result could have amounted to bootstrapping of relief to refiners for whom relief cannot be justified on grounds of individual hardship or individual inequity, solely on the basis of membership in the class to which relief is granted. This could circumvent the requirements of the FEA Act and the Congressional intent manifested therein. My strongest criticism was leveled at this procedure because I believe that the result, which I have described, could have been achieved at the expense of the public interest and might have improperly benefited some refiners.

The matter of granting exceptions relief by the FEA Administrator could involve the rights of refiners and a determination of these rights on an individual basis would be a quasi-judicial function of the Administrator. It is not my intention to prejudice any action the Administrator might choose to take with respect to the granting or denial of hardship relief. As I have indicated, my opposition has been directed at the process which FEA proposed to utilize in this case; a process which I believe would not have protected the public interest. These concerns regarding the procedure FEA proposed to utilize in this case have been resolved to my satisfaction. I have today received a letter signed by Administrator Zarb which details more fully the procedure that FEA intends to utilize in this case and its intentions with regard to enforcement of its regulations. This letter confirms FEA's interpretation of its regulations and evidences an intention to enforce the regulations as interpreted by FEA.

FEA Administrator Zarb confirms in this letter that "FEA has never permitted and shall never, as long as I am Administrator, permit any firm to be excused from compliance with our regulations merely on the basis that a misinterpretation . . . was made in good faith." This assertion alleviates my concerns regarding FEA's possible intention to forgive violations solely because they occurred in good faith without any showing of hardship or inequity.

My most serious reservations, based upon the potential bootstrapping of exception relief for an individual refiner on the basis of inequity or hardship experienced by the class, but not by the refiner, have been dispelled by Mr. Zarb's letter. Specifically, Mr. Zarb has informed me that he intends to handle exception relief on this issue "on a firm by firm basis". I am gratified to note that he has already begun to conduct "an audit of each refiner." More specifically, Administrator Zarb has stated that "no decision will be rendered with respect to any particular refiner until . . . a determination is made whether strict compliance with FEA regulations by that particular firm would . . . result in a serious hardship or gross inequity . . ." I am satisfied that resolution of this issue on a case by case basis, a procedure which will require individual showing of hardship or inequity before exception relief is granted, will adequately protect the public interest. Such a case by case resolution will require consideration of the rights and interests of consumers who may be affected by any exception relief granted.

In view of these facts, I believe it appropriate for FEA to proceed with the adjudicatory resolution of the question whether to grant exception relief and, if so, what form the relief should take. The Committee will request a full and complete explanation of the results of that adjudicatory process at the appropriate time. Since our oversight concerns, regarding the procedures which FEA proposed to utilize, have been resolved, we should avoid any potential for prejudice of the outcome of that adjudicatory process under the *Pillsbury* case. For that reason, I have excused Administrator Zarb from further obligation to testify on this issue, although he has expressed a willingness to appear before the Subcommittee at this time.

I would like to compliment FEA and its Administrator, Frank Zarb, for their prompt clarification of FEA procedures and intentions in this matter. I also am pleased by and compliment FEA and Mr. Zarb for their continuing strong commitment to rigorous enforcement of the FEA regulations in a manner that is fair and equitable to the interest of American consumers and to the companies subjected to FEA regulations.

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., September 23, 1976.
Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Recent press reports about FEA's proposed class exception on the passthrough of increased non-product costs by refiners before February 1, 1976 have caused me grave concern that basic FEA policies and procedures involved in the resolution of this proceeding may be misunderstood. I have, therefore, decided to issue a notice in the *Federal Register* explaining these policies and procedures in greater detail. Knowing of your interest in this matter, I would like to call these policies and procedures to your attention.

First, FEA has never permitted, and shall never as long as I am Administrator, permit any firm to be excused from compliance with our regulations merely on the basis that a misinterpretation of the regulations was made in good faith. Moreover, under FEA's regulations regarding exception relief, no firm may be relieved of its legal requirement to comply with FEA's regulations solely on the grounds of good faith reliance on erroneous guidance from FEA personnel. Both of these principles have been fully enunciated in published FEA exception decisions. The only basis upon which a firm could obtain relief under the regulations would be pursuant to a finding, in an adjudicatory proceeding before FEA's Office of Exceptions and Appeals, that enforcement of the regulations under all relevant circumstances would, in fact, cause a serious hardship or gross inequity to that firm.

Second, as you know, in our August 3, 1976 notice of this proposed class exception, FEA reaffirmed that the interpretation which was issued on February 1, 1976 of the November 29, 1974 regulations is correct, *i.e.*, increased product costs were required to be recovered first and banking of unrecovered increased non-product costs was not permitted. We fully intend to enforce this interpretation of the regulations in all instance other than those in which a firm has applied for and been granted relief by FEA's Office of Exceptions and Appeals.

Third, although the nature of the proceeding for which a notice was issued on August 3, 1976 was termed a "class exception", it should more accurately be considered as an invitation to all refiners to apply for exception relief in a consolidated exceptions proceeding because FEA perceived that many firms had misapplied the regulations in a similar manner. Of the total number of approximately 135 domestic refiners, 104 responded to the August 3 notice by submitting data. Accordingly, this proceeding, in fact, now involves 104 separate cases, all of which relate to the same subject matter.

The need to handle this "class exception" on a firm by firm basis has become apparent after receipt of the data submitted by each of the 104 refiners, since not all refiners misapplied the regulations for the same reasons or to the same extent. To determine the precise impact of requiring full compliance with the correct interpretation of the order of recovery for each of the 104 refiners involved has necessitated an audit of each refiner, a process which is now underway. We still intend to hold a consolidated hearing on October 13 on the common issues involved in this proceeding in order to permit maximum public participation in our decision making process. However, no decision will be rendered with respect to any particular refiner until the audit of that firm is completed and a determination is made whether strict compliance with FEA regulations by that particular firm would, in light of all the circumstances and impacts, result in a serious hardship or gross inequity to that firm. In determining whether to grant exception relief in a specific case, you may be assured that FEA will consider the interests of consumers and all others who may be affected by any exception relief granted. A balancing of interests and equities will be made in each case to assure that the interests of all affected parties are protected.

Finally, I wish to assure you that FEA has in no way prejudged the propriety of the activities of any firm which has applied for relief in this proceeding. As is always the case in compliance and exception cases, we have a completely open mind. Before any final decisions are made, we still must gather more detailed information with respect to each of the refiners seeking relief and consider as well both written comments and oral presentations at the public hearing. The ultimate form of relief, if any, that may be granted could, of course, conceivably take as many different forms as there are firms participating in this proceeding.

Sincerely,

FRANK G. ZARB,
Administrator.

SOMETHING BORROWED

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. MICHEL. Mr. Speaker, the Democratic candidate for President, Mr. Carter, has been cited in many quarters as being "fuzzy" and "vague" on the issues, and it has also been suggested that he was deliberately following a policy of being "fuzzy" and instead would concentrate on a theme of calling for a change in leadership in Washington and raising all sorts of questions in the minds of the American people about the Washington scene.

After watching the debate last week, it occurs that rather than being "fuzzy," either deliberately or not, it is now in order to question whether or not Mr. Carter has an understanding and comprehension of these great national issues which are so much the topic of debate and discussion in the media.

Certainly, Mr. Carter's answer to the very first question as to what he would do specifically to ease the unemployment problem made absolutely no sense and was nothing more than a jumbled mess of incomplete sentences and jumbled phrases, and certainly shed no light on the question posed to him.

In addition, Mr. Carter is apparently unaware that foreign subsidiaries of American-based multinational corporations pay taxes in the country where they are resident and he also seems to be totally unaware of the fact that multinational expansion creates more, not fewer jobs for Americans.

I insert an editorial from today's Wall Street Journal in the RECORD at this point and commend its message to my colleagues on both sides of the aisle who, like me, may have growing doubts about Mr. Carter's knowledge and understanding of the issues:

SOMETHING BORROWED

Everyone has his own idea about who won or lost last Thursday night's Ford-Carter debate, so it won't serve much purpose to add ours.

But whoever won or lost, economic theory took a pretty bad beating, particularly at the hands of Mr. Carter. His grasp of the country's economic problem, and his proposals for dealing with it, reflected little fresh thought and a sometimes woolly grasp of fundamentals. Most of it looked pretty shopworn, as if it had been dug out of a carpet bag belonging to, say, Hubert Humphrey of Henry Reuss or Vance Hartke, or possibly George Meany.

For example, something totally puzzling crept into Mr. Carter's reply to a question from the Journal's James Gannon about Mr. Carter's wishes to have the terms of the President and Federal Reserve Chairman conterminous. In elucidating his monetary theories Mr. Carter said:

"The Congress can modify the supply of money by modifying the income tax laws. The President can modify the economic structure by public statements and general attitudes in the budget that he proposes. . . ."

Frankly, we don't know what Mr. Carter was trying to say. If we wanted to be generous we could assume that this was shorthand for saying that the power of Congress and the President to rack up deficits can exert pressure on the Fed to expand the money supply. But the dark thought lurks in our mind that maybe Mr. Carter didn't really know what he meant, either, in saying that you can alter the money supply by manipulating taxes. Such things can happen if you spend too much time with the Democratic leadership in Congress, listening to theories about how, for example, to lower interest rates by inflating the currency.

Along similar lines was Mr. Carter's blithe unconcern about inflation, i.e. it's something we need not worry about because the economy is performing well below capacity. He seemingly forgot that the economy still has 6% inflation, which may be low by the standards of the last three years but is high by any other standard and is plenty high enough to shackle capital formation and growth.

Mr. Carter seems to be counting on a great deal of growth to get that extra $60 billion in revenues he had so much trouble coming to terms with questioner Elizabeth Drew about. The truth is, of course, that you can assume almost anything about federal revenues if you assume a high enough rate of economic growth. The trick is to get the growth, and Mr. Carter was vague on that score. It is, of course, possible to get revenue growth through inflation, but, unfortunately, expenditures then go up fast too, as does the tax burden on workers. Mr. Carter would do well to be wary of those Washington theories about "fiscal dividends."

Then, of course, there was a great deal of further exploration of tax theory, which we've already discussed here in some detail. Our misgivings were only heightened as Mr. Carter took us deeper into his tax theories with the help of the Burke-Hartke and AFL-CIO guidebook:

"We have now a deferral system so that the multinational corporations who invest overseas . . . don't have to pay any of their taxes unless they bring their money back into this country. When they don't pay their taxes, the average American pays taxes for them. Not only that, but it robs this country of jobs," etc., etc.

Mr. Carter apparently hasn't been told that foreign subsidiaries of American-based multinational corporations pay taxes in the countries where they are resident just as the U.S. subsidiaries of foreign multinationals pay taxes in the U.S. Nor has he apparently heard of the objective research which shows that multinational expansion creates more, not fewer, jobs for Americans.

In the light of Mr. Carter's performance, Mr. Ford can be excused for a lot, his lame defense of energy policy, for example. At least, he is pretty well plugged in on tax and monetary policy. The crucial question as we move on to debate number two in San Francisco a week from Wednesday is not who will win or lose, but whether the quality of the disclosure will rise to a presidential level.

HELP FOR LONG BEACH, N.Y.

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. WYDLER. Mr. Speaker, during my 14 years in Congress, I have tried very hard to be responsive to every area of the fabulous fifth. When unique problems arose, I responded to that need with every assistance available at the Federal level.

At this time, one area in particular—Long Beach—has come to the forefront as having unique problems, which problems must be dealt with and resolved.

I have strong feelings for the city of Long Beach and was pleased with the opportunity to represent this area in the Congress when the reapportionment took place in 1972.

I have heard the cry for help and am taking action to do what I can at the Federal level.

FEDERAL CRACKDOWN ON MENTAL CARE FACILITIES IN LONG BEACH NEEDED

An increasingly serious problem has been developing because of a great influx of deinstitutionalized mental patients. Neither the city of Long Beach nor the deinstitutionalized mental patients are being served. It is time for a full-scale investigation.

Although the contention is that the deinstitutionalized mental patients are not harmful, they are causing problems as they are not responsible for their travel or well-being. This has placed a hardship on the citizens of Long Beach, the police force of Long Beach, and every citizen in that area. The State of New York has acted without forethought and created a serious situation.

HEW REQUESTED TO INTERVENE

I have called upon the Secretary of Health, Education, and Welfare, the Honorable David Mathews, to establish an interagency technical assistance program to investigate and correct the practice of dumping mental patients in the city of Long Beach. The State has shown it is unconcerned with the situation in Long Beach and, because of that attitude. Federal intervention is past due.

I am pledged to assist in every way possible, and I am hopeful that my efforts will develop into a resolution of the problem.

CITY MANAGER CALLS FOR HELP

From information recently received from Long Beach City Manager Larry Farbstein, Long Beach is a concentrated problem area that houses almost half the released mental patients housed in Nassau County and, on the basis of a percentage of the population, Long Beach houses 24 times the percentage of the population in Nassau County. City Manager Farbstein urges that this matter be "aggressively pursued."

LEGISLATION INTRODUCED

In addition to working with the Department of Health, Education, and Welfare in creating an interagency technical assistance program to investigate and correct the "dumping" problem, I have introduced legislation which would amend the Housing and Community Development Act of 1974 so that communities, such as Long Beach, which have a high concentration of "independent population" would not be required to introduce into the community additional low- and moderate-income housing in order to be eligible for community development assistance.

Community development assistance is so necessary to communities such as Long Beach as it provides aid in improving their economic base, elimination of slums and blight, and the ability to undertake vital programs to upgrade the entire community.

No community should be forced to simply add to its already serious population problems in order to receive direly needed Federal assistance. The law, as presently written, does not take into consideration problems such as Long Beach, and I intend to fight to correct this unfair treatment.

THIS IS NOT JUST PEANUTS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. FINDLEY. Mr. Speaker, the closing days of any Congress always see legislation rushed through at the last minute. Much of it is good—it is essential. Some may be done in haste and have to be amended or revised later by the Congress. But there is one pending measure that is a step in the right direction and should be acted on while we have the time. That is H.R. 12808—the Peanut Act of 1976—that would mean a savings to the taxpayers of an estimated $89 million in 1977.

The House Committee on Agriculture unanimously voted to report H.R. 12808 to the House on August 25, 1976. To date, the Committee on Agriculture and Forestry in the other body has not acted. In the House, the bill is on and off the calendar daily.

Let us take a brief look at the peanut program.

Peanuts are produced, harvested and marketed under a 35-year-old Federal subsidy program which will cost taxpayers an estimated $210 million on the 1976 crop. This cost will continue to climb—unless the present law is changed and the Congress must do the changing—to an estimated $230 million in 1977.

Now, who benefits from this program? Certainly not the taxpayers, nor the Federal Treasury, nor consumers. Only the holders of peanut allotments benefit. The total national allotment of 1,610,000 acres is mandated by law—a law passed by the Congress. Holders of these allotments are entitled to produce peanuts and to benefit from the excessively high Federal loan rate—on a formula set by the Congress—which exceeds the world price of peanuts by $214 per ton. This of course artificially inflates the market value of every peanut producer's tonnage by that amount. The level of artificial inflation is expected to rise to $234 per ton in 1977.

This antiquated peanut law is the only high-cost farm subsidy program remaining on the books. Other programs for major food crops and for cotton have been re-oriented under the Agriculture and Consumer Protection Act of 1973, to provide farmers with a freedom to earn their record incomes from the marketplace, and at a savings to taxpayers of as much as $4 billion annually. Is it not time to add peanuts to this savings? And to bring this law up to date?

I would like to point out that this pending bill has been authored and guided through the House Committee on Agriculture by our colleague from the Second Congressional District of Georgia (Mr. MATHIS). This is highly significant. The gentleman's district contains more alloted peanut acres—348,149, to be exact—than any other congressional district in the United States. The gentleman from Georgia quite naturally has the interests of his constituents at heart.

And he also has the interests of the country at heart in this matter, with his work on behalf of H.R. 12808. He knows full well—and his stand on this measure shows it—what we all know: A compromise solution to a problem—in this case a much-needed modification of the peanut program—is far better than no solution and no program at all.

What would the gentleman's bill do?

It would cut the national peanut allotment by 360,000 acres, thus reducing the annual surplus production and the high costs incurred by the Federal Government when the Government takes over this surplus under the loan program. It would also allow farmers who do not hold allotments to produce peanuts, albeit at a lower support level, for export and crushing.

Peanuts have received more publicity over the past several months than at any time in probably the past half-century. This is due in great part to the Democratic Presidential nominee's profession as a grower and/or merchandiser of peanuts, among other things. This has also had the very beneficial side effect of turning the spotlight on the outdated peanut program itself. Without Governor Carter's candidacy, the peanut and the peanut program would still be relatively obscure.

Now, quite certainly, Governor Carter has an interest in peanuts. It would be foolish to assume otherwise. He is also very much on record for cutting Government expenditures, with a particular eye for singling out wasteful programs and securing a balanced Federal budget.

Another of our colleagues, the gentlewoman from the 10th Congressional District of Massachusetts (Mrs. HECKLER)—who is also, I might add, a member of the House Committee on Agriculture—has approached Governor Carter directly on the matter of this pending peanut bill.

On September 20, she wired Governor Carter, asking him to do two things:

First, to urge the House Democratic leadership to allow H.R. 12808 to come before the full House, and,

Second, to endorse an amendment the gentlewoman plans to offer which would cut the support price from 70 percent of parity to 60 percent of parity, which would mean a further reduction in the cost of the program by $25 million.

Part of her remarks, when she sent the telegram, are pertinent here:

> I am asking Mr. Carter to join me in a bipartisan effort to help modify the existing peanut price support program. Since the Democrats control both houses of Congress, their support is necessary to effect my proposal—the substance of which has been endorsed by spokesmen for the Ford Administration. . . . Last Wednesday speaking in Crystal Lake, Minnesota, Mr. Carter was quoted as saying: "I never met a farmer who wanted a handout. I never met a farmer who wanted to go on welfare. I never met a farmer who wanted the government to guarantee him a profit. But we do want to be treated fairly. . . ."

The gentlewoman from Massachusetts has made a very good point with her direct appeal to Governor Carter. After all, as she certainly must have reasoned, since Governor Carter took it upon himself to express his support for the postcard voter registration bill, and went even further—making this support known to the Democratic leadership of the Congress, urging speedy action, which was forthcoming—then certainly here is another excellent opportunity for him to act, especially since his support for H.R. 12808 would be directly in line with his Minnesota remarks.

I would like to point out the extent of Governor Carter's interest in the peanut program. His allotment is sizable—228 acres, which is over 10 times the size of the average peanut farmer's allotment. If the present peanut program is not changed—and assuming a production of 2 tons per acre on Governor Carter's allotment, which I am told is a reasonable figure—then Governor Carter stands to benefit, at the taxpayers' expense, by more than $106,000 next year. In 1975 the subsidy will inflate his income by an estimated $97,500.

Governor Carter's support for this legislation, expressed to the House and Senate both, would certainly implement economy in Government.

But no stand at all—refusal to act, on his part—would mean he has tacitly committed himself to continuation of the wasteful policy of high agricultural subsidies for farm products which are not needed at the mandated price of the peanut program.

There has been over the past several months a rash of peanut jokes and cartoons, but this matter is too serious for jokes and cartoons. It is not a partisan issue, and we still have time to resolve it.

And we would like Governor Carter's help in doing just that.

The September 21, 1976 New York Times article on Mrs. HECKLER's efforts to enlist Governor Carter's support in resolving the peanut issue follows:

CARTER IS URGED TO BACK CUT IN PEANUT SUPPORTS

WASHINGTON, Sept. 20.—Representative Margaret M. Heckler, Republican of Massachusetts, called today on the nation's best known peanut farmer, Jimmy Carter, to endorse a $25 million cut in Federal price supports for peanuts.

Sitting behind a mound of peanuts, she said at a news conference that such a cut could save consumers a nickel on the purchase of an 18-ounce jar of peanut butter.

Mrs. Heckler, who is running for reelection, denied that her appeal was politically inspired, saying, "This is a position I took last year."

She is attempting to enlist Mr. Carter's support because he is an expert on the subject and because Democratic backing is needed if the proposal is to get through Congress, she said. She added that reduced price supports were in line with Mr. Carter's support of consumer interests, minimum government interference and reduced government expenditures.

"I sense a new ally," she said.

According to figures presented by Mrs. Heckler, the peanut price support program has cost the taxpayer $533 million since 1971.

PUBLIC FINANCING OF CONGRESSIONAL ELECTIONS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. MAZZOLI. Mr. Speaker, I have enthusiastically supported and voted for all the Federal campaign reform acts that Congress had adopted in recent years. I have joined in the struggle to overcome the constitutional, legal, and partisan political problems encountered in making these reforms.

I have exulted in these legislative victories. But, I am well aware that additional campaign reforms must yet be placed on the statute books.

The public reporting required by the new election laws makes us all more aware of the vast sums of money that fuel our political process each year.

While the hold of wealthy individuals and well-financed special interest groups has been loosed with regard to Presidential candidates under the new public financing laws, the hold has still largely been retained over House and Senate candidates.

In several votes over the past few years, the House of Representatives has rejected installing a partial financing law for congressional races. I have always voted for these measures, and I am hopeful the next Congress—building upon the favorable results and good experience had with the Presidential candidate public financing law in 1976—will finally face up to the task and adopt a public financing law for House and Senate candidates.

I intend to make public financing of congressional races, financial disclosure of high-ranking public officials of Federal Government and reforms of the laws governing lobbying my legislative priorities in the 95th Congress which convenes in January of 1977.

I would like to call to my colleagues' attention to a September 19, 1976, Washington Star article written by Mr. John Gardner of Common Cause. The article provides important background on public financing for Federal campaigns as well as other reform issues.

The article follows:

HOW TO BEAT THE SPECIAL INTERESTS

(By John W. Gardner)

Every President at the beginning of a four-year term will be given his moment of national goodwill. But will he be given the chance to govern? For a wonderful moment there will be the sense of a new chapter, a chance to begin again. But will he then be caught in the same web of special interests that has closed in on his recent predecessors?

The answer is that he stands a fighting chance of exercising leadership—but only if he acts to gain command of his own administration.

There are steps he can and must take—but before examining them let's look at the problem he faces. We'll call it the Special Interest State.

During and after World War II there occurred an explosive growth in the number of special interests seeking to influence government. Most people hold a vastly oversimplified view of those interests. "There's business," they say, "And then there's labor." But beyond those are the agricultural interests, the maritime interests, regional interests, religious interests, just about every profession (doctors, trial lawyers, accountants, pathologists, and so on) and almost every institutional category (hospitals, junior colleges, etc.). The organized groups number in the thousands.

According to current mythology there exists a domineering entity called The Federal Government which is always at odds with a wholly separate entity called The Private Sector.

In fact, a large part of what is called The Federal Government is not a coherent entity at all, but a collection of fragments under the virtual control of highly-organized special interests in the private sector. In the Special Interest State that we have forged, every well-organized interest "owns a piece of rock."

Another myth is that Congress and the Executive Branch are two great independent branches in a permanent adversary relationship to one another. That is often true at the top, even when the president and congressional leadership are of the same party. But below the top a high proportion of members of Congress are in intimate alliance with the special interest baronies that make up the Executive Branch—and in equally intimate alliance with the private sector representatives of those same interests.

Instead of the United States being run by a well-knit behind-the-scenes power group (as the conspiracy theorists would have it), it is whipsawed by a great multiplicity of special interests. The result is paralysis in national policymaking. All too often each special interest has veto power over one essential piece of a solution, and no one has the power to solve the problem (cf. New York City.) No one wants to make the problem unsolvable but collectively they paralyze policymaking. The rule applies to every complex problem we face—inflation, energy, tax reform, transportation: the list is endless.

The special interests are not sinister forces. They are all of us. Yet we are seeing a war of the parts against the whole. Everything is so interrelated today that our capacity to frustrate one another through non-cooperation has increased dramatically (as the air traffic controllers have discovered.)

What can a president do? He can win any specific fight with the bureaucracy if the bureaucracy is his sole foe. But he can't win out over many hundreds of alliances in which the bureaucrats, supposedly under his command, have hidden links with Congress and outside lobbies. If he seeks solutions to national problems through congressional action, he will find that Congress is beholden to multiple masters—namely, the campaign donors. It's ironic that, through public financing. Congress freed the presidential candidates from dependence on the big donors, but chose not to free itself! There's hardly any measure more crucial to a president's capacity to govern than the public financing of congressional campaigns.

Let's be clear about the nature of the president's impotence. He has enormous power to block action, to reward friends and punish enemies, to subvert certain of the agencies under him. And if he's willing to sell out to some of the more powerful special interests on matters that concern them, they will lend him power to act freely on matters that do not concern them.

What he lacks is the opportunity to formulate and carry out coherent national policy in collaboration with an unbought Congress.

Every legitimate special interest from General Motors to the American Medical Association has a constitutional right to try to influence government. But they should not be allowed to operate behind a veil of secrecy, nor to use money in ways that corrupt the public process, nor to paralyze the system.

While we have already made significant progress in remedial measures, much remains to be done. Public financing of political campaigns will go a long way to free senators and representatives from bondage to the special interests. Conflict of interest statutes, including personal financial disclosure, will diminish the likelihood that officials will be influenced by their personal financial interests.

Another set of remedial measures focuses on "open government." Openness ranks next to the rule of law as a fundamental ingredient of self-government. Power exercised in secret breeds corruption. Disclosure is a central feature of campaign finance reform. Lobbying disclosure enables citizens to know precisely what special interest is spending how much money to influence its public officials. Open meetings of legislative bodies, regulatory commissions and advisory groups enable the public to see how their public business is conducted. Freedom of information statutes make new information available to the public.

With the game being played out in the open, less at the mercy of hidden influences, and a Congress that has not been bought and paid for, our system has a chance of working. But there's a lot more the president must do to gain command of the numberless programs over which he presides. Since the fiscal lever is far and away the most potent instrument of control over programs, he must not only give close attention to his own budget, but must do everything in his power to help those who are trying to make the new congressional budget process work.

If he is wise he will embrace some version of the "sunset" proposal, which requires that federal programs should be periodically and automatically reviewed with the purpose of deciding whether they should be terminated, modified or continued. Under present practice, old programs never die. They don't even fade away. Under the sunset mechanism, a program would be kept in existence only if, after careful evaluation, the Congress considered it so valuable as to deserve enactment de novo.

At the same time, the president needs a reorganization of the Executive Branch, and this would be most effective if there were a simultaneous reorganization of congressional committee jurisdictions. His greatest difficulty will be that present patterns of organization are held in place by powerful special interests. They've spent a long time digging their tunnels into the public treasury and they don't want anyone blasting in the vicinity.

But the President won't profit by a smoothly functioning Executive Branch if he doesn't know where he's going. He must improve his own capacity to formulate coherent national policy proposals to place before the Congress. No one of the agencies is charged with thinking consecutively about the common good, or about the future of the nation or the species or the planet. The Executive Branch is an organism without a cerebral cortex. That is one of the chief reasons why no recent president has been able to govern domestically. We cannot think or plan as a nation. The Executive Branch characteristically fragments a problem and then struggles helplessly with the fragments.

The National Security Council provides at least the beginnings of an instrument to serve the president's foreign responsibilities. There is nothing comparable on the domestic side. The Council of Economic Advisers is small and there are severe self-imposed limits on its range of attention. The Domestic Council is a feeble thing today. What the president desperately needs is a Policy Alternatives Unit directly responsible to him that can provide well-researched and evaluated policy options, both short and long term.

The president can do none of these things without the help of alert and concerned citizens. Watergate taught us that citizens must be alert to presidential abuse of power and must preserve the countervailing forces such as Congress, the courts and a free press. I hope we never forget that lesson.

Now we face the fact that citizens must help a president put the federal machinery in shape to the point where governing is possible. Citizens acting in the public interest can help him fight the hard battles that will put his house in order.

The goal is to make our system work. Is that unrealistic? It's fashionable these days to say that we must lower our expectations, and that's true in some measure. But just as we must resist the notion that we can solve everything overnight, so must we reject the idea that we can't solve anything. In War and Peace, Prince Andrei said of Austerlitz, "We lost because we told ourselves we lost." Militarily, it wasn't that simple, but the point is clear.

Most of the significant advances in the world have been made by people with at least a touch of irrational confidence—and lots of stamina. It takes both to face the real work. Self-government is not easy. It takes strength and staying power, and the sooner citizens learn that the better.

Nothing is ever finally safe. We cannot dream of a utopia in which all arrangements are perfect and everyone is flawless. It is a dream of death. Life is tumultuous—an endless losing and regaining of balance, a continuous struggle, never an assured victory. That isn't a comfortable doctrine—but we have lived in that kind of world exuberantly for 200 years. If we aren't afraid to recognize that, then we're ready to roll up our sleeves and go to work on some of the toughest problems that this nation has ever faced.

A VISIT WITH COLUMBUS

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. DOWNEY of New York. Mr. Speaker, our Nation's Bicentennial means many things to many people. Perhaps most important among them is that our 200th birthday gives each ethnic group an opportunity to exalt in its particular contribution to the "melting pot of the world"—America. The following is a provocative rendering of an Italian American's view of his country many years after its discovery by one of the greatest of all Italians, Christopher Columbus. A fellow Italian American, a talented journalist from Long Island, and a fine American—F. Anthony "Tony" D'Alessandro—wrote the following:

A Visit With Columbus

(By F. A. D'Alessandro)

It was an unusually hot October day. Indian summer sneaked out briefly from its secluded hideaway. The day, a gift from the gods to allow us to complete all the necessary outdoor clean-up chores before the harsh intrusion of winter's cold. After a final mowing and raking, the outdoor tasks for the season were wrapped up and boxed as tightly as leaves.

I entered my home, welcomed the soothing warmth of demitasse into my throat, and nestled into the protective arms of my recline. I closed my eyes and reflected on the history of this land. Soon my consciousness was beguiled, entrapped and dominated by sleep. I entered a dream world.

Suddenly I was twisting and turning, being tossed up, down, and around. I was a passenger inside a tornado. Everything stopped. A warm, friendly, scholarly man greeted me. He introduced himself as Signor Alighieri.

"Come my son," he said, "I have someone who wants to see you." He took my arm and escorted me through his domain. I looked around, fascinated and intrigued by sights I'd never seen before. I soon realized that I was passing through Dante's Inferno . . . My encounter with the Inferno was brief, as we quickly entered another area.

I was taken to a most beautiful and elaborately decorated room. There under a magnificent, massive, diamond-studded chandelier stood a strong, impressive, red haired man clothed in expensive silks. He spoke as if he'd known me for ages.

"Tony, sit down, I have a message for you to deliver to your land." I nodded affirmatively, paralyzed and in awe, for I realized I was sitting with Christopher Columbus. I never spoke in his presence again.

"Tony," he said, "I am you.
I am your parents, your grandparents, your children yet unborn.
I am loving, bright, and sensitive yet . . .
I am supposed to smile and laugh at insults directed at me.
I am supposed to believe that the Vikings and now even the Russians touched the Americas first.
I know of the great personal sacrifice that went into discovering America: the fear of monsters, the unknown, high seas, reefs, and mutiny.
I am Columbus, Caboto, daVerrazzano, and Amerigo Vespucci.
I am countless other Italians who sacrificed their earthly lives to the Great Ocean in search of the New World.
Even though a part of me exists here in the protective shelter of the Paradiso . . . I hurt daily.
I hurt for recognition.
I hurt for equality.
Tony, bring this message back to your land.
I founded it, adopted it; it bears one of my names.
I am Mazzei; I helped draft the Declaration of Independence.
I am William Paca, I was one of the original signers of the Declaration.
I sacrifice daily for your nation.
I have given my life for it.
I have been pinned with medals and decorated with your highest honors.
I have demonstrated my valor in your military conflicts, from the Revolutionary War to the Viet Nam War.
I am Tinelli, the Garibaldi Guard.
You have honored me with monuments of stone in Gettysburg.
Will you ever build monuments to my dignity?
I gave unselfishly of myself, and asked nothing in return.
While your generals decorated me, your insensitive comedians made both public and private disparaging remarks about my courage.
Others in the land call me a Mafioso.
They do not realize how these remarks maim and scar.
Tony, your recently deposed President claimed I was different. He said I smelled differently.
I couldn't be trusted; I was not honest.
I am Sirica, Rodino, Cabrini, and your own mother.
I crawled under your earth, bays and rivers.
I dug tunnels, planned and built bridges and railroads.
I mined your ore.
I was paid less than all other laborers both black and white.
My lungs absorbed the diseases of the laborer.
I cough up dirt, sweat and blood.
Still my protégé rarely rewarded me.
I never gave up hope, but kept working.
My beloved America, you frustrate me daily.
Daily you censor my soul, convictions, and culture.
Daily, your enchantresses try to erode my fabric, my values, family, and loves.
That's impossible, for I am love.
I too am a part of your citizenry.
I too am poor, I too am sensitive.
My high school drop out rate is alarmingly high; my reading scores are alarmingly low.
Will you create special programs for me?
I am very special.
You see, I love you America, however unrequited.
Today, I am twenty-five million citizens.
I want to be more than a city, a Columbus, Ohio, a Rome, New York.
I want to be more than one Senator.
I want to be on the Supreme Court.
I'd like a chance at the Presidency.
I've earned it.
America, I have invested love, labor, life, limb, psychological and physical fragments of my essence to build and mold you.
Daily, I contribute to your operation.
I make your clothes, I enforce your laws, I teach your children, I medicate your sick, I fix your precious automobiles, I plan your future, and I repress my feelings.
When I sailed the great ocean and found you, you were the proverbial diamond in the rough.
I patiently and proudly watched you blossom into one of the world's great democracies.
I plead for recognition and opportunity not only for the me that was, but for the me that is yet to be."

Columbus stopped, tears flowing down his cheeks, the tears of a powerful, strong man disappointed by a loved one. He nodded, and Mr. Alighieri escorted my quivering body, back through the mouth of the Inferno. I awakened with goose pimples blanketing my body.

AMERICAN INDIAN MOVEMENT'S SUBVERSIVE AND TERRORISTS ACTIVITIES EXPOSED IN SENATE TESTIMONY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. McDONALD. Mr. Speaker, the Senate Internal Security Subcommittee has released testimony by Douglas Durham, together with supporting documents and a staff report summarizing the subcommittee's findings, on the American Indian Movement—AIM. Mr. Durham, a former police officer and news photographer, infiltrated the American Indian Movement under the instructions of the FBI during the 1973 armed occupation of Wounded Knee, S. Dak. Douglas Durham became a close associate of AIM leader Dennis Banks and served as an AIM security coordinator.

Mr. Durham's role as a highly placed undercover operative in AIM was inadvertently revealed in FBI documents which were made available to the National Lawyers Guild attorneys by Federal court order during the trial of AIM leaders for their role in Wounded Knee. Mr. Durham's testimony has revealed shockingly that in October 1973, after the takeover of Wounded Knee, Federal Judge Fred Nichol "had driven Dennis Banks and his attorney to his residence, where Judge Nichol and Mrs. Nichol entertained the guests with coffee and cookies, and Mrs. Nichol was made an honorary member of the American Indian Movement."

Coincidentally, at the same time as release of the Senate testimony and report, we have received a fundraising appeal from the National Council of Churches for legal fees for an AIM leader.

Leonard Crow Dog, characterized by the NCC fundraisers as the "traditional medicine man of the Sioux Indians at Rosebud, S. Dak., and spiritual leader of the Native American Movement," was sentenced to 11 years imprisonment as a result of his role in the AIM armed takeover of Wounded Knee. While awaiting a hearing on his appeal, Crow Dog was convicted of abetting an assault and two concurrent 5-year sentences were added to his prison term. In January 1976, Crow Dog, free on $25,000 bail, was convicted of another assault charge for which he was placed on probation for 5 years.

The National Council of Churches has a different view of the crimes for which Crow Dog was convicted. According to the NCC:

> His "crimes" were heating his people, protecting his family and working to build his nation. For this * * * he has received sentences totaling 26 years in prison.

The NCC neglects to mention that Crow Dog's sentences are concurrent, not consecutive, and that his maximum term is 11 years. The NCC also fails to mention that the average Federal prisoner is considered for parole after serving one-third of his sentence—a little more than 3½ years in Crow Dog's case.

The National Council of Churches mailing, signed by Dean M. Kelley, "Executive for Religious and Civil Liberty" of the NCC's Division of Church and Society, reads in part:

> * * * as we became aware of Crow Dog's case we could not sit back while an individual, and a religious leader at that, is as much a victim of outrageous injustice as Leonard Crow Dog.
>
> * * * Since 1973, the U.S. Government has persecuted and hounded Crow Dog through its judicial system * * *.

Dean Kelley's letter notes in vague terms the charges brought against Leonard Crow Dog and says that while the AIM leader is "free temporarily," expert legal counsel is required to reverse his convictions.

> Only with your help can we free this Indian religious leader whose only "crime" is his pride in his heritage.

Says the letter:

While the National Council of Churches is a tax-exempt organization, it is understood that contributions to the Leonard Crow Dog appeal are not tax deductible.

The National Council of Churches Crow Dog appeal letter does not quote the brochure of the Native American Speakers Bureau, P.O. Box 3677, St. Paul, Minn. 55101, which quotes the following statement of the "AIM spiritual leader:"

> We are not going to massacre the white man, we are going to massacre his attitude and his government.

Perhaps when individuals and church groups consider the NCC's Crow Dog appeal fund, they will also give consideration to the Senate report and the sworn testimony and documentation provided by Douglas Durham. The report made the following summary of findings of fact about the American Indian movement:

> (1) The True Dimensions of AIM: The American Indian Movement does not speak for the American Indians. It is a minority movement which, at the most, numbers several thousand followers. It is noteworthy that its most spectacular and most publicized activities have never involved more than several hundred people.
>
> (2) AIM as a Revolutionary Organization: It is a frankly revolutionary organization which is committed to violence, calls for the arming of American Indians, has cached explosives and illegally purchased arms, plans kidnappings, and whose opponents have been eliminated in the manner of the Mafia. Some of AIM's leaders and associates have visited Castro['s] Cuba and/or openly consider themselves Marxist-Leninists.
>
> (3) Foreign Ties: It has many foreign ties, direct and indirect—with Castro['s] Cuba, with [Red] China, with the IRA [Irish Republican Army], with the Palestine Liberation Organization, and with support organizations in various European countries.
>
> (4) Domestic Extremist Ties: In the United States, it has maintained contact with and has received propaganda and other support from a large number of left extremist organizations, including the Weather Underground, the Communist Party, the Trotskyists [Socialist Workers Party, and others], the Symbionese Liberation Army, the Black Panther Party, Youth Against War and Fascism, the Indo-China Solidarity Committee, the Prisoners Solidarity Committee, the Prisoners [a YAWF sub-group], etc.
>
> (5) AIM and Media: AIM's commitment to spectacular actions has resulted in massive media coverage. This coverage, while not always uncritical, has generally been sympathetic—perhaps because of the widespread tendency to Convert sympathy for the plight of Indian people into sympathy for AIM, without asking certain essential questions. The sheer mass of the media coverage, moreover, has served to foster a widespread impression—in government circles as well as among the general public—that AIM speaks for the great mass of the Indian people. * * *
>
> (6) Support from Federal, Church and Other Sources: Taking advantage of the massive public relations build-up they have received from the media, the American Indian Movement has been able to obtain many hundreds of thousands of dollars worth of support from various offices of the Federal government and from a variety of religious organizations, Catholic and Protestant. Threats and the physical occupation of buildings have also been used as instruments of suasion in promoting Federal and religious funding. AIM has also received substantial sums of money from business, from labor groups, and from private individuals.
>
> (7) Financial Abuses: The bulk of the money given to AIM by the United States government and by the churches has been used to radicalize the Indians, to stage confrontations like the occupation of Wounded Knee and the occupation of the Bureau of Indian Affairs in Washington, D.C., and to take care of the personal financial needs of all the AIM leaders. Contrary to the representations of AIM in soliciting these funds, they have not been used, except to a very minor extent, to improve the lot of the American Indian. * * *
>
> (8) The Undercutting of Legally Constituted Indian Authority: The supine attitude of government officials in dealing with manifestations like the occupation of the bureau of Indian Affairs, the many hundreds of thousands of dollars they have lavished on AIM for social programs that were never implemented, and the deferential—indeed, almost obsequious—manner in which they have conducted their negotiations with representatives of AIM, have not only strengthened AIM enormously, but have also served to undercut the prestige and authority of the tribal chairmen and the National Tribal Chairmen's Association. This was the subject of a bitter complaint to Secretary of the Interior, Rogers Morton, from the National Tribal Chairmen's Association on November 12, 1973.
>
> (9) The Case of Judge Nichol: Important testimony was given concerning the prejudicial attitude of Federal Judge Fred Nichol, who on September 19, 1974, dismissed the charges against American Indian Movement leaders Dennis Banks and Russell Means. In March 1975, the U.S. Attorney's office in Sioux Falls, South Dakota, had filed a strongly worded motion of prejudice against Judge Nichol, asking that he disqualify himself from the remaining Wounded Knee leadership trials. In the supporting affidavit, the U.S. attorney claimed that Judge Nichol often expressed respect for the people who were involved in the Wounded Knee takeover, and that during the trial he had attended a luncheon addressed by defense counsel William Kunstler and had led a standing ovation for Kunstler at the conclusion of his speech. The witness testified that in October 1973, Judge Nichol had driven Dennis Banks and his attorney to his residence, where Judge Nichol and Mrs. Nichol entertained the guests with coffee and cookies, and Mrs. Nichol was made an honorary member of the American Indian Movement.

The Senate summary includes a section on AIM's international contacts with terrorists, revolutionary groups, and the Communist regimes of Cuba, and Red China:

> * * * He said that AIM had funding through groups in England, France, Germany, Ireland, and South America, and that AIM had held an international treaty convention in Aberdeen, South Dakota, in the summer of 1974, which was attended by representatives from many foreign countries. "The idea," said Durham, "was to get all the treaty issues taken out of the hands of the United States and put here before the World Court or the United Nations."
>
> He said that he knew as a fact that representatives of the Irish Republican Army committee had met with AIM during the trial in St. Paul and that at a later date, Sean O'Connaith, one of the IRA leaders, had invited the AIM leaders to Dublin.
>
> He also reported that Dennis Banks, after his return from a meeting sponsored by the World Council of Churches in Vienna in the fall of 1974, had reported to him that he had met with officials of the Palestine Liberation Organization and they had offered their support to him. Durham named a Mr. George Roberts, owner of the Inca Manufacturing Company in Santa Monica, California, as one of the principal vehicles for AIM's international contacts. He said that he had first met with Roberts after returning to the United States from his meeting with Dennis Banks in Yellowknife, Canadian Northwest Territories, in September 1973. Roberts, a non-Indian, indicated to Durham that he had traveled to Wounded Knee during the occupation and had become friendly with Dennis Banks there, and that he had offered to utilize his contacts with embassies around the world to build the American Indian Movement's credibility internationally.

Durham further testified that Roberts had in his presence made a phone call to a Dr. Faustino Perez in Mexico City "to arrange for Dennis Banks to go to Cuba in hiding." Durham also testified that he knew of a meeting in Ottawa, Canada, with representatives of Red China and that—

> It was his understanding that George Roberts and John Trudell had attended it; and he said that he had heard the conversations had to do with some measure of technical and financial support from the Peoples Republic of China for AIM.

Among the supporting documents reproduced in the appendix to the hearing is a significant memorandum from AIM leader Jimmy Durham and his wife, Ann Gael Durham, who coordinate AIM activity with the various Cuban-oriented revolutionary groups in this country, particularly with the Weather Underground's Prairie Fire Organizing Committee and the Castroite Communist Puerto Rican Socialist Party. Jimmy and Ann Gael Durham operate AIM's International Indian Treaty Council offices at the United Nations. Ann Gael is a member of the National Interim Coordinating Committee of the Native American Solidarity Committee—NASC—a cooperative support effort of the Prairie Fire Organizing Committee and other Castroite groups.

Jimmy Durham is one of AIM's principal contacts with the Cuban Communist agents at the United Nations. His memorandum contains the following comments on the ideological nature of the American Indian Movement:

> So we have always defined our struggle not only as a struggle for land but also as a struggle to retain our cultural values. Those values are communistic values. Our societies were and are communistic societies. The U.S. government has always understood that very well. * * *
>
> Marx used our societies as examples of what he meant by communism on two different occasions in his writings. * * * We do not need Marx's words to teach us * * *.
>
> We do need Marxism-Leninism as a method and system for knowing the human world as it is today and for knowing how to most effectively fight our oppressor. We do need to join forces with world Marxism-Leninism, because that is the liberation movement for the world.

The AIM leader moved on to explain:

> We define a "traditional" Indian as one who maintains the whole body of his people's vision (political system), and that includes total resistance to colonization, * * *.

So our progressives are what look like to you our "conservatives." By that I mean that our "traditionals" are the people who are struggling to conserve and maintain our cultural ways and values as well as being leaders in our struggle against colonialism. The B.I.A. * * * in fact do[es] call them "conservatives;" but being our real leaders they are in actual fact our "progressives."

*   *   *   *   *

Since the 1840s, and especially recently, it is obviously a very "Indian" thing to use the best and most modern rifles available to us. One of our valued traditions is to use the best possible weapons to fight our oppressor.

Jimmy Durham's memorandum has particularly important comments and explanations of AIM "spiritualism" and the importance to its movement of militants like Leonard Crow Dog. According to AIM's U.N. representative:

Our "spiritualism" is a controversial issue right now. Marx said that religion is the opium of the people. We agree that for Europe and Asia religion is a drug that exploits people for the State. That is why we have fought Christianity so totally. But we say our religion is a force of liberation.

*   *   *   *   *

In reality, our "spiritual" values fit very well into Marxist-Leninist thought, and can enhance and further it, just as did the P.A.I.G.C. [the Marxist-Leninist terrorist movement which now rules the former Portuguese colony of Guinea-Bissau], Nkrumah, and the Cuban revolutionaries. What is called our spiritualism and our religion can serve as a liberation force not only for us but for other people in the world.

*   *   *   *   *

The concepts I am describing here are difficult to communicate because of the English language itself * * *. It may seem contradictory to some people that a writer who is defending Indian traditionalism is also denying the "spiritualism" of that traditionalism. Someone might object, "What about the ghost dance?" * * * Did people really believe Wovoka, the founder of the ghost dance, when he said that the dance would roll back the invaders and that the buffalo would return? Personally, I take his words as prophetic metaphor, or parable. I do know, however, that twenty years earlier many of those same people looked upon Tatanka Iotanka [Sitting Bull] as their spiritual leader. In the Battle of the Little Bighorn, Tatanka Iotanka, as a spiritual leader, went to a special place and did ceremonies for the good of his people. But the people themselves did not go sit under a tree and pray with Tatanka Iotanka; they went down and wiped out Custer's army. Nor did Tatanka Iotanka at any time say to them, "Let's all go away and pray." He admonished everyone to organize and fight as hard as they could. That is one of our "spiritual traditions."

A SHOWING OF TRUE SPIRIT

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. RICHMOND. Mr. Speaker, we often hear that New York City is a place where people live in tall buildings, never taking the time or making the effort to get to know one another.

Recently, an article written by Alan S. Oser appeared in the New York Times which clearly depicted the dedication and spirit of the tenants at the Willoughby Walk Apartments in Brooklyn. I seriously doubt that this showing of cohesiveness and hard work by these fine residents of Brooklyn could be duplicated anywhere.

I congratulate them and submit Mr. Oser's article so that my colleagues can share this achievement.

[From the New York Times, Sept. 17, 1976]

WILLOUGHBY WALK TENANTS GAIN IN UPHILL BROOKLYN FIGHT

(By Alan S. Oser)

It is too early for the tenants at Willoughby Walk apartments in the Clinton Hill section of Brooklyn to fling their hats into the air, but they have marched the longest part of the road toward a hard-won victory.

It was almost 10 years ago that Pratt Institute bought one building in this three-building middle-income complex for use as a student dormitory. Pratt also took an option on the two others from the Chicago-based owner.

Willoughby Walk was in economic straits at the time, but the racially integrated tenantry didn't know it. They knew only that the modern apartments in the 16-story buildings, which went up in the late 1950's with a 4½ percent mortgage insured by the Federal Government, were a good deal in a superior urban neighborhood.

Their agitation obstructed the sale to Pratt, and led ultimately to Government takeover of the mortgage by the Housing and Urban Development Administration. "The buildings were meant to house families, not for use by an educational institution," said Parker Jones, who led the tenants committee for seven years until last year.

What the tenants in the beginning didn't know was that the mortgage had accumulated arrears of more than $700,000. What they did know was that the property was in dire need of repairs—on caved-in sidewalks and a parking lot, improperly functioning elevators, on apartment appliances. With H.U.D. in command, the new management made repairs at a cost of $600,000, Mr. Jones said.

Amid all this, the tenants decided they wanted to buy the buildings themselves. Lengthy negotiations with the Government on a sales price began.

Those negotiations ended last year. The tenants could buy their two buildings—with 287 apartments in each—for $6.1 million, of which $122,000 would be in cash and $5,987,000 on a 40-year note repayable at 6.5 percent interest.

So it comes about that an offering statement has been issued and starting only last July the Willoughby Walk tenants, now organized as Willoughby Walk Cooperative Apartments Inc., have begun a campaign to sell the apartments as cooperatives. In terms of market prices for comparable apartments in this area, the apartments are bargains, the tenant leaders say. That is why outsiders are "knocking on our doors," Mr. Jones said.

But the agreement with H.U.D. requires that 75 percent of the apartments be sold to tenants in residence—and that within six months. The figure was a compromise. The Government agency at first insisted that 90 percent be tenants in residence.

One current problem is that H.U.D. wants the sale to be "as is," while the tenants feel the Government should continue to make repairs.

The tenants have until Jan. 30 to succeed in the sales campaign. So far, commitments have been received from about a quarter of the tenants, Mr. Jones said. Down payment requirements range from $800 for an efficiency apartment to $2,600 for a three-bedroom unit. The monthly carrying charges, ranging from $138 for an efficiency to $380 for a three-bedroom apartment, have been skewed so that the charge is lower than current rents in the smallest units but higher for the large units. Two-bedroom apartments, now renting at $230 to $240 a month, will have monthly charges of $288 to $314.

As the cooperative advocates see it, higher rents are inevitable if H.U.D. sells the property to another operator rather than the tenants. And tenant cohesion and morale have gained through the long years of struggle to "save our building" and have provided new ownership incentives.

"Willoughby Walk is different from other buildings," said Mr. Jones, a court stenographer who with his friends, helped over the years by officeholders at various governmental levels, is seeing a dream come true. "There's a neighborly setting. People know each other. We have a community fair with 2,000 to 3,000 people every year on the Pratt campus, and there's a choral group and various clubs.

"Through a crisis people got to know each other, and we've kept that cohesiveness."

THE 46TH ANNUAL WORLD TRAVEL CONGRESS

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. MURPHY of New York. Mr. Speaker, during the week of September 13 the 46th annual World Travel Congress was held in New Orleans, La. This highly successful forum initiated many lively discussions on the issues confronting the world travel industry. I am submitting for the RECORD the speech which was delivered by the incoming president of the American Society of Travel Agents, Jim Miller. I believe his remarks succinctly outline the objectives of the travel industry as well as the spirit in which they will be accomplished:

THE 46TH ANNUAL WORLD TRAVEL CONGRESS

Good morning fellow ASTA Members: Before I deliver my special message to each and everyone of you, let me first express a few thoughts which come very personally from me and Marianne.

I am just as proud as I can be to stand here today as your president. My wife and I are dedicated to the next two years of serving ASTA and serving you. I am proud too of our great convention which has been so professionally organized and run by so many competent individuals too numerous to name. I know we are all tremendously grateful for the wonderful New Orleans hospitality we all have received.

It is a tremendous challenge for me and, in fact, possibly anyone to follow the lead of so able an individual as Bob McMullen. His accomplishments are so wide and so varied that it would take an encyclopedia to record his record. One McMullen accomplishment in particular, however, stands out.

ASTA today has a greatly expanded identity—not just in our industry—not just in our country—but an identity throughout the world.

At our convention this year, we were recognized by two world leaders, President Ford and Prime Minister Trudeau. Next year I am confident, there will be many more. I am proud also of you, you have made the term ASTA travel agents synonymous with honesty, integrity and service. You should be proud too.

The title of my remarks today is: priorities, professionalism, progress.

This morning I would like to discuss the priorities rather than rework the issues—for I think if we have some agreement on the issues the priorities become less bothersome.

In my opinion one of the most important priorities is to further mold ASTA into the most efficient and effective vehicle possible to further the objectives of the society.

In my view ASTA's objectives fall into three categories:

First, to improve the economic and professional well-being of the travel agent members of the society,

Second, to shape industry and government issues in the direction best designed to benefit the travel agent and the travelling public and,

Third, to improve and enhance those services which are now being made available to ASTA members and to expand the scope and variety of those services.

Improving the efficiency and effectiveness of ASTA as an international trade association and the world's leading spokesman in the field of travel and tourism will require the cooperative efforts of all who are part of the ASTA organization.

The key elements of the ASTA organization to whom I look for the cooperation and commitment necessary to carry out our objectives in the years ahead are:

My fellow officers and the members of our board of directors, our chapter officials and our national committees, the professional employees of the society in our New York headquarters and in our soon to be established Washington office, our outside consultants, but most importantly, the more than 14,500 involved people who comprise all categories of our ASTA membership.

In order to continually assure the most efficient and effective commitment of ASTA's resources, we will need first and foremost the guidance and counsel of you, the members. With this guidance, my fellow officers, the board of directors and our professional staff and advisers will establish, assign and fulfill priorities and we pursue the many objectives which fall within the 3 categories I have mentioned.

Let me outline for you some of the priorities which I have assigned in my mind to each of those objectives:

Objective No. 1—improving and enhancing the economic and professional well-being of our travel agent members.

ASTA must pursue the efforts it has underway to bring about a restructuring of the method of compensating travel agents for the sale of both domestic and international air transportation and other travel services. To do this we must continue our active involvement in the CAB's investigation of the IATA commission setting machinery and fight to assure that the conference will no longer dictate compensation levels, but rather that this vital decision be placed in the hands of individual air carriers.

On the domestic scene we must press for the quick completion of commission study '76 so that the results of that study can be used by the domestic carriers on an individual basis to restructure their method of compensation to agents.

The successful completion of the pilot projects which will be undertaken shortly leading to the implementation of an automation system for travel agents is essential and will continue to receive my strong personal involvement and endorsement.

The implementation of the ATC travel agent commissioner office later this fall offers an excellent opportunity to assure that for the first time, travel agents receive due process in dealing with the domestic airlines. ASTA must play a major role in shaping the rules and regulations to be adopted by the commissioner to assure that that office functions as efficiently and fairly as possible.

ASTA must continue to press in the Congress, at the CAB and elsewhere to bring about the elimination of those unjust and discriminatory obstacles which lie between us as professional travel agents and wide segments of the traveling public who are denied our professional services. By this I mean assuring payment of commissions on all UATP sales, access to the purchaser of air transportation who happens to be a Government employee and the elimination of other residual prohibitions on the use of travel agents by all of our traveling public.

We must continue to fight unfair and illegal encroachment by financial institutions into our industry and finish off, once and for all the campaign begun more than 10 years ago by ASTA and our membership, when we fought and defeated entry by national banks into our industry.

We must enlarge our efforts in dealing with carriers directly and through carrier conferences to assure that all industry issues which impact on travel agents are under constant scrutiny and reexamination, and we must take the initiative to bring about those reforms necessary to assure that we can serve the traveling public as effectively as possible.

A second category of our objectives relates to the need of ASTA to expand its efforts to shape issues which have an impact on the travel agent and the traveling public.

I share the views of our friend Congressman JACK MURPHY of New York when he says that the single most important mission for ASTA in the months ahead is to justify the faith and trust which the traveling public places in us as impartial and objective professional counselors.

The only way we as travel agents can merit public confidence and support is to show day in and day out that we are truly travel professionals who are uniquely qualified to give the advice, counsel and assistance to our clients that they not only need and want, but deserve.

The road to improved professionalism continues to be a difficult and challenging one. It must be pursued by our continuing to seek the enactment of Federal legislation which gives the industry the widest possible input in development of the guidelines, rules and regulations. There must be designed to assure that all who claim travel agent status to the traveling public must have the necessary experience, training and financial stability to serve the public well. Additionally, and equally important, we must continue to expand our industry educational efforts to train travel agent personnel, from our newest employee to our most senior executives, with the newest and best techniques and programs in the fields of marketing, administration, sales promotion and business management.

The traveling public needs and deserves frequent thoughtful counsel from ASTA. As the voice of the travel agency industry we must address a wide range of issues dealing with such problems as:

Air fare simplification,
Improved tariff lead time,
Elimination of hotel overbooking,
Misleading advertising, and
The establishment of appropriate consumer protection rules and regulations at the Federal, State, and local level.

It is my intention to see that ASTA provides this kind of direction and counsel in a timely manner.

The third objective to which we must devote our energies concerns an improvement and expansion of our membership services. I am—and I know you are—proud of the many valuable membership services which the society currently provides. It is my view that we utilize our resources well and that the value of ASTA membership clearly outweighs the small sacrifices which we, as members, pay through our annual dues.

In that connection I would like to thank all of you personally, for the vote of confidence you gave me and the ASTA leadership by your substantial endorsement of the recent dues increase recommended by your board of directors.

ASTA as a membership organization exists to serve you, the members. Therefore, just as in the case of our involvement in industry issues, we should, and will look for guidance and direction from you with respect to membership services. It is my intention to seek your advice and views on those existing services which you find of particular benefit and value. I also intend to seek your advice on those additional membership services which you may wish us to provide during the months and years ahead.

The backbone of our membership services activity can be traced to the functionings of our chapters. Therefore, one of my prime objectives is to help the chapters strengthen and enhance their role in providing assistance to each ASTA member and to improve input channels to and from your board of directors and national headquarters on important issues.

It is also my objective to more fully involve on a day-to-day basis in the activities of ASTA those thousands of our allied members who have such an important stake in the success of ASTA's efforts. I hope to do this through convincing more of our allied members to commit funds and resources to support programs on a cooperative basis with ASTA and our active members as we pursue the goals which we have established.

I am delighted with the beginning example of this kind of cooperative effort—as announced by Bob in his annual meeting message earlier this week.

Likewise, I intend to work to establish a new feeling of mutual trust and confidence with both the trade and consumer press so that the ASTA story will be told fully and accurately. This does not mean that I want to avoid criticism from or controversy with the press, but rather that I want to assure that the substantial prestige and power of the press is not wasted on old disputes, and is better used to benefit the traveling public and our industry through greater involvement in our affairs.

I have outlined this morning in general terms my hopes and objectives for the two years that lie ahead. Although my program is an ambitious one, I am confident that it can be attained because I am inheriting from my predecessor Bob McMullen and those who have served before him as ASTA presidents a dynamic organization which has proved day in and day out for many years that the faith and trust which you the members have placed in ASTA has been justified.

It is my intention to build on the accomplishments which Bob and his predecessors have achieved, maintaining the momentum which we have created and utilizing as efficiently as possible those which you the members have placed at our disposal. It is through this building process that we shall assign and implement priorities, achieve increased professionalism and attain the progress which we seek.

This then is my commitment to you in this historic year of 1976.

A MILITARY UNION?

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

[From the Navy Times, Aug. 30, 1976]

A Military Union: Not Inevitable If * * *

(By James D. Hittle)

If some Congressional and Pentagon personnel attitudes don't change, there is going to be a military union.

Not because the serviceman thinks it is right, but because, almost in desperation, he doesn't see any other means of trying to protect what he sincerely believes is rightfully his.

This is my conclusion after returning from a recent trip to Europe and talking with military officers and enlisted men.

What I learned closely paralleled the experience of Robert W. Nolan, National Executive Secretary of the Fleet Reserve Association, who met with Naval personnel in the West Coast and Hawaii area several months ago, He was, he told me, surprised that senior petty officers expected there would be a union. What's more, many supported it as a means of defending their rights.

Practically all I discussed a union with saw the dangers it would create for military organization, discipline and operational efficiency. But there is a sincere belief that there is a relentless attack on what they have been promised and what is rightfully theirs in terms of benefits (more are properly calling them entitlements) and conditions of service. There is a double view of a union—against it professionally; for it personally out of sheer necessity.

There is no question about it. Those in Washington who are working so hard to change retirement, to cut back on the number of commissaries and the savings from them, to require rent instead of a standard loss of allowance for quarters and to cut health care for dependents are getting big results.

But they are not the kind of results the nation needs. The results are in terms of disappointment, bitterness, resentment, and departures from the service. Those in Washington who "explain" with technical arguments that there never really was a contract on 20-year retirement, and that there wasn't any legal promise of continued commissaries and medical care for active and retired dependents, should try those arguments out on some of the stalwart servicemen I have listened to. Such technical and legalistic explanations won't do.

The serviceman is smart enough to know what he was promised—by formal contract or not—and he doesn't like the rules to be changed while he's doing his duty according to the rules.

I had a long talk with a chief petty officer. Ho has 22 years of service. And he is going out. Why? His reply, "The way things are going, there aren't going to be any benefits left in another ten years." Exaggeration? Yes, but an accurate reflection of how he, and others, feel. He said that his wife "used to like the service. But not now. She's mad at the way they are trying to take away the commissaries."

He added, rather sadly, that although he opposed the idea of a military union, he had come to the conclusion that there wasn't any other answer to the problem.

In the southern NATO area, I had a long talk with a senior NCO. He is the kind who is an asset to any organization—mature thinking, a man of common sense, unflappable. He had about 24 years of service.

I asked him, "What is the biggest complaint of the serviceman these days?"

His answer: "Taking away what we were promised." Again, the legalistic argument that those things weren't legally promised wouldn't cut much ice with him. He knew what he had been led to believe when he came into the service 24 years ago. As far as he was concerned, he knew a promise when he heard one. The rows of ribbons on his chest were evidence he had kept his promises about serving his country.

Here was a thoughtful man. He knew what he was talking about. He knew what makes the U.S. fighting man tick. I wanted to hear more of his opinions.

What about the proposed civilian-type salary system for the military? His answer: "It won't make much difference to me because I'll be out by the time that happens. But it won't be a good thing. I'm afraid that it will mean that some people will be soldiering because of a salary and not because of the love of the military profession."

I asked him why he thought that there were so many proposed changes that would, as the serviceman sees them, reduce his entitlements and take away what had been promised. His reply was a thoughtful one, he put it in a way I hadn't run into before:

"The thing that's wrong," he said, "is that the people in Washington forget that they are there and that we are here. They leave their wife and kids in the morning, drive to work, and eight hours later most of them drive home, have a beer, sit down to dinner with the family and then watch TV.

"We are here. I work 12 to 18 hours a day. I haven't seen my family in almost three months, and it will be months before I see them again.

"This difference in where they (Washington officials) and we are is what makes the service so different. And when the difference is forgotten—as it is now—it explains why the things that we were promised are being taken away."

What did he think of 20-year retirement? His answer was as pointed as it was short: "It's a big reason I made a career of the service."

Is there a union ahead for the serviceman?

"As a military man," he said, "I hate to see it come. But I think it's coming because the serviceman needs the protection."

Aboard ship I stopped by the first class petty officers' compartment. I was asked to have a cup of coffee. There were two first class POs at the table with me when I started on the first cup of coffee. It turned out to be one of the most informative sessions I have ever had. Pretty soon we had 14 petty officers joining in the discussion. The conversation ranged over just about every aspect of service life. Here, I knew, was an example of the real voluntary service. Every one had voluntarily shipped over more than twice. Every one was highly trained, schooled, experienced and had, at least at one time, intended to make the service his career. I say "at one time" for a reason. Four out of the 14 said that they were not shipping over again.

I'd like to see how the so-called personnel management experts could get a computer to show how much of an unnecessary loss their departure would be to our Navy and national security. It can't be calculated.

Here are some of the observations I jotted down right after the discussion:

"No one cares or is looking after our benefits anymore."

"They wouldn't be cutting our commissaries if we had a union."

"We are just items on a computer."

"There's no one reason I'm not shipping over. It's a lot of little things."

Then I got a shocker. I asked them the question: "Aside from whether you think it should or should not happen, how many of you believe that, as things are now going, there will be a military union in five years or less?"

The tally? Thirteen-to-one that there would be a military union. And this was no group of new, inexperienced, one-enlistment-and-out men. These were tested and proven servicemen who had chosen to devote the best years of their lives to the protection of their country.

As a wind-up to the discussion I asked: "What's the solution to the problem?"

One of the first class POs came up with a quick answer: "Washington should stop picking our pockets."

One who has been listening and so far saying little offered this: "There is a solution to what's being done to the serviceman. All it would take to straighten things out is another war."

He simply stated the unfortunate facts of service life. When the shooting is going on, the fighting man isn't getting his pockets picked by those he is protecting. But when the shooting is over—it's only a little more than a year since Vietnam—it's different. Vastly different, as today's serviceman is finding out.

The U.S. serviceman isn't asking for a Christmas tree of new benefits. Basically, all he wants and believes he deserves is not to have those things he now has taken away from him.

The responsible commanders and officers are working hard to keep their personnel informed and to maintain high morale. Their efforts are being undermined by the virtually endless procession of proposals to cut out and chip away at the things the serviceman has been led to believe were promised him and his family.

The so-called military personnel economies being proposed may make their originators in Washington look good from the standpoint of theoretical savings. But such official attitudes will chase good people out of the service. In the long run, it will cost far more than it will save. And, in war, the cost could mean increased casualties, even disaster.

The mature, experienced petty officer and NCO doesn't like the idea of a military union. Yet reluctantly many, feeling they are abandoned by the civilian officialdom that should be looking after them, would accept one for the protection they feel they need.

If the result of all this is a military union, the ones who will be responsible for it are those whose proposals and efforts are, perhaps unintentionally, setting the stage for a military union, and the chain reaction of potential damage to our security that will result. The blame won't be the serviceman's.

Let's make no mistake about it—a union can be avoided. It is not inevitable. It will take civilian leadership in the Pentagon that understands the serviceman and fights for the fair shake he knows he deserves. It will take personnel *leadership,* not "management." It will take the realization that computers will never have a key that can be punched that will give the values of loyalty, devotion, faithful service and self-sacrifice that are the keystone of the character of the U.S. fighting man.

It means a stop to the faceless budget bureaucracy's constant quest for ways to take governmental savings out of the hides of the serviceman and his family.

It means, too, that some in Congress do the same. The serviceman shouldn't forget, though, that some of his most loyal friends are members of Congress and their staffs.

WHY A CIVIL LIBERTARIAN OPPOSES GUN CONTROL

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. DOWNEY of New York. Mr. Speaker, as Members of Congress, if we are going to concern ourselves with the problems facing our constituents, then we must be concerned about gun control. In reading the following article, by Mr. Don B. Kates, Jr., "Why a Civil Libertarian

Opposes Gun Control," I have found, although I distinctly disagree with the article, that he has made a number of worthwhile points that I believe will help this esteemed body as it continues to consider this most important matter. I would like to include this article in the RECORD for the benefit of my colleagues and constituents.

The article follows:

WHY A CIVIL LIBERTARIAN OPPOSES GUN CONTROL

(By Don B. Kates, Jr.)

I am frequently asked: how can a civil libertarian oppose gun control? My reply is: how can a civil libertarian trust the military and the police with a monopoly on arms and with the power to determine which civilians may have them? I consider self-defense a human right—and one that is particularly vital for women who choose to live without "male protectors" in an increasingly violent society. I also fear that enforcement of even a partial prohibition on handguns would take an immense toll in human liberty and bring about a sharp increase in repugnant police practices as well as hundreds of thousands of jail sentences.

If, as both British and American studies assure us, gun prohibition has no ascertainable effect upon violence, then it seems that its rationale is revulsion against the handgun as a symbol and antagonism toward the conservative but generally law-abiding people who value that symbol. Such a rationale, however, is no more acceptable than the conservative's argument against homosexuality: "I don't do it and I don't like people who do—so it ought to be illegal."

Advocacy of controversial political or social views frequently provokes violent antagonisms. Although they are usually unwilling or politically unable to overtly suppress these views, officials can covertly withdraw police protection, leaving the job to such groups as the Ku Klux Klan, the White Citizens Council, the Storm Troopers, the Cherry Society, and the Black Hand.

What might have happened to civil rights workers if there had been strict gun control in the South is exemplified in the 1969 machine-gunning of several hundred marchers by right-wing extremists in Mexico City. Both the possession of automatic weapons and the act of murder are as strictly forbidden by law in Mexico as they are in the U.S. Nevertheless, the police made no arrests—either on the scene or when the attackers later invaded hospitals to finish off the wounded.

Even assuming that gun prohibition would be enforced against right-wing extremists also, the effect is to render dissenters defenseless without meaningfully preventing lethal attacks upon them. A group of Klansmen or other neofascists will hesitate to attack some one they know to be armed or to fire-bomb his house; because they don't want their members to risk injury or death. Even though they may be unarmed, they will not hesitate to attack if they know that their intended victim is also unarmed and that the police will not defend him. No one had guns in the hostile mob which burned the headquarters of the Marxist W. E. B. DuBois Club in 1966 while New York City police looked on. But the DuBois Club member who had to pull a pistol on the mob in order to get out of the burning clubhouse was immediately arrested for gun possession. Needless to say, no members of the mobs were arrested.

During the civil rights turmoil in the South, Klan violence was bad enough; it might have been worse with gun control. It was only because black neighborhoods were full of people who had guns and could fight back that the Klan didn't shoot up civil rights meetings or terrorize blacks by shooting at random from cars.

Moreover, civil rights workers' access to firearms for self-defense often caused southern police to preserve the peace as they would not have done if only the Ku Kluxers had been armed. I remember how Klansmen broke up a series of marches in a Louisiana town with hideous violence and head-bashing while the police looked on in benevolent neutrality. The unarmed marchers' appeals to the governor for state police protection were in vain. After many weeks of heavy injuries to the marchers, a black man shot one of several Klansmen who attacked him with clubs. The state police arrived the next day, and there was no further violence.

Contrast an incident that occurred in Madrid on November 6, 1975. A meeting of opposition reform parties was broken up and its participants severely beaten by right-wing gunmen. The victims could offer no resistance, since Spanish law strictly forbids civilian possession of handguns (except by right-wing thugs with permits). Falangist policy follows the gun laws of Nazi Germany and fascist Italy, under which Jews and political opponents were disarmed and left helpless against mob violence in the early 1930s. As Hermann Göring said in 1933, "Certainly I shall use the police—and most ruthlessly—whenever the German people are hurt; but I refuse the notion that the police are protective troops for Jewish stores. The police protect whoever comes into Germany legitimately, but not Jewish usurers."

Not only political and racial minorities but also women would be handicapped by gun restrictions. Throughout history women's status has been fixed, and their self-determination curtailed, by male authority figures to whom they had to look for protection. Today, as women increasingly choose lifestyles independent of male protection, their ability to protect themselves in a violent society becomes more important. Obviously, in most situations it is futile and perhaps dangerous for a woman to resist a male attacker. Armed defense is even more dangerous, since a rapist will invariably get a gun away from a women and use it on her—or so most movie and television scripts tell us. It seems that a woman who doesn't have a male to protect her had better just "lie back and enjoy it" and hope her attacker doesn't intend to murder or mutilate her afterward.

Men—even police chiefs—who voice such opinions, however, are usually surprisingly short on specific examples. I have researched the subject in detail and have found no case in which a rapist was able to disarm his victim. Those who are familiar with the martial arts know how extraordinarily dangerous it is to attempt to disarm anyone—even an untrained person. Police training emphasizes that this maneuver should be avoided, unless the alternative is immediate death.

If women defend themselves with firearms less frequently than they could, it is only because they have been brainwashed by the steady stream of propaganda generated by males. The Eisenhower Commission Firearms Task Force Report, for example, contemptuously dismisses women in a single sentence: They are "less knowledgeable than men about guns and generally are less capable of self-defense." (To make certain they stay that way, the commission recommends banning handguns.) Having trained women to handle guns and having studied police training for women, I know that they are at least as capable of combat shooting as are men. In a mechanical age which has largely rendered irrelevant male-female differences in strength, the concept that women are incapable of using firearms is an anachronism. I have investigated over 150 cases in which women rejected this notion. It is noteworthy that in 80% of the cases studied, women chose to defend themselves with handguns. Such weapons are infinitely preferable to long guns because they are more portable and maneuverable and far less lethal.

Gun prohibitionists deny the value of civilian possession of firearms in combating crime. They cite the Eisenhower Commission's conclusion that "the gun is rarely an effective means of protecting the home against either the burglar or the robber: the former avoids confrontation, the latter confronts too swiftly." But the report, unlike many people who cite it, makes clear that this conclusion applies only to householders, and specifically to those householders who do not have firearms immediately at hand because a criminal attack is completely unexpected. Robbers do not "confront too swiftly" for armed storekeepers, who, the report admits, foil appreciable numbers of them each year. And, although it offers no figures on the success rate of citizens who carry arms for self-defense, the report admits that this practice (which it deplores) does allow for some resistance to street crime.

Like much gun control propaganda, the report does not discuss the utility of guns in defending householders against political or other criminal attacks which they have reason to expect. But among over one hundred people murdered by Ku Kluxers in the 1950–65 era, I can recall only one who was armed. While his gun did not prevent that civil rights worker's death, it did lay down covering fire which allowed his wife and children to escape the Klansmen who surrounded their burning house. The shots also disabled a Klan car through which the FBI was able to trace, catch, and convict the murderers.

The Eisenhower Commission report admits that there are no comprehensive statistics on the number of lives saved by armed citizens. Its negative conclusion on the ability of armed householders to defend themselves is based on a limited study, conducted in only two cities and over two short periods of time, of the number of criminals killed by armed householders. My own study, which is national in scope and covers hundreds of incidents, shows that householders and others against whom crimes are attempted injure far more criminals than they kill, and capture without shooting far more criminals than they wound. Moreover, at least half of the incidents I studied were not cases of self-defense but of householders coming to the aid of their neighbors—an issue which the Eisenhower Commission report ignores.

Far more importantly, the vast majority of such instances are never reported to the police—because the near victim cannot provide an adequate description of the criminal and/or because the citizen possessed or carried his gun illegally.

One rough indication of the frequency of such incidents is the fact that hundreds of thousands of felony arrests are made each year by off-duty police. A trained officer doubtlessly is more capable of pursuing and arresting a robber or a rapist than is an ordinary person who is armed. But an off-duty officer is no more likely to encounter such a situation. Perhaps a better indicator is the apparent success of civilian firearms defense training. In 1968, after Orlando, Florida conducted a highly publicized shooting course for over 6,000 women, it became the only city with a population over 100,000 which showed a decrease in crime. Rape, aggravated assault, and burglary were reduced by 90%, 25%, and 24% respectively. After a similarly publicized program for retail merchants in Highland Park, Michigan, armed robberies dropped from a total of 80 in a four-month period to zero in the succeeding four months. In Detroit, after grocers received firearms training and shot seven robbers, the number of armed robberies dropped by almost 90%.

The Eisenhower Commission's view that crime will cease when its victims are deprived of the means of self-defense reflects the commission's privileged white intellectual membership and their elitist disregard for those who cannot afford to move to "safe" neighborhoods or the high-security apartment buildings. This constitutes the easy pacifism of those who may never need a gun for self-defense because they can obtain armed security services or special police protection whenever they need it.

A very different view is taken by underprivileged and/or minority people who lack the wealth to flee the areas in which the police have given up on crime control. They know that the only real protection they have is that which they provide themselves. Studies and surveys have repeatedly established that blacks are the most frequent victims of crime, are most afraid of crime, and are most likely to keep and carry guns for self-defense regardless of the law. Indeed, the only indepth study of the question concludes that even the high rate of firearms prosecution against blacks will not stop them from carrying guns for self-defense so long as ghetto areas continue to be plagued by violence.

Selectively misleading American statistics and the misrepresentations of British experience have led many people in this country to believe that banning handguns would reduce violence. Guns make an easy scapegoat for problems which would otherwise be insoluble short of radically reshaping the mores and institutions. Criminological studies both in the U.S. and in England overwhelmingly demonstrate that peaceful societies do not need handgun prohibition and violent societies will not benefit from it.

Handguns were banned in England in 1920. The only indepth study of that prohibition, conducted at Cambridge University in 1970, concluded that it has had no ascertainable effect on violence. The prohibition was obeyed only because England was so peaceable in the 1920s that firearms were not necessary for self-defense. The Cambridge study reports that Britain has remained peaceful despite the fact "that 50 years of very strict controls on pistols has left a vast pool of illegal weapons." The study notes that although New York City's firearms controls are more stringent than England's, New York has far more violence. On the other hand, Switzerland's firearms violence rate is negligible even though it has the world's highest rate of gun possession among civilians.

A 1975 study at the Universiy of Wisconsin concluded that "gun control laws have no individual or collective effect in reducing the rate of violent crime." This study involved a computerized comparison between each state's gun control laws and its crime data.

Gun control propagandists have evaded the same conclusions of many previous studies by arguing that violence persists only because existing state prohibitions just have not been able to get rid of enough pistols. To test this theory, the Wisconsin study examined handgun ownership statistics and found no correlation between high civilian pistol ownership and violence.

Without the societal changes necessary to diminish violence, an effective handgun ban would drive people to the far more lethal long guns for self-defense or for criminal purposes. Those who wish to carry their weapons could, working for a few minutes with a hacksaw, reduce long guns to handgun size. Thus a handgun ban would make the shootings in our violent society as deadly as they are in England without reducing their incidence.

However, millions of Americans feel that they have the constitutional right to own guns or that guns are necessary for their personal security. The sign frequently displayed in their homes and stores. "They'll get my gun when they pry it from my cold, dead fingers," undoubtedly exaggerates the degree of their resistance to gun prohibition. But experience with the far more enforceable prohibitions on liquor and marijuana indicates that millions of people would be alienated by what they deem a tyrannical law, and that those who believe they can get away with it will disobey the law. British police, unhampered by the Fourth Amendment, have nevertheless been unable to stem illegal arms traffic—even with the special search and other powers which successive gun prohibition bills have given them. The British army has been unable to enforce gun laws in Northern Ireland, even with mass street searches and random raids in homes.

In this country, even partial enforcement of a handgun prohibition would result in large numbers of snoopers and informers, "stop and frisk" laws, "no knock" searches, and other repugnant police practices. The result of such invasions of privacy would probably be the jailing of hundreds of thousands of otherwise law-abiding citizens who would react to gun prohibition with the same self-righteous spirit against tyranny that greeted liquor and marijuana prohibitions. In a free society, those who would restrict the people bear the burden of proving probable benefit. The proof would not need to be great in order to ban that which few people value deeply. But mere speculation—against the weight of the evidence—cannot justify banning that which is valued as deeply as some 40 million Americans value their handguns.

Such a ban is not desirable in itself. It would be virtually unenforceable, and would not be worth the enormous costs in civil liberties of even partial enforcement. As the Wisconsin study concludes: "If the law cannot control such highly visible criminal activity as drug traffic, gambling, and prostitution, with their continuing sales of commodities and services to the general public, then it seems unlikely that it could control the one-time sale of an item that can last for generations. The basic question is, then, are we willing to make sociological and economic investments of such a tremendous nature in a social experiment for which there is no empirical support?"

ENERGY AND JOBS INSEPARABLE

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. RHODES. Mr. Speaker, energy and jobs in America are inseparable. I believe this Congress has the responsibility to promote development of the energy we will need down the road to keep our economy growing and provide employment for an expanding work force.

H.R. 12112 would move us a step in that direction. It would partially underwrite the costs of commercial research projects designed to develop new energy technologies. Four committees have acted on this bill, and their consensus is that this legislation in its present form is practical and needed. At the very least we should adopt this rule to allow the full House an opportunity to consider this important issue.

Development of new energy technology is an expensive process. This bill would provide guarantees for loans up to 75 percent of the needed private investment in new energy technology projects. It includes specific direction for participation by State and local governments. It safeguards the rights of government in regard to patentable discoveries made during the program.

We are going to need synthetic fuels in the future. The only way we can develop the technology is through operating plants, that is where the answers lie. We all know that oil and gas are finite resources. One day our supply will run out. This Congress should have the vision to enact this legislation, a firm step toward the technological breakthroughs needed to develop alternative synthetic fuel sources.

H.R. 12112 is a good bill, and I urge my colleagues to support it, and send our energy program on the path to self-sufficiency. A vote for the rule will enable us to consider this bill and to promote our effort to improve our energy future.

REVOLUTIONARIES IN THE PROFESSIONS; SCIENTISTS AND ENGINEERS FOR SOCIAL AND POLITICAL ACTION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. McDONALD. Mr. Speaker, little attention has been given to the various New Left groups organized in the professions and the threat they pose to our internal security. Many of these groups were formed during the anti-Vietnam agitation of the late 1960's and early 1970's. A number of groups have since dissolved, but several have regrouped and reorganized. Among these is Scientists and Engineers for Social and Political Action—SESPA—sometimes called Science for the People—SftP—after its magazine.

SESPA originated as a result of disruptive actions opposing U.S. involvement in Southeast Asia by a group of radical scientific workers and students organized by the People's Science Collective of the New University Conference—NUC—at the 1969 meeting of the American Association for the Advancement of Science—AAAS—in Boston. SESPA's opposition escalated from vocal and disruptive opposition to the contributions of U.S. science and technology to the war against the North Vietnamese and their Vietcong to providing active logistical support, such as collecting scientific equipment and technical materials, for the Vietnamese Communists.

This past February, AAAS returned to Boston: so did SESPA, but not this time to protest, but to arrange and participate in several sessions on the regular AAAS program. As reported by Science—March 1976:

> From the SESPA angle what has changed is tactics, not the basic viewpoint of the organization. * * * the AAAS program had changed, with more sessions on issues which permitted the kinds of discussion SESPA was interested in * * *. SESPA has certainly not become a mass movement, but it has exceeded the half-life of many of the radical political organizations born in the 1960's, and

appears to have made the transition into the world of the 1970's and beyond.

SESPA and its bimonthly magazine, Science for the People, operate from 16 Union Square, Somerville, Mass. 02143—617-766-1058. SESPA characterizes itself as an opened-ended group which attracts and accepts as members scientific workers and students from any radical political organization. In addition to its open membership, SESPA activists report a number of supporters in government and industry who "through a variety of circumstances are not in a position to be active, but like to maintain contact."

SESPA/SftP defines itself in the following terms:

> Science for the People [SESPA] is an organization of people involved or interested in science and technology related issues, whose activities are directed at 1) exposing the class control of science and technology, 2) organizing campaigns which criticize, challenge and propose alternatives to the use of science and technology, and, 3) developing a political strategy by which people in the technical strata can ally with other progressive forces in society.
>
> SftP opposes the ideologies of sexism, racism, elitism, and their practice, and holds an anti-imperialist world view.
>
> SESPA/SftP states that membership "is defined as subscribing to SftP and/or actively participating in local SftP activities."
>
> SESPA's current membership can be related to its stated circulation figures of "about 1,500" paid subscribers and a total circulation of "about 4,000."

Among those involved in producing the Science for the People publication are magazine coordinator Fred Gordon, and:

Production: Eric Entemann, Brian Errante, Ross Feldberg, Monica Veneziano, Bert Walter.

Editorial: Barbara Beckwith, Frank Bove, Dave Culver, Bob Park, Scott Schneider, Joe Shapiro, Mary Terrall, Betsy Walker.

Distribution: Peter Ward.

Contributors to the July 1976, issue included Rita Arditti, Jon Beckwith, Samuel Epstein, Sally Hacker, Nancy Henley, Marian Lowe, Larry Miller, Herb Schreier and Paolo Strigini.

Many SESPA members are oriented toward Maoist communism. Currently Jean Kollantai of the Boston China Study Group, 98 Ellery Street, No. 3, Cambridge, Mass., 02138, is organizing a second Science for the People trip to the Peoples Republic of China.

In the past, SESPA has served as a formation point for other associations of the scientific left such as Psychologists for Social Action—PSA—Anthropologists for Radical Political Action—ARPA—the Union for Radical Political Economists—URPE—and Computer People for Peace—CPP.

In light of SESPA's previous science for Vietnam project which aimed at providing the North Vietnamese with scientific equipment, technical information about U.S. weapons and their effects, some of which may have been classified, and in light of its exposé research of U.S. corporations with government and defense contracts, SESPA's continued interest in the Red Chinese is considered noteworthy.

SESPA's current list of chapter and international contacts follows:

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NEW JERSEY CITIZENS APPEAL FOR AID TO THE INNOCENT VICTIMS OF THE CIVIL STRIFE IN LEBANON

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. ROE. Mr. Speaker, as internal rebellion among its people not only fractures the constitution and laws of the Lebanese nation but threatens its independence and territorial integrity, the civil war that has ravaged the Moslem-Christian nation of Lebanon continues to take its tragic toll of innocent victims within its borders.

In my congressional district, State of New Jersey, the clergy and laity have joined together in a noble humane and compassionate endeavor to raise funds to provide assistance to the wounded, displaced, and suffering people of Lebanon. I would like to commend to you the following outstanding citizens and community leaders who have unselfishly dedicated their time and efforts to aid the innocent victims of the tragic civil conflict that has been raging in Lebanon:

AD HOC HUMANITARIAN COMMITTEE FOR AID TO THE WAR VICTIMS OF LEBANON

The Honorable Rev. Elias Boustany, Sacred Heart Armenian Rite Church of Paterson.

Rev. Econ. Michael G. Simon, St. George Antiochian Orthodox, Christian Church of Little Falls.

Rev. Albert Gorayeb, St. Ann's Melkite Church of West Paterson.

Ann Shaker, Lillian Martorana, John Obeji, Victor Kattak.

Dr. Phillip Kayal, Director, New Jersey Arab Cultural Institute.

Regina Sioffi, Alice Vitale, Alex Fadil, Somaya Fadil, Alex Haddad, Jean Haddad, Joseph Kalyoussef.

With special commendation to the Honorable William Kattak, Passaic County Clerk (whose energetic and dynamic statesmanship has been most helpful as an ambassador of goodwill in the interest of this most distinguished citizens committee)

Mr. Speaker, the quality of leadership and sincerity of purpose extended by the members of this humanitarian committee is an inspiration to all of us. Lebanon has been a longtime friend of the United States, and has consistently attempted to maintain a noncombatant position in the Middle East. The civil strife within its borders not only constitutes a tragedy in domestic terms, but also a threat to the peace and stability of the entire region.

In support of these efforts of our people, I have vigorously supported and sponsored legislation to assist in the relief and rehabilitation of the victims of the armed strife which has caused so much damage to the essential fabric of life in Lebanon over the past 17 months. With your permission I would like to insert at this point in our historical journal of Congress a copy of my bill House Resolution 1264 which I joined with some of our colleagues in introducing on June 8, 1976, to seek to achieve a workable and lasting cease-fire, to separate the warring factions, and such other United Nations action as may be appropriate. House Resolution 1264 on this most critical situation is as follows:

H. RES. 1264

Whereas Lebanon has been a longtime friend of the United States; and

Whereas Lebanon is a peaceful country which has consistently attempted to maintain a noncombatant position in the current Middle East situation; and

Whereas the current disorder constitutes a tragedy in domestic terms and a threat to the peace and stability of the region and the world; and

Whereas the current disorder has taken so many lives and caused so much physical and psychological damage to Lebanon: Now, therefore, be it.

Resolved, That it is the sense of the House that the Government and people of the United States welcome the election of a new President by the Assembly of Lebanon and anticipate an end to the civil strife in Lebanon which has taken so many lives and caused so much physical and psychological damage to a democratic, pluralistic society which has traditionaly maintained close, cordial, and cooperative relations with the United States; and be it further

Resolved, That the Congress welcomes the President's requests for appropriate funds to assist in the relief and rehabilitation of victims of the armed strife which has caused so much damage to the essential fabric of life in Lebanon over the past year; and be it further

Resolved, That the Congress urges the President to declare the willingness of the United States to participate in multilateral assistance programs to help in the reconstruction of the badly damaged national infrastructure of Lebanon for the purpose of speeding a return to normal economic conditions of prosperity there; and be it further

Resolved, That the Congress urges the President immediately to request the Secretary General of the United Nations to renew his appeal for a ceasefire in Lebanon to use his good office for that purpose and to call for such other United Nations action as may be appropriate.

The Clerk of the House is directed to transmit a copy of this resolution of the President of the United States and to the Secretary of State.

Mr. Speaker, I recently learned that the U.S.S. *Sanctuary*, America's last active duty hospital ship, was languishing in Philadelphia preparatory to its being deactivated and placed in mothballs. At the same time I learned that doctors in Pennsylvania had volunteered to man this ship of mercy in a mission to Lebanon.

In view of the outstanding on-the-spot medical assistance afforded by this joint communion of effort that was projected to be of immediate assistance to the war-stricken families in Lebanon and to future mercy missions throughout the world, I joined with some of our colleagues in seeking congressional action to alleviate the suffering of the Lebanese people by reactivating the U.S. hospital ship U.S.S. *Sanctuary*.

Mr. Speaker, I would like to reiterate the statement I submitted to the House on Thursday, September 16, on this most important matter, as follows:

CONGRESSIONAL ACTION TO ALLEVIATE SUFFERING OF LEBANESE PEOPLE BY REACTIVATING HOSPITAL SHIP U.S.S. "SANCTUARY"

Mr. ROE. Mr. Speaker, I wish to call to your immediate attention and to that of my colleagues, a situation which compels our paramount and humane concern—the recent civil strife in Lebanon. So often we, as a body and as individuals, are relegated by law or circumstance to the bystander's bleacher as world events play before us. Rarely can we assign ourselves, legitimately and rightly, the role of the sympathetic catalyst and in some way lessen the sufferings of a people caught up in a devastating struggle which scatters its impact among countless innocent victims. We have such an opportunity before us in Lebanon through House Resolution 1515.

Literally, the vehicle for this assistance is the U.S. last active hospital ship which is in the first stage of deactivation in Philadelphia. This ship, the U.S.S. *Sanctuary*, is ideally suited to serving the emergency medical needs resultant from the raging civil war in Lebanon. More than 40,000 people have been killed and thousands wounded in that country since April 1975. Doctors in Pennsylvania have already generously volunteered to serve with this vessel in its mission to Lebanon. What is needed beyond this admirable commitment, of course, is an appropriation of up to $10 million to recondition, activate, and operate the ship. The resolution I have cosponsored with Congressman Koch of New York expresses the sense of the House of Representatives that the necessary funds be appropriated.

Mr. Speaker, I wish to emphasize not only the immediate short-term need for this type of vessel but the long-term applicability of the U.S.S. *Sanctuary* in the broader spectrum of U.S. ongoing humanitarian assistance efforts worldwide. It is regrettable, but a fact of life, that the need for on-the-spot medical aid will continue regardless of whether it is generated by civil conflict or natural disaster. It strikes me as not only decent but wise to utilize such a suitable resource for such deserving humanitarian purposes.

Mr. Speaker, you will note in House Resolution 1515 that the Congress, in expressing its support for the $10 million appropriation, would also be affirming an explicit commitment to keep the *Sanctuary* as a permanent active duty hospital ship to provide emergency assistance as the necessity arises. I fully support this intent. I enthusiastically and compassionately urge you and my colleagues here in the House to join with me and quickly approve this resolution. There are services to be rendered and expectations to be met if the United States is to maintain its leadership in the abatement of human suffering and anguish. Let us put the U.S.S. *Sanctuary* back to sea and provide a visible expression of intent and concern on the part of the United States to Lebanon and the world. Our business is truly people and, at times, rightly surmounts geographic and political limitations. This is such a time and the U.S.S. *Sanctuary* is surely one major effort to minimize the plight of those who suffer and to affirm our commitment to international human dignity.

"H. RES. 1515

"Whereas the United States is about to deactivate its last active duty hospital ship; and

"Whereas more than forty thousand people have been killed and many thousands wounded in Lebanon since April 1975; and

"Whereas doctors in Pennsylvania have volunteered to man this vessel in its mission to Lebanon; and

"Whereas there is always a need for similar emergency medical assistance abroad: Now, therefore, be it

"Resolved, That it is the sense of the House that there should be appropriated $10,000,000 to recondition, activate, and operate the United States ship Sanctuary as a permanent active duty hospital ship to provide immediate assistance to the wounded in Lebanon and to other areas of the world that will need similar emergency medical assistance."

Mr. Speaker, I appreciate the opportunity to address the Congress on the severity of the situation in Lebanon and seek national recognition of the good deeds of the people of our State of New Jersey who share our deep concern for the innocent victims of the crisis in Lebanon. We do indeed salute the ad hoc humanitarian committee for aid to the war victims of Lebanon and assure them of our Nation's resolve in dedication to their just and noble cause.

MISSILES FOR SAUDI ARABIA

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. ROSENTHAL. Mr. Speaker, House Concurrent Resolution 739 was introduced to disapprove the sale of 650 Maverick TV-guided, rocket-powered, air-to-ground missiles to Saudi Arabia because they constitute the most dangerous, destabilizing, offensive weapons sale to date to the Saudis.

This sale also is symbolic of the problems inherent in our arms sales policy, if indeed such a policy exists.

First. It violates an understanding between the House International Relations Committee and the administration calling for 20 days' prior notification before sending the formal notification. We had no more than a few days notice on this sale, and at the busiest possible time of year.

Second. The original administration notice was for 1,500 Mavericks. A number of us protested and when formal notification came a few days later it was for 650, and we were led to believe that was a reduction to meet our objections. In reality, the administration had no intention of reducing the Maverick sale, only splitting it into two smaller installments to defuse congressional criticism.

Assistant Secretary of State Atherton admitted as much on September 8 when he told the Advisory Council of the American Jewish Congress that the original number of missiles was reduced with the understanding that the remainder of the order would eventually be filled. Testimony by administration witnesses before the International Political and Military Affairs Subcommittee last week confirmed the split-sale plan. Thus, the real figure for Mavericks is not 650 but nearly four times that number, 2,500. That is because the administration in February of this year sent notification for 1,024 Mavericks and is now planning to sell 1,500 more in two installments.

Third. The motivation for this sale is questionable. Why are the Saudis the only ones in the world buying the F–5 with Maverick capability? Why are we selling them an essentially offensive weapon of the highest sophistication and accuracy?

Fourth. The original Saudi request was for only 1,000 Mavericks plus 5,000 laser guided bombs, LGB. The administration, according to its testimony before the subcommittee last week, persuaded the Saudis that they would be better off with only 1,000 LGB's—we have not gotten notification on that order yet, so it still could be 5,000—and 2,500 Mavericks, 2½ times the amount they originally requested. Behind this shift appears to lie the U.S. Air Force's desire to clean out its inventory of old model Mavericks.

We are selling the A model of the Maverick, which cost us under $20,000 apiece, to the Saudis for B model prices, about $46,000 apiece, apparently in order to develop and procure the C model. This type of back-door financing avoids the congressional authorization process and provides the Pentagon with an additional source of revenue. It amounts to an incentive to unload unwanted or unneeded equipment on a country that may not need it but has money to burn.

Fifth. This sale is a threat to the balance of power in the Persian Gulf and Middle East, and it threatens the peace and stability of the entire region. An offensive missile like the Maverick in such enormous numbers is dangerous. The administration testified last week that the Saudis are buying 90 F–5 E's and F's capable of carrying the Maverick—that is more than 27 of these television-guided, rocket-powered, air-to-ground missiles per airplane.

Sixth. These weapons can be transferred to the front line Arab states in any future war with Israel. Jordan already has its own F–5 force and its pilots would have no trouble taking over the Saudis' planes and they would need little training to handle the Mavericks. Moreover, Egypt's highly trained air force also could easily take over these planes, which were designed for easy operation and maintenance by Third-World customers. In fact, Mr. Speaker, intelligence sources report Egyptian pilots already have been getting "orientation" or, if you will, "training" flights on Saudi F–5's.

The danger of transfer of these weapons is very real. In the 1973 war, Saudi Arabia was not a confrontation state because it had not yet acquired the military machine it has today. Nevertheless, it did send troops into battle, because at least a dozen of them and their U.S. equipment were captured by the Israelis. Two brigades of 3,000 men each to this day are still stationed in Jordan and Syria. More importantly, the Saudis transferred a squadron of Bell 205 Iroquois helicopters to Egypt during the war, according to intelligence sources. That was in violation of the transfer clause in their purchase agreement with the United States, but this government did nothing about it. That was before the Saudis became our principal source of oil and our No. 1 arms customer. In light of those facts, how can we expect any further violations of the transfer clause to be enforced?

Seventh. Saudi Arabia is the pocketbook and arsenal of the Arab world. It is financing the Hawk missile system for Jordan, C–130 and other weapons sales for Egypt, and even helping Syria arm herself. Saudi Arabia also has been on an arms buying spree since the 1973 oil embargo.

In fact, this year alone, in fiscal 1976, the administration has sent the Congress notifications of intention to sell the Saudis $6.1 billion in arms, training, and services. Add to this a $1.4 billion commercial sale of Hawk missiles this summer and the figure soars to over $7.5 billion in a single year, nearly double all Saudi purchases for the entire previous quarter century. Mr. Speaker, a detailed breakdown follows:

The following is a list of U.S.-planned military sales to Saudi Arabia for 1976 based on formal notifications sent to Congress.

The figures are conservative because the Administration was not required to report to Congress government-to-government sales smaller than $25 million prior to June 30, 1976, and smaller than $7 million following that date. In addition, there was no requirement for reporting commercial sales prior to June 30, and there is now a $25 million floor on reporting such transactions.

U.S. military sales to Saudi Arabia—1976

A. PRIOR TO SEPTEMRER 1

[In millions]

150 M60 tanks	$118.0
1,000 plus armored personnel carriers	124.0
Vulcan antiaircraft cannon	41.0
1,000 Maverick missiles	47.0
4,000 Dragon antitank missiles	26.0
A1 Batain cantoment	1,450.0
F–5 program expansion	1,500.0
Naval facilities	594.0
Ports	300.0
National Guard Headquarters	158.0
RSAF uniform	52.6
Ammunition	26.5
Pilot training	26.0
Ships-design	185.6
Trucks	25.3
Patrol gunboats-design	276.2
SA Army ordnance management assistance	223.2
Cement plant	235.0
Total	5,408.5
Hardware	869.6
Construction, training	4,538.9

B. NOTIFICATIONS DATED SEPTEMRER 1

Missiles	25.0
Naval training center equipment	130.0
Missiles	30.0
RSAF headquarters construction	160.0
Family housing construction at air base	88.0
Armored personnel carriers	10.0
Aircraft	23.3
Guns	12.4
Missiles/launcher	7.9
National Guard modernization, training	215.0
Total	701.6
Hardware	238.6
Construction, training	463.0
1976 total to date, government to government	6,110.1
1976 commercial sale of Hawk missiles	1,400.0
Total 1976	7,510.1
1950–75 total	4,612.0
1950–76 total	12,122.1

This $30 million sale of Mavericks is a drop in the Saudi bucket and our disapproval is unlikely to endanger our arms sale or oil supply relationship.

Mr. Speaker, I am not opposed to all military sales to Saudi Arabia or other Arab States, even those confrontation states like Jordan. I recognize the necessity for the United States to seek influence on both sides and to help friends meet their legitimate defense needs. This sale of Maverick missiles is only one element of a 10-part package of arms, training, and construction. I have raised objection only to those items which I feel pose a definite threat to peace, although it is arguable that several of the other items also are threatening, but to a lesser extent.

The Maverick missiles stand out as the most volatile part of the package, and perhaps the most inflammatory weapon in the entire $7.5 billion list of 1976 orders and purchases.

Mr. Speaker, Saudi Arabia already possesses or has on order more Mavericks—as well as Sidewinder and Tow missiles—than it will ever need against any likely enemy. A surplus of such lethal weapons only encourages their use.

A sale of this nature will only escalate the threat to Israel and cause that country to seek additional assistance to counter the threat.

TASK FORCE ON REAL PROPERTY TAXATION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. GILMAN. Mr. Speaker, on Friday, September 23, 1976, I introduced legislation establishing a Task Force on the Taxation of Real Property by State and Local Governments, together with an explanation of the measure that appears on pages 32276–77 of the CONGRESSIONAL RECORD. Today, I am inserting, at this point in the RECORD, the full text of this bill for my colleagues' consideration, comment, and support:

H.R. 15694

A bill to establish a Task Force to study and evaluate the taxation of real property by State and local governments, the effects of such taxation on certain taxpayers, and the feasibility of Federal taxation and other policies designed to reduce the dependence of State and local governments on such taxation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TASK FORCE ON THE TAXATION OF REAL PROPERTY BY STATE AND LOCAL GOVERNMENTS

SECTION 1. (a) There is established a Task Force on the Taxation of Real Property by State and Local Governments (hereinafter in this Act referred to as the "Task Force") which shall consist of 24 members who shall be appointed in accordance with this section.

(b) (1) The President shall appoint as members of the Task Force four individuals who are officials of the executive branch of the Federal Government.

(2) The majority leader of the Senate, after consultation with the minority leader of the Senate, shall appoint four Senators as members of the Task Force. No more than two of such four Senators shall be affiliated with the same political party.

(3) The Speaker of the House of Representatives, after consultation with the minority leader of the House of Representatives, shall appoint four Representatives as members of the Task Force. No more than two of such four Representatives shall be affiliated with the same political party.

(c) (1) The President, the majority leader of the Senate, and the Speaker of the House of Representatives, after consultation among themselves, shall each appoint as members of the Task Force four individuals not officers or employees of the United States who, because of their knowledge, expertise, diversity of experience, and distinguished service in their professions, are particularly qualified for service on the Task Force.

(2) In making appointments under this subsection, the President, majority leader of the Senate, and the Speaker of the House of Representatives shall take care that the following interested parties are adequately represented by the members so appointed:

(A) State and local governments.

(B) Members of the academic community concerned with the taxation of real property.

(C) Citizens groups and associations concerned with the taxation of real property.

(3) Appointments shall be made pursuant to this subsection without regard to political affiliation.

(d) The members of the Task Force—

(1) shall be appointed within 90 days after the date of enactment of this Act; and

(2) shall be appointed for the life of the Task Force.

(e) One of the individuals appointed to the Task Force by the President shall be designated by the President as Chairperson of the Task Force. Such individual shall serve as Chairperson for the life of the Task Force.

(f) A vacancy on the Task Force shall be filled in the manner in which the original appointment was made.

(g) Thirteen members of the Task Force shall constitute a quorum, but a lesser number may hold hearings.

(h) The Task Force shall meet at the call of the Chairperson or whenever 13 members present a petition to the Chairperson asking for a meeting of the Task Force.

DUTIES OF THE TASK FORCE

SEC. 2. (a) The Task Force shall study and evaluate—

(1) the taxation of real property by State and local governments;

(2) the effects of such taxation on middle income and fixed income taxpayers; and

(3) the feasibility of Federal taxation and other policies designed to reduce the dependence of State and local governments on such taxation.

(b) The study and evaluation described in subsection (a) shall include, but not be limited to, the following:

(1) An examination of means which would allow State and local governments to reduce real property taxes—

(A) through the waiver by the United States of the immunity of Federal instrumentalities to such taxes;

(B) through Federal grants-in-aid and loans to State and local governments to assist such governments in providing services which otherwise would be supported by real property taxes;

(C) through the utilization of other forms of taxation in place of real property taxation;

(D) through an analysis by State and local governments of their overall taxation policies and of ways to redistribute tax burdens; and

(E) through the consolidation of local political subdivisions and other taxing districts so that tax burdens may be equitably distributed.

(2) An analysis of the tax burdens of persons and organizations with respect to income produced by the real property owned by any such person or organization.

(3) An examination of means to reduce the real property taxes of fixed and middle income taxpayers and other individuals subject to heavy real property tax burdens—

(A) through the granting of Federal tax relief to such taxpayers;

(B) through the granting of exemptions from real property taxes to such taxpayers; and

(C) through the taxation of real property owned by persons and organizations presently exempt from such taxation, including State and local governments and charitable, nonprofit, educational, religious, humanitarian, and philanthropic organizations.

POWERS OF THE TASK FORCE

SEC. 3. (a) The Task Force, or, on the authorization of the Task Force, any subcommittee or members thereof, may, for the purpose of carrying out the provisions of this Act, issue such subpenas requiring the attendance and testimony of witnesses, hold such hearings, take such testimony, receive such evidence, take such oaths and sit and act at such times and places as the Task Force may deem appropriate and may administer oaths or affirmations to witnesses appearing before the Task Force or any subcommittee or members thereof.

(b) Subject to such rules and regulations as may be adopted by the Task Force, the Chairperson shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional personnel as he deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the executive director may not receive pay in excess of the maximum annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of such title and any additional personnel may not receive pay in excess of the maximum annual rate of basic pay in effect for grade GS-15 of such General Schedule, and

(2) obtain temporary and intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

(c) The Task Force is authorized to negotiate and enter into contracts with organizations, institutions, and individuals to carry out such studies, surveys, or research and prepare such reports as the Task Force determines are necessary in order to carry out its duties.

COOPERATION OF OTHER FEDERAL AGENCIES

SEC. 4. (a) Each department, agency, and instrumentality of the Federal Government is authorized and directed to furnish to the Task Force, upon request made by the Chairperson, and to the extent permitted by law, such data, reports, and other information as the Task Force deems necessary to carry out its functions under this Act.

(b) The head of each department or agency of the Federal Government is authorized to provide to the Task Force such services as the Task Force requests on such basis, reimbursable and otherwise, as may be agreed between the department or agency and the Chairperson of the Task Force. All such requests shall be made by the Chairperson of the Task Force.

(c) The Task Force may accept, use, and dispose of any gift or donation of services or property.

(d) The Task Force may use the United States mails in the same manner and upon the same conditions as any other Federal agency.

(e) The Administrator of General Services shall provide to the Task Force on a reimbursable basis such administrative support services as the Task Force may request.

PAY AND TRAVEL EXPENSES

SEC. 5. (a) Except as provided in subsection (b), members of the Task Force shall serve without pay.

(b) While away from their homes or regular places of business in the performance of services for the Task Force, members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under subchapter I of chapter 57 of the United States Code.

FINAL REPORT

SEC. 6. The Task Force shall transmit to the President and the Congress not later than the date one year after the first day on which all members of the Task Force have been appointed, a final report containing a detailed statement of the findings and conclusions of the Task Force, together with such recommendations as it deems advisable (including recommendations for legislation).

TERMINATION

SEC. 7. On the ninetieth day after the date of submission of its final report to the President, the Task Force shall cease to exist.

PANAMA CANAL—PART III

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. McDONALD. Mr. Speaker, an appreciation of the strategic implications of surrender of the Panama Canal is certainly essential to our deliberations on the subject—deliberations which we know, by now, our own State Department does not appreciate in the slightest. Captive military officers are arm-twisted into testifying that the Canal is unimportant, whereas the slightest consideration of the alternative—there is only one—should the canal be barred to us by hostile forces in Panama, makes nonsense of the argument. The only alternative, as a glance at the map will confirm, is an extremely lengthy and tedious journey around the whole of South America.

While that most obvious point is ignored, there are a far larger number of fine points which have been elucidated by Harold Lord Varney, chairman of the Council on Pan American Policy, in his article, "The Panama Nightmare." A "world ocean" abandoned to Soviet hegemony, a Caribbean flank abandoned to Castroite imperialism—these are no longer silly fantasies. And an American Government-engineered sellout of the Panama Canal fits in so neatly that one must consider the possibility of high-level treason, on the face of it.

The article follows:

THE PANAMA NIGHTMARE—WHAT IS BEHIND IT?

(By Harold Lord Varney)

A crime is being committed against America's survival in its own hemisphere.

The perpetrators of this crime are the members of a little junta of evil-souled men in Washington, spearheaded by Henry A. Kissinger and other Council on Foreign Relations participants, who have come into control of U.S. foreign policy during the years of Nixon and Ford (though their counterparts have thriven in Washington since World War II). They are ensconced in the State Department. They dominate the National Security Council. They are being shamelessly supported by the powerful and likeminded masters of the nation's press and airwaves. They have successed almost beyond belief in brainwashing great segments of the American public into accepting their spurious myth that the United States now has no other option than to abdicate its present world primacy and to sink unresistingly into the ignoble status of a secondary world power.

To paraphrase an epithet popular in England while its empire was fading—they are our "Little Americans."

Nowhere has this cowardly Washington spirit been more shamelessly exhibited than in the present administration course in Panama. There, the Washington quitters are allowing themselves to be frightened by a mouse.

Panama, with its 1,400,000 population, is little more than a fly-speck on the Western Hemisphere. But geography has given it a key role in the Caribbean region. With Panama, the keystone, in anti-American hands, the whole arch of U.S. hegemony over the Caribbean area is imperiled. And let there be no doubt about it: Panama is in such hands today. It is in the clutches of an unprincipled dictator, Omar Torrijos, who walks in lockstep with Fidel Castro.

We have only to glance at the map to realize the threat to the United States posed by the Caribbean area, should it permit itself to be strait-jacketed by an unfriendly Panama government. The threat comes at a time when Washington fainthearts, incompetent if not worse, have alienated virtually every independent nation in the Caribbean. Those seventeen nations, once dependable supporters of the U.S., have aligned themselves almost in a body with a "Third World" launched by Tito, Yugoslavia's bloody-handed Communist dictator. In a recent vote in the Organization of American States, the Caribbean republics cast a virtually unanimous vote against a U.S.-supported position. Poisonous clots of anti-American agitation, led by Communists and student groups, are fanatically at work in every Caribbean nation. Their mentors are Fidel Castro and Omar Torrijos.

Let us briefly consider the U.S. defense problem in the Caribbean as it appears to our military and naval experts. Pentagon planners have long realized that one of Moscow's high priorities, in its program of world conquest, is to strangle the Free World by gaining control of all the world's strategic waterways. As early as Lenin, this strategy was, and it has remained, a guideline for the Kremlin planners.

The great primary waterways are:

1. The Strait of Gibraltar.
2. The Suez entrance to the Red Sea.
3. The Aden exit from the Red Sea.
4. The Malaca Strait, key to the East Indies.
5. The Persian Gulf.
6. The Panama Canal.

So far, Moscow has had only partial success in carrying out this audacious program. It won control of Suez, but lost it by Sadat's defection. It controls the Red Sea exit through its Somalia and South Yemen satellites. It has hope of achieving control of Gibraltar through an unpredictable post-Franco Spain. It is maneuvering cautiously in Malacca. To redeem its score, it is now openly reaching for Panama.

Instead of guarding determinedly against this threat to our jugular vein, our valiant leaders in Washington have collapsed before it. On February 7, 1974, Kissinger signed a binding document known as "Principles of Agreement" with Panama. This "agreement" declared that the U.S. was ready to immediately turn over to the Republic of Panama the Canal Zone (which contains all of our defense fortifications for the Canal). It promised to turn over, within a few years, ownership of the Panama Canal itself (a $6.6-billion U.S. property), without compensation. No such paranoiac surrender has ever been proposed before, in the two centuries of American history or in the history of the world.

It will naturally be asked, what is the Pentagon doing about it?

In an administration whose guideline is the touted Nixon-Kissinger détente, even the powerful Pentagon has found it expedient to speak in a low voice. But no doubt exists among the informed that the Pentagon has been overwhelmingly opposed to Kissinger's Panama course. Secretary of Defense James R. Schlesinger made no concealment of his doubts about a give-up in the Isthmus. But in November, President Ford fired Schlesinger.

Then, the President made a dishonorable use of his power. He sent General George S. Brown, Chief of the Joint Staffs, and General William V. Clements to Panama to put the Pentagon's stamp of approval upon the surrender of the Canal. General Brown, whose previous career had been admirable, was undoubtedly an unwilling participant in the intrigue; but he had no choice but to obey the orders of his Commander-in-Chief. Clements was a Kissinger hanger-on.

In a one-day visit to Panama, these officers were either thoroughly brainwashed, or pressured into supporting the Administration policy. They returned to the United States with a front-page statement that the armed forces no longer saw any danger to the U.S. in negotiating the Kissinger-proposed give-away treaty. Clements was rewarded by appointment as a member of Ellsworth Bunker's negotiating team. No more has been heard from Brown.

This brazen maneuver has, of course, barred the Pentagon from declaring its point of view. The one government body that is qualified to speak with authority on the mounting dangers has been silenced by a White House gag.

What are these dangers?

The United States is flanked, on its Caribbean littoral, by a chain of islands whose allegiance to Washington is doubtful. Actually, the Caribbean is our southeastern frontier. At some points, Caribbean countries are within ninety miles of U.S. soil. Whoever controls the waters of the Caribbean is unquestionably the master of the naval defenses of America's most exposed ocean frontier. And while we have waffled, Soviet Russia has proceeded to achieve a shattering advantage over the U.S. on the high seas.

What has completely transformed the situation has been the emergence of our Soviet adversary as the No. 1 naval power in the world. While we debated, the Soviet Union under the leadership of its late, brilliant defense minister, Andrei A. Grechko, was quiety constructing naval vessels. During the last decade, Congressional niggardliness and timorous White House leadership have permitted a deadly gap to open between Soviet and U.S. naval power. Today, Russia overtops us in every naval category.*

Until recently, Washington's only response to this encircling peril has been Kissinger's passive acceptance of U.S. inferiority, in the seductive name of peace. Now, belatedly, President Ford is asking for appropriations to bolster our navy.

Meanwhile, the evidences of a concerted Castro-Torrijos plan to turn Panama into a Communist, anti-American bastion have multiplied. Torrijos, at first protesting his non-Communism, has been in stealthy contact with Fidel Castro since the beginning. As go-between, he purportedly used the life-long Communist, Romulo Escobar Bethancourt, whom he appointed rector of the Panama National University. There are unconfirmed rumors of a secret visit by Torrijos and Bethancourt to Antilla, Cuba, to meet Soviet Premier Kosygin in 1971. And Castro's secret agents come and go freely between Cuba and Panama.

Since Kissinger's open exhibition of pliability in 1974, Torrijos has become emboldened to lower his mask and to fraternize publicly with Fidel. Panama led the way among the Latin American countries in giving diplomatic recognition to Castro. A Cuban embassy was set up in Panama City, with a swollen staff that included Castro revolutionaries and terrorist experts. In January 1976, Torrijos made a public showing of his unity with Castro by a state visit to Havana, accompanied by an imposing retinue of 200 Panamanians. Senator Jake Javits coached him before his departure, and Torrijos was guarded in his Havana address. El Panama America, Torrijo's press mouthpiece in Panama City, with typical Communist rhetoric, described the joint Cuba-Panama statement which issued from this visit as follows:

It will go down in history as a message of freedom-loving peoples fighting against imperialism, colonialism, neocolonialism and racism.

Even more indicative of the cooperation of Castro and Torrijos is the UPI story, elaborated by Miami TV Station WTVJ, that Castro has now stationed 3,000 Cuban troops and agents in Panama. In his heightened mood since his Angola victory, such a step by Castro is plausible. Since Cuba's air traffic with Panama is now conducted secretly through France Field (a part of the Canal Zone which Nixon foolishly gave away to Panama), it would be difficult to trace the story's authenticity.

Another significant rumor, brought to public attention by Senator Jesse Helms (R.-North Carolina), is that Cuban troops have appeared in anti-U.S. Peru, whose army has recently been re-equipped by Soviet Russia.

Meanwhile, reports from Africa reveal that members of the Cuban expeditionary forces have been sent from Angola to Rhodesia, South Yemen, and other staging points. There they are receiving training in guerrilla warfare and the use of Russian-made arms. This know-how they will bring back to Cuba for use in Latin America. It is plainly apparent that Castro is back in the Guevara mood which he pursued unsuccessfully after the Havana congress of 1966.

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*The Soviet margin of superiority in 1975 was 226 to 182 in major combat vessels, 253 to 73 in attack submarines, and 73 to 74 in missile submarines.

Such indications are all the more alarming in view of the recent signing in Moscow of the economic pact with Cuba in which the Soviet Union agrees to build a nuclear power plant in Cuba. Such a step could be the thin entering wedge of a surreptitious plan to make Cuba a nuclear power.

Amid the death rattle of such events, the gravity of the present hour cannot be overstated.

It is not surprising that the American Legion, comprising the men who have faced death in America's past wars, unanimously adopted a resolution at its August 1975 convention, which declared:

> The United States must be vigilant against all efforts to surrender any of the U.S. sovereignty and jurisdiction in the Canal Zone over the Panama Canal, obtained under the 1903 treaty with the Republic of Panama. . . .
>
> Resolved, that the American Legion reaffirm its opposition to new treaties, or executive agreements with Panama that would in any way reduce our indispensable control over the U.S.-owned Canal or Canal Zone.

Simultaneously, the Veterans of Foreign Wars declared:

> The Canal will remain American, without any ands, ifs, or buts.

The latest public opinion poll, taken by Opinion Research, shows that Americans favor continued sovereignty by our country by a margin of 76 percent to 16 percent. As an issue in the Presidential primary campaign, the repudiation of the proposed Kissinger give-up has aroused nationwide response. The will of the American people is unmistakable.

When the final chapter of the Caribbean debacle is written, the guilty responsibility of our own Washington officialdom will be its bitterest chapter.

For what is happening today to America's long pre-eminence in the Western Hemisphere did not have to happen. The incredible feebleness, or worse, of our Washington elite, at each decision point, has virtually handed our enemies the weapons with which to fight.

It is a dismal record:

It is the story of Christian Herter in the Eisenhower Administration persuading Ike to permit the Panamanian hotheads to raise the Panama flag in the Canal Zone, thus casting doubt upon our sovereignty.

Or of Adlai Stevenson pleading with Kennedy, at a moment when the Cuban freedom fighters were already on the beach at the Bay of Pigs, not to give them the promised air support—a decision that hung Fidel Castro around our necks like a millstone.

Or of Lyndon Johnson's panicky submission to the recommendations of Ellsworth Bunker and other quavery advisers in 1964, when he promised the Panamanians a new treaty—a mistake that led to all our present difficulties.

Or Nixon's unnecessary invitation to Panama in 1969 to resume treaty negotiations which had been dead for almost three years.

These men, in their respective ways, have been the architects of our present humiliations in Panama. Step by step, by our increasing loss of nerve under the goading of *Insiders*, we have opened the doors to our adversaries. And we are still blundering.

While the beleaguered Ford is making reassuring sounds, his subordinates are roving the country trying to sell surrender in Panama to an unconvinced American public. Kissinger and Bunker are spreading misrepresentations of the truth about Panama among American business executives. They are telling them that America is in the wrong.

We are in the eleventh hour of this long fight. Unfrightened Americans realize that the Panama fight can still be won. They are dedicating themselves to winning it.

PAUL H. DOUGLAS, INVENTOR OF TRUTH IN LENDING

HON. LEONOR K. SULLIVAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mrs. SULLIVAN. Mr. Speaker, one of the giants of American democracy, former Senator Paul H. Douglas of Illinois, died at his Washington home Friday, at the age of 84. As I told his wife, former Congresswoman Emily Taft Douglas, at a reception for former women Members of the House recently, I have had an unabashed love for her husband for many years.

Paul Douglas lived a life of great achievement, indomitable courage, and tremendous influence upon his fellow citizens. The Washington Post on Saturday printed an excellent and sensitive account of his life and his work by Edward A. O'Neill which I am sure would have made Paul Douglas happy to read. But I am glad that Paul Douglas knew during his lifetime how the members of the House Subcommittee on Consumer Affairs who were writing the Consumer Credit Protection Act of 1968—a landmark law which is one of his monuments—felt about this man.

It was on August 8, 1967, during the second day of hearings on the bill H.R. 11601 which became the Consumer Credit Protection Act of 1968, Public Law 90–321, that the former Senator, who had invented the concept of truth in lending and had spent 6 long and frustrating years trying from 1960 to 1966 to get his bill out of his own Senate Banking and Currency Subcommittee, testified before the House subcommittee in favor of the broad-based House bill as opposed to the limited truth-in-lending bill which passed the Senate in July 1967.

I COULD NOT HAVE ARRANGED FOR A BETTER FUNERAL

All six sponsors of the House bill were present and joined in sincere tribute to Senator Douglas for his pioneering work on the legislation, beginning in 1960 when he introduced the first truth-in-lending bill in Congress. The sponsors, in addition to me as chairman of the subcommittee, were: Representatives Henry B. Gonzalez, of Texas; Joseph G. Minish, of New Jersey; Frank Annunzio, of Illinois; Jonathan B. Bingham, of New York; and former Representative Seymour Halpern of New York, a Republican whose sponsorship gave the bill from the beginning a bipartisan character.

Other members of the subcommittee present were committed at that stage to the much weaker Senate bill, introduced as a House measure, H.R. 11602, by the ranking minority member of the full Committee on Banking and Currency, the Honorable William B. Widnall, of New Jersey. But all of them joined with Mr. Widnall in expressing their deep admiration and respect for the former Senator from Illinois. When former Congressman Richard T. Hanna of California said he wanted to be associated with "all the kind things that have been so eloquently said about you," Mr. Douglas replied:

> One of the pleasures of being politically dead and yet still alive is that you get to hear these things. I could not have arranged for a better funeral.

HIS INVALUABLE CONTRIBUTIONS TO DETAILS OF BILL

Although Senator Douglas had lost his race for election to a fourth term in the Senate, he was by no means "politically dead," as his appearance and testimony that day clearly demonstrated. He gave the most lucid, most persuasive, and most instructional testimony of any we received during 2 long weeks of morning and afternoon hearings. One of his most important contributions that day, as I look back, was to nail down and dramatize the importance of the provisions of the House bill regulating the advertising of credit terms—provisions which had not been in any of the bills he had sponsored during the preceding 6 years and which were not in the bill passed by the Senate in 1967. I am sure Paul Douglas noted with great satisfaction during the past 7 years since the Truth in Lending Act went into effect the complete elimination from the newspapers and over the air of the kind of misleading and deceptive credit advertising which he described in his testimony that morning in 1967.

His eloquent testimony on the necessity for requiring annual percentage rate disclosure on all credit, including department store revolving credit exempted from the Senate-passed bill, and on the need for restrictions on garnishment contained in the House bill gave the six of us who sponsored the House bill invaluable moral and economic help in fighting to keep those things in the final version of the legislation, despite bitter opposition in conference.

Mr. Speaker, I am sure Paul Douglas' former colleagues in the U.S. Senate will cover in their eulogies the information contained in the Washington Post obituary Saturday morning. My association with Paul Douglas was largely on consumer credit issues and consumer causes generally, and I shall always be proud to acknowledge the leadership and guidance and inspiration he and the late Congressman Wright Patman of Texas provided me in these areas.

THE HISTORIC DOUGLAS-BENNETT DEBATES

During our hearing at which Paul Douglas testified on August 8, 1967, the comment was frequently made that his name would not appear on the final version of the legislation. But everyone knew then—and I have tried to stress it in everything I have done or said since then on the Consumer Credit Protection Act—Paul Douglas' role was the principal one in enacting that legislation. The hearings he conducted for 6 years in Washington and in other parts of the country—often described as the "Douglas-Bennett Debates" between Paul Douglas and former Senator Wallace Bennett of Utah, month after month and year after year in the Douglas subcommittee—not only paved the way in Congress for the law but raised such public awareness of the need for the legislation so that even after Paul Douglas lost his bid for relection in 1966, the momentum he initiated and developed could not be stopped. It is ironic that the same election which removed him from the Senate also removed several of the key Senators on the Senate Banking and Currency Committee who had been the crucial votes in blocking the bill during his incumbency.

He wryly referred to this situation in his testimony before us, pointing out that it was not his "stubborness" against compromise, as had often been alleged, which had blocked the bill for 6 years, but the fact that his principal opponents on the legislation in the Senate committee had refused to accept even the compromises which were subsequently made in the Senate bill in 1967.

Mr. Speaker, without going into the details of all of the issues which surrounded the Truth in Lending Act and the other titles of the Consumer Credit Protection Act as introduced in the House, compared to the Senate-passed truth in lending bill of 1967, I should like to give the flavor of that hearing featuring his testimony in the House that August by including herewith my opening remarks that morning and excerpts from Paul Douglas' testimony, as follows:

Opening Statement by Chairman Leonor K. Sullivan at Second Day of Hearings by the Subcommittee on Consumer Affairs, House Committee on Banking and Currency, on H.R. 11601, the Consumer Credit Protection Act, Tuesday, August 8, 1967

I was very pleased with the thoroughness and interest with which our witnesses yesterday opened this series of hearings into consumer credit legislation. From the lineup of witnesses today, I am confident we will learn a good deal more about this important subject. Every member of this subcommittee has sponsored one or the other of two major bills before us, which indicates that we start with the Senate-passed bill as a minimum on which every member here can agree. How much more than that we can succeed in writing into the legislation will depend upon the nature of the information we can develop in these hearings, for I am sure there is, on the part of all of us, a willingness to look at the facts and not foreclose any idea without a hearing.

In seeking information on the subject of consumer credit, there is no better teacher in the country, and, I suspect, in the civilized world, than our first witness this morning, the economist who invented truth-in-lending legislation, and who spent 6 long, hard, dedicated, and remarkable years instructing the Senate Banking Committee, and the entire country, in the need for an effective law on credit disclosure. I think he has succeeded finally in convincing everyone of that.

Former Senator Paul H. Douglas is a patient teacher as well as a brilliant economist, and we are about to enjoy a master class in a subject which can often be made to sound incomprehensible when the purpose is to convince us that the problem is too complex to solve through legislation. We are counting on you, Senator, to pierce the fog for us and advise us, out of your great wisdom in this field, how we can truly protect the American consumer in his use of credit. We welcome you to the House Committee on Banking and Currency and are grateful to you for agreeing to come here this morning, for we are carrying on a work you started and we want your guidance.

Senator Douglas is still serving the people of the United States through official office as Chairman of the Commission on Urban Problems created by the Banking and Currency Committee of the House, I might add, in the Housing Act of 1965. I am sure, Senator, that you see a very close connection between the problems of our cities and the problems which this legislation is intended to solve.

Statement of Hon. Paul H. Douglas, Chairman, National Commission on Urban Problems; Accompanied by Stanley D. Heckman

Mr. Douglas. Thank you very much, Madam Chairman.

I will read part of my statement and try to summarize another portion of it.

Madam Chairman and members of the committee, I appreciate your inviting me to testify before your committee. I had some hesitancy about accepting. I have always believed that ex-Senators should fade away from Capitol Hill and not linger on as empty political ghosts. And, there is an added reason why a former denizen of the north side of the Capitol should not come over to the south side.

But Congresswoman Sullivan was so generous and so hearty in her invitation that I swallowed my scruples and agreed to come. And, I hope you will not hold it against me because I am here.

I am, of course, tremendously pleased that the Senate passed a relatively good truth-in-lending bill on July 11, 1967, by the surprising vote of 92 to 0. It may have marked the beginning of the end of a long, long struggle and it was a great victory for Senator Proxmire and its supporters. As you stated, Madam Chairman, I introduced the first truth-in-lending bill as long ago as the spring of 1960. But, despite 6 years of hearings and study, we were never able to get it out of the basement of the subcommittee except for 1 brief day when the full committee under the able generalship of its then chairman proceeded to knock it on the head and send it back to the dark cellar. So this year is the only year that it has really seen the light of day.

But times have changed. Public opinion has become informed. People are more and more coming to the conclusion that consumers should not be gulled by trickery but are entitled to the truth, and that this applies to borrowers as well as buyers. Caveat emptor has gone out of vogue. Perhaps also the realization that the people could be helped in this way without cost to the Treasury was especially appealing when the need for improving American life was coming up against the budget restraints created by the war in Vietnam. It is pleasant to do things for people if it does not cost you any money.

That we were stymied for so long was due primarily to the unrelenting opposition of most of the private lending and selling agencies. From the very beginning, we were fought by the personal finance companies, the dealers indurable consumer goods sold on credit, mail-order houses, the department stores and retailers of soft goods, the chamber of commerce, the banks and the American Banking Association, the American Bar Association, and virtually all of the so-called financial and mercantile establishments. This was powerful opposition and it is no wonder that despite increasing popular interest and support we were never able to get a favorable vote.

It is being said by some of the former opponents of the bill that if I had been willing to compromise, the bill could have passed long ago and that only my stubbornness prevented the opponents from joining the happy throng of supporters.

I have reached that point, Madam Chairman, where I am no longer worried about praise or blame. We have passed the point of no return, so to speak, and really what I care about is whether we enact a good bill into law.

While I do not care about either praise or blame as long as a good bill is enacted into law. I must objection to this remark. I was perfectly willing to compromise on less important features if I could only establish the essential point; namely, to have the financial charges stated to buyers and borrowers as an annual rate on the amounts actually owed. But it was precisely this feature that my opponents were never willing to concede until now. They tried to argue that no one could compute the annual rate; that 3 percent a month was not 36 percent a year; and that 1½ percent a month did not equal 18 percent a year. They wanted to retain the growing practice of concealing both the price and interest rate on many durable goods such as automobiles, television sets, furniture, and washing machines by the device of only quoting so much down and so much a month—only that and nothing more—and not always so much a month. They were reluctant to abandon the practice in the case of personal loans of the banks charging interest on the original amount borrowed rather than on the declining balance of the amounts actually owed. By this method they concealed the fact that the real rate of interest was approximately twice that which they actually quoted, and they were not averse to adding special charges such as finders' fees, filing fees, credit life insurance at high rates, et cetera, et cetera.

During those 6 years of struggle, I was never once able to get our opponents to agree on the basic principle of the annual rate on the amounts actually owed.

It is a tribute to the merits of the democratic process, however, that gradually the public became convinced of the essential soundness of this simple principle. The abuses were becoming more important as the amount of consumer debt rose from $56 billion in 1960 to $93 billion in the spring of this year—since I wrote these lines it has gone to $94 billion—while mortgage debt on single family homes and those of less than five family units increased from $141 billion to $227 billion. With the total personal debt rising to $321 billion—only $10 billion or 4 percent less than the national public debt of $331 billion—people slowly concluded that it was time to stop, look, and listen. Support came from a number of public-minded groups such as the credit unions, the mutual savings banks of the Northeast, the industrial unions and various consumer groups. God bless all of them and the hundreds of devoted men and women who rallied to the cause. Finally after our subcommittee held hearings in Boston and after a scandal involving the personal credit industry had besmirched leaders in the Massachusetts Legislature, the public-spirited citizens of that State got the legislature to pass a series of good truth-in-lending bills. Senator Brooke was very helpful getting those bills passed. These are now in effect and are apparently working well.

The opposition began to weaken. Senator Proxmire took up the battle after my defeat of last fall, gave able and devoted leadership, and finally got a bill through both the committee and the Senate.

In order to get anything passed, against heavy odds, he had to agree to several compromises. The most important of these was the virtual exemption of most of the so-called revolving credit from the requirement of stating the annual rather than the monthly rates. Here the mail order companies, the department stores, and the merchants who are now extending about $5 billion of such credit were simply too strong. It was impossible for Senator Proxmire to get his bill through unless he accepted the exemption. Having been voted down in committee on revolving credit, it was a case of yielding on that point or else. He should not be blamed in the slightest. In a similar situation I would have done the same thing.

In order to reduce the danger that a larger and larger proportion of credit would be channeled through the revolving credit loophole, Senator Proxmire, however, was able to limit his exemption by providing:

(1) That it would not prevail where the seller had the right to repossess the goods upon default in the schedule of payments. This barred the door to exemption for most of the sales of durable goods such as autos, television and radio sets, furniture, washing machines, refrigerators, et cetera, and tended to limit the exemption primarily to soft goods and credit cards.

(2) That where less than 60 percent of the initial price was to be repaid in the first year, this exemption was not to apply, or to state the matter in another way, when 60 percent of the purchase price is to be repaid within the year, exemption would be granted. That comes to a maximum of about 22 months. In practice these provisions will exempt Sears, Roebuck, but will include Montgomery Ward and Spiegels, the latter now owned by Beneficial Finance, that is, owned by a personal finance company itself.

In order to smooth the way for his bill, Senator Proxmire also felt compelled to exempt first mortgage credit on homes as well as in those cases where the total finance charges came to less than $10.

It is fortunate, however, that we have two legislative chambers whereby one body can correct the errors and omissions of the other. Mrs. Sullivan and her associates have produced an able bill in H.R. 11601 which corrects some of the weaknesses—indeed all of the weaknesses—which Senator Proxmire was unwillingly forced to accept, and they have added certain additional features of their own. To my eyes, the most important improvement in the Sullivan bill over the Senate bill is that it completely eliminates the exemption for revolving credit. It aso omits the exemptions on first mortgage credit and on finance charges of less than $10 and includes both.

While the Sullivan bill, like that of the Senate, also gives the administrative jurisdiction over the measure to the Federal Reserve Board with its penalty of double damages for knowing violations, it also provides the additional power of issuing cease-and-desist orders. Then in addition H.R. 11601 requires truth in the advertising of credit and sets up a commission to study consumer credit. These are features which were never included in any Senate bill.

The Sullivan bill—H.R. 11601—also sets a maximum legal rate ceiling of 18 percent on consumer and personal loans; gives authority for the Federal Reserve Board to regulate credit used in trading in commodity futures; and gives the President power to regulate other terms of consumer credit in periods of national emergency.

Finally, in title II, the Sullivan bill prohibits the garnishment of the wages or salary of an employee to collect an otherwise unpaid debt.

It is obvious that you in the House have been giving this matter deep study for a long period of time. On the whole the Sullivan bill is extremely good and, except on a few doubtful points, it is intrinsically superior, as I hope to show, to the Senate bill.

Now, we have all seen many funny things happen to good measures on their way to and through the forum. But as seasoned veterans well trained in parliamentary maneuvers, I am sure that you will not be led down the garden path by the honeyed words of crafty seducers to ultimate obfuscation. And, I also know that you are even more aware than I am of the dangers of stirring up added and otherwise nonexistent opposition to the main principles by loading the ship with more burdens than it can legislatively carry into port. Thus I am sure we all have our eyes on the ball; namely, the effective requirement of an annual rate on the outstanding unpaid balance of as large a proportion of consumer debt and personal loans as possible. With that as a guide, we cannot go wrong.

I am of course happy that most of the Republican members of your committee under the leadership of my longtime friend Bill Widnall—with whom I have served on housing groups and who has made a fine contribution to housing—have adopted the Senate bill—S. 5—lock, stock and barrel in their H.R. 11602. I only wish I had enjoyed the companionship of these genial and fair-minded gentlemen on our Senate committee during the 6 frustrating years which we spent trying to get the simple basic principles agreed upon. Unless there are aces up their sleeves, which in our innocence we do not see nor even suspect, the Widnall bill should narrow the differences between us and make the issue not whether we can get any decent bill at all, but whether we cannot improve on S. 5 and still get it adopted.

We should—and I hope we can—improve on the Senate bill, and I congratulate Mrs. Sullivan and her gallant cosponsors for trying.

The most important improvement which you have made over the Senate bill in your H.R. 11601 is to include revolving and open-end credit. There is every reason to do so. Revolving credit is increasing in importance, having apparently risen from $3½ billion to $5 billion while the Proxmire bill was under consideration. The spreading use of credit cards is increasing this still further, and there is every prospect that this trend will persist. The rate now charged is almost uniformly 1½ percent a month on the amount due at the beginning of a monthly billing period. In spite of all the hairsplitting this is the equivalent of 18 percent a year, and there is no legitimate reason for not quoting this rate alongside and with the monthly rate. The same amount of free riding on credit purchases within the previous billing month which is now granted under revolving credit would still be accorded the buyers—but no more and no less. If this practice is proper now, it would be proper then, and industry opponents cannot condemn this feature of the Sullivan bill without condemning their present practices. As is now true, credit would be measured from the date the service charge begins and not from the date of purchase. The existing freeloading of credit up to the time that the service charge is made is probably already reflected in a higher price. It would be wrong to charge customers twice, in interest as well as price, for the same service.

Therefore, friends, let the nonsense cease. There are 12 months in the year, as any kindergarten child knows, and a monthly rate of 1½ percent, is an approximate 18 percent yearly rate and an approximate yearly rate is all the Sullivan bill requires. There is no point in attempting to refine the percentage to a thousandth of 1 percent or even to a hundredth of a percent. A tenth of a percent would be enough and even the nearest quarter of a percent. A tenth of a percent would be enough and even the nearest quarter of a percent. I believe this is all that the Sullivan bill requires.

* * * * *

A second improvement in the Sullivan bill is to extend the requirement of truth to the advertisements of credit instead of confining them to the terms of the credit contract. As a matter of fact, advetrising is a more important factor in leading people to sign up for credit than are the written terms of the contract or the guarded verbal statements of the salesman. A man's mind is commonly made up by the time he goes to the second-hand car dealer, the furniture store, or the finance company. By that time he is commonly "hooked."

The abuses in the advertising of credit are widespread. The emphasis is commonly laid on low downpayments and on so much a month in dollars without stating the cash price of the article or the actual interest rate. The second improvement in the Sullivan bill is to extend the requirement, as I said. I took a couple of newspapers last night and ripped out the pages on advertising of automobiles, generally second-hand automobiles. I would like to pass them up. We have checked some of them which indicate weaknesses. In some cases they don't even mention the amount of the monthly payment or the number of months, merely mention a low downpayment. When one of the bills was before the Senate I staged a chamber of horrors. We clipped these papers from all over the country, blew them up, and filled the Senate room with charts showing those rates and I tried to get hold of them for this morning's hearing, but they are gone. I found some in the files. Here is a very chaste advertisement from a bank which reads, "Hotdog cash," and the advertisement is a sandwich with a hotdog in it.

I may say that it does not give the annual rate. I will send this up, too.

In order to preserve the good will of the press I ask the name of the newspapers in which these ads appear should not be included in the record.

Mrs. SULLIVAN. That will be agreeable, I'm sure.

Mr. DOUGLAS. Here is another one which does not give the rate.

Mrs. SULLIVAN. We will include some of these in the hearing record, Senator, following your statement.

(The clippings referred to may be found in the appendix, p. 928.)

Mr. DOUGLAS. Sometimes a monthly, but not a yearly, rate is given. Often the rate is advertised on the original amount borrowed or owed but not on the unpaid declining balance. It may be remembered that it was on this latter ground that the Federal Trade Commission years ago compelled General Motors to revise its advertising and that the Federal circuit court upheld the legality and constitutionality of this ruling. General Motors appealed to the Supreme Court. The Supreme Court denied granting GM the right of certiorari so the appeal was not heard.

I have always thought that this constituted some affirmation by the Supreme Court but my lawyer friends tell me this silence on the part of the Court and refusal of the Court to hear the case does not close the constitutional issue.

But I confess I never dared to include advertising in any of my bills because I was afraid that if I did so it would cause the newspapers to come out in active opposition to the bill and thus kill any chance of passage.

Bill, I am glad to see you. I have just paid you some compliments.

Mr. WIDNALL. Will the gentleman yield? I in turn would like to pay you a great compliment, a great compliment for all the work you did, not just in this field but in other areas while you were here on the Hill. I am sure, even though I am from the other party, we all miss you and we know what a solid contribution you have made and are making today.

Good to see you.

Mr. DOUGLAS. Thank you very much.

I was just saying I never had Mrs. Sullivan's courage. I never dared to include advertising in my bill because I was afraid that if I did so the newspapers would come out in opposition and would kill the whole thing.

Mrs. SULLIVAN. Senator, from what you have shown us, do you think it is needed?

Mr. DOUGLAS. I think they need it. Perhaps I was too fearful and was not sufficiently appreciative of the sterling idealism of the American press. You are far better judges. I think you have trust in your fellow men which I thought I once had and which I am trying to regain. We certainly need a cleanup in the advertising of credit as well as in the formal terms of sale and if you think it is safe to proceed, I would defer to your judgment.

3. I also like the way you include under your rules those credit charges which are under $10 as well as those over that amount. The $10 limit may still conceal a very high interest rate even though it is so small, and by its very nature, this will weigh most heavily on the poor and the very poor, who necessarily must buy in small quantities at high prices and on usurious credit terms.

The relative abuses perpetrated upon these poor folk are far greater than on any other class and you will have to weigh these considerations against the extra trouble caused to small businessmen on small amounts and also with the harsh political realities in the country and here in the House and Senate.

* * * * *

4. I always included in my bills first mortgage credit on homes. I did not do so because of any deception about the annual rate. Since the financial groups in real estate had always followed the correct policy of quoting it on a yearly basis on the unpaid balance. In this respect they have been impeccable. I did include home mortgage credit, however, so that the prospective house buyer could know the total amount which he was to pay for interest over the life of the mortgage. On a 30-year mortgage, if he didn't pay out until the full 30 years, the amount paid in interest is more than the amount of principal, generally. I was pleased that the real estate industry did not seem to be alarmed by this provision and that the Housing and Home Finance Agency adopted it at my suggestion in much of their literature. This did not seem to hurt the purchase of homes or the real estate business.

I will frankly admit, however, that somewhere along the parliamentary route I fully expected to run into a roadblock on this issue and I was ready to throw this provision overboard, if it became necessary, to insure passage.

The case for including home mortgages, however, has been greatly strengthened by the current practice of discounting these mortgages at given rates. If one agrees to pay 6 percent on a $10,000 mortgage for 30 years, but with a discount of 5 percent, and hence receives $9,500 in cash, the real interest rate which he is to pay is not 6 percent, but 6½ percent over the full life of the mortgage and 6⅔ percent if he pays out in 12 years. If discounts could be eliminated by letting the stated rate become the market rate—and I am more and more becoming in favor of that—the case for including real estate mortgages would revert to the original purpose of knowing the total paid out in interest over the life of the mortgage. Until this is done, however, there will be a double advantage in knowing the annual rate as well as the total amount.

5. I think Mrs. Sullivan's idea of a public commission on consumer credit is excellent, and I am sure also that none of us want this to be used as a substitute for a good bill. It should instead be supplementary and a means of exploring new ground.

6. In theory, I approve of title II of H.R. 11601 which prohibits the garnishment of wages. A century and a half ago, as John B. McMaster shows in his "History of the United States," there were tens of thousands of men put in jail up and down the Atlantic coast for the nonpayment of debts. I spent a few days in the Congressional Library, over 50 years ago, looking up those cases and I was startled to find enormous numbers of men during the late 1820's and early 1830's who were in jail sometimes for debts of less than $1. In a number of cases it was for a debt of 1 cent—1 penny—and in jail the prisoner was not able to earn anything for the support of his family. The movement of Jacksonian democracy in the 1830's and 1840's abolished this practice. That was one of the great contributions of Jacksonian democracy along with public schools.

Garnishing wages has destructive results very similar to imprisonment. It often causes men to lose their jobs and shuts off needed income to their family.

But whether this prohibition should be put into effect now, and on the national rather than the State level, is another matter which I must leave to you. I am informed that only three States have such a provision at present.

7. The next important provision in the Sullivan bill is the imposition of an 18-percent ceiling on consumers' loans.

I am compelled to say that I do not favor this provision for a variety of reasons. First, it has been my belief that if the borrowers and buyers could only be informed of the real cost of credit that the measure would then largely become self-policing—particularly when accompanied by double liability—while the abuses would also be largely self-correcting. Publicity and complete comparability of rates and amounts would drive down usurious charges. And it would only need a minority of the buyers and borrowers to become credit and interest conscious for firms to compete for business by lowering the rates. In other words, not everyone has to become conscious, a minority could do it.

I tend also to be wary of direct price regulation by the Government except in grave national emergencies such as war, since the rates would be inflexible and require a lot of redtape and policing to administer. Having had some experience in rent control after the war, I must admit that I am cool to the idea. In addition, there is a general tendency for the legal maximum charge to become the prevailing rate. This is seen in the fixation by the States of maximum interest rates on small loans. Here the ceiling has virtually become the floor.

* * * * *

8. By adding cease-and-desist procedures to the punitive damages provision of S. 5, the Sullivan bill strengthens the enforcement weapons which are at the disposal of the Federal Reserve Board.

This may be needed and I see no substantive objection to it. You are the best judge as to political maneuverability.

On other subjects which I have not discussed, such as the regulation of commodity exchanges, and emergency credit controls, I do not regard myself as qualified to speak.

May I thank the committee again for inviting me to appear and to express my hope that Congress may pass a strong and meaningful bill. And on the basis of past experience I believe that in any eyeball-to-eyeball confrontation with Members of the Senate the Representatives of the House will more than hold their own in both resolution and astuteness.

NATIONAL ASSOCIATION OF PRO AMERICA

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. ROUSSELOT. Mr. Speaker, on behalf of several constituents, I would like to bring to the attention of the Members of this body the 1976 resolutions of the National Association of Pro America. This group of highly motivated and patriotic citizens is now in its 34th year and I think that it would be most fitting that in this Bicentennial Year their noteworthy purposes and goals, which are reflected in their resolutions, be considered by my colleagues.

The resolution will appear in the RECORD in three different installments. The first follows here, and the remaining two will appear in subsequent editions of the RECORD:

[No. 1, 1976]

RESTORE CAPITAL PUNISHMENT AND IMPROVE CRIMINAL JUSTICE

Whereas a 1972 Supreme Court decision ruled that the death penalty as it had been imposed by state courts was unconstitutional under the 8th and 14th Amendments, such decision thereby saving from execution more than 600 convicts in state prisons who were awaiting the carrying out of the death penalty, and such decision leaving open the questions as to whether state legislatures could pass new laws making the death penalty mandatory in certain cases; and there has been no execution in the United States since 1967; and

Whereas since 1961 the rate for all serious crimes has more than doubled, and from 1973 to 1974 it jumped 17%, and

Whereas the Miranda Decision has weakened the judicial system and under this law the protection of the rights of the criminal are of more concern than the rights of society, and criminals are released on technicalities before being brought to trial; and

Whereas the present legal system and practice makes it difficult for witnesses to testify, permits lengthy delays between arrest and trial, allows repeated appeals, and frequently grants probation to repeat offenders; therefore, be it

Resolved That the National Association of Pro America urge the return of capital punishment for certain specified crimes, as a State's right, and laws providing for mandatory prison sentences for fixed periods without reduction or parole for criminals convicted of stated major crimes; and be it further

Resolved That the National Association of Pro America urge the appointment of judges who are willing to imprison convicted offenders and pass sentences that are commensurate with the crimes.

[No. II, 1976]

OPPOSE CHILD AND FAMILY SERVICES ACT

Whereas the Child & Family Services Act of 1975 (S. 626, sponsored chiefly by Sen. Walter Mondale, and H.R. 2966, sponsored chiefly by Congressman John Brademas) has been introduced and is pending in the United States Congress; and

Whereas such programs are part of a concentrated effort by social engineers, educational theorists and behavioral scientists to remove children from parental authority and family influence into federally controlled agencies at the earliest possible age; and

Whereas there is a gigantic push to "liberate women from the slavery of homemaking" evident in the tremendous promotion of the Equal Rights Amendment which encourages young mothers to get out of the home to "fulfill" themselves; and

Whereas among supporters of child development legislation, in addition to the proponents of the Equal Rights Amendment, Representative Brademas, Senators Mondale and Javits, are Dr. Reginald Lourie, President of the Joint Commission on Mental Health of Children, who in testimony before a Senate Committee, stated: "There is serious thinking among child researchers that we cannot trust the family alone to prepare young people for this new kind of world—not only are parents unnecessary, but they are too inept to rear their own children."

Senator Jacob Javits, who stated in Congress, in 1971, when day care legislation was first introduced, that "We have recognized that the child is a care of the state."

Albert Shanker, radical president of the American Federation of Teachers, strongly endorsed the Mondale-Brademas bill in the following language: "Our organization views the Child & Family Services Act as a program for the total development of the children and for the professionals who work with the children for the purpose of *molding the child to fit the social needs of the nation.*" (emphasis ours)

Editors of the Communist Party newspaper, *Daily World*, who published a series of articles in 1971 praising government day-care centers in Bulgaria, Cuba and New York City, and who even bragged, in the June 17, 1971, issue, that "The development of day-care centers for pre-school children of working mothers on a mass scale came on the initiative of socialist (Communist) countries," and we must remember that it was Communist Leon Trotsky, writing in "The Revolution Betrayed," in 1936, who stated "You cannot 'abolish' the family, you have to replace it."; and

Whereas this proposed legislation would create yet another federal agency within the already oversized and unmanageable nightmare known as the Department of Health, Education and Welfare, add billions of dollars to the tax burden of the long-suffering tax payers, and be still another of the currently already existing *fifty* (*50*) sources for federal child assistance; and

Whereas federal laws which would replace parental care and guidance with governmental, institutionalized programs are in violation of rights guaranteed under the 10th Amendment to the United States Constitution, and which are inherent in the whole western, Christian civilization; and

Whereas although Sen. Mondale has amended his bill to disarm opposition and facilitate the bill's passage, the philosophical basis for the bill and the long-range damaging effects of this bill on the American family remain unchanged; therefore, be it

Resolved That the National Association of Pro America, in acknowledgment of God's divine plan for the family, oppose *all* unconstitutional invasions of our homes, especially interference which weakens the family unit.

[No. III, 1976]

ADHERENCE TO CONGRESSIONAL OATH OF OFFICE

Whereas the oath of office taken by all national elected representatives reads:

"I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."; and

Whereas said legislators have an obligation to uphold their oath of office; and

Whereas this nation, as a constitutional Republic, is dependent on its elected representatives for the continuity of this form of government; therefore, be it

Resolved That the National Board of Directors of the National Association of Pro America and its House of Delegates in session in Seattle, Washington this 6th day of May, this Bicentennial year of 1976, declare that steps should be taken to remove from office any national legislator whose public statements or voting record on legislation are contrary to or violate his oath of office.

[No. IV, 1976]

OPPOSE DELEGATE VOTING IN HOUSE COMMITTEES

Whereas a territory of the United States is entitled to a non-voting delegate in the House of Representatives; and

Whereas under current practice these delegates are appointed to standing committees of the House where they do vote, thus exercising a legislative power more potent than a vote on the House floor; and

Whereas these delegates represent constituencies who benefit from federal programs yet pay no federal taxes (over half the population of Puerto Rico live on food stamps); and

Whereas the United States Constitution requires that *all* legislative powers shall be vested in Congress, which shall consist of a Senate and a House of Representatives, that the House shall be composed of members chosen by the people of the several states, and that no person shall be a representative who shall not, when elected, be an inhabitant of the state in which he shall be chosen; and

Whereas power of the House of Representatives to judge qualifications of its own members cannot include the authority to grant legislative power to non-members; therefore, be it

Resolved That the National Association of Pro America maintain that all committee votes cast by delegates are unconstitutional and do affect the legitimacy of legislation; and be it further

Resolved That the members of National Pro America Units poll their respective representatives to ascertain the position of each on this issue, and that the results be compiled for distribution by the National Association of Pro America during the 1976 election campaign.

[No. V, 1976]

RETAIN THE ELECTORAL COLLEGE PROVISION

Whereas the Founding Fathers of this nation sought to protect themselves and their posterity through numerous checks and balances in the governmental system, one of the most important of which is the provision in Article II, United States Constitution, known as the Electoral College; and

Whereas through the Electoral College power is dispersed geographically instead of being concentrated in any small group of the most populous states, since every state is accorded the same number of presidential electors as it has members in Congress and even the smallest state has at least three electors (corresponding to two senators and one representative); and

Whereas the Senate Subcommittee on Constitutional Amendments has approved a proposed amendment to the United States Constitution which would eliminate the Electoral College provision and replace it with direct popular national election of the president and vice president, which could result in the president's being elected with 40% of the vote; and

Whereas this proposal, if adopted and ratified as an amendment, would encourage presidential candidates to gear their time, money and policies toward the most populous states with the result that all the remainder of the states would be deprived of any influence in the presidential election; and

Whereas with many candidates in the race, it is extremely probable that no one would receive 40% of the vote, and the final decision would be in the hands of Congress, thus transferring control over election of the president and vice president from the people at the state level to the Congress; and

Whereas the probability of disputed elections and demands for vote recounts all over the country would increase, creating intolerable confusion and expense; and

Whereas the Electoral College provision reduces the problems involved in a close election to a minimum, and helps to maintain the separation of powers, and the diffusion of power as was intended by the Founding Fathers; therefore, be it

Resolved That the National Association of Pro America urge Congress to defeat the proposed amendment and retain the Electoral College provision as established in the Constitution.

[No. VI, 1976]

DON'T SELL OUT FREE CHINA

Whereas the new premier of the Republic of China, Chiang Ching-kuo, son of the Generalissimo Chiang Kai-shek, is committed to the unchanging goal of freeing the mainland from communist tyranny, and the reunification of all Chinese people; and

Whereas internationalist organizations, such as the Council of World Affairs, in their rush toward "*inter*dependence," strengthen and augment the efforts of the United States State Department and most of the media, to betray free China, and abrogate the United States Defense Treaty with that foremost vanguard in the anti-communist world-wide struggle, all in the name of "normalizing our relationship" with communist China; and

Whereas there are the same signs of internal collapse in mainland China that were in evidence in the Soviet Union in the early 1930's when President Franklin Roosevelt propped up that "gulag" with official United States recognition; now, therefore, be it

Resolved That the National Association of Pro America reaffirm its Resolution No. XV (1972) of firm support for the Republic of China; and be it further

Resolved That the National Association of Pro America call upon the United States government to honor its 1954 Defense Treaty as a protection to all Chinese people, and urge all public officials, especially the President, NOT TO SELL OUT FREE CHINA.

[No. VII]

PROMOTE FREEDOM OF CHOICE IN CANCER THERAPY

Whereas any advancement in medicine has come with great difficulty, for example, Dr. Arthur Fleming, discoverer of penicillin, was laughed at and called the "mold" doctor in the 1920's, and it was not until World War II that penicillin was finally accepted; and

Whereas statistics taken from the American Cancer Society show that the survival rate with orthodox therapy is .1% for advanced terminal cases, 28% for moderately spread cases and 81% for healthy cases while the corresponding percentages from the records of doctors who use megavitamin therapy with Laetrile are 15%, 80% and 100% respectively; and

Whereas because many persons who take Amygdalin (known as Laetrile or B–17) are terminally ill patients for whom no known orthodox therapy is effective, because Laetrile has been proved non-toxic, is legal outside the United States, and has already helped innumerable cancer victims, there is no valid reason why it should not be legalized to offer cancer sufferers their God-given choice of therapy; and

Whereas doctors promoting megavitamin therapy, including B-17 and related nutritional treatment frequently are highly professional physicians, with advanced degrees in Biochemistry (the field in which discoveries are made); and

Whereas some physicians and some of the news media, although well-intentioned, are so misinformed about diet, nutrition and vitamin therapy, that they are unable to accept the cancer-control methods presently available; therefore, be it

Resolved That the National Association of Pro America work to promote freedom of choice in cancer therapy by urging Congress to pass appropriate legislation and by disseminating authentic information.

[No. VIII, 1976]

FOR FREE ENTERPRISE COURSES IN SCHOOLS

Whereas This nation was founded by men who believed that private property and individual initiatives were essential to the economic well-being and independence of this country; and

Whereas questionnaires submitted to university and college freshmen show an abysmal ignorance of the fundamental practices and results of a free market economy; and

Whereas many government officials as well as special interest groups are committed to government ownership of major segments of American industry, and the consequent destruction of the free enterprise system; and

Whereas it is apparent that the underlying cause of this threat to American independence and prosperity is a lack of knowledge, among adults as well as young people, concerning the economic principles of the free market; and

Whereas courses in the essentials and benefits of the free enterprise system have proved to be highly successful in the schools in which they have been used; therefore, be it

Resolved That the National Association of Pro America work toward getting public school systems to adopt effective courses in economics which will teach the American free enterprise system instead of the widely used Keynesian theories.

TAXES ARE BEING RAISED

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. MICHEL. Mr. Speaker, as we saw and heard from the first televised debate of the Presidential candidates, taxes will be an issue in this campaign as they are in most every campaign.

An editorial appearing in the September 24, 1976, issue of the Peoria Journal Star makes the interesting point that because of inflation, even if nothing is done and the tax laws remain unchanged, there is an automatic increase in the average tax levels and percentages both, every year, as an individual receives increases in his annual income.

I ask that the text of the editorial entitled "Taxes Are Being Raised" be placed in the RECORD at this point:

[From the Peoria (Ill.) Journal-Star, Sept. 24, 1976]

TAXES ARE BEING RAISED

While the big arguments about the economy, taxes, and inflation continue, there is a point that needs to be recognized.

It has long been axiomatic that inflation is a device which literally robs—and severely injures—those on fixed incomes. The elderly, in particular, with fixed pension systems simply have the value of those pensions shrink while the real benefits of real values thus stolen are shifted to younger workers . . . and government.

That is a vicious system. The real economic effect is that government runs a deficit and finances a good measure of it by cheating the elderly and other fixed income groups. Widows and others who relied on life insurance, for example, and have the bad luck to need that assistance have its value stolen from them. Thus, inflation is really another sneaky form of taxation, and the most discriminating and unfair of all.

But even the "young workers" who seemingly exploit the rolling inflation—and often lead it in wage settlements, also stand to get gypped in the end under the "progressive" income tax system.

Inflation invalidates a fair tax system.

The way it works is pretty simple.

If any tax system is worked out that is truly fair it "breaks" at just the right point and increases not merely the dollar amount in kind as income goes up—but also the percentage taken.

So, if you paid 20 per cent of a taxable income of say $12,000 and in three years that income went up (as they did in many wage settlements a couple of years back) 30% it put you into a 25 per cent bracket.

Thus, a three year contract at a juicy total of 30 per cent wage increase could move a person from a 20 per cent bracket to a 25 per cent bracket.

Thus if inflation also went up 30 per cent (which is what was happening in that period of double-digit inflation) you would be "even"—but not in taxes.

Instead of your taxes going up at one fifth of your income, the top part of it would cost you a fourth of that taxable income.

If the fifth rate was fair in the first place, the fourth rate is patently unfair when you are not making any more in "real dollars" than you were before.

A major problem in writing tax laws is this constant surge upward.

The simple and obvious fact is this: the "median income" of American families moved to $12,500 by 1973, and now presumably is above that.

If taxes were based on being above or below the median income, obviously, the median would have shifted for the average family from below to above—from a tax break situation to a tax socko situation.

Yet the victim remains where he was before—a median income family.

Now, "median income" is not a sane place to figure from probably because it represents a statistical result only of mixing high incomes, low incomes and middle incomes to wherever that happens to come out—rather than just looking at the bulk of where the most incomes actually land.

But the same thing applies to any point you pick as the place where you change from a tax break to a victim of a progressive income tax system.

Thus, inflation is a bandit that works for the government against both the elderly and the middle wage earner.

And that characteristic means that inflation renders any "fair" progressive income tax immediately unfair after it has been in effect one year. . . . and progressively more unfair with every succeeding year.

If nothing is ever done, and tax laws remains unchanged, there is an automatic increase in the average tax levels and percentages, both, every year.

Your taxes are increased automatically—by the progressive "graduated" system of levying them—so long as there is any inflation at all. While the argument goes on, taxes go up.

So, talk about "raising taxes" or not raising them is mostly bunk. They are "raising them" by doing nothing at all . . . and talk of raising them is really proposing a double tax increase.

That's the unhappy fact in a country where the figures now show taxes to run to almost 40 per cent of the whole economy—a deadly dangerous level.

—C. L. DANCEY.

WATERSHED PROTECTION AND FLOOD PREVENTION ACT

HON. JOE SKUBITZ

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. SKUBITZ. Mr. Speaker, I am today introducing legislation which I feel is badly needed if one of the best programs we have in the Agriculture Department is going to continue to serve our Nation. I suffer from no illusion that it will pass this session. I am hopeful my colleagues will keep it in mind when the new Congress convenes.

I am referring, of course, to the Watershed Protection and Flood Prevention Act, Public Law 83-566.

Under this program, hundreds of small watershed projects have been started and completed.

But under the requirements of the National Environmental Policy Act of 1969 many more hundreds of programs have been unnecessarily delayed. In my home State of Kansas, the average time for completion of the planning stage of a watershed project is between 4 and 5 years. With more and more regulations being promulgated by various Federal agencies, the more a project is delayed, the more it is held up by additional Government regulations. A case in point is the fact that one small watershed in my congressional district went from being 35 percent planned to 18 percent planned.

I am introducing this bill with the hope that such legislation would reverse this trend of unnecessary delays and expedite the completion of hundreds of more small watershed projects.

The need has arisen for better coordination and more rapid movement in the handling of the paperwork and administrative decisions that must be made under this program. I feel that the Secretary and other Federal officials who are involved in this program should be able to complete all work on any Public Law 566 plans or projects, and then to transmit the appropriate materials to support the funding of construction work to the Congress, within a year of the time that local organizations complete all the requirements they must meet under the act.

I also feel most of the projects involved in this act should be exempt from some of the onerous provisions of the National Environmental Policy Act of 1969 if there is appropriate notification to the Council on Environmental Quality, the committees of jurisdiction in the Congress, and the public.

Mr. Speaker, I believe in adequate environmental protection, which is first and foremost a conservation activity; and through proper monitoring of the status of each of these projects by the Council on Environmental Quality, I believe an adequate standard can be maintained without unduly slowing and complicating some badly needed work in this area.

I hope the 95th Congress will give its attention to my legislation, and I hope those who share my interest and concern about this excellent program will do likewise during the rest of 1976.

THE BALANCE(S) OF POWER: IV (XI) STRATEGIC DEFENSIVE BALANCE

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. BRECKINRIDGE. Mr. Speaker, having covered both the strategic offensive balance and the strategic defensive balance in my series on the "Balance(s) of Power," two major defense policy issues of potential concern to the 95th Congress emerge:

First. What type of strategic arms limitations talks—SALT—agreement should the Congress approve? and

Second. Should the Congress continue to support a deterrence that continually disregards civil defense?

These two issues may overshadow other congressional defense policy considerations of the general "balance(s) of power" problem in the world, and particularly the U.S. military posture vis-a-vis the Soviet Union.

To summarize my discussion of the strategic offensive and defensive balances I wish to insert two studies later this week conducted by John M. Collins, senior national defense specialist at the Congressional Research Service, the Library of Congress, that address the basic concerns of these issues.

As the issue of arms control becomes more technical and complex in the late seventies, the 95th Congress will need to have adequate information in order to evaluate the potential impact of new nuclear development programs and arms control negotiations on global stability and the security interests of the United States. To assist Congress in assessing whether or not emerging SALT II guidelines establish a strategic environment that will contribute to international stability in general, and U.S. national security in particular, John M. Collins and John S. Chwat of the Foreign Affairs and National Defense Division of the Congressional Research Service, the Library of Congress, summarize current issues for SALT II negotiators as expressed in an issue brief, "SALT II Issues."

The second study, "United States and Soviet Civil Defense," will assist Congress in assessing changing U.S. civil defense requirements.

The study follows:

SALT II ISSUES

ISSUE DEFINITION

Phase I of the Strategic Arms Limitation Talks (SALT I) "froze" U.S. and Soviet force levels for intercontinental and submarine-launched ballistic missiles (ICBMs, SLBMs) during the five-year period from May 1972 through October 1977. Separate and unequal numerical ceilings slighted the United States in each case.

SALT II, now in progress, seeks to supplant some provisions of the SALT I Interim Agreement, extend others, curb the deployment of additional delivery systems, and limit launchers with multiple independently targetable reentry vehicles (MIRVs). As most U.S. leaders see it, suitable solutions also must eliminate inequities and, if possible, confine financial costs.

Whether or not emerging SALT II guidelines establish a strategic environment that will contribute to international stability in general and U.S. national security in particular is the fundamental issue. To assist Congress in assessing the situation as it develops, this survey summarizes subsidiary issues in two categories:

Those that SALT II negotiators must resolve before the United States and the Soviet Union can achieve formal agreements.

Those that Congress likely will consider before placing its seal of approval on any SALT II pact.

In each case, issues are covered from U.S. standpoints.

BACKGROUND AND POLICY ANALYSIS

Current issues for SALT II negotiators

President Ford and Soviet party chief Brezhnev reached several agreements "in principle" during their summit conference at Vladivostok in November, 1974. SALT II delegations from the two countries now address details in a continuous process of give and take. As a result, some questions ostensibly settled today are often reopened tomorrow.

Nevertheless, it is possible to separate technical issues into two general classes: those that seem to present few contentious problems, and those that are hotly contested.

ISSUES GENERALLY RESOLVED

Summit conferees at Vladivostok established the following SALT III framework:

Identical U.S./Soviet ceilings of 2,400 strategic nuclear delivery systems (aircraft and missiles).

Identical U.S./Soviet ceilings of 1,320 launchers for MIRVs.

Additional guidelines included freedom to mix ICBMs, SLBMs, "heavy" bombers, and air-launched ballistic missiles (ALBMs) within the overall ceiling on launchers, except that:

No new ICBM silos or other fixed-site ICBM launchers are allowed.

No "light" ICBMs may be converted to "heavies."

Certain systems are excluded:

U.S. forward-based tactical aircraft, ashore and afloat.

Medium bombers (U.S. FB-111s, Soviet Badgers).

Strategic nuclear systems belonging to third countries, such as Britain, France, and China.

Proposed plateaus would put a 10-year cap on strategic offensive systems through 1985, at levels allegedly lower than the Soviets previously planned to attain, but somewhat higher than current U.S. deployments. Once both signatories reach allowable limits, quantitative increases will no longer be possible. Qualitative improvements will be unconstrained, except for MIRV limitations.

The ceiling on delivery systems

Large missiles count the same as small ones within the 2,400 ceiling on delivery systems. "Heavy" bombers count the same as ballistic missile launchers. The status of mobile ICBMs and cruise missiles is still undetermined, as discussed below in the section called Contentious Issues and Post-Vladivostok Proposals.

U.S. and Soviet negotiators now agree that each bomber armed with whatever load of bombs and/or short-range air-to-surface missiles counts as one system, even though every sortie hypothetically could strike several widely separated targets. The intent also is to limit ICBM and SLBM missiles as well as count launchers, whether they are MIRVed or not. Otherwise, missile inventories could contain many multiples of 2,400 without violating the accords. Several ICBMs, for example, could be fired in succession from each silo with "cold launch" capabilities that eject missiles before primary ignition occurs. Soviet SS-17s and SS-18s already feature that technique. Minuteman missiles do not. Submarines also could rearm, if refills were available. Some verifiable means of limiting missiles to one at each launch point and vicinity still is under discussion by SALT II delegations.

Freedom to mix delivery systems

Each country could deploy nothing but bombers or nothing but SLBMs, if so doing suited its strategy. Both are free to mix aircraft, ICBMs, SLBMs, and ALBMs inside the 2,400 ceiling, with two significant exceptions, which reflect stipulations carried over from the SALT I Interim Agreement.

First, U.S. and Soviet fixed-site ICBM launchers in existence at any given time may never be increased, only decreased or held constant.

Second, neither the United States nor the Soviet Union may increase its holdings of "heavy" fixed-site ICBMs, in accord with SALT I agreements that forbid either country to convert "light" ICBMs into "heavy" ones or to modernize "heavy" ICBMs installed before 1964 (U.S. Titan IIs, Soviet SS-7s and SS-8s). Post-1964 ICBMs may be replaced on a one-for-one basis. In consonance, the Soviets currently are substituting modern SS-18s for obsolescent SS-9s. This country, which has no post-1964 "heavy" ICBMs, lacks comparable advantages.

Limits on MIRV launchers

SALT II sets identical U.S. and Soviet ceilings of 1,320 launchers that may be fitted to fire missiles with MIRVs. However, that limitation, like the ceiling for delivery systems, calls for clarification.

To begin with, many more than 1,300 MIRVed missiles could legitimately be stored at or near launch sites if SALT II delegates failed to limit missiles to one per launcher.

Neither are there any restraints on the number of MIRVs in any given nose cone. The choice is between a few relatively large warheads per missile or many MIRVs with lower yields. Aggregate payloads related to missile throw-weights provide the principal limitation.

CONTENTIOUS ISSUES

Imprecise semantics, combined with strategic vulnerabilities and verification problems, continue to impede mutually acceptable SALT II agreements after more than a year of negotiations. At issue are:

The definition of "heavy" ICBMs.

A reliable means of counting MIRVs.

The status of Soviet Backfire bombers.

The status of cruise missiles.

The status of land-mobile ICBMs.

Heavy ICBM issues

An important U.S. objective is to preclude the wholesale proliferation of large Soviet ICBMs whose great throw-weight coupled with increasing accuracy and MIRV capabilities eventually could compromise America's Minuteman missiles.

Since the Soviets refused any direct limitations on throw-weight, U.S. SALT I negotiators agreed to freeze "heavy" ICBM launchers at May, 1972 levels. A unilateral U.S. statement identified heavy ICBMs as those having "a volume significantly greater than that of the largest light ICBM" in either inventory at that time (Soviet SS–11s, according to American views). The Soviet Union never subscribed to that definition or any other.

Restrictions on ICBM silo alterations are also equivocal. U.S. and Soviet jointly-agreed interpretations declare that "the dimensions of land-based ICBM silo launchers will not be significantly increased"—that is to say, by not more "than 10–15%." However, interpretations of that interpretation differ. Melvin R. Laird (then Secretary of Defense) testified before the Senate Armed Services Committee on July 24, 1972, that the 10–15% authorized increase applies to diameter or length, not both. Some suggest that the Soviets think differently, although none of their actions thus far substantiate such criticism.

The Kremlin, for example, presently proceeds to replace part of its "light" SS–11 ICBMs (estimated volume 69 cubic meters, payload 2,000 pounds) with SS–19s (estimated volume meters, payload 7,000 pounds). The consequent 60% increase in volume and 350% increase in payload certainly qualifies SS–19s as "heavy" ICBMs by the U.S. SALT I definition, but not by the Soviets'. Silo modifications to accommodate the new generation without resort to cold launch techniques are well within 10–15% expansion in one dimension.

SS–18 missiles are now superseding SS–9 "heavy" ICBMs, which entered the Soviet active inventory in 1965. Estimated payloads are approximately six times those of Minutemen. Cold launch procedures permit SS–18s to use existing silos with allowable alterations.

Soviet ICBM payload capacity already is roughly four times that of the United States. Said disparity will double during the next decade, the proposed duration of SALT II, if present trends continue. This country enjoys a lopsided aircraft payload advantage, but bombers, unlike ballistic missiles, must penetrate enemy defenses in depth en route to targets, and Soviet ICBMs could be launched long before our bombers arrived.

Dr. Kissinger, acting in his capacity as Special Assistant to the President for National Security Affairs, thus was premature when he assured key members of Congress on July 15, 1972 that SALT I provisions gave the United States "an adequate safeguard against substantial substitution of heavy missiles for light missiles." In fact, semantic ambiguities will cause problems until they are clarified.

Meanwhile, Moscow's MIRV potential should increase immensely. This country currently has great numerical superiority and a sound technological edge, but all Soviet MIRVs are installed on large ICBMs, accuracies of which are steadily improving. American MIRVs are necessarily smaller. Two-thirds are mounted on SLBMs, which will remain most effective against "soft" targets, such as cities, until decisions are made to incorporate silo-cracking capabilities.

In short, SALT II will ensure clear-cut quantitative superiority for the Soviets in fixed-site ICBM launchers, unless ground rules are revised before Congress approves the final accords or the United States deploys weapons with substantially improved capabilities.

Counting MIRVs

Secretary Kissinger, speaking in December 1974, declared that "the one principle on which we're going to be adamant and will not yield, which is nonnegotiable, is that any missile that has been tested with a MIRV mode successfully, I mean if they've run five or six tests, will be counted as a MIRVed missile when it is deployed." Otherwise, he said, "it will be very hard to conceive how there can be a deal."

Moscow, however, proceeds with plans to deploy SS–18s in MIRVed and unMIRVed modes, denying that all should count against the MIRV ceiling simply because some have been tested with multiple warheads. In the Soviet view, segregating the two classes in separate areas would provide adequate identification. U.S. decision-makers in fact provided a precedent when they mixed MIRVed Minuteman IIIs with unMIRVed Minuteman IIs in our ICBM account. It is difficult to distinguish between the two, and doubly so near Malmstrom, Mont., where both types are deployed in adjacent areas.

The United States and U.S.S.R., however, experience entirely different verification problems. Soviet agents admittedly glean detailed data from open American sources. This country must rely much more extensively on satellite photography and other technical means, since the Kremlin refuses to sanction on-site inspections. The U.S. intelligence community therefore could maintain a reasonably accurate register using Kissinger's original rule, because most Soviet silos seem to require marked modification before they can accept any known new missiles. Conversely, we would be hard-pressed to distinguish MIRVed from unMIRVed modes of the same model. U.S. calculations of Soviet holdings then would depend primarily on figures furnished by Moscow.

Whether the U.S. rule will prevail still is problematic. Some reports suggest that the Soviets now agree to count all SS–18s as MIRVed, but the true situation is still undisclosed.

Verifying the presence or absence of MIRVed missiles on submarines which previously carried unMIRVed versions would be even more vexing. U.S. boats pose no such problems, since Polaris A–3s have always carried single warhead missiles and Poseidons have always carried MIRVs. However, Soviet SS–N–8s, now deployed on Delta-Class submarines, recently were tested with MIRVs, Controversy can be anticipated when MIRVed modes are mixed in operational units.

"Heavy" bomber issues

Two significant issues concern "heavy" bombers: what to include in the category; how to count them.

The only heavy bombers definitely addressed by SALT II are aging Soviet Bears and Bisons, along with U.S. B–52s (and B–1s when they enter service). Payloads and unrefueled ranges are the determining factors. Using those criteria, 70-some FB–111s and 800-odd Soviet Badgers are considered by both sides to be "medium bombers."

The main bone of contention is Backfire "B", Moscow's modern bomber, which is 2½ times as big as our FB–111s and can carry a substantially greater load than Bisons. (About 50 have been deployed). Flying from home bases, Backfires could strike targets in the United States without in-flight refueling, then recover in Cuba or some other convenient country. Nevertheless, Soviet leaders maintain that Backfire is a medium bomber, and consequently should not count against the 2,400 delivery systems allowed by SALT II. U.S. negotiators disagree, because many (perhaps most) B–52 missions are scheduled to recover at bases overseas, rather than return to the United States.

Just how this question will be resolved is not yet clear. Secretary Kissinger, in an off-the-record backgrounder after the Vladivostok conference, said Backfire would not count. More recent possibilities are outlined in the section entitled Post-Vladivostok Proposals.

A subsidiary issue concerns how to count bombers included within SALT II. Decision-makers have not yet determined whether to charge entire inventories against the 2,400 total or only those aircraft in operational squadrons.

The difference is most significant for the United States, since the 530-odd B–52s on our rolls account for almost a quarter of the 2,400 SALT II ceiling, whereas the 135 Soviet Bears and Bisons amount to five. The number of B–52s available for action at any given time averages only about 420. The remainder are undergoing modification, are in storage, or are being cannibalized. If those inactive aircraft were excluded, this country could substitute more than 100 missiles (other than ICBMs in silos) if desired.

Cruise missile issues

The disposition of air- and sea-launched cruise missiles (ALCM, SLCM) in SALT II has yet to be determined.

One U.S. school of thought, espoused especially by the State Department and the Arms Control and Disarmament Agency (ACDA), acknowledges that cruise missiles might afford short-term advantages to the United States, which has active research and development projects in progress. However, long-range prospects are pessimistic. The Soviets not only have a far larger complement of survivable submarine launch platforms, which eventually would give them an offensive edge, but also maintain in-depth air defenses, which this country does not. U.S. cruise missiles would face severe penetration problems, while Moscow's missiles would have little to fear after launch. Consequently, most arms controllers would include all cruise missiles under the SALT II ceiling to prevent their proliferation.

Opponents of that proposal, particularly in the Pentagon, believe it would be imprudent to count cruise missiles, whose quantities and characteristics are almost impossible to ascertain with reasonable certainty, given the absence of on-site inspections. Various versions, for example, could be carried in or on bombers and transport aircraft; in the torpedo tubes of attack and ballistic missile submarines; on surface ships; and on assorted land-bound launchers. Effective ranges of missiles (tested at treetop level) would be difficult to estimate, even if exact numbers were known. Finally, some tactical cruise missiles, like the U.S. Harpoon, are indistinguishable from strategic nuclear models. How should they count? Skeptics therefore would table the issue, since unacceptable advantages could accrue to the Soviets if we agreed to include cruise missiles and they cheated.

The Kremlin's SALT II team, by way of contrast, originally strove to count cruise missiles with ranges in excess of 600 kilometers (372 statute miles). Agreement to do so would include long-range U.S. ALCMs and SLCMs now in R&D stages, but exclude our Short-Range Attack Missiles (SRAM), which are effective no more than 50–100 miles from launch points. Agreement also would have excluded several hundred Soviet SS–N–3 Shaddocks, whose estimated effective range is only about 150 km, but reportedly could be tripled without visible external changes that would aid U.S. verification. From relatively secure firing positions outside the 100-fathom curve, they presently could hit half the U.S. population, plus many industrial and military targets which are concentrated close to our coasts. Since the Soviet heartland is far removed from open waters, only about 5% of the Soviet people and few other critical targets would be imperiled by U.S. SLCMs with a 600-km range.

More recent approaches to cruise missile problems are reviewed in the section entitled Post-Valadivostok proposals.

Air-launched ballistic missiles

The status of air-launched ballistic missiles (ALBM) is closely connected with cruise missile issues outlined above. The United States and U.S.S.R. concur in principle that all such weapons with ranges in excess of 600 km should count against the 2,400 ceiling on delivery vehicles. However, verification problems and questions concerning whether bombers, transport aircraft, or both are allowable launch platforms still impose stumbling blocks.

The status of land-mobile ICBM's

Secretary Kissinger, on the plane to Peking in November, 1974, flatly stated that all land-mobile missiles **"of intercontinental range . . .** will be counted" against the 2,400 celing on launchers, even though U.S. verification means (including satellite photography) would allow large errors. Since then, highly-placed sources have suggested that land-mobile missiles still cause contention.

At this juncture, however, problems are academic.

The Soviets reportedly have experimented with a mobile mode of the SS-16 ICBM, in consonance with the principle (explained by former Defense Secretary Schlesinger) "that those [R&D] areas that are not proscribed will be pursued." No products are known to be deployed. This country's land-mobile missile research programs still are in gestation.

TWO HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago, on September 26, 1776, the Continental Congress appointed Benjamin Franklin, Silas Deane, and Thomas Jefferson as commissioners to the court of France to negotiate treaties with and secure aid from European nations. To keep the matter secret until Congress decreed otherwise, "no member (was) permitted to say anything more upon this subject, than that Congress have taken such steps as they judged necessary for the purpose of obtaining foreign alliance."

When Jefferson declined the appointment, Arthur Lee, who was in Europe, was named in his place.

SENATE—*Tuesday, September 28, 1976*

(*Legislative day of Friday, September 24, 1976*)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Hear the words of the 145th Psalm:

Great is the Lord, and greatly to be praised; and his greatness is unsearchable.

One generation shall praise Thy works to another, and shall declare Thy mighty acts. Psalms 145: 3,4.

In the morning and the evening and the noonday we pause to praise Thee and seek Thy help, O God. To all who labor in this Chamber grant quiet hearts, clear minds and spirits sturdy enough for the heavy burdens of these awesome times. Make us quick to discern the Nation's needs, wise in finding solutions, firm in defense of the right, considerate and helpful to one another. Give us courage to separate the tentative from the enduring and work for that which endures. Send us to our tasks anointed by Thy spirit, so to live and work that we shall leave behind us a fairer world in which the whole family of man may flourish.

We pray in the Master's name. Amen.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. DOMENICI. I yield.

I did not seek recognition, Mr. President.

The ACTING PRESIDENT pro tempore. The order is that the Senator from New Mexico will be recognized immediately after the prayer.

Mr. DOMENICI. I thank the Chair.

The Senator desires some time. I yield.

Mr. ABOUREZK. Only 30 seconds.

THE JOURNAL

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the Journal of the proceedings of Monday, September 27, 1976, be approved.

Mr. ALLEN. Mr. President, reserving the right to object, since we are still in the same legislative day as last Friday, and since objection will not cause the reading of the Journal today, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

ELEMENTARY AND SECONDARY EDUCATION OPTIONAL CONSOLIDATION AND REORGANIZATION ACT

Mr. DOMENICI. Mr. President, today I introduce legislation on behalf of myself and my esteemed colleague from Oklahoma, Senator HENRY BELLMON. The purpose of this legislation is to reorganize and consolidate a number of Federal education programs. Our goal in developing the bill has been to improve State and local administration of Federal education programs as a means of improving the services to children that are provided by those programs. The act permits greater flexibility in the use of funds, simplifies the categorical requirements, and places greater decisionmaking responsibility at the State and local levels. Programs are reorganized and consolidated by educational functions and are specifically targeted to the special needs of populations to be served. Participation in the consolidation is optional, with States choosing either to administer programs according to this act or according to the current categorical legislation.

This bill has been written with the help of educators and those interested in education from around the country. We have sought out the opinions and the help of hundreds of persons with knowledge and expertise in education, particularly those with experience with Federal education programs. We have listened to local school district personnel—teachers, principals, Federal program directors, superintendents, and members of school boards. We have listened to State education agency personnel—program administrators, chief State school officers, members of State boards of education. We have listened to other State officials with educational responsibility—financial officers, State legislators from education committees, Governors. We have listened to representatives of education interest groups. We have listened to the educational expertise in this country, to those responsible for educational services for children. More than nine-tenths of those services for children are paid for from State and local funds. Less than one-tenth are paid for from Federal funds. We have listened to those responsible for administering the nine-tenths and the one-tenth. We have listened and we have learned. This bill represents the combined efforts of all the good people who took their time and effort to study the problems and give us advice. We have talked to scores of people in person and on the telephone and we have received letters from, quite literally, hundreds of people. I have chosen a few letters which I ask unanimous consent to have printed in the RECORD after Senator BELLMON's remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOMENICI. Mr. President, this educational consolidation and reorganization bill has been called the Domenici-Bellmon bill by educators and in the press. Senator BELLMON and I have spent much time developing what we feel is an important new approach. We have staff members who have spent hours and hours of their time working out the particulars. But this is not just Senator BELLMON's and my bill. This bill is authored by the educational community in this country. I am proud to introduce legislation which was developed in a completely open forum. This is an important and far-reaching act. It is time we stop reauthorizing the past. It is time for us to recognize the status of our schools today and look to educational concerns of the future.

This week in all probability is the last week of the 94th Congress. This has been a complex and involved session. We are all anxious to finish the work that remains. I have come to feel in this session the importance of planning ahead so that the work of the Senate can proceed in an orderly, timely process. We have made great strides this year toward that end. If we are to continue to progress in this area, we must look forward to the next session, to the Congress which lies ahead.

Senator BELLMON and I are looking ahead. We have a bill that was developed openly and in the light of day. The next step in the open process is to present our work to the Senate so that Senators and their staff members might study the bill. We introduce the bill now for that purpose. We will reintroduce it in the next session, and we hope for early hearings. The analysis of the bill which occurs over the next few months should prepare the Senate for early and thorough hearings.

In order to aid in the study of the bill and to explain the intent of Senator BELLMON and myself. I will discuss the specific provisions of the bill. This act, unlike the bloc grant proposals, presents a series of small consolidations. The following outline lists the programs according to the reorganization and consolidation:

PROGRAMS CONSOLIDATED

TITLE I—SPECIAL EDUCATIONAL NEEDS

Part A, educationally deprived children: Section 101, consolidates ESEA, title I, sections 103, 123, and 126. Section 102, consolidates Head Start and Follow Through. Section 103, migrant education.

Part B, handicapped children: Consolidates authorizations under part B of the Education of the Handicapped Act as amended including sections 611 and 619, ESEA, title I, section 121 and ESEA, title IV, section 403(a)(8)(B).

Part C, children with limited English-speaking ability: Consolidates ESEA, title VII, section 708(c) of the Emergency School Aid Act, and part J of the Vocational Education Act.

TITLE II.—VOCATIONAL AND ADULT EDUCATION AND TRAINING

Part A, consolidates all parts of the Vocational Education Act of 1963.

Part B, consolidates programs under the Adult Education Act and section 405 of the Special Projects Act.

Part C, provides for cooperative administration of CETA, title I training funds.

TITLE III.—SPECIAL CURRICULUM PROJECTS

Part A, libraries and learning resources under ESEA, title IV, part B.

Part B, consolidates innovation and support authorized under ESEA, title IV, part C with guidance and counseling from ESEA, title IV, part B, the Environmental Education Act, the Alcohol and Drug Abuse Education Act, ESEA, title IX as relates to ethnic heritage, title V of the Higher Education Act relating to Teacher Corps, and ESEA, title VII relating to the national reading improvement program. Programs from the special project arts will be included in the consolidation in fiscal year 1979 and thereafter including section 403 relating to metric education, section 404 relating to gifted and talented children, section 406 relating to career education, section 408 relating to women's educational equity, and section 409 relating to arts in education.

TITLE IV.—GENERAL PROVISIONS

Contains administrative requirements and authorizations for planning grants and for a supplemental grant.

Title I encompasses the special needs of high cost populations. This title identifies three such populations and targets funds to each of the three. Part A of title I consolidates several programs for educationally disadvantaged children. Funds derived from title I, parts A and B of the Elementary and Secondary Education Act of 1965 will flow through to local education agencies according to the low income formula established in part A of title I of the 1965 act. Once the funds are in the local school district, they must be used for educationally deprived children. The local agency will determine how and where such services will be provided in the comprehensive planning process. Requirements for use of the funds include an excess cost provision, a prohibition against supplanting which applies to the entire act, and maintenance of effort which is applied by title to the entire act. Programs for migrant children neglected and delinquent children and children in Head Start and Follow Through programs are also included in this part.

Part B consolidates several programs which serve handicapped children. The provisions of this part guarantee the right of a handicapped student to a free appropriate education and maintain procedural safeguards which protect those rights. All funds in this part must be spent on excess costs for handicapped programs.

Part C consolidates several programs which provide services to persons of limited English-speaking ability. The Census Bureau has recently taken a census of such persons so that funds can be allocated to the State based on the actual numbers of such students. States can distribute the funds to locals on either a formula or a project grant basis depending on the nature and needs of the State's population of such children. This program is also subject to the excess cost provision.

Title II, parts A and B is an option within the option for those States which have a separate vocational education agency. Title II, part C is an option within the option for all States. Title II, part A consolidates all vocational education programs. All funds pursuant to this part must be spent for vocational education, and a minimum of 75 percent of the funds must be distributed to local school districts or area vocational schools. Title II, part B consolidates adult and community education.

Title II, part C allows States to administer CETA, title I in those States that can come to an agreement to do so among the State education agency, the State vocational education agency if it is separate, the Governor of the State, and the CETA Planning Council. The duplication of effort between vocational education programs and CETA has been exceptionally high. Including CETA in the comprehensive planning process and providing State administration should improve the effectiveness of manpower and vocational training.

Title III consolidates programs that deal with specific curricular areas. Part A libraries and learning resources flows to the local education agencies and must be used to purchase equipment and materials. Part B funds will be distributed to local education agencies based on criteria developed in the comprehensive State plan. Guidance and counseling which is a part of libraries and learning resources in the present law was moved to this consolidation of curriculum programs where it more logically belongs. The programs from the Special Projects Act which was created by the Education Amendments of 1974 will not become a part of the consolidation until fiscal year 1979. This is consistent with the original intent for these programs as indicated in the report which accompanied that legislation. This part will allow States and local school districts to determine priorities within the curricular areas which have been identified for special emphasis. The title III consolidation has provided several provisions which should remedy the problems incurred in administration of title IV of Public Law 93-380.

AUTHORIZATIONS AND ALLOCATIONS

This act does not repeal the categorical legislation which remains in force for States which choose not to consolidate. Since those laws will remain in effect, it is possible for us to incorporate by reference provisions from those acts into this bill. Since this act is optional, we have chosen to incorporate all authorizations and the allocations to States that are made by formula. This will work very simply. The Appropriations Committee will appropriate funds each year for all the categorical programs just as they always do. The Commissioner of Education will then develop State tables for those funds which are currently given to States by formula.

The Commissioner will reserve the share of funds for each State which chooses the consolidated option. For funds that are currently given to States on a project grant basis, the Commissioner will determine and reserve a State share for each State choosing the consolidation based on the ratio of schoolage population in the State to the total schoolage population in all States. The Commissioner will then take the funds reserved for a State, organize it according to this act, and award grants to the State as directed in section 402. By authorizing and allocating the funds in this manner, States which choose the consolidation are assured of their share of funds.

A supplemental grant is also available to States which opt for the consolidation. The use for this grant will be determined in the comprehensive planning process, and it may be used for any of the purposes authorized in titles I, II—if applicable—and III of this act. As needs differ from State to State, this supplemental grant which authorizes an additional 10 percent to a State's total allocation, will provide needed flexibility to State and local educational agencies.

STATE ADMINISTRATION

One of the main concerns expressed to Senator BELLMON and myself focuses on the rigid Federal requirements which often cause Federal programs to be administered as appendages that are not coordinated with the regular school program or even with other Federal programs. Each Federal program requires its own needs assessment, planning, administration, and evaluation. Separate rules and regulations, procedures and requirements have been devised for State and local educational agencies to follow in carrying out activities for each Federal program. These activities are often completed in total isolation from other programs which serve the same students.

Perhaps the most significant consolidation in this act is the provision for one set of administrative procedures, one process which the State and local school districts must follow in administering all the Federal programs reorganized by this act. Only one comprehensive State plan will be prepared by the State educational agency and by each local education agency. This means that the State and local agencies will conduct one comprehensive needs assessment of all the children in the State. This assessment will identify the students with special educational needs, the services these students are receiving, and the need for continued, additional, and related services. Special curricular needs and priorities will also be determined. Programs can then be planned based on this needs assessment.

A comprehensive plan must be prepared every 4 years and updated annually. Our bill directs that programs under this act will be coordinated with each other, with other Federal programs, and with State and local programs. The current proliferation of inflexible Federal education legislation has resulted in enormous waste, duplication of effort, and inefficiency. By establishing one comprehensive process, this waste can be eliminated. One process for assessing needs of students, for planning programs to meet these needs, for administering and evaluating programs will lead to more effective and efficient use of Federal funds.

Another important aspect of the planning process should also be noted. States are directed to obtain in the development of the plan, the participation of local education agencies, appropriate State and local government agencies, and interested citizens and organizations. This bill lets the sunshine in on Federal education programs.

PLANNING GRANTS

It will not be an easy task to develop the comprehensive plan. A great deal of time and effort must be expended and a certain level of expertise will be necessary. For this reason, we have included provision for a planning grant for which a State may apply. Any State planning to choose the consolidated option offered by this act will be eligible to receive a grant which will offset cost to the State of implementing the comprehensive planning process, of writing the plan and regulations, and the cost of gearing up for administration of the consolidation. A State may receive a maximum of $1 million and a minimum of $200,000 for such purposes.

FEDERAL ADMINISTRATION

Federal administration of this act will be carried out by one separate and identifiable administrative unit within the Office of Education. Thus a State will deal with only one office, and all contacts with the State can be coordinated. This will be a vast improvement over the current system where a State must deal with numerous administrative units, none of which are aware of what the others are doing or requiring of the States. This unit will be staffed by the number and type of personnel deemed necessary by the Commissioner for carrying out the functions mandated by the law. While it will be necessary to add staff to the Office of Education to establish a core staff for consolidation, the Commissioner is directed to transfer additional staff to the unit from the units administering categorical programs, based on the number and size of States which select the option to consolidate.

The Federal responsibility will include annual monitoring in each participating State. Such monitoring will include review of the development and implementation of the State plan for conformity with the act. When noncompliance is found, the Commissioner and the State will establish procedures to modify the State plan and/or its implementation. If a State does not follow such procedures and remains out of compliance, the Commissioner has the authority to withhold funds. The Commissioner may withhold 5 percent of the funds across the board or for serious violations, may withhold all funds pursuant to a particular section or part, or for the entire act.

The act contains an appeals process for both State and local educational agencies. Civil rights requirements are specified as well as provisions for the participation of nonpublic schoolchildren.

Mr. President, this is a comprehensive act and it deserves careful consideration by the Senate. In the past few days, my office has been contacted by a number of other Senate offices, and my staff has given out copies of the bill for study. Several Senators of both the minority and majority parties have indicated to me personally that they have directed their staffs to study the legislation with an eye toward cosponsoring now or when the bill is reintroduced in January. I hope that all Senators will study this bill carefully. Get in touch with your State and local educators; ask them how they feel about the way Federal programs are currently administered. Check with them on the provision of this bill. We are confident that this is good legislation which meets the needs expressed by State and local educators. I ask for your support for the Elementary and Secondary Education Optional Consolidation and Reorganization Act.

Mr. President, I yield to my good friend from Oklahoma, Senator BELLMON.

Mr. BELLMON. Mr. President, I greatly appreciate the kindness of my good friend from New Mexico. I have an engagement down at the Department of the Interior at 9 o'clock. I am sure the Presiding Officer will remember our many meetings with the Migratory Birds Commission. That meeting happens this morning at 9, and I need to be there.

So I appreciate the fact that I can make my statement at this time.

The ACTING PRESIDENT pro tempore. The Chair understands the problem.

Mr. BELLMON. Mr. President, it is a privilege to join with the distinguished junior Senator from New Mexico in introducing this legislation. This innovative venture by Senator DOMENICI into an area which has become encrusted with many layers of bureaucracy has immense potential for improving Government services. Senator DOMENICI's initiative is a reaffirmation of the value of fresh perspectives which relatively new Members can bring to this body.

I am pleased to be associated with Senator DOMENICI in this legislative effort. I anticipate that our proposal will be only the first of many involving other categorical program areas.

I commend the distinguished Senator from New Mexico for his creativity in developing this new system of delivering Government services.

Also, Mr. President, I recognize and thank the staff members who have worked tirelessly and contributed much insight into this bill. Especially, I thank Dr. Letitia Chambers of the Budget Committee staff, Dick Woods of my staff, and Caroleen Silver of Senator DOMENICI's staff. Together they brought the knowledge and competence needed to develop the complex and detailed proposal which Senator DOMENICI and I now present to the Senate.

It may be worthwhile to review the influences which prompted our joint proposal. Over the years, the Federal Government has focused its assistance to the States on the provision of educational opportunities for those with special needs and upon special projects. The Federal role has come to be that of identifying problems and possibilities which ordinarily do not receive sufficient attention by the Nation's educational establishment, then providing the means and direction to address these needs. At the time of their initiation, many of these legislative efforts were unquestionably useful and served to insure that efforts were undertaken which were much needed. But, with the passage of time and the proliferation of numerous categorical grant programs, other consequences have emerged which counter the appropriateness of such a specifically directed Federal effort. The Federal role has produced piecemeal legislation which now adds up to a crazy patchwork quilt of proposal requirements, guidelines, reporting obligations, eligibility standards, and regulations which enormously confuse and confound the daily job of educating the Nation's children.

This growing Federal burden cannot be dismissed as simply a redtape nuisance affecting only school administrators. Anyone familiar with the dynamics of public education knows that the daily operation of a learning institution is complex and interrelated and is aware that such matters as the appropriateness of the educational experience as well as teacher morale can be adversely affected by a heavy and clumsy Federal hand. With only about 7 percent of all funding for elementary and secondary education coming from the Federal Government, the influence of Federal requirements resembles that of the "tail wagging the dog."

Federal requirements have imposed a bureaucratic burden upon State and local educational agencies which saps the vitality of the educational effort. Basic decisionmaking has become remote and insulated from the realities of everyday school life. Administrative rigidities have been created which prevent intelligent adaptation to local educational needs and conditions. State planning and responsibility have been short circuited as Federal legislation has become more specific.

As a response to these problems, the concept of block grants for education has been advanced from time to time. Earlier attempts at consolidations and education block grants have met with limited success, for several reasons. First, block grants have been attempted which would have cut the total Federal economic commitment to education. Senator DOMENICI and I are proposing a consolidation which will provide a State with 10 percent more money for educational programs than it would rececive under normal categorical programing. This additional authorization will serve as compensation for the State assumption of new responsibilities and duties, such as the promulgation of rules and regulations.

Second, previous block grant approaches have been mandatory for all States, which may not be appropriate for the range of conditions and capabilities existing among the States. Our proposal makes the consolidation an optional choice, allowing States to make an early shift to State and local administration, or to wait and see what the experience of more adventurous States will be, or to remain under categorical programing and Federal administration. This sort of flexibility more nearly fits current State desires and capacities.

Third, block grants have sometimes seemed illogical from the point of view of the educator or administrator at the State and local levels. Our proposal logically groups Federal programs for consolidation and administrative purposes, and thereby sharpens their impact. This is legislation with which State and local education agencies can live.

Fourth, previous block grants have contained few assurances that Federal funds would be used to serve the populations or purposes originally targeted by Federal legislation, thus raising concern among many educators and others that needed efforts would be diminished or lost. Our proposal contains ample safeguards against the relaxation of important efforts and the diversion of funds to extraneous needs.

Finally, previous block grant attempts have seldom provided requirements that effective planning must precede State and local assumption of responsibility, and they have seldom included checks and balances which will insure a strong State effort. Our proposal provides a planning grant to be utilized over a 1- or 2-year period during which open planning involving all affected parties must occur and during which rules and regulations for the administration of the funds must be developed. In addition, our proposal mandates an annual fiscal audit, an annual evaluation, and an annual report to the Commissioner of Education. The Office of Education will provide program monitoring and technical assistance to the States. In addition, this legislation requires the Comptroller General to conduct an evaluation of the consolidation experience and submit it to the Congress no later than the end of fiscal year 1982 with recommendations for subsequent legislation. This is an important safeguard against the perpetuation of ineffective legislation.

It should be clear, therefore, that we do not offer a block grant in the customary usage of that term, but rather a carefully shaped consolidation of Federal programs which will insure more flexibility at the State and local levels while protecting the purposes and populations originally identified by Congress.

This proposed legislation can be viewed in another light. There is a common and significant theme running through much of the criticism leveled at Federal legislation and programs these days. It is that the effect of Federal direction and control imposed upon States and localities is to mandate social program standards and styles which are uniform in every State and therefore unsuited to the many and varied local communities and problems which compose this Nation. Insistence upon uniform programs and regulations designed to fit an average or typical American community where these simply cannot apply has the effect of wasting resources and undermining confidence in the ability of Government to operate in a sane manner. When one adds the geographic and social remoteness of the Washington bureaucracy to this fundamental problem of governance in a plural society, it is easy to see why there is so much disaffection across the country with the Federal effort.

One of the advantages of the legislation which Senator DOMENICI and I offer today is that, even if only a very few States choose to try the consolidation offered, there will be a number of pilot programs testing the efficacy of restructuring Federal-State relations so that decisions can be made closer to the people affected. These experiments will be important ones to watch, since we have few tested alternatives to offer as remedies for inappropriate government. We need to know what works best in government as we approach the 21st century, so that we can make the changes that will be required by new circumstances.

Mr. President, in summary, we feel that the option to receive Federal education assistance as a consolidation is an important choice for the States to have. It would put State and local education agencies in the driver's seat, permitting an intelligent flexibility which has been lacking in present categorical arrangements. It would push educational program decisionmaking down to the State and local levels, where the influence of the citizenry could not be ignored. It would allow States and local education agencies to develop their own capabilities, instead of merely following directions from on high. It would reduce costly paperwork, freeing educators to contribute to the learning process. It would strengthen responsibility at the grassroots level through accountability requirements. It would engage the States in full-fledged planning, a capability which might be transferable to other State activities. It would carry with it evaluation requirements which will protect the taxpayers. It would not impose consolidation upon any State which did not want it or did not find itself ready to undertake such a responsibility. It would create a series of laboratory experiments of new governmental arrangements which could prove valuable elsewhere.

In conclusion, Mr. President, let me explain that Senator DOMENICI and I are introducing our proposal so late in the 94th Congress not with the expectation that it will become law at this time. Rather, we do so to generate interest and study among Members of the Senate and the Nation's educators. We plan to reintroduce it for the 95th Congress where we expect to receive hearings and where we anticipate a lively discussion of its merits. Until then, today's introduction of the bill will provide much information for those who are interested in future directions in elementary and secondary education.

Mr. President, again, I give complete credit to Senator DOMENICI for generating this idea. I congratulate him for his innovative thinking and for the creativity which he has brought to this proposal, which, in my opinion, means much not only to education but also to other Federal programs which presently, in many cases, are staggering under the weight of redtape which they do not need to carry.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred.

Mr. DOMENICI. I thank the Senator from Oklahoma for the tremendous support he has given in preparing this bill and for his kind words this morning.

EXHIBIT 1

NATIONAL SCHOOL BOARDS ASSOCIATION,
Washington, D.C., September 27, 1976.

Hon. PETE V. DOMENICI,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR DOMENICI: On behalf of the nation's 16,000 local school boards, I wish to express our enthusiasm for the basic design of your proposed consolidation.

While our organization has long supported the philosophy of consolidation we have opposed previous bills because they 1) resulted in a cut of federal aid, 2) did not provide local school district entitlements, or 3) did not provide adequate local school district flexibility.

We are pleased that your bill does consolidate several of the programs, reduces federal over-regulation of others, and addresses the above listed concerns.

We wish to thank you and Senator Bellmon for developing an approach which carries the promise of being shaped into a significant improvement in the delivery of federal services. We support efforts for early hearings when the 95th Congress convenes next January.

Very truly yours,

DR. HAROLD V. WEBB,
Executive Director.

SUPERINTENDENT OF PUBLIC INSTRUCTION,
Olympia, Wash., September 27, 1976.
Senator PETER DOMENICI,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR DOMENICI: Thank you very much for providing me with a copy of the proposed Education Consolidation Legislation. I have been aware of the development of this proposal for some time and am in complete agreement with its major provisions.

Two ideas in the proposal are of particular importance to us on the state level: First, it is no longer possible to ignore the fact that federal education legislation has become unbearably complicated and difficult to administer. Not only are we confused by federal programs, we find that they burden both state offices and local education agencies with tremendous amounts of unnecessary paperwork. The deregulations and clarity that this legislation would bring to education programs ultimately will be of tremendous benefit to the students the federal government intends to serve.

Second, unlike many other proposals along these lines, this legislation would protect the integrity of the intent of federal involvement in education. Disadvantaged, handicapped, minorities and other special students, without doubt, would receive the benefits of these programs. There would be no opportunity for states or other jurisdictions to transfer these benefits to others for whom they were not intended.

I know that your staff has done a great deal of work involving most of the education community in the drafting of this legislation. I am enthusiastically in favor of it and will do whatever I can through my office to support its passage.

Sincerely,

FRANK B. BROUILLET,
State Superintendent
of Public Instruction.

WYOMING EXECUTIVE DEPARTMENT,
Cheyenne, August 31, 1976.
Hon. PETER V. DOMENICI,
U.S. Senate, Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR DOMENICI: I have reviewed the Education Optional Program Consolidation Act, which you co-authored with Senator Bellmon. Frankly, I feel it is the best piece of education legislation I have seen in recent years. Wyoming's Superintendent of Public Instruction also strongly endorses the Bill. The recognition of the need to simplify some of these programs and to allow the states and locals to design educational programs around their own needs is outstanding. I would expect anyone with multiple management responsibilities at any level in education to support the Bill.

One area of concern involves Section 404 (b) (1) (A), which appears to prohibit or preclude the use of Legislative Audit Agency auditors, as provided in the intergovernmental cooperation laws. As you know, under certain conditions, and by prior approval of the H.E.W. audit agency, such audit results will be accepted in lieu of an audit conducted by federal auditors.

Secondly, if the intended outcomes of this legislation are a reduction in federal regulation of education, a reduction of extraneous federal administrative requirements, and a placing of the state in a position of being accountable for its own educational destiny, then it should be remembered that legislation alone will not accomplish this. The legislation must be accompanied by a recognition from the federal bureaucratic structure that these are laudable goals which should be actively promoted.

I appreciate your continuing efforts to improve the delivery of educational services.

Yours sincerely,

ED HERSCHLER,
Governor.

SENATE OF PENNSYLVANIA,
September 21, 1976.
Hon. PETE V. DOMENICI and
HENRY BELLMON,
U.S. Senate, Washington, D.C.

DEAR SENATOR: In response to your letter of August 2, containing a draft of the "Elementary and Secondary Education Optional Program Consolidation Act", my general reaction is one of approval for your attempt to "simplify, deregulate and consolidate . . . elementary and secondary education programs in order to provide improved State administration of the programs".

Realizing that such legislation, even if successful, may be altered in the adoption process I will make just a few general observations rather than give a section by section analysis.

Your objective, as noted, is worthy of support. I also am happy to note in the purpose of the bill the reference to improved State administration, as quoted above. There has been a tendency in the federal Congress, when approving block grants, federal revenue sharing, and the like, to too often seek to bypass the states and go directly to the local units of government. This completely ignores, and violates the advantages of, the federal system of government; a system in which the state and national governments are the two "sovereign" governments. Local governments are units of the state, created by the state, and subject to the state constitution rather than one of their own. This is particularly pertinent in the case of education. This in no way belittles the importance of local units. Their needs deserve consideration also, but the way to do that is not to eliminate the state from the process.

The other major observation is that the final bill does, in fact, achieve its purpose of simplifying the administration of the funding, and doesn't just substitute one system of complexities for another. Since I don't administer any of these programs a more detailed reaction to this will undoubtedly come from our Department of Education people who, I know, are already involved in the consideration of this proposal.

Thank you for writing for my views. I wish you success in your endeavor.

Sincerely yours,

JEANETTE F. REIBMAN,
State Senator

FORT WORTH
INDEPENDENT SCHOOL DISTRICT,
Fort Worth, Tex., August 16, 1976.
Hon. PETE V. DOMENICI,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR DOMENICI: I noted in "Report on Education of the Disadvantaged" that you and Senator Bellmon plan to introduce legislation designed to "simplify, deregulate and consolidate" certain Federal education programs. The members of this office are pretty excited about the prospects of such legislation and would like to study the bill itself.

Would you send a copy of the bill to Dr. Warren T. White, Jr., Fort Worth Independent School District, 3210 W. Lancaster, Fort Worth, Texas 76107.

Sincerely,

WARREN T. WHITE, Jr.

STATE OF ALABAMA,
DEPARTMENT OF EDUCATION,
Montgomery, Ala., August 20, 1976.
Hon. HENRY BELLMON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BELLMON: Thank you for your letter of August 2. We appreciate the opportunity to review the draft of the Elementary and Secondary Education Optional Program Consolidation Act. You and the members of your staff are to be commended for the outstanding involvement you have afforded state and local educational agencies. We have reviewed the Act and wish to offer our support for your efforts to secure passage.

We feel that to afford states the opportunity to consolidate the many fine federal educational programs which we now have and to afford states the opportunity to develop regulations working with the local educational agencies is a giant step in the right direction. We hope it will be possible for some of our Congressional Delegation to help co-sponsor this bill. We will be in touch with members of your staff regarding this matter in the very near future.

We are enclosing a page-by-page summary of our concerns which we hope will be helpful to you.

Sincerely yours,

WAYNE TEAGUE,
State Superintendent of Education.

STATE OF ARKANSAS,
OFFICE OF THE GOVERNOR,
Little Rock, August 31, 1976.
Hon. PETE V. DOMENICI,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOMENICI: Thank you for alerting me to the proposed "Elementary and Secondary Education Optional Program Consolidation Act." I have reviewed the draft and have asked our Commissioner of Education in Arkansas to review it. His comments and an analysis by his staff are enclosed.

There are advantages in this proposed legislation which would benefit our state. Therefore, I am interested to follow the progress of this bill. The legislative intent appears to be practical and workable. However, before I cast my complete support to this effort, I want to look at the changes in administrative costs for our Department of Education.

Please keep me informed and thank you for requesting my comments.

Sincerely,

DAVID PRYOR.

ALAMOGORDO PUBLIC SCHOOLS,
Alamogordo, N. Mex., August 19, 1976.
Senator PETE V. DOMENICI,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR DOMENICI: At the New Mexico School Administrators and State Department of Education Conference that was held in Albuquerque on August 3, 4, and 5, we received a proposal which included your elementary and secondary educational consolidation act for federal funding of public education. Your Santa Fe and Albuquerque legislative administrative assistant read your speech indicating what you and Senator Bellmon were trying to achieve in the consolidation program of federal funds for public education in the fifty states.

First, may I indicate to you that I am in complete agreement with your philosophy and concepts as I explained to you while in your office last February.

Second, I firmly believe that there are too many separate laws affecting categorical programs which tend to develop individual interests and administrators from the U.S. Office of Education, to the area offices and to the various state departments of education.

Third, the present programs tend to restrict state and local efforts whereby the programs are designed to fit the local needs.

I would urge that the consolidation program be given primary consideration, . . .

I appreciate your leadership in trying to achieve the consolidation of education funds. From the expressions of other superintendents at the Albuquerque meeting, I think you will find that they are in favor of the proposal.

Continued best luck to you for the success of the bill.

Cordially yours,
Travis Stovall, *Superintendent*.

Clovis, N. Mex.,
August 23, 1976.

Senator **Pete Domenici**,
Dirksen Office Building,
Washington, D.C.

Dear Senator Domenici: After hearing the Domenici-Bellmon presentation at the New Mexico School Administrator's Meeting, I would like to voice my support of your efforts to eliminate some of this hodge-podge of federal programs.

We have too long been taking federal monies from various title programs and spending them on the same target populations.

I have attended many meetings of various federal program people who are promoting and soliciting proposals in order to stay alive—one hand (or program) never seems to know what the other is doing. After twenty years of administering federal programs, I am sick of the whole mess.

If we in education can clean up much of this wasteful spending, we will have adequate funds to operate our schools in a very fine fashion.

Boards and superintendents of schools are very reluctant to take on any extra federal programs because it will mean adding personnel for the record keeping and administration.

I support you in your efforts, and hope that some of our red-tape and bureaucracy can be eliminated.

Sincerely,
Richard Sullinger,
Director of Instruction,
Clovis Public Schools.

State of Rhode Island and
Providence Plantations,
Providence, August 31, 1976.

Hon **Pete V. Domenici**,
U.S. Senator, New Mexico,
U.S. Senate, Washington, D.C.

Dear Senator Domenici: Thank you for sending the advanced copy of your proposed legislation "Elementary and Secondary Education Optional Program Consolidation Act" which you intend to introduce early in September.

The proposed bill was referred to the Rhode Island Department of Education. The Commissioner, Thomas Schmidt, informed me that members of his staff had worked, on several occasions, with members of your staff in the development of the bill. The opportunity to have advanced input into the bill is appreciated. This input has been such that many of our concerns have been addressed. Dr. Schmidt has indicated that joint discussions will continue in the future.

Many of us realize that consolidation, such as you are recommending, is a concept which will have to be considered very carefully in the near future.

Once again, I appreciated your sending your proposed legislation to us. It is through this type of cooperation that the relationship between local, state and Federal governments in education can be enhanced.

If I can be of any further service, please let me know.

Sincerely,
Philip W. Noel,
Governor.

California Legislature,
Assembly Committee on Education,
August 12, 1976.

Hon. **Pete V. Domenici**,
U.S. Senator, New Mexico, U.S. Senate, Washington, D.C.

Dear Senator Domenici: You and Senator Bellmon are to be commended for the proposed legislation titled "Elementary and Secondary Education Optional Program Consolidation Act." School districts in California have been utilizing a consolidated application form for several years now, which has streamlined the application process for numerous State and federal categorical aid funds.

Although your proposal has merit, I believe that the federal government and the Congress must give greater attention to the underlying problem addressed by the consolidated application approach, which is too much paperwork for existing programs. Unless many of the current redundant, arbitrary and irrelevant paperwork requirements associated with current federal programs are reduced, I am afraid that the federal bureaucracy will use the consolidated application proposal as justification for generating additional paperwork which will be in addition to that which is presently required. Would you gentlemen be willing to consider an amendment directing the appropriate federal bureaucracy, in cooperation with the appropriate congressional committees, to examine current application procedures of existing programs, attendant reporting requirements for such programs and the use made of the information reported in order to streamline the process? I believe that such a project would mesh well with your intended objective and would be of substantial benefit to local school districts and State Departments of Education. As a member of the Steering Committee of the Education Commission of the States, I have been trying to interest that organization in this problem.

Very truly yours,
Leroy F. Greene.

State of North Carolina,
Superintendent of Public Instruction,
Raleigh, June 25, 1976.

Attention: Dick Woods.
Hon. **Henry Bellmon**,
Russell Building,
Washington, D.C.

Dear Senator Bellmon: I have read with interest the abstract of your draft proposal for consolidation. This consolidation is infinitely more appealing to state and local educators than the President's Financial Assistance for Elementary and Secondary Education Act. Thank you for giving me the opportunity to comment before the bill is introduced.

The bill has many strengths which should be maintained in future drafts. These strengths include:

(1) the logical grouping of high cost students into one title.

(2) consolidation of all Federal funds for the handicapped in Part B. (Fragmented funding of programs for the handicapped has long been a problem.)

(3) inclusion of current discretionary funds in formula grants to SEAs. (The present competitive system for applying directly to USOE for discretionary funds has become a frustrating experience for many LEAs. Appropriations have never been adequate to support most discretionary programs.)

(4) possible inclusion of CETA in the consolidation. (In North Carolina it has been difficult for LEAs to obtain information about this program.)

(5) special provision for SEA's entitlement to Title IV–C funds for strengthening the SEA. (Without this provision, such funds could be lost by many state education agencies.)

(6) one administrative grant award for all programs.

(7) flexible maintenance of effort provision.

(8) options available to states.

In order to eliminate possible political struggles over education in the states, I strongly suggest that the bill specify funding to state boards of education or the agency responsible for education in the states. Grants made to governors and/or state legislatures could create unnecessary political involvement.

As a result of our experience with the ESEA, Title IV consolidation, which has not decreased red tape or paper work, I suggest that the bill contain strong safeguards against USOE requirements and restrictions not legislated in the Act.

This bill, for the first time, presents consolidation of programs in a logical manner. The education community should commend you for taking the initiative to develop a plan that would simplify Federal funding for education while making it possible to use funds more effectively. Thank you for allowing state and local educators to have input before the bill is introduced. If we in North Carolina can be of assistance, please call on us.

Sincerely yours,
Joseph B. Webb,
Special Assistant, Federal Relations.

Hennessey Public Schools,
Hennessey, Okla., August 25, 1976.

Hon. Senator **Henry Bellmon**,
Senate Office Building,
Washington, D.C.

Dear Senator Bellmon: Reference your letter concerning your collaboration with Senator Pete Domenici on consolidation of certain Federal Aid Programs, I am hopeful that you are successful in passing the bill.

Hennessey Schools receives such a small amount of Federal Aid (approximately $15,000 per year) that the amount of paper work for each of the programs almost negates the value received from the funds. In fact, we do not even apply for some of the aid programs because of the paper work involved.

In addition to consolidating the current programs, I urge that you do what you can to eliminate some of the paper work in all programs.

Enclosed are copies of all the reports (State and Federal) that we completed last year just to get what little Federal Aid we got. By reviewing our reports and multiplying it times the number of schools in our state and other states, you will see that the federal programs are costing millions of dollars just for paper, not to include the many, many hours that parents teachers, secretaries and administrators are putting into the programs.

Briefly stated, I spend more time reporting and auditing our Federal Funds of $15,000.00 than I do on the remainder of our $1,100,000.00 budget for Hennessey Schools.

Therefore, I approve of your plan to consolidate Federal Aid Programs, but I earnestly urge you and Senator Domenici to work just as hard on legislating out the lengthy reports, application forms and excessive copies of each report. Your continued efforts on these matters would be appreciated.

Sincerely,
Paul L. Babiak,
Superintendent of Schools.

Wagoner City Schools,
Wagoner, Okla., September 15, 1976.

Hon. **Henry Bellmon**,
U.S. Senator, Russell Senate Office Building, Washington, D.C.

Dear Senator Bellmon: I believe your proposed special legislation to reorganize and consolidate certain programs of Federal Aid to education is a move in the right direction. Too many of these programs are on a competitive basis and not on an equitable basis. Many smaller school districts are unable to receive their fair share of such funds.

If the programs were consolidated, they

could be distributed at the state level on a per pupil qualification basis and not on a local program basis. Many districts are unable to qualify because of minimum program size requirements.

A simplification of the categorical or program requirements at the state level will provide greater flexibility in the use of funds. Each school district could utilize their eligible funds in a way that best suits the local need.

Sincerely yours,
CHARLES CLAYTON,
Superintendent.

Mr. DOMENICI subsequently said: Mr. President, I ask unanimous consent that the education bill introduced this morning be printed. Because of a procedural matter, unless I get uanimous consent, that cannot be printed in the RECORD. I have conferred with Senator ALLEN and the Senator from North Dakota.

The PRESIDING OFFICER. Is the Senator asking that it be referred to a committee?

Mr. DOMENICI. No, that it be printed—and referred, yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the Senator.

The bill, which was referred to the Committee on Labor and Public Welfare, is as follows:

S. 3849

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Elementary and Secondary Education Optional Consolidation and Reorganization Act".

STATEMENT OF PURPOSE

SEC. 2. (a) It is the purpose of this Act to afford the States the option of consolidating and reorganizing certain programs of assistance to State and local educational agencies for elementary, secondary, vocational and adult education into three broad categories:

(1) Special Educational Needs Programs including programs authorized on the date of enactment of this Act—

(A) under subpart 1 of part A of title I and part B of title I of the Elementary and Secondary Education Act of 1965, those portions of subpart 2 of part A of the Elementary and Sencondary Education Act of 1965 as relates to neglected and delinquent children and migratory children, and the Headstart and Follow Through Act;

(B) under part B of the Education of the Handicapped Act as amended by PL 94–142, section 121 of the Elementary and Secondary Education Act of 1965, and under section 403 (a) (8) (B) of the Elementary and Secondary Education Act of 1965;

(C) under title VII of the Elementary and Secondary Education Act of 1965, section 708 (c) of the Emergency School Aid Act, and part J of the Vocational Education Act of 1963.

(2) Vocational Education Programs including programs authorized on the date of enactment of this Act—

(A) under the Vocational Education Act of 1963, and section 407 of the Education Amendments of 1974 relating to consumer education;

(B) the Adult Education Act, and section 405 of the Education Amendments of 1974 relating to Community schools;

(C) under that portion of title I of the Comprehensive Employment and Training Act as relates to elementary and secondary or adult education, or both.

(3) Special Emphasis Projects including programs authorized on the date of enactment of this Act under title IV of the Elementary and Secondary Education Act of 1965 as amended and including part B and part C; the Special Projects Act including section 403 of the Education Amendments of 1974 relating to metric education, section 404 of the Education Amendments of 1974 relating to gifted and talented children, section 406 of the Education Amendments of 1974 relating to career education, section 408 of the Education Amendments of 1974 relating to women's educational equity, section 409 of the Education Amendments of 1974 relating to arts and education; the Environmental Education Act, the Alcohol and Drug Abuse Education Act, title IX of the Elementary and Secondary Education Act of 1965 relating to ethnic heritage, title V of the Higher Education Act of 1965 relating to the Teacher Corps, title VIII of the Education Amendments of 1974 relating to the national reading improvement program except sections 721 and 722. Those programs listed from the Special Projects Act will not be included in the consolidation authorized by this Act until Fiscal Year 1979.

(b) It is the further purpose of this Act to permit the States that select the consolidation program authorized by this Act greater flexibilitiy in the use of Federal educational assistance and to bring about a simplification of the categorical requirements contained in the provisions of law authorizing each such program.

PROGRAM SELECTION

SEC. 3. Each State desiring to participate in the consolidation program authorized by this Act shall select the consolidation authorized under title I, title II parts A and B, and title III of this Act and may select the consolidation authorized under title II part C of this Act. In States having a separate state agency for vocational education, the state may select the consolidations authorized under title I and title III.

APPLICABILITY TO EXISTING LAW

SEC. 4. Except as provided in this Act, no other provision of law authorizing a program consolidated under this Act shall apply to the provision of financial assistance to a State having a comprehensive State plan in compliance with the provisions of this Act, with respect to the programs covered by that plan. All administrative regulations shall be consistent with the provisions of this Act for all States participating in consolidation.

TITLE I—SPECIAL NEEDS PROGRAMS

PART A—EDUCATIONALLY DEPRIVED CHILDREN

CHILDREN FROM LOW-INCOME FAMILIES

SEC. 101. Each State desiring to participate in the consolidation program authorized by this Act shall within the limits of available federal funds, in the comprehensive State plan required under section 406, provide for a program designed to—

(1) address the special educational needs of educationally deprived children in local educational agencies having high concentrations of children from low income families, and through such local education agencies arrange to meet the needs of such children in private non-profit schools on an equitable basis unless prohibited by law;

(2) address the special educational needs of neglected and delinquent children in State operated programs or such children in adult correctional institutions shall be coordinated with other educational programs provided for such children.

CHILDREN IN FOLLOW THROUGH AND HEADSTART PROGRAMS

SEC. 102. Each State desiring to participate in the consolidation program authorized by this Act shall, in the comprehensive State plan required under section 406, set forth within the limits of available federal funding and consistent with other programs for similar purposes, a program designed to provide comprehensive health, educational, nutritional, social and other services primarily for children from low-income families, including such handicapped children who have not reached the age for compulsory school attendance, and primarily for children from low-income families in kindergarten and primary grades including such children enrolled in private nonprofit elementary schools who were previously enrolled in Headstart or similar programs.

EDUCATION PROGRAMS FOR MIGRATORY CHILDREN

SEC. 103. Each State desiring to participate in the consolidation program authorized by this Act shall, in the comprehensive State plan required under section 406, set forth within the limits of available federal funds a program designed to address the special educational needs of migratory children of migratory agricultural workers and of migratory fishermen, including the preschool educational needs of such migratory children.

PART B—HANDICAPPED CHILDREN

EDUCATION PROGRAMS FOR HANDICAPPED CHILDREN

SEC. 111. Each State desiring to participate in the consolidation program authorized by this Act shall, in the comprehensive State plan required under section 406, set forth a program designed to—

(1) provide in the least restrictive environment, special education and related services for handicapped children,

(2) meet the special educational needs of handicapped children for which the State agency is responsible,

(3) provide special or innovative programs and projects for the education of handicapped children as authorized under part C of title IV of the Elementary and Secondary Education Act of 1965, and

(4) establish standards for educational programs for handicapped students.

SEC. 112. Each State desiring to participate in the consolidation program authorized by this Act may, in the comprehensive State plan required under section 406 set forth a program providing for special education and related services for handicapped children aged three to five.

SEC. 113. Each State desiring to participate in the consolidation programs authorized by this Act and described in this part shall assure that—

(1) the State has in effect a policy that assures all handicapped children the right to a free appropriate public education, and

(2) consistent with State law, there is established (i) a goal of providing full educational opportunity by 1978 to all handicapped children ages three through eighteen, and by 1980 for handicapped children ages three through twenty-one, (ii) a detailed timetable for accomplishing such goals, and (iii) a description of the kind and number of facilities, personnel, and services necessary throughout the State to meet such goals.

PROCEDURAL SAFEGUARDS

SEC. 114 (a) Any State educational agency, any intermediate educational unit, any local educational agency and any State agency operating educational programs for the handicapped which receives assistance under this part shall establish as a part of the comprehensive plans and maintain procedures to assure that handicapped children and their parents or guardians are guaranteed procedural safeguards with respect to the provision of free appropriate public education by such agencies and units.

(b) The procedures required by this section shall include, but shall not necessarily be limited to—

(1) a procedure for the parents or guardian of a handicapped child to examine all relevant records with respect to the identification, evaluation, and educational placement of the child and the provision of a free appropriate public education of the child;

(2) procedures to protect the rights of the child whenever the parents or guardian of the child are not known, unavailable, or the child is a ward of the State, including

the assignment of an individual (who shall not be an employee of the State educational agency, local educational agency, or intermediate educational unit involved in the education or care of the child) to act as a surrogate for the parents or guardian;

(3) written prior notice to the parents or guardian of the child whenever such agency or unit proposes to initiate or change, or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child;

(4) procedures designed to assure that the notice required by clause (3) fully inform the parents or guardian, in the parents' or guardian's native language (unless it clearly is not feasible to do so) of all procedures available pursuant to this section; and

(5) a procedure for presentation of complaints with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.

(6) an opportunity for due process hearing conducted according to local procedure and State law for parents or guardian with complaints pursuant to this section.

Part C—Children With Limited English-Speaking Ability

BILINGUAL EDUCATION PROGRAMS

Sec. 121. Each State desiring to participate in the consolidation program authorized by this Act shall, in the comprehensive State plan required under section 406, set forth within the limits of available funding—

(1) a program of instruction designed for children of limited English-speaking ability in elementary and secondary schools;

(2) a program designed to meet the needs of children who are from an environment in which the dominant language is other than English, and who because of language barriers and cultural difference, do not have equality of educational opportunity; and

(3) a program of bilingual vocational training planned in cooperation with the basic vocational education programs for persons who have completed or left elementary or secondary school and who are available for training and for persons who have already entered the labor market and desire or need training or retraining to achieve adequate employment. This clause (3) is applicable only in those States which also consolidate under title II.

Part D—Distribution of Funds to Local Educational Agencies

DISTRIBUTION TO LOCAL EDUCATIONAL AGENCIES

Sec. 131. (a) From the funds provided to a State attributable to section 101 of this title for any fiscal year, the State shall allocate to each local educational agency in that State based on the number of students from low income families at least the amount which each local educational agency would have received had the distribution of such funds been made under the provisions of law authorizing Part A of Title I of the Elementary and Secondary Education Act of 1965.

(b) (1) From the funds provided to a State attributable to section 102 of this title for any fiscal year, the State shall allocate such amount on a project grant basis within the State among the local educational agencies and other eligible agencies in the State as set forth in section 514(a) and section 551 (a) (4) of the Head Start-Followthrough Act.

(2) The State shall give special consideration in the designation of Headstart and Follow Through Agencies to any agency which is receiving funds for such purposes on the date of enactment of this Act. The State shall determine before giving such consideration that the agency involved meets program and fiscal requirements established by the State.

(c) From the funds provided to a State under section 103 of this title for any fiscal year, the State shall allocate such amount on an equitable basis taking into account the number of eligible students in local educational agencies having migrant education programs. A State may serve such students directly.

(d) From funds provided to a State attributable to section 111 of this title (relating to education programs for handicapped children) for any fiscal year, the State shall allocate to each local educational agency in that State an amount equal to the amount which each such local educational agency would have received had the distribution of such funds been made under the provisions of law authorizing the program consolidated in that section.

(e) From the funds provided to a State attributable to section 121 of this title (relating to bilingual education programs) for any fiscal year, the State shall distribute such amount on either a formula or a project grant basis taking into consideration the number and needs of students in that State who are non-English speaking or have limited English-speaking ability.

(f) Local educational agencies may form consortiums to provide services authorized by this title.

TITLE II—VOCATIONAL ADULT AND CONTINUING EDUCATION AND EMPLOYMENT TRAINING

Part A—Vocational Education

Sec. 201. (a) Each state (except as provided in section 3 of this Act) desiring to participate in the consolidation programs authorized by this Act and including programs authorized under this title shall, in the Comprehensive State plan required under section 406, provide for a program designed to maintain, extend, and improve existing programs of vocational education, to develop new programs of vocational education, and to provide part-time employment for youths who need the earnings from such employment to continue their vocational training on a full-time basis, so that persons of all ages, regardless of sex, race, religion, or national origin in all communities of the State including those in high school, those who have completed or discontinued their formal education and are preparing to enter the labor market, those who have already entered the labor market but need to upgrade their skills or learn new ones, those with special educational handicaps, and those in postsecondary schools, will have ready access to vocational training or retraining which is of high quality, which is realistic in the light of actual or anticipated opportunities for gainful employment, and which is suited to their needs, interests, and ability to benefit from such training.

(b) Such comprehensive state plan may also include construction of area vocational school facilities, vocational guidance and counseling, ancillary services to assure quality in all vocational education programs, research and training in vocational education, exemplary projects, residential vocational education, consumer education, homemaking education, cooperative vocational education programs, work-study programs for vocational education, curriculum development in vocational education, and training at nonpublic vocational institutions.

(c) Such comprehensive state plan must include provision for vocational education for handicapped persons and for persons who for academic or other reasons have difficulty in succeeding in the regular vocational education program. A minimum of 35 percent of a state's allocation must be spent for such purposes. Such state plan must also provide for vocational education of students of limited English-speaking ability in coordination with the bilingual education programs authorized under title I, part C of this Act and under section 306(a) (11) of the Adult Education Act.

Part B—Adult, Continuing and Community Education

Sec. 211. Each State desiring to participate in the consolidation program authorized by this Act and including this title shall, as part of the comprehensive state plan described under section 406, provide for a program designed within the limits of available funding to meet the needs for adult basic education, and in planning, establishing, expanding, and operating community education projects.

Part C—Education Projects Authorized under Employment Training Programs

EDUCATION TRAINING PROGRAMS

Sec. 221. (a) Each State selecting the option offered by this part shall as part of the comprehensive State plan required by section 406 include provisions for the education portion of the Manpower Services Program of that State carried out with assistance under title I of the Comprehensive Employment and Training Act of 1973.

(b) In order to exercise the option authorized by this part the State Educational Agency, the State vocational education agency if it is separate from the State Educational Agency, the Governor of that State, and the Planning Council established pursuant to Section 104 of the Comprehensive Employment and Training Act of 1973 must agree to the plan of administration of this program as part of the consolidation.

Part D—Distribution of Funds to Local Educational Agencies

DISTRIBUTION TO LOCAL EDUCATIONAL AGENCIES

Sec. 231. From the funds provided to a State attributable to parts A and B or this title for any fiscal year, the State shall allocate at least 75 percentum of such funds to local educational agencies and/or vocational area schools in that State, based on enrollment and other criteria determined in the Comprehensive Planning process.

TITLE III—SPECIAL EMPHASIS PROJECTS

Part A—Libraries and Learning Resources

Sec. 301. (a) Each State desiring to participate in the consolidation program authorized by the Act shall carry out a program for making grants to local educational agencies, which program shall be described in the comprehensive State plan submitted under section 406, provided for—

(1) the acquisition of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private nonprofit elementary and secondary schools;

(2) the acquisition of instructional equipment (including laboratory and other special equipment, including audio-visual materials and equipment suitable for use in providing education in academic subjects) for use by children and teachers in elementary and secondary schools, and for minor remodeling of laboratory or other space used by such schools for such equipment;

(b) No personnel may be employed by a local educational agency with funds provided by this part.

Part B—Special Curriculum Emphasis, Guidance and Counseling Innovation, and Support Projects

Sec. 311. Each State desiring to participate in the consolidation program authorized by this Act shall set forth priority funding areas which reflect the aggregate needs and priorities determined by local educational agencies in the needs assessment and shall carry out a program for providing services and making grants to local educational agencies for—

(1) innovation and exemplary programs

to stimulate and assist in the provision of vitally needed educational services (including preschool education, special education, compensatory education, vocational education, education of gifted and talented children, and dual enrollment programs) not available in sufficient quantity or quality, and to stimulate and assist in the development and establishment of exemplary elementary and secondary school programs (including the remodeling or lease of necessary facilities) to serve as models for regular school programs;

(2)(A) programs of counseling and guidance services for students in elementary and secondary schools, including

(i) occupational, vocational guidance, personal social counseling, and information services,

(ii) pupil appraisal,

(iii) pupil motivation for academic success,

(iv) post secondary placement assistance,

(v) research, evaluation, and follow-up activities, and

(vi) staff development.

(B) programs of testing students in elementary and secondary schools, and

(C) programs, projects, and leadership activities designed to expand and strengthen counseling and guidance services in elementary and secondary schools;

(3) demonstration projects by local educational agencies or private educational organizations designed to improve nutrition and health services in public and private non-profit elementary and secondary schools serving areas with high concentrations of children from low-income families and such projects may include payment of the cost of—

(A) coordinating and evaluating nutrition and health service resources in the areas to be served by a project,

(B) providing supplemental health, mental health, nutritional, and food services to children from low-income families when the resources for such services available to the applicant from other sources are inadequate to meet the needs of such children, and

(C) nutrition and health programs designed to train professional and other school personnel to provide nutrition and health services;

(4) to make arrangements with local educational agencies for the carrying out by such agencies in schools located in urban or rural areas which have a high percentage of children from low-income families and have a high percentage of such children who do not complete their secondary school education, of demonstration projects involving the use of innovative methods, systems, materials, or programs which show promise of reducing the number of such children who do not complete their secondary school education;

(5) strengthening the leadership resources of State educational agencies and assisting those agencies in the establishment and improvement of programs to identify and meet educational needs of the State;

(6) encouraging educational agencies and institutions to prepare students to use the metric system of measurement;

(7) advancing the education of gifted and talented children;

(8) programs, projects and leadership for career education at elementary and secondary schools designed to—

(A) develop information on the needs for career education for all children,

(B) reassess the status of career education programs and practices including assessment of stereotyping career opportunities by race or by sex,

(C) provide for the demonstration of exemplary career education programs and practices by the development and testing of exemplary programs and practices using various theories, concepts and approaches, and

(D) provide for the training and retraining of persons for conducting career education programs;

(9) activities to provide educational equity for women;

(10) assisting and encouraging the use of the arts in elementary and secondary school programs;

(11) establishing and supporting drug abuse and alcohol prevention and control projects, including projects for primary prevention and early intervention conducted in elementary and secondary schools,

(12) development of curriculum materials and dissemination of such materials in the elementary and secondary schools relating to the history, geography, society, economy, literature, art, music, drama, language and general culture of any ethnic groups and the contributions of those ethnic groups to American heritage,

(13) strengthening the educational opportunities available to children in areas having high concentrations of low income families, through improved programs of training and retraining for personnel eligible for the Teacher Corps including teachers, teacher aides, other educational personnel, teacher-interns, and volunteers who give instructional assistance in such areas through cooperative arrangements among State and local educational agencies and institutions of higher education for such training;

(14)(A) carrying out projects for schools having large numbers or high percentages of children with reading deficiencies, involving the use of diagnostic testing, individualized learning, innovative methods, systems, materials, bilingual materials when appropriate, vocation reading programs, or projects which show promise of overcoming such reading deficiencies, including projects for pre-elementary school children, and

(B) to provide financial assistance to States to enable such States

(i) to develop comprehensive programs and state leadership to improve reading proficiency and instruction in reading in the elementary schools of the state;

(ii) to arrange for and assist in the training of special reading personnel and specialists;

(iii) to furnish reading assistance and instruction to youths and adults who do not otherwise receive such assistance and instruction or to make grants for such reading academies to eligible institutions;

(15) environmental education activities at elementary and secondary education levels, including the development of curricula (including interdisciplinary curricula) in the preservation and enhancement of environmental and ecological balance, the dissemination of information relating to such curricula and to environmental education generally, appropriate education training programs, and the planning of outdoor ecological study centers; and

(16) to assist local educational agencies in strengthening the leadership resources of such agencies and to assist such agencies in the establishment and improvement of projects to identify and meet the educational needs of the school districts of such agencies.

PART C—DISTRIBUTION OF FUNDS TO LOCAL EDUCATIONAL AGENCIES

DISTRIBUTION TO LOCAL EDUCATIONAL AGENCIES

SEC. 321. (a) From the funds provided to a State attributable to clauses (1) and (2) of section 301(a) of this title for any fiscal year, the State shall allocate to each local educational agency in that State an amount based primarily upon enrollment and any other secondary relevant factor to be determined by the State such as tax effort, numbers or percentages or both, of students whose education imposes a higher than average cost per child, and district wealth or other equalizing criteria. The formula for such distribution shall be included in the Comprehensive State Plan required by section 406. The local educational agencies, based on needs of public and non-public school children, will be given sole discretion in determining how such funds will be divided among the various purposes described in section 301.

(b) from the funds provided to a State attributable to section 311 for any fiscal year, the State agency designated pursuant to section 404(a)(1) shall allocate grants to local educational agencies in the State in accordance with criteria developed in the comprehensive state plan, for the purposes described in such clauses, except that such amounts attributable to clauses (2), (5), and (14B) of section 312 may be retained for programs at the State Education Agency.

TITLE IV—GENERAL PROVISION

SEC. 401. (a)(1) From the amounts appropriated for the fiscal year 1978 and for each fiscal year thereafter ending prior to October 1, 1982 to carry out programs consolidated by this Act, the Commissioner shall reserve an amount equal to the aggregate amount necessary to make allotments under section 402 to States selecting the option under this Act with respect to programs covered by the comprehensive State plan for each such State.

(2) Formulas for state distribution in existing law will be used by the Commissioner in reserving funds under the consolidation. Where state formulas do not exist for programs consolidated by this Act, the Commissioner shall reserve the amount of funds for all such programs which bears the same ratio to such amount as the number of children aged five through seventeen in the states which choose the option to consolidate bears to the number of children in all states. Bilingual funds will be reserved according to the criteria in section 402(a)(4).

(b) From the amount appropriated to each State under section 402, the Commissioner shall pay to each State having exercised the option to consolidate programs authorized by this Act an amount equal to the amount expended in that State in carrying out a comprehensive State plan adopted pursuant to this title.

ALLOTMENTS

SEC. 402. (a)(1) From the amounts reserved under section 401 to carry out title I of this Act for any fiscal year, the Commissioner shall determine the amount attributable to parts A, B, and C of such title for all States selecting to participate in the consolidation of programs authorized under such title.

(2) From the amount reserved under section 401 to carry out title I of this Act and determined attributable to part A for any fiscal year, the Commissioner shall allot to each State the sum of—

(A) an amount equal to the amount which each such State would be entitled under—

(i) subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965, for all local educational agencies within that State,

(ii) part B of title I of the Elementary and Secondary Education Act of 1965,

(iii) that portion of subpart 2 of part A of the Elementary and Secondary Education Act of 1965 as relates to neglected and delinquent children, and migratory children, subject to section 144 of the Elementary and Secondary Education Act of 1965, in each case.

(B) an amount equal to the amount which such State would have received under part A of title V of the Economic Opportunity Act of 1965 and an amount determined by the Commissioner to be equitable with respect to grants made under part B of such title V, if such State were receiving financial assistance under such title V.

(3) From the amount reserved pursuant to

section 401(a) for title I of this Act and determined attributable to part B, for any fiscal year, the Commissioner shall allot to each State the sum of an amount equal to the amount to which each such State would be entitled under—

(A) part B of the Education of the Handicapped Act as amended by PL 94–142, including funds under section 619 for states that provide services pursuant to section 122 of this Act;

(B) section 121 of the Elementary and Secondary Education Act of 1965; and

(C) section 403(a)(8)(B) of the Elementary and Secondary Education Act of 1965.

(4) From the amount reserved pursuant to section 401 for carrying out title I of this Act and determined attributable to part C of such title for any fiscal year, the Commissioner shall allot to each state the sum of an amount which bears the same ratio to such amount as the number of limited and non-English speaking persons aged 5 and above in the State, as identified by the Bureau of the Census, bears to the number of such children in all states, for funds reserved under—

(A) title VII of the Elementary and Secondary Education Act of 1965;

(B) section 708 (c) of the Emergency School Aid Act; and

(C) part J of the Vocational Education Act of 1963.

(b)(1) From the amounts reserved under section 401 to carry out title II of this Act for any fiscal year, the Commissioner shall determine the amount attributable to parts A, B, and C of such title for all States selecting to participate in the consolidation of programs authorized under such title.

(2) From the amounts reserved under section 401 to carry out title II of this Act and determined attributable to part A for any fiscal year, the Commissioner shall allot to each State an amount equal to the amount to which each such State would be entitled under—

(A) the Vocational Education Act of 1963 less part J of such Act; and

(B) an amount equal to the amount which bears the same ratio to the amount attributable to consumer education as the number of children age 15 to 17 inclusive in each state bears to the number of such children in all states.

(3) From the amount reserved under section 401 to carry out title II of this Act and determined attributable to part B for any fiscal year, the Commissioner shall allot to each State an amount equal to the amount to which the State would be entitled under—

(A) the Adult Education Act; and

(B) an amount which bears the same ratio to the amount attributable to community education as the population in each State bears to the population in all states.

(4) From the amount reserved under section 401 to carry out title II of this Act and determined attributable to part C for any fiscal year, the Commissioner shall allot to each state an amount equal to the amount to which each such State would be entitled for that portion of the program under the Comprehensive Employment and Training Act of 1973 subject to the provisions of such part B. Whenever the Commissioner determines that the allotment made under this paragraph may not be determined with respect to any State, he shall make an allotment based upon an equitable distribution of amounts available for allotment under this part.

(c)(1) From the amounts reserved under section 401 to carry out title III of this Act and for any fiscal year, the Commissioner shall determine the amount attributable to parts A and B of such title for all States selecting to participate in the consolidation of programs authorized under such title.

(2) From the amount reserved under section 401 to carry out title III of this Act and determined attributable to part A for any fiscal year, the Commissioner shall allot to each State an amount equal to the amount to which each such State would be entitled under part B title IV of the Elementary and Secondary Education Act of 1965 less the amount attributable to guidance and counseling.

(3) From the amount reserved under section 401 to carry out title III of this Act and determined attributable to part B for any fiscal year, the Commissioner shall allot to each State an amount equal to the sum of the amount to which each State would be entitled under—

(A) title IV C of the Elementary and Secondary Education Act of 1965 less the 15 percentum set aside for handicapped education in section 403(a)(8)(B) of such title;

(B) that portion of Part B of title IV of such Act attributable to guidance and counseling; and

(C) an amount equal to the amount which bears the same ratio to the amount attributable to section 311 clauses 11–16, and for fiscal year 1979 and thereafter for clauses 6–10, of such part as the number of children age five to seventeen, inclusive, in such State bears to the number of such children in all States selecting to participate in the programs consolidated under title III of this Act.

(4) For the purpose of paragraph (3) of this subsection, the Commissioner shall determine the number of children age five to seventeen inclusive, on the basis of the most satisfactory data available to him.

(d) For the purpose of subsection (b) of this section, the term "State" does not include Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(e) Any funds granted to a State under any program consolidated under this Act prior to the consolidation which remain available for expenditure during the succeeding fiscal year pursuant to section 412(b) of the General Education Provisions Act, shall be available for use by that State during that year for the purpose for which they were originally granted or for carrying out the State's consolidated plan for that year under this Act.

(f) Any expenditures made to close out any programs consolidated by this Act can be included as administrative expense under section 404(c)(1) of this Act.

PLANNING GRANTS

SEC. 403. (a) Any State desiring to participate in the consolidation program authorized by this Act, may in order to prepare a consolidated plan in accordance with the provisions of this Act, receive a planning grant for use in a maximum of two program years. Each State desiring to receive a planning grant under this section shall file an application at such time, and in such manner, and including such information, as the Commissioner may reasonably require consistent with the provision of this section. Each such application shall be submitted together with a certification of intent by that State to select the consolidation program authorized by this Act (with or without the optional consolidation program, authorized by title II of this Act), and shall include provisions which—

(1) describe the objectives to be achieved in the development of the state plan with assistance made available under this Act.

(2) set forth procedures to assure an opportunity for comments to be submitted by the chief executive of the State.

(3) set forth assurances that the comprehensive State plan required under section 406 will be prepared in accordance with section 405, and

(4) describe procedures for the promulgation of regulations for the State administration of the programs consolidated by this Act.

(b) The maximum amount of a grant which a State may receive under this section is equal to not more than 1 percent of the total allotment of that State under programs consolidated by this Act, which the State has selected for the fiscal year preceding the fiscal year for which the determination is made, except that no State shall receive less than $200,000 nor more than $1,000,000.

(c) There are authorized to be appropriated for each fiscal year ending prior to October 1, 1981, such sums as may be necessary to carry out the provisions of this section.

STATE ADMINISTRATION

SEC. 404. (a) Each State desiring to receive a grant for the consolidation program authorized by this Act for any fiscal year shall—

(1) designate, as provided by the constitution and laws of the State, the State educational agency or agencies within the State to receive and/or administer the financial assistance made available under this Act;

(2) develop and publish prior to the first year of assistance made to that State under this Act, and each fourth year thereafter, a four year comprehensive State plan which—

(A) is developed in accordance with the procedures described in section 405, and

(B) contains the provisions designed to meet the requirements of section 406,

(3) develop and publish an annual update of the comprehensive State plan, and

(4) certify to the Commissioner that it has developed and published the comprehensive State plan or annual update in accordance with the provisions of this title.

(b) A State desiring to receive a grant for the consolidation program authorized by this Act for any fiscal year shall, in addition to the requirements of subsection (a) provide for—

(1) an audit of expenditures for each program year in accordance with generally accepted accounting principles, conducted, as determined by the State, by

(A) an auditor of the State, using certified public accountants, or

(B) a private certified public accountant or auditing firm utilizing certified public accountants;

(2) an annual evaluation of the implementation of the State's final comprehensive plan, and any amendment thereto, adopted under section 405; and

(3) an annual report of that audit and evaluation which report shall include—

(A) such information as the Commissioner may prescribe consistent with the consolidation and provisions of this act, and

(B) assurance that funds were expended in accordance with the Act and the comprehensive State plan.

(c)(1) The Commissioner shall pay to each State for the proper and efficient administration of the consolidation program authorized by this Act an amount, in one grant award, equal to the amount such State would have received for administration of each program subject to the consolidation program and selected by that State under this Act plus an additional amount equal to one percentum of the aggregate of that State's allotment for the fiscal year for which the determination is made.

(2) There are authorized to be appropriated for each fiscal year ending prior to October 1, 1982, such sums as may be necessary to carry out the provisions of this section.

PROCEDURE FOR DEVELOPING THE COMPREHENSIVE STATE PLAN

SEC. 405. Each State shall in the development of the comprehensive State plan establish procedures designed to assure that—

(1) a comprehensive assessment is con-

ducted of the educational needs of the children of that State aged five to seventeen, inclusive, for educational services, the needs of children below aged five eligible for services under this Act, and the needs of adults in that State for basic educational and continuing educational services. Particular attention should be given to the identification of children with special educational needs, the services which the students are receiving, and the need for continued, additional, and related services for each of the programs specified in titles I, II (if applicable) and III of this Act. Local education agencies will determine priorities as part of the needs assessment process.

(2) procedures are established for obtaining the participation of interested citizens, local educational agencies, units of general local government, appropriate State agencies and organizations prior to and during the development of the comprehensive plan,

(3) the legislature of the State will be informed of the development of the procedures required by this subsection,

(4) as a part of the comprehensive planning process the priority programs for which funds authorized under section 407 will be alloted, distributed, and expended,

(5) the use of funds for purposes described in titles I, II if applicable, and III of this Act will be coordinated with the use of State and local funds extended for similar purposes,

(6) the use of funds for purposes described in title I, title II if applicable, and title III of this Act will be coordinated with each other and other federal programs to avoid duplication of effort,

(7) the proposed comprehensive State plan or the annual update thereof will be published at least 90 days prior to its effective date and such plan or update thereof will be available to interested parties and to local educational agencies within the State. Comment relating to such plan must be accepted for a minimum of 45 days after such publication,

(8) a final comprehensive State plan, or annual update thereof, will be published and made available prior to its effective date together with a summary of the comments received and an explanation of the differences between the proposed plan and the final plan and the reasons therefore,

(9) any amendment to the final comprehensive State plan prepared by the State educational agency or other agency designated pursuant to section 404(a)(1) will be published as a proposed amendment on which the public may comment for a period of at least 20 days, and thereafter the final amendment, together with a summary of the comments received and the action taken on such comments will be published.

(10) procedures will be established to assure that regulations and rules established, amended, or repealed by that State will be established, amended, or repealed with the counsel of local education agencies and consistent with State administrative procedures and due process.

(11) (A) local education agencies may agree to join together for the purpose of providing any of the programs authorized by this Act, and

(B) such consortiums shall be considered as a local educational agency for the purpose of distribution of such funds.

(12) (A) the aggregate amount, or

(B) the amount of the per pupil membership expenditure to be expended by the State and its local educational agencies from funds derived from non-Federal sources for the consolidation program under each title of this Act for any fiscal year will not be less than the amount so expended for the preceding fiscal year.

(13) provide assurance that funds must supplement and in no case supplant State and/or local funds.

(14) provide assurance that assistance under this Act under title I sections 101, 111, and 121 will be used for the excess costs for providing programs to meet the special needs defined in those sections.

PROVISIONS OF THE COMPREHENSIVE STATE PLAN

SEC. 406. A comprehensive State plan meets the requirements of this section if that plan—

(1) sets forth the procedure for, and the results of, the needs assessments conducted pursuant to section 405(a)(1);

(2) sets forth the goals to be achieved under the plan, the basic program objectives and a description of the programs to be assisted in accordance with the provisions of title I, title II (if applicable) and title III;

(3) sets forth the policies and procedures to be followed by the State to assure that the distribution of funds under titles I, II (if applicable) and title III of this Act to local educational agencies within the State is in accordance with the provisions of each such title;

(4) contains a description of the organizational structure through which the program consolidated by this Act will be administered;

(5) sets forth the procedures for monitoring activities of the local educational agencies within the State including a provision for technical assistance by the State to each such local educational agency;

(6) contains a description of the process that the State will use to ensure that any local educational agency in the State which receives funds under this Act will annually develop or update a comprehensive plan for the use of such funds, that program site advisory councils will be established for programs pursuant to sections 101 and 102 to advise in the development of the plan for such programs, and that the plan will for made available to the public for comment in a manner consistent with the manner and provisions required for the comprehensive State plan under this title;

(7) provides, consistent with State law and practice, for audit of local educational agency expenditures under this Act;

(8) provides that the only applications for funds for programs under this Act in addition to the local comprehensive program plan which a local educational agency must make to the State are for programs under the State plan which are competitive;

(9) sets forth procedures to be used by the State to eliminate unnecessary paperwork and duplication of informational requests in regard to local educational agency applications, evaluations, and reporting;

(10) provides due process procedures to be taken by the State in regard to a local educational agency which has failed to develop or implement a comphehensive program plan, including due process procedures for withholding of funds;

(11) provides a local educational agency appeal process within the State for any local eduactional agency which is dissatisfied with the State's action with respect to the State's compliance with substantive and procedural provisions of the Act. A local educational agency may appeal the final ruling of the State to the Commissioner.

SUPPLEMENTAL GRANTS

SEC. 407. (a) The Commissioner shall make a grant, in accordance with the provisions of this section, to any State which has selected the consolidation program authorized by this Act. The amount of the grant that each State shall receive for each fiscal year under this section shall be 10 percentum of the aggregate amount allotted to the State under section 402 for the fiscal year preceding the fiscal year for which the determination is made, except that for fiscal year 1978 such maximum amount shall be equal to 10 percentum of the aggregate amount received by such State in fiscal year 1977 for the programs described in title I, title II (if applicable), and title III of this Act.

(b) Each State entitled to receive a supplemental grant under this section shall make an application to the Commissioner, in such time, in such manner, and including such information as the Commissioner may reasonably require.

(c) The Commissioner shall pay to each State having an application approved under subsection (b) of this section, the amount to which the State is entitled under this section. The funds paid under this section may be used for any program described in title I, title II (if applicable), or title III of this Act.

(d) All such funds received by a State shall flow through to local educational agencies or be used in programs administered by the state which provide direct services to students.

(1) 50 percent of such funds must flow to the local education agency according to enrollment, and

(2) 50 percent of such funds will be distributed by the State according to criteria developed in the comprehensive planning process.

(e) If the sums appropriated for any fiscal year for making payments to States under this section are not sufficient to pay in full the amount to which each State is entitled under this section for such fiscal year, the amounts which all States may receive under this section for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

(f) There are authorized to be appropriated for fiscal year 1978 and for each succeeding fiscal year ending prior to October 1, 1982, in addition to any amount served pursuant to section 401, such sums as may be necessary to carry out the provisions of this section.

EVALUATIONS

SEC. 408. (a) The Commissioner after consulting and with the assistance of State agencies designated pursuant to section 403(a)(1) shall prepare and design several models for evaluation of program effectiveness which will be consistent with the purposes of the consolidation program authorized by this Act and the purposes of each program described in title I, title II (if applicable) and title III of this Act. Evaluation of local educational agency programs should focus on the services provided for students, the number of students served by each program, and the effect or results of such services.

(b)(1) Each State participating in the consolidation program authorized by this Act shall (A) select one of the models developed under subsection (a) of this section, or (B) use a model developed by that State, and shall be responsible for the use of that model in program evaluation of the consolidation program authorized by this Act. Each such evaluation design shall involve participation by local educational agencies of that State.

(2) An evaluation report whch is consistent with the procedures established pursuant to this section and the State comprehensive plan shall be prepared annually by each local educational agency and submitted to the State agency designated pursuant to section 404(a)(1). No other evaluation reports for programs authorized by this Act may be required of local educational agencies by the State educational agency.

(3) The annual State agency evaluation report prepared pursuant to this subsection shall be submitted to the Commissioner on such date as the Commissioner shall establish. The Commissioner shall analyze the State evaluations received under this

paragraph and shall, not later than March 1 in the year succeeding the year in which the evaluations are submitted, prepare and submit to the Congress a report on such evaluations.

(c) The Comptroller General shall conduct an evaluation of the programs authorized by this Act and not later than the end of the fiscal year 1982 shall prepare and submit to the Congress a report on such evaluation together with such recommendations, including such recommendations for legislation, as the Comptroller General deems advisable.

MONITORING AND TECHNICAL ASSISTANCE

SEC. 409. (a) The Commissioner shall conduct annually such monitoring programs in each State selecting the consolidation program authorized by this Act as he deems appropriate. The monitoring program authorized by this section shall include review of the development of the comprehensive State plan for compliance with the provisions of this title. Monitoring shall also include review of implementation of programs for conformity with this Act and with the comprehensive program plan. Each State shall be notified in advance of monitoring visits.

(b) Whenever as a result of monitoring activities conducted pursuant to this section, the Commissioner identifies areas of noncompliance, the Commissioner shall establish procedures with the appropriate State agency designated under section 404(a) (1) for the necessary modifications.

(c) The Commissioner shall provide advice, counsel, and technical assistance upon request of State and local educational agencies.

(d) Requests from State educational agencies for information concerning legality of State actions under this Act shall be answered by the Commissioner of Education within 30 days.

INTERSTATE COOPERATION

SEC. 410. (a) The Commissioner shall carry out a program of making grants to States which have elected to consolidate under this Act for the purpose of Interstate Cooperation.

(b) Such grants for cooperation among States shall be for the purpose of addressing common administrative problems under this Act and for educational planning and research.

(c) There are authorized to be appropriated $3 million for each of the fiscal years ending prior to October 1, 1982 to carry out the provisions of this section.

FEDERAL ADMINISTRATION

SEC. 411. (a) The consolidated program authorized by this Act shall be administered by a separate identifiable administrative unit to be established within 60 days after the date of enactment of this Act by the Commissioner in the Office of Education.

(b) Additional personnel to be employed in the administration of the consolidation program authorized by this Act shall be transferred to such unit from program units administering the categorical programs consolidated under this Act. Such transfers shall be based on the number and size of the States which selected the option to consolidate.

(c) The Commissioner shall establish procedures to eliminate all unnecessary paper work in regard to information required of State and local educational agencies.

(d) It is the intent of Congress that if the consolidation effort initiated by this Act is not extended beyond the terms of this Act that the Commissioner should establish orderly procedures for the termination of the program and the phase-in of regular administrative procedures. Such phase-in shall not exceed a three-year period.

DELEGATIONS, TRANSFERS OF FUNDS, AND CONTRACTS BY THE STATE AGENCY

SEC. 412. The State agency designated pursuant to subsection 404(a)(1) may, to the extent necessary to carry out the provisions of this Act—

(1) delegate their administrative functions, under this Act to other appropriate State agencies,

(2) transfer to such agencies administrative responsibilities and any funds provided to the State under this Act, and

(3) enter into contracts with public and private agencies, organizations, and institutions for carrying out activities authorized under this Act. Any arrangements entered into under this subsection for any fiscal year shall be set forth in the comprehensive State plan for that year.

ENFORCEMENT

SEC. 413. (a) (1) No payment may be made under section 401(b) to any State that has failed to provide the certification required by section 404(a)(4).

(2) In the case of any State that has provided those certifications, if the Commissioner, after reasonable notice and opportunity for a hearing to the State, finds that the comprehensive plan fails to comply with the requirements of sections 405 and 406, or the State has failed substantially to comply with any provision of that plan or title I, title II (if applicable) or III, or has failed to inform the Commissioner of any substantial failure to comply with any provision of that plan or those sections, the Commissioner shall—

(A) reduce the amount otherwise payable to the State under section 401(b) until he is satisfied that there is no such failure, but not in excess of five per centum of the amount payable to the State; or

(B) make no further payments to the State under section 401(b) or all or any part of such funds until he is satisfied that there will no longer be any failure of the plan to comply with the requirements of sections 405 and 406 or of the State to certify or comply with the plan of such titles I, II (if applicable) or III.

(b) The Commissioner shall establish a due process procedure to consider appeals made by local education agencies under section 406(a)(10).

(c)(1) If any State or local education agency is dissatisfied with the Commissioner's final action with respect to any action taken under this section, the State may within sixty days after notice of that action, file with the United States court of appeals for the circuit in which the State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(2) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(d) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, in the exercising of their authority under section 434(a)(2) of the General Education Provision Act may only audit activities undertaken within the State with funds provided under this Act, and shall not, under any authority in this Act, prescribe to the State any requirement for expenditures of funds other than funds provided under this Act.

CONSTRUCTION

SEC. 414. Funds paid to a State under this Act shall be available for construction of any facilities for which funds would have been available under any program consolidated in this Act. For the purposes of this Act, the term "construction" means the erection, acquisition, alteration, remodeling, or improvement of facilities, including the acquisition of land necessary therefor, and the cost of construction includes the cost of architect's fees.

CIVIL RIGHTS REQUIREMENTS

SEC. 415. (a) Funds made available under this Act shall be subject to title VI of the Civil Rights Act of 1964 (42 U.S.C. 1691-1686) title IX of the Education Amendments of 1972, and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(b) Whenever the Secretary of Health, Education, and Welfare determines, pursuant to the procedures applicable to any of the provisions in subsection (a) of this section, that one or more local educational agencies in a State are not in compliance with any of those statutory provisions, none of the funds provided to that State under this Act shall be made available to such local educational agencies during the period of noncompliance; and the allotment to that State under section 402 for that period shall be reduced by the amount of such funds received by those districts in the fiscal year prior to the year in which determination of noncompliance was made.

PARTICIPATION OF NONPUBLIC SCHOOL CHILDREN

SEC. 416. (a) The State educational agency or agencies designated under section 404(a) (1) of any State and local education agencies receiving a grant under this Act shall provide that—

(1) to the extent consistent with the number of

(A) children enrolled in private nonprofit elementary and secondary schools who reside in areas of the State eligible to be served by programs assisted under this Act, and

(B) children in Indian tribal elementary and secondary schools in the State, who have need for the services provided by those programs. Such children shall be given, after consultation with the appropriate private school officials, an opportunity to participate, on an equitable basis, in activities assisted under this act; and

(2) title to and control of funds received under this Act and other property derived therefrom will remain in one or more public (including Indian tribal government) agencies.

(b) The means by which the requirements in subsection (a) will be met within a State shall be set forth in the plan of the State adopted under section 406.

(c) If a State is prohibited by law from providing for the participation of children enrolled in private nonprofit or Indian tribal elementary and secondary schools, or if the Commissioner determines, after affording notice an opportunity for a hearing, that a State has substantially failed to provide for such participation, he shall waive the requirements of subsection (a)(1) and he shall arrange, by contract or otherwise, for such children to receive, on an equitable basis, services similar to those provided under this Act to public school children in the State. The cost of providing those services for any fiscal year shall be paid from the allotment of the State under section 402.

DEFINITIONS

SEC. 417. For the purposes of this Act—

(1) the term "Commissioner" means the United States Commissioner of Education.

(2) the term "local educational agency" means a public board of education or other

public authority legally constitued within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, of such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction or a public elementary or secondary school.

(3) the term "State" includes, in addition to the several States of the Union and the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(4) the term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision for public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(5) the term "Handicapped Children" means the children defined in section 602(1) of the Education of the Handicapped Act.

(6) the term "free appropriate education" means special education and related services which have been provided at public expense without charge and under public supervision and which meets the standards of the State Education Agency.

(7) the term "amendment" in regard to the comprehensive state plan means a substantial change such that the objectives to be achieved are modified.

(8) the term "administration" shall be defined as the activities necessary for the planning, implementation, and execution of program goals, which shall include, but are not limited to: interpreting rules, regulation and statutes; providing leadership and direction for program activities; participating in the development of the annual program plan; determining criteria for distribution of the state's allocation to the districts; outlining and interpreting application procedures; rendering technical assistance to the districts for project development, administration, evaluation, and reporting; monitoring programs; and evaluating program effectiveness.

(9) the term "vocational education" means the programs defined in section 108(1) of the Vocational Education Act of 1963.

(10) the term "area vocational education school" is defined in section 108(2) of the Vocational Education Act of 1962.

(11) the term "adult basic education" means education for adults above the age of sixteen whose inability to speak, read, or write the English language constitutes a substantial impairment of their ability to get or retain employment commensurate with their real ability.

(12) the term "eligible institutions" means any public agency or private agency eligible to apply for assistance for any purposes authorized in programs under section 2(a).

Mr. DOMENICI. Mr. President, has my time expired under the order?

The PRESIDING OFFICER (Mr. Allen). Yes, the Senator's time has expired.

Mr. DOMENICI. Mr. President, I yield the floor.

ORDER OF BUSINESS

The PRESIDING OFFICER. At this time, and for the next 1½ hours, the Senate will proceed to hear from Senators to pay tribute to the distinguished Senator from Arizona (Mr. Fannin) and the distinguished Senator from Hawaii (Mr. Fong). The time is divided between the distinguished majority leader and the distinguished minority leader or their designees.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum, the time to equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will please call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Abourezk). Without objection, it is so ordered.

TRIBUTES TO SENATOR HIRAM L. FONG

DISTINGUISHED SENATOR, GREAT AMERICAN

Mr. ALLEN. Mr. President, Senator Hiram Fong, an outstanding U.S. Senator, is retiring at the end of this session, after 18 years of dedicated service in the Senate. His life clearly and dramatically exemplifies the finest tradition of the fabled American success story whereby the poor boy achieves fame and fortune by hard work and tenacity. In recognition of his remarkable achievements, he received the 1970 Horatio Alger Award for outstanding success in law, business, and public service. This award is highly coveted, since the recipient is selected by ballots distributed among 500 colleges in the United States.

Born of Chinese parents who had immigrated to Hawaii in their youth, Senator Fong worked in the fields at an age when most children today are in daycare centers or school. Even when he started school, he continued working right on through his college years.

Senator Fong's statesmanship is reflected in the long and distinguished public service he has given to Hawaii and the Nation. This service began in 1935 when he became deputy attorney for the city and county of Honolulu. In 1938 he was elected to the legislature of the Territory of Hawaii, where he remained until 1954. During this period he served as Speaker of the Territorial House of Representatives for 6 years, from 1948 to 1954.

An early and ardent advocate of statehood for Hawaii, he was vice president of the Hawaii State Constitutional Convention in 1950. That same year, he ably presented the Hawaiian case for statehood before the U.S. Senate. Therefore, it was no surprise that, when Hawaii achieved statehood in 1959, he was elected as one of the State's first two Senators, the first American of Asian ancestry to be elected to the Senate. The affection and high regard with which he is held by his constituents is reflected in the fact that he has been reelected twice without difficulty.

I think it is worth noting, Mr. President, that Senator Fong is the only remaining Member who has served his State in the U.S. Senate from the time of admission of that State into the Union.

Senator Fong has underlined that in our relations with other countries without question the biggest people-to-people gap for Americans lies in the Asia-Pacific region where more than one-half of the world's people live.

Almost immediately after his election to the U.S. Senate, Senator Fong began a grueling 45-day tour of 14 Asian countries, at his own expense, to acquaint a skeptical Asia with a living example of the adaptability of the American system.

Senator Fong believes that education is the key to the door of opportunity for America's young people—and adults as well. Having experienced the incomparable values of a good education in his careers as attorney, businessman and politician, and statesman, Senator Fong is a staunch supporter of better education from preschool to postgraduate levels and for better opportunities for students, teachers, librarians, all educators. For the future, he believes we must put greater emphasis on quality education at all levels, that we must upgrade vocational career schools and community colleges, improve school and public libraries and reinforce the quest for truth, understanding and excellence in our schools.

An esteemed and highly respected colleague, Senator Fong will be missed in the Senate.

Certainly I will miss him because we have stood side by side here in the Chamber of the U.S. Senate fighting for some of the principles in which we both believe and have fought for steadfastly. His hard work and seasoned judgment have made him one of the most effective Senators ever to serve in this body. I am certain, however, that he will continue to serve his country and his State when he retires to his beloved Hawaii.

Mrs. Allen and I wish for Senator and Mrs. Fong many happy years in their well-deserved rest from their long years of dedicated public service.

I will certainly miss Senator Fong. He has been a dear friend, an able public servant, and undoubtedly one of the finest Senators ever to serve in this body.

Mr. YOUNG. Mr. President, I wish to associate myself with the comments made by many other Members of the Senate concerning our beloved and respected colleague, Hiram Fong.

Hiram Fong is a unique Senator in many respects. He was the first person of Chinese descent to ever serve in the U.S. Senate. His friendly, loving, and kindly ways are so typical of the people of Hawaii, where he was born.

From a humble beginning Hiram Fong achieved success in everything he undertook. Few, if any, Senators have ever received so many awards and honors from innumerable national and international organizations.

Mr. President, I ask unanimous consent to have several editorials concerning Hiram Fong inserted at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. YOUNG. As a Senator, Hiram Fong has been a wise and able and always reasonable person. He had great compassion for people and their problems. Anyone serving in public office must necessarily take stands on very controversial issues and some of one's constituents are pleased and others are not, but Hiram Fong has never flinched from hard decisions and he has won respect among the people of Hawaii for his courage.

It has been my pleasure and honor to serve with him on the Senate Appropriations Committee these many years. He is one of our very best Members. We will all sorely miss Hiram Fong when the next session convenes.

My wife, Patricia, and I express the fond hope that Hiram Fong and his charming wife, Ellyn, will greatly enjoy a well deserved retirement. We hope they will always count us among their best friends.

The editorials follow:

(EXHIBIT 1)

[From the Honolulu Advertiser, Jan. 15, 1976]

FONG'S ANNOUNCEMENT

Senator Hiram Fong's announcement that he will retire from the Congress next January was expected. But that does not reduce the gap his departure will leave.

In the 17 years so far that he has represented this State in the U.S. Senate, the only Republican in Hawaii's congressional delegation during all that time, Fong, 68, has built valuable seniority.

He lists among his proudest achievements important committees: judiciary and appropriations. He also is the highest-ranking minority member on the Post Office and Civil Service Committee, where he has helped Hawaii's approximately 30,000 Federal workers, and on the Special Committee on Aging.

He lists among his proudest achievements his part in obtaining defense highway funds for Hawaii and appropriations for the East-West Center, and in urging—with results—the appointment of qualified Hawaiian residents to important Federal posts.

Fong became the first U.S. Senator of Asian ancestry and is the only one today who has served since his state's admission. Over the years he commendably has tried to stress Asia's importance to the United States.

Fittingly, among Fong's many honors is a national Horatio Alger Award, which he received in 1970 for outstanding success in law, business, and public service despite humble beginnings. Fong was born in Kalihi of Chinese immigrant parents. He began at age 4 to pick algarroba beans for sale and has been working since.

After graduation from the University of Hawaii and Harvard Law School and service as deputy attorney for the City and County of Honolulu, Fong entered politics in 1938—winning election to the Territorial House of Representatives.

He became speaker in 1948 and remained in that role until failing to win reelection in the Democratic tide of 1954, his only defeat at the polls.

Throughout his political career, Fong has been a tough, charging campaigner. The effectiveness of his style is attested to by his having been the only Republican to hold a statewide office since 1962.

In endorsing him for reelection five years ago, we noted editorially that while we did not always see eye to eye with him on specific issues, he served diligently and was a faithful worker for Hawaii. That remains so.

Upon leaving the Senate, Fong will become the GOP's senior year-round resident in this State. Interestingly, he prefers to call his plans not a retirement from politics but just a "sabbatical." He no doubt could do much here to help improve the local Republican party, long in need of rebuilding.

Fong has said he wants to devote more attention to his business affairs, his family and his friends. Certainly he has earned whatever respite he may wish. But even after his Senate term ends next January, Hawaii in all probability can count on not having heard the last of Hiram Fong.

[From the Maui News, Jan. 14, 1976]

SENATOR H. L. FONG

Senator Hiram L. Fong has made it official; he will not seek re-election to the United States Senate. He chooses instead to step down, while still very much in his prime, while there is still time to spend with family, friends, and on personal pursuits.

He made his announcement yesterday before television cameras and newsmen. There he stood the personification of the great American Dream. From the poorest of the poor, from shoeshine boy to the Halls of Congress.

Senator Fong has served Hawaii well, he has represented us well. With dignity, intelligence and great commitment he took his place in Washington while all eyes were on our Hawaii delegation. He went to the nation's capitol in 1959 and since that time has served with distinction. He will wrap up his third term and come back to Hawaii to stay.

It is not surprising that a man of Fong's forceful persuasion should couple his personal announcement with a recommendation for his replacement. He chose to give the nod to former Governor Bill Quinn. The latter is slated to make his intentions known a little later this week.

If Senator Fong places his impressive power behind Quinn, if his team turns out in anything like the numbers and whips together an organization that approximates Fong's, Quinn has a fine headstart.

There are some who will say that Senator Fong should continue, that he still has some good and fruitful years left. We applaud his decision to step down and spend more time with family and friends. A man who has worked as hard and run as fast and gone as far as Hiram Fong has earned the time and opportunity to enjoy it all. His family who must be credited with an assist in his successful endeavors are entitled to enjoy a larger measure of company. It is the fact that he still has keen mind and body, and plans and family, that make this precisely the right time to move on to another phase in a most remarkable life.

[From the Hawaii Tribune Herald, Jan. 16, 1976]

SEN. FONG WILL BE MISSED

Although it comes as no surprise, it was with a sense of sadness and loss that we received word that U.S. Sen. Hiram Fong is retiring after his current term expires.

Our personal acquaintanceship with the man dates back several years, and our knowledge of his long public service extends further into the past.

Senator Fong will have served nearly 18 years at the end of his term, and 14 years before that in the Territorial Legislature. Counting his service time in World War II and civilian employment at Pearl Harbor prior to that, he will have completed nearly 43 years of government service.

With the Senate work load becoming greater each day, demands on his time ever increasing, and nearing the biblical age of four-score and 10, Senator Fong has earned his retirement.

Yet, he will be sorely missed by his many supporters and admirers here in Hawaii. Since 1959, he has been the state's lone Republican member of Congress. It is good that a state have two-party representation in Congress, particularly when the President is of the minority party.

Democrats Spark Matsunaga and Patsy Mink are vacating their House seats to seek the position Fong is leaving. And while the voters should judge all candidates on their qualifications and individual abilities, those being equal, it would be well if Hawaii could keep representation by both major parties in the Congress.

But regardless, Senator Fong has served his state, country and his own conscience in an exemplary manner for many years. And while we are saddened by his retirement, we must join with the numerous Fong supporters here in Hawaii in wishing him only the very best in these coming years.

[From the Honolulu Star-Bulletin, Jan. 13, 1976]

FONG'S RETIREMENT

At 68, Hiram L. Fong is vigorous and far from being an old man in the sense of decrepitude.

Yet his decision to retire from the U.S. Senate at the end of his present term will remove from Hawaii politics one of the last figures whose elected service pre-dates World War II.

Fong was first elected to the Territorial Legislature in 1938. At the statewide level, no other office-holder has elected service predating 1950 when Lt. Gov. Nelson Doi served in the Constitutional Convention. And in the counties the only long-timer to match Fong's range of years is Maui Councilman Toshio Ansai, first elected in 1934.

Hawaii is young, both as a state, and in its electorate, something Fong's decision emphasizes.

The "old-timers" after Fong will be mostly the Democrats who swept into the Legislature in 1954, when the Republicans lost majority status for the first time in 52 years—such persons as U.S. Sen. Daniel K. Inouye, Congressman Spark Matsunaga and Gov. George Ariyoshi. In the Legislature today, senior members are those who have served since Statehood in 1959.

Gone to the political sidelines are such of Fong's contemporaries as Hebden Porteus and Randolph Crossley while death recently has taken such others as John A. Burns, Neal Blaisdell and Francis Ching.

Fong's continuing political success, even after the Democratic "revolution" of the 1950s, was primarily a personal triumph.

Though from a minority party and a minority racial group, he was recognized by voters so discriminating that in the 1964 Democratic landslide Hawaii gave Lyndon Johnson his second largest state majority percentagewise but also gave Fong the biggest majority of any Republican elected to the U.S. Senate that year.

Fong is the first American of Chinese ancestry to serve in the U.S. Senate, and the winner of such national recognition awards as the 1960 National Award from the National Conference of Christians and Jews, the 1970 Horatio Alger Award, and the 1971 Golden Plate Award of the American Academy of Achievement.

As Hawaii's single Republican in Congress he has been close to Presidents Nixon and Ford and influential with them in matters relating to Hawaii.

Among his congressional achievements is a major role in re-drafting immigration laws to remove the discriminations against peoples from the Pacific and Asia.

Fong's formal announcement today of his retirement is no surprise. He has let it be forecast for some time. The decision, nevertheless, marks a significant transition point in Hawaii politics.

[Newsletter of the Hawaii State Society of Washington, D.C., January 1976]

SENATOR FONG TO RETIRE

Senator Hiram Fong, on Jan. 13, 1976 announced his planned retirement from the U.S. Senate. He will, at the end of his term, have served 18 years in the Senate, 14 years in the Hawaii State Legislature, serving a total of 32 years. Together with five years with the

City and County of Honolulu, three as Deputy Attorney, two as Chief Clerk of the Bureau of Waters, three years in the Air Force, and three years as clerk in the Pearl Harbor Supply Department, totals almost 43 years in the Government services. "To all of my supporters, Mahalo Nui Loa from the bottom of my heart for their faith, trust, and confidence in me during by three terms in office. I wish to thank the members of my efficient staff for their loyalty, dedication and hard work in helping me to carry out my duties as a Senator. Without them, I could not have performed my multiple tasks in as effective a manner."

Senator Fong has to his credit, recommendations and placement of well qualified people from Hawaii in high Federal Government posts and appointments to high level posts of part time or advisory posts of many Hawaiian people. The list is unending.

Senator Fong is the first person of Oriental ancestry to serve in the U.S. Senate. "Words are inadequate to convey my most heartfelt thanks to the voters of Hawaii who bestowed upon me one of the highest honors they can give, a seat in the U.S. Senate."

SOME OF THE HIGHLIGHTS OF SENATOR FONG'S SIXTEEN YEARS IN THE U.S. SENATE

In the National and International area: Civil Rights—He helped to write and voted for the Civil Rights bill. He voted for the bill prohibiting discrimination in voting in Federal elections. He voted for the Voting Rights Act authorizing Federal examiners to register voters. He voted for the Open Housing Civil Rights Act. He co-sponsored the bill that became law, repealing the detention provisions of the Internal Security Act used during WWII to herd Japanese-Americans in so-called relocation camps. Senator Fong was one of the principal architects of the Immigration Reform Act. In the field of education, Senator Fong supported every education bill to pass the U.S. Senate since 1959. As a member of the influential Senate Appropriations Committee he played a key role in deciding how much money the Federal Government should provide for education each year. He co-sponsored and voted for the Elementary and Secondary Act, the Higher Education Act, the Sea Grant College Act, and Library Services and Construction Act. He worked for the adequate funding of these laws to improve education throughout America.

In the Hawaii State area: Senator Fong worked on a broad spectrum of problems affecting Hawaii, far too numerous to mention. The thrust of his work has been in three main areas, Hawaii's economy, Hawaii's physical environment, and a wider role for Hawaii in national and international affairs. With tourism and agriculture as the leading industries in Hawaii, he has done much to promote these industries. He obtained funds for research to increase sugar cane yield. He worked through the State Department and the White House Trade Representative for lowering trade barriers against Hawaiian canned pineapple. He worked successfully to include Hawaiian pineapple for the nationwide school lunch program. He worked to facilitate and increase exports of Hawaiian fruits, nuts and flowers. He also worked to open new export markets for papayas, mangoes, and melons. He also fought to strengthen Hawaii's coffee and cattle industries.

To foster tourism, Senator Fong successfully urged the Civil Aeronautics Board to grant additional airlines access to Hawaii and for a modest amount for each stop-over, tourists could visit the major islands of Hawaii. The CAB approved both. Senator Fong has also proposed reduced fares for senior citizens, physically handicapped persons, families traveling together and youths age 21 and under. He worked diligently to keep the sea and air lifelines to Hawaii open. During the 1971–72 West Coast shipping dispute which disrupted Hawaii's sea transportation for 100 days, Senator Fong worked for legislation to protect Hawaii. He has worked since then to enact protective legislation. He also was active in trying to end the airline strike which severely damaged Hawaii's tourist industry. Senator Fong has worked diligently to improve Hawaii's deep water harbors and to provide harbors for Hawaii's fishermen and small craft skippers.

Senator Fong has worked for a defense establishment in keeping with Hawaii's need for protection and also our Nation's need for ready forces beyond the mainland shores of the U.S. Senator Fong predicts Hawaii's defense as important to the growing need of our Nation. A cut back in National defense spending could set Hawaii in a tailspin. For this reason Senator Fong has been energetically fostering other industries for Hawaii.

As a member of the Senate Committee on Public Works, he helped to write legislation to combat air and water pollution. Under the Clean Air Act he has taken steps to control the quality of Hawaii's air. To protect one of America's world-famed treasures, Waikiki Beach, Senator Fong worked for the Congress provided beach erosion control funds. Beach erosion control, flood control, irrigation, soil, and watershed projects have been supported by Senator Fong. He introduced legislation, enacted by Congress, to make Haleakala a National Park and naming Kilauea-Mauna Loa as Hawaii Volcanoes National Park: He obtained funds to restore the City of Refuge. He worked for funds for scenic highways in the State of Hawaii to make parks more accessible to more people.

Senator Fong has obtained funds to expand the oceanographic and marine science work at the University of Hawaii. He co-sponsored the Solar Energy Research Act, the National Energy Research and Development Policy Act, both of which became law in 1974.

The Hawaii Center for Cultural and Technical Interchange Between East and West, popularly known as the East-West Center, was established by legislation co-sponsored by Senator Fong. He also co-sponsored the Japan-United States Friendship Act which was enacted in October, 1975. Funds for PEACESAT communications system was obtained by Senator Fong. The University of Hawaii can participate in a voice transmitting-receiving operation with other universities in the far Pacific region. In operation for four years, PEACESAT is the first and the only educational satellite system in the world.

As a longtime member of the Senate Post Office and Civil Service Committee, he worked hard to better the working conditions and living standards of Federal employees. He also worked hard to improve the income status of the aged, the sick and the deprived.

As a member of the Senate Special Committee on the Aging, he has diligently worked to solve problems of elderly Americans such as elimination of job discrimination, unfair social security provisions, and tax inequities affecting our senior citizens.

"One of my deepest concerns is that America is not taking adequate steps to ensure an adequate future defense. When I became Senator in 1959, America's military power was foremost in the world. Since then, the Soviets have engaged in a massive military buildup, while the United States has slipped to a position of relative parity. In view of alarming erosion of freedom, I am concerned that unless we reverse our downward trend, the Soviets will forge ahead of us, with all the potential for disaster. Unless we can defend our Nation against any possible enemy, we stand to lose our liberty and our social gains." Senator Fong said that his prayer is that the people of America and their leaders will have the wisdom and the courage to fight for what is right and what is necessary to guarantee, for another 200 years, America's survival in freedom, justice and hopefully, in peace.

His future plans include spending more time in the islands with his wife, Ellyn, his children, his grandchildren, relatives and friends. He plans to return to active participation in Finance Factors, Ltd. Senator Fong, his wife, Ellyn, his children and grandchildren will be actively engaged in developing a botanical garden and plantation on his 725 acres in Kahaluu, Oahu. He hopes it will become a sanctuary of beauty, fragrance, and a serenity filled with flowers, ferns, fruits and birds. All of his papers as a U.S. Senator will be placed in a library here. The garden plantation will be a memorial to their parents.

Senator Fong, we are all envious of you and your family. You make it so enticing that we in the Hawaii State Society all want to go back home with you.

The Hawaii State Society takes this opportunity to express its deep appreciation for the many contributions you have given to our Nation, to our great State of Hawaii, to all of the people of the World, and to our people of Hawaii. The effects of your hard work have reached far and will have a memorable place in the history of the development of our great Nation. You will be long remembered by generations to come. The Hawaii State Society wishes you and your family the best for the future and ALOHA.

Mr. FANNIN. Mr. President, Senator HIRAM FONG of Hawaii will be sorely missed in the U.S. Senate. One of the first two Senators elected from the new State of Hawaii in 1959, his Senate service capped an outstanding career that is surely one of the greatest American success stories. It began when HIRAM FONG, the son of immigrant parents, worked his way through high school and college, finally receiving his law degree from Harvard University. Although his education was interruped more than once because of lack of funds, he was an outstanding scholar whose grades earned him membership in Phi Beta Kappa.

Senator FONG has held a vast and varied number of positions from the time he was 4 years old. He is a man of such enormous energy and drive that it takes one's breath away to contemplate the many areas to which he has applied his fine mind and dynamic sense of purpose. From the age of 4 to 7 he picked beans at 10 cents per 30-pound bag. From age 7 to 10, he shined shoes and sold newspapers on the streets of Honolulu. Later, he caught and sold fish and crabs and caddied for 25 cents a 9-hole round of golf.

He worked his way through college holding jobs as a collector of overdue bills, as a college correspondent for the Honolulu Advertiser newspaper, and as a guide for tourists visiting Oriental temples. His later accomplishments include the attainment of a distinguished military record, the founding of his own law firm, farming, holding the position of chairman of the board of several large corporations, and service in the Hawaiian Legislature.

His accomplishments have been widely recognized: On June 9, 1953, HIRAM FONG received a citation noting that he had been selected as one of seven distinguished alumni of the University of Hawaii to be a foundation member of the just installed Alpha Chapter of Phi Beta Kappa. Stating he had "an enviable student record in curricular and extracurricular affairs," the citation declared he "exemplified the opportunities for advancement that a democracy affords." The citation pointed out that Hiram Fong "by sheer capacity and personality, and without benefit of any special privileges . . . has achieved greatly in the life of Hawaii."

When his high school in Honolulu celebrated its centennial in 1965, he was awarded a distinguished achievement award in the field of government.

The Alumni Association of the University of Hawaii presented a Distinguished Service Award to Hiram Fong "as one whose life has benefited mankind and whose noteworthy contributions through the years have helped bring honor to the university."

The Senator's degrees and honorary degrees follow:

Bachelor of arts degree, University of Hawaii, 1930;

Doctor of jurisprudence, Harvard University, Cambridge, Mass., 1935;

Doctor of Laws Degree (Honorary), University of Hawaii, Honolulu, Hawaii, 1953;

Doctor of Laws Degree (Honorary), Tufts University, Medford, Mass., 1960;

Doctor of Laws Degree (Honorary), Lafayette College, Easton, Pa., 1960;

Doctor of Laws Degree (Honorary), Lynchburg College, Lynchburg, Va., 1970;

Doctor of Laws Degree (Honorary), Lincoln University, San Francisco, Calif., 1971;

Doctor of Laws Degree (Honorary), University of Guam, Agana, Guam, 1974;

Doctor of Laws Degree (Honorary), St. John's University, New York, N.Y., 1975;

Doctor of Laws Degree (Honorary), California Western School of Law, San Diego, Calif., 1976;

Doctor of Humane Letters Degree (Honorary), Long Island University, Long Island City, N.Y., 1968.

He has continued to use his keen intelligence and enormous capacity for work in the U.S. Senate. He is generally admired and respected for his work in the areas of civil rights, immigration reform and education. He was one of the principle architects of the Immigration Reform Act of 1965, which eliminated racial discrimination from U.S. laws. This act gave preference to the reuniting of families and to refugees and allowed spouses, children, and parents of adult U.S. citizens to gain admission without regard to numerical limitation.

Senator Fong has been a valiant supporter of our defense establishment and has recognized the urgent need for ready forces far beyond the shores of mainland United States. He has also recognized the need to support and maintain the independence of Nationalist China, one of the staunchest allies this country has.

Considering the depth and breadth of work done by the energetic Senator Fong during his long career, it is certain that his activities will not cease when he leaves the Senate. Surely, his departure will herald the beginning of further worthwhile work in the service of Hawaii and his country.

Recently he received one of the greatest honors a U.S. citizen can receive from the Nationalist Republic of China. This recognition is indicative of his long list of accomplishments.

Again I say that Senator Hiram Fong will be greatly missed in the U.S. Senate.

Mr. GRIFFIN. Mr. President, the Senate is composed of many unique individual personalities. Each Member has his own characteristics and perspectives which, when combined with those of his 99 colleagues, give the Senate its great breadth and depth. So, when a Member leaves, something is lost—the Senate loses some measure of its character.

I think it is particularly appropriate to make this observation as we wish Hiram Fong well upon retirement, for Hiram is a Senator truly unique among his colleagues. He is the first person of Asian ancestry to serve in this body. He is the only surviving Senator to have represented his State from the very beginning of its statehood. And, he represents our Nation's newest State, Hawaii.

In addition to these distinguished points, Hiram has brought to the Senate his own personal sensitivity to the human needs of his Hawaiian constituents and minorities in the rest of the Nation. In his 17 years of service in the Senate, he has helped to write and actively supported a very impressive list of major civil rights and antidiscrimination measures. As a member of the Senate Judiciary Subcommittee on Immigration and Naturalization, Hiram Fong has contributed to immigration law reforms to allow more equitable treatment for people of Asian and Pacific nations. And, through his influence and hard work here in the Senate, this man of the Pacific has made his colleagues more acutely aware of the opportunities for friendship, cultural exchange and commerce that exist between the United States and nations of the vast Asia-Pacific region.

But, despite Hiram's Eastern and Asian background—or perhaps because of it—the story of Hiram Fong is distinctively American. It is a true Horatio Alger story which exemplifies those deeply held, genuinely American beliefs in hard work, perseverance, and opportunity. Hiram Fong started life in abject poverty, a barefoot immigrant island boy who at age 4 picked beans to help his family get along. By diligence, intelligence and strength of character, he worked his way to a college degree, a Harvard law degree, financial success and a U.S. Senate seat. His record of achievement is a tribute to both Hiram's personal qualities and the respect and admiration which his colleagues and friends feel for him.

It really is no wonder at all that this man of such prodigious accomplishment won the Horatio Alger Award in 1970. Hiram Fong's life and career should serve as encouragement and incentive not only to those young men and women of his native Hawaii, but to all Americans. I ask to have printed in the Record at the end of my remarks, Senator Fong's biographical sketch.

Many laudatory tributes have been paid Hiram Fong by the press in Hawaii on his forthcoming retirement, including articles on his rise to financial success and his plans for a botanical garden. Mr. President, I ask also to have printed at the end of my remarks several of these articles.

In closing, I want to convey my warmest wishes to Hiram and his wife Ellyn for all the rewards and fulfillment of a retirement so richly earned and well deserved. I shall miss him and the Senate shall miss him, for although he leaves us his fine and formidable record, he takes with him an important part of the Senate's character which will not easily be replaced.

There being no objection, the biographical sketch was ordered to be printed in the Record, as follows:

Biographical Sketch—Hiram Leong Fong

PERSONAL

June 1976.

Born in the Kalihi District of Honolulu, Hawaii on October 1, 1907, the seventh of eleven children of Mr. and Mrs. Lum Fong. Parents were both immigrants from Kwangtung Province, China. Father arrived in Hawaii at age 15 as sugar cane plantation indentured laborer; mother arrived at age 10, employed as maidservant. Married to the former Ellyn Lo of Honolulu, a graduate of the University of Hawaii with a Bachelor of Education degree and a former schoolteacher. Father of four children: Hiram, Jr., who served as Captain with the U.S. Army in Vietnam, 1967–68, and is presently a practicing attorney in Honolulu and a member of the Hawaii State House of Representatives; Rodney L., a graduate of California-Western University Law School in San Diego, California, a member of the bar of the State of Hawaii, and now Manager, Kaalaea Farms, Kaalaea, Hawaii; Merle-Ellen (Mrs. William Mitchell), a 1970 graduate of Goucher College in Towson, Maryland, with a Master's degree from Wellesley College, Wellesley, Mass.; and Marvin-Alan, a 1970 graduate of Lynchburg College, Lynchburg, Va., formerly at Finance Realty Co., Ltd., Honolulu, and now attending California-Western Law School, San Diego, Calif. Senator and Mrs. Fong have four grandchildren, Jennifer, daughter of Janet and Hiram Fong, Jr.; Chelsea, daughter of Patsy and Rodney L. Fong; Emily, daughter of Dr. and Mrs. William Mitchell; and Nathan Allan, son of Sandra and Marvin-Allan Fong. Senator and Mrs. Fong and their children are Congregationalists and members of the First Chinese Church of Christ in Honolulu.

EDUCATION

Graduate of Kalihi-Waena Grammar School and McKinley High School; also attended St. Louis College (a high school), all in Honolulu. Graduated with honors after three years of intensive study from the University of Hawaii with a Bachelor of Arts degree. At the U of H, was Editor of the University newspaper Ka Leo; associate editor of the yearbook Ka Palapala; adjutant of the ROTC; an oratorical contest winner; and held membership on the debating, volleyball, and rifle teams. Was member of Hawaii Civilian Rifle Team at National Matches at Camp Perry, Ohio, 1929. He is a Member of Phi Beta Kappa. Studied law at Harvard University, Cambridge, Mass. where he received his Doctor of Jurisprudence degree in 1935. Because of lack of funds, his education was interrupted twice, for three years after high school, and for two years after University graduation. Worked his way through high school and college.

Recipient of nine honorary degrees: Doctor of Laws degrees from University of Hawaii (1953), Tufts University (1960), Lafayette College (1960), Lynchburg College (1970), Lincoln University (1971), University of Guam (1974), St. John's University (1975), California Western School of Law (1976), and Doctor of Humane Letters Degree from Long Island University (1968).

BUSINESS

From age four to seven, picked algarroba (mesquite) beans for sale as cattle feed at 10c per 30-lb. bag. From age seven to 10, shined shoes and sold newspapers on the streets of Honolulu. Later, caught and sold fish and crabs, delivered poi, and caddied for 25c a nine-hole round, earning $1.50 on a big Sunday. Working his way through college, he held jobs simultaneously as a collector of overdue bills, as a college correspondent for the Honolulu Advertiser newspaper, and as a guide for tourists visting Oriental temples.

From 1924 to 1927, he worked as a clerk in the Supply Department of the Pearl Harbor Naval Shipyard. From 1930 to 1932, was Chief Clerk of the Suburban Water System of the City and County of Honolulu.

Founded the cosmopolitan law firm of Fong (Chinese), Miho (Japanese), Choy (Korean), and Robinson (Caucasian-Hawaiian). Resigned from the firm after taking office as United States Senator.

As a businessman, he now holds the post of Founder and Chairman of the Board of the following corporations: Finance Factors, Grand Pacific Life Insurance (life insurance only), Finance Realty, Finance Home Builders, Finance Investment, Finance Factors Foundation, and Market City; President of Ocean View Cemetery, Ltd., Chairman of the Board of Highway Construction Company, Ltd., and holds directorships in several other companies.

FARMING

Operates banana and papaya farm and a fish pond; raises cattle, avocados, lichees, macadamia nuts, and mangoes.

MILITARY SERVICE

A World War II veteran of the U.S. Army Air Corps (1942–1944). Entered with rank of 1st Lieutenant; promoted to Major; was Judge Advocate of the 7th Fighter Command of the 7th Air Force. Reserve Officer of the U.S. Army for over 20 years. He is now a Colonel, Retired, U.S. Air Force Reserve, and a member of the Kau-Tom Post of the American Legion, and Post 1540 of the Veterans of Foreign Wars. He was designated a Member of the Board of Visitors of the U.S. Military Academy at West Point, in March 1971. In April, 1974, he was appointed a Member of the Board of Visitors of the U.S. Naval Academy, Annapolis.

CIVIC SERVICE

He has been active in many service and civic organizations, including the Kalihi Community Improvement Club; the Army, Navy and Civilian Young Men's Christian Associations; Downtown Improvement Club; Parent-Teachers Associations; Boy Scouts; Chinese American Club; Warriors of the Commercial Associates; University of Hawaii Alumni Association; Harvard Club of Hawaii; Chinese Civic Club; Chamber of Commerce of Hawaii, Chinese Chamber of Commerce, and other similar groups.

HONORS

An Elector for the Hall of Fame; recipient of national award for outstanding service to brotherhood from the National Conference of Christians and Jews, 1960; Citation for Meritorious Service from the National Association of Retired Civil Employees, 1963; Horatio Alger Award for outstanding success in law, business, and public service despite humble beginnings (selected by ballots distributed among 500 U.S. colleges), the first citizen of Hawaii to receive this award, 1970; citation for outstanding public service by the Japanese American Citizens League, 1970; Social and Rehabilitation Service Medallion for work on behalf of disabled citizens, 1970; Golden Plate Award by the American Academy of Achievement, 1971; Organization of Chinese Americans, Inc. award for outstanding services to the Nation, 1973. "Certificate of Award" for his "example of good citizenship," April 1974, from the National Society, Daughters of Founders and Patriots of America; Certificate of Service for outstanding contribution to the promotion of understanding and unity among the peoples of the Pacific Asian World, October 1974, from the Pacific Asian Studies Association. Selected by President Yen Chia-Kan of the Republic of China to receive the Order of the Brilliant Star with Grand Cordon on August 27, 1976.

PUBLIC SERVICE

Was Deputy Attorney for the City and County of Honolulu 1935–1938. Served fourteen years in the Legislature of the Territory of Hawaii 1938–1954, including four years (1944–1948) as Vice Speaker of the House of Representatives and six years (1948–1954) as Speaker. He was Vice President of the Hawaii State Constitutional Convention in 1950 and an ardent advocate of Statehood.

He was elected a Delegate from Hawaii to the Republican National Conventions in Chicago, 1952, 1960; San Francisco, 1956, 1964; Miami, 1968 and 1972; and Kansas City, Missouri, 1976. In 1964 and in 1968, his name was placed in nomination as favorite son candidate from Hawaii for the Office of President of the United States.

UNITED STATES SENATE

Elected to the United States Senate July 28, 1959. Sworn into office August 24, 1959, the first American of Asian ancestry to be elected to the United States Senate. The Senior Senator from Hawaii, he was reelected U.S. Senator on November 3, 1964 and on November 3, 1970.

Senator Fong is a Member of the following Senate Committees:

POST OFFICE AND CIVIL SERVICE (HIGHEST RANKING REPUBLICAN)

Ex-Officio Member of all Subcommittees:
Civil Service Policies & Practices
Compensation and Employment Benefits;
Postal Operations; and
Census and Statistics.

APPROPRIATIONS (FOURTH RANKING REPUBLICAN)

Subcommittees:

Agriculture and Related Agencies (highest ranking Republican);

Defense (fourth ranking Republican);

HUD-Independent Agencies (third ranking Republican):

Labor, Health, Education, Welfare and Related Agencies (third ranking Republican);

State, Justice, Commerce, The Judiciary & Related Agencies (second ranking Republican); and

Treasury, Postal Service and General Government (Ex-Officio on Post Office items—third ranking Republican).

JUDICIARY (SECOND RANKING) REPUBLICAN

Subcommittees:

Antitrust & Monopoly (second ranking Republican);

Constitutional Amendments (highest ranking Republican);

Constitutional Rights (third ranking Republican);

Immigration & Naturalization (highest ranking Republican);

Juvenile Delinquency (third ranking Republican);

Patents, Trademarks & Copyrights (second ranking Republican); and

Refugees and Escapees (highest ranking Republican).

SPECIAL COMMITTEE ON AGING (HIGHEST RANKING REPUBLICAN)

Ex-Officio Member of all Subcommittees:
Housing for the Elderly;
Employment and Retirement Incomes;
Federal, State, and Community Services;
Consumer Interests of the Elderly;
Health of the Elderly;
Long-Term Care; and
Retirement and the Individual.

Appointed by the Vice President in January, 1975, to serve on the Commission on Revision of the Federal Court Appellate System.

Represented the United States as a Delegate to the 150th Anniversary celebration of Argentina's independence in 1960. In 1961, he was appointed a member of the U.S. Delegation to the Canada-United States Interparliamentary Conference; in 1965, 1967, and 1968, he was again named to this Conference. Appointed U.S. Observer at Commonwealth Parliamentary Association Meeting in Wellington, New Zealand, in November 1965. Appointed Official U.S. Delegate to the 55th Interparliamentary Union World Conference in Tehran, Iran, in September, 1966. Appointed Official U.S. Delegate to the 61st Interparliamentary Union World Conference in Tokyo in 1974. Represented the U.S. as a Delegate to the Ditchley Foundation Conference in London (Oxfordshire), England, in January, 1967. Appointed U.S. Delegate to Mexico-U.S. Interparliamentary Conference in Honolulu in April 1968. Participated as Presidentially-appointed Member of U.S. Congressional Delegation to People's Republic of China in 1974. In October, 1974, Senator Fong made a fact-finding and inspection tour of U.S. State and Defense Department installations in Japan, Okinawa, Korea, and the Republic of China as well as the Island of Guam and the Trust Territory of the Pacific. In April, 1975, he was selected by President Gerald Ford to serve as a Member of the official U.S. Delegation to journey to Taiwan for the funeral services for the late President of the Republic of China, His Excellency Chiang Kai-shek.

[From the Oahu, Hawaii, Windward Sun Press, July 27, 1976]

FONG DREAMS OF RETURN

Hawaii's Senior United States Senator is going to change his style.

Hiram Fong plans to retire from the Washington rat-race and head for Kahaluu rest and relaxation. But our senator would also like to share some of the pleasant 725-acre site he owns with the people of Hawaii.

Windward residents should be glad to have a retiring politician who wants to offer something to the pepole of Kahaluu—a large botanical garden with fruit, taro and flowers of the 50th State.

Fong unveiled his plans to Kahaluu residents recently at a Neighborhood Board meeting and he was immediately pleased with the response from the citizens, who liked the idea.

He does not want to subdivide the land, but rather have a "place of fragrance and tranquility" that is open to the public. He hopes to keep the sites in a natural state, except for the addition of roads and pathways.

The Windward Sun Press was indeed happy to learn of Fong's plans. There have been many instances where such plans by congressmen have meant that somewhere public money was being used. We trust Sen. Fong and are pleased to hear that he wants to keep things natural.

There is also a chance that residents of the Kahaluu area would have the benefit of job potential created by the botanical garden concept. These people know farming and they know the Hawaiian style of keeping this island beautiful.

Fong would certainly be able to make use of these people.

It is indeed good for the Windward community to have a retiring politician so willing to keep the land of this area in its rural setting.

It is even more fitting in this area, where developers have been attacking the Hawaiian life-style with regularity. While Joe Pao fights for the end of a farming and peaceful existence in Waiahole-Waikane, Sen. Fong is fighting to keep this area, as he calls it, "the most beautiful spot in the world."

[From the Oahu, Hawaii, Windward Sun Press, July 27, 1976]

FRAGRANCE AND BEAUTY SEEN FOR FONG'S KAHALUU

(By Denise de Costa)

KAHALUU.—Picture pockets of fragrances, of ginger, gardenia, groves of ylang ylang lily ponds and orchards of lichee, soursap and mountain apple—these are all part of a dream plan revealed last week by Sen. Hiram L. Fong before Kahaluu residents at a Neighborhood Board meeting.

Soon to retire from his many years in public office as United States senator, Fong said he wants to turn his 725-acre property in Kaalaea into an internationally-known "place of beauty and fragrance and tranquility."

"Nature has blessed me," he said. "I don't think there is a more beautiful spot in the world than that place."

His ideas for a huge botanical garden on the many ravines and valleys sloping above and behind Kahaluu, leading off from Pulama Road, were apparently warmly received by the Kahaluu residents, and his enthusiasm was contagious.

They were particularly pleased that he had decided not to subdivide the land into a housing development and that, instead, he was going to make it the kind of place where the plants, fruits, and flowers of Hawaii could thrive and be preserved.

Another positive aspect the residents noted would be the number of jobs that might open up for people living in the area, many of whom are already acquainted with agriculture or landscaping work of some sort.

Sen. Fong's dream plan calls for numerous groves of fruit trees, with bananas, papayas, lichee, mountain apple, pamelo, citrus, loquats, soursap, sweet sap, sugarcane, pineapple and plums.

He'd also like to grow lemon trees, breadfruit, macadamia and chestnuts, and a patch or two of some of the more exotic vegetables.

In a horticultural section, he foresees flowering trees and a hibiscus garden, plumeria grove, croton fields, ferns, all the gingers and heliconias.

His "pockets of fragrances" particularly appealed to him, he said, with so many island flowers bunched together that "you'll not only see, but you'll smell."

Aquatic gardens are another aspect of the botanical park, with lily ponds and lotus plants, goldfish and weeping willows, and papyrus growths.

He'd like to create a series of waterfalls to enhance the aquatic gardens, but added that the property is already fortunate enough to have eight waterfalls—It's beautiful when it rains," the senator said.

In his simple manner of speaking, the senator of Hawaiian-Chinese descent described other features of his proposed botanical gardens:

A taro patch, rice fields, some watercress growing to show these things that will be educational.

Swinging bridges over the ravines, so that visitors can see the beautiful valley beyond, with views of the ocean and the mountains.

Japanese gardens, Hawaiian herb garden, Chinese garden, and a formal English garden.

Statuary garden, with different kinds of artwork.

A brassia forest, pandamus, kukui nut and koa trees.

Fields of anthuriums, orchids, maidenhair, of as many varieties as possible.

A library and museum where the senator's papers and memorabilia from his years with the U.S. Senate can be kept.

A swimming hole for youngsters to swim.

Sen. Fong predicted it might take five generations to complete the entire park—"I'm not going to be able to complete it," he said, but he has been assured by all four of his children that they intend to carry out his dream for the Kahaluu property.

"I've told my children if they ever get rid of it (sell the land), I'm coming back to haunt them," Fong said, chuckling.

"Much of it will be left in its natural state, but there will be pockets of cultivation where I can set it up," he explained.

He said there are already thousands of guava trees, pandamus, kukui nut, koa and tree ferns on the land.

"In fact, the place is really a garden already," said Sen. Fong. "It's only for me to have the walks prepared and the roadway prepared so that it could be enjoyed. With a little planning, it could be a real place of beauty."

He said he wants to keep any changes on the land as "low-key" as possible, maintaining the natural state wherever he can.

He sees the maintenance costs to be the largest problem, once the botanical gardens are ready, and is thinking that charging entrance fees for tourists might take care of that aspect.

"My local people over there would probably all come in free," said Sen. Fong.

There are about 76 acres of the land which is already zoned for urban use, but the senator said he and his family have never intended to subdivide any of that property.

Sen. Fong said he has been working with his landscape architects and advisors from the Soil Conservation Service to determine how he can make his dream plan a reality, protecting whatever natural resources there are in the area.

"I want the children of Hawaii with their teachers to come and look at it so that they can see what a soursap tree is, what a rose apple tree is . . . it would be educational," Sen. Fong stressed.

[From the Honolulu Star-Bulletin, June 4, 1976]

FONG TELLS RAGS TO RICHES STORY

(By Ray Maneki)

Star-Bulletin Business Editor

In some ways Sen. Hiram Leong Fong is a typical multimillionaire—unwilling to talk about his wealth or to estimate the cash value of his share of one of the most successful "huis" in local history, Finance Factors Ltd.

His rags-to-riches story doesn't make him unique in Hawaii or in Congress, although it may make interesting reading when he writes the autobiography publishers have requested.

But among the many men worth over $5 million, there are very, very few whose favorite therapy is pulling weeds, who finds pleasure in a day of "pick and shovel work."

Fong could multiply his millions by subdividing the 725 acres he owns in Kahaluu, but says he won't.

He is eagerly looking forward to transforming that estate into a horticultural showcase for schoolchildren and tourists—while cheerfully admitting the job may take generations.

Fong says he could devote his full attention to the people's interests during his 17 years in Washington because his associates (the co-owners of Finance Factors) and the leaders of related companies do their work so well.

If he had to pick out the man who deserves the most credit in Finance Factors' 24-year history, Fong said in an interview, that man would be Clifford H. N. Yee, the president.

"He pays a lot of attention to details and yet sees the bigger picture.

"In this type of business you have to see that money is invested. You can't let it stay idle," Fong said in explaining Yee's "magnificent" accomplishments.

The law firm Fong started with Katsuro Miho in 1942 is now an imposing organization of 11 attorneys, Fong, Miho & Robinson, that includes two Fongs, the senator's son Hiram Jr. and nephew Clarence W. H. Fong, and two Mihos, Katsuro and son Jon.

The firm, which Senator Fong left when he was elected to Congress, is legal counsel for Finance Factors and related companies. The companies also employ two other law firms, Hong & Iwai and Ashford & Wriston.

The inspiration for Finance Factors occurred when the Territorial government decided the Honolulu Trust Co. had to divest itself of its small industrial loan operations.

A manager there, Fong's long-time associate Mun On Chun, told him, "Hiram, here's a good business. Do you think you could raise some capital?"

The company started with $200,000 in 1952, and now has assets of more than $117 million. Chun and two others from Honolulu Trust, Clifford Yee and Daniel B. T. Lau, have been with the company since the beginning.

The other owners of Finance Factors (11 at the start, six today) are Fong, Dr. L. Q. Pang, and Fong Choy.

"Then we decided we should have an auxiliary business, and since Mr. Chun knew real estate, we founded Finance Realty in 1953 and went into the construction of homes and the subdivision of properties," Fong said.

Finance Realty's major project is "Makakilo City" in Leeward Oahu, where 1,700 homes have been built and 5,000 more are planned.

In 1957 another company was founded with the aid of the Library of Hawaii.

"We went down to the library and found eight books on life insurance. I borrowed three, and the other boys took the rest," Fong recalled.

Two weeks later, after discussing what they had learned, they decided to start the Grand Pacific Life Insurance Co. Wadsworth Yee, then a deputy attorney general, was brought in as vice president and legal counsel, and is president today.

Yee, who has to take lot of kidding, because he's the Senator's nephew and husband of Fong's executive secretary Hunnie Yee, has spearheaded its expansion to Guam, Micronesia, Alaska, and 10 other states.

The "family of companies" has grown so large over the years that it fills all seven floors of the Finance Factors Building—except for Fong's Senate office, which the federal government rents from Finance Investment Co.

Finance Factors and its insurance division have the first, second and third floors. Finance Realty is on the fourth; Grand Pacific Life has the fifth and shares the sixth with Finance Securities Inc., a member of the Honolulu Stock Exchange, and Finance Factors' advertising, public relations, and personnel departments.

Fong is on the top floor with Clifford Yee and other key men, including Edward K. M. Chun, senior vice president; Howard Hee, vice president; and Merton Lau, president of Finance Investment Co.

Finance Investment builds and rents apartment houses, rents business property, and operates McWayne Marine Supply.

Fong is chairman of the board of directors of every company.

The companies are conservatively operated, he said, with "preservation of the assets paramount in our thinking. I believe we have succeeded in gaining the tremendous confidence of the public."

By 1959 the companies were doing very well, and Fong recalls, he was "really ready to take it easy and not do too much."

Having served as Speaker of the House for years in the Territorial Legislature, he had thought, "That's about the highest I can go."

However, Statehood added a new dimension, Fong looked at the men running for the U.S. Senate, and bet himself he could do a better job.

The voters thought so, too. But Fong was a worried man when he left for Washington.

"I was quite fearful—you know, being the first person from Hawaii, and not being a Caucasian. I wondered whether I would be considered too provincial, or too partisan," Fong remembers.

The first term turned out well, and Fong felt the "lure" of Washington.

"I had to show that the first term was not a fluke. That's why I ran for the second time.

"And when the second term was up, the (Republican) party said, 'You have to go, because we don't have anybody else,' " Fong said.

But now that there are "others to take my place," Fong, who will be 69 Oct. 1, says he's through with Congress.

He's grateful to the people who tell him he's done a good job for Hawaii, he says, because it means "my term is ending the way I hoped it would."

Keeping busy afterwards will be no problem, because this energetic man will be devoting most of his time to activities he finds interesting and satisfying—business and his botanical garden in Kahaluu—plus community and political affairs.

Part of the future botanical garden is already producing bananas, papayas and vegetables in commercial quantities, under the supervision of Fong's son Rodney—"who graduated from law school, passed the bar examination here, and decided to be a farmer," the Senator explained.

The garden will have "every fruit tree that I can grow in Hawaii . . . numerous gardens where you'll be surrounded by the fragrance of gardenias, ginger, jasmine, and other flowering trees and plants . . . an aquatic garden, a taro patch, a rice field, a bamboo forest, a hau tree jungle . . ." and many other attractions for schoolchildren and tourists to enjoy some day.

"This is a work of love. It might take generations to complete," Fong said of his "Garden of Eden" in Kahaluu.

"I want to build this into one of the outstanding attractions in the world," he said, vowing it's "not for sale," especially to subdividers.

"My children have agreed that this is not going to be a subdivision. And I will haunt them if they ever sell it!" Fong said.

And while the countryside is being transformed, and he is helping his associates to manage their companies, Fong vows he will write the autobiography which publishers have requested.

"They wanted to send editors here to write my story, but I told them I'll write it myself," Fong said.

He'd better get started soon, he added jokingly, "because I don't know how long I'm going to last."

But all indications are that he has a great many productive and useful years to go.

Mr. HUGH SCOTT. Mr. President, the man we honor today—Senator Hiram L. Fong—is the first person of Oriental ancestry to serve in the U.S. Senate and one of the first two persons elected U.S. Senator from the new State of Hawaii in 1959. Not only has he helped to place Hawaii on our national map, but he has also assured that it remains as a beacon to the world of our free, multiracial society.

Senator Fong is a reminder to all Americans that opportunities are still open to anyone who is willing to work hard for success.

From the time he was a barefoot boy in Kalihi, Hiram was accustomed to hard work, long hours, and multiple tasks—ideal training for a future U.S. Senator. This work ethic was evident throughout his distinguished 43 years of government service.

The people of Hawaii owe a deep debt of gratitude to their "Man of the Pacific." He will be best remembered for his humanist role in the national and international arena. Highlighting his 17 years of service in the Senate are three areas in the national and international sphere to which he has devoted his untiring energies: Civil rights, immigration reform, and education.

Our friend, Hiram, will return to the people he has served with distinction to resume his life and work in his beloved Hawaii. As my wife has noted of me, he is not retiring, he is simply not running for public office. Marian and I wish for Ellyn and Hiram and their family the joys and rewards of more relaxed and adventuresome days ahead. He pomaikai i ulia wale!

Mr. President, I ask unanimous consent that Senator Fong's retirement statement of January 13, 1976, be printed at this point in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

STATEMENT OF U.S. SENATOR HIRAM L. FONG ANNOUNCING PLANNED RETIREMENT FROM SENATE, HONOLULU, HAWAII, JANUARY 13, 1976

On January 2, 1977, my current term as United States Senator will expire. In fairness to the people of Hawaii, to whom I am so deeply indebted for allowing me to represent them in our Nation's highest legislative body, I am today announcing my future plans.

By next January, I shall have served in the U.S. Senate almost 18 years—17 years and four months, to be exact. With my 14 years in the Legislature of the Territory of Hawaii, I shall have served almost 32 years in elective office.

Together with my five years with the City and County of Honolulu—three as Deputy Attorney and two as Chief Clerk, Bureau of County Waters—my nearly three years in the 7th Air Force of the U.S. Army Air Corps in World War II, and my three years as clerk in the Supply Department, Pearl Harbor, I shall have been in government service almost 43 years.

I shall be approaching 70 years of age.

With each passing year in the Senate, my workload and responsibilities have increased and the demands on my tme and energy have escalated. I estimate my workload has tripled since 1968. In the Senate, I serve on the two Committees with the heaviest burdens: Appropriations and Judiciary. In addition, I have special duties as ranking Republican Member on two other Committees: Post Office and Civil Service and the Special Committee on Aging. I serve on a total of 24 Subcommittees.

The number of hearings I must attend and the number of issues on which I must be informed have increased, together with the complexity of issues which we in the Senate handle. In my first full year in the Senate, for example, we had 207 record votes. In the year just ended, we had 611, nearly three times as many. The amount of time and study I must devote to the issues has increased correspondingly.

Similarly, the time and attention required to fulfill the Senate's Constitutional duty to give advice and consent on Presidential nominations and treaties have also increased.

With the tremendous proliferation of Federal laws and regulations, Hawaii State and County government requests for assistance in interpreting, changing, or complying with these Federal requirements have multiplied. Private individuals and enterprises have been likewise affected.

It is no wonder that my mail has increased significantly in volume. In the past year alone, my mail totaled 29 per cent higher than the previous year.

From the time I was a little boy, I have been accustomed to hard work and multiple tasks. As I am in excellent health, I still enjoy the challenges of a busy life, but I find that my duties as U.S. Senator leave me less and less time for my family and friends and for life and work in Hawaii. My wife Ellyn and I long to spend more time in the Islands with our children, our grandchildren, other relatives, friends and the people of Hawaii.

Still another factor affecting my political future is the jet travel between Hawaii and Washington, D.C., which I find now takes a greater toll physically. My biological time clock requires longer to adjust. On the average, one week is needed to make the adjustment. As I make eight or nine trips a year, this means that during about one-third of each year I am struggling to readjust to the time change while still performing my duties as a Senator.

For all these reasons and in response to the pleadings of my family, I have decided to serve out the remainder of my present term, but not to seek reelection to the U.S. Senate.

My future plans include my return to active participation in the activities of Finance Factors, Ltd. and its family of companies, of which I am Chairman of the Board of Directors. I will also be busy in other family businesses and investments in Hawaii. Furthermore, on our 725 acres in Kahaluu, Oahu, my four children, my wife Ellyn, and I are trying to develop a combination of a botanical garden and a plantation, with the hope that it will become a sanctuary of beauty, fragrance, and serenity filled with flowers, ferns, trees, fruits, and birds. All my papers as U.S. Senator will be placed in a library here. This garden-plantation will serve as a memorial to our parents.

I wish to take this opportunity to thank the members of my efficient staff for their loyalty, dedication, and hard work in helping me to carry out my duties as a Senator. Without them, I could not have performed my multiple tasks in as effective a manner.

To all my supporters, I say "Mahalo nui loa" from the bottom of my heart for their faith, trust, and confidence in me during my three terms in office. To all my non-supporters, I also say "Mahalo" for keeping me competitive and alert.

Last but certainly not least, I wish to thank my dear wife Ellyn for her patience, understanding, and uncomplaining support during all these years. I thank my children, too, for comprehending why their parents often had to be away from them for lengthy periods.

I cherish the opportunities I have had to serve the wonderful people of Hawaii, who I believe have brought a new and vital dimension to our Nation and who I am convinced will play an ever more important role, particularly in the Asia-Pacific basin.

One of the greatest satisfactions I have had as Senator is in recommending and helping to place qualified people from Hawaii in high Federal Government posts:

Federal Appeals Court Judge Herbert Choy of the Ninth Circuit, the highest U.S. post attained by a person of Korean ancestry;

Court of Claims Judge Shiro Kashiwa, the highest Federal judicial post attained by a person of Japanese ancestry; just prior to this appointment, he had served as Assistant Attorney General for Land & Natural Resources in the U.S. Department of Justice, the highest Federal Executive post ever attained by a person of Japanese ancestry;

U.S. Postal Rate Commission Chairman Clyde S. DuPont, the highest Federal Executive post ever attained by a person of Hawaiian ancestry;

Federal District Court Judge C. Nils Tavares, the first person of part Portuguese-Hawaiian ancestry to hold a Federal District judgeship;

Federal District Court Judge Samuel P. King, a part-Hawaiian who has reached high judicial standing;

Federal District Court Judge Dick Yin Wong, the first person of Chinese ancestry to hold a Federal District judgeship;

Mrs. Betty Farrington, formerly Director of U.S. Office of Territories, U.S. Department of the Interior;

Edward Johnston, High Commissioner of the Trust Territory;

Thomas K. Kaulukukui, twice appointed U.S. Marshal for the Hawaii District;

Robert K. Fukuda, formerly U.S. Attorney for the District of Hawaii;

Harold M. Fong, currently U.S. Attorney for the District of Hawaii;

The late Leonard K. Fong, District Director, Small Business Administration in Hawaii;

Alvin K. H. Pang, Director, Federal Housing Administration in Hawaii;

Aaron Marcus, Y. Baron Goto, Hebden Porteus and Fred Rohlfing, who were named to represent the United States on the South Pacific Commission;

Laurence Silberman, appointed Under Secretary of Labor, Deputy U.S. Attorney General, and most recently Ambassador to Yugoslavia;

H. Rodger Betts, General Counsel, Community Services Administration and formerly Deputy Assistant Director for Operations, Office of Economic Opportunity;

Dan Liu, Special Assistant to the Postmaster General for International Affairs;

Dr. John Ing, member of the Board of Governors, U.S. Postal Service.

And the many, many other Hawaiian people who have won appointment to high level part-time or advisory posts on my recommendation. These include the following:

Dr. John P. Craven, member, National Advisory Committee on Oceans and Atmosphere;

The late Edward DeMello, member, Western States Regional Manpower Advisory Committee;

Mrs. Dorothy Devereux, member, Federal Council on Aging;

Former State Senator Eureka Forbes, member, John F. Kennedy Center Advisory Committee;

The late Douglas W. Freeth, member, Public Advisory Panel on Architectural Services, General Services Administration;

The late Sing Fu, member, National Advisory Council of the Small Business Administration;

Frank K. Goto, member, National Marine Fisheries Advisory Committee of the U.S. Department of Commerce and Western Pacific Fishery Management Council, also of Department of Commerce;

Dr. Wytze Gorter, member, U.S. Commerce Department Technical Advisory Board;

Leland H. Gray, Director in Hawaii for U.S. Bureau of the Census, for 1970 Decennial Census;

Frederick C. Gross, member, Public Advisory Committee on Soil and Water Conservation, U.S. Department of Agriculture;

George W. Holeso, member, National Advisory Council of the U.S. Senate Veterans' Affairs Committee;

Mrs. Bettie E. Lauchis, member, Advisory Council of the National Arboretum;

Dr. Richard K. C. Lee, member, National Advisory Council on Aging;

Mrs. Drue Lytle, member, White House Conference on Aging Technical Committee on Education;

Katsuro Miho, Administrative Senior Judge, Wake Island; and member, National Review Board of the East-West Center;

Dr. George H. Mills, former State Senator, member, National Advisory Committee for Juvenile Justice and Delinquency Prevention;

Dr. L. Q. Pang, member, National Review Board of the East-West Center;

Honorable Patricia Saiki, Hawaii State Senator, member, President's Commission on the Status of Women; and member, National Commission on the Observance of International Women's Year;

Dr. Calvin C. J. Sia, member, National Advisory Council on Child Health and Human Development;

Maurice J. Sullivan, member-at-large, National Advisory Council of the Small Business Administration;

Richard "Ike" Sutton, Second U.S. Judge, Wake Island;

Dr. Eugene G. C. Wong, member, National Advisory Council on Health Professions Education; and member, Hypertension Information and Education Advisory Committee of the Department of Health, Education and Welfare;

Mrs. Mabel Lee Wong, member, National Advisory Food Committee of the Department of Health, Education and Welfare; and member, National Advisory Committee on Consumer Product Safety of the Department of Health, Education and Welfare;

Dr. Livingston M. F. Wong, member, National Arthritis, Metabolism, and Digestive Diseases Advisory Council;

Clifford H. N. Yee, member, Board of Directors of the U.S. Overseas Private Investment Corporation.

[Subsequent to January 13, 1976, the following:

Mrs. Eleanor O. L. Sui, member, Honolulu District Advisory Council, Small Business Administration;

Dr. Michael M. Okihiro, University of Hawaii Medical School, member, National Advisory Council on Neurological and Communicative Disorders and Stroke, U.S. Department of Health, Education and Welfare;

Hung Wai Ching, member, Board of Governors, U.S. Postal Service; and

Wadsworth Y. H. Yee, Hawaii State Senator, member, Western Pacific Fishery Management Council, U.S. Department of Commerce.]

Hawaii since statehood has indeed had a growing voice in the upper echelons of our Federal Government, and I am delighted I had the opportunity to recommend so many people.

As for myself, words are inadequate to convey my most heartfelt thanks to Hawaii voters who three times bestowed upon me one of the highest honors they can give, a seat in the U.S. Senate.

With that came the distinction of being one of the first two U.S. Senators from Hawaii. Now I enjoy distinction as the last statehood Senator from any State. It was my further distinction to be the first person of Asian ancestry to serve in the U.S. Senate.

I deeply regret that my heavy workload, my age, and my family duties compel me to retire from the Senate when my present term expires.

I shall, of course, continue to serve to the best of my ability in the coming year. There are matters of particular importance still pending, to which I shall devote my efforts, including legislation to protect Hawaii against West Coast shipping disruptions; a program to assure Hawaii sugar a fair share of the U.S. market for the long term, so this industry, which is vital to thousands of Island workers and to our Island economy, will remain healthy and viable; and a program to recognize and grant recompense for the wrongs afflicted upon the Hawaiian people when the Monarchy was overthrown.

I especially regret that, with my retirement, Hawaii will lose the seniority I acquired in the Senate and in my assigned Committees. Whoever succeeds me—Democrat or Republican—will start at zero seniority in the Senate.

If I may be permitted a suggestion, it is that a small State like Hawaii can overcome the eroded seniority it will have next year in both the U.S. House and Senate by making sure our State has bipartisan representation in Congress.

In that way, Hawaii will have officials in Congress with entree to members of both parties in the House and Senate and with entree to national administration, whether it be Republican or Democrat.

In the House of Representatives, 33⅓ per cent of the Members are Republican; in the Senate, 38 per cent are Republicans. How important it is to have entree to Republicans as well as Democrats can be seen in the vote in 1974 on the Hawaii shipping protection bill. On that very crucial vote, more Republican Senators than Democrats supported this legislation. A total of 31 Republican Senators—75.6 per cent of all Republicans in the Senate—voted to pass S. 1566, compared with only 26 Democrat Senators—48.1 per cent of all Senate Democrats.

Also, by having both parties represented in Congress, the people of Hawaii will have the benefit from time to time of differing viewpoints on major legislation and issues. This makes possible an informed citizenry, gives them a choice of alternatives, and prevents blind acceptance by the people of Hawaii of the views of one Party.

In my 16 years-plus as the lone Republican from Hawaii in Congress, I have served under five Presidents—Eisenhower, Kennedy, Johnson, Nixon, and Ford—eight years under Republican Administrations and eight years under Democrat Administrations.

Having a Senator of the same party as the President does not guarantee Hawaii's position will prevail, but it does give us an opportunity to be heard and an opportunity to prevail which we might otherwise not have.

In preparing this statement, I could not help but recall some of the momentous political, social, and scientific changes that have taken place over the past 16 years.

Nearly all the well-known heads of state in 1959, when I first took office are gone from the scene: Eisenhower, deGaulle, Adenauer, Khrushchev, Nehru, Franco, Nasser, Selassie, Chiang Kai-shek, and Chou En-lai. The map of the world has changed drastically, with independence attained by scores of countries, but unfortunately with the number of people enjoying freedom sharply down. This has shifted the balance of world power and changed the complexion of the United Nations. The OPEC countries, formerly regarded as minor powers, are forces no longer to be ignored. World peace is still elusive and international terrorism has become rampant.

In the field of science, the United States took some giant steps, with our submarines traveling beneath the North Pole, our asstronauts walking on the moon, and our spacecraft docking in outer space with one from the Soviet Union.

Domestically, here in America, we had such traumatic experiences as civil disorders in our cities and on our campuses; assassinations of policitical and religious leaders; a long, cruelly divisive war; resignation of a President; and inflation and recession.

It is a tribute to our structure of government and to the fortitude, stamina, and resiliency of the American people that they not only withstood but surmounted these vicissitudes.

Now our cities are calm; our institutions of government function; our checks and balances operate; our economy is on a upswing; and our Nation is at peace.

The past 16 years have been a period of landmark legislation as well: the Civil Rights Acts of 1960, 1964, and 1968; the Voting

Rights Act of 1965; repeal of the emergency detention provisions of the Internal Security Act; immigration reform; the Elementary and Secondary Education Act; the GI Education and Job Training Act; the Sea Grant College Act; Health Professions Education Act; and laws to combat air and water pollution and to protect the natural treasures of our environment. I am very grateful that I had the opportunity to work for and support these outstanding pieces of legislation.

Insofar as Hawaii's particular needs are concerned, I am happy I was able to assist our Islands' vital agricultural industries; sugar, pineapple, cattle, fruit, flower, and other diversified crops. I have endeavored to keep Hawaii's sea and air transportation lifelines open. I have assisted our tourist industry, Hawaii's leading source of income next to the Federal Government. I have worked for flood control, harbor improvement, beach restoration, and safe road projects throughout Hawaii. I have worked to promote oceanography as a growth enterprise for Hawaii. I am especially pleased to have assisted in the establishment of the East-West Center and in the incorporation of Hawaii into the National Defense Highway System, of which H-1 is the result.

As a member of the Appropriations Subcommittee on Labor-Health, Education, and Welfare, I have supported funding to improve our schools and opportunities for students and teachers; to intensify research on diseases such as heart, cancer, stroke, and pulmonary disorders; and to improve the income status of the aged, the sick, and the economically deprived.

Likewise, as a longtime member of the Senate Post Office and Civil Service Committee, I have fought hard to better the working conditions and living standards of Federal employees.

As a member of the Senate Special Committee on Aging, I have worked to help solve many problems of older Americans, such as sponsoring legislation to eliminate job discrimination, unfair social security provisions, and tax inequities affecting senior citizens.

I have also sought to maintain strong national defenses for our country in general and for Hawaii in particular, mindful of our strategic mid-Pacific location. One of my deepest concerns as my term draws to a close is that America is not taking the steps we should to ensure that our future defenses will truly be adequate.

When Hawaii became a State in 1959 and I became a Senator, there was no doubt that America's military power was foremost in the world. Since then, the Soviets have engaged in a massive military buildup, and the United States has slipped to a position of relative parity. In view of the alarming erosion of freedom throughout the world and the undeniable actions of the Soviets in promoting Communist overthrow of other governments in Indochina, Angola, and elsewhere, I am concerned that, unless we reverse our downward trend, the Soviets will forge ahead of us, with all the potential for disaster that would entail.

Unless we can defend our Nation against any possible enemy, we stand to lose both our liberty and our social gains.

In this, our Nation's Bicentennial celebration year, my prayer is that the people of America and their leaders will have the wisdom and the courage to do what is right and what is necessary to guarantee for another 200 years America's survival in freedom and justice and, hopefully, in peace.

Mr. HUGH SCOTT. Mr. President, when Senator Hiram L. Fong retires at the end of the 94th Congress, he will be leaving with the high commendation and warm personal regards of our President, Gerald R. Ford. I ask unanimous consent that the President's letter to Senator Fong be printed in the Record at this point to be followed by the highlights of Senator Fong's 17 years in the Senate.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The White House,
Washington, January 23, 1976.

Hon. Hiram L. Fong,
U.S. Senate, Washington, D.C.

Dear Hiram: It is difficult to conceive that the 95th Congress will convene without the presence of the senior Senator from the State of Hawaii. Needless to say, I was very sorry to learn of your decision to retire at the end of your present term.

Your service in the Senate is synonymous with the transition of the Territory of Hawaii to its role as the 50th State of our Union. Through your wisdom and statesmanship you have made it possible for your State to attain a prominent voice in the affairs of our country. During your tenure America's Pacific heritage has emerged from your remarkable State, where it stands as a shining example to the world of a free, multiracial society. Your advocacy of these principles has given your colleagues and all Americans a true understanding of America's role in the Pacific.

Your leadership in the Senate will be missed. However, I am confident that your entering private life will not diminish your efforts in behalf of the people of Hawaii and our great Nation.

With warmest personal regards,

Sincerely,

Jerry Ford.

Mr. HELMS. Mr. President, about a quarter of a century ago I had a very meaningful friendship with a man named Dick Russell, a name that is quite familiar, of course, to all who serve in this Chamber.

Senator Russell had a description of a man which set this individual apart and made him something very special. He would say, "He is one of nature's noblemen."

That is the way I feel about the able Senator from Hawaii, Hiram Fong, and that is why I so sincerely regret to see this distinguished American leave our midst at the end of this year. He has been my friend from the first day I walked on the floor. He has counseled me, he has assisted me, and in every way, he has meant so much to the Senator from North Carolina.

Of course, Hiram Fong has meant a very great deal to his Nation, which he loves so fervently.

Other Senators have addressed various aspects of his distinguished career, starting, as one Senator put it, in abject poverty and working his way up to be one of the most successful men in our Nation.

But let me just mention, Mr. President, one aspect that, perhaps, others have not spoken of, and that is the representation that this able man from Hawaii, has given his Nation in representing the United States abroad.

During his 17-year tenure in the Senate, Senator Hiram L. Fong was chosen on numerous occasions to represent the United States abroad. The "Man of the Pacific" thus became a "man of the world" at international conferences and on missions that took him to other countries near and far.

As a U.S. delegate, he has ably represented our country on these occasions. His personable, friendly ways have favorably impressed the many emissaries from other countries with whom he came in contact abroad.

Hiram Fong was a delegate to the 150th anniversary celebration of Argentina's independence in 1960. In 1961, he was appointed a member of the U.S. delegation to the Canada-United States Interparliamentary Conference; in 1965, 1967, and 1968, he was again named to this Conference.

He was appointed a U.S. observer at the Commonwealth Parliamentary Association meeting in Wellington, New Zealand, in November 1965. He was appointed official U.S. delegate to the 55th Interparliamentary Union World Conference in Tehran, Iran, in September 1966, and to the 61st Interparliamentary Union World Conference in Tokyo in 1974.

He represented the United States as a delegate to the Ditchley Foundation Conference in London, Oxfordshire, England, in January 1967, and was a U.S. delegate to the Mexico-United States Interparliamentary Conference in Honolulu in April 1968.

He participated as a Presidentially appointed member of the U.S. congressional delegation to the People's Republic of China in 1974.

In October 1974, Senator Fong made a factfinding and inspection tour of the U.S. State and Defense Department installations in Japan, Okinawa, Korea, and the Republic of China as well as the Island of Guam and the Trust Territory of the Pacific.

In April 1975, he was selected by President Gerald Ford to serve as a member of the official U.S. delegation to journey to Taiwan for the funeral services for the late President of the Republic of China, His Excellency Chiang Kai-shek.

Mr. President, as I say, this man, Hiram Fong, has so many qualities, he has rendered such great service to his country, that no Senator or combination of Senators can begin to give him proper credit. But I want him to know in these last few days we will serve together in the U.S. Senate that I am deeply grateful for his friendship. I admire him, I respect him, and I shall miss him.

I thank the Chair.

Mr. GOLDWATER. Mr. President, I see in the Chamber my friend Hiram Fong who is going to return to his beautiful country, the State of Hawaii.

I recall very vividly when he was elected for the first time. I was chairman of the Republican Senatorial Campaign Committee. I have always looked on that as one of the feathers in my headdress, if I am allowed to say that I wear one once in awhile.

I remember, when Hiram first came to the Senate, his desire to go ahead with his work for the State of Hawaii. I know at firsthand what he has done for his State because I visited him several times in Hawaii. I have been there with his friends. Back one night I attended a reunion of his high school class that he tells me goes on every month. I do not know how thay have lasted this long; it is quite a celebration they put on every month to remember high school days.

So, Hiram, you are sitting here and I just wanted to say first, Aloha, and as we say, buena suert, which is good luck, for all the rest of your life.

As an American, I want to thank you for what you have done for all of us.

Mr. THURMOND. Mr. President, I rise to pay tribute to the distinguished senior Senator from Hawaii, who is retiring this year.

When the 94th Congress draws to a close, the Senate will lose one of its most outstanding Members, the senior Senator from the State of Hawaii, Senator Hiram Leong Fong.

For over 16 years, Hiram Fong has represented the people of Hawaii with honor and distinction. He has demonstrated the utmost qualities of integrity and leadership, and he has continuously strived to achieve greater respect for the dignity of man and the rights of all citizens. His distinguished career has been devoted to preparing for and carrying out services to the people of Hawaii and the entire Nation, which he loves. His public career should be an inspiration to all Americans.

A man of humble beginnings, Senator Fong has achieved his goals through his own ambition and hard work. Yet, he has never forgotten the needs of others. A humane man, Senator Fong has always worked to better the lives of those Americans who were less fortunate.

He was one of the chief designers of the Immigration Reform Act of 1965 and has fought against discrimination in such areas as voting, the rental or sale of housing, education, Federal assistance programs, and in employment. He is truly a man who believes in the American tradition of equality for all men.

Senator Fong once said that "education is the key of opportunity for America's young people, and adults as well." A graduate of the University of Hawaii with a bachelor of arts degree, he also received his doctor of jurisprudence degree from Harvard University. For financial reasons, his education was interrupted twice, but his diligence and perseverance enabled him to complete his education. Senator Fong is the recipient of eight honorary doctor of law degrees and a doctor of humane letters degree from Long Island University.

He is an astute businessman. It is a high honor to him that under our private enterprise system, he has been able to rise to the heights in the business world and has made a great success in this field.

It should be noted that Hiram Fong was one of the first two Senators from the State of Hawaii and the first person of Oriental ancestry to serve in the U.S. Senate. His record reveals him to be a reliable and outstanding public servant and a devoted and trusted friend.

For these reasons, and many more, I join my colleagues in paying tribute to an able Senator, a distinguished statesman, and a great American.

Mr. President, Mrs. Thurmond and I wish Senator Fong and his lovely wife, Ellyn, and his family, much happiness in the years to come with their many friends in their beloved State of Hawaii. We shall always remember with pleasure our association with this compassionate and valued friend, Hiram Fong.

Mr. EASTLAND. Mr. President, as the 94th Congress draws to a close, I want to pay a heartfelt tribute to a very special colleague, Senator Hiram Leong Fong, who will retire after serving Hawaii as its senior Senator since it was admitted to the Union as a State in 1959.

He is not only the sole statehood Senator still serving, he is the only living statehood Senator. And, his has been quite a life.

The son of a Chinese indentured laborer and a Chinese maid-servant, both of whom came to Hawaii in their early teens, he spared himself no task, seizing every opportunity to develop that fine brain of his. He was never an underachiever.

A graduate of Harvard Law School, class of 1935, he returned to Hawaii and founded the cosmopolitan law firm of Fong, Miho, Choy, and Robinson. Represented in that firm were the mixtures so well blended in Hawaii—Chinese, Japanese, Korean, and Caucasian-Hawaiian. With great pangs, he resigned from the firm when he took office as Senator. While Hiram Fong remained the man of the Pacific, he repeatedly exhibited his concern for the well-being of his fellow men everywhere. His influence was felt in many areas.

Along with Albert Einstein, Enrico Fermi, Helen Keller, Jonas Salk, Robert Peary, and Matthew Henson, the senior Senator from Hawaii was the subject of an inspirational film shown to schoolchildren throughout the country.

The film depicts the lives of these outstanding Americans who overcame great odds in their pursuit of excellence in service to their fellow men and country.

Hiram Fong has received signal and varied honors, eloquent recognition of the respect and admiration in which he is universally held.

The President's Committee on Employment of the Handicapped awarded him a plaque and medallion.

The National Multiple Sclerosis Society cited him:

> In recognition for his outstanding concern for handicapped Americans and his dedicated efforts in support of Federal aid to health-related research.

The county of Los Angeles awarded him a citation:

> In recognition of distinguished public service and outstanding legislative accomplishments . . . demonstrated by his record of achievement.

He is the recipient of "The Golden Plate" award from the American Academy of Achievement, presented to "America's captains of achievement 'representing the many who excel' in the great fields of endeavor."

He has been singled out by the Pacific Asian Studies Association for his outstanding contribution to the promotion of understanding and unity among the people of the Pacific Asian world.

He has been the recipient of a certificate of award from the National Society of the Daughters of the Founders and Patriots of America.

AMVETS has cited him for his service to veterans.

The list is long, but it is not necessary to go on.

Senator Fong will long be remembered as the champion of the little man, the common man, the underprivileged man, and as one who has fought long and hard to protect the constitutional and civil rights of all inhabitants of these United States.

He is a true scholar and, at heart, a kindly teacher.

His interest in the field of immigration has been of immeasurable benefit in directing the course of the Immigration Reform Act of 1965 as it evolved from introduction to enactment. It was his diligence in seeing that the intent of Congress was being carried out that resulted, among many other things, in the opening of a refugee center in Hong Kong—the only place in the Pacific area where refugees could apply for conditional entry, as provided for in our laws.

When I introduced an omnibus bill during this session of the Congress to amend the Immigration and Nationality Act (S. 3074), Hiram Fong was ever ready to cooperate, to chair hearings, and to offer amendments.

He performed superbly, as always, to enhance and improve the final product.

Hiram Fong spoke before one of the largest audiences ever to attend the prestigious Calvin Bullock forum, when he addressed leaders of Wall Street, the bar, and international affairs, on a subject dear to his heart which he entitled: "A Reappraisal of the American Immigrant: A Valued Asset." We are told he held the audience spellbound by his legal erudition and by his deep understanding of the contributions made by immigrants to our great Nation. I ask unanimous consent that a copy of those remarks be printed at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. Morgan). Without objection, it is so ordered.

(See exhibit 1.)

Mr. EASTLAND. Mr. President, I have been chairman of the Senate Judiciary Committee since 1956. The senior Senator from Hawaii has served on the committee since July 11, 1961. His retirement will be a profound loss.

He has made his mark in this world. Not only my colleagues and I, but all the people of this great country so diligently represented by Hiram Fong will miss his effective support.

Our only comfort is that this gentle man and gentleman is returning to his beloved Hawaii with his lovely Ellyn. He will be with his beloved family and undoubtedly he will be busier than ever in pursuing his multitudinous interests, but we in the Senate will miss him.

Exhibit 1

A Reappraisal of the American Immigrant: A Valued Asset

President Eisenhower once said we are "a nation of immigrants." In that vein, it is a pleasure for me to be here today. I greet you in the words President Franklin Roosevelt used to greet a convention of the Daughters of the American Revolution: "Fellow Immigrants."

As the ranking Republican on the Senate Immigration and Naturalization Subcommittee of the Senate Judiciary Committee, with the special knowledge of immigration matters gained therefrom, I thought it would be of mutual interest and benefit to review with you our immigration policy—from the time of our earliest forefathers until today—from the time when we were just 13 small colonies on the Eastern seaboard to what we are today—a global nation, spreading over almost one-half the globe from East to West, from the Virgin Islands and Puerto Rico westward to Hawaii, American Samoa and Guam, and from American Samoa south of the Equator to Alaska near the North Pole.

A look at ourselves shows that our Nation is 87.5% Caucasian, 11.1% Black and that the 1.4% balance of our population consists of representatives of all peoples and races. Just to name a few of these races, we include the American Indian, the Japanese, the Chinese, the Filipinos, the Koreans, the Polynesians, the Micronesians, and you can keep adding to the list.

This is America—a cosmopolitan country!

In fact, we have been a cosmopolitan country from almost our very beginning.

Long before we had become a nation, the British settlers at Jamestown had already been joined by much welcomed immigrants from all parts of Europe.

It is my firm belief that the sheer necessity of getting along with all these neighbors, of other stock, other faiths, and other traditions fostered a much more rapid development of religious tolerance, social equality and political democracy than otherwise could have been hoped for.

Yes, even before 1776, we had already become the most cosmopolitan area of the world!

The first Census, taken in 1790, showed a population of 3,227,000. At the time, a continent-spanning wilderness had yet to be subdued, and powerful French, Spanish and British claimants to that wilderness had to be ousted. That done, then the land had to be settled. Immigration was encouraged. There were no Federal laws limiting the admission of immigrants until 1882.

The first racially selective law passed by Congress was the Act of March 3, 1875, which empowered Consular officials to investigate Chinese and Japanese immigrant labor contracts for evidences of any lewd or immoral purposes. It established penalities for U.S. citizens who transported subjects of China and Japan without free consent, for a term of service, and rendered such contracts void. This was meant to be for the protection of laborers forced into contracts and to prevent the importation of women for immoral purposes.

Because of the influx of 200,000 Chinese immigrants from 1850 to 1880 following the discovery of gold in California and the building of the trans-continnetal railroad, Congress enacted the first of the Chinese Exclusion Acts, The Chinese Exclusion Act of 1882. The Act suspended immigration of Chinese laborers to the United States for 10 years. Chinese already in the country on November 17, 1880, however, were allowed to leave and re-enter.

Two years later, the Chinese Exclusion Act of 1882 was tightened further. Not only was the period of suspenion of Chinese immigration extended another 10 years in the Act of 1884, but the stricture was made applicable to all Chinese, wherever their birth or whatever their national allegiance.

While the Chinese Exclusion Act of March 12, 1888 allowed entry of Chinese officials, teachers, students, merchants, and travelers for pleasure or curiosity, the legislation of October 1, 1888 took away from Chinese laborers the right of re-entry into the United States, unless they had re-entered before the date of the Act.

These exclusion laws were extended again in 1892 and in 1902; in 1904 they were extended without limitation. Incidentally, it was not until 1943 that these restrictions on persons of Chinese origin were repealed.

By 1907, our desire for more restrictive and selective immigration evidenced itself in three ways:

Firstly, the Act of 1907 extended the classes of excludables.

Secondly, authority was given the President to enter into international agreements to regulate immigration. Pursuant to that authority, the President concluded the so-called "Gentleman's Agreement of 1907" limiting the entry of Japanese labor.

To meet the tremendous need for labor in the sugar and pineapple industries, Japanese had arrived in large numbers in Hawaii. Although their immigration was limited by the Gentleman's Agreement of 1907, it was prohibited by the Immigration Act of 1924. But, so large had been the influx of Japanese that, until the 1970 Census, the Japanese constituted the largest racial group in my State, with the Caucasians making an ever-increasingly large, second group.

Thirdly, under the Act of 1907, a commission was appointed to study the problem of immigration. The 1911 report of this commission, known as the Dillingham Report, led to the Immigration Act of 1917, which was described by a Congressional Committee as "admirable for the protection of the United States against those who are physically and mentally defective as well as against all objectionable classes and conditions."

The 1917 Act was proposed as a restrictive measure. To the class of aliens previously inadmissible were added all persons born in the Asian-Pacific Triangle. That was an area covering most of Asia and the Pacific Islands, described by degrees of latitude and longitude.

The concept of proscrpition based on race and country of national origin was to continue in our law until the immigration law was revised in 1965.

Public sentiment in 1924 was summarized by Senator David A. Reed of Pennsylvania who said: "I think most of us are reconciled to the idea of discrimination. I think the American people want us to discriminate; and I do not think discrimination in itself is unfair. We have got to discriminate. The only question that I think worries the committee is (which method) is the more plausible method of attaining that discrimination. Practically all of us are agreed that (racial discrimination) is an end that should be attained."

To achieve this goal of racial discrimination, there were four laws fixing quotas for admission of aliens.

The first quota law, in 1921, based the quota for each nation on the national origins of the United States population as of 1910. The second quota act, in 1924, which superseded the Agreement of 1907 and barred Japanese immigrants, was regarded by Japan as a national insult and is considered by some to have led to the bombing of Pearl Harbor. This 1924 Act was even more selective in that it chose the 1890 Census as the basis of its quota—a period when 80% of the migration was from Northern and Western Europe, rather than Southern or Eastern Europe.

In 1929, the quota basis was changed to the 1920 Census.

Finally, the 1952 Act, while continuing to use the 1920 Census basis, provided that the counrty to which an alien was chargeable was determined by the country of birth, except for persons who traced one-half their ancestry to the Asian-Pacific Triangle—these were chargeable to the country of their ancestry in the Triangle. The total quota available to persons chargeable to the Asian-Pacific Triangle was limited to 2,000 a year, though this area had over one and one-half billion people—over half the world's population! Little Ireland with less than 3,000,000 people had a quota of 17,756—8 times larger than the whole of the Asian-Pacific Triangle. England's quota exceeded 65,000.

The granting of this small quota of 2,000 immigrants to the Asian-Pacific Triangle, representing less than 2 percent of the total immigration quota, did not stifle the charge that our immigration laws were most unfair and that they denied dignity, equity, and respect to over one-half of the world's population.

With the enactment of the Act of October 3, 1965, we finally eliminated the vestiges of racial discrimination from our immigration laws.

This Act, in the enactment of which I am proud to have had a part, set up a new system for admission of up to 170,000 persons a year from the Eastern Hemisphere, which included the Asian-Pacific Triangle; 120,000 persons a year were admissible from the Western Hemisphere.

Under the 1965 Act, insofar as the Eastern Hemisphere is concerned, a new system of preference visas was developed.

Visas are assigned on a basis of seven preference categories. Four of these categories, comprising 74% of the total quota, provide for the reunion of families. Two categories, comprising 20% of the total quota, are available for professionals or persons of exceptional ability in the sciences and arts, and skilled or unskilled workers in short supply in the United States; and one category, comprising 6% of the total quota, is available for refugees. Any visas not used by these seven preference categories are made available to other immigrants who are qualified for visas but not eligible for preferences.

Each country in the Eastern Hemisphere is limited to a maximum of 20,000 visas a year, up to a total of 170,000 for the entire Eastern Hemisphere.

Persons born in the Western Hemisphere are allowed a total of 120,000 visas a year, based on a first come, first served basis. There is no restriction based on country, but labor certification is necessary. Immigrants from the Western Hemisphere do not compete with American labor. They, too, must be workers with skills in short supply in the United States.

Spouses, children and parents of adult U.S. citizens are admitted without regard to any numerical limitation.

With this sketchy background of the Federal laws applicable to immigrants, let us now consider what the immigrant has contributed to our development, our culture and our image as a Nation. What is the picture of the immigrant coming to these shores today? And, is our immigration policy in the best interests of the United States?

In the United States Senate, I see the visible proof of what children of immigrants and grandchildren of immigrants—first and second generation Americans—have been able to attain. I am surrounded by many colleagues with a background similar to mine, sons of immigrants.

A list of Nobel Prize Winners showed that as of the end of 1970, 117 Americans had been awarded Nobel Prizes in the various categories.

Of these 117 Nobel Prize winners, 37—representing 31.6%—were foreign born. The first of these immigrant recipients was Albert A. Michelson, who in 1907 was awarded the prize for his optical measuring instruments.

They include such notable personalities as Albert Einstein and Enrico Fermi.

Curiosity prompted me to inquire as to the origin of the other 80 American Nobel Prize Winners. Nothing could be found out about the background of 6—but of the remaining 74, 27 were first or second generation Americans.

Immigrants and children of immigrants have made their contributions to many areas of our life and at all levels.

The contributions to the world of music of such great names as Rubinstein, Horowitz, Milstein, Stravinsky, Hindemuth, Mitropoulos, Liensdorf, Otto Klemperer, need no comment.

And what would the motion picture business be without an Adolph Zukor? Or an Albert Warner? Or a Samuel Goldwyn?

For mastery of the English language, you might choose Russian-born Vladimir Nabokov or Lin Yu Tang, the Chinese philosopher and author.

Or, perhaps we should look to the effect on our economy of people like Alexander de Seversky, without whose contribution our aviation industry would be much different, or John von Neumann or Wernher von Braun, without whose contributions we would probably not be putting men on the moon today.

Not only were immigrants and children of immigrants creative, but they were productive of innumerable positions in which Americans were and are employed. They were creators and developers of entire industries and of new products, which have done much to employ Americans and to make their lives so much better.

True, not all immigrants or children of immigrants achieve such prominent positions.

What does the less prominent immigrant contribute to America?

Where would our clothing industry be without the Jewish and Italian immigrants? Few native Americans are interested in becoming seamstresses or tailors. Many immigrants fill jobs in many other occuaptions where our native Americans have refused to seek employment. Stoop labor on the farms is an outstanding example of such employment.

Or, let us look at the little man who comes here and works and strives until he and his entire family can oepn their own little restaurant. You will find they too bring not only the benefits of their culture, but they create employment for Americans and improve our economy. They give employment not only to the employees of the American farmer or of the importers, but to the deliveryman, to the steamship lines or other carriers who bring their orders from afar.

And, they do more! They spread the word to their compatriots abroad—America is still the land of opportunity and freedom; not only a land of freedom from persecution, but a land of equal opportunity.

Our "little people" and by that I do not man the great tycoons, are our best press agents abroad—our best harbingers of good will and international understanding and cooperation with our Nation.

Despite this there is still opposition to immigration. This opposition is based on two arguments:

First, the fear that the admission of more immigrants to the country would exhaust our economic resources and add to our already serious employment problems and, second, the fear that too many persons of Asian background would be admitted into the country, upsetting traditional patterns of American life. Reasonable analyses of both arguments, however, show these fears to be quite unfounded.

The 1965 Act was not enacted without thoughtful and thorough consideration of our economic situation and the hard facts about our complex, technologically-oriented economy. It was so drafted as to enhance our economic growth and also to unite families.

In 1965, we anticipated that future admission would be about 350,000 immigrants a year, a figure which is only about 50,000 more than the number we actually had been admitting yearly during the 10 to 15 years before 1965.

In fiscal year 1971, 370,478 immigrants were admitted to the United States.

Of this total, the largest number, 158,152 came from the Eastern Hemisphere, 122,474 were from the Western Hemisphere; 80,845 were spouses, children or parents of U.S. citizens; 2,641 were fiances of U.S. citizens and their children; and the remainder of 6,366 were special immigrants of one sort or another.

What is the training and employment background of these immigrants?

In applying for admission, as I indicated, all but relatives of citizens and resident aliens need labor certification by the United States Department of Labor for the member of the immigrant's family who is to be employed in the U.S. after entry.

For the year ending June 30, 1971, a total of 153,122 persons obtained labor certification. This is about ⅕ of 1% of our total work force of about 88,000,000 workers. Before they arrived, the great majority had been fully trained and possessed talents and skills urgently needed in our economy. To obtain labor certification, the Department of Labor has to make an affirmative finding that there were an inadequate number of American personnel qualified to fill a professional need in the United States or there were no American workers to fill a particular job in the United States.

Of these roughly 153 thousand persons who obtained labor certification, the largest number by far were professionals and technicians. They totaled 48,850, or nearly ⅓ of the total.

The next largest group, numbering almost 22,000 were craftsmen and foremen.

Next were nearly 19,000 operatives and kindred workers, such as dressmakers and seamstresses. Then came laborers, then service workers, clericals.

Shortages of workers in the United States, even during high unemployment, are invariably to be found in the highly trained, professional, and skilled occupations. Unemployment was 5.9% in April 1972. Unemployment among professional and technical workers was only 2.3%; among managerial and administrative workers, 1.8%; among non-farm workers, 10.7%, and among service workers, 6.3%.

So, we look to immigration as one source from which we can obtain the highly trained professional and skilled workers our economy requires.

If positions which require technical skills are not filled, the many jobs which support technically skilled positions would not be available and many new jobs would not be created.

The balance of the immigrants admitted totaled 217,356 and consisted of wives, children, retired persons or persons with no occupations—so, almost 60% (58.8%) of the immigrants were not competing with Americans for any positions!

Now, looking back at the 48,850 professional and technical personnel admitted, by far the largest group—slightly over 16,000 or ⅓—were in the medical or allied fields. Included were 5,756 doctors and 6,442 nurses, all in great demand in our country today.

The Department of Health, Education, and Welfare attempted to make some calculations of the cost of medical school education for the year 1969. I am told that for all medical schools the range was from $121,256 to $7,542 per student per academic year, with an average of $18,973.

Judging from experience a rough estimate is that, at a minimum income level, it would cost $25,000 to house, feed, clothe, educate and to take care of the medical and personal care of a child until he reaches the age of 18. To that must be added the cost of a college education. Being most conservative, those 4 years would cost the parents and the State a minimum of $10,000. Adding to that 4 years of medical education at the average of nearly $19,000 a year, we have an additional $75,000 investment. In total, the cost of educating each doctor involves a minimum investment of $110,000.

The 5,756 foreign-trained doctors, alone, whom we admitted as permanent residents in 1971, represent an asset of $633,160,000—for which we did not expend our funds.

To that must be added the cost of education of all the other foreign born and foreign trained medical personnel—the total figure is incalculable.

But taking a rough estimate of $25,000 as the cost to house, clothe, feed, educate and to take care of the medical and personal care of a child until he reaches 18, the 153,122 immigrants receiving labor certificates represent an asset of nearly 4 billion dollars added to the human resources of our Nation.

Surely, the richest nation in the world should not benefit from this brain drain, but, realistically, we do not have a sufficient number of trained American personnel available to meet our medical needs in the foreseeable future. These immigrants are fulfilling a much needed void in our society.

One of the oldest and most emotional arguments against immigration is the fear that an increase in the number of Asian immigrants would upset the historical and cultural pattern of American life. An objective examination of the facts proves this fear is groundless.

According to the 1970 Census, the population of the United States included 591,290 persons of Japanese ancestry, 435,062 persons of Chinese ancestry, 343,060 persons of Filipino ancestry, and 720,520 in a category designated "All Other." This latter category includes persons of Korean, Asian Indian, Polynesian, Indonesian, and other non-white ancestry. It does not include Negroes and American Indians.

There were in the United States in 1970 only 2,089,932 persons of Oriental and Polynesian extraction or about 1% of a total of 203,211,926 persons, an extraordinarily small minority. Under our present immigration statute, the number coming from the former Asian-Pacific Triangle continues to be a small percentage of the total immigration per year.

Contributions of our American citizens of Japanese, Chinese, Filipino, Korean and Polynesian ancestry and others whose antecedents are native to the former Triangle area in the building of our country have been significant. These people have achieved distinction in nearly every field of endeavor; artistic, scientific, political, socioeconomic, religious, military, financial, industrial, and otherwise. To name a few, the members of the most decorated 442nd Battalion of World War II; Dr. Chen Ning Yang and Dr. Tsung Dao Lee who jointly won the Nobel Prize for physics; and the great scientist Dr. Hideyo Noguchi. Then, too, look at Hawaii's delegation in the United States Congress, all four of Asian descent.

Once thought to be unassimilable, today they are as much a part as any other ethnic group in the mainstream of American life. Innumerable studies have shown that Americans of Oriental ancestry have contributed economically and culturally to our Nation and are great assets to our country.

In addition, they serve well as bridges of understanding between our people and the peoples of Asia and the Pacific, for in sharing common ethnic origins, they are able much better to reach the peoples of the Triangle area with their messages of good will, democratic freedom and individual dignity.

As a Nation of immigrants, we have developed a racially heterogeneous society in which citizens of many cultures and ethnic origins live and work side by side to make the American dream a reality. But we should not be complacent.

As President Nixon said, "One of the great of the great problems that any society has as it becomes older, as it becomes richer, is that it tends to becomes more complacent, it tends to lose its drive, its dynamism, its imagination, frankly, its character. That is the history of civilizations over the past. And one mark of the American civilization has been that we have never fallen into that fault due to the fact that we have always had the infusion of new people, new people who come here with a great idealism, with great determination, in a sense, as somebody would put it, they are people that are still trying to make it, that aren't thinking in terms of having it made, and what they contribute are not simply . . . skills . . . but even more, they contribute character, strength, and drive and that is what this country needs."

Further, President Nixon said:

"I hope America will always be the land of the open door, because as long as that door is open, it means that this land will continue to grow and continue to prosper and continue to have that drive which makes a great nation. . . ."

We live in brotherhood; we believe in it, for we know it has real prospect for success nationally and internationally—and, it has the force of logic.

The problems of immigration are no longer merely a domestic issue; on the contrary, our immigration policy has great international significance.

America's struggle with totalitarianism is a struggle to vindicate democracy's belief in the individual worth of human beings, as opposed to the totalitarian concept that individuals have no identity except as components in the political and economic structure of society.

Our Nation is the great pilot demonstration of the most lofty principles and ideals in history. Our tenets of equality irrespective of race, creed, or color have inspired freedom-loving people everywhere to look to America as a beacon in the struggle to win freedom and independence. Our opportunity is to live up to these ideals.

We have come a long way in our immigration laws. We have gone the final mile in demonstrating to the whole world that we practice what we preach and that all men are equal under the law.

On the Floor of the Senate in 1965 during the Immigration debate I said, "Mr. President, it is quite an event when the descendant of an immigrant from Ireland (Mr. Kennedy) stands on the Floor of the Senate with the descendant of an old family from Boston, as represented by the senior Senator from Massachusetts (Mr. Saltonstall), and the Senator from Ohio (Mr. Lausche) who a while ago said his ancestors came from Yugoslavia, and the descendant of an immigrant who came from China, stand on the Floor of the Senate today and together agree that we have at last a bill which is fair, just, and equitable, which does justice to all the people of the world, and which we think should be enacted. It is a great credit to the U.S. Congress that we have arrived at this day."

Thank you and Aloha.

Mr. TALMADGE. Mr. President, I join the Senate in paying tribute to Senator Hiram Fong on his retirement from the Senate and in commending him for the dedicated public service he has rendered the State of Hawaii and the Nation.

Senator Fong is the first American of Asian ancestry to be elected to the U.S. Senate. In 1970, he was awarded the Horatio Alger Award for outstanding success in law, business, and public service in recognition of his rise from extremely humble beginnings to a position of leadership in the U.S. Senate and his many outstanding accomplishments in business.

He served his country with distinction during World War II in the Army Air Corps, and he is an active leader in many civic and cultural endeavors.

Senator Fong has demonstrated ability and integrity in his work and leadership in the Senate, and he is certainly to be congratulated for his good work and for his accomplishments in behalf of the State of Hawaii and the Nation.

I wish him success and happiness in all his future endeavors.

Mr. HRUSKA. Mr. President, my good friend and colleague, Hiram Fong, will be greatly missed when he leaves this body at the end of the current session. His story has been an inspiration to us all. Born of immigrant parents, Senator Fong, through his tremendous ability, talent, and persistence rose to become one of the first two persons to represent the State of Hawaii in the U.S. Senate.

Throughout my years in the Senate I always have felt a special closeness to Senator Fong. He was in the same Harvard law class as my good friend Robert Crosby, a former Governor of my home State of Nebraska. Senator Fong and I also have served together for many years on the Judiciary and Appropriations Committees. I consistently have been impressed with his grasp for the issue at hand and his ability and courage to do what he believes is right.

His work in the Congress for the right of minority groups is unparalleled. He has been a consistent and outspoken voice for those who previously had not always been heard in this body. He contributed greatly to the writing and enacting of the landmark civil rights legislation of the last decade.

Resolution of appreciation and commendation have been adopted by various legislative bodies in Hawaii and Micronesia to mark the coming retirement of Senator Fong from the Senate.

Senator Fong has had nearly 43 years of public service—32 of them in elective office. He served for 14 years in the Hawaii Legislature when the Hawaiian Islands were still a U.S. Territory. In the Hawaii House of Representatives, he was Vice Speaker for 4 years and Speaker for 6 years.

He has completed his 17th consecutive year in the U.S. Senate. He was elected initially in the first State election after Hawaii became the 50th State in 1959 and was reelected twice since.

Mr. President, I ask unanimous consent to have printed in the Record the texts of resolutions adopted by the Hawaii State Legislature; the Councils of Counties of Hawaii and Maui; and the Congress of Micronesia.

In another resolution, the Republican Party of Hawaii commended Senator Fong for his "outstanding and distinguished service to the people of Hawaii and the Republican Party of Hawaii."

Mr. President, I ask unanimous consent to have this resolution printed in the Record.

Mr. President, Mrs. Hruska and I wish for the Senator from Hawaii and his gracious wife Ellyn Lo full enjoyment of many years of health and of such activities as those in which they choose to engage.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

House Concurrent Resolution Commending U.S. Senator Hiram L. Fong for His Outstanding and Distinguished Service to the People of Hawaii

Whereas, the recent announcement by United States Senator Hiram L. Fong that he will retire from the United States Senate at the end of his present term marks the end of another milestone in his outstanding and distinguished career to public service to the people of Hawaii; and

Whereas, the life and political career of Hiram L. Fong is truly one of the most remarkable accounts of the rise of a man from humble beginnings to a well-known prominent figure in our island community; and

Whereas, he was born and raised in Kalihi, the son of Chinese immigrant parents and began working at the early age of 4 and continued to work during the years he attended school; and

Whereas, after his graduation from McKinley High School, he attended the University of Hawaii and received his law degree from Harvard Law School, whereupon he began his lifelong career in public service by serving as deputy attorney for the City and County of Honolulu from 1935 to 1938; and

Whereas, his election to the Territorial House of Representatives in 1938 marked the beginning of sixteen years of continuous service in the Territorial House of Representatives, during which time he served as Speaker of the House for three terms; and

Whereas, upon Hawaii's achieving statehood in 1959, Hiram L. Fong was elected United States Senator—the first American of Chinese ancestry to be elected to the United States Senate—where he has served for the last 17 years; and

Whereas, he has also gained national recognition by receiving such awards as the 1960 National Award from the National Conference of Christians and Jews, the 1970 Horatio Alger Award, and the 1971 Golden Plate Award of the American Academy of Achievement; and

Whereas, Hiram L. Fong is truly a credit to Hawaii and a fine example of outstanding and distinguished public service to the people of Hawaii; now therefore

Be it resolved by the House of Representatives of the Eighth Legislature of the State of Hawaii, Regular Session of 1976, the Senate concurring, that United States Senator Hiram L. Fong be commended for his outstanding and dedicated public service to the people of Hawaii; and

Be it further resolved that certified copies of this concurrent resolution be transmitted to Hiram L. Fong, his wife, Ellyn, and their four children.

(Adopted by the House of Representatives, the Senate concurring, March 18, 1976.)

Resolution No. 636

Whereas, Hiram L. Fong, native son of Hawaii, has served the people of our State as United States Senator since 1959, the year of our Statehood; and

Whereas, Hiram L. Fong has provided a strong voice for Hawaii in the highest councils of our national government; and

Whereas, Hiram L. Fong has demonstrated the Aloha Spirit to the Nation throughout his service as Senior United States Senator for Hawaii, and

Whereas, Hiram L. Fong has further provision of better transportation facilities, including those for passengers and freight transported by air, for all the Islands of Hawaii; and

Whereas, Hiram L. Fong has secured fair and equitable treatment for Hawaii under national laws and programs; and

Whereas, Hiram L. Fong has been instrumental in creating the Hawaii Volcanoes National Park by introducing the necessary legislation, in obtaining funds to restore the City of Refuge to reflect our rich heritage of Hawaiian history, and in obtaining Federal appropriations for harbors and beaches in Hawaii; and

Whereas, Hiram L. Fong has led efforts in establishing and maintaining a strong national oceanographic program, in which Hawaii actively participates; and

Whereas, HIRAM L. FONG has promoted research in developing new sources of energy for Hawaii, including developing sources from solar, wind, geothermal, ocean and solid waste conversion energy; and

Whereas, HIRAM L. FONG has participated in drafting legislation which has contributed immensely to the improvement of our Nation's health, environment, national defense, general welfare and economy and to the improvement of relations between our Nation and the nations of the world; and

Whereas, HIRAM L. FONG has always responded to Hawaii County's call for help with expeditious and favorable handling of our requests; and

Whereas, HIRAM L. FONG has announced his decision to return to Hawaii when his present term in the Senate of the United States expires in January 1977;

Now, therefore, be it resolved by the Council of the County of Hawaii that it tender its deep appreciation to United States Senator HIRAM L. FONG for his outstanding service in behalf of all the people of Hawaii and of our Nation; and

Be it further resolved that certified copies of this resolution be furnished to HIRAM L. FONG, his wife Ellyn, and to their four children.

(Dated at Hilo, Hawaii, this 15 day of September, 1976.)

RESOLUTION EXPRESSING WARMEST APPRECIATION TO THE HONORABLE HIRAM L. FONG, SENIOR U.S. SENATOR, FOR HIS LONG AND VALUABLE SERVICE TO THE PEOPLE OF THE COUNTY OF MAUI

Whereas, the Honorable Hiram L. Fong, Hawaii's senior Senator in the United States Congress, will retire at the end of his present term, ending a distinguished career of outstanding public service; and

Whereas, the people of the County of Maui through their elected representatives have on numerous occasions sought Senator Fong's advice, assistance, and services throughout his Senator tenure since Hawaii became a state in 1959; and

Whereas, Senator Fong has consistently and effectively responded to this County's requests for assistance; and

Whereas, he has provided the highest caliber of leadership in public service to the people of the County of Maui, the State of Hawaii, and the Nation; now, therefore

Be it resolved by the Council of the County of Maui that it goes on record to commend and express its deepest appreciation to the Honorable Hiram L. Fong for his long and valuable service in the Senate of the United States; and

Be it further resolved that a certified copy of this resolution be presented to Senator Fong as an expression of our heartfelt mahalo and warmest aloha upon his retirement.

(Adopted September 3, 1976.)

A HOUSE JOINT RESOLUTION CONGRATULATING THE HONORABLE HIRAM LEONG FONG, U.S. SENATOR FROM THE STATE OF HAWAII, FOR HIS LONG AND DISTINGUISHED SERVICE IN THE SENATE AND HIS EFFORTS ON BEHALF OF THE PEOPLE OF MICRONESIA, AND CORDIALLY INVITING HIM TO VISIT MICRONESIA AT ANY TIME IN THE FUTURE

Whereas, throughout the period of the Trusteeship Agreement, the people of Micronesia have been grateful for the programs and support given to them through the understanding, patience, and efforts of concerned and knowledgeable members of the Congress of the United States; and

Whereas, one of the foremost friends of Micronesia in the past two decades has been Senator Hiram Leong Fong of the State of Hawaii; and

Whereas, Senator Fong has a long, distinguished, and varied career both in Hawaii and in the U.S. Senate, where he serves on several important committees including the Senate Appropriations Committee which oversees funding for the civil administration on the Trust Territory of the Pacific Islands; and

Whereas, it is with regret that the Congress and people of Micronesia have learned that Senator Fong intends not to run for reelection to his seat upon completion of nearly 18 years of devoted and dedicated service to his constituents in the U.S. Senate; and

Whereas, it is the sense of the Congress of Micronesia that due recognition ought to be given the distinguished Senator from the State of Hawaii for his efforts on behalf of the people of Micronesia; now, therefore,

Be it resolved by the House of Representatives, Sixth Congress of Micronesia, Second Special Session, 1976, the Senate concurring, that the Honorable Hiram Leong Fong, United States Senator from the State of Hawaii, is hereby congratulated for his long and distinguished service in the United States Senate and for his efforts and interest on behalf of the people of Micronesia; and

Be it further resolved that the Honorable Hiram Fong is hereby cordially extended an invitation to visit Micronesia at any time in the future to meet with the many Micronesian friends he has made over the past years, and to provide the opportunity for the people of Micronesia to demonstrate their hospitality to a fellow islander; and

Be it further resolved that certified copies of this House Joint Resolution be transmitted to the Honorable Hiram Leong Fong, to the President of the United States Senate, to the Governor and the Legislature of the State of Hawaii, and to the High Commissioner.

(Adopted: July 31, 1976.)

RESOLUTION NO. 1 COMMENDING HIRAM L. FONG, HAWAII'S SENIOR U.S. SENATOR, FOR HIS OUTSTANDING AND DISTINGUISHED SERVICE TO THE PEOPLE OF HAWAII AND THE REPUBLICAN PARTY OF HAWAII

Whereas, the retirement of Hawaii's senior United States Senator, the Honorable Hiram L. Fong, at the end of his present term will mark another milestone in his extraordinary career of public service to the people of Hawaii; and

Whereas his outstanding and distinguished service to the people of Hawaii is one unmatched by any elected public servant of either political party in this century; and

Whereas, from the time he first became active in political affairs, Senator Hiram L. Fong has been a mainstay of the Republican Party of Hawaii and an inspiration to Republicans; and

Whereas, his election to the Territorial House of Representatives in 1938 marked the beginning of sixteen years of continuous service in that body, six years of which he served as Speaker; and

Whereas, when Hawaii entered the Union in 1959 as the 50th State, Hiram L. Fong was elected United States Senator—becoming the first American of Chinese ancestry to be elected to that body and also becoming the only Republican member of Hawaii's Congressional Delegation since Statehood; and

Whereas, U.S. Senator Hiram L. Fong is a true credit to the Republican Party of Hawaii through his extraordinary 41-year career of service to the people of these Islands; now, therefore,

Be it resolved by the Republican Party of Hawaii, meeting in Convention on Oahu May 15, 1976, that it honors and commends Hawaii's senior U.S. Senator, the Honorable Hiram L. Fong, for his years of unselfish public service to the people of Hawaii and the Republican Party of Hawaii, and extends its warmest aloha upon his retirement; and

Be it further resolved, that a copy of this Resolution be presented to United States Senator Hiram L. Fong and a copy be forwarded to the State Central Committee, Republican Party of Hawaii.

Mr. McCLELLAN. Mr. President, it is with considerable sadness and regret that I note the impending retirement of Senator HIRAM L. FONG, the senior Senator from Hawaii, after 17 years of distinguished service to the people of his State and to the Nation.

Senator FONG has the unique distinction of being one of the first two Senators from Hawaii after it was granted statehood and he has established a high standard of public service for those who come after him.

As the first person of Chinese ancestry to serve in the Congress of the United States, Senator FONG has been an eloquent spokesman of the multiethnic population of Hawaii.

The story of his life is truly the fulfillment of the American dream. As the son of poor, immigrant parents, he has known what it is like to work from his very childhood. He put himself through college and law school and became a highly successful lawyer and businessman.

During the 7 years in which Senator FONG has served on the Senate Committee on Appropriations—and its Subcommittee on Defense—I have had the opportunity to work closely with him.

Without reservation, I can say that he has been dedicated to the work of both the committee and subcommittee, and has brought to it a sustained passion for hard work and dedication to the security of our country. Because of his constituency and background, he has provided a point of view that has been of considerable value to us all. My association with him has made my services in the Senate more pleasant, and his counsel has always been strengthening and helpful.

He is genuine, sincere, and industrious in the cause of good government. I shall always value his friendship and appreciate the valuable assistance he has been to me in serving on both the Judiciary and Appropriations Committees, where we have worked together harmoniously and I trust effectively.

Mrs. McClellan joins me in wishing HIRAM and his gracious wife, Ellyn, many, many years of good health and happiness as they return to their beautiful islands.

In the language of Hawaii, may we wish our good friends "Aloha."

Mr. ROBERT C. BYRD. Mr. President, the State of Hawaii is—by general consensus—one of the most beautiful and exotic parts of this Nation. It has become one of the most dynamic and prosperous States in the Union. One can only speak of Hawaii in superlatives.

Hawaii can, therefore, be proud that it has been represented so well by a man of superlatives—Senator HIRAM L. FONG.

Senator FONG is the first person of Chinese or Asian ancestry to be elected to the Senate. His parents came to Hawaii from Kwangtung Province, China, while still quite young and embarked on lives of hard and disciplined work. Senator FONG was born in Honolulu in 1907 and learned early from their example. Through his own labors, he put himself through the University of Hawaii and went on to graduate from the Harvard Law School.

In 1938, HIRAM FONG was elected to the legislature of the Territory of Hawaii and continued to serve in a legislative capacity until 1954, except for the years that he gave to the defense of his country in the Army Air Corps in World War II.

Senator FONG was active in the efforts to win statehood for Hawaii and was so effective in that role that he was elected to the Senate in 1959.

HIRAM FONG has emphasized during his career in the Senate that this is a country bounded by two oceans, and he has sought to build bridges to link us with the people of Asia. He has been one of the most effective ambassadors that this Nation has had in establishing closer ties with our allies in the Far East.

Upon his retirement from the Senate, Senator FONG will leave with us rich personal memories of our associations with him. But he will continue to be for all Americans a symbol of the wealth that this Nation possesses in its diversity of peoples and cultures. Moreover, he will remain in our minds as a symbol of the reality of opportunities that exist for men of genuine ability and discipline in a country like the United States.

Mr. INOUYE. Mr. President, I wish to take this opportunity to say a few words about my colleague, the distinguished senior Senator from Hawaii, HIRAM L. FONG. He and I were privileged to begin service together in the U.S. Congress as part of the delegation elected following the achievement of statehood in 1959. We have served together ever since and since January 1963, we have served jointly as Hawaii's representatives in the U.S. Senate.

I cannot claim that throughout those years of service the relationship has always been harmonious but that is the nature of the political process when we represent competing political parties. I can, and do say, however, that when it came to those issues which were of particular importance to Hawaii, we worked jointly and we worked in effective partnership in securing the interests of Hawaii's people. Where we had differences of approach we were able to negotiate those differences and present a united front.

We have worked together effectively on legislation to protect Hawaii from west coast shipping tieups, to assist native Hawaiians in securing payment for lands taken from them without compensation at the time of annexation, to improve and reduce the cost of communications between Hawaii and the mainland, to help alleviate Hawaii's unique energy problems, to press for effective sugar legislation, and in many other areas over the years.

As Hawaii's senior U.S. Senator from the time of statehood to the present, Senator HIRAM FONG has left a unique and indelible mark on the history of our State. His influence on our State's history and politics predates that time considerably, however. He was first elected to the territorial legislature in 1938 and served in that body for 14 years and for 6 of those as speaker of the house of representatives. Prior to his election, he served 3 years as deputy attorney for the city and county of Honolulu.

Throughout his career, Senator FONG has been a major figure in the Republican Party, having served as a delegate from Hawaii to the Republican National Convention in every convention since 1952. In that capacity, and as U.S. Senator from Hawaii, he has been an effective voice within the Republican Party having on several occasions been honored as the Hawaii delegation's "favorite son" candidate for the Presidential nomination.

Senator HIRAM LEONG FONG was born and raised in humble circumstances in an area of Honolulu known as Kalihi. We attended the same high school and we both attended the University of Hawaii. Senator FONG subsequently received his law degree from Harvard Law School and became a success in his profession and in business. While he personally accumulated great wealth, it has never been said that Senator FONG failed to help his constituents in need of help with their individual problems. Although our political philosophies differ, Senator FONG can well be described as a "concerned" Senator and as one who takes his duties and obligations as a U.S. Senator seriously. He has been a consistent fighter for the civil rights of the minorities in our Nation throughout his 16 years in the Senate. He was a leader in securing modification of our Nation's immigration laws which discriminated against Asian people.

In foreign affairs, he has been an effective good will ambassador, particularly to the nations of Asia, during numerous trips to that part of the world. As the only Chinese-American in the U.S. Congress, he has been an effective voice for that minority and the honors which the Chinese-American community have bestowed upon him have been well deserved.

Through his efforts, many from Hawaii have been appointed to meaningful positions throughout the executive branch and to the courts. His performance in this area has strengthened Hawaii's role in the Federal decisionmaking process outside the Congress.

The people of my State are proud of Senator FONG and he in turn has been loyal to their interests.

As Senator FONG leaves the U.S. Senate, I wish him well. He is going back to Hawaii from whence he came, to his beautiful home and farm in Kahaluu Valley. He will continue to raise bananas, papayas, mangoes, lichees, macadamia nuts, avocados, and cattle, as well as to be active in his many business interests.

Knowing Senator FONG long and well, I am confident that he is not retiring from politics, however, and that he will continue to be very active. He will be heard from again, of that I am certain. And I know there are many in Hawaii who will be ready to listen.

Mr. MATHIAS. Mr. President, when this 94th Congress adjourns, the Senate will bid farewell to HIRAM LEONG FONG, a man who has served in it with acuity and diligence for 18 years.

Born in the Kalihi District of Hawaii in 1907, Senator FONG was elected to the U.S. Senate in 1959, the first American of Asian descent to attain this high office. His parents were immigrants from Kwangtung Province in China. His beginnings were humble. As a boy he picked beans to sell for cattle feed, and caddied for 25 cents a round. But his abilities were irrepressible, and he climbed in the American tradition from McKinley High School, to the University of Hawaii, to Harvard Law School, where he was graduated in 1935.

He served 3 years as deputy attorney for the city and county of Honolulu, then advanced to the legislature of the territory of Hawaii, where he held office for 14 years, including 4 years as vice speaker of the house of representatives and 6 as speaker. When Hawaii became a State, HIRAM LEONG FONG was sworn in as one of her first two Senators.

Continuously through his years as a public servant, Senator FONG has reaped rewards and honors too numerous to recount here. Perhaps his most cherished cause has been international understanding, in the promotion of which he has traveled many thousands of miles. Senator FONG returns now to his farm; to his banana and papaya trees, his fishpond, his cattle, avocados, lichees, macadamia and mango trees. I know I speak for my colleagues in saying to Senator FONG, Mahalo.

Mr. WILLIAM L. SCOTT. Mr. President, I am very pleased to add my voice in paying tribute to my friend and colleague HIRAM FONG. He is an outstanding individual.

Senator FONG has been successful in both his business and public service careers. Oftentimes I hear his name being associated with so-called Horatio Alger stories, where, as you know, individual's who were underprivileged achieved fame and fortune through hard work, honesty, and thrift. Of course all of us admire men and women who pull themselves up by the bootstraps, and do well with their lives. It appears HIRAM FONG should be so regarded. The Sunday Star-Bulletin and Advertiser in Honolulu put it this way:

> Hawaii's Hiram L. Fong, onetime barefoot boy from Kalihi who became the first United States Senator of Oriental ancestry, has been named a 1970 winner of the Horatio Alger Award.

Another source has described Senator FONG as "the shoe shine boy who made it all the way." HIRAM FONG was born in Honolulu as the son of Chinese immigrants and, as a boy, picked beans, shined shoes, and sold newspapers. There is not much distinction in this. But, he moved on to become a fisherman, golf caddy, newspaper writer, and tourist guide to earn his way through high school, college, and Harvard Law School. It is my understanding that he served with distinction in the Air Force and returned to a successful law practice before embarking on his business and political careers.

While I know him best as a member of the Senate Judiciary Committee, Mr.

President, I understand he has a distinguished background in public service. After being deputy city-county attorney for Honolulu, HIRAM FONG served for 14 years as a member of the legislature of the Territory of Hawaii, including three terms as speaker and two terms as vice speaker. He was an ardent supporter of statehood for Hawaii and became Hawaii's first U.S. Senator, on a flip of a coin and a draw, he won both the title of senior Senator and the longer term over his Senate colleague from Hawaii. Senator FONG thus became the first American of Asian ancestry to be elected to the U.S. Senate and was reelected twice by the people of Hawaii before he decided to return to private life.

HIRAM FONG's achievements in the Senate are legion. He has many friends in this body and is highly respected. Senator FONG is the ranking Republican on the Post Office and Civil Service Committee, and I might add an individual who is most understanding of the needs of the people who work for the Government. I also understand he is a high-ranking member of the Appropriations Committee and the Ranking Republican on the Special Committee on Aging.

Again, Mr. President, I have worked with HIRAM FONG more closely on our Judiciary Committee and have found him to be fair and considerate of his colleagues' point of view. Of course he has been deeply interested over the years in immigration matters and I am fortunate to have had the opportunity of working with him on the Immigration and Naturalization Subcommittee, of which he is the ranking Republican. HIRAM FONG, as I recall is also the highest ranking Republican on the Subcommittee on Constitutional Amendments, and has been active on a number of other key legislative issues before the Judiciary Committee. I understand that he served on the Commission on Revision of the Federal Court Appellate System last year.

Let me add that Senator HIRAM FONG has distinguished himself in many walks of life, as I am sure a number of our colleagues have mentioned. I noted particularly that eight institutions have conferred a doctor of laws degree—including Lynchburg College in Virginia, where I understand one of his sons was graduated in 1970—and he received a doctor of humane letters degree from Long Island University in 1968.

Yet, perhaps the most fitting of the many citations and honorary degrees Senator FONG has received is the Horatio Alger Award, referred to before, for outstanding success in law, business, and public service despite his humble beginnings. This fine man is deserving of all the compliments by his colleagues, he now deserves to spend time with his family in his home State, and I wish him well in his retirement.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement on Senator FONG's retirement by the distinguished Senator from Wyoming (Mr. MCGEE).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR MCGEE

Our friend and colleague Senator Hiram Fong, during these closing days of the 94th Congress, is participating for the last time in the Senate's deliberations. Senators know that he has announced he will not seek reelection. Thus, our everyday association with him in this chamber is now drawing to a close.

Senator Fong and I have served together as Ranking Republican Member and Chairman of the Post Office and Civil Service Committee and also in these same capacities on two subcommittees of the Appropriations Committee—Foreign Operations and Agriculture and Related Agencies.

I want the *Record* to reflect the high regard I have learned to have for him as a result of these associations and the outstanding service he has provided his State and the Nation.

Hiram Fong served on the Foreign Operations Appropriations Subcommittee with full dedication to the highest humanitarian ideals of concern for his fellow men, especially those in the developing countries.

On the Agriculture Appropriations Subcommittee, he demonstrated his knowledge and his expertness in the field of agriculture, and environmental and consumer protection. He has been particularly effective in protecting and advancing the agricultural economy and the valuable natural resources of his island state.

He is one of the hardest working Members of the Senate. His Committee work reveals a man of intelligence, probity, and devotion to his responsibilities. His knowledge of the fields of postal affairs and civil service law is extensive and creative; and he is a leader in proposing and supporting measures to improve the Federal Service.

He will be missed by all of us on the Committee who have come to rely upon his good judgment, detailed knowledge and legislative know-how.

Hiram Fong is a self-made man who is as modest and unassuming about his accomplishments as someone who began life with a big head start. As a boy—to help support his family—he picked beans and shined shoes and sold newspapers on the streets of Honolulu. Later, he caught and sold fish and crabs and caddied on a nine-hole golf course for 25 cents a round. He worked his way through college as a bill collector, newspaper correspondent, and tourist guide. His education was interrupted twice by lack of funds, but he emerged with a Phi Beta Kappa key and a law degree from Harvard in 1935.

Today he has substantial financial, farming, and other interests in Hawaii; and he is a popular leader of the people of his State and a U.S. Senator retiring undefeated. Surely he must value highly the Horatio Alger Award he won in 1970 for outstanding success in law, business, and public service despite humble beginnings. Anyone would. But he keeps it to himself, and if you didn't know otherwise you might get the erroneous idea that Hiram got where he is through good luck and no special effort on his part.

That simple and unassuming image which he projects is what marks him as a gentleman and makes us respect his judgment and admire the intelligence, courage, and expertness that have guided him since he was a bootblack many years ago in Honolulu.

Senator Fong will retire full of honors, and I will not recount them all. We should note some of his accomplishments, though; first let's applaud his strong interest in public service—a theme which has been a dominant factor in his life since 1935. He has served as Deputy Attorney for Honolulu, and as a member of the Legislature of the Territory of Hawaii, including six years as Speaker. He was Vice President of the Hawaii State Convention in 1950 and a strong backer of Statehood for Hawaii; and of course since 1959 he has ably served as a U.S. Senator from his State.

One of his goals when he came to the Senate was to become the Man of the Pacific—to turn America's eyes toward the people and resources of the Pacific Basin. He has been extremely successful, beginning in 1961, as one of the prime movers of the Hawaii Omnibus Act, which, following Statehood, helped bring Hawaii into the full brotherhood of the States.

Under his influence, immigration laws have been changed to more nearly equalize immigration quotas as between Europe and Asia.

He has helped focus American interest upon the Pacific through his work with the East-West Center, where scholars from the Orient and Occident meet for interchanges of views and to conduct joint East-West studies.

Through his leadership, he has stimulated renewed Federal interest in the Trust Territory of the Pacific and the needs of the Micronesian people who occupy the Trust islands and archipelagoes.

He has used his position on the Agriculture Appropriations Subcommittee to expand and diversify agribusiness throughout the Pacific Basin, greatly enhancing the farming potential of that area.

As for myself, I will always remember Senator Fong's leadership and influence in promoting the enactment of the Federal Salary Reform Act of 1962, the landmark legislation establishing the principle of comparability and insuring that Federal employees are compensated at levels comparable with those in private enterprise.

Over the years, he has supported measures to liberalize the retirement provisions of law, so that Federal employees can count upon reasonable annuities when their careers are completed.

He participated fully in moving to enactment the Federal Salary Act of 1969 which established the Quadrennial Commission to make recommendations every four years on legislative, executive and judicial pay.

He was a leader in the long and arduous work which led to the Postal Reorganization Act of 1970 and, finally, he only recently saw through the Congress the first amendments to that Act—to fine-tune its provisions and help perpetuate our universal postal system.

It was most fitting, therefore, that Federal employees have honored him for his outstanding service. Among tributes paid to him are the certificate of commendation from the National Association of Postmasters of the United States in 1969 and the citation for meritorious service from the National Association of Retired Civil Employees in 1963.

May I say Godspeed to Hiram as he returns to his fine family and his pursuits at home. The Committee will miss him as will the Senate. His influence here will not be soon forgotten.

Mr. BAYH. Mr. President, after 17 years of serving the State of Hawaii as a Member of the U.S. Senate, HIRAM L. FONG has announced his retirement at the conclusion of the 94th Congress.

Senator FONG's Senate service has topped a career of notable success. After working his way though the University of Hawaii, he became the first graduate of that school to be accepted at the Harvard University Law School. His public service in Hawaii included 14 years as a member of the legislature of the territory with 6 of those years as speaker. He also served the Nation during World War II as a member of both the Army and Air

Force and was a Reserve officer in the U.S. Army for more than 20 years. However, in addition to his public service, Hiram Fong has had a successful law practice and numerous successful business ventures.

As a Member of the U.S. Senate, Hiram Fong has been an influential member of a number of committees. He is the ranking Republican on the Post Office and Civil Service Committee, serves as a member of the Appropriations Committee, and has taken an active role as a member of the Special Committee on Aging.

However, I have come to know Hiram best as a member of the Judiciary Committee on which we both serve. He is also the ranking Republican of the Subcommittee on Constitutional Amendments which I chair. In that capacity, I have always found him to be a man of uncommon courtesy, willing to accommodate and interested in the work of the subcommittee. We have differed on many issues but those differences have not come in the way of our ability to work together.

Senator Fong's industry and hard work earned him the Horatio Alger Award in 1970, an honor he richly deserved. His life exemplifies the American dream—no matter how humble one's origins, success can be achieved by steadily working to the best of your abilities.

When Hiram Fong retires, Hawaii will have lost an institution, as he has represented that State since it entered the Union. However, I know that Hiram is looking forward to permanently moving back to his home State, cultivating his garden and enjoying being with his family. I wish him many years of happiness and will retain fond memories of our service together in the Senate.

Mr. WEICKER. Mr. President, Hawaii's senior Senator Hiram Fong, is retiring this year after a long Senate career. The first American of Asian descent to serve in this body, Senator Fong was elected Hawaii's first Senator in 1959.

Senator Fong's career of remarkable success in law, business, and politics deserves commendation. As a member of key Senate committees, he has lent his keen mind and experience to many of the important issues of our time. The ranking minority member of the Appropriations Subcommittee on Foreign Relations, he has brought to their deliberations the spirit of compassion and good fellowship for which his State of Hawaii is renowned.

The Senator from Connecticut is pleased to recognize the accomplishments of Senator Fong, and to wish him and his family life's best in the years ahead.

HIRAM FONG—AMERICAN PATRIOT

Mr. SYMINGTON. Mr. President, one of the most serious of all losses to the Senate and the Nation because of retirement this year is that of our colleague Senator Hiram Fong of Hawaii.

In typical American tradition Senator Fong started with very little. Over the years, however, he has built a career in Government and private business which will be remembered forever, not only in the great State he represents but also in the annals of the U.S. Senate.

Hiram came to the Senate in August 1959, was reelected in 1964, and again in 1970.

All of us know of the high standards typical of his work on the Post Office and Civil Service Committee as well as the Appropriations Committee. The fact he is one of the outstanding businessmen of this country is illustrated by his accomplishments on those committees.

It is no wonder that he has become known as, statesman, scholar, soldier, farmer, financier.

My wife and I became friends of his gracious lady and himself almost from the first day he came to the Senate; and we had the privilege of visiting him at his beautiful home in Hawaii.

The oustanding trait of this outstanding public servant is the integrity of his convictions; and along with that asset is the fact he is my idea of what the word "gentleman" is all about.

To him and his lovely wife and fine family I am sure we all wish many years of health and happiness in the years to come.

HIRAM LEONG FONG HAS BEEN A GOOD SENATOR

Mr. RANDOLPH. Mr. President, the wonder of America in the eyes of the world is in the opportunities offered to its diverse, multicultural community of citizens. One example of an individual striving to succeed against seemingly insurmountable odds is found in the career of Hiram Leong Fong. His present position of leadership serves as an inspiration to youth disadvantaged by economic and social conditions.

Hiram Fong was the 7th of 11 children born to Mr. and Mrs. Lum Fong, who immigrated from China to Hawaii at the turn of this century. The father arrived at age 15 as an indentured laborer on a sugar plantation. His future wife came as a maidservant, age 10.

Young Hiram became a field worker as a 4-year-old toddler. He shined shoes and sold newspapers on the streets of Honolulu. He worked his way through high school and college, and began his business career as a clerk for the Pearl Harbor Naval Shipyard, and later for the city and county government. Because of lack of funds, his education was interrupted twice, for 3 years after high school and 2 years after graduation from the University of Hawaii.

He received his law degree from Harvard University in 1935, and soon thereafter founded a law firm. In his public career, he became deputy attorney for the city and county of Honolulu in 1938, and served 14 years in the legislature of the Territory of Hawaii, 6 years as speaker. Much credit for the addition of Hawaii as our 50th State goes to Hiram Fong as an ardent advocate of Statehood.

After an outstanding military career, he was elected to the U.S. Senate on July 28, 1959, the first American of Asian ancestry to be so elected. He was reelected in 1964 and 1970 by landslide margins of victory.

As a legislator and a highly successful businessman, Hiram Fong has served his people with dedication and distinction. In the Senate he has earned both respect and praise for his service. He is a ranking member of the Post Office and Civil Service Committee, Appropriations Committee, Judiciary Committee, and the Special Committee on Aging.

There is recognition of his triumphs in the areas of international understanding and human relations. Among Hiram Fong's honors is his selection by the Pacific Asian Studies Association as recipient of the certificate of service "for outstanding contributions to the promotion of understanding and unity among the peoples of the Pacific Asian world."

To wish our colleague well as he returns to his large and loving family in the warm climes of Hawaii may seem redundant. But Mary and I extend to Hiram and Ellyn a fond Aloha.

Mr. HUMPHREY. Mr. President, the distinguished Senator from Hawaii, Hiram L. Fong, is among those of our colleagues who have chosen not to seek reelection this year.

Throughout his many years of dedicated service to Hawaii and the Nation, Hiram Fong has distinguished himself in a host of ways. Born in Honolulu, he saw Government service before as well as since that State's admission to the Union. He is a man of enormous talent and aptitude—for business, the law, and public service.

Having graduated from Harvard Law School, he became a leading businessman in Hawaii. Yet he found the time to continue service to the people of Hawaii, serving 14 years in the legislature of the Territory of Hawaii, 6 years as speaker and 4 years as vice speaker. He was vice president of the Territorial Constitution Convention in 1950; he saw distinguished service as judge advocate of the Seventh Fighter Command of the Seventh Air Force in World War II. Elected to the U.S. Senate in 1959, he has seen continuous service in this Body since that time.

He is the holder of a number of honorary degrees and awards. Certainly among the most cherished of these must be the national award for outstanding service to brotherhood from the National Conference of Christians and Jews in 1960.

He serves with distinction as a member of the Committees on Appropriations and the Judiciary, and as ranking minority member of the Committee on Post Office and Civil Service, has contributed to the improvement of mail service and to maintaining the integrity of the civil service.

Mr. President, Hiram Fong is a man who has brought distinction to himself, to his State, and to the Nation through valuable service both in the public and private sectors. He will be missed. I am pleased to have this opportunity to wish him and his family good health and happiness in the years ahead.

Mr. BARTLETT. Mr. President, it is an honor today to join with my colleagues in paying tribute to the distinguished Senator from Hawaii, Hiram Fong. The Congress and the entire country have been fortunate to have had such a fine man serve in the Senate since 1959. His record of public service is a testimony to the limitless energy and courage that Senator FONG possesses.

Rising from humble beginnings, he achieved the honor of Phi Beta Kappa and has received many honorary degrees during his successful career in law, business, and public service. His success serves as an inspiration to those Americans who are born with few advantages yet aspire to and achieve great heights. He received the national award for outstanding service to brotherhood—National Conference of Christians and Jews' Horatio Alger Award in 1970.

I have always enjoyed working with HIRAM FONG. Our relations have been both pleasant and fruitful. His support and views on free enterprise and on energy policy have been helpful and most appreciated. He has been an outstanding representative of his State of Hawaii. His industriousness, sense of fairness, and his understanding of his constituency have all contributed to his exemplary record as a U.S. Senator.

Mr. President, the U.S. Senate, the Government of the United States, and the American people owe a debt of gratitude to Senator FONG for his years of exceptional public service. I will miss his counsel and friendship. I wish for HIRAM and Ellyn a long and happy retirement.

Mr. HOLLINGS. Mr. President, it has been my privilege to have known HIRAM FONG for several years and to have worked with him in the U.S. Senate, and we are all going to miss him.

Senator FONG and I have served together on the Appropriations and Post Office and Civil Service Committees, and although we have been on opposite sides of the aisle we have both shared the same concerns for our country. We have worked together for fiscal integrity and for responsive Government service.

Senator FONG holds a special place in this body and a special place in the hearts of his fellow Hawaiians. He is the first person of oriental ancestry to serve in the U.S. Senate. He served 14 years in Hawaii's territorial legislature, 6 of them as speaker of the house, and he was an early and ardent advocate of statehood. He holds the honor of having served as one of two of his State's first U.S. Senators, a position to which he has brought dignity and honor.

Certainly, we in the Senate today extend to Mr. FONG a heartfelt "Aloha" and best wishes for the future.

Mr. BELLMON. Mr. President, during the 8 years I have served in the Senate I have had the honor and pleasure of being associated with Senator HIRAM FONG in the work of the Post Office and Civil Service Committee. Senator FONG has served ably and with dedication as the ranking Republican member of that committee. In this capacity he has dealt fairly with other members and in addition has frequently demonstrated valuable insights into the needs of both the Civil Service and the Postal Service which mean much to this country.

It was largely due to the leadership of Senator FONG that innovative reforms have been made in the Postal Service. Looking back on the period during which the Postal Reorganization Act was passed, it is little short of miraculous that this legislation which took away major prerogatives of Members of Congress could have ever become law. I am convinced that the strong guidance and direction Senator FONG provided was instrumental in the passage of this important reform measure.

In addition to our work on the Post Office and Civil Service Committee, I have served with Senator FONG on the Appropriations Committee where again his talents and understanding of Government have been invaluable. His interest in providing adequate funding for agricultural programs, particularly agricultural research, has had a large continuing effect upon the productivity of American farms and ranches. As every Member knows, the ability of this country to produce an abundance of agricultural products has come to be of primary importance during this time when foreign exchange which agriculture earns is essential in paying costs of imported energy. Senator FONG's leadership in funding agricultural research insures the continued ability of agriculture to meet the future needs of our population for food and assures an abundance for our customers abroad.

In addition to his significant contribution through the important committees on which he serves, Senator FONG's voice and influence has been of inestimable value to the orderly conduct of Senate business and in finding solutions to the serious problems which beset the country. Throughout the 8 years I have known him, HIRAM FONG has been a force for stability and innovative problem solving. I am pleased to add my voice to the others in commending him for the brilliant record he has made in the Senate.

Mr. STEVENS. Mr. President, the Senate and the American people are losing a number of dedicated U.S. Senators who have chosen to retire this year. Among these outstanding individuals is the senior Senator from Hawaii, HIRAM FONG.

Next to Senator FONG's own constituency, we in Alaska have a special respect and admiration for him. Senator FONG played a significant role in the statehood movement in Hawaii and deserves a great deal of credit in bringing about not only statehood for Hawaii but statehood for Alaska as well. We in Alaska owe him a special debt of gratitude for his efforts for, as is well known, our States sought statehood on a joint effort and his leadership was especially and significantly helpful.

Alaskans, and especially Federal employees in Alaska, are grateful for the Herculean efforts Senator FONG put forth in the midsixties in preventing the elimination of the cost-of-living allowance. This allowance is essential for recruitment and retention of Federal employees in Hawaii and Alaska, and without his efforts this provision would have been eliminated, causing undue and unwarranted hardship not only for Federal employees but for all taxpayers in our States.

I have been privileged more than most by having access to his counsel and leadership by serving with him on two committees, the Post Office and Civil Service Committee and the Appropriations Committee. He will be greatly missed on both of those committees. But more important, he will be missed by this entire body.

Ann and I know that Ellyn and HIRAM FONG will have many more wonderful years together—and that HIRAM FONG will work even harder for his island paradise when he returns home.

Mr. DOMENICI. Mr. President, few people in leadership positions in the Congress of the United States have been faced with a greater challenge to hew that difficult line between unique local and parochial interests and broader national interests than our distinguished colleague from Hawaii, Senator HIRAM LEONG FONG. I know of no one who has been more successful than HIRAM FONG in advancing both interests without unduly infringing on either.

Certainly, there is no one who is more attentive to the problems, the needs, and the interests of his constituency, a constituency unique in this body. On the other hand, our dedicated colleague from Hawaii has diligently involved himself in matters well beyond the interests of his State. He has committed himself totally to participation in the legislative process relating to complex, time-consuming, and frequently thankless matters where broader national interests are involved.

To some extent, we all have to make this same division of time, effort, and commitment, and in the excellent record of our colleague from Hawaii, we have a target for which to strive. This is one of the lasting contributions HIRAM FONG has made to this body, his State, and his country.

Mr. CRANSTON. Mr. President, I am pleased to have this moment in which to share in the tributes being paid Senator FONG—the distinguished legislator from Hawaii who has done so much to increase our awareness of the peoples and resources of the Pacific.

Senator FONG is well-known among my colleagues for his tough stance on behalf of the free enterprise system and the interests of our business and financial communities. Perhaps less familiar are his tireless efforts to combat racial discrimination, particularly prejudice directed against Asians. Since he entered the Senate in 1959 Senator FONG has fought—to use his own words—"to close the people-to-people gap" between the United States and the nations of the Far East. The first Chinese-American to serve in the U.S. Congress, HIRAM FONG has helped us achieve a more realistic policy toward the People's Republic of China and encouraged our assistance to the developing Asian countries, not through outdated paternalistic efforts but through a policy of economic and technical aid aimed at providing these emergent nations with the ability to help themselves.

Domestically, Senator FONG has led in efforts to lick the problems of racial bigotry. He helped insure the open housing section in the Civil Rights Act, worked hard for passage of the Voting Rights Act, and won repeal of the emergency detention provisions of the Internal Security Act, under which countless loyal Japanese-Americans were shamefully confined during the war hysteria of the early 1940's.

Coming from a State like California, which is perhaps as acutely conscious as Hawaii is of our ocean wealth, I fully empathize with his concern in protecting marine mammals, in preserving our shorelines from erosion and pollution, and in helping us recognize the abundant resources the oceans have to offer. Senator FONG helped launch our highly successful national sea grant colleges program, which has done so much to increase our knowledge of marine sciences and resources.

I should be remiss if I did not mention Senator FONG'S accomplishments in the fight to insure that the American promise of equality is extended to all. Having had the opportunity to work with him on making quality education available to veterans and to children of low-income families, I have been particularly impressed by his work on the Special Committee on Aging, when he fought to improve the social security system and to find other means of helping older Americans live out their lives in the dignity and security they are entitled to.

I realize that these are but a few notable examples of the reasons we in the Senate shall miss the presence of this man of humanitarian concern, environmental sensitivity, and a world outlook. While there have certainly been issues on which I have not hesitated to oppose him, I know that my colleagues and I are united in respect and friendship for a fine Senator and American, HIRAM LEONG FONG.

Mr. LONG. Mr. President, HIRAM FONG is retiring after representing his State with great distinction continuously since 1959, the year Hawaii achieved statehood. His service in this body has been marked with quiet dignity and hard work.

Hawaii has many good reasons to be proud of its senior Senator. His work on the Post Office and Civil Service, Appropriations, Judiciary, and Aging Committees have helped raise the standard of living for all Americans.

I guess if I had to capture HIRAM FONG with one word it would be "humanist." His efforts in the field of civil rights are unsurpassed. His leadership in the legislative battles on the 1960 and 1968 Civil Rights Act and the 1965 Voting Rights Act is proof of his deeply held belief in the equality of all persons. This philosophy can best be expressed in his own words:

> I believe in the brotherhood of man, in equal opportunity for all and in the right of every person to fair play and justice, regardless of race, color, creed, sex or national origin.

HIRAM FONG'S wealth of commonsense and good judgment, acquired both from heritage and many years experience as a successful businessman have repeatedly saved the Senate from serious blunders that we would have lived to regret. He has pointed us toward peaceful persuasion and accommodation for the views and problems of one another.

In the Hawaiian tradition, he has demonstrated that there is far more to be gained by kindness, good will, and consideration of one another than by those strident quarrels which ignore the basic fundamental good that exists in all of us.

HIRAM FONG'S efforts to help his State have been more beneficial, especially in the area of agriculture. Farming is the mainstay of Hawaii's economy, and it is due, in great part, to HIRAM FONG'S endeavors that this industry has become healthier and more competitive.

He worked long and hard to assure that Hawaii would receive its fair share of the domestic sugar market while seeking the funding so urgently needed for research to increase the per-acre yield of cane. And when the sugarcane smut disease threatened devastation, HIRAM FONG saw to it that the needed assistance was available to save the crops.

The next Congress will be the first for Hawaii without HIRAM FONG. He has certainly earned his retirement, but we will miss him when he returns to his beautiful State.

Mr. KENNEDY. Mr. President, I am pleased to join today in paying tribute to our distinguished Republican colleague, HIRAM FONG, on his retirement from the Senate.

When HIRAM FONG came to the Senate, he joined the class of 1958, which brought so many other fine Senators to this body. But he arrived a few months later than the other members of that class, because HIRAM FONG was Hawaii's first Senator, elected in the historic election of July 1959 at the time Hawaii became America's 50th State.

For the past 14 years, since I came to the Senate, Senator FONG and I have served together on the Judiciary Committee. In our work together there, I have especially valued our association on the Subcommittee on Refugees. For well over a decade, since I became chairman of the Subcommittee in 1965, Senator FONG has served as the ranking minority member—contributing in a most constructive and active way to the on-going tasks of the subcommittee. During the entire period, Senator FONG contributed to nearly every hearing of the subcommittee. Throughout his service, his presence and active participation have been an important part of the effectiveness of the subcommittee's work.

We have worked together to ease many important and difficult refugee problems that have faced the Nation. We have also worked together to support the programs of our Government as well as those of the voluntary agencies in behalf of refugees and others in need around the globe.

Mr. President, in recent years, some of the most critical humanitarian issues confronting America and the world have come before the Subcommitte on Refugees. In the early 1960's, with Senator FONG, we assessed the crisis of refugees from China, and the outstanding work done in their behalf by a score of voluntary agencies and the government of Hong Kong.

Later, the crisis of the people in Vietnam and Indochina came before the subcommittee, and continued to be a source of primary concern over the years. Even now, since the end of the war, we have been concerned with the continuing plight of the refugees from Indochina who have come to the United States. Last year, in the early days of the program, Senator FONG and I dispatched members of our staff to the field to assess firsthand the progress of the President's evacuation and resettlement program for Indochina refugees, and to promote additional support to it.

In other years, we have also worked together in support of our Nation's contribution to other international humanitarian programs, such as those in behalf of the refugees from the tragic civil war in Nigeria and Biafra, the refugees in India and Bangladesh, and most recently in Cyprus.

The list could go on—new links in the long chain of ravaged populations from manmade and natural disasters which have plagued the globe in recent years. Throughout our work, Senator FONG'S able and active performance on the subcommittee has helped to carry on America's long and proud tradition of humanitarian concern for people in need. It has been a privilege and a rewarding experience to have worked with Senator FONG in this endeavor over the past decade, and I wish him a satisfying and productive retirement with his family.

Mr. GARN. Mr. President, aside from the mountains of Utah, I know of no place I would rather retire to than the Islands of Hawaii. Our distinguished colleague, Senator HIRAM FONG, has announced his intentions to return to that idyllic place at the end of his term.

Senator FONG has represented Hawaii in the Senate since August of 1959, when Hawaii became the 50th State. Before that, he was very active in the territorial government, and was a prime mover in the progress toward statehood. He has impressed me with his deep love for his State and its resources and his concern for its future. He has worked to ensure continued and improved transportation facilities to and among the Islands from the mainland; he has supported conservation programs to maintain the scarce and valuable land resources of Hawaii, and he has introduced and seen the Congress pass legislation which has created the Haleakala and Hawaii Volcanoes National Parks for both the benefit of both the people of Hawaii and the millions of tourists that visit Hawaii each year. He has been an excellent example of the Senator with the interests of his State and his constituents at heart.

I have not been here long enough to see much of Senator FONG'S career in the Senate firsthand. But I know of his tireless efforts in his committee assignments. I know of his constant concern for the reform of outmoded and racially biased immigration laws, and for the voting and civil rights of ethnic minorities. And I know of his long time interest in the unique problems and worries of the aged, with social security and other benefits.

I have voted with Senator FONG time and again on defense issues, and have admired his constancy on the need for a strengthened hand in dealing with our potential enemies in the world. I have been pleased to associate with my good colleague from the great and beautiful State of Hawaii, and I join my colleagues today in paying tribute to his years of service in this body and in wishing him well in all he does in the years to come.

Mr. PERCY. Mr. President, we join today to say not goodbye but aloha to Hiram Fong. I have served with him throughout my Senate career, and have always appreciated his support and his suggestions. Hiram Fong has served Hawaii well, through the early years of statehood and the current period of economic, social, and cultural achievement. He has been involved in all aspects of island life, helping to develop the governmental and commercial structure, preserving the cosmopolitan mixture of races and religions while protecting the rights of all.

We share a business background, and I believe that our years in the business world have contributed to our mutual understanding of our Nation's economic problems.

A man so active and with wide-ranging interests does not retire, but returns to a full life away from this Chamber. I wish Senator Fong long life, health, and happiness in his beloved Hawaii. I thank him for his friendship.

RESPONSE OF SENATOR FONG TO TRIBUTES IN HIS BEHALF

Mr. FONG. Mr. President, it is with a humble and appreciative heart that I rise to thank my distinguished colleagues for their kind and generous accolades, although some of the things that have been said, I must confess, have been overly laudatory.

It is most rewarding to know that I have the sincere goodwill and friendship of my fellow Senators, especially at this time of parting.

I have always wondered how the pancake felt when sirup was poured all over it. Today I believe I have found the answer.

To be part of the Senate for the past 17 years, to have come to know so many wonderful, able, and distinguished Senators, and to have their cooperation, support, and friendship in behalf of my State of Hawaii and myself are unforgettable experiences, culminating a lifetime of activities.

When I ran for the Senate in 1959, the first election after Hawaii became a State, I did not seriously believe I would be elected. I only thought it would allow my grandchildren and great-grandchildren to say at some future date that their grandfather and great-grandfather was a serious candidate for the U.S. Senate from the State of Hawaii.

But, luckily, a majority of the citizens voted for me, and I became a U.S. Senator.

Immediately after my election, I began to wonder, since I had become the only person of Asian ancestry to sit in the U.S. Senate, how I would fare in this august body, known as the greatest deliberative body in the world and the most exclusive "club" in the world. For, never before had there been a person of Asian ancestry elected to the Senate of the United States.

How would I be received? Would I have total acceptance? Would I have the full cooperation of my colleagues? Could I be an effective Senator for my State? Would I be happy here?

Added to these concerns were the unforgettable words of Representative Champ Clark, of Missouri, which weighed heavily on my mind. For in the House of Representatives, during the 1898 debate on whether Hawaii should be annexed to the United States as a territory, Representative Champ Clark said, and I quote from pages 5777 to 5844, Congressional Record, volume 31, part 6, 55th Congress, 2d session:

REMARKS BY CHAMP CLARK OF MISSOURI

Mr. Speaker, ever since we could read, you and I and all of us, in our self-gratulations upon the success of our experiment in representative government, have held up to the scornful gaze of men the farcical elections in Old Sarum, Pocket, Breeches, and other rotten English boroughs. But should we do this foolish, this wicked thing, Johnnie Bull, dull as he is in matters of wit and humor, will have the joke on us and will make us the perpetual butt for his ridicule. The half dozen voters at Old Sarum were not a lot of nondescript Asiatico-Polynesian ignoramuses but were Englishmen, habituated to representative government, whose fathers fought at Hastings, at Crecy, and at Agincourt. They belonged to that great Teutonic stock, the imperial race of the world, which for nineteen hundred years has gone forth conquering and to conquer, governing and to govern. But how can we justify either to ourselves or to our posterity the act we are about to commit? How can we endure our shame when a Chinese Senator from Hawaii, with his pigtail hanging down his back, with his pagan joss in his hand, shall rise from his curule chair and in pigeon English proceed to chop logic with George Frisbie Hoar or Henry Cabot Lodge? O tempora! O mores!

Then will true patriots—the descendants of the Pilgrims—hide their diminished heads and in agony of soul exclaim in the language of Truthful James on a celebrated occasion:

> Do I sleep? Do I dream?
> Do I wonder and doubt?
> Are things what they seem,
> Or is visions about?
> Is our civilization a failure,
> Or is the Caucasian played out?

FIGHT FOR CHINESE EXCLUSION

For more than a quarter of a century a persistent fight has been waged by the denizens of the Pacific Slope against the sublimated humanitarianism of the East to exclude Chinese immigrants from our shores. When in the Fifty-third Congress we passed a bill requiring every almond-eyed disciple of Confucius domiciled in the United States to file his photograph and the mold of his thumb—not as works of art or souvenirs of affection, but as evidences of good faith—for purposes of identification when about to revisit his native land, we supposed that we had finally settled the difficulty; but we are now coolly invited to stultify ourselves and undo the labor of many years by an act which will in one moment admit more Chinese into this country than the Chinese Six Companies of San Francisco would have imported in fifty years.

I press these questions home upon your minds and consciences: Are we ready to admit Chinese to citizenship? Are we willing that they shall have a voice in our affairs? Do we propose deliberately and absolutely without provocation to take that reckless leap into the dark? Do not a great many people believe that we have already gone too far in the attempt to assimilate all the peoples of the earth? Is not this question constantly asked: Is the American Republic endowed with the stomach of an ostrich that there is no limit to its digestive powers? Is there not a large, insistent, and growing sentiment in this country in favor of restricting even white immigration to the able-bodied, the virtuous, the intelligent?

We might as well look these questions squarely and courageously in the face. We cannot shut them out of the way. They will not down at our bidding or for our convenience.

A Chinaman never can be fit for American citizenship. His color, his diet, his mental conformation, his habits of thought, his methods of conduct, his style of living, his ideas of government, his theory of the domestic relations, his code of morals, his religion, his passiveness in servitude, his ultra conservatism, his manners, his amusements, the very fashion of his dress, are radically un-American. In all these he is thoroughly incorrigible. His ways are not our ways. He is among us, but not of us. What he was when the Great Wall was a-building he is now while William of Hohenzollern is incorporating him *vi et armis* into his body politic. He changes his allegiance (or, speaking more accurately, his allegiance is changed for him) from the Emperor of China to the Emperor of Germany with a sangfroid that is amazing, and with a smile that is childlike and bland. Empires may fall, empires may rise, empires may be sliced up, dismembered, atomized—the Yellow Sea may be reddened with the blood of his countrymen—he cares not. He holds his peace. He keeps the even tenor of his way. And what he is now he will be in the last day—suave, stolid, imperturbable, indefatigable, unpatriotic.

But one thing he does to perfection—he accumulates money. Having money, he must be taxed. Taxation and representation go together. That proposition was the essence of that historic preamble for which our Revolutionary fathers flung their gage of battle at the feet of the haughty son of a hundred kings. If the Chinese go on increasing in this country and we continue to tax them, we must, as a vindication of the patriots who performed the immortal tea act in Boston Harbor, let them vote. Indeed, a Federal judge in Oregon naturalized one the other day. To do that habitually is surely to write the epitaph of free government on this continent; for at the last census there were 550,000,000 people in the Chinese Empire—perhaps they number 700,000,000 by this time—and the Emperor could send 100,000,000 of his subjects to this country and never miss them. Naturalized here, they could outvote us, underbid us in all work, secure all the contracts, get all our money, and run things generally.

Could old Ben Franklin return to us in the flesh, he would propound to us this question: "Gentlemen, are you not paying too much for the little Hawaiian whistle?"

How does the prospect of heathen Chinese domination suit you philosophers, statesmen, and jingos?

> 'Tis but the same rehearsal of the past
> First freedom, then glory; when that fails,
> Wealth, vice, corruption—barbarism at last.

But we will be told that it will be made unlawful for Hawaiian Chinese to come to America. Believe them not. It cannot be done. The American Congress on a historic occasion by a superhuman effort solemnly enacted that it could not be done. I plant myself on the doctrine of stare decisis and declare that we must not violate the precedents of nearly a hundred years. History repeats itself with startling accuracy. The pioneer Missouri State makers, though in their honored graves, are avenged at last. They placed a clause in their first constitution prohibiting free persons of color from coming from

> other States and settling in that imperial Commonwealth.
>
> But north of Mason and Dixon's Line,
> At once there rose so wild a yell,
> As all the fiends from heaven that fell
> Had pealed the banner cry of hell.
>
> Secession was loudly threatened by the Northern contingent in Congress if that clause were not eliminated. For two years Missouri, the richest-dowered Territory that ever knocked at these doors for admission, was kept out, and finally, as a condition precedent to her entrance into the Union, Congress required that her legislature should by solemn ordinance declare that that clause should forever remain a dead letter, and it was so ordained.
>
> Now, after seventy-seven years, in order to smuggle in a few volcanic rocks in mid ocean and to endow the variegated inhabitants thereof with the invaluable privileges and immunities of American citizens—in order to protect them with the old flag and to gladden their hearts with a four million appropriation—this Congress proposes to do the identical thing which it declared it an unpardonable sin for Missouri to do. Missouri did not exclude free persons of color. Neither can Congress keep out the Hawaiian Celestials. . . . If we annex Hawaii and you, Mr. Speaker, should preside here twenty years hence, it may be that you will have a polyglot House and it will be your painful duty to recognize "the gentleman from Patagonia," "the gentleman from Cuba," "the gentleman from Santo Domingo," "the gentleman from Korea," "the gentleman from Hongkong," "the gentleman from Fiji," "the gentleman from Greenland," or, with fear and trembling, "the gentleman from the Cannibal Islands," who will gaze upon you with watering mouth and gleaming teeth. (Great laughter and applause.)
>
> In that stupendous day there will be a new officer within these historic walls, whose title will be "interpreter to the Speaker," for your ears will be assailed by speech in as many discordant voices as were heard at the confusion of tongues on the plain of Shinar at the foot of the unfinished Tower of Babel. (Applause.)

Mr. Clark had more to say, but what I have quoted gives the general tenor of his remarks.

At any rate, my fears as to how I would be received proved to be totally groundless. When I arrived with my wife Ellyn and my children, at Washington National Airport, Senator Dirksen, Senator Carlson, and a number of other Senators were there to greet us. Even the Vice President, then Richard Nixon, came to the airport to welcome me and my family and I rode with him to my quarters at the Statler Hotel. Several parties of welcome were given me.

From the very beginning, in the Senate Chamber and in the Senate committees and subcommittees, acceptance of the new Senator from Hawaii was full and complete. Instead of any resentment or prejudice, I found only Aloha—friendliness and brotherhood and respect—Aloha for my State and Aloha for myself.

The same was true in my dealings with Members of the House of Representatives and of the executive branch, and many times I was honored by the Congress or by the President to serve as a representative of our country abroad.

And so, it is with mixed feelings that I contemplate leaving the Senate and the Congress and this beautiful city of Washington, D.C., which has occupied so much of my time and attention and effort over the past 17 years. I remember the all-night sessions when we slept on cots in the cloakroom in a drive to enact civil rights legislation. I remember the passage of the Immigration Reform Act of 1965, when the U.S. Congress wiped out all racial prejudice from our immigration laws. I remember the occasional triumphs and the occasional defeats on matters in which I took an active part.

In these past 17 years, I was privileged to serve under five Presidents: Eisenhower, Kennedy, Johnson, Nixon, and Ford. These were years of extraordinary political, social, and scientific changes in our Nation's history and in world history.

Nearly all the well-known heads of state in 1959, when I first took office, are gone from the scene: Eisenhower, De Gaulle, Adenauer, Khrushchev, Nehru, Franco, Nasser, Selassie, Chiang Kai-shek, and Mao Tse-tung.

The map of the world has changed drastically, with independence attained by scores of countries, but unfortunately with the number of people enjoying freedom sharply down. This has shifted the balance of world power and changed the complexion of the United Nations. The OPEC countries and African nations, formerly regarded as minor powers, are forces no longer to be ignored. World peace is still elusive and international terrorism has become rampant.

In the field of science, the United States took some giant steps, with our submarines traveling beneath the North Pole, our astronauts walking on the moon, our spacecraft docking in outer space with one from the Soviet Union, and our unmanned spaceship landing on Mars, digging its soil and sending us pictures to help unravel the secrets of that distant planet.

Domestically, here in America, we had such traumatic experiences as civil disorders in our cities and on our campuses; assassinations of political and religious leaders; a long, cruelly divisive war; resignation of a President; and inflation and recession.

It is a tribute to our structure of Government and to the fortitude, stamina, and resiliency of the American people that they not only withstood but surmounted these vicissitudes.

I know that we came through those turbulent times and that our institutions of Government proved sufficent to the needs. Our people proved to be courageous and perserving.

My hope and my prayer as I prepare to leave the Senate is that the American people will always prove equal to the challenges ahead.

One of my deepest concerns as my term draws to a close is that excessive Government and excessive regulation are eroding the basic freedoms of our people. I believe the pendulum must swing back from this extreme toward the middle ground.

I am also concerned that America is not taking the steps we should to insure that our future defenses will truly be adequate.

When Hawaii became a State in 1959 and I became a Senator, there was no doubt that America's military power was foremost in the world. Since then, the Soviets have engaged in a massive military buildup, and the United States has slipped to a position of relative parity. In view of the alarming erosion of freedom throughout tne world and the undeniable actions of the Soviets in promoting Communist overthrow of other governments in Indochina, Angola, and elsewhere, I am concerned that, unless we reverse our downward trend, the Soviets will forge ahead of us, with all the potential for disaster that would entail.

Unless we can defend our Nation against any possible enemy, we stand to lose both our liberty and our social gains.

In this, our Nation's Bicentennial celebration year, my prayer is that the people of America and their leaders will have the wisdom and the courage to do what is right and what is necessary to guarantee for another 200 years America's survival in freedom and justice and, hopefully, in peace.

Mr. President, that concludes my response to the many kind tributes paid here to me today.

I ask unanimous consent that some historical facts on statehood Senators be printed in the RECORD at this point. These are excerpts from my remarks of March 4 this year.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HIGHLIGHTS OF TENURE OF LAST STATEHOOD SENATOR

Mr. FONG. Mr. President, 187 years ago today—on March 4, 1789, the First Congress of the United States of America convened.

Including the 22 Senators, who had been elected at that time to serve in the First Congress and the 100 Senators currently serving in the present 94th Congress, I am advised there have been a total of 1,698 U.S. Senators. I am informed that I am the 1,609th Senator.

On the day the First Congress convened, there were only 11 States in the Union. At that time, North Carolina and Rhode Island had not yet ratified the Constitution. Each of the first Senators elected to represent the respective States was a statehood Senator, as were the two elected every time another State joined the Union. With the admission of Hawaii to the Union in 1959, and the election of the late Oren E. Long and myself to represent Hawaii in the U.S. Senate, there were a total of 100 statehood Senators in America's history. Of the grand total, I am the sole survivor.

By next January 2, I shall have served in this body for 17 years, 4 months, and 12 days. This is less than 8 months short of three full terms.

Curious to know how long the average statehood Senator had served, I had some research done on this question. I was surprised to discover that only three statehood Senators had longer continuous service than I, who on my retirement in January will rank fourth in continuous service. Those three were Thomas Hart Benton, of Missouri; Henry Fountain Ashurst, of Arizona, and William R. King, of Alabama.

Twelve men who served as statehood Senators were later returned to the Senate after a lapse following their initial period of service. But only five of them had cumulative service exceeding mine, assuming I complete my term.

For history buffs, may I say those five were Henry M. Teller, of Colorado; William M.

Stewart, of Nevada; Rufus King, of New York; Thomas P. Gore, of Oklahoma; and Francis E. Warren, of Wyoming.

Thus, counting the 3 statehood Senators with longer continuous service and the 5 statehood Senators with longer cumulative service, I am astonished to find that my tenure ranks 9th in total length of service among the 100 statehood Senators.

Even more surprising is the fact that of our 50 States, only Alaska—49th—and Hawaii—50th—had their initial Senators elected by the people.

The other 48 States were in the Union before the effective date of the 17th amendment to the Constitution, which provided for direct election of U.S. Senators by the people, rather than for selection by members of the respective State legislatures.

Consequently, only four statehood Senators were elected by direct popular vote: Robert Bartlett and Ernest Gruening of Alaska and Senator Long and myself of Hawaii. As it happens, my 16½ years of service in the Senate to date place me first in length of service of the Senators who were popularly elected at the time of statehood.

In terms of total service, of the 1,698 U.S. Senators to date, 182 U.S. Senators served longer than it has been my privilege to serve in this body. Still, it is most surprising to discover that my tenure by next January will mean that, in terms of service, I will be in the upper 11 percent of all U.S. Senators since the First Congress convened in 1789.

TRIBUTE TO SENATOR FONG AND SENATOR FANNIN

Mr. PASTORE. Mr. President, I have said from time to time, and I think it merits repetition here this morning, that one of the phenomena of the Senate is the fact that some of the best, most cherished and enduring friendships are made between those whose philosophies are different, who vote differently, who never agree on certain legislation but, nevertheless, respect one another and have tremendous affection for one another only because of the character, the integrity, and the personality of the individuals involved. In that category today I place my good friend HIRAM FONG and my good friend PAUL FANNIN.

PAUL FANNIN, just as good a man as he is tall, HIRAM FONG, with whom I have been associated on the Appropriations Committee, and I am honored to call him friend, I think it makes very little difference what we say. The important thing here this morning is what we feel. I have a very intense affectionate feeling for these two gentlemen. And, as they leave the Senate of the United States, as I will together with them, I wish to them and their very lovely families many years of good health and happiness.

I thank the Chair.

TRIBUTES TO SENATORS HRUSKA, FONG, AND FANNIN

Mr. WILLIAMS. Mr. President, despite the fact that my political philosophy, and my votes in this Chamber, have not always been in consonance with those of the distinguished Senators from the States of Nebraska, Hawaii, or Arizona, it is always a matter of regret to have to say farewell to colleagues with whom one's personal relationships have always been friendly. It is one of the better aspects of human contact, that it is not necessary to agree with a man, in order to admire and like him.

Senators HRUSKA, FONG, and FANNIN will not be part of this great body when we convene in January of next year. Their decisions to retire from the frequently unequal struggle could not have been taken lightly, and while they will undoubtedly miss the thrust and parry of everyday business on the Senate floor, and in committee, their retirements will bring rewards that will have their own virtue and satisfaction.

As members of the minority, they have doubtless experienced many hours and days of frustration during their notable service in the Senate of the United States. I am sure that any frustration they may have felt in the past will very rapidly be replaced, in their retirement, by a deep affection and nostalgia for the body they so very ably served in behalf of the people of their States who reposed in them their trust and their confidence.

PAUL FANNIN AND HIRAM FONG

Mr. TAFT. Mr. President, I would like to join my colleagues in paying tribute to PAUL FANNIN and HIRAM FONG.

Both their home States and the Nation have been well served by their tenure in the Senate. I consider myself fortunate to have served with these two great men.

PAUL FANNIN has served on the Committees on Finance and Interior with great distinction.

As the ranking Republican on the Senate Interior Committee the whole Senate looked to him on matters affecting our national park system and the protection of the environment. I worked closely with Senator FANNIN to help create the first national park in my State of Ohio in the Cuyahoga Valley.

The Interior Committee has taken on jurisdiction for many matters pertaining to our Nation's energy crisis in recent years and PAUL FANNIN has been an articulate spokesman for those who believe that we need to deregulate our energy supplies to meet our energy needs. I think that we will look back on his advice and regret that we have not followed it to date.

Before coming to the Senate PAUL served three terms as Governor of Arizona. In the Senate he protected the interests of his adopted State and on the Interior Committee worked to conserve the great natural beauty of the American West. We in the Senate will miss PAUL FANNIN.

This year marks the retirement of many able leaders in the Senate. As a new Senator I looked to HIRAM FONG for his views on many bills that came before the Senate; but especially on the appropriation bills. HIRAM has served with great distinction on both the Judiciary Committee and the Appropriations Committee.

With the retirement of so many hardworking Senators there will be a vaccum in the 95th Congress that we will all have to work to fill. The Nation and the Senate will miss PAUL FANNIN and HIRAM FONG.

We will miss them equally as friends and sound counselors. We hope they will be back with us often.

TRIBUTE TO SENATOR PAUL J. FANNIN

Mr. JACKSON. Mr. President, PAUL FANNIN leaves the Senate not only with the respect and affection of his colleagues, but also with an impressive record of achievement for his State of Arizona and the people of the United States.

I have been privileged to serve with PAUL on the Interior Committee since he first came to the Senate in 1965 after serving three terms as Governor of Arizona. Because of his special knowledge of Arizona's land management problems, he was able from the outset to make an important contribution to the committee's work in the natural resources field.

Senator FANNIN was instrumental in enacting legislation in 1968 authorizing construction of the Central Arizona Project. The project, coupled with the other provisions of the Colorado River Basin project, is a multi-unit project designed to assure people in the arid Western States of a sufficient supply of water and electrical power, to meet their needs. The CAP was a visionary project, conceived by those with a unique understanding of the need for an assured water supply in an area experiencing substantial growth and continued insufficient natural water supplies. Had that project not been developed, Arizona and her surrounding States would have been unable to meet the growing needs of their people without major disruptions in their respective economies and way of life.

Throughout his service on the Committee, Senator FANNIN has played an important role in the enactment of Indian legislation. He was an active supporter of the Indian Self-Determniation and Education Assistance Act, the first major Indian policy change in a generation. He was the principal cosponsor of S. 522, the Indian Health Care Improvement Act, now awaiting the President's signature. He was a strong advocate of the Indian Financing Act, providing major new sources of credit for the Indian community.

In recent years, Senator FANNIN has made an invaluable contribution to the development of national energy policy. As he well knows, we have had some strong disagreements on energy issues. At the same time, there have been many areas where his leadership and support helped produce major energy legislation.

It is particularly in the area of energy research and development that Senator FANNIN's leadership comes to mind. He was the author and one of the principal sponsors of the Geothermal Energy Research, Development, and Demonstration Act which was signed into law on September 3, 1974. Without his leadership two important solar bills would not have become law. He worked long and hard for the successful passage and enactment into law on October 26, 1974 of the Solar Energy Research, Development, and Demonstration Act and the Solar Heating and Cooling Demonstration Act which was signed into law in 1974. He was equally active in his support of the

Federal Nonnuclear Research and Development Act which was signed into law on December 31, 1974. These bills have provided the cornerstone of many Federal programs designed to expedite the development of nonnuclear energy resources with particular emphasis on developing the most promising renewable energy resources which are, of course, solar energy and thermal energy.

The Federal Energy Administration and the Energy Research and Development Administration were each created by legislation which had the strong support of Senator FANNIN. Subsequent to their creation, Senator FANNIN worked closely with their administrators and deserves a great deal of credit for his communicating to them the views of the Congress in energy policy matters affecting those agencies. Senator FANNIN has also provided much of the leadership in the handling of authorization legislation related to each of these two agencies.

Regarding the ERDA authorization legislation now in conference, Senator FANNIN is the author of most of the solar energy projects contained in that legislation. He proudly has displayed on the door to his Senate office and on the bumper of his car a sticker which proclaims: "Arizona—The Solar Energy State." There can be little question that Senator FANNIN singlehandedly is responsible for making Arizona one of the leading, if not the leading, solar energy State in America.

For the past 4 years, PAUL has been the ranking minority member of the Interior Committee. Despite our disagreements on policy, PAUL's consistent courtesy and candor have contributed to an effective working relationship between the majority and minority members of the committee. Without his leadership, and I might add, his unfailing sense of humor, we could never have managed the committee's increasing workload. I am personally grateful for his cooperation and his invaluable contribution to the committee's work. We shall miss him greatly.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. To be charged equally?

Mr. JACKSON. Oh. Well, yes.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask uanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, the Book of Ecclesiastes says, "To everything there is a season, and a time for every purpose under heaven." Our friend and colleague, Senator PAUL FANNIN of Arizona, has chosen this as the season to lay down the burdens of office. He can look back with justifiable pride to 12 years of distinguished service to the citizens of his home State, and the entire country as well.

Though we sit on opposite sides of the aisle, it has been a source of encouragement to me that Senator FANNIN and I have stood side by side so often in the 8 years we have served together.

We have, in the course of those years, fought the good fight, I believe, to preserve those strengths that make our Republic a unique experiment in self-government. They include fiscal restraint, a firm adherence to the principles of constitutional government, and an unfailing reliance on the civic responsibility and plain commonsense of the American people. I have enjoyed following his leadership in upholding the free enterprise system here in the U.S. Senate.

Senator FANNIN worked toward these ends with the modesty and unfailing courtesy that have characterized his entire career, from his years as an active, public-spirited businessman in Phoenix, to his three terms as governor of the great Grand Canyon State, and then to his years in the Senate.

As ranking minority member on the Interior and Insular Affairs Committee, Senator FANNIN has been in the forefront of efforts to solve the Nation's energy crisis. He has worked for a national policy aimed at developing domestic resources and reducing dependence upon imported oil.

All too frequently he has been a voice crying in the wilderness in this area because he above all others here in the Senate I believe has foreseen the dire consequences of our energy policy by which little encouragement is given to the increased production of domestic oil.

He was a strong supporter of the Alaskan Pipepline bill and took a leading role in the floor fight to get the legislation passed.

Senator FANNIN firmly believes it would be disastrous for America to become heavily dependent upon fuels from unstable or politically hostile areas of the world.

The Senate will sorely miss the wise counsel of Senator FANNIN, whose well-conceived proposals and eloquent arguments have made him an outstanding U.S. Senator.

Here indeed is a great American, a rugged individualist, scrupulously honest, independent in thought and action and, as I see it, the foremost advocate and defender in the U.S. Senate of the free enterprise system.

What better way to show my great admiration for this great man than to nominate him as "Mr. Free Enterprise." With the trends that we have toward socialism and mushrooming Federal bureaucracy, more control over business and more control over our individual rights, the rights of our citizens, who in Government today could aspire to a loftier title?

I wish Senator and Mrs. FANNIN all the best as they leave Washington and return to Arizona.

Mr. YOUNG. Mr. President, we are all happy that this difficult session of Congress is coming to an end. Every Member, though, cannot help but have a feeling of sadness that so many of our able and respected Senators will be retiring.

I feel badly that after this session Senator PAUL FANNIN will no longer be with us. He has been a great Senator, one of the most knowledgeable on business and industry problems. He has relentlessly and untiringly fought to preserve the principles which made the United States the greatest industrial nation in the world, and as a result made possible the highest standard of living for its people.

PAUL FANNIN is a true conservative but always a reasonable one. His has been a wholesome influence in the Senate of the United States.

PAUL FANNIN has spent much of his life in public service. He was a three-term Governor of his beloved State of Arizona and is now ending his 12 years of service in the Senate. PAUL is one of the most decent, likable, and personable Senators I have ever known. While he fights hard for the things he believes in, he is always courteous, considerate, and kindly. To know PAUL FANNIN is to appreciate and respect him. I have never had a better friend.

My wife, Patricia, and I will greatly miss the many hours we have been able to spend with PAUL FANNIN and his wonderful wife, Elma. We wish them many happy years in retirement and hope we will still be able to see them often.

Mr. HELMS. Mr. President, the retirement of the distinguished Senator from Arizona is an occasion his colleagues can utilize to say all the things which he ordinarily would not permit to be said, least of all on the Senate floor. I know of no one who has a deeper sense of courtesy and humility. PAUL FANNIN is a man who habitually shuns all tributes, and I imagine it is a source of embarrassment to him at this moment to have his merits put on public display. For someone who has survived very well as a politician, this in itself perhaps is some sort of record. Or, as might be said, PAUL FANNIN is a politician, but first and foremost, he is a gentleman.

The Senator from Arizona is a forthright exponent of the free enterprise system, for he knows that free enterprise is the fount of our material prosperity. But the Senator from Arizona is also a man of principle, for he well understands that moral standards and spiritual goals are the very foundation of a free society.

Accordingly, he has been untiring in his dedication to prevent the encroachment of Government upon the lives of our citizens. Millions of Americans will never know that his work on the Finance Committee and on the Interior Committee has prevented Federal intrusion on their liberties, and has kept the iron hand of bureaucratic regulation at a distance—not as much as he would like; but without the great work he has done, the situation would be far worse than it is today. Many citizens do not know the long hours of dedicated study and courageous action that the Senator has spent in safeguarding their interests. Although I have never had the privilege of serving with him in committee, it has always been a pleasure for me to work with so knowledgeable and public-spirited a colleague on the Senate floor.

The work of Senator FANNIN on the Interior Committee has fallen right in with his love of the open lands and the spectacular scenery of his native State. But at the same time he recognized that the environment was an environment for man, to be adapted by man for proper purposes. The development of natural resources for the best benefit of all citizens, the encouragement of industry and processing to better the standard of living for the citizens of his State, and the exploitation of energy materials so as to provide power to the people through the free enterprise system have all been strong objects of his concern.

Indeed, the distinguished Senator saw long ago, long before the topic became a fashionable crisis, that the proper development of energy resources would be a major problem for the years ahead. He worked constantly to remove the Government restrictions and price-fixing that has been stifling the development of our energy sources, and sought to make our Nation energy-self sufficient. Indeed, if the Senate had heeded his counsel years ago, our Nation would have experienced an orderly development of energy capabilities that would have precluded the present shortages.

Mr. President, it goes without saying that we will all be sorry to see Paul Fannin leave this chamber. Like every person of unique capability and gentle compassion, he will be difficult, if not impossible, to replace. Indeed, his retirement will leave this distinguished body with a widening vacancy in the number of those who belong to the list of giants who once served in the U.S. Senate.

Mrs. Helms joins me in wishing Senator Fannin and his dear wife the most of good health and happiness in years to come.

Mr. GRIFFIN. Mr. President, the people of Arizona face a most difficult task on November 2. On that day, they will have to select someone to take Paul Fannin's place here in the Senate.

Having worked closely with Paul Fannin over the years, I can say this. The Arizona voters may choose a person to take Paul Fannin's seat, but they will choose no one who can take his place in the U.S. Senate.

Paul has labored doggedly, with quiet tenacity, behind the scenes for the interests of Arizona. Typically, he counts as one of his proudest accomplishments in the Senate the work he did in 1968 to pass legislation authorizing Arizona's extensive water development project. Perhaps, however, this should not be surprising considering that Paul served three highly successful terms as Governor of Arizona.

That Paul Fannin should give his work for Arizona paramount importance not only shows the strength of his identification with his constituency, but also is reflective of his modesty.

Paul's close friend and Arizona colleague when he first came to the Senate, the late, beloved Carl Hayden, was fond of relating the advice he received when he first came to Congress.

"There are two kinds of Congressmen," Carl would say, "showhorses and workhorses. If you want to get your name in the paper, be a showhorse. If you want to gain the respect of your colleagues, keep quiet and be a workhorse."

I think it goes without saying that Paul Fannin has been one of the great workhorses of the Senate. He has served not only with great distinction in his home State of Arizona, but for the Nation.

As I think all of his colleagues agree, Paul certainly took this good counsel to heart. For 12 years, Paul has been a workhorse—one of the first to arrive at the morning and the last to leave at night. He has been a steady, tireless performer, pushing in his characteristic firm but kind manner for those legislative programs and positions in which he believes so deeply, which have been in the interest of the Nation.

Indicative, I think, of the wholehearted commitment with which Paul Fannin approaches a task is the recent work he has done to encourage development of America's energy resources. As ranking minority member on the Senate Interior Committee, Paul has unceasingly pushed for programs to accelerate research and development of all our energy sources. His particular passion in this area is now solar energy, and I am quite certain his efforts to help our country meet its energy problems will not end with his Senate term.

I want to say, Mr. President, that we are going to miss Paul Fannin very, very much. I want to join his colleagues as we bid him farewell in wishing him and Elma the very best and the hope that they will find happiness in their retirement years and in the continuing endeavors which I know Paul Fannin will engage in. We all wish him well as we see him leave the Senate.

Mr. HUGH SCOTT. Mr. President, Senator Paul J. Fannin—the subject of our tribute today—will soon conclude two successful terms as a U.S. Senator. He is a friend, an able and honorable man—one who has made his mark in his committees and in this Chamber.

As ranking Republican on the Senate Interior and Insular Affairs Committee, second ranking on the Senate Finance Committe, and a member of the Joint Committee on Internal Revenue Taxation, Senator Fannin has worked to develop America's vital economic resources and to encourage wise use of the Nation's precious natural resources.

Senator Fannin's interests in committee have centered on the various energy problems confronting our Nation. He has distinguished himself by his initiatives to develop solar energy and geothermal steam as new sources of energy.

Paul is by far one of the busiest men in the 94th Congress.

As a member of the Senate Finance Committee, he has played a major role in tax reform legislation, supporting tax relief for low-income families and demanding closure of unjustified loopholes.

Early in his Senate tenure, Paul served on the Labor Committee and retains a deep interest in this area.

We who have served with Paul will recall his lead in the floor battle against repeal of the right-to-work section of the Taft-Hartley Act. This newcomer from Arizona was told that he was "barking up a hopeless tree" in seeking to preserve section 14–B. With hard work and perseverance which have been Paul Fannin's hallmark in public service, he was successful in retaining the right-to-work provision, even though there were some of us who found ourselves on the other side of that issue.

No stranger to political life when he arrived in Washington in 1965, Paul served three highly commendable terms as Governor of Arizona. His State administration had a remarkable record which included improved State aid to education, modernization of traffic laws, development of the economy and initiation of tax reforms.

A man of boundless energy, Senator Fannin works long and hard hours for the betterment of his constituency. Arizonans have prospered with Paul Fannin at the State and Federal helms.

Knowing him for the workhorse that he is, we can expect him to continue his work with various energy problems and other areas in the public interest. Paul is that kind of man.

We will miss his quiet dignity and roaring energies.

Marian and I wish Paul and Elma many happy years in their retirement.

Mr. GOLDWATER. Mr. President, in just a few days we will be saying goodbye to several of our colleagues who are not seeking reelection or who are retiring for reasons of their own. One of these gentlemen is my senior colleague, Paul Jones Fannin.

We probably serve in a very unique way. I was born in the Territory of Arizona, and Paul Fannin came to the Territory about the same time I was born, so we have the pleasure and the distinction of serving, of living, in our State before it was a State.

Paul Fannin was born in Ashland, Ky., in 1907. In the same year his family got real smart and moved out West and settled in Arizona.

I have known Paul all my life. He attended school in Phoenix, Ariz.; attended the high school, attended the University of Arizona and Stanford University, where he graduated in 1930 with a B.A. degree.

He was married in 1934 to Elma Addington. They have four children, Tom, Bill, Bob, and Linda, and 11 grandchildren.

I will never forget the day Paul came to me, he had never been in politics in his life, and he asked if I thought he could be elected Governor of Arizona.

I said, "Yes, you can, but it is going to take a long, hard piece of work to do it." So he worked 13 months and became Governor of Arizona. He was reelected a total of three times to that position in the State.

When I first can remember the Fannin family the father made bricks. At about the time the father died bricks went out of style, and the family went to bankruptcy. But that did not slow Paul and his brother down. They started a business in hardware, and later got into the butane or natural gas business and became extremely prosperous and successful. I think this explains more than anything else the reason why he understands the free enterprise system so completely, and is such a great champion of the American success story.

In all of the years we have lived together, I have always known him to be an extremely honest man, a very diligent worker who has applied himself to tasks that other men would not even seek. Because of this diligence and because of his understanding of people and understanding of problems and solutions, the State of Arizona became the fastest growing industrial State in the Nation, the second fastest growing State populationwise, and is generally conceded to be among the three top States in this Union as far as progress goes. All of that can be attributed to Paul Fannin when he was serving as Governor.

He was the first of our long string of Governors who went out of his way to create and cement friendship with Mexico through the State of Sonora, which is the Mexican State immediately south of our borders. He contributed in many instances to the welfare of the State of Sonora when they would have problems, which they had at the time, such as floods, droughts, and so forth, and Paul Fannin was always there to help.

Mr. President, we are going to miss him. I remember what the Senator from Michigan reminded us of when Carl Hayden, who was my senior colleague when I came to this body, said that "There are two kinds of Senators: there are workhorses and showhorses, and if you want to be a good Senator, be a workhorse."

Paul has always been that. His diligence on his committees is recognized by every Member of this body. His application to the jobs given him by our State is known by everybody in our State.

So it is with a great deal of sadness, Mr. President, I say goodby to Paul as a Senator, but never goodby as a friend because I look forward to the years ahead of both of us as we live together in our State and continue to work for that State, whether we are in an elected position or not.

He has truly served his country and his State. He has been an exemplary Senator and I congratulate him.

Mr. FONG. Mr. President, today I salute our colleague from the great State of Arizona, Paul Jones Fannin, who will be retiring with the end of the 94th Congress.

Paul Fannin took office in the U.S. Senate in 1965 after already having distinguished himself in business and in government.

In the early 1930's, after graduating from Stanford University, Paul Fannin joined his family's hardware business. This, despite the Great Depression, prospered. With his brother Ernest, he eventually moved out of the hardware field into marketing propane gas and agricultural chemicals, another venture which thrived.

Paul Fannin retired from business and immediately moved onto the political scene, being elected Governor of the Grand Canyon State in 1958. He served in that capacity for three successive terms before being elected to the U.S. Senate in 1964 and then was reelected in 1970.

A secret of his success, both as Governor and then U.S. Senator, is the application of solid economic principles he learned in business.

Paul currently is ranking Republican on the Senate Interior Committee; second ranking on the Senate Finance Committee, and a member of the Joint Economic Committee. With this wide range of responsibilities, he remains one of the busiest men on Capitol Hill.

Having direct knowledge of the liquefied petroleum industry, the senior Senator from Arizona has been long aware of America's need and in the forefront of America's efforts to solve its energy crisis. He was a sponsor of successful legislation to speed research and development of all energy sources, including those often neglected, such as solar resources so prevalent in his home State. He is most sensitive to the dangers of America's dependence on foreign energy supplies.

For years, Paul has been a stalwart in the fight for rational tax policies to enable American business and industry to acquire expansion capital to meet the growing demands of our Nation. At the same time, he has sought to close unjustified tax loopholes while supporting tax relief for low income families. He has pushed budget reform and other means of keeping Federal spending within reasonable bounds, for his keen business sense convinces him that Government deficit spending remains a major cause of inflation and recession.

There are numerous other fields in which Paul is known for his strong advocacy and expertise—pollution control, conservation of natural resources, the protection of the individual working person and consumer, and a balanced foreign trade, to mention a few. I will omit the details of his position on these various matters, for he has been eloquent in the expression of his views. It suffices to say that in Paul Fannin we have a true conservative in the best sense of the term whose staunchness has gone a long way in protecting and strengthening America's traditional values.

As a colleague, I have found Paul Fannin to be a most friendly and personable individual, an indefatigable Senator for his great State of Arizona, a most dedicated public servant, and a true and great American.

His two terms in the Senate of the United States have greatly advanced the progress and growth of our Nation.

We are truly indebted to him for his long years of public service.

Paul Fannin will be sorely missed in Washington.

As Paul and his gracious wife, Elma, return to their home in Phoenix and to their children and loved ones, I wish them abundant good health and happiness.

My wife and I will be returning home to Honolulu following the end of the current session of Congress. Part of the joy of being in Washington has been the many nice people we have met and learned to know. The Fannins are among them.

To them both I say: Aloha!

Mr. THURMOND. Mr. President, at the end of this session, the Senate will lose one of its most respected and effective Members when Paul Fannin retires.

During my 22 years in the Senate, I have known no finer man. I am honored to consider him my good and close friend.

Few men whom I have known are as considerate, courteous, or kind as Paul Fannin. He is a gentleman who is never too busy to lend a sympathetic ear or to extend a helping hand to his fellow man.

Mr. President, the hallmark of Paul Fannin's distinguished career has been courage and independence, character and integrity, capacity and intellect, and devotion to his country.

I have always admired Paul Fannin as as public servant who has the courage to stand up for his convictions regardless of the political consequences. He has never feared standing alone if he thinks he is right.

It is common knowledge that Paul Fannin's word is his bond. Loyalty, integrity, and honor are his creed. He is a man whose character is admired by his friends and colleagues.

Paul Fannin is also one of the hardest workers in the Senate. He is a man of uncommon capacity and wisdom. During his 10 years in the Senate, he has become an authority in the complex fields of foreign trade and energy. His understanding of geothermal and solar energy sources has won him accolades as an expert in those fields.

Mr. President, as the ranking Republican on the Interior Committee and as a senior member on the Finance and Joint Economic Committees, Senator Fannin is one of the busiest men in the Senate.

He has been a leader in the effort to restore sanity to the Government's spending policies, and has been in the forefront of the struggle to curb deficit spending. He has been a strong supporter of legislation to protect the individual working man from the arbitrary power of union bosses. For many years, he has played a major role in tax reform. Equally important, he has sought new ways to enable American business to expand and meet the growing demands of our economy.

Mr. President, Paul Fannin's commonsense approach to Government is derived from his background as a small businessman who understands and appreciates the free enterprise system. As Governor of Arizona and as a U.S. Senator, Paul Fannin has always worked hard to foster programs and policies to maintain the greatness of our country.

Paul Fannin is a persuasive advocate for the free enterprise system. In spite of his desire to retire from the Senate, I hope he will continue to be active in public affairs. He has a keen judgment for men and events which makes him invaluable as a public servant. I shall continue to hold his judgment in highest regard, and hope that he will continue to speak out on important issues.

Mr. President, Mrs. Thurmond joins me in wishing Senator Fannin and his lovely and gracious wife, Elma, a pleasant and happy retirement with his 4 devoted children, his 10 fine grandchildren, and his many friends.

Mr. President, I treasure the fact that I have come to know and serve in the Senate with a man of the character, honesty, and integrity of Paul Fannin. It is a great personal honor to be able to call him my friend.

Mr. EASTLAND. Mr. President, at this time, I would like to make a few remarks in behalf of Senator PAUL J. FANNIN.

Mr. President, when the distinguished senior Senator from Arizona took his oath of office on January 3, 1965, it became immediately apparent that he would become one of the leaders of his party in the Senate.

PAUL FANNIN came to the Senate after three consecutive terms as Governor of Arizona, during which he was several times selected for leadership positions by his fellow Governors. He served as chairman of the Western Governors Conference and three terms on the executive committee of the National Governors Conference, as well as chairman of the conference's committee on roads and highway safety. This experience was of tremendous value to PAUL in the Senate.

During the almost 12 years of his service here, this self-effacing, unassuming and modest man, through ability and hard work, has carved for himself a strong place in the leadership of this body. In floor debate, he had his real baptism of fire when he teamed with the late Senator Carl Hayden to effect the successful passage of the central Arizona project. He held his own in floor debate, and Arizona's water development legislation was enacted over the spirited opposition of some of his republican colleagues and friends in neighboring States. As a freshman Senator in 1965, he led the successful floor battle against repeal of the right-to-work section of the Taft-Hartley Act.

This required a filibuster. A number of senior Senators felt that the junior Senator from Arizona was "barking up a hopeless tree," but PAUL tirelessly walked the corridors of the Senate Office Building, lining up a few Senators in support of his position. The strategy worked when the majority was never able to muster enough votes to close the debate and bring the repeal to a vote.

I believe, however, that PAUL FANNIN's lasting contribution to the Senate will have been made through his work in the Interior Committee to solve the energy crisis. In the 93d Congress, he was a sponsor of successful legislation to speed research and development for all energy resources, including geothermal and solar.

PAUL's work on the Senate Committee on Finance and as a member of the Joint Economic Committee has been equally effective. He has played a major role in tax reform, fighting for rational tax policies which would enable American businessmen to acquire the exchange capital necessary to meet the growing needs of the Nation.

Although born in Kentucky, PAUL's parents moved to the Arizona territory when he was less than 10 months old. He has been a legal resident of Arizona 5 years prior to and during the entire period of Statehood. In 1930, in the midst of the Depression, he completed his formal education at Stanford University and, with his brother, overcame tremendous hardships to found what became a very successful business. His career as a liquified petroleum gas and agricultural chemicals distributor served him in good stead when he assumed the ranking Republican position on the Senate Committee on Interior and Insular Affairs and when this Nation first experienced its current energy crisis.

The Senate has an abundance of lawyers. We are fortunate to have had in PAUL FANNIN a successful businessman, who has applied the solid economic principles he learned in his business to the operation of the Government. There is no doubt in my mind that had he chosen to seek reelection, the voters of Arizona would have overwhelmingly chosen him for a third term.

I can, however, understand his concern for his lovely wife and fine family, which has prompted him to retire from active service here in Washington. I am hopeful, however, that his good advice and counsel will be available to us in the future. I join my colleagues in wishing PAUL and his family health and happiness in the days that lie ahead.

Mr. TALMADGE. Mr. President, by Senate standards, PAUL FANNIN has not served for an exceptionally long time in the U.S. Senate. He was first elected in 1964 and then reelected in 1970.

Nonetheless, in the past 12 years has proven himself to be one of the busiest men ever to serve in the Senate. It is my privilege and pleasure to serve with Senator FANNIN on the Finance Committee and its Subcommittee on International Trade; and on the Joint Committee on Internal Revenue Taxation. From these vantage points, I have come to know PAUL FANNIN as a hard working, industrious Senator, who works above and beyond the call of duty to serve the State of Arizona and the Nation.

Senator FANNIN came to Washington after three highly successful terms as Governor of Arizona. Prior to that, he had a long and successful business career in Arizona and the Southwest. He brought to government solid economic principles that he learned in the private sector, and throughout all of his two terms he never once departed from the pursuit of these principles. He is an ardent foe of Federal deficit spending and excessive Government regulation and he favors an amendment to the Constitution which would require balancing of Federal budgets, except in cases of national emergency, which I am proud to advocate along with him. Senator FANNIN's hard work and leadership will be missed in the Senate. I consider it an honor to have worked so closely with him in various committees, and I wish him every happiness in whatever he undertakes following his retirement here.

Mr. HRUSKA. Mr. President, we pay tribute today to a man who has compiled an impressive record of public service to his State and the entire Nation. My good friend, PAUL FANNIN of Arizona, has worked hard during his three terms as Governor of his State and during his two terms in this body to safeguard the national interest by advocating greater protection for American workers.

He has vigorously strived to insure a proper balance between labor and management and through his membership on the Finance Committee he has strived to help free every worker from the oppressive burden of high taxes. He has introduced an amendment to the Constitution to require a balanced Federal budget. A measure, if adopted, that would eliminate deficit spending and help relieve the American taxpayer from the cruelest tax of all—inflation.

Through his efforts on the Interior Committee, he has recognized the plight of the American Indian and has contributed greatly to legislative remedies for this unfortunate minority group. He has worked to achieve greater educational opportunities and health benefits for our Native Americans.

Senator FANNIN has represented all the people of his State during his 12 years in the Senate. They respect him and honor him for his service. All Americans will be losing an effective legislator and a man dedicated to the public good when PAUL FANNIN leaves this body.

Even though the Arizona State Sun Devils roasted the Nebraska Cornhuskers in last year's Sun Bowl football game, I bear no grudge. May he and his lovely wife Elma have a happy, healthy, and fulfilling retirement; this is the wish of both Mrs. Hruska and myself.

Mr. HATFIELD. Mr. President, I am pleased to participate in the tributes to our colleagues who are retiring from the Senate at the end of this session. I would like to take particular note of the retirement of my colleague from Arizona, Senator PAUL J. FANNIN. Senator FANNIN and I have a considerable amount in common. We served together as Governors of Western States, we both received degrees from Stanford University, we both have four children, and we have served together on the Interior and Insular Affairs Committee.

Beyond these common interests we share, I have come to greatly appreciate the warm relationship Senator FANNIN and I have experienced. He and I have participated in many hearings, committee sessions, and conference committee meetings together and Senator FANNIN has invariably maintained a patient and understanding spirit during the frustrations and challenges of these sessions.

It is by no means an exaggeration to say that we will miss Senator FANNIN a great deal. Not the least of his roles which others will have to fill is his function as chief provider of breath mints, candy, and other such vital supplies during the long sessions on the Senate floor.

Mr. President, I join others in thanking Senator PAUL FANNIN for his fine work in this body and wishing him the very best in his retirement.

Mr. WILLIAM L. SCOTT. Mr. President, since moving to this body from the House, a few years ago, I have frequently sought and received wise counsel and guidance of my good friend and colleague, the distinguished senior Senator from Arizona (Mr. FANNIN). Certainly we all respect his dedicated service and hard work on various issues as they come before the Senate. His leadership in a wide range of legislative interests concerning domestic energy development, finance and general economic concerns is highly regarded not only by his colleagues here in the Congress, and I would expect by his constituents in Arizona.

In many respects Paul Fannin and I share similar beliefs. Not only are we Republicans and Methodists, but we basically believe in the vitality of the free enterprise system and the need for restoring individual initiative and freedom of choice in our daily lives. His voting record and mine, I might add, are similar in that we generally support efforts to keep the Federal Government out of matters that rightfully should be left to the States, local governments or to the private sector. Although our position frequently does not prevail, I want to commend Senator Fannin for his efforts in restricting Government interference and in providing conservative leadership for the country here in the Senate.

As I review his background, it is clear Paul Fannin spent a number of years as a successful businessman before becoming involved in Government service. I understand that, even during the difficult days of the Depression the Fannin family worked hard in keeping the business alive. Later on I am told Senator Fannin broadened his business interests and developed a thriving concern marketing propane gas and agricultural chemicals in the West and in Mexico. To his credit, Paul Fannin has applied sound business management and economic principles of the marketplace he practiced in business to the operation of the Federal Government. I am certain the American free enterprise system and the people generally have gained from Paul Fannin's leadership.

It is understood Paul Fannin served with distinction for three terms as the chief executive of Arizona before being elected to the U.S. Senate in 1964 and reelected 6 years ago. We recognize Paul Fannin's many achievements within his own committees. Ranking Republican on the Senate Interior and Insular Affairs Committee, second ranking Republican on the Finance Committee, a member of the Joint Economic Committee and the Joint Committee on Internal Revenue Taxation.

Paul Fannin has taken the lead in accelerating development of America's resources to solve the energy crisis. During the 93d Congress he was a sponsor of successful legislation to speed research and development for all energy sources, including geothermal and solar. He supports a national energy policy, aimed at developing domestic energy and reducing our dependence on unstable foreign sources.

On the economic front, Senator Fannin sees Government deficit spending and regulation as main causes of inflation and recession. He has served on the Special Joint Committee on the Budget which drafted budget reforms intended to give Congress a handle on the Federal Budget and as his voting record indicates, he has endeavored to hold down Government spending at all times. In past sessions of Congress, Senator Fannin has sponsored a proposed constitutional amendment to require the balancing of Federal budgets except in times of national emergency.

I am told Paul Fannin was one of the first Members of Congress to recognize America's trade and dollar problems. He is a member of the Subcommittee on Foreign Trade where he has worked diligently for policies which would encourage exports and for legislation which would require America's trading partners to cease violating fair trade principles. Moreover, as a member of the Finance Committee, Senator Fannin has played a major role in tax reform bills, including the measure we just completed, and has fought for rational tax policies which will enable, among other things, for American business and industry to acquire expansion capital necessary to meet the growing demands of the Nation.

Early in his Senate tenure Senator Fannin served on the Labor Committee and retains a deep interest in this area. He is a strong supporter of legislation to protect the individual working man and consumers from the arbitrary power of union leaders. His first year in the Senate he led a successful floor fight to retain the right-to-work provision in the Taft-Hartley Act and is of course proud of this achievement.

I might add that I read of Senator Fannin's efforts a decade or so ago against repeal of the right-to-work section of the Taft-Hartley Act in an article that appeared recently in the Arizona Republic. Ben Cole of the newspaper's Washington Bureau wrote:

> Fannin stubbornly tramped the corridors of the Senate office buildings, lining up a few Senators in support of his stand. The strategy worked. The majority was never able to muster enough votes to close debate and bring the repeal bill to a vote.

Senator Paul Fannin's leadership will be missed by all of us. I will particularly miss him as a friend and colleague.

Mr. ROBERT C. BYRD. Mr. President, one of the classic American stories is the tale of the man who leaves the East and follows the Sun west in search of his own destiny and success. Senator Paul Fannin is a living example of that story. During his years of service in the U.S. Senate, he has been an enthusiastic advocate of characteristic American values, because he knows that individualism, free enterprise, and opportunity are realities even in 20th century America.

Senator Fannin was born in Kentucky, but he was carried to Arizona by his parents while he was still a child. Obtaining a degree from Stanford University following his education in the public school system, he pursued a successful career in business before turning his talents to public service.

From 1958 to 1964, Paul Fannin was the Governor of Arizona. In 1964, he was elected to the U.S. Senate, and he has been a Member of this body since.

Senator Fannin has supported legislation that would allow other men and women to have access to the same opportunities that he received. He has sought to protect the citizens of this Nation from what he viewed as excess governmental power. Thus, he has been devoted to individual liberties, to controlled spending of Federal funds, and to an economy free of unnecessary regulations.

Senator Fannin has been especially active in seeking ways by which to equip the native American population of his home State for a fuller share of the benefits of this country. As a result, he was responsible for obtaining funds for launching the Navajo Community College of northern Arizona. Moreover, he has been in the forefront of efforts to expand Federal funding for educational programs for Indians in our public schools.

Paul Fannin will be retiring from this body at the end of this session of Congress. But he shall be able to return to Arizona secure in the knowledge that he has been a worthy proponent and defender of the principles that made this Nation the greatest and strongest country in the world.

Mr. McCLELLAN. Mr. President, as this session of Congress draws to a close, I wish to pay tribute to the senior Senator from Arizona, my good friend Senator Paul J. Fannin.

In his 12 years of service in the Senate of the United States, Senator Fannin has been a working Senator, paying close attention to the business of this great body.

While others may have actively sought the headlines, he has served the people of Arizona and the Nation with a quiet distinction that has been translated into a record of high achievement.

Senator Fannin's work in finance and energy have made him an expert in those areas, particularly in the field of development of solar energy.

Senator Fannin came to Washington in 1965 after a successful career in business and politics, which saw him elected three times as Governor of Arizona.

He brought with him to the Senate the same enthusiasm that had made his earlier achievements possible and has earned a well deserved reputation as a legislative workhorse with a wide range of interests.

I am certain that I express the feelings of all Members of the Senate when I say that we shall miss Senator Fannin in years to come. Mrs. McClellan joins me in wishing him and his lovely wife, Elma, much happiness in their retirement years.

Mr. MATHIAS. Mr. President, when a Member of this body retires to one of the great vacation spots of this land, our regret at his leaving is tempered by our pleasure in his good fortune. So today there is a little twinge of gladness mixed with our regret that Paul Fannin is retiring to return to his beloved and beautiful State of Arizona. I have served in this Chamber with Senator Fannin for the past 8 years and we have many shared experiences. The bonds forged in this crucible are not easily broken or forgotten. I congratulate Senator Fannin on his sunny future and wish him Godspeed.

Mr. GRIFFIN. Mr. President, since Senator McGee is necessarily absent and unable to be here in person to participate in paying tribute to our colleague Paul Fannin he has asked me to insert his statement in the Record in his behalf.

I ask unanimous consent that Senator McGee's tribute be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR MCGEE

When the retirement of our colleague Paul Fannin becomes effective with the adjournment of this Congress, the Western United States will lose a most effective spokesman for interests and issues vital to our region of the country.

As a Democrat and a fellow westerner, I have long appreciated and enjoyed my working relationship with Paul—a relationship based upon common goals and understandings, rather than partisan differences.

Since both Arizona and Wyoming are public land states, we have common problems, common aspirations, and common goals. As the ranking Republican on the Senate Interior and Insular Affairs Committee and the second ranking Republican on the Senate Finance Committee, Paul has had a vital impact on the shape and scope of legislation affecting our region of the country. He has been a sensitive and effective spokesman on behalf of interests common to our region.

Few would deny that Paul Fannin has been one of the hardest working members of the Senate. Yet, he has been a legislator who has preferred to work quietly behind the scenes, never seeking to be the focus of attention.

A genuine concern over our energy problems, led him to devote considerable attention and study to finding alternative sources of energy. As a result, he became the Senate's leading expert on solar energy development.

His experience as a three-term governor in Arizona and Chairman of the Western Governor's Conference in 1963, placed him in a unique position to effectively speak for our region of the country. I want to wish him the very best and I am confident that even though he is retiring from the Senate, he will continue to actively pursue the best interests of the Western United States.

Mr. RIBICOFF. Mr. President, after two distinguished terms in the Senate and three terms as Governor of Arizona, Paul Fannin has decided to retire from public service at the end of his present Senate term. When a man has as long a career in public service as Paul Fannin has, there are many accomplishments for him to look back on, and there are many achievements for others to praise. But for Paul Fannin, his fine record during 18 years in public office tells only part of the story. His personality, his character and his commonsense have distinguished him as much to me and others in the Senate as his record has.

Paul Fannin has worked long and hard to make realities out of ideas that he believed in. As he rose to become the ranking minority member of the Interior Committee and second-ranking minority member of the Finance Committee, projects like the central Arizona project to divert water from the Colorado River into the arid central valleys of Arizona began to take shape. His commitment to finding new sources of energy for this country was instrumental in attracting attention to the possibilities of solar energy. His work cleared the way for the Solar Energy Institute which, in the years to come, will be one of the focal points for research and development of new ways to make this kind of energy cheaper, more efficient and more viable for this country's energy needs.

Throughout his many years in public service, Paul Fannin has maintained contact with the public he serves. He has maintained his sensitivity to the needs and problems of people and he has been able to help others by working hard, by thinking straight and by listening and learning from those he has so ably served.

His achievements on behalf of American Indians are only one example of his remarkable ability to stay close to the people he has served. No one played a greater role in the creation and passage of the Indian Health Care Improvement Act and the Indian Education Act than Paul Fannin. Little things that do not show up in his record show another aspect of this sensitive, down-to-earth and personable man.

One night, Paul arrived at Sky Harbor Airport in Phoenix where a young Army private was trying to find a ride to Buckeye. Without thinking twice about going out of his way and driving clear across the city, Paul took the young man home to Buckeye. Everyone who knows him has had a similar experience, for Paul Fannin never has too little time to help people.

Paul Fannin is above all a decent human being. The strength of his convictions, the ease of his manner, his keen sense of fairness and honesty have given the people of Arizona every reason to be proud of their senior Senator. And for his colleagues in the Senate, those qualities have made it a privilege to serve with him. I am sure every Senator joins me in wishing him the very best during the years to come.

Mr. WEICKER. Mr. President, today I join with my colleagues in paying tribute to Paul Fannin, who is retiring after 12 distinguished years as a U.S. Senator from Arizona.

At the end of a successful business career, many men would have chosen the quiet comfort of retirement. Paul Fannin chose public service. He was elected Governor of Arizona in 1958, and served three terms, before moving to the Senate in 1965. He has been respected by all who have had the good fortune to know him.

During my term in the Senate, I have come to hold the senior Senator from Arizona in high esteem. He is a man of uncompromising principles and dignity, a quiet, warm, decent, and good man. Paul Fannin has served his State well, and he has served his country well.

Mr. BAYH. Mr. President, I am pleased to join my colleagues in paying tribute to Senator Paul Fannin of Arizona, who is retiring at the end of the 94th Congress.

Our years in the Senate have been almost coterminous, Senator Fannin having come to the Senate 2 years after me. During the 12 years that Senator Fannin has ably represented the interests of his constituents I have come to know him as a man of basic decency and fairness.

One of the enduring qualities of the U.S. Senate is that Senators need not see eye to eye on the issues in order to develop mutual respect. That is how I feel about Senator Fannin; while we have been on the opposite side of many issues I have always known that Paul Fannin was a sincere and able advocate.

To measure properly Senator Fannin's commitment to public service and the esteem with which he is regarded in his home State of Arizona, it is important to note that he was elected Governor of his State three times prior to being elected to the Senate twice. Five times Paul Fannin has won statewide elections, a strong tribute from his State to his abilities and energies.

Mr. President, I know the people of Arizona will miss Paul Fannin's voice on their behalf, and I can add that those of us in the Senate will miss this voice of conviction and reason. I wish Paul Fannin a long and healthy retirement.

Mr. HUMPHREY. Mr. President, our distinguished colleague from Arizona, Paul Fannin, has decided not to seek reelection to this body.

Paul Fannin brought to the Senate the benefit of his experience as Governor of Arizona for three terms. He was active in the Western Governors' Conference and was a three-term member of the Executive Committee of the National Governors' Conference.

As a member of the Finance Committee and ranking minority member of the Committee on Interior and Insular Affairs, he has devoted a great deal of time and work in the areas of tax, health care, and social security, as well as working to preserve the natural resources of this land.

As chairman of the Joint Economic Committee, it has been my pleasure to work with Paul as a member of that committee. While we have not agreed on every aspect of economic policy, I have benefited from his consistent and effective articulation of the views of Senators on the other side of the aisle. He is a fine man who has given much in service to his beloved State and the Nation. Mrs. Humphrey joins me in wishing Paul and his family much health and happiness in the coming years.

PAUL J. FANNIN HAS BEEN A DILIGENT SENATOR

Mr. RANDOLPH. Mr. President, my colleague, Paul J. Fannin, is retiring after a long, energetic and dedicated career in the U.S. Senate. He will be missed.

Paul came to Washington after three successful terms as Governor of Arizona. While Governor, he had a record which included improving State aid to education, modernizing traffic laws, developing the economy, initiating tax reforms, and he established the Arizona-Sonora West Coast Trade Commission His constituents knew that, during the years 1959 through 1964, Arizona and Arizonans prospered, and they elected Fannin to represent them in the U.S. Senate beginning in 1965. He brought to Washington the background of success in State office, and has applied them significantly in serving his State and the Nation. The solid economic principles he learned in business and State government have served him and the Senate well. As ranking Republican on the Senate Interior Committee, second ranking on the Senate Finance Committee, and an important member of the Joint Economic Committee, Arizona's senior Senator had an opportunity to work for development of America's vital economic resources, and made him a champion in encouraging the wise use of the Nation's precious natural resources.

He brought with him also an understanding of the causes, the consequences, and the cures for America's problems with inflation, the energy crisis, pollution, and foreign trade. Thus, throughout his tenure in the Congress he assisted in accelerating development of America's resources to solve the energy crisis; he sponsored successful legislation to speed research and development for all energy sources—including geothermal and solar.

PAUL, armed with his conviction that Government deficit spending and regulation were the main causes of inflation and recession, worked diligently with the Special Joint Committee on the Budget to draft budget reforms intended to give Congress the means to bring Federal spending under control. He sponsored a constitutional amendment that would require the balancing of the Federal budgets except in times of national emergency. As one of the first Members of Congress to recognize America's trade and dollar problems, he set to work on the Subcommittee on Foreign Trade to develop policies to encourage exports, and for legislation to require America's trading partners to stop violations of fair trade principles.

FANNIN, as a member of the Senate Finance Committee, performed a major role in the recent development of urgently needed, long-sought tax reform legislation. He supported tax relief for low-income families. At the same time he was demanding closure of unjustified tax loopholes for business and industry, he did not foreclose on rational tax policies which would enable those American businesses and industries to acquire expansion capital necessary to meet the growing demands of the Nation. As a member of the Labor Committee early in his Senate career, PAUL FANNIN strongly supported legislation to protect the individual working man and consumers alike.

Mr. BARTLETT. Mr. President, it has been my pleasure and my honor to have had the opportunity to work for the last 4 years in the Senate and in the Interior Committee with the distinguished Senator from Arizona, PAUL FANNIN.

Throughout these last 4 years, I have been the junior minority member of the Interior Committee and PAUL has been the ranking member. He has run our side of the committee in a way which would allow all of us to participate to our fullest desires and capacities. He has sought our counsel on matters of importance to us and his advice, counsel, and leadership have been invaluable. Speaking as the junior minority member, I am extremely grateful to the distinguished Senator for his leadership and example and for his willingness to let me be fully involved in Interior Committee affairs.

Throughout his career, Senator FANNIN has been the most adamant proponent and supporter of free enterprise. There have been many occasions both in Interior Committee and on the floor when the distinguished Senator has led the battle in support of free enterprise. Although we have not always won, he was always there and he was always ready to pick up the banner the next time.

PAUL has been our leader on energy issues. No Senator has fought harder than he for a sound and rational national energy policy, one that would preserve free enterprise, one that would reduce our dependence on foreign oil, one that would maintain the dominance of the United States in world affairs. I am confident that our Nation's energy policy is more sound because of Senator FANNIN's active involvement than it ever could have been had he not been here.

Throughout, PAUL has maintained his sense of humor, an accomplishment one should not view lightly considering the frustrations of trying to accomplish something positive when being in the minority.

PAUL has been an outstanding nuts-and-bolts Senator. He is adept at working behind-the-scenes, doing the mundane jobs, running the rollcalls, and so forth. All this is work which has to be done in a successful legislative effort. In other words, PAUL FANNIN is a Senator's Senator.

I will miss him and I am sure all his other colleagues will also. I wish him and his wife Elma a long and happy retirement in Arizona and I hope our friendship will continue to grow and flourish from afar as it has here in Washington.

Mr. HOLLINGS. Mr. President, when the 95th Congress convenes in January, Senator PAUL FANNIN will be absent from these halls, having returned to his native State as a private citizen.

I join with my colleagues today in paying tribute to a fine man and a great Senator. I have often thought that our Western States have been responsible for providing leaders unmatched in quiet determination and toughness. Anyone who has ever visited the State of Arizona would agree with me, I think, that its U.S. Senators, PAUL FANNIN and BARRY GOLDWATER, are representative of the land and its people: Resilient, dedicated to the job at hand, possessed of a down-to-Earth pragmatism, and logic.

Certainly, PAUL FANNIN can be characterized this way. The people of Arizona can be proud of the fact that they have offered such a person the opportunity of public service, and Senator FANNIN can take justifiable pride in the job he has done for his State, in both the Governor's office and in the Senate.

I thank him today for the job he has done for his country. He has stood for honest government and integrity in public service, and he will be remembered with fondness and respect for his contributions.

Mr. BELLMON. Mr. President, while this opinion may not be shared universally by each Member of the Senate, it has long been my feeling that service as Governor is an ideal background for a U.S. Senator. A Governor is in a perfect position to come to understand the problems of his entire State and at the same time to fully appreciate the complex interaction between governments at all levels—local, State, and Federal. This background is invaluable to service in the Senate.

Mr. President, the career of the distinguished senior Senator from Arizona is a case in point. Serving as he did as an outstanding Governor of the State of Arizona, he came to the Senate ideally equipped to participate in making the decisions that this body is daily called upon to make. His insights into the roles which government at various levels can best play has made his counsel invaluable to other Members of the Senate in the consideration of legislation.

In addition, Senator FANNIN's contributions as the ranking member of the Interior Committee during the period of the Nation's serious energy crisis has been especially significant. Coming as he does from a section of the country where access to an abundant dependable energy supply is absolutely imperative, Senator FANNIN has worked effectively and tirelessly for the strengthening of our domestic energy production and has striven valiantly to free this country from its dependency on insecure, costly foreign sources of oil. Had the counsel of the Senator from Arizona been followed more closely, the economic and strategic strength of the U.S.A. would today be far healthier.

As one who has served with Senator FANNIN both as Governor and as a member of the Interior Committee, I have long held him in high esteem and have frequently looked to him for counsel in troubled and difficult times. I have always found him to be well-informed and fair. I deeply regret his decision to leave the Senate but join with his other countless friends and admirers in wishing Senator and Mrs. FANNIN fulfillment and pleasure as they return to their home in the West.

Mr. STEVENS. Mr. President, for a number of years it was my privilege to have served on the Senate Interior and Insular Affairs Committee with my good friend, PAUL FANNIN. During that time I greatly valued not only his friendship, but his wise counsel and outstanding leadership on this important committee.

The senior Senator from Arizona served as the ranking member and was without question a tower of strength on that committee. His retirement will leave a void not only on the Interior Committee but in the Senate as well, for his expertise in assisting to develop a comprehensive and thoughtful energy policy was often sought out.

His dedicated service to energy matters on the committee, in addition to his long business experience in pioneering the distributon of gas and related petroleum products in our great Southwest, uniquely qualified him as one of our reigning experts in this area. It was not surprising, therefore, that Senator FANNIN took the lead in accelerating development of American resources to solve the energy crisis.

In the 93d Congress, he was a sponsor of successful legislation to speed research and development for all energy sources, including geothermal and solar. He was a key man in the fight to prevent gas rationing. Alaskans will long remember his casting one of the key votes enabling passage of the trans-Alaska oil pipeline bill in July of 1973 which has meant so much to my State and to the Nation's energy independence.

We hate to see him leave. He will be greatly missed. And we know that PAUL and Elma Fannin will have a group of good friends here in the Senate who will want them to come back to Washington often.

Mr. DOMENICI. Mr. President, I am extremely proud to be able to join in this tribute to a truly outstanding public servant and an acknowledged leader in the U.S. Senate. Our distinguished colleague from Arizona, Senator PAUL FANNIN, has achieved a record of diligence and dedication in pursuit of this Nation's interests which ought to be a goal for all of us.

From my first association with PAUL FANNIN, I have been impressed that he is a man of high principles, principles he sticks to even when it would be so much easier to "go along to get along." I see him as a man with a code, a code by which he faithfully abides. That code, Mr. President, is simply that the notions, ideas, and faith which made this country free, which made it the greatest example of freedom and stability in world history, will serve to preserve that status. With no intention to do so, but at the risk of offending other fine Senators from other parts of the country, I will refer to this tradition as the "Code of the West."

This code means having the courage to stand alone when you know you are right. It means having the will to carry the load of responsibility and adversity when others may weaken. It means giving nothing less than the full measure of dedication required of patriots through the ages.

All this, and more, comes to my mind when the subject is PAUL FANNIN. We will sorely miss him, but the example he has set for us will inspire us to better serve the Nation. And that, after all, may be the final true measure of a public servant.

Mr. CRANSTON. Mr. President, the adjournment of the 94th Congress will mark the close of but another chapter in the public career of my neighboring Senator, PAUL FANNIN.

In his three terms as Governor of Arizona and two terms as U.S. Senator, PAUL FANNIN has been an industrious worker not only for the people of his State, but also for the issues and principles in which he believes, among them tax and trade reform, regulatory agency reform, development of new energy resources, and budget reform.

During my service here, I have had the privilege of working most closely with PAUL on legislative initiatives for encouraging the development of geothermal and solar energy sources as well as on various proposals for tax reform. Without fail and in the best sense of bipartisanship, PAUL FANNIN could be counted on as a most helpful and earnest ally.

I am pleased to join in paying tribute to PAUL FANNIN and in wishing PAUL and his wife, Elma, a most enjoyable and productive retirement.

Mr. LONG. Mr. President, America needs both liberals and conservatives. Without its liberals there would never have been a United States of America. Without its conservatives, the precious freedoms and the sacred rights of American would have long ago been surrendered to the demands of politics and expediency.

We of today's Senate have been privileged to serve with one of the great conservatives of all time. PAUL FANNIN is the most consistent statesman of this Congress. He believes in the free enterprise system. He knows what it has meant to America. No Member of this body has done more to preserve it.

PAUL FANNIN is not one of those conservatives who is afraid to see the Government spend money. What concerns him is that the expenditure should be something that does more good than harm to America and its people, both in the long run as well as in the short run.

Some years ago many of us were troubled that a Republican President proposed a sweeping misnamed "welfare reform" bill which would have undermined much of the best elements of good to be found in those whom it proposed to help.

It was not easy for PAUL FANNIN to oppose a measure that the President of the same party had labeled his No. 1 domestic proposal.

Yet, PAUL FANNIN saw the dangers inherent in the proposal and his statesmanship was in large measure responsible for the fact that the measure was defeated in the Senate in two consecutive Congresses. It has never become law.

PAUL FANNIN knows that all peaple must know what it is to work, to make a contribution to enjoy the fulfillment of their purpose here. He has sought to do his part. He has sought to provide for all those who were unable to provide for themselves, but he has resisted efforts to do for people at Government expense what people should be doing for themselves.

To some it may seem strange to read of PAUL FANNIN's support of employee stock ownership, but it is consistent with his view that capitalism should be democratic and that there should be as many capitalists in America as there are citizens willing to do their part.

Many of the most hard-fought struggles of recent years have been fought over energy problems. Here again, PAUL FANNIN has insisted that our free enterprise system will provide better answers than a nationalized or Government operation. Time will prove him right.

PAUL FANNIN is more than a fellow Senator, he is a special friend. I feel a personal loss by his decision to retire at the end of this session, but can certainly understand his desire to return to the land and the people he loves so much.

It was very fortunate for me that PAUL FANNIN joined the Senate Finance Committee because no member has worked harder or contributed more. He is a quiet man, to be sure, but when he speaks he is listened to: It is a soft voice that speaks hard facts.

PAUL FANNIN has played an important role in the writing of every tax bill since he joined the committee 6 years ago. He has supported relief for low-income families while demanding the elimination of inequities in the tax burden. PAUL FANNIN is the voice of reason, fighting for policies to help our Nation's industries and businesses expand and provide more jobs, thus raising the quality of life for all Americans.

I am especially indebted to PAUL FANNIN for his invaluable assistance in the recent tax bill conference. His sharp awareness of the far-reaching effects that our tax laws have on wage-earners is reflected in that 646-page report. Curbing inflation, he stressed, must be a top priority because of its devastating effect on working Americans. He told us—

> Inflation is the cruelest tax of all because it steals from the aged and blights the future of the young.

At this point, it is impossible to predict whether we will be able to implement all that PAUL FANNIN has advocated in the way of new energy sources, especially solar, and energy conservation. But it shall be done, because he has proved his case. I, for one, expect to have some words to say about his dedicated contribution to the effort when that time comes.

Mr. President, I join with my colleagues from both sides of the aisle in wishing PAUL and Elma all the good things life has to offer. PAUL, you will be in our thoughts as long as we continue to serve. We will profit by your example.

Mr. GARN. Mr. President, I am happy to join my colleagues in paying tribute to the character and career of Senator PAUL FANNIN, the distinguished Senator from my neighboring State of Arizona, who is retiring at the end of this term.

I first met Senator FANNIN in September of 1974, while I was still a candidate for the Senate. He impressed me then as a man of quiet strength and keen ability, with a humbleness that belied his many great accomplishments. He was elected three times as Governor of Arizona, and twice elected to represent that good State in the Senate, and he has established a fine record in his 12 years here. His record is one which I would certainly be proud to look back on.

I would be proud of it because Senator FANNIN and I have rarely differed in our votes in this body. We have rarely found ourselves on opposite sides of an issue. We share the same basic philosophy of government, and I am proud to have been associated with Senator FANNIN on so many legislative occasions.

He has been a long and a strong advocate for the correction of abuses in burgeoning labor unions, recognizing their rights, but also their limitations, and has fought for equitable treatment for both organized labor and management. He has been an active member of the Senate Finance Committee, where he served with my predecessor from Utah, Senator Wallace Bennett, from whom I have also heard a great many good things about this man from Arizona. He has fought hard for fiscal responsibility, and introduced a resolution calling for a balanced budget long before it became politically fashionable and embraced, in theory, by nearly every candidate on the horizon. He had the courage and conviction to initiate and support this and other fiscal reforms, including the budgetary reforms in the Congress.

As the ranking minority member of the Senate Committee on Interior and Insular Affairs, Senator FANNIN has developed an overriding concern for the energy needs of our country. His understanding of those needs goes back to his own professional experience in the petroleum distribution industry, and his careful attention to his committee responsibilities, particularly as the ranking Republican on the National Fuels and Energy Policy Study Subcommittee of the Interior Committee. Based on the background and understanding that he has developed in this experience, Senator FANNIN took a major role in securing the passage of legislation authorizing the Alaska pipeline, which will aid so materially in meeting our national energy needs.

The list of his achievements goes on and on, and my colleagues have cited others. But perhaps as important as any single accomplishment is the basic goodness of this fine individual with whom we have had the good fortune to associate. I do not think any Member of this body can disagree that here is a thoughtful man, and a considerate man, and a generous and gracious man. He has given me, a freshman Member of the Senate, a fine example of the statesmanship and decency that should characterize a U.S. Senator. I extend my thanks to him for the privilege of his friendship and the very best of wishes for a pleasant retirement in what I know will be the continued service of his country.

Mr. PERCY. Mr. President, I am pleased to have this opportunity to recognize and commend a fellow Republican and a distinguished colleague, Senator PAUL H. FANNIN, on the eve of his retirement from the U.S. Senate.

For nearly two decades, Senator FANNIN has devoted his time and energy to public service. When he served as Governor of Arizona and as U.S. Senator from Arizona, his many accomplishments were a service to the people of his State and the entire Nation. I well remember that I called him to discuss my own Senate candidacy more than a decade ago, and I am pleased to say that the advice and counsel he gave me at the time proved to be not only very helpful but absolutely sound.

Senator FANNIN and I have agreed on many issues over the past 10 years and when we have not he has had my deep respect for the manner in which he has presented his beliefs.

He has distinguished himself in many ways but particularly as a strong advocate of the goals of Project Independence to make us less dependent on foreign energy sources. His work in this regard has been outstanding and in the national interest. I also want to commend him for his knowledge of solar energy, a renewable source of energy which will clearly be used more and more in the future. We thank Senator FANNIN for the leadership and vision he has shown in this field.

We all wish him well and again express our gratitude to him for his service to the Senate and the Nation. I shall always value his friendship and counsel.

RESPONSE OF SENATOR FANNIN TO TRIBUTES IN HIS BEHALF

Mr. FANNIN. Mr. President, I thank my colleagues for the kind remarks they have made about me this morning. They have been more than generous in their praises. I feel very inadequate to respond.

My service in the U.S. Senate has been the most rewarding experience of my lifetime. My membership in this body gave me the opportunity to work with the finest leaders in this Nation.

Mr. President, it has been my good fortune to take Senator BARRY GOLDWATER's seat in the U.S. Senate when he ran for the Presidency of the United States. He had the right to run for both offices, both the Senate and the Presidency, but because of his keen sense of responsibility he did not think it proper to do so. This is just one attribute that indicates why we consider Senator BARRY GOLDWATER one of the great Americans of our day.

It was also my good fortune to serve with the venerable Senator Carl Hayden, of my State, who served longer in Congress than has any Member. He was a fine statesman, President pro tempore of the Senate, and one of the most beloved Senators that ever served in this body. It was my pleasure to serve with him on the Interior and Insular Affairs Committee. He was a tower of strength on that committee, and together we worked on many projects important to our State.

When I first came to Washington, I was given the privilege of serving on the Interior and Insular Affairs Committee, which has given me the chance to work on programs tremendously important to this Nation and especially to Western States, including my State of Arizona—projects such as the development of lands, of oil, of coal, of water, and of all the natural resources of this country.

It was my good fortune to arrive in the Senate at a time when the central Arizona project was being considered, which will be the greatest project that has ever been built in my State of Arizona.

On the Interior Committee, it was only proper that I have the opportunity to work on the Indian programs of our Nation. We have more Indian reservations in Arizona, larger areas of land, than any other State in the United States. In fact, we have more than half of all the Indian reservation land in this country.

Fortunately, I arrived at a time when Indian education programs were being developed. Shortly after serving on the Labor and Public Welfare Committee, we were able to have an Indian education program that included a study as to just what should be done in the future as far as Indian education was concerned.

This was of vast importance to the State of Arizona and occupied over 3 years of activity before we did arrive at a conclusion with a report as to what should be done in regard to Indian education.

During my term in the U.S. Senate, I have been privileged to work on programs for our native Americans. The last bill that it has been my good fortune to participate in is the Indian Health Care Improvement Act, which is the largest health program that has ever been developed for Indian people. This program will be of great benefit to our first Americans.

I feel very confident that the President will sign this particular bill.

Mr. President, I have had many privileges being in the U.S. Senate. The privilege of working with leaders of the committees, the chairmen of these committees has given me great opportunities to carry forward some of the programs on which I had worked before I entered public life.

It is my intention to continue my work in the field of energy. That was my vocation and avocation before I entered the Senate and has been a priority interest to me during my two terms in the Senate.

It was very unfortunate that we had problems on energy that have come to a very critical period in the last few years. I was very proud that I did have the background and experience in this field and could participate in helping solve some of these problems.

Mr. President, I intend, when I leave the Senate, to give priority to this type activity. Development of alternative sources of energy will be my goal as I reenter private industry.

Mr. President, I can never repay my colleagues for the many contributions they have made to me during the last 12 years. I will greatly miss the camaraderie I have enjoyed so much in associating with the outstanding Members of this U.S. Senate.

Mr. President, it is always difficult to express appreciation for so many privileges that have been given to a person serving in public office. I feel that I owe so much to so many. I can only say thank you to all of those who made it possible for me to enjoy this work.

EXTENSION OF TIME FOR TRIBUTE TO SENATORS FONG AND FANNIN

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all Senators may have 10 days in which to insert their statements of tribute in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

At 10:04 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that:

The House agrees to the amendments of the Senate to the following bills:

H.R. 3954. An act to amend title 10 of the United States Code, to provide for an exclusive remedy against the United States in suits based upon medical malpractice on the part of military or civilian medical personnel of the armed forces, and for other purposes; and

H.R. 11407. An act to amend title 14, United States Code, to authorize the admission of additional foreign nationals to the Coast Guard Academy.

The House insists upon its amendments to the bill (S. 3557) to authorize the appropriation of funds necessary during the fiscal year 1977 to implement the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. MORGAN, Mr. ZABLOCKI, Mr. FASCELL, Mr. ROSENTHAL, Mr. SOLARZ, Mr. BROOMFIELD, and Mr. WINN were appointed managers of the conference on the part of the House.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14260) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1977, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 3, 5, 21, 23, 26, and 27 and concurs therein; and that the House recedes from its disagreement to the amendments of the Senate numbered 7, 17, 20, 24, and 35 and concurs therein, each with an amendment in which it requests the concurrence of the Senate.

The Speaker has appointed Mr. FLORIO, Mr. RUSSO, and Mr. DEVINE to be additional managers on the part of the House to the conference requested by the House on the disagreeing votes of the two Houses to the bill (S. 3131) to amend the Rail Passenger Service Act to provide financing for the National Railroad Passenger Corporation, and for other purposes.

The House has passed without amendment the following Senate bills:

S. 3734. An act to approve the sale of certain naval vessels, and for other purposes; and

S. 3843. An act to name the Visitors' Center at the Sleeping Bear Dunes National Lakeshore the "Philip A. Hart Visitors' Center."

The House recedes from its disagreement to the amendment of the Senate to the bill (H.R. 12168) to amend the Natural Gas Pipeline Safety Act of 1968 to authorize additional appropriations, and for other purposes and concurs therein with an amendment in which it requests the concurrence of the Senate.

The House recedes from its disagreement to the amendment of the Senate to the bill (H.R. 5546) to amend the Public Health Service Act to revise and extend the programs of assistance under title VII for training in the health and allied health professions, to revise the National Health Service Corps program, and the National Health Service Corps scholarship training program, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

The House has passed the following bill and joint resolution in which it requests the concurrence of the Senate:

H.R. 4345. An act to amend the Act entitled "An Act to authorize the sale of certain public lands in Alaska to the Catholic Bishop of Northern Alaska for use as a mission school", approved August 8, 1953; and

H.J. Res. 1105. A joint resolution making continuing appropriations for the fiscal year 1977, and for other purposes.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the following bill:

H.R. 12838. An act to amend and extend the National Foundation on the Arts and Humanities Act of 1965, to provide for the improvement of museum services, to establish a challenge grant program, and for other purposes.

ENROLLED BILLS SIGNED

The Speaker has signed the following enrolled bills:

H.R. 4583. An act for the relief of Rosina C. Beltran.

H.R. 5446. An act to implement the Convention on the International Regulations for Preventing Collisions at Sea, 1972.

H.R. 12831. An act for the relief of Mo Chong-Pu.

H.R. 13374. An act to provide for a national wildlife refuge in the Minnesota River Valley, and for other purposes.

H.R. 15552. An act to amend title 18, United States Code, to implement the "Convention To Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion That Are of International Significance" and the "Convention on the Provision and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents", and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. METCALF).

HOUSE JOINT RESOLUTION REFERRED

The joint resolution (H.J. Res. 1105) making appropriations for the fiscal year 1977, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, September 28, 1976, he presented to the President of the United States the following enrolled bills:

S. 866. An act for the relief of Patrick Andre Tasselin.

S. 3485. An act for the relief of Orlando Garzon.

S. 3380. An act for the relief of Miss Mary Vance Trent.

S. 3651. An act to amend the Alaska Native Claims Settlement Act to provide for the withdrawal of lands for the village of Klukwan, Alaska, and for other purposes.

SUPPLEMENTAL DEFENSE APPROPRIATIONS, 1977

The PRESIDING OFFICER (Mr. NUNN). Under the previous order, the Senate will now proceed to the consideration of House Joint Resolution 1096, which the clerk will state.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 1096) making supplemental appropriations for the Department of Defense for the repair and replacement of facilities on Guam damaged or destroyed by Typhoon Pamela, and for other purposes.

The Senate proceeded to consider the joint resolution which had been reported from the Committee on Appropriations with amendments.

Mr. McCLELLAN. Mr. President, the pending business, House Joint Resolution 1096, provides supplemental appropriations for the Department of Defense for repair and replacement of facilities on Guam damaged or destroyed by a typhoon, and for other purposes.

The committee recommends several amendments to this resolution and provides additional appropriations of an urgent nature for requirements that are needed before adjournment of this Congress.

The House joint resolution as passed by the House included only the transition period appropriation for typhoon damage on Guam in the amount of $163.1 million. The committee recommendation provides $115.3 million in new budget authority for this same appropriation, a reduction of $47.8 million under the House allowance and $73.7 million below the budget request. The Guam typhoon items are discussed on pages 2 through 4 of the report.

The committee recommendations include the following items requested by the President which were not considered by the House:

The full budget request of $200 million for payment of claims resulting from the failure of the Teton Dam in Idaho.

The full budget request to enable payment of claims and judgments rendered against the United States, as contained in House Document 94-603.

Full budget request of $1 million for refunds under the Renegotiation Act.

Additionally, the committee recommends an appropriation of $2.1 million if required for the orderly transition of one Presidential administration to the next.

Mr. President, all of these additional items have been closely coordinated with the House Appropriations Committee and I believe it would be fair to say that the House committee concurs that these items which we have included should be handled in this bill before us.

In all, the recommendations provide for a total of $365.4 million in new budget authority, an increase of $202.3 million above the House allowance and a reduction of $71.6 million under the total supplemental request.

Mr. President, on Friday, September 24, the President transmitted an additional supplemental appropriation request for the Postal Service. The committee was aware that this request was being formulated and agreed to await the transmittal of the request before including the funds in this vehicle. Now that it has been submitted, we shall expect an amendment to include this item in the bill also.

Now, Mr. President, the committee agreed that it would do everything possible it could to handle this bill expeditiously because of the approaching sine die adjournment. Therefore, it hopes that only urgent items for which there is a budget request, if any, or for other urgent requirements would be included in this bill. The House committee, I am advised, concurs in this position. I, therefore, ask that amendments, except for the items I mentioned, not be offered to this bill.

Mr. President, it is hoped we can keep this bill intact from amendment that would delay or obstruct the expeditious proceeding with it to enactment and thus enable the Senate to finish its work in time for adjustment as scheduled.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the resolution, as amended, be considered as original text for the purpose of amendment, provided, that no point of order shall be considered as waived by reason of this agreement.

The **PRESIDING OFFICER**. Is there objection?

Mr. **ABOUREZK**. Mr. President, reserving the right to object, may I ask the chairman if the committee amendments deal only with the supplemental appropriations? Do they deal with anything else except the supplemental appropriations?

Mr. **McCLELLAN**. No, it is a supplemental bill. A supplemental appropriation.

Mr. **ABOUREZK**. But the amendments the Senator is bringing up now.

Mr. **McCLELLAN**. They are in the bill, reported in the bill before the Senate.

Mr. **ABOUREZK**. Very well. I have no objection.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

On page 1, line 5, after "1976," insert "the fiscal year ending September 30, 1977,";

On page 2, line 1, insert "DEPARTMENT OF DEFENSE MILITARY";

On page 2, line 4, after "Guam," insert "for the period ending September 30, 1976,";

On page 2, line 5, strike "$163,073,000" and insert "$115,312,000, and in addition, $18,639,000, of which $8,600,000 shall be derived by transfer from "Military Personnel, Navy, 1976", $3,700,000 shall be derived by transfer from "Military Personnel, Army, 1976" and $6,339,000 shall be derived by transfer from "Aircraft Procurement, Air Force, 1976/1978",";

On page 2, line 13, strike "$19,960,000" and insert "$10,890,000";

On page 2, line 15, strike "$10,940,000" and insert "$7,749,000";

On page 2, line 17, strike "$67,300,000" and insert "$61,684,000";

On page 2, line 19, strike "$24,400,000" and insert "$24,537,000";

On page 2, line 21, strike "$40,373,000" and insert "$29,091,000";

On page 3, line 3, strike "$20,121,000" and insert "$16,841,000";

On page 3, beginning with line 5, strike out through line 16;

On page 3, beginning with line 17, insert the following:

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

CONSTRUCTION AND REHABILITATION

For an additional amount for "Construction and Rehabilitation," for the fiscal year 1977, $200,000,000, to remain available until expended: *Provided*, That this additional amount may be made available without reimbursement: *Provided further*, That this appropriation is for the payment of claims for damages to or loss of property, personal injury, or death proximately resulting from the failure on June 5, 1976, of the Teton River Dam, in accordance with Public Law 94–400 and such rules and regulations of the Secretary of the Interior as may be necessary and proper for the purpose of administering such claims and of determining the amounts to be allowed pursuant to this appropriation and the persons entitled to receive the same: *Provided further*, That nothing herein shall be construed to impose any liability on the United States or to allow for payment of claims that are paid or payable from any other source, public or private.

DEPARTMENT OF THE TREASURY

Claims and Judgments

For payment of claims settled and determined by departments and agencies in accord with law and judgments rendered against the United States by the United States Court of Claims and United States district courts, as set forth in House Document Numbered 94–603, Ninety-fourth Congress, $46,951,838, together with such amounts as may be necessary to pay interest (as and when specified in such judgments or provided by law) and such additional sums due to increases in rates of exchange as may be necessary to pay claims in foreign currency: *Provided*, That no judgment herein appropriated for shall be paid until it shall become final and conclusive against the United States by failure of the parties to appeal or otherwise: *Provided further*, That, unless otherwise specifically required by law or by judgment, payment of interest wherever appropriated for herein shall not continue for more than thirty days after the date of approval of the Act.

GENERAL SERVICES ADMINISTRATION

Refunds Under Renegotiation Act

For necessary expenses to carry out section 201(f) of the Renegotiation Act of 1951 (50 U.S.C. App. 1231(f)), for the fiscal year 1977, $1,000,000, to remain available until expended.

Expenses, Presidential Transition

For an additional amount to carry out the provisions of the Presidential Transition Act of 1963, as amended (3 U.S.C. 102, Note), $2,100,000, to remain available until September 30, 1977.

Mr. **McCLELLAN**. Mr. President, I yield to the distinguished Senator from North Dakota (Mr. YOUNG).

Mr. **YOUNG**. Mr. President, I support the comments of the distinguished chairman of the Committee on Appriopriations (Mr. McCLELLAN).

The House supplemental appropriations bill referred to the committee contained funds for the Department of Defense to provide for the repair and replacement of facilities on Guam damaged or destroyed by Typhoon Pamela. The bill we reported here today has included additional funds which were not considered by the House.

The distinguished chairman has already indicated the funding contained in this bill for the repair and restoration of damage on Guam as well as the additional items that were not considered by the House. The biggest and most significant of the additional items added by the committee is the $200 million for payment of claims resulting from the failure of the Teton Dam in Idaho.

This $365.3 million bill provides $115.3 million for the transition period ending September 30 for Guam, and $250 million is for fiscal year 1977. Overall, the committee recommendation is $73.6 million below the budget estimate for the transition period and $2.1 million above the budget estimate for fiscal year 1977.

Mr. President, the funds contained in this bill have been fully justified, and I recommend passage of the bill as reported by the committee except for one or two amendments, such as the funds need for the Postal Service that may be urgently needed.

Mr. **JOHNSTON**. Mr. President, one of the most pressing items within this bill relates to supplemental funding for restoration of military facilities on Guam which were damaged or destroyed by Typhoon Pamela on May 21 of this year. While this geographic area is subject to major storms with uncomfortable regularity, Pamela was uniquely destructive. Maximum winds exceeded 170 miles per hour, with over 7 hours of sustained winds greater than 115 miles per hour. Approximately 24 inches of rain fell during the major part of the storm—most of it horizontal due to the force of the wind. Needless to say, damage to installations on the island was both heavy and extensive, with many facilities totally destroyed.

The President requested $189 million in new supplemental appropriations to respond to this disaster. The committee is recommending new appropriations of $115,312,000, entirely for construction and family housing, or $73,688,000 below the request. This adjustment reflects reduction in operation and maintenance funds to only that amount actually obligated in the transition quarter—which is to be accomplished by transfer of funds rather than new appropriations—and deletion of projects which are not contained in the companion Senate authorization bill. The committee recommendation is also $47,761,000 below House allowances. For the information of the members, I ask unanimous consent that a chart containing greater detail be printed in the RECORD at the end of my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit 1.)

Mr. **JOHNSTON**. Mr. President, I do not feel it necessary to speak at any length on this subject. It is not controversial, since the requirement for a continuing and adequate military capability in the area dictates facility restoration. Timing is critical, however, in that so little time remains in this session for action. If we do not appropriate these necessary funds now, the soonest we can address the matter again is February or March of next year, with attendant disruption to planning and effective accomplishment of repairs. I therefore strongly recommend that the Senate support and expedite enactment of this measure.

EXHIBIT 1

SUPPLEMENTAL APPROPRIATIONS FOR GUAM TYPHOON DAMAGE

[In thousands of dollars]

	Supplemental request	House action	Additional adjustment	Committee recommendation
Operation and maintenance	44,136	−13,236	−30,900	[1] (18,639)
Operation and maintenance, Navy	30,846	−10,886	−19,960	(10,890)
Operation and maintenance, Air Force	13,290	−2,350	−10,940	(7,749)
Military construction	104,491	−12,691	−5,579	86,221
Military construction, Navy	77,869	−10,469	−5,716	61,684
Military construction, Air Force	26,622	−2,222	+137	24,537
Defense family housing	40,373	----------	−11,282	29,091
Construction, Navy	12,250	----------	----------	12,250
Construction, Air Force	20,121	----------	−3,280	16,841
Operation and maintenance	8,002	----------	−8,002	----------
Total	189,000	−25,927	−47,761	115,312

[1] No new appropriations provided. Parenthetical amounts to be transferred within existing budget authority.

The PRESIDING OFFICER. The bill is open to amendment.

UP AMENDMENT NO. 487

Mr. BELLMON. Mr. President, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. Bellmon) proposes an unprinted amendment numbered 487.

The amendment is as follows:

On page 5, after line 5, insert the following:

U.S. POSTAL SERVICE

Payment to the Postal Service Fund

For an additional amount for "Payment to the Postal Service Fund" for fiscal year 1976 and for the period July 1, 1976, through September 30, 1976, $500,000,000, to remain available until expended.

Mr. BELLMON. Mr. President, are we under any time limitation?

The PRESIDING OFFICER. Thirty minutes to each side, to be divided equally.

Mr. BELLMON. I yield myself 5 minutes.

Mr. President, this amendment proposes $500 million for the U.S. Postal Service to be applied to the existing debt as of September 30, 1976. This amount was authorized by H.R. 8603, the Postal Reorganization Act Amendments of 1976, which was approved by the President on September 24, 1976. This act further authorizes a second appropriation of $500 million to be applied against the existing debt as of September 30, 1977.

The amendment before us now includes $500 million that is intended to be expended during the transition quarter, as was included in the second concurrent resolution on the budget. I want to make that very clear, Mr. President, that we are intending that this money be expended during the transition quarter and not carried over into fiscal year 1977. There will be an amount of $500 million considered during 1977 by the Appropriations Committee, but this fund is intended to be used during the transition quarter.

The Appropriations Subcommittee on Treasury, Postal Service, and General Government has received testimony from Postmaster General Benjamin F. Bailar as to the serious financial crisis facing the Postal Service. From an initial equity position of $1.7 billion in 1971, its first year of operation, the Postal Service is now $3.0 billion in debt and the debt is anticipated to increase to $4.5 billion by the end of fiscal year 1977.

In addition to the two $500 million emergency appropriations, H.R. 8603 provided for the creation of a temporary Study Commission to review the operations of the Postal Service and report their findings and recommendations to the President and the Congress by March 15, 1977. Pending receipt of their recommendations, the act places a moratorium on increases in postal rates or reductions in service to the public.

Appropriation of the initial $500 million to be applied against the accumulated operating indebtedness as of September 30, 1976, will allow the Postal Service to continue the present level of service at the current postal rates.

I recommend acceptance of this amendment by the distinguished chairman of the Appropriations Committee.

Mr. President, I will be glad to yield to the distinguished chairman of the Appropriations Committee.

Mr. McCLELLAN. Mr. President, the Appropriations Committee was advised that this request was being considered by the President and would come to the Senate before this bill was acted upon. It is necessary to provide this money to meet the fiscal crisis confronting the Postal Service. I know of no objection to the amendment. Therefore, I am prepared to accept it, unless there is objection.

The PRESIDING OFFICER. Is all time yielded back?

Mr. McCLELLAN. All time on the amendment is yielded back.

Mr. BELLMON. I yield back my remaining time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I wonder if the Senator from Alabama would find it agreeable to holding off on the vote until we see if there are any other amendments to be offered. Then we can vote on this amendment with the understanding that we will go to third reading.

Mr. McCLELLAN. Mr. President, are there any other amendments? Does anyone know of any other amendments to the bill? If not, Mr. President, I ask unanimous consent that immediately following the rollcall on the pending amendment there be third reading on the bill.

Mr. ROBERT C. BYRD. Without any intervening debate, motions, or amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Oklahoma. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Florida (Mr. (Mr. Chiles), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Wyoming (Mr. McGee), the Senator from New Hampshire (Mr. McIntyre), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Georgia (Mr. Talmadge), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that the Senator from Ohio (Mr. Glenn), the Senator from Montana (Mr. Mansfield), and the Senator from South Dakota (Mr. McGovern) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Nebraska (Mr. Curtis), the Senator from Kansas (Mr. Dole), the Senator from Wyoming (Mr. Hansen), and the Senator from New York (Mr. Javits) are necessarily absent.

The result was announced—yeas 63, nays 14, as follows:

[Rollcall Vote No. 655 Leg.]

YEAS—63

Abourezk
Baker
Bartlett
Bellmon
Biden
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Eastland
Fong
Ford
Garn
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Hruska
Huddleston
Inouye
Jackson
Kennedy
Leahy
Long
Magnuson
Mathias
McClellan
Metcalf
Morgan
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Thurmond
Tower
Williams
Young

NAYS—14

Allen
Church
Fannin
Goldwater
Gravel
Helms
Hollings
Johnston
Laxalt
McClure
Nunn
Proxmire
Scott,
William L.
Weicker

NOT VOTING—23

Bayh
Beall
Bentsen
Brock
Buckley
Cannon
Chiles
Curtis
Dole
Glenn
Hansen
Hart, Philip A.
Hartke
Humphrey
Javits
Mansfield
McGee
McGovern
McIntyre
Mondale
Montoya
Talmadge
Tunney

So Mr. BELLMON's amendment was agreed to.

Mr. THURMOND. Mr. President, I rise in support of House Joint Resolution 1096 which provides supplemental appropriations for the Department of Defense for the repair and replacement of facilities on Guam damaged or destroyed by Typhon Pamela.

This storm, which struck in May of 1976, caused extensive damage mainly due to the fact that many of the facilities on Guam were of World War II vintage.

Mr. President, the Defense Department sought $144.8 million to repair and replace the facilities damaged. The House allowed $136.1 million and the Senate $106.4.

In closing, I urge my colleagues to act favorably on the bill in order that work may begin as soon as possible to rebuild this vital base.

The PRESIDING OFFICER. The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the joint resolution.

The amendments were ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution (H.J. Res. 1096) was read the third time, and passed.

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLELLAN. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. NUNN) appointed Mr. MCCLELLAN, Mr. STENNIS, Mr. PASTORE, Mr. INOUYE, Mr. JOHNSTON, Mr. YOUNG, Mr. HATFIELD, Mr. STEVENS, and Mr. BELLMON conferees on the part of the Senate.

CONGAREE SWAMP NATIONAL MONUMENT

Mr. JOHNSTON. Mr. President, from the Committee on Interior and Insular Affairs, I ask unanimous consent that I may report H.R. 11891, the Congaree Park bill.

The PRESIDING OFFICER. Without objection, the report (No. 94–1311) will be received and printed.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 11891.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Mr. President, what is that bill again?

Mr. JOHNSTON. That is the Congaree Park bill. There is no controversy, no debate.

Mr. ABOUREZK. All right.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, what is the number of that bill?

Mr. JOHNSTON. That is H.R. 11891, which is the Congaree Park in South Carolina.

Mr. ROBERT C. BYRD. I wish to make sure I have no request from any Senators on that, and I see none.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

> A bill (H.R. 11891) to authorize the establishment of the Congaree Swamp National Monument in the State of South Carolina, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which was reported from the Committee on Interior and Insular Affairs with an amendment on page 4, to strike out lines 3 through 8, and insert in lieu thereof:

> SEC. 5. (a) The Secretary may not expend more than $35,500,000 from the Land and Water Conservation Fund for land acquisition nor more than $500,000 for the development of essential facilities.

Mr. THURMOND. Mr. President, I rise in support of H.R. 11891, a bill designating a section of the Congaree Swamp in South Carolina as a national monument.

The Congaree Swamp is a unique forested lowland area, lying primarily along the north bank of the Congaree River, approximately 20 miles southeast of Columbia, S.C. The bill authorizes the acquisition of all or any portion of that section of the swamp known as the Beidler tract, consisting of about 15,000 acres.

Mr. President, the Congaree Swamp has been called the greatest unprotected forest on the continent and with substantial good reason. The uniqueness and intrinsic value of this forested bottom are based on the near virgin state of its community of southern hardwood trees, including many aged specimen trees of gigantic proportions. Among these 200- to 400-year-old giants are 5 national record trees and 17 South Carolina record specimens.

The forest that covers most of the Beidler tract is the last major old growth stand of its type in the Southeast, as all other substantial virgin hardwood forests have been subjected to at least some logging by the timber industry. Within this tract is found a typical southern river bottom hardwood forest containing magnificent trees of the following species: Sweetgum, blackgum, swamp white oak, southern red oak, willow oak, black oak, water tupelo, baldcyprus, and loblolly pine. A 1959 preliminary National Park Service study of the scenic, scientific, historical, and recreational values of the Congaree Swamp concluded that "a biological community of rare quality and considerable scientific value exist." These preliminary findings were reinforced by later Park Service investigations which found no other area in the Southeast of comparable geological and biological significance. Recently, the South Carolina Wildlife and Marine Resources Department studied the Beidler tract of the swamp and concluded that:

> The geological and biological attributes of the area are in themselves worthy of National recognition and all the more so since they are unique.

In addition to its unique community of virgin hardwood of immense size and old age, Congaree Swamp has invaluable scientific value because of the well preserved ecological story of the development of the Congaree River channels through the ages. This is the significant geological attribute alluded to in the National Park Service and South Carolina Wildlife and Marine Resources Department studies.

Through the aeons of time, the Congaree River has shifted its course through the area numerous times. These past channels of the Congaree are easily recognizable over the whole of the swamp. Shallow, elongated curved lakes—known as dead rivers—sloughs and the distribution of tree species such as cottonwoods, occur throughout the swamp and are obvious indications of these abandoned river courses. These natural geological features tell a remarkable ecological story, which gives further reasons to protect and interpret a representative portion of the swamp for the enlightenment of the visiting public.

Additionally, over 100 bird species are known from the Beilder tract, including several rare nesting records of birds such as Swainson's warbler, Louisiana heron, swallow-tailed kite, and the Mississippi kite. Those who have extensively studied the flora and fauna of the Congaree believe that the uncut portions of the Beidler tract provide the mature hardwood forest habitat necessary for less common bird species unable to survive except in such protected areas.

The previously mentioned unique and outstanding features of the Congaree Swamp have been known by a relatively small group of naturalists for some time. Efforts to preserve a portion of the swamp for posterity have been going on, with varying degrees of intensity, for over 20 years. However, in the early 1970's, local and State environmental groups learned that the Beidler family had initiated a systematic harvesting of overly mature timber on their Congaree lands. A Congaree Swamp National Preserve Association was formed for the purpose of informing the public of the values of the area and the need for preservation.

Mr. President, because the Beidler tract of the Congaree Swamp contains a unique, near-virgin, river bottom hardwood forest that is the last of its kind; because of the remarkable size of many of the trees and the likelihood of more record trees in the future if the forest is protected; because of the intriguing geological story of the development of the Congaree River through time, which is evident in the landscape of the area; and because there is no other natural area of similar resource values now in the national park system; I believe the preservation of a limited, carefully selected portion of the Congaree Swamp for the benefit of present and future generations of Americans is justified. I, therefore, urge prompt enactment of this legislation.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed the question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question, is, Shall it pass?

The bill (H.R. 11891), as amended, was passed.

AMENDMENT OF THE SERVICE CONTRACT ACT OF 1965

Mr. STONE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 15246.

The Presiding Officer laid before the Senate H.R. 15246, an act to amend the Service Contract Act of 1965 to provide that all employees, other than bona fide executive, administrative, or professional employees, shall be considered to be service employees for purposes of such act, and for other purposes, which was read twice by its title.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. STONE. Mr. President, I ask that for the time being this bill be retained on second reading.

The PRESIDING OFFICER. Without. objection, it is so ordered.

MESSAGE FROM THE HOUSE

ENROLLED BILLS SIGNED

A message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 10339. An act to encourage the direct marketing of agricultural commodities from farmers to consumers.

H.R. 12838. An act to amend and extend the National Foundation on the Arts and Humanities Act of 1965, to provide for the improvement of museum services, to establish a challenge grant program, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

TOXIC SUBSTANCES CONTROL ACT—CONFERENCE REPORT

The PRESIDING OFFICER (Mr. STONE). Under the previous order, the Senate will now proceed to the consideration of the conference report on S. 3149, which will be stated by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3149) to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFCER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of September 23, 1976, beginning at page 32132.)

Mr. MAGNUSON. Mr. President, today the Senate will take final action on S. 3149, the Toxic Substances Control Act. This legislation is, in my opinion, the most important environmental legislation to come before the 94th Congress.

In 1971, the Council on Environmental Quality in a report entitled, "Toxic Substances," concluded that regulatory mechanisms to control toxic chemicals were seriously inadequate. This report was the impetus for the original legislation on toxic substances that was introduced in the 92d Congress.

In the 6 years since the introduction of this original legislation, over 16 days of hearings and literally thousands of hours have been spent refining this legislation. The need for this legislation has been increasingly clear as ever-growing lists of chemical substances such as vinyl chloride, arsenic, asbestos, mercury, lead, PCB's, PBB's, fluorocarbons, BCME, sulfuric acid, and many others have been shown to pose potential dangers to man and the environment.

Dr. David Rall, Director of the National Institute of Environmental Health Science of the National Institute of Health, stated:

> Man is assaulted by these compounds alone and in combination from multiple sources. This problem constitutes possibly the major health hazard of this decade.

An important aspect of the growing concern with the lack of control of chemicals entering our environment stems from the estimates of the National Cancer Institute and the World Health Organization that from 60 to 90 percent of cancer is environmentally induced.

Mr. President, it is no accident that a comprehensive study carried out by the National Cancer Institute throughout this country found that the so-called hot spots for cancer are in close proximity to those locations where the chemical industry is most highly concentrated, and it is at these locations that the greatest incidence of bladder, lung, liver, and other cancers have been found. In fact, during the past 5-year period, there have been in excess of 1 million deaths in this country from cancer, and the cost of cancer in the United States is now in excess of $18 billion per year.

It is the goal of this legislation to provide a means of preventing suffering, death, and environmental damage rather than merely reacting to it. It is my view that the conference has done an excellent job of meeting this goal. This legislation is strong, fair, and comprehensive. It closes many significant gaps in our environmental laws.

For example, in the past, the primary stumbling block to agreement between the House and Senate on the Toxic Substances Control Act in the Committee on Conference has been in regard to the question of premarket notification. I am extremely pleased to state that the conference has now agreed on a strong premarket notification provision which requires that 90 days prior to marketing of new chemicals or existing substances for a significant new use, manufacturers must supply EPA with information in order that EPA can assess the safety of these chemicals. None of the other environmental health statutes, except pesticides, drug and food additive laws, and fuel additives, provide for premarket review by appropriate regulatory officials. In my view, this provision is the heart of the act. This provision will end once and for all the present situation where chemicals can be marketed without notification of any governmental body and without any requirement that they be tested for safety. Thus, this provision would no longer allow the public or the environment to be used as a testing ground for the safety of these products.

It is important to note that we have gained these important benefits without placing an unreasonable financial burden on the chemical industry. The chemical industry in this country has grown to the point where its annual sales exceed $100 billion a year. In light of the potential for protecting the health and environment of the American public the costs are extremely reasonable.

In the key provisions of the bill, costs are not to be incurred unless the Administrator determines that they are offset by benefits of at least the same magnitude. Obviously it is not feasible to match these kinds of determinations just on the basis of quantitative comparisons. The burdens of human suffering and premature death are extraordinary. However, this legislation has carefully dealt, as I stated before, with the economic aspects of the act. In order to delineate the effects of this act, I will now describe some of the important provisions of the Toxic Substances Control Act.

TESTING OF CHEMICAL SUBSTANCES AND MIXTURE

The conference substitute grants broad authority to the Administrator of EPA to require testing of chemical substances and mixtures. The conference substitute requires the Administrator to establish testing rules in either of two instances. First, if the manufacture, distribution, or processing, use, or disposal of the chemical substance may present an unreasonable risk of injury to health or the environment and other findings are made, the Administrator must require testing. Second, if a substance is or will be produced in substantial quantities and it either enters or may be reasonably anticipated to enter the environment in substantial quantities or if there is or may be significant or substantial human exposure, the Administrator must also require testing if the other additional findings are made.

An exemption procedure is provided to avoid the submission of duplicative data by a person subject to a testing requirement. In those instances, a cost-sharing procedure is also provided.

An interagency advisory committee is established to assist the Administrator in establishing testing priorities.

MANUFACTURING AND PROCESSING NOTICES

Ninety days prior to first manufacture, manufacturers of new chemical substances must give notice to EPA. In addition, manufacturers or processors of chemical substances for a use which has been identified by the Administrator as a significant new use must also give notice. A variety of information is required to be submitted with the notice, including such data as the identity of the chemical, categories of proposed use, estimates of the amount to be manufactured or processed, a description of byproducts, any test data in the possession or control of the person giving notice, and a description of any other data known by the person or reasonably ascertainable.

The requirement that manufacturing and processing notices be given for significant new uses of chemical substances is extremely important. As chemical substances frequently are not manufactured in large volumes or for a large number of uses initially, the authority to require notification for these substances as uses mount or as volumes increase is extremely important. A key element in the Administrator's determinations of significant new use is the requirement that he consider health or environmental threats that may arise through the manufacture, processing, distribution in commerce, or disposal of the chemical substance.

Thus, notification will occur with respect to significant new threats arising from any of these activities if it is associated with a different use. Of course, changes in the types of exposure, volume of the substance manufactured or processed, and other factors will obviously go into determination by the Administrator of what is a significant new use. The Administrator is expected to promulgate rules concerning significant new uses by categories in order to avoid a multiplicity of rulemaking proceedings.

Determinations of what is or is not a new chemical substance is made through the establishment of an inventory of chemical substances under section 8(b). If a substance does not appear on the inventory, then it must go through premarket notification 90 days prior to first manufacture.

As chemical substances are rarely manufactured in an entirely pure state, it is intended that references to chemical substances include contaminants thereof. The statement of managers states explicitly that the Environmental Protection Agency is to establish guidelines on how the contaminant question is to be treated for purposes of the different sections of the act. With respect to the 8(b) inventory and its relationship to premarket notification, EPA must be careful not to define contaminants too broadly with respect to substances on the section 8(b) inventory. If EPA were to do so, then there would be no premarket notification for chemical substances with new or different contaminants than those which appear on the section 8(b) inventory.

While it may be appropriate to include all contaminants within the requirements of a rule under section 6(a) or other provisions along with the principal chemical substance, it may be inappropriate to do so insofar as it relates to the premarket notification provisions of section 5.

EPA is required to take action against a chemical substance under section 5 if there is an insufficient amount of data available and the substance either may present an unreasonable risk of injury or results in substantial environmental exposure or significant or substantial human exposure. The procedure for prohibiting or limiting a chemical substance on this basis is the same as the procedure now in existence under section 701(e) of the Federal Food, Drug, and Cosmetic Act. Under that procedure as it will be applicable to this act, the Administrator is required to issue a proposed order prohibiting or limiting the manufacture, processing, distribution in commerce, use, or disposal of the substance. If he makes the finding within the last 45 days of the premarket notification period, or an extension, he is required to seek an injunction to prohibit or limit the substance.

If a proposed order is issued prior to the last 45 days of the notification period, the manufacturer or processor is authorized to file, within 30 days after the manufacturer or processor has received notice, specific objections with the Administrator. If those objections are filed, then the Administrator must seek an injunction in order to halt or limit the substance.

The objections filed with the Administrator must be specific and must state with particularity the provisions of the order deemed objectionable. As the entire procedure is similar to that contained under section 701(e) of the Federal Food, Drug and Cosmetic Act, the provision will operate in the same manner.

For example, under the case law developed pursuant to that section—*Pfizer, Inc.* v. *Richardson*, C.A.2, 1970, 434 F. 2d 536—as it applies to this act, the Administrator may require that reasonable grounds be stated by a manufacturer or processor as a condition for recognizing that objections have been filed. Thus, under the procedure adopted by the conference, the Administrator may indeed exercise flexibility in determining whether or not objections have been filed and thus whether or not his order is rendered ineffective.

If the Administrator determines that valid objections have been filed, then he is required either to seek an injunction or to dismiss the order. If he decides the objections are not reasonable, then the proposed order becomes effective upon the expiration of the premarket notification. Any manufacturer who disagrees with the Administrator's determination that the grounds are not reasonable is entitled to judicial review under chapter 7 of title 5, United States Code.

The conference substitute also provides a means for the Administrator to take immediate action against those substances for which there is a reasonable basis to conclude that a substance presents, or will present, an unreasonable risk of injury to health or the environment. The Administrator must either make a rule immediately effective which limits the manufacture, processing, or distribution in commerce, or which imposes use or disposal requirements of a chemical substance or he must seek an injunction in court. If he wishes to completely prohibit the manufacture, processing, or distribution in commerce of a substance, he must follow the procedure outlined above as it relates to situations where there is an insufficient amount of data.

Thus, the goals of the Senate bill, which were to give the Administrator wide flexibility during the pre-market notification period to halt or limit chemicals, has been preserved. This is the heart of the bill.

In each instance described above where the Administrator must give notice to a manufacturer or processor of a proposed order, actual notice in writing must be provided. As a manufacturer or processor may refuse to receive written notice of the proposed order and thereby thwart the actual notice requirement, if such a situation arises, and the Administrator has made a reasonable attempt to give notice, the notification procedure should be deemed to be fulfilled.

The conference substitute contains a requirement that the Administrator respond during the premarket notification period if the Administrator declines to take action during it to halt or limit a chemical substance. This was included in the Senate bill and has been retained for the most part in the conference substitute.

It is intended that the response as outlined in the report of the Senate Committee on Commerce be utilized not only for responses during the premarket notification period but the required response of the Administrator to designated chemicals under the section 4 interagency advisory committee list as well. In the context of premarket notification, it is anticipated that the Administrator's response must be, if action is not taken, that no unreasonable risk exists or that a testing need does not exist. In the context of the section 4 advisory committee list, the response should be, if the Administrator does not initiate a testing requirement rule, that none is necessary.

PROTECTION FROM UNREASONABLE RISKS

The conference substitute, as did the Senate bill, requires the Administrator to impose restrictions on a chemical substance or mixture if the Administrator finds that such substance or mixture presents, or will present, an unreasonable risk of injury to health or the environment. A variety of regulatory tools are available, ranging from complete prohibitions to mere labeling requirements.

The conference substitute also contains an important provision relating to the controls of PCB's. Within 1 year, PCB's may not be used in any manner other than in a totally enclosed manner unless the Administrator makes specific exceptions. Within 2 years, manufacture is to cease and within 2½ years, processing and distribution in commerce. Again, exceptions are provided.

The conference substitute also contains the authority to act against imminent hazards, which is defined as an unreasonable risk of serious or widespread injury to health or the environment.

It should be noted that a specific reference is made in the imminent hazard authority and in the authority to take action under section 6 that articles containing substances or mixtures may be reached as well. While this is meant to ease the burden on the Administrator and the court in reaching such articles, it should in no way be interpreted as a limitation on the authority of the Administrator or the court to act against chemical substances and mixtures, as clearly defined in section 3 of the conference substitute.

IMMINENT HAZARDS AUTHORITY

The conference substitute requires the Administrator to seek action either in court or through administrative action when imminent hazards exist. An imminent hazard is defined as an unreasonable risk of serious or widespread injury to health or the environment which is likely to result before a final rule under section 6 can protect against the risk.

REPORTING

A vital provision of the conference substitute is section 8, which describes the authority of the Administrator to require recordkeeping and reports from manufacturers or processors, and in some cases other persons, with respect to information concerning chemical substances. The authority will be vital in determining what substances are being produced, what they are being produced for, and other information.

The general reporting requirements generally reach manufacturers or processors of chemical substances. Manufacturers or processors of mixtures or chemicals produced in small quantities for research purposes are to maintain records and submit reports to the Administrator as the Administrator determines is necessary for the effective enforcement of this act. Used in this context, the phrase "effective enforcement of this act," and elsewhere in the bill as well, should be used broadly. It is not meant to imply that such records and reports may only be required in order to effectively bring an enforcement action under section 16. Rather, it should be interpreted to mean requiring records and gathering reports so that the authorities of the act may be indeed invoked, if necessary.

JUDICIAL REVIEW

Among the more important provisions is the section calling for judicial review of certain rules promulgated under the act. Of importance is the fact that certain of them receive "substantial evidence" review by reviewing courts. While the "substantial evidence" review extends to rules under section 4(a), it is not anticipated that this review standard will unduly hinder the Administrator. As testing requirements under section 4(a) will frequently be based on an insufficiency of data, it would ordinarily not be appropriate for the Administrator to develop "substantial evidence" of that insufficiency.

Nonetheless, if a reasonable effort to find data which indicates that the health or environmental effects of a chemical substance may be determined and does not find such information, the Administrator should be deemed to have fulfilled the substantial evidence requirement. With respect to substances for which premarket notification is required, the Administrator should not be required to look beyond the notification documents.

ATTORNEY'S FEES

Under the judicial review procedures, as well as those relating to citizens' petitions, citizens' suits, and the rulemaking procedures under section 6, provide for the award of attorneys' fees. A brief discussion of those provisions would be appropriate.

The conference substitute before us contains important provisions relating to the award of attorneys' fees. These provisions, including the judicial review provisions of section 19, the citizens' suit provisions of section 20, and the citizens' petition provisions of section 21, allow a court to award costs of suit and reasonable fees where appropriate. So that the legislative history accompanying these provisions is consistent, I ask unanimous consent that a discussion of these provisions by the distinguished Senator from California (Mr. TUNNEY) which appeared in the CONGRESSIONAL RECORD of March 26, 1976, be printed in the RECORD at this point.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Legislative History To Accompany Model Attorneys' Fees Provision

Mr. TUNNEY. Mr. President, attorneys' fees provisions appear in a number of places throughout this legislation. These provisions allow a court to award costs of suit and reasonable fees where "appropriate." These provisions are very important to the proper vindication of rights under this legislation. I would like to offer some explanation which in my opinion will clarify the operation of those provisions.

Until recently, the courts often provided for effective actions by private citizens through the award of costs and fees, even in the absence of specific statutory authorization, under the "private attorney general" rationale. However, in a recent decision. Alyeska Pipeline Service Co. against Wilderness Society, the Supreme Court held that—

"Court lacked discretionary power to award attorneys' fees to petitioners who sought to vindicate "important statutory rights for all citizens" . . . unless there was specific statutory authorization for such awards . . . The circumstances under which attorneys' fees are to be awarded and the range of discretion in the court for making those awards are matters for Congress to determine."

In light of that decision, the fees and costs provisions of this legislation follow the precedent of over 50 Federal statutes in permitting fee shifting by the courts.

This provision would allow an award of fees and costs to any party when "appropriate," a word which should liberally construed to effectuate the purposes of this act. Thus, in typical circumstances, the court should follow prevailing case law which holds that a successful plaintiff "should ordinarily recover an attorneys' fee unless special circumstances would render such an award unjust." *Newman* v. *Piggie Park Enterprises, Inc.*, 390 U.S. 400, 402 (1968) (per curiam). "Plaintiff" in the sense is used to mean the parties seeking to enforce the rights granted by this section and can include an intervenor, or a defendant in some cases. See e.g., *Shelby* v. *Kramer*, 334 U.S. 1 (1948).

In exceptional circumstances, fees and costs might also be awarded to defendants where they must "defend against unreasonable frivolous, meritless or vexations actions * * * *United States Steel Corp.* v. *United States*, 385 F. Supp. 340, 318 (W.D. Pa. 1974). Where plaintiff's proceeding is brought in good faith or on the advice of competent counsel, fees and costs would ordinarily be denied to a prevailing defendant. *Richardson* v. *Hotel Corporation of America*, 332 F. Supp. 519 (E.D. La. 1971), aff'd 408 F. 2d 951 (5th Cir. 1972). The standard for awarding fees and costs to a prevailing defendant is not the same as for a plaintiff because, if it were, the risk, to the average citizen of bringing suit under this section would be so great it would discourage such suits.

Fees and costs would be awarded to a "successful plaintiff" under this provision where there was a final court order granting the relief requested by plaintiffs, or as a matter of interim relief pending the outcome of the case. The provision does not require the entry of a final order before fees or costs may be recovered. See *Bradley* v. *School Board of the City of Richmond*, 416 U.S. 606 (1974); *Mills* v. *Electric Auto-Lite Co.*, 396 U.S. 375 (1970). Such awards are especially important where a party has prevailed on an important matter in the course of the litigation even where he does not ultimately prevail on all the issues. See *Bradley*, supra, and *Mills*, supra. For purposes of the award of fees and costs, it is "appropriate" to make awards where the parties have vindicated rights through a consent judgment or without formally obtaining relief, or where such award is in the public interest without regard to the outcome of the litigation. *Kopet* v. *Esquire Realty Co.*, 523 F. 1095 (2d Cir. 1975); *Parham* v. *Southwestern Bell Telephone Co.*, 433 F. 2d 421 (8th Cir. 1970); *Richards* v. *Griffith Rubber Mills*. 300 F. Supp. 338 (D. Ore. 1969); *Thomas* v. *Honeybrook Mints, Inc.*, 428 F. 2d 931 (3d Cir. 1970).

By specifying a general rule for the amount of fees to be awarded, this provision requires the method of calculating fees be no different than that now being utilized in other fields of law as, for example antitrust and securities regulation litigation. The "actual time" spent is that reasonably calculated to advance the client's interest, *The Stanford Daily* v. *Zurcher*, 64 F.R.D. 680 (N.D. Cal. 1974), and the amount can be adjusted for factors including inter alia, the contingent nature of the success or the quality of the work performed. *Lindy Bros. Builders* v. *American Radiator & Standard Sanitary Corp.*, 487 F. 2d 161 (3d Cir. 1973), on remand. 382 F. Supp. 999 (E.D. Pa. 1974), or benefits to the public from the suit. *Davis* v. *County of Los Angeles*, 8 E.P.D. 9444 (C.D. Cal. 1974). Fees should not be reduced merely because the attorneys are salaried employees of public interest and or foundations-funded law firms.

Fees and costs awarded under this provision may be assessed against the United States, including any of its agencies and officers acting in an official capacity, the same as against a private party.

Finally, since expert witnesses are often needed to make an adequate presentation to a court such fees are also provided for in this statute. They would be in addition to those now provided in 28 U.S.C. 1920 and 28 U.S.C. 1821.

The policy outlined above should apply to the procedures under section 23 to the extent applicable.

Mr. MAGNUSON. In addition, so that the legislative history may be consistent in both the House and the Senate with respect to the costs of participating in a rulemaking proceeding under section 6, I ask unanimous consent that a portion of the report of the House Interstate and Foreign Commerce Committee—report No. 94–1341—regarding the award of the costs of participating in a rulemaking proceeding under section 6 be inserted in the RECORD at this point.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT OF REPORT

In order to provide to the extent possible that all relevant interests be represented in rulemaking proceedings so that the rules adopted best serve the public interest, the Administrator is authorized to provide compensation for reasonable attorneys' fees, expert witness fees, and other costs of participating in the rulemaking proceeding. Such fees and costs may be provided to any person who represents an interest which will substantially contribute to a fair determination of the issues to be resolved in the proceeding if the economic interest of the person is small in comparison to the costs of effective participation by that person in the proceeding or if the person demonstrates to the satisfaction of the Administrator that the person does not have sufficient resources to participate in the proceeding in the absence of compensation. In determining if a person represents an interest which will substantially contribute to a fair determination of the issues, the Administrator is to take into account the number and complexity of the issues and whether representation of such interest will contribute to widespread public participation and to representation of a fair balance of interests for the resolution of the issues.

In determining whether compensation should be provided and the amount of such compensation, the Administrator shall take into account the financial burden which will be incurred as a result of participation. However, the Committee does not intend to imply that in all instances a person must be able to demonstrate a financial burden before the Administrator may provide the person with compensation. Demonstration of financial burden is required unless a person has an economic interest which is small in comparison to the costs of effective participation in the proceeding. Thus when the economic interest is small, no showing of financial burden is required. However, in light of the possibility that there may be competing requests for assistance in connection with proceedings under this section, a consideration of financial burden will be relevant in determining who should be the recipients of compensation and the amount of compensation. In considering the financial burden to be incurred, the Administrator should not look solely at the costs of participating in the section 6 proceeding, but should instead view such costs in light of the overall activities of the person applying for compensation and the person's resources. For example, a person requesting compensation could show that such person represents interests which may require participation in other judicial or administrative proceedings and that such participation might have to be curtailed or limited because of a commitment of resources to the proceeding with respect to which such request made and the Administrator should consider such information.

A determination of reasonable attorneys' and expert witnesses' fees should not be influenced by the fact that a person is a salaried employee of a public interest or foundation funded organization. The Committee intends that reasonable fees be those which are commensurate with those at which such professionals would normally be compensated for performance of similar services. The fact that attorneys or experts may be employed by citizens' groups or foundations at salaries or hourly rates which may be below the standard commercial rates such professionals might normally receive is not relevant to any computation of the rate of compensation under the bill. Even in situations where a lawyer or expert initially renders services without expectation of receiving any compensation, fees are to be awarded at prevailing market rates. It may well be that an attorney will agree to provide representation of an interest in a proceeding because of a belief that such representation furthers a public interest. Representation of such interests should not have to rely upon the charity of counsel. This intent reflects the well-settled judicial rule that fee awards are to be made without reference to the fee arrangements that exist between an attorney and client. As the court stated in *Miller* v. *Amusement Enterprises, Inc.*, 426 F. 2d 532, 538–539 (5th Cir. 1970):

"What is required is not an obligation to pay attorneys' fees. Rather what—and all—that is required is the existence of a relationship of attorney and client, a status which exists wholly independently of compensation."

Similarly, the United States Court of Appeals for the District of Columbia Circuit has ruled that fee awards in litigation undertaken to further the public interest must be computed so as to bring the attorneys' rate of compensation up to that of the prevailing market rate. See *Wilderness Society* v. *Morton*, 495 F. 2d 1026, 1037 (D.C. Cir. 1974), reversed on other grounds, sub nom. *Alyeska Pipeline Co.* v. *Wilderness Society*, 421 U.S. 240 (1975), and *National Treasury Employees* v. *Nixon*, 521 F. 2d 317, (1975). Provision is made in section 19 (judicial review), section 20 (citizen's civil action), and section 21 (citizens' petition) for the award of reasonable attorneys' and expert witnesses' fees in actions under such sections. The considerations enumerated here respecting a determination of the reasonableness of a fee also apply to those sections.

Mr. MAGNUSON. As the award of attorneys' fees under section 6, and the provisions of sections 19, 20, and 21 is not restricted to plaintiffs or to successful parties, an additional explanation of what is intended with respect to these provisions is also appropriate.

It is not the intention of these provisions to provide an award for an individual or a group if that individual or group may stand to gain significant economic benefits through participation in the proceeding. It is also intended to discourage individuals who may stand to benefit economically from the proceeding from joining with other individuals for the purpose of forming an organization to obtain compensation for participation in an agency proceeding under this act. A group or organization that has members who may have some economic interest in a proceeding would not necessarily be excluded, particularly if that interest cannot be said to have motivated those members' involvement in that group or organization.

It is not intended that the provisions support participation of persons, including corporations or trade associations, that could otherwise afford to participate or whose economic interest in the outcome of a proceeding is not insubstantial. Whether or not the person's resources are sufficient to enable participation would include consideration of the person or group's potential utilization of tax deductions for participation in litigation as a business expense, his current financial condition, and an assessment of the likelihood that the person would seek to participate in the proceeding whether or not compensation was available.

AVAILABILITY OF INFORMATION

The provisions of section 14, concerning the release of information to the public obtained by the Administrator under the act, generally follows other statutes of this nature. Some important distinctions arise, however. Under the conference substitute, for example, the Administrator is required to release information to the public if necessary to protect against an unreasonable risk of injury to health or the environment.

Moreover, with the exception of process data and mixture composition, the statute states clearly that health and safety studies and information bearing on them are not prohibited from disclosure and, under the terms of the Freedom of Information Act, must be disclosed if requested. Moreover, this kind of information is required to be made public when it is received by the Administrator under the provisions of section 4, concerning the testing of chemical substances and mixtures, and section 5, premarket notification.

A procedure is provided for the designation by persons submitting data which is entitled to confidential treatment under the provisions of section 14. Before releasing data so designated, the Administrator must give 30 days notice to the person submitting it.

The designation authority does not extend to data from health and safety studies. Moreover, if the Administrator proposes to release information if necessary to protect against unreasonable risk of injury to health or the environment, a 15-day notification will suffice. If it is necessary to protect against an imminent, unreasonable risk of injury to health or the environment, a 24-hour notice will suffice.

While the notice is to be made in writing by certified mail—unless it is necessary to protect against an imminent, unreasonable risk—this procedure should not prove onerous to the Administrator when desiring to release. As the requirement that notification be in writing by certified mail, it is obvious that by refusing to accept a certified letter from the Administrator, a person may effectively thwart this procedure. Thus, it is intended that the notification will be deemed to be satisfied if reasonable attempts have been made to deliver the notification to the person submitting information. A return receipt is not required.

Mr. President, the Toxic Substances Control Act represents over 5 years of work by the Congress. It is high time that this program got underway without further delay. I urge the acceptance of the conference report.

Mr. HARTKE. Mr. President, it is rare that the Senate has the opportunity to establish a program for the protection of health and the environment which enjoys the wide support as does the Toxic Substances Control Act. The conference report which is now before the Senate is supported not only by environmentalists and organized labor, but is also supported by many elements of the chemical industry.

This is especially significant given the bitterness and divisiveness which has surrounded this issue through its 6-year history in the Congress. The differences between the Senate position and the House position were extraordinary in the early years of this bill's history. Nonetheless, in this Congress, as evidence of the chemical threat has continued to grow, the principles for which the Senate has fought so long have become a reality.

While the struggle has continued on this bill, approximately 5,000 new chemical substances have reached commercial fruition. Moreover, the hazards associated with existing chemicals like heavy metals, vinyl chloride, PCB's, PBB's, and BCME have all dramatically come to the public's attention. From the slaughter of cattle in Michigan due to PBB contamination to the condemnation of large quantities of fish from Lake Michigan because of PCB contamination, the environmental and health threat due to chemical substances has continued to be etched in our consciousness.

During this period, there have been in excess of 1 million deaths from cancer. Over a million infants have been born with birth defects of one type or another. In fact, approximately 7 percent of all infants born in this country have some sort of physical or mental impairment.

While I had some reservations with respect to this legislation when it was originally introduced in the first session, I am happy to lend my enthusiastic support for it now and was pleased, along with the distinguished Senator from California, to be an original cosponsor of the bill as it passed the Senate.

The essential elements of the program which were contained in the Senate bill have been preserved in the conference substitute. Broad authority to require testing of known and existing substances is provided as is appropriate authority for the Administrator to act during the premarket notification period with respect to new substances and significant new uses of existing substances.

Authority is given to the Administrator, with sufficient safeguards against administrative abuse, to take action against substances found to pose unreasonable risks.

Importantly, the Administrator will have clear direction as to when this statute is to be used as opposed to his other authorities or authorities possessed by other agencies. While the direction is clear in the statute, safeguards have been incorporated which will prevent endless litigation on this point. Reporting authority is authorized so that the Administrator may require that records be kept and reports made with respect to the full range of activities associated with the manufacture and processing of chemical substances.

Health and safety data generated by manufacturers, processors, or distributors in commerce shall be retained and listed with the Administrator. This is designed to prevent data available to the industry from being buried as it was alleged in the case of vinyl chloride. Records must be kept of any significant adverse reaction to health or the environment caused by a chemical substance and submitted to the Administrator upon request.

Citizens are authorized to bring suit against violators of the act and against the Administartor for nonperformance of mandatory duties. Citizens' petitions are authorized which will force the Administrator to be more responsive to the needs of citizens in the establishment of rules under the act.

Protections have been built in which will prevent undue burdens on small business. For example, the reporting requirements of section 8 of the conference substitute may not be invoked for small businesses unless the small business is covered by a proposed or a final rule or order under various sections of the act. While EPA must have access to reporting information from small business for the purpose of developing appropriate restrictions and requirements under the act, this provision will ensure that EPA not do so arbtrarily.

Moreover, the Administrator is given the authority to exempt persons from the premarket notification requirements applicable to new chemical substances if the Administator determines that a substance will not present an unreasonable risk of injury to health or the environment. So that manufacturers or processors do not have to submit duplicative test data under section 4, an exemption procedure is also provided. Two explicitly stated bases for determining what amount of reimbursement will be required is the market shares of the company seeking the exemption, and its competitive position. Thus, a small manufacturer or processor will not be unduly burdened by testing costs.

The broad acceptance that this legislation has now received is an indication that the rather outlandish estimates of the costs of this legislation made last year by the chemical industry have been largely discounted. While estimates from Dow Chemical ranged up to $2 billion per year, and the estimates of the Manufacturing Chemists Association ranged from $340 million to $1.4 billion per year, EPA estimated that the cost would range from $80 to $140 million per year. The General Accounting Office, at the request of the Committee on Commerce, agreed largely with EPA's estimate and stated that the cost would probably run between $100 and $200 million per year. This cost is obviously very slight when compared to the tremendous benefits not only in direct expenditures in health care, but with respect to pain and suffering as well.

And while this legislation has gained acceptance by the mainstream of the chemical industry, it is also acceptable to environmental, public health, and labor groups, such as the AFL–CIO, the Sierra Club, Environmental Action, Congresswatch, and others.

It is rare that this kind of combination of support exists behind any program, let alone a program designed to protect against chemical threats to health or the environment. It would be a great disservice to the people whom we in the Senate serve to do anything other than approve this conference report by a resounding majority. I urge my colleagues to do so.

Mr. MAGNUSON. I yield to the Senator from Utah.

Mr. MOSS. Mr. President, I support my chairman, the chairman of the Committee on Commerce, in his remarks concerning the Toxic Substances Control Act.

Mr. MAGNUSON. Mr. President, if the Senator will yield just a moment, I wish to add that the Senator from Utah, the Senator from California (Mr. TUNNEY), and the Senator from Indiana (Mr. HARTKE) have played a very important role not only in the hearings on this bill, but in carrying this bill through the Senate and the conference. As I say, there were many, many meetings of the conferees and they were stalwarts in keeping the Senate bill as intact as possible. We did have to make some concessions, but had it not been for them, I do not think we would have the kind of a conference report that we have before the Senate today.

I ask unanimous consent, since he is necessarily absent, to have printed in the RECORD a statement from the Senator from California (Mr. TUNNEY) on this conference report.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR TUNNEY

Oftentimes we in the Senate are tempted to place labels on legislation such as "landmark", "historic", or some other suitable adjective.

While those words are obviously overworked in this great body, I nonetheless feel that they fit the Toxic Substances Control Act very well.

As the Senate today considers the conference report on the Toxic Substances Control Act, it would be well to reflect just for a few moments on the tortuous path this legislation has followed in getting to this point.

The legislation was first introduced in the spring of 1971 as a result of a report from the Council on Environmental Quality which indicated that there was not, at that time (and there still isn't), a statutory authority in existence which would deal comprehensively with chemical substances such as phosphates in detergents, mercury and other heavy metals, asbestos, and so on. The proposal at that time was viewed largely as an environmental bill designed to plug gaps that existed in the environmental control framework.

It soon became readily apparent that this authority had a far greater utility. Most importantly, it can serve as the vehicle for establishing whether or not a new chemical substance (or a significant new use of an existing substance) has been adequately tested prior to first manufacture and if a sufficient amount of data exists, to take appropriate regulatory action. It is at this point in the life of a chemical substance that appropriate controls may most easily be imposed. It is at this time that the costs in terms of occupational danger, damage to the environment, and capital outlays are at their very lowest. We have found time and time again, as is the case with chemicals like vinyl chloride, that the imposition of necessary controls when a substance is in place in the channels of commerce is extremely difficult.

It is around this key provision that much of the controversy has raged over the life of this legislation. In 1972, the Senate passed the legislation with a strong pre-market notification provision. Unfortunately, the House bill did not contain a similar provision, and the bill died because time ran out in the 92nd Congress.

The provision also was the subject of extreme controversy in the 93rd Congress. Again, the Senate passed a strong provision and the House did not. That bill remained before a committee of conference for approximately one and one half years, without resolution.

In this Congress, there has been significant movement on the part of the House of Representatives which has resulted in the agreement we have before us today.

The many tragedies which have come to light within the past 3 years indicate that while it has been a long and difficult task to get a strong pre-market notification provision, it has been worth it. Scientific journals and the popular press have been filled with accounts of how chemicals like vinyl chloride, BCME, PCB's, and asbestos are causing far graver threats to human health than we had previously thought. All of these chemicals have now been implicated as causing cancer and other grave health effects. Nonetheless, all of them are also used in very large quantities and have become so interwined with the economic fabric of this country that control now is extremely difficult.

While many of the health effects to which human beings are at risk has declined in recent years, cancer has not. In fact, cancer incidence has been estimated in 1975 to be some two and a half percent above the previous year. That much of the increased incidence in cancer is due in major part to the use of chemicals in this country is largely beyond debate. The National Cancer Institute has estimated that from 50 to 90 percent of all cancers are environmentally caused. While much of this is due to cigarette smoking, much is not.

Had this statute been in existence when chemicals now known to cause major health effects began production or as their uses mounted, we could well have avoided much of the pain and anguish that accompanies occupational disease and public health and environmental threats generally.

It is extremely important to recognize that the conference substitute before the Senate today contains the authority for the Administrator to require premarket notification before manufacture or processing of substances for significant new uses is begun. Thus, as the volume of a chemical substance mounts, or as its uses change, EPA will have the authority to make sure that test data is available and that appropriate restrictions are imposed prior to the exposure taking place.

I am happy to say that I have been a principal sponsor of this legislation since my joining the Committee on Commerce nearly four years ago. During that time, I have chaired day after day of hearings during which the grim tale of the kinds of human suffering that chemicals may cause has unfolded. Statistics concerning disease and death suddenly take on very clear meaning when one is seated across a hearing table from the surviving family of workers who have died from chemically induced cancer.

The essential elements of a strong toxic substances control program are included in the conference substitute. It provides for premarket notification for all new chemical substances, and it provides for adequate authority during that period to take action. If the Administrator finds that there is insufficient data or experience with respect to a chemical and the substance may present an unreasonable risk or if he finds merely that a substance will result in substantial environmental or significant or substantial human exposure, the Administrator must issue proposed orders to halt or restrict the chemical pending the development of the data. While the Administrator must go to court to get an injunction if objections are filed by the manufacturer or processor, it is clear that the Administrator will have a great deal of flexibility to determine whether or not the objections are valid.

Moreover, if the Administrator finds that a substance presents or will present an unreasonable risk of injury to health or the environment, the Administrator must act to prohibit or limit the chemical substance during the pre-market notification period.

Importantly, the conference substitute contains adequate provision for citizen input to the administrative process. Citizens may bring suit against violators of the Act if EPA has not acted against them and to force EPA to act with respect to nondiscretionary duties. In addition, citizens may petition EPA for the issuance of certain rules and orders under the Act. If EPA does not respond within 90 days, or responds in the negative, citizens may bring suit to force the Administrator to initiate the action. All of us have an interest in ensuring that agencies of the Federal Government are more responsive to the needs of citizens. The provisions contained in the Toxic Substances Control Act should be an effective means to ensure that bureaucratic lethargy does not prevent the appropriate administration of this vital authority.

I am delighted that the Senate today will take final action on an authority which Russell Train, Administrator of EPA, has called the most important environmental measure before this Congress.

I could not agree more.

Mr. MOSS. Mr. President, as was pointed out by the Senator from Washington, this is a complicated and difficult bill to write and on which to reach an agreement with the House of Representatives. But it is of immense importance to the health and welfare of our people and to the environment in which we live. Each day's newspapers carry some additional story about problems that we have with chemicals and toxic substances that, in various ways, impinge upon the health of our people and contaminate our water supply, our food supply, and create other health and environmental threats.

This bill will now establish a control mechanism, so that we can be sure that we are not exposing humans and the environment to toxic substances before we can determine whether or not they have deleterious effect and before effective action can be taken.

We live in an age of chemistry and technology. We do so many good things with chemistry and technology, but we have been quite oblivious to what the total effect of these new chemical processes may be. We are now attempting to be certain that nothing is loosed upon our people in the way of chemical or toxic substances without our knowing what the fallout will be. If it is going to be damaging, then, of course, it must be prevented.

I wanted to add just that brief comment because this has been a long and difficult process. The conference was lengthy, but the conference report which is before the Senate represents a reasonable compromise with the House of Representative, and I urge its adoption.

Mr. MAGNUSON. Mr. President, will the Senator yield at that point?

Mr. MOSS. I yield.

Mr. MAGNUSON. Locally, of course, we have been reading a great deal about the disaster involving Kepone. It is precisely this type of disaster that this bill is designed to prevent.

Mr. MOSS. Right.

Mr. MAGNUSON. No question about it. That is why the law is so important. In the future things like this almost unbelievable disaster, will not happen

Mr. PEARSON. Mr. President, agreement by the Senate and House conferees on a compromise Toxic Substances Control Act marks a major achievement of the 94th Congress. For nearly 6 years, legislation regarding the control of toxic substances has been before the Congress; during the 93d Congress, Senate and House conferees were unable to agree on a compromise bill. During that same time period, an estimated 5,000 new chemicals have been introduced into the commercial marketplace and have served to increase the number of known different chemicals to over 2,000,000. Final congressional action on the Toxic Substances Control Act comes at a time when the need to protect the American public from the harmful effects associated with toxic chemical substances has never been greater.

As my colleagues will recall, the Senate passed S. 3149, the Toxic Substances Control Act, on March 26, 1976, by a vote of 60 to 13. Final House passage on a very similar bill, H.R. 14032, occurred on August 23, 1976, by a 319 to 45 vote. The conference report that we are now considering was then forged by the respective Senate-House conferees and represents a compromise that has been unanimously agreed to by all conferees.

The vast majority of commercially available chemicals have served to enormously increase our standard of living and have been in large measure responsible for dramatic improvements and advances in agricultural production, medical research and technology, and a myriad of new and innovative products available to the consumer. There are also, however, a small number of highly toxic chemical substances that have been commercially produced and marketed that have been responsible for enormous damage. The tragic human suffering and environmental degradation associated with such chemical substances as Kepone, vinyl chloride, mercury, and PCB's are well known. To a large degree, our continued failure to adequately test and regulate chemical substances, both during the premarket period and after the chemical is in commercial production, has been responsible for such tragedies. Enactment of the Toxic Substances Control Act will enable this Nation to gain the type of control necessary to adequately and effectively deal with this problem.

Enactment of this bill would:

Provide the means by which adverse affects on human health and the environment can be ascertained and appropriate action taken before chemical substances are first manufactured commercially and introduced into the marketplace.

Provide for an ongoing mechanism that would ensure that the EPA Administrator would continually have access to new information developed regarding adverse health or environmental effects associated with chemical substances. Appropriate action necessary to adequately protect against unreasonable risks associated with chemical substances could then be taken.

Provide for specific prohibitions regarding the manufacture, use, and disposal of PCB's, a widely used and long-lived toxic chemical substance.

Require the Administrator to balance the various costs, risks, and benefits associated with chemical substances in determining adequate measures to regulate such substances.

Highlight the need to adequately protect against adverse human health or environmental effects resulting from the manufacture, distribution, use, and disposal of chemical substances.

Provide for both citizens law suits and petitions to ensure adequate and viable public input with respect to the effective administration of the bill.

Mr. President, the Toxic Substances Control Act as agreed upon by Senate and House conferees has received widespread and overwhelming support from all major environmental and consumer protection groups and major and small chemical manufacturers. The compromise bill provides for far-reaching and much needed controls over the manufacture, distribution, use and disposal of chemical substances, both at the critical premarket stage as well as during subsequent production stages, while at the same time requiring that the EPA administrator carry out the provisions of the act in a reasonable and prudent manner. In addition, and a point emphasized by the conferees, the Administrator is to use the least burdensome means of regulating a chemical substance consistent with providing adequate protection to human health and the environment from unreasonable risks associated with the manufacture, distribution, use, and disposal of chemical substances. Thus, adequate and meaningful regulatory controls are available to the EPA Administrator to protect against unreasonable risks associated with toxic chemical substances while at the same time insuring that such regulations take into consideration the enormous benefits associated with the manufacture and use of safe chemical substances.

Mr. President, this legislation is long overdue. I strongly urge my colleagues to accept the Toxic Substances Control Act as agreed upon by the Senate-House conferees.

Mr. DURKIN. Mr. President, for the past 8 years, the Nixon-Ford administration has waged an intensive effort to prevent enactment of meaningful toxic substance control legislation. Their partner in this effort has been the mammoth petrochemical industry, which has sent legions of pin-striped lawyers to Capitol Hill to squash any interest in controlling harmful chemical production. The industry dangled the threat of thousands of unemployed chemical workers should such legislation be passed.

Not unrelated, during those same 8 years, at least 1,000 new chemicals were introduced into the environment each year with little or no knowledge of their long-term health or environmental effects, either for those working and living near chemical plants, or far away.

Today, we are on the verge of enactment of a toxic substance control bill in the Congress. The bill is a watered-down version of what I would call meaningful control on the production of new chemicals. It does not require premarket testing of all new chemicals. It does not provide for simple administrative mechanisms which the Environmental Protection Agency will need to effectively keep potentially harmful chemicals off the market. And it fails to authorize sufficient funds to assure full implementation even of the bill as written, let alone more strenuous enforcement and testing.

Still, it is a start, and represents years of effort by Senators MAGNUSON, TUNNEY, and HARTKE to obtain enactment of the strongest possible legislation. The bill which came out of the House-Senate conference contained everything that could be squeezed from the chemical companies and the Republican administration. Despite the advice of his own Council on Environmental Quality, President Ford may still consider a veto of the bill.

Before going any further, we ought to put one myth to rest: that toxic substance control legislation threatens the jobs of chemical workers. In fact, passage of the current bill would not have been possible without the vigorous and uncompromising support of the Nation's labor unions, who have argued rightly that their members have far more to fear from the production of harmful chemicals than legislation designed to control them. It is the chemical workers and their families who suffer the highest rates of cancer, diseases, and disabilities if a toxic substance is introduced into the environment. And it is the chemical workers who eventually would be the first to suffer from multimillion-dollar damage suits leveled against their companies in the event that another Kepone is thrust upon the market without so much as a peep from the EPA.

The last 8 years of Nixon-Ford rule have been a disaster for the environment, and for environmental health. Tons of PCB's were dumped into our water, our air, and many of the commonplace articles of daily life—the same PCB's which experts at the National Institutes of Health now fear may threaten the health of babies who are breast fed. For the last 8 years, millions of tons of asbestos were produced without control. The result will be 400,000 asbestos workers dead during the next 50 years from asbestos-caused cancer.

This legacy of environmental recklessness will be visited upon us, upon our children, and upon our grandchildren. Toxic substances introduced into the environment today may have disastrous effects on our health, our life expectancy, and the biological development of the species for decades to come. Today's profitmaking chemical may be tomorrow's birth defect or disease.

Will Lepkowski wrote in the Washington Post earlier this month about how vital our social and environmental policy is to our children:

> What is really at issue is not the ethics of protecting the least among us. That's an obvious truth. It is the need for ethics covering the entire system to determine whether the current system is the optimal one for nurturing biological and social evolution. If the children are getting hurt, it needs a lot of questioning. The hopeful thing is that, thanks to scientific ways of understanding nature, we have the knowledge to start figuring out how to make the system work better for us. One might call it the ethics of adulthood.

Assuming that no one is safe might make it inconvenient at first for a lot of chemical companies. But if a fear epidemic of cancer or birth defects materializes, Lepkowski said, we will certainly regret not having done something about it while we could have. This is not an issue that can be put off for another Congress, another set of committee hearings, another round of bargaining with the chemical company lobbyists and another round of veto threats with a Republican White House.

Perhaps my concern seems extreme to some. Yet as someone who takes pride in the relative clean state of his home environment, I am also extremely concerned that New Hampshire has one of the highest cancer death rates in the country—sixth highest for women, eighth highest for men. My obligation is to help find out what is causing this disproportionate death rate, and what we can do about it. It is not an obligation to any company, to any industry, but to the children and future children of New Hampshire.

There can no longer be any question of the impact that chemicals have on health or the environment. No one knows for sure the causes of cancer. But we are reasonably sure that between 60 and 90 percent of cancer is induced by substances in the environment which we eat, breathe, or touch in some manner.

Chemicals are the No. 1 villain, and have been linked time and time again to gene mutations and birth defects, cancer, and various heart and lung diseases.

As a result, we can no longer blind our eyes to a policy which allows chemical companies to produce chemicals first and ask questions later. We ought to have all the answers in hand before we allow tons of unknown substances to be dumped willy-nilly into our environment. If there has to be a risk taken, then it ought to be by the chemical companies and their stockholders, not our children and grandchildren still to be born. Chemicals should be tested first in the laboratory, not in the environment, and the results should be complete and conclusive.

Of course, we in the Congress could enact the most stringent and meaningful toxic substance control law, and there still would be no assurance of good faith execution by the administration, especially an administration which has danced an 8-year jig with the oil companies which control the bulk of chemical production in this country. A look at the EPA enforcement record under the Ford administration is discouraging. It came as no surprise that in January of this year, three lawyers with the EPA resigned because of the continued failure of the EPA to take effective action to regulate possible cancer-causing and other toxic chemicals in our air, food, and water.

The American voter concerned about his health and his environment does himself little good electing a Democratic Congress committed to controls and a

Republican President dedicated to a free market in harmful chemicals. In the long run, perhaps we should consider altering our Government structure so that the Congress and the President are pulling in the same direction, to avoid the stalemate over this and hundreds of other issues during the past 8 years. In the short run, I hope the American voter will see the wisdom in electing both a Democratic Congress and a Democratic President, to carry on the work that still has to be done in this area.

Toxic substance control legislation will be before Congress next year. So far, we have enacted a ban on PCB's. We have required that EPA be notified of all new chemicals that are produced, and given EPA the authority to stop production of those substances which it can determine to pose a risk to the health and environment. Hopefully next year, with the cooperation of a Democratic President the Congress will put the shoe where it really belongs, and require the chemical companies to prove all their products are safe for future generations of Americans before proving they are safe for this generation of stockholders.

Mr. MAGNUSON. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. ALLEN. I call for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Wyoming (Mr. McGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Georgia (Mr. TALMADGE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD), and the Senator from South Dakota (Mr. McGOVERN) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senator from New York (Mr. JAVITS), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

I further announce that, if present and voting, the Senator from Maryland (Mr. BEALL) would vote "yea."

The result was announced—yeas 73, nays 6, as follows:

[Rollcall Vote No. 656 Leg.]

YEAS—73

Abourezk
Allen
Baker
Bayh
Bellmon
Biden
Brock
Brooke
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Eastland
Fong
Ford
Garn
Gravel
Griffin
Hart, Gary
Hartke
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Inouye
Jackson
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Thurmond
Weicker
Williams
Young

NAYS—6

Bartlett
Fannin
Helms
McClure
Scott,
  William L.
Tower

NOT VOTING—21

Beall
Bentsen
Buckley
Cannon
Chiles
Curtis
Dole
Glenn
Goldwater
Hansen
Hart, Philip A.
Humphrey
Javits
Mansfield
McGee
McGovern
Mondale
Montoya
Packwood
Talmadge
Tunney

So the conference report was agreed to.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FOREIGN ASSISTANCE APPROPRIATIONS, 1977—CONFERENCE REPORT

Mr. INOUYE. Mr. President, I submit a report of the committee of conference on H.R. 14260 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. McINTYRE). The report will be stated by title.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14260) making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1977, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of September 21, 1976, beginning at page 31705.)

Mr. INOUYE. Mr. President, the bill, now before the Senate, emerged from conference only after difficult and lengthy negotiations. It provides for a total of $5,133,707,000 in support of the programs funded through this appropriation. While this amount is $260,058,000 below the amount provided in the Senate version of the bill, the Senate position prevailed on many important issues. It should also be noted that comparisons between the Senate and House versions tend to overstate the actual differences between the two bodies because the Senate considered some $320,550,000 in amended budget estimates which were submitted after House action on the bill.

For the four categories of functional development assistance the conference provides $856,000,000, an amount which is $41,300,000 below the amount proposed by the Senate, but $164,800,000 above that provided in fiscal year 1976. I believe that this amount, while somewhat less than the amount the Senate had hoped to secure in conference, is responsive to the needs of less developed countries for assistance in the areas of food and nutrition, population planning and health, and education and human resources development. It also provides adequate funding for technical assistance and research programs.

Mr. President, I should note at this time that the conferees agreed to the deletion of all funds proposed for bilateral assistance to Mozambique from these appropriation accounts. I can, therefore, repeat to all who have voiced concern about proposed funding of U.S. bilateral assistance programs for Mozambique and Angola the same assurance I gave on the day the Senate passed its version of this bill:

> This bill does not have any bilateral funds whatsoever that can be used, directly or indirectly, in any shape or form, in Angola or Mozambique.

This, of course, relates to the compromise worked out in the Senate in response to the administration's proposals for security supporting assistance. I am pleased to report that the Senate compromise prevailed in conference.

Senate positions were sustained on many other important matters in conference. Senate initiatives which cleared conference include:

First. Tightening of the terms of U.S. development lending. Henceforth, U.S. lending to developing countries will reflect the varying potential for economic improvement in the developing world.

Second. Control of reappropriated funds from prior years. This has been improved by requiring that reobligation of prior-year funds be restricted to the same purposes for which the funds were originally appropriated.

Third. Control of the reprograming of current year funds. While the Senate language calling for Appropriations Committee approval of reprogramings was not included in the bill, I believe that substitute language proposed by the House conferees will accomplish this very important purpose. That there may be full understanding of the intent of the conferees, I ask unanimous consent that the pertinent portion of the joint explanatory statement of the conferees be printed in the RECORD at this point:

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> "None of the funds made available under this Act for 'Food and nutrition, Develop-

ment Assistance,' 'Population planning and health, Development Assistance,' 'Education and human resources development, Development Assistance,' 'Technical assistance, energy, research, reconstruction, and selected development problems, Development Assistance,' 'International organizations and programs,' 'United Nations Environment Fund,' 'American schools and hospitals abroad,' 'Indus Basin Development Fund, grants,' 'International narcotics control,' 'Middle East special requirements fund,' 'Security supporting assistance,' 'Operating Expenses of the Agency for International Development,' 'Military assistance,' 'International military education and training,' 'Inter-American Foundation,' 'Peace Corps,' 'Cuban refugee assistance,' 'Special assistance to refugees from Cambodia, Vietnam, and Laos in the United States,' 'Migration and refugee assistance,' or 'Assistance to refugees from the Soviet Union or other Communist countries in Eastern Europe,' shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operations not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for fiscal year 1977 unless the Appropriations Committees of both Houses of the Congress are previously notified fifteen days in advance."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

It will be noted that the conferees have agreed to a modification of this provision as it appeared in Public Law 94–330 and in the Senate passed version of H.R. 14260. The conferees removed a reference to approval of the Appropriations Committees of reprogrammings and inserted in lieu thereof a reference to prior notification of the two Committees. This agreement was achieved only after protracted negotiations between the managers on the part of the House and the managers on the part of the Senate and is based on the firm expectation of the conferees that the Executive Branch will follow the historical pattern of honoring objections to the obligation of funds for activities, programs, projects, type of materiel assistance, countries or other operations not justified or in excess of the amount justified to the Appropriations Committees for obligations under any of the above mentioned specific headings.

The managers agree that any activity, program, project, type of materiel assistance, or other operation specifically set forth by recipient or country and by amount to be obligated in fiscal year 1977 in the fiscal year 1977 Congressional Presentation Document shall be deemed to have been justified and the Committees informed. Similarly, amounts not in excess of the amounts proposed therein for obligation in fiscal year 1977 shall be deemed to have been justified and the Committees informed.

Any activity, program, project, type of materiel assistance, or other operation not specifically set forth by recipient or country and by amount to be obligated in fiscal year 1977 in the fiscal year 1977 Congressional Presentation Document shall be deemed not to have been justified and the Committees not informed. Similarly, amounts in excess of the amounts proposed therein for obligation in fiscal year 1977 shall be deemed to not have been justified and the Committees not informed.

Mr. INOUYE. Mr. President, in addition to these Senate initiatives, one in particular deserves mention. The Senate conferees were able to maintain an earmarking of funds to provide direct support of Peace Corps volunteers. This action will insure that adequate funds are reserved to provide the volunteers in the field the full measure of support that they deserve. It will also provide for continued funding of the increase in volunteer readjustment allowances—an increase which the Senate initiated last year.

Insofar as our multilateral assistance programs are concerned the Senate conferees held the Senate earmarking of funds for the united national development program to $100 million, a level which provides continued strong U.S. support of this United Nations development agency.

The conferees did not provide the full amount requested by the administration for U.S. contributions to the international financial institutions. Nonetheless, I believe that the conferees have provided for a generous level of U.S. support.

Mr. President, because we often hear that the United States is not meeting its commitments to the international banks or is "lagging behind" other contributors, I ask unanimous consent to have printed in the RECORD at this point two letters having reference to appropriations of funds for the international banks. The first, written by the chairman of the Senate Appropriations Committee, makes clear the distinction between authorization and appropriation. The second is a letter which the chairman of the House Appropriations Subcommittee on Foreign Operations and I wrote to the Secretary of the Treasury making clear the position of the two committees with regard to the appropriation of callable capital.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COMMITTEE ON APPROPRIATIONS,
Washington, D.C., January 15, 1975.
Hon. WILLIAM E. SIMON,
Secretary of the Treasury, Department of the Treasury, Washington, D.C.

DEAR MR. SECRETARY: This will acknowledge your letter of January 14, 1975, advising of the decision by the Executive Branch "to agree on behalf of the United States" to pay to the International Development Association (IDA) $1.5 billion in four equal annual installments, beginning in fiscal year 1976, as the United States contribution to the Fourth Replenishment of IDA.

As the Department should be well aware, it has been the longstanding view of the Committee that only the enactment of an appropriation bill can obligate the United States to any given payment to the international development banks. To be even more specific, last year's Senate report (93–620) concerning IDA stated the following:

. . . While it [the Committee] recognizes that projected funding levels are often reached only after negotiations with other member nations, it should now be clearly understood that the Congress is not committed to any given funding level until that figure is actually appropriated.

I am strongly of the opinion that neither the Executive Branch, nor the Congress itself for that matter, can bind future congresses as to projected appropriation levels, and I question the wisdom of action which, in my opinion, would inevitably create confusion in this regard.

With kindest regards and best wishes, I am

Sincerely yours,
JOHN L. MCCLELLAN,
Chairman.

COMMITTEE ON APPROPRIATIONS,
Washington, D.C., April 30, 1976.
Hon. WILLIAM E. SIMON,
Secretary of the Treasury, Department of the Treasury, Washington, D.C.

DEAR MR. SECRETARY: This will acknowledge your letter of April 26, 1976, outlining your views on the new and ever increasing needs of the International Bank for Reconstruction and Development for an expansion of its resources.

As both committees have stated in the past, we are of the opinion that neither the Executive Branch nor the Congress itself can bind future Congresses to any projected level of future appropriations. This presents a problem in pledging which we believe can best be met by making such pledges clearly contingent upon appropriation of the amounts involved. Your willingness to do this should avoid the possibility of any misunderstanding in this regard.

In addition, it is a matter of mutual concern that the Treasury expects not only to continue but to greatly expand the highly questionable practice of pledging to the callable capital quotas of the international development banks without first seeking appropriations to support these pledges. In the instant case the full faith and credit of the United States would be committed to $1,560,000,000 in obligations of the IBRD whereas appropriations would be sought for only $156,000,000 or ten percent of this amount. Although the callable capital of the banks may constitute a "virtually risk free obligation" it is very much an obligation. We believe that upon reflection you will agree that the better and sounder practice is to seek and obtain appropriations in advance for the full amount of any such guarantees proposed to be extended to the international development banks.

Sincerely,
DANIEL K. INOUYE,
Chairman, Subcommittee on Foreign Operations.
OTTO E. PASSMAN,
Chairman, Subcommittee on Foreign Operations.

Mr. INOUYE. Mr. President, there is one action considered by the conference committee which remains incomplete and that is the elimination of "double dipping," a practice which continues only in the programs authorized by the Foreign Assistance Act and which permits certain Government retirement annuitants to receive both their full annuity and full compensation for the time they are reemployed as consultants or advisors. As I said, this is an exception to the rule which governs all other Government employees. It is an exception which should be removed. Therefore, the conferees have urged the repeal of that section of the Foreign Assistance Act which grants this exception. I hope that the authorizing committees will act promptly to see that this is done.

Mr. President, a table reflecting the amounts in the budget estimates for each item, the amounts agreed to in the House, the amounts agreed to in the Senate, and the final conference figure appears on pages 32586–32587 of the CONGRESSIONAL RECORD dated September 27, 1976.

In my remarks I have attempted to summarize the actions taken by the committee on conference. I believe that these are responsible actions. I hope that the Senate will support the achievements of the Senate conferees and vote approval of the bill.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. INOUYE. I am very happy to yield.

Mr. BROOKE. Mr. President, I commend the distinguished chairman of the subcommittee for the summation that he has made of the conference action. I think this is the best foreign aid appropriations bill that we have had in the decade that I have served in the U.S. Senate. It is an excellent bill, and I commend the chairman for the work that he has done, and the members of the staff who have worked so hard on this particular piece of legislation.

Mr. President, I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BROOKE. I thank my distinguished chairman for yielding.

Mr. INOUYE. I thank my distinguished colleague from Massachusetts for his kind words. Although I appreciate his commendation and good words, I am certain everyone knows that this work could not have been done by one person. This was a joint endeavor on the part of many Senators, particularly the good gentleman from Massachusetts.

Mr. President, I move that the conference report be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARTKE. Mr. President.

The PRESIDING OFFICER. A rollcall has started. The rollcall is under way. Does the Senator from Hawaii wish to make a statement?

Mr. ALLEN. There has been no response. The Senator should be recognized.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. HARTKE. Mr. President, I ask unanimous consent that the measure before us be laid aside temporarily without interruption in the Record.

Mr. DURKIN. Reserving the right to object, Mr. President, will the Senator explain what the request is?

The PRESIDING OFFICER. Will the Senator from Indiana state his objections to consideration of the conference report on foreign aid?

Mr. HARTKE. Mr. President—all right, go ahead.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Florida (Mr. Chiles), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Georgia (Mr. Talmadge), the Senator from California (Mr. Tunney), and the Senator from Texas (Mr. Bentsen) are necessarily absent.

I further announce that the Senator from Montana (Mr. Mansfield), the Senator from South Dakota (Mr. McGovern), and the Senator from Ohio (Mr. Glenn) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley), the Senator from Nebraska (Mr. Curtis), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Goldwater), the Senator from Wyoming (Mr. Hansen), the Senator from New York (Mr. Javits), and the Senator from Oregon (Mr. Packwood) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. Goldwater), would vote "nay."

The result was announced—yeas 56, nays 24, as follows:

[Rollcall Vote No. 657 Leg.]

YEAS—56

Abourezk
Baker
Bartlett
Bayh
Bellmon
Brock
Brooke
Bumpers
Case
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Fong
Ford
Gravel
Griffin
Hart, Gary
Hartke
Haskell
Hatfield
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Kennedy
Leahy
Magnuson
Mathias
McIntyre
Metcalf
Morgan
Moss
Muskie
Nunn
Pastore
Pearson
Pell
Percy
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Tower
Weicker
Williams

NAYS—24

Allen
Biden
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Eastland
Fannin
Garn
Helms
Hollings
Hruska
Johnston
Laxalt
Long
McClellan
McClure
Nelson
Proxmire
Randolph
Roth
Scott,
  William L.
Stennis
Thurmond
Young

NOT VOTING—20

Beall
Bentsen
Buckley
Cannon
Chiles
Curtis
Dole
Glenn
Goldwater
Hansen
Hart, Philip A.
Javits
Mansfield
McGee
McGovern
Mondale
Montoya
Packwood
Talmadge
Tunney

So the conference report was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. NELSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: $100,000,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 17 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

None of the funds made available under this Act for "Food and nutrition, Development Assistance," "Population planning and health, Development Assistance," "Education and human resources development, Development Assistance," "Technical assistance, energy, research, reconstruction, and selected development problems, Development Assistance," "International organizations and programs," "United Nations Environment Fund," "American schools and hospitals abroad," "Indus Basin Development Fund, grants," "International narcotics control," "Middle East special requirements fund," "Security supporting assistance," "Operating Expenses of the Agency for International Development," "Military assistance," "International military education and training," "Inter-American Foundation," "Peace Corps," "Cuban refugee assistance," "Special assistance to refugees from Cambodia, Vietnam, and Laos in the United States," "Migration and refugee assistance," or "Assistance to refugees from the Soviet Union or other Communist countries in Eastern Europe," shall be available for obligation for activities, programs, projects, type of material assistance, countries, or other operations not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for fiscal year 1977 unless the Appropriations Committees of both Houses of the Congress are previously notified fifteen days in advance.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 20 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: $17,500,000 shall be allocated for Cyprus, $55,000,000 shall be allocated for Portugal.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 24 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $192,000,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 35 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by the said amendment, insert: $80,000,000: *Provided*, That of this amount $49,563,000 shall be available for the direct support of volunteers: *Provided further*, That no less than $3,600,000 of this amount shall be available only for the overseas technical support of volunteers.

Mr. INOUYE. Mr. President, I move that the Senate agree to the amendments of the House to the amendments of the Senate, Nos. 7, 17, 20, 24, and 35.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Hawaii.

The motion was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. I yield to the Senator from Wisconsin.

EXPORT ADMINISTRATION ACT OF 1969

Mr. PROXMIRE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3084, a bill to extend to the Export Administration Act of 1969, as amended.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. I object.

Mr. PROXMIRE. Mr. President, would

the Senator just defer that objection for a minute?

I point out to my good friend from Alabama, this bill passed the Senate in another version. It passed the House. It came out of our committee overwhelmingly by an 11-to-2 vote.

It is a bill that would curb the Arab boycott, and it would do it in a way which I think is moderate, at least in the Senate version.

All I am asking today is that we have the opportunity to appoint conferees.

I might point out to my good friend, this is Tuesday. We expect to adjourn on Friday. If the bill comes back from conference in a form which is objectionable to the Senator from Alabama, he will have plenty of time to discuss it.

I think we all know now the power of the Senator from Alabama, his enormous knowledge of the rules, his capacity to delay activity when he wishes to do so.

Under the circumstances, would he simply let us appoint our conferees so we could have a conference and come up with something the Senate might want to consider and the Senator from Alabama might want to consider.

Mr. ALLEN. I would have no objection were it not the fact we were operating under cloture. If we would remove this cloture strain off our backs, I would have no objection to the request. As long as we are under cloture, I have to object.

Mr. PROXMIRE. May I say to my friend that he has been willing to permit us to take up one conference report after another and act on them. The foreign aid was highly controversial.

All I am asking here is that we simply have an opportunity to go to conference and discuss it so we can see whether or not the House and Senate can agree to a compromise. Then the Senator, as I say, has every opportunity to take whatever action he wishes on that conference report.

In view of the time, it would be different if this were a cloture motion, in particular, but in view of the time, the Senator would have the same kind of authority to act with respect to this legislation.

Mr. STEVENSON. Will the Senator yield?

Mr. PROXMIRE. The Senator from Alabama has the floor—I guess I have the floor. Yes, I yield.

Mr. STEVENSON. I want to add to what the Senator from Wisconsin said.

This bill does not deal exclusively with foreign boycotts. It is an extension of the Export Administration Act. The Export Administration Act expires on September 30. If we do not act, if conferees are not appointed and Congress does not act, the basic export control authority of the United States is going to expire.

Under that authority, the executive branch also controls, among many other things, the exports of strategic items to foreign countries, items subjected to review in the Defense Department, for export to Communist countries.

These are high-technology items, for the most part.

As a matter of fact, this Export Act extension reformed the process by which technology is exported to countries which could use it for military purposes, for purposes which are not in the best interests of this country.

As I say to the Senator, it does not just concern the foreign boycott. If the basic export control authority expires——

Mr. ALLEN. Should Congress be willing to limit the report, then, to the extension of the basic law?

Mr. STEVENSON. I have no authority to do that.

Mr. PROXMIRE. If the Senator will yield, there is no way that Senator STEVENSON nor I could do that. The point is that the Senator from Alabama will be able to know whether or not we have come back with something which is unacceptable to him with respect to the Arab boycott, and then we will be in a position to stop that legislation. Let us say we will not, in all likelihood, come back until tomorrow. If we came back today, the Senator from Alabama knows full well that if he wishes to kill this legislation, he could do it. Give us a chance. Let us go to conference. The Senator from Alabama is a reasonable man.

Mr. ALLEN. I yield to the persuasion of the Senator from Wisconsin. I withdraw my objection.

Mr. GRIFFIN. Mr. President, reserving the right to object, the Senator from Texas (Mr. TOWER) is the ranking member on the Banking, Housing, and Urban Affairs Committee, from which this legislation comes. He has asked me to protect his interests in his temporary absence with respect to any unanimous-consent request propounded in connection with this legislation. Accordingly, on his behalf, pending his arrival in the chamber, I must, for the moment, object.

The PRESIDING OFFICER. Objection is heard.

WATER RESOURCES DEVELOPMENT ACT OF 1976

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 3823, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 3823) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

The Senate proceeded to the consideration of the bill which had been reported from the Committee on Public Works.

The PRESIDING OFFICER. Debate on this bill is limited to 2 hours to be equally divided and controlled by the majority and minority leaders or their designees, with 30 minutes on any amendment, except any amendment dealing with user charges and Lock and Dam 26 on which there will be no time limitation, and with 20 minutes on any debatable motion, appeal, or point of order, provided that if the bill is not disposed of within an 8-hour period, the leadership has the authority to lay it aside.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the following staff members of the Committee on Public Works have the privileges of the floor during debate and votes on S. 3823; John Yago, Richard Harris, Ann Garrabrant, Phil Cummings, Wes Hayden, Hal Brayman, Steve Swain, Bailey Guard, and Lee Rawls.

I also ask unanimous consent that Mike Sullivan of Senator MONDALE's staff have privileges of the floor during debate on S. 3823.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I ask unanimous consent that John Nedelman and Judy Affeldt, of my staff, be granted the privileges of the floor during debate and votes on S. 3823.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I ask unanimous consent that Katherine Shepard, of my staff, be granted the privilege of the floor during debate and votes on S. 3823.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, I ask unanimous consent that Steve Gordon, Mark Coven, and Jane Yanulis, of my staff, be granted the privilege of the floor during debate and votes on S. 3823.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Howard Shuman, of my staff, be granted the privilege of the floor during debate and votes on S. 3823.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Will the Senator yield?

Mr. GRAVEL. I yield.

REQUEST FOR CERTAIN BILLS TO BE PLACED ON CALENDAR

Mr. NUNN. Mr. President, there are five bills from the Government Operations Committee, H.R. 1244, H.R. 14486, H.R. 11347, H.R. 14451, and H.R. 13828, which were reported last Friday but have not been placed on the calendar. I ask unanimous consent that these bills be placed on the calendar.

Mr. DURKIN. I object.

The PRESIDING OFFICER. Objection is heard.

MESSAGE FROM THE HOUSE

A message from the House of Representatives delivered by Mr. Hackney, one of its clerk, announced that:

The House has passed without amendment the following Senate bills:

S. 2618. An act for the relief of Chea Hyo Suk;

S. 2942. An act for the relief of Kenrick Withington Brookes (also known as Kenrick Withington Clifton);

S. 3146. An act for the relief of Leo J. Conway;

S. 3757. An act for the relief of Walter Louis Moritz Laqueur and his wife Barbara Guguste Helene Koch Laqueur; and

S. 3790. An act for the relief of Camilla A. Hester.

The House has passed the following Senate bills with amendments in which it requests the concurrence of the Senate:

S. 64. An act to provide for the addition of the names of the States of Alaska and Hawaii to the list of the forty-eight States inscribed upon the walls of the Lincoln National Memorial;

S. 2112. An act to authorize the Secretary of the Interior to conduct a study with respect to the feasibility of establishing the Bartram Trail as a national scenic trail; and

S. 2742. An act to dedicate the Chesapeake and Ohio Canal National Historical Park to Justice William O. Douglas in grateful recognition of his contributions to the people of the United States.

The House agrees to the amendments of the Senate to the following House bills:

H.R. 8119. An act for the relief of Fernando Alves Macos; and

H.R. 11199. An act for the relief of Hollis Anthony Millet.

The House has passed the bill (H.R. 11061) to amend the Land and Water Conservation Fund Act of 1965, as amended, in which it requests the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 11061) to amend the Land and Water Conservation Fund Act of 1965, as amended, was read twice by its title and referred to the Committee on Interior and Insular Affairs.

EXPORT ADMINISTRATION ACT OF 1969

Mr. GRAVEL. Mr. President, I yield 2 minutes to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I ask my good friend from Michigan (Mr. GRIFFIN) if he would do what he could to ask the Senator from Texas (Mr. TOWER) if he could come to the Chamber and, if possible, give us an opportunity to get a decision on this matter. It is of the greatest importance. It is important to the administration and it is important to the Congress. The House has passed a measure that the Senate has acted upon. Every hour we delay puts this act in jeopardy.

The Senator from Illinois has pointed out that with the Arab boycott, important as that is, it is extremely important, and with the many other provisions which are important to our country, I hope we can act on this today.

Otherwise, this act is in jeopardy. We know it expires on September 30. By delaying this, even for a matter of a few hours, it could have an adverse effect.

Mr. GRIFFIN. If the Senator will yield for a moment, I will advise him that I will go to the policy committee.

The Senator from Texas is the chairman of our policy committee, which is having its regular weekly luncheon right now. I expect it will continue until about 2 o'clock. I shall advise him of immediately of this colloquy, and I am sure he will be in touch with the Senator from Wisconsin.

Mr. ALLEN. Will the Senator from Wisconsin yield?

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. GRAVEL. I will yield.

Mr. ALLEN. Will not an alternate method of handling this bill be, since it is so important, to concur in the House amendments? Why must a conference be appointed? Could we not concur in the House amendments?

Mr. PROXMIRE. It is extraordinarily controversial. I do think we need a conference to work out those amendments. I think there might be some favorable feeling to the amendments, but there will also be objection to them. A conference is the only way we can get this worked out.

WATER RESOURCES DEVELOPMENT ACT OF 1976

The Senate continued with the consideration of the bill (S. 3823) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

Mr. GRAVEL. Mr. President, I offer for the Senate's consideration S. 3823, the Water Resources Development Act of 1976.

This bill contains authorizations for phase I study or construction of 65 new Corps of Engineers projects, and modifications of 31 existing projects. Provisions are also included for policy changes and new policies, and other miscellaneous items such as studies and declarations of nonnavigability.

The total estimated cost of the bill is $1.14 billion.

Mr. President, the Subcommittee on Water Resources has devoted a great deal of time to consideration of the items in this bill. A total of 21 days of hearings were held. A number of subcommittee markup sessions and informal discussions preceded 2 days of full committee markup.

I wish at this time to compliment the members of the subcommittee and the full committee on their diligence in the preparation of this bill. Each of the 10 subcommittee members contributed in a significant way to the development of the legislation. I want to express my very real appreciation to them, especially to Senator PETE DOMENICI, the ranking minority member. Senator DOMENICI'S imput was essential to the resolution of several very difficult items in this bill. His knowledge and understanding of the civil works program was invaluable to our discussions as a whole.

Great credit is also due to Senator JENNINGS RANDOLPH, the distinguished chairman of the Public Works Committee. His wisdom contributed a great deal to the production of a large and intricate piece of legislation.

Mr. President, the Water Resources Development Act of 1976 is one of the most controversial bills of this nature ever to be reported from the Committee on Public Works. I will describe some of the controversial items, as well as major procedural or policy changes.

ENVIRONMENTAL IMPACT STATEMENTS

Before I turn to a discussion of individual items in the legislation, I wish to address the issue of environmental impact statements. Concern was expressed during committee considerations about the number of projects contained in this bill which do not have final environmental impact statements. Specifically the charge was made that action on these projects was a violation of committee rule 13. This rule precludes Public Works Committee action on any project proposed by the administration which does not have an environmental impact statement.

At the time rule 13 was adopted, water resources projects approved by the committee were authorized for full construction. This is no longer the case. With the 1974 Water Resources Development Act, the committee instituted a new procedure of two-stage authorization. Under this new system, large projects are initially authorized for the phase I design memorandum stage of advanced engineering and design only. This phase I authorization requires the preparation of a detailed project report, and submission of such report, with an accompanying environmental impact statement, to Congress. It is only then that a project is authorized for construction.

The bill reported by the committee authorizes phase I for 34 projects. Seven of these do not have final environmental impact statements. They all do have, however, a draft environmental impact statement. They all will have a final environmental impact statement prior to consideration by the committee for construction.

I wish the record to clearly reflect at this point that the Committee on Public Works will not, except under very unusual circumstances, authorize phase II, or construction, of any project on which phase I is not completed. The committee rejected construction authorization of two projects authorized for phase I in the 1974 act. Days Creek, Oreg. and Libby Reregulating Dam, Mont., are going through the corps review chain at the Washington level. Phase I reports have not been submitted to Congress. The committee was asked to authorize construction. We refused.

This rejection was not intended to cast any shadow on the merits of the projects. It was a reflection of the committee's view that construction should not be authorized on such projects until we have before us a clear picture of the proposal—all of its components, structural or otherwise; its economic viability; and its effects on the environment.

Let me serve notice to the Corps of Engineers and the Senate of the United States that the phase I memorandum stage of advanced engineering and design of any project authorized by this committee must be completed before construction is authorized. Only in rare circumstances will the committee deviate from this rule.

The bill before us, S. 3823, contains construction authorization for 29 projects. Seven of these do not have final environmental impact statements. The committee elected to authorize them for varying reasons.

Construction on five of these projects cannot be initiated until approved by the President. This means that a final environmental impact statement will have been filed with the Council on Environmetal Policy before construction. I ask unanimous consent to insert in the RECORD at this point in my remarks a brief explanation of these projects and a rationale for the committee's action.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

Rule 13 and Construction

There are seven projects authorized for construction in S. 3823 which do not have final environmental impact statements. In each case the Committee felt there was sufficient justification for inclusion in the bill. A brief description of each follows:

Baytown, Texas: This project would provide a solution to a unique flooding problem in the vicinity of Baytown. The ground in this area is sinking due to underground withdrawals of water and oil. The flooding gets worse each year. The citizens of this area built their homes in the late 1950's; they are the innocent victims of events beyond their control.

Environmental groups have long urged the use of non-structural plans to solve flood problems. The 1974 Water Resources Development Act urged Federal agencies to give consideration to non-structural alternatives in the design of flood control projects, and further mandated 80–20 cost sharing on such authorized projects. Baytown is a non-structural plan. The project is a clearing of the flood-prone area and a relocation of the people. The land will be converted into a public park. The Committee felt that postponement of authorization until completion of a final environmental impact statement was not logical in view of the nature of the project.

Bassett Creek, Minnesota: This is a small flood control project in the Indianapolis area. Federal cost is estimated to be $7.5 million. An updated revised draft EIS has been prepared; there are no major environmental issues. The urgency in authorizing this project was one of practicality. The Minnesota Highway Department is constructing a highway at the mouth of Bassett Creek. The State project includes a culvert which would transmit flows on Bassett Creek downstream of the highway. If the culvert is sized to accommodate increased flows which will be caused by the Corps project, the Federal government will save $5.5 million. The Highway Department is ready to construct the culvert. They will not change the design of the culvert without a commitment from the Congress that the Corps project will be built. The Committee felt that a savings on $5.5 million on a $7.5 million project warranted approval of this project contingent on the approval of the Secretary of the Army and the President.

Upper Baker Project, Washington: Residents along the Skagit River in Washington are suffering average annual flood losses of over $4 million. The most economical means of reducing these damages is for the Federal government to purchase flood control storage in the Puget Sound Power and Light Company dam in the upper Baker River Basin.

As in Baytown, this plan requires no additional construction. It requires simply a change in the operation of an existing dam at certain times of the year. The draft environmental impact statement reflects no environmental concerns. The Committee felt that, in view of these circumstances, completion of a final EIS was not necessary.

Lower Snake River, Idaho and Washington: This project is a fish and wildlife mitigation plan designed to compensate for fish losses caused by four Corps dams on the Snake River. The plan consists of several fish hatcheries, pheasant stocking, and purchase of land. The Committee saw no reason to delay authorization of this project. Implementation cannot begin prior to the approval of the Secretary of the Army and the President.

Mobile Harbor, Alabama: Construction of the Theodore Ship Channel, branching off the main Mobile Harbor Ship Channel, was authorized in 1970 under the authority of section 201 of the 1965 Flood Control Act. Funds were appropriated for initiation of construction in FY 1976. However, the costs and scope of the project have increased to such an extent that an additional authorization is required before construction can begin. Considerable environmental concerns were expressed during the course of the study and preparation of the draft environmental impact statement. In response to these comments the District Engineer conducted several model tests and changed the location and shape of the spoil disposal area to one which would be least disruptive to the environment. A monitoring program is to be conducted during construction and appropriate modification made to minimize the impact on water quality. It is the Committee's view that as much as reasonably possible has been done to minimize the project impact on the environment.

From an economic point of view, over $150 million in private capital has been invested in the area with over $650 million committed over the next few years. The State of Alabama has appropriated $2 million for the project. The industries in the area are to a large extent dependent on the project. The government is now in a position of having encouraged private investment through authorization of and subsequent appropriations for the project. Inaction by the Committee would have placed an economic burden on the private sector.

The Committee thus authorized money to carry the project through the end of plans and specifications and one year construction. Such construction cannot begin prior to approval by the Secretary of the Army and the President. In this way the Congress will have the benefit of the final environmental impact statement prior to authorization of the balance of construction.

Mermentau River, Louisiana: This project is primarily an operation and maintenance project, with a first cost of $261,000 and subsequent annual costs of $85,000. The channel is being used, but severe shoaling at certain times of the year prevents navigation. This project could have waited for 201 authorization next year; however, the Committe decided to authorize it now, not to be implemented prior to approval of the Secretary of the Army and the President. This decision was made because of the limited scope of the project and the fact that the spoil from the maintenance of the channel would be used to create 525 acres of tidal marsh.

Gallipolis Lock and Dam, Ohio and West Virginia: This existing facility is located on the Ohio River system a few miles upstream of Huntington, West Virginia. The current lock at Gallipolis is 600′ and the upstream and downstreams dams have two locks: 600′ and 1200′ long. This obviously causes the Gallipolis lock to be a bottleneck in the Ohio River system. The Committee approved the addition of a 1200′ lock to correct this inefficiency. Construction cannot begin until FY 1980, so this authorization could have been delayed for several years. By prematurely authorizing this project the Committee has gone on record as favoring the correction of this problem.

Environmental Studies

Introduction. In our discussions at the markup sessions, I had the feeling at times that some individuals were of the impression that the final EIS was required before full consideration was given to the environment. This is not the case. At the field level, the study manager must make environmental studies and seek various imputs from the first days of a study. I have attached a detailed discussion of the process and two flow charts to illustrate the environmental imputs required for a normal study. The major environmental milestones discussed are as follows:

1. District prepares effect assessment including an analysis of the environmental impacts. Consults with interested groups.
2. A summary of the environmental issues are mailed to environmental groups, local citizens, and states and agencies for discussion at first public meeting. (Normally a few months into study.)
3. District Engineer prepares draft EIS and circulates to all concerned and furnishes copies to CEQ.
4. Draft EIS discussed at late stage public meeting.
5. District Engineer reviews all comments from circulation of EIS and imput at public meeting and prepares revised draft of EIS.
6. Division Engineer reviews revised draft of EIS and issues public notices to enable interested parties to respond.
7. The Board of Engineers for Rivers and Harbors reviews comments and analyzes environmental issues.
8. The District Engineer and the Chief of Engineers then revises the revised draft EIS.
9. The Chief of Engineers then transmits the revised draft of the EIS and his final report to States and agencies for comments.

Note: All projects approved for construction are at or beyond this stage—All projects for Phase I are at least at Step 7.

10. Chief receives comments from states and agencies and prepares final EIS and files with C.E.Q.
11. Phase I approval/disapproval.
12. Post Authorization—District Engineer revises EIS to reflect changes in the project area.
13. The revised final EIS is circulated to states and agencies and public for comments. Copies sent to C.E.Q.
14. The district Engineer conducts a public meeting (if necessary) to discuss project.
15. The District Engineer then prepares "Final" EIS addressing concerns of states, agencies, and public.
16. Division Engineer reviews "Final" EIS.
17. Chief of Engineers reviews "Final" EIS.
18. Secretary of Army reviews "Final" EIS.
19. "Final" EIS goes to C.E.Q. If there are any changes between steps 15 and 19 the report goes back to the District Engineer for recycling.
20. Construction approved/disapproved.

EIS PREPARATION AND COORDINATION

Figure 1 shows a chronology of EIS preparation and coordination for a typical survey report. Even though environmental studies are now an integral part of the planning process, the survey report and EIS still must be prepared as separate documents, and each must contain much of the same information. The EIS fully discuss the primary and secondary environmental effects including the social and economic impacts of the Corps of Engineers activities. The EIS brings together and summarizes the various findings of other documents with respect to environmental considerations.

A written summary of environmental considerations in the project area, based on a project-related environmental inventory, is required to be available early in the study. A similar but updated summary must be available at each public meeting, and it must be attached to the announcement mailed for the formulation-stage public meeting. A draft environmental statement is circulated for review and comment to all parties on the study mailing list prior to the late-stage public meeting, and a news release is issued to announce availability of the draft EIS.

REVIEW AND COORDINATION OF EIS

Prior to the late-stage public meeting, copies of the draft EIS and advance drafts of the survey report are to be sent to concerned Federal and State agencies. At the same time, copies of the draft EIS are sent to the Division Engineer, to higher authority, and to the Council on Environmental Quality (CEQ). The District incorporates the resulting comments into the draft EIS sometime after the public meeting. When ready, he then transmits the revised draft EIS, together with the completed survey report, to the Division Engineer for his review. The documents then go to BERH for review and comment. A staff presentation on environmental issues and impacts is made to the Board, and the Board's report to OCE will include the Board's views on environmental issues. OCE then initiates Washington-level agency review of the draft EIS and the survey report. Upon completion of Departmental review, the District Engineer prepares the final environmental statement. That statement accompanies the Chief's final project report to Office, Secretary of Army. When Sec Army transmits the report to Congress, the final EIS is sent to CEQ.

EIS FOR POSTAUTHORIZATION STUDIES

Figure 2 shows a chronology for EIS preparation and coordination in postauthorization studies. Prior to submittal of the Phase I GDM, the District Engineer reviews the EIS formerly prepared for the survey report, and revises it as necessary to reflect changes in the project or the environment which may have occurred. The revised draft EIS is circulated, together with the draft plan formulation memo, to concerned Federal and State agencies for their review and comment. At the same time, the draft EIS is sent to all those on the project mailing list and to CEQ and a news release is issued. All coordination of the EIS with agencies and the public is to be accomplished by the District Engineer. After the District Engineer finalizes the EIS, it is transmitted with the completed Phase I Design Memo to Division and OCE for their review. OCE forwards the EIS to Sec Army, who in turn furnishes the final EIS to CEQ.

[Figures mentioned in text not printed in Record.]

REPLACEMENT OF FACILITIES

Mr. GRAVEL. Section 58 requires that the Secretary of the Army seek specific authorization from Congress of navigation repair or rehabilitation projects which are in excess of $10 million. He may proceed on his own initiative on projects less than $10 million.

The authorizing committees of Congress have not been consulted in the past in the planning and construction of major navigation replacement facilities. This issue became crucial when the courts halted reconstruction of locks and dam 26 at Alton, Ill. This court action was based, in part, upon the finding that the facility was not a simple replacement in kind as permitted under 1909 act authority and, as such, required specific congressional authorization. The Secretary of the Army has since stated that he would not continue this discretionary authority until clarified by Congress.

The committee feels that section 58 will give the appropriate committees of Congress the ability to continually review and determine the scope of major improvements to the inland navigation system.

HYDROELECTRIC POWER

Another major innovation in this bill is the establishment of a mechanism allowing non-Federal public authorities to finance the planning and construction of hydroelectric power projects. Section 53 sets up a program whereby the Corps of Engineers may study the feasibility of hydropower development at a specific site. Then, if local authorities wish, the corps may contract with them to act as construction agent. The local authority would finance the construction of the project as fast as engineering needs dictate.

Upon the project's availability for a substantial portion of the power, the Secretary is authorized and directed to convey all title to the project to the non-Federal public authority. That authority then assumes ownership of the project and responsibility for its performance, operation, and maintenance as well as any necessary replacement.

The committee believes that this procedure will provide a mechanism to develop needed power generating facilities at a rate faster than Federal construction. With typical corps construction, a project must compete with all other corps projects for funding under the appropriations process. It is not uncommon for construction of large projects to be drawn out for 30 or 40 years. The committee believes that this program can reduce this time considerably. It will also lead to considerable construction cost savings since inflation tends to significantly increase construction costs over the years. And it will reduce the burden on the Federal Treasury while still providing power to regions which need new or additional power generating capability.

OTHER PROVISIONS

Among other policy provisions of note in the Water Resources Development Act of 1976, I would mention the following:

A section amending section 107 of the River and Harbor Act of 1960 to raise from $1 million to $2 million the individual project limitation on small navigation projects initiated by the Corps of Engineers. Section 56.

Establishment of a procedure to assure that, in any water resource project in which a single landowner receives at least 10 percent of the project's benefits, that owner shall be required to agree to contribute half the cost of those portions of the improvements contributing to his benefits. Section 57.

A section directing the Corps of Engineers to establish a procedure to accelerate local cooperation in solving urban flooding problems, allowing compatible local work to go forward without endangering the cost-benefit ratio of the potential Federal project. Section 59.

Establishment of a Water Resources Mitigation Board to assist the Congress and the Corps of Engineers in resolving mitigation problems related to corps projects. Section 60.

Authorization of a continuing small project authority for removal of drift and debris from publicly maintained commercial boat harbors of the United States. Section 61.

A section requiring information to be included in a survey report on a proposed water resources project on the possibility of any dam failure due to design or geologic factors. Section 62.

Mr. President, I wish to address myself further at this point to one subject that is, as I say, probably the most controversial in the bill. That is with respect to locks and dam 26 at Alton, Ill. There are people who feel very strongly on both sides of that issue. Similarly, following along with that section of the bill, were two other improvements to navigation, one on the Gulf Intracoastal Waterway at Vermilion, La., and one at Gallipolis on the Ohio River.

Essentially both of those were traveling in the wake of locks and dam 26, up or down. So the committee took the initiative in putting these projects into a package which negotiated its way into the subcommittee and on into the full committee.

It is not my judgment, Mr. President, that that package could negotiate its way through this Chamber; so, rather than jeopardize the entire bill, which has some 117 different sections, I would hope we can effect a compromise in that regard.

I shall be prepared, as soon as my colleague the ranking minority member finishes speaking, to solicit the cooperation of Members of the Senate who feel themselves vitally involved in that issue.

I am prepared now to yield the floor to the ranking minority member, the Senator from New Mexico (Mr. Domenici).

Mr. President, I ask unanimous consent that a letter from the Congressional Budget Office, submitted pursuant to section 403 of the Congressional Budget Act, regarding this legislation, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Washington, D.C.,
September 28, 1976.

Hon. Jennings Randolph,
Chairman, Committee on Public Works, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached revised cost estimate for S. 3823, the Water Resources Development Act of 1976.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

Alice M. Rivlin,
Director.

Congressional Budget Office, Revised Cost Estimate, September 28, 1976

1. Bill Number: S. 3823.
2. Bill Title: Water Resources Development Act of 1976.
3. Purpose of Bill:

This proposed legislation authorizes the Phase I design memorandum stage of advance engineering and design for some navigation and multipurpose water resource development projects and full construction for others. Surveys and plans for flood control, water development and conservation, shoreline protection and erosion control are also authorized. In addition, this bill requires the Secretary of the Army to promulgate regulations to establish user charges on the nation's inland waterways. Specifically, when fully implemented, the user charges are to recover 50 percent of the related capital costs. Finally, the bill does the following: directs the National Transportation Policy Commission to report on waterway user charges, creates a Water Resources Mitigation Advisory Board and establishes a Hydroelectric Power Development Fund to finance development of hydroelectric power.

4. Cost Estimate: (millions of dollars):

	Fiscal year—					Other years
	1978	1979	1980	1981	1982	
Authorization level:						
Phase I projects	58.0					
Full cost projects	1,083.0	1.0	1.0	1.0	1.0	
Total	1,141.0	1.0	1.0	1.0	1.0	
Costs:						
Phase I projects [1]	13.0	14.0	16.0	11.0	2.0	2.0
Full cost projects [2]	116.0	160.0	193.0	176.0	143.0	299.0
Total	129.0	174.0	209.0	187.0	145.0	301.0
User charges [3]	4.7	25.5	49.5	77.5	109.2	(4)

[1] The total cost of the projects authorized in this phase I was estimated by the Corps of Engineers as $6,100,000,000. Specifically, this means that a minimum of $6,000,000,000 in future authorizations would be necessary to complete the designated projects.

[2] It is assumed that no repayments will be made into the hydroelectric power development fund during the 1978–82 time period.

[3] The user charges will be either an offsetting receipt to the authorization levels and costs or a revenue. The exact nature of the revenue estimates has not been specified in the legislation.

[4] Unknown.

5. Basis for Estimate:

The authorization levels are those stated in the bill and essentially represent 1976 prices. For those projects for which only Phase I design is authorized, the authorization levels above only reflect those totals, i.e., the additional costs to complete the projects are not included. On the other hand, where authorization totals are for the entire project, the above cost estimate reflects such a level. The authorization levels for FY 1979 through FY 1982 represent the annual costs associated with navigation improvement on the Mermentau River, Louisiana, flood control storage on this Baker River, Washington, and maintenance dredging of the Oregon Slough, Oregon. These annual costs are not included in costs for the years beyond FY 1982, as no year limitation was specified in the legislation.

Based on other similar advisory boards, it is assumed that the Water Resources Mitigation Advisory Board would require an authorization of approximately $500,000 per year. In addition, it is postulated that the Hydroelectric Power Development Fund would receive the one-time $25 million authorized in the bill. It is further assumed that this $25 million will be used for the Phase I design memorandum state for a hydroelectric power project on the Susitna River. Although elsewhere in the bill an additional $25 million is authorized for the Susitna River, this total is not double counted. While it is possible that there will be offsetting revenues to the Hydroelectric Fund from repayments by local governments for the purchase of plants, these would most likely only occur after 1982. Consequently, this cost estimate reflects zero repayments.

The cost estimate for both the Phase I and full cost totals were derived by applying payout rates to each of the authorization totals for designated projects. The payout rates differ according to the size of the projects and therefore its length of time for completion. For example, 3-year projects are assumed to pay out 25 percent, 40 percent and 35 percent for years 1 through 3, while 4-year projects are assumed to be 10 percent, 25 percent, 35 percent, and 30 percent for years 1 through 4. Since the Corps of Engineers has an estimated length of time for completion for each project, a unique payout curve was applied to each authorization total. The payout curves also differ substantially depending upon whether or not it was a full authorization or only for Phase I.

It is important to note here that although the Phase I design stage of many of the projects were authorized at a total cost of $58 million, the Corps of Engineers' estimates indicate that the completion of these projects would cost an additional $6.0 billion in 1976 prices. The above cost estimate does not include this additional funding as it is assumed that it would have to be included in a subsequent authorization. However, it is critical to note that the completion of these projects would require such an additional amount of funds.

The water user charge section assumes an effective date of July 1, 1978 and states that 10 percent, 20 percent, 30 percent, 40 percent and 50 percent of the operation and maintenance of navigation related expenditures will be covered in years 1–5. During the sixth year, i.e., 1983, the construction costs of navigation related expenditures will be phased in an identical way. The user charge estimate was derived by applying the above stated percentage phase-in schedule against an estimated expenditure total for operation and maintenance expenditures on navigation projects. The expenditure totals were derived by inflating, by an annual rate of 8 percent, the 1975 actual total for operation and maintenance on inland waterways, excluding Great Lakes harbors and deep draft harbors. This gives a total of $4.7, $25.5, $49.5, $77.5 and $109.2 million in FY 1978 through FY 1982, respectively. Although such charges will undoubtedly be a federal receipt, it is unknown at this time whether it will be a revenue total or an offset to total expenditures.

6. Estimate Comparison: None.

7. Previous CBO Estimate:

Since the previous estimate of September 21, 1976 was prepared, the full construction costs of completing several projects that are authorized for Phase I only have become available from the Corps of Engineers. This estimate reflects these additional costs which result in an increase of $2.3 billion in the total cost of Phase I projects if they are fully authorized. In addition, while the total authorization level of the bill has not been changed, the distribution of the authorizations during the projection period has been modified to more accurately reflect the timing of authorization requirements.

8. Estimate Prepared By: Arleen Fain Gilliam (225-9676) A. G.

9. Estimate Approved By:

C. G. Nuckols, for James L. Blum, Assistant Director for Budget Analysis.

Mr. DOMENICI. Mr. President, I thank my good friend from Alaska. I shall not take a long time today, because obviously the Senate is very pressed in terms of subject matter and business it has to concern itself with. But I shall take a few moments to discuss this bill and some of the ingredients in it.

First, I ask unanimous consent that a statement by the Senator from New York (Mr. BUCKLEY) be printed in the RECORD following my remarks.

The PRESIDING OFFICER (Mr. HUDDLESTON). Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOMENICI. Mr. President, because of my role in developing this bill, I would like to discuss several sections of this bill that establish important changes in water resources policy.

Section 57, for example, establishes a procedure to assure against windfall benefits from a water resources project. The section covers this situation when a single land owner can be expected to receive at least 10 percent of a project's benefits. In that case, the owner must agree to contribute half the cost of those portions of the improvements that relate to his benefits. It would be unfair to insist on this money "up front." But I believe this is very fair when the recipient of the windfall is allowed to make the contribution either initially, or when he realizes the benefits, either through development, sale, or more intensified land use.

A number of projects in this bill involve such windfall benefits to owners of land adjacent to those projects. It is equitable national policy that such recipients be required to share directly in the project's costs.

The following section, section 58, augments the responsibility of Congress over the work under the direction of the Chief of Engineers, and restrains the corps' unbridled discretion to move forward to rehabilitate navigational projects, without specific congressional approval. The section states that this discretion shall hereafter be limited to projects that cost less than $10 million. In line with the other provisions in this bill, this section removes the outdated prohibition that was contained in the 1909 act against the charging tolls at locks that are operated by the Chief of Engineers.

The 1909 act has long been used by the corps to bypass the authorizing committees of Congress when making a decision to construct a major navigational replacement facility. This issue was brought into focus when the courts halted the scheduled reconstruction of Locks and Dam 26 at Alton, Ill., because the court ruled that the corps had proceeded illegally. The Secretary of the Army has stated that he wishes this discretionary authority to be clarified by Congress. Section 58 provides that clarification.

Under the procedures of this bill, the corps may only rebuild a project, on this continuing authority, when it will cost less than $10 million, and when the work in no way alters the capacity or location of the project. Any other such "rehabilitation" would have to be submitted to the Congress for full authorization, as if it were a new project.

The next section seeks to resolve another difficult problem, establishing a procedure that would accelerate local cooperation in solving urban flood dangers. This would allow compatible local work to be undertaken without endangering the cost-benefit ratio of the potential Federal project.

I had the honor to chair a committee hearing on this problem in Tulsa, Okla., earlier this year. It was made clear that the single most aggravating problem involving urban flooding problems is the protracted time needed to complete a project—sometimes a decade or two. This is particularly critical when the problem involves flooding in an area that is rapidly urbanizing. This section should help in accelerating work to meet this problem, without committing any future Federal expenditures.

Under our language, the Chief of Engineers would develop a procedure that allows each district engineer to consider a local proposal for campatible action that would lessen flood damages prior to the time that a full corps study is ready to be authorized by Congress.

This flexibility of course provides no Federal assurance of that later project. But it does assure the city that any work it undertakes once certified will not be removed from the cost-benefit analysis, and credited toward the local costs of cooperation.

The need for this approach was brought to my attention as I mentioned, by the situation involving Mingo Creek in a rapidly growing part of Tulsa. The city, confronting the serious flood problems, discussed the corps studies, and went forward, using local funds, with works that it believes are compatible. This action by the city substantially has lessened the danger of flooding, prior to any Federal work, and may have produced dramatic savings in lives and property during a disastrous flood in recent months.

Tulsa's decision to move forward is commendable. The city should not be penalized by the possibility its works may have skimmed off the benefits from the project's heretofore favorable cost-benefit ratio. Because of this background, this section directs that the city of Tulsa receive credit for this work, should the corps study on a Mingo Creek project be later authorized as a Federal project.

In closing, I would add a few words of commendation for the Senator from Oklahoma (Mr. BARTLETT), who has been particularly active in bringing the problems addressed in section 59 into focus. He is to be commended for this initiative. His many hours of work on this section and the problems associated with it, has produced what I consider to be an important legislative achievement, both for Tulsa, and for the Nation.

Mr. President, this kind of bill historically brings forth quite a bit of interest from Senators, because it is an event that causes our Public Works Subcommittee on Water Resources to look over the gamut of projects that are needed in this country, and to bring to the floor legislation to authorize them for further action. There are many in this country that need consideration. We are quite proud of the ones we have included in this bill.

Obviously, the effort that the full committee and the subcommittee put forth on this bill justifies it coming to the Senate at this late date. We have worked long and hard to screen projects, and to set up some new procedures where they are necessary, and that accounts for us coming here.

But, Mr. President, there is another significant matter that is in this bill that deserves a few moments of attention.

For many decades, the inland waterways of the United States have been used as a mode of transportation, both private and commercial. For many years, the U.S. Government, with tax dollars, has improved and maintained these waterways. We have now reached a point where the inland waterways of the United States are a major mode of transportation for the American marketplace for everything from grain to petroleum products.

Mr. President, this bill has two very significant projects that relate to the inland waterway. But before I discuss them, let me say that since the time the U.S. Government became involved in our inland waterways, the taxpayers of our country at large, all the taxpayers, have been paying for the maintenance, upkeep, improvement, and building of locks and dams to make this inland waterway work for the marketplace and Americans.

Mr. President, we reach a point in time when a very significant project has to be considered. It is commonly known as locks and dam 26. This is a major reconstruction project at Alton, Ill., near the confluence of the Illinois and the Mississippi Rivers. We have a lock and dam there. It is old. It has been part of this free taxpayer-maintained inland water system. Without going into the history of why this reconstruction project comes to the Senate, suffice it to say that it has been of great controversy. Whether or not the corps could do it without congressional authority, other than appropriations, is one issue. The issue of environmental impact statements has been another issue. How much are we going to permit the facilities that we put in for navigation to control the ultimate use of great rivers like the Mississippi and others has become an issue. Courts have been involved, and we find ourselves, then, as a committee of Congress, having to consider whether or not we want to authorize about $400 million, close to a half billion dollars, to rebuild locks and dam 26 near its present site.

Mr. President, this bill brings to the Senate a qualified or conditional authorization for the reconstruction or rebuilding of that Locks and Dam 26.

On the other hand, this bill also addresses the issue that in this Senator's opinion is long overdue. That is: Who should pay for the construction, operation, and maintenance of the inland water system of the United States?

This is a very serious issue for Congress, because in our country we have various modes of transportation. We have air; we have road transportation; we have rail transportation. In no instance do we construct facilities for this kind of transportation without assessing or charging the users thereof for all or some substantial portion of the cost to the taxpayer.

There is one glaring exception, and that is the inland waterway system. The barges and marketplace users of these rivers and harbors do not even pay a fuel tax—they are exempt from it. Annually, this Congress appropriates hundreds of millions of dollars to construct add-ons to it, renovations of it. We have spent billions of dollars in past decades to operate and maintain it.

So, the Committee on Public Works reached a point in history when they said in their committee report:

> It is the view of the Committee that the user charges provision is tied unexorably to the approval of the major new inland navigation projects: Locks and Dam 26, Gallipolis, and Vermillion.

All of these are major improvements to the inland system.

And the committee report continues on:

> They were included as a package because there is no rational way to separate them.

So, Mr. President, what I say to the Members of the Senate is that the time has come when we do one of two things: We either stop spending, appropriating, and authorizing any substantial new improvements to the inland waterway system, which is kind of a never-ending add-on, for we must continue to add on and replace, or we make a policy decision here today that we will not use general taxpayers' money to add substantially to this system unless and until we decide on a fair and equitable charge for those who use this inland waterway system for general commercial navigation.

There are those who will say: "There is no justification. This is our water. It should be free." And I submit that if you could run up and down it without costing the taxpayers any money, that would be a valid premise. But when we have to spend taxpayers' money to bail out our railroads, because they are competing with free transportation, and when we want our railroads to be viable, when we are building our road system and charging a rather substantial fuel tax, which is passed on to the consumer in America, because he has to pay that in his transportation bill, then the time has come when those who benefit from the free use of the inland waterway system must begin, in a fair and equitable manner over a period of time, to pay reasonable charges for that inland water system.

Mr. President, the distinguished chairman of the subcommittee and majority manager of this bill and I propose jointly, after we finish these statements, to move that the entire section that will authorize the construction of Vermillion, Gallipolis, and locks and dam 26, and all sections pertaining to user fees, be removed from this bill, as a package. We will then just authorize the normal rivers and harbor public works projects. That will mean that we will not authorize locks and dam 26 and the other two. But neither will we pass the user charges provision this year.

I think that is a fair compromise in the finishing days of this session. We will address these issues again early next year.

I think we ought to be considerate of the public works projects that need authorization here. But in the waning days of this session we ought to be considerate, also, that it is not going to be easy to authorize locks and dam 26 without a full debate on this floor on the propriety of the user fees, and it appears to me that they should remain, as the Public Works Committee indicated, inextricably tied together and, if we are going to make major improvements such as this, that we give this body an opportunity to pass judgment on the propriety of the argument that I have made with reference to user fees.

I reserve the remainder of my time.

EXHIBIT 1

STATEMENT OF SENATOR BUCKLEY

This bill places me in an unusual position. As reported by the Committee on Public Works, it is a water resources bill that I can support with a reasonable degree of enthusiasm. It is a far more reasonable approach to water resources management than any other such bill that has come to the floor since I came to the Senate.

That does not mean there are not projects that violate national water policy and a reasonable approach to water resources development. There are many sections in this bill that contain ad hoc decisions designed to benefit individual land owners and individual communities, counter to national policy affecting other communities and individuals. But I believe these unfortunate provisions are more than countered by the several components of this bill that bring a new, innovative approach to our national water resources effort.

I commend the Chairman of the Subcommittee on Water Resources (Mr. Gravel), the Chairman of the Committee on Public Works (Mr. Randolph), and the ranking minority member of the Subcommittee (Mr. Domenici) for their leadership in shaping this bill. While Senator Gravel and I have sometimes differed in the past over the nature of this type of legislation, his support and encouragement for various generic provisions in this bill, as well as the user charge provision, is commendable.

The most obvious of these changes is Section 5, which imposes a waterway user charge on the commercial barge traffic on the inland waterways. I support this section wholeheartedly, and I shall discuss my views on it in greater detail at a later point in the debate. But I do want to commend Senator Domenici for his effective leadership in developing this equitable approach toward balancing the costs and benefits provided to the wholly subsidized waterway users.

The fact that the inland waterway system is totally subsidized by the taxpayer is one of the most unfair aspects of current water resources policy. This is unfair to the taxpayer. It is unfair to competing modes of transportation. It distorts national priorities.

I cannot believe that the American public wants to continue a total subsidy to one select interest group, the inland barge companies.

There are a number of other sections of this bill that merit favorable Senate action, and I should like to discuss these for a few minutes.

A number of sections of this bill improve our national approach to water resources management. Section 60, for example, establishes a three-member Water Resources Mitigation Advisory Board that will assist the Congress and the Corps of Engineers in resolving issues and problems that develop from the construction and operation of Corps projects.

The Board would meet at least quarterly to review local requests for changes in project design or cost sharing, and the Board would recommend a solution to such a mitigation request. These advisory reports would then be submitted to Congress and the Corps of Engineers.

One of the most perplexing problems confronting members of the Congress is the merits and demerits of proposed project changes to relieve an undesired side effect from the project. Congress usually acts in an ad hoc manner, outside any national policy.

There is no present way for the community to obtain a fair study of the problem, and its relationship to the project. At best, the community can obtain an ad hoc decision, which usually is outside any study of the facts and policy.

The Mitigation Board, I believe, would largely resolve that problem.

Section 61 of the bill creates a new national authority for the Chief of Engineers to develop projects to remove drift and debris from the land and water areas immediately adjacent to publicly maintained commercial boat harbors. Under this provision, the Corps could undertake such projects without specific Congressional approval, if the total Federal costs for the project is less than $400,000. Over that figure, the project would require specific Congressional approval. As part of this project, the identifiable owners of any source of drift or debris would be required in new projects to pay for their removal or repair as a part of the project. This should not be a burden on the Federal taxpayer.

In addition, this section amends the 1974 Act, which authorized Federal participation in a pilot project to collect and remove drift from New York Harbor. It raises that authorization to $28,713,000, in place of the $14,000,000 set earlier as the Federal share of the cost of the New York Harbor project. The new figure is based upon 1976 price levels, reflecting substantial cost inflation since the earlier estimate.

A more specific project in the bill involves the so-called Black Dirt Area on the Wallkill River in New York and New Jersey. This bill authorizes flood control improvements to prevent damages due to flooding of the Wallkill River and its tributaries, which now cause annual losses amounting to $2,179,000.

The Corps' proposal is a good one, involving some channel improvement, and including low-flow control structures to assure maintenance of flow levels necessary to provide a proper degree of soil moisture.

This project is not a land reclamation effort, I understand. It makes no significant changes in the crop use of the land.

Another project involves local flood protection on the Saw Mill River for Ardsley, New York. I am pleased that the Committee has directed the Corps, in its further studies, to a modification at the upper end of the recommended plan to minimize adverse environmental effects.

Section 11 directs the Corps to develop a plan to lessen shoreline erosion along Lake Ontario. This erosion is brought on by artificially maintained high lake levels.

This section states that until Congress receives and acts on the report, every Federal agency with responsibilities that affect the level of the lake must, consistent with their existing authorities, make every effort to minimize damage and erosion to the Lake Ontario shoreline.

The plan must include recommendations on measures to protect the shoreline, with proposals for equitable cost-sharing.

What is happening, in effect, is that the owners of shoreline property along Lake Ontario are being forced to bear the costs of erosion so that Federal authorities can extract extra hydroelectric power from the higher lake levels. While this may be a desirable goal, the people who work and live along the lake must not be forced to sacrifice their interests to the need for electricity.

Another important section of the bill is Section 52, which declares three specific lakes, including Lake George in New York, as nonnavigable for the purposes of Section 10 of the Rivers and Harbors Act of 1899. That is the provision requiring a Corps of Engineers permit when any wharf or pier is to be built in the navigable waters of the United States.

Recent Court decisions have forced the Corps of Engineers to broaden its regulatory control under Section 10 to bodies of water that I am convinced it was never intended for such control. While I usually oppose special sections, I am pleased that the Committee has indicated its recognition that this is a broader problem, and that the Committee intends in the next Congress to hold hearings to establish a more defined national policy that will clarify this navigability distinction.

Mr. BURDICK. Mr. President, S. 3823, the Water Resources Development Act of 1976, contains many provisions of national importance. Senator GRAVEL and Senator DOMENICI deserve, I think special kudos for their work. As always, they have received fine aid and support from the subcommittee and full committee staffs.

My purpose now, is to address a number of projects of particular importance to North Dakota. Included in the bill, are authorizations for flood control, municipal water, and bank stabilization projects in my State. They represent the kind of project that I believe the Federal Government should undertake—projects which help citizens meet problems which local governments themselves are incapable of addressing. Briefly, the projects involve:

First. The authorization of phase I advance engineering and design work for the multipurpose dam and reservoir on the Pembina River. Local interests first requested congressional help to solve severe water management problems in that area in 1945. The plan that has been developed by the district engineer of the U.S. Army Corps of Engineers is, I believe, a good solution to what has become an increasingly severe water management problem. The committee has agreed with this assessment and authorizes $930,000 to get the project going.

Second. The authorization of bank stabilization work on the Lower Yellowstone River, at a point where it crosses the North Dakota, Montana border. This reach of the Yellowstone has been included in an improved Streambank Erosion Control Evaluation and Demonstration Project Act. The construction will protect several irrigation districts and their facilities from severe streambank erosion. I think it is clear from the committee report and the language of the act that work on this site is a mandatory part of the Demonstration Act.

Third. The authorization of construction of bank protection measures along a reach of the Missouri below the Garrison Dam. This section specifically lists the sites to be protected as they have been identified as critical problem areas. The inactivity of the U.S. Army Corps of Engineers on this troublesome reach of the Missouri, even though work was authorized in the Water Resources Development Act of 1974, necessitated this more explicit instruction.

Fourth. The redistribution of costs for the previously authorized Souris River flood control project to account for improved design of the project. The new design would have unexpectedly increased the local contribution to the work by well over $100,000. The bill enables the corps to pick up these additional costs and still save the Federal Government money by virtue of its redesign of the original project.

Fifth. The authorization of construction to relocate the Williston municipal water intake structures to a place where they will be certain to provide adequate supplies of water to the city for years to come. As explained in the committee report, the problem with the present structures are traceable to the information provided the city by the Federal Government. Had the information been correct, the present structures, which were built at Federal cost, should have been adequate until the year 2010. As it is the structures are failing, necessitating this action by the Congress if the city is to continue to provide water for its citizens.

Sixth. The authorization of Phase I Advance Engineering and Design work for a flood control project on the Park River. This is the only project which requires more detailed explanation than that provided by the committee report. Accordingly, I would like to have the attention of the floor manager of the bill, Senator GRAVEL.

I think that Senator GRAVEL will recall that I made the record in subcommittee markup for the need to restudy alternatives to the project recommended by the corps—a project which involves a ring levee and channel work on the Park River as it passes through the town of Grafton. There is considerable local sentiment that the corps would find a multipurpose dam located upstream near the town of Adams a more advantageous project than the ring levee. The corps investigated the multipurpose dam some years ago. Times have changed. Land values and crop values have increased. Local interests want the corps to take another look. I agree with this view. As Senator GRAVEL knows, the corps is charged with a reexamination of project alternatives during the course of their Phase I work. I would like Senator GRAVEL to indicate for the record, that the Subcommittee on Water Resources will give the corps restudy of the multipurpose dam special attention when the corps returns to Congress for the Phase II authorization for construction.

Mr. GRAVEL. I certainly can give the Senator that assurance. The record of the subcommittee markup clearly shows that it was the Subcommittee on Water Resources' intent to authorize the ring levee conditioned, as it were, upon the restudy of the multipurpose dam and other alternatives. Senator BURDICK underscored in subcommittee the need for us to take another look at the Park River project when the corps completes its phase I work. Whatever happens now, Senator BURDICK, you can assure your people that you have highlighted the need for another look at flood control on the Park River before any project is authorized for construction. I might say, too, that the approach the subcommittee has adopted should in no way delay the construction of a flood control project in that area. Rather, this procedure should insure that the very best project is constructed.

I yield briefly to the distinguished chairman of the full committee.

Mr. RANDOLPH. Mr. President, the Federal Government has been involved in the development of the waters of this Nation for more than a century and one-half. The first activity carried on was the clearing of snags and debris obstructing navigation on the Mississippi and Ohio Rivers.

From this early beginning a systematic improvement of our internal waters has occurred. Today a widespread and highly ambitious program of water resource management and development is carried out under the authorities of the Army Corps of Engineers.

The program is undertaken to control the ravages of flood waters, provide navigation on the inland waterways, control beach and streambank erosion, provide adequate harbors for the commerce of the country, and provide hydroelectric power facilities. Projects are authorized by this measure for either phase I advanced engineering and design or construction. The estimated cost of activities contained in this legislation is $1.11 billion. These are projects of lasting improvement which will provide benefits to the country for many years.

Mr. President, this bill authorizes work on many important water resources projects that are needed. However, it does more than initiate projects. This is significant legislation because it makes policy changes that will influence the water resources program for years.

This is the second consecutive water resources bill which has initiated change. Senator STENNIS knows that we have been innovative and he has been very knowledgeable and helpful in the appropriations process. In 1974 a two-stage authorization process was developed. This provides an intermediate planning step between project development through the survey and authorization of construction. Twenty-five projects are authorized for phase I engineering planning by the bill under consideration. However, construction is not authorized for any of the phase I's from the 1974 Water Resources Act.

Economy and efficiency was anticipated from this two-stage procedure. However, the slowness of development of phase I reports by the corps is of concern. The committee is again recommending projects for this type of authorization but will carefully examine the process for the results of economy and efficiency in project development.

This was a major step forward but the new authorization procedure for navigation system renovation or replacement and the hydroelectric power development mechanism created in this bill are significant. Another new feature in this bill is a special program for acceleration of local cooperation in solving urban flooding problems. The problem of drift and debris in harbors was considered and a new national program established.

The most controversial issue in the development of this legislation was the proposal for the replacement of locks and dam 26 on the Mississippi River at Alton, Ill. The replacement of this facility was opposed by environmentalists and the midwestern railroads. The estimated cost of $391 million for the project also created controversy. Many opponents favored rehabilitation of the existing facility which was believed to be less costly.

The committee carefully reviewed this issue after 5 days of hearings to receive the views of all interested parties were conducted by the Subcommittee on Water Resources. All options were thoroughly discussed to determine the proper solution for maintaining efficient operation of the vital inland waterway network. Water transportation is an integral part of our overall transportation system and each facility must be functional if there is to be maximum efficiency.

Replacement of locks and dam 26 was determined to be necessary after a review of one repair option which could prove less expensive. The authorization of this project also calls for a study of the environmental and economic effects of the replacement and requires preparation of a comprehensive master plan for the upper Mississippi River system. The plan and study are to provide information on the relationship of water transportation to the environment and economic base of the upper Mississippi River region.

In the development of this authorization, two new policies were initiated which will alter the future of the inland navigation system. First the imposition of user charges for this transportation mode is recommended. The charges are designed to recover 50 percent of the cost of new construction and operation and maintenance of the navigation system. Members of the committee believed that equity demanded that users pay some portion of the costs for the benefits derived.

The Federal Government cannot assume the cost of the modernization of the huge inland system. Congress must address the issue of users paying a share of this cost. The proposal contained in this bill recovers what the committee believed was a fair and reasonable portion of the costs for the inland navigation system. The method of collection is to be determined in regulations developed by the Corps of Engineers with the Congress having the right to disapprove if such regulations do not meet the intent of this user charge proposal.

Possibly the key element of this proposal is the study of the equity and form of such charges by the National Transportation Policy Study Commission. This review is to coincide with the development of regulations and will be available when the Congress reviews the regulations after January 15, 1978.

Second, a new authorization procedure for rehabilitation and replacement is initiated. The act of March 3, 1909, is amended to provide that congressional authorization is required for any repair or replacement estimated to cost $10 million or more. This procedure will provide a review mechanism for determining if the project is consistent with the goals established for inland waterway development. The costs of future navigation system modernizations will be high and congressional review is essential for proper allocation of scarce resources.

The committee has proposed in this bill a unique authorization procedure for hydroelectric power facilities. Such projects have become a serious drain on the total water resources program because of the high costs. Typically construction takes anywhere from 20 to 40 years through the appropriation process. This leads to significant delays in producing power and adds cost because of inflation.

The new authorization process recommended in this legislation provides for a mechanism for non-Federal public bodies to finance hydroelectric projects. The Federal Government would authorize the project and approve the contract between the non-Federal body and the corps who would act as construction manager. This procedure is innovative and could substantially reduce leadtime on hydroelectric power projects.

Another problem addressed by this legislation is urban flooding. Quite often an urban area will seek a project to control flooding and while awaiting approval, go forward with a portion of the project. The Chief of Engineers is directed to establish a procedure for allowing such local work to go forward without jeopardizing the entire project proposed for urban flood protection. The provision addresses a serious problem and provides a mechanism for expedited action.

Drift and debris in our harbors is a serious hazard to navigation. In the 1974 act, the problem of debris in New York harbor was addressed. This bill establishes a program of drift and debris removal for the harbors of the Nation. The annual benefits expected from the program are estimated at $24 million. Benefits will include safe boating areas and improved harbor environments.

Mr. President, this legislation, as reported, includes a project of vital importance to the State of West Virginia. The project has been extensively studied and is fully justified.

The Ohio River navigation system is important to the growth and development of industry in West Virginia. A modernization of the system has been ongoing for a number of years. This year the committee is recommending a new lock at the Gallipolis locks and dam. This new 1,200-foot lock will increase capacity and complete the modernization of the system between Ohio and West Virginia. Tonnage passing through this facility averages 35 million tons per year and is expected to reach the lock's capacity of 55 million tons by 1985. The investment of $146 million in this project is a wise and productive investment for continued economical use of the Ohio River navigation system.

Mr. President, I understand an agreement has been made with respect to this project in which I have a provincial interest, as it might be called, although it is not provincial. The Gallipolis project on the Ohio River is a very important project. It is not controversial. But, as the able Senator from New Mexico (Mr. DOMENICI) said, if we are to have a rivers and harbors bill this year, we have to make concessions. Broadly, we are making them based on two items—locks and dam 26 and the user charge provision. The committee has agreed to delete from this legislation these two controversial provisions in order to get a bill this year. As chairman of the committee, I have worked with those who could bring an understanding to the Senate.

In the process, I must give up this project on the Ohio River which serves my State. Gallipolis is being deleted because it is a navigation project, not because the new lock is controversial. All inland navigation projects are being deleted from this bill until the user charge issue is resolved.

Mr. President, this is a good compromise because it allows us to authorize projects for water resource development which are beneficial to the Nation. As we bring this bill here today, it is understood that we need a water resource program, not only now, but in the future. There are refinements which have been made constantly and which must continue to be made.

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield to my able colleague, the manager of the bill.

Mr. GRAVEL. Mr. President, this really is testimony to what we are trying to do here in effecting a compromise. The chairman of the Committee on Public Works, who, under any circumstance, would have the wherewithal to secure the approval of a project near and dear to his heart, was willing to put his project into the compromise package that we have effected.

I thank the chairman for that leadership, because I think that will act as a guide to any Member of the Senate. He has done this to effect a noncontroversial bill that will do a job for the Nation.

I thank the distinguished chairman of the full committee (Mr. RANDOLPH) for that leadership.

Mr. RANDOLPH. I thank my knowledgeable colleague, the Senator from Alaska, who manages this bill and is chairman of our Subcommittee on Water Resources.

It is very important that we understand that in this bill, even with the modifications, there is an acceleration of projects which are needed for solving vital water resource needs.

Mr. President, the chairman of our Water Resources Subcommittee, Senator GRAVEL, has provided positive leadership in bringing this legislation to the Senate. The ranking minority member of the subcommittee, Senator DOMENICI, likewise was diligent in his attention to this legislation. All members of the subcommittee participated in the hearings and Senators BENTSEN, BURDICK, CULVER, MORGAN, HART, BAKER, STAFFORD, and MCCLURE made important contributions during subcommittee mark-up of this bill. The full Committee on Public Works gave further consideration to the important matters of this bill and benefited greatly from the counsel of Senators MUSKIE and BUCKLEY.

Mr. President, our Nation continues to rely heavily on its water resources. Without their continued orderly development, the strength of our country could be seriously undermined. In the century and a half since the Government began water resource development, we have made real progress harnessing our water resources so they could be utilized for the greatest benefit of all Americans. This bill continues this development and modifies procedures so that we may effectively address contemporary water resource requirements.

Mr. President, this legislation deserves the support of Members of the Senate. I urge its passage.

Mr. GRAVEL. I thank my colleague.

I yield to the distinguished Senator from Illinois such time as he requires.

Mr. STENNIS. Mr. President, I am totally opposed to the imposition of user charges on inland waterways, as is proposed by section 5 of S. 3823, the omnibus water resources bill.

The imposition of this user charge, after 150 years of following a contrary policy, would have very profound effects upon the economy. I am surprised and disturbed that a legislative proposal of such tremendous importance would be offered without extensive hearings to receive all views, establish the facts, and explore the consequences. The Congress cannot permit this matter to become an emotional issue, and must not be precipitous in acting upon it. It is far too important to the national economy and to all of the American consumers for the Congress to arrive at any hasty judgments.

One of the first acts of Congress under the then new Constitution in 1789, says that the rivers "shall be common highways and forever free." This longstanding national policy should not be changed, least of all in times like these, when transportation costs have been soaring because of the high costs of fuel, and undoubtedly are going to continue to rise over the years.

It is well established that it requires less energy to move a ton of freight 1 mile by water than by any other method, aside from the limited application of pipelines to carry gases and liquids. The Secretary of Transportation readily acknowledges this. Under these circumstances, and with what we can anticipate as to the costs of oil, I think it is easy to see that the water movement of bulk freight is going to increase, with an overall saving of energy to the Nation, unless Congress should take some ill-considered action, such as user charges, to counter that trend.

The imposition of user fees on waterways is not a penalty on anyone except the consumer. The transportation charges will be passed on to him. To assume that somehow these charges are going to come out of the pockets of barge operators is a superficial view. They are in a very competitive business, and if the costs go up they will be passed on to the customer, who is the American consumer.

This consumer is the public as a whole, not some particular part of the public, by reason of the nature of the cargoes involved. Waterborne cargo is bulk cargo—basic materials—coal, petroleum, grain, steel, ore, chemicals. When you add to their cost you penalize every taxpayer.

Congress cut taxes last year, and is reaffirming those cuts by continuing them. To impose a waterway users tax to be paid by all the taxpayers is contradictory and self-defeating. It is also inflationary.

The arguments advanced for users fees are superficially attractive but they are not persuasive. I would like to see some facts.

Not enough is known about what the effects of user fees would be. For example, consider the tremendous downstream movement of grain on the Mississippi River, carrying our export trade to deepwater ports, and the corresponding upstream movement of fertilizers and fuel. A user tax would have a profound effect on agriculture in the Middle West and the Mississippi Valley and thus a regional economic impact that is of large but unknown magnitude, because it has not even been evaluated.

It seems to me that recently there has been, in parts of government and the public, an air of undue haste about prescribing user fees on waterways—a tendency to treat the subject as "an idea whose time has come," without adequate evaluation of the facts and consequences. The Members of this body are as well aware as I am of the danger of letting any such attitude enter the preparation of any legislation. And user fee legislation has profound potential effects on the delicate balance of the American economic structure.

Billions of dollars in private funds have been invested in industry along inland waterways, premised upon the present system of barge navigation. Before anything is done to alter the system or the method of financing its operation, the facts must be established and meticulously examined. I think that is self-evident.

In the years since World War II, during which the modern barge industry has developed, I have had the opportunity to observe its effects on local and regional economies. In Mississippi we have a very strong interest in the movement of freight by barge on the inland waterways. It has a massive effect on our economy because we are so fortunate as to have many areas of our State with direct access to such waterways. Millions of tons of freight move in and out of our river ports in Greenville, Vicksburg, and Natchez via the Mississippi River system.

The Gulf Intracoastal Waterway, which provides a barge canal that is not subjected to the hazards of the open sea, carries tremendous traffic, serve all of our coastal ports, from Bay St. Louis on the west to Pascagoula on the east.

Yellow Creek Port, in the northeast corner of the State, is connected to the entire inland waterway system by way of the Tennessee River.

The Tennessee-Tombigbee Waterway which when completed will connect with the Tennessee River on the north and the Gulf Intracoastal Waterway on the south, will provide barge traffic to our cities in east Mississippi, and will have a profound effect on the regional economy.

Advocates of waterway user charges claim it is not equitable to provide facilities for water transport, which competes primarily with the railroads. The total Federal investment in waterway development and maintenance since 1824 is about $4.6 billion, or if you add in the accompanying costs of flood control and hydroelectric power, as well as navigation, it is about $8 billion. The recently authorized costs of railroad revitalization are $6.4 billion. This is not to mention tax benefits to encourage investment in freight cars, or even the land grants to railroads that still are producing mineral revenues.

If the administration continues to propose user charges, then the Congress must demand the facts—all the facts as to the complex interplay of such fees throughout the economic structure—so that the consequences of imposing fees can be examined, and then accepted or rejected on a rational basis. I would predict that the concept of taxing this river and inland waterway traffic would then be rejected.

If the facts are not available, and I believe they are not, then the Congress is not yet in a position to legislate on user charges. They can only legislate a means of establishing the facts, and I would predict that this would entail a long, complex, and very expensive economic study. It must be asked then, I believe, whether the expense of such a study is warranted. This in itself is open to question.

Mr. President, I believe that the enactment of user charges would be a serious mistake, hastily taken in response to pressures in favor of this step. We do not know what the effects would be. The legislation proposes that we take this step and then find out 3 years later what we did, by having the Secretaries of Army and Transportation report to Congress what the economic consequences were. That is hindsight, and I think the Senate prefers foresight.

Mr. President, I strongly urge that the Senate strike section 5, user charges, from the proposed Water Resources Development Act.

Mr. JACKSON. Mr. President, the manager of the bill (Mr. GRAVEL) is aware, I know, of the special concern which Senator MAGNUSON, Senator McCLURE, and I have about the Lower Snake River Fish and Wildlife Compensation Plan authorized in the bill. Our concern, specifically, is that any lands or easements acquired in Washington State to carry out the plan be obtained by the corps on a "willing-seller, willing-buyer" basis only. Put another way, we feel strongly that the corps should not be allowed to acquire any of these lands or easements through condemnation proceedings.

It is our understanding that the committee shares our view. But I do want to be certain that the committee's intent on this score is absolutely clear so there will be no misunderstandings by the corps. On page 87 of the committee report it states:

> The acquisition of mitigation lands is authorized in this project. But these are not mitigation lands in the normal use of the word. They are not lands for wildfowl cover or wetlands protection. Rather they will be used to provide access to the river for fishermen. Because of this unusual feature, it is expected that the Corps will proceed only on a willing-seller, willing-buyer basis, and not acquire by condemnation.

That language could, I fear, be interpreted to mean that the willing-seller, willing-buyer restriction was meant by the committee to pertain only to the acquisition of land for fishermen access to the river. That is not, however, what I understand the committee's intent to be.

Instead, my understanding is that the committee intends that all lands and easements acquired in Washington for the plan will be acquired on a willing-seller, willing-buyer basis such that no takings will be made through condemnation. Therefore, I would like to ask the manager (Mr. GRAVEL) if that is in fact, the committee's intent and direction to the corps?

Mr. GRAVEL. The answer to the Senator's question is a very definite "yes." The committee's direction to the corps is that any lands or easements acquired in Washington State to carry out the plan are to be acquired only on a willing-seller, willing-buyer basis. Put otherwise, the corps is not to acquire any lands or easements in Washington State for this plan through condemnation. In reviewing the language contained in the committee report to which the Senator referred, I can see where it might not state the committee's intent on this as clearly as it should be stated. Consequently, I appreciate the Senator's raising the matter at this point. With this discussion on the record here, the legislative history is now very clear.

Mr. PERCY. Mr. President, while the distinguished chairman of the Committee on Public Works (Mr. RANDOLPH) is in the Chamber, as is the distinguished Senator from Mississippi (Mr. STENNIS), and the managers of the bill, I should like to pose, on behalf of a number of my colleagues, one basic question.

Many of us were extraordinarily pleased with section 4, authorizing the construction of locks and dam 26. We knew that it was the most controversial section of that bill, but we also knew it was one of the most important sections of the bill, looking to the future of the inland waterway system.

Is it the combined judgment of the managers of the bill and the chairman of the Committee on Public Works that if we do not move to delete sections 4 and 5 at this time, the locks and dam 26 authorization and user fee proposal the entire bill will go down and will not be subject to passage before Congress recesses? So that if we do not take this action, everything would be lost, including locks and dam 26? Is that the situation, which I understand from the comments that have been made?

Mr. GRAVEL. Let me speak to it and I can speak for the other members, also.

Any single Member at this late day in the session—we are hopeful that Congress will adjourn sine die on Saturday or thereabouts. Any single person can delay a bill and we get nothing. The only way we are going to get a bill that can really benefit the Nation is to effect a compromise, stripping the bill of its controversial nature. In the absence of that, I can almost guarantee to the Senator from Illinois that there will be no public works bill, no water resources bill that will come out of Congress this year.

Mr. RANDOLPH. May I respond to that?

Mr. PERCY. I should like to have a response from the chairman of the committee.

Mr. RANDOLPH. Senator DOMENICI has had very definite viewpoints about this legislation. Others in the committee have had definite viewpoints. But we do come to that point in the Senate when, with the sine die coming on Saturday and the problems with other legislation pending, that it could be impossible to have a bill without this compromise. We have some 39 or 40 States that are involved here with projects which are very important. That is the reason that we have struck this compromise.

We do know that lock and dam 26 is very important to many people. We do know that the approach Senator DOMENICI has suggested for initiation of user charges for cargo being carried on our inland waterways is a matter of great importance. We must begin the study of this subject, of course, but we shall come back next year.

How many days did we spend in hearing, I ask the Senator from Alaska?

Mr. GRAVEL. Twenty-one days.

Mr. RANDOLPH. So there has been a thorough study of the projects proposed in this legislation and they should go forward as soon as possible.

Mr. PERCY. I agree, there has been a thorough study. Because of the importance of this project—as I said before, some of us feel that it is the most important project in the whole bill—I ask unanimous consent that a letter sent out to our colleagues, signed by my distinguished colleagues, Senators ADLAI STEVENSON, STUART SYMINGTON, and THOMAS EAGLETON, be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., September 24, 1976.

DEAR COLLEAGUE: Next week the Senate will consider S. 3823, the Water Resources Development Act. Section 4 deals with Locks and Dam 26 at Alton, Illinois. Some claim that Section 4 is the most controversial section of the bill. We believe it is the most important.

The intensive lobbying efforts on Locks and Dam 26—both pro and con—have not clarified the issue. Accordingly, we believe it is important to understand exactly what Section 4 does and does not propose.

Section 4 is a limited proposal. It authorizes construction of a new dam and a single 1200 foot lock. However, before proceeding with construction, it requires an additional 120 day study of an alternative rehabilitation proposal developed by the Illinois Department of Transportation. It requires that six federal agencies develop a master plan for the entire Mississippi River Basin system to insure a balance between environment and economics. It sets the permanent channel depth of the Upper Mississippi River at 9 feet, and prohibits any federal official from even studying the possibility of deepening the channel to 12 feet, which would harm the river.

Section 4 specifically prohibits the expansion or replacement of any other facility of either the Upper Mississippi or Illinois Rivers unless specifically authorized by a future act of Congress.

The new locks and dam at Alton will remove the existing bottleneck; it will not move the bottleneck upstream.

No one disputes the fact that the existing locks and dam is in bad shape. The structure was built in 1938 with an expected life span of 50 years. The existing structure has pilings sunk into a sand foundation. Consequently, there is constant shifting and periodic cracking in the dam. Since the structure is just south of the confluence of the Illinois and Mississippi Rivers, the heavy waterload has pushed the dam downstream by one inch. The lock walls have shifted vertically toward the river—up to one foot in some places.

The structure was built with a maximum capacity of 73 million tons. In the 12 months from July, 1975, to June, 1976, Locks and Dam 26 handled 60 million tons. Traffic is projected to be 85 million tons in ten years. Even if the existing facility was in good repair and could be counted on to operate efficiently and safely, it could not handle demand ten years from now.

The Corps of Engineers solicited the comments on their proposed replacement plan from 50 federal and state agencies and private organizations. They received at least 30 favorable replies, including the Department of Labor, the Department of Commerce, and the Department of Transportation. DOT concluded, ". . . based on the Corps of Engineers assessment of the deteriorating physical condition of the present Locks and Dam 26, and the associated costs and problems of its rehabilitation, replacement of the facility is justified."

Locks and Dam 26 is a key navigation facility for the Central United States—serving traffic on the Mississippi, Illinois, Missouri, and Ohio Rivers. The economy of the world's most highly developed industrial and agricultural region requires adequate locking facilities at Alton.

In 1975, 55 million tons of cargo with an estimated value of $5 billion transited Locks and Dam 26. Forty percent of America's corn exports, thirty percent of her soybean exports, and about ten percent of the nation's wheat exports for 1975 transited this facility.

Energy related products such as coal, crude petroleum, gasoline and fuel oil represent 26.3% of all commodities carried by water. The significance of this fact can be appreciated when one realizes that one half of the power plants located on the Mississippi River above the Missouri-Iowa border have no rail facilities and are entirely dependent upon the river system for their coal supply. Much of that coal must pass through Locks and Dam 26.

A single 1200 foot lock and dam at Alton will take 8–10 years to construct. A one-year delay in authorization will increase the cost of this project by almost $25 million due to inflation. It is unjustifiable to increase the costs by delaying. We urge you to support Section 4.

If you have any questions, please do not hesitate to call on us.

Sincerely,

ADLAI E. STEVENSON.
STUART SYMINGTON.
THOMAS F. EAGLETON.
CHARLES H. PERCY.

Mr. PERCY. I ask this question, also, while the distinguished chairman of the Committee on Public Works and the manager of the bill are on the floor, whether or not those of us who feel so strongly about this project can be assured that, in view of the fact that there have been studies ad infinitum—and 21 days of hearings, could the Senator from Illinois be assured that this matter would be a matter of first priority with the committee when we come back into session in the new Congress if it is taken out of the bill at this particular time?

Mr. RANDOLPH. If the Senator will allow me to reply to that, Senator NELSON of Wisconsin is in the Chamber. Senator NELSON would be strongly inclined, if I may use that word, to be against the very project for which the Senator from Illinois would argue in the affirmative. But there is a desire on our part to recognize that Senators have the responsibility to present their own views and to delineate their convictions. I said to Senator NELSON that if we had the time let all those speak who would do so. If, however, we remove some of the matter that is objectionable to the Senator from Wisconsin, we could then proceed to get a bill which is noncontroversial and agree to address the other issues when we have more time for discussion.

Is that correct, I ask my colleague?

Mr. NELSON. Yes, that is correct. I appeared before the committee, as the distinguished chairman knows, and presented my views. I, of course, am not opposed to Locks and Dam 26. Wisconsin is one of the States that is bordered by the Mississippi River. The only issue in dispute is what is the best response to the current situation.

I recognize fully that there are differences of opinion as to whether there should be a new lock and dam with two 1200-foot locks, or a new one with one 1200-foot lock, or the old one with a 1200-foot lock added, or repair of the current structure. There is great controversy among experts as to what exacty should be done. My point solely has been, let us wait until we have the final studies from the GAO and the other appropriate agencies on these precise questions. Then I am prepared to vote, one way or the other.

I happen to support maintaining a lock on the river, because it is an important avenue of commerce, all the way up my State. I am not for doing anything that would damage or imperil the current traffic on the Mississippi. I point out that, since there is no authorization in this bill to expend any money in fiscal 1977, the proposal being made by the subcommittee chairman and endorsed by the chairman of the committee, that this be taken up as the first order of business next year, will not delay whatever final decision is made by a single day.

Mr. PERCY. Mr. President, I think that is a very important point that has been made. I would like that point, as a matter of record, to be reemphasized, that there would be no delay in construction by this deletion.

Mr. RANDOLPH. And other subject matter, the Senator should remember.

Mr. PERCY. That is right.

Mr. RANDOLPH. Yes, sir, because there are many items here.

Mr. PERCY. There are 67 items that can now proceed with this understanding.

Mr. RANDOLPH. I hope the Senator understands that there are many members who hold viewpoints that are different on this subject matter. The Senator from Colorado (Mr. GARY HART), a new member of our committee, does not believe in this project as it is presented. So we in that committee are determined to try to bring together, if we can, a consensus. In the final analysis, we shall be able to bring a bill on Locks and Dam 26 here and have it debated thoroughly and positions taken, but we are not able to do that now. We go back to the subject of can we pass a bill. It can be done in the way that has been suggested here.

Mr. PERCY. Mr. President, I ask unanimous consent that a summary of section 4 on Locks and Dam 26 be printed in the RECORD at this point. I think the committee has done an outstanding job.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

Section 4—Locks and Dam 26—

1. Authorize replacement of Locks and Dam 26 with a single 1200-foot lock and a new dam downstream from the existing structure. Authorize replacement of Vermillion and Gallipolis locks.

2. Replace and manage at government expense the wildlife habitat in Missouri and Illinois lost as a result of construction.

3. Declare permanent depth of the Upper Mississippi River system at 9 feet, and prohibits any Federal study of a 12-foot channel.

4. Develop a master plan by six agencies—Transportation, Army, Interior, Environmental Protection Agency, Agriculture, and the Council on Environmental Quality—for the management of the Mississippi River system to be submitted to Congress by July 1981. The master plan will identify and recommend ways to achieve economic, recreational and environmental objectives. The study will include:

(a) a new dredge and spoil disposal program

(b) environmental effects and economic impact of present and projected traffic levels on fish and wildlife, water quality, and the construction of a second lock. No other work on the locks and dams on the Mississippi River which would increase traffic capacity will begin until the master plan is prepared.

5. A board of three independent engineering firms will study the Illinois DOT rehabilitation alternative (adding a 1200 foot lock in the center of the existing dam). The Corps cannot begin construction until after Congress reviews the study.

Mr. PERCY. I also would like to thank my distinguished colleague from Wisconsin for the assurance that he has given us that we can vote this up or down, once it is reported out of committee next year.

I commend also my distinguished colleague from New Mexico for his orbiting of the concept of a user's fee, and ask unanimous consent that a summary of section 5 be printed in the RECORD at this point. It calls for a study over a 10-month period by the Department of Army, and the Department of Transportation and the publishing of preliminary user charge regulations. The report of the National Transportation Study Policy Commission on user fees should also be taken into account in this. Only after close studies will there then be a phasing in of the user's fee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Section 5—user fees—

1. For a period of 10 months the Department of Army and Transportation will study and publish preliminary user charge regulations for commercial users of the inland waterway system with final regulations to be published by January 15, 1978.

2. During the same period the National Transportation Policy Study Commission (created in the Federal Highway Act Amendments) is to study the same question and make independent recommendations to Congress.

3. The user charge regulations will take effect July 1, 1978 unless Congress before that time disapproves the regulations.

4. Congress will again review the regulations after four years to examine the actual effect and impact on waterway users and the intermodel balance, and make corrections.

5. The charge will be phased in over a 10 year period to recover eventually 50% of both waterway operations and new waterway construction.

Mr. PERCY. I think it is an issue that even the users of the waterways must recognize, that for the maintenance of the inland navigation system money has to come from some place. If we are aiming toward a possible maximum of 50 percent of costs for the refurbishing and maintenance of the entire system coming from users' fees, phased in over a 10-year period, then this is not an onerous burden. We think that these waterways are the lifeblood of commerce and industry, certainly in the Midwest. We are trying to find a way to preserve them.

I commend the committee for the work that it has done, and only on the conditions that have been laid down today and the assurances that have been given could the senior Senator from Illinois possibly agree to delete sections 4 and 5 at this point. From a practical standpoint, we do not want to bog down and kill the whole bill, which, in effect, would be what would happen if this action were not approved.

Mr. EAGLETON. Will the Senator yield for a half minute?

Mr. PERCY. I am happy to yield the floor.

Mr. GRAVEL. I am happy to yield to the Senator from Missouri.

Mr. EAGLETON. I was delighted to hear the recent pronouncement by our colleague from Wisconsin that he does not oppose lock and dam 26. That has been the most tightly guarded secret of the year. I am pleased that wisdom has come from the Senator from Wisconsin, albeit late.

Mr. NELSON. May I say to the Senator——

Mr. GRAVEL. Let me caution the Senators that we are on the road to compromise and I hope we shall keep that foremost in our minds.

I am happy to yield to the Senator from Wisconsin.

Mr. NELSON. I just want to say in response to my colleague from Missouri that I have stated, at least 100 times, that I favor lock and dam 26. However, the evidence against moving at this time is so overwhelming that I must now oppose replacement.

I am not so bemused by what is going on that I kid myself into believing that the proposal is being made to remove lock and dam 26 because the chairman feared my great persuasive eloquence with the majority here, but only because it is near the end of the session and he is concerned about, not my eloquence, but my endurance, and properly so.

Mr. EAGLETON. The Senator is correct; we has absolutely no fear of his eloquence.

Mr. GRAVEL. I yield to the Senator from Illinois (Mr. STEVENSON).

Mr. STEVENSON. Mr. President, what is the pending business?

Mr. GRAVEL. The pending business is the bill.

The PRESIDING OFFICER. The pending business is S. 3823.

Mr. STEVENSON. I mean all of this eloquence has been expended on an amendment which has not been introduced?

Mr. GRAVEL. I think, to satisfy my colleague, we will solve that problem.

Mr. STEVENSON. Very well.

UP AMENDMENT NO. 488

Mr. GRAVEL. I send to the desk an amendment and ask that it be read. I ask unanimous consent that it be treated en bloc and not be able to be divided.

The PRESIDING OFFICER (Mr. HUDDLESTON). Is there objection?

Mr. EAGLETON. Reserving the right to object, did the Senator say, as he sent up to the desk the amendment, that it was not divisible?

Mr. GRAVEL. I am asking that it not be divisible.

Mr. EAGLETON. The question of whether it is divisible or not is for the Presiding Officer to decide. The Senator cannot send up an amendment under those conditions.

Mr. GRAVEL. I was asking unanimous consent that it not be divisible.

The PRESIDING OFFICER. Is there objection?

Mr. EAGLETON. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes an unprinted amendment No. 488.

Mr. GRAVEL. Mr. President, I ask unanimous consent to dispense with the further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, strike lines 3 through 7;

On page 13, strike out, beginning on line 8, all through line 5 on page 25;

On page 35, strike out lines 12 through 18.

Mr. GRAVEL. Mr. President, if I could briefly explain the amendment——

Mr. STENNIS. Mr. President, may we have order? This is a highly important amendment and we need to be able to hear.

The PRESIDING OFFICER. The Senate will be in order.

Mr. GRAVEL. What this amendment does is it strikes user charges, locks and dam 26, the Gallipolis locks and the Vermillion lock.

What we are trying to do is not to get it separated and not get into a quarrel since some people want one thing and others want another. The only way we can get this bill is through a consensus, and what that means is we all agree. If any party wants to disagree to that we will not have a bill this year. That is all I am trying to do. I am trying to get a consensus on this situation. That is the amendment and I hope we can pass it on a voice vote. If we begin to have a record vote, then the consensus will just part company, and everybody will vie for posture. As soon as we start that, then it is off and going and we do not have a bill at all.

There are many, many worthwhile projects in this bill for a lot of States that should be considered. The bill should be passed by Congress. That is all I am attempting to do.

The Senator from Illinois wanted the amendment before us so we would be on the amendment time. Now we have it before us.

Mr. STEVENSON. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. GRAVEL. On this amendment since it involves locks and dam 26 there is no time.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. STEVENSON. I will be glad to yield for a question.

Mr. JOHNSTON. No, I will speak after the Senator if I may get some time.

Mr. STEVENSON. Mr. President, if the Senator from Alaska wants to propound the request again that this not be a divisible amendment, I would certainly have no objection to that request.

Mr. DOMENICI. Mr. President, I ask unanimous consent that, as was heretofore requested by the Senator from Alaska, the amendment before the Senate not be divisible.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DOMENICI. And that it be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois has the floor.

Mr. STEVENSON. Mr. President, the junior Senator from Illinois introduced the first bill to authorize the replacement of locks and dam 26. I did so on the basis of a great deal of evidence and on the basis of that evidence proposed the replacement of this locks and dam not with one but with two locks.

Since then the committee, having examined all the evidence, including many reports, has reached a similar conclusion.

This bill authorizes a one lock replacement of the most important navigational facility in the central United States. The commerce of the most highly developed agricultural and industrial region in the world depends heavily on this facility, and there cannot be any question about it. It is unsound, it needs to be replaced.

For the reasons which have been mentioned by others, and which I will not repeat, it is not possible this late in the session to act on this and related issues, including fees for the use of locks and dams and such navigational facilities.

As has also been mentioned, even if authorized, funds would not be available for the replacement of locks and dam 26. So, Mr. President, I do not have any objection to this amendment if we have assurances that the committee will return to the matter in the next Congress.

The committee has done its work well. it has heard many witnesses. It has recognized the necessity for replacing this dam, and I think the chairman, Senator RANDOLPH of West Virginia, and the subcommittee chairman, the Senator from Alaska (Mr. GRAVEL), deserve our thanks and our commendations for their good work.

I am not in the least unsympathetic to their desire, having worked on a great many projects, of getting a bill, this bill, in this Congress. But I think for us to——

Mr. GRAVEL. Mr. President, will the Senator yield on this point?

Mr. STEVENSON. But as for a decision, we need some assurance that the matter will receive the attention of the committee, and not only receive it in the next Congress but early in the next Congress, and without our having to delay the replacement of this essential facility until the question of users' fees is resolved.

Mr. GRAVEL. Right, Mr. President, will the Senator yield for just a minute?

Mr. STEVENSON. We should not wait for the question of the users' fees to be resolved.

Mr. GRAVEL. Actually, in working up this compromise, you are working for the goal you are seeking, immediate consideration. If the committee has to take up the entire omnibus bill over again, it means we have to have additional hearings. So if we can get rid of what we have decided by a consensus, we have nothing to focus on in our agenda except this very serious problem.

I can assure my colleague—I speak for myself—that I would be for the construction of locks and dam 26 if it were not for the situation here. But the situation requires a different approach.

Mr. STEVENSON. I thank the Senator for that.

Several Senators addressed the Chair.

Mr. STEVENSON. I would ask if they can go one step further to assure myself, the Senator from Mississippi, and the Senator from Missouri, and others, if I can go one step further, that the committee's considertion of locks and dam 26 will not be delayed by a consideration of the very complex and controversial question of users' fees.

Mr. DOMENICI. I do not want my silence to mislead the Senator from Illinois.

As ranking member of this subcommittee, I make one commitment that as soon as possible and at the highest priority we will take up the locks and dam 26 proposal in the Water Resources Subcommittee of the Committee on Public Works. I make no assurance that we will not once again consider and, perhaps, pass and adopt a user-fee system that would come to the floor of the Senate, subject to all the conditions that might occur in between, as part and parcel of any proposal for the construction of locks and dam 26.

Mr. STEVENSON. I appreciate that, too. That is not what I am asking for. I understand the Senator's position.

Mr. GRAVEL. May I speak on and answer the question?

Mr. STEVENSON. I am sympathetic to it. We are going to have to address imbalances in the competitive positions of different modes of transportation in the country and, in order to pay for these expensive facilities, move toward a system of user fees.

What I am trying to get is an assurance that we are not going to be delayed in acting upon locks and dam 26 until the separate question of user fees is resolved.

If the bill were to come back with user fees and with locks and dam 26 in it, I would have no objection, just as long as locks and dam 26 are not delayed for a long period of time, delayed until this other very complex question is resolved.

Mr. DOMENICI. It is not the intention of the Senator from New Mexico, as ranking minority member, to delay locks and dam 26 substantially because of user fees.

On the other hand, it is his intention to work as diligently as possible to bring them both back together as soon as possible. I am not looking for an inordinate delay one for the other. But neither am I saying we will bring back one without the other at the earliest possible date. We may have a little time delay in bringing them both back. But we will not hold one hostage to the other.

Mr. GRAVEL. If I can speak to the possibility of a time delay, Mr. President, if the committee decided on both issues before us, on putting it back, it could decide on both issues in one day in February or March if it so desired. So I can give my colleague assurances that I think what he is referring to is the possibility that we may want studies, and we would delay the implementation of user fees and keep that tied. That is not so at all. The committee could act in 1 day if we chose to, probably have some hearings to freshen up the subject, and act expeditiously.

It would be my judgment they would probably come back together to the floor, but that they could be severed, each stand on its own merits, as they would do if we had the time to treat them.

Mr. STEVENSON. Can the Senators also give us some assurances that the House will act on a rivers and harbors bill next year and offer a vehicle for action on locks and dam 26?

Mr. GRAVEL. I think my colleague can appreciate the difficulties since we do not serve in the House. I have had conversations with certain key members of the committee.

They have told me they have a similar mind to have an omnibus bill next year. So they are psychologically geared up to do something next year.

Locks and dam 26 is of such import, we do not have to have an omnibus bill on that. I think we could keep adequately busy on the floor with that by itself. So it would not have to wait. But if we had other projects at that time, we would bring them together. I hope we could do it expeditiously.

Another item that speaks to that is the simple fact the committee has not approved the river basin monetary authorization bill. The basin bill would have some $590 million in it of authorization. We held off approval of that so we could almost guarantee the committee would have to act next year, because the basin bill authorization will expire on October

1 next year. Therefore, the committee has to act before that time. In point of fact, before May 31.

So I am sure the subject will be treated very expeditiously in the spring of the year.

Mr. STENNIS. Mr. President, at some proper time, will the Senator yield to me?

Mr. STEVENSON. If I may have one question, I will yield to the Senator.

I thank the Senator.

I will not oppose this amendment with these assurances unless efforts succeed by amendments to this amendment, or to the bill, to put back in other navigational facilities.

As the Senators are aware, the discussion of this compromise began with a proposition that many more navigational facilities would be removed from the bill. We finally came down to three.

It would be very difficult for me and for others to accept this compromise if it is changed by putting back into the bill other facilities which under this compromise are now eliminated.

I think the reasons for that position are obvious. We will be in a weaker position in the next Congress, if that were to happen. So I hope that could be made clear and we could also have assurances from the committee that any such efforts to change this compromise by including other provisions now deleted by the amendment will be resisted.

Mr. GRAVEL. Not only will be resisted, but I say, speaking for myself, I would walk away from the bill.

If we have a true consensus and that consensus will be apparent to all, we can proceed. If that consensus falls apart, as I stated already, I do not think we could have a bill.

I would be the first to ask the leadership to put it aside and forget it this year.

I hope that will not be the case. I think it requires a great deal of restraint on the part of all Members. I am sure the Members of the Senate can rise to that

Mr. STEVENSON. I think the Senator from New Mexico and the Senator from Alaska have taken a very statesmanlike attitude to this bill. I am sure of their desire to have it enacted in this Congress. I appreciate their assurances about locks and dam 26, and the understanding that if this compromise does not remain intact, there will not be a bill.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, is the Senator from Illinois finished?

Mr. STEVENSON. I will yield the floor to the Senator.

Mr. STENNIS. Mr. President, I expect to be brief. May we have quiet, please, so those who wish to hear may do so?

Mr. President, I support the replacement of locks and dam 26, at Alton, Ill., on the upper Mississippi River.

The existing structure was built in 1938. It has been in heavy use for almost 40 years, has suffered from ice damage, the cracking of concrete from freezing and thawing, and erosion of its foundation by river action until it is in an unreliable condition, with inadequate locking capacity. Extraordinary amounts have been spent to maintain it for the past 10 years. It must be replaced by a new structure.

Locks and dam 26 is one of 29 such structures that provide a 9-foot navigation channel from St. Louis north to the upper Mississippi region and to the Great Lakes via the Illinois Waterway. The structures immediately downstream and upstream from No. 26 have already been replaced because of similar deterioration and obsolescence. Locks and dam 26 is the bottleneck of the whole system and has been for a long time.

I commend the Public Works Committee for including the replacement structure in the Water Resources Development Act of 1976. Section 4 of that bill provides for a new dam and one lock which will be 110 feet wide and 1,200 feet long, the standard size for modern locks.

It is normal to have two locks, not only to handle traffic, but to allow for maintenance shutdowns, and to move traffic in the event that an emergency closes a lock. Because locks and dam 26 has become such an issue—almost an emotional issue with some opponents—the necessary second lock is to be delayed while its need and size is further studied. I can accept this delay, and additional study for the second lock, although not enthusiastically. It is just not sensible to have only one lock at any dam on any heavily used waterway, particularly on this one between St. Louis and the mouth of the Illinois, which is such a vital link for the economy. At any hour, day or night, a towboat can lose its power at a crucial moment and crash thousands of tons of barges into a lock gate, and completely close the waterway for weeks.

This aspect of the bill is a compromise. In my view it is not realistic, but I can accept it, although uncomfortably.

There are two other aspects of section 4 of the bill, dealing with locks and dam 26, on which I wish to comment briefly.

One is the procedure set up to study the need for and the size of the second lock. The bill would create yet another Federal agency, the Mississippi River System Council consisting of six existing cabinet members and agency heads, to make exhaustive studies of the upper Mississippi region, prepare a master plan, and so forth. The cost is $20 million, and would go up I am sure. It is expensive, and probably counterproductive, because it provides a means for vocal minorities to delay almost any economic change in that region.

I do not think we need $20 million more in studies. What is really needed is a decision, based on the information which is available. We should ask ourselves if this is another case of creating a committee to study something to death.

The Council is directed to submit to Congress by July 1, 1981, a master plan for the upper Mississippi system. Presumably the master plan will address the very sensitive question of a possible increase in the depth of the present 9-foot channel. In the interim the bill forbids deepening the channels without specific authorization from Congress. This leaves the matter hanging in the air for another 5 years. I submit that it would be better not to create this unnecessary Council, limit the channel to 9 feet by law, and let it go at that.

It is to be noted that the provisions of the bill that would create this new Mississippi River System Council appear under section 5, which deals with locks and dam 26, the gateway to the upper Mississippi River. However, the bill does not limit the jurisdiction of the proposed council to the upper Mississippi River region. As written, the bill would give this Council jurisdiction over the entire Mississippi River system, which is undefined as to its geographic limits.

As all Senators from the Mississippi Valley know, we already have a Mississippi River Commission, which has jurisdiction over navigation and flood control from the mouth of the River, on the Gulf of Mexico, to Cape Girardeau, Mo. Its membership is prescribed by statute. It has been functioning for many years, and has the confidence of the citizens of the lower Mississippi Valley.

Another requirement of section 4 is that a board of three engineering consultants study the alternative of putting a new lock in the middle of the old dam. They have 4 months to report whether this alternative has merit and should be given further study. Four months is not very long for three persons new to the problem. I can visualize their reporting the need for more study, and 4 months turning into 4 years. I am informed that this alternative has already been carefully examined.

I submit that it is time to stop any procrastinating that may be taking place because of the intense opposition from some sources, and get on with the building, before the river is shut down. The main lock was closed for 8 days last April because a tow tore off a steel plate being used to hold the old, crumbling lock wall together, and in 8 days there were 1,000 barges and 100 towboats backed up, waiting to get through.

Some of the opposition is from those who fear damage to the environment, mosty from the supposed plan to deepen the channel to 12 feet. Very well, as I said, forbid deepening the channel, by law. This issue has been used as a red herring for too long.

Much of the opposition to the project, and it is very effective, comes of course from the railroads. There is enough traffic for both. As harvest time approaches we will again see pictures in the papers of grain stacked in midwestern city streets because they cannot get railroad cars to carry it.

In conclusion, I will make one comment about user charges and locks and dam 26. I am opposed to user charges, and in other remarks I gave my reasons for that opposition. Here I am dealing only with locks and dam 26.

If this much needed replacement structure is being held hostage as a means to get user charges, this is wrong. They are two separate issues. One is not dependent on the other, and Congress should not permit them to be so treated. The President says he wants locks and dam 26. The Secretary of Transportation proposes user charges. Let each question stand on its own feet.

Mr. President, locks and dam 26 has become a symbolic argument. While the argument continues that lock and dam is continuing to deteriorate, and to bottleneck the barge traffic that is crucial to the whole Mississippi Valley and to the national economy. I strongly advocate the replacement of this structure at the earliest possible time, and I urge the Senate to so provide in this bill.

I am not pleased or happy in any way about eliminating from this bill locks and dam 26.

It is not an Illinois project. This project is a key to the great percentage of transportation on the Mississippi River and tributaries. We may recall the Mississippi River drains all or part of 33 States and 5 Canadian provinces, and this lock and dam is going to have to be replaced. Time has run out, almost.

I favored, as a member of the Appropriations Committee and chairman of the Public Works Subcommittee, the idea as a matter of legislative principle that there be an authorization through this Public Works Committee.

They have been working on this matter diligently and the Senator from Illinois (Mr. STEVENSON) and I have conferred repeatedly.

We do not want this project taken out of this bill. We are grateful for the committee in its majority wisdom having put it in the bill, but in the interests of commerce, water commerce, waterways commerce, throughout this great major area of the Nation, we bow, in a way, to the inevitable here timewise—timewise.

We know it is just a few days until this session will end, temporarily at least. But only on the assurance here, given in all good faith, for an early consideration, as I understand it, not only of locks and dam 26 early in 1977, but the entire water resources items that are being withdrawn from the bill now, due to the urgency of time.

So I hope we keep our mind on the fact that this is not a local proposition. This is a national matter. The users tax that is in this bill is one of the most drastic, complete changes of policy that I have heard since I have been here. I feel sure that every Member of the body will want it thoroughly investigated, the facts developed, and the most measured opinion brought back in here from the committee, who are expert, with their staff, and a firm recommendation made.

It is just impossible that we pass, as I see it now, on this users tax without the facts before us, all of them, and that there, again, we would have to bow to time. We are the victims of time here now, without anyone being at fault.

With those thoughts and the determined purpose to get into it on the merits next year, with the cooperation of this committee, majority and minority, as a practical matter I think we have it detailed here, adopt this amendment for purposes of expedition only and then come back to the subject matter on its merits.

I thank the Senator for yielding me the time.

Mr EAGLETON addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. I shall be very brief.

Mr. President, I, likewise, have reluctantly come to the same point of view as previously stated by the junior Senator from Illinois (Mr. STEVENSON) and the junior Senator from Mississippi (Mr. STENNIS).

As a practical matter, we are stuck with the so-called Gravel compromise. I do not think any of us like it very much. Parliamentary and pragmatic necessity, though, make it compelling under these circumstances.

May I ask a question or two of the distinguished manager of the bill, Senator GRAVEL?

I ask the Senator, is this correct? Next year, in the new bill which will include locks and dam 26, will it not be necessary to act upon same prior to May 15? That is, does not our relatively new budget mechanism necessitate action prior to May 15 in order for the project to be funded in fiscal year 1977?

Mr. GRAVEL. That is correct. I stand corrected. I used the date of May 31 earlier. I think the date is May 15.

Mr. EAGLETON. So we then have the assurance of the distinguished Senator from Alaska as well as the distinguished Senator from New Mexico, that they will do all that is humanly possible to see to it that the new bill comes forward at an early opportunity so it does have a chance to be enacted into law prior to May 15?

Mr. GRAVEL. To really shore up the Senator's view in that regard and my commitment, we kept out the basin part of the authorization, which had the same requirement, so that we were sure that we would have something that would have to go to the President then. I, for one, do not think we have to wait until the end of May or the middle of May.

Mr. EAGLETON. I was not suggesting that we wait until the end of May.

Mr. GRAVEL. We would have to meet that schedule to get the money on time. The committee has done a lot of things to this present bill in order to keep schedules going. In fact, I am embarrassed to stand here and say that a lot of delays that have taken place have not been the fault of the Corps of Engineers but have been the fault of the Congress. We are doing things in this legislation to try and stop that situation. It is not a project that will be delayed by this compromise. I can assure the Senator from my personal effort that not a project will be delayed, including locks and dam 26, Vermilion, and a few other projects that will be ripe at that time for a congressional decision.

Mr. DOMENICI. Will the Senator yield for a clarification?

Mr. EAGLETON. Yes.

Mr. DOMENICI. Let me, as a ranking member, say that I do not think we have to commit to this becoming law by May 15 I say to my good friend. I think it has to be reported to the Senate by May 15 in order not to need a budget waiver. I am willing to make that commitment, that we will report it by that time, or do whatever we can as a committee. But we cannot assure that it will be law by then. I would like to make that distinction.

Mr. EAGLETON. I thank my colleague from New Mexico. He is absolutely right with his clarification.

Mr. President, I now would like to address some remarks to the basic subject matter, locks and dam 26.

Mr. President, the replacement of locks and dam 26 has been the focal point of much discussion over the past several months.

What has stood out most in these discussions, however, is the critical nature of the facility.

Located at a critical position just south of the confluence of the Illinois and Mississippi Rivers, all through traffic between the Upper Mississippi and the Illinois Rivers and the Ohio and Lower Mississippi Rivers must pass through locks and dam 26. This accounts for 80 percent of all upbound and downbound tows.

In 1975, 55 million tons of cargo with an estimated value of $5 billion transited locks and dam 26. This cargo included agricultural products, fertilizer, petroleum and petroleum products, chemicals and coal. About 28 percent of this Nation's exported grain so critical to our balance of trade comes through this facility.

But locks and dam 26 is reaching the end of its effective life. The corps has given ample testimony illustrating the deteriorating condition of the 38-year-old facility. They have described piping failures at the locks and losses of support materials beneath the structure. Damage is considered so severe that the corps does not believe that either lock could be safely dewatered for inspection or repair.

The facility can be maintained for the 8 years it will take to construct the new locks and dam, but this will be expensive. The corps has estimated they will need over $7 million next year to maintain the facility in proper condition. Structural deterioration is not the only problem at locks and dam 26, however. The present facility is not sufficient to properly handle the traffic that now passes through it. The practical capacity of the facility is considered to be 46.2 million tons of cargo. In 1975, 55 million tons of cargo transited the facility. The average delay time during the year was approximately 6 hours. For the first 5 months of this year delay time has been averaging about 11 hours resulting in $11.3 million of increased costs being passed on to shippers and consumers.

Mr. President, I should point out that when the corps presented its replacement plan to 50 Federal and State agencies and private organizations, the corps received at least 30 favorable replies, including the Department of Labor, the Department of Commerce, and the Department of Transportation. A 1 year delay will add almost $25 million to the cost of the project.

Mr. President, I submit that the major economic and environmental questions which have been raised with respect to this project have been studied in great detail. The committee proposal limits the depth of the Mississippi channel north of Alton to 9 feet thus removing the threat of expanded dredging activities. And the committee's proposal creates a Mississippi River Council which will develop a comprehensive management plan for the Mississippi River system. This plan would be used by Congress in developing future river policy.

Having said all of this, Mr. President, I now come to the amendment of Senator GRAVEL, which is now before us. Frankly, I do not much like this amendment, but it is about all we can do at this time. The Senator from Wisconsin (Mr. NELSON) has the word "filibuster" written all over his face. Senator NELSON is longingly looking in the direction of the Senator from Alabama (Mr. ALLEN) whom we all recognize as the virtuoso filibusterer of our age.

Mr. President, we should move forward with locks and dam 26 and, quite frankly, we should move forward now. But, with the legislative clock running, with but a few days left in this Congress, we have no practical alternative but to reluctantly accept the Gravel so-called compromise.

Mr. JOHNSTON. Will the Senator from Alaska yield?

Mr. GRAVEL. I will be happy to yield.

Mr. JOHNSTON. Mr. President, this is a compromise and it is one that I am going to go along with simply because we have no choice. It is not a very good choice, Mr. President. We had the votes. Quite frankly, we had the people on the question of user fees, according to my tally, about three to two. I expect it will be that way or stronger by the time we get around to voting next year. I understand the lateness of the hour and I understand the threat of a filibuster. I, therefore, do not plan to bring up the amendment we had on user fees.

I would point out to my good colleague, however, for whom I have not only great respect but affection as well, that user fees are nothing more than an additional tax, a tax meant to discourage the use of waterways, except to move that freight, in part at least, from the waterways to other alternative modes of transportation, to railroads. Indeed, it is the railroads which are providing the greatest impetus for trying to beat not only lock and dam 26 but trying to pass the user fees as well.

To digress just a moment, it seems to me that the railroads are making a tremendous mistake, when this Congress has come in and provided millions and millions, indeed billions of dollars, to railroads and they are not content with getting the subsidies that they have been getting from this Congress. They want to try to get some of the traffic which moves on the waterways.

I would say, Mr. President, that is all right, providing it were in the national interest. But I think it is demonstrably not in the national interest to move traffic from the waterways to the railroads or to the highways. It is very clear, Mr. President,that waterways are, first of all, the cheapest form of transportation going. That is why everybody wants the waterway, because it is cheap and it brings industry. We are able to move particularly the high bulk cargo at the cheapest price possible. That is why waterways are good, because they are cheap, because we save fuel.

Mr. President, we have passed all kinds of legislation in this Congress relating to the conservation of energy. We have passed bills to insulate homes. We have passed bills to require automobiles to be more fuel efficient. We have passed all kinds of legislation aimed at conservation. Yet here we are in the Chamber today with a bill that has precisely the opposite effect, a bill which would tax the waterways to make them less efficient and, therefore, try to move some of that traffic over to the railroads, to the trucks, or conceivably even to the airplanes. It just does not make sense, Mr. President.

I am wondering why the environmentalists are not here fighting those user fees.

Another thing is very clear, that the most environmentally sound means of transportation is the waterways. Senator NELSON knows that is correct. I am sure he will be fighting those user fees. When we move a ton of cargo with less fuel and move it with those big diesel engines, it pollutes less than any other way.

Mr. President, I think the case for that is demonstrably clear, not just for those of us who have waterways, who have what some would call a parochial interest, but I think for the entire Nation. A user fee on waterways, Mr. President, is nothing more than a sales tax. President Truman called it a sales tax back in 1957 when he was opposing it at that time. It is still a sales tax. It is not going to increase the cost of goods to the waterway carriers. They are going to pass it to the consumers. It is going to increase taxes and increases prices for the average American consumer.

Mr. President, since this is a tax, I am wondering why in the world this bill went to the Public Works Committee and did not go to the Finance Committee. That is an issue that will be postponed to another day, I realize.

Mr. GRAVEL. Will the Senator yield for a moment?

Mr. JOHNSTON. Yes.

Mr. GRAVEL. What this amendment does is to take out all the ills my colleague has been mentioning. I really do appreciate his efforts to work with us on this problem.

Mr. JOHNSTON. I thank the Senator. I hope the ills have been taken out permanently, with one exception. That exception is two innocent victims of this amendment, the Gallipolis lock and the Vermillion lock. What it means to take out the Vermillion lock on the Intracoastal Waterway I cannot fathom. The Vermillion lock is environmentally sound, to those environmentalists interested in this bill. It provides for control of salinization. It provides for the control of the fresh-water supply on the coast of Louisiana, which is very important. It is a lock built in 1933, Mr. President, on the Intracoastal Waterway. It is important to my State, of course, because 10 percent of the traffic that goes through that lock originates and ends in Louisiana. But the other 90 percent, Mr. President, is interstate traffic which has to move through this antiquated lock.

The Corps of Engineers in May 1967 approved the replacement of that lock. We are just now getting around to replacing it. We need it for navigation, not in the interest of Louisiana but in the national interest. Everybody admits that. We need it for environmental control. But here is the Vermillion lock, an innocent victim of a compromise with lock and dam 26, which I believe we need and for which I testified. It is not because it means anything to my State in a parochial way and because it means a lot to the Nation and that whole heartland of the United States for their electricity and for the fuel that it takes to generate that electricity and keep industry moving. I think we need lock and dam 26. But why the Vermillion lock has to be an innocent victim in a fight between lock and dam 26 which is opposed by the environmentalists and the user fees, which are opposed by almost everyone of good sense in the Senate, I do not know, Mr. President.

I would appeal to those who are the principal architects of this compromise—the Senator from Alaska, the Senator from Illinois, and the Senator from New Mexico—to consider here, before we take this final action, letting the innocent victims go free. Why execute at dawn by firing squad an innocent victim? Let those who are subject to some question bear the——

Mr. GRAVEL. Mr. President, if I could respond to my colleague, there are no innocent victims. There are no victims in this compromise. There is not a penny of 1977 money in this bill, so nothing will be delayed by the compromise.

I would be happy to stay on, if we had time, and fight the issue out to the very end, but that would amount to nothing, because we hope the very end will be Saturday. So if my colleague is interested in securing passage of all of the other good things for his State and the other States, then he will accept the compromise.

This is just an accommodation. We have given clear commitments that we would treat this subject expeditiously at the beginning of the year. I would hope the Senator would not jeopardize the consensus which seems to be developing in this body at this time.

Mr. JOHNSTON. As I say, I thank the Senator from Alaska for his leadership. I know he has devoted almost 6 months of his life to getting this bill through, and to holding the extensive hearings. He has done a marvelous job in that respect.

I realize that sometimes a bad compromise is better than a good fight when you lose. I realize there has got to be a compromise. It has to be done by assent, and it would not do any good for us to try to disturb this compromise. I am not suggesting that for a moment.

The Senator says there are no victims. Perhaps there are no victims. But I know we would fare much better if we had this authorization in the law, so we could commence the design of this lock. It is an old lock, built in 1933.

Mr. GRAVEL. If I may interrupt again, there are other Senators here who would feel much better about other things in the compromise if they had their way, too. The nature of a compromise is that everyone has to give. What my friend is suggesting is that we have a compromise where he does not give anything.

I am not a magician. I cannot come up with that. We have worked out something here that everyone is prepared to live with. So let us not wish in vain for the impossible; I would hope we could blithely accept the possible.

Mr. JOHNSTON. Is the Senator from Alaska confident that the Vermilion lock, needed as it is, will sail through early next year?

Mr. GRAVEL. I can promise my colleague, on my record from the past, that I am a champion of these projects in his State. I have been to his State, and I know its special problems. I have seen the quantities of water there. His State has a problem which must have a particular focus.

So I am prepared, in addition, to guarantee him that the first opportunity that the committee has under my leadership, it will take up lock and dam 26, attempt to solve that problem, and to bring along with that, at the same rate of speed, the Vermilion lock and Gallipolis, and any other projects that have been matured by that point in time.

I have given those assurances to the Senator from Mississippi, the Senator from Minnesota, and other Senators. So I have extensive commitments on the subject.

I am prepared to stay here another 3 hours and repeat those commitments, but to move forward will require the good will of every single Senator. I appreciate the progress the Senator has made in his own State in this regard, and I appreciate his cooperation in giving us a consensus, which is a notch more difficult than a compromise, in respect to this matter.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I wish to make this very clear on the record: The Senator from New Mexico has been a great leader in public works matters as well. Does he share the same commitment to these other projects? In other words, is there any problem with projects such as the Vermilion lock and Gallipolis? Will those projects be given prompt attention early in the next Congress?

Mr. DOMENICI. Mr. President, I can assure the Senator that they will be treated no differently than lock and dam 26. I do not want any misunderstanding; I am not prepared to bring them back without a user fee proposal. I am committed to give them an early hearing and to reporting an authorization bill prior to May 15, so it will not be subject to a budgetary point of order.

The two items the Senator is talking about have less objections, environmentally, than lock and dam 26. They are part of the committee's proposal that new projects of this type will be tied to a user fee approach.

Mr. JOHNSTON. My concern is that when we come back next year, we will have lock and dam 26, which is a highly controversial bill, user fees, and Vermilion lock all tied together in such a way that we will not be able to separate it.

Mr. GRAVEL. Mr. President, will the Senator yield on that point?

Mr. JOHNSTON. Yes.

Mr. GRAVEL. Everything is separate. There is no question that they will all come back together because they will probably come back in an early omnibus bill. There is no question that user fees will come back before this body, and we will have several months to thrash it out. If we had time to do it, we are prepared to do that right now, but we do not have time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

REA AMENDMENTS—AUTHORITY TO FILE COMMITTEE REPORT

Mr. HUMPHREY. Mr. President, I ask unanimous consent to file a committee report.

Mr. ABOUREZK. Mr. President, reserving the right to object, may we know what it is about?

Mr. HUMPHREY. It has to do with technical amendments to the REA Act, reported by the Committee on Agriculture and Forestry, and has been cleared by the majority and minority.

The PRESIDING OFFICER. Without objection, it is so ordered.

WATER RESOURCES DEVELOPMENT ACT OF 1976

The Senate continued with the consideration of the bill (S. 3823) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

Mr. GRAVEL. I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, may I have the attention of the junior Senator from Louisiana?

Mr. JOHNSTON. Yes.

Mr. RANDOLPH. I have listened very carefully to what he has said. His concern, of course, is with a project and a program, in which he is intensely interested and knowledgeable.

As chairman of the Public Works Committee, I reinforce what is being said here. We make a pledge, and we shall keep it, to come back with these matters; not just one matter, as the Senator understands. Are we in agreement on that?

Mr. JOHNSTON. Yes, of course.

Mr. RANDOLPH. But the matter in which the Senator is intensely interested will be coming back, and will be debated. That is what the Senator is asking. All we are asking is that we simply delay it for a few months, and then come back to it. This compromise will allow us to move ahead with many projects and programs in many of the States which are contained in the bill.

I appreciate the confidence that I believe the Senator from Louisiana has in us to do that job.

Mr. JOHNSTON. I thank the Senator from West Virginia, and would like to commend him as distinguished chairman of the Committee on Public Works. There is no committee chairman in this body for whom I have more respect and admiration than the Senator from West Virginia. In my view, that is one of the best-run committees in the entire Congress, and its chairman shows real dedication and, I think, good sense in the way it is operated.

It is for that reason, because of my confidence not only in the Senator from West Virginia, but in the Senator from Alaska and the Senator from New Mexico, that I am willing to sign on to this compromise.

Mr. GRAVEL. I thank my colleague.

Mr. JOHNSTON. Frankly, it is a difficult thing to explain back home when you have a project that is badly needed, in the national interest—most of the traffic using this lock begins and ends outside the State—it has been authorized since 1967, and was built in 1933; and yet we have to go home and explain all the vagaries of the Senate process, and how it gets caught in a compromise, though I understand that very well, and I think it is a good compromise. I congratulate those who put it together.

Going home armed, as we are, with the assurances of the distinguished Senators on the committee, I think it is easier, and while our constituents do not personally know the Senator from West Virginia, the Senator from Alaska, and the Senator from New Mexico, I will convey to the people of my State that their assurances are as good as gold, and that come next January we are going to do justice and equity in this body because of their leadership.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

While our constituents do not personally know the Senators from West Virginia, Alaska, and New Mexico, I will convey to the people of my State that their assurances are as good as gold and that come next January we are going to do justice and equity in this body because of their leadership. So I will sign on.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico seeks recognition. Does the Senator from Alaska yield?

Mr. GRAVEL. I yield.

Mr. DOMENICI. Before the junior Senator from Louisiana leaves I might help him answer his constituents problems. I might suggest that the Committee on Public Works for the first time in history has reported to the floor of this Senate a user charges bill. That ought to disturb a few people. They ought to be worried about it. It is pretty hard to debate that thoroughly in 2 days.

I might suggest that, by a vote of 9 to 4, the committee decided the time had come that we ought to assess this burden equitably across the country instead of putting that money in that mode of transportation out of general tax coffers. I might also suggest if the Senator is interested——

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. DOMENICI. Let me finish one

statement. If he is interested in jurisdiction we will refer him to the St. Lawrence Seaway, where the Public Works Committee proposed the tolls. And there are three or four Supreme Court decisions which I comment on for the record.

Mr. President, it has been argued that this is tax legislation. This is a misreading of this provision. Section 5 creates a mechanism to produce a nontax revenue, similar to the user charges imposed on persons who visit our national parks, or the tolls charges on the St. Lawrence Seaway. These are not considered tax legislation. Nor should section 5 be considered a tax, as it establishes a user charge system based on use and benefits.

The true issue before the Senate is whether this proposal, on its own, is equitable and reasonable and a fair exercise of congressional authority over interstate commerce. I do not doubt for 1 minute that section 5 meets that test.

In *Huse* v. *Glover*, 119 U.S. 543, 549, 550 (1886), the Supreme Court found that charges collected in partial defrayment of the costs of services provided by the Congress, in promoting Commerce were regulatory, not taxation. Even when measured by tonnage, the Court held these charges distinguishable from taxes or tonnage duties. As an exaction for services rendered or facilities provided, the proposed tolls would be administered, not as a tax, but as a necessary and proper means for effectuating the Federal power to regulate and promote waterborne commerce.

I have also noted with interest the comments of the waterways industry citing the Supreme Court decision in *James* v. *Dravco Construction Co.*, 302 U.S. 134. That case involved a State tax, and the decision of the Court that the State did not have certain taxation rights. That case in no way involved the rights of Federal taxation or the definition of nontax revenues, which this bill involves.

The Federal approach to "user charges" is described in title V of the Independent Offices Appropriation Act of 1952. That act states that—

> Any work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by any Federal agency . . . shall be self-sustaining to the full extent possible.

A tax is a levy, according to the Dictionary of Economics, for which there is no "correlation between the amount paid and the value of the public services from which the taxpayer benefits." That is clearly not the case in section 5:

ST. LAWRENCE SEAWAY

Established by Public Works Committees—May 13, 1954, P.L. 83–358, Title 33 Section 988 establishes tolls on the Seaway.

Rates set to "cover, as nearly as practicable, all costs of operating and maintaining the works under the administration of the Corporation, including depreciation and payments in lieu of taxes."

In all deference to the good Senator from Louisiana, we are interested in moving ahead as rapidly as possible. We understand the Vermillion need. We understand the locks and dam 26 need. And I think it comes to this Senate after full and thorough discussion in that committee. The reason we have difficulty is that there are many who think the time has to come to debate the issue of user fees. Then there are many who do not want us to proceed at all at this point, at least for a few more months without further reports with locks and dam 26.

So in all fairness, I think we are doing right. We are doing right by the Senator and those interested in Vermillion and locks and dam 26 to pull them both and commit to an early and most expeditious hearing, and let the other projects proceed. Many of them are good for the Senator's State. He knows that. He has worked with us diligently on them. Let them proceed through so we can try to get many of them authorized this year for commencement in 1978.

I thank the Senator for his concern in the committee and for the help he has given us in explaining the other projects on a number of occasions before the committee.

Mr. JOHNSTON. I thank the Senator.

Mr. GRAVEL. Mr. President, I thank my colleagues for joining the compromise, and I yield to the Senator from Alabama.

Mr. ALLEN. I thank the distinguished Senator for yielding.

The PRESIDING OFFICER. The Senator may proceed.

TAXING WATERWAY BENEFITS—BUT WHO ARE THE BENEFICIARIES?

Mr. ALLEN. Mr. President, section 5 of the pending Water Resources Development Act of 1976, S. 3823, would put asunder a policy and program of Federal investment in waterway development which has been in full force and effect for more than 150 years and which has been one of the most rewarding undertakings of our Government. Since early in our history as a nation, the Federal Government has improved and maintained the country's harbors and navigable waterway free from tolls, use taxes, or user charges. As in the case of Federal and State aid to railroads, air transport, and highway construction—which have substantially exceeded harbor and waterway expenditures—the Government has followed this policy in the interest of balanced regional development, maximum efficiency of farming and industry, improved access to natural resources, and the strength of the national economy based on expanding trade. The program has been brilliantly successful.

Congress is being asked to take back from the public the benefits of toll-free harbors and waterways by imposing special use taxes, tolls, or other charges on navigation. Ironically, the waterway user tax movement has been gaining ground concurrently with the outpouring of massive Federal and local aid to the Nation's railroads, both ailing and prosperous.

LOW-COST TRANSPORTATION AND ECONOMIC DEVELOPMENT

The distinctive feature of water transportation is its incomparably low cost. For this reason, the mode is ideal for moving just those materials and products most basic to farming and industry. For the cost of hauling such commodities as coal, gasoline, fuel oil, steel, chemicals, fertilizers, or grain 1 mile by railroad, they can ordinarily be hauled 4 miles or more by water. For this reason, water transportation induces economic development at the most productive locations, and, by reducing the barrier of distance, fosters maximum efficiency and integrates the national economy.

As a corollary, industries and commercial acivities located for waterway transportation have been placed hostages with the continuity of the tollfree waterways policy and cannot flourish without it. These include large sectors of farm marketing, food processing, building materials supply, electric power, steel, chemicals, oil refining, and numerous others. Tollfree water transportation is thus essential to the continued livelihood of millions of workers. Its low cost is, at the same time a deterrent to inflation.

THE OVERKILL STANDARD

The waterway use tax now being proposed would be at devastatingly high rates after the phase-in period—much as though the American family were to be required to pay full-cost tuition for its children at the public school. For example, at the end of the first 5-year phase in, section 5 would result in shipping costs on the Arkansas River about three times what they now are. On the Kentucky, barge rates would be five times the current rates, if the tax is based on segment-by-segment traffic volumes and operating costs, as the section specifies. On the Atlantic Intracoastal Waterway, barge transportation costs would more than double, as would be the case of the Missouri River and the Ouachita-Black in Arkansas and Louisiana. The costs would triple on the Apalachicola-Chattahoochee-Flint which serves parts of Florida, Georgia, and Alabama.

Meanwhile, some other heavily used waterways which are relatively inexpensive to maintain would be less severely affected. The regional discrimination inherent in this plan is highly offensive.

During the second 5-year period, when charges would be collected on the basis of project construction costs, the impact on specific waterways would be even greater. Under these burdens, traffic on many waterways would wither, jobs would vanish, and prices would soar.

DIRECT BENEFICIARIES

The user charge proponents seek to justify this overkill target on the pretense that the Nation's harbors and waterways benefit no one but vessel operators. They refer to the "direct beneficiaries" of waterway maintenance. They demand that the vessel operators pay their so-called fair share of the cost. "Competitive equity" with the subsidized railroads, they insist, requires that vessel operators pay a charge for floating their craft on the rivers, to which they apply the railroad term, "right-of-way." In brief, the user charge philosophy views the Nation's transportation system as a kind of competitive game played in a vacuum in which the public is an unaffected spectator.

THE REAL BENEFICIARIES

In fact, however, the values of low-cost water transportation permeate every sector of our national life. Cost-recovery user charges would, of course, exert their primary impact on the vessel operator. The secondary impact, however, would strike at workers, investors, and farmers whose savings and occupational destinies have long been irrevocably committed to locations based on low-cost water carriage.

Beyond this, a tertiary impact would fall. Impaired business and job opportunities, agricultural reverses, and rising charges for food, fuels, and electricity are conducive to impaired property values, insecurity of bank deposits, and lowered tax revenues of States and cities. The crippling of the Nation's waterway and harbor system would be a shock to the national comunity seismic in effect, the waves reaching into every stratum of the social and economic structure.

The success linkages which tie low-cost water transportation to economic and public interest values, ostensibly far removed, are so little perceived that they deserve some description. This description will necessarily be incomplete. No systematic study has been made.

It may be, of course, that some of the secondary and tertiary consequences while real, would be of small magnitude. But, nobody knows. Their magnitude could be great. One thing is certain. To reverse a policy which has underlain the Nation's development for nearly two centuries, while blinded to the reverberations such reversal would entail, and in disregard of their magnitude, would be an irresponsible and dangerous gamble.

ENVIRONMENTAL CONTRASTS

The closing years of the 20 century are characterized by well-deserved and pervasive concern for the physical environment. The driving of millions of tons of freight traffic off the waterways and onto railroads and highways would have environmental effects which should be squarely faced. Railroads and highways preempt growing expanses of land, both agricultural and urban. The broad acreages of a single urban railroad classification yard, often equivalent to a good-sized farm, are in point. The right-of-way of water transportation, by contrast, is almost always a natural river.

Railroad trains and trucks roar through towns and streets. River and harbor vessels, however, are far out on the water, their engines muffled below the waterline. River barges do not kill motorists and pedestrians in grade-crossing accidents. A scientist with the RAND Corp. reports that, for the same tonnage carried just as far, railroads burn up 3 gallons of fuel for each 2 gallons consumed by water carriers. Less fuel consumption means less air pollution. It also means bigger supplies and lower prices for the motorist at the fuel pump.

Transportation by water fosters public safety. Modern technology has developed improved products essential to our national life. But, some of these are hazardous to transport—acids, chlorine, caustic soda, ammonia, and others. Accidents and spills inevitably occur. The Federal Maritime Administration reports a study by Arthur D. Little, Inc., showing that, for any quantity of these substances carried by water, the number of accidents and spills is markedly less than by either railroad or truck. Even more to the point, far fewer people are exposed to danger in each accident.

The loss of these environmental advantages should be weighed among the impacts of a waterway user charge which would transfer millions of tons of freight from the waterways to the land modes.

FARM INCOME AND WORLD FOOD SUPPLY

The closing years of the 20th century are characterized, as well, by the world food problem. The United States and Canada, alone among the nations, are emerging as the sole large-scale exporters to a hungry world, and, in international relations, food is destined to become an implement of strategy more potent than oil. In this strategy, the vast farming region of the American Middle West, the most efficient and productive farming area in the world, is a trump card.

In 1974, the 11 States of the Upper Mississippi Basin shipped about 958 million bushels of grains and soybeans downstream on the Missouri, Illinois, Ohio, and Mississippi Rivers to Gulf Coast ports for export and to southeastern U.S. feeding areas. Another 313 million bushels were shipped eastbound via the federally-maintained harbors and channels of the Great Lakes.

The down-river movement is growing rapidly, and the waterways now carry most of the outbound Middle Western food-grain shipments. The waterborne movement in 1974 represented farm income approximating $5.6 billion. Waterway user charges would sharply reduce this income and force cutbacks in farm production. The price of grain on the farms of Iowa, Illinois, and neighboring States is an arithmetic deduction of the cost of transportation from the coastal export price.

FARM COSTS

Waterway user charges would also raise Middle Western farm costs—and very substantially. A large portion of the region's farm fertilizer, gasoline, fuel oil, and coal for rural electric utilities also moves upstream on the rivers, much from Gulf Coast origins. The Great Lakes likewise carry large tonnages of utility coal into the Upper Midwest. With the consequent rise in costs, the farmer would be caught in a cost-price squeeze.

RAISING COMPETITIVE RAILROAD RATES

The impact would be made all the more pervasive because of the inevitable rise in railroad rates. During the 1960's, railroad executives reduced rates drastically on farm crops, fertilizers, and utility coal to capture some of the growing markets which had been opened by water transportation. With a big user charge added to waterway costs, the railroads would be liberated from low-rate competition and would raise their rates to match the increased waterway charges. In pushing for waterway user charges, railroad executives state frankly that higher rates are their objective.

FARM INCOME, FARM MORTGAGES, AND BANK DEPOSITS

The resulting shrinkage in farm income would extend like a shock wave throughout the entire economy of the region. The value of farmland rests directly on the income its cultivation will yield. With farm income impaired, land values would fall. The security of farm mortgages, in turn, rests upon the value of the land. These mortgages are major assets of thousands of banks throughout the Middle West. In addition, a large portion of bank portfolios consists of shorter-term farm credit—for machinery, fertilizers, and other supplies. Reduced farm income would impair the security of this credit, too. Thus, the quality and value of the holdings of the entire Middle Western banking system would be affected. Nor is this all. The security of bank deposits, both checking and savings, rests directly on the quality of bank assets. This security, too, would be compromised.

URBAN AND INDUSTRIAL IMPACT

This exploration of secondary and tertiary impacts cannot neglect the dwellers in towns and cities. This livelihood of local retailing, service, and professional activities throughout the Middle West depends on spending by farmers. Some of the Corn Belt States are noted for their growing manufacturing industries. But, these, too, are mainly farm-based. They produce farm machinery, tractor supplies, blended fertilizers, and other farm necessities. Indeed, industry would be directly affected by the higher costs of fuels and electric energy. The processors of farm products, such as flour, semolina, and tallow, would find that outbound freight rates had risen sharply. The resulting impairment of profits and payrolls would further diminish local retailing and service incomes.

The structure of industry, income, and credit of any region as extensive and complex as the Middle West is an integral system of interdependent components. Low-cost freight transportation is a vital supporting member. With this prop knocked out from under the structure, the entire regional economy would sag.

Over 70 percent of the total population of major metropolitan areas in the United States resides in urban areas on navigable water. Waterborne construction materials serve almost every one of these cities, from Portland, Oreg., to Jacksonville, and from Chicago and Kansas City to New Orleans and Pittsburgh. In a typical recent year, our domestic waterways carried over 14 million tons of lumber, veneer, plywood, building cement, structural clay products, asphalt, structural steel, and concrete reinforcing bars. The waterways and harbors carried an additional 82 million tons of sand and gravel—for a total of 96 million tons of building materials in a single year.

Relative to value, the transportation of such materials overland is a major component of cost and adds significantly to the price of new homes and other buildings. Millions of American families are finding that inflation is pricing suitable housing out of reach. A user charge on the 96 million tons of materials carried by water would boost the already inflated prices and add to the numbers of frustrated home-seekers. Rising competitive railroad rates would extend the impact. Even those buyers who were willing to stretch their budgets and pay the price would often find financing withheld, and all would encounter larger interest payments based on the higher price. Home-seekers walled out of the market would not escape. The higher cost of housing would be written into the monthly rent bill. Employment in the construction industry would also be adversely affected.

WATERWAY USER CHARGES AND GOOD ROADS

A substantial portion of the building materials movement, especially of cement, sand, and gravel, is also dedicated to road building and repair. These are the ingredients of concrete, explaining the frequent location of concrete plants at waterside. The increased cost of a user charge on these materials would be an additional burden on the treasuries of large cities, notably of New York. In a typical year, New York Harbor handles about 20 million tons of building materials of domestic origin.

Roads and highways maintained by State governments are financed mainly by gasoline taxes. With higher prices for road materials, either the tax rates would have to be raised or the roads maintained at lower standards. The motorist and trucker would be injured either way. Neglected roads are damaging to motor vehicles.

AN ADDED GASOLINE AND DIESEL FUEL TAX

Motorists and truckers concerned about motor fuel taxes may be surprised to learn that a waterway user charge would be, in itself, an additional tax on gasoline and diesel fuel. About one-third of the total tonnage of domestic waterborne commerce consists of petroleum products, gasoline being a major portion. Approximately 30.5 billion gallons of gasoline are delivered to consuming areas of the country each year by waterway. That's enough gasoline for every automobile in the United States to travel at least 5,000 miles each. Equally significant volumes of heating oil and diesel fuel are also carried by water.

Most regions of the country benefit from waterway transportation. Major tonnages of gasoline and other petroleum products are moved to market on the Hudson River, the Mississippi and Illinois Rivers, the Columbia and Willamette, and numerous others. Waterway user charges would severely damage these movements. Longer-haul movements would be forced into pipelines; shorter-haul movements into tank trucks. In either case, prices would rise.

Waterway user charges would adversely affect competition in the oil industry. Barging is especially beneficial to small communities where consumption is too small or irregular for pipeline terminals. In addition, water carriage serves small distributors, independent marketers, and farm cooperatives whose volume is insufficient to permit pipeline participation. Unlike pipelines, water transportation is very flexible. Pipelines are fixed in position. But, waterway shipments can be rerouted with changing seasons and changing markets. For these reasons, river barging has often been called the poor man's pipeline. These smaller operators engage in vigorous price competition throughout the interior of the country. They would be most distinctively damaged by waterway user charges.

CONGESTION ON ROADS AND STREETS

Motorists and truckers may likewise find it instructive to consider the effect of waterway user charges on street and highway congestion and on local road maintenance. This impact would fall through the shift in transportation of building materials and petroleum fuels. User charges on sand, gravel, and cement especially would force much of the movement off the waterways. Most communities have alternative nearby sources of these materials at inland locations which can be brought to concrete plants by truck. Thus, a sizable shift to trucking could be expected.

A similar observation applies to much of the waterborne carriage of gasoline, diesel fuel, and fuel oil. The rivers, in particular, serve as regional distribution channels for the refining industry. Hauls are often too short and demand at particular consuming centers too small and irregular for pipeline movement. This, too, means more short-haul trucking.

The resulting street and road congestion could be substantial. Taking the sand and gravel movement alone, at 12 tons per truckload, the domestic waterborne movement is equal to 21,841 truckloads per day. Each of these, of course, would be associated with a return movement empty, making a total of 43,682 additional daily trucking movements—this in addition to present traffic on congested streets. Additional tank trucks carrying gasoline and fuel oil would be added to these.

The cost could be high. In addition to increased congestion and urban noise, it should be noted that trucks consume about eight times as much fuel per ton carried as waterway vessels. The bearing on fuel supply and air pollution is self-evident.

USER CHARGES AND HIGHER PROPERTY TAXES

Advocates of waterway user charges like to regard themselves as friends of the taxpayer. They should reflect carefully. Whatever taxes might be saved on waterway improvement and maintenance could well fall short of the increased costs of highway building and maintenance. Newly opened deposits of sand and gravel are ordinarily found beside country roads, not designed for heavy truck traffic. These roads, of course, would have to be substantially upgraded at high cost to State and county road departments. The increased movement of heavy trucks on main roads would likewise add to maintenance costs. Local rural roads and city streets are normally paid for out of property taxes. Let the taxpayer beware of his thoughtless friends.

USER CHARGES AND ELECTRIC BILL

The rising costs of transportation attendant on waterway user charges would creep through the successive processes of production and distribution into the cost of living and into every household budget in the country. Fuels and other bulk commodities carried by water are the raw materials of every fabricating and processing industry. Waterborne chemicals, for example, produce food wrappings, automobile parts, cloth, medicines, paints, paper, food and drug containers, and innumerable other products. Steel is the material of building and road construction, automobiles, "tin" cans, farm and industrial machinery, ships, locomotives—the most universal durable material of modern life.

The avenues of impact are numerous, but let us look at one of the more conspicuous: the monthly electric bill. The country's harbors and waterways transport about 253 million tons of coal and residual fuel oil annually to domestic consumers. Electric utilities consume about 70 percent of the Nation's coal and about half the residual fuel oil. Waterway user charges would add substantially to the cost of these fuels at waterside generating stations, and these charges would be transmitted promptly into household and business electric bills.

Rising fuel costs in recent years have educated the American public on the ubiquitous "fuel adjustment" formula in utility rates. Higher fuel costs are automatically written into consumer billings in a matter of days or weeks. In the northeastern part of the country in 1975, fuel costs amounted to about 45 percent of the electric bill. With waterway user charges, this would go higher.

THE WATER-BASED CENTRAL ELECTRIC POWER RESERVE

Communities far from the waterways would not be spared. The entire northeast quadrant of the United States is served by a central reserve of electric energy produced on the banks of the Ohio River and its navigable tributaries. These are mainly investor-owned utilities. The Ohio River Basin produces about 80 percent of the Nation's total coal output, and the riverside powerplants, distributed all the way from West Virginia to southern Illinois, consume principally Ohio Basin coal, most of which is received from mining areas by river barge. Because of the low cost of water transportation, energy charges here are below the national average, and the basin industry has grown far beyond the requirements of local demand. Because of the urgency of energy independence based on domestic coal, this growth is now being expedited.

This electric power reserve transmits the Ohio Valley surplus via high-voltage system interconnections to relieve shortages in communities as distant as Chicago, Detroit, New York, and eastern Virginia. The illumination of Fifth Avenue and Michigan Boulevard thus owes something to toll-free water transportation on distant rivers. Innumerable localities throughout the eastern half of the country share this benefit, many in even greater magnitude.

INLAND COAL FOR COASTAL UTILITIES

The waterways also carry coal to populous regions remote from the mining areas. As an example, millions of tons of Ohio Basin coal move down the Ohio and Mississippi Rivers every year to produce electricity on the gulf coast, all the way from Galveston, Tex., to northern Florida. Most of the electricity of the Tampa-St. Petersburg area is produced from Ohio Basin coal via the Mississippi River and the open waters of the gulf. Waterborne low-sulphur Wyoming coal for clean air, transshipped from rail-water connections in the St. Louis area, is now programed to supplement the Ohio Basin supply in Louisiana. The movement is growing rapidly, with high promise for the future.

Under the impact of cost-recovery user charges, such long-haul movements would shrivel or die. High railroad charges would completely block Ohio Basin coal from the gulf coast market. The coastal utility industry would resume its dependence on fuels subject to import at high and rising cost, to the injury both of the consumer and to the Nation's program for energy independence.

A similar tracing might be drawn of the impact of user charges on the price of countless consumer goods produced from chemicals, steel, aluminum, copper, food grains, and other basic commodities now dependent for logistical efficiency on the low cost of water transportation. The impact would be pervasive.

THE WATER-BASED STEEL INDUSTRY

We began this commentary by noting the impairment of employment and incomes which user charges would entail in the water-based industries. For purposes of illustration, let us confine ourselves to one—the American steel industry.

Most of this industry is sited on navigable water, on the seacoasts, along the Great Lakes, and on the inland rivers. The industry consumes enormous tonnages of mineral commodities, mainly iron ore, coal, and limestone—over 4,400 pounds of these three for each ton of steel produced, in addition to other bulk materials, such as ferrous scrap and manganese ore. Mineral deposits of the respective materials are rarely found in close proximity and usually have to be assembled over hundreds of miles. Finally, the industry must ship its high-tonnage products long distances to changing regional markets. Something over 90 percent of the industry's productive capacity is dependent, at least for some, often for most, of its essential materials and for access to distant markets on domestic water transportation.

TRANSPORTATION COSTS AND STEEL IMPORTS

Most of the coal consumed by the Pittsburgh and Cincinnati districts of the steel industry is received by river barges on the Monongahela and Ohio Rivers. Practically all of the iron ore and concentrates consumed by the industry in Chicago, Detroit, Cleveland, Youngstown, and Buffalo, as well as in the Pittsburgh and Cincinnati districts arrives via the Great Lakes. In 1974, the Black Warrior River carried over 4.2 million tons of iron ore and concentrates to furnaces in the Birmingham district.

Waterway user charges would thus distort the basic logistics of the steel industry and undermine its efficiency. Costs would rise. Because of the large volume of steel imports from Japan and the Common Market, the American steel industry is vulnerable to such a setback. Steel imports rose from 1.7 million tons in 1959 to a high of 18.3 million in 1971 and leveled off to 16.0 million in 1974. At their 1971 high, they rivaled in magnitude the output of the entire Pittsburgh district. Employment in the industry has been shrinking. The impact of waterway user charges could well tip the scales and induce a resumption of growth in the volume of imports.

As David M. Roderick, president of the United States Steel Corp., said early in 1976:

> U.S. Steel has plants which rely directly on the inland waterway system for their production and distribution capability. These plants, in the aggregate, employ approximately 100,000 workers. Reduced operations at these facilities which could be precipitated by the imposition of waterway user charges would result not only in lower employment, but also in a reduction in tax revenues collected by all levels of government. This would, in large measure, offset any revenues resulting from the imposition of the user charges, and should be seriously considered in the determination of the total effect on the economy which the imposition of user charges could have.

USER CHARGES AS A PROTECTIVE TARIFF IN REVERSE

User charges would strike at the industry even more directly as a tariff protecting imported steel against American competition in the U.S. market. Every year the Pittsburgh, Cincinnati, and Chicago districts ship downstream on the Ohio, Illinois, and Mississippi Rivers between four and five million tons of finished steel to U.S. customers. About half of this goes to the communities on the Lower Mississippi River below the mouth of the Ohio, a large portion to the gulf coast. The total value of this to the steel-producing districts exceeds $1 billion.

User charges would be a tariff in reverse in access to gulf coast markets. Foreign competition there is intense. Steel imports in gulf coast customs districts run some 3.5 million tons per year. Proponents of user charges on U.S. waterways would invariably exempt foreign trade. They have no choice. The sensitivity of foreign relations and inevitability of retaliation require such exemption. This means that foreign steel would move on U.S. waterways, improved and maintained at Federal expense, 233 miles up the Mississippi River to Baton Rouge, for example—52 miles up the Houston ship channel—in the same stream of traffic as the competitive domestic steel. The domestic steel would be subjected to the user charge. The foreign steel would not.

A TAX ON U.S. STEEL TO AID FOREIGN COMPETITION

The imposition would make a farce of the "cost recovery" concept. The foreign steel would move inbound in deep-draft ships, normally under foreign flags and manned by foreign crews. The American steel would move in shallow-draft U.S. vessels in domestic commerce. But, the coastal channels and harbors in which these two movements would compete are improved and maintained daily for deep-draft requirements. Thus, the American steel would be paying the bill for Federal expenditure geared to the provision of channels for competitive foreign shipping.

SUBSIDIZATION OF FOREIGN STEEL BY THE U.S. GOVERNMENT

The picture would actually be worse than this. Some imported steel has been moving upbound on the shallow-draft Mississippi above Baton Rouge into interior markets, such as Memphis and Tulsa—so far, no much. User charges would shackle the Pittsburgh, Cincinnati, and Chicago steel in these markets, too. Admittedly, the upbound movements of foreign steel above Baton Rouge are in domestic shallow-draft vessels. They would presumably be subject, of course, to a user charge. But, on the competitive downbound movement of American steel, the charge would be starkly higher.

User charge proponents want to levy lockage fees and segment tolls, and the domestic steel moving downbound into the South on the Illinois, Ohio, and Mississippi Rivers has to transit extensive lockage systems. On the Lower Mississippi serving the upbound foreign steel, however, there are no locks to transit.

Charges on the imported steel would therefore be conspicuously lower. For example, a recent user charge proposal advanced by a Federal agency would hit a ton of steel on the Ohio River at a rate per mile over three times as high as on the Lower Mississippi; on the Illinois at a rate nearly five times as high. With this barrier confronting Pittsburgh, Cincinnati, and Chicago production, there is a high probability that foreign steel would flood into the markets of the Central South in tonnages without precedent.

It is startling to reflect that, under a waterway user charge imposition, the subsidies which foreign governments bestow on their own steel industries would be supplemented by an additional subsidy to foreign steel by the U.S. Government, and that transportation of the domestic steel would be taxes to provide the subsidy.

THE BIG CORPORATION AND THE CRITICALLY AFFECTED COMMUNITIES

Advocates of waterway user charges would do well to reflect on the fate of hundreds of thousands of workers, not only in the steel industry, but also in the supporting industries of coal mining, iron ore mining and beneficiation, and the like. Steel shipped in shallow-draft barges in domestic commerce represents the employment of some 50,000 workers and $690 million of annual payrolls in the steel industry alone. Steel-based coal mining in Pennsylvania, West Virginia, Kentucky, and Alabama would suffer. Whole communities in northern Minnesota and Michigan depend almost exclusively for their livelihood on iron ore mining and preparation. The taxes collected annually by the State government of Minnesota on iron ore and concentrate production—including taconite—approximate $40 million, in addition to Federal and local taxes. The implications as to the quality and adequacy of public services, such as schools and hospitals, in the mining regions are obvious. The issue addresses itself, not to the protection of big corporations, but to the daily subsistence of extensive communities in the multistate mining, processing, and steel-making industries.

WHO ARE THE USERS?

The advocates of waterway user charges insist that the users should pay their "fair share" of the Federal outlays for improvement and maintenance. But, who are the users? The Iowa farmer?

The West Virginia coal miner? The motorist filling his tank in Lexington, Ky.? The New Yorker turning up the air-conditioning? The steelworker in Osaka, Japan? Yes, he, too. The users of the U.S. harbors and waterways represent a diffusion of populations and interests which permeate every sector of society, both here and abroad. The user charge would impact upon them all—except those abroad.

This has been only a partial examination of secondary and tertiary effects. As we said at the outset, it might be that the blow would fall only lightly on some of the sectors we have examined. But, nobody knows. It would surely fall very heavily on some. As we stand on the threshold of repudiating a policy so pervasive to American life—a policy which has marked our national history from its very beginning—we should reflect very carefully upon what we are doing.

The PRESIDING OFFICER. The Senator from Oklahoma seeks recognition.

Mr. BARTLETT. I thank the Senator very much for recognizing me.

Mr. GRAVEL. I yield the floor.

Mr. BARTLETT. Mr. President, I congratulate those responsible for this compromise. I understand the strong feelings of Senator DOMENICI from New Mexico and others in the user fee matter and the interest of others in lock and dam 26.

I congratulate the distinguished Senators from New Mexico and Alaska, Mr. DOMINICI and Mr. GRAVEL, for taking the lead in introducing this amendment to strike the proposed water user fee section from the Water Resources Development Act of 1976. This provision, if allowed to remain in the bill, would be one of the most onerous burdens that could conceivably be placed on a State such as Oklahoma with a newly constructed waterway, a waterway which is presently in its economic infancy.

The Kerr-McClellan Waterway was totally completed in 1971 and is rapidly developing both from the aspect of cargoes traversing its length and from associated industries and industrial sites along its banks. The waterway has attracted some $3 billion in private development, and the public development by local units of government that are served by the waterway has already exceeded $1 billion. This development by local units of government is to encourage continued economic growth for the taxpaying residents of each of these communities.

Traffic on the Oklahoma section of the waterway has increased 79 percent over 1975 figures, and for the entire length of the canal, a 21-percent increase has been seen when compared to the same 8-month period of 1975.

The water user fee raises serious questions, particularly when applied to a new waterway such as the Kerr-McClellan. It has been estimated that the instigation of such fees would hit a new waterway harder than those that have been long established and have a stable annual tonnage and colateral economic base.

We must look at the fees on a broader scale. The question concerns that of who will pay the fee, regardless of how it is assessed. The answer is obvious and is the same as any other fee that is levied on a business by the Federal Government. It is the consumer. The same consumer who already paid for the waterway through his or her Federal tax dollars, and the consumer who will pay for the rate through the increased price of goods that are purchased. This includes everything from bread to energy.

There is also an indication that products that have never been on the waterway, in any shape or form, would be affected because of increased rates initiated by other forms of ground transportation.

Railroads have rates designed to be competitive when they are operating in direct competition with a waterway, but, with waterway fees, there would no longer be as great a reason for the railroads to hold their rates down, and again the consumer would pay.

The language of this bill is also faulty in two distinct ways:

First. The language leaves the method of fee development and assessment open to the decision of administrative fiat.

This refusal to decide the issue is the trap that has helped lead us to an overregulated Nation with citizens in revolt against bureaucracy.

I note that the Congress is to review the fee structure, but we still have not proven ourselves capable of resolving problems that have been created by bureaucratic mandates. Therefore, the congressional oversight provision may be a hollow solution.

Second. The concept has not been adequately studied to determine its full impact.

User fees have been discussed for years, but no one has believed that they were feasible enough to analyze completely their impact.

The water user fee is now being considered by the National Transportation Advisory Commission, but even at the time of this report, Congress needs to determine carefully the validity of the yet unfinished report through extensive field hearings.

Congress must totally analyze this situation, and then if it finds user fees as appropriate, carefully legislate to protect from bureaucratic excesses.

The Kerr-McClellan waterway was developed to bring economic life to an area of the Nation that was previously economically undeveloped. It was built on the basis of free usage, with the direct intention of bringing economic vitality to an area that was relatively untouched and untapped. We may now be defeating this purpose, and thereby wasting the $1.2 billion in taxpayers' money that was used in the construction of the waterway. I, therefore, urge my colleagues to carefully consider this action, and support the motion to strike section 5 of this bill.

I congratulate the committee for the attention that it has paid to a problem that I think most of us have had with our larger cities, and I am referring to urban flooding.

The Senator from New Mexico held a hearing in the city of Tulsa some months ago concerning a particular creek called Mingo Creek which has flooded Tulsa a number of times. After the Senator was there, in May of this year, there was the largest flood of all causing tremendous damage with over $12 million in approved Federal flood insurance payments being made. This happens to represent over half the claims that have been paid out this year.

One of the problems that we have had in approaching the solution to this flooding is that there has not been, until the provisions were prepared for this bill, an approach to solve this problem that really makes sense and one in which there is encouragement for the local government. In the case of the city of Tulsa, it was to proceed ahead with those steps that it wanted to finance in providing some partial solution to the flooding problem and then have credit, under an approved plan with the Corps of Engineers, for those particular steps that have been taken as partial solutions in the overall project so that the cost-benefit ratio will not be reduced.

In other words, at the present time, if a city moves ahead on its own, it takes the "frosting off the cake" and then makes certain that a total solution is impossible.

So I congratulate those on the committee who realize the problems that many of our cities are having with urban flooding, by providing a means of encouraging the initiative of local government to proceed with a partial solution to an urban flooding problem, and then making certain that those particular steps, as partial steps, do not jeopardize the entire project.

In particular, I thank my good friend, the Senator from New Mexico, who has taken this matter on as a matter of personal interest. I am sure that his experience in the past as a mayor of a fine city in New Mexico is the reason why he has particular knowledge as to the problems that were experienced by Tulsa, Oklahoma City, and many of our larger cities throughout the country. I pay tribute particularly to him, because it is through his efforts that this provision is in the bill.

I also thank the members of the staff, who are present in the Chamber, for their participation in this very fine legislation.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. BARTLETT. I yield.

Mr. DOMENICI. I hope that the language we put in this bill will do two things: That it will expedite the process whereby the Corps of Engineers helps us with urban flooding, and, equally important, that we will get a very thorough determination as to the compatibility of that which a city or local community plans to make by way of improvements.

This compatibility being decided in advance will make it much easier for the city to proceed with interest and enthusiasm, knowing that they will be given credit for what they do when the Corps comes along later with the overall plan. I hope it succeeds in locking in the cost-benefit assessment early on, so that they will not lose the benefit of improvements they pay for with local initiative as they attempt to solve the difficult problem of urban flooding.

Mr. BARTLETT. I appreciate the remarks of the Senator from New Mexico.

Mr. LONG. Mr. President, will the Senator yield?

Mr. GRAVEL. I yield.

Mr. LONG. Mr. President, section 5 of the pending Water Resources Development Act, S. 3823, threatens to inflict grave damage upon America's most efficient and cost-effective mode of domestic freight transportation. The injury would not simply afflict a single transportation mode. The infection would spread to other sectors of the U.S. economy, impairing industrial productivity, employment, energy supply and distribution, the viability of American agriculture, and restraint of inflation in consumer prices.

This is true because low-cost, energy-efficient barge transportation on our inland rivers and protected waterways is at the base of these economic activities. River barges each year move an estimated 11 percent of the Nation's intercity freight, but at tariffs equal to only about 2 percent of the Nation's total freight bill. This fact alone should dispel the notion that the waterway program amounts to a large windfall subsidy to bargeline owners and operators.

In fact, the transportation savings inherent in waterway transportation are passed directly to the shippers and receivers of goods transported by water and to consumers of the countless products resulting from such shipments. Even the prices of goods which move by rail or truck are often favorably affected because of the competitive effect of low barge rates on competing modes of transportation.

The modest Federal investment in inland navigation improvements—about $4.6 billion over the past 150 years—has been far more than a subsidy to water transportation. Savings in the costs of waterborne commerce have exceeded many fold the amount of the Federal investment. The Federal investment merely provides the stimulus to a highly efficient and competitive transportation system whose inherent efficiencies might not be capitalized upon in the absence of the Federal Government's provision of a coordinated, interstate system of navigable channels extending some 25,000 miles.

Here are some of the factors which influence savings by waterway shipment and which, I maintain, it is in the national interest to continue:

Economies of scale.—The typical river barge can carry 15 to 25 times the cargo of a single rail car. When 30 or 40 river barges are lashed together in a single tow, as is the common practice on the major inland waterways, they are transporting the cargo of several freight trains or an entire caravan of trucks. Yet, this entire load can be moved by a single power unit—a towboat frequently of no more horsepower than the locomotive units required to move just one of the freight trains.

Energy conservation.—It follows that a substantial savings in fuel is to be realized by this method of transportation. Numerous studies of the transportation output of freight modes per unit of fuel consumption have borne out waterways' advantage in this regard. The most recent is research just completed by the consulting firm of Peat Marwick Mitchell and Company under a contract with the U.S. Department of Transportation. It found that inland waterway transportation consumes an average of 272 British Thermal Units (BTUs) of energy in moving one ton of cargo one mile while rail transportation averages 687 BTUs per ton-mile. That means waterborne shipping is two and one-half times more efficient than rail transportation, on a ton-mile basis.

Efficient utilization of steel.—Calculations by the Maritime Administration of the U.S. Department of Commerce indicate that a ton of steel devoted to the fabrication of an open hopper barge for carrying coal will result in 52 percent more carrying capacity than when the same ton of steel is used to fabricate a coal-carrying rail car. Further, a barge is little more than a floating, rectangular box. Unlike other transportation vehicles, it has no wheels, no under-carriage, no suspension or braking systems requiring specialized machining and parts. This saves steel and other valuable raw materials.

Productivity of labor.—Productivity in transportation is the very essence of all productivity. The simplest measure of productivity, of course, is the performance of people. But for people to perform better they must be given the proper tools. The barge industry has traditionally taken advantage of technological developments in order to produce more ton-miles without the addition of new labor. That has required sizeable investment—in fact, over the last 15 years the capital investment per crew person for one large barge company has quadrupled. That investment purchased a doubling of ton-mile productivity per towboat and a tripling of ton-mile productivity per crew person. By utilizing larger, more powerful, fuel-efficient towboats, along with larger barges, a crew of the same size is able to produce three times as many ton-miles now as it produced 15 years ago.

Intense competition among carriers.—Because the waterways are public rights-of-way open to all and most of the traffic is exempt from rate regulation by the Interstate Commerce Commission, competition is intense. Approximately 800 bargelines operate on the Mississippi River alone, and those which are successful are the ones which keep abreast of technological improvements in vessel design and operation, make optimum use of equipment, ensure safe operations, and offer their customers the lowest possible cargo rates. Their customers are, of course, the basic industries of the American industrial and agricultural economy.

Low capital investment required.—According to many studies, it takes far less capital to expand waterway capacity than it requires to expand railroad or highway capacity. And this includes both public and private investments.

The U.S. Department of Transportation issued detailed projections in 1972 of the need for freight transportation capacity expansion and the public and private investment necessary to provide that expansion.

The figures indicated that investment in waterway expansion would produce eight times as much expanded carrying capacity per dollar of capital investment as the private investment alone devoted to rail capacity expansion. Had the large amounts of recent Federal rail aid been included in the calculations, the ratio would have been even greater.

In short, the tax provided for in section 5 of the Water Resources Development Act is a tax on efficiency—a penalty against productivity. Section 5 would not, as its title suggests, introduce greater equity into the national transportation system. Instead, it would introduce waste and inefficiency by penalizing a highly efficient mode and relieving competing modes of the pressure to perform in such a way as to meet the waterway competition.

It is a curious matter to me that Congress is being called upon to move in two diametrically opposite directions—both in the name of improving the national transportation system—which reference to passenger and freight transportation.

Look at the recent trends in our approach to improved passenger transportation. Clearly, intercity transportation of passengers by rail is a most efficient alternative. Likewise, mass transit by rail systems and buses in the densely populated areas is more desirable for commuter transportation than continued reliance on more and more individual automobiles.

Thus, Congress has poured billions of dollars into direct Federal subsidy to rail and bus passenger transportation alternatives in hopes of reducing traffic congestion, improving the environment, saving gasoline, and so forth. The multibillion-dollar Amtrak subsidy and the diversion of Federal highway funds to ubran mass transit systems are but a couple of examples of the present size of Federal subsidy in hopes of achieving a more efficient system of moving people from place to place.

The wisdom of these investments remains to be seen. Just how much these federally financed efforts will affect individual passenger decisions, and just how cost effective the Federal subsidies will prove to be are open questions.

But, in the freight transportation sector, the effectiveness of the small Federal investment in waterway improvement and maintenance in stimulating great efficiencies in the transportation of bulk commodities basic to American agricultural and industrial productivity is clearly documented. Yet, we are being told that Federal assistance to the waterways is bad, that it is outdated, that it is not in the public interest.

It is curious to me that many of the environmental spokesmen who argued so forcefully for the dismantling of the highway trust fund—a classic system of user financing of a transportation system—simultaneously argue that what is needed on the waterways is full user financing.

It is curious to me that the railroad interests, which have benefited so directly and so massively from direct Federal subsidy programs both recently and historically—considering the volume of the Federal land grants—have campaigned so vehemently against Federal support for transportation in the case of waterway projects.

Ironically, taxation of waterway commerce and the resulting curtailment of waterway improvements and maintenance is not even in the long term interest of railroads. The recent completion of navigation on the Upper Snake River to Lewiston, Idaho, provides a telling example.

Researchers at Washington State University discovered that railroads serving that area were carrying more export grain to Pacific coast ports—not less—after the navigation project opened. The reason: The railroads, no longer possessing a monopoly on grain transportation service in the area, lowered their rates to meet the competition. "Rail was a substantial gainer from navigation, but only after the railroads reacted in a competitive fashion," the researchers reported.

The situation has been duplicated in most regions served by inland navigation. The waterways stimulate natural resources development, farm productivity and industrial output—producing additional cargo traffic to be shared by all modes. Thus, the railroads which serve the major river valleys are among the financially healthiest in the Nation. Conversely, the northeastern lines which went bankrupt operated in a region where there is little or no waterway competition.

Imposition of a system of waterway user taxation as directed by section 5 of the pending legislation just does not make sense. It involves national issues and national policy objectives far too complex to be decided without extensive, deliberative hearings and debate. I, therefore, urge my colleagues to delete section 5 from the pending bill.

Mr. President, I associate myself with the statements of my colleague, Senator Johnston. I recognize that we will have to fight this battle, involving tolls on the waterways, next year. There is no point in debating the merits at this point.

I believe that the compromise that is being recommended is about all that can be achieved for now. There are many important projects in this measure that should become law. I regret very much that the Vermillion lock is involved in this compromise. I agree with everything my colleague has said about this, and I can add very little to it.

Mr. President, I ask unanimous consent to have printed in the Record, at the conclusion of my remarks, a letter, a copy of which has been placed on the desk of each Senator, signed by 16 Senators, including myself, who do not believe that we should have tolls on the waterways or user charges or whatever one wishes to call them.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LONG. I understand the problem as explained by the manager of the bill. I am sure he will do the best he can to help resolve this impasse next year. I thank him for his efforts to try to promote navigation research and development and at the same time to help facilitate an answer to these prbolems.

I think we can all agree that this struggle to settle the issue of tolls on the waterways will have to be decided next year. That means, of course, that these three important items cannot be passed at this point.

Exhibit 1

U.S. Senate,
Washington, D.C., September 22, 1976.

Dear Colleague: Within the next day or so, the Senate will consider S. 3823, the Water Resources Development Act of 1976. It authorizes a number of worthwhile hydropower, flood control, navigation and other water resources projects. However, this legislation contains one section which is not a project authorization. This section establishes a system of user charges on the inland waterways of the United States.

It is disturbing to us that no hearings have been held on this proposal, which is embodied in Section 5 of the legislation. It was first unveiled in Subcommittee markup. There has been no opportunity, therefore, to determine the probable effect on waterborne transportation or on the agricultural and industrial sectors and geographic regions of the Nation which rely most heavily upon low-cost, energy-efficient inland waterway transportation of raw materials, fuels, and basic commodities such as coal, petroleum, industrial chemcials, farm crops and fertilizers, iron and steel, and building materials.

Indeed, it is impossible to assess the impacts because the legislation itself does not specify the type of charges to be collected. It is very probable that some waterways would be closed to navigation under a user charge regime. Among these might be the Arkansas, the Missouri, the Atlantic Intracoastal Waterway, the Upper Columbia-Snake Rivers and the Savannah River. The closure of these waterways would be economically injurious to the regions they serve. In addition, certain projects which have already been initiated might never be completed, such as the Red River Waterway, the Kaskaskia River and the Tennessee-Tombigbee.

Termination or disruption of navigation could adversely affect continued operation of other water resources services, including municipal and industrial water supply, hydropower capacity, flood control and recreation. These are the types of impacts which would be thoroughly examined in hearings. It would appear to be highly inadvisable for the Senate to consider legislation imposing waterway tolls without knowing the direct and indirect effects.

The waterway user charge question itself is a highly complex one involving much more than just another mode of transportation. It affects employment, the competitiveness of interior industries, export expansion, farm productivity, economic stability and energy conservation. This Nation must have a strong healthy transportation system including railroads, highways and airways as well as waterways. Water transportation has not been alone in receipt of governmental assistance, nor have waterway expenditures constituted a substantial portion of the public investment in the basic transportation infrastructure.

National Transportation policy should not be developed piecemeal. The waterway user charge issue, therefore, is a matter demanding extensive study in the context of national water resources, economic and other public policy objectives as well as national transportation policy.

For all of these reasons we urge your support for the amendment which will be offered to strike Section 5 from the pending legislation.

Sincerely,

Russell Long, Tom Eagleton, James B. Allen, Warren G. Magnuson, James O. Eastland, Dewey F. Bartlett, Wendell H. Ford, Bill Brock.

J. Bennett Johnston, Stuart Symington, John Sparkman, John McClellan, John C. Stennis, Hugh Scott, Richard Stone, Roman Hruska.

Mr. McCLURE. Mr. President, I wonder whether I can have the attention of the manager of the bill for just a moment.

In the bill before the Senate is a provision for the mitigation of fish and wildlife losses on the Snake River project. The committee report appropriately and correctly identifies the fishery loss as being upstream from the lower Snake River dams. It does not, however, identify the drainage which has suffered the primary fisheries loss as the result of that construction. That fisheries loss is primarily within the Salmon River drainage. While the bill does not identify the source of mitigation or the source of the loss, I think that was our understanding. Is that correct?

Mr. GRAVEL. Yes.

Mr. McCLURE. It is also correct that, while the plan is not provided by the bill before us, the plan that the Corps of Engineers has tentatively approved calls for the construction of hatcheries within the the State of Idaho, no one of which would be within the Salmon River drainage.

My concern is not with the lack of those hatcheries but the effect it would have on the mitigation of the fisheries. So I think we should identify the committee's concern with the mitigation of the fishery rather than the lack of the hatchery. If the hatcheries are located outside of the drainage, there may be a problem with respect to the establishment or reestablishment or enhancement of the fish runs within the Salmon River drainage.

I should like to have at least some legislative history that directs the Corps of Engineers toward the problem that we seek to correct, rather than methods.

Is it the intention of the committee to take care of the mitigation of the fish run on the Salmon River?

Mr. GRAVEL. Very much so, and I agree with my colleague.

Mr. McCLURE. I thank the Senator.

Mr. GRAVEL. Mr. President, Senator Hartke wishes to speak to this subject. Does anyone else wish to speak to the subject of lock and dam 26 and the user charge? We have an amendment that I should like to dispose of. Does anyone else wish to speak to that subject?

Mr. METCALF. I have an amendment, after this matter has been disposed of.

Mr. GRAVEL. We have an amendment at the desk, and we would like to dispose of it. I am sure that we all have amendments, and we will take them up with dispatch, as soon as this matter has been settled.

I ask the Chair whether anyone else wishes to be heard on this subject.

The PRESIDING OFFICER (Mr. Weicker). The question is on agreeing to the amendment of the Senator from Alaska.

Mr. HUDDLESTON. Mr. President, I concur almost entirely in the positions that have been stated by the distinguished Senator from Louisiana on these subjects.

This omnibus bill contains two projects of particular significance to my State of Kentucky. I would like to thank the committee, the subcommittee chairman, Mr. Gravel, and the full committee chairman, Mr. Randolph, for their consideration and help on these proposals.

First, the bill authorizes the Harris Fork Creek flood control project in far western Kentucky and Tennessee. The flooding in this section is as bad, if not worse, than any other area of my State.

The cities of Fulton, Ky., and South

Fulton, Tenn., have experienced four major floods in the past 18 months. Each time this happens the area residents must suffer through flooded homes, destroyed crops and croplands, inconvenience and heartache. We are just lucky that no one has been killed.

The recommended improvements consist of about 9 miles of earthen channel enlargement on Harris Fork Creek from the improved North Fork, Obion River, upstream to the urban areas of Fulton, Ky., and South Fulton, Tenn., where a total of about 1 mile of rectangular concrete channel will be constructed on Harris Fork Creek and its tributary, South Fulton Branch.

The project will provide for both urban and rural flood control. A high degree of protection will be provided 2,030 rural cleared acres. Protection would be provided to 155 homes, 177 commercial establishments, four manufacturing firms, 9 churches, 2 school buildings, 1 hospital and the South Fulton City Hall in the urban areas of Fulton, Ky., and South Fulton, Tenn.

Another important feature of this authorizing legislation is that bridge relocation costs will be borne by the Federal Government. It would be absolutely impossible for the small communities of Fulton and South Fulton to bear these costs, which far exceed the budget of those two cities.

Finally, Mr. President, I would like to pay tribute to my colleague from Tennessee (Mr. BAKER) who has championed this project from its inception and given leadership to its implementation within the committee. This authorization would have been impossible without him, and the people of western Kentucky are indebted to the Senator.

Second, this legislation provides in effect for the reauthorization of the Big South Fork National Recreation Area in Kentucky and Tennessee.

This recreation area was a result again of the Senator from Tennessee (Mr. BAKER) and my predecessor in the Senate, John Sherman Cooper.

Creation of this recreation area will do three things: It will provide protection and preservation of a scenic and beautiful natural area of our country; it will provide recreational opportunities such as camping, canoeing on the white waters of the Big South Fork River, and backpacking in primitive areas; and it will provide an economic stimulus consistent with environmental values for the surrounding communities.

Mr. President, this legislation increases the monetary authorization for the Big South Fork National Recreation Area from $32.5 million to $103 million. The original authorization was based on estimates compiled in the interagency report on alternatives for development in this river valley pursuant to the Flood Control Act of 1968.

Delays in construction of the project in conjunction with rapidly increasing construction costs and land values and changes due to recalculation of specific facility design have increased the price of the project. I believe the increased authorization is justified because when completed, the Big South Fork National Recreation Area will truly be an outstanding national asset.

Mr. President, I am not yet prepared to support the imposition of fees or charges on the Nation's inland waterways, especially not as proposed in this particular piece of legislation.

In the first place, I have very serious reservations about inclusions of such a provision in an omnibus public works authorization bill. No matter how you explain it, a fee or charge system constitutes a tax on inland waterway traffic, and I believe it should originate in the tax-writing committees of the House or Senate.

To impose a tax under the guise that it really is not a tax is deception that the Senate should not engage in, especially on a matter of such significance.

Another serious reservation that I have is that no hearings have been held on this subject. I do not believe that hearings are always a prerequisite to Senate action, but when it is a major issue of great disagreement, and one which vitally affects the Nation's economy, then I believe it is only fair that all parties have a chance to be heard in open committee session.

Finally, I would point out that a very delicate balance exists as far as the competitiveness of waterborne transportation is concerned. Low cost and the ability to transport bulk commodities are the only advantages that water transportation can offer.

Destroy its low cost incentive and you will destroy water transportation. So it is absolutely essential that we be on sound footing before any such waterway user charge or fee system is imposed.

This legislation does give Congress 60 legislative days in which to overturn any fee system proposed by the corps, but we would be better advised to study the problem, undertake committee hearings, and then devise a program based on the facts presented.

Mr. President, this provision does not belong in an authorization bill; it has not been subject to hearings; and it proposes to act on a matter before we know the facts.

For those reasons, I oppose section 5 of the bill.

Mr. GRAVEL. I thank my colleague for coming aboard.

Mr. NELSON. Mr. President, does the Senator from Alaska have the floor?

Mr. GRAVEL. I yield the floor.

Mr. NELSON. Mr. President, there never has been any question in anybody's mind, so far as I know, that there will continue to be a Lock and Dam 26. No one, so far as I know, has raised that issue. No one has suggested that we do not have to maintain the commerce on the Mississippi River. No one has suggested that it is not necessary and important to maintain the locks and dams all the way up the Mississippi to the Twin Cities. That never has been the issue.

The issue has been, one, a dispute over the reliability of the figures and the accuracy of the studies supplied by the Corps of Engineers; two, the lack of additional information which qualified professionals believe it is necessary to have before moving ahead. That is the reason why the Department of Transportation this summer, the Department of the Interior this summer, the Environmental Protection Agency this summer, and the President's Council on Environmental Quality this summer urged the delay in the construction or replacement of Locks and Dam 26.

No governmental agency supports replacement now except the Corps of Engineers.

What are the issues that have been raised and remain unanswered? Every basic fact at issue here is in dispute; every major issue is being contested. There is a dispute as to whether we ought to have a new lock and dam at all. There is a dispute as to whether, if we do have a new lock and dam, we ought to have two 1,200-foot locks or one 1,200 foot lock. There is a dispute as to whether, if it is decided to repair and maintain the current lock and dam for a while, it ought to have a 1,200-foot lock added to it.

There is a dispute over the potential future amount of traffic on the river. The corps' claims have been related by other professionals.

There is a dispute over the carrying capacity of the river. What is the capacity of that river? How many million tons can it carry before you begin to destroy that asset as an environmental resource? Let me assure those who do not know, it is a tremendously vaulable environmental asset and a valuable national economic asset.

The environmental issues have not settled as of this date. There is not a single person who considers the report of the corps adequate. The President's Council on Environmental Quality considers it inadequate. The EPA considers it inadequate. The Department of Interior considers it inadequate. Every single issue is in dispute.

Furthermore, the Corps of Engineers has been planning for 20 years to expand the system. They were sued on this point and said that a systemic expansion was not their intent. However, documents subpenaed and filed with Judge Charles R. Richey here in District of Columbia conclusively prove that the corps had every intention to begin a 30-year systemwide expansion culminating with the establishment of a 12-foot channel. Judge Richey held that indeed a systemic expansion was planned by the corps.

Now, if the corps were allowed to go that route, not only are we talking of a cost of $5 to $10 billion, but we are raising the issue of where in heaven's name would they dispose of an additional 3 feet of spoils that they would dredge from the bottom of the river all the way from the gulf to Minneapolis? It would be an environmental disaster.

When the corps denies, as they have, to Members of Congress that is not their intent to greatly expand navigation on a systemic basis, they are not telling the truth. All you have to look at is Judge Richey's September 6, 1974 opinion. The court held, and it is absolutely clear, that the proposed replacement was the first step in a multibillion dollar systemic expansion, a 20- to 30-year project not authorized by the Congress.

We ought to have all of these matters out in the open before a decision is made. That is the reason I have raised the objections to this provision. Every single economic interest group that I know of in my State that uses the river is for this new locks and dam 26. I have heard from the REA co-ops, I have heard from the Farmers Union, I have heard from the Farm Bureau, I have heard from the farm cooperatives. I have heard from all of them. I have told them all the same story. Those who have been willing to sit down and spend enough time to listen to my concerns all agree that the position I have adopted was reasonable.

All we have ever said is, bring in the documentation, bring in the evidence, bring in the studies, discuss the project on its merits.

The Comptroller General's office, in a September 22, 1976, letter to the chairman and ranking minority member of the Subcommittee on Water Resources, suggested that an additional engineering studies were necessary to determine the feasibility of rehabilitating the existing facility. This work could be performed while Congress is adjourned.

I would like the attention of the distinguished Senator from Alaska (Mr. GRAVEL) and the ranking minority member, Mr. DOMENICI, so I may pose a question respecting the September 22, 1976, letter that was sent to Senator GRAVEL by the Comptroller General of the United States.

If, in fact, it is the will of the Senate to delete lock and dam 26 the Senate will have more time for additional study, which this Senator, at least, thinks is important. I concede that a number of Senators are perfectly satisfied with the evidence that has been presented and do not believe that additional evidence is necessary. I respect that position.

However, in order to insure that we would have the most up-to-date information on which to base the decision that the Senate will be making next year if lock and dam 26 is deleted from S. 3823, I would like to ask the chairman of the Water Resources Subcommittee and the ranking minority member, Mr. DOMENICI, two questions respecting the possibility of activating two studies which can be done between now and the beginning of the 95th Congress.

First, the General Accounting Office is currently conducting an investigation into the technical and economic feasibility of three rehabilitation alternatives. As the chairman knows, and as the ranking minority member knows, the GAO, on September 22, 1976, reported that their study will be submitted on October 31. In addition, the GAO stated that additional time would be needed for them to specifically analyze the need for rehabilitation. Since Congress will not convene until late next January, I wonder whether the chairman and ranking minority member might consider requesting the GAO to undertake the additional work recommended in their September 22, 1976, letter, so that a more complete engineering record would be available when the Water Resources Subcommittee holds its hearings early next year.

Mr. GRAVEL. Speaking for myself, I shall have a letter drafted, and I invite the signature of the minority member to that letter, asking to have the study extended until next January.

I yield to the Senator from New Mexico.

Mr. DOMENICI. I wholeheartedly concur.

Mr. NELSON. I wonder if the chairman and the distinguished minority member would permit me one more brief question.

Mr. GRAVEL. I am happy to.

Mr. NELSON. There is an issue, again with experts in dispute over it, as to the need for expanding the capacity of this facility. The question revolves around the issue of what is the future potential traffic on the river, and how many million tons any new locks and dams will be required to handle. While the Corps places the capacity of the proposed replacement at 86 million tons per year, other transportation experts have estimated its capacity at approximately 130 million tons.

Moreover, and more fundamentally, the issue of the basic commodity growth of coal, grain, and fuel oil is still unresolved or in dispute, and at the very least, should be settled. As the Senators know, in September 1975, the Department of Transportation submitted an economic analysis of a replacement project, comprised of a new dam and twin 1,200-foot locks, to the Senate Committee on Commerce. In my view, this document, with its strong findings, led to the revision contained in section 4(a) of S. 3823.

Do the chairman and the ranking minority member agree that it would be useful for the DOT to be directed to perform a similar economic analysis of the March 15, 1976, report of the Chief of Engineers? The original Commerce Committee study was performed in 120 days.

Mr. GRAVEL. Let me just state to my colleague, if he will permit me, we will write them a letter asking them to comply with the same timeframe, and I will assure my colleague——

Mr. DOMENICI. I agree. I understand that will take about 120 days.

Mr. NELSON. That is adequate time.

Mr. DOMENICI. That is adequate time, and we will live up to the commitments.

Mr. NELSON. That means this 120 report will be available in January.

Mr. GRAVEL. At the end of January.

Mr. NELSON. Mr. President, I am opposed to section 4 of S. 3823, the Omnibus Rivers and Harbors and Flood Control Act, the section dealing with locks and dam No. 26.

I am opposed to this provision for five reasons: First, controversy and conflict surround each and every engineering, economic, and environmental factor involved in this decision. Everything is in dispute. A clear and concise record on the issues of controversy has not been developed so that an informed and considered judgment can be made; second, there is no need to act at this time. An emergency situation that might justify speedy action without having the necessary facts simply does not exist. The corps, in testimony to the Water Resources Subcommittee, stated that the existing facility can be kept in repair and good working condition for at least 8 to 10 years; third, four expert Federal agencies—the Environmental Protection Agency—EPA—the President's Council on Environmental Quality—CEQ—the Department of Interior—DOI—and the Department of Transportation—DOT—have all recommended in testimony and in comments on the project's environmental impact statement—EIS—that the proposed action be deferred until various reports become available and the complex questions of cost and capacity are resolved. These questions remain unanswered today. Moreover, CEQ recommended on June 17 that Congress defer action "until the pending NEPA litigation has been concluded and the adequacy of the impact statement is determined." The State of Wisconsin, the Illinois Department of Transportation, the Minnesota Department of Natural Resources, and the Minnesota Pollution Control Agency have joined these four agencies in asking that action be deferred pending the development of more information; fourth, the General Accounting Office—GAO—report, requested by the Senate Public Works Water Resources Subcommittee, of engineering alternatives is not yet available. It is due in approximately 30 days. The committee should wait for its own report before proceeding; and, fifth, because this bill is not assumed by the second concurrent budget resolution, the committee has had to fund it in fiscal year 1978, beginning October 1, 1977, a full year from now. Under present law, the corps will be prohibited from spending a single penny on this project until then. It makes no sense whatsoever to authorize a project that is not justified on the merits by the evidence, a project that cannot be funded for 12 months.

Simply put, section 4 of S. 3823 is based on facts that either do not exist or facts that have been subjected to severe professional, expert criticism. Furthermore, not a shred of uncontested evidence exists to justify replacement of the existing structure at this time. The case for deferral of action, until more information can be developed, is conclusive. To move ahead, as advocated by the corps, the committee, and the President, would be sheer folly. Moving ahead at this time, based upon what we know, could conceivably cost the Federal taxpayer at least an extra $300 million.

The committee bill is a build-now-study-later approach. In my view, this approach to solving vital questions should be firmly rejected. This policy is in direct conflict with policy and procedure established by the Congress and contained in the National Environmental Policy Act of 1970.

Locks and dam No. 26 is not a new problem. In fact, the concept of replacing the existing structure with a much larger facility first surfaced almost 15 years ago. It is a problem that has been under litigation for over 2 years.

JUDGE RICHEY'S DECISION, SEPTEMBER 6, 1974

This issue is before us today, because of a September 6, 1974, ruling by Federal District Court Judge Charles R. Richey.

Two years ago, in issuing a preliminary injunction that prevented the corps from opening construction bids on a larger and even more expensive replacement project, the court held that: First, in view of the increased tonnage which the lock would handle and the likelihood that the project was merely the beginning of a complete overhaul of the entire system, the construction required congressional approval; second, congressional approval had not been given; and third, the environmental impact statement which did not consider possible environmental effects of the reconstruction of the entire system of locks and dams was insufficient.

It is important to note that the corps was using section 6 of the 1909 Rivers and Harbors Act as justification for the proposed replacement, a project that would have quadrupled the capacity of locks and dam No. 26 from approximately 46 to 190 million tons. Section 6 gives the Secretary of the Army authority to repair and maintain navigational segments of the inland waterway system. The corps did not use this language to maintain and operate the system but to ignore the Congress and justify an enormous expansion of capacity and actually physically replace the dam and lock 2 miles downstream. The corps has now sought specific congressional authorization for this replacement, but continues to maintain that it has the right to use section 6 to enlarge facilities north of Alton on the Mississippi. It continues to maintain they did not violate the law.

The law is clear:

> The Corps may replace a lock and dam or similar structure which has become ineffective or damaged without Congressional approval, but may not rebuild a structure merely to meet expected future increases in the traffic without such approval.

Clearly, the corps considered itself above the law. Numerous memoranda and other documents, obtained in the discovery proceedings, now on file with the Federal District Court here in Washington, indicate the corps has plans to use this very same authority to expand the entire Upper Mississippi navigational system, a $3 to $10 billion, 30-year project that would have led to the de facto and illegal establishment of the 12-foot navigation channel. Locks and dam No. 26 is the key element of this program. The corps has already obtained authority to study the feasibility of the 12-foot channel on the Illinois and the corps' duplicate lock program for the Illinois is being designed to accommodate the 12-foot channel. Of course, the barges that will navigate these new locks and the new 12-foot channel on the Illinois would first have to move through locks and dam No. 26.

The corps' own documents are the most dramatic evidence. Specifically, the Upper Mississippi River Comprehensive Basin Study of 1970—appendix J—indicates that the building of the new locks and dam No. 26 will require numerous other structures or modification of existing structures in order to cope with the increased capacity.

Furthermore, the court held:

> The plaintiffs have met their burden on the issue of whether this is a singular or systemic rebuilding. This Circuit has refused to accept post hoc rationalizations of agency action and will scrutinize the record to determine its true intention.

The court added:

> While in its representations to the Congress and in its responses to comments in the final EIS the Corps rejected the contention that it is undertaking a system-wide improvement project, the record is replete with contrary indications.

In the final EIS, the corps conceded:

> Few water resource projects compare in scope and extent with this project, and its construction must be considered a major expenditure of public funds.

The relationship of this project to a systemic expansion of navigation is further detailed by the court in quoting the following statement from the corps' draft EIS:

> There are at present some constraints to the realization of this prediction in that other locks in the system would be overloaded before such tonnages could be reached. Thus, considering the impact of the project under existing conditions—that is, utilizing the other existing locks and dams in the system—the tonnages that could be shipped on the upper Mississippi River and Illinois River would be constrained to present capabilities of other locks in the system. To be able to carry the amount of cargo forecast will necessitate alteration or replacement of other locks and dams in the system.
>
> The construction of replacement of Locks and Dam No. 26 will, therefore, create impetus to revise portions of the system to create the most efficient utilization of the added capacities of Locks and Dam No. 26.

The court continued to cite corps document after corps document to illustrate the true nature of the proposal. For example:

> In Exhibit 15, Sheet 4 of the GDM appears a conclusion that the twenty-one foot depth of the proposed lock chamber will provide for a twelve-foot navigation channel. But, to the contrary, in the EIS it is stated that a twenty-one foot depth in the lock chamber is insufficient to accommodate continuous traffic which requires a twelve-foot navigation channel, although such traffic could be passed through the locks with some delay. The Corps would have this Court conclude that the twelve-foot channel has therefore been rejected and that no system-wide improvements to such effect are contemplated by the proposed Locks and Dam 26. This contention is unworthy of belief in light of the following reasons. First, most of the traffic at present and in the near future does not require a twelve-foot channel. Second, those that do would not disrupt the flow of commerce to such an extent that the proposed structure must be considered an isolated improvement. And, third, as this Court has already noted, the structure is conductive to the eventual accommodation of continuous traffic requiring a twelve-foot channel.

On the question of environmental impact, the court held that the EIS prepared by the Corps was insufficient because:

> 1. There is no systemic analysis of upstream construction plans and their impacts and costs.
>
> 2. The draft EIS suggests a build-now-study-later sequence of construction.
>
> 3. The data underlying the benefits and costs of the proposal, as well as the benefits and costs of alternatives, are not discussed.
>
> 4. There is virtually no discussion and no analysis of other transportation alternatives.
>
> 5. There is no discussion of and analysis of the environmental impacts resulting from the incremental construction and operation of the 12-foot channel even though the new Locks and Dam #26 is designed for a 12-foot channel.

In summing up the situation, Judge Richey said:

> The corps implores that they be allowed to replace the structure and will later examine its systemic impact. This is exactly what NEPA seeks to prevent.

Stung by this strong ruling, the corps went back to the drawing board. On March 15, 1976, a new proposal appeared. This time the second 1,200-foot lock was dropped. However, the economic necessity for a second lock of some size was recognized. Further environmental and economic studies would be performed to determine the exact specifications of the second lock, after construction was started on the first new lock and dam.

The so-called "new proposal," accompanied by a new draft environmental impact statement, is a poor redraft of the original corps concept. It is a two-lock concept. It is a build-now-study-later plan. The environmental impact statement for the March 15, 1976, proposal, S. 3823's proposal, according to the EPA, is worse, in many respects, than the first series of documents. There is very strong evidence that suggests the corps has done absolutely nothing for the last 2 years but redraft old documents to comply with Judge Richey's order. This stalling procedure is a blatant attempt to shove responsibility for the project from the corps to the Congress. It is an attempt to force a political decision that willl absolve the corps of any irresponsibility or guilt.

The corps violated the law. They were caught. They denied it. Yet, all the supporting documents speak for themselves. Now they have come up with a "new" proposal that really is not new at all. And they still have not been able to document why the Congress should act, but here we are on the floor of the Senate discussing this provision after it has cleared a subcommittee and committee of the Congress. The progress they have made, up to now, is truly incredible.

There are three major questions in dispute: First, engineering—Can the existing structure be repaired or does it need to be replaced? What are the costs for each option? Second, economics—How much capacity will have to be provided over the next 50 years? What will be the national transportation impact of such an expansion of the inland waterway system? and third, environment—What is the carrying capacity of the resource? What are the systemic impacts of implementing the corps plan?

We do not know what the answers are to these questions. The committee bill is based exclusively on corps assumptions and documentation. While some members are prepared to be skeptical about the corps environmental and economic expertise, there is a general hesitancy to question the corps on pure engineering grounds. This is a mistake. The corps history is filled with mistakes in basic engineering—the Kickapoo River Dam in my own State of Wisconsin, the flooding of the town of Niobrara in Nebraska, and so forth. The State of Illinois has also challenged the corps on pure engineering. The Western Railroad Association hired four consultants with extensive engineering expertise, and they have all contested the corps findings. This conflict is the purpose of the GAO investigation that the committee itself initiated. In a sense, the committee, in recommending to the Senate that this section pass and become law, is saying, "Don't confuse me with the facts, my mind is already made up."

THE ENGINEERING QUESTION

Let us take the issues one by one and examine the record. First, the engineering question. After Judge Richey ruled that the proposed replacement was not authorized by the Congress, the corps chose not to appeal and prepared the March 15, 1976, report recommending a replacement project consisting of a new dam and single 1,200-foot lock. With a sense of urgency, they argued for quick congressional authorization. They argued that they have complied with the law and are seeking this authorization to speed the process along. They deny it is the 12-foot channel in disguise. They allege they have looked at all of the alternatives and replacement is the most cost effective and, therefore, is in the national interest.

What are the facts? The facts are that the facility is old and in disrepair. It will either have to be rehabilitated or replaced. There is no doubt about that. However, contrary to a widespread rumor, the current facility is not ready to fall into the river. A failure is not imminent. The committee report on page 87 underscores this fact. The corps has testified that if nothing is done and as the years pass, the probability of failure increases. This is correct. However, no one is arguing that we sit here and do nothing and wait for a disaster to happen.

The corps, in testimony to the Senate Public Works Water Resources Subcommittee, stated that they would have to keep the current structure open and in good repair for at least 8 to 10 years while the construction of the replacement was underway. They testified that they already had developed a repair and maintenance plan to accomplish this goal. They testified that they were confident that their plan for keeping the facility open for business during the next decade would work.

The engineering reports on file with the court are the very same reports presented to the committee during its hearings. One must wonder whether they were ever read. The following excerpts underscore the case that there is no immediate or urgent need to authorize replacement on the grounds of engineering instability or failure:

JUNE 1974

It is estimated that rehabilitations which would insure the Locks and Dam of an additional 50 year life span, without increasing its capacity, would cost $100,000.

FINAL EIS, JUNE 1974

AUGUST 1974

To provide an additional 50 year life of the existing structure without additional capacity, it is estimated that $90 million is necessary to rehabilitate the structure.

[General Design Memorandum No. II as revised, August, 1974]

SEPTEMBER 1974

The movements measured for the dam *are not excessive* and at this time are not an area of concern in themselves.

Periodic inspection Report No. 1 (Sept. 1974) *Locks and Dam 26, Mississippi River, Alton, Illinois,* U.S. Army Corps of Engineers, p. A–7. (Emphasis added.)

The dam, which is pile supported, is surprisingly *free of any cracking or signs of deterioration.* Periodic inspection Report No. 1, *Locks and Dam 26,* Mississippi River, Alton, Illinois, U.S. Army Corps of Engineers, Appendix I. (Emphasis Added.)

The lock had experienced excessive movements. It would appear *however, that the remedial efforts undertaken in 1970 have been successful in halting these excessive movements.*

Periodic Inspection Report No. 1 (Sept. 1974) *Locks and Dam 26, Mississippi River, Alton, Illinois,* U.S. Army Corps of Engineers, p. A–6, A–7. (Emphasis added.)

While these spalls [cracks in surface concrete] are unsightly they do not appear to have affected the structural stability or adequacy of the Lock. No cosmetic repair is scheduled at this time. Periodic Inspection Report No. 1 (Sept. 1974) *Locks and Dam 26, Mississippi River, Alton, Illinois,* U.S. Army Corps of Engineers, p. 17.

With the exception of stilling basin damage immediate repair of any of the problem areas defined in the foregoing paragraphs *is presently considered unnecessary since there is no evidence of imminent structural failure nor evidence that the dam is not performing its function.*

Report on Maintenance and Repair, Locks and Dam 26, Mississippi River, Phase I (U.S. Army Corps of Engineers, December 1975). (Emphasis added.)

DECEMBER 1975

These paragraphs state that the dam has moved up to 2 inches downstream. *Paragraph 6–02a(2) and 6–02b(1) however, reveal that there has been movement in the benchmarks thus raising question as to the validity of the movement data. The statements regarding movement of the dam should therefore be revised or deleted."* Report on Maintenance and Repair, Locks and Dam No. 26, Mississippi River, Phase I, St. Louis District Corps of Engineers (December 1975), p. 3 (emphasis added).

AUGUST 6, 1976

A satisfactory scheme for addressing all critical and major hazards under the definitions used in Section V of this report can probably be developed, including extensions of the existing 360 foot lock to 600 feet in order to minimize interruption to navigation during construction. Such a scheme could result in a significant reduction in cost below plans requiring a temporary lock. A further expansion of the 360 foot lock to 1200 feet appears feasible, but no cost estimate is possible until a specific plan is developed.

[U.S. DOT Task Group Report on Engineering, p. 23]

Recommendations: That a decision to rehabilitate or to replace Locks and Dam 26 be deferred until the Corps of Engineers has had ample opportunity to re-examine alternatives for rehabilitation without taking both locks out of service for extended periods of time (requiring a temporary lock) and until the requirement for additional capacity is resolved.

[U.S. DOT Task Group Report on Engineering, p. 24]

These corps documents clearly demonstrate that the existing structure is not in immediate danger of failing. When General Graves, director of civil works for the corps, testified on this project to the Water Resources Subcommittee last June 17, Senator Domenici specifically asked the general about the safety of the existing locks. General Graves responded that $7 million had been requested to repair the facility and once these repairs were completed, the corps did not foresee an immediate failure.

The questioning of General Graves by Senator Domenici on June 17 clearly shows that the corps has an operation, maintenance, and repair program for the existing structure to assure that the facility will remain open for traffic for at least the 8 to 10 years required for the replacement of the existing structure.

This testimony should lay to rest the myth that the existing structure is ready to fall into the river and halt all navigation.

ECONOMIC SYSTEMS ANALYSIS

There is a lack of information concerning the economic impact the proposed replacement will have on intermodal transportation throughout the Midwest and the Plains States. Report after report calls for such analysis to be performed prior to authorization of a replacement project. These reports, some of which are cited below have been ignored:

SYSTEMS ANALYSIS

1974

The improving of Locks 26 will only relieve the congestion at that point. The same problem will occur elsewhere in the system in the not too distant future. Thus, before a meaningful comparison of benefits and costs can be made, total system benefits and total costs had to be developed.

[General Design Memorandum No. II (1972, revised 1974), p. 20–1]

SEPTEMBER 1974

. . . [T]he Corps has the responsibility for planning, designing, constructing, and operating and maintaining the inland waterway systems. In the past, these functions have been performed on an individual basis generally in isolation of other related functions and without regard to their effects on other parts of the total waterway systems involved. For example, the practice has been in evaluating proposed improvements or contemplated works and changes to the waterway system to consider each improvement as an entity within itself with little, if any, consideration given to its effect or impact on other related elements comprising the inland waterway system. Generally, *such approaches were based on the assumption that other related elements of the system that may be affected were adequate to accommodate the results of the improvement or change or that additional maintenance, improvements or modifications to the system would be provided as required.* **Unfortunately,** ***these approaches constitute prejudgment on formulation and design of future improvements to the system without supporting analysis and ignores the adverse or beneficial effects that an improvement or operational decision may have on the balance of the system.***

Report of Task Group for Inland Waterways System Analysis, U.S. Army Corps of Engineers (January 1972), p. 5 (emphasis added).

SEPTEMBER 1975

An integrated analysis of the entire river navigation system should be undertaken to identify and evaluate future capacity restraints as well as to insure that all project costs and benefits are appropriately allocated.

DOT ADVISORY REPORT

A river system planning approach to decisions about waterway navigation investment projects is essential. Such an approach would ensure that the Locks and Dam No. 26 proposal was considered in perspective. Double counting of benefits or costs would be easier if projects would be precluded from arguing that certain projects create the self-fulfilling justification for still other expensive projects.

DOT REPORT PAGE 66

A river system planning approach would allow full consideration of all the impact, costs, and benefits of waterway navigation expansion. In addition, intermodal considerations, such as the future role of the railroads in midwest freight transportation, would be easier to evaluate.

DOT REPORT PAGE 66

A large capacity system at Alton, Illinois may become the primary force in generating delays elsewhere—thus, creating "justification" for additional capacity expansion projects. This "rachet effect", produced by considering each project separately may well lead to an excessive allocation of resources for the system as a whole.

DOT REPORT, PAGE 76

[T]he Board notes that a decision to replace Locks and Dam No. 26 with a structure of greater capacity will probably enable existing Upper Mississippi River locks to eventually reach their full capacity thereby possibly creating a demand for enlargement of those locks at some future date. Corps of Engineers. Other than in the attached chart the Corps has never told Congress capacities of the upstream locks and the dates of their necessary replacement and their costs.

BEHR REPORT

ECONOMIC ANALYSIS

Estimates of anticipated capacity demand and commodity growth underlie the economic justification for any navigation project. These economic estimates directly affect the engineering specifications of any lock and dam. The corps' engineering capability permits them to design navigational facilities based on any set of economic assumptions they choose to make. The recommendation of the Board of Engineers for Rivers and Harbors of a single 1,200-foot lock is an engineering judgment based on the belief that there will be substantial capacity demand and commodity growth in both the near-term—1985, and the long-term—2035—time period.

Several prominent economists have argued in testimony submitted to the Public Works Committee that the corps' economic projections that have been used to determine the engineering size of the replacement are inadequate and cannot be substantiated. Furthermore, they recommended a series of intermodal economic studies be performed to determine the long-term economic growth potential of the inland navigation system and the impact of that growth on the Midwest and Western transportation systems of this Nation.

Professors Haveman and Carroll have spent considerable time discussing and critically evaluating the methodology and condition of the corps' economic justifications for the proposed replacement. While the corps has inhouse engineering and design capability, assessments concerning transportation theories and impacts should be left to the Department of Transportation. The DOT agrees with Professor Haveman and Carroll that the corps' economic commodity growth projections cannot be professionally substantiated and that additional economic studies need to be done to determine what the near and long-term economic demands will be. These experts indicate that the corps' projections are off by a factor of 2 to 4.

After reviewing the corps' March 15 proposal, the State of Illinois Department of Transportation estimated that the corps has exaggerated the annual benefits of the single 1,200-foot lock proposal by 1,883 percent. Illinois DOT reemphasizes that the "magnitude of benefits determines the size project which can economically be justified—therefore—the benefit estimate is an important parameter."

On June 17, Assistant Secretary of Transportation, Robert Binder, testified before the Senate Public Works Committee concerning the replacement of locks and dam No. 26. Mr. Binder made the following statements regarding the corps' economic analysis submitted in support of the request for replacement:

The conclusion that we reached in reviewing the Corps' analysis, and that we expressed in the Advisory Report, was that the Corps' economic analysis contained weaknesses of sufficient magnitude that no useful inferences could be drawn from it with respect to the economic desirability of carrying out the Corps' recommended project at Alton.

DOT does not have any clear notion as to how far off the analysis is thrown by these flaws. For this reason, it is not possible to draw confident conclusions from the Corps' analysis as it stands.

In our study of the report of the Board of Engineers for Rivers and Harbors (the March 15 recommendation for replacement) we found that the criticisms that I just stated are still applicable and we have so stated in our comments to the Corps.

We have found that there are persuasive arguments for replacement of the dam and construction of one 1200-foot lock provided that one accepts the Corps' engineering and engineering costs analysis.

If the Corps' analysis (engineering) is rejected, Option 1 should be embraced. (Option 1 is the DOT's recommendation to postpone any corrective action until further major studies are undertaken).

In addition to these comments, the following excerpts from various Corps and DOT reports illustrate the failure of the Corps to substantiate the economic necessity for replacement:

SEPTEMBER 1975

The Corps' rate differentials do not appear to reflect all transportation costs. The rate differentials do not adequately reflect the realities of bulk commodity marketing practices, especially for grain movements.

[Report of the Department of Transportation on replacement of Alton Locks and Dam No. 26]

It is therefore possible that for grain traffic and fertilizer, the Corps' assumption of unchanged origin and destination should be relaxed. If there are ships in producing areas, an increasing share of the export grain may be produced in areas not directly served by patterns of truck collection and waterline hauls moving through Locks and Dam No. 26 water traffic patterns. The grain might move to export ports other than New Orleans or not use the water mode. Either case would affect the grain traffic levels projected for Locks and Dam 26. DOT report, page 18

It is important to note that the modal choice for a particular movement is not determined by the rate differential between rail and barge at the river bank, but in fact is controlled by the total transportation rate differential (including prior and subsequent truck movements) prevailing at actual origin point of the shipment. DOT report, page 24

The result of the Donley assumptions is to overstate average rate differentials . . . The use of artificially high rate differential overstates the level of anticipated rate savings to shippers. DOT report, page 72.

The Corps rate differentials, particularly for grain movements, do not contain total transportation costs including all prior and subsequent movements by other modes and thus are inappropriate for cost/benefit analysis of waterway investment proposals. DOT report, page 77

[A]ctual rate savings and delay costs which should be attributed to each alternative cannot be properly assessed without completely redoing the anaysis. It is also impossible to identify the project alternative which offers the greatest net annual benefits without this additional analysis. DOT advisory report, page 77

JUNE 12, 1976

DOT finds that the calculation of rate differentials which serve to represent the difference in cost between shipping by rail and shipping by water, is sufficiently weak to render the Corps' benefit analysis inconclusive.

DOT COMMENTS, PAGE 5

Questions about the validity of long range commodity forecasts add an additional level of doubt.

DOT COMMENTS, PAGE 5

The Department of Transportation has noted previously that the rate differentials used by the St. Louis district exaggerate the true differences in transportation costs between "all water" commodity movements and the cheapest alternative movements. Such unrealistically high rate differentials lead to the overstatement of project benefits, and, consequently, lead to the selection of larger than justified program alternatives.

DOT COMMENTS, PAGE 5

DOT had previously expressed the opinion that the failure to consider alternative routes can lead to artificially high rate differentials.

DOT COMMENTS, PAGE 5

Both the Donley and TVA studies employed telephone interviews as the method to obtain rate data. As a result, neither the questions nor the responses are available for independent verification . . . When future rate studies are undertaken, every attempt should be made to employ a data collection procedure which would permit independent review and verification of the analysis.

DOT COMMENTS, PAGES 7, 8

A clear record has been developed that strongly supports deferral of action until more information is developed. Again, as in the case of engineering and environmental impacts, the corps is the only professional agency directly involved in this controversy that supports moving ahead. All other experts within Government, as well as outside experts, recommend deferral.

ENVIRONMENTAL ISSUES

In addition to fully complying with the mandate of NEPA, the question of environmental damage to basic fish and wildlife resources should be explored. There seems to be little disagreement over the point that the environment will be adversely affected. The dispute involves estimating the degree of damage. It is difficult to estimate future damages without a firm and reliable data base. The Department of Interior—DOI—has the expertise to make such an assessment. the DOI has repeatedly told the

Corps that such a base does not exist, that the project should not proceed until such a base is developed.

Last January the Fish and Wildlife Service filed comprehensive comments with the Corps regarding the impact of the proposed replacement. Those recommendations are summarized as follows:

> Moreover, we must continue to reiterate our concern over the plan provisions for 12-foot navigational depth in the locks and dam project design. Inclusion of such provision in the project plan may have a direct bearing on final Congressional action on the 12-foot channel project in the future. Accordingly, the far-reaching environmental impacts of these provisions must be addressed *at this time*. All of these impacts would affect, adversely, river ecosystems on a vast scale; would result in piecemeal destruction of fish and wildlife resources; and would result in irretrievable and irreplaceable losses of fish and wildlife resources and values to present and future generations. Because of the potential adverse impacts as stated above, we must oppose implementation of the project plan until studies are conducted to determine impacts of the proposed project on fish and wildlife resources of the entire river ecosystem.

Moreover, the Environmental Protection Agency—EPA—in reviewing the Corps' latest environmental impact statement—EIS—that accompanied the Board of Engineers for Rivers and Harbors' March 15, 1976, report, concluded that the EIS was inadequate and that the Agency had environmental reservations about the proposed replacement.

Specifically, EPA gave the Corps' latest EIS an ER–3 classification. Category 3 is used when the EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revisions be made to the EIS.

Environmental reservations are assigned to a proposed action when EPA has reservations concerning the environmental effects of certain aspects of the proposal. EPA believes that further study of the suggested alternatives or modifications is required and has asked the originating Federal agency, the Corps in this case, to reassess these impacts.

Two EPA Regional Administrators have written very strong comments to the Corps concerning their recommendation for replacement of the existing structure with a new dam and single 1,200-foot lock. The EPA comments are summarized as follows:

> It is our opinion that the subject Draft EIS is inadequate for a proposed project as complex and controversial as the replacement of Locks and Dam #26. It is a relatively brief document which does not provide sufficient information for a proper evaluation of project impacts . . . the major shortcomings of this document is the failure to utilize and properly reference pertinent studies and previous works which have investigated critical environmental aspects of this project in considerable detail.
>
> The construction of a replacement facility with 18-foot sills at Locks and Dam #26 should not commence until transportation guidance on the national level is provided. As you are probably aware, several current bills (including one by Senator Nelson) before Congress on Locks and Dam #26 stressed the need for full-scale transportation and environmental studies prior to the construction of the first lock of the project.
>
> We therefore disagree with the Board's conclusion that the net traffic increase is small and that any adverse environmental impacts upon the river system would be inestimable.
>
> The March 1976 Draft EIS is fundamentally inadequate. The EIS does not provide sufficient information to permit a reasonable assessment of potential environmental impacts by commenting agencies, decisionmakers, and the public. In its present form, environmental conclusions are not logically supported by references—they stand alone.
>
> The subject EIS lacks consistency and continuity, characteristics which are necessary to the environment impact assessment process.
>
> We are of the opinion that the stated 18 percent increase in potential future traffic should not be minimized or overlooked because this could indeed generate significant environmental impacts. We are also not convinced that present environmental information is sufficient to fully evaluate the environmental impacts of this increased traffic.
>
> Therefore if the capacity of the replacement structure is reached by 1985, as indicated in the EIS, then barge movement would be more than 50 percent greater than it is today. Therefore, we feel that it would be appropriate for proposed environmental and socioeconomic studies to be conducted and evaluated prior to construction of this lock.
>
> Additional information is required on the water quality effects of the project . . . The impact of dredging and excavation upon water quality is not properly discussed.
>
> We believe our reservations with the project are highly significant and our request for additional project related information is reasonable. Therefore, we recommend action on the proposed project be deferred until our concerns are satisfactorily resolved.
>
> The failure of the impact statement to address significant environmental features, the near total lack of documentation to support key environmental conclusions and the failure to adequately analyze reasonably available alternatives makes it impossible to assess all the environmental impacts of the proposed action. For these reasons, the draft statement is rated inadequate.
>
> Some of the very issues found by the court case, *Atchison, Topeka, and Santa Fe Railway Company, et al* v. *Howard H. Calloway, et al.*, to be inadequately addressed in the previous draft and final statements on the replacement of L&D No. 26 receive even less consideration in the current draft statement.
>
> The statement now under review does not appear to be in compliance with the intent of NEPA, the CEQ guidelines for preparation of environmental impact statements (F.R. Vol. 38, No. 147), the findings of the district court in the aforementioned court case, or the Corps own guidelines for impact statement development (F.R. Vol. 39, No. 68). The following are specific statement inadequacies. . . . This information is essential for this agency to adequately evaluate the project.

CONCLUSION

The committee recommendation on locks and dam No. 26 contained in section 4 of S. 3823 is not supported by the evidence. In fact, the data that we have been able to obtain from every professional agency directly involved in this dispute, except the corps, strongly supports deferral of action until more information becomes available.

The committee has relied exclusively on the corps for their source of information about the engineering, economic, and environmental aspects of this project. However, if any one of their assumptions are wrong and there is conclusive evidence that they all may be wrong, then sound public policymaking demands that the committee language be stricken until more information can be obtained.

Based upon what we know, the choice of replacement is pure conjecture, pure guesswork. Very large amounts of tax money will be needed to fund this replacement, an estimated $391 million in first costs alone. The adverse economic consequences of the replacement could be enormous on intermodal transportation throughout the Midwest and the Plains States. We ought to be sure we know the ramifications of our actions before we proceed. On the other hand, there seems to be little discussion or debate over the environmental implications of a substantial expansion of navigation. They may very well be of major consequence. No one, except of course the corps, argues that point. In all honesty, one must question the credibility and expertise of the corps on this issue.

The ecological consequences of proceeding with an expansion program before adequate studies are performed are the easiest to demonstrate. The corps dredge disposal practices over the past decades have created artificial islands along the Upper Mississippi. So extensive are the dredge spoil deposits that they have created artificial navigational channels that completely block the river from penetrating the contiguous wetlands. For almost 300 miles, the shoreline along the Upper Mississippi is part of the Upper Mississippi Fish and Wildlife Refuge. Present practices are destroying this magnificent resource. The answer, of course, is not to create more pressure for increased dredging. The answer is a more intelligent and environmentally acceptable dredge spoil deposit program. Preventing the dredge spoil from silting back into the river once they are deposited in contained areas located out of the river's floodplain is the goal. Regretfully, the corps is not pursuaded. They are only now exploring methods to "punch" holes in the artificial islands to allow water to penetrate the wetlands and marshes that serve as a breeding ground and major migratory pattern for the Mississippi flyway.

The GAO is now studying, at the Public Works Committee's request, alternatives to total replacement that could be significantly less costly than the Corps' recommendation, the plan authorized by S. 3823. We ought to wait for that study, especially since it is due in approximately 30 days.

The capacity and cost question raised by the United States and Illinois DOT are not settled. The environmental impacts have not been evaluated to any degree as recommended by the EPA, Interior, and CEQ. Perhaps more importantly the views of the States directly affected have been ignored by the approach envisioned in this bill. The State of Wisconsin is opposed to replacement at this time. The State of Illinois, the State where the facility is located, and the State that has the greatest to lose of any State in this issue, has designated the Illinois DOT as the lead agency. ILL DOT has recommended that action be deferred. The State of Minnesota's Department of Natural Resources and the Minnesota Pollution Control Administration have both recommended that the project be deferred.

These professional judgments all line up against the corps. It is a tribute to the power of the corps and the continued popularity of "pork barrel politics" that this proposal has gotten this far in the legislative process. It would be a travesty to continue when the facts are so clear for waiting. If enough warnings have not been issued to wait and the Senate goes ahead and authorizes this replacement now, I wonder what on Earth the Senate requires before a project that is as unsound and unsupportable as this one can be stopped.

There is no urgent need to act. The corps has testified that the replacement project requires the existing facility to be maintained and be operated in good working order for at least another 8 to 10 years and no one questions the ability of the corps to keep the facility open. The committee's report on page 87 agrees with this conclusion.

There are delays at the existing facility. And the corps knows very well that certain so-called nonstructural procedures such as the use of switch boats, extending the guidecell wall, and requiring barges to be "ready to serve" before entering the locks can reduce delays at No. 26 by a substantial degree. They know this, because they paid for the Peat, Marwick, Mitchell, and Co. report that lists these alternatives for improving the efficiency of the lock. They have refused to require these improvements, because it is not in the corps self-interest to do so. Their self-interest lies in replacement. The Nation's interest may very well lie elsewhere. Replacement not only gives them something to do over the next three decades, it lays the groundwork for the Illinois program and additional work on the Upper Mississippi. In addition, it reinforces the already too cozy relationship between the barge industry and the chief regulator, advocate, and repairmen of the Nation's inland waterways, the corps. There is an inbred conflict of interest in this overlapping responsibility that replacement will only worsen. It is time this relationship be broken up, not reinforced.

The committee bill calls for, in effect, a 1-year delay in this project. The authorization for all of the 116 projects contained in S. 3823 will not become effective until fiscal year 1978, October 1, 1977, a full year from now. The committee itself has agreed and rejected the corps argument that an urgent need exists to act without adequate information. One must be suspicious of the corps motives for urging action when four Federal agencies and three States which are directly affected oppose replacement at this time.

The chairman and ranking minority member of the subcommittee have given assurances that locks and dam No. 26 will be considered early in the 1st session of the 95th Congress. While Congress is adjourned, we should obtain additional economic and engineering information so that a speedy decision may be made early next year.

The corps has created this fiasco. They have stalled and delayed and have been successful in forcing this matter onto the Senate floor. Their success must stop here. The Congress should not bail them out and force the taxpayer to pay for their mistakes.

The Congress should face this problem for what it is, a ludicrous, unsupported engineering scheme being sponsored by an immensely powerful bureaucracy. The Congress should insist on getting the facts. The Congress should insist that section 4 of S. 3823 is deleted.

Mr. President, I ask unanimous consent that there be printed in the RECORD a selected analysis of S. 3823's locks and dam 26 proposal; a letter dated June 17, 1976, addressed to me signed by Beatrice E. Willard, acting chairman of the Council on Environmental Quality; a letter from the Governor of Wisconsin; a letter from the secretary of the Department of Natural Resources of the State of Wisconsin; and a resolution by the Wisconsin Natural Resources Board regarding locks and dam 26.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SELECTED ANALYSIS OF S. 3823'S LOCKS AND DAM NO. 26 PROPOSAL

ITEM

Section 4(a) of S. 3823 authorizes replacement of Locks and Dam No. 26 by constructing a new dam and single 1200-foot lock approximately two miles downstream from the existing facility. The specifications of construction shall be in accordance with the March 15, 1976 report of the Chief of Engineers.

COMMENT

This provision assumes facts that have not been fully documented. It assumes that less costly rehabilitation alternatives are not technically feasible and are not cost-effective. This provision, in effect, makes any conclusions reached by the ongoing GAO investigation, moot. It also ignores the recommendation of the Illinois DOT and the U.S. DOT that the expanded capacity of the new lock cannot be substantiated. This provision also assumes that the delays in lockage experienced at the existing structure cannot be alleviated except by constructing the $391 million replacement.

In addition, it ignores the Corps' own capacity analysis performed by Peat, Marwick, Mitchell and Company that states nonstructural improvements can be made to the existing structure at minimal cost to the Federal taxpayer that can: (1) substantially reduce the current delays, and (2) expand capacity of the existing structure to meet even the Corps' own commodity growth estimates for the late 1980's (assuming for the moment these delay costs and commodity growth estimates are correct. However, these have been challenged as being off by as much as 866 percent).

Moreover, it ignores testimony that casts grave doubts on both the short and long-term commodity growth projections raised by U.S. DOT, the IL DOT, the Director of the Transportation Institute at Penn State University, and Professor Robert Haveman of the University of Wisconsin.

ITEM

Section 4(c) of S. 3823 establishes a navigation channel no greater than nine feet on the Upper Mississippi north of Alton and on various other river segments along the Upper Mississippi. In addition, it withdraws authorization for any Federal official to study the feasibility of deepening the channel without a specific Act of Congress.

COMMENT

This Subsection purports to settle the 12-foot navigation channel question by formally withdrawing authorization to study it. While it is an improvement over present law, it will not provide the necessary safeguards. The specifications for the March 15, 1976 project authorized by Section 4(a) of this Act, calls for the installation of 18-foot sill depths in the new lock. As Judge Richey indicated, 18-foot sills can accommodate a 12-foot navigation channel. The Court also noted that the replacement project would force modification, modernization, or replacement of many of the facilities upstream. Corps' documents on file with the Court clearly show the intention of expanding the 1200-foot lock program farther up the river. Moreover, this Section entirely ignores the question of the Illinois Waterway. Since about 60 percent of the traffic moving through #26 continues up the Illinois, the relationship of this project to the expansion of the Illinois should not be overlooked.

The Corps currently has authorization to study the 12-foot channel on the Illinois. In addition, the duplicate lock program for the Illinois, authorized by the Congress, is being designed to accommodate the 12-foot channel. It is obvious, therefore, that if the 12-foot channel is ever going to be constructed on the Illinois, and if the duplicate locks program is authorized to accommodate a 12-foot channel, then Locks and Dam #26 will have to be constructed to handle the Illinois 12-foot barge traffic.

ITEM

Section 4(d)(1–6) of the Committee bill establishes a Mississippi River System Council to develop a master plan to manage the various Federal, state, and local objectives on the Mississippi and its major tributaries. Included are specific studies of the economic and environmental impacts of the second lock at Alton to be initiated after construction of the replacement has started.

COMMENT

This section of S. 3823 misses the point completely. It formalizes bad public policy, the very build now—study later approach condemned by the Court and rejected by the National Environmental Policy Act. While it appears the various studies would be systemic in nature, they would nevertheless, be performed after initial construction of the replacement project was begun.

It is precisely these types of studies that the EPA, the CEQ, the DOI, the States of Wisconsin, Illinois, and Minnesota, as well as the DOT, have called for to be done before construction is started. These studies should guide the Congress in its decision-making, not serve on an ad hoc basis as a justification for a decision previously made.

ITEM

Section 4(e) directs the Secretary of the Army to appoint three private engineers to study the alternative recommended by the IL DOT. The Board shall furnish a report to the Secretary within 120 days. If the Board concludes no reasonable alternative to the authorized project exists, then construction may proceed. If, however, the Board recommends changes, the Secretary shall report this finding to the Congress and no action on the project may take place for 120 legislative days.

COMMENT

First, this Section places too much responsibility and faith in impartiality of the Secretary of the Army, acting for the Chief of Engineers in appointing the three members of the Engineering Board. It seems illogical to assume that the Corps, after advocating this project for at least 15 years, will select consultants that will vigorously analyze other opinions. In any event, the choice of the consultants should be left to an independent body, like the Council or the GAO.

Second, the procedure established by this Subsection ignores the work of the GAO begun at the request of the Water Resources Subcommittee. In effect, the Board will be repeating work underway by the GAO. The Board should be forced to consider the findings of the GAO report as well as evaluating the IL DOT proposal.

Finally, if the Board decides that alternatives to the project authorized in Section 4(a) of this Act have merit and deserve further consideration, the Committee's bill only places a hold on construction for "at least 120 legislative days." If the Board recommends options or redesign of the project, construction should be stopped immediately. The Congress and not the Corps should be forced to face the issue and decide what further action is in the national interest.

EXECUTIVE OFFICE OF THE PRESIDENT, COUNCIL ON ENVIRONMENTAL QUALITY, 722 JACKSON PLACE, N.W.
Washington, D.C., June 17, 1976.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NELSON: I would like to thank you for the opportunity to comment on S. 3425, a bill relating to the Corps of Engineers, Lock and Dam No. 26. The Council has reviewed the proposed bill, the new Draft Environmental Impact Statement, dated March 1976, and the Report of the Board of Engineers for Rivers and Harbors dated February 1976. We would ask the Congress to defer action on any of the bills now under consideration until the Department of the Army has completed its review of this proposal, and until the pending NEPA litigation has been concluded and the adequacy of the impact statement is determined.

The Secretary of the Army has ample administration authority under current law to complete the necessary systematic, environmental, economic, growth and transportation analyses. This information, which has not yet been developed in the EIS process, is essential in order to determine the impact of any proposed expansion of the Upper Mississippi and Illinois Waterway. Regarding the continuing operations of Lock and Dam No. 26, the Secretary of the Army also has the authority to seek appropriations to assure the efficient operation, maintenance and repair of the existing facilities.

I wish to thank you for the opportunity to comment on S. 3425. If we may be of further service, please do not hesitate to contact us.

Sincerely,

BEATRICE E. WILLARD, Ph.D.,
Acting Chairman.

STATE OF WISCONSIN,
OFFICE OF THE GOVERNOR,
Madison, Wis., June 18, 1976.

Hon. MICHAEL GRAVEL,
Chairman, Senate Water Resources Subcommittee, Dirksen Building, Washington, D.C.

DEAR SENATOR GRAVEL: Thank you for your recent telegram requesting the State of Wisconsin's position on the replacement of Locks and Dam 26 and Senate Bill 3506 introduced by Senator Walter Mondale. Representatives of the State of Wisconsin will not be testifying at your subcommittee hearing on this matter. However, I request that this letter be made a part of the hearing record and that it be considered during your subcommittee's deliberations.

Unfortunately, it appears that Senator Nelson's bill, Senate Bill 3425, is not before your subcommittee. I am extremely concerned that the Water Resources Subcommittee may only be acting on proposals for authorization of the Locks and Dam 26 project rather than critically examining the policy issues and far-reaching impacts of this highly controversial project.

The State of Wisconsin would not support authorization for replacement of Locks and Dam 26 at this time since the system-wide economic, environmental and social impacts have not been adequately and completely examined. In addition, I do not support Senate Bill 3506 since it would authorize construction of Locks and Dam 26 prior to completion of any systemic economic and environmental studies.

I am hopeful that the Water Resources Subcommittee will act on the authorization of Locks and Dam 26 only when the long-term impacts of this project are understood completely. Senator Nelson's bill would accomplish this end, and I lend it my full support.

Sincerely,

PATRICK J. LUCEY,
Governor.

STATE OF WISCONSIN,
DEPARTMENT OF NATURAL RESOURCES,
Madison, Wis., June 8, 1976.

Attention: Mr. Paul Cunningham.

Hon. WARREN G. MAGNUSON,
Chairman, Senate Commerce Committee, Washington, D.C.

DEAR MR. MAGNUSON: I would like to take this opportunity to notify you of the Wisconsin Natural Resources Board and Wisconsin Department of Natural Resources' support for Senate Bill 3425 introduced by Senator Gaylord Nelson. The enclosed resolution supporting Senator Nelson's bill was adopted by the Wisconsin Natural Resources Board at its regular meeting on May 13, 1976.

The State of Wisconsin has been deeply concerned with the ongoing and proposed Corps of Engineers' activities on the Mississippi River for more than a decade. During this time, we have witnessed dramatic changes in the ecology of the Mississippi River. Many of these changes were brought about by the Corps of Engineers' channel maintenance activities which are continuing to this day substantially the same as 30 years ago.

The adverse effects of past mistakes on Mississippi River navigation projects are just starting to show up after 30 years. We are only now beginning to gather basic information through the Upper Mississippi River Basin Commission and the Great River Environmental Action Team (GREAT) so that corrective measures may be taken.

Senator Nelson's bill would require that necessary studies be undertaken prior to any further planning of and construction on the proposed Locks and Dam 26. Thus, future generations would not inherit our past mistakes that had developed to the point where they were no longer technically or economically solvable.

I, therefore, urge your favorable consideration of Senate Bill 3425.

Sincerely,

ANTHONY S. EARL,
Secretary.

RESOLUTION BY THE WISCONSIN NATURAL RESOURCES BOARD REGARDING LOCK AND DAM NO. 26 ON THE MISSISSIPPI RIVER AT ALTON, ILL.

Whereas the Upper Mississippi River consists of 29 locks and dams that create a series of pools allowing navigation of 9-foot draft barges for commercial transportation from the Ohio River to the Twin Cities and that Lock and Dam No. 26 is the last downstream structure and;

Whereas Lock and Dam No. 26 which currently handles 9-foot barges, needs repair which the Corps of Engineers proposes to accomplish by constructing a new Lock and Dam two miles downstream at a cost of about $400 million with sill depths sufficient to allow 12-foot barges and;

Whereas the State of Wisconsin has serious concern with present maintenance practices, particularly dredging and dredge disposal, for the current 9-foot navigation channel, and;

Whereas substantial expansion in the capacity of commercial navigation is envisioned by the proposed Lock and Dam No. 26, and;

Whereas the Mississippi River provides the greatest environmental corridor in the United States and Wisconsin is concerned that continued expansion of commercial navigation, while having economic advantages must be done only after complete analysis of the system-wide effects of any such proposal on fish and wildlife and a complete economic analysis, and;

Whereas Senator Gaylord Nelson has a Senate bill proposed for introduction that will require:

1. That studies on the system-wide effect on fish and wildlife be completed before construction.

2. That the U.S. Department of Transportation study:

(a) Relationship of Lock and Dam No. 26 to the National transportation policy.

(b) The direct and indirect effect on Lock and Dam No. 26 on the Nation's railroads.

Mr. NELSON. Mr. President, I yield the floor.

Mr. GRAVEL. Mr. President, I would be happy to yield to the Senator from Colorado.

Mr. GARY HART. Mr. President, I would like to take 2 minutes to identify myself with the remarks of the Senator from Wisconsin (Mr. NELSON). Those of us who have serious reservations about this project have been labeled antagonists to it, that we have set out to destroy it and stop it in any way we can. I know the Senator from Alaska knows that is not the case.

The time has to come around here where we can raise serious questions, and that we ask that all facts be made available to us before we cast a vote involving hundreds of millions of the taxpayers' dollars, and that when you do that you are not opposed to the technical and economic growth of this country and are about to shut down this or that industry or that it shows you have fallen prey to a handful of environmentalists who have no concern with the long-range technological and economic soundness of this country.

The Senator from Alaska knows, although he voted differently in the subcommittee, that that is not the case. I think the record should show that the Senator from Colorado and the Senator from Wisconsin have raised questions about projects and have done so on the ground that all the facts are not before the Public Works Committee and they certainly have not been before the Senate sufficiently to permit us to make an enlightened judgment as to whether this is the best course to follow and, particularly, in light of all the transportation implications it may have on alternative modes of transportation.

The Senator from Louisiana made the remark earlier that the waterways of this country were an inexpensive mode of transportation. But the fact of the matter is the people of this country, through the Corps of Engineer projects and all kinds of other means, have subsidized the waterways transportation industry in the same way that other industries have been subsidized, and I think the record should show that as well.

I just wanted to be identified with the position taken by the Senator from Wisconsin that there were legitimate and real questions to be asked, and those questions should be raised again in the committee deliberations after the first of the year. That has been the position of the Senator from Colorado all along.

I thank the committee chairman.

Mr. GRAVEL. I thank my colleague.

Mr. DOMENICI. Mr. President, section 5 of the committee bill imposes a system of user charges on the inland waterways. Few changes in the Nation's transportation policies are so long overdue. Presently the American taxpayer is subsidizing the Nation's leading oil, coal, chemical, steel, and grain companies, the principal beneficiaries of the inland system, to the tune of about $400 million a year. Moreover, these private beneficiaries do not pay one dime in return. No other transportation mode is completely subsidized at the public's expense. Highway and airport users pay taxes into a trust fund while railroads and pipelines must go into the private capital market for funds. Only the barge industry gets a complete free ride.

Every President since Franklin Roosevelt has stated that the rational exploitation of the Nation's inland waterway resources can only occur within the context of a user charge mechanism. One governmental commission after another, the latest being the report of the National Water Commission in 1973, has noted that without user charges the Nation's inland waterway system is an irrational anomaly whose resulting inequities and inefficiencies have prevented the fashioning of a coherent national transportation policy. In addition, over 10 executive branch studies, beginning in 1939 have supported user charges. Within the past 2 years alone, President Ford, Secretary Coleman, the General Accounting Office, and staff studies by the Departments of Transportation and Interior, respectively, have examined the users charge issue. Invariably, these studies have condemned the inequities and inefficiencies that arise from the lack of a user charge system.

These inequities have two components. First, there is the fundamental unfairness of the Federal taxpayer, composed of many low and middle-income persons, subsidizing large, wealthy corporations who use, and in fact own, many of the barge lines. Petroleum products for example, represent the largest single commodity shipped on the inland waterways. This is not economic growth, but merely an income transfer from the poor to the wealthy, an anathema at odds with the democratic process.

The second inequity lies in the fundamental unfairness to competing modes of transportation of having one of them singled out for special treatment. The railroads calculate that complete subsidization of the inland waterway system costs them $500 million a year. A Congressional Budget Office report concluded that the construction of locks and dam 26 alone could cost the midwestern railroads between $261 to $348 million a year. With 1 of the area's 21 rail lines already in bankruptcy, and at least 6 others in weak condition, it is madness to continue to subsidize the inland waterway system to the point that further rail lines are driven into bankruptcy.

As a side note, it should be stressed that no one is objecting to the growth of the pipelines. Since 1950, both the barge and the pipeline industries have more than doubled their market shares of intercity freight traffic. Railroads during the same time have suffered a decline in market share of 20 percent. However, in contrast to the barge lines, pipelines have come by their growth through the marketplace by providing superior service.

The preceding examination of the inequities of complete subsidization also highlights the inefficiency of such subsidization. If the Nation had made a clear commitment to allow barges to preempt rail, then bankruptcy of rail lines in certain transportation corridors should be of no concern. The ConRail example, however, makes it clear that the Nation intends to bail out bankrupt rail lines. Accordingly, subsidizing the inland waterway system has triggered a suicidal spiral of increasing barge subsidies leading to larger rail subsidies. Sponsors of ConRail have informed us that the next step is nationalization of the rail system. Certainly, the role played by barge subsidies in aggravating the economic woes of the railroad industry makes them a poor investment for the American taxpayer.

Another aspect of the inefficiencies inherent in subsidizing the inland waterway system is highlighted by the rationale for construction of a new lock and dam at Alton, Ill. Here we are told congestion delays warrant a larger structure. What such an argument ignores is that as long as new capacity is provided free, the demand for it will be infinite. In short, capacity projections for a free navigational system will be self-fulfilling because there are no market constraints. Moreover, beneficiaries of such a free system have no market check on their appetite for new, more expensive projects as long as the taxpayer is paying for them. This in turn leads to shipshod analyses of whether new projects are even needed or not.

All this must change. The Nation is about to embark on a major effort to rehabilitate its inland waterways now consisting of 25,000 miles of improved waterways and 212 navigational locks and dams. Many of these navigational structures were built during the 1930's, as was locks and dam 26, and will soon need rehabilitation. In fact, there are $3.4 billion in lock building projects presently underway.

It would be unconscionable for the Congress to ignore the irrefutable case for user charges as it embarks on this new round of navigational improvements. A 1971 Department of Transportation study called the case for user charges "logically impeccable." The 1973 National Water Commission stated, "There is no longer any rational justification for assumption by the Federal Treasury of the entire cost of construction, operating, and maintaining navigable waterways." It is important to note that these reports state there is no "logical" or "rational" reason for delay. They see the matter as one so clear that further study is unneeded.

Paradoxically, although the issue has been studied repeatedly, and more recent commentators have stated that there is simply no case on the other side, opponents of user charges still ask for more study. This strikes me as little more than an effort by those enjoying an entrenched privilege to delay the day of reckoning when they must pay their fair share.

However, several points can be made on the issue of the need for additional study. First, the committee proposal is itself a controlled legislative experiment. Both the 10 year phase-in and the midterm assessment in the fourth year of implementation are designed to allow for careful monitoring by the Congress of the implementation of section 5. Such a controlled legislative experiment has the advantage over present studies of having actual data to work with. Present studies, from all sides, are flawed with respect to their reliance on the speculations of economic models. They do not measure the real world, but rather predict. They are little more than mathematical crystal balls. In contrast, section 5 calls for a gradual phase-in so that future studies will have the advantage of hard data to work with on the economic consequences of user charges.

In dismissing the claims of the opposition for additional study, I do not mean to cavalierly disregard what are feared as the economic consequences of user charges. However, I believe it is important to stress that whatever the consequences, they flow from the end of a privileged status of complete public subsidization not enjoyed by any other mode of transportation. Moreover, any marginal harm suffered by the barge industry is more than compensated for by advancing competing national interests.

In advocating a controlled legislative experiment instead of another study, I do not want to leave the impression that the issue of economic impact has not been studied. The General Accounting Office in its November 1975, report found that recovering 100 percent of the costs of operation and maintenance would have minimal impacts, and that in fact, any diversion of traffic would be to pipelines, not rail. Studies by the Departments of Interior and Transportation this year also found minimal impacts. The Department of Transportation study generally found price increases of less than one-half of 1 percent. In fact, they found that the impact of a 10 percent recovery, the same as required in the first year of the committee's proposal "to be so small that intelligent analysis was not possible."

In all of the above examples, it was

assumed that 100 percent of the operation and maintenance costs would be recovered in the first year of implementation. This is ten times more severe than our bill, and is even twice as severe as the committee proposal would be 5 years after implementation. In fact, our proposal is far less severe than that proposed by the National Water Commission which recommended 100 percent recovery of both operations and maintenance and capital costs.

In closing it must be recognized that any claim that ending the complete subsidization of the inland waterway system will raise prices involves a complete negation of the free enterprise system. Obviously, any economic activity the government chooses to subsidize will have lower prices. Accordingly, one can ask why not completely subsidize railroads, energy production, food production, whatever comes to mind. The market's answer is that subsidization, while benefitting a given narrow class of beneficiaries can lead to an overall decline in national wealth through the inefficient use of resources. And that is what is precisely at stake here; inefficiencies that have led to chaos in our national transportation policy and a growing and increasingly unacceptable burden on the Federal taxpayer.

Mr. President, I ask unanimous consent to have printed in the RECORD an historical evaluation of user charges in this résumé. It will have the positions of Presidents of the United States, since the second term of FDR; 4 out of 5 Secretaries of Transportation; about 14 major studies, all of which have recommended that in order to do justice to transportation in this country, we must address the issue of a reasonable user fee for those who use the inland waterways of our country in exchange for the tax dollars that go into the locks and dams and improvements that we pay for.

I hope in the intervening time between the passage of this basic bill, without user charges and without locks and dam 26 and Vermillion and the other, that people in the Senate will have a chance to review this history so that early next year, as we look at these projects, we will take a good look at the equity of the proposal before the Senate to assess a reasonable percent of the taxpayers' dollars back against this kind of transportation.

Roadways pay user charges, airports pay user fees. My proposal, in this bill, which I am agreeable to take out with the other projects, would have done that. It would have done it over 10 years. It would have assessed 50 percent of the O. & M., and 50 percent of annual improvement costs.

If there is a more equitable way, I am amenable to hearing it next year. Everyone should know that I clearly intend to pursue it in the Committee on Public Works, along with the projects, hopefully some time after May of next year, and we will have a chance to look at both the projects and an equitable way of assessing those who use it for the taxpayer's involvement heretofore in providing the service for them.

I ask unanimous consent that this history be made part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WOULD THE USER CHARGE PROPOSAL ADD SIGNIFICANTLY TO COSTS?

According to figures for 1973, provided by the American Waterways Operators, the industry's revenues were nearly $2 billion (based on 570 trillion ton-miles of traffic, producing revenues of 0.34 cents per mile). Using Corps spending figures for the same year on the inland waterways, the Subcommittee's user charge proposal in the first year would recover approximately $15,000,000, in the tenth year about $150,000,000. The Subcommittee bill would thus recover about 1 per cent of revenues the first year the costs would be effective, 10 per cent in the final year of phase-in.

Thus, the first year of imposition, the user charges (based on revenue of 1 cent per 3 miles) would add about 1 penny to the cost of shipping a ton of grain or coal for 300 miles. After 10 years, the user charge would impose a cost of about a penny for every ton shipped for 30 miles.

Look at what happens to a bushel of wheat in the first year of implementation. On a trip from Peoria, Ill., to New Orleans—1280 river miles—the Subcommittee user-charge provision would add approximately 4 cents to the cost of shipping a ton of wheat over that distance. Over the distance from Minneapolis to New Orleans, the extra would work out to about 6 cents per ton (1758 miles).

There are 33 bushels of wheat in a ton. A bushel of wheat had an average price in New Orleans in August of $3.44 a bushel. Thus a ton of wheat had an average value of $113.50 in New Orleans. The Subcommittee proposal would thus add at about 4 cents to the $113.50 price of that wheat. When fully implemented, the bill would add about 40 cents to the cost of that ton of grain, or 0.3 per cent of the cost.

The Illinois Grain Corp. testified to the Committee that the average cost of shipping a bushel of grain from Peoria to New Orleans by barge was about 15.8 cents, compared with a price of 24 cents per bushel when shipped by unit train. Since the Subcommittee user charge would add 4 cents to the cost of shipping at ton of wheat (33 bushels) over that distance, it would add a bit over 1/10 of a cent to the cost of shipping a bushel from Peoria to New Orleans in the initial year. Thus the Peoria-New Orleans price for shipment would rise to 15.9 cents per bushel the first year, and possibly to 16.8 or 17. cents in the 10th year when the schedule is fully implemented, dramatically below the 24 cents cost by rail, indicating that there were virtually no diversion of traffic.

USER CHARGES—GASOLINE PRICES

Let us talk about the shipment of gasoline. I have been told by representatives of the waterway users that they believe the schedule of charges in this bill will add 1 mill to their ton-mile costs. That figure is grossly inflated, since it represents about 30 per cent of revenues. The calculations by the Committee, based on the industry's own revenue figures compared with Corps expenditures, are that the charge—at the end of 10 years—would add no more than 10 per cent to costs, or about 1/3 mill per ton-mile.

But let us assume the industry is right. And they argue that such charges will drive, for example, petroleum shipments entirely off the waterways. That is wrong, and a simple look at costs will tell you why. A ton of gasoline contains about 8 barrels, and each barrel contains 42 gallons. Thus a ton of gasoline contains approximately 336 gallons of gasoline. Gasoline today, the waterways industry tells me, has a wholesale value of about 40 cents a gallon. Thus, a ton of gasoline has a wholesale value of $134.40. When gasoline is barged for 400 miles—the average distance of a waterway shipment of petroleum products—the cost of that ton of gasoline—at the end of 10 years and assuming the industry's inflated costs—would increase 400 mills, or 40 cents. Thus, the costs of this bill would increase the wholesale cost of the gasoline to $134.80, an increase of approximately 3/10 of 1 per cent. Since the industry's figures are inflated by a factor of 3, the real cost increase would be about 14 cents a ton, or 1/10 of 1 per cent.

That, of course, of after a 10-year phase-in.

I do not believe that anyone can reasonably argue that such a minuscule increase will lead to the dislocations that are suggested.

STUDIES AND POSITIONS ON WATERWAY USER CHARGES

(1) 1939: Report of War Department and Treasury Department. Report favored adoption of user charges.

(2) 1939: Report of the Federal Coordinator for Transportation. Report favored reduction in federal investment in waterways.

"Gathering together all of the preceeding discussion, it may be concluded that the assessment of tolls would remove an unstabilizing influence from the field of transportation, lessen or eliminate the rancor and the lack of willingness to cooperate which mark the relations of rail and water carriers, and make for more successful planning of future waterway improvements and of transportation policies generally."

(3) 1942: Report of National Resources Planning Board. Favored user charges.

(4) 1944: Report of Board of Investigation and Research. Favored user charges.

(5) 1946: Hearings of the House Committee on Interstate and Foreign Commerce. No formal recommendations.

(6) 1950: Senate Commerce Committee held hearings on inland waterways under Senate Resolution 50.

(7) 1950: Report of President's Water Resources Policy Commission. Recommended user charges.

(8) 1952: Department of Commerce Study: Background Study.

(9) 1960: Department of Commerce Study: Recommended user charges.

"National Transportation is basically out of balance. It is less a national system than a loose grouping of individual induction. We have built a vast network of highways, railways, inland waterways and seaport, airways and airports, and pipelines, with little attention to conflict among these expanding networks."

(10) 1966: Economic Report of the President.

"At the same time, cost should reflect the value of all the resources required to provide the service. Federally provided transportation facilities have continually expanded. Users should pay their fair share of the cost and maintenance of the highways, waterways, and airway facilities. As it is, there are uneven payments from different classes of users—some making substantial payments and others none at all. Adequate user charges should be instituted in the interest of both equity and overall transportation efficiency."

(11) 1970: Charles River Associated Study for DOT. Recommends user charges.

(12) 1971: DOT study. Recommends user charges.

"The argument for some user charge on grounds of equity and efficiency is impeccable . . ."

(13) 1973: National Water Commission. Recommended charges to recover 100% of O+M and 100% of new capital.

"There is no longer any rational justification for assumption by the Federal Treasury of the entire cost of construction, operating, and maintaining navigable waterways."

The report also stated: "First, a major weakness of the present program stems from deficiencies in the procedures by which it is determined whether or not a proposed waterway project would result in a justified addition to the national transportation system.

Second, a major weakness of the legislative policies governing the present program is that they do not require beneficiaries to share in the cost of constructing, operating, and maintaining Federal waterway projects.

Third, the inland waterway system is inescapably an element of the national transportation system. Yet, the waterways are not planned, evaluated, or regulated as a part of the national transportation system."

(14) Sept. 1975: Secretary Coleman, A Statement of National Transportation Policy: "National inland waterway policy should be compatible with national transportation policy. It has become apparent from the increasing criticism of adversely affected carriers that use of the existing public investment criteria for the water mode is inequitable. Some common denominator is required against which public investments in alternative modes of transport can be assessed. Economic efficiency and considerations of equity also lead in the direction of some form of cost sharing. Insofar as it is practicable and administratively feasible, the identifiable beneficiaries of Federally improved and maintained waterways should bear some share of development and operating costs through a system of user charges."

(15) Nov. 1975: GAO Report: Factors to Be Considered in Setting Future Policy for Use of Inland Waterways. Found minimal impact and many benefits from imposition of user charges to recover O+M.

(16) 1976: President Ford's FY 77 budget message recommends a system of user charges.

(17) May, 1976: Department of Interior contracted for Study.

"Under the most severe cost conditions, only 3 percent of the total traffic would move from the system."

(18) June, 1976: Department of Transportation Staff Study on Impacts of Waterway User Charges, concluded "Predictions of substantial, generalized impacts on water carriers as the result of user charges appear unsupported . . ."

Mr. HELMS. Mr. President, I have long been a supporter of the work of the Army Corps of Engineers, and as you well know, I believe that the corps has provided this Nation with many desperately needed facilities and services. However, as is the case with any organization, the corps is not incapable of unwise decisions. The case of locks and dam 26 verifies this fact.

Mr. President, the existing locks and dam 26 can be repaired and brought up to 1976 design standards, and given an additional life of 50 years for a cost of $46.3 million. The corps claims that rehabilitation of the present structure would cost $463 million. Two of my distinguished colleages have requested the General Accounting Office to study the feasibility and cost of these two plans for repair as well as the plan of the Illinois Department of Transportation. The GAO employed a consulting engineer. The report of GAO on this matter is due September 30. At a briefing of Senate staff on August 23, the GAO made some preliminary statements which were not based on a complete analysis of the railroads' plan and will probably be changed. To authorize construction of a new lock and dam without receiving a final report from the GAO on the feasibility of repair would be unwise and could be construed as a lack of regard for the interests of the taxpayers.

If locks and dam 26 cannot be repaired and must be replaced, an evaluation should be made to the taxpayers regarding costs of maintaining the entire navigation system on the upper Mississippi River and Illinois waterway, and alternatives to proceeding with such expenditures. That system consists of a series of 600-foot locks, all but two built during the 1930's and most of them having the same design as locks and dam 26. Movement of piers in dams 24 and 25 have been measured in the last 5 years which exceed the movements in dam 26 by 10 times. If all or most of the dams and locks in the system must be replaced, the public is facing a total cost of over $12 billion.

Mr. President, the Mississippi River and Illinois Waterway system is a series of 600-foot locks. If locks and dam 26 is replaced with a 1,200-foot lock, pressure will be created to build 1,200-foot locks upstream to accommodate larger tows and reduce the barge operators' costs. The corps acknowledges that a larger lock at Alton will result in the upstream locks reaching their capacity sooner. Report of Board of Engineers for Rivers and Harbors, locks and dam 26, February 1976, page 79.

The need for expanded navigation facilities, a new dam with a 1,200-foot lock and a second one to come has not been established by the corps. In its September 1975 advisory report to the Senate Commerce Committee on locks and dam 26, the U.S. Department of Transportation said at page iv:

> The available data, supplied by the Corps of Engineers, do not support the Corps' proposal for an expanded facility. Since the expansion of Locks and Dam 26 would have an adverse effect on the financial condition of the area's railroads, care should be taken so as to ensure that the government does not proceed with such an expansion unless it is economically warranted.

To date, the data which the Department states is necessary for a proper economic evaluation of the project. An extensive economic analysis has been made of the available corps data by the railroads and it has been demonstrated that the corps conclusions are faulty.

By allowing the construction on locks and dam 26 to proceed, the Congress would be building a custom made transportation facility at absolutely no cost to the user. This, of course, would make it more difficult for other forms of transportation to compete with the barges that would use the locks. So, looking at it logically, by proceeding with construction, this Congress would spend money to help one segment of the transportation sector, which would reduce the income to barge competition, such as rail transit companies. Of course, when the rail companies see a decrease in income, the Congress will habitually come to the rescue by giving the companies financial assistance. So, in the long run, the Government will pay twice.

Mr. President, in summary, permit me to make a few points regarding locks and dam 26.

First. The project is now under study and we would be foolish to proceed with the proposed construction before the study results are complete. Because construction could not begin until well into 1977, we should wait for these studies and then decide on feasibility of instrumenting improvements to locks and dam 26.

Second. Regardless of the conclusions of the study, we must remember that this project will cost literally millions of dollars. Mr. President, there is a limit to how much money this Congress can appropriate to public works projects, and in light of this fact, we must be careful of what projects do and do not get funded. In North Carolina, my hometown of Raleigh is suffering from one of its worst droughts in recorded history. The University of North Carolina at Chapel Hill may have to cease operation if the situation is not eased. Thousands of farmers are going to end their year with no income because of the lack of rain and the list of difficulties goes on. Wake County in North Carolina is only one of many across this Nation, and I am sure every Senator here has similar situations in his own State. It is a simple fact of life that important projects already under development could suffer greatly if vast sums of limited public works dollars are committed to this new and costly scheme. It would be irresponsible for this Congress to deny such communities this aid in order to improve a set of locks that few people think should be improved in the first place.

Third. To improve locks and dam 26 would off-balance the transportation network in the area concerned, and cause losses of revenue to the competing forms of transportation in the area.

Fourth. The environmental impact of the locks and dam 26 proposal would be disastrous, and the harm caused to the surrounding area would far outweigh the benefits.

Fifth. Finally, the improvement of locks and dam 26 would eventually lead to demands for the improvement of the other facilities along the river. If we provide for the funding of the proposed improvements, we will simply be obligating ourselves to future appropriations which we neither need nor want.

Mr. President, this enormously expensive project is not needed. There can be no doubt about it. If the users of the locks want the improvements then they should make them themselves using their own profits, and not the tax money of the citizens of this Nation.

IN OPPOSITION TO WATERWAY USER CHARGES

Mr. ALLEN. Mr. President, the statement has been made that access and entrance fees which are charged at the Army Corps of Engineers' recreation sites constitute a precedent for establishment of a system of waterway user charges as stipulated in section 5 of S. 3823. This is not at all true.

The Land and Water Conservation

Fund Act of 1965 (Public Law 88–578) established a fund to assist State and Federal agencies in meeting outdoor recreation needs. The legislation declared that a major share of the revenue for the land and water conservation fund was to come from Federal motor fuels tax derived from fuels used in motorboats. However, the legislation did not authorize any additional taxation. It merely directed the diversion of a portion of these tax revenues from the highway trust fund to the land and water conservation fund. Thus, for every gallon of fuel purchased for use in a motorboat, two cents was allocated to the conservation fund. On subsequent application, the motorboat operator was to be refunded the other 2 cents' Federal tax paid at the time of the fuel purchase.

It is important to note that none of the motorboat fuels tax going into the land and water conservation fund has been or is used for the construction, operation, or maintenance of navigation channels or navigation facilities. The moneys are used only for planning, acquiring, and developing needed land and water recreation areas and for recreation-related facilities.

In addition to the motorboat fuels tax, part of the revenue for the conservation fund was to come from admission and user fees to be paid by those utilizing outdoor recreation areas and facilities. Subsequently, a schedule of charges for the use of various outdoor recreation facilities was developed. Included in the fee plan were some water recreation sites at Army Corps of Engineers lakes and reservoirs. Entrance or access fees were charged. In some instances, charges were made for the use of certain facilities, such as mechanical boat launching ramps.

Proponents of section 5 of the Water Resources Development Act have claimed that collection of these charges established a precedent for the general waterway user fees which the pending act would impose. However, the legislative history of the Land and Water Conservation Fund Act, and its subsequent amendments, make it quite clear that Congress never intended any such precedent. The original legislation itself states that:

> No fee of any kind shall be charged by a Federal agency under any provision of this Act for use of any waters.

The Senate report—No. 1364, dated August 10, 1964—goes into some detail as to the inclusion of this language. The report states:

> Relationship of recreation fees to commercial waterways.—In the early days of consideration and discussion of the land and water conservation fund bill, there was considerable opposition to the fee principles of the bill as they relate to recreation use of our waterways on the basis that such charges are in conflict with historic policy and congressional intent and that such charges would lead to similar charges for commercial use of our Federal navigation system.
>
> The land and water conservation fund proposal adheres to the toll-free principle for commercial use of public waterways. The bill applies only to Federal recreation areas. It provides authority only for establishment of recreation user fees and entrance fees and specifically prohibits fees for use of the waters as such.
>
> The National Rivers and Harbors Congress, leading proponents of the inland waterway system, at its 1964 convention, endorsed and urged passage of the land and water conservation bill. Page 17, Report No. 1364

I believe that the Senate report is about as direct and specific as one can be as to why the Land and Water Conservation Fund Act of 1964 is not to be construed as a precedent for waterway fees, tolls or other charges for use of the inland waterways system. On the contrary, the legislation strongly reaffirms established toll-free national waterways policy.

Mr. BAKER. Mr. President, I wish to express my views on locks and dam 26 and the need for the development of a fair system of equitable user charges that would be paid by those who benefit directly from the national system of inland waterways.

At the same time, I support fully the committee's position authorizing the reconstruction of locks and dam 26 at Alton, Ill. This is a vital component in our national waterway program. Its reconstruction, with the safeguards contained in section 4, is fully justified.

I do not need to tell my colleagues that this is a controversial subject. But I honestly believe that the time has come when a system of waterway user charges must be initiated, and for that reason I support the thrust of the amendment that was offered in committee by Senator DOMENICI. I support it because I believe it establishes a level of charges that is fair and equitable, and that the impact will occur over time. As importantly, the language assures the Congress that it will have the opportunity to review fully any system of charges before they become effective. Such an action-forcing procedure, with effective checkpoints, is realistic and reasonable, and I support it.

As we are aware, the authorization for locks and dam 26 brings us to the verge of a major program for rebuilding and expanding our capability to move barge traffic over shallow-draft waterways. But I foresee long delays and much contention over such a program if waterway navigation improvements continue to be totally federally funded. Others not so intimately involved in water transportation as the people of Tennessee and our neighbors may resist needed improvements. The costs of such improvements will cause concern and problems in developing overall fiscal policy. The deterioration of this system will continue unless we can assure the Nation that the users are willing to contribute. I feel very frankly that we would not have the opportunity today to consider locks and dam 26 on the floor of the Senate if this bill did not also include this program to institute user charges.

The Domenici approach also creates a mechanism to give the Nation a more realistic assessment of the real need for new projects. If the industry is willing to bear a share of their cost and operation, I think we all must agree that there will be far greater assurance that future navigation projects are in the national interest and economically justified.

Mr. President, this bill represents a sound compromise between two opposing forces. Because it balances the needs and the costs of improvements for our inland waterway system, it will lead to stronger national policy.

I urge that my colleagues support these two sections.

Mr. President, there are a number of other provisions in this bill that I would like to discuss because they have particular importance in Tennessee. Section 18, for example, authorizes construction of a local protection project on Harris Fork Creek in the communities of Fulton, Ky., and South Fulton, Tenn. The business districts of Fulton and South Fulton are located adjacent to the creek, and are flooded regularly.

This section would authorize the corps to build a paved concrete channel through the urban areas, and about 10 miles of channel enlargement downstream.

As originally contemplated, and as contained in the 1971 interim report on this project, the cost-sharing requirements were modeled on those of the west Tennessee tributaries project, directing the Federal Government to pay the cost of the relocation of several highway bridges.

Subsequently, the administrative policy was changes so that the relocation of highway bridges became a local responsibility. The corps final report on Harris Fork Creek required that the local interests pay for bridge relocations.

Because of the fact that the estimated cost of the bridges—$900,000—is approximately seven times the annual tax revenues of the two communities, these bridges should and will be built at Federal expense.

The next section, section 19, amends the 1974 authorization for the Corps of Engineers to develop the Big South Fork National River and Recreation Area in Tennessee and Kentucky. Since the project was authorized, the corps has conducted an extensive and thorough study of the project's design. This review generated several specific recommendations during the committee's hearing for modifications by the Corps of Engineers. This section provides several changes in project design, and raises the level of authorization to reflect the corps up-dated figures.

As one example, this section allows the corps to acquire sites outside the actual area boundary for administrative and visitor orientation purpose, and it directs the corps to construct the lodge, already authorized, near the site of the historic Tabard Inn. The bill allows motorboat access in certain areas so that fishermen may fish, as they have in the past.

More important, the bill allows the States of Kentucky and Tennessee to acquire, under State authority, areas within the project boundary prior to project completion, in order to provide protection for natural values, and then to sell those lands to the Corps of Engineers at fair value.

The cost in the 1974 act was based upon the interagency report compiled by the Corps of Engineers, Department of the Interior, and the Department of

Agriculture. The figures were based specifically upon the recreational alternative that was included in the report, which was developed by the Department of the Interior's Bureau of Outdoor Recreation. The Corps of Engineers recent design and cost studies indicate that inflation in land values and construction costs have resulted in an increase in project costs. The bill, therefore, includes the corps' up-to-date estimate of $103,522,000.

Section 20 of the bill seeks to assure that lands in northern Lauderdale County, Tenn., will receive adequate flood protection.

As part of an earlier flood control project, the Congress approved a plan to divert the Obion River channel around the south end of the main-stem levee and into the Mississippi. The diversion of the channel endangered lands that were previously more remote from flooding.

This section directs that the corps construct an additional levee section, approximately 4 miles in length.

Another section I would like to discuss is section 21, which would correct a deficiency in the Tennessee-Tombigbee Waterway project. This project cuts across an area that has as heavy a minority population as any in the Nation. Yet minorities have not shared equitably in the work and contracts on this project. Nor are there any blacks among those who manage the waterway authority. This section directs the Chief of Engineers to increase his efforts to assure that minorities participate fully in this project, both in jobs on this project and in contracting for project work.

Finally, I would like to discuss section 22, which authorizes $350,000 for the phase I design work on the Nonconnah Creek project in Memphis, Tenn. The present flood plain is moving from rural to urban, and extensive areas are subject to flooding. While recently constructed areas are on filled land to avoid flooding, increased runoffs as the area urbanizes and future flooding could exceed these elevations. The corps is also directed to make a full review of alternatives for solving the serious flooding problem during this phase I review period. The alternatives considered so far by the corps are both structural and nonstructural. A total of 10 major alternatives were considered in detail. The corps must make certain that it continues to explore the variety of options during phase I.

LOCK AND DAM 26—WATER RESOURCES DEVELOPMENT ACT

Mr. HUMPHREY. Mr. President, I wish to express my disappointment at the action of this body today in acting to remove section 4 relating to lock and dam 26.

This project is of major importance to the upper Midwest. Over 80 percent of the upper Midwest grain production for export moves by Mississippi River barge through lock and dam 26 to the port of New Orleans. More grain is exported via Mississippi barge from Minnesota alone than by our huge inland Great Lake seaport of Duluth and Superior. In 1975, nearly 6 million tons of grain were moved from Minnesota ports on the Mississippi alone.

Our Midwest farmers also depend on the Mississippi barge commerce for nitrogen and phosphate fertilizers that originate in the Southern States. Roughly 3 million tons of fertilizer were moved by barge through lock and dam 26 to Minnesota ports in 1975.

There are in addition other raw commodities and fuels which move in both directions through this facility. Our farmers and companies are well aware that the minor damage to a lock wall at lock and dam 26 in April of this year reduced commerce to a trickle and created a major backlog. And they are concerned that this will happen again.

My colleague, Senator MONDALE, introduced S. 3506, which I cosponsored, as a reasonable compromise to begin the replacement of the two present aged and deteriorating locks, built in 1938, at Alton, Ill., with a new 110 foot by 1,200 foot structure.

The proposal also addressed a number of the environmental concerns, the most significant being the impact of deepening the channel to 12 feet. This concern of the environmental groups was dealt with by prohibiting deepening of the channel.

Recently, the administration has come out in support of a proposal to replace lock and dam 26 along the lines proposed by Senator MONDALE.

The Committee on Public Works has received extensive testimony from other groups on the importance of this project. I might add that the Minnesota Commissioner of Agriculture, Mr. Jon Wefald, has testified in support of this legislation.

I regret that the committee was not able to satisfactorily resolve the issue of user charges on inland waterways. It is unfortunate that the extensive work which has gone into this project will lead to naught.

I ask unanimous consent that a statement by Mr. Dudley J. Russell, director of transportation for the Minneapolis Grain Exchange be included at the conclusion of my remarks.

Mr. PRESIDING OFFICER. It is ordered.

Mr. HUMPHREY. He makes the point that lock and dam 26 is in need of replacement. And he further suggests that lock and dam 26 should not be used as a bargaining point in dealing with the issue of user charges.

Mr. President, I hope that the Committee on Public Works will make a firm commitment to attempt to work out satisfactory language on the issue of user charges and take up this project again at the start of the next session of Congress. Our producers and indeed our Midwest economy needs this facility. I regret that the Senate has acted to remove lock and dam 26 from the Water Resources Development Act of 1976, S. 3823. This was done only because of the threat of filibuster which would have killed the entire Water Resources Development Act.

I am pleased that S. 3823 does protect a number of activities of vital importance to Minnesota such as the Bassett Creek, Mankato Bridges and Minnesota River—Chaska projects. The bill also includes funding to study extending the navigation season on the Great Lakes.

I wish to thank the chairman of the Water Resources Subcommittee, Senator GRAVEL for including these projects within the bill.

I also thank the Subcommittee Chairman Senator GRAVEL, and the ranking minority member, Senator DOMINICI for their assurance that lock and dam 26 and the issue of users fees will be brought before the Senate early next year—not later than May 15. This important facility is desperately needed. Delay is costly and dangerous. I shall do everything possible to insure prompt approval of lock and dam 26.

STATEMENT ON THE REPLACEMENT OF LOCK AND DAM 26, BY DUDLEY J. RUSSELL, DIRECTOR OF TRANSPORTATION, THE MINNEAPOLIS GRAIN EXCHANGE

The Minneapolis Grain Exchange is the world's largest cash grain market. The more than 420 members of the Exchange represent grain producers, country elevators, terminal elevators, commission companies, grain merchandisers, flour mills, feed mills, maltsters, flax and soybean processors, exporters—a very broad cross-section of agribusiness in the Upper Midwest.

The normal drawing territory of the Minneapolis market includes Minnesota, North and South Dakota and the eastern half of Montana. In addition to being the primary market for much of the agricultural produce of this very large and rich 4-state area, the Twin Cities also serve as the major distribution point for many essential agricultural inputs.

As Director of Transportation for the Exchange, it is my responsibility to promote the best possible rates and service for Northwest grain and grain products by all appropriate modes of transportation, including truck, rail, barge, lake boat and ocean vessel. Except when it is marketed "on the hoof", grain has no value on the farm. It acquires value only when it can be moved to some consumer, somewhere in the world, who can use it and is willing and able to pay for it. Since U.S. grain production far exceeds domestic demand, export markets must be found for many millions of tons every year, and transportation costs to both domestic and foreign markets are therefore of critical importance to the whole economy of this region.

Practically all grain transportation is *intermodal*. The first move from the farm is almost invariably by truck, but en route to the ultimate consumer, highway, rail and water transportation modes may all be involved. We need them all, and we use them all, but one of the most important is shipment by barge on the Mississippi River. Some of this barge commerce is domestic—shipments of Northwest spring wheat to flour mills in Decatur, Ala. or Chattanooga, Tenn., for example—but the vast majority represents grain moving to the New Orleans area for transfer to ocean vessels and distribution throughout the world.

It is of course also possible to move exports grain to the various Gulf ports by rail, and this is done during the winter months when the Upper Mississippi is frozen, but during the navigation season (normally from early April through early December) direct rail shipments are very rare. The reason is simple—rail rates are approximately three times the barge rates. Today, for example, the single-car rail rate on wheat from Minneapolis to New Orleans is $23.00 a ton, or $19.40 a ton in 1000-ton lots. The comparable barge rate would be in a range from $6.19 a ton to $7.20 a ton, depending upon time of shipment.

Some spokesmen for the railroads have stated in connection with the Corps' economic studies on Lock & Dam 26 that such rate comparisons are unrealistic because they do not take into account the cost of moving the grain to the barge loading facilities. As I have mentioned previously, practically *all* grain must first be moved by truck. In some cases it may be trucked direct to a river terminal or to an inland sub-terminal equipped to load unit trains, but most Northwest grain is hauled first to one of the hundreds of country elevators scattered throughout the 4-state area, and then forwarded later by truck or rail. From most origins in Minnesota, the Dakotas and Montana, there are no through rail rates published direct to the Gulf. The rate for such a movement from Moorhead, Mn., Bismarck, N.D., Aberdeen, S.D., Miles City, Mt. or hundreds of other Northwest origins is a combination over Minneapolis, so the barge-rail rate comparsions previously mentioned are definitely applicable. Even from origins in southern Minnesota and portions of South Dakota where rail rates are published direct to Gulf ports, it is in most cases substantially cheaper during the navigation season to move the grain by truck or rail to the river, even when trainload lots are involved.

Actually, the logical role of the railroads here in the Northwest is to *feed* the river, not to compete with it. Only the Rock Island and the ICG, serving a limited territory in southern Minnesota, have their own direct routes to the Gulf, with the Burlington Northern able to reach the Gulf only by a very circuitous route via Denver in connection with its affiliated Fort Worth and Denver Railroad to Texas ports. Basically, the BN, the Soo, the CNW and the Milwaukee are East-West railroads, they aren't going to get rich on the divisions they receive on inter-line movements to the Gulf, and because of the long average turn-around time on such shipments, it makes more economic sense to use their available equipment for quick turn-around, profitable, shuttle service to the river than for the long hauls to Gulf ports.

Why some of these roads are involved in the Lock & Dam 26 controversy at all is a good question. We can only assume that it must be "the principle of the thing"—particularly as it relates to "user charges".

The Minneapolis Grain Exchange has no official position on user charges. Good arguments can be made on both sides of that question, and it is one which Congress should ultimately decide on the merits, but it *is* our position that using the vitally necessary replacement of Lock & Dam 26 as a bargaining point in the user charges controversy is highly improper and irresponsible.

The Upper Mississippi and the Illinois waterways are two of the most important traffic arteries in this nation. Both carry a very large volume of traffic which can be moved most economically, most safely, and with the least adverse effects on the environment using modern, highly efficient barges and towboats. Unless Congress is determined to adopt a "no growth" policy, with all that that implies for the standard of living of future generations of Americans, we must assume that there will be a continuing gradual increase in the volume of this barge traffic.

There are only two dams and sets of locks on the Upper Mississippi below its confluence with the Illinois—numbers 26 and 27. No. 27, the farthest downstream, has a 1200-ft main lock and a 600-ft auxiliary lock, and normally causes no problems. Currently some delays are being experienced because the main lock has had to be dewatered temporarily for maintenance and repairs. so all traffic is having to use the auxiliary lock. All man-made structures do need such work periodically if they are to realize their normal life expectancy, and the current situation at Lock & Dam 27 is a graphic demonstration of why it would be very short-sighted not to provide two sets of locks at any such major facility, so that navigation will not be halted by maintenance work or an accident.

Lock & Dam 26 is the real bottleneck on the system. It is poorly located, both because of the nature of the river bottom on which it rests and because the approach to the locks is awkward from a navigational standpoint. It is in a deteriorating condition, as all the interested parties agree, and the only real question is whether reconstruction would be practical at the present site, or whether we should start from scratch with a new facility at a much more favorable location two miles downstream as the Corps have recommended.

The big problem with reconstruction is that the locks are in such poor shape that dewatering them for a thorough inspection could be accomplished only by building coffer dams which would stop all navigation for an indefinite period, the extent and cost of repairs which might be found needed is unknown but likely to be very high, and at best such a project would be akin to putting a new engine in an old 1937 truck instead of buying a new vehicle which can be expected to give trouble-free performance for many years to come and will have adequate capacity to handle today's and tomorrow's transportation needs.

It would be foolish to build a new lock and dam with a life expectancy of many decades without designing it to handle most efficiently a growing volume of traffic. Studies by highly qualified engineers in this country and abroad indicate that the sill depth for such a facility should be approximately twice the draft of the vessels using it, hence the 18 foot sill depth recommended by the Corps. Adequate sill depth is also desirable because of the unusual ice problems in the Alton area.

Providing adequate sill depths for new locks at Alton has nothing whatever to do with deepening the channel all the way up to the Twin Cities. The Corps was asked by Congress to study the possible need for a 12-ft. channel on the Upper Mississippi. They did conduct some preliminary studies, and they quickly determined that there was no economic justification for such a huge project. We fully agree. The present 9-ft. channel is perfectly adequate now and for the foreseeable future, and it would be an inexcusable waste of the taxpayers' hard-earned dollars to spend any more money at all trying to determine the "environmental and economic impacts" of a project which nobody either needs or wants. What may well be desirable would be some studies aimed at determining whether a second lock chamber should be provided initially, or added later when and if increased traffic warrants. Such studies, which might take two or three years, need not and should not delay an immediate start on construction of a new dam.

The point is that even if the work were to start tomorrow, all of us here in the Upper Midwest will be "living dangerously" for the next seven to ten years until it is completed. Modern, efficient barge navigation on the Upper Mississippi is vitally important in the northbound movement of the phosphate and nitrogen fertilizers and petroleum products which are such essential inputs for our Northwest agriculture, and in bringing up the high BTU "Eastern" coal which now and probably for many years to come will provide much of the energy requirements for our agriculture, industry and commerce. There may also ultimately be some downbound movements of low sulphur-content, relatively low-BTU "Western" coal, but probably most important of all to the whole economy of this region, to the nation's balance of payments, and to the growing population of a hungry world, is assuring the uninterrupted movement to the Gulf of our grain and grain products by the most efficient means possible—modern water transportation.

There simply isn't any excuse for further delays—let's get on with the job!

Mr. STEVENSON. Mr. President, the conclusion is inescapable, locks and dam 26 is inadequate. The structure is unsound, and the locks do not have the capacity to meet projected traffic demand.

Locks and dam 26 is the key navigation facility for the central United States—serving traffic on the Mississippi, the Gulf Intracoastal Waterway, the Illinois, Missouri, and Ohio Rivers. The economy of the world's most highly developed industrial and agricultural region requires modern, efficient, and adequate locking facilities.

Much of the commerce of this region must pass through locks and dam 26. Grain must reach the ports; fuel and petrochemicals must get to our cities. Last year we delivered record quantities of grain to New Orleans for export. Much of that grain passed through locks and dam 26. The Nation's economy depends on those exports. Human lives depend on them.

The inadequate facility at Alton must be replaced, and there is no escaping that reality.

Section 4 is a limited proposal. It authorizes construction of a new dam and a single 1,200-foot lock. However, before proceeding with construction, it requires an additional 120-day study of an alternative rehabilitation proposal developed by the Illinois Department of Transportation. It requires that six Federal agencies develop a master plan for the entire Mississippi River Basin system to insure a balance between environment and economics. It sets the permanent channel depth of the Upper Mississippi River at 9 feet, and prohibits any Federal official from even studying the possibility of deepening the channel to 12 feet.

Section 4 specifically prohibits the expansion or replacement of any other facility on either the Upper Mississippi or Illinois Rivers unless specifically authorized by a future act of Congress.

The modest 13 million ton increase in capacity at Alton Locks and Dam would remove the bottlenecks there—it would not move the bottleneck upstream, thereby giving impetus to replacement of other navigation facilities on the Upper Mississippi and Illinois Waterway. The navigation capacity upstream of Alton—on both the Illinois and the Mississippi—is 105 million tons annually; more than enough to handle the 13 million ton increase needed at Alton.

No one disputes the fact that locks and dam 26 is in bad shape. The structure was built in 1938 with an expected life span of 50 years. It has pilings sunk into a sand foundation. Consequently, there is constant shifting and periodic cracking in the dam. Since the structure is just south of the confluence of the Illinois and Mississippi Rivers, the heavy waterload has pushed the dam downstream by 1 inch. The lock walls have shifted vertically toward the river—up to 1 foot in some places.

The structure was built with a maximum capacity of 73 million tons. In the 12 months from July 1975, to June 1976, locks and dam 26 handled 60 million tons. Traffic is projected to be 85 million tons in 10 years. Even if the existing facility was in good repair and could be counted on to operate efficiently and safely, it could not handle demand 10 years from now.

Even now locks and dam 26 is almost at capacity—60 million tons in a 12-month period. Even if the corps' 10-year projected traffic increase is cut in half—from 85.7 to 72.5 million tons—the existing facility could not handle the minimum traffic in the next few years. Larger locks are needed. The single 1,200-foot lock will have a capacity of 86 million tons—an increase that will barely handle 1985 traffic.

These are facts about locks and dam 26. It is in a state of disrepair and inadequate to meet demand. No 12-foot channel, no multibillion dollar investment and no moving bottleneck is authorized.

Locks and dam 26 must be repaired or replaced—and there is no longer much doubt—it must be replaced. The safest repair job would cost $475 million—$83 million more than a new lock and dam. Less costly repair schemes are shorter lived, could required extensive operation and maintenance expenditures and provide no guarantees against recurring breakdowns.

Section 4 addresses all major concerns and criticisms of the project. And yet, the authorization is strongly—but not unexpectedly—protested by competing modes of transportation.

I am not convinced that the railroads will be disadvantaged by a modest 13-million ton increase at Alton. And I do not believe that we should aid the Nation's railroads by forcing an unnecessary constraint on their competitors by water. Besides, if a competitive disadvantage was established, it would be offset by the adoption of user fees for locks and dams.

Postponement of locks and dam 26 increases its costs by $25 million annually. A new 1200-foot lock is inevitable. Indeed, I am convinced that two locks will be required. The decision to go ahead with one will not be made less painful, or less expensive, by procrastinating.

But it is late in the session, and a lengthy debate would jeopardize a bill that contains over 100 water resource development projects in 40 States, including Illinois.

Postponement of this and other navigation projects should include postponement of section 5 which authorizes user fees. I support the concept of user fees, but I cannot support the user fees authorized in this bill. We have no assurance that the formula will be sound. Congress would delegate a legislative responsibility for the determination of a user fee formula to the Corps of Army Engineers.

I intend to support a user fee proposal, but the Congress cannot make a determination on how to implement it now. The Department of Transportation should conduct a study on user fees and report back to the next Congress with a specific legislative proposal—one that would be equitable for the entire inland navigation system.

In these circumstances—and because funds are unavailable for locks and dam 26, even if authorized now I was willing to see both the replacement and user fee issues put over to the next Congress. And I say that only with strong assurances that the committee will make locks and dam 26 a subject of the highest priority early in the next Congress. This bill is sound as far as it goes. I intend to support it, but if it returns from conference with only the authorization for locks and dam 26 eliminated, I and others will oppose its approval in this Congress.

The PRESIDING OFFICER (Mr. WEICKER). The question is on agreeing to the amendment of the Senator from Alaska (Mr. GRAVEL).

The amendment was agreed to.

Mr. GRAVEL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAVEL. Mr. President, let me just say—and I would be happy to yield in one moment—that we really have arrived at a landmark in this piece of legislation. We literally accomplished 80 to 90 percent of the work of this bill, and I think it is a testimony to the Senate where we would have so many varied opinions and so many different Senators involved in a consensus decision.

I want to compliment my colleagues for the compromise they have permitted in order for this bill to go forward.

Now, Mr. President, if you will choose to recognize people who have amendments to bring them up.

UP AMENDMENT NO. 489

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes an unprinted amendment No. 489.

Mr. GRAVEL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 73, between lines 8 and 9, insert a new section as follows:

"SEC. 67. The Secretary of the Army, acting through the Chief of Engineers, shall utilize and encourage the utilization of such management practices as he determines appropriate to extend the capacity and useful life of dredged material disposal areas, such that the need for new dredged material disposal areas is kept to a minimum. Management practices authorized by this section shall include, but not be limited to, the construction of dikes, consolidation and dewatering of dredged material and construction of drainage and outflow facilities."

On page 73, line 9, strike out "SEC. 67" and insert in lieu thereof "SEC. 68".

Mr. THURMOND. Mr. President, the current method of disposal calls for the use of disposal areas located either in marshland, wetland, or upland sites. The use of diked marshland for the reception and retention of material from the channels is the accepted practice in my home State, and in many other areas. This method causes the destruction of existing life in the marshes. Studies also indicate that the runoff from the disposal sites has adverse environmental consequences. In addition, the procedural burdens involved in establishing disposal sites are so enormous that the creation of new disposal sites is virtually impossible.

This legislation is needed to encourage the use of disposal area management practices at the earliest possible time so that the Nation can derive the maximum benefit from their use. In an important way, this proposed legislation provides assistance on immediate problems. These management practices can be carried on now in conjunction with ongoing maintenance and construction projects. They need not wait for the development of new equipment or for the resolution of uncertain policy issues like those affecting open-water disposal.

Mr. President, this legislation would make a significant contribution to easing the current nationwide disposal crisis, and have positive environmental benefits. I urge that the Senate incorporate this important measure into the Water Resources Development Act of 1976.

Mr. President, I have discussed this amendment with the distinguished manager of the bill and also the ranking member on the Republican side, and they have agreed to accept it.

It simply does this: It provides that the Corps of Engineers can adopt some management policies to dispose of waste so that we will not have to cover up the marshland. The marshland is appreciated not only by environmentalists but people in general. If this can be done, if they can come up with a practice there, maybe, to build dikes or some other way to handle this waste, it would certainly be a big help in many ways.

Mr. GRAVEL. I am ready to accept the amendment, and I am ready for a vote. We yield back the remainder of our time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. THURMOND. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment was agreed to.

Mr. THURMOND. I wish to thank the distinguished manager of the bill.

AMENDMENT NO. 2456

Mr. METCALF. Mr. President, I have an amendment at the desk, No. 2456, and I ask that the clerk report it.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. METCALF) proposes amendment No. 2456:

On page 50 beginning with line 15, strike out all through page 51, line 5, and renumber subsequent sections accordingly.

Mr. METCALF. Mr. President, when I was a Member of the House of Representatives, in the early years of my term, we succeeded in authorizing the Libby Dam. Part of that bill was a provision for the Corps of Engineers to build a fish hatchery for the State of Montana.

The Corps of Engineers, with its usual consideration, had delayed for year after year after year, so that the fish hatchery would cost about three times as much as it would have cost if they had built it back in the time when the dam was first built.

The dam is there. Water is flowing through the stops. We are giving power all over the Northwest as a result of Libby Dam and we still do not have the fish hatchery.

Early in this session, Senator MANSFIELD and I introduced a bill to provide for additional money and additional authorization for that fish hatchery, to take care of the buildup of additional inflationary costs.

I think the committee has tried to accommodate us, but they provided in this bill that there would have to be matching funds from the State of Montana, which was not part of the early agreement, and the State of Montana cannot provide for the matching funds.

They have provided that the State of Montana has to cooperate with the Federal Government in the operation of this fish hatchery.

Now I realize what is going to happen here today. I am not offering an amendment to get additional money. I will try to do that again next year. I am not even asking the members of the committee and the managers of the bill to give me promises that they will provide money for the fish hatchery, because I have had those promises year after year after year and nothing has happened.

All I am asking is not to go back to Montana with this illusory sort of a benefit that we have been given to increase the authorization to $5.5 million with the requirement that there would have to be matching funds from the State and it has to be cooperative management with the Federal Government, as well as the State government.

I am just asking to knock it off, to strike it out, and I will try again next year.

Mr. GRAVEL. Let me say to my colleague, we would be happy to accept the amendment to knock it out. I also say that I am personally chagrined that we have not accommodated the problem as it should have been accommodated from my colleague's perspective.

I can just assure him that I will try to make up for that unfortunate situation that exists today by working personally with him next year to ascertain the dimensions of his problem and the capacity of his constituency to work out an accommodation that would really meet his needs and the needs of his constituency.

I will devote my personal time to working with the distinguished Senator from Montana in that regard.

Mr. METCALF. I certainly understand and appreciate the assurances of the Senator from Alaska. It is just that I have had such assurances year after year and session after session.

I will take my chances next year.

Mr. GRAVEL. I understand.

I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. GARN). Is all time yielded back?

Mr. METCALF. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment was agreed to.

UP AMENDMENT NO. 490

Mr. HUDDLESTON. Mr. President, I have an amendment that I send to the desk at this time on behalf of myself and my colleague, Senator Ford.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON), for himself and Mr. FORD, proposes an unprinted amendment numbered 490:

On page 13, between lines 7 and 8 add a new heading and paragraph as follows:

OHIO RIVER BASIN

The project for flood control located on the South Fork of Beargrass Creek, Jefferson County, Kentucky: In accordance with the final report of the Chief of Engineers, at an estimated cost of $2,905,000.

Mr. HUDDLESTON. Mr. President, I first want to commend the distinguished chairman of the subcommittee and floor manager, the Senator from Alaska, and the ranking member, the Senator from New Mexico, for what has been accomplished up to this point in this very important legislation.

I think the compromise that has been reached—while like all compromises it is not acceptable or pleasing to all sides—has facilitated the passage of some very important authorizations, some of which are very important to my State of Kentucky, and I appreciate that fact.

There is one very small project, however, that was not included in the authorizations that is the subject of my amendment and that I would like the attention of the manager of the bill focused on for just a moment, if I may. That is the Beargrass Creek flood control project in Jefferson County, Ky. It is a small project, requiring less than $3 million to alleviate a very serious flooding problem that is virtually right within the city of Louisville, Ky.

There is a vast amount of agreement at the local level that the Beargrass Creek project should go forward.

I understand that the final report from the Secretary of the Army relating to the environmental impact has not been submitted. It is, however, in the draft stage, and the draft report is available.

The only concern I have is that if we adjourn this year and if something happens we do not have an authorization bill next year, this project could either fall by the wayside or be greatly delayed and the relief that the citizens in this area need and are entitled to would be far down the road.

I recognize, also, that this is a project, because of its small size, that is eligible for a 201-type authorization that the committee itself might grant at the appropriate time.

I ask the distinguished Senator from Alaska whether or not it is necessary at this time to pursue this amendment or whether we may have some assurances that an authorization of this project can be forthcoming as rapidly as the necessary reports are available.

Mr. GRAVEL. If I may respond to my colleague, this situation is not unlike the situation in my own State Kodiak Harbor, which is a 201 project. A 201 project can be approved by committee resolution. Since these projects, and there are several of them that came up, have not finished the Washington review process, we felt it advisable to wait until they are submitted to Congress for committee approval.

What we are doing is that I have instructed the staff to poll the members of the committee starting tomorrow on all these projects—in the affirmative, hopefully.

If that is the case, and I am prepared to assure my colleague that from my experience that will be the case, they will automatically be approved by the Congress as they finish their travels through the executive.

We will be doing that tomorrow and the day after, before the session adjourns.

Mr. HUDDLESTON. Then, actually, before this session of Congress adjourns sine die, we could expect this project will be approved?

Mr. GRAVEL. That is right.

My own project is tied with the Senator's, and the other projects that are in that situation.

Mr. HUDDLESTON. May I inquire of the ranking member, the Senator from New Mexico, whether or not this conforms to his understanding?

Mr. DOMENICI. I agree with the statements of the manager of the bill with reference to the project the Senator has described.

I think we could not accept the amendment for a number of reasons. It would violate our policy, because of its status. It is not ready yet and it can be handled as a 201. I agree with the expeditious handling of it in that manner.

Mr. HUDDLESTON. And the Senator sees no difficulty in seeking approval as it is presented as a 201 project?

Mr. DOMENICI. I do not see any reason on our side. I have not asked the members, but as the ranking member, I would think it is possible.

Mr. HUDDLESTON. Mr. President, I recognize the managers of the bill have done everything they can to expedite passage of this bill here in these final days. I realize this project falls in the category not unlike many others, which other members have an interest in—including the one that the distinguished Senator from Alaska indicated he has an interest in. With these assurances given by the distinguished floor manager and the distinguished Senator from New Mexico and that this process will be successful and that we can expect approval of this project so it can go ahead, I ask that the amendment I have submitted be withdrawn.

The PRESIDING OFFICER. The amendment is withdrawn.

UP AMENDMENT NO. 491

Mr. BELLMON. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment No. 491:

On page 47, line 25, strike everything after 'Army' and insert a period therein.

Mr. BELLMON. Mr. President, before I discuss the amendment, I would like to take just a moment to commend the floor manager of the bill and the ranking Republican member of the subcommittee for the tremendous amount of work which has gone into bringing this important legislation to the floor. This legislation has immense importance to the future development of this Nation's natural resources and in preparing our country for growth in the next century. The chairman of the subcommittee and the ranking Republican member have certainly put in a great deal of effort, and the entire Senate is in their debt.

I realize perhaps as well as anyone the amount of effort it took to bring this bill to the floor. I do not know what would have happened without the leadership of Senator GRAVEL of Alaska and Senator DOMENICI of New Mexico.

There is a great deal of importance to the State of Oklahoma in this legislation. We are concerned with navigation on the Red and Arkansas Rivers as well as other waterways in our State. This bill means a great deal to the Southwestern section of the United States, so far as meeting our future water needs are concerned. This area is part of the Sun Belt, one of the rapidly growing areas of the country. Again I would like to thank the Senators for the work they have done.

Mr. President, the amendment I have offered is very simple. Its purpose is to eliminate the apparent requirement for triple approval of the projects involved in the desalinization of the Red and Arkansas Rivers. Those projects have already been authorized. They will need to be approved by the Congress again when and if they are funded. Under the terms of the bill as now drawn, each of these projects, or each component of the project, would need a third authorization. I do not believe that is necessary.

I have discussed the matter with both the floor manager and the ranking Republican. I believe they find the amendment agreeable and I would urge its approval.

Mr. GRAVEL. I will yield to the ranking Member.

Mr. DOMENICI. Mr. President, I am prepared to accept this amendment. I am not sure we can hold it in conference. I am sure the Senator understands that in order to expedite the projects on these two rivers we have separated out components from an overall scheme. It is for that reason we had it coming back to Congress for each one, because we do not have a plan for the overall desalinization project. That concerns me a bit. I do understand the Senator's desire that we expedite things and not have three levels of approval. For that reason, I accept the amendment.

Mr. BELLMON. Let me say if this amendment is not agreed to, it seems to me the whole project would be held up for 2 years while we wait for the completion of planning. It seems to me this would be a great disservice to these areas where the projects are of such importance.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BELLMON. I yield back the remainder of my time.

Mr. GRAVEL. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment was agreed to.

Mr. BELLMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAVEL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 492

Mr. GRAVEL. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL), on behalf of Mr. BEALL, proposes an unprinted amendment No. 492:

On page 34, line 13, beginning with "the Washington" strike out all through "Maryland" in line 15 and insert in lieu thereof the following: "the Commonwealth of Virginia, the Washington Suburban Sanitary Commission, and such other governmental authorities as the Secretary of the Army, the State of Maryland, and the Commonwealth of Virginia deem desirable signatories".

Mr. GRAVEL. Mr. President, this amendment is self-explanatory, designed to include the Commonwealth of Virginia and the Washington Suburban Sanitary Commission, among other authorities.

Mr. DOMENICI. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 493

Mr. GRAVEL. Mr. President, I send another amendment to the desk on behalf of Senator WILLIAMS and Senator CASE.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL), for Mr. WILLIAMS and Mr. CASE, proposes an unprinted amendment No. 493.

The amendment is as follows:

On page 6, after line 9, insert the following:

"Passaic River Basin, New Jersey and New York

"The project for water resources development for the Passaic River Basin, New Jersey and New York: Report of the Chief of Engineers dated February 18, 1976, at an estimated cost of $12,000,000."

Mr. ABOUREZK. Mr. President, reserving the right to object, will the Senator explain the amendment?

Mr. GRAVEL. Mr. President, this amendment establishes a phase 1 study. We have a number in the bill. This did not get to the committee. It is a phase 1 study.

Mr. ABOUREZK. Which phase 1 study?

Mr. GRAVEL. Before 1974, a project was authorized for construction by the Congress and then the money was appropriated. Many times, in fact, in most cases, there was a great disparity of time that elapsed between the time the Congress authorized the project and it actually got into construction, sometimes 5 or 10 years. Many times the need and the goal of the project had altered.

What we did 2 years ago, when I first became subcommittee chairman, was to change the policy and say that what we wanted to do was to have two phases: we wanted to have a phase 1 so that we could get the corps going on the studies and do the advance engineering and planning; and then have them come back to the Congress and we would take a look at it.

If it is still valid and everything else is proper, we now give another go-ahead with the project, and that is firm construction.

In this particular case, what we have done is when projects have already gone through a survey and the corps has made a determination as to their being worthy projects, we take them and authorize them for phase 1 studies such as here.

Mr. ABOUREZK. This is a phase 1 study for what?

Mr. GRAVEL. For flood control of the Passaic River in New Jersey.

Mr. WILLIAMS. Mr. President, the unprinted amendment I am offering with Senator CASE has been discussed with the managers of the bill.

The amendment would provide a $12 million authorization of phase I design memorandum for Passaic River flood control.

It is the product of discussions between Senator CASE and myself and the affected communities in the Passaic River basin.

New Jersey's most dangerous potential for flood hazard lies in the Passaic River basin. As a result of hydrologic and geologic conditions the area has always been uniquely subject to periodic flooding.

Flood damages, however, are the consequence of intensive industrial, commercial and residential development which destroyed much of the control detention characteristics of the basin.

When you consider that New Jersey is the most densely populated State in the country and the 787-square-mile Passaic basin is one of the most densely populated areas in New Jersey, you can readily see why urgent action is needed at this time.

During committee hearings on S. 3823, flood control plans for the Passaic River basin were not considered

Senator CASE and I did not favor action

at that time because the communities and public interest groups in the region could not agree on any single acceptable flood control strategy.

However, after extensive negotiations, all environmental and local governing organizations have recognized the need for the flood-control project authorized by this amendment with the understanding that suggested alternatives will be thoroughly reexamined in order to resolve their concerns.

I urge the Senate to adopt this amendment and authorize phase I design memorandum for a flood-control plan in the Passaic River basin.

Mr. CASE. Mr. President, I am happy to join with Senator WILLIAMS in offering an amendment that would authorize $12 million to begin work on solving flood control problems of the Passaic River basin in our State of New Jersey.

Flooding of a river basin is a natural phenomena which can be beneficial in undeveloped areas. But it can be—and usually is—a disaster in densely inhabited areas.

The Passaic River basin is a 787-square-mile area that is one of the most densely populated watersheds in this country. Industrial, commercial, and residential development have destroyed much of the natural detention characteristics of the basin. In the lower basin in particular it is too late to consider restoration of these detention characteristics. In the middle and upper basins, however, wise forethought by some local governments has preserved the option of minimizing flood damage without dams and levees.

It is the intent of the sponsors of this amendment that urgently needed work be started on flood control in the Passaic River basin while efforts are begun to examine alternatives to dams and levees as flood control measures in parts of the basin.

Fortunately, the Congress, in the Water Resources Development Act of 1974, adopted a two-step authorization procedure that is especially applicable to the situation we face in the Passaic River basin.

It is the intent of the sponsors of this amendment that the requirements and provisions of this two-step approach, as set forth in Senate Report 93-615 which accompanied S. 2798, shall apply in the phase I study of the Passaic River basin project.

It also is the intent of the sponsors of the amendment that the Corps of Engineers will reformulate the plan for water management and flood control for the entire Passaic River basin. Recommendations shall be made to the Congress as soon as they are complete. Implementation of interim solution consistent with Public Law 92-500 and the National Environmental Policy Act, as amended, shall begin as soon as feasible and shall not await completion of phase I design memorandum.

Further, it is the intent of the sponsors of the amendment that a new environmental impact statement will be developed for the reformulated plan and that this impact statement will be the subject of public hearings and submitted to the Council on Environmental Quality before it becomes final.

In reformulating the plan for water management and flood control, the Corps of Engineers shall survey and consider only the following alternatives or any combination thereof:

First. A full range of nonstructural flood control alternatives to include land acquisition, flood plain mapping, flood proofing, developing early warning systems, and relocation of buildings.

Second. A tunnel diversion plan.

Third. A system of tunnels addressing the needs of the entire basin.

Fourth. Plans that combine local protection works where locally acceptable and nonstructural solutions including improvements to stream carrying capacity in accordance with different needs in the Lower Basin and in the Central Basin.

Fifth. Evaluation of fulfilling water supply objectives together with flood control.

Sixth. Aquifer recharge and underground storage.

Seventh. Reservoir management in the headwaters.

Further, it is the intent of the sponsors of the amendment that there will be early and full coordination between the Corps of Engineers and other Federal, State, and local agencies, particularly with the New Jersey Department of Environmental Protection and the U.S. Environmental Protection Agency.

Controversy over controlling and utilizing the waters of the Passaic River has existed since at least 1903, when the basin experienced a record flood.

Only very recently extensive negotiations have resulted in the endorsement of our amendment by all environmental and local governing organizations in attendance at a meeting called by State officials. This agreement did not come in time to have our amendment considered by the Public Works committee and we appreciate the attention given to the amendment at this time.

I urge adoption of the amendment.

Mr. GRAVEL. Mr. President, I yield back the remainder of my time.

Mr. DOMENICI. Mr. President, I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 494

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment No. 494.

The assistant legislative clerk proceeded to read the amendment.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 73, after line 11, insert the following:

"S53. —. The Secretary of Transportation shall, hereafter be responsible for the preparation of all transportation-related benefit calculations on any future water resources project that is proposed by the Secretary of the Army, acting through the Chief of Engineers. As a part of such calculations, the Secretary of Transportation shall identify, with reasonable specificity, the impact of such proposed project on the costs and the traffic of competing modes of transportation."

Mr. DOMENICI. Mr. President, by this amendment I would seek to have the Secretary of Transportation, rather than the corps, make the benefit calculations in relation to those benefits which are directly related to transportation in any Corps of Engineers projects. Much of the criticisms of corps' projects has been related to the uncertainty of the benefit calculation on transportation. By this amendment I would seek to have that eliminated and have the broader transportation expertise of the Secretary of Transportation serve as the institutional framework within which the benefit calculations would be set. I yield back the remainder of my time.

Mr. GRAVEL. If I could pose a question, this is the first I have seen this amendment. I am not adverse to it. I am wondering would there be any possibility that this would delay navigation projects?

Mr. DOMENICI. I would say to my distinguished chairman that I do not see how it would be dilatory at all. I think the expertise of the Department of Transportation, since we are talking about intermodal transportation and since we are frequently asking them to tell us about the transportation aspects of these projects, would greatly enhance the credibility and ultimately would eliminate many of the problems we now have in arguing about this particular aspect of a transportation project.

Mr. GRAVEL. Mr. President, I have no problem with the concept involved, but I am caught very short, without even having the opportunity to think about it. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment was agreed to.

AMENDMENT NO. 2327

Mr. BUMPERS. Mr. President, I call up an amendment which I have at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. DURKIN. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Will the Senator from Arkansas tell us what amendment it is?

Mr. BUMPERS. I do not have a copy, so I cannot give the number—No. 2327.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an amendment numbered 2327:

At the appropriate place in the bill add the following:

Notwithstanding any other provision of law, the project for Pine Mountain Lake on Lee Creek, Arkansas and Oklahoma, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1073), shall be constructed, operated, and maintained in accordance with the Federal Water Project Recreation Act, Public Law 89–72, as amended.

Mr. BUMPERS. Mr. President, if I may have the attention of the floor manager, in the hope that this will be accepted, this amendment is designed to correct a misinterpretation of the Corps of Engineers. It deals with what is called the Pine Mountain project in my State.

The Pine Mountain project is a proposed dam to supply water for human needs for the city of Fort Smith and other smaller communities surrounding it.

The planning is in the process right now, and will be completed in 1977. It is anticipated that construction will commence in 1978.

The problem is that at the time this project was authorized, it was not anticipated that the local cost share for recreational purposes would be included. But the Corps of Engineers, in making their recommendation to Congress, did include a cost-sharing requirement. The whole project is located within a national forest, and is therefore supposed to be excluded from the necessity of cost-sharing.

I simply offer this amendment to clarify what I think the law already provides.

Mr. GRAVEL. Mr. President, I am prepared to accept the amendment. I think it has great merit, and I appreciate the Senator's coming forward with it.

Mr. BUMPERS. I thank the Senator very much. I move the adoption of the amendment.

Mr. DOMENICI. Mr. President, I concur. It was the timing that caused the problem in the committee. When we look at it at this point in time, it seems to me the amendment is appropriate.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. BUMPERS. I yield back the remainder of my time.

Mr. GRAVEL. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 2327) of the Senator from Arkansas.

The amendment was agreed to.

AMENDMENT NO. 2402

Mr. GRAVEL. Mr. President, I send to the desk an amendment in behalf of the Senator from Pennsylvania (Mr. Hugh Scott) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. Gravel), in behalf of Mr. Hugh Scott, proposes an amendment numbered 2402.

Mr. GRAVEL. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2402) is as follows:

On page 73, between lines 8 and 9, insert the following:

"Sec. 67. (a) The project for Blue Marsh Lake, Berks County, Pennsylvania, a part of the plan for the comprehensive development of the Delaware River Basin, as authorized by section 201 of the Flood Control Act of 1962 (76 Stat. 1183), is hereby modified to authorize and direct the Secretary of the Army acting through the Chief of Engineers, to relocate and restore intact the historic structure and associated improvements known as the Gruber Wagon Works located on certain Federal lands to be inundated upon completion of the project.

"(b) Upon completion of the relocation and restoration of the Gruber Wagon Works at a site mutually agreeable to the Secretary of the Army and the County of Berks, title to the structure and associated improvements and equipment shall be transferred to the County of Berks upon condition that such county agree to maintain such historic property in perpetuity as a public museum at no cost to the Federal Government.

"(c) There are authorized to be appropriated such additional sums for the project for Blue Marsh Lake as may be necessary to carry out the provisions of this section.".

On page 73, line 9, strike out "Sec. 67" and insert in lieu thereof "Sec 68".

Mr. GRAVEL. Mr. President, the Senate has already passed on this matter once. The House of Representatives, however, did not take up the matter.

This amendment is with respect to the Gruber Wagon Works in Berks County, Pa. This is supposed to be the oldest industrial building of its type in the Nation, and it is a part of a flood control project. We have interpreted it as a Federal responsibility to protect this wagon works from destruction as a part of the Federal flood control project, and the Senate has passed it before. I feel it has great merit, and urge its adoption.

Mr. DOMENICI. Mr. President, I agree with the floor manager. We have previously passed this provision. It was through a procedural quirk that it is not now part of the law. I am prepared to accept it.

Mr. GRAVEL. Mr. President, I ask unanimous consent that a statement by Senator Hugh Scott be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement of Senator Hugh Scott, September 27, 1976

On April 28, 1976, the Senate passed S. 1497, a bill I have sponsored to provide for the protection and preservation of the Gruber Wagon Works in Berks County, Pennsylvania. The Gruber Wagon Works is a late 19th-early 20th century Pennsylvania Deutsch manufactory of quality farm wagons. The works is located within the impact area of the Corps of Engineers' Blue Marsh Lake and Reservoir and was originally scheduled to be inundated under 40 feet of water.

The Senate Public Works Committee was able to act favorably on S. 1497, as the plan to save the wagon works is a sound one. Unfortunately, the House of Representatives has been reluctant to consider this measure separately.

Therefore, I am submitting the substance of S. 1497 as an amendment to S. 3823, the omnibus water resources bill, with the hope that enactment will occur this year.

The Gruber Wagon Works is extraordinary history—and I urge the continued support of my colleagues for this unique historic preservation effort.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. GRAVEL. I yield back the remainder of my time.

Mr. DOMENICI. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 2402) of the Senator from Pennsylvania (Mr. Hugh Scott).

The amendment was agreed to.

UP AMENDMENT NO. 495

Mr. DOMENICI. Mr. President, I send to the desk an unprinted amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. Domenici) proposes an unprinted amendment numbered 494: On page 72, line 15——

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. DURKIN. Mr. President, reserving the right to object, is the Senator going to explain it?

Mr. DOMENICI. Yes, I will explain it.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 72, line 15, after the word amended insert: "shall utilize the expertise of the Department of the Interior in estimating potential recreational benefits and".

Mr. DOMENICI. Mr. President, a few moments ago I submitted an amendment authorizing the use of the expertise of the Department of Transportation for determining cost-benefit ratios on transportation items. This particular amendment would have the Secretary of the Interior provide disinterested benefit calculations on recreational projects, which have been submitted by the Corps of Engineers.

I believe this would assure against self-serving calculations by the Corps of Engineers. When they have estimated the benefits of a recreational project, their estimates are frequently suspect, because it is their project. We have requested a double check here, by providing that benefits for recreation be evaluated by the Secretary of the Interior, who has general jurisdiction over national parks and recreational areas, and we believe is better equipped to furnish such expertise.

Mr. GRAVEL. Mr. President, I have no objection. I am prepared to accept the amendment, and I yield back the remainder of my time.

Mr. DOMENICI. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment was agreed to.

UP AMENDMENT NO. 496

Mr. DOMENICI. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. Domenici) proposes an unprinted amendment numbered 496.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 73 after line 11, insert the following new section:

"SEC. 68. (a) Any survey of the Secretary of the Army, acting through the Chief of Engineers, is automatically deauthorized if no funds are expended for such survey within four years following its authorization.

"(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to submit to the Congress, within six months of enactment of this section, a list of all existing surveys that have an inactive or deferred status, and such surveys may be deauthorized within 90 days thereafter by resolution of either the Senate or the House of Representatives."

Mr. DOMENICI. Mr. President, this amendment seeks to eliminate some of the deadwood of surveys that are authorized, but are unfunded. The amendment would require that surveys must be funded within 4 years, or the authorization would lapse and they would be deauthorized automatically.

This would help to keep a focus on high priority surveys. It would establish a procedure for the corps to identify old, outdated survey authorities, and allow them to be deauthorized by either House of Congress, after the corps has made that procedural assessment.

Mr. GRAVEL. Mr. President, this is a very good amendment. It will clean out automatically a lot of deadwood, and should be adopted.

I yield back the remainder of my time.

Mr. DOMENICI. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment was agreed to.

Mr. GRAVEL. Mr. President, I know of no further amendments. I am prepared to go to third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 3823) was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. Is all time on the bill yielded back?

Mr. GRAVEL. I yield back my time.

Mr. DOMENICI. I yield back my time.

Mr. STENNIS. Mr. President, will the Senator from Alaska yield me 1 minute first?

Mr. GRAVEL. Yes.

Mr. STENNIS. Mr. President, I am sure all of us realize the important and valuable work that has been done by the subcommittee here, and by the full committee so ably chaired by the Senator from West Virginia (Mr. RANDOLPH).

Special mention should go to the Senator from Alaska and the Senator from New Mexico, who have not only put in many hours and weeks, and night work, too, but have handled this matter so splendidly with the membership prior to bringing it to the floor, and the debate today has been to their credit.

This is a national bill of tremendous importance. What little I have to do with appropriations for it brings me great satisfaction, frankly, and I hope the work here on the authorization bill brings them satisfaction as well. This is America at its best, in many ways.

Mr. GRAVEL. I thank the Senator from Mississippi. As a member of the Committee on Appropriations, he has, as always, been working in the background to help bring about this great consensus that was arrived at today.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CRANSTON. Mr. President, I want to take this opportunity to express my sincere thanks to the distinguished Senator from Alaska for his help on this bill. I particularly appreciate the fact that the committee has included the Santa Ana River Basin Flood Control project in S. 3823.

The Santa Ana River Basin in California has one of the most critical flood problems west of the Mississippi River. It is exceedingly important that construction of protective measures be undertaken at the earliest possible date to eliminate the threat of floods which could cause over $3 billion in damages.

The Corps of Engineers has been studying the flood problem there since 1964. After considerable review and evaluation the Los Angeles district engineer and the South Pacific division engineer of the corps have recommended the all-river plan as the best possible solution to the flooding problem in the Santa Ana River Basin. This plan has the full support of the three counties involved—Riverside, San Bernardino, and Orange.

However, the all-river plan has not yet been cleared by the Chief of Engineers or the Secretary of the Army. Since S. 3823 authorizes the Santa Ana River Basin Flood Control project in accordance with the final report of the Chief, I want to be sure that it is the intention of the committee to expedite the project and not to authorize another plan which would be unacceptable to local interests.

I personally support the all-river plan which includes Mentone Dam as a feature of the Federal project. I would oppose appropriations for any alternative flood control plan for the Santa Ana River Basin which did not have the backing of all the local interests.

I would appreciate a clarification of the committee's position in this matter.

Mr. GRAVEL. I thank the distinguished Senator from California for his remarks.

The Senate Public Works Committee has taken note that the division engineer of the corps has recommended the all-river plan and that this plan is strongly supported by the local sponsors—Riverside, San Bernardino, and Orange Counties.

The committee is also aware that the national economic development plan which, according to preliminary reports from Washington level review, the Chief of Engineers may recommend is not acceptable to local interests.

In its report on S. 3823, the committee has directed the Corps of Engineers to take into account the comments of the Washington level review as much as possible in plan formulation under the phase 1 studies. But the committee has also indicated to the corps that the final report must be an implementable project, that is, one supported by local interests.

Mr. CRANSTON. I thank the chairman for his clarification.

I understand that the omnibus rivers and harbors bill approved last week by the House Public Works and Transportation Committee includes a provision to authorize the Santa Ana River Basin Flood Control project in accordance with the recommendations of the division engineer.

I would like to request that the Senate adopt the same language as approved by the House committee for the Santa Ana River basin.

Mr. GRAVEL. I think we could do that in conference.

Mr. HUGH SCOTT. Mr. President, I should like to bring to the committee's attention a problem in Pennsylvania of which I have been recently made aware. Upon completion of the Cowanesque Dam project in Pennsylvania, the town of Nelson will be flooded. Certainly no one will argue that it is imperative to complete this essential project, but what we will actually be seeing is the devastating effect which government, Federal and State, can have on a small community. The Federal Government provides relocation benefits and compensates the homeowner for his property but will not pay for community facilities. Meanwhile, the State government imposes prohibitively expensive environmental requirements. The net effect is to force citizens out of their homes and completely out of their community. Surely when it authorized the dam project Congress did not intend this result.

Nelson is a small town with a great sense of community feeling. The nearly 100 families in the village whose property is required by the corps wish to remain together and preserve their community lifestyle. This will not be possible unless the Congress authorizes the corps to relocate the village as a whole.

My colleague in the House of Representatives, Congressman MCDADE has offered language for the relocation of this village. This language has been included in H.R. 15636, the House omnibus water resources bill as reported from committee. It is my hope, therefore, that my amendment which utilizes the language contained within the House bill, can be included in S. 3823.

Mr. GRAVEL. I can certainly appreciate your concern about the effect of the Federal Government action upon this community. However, since the language which you propose has already been included in the House bill, and since we did not have an opportunity to consider it in our hearings, I should prefer to have this relocation question brought up in conference.

Mr. HATFIELD. Mr. President, I rise to inquire about the issue of contract dredging. It is my understanding that the Senate Public Works Subcommittee at first entertained and then later rejected a proposal to change some of the present procedures used by the Corps of Engineers to perform authorized dredging work in navigation channels around the country. I understand further that the House Public Works Committee has included such a provision, section 161, in the House omnibus public works bill.

Changes of the magnitude proposed by section 161 in the House bill ought to receive the closest scrutiny before enactment. Because there have been no hearings on this provision in either the House or Senate, I want to urge the Senate conferees to resist inclusion of the proposal in the conference agreement and to announce at this time my intent to oppose any such item that may find its way into the conference report.

I am submitting for the Record a brief summary of my objections to the House provision on contract dredging.

As I am very much opposed to making such major changes in contract dredging procedures without at least a full hearing, I would like to ask the subcommittee chairman and the ranking minority member on the subcommittee whether they are disposed to accept this item from the House bill during conference.

Mr. GRAVEL. No.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the summary to which I have referred be printed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

OBJECTIONS TO REVISED CONTRACT DREDGING PROCEDURES

There is a major flaw in the reasoning behind the dredging provision contained in the House Omnibus Public Works bill. It would reduce the Corps' capability to accomplish the necessary dredging workload before Industry has developed the capability to take on the additional work without requiring that a corresponding Industry capability be developed first. General Morris, now Chief of Engineers, warned against this approach in his July 29, 1975 testimony bfore the Senate Public Works Appropriations Subcommittee:

"The point that I need to emphasize here is the responsibility for the maintenance of the harbors and waterways of the country rests with the Secretary of the Army and the Chief of Engineers. As the program Director, I get very uneasy when I contemplate reducing my capability on a promise that somebody else will come through with the capability of fulfilling it."[1]

Perhaps Industry will eventually develop the capability needed. But what are many of our ports and harbors to do between the time the Corps' capability is reduced and Industry's increased capability is developed?

It should be noted that the Arthur D. Little study predicts that "the magnitude of the federal dredging program will increase appreciably over the next ten years."[2] Furthermore, the ADL study points out that "most of the Industry equipment is 20–30 years old and in need of replacement."[3] Thus, Industry is being asked to assume much of the Corps' workload at the same time it should be replacing many of its existing vessels and developing new capability for the expected workload increase in the next 10 years.

And yet, the ADL consultants conclude that "the Industry as presently constituted has limited financial resources which make it very difficult, with a few possible exceptions, for companies to acquire self-powered hopper dredges."[4] If Industry can't even afford to acquire an adequate supply of hopper dredges which now perform only 35% of the federal dredging workload, Industry's development of the capability to take on much of the Corps' present workload as well as future additional work is doubtful.

At best, Industry's resources could be stretched so thin that what little competition now exists will be virtually nonexistent, and Industry will be able to command higher and higher prices. And, in such a situation, there is little incentive to develop new capability; for it would only dilute demand. At worst, many ports and harbors simply won't be maintained: there may not be enough capability in either the Corps or the private sector, and prices may be so high that O & M appropriations will stretch only far enough to get highest priority dredging jobs accomplished.

In order to ascertain Industry's true capability to accomplish at reasonable prices the dredging work now done by the Corps, Industry and the Corps agreed earlier this year to establish a four year "testing of the market" program. However, if the House provision is adopted, the reason for the "testing of the market" program would be obviated. The law will dictate the circumstances under which Industry is to be given the work whether or not it could be done at less cost or with greater efficiency by the Corps.

The budgetary impact of the adoption of the House provision is unknown. It should be noted that the Arthur D. Little consultants conclude that ". . . a division of the workload ranging from 25–35% Corps and 65–75% Industry would be the most economical and optimum allocation."[5] This is the approximate ratio now. The A. D. Little conclusion implies that further increasing Industry's share of the workload will be more costly to the government. Furthermore, ADL concludes that "the basic fact that emerges is that between the Corps accomplishing 100% of the workload versus Industry doing all the work, costs would be lower if the Corps did the work."[6] The House provision ignores these fundamental findings about costs and forces all dredging work into Industry hands except for that work to be done by the minimum Corps fleet retained for emergency and national defense purposes.

Since it is unlikely that appropriations would increase fast enough to meet the rise in dredging costs permitted by this provision, the practical result of it would be to reduce significantly federal maintenance of ports and harbors.

In summary it may well be that enactment of this provision would force all but a small portion of the dredging workload into the hands of the private dredging contractors before it is known whether Industry has the capability to perform the work adequately and economically.

Mr. HASKELL. Mr. President, I wish to urge the adoption of the amendment offered by the gentleman from Wisconsin (Mr. Nelson) and cosponsored by my colleague from Colorado, (Mr. Gary Hart), striking section 4 of the Water Resources Development Act. In my judgment, and upon a review of the record, section 4 is premature and ill-considered.

Its prematurity is underscored by the positions of numerous Federal and State agencies, all of whom have urged that authorization of locks and dam 26 at Alton, Ill., be deferred until a number of necessary economic, engineering, and environmental studies can be completed. Mr. President, these are precisely the Federal agencies which the Congress has created for the purpose of analyzing water resource projects and providing guidance and recommendations regarding authorization and construction. I believe we should not ignore their advice, particularly when we are considering a $400 million project, with a potential ultimate price tag of $10 billion. This is particularly the case since, for budgetary reasons, the project cannot be commenced until October of 1977.

For the record, I believe it is important to review the positions of a number of agencies which have urged deferral of locks and dam 26.

In a letter of June 17, 1976, to Senator Nelson, the White House Council on Environmental Quality stated that:

> We would ask the Congress to defer action on any of the bills now under consideration (relating to Locks and Dam 26) until the Department of the Army has completed its review of this proposal, and until the pending NEPA litigation has been concluded and the adequacy of the impact statement is determined.

It is important to note that CEQ speaks as the President's principal authority on the environmental aspects of water resource projects.

The Department of Transportation has taken a similar position. In a report dated August 6, 1976, DOT recommended that:

> . . . a decision to rehabilitate or replace Locks and Dam 26 be deferred until the Corps of Engineers has had an ample opportunity to reexamine alternatives for rehabilitation . . . and until the requirement for additional capacity is resolved.

Neither of these concerns has been fully addressed or resolved. The General Accounting Office has not completed its final report on the cost of rehabilitation of the present facility. The final report—requested by the Senate Public Works Subcommittee on Water Resources—is not due until the end of October 1976. Also, the issue regarding "the requirement for additional capacity" has barely been addressed, let alone resolved. The new lock will expand the capacity of the facility from 80 or 90 million tons to 138 million tons annually. That increase will profoundly affect midwestern railroads, railroad labor, and the environment of the Upper Mississippi River. Authorization of a greatly expanded locks and dam 26 should await the results of these studies which are deemed essential by the Department of Transportation.

The Environmental Protection Agency holds that legislative action on locks and dam 26 should be deferred. In a letter and accompanying report of June 30, 1976, reviewing the draft environmental impact statement for the project, EPA concluded:

> This agency has environmental reservations with the project as proposed. These reservations are with the primary, secondary and cumulative impacts of the proposed replacement on both the Mississippi River Inland Waterways System and the specific site.

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[1] Volume 9, page 15, Senate Hearings on FY 1976 Public Works Appropriation.

[2] Summary Analysis of the National Dredging Study, December, 1974, page 2.

[3] *Op. cit.*, page 11.

[4] *Op. cit.*, page 3.

[5] *Op. cit.*, page 2.

[6] *Op. cit.*, page 2.

The draft statement is also totally inadequate.

The statement continues:

> We believe our reservations with the project are highly significant and our request for additional project related information is reasonable. Therefore, we recommend action on the proposed project be deferred until our concerns are satisfactorily resolved.

To date, the concerns of EPA have not been satisfactorily resolved.

In a letter of June 8, 1976, to the Corps of Engineers, the Interior Department stated:

> Your recommendation for congressional authorization of a comprehensive study of the river environment to ascertain existing base conditions and estimate various impacts of increased navigation should precede construction of the entire project, rather than just the proposed second lock.

The Fish and Wildlife Service testified on June 17, 1976, that:

> We recommend that Congress defer action (on Locks and Dam 26) until the Corps' report and the final environmental impact statement are completed and the many complex issues regarding costs and capacity estimates are settled.

State agencies also oppose immediate authorization of an expanded locks and dam 26. The Wisconsin Natural Resources Board has adopted a resolution supporting a bill Senator NELSON introduced earlier in the year to defer authorization of locks and dam 26 pending completion of comprehensive economic and environmental studies.

Similarly, the Minnesota Department of Natural Resources had concluded that it will not "either endorse or oppose plans for a reconstruction of locks and dam 26 until questions and concerns related to a potential 12-foot channel and degradation of natural resources on the Upper Mississippi are answered by the Corps of Engineers to our satisfaction."

The Wisconsin Department of Natural Resources, in a letter of June 24, 1976, to the Chief of Engineers, stated that:

> . . . an analysis of systemwide impacts is missing. It appears to be a serious omission in long-range planning efforts that these systemwide analyses have not been undertaken prior to seeking authorization for this proposed project.

In summary then, the following Federal and State agencies have expressed serious reservations regarding locks and dam 26, and have asked that authorizing legislation be deferred:

1. The President's Council on Environmental Quality
2. The Department of Transportation
3. The Environmental Protection Agency
4. The Department of the Interior
5. The Fish and Wildlife Service
6. The Wisconsin Department of Natural Resources
7. The Minnesota Department of Natural Resources
8. The Illinois Department of Transportation

Mr. President, we have over a year to study the proposal. If it is shown that replacement of one lock and dam is necessary, we can insure that $400 million of the taxpayers' money is being spent in a prudent and practical manner. By going ahead now, we cannot make that assurance. In my mind, there is little to lose by waiting and everything to gain.

Mr. HOLLINGS. Mr. President, all of us have been increasingly aware of the major impact that the weather has had on certain portions of our country and abroad. The drought conditions in the Midwest and West has resulted in significant economic losses. To minimize some of present and future adverse weather conditions, various weather modification techniques have been proposed over the years. Yet, as our scientists point out, weather modification methods to enhance rainfall are not yet proven. S. 3383 would move us in the direction of having an effective capability.

I would like to add my support, along with Senator PEARSON, in favor of S. 3383, the National Weather Modification Policy Act of 1976. This bill was originally passed by the Senate on May 21. The House passed S. 3383 with certain minor amendments this week.

S. 3383 directs the Secretary of Commerce through the National Oceanic and Atmospheric Administration, NOAA, to develop a national weather modification policy and research and development program. It calls for a report and recommendations to the Congress on the state of scientific knowledge in weather modification, how a weather modification capability could be brought about, and what the effects of such a capability would mean. The bill aims at improving our present Federal efforts in two ways, by providing for the development of an effective research and development program, and by designating a lead Federal agency, NOAA, for weather modification activities.

The House version includes three minor changes. First, it requires that the study by the Secretary of Commerce also include a model regulatory code. Second, it requires the study to include model international agreements concerning peaceful uses of weather modification. Finally, it amends Public Law 92-205 to authorize appropriations to the Secretary of Commerce of $200,000 annually through 1980 to conduct the weather modification report activities required under that act. These are helpful additions to the bill, and I urge my colleagues to vote in favor of this bill.

Mr. MUSKIE. Mr. President, at this point in the debate on S. 3823, I would like to comment on the bill from the point of view of the Budget Committee.

I want to begin by noting that S. 3823 is an authorization measure. It will not by itself result in new Federal spending. Subsequent appropriations are required to fund the projects authorized in the bill.

As reported, S. 3823 authorizes approximately $1.1 billion for new water resources projects of the Corps of Engineers. The bill continues the traditional and important role of the Federal Government in water resources development.

Approximately $1 billion in this reported bill covers the full cost of the new construction projects that are authorized in S. 3823. An additional $58 million covers the planning costs of other projects, which the bill authorizes to proceed to the phase I stage. Under a new set of procedures established by the Committee on Public Works, phase I "advance engineering and design" must be completed before a separate decision to go to phase II construction work can be made. This procedure avoids making costly commitments to construction programs without first carefully reviewing the analysis developed as a result of the planning process.

This phase I-phase II procedure is one that I support wholeheartedly. It prevents premature commitments to expensive construction activities. It also allows the Committee on Public Works to present to the Senate an accurate calculation of costs when bringing a bill of this type to the floor. There are no hidden costs in this bill. If S. 3823 is enacted, and if it is funded, the water resource projects authorized—both phase I and phase II—will require $1.1 billion.

However, additional funding would be required were Congress to decide to go to phase II construction on those projects for which this bill authorizes phase I planning activity. CBO has estimated these additional funds at some $6 billion. I want to emphasize that a separate authorization would be required for these phase II activities. But I also want to provide Members of the Senate with an estimate of what it would cost to construct the projects we are authorizing in this bill for the phase I planning stage.

Because of the time constraints under which the Senate is now operating it was not possible for the Committee on Public Works to include in its report accompanying S. 3823 the CBO cost estimate that is required under section 403 of the Budget Act. This cost estimate is now available, and should be a part of the record on S. 3823.

Mr. President, I ask unanimous consent that the CBO cost estimate on S. 3823 appear in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MUSKIE. One aspect of the bill we have reported is of particular significance. I refer to section 5 of the bill which establishes that as a matter of equity commercial users of the inland waterways of the United States should pay a portion of the cost of constructing, operating, and maintaining these waterways. At present, no fees are charged to waterway users. The Federal Government bears the costs associated with the inland waterways. The effect is to provide the waterway users with an indirect subsidy.

The question of equity arises because other modes of transportation do not traditionally enjoy such benefits. Highway users are burdened with the gasoline tax and other Federal excise taxes. Much of the total expenditure in support of our air transportation system is financed with revenues from taxes and user charges on the airlines and the passengers themselves. Even the railroads, which directly compete with the inland waterways, must build and maintain their own right-of-way and must pay taxes on their property.

Moreover, recent Federal policy has been to provide financial assistance to railroads that have had difficulty paying their bills. The Government thus finds itself in the position of not only bailing out the railroads, but of subsidizing the railroad's competition and thereby contributing to the railroad's financial demise.

So it seems to me to make sense to establish a system of waterway user charges. And by phasing in these charges over a period of 10 years, the adjustment to the charges can be made more easily.

I want to emphasize that in speaking on the subject of inland waterway user charges, I am not speaking on behalf of the Budget Committee. The committee took no position on user charges.

But I do believe, as a Senator from Maine and as a member of the Budget Committee, that the system of user charges contemplated in S. 3823 is desirable. Legitimate, fair, and appropriate policies that increase Federal receipts—and thus help reduce pressure on the Treasury—ought to be encouraged.

The indirect Federal subsidy enjoyed by waterway users has had a negative effect on the economy of my own State of Maine. Businesses in Maine must rely upon rail and trucking for the transportation of goods moving in and out of the State. The higher costs of these modes of transportation put Maine businesses at a competitive disadvantage to similar businesses elsewhere in the country, most notably the southeast, which take advantage of federally-subsidized waterway transportation services.

I believe that Maine businesses deserve equity in this area, and I therefore support the waterway user fees measure incorporated in the committee bill as it was reported.

This bill authorizes no funds for fiscal year 1977. If the bill is enacted and funds are provided, the water resources projects in S. 3823 would first receive moneys in fiscal year 1978. S. 3823 authorizes funds solely for fiscal year 1978 and beyond.

Thus, the bill will place no pressure upon the recently enacted second budget resolution which dealt exclusively with fiscal year 1977.

The distinguished chairman of the Committee on Public Works, Senator RANDOLPH, the distinguished chairman of the Water Resources Subcommittee, Senator GRAVEL, and the distinguished members of the full committee are to be commended for their work to assure that S. 3823 complies with the spirit of the new congressional budget process. By drafting the bill to authorize funds in fiscal year 1978 and beyond. They have avoided the possibility of placing heavy, unanticipated pressure upon the ceilings of the fiscal year 1977 second budget resolution. They have understood—with insight and concern—the need for the second budget resolution to be adopted with all possible claimants for Federal dollars laid out as clearly as possible ahead of time. They have responded in a fashion that brings credit to them and to the Public Works Committee.

Let me add on my part that I intend next year, as the Senate develops the first concurrent resolution for fiscal year 1978, to consider carefully the actual funding requirements for the Corps of Engineers resulting from this bill. I look forward to receiving the March 15 report from the Committee on Public Works which will spell out these requirements. And I know that the Budget Committee in sifting through the entire range of possible Federal spending, will review these requirements carefully.

EXHIBIT 1

CONGRESS OF THE UNITED STATES,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 28, 1976.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Public Works, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached revised cost estimate for S. 3823, the Water Resources Development Act of 1976.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE REVISED COST ESTIMATE—SEPTEMBER 28, 1976

Bill Number: S. 3823.

Bill Title: Water Resources Development Act of 1976.

PURPOSE OF BILL

This proposed legislation authorizes the Phase I design memorandum stage of advance engineering and design for some navigation and multipurpose water resource development projects and full construction for others. Surveys and plans for flood control, water development and conservation, shoreline protection and erosion control are also authorized. In addition, this bill requires the Secretary of the Army to promulgate regulations to establish user charges on the nation's inland waterways. Specifically, when fully implemented, the user charges are to recover 50 percent of the related capital costs. Finally, the bill does the following: directs the National Transportation Policy Commission to report on waterway user charges, creates a Water Resources Mitigation Advisory Board and establishes a Hydroelectric Power Development Fund to finance development of hydroelectric power.

COST ESTIMATE

[In millions of dollars]

	Fiscal year—					
	1978	1979	1980	1981	1982	Other years
Authorization level:						
Phase I projects	58.0					
Full cost projects	1,083.0	1.0	1.0	1.0	1.0	
Total	1,141.0	1.0	1.0	1.0	1.0	
Costs:						
Phase I projects [1]	13.0	14.0	16.0	11.0	2.0	2.0
Full cost projects [2]	116.0	160.0	193.0	176.0	143.0	299.0
Total	129.0	174.0	209.0	187.0	145.0	301.0
User charges [3]	4.7	25.5	49.5	77.5	109.2	(4)

[1] The total cost of the projects authorized in this phase I was estimated by the Corps of Engineers as $6,100,000,000. Specifically, this means that a minimum of $6,000,000,000 in future authorizations would be necessary to complete the designated projects.

[2] It is assumed that no repayments will be made into the hydroelectric power development fund during the 1978–82 time period.

[3] The user charges will be either an offsetting receipt to the authorization levels and costs or a revenue. The exact nature of the revenue estimates has not been specified in the legislation.

[4] Unknown.

BASIS FOR ESTIMATE

The authorization levels are those stated in the bill and essentially represent 1976 prices. For those projects for which only Phase I design is authorized, the authorization levels above only reflect those totals, i.e., the additional costs to complete the projects are not included. On the other hand, where authorization totals are for the entire project, the above cost estimate reflects such a level. The authorization levels for FY 1979 through FY 1982 represent the annual costs associated with navigation improvement on the Mermentau River, Louisiana, flood control storage on this Baker River, Washington, and maintenance dredging of the Oregon Slough, Oregon. These annual costs are not included in costs for the years beyond FY 1982, as no year limitation was specified in the legislation.

Based on other similar advisory boards, it is assumed that the Water Resources Mitigation Advisory Board would require an authorization of approximately $500,000 per year. In addition, it is postulated that the Hydroelectric Power Development Fund would receive the one-time $25 million authorized in the bill. It is further assumed that this $25 million will be used for the Phase I design memorandum state for a hydroelectric power project on the Susitna River. Although elsewhere in the bill an additional $25 million is authorized for the Susitna River, this total is not double counted. While it is possible that there will be offsetting revenues to the Hydroelectric Fund from repayments by local governments for the purchase of plants, these would most likely only occur after 1982. Consequently, this cost estimate reflects zero repayments.

The cost estimate for both the Phase I and full cost totals were derived by applying payout rates to each of the authorization totals for designated projects. The payout rates differ according to the size of the projects and therefore its length of time for completion. For example, 3-year projects are assumed to pay out 25 percent, 40 percent and 35 percent for years 1 through 3, while 4-year projects are assumed to be 10 percent, 25 percent, 35 percent, and 30 percent for years 1 through 4. Since the Corps of Engineers has an estimated length of time for completion for each project, a unique payout curve was applied to each authorization total. The payout curves also differ substantially depending upon whether or not it was a full authorization or only for Phase I.

It is important to note here that although the Phase I design stage of many of the projects were authorized at a total cost of $58 million, the Corps of Engineers' estimates indicate that the completion of these projects would cost an additional $6.0 billion in 1976 prices. The above cost estimate does not include this additional funding as it is assumed that it would have to be included in a subsequent authorization. However, it is critical to note that the completion of these projects would require such an additional amount of funds

The water user charge section assumes an effective date of July 1, 1978 and states that 10 percent, 20 percent, 30 percent, 40 percent and 50 percent of the operation and maintenance of navigation related expenditures will be covered in years 1–5. During the sixth year, i.e., 1983, the construction costs of navigation related expenditures will be phased in an identical way. The user charge estimate was derived by applying the above stated percentage phase-in schedule against an estimated expenditure total for operation and maintenance expenditures on navigation projects. The expenditure totals were derived by inflating, by an annual rate of 8 percent, the 1975 actual total for operation and maintenance on inland waterways, excluding Great Lakes harbors and deep draft harbors. This gives a total of $4.7, $25.5, $49.5, $77.5, and $109.2 million in FY 1978 through FY 1982, respectively. Although such charges will undoubtedly be a federal receipt, it is unknown at this time whether it will be a revenue total or an offset to total expenditures.

Estimate Comparison: None.

Previous CBO Estimate: Since the previous estimate of September 21, 1976 was prepared, the full construction costs of completing several projects that are authorized for Phase I only have become available from the Corps of Engineers. (These costs, while not a direct cost of this bill, are discussed in footnote a on page 1.) This estimate reflects these additional costs which result in an increase of $2.3 billion in the total cost of Phase I projects if they are fully authorized. In addition, while the total authorization level of the bill has not been changed, the distribution of the authorizations during the projection period has been modified to more accurately reflect the timing of authorization requirements.

Estimate Prepared By: Arleen Fain Gilliam (225–9676) A.G.

Estimate Approved By:

C. G. Nuckols,
for James L. Blum,
Assistant Director for Budget Analysis.

Mr. THURMOND. Mr. President, I rise in support of S. 3823, the Water Resources Development Act of 1976. As reported by the committee, section 16 and section 17 are of particular importance to my home State.

Section 16 removes the existing restriction on the addition of pumped storage at the Richard B. Russell Dam and Lake. The proposed storage units would have the capability of nearly doubling the energy output of this facility to meet peak power needs. For an approximate 31-percent increase in project cost, the power output of the project would be essentially increased by 100 percent. These pumped storage facilities would also alleviate an important environmental objection to the Richard B. Russell project by increasing the dissolved oxygen content in the lake by one to two parts per million. Improving the oxygen content in these lakes will, of course, help counteract the natural processes of lake stagnation and thereby enhance the fish potent and general biological productivity of the lakes. The addition of pumped storage to the Richard B. Russell project is a feature recommended by the Governor of South Carolina and other knowledgeable public officials and agencies including the Federal Power Commission and the Southeastern Power Administration. The action taken by the committee paves the way for authorization of pumped storage at such time as the corps report is ready.

Second, I favor the addition of a fifth power generating unit at the Hartwell Dam and Lake hydroelectric project in the Savannah River between South Carolina and Georgia.

Mr. President, in view of the energy crisis facing the people of the United States, I believe it would behoove Congress to encourage and assist in the maximum development of electric power from existing projects. Developing present hydroelectric facilities to their full potential is, I believe, the wisest method of obtaining an immediate increase in energy production. By adopting this course of action in the short run, we are able to both meet immediate energy needs and also give the Nation time to work toward long-range solutions to our energy problems.

Both the addition of pumped storage at Richard B. Russell Dam and the installation of a fifth power unit at Hartwell Dam are logical, reasonable methods of meeting this Nation's growing energy needs. In the case of Hartwell Dam, the project was designed for the future addition of a fifth power unit, the energy needs of the Southeast certainly warrant installation of another unit, and the initial economic and environmental analyses favor addition of a fifth unit.

Mr. President, I urge that the Senate act promptly on this measure.

Mr. STAFFORD. Mr. President, I wish to express my strong support for section 7 of this bill, which deauthorizes the Gaysville Dam that is proposed for construction on the White River in Vermont.

While authorized more than 3 decades ago, work on the dam has never been initiated. Funds were last appropriated in fiscal year 1969. At that time, the cost of the project was estimated at $28,700,000. All that has been spent to date is $206,600 for design work. I am convinced that much of that design work would have to be altered if the project were to go forward. And no money has been spent to buy any of the 3,200 acres needed for the project, a requirement that would remove many permanent and vacation homes.

While the purposes of the project are listed as flood control, recreation, fish and wildlife mitigation, and low-flow augmentation, this project is not necessary. I strongly support its deauthorization, and I am convinced the people of Vermont share this view wholeheartedly.

Mr. WILLIAMS. Mr. President, I would like to commend my colleagues on the Public Work Committee, particularly the members of the Water Resources Subcommittee and the distinguished chairman, Senator Gravel, for their diligent efforts to bring S. 3823, the Water Resources Development Act of 1976, up for consideration by the full Senate. I believe this is an important piece of legislation which authorizes many much-needed water resource projects.

There are several projects authorized in S. 3823 which will provide immeasurable benefits for New Jersey. I am pleased that the committee included these in the legislation. However, there is an additional project for Passaic River flood control located in northern New Jersey which I hope will also be included in this bill. I have joined my colleague from New Jersey, Senator Case, in offering an amendment authorizing phase I design memorandum for flood control in the Passaic River basin. It is our concern that progress on flood control proceed while every effort is made to reexamine practical alternatives.

In the Water Resources Development Act of 1974, the Congress adopted a new two-step authorization procedure for projects such as the Passaic River basin project. The reasons for this new procedure, and a description of the items to be included in phase I advanced engineering and design, are set forth in Senate Report 93–615 which accompanied S. 2798. These requirements and provisions should apply to the phase I study of the Passaic River basin project.

I would expect that, in implementing phase I, the Corps of Engineers would reformulate the plan for water management and flood control for the entire Passaic River basin. Equally important, such a plan should include a new environmental impact statement which is the subject of public hearings and formulation of a final environmental impact statement to be submitted to the Council on Environmental Quality.

Local opposition to any plan which relies upon extensive use of dikes, dams, and levees such as those proposed in previous survey reports mandates that the following alternatives or any combination be surveyed and considered:

First. A full range of nonstructural flood control alternatives to include land acquisition, flood plain mapping, flood proofing, developing early warning systems, and relocation of buildings.

Second. A tunnel diversion plan.

Third. A system of tunnels addressing the needs of the entire basin.

Fourth. Plans that combine local protection works where locally acceptable and nonstructural solutions including improvements to stream carrying capacity in accordance with different needs in the lower basin and in the central basin.

Fifth. Evaluation of fulfilling water supply objectives together with flood control.

Sixth. Aquifer recharge and underground storage.

Seventh. Reservoir management in the headwaters.

In addition, I believe the Corps of Engineers should coordinate its efforts with Federal, State, and local agencies, particularly the New Jersey Department of Environmental Protection, in its efforts on flood control and management of the total water resource cycle including water supply and water quality.

Mr. President, the flood hazards in the Passaic River basin have been a growing danger to people who live and work in that area. Inclusion of phase I design memorandum for this project in S. 3823 will help develop long-term solutions. I am hopeful that my colleagues will agree.

Mr. DOMENICI. Mr. President, I ask unanimous consent to have printed in the Record a statement by the Senator from New York (Mr. Buckley).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. BUCKLEY

I support strongly the provisions of section 5, and I urge that the Senate support it. Varying levels of Federal subsidies for differing modes of transportation have distorted our Nation's transportation policy. The result is increased costs on the Federal taxpayer. As a matter of equity, the commercial users of the inland waterways should pay something toward the costs of building, operating, maintaining, and rehabilitating those waterways. A system of charges will establish greater equity, and it will help to demonstrate the economic feasibility of new projects on the inland waterways.

This section establishes a reasonable schedule to phase-in user charges over the next decade. The schedule of charges, which wouldn't come into effect until July 1, 1978, eventually would recover 50 percent of the Federal costs of operations and constructing waterways, based on the preceding year's appropriations.

This phase-in timetable has 3 steps:

1. January 15, 1978, administrative regulations and an independent study would be submitted to the Congress.

2. A period of 60 legislative days is provided to give Congress the opportunity to review the charges and the independent study, and to alter or disapprove the regulations.

3. If not disapproved, beginning on July 1st of 1978 and each following year, the percentage of costs noted below will be collected:

[In percent]

	Operations and maintenance costs	*Capital costs*
1978	10	
1979	20	
1980	30	
1981	40	
1982	50	
1983	50	+10
1984	50	+20
1985	50	+30
1986	50	+40
1987 and thereafter	50	+50

The initial phase of improvements to the existing inland waterways was achieved at full Federal expense. It has cost some $6.2 billion to build the system, plus approximately an equal sum to operate and maintain it. Not a penny of that was ever put up by the direct beneficiaries, the barge companies.

To a great degree, the United States stands ready to embark on a major new cycle of waterway improvements. Most of the system—25,000 miles of waterways and 212 navigational locks and dams—is built. What comes next will be a major reconstruction phase, typified by the proposals in this bill to rebuild Locks and Dam 26 and Vermillion Lock and Dam.

Complete subsidization has led to several problems. The traffic delays at Locks and Dam 26 are symptomatic of the larger issues. Demand for capacity is a direct function of free funding. As long as a free system is provided, delays and future capacity problems will be endless.

While free waterway transportation may have been a legitimate Federal interest when the railroads had no effective competition, it is not a sound policy when the railroads are dying.

And I believe that user-sharing in the financing of waterway operations and improvements will lead to a more realistic assessment of the needs for such work. I can expect that the users will focus their requests on new projects that truly offer a benefit, not just any old project that is free. When such an improvement is paid for, even in part, by the users, the Congress can be assured that the expense is more likely to be in the nation's interest. Thus a user charge will have the effect of helping to provide a real-world market test for a proposed project. And by minimizing the current subsidy advantage to the waterway users, I believe we will achieve a more rational national approach to transportation policy.

Mr. McCLURE. Mr. President, I urge that the Senate approve S. 3823.

I recognize the controversial nature of sections 4 and 5. And there are many persons who oppose either one or the other of these sections. I am convinced that we will soon have to confront both these issues. The committee approach carries with it a number of safety values for congressional review, plus a phasein over a 10-year period, mitigating any immediate adverse impact on the waterways industry.

While I cannot say that this approach is one that is perfect in every aspect, I believe that its action-forcing mechanism of regulations and congressional review will provide the Congress with the information and time needed to assure that charges that would go into effect July 1, 1978, are not damaging to the waterways industry.

I recognize that the waterways industry opposes this provision, with passion, but it is an issue which will not just go away.

Mr. President, I also wish to note the several provisions in this bill that are of interest to me and to the people of Idaho.

One of the most significant involves construction of a second powerhouse at McNary Dam between Oregon and Washington. The existing project provides a powerhouse with 14 units having a capacity of 70,000 kilowatts each.

There is a need to increase the generating capacity in the Northwest Power Pool. The long-range plan to meet the region's electrical power requirements anticipates the conversion of the existing mainly hydropower system into a combined hydrothermal system, with the baseload to be carried by thermal generation, and the hydro used to meet peaking demands.

This program requires the addition of generating units at existing hydroplants in the Federal system.

Projections prepared by Bonneville Power Administration and the Pacific Northwest Utilities Commission indicate there will be a need for additional peak-generating capacity in 8 years, which could be met by the additional McNary units.

Another important project to the people of Idaho involves the Lower Snake River Fish and Wildlife Compensation Plan that will compensate for the region's losses of fish and wildlife resources caused by construction of the four lower Snake River dams. The bill would authorize construction of a hatchery and associated facilities for salmon and trout, acquisition of lands to compensate for losses of quail, pheasant, and partridge, and agreements to provide 20,000 pheasants annually for 20 years until habitat and brood stocks are established.

When considering the construction of these hatcheries, the corps is directed in the committee report to provide the bulk of this work in the State of Idaho, above the dams. To place them downriver of the dams would do nothing to mitigate the fisheries upstream, whereas mitigation upstream will bring migrating fish downstream. I have addressed this question more fully in an earlier colloquy with the Senator from Alaska, Mr. GRAVEL.

Another very important section of this bill involves section 41, which directs the Secretary of the Army to construct a four-lane, high-level bridge between Lewiston, Idaho, and Clarkston, Wash. This section is identical to legislation that passed the Senate in the 93d Congress, but failed to win House approval.

This provision is necessary because of the impact created by navigational improvements to the Snake River on the two cities. Because it was the Federal navigation project that creates the basic need for the new bridge, the bridge is a legitimate Federal expense.

The present bridge between the two cities was built in 1939. It is the only direct link between the two communities. Though designed with a lift-span to permit passage of large river boats, it had until now provided sufficient clearance for existing river traffic, without need for the use of the lift.

The recent completion of the Lower Granite lock and dam has altered the situation significantly. The river level, back up behind the dam, has reduced clearance under the existing bridge to about 13 feet. This will require regular use of the lift. Use of the lift, in turn, will create serious interstate traffic problems. It could also lead to health and safety hazards should the lift be open during an emergency, because the communities share hospital and firefighting facilities.

The cost of a replacement is beyond the financial capability of the States, the cities, or the counties. For this reason, I support this section as a necessary and important one.

Section 42 directs the corps to install a second outlet for flows from the Lucky Peak Dam in Idaho. This will allow continued flows from the dam when the main outlet pipe must be closed each year for inspection and maintenance.

This second outlet has particular importance to the metropolitan area of Boise, Idaho, and to the water quality of the Boise River. When the outlet pipe is closed, the river flows virtually cease, except for the sewage releases from the Boise metropolitan sewage treatment plants.

This condition creates severe problems for the fish resources of the Boise River, and violates national pollution control standards. This section will help to correct that problem.

Section 43 of this bill makes a modest change in a previous act, which authorized the Secretary of the Army to reimburse Boundary County, Idaho for the cost of rebuilding a bridge necessitated by high water released from Libby Dam. This work has been interrupted due to the existence of a waterline, which must be relocated.

The language of section 43 would raise that existing authorization by $30,000—to $380,000—to allow for the relocation of this waterline. The cost of the waterline relocation was not included in the original 1974 estimate because its exact location in relation to the bridge work was not then known.

And finally I wish to comment on section 52, which declares Lake Coeur d'Alene in Idaho and two other specific lakes as nonnavigable for the purposes of section 10 of the Rivers and Harbors Act of 1899. That is the provision requiring a Corps of Engineers permit before anyone can construct a pier or wharf in the navigable waters of the United States.

Recent court decisions have forced the Army Corps of Engineers to broaden its regulatory control under section 10 lakes such as Coeur d'Alene. This is unnecessary, and this section would correct that problem.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. GOLDWATER. Regular order, Mr. President.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Florida (Mr. Chiles), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya). the Senator from California (Mr. Tunney), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), and the Senator from Indiana (Mr. Hartke) are necessarily absent.

I further announce that the Senator from Montana (Mr. Mansfield), the Senator from Ohio (Mr. Glenn), and the Senator from South Dakota (Mr. McGovern) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley). the Senator from Nebraska (Mr. Curtis), the Senator from Kansas (Mr. Dole), the Senator from Wyoming (Mr. Hansen), and the Senator from New York (Mr. Javits) are necessarily absent.

The result was announced—yeas 78, nays 3, as follows:

[Rollcall Vote No. 658 Leg.]

YEAS—78

Abourezk
Allen
Baker
Bartlett
Bayh
Bellmon
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Goldwater
Gravel
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McClure
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—3

Helms
Proxmire
Roth

NOT VOTING—19

Beall
Bentsen
Buckley
Byrd, Harry F., Jr.
Cannon
Chiles
Curtis
Dole
Glenn
Hansen
Hart, Philip A.
Hartke
Javits
Mansfield
McGee
McGovern
Mondale
Montoya
Tunney

So the bill (S. 3823), as amended, was passed, as follows:

S. 3823

Authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Water Resources Development Act of 1976".

Sec. 2. (a) The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to undertake the phase I design memorandum stage of advance engineering and design of the following navigation and multi-purpose water resource development projects, in accordance with, and subject to the conditions recommended by the Chief of Engineers, in the reports hereinafter designated.

NORTHEASTERN ATLANTIC COASTAL REGION

The project for navigation improvements in New London Harbor and Thames River at New London, Connecticut: Report of the Chief of Engineers dated February 20, 1975, at an estimated cost of $250,000.

MIDDLE ATLANTIC COASTAL REGION

The project for beach erosion control and navigation from Hereford Inlet to the Delaware Bay Entrance to the Cape May Canal, New Jersey: Report of the Chief of Engineers dated September 30, 1975, at an estimated cost of $2,062,000.

The project for beach erosion control, navigation, and storm protection from Barnegat Inlet to Longport, New Jersey: Report of the Chief of Engineers dated October 24, 1975, at an estimated cost of $2,396,000.

The project for navigation on the Southern Branch of the Elizabether River, Chesapeake, Virginia: Report of the Chief of Engineers dated March 6, 1975, at an estimated cost of $100,000.

WALLKILL RIVER BASIN

The project for flood control in the Black Dirt Area, Wallkill River, New York and New Jersey; House Document Numbered 94–499, at an estimated cost of $330,000.

SUSQUEHANNA RIVER BASIN

The project for flood control at Lock Haven, Pennsylvania; House Document Numbered 94–577, at an estimated cost of $430,000.

The project for flood control at Wyoming Valley, Susquehanna River, Luzerne County, Pennsylvania: House Document Numbered 94–482, at an estimated cost of $450,000.

JAMES RIVER BASIN

The project for flood control at Richmond, Virginia: Report of the Chief of Engineers dated January 7, 1976, at an estimated cost of $800,000.

CHARLESTON HARBOR, SOUTH CAROLINA

The project for navigation improvements at Charleston Harbor, South Carolina: House Document Numbered 94–436, at an estimated cost of $500,000.

SAN JUAN HARBOR, PUERTO RICO

The project for navigation improvements San Juan Harbor, Puerto Rico: House Document Numbered 94–574, at an estimated cost of $300,000.

GREAT LAKES BASIN

Modification of the authorized beach erosion control project for Presque Isle Peninsula at Erie, Pennsylvania: Report of the Chief of Engineers dated April 8, 1976, at an estimated cost of $700,000.

The poject for flood control and other purposes on Little Calument River in Indiana: Report of the Chief of Engineers dated July 29, 1976, at an estimated cost of $1,400,000.

UPPER MISSISSIPPI RIVER BASIN

The project for local flood protection and other purposes at Chaska, Minnesota, on the Minnesota River: Report of the Chief of Engineers dated May 12, 1976, at an estimated cost of $300,000.

The project for local flood protection and other purposes at La Crosse, Wisconsin, on the Mississippi River: Report of the Chief of Engineers dated May 7, 1976, at an estimated cost of $400,000.

The project for local flood protection at Grafton, North Dakota, on the Park River: Report of the Chief of Engineers dated June 11, 1976, at an estimated cost of $570,000.

NECHES RIVER BASIN

The project for salt water control on the Neches River at Beaumont, Texas: Report of the Chief of Engineers dated April 12, 1976, at an estimated cost of $500,000.

MISSISSIPPI RIVER BASIN

The project for local flood protection on Saint Johns Bayou, Missouri: Report of the Chief of Engineers dated September 26, 1975, at an estimated cost of $300,000.

CALLEGUAS CREEK BASIN

The project for flood control and other purposes on Calleguas Creek, Simi Valley, to Moorpark, Ventura County, California: Report of the Chief of Engineers dated June 21, 1973, at an estimated cost of $1,060,000.

LOS ANGELES-LONG BEACH, CALIFORNIA

The project for navigation improvements in Los Angeles-Long Beach Harbor at Los Angeles, California: Report of the Chief of Engineers dated April 22, 1975, at an estimated cost of $50,000.

SACRAMENTO-SAN JOAQUIN BASINS

The project for flood control and other purposes on Morrison Streams, California, in Sacramento County: Report of the Chief of Engineers dated March 2, 1976, at an estimated cost of $750,000.

(b) The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to undertake the phase I design memorandum stage of advanced engineering and design of the following multipurpose water resource development projects, substantially in accordance with, and subject to the conditions recommended by the Chief of Engineers, in the reports hereinafter designated, except that phase I shall not be initiated until approved by the President.

BRAZOS RIVER BASIN

The project for salt water control on the Brazos River at Lubbock, Texas: Report of the Chief of Engineers dated June 1, 1976, at an estimated cost of $650,000.

COLUMBIA RIVER BASIN

The project for installing a second powerhouse at McNary Lock and Dam, Columbia River, Oregon and Washington: Report of the Chief of Engineers dated June 29, 1976, at an estimated cost of $1,800,000.

PASSAIC RIVER BASIN, NEW JERSEY AND NEW YORK

The project for water resources development for the Passaic River Basin, New Jersey and New York: Report of the Chief of Engineers dated February 18, 1976, at an estimated cost of $12,000,000.

(c) The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to undertake the phase I design memorandum stage of advanced engineering and design of the following navigation and multipurpose water resources development projects, substantially in accordance with the plans, and subject to the conditions recommended by the Chief of Engineers, in the reports hereinafter designated, except that phase I shall not be initiated until approved by the Secretary of the Army and the President.

BRUNSWICK HARBOR, GEORGIA

The project for navigation at Brunswick Harbor, Georgia: Report of the Chief of Engineers in his report dated August 18, 1976, at an estimated cost of $300,000.

GREAT LAKES BASIN

The project for management of flooding and other urban water problems encompassed by the Chicagoland Underflow Plan: In accordance with the final report of the Chief of Engineers; at an estimated cost of $12,000,000.

PEMBINA RIVER BASIN

The project for flood control on the Pembina River at Walhalla, North Dakota: In accordance with the final report of the Chief of Engineers, at an estimated cost of $930,000.

PAPILLON CREEK BASIN

The project for local flood protection on Papillon Creek at Omaha, Nebraska: In accordance with the final report of the Chief of Engineers, at an estimated cost of $75,000.

RIO GRANDE BASIN

The project for local flood protection on Rio Puerco in New Mexico: In accordance with the final report of the Chief of Engineers, at an estimated cost of $1,500,000.

SANTA ANA RIVER BASIN

The project for flood control and other purposes on the Santa Ana River (Main Stem including Santiago Creek and Oak Street Drain), California: In accordance with the final report of the Chief of Engineers, at an estimated cost of $700,000.

SIUSLAW RIVER

The project for navigation improvements on the Siuslaw River and Bar at Siuslaw, Oregon: In accordance with the final report of the Chief of Engineers, at an estimated cost of $50,000.

UPPER SUSITNA RIVER BASIN

The project for hydroelectric power on the Susitna River in Southcentral Alaska: In accordance with the final report of the Chief of Engineers, except at an estimated cost of $25,000,000, and except that such funds may be made available from the Hydropower Development Fund established pursuant to section 51 of this Act, and that 1 per centum of such funds shall be available to the Alaska Land Planning Commission to be available equally to opponents, proponents, and neutral parties for use in analyzing such project.

SEC. 3. (a) The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to undertake the following navigation and multipurpose water resource development projects in accordance with, and subject to the conditions recommended by the Chief of Engineers in the respective reports hereinafter designated.

JONESPORT HARBOR, MAINE

The project for navigation improvements in the Moosabec Reach at Jonesport Harbor, Maine: House Document Numbered 94-481 at an estimated cost of $4,714,000.

SAW MILL RIVER BASIN

The project for flood control at Ardsley, New York (Saw Mill River Basin): House Document Numbered 94-519, at an estimated cost of $1,780,000.

DELAWARE RIVER BASIN

The project for navigation in the Delaware River at Philadelphia, Pennsylvania: Final Report of the Chief of Engineers, at an estimated cost of $595,000.

SCHUYLKILL RIVER BASIN

The project for flood control on Hay Creek at Birdsboro, Pennsylvania: Final Report of the Chief of Engineers, at an estimated cost of $1,757,000.

JAMES RIVER BASIN

The project for flood control at the Richmond, Virginia, filtration plant: House Document Numbered 94-543, at an estimated cost of $4,617,000.

VIRGINIA BEACH STREAMS, VIRGINIA

The project for flood control at Canal Number 2, Virginia Beach, Virginia: Final Report of the Chief of Engineers at an estimated cost of $1,425,000.

FORT FISHER, NORTH CAROLINA

The project for beach erosion control for Fort Fisher and vicinity, North Carolina: Final Report of the Chief of Engineers, at an estimated cost of $4,671,000.

JEKYLL ISLAND, GEORGIA

The project for beach erosion control and storm protection for Jekyll Island, Georgia: House Document Numbered 94-533, at an estimated cost of $3,885,000.

PONCE HARBOR, PUERTO RICO

The project for navigation improvements at Ponce Harbor, Puerto Rico: House Document 94-532, at an estimated cost of $3,940,000.

GREAT LAKES BASIN

The project modification for Fairport Harbor, Ohio: Report of the Chief of Engineers dated June 11, 1976, at an estimated cost of $1,688,000.

UPPER MISSISSIPPI RIVER BASIN

Modifications to the authorized multipurpose Saylorsville Lake project on the Des Moines River, Iowa: House Document Numbered 94-487, at an estimated cost of $7,374,000.

IOWA AND CEDAR RIVER BASIN

The project for local flood protection at Evansdale, Iowa, in the Iowa-Cedar Rivers Basin: Report of the Chief of Engineers dated November 14, 1975, at an estimated cost of $2,495,000.

PETIT ANSE

The project for benefit of navigation for Petit Anse at Iberia Parish, Louisiana: Report of the Chief of Engineers dated July 17, 1975, at an estimated cost of $2,000,000.

COLUMBIA RIVER BASIN

The project for flood control for Flathead and Clark Fork River Basins (Flathead River near Kalispell), Montana: Report of the Chief of Engineers dated June 11, 1976, at an estimated cost of $3,500,000.

BEAR RIVER BASIN, CALIFORNIA

The project for local flood protection at Linda and Olivehurst, in the Bear River Basin, California: Report of the Chief of Engineers dated January 21, 1976, at an estimated cost of $3,330,000.

KAHOMA STREAM, HAWAII

The project for flood control on Kahoma Stream, Lahaina, Maui, Hawaii: House Document Numbered 94-488, at an estimated cost of $3,350,000.

MISSOURI RIVER BASIN

The project for flood protection for Jefferson City on Wears Creek, Missouri; Report of the Chief of Engineers dated October 21, 1975, at an estimated cost of $29,110,000.

GRAND ISLE

The project for hurricane protection and beach erosion control on Grand Isle at Jefferson Parish, Louisiana: Report of the Chief of Engineers dated September 29, 1975, at an estimated cost of $6,655,000.

(b) The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to undertake the following navigation and multipurpose water resource development projects, in accordance with, and subject to, the conditions recommended in the report hereinafter designated, except that no construction may take place until approved by the Secretary of the Army and the President.

MERMENTAU RIVER

The project for navigation improvement on the Mermentau River, Louisiana: In accordance with the final report of the Chief of Engineers, at an estimated initial cost of $261,000, and subsequent annual costs of $85,000.

BASSETT CREEK WATERSHED

The project for local flood protection on Bassett Creek in Henepin County, Minnesota: In accordance with the final report of the Chief of Engineers, at an estimated cost of $7,593,000.

SKAGET RIVER BASIN

The project for flood control storage on the Baker River, Washington: In accordance with the final report of the Chief of Engineers, at an estimated intial cost of $21,000 and substantial annual costs of $68,000.

MOBILE HARBOR, ALABAMA

The project for navigation improvements on Theodore Ship Channel, Mobile Harbor, Alabama: In accordance with the final report of the Chief of Engineers at an estimated first year cost of $1,280,000.

COLUMBIA RIVER BASIN

Fish and Wildlife Compensation Plan for the Lower Snake River, Washington and Idaho, substantially in accordance with a report on file with the Chief of Engineers, at an estimated cost of $58,400,000.

SEC. 4. (a) The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to cause a survey to be made at the Navajo Indian Reservation, Arizona, New Mexico, and Utah for flood control and allied purposes, and subject to all applicable provisions of section 217 of the Flood Control Act of 1970 (Public Law 91-611), at an estimated cost of $2,000,000; and to submit reports thereon to the Congress with the recommendations.

(b) The Secretary of the Army, acting through the Chief of Engineers, in cooperation with other interested Federal agencies, local governments of Hawaii, and local planning agencies, is authorized and directed to study and review any previous relevant studies and reports on Hilo Bay, Hawaii, and Kailua-Kona, Hawaii, with a view to determining the feasibility and practicability of improvements for the development, utilization, and conservation of water and related land resources, to include flood protection, flood plain management, navigation facilities, hydroelectric power generating facilities, water supply, water quality control, waste water management facilities, recreation and fish and wildlife conservation and enhancement, at an estimated cost of $1,300,000 and to submit reports thereon to the Congress with his recommendations.

SEC. 5. The authorization of the Gaysville Dam and Lake project, Stockbridge, Chittenden, and Rochester, Vermont, provided by section 5 of the Flood Control Act of 1936, as modified by the Acts of Congress approved May 25, 1937, June 28, 1938, and August 18, 1941, is terminated upon the enactment of this Act.

SEC. 6. (a) The project for hurricane-flood control protection at New London, Connecticut, authorized by the Flood Control Act of 1962 (76 Stat. 1180) is hereby modified to delete the Powder Island-Bentleys Creek hurricane protection barrier; and to authorize construction of the Shaw Cover hurricane protection barrier, pressure conduit, and pumping station works substantially in accordance with the revised plan "New London Hurricane Protection" dated June 1976, on file in the Office of the Chief of Engineers; estimated to cost $7,745,000.

(b) Prior to initiation of construction of the project, appropriate non-Federal interests shall agree—

(1) to provide without cost to the Secretary of the Army all lands, easements, and rights-of-way necessary for construction and operation of the project;

(2) to hold and save the United States free from damage due to construction, operation, and maintenance of the project not including damages due to the fault or negligence of the United States or its contractors;

(3) to accomplish without cost to the United States all modifications or relocations of existing sewerage and drainage facilities, buildings, utilities, and highways made necessary by construction of the project not to include sewerage and drainage facilities at the line of protection;

(4) to maintain and operate all features of the project after completion in accordance with regulations prescribed by the Secretary; and

(5) to bear 30 per centum of the total first cost, a sum estimated at $2,324,000.

(c) There is authorized to be appropriated not to exceed $5,421,000 to carry out the purposes of this section.

SEC. 7. (a) If the Secretary of the Army, acting through the Chief of Engineers, finds that the proposed project to be erected at the location to be declared nonnavigable under this section is in the public interest, on the basis of engineering studies to determine the location and structural stability of any bulkheading and filling and permanent pile-supported structure, in order to preserve and maintain the remaining navigable waterway and on the basis of environmental studies conducted pursuant to the National Environmental Policy Act of 1969, then that portion of the Hudson River in Hudson County, State of New Jersey, bounded and described as follows is hereby declared to be nonnavigable water of the United States within the meaning of the laws of the United States, and the consent of Congress is hereby given to the filling in of all or any part thereof and the erection of permanent pile-supported structures thereon:

Such porton is in the township of North Bergen in the county of Hudson and State of New Jersey, and is more particularly described as follows: At a point in the easterly right-of-way of New Jersey Shore Line Railroad (formerly New Jersey Junction Railroad) said point being located northerly, measured along said easterly right-of-way, 81.93 feet from Station 54 +42.4 as shown on construction drawing dated May 23, 1931, of River Road, filed in the Office of the Hudson County Engineer, Jersey City, New Jersey;

thence (1) northerly and along said easterly right-of-way on a bearing of north 12 degrees 11 minutes 14 seconds east, a distance of 280 feet to a point;

thence (2) south 75 degrees 28 minutes 24 seconds east, a distance of 310 feet to a point;

thence (3) south 17 degrees 15 minutes 41 seconds east, a distance of 101.70 feet to a point;

thence (4) south 62 degrees 18 minutes 12 seconds east a distance of 355.64 feet to a point in the exterior solid fill line of April 7, 1903, and the bulkhead line of April 28, 1904, on the Hudson River;

thence (5) along said exterior solid fill and bulkhead lines south 28 degrees 55 minutes 51 seconds west, a distance of 523 feet to a point in the northerly line of lands now or formerly of New York State Realty and Terminal Company;

thence (6) north 61 degrees 34 minutes 29 seconds west, and along said northerly line of the New York State Realty and Terminal Company, a distance of 590.08 feet to a point in the aforementioned easterly right-of-way of the New Jersey Shore Line Railroad;

thence (7) northerly and along said easterly right-of-way of the New Jersey Shore Line Railroad on a curve to the left a radius of 995.09 feet, an arc length of 170.96 feet to a point therein;

thence (8) northerly, still along the same, on a bearing of north 12 degrees 11 minutes 14 seconds east, a distance of 81.93 feet to the point and place of beginning.

Said parcel containing 8 acres being the same more or less.

(b) The declaration in subsection (a) of this section shall apply only to portions of the above-described area which are either bulkheaded and filled or occupied by permanent pile-supported structures. Plans for bulkheading and filling and permanent pile-supported structures shall be approved by the Secretary of the Army, acting through the Chief of Engineers. Local interests shall reimburse the Federal Government for engineering and all other costs incurred under this section.

SEC. 8. (a) If the Secretary of the Army, acting through the Chief of Engineers finds that the proposed project to be erected at the location to be declared nonnavigable under this section is in the public interest, on the basis of engineering studies to determine the location and structural stability of any bulkheading and filling and permanent pile-supported structure, in order to preserve and maintain the remaining navigable waterway, and on the basis of environmental studies conducted pursuant to the National Environmental Policy Act of 1969, then those portions of the Hackensack River in Hudson County, State of New Jersey, bounded and described as follows are hereby declared to be nonnavigable waters of the United States within the meaning of the laws of the United States, and the consent of Congress is hereby given to the filling in of all or any part thereof and the erection of permanent pile-supported structures thereon:

Beginning at a point where the southeasterly shoreline (mean high water line) of the Hackensack River intersects the easterly line of the Erie Railroad said point property being 2,015.38 feet northerly along said railroad property from where it intersects the northerly line of the Meadowlands Parkway (100 feet wide) and running from:

thence north 19 degrees 20 minutes 54 seconds west 50.00 feet;

thence north 37 degrees 30 minutes 08 seconds east 615.38 feet;

thence north 03 degrees 02 minutes 56 seconds east, 2,087 feet;

thence north 31 degrees 11 minutes 06 seconds east 577 feet;

thence north 74 degrees 29 minutes 18 seconds east 541.25 feet;

thence south 62 degrees 01 minute 31 seconds east 400 feet;

thence south 55 degrees 46 minutes 27 seconds east 612.52 feet;

thence south 34 degrees 13 minutes 33 seconds west 517.79 feet;

thence south 55 degrees 46 minutes 27 seconds east 158.81 feet;

thence south 34 degrees 13 minutes 33 seconds west 310 feet;

thence north 55 degrees 26 minutes 27 seconds north 15 feet;

thence soouth 34 degrees 13 minutes 33 seconds west 592 feet;

thence running in a southwesterly direction along the shoreline (means high water line) of the Hackensack River, a distance of 2,360 feet being the same more or less to the easterly property line of the Erie Railroad and the point or place of beginning.

Said parcel containing 67.3 acres being the same more or less.

(b) The declaration in subsection (a) of this section shall apply only to portions of the described area which are either bulkheaded and filled or occupied by permanent pile-supported structures. Plans for bulkheading and filling and permanent pile-supported structures shall be approved by the Secretary of the Army, acting through the Chief of Engineers. Local interests shall reimburse the Federal Government for engineering and all other costs incurred under this section.

SEC. 9 (a) The Secretary of the Army, acting through the Chief of Engineers, is directed to develop a plan for shoreline protection and beach erosion control along Lake Ontario, and report on such plan to the Congress as soon as practicable. Such report shall include recommendations on measures of protection and proposals for equitable cost sharing, together with recommendations for regulating the level of Lake Ontario to assure maximum protection of the natural environment and to hold shoreline damage to a minimum.

(b) Until the Congress receives and acts upon the report required under subsection (a) of this section, all Federal agencies having responsibilities affecting the level of Lake Ontario shall, consistent with existing authority, make every effort to discharge such responsibilities in a manner so as to minimize damage and erosion to the shoreline of Lake Ontario.

(c) There is authorized to be appropriated to carry out this section $2,000,000.

(d) This section may be cited as the "Lake Ontario Protection Act of 1976".

SEC. 10. The portion of section 1 of the Act of September 1, 1916 (39 Stat. 693) entitled "Washington Aqueduct", authorizing the Chief of Engineers to enforce traffic regulations for the protection of the Washington Aqueduct and Filtration Plant and their accessories, including MacArthur Boulevard, as amended (40 U.S.C. 53), is hereby repealed on the date of enactment of this section.

SEC. 11. (a)(1) Subject to paragraph (2) of this subsection, the consent of Congress is granted under section 9 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401), to the Washington Suburban Sanitary Commission to construct a water diversion structure, with an elevation not to exceed one hundred and fifty-nine feet above sea level, from the north shore of the Potomac River at the Washington Suburban Sanitary Commission water filtration plant to the north shore of Watkins Island.

(2) The structure authorized by paragraph (1) of this subsection, may not be constructed until the Secretary of the Army, acting through the Chief of Engineers, and the State of Maryland, the Commonwealth of Virginia, the Washington Suburban Sanitary Commission, and such other governmental authorities as the Secretary of the Army, the State of Maryland, and the Commonwealth of Virginia deem desirable signatories enter into a written agreement providing an enforceable schedule for allocation among the parties to such agreement for the withdrawal of the waters of that portion of the Potomac River located between Little Falls Dam and the farthest upstream limit of the pool of water behind the Chesapeake and Ohio Canal Company rubble dam at Seneca, Maryland, during periods of low flow of such portion of such river.

(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized to enter into the agreement referred to in subsection (a)(2) of this section and any amendment to or revision of such agreement.

(c) Except as may be provided in the agreement referred to in subsection (a)(2) of this section, nothing in this section shall alter any riparian rights or other authority of the State of Maryland, or any political subdivision thereof, the Commonwealth of Virginia, or any political subdivision thereof, or the District of Columbia, or authority of the Corps of Engineers existing on the date of enactment of this section relative to the appropriation of water from, or the use of, the Potomac River.

SEC. 12. The project for Atlantic Intracoastal Waterway Bridges, Virginia and

North Carolina, authorized by section 101 of the Rivers and Harbors Act of 1970 (59 Stat. 10), is hereby modified to provide that all first costs of the bridges to be constructed in accordance with the project shall be borne by the United States, at an increased Federal cost of $7,600,000.

SEC. 13. The authorization for the Richard B. Russell Dam and Lake (formerly Trotters Shoals Reservoir), contained in section 203 of the Flood Control Act of 1966 (80 Stat. 1405) is hereby amended by deleting the following: "Nothing in this Act shall be construed to authorize inclusion of pumped storage power in this project.".

SEC. 14. The Secretary of the Army, acting through the Chief of Engineers, is authorized to install a fifth hydropower unit at the Hartwell Reservoir on the Savannah River, South Carolina and Georgia, approved in the Flood Control Acts of December 22, 1944, and May 17, 1950, at an estimated increased cost of $15,700,000.

SEC. 15. The project for flood control, west Tennessee tributaries, authorized by the Flood Control Act of June 30, 1948, as amended, is hereby further modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct a project for flood control on Harris Fork Creek and South Fulton Branch, Kentucky and Tennessee, substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 94–221, except that all highway bridge relocations or alterations required for the project shall be at Federal expense, at an estimated cost of $5,000,000.

SEC. 16. Section 108 of Public Law 93–251 is amended as follows:

(a) At the end of subsection (a) add the following: "The Secretary may acquire sites at locations outside such boundaries, as he determines necessary, for administrative and visitor orientation facilities. The Secretary may also acquire a site outside such boundaries at or near the location of the historic Tabard Inn in Ruby, Tennessee, including such lands as he deems necessary, for the establishment of a lodge with recreational facilities as provided in subsection (e)(3).";

(b) In subsection (b), after the "(b)" insert "(1)" and at the end of such subsection insert the following:

"(2) The Secretary may by agreement with the Secretary of the Interior provide for interim management by the Department of the Interior, in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535) (16 U.S.C. 1, 2–4) as amended and supplemented, of any portion or portions of the project which constitute a logically and efficiently administrable area. The Secretary is authorized to transfer funds to the Department of the Interior for the costs of such interim management out of funds appropriated for the project.";

(c) In subsection (c)(1), after the phrase "States of Kentucky and Tennessee or any political subdivisions thereof" insert the following: "which were in public ownership at the time of enactment of this section.";

(d) At the end of subsection (e)(2)(A), strike the period and insert the following: "and except that motorboat access into the gorge area shall be permitted up to a point one-tenth of a mile downstream from Devil's Jumps; and except for the continued operation and maintenance of the rail line currently operated and known as the K & T Railroad. The Secretary shall acquire such interest in the K & T Railroad right-of-way by easement as he deems necessary to protect the scenic, esthetic, and recreational values of the gorge area and the adjacent areas.";

(e) In subsection (e)(2)(C), strike the period at the end and insert the following: ", the road entering the gorge across from the mouth of Station Camp Creek."; and

(f) In subsection (e)(2)(K), strike "$32,850,000" and insert in lieu thereof "$103,522,000".

SEC. 17. The West Tennessee tributaries feature Mississippi River and tributaries project (Obion and Forked Deer Rivers), Tennessee, authorized by the Flood Control Acts approved June 30, 1948, and November 7, 1966, as amended and modified, is hereby further amended to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct, to main-stem levee standards, a levee with appurtenant works for flood protection immediately east of the authorized diversion channel of the Obion River, authorized by the Flood Control Act of June 22, 1936, as amended by the Flood Control Act of July 24, 1946, and further amended by section 7 of the River Basin Monetary Authorization Act of 1971, from near the mouth of the diversion channel to the vicinity of Highway 88 and thence to high ground in the vicinity of Porter Gap, at an estimated cost of $1,000,000.

SEC. 18. The Secretary of the Army, acting through the Chief of Engineers, is directed to make a maximum effort to assure the full participation of members of minority groups, living in the States participating in the Tennessee-Tombigbee Waterway Development Authority, in the construction of the Tennessee-Tombigbee Waterway project, including actions to encourage the use, wherever possible, of minority owned firms. The Chief of Engineers is directed to report on July 1 of each year to the Congress on the implementation of this section, together with recommendation for any legislation that may be needed to assure the fuller and more equitable participation of members of minority groups in this project or others under the direction of the Secretary.

SEC. 19. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake the phase I design memorandum stage of advanced engineering and design for the project for flood control on Nonconnah Creek at Memphis, Tennessee, as recommnded in the report of the Chief of Engineers dated June 23, 1976, at an estimated cost of $350,000, except that the Secretary shall continue to study alternatives during phase I.

SEC. 20. The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the phase I design memorandum stage of advanced engineering and design of the project element involving the lowermost 10.1-mile-long segment of channel modification of Sowashee Creek at Meridian, Mississippi, substantially in accordance with the plan developed by the Administrator, Soil Conservation Service, United States Department of Agriculture, and subsequently approved by resolution of the United States Senate Committee on Public Works on May 31, 1974, at an estimated cost of $450,000.

SEC. 21. The Act entitled "An Act to authorize construction of the Mississippi River-Gulf outlet", approved March 29, 1956 (70 Stat. 65), is amended by inserting before the period at the end thereof a colon and the following: "*And provided further*, That such conditions of local cooperation shall not apply to the construction of bridges (at a cost not to exceed $71,500,000) required as a result of the construction of the Mississippi River-Gulf outlet channel if the Secretary of the Army, after consultation with the Secretary of Transportation, determines prior to the construction of such bridges that the Federal Government will not assume the costs of such work in accordance with section 132(a) of the Federal-Aid Highway Act of 1976 (Public Law 94–280); and before construction of the bridges may be initiated the non-Federal public bodies involved shall agree pursuant to section 221 of the Flood Control Act of 1970 (Public Law 91–611) to (a) hold and save the United States free from damages resulting from construction of the bridges and their approaches, (b) provide without cost to the United States all lands, easements, and rights-of-way necessary for the construction of the bridges and their approaches, and (c) maintain and operate the bridges and their approaches after construction is completed".

SEC. 22. The project for navigation and bank stabilization in the Red River Waterway, Louisiana, Texas, Arkansas, and Oklahoma, authorized by the Rivers and Harbors Act of 1968 (82 Stat. 731) is hereby modified to provide that the non-Federal interests shall contribute 25 per centum of the construction costs of retaining dikes, bulkheads, and embankments required for initial and subsequent disposal of dredged material, and the Federal cost shall be 75 per centum (currently estimated at $3,700,000). The requirements for appropriate non-Federal interests to furnish an agreement to contribute 25 per centum of the construction cost set forth above shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State or States involved, interstate agency, municipality, other appropriate political subdivisions of the State, and industrial concerns are participating in and in compliance with an approved plan for the general geographical area of the dredging activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

SEC. 23. Section 107(b) of the Rivers and Harbors Act of 1970 (84 Stat. 1818, 1820) is amended by striking out "December 31, 1976" and inserting in lieu thereof "September 30, 1979" and striking out "$9,500,000" and inserting in lieu thereof "$15,584,000."

SEC. 24. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to carry out the phase I design memorandum stage of advanced engineering and design on a project for flood prevention and development of incidental recreation, preservation of the natural floodways, and protection of the soil resources of the North Branch of the Chicago River Watershed in Cook and Lake Counties, Illinois, substantially in accordance with the Floodwater Management Plan, North Branch of the Chicago River Watershed, Cook and Lake Counties, Illinois, dated October 1974, prepared by the Cook County North Branch of the Chicago River Steering Committee and the Lake County North Branch of the Chicago River Steering Committee, with assistance by the United States Department of Agriculture, Soil Conservation Service and Forest Service, Metropolitan Sanitary District of Greater Chicago, and the Illinois Department of Conservation; and also substantially in accordance with the watershed implementation program dated February 1974, prepared by the Cook County North Branch of the Chicago River Steering Committee and the Lake County North Branch of the Chicago River Steering Committee, copies of which are on file with the Committee on Public Works and Transportation of the House of Representatives and the Committee on Public Works of the Senate, at an estimated cost of $370,000.

(b) Prior to submitting any report to Congress, the Secretary of the Army shall assure that the cooperating non-Federal governmental entities shall adopt and implement appropriate sediment and erosion control ordinances and furnish other assurances satisfactory to the Secretary of the Army that a flood plain management program is being accomplished by local flood plain zoning regulations or enforcement of the Illinois Department of Transportation's flood plain regulations and that an adequate land treatment program is being or will be installed to provide necessary protection to the watershed land and planned structural measures.

Sec. 25. (a) The flood protection project at Mankato-North Mankato-Le Hillier, Minnesota River, Minnesota, authorized by the Flood Control Act of 1958 (Public Law 85–500), as amended, is hereby further modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to alter or relocate, as required, the two existing highway 169 bridges over the Blue Earth River and the Main Street bridge over the Minnesota River, at Federal expense, estimated to be $8,175,000.

(b) Prior to initiation of construction, local interests shall agree to perform all required operation and maintenance of the completed facilities at their own expense.

Sec. 26. The project for flood control on the Souris River at Minot, North Dakota, approved by resolutions of the Committee on Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives under authority of section 201 of the Flood Control Act of 1965 and modified by section 105 of the Water Resources Development Act of 1974, is hereby further modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to reimburse the designated non-Federal interests for estimated expenses exceeding that stipulated in the original authorization that such non-Federal interests will occur in undertaking the required cooperation for the proposed channel realinement in the downstream area of the project near Logan, North Dakota. The additional expense, subject to such reimbursement, shall not exceed $200,000.

Sec. 27. Notwithstanding any other provision of law, the Secretary of the Army, acting through the Chief of Engineers, at the request of the city of Williston, North Dakota, is authorized and directed to take such action as may be necessary to relocate certain water intakes, located on a pier of the Lewis and Clark Bridge on the Missouri River, threatened by siltation. There is authorized to be appropriated not to exceed $1,000,000 to carry out the provisions of this section.

Sec. 28. (a) The project for Tuttle Creek Lake, Big Blue Lake, Kansas, authorized as a unit of the comprehensive plan for flood control and other purposes, Missouri River Basin, by the Flood Control Act approved June 28, 1938, as modified, is hereby further modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to (1) provide a residential access road near Waterville, Kansas, from a point of intersection with FAS Route 431, located approximately 0.2 mile south of the northeast corner of section 16, township 4 south, range 6 east, and extending in an east southeasterly direction to a point of intersection with the existing township road located near the center of section 14, township 4 south, range 6 east, and (2) to replace the existing Whiteside Bridge, located one mile northwest of Blue Rapids, Kansas, so as to obtain an elevation of 1128.0 mean sea level.

(b) There is authorized to be appropriated not to exceed $630,000 to carry out the purposes of this section.

Sec. 29. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the phase I design memorandum stage of advanced engineering and design on the Days Creek unit of the project for flood control and other purposes on the Red River below Denison Dam, Texas, Arkansas, and Louisiana, substantially in accordance with the report of the Board of Engineers for Rivers and Harbors at an estimated cost of $300,000.

(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct the project for flood control and other purposes on the Red River below Denison Dam, Texas, Arkansas, and Louisiana, in accordance with the report of the Chief of Engineers dated August 3, 1976, at an estimated cost of $4,131,000.

Sec. 30. The flood control project for San Antonio channel improvement, Texas, authorized by section 203 of the Flood Control Act of 1954 (68 Stat. 1260) as a part of the comprehensive plan for flood protection on the Guadalupe and San Antonio Rivers, Texas, is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct such additional flood control measures as are needed to preserve and protect the Espada Acequia aqueduct, located in the vicinity of Six Mile Creek, at a Federal cost of $1,761,000. Construction of such flood control measures shall be subject to the same conditions of local cooperation as required for the existing flood control project.

Sec. 31. The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the nonstructural flood protection project on Galveston Bay at Baytown, Texas, in accordance with the final report of the Chief of Engineers, at an estimated Federal cost of $15,680,000; and provided that non-Federal interests shall be required to pay 20 per centum of the project costs.

Sec. 32. The last sentence of the provision authorizing the project for water quality control in the Arkansas-Red River Basin, Texas, Oklahoma, and Kansas, in section 201 of Public Law 91–611, is amended to read as follows: "Construction shall not be initiated on any component on which a report is submitted by the Chief of Engineers after the date of enactment of this Act unless approved by the Secretary of the Army.".

Sec. 33. The project for flood protection and other purposes on the Deep Fork River in the vicinity of Arcadia, Oklahoma, authorized in section 201 of Public Law 91–611, is amended and reauthorized so as to delete the benefits for water quality and to include benefits for water supply.

Sec. 34. In order to assure an adequate supply of food to the Nation and to promote the economic vitality of the High Plains Region, the Secretary of Commerce (hereinafter referred to in this section as the "Secretary"), acting through the Economic Development Administration, in cooperation with the Secretary of the Army, acting through the Chief of Engineers, and appropriate Federal, State, and local agencies, and the private sector, is authorized and directed to study the depletion of the natural resources of those regions of the States of Colorado, Kansas, New Mexico, Oklahoma, Texas, and Nebraska presently utilizing the declining water resources of the Ogallala aquifer, and to develop plans to increase water supplies in the area and report thereon to Congress, together with any recommendations for further congressional action. In formulating these plans, the Secretary is directed to consider all past and ongoing studies, plans, and work on depleted water resources in the region, and to examine the feasibility of various alternatives to provide adequate water supplies in the area including, but not limited to, the transfer of water from adjacent areas, such portion to be conducted by the Chief of Engineers to assure the continued economic growth and vitality of the region. The Secretary shall report on the costs of reasonably available options, the benefits of various options, and the costs of inaction. If water transfer is found to be a part of a reasonable solution, the Secretary, as part of his study, shall include a recommended plan for allocating and distributing water in an equitable fashion, taking into account existing water rights and the needs for future growth of all affected areas. An interim report, with recommendations, shall be transmitted to the Congress no later than July 1, 1978, and a final report, with recommendations, shall be transmitted to Congress not later than July 1, 1980. A sum of $6,000,000 is authorized to be appropriated for the purposes of carrying out this section.

Sec. 35. The project for the Cochiti Reservoir in New Mexico as part of the project for the improvement of the Rio Grande Basin, authorized in the Flood Control Act of 1960 (74 Stat. 488), is modified in order to direct the Secretary of the Army, acting through the Chief of Engineers, to construct, for public recreation purposes, an access road from United States highway numbered 85 to such reservoir. There is authorized to be appropriated not to exceed $1,500,000 to carry out the purposes of this section.

Sec. 36. The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct a project for local flood protection on the Santa Fe River and Arroyo Mascaras at and in the vicinity of Santa Fe, New Mexico, pursuant to the report of the Chief of Engineers dated June 29, 1976, for flood control and allied purposes, at an estimated cost of $8,200,000: *Provided*, That the project shall not include construction of any impoundments east of the existing Nichols Dam: *And provided further*, That in any earth-moving operations in connection with the construction of such project, the sources of material, and the routes for transporting such materials to the construction sites shall be selected in a way that minimizes any adverse effect on normal transportation movements within the city of Santa Fe, New Mexico.

Notwithstanding any other provision of law, the project for Pine Mountain Lake on Lee Creek, Arkansas and Oklahoma, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1073), shall be constructed, operated, and maintained in accordance with the Federal Water Project Recreation Act, Public Law 89–72, as amended.

Sec. 37. Section 2 of the Rivers and Harbors Act of 1945 (59 Stat. 21), is hereby modified to authorize and direct the Secretary of the Army to construct, at a Federal expense of not to exceed $21,000,000, a four-lane high-level highway bridge and approaches thereto connecting the cities of Lewiston, Idaho, and Clarkston, Washington, at or near river mile 141.3 of the Snake River, approximately two miles upstream of the present United States Highway 12 bridge: *Provided*, That before construction may be initiated the non-Federal public bodies involved shall agree pursuant to section 221 of the Flood Control Act of 1970 (Public Law 91–611) to (a) hold and save the United States free from damages resulting from construction of the bridge and its approaches, (b) provide without cost to the United States all lands, easements, and right-of-way necessary for the construction of the bridge and its approaches, and (c) maintain and operate the bridge and its approaches after construction is completed.

Sec. 38. The project for Lucky Peak Lake, Idaho, authorized by the Flood Control Act of 1946, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to modify the outlet works in the Lucky Peak Dam at a Federal cost not to exceed $4,100,000, to assure maintenance of adequate flows along the Boise River: *Provided*, That provisions of section 102(b) of the Federal Water Pollution Control Amendments of 1972 (86 Stat. 816), shall apply to this modification.

Sec. 39. Section 50 of the Water Resources Development Act of 1974 (88 Stat. 12), is amended by striking out "$350,000" and inserting in lieu thereof "$380,000".

Sec. 40. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to provide such temporary school facilities as he may deem necessary for the education of dependents of persons engaged in the construction of additional hydroelectric power facilities at Chief Joseph Dam and Reservoir, Washington, and to pay for the same from any funds available for such project. When he determines it to be in the public interest, the Secretary, acting through the Chief of Engineers, shall enter into cooperative arrangements with local and Federal agencies for the operation of such temporary facilities or for contributions by the Federal Government to cover the increased cost to local agencies to provide the educational services required by the Government.

(b) There is hereby authorized to be appropriated not to exceed $2,500,000 to carry out the purposes of this section.

SEC. 41. The Secretary of the Army, acting through the Chief of Engineers, according to the report of the Chief of Engineers dated April 6, 1976, on The Oregon Slough (North Portland Harbor), Oregon, is authorized and directed to provide maintenance dredging of such project to include a one and eight-tenths mile long by forty feet deep by four hundred feet wide channel extending from the Columbia River channel, and a triangular turning basin forty feet deep by three thousands feet long with an average width of one thousand feet, as constructed by the Port of Portland, as a responsibility of the United States at an estimated annual cost of $70,000. Costs incurred by local interests for project construction shall not be reimbursed by the United States.

SEC. 42. The sum of $250,000 is hereby authorized to complete the phase I design memorandum stage of advanced engineering and design of the Days Creek Dam, South Umpqua River, Oregon, authorized by section 1(a) of the Water Resources Development Act of 1974 (88 Stat. 12).

SEC. 43. The monetary limitation on the Federal participation for flood control storage in the Del Valle Reservoir, Alameda Creek, California, as authorized in the Flood Control Act of 1962, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to increase the contribution made by the United States to the State of California toward the cost of construction, maintenance, and operation from $4,080,000 to $4,650,000.

SEC. 44. The project for Port San Luis, San Luis Obispo Harbor, California, authorized in section 301 of the Rivers and Harbors Act of 1965 (Public Law 89-298; 79 Stat. 1090) is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct a project consisting of: a breakwater extending from the southeast corner of Smith Island in a northwesterly direction for a distance of about 750 feet; a detached breakwater beginning at a point about 500 feet northeast of Smith Island and extending 3,615 feet in a northeasterly direction; a south entrance channel, 400 feet in length and 200 feet wide, parallel to the south breakwater and detached breakwater to a depth of −15 feet MLLW; a north entrance channel, 700 feet in length and 200 feet wide, located at the northern portion of the detached breakwater to a depth of −15 feet MLLW; two anchorage areas, one on the harbor side of the breakwater with a surface area of 22.2 acres and a depth of −15 feet MLLW and the other south of the existing Port San Luis Wharf with a surface area of 25.2 acres and depths ranging from −12 to −15 feet MLLW. Two refuge areas in the existing barge approach area are included: Area A with a surface area of 1.1 acres to a depth of −15 feet MLLW, area B with a surface area of 2.3 acres and depth of −12 feet MLLW, at an estimated cost of $5,400,000.

SEC. 45. The project for navigation improvements, Cook Inlet, Alaska (Anchorage Harbor, Alaska), authorized by the Rivers and Harbors Act of 1958, approved July 3, 1958, is hereby modified to provide that the Secretary of the Army, acting through the Chief of Engineers, is authorized to maintain a harbor bottom depth of −35.0 feet MLLW, for a length of 3,000 feet at the existing Port of Anchorage Marine Facility, at an estimated annual cost of $150,000.

Sec. 46. Section 35 of the Water Resources Development Act of 1974 (Public Law 93-251) is amended as follows:

(a) Inserting "(a)" after "SEC. 35";

(b) Inserting new subsection "(b)", as follows:

"(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to make a detailed study of such plans as he may deem feasible and appropriate for the removal and disposal of debris and obsolete buildings remaining as a result of military construction during World War II, and subsequently, in the vicinity of Metlakatla and Annette Island in southeastern Alaska, at an estimated cost of $100,000. Such study shall include an analysis of appropriate measures to restore the area to its natural condition.".

SEC. 47. (a) Section 204(b) of the Act of October 23, 1962 (76 Stat. 1173, 1174), is amended by striking the period at the end of the second sentence and insert the following: "*: Provided,* That the Secretary of the Interior, in determining reimbursable costs, shall not include the costs of replacing and relocating the original Salisbury Ridge section of the 138-kilovolt transmission line: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, shall relocate such transmission lines, at an estimated cost of $5,641,000.".

(b) The Crater-Long Lakes division of the Snettisham project near Juneau, Alaska, as authorized by section 204 of the Flood Control Act of 1962, is modified with respect to the reimbursement payments to the United States on such project in order to provide (1) that the repayment period shall be sixty years, (2) that the first annual payment shall be 0.1 per centum of the total principal amount to be repaid, (3) thereafter annual payments shall be increased by 0.1 per centum of such total each year until the tenth year at which time the payment shall be 1 per centum of such total, and (4) subsequent annual payments for the remaining fifty years of the sixty-year repayment period shall be one-fiftieth of the balance remaining after the tenth annual payment (including interest over such sixty-year period).

SEC. 48. For the purposes of section 10 of the Act of March 3; 1899 (30 Stat. 1151) (33 U.S.C. 401, the following bodies of water are declared nonnavigable: Lake Oswego, Oregon; Lake Coeur d'Alene, Idaho; and Lake George, New York.

SEC. 49. (a) (1) The Congress finds that the expeditious development of hydroelectric power generating facilities that are environmentally sound to assist the Nation in meeting existing and future energy demands is in the national interest.

(2) The Congress therefore declares that the expertise of the Chief of Engineers, as limited by this section, can and should be utilized for the benefit of local public bodies in the development of projects which yield 90 per centum or more of the benefits attributable to hydroelectric power generation when the project is fully operational.

(b) To meet the goals of this section, there is hereby established in the Treasury of the United States a Hydroelectric Power Development Fund (hereafter referred to as the "fund") to be and remain available for use by the Secretary of the Army (hereinafter referred to as the "Secretary") to make expenditures authorized by this section. The fund shall consist of (1) all receipts and collections by the Secretary of repayments in accordance with subsection (e) of this section and payments by non-Federal public authorities to the Secretary to finance the cost of construction of projects in accordance with subsection (f) of this section, and which the Secretary is hereby directed to deposit in the fund as they are received, and (2) any appropriations made by Congress to the funds.

(c) There is authorized to be appropriated to the Secretary for deposit in the fund established by subsection (b) of this section the sum of $25,000,000.

(d)(1) If the Secretary determines that moneys in the fund are in excess of current needs, he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in direct, general obligations of, or obligations guaranteed as to both principal and interest by, the United States.

(2) With the approval of the Secretary of the Treasury, the Secretary may deposit moneys of the fund in any Federal Reserve bank or other depository for funds of the United States, or in such other banks and financial institutions and under such terms and conditions as the Secretary and the Secretary of the Treasury may mutually agree.

(e) The Secretary is authorized to make expenditures from the fund for the phase I design memorandum stage of advanced engineering and design for any project that meets the requirements of subsection (a) (2) of this section, if appropriate non-Federal public authorities, approved by the Secretary, in writing, to repay the Secretary for all the separable and joint costs of preparing such design memorandum, if such report is favorable. Following the completion of the phase I design memorandum stage of advanced engineering and design under this subsection, the Secretary shall not transmit any favorable report to Congress prior to being repaid in full by the appropriate non-Federal public authorities for the costs incurred during such phase I. The Secretary is also authorized to make expenditures from non-Federal funds deposited in the fund as an advance against construction costs.

(f) In connection with water resources development projects which meet the criteria established by subsection (a) (2) of this section and which are to be constructed by the Secretary, acting through the Chief of Engineers, in accordance with an authorization by Congress and a contract between the non-Federal public authorities and the Secretary, pursuant to subsection (g) (1) of this section occurring on or subsequent to the date of enactment of this Act, the Secretary, acting through the Chief of Engineers, is authorized to construct such projects including activities for engineering and design land acquisition, site development, and off-site improvements necessary for the authorized construction by making expenditures from (1) the Fund established in subsection (b) of this section of funds deposited by non-Federal public authorities as payments for construction and (2) payments of non-Federal public authorities held by the Secretary as payment of construction costs for a project authorized by this section.

(g) (1) Prior to initiating any construction work under the authorities of this section, the Secretary and the appropriate non-Federal public authorities shall agree in writing, and submit such agreement to the Committees on Public Works and Appropriations of the Senate and House of Representatives for review and reporting to the Congress for consideration that the appropriate non-Federal public authorities will pay the full anticipated costs of constructing the project at the time such costs are incurred, together with normal contingencies and related administrative expenses of the Secretary, and such payments shall be deposited in the fund or held by the Secretary for payment of obligations incurred by the Secretary on an authorized project under this section. The agreement shall provide for an initial determination of feasibility and compliance by the project with law. The total non-Federal obligation shall be paid on or prior to the date the Chief of Engineers has estimated by agreement, that the project concerned will be available for actual generation of all or a substantial portion of the authorized hydroelectric power of the project.

(2) In consideration of the obligations to be assumed by non-Federal public authorities under the provisions of this section and in recognition of the substantial investments which will be made by these authorities in

reliance on the program established by this section, the United States shall assume the responsibility for paying for all costs over those fixed in the agreement with the non-Federal public authorities, if such costs are occasioned by acts of God, failure on the part of the Secretary, acting through the Chief of Engineers, to adhere to the agreed schedule of work or a failure of design: *Provided*, That payments by the Secretary of such costs shall be subject to appropriations acts.

(h) The Secretary is authorized and directed, pursuant to the agreement, to convey all title, rights, and interests of the United States to any project, its lands and water areas, and appurtenant facilities to the non-Federal public authorities which have agreed to assume ownership of the project and responsibility for its performance, operation, and maintenance, as well as necessary replacements in accordance with this section upon full payment by such non-Federal public authorities as required under subsection (g)(1) of this section. Such conveyance shall, pursuant to the agreement required by subsection (g) of this section, to the maximum extent possible, occur immediately upon the project's availability for generation of all or a substantial portion of the authorized hydroelectric power of the project, and shall include such Federal requirements, reservations, and provisions for access rights to the project and its records as the Secretary finds advisable to complete any portion of project construction remaining at the time of conveyance and to assure that the project will be operated and maintained in a responsible and safe manner to accomplish, as nearly as may be possible, all of the authorized purposes of the project including, but not restricted to, hydroelectric power generation.

(i) In addition to the above authority, the Secretary of the Army and the Secretary of the Interior are hereby authorized to negotiate with non-Federal public interests for the sale of any water resources development project previously constructed by the United States for the purpose of flood control, navigation, recreation, and hydroelectric power at the current value of such project. Any agreement and sale of such projects shall protect the affected public from any economic or other loss of such project purposes as flood control, navigation, recreation, and hydroelectric power, and be subject to approval by the Congress.

(j) This section shall be cited as the "Hydroelectric Power Development Act".

SEC. 50. Section 32 of the Water Resources Development Act of 1974 (88 Stat. 12) is amended as follows:

(a) In subsection (c)(3) strike "; and" and add ", including areas on the right bank at river miles 1345; 1310; 1311, 1316.5; 1334.5; 1341; 1343.5; 1379.5; 1385; and on the left bank at river miles 1316.5; 1320.5; 1323; 1326.5; 1335.7; 1338.5; 1345.2; 1357.5; 1360; 1366.5; 1368; and 1374;";

(b) At the end of subsection (c)(4) delete the period and add "; and".;

(c) Add a new subparagraph (5) to subsection (c) as follows:

"(5) the lower Yellowstone River from Intake, Montana, to the mouth of such river.";

(d) In subsection (e) strike "June 30, 1978" and insert in lieu thereof " September 30, 1981"; and strike "$25,000,000" and insert in lieu thereof "$50,000,000."; and

(e) A new subsection (f) is added as follows:

"(f) The Secretary of the Army shall make an interim report to Congress on work undertaken pursuant to this section by September 30, 1978, and shall make a final report to the Corps no later than December 31, 1981.".

SEC. 51. Section 216 of the Flood Control Act of 1950 is amended by striking "$300,000" and inserting in lieu thereof "$10,000,000".

SEC. 52. Subsection (b) of section 107 of the Rivers and Harbors Act of 1960 (Public Law 86-645), as amended (33 U.S.C. 577), is further amended by striking out "$1,000,000" and inserting in lieu thereof $2,000,000". The amendment made by this section shall not apply to any project under contract for construction on the date of enactment of this section.

SEC. 53. Whenever the Secretary of the Army, acting through the Chief of Engineers, or the Secretary of Agriculture, acting under Public Law 83-566, as amended, submits a project to the Committees on Public Works of the Senate or the House of Representatives that is anticipated to provide benefits, more than 10 per centum of which result from an increase in anticipated land value to a single landowner, the Secretary of the Army or the Secretary of Agriculture, as appropriate, shall, prior to the construction of the project, be required to enter into an agreement with such owner to provide that such owner contributes either prior to construction or when benefits are realized 50 per centum of the project's costs allocated to such benefits.

SEC. 54. Section 4 of the Act of July 5, 1884 (23 Stat. 147), as amended by the Act of March 3, 1909 (33 U.S.C. 5), is hereby amended to read as follows:

"SEC. 4. The Secretary of the Army, acting through the Chief of Engineers, is authorized to operate, maintain, and keep in repair and rehabilitate any project for the benefit of navigation belonging to the United States or that may be hereafter acquired or constructed: *Provided*, That whenever, in the judgment of the Secretary of the Army, the condition of any of the aforesaid works is such that its reconstruction or replacement is essential to efficient and economical maintenance and operation, as herein provided for, and if the cost shall be less than $10,000,000, the Secretary may proceed with such work: *Provided further*, That the project does not increase the scope or change the location of an existing project, and: *Provided further*, That nothing herein contained shall be held to apply to the Panama Canal.".

SEC. 55. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed within ninety days after enactment of this Act to institute a procedure enabling the engineer officer in charge of each district under the direction of the Chief of Engineers to certify, at the request of local interests, that particular local improvements for flood control can reasonably be expected to be compatible with a specific, potential project then under study or other form of consideration. Such certification shall be interpreted to assure local interests that they may go forward to construct such compatible improvements at local expense with the understanding that such improvements can be reasonably expected to be included within the scope of the Federal project, if later authorized, both for the purposes of analyzing the costs and benefits of the project and assessing the local participation in the costs of such project.

(b) In accordance with subsection (a) of this section, the Secretary of the Army, acting through the Chief of Engineers, is directed to include all expenses and appurtenances for flood control that were initiated by the city of Tulsa, Oklahoma, along Mingo Creek and its tributaries, subsequent to January 1, 1975, for the purposes of determining the costs, benefits, and local cost sharing for any project for control of flooding that may be hereafter developed for Mingo Creek, as if such project were to qualify under the terms of subsection (a) of this section.

SEC. 56. (a) There is hereby established a Water Resources Mitigation Advisory Board (hereinafter referred to as the "Board"), which is authorized to evaluate complaints of the existing or potential adverse impact of proposed or actual water resources work projects undertaken by the Secretary of the Army, acting through the Chief of Engineers, and to make recommendations on any requested mitigation.

(b) The Board shall be comprised of three members. One member shall be a Federal employee serving at the pleasure of the President. Two members shall be appointed by the President from the general public for terms of three years. Such public members, while attending meetings of the Board, shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5 of the United States Code, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses including per diem in lieu of subsistence as authorized by law (5 U.S.C. 73b-2) for persons in the Government service employed intermittently. Anyone who has been an employee of the United States Army Corps of Engineers shall be ineligible to serve as a public member of the Board.

(c)(1) The Board shall meet at least four times annually to review matters referred to it by any State or local public agency, the Secretary of the Army, or the Committees on Public Works of the Senate or the House of Representatives. At such meetings, the Board is authorized to review all information relating to any request for mitigation of an authorized project, and recommend changes in the project that can be achieved administratively or by appropriate legislation. Any recommendation by the Board shall include a statement evaluating the equity of the mitigation; an estimate, if appropriate, of the cost of such alteration and the effect such cost would have on the relation of project benefits to costs; an explanation of how the mitigation request meets or fails to meet established national water resources policy. Recommendations by the Board shall be advisory and not subject to judicial review.

(2) A copy of any recommendation by the Board under paragraph (1) of this subsection shall be transmitted to the Secretary of the Army and to the Committees on Public Works of the Senate and the House of Representatives. Following a review of any such recommendation, the Secretary of the Army shall notify the Committees on Public Works of the Senate and the House of Representatives of any decision or proposal based upon such recommendation, together with a statement detailing any disagreement with the Board's recommendation.

(d) For the purpose of this Act, "mitigation" means any change in project operations, any construction of new facilities or devices that would alleviate any anticipated or actual damages, or other adverse and definable unintended effects, or any change in requirements for local interests to provide, pay for, or share in the costs of any features of any project undertaken by the Secretary of the Army acting through the Chief of Engineers.

(e) The Board shall, from time to time, report to the Committees on Public Works of the Senate and the House of Representatives on issues and problem areas brought before it for advisory opinions, together with any recommended changes in the procedures or practices of the Secretary of the Army acting through the Chief of Engineers, that would alleviate such problems in future projects.

(f) There are hereby authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 57. (a) The Congress finds that drift and debris on or in publicly maintained commercial boat harbors and the land and water areas immediately adjacent thereto threaten navigational safety, public health, recreation, and the harborfront environment.

(b)(1) The Secretary of the Army, acting through the Chief of Engineers, shall be responsible for developing projects for the collection and removal of drift and debris from publicly maintained commercial boat harbors and from land and water areas immediately adjacent thereto.

(2) The Secretary of Army, acting through the Chief of Engineers, is authorized to undertake projects developed under paragraph (1) of this subsection without specific congressional approval when the total Federal cost for the project is less than $400,000: *Provided*, That not to exceed $4,000,000 may be expended in any one fiscal year for the Federal share of the cost of completing projects under this paragraph: *Provided further*, That the total amount allotted for any projects under this paragraph shall be sufficient to fulfill the Federal share of the project, without commitment to additional improvements.

(c) The Federal share of the cost of any project developed pursuant to subsection (b) of this section shall be two-thirds of the cost of the project. The remainder of such costs shall be paid by the State, municipality, or other political subdivision in which the project is to be located, except that any costs associated with the collections and removal of drift and debris from federally owned lands shall be borne by the Federal Government. Non-Federal interests in future project development under subsection (b) of this section shall be required to recover the full cost of drift or debris removal from any identified owner of piers or other potential sources of drift or debris, or to repair such sources so that they no longer create a potential source of drift or debris.

(d) Any State, municipality, or other political subdivision where any project developed pursuant to subsection (b) of this section is located shall provide all lands, easements, and right-of-way necessary for the project, including suitable access and disposal areas, and shall agree to maintain such projects and hold and save the United States free from any damages which may result from the non-Federal sponsor's performance of, or failure to perform, any of its required responsibilities of cooperation for the project. Non-Federal interest shall agree to regulate any project area following project completion so that such area will not become a future source of drift and debris. The Chief of Engineers shall provide technical advice to non-Federal interests on the implementation of this subsection.

(e) For the purposes of this section—

(1) the term "drift" includes any buoyant material that, when floating in the navigable waters of the United States, may cause damage to a commercial or recreational vessel; and

(2) the term "debris" include any abandoned or dilapidated structure or any sunken vessel or other object that can reasonably be expected to collapse or otherwise enter the navigable waters of the United States as drift within a reasonable period.

(f) Section 91 of Public Law 93-251 is amended by inserting "$28,725,000" in lieu of "$14,000,000".

(g) This section may be cited as the "Harbor Drift Removal Act of 1976".

SEC. 58. Any report that is submitted to the Committees on Public Works of the Senate or House of Representatives by the Secretary of the Army, acting through the Chief of Engineers, or the Secretary of Agriculture, acting under Public Law 83-566, as amended, which includes construction of a water storage facility, shall include information on the possibility of failure of such facility due to geologic or design factors, the potential impact of the failure of such facility, and information on the design features that will prevent, lessen, or mitigate such possibility of failure or the impact of failure.

SEC. 59. No plan for works of improvement submitted by the Secretary of Agriculture, under the provisions of the Watershed Protection and Flood Prevention Act (Public Law 83-566), as amended, shall be approved by resolution of the Committee on Public Works of the Senate or the Committee on Public Works of the House of Representatives unless the Federal share of such plan is less than $10,000,000.

SEC. 60. In submitting any report on a project that includes benefits for recreation, the Secretary of the Army, acting through the Chief of Engineers, and the Secretary of Agriculture, under authority of Public Law 83-566, as amended, shall utilize the expertise of the Department of the Interior in estimating potential recreational benefits and shall describe the benefits of other, similar recreational facilities within the general area of the project, and the anticipated impact of the proposed project on such existing recreational facilities.

SEC. 61. Any project submitted by the Secretary of Agriculture, acting under Public Law 83-566, as amended, shall not be considered by the Committees on Public Works of the Senate or the House of Representatives if the proposed project fails to contain benefits directly related to agriculture that account for at least 20 per centum of the total benefits of the proposed project.

SEC. 62. The Secretary of Agriculture, acting through the Soil Conservation Service, shall study and report by December 31, 1977, to the appropriate committees of the Senate and the House of Representatives on the feasibility, the desirability, and the public interest in requiring full public access to all impoundments with recreation-related features, which were authorized or are proposed to be authorized using funds of Public Law 83-566, as amended.

SEC. 63. (a) The project for Blue Marsh Lake, Berks County, Pennsylvania, a part of the plan for the comprehensive development of the Delaware River Basin, as authorized by section 201 of the Flood Control Act of 1962 (76 Stat. 1183), is hereby modified to authorize and direct the Secretary of the Army acting through the Chief of Engineers, to relocate and restore intact the historic structure and associated improvements known as the Gruber Wagon Works located on certain Federal lands to be inundated upon completion of the project.

(b) Upon completion of the relocation and restoration of the Gruber Wagon Works at a site mutually agreeable to the Secretary of the Army and the County of Berks, title to the structure and associated improvements and equipment shall be transferred to the County of Berks upon condition that such county agree to maintain such historic property in perpetuity as a public museum at no cost to the Federal Government.

(c) There are authorized to be appropriated such additional sums for the project for Blue Marsh Lake as may be necessary to carry out the provisions of this section.

SEC. 64. The Secretary of the Army, acting through the Chief of Engineers, shall utilize and encourage the utilization of such management practices as he determines appropriate to extend the capacity and useful life of dredged material disposal areas such that the need for new dredged material disposed areas is kept to a minimum. Management practices authorized by this section shall include, but not be limited to, the construction of dikes, consolidation and dewatering of dredged material and construction of drainage and outflow facilities.

SEC. 65. (a) Any survey of the Secretary of the Army, acting through the Chief of Engineers, is automatically deauthorized if no funds are expended for such survey within four years following its authorization.

(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to submit to the Congress, within six months of enactment of this section, a list of all existing surveys that have an inactive or deferred status, and such surveys may be deauthorized within ninety days thereafter by resolution of either the Senate or the House of Representatives.

SEC. 66. The Secretary of Transportation shall, hereafter be responsible for the preparation of all transportation-related benefit calculations on any future water resources project that is proposed by the Secretary of the Army, acting through the Chief of Engineers. As a part of such calculations, the Secretary of Transportation shall identify, with reasonable specificity, the impact of such proposed project on the costs and the traffic of competing modes of transportation.

SEC. 67. No funds specifically authorized for any project in this Act will be available for expenditure prior to fiscal year 1978.

Mr. GRAVEL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the bill as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I thank the subcommittee staff, Ann Garragrant, Richard Harris, and Elsie Kennedy, and the staff of the minority, Hal Brayman for doing a very outstanding job. I also thank Tom Davis and Don Chatelain for their assistance in working on this bill.

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Roddy, one of his secretaries.

ROUTINE REVISIONS TO TWO DEFERRALS—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States which, pursuant to the order of January 30, 1975, was referred jointly to the Committees on Appropriations, the Budget, Armed Services, and Labor and Public Welfare:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I report routine revisions to two deferrals previously transmitted.

A deferral for the higher education program of the Office of Education has been increased by $36.9 million. The Department of Defense's military construction deferral reflects a net increase of $3.9 million.

The details of each revised deferral are contained in the attached reports.

GERALD R. FORD.

THE WHITE HOUSE, *September 28, 1976.*

EDUCATION AMENDMENTS OF 1976—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the conference report on S. 2657, which will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2657) to extend the Higher Education Act of 1965, to extend and revise the Vocational Education Act of 1963, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

(The conference report is printed in the RECORD of September 27, 1976, beginning at page 32495.)

SUPPLEMENTAL EXPENDITURES FOR THE SPECIAL COMMITTEE ON AGING—SENATE RESOLUTION 564

Mr. CHURCH. Mr. President, on my behalf and on behalf of the distinguished Senator from Hawaii (Mr. FONG), I send to the desk a resolution authorizing supplemental expenditures for the Special Committee on Aging, for inquiries and investigations, and ask unanimous consent that it be referred to the Committee on Rules and Administration for appropriate action.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The resolution (S. Res. 564), which was referred to the Committee on Rules and Administration, reads as follows:

Resolved, That section 4 of Senate Resolution 373, Ninety-fourth Congress, agreed to March 1, 1976, is amended by striking out "$507,000" and inserting in lieu thereof "$547,000".

INDIANS CLAIMS COMMISSION AUTHORIZATIONS, 1977—CONFERENCE REPORT

Mr. METCALF. Mr. President, I submit a report of the committee of conference on S. 2981 and ask for its immediate consideration.

Mr. ALLEN. Mr. President, reserving the right to object——

Mr. GRIFFIN. Reserving the right to object, may I ask what conference report it is?

Mr. PELL. Higher education.

The PRESIDING OFFICER. The Senator from Montana is calling up a different conference report on Indian Claims. Is there objection?

Mr. DURKIN. Reserving the right to object, what is this?

Mr. METCALF. It is a conference report on the extension of the Indian Claims Commission for 1 year. It is a compromise with the House. I am convinced that if we do not pass this conference report, the Indian Claims Commission expires on the first of October.

Mr. DURKIN. Mr. President, I have no objection.

The PRESIDING OFFICER. May we have order so the Senators can be heard? The Senate will not proceed until we have order.

Is there objection?

Mr. GRIFFIN. I have no objection.

The PRESIDING OFFICER (Mr. GARN). The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2981) authorizing appropriations for fiscal year 1977 for the Indian Claims Commission, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of September 27, 1976, beginning at page 32635.)

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. METCALF. I yield to the Senator from Ohio.

The PRESIDING OFFICER. We are waiting until there is quiet in the Chamber.

PRIVILEGE OF THE FLOOR

Mr. METCALF. Mr. President, I yield to the Senator from Ohio.

Mr. TAFT. Mr. President, I ask unanimous consent that Jane Yanulis of the staff of the Senator from New Hampshire and Eleanor Parker of my staff have the privileges of the floor, Miss Parker on the higher educational conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METCALF. Mr. President, as approved by the Senate, S. 2981 authorized an appropriation of $1,650,000 to fund the Indian Claims Commission's activities for fiscal year 1977 and extended the life of the Commission 3½ years beyond its scheduled dissolution date of April 10, 1977, to September 30, 1980.

The House of Representatives action on S. 2981 resulted in their approval of the Commission's authorization for appropriations and disapproval of the provisions which extended the life of the Commission to September 30, 1980.

The conference committee on S. 2981 agreed to the authorization for appropriations and further agreed to extend the life of the Commission to September 30, 1978, and adopted language which will provide a more orderly transition of cases to the U.S. Court of Claims for final adjudication.

Mr. President, I am satisfied that the agreement reached by the conference committee is a reasonable compromise and I move adoption of the conference report.

I merely want to mention that there is considerable urgency here. If this report is not adopted, the Indian Claims Commission expires on the 1st of October and this is a reasonable regulation. I hope that the conference report is adopted.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. METCALF. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table. The motion to lay on the table was agreed to.

EDUCATION AMENDMENTS OF 1976—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on the bill (S. 2657) to extend the Higher Education Act of 1965, to extend and revise the Vocational Education Act of 1963, and for other purposes.

Mr. PELL. Mr. President, today, I am presenting the conference report on S. 2657, the Education Amendments of 1976. I have talked about this piece of legislation often before, so I will not go through it in detail again. However, a summary is appropriate to give the Members an idea of the main points contained in the bill. Also, since we have just come out of a conference with the House over these programs, some account is necessary to keep the Senate up to date on the agreement we reached.

Primarily the report will show that we reworked the Higher Education Act and the Vocational Education Act to provide educational services to a greater range of students, especially the poor and disadvantaged; to extend the benefits of student aid to students from middle-income families who are increasingly unable to pay for the soaring cost of higher education; to tighten the administration of the guaranteed loan program in order to cut down on the number of defaults incurred to date; to consolidate certain vocational education programs; and to provide for a greater coordination of effort in the planning and administration of State vocational education annual and long-range plans.

There are a few exceptions, but in general, the Higher Education Act was extended for 3 years and the Vocational Education Act was extended for 6 years, through fiscal year 1982.

We did not add a great number of new programs. I think the Senate and the House found that the basic structure of Federal aid to higher and vocational education was solid. Our work centered on improving the delivery of that aid by simplifying the administrative process as much as possible. This is especially true in the vocational programs where we consolidated our efforts and decreased the reporting and paperwork requirements greatly. It was our concern merely to insure that all the interested parties in every State would have a fair input into the programs that affect their interests. In higher education, our greatest concern was to make up for several years of high inflation. Since these laws last came before us, the cost of a postsecondary education has soared. It has become increasingly difficult for families in the traditionally middle income area to meet these increased costs. Also, the maximum limit we set several years ago on the basic educational opportunity grant program needs revising. The original limit, $1,400, used to be enough but it is no longer. So we have raised the limit to $1,800 for academic year 1978–79 and thereafter. This is far more appropriate, and much more in line with correct college and university costs. The family income limitation on the interest subsidy program for the guaranteed loan program has been raised from $15,000 to $25,000. Again, several years ago, $15,000 was an appropriate figure, but now, with the inflation in the cost of goods and services, a family with that level of income can no longer easily support the burden of putting a student through 4 years of higher education. The action we have taken will greatly help those parents and students realize the educational opportunities which can be so valuable, and to which I think they are entitled.

If there are any new major provisions, then, they would be the various provisions dealing with career education, the provision of guidance and counseling services, and the extension of aid programs emphasizing combinations of work and study. These ideas really are not new, but we have chosen to emphasize them.

We have seen the need to provide services to students who are in need of some guidance. Most students are lost in this regard. They stumble in the dark toward means of continuing their education and starting a career. I think that the educational system has a responsibility to do more than just give students an academic background. It should give them a skill as well. The programs we have set down to help students further their studies and enter the world of work more smoothly, are badly needed. We can no longer afford educational programs or vocational programs which turn out students that are not ready to join the working world. Nor can we afford programs that do not inform their students about the options students have in work as well as in education. Considering the high rate of unemployment currently, it is important, even essential, that schools and universities work to insure that every student will find a place to work when he leaves the classroom. The way to do that is to increase the contacts between the world of work and the world of study, and that is what these provisions do. I add that this is an emphasis placed in all sections of the bill, and necessarily so.

The work-study and cooperative education programs have been extended for 6 years while the other higher education programs have been extended through fiscal year 1980. This is an indication of the popularity and success of these programs, and of the intent of Congress to support and further these efforts. Considering the goals I proposed as the object of this bill—the improvement of educational opportunity, the combination of the world of work and the world of ideas, and the adjustment of Federal aid programs to the increased financial need of students—it can be easily seen that these combination programs cover every base. That is a further indication of their strength and, I think, a full justification of the special treatment we have accorded them.

There are a few provisions of this bill that will affect elementary and secondary programs. Under the Emergency School Aid Act, programs can be conducted in magnet schools, and existing remodeling authority is available to improve the quality of such schools. There are other provisions that will have an impact on the early school years; Teacher Corps, Outreach Centers and so on, but our main effort will wait until the next Congress when we will study Federal support of elementary and secondary education in detail.

I will not dwell longer on this report. The bill, S. 2657, as agreed upon by the House and Senate conferees is an excellent piece of legislation and I support it wholeheartedly. Any Members who wish to look over the finished bill in detail may look in today's CONGRESSIONAL RECORD where it is printed.

Finally, I wish to thank those who worked on this bill for the past 2 years. Its success is greatly due to them. Especially, I would like to thank Senator WILLIAMS, the full committee chairman; Senator JAVITS, who contributed immensely; and all the other Senators on the Committee on Labor and Public Welfare who added to this bill. We also owe thanks to Congressman PERKINS, who was chairman of the conferees, and Mr. QUIE, who was ranking minority member. Their consultation and willingness to work together was especially valuable during the long hours of this conference.

There are also a large number of people who worked behind the scenes. These are the staff personnel—Jean Frohlicher, my subcommittee counsel and Carey Peck of the subcommittee staff; Greg Fusco, Mike Shorr, Charles Warren and Nik Edes on Senator JAVITS' and Senator WILLIAMS' staffs; Blair Crownover and Bruce Kelly, who work in the Office of Legislative Counsel, and the entire staff of the Government Printing Office who have worked nights so that we could read what we had done the day before. The work of all these people was necessary and invaluable. They are all due a great thanks.

We have all worked long and hard.

I urge my fellow Senators to vote in favor of this report.

Mr. WILLIAMS. Mr. President, we will be considering today the conference report on S. 2657, the Education Amendments of 1976, legislation to extend and amend the Higher Education Act of 1965, the Vocaitonal Education Act of 1968 and for other purposes. Conferees in both Houses and on both sides of the aisle on this legislation did a masterful job in a very short time period making amendments and agreeing on provisions which have the effect of totally rewriting the Vocational Education Act and the guaranteed student loan program, and making substantial amendments to many other education programs.

The following is a brief summary of the provisions of this bill.

In vocational education, S. 2657:

Sets up a new planning procedure under which the officials for elementary and secondary education, higher education and manpower would meet with the State board of vocational education four times a year to draw up the State plan and to evaluate local districts performance under that plan.

Requires assessment of vocational training and actual placement of students in jobs.

Requires assignment of full-time personnel to assure women students equal opportunity under vocational education programs, including the removal of sex bias in course offerings and textbooks and a detailed plan for overcoming sex discrimination throughout the State vocational education programs.

Consolidates certain categorical programs for operation of State vocational education into a basic State grant as follows: First, consolidation of the basic grant, work-study, cooperative education, residential schools, curriculum development and leadership awards into a basic grant, of which 10 percent is set-aside for programs for handicapped students in coordination with the States plan under the Education for All Handicapped Children Act; 20 percent for the disadvantaged of which a proportional set-aside is created for bilingual students; 15 percent for postsecondary and adult education; and second, a second grant, made up of research, innovation, guidance and counseling, inservice training. Separate programs continue for: home economics, bilingual training, and renovation and remodeling.

Sets up a new program for assistance to local educational agencies in urban and rural areas for remodeling and renovation of vocational education facilities, including remodeling to make such facilities accessible to handicapped students.

Extends authorization through fiscal year 1982.

In Higher Education, S. 2657:

Authorizes $20 million per year for new program of lifelong learning to stress nontraditional education for students of all ages, including a program to encourage fuller utilization of existing employer-employee tuition assistance plans and new programs for integrating business, labor, and industry with the educational process for more creative training programs.

Authorizes $60 million for expansion of continuing education programs.

Authorizes $10 million per year for a new program of assistance to major research libraries to help them support their collections and continue to provide services to researchers, scholars, and the general public.

Authorizes up to $7.5 million per year for a new program of assistance for teacher centers. These centers will provide teachers with assistance for curriculum development, inservice training and whatever other skills counseling or consultation they need. This is a new program of assistance to the local school and school teacher to help improve teaching and the educational process.

Targets construction, remodeling grants and loans for energy conservation, renovation to meet occupational safety and health requirements, and to remove architectural barriers in order to assure accessibility for disabled students.

Raises maximum basic opportunity grant from $1,400 to $1,800 in school year 1978–79.

Increases income eligibility level for the guaranteed student loan program from $15,000 to $25,000, thus bringing the program back to serve its intended population. This change in the eligibility level can be expected to make loans for college education available to more middle income students.

Increases the maximum loan per year for graduate or professional studies to $5,000 and the aggregate for graduate or professional—medicine, law, dentistry—studies to $15,000.

Makes various changes in the operation of the guaranteed student loan program designed to improve administration and collection of loans and to decrease the default rate including the following: incentives to State guarantee agencies because these agencies have a lower record of default; altered repayment periods and repayment rates including grace periods for graduate study and for unemployment; improved information provisions so that students understand that they are undertaking a financial debt which they are responsible for paying back; improved reporting procedures so that student is required to notify the institution of higher education and the lender of changes in address and employment or student status; application of criminal penalties for any fraud, false statement or misapplication by students or lenders and agents.

Creates a new provision for funding the following three programs, continuing education and lifelong learning; renovation and remodeling of facilities; and funds for planning and operating community colleges. When funding for student assistance goes over $3 billion, for every $2 which goes into student assistance, $1 goes into these programs.

Approves provisions for more flexible maintenance of effort under adult education, title I, and libraries and innovation and emergency school aid, by allowing maintenance of effort to be measured either on a per pupil amount or on an aggregate amount; and allowing a waiver for these programs under described "exceptional" or "very exceptional" circumstances.

Extends most higher education authorities for 3 years until fiscal year 1979; extends college work study and cooperative education for 6 years until fiscal year 1982.

I believe that the Senator from Rhode Island (Mr. PELL) and the Senator from New York (Mr. JAVITS) deserve great praise and respect from all of their colleagues for the work they did to assure that these programs could be extended. Many times discussion hinged on very serious and different approaches of the two Houses which made resolution difficult, but these two Senators were able to put aside the differences and work out solutions which made the most sense for the programs in question. The final session on the bill went until 4 a.m., and while anyone's patience and strength would be pressed at that time, they were able to discuss the differences reasonably with the House conferees and come to a resolution. I believe that they deserve the recognition and praise of the Senate for the work done on this bill.

Mr. TAFT. Mr. President I commend the subcommittee chairman, the ranking minority member of the full committee, and the other members of the committee and staff for the fine work they have done on this important legislation.

As a member of the Education Subcommittee, I believe that this bill will be of tremendous assistance to individuals who want to attend an institution of higher education. It gives important support to financial aid programs so that the doors of college will not be closed because of financial barriers.

The bill also provides important assistance to vocational education. As society has changed, the original Vocational Education Act has been amended and expanded many times to reflect social and economic conditions. This is another important step in that process. Vocational education needs our continuing support, to supply our citizens with the best opportunities that can be available to them.

There were, of course, some serious differences between the House and the Senate on several important sections of the bill. I want to address myself particularly to the section on providing new innovative education techniques to help achieve the goal of integrated schools and equal educational opportunity for all.

This amendment was offered by my colleague from Ohio (Mr. GLENN), and I was happy to cosponsor his amendment and see it carry on the floor. He deserves commendation for his initiative and vision on this problem. Under the Senate approved language $50 million would have been made available for the planning, design, and construction of alternative schools, magnet schools, and education centers. It was my view that this program would give education officials an additional tool in their effort to remove racial segregation.

In the conference, the Senate held out until the very end to keep the provision as it had passed the Senate; but the House conferees would not accept the use of funds for construction, so a compromise was reached.

Under the compromise, money will be made available for planning, design, and conduct of programs for magnet schools. The compromise will authorize $25 million in 1977 and $50 million in 1978. This should serve as an important catalyst for those school districts that have been thinking of using this innovative approach to the desegregation problem.

I was disappointed that we were unable to get outright authority for construction in the bill. I believe that this restriction will make it impossible for some school districts to participate in the program that might have otherwise participated.

I was pleased to work in the conference on this compromise on Senator GLENN'S amendment and am glad that the conference report maintains the basic concept of the Senate amendment.

I still believe that there is a need for construction authority and I know that the same group of Senators who supported this concept this year will push for the inclusion of construction authority in the 95th Congress.

Mr. THURMOND. Mr. President, I am pleased that Senate and House conferees have reached agreement on the comprehensive education bill. I understand that they worked until 4:15 a.m. on Saturday morning to reach agreement.

While the bill contains some undesirable provisions, I believe it contains more good points than bad ones.

I am particularly pleased the conferees have retained the amendment exempting Boys' State and Girls' State and mother-daughter and father-son banquets from the sex discrimination provisions of title IX.

Accordingly, Mr. President, I shall support this bill.

The PRESIDING OFFICER. The question recurs on the conference report on S. 2657.

Mr. PELL. I move the adoption of the conference report on the higher education bill.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. ALLEN. I call for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

EXPORT ADMINISTRATION ACT

Mr. PROXMIRE. Mr. President, is there a time limitation on this? Is there time available?

The PRESIDING OFFICER. There is no time limitation.

Mr. PROXMIRE. I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3084.

Mr. TOWER. I object.

Mr. PROXMIRE. Mr. President, I ask my good friend from Texas to reconsider on this. Earlier, we had a discussion on this bill. I am not asking that the conference report be acted on. All I am asking for is an opportunity to appoint conferees and see what we can work out with the House of Representatives. The Senator would be in a strong position, then, to oppose the conference report if he does not like it. It may come back to his liking.

This is on a bill which I understand the Senator did not object to in committee or on the floor when it passed the Senate.

How about giving us a chance, I ask Senator TOWER?

Mr. TOWER. Mr. President, I am, of course, deeply moved by the persuasiveness and eloquence of my good friend from Wisconsin. However, I have reconsidered and I am still constrained to object.

Mr. PROXMIRE. May I ask the Senator to at least give us an opportunity to know what we can do to bring this very important bill to consideration?

I point out, this is the Export Administration Act. It will expire on September 30. It provides the authority for the Pentagon, for example, the Defense Department, to determine what kind of export of our military technology might be against our interests. It also provides a great deal of other protections for our country that it seems to me we ought to have an opportunity to consider and discuss and bring before the House in conference and then, perhaps, before the Senate.

Will the Senator reconsider?

Mr. TOWER. I have reconsidered and I still object.

The PRESIDING OFFICER. The objection is heard.

Mr. PROXMIRE. May I simply tell my friend from Texas that, as I understand it, he will be in a position to continue to object as long as the civil rights bill is before the Senate. However, I am putting him on notice that, as soon as the civil rights bill is disposed of one way or another, we shall be in a position then to move on the bill, and I intend to do so.

Mr. President, I yield the floor.

EDUCATION AMENDMENTS OF 1976—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on the bill (S. 2657) to extend the Higher Education Act of 1965, to extend and revise the Vocational Education Act of 1963, and for other purposes.

Mr. PERCY. Mr. President, I have followed with great interest the work of the conferees on the Higher Education Act of 1965, particularly with regard to the proposal for adding criminal penalties to punish operators of fly-by-night schools. On August 27, the Senate adopted a criminal penalty amendment which I proposed with Senator Nunn, the able acting chairman of the permanent Subcommittee on Investigations.

The conferees in their wisdom accepted most of the Senate language. However, with regard to section 440(b), the conferees deleted reference to nationally recognized accrediting agencies and associations which depend on information provided them by schools for their recommendation to HEW as to whether a school should be eligible for participation in the student loan program.

It is my understanding that deletion of the reference to these accrediting organizations in no way affects the meaning of the proposal. Section 440(b) means that any person knowingly and willfully making any false statement, furnishing false information, or concealing any material information in connection with an application for accreditation leading to eligibility for participation in the student loan program is liable under this section. I further understand that deletion of reference to the accreditation organizations was designed to avoid any possible question about what organization may be liable. Since the accrediting organizations rely upon a school's representations in determining accreditation, it is clearly the school and not the accrediting organization with which we are concerned.

When this section came up before House and Senate conferees, Senator Javits, for whose diligent and dedicated work throughout the 2 weeks of conference meetings, including one that went on until 4 a.m., we should all be grateful, effectively preserved most of the criminal penalty proposal of the Senate.

I want to take this opportunity to express my deep gratitude to Senator Javits, as well as to Senator Pell, the chairman of the Education Subcommittee, for their efforts.

Mr. KENNEDY. Mr. President, I rise in support of the conference report on the higher education and vocational education bill now before the Senate.

I am pleased that this bill takes several significant steps forward in improving educational opportunities to all age groups.

Many of the provisions pioneered in the Senate under the leadership of the chairman, Senator Pell, have been retained. I believe that we have responded to the challenge expressed in this year's budget for a general withdrawal of Federal support for higher education. We have rejected that proposal.

Not only did we continue the traditional postsecondary student aid programs but they are substantially expanded:

Basic educational opportunity grants are increased to $1,800 next year and in the following year, an increase over the current $1,400 level for fiscal year 1977;

Supplemental opportunity grants are continued;

Work study authorizations are increased;

Guaranteed student loan programs are continued with eligibility extending to families with $25,000 income and several reforms are instituted to assure that students have more protection as consumers, to improve collection capabilities and to provide criminal penalties for those agencies and institutions which misuse the program; and

State scholarship incentive grants, which offer Federal matching dollars to State dollars provided for scholarships, have been increased on the basis of their success over recent years.

In addition, I am pleased the conferees accepted the amendments I proposed to expand the special services for the disadvantaged, creating a new service learning center program which will permit individuals from the working poor with educational needs to be served in addition to the disadvantaged.

We also have raised the authorization for this program which has demonstrated in Upward Bound, Talent Search, and Special Services, the capacity to offer a ladder to young high school age students not only to reach postsecondary institutions but to complete their studies and graduate.

The conferees adopted amendments I proposed in the area of the Teacher Corps, doubling this successful program and extending it for 5 years, as well as reemphasizing its basic thrust of opening new doors into the education field for individuals from minority backgrounds.

I am pleased as well that the lifelong learning program initiated in the Senate has been adopted by the conference report. There are too many changes taking place in the economy to permit education to cease at any specific point. The elderly particularly need special assistance in furthering their own educational development and this program will provide that assistance.

The agreement on vocational education meshed the House and Senate versions in a way that will both modernize and increase the Federal support for this critical program.

Part of that modernization involves the inclusion of a setaside for bilingual vocational education to meet the needs of the limited English speaking.

Similarly, there is an expanded version of vocational training for the limited English speaking for those who are no longer in school and have need of new skills to permit them to compete successfully in the labor force.

Across the panorama of changes in vocational education contained in this measure, I want to single out the requirements for State plans that will assure long-term planning and coordination not only at the State level but also at the local level.

In that regard, I am pleased the conferees accepted my amendment providing for local advisory councils of business, labor and community leaders to help schools develop programs that work.

Also, I want to emphasize the importance of the guidance and counseling provisions established in the bill as a separate authority. These are critical to permit young people to define for themselves the most appropriate careers and skill development.

Finally, let me note that the conferees adopted the Senate 3-year extension of emergency school aid at a $1 billion level of authorization. Also, they included, although at $50 million the first year and $100 million the second, my amendment providing special authority to the Assistant Secretary to focus assistance on metropolitan areas such as Boston which are in the process of desegregation and have special needs. Also, they included for the first time magnet schools and neutral site schools as eligible entities to receive Federal support. Remodeling authority under existing law can be used for these new programs, in addition to the design, planning, and operation of these schools which will have a special $75 million authorization over a 2-year period.

All of these changes and extensions of authority reflect our belief that the Federal Government has a crucial role of leadership to play in the field of education. The Nation's security will depend on the quality of education we provide to each generation at least as much as it does on our military strength.

Mr. PELL. Mr. President, I ask for the vote.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Florida (Mr. Chiles), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from California (Mr. Tunney), and the Senator from Virgina (Mr. Harry F. Byrd, Jr.), are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD), and the Senator from South Dakota (Mr. McGOVERN) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Wyoming (Mr. HANSEN), and the Senator from New York (Mr. JAVITS) are necessarily absent.

The result was announced—yeas 78, nays 3, as follows:

[Rollcall Vote No. 659 Leg.]

YEAS—78

Abourezk
Allen
Baker
Bartlett
Bayh
Bellmon
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Eastland
Fong
Ford
Garn
Goldwater
Gravel
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McClure
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—3

Fannin
Helms
Scott,
William L.

NOT VOTING—19

Beall
Bentsen
Buckley
Byrd,
Harry F., Jr.
Cannon
Chiles
Curtis
Dole
Glenn
Hansen
Hart, Philip A.
Hartke
Javits
Mansfield
McGee
McGovern
Mondale
Montoya
Tunney

So the conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that:

The House has passed the following Senate bills, each with amendments in which it requests the concurrence of the Senate:

S. 1506. An act to designate a segment of the Missouri River, Montana, as a component of the National Wild and Scenic Rivers System; and

S. 3441. An act to authorize the Architect of the Capitol to perform certain work on and maintain the historical sections of the Congressional Cemetery for a 2-year period, and to authorize a study by the Secretary of the Interior to formulate proposals for renovation and permanent maintenance of such sections by the United States.

The House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 15531. An act to permit the use of unsworn declarations under penalty of perjury as evidence in Federal proceedings.

H.R. 12707. An act for the relief of Barry Ray Leftwich Dibling.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3149) to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes.

The House disagrees to the amendment of the Senate to the bill (H.R. 11337) to amend title 13, United States Code, to provide for a mid-decade census of population, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. HENDERSON, Mrs. SCHROEDER, Mr. LEHMAN, Mr. NEAL, Mrs. SPELLMAN, Mr. BRODHEAD, Mr. SIMON, Mr. DERWINSKI, Mr. JOHNSON of Pennsylvania, and Mr. ROUSSELOT were appointed managers of the conference on the part of the House.

The House disagrees to the amendments of the Senate to the joint resolution (H.J. Res. 1096) making supplemental appropriations for the Department of Defense for the repair and replacement of facilities on Guam damaged or destroyed by Typhoon Pamela, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. MAHON, Mr. WHITTEN, Mr. SIKES, Mr. PASSMAN, Mr. EVINS of Tennessee, Mr. STEED, Mr. ADDABBO, Mr. EDWARDS of Alabama, Mr. MYERS of Indiana, and Mr. MILLER of Ohio were appointed managers of the conference on the part of the House.

HOUSE BILL REFERRED

The bill (H.R. 15531) to permit the use of unsworn declarations under penalty of perjury as evidence in Federal proceedings, was read twice by its title and referred to the Committee on the Judiciary.

MID-DECADE CENSUS OF POPULATION

Mr. MOSS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 11337.

Mr. DURKIN. Reserving the right to object, Mr. President——

The PRESIDING OFFICER (Mr. MATHIAS). The clerk will state the message.

Mr. ABOUREZK. Mr. President, reserving the right to object, there was a reservation of objection.

Mr. MOSS. This is over from the House.

The PRESIDING OFFICER. This is a message from the House.

Mr. MOSS. I asked the Chair to lay before the Senate a message from the House.

Mr. ABOUREZK. Mr. President, reserving the right to object, can we find out what that is?

Mr. MOSS. Yes, this is a——

The PRESIDING OFFICER. The message will be stated and then the Senator will be advised.

The PRESIDING OFFICER (Mr. MATHIAS) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 11337) to amend title 13, United States Code, to provide for a mid-decade census of population, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

The PRESIDING OFFICER. Is there objection to the House measure being considered?

Mr. ABOUREZK. Mr. President, reserving the right to object, is there anything contained in that outside the scope of the mid-decade census?

Mr. MOSS. Nothing at all, that is all it is.

Mr. President, I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MOSS, Mr. STONE, and Mr. STEVENS conferees on the part of the Senate.

PRIVILEGE OF THE FLOOR—H.R. 9719

Mr. JACKSON. Will the Senator yield for a unanimous consent?

Mr. MOSS. I am glad to yield for a unanimous-consent request.

Mr. JACKSON. Mr. President, I ask unanimous consent that Messrs. Tom Williams, Mike Harvey, Gren Garside, Steve Quarles, and William Van Ness be granted privilege of the floor in connection with H.R. 9719.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MOSS. I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

NATIONAL POLICY ON WEATHER MODIFICATION

Mr. PEARSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3383.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 3383) to authorize and direct the Secretary of Commerce to develop a national policy on weather modification, and for other purposes, as follows:

Page 3, line 14, strike out "and".

Page 3, line 18, strike out "modification." and insert: "modification; and".

Page 3, after line 18, insert:

"(7) to integrate the results of existing experience and studies in weather modification activities into model codes and agreements for regulation of domestic and international weather modification activities."

Page 5, after line 3, insert:

"(5) formulation of one or more options for a model regulatory code for domestic weather modification activities, such code to be based on a review and analysis of experience and studies in this area, and to be adaptable to State and national needs;"

Page 5, line 4, strike out "(5)" and insert: (6)

Page 5, line 7, strike out "(6)" and insert: (7)

Page 5, line 10, strike out "(7)" and insert: (8)

Page 5, line 14, strike out "(8)" and insert: (9)

Page 5, line 18, strike out "and".

Page 5, line 19, strike out "(9)" and insert: (10)

Page 5, line 21, strike out "modification." and insert: modification; and

Page 5, after line 21, insert:

"(11) formulation of one or more options for a model international agreement concerning the peaceful uses of weather modification and the regulation of national weather modification activities; and a review and analysis of the necessity and feasibility of negotiating such an agreement."

Page 6, line 23, after "any", insert: "regulatory and other".

Page 7, line 2, strike out "modification." and insert: "modification, including recommendations concerning the dissemination, refinement, and possible implementation of the model domestic code and international agreement developed under the specifications of section 4.".

Page 7, line 14, before "There", insert: "(a)".

Page 7, after line 16, insert:

(b) Section 6 of the Act entitled "An Act to provide for the reporting of weather modification activities to the Federal Government", approved December 18, 1971 (85 Stat. 736; 88 Stat. 1212; 15 U.S.C. 330e), is further amended by striking out "1973, 1974, 1975, 1976, and 1977," and inserting in lieu thereof "1973 through 1980,".

Mr. DURKIN. Reserving the right to object——

Mr. PEARSON. This is a bill that provides for coordination of Federal weather modification programs, research and development of weather modifications, and the issuance of a report.

The PRESIDING OFFICER. Is there objection to the consideration of the message from the House?

Mr. ABOUREZK. Mr. President, reserving the right to object, may I ask Senator Pearson what is contained in that legislation?

Mr. PEARSON. As I previously indicated——

Mr. ABOUREZK. Will the Senator use his microphone?

Mr. PEARSON. This was a bill passed by the Senate, modified by the House by amendments, minor modifications, but it provides for the coordination of all the Federal agencies in the weather modification program, it provides for some research and development in this field and provides for an issuance of a report.

Mr. ABOUREZK. Is this a conference report, or is this a bill?

Mr. PEARSON. This is a Senate bill passed by the Senate with House amendments.

Mr. ABOUREZK. What kind of consideration is the Senator bringing it up for now?

Mr. PEARSON. I am asking for passage and acceptance of the House amendments which I will explain.

Mr. ABOUREZK. Will the Senator withhold just a minute?

Mr. PEARSON. I will be glad to. I think this has been cleared, so I understand, on both sides, but I will be glad to withhold, or ask unanimous consent.

Mr. ABOUREZK. Will the Senator withhold for about 2 minutes?

Mr. PEARSON. Very well.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PEARSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PEARSON. Mr. President, responding to the need for this Nation to develop both a comprehensive and coordinated Federal weather modification policy and a program for weather modification research and development, the Senate on May 21, 1976, passed S. 3383, the National Weather Modification Policy Act of 1976. As my colleagues will recall, this legislation would require the Secretary of Commerce, in cooperation with interested governmental and private institutions, to conduct a comprehensive investigation and study concerning weather modification. The Secretary would further be required to submit a report to the President and the Congress within 1 year of enactment of the legislation. This report would include, among other findings and recommendations, a recommended national policy on weather modification and a national weather modification research and development program. Funds not to exceed $1,000,000 were authorized to be appropriated to the Secretary to carry out the provisions of the act.

Under the capable leadership of Congressman George Brown, the distinguished chairman of the House Environment and the Atmosphere Subcommittee, that subcommittee held comprehensive hearings on weather modification and S. 3383. The bill was reported with amendments and passed by the House earlier this week by a vote of 292 to 91.

The House amendments to the bill are relatively minor. First, added to the study mandated by the bill is a requirement for the formulation of a model domestic regulatory weather modification code as well as a model international weather modification agreement. Second, the report that would be submitted pursuant to the bill would include recommendations concerning such a domestic code and international agreement. Third, the House version of the bill includes an appropriation authorization for continued support of existing weather modification reporting activities carried out by the Department of Commerce under Public Law 92-205. The existing appropriation authorization under that act provides for $200,000 for each fiscal year 1973 through 1977. The House amendment would retain the existing level of funding for the weather modification reporting program while extending the program through fiscal year 1980.

Mr. President, these amendments have served to strengthen a much needed bill. I would urge my distinguished colleagues to accept S. 3383 as passed by the House.

Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on concurring in the House amendments.

Mr. ALLEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Nevada (Mr. Cannon), the Senator from Florida (Mr. Chiles), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from California (Mr. Tunney), the Senator from Mississippi (Mr. Eastland), the Senator from Alaska (Mr. Gravel), and the Senator from Rhode Island (Mr. Pastore) are necessarily absent.

I further announce that the Senator from Montana (Mr. Mansfield), the Senator from South Dakota (Mr. McGovern), and the Senator from Ohio (Mr. Glenn) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley), the Senator from Nebraska (Mr. Curtis), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Goldwater), the Senator from Wyoming (Mr. Hansen), and the Senator from New York (Mr. Javits) are necessarily absent.

The result was announced—yeas 77, nays 0, as follows:

[Rollcall Vote No. 660 Leg.]

YEAS—77

Abourezk
Allen
Baker
Bartlett
Bayh
Bellmon
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Fannin
Fong
Ford
Garn
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McClure
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—23

Beall
Bentsen
Buckley
Byrd, Harry F., Jr.
Cannon
Chiles
Curtis
Dole
Eastland
Glenn
Goldwater
Gravel
Hansen
Hart, Philip A.
Hartke
Javits
Mansfield
McGee
McGovern
Mondale
Montoya
Pastore
Tunney

So the motion was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. FANNIN). The Senator from Washington is recognized.

ORDER AUTHORIZING JOINT COMMITTEE ON ATOMIC ENERGY UNTIL MIDNIGHT TO FILE CONFERENCE REPORT ON H.R. 13350

Mr. JACKSON. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs and the Joint Committee on Atomic Energy be permitted to file a conference report on H.R. 13350, the Energy Research and Development Administration authorization bill, no later than midnight Tuesday, September 28.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Mr. President, reserving the right to object, may I ask the Senator from Washington if he would include in his request that no extraneous amendments or nongermane amendments be included with respect to this conference report?

Mr. JACKSON. We have already acted and to my knowledge there are no nongermane amendments.

Mr. ABOUREZK. Will the Senator then include that in his request?

Mr. JACKSON. I simply wish to be sure about it. Staff is in another conference.

Mr. JOHNSTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JOHNSTON. On a conference report an amendment cannot be nongermane anyway; can it?

Mr. DURKIN. Mr. President, I object while they work it out.

Mr. JACKSON. I renew my request and hope that there not be an objection.

Mr. DURKIN. Mr. President, I reserve the right to object.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. JACKSON. Mr. President, I wish to renew my request.

I say to the Senator that as the Senator from South Dakota is aware, the House of Representatives, of course, cannot allow any nongermane amendments which would be subject to a point of order; that rule does not pertain as far as the Senate is concerned. I wish to be candid. The report has been finished. I say we did not get into any new areas other than that covered by the scope of the conference.

Mr. ABOUREZK. I do not have any problems with the conference report. If there is going to be any amendments nongermane brought up——

Mr. JACKSON. No amendment is offered. We have to vote up or down the conference report.

Mr. ABOUREZK. Will the Senator include that in his request that it only be an up and down vote on the conference report?

Mr. JACKSON. That is the rule of the Senate. There will be a vote.

Mr. ABOUREZK. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Is that the rule of the Senate?

Mr. JACKSON. They have to vote up and down.

The PRESIDING OFFICER. The Chair explains that there is not an amendment to the conference report.

Mr. JACKSON. We have to vote. All of the matters of course were submitted to conference between the two bodies. But I simply wish to say that under the rule of the Senate if Senators wish to change anything it is my understanding, and I shall make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. Is it not correct that the Senate must first vote up or down the entire conference report?

The PRESIDING OFFICER. The Senator is correct.

Mr. JACKSON. I hope that will clear it.

Mr. ABOUREZK. A further parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Would it be in order, then, for a Senator to offer an amendment to the conference report at another time?

The PRESIDING OFFICER. It would not be in order.

Mr. JACKSON. We could recommit with instructions.

A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. The Senate could recommit it with instructions. Is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ABOUREZK. I withdraw my objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALICE W. OLSON, ET AL.

Mr. MATHIAS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3035.

The PRESIDING OFFICER (Mr. FANNIN) laid before the Senate the amendment of the House of Representatives to the bill (S. 3035) for the relief of Alice W. Olson, Lisa Olson Hayward, Eric Olson, and Nils Olson, as follows:

On page 1, line 5, strike out "$312,500", and insert: "$187,500".

Mr. MATHIAS. Mr. President, I move that the Senate concur in the House amendment to this bill.

Mr. ABOUREZK. Mr. President, the bill contains nothing else except for the relief of Alice Olson; is that correct?

Mr. MATHIAS. I advise the Senator that this is the bill that provides some compensation to the family of Dr. Olson who was administered LSD without his knowledge and who subsequently, in a very tragic way, committed suicide and that fact was not disclosed to the family until hearings were held here some months ago.

Mr. ABOUREZK. The only thing I am trying to find out, if I might ask the Senator from Maryland, is that there is nothing extraneous or nongermane in that bill.

Mr. MATHIAS. It is purely a bill for the relief of the family of Dr. Olson.

Mr. ALLEN. Mr. President, reserving the right to object, what was the amount of the appropriation?

Mr. MATHIAS. The amount authorized by the Senate was $1.250 million which was a figure which had been agreed to in the executive branch. The sum was reduced by the House of Representatives to $750,000.

My motion is to concur in the House amendment.

I might say that I regret having to make that motion. I think the Senate figure was the accurate and right figure, but under the circumstances at this stage of the session I am constrained to feel that we should agree to the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maryland.

The motion was agreed to.

Mr. NUNN and Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Georgia without losing my right to the floor.

ORDER PLACING COMMITTEE REPORTS ON CALENDAR

Mr. NUNN. Mr. President, on either last Thursday or Friday there were five different reports out of the Committee on Government Operations. They were H.R. 14451, H.R. 14886, H.R. 1244, H.R. 11347, and H.R. 13828.

All the reports were left at the desk last Thursday.

I ask unanimous consent that these reports may be placed on the Calendar.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Mr. President, reserving the right to object, are those the ones the Senator gave us?

Mr. NUNN. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—H.R. 9719

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1197, H.R. 9719.

Mr. ALLEN. Mr. President, reserving the right to object, what is the bill, please?

Mr ROBERT C. BYRD. Mr. President, may we have the clerk state the title of the bill?

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object.

Mr. ROBERT C. BYRD. Mr. President, may the clerk state the title? Then objection can still be made.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 9719) to provide for certain payments to be made to local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such locality.

Mr. GRIFFIN. Mr. President, I understand that this is a mixture of legislation that comes under the Committee on Interior and Insular Affairs and the Committee on Commerce. There is a part of it dealing with payments in lieu of taxes, and there is a part of it dealing with coastal zone management. I have not been able to adequately get a cost figure on it. Under the circumstances that confront me right now I have to repectfully object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1197, H.R. 9719, for the purpose only of considering committee amendments.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

HAZARDOUS MATERIALS TRANSPORTATION ACT AMENDMENTS OF 1976

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on the following measure, which has been cleared on both sides of the aisle: S. 2991, to amend the Hazardous Materials Transportation Act to authorize appropriations.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2991) to amend the Hazardous Materials Transportation Act to authorize appropriations, and for other purposes, as follows:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Hazardous Materials Transportation Act Amendments of 1976".

SEC. 2. Section 106(c) of the Hazardous Materials Transportation Act (49 U.S.C. 1805 (c)) is amended by striking out "extremely" each time it appears.

SEC. 3. Section 115 of the Hazardous Materials Transportation Act (49 U.S.C. 1812) is amended by striking out "and not to exceed $1,750,000" and inserting in lieu thereof "not to exceed "$1,750,000" and by striking out the period at the end of such section and inserting in lieu thereof a comma and the following: "and not to exceed $5,000,000 per fiscal year for the fiscal years ending September 30, 1977, and September 30, 1978.".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

LEASE OF CERTAIN PROPERTY IN FOREIGN COUNTRIES

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on a bill which has been cleared on both sides of the aisle: S. 3050.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 3050) to authorize the Secretary of Transportation, when the Coast Guard is not operating as a service in the Navy, to lease for military purposes structures and their associated real property located in a foreign country, as follows:

Strike out all after the enacting clause, and insert: That section 475(a) of title 14, United States Code, is amended by inserting, immediately after the first sentence, a new sentence to read as follows: "When any such lease involves housing facilities in a foreign country, the lease may be made on a multi-year basis, for a period not to exceed five years.".

Amend the title so as to read: "An Act to authorize the Secretary of the Department in which the Coast Guard is operating to lease housing facilities for Coast Guard personnel in a foreign country on a multi-year basis.".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendments en bloc.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

INTERNATIONAL INVESTMENT SURVEY ACT

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on a bill which has been cleared on both sides of the aisle: S. 2839, International Investment Survey Act.

The PRESIDING OFFICER laid befor the Senate the amendments of the House of Representatives to the bill (S. 2839) to supplement the authority of the President and various Federal agencies to collect regular and periodic information on international investment, and for other purposes.

(The amendments of the House are printed in the House proceedings of the RECORD of September 21, 1976.)

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

FEDERAL FISHERIES PROGRAMS

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on a bill which has been cleared on both sides of the aisle: S. 1414.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 1414) to make the Trust Territory of the Pacific Islands eligible to participate in certain Federal fisheries programs, and for other purposes.

(The amendments of the House are printed in the House proceedings of the RECORD of September 20, 1976.)

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

The Senate continued with the consideration of the bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

Mr. ROBERT C. BYRD. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

AMENDMENT NO. 2385

Mr. ALLEN. Mr. President, I call up my amendment No. 2385.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes amendment numbered 2385:

On page 1, line 5, after the word "1979," strike out the words "1980, and 1981" and substitute in lieu thereof the following: "and 1980".

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PASTORE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD), and the Senator from South Dakota (Mr. MCGOVERN) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senator from Nebraska (Mr. HRUSKA), and the Senator from New York (Mr. JAVITS) are necessarily absent.

The result was announced—yeas 59, nays 17, as follows:

[Rollcall Vote No. 661 Leg.]

YEAS—59

Abourezk
Baker
Bayh
Bellmon
Brock
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Fong
Ford
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Johnston
Kennedy
Leahy
Long
Magnuson
Mathias
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Weicker
Williams

NAYS—17

Allen
Bartlett
Eastland
Fannin
Garn
Helms
Laxalt
McClellan
McClure
Scott, William L.
Sparkman
Stennis
Stone
Talmadge
Thurmond
Tower
Young

NOT VOTING—24

Beall
Bentsen
Biden
Buckley
Byrd, Harry F., Jr.
Cannon
Chiles
Curtis
Dole
Glenn
Goldwater
Gravel
Hansen
Hart, Philip A.
Hartke
Hruska
Javits
Mansfield
McGee
McGovern
Mondale
Montoya
Pastore
Tunney

So the motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for not to exceed 2 minutes, if I may.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

SAVE THE GRAY AND BOWHEAD WHALES ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanmious consent that the Commerce Committee be discharged from consideration of House bill H.R. 15445. This has been cleared on both sides of the aisle. Mr. WEICKER will have an amendment to that bill. The bill has reference to the study of gray and bowhead whales.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

H.R. 15445, an act to save the gray and bowhead whales.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

UP AMENDMENT NO. 497

Mr. WEICKER. Mr. President, I propose an amendment in the nature of a substitute and I ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER), for himself, Mr. MAGNUSON and Mr. TUNNEY, proposes unprinted amendment No. 497.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Whale Conservation and Protection Study Act".

FINDINGS

SEC. 2. The Congress finds that—

(1) whales are a unique resource of great aesthetic and scientific interest to mankind and are a vital part of the marine ecosystem;

(2) whales have been overexploited by man for many years, severely reducing several species and endangering others;

(3) the United States has extended its authority and responsibility to conserve and protect all marine mammals, including whales, out to a 200 nautical mile limit by enactment of the Fishery Conservation and Management Act of 1976 (Public Law 94–265);

(4) the conservation and protection of certain species of whales, including the California gray, bowhead, sperm, and killer whale, are of particular interest to citizens of the United States;

(5) increased ocean activity of all types may threaten the whale stocks found within the 200-mile jurisdiction of the United States and added protection of such stocks may be necessary;

(6) there is inadequate knowledge of the ecology, habitat requirements, and population levels and dynamics of all whales found in waters subject to the jurisdiction of the United States; and

(7) further study of such matters is required in order for the United States to carry out its responsibilities for the conservation and protection of marine mammals.

STUDY BY THE SECRETARY OF COMMERCE

SEC. 3. The Secretary of Commerce, in consultation with the Marine Mammal Commission and the coastal States, shall undertake comprehensive studies of all whales found in waters subject to the jurisdiction of the United States, including the fishery conservation zone as defined in section (3)(8) of the Fishery Conservation and Management Act (16 U.S.C. 1802(8)). Such studies shall take into consideration all relevant factors regarding (1) the conservation and protection of all such whales, (2) the distribution, migration patterns, and population dynamics of these mammals, and (3) the effects on all such whales of habitat destruction, disease, pesticides and other chemicals, disruption of migration patterns, and food shortages for the purpose of developing adequate and effective measures, including appropriate laws and regulations, to conserve and protect such mammals. The Secretary of Commerce shall report on such studies, together with such recommendations as he deems appropriate, including suggested legislation, to the Congress no later than January 1, 1980.

COOPERATION OF OTHER FEDERAL AGENCIES

SEC. 4. All Federal agencies shall cooperate, to the fullest extent possible, with the Secretary of Commerce in preparing the study and recommendations required by section 3.

INTERNATIONAL NEGOTIATIONS

SEC. 5. The Secretary of Commerce, through the Secretary of State, shall immediately initiate negotiations for the purpose of developing appropriate bilateral agreements with Mexico and Canada for the protection and conservation of whales.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. For the purpose of carrying out the provisions of this Act, there is hereby authorized to be appropriated a sum not to exceed \$1,000,000 for fiscal years 1978 and 1979.

Mr. WEICKER. Mr. President, I am today proposing, along with the distinguished chairman of the Commerce Committee (Mr. MAGNUSON), and Senator TUNNEY, an amendment in the nature of a substitute to H.R. 15445, the House-passed whale protection bill.

Mr. DURKIN. Mr. President, will the Senator use his microphone? We cannot hear him.

Mr. WEICKER. This amendment, entitled the "Whale Protection and Conservation Study Act," calls for a Federal program for the protection and conservation of all whale species found in waters subject to the jurisdiction of the United States, including the newly declared 200 mile fisheries conservation zone which will be implemented in March 1977.

I am sure that my colleagues are well aware of the disasterous plight of the whale today. Every day, some species of whales are hunted and killed to produce such ordinary items as soap, margerine, lubricating oil, and cosmetics, all of which can be produced from synthetic substitutes readily available from other sources. Although there are quotas set by the International Whaling Commission on the numbers of whales permitted to be taken each year, these quotas are established by gross estimates based on insufficient information. Such measures cannot begin to adequately protect these great creatures. Whales are of great esthetic and scientific interest to all mankind and the vital role they play in our marine ecosystem we simply cannot afford to disregard.

The sperm whale which is the State animal of Connecticut is presently the most heavily hunted species by commercial whalers. Each year the size of the animals killed is smaller than the year before indicating that the stock is being overfished in spite of the International Whaling Commission's regulations. Much more knowledge and information on these magnificent creatures and their habitats is required before we can even begin to know how man's activities affect and endanger their existence, and apply that new understanding to effective programs of protection and conservation.

The purpose of this amendment is to require the Secretary of Commerce to conduct comprehensive studies on the migration patterns and population dynamics of whales as well as the possible impact of habitat destruction or modification resulting from offshore development and ever-increasing pollution. The studies are to be used as a basis for formulation of adequate protection and conservation laws and regulations. The results of the study are to be reported to Congress along with recommendations for legislative action by January 1980.

The amendment also requires that all Federal agencies cooperate in carrying out the study and formulating the recommendations.

Mr. President, it is my firm belief that the only effective approach to conservation and protection of all ocean resources, including whales, is through a comprehensive law of the sea treaty. Only with international agreement by all nations on the conservation and protection of whales can we be assured of lasting protection on a global scale. Therefore, I urge our delegation to the Third U.N. Conference on Law of the Sea to strengthen whale protective provisions on article 54 of the revised single negotiating text to be consistent with the goals of this bill. Although progress is being made, it is apparent that a successful law of the sea treaty will not be concluded for several more years; therefore, it is important that we take steps in the meantime to implement our conservation goals. This bill, therefore, directs the Secretary of Commerce through the Secretary of State to initiate negotiations for bilateral agreements to obtain such protection immediately.

Mr. President, the time has come for us to act in an intelligent and rational manner to protect all whales from the rapidly approaching threat of extinction. But before we can effectively take the steps needed to do this, we must know more about the lives and ecosystems of these magnificent creatures. Along with some immediate conservation measures, this bill provides for those first steps—the studies upon which we must base our conservation efforts. In order to be accurate and comprehensive, those studies will require time and a great deal of effort, and unless we move quickly to create the opportunity to acquire this needed information now, before too much longer, the opportunity may disappear along with the whales.

Mr. MAGNUSON. Mr. President, I associate myself with the Senator's amendment.

Mr. ALLEN. Mr. President, I believe we should record for posterity the Senate vote on this important matter, so I call for the yeas and nays.

The PRESIDING OFFICER (Mr. HASKELL). Is there a sufficient second? Is this the yeas and nays on the amendment or on final passage?

Mr. ROBERT C. BYRD. Has the amendment been adopted? Let the amendment be adopted.

The PRESIDING OFFICER. The amendment has not been adopted. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, will there be a subsequent vote on the bill itself or was the amendment all there will be?

The PRESIDING OFFICER. There will have to be a separate vote on the bill itself.

Mr. ALLEN. Very well. I have no objection to the amendment without the yeas and nays. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. The yeas and nays on the amendment are withdrawn, and the request is for the yeas and nays on final passage. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut.

The amendment was agreed to.

APPOINTMENT OF GEORGE WASHINGTON TO GRADE OF GENERAL OF THE ARMY OF THE UNITED STATES

Mr. ROBERT C. BYRD. Mr. President, before the rollcall vote, there is another matter here which can be disposed of in 1 or 2 minutes, if I can get unanimous consent to ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 519, if we can do this before the rollcall.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. WILLIAM L. SCOTT. Mr. President, reserving the right to object, there are other amendments on the bill before us. I wonder what the acting majority leader intends to do with those. I was ready to bring up an amendment and speak briefly and get a vote on that.

Mr. ROBERT C. BYRD. The Senator will have the opportunity immediately after the vote.

Mr. WILLIAM L. SCOTT. I have the opportunity now just by objecting.

Mr. ROBERT C. BYRD. Even if he objected he would not have an opportunity to call up his amendment.

Mr. WILLIAM L. SCOTT. The pending business is the Civil Rights Attorneys' Awards Act.

Mr. ROBERT C. BYRD. Yes.

Mr. WILLIAM L. SCOTT. As I understand the rules—and the distinguished Senator is much more familiar with them—this is the business before the Senate.

Mr. ROBERT C. BYRD. That is correct.

Mr. WILLIAM L. SCOTT. Unless there is unanimous consent to take up other business.

Mr. ROBERT C. BYRD. That is correct.

Mr. WILLIAM L. SCOTT. That is why I was asking the distinguished acting majority leader are we going to have an opportunity tonight to bring up more amendments?

Mr. ROBERT C. BYRD. Yes.

Mr. WILLIAM L. SCOTT. Does he have others he is going to ask us to put this aside for, other matters, or is this the last one?

Mr. ROBERT C. BYRD. I would not say it is the last one, but the Senator would certainly be within his rights to object. This is a very minor matter.

Mr. WILLIAM L. SCOTT. I will not object to this one, but I am hopeful the Senator would not bring up another one immediately following.

Mr. ROBERT C. BYRD. The Senator will have his opportunity immediately following the next rollcall to call up his amendment.

Mr. ALLEN. Mr. President, will the Senator from Virginia yield for just a moment? I commend the distinguished Senator on his zeal and on his determination to proceed further with this lawyers' bill. I know of his great interest in the bill.

[Laughter.]

Mr. GRIFFIN. Mr. President, will the clerk read the resolution?

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

H.J. Res. 519 to provide for the appointment of George Washington to the grade of General of the Armies of the United States.

There being no objection, the Senate proceeded to consider the joint resolution, which was read twice by title.

There being no objection, the joint resolution (H.J. Res. 519) was ordered to a third reading, was read the third time, and passed.

REPORTS ON BILLS FROM THE COMMITTEE ON FINANCE

Mr. LONG. Mr. President, I ask unanimous consent to report a number of bills on behalf of the Committee on Finance.

Mr. ABOUREZK. Reserving the right to object, may I ask the chairman what each of them is?

Mr. LONG. I will read them. Each of them has amendments, at least one is proposed by the committee, but reported without objection. One of them relates to the tax treatment of cemetery perpetual care fund trusts. It has to do with perpetual care cemeteries.

The other is an amendment to amend the Internal Revenue Code to provide for the deduction of certain cemetery perpetual care fund trusts; another to amend the Internal Revenue Code with respect to the tax treatment of social clubs and certain other membership organizations.

Then we have a bill here to permit the authorization of means other than stamps on containers of distilled spirits. That one is a tax payment. It would save expenses to use an aluminum marker rather than a metal marker, if the law permitted it.

Also a measure for the exclusion from income of rental value of a parsonage furnished to a surviving spouse of a minister; also an exemption from the fuel and aircraft excise tax of certain aircraft museums.

Mr. DURKIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

SAVE THE GRAY AND BOWHEAD WHALES ACT

The Senate continued with the consideration of H.R. 15445, an act to save the gray and bowhead whales.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read a third time.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce

that the Senator from Texas (Mr. Bentsen), the Senator from Delaware (Mr. Biden), the Senator from Arkansas (Mr. Bumpers), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Nevada (Mr. Cannon), the Senator from Florida (Mr. Chiles), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Massachusetts (Mr. Kennedy), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Rhode Island (Mr. Pastore), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that the Senator from Ohio (Mr. Glenn), the Senator from Montana (Mr. Mansfield), and the Senator from South Dakota (Mr. McGovern) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley), the Senator from Nebraska (Mr. Curtis), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Goldwater), the Senator from Wyoming (Mr. Hansen), the Senator from Nebraska (Mr. Hruska), the Senator from New York (Mr. Javits), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The result was announced—yeas 74, nays 0, as follows:

[Rollcall Vote No. 662 Leg.]

YEAS—74

Abourezk
Allen
Baker
Bartlett
Bayh
Bellmon
Brock
Brooke
Burdick
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Gravel
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Johnston
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McClure
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams

NAYS—0

NOT VOTING—26

Beall
Bentsen
Biden
Buckley
Bumpers
Byrd, Harry F., Jr.
Cannon
Chiles
Curtis
Dole
Glenn
Goldwater
Hansen
Hart, Philip A.
Hartke
Hruska
Javits
Kennedy
Mansfield
McGee
McGovern
Mondale
Montoya
Pastore
Tunney
Young

So the bill (H.R. 15445), as amended, was passed.

UP AMENDMENT NO. 498

Mr. WEICKER. Mr. President, I send to the desk an amendment to the title and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Stone). The amendment will be stated.

The assistant legislative clerk read as follows:

Amend the title so as to read: "A bill to study and provide enhanced protection for whales, and for other purposes."

The PRESIDING OFFICER. The question is on agreeing to the amendment to the title.

The amendment was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORITY TO SUBMIT COMMITTEE REPORTS

Mr. HUMPHREY. Mr. President, on behalf of the Committee on Foreign Relations, I submit a report and ask unanimous consent that it be placed on the calendar.

Mr. ABOUREZK. Mr. President, reserving the right to object, may we find out what the Senator is referring to?

Mr. HUMPHREY. It is a food resolution report from the Foreign Relations Committee.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Mr. President, reserving the right to object, I will not object if I may file these committee reports on behalf of the Committee on Finance.

The PRESIDING OFFICER. Is there objection? Without objection, the reports of the Committee on Foreign Relations and the Committee on Finance will be received.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

Mr. WILLIAM L. SCOTT. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Senate will now resume the consideration of S. 2278, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HASKELL. Mr. President, will the Senator from Virginia yield, without losing his right to the floor?

Mr. WILLIAM L. SCOTT. Mr. President, I ask unanimous consent that I may yield without losing my right to the floor, and that my subsequent remarks after yielding not be considered a second speech.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WILLIAM L. SCOTT. Mr. President, as I understand, the matter before us is the Civil Rights Attorneys' Fees Awards Act.

On looking at the purpose section of the report of the committee, I find that it states that the purpose is to give the Federal courts discretion to award attorneys' fees to prevailing parties in suits brought to enforce the Civil Rights Acts which Congress has passed since 1866.

Mr. President, I believe that this bill would encourage more lawsuits, and certainly that is not anything that the Federal courts need. They have more lawsuits now than they appear to be able to handle.

In a statement made by the Senator from Oklahoma (Mr. Bellmon) some months ago—in fact, it is dated May 25, 1976—on another bill, Senator Bellmon spoke of the crisis in our Federal courts.

Mr. HASKELL. Mr. President, I wonder if the Senator from Virginia would yield so that I may make a unanimous-consent request.

Mr. WILLIAM L. SCOTT. Mr. President, I have no objection to yielding by unanimous consent, provided I do not lose any rights that I have at this time to the floor or to subsequent speeches.

Mr. ABOUREZK. Mr. President, if the request is that the Senator from Virginia be allowed to be recognized following Senator Haskell's presentation, I have no objection to that, but I would object to a transference of time during cloture from one Senator to another.

Mr. WILLIAM L. SCOTT. Mr. President, I do not want to yield on my time.

Mr. ABOUREZK. No, that is not the case.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator from Colorado is recognized.

Mr. HASKELL. I thank the Senator from Virginia and the Senator from South Dakota.

MISSOURI RIVER, MONT.

Mr. HASKELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1506.

Mr. DURKIN. Mr. President, reserving the right to object, will the Senator state what this is.

Mr. HASKELL. I say to the Senator from New Hampshire it is the House amendments to S. 1506, which would amend the Wild and Scenic Rivers Act. The House amendments are not objectionable to either the majority or the minority side, and I merely am going to ask, once it is located at the desk, that we agree to the House amendments and send the measure to the President for his signature.

The PRESIDING OFFICER (Mr. Stone) laid before the Senate the amendments of the House of Representatives to the bill (S. 1506) to designate a segment of the Missouri River, Mont., as a component of the National Wild and Scenic Rivers System.

(The amendment of the House is printed in the House proceedings of the Record of September 27, 1976.)

Mr. HASKELL. Mr. President, the House amendment to S. 1506 would add segments of three rivers to the National Wild and Scenic Rivers System. The amendments would also designate a segment of one river for study to determine whether it should be included in the System. Finally, the House version of S. 1506 would affect several relatively minor changes in the Wild and Scenic Rivers Act, as amended.

Mr. President, this amendment is acceptable to the Senator from Montana (Mr. Metcalf) who is the sponsor of the

Senate passed measure. The amendment has also been cleared with my colleagues on the other side of the aisle.

I move that the Senate concur in the House amendment and clear this measure for the President's signature.

Mr. ALLEN. Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion of the Senator from Colorado (Mr. HASKELL). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Mississippi (Mr. EASTLAND), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PASTORE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. MANSFIELD) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senator from Nebraska (Mr. HRUSKA), and the Senator from New York (Mr. JAVITS) are necessarily absent.

The result was announced—yeas 74, nays 0, as follows:

[Rollcall Vote No. 663 Leg.]

YEAS—74

Abourezk
Allen
Baker
Bartlett
Bayh
Bellmon
Brock
Brooke
Burdick
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Fannin
Fong
Ford
Garn
Gravel
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Johnston
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McClure
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott,
William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—26

Beall
Bentsen
Biden
Buckley
Bumpers
Byrd,
Harry F., Jr.
Cannon
Chiles
Curtis
Dole
Eastland
Glenn
Goldwater
Hansen
Hart, Philip A.
Hartke
Hruska
Javits
Kennedy
Mansfield
McGee
McGovern
Mondale
Montoya
Pastore
Tunney

So the motion was agreed to.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia, by previous order, retains his right to the floor.

Mr. TALMADGE. Mr. President, will the Senator from Virginia yield to me for 30 seconds?

Mr. WILLIAM L. SCOTT. Mr. President, I have yielded on several occasions, and I have been here for about an hour. I just want to talk for about 5 minutes, and then I will yield. I am going to ask for a record vote, and then I will yield the floor. So I ask the indulgence of my colleagues, because I have been indulging other Senators.

Several Senators are asking me to yield for 10 seconds or something like that. We know what has happened in the past; so I am going to decline to yield to any of my friends, even though, under usual circumstances, I would yield.

The PRESIDING OFFICER. Will the Senator suspend momentarily? The Chair would like to obtain order in the Senate.

The Senator from Virginia is entitled to be heard, and the Senate will come to order. Will the staff members take their seats? Conversations will cease.

Mr. WILLIAM L. SCOTT. Mr. President, I am going to repeat the few seconds of remarks that I made before we had this intervening business.

We have before us the Civil Rights Attorneys' Fees Awards Act. In the "Purpose" portion of the committee report, it states that the purpose of this bill is to give Federal courts discretion to award attorney's fees to prevailing parties in suits brought to enforce civil rights acts which Congress has passed since 1866.

Mr. President, I believe this will encourage further litigation. We know that in all our Federal courts we have a backlog of cases. We have a bill, which the Senate has passed, which would add upward of 50 new Federal district judges. We have passed another bill that would add circuit court judges. The courts keep asking for judges. I wonder whether measures such as this, by which we are going to pay attorneys' fees—or may pay them, in the discretion of the court—will encourage further litigation.

In one instance, we are not able to send to the President bills to provide additional judges. Yet, we are considering measures that will encourage more lawsuits and will cause the court dockets to become still further behind.

Mr. President, some months ago, on May 25, 1976, the Senator from Oklahoma (Mr. BELLMON), in comment on the floor of the Senate in connection with another bill, said this:

> It comes as no surprise to learn that our courts are in crisis. Each year the caseload cast upon overworked Federal judges increases significantly. Each year the Chief Justice plaintively calls for restraint and circumspection by Congress in the creation of a whole new category of cases to be dumped into the Federal court. Each year Congress nevertheless adds more and more burdens to the Federal courts.
>
> As a result, the Federal judiciary, which was designed to be the great bulwark of constitutional interpretation and implementation, is being steadily transformed into an institution distracted by petty claims and overwhelmed by massive and incomprehensible economic confrontation.

Since 1960, according to Senator BELLMON, the number of civil cases in Federal district court has increased by more than 100 percent, to a total of more than 117,000 cases in 1975 alone.

I repeat: During the years since 1960, the number of civil cases commenced in Federal district courts increased more than 100 percent, and in the year 1975 reached the level of 117,320 cases. From 1960 to 1975, in the district court civil caseload, Federal question cases grew from 1,175 to 52,688. This is a 400-percent increase.

Mr. President, Senator BELLMON, in his remarks, does list instance after instance in which Congress has increased the workload in the Federal court. I believe this bill might well be considered a minor bill, giving the Federal judges discretion in awarding attorneys' fees in civil rights cases that arise under acts passed by Congress in the past century since 1866, in the past 110 years. Yet I believe that the fact that attorneys' fees would be awarded would add to the caseload. I feel this is a bad bill, and I feel that the bill should be defeated.

Mr. President, I shall not infringe further on the time of the Senate to discuss this further. I call up my amendment.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. WILLIAM L. SCOTT. I yield for a question. I am glad to yield to the distinguished Senator for a question.

Mr. LONG. Let me ask the Senator this: Does not this fact that, if the plaintiff wins the lawsuit, the judge can make an award to the attorney, lead to the possibility—at least to some degree—of the type of human equation where the judge sees a lawyer frequently in court; the lawyer pleads lots of these cases and pleads them for clients who, for the most part, do not feel a disposition to pay, hoping that he will make enough money on those who win to pay the cost of the others. If the judge sort of likes the lawyer and feels kindly toward him, would it not be, sort of, a tendency of the judge to find for the plaintiff so he could award the lawyer a fee to help the lawyer along when he feels kindly toward him—knowing that he is not supposed to decide that way? Do not those kinds of things get in the back of a judge's mind sometimes, that it would be nice to help that young fellow win a case so he could award him a fee?

Mr. WILLIAM L. SCOTT. Mr. President, in response to the question of the Senator from Louisiana, I only have a little more than 2 years left in my term. It may well be that I shall return to the practice of law, so I do not want to say anything that might be critical of some of the judges that I might be practicing before.

The distinguished Senator has, in effect, asked a question, but expressed an opinion at the same time that he has asked a question. I am not going to disagree with my distinguished colleague from Louisiana, but I would prefer, at this stage, not to be critical of the judges on our Federal bench, especially those judges that sit on the Federal bench in the State of Virginia or the Fourth Circuit Court of Appeals.

Mr. LONG. I understand the Senator's position, but does the Senator not recognize the potential of the human equation, where the judge has these two lawyers, both of them being nice fellows. He knows the fellow representing the defendant is going to get paid anyway, and he knows that the other fellow, representing the plaintiff, is going to have to win the lawsuit in order to get paid; otherwise, the judge could not make an award to him. Might that not be another nail in the coffin of a case like this?

Mr. WILLIAM L. SCOTT. The report accompanying the act states that a judge, in his discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the cost.

I think that the question that the distinguished Senator has posed is answered, to a large extent, in the bill itself, and I appreciate the distinguished Senator's bringing this matter up.

AMENDMENT NO. 2390

Mr. WILLIAM L. SCOTT. Mr. President, I call up my amendment No. 2390.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. WILLIAM L. SCOTT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 9, after "costs" insert the following: ", except that notwithstanding the provisions of section 204(b) or 706(k) of the Civil Rights Act of 1964 or section 14(e) of the Voting Rights Act of 1965, no court of the United States shall require any officer of the United States or any State or political subdivision of any State or any public official of any State or political subdivision of any State to pay to a prevailing party an attorney's fee as part of the costs of any action brought under title II or VII of the Civil Rights Act of 1964 or under the Voting Rights Act of 1965.".

Mr. WILLIAM L. SCOTT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, I move to lay the amendment on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Dakota. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Mississippi (Mr. EASTLAND), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Wisconsin (Mr. NELSON) the Senator from Rhode Island (Mr. PASTORE), the Senator from Mississippi (Mr. STENNIS), the Senator from California (Mr. TUNNEY), and the Senator from Virginia (Mr. HARRY F. BYRD, JR.) are necessarily absent.

I also announce that the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD), and the Senator from South Dakota (Mr. MCGOVERN) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "yea".

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senator from Nebraska (Mr. HRUSKA), the Senator from New York (Mr. JAVITS), and the Senator from Delaware (Mr. ROTH) are necessarily absent.

The result was announced—yeas 56, nays 15, as follows:

[Rollcall Vote No. 664 Leg.]

YEAS—56

Abourezk
Baker
Brock
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Fong
Ford
Gravel
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Johnston
Kennedy
Leahy
Magnuson
Mathias
McIntyre
Metcalf
Moss
Muskie
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Weicker
Williams

NAYS—15

Allen
Bartlett
Fannin
Garn
Helms
Laxalt
Long
McClellan
McClure
Morgan
Scott,
William L.
Sparkman
Thurmond
Tower
Young

NOT VOTING—29

Bayh
Beall
Bellmon
Bentsen
Biden
Buckley
Byrd,
Harry F., Jr.
Cannon
Chiles
Curtis
Dole
Eastland
Glenn
Goldwater
Hansen
Hart, Philip A.
Hartke
Hruska
Javits
Mansfield
McGee
McGovern
Mondale
Montoya
Nelson
Pastore
Roth
Stennis
Tunney

So the motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

Mr. ABOUREZK. Mr. President, I make a point of order that a quorum was present on that vote and there has been no business transacted since then.

The PRESIDING OFFICER. The Senator's point is well taken.

Mr. ALLEN. What was the Chair's rule?

The PRESIDING OFFICER. The Chair ruled that the Senator's point was well taken, that the suggestion of the absence of a quorum is not in order when a quorum has just been established by a record vote without any intervening business.

Mr. ABOUREZK. I move the amendment, the pending amendment, Mr. President.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I find difficulty believing there is a quorum present. I just look about and I observe 14 Senators, the Presiding Officer makes 15. I, for the life of me, cannot believe 15 Senators is a majority of 100.

I appeal the ruling of the Chair.

Mr. ROBERT C. BYRD. Mr. President, I hope the Senator will withhold that.

I think the Chair is right in this instance, in my opinion only, I may be wrong, but I hope the Senator will withhold.

Mr. LONG addressed the Chair.

Mr. ROBERT C. BYRD. Will the Senator withhold for a moment?

Mr. LONG. All right.

APPOINTMENT OF GEORGE WASHINGTON TO GRADE OF GENERAL OF THE ARMY OF THE UNITED STATES

The Senate continued with the consideration of the joint resolution (H.J. Res. 519) providing for the appointment of George Washington to grade of General of the Army of the United States.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote on House Joint Resolution 519, to provide for the appointment of George Washington to the grade of General of the Army of the United States, and I move to lay that motion on the table.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to reconsider. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Mississippi (Mr. EASTLAND), the

Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Wisconsin (Mr. NELSON), the Senator from Rhode Island (Mr. PASTORE), the Senator from Georgia (Mr. TALMADGE), the Senator from California (Mr. TUNNEY), the Senator from Minnesota (Mr. MONDALE), and the Senator from Delaware (Mr. BIDEN) are necessarily absent.

I also announce that the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD) and the Senator from South Dakota (Mr. MCGOVERN) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senator from Nebraska (Mr. HRUSKA), the Senator from New York (Mr. JAVITS), the Senator from Delaware (Mr. ROTH), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 67, nays 4, as follows:

[Rollcall Vote No. 665 Leg.]

YEAS—67

Abourezk
Allen
Baker
Bartlett
Bellmon
Brock
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Fannin
Fong
Ford
Garn
Gravel
Griffin
Hart, Gary
Haskell
Hathaway
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
McClellan
McIntyre
Metcalf
Morgan
Moss
Muskie
Nunn
Packwood
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Scott
William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Thurmond
Tower
Weicker
Williams

NAYS—4

Hatfield
Mathias
McClure
Pearson

NOT VOTING—29

Bayh
Beall
Bentsen
Biden
Buckley
Byrd,
Harry F., Jr.
Cannon
Chiles
Curtis
Dole
Eastland
Glenn
Goldwater
Hansen
Hart, Philip A.
Hartke
Hruska
Javits
Mansfield
McGee
McGovern
Mondale
Montoya
Nelson
Pastore
Roth
Talmadge
Tunney
Young

So the motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair.

Mr. MATHIAS. Mr. President, will the Senator yield me 30 seconds?

Mr. HELMS. I am glad to yield provided I do not lose my right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I opposed the legislation on which we just voted for the simple reason that I revere the memory of George Washington too much to think it can be affected by any action taken here. This body can add nothing to the luster of Washington's reputation. The Father of his Country does not need another star. He is fixed in the firmament forever.

Mr. President, I am requested by the distinguished Senator from Oregon (Mr. HATFIELD) and the distinguished Senator from Kansas (Mr. PEARSON) to say that they concur in these views.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. HELMS. Mr. President, I yield myself such time as I may require.

I might observe that I must assume that the Senator from Maryland does not want to be included in the delegation to notify General Washington.

Mr. MATHIAS. Mr. President, if the Senator from North Carolina is volunteering for that effort, I wish him Godspeed.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

The Senate continued with the consideration of the bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

AMENDMENT NO. 2393

Mr. HELMS. Mr. President, momentarily I shall call up my amendment at the desk No. 2393. But before I do that, the Senator from North Carolina reminds the Senate that all over this country the Federal courts are in a state of crisis congestion. Scarcely a Senator has not been heard this year on the subject of "We Need More Federal Judges for Our Various States," not to mention the necessary officers of the court.

Yet here we come with legislation which, in addition to its other defects, also threatens to interfere with other more important values in our system of justice by needlessly and recklessly contributing to the already critical problem of court congestion.

It comes as no surprise to learn that our courts are in crisis. Each year the caseload cast upon overworked Federal judges increases significantly. Each year the Chief Justice of the United States plaintiffly calls for restraints and circumspection by this Congress in the creation of whole new categories of cases to be dumped into Federal courts. Each year Congress, nevertheless, adds more and more burdens to the Federal courts.

As a result, the Federal judiciary, which was designed to be the great bulwark of constitutional interpretation and implementation, is being steadily transformed into an institution distracted by petty claims and overwhelmed by massive and incomprehensive economic confrontation.

What are the statistics, Mr. President? Since 1960 the number of civil cases in Federal district court has increased more than 100 percent, to a total of more than 117,000 cases in the year 1975 alone. Let me repeat that just for the purpose of emphasis: During the year since 1960 the number of civil cases commenced in Federal district courts increased more than 100 percent and in year 1975 reached the level of 117,320 cases, to be exact.

From 1960 to 1975 in the district court, civil caseload Federal question cases grew from 13,175 to 52,688. The way I figure it, Mr. President, that is approximately a 400-percent increase.

Diversity cases filings were up from 17,000 to 30,631, and this was a 79-percent increase. From 1960 to 1975, the number of civil antitrust cases filed in the Federal court system increased by 278 percent.

Mr. President, I think those statistics make my point for me, and I will not consume further of the Senate's time.

But I do hope that Senators will take a new and fresh look at the additional burden this bill if enacted and if signed by the President would confer upon the already overburdened judicial system of our country.

Mr. President, I call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes amendment No. 2393.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 10, strike out the word "costs'." and substitute in lieu thereof the following: "costs, but in the event the prevailing party is a defendant in any action or proceeding to enforce a provision of sections 1977, 1978, 1979, 1980, and 1981 of the Revised Statutes, or of title II, VI, or VII of the Civil Rights Act of 1964, or of the Voting Rights Act of 1965, then the court shall award to such prevailing party defendant, other than the United States, a reasonable attorney's fee as part of the costs.'."

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, I move to lay on the table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to lay on the table the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Iowa (Mr. CULVER), the Senator from Mississippi (Mr. EASTLAND), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. Kennedy), the Senator from Wyoming (Mr. McGee), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Wisconsin (Mr. Nelson), the Senator from Rhode Island (Mr. Pastore), the Senator from Mississippi (Mr. Stennis), the Senator from Missouri (Mr. Symington), the Senator from Georgia (Mr. Talmadge), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from Ohio (Mr. Glenn), the Senator from Montana (Mr. Mansfield), and the Senator from South Dakota (Mr. McGovern) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) and the Senator from Rhode Island (Mr. Pastore) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley), the Senator from Nebraska (Mr. Curtis), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Goldwater), the Senator from Wyoming (Mr. Hansen), the Senator from Nebraska (Mr. Hruska), the Senator from New York (Mr. Javits), the Senator from Nevada (Mr. Laxalt), the Senator from Delaware (Mr. Roth), the Senator from Virginia (Mr. William L. Scott), the Senator from Vermont (Mr. Stafford), the Senator from Connecticut (Mr. Weicker), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The result was announced—yeas 46, nays 14, as follows:

[Rollcall Vote No. 666 Leg.]

YEAS—46

Abourezk
Baker
Bellmon
Brock
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Church
Clark
Cranston
Domenici
Durkin
Eagleton
Fong
Ford
Gravel
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Inouye
Jackson
Johnston
Leahy
Magnuson
Mathias
Moss
Muskie
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stevens
Stevenson
Taft
Williams

NAYS—14

Allen
Bartlett
Fannin
Garn
Helms
Long
McClellan
McClure
Morgan
Nunn
Sparkman
Stone
Thurmond
Tower

NOT VOTING—40

Bayh
Beall
Bentsen
Biden
Buckley
Byrd,
Harry F., Jr.
Cannon
Chiles
Culver
Curtis
Dole
Eastland
Glenn
Goldwater
Hansen
Hart, Philip A.
Hartke
Hruska
Humphrey
Javits
Kennedy
Laxalt
Mansfield
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Nelson
Pastore
Roth
Scott,
William L.
Stafford
Stennis
Symington
Talmadge
Tunney
Weicker
Young

So the motion to table was agreed to.

Mr. HELMS. Mr. President, I ask unanimous consent that Mr. George Ducworth, of Senator Thurmond's staff, be accorded the privileges of the floor during discussion of this measure and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that Sylvia Castellanos of Senator McClure's staff and Dick Bryan of my staff be granted the privilege of the floor during discussion of this measure and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I call up amendment No. 2410 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from North Carolina (Mr. Helms) proposes an amendment on page 1, line 5, delete the following: "or proceeding".

Mr. HELMS. Mr. President, the amendment, as read, speaks for itself, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, I move to lay the amendment on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment on the table.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Delaware (Mr. Biden), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Nevada (Mr. Cannon), the Senator from Florida (Mr. Chiles), the Senator from California (Mr. Cranston), the Senator from Mississippi (Mr. Eastland), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Colorado (Mr. Haskell), the Senator from South Carolina (Mr. Hollings), the Senator from Minnesota (Mr. Humphrey), the Senator from Wyoming (Mr. McGee), the Senator from Rhode Island (Mr. Pastore), the Senator from New Hampshire (Mr. McIntyre), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Wisconsin (Mr. Nelson), the Senator from Mississippi (Mr. Stennis), the Senator from Missouri (Mr. Symington), the Senator from Georgia (Mr. Talmadge), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from Ohio (Mr. Glenn), the Senator from Montana (Mr. Mansfield), and the Senator from South Dakota (Mr. McGovern) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) and the Senator from Rhode Island (Mr. Pastore) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley), the Senator from Nebraska (Mr. Curtis), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Fannin), the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from Wyoming (Mr. Hansen), the Senator from Nebraska (Mr. Hruska), the Senator from New York (Mr. Javits), the Senator from Nevada (Mr. Laxalt), the Senator from Delaware (Mr. Roth), the Senator from Vermont (Mr. Stafford), the Senator from Texas (Mr. Tower), the Senator from Connecticut (Mr. Weicker), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The result was announced—yeas 47, nays 11, as follows:

[Rollcall Vote No. 667 Leg.]

YEAS—47

Abourezk
Baker
Bellmon
Brock
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Church
Clark
Culver
Domenici
Durkin
Eagleton
Ford
Gravel
Griffin
Hart, Gary
Hatfield
Hathaway
Huddleston
Inouye
Jackson
Johnston
Kennedy
Leahy
Long
Magnuson
Mathias
Metcalf
Moss
Muskie
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stevenson
Stone
Taft
Williams

NAYS—11

Allen
Bartlett
Garn
Helms
McClellan
McClure
Morgan
Scott,
William L.
Sparkman
Stevens
Thurmond

NOT VOTING—42

Bayh
Beall
Bentsen
Biden
Buckley
Byrd,
Harry F., Jr.
Cannon
Chiles
Cranston
Curtis
Dole
Eastland
Fannin
Fong
Glenn
Goldwater
Hansen
Hart, Philip A.
Hartke
Haskell
Hollings
Hruska
Humphrey
Javits
Laxalt
Mansfield
McGee
McGovern
McIntyre
Mondale
Montoya
Nelson
Pastore
Roth
Stafford
Stennis
Symington
Talmadge
Tower
Tunney
Weicker
Young

So the amendment to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I would advise the Chair that shortly I shall call up amendment No. 2411, and I will ask at that time that it be stated.

Mr. President, just prior to the immediately preceding vote, the Senator from North Carolina was discussing some statistics relating to the already existing congestion in the Federal courts.

I think it is important to say for the record that this Senate ought to exercise care before approving legislation which would even worsen a very bad existing situation.

I have a few more statistics to offer for the record, Mr. President.

There are between 92,000 and 93,000 social security cases now pending before administrative law judges and between 14,000 and 15,000 cases are pending before the appeals counsel.

The Narcotic Addict Rehabilitation Act of 1966 produced many cases.

When it comes to civil acts cases in the civil caseloads, three laws are primarily responsible for increasing the work of the district courts. They are the Civil Rights Act of 1960, the Civil Rights Act of 1964, and the Equal Employment Opportunity Act of 1972.

These three laws alone, Mr. President, yielded a total of 10,392 cases in calendar year 1975. This amounted to 8.9 percent of the total civil caseload in the district courts.

The National Environmental Policy Act of 1969 became law on January 1, 1970, of course, and in the year 1973, which is the first year for which statistics are available, 270 environmental cases were filed. In 1974, the number increased to 343. In 1975, to 406. This is an increase of 50 percent in just 2 years' time.

Mr. President, these cases represent complex issues and, of course, they consume a disproportionately high number of judicial work hours.

The truth-in-lending laws passed in 1968 and 1970 began to make their impact on the civil caseloads of district courts in 1970 when 101 such cases were filed. In 1975, just 5 years later, there were 2,237 of these cases, and that is more than a 2,000-percent increase in that 5-year period.

Labor law cases, Mr. President, increased in number by 212 percent in the years between 1960 and 1975.

One of the more remarkable increases has occurred in the area of prisoner petitions, which have increased, Mr. President, by 786 percent.

The Consumer Products Safety Act become effective late in 1972, and already thousands of cases have been filed under that legislation.

Then we have the Freedom of Information Act, the National Flood Control Insurance Act of 1968, the Motor Vehicle Information Cost Savings Act—and the Senator from North Carolina is inclined to laugh when he reads that title.

Moreover, we have the Equal Credit Opportunity Act Amendments of 1976 and the Consumer Leasing Act of 1976, all of which have added to the caseload of our Federal legal system.

Mr. President, cannot Senators see what we are doing to our system of justice?

The criminal caseload of the district courts was burdened additionally by laws dealing with weapons and firearms. Two laws, particularly irrelevant, are the Omnibus Crime and Safe Streets Act of 1960 and the Gun Control Act of 1968, which made their impact.

From 1965 to 1975, there was a great deal of activity concerning selective service due to the Vietnam war.

The criminal caseload was augmented by 380 such cases in 1965 alone and that figure rose steadily to 1972 when there was a peak of 5,142 cases, which just happens to figure out, Mr. President, to be 1,200 percent over the number filed in 1965.

With the end of the war, there was a dramatic decrease, to the point that there were only 242 cases in 1975.

Mr. President, these figures demonstrate that Congress already has seriously overloaded the Federal court system. Here we come along with another piece of legislation which, in the judgment of the Senator from North Carolina, is totally unnecessary and thoroughly undesirable.

The figures speak for themselves, Mr. President. With these comments, I reserve the remainder of my time.

AMENDMENT NO. 2411

Mr. HELMS. Mr. President, I call up my amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from North Carolina (Mr. Helms) proposes an amendment numbered 2411 to amendment No. 2347:
>
> On page , line 6, delete the following "1981".

Mr. HELMS. Mr. President, the amendment speaks for itself. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from North Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Delaware (Mr. Biden), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Nevada (Mr. Cannon), the Senator from Florida (Mr. Chiles), the Senator from Mississippi (Mr. Eastland), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Colorado (Mr. Haskell), the Senator from South Carolina (Mr. Hollings), the Senator from Minnesota (Mr. Humphrey), the Senator from Wyoming (Mr. McGee), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Wisconsin (Mr. Nelson), the Senator from Rhode Island (Mr. Pastore), the Senator from Mississippi (Mr. Stennis), the Senator from Missouri (Mr. Symington), the Senator from Georgia (Mr. Talmadge), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from Ohio (Mr. Glenn), the Senator from South Dakota (Mr. McGovern), and the Senator from Montana (Mr. Mansfield) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore), and the Senator from Minnesota (Mr. Humphrey) would each vote "yea".

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley), the Senator from Nebraska (Mr. Curtis), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Fannin), the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from Wyoming (Mr. Hansen), the Senator from Nebraska (Mr. Hruska), the Senator from New York (Mr. Javits), the Senator from Nevada (Mr. Laxalt), the Senator from Delaware (Mr. Roth), the Senator from Vermont (Mr. Stafford), the Senator from Texas (Mr. Tower), the Senator from Connecticut (Mr. Weicker), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The result was announced—yeas 50, nays 9, as follows:

[Rollcall Vote No. 668 Leg.]

YEAS—50

Abourezk
Baker
Bayh
Bellmon
Brock
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Ford
Gravel
Griffin
Hart, Gary
Hatfield
Hathaway
Huddleston
Inouye
Jackson
Johnston
Kennedy
Leahy
Long
Magnuson
Mathias
Morgan
Moss
Muskie
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stevens
Stevenson
Stone
Taft
Williams

NAYS—9

Allen
Bartlett
Garn
Helms
McClellan
McClure
Scott,
William L.
Sparkman
Thurmond

NOT VOTING—41

Beall
Bentsen
Biden
Buckley
Byrd,
Harry F., Jr.
Cannon
Chiles
Curtis
Dole
Eastland
Fannin
Fong
Glenn
Goldwater
Hansen
Hart, Philip A.
Hartke
Haskell
Hollings
Hruska
Humphrey
Javits
Laxalt
Mansfield
McGee
McGovern
McIntyre
Metcalfe
Mondale
Montoya
Nelson
Pastore
Roth
Stafford
Stennis
Symington
Talmadge
Tower
Tunney
Weicker
Young

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, that is the last rollcall today.

AUTHORIZATION FOR ADDITIONAL STATEMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may have their statements printed in the Record for today.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HARRISON A. WILLIAMS, AN OUTSTANDING RECORD ON AGING

Mr. CHURCH. Mr. President, Senate colleagues of Harrison A. Williams know this Senator from New Jersey as an advocate and activist who cares about all people.

As chairman of the Senate Special Committee on Aging and as Pete Williams' successor in that post, I can attest, in particular, to the outstanding effort he has made specifically on behalf of older Americans.

That effort was described very well on September 20 by New York television station WCBS in an editorial devoted to Senator Williams.

It began by calling the Senator a "voice for the voiceless for almost two decades." It said further:

> Pete Williams, as he is known, has worked hard for legislation to help these powerless groups, and he has worked especially hard for one group to which some day most of us will belong, the elderly.

It added:

> Older people in this country owe a lot to Pete Williams. As Chairman of the Senate Subcommittee on Housing for the Elderly, he fought hard for rent supplements and property tax relief for the aging poor.
>
> As Chairman of the Senate Labor and Public Welfare Committee, he has worked for measures to meet income problems of the elderly. And as ranking member of the Senate Special Committee on Aging, he was instrumental in passing legislation to establish a National Institute on Aging to find out more about the process of growing older. Senator Williams also supported and helped pass legislation that provides, food, health care, and jobs for older Americans.

This brief summary by WCBS, while welcome, does not begin to describe the Senator's long-standing commitment to aging.

That commitment can perhaps best be described by mentioning several significant accomplishments in aging over the past decade describing Senator Williams' contribution to each.

SOCIAL SECURITY

There has been a 120 percent increase in social security benefits across-the-board in the past 10 years. Average monthly benefits, which were $81 in 1966 for a retired worker, now stand at $224; and the average retired couple now receives $362 a month, compared with $143 in 1966. Harrison Williams supported every social security increase and other legislation which has improved our social security system. Often in recent years, Congress has had to act over the objections of the administration before it could enact such legislation, but we persisted and won. I should add that it was Senator Williams who conducted Committee on Aging hearings and studies in 1969 and 1970 on "The Economics of Aging" for the Senate Committee on Aging and emphatically made the case for marked increases and other improvements in social security. Since 1970, social security beneficiaries have received five across-the-board increases totaling 82 percent; an automatic cost-of-living adjustment mechanism has been established; and a supplemental security income program now helps those aged, blind, and disabled whose incomes fall below national standards.

Senator Williams one of the original sponsors of medicare, has joined me in emphatically protesting an administration proposal this year to raise costs for most medicare participants. That administration proposal to provide so-called catastrophic coverage would actually require the elderly to pay 10 percent of all hospital charges above their $104 deductible payment; and it would add other charges. In the 10 years since medicare began operations, it has become an essential part of the social fabric of the Nation, now serving more than 22 million aged enrollees and 2 million disabled persons. Instead of constricting it further, Senator Williams and I would like to see it do a better job of meeting essential needs of the elderly. For example, it should cover essential out-of-hospital prescription drugs.

HOUSING

Ten years ago, the need for housing the elderly was being recognized and filled primarily through public housing, the section 202 direct loan program, and HUD mortgage insurance programs. But the need for additional help was clear; and Senator Williams worked sometimes almost single-handedly for adequate funding of the 202 program. And yet under President Nixon, 202 was one of the programs marked for extinction. Senator Williams with the help of a coalition of concerned leaders in aging, nevertheless kept up the fight and won a victory in 1974 when a broadened 202 program was made part of a major housing bill. HUD was flooded with applications from nonprofit sponsors who wished to participate in the program, and Senator Williams won important new victories in 1976 for higher funding levels.

OLDER AMERICANS ACT

One decade ago, there were only a handful of State agencies on aging and they were supported by an appropriation of only $7.5 million. Today each State has a State agency on aging and the Congress has increased the funding for the Older Americans Act to approximately $400 million. A meals for the elderly program now provides 300,000 hot meals daily, including a large number of home-delivered meals for the homebound. As chairman of the Senate Committee on Labor and Public Welfare—which considers Older Americans Act legislation—Senator Williams has given solid leadership and support to every proposal which has made that program stronger. His chairmanship on that committee, I might add, also puts him in a key position to move legislation on a number of other fronts related to aging such as: The aforementioned National Institute on Aging, employment programs for older workers, legal services, and volunteer programs under ACTION.

Mr. President, I have described just a few of the many ways in which Harrison Williams has served this Nation by helping its aged and aging citizens.

I find myself in total agreement with the WCBS editorial in its description of the debt which older persons in this Nation owe directly to Senator Harrison Williams.

REIMBURSEMENT OF TAXPAYERS

Mr. LAXALT. Mr. President, last Thursday the Senate, in its consideration of S. 2278, the Civil Rights Attorneys' Fees Awards Act, approved an amendment which requires the Federal Government to repay a taxpayer for the legal and accounting costs of contesting an unwarranted second audit of his income taxes.

First, I commend Senator Goldwater for his persistence in sponsoring this much needed provision which I advocated during my campaign. It was introduced in both the 92d and 93d Congresses, and was included in the Senate version of the tax reform bill; most regrettably, the House has been reluctant to accept it.

I cosponsored this amendment because I am convinced that the taxpayer must be afforded adequate safeguards against unnecessary harassment by over zealous Internal Revenue Service agents. While the incidents which provoked the need for this amendment may be few in number, they have been of sufficient import to raise the ire of many concerned Nevadans. Should S. 2278 pass the Senate, I would be most disappointed if the Senate conferees yielded to the argument advanced by certain Members of the House that this amendment goes far beyond the ostensibly narrow provisions of S. 2278 and, hence, should not be considered as one package.

In fact, it is my view that a better case has been made for the amendment than for the remainder of the bill. Certainly, a taxpayer who defends his rights against the Government in a tax case is enforcing his civil rights no less than another citizen who brings suit under specific civil rights law. The amendment and the bill itself do not differ in principle, but rather in the circumstances under which payment is made. I find the amendment more meritorious in that the citizen would be reimbursed for legal and other expenses only after a second audit which resulted in no increase in tax from that previously agreed to.

Mr. President, it would be altogether fitting and proper for Congress to pass in this, our Bicentennial year, legislation to protect the taxpayer against heavy-handedness by tax collectors. Our forefathers recognized and resisted the noxious practice of irresponsible taxation, we should be willing to do no less.

RETIREMENT OF GEN. FRED C. WEYAND

Mr. STENNIS. Mr. President, I am proud to join in paying well-merited tribute to an outstanding American and distinguished military leader, Gen. Fred C. Weyand, as he retires as Chief of Staff of the United States Army after 36 years of dedicated and devoted service.

General Weyand served in many positions of responsibility during his long military career. In each of them his performance was marked by the excellence and brilliance which singles out and marks a soldier as being destined for the highest position of leadership—a position which he achieved when he was appointed Army Chief of Staff.

In his many appearances before the Senate Committee on Armed Services, General Weyand gave us candid information about the Army's situation and needs and wise counsel as to what should be done. At the same time he was a strong and effective advocate of a powerful military establishment and an outspoken champion of military preparedness. He was uniquely qualified in these areas.

General Weyand's service in China during World War II, in Korea and in South Vietnam convinced him that military strength and preparedness are absolutely essential if the survival of this country is to be assured. He knows that if we should not keep our defenses strong then, if war should come, sacrifice in blood is inevitable and victory might be in doubt.

General Weyand made many great contributions to his country, but perhaps among the greatest was the straight talk that he gave to the Congress and to the American people on the need for American military preparedness. He said:

> * * * preparedness is expensive, but it is not nearly so expensive as unpreparedness. When you consider the cost of the wars, just in my lifetime—four of them—not only the billions of dollars, but the hundreds of thousands of Americans killed or wounded in World War I, World War II, Korea and Vietnam—suddenly that message from history should be clear to us: preparedness is our best guarantee of peace. As a matter of fact, we cannot afford not to afford it.

As we pause to honor General Weyand today, we must remind ourselves and others that the greatest honor we can pay to him is to heed the words he has spoken so eloquently. In doing so, we will insure that his years of outstanding service to his country have not been in vain. More importantly, we will insure that our beloved Nation remains strong and vigilant in an uncertain world.

POVERTY AND INCOME: A RECORD OF SHAME AND DISGRACE

Mr. HUMPHREY. Mr. President, poverty is a devastating and debasing thing to live through. And more Americans were doing just that last year than in the year before.

Statistics may be dry, but they tell a story. I hope my colleagues and other policymakers are listening: The Census Bureau released their annual advance report on the status of money income and poverty in the United States for 1975 a few days ago. It is a disturbing document.

The percentage of people in poverty has decreased every year since recordkeeping began, except 3 years under the Republican leadership of Richard Nixon and Gerald Ford in 1970, 1974, and 1975. Last year, it increased to 12.3 percent of the population, up from 11.2 percent in 1974. And I thought last year that 11.2 percent was way too high. These percentage abstractions translate into human beings—over 2.5 million more people were in poverty last year than in 1974. Why 25.9 million Americans, one out of eight, must suffer privation in the most prosperous society in the history of the world baffles and troubles me deeply.

As usual, the figures of despair are more stark with regard to blacks and other minorities who have inherited the burdens of centuries of racism and discrimination. Fully 41.6 percent of black families with children aged 5 to 17 years—representing nearly 3 million people—were in poverty. And that was up, too.

One-third of all persons below the poverty line are in families headed by females, and half of those are black. I, for one, welcome the influx of women to the work force, for women need jobs every bit as much as men.

At the same time, real median income was falling. The level of family income at which half earn more and half earn less before taxes and transfer payments, was $13,719 last year, down from $14,082 the year before, all measured in constant 1975 dollars. While median income for everyone was down 2.5 percent, it also decreased in the categories of people already at the bottom of the income ladder. The median income of blacks and other nonwhite races was only $9,321 last year, compared with $9,361 in 1974. The median income of blacks alone was even less at only $8,779 in 1975.

According to a Harvard-Washington Post study, Republicans tend to rank unemployment as the sixth most pressing national problem. Democrats rank it first. Unemployment takes a severe toll in people's ability to just get by. An incredible 42 percent of the 528,000 increase in the number of poor families between 1974 and 1975 is attributable to cases where the household head was "unable to find work during the entire year" or was a part year worker "unemployed 15 weeks or more" during the year. Can a better, more self-sustaining case be made for a caring society to commit itself to full employment where all members will have the opportunity to earn their share of the Nation's affluence?

Democrats and Republicans differ on to what they ascribe the roots of our chronic affliction with poverty. According to the Harvard-Post study of elite beliefs—

> [Poverty] is the fault of the system, say young people, feminists, black leaders, Democrats, intellectuals and media leaders.

But Republicans contend that "it is the fault of the poor." No wonder we have seen a record number of Ford vetoes of people-programs. The present administration seems to blame poverty and suffering on those who are impoverished and suffer, rather than on a system where it is somehow viewed as unprofitable to offer certain people decent work. The distinction between my beliefs and those of the administration could not be sharper. The question may not be "Who cares?", but "Who cares enough to act?"

Apparently, we are now reaping the whirlwind of action by Republican administrations of the last 8 years to systematically undo and dismantle what the previous administration, the Congress, and the American people struggled to construct in the last decade.

Mr. President, it is fashionable to feel that somehow the Great Society initiatives, of which I was a part as Vice President, did not live up to their promise. Well, intellectuals such as labor specialists Sar Levitan and Robert Taggart, in their new book, "The Promise of Greatness: The Social Programs of the Last Decade and Their Major Achievements," are reevaluating our experience from the great commitments of the sixties. They are finding that, while the highest hopes of some were inherently unachieveable, the accomplishments of the effort were impressive nonetheless.

Taggart and Levitan conclude that:

> The Great Society did not eliminate poverty, but the number of poor was reduced and their deprivation significantly alleviated. . . . The Great Society did not equalize the status of blacks and other minorities, but substantial gains were made which have not been completely eroded. Significant redistribution of income was not achieved or sought, but the disadvantaged and disenfranchised were helped.
>
> The Great Society did not have any magic formula for prosperity but its politics contributed to the longest period of sustained growth in . . . history.

The latest statistics on Americans living in poverty reinforce their conclusions. Between 1960 and 1968, the number of people in poverty decreased by 36.3 percent. Between 1969 and 1975, it increased by 7.2 percent. During those earlier Democratic years, the real median income increased 30.7 percent, while during the Republican years, it has gone down 1 percent. Median income is a measure of the average standard of living, and I will allow others to draw the obvious conclusions. And I must say that I was most proud that between 1960 and 1969, the number of blacks and members of other nonwhite races in poverty decreased 47 percent, nearly half. Then progress stopped, and reversed. There were 2.6 percent more persons of minority races living in poverty in 1975 than in 1969. There are many ways of looking at the numbers, but it is always the same—the commitments of the 1960's were paying off, but were squelched by dogmatic laissez-faire doctrine, and plain old mismanagement during the last 8 years.

I am the first to concede what we knew would be the case as we took the daring steps to implement an antipoverty strategy: not everything would work. We knew then that our failures would be subjected to partisan ridicule by those who habitually look at massive problems, throw up their hands in futility, and pontificate about leaving solutions to the caprice of the marketplace.

We heard more of the same from President Ford during the first debate last week, as he selected statistics that might rationalize the poor economic record of his administration. What we did not hear was a single, heartfelt expression of compassion for Americans "living"—if that is the correct word—in poverty and privation. President Ford extolled his record for taking millions of Americans off the tax rolls. He was right. Unfortunately, they are off the tax rolls because they are in the soup line as a result of unemployment.

While I am reminiscing, Mr. President, I would like to go back further. Like many of my colleagues, I grew up in humble surroundings, in a small town, and worked for years in the family drugstore. But even in those days in rural

America many years ago, I was never impoverished. I have a hard time even imagining how a family of four can live in this day and age on $5,500, the new official poverty-line for a nonfarm family of four set by the Census Bureau for 1975. I will tell you, you cannot buy much food or rent much of an apartment for one person on under $6,000 a year. Now divide it four ways. Not one American can take solace or pride in the way our country has treated the least fortunate among us in recent years.

Mr. President, I ask unanimous consent that the Census Bureau's summary of their new report—this record of shame—be printed at this point in the RECORD. My staff has made minor editorial changes to modify references to page numbers in the body of the report.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

MONEY INCOME AND POVERTY STATUS OF FAMILIES AND PERSONS IN THE U.S.: 1975 AND 1974 REVISIONS (ADVANCE REPORT)

NOTE

In processing the data collected in the March 1976 Current Population Survey, the Bureau of the Census utilized a new computer processing system designed to take maximum advantage of the Bureau's expanded computer capabilities. The revised system also incorporates many improvements in the procedures used to process the data. A detailed discussion of these improvements and the subsequent revisions to the 1974 income and poverty data (for comparability with 1975 data) is provided in a later section, entitled "Revised 1974 Money Income and Poverty Statistics."

INTRODUCTION

The median income of all families in the United States was $13,720 in 1975 and there were about 25.9 million persons below the poverty level, according to results of the Current Population Survey (CPS) conducted in March 1976 by the Bureau of the Census. Median family income in 1975 increased about 6 percent over the revised 1974 median. However, after adjusting for the 9 percent increase in prices between 1974 and 1975,[1] the 1975 median in terms of constant dollars decreased by $360 or about 3 percent. The 25.9 million persons below the poverty level in 1975 ($5,500 for a nonfarm family of four) comprised 12 percent of the U.S. population.[2] Overall, the poverty population was 2.5 million or 10.7 percent higher than the revised 1974 figure.

MONEY INCOME IN 1975

The decline in real median family income reflected the continued sluggishness in the economy during 1975, as evidenced by a decline of 2 percent in the real Gross National Product between 1974 and 1975.[3] During the same period, the average annual unemployment rate for the nation increased from 5.6 percent in 1974 to 8.5 percent in 1975.[4] The rise in the unemployment rate was accompanied by an increase in the number of persons who exhausted their unemployment benefits, from about 2.0 million in 1974 to 4.3 million in 1975.[5]

Although real median income for all families declined between 1974 and 1975, it did not show uniform movement by race and ethnic origin. White families had a median income of $14,270 in 1975, which represented a constant dollar decline of 3 percent below their 1974 median. The median income of Black families ($8,780 in 1975) showed no statistically significant change in real terms. (See table A.)[*] In addition, sampling variability was too large to reliably determine whether there was an actual difference between the percentage changes in median income for Black and White families. Families with a head of Spanish origin had a median income of $9,550 in 1975, a decline in real terms of 8 percent below their 1974 median.

The 1975 median incomes of families in the Northeast ($14,480) and North Central ($14,540) regions represented decreases in real terms of 5 percent and 3 percent, respectively. Median income in 1975 of families in the South ($12,240) and West ($14,320) regions did not represent statistically significant changes in real terms.[6]

Of the 56.2 million families in the United States in March 1976, 7.9 million or 14.1 percent received incomes of $25,000 or more in 1975. There were 17.1 million families (30.3 percent) with incomes between $15,000 and $25,000; 12.6 million families (22.3 percent) with incomes between $10,000 and $15,000; 11.9 million families (21.1 percent) with incomes between $5,000 and $10,000; and 6.8 million families (12.0 percent) with incomes below $5,000.

Men and women who were income recipients in 1975 had median incomes of $8,850 and $3,390, respectively. The 1975 median income for men, expressed in real terms, showed a decline of about 4 percent below the 1974 median. In contrast, the real median income for women did not show a statistically significant change between 1974 and 1975.

Although the median earnings of both male and female year-round full-time workers increased substantially between 1974 and 1975, the high rate of inflation during this period caused a slight decline in their real earnings. (See table B.) Men working year round full time had a median earnings of $12,760 in 1975 while comparable women had a median earnings of $7,500.

TABLE A.—FAMILIES AND UNRELATED INDIVIDUALS BY TOTAL MONEY INCOME IN 1975

[Families and unrelated individuals as of March 1976]

Total money income	Families	Unrelated individuals
Number (thousands)	56, 245	20, 234
Percent	100. 0	100. 0
Under $2,000	2. 1	14. 1
$2,000 to $2,999	2. 4	15. 6
$3,000 to $3,999	3. 4	12. 4
$4,000 to $4,999	4. 1	8. 9
$5,000 to $5,999	4. 1	7. 3
$6,000 to $6,999	4. 2	5. 8
$7,000 to $7,999	4. 3	5. 7
$8,000 to $8,999	4. 4	4. 9
$9,000 to $9,999	4. 1	4. 2
$10,000 to $10,999	4. 6	3. 8
$11,000 to $11,999	4. 3	2. 6
$12,000 to $12,999	4. 8	2. 8
$13,000 to $13,999	4. 2	2. 0
$14,000 to $14,999	4. 4	1. 8
$15,000 to $15,999	4. 4	1. 7
$16,000 to $16,999	4. 0	1. 1
$17,000 to $17,999	3. 6	. 9
$18,000 to $19,999	6. 7	1. 3
$20,000 to $24,999	11. 6	1. 6
$25,000 to $49,999	12. 7	1. 3
$50,000 and over	1. 4	. 2
Median income	$13, 719	$4, 882
Mean income	15, 546	6, 623

TABLE B.—CHANGES IN THE NUMBER OF POOR PERSONS, FAMILIES AND UNRELATED INDIVIDUALS BETWEEN 197 (REVISED) AND 1975

[Numbers in thousands; persons, families and unrelated ind viduals as of March of the following year]

Characteristic	1975	1974 [1]	Change: Number	Change: Percent
All persons	25, 877	23, 370	[2]2, 507	10. 7
Spanish origin	2, 991	2, 575	[2]416	16. 2
White	17, 770	15, 736	[2]2, 034	12. 9
Black	7, 545	7, 182	[2]363	5. 1
Under 65 years	22, 560	20, 285	[2]2, 275	11. 2
65 years and over	3, 317	3, 085	232	7. 5
All families	5, 450	4, 922	[2]528	10. 7
Male head	3, 020	2, 598	[2]422	16. 2
Female head	2, 430	2, 324	106	4. 6
All unrelated individuals	5, 088	4, 553	[2]535	11. 8
Male	1, 667	1, 547	[2]120	7. 8
Female	3, 422	3, 007	[2]415	13. 8

[1] Based on revised methodology; details on p. 4 of the report.
[2] 1975 figure is significantly different from the 1974 figure at the 95 percent confidence level.

CHANGES IN THE POVERTY POPULATION BETWEEN 1974 AND 1975

The number of poor persons increased by 2.5 million or 10.7 percent between 1974 and 1975. This was the largest single year increase observed since 1959, the first year for which poverty data were available. In 1975, there were 25.9 million persons below the poverty level, comprising 12 percent of all persons. The increase in the number of poor between 1974 and 1975 was quite pervasive, occurring for both Black and White persons, for persons of Spanish origin, and for the young as well as for the elderly.[7]

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[1] The percentage increase in prices between 1974 and 1975 is computed by dividing the annual average Consumer Price Index (CPI) for 1975 by the annual average value of the CPI for 1974.

[2] Families and unrelated individuals are classified as being above or below the low-income level using the poverty index adopted by a Federal Interagency Committee in 1969. This index is based on the Department of Agriculture's 1961 Economy Food Plan and reflects the different consumption requirements of families based on their size and composition, sex and age of the family head, and farm-nonfarm residence. It was determined from the Department of Agriculture's 1955 survey of food consumption that families of three or more persons spend approximately one-third of their income on food; the poverty level for these families was, therefore, set at three times the cost of the economy food plan. For smaller families and persons living alone, the cost of the economy food plan was multiplied by factors that were slightly higher in order to compensate for the relatively larger fixed expenses of these smaller households.

The poverty thresholds are updated every year to reflect changes in the Consumer Price Index (CPI). Thus, the poverty threshold for a nonfarm family of four was $5,500 in 1975, about 9 percent higher than the comparable 1974 cutoff of $5,038. For further details, see Current Population Reports, Series P-60, No. 102.

[3] U.S. Department of Commerce, Bureau of Economic Analysis, Survey of Current Business, Volume 56, Number 7, July 1976, p. 1.

[4] U.S. Department of Labor, Bureau of Labor Statistics, Employment and Earnings, Volume 23, Number 1, July 1976, p. 19.

[5] Data were obtained from the U.S. Department of Labor, Employment and Training Administration, Office of Administration and Management.

[6] The apparent regional variation in the percentage changes in real median family income cannot be confirmed because of the large sampling variability associated with these estimates.

[*] Table references relate to the body of the Report.

[7] The increase in the number of poor persons 65 years and over was significant at the 90 percent confidence level. Unless otherwise qualified, all other comparisons are significant at the 95 percent confidence level.

As shown in table B, White persons below the poverty level increased by 2.0 million or 13 percent between 1974 and 1975 whereas low-income Blacks increased by about 363,000 or 5 percent. Persons of Spanish origin below the poverty level increased by 16 percent; however, because of the small sample size for this group it cannot be reliably determined whether this increase was greater than the increase noted above for Whites and Blacks. Between 1974 and 1975 there was an 11 percent increase in the number of poor persons under 65 years. The data also indicate an increase for poor persons 65 years and over but because of the relatively large sampling variability on the estimate for this group, this statement is made at a lower confidence level than the other statements in this report.

Between 1974 and 1975, the number of families in poverty increased by 10.7 percent (from 4.9 million to 5.5 million), in part reflecting the high unemployment rate that prevailed throughout 1975 and the fact that many more persons exhausted their unemployment benefits in 1975 than in previous years. About 42 percent of the 528,000 increase in the number of poor families between 1974 and 1975 was associated with those in which the head was "unable to find work during the entire year" or was a part year worker "unemployed 15 weeks or more" during the year.[8]

The increase in the number of poor families between 1974 and 1975 occurred mainly among those with a male head. During this period, families with a male head in poverty increased by 16 percent (from 2.6 to 3.0 million) while poor families with a female head increased by 5 percent (from 2.3 to 2.4 million).[9]

These are some of the highlights obtained from the Census Bureau's Current Population Survey (CPS) of March 1976. The information was collected from the civilian noninstitutional population and members of the Armed Forces living off post or with their families on post in the United States. Unrelated individuals under 14 years of age are also excluded from this report. More detailed income and poverty data for families and persons will appear in separate reports in this series to be issued later this year. Furthermore, another report in this series will be issued which will show detailed income data for households.

CIVIL DEFENSE PROGRAM

Mr. THURMOND. Mr. President, this year Congress expressed itself in amendments approved by both Houses that assistance under the Civil Defense Act to State and local governments may encompass preparedness for natural disasters when such a plan benefits the nuclear disaster programs.

After some confusion relative to the intent of Congress as reflected in Public Law 94–361, Deputy Secretary of Defense William P. Clements has written me and issued a memorandum setting forth the scope and mission of the Defense Civil Preparedness Agency.

Secretary Clements is to be commended for the vision and courage he has shown in bringing the divergent views on this subject into focus. His action will certainly enable our Civil Defense program to continue moving forward in meeting the serious challenge we face from the threat of an enemy attack.

Further, the need for more attention to our civil defense needs is also reflected in recent actions by President Ford who has directed a study of this program by officials at the highest levels in our Government.

These actions are vital in view of the wide lead held by the Soviet Union in its civil defense preparedness program. Our ability to be able to withstand a nuclear attack and respond are closely tied to the efficacy of our civil defense preparation.

Mr. President in order that each Member of Congress may know of these important developments I ask unanimous consent that the letter of September 17, 1976 addressed to me by Secretary Clements, and his memorandum to the Director of DCPA of the same date, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPUTY SECRETARY OF DEFENSE,
Washington, D.C., Sept. 17, 1976.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: This is in response to your letter of August 26, 1976 regarding the FY 1977 Civil Defense program to be undertaken by the Defense Civil Preparedness Agency. I, too, found our meeting of August 26 with Senators Burdick and Domenici and Mr. George Jones of Virginia most useful in exploring effective utilization of civil defense resources to strengthen the overall emergency preparedness of State and local governments.

In 1972, Secretary of Defense Laird established DCPA to carry out the civil defense responsibilities assigned to the Defense Department by the President under Executive Order 10952 and the Federal Civil Defense Act of 1950. At that time Secretary Laird authorized DCPA, under guidelines developed by the National Security Council and the Office of Emergency Preparedness, to conduct its attack preparedness mission in such a manner that State and local programs for peacetime disaster preparedness would be strengthened as capabilities to protect the public from enemy attack were built.

In directing that FY 1977 expenditures for civil defense be more clearly focused on nuclear attack readiness, it was the Secretary's intention to continue current DCPA policies whereunder federal civil defense resources are combined with those of State and local authorities to establish a common emergency readiness which significantly contributes both to nuclear and peacetime preparedness. In fact, the Secretary supports the concept provided in PL 94–361 that personnel employed under the civil defense program may, while in the process of developing an attack readiness capability, give attention to the adaptation and use of locally available operational systems and services for other-than-enemy caused disasters.

I have issued the enclosed memorandum to DCPA Director John Davis to clarify the Secretary's policies on this program.

I trust these guidelines will bring about the results we agreed to in our meeting.

Sincerely,

W. P. CLEMENTS, Jr.

DEPUTY SECRETARY OF DEFENSE,
Washington, D.C., Sept. 17, 1976.

MEMORANDUM FOR DIRECTOR, DEFENSE CIVIL PREPAREDNESS AGENCY

Subject: Fiscal Year 1977 Civil Defense Program

The purpose of this memorandum is to confirm the directions I gave you at the recent meeting concerning the scope and mission of DCPA's program for civil defense.

As my memorandum of July 8 stated, DCPA must continue to focus primary attention on preparing for an enemy attack upon the United States under the authorities of the Federal Civil Defense Act of 1950. This will assure that civil defense resources are principally directed at increased preparedness for nuclear attack.

However, decisions made during last year's budget review now require revision due to Congressional action as reflected in Section 804 of P.L. 94–361 and P.L. 94–363. The intent of Congress as stated in section 804 of P.L. 94–361 is to provide assistance to State and local governments in emergency situations arising from natural disasters. Such assistance may include preparedness type activities when the facts demonstrate that such a mutual plan benefits both the Department, State, and local preparedness programs. This will allow the application of civil defense organizational personnel, facilities and equipment to be applied to a common base of preparedness for both nuclear attack and peacetime disasters in such priority as we may determine appropriate to meet our basic mission.

In P.L. 94–363 the Congress specifically added funds to the DCPA budget request to assure continuation of such assistance at a level commensurate with prior years.

In view of the foregoing your FY 1977 financial plan submitted to the Comptroller should take into consideration the intent of the Congress regarding the use of funds and other resources for the support of the States in the event of a natural disaster.

W. P. CLEMENTS, Jr.

SCHOOL VIOLENCE AND VANDALISM: FORD ADMINISTRATION LONG ON RHETORIC AND SHORT ON ACTION

Mr. BAYH. Mr. President, for some time now the Subcommittee To Investigate Juvenile Delinquency, which I chair, has been conducting a study of the problems of and possible solutions for school violence and vandalism. Throughout this period I have urged the Law Enforcement Assistance Administration to use the authority and resources provided by the educational assistance provisions of the Juvenile Justice and Delinquency Prevention Act to pursue relevant initiatives developed by the subcommittee. Unfortunately, the LEAA response has been long on rhetoric and short on action.

Accordingly I have written Attorney General Levi to elicit his assistance in persuading the executive branch to implement these congressional initiatives designed to help local communities more effectively address these serious problems. I ask unanimous consent that my letter to the Attorney General be printed in the RECORD.

There being no objection, the letter

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[8] Data for family heads who were "unable to find work during the entire year" consist of those who did not work during the entire year and gave as the main reason that they could not find work. Data for family heads who were "unemployed 15 weeks or more" include those who worked for part of the year and were looking for work or on layoff from a job for 15 weeks or more during 1975.

[9] The increase for poor families with a female head was significant at the 93 percent confidence level.

was ordered to be printed in the RECORD, as follows:

SUBCOMMITTEE TO INVESTIGATE
JUVENILE DELINQUENCY,
Washington, D.C., September 28, 1976.

Hon. EDWARD H. LEVI,
Attorney General of the United States, Justice Department, Washington, D.C.

DEAR MR. ATTORNEY GENERAL: As you know in 1974 the Congress adopted my Subcommittee's Juvenile Justice and Delinquency Prevention Act by an overwhelming margin. This Act for the first time made possible a coordinated effort by the Federal Government to address the problems and causes of delinquency. It also provided incentives to State and local governments as well as private groups to reform our failing system of juvenile justice. As an integral part of this overall effort the Juvenile Justice Act specifically recognized the tremendous impact a youth's school experience has on his or her development and accordingly established programs to assist schools in preventing delinquency.

For some time now I have urged the Law Enforcement Assistance Administration to use the authority and resources provided to it by the educational assistance provisions of the Juvenile Justice Act to address the critical problems of violence and vandalism in our schools. Despite the seriousness of these problems there has been very little response on the part of the Administration. I am therefore writing to you in hopes of generating the necessary interest and concern on the part of the Executive Branch that will enable us to move ahead to help solve these problems.

In order to put my request in perspective, let me briefly review for you my Subcommittee's activities in the area of school violence and vandalism. During the course of our work on the Juvenile Justice Act, I became increasingly concerned over reports from educators and others of mounting problems of violence and vandalism in our schools. Obviously since no juvenile delinquency prevention program could ignore the serious impact such a development would have, I requested my staff to begin an in-depth investigation to determine both the extent of these problems and possible programs for improvement.

Since that time the Subcommittee has devoted considerable attention to this important subject. In April of 1975 we released a preliminary report based on a nationwide survey of school systems enrolling approximately half of the public elementary and secondary students in the country. We initiated a series of meetings and correspondence with more than seventy prominent educational, governmental and private organizations that have a particular interest in these problems. Additionally the Subcommittee held several public hearings with over thirty witnesses including administrators, students, teachers, parents, school security directors and superintendents who testified on various aspects of these disturbing problems and possible solutions.

While the range of estimates of the extent of these problems may differ somewhat, the Subcommittee's study can leave little doubt that significant numbers of our schools in urban, suburban and rural areas are facing disturbing, and at times critical, levels of violence and vandalism. On a national scale we are currently spending almost 600 million education dollars each year as a result of vandalism in our schools—more money than we spent for textbooks in 1972 and enough to hire 50,000 additional experienced teachers without increasing taxes by one cent. Even more shocking, however, is the almost 70,000 physical assaults on teachers and the literally hundreds of thousands of assaults on students perpetrated in our schools annually. There can be little doubt that a school experiencing significant numbers of such incidents will soon find that the already challenging task of education has become almost impossible to carry out.

In June of this year the Subcommittee released two volumes containing the transcripts of our hearings along with a series of selected articles, studies and reports that can assist the educational community in formulating workable and effective strategies for improving the situation in our schools. The many positive programs found in these documents (*Nature, Extent and Cost of School Violence and Vandalism*, and *School Violence and Vandalism: Models and Strategies for Change*) include, among others, various community and optional education models, suggested alternatives to suspension, codes of rights and responsibilities, strategies for increased student and parental involvement, counseling and guidance programs as well as guidelines for instituting effective security programs. I believe that together these strategies provide us with a carefully balanced set of tools to enable the private and public sector to pool their experience and resources to help students, teachers, parents and administrators secure the type of atmosphere in our schools in which education can best take place.

Throughout the process of our work in this area I have repeatedly urged the Law Enforcement Assistance Administration (LEAA) to pursue some of the initiatives developed by the Subcommittee in this area. My requests have been met with an abundance of rhetorical enthusiasm and promises of future action, but an unfortunate and disappointing lack of any real progress in implementing these programs.

In May of 1976 LEAA officials assured my Subcommittee at a hearing that they would be announcing some initiatives in the school violence and vandalism area in the "very near future." As of today there have been no announcements and very little initiative.

On July 15, 1976, when Congress approved my Amendment appropriating $75 million for implementation of the Juvenile Justice Act I specifically urged that a portion of this money be used for a School Resource Center to provide a clearinghouse mechanism for the dissemination of information concerning the successful strategies and programs developed through the Subcommittee's studies. While the Administrator of LEAA, Mr. Velde, apparently agreed with this suggestion there is still no School Resource Center.

I am sure you can understand that the lack of effective response to Congressional initiatives in this area is a source of frustration not only to me but to the entire educational community as well. The need is clear, the solutions indicated, the means provided but the executive leadership required to implement these programs remains apathetic, indifferent and inert. It's time to get off the mark.

I am therefore seeking your help in urging action on the important problems of violence and vandalism in our schools. While the Subcommittee intends to include provisions specifically addressing these issues in the upcoming reauthorization of the Juvenile Justice Act the Law Enforcement Assistance Administration can and should undertake an interim effort in this area. With your cooperation together with the existing commitment of the educational community I am confident that we can succeed in exchanging the adversity and strife so harmful to education in our schools for the diversity and debate so necessary for learning. I look forward to working with you on this important task.

Sincerely,

BIRCH BAYH,
Chairman.

TRIBUTE TO REPRESENTATIVE JOE L. EVINS

Mr. BAKER. Mr. President, it is my understanding that today tribute is being paid in our coordinate House of Congress to one of its most distinguished Members, the Honorable JOE L. EVINS, who is retiring from the House of Representatives at the conclusion of the 94th Congress.

As a fellow Tennessean, as one whose father and mother both served in the House of Representatives with JOE EVINS, as a fellow member of the Tennessee congressional delegation during the past 10 years, and as a friend, I wish to join with our colleagues in the House in saluting a distinguished and accomplished statesman who for 30 years has represented Tennessee's Fourth District in the House of Representatives. Throughout my service in the Congress, I have found the spirit of the Tennessee delegation to be one of bipartisanship; and I believe that JOE EVINS, as the dean of our delegation, is to be commended for his major role in fostering that spirit, which has inured to the benefit of all Tennesseans.

JOE EVINS' achievements as chairman of the House Small Business Committee and chairman of the House Public Works Appropriations Subcommittee will be long lasting, indeed, but even of greater noteworthiness and resiliency will be JOE EVINS' legendary capacity to cut through the Federal Government's bureaucratic maze so as to insure that his constituency and his State quickly receive their full and fair complement of services, benefits, and rights. I can think of no single Congressman who is more renowned for eliminating redtape, and I know that JOE EVINS is revered by his constituents for that talent.

Mr. President, in 1962 Congressman EVINS authored a book entitled "Understanding Congress." Many times I have recommended this tome to students of government, to newcomers to Washington, and to new legislative assistants as a basic resource for truly achieving an understanding of the legislative branch of Government. To read JOE EVIN's scholarship is to gain wisdom, and to know JOE EVINS personally, as I have for many years, is to have studied at the feet of a master of legislative craftsmanship.

I thank the Senate for this opportunity to pay tribute to Congressman JOE L. EVINS; and I, on a more personal note, wish him a happy and well-deserved respite from his decades of full-time service to his State and his country.

JOHN MARTIN'S INTERVIEW ON AGE DISCRIMINATION

Mr. CHURCH. Mr. President, a recent working paper by the Committee on Aging—entitled "The Recession's Continuing Victim: The Older Worker"—provides clear and convincing evidence that age is a serious problem for workers in their 40's, 50's, or older.

The problem may begin with one or more prolonged layoffs.

It may be intensified by the shutdown of a plant, automation, or the decline of an entire industry.

Quite frequently, older workers begin

a downward slide on the career ladder, because they are unable to relocate in comparable jobs at a comparable rate of pay.

Eventually, they may become underemployed, or reluctantly a welfare recipient.

In addition, job bias because of age is still a serious problem, despite the enactment of the Age Discrimination in Employment Act in 1967.

A report by the Department of Labor, for example, disclosed substantial age discrimination violations in fiscal year 1975, particularly in hiring practices and layoffs.

All in all, the Department of Labor investigated 6,555 establishments, and 2,093—or almost one-third—were found to be in violation.

Illegal advertising continued to be the noncompliance practice most frequently encountered.

The second most prevalent violation was the refusal to hire qualified older job applicants. This was followed by illegal discharges.

Of the 1,642 establishments with nonmonetary violations, over 70 percent were concentrated in three major industries: services, manufacturing, and retail trade.

As chairman of the Committee on Aging, I have long maintained that ability—not chronological age—should determine whether a person retires or continues to work.

The Gerontological Society's committee on research and development goals in social gerontology said:

> Age limitations for employment are both socially and economically wasteful, since chronological age is rarely a reliable index of potential performance.

Moreover, many older workers need to work now to provide additional income to meet rising costs.

Mr. John Martin—formerly U.S. Commissioner on Aging and now a legislative consultant to the American Association of Retired Persons—is a strong and articulate advocate for flexible retirement policies and a vigorous effort to enforce the Age Discrimination in Employment Act.

The Washington Star recently interviewed Mr. Martin, and he responded effectively and thoughtfully on a wide range of issues related to age bias.

Mr. President, I commend this interview to the Senate, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the interview was ordered to be printed in the RECORD, as follows:

[From The Washington Star, Aug. 21, 1976]

JOHN MARTIN: BIAS IS STRONG AGAINST AGED

John B. Martin, 67, a Michigan lawyer and former Rhodes Scholar, has served as U.S. Commissioner on Aging and as Special Assistant to the President for the Aging and presently is legislative consultant to the 9 million-member American Association of Retired Persons. Martin was interviewed by Washington Star Staff Writer Bailey Morris.

Question: You have argued for an end to discrimination against the aged. What form does this take?

MARTIN: A horde of people are discriminated against, particularly in the labor field, the employment field. And that discrimination starts as early as age 40 or 45. If you are out of a job at that age or older, you'll be unemployed longer; you'll have much more difficulty finding employment. This is an area where discrimination is very common. They are discriminated against in other ways but this is the area where discrimination is most severe. If you are 55 or 60 and are out of a job, you really have a problem.

Q: Is this because corporations fear having to pay major benefits?

A: This is one thing that is often given as a reason, although under the new Private Pension Act, you do not have to be included in the pension program if your normal retirement age is less than five years distant. That desire is put in there to encourage continued employment of older persons.

Q. So you think that the reason is more of a psychological one?

A. It's also because people may be trying to make more room for younger people coming up. They may be trying to hire younger people whom they can pay less than older people who are on the payroll. It's also because that in spite of all the tests that have been made of older people's performance—which show that they perform almost exactly as well and have less absenteeism and have all the good qualities—there is a certain amount of prejudice against older people on the basis that they are older and are set in their ways and they're hard to change and so on.

Q. A great deal of attention—if not a great deal of action—has been given to the financial problems of the retired. What is the scope of that problem?

A. We have a great many members telling about their problems in meeting the cost of medical expense. We're very keenly aware of that fact. Part of the problem that people have today is that the cost of living has gone up so fantastically that older people who have to live on fixed incomes are seriously disadvantaged. They spend most of their available funds on medical care, food and rent or maintenance of their dwelling. Those costs have all gone up very substantially so that even people at the time of retirement thought they were in relatively good shape have found that they are not being able to maintain their standard of living. We think the people ought to be able to retire and maintain about the standard of living they were maintaining at retirement.

Q. Don't you think the law reflects something that is very indigenous to the society in terms of rejecting people?

A. That's absolutely true. We are completely opposed to the whole idea of mandatory retirement as something that takes people when really most of them are in very good health, at the time of the peak of experience and knowledge of the job, that just throws them out, puts them out to pasture. We think that's wrong and we are doing everything that we know how to do to correct that situation. As you may know, we have fought for amending the Discrimination in Employment Act. That act provides against discrimination in employment, that is the hiring and firing between the ages of 40 and 65. By implication, everything over 65, discrimination is sanctioned. We are very anxious to see that act amended and to see the 65 limit removed. There is legislation now pending.

Q: How would it extend it?

A: The two bills I'm thinking of would just take the 65 limit off. The federal government has a provision of law which calls for mandatory retirement at age 70. This is, of course, a good deal better because many people are thinking about cutting back on the amount of work that they're doing. Most of the labor contracts favor agreements which specify age 65 and the Social Security programs comes into being at age 65 and slightly earlier for people who want to retire earlier. But the program is essentially a retirement at 65 program.

Q: Were you able to find out whether most people want to retire at 65?

A: Most people do not want to retire at 65.

Q: If they were financially established, would they want to retire?

A: There are lots of different reasons for retiring. If their health is bad, this is one common reason. Many people do retire for that reason. They can retire as early as 62. A great many people today would like to be able to cut back on the amount of work they are doing but not retire entirely. They need to have some additional income. They don't want to plunge from a state of modest affluence into a state of near poverty under present conditions and so they really do want to continue work. Our tendency is to push them out.

Q: Do most people plan now for retirement?

A: Most people don't plan at all for retirement although a good many more are planning to do something about it today than we used to have. We have endeavored to sell that to various corporations and businesses around the country because we think that people who do plan generally have a better attitude toward retirement and adjust to it better. But most people are inclined to put it off and I think it's because they really don't want to think about it. It's a disturbing thought.

Q: What is it they don't do in planning? What do you recommend they do do?

A: We recommend that they take a careful look at what their financial status is and what it's likely to be under the circumstances of retirement and if so, how they're going to cope with that. What income they're going to have is a pretty important thing. It may determine also whether they want to retire, if they have an option, or whether they don't. Many people today have Social Security pension and may have a private sector pension. They may be in such shape that they can retire and have an adequate income in spite of inflation. For them, planning is a lot easier. But if they only have a single pension and it's not large, they've got to start figuring out how they're going to make it after they retire. This is a course in doing all the things you can do to anticipate retirement and make the most of it.

Q: Do you urge them to seek professional help on this?

A: Yes, we do. That's what this whole program is for—aimed at giving professional help. Some of the government departments have very good programs of this sort. The Agriculture Department has an excellent program on preretirement. The Civil Service Commission now gives assistance and support to that kind of program. I think many people don't realize how far we have come in looking out for people and in providing programs for them.

Q: Do you find that people know what they are entitled to?

A: We have one project for which we have a grant from the Administration on Aging to work with older people to determine what benefits they are entitled to, in other words, what federal programs they can lean on for help. When a person comes in, we sit down and do an inventory of the need. We find out what their needs are going to be and we try to see whether their particular situation fits into the eligibility rules of the various programs that exist now.

Q: Is this available to anyone?

A: That is available to anyone, yes—any older person. That grant has been expanded and we're now going to give technical assistance to other state agencies on aging throughout the country on how to set up programs of that same kind. The programs are complicated enough so that people who are in need really can't determine what they are entitled to without some professional help. We are helping to develop that around the country now. We think that anyone who is entitled to share in a program ought to know about it and ought to have an opportunity to share if they want to. For example, the food stamp program is a program that would be beneficial to many older people, but a relatively small number of older people participate in it.

AUGUSTA CHRONICLE EDITORIAL "NEA GOES PARTISAN"

Mr. THURMOND. Mr. President, as one who for years contended the national leadership of the National Education Association was not reflective of a large body of its membership, the recent endorsement by NEA of the Carter-Mondale ticket certainly draws that issue to the forefront.

An interesting editorial on this subject entitled, "NEA Goes Partisan" appeared in the September 20, 1976, issue of the Augusta Chronicle newspaper.

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NEA GOES PARTISAN

The unprecedented vote by 7,000 representatives of the National Education Association to endorse the presidential candidacy of Jimmy Carter serves to underscore the increasing use of the organization for political purposes by the liberal element that has captured control of the NEA machinery.

Mr. Carter's endorsement vote—which theoretically "represents" the view of all 1.8 million NEA members—moves the 119-year-old teacher's group that much closer to the goal established by NEA president John Ryor: That the NEA should "become the foremost political power in the Nation."

We believe that the spirit which originally brought about the formation of the Nation's largest education association was splendid. To the degree that the education association provides insurance programs and similar teacher services, protects its members, and advances the cause of traditional American education, it can be an extremely necessary and admirable group. But we don't believe the founders of the NEA ever intended it to be an authoritative voice on political affairs. When the NEA speaks for a political cause such as the Carter-Mondale candidacy, the average man or woman in the street wrongly assumes that the liberals who control the group really are reflecting opinion from what we believe to be the large, responsible element of members.

It is no secret that the NEA has clout in fields other than education. Its Washington lobbyists have been successful in the past few years in trying to get Congress to support several appropriation bills which were the darling of the Big Spenders, and we recall the NEA was a prime mover in blocking the Nixon Supreme Court nominations of Clement Haynsworth and G. Harrold Carswell, among other things. But whether it can actually deliver approximately two million votes to Mr. Carter, as it threatens to do so, is open to question.

Teaching has traditionally been a respected and dignified profession; participation in partisan politics does not seem to be in keeping with such a position—especially if, say, many NEA members who are teachers are now to be sporting Carter-Mondale buttons in the classroom.

The type of NEA political lobbying as typified by the Carter endorsement may be expected to grow. Indeed, the present NEA hierarchy is encouraging such a situation. Yet such developments could lead to the point where many of the NEA's responsible moderate-to-conservative members may be moved to force the organization to restrict itself again to educational spheres on which members can unite.

TEENAGE UNEMPLOYMENT

Mr. McCLURE. Mr. President, for 200 years, Americans have been justly proud of the skills, talents, and aspirations of each new generation. As a people, we have given of ourselves and our substance to insure that each new generation would be better prepared to face the moral and economic challenges which we knew lay ahead. Over time, we have met our responsibilities to these new Americans. However, this successful record may now be in jeopardy as young people today find that entry into the job market is, in many instances, neither easy nor satisfying.

During the recession and the recovery which has followed, unemployment has remained high by any standard. It has been particularly severe for teenagers and younger workers generally. In the age group 16–19, the unemployment rate was 20 percent during 1975. As a group, teenagers were 10 percent of the labor force but accounted for 20 percent of total unemployment. If we expand the group to include all workers aged 16–24 we encompass 25 percent of the total labor force but account for 50 percent of total unemployment.

An improving economy will of course reduce the rate of joblessness among younger workers; but even in the best of circumstances, within a fully employed economy, 15 of every 100 teenagers seeking employment will be disappointed. In the event that we include those teenagers who are working part time while seeking full time work, 20 of every 100 young people will either find no work or not enough work.

An even more grim statistical picture can be drawn if we were to consider the ultimate fate of young people without education or job market skills who are "employed" in dead end jobs which are almost sure to be automated or priced out of existence during the next few years. The employment problems faced by young workers would be staggering even if the burden were equitably distributed among all young job seekers. This, however, is not the case as youth unemployment is concentrated both in terms of location and race. In many ghetto areas the black teenager is faced with an unemployment rate of 60 percent.

A statistical description of the employment problems encountered by young people could go on and on. In addition, we could relate these problems to the phenomenon of hard core unemployment among older workers who never experienced, as teenagers, the solid and enduring job market attachments which youth employment brings. Finally, it would be possible, this morning, to illustrate the budgetary impact and the loss of potential production associated with unemployment and underemployment. In this regard, it has been alleged that current budget deficits are wholly induced by high rates of unemployment. While I remain skeptical of this and other full employment budget concepts, I am convinced that our failure to deal with the employment and productivity problems of young workers will impact the Federal budget and the deficit for years to come.

The scope of the problem and my belief that a solution can and must be found prompted me to request the Congressional Budget Office to engage in a preliminary assessment of the challenges facing younger workers. That study is now complete. I intend to make the CBO summary a part of the RECORD and I commend the full study to the attention of my colleagues.

It is my hope that this excellent beginning made by CBO will provide the basis for a review by the Budget Committees and other Committees of all current programs which are directed toward increasing the employment and employability of all our young people. The costs of unemployment are large and they impact almost every function of the Federal budget. During the 1977 fiscal year, my staff estimates that direct Federal expenditures in response to present and potential unemployment will exceed $41 billion. We will spend over $5 billion to create employment, over $17 billion to increase the employability of the work force and over $18 billion to assist the unemployed directly.

It is my intention to encourage the Budget Committees, in cooperation with the appropriate legislative committees of the Congress, to study the unfolding employment problems of the 1970's in a realistic and integrated way. Such a study cannot assure success but it is a necessary first step in the search for a better and more effective program for national full employment.

I ask unanimous consent that the Congressional Budget Office study referred to above be printed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

SUMMARY

Two aspects stand out about teenage unemployment: that it is very high and that it endangers the future of some of the young. In 1975 the unemployment rate for teenagers, aged 16–19, was 19.9 percent.[1] For nonwhite teenagers, it was even higher—36.9 percent. Teenages accounted for more than 20 percent of the total number of unemployed, but less than 10 percent of the total labor force. If the age group is broadened to include those 16 to 24 years of age, youth accounted for almost half of the total unemployment, but only one-fourth of the total labor force. There is a danger that the experience of unemployment for some teenagers will impair their personal, economic, and social development. That risk, as well as the immediate economic hardship resulting from unemployment, differs widely for various groups of teenagers. Many unemployed youths can look forward to a time when they will not be plagued by unemployment;

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[1] In the first and second quarters of 1976, the seasonally adjusted teenage unemployment rates were 19.4 percent and 18.7 percent, respectively. For the most recent month available, August 1976, the rate increased to 19.7 percent.

however, others, especially nonwhite teenagers, cannot.

A useful way of classifying the causes of high unemployment rates for teenagers in the United States is by (1) variations in the supply and demand for labor; and (2) structural factors. Following this scheme, the causes of high teenage unemployment include:

VARIATIONS IN THE SUPPLY AND DEMAND FOR LABOR

The recession;

The proportion of teenagers in the population of labor force age;

Labor force participation decisions;

Changes in military manpower requirements.

STRUCTURAL FACTORS

The period during which those entering the labor market search for jobs;

Higher rates of job changing by teenagers than adults;

Seasonal patterns of entry into the labor force;

Market regulations, such as the minimum wage and child labor legislation;

Inadequate education and training for some youths;

Special problems of nonwhite teenagers and of teenagers living in poverty areas.

The recession. The recession of 1974–1975 accounts for approximately 5 to 6 percentage points of the current teenage unemployment rate. Because of the recession, unemployment rates for white teenagers are higher than 5 or 10 years ago. While the recession has also exacerbated the unemployment rates of nonwhite teenagers during the last few years, their unemployment rates have shown an upward trend for the last 20 years.

The teenage unemployment rate responds to economic recovery and, therefore, to monetary and fiscal policies. However, by themselves, these policies could take several years to reduce the teenage unemployment rate to the 14 to 15 percent range—levels prevailing in the relatively tight labor markets of 1965 and 1973.

Rapid growth in the civilian teenage labor force. Rapid increases in the teenage labor force have pushed teenage unemployment rates upward during the last two decades. This was due, first, to a bulge in teenage population, and, later, to increasing rates of teenage participation in the labor force. The proportion of teenagers in the population aged 16–64 increased substantially during the last two decades, but especially between 1955 and 1965. The population bulge, thus, contributed to increased teenage unemployment rates between the mid-1950s and the mid-1960s. After 1965, the teenage population growth slowed, but rising labor force participation rates among teenagers—particularly among students seeking part-time jobs—prevented growth in the teenage labor force from slackening.

The problem of teenage unemployment was exacerbated during the late 1960s and early 1970s by declining military manpower requirements. Between 1968 and 1974, the number of young men in the armed services declined by more than one million.

Labor Market Entry, Job Changing and Seasonal Factors. A substantial cause of the high unemployment rates experienced by teenagers is their status as new entrants (or reentrants) into the labor market and, to a much lesser degree, their high rates of job changing. At any given time, a larger proportion of teenage workers have recently entered the labor market compared with adults; and a large proportion of those who enter experience some unemployment as they search for an initial job. Several factors contribute to higher rates of job changing by teenagers than by adults, including the less desirable jobs held by teenagers, their lack of seniority and skills, and lack of financial responsibilities.

In 1975, approximately 65 percent of all unemployed teenagers were either entering or reentering the labor market; the percentage is even higher during periods when national unemployment is lower (as in 1973). In general, this type of unemployment is brief, except during periods of recession, and may possibly be reduced further by specific policies, such as placement services, work-study programs, career education, and greater reliance on apprenticeship methods.

The bunching of school graduations, vacations, and other recesses also contributes to high teenage unemployment. It is difficult for the market to absorb these large fluctuations in the supply of teenage labor. Policies to smooth some of these peaks in the supply of teenage labor could help ease the difficulties of finding a job.

Minimum Wage and Child Labor Laws. Public regulation of the labor market, by means such as minimum wage laws, add to teenagers' problems in finding jobs and in acquiring job experience. However, in spite of much effort, through empirical studies, there is no consensus on the quantitative effect of the minimum wage on teenage unemployment. Current minimum wage law permits a differentially lower minimum wage for particular groups in the labor force, including full-time students who work part-time in retail and service industries. More extensive use of a differential (lower) minimum wage, for example by extending the above provision to teenagers who are not enrolled in school, could stimulate the demand for teenage labor. In periods of low unemployment, the youth differential could contribute to a reduction in inflationary pressures in the labor market. However, the policy could cause job losses by older workers, especially in periods of high unemployment.

Inadequate Education and Training. Inadequate education or a lack of basic skills is a problem for a significant minority of teenagers. Such handicaps affect the distribution of unemployment. Moreover, inadequate education and training can contribute to unemployment when job vacancies exist but unemployed workers lack the requisite skills. Increased emphasis on the education and training needs of noncollege-bound teenagers might help to reduce the proportion of youths with minimal saleable skills. Policies for addressing these problems include increased stress on basic and remedial education (including continuing education), work-study arrangements, and subsidized on-the-job training.

Nonwhite Teenagers. The unemployment rates for nonwhite teenagers have been on an upward trend for the past two decades. Although the economy has been in recovery for approximately one year, in May 1976 the unemployment rate for nonwhite teenagers was above the level in May 1975 (38.5 percent compared to 37.3 percent). In contrast, after discounting cyclical factors, the unemployment rates for white teenagers have not shown an upward trend since the mid-1960s; and, during the recent recovery, the unemployment rate of white teenagers fell from 18.3 percent in May 1975 to 16.3 percent in May 1976. Moreover, the labor force participation rate of nonwhite teenagers is more than 15 percentage points below the participation rate for white teenagers.

Among the reasons for the very high unemployment rates for nonwhite teenagers are:

Geographic concentration of nonwhite teenagers in the central city;

Rapid increase in the number of nonwhite teenagers—an increase that will continue while the population growth of white teenagers diminishes;

Reduced willingness to take low-status jobs;

Low quality of the education available, high absenteeism, and high dropout rates;

Racial discrimination in the labor market.

All these difficulties are exacerbated by the concentration of nonwhite youth in poverty areas of the largest cities in the U.S., where there is a confluence of negative forces at work, including depressed labor markets and high crime rates.

Because these factors are interdependent, a concerted effort on several fronts may be required to have significant long-term effects on nonwhite teenage unemployment rates. A coordinated set of policies might include:

The provision of skill-training and education entitlements for low-income youth.

An expanded employment and training program targeted on low-income areas and teenagers from low-income families.

Aggressive enforcement of nondiscrimination statutes in the labor and housing markets.

The Diverse Characteristics of Unemployed Teenagers. Unemployed teenagers are a diverse group. Several relatively distinct groups of unemployed teenagers can be identified, based on age, school status, family income, and duration of unemployment. For example, in 1975, about 60 percent of the unemployed youngsters aged 16–17 were seeking part-time jobs; the principal activity of most of these teenagers was going to school. But about 77 percent of the group aged 18–19 were seeking full-time jobs.

For many youths, unemployment is a fairly temporary and minor problem associated with finding a summer job, an after-school job, or the first full-time job. But for many others it can represent a serious loss of income or a serious waste of human potential. The share of total family income accounted for by teenagers is higher in low-income families than high-income families. As a group, more of the out-of-school unemployed youths come from low-income families, compared to the group that is in school and seeking part-time jobs. Even among this latter group, however, earnings are important. For many youths and their families, earnings from part-time jobs are critical in making ends meet.

For some teenagers, a prolonged period of unemployment or a prolonged period of intermittent unemployment can result in lost or postponed opportunities to develop skills and work habits—and this may have lifetime implications. Unfortunately, not much is specifically known about the cumulative effects of cyclical unemployment on the later employment experience of individuals.

Foreign Experience. Teenage unemployment rates in other industrial countries have also been affected by the recession of 1974–75, although teenage unemployment rates in those countries generally remain considerably below those in the United States. Public employment, wage and training subsidies, and subsidized extension of schooling have been among the policies used in other industrial countries to combat the impact of recession on the unemployment of young workers.

Over a longer period of time, some industrialized countries have managed to keep teenage unemployment rates relatively low compared with those in the United States. Although it is difficult to single out any one reason as being more important than others, several factors which contribute to low teenage unemployment in some countries can be identified:

Low unemployment rates in these countries generally;

Major use of apprenticeship arrangements;

A low proportion of teenagers in the population of labor force age;

Special employment services for youth, both before and after leaving school;

Low wages for teenagers, differentially lower minimum wages, or no minimum wage statute;

Low rates of participation in the labor market by students;

Less emphasis on upward mobility.

Policy Issues and Options. One way to reduce teenage unemployment rates from their current high levels is by means of aggregate (monetary and fiscal) policies. However, this approach takes time, and it can add to inflationary pressures in the economy.

Another way is by means of policies which are specifically targeted on teenagers, or on particular subgroups of teenagers, such as the disadvantaged or long-term unemployed. Targeted measures that might be used to combat teenage unemployment include:

Public employment and training programs;

Increasing the demand for teenagers in the private sector (for example by partial exemption to payroll taxes, wage tax credits or wage subsidies, more extensive use of a differential minimum wage for teenagers);

Educational policies;

Providing teenagers with information about the labor market; and

Special measures for disadvantaged youths (such as anti-discrimination policies).

The United States has had experience with a variety of youth employment-training programs in the public sector. These programs vary widely in cost per enrollee or per person-year, depending on such factors as the extent of training, the amount of supervision and materials used, and the wage rate or stipend paid. Public employment-training policies can be instituted relatively quickly and can be targeted on particular groups, such as teenagers who have been unemployed for longer than 15 weeks or teenagers from low-income families. However, there are substantial problems of design and implementation, particularly in large-scale efforts. For one thing, it is not easy to devise effective, high-priority projects that will not compete with the private sector or the established public sector.

Policies for increasing the demand for teenagers in the private sector involve providing employers with special incentives for hiring teenagers. Advantages of this approach include the fact that it works through the private sector and the market system can assist in organizing the activities. Also minimal government bureaucracy may be required. Moreover, this approach could be anti-inflationary, by lowering employers' costs. However, since the special incentives would apply only to the employment of teenagers, some older workers could lose their jobs or find jobs more difficult to get. These problems would be more serious when labor markets are loose than when they are tight.

Educational policies might affect teenage unemployment in at least two ways: Policies which increase the enrollment of teenagers in education and training institutions could have the short-run effect of reducing the supply of teenage labor. In addition such policies, together with those that strengthen the basic skills of teenagers, could have the longer-term effect of increasing the productivity of youths. There are some risks to this approach, too, since it is difficult to ensure that educational programs will be effective.

Providing teenagers with information about the job market could involve a range of policies extending from career education, counseling, and work-study arrangements through job placement services. To be successful, these policies require cooperation among schools, employers, and employees. Special arrangements, such as education-work councils at the community level, might facilitate this cooperation.

The policies outlined above could be focused on disadvantaged teenagers. Additional policies, such as mobility assistance and enforcement of nondiscrimination statutes in the area of employment and housing, might also help combat their unemployment problems.

THE GENOCIDE CONVENTION IN HISTORY

Mr. PROXMIRE. Mr. President, today I would like to address the arguments of those who assert that the Genocide Convention is simply a moral statement of human rights and therefore useless.

Throughout history, man has affirmed and promoted human rights through statements which advance individual rights and human dignity. The important documents of our history—the Ten Commandments, the Magna Carta, the English Bill of Rights, the French declaration of the Rights of Man and the Citizen, our own Bill of Rights and Constitution, and the United Nations Charter have all essentially been a statement of the rights of free men, coupled with punishment or threat of punishment to those who would abridge these rights.

The Genocide Convention, as a document which affirms the most basic human right—the right to live—is an international statement of human rights. Like all the great documents of human rights it has been called impractical and useless. Yet it succeeds in raising the heinous crime of genocide to the level of an international crime. And in doing this the international community warns potential perpetrators of genocide that their acts will be punished as a crime against humanity.

Eighty-two countries to date have affirmed these principles and ratified the genocide convention. The United States, once considered to be a leader in the protection of human rights, has failed to join the international community in condemning the crime of genocide. My fellow Senators, it is time for us to take action and reaffirm the U.S. commitment to the rights of all people.

RETIREMENT OF GEN. FRED C. WEYAND

Mr. LEAHY. Mr. President, I join my colleagues in recognizing Gen. Fred C. Weyand on the occasion of his retirement from the Army.

I have tremendous respect for General Weyand as a soldier, and more importantly, as a person. He keenly appreciates the checks and balances which make the American system unique among the world's governments. He does not take questioning and disagreement as a personal affront, but rather understands that such questioning and disagreement are essential ingredients in the congressional-military relationships mandated by the Constitution. This service deserves the true thanks and gratitude of all Americans. He certainly has that gratitude from this Vermonter and I know does from all Americans.

The United States has been fortunate during these past few difficult years to have General Weyand heading the Army. During the withdrawal from Vietnam, during the Presidential political crisis, there was never any doubt about where General Weyand stood. He stood with the Constitution. In doing so, he continues the proud heritage of citizen-soldiery espoused by our Nation's founders.

Someone has said that "no man is a leader until his appointment has been ratified in the minds and hearts of his followers." General Weyand's appointment has been ratified many times over. His niche as a leader is secure. I wish him and his wife all the best in his retirement.

COVERT OPERATIONS: THINGS ARE NOT THE SAME

Mr. CHURCH. Mr. President, the Washington Post carried a well-reasoned and carefully written article by Stephen Rosenfeld on the Senate Intelligence Committee's recently completed investigation of the U.S. intelligence agencies. He points out some of the institutional reforms that have resulted from the investigation, reforms that could never have come about without the many months of hard work and dedication. This was a difficult but necessary investigation and the committee was assisted at every step by a committed and cohesive staff. They deserve our special thanks and praise for a job well done. Without their help, we could not have investigated every intelligence agency of the Government in the year and a half the committee was in existence.

Mr. Rosenfeld's article speaks for itself, and I ask that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COVERT OPERATIONS: THINGS ARE NOT THE SAME

(By Stephen S. Rosenfeld)

In claiming that the CIA's covert operations have survived scandal and investigation "intact, if not strengthened," journalist Taylor Branch, writing in last Sunday's New York Times Magazine, dignifies a gathering Washington myth. Citizens worried about the official abuse of secret power should know it's not so. The myth, not simply his article, needs to be knocked down.

Now, it's true that dirty tricks, previously conducted without statutory or explicit legislative sanction, have now gotten official congressional license. To those who believe that there should be no dirty tricks, or that the Congress by sanctioning them legitimizes an illegitimate practice, this may be enough to damn the whole process.

It's true, too, that not all the CIA's myriad operations were investigated by the Senate or House intelligence committees and that, of those investigated, not all the findings were released or leaked. Again, to those who look at this matter just in terms of investigation and disclosure, there's little more to say.

I find it inadequate, however, to accept either of these propositions.

As authentic and extensive a national debate as can be imagined was waged on the question of whether the U.S. ought to be ready to conduct certain operations under certain conditions. Plainly, the national answer was yes. Congress, which reflects the full spectrum of public opinion on this issue, is moving to implement that public verdict. It is not by the CIA's self-serving manipulations or by the Congress being "outfoxed" that this is happening, but by popular demand. Personally, I buy it.

Further, the purposes and limitations of investigation and disclosure must be understood. These can build care into a rampant bureaucracy and a negligent executive, and they can fuel a demand for reform in the Congress and public. But is it necessary or wise to investigate or disclose everything? Apart from the deference due endangered persons and apart from the limits of time and staff, there is the real and valid political limit, which the Senate observed and the House did not, of acting in a way to build a political consensus.

As Frank Church, chairman of the Senate inquiry, puts it, "We did not want to end up on the cutting room floor. We wanted to keep the confidence of the Senate and write our recommendations into law."

The Church committee achieved this—it forced the President into reforms meant to be preemptive, and launched the Senate on its own reforms. These are "institutional" rather than "journalistic," and it is instructive to run down the list.

A permanent intelligence oversight committee, of representative membership, was set up in place of the old system of informal review by CIA-co-opted legislators. Its chairman, Daniel Inouye, says he's proceeding with all deliberate speed, building staff and savvy, and gaining executive cooperation: "If they lie to us, there'll be hell to pay."

A charter, or statement of missions and prohibitions, is being drafted by this panel to cover the whole intelligence community. It will go on top of the charter decreed by President Ford last February. Previously a broad range of secret intelligence activities had no legislative sanction and, in some cases, not even recorded executive sanction.

An overall budget for the entire intelligence community is being drafted (for fiscal year 1978) to replace the fragmented and concealed agency budgets of the past. The budget will be authorized line by line for content as well as money in the regular fashion, not just appropriated without authorization review by a few congressional pals of the intelligence agencies.

The Ford executive order gave potential substance to the old form of an intelligence "community," a concept that the Senate is recognizing, too. The necessary difficult internal exercise to rationalize missions and assets and divvy up a single budget pie is said to be moving ahead.

A procedure is being worked out by which the Senate accepts no prior restraint on what information it can request from the executive branch or release to the public, and by which it can bargain out differences over the disclosure—even the disclosure of "covert" operations.

The Senate's new requirement that the President certify in writing the need for each covert operation has forced accountability upon the President—no more mumbles in the Rose Garden. This assures the Congress of notification early enough to raise meaningful objections, Inouye insists. The procedure appears to improve upon the 1974 Hughes-Ryan amendment under which the executive could wait until late in the day to notify, in a cursory way, six congressional committees, none of them with fixed responsibility or readily available staff.

One should ask that, institutional considerations aside, the public climate imposes its own restrictions on covert operations. Look at how congressional and public reaction aborted the administration's Angola operation, once the shape of it became clear. Fear of leaks is bound to further slow any administration's covert hand.

My main point, though, lies here: You can say that CIA dirty tricks survived "intact if not strengthened" only by overlooking the institutional innovations—oversight committee, charter, budget, intelligence community formation, information rules, notification of operations, presidential accountability, plus executive reorganization—by which covert operations are now guided.

These innovations do not make absorbing reading, as do tales of the politics and "bureaucratics" of the intelligence inquiries. But they do seem a lot more important. And although no final verdict can yet be rendered, they make it reasonable for citizens to hope that, in so far as the conduct and control of covert operations is concerned, things have indeed changed.

AN ADDRESS BY THE SECRETARY OF DEFENSE DONALD H. RUMSFELD

Mr. THURMOND. Mr. President, it was my pleasure to hear the address by the Honorable Donald H. Rumsfeld, Secretary of Defense, at the National Security Industrial Association—NSIA—dinner on September 16, 1976, at the Sheraton Park Hotel, Washington, D.C. As I stated in my letter to the Secretary, "I thought you made an excellent speech before the NSIA at their dinner here in Washington."

Secretary Rumsfeld expressed the concern of President Ford, which I share about the trend over the past decade of Soviet military increases and decline in U.S. defense efforts. In the face of an ever-increasing Soviet military capability, Secretary Rumsfeld scolded the Congress for making cuts in the Defense budget which many of my colleagues and I disapproved. The Secretary said:

> Successive Presidents over the past decade have proposed budgets to meet our defense needs, and almost on a knee-jerk reaction, the Congress has cut, and cut and cut totalling $33 billion in the last six years and $7 billion last year alone.

These defense cuts must not continue, if the United States expects to reverse this adverse trend. It is encouraging to note that for the first time in several years the Congress has finally become a little bit more sensitive to the Soviet build-up. This is reflected by less drastic cuts in the Defense budget recently approved by the Congress. In reference to the fiscal year 1977 Defense budget, the Secretary of Defense referred to an "increase in real terms" which must be sustained, if our Nation expects to reverse the adverse trends and the threat to the free world.

Mr. President, I ask unanimous consent for the address given by the Secretary of Defense on September 16, 1976, at the National Security Industrial Association dinner, to be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Remarks by the Honorable Donald H. Rumsfeld, Secretary of Defense, at National Security Industrial Association Dinner

Mr. Westerman, Mr. Mann, and Admiral Lyle, members of the National Security Industrial Association, members of the United States Congress, representatives of the Defense Establishment, there were so many introduced I wonder who's minding the store tonight, and Ladies and Gentlemen.

Mr. Westerman, I thank you for that introduction. It reminded me of that comment by a former governor of my home state of Illinois, Adlai Stevenson, who said that praise is like perfume; it's all right to smell as long as you don't swallow any of it.

It's a pleasure for me to join you for this 33rd Annual Dinner. I respect the foresight of Secretary Forrestal who encouraged the establishment of this Association. It is important to further communications between business and government; it's particularly important for those of us involved in national security affairs. I congratulate this Association, its members, directors, executive committee for the work they're doing.

As de Tocqueville pointed out in his insightful analysis of our then still young American system, the functions performed by private citizens are a measure of the health of a democratic society. Our policies must reflect, as always, the hopes and aspirations of the people and must in turn be broadly understood. They must be supportable and supported to succeed. In my judgment, organizations such as this make a vital contribution towards that end.

Emerson once said that this is a very good time if we but know what to do with it. That was a long time ago that he said that, but I believe that it could be said today that this is a very good time, if we but know what to do with it.

In the past decade America has weathered severe storms and yet come through with renewed spirit and optimism. I was interested to read the other day that the most recent report of the International Institute for Strategic Studies, which as you know is a London-based organization interested in military and political affairs, made this statement in their report.

"Of the two superpowers, the United States seemed to emerge in a rather better shape from the difficulties of recent years. Few societies would have been capable of surviving the double trauma of Watergate and Vietnam, but the United States did so with their Constitution affirmed, and their direct security commitments strengthened."

Indeed this is a very good time because we are at peace, and that's important. There are no Americans in combat anywhere in the world this evening. This can be said now for the first time in a Presidential election year since 1960, some 16 years ago. For you, for me as Secretary of Defense, for the dedicated men and women of our Armed Forces, for their parents, and indeed for all Americans, the fact that we are a nation of peace is of fundamental importance.

This is a very good time because the peace we have today is one with our principles preserved also, our interests secure and our alliances strengthened. Peace without security, peace without the maintenance of our principles would be without value. Peace with security, with our principles and interests maintained, is a peace with a value that sometimes too few appreciate.

This is a very good time because of the season, too, and I'm not referring to the football season or the Redskins' cliff-hanging opener last Sunday, but rather to the political season. We're now just into another season when the American people select their leaders and determine the direction for our nation.

Now, although I am an ex-professional politician, as Secretary of Defense I can only observe, not participate this year. This is because President Ford has understandably asked the officials in Defense and State and Justice to refrain from partisan activities.

Nonetheless, from my position on the sidelines I can observe that the practice of political liberty is rare in our world. It is not universal; indeed it is very much in the minority. Ours is a world where freedom is constantly being threatened, where according to Freedom House Report this year, almost half of the world's population lives under totalitarian or authoritarian regimes; where but one-fifth of the people on this globe are free. Yet here, the people govern, and this is worth a great deal.

So as Emerson said, this is a very good time. But we cannot ignore his second thought, if we but know what to do with it. To do so, one might reflect on the conditions that have brought us through some 200 years to this very good time, and strive to continue those conditions. One such condition is certainly military strength, the strength by which we have successfully protected our freedom; strength by which we have contributed to a measure of peace and stability in our world.

Our foremost national security objective is of course peace, the protection of the United States from aggression, or intimidation. A strong defense, as the people in this room know well, helps to keep the peace and supports our foreign policy objectives in several ways.

First, a strong defense deters aggression. Simply put, and it needs to be repeated, it dissuades potential enemies from aggression by posing a prospect of cost and risk which outweighs any possible gains for them. But for effective deterrence, the war-fighting capability of our forces must be credible and evident. The nation's resolve to protect our interest must be firm and unambiguous. Indeed were our military power to be challenged to the point that we would have to employ it, then it must be judged to have been insufficient in the first place.

From my vantage point as Secretary of Defense, two points are of particular importance. First, it's clear that our Armed Forces are today capable of performing their assigned missions. Let there be no doubt about it.

The concern that President Ford and I have expressed is not about our military strength today, but about tomorrow. This concern, my second point, which I have expounded repeatedly, arises from a set of trends over the past decade and a half, increases in the Soviet Union's efforts and decline in U.S. defense efforts in real terms which are unmistakably adverse to the United States of America. That is accurate regardless if one looks at level of effort or percentage of gross national product; at specific weapons, ships, guns, and tanks and planes and production rates. It's accurate if one looks at the institutional capability to produce additional weapons. It's accurate if one looks at the accelerated pace of improvements with respect to the sophistication of weapons.

Recognizing that those adverse trends were unacceptable and indeed dangerous to our national security, the President of the United States sent to the Congress a defense budget that was designed to arrest those adverse trends. The facts drove the President, as they drove me, as they drive reasonable people who take the time to look at the facts, to the conclusion that the nation could no longer afford a business as usual stance in dealing with our national security. We could no longer continue to slide down that slope of inadequate effort.

Successive Presidents over the past decade have proposed budgets to meet our defense needs, and almost on a knee-jerk reaction, the Congress has cut, and cut and cut totalling $33 billion in the last six years and $7 billion last year alone.

As a solution to the problem of our country's national security, the approach reminds me of H. L. Menckin's wonderful comment when he said that for every human problem there is a solution that's simple, neat, and wrong. And what we've been doing in the last six years just about fits that in terms of repeated Congressional cuts during a period when the Soviet Union has been increasing year after year after year.

Because of long lead times involved in weapons, research, development and procurement, decisions made today, this year, will determine our defense posture in the coming decades. President Ford saw his responsibility to provide for our country's strength, five, 10, indeed 15 and 20 years hence. He recognized that a business as usual approach would jeopardize the future security of our country. Indeed that approach is what has caused the problem that we see today.

The Soviet Union's been busy, and here in the United States we see a group of people running around saying, "I'm for a strong national defense but. . . ." It's right after the but that you begin to get in trouble.

They say, "Well, I'm for a strong national defense but we can't afford it, we have so many demands on our budget." The cold, hard fact is we can afford it, indeed we can't afford to do anything else.

Today we're spending the lowest percentage of our gross national product, the lowest percentage of our federal budget, the lowest percentage of net public spending, the lowest percentage of our labor force since before either Pearl Harbor or the Korean War, depending on which statistic you want to pick, and people say we can't afford it.

People go around to cocktail parties and they say, "I'm for a strong national defense but the Pentagon ought to get more efficient." Well, we ought to get more efficient, and we're breaking our necks to try to get more efficient, and we are getting more efficient, and we intend to get better tomorrow.

Yes, we're not a model of perfect efficiency. Regrettably we're manned by human beings. We're imperfect. We will be tomorrow as well, I regret to say. Anyone who tells you that there is some sort of inexhaustible, motherlode of billions of dollars waiting there through magic waving of wands that will create tremendous new efficiencies and allow the American people to have a strong national defense at no burden to them, at no cost to them, they're just plain not giving it to you straight.

Now you know, when we look at how we're doing, I've criticized the Defense Department; I said we're not perfectly efficient, we're not, and it bothers me and we work on it every day and we intend to get better, and we are. But when compared with other departments of government, not bad. And for those of you from the private sector, when compared against such things like the John Hancock Building or the Bay Area Transit or the Washington Metro, even better.

Some people say to me, "I'm for a strong national defense but really, Don, we're at peace." We are at peace. Why in the world if we're at peace when the world is reasonably stable do we have to put more and more money into the Defense Establishment. It doesn't make sense.

My answer very simply is that history books are speckled with nations and free people who during periods of relative peace and relative stability have relaxed, who have said now's the time we can go back to our churches, back to our businesses, back to our organizations, back to our families and communities and worry about that, and not worry about what's happening out there.

Those people to their detriment ignored the truth that weakness is provocative, that weakness can in fact invite others into adventures they might otherwise have avoided. Those people ignored the truth that vigilance is indeed the price of liberty.

You know, despite the adverse trends, despite the clear threats to freedom and self determination evident in the world, we still find people advocating more cuts, more business as usual. Some people say there ought to be a $15 billion cut, others say it ought to be five to seven billion dollars, other people say it ought to be seven to nine billion dollars, some people say it ought to be all three of those at different times.

They toss around figures without ever really telling you the truth, that there is no free lunch. We found that out in Chicago in the thirties when the bars stopped the free lunch. There is no free lunch. If you want a strong national defense it's going to cost some money and there's no magic that can provide strong national defense for this country at no burden to the American people.

Repeated cuts will in fact perpetuate a pattern of decline, of level of effort in real terms, which is what we've had, and that's a fact; a weakening of our national capability, a relative degradation of our military strength.

You know, we have before the Congress a shipbuilding program, just as an example. Congress has been working on the defense budget this year, and in fact when the year's over I believe we will see for the first time in a number of years an increase in real terms that will put this country back on a path that will in fact reverse those adverse trends. But we have something important before the Congress remaining, and it is the shipbuilding program. My hope is that before Congress adjourns that that will be dealt with, and I know that a good many people in this room, and some on this dais share that view.

But the idea that we can somehow please everybody and go about this thing in a way that having strong national defense with no burden, reminds me of that wonderful story Everett Dirksen used to tell about the fella who was a great public speaker because he had a great speech writer, and he really wasn't much of a guy, and he got elected to the Congress. The speech writer went into him and said, "You know, Senator, I'm not making any more money than I made when you were nobody. Here I've helped you get elected to the Senate." He said, "Look, young man, just go about your business, don't come around talking to me about that. You're very fortunate to be working for such a prominent American".

The Senator got up, walked by his secretary, grabbed his speech, got on the airplane, walked into a group like this, walked up to the podium, said, ladies and gentlemen, it's a pleasure to be with you this evening. I'm going to tell you how the United States of America can increase welfare, improve unemployment payments, rebuild the cities of this country, establish a new national highway system, maintain a strong national defense and cut taxes at the same time.

And, of course, he turned the page and there was that small, handwritten note that said, "Okay, you jackass, you're on your own."

Anyone who tells you that we can keep on cutting the defense budget and still maintain a strong national defense, you might just tell him that story.

A second point about our national defense relates to our belief in freedom, and in independence, and in self-determination for us and for others. There is no question but that by our strength we encourage our allies and our friends elsewhere in the world to resist pressure, to conform more closely with Soviet interests in the world. And when reflecting on that fact, what most people call the danger of Finlandization, and the danger it poses, I think it's worthwhile to recall Dean Acheson's comment that influence is the shadow cast before power.

Also a strong defense posture supports the framework of world trade and prosperity among our allied nations. Since World War II the peace among industrial nations has led to the highest standard of living of any peoples in history, for the United States and for our allies.

To weaken our defense, to allow it to be weakened, to allow those trends to continue, would in fact be to also weaken the underpinning of the stability and prosperity we've enjoyed.

It is military strength which underlies freedom of the seas, so vital to maritime nations such as the United States. A strong defense is essential for public confidence for investment, for savings, and for real economic growth and prosperity.

Finally, a strong defense is a prerequisite to negotiation towards agreements on strategic arms, or forces in Central Europe. I think most Americans share the conviction that agreements that can protect our national security interests are worth pursuing. But negotiating from weakness is not the way to achieve agreements that are in our national security interests. These are some reasons that America must remain strong.

As Dean Acheson once said, crises do not always come upon us with crashes of thunder. Too often they move at a petty pace from day to day, and those who would chip away at the strong national defense posture that we need to maintain would do this country, would do peace, and indeed would do freedom great harm. Such proposals translated into action would reduce our deterrence, lower our defense capabilities in case of aggression, and create a situation in the world which could precipitate rather than deter a crisis.

This is a very good time, a time of peace, a time of prosperity, time of freedom, of democracy succeeding. Think of the challenge that Emerson presented when he said "If you but know what to do with it."

It is for each of us to do the important work of our free society, to keep America strong and free; and to make the magnificent gamble that is America, work. Freedom does impose a burden, but a burden the American people have accepted throughout our 200 years, and a burden that I'm confident the American people will continue to accept in the years and decades ahead.

I thank you for the honor you do me and those of us from the Department of Defense by inviting us to join you this evening. Thank you, very much.

TRIBUTE TO SENATOR MANSFIELD

Mr. CASE. Mr. President, the retirement of MIKE MANSFIELD marks the end of an era in the Senate—16 years of quiet and firm leadership.

MIKE MANSFIELD and I have served together for more than a decade on both the Appropriations Committee and the Foreign Relations Committee, and in this time I have had countless opportunities to observe the Senate's astute practitioner of the short but fully responsive answer.

The most meaningful tribute I can make to him, then, would be in his style, so I will do it that way: to the distinguished majority leader I say, the Senate will miss you.

REPORT ON THE LOGAN INTERNATIONAL CONFERENCE ON THE STRATOSPHERE

Mr. BUMPERS. Mr. President, the National Academy of Sciences recently released its report on the potential depletion of the stratospheric ozone shield by chlorofluoromethane—CFM's—used in aerosol cans, air conditioners, refrigerators, and in the making of foam cushions and styrofoam cups. On September 13 Senator DOMENICI inserted the executive summary of the Academy report along with his views into the RECORD, and on September 15 I inserted some additional observations on the report. Both of us agree that it is imperative that this Congress enact the ozone protection legislation contained in the Clean Air Act Amendments of 1976 to authorize regulatory action. Events since the release of the report last Monday, September 13, only increase my concern that Congress act.

By a fortunate coincidence a major International Conference on the Stratospheric and Related Problems, which had been scheduled for over a year, was held last week in Logan, Utah. I would like to share with the Senate some of the important scientific discoveries as well as some of the public-policy statements that were made at that meeting.

As I stated last week, the Academy estimated a 7 percent ozone depletion from continued release of CFM's. This estimate rests on several assumptions that can be substantiated only by direct measurements in the stratosphere. The Academy estimated that with 95 percent certainty, true value for ozone depletion lies between 2 percent and 20 percent. All of these estimates are based upon a presumption that fluorocarbon emissions will continue at the 1973 release rate, and on several assumptions concerning stratospheric chemistry. Several papers presented at Logan bear both upon the actual ozone depletion to be expected and the degree of certainty with which we can rely upon that value.

First. Probably the most striking revision in the Academy's estimate was the result reported by Professor Rowland, one of the original proposers of the CFM-ozone depletion theory. He stated that because of new laboratory data it was now possible to set a more stringent upper limit of chlorine nitrate in the atmosphere. The existence of this latter compound was proposed earlier by Drs. Rowland and Molina as a possible sink for chlorine from CFM's and for nitrogen dioxide. Its presence in any large amount would significantly reduce the extent of ozone depletion. Chlorine nitrate has never been detected in the stratosphere, but a concentration was assumed by the National Academy which reduced the projected ozone depletion from 14 percent to 7 percent. According to Dr. Rowland, the new laboratory results combined with actual stratospheric measurements show that the actual amount of chlorine nitrate is far less than assumed by the Academy, and that the ozone depletion is consequently greater. His best estimate, using the revised upper limit on nitrate, raises the 7 percent depletion number to 11 percent.

Second. Of similar import were the findings of Dr. Anderson of the University of Michigan, who presented the first simultaneous measurements of chlorine atoms and chlorine oxides at different altitudes in the stratosphere. The finding of these chemical fragments in amounts that are close to those predicted by theory provides important confirmation of the general theory of ozone depletion by chlorine-containing molecules, including man-made CFM's. Two other researchers, whose earlier results indicated substantially different amounts of chlorine oxides, both reported new results setting upper limits on chlorine oxides results, in agreement with the results of Dr. Anderson and the predictions of theory.

Third. Laboratory measurements of the absorption of ultraviolet light by CFM's at stratospheric temperatures were also reported. If these values are used instead of those assumed previously, the depletion of ozone would be greater by one-half to 1 percent than the Academy estimate. Earlier, some had argued that this correction would reduce the amount of ozone depletion.

Fourth. Considerable work which improved the accuracy with which we know the rate constant of some of the stratospheric chemical reactions involving chlorine and bromine compounds was reported. These new values do not shift the amount of ozone depletion, but their more accurate determination certainly reduces the uncertainty in the amount of ozone depletion to be expected.

Fifth. Only one researcher, Dr. Peter Jesson, reported ozone depletion measurements lower than the Academy report, but he apparently assumed a larger chlorine nitrate concentration than did the Academy.

Sixth. Measurements by Dr. Rasmussen of Washington State University of chlorine compounds in the atmosphere show a greater level of CFM's, carbon tetrachloride, and other potential ozone-reducing compounds. These findings are consistent with the major release of these substances by the industrialized nations. The findings also strongly suggest that much of the atmospheric load of carbon tetrachloride is due to human activity. This represents an additional source of ozone depletion by man.

Seventh. The only major factor discussed that might decrease the degree of ozone depletion is the inability of scientists to rule out a major sink for CFM's in the lower atmosphere. There is no direct evidence that such a sink exists, and many possibilities have been ruled out by the Academy's study.

Eighth. Concern was expressed by several atmospheric scientists over the need to obtain additional tests of the models that predict the motion of trace contaminants in both the upper and lower atmosphere. Few would speculate on whether more realistic models would increase or decrease the amount of ozone depletion.

In summary, the scientific findings at the Logan meeting strongly support the proposition that continued CFM release will significantly deplete the ozone layer. Several new results provide confirmation of the general theory, and others show that the 7 percent ozone depletion value predicted by the Academy is low. In addition, numerous papers were presented which discussed evidence for ozone depletion by nitrous oxide from increased fertilizer use, and additional contributions to ozone depletion from other man-made sources.

Appropriately, the Logan meeting provided a forum at which to discuss the public-policy implications of the scientific findings. Dr. Russell Peterson, Chairman of the President's Council on Environmental Quality, a former Governor of Delaware, and a chemist at Du Pont for 27 years, called for the immediate phaseout of CFM's in spray cans. He urged industry to stop production voluntarily, and consumers to refrain from buying CFM-containing aerosol dispensers while the Government develops regulatory procedures. He also stated that it was unwise to wait any longer to regulate, and that while there was some uncertainty in the level of ozone depletion by CFM's, the burden of proof of their safety should rest with industry. "Chemicals are not innocent until proven guilty," declared Dr. Peterson. Dr. Wilson Talley, Assistant Administrator for Research at EPA, stated that, "We cannot postpone decisions on these problems indefinitely on the hope that better data may be available in the indefinite future."

David Pittle, a Commissioner of the Consumer Products Safety Commission, made an even stronger statement. He felt that sufficient risks had been demonstrated to warrant regulation of CFM's following the release of the interagency task force report—IMOS report—in June of 1975.

On the international front, Erik Lykke, Director General of Norway's Ministry for the Environment, and James Brydon of the Environmental Protection Service of Canada, both urged international cooperation to protect the stratosphere from contamination. Several foreign representatives made the point that the international community was closely watching the actions of the United States on this issue, and it was made clear that no significant foreign action would take place unless this country takes definitive action.

Discussions of the NAS's report gave it high marks for bringing together and carefully evaluating the scientific knowledge concerning the ozone-depletion issue. Concern was expressed, however, over the Academy's recommendation that regulation should wait until a number of uncertainties over the extent of ozone depletion are resolved. At least one industry representative interpreted the Academy's statement that this resolution could occur within 2 years to mean that the regulatory process should not begin for 2 years. This is contrary to the intent of the Academy's statement. Others expressed concern that this statement might be interpreted by Members of Congress and the executive branch to mean that the problem was not a serious one. Such an interpretation would not only be incorrect, it might also be used to justify a reduction in both short and long-range atmospheric research programs. I wish to point out that the Academy report makes it very clear that it expects regulations as an inevitable consequence of its findings, and emphasizes the need for an extensive research program.

On the basis of the Academy report, the meeting at Logan, and the 1,500 pages of testimony which were presented to the ad hoc Subcommittee on the Upper Atmosphere which I chair, I am more convinced than ever that ozone depletion is a serious problem. I can only agree wholeheartedly with the statements of Dr. Peterson and Commissioner Pittle and the recommendations of the Academy, that the risk of continuing to use aerosol spray cans far outweighs their benefits. While regulation of other emission sources probably have to come with time, I can see no reason to permit the continued use of nonessential aerosol sprays such as deodorants and hair sprays when so much is at stake. I again wish to urge my colleagues in Congress to enact those provisions of the Clean Air Act which will provide the necessary regulatory authority which is now lacking.

I also want to state my support for the research programs which are now underway, and to recommend that we develop a more extensive long-range program to understand the upper atmosphere and its problems better. I was astounded to learn during the hearings on these matters how little we know about the stratosphere and what we are doing to it. It should not require a major disaster, or even the threat of one, for us to see the need for research in this area. I am most impressed with the job which has been done by research scientists in universities, Government, and industry, in bringing this problem to our attention and resolving the uncertainties which have surrounded it. By supporting research on the atmosphere now we will be able to avoid merely reacting to problems after they have already occurred. Certainly the modest cost of an adequate research program is far less than the cost of economic and other dislocations which inevitably occur when we react after the fact.

MUSHROOMS

Mr. HUGH SCOTT. Mr. President, Pennsylvania is the "Mushroom Capital of the World" with prime mushroom farming and canning centers in the States of California, Delaware, Michigan, New York, and Ohio.

Increasing market intervention by foreign producers of canned mushrooms long has plagued the hard-working people who form the backbone of our American mushroom industry. This industry languishes and faces eventual demise because of foreign competition which it cannot meet in the face of American cost changes.

Last spring, following a finding by the International Trade Commission that the American canned mushroom industry is being seriously injured by imported products, the President made available expedited adjustment assistance, with the hope that our industry would be able to meet this foreign competition.

Shortly thereafter it was apparent that adjustment assistance would not provide the necessary remedy to bring this competition into balance. Therefore, on July 28, 1976, I introduced S. 3704, a bill to impose quantitative limitations on the importation of mushrooms into the United States.

On September 13, 1976, I introduced a somewhat modified version of S. 3704 as an amendment to H.R. 9401. This amendment would restrain imports of canned mushrooms to a level which would enable revitalization of the declining American mushroom industry.

President Ford has recognized the extreme gravity of the situation faced by long suffering American mushroom canners and has taken steps to eliminate the serious injury to this industry.

The Special Representative for Trade Negotiations, Ambassador Frederick B. Dent, at the direction of the President, on September 20, 1976, requested the Chairman of the U.S. International Trade Commission, Mr. Leonard, to institute a new investigation of the canned mushroom industry, and, because of the seriousness of the problem, to carry out the investigation promptly and to report on a highly expedited basis.

Simultaneously, the President sent the Deputy Special Trade Representative, Ambassador Yeutter, to the two foreign countries which contribute most heavily to the serious injury to the American mushroom canning industry. Ambassador Yeutter's mission is to obtain assurances from the Republic of China and from the Republic of South Korea that shipments of canned mushrooms from those countries to the United States will not be carried on at a disruptive rate.

I am pleased, heartened, and relieved by the recent actions by our President and accordingly now withdraw my amendment to H.R. 9401, No. 2284, to give the executive branch an opportunity to resolve this long existing problem. If the current trend continues; however, I will urge my successor to reintroduce an import quota bill in the 95th Congress.

I have been fighting this difficult battle for almost 10 years, and it gives me great satisfaction as I retire from public service to have been a part of the effort to help save this proud, struggling industry. In this connection, I trust that my successor will remain vigilant.

My very special thanks to Ambassador Frederick Dent for his tireless efforts and those of his able staff, particularly Mr. John C. L. Donaldson, Assistant Special Representative for Trade Negotiations.

THE WORK INCENTIVE PROGRAM

Mr. TALMADGE. Mr. President, I would like to bring to the attention of the Senate a newspaper article which appeared recently in the Charleston, W. Va., mail.

This article documents the success of the work incentive program—WIN—in significantly reducing those on welfare. It also demonstrates the positive effect we can have in getting a handle on some of these programs that have gotten completely out of hand. The WIN program is one such example.

Most of all, this story indicates the human side of the WIN program. It shows how welfare recipients can be removed from public assistance, and placed in gainful employment where they can recapture their dignity and integrity. To my way of thinking, this is the essence of the WIN program—helping those who want work find it, and making taxpayers and solid citizens out of welfare recipients.

As you know, the Senate recently passed legislation to extend the WIN program, and double the amount employers can claim as a tax credit for salaries paid in hiring work incentive program participants. This new ceiling should make it possible to attract new businesses and corporations to the program, and increase significantly over the more than 300,000 persons who have already been placed in employment through the WIN program.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THROUGH JOBS PROGRAM: VETERAN BACK ON WINNING ROAD

(By Robert Kelly)

Last December, Delbert Stephenson, 27, had a pregnant wife, a 5-year-old son and no job.

"My boy didn't have any Christmas at all, except for what his grandparents gave him. It was enough to make anyone feel bad," he said.

Imponderables of life are such that a happier Christmas this year is not assured for the Stephenson family, but lack of money shouldn't be a problem.

Today, Stephenson made $40 in a job ($800 monthly) that is reasonably secure.

"Delbert is one of our outstanding success stories," said Emery Harriston, who works at what is called a "job developer" in the Department of Welfare's federally-funded WIN (work incentive) program.

When he became 16, Stephenson quit Horace Mann Junior High School. "I liked to study," he said, "but I just couldn't get it."

Within two years, he was in Vietnam. He had joined the Army, he said, "to make something out of myself."

Assigned to the 11th Armored Cavalry, Sgt. Stephenson was awarded five Purple Hearts and the Bronze Star. After his one-year hitch ended, he volunteered for another.

"I lost a lot of good friends over there. I figured I could repay 'em," he said. "I was a little crazy at the time, I guess."

Eventually, Stephenson realized that little, besides his wife-to-be Judy, awaited him in Charleston. "I had no education, and I figured that I'd go back and wouldn't be able to get a good job," he said.

He was correct. From November, 1969, when he left the service, to November, 1975, when he was laid off from the last of a series of menial jobs in the carpentry field, Stephenson seldom netted more than $100 a week. What's more, he acquired little marketable skill.

His wife worked as a physical therapist's aide at Charleston General Hospital.

Stephenson had saved $4,000 in Vietnam and was able to afford a down payment on a house in South Park. The layoff came soon after he bought a car.

"I was in a tight fix with those payments. The company kept saying that it was only temporary, that they were going to have work," he said.

When he was threatened with loss of gas service, he went to the welfare department.

"I was embarrassed, but I had no other choice," he said.

The department arranged to pay his utility bills and gave him an emergency allotment of food stamps. More importantly, on the same February day he sought help, Stephenson was assigned to on-the-job training at Standard Construction Co. as part of the WIN program.

WIN, using taxpayers' money, reimburses employers for up to 50 per cent of the cost of training workers. Employer participants, if their training programs are of sufficient duration, also may claim income tax credits. The aim of the eight-year-old program is to help persons like Stephenson stay off welfare.

"It's amazing to look at the monthly statistics and see Kanawha County at zero," said Welfare Commissioner Thomas Tinder of the number of unemployed fathers with dependent children who receive cash welfare assistance.

The statewide figure is 719 compared with about 6,000 in 1969, Tinder said.

WIN and other job placement programs have contributed to the decline, Tinder said.

"The program now is finding good solid employment for women," Tinder added.

Stephenson, now working on the renovation of a Lee Street house, which will be the Daymark Foundation's shelter for runaway children, aspires to start his own business some day: "It's a dream I've had for five years."

Harriston said, "Delbert, you're on the right path."

TRIBUTE TO SENATOR PASTORE

Mr. CASE. Mr. President, it is never a pleasant task to say "goodbye" to an old friend, so my remarks on the retirement of JOHN PASTORE will be brief.

JOHN PASTORE and I have been colleagues here for more than 20 years. In all that time, there has never been any doubt in my mind where JOHN PASTORE stood on the issues, especially when he took to the Senate floor to tell us all, as he so frequently put it, "what PASTORE thinks about all this."

Few men have devoted as much of their lives to public service as the distinguished senior Senator from Rhode Island. I hope his future years are meaningful and productive ones. He can certainly be content in the knowledge that he has done his best to serve the people of Rhode Island and the Nation.

HEALTH CARE

Mr. LEAHY. Mr. President, among the priority items which must be addressed in significant measure in coming years is that of assuring that all Americans have access to adequate health care, that no American dies before his or her time for want of health care, and that no American family suffers financial wipe-out to secure it. The problems involved in such legislation are many, complex, and not susceptible to easy solutions. It is always difficult to handle decisions involving changes in our society. It is even more difficult to decide among alternatives, all of which contain some features that are meritorious and others that are unacceptable.

The September 9, 1976, issue of the New England Journal of Medicine contained the text of a speech given by Dr. William R. Roy as part of the Shattuck Lecture Series at the annual meeting of the Massachusetts Medical Society. The speech entitled "An Agenda for Physicians and Legislators, 1976" is an outstanding overview of the problems we face in the field of health care, of our capability of solving them, and of the various alternatives that have been set forth, legislatively and otherwise, for doing so.

It will be recalled that Dr. Roy, a physician and a lawyer as well, was formerly a member of the House of Representatives in the 92d and 93d Congresses and served with great distinction on the Public Health and Environment Subcommittee of the Interstate and Foreign Commerce Committee. Mr. President, I feel that his speech is must reading for those truly concerned with the problems of health care and ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SHATTUCK LECTURE—AN AGENDA FOR PHYSICIANS AND LEGISLATORS, 1976

(By William R. Roy, M.D., J.D.)

Shattuck Lectures have always been timely. One can trace the history of modern medicine reasonably well by reviewing the titles of the lectures.

The lectures have been primarily clinical and scientific in nature, following the precedent of Dr. George Brune Shattuck's first presentation in 1890 on the subject of influenza. The greatest accomplishments of medicine after Koch and Lister have been revealed and reviewed here by the men who were, or are, the miracle workers of modern medicine. During the span of their work, medical care has contributed greatly to the doubling of the life expectancy of the citizens of the industrialized nations.

We, the modern physicians, can do more than care; we can oftentimes cure. Over the six generations since Dr. George Cheyne Shattuck's legacy for the establishment of this lectureship was announced in 1854, medicine has by any imaginable yardstick been successful.

Yet, honored by success, we find ourselves also beset by even closer scrutiny and evermore frequent criticism from all segments of our society.

As a result, there has been a dramatic change in the subject matter of the Shattuck Lectures. My talk today will be the eighth of the last 11 Shattuck Lectures to deal with matters social, economic and political. Only two lectures on medical education and Dr. Nevin S. Scrimshaw's learned lecture of last year have interrupted this steady tattoo of the consideration of the relation of medical care—usually expanded to health care—to the balance of American society.

In this, our Bicentennial Year, 200 years of solutions have not left us without serious problems, challenges and opportunities.

As the locus for health decisions has switched from the meeting halls of organized medicine to the capital of our nation, we physicians are asking, "What is happening and why?" and, "Can we participate and how?"

In an attempt to address these questions I will be presumptuously global in approach, because I believe that the indispensable prerequisites for physican participation in health decision making are an understanding of the forces that determine the current health scene, a recognition of the truly critical decision areas, and a knowledge of the tradeoffs that exist among the limited choices available to us.

I shall first present my perspective about the current health scene, derived from 15 years of private practice, from working within organized medicine at the state level, from four years of congressional health legislative activism, and from a series of unusual opportunities to visit intimately with health professionals, politicians and many social scientists.

After an analysis of the current health scene, I will present an agenda of decisions that must be made and that I believe can best be made affirmatively rather than left without definition to happenstance and other societal forces. In spite of my title, this is an agenda for all citizens of this nation and not only for the hierarchy of physicians and legislators. However, the identifiable actors on the stage will certainly include legislators, and, I believe, if we are to achieve the best possible result, it should also include those whom I classify as enlightened physicians.

THE CURRENT HEALTH SCENE

Over the past decade, there has occurred the sequential recognition and definition of several forces that are determining our nation's current health problems and must be dealt with directly and intelligently if we are to change the American health system for the better. Some of these forces, such as economic laws, are immutable. Others are deeply embedded in the traditions, history and culture of our nation and of the practice of medicine, and therefore, for practical reasons, probably must be dealt with as if they were immutable.

Three medical facts of life emerge: that we cannot do everything that is scientifically possible for everyone everywhere; that if we cannot do everything for everyone everywhere, we must decide what we are going to do for whom where; and that personal health care is only one of the determinants of health.

All these conclusions, I believe, are undeniable. In private conversations nearly all physicians agree, and many of you may say that these conclusions are so obvious that they require neither listing nor explanation.

However, I do not find that we physicians as a group behave in ways that indicate both an understanding and an acceptance of these medical facts of life.

Because these facts dictate our agenda for decision, permit me to review these conclusions, and the associated forces, with you.

We cannot do everything that is scientifically possible for everyone everywhere

We, as a society, have long accepted this economic reality about nearly every service and product except health care.

Fuchs[1] has put the basic economic laws simply and succinctly. "The first is that resources are scarce relative to human wants; second, is [that] resources have alternative uses; and third, that people have different wants to which they attach varying degrees of importance."

Reinhardt,[2] speaking at the recent "National Leadership Conference on Health Policy," looked at the furor about expenditures for health and the measurement of the expenditures as a percentage of the gross national product (GNP) and asked in effect, what is all the excitement about? People simply place a high value on health wants—we should be receptive or perhaps pleased that the people of our nation spend as much or nearly as much for physicians' services as they spend for alcohol or tobacco. He contends that people must be left free to make this choice in a market economy. To say the least, this point of view has a great appeal to most of us, and it found great favor among the 600 representatives of the health industry who were present.

Expenditures for health increased from $38.9 billion in 1965 to $118.5 billion in 1975, a 300 per cent increase over a 10-year period. The portion of the GNP spent for health increased from 5.9 per cent in 1965 to 8.3 per cent in 1975.

One of the forces at work is undeniably the value that people place on health, and the high expectations that people have about personal health services. The presence of this force is best illustrated by the majority acceptance that "Health care is a basic human right." This concept of a right is a subjective force, and, as such, it may be changed, but it now appears so generally accepted that it must be dealt with when modifying the American health system.

The single, greatest force responsible for increased health expenditures is the fact that we live in a time of scientific and technologic revolution. Medical knowledge, it is said, has a half-life of four to seven years. Likewise, medical technology has a similarly short half-life, and this brief span propels constant and expensive changes.

Hiatt[3] amply documents the impact of new medical technologies on health costs in an article in which he analogizes the finite resources available in our economy for health services with a limited commons available to herdsmen for the grazing of their cattle.

A commons is not a marketplace. All members of the society are entitled to use a commons. Over-utilization and ruin of the commons is the inevitable result because each individual rushes to use the commons in his or her own self-interest.

We have established a health services' commons for most Americans by the adoption of private health insurance for many people and government payment for services for some people. The adoption of mandatory and universal national health insurance would entitle everyone to use the medical commons.

Combining with third-party payment is the force of provider determination of services. We physicians are trained to use every available resource of possible benefit to treat our individual patients—regardless of cost. To my knowledge this has always been so, and it has been my expectation that it must always be so.

In sum, four prominent forces have caused the medical system to be characterized as a vast vacuum cleaner that will suck up all dollars made available to it (1) the expectations of patients, (2) the scientific and technologic revolution, (3) open-ended third-party payment, and (4) a physician ethic to provide all health care for each patient.

Some of these forces are modifiable; others are not.

Under any circumstances, few or none within our society will contend that it is mathematically or politically possible to continue indefinitely present trends in increased expenditures for health, or that it is possible even in wealthy, modern America to do everything that is medically and scientifically possible for everyone everywhere.

We must decide what we are going to do for whom where

This conclusion is a corollary of the recognition of limited resources for health.

In any society, when there is not enough of something to go around, there are ways, formal or informal, organized or unorganized, of determining who gets what.

Schwartz[4] has written that any national-health-insurance law will be a method of rationing health care. I agree. But it is also my contention that we are now rationing health care by several mechanisms, including the barrier of cost for some people, the unavailability of services for others, and for others the inability to find a point of entry into a complex health-care delivery system. For others, it is a matter of the chance utilization of already limited resources—for example, which victim of aplastic anemia gets into the sterile cocoon first.

In the poor nations of the world, the rationing of health care has been a long-time thing. Most inhabitants of poor nations only aspire to modern health care as we know it.

The extent of the health-care rationing problem for poor nations is dramatized by the fact that over half the world's people have annual incomes of less than $500, the amount that each of us Americans spends each year for health care alone.

Most of the world's wealthy nations, the industrialized nations, have been attempting to provide equal access to all health services for every citizen. Each of these nations is now impaled on the dilemma of expenditures for health rising much more rapidly than nearly any other classified group of expenditures.

As a result, nearly all the world's wealthy nations are today attempting to withdraw their open-ended promise for all health care for each citizen and to ration services equally for all. Where there is equality of access to existing services, there has until this time been little social or political strife.

The fact that our task of rationing health care is one that we have in common with others does not lessen the formidable nature of the task. Our difficulty is increased by the absence of a tradition of equality of access to health services for all citizens.

In sum, it is a matter of the first magnitude of importance that we recognize and articulate that our deliberations and actions are directed toward the rationing of personal health services.

Personal health care is only one determinant of health

If our goal is individual and national health, we cannot afford to consider medical care or health care separate from other determinants of health.

Greatly increased expenditures for health have been made primarily for personal health services. Simultaneously, there has been little improvement in the gross indicators of health. From this one can conclude that more personal health services alone can provide only marginal improvements in health.

Once we have established equal access to personal health services by the financing and organization of the personal health-care system, then what?

The Canadians, as most of you know, have reasonably well accomplished equal access to personal health services, and have asked this question and have attempted to answer it in the La Londe Report, "A New Prospective on the Health of Canadians."[5]

His categorization of health determinants into four areas is extremely helpful to us in our considerations. The four areas are (1) human biology, (2) environment, (3) life style, and (4) health-care financing and organization. The report lays out in 76 readable pages the conflicts, considerations, and possible solutions that are derived from this "health-field" concept.

I believe the La Londe Report has great relevance to us not only because of the similarities of our two nations, but also because the Canadians established universal hospital insurance in 1958 and universal physician insurance in 1968. (Incidentally, their rate of increase of expenditures over the past 10 years under their government financing mechanism is nearly identical to ours, indicating, I believe, that our current financing mechanism is about as open-ended as it can be; also, it should be noted that the Canadians are now initiating limitations on federal government expenditures for health.)

The health-field concept should be considered by us in two contexts. The first is the need for the assessment of outcomes and cost benefits for personal health services, and for all other expenditures for health.

If we are going to ration personal health services, we need to know the cost benefits of such services. Likewise if we choose to expend more resources in an attempt to intervene in the areas of human biology, environment, and life style, we had better also determine the cost benefits of these efforts. For example, it is conceivable that we can spend hundreds of millions of dollars on health education without substantially changing American life style in ways that improve health. Current measurements of cost benefits are equally soft for personal health services and for other expenditures for health.

Secondly, I believe the La Londe Report should be read by citizens of this nation with the full recognition that expenditures in the health field other than those for personal health services are traditionally expenditures for state and federal funds. Money for public health, education, research, planning, data gathering and similar purposes does not come directly from private sources. It comes through the public treasury.

Public funds for other health initiatives are now being greatly reduced because of the impact of expenditures for personal health services on governmental budgets. If the La Londe Report concepts have validity, many of our actions in this country at present are directly opposed to modifying the causes of discomfort, disability and death, and thereby are futile or counterproductive in improving the health of Americans.

Footnotes at end of article.

The explanation of this apparently irrational governmental behavior is rational. The cost to the federal government of Medicare and Medicaid—i.e., personal health services—is increasing at a rate of nearly five billion dollars annually and is dictated by laws entitling Medicare patients to personal health services and entitling states to matching funds. The President and the Congress can justify only so much money for health. Therefore, most available money is spent where by law it must be spent, and money for all other federal health initiatives, which is currently about five billion dollars for research, education, new delivery systems, data gathering, planning and direct health services to identified populations (migrants, Indians) is systematically cut back in presidential and congressional budgets.

In sum, rapidly increasing expenditures for personal health services and the absence of gross indications of substantially improved health have led us inevitably to the reexamination of other determinants of health and to ask how these determinants can be modified. Conversely, we are spending relatively less each year for these other health initiatives.

If this is a reasonably accurate description of current forces and current health-system problems, what, then, is our agenda?

DECISIONS THAT MUST BE MADE

It is difficult enough to have to deal with decisions and change. It is even more difficult to have to decide among alternatives all of which are in one way or another unacceptable. And this is the situation that occurs when there are limitations on resources for anything so highly valued as health services.

How shall we determine total national expenditures for health?

The method of payment for personal health services, in combination with government regulation, will determine the total national expenditures for personal health services.

I believe alternative mechanisms should be measured by at least two criteria. First, the nation's total expenditures for health should reflect the importance that the people of this nation place on health; and, second, total expenditures should assure adequate resources to provide for a healthy nation commensurate with the state of the art and science of health care, and commensurate with our abilities to modify other health determinants.

The first criterion preserves our respect for individual values and needs, and the second criterion indicates a recognition of societal and national values and needs. The harmony of these two often conflicting values is ultimately reconciled by the government, which determines the combination of market forces and regulation in the health industry at any given time.

Consideration of alternatives will focus on expenditures for personal health services because such expenditures account for over 80 per cent of all expenditures for health, and because it is assumed that public money will continue to be the primary source of financing for expenditures to modify other determinants of health.

Some alternatives are:

The present system. Our present system, which combines private health insurance, government payment for the indigent, and out-of-pocket payment for uncovered services and for people without insurance or government payment, is unsatisfactory, and change is inevitable.

The advantage of the present system is that it makes unlimited funds available for health services and, therefore, there is great latitude for innovation and the adoption of new services. As a result, it makes the world's finest health care available to many Americans.

The disadvantage is that costs are increasing to the point of unaffordability of services. Also, we have two classes of medical care—one provided for full-pay patients, and the other provided for government part-pay patients and the poor.

A return to market forces. Total national expenditures for health would then equal the sum of hundreds of millions of individual decisions made annually and based on the laws of supply and demand and the specific importance that the individual places on health services. This very effective means of allocating resources would require a law prohibiting private health insurance. A return to market forces would also require either some kind of guaranteed annual income for each citizen, so that each citizen could realistically make his or her own choice to spend or not to spend for health, or a continuation of government payment of health services for the poor.

A return to market forces would also require modifications on the supply side, including antitrust actions and provisions for increased freedom of access of providers of services to the market.

A return to a free market for health is exceedingly unlikely because of the obvious value the American people place on health, the size of present-day health-care bills, the present reliance on health insurance and the demand for equity in health care.

Present system plus catastrophic health insurance. This system would leave in place present open-ended funding for ordinary services and would put in place either private or government-funded insurance for catastrophic care.

Total third-party payment for catastrophic care would very quickly result in a further explosion of health-care costs. Most of the expensive new technologies do not cure but only temporarily relieve disabilities and marginally prolong life.

If catastrophic care were paid for by the government, strong federal regulation would be necessary to contain costs. Possibilities include a limitation of total annual expenditures for castrophic care, preauthorization of services, and a federal Food and Drug Administration-type regulatory agency to approve the implementation of only the new procedures that are found by pretesting to be adequately effective to justify their costs.

Continuation of the present system for ordinary care would perpetuate the nonchoice of individuals to pay what is asked in premiums and taxes for total health expenditures. Catastrophic insurance would remove the barrier of cost and thereby provide greater equity for those with large expenditures for health services, but current inequities for non-catastrophic care would continue.

National health insurance (NHI): total federal payment. This system would greatly limit total resources for personal health services because the government would decide the precise number of dollars to be spent for personal health services, and this expenditure would be determined in relation to all other federal spending, including defense, welfare and transportation.

Such a system, absent a black market or substantial additional private health insurance, greatly diminishes direct individual choice of expenditures for health care. It relies on a governmentally determined limitation (a "cap") on total expenditures for health. It requires central or regional planning to allocate limited services.

The advantages are equity and affordability. The disadvantages are the risk of inadequate funding and the dangers of central planning and regulation.

NHI: government payment—private insurance. This system is likely to resemble the West German system or a more comprehensive Nixon Administration Comprehensive Health Insurance Program (CHIP). Its primary advantage is that it permits nongovernmental determination of total resources for health services and thereby guarantees less arbitrarily determined total expenditures.

The degree of equity will be determined by whether or not the government purchases insurance coverage for the poor identical to that owned by other citizens and whom the government classifies as poor.

In the absence of new government regulation, this system would have the other advantages and disadvantages of the present system.

In sum, we will adopt universal mandatory national health insurance. We will eventually adopt first-dollar, comprehensive coverage.

How much money is enough money for personal health services? If we look to the federal government to pay for all health services, Congress will decide—and the decision will reflect other national priorities and the fact that people always want more services and less taxes.

For this reason, there are strong arguments for the retention of a private-sector component in the financing of personal health services in the form of private health insurance. Only in this way can we, the American people, be assured that there will be enough money available to provide the personal health services that are known to be effective.

For reasons of equity, everyone must own the same "ticket"—i.e., have the same insurance. This means that the government will have to buy health insurance for the people in our society who cannot afford it.

But because national health insurance will finish off even the charade of a marketplace for health services, extensive government regulation will be necessary and important.

How can we assure adequate money for other health initiatives?

The evidence is undeniable that personal health care is only one of the determinants of health.

If we are to modify appreciably other determinants of health, substantial and consistent amounts of money must be made available. Moreover, such funds probably must come from government or governmentally determined sources because research, health education, data gathering, planning, preventive services, rehabilitative services and organization modifications, as I have noted before, are only to a small degree (although important) underwritten by private sources. Paradoxically, the more government spends for personal health services, the less government spends for other health initiatives.

The method or methods of assuring adequate money for other health initiatives will be related to and probably will be dependent upon how we are paying for personal health services at any given time.

Two modifications can be used to increase funding for other health initiatives without changing present payment mechanisms. One is a form of entitlement whereby an amount proportionate to government expenditures for personal health services would be stipulated for other health initiatives.

A second is a tax on private health-insurance premiums with the establishment of a fund for other health initiatives.

Each of these methods consists of placing a taproot into the broad mainstream of health money, that spent for personal health services, and each is adaptable to all other payment mechanisms, which include large government or private insurance payments for personal health services.

One or both of these mechanisms, or similarly effective mechanisms, for assuring adequate money for other health initiatives should be made an integral part of any national health insurance program.

How shall we ration health services?

To this point, I have discussed possible payment mechanisms and how each would be likely to affect the total funds available for personal health services. I have also stressed the importance of assuring adequate money for other health initiatives, and

I have indicated two ways of assuring that money.

This brings us to the critical question of how we decide who gets what where, the rationing question.

Let me first discuss the physicians' specific roles in rationing health services.

It is increasingly necessary for physicians to measure the outcome of health services on the basis of cost benefits. In addition, physicians are expected to play a major part in deciding who will provide services and where services can be most effectively and economically and humanely provided.

Can the physician be expected to consider "not only the medical but the financial aspects" of the care of his or her own individual patient? I have always thought not, but there is evidence to the contrary in a remarkable resolution adopted by the 1959 House of Delegates of the American Medical Association.[5]

It reads: "Medical Profession Responsibility: (1) The individual physician and the medical profession as a group must also be concerned with maintaining *a proper balance between adequate medical care for the welfare patient and economical use of public funds*. (2) The individual physician, as the key person in the care of the welfare patient, must, therefore, take into consideration *not only the medical but the financial aspects* of various acceptable modes of treatment" [Emphasis mine].

It follows, of course, that if the physician can balance costs and care for his individual welfare patients, he can do this for all his patients.

Furthermore, on May 11 of this year, J. Alexander McMahon, president of the American Hospital Association, speaking at the annual meeting of the American College of Obstetricians and Gynecologists in Dallas, Texas, stated: "As efforts to regulate hospitals continue, the physician will have to balance benefits with cost, recognizing his responsibility not only to the individual patient but to the hospital and all its patients."

Thus, we find the American Medical Association as long ago as 1959, and the American Hospital Association as recently as May, saying that the individual physician must balance benefits with cost for his or her individual patient.

It follows that if every physician knew the cost benefits of his services, and if every physician were equally able to implement the "proper balance between adequate medical care . . . and economical use of . . . funds," we would need no further rationing system. But I believe we know that this cannot be done.

While we physicians have special responsibilities for the rationing of health care, the entirety of our society must deal with the moral and ethical implications of who shall get what services, when everyone cannot have all services. Although we cannot expect our society to arrive at unanimous or definitive answers on such questions as when to discontinue a life-support system or how many resources are to be used to maintain life for a badly damaged one-pound baby (or the even more subtle questions of resource use—e.g., what laboratory tests), we can expect concern, debate, guidelines and the understanding of these omnipresent questions.

I have already pointed out the mechanisms now operating that determine our present rationing system for health services. On balance, these mechanisms as now used are totally ineffective in limiting the utilization of resources, and consequently total costs, but for some people in our society, they are very real deterrents to adequate or even minimal personal health services.

Many of the mechanisms now being used for health-services rationing—namely, costs, government-imposed limitations on expenditures, and other regulation by government—will also be the mechanisms for future health services rationing. The amount and mix of these levers will be varied in an attempt to gain maximum equity and effectiveness while limiting total resources for health.

Costs. In the area of costs, we have found the worst of both worlds. The absence of marketplace considerations is blowing the lid on health services' expenditures. Conversely, the absence of universal, mandatory, comprehensive, first-dollar health insurance is rationing services for a small number of Americans.

There is one other problem. Reimbursement or non-reimbursement is determining what services will be provided where, as well as for whom. Legislators and insurors are effectively making medical decisions when they decide that one service is reimbursable and another is not. And they also prejudice the site of service when they decide to pay for a service in a hospital, but not in a physician's office or a nursing home.

As physicians we know that the disincentives built into health services' benefit packages often make health care more expensive, of lower quality, and less convenient and acceptable for the patient and family.

For reasons of equity and because of the tradition of health insurance, most services will continue to be reimbursable. There are strong arguments that in the near future all health services should be totally reimbursable.

If personal health services are reimbursable, there must be some other rationing mechanism. The only other alternative is government regulation.

Regulation. Arbitrary payment limitations for government-funded programs. This rationing mechanism is now being partially implemented. There are "caps" on Medicaid expenditures, and the President and the Congress are asking for caps on total expenditures for Medicare.

The results are (1) a widening of our dual system of one level of health care for the indigent, aged and disabled and another level of health care for all others; (2) unpredictabe and oftentimes irrational curtailment of services; (3) a shifting of institutional costs to others; (4) the withdrawal of services from the poor by physicians and other health professionals; and (5) oftentimes greater costs than if services were fully reimbursable in a variety of settings. For example, some patients are forced to receive services in teaching-hospital outpatient departments at a much higher cost than if the same services were received in a private physician's office.

If we adopt NHI with total federal payment for health services, the inequity problem is eliminated, but the other undesirable and unpredictable results of government-determined payment limitations would occur. These results can be modified or eliminated, however, by the implementation of other regulatory mechanisms.

Utilization review and professional standard review organizations (PSRO). The health-care system is presently highly but ineffectively regulated by government. Efforts to contain costs have prompted the formation of utilization review committees and professional standard review organizations, which are asked to control utilization on a case-by-case and day-by-day basis and are also asked to fit the individual patient into the most effective and economic treatment site regardless of the patient's insurance provisions.

Patients, physicians and institutions frequently do not perceive utilization and PSRO activities to be in their own best interest. For example, it is not perceived by the patient to be in his or her best interest to be moved from a site where care is paid for by insurance to a site where care is not paid for by insurance. It is often not perceived by the physician to be in his best interest to take the time necessary for such efforts or to try to supersede his judgment for a colleague's judgment. And it is not perceived by a hospital that is half empty and running in the red to be in its best interest to send patients out of the hospital at the earliest possible moment.

Because even the government cannot expect individuals or institutions to do the things that they believe are not in their best interest, these regulatory efforts have a doubtful future as effective cost-containment mechanisms. However, PSRO, properly implemented, will improve quality of care, and equally importantly, will provide a data base for outcomes assessment and the measurement of cost benefits. Both are indispensable information for health-care system planning and development.

Because current cost-containment efforts are ineffective, there will be greatly increased government regulation of health. Further regulation is made more certain because of the great improbability of the reinstatement of substantial free market forces, and the likelihood of mandatory, universal and comprehensive national health insurance, with an increase in the government-payment component.

Wage-price controls. Wage-price controls are a favored regulatory mechanism when there are runaway costs, and wage-price controls for the health industry are under continuous consideration by the Administration and Congress. This form of regulation has all the problems of arbitrary government caps on expenditures, which I have already listed, with the additional problem of the virtual impossibility of long-term success unless there are wage and price controls on all related industries.

In addition, most increased health expenditures are the result of the provision of more services and more expensive new services rather than the inflation of costs for existing services.

Input regulation. The regulation of "inputs," which would eventually determine the function and size of the health-care system, is the newest regulatory mechanism being implemented, and further considered by Congress.

The major component of input regulation is the planning of the health system instead of leaving its size and function just to happen as a result of reimbursement and other forces.

Other components are the development of approved plans, and sanctions to prohibit unplanned development.

One major group of inputs for providing personal health services is facilities, including hospitals, skilled nursing homes and, to a lesser extent, physicians' offices. Specific inputs, such as the equipment necessary to establish cardiac-surgery units, renal-dialysis services and radiation-therapy departments, further refine the nature and functions of the hospital.

Each physical improvement requires the expenditure of capital. The Health Planning and Resources Development Act, which requires each state to issue a certificate of need for each hospital capital improvement, is a capital-expenditure regulation law.

The other major input for personal health services is manpower, the educated, trained, skilled people who provide services by using the facilities and special equipment that are available.

Proposed federal health-manpower legislation, which would reapportion residency positions among the various specialties, is a manpower input regulation bill, and passage of such a law would eventually determine the kinds of physicians we have available to provide care.

At any one time the facilities and manpower available will determine total health services available. And all or nearly all services available are likely to be used to capacity if the services are paid for by private insurance or the government.

Footnotes at end of article.

In sum, in the absence of a marketplace, there are only two alternatives for effectively limiting total health-services expenditures. One is an arbitrary government cap on payment, which to be effective requires government payment for all or nearly all services. The other is limitation of the size of the health-care system by control of inputs.

If we cannot do everything for everyone everywhere—and we cannot—the least unacceptable alternative is for us to decide what personal health services we need and want and are willing to pay for. And for us then to make certain that the facilities and skilled people are available to provide these services on an equitable basis to all citizens of our nation.

The new planning law looks to the people in over 200 geographic areas throughout the nation to decide for themselves what health-care facilities they want. The law provides the structure and process for planning, but it leaves the final planning to local and state determination, and the implementation of plans mainly to the private sector, which today provides 80 per cent of all health services.

Input regulation either can substitute for government determination of total expenditures for health services, or it can be used to minimize the adverse effects of an arbitrary government cap on health-care expenditures.

However, only with successful input regulation and the resulting limitation of the size of the health-care system can private health insurance be continued as a substantial component of the total health-funding mechanism. Otherwise, the open-endedness of private health-insurance payment will eventually bankrupt the system by perpetuating the present trend of uncontrolled increases in health expenditures.

One disadvantage of input regulation is that planning, even decentralized planning, can lead to mistakes that we must live with for a long time. But formal planning on a local basis is not likely to be more wasteful or inefficient than present duplication and obsolescence.

Another disadvantage of input regulation is that it establishes local monopolies, which in turn require rate setting and quality control—i.e., more regulation.

However, input regulation has the following substantial advantages.

It does not require changing the organization, ownership or legal structure of health-care institutions. It does limit their size and determine their function.

Input regulation does not make necessary any change in the nature or organization of medical practice. It does not limit choice of physician. It does not favor fee-for-service or capitation payment.

If we are willing to pay for planned services, we should be able to avoid payment of less than costs with its resulting starvation of institutions and services with the associated risk of the lowering of quality of services.

Finally, input regulation does not preclude innovation and change, but encourages planned change.

Government ownership and operation of health-services institutions. This is the ultimate rationing mechanism, and it is being increasingly used by governments throughout the world. In this system the government owns the health facilities and hires the personnel.

THE PRIMARY CAVEAT

This point has been alluded to but bears special attention.

It is essential that we maintain the ability to innovate and change.

The history of national health insurance in other nations too often is a history of the freezing of the health system of the respective nations as of the date of passage of NHI. To avoid this freezing, I believe most of our laws should provide structure and process for local, regional or state decision making rather than attempt to provide final answers and rather than look only to the federal government for central planning and regulation of the health system. Even more importantly, there must be a private component of total expenditures for health.

Just as illness is dynamic, and science and technology are dynamic, the health system must be dynamic. The total funding, the organizational form, and services available must remain open to change.

So the primary caveat is that we must retain flexibility in the American health-care system.

CONCERNING THE ROLES OF PHYSICIANS

At times I considered addressing my entire presentation to the role of medicine in a time of change. I have demurred because I have no idea how we can make organized medicine (the state medical societies and associations and the American Medical Association) an instrument for constructive change. This is not to say that organized medicine cannot continue to do some important things well.

However, I will comment briefly because perhaps my perspective about organized medicine needs to be heard, and also because I want to take this opportunity to recognize the many physicians who individually and in settings other than organized medicine are making selfless and invaluable contributions to society and government.

I have carefully read and reread the 1970 and 1971 Shattuck Lectures given by Dr. C. Rollins Hanlon[6] and Dr. George Himler.[7] Both men dealt extensively with the role of organized medicine. Dr. Hanlon expressed optimism for a positive role for the then newly organized Institute of Medicine of the National Academy of Sciences.

Dr. Himler came to the lectureship after having reported to the American Medical Association the recommendations of its committee on planning and development which he chaired. He stated: "Some of the opinions expressed in it aroused . . . a surprising degree of hostility." Dr. Himler then recommended the establishment of statewide institutes to do health planning, data collecting, negotiation, and other functions that he saw organized medicine being unable to do.

These observations, as well as my own, lead me to conclude with regret that organized medicine is organically incapable of playing a constructive political and planning role in the change of the health system.

What then can you and I do? I can see two good ways of providing positive input. One is through our specialty societies and many medical organziations other than state societies and the A.M.A. For example, committees of the American Academy of Pediatrics and the American College of Obstetrics and Gynecology are doing yeoman work in establishing regionalization of obstetric and newborn care. The roles of the American Academy of Family Physicians and the American Group Practice Association have been consistently constructive and helpful. The Study on Surgical Services for the United States sponsored jointly by the American College of Surgeons and the American Surgical Association is a major contribution. Public officials are extremely receptive to these efforts by physicians working in concert.

A second role can be played individually. The American political process is remarkably open. We can play the role of advisers to the decision makers or we can become one of the decision makers.

Personal action requires time, effort and sacrifice, and I realize that someone must stay home and practice medicine, which I believe is one of mankind's highest callings.

But I also deeply believe that each of us should do all we can to assure health, in the broadest sense, for ourselves, our families, our nation and our fellow human beings.

The tradition of high public service by physicians was established for us 200 years ago by Dr. Josiah Bartlett, of New Hampshire, Dr. Lyman Hall, of Georgia, Dr. Benjamin Rush, of Pennsylvania, Dr. Matthew Thornton, of New Hampshire, and Dr. Oliver Wolcott, of Connecticut, signers of the Declaration of Independence—and by Dr. Joseph Warren, patriot and marytr, who was mortally wounded commanding troops on Breed's Hill not far from where we are now in the City of Boston.

Our tasks today may not be so hazardous as theirs, but we should approach them just as fervently and selflessly. And if we do, I am convinced not only that we as physicians will make equal contributions to our nation's third century, but also that the practice of medicine will continue to be one of life's most rewarding and satisfying professions, even in a period of ever accelerating change.

FOOTNOTES

[1] Fuchs VR: Who Shall Live? New York, Basic Books, 1974

[2] Reinhardt E: Presentation before the National Leadership Conference on Health Policy. Washington, DC. April, 1976

[3] Hiatt HH: Protecting the medical commons: who is responsible? N Engl J Med 293:235-241, 1975

[4] Schwartz H: Rationing medical care. *New York Times*, September 16, 1975

[5] 1959-1968 Digest of Official Actions of the American Medical Association. Vol 2. Chicago, 1971

[6] Hanlon CR: Shattuck lecture: the physician and organized medicine. N Engl J Med 284:1131-1134, 1971

[7] Himler G: Shattuck lecture: the anatomy of our melancholy. N Engl J Med 284:1406–1413, 1971

SENATOR ROTH PRAISED FOR EFFORTS ON GOVERNMENT REFORM

Mr. FANNIN. Mr. President, I was distressed to learn that S. 2925, a Government Economy and Spending Reform Act of 1976, better known as the "Sunset Bill," has been pronounced officially "dead" for the 94th Congress. As a fiscal conservative, a proponent of reform in Government, and an early cosponsor of this legislation, I am sorry to see it die now that it has been reported favorably by the Government Operations Committee and just as it has captured the serious attention of scholars, economists, students, and critics of Government and the media. Although I will not be here to participate in the debate on sunset legislation next year, I am confident that, with 59 cosponsors in the Senate today and the growing interest and support among the American people for fiscal reform and the concept of zero base budget review, S. 2925 will be enacted into law soon after the 95th Congress is called into session.

Mr. President, I would especially like to commend Senator ROTH for having the wisdom and foresight to introduce S. 2925 and to congratulate him for his hard work in steering the measure successfully through the Government Operations Committee. I know that the senior Senator from Delaware has merited the respect of his colleagues on that committee for his efforts, in cooperation with the committee's chairman and staff, in revising and refining this legislation.

Senator ROTH's long-standing interest in regulatory reform and in improving the fiscal and budgetary processes of Government are well-known. He was one of the architects of congressional budget reform upon which the sunset bill is modeled. Indeed, S. 2925 incorporates and enhances the same disciplines and procedures which have thus far worked so successfully under the Budget Reform and Impoundment Control Act and in the Congressional Budget Committees. Senator ROTH has also introduced a number of other bills, including S. 2390, of which I am a cosponsor, to facilitate the consolidation of Federal aid and assistance programs and eliminate much of the waste and duplication in Government programs. Senator ROTH's objective has been that congressional review and oversight of Federal programs must be strengthened in order to improve the operations of Government if we are to bring spending under control and make Government more responsive to the needs and interests of the American taxpayers, reforms such as those incorporated in the sunset bill are essential.

As Senator ROTH has stated:

> There can be no greater priority during this Congress or the next Congress than to make the Federal Government more accountable and more effective in serving the American people. . . . The American public is deserving of your commitment to this proposal as a contract between the public and the Congress that reform of government will be the first priority of the 95th Congress.

I certainly agree with my distinguished colleague, and I am confident that this November the people of Delaware will register their overwhelming approval of his work on their behalf in the cause of good Government.

T. EDWARD BRASWELL

Mr. STENNIS. Mr. President, it is with regret that I notify the Senate of the retirement, October 1, of T. Edward Braswell, Jr., chief counsel and staff director of the Senate Committee on Armed Services. Ed Braswell is well-known to many Members of the Senate after a long and distinguished career as a member of our staff.

To say that Ed Braswell will be missed is an understatement that misses the mark. He has been one of those key staff members on whom the Senate has relied, over the years, to monitor the widespread activities of great departments employing thousands of men and women. The Senate, and the Nation, are indebted to him for nearly 24 years of dedicated and effective service.

Ed Braswell joined the staff of the Armed Services Committee in March of 1953. As one of only three professional staff members then employed he became an expert on military pay and personnel matters. He was, of course, also involved in other committee activities as assigned by the successive chairmen—first Leverett Saltonstall and then the late Richard B. Russell.

When I became chairman of the full committee in 1969 I made him chief of staff, because I was aware of his high capability and his knowledge of the policies and programs necessary for our Armed Services. I felt too that he had all the character qualifications for this post and he has justified this great faith in every particular.

Since 1969, as the committee's activities escalated he has directed the committee professional staff, numbering a dozen or more, with general responsibility for all the committee's staff work. In that capacity he has worked very closely with me, and I have found his services invaluable.

Members of the Senate will recall the occasions, especially during the Vietnam war, when the annual military procurement authorization bill involved weeks of debate and consideration of countless amendments. In 1971, consideration and passage of a Selective Service Act Extension, actually involved the submission of 130 amendments. Only about 60 were called up for a vote, but each had to be analyzed by Mr. Braswell and the committee staff.

We have several major subcommittees who are assigned highly important subject and expert staff members who are capable and carry most of the staff work.

I should explain that, unlike some Senate and House committees, we have no independent separate staffs for subcommittees so that all aspects of the committee work have come within Ed Braswell's attention and responsibility to a degree. That means weaponry, research, and development, personnel and other aspects of national security.

Behind his public activities on behalf of the committee there has, of course, been day after day of private dealings—with Senators and their staffs, officials of the executive branch, and others who have had business with the committee. All these things, both public and behind the scenes, he has done well, and it is a source of satisfiaction to me that he has done them quietly, courteously, and in keeping with the traditions of the Senate.

As he leaves the Senate, I cannot speak too highly of his work.

Many Senators may not know that, while he has been carrying this heavy burden for us, Ed Braswell has found time to make important contributions to the community affairs of Alexandria, Va., where he and his fine family have made their home. He has been a member of the Alexandria Planning Commission for a number of years and is currently its chairman.

A graduate of Duke University and of the Harvard Law School, he is also a member of the bar here in the District and in North Carolina where he was born and lived as a child. He has four sons—John and Harry, both now in college, and Ed Junior—called Ned—and Andrew, both still in Alexandria schools.

After some well deserved time off, Ed Braswell plans to practice law with a firm here in Washington. I am sure other Members of the Senate join me in wishing him well in every way.

I have often said, Mr. President, that the Senate has certain staff members whose services are far more valuable to the Nation than we are willing to pay them. I have known for years that Mr. Braswell's services were worth far more than our staff salary schedules permitted us to pay him. Even though we have other valuable staff members I regret to loose Mr. Braswell.

Following is a complete biographical résumé of Ed Braswell:

T. EDWARD BRASWELL, JR.

Address: 426 North Columbus Street, Alexandria, Va. 22314.

Born: February 24, 1921, Elm City, N.C.

Education: Elm City High School, 1934–38; Duke University, 1938–42; A.B. Degree; Harvard Law School, 1946–48; L.L.B. Degree; Attended Harvard Business School for certain courses including Air Force Statistical School from November 1942 to January 1943.

Career assignments: Chief Counsel and Staff Director of the Senate Committee on Armed Services—January 1969–October 1976; Professional Staff Member of the Committee continuously since March 1, 1953; Attorney, Department of Justice—September 1948–March 1951.

Military service: World War II: Enlisted Air Force July 2, 1942. Relieved from active duty January 1946 with rank of captain. Korean War: Recalled March 1, 1951. Relieved from active duty March 1, 1953 with rank of major. Current rank: Colonel, Air Force Reserve (inactive status).

Civil activities and memberships: Chairman of the Planning Commission, City of Alexandria; Member of the Board of Architectural Review, City of Alexandria; Member, Alexandria Library Company; Past President, Alexandria Old Town Civic Association; Member of the Bar of North Carolina and the District of Columbia; Member, St. Paul's Episcopal Church, Alexandria.

Dependents: Four sons: John McCauley, 21, senior at Duke University; Harry Armstrong, 20, junior at University of Virginia; T. Edward Braswell III, 16, T. C. Williams High School; Andrew Sutherland, 10 Ascension Academy.

SEX, SUBSIDIES, AND SHELL GAMES

Mr. HUGH SCOTT. Mr. President, a recent editorial in the Youngstown, Ohio, Vindicatro said that "Jimmy Carter has put an end to the familiar saying 'it's only peanuts'." The editorial added:

> There's nothing "only" about the way his family has prospered from a higher profitable, no-risk business subsidized by the government. Peanuts have given him the wealth and leisure to run for President . . .
>
> The Federal Government limits peanut planting to 1.6 million acres in allotments to individual farmers. The Carter allotment is 228 acres. Peanuts the farm cannot sell in the open market are bought up by the government under the agricultural support program. This year more than a billion pounds of peanuts and peanut products are in government stockpiles. Last year stockpiling peanuts cost the taxpayers $155 million. This year they'll put up $220 million . . .
>
> Carter hasn't indicated what he thinks about the subsidy program, but in general he's against special tax breaks for business. Except, perhaps, for his own.

CARTER STUMBLES AND GAFFES

It has been a bad week for Candidate Carter who seemed to be stumbling through in his dealings with his fellow Democrats, who were first chagrined by his tax proposal, then his aloofness on a whistle stop tour of Eastern States and his derogatory remarks about former President Lyndon Johnson.

According to columnists Evans and Novak, Democrat biggies "pondered for the first time whether Jimmy Carter might blunder into defeat," after a "joyless" whistlestop swing from New York to Pittsburgh.

The weary day on the train posed questions, including: "Do Carter's stumbles reveal an unavoidable tendency to self-destruct?" the columnists wrote.

The Democrats aboard the train—who peeled off $2,500 apiece for the pleasure of riding with the candidate—"were appalled by reading Carter's Playboy magazine description of a 'lying' and 'cheating' President Johnson at the same time they were listening to Carter's rear platform praise of the last Democratic President," the pair wrote.

AIR FARE REDUCTION FOR ELDERLY AND HANDICAPPED

Mr. ROTH. Mr. President, on Friday, September 24, the Senate passed H.R. 15026 with my strong support. While I did not have the opportunity at that time to speak to the Senate about this very worthwhile legislation, I would like to do so now.

H.R. 15026 would amend the Federal Aviation Act of 1958 to authorize reduced fare transportation on a space available basis for those over 60 years and the handicapped, and would require that a study be conducted to determine the feasibility of extending this provision to youth under 21 years. When I was a Member of the House of Representatives, I introduced similar legislation and I still maintain that it is entirely proper to grant these groups special consideration.

Inflation and our Nation's economic situation have placed air transportation beyond the financial reach of many Americans. Those most seriously hurt have been our senior citizens who live on a fixed income and the handicapped who tend to have below-average incomes.

It is my understanding that on the average 45 percent of available airline seats on major airlines are unoccupied. This legislation would provide that these seats could be occupied by the elderly and the handicapped at reduced rates on those airlines which choose to offer them. It is good economics to utilize some of the unused seats and would mean a contribution toward overall costs.

It is doubtful that there will be any considerable transfer from a higher fare category to a lower fare category. The elderly and the handicapped are members of groups whose incomes frequently do not allow for air travel at standard rates. Therefore, such trips are foregone, unless special provision is made.

Mr. President, no group has been more responsible for the success and prosperity of this Nation than the older generation. Because of their willingness to work hard and even sacrifice, this country grew and prospered to become the greatest democracy this Earth has ever witnessed. These men and women have worked many long, hard years and struggled to save for their retirement. However, it was impossible to plan for the hardship that our inflationary economy has placed on them. Many of our senior citizens are enjoying an abundance of leisure time, perhaps for the first time in their lives. Their children and friends are often located in distant places. By allowing the airlines to offer reduced fares, the elderly who have not been able to afford to visit their family and friends, may be able to do so.

Many of the elderly and the handicapped are not able to operate automobiles and are dependent on public transportation. In the mass transit law Congress made reduced fares available to senior citizens and the handicapped. It is, therefore, logical that we extend this precedent to include air transportation. Access to this service is most important to these groups if they are to be included in the mainstream of American life.

I am very pleased that H.R. 15026 passed the Senate by a vote of 73 to 0.

NEW INDEX SHOWS PERSONAL CORPORATE INFLUENCE ON FEDERAL ADVISORY COMMITTEES

Mr. METCALF. Mr. President, the new three-way index to the membership of Federal advisory committees reveals patterns of personal, corporate, and other institutional influence on these groups, which advise the Federal Government in virtually every area of policymaking.

Research by the Subcommittee on Reports, Accounting, and Management discloses that 168 persons serve on anywhere from 4 to 13 advisory committees. Of these, 85 persons were on 4 committees, 33 serve on 5 committees, 22 serve on 6 committees, and 28 persons serve on 7 or more.

It also discloses that 27 large companies, led by American Telephone and Telegraph, each claim between 20 and 130 representatives on advisory committees; that 10 universities, led by the University of California, each claim between 94 and 360 representatives on advisory committees; and that the AFL–CIO itself claims 98, with 21 unions each claiming between 10 and 28 representatives on advisory committees.

In the "trade and other associations" category, the subcommittee study discloses that the Air Transport Association of America claims 20 representatives on advisory committees.

And it discloses that the League of Women Voters now claims 25 representatives on advisory committees, up from 12 a year earlier.

The source of this information is an alphabetized three-way index to the membership of the 1,267 Federal advisory committees, boards, commissions, councils, and other panels in existence as of December 31, 1975. The fourth annual report of Federal advisory committees, transmitted by the President to the Congress in March, puts total membership at 22,256 persons.

As required by the Federal Advisory Committee Act (Public Law 92–463), that report contains the name of every advisory committee, the date and authority for its creation, its termination date or the date it is to make a report, its functions, a reference to the reports it has submitted, a statement of whether it is an ad hoc or continuing body, the dates of its meetings, the name and occupations of its current members, and the total estimated cost to the United States to fund, service, supply, and maintain the committee.

In all, the report in summary form and the unbound supporting documents submitted by agencies in connection with it span 5,876 pages.

Since the act provides that the membership of an advisory committee shall be "fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee," the subcommittee asked the Congressional Research Service to oversee preparation of an index of the names and affiliations of the current advisory committee members identified in the fourth annual report.

That task has just been completed. The index is in press and is scheduled for publication on September 30.

The index provides three alphabetized listings of the membership information contained in the fourth annual report, making it possible to look up the 22,256 individual members by name or by affiliation, or to determine at a glance the names and affiliations of all the members of any given advisory committee. The listings are as follows:

First. By affiliation, then by member name and then by committee code—see the glossary for the full name and code of each advisory committee.

Second. By member name, then by affiliation and then by the committee on which s(he) serves.

Third. By committee code, then by member name and by affiliation.

The third listing, by committee code, includes two subcategories at the end: Committees for which no membership information was submitted—in most cases that is because no members had been appointed as of December 31, 1975—and committees that were terminated during 1975 and for which membership information has been excluded from the index.

Because of its three-way listing, the index will serve as a valuable reference for the Congress and the public. However, users of the index should bear in mind that—

One. The index is only as accurate as the information contained in the fourth annual report. Therefore, errors in the original source documents will also appear in the index.

Two. In the listing by affiliation there are some inconsistencies, such as a few State agencies mistakenly identified as U.S. Government agencies, and a few Federal agencies appearing without the "U.S." prefix.

Three. The computer program alphabetizes lower case letters before capital letters, so that a name beginning with "von," for example, will be listed before names beginning with a capital "A."

Mr. President, the subcommittee did similar research a year ago on the membership index for the third annual report of Federal advisory committees, making comparisons possible.

At the end of 1974 there were 196 persons serving on anywhere from 4 to 15 advisory committees, meaning there was a welcome drop in multiple service on advisory committees during 1975. Extenuating circumstances should be noted for Government officials who serve on several committees: Often they serve ex officio, and the law requires that there "shall be designated an officer or employee of the Federal Government to chair or attend each meeting of each advisory committee."

In the business and industry category, firms are ranked by their number of advisory committee representatives in 1975 and in 1974. The comparison shows that Raytheon, Rand, Honeywell, Gulf Oil, and Bendix Corp. have dropped out of the list of leaders, while American

Broadcasting Corp., Shell Oil, and United States Steel have joined it.

In the "universities and institutes" category, California, Harvard, and Texas are again one-two-three. The major changes are Stanford in fourth place with 114 advisory committee representatives, up from 10th with 91 in 1974, and Washington in fifth place with 109, up from ninth with 93 a year earlier.

Mr. President, I ask unanimous consent to have printed in the RECORD the subcommittee's tables of multiple representation on advisory committees, including an alphabetical listing of the 168 persons who serve on four or more committees, with the affiliation given for those who serve on five or more.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

THE TOP 25: CORPORATE POSITIONS ON ADVISORY COMMITTEES

1974 rank and number	1975 Rank Company	*Number*
(1.–95)	1. AT&T	130
(1.–95)	2. RCA	105
(5.–64)	3. Communications Satellite Corp.	81
(4.–80)	4. General Electric	74
(15.–29)	5. Rockwell International	57
(3.–86)	6. ITT	53
(7.–40)	7. IBM	45
(6.–48)	8. Exxon	39
(9.–36)	9. Boeing	38
(10.–35)	10. Western Union	36
(16.–28)	11. Ford	30
(21.–25)	12. Aeronautical Radio, Inc	29
(11.–33)	13. General Motors	28
(24–24)	14. E. I. duPont de Nemours & Co.	27
(8.–37)	14. Mitre Corp	27
(21.–25)	16. Motorola, Inc	26
(25–22)	17. GTE	25
(18.–27)	17. Hughes Aircraft	25
(19.–26)	17. Mobil Oil	25
(14.–20)	20. Lockheed	24
(11.–33)	20. Westinghouse	24
(27.–21)	22. R&D Associates	22
(27.–21)	22. TRW	22
(21.–25)	24. United Airlines	21
(*)	25. American Broadcasting Corp.	20
(*)	25. Shell Oil	20
(*)	25. United States Steel	20

* Not among the leaders in the 1974 listing

(NOTE.—In this listing the representatives of subsidiary companies are in the total for the parent compay, e.g. that AT&T total includes representatives of six AT&T subsidiaries serving on Federal advisory committees. As such, the number of advisory committee representatives given for certain conglomerates may be understated.)

Universities and institutes

1. University of California	360
2. Harvard	159
3. University of Texas	128
4. Stanford	114
5. University of Washington	109
6. University of Michigan	106
7. MIT	105
8. Yale	99
9. Johns Hopkins University	97
10. University of Wisconsin	94

Number of advisory positions

Federations and national unions:

1. AFL–CIO	98
2. USA (United Steelworkers of America)	28
3. IBEW (International Brotherhood of Electrical Workers)	25
4. AFGE (American Federation of Government Employees)	19
5. PAT (International Brotherhood of Painters and Allied Trades)	17
6. IBT (International Brotherhood of Teamsters)	16
7. CJA (United Brotherhood of Carpenters and Joiners)	15
8. IAM (International Association of Machinists and Aerospace workers)	15
9. OCAW (Oil, Chemical and Atomic Workers International Union)	14
10. URW (United Rubber, Cork, Linoleum and Plastic Workers of America)	14
11. CWA (Communications Workers of America)	12
12. ILGWU (International Ladies' Garment Workers Union)	12
13. IUE (International Union of Electrical, Radio, and Machine Workers)	12
14. IWA (International Woodworkers of America)	12
15. NFIU (National Federation of Independent Unions)	12
16. ACWA (Amalgamated Clothing Workers of America)	11
17. AIW (International Union of Allied Industrial Workers of America)	11
18. GAIU (Graphic Arts International Union)	11
19. IUOE (International Union of Operating Engineers)	11
20. NMU (National Maritime Union of America)	11
21. SMW (Sheet Metal Workers International Union)	11
22. BRASC (Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees)	10

Persons serving on four or more Federal advisory committees)

	Number of advisory positions
Abel, I.W., AFL-CIO–USA	6
Adams, W.T., U.S. Coast Guard	7
Ahern, Eileen	4
Amram, Philip W	4
Anderson, Allan W., U.S. Army	5
Ball, John E.D., Public Broadcasting Service	5
Bartlett, George W., National Assn. of Broadcasters	8
Bass, Albert F., U.S. Federal Energy Administration	5
Baum, Robert C	4
Benham, Edward E., IT&T Corporation	9
Bergen, Frank P., Western Electric Company	6
Blaker, Herbert T., Collins Radio Group & Rockwell Intl	10
Borman, William M., Motorola, Inc	5
Brown, Carl F	4
Brubaker, Otis, AFL–CIO–USA	5
Burch, C. F	4
Burke, William T	4
Burkhardt, Francis X, AFL–CIO–PAT	8
Burnett, James Robert	4
Carry, Charles R	4
Catucci, Henry C	4
Citarella, Joseph F	4
Cohen, Jeff, State Dept. of Environmental Conservation	6
Cohn, Stanley I	4
Cornfield, Jerome	4
Crafe, Roger D	4
Cranmer, Victòr H., AT&T Company	6
Cronin, F.R	4
Crowell, Raymond B., U.S. Federal Communications Comm.	9
Cuccia, C. Louis, Philco-Ford Corporation	5
D'Andrea, Lucio A., U.S. Federal Energy Admin.	5
Das, Allen	4
Deck, Edward N	4
DeHaas, T.	4
Donolan, Harry A., AFL–CIO–AIW	5
Dorian, Charles, Comsat General Corp	12
Dunlop, John T	4
Dykstra, Jacob	4
Ebel, A. James, Conhusker Television Corp.	5
Felando, August J	4
Feltner, Richard L., U.S.D.A	8
Fine, Harry, FCC	8
Finley, Murray	4
Fisher, Ronny G., AFL-CIO–URW	6
Fitzsimmons, Frank E., International Brotherhood of Teamsters	5
Flax, Alexander H	4
Flournoy, Robert L	4
Fredrickson, Donald S., N.I.H	12
Freibaum, Jerry, NASA	5
Froh, Walter O., AFL-CIO–APWU	5
Fubini, Eugene	4
Galleher, Richard M	4
Gatti, Joseph, Federal Aviation Administration	8
Gibson, Owen B., AT&T Company	5
Gladieux, Bernard L., Grocery Mfgs. of America Inc.	5
Glunt, Merle E., American Radio Relay League	9
Gomes, Aiblio A	4
Gould, Richard G	4
Grospiron, A.F., AFL-CIO–OCAW	6
Hagedorn, George G	4
Hagen, John P	4
Hall, Paul	4
Hamilton, William T	4
Hart, C. Monroe	4
Heiden, Edward	4
Hertzberg, Abraham	4
Highton, Francis E., Economic Consultant	7
Huck, Michael V., Aircraft Owners & Pilots Association	8
Hughes, Thomas P	4
Hult, John L., Rand Corporation	5
Hupe, Howard	4
Hurwitz, Irwin, F.C.C	7
Jacobs, George, U.S. Information Agency	5
Jessup, Philip	4
Kajander, John	4
Kaplan, S. J	4
Kassens, Harold, A. D. Ring & Associates	7
Kelleher, John J., National Scientific Lab	7
Keller, William H	4
Keys, Carlton A., Department of Transportation	5
Kimball, Thomas L., National Wildlife Federation	5
Kimble, Charles, AFL–CIO—IUE	6
Kittner, Joseph	4
Koelling, Gordon, U.S. Bureau of Mines	5
Linden, Henry R	4
Lokke, Harold E., Fishing Vessel Owners Association	6
Long, Robert W., U.S.D.A	6
Loppe, Nicholas R., AFL–CIO—CJA	8
Lyons, John H	4
Lyons, Walter, Singer-Tele-Signal Corporation	6
Madden, Carl H	4
Madison, Joseph J	4
Mark, Hans	4
McCormick, John L., Environmental Policy Center	6
McDonald, Marshall	4
McGuire, George F	4
McKernan, Donald L	4
Meaney, Martin H., NBC	9
Meehan, Charles M	4
Mentschikoff, Soia	4
Metzger, Sidney	4
Miller, Vera	4
Mills, Norman B	4
Mills, William W	4
Morton, Rogers C. B., U.S. Department of Commerce	5
Mulhern, Francis J	4
Nelson, Norton	4
Nesti, Anthony J., National Electrical Manufacturers Association	6
Newell, Reginal, AFL–CIO—IAM	6
Nyhen, E. MacDonald, U.S. Department of Commerce	6
Ockert, Roy A	4
Olmstead, Cecil J	4
Oswald, Rudolph A., AFL–CIO	8
Parker, James D., CBS	6
Patrick, Ruth, Academy of Natural Science of Philadelphia	5

Perkel, George, AFL-CIO—TWUA	6
Pickens, Robert A., Page Communications Engineers, Inc	5
Pillard, Charles H., AFL-CIO—IBEW	8
Portmann, Pierre, Computer Science Corporation	7
Post, John	4
Potts, James B., COMSAT	6
Pracht, Raymond, U.S. Department of State	5
Press, Frank	4
Putnam, Israel	4
Reese, Bruce A	4
Reinhart, Edward E., Jet Propulsion Lab	5
Renner, John J., Advanced Technology Systems, Inc	6
Rettig, Roger	4
Richards, Warren G	4
Riley, Wilson	4
Roberts, Lawrence G	4
Roberts, Markley, AFL-CIO	4
Saletic, William G	4
Schneider, Stanley S., Aeronautical Radio, Inc	6
Serafin, John, ABC	8
Sheets, James R., AFL-CIO-LIUNA	5
Sibert, Myron S	4
Silvermann, Donald	4
Simonds, Raymond E., RCA	13
Smith, E. K., U.S. Department of Commerce	5
Smith, Floyd E	4
Smith, Harry R	4
Smith, Hillyer S., Aeronautical Radio, Inc	7
Smith, Neil M	4
Sodolski, John	4
Spector, Eugene P., AFL-CIO-NMU	9
St. Croix, Chic	4
Staras, Harold	4
Stever, H. Guyford, U.S. National Science Foundation	5
Strauss, Willis A	4
Teller, Edward	4
Tenten, Robert	4
Teper, Lazare, AFL-CIO-ILGWU	9
Tuft, Leonard W., RCA Global Communications, Inc	5
Van Drimmelen, Frederick E	4
Walker, Donald L	4
Wang, John C. H	4
Ward, Martin J., AFL-CIO-PPF	5
Ware, Willis H	4
Webber, Clyde M., AFL-CIO-AFGE	5
Weiss, Hans J., COMSAT	5
Weppler, H. Edward, AT&T Company	13
Wheeler, John L., XEROX	5
White, Frank C	4
Wogan, Gerald N	4
Woodcock, Leonard, United Auto Workers	5
Yeh, Leang P., L. P. Yeh & Associates	6
Yoest, Gerard P., American Inst. of Merchant Shipping	6

Number of persons serving on four or more Federal advisory committees

Number of committees:	Number of Persons
4	85
5	33
6	22
7	7
8	10
9	6
10	1
12	2
13	2

THE GOLD CLAUSE AMENDMENT

Mr. HELMS. Mr. President, H.R. 13955, the bill to amend the Bretton Woods Agreement is awaiting Senate action. If the bill is considered before the end of this session I will offer an amendment which would make legal gold clause contracts. The restoration of the freedom to enter into a contract specifying payment in gold or in dollars measured in gold is long overdue. Recently, the Secretary of the Treasury, William Simon, brought his support for this proposal to my attention. In his letter he stated, "I believe this in fact may be a good time to repeal the joint gold clause resolution," which initially forbade gold clause contracts.

Several Senators have asked that they be added as cosponsors to my amendment to the Bretton Woods Agreement amendments.

Mr. President, I ask unanimous consent that the Senator from Idaho (Mr. McCLURE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Florida (Mr. STONE), the Senator from Nevada (Mr. LAXALT), and the Senator from Nevada (Mr. CANNON), be added as cosponsors to amendment No. 2265 to H.R. 13955.

Mr. President I also ask unanimous consent that letters supporting the repeal of the gold clause prohibition from Milton Friedman, Ernest P. Welker, Eugene Birnbaum, E. C. Harwood, A. Robert Abboud, F. William Ballou, Edward J. Baptiste, and David Dunlap be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

UNIVERSITY OF CHICAGO,
Chicago, Ill., July 30, 1976.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: Thank you for your letter of June 17, 1976, calling to my attention the legislation you have introduced to restore the freedom of Americans to use gold clauses in contracts. May I express strong support for your measure and the hope that you are successful in achieving its passage this year. I believe the prohibition on the use of gold clauses in contracts was never justified, should not have been adopted in 1934 and certainly has no place whatsoever today now that gold no longer has any significant relation to our monetary system.

The only respect in which I have any disagreement with your comments in the CONGRESSIONAL RECORD is in respect to the possibility of issuing gold clause Treasury bonds. I believe that would be a very undesirable thing to do under present circumstances. As you probably know, I have long favored the issuance by the Treasury of indexed bonds, bonds which promised a real rate of return rather than a nominal rate of return. I believe that the savings bond campaign in particular, but Treasury borrowing in general, has been one of the greatest bucketshop operations in history. Treasury Secretary after Treasury Secretary has seduced the public into purchasing these obligations on the ground that it would be a way in which individuals could provide for their future. Yet purchasers of government securities have received a very bad deal. The so-called interest they have received has not compensated for inflation and has besides been taxable. Issuance of a purchasing power bond or an indexed bond would end this governmental deception.

In any event, congratulations to you for introducing this measure. I wish you every success.

Sincerely yours,

MILTON FRIEDMAN.

AMERICAN INSTITUTE FOR
ECONOMIC RESEARCH,
Great Barrington, Mass., July 30, 1976.

Hon. JESSE HELMS,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR HELMS: As you might be aware, we long have described the useful function that gold has served in monetary arrangements. We congratulate you for introducing S. 3563, and we would like to make the following remarks in connection with that bill.

One of the results of inflating, currency depreciation, undermines the very foundation of organized society—the promises men live by. The whole structure of modern industrial and commercial society rests on promises, on loans made and credit granted in the expectation of future payment and on other contracts that promise one thing for another. Even the common practice of accepting wage payments in the form of money involves a tacit contract, the promise of the money issuer that the wage recipient later will be able to exchange the money for other things. The esential feature for efficient functioning of this system of promises is that the promises almost invariably be fulfilled. Especially in an economic society such as ours, with its huge structure of long- and short-term debt, its elaborate contractual relationships, and its trillion-dollar life insurance and pension plans, the sanctity of contract may well have been the greatest single influence in the economic progress of the United States and other advanced nations. A modern nation in which economic promises ceased to be kept on a wide scale soon would retrogress to a primitive condition of economic life, similar perhaps to that of the Dark Ages. And any impairment of the trust inherent in the whole complex pattern of promises within an economic system surely must impair the efficiency with which that system produces and distributes wealth.

In almost all economic promises the money aspect is dominant because a stable monetary unit is necessary for their effective and satisfactory fulfillment. Inflating, however, through the resulting depreciation in buying power of the currenecy, breaks faith with those who considered the currency a thing of stable value. When carried far enough, inflating inevitably has led to devaluations of the currency. Devaluation is a repudiation of the promise represented by the currency.

The Government's promise when it issues currency that purports to be exchangeable (in various denominations) for the monetary commodity, is especially important because the currency will be used to fulfill not only the promises represented by the Government's securities but also all other promises made throughout the economic system. Yet our Government has abrogated such promises of its currency. For example, until recently, all Federal Reserve notes contained the inscription "The United States of America will pay to the bearer on demand (so many) dollars." This promise to pay dollars on demand was a contract to pay gold, because each dollar then was defined by law as 1/35th of an ounce of pure gold. However, the Government has deleted this promise from currency now being issued.

Not only has the Government failed to keep this promise to its citizens to redeem its currency in gold; it also has permitted the currency to lose two-thirds of its value in three decades, to that extent reducing the value (in purchasing power) of its own obligations. *At the same time, it has forced upon private debtors and creditors a depreciating means for fulfilling the promises made and accepted by them.* Creditors may be as willing as ever to trust debtors, but when they cannot trust the medium in which debts will be paid, economic processes are hampered and distorted, fluctuations become more volatile, and progress slows.

Of course, that an unreliable monetary unit has adverse effects on economic activity seems not to be in doubt at this time. As you mentioned, those who advocate or use various indexing schemes, including multiple-currency clauses (which Secretary Simon has supported) and escalators (which Congress has used) tacitly admit the failure of national currencies to serve well as long-term units of account. The aspect in question is *the means* by which the public is permitted to protect itself from the deleterious effects of a depreciating monetary unit. More basically, the question is, Who knows better how the public can best protect itself from those effects, the public or Government officials?

In this Bicentennial year, we should be more aware than at other times that this Nation was founded on the principle that the public knows what is best for itself and that the role of Government thus should be restricted to providing and protecting a "fair field with no favor." Application of that principle to the gold-clause question yields the conclusion that the rights of private U.S. citizens to enter gold-clause contracts should not be restricted unless by entering such contracts the participating parties deny to others some right(s).

What right might be so denied? Some persons might argue that a monetary role for gold disrupts the smooth functioning of an economy and thus hinders the ability of Congress to perform its constitutional duty of providing for the general welfare and of regulating the value of money.* Therefore, the right of the general public to a higher level of general welfare would be denied if gold-clause contracts again were legalized.

The evidence ostensibly supporting the destabilizing assertion is the fact that economic contractions often have occurred when currencies were redeemable in gold and the public claimed gold in large quantities. Ignored is the fact that in many countries for extended periods of time the public made no massive demands for gold. Also ignored is that during periods when the public made demands for gold severe economic maladjustments were evident. This suggests that the demand for gold was an act of self-defense, of attempted wealth preservation, by the public. Regardless of how one interprets this past evidence, the U.S. dollar currently is irredeemable. Therefore, no public demand for officially held gold is possible, and that alleged destabilizing influence is precluded.

Indeed, in upholding the legality of the Congressional joint resolution declaring gold clauses unenforceable, the Supreme Court did not rely upon the monetary-powers-of-Congress argument, probably because gold already had been withdrawn from public use by then and the gold clauses thus could not have affected monetary values. Instead, the Court argued that enforcement of gold clauses would cause undue hardship to the obligators and, therefore, result in dislocation of the domestic economy. (Incidentally, the obligors mentioned by the Court were States and municipalities, railroads, public utilities, and industrial corporations; they were not individuals.) Apparently the Court considered less "dislocating to the economy the destruction of the right of parties to enter contracts and to expect the promises thereof to be fulfilled.

We cannot understand how the argument of undue hardship could apply today, even if that position were defensible at one time, which we believe it was not.

What then, can be the basis for withholding from the public the right to enter gold-clause contracts? We can think of none.

Secretary Simon asserted in his letter to you dated May 6, 1976, that the use of gold clauses "could call into question the strength of the dollar and undermine *our efforts* to control inflation and maintain confidence in our currency." [Emphasis ours.] Unfortunately, the "efforts" of governments to control price increases and maintain confidence in their currency throughout history have proven to be futile. What gold-clause contracts would do, is restore to the *public* some control of their exposure to the monetary misdeeds of public officials. Moreover, we heartily agree with the evidence and with you that in the long term such contracts will do much to *increase* confidence in our currency by forcing Government officials to adopt sound fiscal policies.

In his letter to you, Secretary Simon also appealed for your cooperation on the basis of a share common philosophy. We assume this philosophy is the view that limited Government, reliance on free markets, and sound money fosters progress. His position with reference to the gold-clause question is a clear betrayal of this view.

Secretary Simon's position can be defended only with the argument that the public must be protected from itself. Although that view is held by many, we believe there is overwhelming evidence that the public needs protection from the "good intentions" of its elected and appointed public officials. Legalization of gold-clause contracts would remove a major barrier to the public's obtaining such protection as it chooses. Denial of that right to those who would use it forces such individuals to use second-best alternative means of protecting themselves and therefore, reduces economic efficiency.

Obviously, we agree with you that gold-clause contracts once again should be permitted. One minor point in your remarks, however, seems to be inaccurate. You stated that if the Treasury could offer notes with a gold clause, the public would benefit, because a lower interest rate would be demanded by investors recognizing gold as a better store of value than paper currency. Although notes with such clauses probably would carry lower interest rates, the savings reflected thereby would be offset by the requirement that the notes be redeemed with gold of higher currency value if inflating were continued. Any savings or loss would be determined by the amount of any increase or decrease in the price of gold; therefore, the "nominal" interest rate would be less but the "real" cost of the notes would be about the same if inflating were continued.

We hope these comments are useful. You have demonstrated an understanding of sound money and a willingness to work for it in the Senate that deserves the support of all Americans. If we can be of any help in the future, please contact us.

Sincerely,

ERNEST P. WELKER,
Director of Research.

FIRST NATIONAL BANK OF CHICAGO,
Chicago, Ill., July 14, 1976.

Hon. JESSE A. HELMS,
Dirksen Office Building,
Washington, D.C.

DEAR SENATOR HELMS: Thank you for your interesting letter of June 23, 1976, regarding your speech before the Senate on June 14 in which you introduced a bill to repeal the prohibition against private gold clause contracts. I find myself in substantial agreement with your proposed legislation.

There are, as you know, sharply differing viewpoints on this matter. This may largely be due to a number of uncertainties regarding the future of gold as a monetary or quasi-monetary standard of value. It is my judgment, however, that repeal of the gold clause prohibition for private contracts will not significantly affect the outcome of this issue, one way or the other.

Even if, as some observers seem to believe, the use of the gold clause in contracts should become widespread, it is by no mans clear that this would necessarily tend to increase the price of gold. Indeed, the use of the gold clause could serve at least to some extent as a substitute for actual transactions demands for gold. It is therefore not inconceivable that restoring the legality of gold clause contracts could, in fact, even dampen the demand for gold. Should this be the overall outcome of the repeal of the gold clause prohibition, then the price of gold might tend to decline or, at least, to be lower than otherwise. I mention this only to note just one neglected and complex issue among many possible consequences of restoring legality to the use of gold clauses in private contracts.

The enforcement of gold clause contracts was prohibited in the 1930's mainly as a result of government efforts to minimize the possibility of a serious financial disturbance subsequent to the decision to devalue the dollar significantly in terms of gold. Quite apart from questions that have been raised in some quarters regarding fundamental legal and even moral aspects of this matter, the judicial finding of the unenforceability of gold clause contracts might in those circumstances have been successful in averting some bankruptcies. Without further comment on the merits of that judicial action, the fact remains that the action did occur, and, having occurred, it constitutes a precedent which cannot be erased. Accordingly, should the gold clause again be permitted for use in private contracts, questions would probably arise regarding the credibility of its enforcement in the event of a similar circumstance occurring in the future.

I share your disposition to remove this unnecessary infringement on the freedom of Americans to negotiate contracts in accordance with their personal preferences.

Sincerely yours,

E. A. BIRNBAUM.

JULY 12, 1976.

Hon. JESSE HELMS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HELMS: This is in reply to your letter dated June 23, 1976, concerning your speech delivered on June 14 and the bill S3563.

Your letter was addressed to me at American Institute for Economic Research, Great Barrington, Massachusetts 01230. I first should make clear that I have retired from offices held there, although I do expect to visit the Institute shortly for a few weeks. The comments that follow reflect my personal views only and not necessarily those of the Institute.

I am wholly in accord with the purpose of S3563.

Under the Constitution, Americans are free to exchange any items they may legally own: one house for a different one; onions for potatoes; copper for steel; etc. ad infinitum, and not overlooking the exchange of any service or thing for paper currency, if the buyer and seller so agree. Why should there not be included among the things that may be specified in contracts for various exchanges gold by weights and fineness as well as silver, platinum, etc?

How can it be legal to write a contract exchanging silver for platinum, for example, but illegal to write a contract specifying that silver is being exchanged for the future delivery of gold (or its then paper currency equivalent)?

Do the idiosyncracies of those who believe that the public should be forced to accept paper money justify denying to citizens their natural or common law Constitutional rights to enter into any contracts that are inoffensive to moral law?

Sincerely,

E. C. HARWOOD,
Director Emeritus, American Institute for Economic Research.

FIRST NATIONAL BANK OF CHICAGO,
Chicago, Ill., June 30, 1976.

Hon. JESSE HELMS,
Senator from North Carolina,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: I read your speech of June 14th with great interest.

I frankly know of no reason why contracting parties who wish to do so should be prohibited from using a gold clause or any other payment mechanism they so choose. It is true that if the value of the currency begins to depreciate rapidly, the use of gold clauses may increase dramatically. But the alternative is for the anticipated depreciation in the value of the currency to be built into the price of the goods or services being offered for sale or, worse yet, for the goods or services to be withheld from the market altogether. I frankly don't understand how the gold clause prohibition serves any useful function. The seller will demand fair value one way or the other or not sell at all. And the use of the gold clause merely provides an alternative means of rendering what the seller might consider to be fair value.

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* We believe that such an extended interpretation of Article 1, Section 8 of the Constitution is unwarranted.

Sincerely,

A. ROBERT ABBOUD.

LIBERTY ADVISORS, INC.,
Lenox, Mass., July 7, 1976.

Senator JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: Thank you for your letter of June 23rd 1976 and the enclosure of your speech upon introducing a bill which would repeal the prohibition against gold clause contracts.

If you obtain the necessary support to pass your bill, you will have done an invaluable service to your country and mankind especially during a period that will rank in the history as the bench-mark of stupidity in the affairs of monetary systems. Your bill at least if passed may allow those few observant people and organizations to protect themselves against the future ravages caused by the ever increasing arrogant substitution of paper promises for specie. I shudder at the power of Congress in its awesome propensity to spend and create deficits and in turn the Federal Reserve Bank and Treasury's ability to monetize them. The responsibility at the present can truly only be shouldered by Arthur Burns, William Simon and perhaps Greenspan. Instead of devoting their efforts to educating the Administration and the Congress to the coming disastrous pitfalls of runaway inflation and subsequent collapse, they in turn contribute to the exacerbation of such gruesome trend in their continued approval of paper IOU's as a basis of monetary orders or should I say disorder.

How many Rambouillet, Jamaica or Puerto Rico conferences do we need?

I am not optimistic—until leaders such as you begin to make a major impact on your Keynesian peers.

Sincerely,

EDWARD J. BAPTISTE.

RIDGEWOOD, N.J., *July 1, 1976.*

Hon. JESSE HELMS,
U.S. Senator, North Carolina, Senate Office Bldg., Washington, D.C.

Subject: S3563

MY DEAR SENATOR: Thank you for your kindness in sending me that portion of the Congressional Record (Volume 122, No. 91) dealing with your introduction of the proposed subject legislation.

It seems that your introduction is based almost purely on a libertarian concept of the right of individuals to protect themselves through whatever financial arrangements they might make in their dealings with others, including the exercise of contractual agreements relating to future payments for commodities or services. I am in full agreement with your position.

An additional benefit of subject proposed legislation, I believe, would be a return to a more realistic, steady economic growth pattern. One of the statistics that interests me is not only the rise and fall of relative prices on stock markets and commodity exchanges (the ratios of peaks to valleys) but also the frequency with which such peaks and valleys occur. Published information shows that the frequency of stock market gyrations increases during inflationary periods. One has to look only to the history of stock market prices during the inflation in Germany following World War I, the inflation (actually two inflations) in France and our recent inflationary period, roughly commencing in the 50s and not yet ended. While rapid gyrations in pricing for stocks and commodities is of great interest to brokers and traders, it is a problem that nettles both buyers and sellers alike. The businessman who is attempting to chart the future course of an enterprise may resort to futures trading or some other hedge, but he must often avoid entering into some transactions that he might otherwise accept when the future value of the currency (the dollar) is so uncertain.

I believe that the removal of the restriction against making contracts in terms of gold, that would be afforded by passage of your proposed bill, would not only increase freedom but would actually allow a smoother operation of business and markets in general. This could result in better utilization of overall resources and could create a better atmosphere for overall employment.

I hope that our New Jersey Senators and Congressmen will support your proposed legislation.

Sincerely yours,

F. WILLIAM BALLOU.

HARRISBURG, PA., *September 10, 1976.*

Hon. JESSE HELMS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HELMS: I have just had the pleasure of reading your June 14, 1976 remarks on your bill (Senate Bill No. 3563), which would reestablish the right of American citizens to contract for the repayment of debts in gold or in dollars measured by gold.

It happens that I am counsel for a number of large electric utilities, all of which must sell huge blocks of securities from time to time for the purpose of financing their construction programs. The yields upon these securities demanded by investors are very high, and it is well-known that the reason for demanding those high yields is to compensate for the expected depreciation of the purchasing power of the dollar because of inflation.

Your bill would obviate the investors' need for such compensation, the utilities would be able to obtain capital funds at a much lower cost, and that lower cost would be reflected in lower utility rates to the public.

I noted with much interest the passage in your remarks which reads:

"The Treasury is Congress' agent and is responsible for selling Federal securities in order to finance the Federal debt. The Federal Reserve Board then acts to ameliorate the effects massive Treasury borrowing has on the economy and pumps money into the system. This causes inflation."

On numerous occasions I have written to my Congressman (Schneebeli) and Senators (Scott and Schweiker), protesting against the appropriation of expenditures in excess of revenues, and the consequent pumping of dollars into the economy without a corresponding increase in goods and services. However, I have never been able to state the matter as succinctly as you have done in the passage quoted above; and by your leave I shall use that passage in future correspondence with those who represent me in the Congress.

You have my most profound thanks.

Sincerely,

DAVID DUNLAP.

MORE ON ORGANIZED LABOR CONTRIBUTIONS TO SENATE CANDIDATES

Mr. GOLDWATER. Mr. President, on Thursday of last week, I placed in the RECORD a detailed list of the amounts of money donated by organized labor to 14 Democrat candidates running for seats in the U.S. Senate this November. Today, I am inserting similar data naming the identity of labor organizations that gave money to nine other Democrat candidates who are running for Senate seats in this year's elections.

Mr. President, I provide this information in the interest of the public's right to know. The American electorate has had a virtual cloud placed over the specifics of what union bosses are doing to elect candidates of their liking, even though the information is available for anyone who is willing to take the time to root it out; and I plan to put a little more light on the subject each day until we adjourn.

Mr. President, I ask unanimous consent that an itemized list of funds contributed by various labor organizations to Democrat senatorial candidates in nine States be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

ORGANIZED LABOR CONTRIBUTIONS TO DEMOCRAT SENATE CANDIDATES (INCLUDES ALL CONTRIBUTIONS TOWARD 1976 CAMPAIGNS)

	North Dakota, Burdick (D)	Nevada, Cannon (D)	Delaware, Maloney (D)	Ohio, Metzenbaum (D)	New York, Moynihan (D)	Maine, Muskie (D)	Michigan, Riegle (D)	Nebraska, Zorinsky (D)	Missouri, Hearnes (D)
Active Ballot Club (Retail Clerks)		500		5,000.00			5,000.00		
AFL–CIO COPE	5,000	5,000		5,000.00	7,500	5,000	5,000.00	3,000	
AFT (American Federation of Teachers COPE)							50.00		
Amalgamated PEC (Clothing Workers) plus affiliates				2,000.00					
AMCOPE (Meat Cutters)									
American Postal Workers	600	200					100.00		
ATU–COPE (Transit)	500	500	250	500.00	500	500			
Boilermakers P.L	1,000								
Bricklayers PEL							500.00		
Building and Construction Trades Department			2,500			213	2,000.00		
Carpenters LIC	500	1,100	500	1,500.00		1,250			
Coal Miners PAC									

ORGANIZED LABOR CONTRIBUTIONS TO DEMOCRAT SENATE CANDIDATES (INCLUDES ALL CONTRIBUTIONS TOWARD 1976 CAMPAIGNS)—Continued

	North Dakota, Burdick (D)	Nevada, Cannon (D)	Delaware, Maloney (D)	Ohio, Metzenbaum (D)	New York, Moynihan (D)	Maine, Muskie (D)	Michigan, Riegle (D)	Nebraska, Zorinsky (D)	Missouri, Hearnes (D)
Comm. on Federal Employees	500	150							
Comm. on Letter Carriers	1,200								
CWA-COPE (Communications Workers) plus affiliates	200		2,000				15.00	500	
DRIVE (Teamsters)	1,000	1,000					50.00		250
Engineers PEC	300	500	550			500	250.00		
Firefighters COPE (F.I.R.E.-P.A.C.)									
Firemen—Oilers P.L						300			
Fur, Leather and Machine Workers									
Glass Blowers P.L									
Graphic Arts PCC	200	5,200	500			500			
H & RE & BIU—TIP (Hotel Employees)	500	2,000	500	500.00					
IBEW-COPE (Electrical Workers)	500	1,000	500			1,000		500	1,000
ILGWU (Garment Workers)	500	200	2,000	3,500.00	5,000	3,500		500	
Industrial Union Department									
Ironworkers PEL					2,500				
IUE-COPE (Electrical, Radio & Machine Workers)									
Laborers P.L	2,000	2,000	1,000			2,000		1,000	100
LIVE (Chemical Workers)									
Locomotive Engineers									
Longshoremen					1,000				
Machinists NPPL	200	1,000	2,200	14,943.07		2,200		2,700	
Maintenance of Way P.L	200					800			
Marine Cooks and Stewards									
Marine Firemen's Union									
Masters, Mates & Pilots									
MEBA-PAF (Marine Engineers)	5,000	5,000							
Molders and Allied Trades									
NEA-PAF (Teachers)		300				300			
State Affiliates				300.00			62.00		
OCAW (Oil, Chemical Workers)									
National Maritime Union—P.L.O.W									
Painters and Allied Trades				200.00		300			
PEOPLE (AFSCME)		500				1,400			
Railway Clerks P.L	1,000	1,000	1,000		1,500	2,000			
Railway Labor Executives Association	500					500			
Seafarers SPAD		5,000	3,000		5,000			2,000	
SEIU-COPE (Service Employees)									
Sheetmetal Workers			300	400.00	1,000				
Signalmens P.L		100				100			
Transport Workers									
Transportation PEL	4,000	2,000	500	4,000.00	5,000	2,100	1,000.00	600	
TWUA (Textile Workers)									
UA-PAL (Plumbers)									
UAW Voluntary CAP (Auto Workers)	200		2,200			5,200	2,467.90		
United Rubber Workers									
United Steelworkers		5,000		10,000.00	5,000	5,000	39.00		
Miscellaneous		5,300		100.00	10,000	1,000	448.20		
State AFL-CIO COPE's	5,000				500				
United Paperworkers									
T.E.M.P.O. (United Federation of Musicians)									
Letter Carriers Political League									
P.A.T.C.O. (Air Traffic Controllers)			10,000						
United Plant Guards							100.00		
Total	30,600	44,550	29,500	49,943.07	44,500	35,663	17,082.10	10,800	1,350

INTERNATIONAL WOMEN'S YEAR COMMISSION REPORT

Mr. BAYH. Mr. President, on four occasions I have inserted into the RECORD portions of the report to Congress and the President on the status of women. This report, ". . . To Form a More Perfect Union . . ." Justice for American Women, contains four chapters which I would like to share with my colleagues and their constituents today.

The struggle for economic survival is multiplied when women confront age or race discrimination as well as sex bias. The report contains wide-ranging recommendations directed toward improving life for women with special problems—the older woman, the women offender, women with physical and mental health problems, and women from racial/ethnic minorities.

The trials of women with special problems are exemplified by the daughter of the last chief of the Navajo Nation, Annie Wauneka, a member of the Navajo Tribal Council.

Whatever the future shape of the family, sex education and family planning services can play a vital role in the quality of American life. The Commission endorses the landmark Supreme Court decisions on abortion and asks that barriers be removed to permit women greater choice with regard to their reproductive lives in the chapter entitled "Reproductive Freedom and Responsible Choice."

The Commission believes child care programs are not just a tool to channel low-income mothers into jobs. Its recommendations support voluntary child care services to meet the needs of all working parents, regardless of income. This chapter on "Parents and Children" should be informative for all my colleagues.

I ask unanimous consent that these chapters of the International Women's Year report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DOUBLE BURDENS

The President's 1975 executive order, which created the IWY Commission, asks Americans "to deal with those inequities that still linger as barriers to the full participation of women in our nation's life."

However, progress toward "full participation" is a slow struggle for particular groups of economically and socially disadvantaged women in our population—the elderly, ethnic/racial minorities, women serving sentences for criminal offenses, and women with serious physical and mental health problems.

In this group we find the grandmother on social security who is afraid to leave her apartment after 4 p.m. to buy groceries; the Mexican immigrant who does not speak English well enough to find a job paying better than house-cleaning; the black college graduate who is selling doughnuts in a coffee shop while potential white-collar employers claim they cannot find qualified minority women; the female offender whose job had been scouring bedpans in the infirmary, and who, after release, cannot find decent paying work to support her kids, so she shoplifts a portable radio and is sent back to jail.

The Commission's Committee on Special Problems of Women has developed recommendations to ease the plight of women facing these multiple disadvantages.

"Double and triple jeopardy" are the phrases that rang through testimony presented to the Special Problems Committee on December 29, 1975, as representatives from a cross section of racial/ethnic groups—among them blacks, Hispanics, Asian-Americans, Native Americans—illustrated poignantly that the minority woman suffers discrimination because of her sex, because of her race, and/or ethnic background. Her accent or lack of proficiency in business English are serious handicaps in the eyes of employers, even in the low-paying "women's occupations."

The unemployment rates for minority women are double those of white men.

And the minority woman also suffers a great disadvantage in pay. Minority-race women earn only 49.6 percent of the pay of white men. (Minority-race men earn 71.9 percent of what white men earn, and white women earn 56.3 percent of the white male pay figure.)[10] These figures reflect the large numbers of minority women employed in "unskilled labor."

The pervasiveness of these problems for minority women and the special burdens faced by older women and those with various health problems have moved the Commission to press for administrative action on a number of fronts.

To promote a better quality of life for all older women, the Commission has approved recommendations that call for continuing education opportunities, suitable housing, visiting housekeeper programs, legal and tax aid, transportation services, and assistance to relieve the cost of drugs, hearing aids, eyeglasses, and dental care. The Commission also supports prescription policies that allow substitution of less expensive quality generic drugs for brand-name medicines.

The Commission sees an increasing demand for State and local funding to support more organizations like Los Viejos Utiles, the Association for the Useful Aged, Inc., in Miami, Florida. The files of the association show that 2,500 of the 4,000 active members are women, most of them widows providing volunteer services to the community: Alicia Sole, an 85-year-old Cuban woman, volunteers to hold a baby for 2 to 3 hours when parents cannot afford a sitter but need health services; Eusebia Masot, 69, accompanies the sick elderly to doctors, gives them baths, buys their groceries, makes phone calls, and reads books aloud; Mercedes Valdes, 71, visits the elderly who live alone, reports their special needs; Eulalia Dias, 69, makes visits to take blood pressures, escorts the elderly to movie matinees or to the city aquarium.

WOMEN OFFENDERS

The problems of women offenders reflect a deep-seated form of discrimination, particularly where sentences are longer for females than for males committing the same crime. In the traditional judge's view, females are thought to be more responsive to correction, which might, however, require longer confinement.

Unlike their male counterparts, 70 to 80 percent of women in penal institutions are responsible for children, circumstances which State officials seldom consider in correction programs. Not only are most female prisons located in rural isolated areas, making visits between mother and child extremely difficult, but work programs rarely teach skills that pay a woman, after release, enough to support her family. Much training emphasizes scrubbing, cleaning, sewing, and fields such as cosmetology.

Such problems suggest the need for review of sentencing practices, as well as realistic educational and vocational training for rehabilitation. The Commission asks that these areas be closely examined by State Bar Associations and State task forces on the status of women.

The gloomy employment picture for female ex-offenders is brighter for probationers placed in apprenticeship openings by Wider Opportunities for Women (WOW), a nonprofit job-finding agency in Washington, D.C.[11]

Shelia G., age 37 and the sole support for three teenage daughters, had no income when she was sentenced to 2 years for "false pretenses," a felony. She had been caught using a credit card not her own.

Shelia was enrolled in a 6-month basic electronics training program, finished at the top of her class, and now makes $180 a week as a technical representative for Xerox Corporation, where she can earn $16,000 a year. When first on probation, Shelia and her three daughters lived with Shelia's mother. Now Shelia is about to get her own apartment for her family. She will soon be driving a company car and is making plans to go back to school.

Another success story: Pamela J., age 23, mother of a 3-year-old, had no income when arrested for assault, but she had worked previously in the housekeeping department of a nursing home for $2.10 an hour and as a waitress.

During probation, Pamela was enrolled in pre-apprenticeship training as a welder. She now fills nonunion welding jobs at $5 an hour and is about to see her persistent campaign to enter the union pay off. As a union member she will soon earn between $9 and $11 an hour.

Effective rehabilitation for the female offender is also dependent on a corrections staff that is sensitive not only to women's job training needs, but also to women's concerns for their children and to the necessity for providing prompt and dignified health services. The Commission supports the concept of community-based residential and nonresidential women's programs such as halfway houses, work release, training release, and education release. Such programs combine practical education experiences, rehabilitation, and family contact.

THE YOUNG MINORITY WOMAN

Compared with a national average of 8.3 percent, young minority women's unemployment rates in December 1975 were a dismaying 37.9 percent for ages 16–19, and 19.6 percent for ages 20–24. The Commission recommends expansion of three Federal programs, which specifically alleviate this situation but have only limited reach:

1. The *Youth Conservation Corps* (*YCC*), a training-work program in conservation and the environment, is presently a summer activity for jobless youths ages 15–18. The Commission supports expansion of the YCC to a year-round program for young persons up to age 24; and it asks for special efforts to attract and recruit young minority women to the program.

2. *Minority Women's Employment Program* (*MWEP*), sponsored by the Labor Department in seven major cities, is easing the job search frustration for college-educated young women unable to find decent white-collar jobs at the professional level. MWEP staff members seek out minority women and help them pass screening procedures required for well-paying jobs. At the same time, employers are canvassed for information about job vacancies, pay scales, education and work experience requirements, opportunities for advancement, types of aptitude tests or interviews, and the traits they seek in job applicants, such as sales ability and patience to work with details. MWEP services are offered free to employers and to job applicants who get counseling on interview, test-taking, and resume-writing techniques.

Velma Cruz Bailey, a 25-year-old Mexican-American with a B.S. degree in technology from the University of Houston, spent 5 unemployed months making the rounds and "getting the run-around" at local job agencies. "They'd send me out to rathole places, try to get me to accept the lowest paying positions, and say, 'Oh, you're a Mexican and a woman, so you'd better take this.' "

Velma had previously worked 2 hours a day as a drafting teacher at Mt. Carmel High School in Houston. "I was at a real standstill in that job, and making $3,000 a year at the very most."

Now Velma earns between $10,000 and $11,000 a year as a Gulf Oil Company drafting technician. She plots maps and graphics, produces pictures and illustrations, even some architectural work. The pay started at $850 a month and has gone up since Velma's 6-month probation period ended in March 1976. "The boss says I'm here for keeps. I wouldn't give up this job for anything." Velma was amazed that MWEP responded so fast:

"In one week they'd sent out my resume to 100 different companies, and I got the first interested reply. MWEP made me feel like I was really important. They changed my whole life."[12]

3. The commission is also asking for expansion of *Part J of the Vocational Education Act of 1968*, which provides job skill training for limited or non-English-speaking enrollees.

Lily Lee Chen, director for special projects and resource development of the County of Los Angeles, Department of Public Social Services, told members of the Commission,

"The most important bread and butter issue of the new immigrant is bilingual education, and one of the major problems of English as a Second Language program (ESL) is the lack of job-skill oriented classes."

She described the large percentage of immigrant Chinese-American women working in Chinatown sewing factories where they do not have to speak English, and where they are severely underpaid for work under very poor conditions.

"Many Chinese-American women are denied promotion opportunities on the basis of our accents or unacceptable English. If you speak with French or British accents, you are charming. When you speak with Asian or Chinese accents, you are handicapped."

The Commission is urging State departments of education to establish requirements aimed at assuring that bilingual-vocational needs of women are given increased attention in local school districts. A mother's lack of language and job skills affects not only her own opportunities, but also her children's future.

FOCUS ON HEALTH

Concern with women's health issues cuts across all ages, ethnic and racial minority groups. Unfortunately, the Commission did not have the resources to establish a separate committee on health, but has included in its recommendations to the President a request for further study by a new advisory committee at the Department of Health, Education, and Welfare.

The advisory committee should be composed of eminent health professionals with a demonstrated interest in women's health issues. Its continuing responsibility would be to review research, training, and service programs as they relate to women's physical and mental health. Appropriate topics for study include:

The appropriateness of treatment for women's mental health problems, particularly alcohol, drug abuse, and depression;

Health status and longevity of employed women in comparison to housewives and men;

Criteria for selection of persons receiving organ transplants or hemodialysis;

Research projects on cancer and women;

Inservice training to keep health-care programs relevant to the changing roles and needs of women; and

The relationship of economic stress to women's mental health.

Of course, a woman's knowledge and access to information about her own body are crucial to physical and mental health. The "Reproductive Freedom and Responsible Choice" section, also in Part II, makes special recommendations affecting the health and quality of life for women of all ages, and for American families as well.

FOOTNOTES

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[10] Women's Bureau, Department of Labor, *Handbook of Women Workers, 1975*, p. 136, U.S. Government Printing Office, Wash., D.C. Comparable data are not available for Hispanic, Asian-American, and American Indian women. See Commission recommendation in Part V on collection of data.

[11] Wider Opportunities for Women (WOW), telephone interview, Mar. 1976.

[12] Telephone interview, Mar. 1976.

Special Problems of Women Committee[73]

INTRODUCTION TO SOCIAL SECURITY RECOMMENDATIONS

The Special Problems of Women Committee has formulated recommendations for amending the Social Security Act with the firm expectation that other changes will be made to correct the sex discrimination now explicit in the law.

To a large extent, this discrimination results from the outmoded presumption that women are dependent while men must prove dependency. The difference in treatment of the sexes means that a woman worker's contributions to Social Security purchase less in terms of family protection than do a man's. Clearly, the law must be corrected in this respect and correction is already underway, as a result of judicial decisions and the attitudinal changes resuling from debate on the Equal Rights Amendment.

The committee has therefore concentrated its attention on improving Social Security to recognize that women increasingly have dual roles as wage earners and homemakers, and that their wage earning is commonly interrupted by childbearing and childraising. (A separate recommendation relating to the coverage of homemaker services under Social Security has been formulated by the Homemaker Committee and adopted by the IWY Commission.)

The committee assumes that the recommendation of the 1975 Quadrennial Advisory Council on Social Security to "index" earnings will be adopted. "Indexing" is a means of compensating in the benefit formula for the general increase in wages occurring over a worker's lifetime. The major factor in the present formula is the average monthly earnings over a worker's covered service with the lowest 5 years eliminated. The general increase in average wages over time results in inequities in benefits.

The Advisory Council recommended that "actual earnings for each year be multiplied by the ratio of average earnings of all workers in the year of retirement to average earnings of all workers in each past year used in computing the benefit. If a worker retires in 1975, for example, and if all earnings averaged four times as high in 1975 as in 1951, four times the worker's actual earnings in 1951 would be the indexed earnings used" in the formula. "Thus, everyone retiring in 1975 would have all his actual earnings, regardless of when they were earned, restated in an equivalent 1975 figure."[74]

While "indexing" (sometimes referred to as "decouping") would be of great value to women workers and to widows of male workers, its impact is not primarily on women and hence outside the charge of the Commission. This committee, therefore, makes no recommendation on this issue.

INCREASING THE NUMBER OF DROP-OUT YEARS IN COMPUTING SOCIAL SECURITY BENEFITS[75]

The IWY Commission recommends that the method of computing retirement income in the Social Security Act be amended by increasing the number of drop-out years from 5 to 10 years.

Background

Contributing to low Social Security benefits for women is the present benefit formula. For purposes of computation, the 5 lowest-earning years are disregarded; earnings for the remaining years since 1950 are averaged, and the result is the base for the amount of the benefit. This method of averaging works to the disadvantage of women because they commonly spend years out of the labor force for childbearing and childrearing.

The present method means too that benefits are based on earnings in the 1950's and 1960's when wages and the maximum taxable wage bases were considerably lower. Proposals are now under consideration for "indexing" earnings—a change that would benefit both men and women. A revised benefit formula, using past earnings "indexed" to take account of changes in the average earnings of all covered workers during their working lives, was proposed by the 1975 Advisory Council on Social Security. But to recognize the working pattern of women requires more than "indexing".

This is because women work for several years, then leave the labor force to raise a family, and return to a career in later years. The zero income years over 5 are now averaged with the salaried years and reduce the benefits in retirement. This system of averaging also reduces benefits for those, like domestic workers, whose work records are irregular and those who have experienced high rates of unemployment.

It is time to update the system and better adapt it to the needs of working women by increasing the number of dropout years from 5 to 10, as well as by "indexing" earnings.

The Task Force on Women and Social Security of the Special Committee on Aging (U.S. Senate) in its October 1975 report recommend an increase in the number of dropout years without specifying how many.

Increasing the number of drop-out years from 5 to 10 years would have a long range cost of 1.52 percent of taxable payroll. (This is a very expensive proposal, as the long-range cost of the whole Social Security cash benefits program is 16.26 percent of taxable payroll.) Social Security does not have a first-year dollar cost on this proposal; however, it does have a recent cost on a proposal to increase the number of drop-out years by 3 (from 5 to 8): $160 million in additional benefits in the first year.

IMPROVING MEDICARE[76]

The IWY Commission recommends that Medicare provisions in the Social Security Act of 1935 be amended:

To combine Part B benefits for optional medical services with Part A benefits for hospitalization so that all the elderly receive mandatory coverage for physicians' services as well as for hospital insurance;

To expand the Medicare system to include prescription drugs, hearing aids, eyeglasses and eye care, and dental care.

The IWY Commission also supports the HEW Maximum Allowable Cost (MAC) Program to hold down costs of federally financed drug purchases by allowing reimbursement only for lowest cost medicines of certified equivalent quality where there is a choice.

Medicare and women

Deficiencies in Medicare are of special concern to women:

Because 60 percent of the 1974 population over 65 was female (there were 143 women to every 100 men in this age group);

Because females live longer than males and thus use health services over a longer period of their lives;

Because in 1974 more than 2.3 million elderly women existed on incomes below poverty level, and the median income of elderly women that year was $2,375; and

Because the elderly need and use health care more than any other segment of the population and visit doctors 50 percent more often and have about twice as many hospital stays lasting twice as long as for the under-65 age population.

Physicians' Services and Hospitalization

The elderly woman's problems of health are complicated by her problems of low income. Many of these women are not utilizing the full range of needed health services because they cannot afford to, even when the government pays a share. Genteel or not-so-genteel, poverty forces them to wait until they can no longer ignore necessary in-patient hospital care.

As established in 1965, Medicare health protection for the elderly has been providing a basic compulsory program for hospital insurance (Part A, financed by taxes paid by the worker and the employer, and by the Federal Government) and an optional voluntary program for medical insurance (Part B, financed from premiums paid by retired persons and by the Federal Government.)

Part B now costs the beneficiary $6.70 a month and will increase to $7.20 a month for the 12-month period beginning July 1976.

The Committee on the Special Problems of Women is apprehensive that these premiums for coverage beyond hospitalization are seriously limiting health care for the elderly, particularly for women of ethnic and racial minorities with disproportionately low incomes. Discussions and recommendations of the 1971 White House Conference on the Aging and the 1971 Social Security Advisory Council also have expressed this concern.

Elderly women had a median income of $2,375 in 1974. The median for elderly women who lived alone was $2,655, and unmarried elderly women living with relatives had a median income of only $1,935.

Absorption by Part A of Part B costs means that an alternative formula must be designed to cover the estimated $1.92 billion in medical insurance premiums due by FY 1976.[77] Total Part B costs, financed by these premiums together with general revenues and interest from the trust fund, will amount to $4.95 billion in 1976, and by 1980, $10.39 billion.[78] The 1971 Social Security Advisory Council report, in its recommendation on financing both hospital insurance and supplemental medical insurance through Social Security contributions and general revenues suggested the following:

For financing purposes, supplementary medical insurance (now financed through voluntary premiums and general revenues) should be combined with hospital insurance. The Medicare program, as enlarged under the Council's recommendations, should be financed by one-third contribution from employees, one-third from employers, and one-third from general revenues. Thus, people would pay in advance toward supplementary medical insurance as they do toward hospital insurance, through contributions during the working years rather than premiums after age 65.

The recommendations of the Advisory Council were not carried out. The Special Problems of Women Committee believes they are needed even more now than when written, in light of the growing numbers of women 65 and older with incomes below or near poverty level.

MEDICINES AND MEDICAL AIDS

Even though the need increases with old age, these items and services are not covered by Medicare: prescription drugs, hearing aids, eyeglasses and eye care, and dental care.

Drugs prescribed for hospital patients are covered by hospital insurance (Part A) of Medicare, but "out-patient" prescriptions are not. Reports to the Committee on the Special Problems of Women estimate that charges for prescriptions for older people range up to 67 cents higher per prescription due to the more frequent need for expensive maintenance drugs. Commercial promotions may offer "over-65" customer discounts, but these are not necessarily large enough to overcome the extra cost of the special drugs.

The 1971 Advisory Council on Social Security recommended Medicare coverage of out-patient prescription drugs:

Such coverage should apply to all persons

Footnotes at end of article.

entitled to Medicare protection, including Social Security disability beneficiaries as well as those age 65 and over. Medicare should be responsible for the flat payment amount of $2 per new prescription and $1 per refill prescription, and the Medicare payment should be to the drug vendor who would be responsible for maintaining necessary records and initiating claims.

Hearing aids, eyeglasses and eye care, and dental care are obviously among the important health needs of the Nation's elderly. This committee recommends the coverage of these items in Supplemental Health Insurance and Hospital Insurance benefits.

Brand Name Medicines

Drugs sold under a brand name cost considerably more than the same drug sold under its chemical (or generic) name. Many physicians prescribe under the brand name when the generic drug would be equally effective and cost less. Yet, most States still have laws prohibiting the druggist from substituting equivalent quality ingredients.

In an effort to reduce Medicare expenses, the Department of Health, Education, and Welfare has proposed a Maximum Allowable Cost Program. MAC, scheduled to go into effect in April 1976, provides that any federally financed drug purchase plan will pay for only the lowest cost drug, which in most cases will *be* the medicine identified by its generic name. The Special Problems of Women Committee fully supports the goals of the MAC proposal and its insistence that substitute ingredients must be of certified equivalent *quality*

SOCIAL SECURITY BENEFITS FOR WORKING WIVES [79]

The IWY Commission recommends that the Social Security Act be amended to provide more equitable retirement benefits for wives covered under Social Security.

Discussion

Under the Social Security system, a wife is entitled to a benefit of her own when her husband retires (called a secondary benefit). Her benefit is one-half of his earned benefit. She is entitled to a benefit even if she has never been employed outside the home.

A wife who herself is entitled to a benefit based on her own earnings (called a primary benefit) cannot have both the benefit based on her husband's employment and that based on her own. She receives the benefit that is the larger of the two. In many such cases, the benefit she has earned is smaller than the secondary benefit she is entitled to based on her husband's employment. This is true because women earn less than men and because absence from the labor force for any period over 5 years is penalized heavily by the formula used for computing benefits. In such cases, the wife feels that she has received less than a fair return on her contributions.

The proportion of cases where working wives are entitled to a smaller primary than secondary benefit is decreasing as women's attachment to the labor force grows. About 83 percent of wives retiring in the last half of 1969 were entitled to a primary benefit that was larger than the secondary benefit they would have been entitled to.

In some cases a couple, both of whom have worked, will receive less in total retirement benefits than another couple only one of whom has worked, even though both couples had the same total earnings and paid the same Social Security taxes (see table below). This inequity also is inherent in the secondary benefit for wives.

Working Wives and the Social Security System: Inequities

For two couples with equal pre-retirement earnings and contributions, and both partners claiming benefits at age 65:

	Average monthly earnings in covered employment	Couples' benefits	Benefits to wife if husband dies after retirement
Couple A:			
Husband	$500.00	$323.40	0
Wife	0	[1] 161.70	[2] $323.40
Total	500.00	485.10	
Couple B:			
Husband	333.33	246.80	0
Wife	166.67	169.80	[2] 246.80
Total	500.00	416.60	
How much less couple B gets than couple A	0	−68.50	−76.60

[1] 50 percent of husband's benefit.

[2] 100 percent of husband's benefit.

Source: Office of Research and Statistics, Social Security Administration, 1975.

The grievances of the working wife are very tangible and have been on the agenda of every commission and task force on the status of women since 1961. The 1975 Quadrennial Advisory Council on Social Security also addressed this problem as did the 1975 Task Force on Women and Social Security of the Special Committee on Aging, U.S. Senate.

Various solutions have been proposed.

In 1963 the Committee on Social Insurance and Taxes of the President's Commission on the Status of Women recommended "that a working wife get both a primary benefit (benefit based on her earnings) and a wife's benefit, but that the wife's benefit be reduced on a sliding scale in proportion to her own benefit. For example, it might be provided that a wife's benefit be reduced $1 for each $2 in benefits based on her own wages.[80] The cost was estimated at .20 percent of taxable payroll. The President's Commission did not adopt the recommendation.

In May 1967 Representative Martha Griffiths, a senior member of the Ways and Means Committee, introduced a bill (H.R. 9715) providing family benefits based on the combined average monthly earnings of a married couple. This bill would have provided a higher monthly benefit than that paid under present law to married couples both of whom have worked in covered employment, except when the couple had earnings at either the minimum or maximum levels. Cost of the proposal was estimated at .52 percent of taxable payroll. Representative Bella Abzug has introduced a bill (H.R. 156) including a similar provision.

In April 1968 the Citizens' Advisory Council on the Status of Women adopted a recommendation of its Task Force on Social Insurance and Taxes, which was a modification of Griffiths' combined earnings proposal. To avoid "prohibitive administrative complications and substantial additional cost," the Task Force would have limited the use of combined earnings in computing retirement benefits when no dependents' benefits are payable, and when both members of the couple have reached retirement age and have had at least 10 years of simultaneous double wage credits.[81] This proposal was prepared with technical assistance from the Social Security Administration, and would have cost .22 percent of taxable payroll.

The 1975 Quadrennial Advisory Council on Social Security rejected a recommendation of its subcommittee to ameliorate the inequities of working wives in low income families. The subcommittee recommendation was a variation of the combined earnings solution with several limitations and would have cost .20 percent of taxable payroll.[82]

The objection most commonly raised to these proposals is that their increased cost must be met from contributions by all covered workers, including single workers deriving no additional protection from the change. Many single women workers already feel that they are treated inequitably because their Social Security taxes reflect the cost of benefits for nonworking wives and other dependents of married workers.

A different type of proposal has recently been made aimed at increasing benefits for single workers while improving the protection of a working couple, compared with a couple with a nonworking wife. Under this proposal, primary benefits would be increased by one-eighth and the proportion for the spouse would be reduced from one-half to one-third, thus maintaining the present total benefit of 150 percent for a couple. This would almost inevitably produce benefit for the working wife larger than a secondary benefit for a nonworking wife; at the same time, the benefits and hence the contributions paid by the single woman worker are increased. The major objection to this proposal is its heavy cost: the long-range cost is projected at 1.6 percent of taxable payroll if the change is made after the Social Security system is "decoupled" (as assumed in the Introduction to this committee's report).

The Special Problems of Women Committee recommends that the Social Security Administration be charged with analyzing thoroughly these various proposals and their cost implications as a basis for determining priorities in correcting existing inequities. The committee's recommendation to increase the number of drop-out years and the recommendations already adopted by the IWY Commission for coverage of homemakers under Social Security if enacted into law would greatly reduce the inequities of the working wife.

Older women [83]

To promote a better quality of life for the older woman, the IWY Commission recommends that Commissions on the Status of Women in the cities, counties, and States of the United States and its territories, in cooperation with appropriate voluntary as well as publicly funded local nongovernment organizations, give high priority consideration to developing and actively supporting:

1. Wide publicity on the positive roles of women over 50.
2. Continuing education for the elderly and "young elderly" (50–65), with wider opportunities for innovative curriculums such as "preparation for retirement," or practical law and finance, because many women in this age group are still dependent on, yet will outlive, their husbands.
3. Efforts to stimulate the elderly woman's interest in life with particular attention to needs of the frail elderly, age 75 and older.
4. Visiting housekeeper programs and protective services, including those both voluntary and government funded, that enable all elderly who so choose to remain comfortably in their homes instead of moving to institutions.
5. Safety education programs and defensive driving programs for the elderly.
6. The development of bicultural, bilingual programs, including health services, recreation, and other programs to support elderly women of limited English-speaking ability.

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7. Public transportation in both urban and rural areas for otherwise housebound women who want to be independent in shopping and attending cultural and artistic events.

8. Services for obtaining legal and tax aid.

9. Suitable housing for women living alone; special concern for their safety and security.

Discussion

Elderly women are becoming an increasing proportion of the American population. While the percentage of the U.S. population aged 65 and over was doubling from 1900 to 1974, the average length of life of women increased from 48 years to 75 (or 56 percent) while for men the increase was smaller—46 percent—or from age 46 to age 68.

Women over the age of 75 constituted only one-tenth of the elderly population in 1900, and one-sixth in 1974 when there were 169 women per 100 men in the 75-and-up age group. But by the year 2,000, one-fifth of the elderly will be women over 75.

The Federal Council on Aging presently defines "elderly" in three categories: the young elderly, ages 50 to 65; elderly, ages 65 to 75; and frail elderly, over 75. Many of the women in the "frail elderly" generation have not themselves ever written checks or are unfamiliar with commonly accepted urban maneuvers such as bus transfers. Their nutrition needs and their fears have been documented, but their contributions to society have been hidden from prominent view in the media. The Special Problems of Women Committee believes that this inattention to the older woman's positive role has deprived young women of life models, has isolated older women from each other, and has deprived them of pride in the contributions made by their generation. Efforts toward positive treatment of older women by the media must be stepped up.

Continuing education for the elderly is an urgently needed approach toward both protection and self-esteem for this age group. Businesses, government, and social and education organizations must provide accessible learning resources for citizens over 65.

Sandra Featherman, Secretary of *Women for the Bicentennial*, has submitted to the committee a recommendation favoring early training of women for retirement. As Ms. Featherman said,

"We retire our working women at 65 or less. Many widows have little or no work experience. Both groups often reach old age without family, without confidence (or with diminished confidence) . . . in their skills. They can increasingly be taught the skills and confidence they need to (continue to) lead meaningful lives."

Expanded programs to stimulate the elderly woman's community participation and interest must be developed jointly by Federal, State, and local governments. The committee urges wide adoption of meals on wheels programs, foster grandparents plans, utilization of older helpers in child care centers, visiting homemaker services, housing and housing information programs, special transportation services, and nutrition programs such as those sponsored by many churches or available through public school cafeteria food surplus arrangements.

According to the U.S. Bureau of the Census, the number of persons over 65 years will have risen to 11 percent of the total population by the year 2000. The actual number will approach 29 million. Over 85 percent of the elderly will live in cities, and they will be, as now, predominantly female.

There are good reasons, then, to be concerned about a proportionate increase in urban crimes against elderly women. The average citizen has one chance in 146 of being a victim of crime, while the woman over 65 has one chance in 24. This means that women over 65 are now six times as likely to be victims as the rest of the population.

This same study reported that more than half of the female victims of street robberies were over 55, and more than one-third were over 65.

Retirement checks that arrive regularly in the mail and lack of physical strength make the elderly woman vulnerable to crime. She may often feel like a prisoner in her own home. Typically, 80 percent of the crimes committed against the elderly take place in or near the home of the victim.

With police capabilities already strained, the need of the elderly for safety education and crime prevention instruction is crucial (i.e., lessons on how best to handle windows and locks). Local government agencies should sponsor and make more accessible to the elderly such safety education programs.

Defensive driving classes for elders who fail to pass their States' compulsory over-65 driving tests are meeting a great need. The committee urges nongovernment organizations and law enforcement agencies involved in such programs to assist their neighboring communities in initiating classes where none exist.

Physical and Mental Health of Women [85]

The IWY Commission recommends that the President direct the Department of Health, Education, and Welfare (HEW) to establish an advisory committee of eminent health professionals who have demonstrated interest in women's health issues including mental health issues. This committee would have continuing responsibility for reviewing HEW health-related research, training, and service programs; for identifying issues that are germane to the status of women and educating the public on these issues; and for making recommendations to the Secretary for those issues' resolution. The committee would include among its studies reviews of the following specific topics to determine if women's interests and needs are served appropriately in HEW-funded programs:

Research personnel—to determine whether women are appropriately included in research subject populations; whether women are appropriately included in research administration, design, execution, and analysis; whether the proportion of female principal investigators reflects the proportion of qualified female scientists among potential applicants for research grants and contracts.

Research program content and selection of priorities—to assess opportunities for input by women and for consideration of topics that are directly relevant to women's health problems, such as kidney disease, depression, alcoholism, and drug abuse; to determine if special needs and problems of single parents, aged women, and minority women—including blacks, Hispanics, Asian-Americans, and Native Americans—are being addressed.

Survey projects—to determine if women's legal and economic status, family and societal roles, and personal capacities and interests are represented fairly in survey design, instrumentation, sampling, execution, and analysis.

Participation of women in planning, policymaking, managing, and care giving in health service organizations, including alcohol, drug abuse, and mental health service organizations.

Adequacy and appropriateness of treatment and other services provided for women in federally funded health service programs.

Research on health status and longevity of employed women in comparison to homemakers and men.

Criteria for selection, and sex, race, or ethnicity, and occupation, of persons who have received organ transplants or hemodialysis treatment.

Research projects on cancer and women, particularly breast cancer, and the impact of various methods of treatment on women's lives.

Research and clinical training programs—to insure that women candidates have access to all types of professional, para-professional, and technical training activities.

In-service training for men and women who work in health care programs to keep those programs relevant to the changing roles and changing needs of women.

Systematic health data collection—so that incidence and prevalence of illness, service utilization, patient movement, etc., can be analyzed by sex, race, social class, and marital status.

Relationship of economic stress and mental health.

Women's health

Since the IWY Commission did not have the resources to establish a committee on health, extensive consideration could not be given to this problem. However, the topic is of such great importance to women and there is so much interest among women that the Special Problems of Women Committee decided to include a recommendation for further study.

In health research as in other areas of human concerns men have all too often been considered the norm and women the exception, on the ground that all of women's problems relate to reproduction. Some examples of areas in which women's health needs have not been considered follow:

Studies on diseases common to men and women sometimes do not include women as subjects, e.g., the Framingham, Massachusetts study on Heart Disease, and the Multifactor High Risk Study of health effects of smoking, drinking, and diet.

Newspaper stories indicate that practically all heart transplant recipients are men, and the committee could find no data on sex of recipients of transplants of other organs. Available data on sex of persons selected for dialysis shows only two-thirds as many women as men receiving dialysis.[86]

There is apparently no research on the effects of careers outside the home on longevity or on health of women. Such research is needed for both single and married women. Research is also needed on health and longevity of men and women in the same occupations.

Too often, women who enter medical facilities for cancer treatment are given little or incomplete information on options open to them from diagnosis through the postoperative handling of their cases. Little or no information is imparted to members of the family, particularly to husbands on what their attitudes and behavior should be if they are to help the patient.

Mental Health [87]

Although available facts indicate that more women receive treatment for mental health problems than men at every age over 15, there has been inadequate research on the reasons. Furthermore, methods of treatment and treatment facilities are not geared to the special problems of women. In addition to the need for further research and improved training methods and facilities, education of the public on these problems is needed.

The diagnosis for which women are most apt to be treated is depression. And depression rates are higher for women than for men in every age category except the 25–34 range. Not included in these data, of course, are the many women who seek help for symptoms of depression from general practitioners, religious counselors, private psychiatrists, psychologists, and other private sources and from the many innovative women's self-help

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Footnotes at end of article.

groups. Studies of the incidence of depressive symptoms indicate that large numbers of women in the general population have such problems but are never treated.[88]

The highest rates of treatment for mental illness in women are in the 24–44 age group, followed by the 15–24 age group. Women of these ages are most likely to experience stresses of having young children at home, commencing a new career, getting married, etc.[89]

While the suicide rate in general has remained relatively stable over the last 15 years, the suicide attempt rate has increased dramatically. Would-be suicides are primarily young women, particularly women under the age of 30.[90]

Reports from public mental health services indicate that those persons most at risk of mental health problems are nonwhite, low income, separated or divorced and with young children, and those with employment problems. In today's society, women are most apt to fit into several of these categories.[91]

Separated and divorced women show many more symptoms of mental disorders than do single women. And among women who are married, those who have low-income jobs and young children show the most symptoms. These poorly educated, low-status, inadequately paid mothers face the greatest number of life demands and are least equipped to meet those demands.[92]

In today's economy, many women have to work. At a minimum, the woman in such case must assume a dual role as homemaker and paid worker. If there are children, and if the job pays poorly, the role she plays becomes even more complicated. She must balance personal and economic resources against these responsibilities. Even when she juggles successfully, there is almost always a great emotional cost.

Economic pressures affect older women also, because so many women outlive their husbands, often adding deprivation to the physical and psychological burdens of aging, widowhood, and recurring emotional losses. For many women at all ages, then, economic problems precede depressive symptoms.[93]

Of course, mental health problems are not limited to women with economic problems. Many women married to successful business and professional men find themselves alone much of the time. Those with young children are almost entirely responsible for rearing the family. Those whose children are grown find a sudden void in their lives. Both groups need educational and service programs to assist them in finding support and fulfillment, to reduce their feelings of loneliness, and to open up new opportunities.

Ms. Anne W. Webb, Office of Mental Health and Mental Retardation, Philadelphia, has found that community mental health centers are treating a disproportionately low number of the elderly. Yet Public Law 94–63 specifies that community health centers *should* provide a full range of services for the elderly.

Attention to mental health of aging women will become increasingly urgent; the U.S. population of people over 65 will climb to well over 25 million by 1985 and 59 percent will be female.

The fact that fewer older women are treated in publicly supported mental health facilities does not necessarily mean that older women have fewer mental health problems, but rather that they are less likely to receive treatment. In a youth-oriented culture where physical attractiveness rather than mental ability is most valued in women, aging can be particularly traumatic to women approaching and into retirement years. The emotional disturbances which accompany women's physical change, problems of reduced economic security, and perhaps relocation, can lead to real despair.

While many women's problems come to attention as emotional disorders, a significant number of women turn to alcohol or drugs in times of stress. Ten years ago one in six people with an alcohol problem was a woman; now this ratio has increased to one in three. In their 1974 survey, Alcoholics Anonymous found that one in every three new members in the previous 3 years was a woman. In 1975, women accounted for 28 percent of AA's total membership.

Recent studies of illicit drug abuse show that sex differences in use of drugs are disappearing, particularly among teenagers.[94] But traditional treatment programs for drug abuse and alcoholism have been designed with males in mind (no child care facilities provided, for example). Because problems unique to women have not been taken into account by many therapists, the woman who does get treatment often finds that the help is not helpful.

To design more appropriate mental health programs, basic information is still needed on women's various life situations, and on how their dependency on hard drugs, tranquilizers, or alcohol is influenced by their restrictive roles, by limited economic opportunities, by low self-esteem, or by difficulties in developing a sense of identity. Much existing data reflects what is known or becoming known about men, but little about women except through inference.[95]

Research to evaluate consciousness-raising techniques, assertiveness training, and other new approaches to restore women's self-esteem and confidence is badly needed as well as evaluation of traditional treatment methods.

The Special Problems of Women Committee sees more balanced staffing patterns in mental health organizations as one way to improve treatment for women. Mental health facilities should be staffed by women and men of all races, ethnic groups, and ages in order to provide empathetic services to a broad range of clients. Whether mental health curriculums are biased in their approach toward care of women needs examination. The role of sex bias in therapy by male or female therapists has had little research. This gap in treatment research needs serious attention.

Because economic stress accompanies mental health problems, the committee emphasizes the need for upward mobility training programs. Occupational therapy and vocational rehabilitation should offer women a broader spectrum of options, including skills and training not traditionally offered them. The implementation of existing affirmative action programs is essential to prevent mental health problems.

These are but a few of the health areas that need to be explored and the evidence evaluated by the committee of health professionals proposed in the above recommendation.

IMPROVING THE ECONOMIC STATUS OF HOUSEHOLD WORKERS [96]

[96] The IWY Commission recommends that:

1. The Secretary of Labor be directed (a) to improve enforcement of the 1974 Fair Labor Standards Act amendment giving household employees (domestic workers) minimum wage and overtime coverage; and (b) to advertise more widely this coverage through posters in Post Offices and other Federal buildings, in State Bureaus of Employment Services, and through newspapers, periodicals, television, and radio. Furthermore, the Secretary of Labor should make these materials available to and encourage their use by other agencies and service-connected organizations.

2. The Secretary of Health, Education, and Welfare be directed to improve enforcement of the 25-year-old statute extending Social Security coverage to domestic workers.

3. The Secretary of Health, Education, and Welfare be instructed to explore the feasibility of providing vocational education programs with bilingual instruction, where appropriate, for household employees.

Discussion

There are somewhere between 1.5 million to 2.5 million workers in private household employment, and 98 percent of them are female. Estimates of the number of domestic workers are imprecise; however, the 1970 census showed 1,660,000 females and 38,000 males in household services.[97] And the March 1973 Current Population Survey, with a smaller sample, reported 2,263,000 women domestic workers.

Illegal substandard wages and inattention to employer-employee obligations to pay Social Security taxes are common. Many private households have ignored or are not yet aware of the most recent standards: Since May 1974, household workers have been covered by the Federal Fair Labor Standards Act, which sets the current minimum wage at $2.20 per hour, to be increased to $2.30 by January 1, 1977. The Special Problems of Women Committee urges Federal emphasis on enforcing this new legislation, and also the long standing but still-ignored Social Security tax statute. Stepped-up publicity on these requirements is essential.

Census reports indicate that a majority—65 percent to 80 percent—of all household workers are black Americans, and increasing numbers of Latin American and Native American women are entering the occupation. Edith Barksdale-Sloan, Executive Director of the National Committee on Household Employment (NCHE), has told the committee that the average formal education for these workers extends through the ninth grade.

She has emphasized the great need for vocational education programs for household workers, either to improve their skills in their occupation or to train them for related vocations such as child care, emergency homemaking, and care of the elderly. This training should be provided through the national network of State vocational education offices.

In 1973, the median annual income for household workers was $2,243, and the median age was 51 years; 15 percent were 65 or older. Many of these workers are heads of households and responsible for other dependents. They work without paid sick leave, holidays, vacations, retirement plans, or other benefits that most other American employees take for granted.

WOMEN OFFENDERS [98]

The IWY Commission recommends that each State Bar Association review State laws relating to sentencing, and their application, to determine if these practices discriminate against women, and that each State review and, where needed, reform its practices relating to women in jails, prisons, and in community rehabilitation programs, with a special emphasis on:

Improved educational and vocational training opportunities in a nonstereotyped range of skills that pay enough to support a family;

Making available legal counseling and referral services;

Increased diversion of women offenders, both before and after sentencing, to community-based residential and nonresidential programs such as halfway houses, work release, training release, and education release; attention to the needs of children with mothers in prison;

Improved health services emphasizing dignity in treatment for women in institutions;

Protection of women prisoners from sexual abuse by both male and female inmates and by correctional officers;

Utilization of State funds to recruit better qualified corrections personnel with the parallel goal of increasing the number of

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women at all staff levels in correctional institutions.

The IWY Commission further recommends that State Commissions on the Status of Women be supported by State governments in establishing task forces to focus on the needs of women offenders.[30] These task forces should make regular inspections of all women's detention facilities. Members should include lawyers and judges. Furthermore, the task forces should provide legal counseling and referral services. The press and public should be kept informed of task force observations.

Has there been an increase in violent female crime?

Recent sensational articles on the rapid rise in the female arrest rate present an incomplete portrait of the women offenders especially since the bulk of the female crime increase is in economically motivated "property" offenses such as larceny, forgery, fraud, and embezzlement and is often related to drug addiction and abuse. The greatest increase has been for larceny.

Claims are being made that women are becoming more dangerous or that there is an invidious connection with the growth of the women's rights movement.

The statistics behind these pronouncements are found in the FBI's Uniform Crime Reports for 1972, based on 2,430 law enforcement agency records. They show that in 1972, crimes and arrests among women escalated at a rate of 277.9 percent of the 1960 female arrest rate.

The increase for male crime between 1960 and 1972 was 87.9 percent.[1] The FBI shows that women offenders now account for 10 percent of violent crime, but in fact this proportion has remained constant over the last 20 years.[2]

The high point in female violence appears to have occurred in the mid-fifties when females accounted for more than 13 percent of all violent crime. Today's figure is one-third lower.[3]

In the past 12 years, as crime detection rates have improved, so have the female arrest rates for certain types of nonviolent crimes increased: embezzlement is up 280 percent for women, 50 percent for men; larceny up 303 percent for women, 82 percent for men; burglary up 168 percent for women, 63 percent for men. "The typical female offender has not committed murder or robbery . . . she is a small scale petty thief often motivated by a poor self-image and the desire for immediate economic gain."[4]

A potent pressure operating here could be the decline of real income for women from 60 percent of a man's earning in 1969 to 57.9 percent in 1972. In addition, women are facing certain unemployment; they are often the last hired at "equal opportunity" workplaces and the first fired under conventional seniority systems. The 1972 FBI arrest figures, cited above, do not reflect population increases, the absence of males during the Viet-Nam occupation, or the effect of inflation which has pushed up the cost of many stolen articles into the felony range.

Another overlooked factor: statistics from the 1960's often did not separate arrests of males and females. In those days, statistics on women frequently were lumped with those on men or ignored.[5]

Tom Joyce, an ex officio member of the National Resource Center on Women Offenders, has predicted:

"If the distorted image of an increasingly violent and dangerous female offender takes hold and affects planning policies, such as the building of new female prisons (rather than improving alternative programs), that will cause more harm than good, both for the typical offender and for society in general."

Educational training

On a national basis, women in prison receive little or no vocational training or job placement assistance which would enable them to support themselves and their children upon release. Education and work release programs for women offenders are substantially fewer than those for male offenders. A 1973 *Yale Law Journal* survey,[6] showed that vocational programs offered to women offenders range from one program to a high of six. The average in female institutions surveyed was 2.7 programs, compared to 10 programs on the average for male institutions. One institution offered 39 vocational programs for its male residents.

Where job training is available in women's facilities, it still tends to reinforce stereotypes of acceptable roles.[7] Charm courses are not uncommon: Four were funded by LEAA grants between 1969–75. Allowable work for women in prison is frequently sewing, laundering, or cooking; women offenders in Georgia have provided maid services to the residents of that State's central mental hospital.

At least 15 percent of the current female population in prisons is "functionally illiterate"[8] (reading below the sixth-grade level). Catherine Pierce, Assistant Director of the National Resource Center on Women Offenders, suggests that this situation has broad implications for the use and understanding of employment notices, job applications, food stamp applications, and rental and housing contracts by women who are ex-offenders.

Apparently no statistics are being compiled or recorded on recidivism rates and level of literacy. Reading problems can only complicate reentry into society from an institution. How far can the illiterate, ill-trained woman get on one bus ticket and a few dollars? More than half the States gave departing offenders less than $48 each in 1974; two States provided no money.[9]

The Special Problems of Women Committee urges corrections training systems to follow the excellent example set by Washington Opportunities for Women (WOW), which seeks to place female probationers in apprenticeship openings in nontraditional well-paying occupations such as construction, meatcutting, and Xerox repair.

In Houston, One America, Inc. tests and counsels female probationers and parolees for placement in programs to train electricians and plumbers.

The Maryland Corrections Institution for Women in Jessup, Maryland trains women as welders and carpenters. Of 59 women graduating in June 1975 and trained in welding, 41 were placed on jobs. The National Resource Center on Women Offenders,[10] founded by the American Bar Association in June 1975 to gather and disseminate information on female offenders, is a valuable clearinghouse on rehabilitation projects and developments in women's corrections.

Children of offenders

Unlike their male counterparts, 70 to 80 percent of women in penal institutions are responsible for children. And upon release, these women must often resume sole support of their children. Without sound vocational training, the returning mother struggles hard to provide, and a simple theft begins to look easy.

Once a mother is incarcerated, the children she leaves at home must be placed with relatives or institutionalized. (There is much evidence to indicate that children of offenders often become the next generation's offenders.) Most female prisons are located in rural isolated areas making visits between mother and child extremely difficult.[11] Because seven States have no institutions for women, female offenders are boarded in nearby States. In these cases, contacts with family and children are often broken.

The committee endorses the concept of community-based residential and nonresidential programs such as halfway houses, work release, training release, and education release—as a way to combine practical education experiences, rehabilitation, and family contact.

The Women's Prison Association[12] counted five States, in a 1972 sample of 24, which contracted with nearby States for imprisonment of female offenders. The Association asked,

"Why can't these States sponsor a small facility which would house women near their families and lend itself to improved programs for job training, individual counseling, and schooling?"

Establishing facilities becomes most likely when citizen groups press for action. The committee urges local and area Commissions on the Status of Women to act as catalysts for change.

Health services

The corrections administrators of women's institutions are responsible for appropriate health services. The Special Problems of Women Committee endorses as a guide for those administrators and for Commission on the Status of Women task force inspection teams the standards listed by Mary E. King and Judy Lipshutz in vol. 1, no. 3, *The Women Offender Report*. They include:

Physical exams given with maximum concern for the woman's dignity;

Prompt and regular treatment for all illnesses while incarcerated;

Twenty-four-hour emergency treatment available in State institutions and local jails;

Insured humanitarian detoxification;

Proper and confidential medical records on each prisoner;

Family planning services, including access to contraceptives and family planning education;

Health education classes for inmates;

Regular exercise;

Attention to menstrual and gynecological problems; and

Female medical personnel included on health staff.

In addition, the committee is concerned that physical exams be administered only by licensed physicians or nurse practitioners, and that treatment for illnesses be both prompt and appropriate.

Staff

Only 12 percent of the correctional work force in the United States are women, and few of those women are in top- and middle-managment positions. In 1973, the National Advisory Commission on Criminal Justice Standards and Goals issued a 600-page report listing 130 suggested standards for correction agencies. Section 14.3 called for correctional agencies to recruit and hire women for all varieties of work.

In August 1975, the American Bar Association's policymaking House of Delegates urged corrections systems to increase the number of women and minority group employees at all staff levels. This body asked for special staff attention to the essential job of attracting women, urging special recruitment and training machinery and programs to attain that objective. The committee endorses those policies.

Most jails are not built, programmed, or staffed to look after females. Separation of men and women is difficult, and there are no matrons in some facilities.

Patsy Simms, a freelance writer who has interviewed more than 50 women serving time in southern jails or in work-release programs, has submitted to the Special Problems of Women Committee a report on the absence of matrons where females are behind bars. In many cases she found no matrons at all, or at best "paper matrons"—female radio dispatchers or the wives of jailers and sheriffs. Ms. Simms reminded the committee that a "paper matron" was on duty "two halls

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Footnotes at end of article.

and 65 feet away" the night Clarence Alligood died in JoAnn Little's cell.

According to a Raleigh News and Observer survey of 47 county jails in the eastern part of North Carolina, only 19 of the counties have 24-hour matron service and adequate separation of men and women. Under these conditions, prevention of sexual abuse is not probable.

Further inequities in the justice system

Statutes in several States call for longer sentencing for female offenders than for males for the same offense.[13] Cases upholding disparate legislative sentencing schemes based on sex have reasoned that, compared with male criminals, females are more amenable and responsive to rehabilitation and reform—which might, however, require a longer period of confinement.

Some courts are taking positive action against inequities in the jail system. In *Barefield* v. *Leach* [14] a Federal court in New Mexico held that female inmates and male prisoners are entitled to equal treatment; and the fact that the number of women offenders is small is no excuse for unequal vocational training, unequal access to legal materials, unequal recreational facilities, or unequal opportunities to earn time off for good behavior.

"At the time when some professionals in corrections are proclaiming that rehabilitation does not work, we are finding that for most female offenders, rehabilitation has not been tried," reports Ruth R. Glick, Director of the National Study of Women's Corrections Programs.[15] In general, no clearly defined philosophy of corrections has been tested and applied to women's correctional programs. Consequently, the large number of institutions and community-based programs seem to lack internal consistency, i.e., "the need to control runs counter to expressed desire to teach women to assume responsibility for their own behavior."

YOUNG ADULT CONSERVATION CORPS [16]

The IWY Commission recommends that special attention be given to attracting and recruiting young minority women, especially blacks, Hispanics, Asian-Americans, and Native Americans, into the Youth Conservation Corps to a year-round program for young persons up to age 24, and that the President support legislation extending the Corps.

Background

Of the more than three million young persons under age 24 presently unemployed in this country, the group most disadvantaged is the nonwhite minority female youth, ages 16–19. (The committee has had to assume that these figures reflect most racial or ethnic minorities, since further data breakdowns have not been available.)

Compared to a national average of 8.3 percent, the young minority women's unemployment rates in December, 1975, were 37.9 percent for ages 16–19, and 19.6 percent for ages 20–24. Other unemployment percentages for December 1975, for comparison, are:

Nonwhite young men: 31.2 percent for ages 16–19, 20 percent for ages 20–24;

White young men: 18.6 percent for ages 16–19, 11.6 percent for ages 20–24; and

White young women: 16.0 percent for ages 16–19, 9.6 percent for ages 20–24.

Department of Labor statistics for December showed 1,600,000 young people under 19 were unemployed; 1,576,000 ages 20–24. Parts of this large, restless, and unproductive reserve of young people are in danger of becoming a burden to society; on any given day, there are close to 8,000 juveniles held in jails in the United States. The average daily population in juvenile detention facilities (with girls held longer and for less serious crimes than boys) is over 1,200 with close to 500,000 held annually in such facilities.[17]

Footnotes at end of article.

Starting in the summer of 1971, one experimental approach began to provide learning experiences and employment to jobless youths aged 15–18. Sixty-thousand youths were enrolled in the pilot version of Youth Conservation Corps (YCC), a Federal training-work program in conservation and the environment.

YCC enrollment figures have shown increasing female participation, from 41.3 percent in 1972 up to 49.2 percent in 1975. The percentage of female participation is now almost identical to the national distribution for 15–19 year olds.

Female teenagers have expressed the most satisfaction with the YCC program: 68 percent said they "really liked it" in a 1972 multiple-choice questionnaire, compared to 57 percent of the boys. YCC activities have reached far beyond the usual low-paying or dead end options for minority female youth: both sexes have learned to perform jobs related to reforestation; trail and campground improvement; forest fire fighting; and insect, flood, and disease control on public lands, among others.

There are some initial, and still unresolved problems with both underrepresentation and dissatisfaction of minorities in the program, however. The underrepresentation resulted from policy and budget restraints limiting recruitment to areas near the YCC camps (away from urban areas), so that most of the campers have been from small towns or rural areas. In 1972, 82 percent of the participants were white; only 7 percent were black; 6 percent American Indian; 3 percent Spanish speaking.

As might be expected, evaluations of the YCC's summer camps have indicated the need to adapt the program to better serve minority groups.[18] The committee urges continued study and effort toward this goal with increasing attention to recruiting a more representative proportion from unemployed young minority women and to providing services to meet the needs of women with limited English-speaking ability.

A bill to amend the Youth Conservation Corps Act of 1970 (S. 2630), introduced on November 6, 1975, seeks to extend the pilot summer format of the conservation training program to a year-round operation for young adults up to age 24. The ultimate employment level could reach more than one million young persons annually with participants seeding grasses to control and prevent erosion, operating tree nurseries and planting seeds or tree cuttings, channeling streams, stabilizing banks, building small dams, fighting grass fires, and building new roads and park areas, among other activities.

Because the Special Problems of Women Committee sees this valuable program as an investment in preserving both natural and human resources and as an excellent training opportunity for young *minority women*, particularly those from the urban setting, the committee urges continued expansion and improvement of Conservation Corps activities.

MINORITY WOMEN'S EMPLOYMENT PROGRAMS [19]

The IWY Commission recommends that the President encourage the expansion by the Employment and Training Administration [20] of Minority Women's Employment Programs to place racial or ethnic minority females in managerial, professional, and technical white-collar positions.

Background

The Minority Women's Employment Program (MWEP) grew out of studies indicating that in six major southern cities minority women were invisible in white-collar employment above the clerical level.

Despite recent progress, minority women continue to be subject to employment discrimination based on race and sex, and they are still highly underrepresented in managerial, technical, and professional occupations, especially outside teaching and medical services. Yet employers are still claiming they cannot find qualified minority women.

The first federally funded pilot project to correct this imbalance and to assist the Equal Opportunity employer searching for job candidates was established in 1972 in Atlanta as the Black Women's Employment Program, now renamed the Minority Women's Employment Program.

The MWEP objective is to recruit and screen college-trained minority women for newly available jobs, especially high-paying jobs requiring special skills or qualifications or jobs which have been filled in the past largely through informal labor market channels.

MWEP activities are based on the outreach technique, a strategy in which staff members seek out persons from the minority community and help them pass screening procedures required for well-paying jobs. Area employers are canvassed for information about specific professional-level job vacancies, pay scales, education and work experience requirements, opportunities for advancement, types of aptitude tests or interviews, and personality traits (sales ability, patience to work with details) they seek. MWEP services are offered free to employers and to job applicants, who get counseling on interview and test-taking techniques or on résumé preparation, as needed.

Since its beginning in Atlanta, MWEP has opened additional offices in Houston, Dallas, New Orleans, Tulsa-Oklahoma City, Cincinnati-Dayton, and Los Angeles. During its life, MWEP has placed more than 300 women, most working in nontraditional occupations and many who are "firsts" in their positions. Before getting their new jobs, about half of all the women placed by MWEP through the spring of 1974 had been seriously underemployed; that is, they were working in jobs not fully utilizing their skills.[21]

Whereas the placement programs were initially designed to assist young black women, MWEP offices are continuing to expand the racial and ethnic diversity of their staffs and their outreach efforts. The Los Angeles headquarters focuses primarily on women in the Hispanic community; Tulsa offices have placed American Indian women as well as Mexican-Americans; and half of the Dallas placements between April and December 1975 were Spanish speaking.

Although not adjusted for inflation, the average starting salaries obtained by placements through MWEP have risen consistenly through the third year of the project: contract year 1, $8,806; contract year 2, $9,260; and contract year 3, $9,740. Antoinette Ford, public member of the Special Problems of Women Committee, has recommended that MWEP placement be broadened to assist minority women with associate degrees (from junior colleges) and women who have substantial experience at a career level just short of being considered professional. This second group would include the minority female secretary who is locked into a pay scale equivalent to a GS–5 or GS–6 level (from $9,000 to $12,000). The committee encourages the expansion of MWEP services to meet the needs of these additional groups of minority women in search of jobs that match their education, experience, and abilities.

BILINGUAL VOCATIONAL TRAINING AND EDUCATION PROGRAMS [22]

The IWY Commission recommends that the vocational training programs established in 1974 for persons of limited English-speaking ability (and as amended in Part J, the Bilingual Vocational Training Section of the Vocational Education Act of 1968, Public Law 93–380) be significantly expanded and that this vital legislation be extended beyond its current expiration date in December 1976.

The Commission further recommends that Federal and State administrators and State advisory councils for vocational education programs be instructed to insure that limited- and non-English-speaking women be actively recruited to develop marketable skills in higher paying, often male-dominated, jobs.

The need

One common theme running through testimony before the Special Problems of Women Committee has been the "double" or even "triple jeopardy" that racial and ethnic minority women face in trying to reach economic self-sufficiency and security. Many, especially those with limited English-speaking ability, are locked in dead end, low-paying jobs. English-language proficiency is of utmost importance to women, whose avenues for increasing their incomes are largely in clerical and office jobs because of societal pressures sometimes reinforced by a patriarchal heritage.

The lack of bilingual, job-skill training disturbed most minority groups which addressed this committee in its special hearing on December 29, 1975.

Lily Lee Chen, Director for Special Projects and Resource Development of the County of Los Angeles, Department of Public Social Services, described the large percentage of new immigrant Chinese-American women working in China Town sewing factories where they do not have to speak English and where they are not adequately compensated for this work under very poor conditions:

"Many Chinese-American women are denied promotion opportunities on the basis of our accent or unacceptable English. If you speak with French or British accents, you are charming. When you speak with Asian or Chinese accents, you are handicapped."

She added,

"The most important bread-and-butter issue of the new immigrant is bilingual education, and one of the major problems of English as a second language program is the lack of job-skill-oriented curricula."

Betty Fierro, immediate past President of the Mexican-American Women's National Association, estimated that one out of five Hispanic women has completed less than 5 years of school:

"Hispanic families headed by women earn a mere $4,000 per year. Combine that with the fact that our families are larger and younger than those of the dominant society, and you have an alarming picture of poverty."

As she travels throughout the Midwest, Jane Gonzales, who is a specialist in the Latin American Program of the Department of Civil Rights in Michigan, seen an increasing need for more training programs for Chicano women.

"Few exist, and those that do are steering women into the lowest paid jobs. The most women can earn on termination of their programs is $2.10 an hour. There are few, if any, programs where wages began at a minimum of $4 an hour.

"Even in traditional programs, the training is inadequate. You cannot train a Chicana who, maybe because her limited English skills, has difficulty in asserting herself. Give her 6 months' training and then expect her to make it in the business world? More thought should be given to the individual. Six months' training with little or no supportive services would not help most women."

Thus, the crucial needs for education in this area are complicated when culture gaps alienate many young ethnic and racial minority women from vocational training opportunities. Insensitive teachers and advisors may have language skills without any cultural awareness. They may not realize, for example, that a strong patriarchal heritage could inhibit the teenage girl from seeking employment in better-paying jobs outside a specified circle of traditional "women's work."

Improved teacher training and other projects must be established to promote wider participation of non-English-speaking women. The need is urgent for the teenage girl, who is in the process of determining her life patterns, and for the adult woman, who may be rearing and supporting children under increasingly difficult economic pressures. The mother's lack of language proficiency affects not only her opportunities but also her children's future.

The legislation

Until Part J of the Vocational Education Act was adopted in 1974, there was no Federal support of bilingual vocational education. This new legislation expires at the end of 1976, and the committee is recommending extension of its short life. With a first-year budget of $2.8 million, Part J is currently funding 21 demonstration bilingual vocational training projects in California, Connecticut, Maine, Michigan, New Mexico, New York, North Dakota, Texas, and Guam. Among these projects are:

Bilingual (Spanish) vocational training of dental assistants;

Bilingual (French) training of 25 persons as geriatric aides;

Bilingual (Spanish and Italian) training in housing maintenance and repair;

Bilingual (Chinese) program to train Chinese chefs; and

Bilingual (Indian) program for training mental health technologists.

Nine hundred women are currently enrolled, and at the end of the year, they will represent between 52–55 percent of the students trained under Part J funds. Although women are still overrepresented in clerical training and men in housing maintenance and repair, for example, some inroads are being made. Ten men and 40 women are enrolled in the dental assistant project; four women are in Chinese chef training; and two women take housing maintenance and repair with 58 men.

Administrators of bilingual vocational education programs must continue to intensify their efforts to provide the widest range of marketable job skills to both sexes.

Equal opportunity legislation

One of the best approaches to equal opportunity in vocational training, which this committee feels should be incorporated into subsequent amendments of the Bilingual Vocational Training Act, is found in the Women's Vocational Education Amendments (S. 2603), introduced in January 1976.

S. 2603 calls for balanced representation—on the basis of race, color, sex, and national origin—on both the National Advisory Council on Vocational Education and on State advisory councils. In addition, special assistance will be given to programs in counseling, curriculum development, materials and research and training, which are designed to overcome sex bias in vocational education programs and support services.

A task force study cited in the introduction to S. 2603 uncovered the following examples of continuing sex discrimination in vocational education (and this committee points out that the impact of these practices is even more debilitating for low-income, racial and ethnic minority women with limited English-speaking ability):

1. Almost half the girls and women in public vocational education are still being trained in home economics, and more than one-fourth are being trained in office practices. Very few are being prepared for better paying trades, for industrial and health occupations other than nursing, or for technical jobs.

2. A recent Office of Civil Rights survey of area vocational schools in Santa Cruz, California, identified 17 single-sex vocational education institutions despite the title IX (Education Amendments Act of 1972) requirements to the contrary.

3. A General Accounting Office (GAO) report notes that several States still reinforce traditional job stereotypes in course descriptions.

4. The GAO further reported that sex stereotyping was sometimes encouraged by physically locating traditionally female courses in one building and traditionally male courses in another.

5. At high administrative and advisory council levels, women appear in only token numbers. A random sample of 400 area vocational school directors revealed that men held 93 percent of these positions. No woman is currently a State director of vocational education or a State supervisor in a traditionally male area.

Assessment

This committee urges that the Office of Education move rapidly toward establishing more comprehensive model bilingual vocational education programs and thus realize the Federal leadership in bilingual education first called for by Congress in 1967. Expanded teacher training programs, in-depth research by the National Institute of Education, and a thorough national survey of bilingual program needs are required to achieve this goal.

The 1970 census failed to determine the number of adults of limited English-speaking ability, and the administrators at the Adult Education Bureau (Office of Education) can only estimate that 2.6 million adults might be considered limited English speakers. The draft of a spring 1976 Assessment of the Status of Bilingual Vocational Training for Adults[23] estimates that less than 10 percent of the need is being met by 90–100 vocational training programs that could be considered bilingual (including the 21 federally supported through Part J).

The six authors of the assessment had to track down these programs by visiting regional offices and five key States with larger racial and ethnic minority populations. "The information is not readily available," according to Morris Peterson,[24] one of the authors.

"People just aren't concerned. They figure if you want a job, you learn English. Our national awareness is open to the need for bilingual elementary and secondary education, but we haven't progressed to recognizing that the adults need attention."

The best chance for an accurate estimate of bilingual education needs will come when the Census Bureau releases results of a spring 1976 survey on "Incoming Education." That projected study would give current language usage by children as well as by adults.

In the meantime, this committee urges State Departments of Education to establish requirements aimed at assuring that the bilingual vocational training needs of women with limited English-speaking ability are given increased attention in the curriculums offered by local school districts.

REVISION OF STATE LAWS ON BASTARDY[25]

The IWY Commission recommends that State legislatures review and revise statutes which discriminate against illegitimate children and their parents. More specifically, the Commission recommends that States revise their laws to bring them, as far as possible, into conformity with the law enacted by North Dakota in 1969, which states:

"Every child is hereby declared to be the legitimate child of his natural parents, and is entitled to support and education, to the same extent as if he had been born in lawful wedlock. He shall inherit from his natural parents, and from their kindred heir, lineal and collateral. The issue of all marriages null

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Footnotes at end of article.

in law or dissolved by divorces are deemed to have been born in wedlock."[26]

Background

Traditionally, there has been a moral and legal stigma attached to the children of unwed parents. This stigma has also been attached to the mother of such children, but not to the father. The burdens and hardships which flow from this stigma tend to be borne by women, since they usually have custody of the children. By virtue of their unmarried state, these women are not entitled to the usual economic support or inheritance from the natural father.

The incidence of illegitimate birth has risen dramatically in the past decade. In 1973, 13.3 percent of the children born in the United States were illegitimate, a 121.7 percent increase since 1961.[27]

The Ohio Task Force for the Implementation of the Equal Rights Amendment argues that bastardy laws work a hardship on all of the people involved. It found that

"although children clearly suffer the greatest damage by the operation of the concept of illegitimacy, and mothers, have much greater parental obligations and bear a greater social stigma than do the fathers, fathers are also disadvantaged by the operation of the institution. The custodial interests of the putative father are generally ignored. . ."[28]

The trend in recent court decisions has been to remove many of the legal disabilities traditionally attached to illegitimacy. In *Levy* v. *Louisiana*,[29] the Supreme Court held that illegitimate children were entitled to equal protection of the law and that the State law constituted an invidious discrimination. In another case, *Glona* v. *American Guaranty and Liability Insurance Co.*,[30] the Supreme Court held that a natural mother was entitled to recover damages for the death of her illegitimate child. In *Weber* v. *Aetna Casualty and Surety Company*,[31] the Court upheld the right of illegitimate children to recover under State workmen's compensation. The Texas practice of denying the right to support of an illegitimate child from its father was overturned in *Gomez* v. *Perez*.[32]

The trend, then, has been toward recognizing the rights of illegitimate children as well as the respective rights and obligations of their parents. In order to reduce legal and economic discrimination against women and their children born out of wedlock, a systematic revision of State laws which maintain an invidious distinction between children of married and unmarried couples should be promptly undertaken.

BRIEFINGS FOR FEDERALLY EMPLOYED ETHNIC AND RACIAL MINORITY WOMEN[33]

The IWY Commission recommends that Federal executive boards and Federal executive associations across the country be directed to sponsor briefings for women on methods of obtaining information about Federal job opportunities, methods of employment, and promotions. The emphasis in Federal employment should be on increasing the numbers and grade levels of minority women, specifically black, Hispanic, Asian-American, and Native American women.

Background

Women constituted 28.6 percent of total Federal employment in the Civil Service Commission's Federal Civilian Personnel Statistics released in 1972, the most recent report[34] to make available percentages of female ethnic and minority participation in the Federal work force.

PERCENTAGE[1] DISTRIBUTION OF THE FEDERAL WORKFORCE BY MINORITY GROUP AND SEX

Groupings	Total employment	Minority group employment					All other
		Total	Black	Spanish-surnamed	American Indian	Oriental	
Total	100.0	20.6	15.8	3.1	0.9	0.8	79.5
Men	71.4	13.0	9.4	2.5	.5	.6	58.5
Women	28.6	7.6	6.4	.6	.4	.2	21.0

[1] Percentages are rounded independently and not forced to add to totals.

PERCENTAGE[1] DISTRIBUTION OF THE FEDERAL WORKFORCE BY SEX AND BY GRADE GROUPINGS FOR WHITE-COLLAR JOBS

Grade grouping	Total employment		Minority		Nonminority	
	Men	Women	Men	Women	Men	Women
Total	100.0	100.0	100.0	100.0	100.0	100.0
GS 1–4	9.4	44.3	28.0	51.5	7.1	42.1
GS 5–8	21.7	42.4	33.8	39.5	20.2	43.3
GS 9–11	32.0	10.3	22.4	7.4	33.2	11.1
GS 12–13	27.4	2.6	12.7	1.4	29.3	3.0
GS 14–15	8.8	.4	3.0	.2	9.5	.5
GS 16–18	.7	0	.2	0	.7	0

[1] Percentages are rounded independently and not forced to add to totals.

In 1972, black women constituted 6.4 percent of Federal workers; Spanish-speaking women, 0.6 percent of Federal workers; American Indian women, 0.4 percent; and Orientals, 0.2 percent.

The committee is concerned that these women of racial and ethnic heritage still occupy primarily low-paying, dead end jobs and are concentrated in the most routine clerical work. Of minority women employed by the government in 1972, 51.5 percent were in GS levels 1–4 with 91 percent concentrated in levels under GS–8.

The tables[35] on pages 301 and 302 provide full information on distribution of the work force, from which textual comments are extrapolated.

Consider just one example of the continuing inequities in Federal employment: As of June 30, 1974, there were only seven Hispanic women in management levels (GS–14 and above), although the Spanish-speaking are the second largest minority group in the Federal work force. Five of the Hispanic women listed were GS–14, and only two were GS–18, according to the Federal employment report prepared by the Bureau of Manpower information systems.

The committee believes that regional employee briefings should be initiated to assure that increasing numbers of ethnic and racial minority women are informed about procedures for advancement and that more of these women are selected for upper level jobs.

The committee further urges that the Director of the Federal Women's Programs, Civil Service Commission, encourage the selection of Hispanic, Asian-American, black, Native American, and other minority women as headquarters-level Federal women's program coordinators.

FOOTNOTES

[73] IWY Commission members: Dr. Ethel Allen, Chair; Margaret Long Arnold, Barbara R. Bergmann, Gilda Bojorquez Gjurich, Velma Murphy Hill, Ellen Groves Kirby, and Annie Dodge Wauneka. Public members: Lily Lee Chen, Director, Projects, and Resource Development, Los Angeles County, Department of Public Social Services; Betty Fierro, immediate past President, Mexico-American Women's National Association; and Antoinette Ford, former member of District of Columbia City Council.

Staff member: Mercedes Botts and Patricia Hyatt.

Consultant: Margaret Taylor.

The Special Problems of Women Committee contracted with the following for special studies: Agnes M. Johnson, Report on U.S. Bastardy Laws, 1975; Radd Associates, a program (A Time To Listen) for especially disadvantaged women, ethnic minorities, and elderly women; Radd Associates, 10-minute film documentary on University of Michigan Conference of the North American Indian Women's Association; Annette C. Reid, Citizens Services, Inc., Minority Female Youth, aged 16–21; Ron While, Comparison of International Bastardy Laws.

[74] U.S. Congress, Reports of the Quadrennial Advisory Council on Social Security: Communications from Secretary of Health, Education, and Welfare, to the House of Representatives, H. Doc. 94–75, 94th Cong., 1st Sess., U.S. Government Printing Office, 1975.

[75] Recommendation approved by Special Problems of Women Committee Feb. 4, 1976; by IWY Commission Feb. 27, 1976.

[76] Recommendation approved by Special Problems of Women Committee Feb. 3, 1976; by IWY Commission Feb. 27, 1976.

[77] Budget of the U.S. Government, FY 1977.

[78] Estimated Operation of the Supplementary Medical Insurance Trust Fund, document produced by House Ways and Means Means Committee, in cooperation with Office Committee, in cooperation with Office of the Actuary, Social Security Administration.

[79] Recommendation approved by Special Problems of Women Committee Feb. 12, 1976; by IWY Commission, Feb. 27, 1976.

[80] President's Commission on the Status of Women, *Report of Committee on Social Insurance and Taxes*, U.S. Government Printing Office, Wash., D.C., 1963. Single copies available from Women's Bureau, Labor Department, Wash., D.C. 20210.

[81] Citizens' Advisory Council on the Status of Women, Report of the Task Force on Social Insurance and Taxes, U.S. Government Printing Office, Wash., D.C. 1968. Single copies available from Women's Bureau, Department of Labor, Wash., D.C. 20210.

[82] U.S. Congress, Reports of the Quadrennial Advisory Council on Social Security: Communications from Secretary of Health, Education, and Welfare, to the House of Representatives, H. Doc. 94–75, 94th Cong., 1st Sess., U.S. Government Printing Office, 1975.

[83] Recommendation approved by Special Problems of Women Committee Feb. 3, 1976; by IWY Commission Feb. 27, 1976.

[84] According to a University of California study described for the Committee by Mary A. Marshall, Virginia House of Delegates.

[85] Recommendation approved by Special Problems of Women Committee Mar. 15, 1976; by IWY Commission by mail ballot Mar. 1976.

[86] Report to National Dialysis Registry on patients in reporting U.S. Dialysis Centers, Oct. 1, 1975.

[87] Background material prepared in cooperation with Dr. Jackie Hall, Chair, Women's Council of the Alcohol, Drug Abuse, and Mental Health Administration; and Joyce Lazar, Chief, Social Science Section, Division of Extramural Research Programs, National Institute of Mental Health.

[88] Draft by Marcia Guttentag, Susan Salasin, Wendy Wilson Legge, Helen Bray, *et al.*, "Sex Differences in the Utilization of Publicly Supported Mental Health Facilities: The Puzzle of Depression," Mental Health Services, National Institute of Mental Health, 1976.

[89] *Ibid.*

[90] M. M. Weissman and G. L. Klerman, "Sex Differences and the Epidemiology of Depression," 3d draft of a paper submitted for publication in Feb. 1976 to *Science.*

[91] Guttentag, *op. cit.*

[92] Lenore Radloff, "Sex Differences in Depression, the Effects of Occupation and Marital Status," *Sex Roles,* no. 1, Nov. 3, 1975.

[93] Weissman and Paykel, "The Depressed Woman," University of Chicago Press, 1972.

[94] Abelson and Atkinson, "Public Experience with Psychoactive Substances—Part I," Response Analysis Corporation, Princeton, N.J., 1975.

[95] June J. Christmas, M.D., Commissioner, New York City Department of Mental Health and Mental Retardation Services, "Women, Alcohol, and Drugs: Issues and Implications," presented at the National Drug Abuse Conference, Apr. 5, 1975, New Orleans, La.

[96] Recommendation approved by Special Problems of Women Committee Feb. 3, 1976; by IWY Commission Feb. 27, 1976.

[97] Statistical Abstract of the U.S., 1974, table 571, p. 304.

[98] Recommendations approved by Special Problems of Women Committee Feb. 18, 1976; by IWY Commission Feb. 27, 1976.

[99] An excellent model for such an effort is run by the Pennsylvania Commission on the Status of Women.

[1] In actual numbers, of course, female crime remains a small fraction of male crime; in 1971, approximately 18 of every 100 persons arrested for a serious crime were women, and of those convicted, nine of 100 were women, and only three of every 100 persons sentenced to a State or Federal prison were women. (Impact Statement to IWY Interdepartmental Task Force, Law Enforcement Assistance Administration (LEAA), Nov. 24, 1975.)

[2] Laura Crites, Director; Catherine Pierce, Asst. Director, National Resource Center on Women Offenders.

[3] Tom Joyce, "A Review: Sisters in Crime," p. 6, *The Woman Offender Report,* vol. 1, no. 2, May/June 1975.

[4] *Ibid.*

[5] Laurel L. Rans, Women's Arrest Statistics, *The Woman Offender Report,* vol. 1, no. 1, Mar./Apr. 1975.

[6] Vol. 82.

[7] LEAA Impact Statement prepared for IWY Interdepartmental Task Force.

[8] Sept. 1975 survey by American Bar Association Commission on Correctional Facilities and Services Clearinghouse for Offender Literacy.

[9] Kenneth J. Lenihan, "The Financial Resources of Released Prisoners," Bureau of Social Science Research Inc., Wash., D.C., Mar. 1974 draft, p. 9.

[10] 1800 M St., NW., Wash., D.C. 20036.

[11] Mary E. King, "Working Paper on the Female Offender and Employment," Oct. 31, 1976.

[12] Founded in 1845, 110 2d Ave., New York, N.Y., 10003.

[13] Mary E. King, "Working Paper on the Female Offender and Employment," Oct. 13, 1975.

[14] Civ. no. 102–82, Dec. 18, 1974.

[15] An LEAA-funded program, 2054 University Ave., Room 301, Berkeley, Calif. 97404. Quoted in *The Women Offender Report,* vol. 1, no. 3, July/Aug. 1975.

[16] Recommendation approved by Special Problems of Women Committee Feb. 6, 1976; by IWY Commission Feb. 27, 1976.

[1] Female Delinquency: A Federal Perspective," statement of Mary Kaaren Jolly, Editorial Director and Chief Clerk, U.S. Senate Subcommittee to Investigate Juvenile Delinquency, before the National Congress for New Directions in Female Correctional Programming, June 30, 1975, Chicago, Ill.

[18] Among the reports: John C. Scott, B. L. Driver, Robert W. Marans, "Toward Environmental Understanding, and Evaluation of the 1972 Youth Conservation Corps," Survey Research Center, Institute for Social Research, the University of Michigan, Ann Arbor, Mich., 1973.

[19] Recommendation approved by Special Problems of Women Committee Feb. 18, 1976; by IWY Commission Feb. 27, 1976.

[20] Formerly Manpower Administration.

[21] Robert Glover, Alexis Herman, and Allan King, "Minority Women, Professional Work," *Manpower* magazine, July 1975, p. 10.

[22] Recommendations approved by Special Problems of Women Committee Feb. 18, 1976; by IWY Commission Feb. 27, 1976.

[23] By Dale Berry and others, Kirshner Associates, contract no. 300–75–033.

[24] From a telephone interview, Feb. 1976.

[25] Recommendation approved by Special Problems of Women Committee Feb. 4, 1976; by IWY Commission Feb. 27, 1976.

[26] N. Dak. Cent. Code, sec. 56–01–05 (supp. 1969).

[27] "Wage Garnishment, Attachment and Assignment, and Establishment of Paternity," Senate Committee on Finance, Oct. 1975, p. 216.

[28] A Report by the Ohio Task Force for the Implementation of the Equal Rights Amendment, July 1975, p. 16.

[29] 391 U.S. 68 (1968).

[30] 391 U.S. 73 (1968).

[31] 406 U.S. 164 (1972).

[32] 409 U.S. 535.

[33] Recommendation approved by Special Problems of Women Committee Feb. 23, 1976; by IWY Commission Feb. 27, 1976.

[34] Reports released on women in 1973 and on minorities in 1974 did not combine these variables.

[35] From Federal Civilian Personnel Statistics, Federal Civilian Employment by Minority Group and Sex, Nov. 30, 1972; SM 72–100, p. 4.

INDIAN PROBLEMS—AN INTERVIEW WITH DR. ANNIE D. WAUNEKA

The Native American people in the United States number approximately 1 million, about half of whom reside on 210 federally recognized tribal reservations, in 220 Alaskan villages, and in Oklahoma. The Indian nations and the Federal Government are bound by a special legal trust relationship, which is the result of self-determination for Indian tribes and * * * written treaties and through formal and informal agreements. Tribal sovereignty, questions of Federal versus State jurisdiction, economic development and social services, relationships between tribal and urban Indians, relationships between Anglo and Indian communities—these are issues which are paramount to Native Americans and which cause them uncertainty and uneasiness about their present and future role in America.

The Federal Government in 1970 espoused a policy of self-determination for Indian tribes band communities without termination of the Federal trust responsibility. But the Indian people are justifiably skeptical. Theft of their lands, broken agreements, forced assimilation, and program failures have characterized the government's history in this area. And yet, despite incredible adversity and denial of control over their own destiny, the spirit of the Indian people has endured and their contribution to this country has been priceless—in art and culture, in respect for the land, in fundamental beliefs, in a sense of history and purpose. Dr. Annie Dodge Wauneka, a member of the Navajo Tribal Council, speaks in the following interview about her people.

Annie Dodge Wauneka, whose father was the last chief of the Navajo Nation and who is the only woman on the Navajo Tribal Council, is a member of the National Commission for International Women's Year.

Serving as a commissioner has been a frustrating experience for Dr. Wauneka. As she said in a letter to the White House,[13] ". . . We cannot see how the problems of Indian women can be dealt with outside of making a special provision within . . . [the IWY Commission] to deal with the Indian problems . . ."

"Indian problems are so grossly different from the national picture that we cannot talk on the same level. When you talk of water for sports activities we are thinking of water needed for drinking and washing dishes.

When you talk of arts and crafts for leisure times we are thinking of producing enough handcrafts to sell so that we can buy shoes and food.

"Until this reality and fact are recognized and accepted we cannot deal with Indian issues . . . Provision must also include that all Indian tribes which want to be heard be included . . ."

Dr. Wauneka is an outstanding example of woman-helping-woman and a great spokesperson for all Navajos, not just women. She has served as an elected delegate and member of the Tribal Council for 25 years.

She became interested in helping the Navajos because of her father. "He was a great leader. He was always talking about problems," Dr. Wauneka said in an interview [14] with an IWY staffer. "He always said Navajos need to be helped."

One of nine children, Dr. Wauneka was the only member of her family to follow in her father's footsteps, though one of her brothers is a lawyer in Scottsdale, Arizona. Now she has eight children of her own, all grown, and eight grandchildren.

As a young woman she was a sheepherder. "I still am. That's the custom of the Navajos . . . My husband takes care of our herd."

Dr. Wauneka did not want to talk about herself. "Navajos don't like to talk about their personal life. This is the truth," she told the interviewer. But she was willing to talk about Navajo problems. Following are excerpts from the conversation:

Q. Do you feel the programs developed for the Indians by the Federal Government are adequate?

A. No, I don't know where there's an adequate program anywhere. Only in foreign countries there are adequate programs. Congress appropriates billions of dollars for foreign aid. [They] send it overseas and still they have enemies.

Q. Are the Navajos rich?

A. They're rich in the name, not as individuals, just as the Navajo Tribe . . . We have mineral, oil, coal, and uranium. But when you come down to individual Navajos, they're not. They're very poor. There are 140,000 Navajos. If those [our] funds were to be divided I think they'd get about $8 apiece. With the money we have we are running our tribal government.

Q. What do you feel are the greatest problems of the Navajos?

A. I would say economic. I would say that because they used to own lots of sheep years ago before the last reduction was enforced in 1930 . . . The reduction was enforced

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Footnotes at end of article.

on them [and it caused an economic decline]. They were told they overgrazed their reservation, which I'm quite sure was so . . . Since then the individual economy has come down, and the children have increased . . .

Now the last trend is changing. There are about 55,000 or 60,000 students in schools, on and off the reservation . . . So now it's an economic problem plus education. Both sexes are not educated to the point where they can properly communicate with the outside world.

So one of the problems that the Indian women have stressed is they need more training . . . Women want to work. They did have a nice industry in a place called Farmington, N. Mex., by this Fairchild Company which is an electronic company. Over a thousand women worked there . . . now this place is shut down. Now they're [the Indians] demanding there should be more openings so the women could work, especially young women with that experience.

. . . But industry coming to the reservation is very, very slow because we have our own sovereignty. The Tribal Councils are the ones that lease the land . . . and that means whoever wants to come in has to negotiate with the tribe . . .

. . . The tribe has its own business. We have a lumber mill which employs between 400 and 500. Of course those jobs are for men. We have our own utility company. And then we have our own irrigation projects way up in the north of Arizona.

At the irrigation project they hope to pick up about 3,000 Navajos when it's all developed. They're supposed to be farmers and that's not a program [skill] we have.

. . . The Bureau of Indian Affairs would like to turn over all of the activities to the tribes whether they want it or not . . . but there are very few [Indians] that are well educated and have become professionals and para-professionals . . . Congress has passed a bill called the Self-Determination Bill, which authorizes the Indian tribes to contract the government programs within their reservation . . . We could do it if we had the professional people, but we don't, so I think the whole law will be just sitting there. . . .

Q. That sounds as though there is an opportunity for young people . . .

A. The Navajo Tribe has a scholarship program for $8 million in travel funds. And that's what the Navajo children are going to school on in colleges and universities . . . we've got quite a number. Of course there's a lot of dropouts, because they don't know the country, they don't know the city, they don't know the lifestyle of the city and they get lonesome, and financially their folks are not supporting them. They come home, and very few are getting a professional education for every field you want.

We don't have anybody who's trained as an economist or who will study the economy of the Navajo Tribe. We don't even have sufficient trained doctors. We have only one so far.

We have some Navajo nurses but not as many as we'd like to. So we're still on the bottom, so to speak. It will take a long, long time.

Q. To motivate the people?

A. The Navajo parents themselves don't motivate their younger generation to keep on going to school. Once the child writes a letter back and says, "I'm lonesome, I want money, I want this," the parent says, "come home," so they come home. I think that's one of the basic problems we have.

So that's the reason why I say the middle-aged adult needs to have some kind of training . . .

Q. Are there problems of nutrition?

A. Oh yes, problems of nutrition, health problems. The more we develop, the more problems we create for ourselves . . . The infant mortality is great and the life expectancy of a Navajo is between 63 and 65 years.

Q. What is the average family income?

A. It is reported between $300 and $500 and there's about 67 percent unemployment.

Q. You mean less than a third of the people are employed? That must mean a lot of people sit around doing nothing?

A. Yes, both the man and wife sit around.

Q. Is alcohol a problem?

A. It's the number-one killer on the Navajo reservation. I really don't know how to handle the alcoholism [problem]. I really don't . . . Some groups are trying to help with Federal funds. They make contracts for these funds, and they get less than what they ask for, and it is a problem.

Q. So when jobs do come along, these men and women can't be employed because they have destroyed themselves with alcohol?

A. Yes, that's right. And they're such nice young-looking people, and you give them a job, the tribe gives them a job and first payment they're gone. They don't come back for work.

At this point in the interview Sally Lester, an Indian woman who is a community health representative on the Navajo Reservation and who accompanied Dr. Wauneka to Philadelphia, spoke up to say, "Sometimes the woman drinks more than the man does. It's mostly among the young ones, too."

Dr. Wauneka then explained the health program which the Navajos have with the U.S. Public Health Service: "I've been on the health committee for the last 25, or may 23 years . . . The health problems were so great, but somebody has to get out there and teach them what is better health . . . So myself and several other people, we've worked on this many, many years and finally appropriation was made by the Congress to create health representatives . . . and we have 138 health representatives throughout the reservation . . .

"We have chapter organizations, which are like a city council. They come together, and they have their local leaders; they call them chapter officers. And they have a monthly meeting and they report back to their chapter and they [the health representatives] do a lot of home visits and look at the problems . . . Their living conditions, nutrition and every aspect of life is what they deal with in their monthly report . . . and this program is very popular . . . They're very effective on the local level."

Q. What would be the next problem?

A. Home environments, poor housing . . . Quite a bit of malnutrition . . . We have infant mortality which is high, especially from diarrhea, and with all this alcoholism problem, the children are not cared for like they're supposed to be . . . and the suicide is really increasing . . . on all age levels, and I ask why is it increasing? Automobile accidents is another one that is getting to be a major problem.

Q. Is liquor sold on the reservation?

A. Bootleg. There's a lot of bootleggers. Our problem is enforcement. And of course tribal government tries to introduce a resolution legalizing liquor on the reservation, but the majority of the tribal councils don't want it legalized. So it is a problem. Even if we legalize it, I think we'll have more problems. I don't know; I'm just in between.

Q. Dr. Wauneka, if you leave the Tribal Council and don't run again, as you say you are planning to do (her term is up in 1978) will there be another woman to replace you?

A. I don't know. That rests with the communities. I'm afraid not because there's nobody that's active at the local level. There are some responsibilities, but they're working for the Federal Government (where the pay is better).

So those are some of our problems. Are you happy with what I've said?

Reproductive Freedom and Responsible Choice

At age 19, Paula Gibson, who attends Gonzaga University in Spokane, Washington, is the youngest member of the IWY Commission. On January 16, 1976, she shared with the Commission her views on the inadequacies of public school sex education in the 1960's and early 1970's.

"My education in responsible sexuality started out with my mother assuming that I would ask her or my father any questions about sex I might have. I was a shy youngster and didn't even know what questions to ask! And so I went to school and learned from my peers—a common but not often accurate source.

"In 5th grade physical education, I saw a film on menstruation and asked if this sort of thing also happened to boys. My teacher quickly told me to ask my father and changed the subject.

"In the 7th grade, part of my science course consisted of human reproduction, and my teacher always prefaced his statements with, 'You must remember, this is not smutty.' We, of course, concluded that human sexuality was smutty and not a natural part of human life.

"My earlier 'education' was repeated during high school, when the sum total of my sexuality instruction consisted of one film on venereal disease, to be followed a year later by a human plumbing film, and the breeding of fruit flies in a biology class."

"All this was a farce," Paula said later, in a telephone interview. "The one important thing that was never covered at all was that sexuality goes beyond plumbing, that it means more than just sex. My teachers never seemed to get beyond that point. And yet, I have the feeling that I received an awful lot more than many young people do."

Evidence that 30 percent of teenage girls 15 to 19 are sexually active cannot be wished away.[15]

The National Center for Health Statistics reports that premarital sexual activity is beginning at increasingly younger ages.

Venereal disease is epidemic among the young.

The number of births to teenage girls under 15 is rising; 7,768 births in 1965; 12,861 in 1975.

An estimated one-third of the reported 300,000 legal abortions a year are performed on women under 20.[16]

Increasing numbers of young people no longer believe the traditional family of two parents and children is the only acceptable model.

The implications of all of these trends for the future quality of American family life, and for the well-being of young children, are far-reaching.

But whatever the variety in contemporary family structures today and tomorrow, the Commission sees education for responsible sexuality and for family planning services as essential reinforcements for healthy relationships. Most importantly, the benefits multiply when children can be lovingly nurtured by emotionally secure and responsible adults.

Early and sometimes accidental childbearing, on the other hand, creates serious social and economic disadvantages for the mother and child, especially when conception is out of wedlock. An unplanned marriage and an unplanned baby can have tragic consequences on all involved, and when the parents are children, the problem often seems endless.

The Draper World Population Fund Report says most sexually experienced teenagers who have not used contraceptive devices have a confused idea about the risks of pregnancy. Nearly 40 percent of them believed preg-

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Footnotes at end of article.

nancy could not occur because they were too young or because they had infrequent intercourse.[17]

Others do not know where to go for contraceptives, think them too expensive, or do not know there is any way to protect themselves against pregnancy.

Ms. Deena Mersky of Austin Planned Parenthood, Austin, Texas, visits area schools on invitation to present short programs and answer student questions. The misinformation she encounters is varied and vast: "I had barely come in the door of this rural high school outside Austin last week, when the teacher called me aside and whispered in my ear, 'Please tell our students that Saran Wrap is not adequate contraception!' "[18]

The Commission is also concerned about the pervasive and seductive influence of movies, television, magazines, and rock music lyrics on young people in the years when they are formulating their ideas on sex.

In the Commission's view this ignorance and misinformation about the risks of conception as well as failure to understand the consequences of sexual behavior are compelling reasons for sex education at school in elementary and secondary school programs. Nonetheless, the Commission cautions that school programs must not take precedence over the role of the parent in the home. "Family life and responsible sexuality programs should lead not only to the acquisition of knowledge, but should also contribute to wholesome attitudes, develop positive sexual growth and behavior, and encourage a forthright view of one's own sexuality," the Commission says.[19]

Such instruction, moreover, should be given where possible in the regular curricula rather than as a separate course, and with a bilingual approach where a substantial proportion of the students are of Spanish or other ethnic origin.

Lack of information for responsible sexual actions and responsible family life is only one aspect of family planning needs. Lack of family planning assistance for low-fertility couples who want to conceive and for couples who want to space their children is an equally important aspect.

Nearly 40 percent of low and moderate income women, some 3½ million across the country, are still without access to any kind of family planning services at all.[20]

The Commission asks State health and welfare agencies to remove barriers to full use of family planning services by low and moderate income women, and the President is asked to direct HEW's Social and Rehabilitation Service to issue regulations "providing the States all possible encouragement and assistance" toward this goal. The requirement that income be documented is a barrier, particularly for minors, and the Commission asks for elimination or modification.

Wider access to family planning is also obstructed by the low level of support for Federal grants and research in reproduction. For 1976, funding for family planning project grants is only one-fourth that recommended by the Commission on Population Growth and the American Future.[21] Proposed cutbacks to 1972 budget levels may mean a 25 percent reduction in funding.[22]

The IWY Commission recommends that Congress and the Administration reaffirm support for the Nation's family planning programs and immediately provide the full amount of resources needed.

Birth control practices have been revolutionized by the pill and the IUD (intrauterine device), the two methods most acceptable for use by an estimated 13 to 14 million American women. But these techniques sometimes have serious side effects. Also, neither method is fail safe.[23]

The death rate among women who use IUD's is 9 per million and 31 per million for women who use the pill. The death rate is 1,000 per million for tubal ligation (sterilization) and 300 per million for laparoscopic tubals, sometimes called band-aid surgery.[24] And the need continues for research on male contraceptives.

To intensify and coordinate fertility research, the Commission recommends that the Center for Population Research be elevated to "Institute" status and that research in all related areas of heredity; human genetic diseases; and maternal, fetal, infant, and child health be organized and restructured under the National Institutes of Health.

Until family planning methods and services are perfected, made universally available and totally safe, there will be women who suffer unwanted or accidental pregnancies. For these women and their families, pregnancies are often psychologically, financially, or physically damaging.

Take the case of Marilyn Walker, a Missouri mother of five children, all under age 10. When she learned a sixth child was on the way, she was despondent, could not sleep, and felt desperate.

"I was just a shell walking around, not like a person at all. The babies cried at night. I rocked them and fed them, and when they were quiet, I'd lie down with my eyes wide open until morning, wishing I'd die real sudden so there wouldn't be any more big bills. But then, who would take care of the kids? That thought always stopped me cold."

"Jim has been out of a job for 5 months," she told the clinic worker.

"Our rent is going up. Our four oldest kids have worn through their shoes, and the teacher says our twins must have glasses. My teeth ache and the gums throb, but there's no money for the dentist or for any of these things.

"Jim has been knocking on doors every day, but he can't find anything. He is so depressed. He comes home muttering that we could do better on welfare if something happened to him, or if he just ran away. He flies off the handle with me and the kids so much I really worry about how we are going to last as a family. And now this, another baby!"

Marilyn remembers setting out peanut butter and bread for her children, borrowing a car, and driving to the women's health clinic to keep her appointment for an abortion. It was her 28th birthday.

"I never thought I'd have an abortion. It was always something for other women to face. It was hard, but I finally decided this was better than putting more pressure on Jim and the kids. We're no better off than before, but at least our marriage and the kids are no worse off. You can't know how relieved I feel—it's like we have another chance."

Marilyn's safe, therapeutic clinic abortion cost $120. She borrowed the money from a friend. "My friend's sister had to pay $875 for an illegal abortion when she was 17, and then she almost bled to death. Lots of other mothers have died on the table like that—what if abortions were still against the law?"

Marilyn Walker's name and residence have been altered here, but clinic workers say there are thousands of women like her.[25]

The Commission, with the exception of three members,[26] supports the landmark Supreme Court decisions making abortion safe and legal.[27] Too often, an alternative to legal, medically supervised abortion is a return to the dangerous, sometimes fatal procedures, often self-induced, or performed under medically unsafe and unsanitary conditions.

While recognizing that abortion is not an acceptable method of family planning, the Commission opposes any proposed constitutional amendment denying or limiting the option of legal abortion services. The report of the U.S. Commission on Civil Rights, "Constitutional Aspects to the Right to Limit Childbearing," very persuasively argues that adoption of the proposed constitutional amendments would undermine the first, ninth, and fourteenth amendments to the Constitution.[28]

The Commission further urges Federal, State, and local governments to give the highest priority to implementing these Supreme Court decisions.

Unfortunately, the response of existing health organizations to the legislation of abortion has been limited. The accessibility of abortion services in this country remains very uneven. (See map accompanying full recommendation on this subject in Part V.)

The two letters below indicate what the current scatter of services means to individual families.

"I know the law says I am able to receive such services, but in reality I can't because I live in a small town where the only hospital for miles is private and they won't perform this procedure. Some women can afford to travel to other cities, but I can't . . . The law says I have a right to this procedure, but where can I go?"[29]

and

"Can you please help us? We have an 18-year-old daughter who is 7 weeks pregnant . . . . She is 4 months from graduating from high school . . . She is also accepted at a college and wants to go very bad. Now that abortion is legal in Wisconsin we thought we could get a doctor to do it. Everyone we talked to refused . . . We have to have some help soon, and make some definite plans for her, or she might look for help by herself, and I'm afraid of what would happen. She is our only child, and we don't want anything to happen to her. Please try and help us . . . "[30]

In 1974, the year after the Supreme Court's decision overturning restrictive State abortion laws, at least 400,000 and perhaps as many as 900,000 U.S. women who needed an abortion were unable to obtain one.[31]

The history of this country's gradual commitment to reproductive choice for women dates from the turn of the century. Thanks to medical achievements, dangers resulting from early abortion have continued to decrease, and today, therapeutic abortions performed in the first 12 weeks of pregnancy are less than one-eighth as hazardous to women as childbirth.

Throughout the 20th century, a variety of restrictive abortion laws existed in States across the Nation. In 1962 public attention was dramatically focused on the plight of Sherri Finkbine, when she was denied permission for an abortion in an Arizona hospital. Mrs. Finkbine had taken thalidomide early in pregnancy and feared what the drug's effect might be on the fetus. The hospital refused to operate, so Mrs. Finkbine traveled to Sweden for her abortion. Doctors announced that the fetus had indeed been deformed.

The Finkbine case forced Americans to ponder the need for law reforms. A rubella measles epidemic in 1964 panicked great numbers of expectant parents who had become newly aware of the crippling effect of that disease on a fetus. Those women who could afford it bought legal abortions here or abroad. But in States with very strict laws, many others had illegal abortions or clung to the slim hope that their infants would be born healthy.

The women's rights reform movement in the 1960's dramatized the need for a woman's right to privacy in choices affecting her family. Concern about population growth and a new public openness about human sexuality

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Footnotes at end of article.

made it easier to discuss abortion. By 1973, 13 States had revised their laws to permit abortion for a variety of reasons and 4 States had made abortion available upon request of the woman and her physician.

Then, on January 22, 1973, the U.S. Supreme Court declared unconstitutional the restrictive Texas and Georgia statutes concerning abortions. The court ruled that States may not prohibit a woman's right to an abortion in the first 3 months of pregnancy. Thereafter a State may regulate abortion in ways that are reasonably related to the mother's health.

Popular sentiment in favor of the Supreme Court ruling is staunch and growing. An April 1975 Gallup Poll found three out of four Americans felt abortion should be legal in some circumstances. A national telephone survey conducted by the *New York Times* and CBS News in February 1976 showed that 67 percent agreed that "the right of a woman to have an abortion should be left entirely up to the woman and her doctor." [32] A March 1976 *National Observer* plebiscite vote (in which those feeling strong enough about the issues mailed in their ballots) found 71.4 percent asking to let the Supreme Court decision legalizing abortion stand. Knight Ridder newspapers asked a similar question in a telephone survey in January 1976 and found 81 percent agreement.

Public acceptance of women's right to choose is at last a clear majority opinion.

Another problem of special concern to the Commission is the continuing violation of fundamental human and civil rights through forced sterilization. The 1974 guidelines of the Department of Health, Education, and Welfare (HEW) against such practices are not effectively enforced. Those regulations specifically ban sterilizations on women under 21; they prohibit operations on women less than 72 hours after they have signed consent forms; and they require a careful counseling procedure so that patients understand that the operation is permanent and that there are other birth control choices.

By spring of 1976, HEW had taken no action to enforce the regulations other than distributing guidelines to hospitals and medical centers.[33] Both the American Civil Liberties Union and the Public Citizen's Health Research Group studies indicate that the regulations are being widely ignored, if not deliberately evaded.[34]

The IWY Commission joins the voices urging strict compliance of HEW guidelines by all doctors, medical and family planning facilities, and it recommends that HEW take maximum action against all violators.

The Commission recommends further that State codes must not require consent of a spouse for sterilization. Unless a married or separated woman falsifies her records to claim she is actually divorced, she may have to endure a time-consuming search or confrontation with a hostile partner. Legal precedents clearly specify that decisions concerning reproductive matters are to be determined by the individual in consultation with physicians and others with whom she/he chooses to consult.

The Commission also urges in regard to all its recommendations that, in cases where the patient does not speak English, appropriate staff must be found to explain the sterilization procedures and HEW regulations in the primary language of the patient.

FOOTNOTES

[13] Dr. Wauneka was joined in this letter by Nancy Evans, President, Navajo Indian Women's Association. Dec. 29, 1975.

[14] Interview taped in Philadelphia, Pa., Oct. 23, 1975.

[15] J. F. Kantner and M. Zelnik, "Contraception and Pregnancy: Experience of Young Unmarried Women in the United States," *Family Planning Perspectives*, May 21, 1973.

[16] National Center for Health Statistics of the United States—Natality, 1965 through 1973.

[17] Draper World Population Fund Report, No. 1, Autumn 1975 "Sex and Reproduction among U.S. Teenage Women," by J. F. Kantner and Melvin Zelnik, professors, Department of Population Dynamics, Johns Hopkins University.

[18] Telephone interview, Mar. 1976.

[19] See Part V, Reproductive Freedom Committee recommendation concerning family life and responsible sexuality instruction in elementary and secondary schools.

[20] Report no. 94–192 by the House Committee on Interstate and Foreign Commerce, accompanying the Health Revenue Sharing and Health Services Act of 1975, now Public Law 63.

[21] Report of the Commission on Population Growth and the American Future, "Family Planning Services," Mar. 1972.

[22] The Alan Guttmacher Institute, "Associates Letter," Feb. 1975, p. 2.

[23] Elizabeth B. Connell, "The Pill Revisited" (vol. 7, no. 2), *Family Planning Perspective*, Mar.–Apr. 1975; Daniel R. Minshell, Jr., "Assessing the Intrauterine Device" (vol. 7, no. 3), May–June 1975.

[24] Public Citizens' Health Research Group, "Surgical Sterilization: Present Abuses and Proper Regulation," Oct. 29, 1973, p. 12, 2000 P St. NW., Wash., D.C.

[25] Interviews with women's health clinic workers, greater Wash., D.C. area, Mar. 1976.

[26] Congresswoman Margaret Heckler and Rita Johnston voted "no" on recommendations concerning abortion. Gilda Gjurich abstained. Minority opinions follow the recommendations listed in Part V.

[27] See *Roe* v. *Wade*, 410 U.S. 113 (1973); *Doe* v. *Bolton*, 410 U.S. 179 (1973).

[28] Copies available through the United States Commission and Civil Rights, Wash., D.C. 20524.

[29] From "We Speak for Those Women Who Dare Not Speak," National Abortion Rights Action League, Southern California affiliate, Constitutional Defense Project, Jan. 22, 1976.

[30] From parents writing to ZPG Referral Service in Madison, Wis.

[31] Alan Guttmacher Institute, research and development branch of Planned Parenthood Federation of America, Oct. 1975; authors: Christopher Tietze, M.D.; Frederick S. Jaffe, Edward Weinstock, Joy G. Dryfoos.

[32] Planned Parenthood—World Population, *Washington Memo*, Mar. 19, 1976, p. 2.

[33] Claudia Dreifuss, "Sterilizing the Poor," *The Progressive*, Dec. 1975; pp. 13–19.

[34] *Sterilization Without Consent*, Report by Public Citizen's Health Research Group, Jan. 1975. *Hospital Survey on Sterilization Policies*, Reproductive Freedom Project, ACLU, Mar. 1975.

REPRODUCTIVE FREEDOM COMMITTEE [18]

PREFACE

The IWY Committee believes that the moral decisions relating to reproduction are rightfully the responsibility of individual women and that every woman, regardless of her economic circumstances, education, race or ethnic origin, age, rural or metropolitan residence, is entitled as a basic human right to have readily available the means of controlling reproduction. The IWY Commission:

Supports the series of Supreme Court decisions guaranteeing reproductive freedom to women; [19]

Urges all branches of Federal, State, and local governments to give the highest priority to complying with these Supreme Court decisions and to making available all methods of family planning to women unable to take advantage of private facilities;

Condemns any interference, open or subtle, with a woman's right to control her reproduction; and

Urges organizations concerned with improving the status of women to monitor how government complies with these principles.

RECOMMENDATIONS

Family planning services [20]

The IWY Commission affirms the fundamental right of all women to the information and means necessary to control, voluntarily and freely, the number and spacing of their children. The Commission heartily endorses those statements in the World Plan of Action adopted in Mexico City acknowledging "the exercise of this right is basic to the attainment of any real equality between the sexes, and without it women are disadvantaged in their attempt to benefit from other reforms."

It is recognition of this fact and of the fact that access to such means and information necessary for voluntary fertility control are not now universally available to all women in the United States that form the basis of the recommendations on family planning services.

The health consequences of unwanted and mistimed childbearing have been amply demonstrated. They are especially serious for the young and the poor for whom pregnancy is inherently more risky, as well as for their children whose chances of birth defects, mental retardation, and other long term handicapping conditions are greatest.[21] At the same time, the health and social benefits of family planning have been convincingly shown. In fact, recent research now indicates that the timing and spacing of births and the number of children born into a family are probably the most influential determinants of maternal, infant, and even long term family health.[22]

A substantial number of births to American women are still "unwanted" or "mistimed," and the rate of unwanted fertility, despite recent advances, is still widely disproportionate among the various age, social, and economic groups in the nation.[23] While the United States fertility rate [24] has declined in recent years to record lows, the absolute number of births continues to rise due to a marked increase in the number of American women of childbearing age.[25]

Providing voluntary family planning services to all those who want and need them has been the official, stated goal of the U.S. Government since 1971.[26] That goal was to have been reached by this year,[27] but current realities belie the government's good intentions. Nearly 20 percent of low- and moderate-income women—some 3,500,000 across the country—are still without access to such services.[28] Also, those services which do exist are unevenly distributed. These services are available to three-fourths of low-income women from large metropolitan areas but to fewer than half of those living in rural areas and small towns.

Project Grants for Family Planning

The bulk of Federal support for family planning services is in the form of project grant funds under title X of the Public Health Service Act of 1975. Title X projects offer to the poor and near-poor the full range of family planning services, including contraception, sterilization, and infertility services on a voluntary, confidential, and noncoercive basis. Significantly, these services are in many cases virtually the only source of preventive health care for low- and marginal-income American women—such services as blood-pressure testing, cancer screening, venereal disease detection, and many other routine diagnostic medical services.

Despite these facts as well as the fact that subsidized family planning services have been shown to save the government more than twice what it expends for them in the following year alone,[29] Federal support for the Nation's family planning efforts is far below the level needed to accomplish stated Federal goals. The Reproductive Freedom Committee

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Footnotes at end of article.

deplores the facts that the level of support for family planning project grants is only one-fourth that recommended by the Commission on Population Growth and the American Future;[30] and that the Administration in 1976 proposed a further cut of 21 percent.

The IWY Commission recommends that Congress and the Administration reaffirm support on a long-term and continuing basis for the Nation's family planning program, especially under title X of the Public Health Service Act, and provide the program with the resources necessary to attain its goals. At a minimum, the Commission recommends that the Congress immediately appropriate, and that the Department of Health, Education, and Welfare (HEW) allocate, the full amount authorized for the title X program under Public Law 94–63 (the Health Revenue Sharing and Health Services Act of 1975).

Third party reimbursement for family planning services

In addition to project grant awards under title X of the Public Health Services Act, family planning services are reimbursed under title XIX (Medicaid) and title XX (Social Services) of the Social Security Act. Although authorizing legislation for both programs does mandate services to the poor, and each carries a 90 percent Federal matching rate to the States, neither program has been maximally utilized for various reasons. Medicaid utilization has been hampered because some of the States still will not certify clinics as Medicaid "vendors" (i.e., will not reimburse them at all), and other States reimburse clinics at rates unrealistically low in comparison with those offered private physicians and hospitals. HEW's Social and Rehabilitation Service (SRS), which administers the Medicaid program at the Federal level, has offered to States little direction or encouragement in this regard, thus largely negating the incentive of the preferential match.

The title XX program, largely because of its higher family income ceiling and recently mandated planning process at the State planning level, offers the hope of expanded Federal services.[31] But current HEW regulations again will have the practical effect of preventing maximum utilization.

Most serious is the Federal requirement that all patients provide documentation of their income eligibility.[32] Because confidentially, even within the family, is often central to accepting family planning services, this requirement will have the effect of preventing many women from receiving services. This is especially true of those "minors who can be considered to be sexually active," specifically targeted in the legislation for special attention.[33] Studies indicate that the cost of processing the income documentation will be enormous and will require discontinuing many patients from the case load.[34]

Furthermore, the requirement may, in fact, be illegal; it could effectively prevent the title XX program from doing what Congress mandated it to do: offer and promptly provide family planning services to all eligible persons.

The IWY Commission recommends that:

1. State health and welfare agencies take whatever action is necessary to remove existing barriers to maximum utilization of title XIX (Medicaid) and title XX (Social Services) reimbursements for family planning services.

2. The President direct HEW's Social and Rehabilitation Service (SRS) to issue regulations forthwith providing the States all possible encouragement and assistance toward this end, including the assignment of adequate staff for the purpose of providing Federal technical assistance and program monitoring.

3. The documentation of income eligibility requirement now mandated under the title XX program be modified or waived. This could be done either by administrative or Congressional action, to enable voluntary family planning services to be offered and accepted under that program on a confidential basis.

Family planning services for teenagers

Despite some advances in recent years, teenagers' access to family planning services are still limited economically, socially, and in some cases legally.[35] Yet research indicates that premarital sexual activity is not only becoming increasingly common, but also that it is beginning at increasingly younger ages.[36]

Currently, about one-third of reported, legal abortions—perhaps 300,000 annually—are performed on women under age 20. At the same time, there were more than 600,000 births to teenagers in 1973, or one-fifth of all children born that year. Especially troublesome is the fact that the steady increase in the teenager birthrate over the last several years is attributable entirely to the youngest mothers; while birthrates for older teenagers have stabilized or dropped, those for adolescent ages, 14 to 16, have risen dramatically.[37] For example, the National Center for Health Statistics (HEW) reports that whereas in 1965 the number of registered live births to girls under the age of 15, was 7,768, in 1975, the figure rose to 12,861.

The Reproductive Freedom Committee acknowledges and respects the variety of existing moral and ethical perspectives on premarital and teenage sexual activity, but feels strongly that to prevent unwanted teenage childbearing and reduce abortion utilization, sexually active young people must be guaranteed ready access to voluntary family planning services and information on a confidential basis.

The IWY Commission recommends that all Federal, State, and local governing bodies:

1. Take whatever action is necessary to remove existing legal, economic, and social barriers to family planning services for teenagers and young adults.

2. Develop adequately financed programs to implement delivery mechanisms appropriate and sensitive to teenagers and young adults. These must include education, counseling, and followup services, as well as informed consent to any clinical care given.

3. Establish programs to inform adolescents and young adults of the services available to them with special emphasis on the confidentiality of those services.

4. Establish programs in States to monitor aggressively the family planning services for teenagers and young adults in federally financed health and social programs such as Medicaid (title XX); the early and periodic screening, diagnosis, and treatment programs; neighborhood health centers; and all family planning projects.

Abortion services[38]

Although Reproductive Freedom Committee members hold varying personal views on some aspects of abortion and agree that abortion should not be considered a primary method of family planning, it is their unanimous opinion that abortion services must be available legally in hygenic medical facilities. The committee was impressed by the following quotation which thoughtfully expresses the moral, religious, and deeply personal considerations the committee recognized in discussing the issue of abortion:

> When talking about abortion, one must distinguish between the morality of action and the morality of a law about that action. The rightness or wrongness of an abortion, per se, is not the same as the rightness or wrongness of a law that would prohibit abortion altogether. One might believe that abortion is wrong, and at the same time, maintain that laws prohibiting abortion are also wrong, without being morally inconsistent.[39]

Freedom to follow the dictates of human conscience, as well as the need for and right to privacy in the exercise of one's most personal civil rights, formed the criteria upon which the committee based all its recommendations. The committee feels that among a woman's most fundamental liberties are those pertaining to her reproductive health care. Furthermore, it recognizes that during the 1960's, hundreds of thousands of women sought illegal abortions each year, often with the risk of death or severe physical and emotional complications. The public health benefit of legal as opposed to illegal abortion is most dramatic.[40]

For these reasons abortion must be removed from the realm of criminal law, and the right of women to make this decision—in consultation with physicians and others with whom they choose to consult—must be affirmed. It is in this spirit that the committee supports the Supreme Court decisions of 1973.

Proposals for constitutional amendments and legislative measures that restrict the availability of abortion services are inconsistent with generally accepted interpretations of constitutional law.[41] According to the U.S. Commission on Civil Rights, these proposals conflict with

1. The 1st amendment which protects freedom of religion and speech. These measures would give governmental sanction to one set of moral and religious beliefs as to when life begins and would inhibit the free exercise of other views.

2. The 9th amendment which guarantees common law rights not enumerated in the Constitution. Proposed measures would abrogate these common law liberties guaranteed to American women when the Bill of Rights was adopted and which cannot be disparaged or denied by the government.

The 14th amendment which guarantees equal protection to financially disadvantaged women among whom racial and ethnic minority women are disproportionately represented. In addition, to prohibit abortion would infringe upon one's right to privacy which is protected by this amendment and which has been interpreted to include a woman's right to abortion.

Although IWY Commission members hold varying personal views on some aspects of abortion, the National Commission recommends that the President and Congress reject all proposals for constitutional amendments and other legislation that would deny or limit the option of legal abortion services. (Note: Rita Z. Johnston voted "no" and filed a minority opinion, see page 279. Congresswoman Margaret M. Heckler voted "no." Gilda B. Gjurich abstained.)

The committee recognizes the signficance of the Defense Department announcement of September 17, 1975,[42] requiring military establishments to provide abortion services in compliance with the Supreme Court ruling rather than with State law and local practice. This regulation, which replaces an obsolete 1971 Presidential order, recognizes that State legislatures have passed laws in recent years that are not in compliance with Federal law.

The Commission recommends that Federal agencies follow the Defense Department precedent by insuring that legal abortion services are provided in compliance with the 1973 Supreme Court decisions.

A recent study documents the unequal geographic distribution of abortion services throughout the country.[43] Such inequities primarily affect rural and poor women. The Center for Disease Control in its May 1975 *Abortion Surveillance Reports* concludes:

> The data (1973) indicates that at least among some medically indigent groups, legal

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Footnotes at end of article.

abortion may not be used exclusively as a replacement for illegal abortion and that the availability of legal abortion must be very broad indeed to undercut the use of criminal means.

This unfortunate maldistribution of service is due to several causes: State laws are often more restrictive than Supreme Court decisions. In addition, some States have passed laws requiring spousal or parental consent, most of which have been declared unconstitutional by Federal courts. Other States have imposed medical performance requirements not consistent with Federal law as defined in *Roe* v. *Wade*.[44]

The Commission recommends that all State governments bring their abortion laws into compliance with Supreme Court decisions.

Another reason for the woeful maldistribution of services is the difficulty of providing indigent women the same options as are provided more affluent women. In order that financially disadvantaged women have access to medically safe, legal abortion services, Federal programs should provide payment for maternity care and also should reimburse for pregnancy termination. Federal courts, in considering the constitutionality of State Medicaid plans, have, to date, ruled that States must provide Medicaid reimbursement for abortion services if they do so for other pregnancy-related services.

The Commission recommends that the Federal and State Governments fulfill their obligation to provide abortion services under title XIX (Medicaid) of the Social Security Act.

An additional major obstacle to the comprehensive provision of abortion services is indicated by the fact that only 15 percent of public hospitals (and 28 percent of private hospitals) provided abortion services during 1973 and the first quarter of 1974, even though State and Federal courts ruled that public hospitals have a legal obligation to provide them.[45] Also, some States and public health institutions have put into effect "conscience clauses" which enable hospitals to deny abortions to their patients if the abortion would violate the principles professed by that institution. Such a provision invests with moral conscience institutions with no religious affiliation and can result in refusing services which under Federal law must be provided.

The Commission recommends that Federal and State Governments require all health institutions receiving tax-generated revenue to offer comprehensive services for problem pregnancies, including abortion and appropriate counseling and referral.

FERTILITY-RELATED RESEARCH [46]

Background

Current methods of regulating fertility are inadequate because our knowledge of basic reproductivity biology is inadequate. Until about 15 years ago, all contraceptive methods were based on the simple principle of preventing the meeting of sperm and egg in the Fallopian tube. The "rhythm method" was the first attempt to control fertility through an understanding of the hormonal aspects of the ovarian cycle and of the limited duration of egg survival. The rhythm method is complex in practice, and its efficacy is still in question.[47]

The oral contraceptive and the intrauterine device (IUD) revolutionized contraceptive practice. Today they remain the methods most acceptable to American women, used by an estimated 13 to 14 million. Yet even these sophisticated contraceptive methods have persistent and sometimes serious side effects,[48] and neither is completely safe.[49] Clearly, the nearly 45 million American women of childbearing age (15–44)—and even greater number of men—need and deserve better forms of contraception: which is to say, a reasonable choice of methods that are safe, effective, inexpensive and easy to use; that are also reversible and require minimal medical supervision.

Our ignorance in these matters shows most clearly in a persistently high rate of unwanted and mistimed pregnancies.[50] Thousands of American women are still becoming pregnant each year even though using the most advanced methods available. The connection between inadequate contraceptive methods and the high rate of abortion is obvious.

Unwanted pregnancies, however, are not the only consequence of our poor knowledge of basic reproductive biology. Our ability to solve problems of infertility, it must be stressed, is limited by precisely those same gaps in our knowledge that obviate effective contraception.

The outcome of pregnancy for both mother and child (e.g., the prevention of mental retardation and of other congenital handicapping conditions) depends on this same knowledge, or on the lack of it.

The Federal Government's interest in the entire field of human reproduction and contraceptive development came about only recently, in 1968, when the Center for Population Research (CPR) was set up within the National Institute of Child Health and Human Development (NICHD). Prior to that time, perhaps because the whole area of fertility control was considered too sensitive for public initiative, pharmaceutical companies and private foundations supported the bulk of research in this field. It soon became clear, however, that private monies alone could not make up for the years during which this area was neglected in favor of other scientific and technological fields. It is unrealistic to expect private companies to continue to invest heavily in research from which they do not make a profit, and the types of simple and inexpensive contraceptives now needed do not offer the hope of large financial remuneration.

Inexcusably, the recommendations of five previous major commissions or committees, both Presidential and Congressional, which called for sizable increases in Federal support for fertility-related research, have been completely ignored.[51] Expenditures for our entire research effort in this area have not increased since 1973, and still total less than $50 million. That area includes not only basic research in the biology of reproduction and development of contraceptive techniques, but also vital monitoring and evaluation of these techniques, and social science research to understand the causes and effects of population growth, change, and distribution.

The Commission recommends that the Federal Government renew its commitment to increased fertility-related research and to the search for improved methods of contraception that are safe, effective, inexpensive, reversible, and would be available with minimal medical supervision. Specifically, the Commission recommends that a minimum of $100 million annually be appropriated and allocated for fertility-related research until the goals outlined above are attained. (Note: Rita Z. Johnston, Commission Member, abstained.)

Not only is the Government's financial commitment to fertility-related research insufficient, but also the organizational framework for conducting that research is inadequate. The Center for Population Research, established in 1968, remains a sub-unit of the NICHD, itself one of the 11 institutes of which the National Institutes of Health (NIH) is comprised. As such, the Center's program lacks the prestige to attract either the high level of funding [52] or the superior caliber of investigative talent [53] needed to meet its awesome responsibilities.

Fertility-related research programs must be both expanded and more adequately focused. They should be coordinated with research in those other areas of human development that are perinatally oriented—heredity and human genetic diseases; prenatal, maternal, and fetal health; and infant and child health. Such a "clustering" of related institutes could have important implications for further restructurings of the National Institutes of Health in order to achieve a multifaceted yet coordinated approach to various areas of scientific inquiry.

The IWY Commission recommends that:

1. Specific appropriations authority be enacted to conduct the Nation's fertility-related biomedical and social sciences research program as supported by the Center for Population Research (CPR).

2. The Center be elevated to institute status.

3. The National Institutes of Health (NIH) be restructured so that this new institute can be organizationally aligned with comparable institutes conducting research in the related areas of heredity and human genetic diseases as well as in maternal, fetal, infant, and child health. (Note: Rita Z. Johnston, Commission Member, abstained.)

Sterilization [54]

The number of couples in this country who choose sterilization as a means of contraception has dramatically risen in recent years. According to the preliminary findings from the 1973 National Survey of Family Growth,

"In 1973, more than 7 million women . . . were no longer at the risk of conception due to their own or their husband's sterility. More than 95 percent of these women either had had a sterilizing operation or had sterilized husbands. Since 1969 there have been approximately 3.8 million additional sterilizations, and this undoubtedly reflects at least a doubling of sterilizations between the years 1970 and 1973." [55]

Of the several kinds of sterilization procedures, the most common are vasectomies for men and tubal ligations (post partum and laparoscopic) for women. Because these procedures are permanent, legal safeguards should require that consent be truly voluntary, informed, and competent, and that persons who do not want to be sterilized are not coerced to use the procedure. Particularly since it is the poor and uninformed who are most often subjected to involuntary sterilization, the safeguards must be aggressively monitored.

In April 1974 HEW promulgated permanent regulations in compliance with court orders. The purpose was to establish the parameters of informed consent to sterilization for competent persons over the age of 21.[56] Informed consent is defined by these regulations as follows:

. . . the voluntary, knowing assent from the individual on whom any sterilization is to be performed after he (*sic*) has been given (as evidenced by a document executed by such individual);

1) a fair explanation of the procedures to be followed;

2) a description of the attendant discomforts and risks;

3) a description of the benefits to be expected;

4) an explanation concerning appropriate alternative methods of family planning and the effect and impact of the proposed sterilization including the fact that it must be considered to be an irreversible procedure;

5) an offer to answer any inquiries concerning the procedures and;

6) an instruction that the individual is free to withhold or withdraw her or his consent of the procedure at any time prior to the sterilization without prejudicing her or his future care and without loss of other project or program benefits to which the patient might otherwise be entitled.[57]

All consent forms must display the following notice printed prominently at the top:

Footnotes at end of article.

NOTICE: Your decision at any time not to be sterilized will not result in the withdrawal or withholding of any benefits provided by programs or projects.

Facilities offering federally funded sterilization must provide documentation that the requirements of informed consent have been met. This could be by providing either a written consent document detailing all the basic elements of informed consent, or a short consent document indicating that the basic elements of informed consent have been orally presented. If the second option is used, a written summary of the oral presentation must be appended, signed by both the person obtaining consent and an "auditor-witness"—designated by the patient—who was present during the oral presentation.

HEW is authorized to enforce its own regulations. In cases where hospitals or doctors fail to comply with the regulations, court orders may be sought requiring compliance.[58] More important, Federal financial assistance may be withdrawn from any doctor or medical or family planning facility that fails to comply with HEW regulations.[59] To date, HEW has not enforced the regulations other than distributing the regulations to participating facilities.

One reason for so little compliance with the sterilization guidelines is that no effective mechanism exists for measuring compliance. At least two major surveys of hospitals have been conducted to test for compliance with the April 1974 regulations. They make the same point: the Federal Government has been woefully negligent in enforcing its own regulations. Studies of the American Civil Liberties Union and the Public Citizen's Health Research Group show that in the absence of any enforcement effort by HEW, sterilization guidelines are being widely ignored, if not deliberately evaded.[60]

The Commission recommends:

1. Strict compliance by all doctors, medical, and family planning facilities with HEW's minimum April 1974 regulations concerning sterilization.

2. That all hospitals adopt a stringent policy to insure that women are not approached by staff members to consider sterilization while they are in labor or childbirth unless there is a definite medical indication for sterilization.

3. That HEW immediately develop an effective enforcement system to monitor its own minimum regulations. The system should include unscheduled visits to hospital OB–GYN departments by HEW staff, as well as by concerned women's and patient advocacy groups. HEW should take maximum action against all violators.

Married persons seeking sterilization are usually confronted by a requirement that their spouse must give consent before the procedure will be performed. Patients often claim this stipulation to be an invasion of their privacy. Hospitals and physicians claim it provides important protection against legal liability.

No lawsuit has ever succeeded against a physician or hospital performing a voluntary sterilization without the consent of the patient's spouse when a competent patient has given her or his informed consent.[61] Although the Supreme Court has never ruled on the question of spousal consent for voluntary sterilization, the First Circuit Court of Appeals has applied to sterilization the rationale underlying the *Roe* and *Doe* abortion decisions of 1973.[62] Apparently a person's decision to terminate the possibility of any future pregnancy embraces all the factors deemed important by the Supreme Court in *Roe and Doe*.[63]

The IWY Commission recommends that spousal consent not be a requirement upon which sterilization procedures are contingent. If the patient does not speak English, appropriate staff must be found to explain the sterilization procedures and HEW regulations in the primary language of the patient. (Note: With regard to the first sentence of this recommendation, Rita Z. Johnston, Commission Member, voted, "No.")

FAMILY LIFE AND SEXUALITY INSTRUCTION IN ELEMENTARY AND SECONDARY SCHOOLS [64]

Background

In recent years, research has revealed startling data about the sexual activity of young people throughout the United States. Half of the approximately 20 million teenagers aged 15–19 are women.[65] Thirty percent of these women are sexually active, and four-fifths of these sexually active women reported that they use no birth control.[66] Equally disturbing is the fact that premarital sexual activity is beginning at increasingly younger ages.[67] About one-third of reported, legal abortions—perhaps 300,000 in 1973—were performed on women under the age of 20.[68]

Venereal disease has reached epidemic proportions among teenagers in this country. The Center for Disease Control (HEW) states that fewer than one-third of an estimated 2.6 million cases of gonorrhea and syphilis occurring during 1973 were even diagnosed. In 1974 alone, 2,031 cases of syphilis were reported for males age 15–19, and the figure for females of the same age was 1,961. In that same age group, 111,273 cases of gonorrhea were reported for men and 137,484 cases were reported for women.

The steady increase in the teenage birthrate over the last several years is especially disturbing, for this increase is attributable entirely to the youngest mothers. The National Center for Health Statistics reports that in 1965 the number of registered live births to girls under the age of 15 was 7,768. In 1975, the figure rose to 12,861.[69] Teenagers accounted for almost half of the out-of-wedlock births in the United States as far back as 1970,[70] and this figure is sure to have grown substantially in the past few years. It is common knowledge that dangers to infant and maternal health are greater for young mothers, and early pregnancy is associated with increased school drop-out rates and unprepared-for decisions to marry.

These are the facts. They cannot be wished away. Clearly, there is an acute need for increased knowledge about reproduction, contraception, and sex roles. Teenagers get information from movies, television, magazines, other media, and their peers. Teenage radio programs have particular impact on the way young people think and act, and constitute another source of often irresponsible information.

Only when young people truly realize what the responsibilities of children, home, and family life entail will they be better able to enter into the adult world. Therefore, educational programs should be established in the schools to provide all young people with comprehensive instruction about sound family life and responsible sexuality.

The Reproductive Freedom Committee acknowledges that sexual patterns are changing and that the traditional nuclear family of mother, father, and children is no longer perceived by young people as the only acceptable model.[71] Therefore, all programs must take into account changing sex roles and new lifestyles, and teachers must recognize and accept the many differences in contemporary family structure. Teachers must be sensitive to the differences in the ways girls and boys develop and should portray females and males without prejudice and stereotype. Responsible sexuality must emphasize the shared responsibility fundamental to all human relationships.

The school programs should in no way take precedence over the role of the parent, but should supplement the home instruction and example.[72]

The IWY Commission recommends that instruction in responsible sexuality, appropriate to grade level, including family life and parenthood, be offered at all levels of elementary and secondary education. Such instruction should be integrated into existing curricula rather than taught as a separate course, and instruction should be given by regular teachers, in cooperation with certified sex educators. In schools where a substantial proportion of the students are of Spanish origin, bilingual instruction should be given.

Responsible sexuality programs should recognize and be sensitive to the needs and abilities of different age groups; however, at all levels, when controversial subjects arise, they should be dealt with factually and forthrightly. The Commission recommends that when students seek medical services as well as educational guidance, school personnel readily refer them to appropriate organizations which provide such services and counseling to minors on a confidential basis.

The Reproductive Freedom Committee recognizes that in order for the above program to be adequately implemented, teachers must feel comfortable in the areas of family life, responsible parenthood, and sexuality and must feel qualified to instruct their pupils.

The IWY Commission recommends that the Federal Government encourage the development—within all federally subsidized institutions which prepare teachers of elementary and secondary education—of comprehensive curricula specifically designed to prepare teachers to offer family life and sex education programs comfortably and with sufficient expertise. Specifically, the Commission recommends that a minimum of $15 million annually be appropriated to HEW for ongoing training programs and staff development, as well as for creating and implementing new model curricula within institutions. (Note: Rita Z. Johnston, Commission Member, abstained.)

Minority Opinion on Recommendations Concerning Abortion

Rita Z. Johnston, Chair of the Committee on the Arts and Humanities and member of the IWY Commission, in a memorandum (December 18, 1975) to the IWY Commission, said:

"The majority of the National Commission members present at the 12/5/75 meeting adopted four recommendations concerning abortion. While I appreciate the thoughtful expressions of concern for personal consideration which prefaced the recommendations, I find that I must disagree with each of the four recommendations.

"Certain precepts based on the study of the United States Commission on Civil Rights are presented as arguments for opposing constitutional amendments and legislative measures designed to restrict the availability of abortion services. I disagree with these statements in that they fail to recognize that there is a moral basis for most of law:

"1. I submit that the supposition proposed in statement 1 (page 272) is erroneous since it claims that only 'one set of moral and religious beliefs as to when life begins would inhibit the free exercise of other views.' This statement presumes that dissension on the abortion issue is limited to one religious group while the fact is that pro-life supporters come from both those who hold various religious persuasions and many who do not. There are opposing views in the scientific and medical community as well.

"2. Common law rights referred to in this statement do not include the right to deny life to another human being. Abortion not only damages another's life, it destroys it. Abortion forfeits the very basic right to life

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Footnotes at end of article.

from which all other rights proceed. Without question, it is a moral issue—both personal and public.

"3. Commencing on the third argument, I would say there is great concern among the ethnic minority women, whose right to abortion is asked for by the committee, that the abortion proponents are in fact proponents of ethnic genocide.

"The so called 'right to privacy' which has been interpreted to include a woman's right to abortion in fact gives her license to take the life of a human individual. Most abortions are performed for social reasons, convenience, or economic concerns—reasons which may call for alleviation by other measures, but which are not grave enough to forfeit a child's life. Those other measures should be a major concern of public and private support.

"There are those who argue that nothing can be human life that cannot exist independently. Life is an interdependent phenomenon for us all. It is a continuous spectrum that begins in utero and ends at death.

"We must face the fact that human life is being taken. And since the vast majority of pregnancies are carried successfully to term, abortion must be seen as the interruption of a process that would otherwise have produced a citizen of the world. Denial of this reality is the crassest kind of moral evasiveness."

FOOTNOTES

[18] IWY Commission members; Gerridee Wheeler, Chair; Casey Eike, Paula Gibson, and Ellen Groves Kirby. Public members: Hon. Aloha Eagles, State Legislator from North Dakota; E. D. Bond Martin, medical student; Daren Mulhauser, Executive Director of National Abortion Rights Action League; Cory Richards, Alan Guttmacher Institute, Planned Parenthood Federation; and Dr. Juliette Simmons, psychiatrist. Staff member: Anne Tennenbaum.

[19] *Griswold* v. *Conn.* 381 U.S. 479, 85 S.Ct. 1678, 14 L.Ed.2d 510. *Eisenstadt* v. *Baird* 405 U.S. 438, 92 S.Ct. 1029, 31 L.Ed.2d 147. *Roe* v. *Wade* 410 U.S. 113, 93 S.Ct. 756, 35 L.Ed.2d 147. *Doe* v. *Bolton* 410 U.S. 179, 935 S.Ct. 739 35 L.Ed.2d 201.

[20] Recommendations approved by Reproductive Freedom Committee Nov. 17, 1975; by IWY Commission Dec. 5, 1976. Also endorsed by Committee on Enforcement of the Laws.

[21] Several recent studies have examined the health consequences of unwanted and mistimed childbearing, particularly among the very young. Among them are: H.P. David "Unwanted Pregnancies: Costs and Alternatives," *Demographic and Social Aspects of Population Growth*, The Commission on Population Growth and the American Future, 1972; J.A. Menken, "Teenage Childbearing: Its Medical Aspects and Implication for the United States Population," *Demographic and Social Aspects of Population Growth*, The Commission on Population Growth and the American Future, 1972; D. Nortman, "Parental Age as a Factor in Pregnancy Outcome and Child Development," *Reports on Population/Family Planning*, no. 16, August 1974.

[22] E. Siegel and N. M. Morris, "Family Planning: Its Health Rationale," *American Journal of Obstetrics and Gynecology*, 118:995, 1974.

[23] According to the 1970 National Fertility Study conducted by the Office of Population Research at Princeton University, 15 percent of American births are reported by their parents as not having been intended at all ("unwanted") and 29 percent are reported as "mistimed." Unwanted fertility among blacks and the poor has dropped in recent years but is still 27 percent among blacks as opposed to 13 percent among whites.

[24] General Fertility rate: number of births per 1,000 women of childbearing age (15–44) as defined by Zero Population Growth, Inc.

[25] The increase in the number of American women of childbearing age is a result of the post-World War II "baby boom" (1946–57) and may be expected to continue for some time. The National Center for Health Statistics of DHEW predicts a 12 percent increase in the number of women in this age group by 1980.

[26] For a brief history of the Federal Government's policy with regard to family planning services, see Report (No. 94–192) by the House Committee on Interstate and Foreign Commerce accompanying the Health Revenue Sharing and Health Services Act of 1975, now Public Law 94–63.

[27] According to the first Five Year Plan for Family Planning Services, issued in October 1971, as mandated by the Family Planning Services and Population Research Act of 1970 (Public Law 91–572). For further information on the Five Year Plan, see House Report, 94–192, cited above.

[28] *Ibid.*

[29] F. S. Jaffe, "Short-Term Costs and Benefits of United States Family Planning Programs," *Studies in Family Planning*, vol. 5, no. 3) Mar. 1974.

[30] See Report of the Commission on Population Growth and the American Future, "Family Planning Services" (chap. 11), March 1972:

"The Commission recommends . . . providing additional authorizations to reach a federal funding level of $225 million in fiscal year 1973, $275 million in fiscal year 1975 and $400 million thereafter."

[31] Congress has repeatedly taken the initiative since 1967 to strengthen the provision of family planning services under the social services program (titles IV–A, XX) of the Social Security Act. In addition to offering a preferential 90 percent Federal matching rate to the States, the Social Security Act now requires that:

1. Family planning services, including medical services and supplies, be "offered" and "provided" to all eligible persons:
2. They be provided "promptly"; and
3. They be provided to "minors who can be considered to be sexually active."

[32] The final HEW title XX regulations, published June 27, 1975, state as follows:

Sec. 228.71 Determination of eligibility

(d) The determination process. No determination shall be made solely on the basis of the application. Applications for services based on income maintenance status shall be supported by documentation or ascertained from the appropriate source of income maintenance benefit or payment. Applications based on income status shall be supported by documentation of significant current family monthly gross income as defined in sec. 228.66.

[33] Twenty-nine percent of all patients now enrolled in organized family planning programs are under age 20, according to The Alan Guttmacher Institute's *Data and Analyses for 1975 Revision of DHEW Five-Year Plan for Family Planning Services*. Obviously, a considerable number are in title XX programs, of whom perhaps three out of four are not married. The family income which must be documented, therefore, is largely their father's or mother's or both.

[34] The University of Texas, which has over 40,000 patients enrolled and serves 25,000 each year, has estimated that the cost of administering the income-documentation requirement will amount to $625,400, or $25 per patient per year, while the cost per patient per year of providing the actual services is only $85. This will require, according to the Texas study, the discontinuation of 5,600 patients from the caseload.

[35] For existing legal barriers, see E. W. Paul, H. R. Pilpel, and N. F. Weschler, "Pregnancy, Teenagers and the Law, 1974," *Family Planning Perspectives*, vol. 6, no. 3, Summer 1974.

[36] J. F. Kantner and M. Zelnick, "Sexual Experience of Young Unmarried Women in the United States," *Family Planning Perspectives*, vol. 4, no. 4, Oct. 1972, and J. F. Kantner and M. Zelnick, "Contraception and Pregnancy: Experience of Young Unmarried Women in the United States," *Family Planning Perspectives*, vol. 5, no. 1, Winter 1973. (These findings were supported by A. M. Vener and C. S. Stewart in their study, "Adolescent Sexual Behavior in Middle America Revisited: 1970–1973," *Journal of Marriage and the Family*, Nov. 1974.)

[37] National Center for Health Statistics (DHEW), *Vital Statistics of the United States—Natality*, 1965 through 1973.

[38] Recommendations approved by Reproductive Freedom Committee Nov. 17, 1975; by IWY Commission Dec. 5, 1975.

[39] Elizabeth Hanes Main, "Options," published by the Religious Coalition for Abortion Rights, vol. 2, no. 1, Mar. 1975.

[40] The National Academy of Sciences issued a study, *Legalized Abortion and the Public Health* (May 1975) which documents the sharp decline in the total number of deaths related to abortion after the 1973 decisions.

Risks of maternal death associated with legal abortion are low—1.7 deaths per 100,000 first trimester procedures in 1972 and 1973—and less than the risks associated with illegal abortion, full-term pregnancy and most surgical procedures. The 1973 mortality rate for full term pregnancy was 14 deaths per 100,000 live vaginal deliveries. . . . For second trimester abortions, the combined 1972–1973 mortality ratio was 12.2 deaths per 100,000 abortions.

On the psychological effects of abortion, the report says:

While abortion may elicit feelings of guilt, regret or loss in some women, these reactions tend to be temporary and appear to be outweighed by positive life changes and feelings of relief.

[41] In 1973 the United States Supreme Court ruled in *Roe* v. *Wade* 410 U.S. 113 (1973) that, within defined limitations, the States have a legitimate interest in protecting the life and health of the pregnant woman as well as the potentiality of human life.

1. For the stage prior to approximately the end of the first trimester, the abortion decision and its effectuation must be left to the medical judgment of the pregnant woman's physician.

2. For the stage subsequent to approximately the end of the first trimester, the State, in promoting its interest in the health of the mother, may, if it chooses, regulate the abortion procedures in ways that are reasonably related to maternal health.

3. For the stage subsequently to viability, the State, in promoting its interest in the potentiality of human life, may if it chooses, regulate, and even proscribe, abortion except where necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.

In a companion decision, the Supreme Court ruled in *Doe* v. *Bolton* that the Georgia abortion law was unconstitutional and had procedural limitations that violated the 14th amendment. The procedural requirements declared unconstitutional are:

Abortions must be performed in an accredited hospital;

The procedure had to be approved by a hospital committee; and

The performing physician's judgment had to be confirmed by independent examinations by two other physicians.

In addition, it was ruled that a residence requirement violated the Privileges and Immunities Clause of the Constitution by denying protection to persons who enter Georgia for medical services.

[42] The Defense Department policy on abortions in military facilities was clarified as follows: The Department of Defense has been restricted in its provision of services by a 1971 Presidential Order requiring Military Departments to provide abortion services in States only where such procedures are legal.

In a memorandum released on September 17, 1975, the Department updated its policy so as to recognize the 1973 Supreme Court decisions:

"It has recently come to the Department's attention that some military medical facilities continue to abide by the requirements of State statutes which fail to meet the foregoing Constitutional test (Supreme Court decisions). . . . It is not necessary to await a court decision invalidating a State statute which is clearly inconsistent with the principles enunciated by the Supreme Court."

[43] This study, prepared by the Alan Guttmacher Institute, research and development branch of the Planned Parenthood Federation of America, was released in Oct. 1975 and is a comprehensive study of nationwide abortion needs and services. The survey focuses on abortion needs and analyzes unmet needs by economic status, by States and cities, by age, and by source of health care.

Impetus for the study results from the fact that in 1974, the second year following the Supreme Court's decisions overturning restrictive State abortion laws, at least 400,000—and perhaps as many as 900,000—U.S. women who needed an abortion were unable to obtain one. This inequity has been suffered primarily by poor and rural women. In addition, 36 States and 189 metropolitan areas served fewer than one-third of their residents' needs while only five States and 20 metropolitan areas served more than two-thirds of their residents' needs.

All in all, "the response of existing health institutions in many areas to the legalization of abortion . . . was so limited as to be tantamount to no response at all," and "the availability and accessibility of abortion services remained very uneven." (Authors are Christopher Tietze, M.D., principal investigator for the study and Senior Consultant with the Population Council; Frederick S. Jaffe, co-investigator for the study and the Institute's president; Edward Weinstock, Ph.D., a senior planning associate of the Institute; and Joy G. Dryfoos, its director of planning.)

[44] *Roe* v. *Wade, op. cit.*

[45] See map on this page (not reproduced in RECORD).

[46] Recommendations approved by Reproductive Freedom Committee Jan. 16, 1976; by IWY Commission Jan. 16, 1976.

[47] Luigi Mastroianni, Jr., "Rhythm: Systematized Chance-Taking," *Family Planning Perspectives,* vol. 6, no. 4, Fall 1974.

[48] The Report of the House Republican Task Force on Population Growth and Ecology (Pierre S. DuPont, Chairman), released in September of 1972, had this to say about problems with the pill and the IUD:

> . . . While the pill is the most popular method of contraception, more and more women abandon its use for a variety of reasons. The use of the pill is relatively expensive since it requires, besides continuous medication periodic medical examination, and monitoring. Some women discontinue use for economic reasons. Women have also been discouraged because of the well-publicized evidence concerning the potentially dangerous or distressing side-effects of the drugs. Some women experience minor but disagreeable side-effects, such as nausea or weight gain. In addition, approximately 10–15 contraindications and possible side effects are associated with the oral contraceptive, some of which, such as thromboembolism, may be very serious. For all of these reasons, it has been found that 36%–58% of women who begin using the pill discontinue use within 18 months or must shift to another method.
>
> The IUD was thought to be the perfect form of contraception when introduced for general use. It was inexpensive and there was no problem of continuing application. Unfortunately, the IUD has proved disappointing. Problems with the IUD include inability to tolerate the device, resulting in spontaneous and sometimes undetected rejection and excessive vaginal bleeding. Women with existing medical problems related to the cervix or uterus often are advised that they cannot use this device. In total, 20%–35% of users abandon the IUD after 18 months of use and must look for an alternate method of contraception.

For further current information on these two methods of contraception, see the following articles from *Family Planning Perspectives:* Elizabeth B. Connell, "The Pill Revisited," vol. 7, no 2, Mar./Apr. 1975; and Daniel R. Minshall, Jr., Assessing the Intrauterine Device," vol. 7, no. 3, May/June 1975.

[49] As reported in the two studies cited above, 6 percent of all women who rely on oral contraception (approximately 10 million) will become pregnant in the first year of use, as well as 12 percent of those who rely on the IUD (3–4 million).

[50] Data from the 1970 National Fertility Study, as analyzed by Professor Norma B. Ryder of Princeton, show that 34 percent of all couples who want to prevent pregnancy altogether, and who are using contraception, will nonetheless have an unwanted conception within 5 years, 14 percent in the first year alone. An additional 25 percent of couples using contraception to delay a pregnancy wanted at a later time will also fail within 1 year.

[51] President Johnson's Committee on Population and Family Planning recommended in 1968 for fertility-related research an annual funding level of at least $100 million. A committee appointed by (then) HEW Secretary Roger O. Egeberg in 1969 called for expenditures of $250 million by FY 1974. HEW's own "Five-Year Plan for Family Planning Services and Population Research" called for funding of $125 million by FY 1975. The Commission on Population Growth and the American Future, appointed in 1971 by President Nixon, recommended funding at "a minimum of $150 million" by that same year. The House Republican Task Force cited above (footnote 48) called for funding of $60 million for FY 1973.

[52] According to the House Republican Task Force (footnotes 48 and 51).

> . . . the submerging of the population research program within NICHD must lead to restrictive budgeting since any agency normally seeks to maintain equity among the programs falling under its administration. As a result, the population research program probably cannot continue to grow on its own without some commensurate growth in the other institute programs.

[53] In the HEW Five Year Plan for Family Planning Services and Population Research (Oct. 1971) cited above (footnote 51), (then) HEW Secretary Elliott Richardson said:

> . . . in spite of its transcendent importance to human existence, reproduction has received relatively little scientific attention. Even with today's concern for the population problem, the most talented of young investigators all too frequently seek other subjects.

[54] Recommendations approved by Committee on Reproductive Freedom, Jan. 6, 1976; by IWY Commission Jan. 16, 1976.

[55] William Pratt, "The Practice of Sterilization in the United States: Preliminary Findings from the 1973 National Survey of Family Growth," paper presented at the annual meeting of the Population Association of America, Seattle, Washington, Apr. 17–19, 1975.

[56] A brief history which leads up to the April 1974 regulations is as follows:

In February, 1974, DHEW published in the Federal Register for the first time regulations governing sterilizations. (*Fed. Reg.*, vol. 39, no. 76, Apr. 18, 1974.) Those regulations were a response to the nationwide publicity about a number of cases of involuntary sterilization—especially the Relf case in which 12 and 14 year old black sisters were sterilized in Alabama in June 1973. (*Relf* v. *Weinberger,* 372 F. Supp. 1196 D.D.C., 1974.) The regulations were also HEW's answer to charges by legal and medical authorities that (a) doctors and hospitals frequently ignored ethical standards of informed consent, and that (b) many poor and minority women were being subjected to forced or coerced sterilizations on questionable medical or social grounds. The regulations issued in Feb. 1974 were immediately challenged by the National Welfare Rights Organization in Federal District Court for the District of Columbia, (*National Welfare Rights Organization* v. *Caspar Weinberger Civil Action No. 74–243, U.S. District Ct., District of Columbia, Mar. 15, 1974*), on the grounds that they did not adequately protect the estimated 100,000 persons sterilized annually with Federal funds (as cited in *372 F. Supp. 1196, 1974*).

On Mar. 15, 1974, U.S. District Judge Gerhard Gesell ordered HEW to draft new regulations specifying the necessary components of informed consent for federally funded sterilizations and also protecting against coercion. He enjoined the government from financing any sterilization of minors or others unable to give consent because of mental incompetence. Gesell ruled that these two classes of people are presumed by the law to be incompetent to give voluntary and knowing consent to sterilization, emphasing the statutory directive that participation in all federally funded family planning services be voluntary. (*42 USC. 304 a–5; 42 USC 602(a), 709(a). See 372 F. Supp. 1196, 1202 DDC 1974.*)

In accordance with Gesell's injunction, HEW imposed a moratorium on federally funded sterilizations of any minor or mentally incompetent person. To date, this moratorium remains in effect although HEW has appealed sections of the Court's order; and the question remains unsettled whether Federal statutory authority exists to fund sterilizations for these two classes of people (whose participation may not be characterized as truly voluntary). The Reproductive Freedom Committee is awaiting the Court's decision concerning the question of minors and mental incompetents and is not dealing with these unresolved legal and medical issues.

[57] 39 *Fed. Reg. 13873.*

[58] Elissa Krauss, "Hospital Survey on Sterilization Policies," p. 4. American Civil Liberties Union Reproductive Freedom Project report, Mar. 1974.

[59] *Ibid.,* p. 4.

[60] Elissa Krauss, *op. cit.* Also, see "Sterilization Without Consent: Teaching Hospital Violations of HEW Regulations," a *Report by Public Citizen's Health Research Group,* Jan. 21, 1975.

[61] See American Civil Liberties Union, Women's Rights Project Report, "Spousal Consent for Voluntary Sterilization," Judith Mears and Richard Sauber. Also *Ponter* v. *Ponter,* Doc. C–3599–74, Superior Court of N.J., June 9, 1975.

[62] *Hathaway* v. *Worcester City Hospital 475 F. 2d 701* (First Circuit, 1973).

[63] *Roe* v. *Wade* 410 U.S. 113 (1973). *Doe* v. *Bolton* 410 U.S. 179. These decisions made abortion a constitutionally guaranteed right of women. The Sup. Ct. ruled that the abortion decision (a) was protected by the constitutional right of privacy and the exercise of that right; (b) was a matter only for the pregnant woman and her physicians; (c) could not be prohibited by the State during the first 6 months of pregnancy or prior to viability; and (d) if prohibited thereafter, must nevertheless be protected when the woman's life or health was at stake.

[64] Recommendations approved by Reproductive Freedom Committee Jan. 6, 1976; by IWY Commission Jan. 16, 1976.

[65] VD Fact Sheet—1973, Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control, Bureau of State Services, Venereal Disease Control Division, Atlanta, Georgia 30333.

[66] J. F. Kantner and M. Zelnik, "Contraception and Pregnancy: Experience and Young Unmarried Women in the United States," *Family Planning Perspectives,* vol. 5, no. 21, 1973.

[67] National Center for Health Statistics (HEW), *Vital Statistics of the United States*—Natality, 1965 through 1973.

[68] *Ibid.*

[69] National Center for Health Statistics.

[70] Family Planning Perspectives, Planned Parenthood Federation of America, 515 Madison Ave., New York, N.Y., Sept. 1975.

[71] See description of Census Bureau Report on marital and other living arrangements, *Washington Post*, Jan. 8, 1976, article entitled, "The Census is On, and Marriage is Out."

The . . . report shows the percentage of Americans who choose to remain single, and of married couples who separate or divorce, continues to rise. The figures are based on a survey conducted last Mar. which showed that the number of persons between 25 and 34 who never married has jumped by about 50 percent since 1970, from 2.8 million to 4.2 million persons. The number of persons in that age group heading their own households approximately doubled, from 915,000 to 1.8 million. The number in that age group living alone rose from 592,000 to 1.2 million during the same period.

[72] In commenting on the two recommendations which follow, and other related recommendations, Congresswoman Margaret Heckler gave precedence to the role of the parent in a school sexuality program. She stressed that a parent should be able to have input to such a program and should be consulted before his or her child is enrolled.

RAPE RECOMMENDATIONS[7]

CHANGES IN THE LAWS ON SEXUAL ASSAULT[8]

The IWY Commisison recommends that State legislatures and municipal governments review those portions of their criminal codes and case law dealing with rape and related offenses, and where necessary revise them to:

Enumerate graduated degrees of the crime of sexual assault, with graduated penalties depending on the amount of force or coercion occurring with the activity;

Redefine the crime to apply to both sexes and to include oral and anal contact and use of objects;

Redefine the crime to include spouses as victims;

Enlarge beyond traditional common law concepts the circumstances under which the act will be considered to have occurred without the victim's consent;

Specify that the past sexual conduct of the victim can be introduced into evidence only after having been adjudicated relevant, out of the presence of the jury and the public; and

Require no more corroborative evidence than is required in the prosecution of any other type of violent assault, including a prohibition against using the Hale instruction (see below) where it has been required by law or is customary.

Introduction

Under traditional common law concepts, which are the basis for most statutory and case law relating to rape, it is necessary to prove unlawful carnal knowledge (penetration however slight) of the victim by the alleged assailant without the consent of the victim. Unlike other crimes, the prosecution must prove that the victim did not consent; the past sexual history of the victim can be introduced as evidence of consent as well as to impeach (undermine) her credibility; and the testimony of the victim must be corroborated (substantiated) by the evidence.

These special requirements result in few convictions and in court experiences that are often as traumatic for the victim as the rape itself. Because the victim does not want to subject herself to the assault of her character that inevitably results, rape often is not reported.

Some States have laws requiring judges to instruct the jury as prescribed by a 17th century jurist, Lord Chief Justice Matthew Hale: "Rape is an accusation easily to be made and hard to be proved, and harder to be defended by the party accused, tho never so innocent." In order to overcome the suspicion with which the victim's word is viewed, the law developed extraordinarily exacting standards to view her testimony. The leading modern authority on evidence, Charles Wigmore, justifies the requirement of corroboration as follows:

> . . . Modern psychiatrists have amply studied the behavior of errant young girls and women coming before the courts in all sorts of cases. Their psychic complexes are multifarious, distorted partly by inherent defects, partly by diseased derangements or abnormal instincts, partly by bad social environment, partly by temporary physiological or emotional conditions. One form taken by these complexes is that of contriving false charges of sexual offenses by men. The unchaste (let us call it) mentality finds incidental but direct expression in the narration of imaginary sex incidents of which the narrator is the heroine or the victim. On the surface the narration is straightforward and convincing. The real victim, however, too often in such cases is the innocent man; for the respect and sympathy naturally felt by any tribunal for a wronged female helps to give easy credit to such a plausible tale.
>
> No doubt any judge of a criminal court and any prosecuting attorney can corroborate this with instances from his own observation. But the lamentable thing is that the orthodox rules of evidence in most instances prevent adequate probing of the testimonal mentality of a woman witness, so as to reveal the possible falsity of such charges. Judging merely from the reports of cases in the appellate courts, one must infer that many innocent men have gone to prison because of tales whose falsity could not be exposed.[9]

In recent years women's organizations have heard testimony from women victims on their treatment by the entire law enforcement system, including their treatment by hospitals and the medical profession. Dismayed by the evidence presented, the organizations have interviewed law enforcement officials and relevant medical personnel, reviewed available statistics on the crime, and studied the development of the law. They have discovered that police officers, psychiatrists, and sociologists agree with what has long been known to victims, that rape is a crime of violence and hostility. It is not a product of the fantasies of "errant young girls."

As a result they have made recommendations for "normalizing" the crime of rape by treating it as other crimes of violence. They have put pressure on State legislatures to revise the laws and have been successful in bringing about substantial changes in a number of States.

This committee has studied a number of laws and bills and reports of several study groups. Particularly useful have been the section on sex offenses in S.1, the Administration bill to codify, revise, and reform the U.S. Criminal Code; the revisions made in the Michigan Code by Public Act No. 266 of 1974; S. 2698 and H.R. 11210, companion bills to impose mandatory minimum terms for certain violent offenses; the 1962 Model Penal Code of the American Law Institute; *Against Our Will* by Susan Brownmiller, a book tracing the effect of rape on the development of societal mores; and the 1974 Report of a District of Columbia City Council Task Force regarding rape and rape victims in the District of Columbia.

The following are brief statements of the reasons for the recommended changes in the law.

Degrees of the crime and penalties

Beginning with the Model Penal Code of 1962, all authoritative proposals for revision have included graduated degrees of sexual assault with a scale of penalties suited to the various degrees. These include the Final Report of the National Commission on Reform of Federal Criminal Laws of 1971, Michigan Public Act No. 266 of 1974, and S. 1 of the 94th Congress, a bill to codify, revise, and reform title 18 of the Code.

With a traditionally limited definition and severe penalties such as death or life imprisonment, convictions for the crime of rape are generally acknowledged to be low. One probable explanation is that the "very extremity of the penalties has prevented their genuine enforcement, and that, in turn, has reduced the deterrent effect of the criminal sanction."[10] The law must be altered to reflect more of reality if it is to be respected and enforced.

Where it is not possible to secure graduated degrees of sexual assault, it would be desirable to have a broad range of penalties for sexual assault crimes with enough latitude to permit discretionary sentencing, based on presentencing investigations.

Redefinition of the crime

The common law defines rape as penetration of the vagina by the penis. Same-sex rapes are usually not covered nor are sexual acts by men under the coercion of women. Other sexual crimes, such as sodomy, are usually treated under different provisions of the law. Yet, in more than 25 percent of all reported rapes there is also some form of forced fellatio, cunnilingus, or sodomy.[11] In some States use of an object for sexual assault is not included in the definition of the crime. It should be.

The emphasis traditionally has been on one type of sexual assault rather than on a general recognition of the crime of violence that virtually all sexual assaults represent.

In line with the modern legal trends regarding the equality of the sexes, the IWY Commission recommends combining rape and other "sexual" crimes of violence into one category of crime which applies to all such crimes regardless of the sex of the attacker or the victim. S. 1 and the Michigan law, for example, so provide.

Spouses as victims

The common law definition of rape excludes wives. There has been great reluctance to include spouses as victims, probably because of the difficulty of establishing that the assault was against the will of the spouse. However, all the proof required in other types of assault would be required, and plaintiffs would as a practical matter need enough evidence to prove beyond a reasonable doubt that all the elements of the crime existed, after overcoming a presumption of innocence in the minds of the jurors. Including this provision in the law would probably result in conviction in only the most aggravated cases.

Including spouses as victims would be in harmony with other criminal statutes, such as the assault statutes under which wives can charge husbands with assault or vice versa.

Enlarging traditional concepts regarding lack of consent

Forcible rape is the only violent crime in which the victim's state of mind is an ele-

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Footnotes at end of article.

ment of the case; that is, she has to prove that she was not a willing participant in the alleged activity. Where strong evidence of physical force or coercion exists, the standard is sometimes (but not always) satisfied. However, when force is only threatened or "casually" applied or the presence of a weapon intimidated the victim to submit, serious problems in securing convictions arise in most States. It is generally necessary to prove that a hypothetical reasonable person similarly situated would be in actual fear of death or severe bodily injury. Threats of lesser injury or future retaliation or even kidnapping are usually not sufficient reason for submission. In other words, consent of the victim is presumed until proven otherwise, and only extraordinary evidence of physical brutality is considered by most juries as evidence of lack of consent.

A woman traditionally has been trained to be passive and submissive in our society. Yet, the underlying concept of rape laws ignores a woman's socialization. Unless there is evidence that she rejected years of submissive training and fought until suffering brutal physical injury, it is presumed that the victim consented. If she resisted but did not suffer "enough" physical abuse, it is presumed that the victim consented.

In drawing the comparison between expected reactions of rape victims to their attackers as opposed to victims of similar crimes, Sharyn Campbell of the District of Columbia Commission on the Status of Women emphasized:

"The woman who fails to resist rape due to shock or fear of additional harm is often made to feel guilty about the crime by law enforcement agents, juries, and society in general. She is made to be ashamed of the fact that she was raped as if it were a matter within her control. Yet how many people struggle to avoid the effects of violent crimes if they see a gun or knife at their throat? *It is only in connection with rape that a crime victim is expected to put up a struggle.* [Italics supplied.] It is only in connection with rape that a woman is expected to fight to prove her lack of consent. The burglary victim is permitted to fear a deadly weapon and to offer no resistance. The rape victims should be accorded the equal right to react to fear and danger.[12]

Reasonable rules of evidence for proving nonconsent plus a law that allows for fear as well as force are needed; for example, fear of bodily harm, fear of death, fear of harm to children or others, etc.

The law should include wording to permit a showing of nonconsent when the nonconsenting party's resistance was overcome by fear. The Michigan law includes in section 520(c) circumstances under which resistance would be overcome by fear.

Evidence of Past Sexual Conduct

In most jurisdictions the sexual history of a victim may be introduced at a rape trial to support the defendant's claim of consent. The rationale is that prior sexual conduct of the victim is relevant because an "unchaste" woman, that is, one who previously consented to sexual intercourse, is more likely to have consented to sexual activity.

The Douglas County (Kansas) Rape Victims' Support Service stated the problem well in their report:

Our work has given us ample opportunity to find out how victims react after an assault. Consistently we have found reluctance to prosecute or even to report an assault because victims believe that the advantages of seeking help from the criminal justice system are outweighed by the disadvantages. Already having been subjected to the humiliation of the sexual assault it is then often too much for the victim to face the further humiliation of having her previous sexual conduct scrutinized by the court.[13]

To continue to admit evidence of reputation and/or prior acts of consensual intercourse in an open courtroom is to perpetuate the situation rape victims fear as much as the rape—the humiliation and the violation of their right of privacy. This situation can be altered without violating the rights of the defendant. It must be altered if we hope to encourage victims to exercise their right to utilize the criminal justice system.

There are several approaches in modern reform law that should be considered. They provide for those situations where prior sexual conduct may be relevant; for example, the prior sexual conduct between the victim and the defendant. California, Iowa, Michigan, Minnesota, and Nebraska, have recently modified their rules of evidence in an attempt to remedy this situation. H.R. 10850, a bill to codify, revise, and reform title 18 of the United States Code also proposes strong limitations on the admissibility of a victim's sexual history.

Corroboration

If a man is walking down the street and a weapon is flashed and his wallet is removed, he is not required to produce a witness to the crime. Nor is he required to show evidence of a bullet wound acquired in the defense of his wallet to prove lack of consent. However, a victim of sexual assault in a small number of States and the District of Columbia still must substantiate her word with extraordinary amounts of evidence, not only as to the occurrence of the sexual assault but also as to the fact that it occurred without her consent.

The proposed Federal Criminal Code Reform Act (S.1) recommends elimination of the corroboration requirement:

Although questions of credibility in rape cases are commonly critical, there seems no reason why the traditional protection of the reasonable doubt standard is not adequate to safeguard the rights of the accused. Rape victims should be treated as are victims of any other crime. The nature of sexual offenses is such that they are often carried out in a clandestine manner so that traditional kinds of corroboration (e.g., eyewitnesses) will not normally be available. The willingness of many courts to apply the corroboration requirement with extreme liberality manifests the undesirability and artificiality of attempting to reduce an issue of credibility to a fixed rule.[14]

In addition, statutes recently enacted in Florida, Iowa, and Michigan specify that the testimony of the rape victim need not be corroborated, and Minnesota and Texas also have recently enacted modifications of the corroboration requirement. Only a few States retain the requirement.

ORGANIZATION OF TASK FORCES TO INVESTIGATE AND SUGGEST CHANGES REGARDING THE TREATMENT OF RAPE VICTIMS

The IWY Commission recommends that women concerned with treatment of rape victims organize task forces in local communities where such task forces do not exist. The task forces should include representatives from the police, hospitals, and prosecutor's office if possible. Such task forces might:

Review the law, police practices, medical procedures, and procedures in prosecutors' offices;

Recommend changes as needed;

Mobilize public support for change; and

Establish rape crisis centers for the support of victims.

Background

Until recent years, public attitudes with respect to rape, the law, police practices, medical practices, and the attitudes of prosecutors combined to make post-rape experiences more traumatic than rape. The social climate in which most of us have been reared assumed that only women who asked for it got raped and that many charges of rape were false. Many women in the women's movement, particularly the young women, have been questioning all of the preconceived notions about rape, and in a large number of cities women seeking reform have organized task forces to bring about change. The Center for Women Policy Studies, under contract with the Law Enforcement Assistance Administration, identified 136 such groups and conducted more than 60 on-site investigations.

The center studied these projects and in their report, commonly referred to as *Rape and Its Victims*,[15] made recommendations as to how women might organize themselves as effective agents of change. Among the functions such groups have performed are:

1. Educating the public to dispel myths about the nature of sexual assault and disseminating information about prevention tactics and resistance;

2. Bringing about improvement in the attitudes of the police by convincing the department officials of the need for the careful selection and training of officers who will interview rape victims;

3. Convincing local officials that the costs of medical treatment of victims of sexual assault should be borne by the city;

4. Convincing the medical profession and hospital administrators that rape victims must be sensitively handled and establishing the use of rape examination kits in hospitals to facilitate the gathering of evidence from the rape victims;

5. Bringing about reorganization of prosecutors' offices where necessary so that the victim need not repeat her story any number of times and so that sexual assault cases would not remain a low priority item;

6. Providing crisis intervention counseling and long-term support for victims of sexual assault;

7. Encouraging mental health professionals to develop specialized knowledge for counseling sexual assault victims of all ages;

8. Convincing news media to cover rape stories sensitively and not to print the names of the victims of sexual assault.

Help in organizing such task forces can be found in the LEAA Report, "Rape and Its Victims".[16] The book lists on-going projects with addresses, several bibliographies, and relevant film strips.

NATIONAL CENTER FOR THE PREVENTION AND CONTROL OF RAPE

The IWY Commission recommends that the Secretary of the Department of Health, Education, and Welfare (HEW) give high priority to establishing and implementing the National Center for the Prevention and Control of Rape as mandated and outlined in Part D of title III of the Health Revenue Sharing and Health Services Act of 1975, Public Law 94–63.

Background

According to "Rape and Its Victims,"[17] the purposes of the National Center for the Prevention and Control of Rape include

Establishing a research and demonstration program to explore the causes, consequences, prevention, treatment, and control of rape. The center would investigate the:

1. Effectiveness of existing Federal, State, and local laws dealing with rape;

2. Relationship, if any, between traditional legal and social attitudes toward sexual roles, the act of rape, and the formulation of laws dealing with rape;

3. Treatment of the victims of rape by law enforcement agencies, hospitals or other medical institutions, prosecutors, and the courts;

4. Causes of rape, identifying to the degree possible social conditions that encourage sexual attacks, motivations of offenders, and

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the impact of the offense on the victim and the family of the victim;

5. Sexual assaults in correctional institutions;

6. Actual incidence of forcible rape as compared to the reported cases and the reasons for not reporting rapes;

7. Effectiveness of existing education and counseling programs designed to prevent and control rape.

It would be the duty of the center to report to Congress annually, through the Secretary of Health, Education, and Welfare (HEW), on the progress of this study and research and demonstration projects, and to make recommendations where appropriate. The center would develop and maintain a clearinghouse for information on the prevention and control of rape, the treatment and counseling of the victims of rape and their families, and the rehabilitation of offenders. The center would also compile and publish training materials for personnel who are engaged or intend to engage in programs designed to prevent and control rape.

In addition, the center would make grants to community mental health centers, nonprofit private organizations, and public agencies to conduct research and demonstration projects concerning the control and prevention of rape. Projects funded would include but not be limited to alternative methods of planning, developing, implementing, and evaluating programs used in the prevention and control of rape, and treatment and counseling of the victims of rape and their families, and the rehabilitation of offenders.

The Administration did not request any funding for this badly needed program. The House HEW–Labor Appropriations Subcommittee recommended $2 million to establish the center, substantially lower than the $7 million authorized by the Health Revenue Sharing Act (Public Law 94–63). Originally, the Senate HEW–Labor Appropriations Subcommittee recommended that no funds be made available, but Senator Charles Mathias of Maryland, the principal sponsor of the original bill, introduced a floor amendment for $4 million, which passed on the floor of the Senate. A compromise of $3 million was struck in conference committee.

On January 23, 1976, the Administration requested recision of certain appropriations in the First Supplemental Appropriations Act, including the center's funding. If the request for recision is not granted within 45 legislative days, the $3 million will become available for the creation, organization, and implementation of the center.

When and if these funds become available, the IWY Commission recommends that the Secretary of HEW take steps to see that the National Center for the Prevention and Control of Rape is established and promptly staffed.

FOOTNOTES

[7] Because no special committee was assigned to this important subject, the IWY Secretariat was instructed to prepare the recommendations on rape, which were then adopted by the IWY Commission by mail ballot in Mar. 1976.

[8] This recommendation does not deal with statutory rape, that is, rape of a very young person where consent of the victim is not a defense.

[9] 3A Wigmore, *Evidence*, sec. 924a (Chadbourn, rev. 1970) as cited in Babcock, Norton, and Ross, *Sex Discrimination and the Law: Causes and Remedies*, Boston: Little, Brown and Company, 1975, p. 856.

[10] Babcock, *Sex Discrimination and the Law*, p. 863.

[11] Amir, *Patterns in Forcible Rape*, 1971, as cited in Camille Le Grand, "Rape and Rape Laws: Sexism in Society and Law," *61 California Law Review*, 1973, p. 923.

[12] District of Columbia City Council Task Force on Rape, "Report and Proposals Regarding Rape and Rape Victims in the District of Columbia," 1974, p. 26; 14th and E Sts., N.W., Wash., D.C. 20004.

[13] Testimony of the Douglas County Rape Victims' Support Service before the Kansas House Judiciary Committee, Jan. 22, 1976; 2104 West 15th St., Lawrence, Kan. 66044.

[14] U.S. Senate, Judiciary Committee, Report on the Criminal Justice Reform Act of 1975, 94–00, Section 1641, U.S. Government Printing Office, Wash., D.C. 20402, 1975, p. 598.

[15] Center for Women Policy Studies, *Rape and Its Victims: A Report for Citizens, Health Facilities and Criminal Justice Agencies*, Law Enforcement Assistance Administration (LEAA), Box 24036, Wash., D.C. 20024.

[16] *Ibid.*

[17] *Ibid.*, p. 275.

Parents and Children: Enriching the Future

Mary Beth McNamee, 29, Memphis, Tennessee, knows at first hand the problems of single women who must work and support their children alone.

"You get so envious of those mothers who can stay at home; the men you work with have no idea what you go through. They should have to take a crash course in juggling child care every day—I used to have to leave the office at 11 in the morning, pick up my son at kindergarten, slap sandwiches together for us, drive miles to the child care center and then back to the office, all in one hour. We seemed to spend the whole year hurrying."

Mrs. McNamee has remarried and left her secretarial job, but she still sees child care centers as a vital need for mothers who work, and a way for children to expand their experiences with other children and with grownups.

"I felt safe and secure leaving Jason there and knowing he was with children his own age," she recalls. "There were several adults in charge, and things were happening to keep his imagination going. I really think he might have gotten into more trouble at home with just one sitter to watch him. I'd worry about that one sitter falling asleep." [35]

Combining responsibilities for children with the demands of a job outside home is the current complicated pattern of life for up to 13.6 million working mothers in America. Forty-five percent of all women with children 18 years old or younger are in the labor force. More than 5 million of these mothers have children under 6 years old.

In March 1974, children of working mothers numbered 26.8 million, and 6.1 million of those children were under the age of 5. Among these children, 4.6 million had mothers who were single, separated, divorced, or widowed heads of families.[36]

Laura Staudt of McLean, Virginia, finds herself in the head-of-family category. Separated from her husband, she works as an American Bar Association administrative assistant to support herself and her 4-year-old son. She earns approximately $800 a month before taxes and pays $145 a month—"an average price in northern Virginia"—for 5-day, 8 a.m. to 6 p.m. care at a center a mile and half from her apartment.

She's convinced the quality care Mark receives is worth the price. "I wanted a conveniently located child care center which offered both learning and play. I had been used to military base centers which offered only cursory attention and custodial care."

At his current center, "Mark has progressed tremendously; he knows the alphabet. The center has different interest areas such as cooking and art. I was most impressed to find a male aide on the staff."

Mrs. Staudt is grateful to the center for helping Mark adjust to his parents' recent separation. "The teachers seemed to take an interest in Mark's special problems. They helped me ease Mark through a traumatic period." She sees the center as a real plus, a valuable supplement to her small family unit.

As the Child Development Committee has observed, in homes where the father is absent—due to separation, divorce, or death—good child care services function to fill in the gaps.

Because the potential benefits of quality child care can be so important to the stability of the working family, and eventually to future generations of Americans, the IWY Commission supports a renewed Federal commitment to universal voluntary child development services. The Commission urges that such care must be available on an ability-to-pay basis to all families who need services, regardless of their income level.

The Commission is recommending Administration support and adequate funding for legislation in the spirit of the still-pending Child and Family Services Act of 1975, a bill which supports voluntary child care programs that build on the role of the family as the primary and fundamental influence in the development of the child. Under this bill, prime sponsor groups at the local level would distribute funds and evaluate programs offering part-day or full-day child care, group home care, before- and after-school care and summer programs.

Child care services have been part of the American scene for a long time, although history shows their growth has been uneven. The first American day nursery opened before the Civil War, in 1854, in New York City for the children of poor working mothers. Its hours were 6 a.m. to 7 p.m., considerably longer than most centers stay open today.

Ten years later, States were setting up inspection boards to protect children in care facilities, and in 1885 Pennsylvania became the first State to require licensing. A White House Conference on the Care of Dependent Children was called in 1909. The report of this early group recommended higher standards for inspection and licensing of child care centers. By 1930 there were 800 licensed centers in this country.

Day care took on a new dimension in the 1920's, when child development research led to public enthusiasm for the nursery school as a more enriching experience in the preschool years than basic custodial care.

The 1930's Works Projects Administration (WPA) incorporated the nursery school approach into a network of Federally supported child care centers designed to assist working families and their children. At one point, WPA nurseries served 75,000 children in 1,900 centers at a cost of $6 million a year.

When WPA expired in 1942, the nurseries folded too. But by then, overlapping legislation, the Lanham Act, was providing day care centers for children of war workers. At their peak, these 3,102 centers were serving 130,000 children in full-day nurseries and after-school programs for older children. Federal support was withdrawn in 1945; mothers were expected to return to full-time homemaking and leave jobs open for returning servicemen.

Federal attention to child care was minimal for almost 20 years, until the 1964 anti-poverty program of President Johnson launched Project Head Start to assist preschool children from deprived families.

Today, even after recommendations from the first President's Commission on the Status of Women in 1963, and the President's Task Force on Women's Rights and Responsibilities in 1969, Federal support for child care is still primarily designed to shift mothers away from public assistance rolls and into jobs. Unfortunately, such an approach tends to label child care a poor people's program and to produce, too often, a program of poor quality due to inadequate funding.

In an increasing number of families, both parents now work to meet basic needs in the face of rising costs of food, education, and medical care. The first child care choice for many of these working families and single

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parents continues to be a relative at home. But the trend toward smaller families and greater mobility means that grandparents and aunts who used to take care of children are living in another city or have gone to work themselves. Isolation forces more and more parents of all income levels to rear their children alone, with little outside help until the child is public school age.

Thus, many infants and very young children are being "looked after" by sleeping fathers who work at night, or by older brothers and sisters. School-age children carry latch keys to let themselves in the door and are subject to the many problems that lack of supervision brings.

It is not unusual, then, for working mothers to live with nagging worries about the effects of their absences on the children.

Contrary to earlier dire predictions (which did not consider such critical factors as how the children were cared for in the mother's absence, the social and income levels of groups being studied, and the emotional health of the family) the separation of mother and child for routine, brief, nontraumatic periods does not seem to be harmful if adequate substitute care is provided.[37] Research in the past 10-year period is showing that children with working mothers learn to be self-reliant, have fewer self-doubts, and are as well adjusted socially as children whose mothers stay at home full time.[38]

In addition, children of working women have been found to be slightly higher in achievement motivation. Several studies have even found a positive relationship between IQ scores and maternal employment.[39]

By a 55 percent to 38 percent margin, American women agree that a working mother can establish as warm and secure a relationship with her children as a mother who does not work. Divorced and separated women are strong supporters of the idea that working mothers can establish such relationships with their children, probably because more of them have had to face the situation.

Market Opinion Research [40] suggests that there may be more demand for child care in the future than present usage shows; at present, of women who have worked continuously throughout their adult lives and have minor children, 57 percent with preschoolers use child care and 13 percent with minor children use after-school or vacation care.

But 27 percent of women who have never worked think they will or might work in the future; 13 percent of those with preschoolers would need child care. Among women who have been in and out of the labor force, more than 4 in 10 think they will work in the future; and 17 percent of the mother group would need child care to do so. Most of these respondents were young women under 35, still in the prime childbearing years.

The Commission believes the Federal Government has an immediate and much stronger role to play in technical and financial assistance to States for utilizing community resources in ways that will bolster the family and provide enriching and developmental experiences for children.

An up-to-date survey of national child care needs is essential for intelligent planning to reach this goal. The most recent government-sponsored survey was published in 1968, based on statistics that are now 12 years old.

The Commission requests a new national survey and a follow-up census study to focus on the need for various services and the quality (not just the quantity) of child care. The Commission recommends that questions explore fully the need for after-school, holiday, and vacation care; the need for infant care programs which accept children who aren't toilet trained; the needs of handicapped children and their parents; the child care needs of bilingual, bicultural communities; the need for flexibility in child care schedules (since many centers aren't geared to the 8-hour working day); and the need to remove constraints imposed by employers and others which prevent parents from actively participating in child care centers.

The Commission further urges that the need for child care services be examined not just in terms of the mother's outside employment. Many mothers at home are too overburdened with cares to give children needed attention, and others need time to pursue educational or personal goals as well as volunteer community activities.

Roberta Schaeffer, a 29-year-old continuing education student at Wheaton College, Norton, Massachusetts, says she returned to college in February 1974, after being away for 8 years.

"If there had been a day care center, I am sure I would have returned many years before," she told the audience at the Massachusetts Public Hearings for International Women's Year on October 14, 1975. "I have always been afraid to leave my children with someone I didn't trust, and if there had been a day care center, I wouldn't have had that care. [Her 5-year-old and 2-year-old] would have been playing with other children and adding to their own development . . . having fun and I wouldn't have to worry at all."

Mrs. Schaeffer tried to find a sitter by advertising at school, without a single response. Then she ran a newspaper ad and, at one point, used two college girls to sit. But these students frequently had conflicts or meetings to attend. "One time I was very lucky and the professor let me bring my little daughter along to class."

Another friend was constantly late for class, because of problems with unreliable sitters, and during a test day "she faced terrible stress."

Mrs. Schaeffer was taking only one course last fall. "If we did have a day care center, I am sure I probably would take two or more [classes] which I now have to postpone while my children are at an age where I jiggle hours between nursery school and run back home with school buses and lunches."

Betty Fierro, married, and the mother of two children in Alexandria, Virginia, finds it expensive to be a good volunteer.[41] She spends many hours working for the Mexican American National Women's Association and the National Congress of Hispanic American Citizens. The Fierros' family income is above the level to qualify for a Federally subsidized program, but below that needed to afford private child care easily.

"Paying out a dollar an hour is hard, when you yourself don't have an extra income to make up the cost. All of my volunteer work comes right out of my husband's pocket."

Ms. Fierro pays an estimated $20–$30 a week for babysitting and for other expenses to attend a minimum of two daytime and two nighttime volunteer activities each week. Her husband travels out of town, so he is often unable to help with night care.

Betty's 4-year-old son, Mano, frequently goes with his mother to meetings. He came along on the train to a February meeting of an IWY committee in Philadelphia. "Mano is used to meetings by now," Betty said, while her son colored pictures nearby. Later that day, he took a long nap on the floor. "This still works with one child, but it would be a mess if I brought the baby too." Betty's son Tino, age 2, stays with the sitter.

Betty continues her intermittent search for an affordable, flexible-hours child care center that will not insist on a regular attendance schedule. Her volunteer activities and related child care needs will not fit into a regular schedule. "All of the centers want to sign you up for a specified time each week." She also yearns for a child care center with a bilingual staff program, "one that includes songs, program activities, and stories from native cultures."

Betty feels that parent involvement and local control are especially important for minority children in day care programs and that the presence of parents reaffirms to children the integrity of their own cultures.

The Commission agrees that local parent participation is vital to the concept of quality child care. But conventional labor practices, rigid work hours, and scarcity of part-time employment all work against parent involvement in programs for their children. The Commission hopes that its recommendation for appropriate tax and other incentives to employers and labor unions will result in wider development of nonprofit child care programs for children of employees.

In addition, the Commission supports an income tax credit for child care expenses, rather than the present tax deduction, which benefits only those families who itemize all expenses.

In the Commission's view, good parenting is not an automatic instinct. Many of the strains on family life that lead to child abuse are due not only to psychological problems, but also to the fact that many parents simply do not know the stages of child development. They are unaware when to expect a child to sit alone or to become toilet trained. Therefore, the Commission supports school-based parent education programs and the establishment of community family service centers.

Parent education classes, such as those funded in limited numbers by HEW, could strengthen the bonds and resiliency of the American family. Students in these Exploring Childhood classes learn as much about themselves as they do about the children they work with under the supervision of child specialists. A 17-year-old girl in St. Louis was enthusiastic:

I know that someday when I'm married and have children, I'll draw on this experience that I'm having now. My kids won't be experiments. I'm having the experiments now, and learning how to handle them."

An 18-year-old football player explains that he took the course because,

"I'm fascinated with little kids and how they work. Some kids fight—I ask them why . . . Bobby intimidates John here because his younger brother gets all the attention at home. If I become a father, I'll have a better idea of how to raise kids properly."

The Commisison endorses these parenthood programs in the school, hoping that education will help break the chain of social problems that is linked to immature and uninformed parenting practices.

Senator Birch Bayh, a member of the Commission and sponsor of the Juvenile Justice and Delinquency Prevention Act of 1974 (Public Law 93–415), has said:

"Clearly it is better economics to raise whole, functioning members of our society than it is to spend 35 times as much feeding the results of our neglect—crime and welfare—after the time for constructive action has passed."

Another set of IWY Commission recommendations addresses the increasing need for alternative agencies to assist juveniles in trouble, particularly status offenders (children guilty of misbehavior that would not be considered crimes if they were adults). In many States, female juvenile delinquents are given longer sentences than males. Girls who run away from home, who are promiscuous, or who have a child without marrying may be referred to juvenile court, whereas boys are usually not treated so harshly for the same behavior.

The Commission encourages diversion of as many of these children as possible from the juvenile justice system, and it additionally asks for:

Footnotes at end of article.

More culturally relevant programs designed by and for minority youth;

Programs where young women in institutions can explore career training that goes beyond traditional roles and skills such as food service or cosmetology;

Creative probation projects; and

Computerization of available shelter care for juveniles.

"Mechanically, it always impressed me that I can get an airlines seat location in 2 minutes, and it takes 2 months to find an empty bed for a kid," notes Milton Luger, assistant administrator of the Juvenile Justice Office of LEAA.[42]

Because inadequate child care facilities block the way to free participation of women in the life of the nation, and because this barrier is one of the hardest to eliminate or even lower, the Commission urges that women's organizations and the government give recommendations in this chapter highest priority. The welfare of women and the future of the country depend heavily on such a commitment. The Commission hopes the next women's study commission can devote its energies to exploring the relative merits and program needs of existing child development services, including centers and family home care, rather than urging again the establishment of adequate facilities.

FOOTNOTES

[35] From telephone interviews, Mar. 1976.

[36] *1975 Handbook on Women Workers*, U.S. Department of Labor, Women's Bureau, 1975, Bulletin 297, p. 4.

[37] Kristin A. Moore and Isabel V. Sawhill, Implications of Women's Employment for Home and Family Life, Women and the American Economy: A Look to the 1980's, U.S. Air Force Academy and The American Assembly, Columbia University, 1976, pp. 5–10 and 5–11.

[38] Marilyn Mercer, "Is it the Working or the Mothers?" *Glamour*, Feb. 1965.

Bernice Melburn Moore and Wayne N. Holtzman, *Tomorrow's Parents*, Chapter IX. Published for Hogg Foundation for Mental Health by University of Texas Press, 1965.

Abbott L. Ferriss, Indicators of Trends in the Status of American Women, Russell Sage Foundation, 1971.

Myth and Reality, Equal Employment Opportunity in Metropolitan Washington, Community Advisors on Equal Employment (Ben D. Segal, chair), 1973.

F. Ivan Nye and Lois W. Hoffman, Working Mothers in Evaluative Review of Consequences for Wife, Husband and Child, Rand McNally, 1974.

[39] Moore and Sawhill, op. cit.

[40] Barbara Bryant and Associates, Market Opinion Research Poll, 1975. As education and income levels rise, so does agreement with this concept (from 46 percent low to 67 percent high). See Part III for a summary of the poll.

[41] From telephone interview, Mar. 1976.

[42] Testimony at Jan. 9, 1976, seminar conducted by the IWY Child Development Committee.

CHILD DEVELOPMENT COMMITTEE [19]

CHILD DEVELOPMENT LEGISLATION [20]

The IWY Commission asserts that the Federal Government should assume the major role in directing and providing for universal voluntary child development programs as a valuable service to parents, as essential to a child's best interest, and as society's obligation to avoid the cost of neglect. Therefore the Administration should support and request adequate funding for comprehensive child development legislation in the spirit of S. 626 and H.R. 2966, the Child and Family Services Act of 1975.

Discussion

The IWY Commission recognizes that "lack of adequate child care facilities has been found to be . . . a major deterrent to providing greater educational opportunities for children, giving greater dignity and self-respect to mothers on welfare, filling critical needs in shortage occupations and providing real freedom of choice in life style for women." [21]

The Commission joins with the diversified civic and religious organizations that have studied the Child and Family Services Act of 1975 and endorsed it as "family strengthening." [22] The Commission sees voluntary high-quality early childhood education, child development, and family services on an ability-to-pay basis as a long-range national goal.

The Child and Family Services Act of 1975 is comprehensive legislation based on the predecessor Child and Family Services Act of 1971 (which passed both houses of Congress, yet fell to then-President Nixon's veto). It provides for voluntary participation and direct parental involvement in operating expanded child and family services programs. It recognizes the family as the "primary and most fundamental influence on children." [23]

This legislation, in offering various child care services to families, will benefit also the single mother and the single father. Young widowers with children, as well as single fathers who are increasingly seeking and gaining custody of their children in divorce proceedings, are primarily responsible for arranging child care and coping with the tensions when the care available is inadequate. In 1973 five million children lived in families where the single parent was in the labor force and out of the home.

All working families, not only the poor and near-poor, should have quality child care services available. However, the Nation maintains an elaborate but fragmented and unfocused Federal day care policy, primarily as a tool to move mothers off public assistance and into jobs.[24]

Today, approximately $1 billion in Federal funds is spent in child care each year. Of this amount, $400 million goes directly to the parent on public assistance to find such care as he or she can, usually with a neighbor or babysitter. The number of places in licensed centers is woefully inadequate. About $450 million goes into Head Start programs, which may provide excellent care, but for only a few hours a day. There is practically no money for after-school care, weekend and vacation care, or crisis care. These are serious and recurring problems for all working families with small children.

State codes for day care and local standards are inadequate in many places and not enforced. The problem is mainly one of money.

As has been clearly documented, some families, even when both parents work, do not earn enough to pay for the decent care their children need.[25] Quality child care costs at least $40 per week per child.[26]

The Child Development Committee has concluded that as long as the Federal Government continues to see and fund child care primarily as a means of shifting mothers off public assistance rolls, instead of as an educational investment in the future, any real or imagined national commitment to children is a failure.

SURVEY ON CHILD CARE NEEDS [27]

The IWY Commission recommends that:

1. The Commerce Department in consultation and in cooperation with the Labor Department and the Department of Health, Education, and Welfare, be mandated to conduct a nationwide survey of present and future child care and development needs (hereafter referred to as the National Child Care Survey). The survey should include questions designed to assess the quality of child care with a deemphasis on defining need only as it relates to income;

2. The Office of Child Development and the Women's Bureau convene a short-term interdepartmental task force, including public member representation from concerned private agencies and organizations, in order to advise National Child Care Survey designers on content; and

3. Results of the National Child Care Survey be available for use early in 1977 to implement Federal child development legislation and as a resource to State and private organizations concerned with family and child development services.

Extensive followup questions suggested by this survey should be included in the decennial (1980) census to form the beginning of a comprehensive longitudinal child care needs study.

Explanation

The National Child Care Survey results should be available for use in 1977 when a number of related reviews are already planned. Among these are:

Reassessment of title XX (social services) of the 1974 Social Security Act;

The March 1977 annual family census study;

The September 30, 1977, expiration of Head Start authorization (under the Head Start Economic Opportunity and Community Partnership Act of 1974); and

The reevaluation of the business deduction allowance under the Revenue Act of 1971 for capital outlays to acquire and develop property for use as child care centers.

The proposed National Child Care Survey should include questions designed to assess the quality of current child care. The committee declares that, as a matter of policy, the National Child Care Survey should not restrict its attention to measuring child care needs primarily in terms of family income: such an approach tends to confuse child care with a welfare or babysitting service and to prevent child care from being seen as an agent for growth and development.

Background

Although the total population of children in the United States is declining, there are more children whose mothers or single fathers are in the labor force. The trend signals increasing demand for easily available and quality child care.

Previous attempts at data collection have usually produced abundant information on the economic and social status of children with working parents, but little useful information about what kind of care they receive,[28] and certainly not enough detail to allow careful planning.

The Child Development Committee is concerned that the Nation's data on child care arrangements often consist of unverified folklore and obsolete, incomplete statistics. No comprehensive government-sponsored study of need has been published since 1968, and statistics therein are now 12 years old.[29]

Current information suggests that while one out of three mothers with preschool children works, the 6 million preschool children involved are served by only 900,000 spaces in licensed child care centers.[30]

The committee finds that this lack of data results in confusion about what kinds of child care *do* satisfy parents and children. Previous government and private surveys of "quality" have framed questions that focus on dissatisfaction, but that seldom produce positive suggestions for specific child care services.[31] Moreover, questions about "dissatisfaction" produce little guidance because with care of any quality so difficult to arrange, parents seldom complain.

Expectations about the quality of care are low, according to Dr. Edward Zigler, head of Yale University's Child Study Center psychology section, because "most [mothers] don't think anybody is supposed to do anything for them, that as women they are supposed to suffer."

In recommending that the survey go beyond family income to define "need," the

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committee urges that researchers explore a number of areas, including:

The need for after-school, holiday, and vacation care;

The need for infant care programs that accept children who are not toilet trained;

The needs of handicapped children and their parents;

The child care needs of bilingual, bicultural communities;

The service and program needs of in-home and group-home child care;

The need for flexibility in child care schedules, including drop-in centers, 24-hour and night care, because many centers aren't geared to the 8-hour working day; and

The need to remove constraints imposed by employers and others which prevent parents from actively participating in child care centers.

In addition to needs, the survey should consider various social factors affecting demand for child care, including the impact of price, availability of transportation, and parents' reluctance to participate until centers have become well established.

The survey should record (a) the number of parents who have quit working or have considered quitting because of child care problems, (b) the number of mothers who need and want paid work but cannot find child care, and (c) the number of parents who could participate in meaningful volunteer activities in their communities if their child care needs were met.

In conclusion, the committee is convinced that the approach of a National Child Care Survey should be to explore quality child development services as a voluntary and universally available right of American parenthood.

PARENT EDUCATION [32]

1. The IWY Commission recommends that:

States and local school boards establish and improve programs of education for parenthood;

State and local school boards comply with title IX (Education Amendments Act of 1972) to eliminate policies which discriminate against pregnant girls or teenage parents. Continuance in basic educational programs should be encouraged while parent educational services are provided.

School systems be encouraged to assist students who are parents in arranging child care to make possible their attendance at parent education classes.

2. Federal education for parenthood projects be expanded and properly funded.

3. The Department of Health, Education, and Welfare (HEW) establish experimental Early Childhood Service Centers to provide guidance and support to parents of young children. Programs could offer medical and mental testing to spot children's particular strengths and correctable problems. They could provide extensive information resources on topics of concern to parents. They could serve as clearinghouses for locating adequate child care, medical attention, and educational services.

Discussion

As American families have become smaller, they have less opportunity for family training in child rearing. Families with young children are increasingly isolated from one another and from extended family support. Awareness of nutrition has become meager in contemporary American society.

The Committee on Child Development accepts the view that being a parent is not instinctual. It believes that much child abuse is due not only to psychological problems, but also to the fact that many parents simply do not *know* the stages of child development, i.e., when to expect a child to sit alone or to become toilet-trained. Child abuse specialists testify to a frightening relationship between abuse and the young school-age parent, or the parent who at a young age first produced offspring.

In the committee's opinion, parent education in the schools, and preferably before students become parents, is the best place to remedy problems caused by ignorance or abuse. In 1973, between 616,000 and 620,000 school-age parents were 19 and under; 13,000 were under age 15. For these students, parent education is of immediate concern; for others, of course, it will be a future concern. Since June 1972, the Offices of Education and Child Development in HEW, supported by the National Institute of Mental Health, have been coordinating and promoting an Education for Parenthood project—a program which offers to local and State governments and institutions technical assistance, funding information, and copies of sample curriculums and materials. A total of 615 public school programs are already in operation, and the Office of Education has contracts with seven voluntary youth organizations, including 4-H, Boy Scout, Girl Scout, etc., to develop additional materials.

The parent education arm of the Office of Education operates under a handicap, however; it has no formal budgetary or legislative authority, and funds are inadequate for staff training, travel expenses, or research allowances.

Therefore, the committee believes it is time that the Education for Parenthood special programs office be properly funded by Congress.[33]

Experimental early childhood service centers, at first limited in number to insure careful study, were proposed to the committee by Don Pierson, Executive Director of Brookline Early Education Project (BEEP). They would serve as an innovative means to improve the quality of life for women and families with young children.[34]

Basing his view on BEEP's success, Pierson recommended that this committee support a limited number of regional early childhood centers operating with the collaboration of local schools, hospitals, and health care facilities.

The centers would train educational and pediatric personnel to provide informed, coordinated and continuous support to parents of young children on a voluntary, sliding-scale fee basis. They would offer, beginning in infancy:

Diagnostic exams with followup help when needed;

Resources for information about topics of parental concern (such as the nature of bilingual and monolingual language development);

Lending facilities for books and toys; and

Guidance for arranging emergency child care.

Staff outreach services would include home visits by invitation and meetings of parents at the center or through telephone contact. Information would be shared on safety, nutrition, housing needs, employment opportunities, quality child care, and how to minimize the danger of child abuse.

An initially small government investment in a few such regional centers would afford quality control and provide clearer evidence of the benefits of parent education. The committee has been advised that local school systems can shift their budget emphasis to programs of demonstrated value, but initial funding from the Federal Government is needed to start schools along new paths.

TAX POLICIES [35]

The IWY Commission recommends that the Internal Revenue Code be amended to provide tax credit for child care expenses, available to any working parent regardless of income. Such credits should cover the provision of early developmental care.

Discussion

The Child Development Committee believes that it would be paradoxical to call for a developmental educational focus in a universal voluntary child care program without a change in Federal tax policy. The Revenue Act of 1954 specifies that child care deductions be allowed for "custodial" care only. By definition, custodial care attends to physical, but not necessarily developmental or educational, needs; the short-hand term often used is "warehousing."

Therefore, the committee has requested that Congress be directed to examine and revise existing policy and vocabulary on tax allowances for child care so that programs with early developmental services are covered.

It is this committee's consensus that tax policy should consider child care a business expense for tax credit that can be claimed by any worker regardless of income. A tax credit, rather than a deduction for users of child care services, is a more equitable approach in tailoring tax policy. Deductions are typically used only by families whose incomes are high enough to warrant itemizing. But a credit subtracted from the final tax amount is potentially more valuable to far more families.

A credit system would double to more than 4 million the number of families who would use this benefit, costing the Treasury about $300 million, at $400 per child. (About half of the taxpayers currently taking deductions would be somewhat worse off than under present law.)

In 1972 (latest available data), only 1.4 million of the 10 million families with working parents actually claimed the child care itemized deduction.[36]

Current deduction allowances reward the family that prefers to hire women as domestic servants and, in effect, penalize families who choose to place a child in a center or another home with a number of other children. Payments up to $400 a month are deductible if the care is received in the home of the taxpayer.

But if the care provided is outside the home, the more children in the family the less the family may deduct per child—$200 per month for the first; $150 per month for the second; decreasing for the third, fourth, etc. Child care centers don't necessarily reduce tuition in such cases, although they may make some accommodation.

The committee endorses the approach of the House Ways and Means Committee toward child care deductions in H.R. 10612, the Tax Reform Act of 1975. Specifically, the committee finds great merit in the following provisions of Section 504, which was passed by the House on December 4, 1975, and in April 1976 was still pending before the Senate:

A tax credit of 20 percent of employment-related expenses incurred for care of a child under age 15 or of an incapacitated adult;[37]

Elimination of the income threshold ($35,000 as of 1976), thus making credit available without regard to income level;

Extension of credit to married couples in which husband or wife or both work part time (presently both are required to work full time), to married couples where one spouse is a full-time student and the other spouse works, or to a divorced or separated parent who has custody of a child and receives support payments.

Elimination of the eligibility distinction between care in the home and care outside the home, which now allows a greater deduction for in-home care.

Allowances of child care credit for services rendered by a relative, provided that the related individual is not a dependent or a resident of the same household.

International revenue projections indicate that the amount of money taxpayers

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saved on child care expenses in 1972 would increase by 50 percent under this legislation.

The committee strongly supports Senate adoption of Section 504 of the Tax Reform Act of 1975 with essentially the language therein. The committee concurs with Representative Donald M. Fraser, who in introducing H.R. 9016, said, "Child care is not a discretionary personal expense such as a charitable contribution; it is a cost of earning a living."

EMPLOYER AND EMPLOYEE SPONSORSHIP OF CHILD CARE SERVICES [38]

The IWY Commission recommends that Federal and State Governments encourage wider development of nonprofit child care programs for children of employees, sponsored by employers and by labor unions, through appropriate tax and other incentives.

Discussion

Business, industry, labor and government must cooperate if this Nation is to meet the growing need for child care services. The Women's Bureau of the U.S. Department of Labor reports that some industry and labor representatives have made a start toward providing these services, but that many more must actively participate if present and future needs are to be met.[39]

The Women's Bureau suggests further that day care services be considered along with other workplace benefits in negotiating collective bargaining agreements. The committee endorsed the widest possible acceptance of such a policy.

Experimental incentive measures must be encouraged, such as adjusting work schedules to allow early or late departures and arrivals, or setting up more part-time jobs for both sexes, thus allowing more active participation by employees in child care programs.

The committee is urging that the Federal Government be a model public employer and set the pace in providing child care at work, as a fringe benefit of the employer-employee partnership.

Employers and unions instituting such innovative programs—notably public and private hospitals and the Amalgamated Clothing Workers Union of America—have found less absenteeism, a diminished recruiting problem, an increased opportunity for employees to work full time instead of part time or to work overtime when needed, and a flexibility in scheduling work. Almost 90 percent of the 150 hospitals with affiliated child care centers said that some of their staff would resign if such services were discontinued.[40]

REVISION OF TITLE XX OF THE SOCIAL SECURITY ACT OF 1974 [41]

The IWY Commission recommends that the Administration propose to Congress that procedures be established to:

Allow reallocation to other States of unused State funds within the current title XX $2.5 billion ceiling, and under any subsequent ceiling level;

Increase the level of funding under title XX; and

Strengthen the mechanism for encouraging citizen comment when States draft title XX "agreements" to provide child care services.

Discussion

The Commission is urging amendment of title XX of the Social Security Act of 1974 to allow interstate reallocation of unused funds under the title XX $2.5 billion ceiling.

In order for a State to meet requirements for social services reimbursement through title XX's 75 percent Federal matching funding, it must submit an "agreement" to the Department of Health, Education, and Welfare outlining the year's plans and procedures for social service programs. States are apportioned funds from the Federal appropriation according to their population.

Thirty States are presently reimbursed the full amount of their population-determined ceilings; an additional 10 to 12 States may reach their ceilings soon. But under current regulations, funds unused by States under the formula may not be reallocated to areas with higher needs; e.g., a rural State, or a State with difficulty raising matching funds; a crowded metropolitan area beset with expensive urban problems may have stretched its budget impossibly thin.

The committee is therefore urging that procedures be established to allow reallocation so that the entire title XX appropriation will be distributed. It urges that procedures be considered to modify State matching formulas in hardship situations.

It is apparent to the Child Development Committee that a 20 percent title XX ceiling increase allowing States to expand their current programs an additional $500 million [42] is urgently needed and is an inevitable next step. Because a State "agreement" process is built into title XX programming, the use of the additional funds may not be immediate, but would be available for gradual expansion to meet increasing need and costs.

In addition, the committee requests that in advertising title XX plans as required by Federal law, States should be required also to set forth a clearly defined procedure for encouraging citizen comment. The committee understands that some States have held many public hearings on child development and social service programs, although such hearings are not required under title XX. For example, in Maryland, the income level for provision of free child care was raised owing to citizen suggestions. Virginia is considering amending its plan to provide additional services requested by the public.

CHILD ABUSE LAWS [43]

The IWY Commission recommends that all States which still do not have adequate children's protective services as part of their child abuse laws immediately upgrade these services.

Discussion

There is a tragic and inevitable relationship between child abuse and later violent activities on the part of children who suffered abuse. The Child Development Committee has heard testimony about research which showed that every murderer profiled in a New York study had been a child abuse victim. "In those cases there was a long build-up of hostility—it wasn't just a casual happening".[44]

Girls outnumber boys among teenage victims of child abuse.[45] Parental anxieties concerning "dating behavior" of adolescent daughters lead to increasing restrictions, conflicts, and use of physical force in asserting parental control.[46]

And child abuse is not limited to battering. Dr. Judianne Densen-Gerber, a New York psychiatrist and lawyer, estimates that 1 out out of every 20 females in America was subjected to an incestuous attack when she was a child. Dr. Densen-Gerber specializes in helping victims of this crime. She bases her estimates on an Odyssey Institute survey covering 238 runaway girls in seven States. "We found that 44 percent of them had 'gone off the rails' because they were victims of incest in their homes." [47]

Joan A. Burt, a member of the District of Columbia Parole Board, told the committee,

"It makes you cry when you see a [sexually] abused young girl who has no self-confidence, thinks she is nothing, and she has a baby. What does she teach [and instill in] that baby?"

The Honorable Mary Stallings Coleman, a Justice of the Michigan Supreme Court and an IWY Commission member, wrote to the Child Development Committee:

"Although we daily are seeing the results of lives warped from childhood, some of the most obvious cases come before the court after the neglect, abuse or dependency has been sustained over a long period—and often after the damage has become so acute that it submits to no cure. . ."

Although every State has had some form of child abuse law at least since 1965, many communities still lack services that assure 24-hour protection for children. In addition, many States do not provide protection for children up to age 18, and others make no provision for reporting neglect.

Child abuse legislation should provide for prevention, detection, reporting procedures, custody, and counseling. The Child Development Committee commends to State governments seeking sample legislation the Model Acts for Family Courts and State-Local Children's Program, available through the Department of Health, Education, and Welfare.

The committee recognizes that schools are in a unique position to identify and help abused children. There, the child's appearance and behavior may be observed regularly by classroom teachers, school nurses, principals, or counselors. The committee suggests that local communities and school boards examine the good record of Project Protection, a cooperative Montgomery County, Maryland, public school abuse prevention plan that is one of three such projects funded by the U.S. Office of Education under Title III of the Elementary and Secondary Education Act. The county's teaching staff has been trained to recognize suspected cases of abuse or neglect.

The year following Project Protection's initiation, reports of suspected abuse or neglect more than doubled, from 63 in school year 1973–74 to 139 in school year 1974–75; the total confirmed cases of physical abuse quadrupled. Abusive parents or relatives have been referred for counseling and they have been encouraged to join self-help parent groups.

JUVENILE JUSTICE AND DELINQUENCY PREVENTION [48]

The IWY Commission recommends that the Federal Government support full funding toward carrying out objectives of the Juvenile Justice and Delinquency Prevention Act of 1974.

Discussion

The Juvenile Justice and Delinquency Prevention Act (Public Law 93–415) was overwhelmingly passed by a vote of 88 to 1 in the Senate and 329 to 20 in the House of Representatives, then signed by President Ford in September 1974. This act was designed to assist communities in developing humane, sensible, and economic programs to help troubled youth and the estimated one million youngsters who run away each year. The majority of runaways are girls between the ages of 11 and 14.[49]

The act provides Federal assistance for local public and private groups to establish temporary shelter-care facilities and counseling services for young persons and their families. The act clearly has in mind—and this committee supports—facilities such as those recommended by the Juvenile Justice Standards Project, 1973–76,[50] which calls for

> ". . . voluntary community services, such as crisis intervention programs, mediation for parent-child disputes, and residencies or 'crash pads' for runaways, as well as peer counseling, disciplinary proceedings or alternate programs for truants as responses to noncriminal misbehavior."

The Project Guidelines call for neglect or abuse petitions to be filed "where children are found living in conditions dangerous to their safety or welfare."

The Juvenile Justice and Delinquency Prevention Act of 1974 will enhance the visibility of the special problems of female offenders. Section 223(a)(15) requires that "States must provide assurance that assistance will be available on an equitable basis to deal with all disadvantaged youth includ-

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ing, but not limited to, females, minority youth, and mentally retarded and emotionally or physically handicapped youth." The act further requires that States participating in funding must, within 2 years, place status offenders in shelter facilities, rather than in institutions, and must avoid confining juveniles with incarcerated adults.

Status offenses, the subject of the committee's recommendation on status offenders (page 158) include conduct that would not be criminal if committed by an adult; typical status offenses include running away, truancy, incorrigibility, and promiscuity.

Despite strong congressional support for the Juvenile Justice and Delinquency Prevention Act, there has been a lack of executive policymaking support, most graphically illustrated by executive branch efforts to defer expenditure of moneys appropriated to implement the act.

The Child Development Committee supports funding the act at the $40 million level, which would still be less than one-third of the funding level anticipated in the original legislation. It believes substituting new approaches for old "crimefighting" programs in the juvenile field could produce:

More culturally relevant programs designed by and for minority youth;

Programs in which young women in institutions can explore career training that goes beyond such traditional roles and skills as food services or cosmetology;

Expanded programs of education about law, as well as legal services, both aimed at juveniles so that they will be able for the first time to explain legal terms like "assault" or "larceny" for themselves and their peers;

Increased training for staffs of community programs that deal with juveniles to provide useful administrative techniques as well as basic knowledge about the growth and development of young people who may be in trouble;

Creative probation projects that avoid traditional approaches in which probation officers offer this limited admonition: "listen to me and report to me," and are frequently unable to offer needed services or supportive supervision;

Alternatives to the usual detention home or training school for minors who, because of learning or behavioral problems, need special education or supervision.

The Child Development Committee particularly would like to see funding under the act used to develop computerization of available shelter-care services for juveniles. The need was emphasized by Milton Luger, assistant administrator of the Juvenile Justice Office of the Law Enforcement Assistance Administration (LEAA):

"Mechanically, it always impressed me that I can get an airlines seat location in two minutes, and it takes two months to find an empty bed for a kid."

Centralized referral should be available to but independent of the juvenile justice system.

The Child Development Committee encourages support for the Federal Coordinating Council of LEAA in its efforts to coordinate all Federal programs and funding for delinquency prevention, treatment, and control, as these factors enhance normal child development. The interrelationships between child abuse, learning disabilities, poverty, malnutrition, and delinquency must be fully understood in order to resolve the problems.

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION TASK FORCE STUDY [51]

The IWY Commission recommends elimination of discrimination based on sex within all levels of the juvenile justice system. To reach that goal, the Commission urges that the Law Enforcement Assistance Administration (LEAA):

Act on the recommendations of the LEAA Task Force on Women concerning the Office of Juvenile Justice and Delinquency Prevention; and

Upgrade the status of women within that agency.

Discussion

As the LEAA Task Force report documents, discrimination against women and girls in the criminal justice system appears to be a serious, pervasive problem in statutes, courts, and correctional agencies. The situation is particularly critical because the usual statistic collection fails to disclose disparities in treatment.

The Child Development Committee specifically urges Federal action on four recommendations of the LEAA Task Force on Women concerning juvenile justice and delinquency prevention:

1. Develop strategies to increase State support for female juvenile offender programs.
2. Assure that State juvenile delinquency plans analyze the needs of disadvantaged youth and that program statistics include sex and minority classifications.
3. Fund research that analyzes treatment of female juveniles by the courts, referral agencies, and the community, with special emphasis on status offenders.
4. Fund programs that specifically focus on the needs of the female juvenile at all stages of the juvenile justice system, from referral to postadjudication.

The Child Development Committee proposes that, as a means to review progress in correcting inequities in the entire juvenile justice system, the Civil Service Commission be directed to conduct hearings that examine discriminatory policies and practices outlined in the report of the LEAA Task Force on Women.

A Grants Management Information System printout on grants made by the LEAA from 1969 to 1975 confirms a lack of attention to the needs of the female juvenile offender. Only about 5 percent of all "juvenile delinquency discretionary projects" and only 6 percent of the "block juvenile grants" were for specifically female-related programs. None of the grants included a research effort on special characteristics of, or different treatment of, female juvenile offenders.

There is also evidence of sex discrimination in staffing within the juvenile justice system, particularly where males dominate in critical decisionmaking posts. A current 5-year study by the National Assessment of Juvenile Corrections has found that of 49 executives in juvenile justice agencies only 10 were female.

One of the ways in which girl offenders are discriminated against is through court-ordered physical examinations, specifically gynecological examinations. During the years 1929–1955, about 70 to 80 percent of the adolescents referred to the Honolulu Juvenile Court were examined, compared to 12 to 18 percent of the male population. "Notations such as 'hymen ruptured,' 'hymen torn—admits intercourse,' and 'hymen intact' were routine, despite the fact that the condition of the hymen is usually irrelevant to health or illness. Further, gynecological examinations were administered even when the female was referred for offenses which did not involve sexuality such as larceny or burglary." [52]

STATUS OFFENDERS [53]

The IWY Commission recommends that State legislatures undertake as a high priority the establishment of more youth bureaus, crisis centers, and diversion agencies to receive female juveniles with family and school problems, misdemeanors, and, when appropriate, first felony offenders, with the ultimate goal of eliminating as many status offenders as possible from jurisdiction of the juvenile courts.

The Commission further urges that the juvenile justice system eliminate disparities in the treatment of girls by courts and correctional agencies.

Discussion

Clearly, young girls suffer most from court procedures dealing with the status offenses, i.e., conduct that would not be criminal if committed by adults. Truancy, incorrigibility, and sexual delinquency are the three primary status offenses with which girls are charged. Young females are not only more likely to be referred to courts and detained for status offenses, but they are also held longer than boys referred for such conduct.

One midwestern study of more than 800 juvenile court referrals found these typical proportions: 28 percent of the boys had been brought to court for "unruly offenses," compared with 52 percent of the girls.[54] At the juvenile detention home, a coeducational youth facility, running away and sex offenses accounted for 60.7 percent of all the female delinquent referrals; moreover, girls on the average stayed there three times as long as boys.[55]

Such discrimination based on the sex of status offenders traditionally has been upheld on grounds of "reasonableness." Only since 1970 have some State laws permitting longer sentences for females than males been found in contravention of the 14th amendment and a violation of the Equal Protection Clause of the U.S. Constitution.[56]

The courts' traditional attitude reflects society's sexual double standard, which has demanded that the traditional American family exert greater control over a daughter's behavior in order to protect virginity (or virginal reputation). The "good" adolescent female is never sexual, although she must be sexually appealing. Compared to the teenage male, she has a much narrower range of acceptable sexual behavior. As a result, even minor deviance may be seen as a substantial challenge to society and to the present system of sexual inequality.[57] Promiscuous young women are found to be unpalatable. "The young man gets a wink and a look in the opposite direction." [58]

As a result, female juveniles are more likely to be incarcerated than are adult women. "Adult women get a better shake when it comes to crimes than do juvenile girls. There is a reluctance to jail women, but not juveniles," [59] the Child Development Committee was told.

All too frequently, detention and police personnel suggest that it is necessary to lock up girls "for their own safety and well-being." [60]

The wording of the status offense code is so vague as to allow this kind of discretionary action against girls thought to be "in moral danger." Until 1972, a Connecticut law made it a crime for "an unmarried girl to be in manifest danger of falling into the habits of vice." [61]

Ironically, the "status offense" category works in favor of some classes and against others. Of the status offenders in the District of Columbia courts, 80 percent are from white suburban areas; the urban, minority youth is more likely to be classified under the more serious category of delinquent.[62]

Female status offenders when they are institutionalized enjoy less recreation than boys and have poorer quality counseling and vocational training. And many existing programs continue to exploit girls in traditional sex roles; the emphasis may be on training to become cosmetologists or domestic workers.

Adolescent status offenders may be channeled into more serious charges: a 13-year-old girl who violates a court order against truancy, for example, may be reclassified into the more serious category of "delinquent" for the same behavior. Repeat runaways may face the same harsh treatment if their States

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Footnotes at end of article.

have not chosen to adopt provisions of the Runaway Youth Act, which is Title III of the Juvenile Justice and Delinquency Prevention Act of 1974.

Title III specifically found that "the problem of locating, detaining, and returning runaway children should *not* be the responsibility of already overburdened police departments and juvenile justice authorities", and declared, "It is the responsibility of the Federal Government to develop accurate reporting of the problem nationally and to develop an effective system of temporary care outside the law enforcement structure. However, only States that apply for funding under the act must demonstrate that they adhere to these requirements.

While recommending that, when possible, all so-called status offenders be removed from juvenile court jurisdiction, the Child Development Committee cautions against any tendency to charge these minors with more serious offenses such as delinquency.

In testimony to the Child Development Committee, the Honorable Eugene Arthur Moore, Probate Juvenile Court Judge, Oakland County, Michigan, Secretary of the National Council of Juvenile Court Judges; President of the Children's Charters, Inc.; said he felt that status offenders should be allowed in the juvenile court only after there has been positive judicial finding that no other community resource can meet their needs.

Judge Moore urged, as does this committee, that every juvenile court judge should be an advocate within his community to lead that community toward developing the necessary resources both within and without the juvenile court. "The judge must be a catalyst and motivation in the community towards the devlopment of preventive and rehabilitative programs."

A special program of the Office of Juvenile Justice and Delinquency Prevention has already awarded $11 million in grants to various government and nonprofit agencies to facilitate deinstitutionalization of status offenders.[53]

In Oakland County, Michigan, is found a model example of joint community effort by citizens, government, and juvenile court officials to provide coordinated youth assistance, delinquency prevention programs, and a rehabilitative camp for young people. The committee commends this country's programs to the attention of action-oriented youth-serving groups in other communities.

Original version

The Child Development Committee recommends that State legislatures eliminate status offenses, used to discriminate against young women, from the jurisdiction of juvenile courts, and that States establish more youth bureaus, crisis centers, and diversion agencies to receive female juveniles with family and school problems, misdemeanants, and, when appropriate, first felony offenders.

FOOTNOTES

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[19] IWY Commission members: Audrey Rowe Colom, Chair; Honorable Mary Stallings Coleman, Justice, Michigan Supreme Court; and Sister Joel Read, President, Alverno College. Public members: Gracia Molina de Pick, member of California Post-Secondary Education Committee; William E. Gardner, doctor of psychiatry, Educational Psychological Research Center, Bryn Mawr, Pa.; Shirley Koteen, Chair, Washington subcommittee of National Affairs Committee, National Council of Jewish Women; Mamie Moore, associate executive director of support services, United Way, Franklin County, Ohio; David Rice, Director of Mississippi Project, Children's Defense Fund; Flora Rothman, Chair, Justice for Children Task Force, National Council of Jewish Women; William Treanor, project coordinator, National Youth Alternatives; and Louella Williams, parent-consumer, board member of Day Care and Child Development Council of America. Staff member: Patricia Hyatt.

[20] Recommendation approved by Child Development Committee Jan. 8; by IWY Commission Jan. 16, 1976.

[21] As did the President's Task Force on Women's Rights and Responsibilities more than a half a decade ago in "A Matter of Simple Justice," Apr. 1970.

[22] The organizations include the Baptist Church, United Methodist Church, American Lutheran Church, League of Women Voters, National Council of Negro Women, National Organization for Women, U.S. Conference of Mayors, YWCA, Common Cause and Urban League.

[23] Other provisions: Federal support for establishing, maintaining, and operating programs, including part-day or full-day child care in the home, in group homes, or in other child care facilities; after-school programs; information and referral services to aid families; prenatal care; programs to meet the special needs of minorities, Indians, migrants, and bilingual children; food and nutrition services; diagnosis of handicaps or barriers to full participation in family life.

[24] Federal legislation for child care has been making funds available through scattered sources such as title XX of the Social Security Act of 1974 (including *all* State social services programs); title I of the Elementary and Secondary Education Act (for education of the low-income preschool child); title VI of the Education for the Handicapped Act, (preschool education for the handicapped child); Housing and Community Development legislation (for constructing centers in housing units); Manpower, Aid for Dependent Children, and Work Incentive programs (child care for mothers receiving training); State revenue sharing (in optional State commitments to child care); or tax deductions (available for some families who itemize child care expenses). From a Dec. 23, 1975, interview with Judy Riggs, Washington Research Projects Action Council.

[25] In the 5 years between 1970 and 1975, the real spendable earnings of the average family (a nonagricultural worker with three dependents) have risen only $2.13 a week.

[26] Mary Dublin Keyserling, former Director of the Women's Bureau, Department of Labor, in testimony given Nov. 14, 1975, before the Child Development Committee.

[27] Recommendation approved by Child Development Committee Dec. 19, 1975; by IWY Commission Jan. 16, 1976.

[28] A singular exception is *Windows on Day Care*, published by the National Council of Jewish Women, 1970.

[29] Child Care Arrangements of Working Mothers in United States, 1968. Department of Health, Education, and Welfare and the Department of Labor.

[30] *U.S. Working Women*. Bureau of Labor Statistics, 1975.

[31] From Meredith A. Larson's May 1975, Federal Policy for Pre-School Services: Assumptions and Evidence, prepared for the office of the Assistant Secretary for Education, Department of Health, Education, and Welfare. "Studies of preference and satisfaction have made no attempt to focus on specific attributes of a particular type of care that make it the preferred type of care. Until this level of analysis is performed, it will be extremely difficult to design attractive cost-effective and distinct options for child care buyers."

[32] Recommendations approved by Child Development Committee Dec. 19, 1975; by IWY Commission Jan. 16, 1976.

[33] According to funding categories covered in the Special Projects Act, Educational Amendments of 1974, which include funds for metric education, gifted and talented children, and consumer education.

[34] After more than 4 years of discussion and planning, the pilot Brookline Early Elementary Education Project is one of the Nation's first school-based programs to provide comprehensive educational and health care for children from birth through kindergarten. Supported by foundation grants and administered in collaboration with Children's Hospital and Harvard University Graduate School of Education, BEEP is an experiment that helps parents in 285 families to be better teachers in the first 3 years of their babies' lives. In his experience with the project, Dr. Pierson has seen how the daily pressures of working and maintaining a happy household often prevent mothers and fathers from creating healthy learning environments for their children. The BEEP program provides services from experts in physical, psychological, and intellectual development, and from other community parents who can share their solutions and build an educational base for their children.

[35] Recommendation approved by Child Development Committee Dec. 19, 1975; by IWY Commission Jan. 16, 1976.

[36] Linda G. Martin, Economist, Federal Reserve Bank of Boston, Mass., editorial in *Voice for Children*, Oct. 1975.

[37] Expenses limited to $2,000 for one dependent and $4,000 for two or more, so that maximum annual credit would be $400 for one dependent and $800 for two or more.

[38] Recommendation approved by Child Development Committee, Dec. 15, 1975; by IWY Commission Jan. 16, 1976.

[39] "Day Care Services: Industry's Involvement," Bulletin 296, 1971, updated 1972, describes child care centers operated by five textile product manufacturing companies, two food processing companies, and three others.

[40] "Child Care Services Provided by Hospitals," Women's Bureau, U.S. Department of Labor, 1973.

[41] Recommendation approved by Child Development Committee Dec. 19, 1975; by IWY Commission Jan. 16, 1976.

[42] This figure is comparable to the consumer price index rise of nearly 20 percent in the 2-year period from Jan. 1974 to Jan. 1976.

[43] Recommendation approved by Child Development Committee Jan. 13, 1976; by IWY Commission Jan. 16, 1976.

[44] Testimony by Milton Luger, Assistant Administrator of the Juvenile Justice Office, Law Enforcement Assistance Administration, Jan. 9, 1976.

[45] David G. Gil, "Violence Against Children," *Journal of Marriage and the Family*, Nov. 1971, p. 639. This article describes a series of nationwide studies summarized and conducted by the author in 1965–69, with support from the Children's Bureau, U.S. Department of Health, Education, and Welfare.

[46] *Ibid.*

[47] David Klein, "Incest, the Horrible Crime No One Wants to Talk About," *National Enquirer*, Apr. 13, 1976, p. 6.

[48] Recommendation approved by Child Development Committee Jan. 12, 1976; by IWY Commission Feb. 27, 1976.

[49] Senator Birch Bayh, author of the act and Chair of the Subcommittee to Investigate Juvenile Delinquency for the U.S. Senate Judiciary Committee.

[50] Sponsored by the Institute of Judicial Administration and the American Bar Association and headed by Chief Judge Irving R. Kaufman of the U.S. Court of Appeals for the Second Circuit.

[51] Recommendation approved by Child Development Committee Jan. 13, 1976; by IWY Commission Jan. 16, 1976.

[52] Meda Chesney-Lind, "Judicial Enforcement of the Female Sex Role: The Family Court and the Female Delinquent," *Issues in Criminology*, vol. 8, no. 2, (Fall 1973).

[53] Recommendations approved by IWY Commission February 26–27, 1976. The recommendation approved by the Child Devel-

opment Committee Jan. 10, 1976, but revised by the Commission, is reprinted on p. 160 under the heading "Original Version."

[54] Peter C. Kratcoski, "Differential Treatment of Delinquent Boys and Girls in Juvenile Court," *Child Welfare*, Jan. 1974, vol. LIII, no. 1, p. 17.

[55] Meda Chesney-Lind, "Judicial Enforcement on the Female Sex Role: The Family Court and the Female Delinquent," *Issues in Criminology*, vol. 8, no. 2, Fall 1973.

[56] Rosemary Sarri, "Sexism in the Administration of Juvenile Justice," paper presented to National Institute on Crime and Delinquency, Minneapolis, June 16, 1975.

[57] Chesney-Lind, *op. cit.*

[58] Testimony of John Rector, Staff Director and Chief Counsel, U.S. Senate Juvenile Delinquency Subcommittee to Child Development Committee, Jan. 9, 1976.

[59] Testimony of Wallace Mlyneic, Codirector, Georgetown Juvenile Justice Clinic, Wash., D.C., Jan. 9, 1976.

[60] "Children in Custody: Advance Report on the Juvenile Detention and Correctional Facility Census of 1972–73," Law Enforcement Assistance Administration, 1975.

[61] Sarri, *op. cit.*

[62] From testimony of Joan A. Burt, Wash., D.C., Parole Board, to Child Development Committee hearing Jan. 9, 1976.

[63] Department of Justice, Nov. 1976 evaluation report on the impact of programs on women for IWY Commission on Program Impact, the IWY Interdepartmental Task Force.

BLACKFEET SUCCESS STORY

Mr. METCALF. Mr. President, I should like to take a moment of the Senate's time to tell a delightful success story. It is a story of how the pen you will soon purchase may have been made by an Indian company in Browning, Mont.

In 1971, the Blackfeet Tribal Council, with a combination of tribal and borrowed capital, constructed and began to operate a pencil factory on the Blackfeet Reservation. Though it held the promise both of employment for tribal members long plagued with unemployment and a return on the tribe's investment, the enterprise was troubled from the outset and in 2 years gave every evidence of a terminal condition.

There was never enough capital. The cost of production soared and sales were disappointing. Employee absenteeism presented great difficulties. There were no profits. About everyone gave up. Everyone, that is, except Peter Tracy of Mamaroneck, N.Y., one of three shareholders, a young resourceful businessman who refused to quit. He was convinced that the company could be saved and transformed into a profitable enterprise, strong and efficient enough to compete with others.

Armed with his determination and confidence, he began his rescue operation in 1973 with the purchase of the third partner's shares and an additional investment of his own. On the strength of his demonstrated ability and his faith in this project, he helped the tribe obtain additional loans to purchase over half of the stock and provide urgently needed capital.

Made president by the board of directors, Mr. Tracy virtually took up residence in Browning to guide the foundering company back to health. He reorganized the firm as the Blackfeet Indian Writing Co., reduced the overhead, hired a new plant manager, and launched an aggressive selling campaign. Under his guidance, the company went from debt to profit in 18 months.

Since then it has continued to grow and prosper. Today, the company is 80 percent tribally owned, has a payroll of $600,000 annually, employs 80 people. Sales are expected to reach $3.1 million this year and profits about $200,000. Loan repayments are on schedule. Customers include General Motors, IBM, Chase Manhattan Bank, American Telephone and Telegraph, Bank of America—and the U.S. Senate Stationery Store, which recently awarded two contracts to the company, after competitive bidding. Delivery of the first order of stick pens is expected any day.

Mr. President, I ask unanimous consent that an article about the company published in early August in the Missoulian be printed in the RECORD.

I urge my colleagues to inquire about the Blackfeet pens in the Senate Stationery Room and to purchase large quantities of them.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

[From the Missoulian State Bureau]

BLACKFEET PENCILS WRITING A STORY OF SUCCESS

(By Charles S. Johnson)

BROWNING.—After a shaky beginning, a pen and pencil factory on the Blackfeet Indian Reservation is now making money and providing steady jobs in an area where unemployment often exceeds 60 per cent.

The Blackfeet Indian Writing Co., founded in 1971, sells its products to a list of companies that reads like a who's who of American business, including General Motors, IBM, Chase Manhattan Bank, American Telephone and Telegraph, Bank of America, Pepsi-Cola, Eastman Kodak and DuPont. Its customers in 47 states include more than 200 of the firms listed in Fortune Magazine's top 500.

Playing up the facts that the tribe holds majority ownership in the company and that Indians make up 90 per cent of the work force is part of the sales pitch in the firm's brochure. It calls attention to the $500,000 payroll supporting 65 Indians "who would rather earn their way than subsist on welfare" and says the factory is "surprisingly good news to most sensitive Americans that there are Indian people who do not live up to some of the popular negative images. . . ."

The Indian connection unquestionably has boosted sales, according to the plant manager, Cliff Caldwell, a white, University of Montana business graduate.

"A lot of your big companies are socially conscious," he said recently. "But we're not ripping them off. We're giving them a good product at the same price as our competitors."

Despite its successful sales nationally, the Blackfeet Indian Writing Co. has received a cool reception from most firms in Montana and throughout the Rocky Mountain states, Caldwell said. A typical reaction, the manager said, was that of one Montana state government employe who scoffed that he didn't see how those Indians could make anything.

Caldwell hopes the quality of the company's products will allay these prejudices. He also would like to start selling pens and pencils to state government, in Montana as the company now does in Minnesota.

"There's no use them buying Bic pens when they can buy ours," he said.

Bic is just one of the well-established giants of the industry that the tiny Blackfeet company competes against. But from all indications, the Indian company is doing well. Sales should reach $3 million this year, with profits expected to climb to $250,000 or $300,000.

That's not bad for a business that was ready to fold a couple of years ago and passed the break-even point only last year.

"We fought to keep it alive," said Earl Old Person, chairman of the Blackfeet Indian Tribal Council.

Caldwell attributes much of the success to the involvement of a New York investor, Peter E. Tracy, who put up more money when the business was about to collapse and eventually was hired as president by the board of directors. Tracy operates out of an office in New York linked to the Browning factory by computer.

Fourteen salesmen are stationed in major cities across the country to sell the company's line of products. So far, the company has concentrated on these industrial wholesale deals, but negotiations are under way for a chain of retail stores to begin selling the Blackfeet pens and pencils. Sears already sells the pens through its catalogs.

The apparent prosperity of the Blackfeet Indian Writing Co. stands in contrast to the failures of other tribal businesses, as the surrounding buildings in Browning's industrial park, all empty, starkly illustrate.

"This one has succeeded because top management had a realistic plan and knew how to go about it," Caldwell said.

Making pencils and assembling pens at the Browning plant doesn't pay particularly well—$2.40 an hour to start and up to a maximum of $4.10 with an average of $3.50—but low wages are common throughout the industry. Caldwell said he recently visited a Tennessee pencil factory where a foreman with 20 years of experience made only $3.75 an hour.

"It's not big money," Caldwell said, "but it's the best we can pay."

Although some employes might be able to earn more on seasonal construction jobs, the pencil factory employes like a steady paycheck, paid vacation and other benefits, the manager said.

Employe turnover has been reduced considerably and is "not that much of a problem," Caldwell said.

Old Person said the low turnover "is what keeps the factory going" and added: "Those people are devoted."

Caldwell said he has encountered no problems as the white boss of an Indian-owned factory.

"We have a good working relationship," he said after a tour of the plant where workers were making pencils for United Airlines and Northwestern University and pens for Tenneco.

THE SALE OF MAVERICK BOMBS TO SAUDI ARABIA

Mr. CASE. Mr. President, the Senate Foreign Relations Committee today decided not to take another vote on the sale of Maverick TV-guided bombs to Saudi Arabia.

The resolution had been referred back to the committee yesterday in a parliamentary move which violated the traditions of senatorial courtesy and which was discussed fully on the Senate floor yesterday.

I believe that it is important that the Senate be given a fuller explanation of why there was so much concern on my part about the proposed sale of Maverick bombs.

My goal is and has been to bring some sanity to our sales to Arab countries of offensive weapons which could be used against Israel instead of for legitimate defensive purposes. The highly accurate Maverick missile is an offensive weapon and the sale of further numbers of these weapons would destabilize an already precarious balance of power in the Middle East. Israel will need additional, and more sophisticated, weapons to counter the increasing threat. I believe the Congress will be responsive to these requests.

Our arms sales policy ought to be based on the basic requirements of peace in the Middle East and not on considerations of the balance of payments or fears of oil reprisals. And certainly, we should not abandon our foreign policy to arms salesmen and purchasing agents. This is reckless and I will continue to oppose it.

For the record, the latest Maverick sale was only one of 10 proposed contracts for weapons and services to Saudi Arabia submitted to Congress on September 1. It is in addition to 19 other military contracts with Saudi Arabia worth over $25 million each during 1976.

The current sales proposals which the Senate Foreign Relations Committee did not oppose include Sidewinder air-to-air missiles, additional F–5 jet fighter planes, and TOW antitank missiles. Saudi Arabia has purchased about $7 billion worth of military weapons and services from the United States in the past year. Previous sales include 1,000 Mavericks.

Thus the resolution of disapproval which the Senate Foreign Relations Committee approved last Friday would not have prevented Saudi Arabia from meeting its legitimate defense requirements and should not be regarded as an affront to that nation. The resolution dealt with only one specific sale, the one which is least justified.

The pending sale of 650 Mavericks, coupled with the previous sales, would give Saudi Arabia more than two dozen per plane and is unwise and unnecessary. The Maverick is effective not only against tanks and other armored vehicles but also against buildings and other structures. The "force threat" given as a rationale for the sales is based on "worst case scenarios" in which Iraq and the Peoples Democratic Republic of Yemen would deploy nearly all their armored vehicles in an invasion to cross hundreds of miles of desert to reach Saudi Arabia's cities. Such projections are highly questionable. If such an invasion actually took place, the Saudis could be resupplied quickly with the easily portable Mavericks if its already purchased stockpiles of Mavericks, conventional bombs, and antitank weapons were insufficient.

The recent hearings by Senate Foreign Relations Subcommittees have exposed deep flaws in the procedures in which the United States sells sophisticated weapons. The Maverick sale is only one example of the questionable practice under which agreements with potential purchasers are worked out on specific weapons systems and numbers of weapons without adequate consultation within the executive branch, let alone between the executive branch and Congress.

FEDERAL SPENDING

Mr. HOLLINGS. Mr. President, this morning's newspaper carried the news that Federal spending during the transition quarter will amount to $6 billion less than the $102.1 billion estimated by the Office of Management and Budget in mid-July. It is interesting to note that there have been four OMB estimates this year with regard to the amount of spending—outlays—during this short 3-month period as we convert from one fiscal year basis to another.

In January, OMB estimated the outlays for the transition quarter at $98 billion; in March this was increased slightly to $98.5 billion; in mid-July the estimate was increased to $102.1 billion, chiefly because outlays expected to be made prior to June 30 were not forthcoming and were expected to spill over into the transition quarter. It now appears that spending during the transition quarter will not exceed $95 billion.

Mr. President, I ask unanimous consent that the article in this morning's Washington Post, by James L. Rowe, Jr., be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SPENDING SLOWS $6 BILLION IN TRANSITIONAL QUARTER

(By James L. Rowe Jr.)

The government will spend $6 billion to $7 billion less in the current 3-month transition quarter than the administration projected two months ago, continuing a surprising slowdown in the pace of federal outlays that started late in fiscal 1976.

On July 22, the Office of Management and Budget estimated that the government would spend $102.1 billion in the three months between the end of fiscal year 1976 (June 30) and the start of fiscal 1977 (Oct. 1). OMB projected a deficit of about $20 billion in the 3-month period.

Now, according to Dale McOmber, assistant director of OMB for budget review, the government is likely to spend about $95 or $96 billion in the period.

McOmber said that slowdown in spending is occurring across the board and is not concentrated in any particular sector of the government.

Federal outlays began to slow down late in fiscal 1976. As late as March, OMB was estimating that the government would spend $374.4 billion in fiscal 1976 and run a deficit of $76.9 billion.

By July 22, officials, taking note of a sudden, unanticipated deceleration in spending, amended their projections to $369.1 billion in outlays and a deficit of $69.6 billion.

But when the preliminary figures came out a week after that the deficit had shrunk to $65.6 billion, mainly because spending had fallen to $365.6 billion.

Officials speculated then that because agencies could spend most of their fiscal 1976 funds in the special transition quarter, the traditional burst of year-end spending would spill over into that quarter.

"That idea may not be holding up," said James T. Lynn, director of OMB.

The transition quarter was created because the new Congressional budget process requires a fiscal (or spending) year which begins later than July 1, so the House and Senate can agree on an overall budget with spending ceilings and revenue targets before the year begins.

The fiscal year's start was pushed back to Oct. 1 and a special limbo called the transition quarter was created to bridge the gap between fiscal 1976 and fiscal 1977, which starts Friday.

McOmber said that in July and August the government spent $63.5 billion. "We'll be hard-pressed to spend more than $31 to $32 billion in September," he said, meaning that spending will be about $95 billion, roughly $7 billion under the July 22 estimate.

Arnold Packer, chief economist for the Senate Budget Committee, said that he is worried that the impact of federal spending on the economy has been growing increasingly restrictive in the last six months. He and other liberal economists are worried that this could slow the recovery.

Burton Malkiel, a member of the President's Council of Economic Advisers, said that even though spending is running below estimates, fiscal policy is providing a "continued, substantial stimulus" to the economy.

Even if the economy were at full employment—conventionally designated as an unemployment rate of 4 per cent—the federal budget would still be in deficit. If federal policies yield such a full-employment deficit, most economists would consider that federal policy is giving the economy a boost rather than trying to restrain its growth.

Malkiel, like Lynn and McOmber, had no firm explanation for the slowdown in federal spending.

McOmber suggested that agency heads had anticipated a higher rate of inflation than actually occurred. As a result, actual outlays are below projections because prices are lower than expected.

Lynn also noted that agencies might be waiting until late in the transition quarter to actually obligate themselves to spend funds. This means that while the obligation occurs in the transition quarter, the funds will not really be spent until fiscal 1977.

Should that be the case, and Lynn said OMB has no good information as to whether or not it is occurring, federal spending could be higher than either the $400 billion the administration wants to spend or the $413.1 billion Congress wants to spend in fiscal 1977.

Mr. HOLLINGS. Mr. President, as a member of both the Senate Appropriations and Budget Committees, I have been following with interest the process of outlay estimating. One fact is abundantly clear—estimating outlays is an imprecise art as the various figures for just the 3-month transition quarter certainly indicates. A difference of 5 percent or more is very possible. This concerns me particularly as a member of the Committee on the Budget where the Congress is finally coming to grips with Federal outlays. Last week Congress approved the second concurrent resolution on the budget for fiscal year 1977 and approved $413.1 billion as the appropriate level for total budget outlays. Until we get more solid information about what caused the slow down in outlays during the transition quarter, we may well find ourselves having to either increase the ceiling by $7 billion or absorbing this amount if we later find that the rate of obligations did not follow the same path as the outlays.

Earlier this year, I asked the Congressional Budget Office to prepare an historical display of the receipt outlays and deficit estimates going back to fiscal year 1960. This display starts off with the amount originally estimated for a given fiscal year—estimate I of the table—which of course, includes proposals for both additional receipts and expenditures which are often modified or not even approved by the Congress. In the following year's budget there is another estimate for the fiscal year based on the actual appropriations made—estimate II of the table—this estimate is more firm in that Congress has acted on the budget, but is still highly susceptible to major fluctuations because of the impact of changes in the economy. Finally, we have the actual amounts that come up with the budget the January following the completion of the subject fiscal year.

This table displays the great swings that have occurred between the original projected deficit or surplus and what actually transpired in the various fiscal years since 1960. For instance, for fiscal year 1969 an $8 billion deficit was originally projected but it actually turned out to be a $3.2 billion surplus; whereas for fiscal year 1971 a $1.3 billion surplus was originally projected which turned out to be a $23 billion deficit. Probably the largest difference occurred with regard to fiscal year 1975 when a modest deficit of $9.4 billion ended up being the largest deficit of $43.6 billion.

Mr. President, for the further information of my colleagues, I ask unanimous consent to have printed in the RECORD the table prepared by the CBO.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

HISTORICAL RECEIPT, OUTLAY AND DEFICIT ESTIMATES[1]

Fiscal year—	Actual[2]			Estimate 2[1]			Estimate 1[2]		
	Receipts	Outlays	Deficit (−) or surplus (+)	Receipts	Outlays	Deficit (−) or surplus (+)	Receipts	Outlays	Deficit (−) or surplus (+)
1960	95.1	94.3	0.8	94.8	95.3	−0.5	93.5	92.9	0.6
1961	97.2	99.5	−2.3	99.0	97.9	1.1	102.2	96.3	5.9
1962	101.9	107.7	−5.8	102.6	111.1	−8.5	103.1	101.8	1.3
1963	109.7	113.8	−4.1	108.4	116.8	−8.4	116.6	114.8	1.8
1964	115.5	120.3	−4.8	114.4	122.7	−8.3	112.2	122.5	−10.3
1965	119.7	122.4	−2.7	117.4	121.4	−4.0	119.7	122.7	−3.0
1966	134.5	137.8	−3.3	128.2	135.0	−6.8	123.5	127.4	−3.9
1967	149.6	158.4	−8.8	154.7	160.9	−6.2	145.5	145.0	.5
1968	153.7	178.9	−25.2	155.8	175.6	−19.8	168.1	172.4	−4.3
1969	187.8	184.6	3.2	186.1	183.7	2.4	178.1	186.1	−8.0
1970	193.8	196.6	−2.9	199.4	197.9	1.5	198.7	195.3	3.4
1971	188.4	211.4	−23.0	194.2	212.8	−18.6	202.1	200.8	1.3
1972	208.6	231.9	−23.3	197.8	236.6	−38.8	217.6	229.2	−11.6
1973	232.2	246.5	−14.3	225.0	249.8	−24.8	220.8	246.3	−25.5
1974	264.9	268.4	−3.5	270.0	274.7	−4.7	256.0	268.7	−12.7
1975	281.0	324.6	−43.6	278.8	3.3.4	−34.6	295.0	304.4	−9.4
1976				297.5	373.5	−76.0	297.5	349.4	−51.9
Transition quarter [3]				81.9	98.0	−16.1	84.4	94.0	−9.9
1977							351.3	394.2	−42.9

[1] All numbers are on a unified budget basis.

[2] The actual budget figures were published in the President's January budget for (a) estimate 1 is the 1st estimate made, published in the President's January budget for the fiscal year in question; (b) estimate 2 is the 2d estimate made, published in the President's January budget for the fiscal year following the fiscal year in question; (c) the 2d fiscal year following the year in question (e.g., the actual fiscal year 1960 figures were published in the President's January fiscal year 1962 budget).

[3] Estimate 1 for the transition quarter was published in the President's January fiscal year 1976 budget. Estimate 2 for the transition quarter was published in the President's January fiscal year 1977 budget.

NASA RECEIVES GOLDEN FLEECE OF THE MONTH AWARD FOR SEPTEMBER

Mr. PROXMIRE. Mr. President, newspapers and science periodicals all over the world have devoted a great deal of space in recent months to speculation about the possibility of life on Mars and accolades for the National Aeronautics and Space Administration's Viking Mars landing project. Many are impressed with the Buck Rogers-like mission to the Red Planet, but I am sure that American taxpayers will not be impressed when they discover how much it is going to cost them to pay for a 6,000-word article and a followup book-length history of the Viking project, sponsored by the Space Agency.

Therefore, I have decided to present by Golden Fleece of the Month Award for September to the National Aeronautics and Space Administration for a sole source contract award of $140,000 for a 6,000-word article and a followup book-length history of the Viking Mars landing project.

Mr. President, if a major publishing firm had given an author $24,000 for a 6,000-word short story with a promise of another $116,000 for a book, pending further negotiations, the lucky recipient would be an overnight celebrity. Yet this is exactly the deal NASA offered on a silver platter to a young man whose major claim to authorship fame heretofore has been an as yet unpublished history of the Apollo-Soyuz space venture, written for NASA, and a series of articles on small arms appearing in publications such as Gun-Week and the Rifle magazine:

The author will be paid $20,000 plus $4,000 in expenses to write a 6,000 word article on the landing and initial operations of the two Viking spacecraft and for a survey of the available historical documentation needed for a book-length history of Viking. This means that he will be receiving $4.000 a word for this article.

After the author delivers a written report regarding available historical documentation, NASA will be in a position to exercise the option clause of the contract, which calls for the payment of $116,000 including $6,160 in expenses, for a book length manuscript on the Viking project of between 100,000 and 150,000 words.

Perhaps the most eminent official Federal history was Samuel Eliot Morison's *History of the United States Naval Operations in World War Two*. This work of massive scholarship appeared in 14 volumes between 1947 and 1960. Before Commander Morison died he was easily the equal of Barbara Tuchman or John Toland. How much did the Navy pay for these remarkable volumes? The Navy paid Morison not $130,000 or $65,000 or even $32,500, but $15,000 a volume, and I understand the Navy received more of a return in royalties than was spent on producing the books, attesting to their value and popularity.

To put it another way, the NASA-picked author is receiving more for writing a 6,000 word article than Commander Morison got for writing an entire volume. In fact if the Commander had received $4.00 a word, as the NASA writer is, he would have been getting $300,000 or $400,000 per book.

Why did NASA accept the proposal without bothering to see whether there were other qualified authors who would do the job for less? Apparently the prime reason was that the author NASA picked had already gotten his foot in the door with a $73,850 contract to immortalize the joint U.S.-U.S.S.R. space docking venture—the Apollo-Soyuz Test Project. Although this manuscript has not been published, the author demonstrated an "ability to work smoothly with NASA managers and technicians . . . doing this in such a way as to avoid irritating the sources of information." In other words the author is writing a sanitized government history of the Apollo-Soyuz project without asking embarrassing questions.

The taxpayer should know that NASA has spent $1,378,391 since fiscal 1969 on the research and writing of these "official histories." For example, NASA will spend $307,742 on a history of the Saturn program, $174,628 on the history of Skylab and $60,500 on an administrative history of NASA.

I can't blame the author. This is a far better deal than any but the most renowned author would get from a major publishing firm. But NASA should not be spending these vast amounts to embellish its own image. The publishing marketplace can supply the need if such a need exists. Furthermore in this case NASA should have gone through its normal procedure of relying on current historical literature plus the recommendations of the NASA Historical Advisory Committee to select potential contractors rather than let the contracts on a sole source basis to a writer whose experience consists largely of magazine articels plus an as yet unpublished book commissioned by NASA itself.

FEDERAL ENERGY REORGANIZATION

Mr. PERCY. Mr. President, the growing public clamor over the size of Government has been increasingly disturbing to me. The need to reform Government is often overshadowed by a notion that Government has failed massively to deliver on its promises. Years ago I introduced a reorganization bill to create a new Department of Energy and Natural Resource—DENR—hearings were held but nothing else happened. I view that end result as unfortunate—even dangerous. Any attempt at wholesale dismantling of large segments of Government, of course, would quickly produce even larger outcries with the dissolution of essential services that can only be provided by Government. Such dismantling certainly would not relieve the legitimate frustrations our citizens feel. As the Presidential campaign moves into its final weeks, my hope is that the debate will focus on reform, which is a worthy topic, and be restrained from trying to exploit deeply felt feelings of frustration.

Apropos of reform, I am concerned about the Nation's continuing unrestrained consumption of energy and dwindling national energy resources. Last spring, I asked the Congressional Research Service to analyze the organization of the Federal Government as it relates to energy and natural resources and participated in the deliberations of an outstanding conference that the CRS conducted in the Library of Congress on the subject of Federal energy reorganization. Their study is now complete and has been published as a Senate Government Operations Committee print.

The study is compelling in illuminating the obvious need to reorganize those agencies of the Federal Government which have jurisdiction over energy.

My staff and I have studied the results of the CRS work, and have come up with a draft of a bill which we call the Omnibus Energy and Natural Resources Reorganization Act. We are working closely with Senator RIBICOFF and other members of the Government Operations Committee in developing this bill so that legislation for the purpose of reorganizing the Federal Government's responsibility for energy and natural resource matters can be introduced in January 1977, at the start of the 95th Congress.

Let me emphasize that this is a proposal and is not set in concrete. Undoubtedly, it will require many refinements before it is suitable for enactment into law. My staff and I intend to study both Governor Carter's reorganization proposals, as well as President Ford's proposals when they are released, and to learn as much from them as possible. Hopefully, the draft bill that we have drawn up will stimulate and help others working in this area.

I invite comments on our ideas from anyone concerned about our national energy policy.

The draft legislation that my staff and I have drawn up is needed, in my view, to overcome the following weaknesses in the existing Federal energy organizations:

The organizational mechanism for creating national energy policy is inadequate.

Energy goals are not well integrated with other high-priority national goals.

Energy conservation efforts are ineffective.

Agencies involved in energy supply tend to work at cross purposes.

Energy regulations are often contradictory.

Energy data collection is duplicative.

Energy research, development, and demonstration—R, D, and D—has been separated from the realities of the market.

BASIC PRINCIPLES

In my opinion, these weaknesses can be overcome by reorganizing those parts of the executive branch concerned with energy and national resources in a more rational way. There are four fundamental principles on which, I believe, such a reorganization should take place:

One. The Nation's first energy need is to develop a national energy policy. The policy is best developed by a White House council free of day-to-day operational concerns.

Two. Energy conservation efforts must be increased substantially by separating demand reduction from supply augmentation programs. Placing supply and demand programs in the same agency tends to lead to a neglect of conservation. Consolidated and strengthened demand—end-use conservation—programs should be placed in those agencies whose mission is intimately associated with the economic sectors in which the conservation will take place.

Three. Major energy supply functions should be consolidated into one agency.

Four. Federal energy R, D, and D programs should be conducted by the agency closest to those parts of the private sector in which the results will find practical application.

KEY PROVISIONS OF PROPOSED LEGISLATION

With these underlying principles in mind, the five key provisions of the draft of the Omnibus Energy and Natural Resources Reorganization Act are:

1. ENERGY POLICY

An Energy Policy Council—EPC—would be created in the Executive Office of the President. EPC would have three members—with the Chairman having Cabinet rank—and a small staff.

EPC would, first, formulate energy policy recommendations, domestic, and international; second, analyze the interaction between energy policy and other national goals; third, monitor all energy-related activity in the executive branch; and fourth, produce an annual energy report to the President—comparable to the Council of Economic Advisors' economic report to the President.

EPC would have a sunset clause to force a reexamination of the continuing need for its existence after 3 years.

2. ENERGY CONSERVATION

The Departments of Transportation, Housing and Urban Development, and Commerce—and others as appropriate—would be directed to increase and consolidate their conservation programs for their associated end-use sectors. An Assistance Secretary in each department would be responsible for conservation. The conservation programs from FEA and ERDA would be transferred to the appropriate department.

In addition, a new White House level Cabinet Committee on Conservation—CCC—would be created for 3 years. It would be headed by the Chairman of EPC, and would include the Secretaries of DESNR, DOT, HUD, DOC, GSA, and HEW. CCC would help promote and coordinate Federal energy conservation programs.

In the President's annual energy report, quantitative conservation goals for the next fiscal year would be established.

EPC would monitor all conservation programs, just as it does for supply programs.

3. ENERGY SUPPLY

The legislation proposes a cabinet-level Department of Energy Supply and Natural Resources—DESNR.

DESNR would include Interior, ERDA supply systems R, D, and D, and FEA supply activities. ERDA's military R, D, and D functions would be transferred to the Department of Defense, and ERDA's basic research function would be returned to the National Science Foundation.

DESNR would, first, manage public lands; second, encourage increased energy supplies; third, promote R, D, and D in new energy supply systems; fourth, develop programs to improve supply system efficiencies; and fifth, serve as the lead agency for collecting energy supply data.

DESNR's mandate should reflect a concern for the environment to act as a countervailing force to its natural growth-orientation. Accordingly, one under secretary would be responsible for energy supply while the other under secretary would be responsible for natural resources. The latter would see that environmental concerns are given full consideration in all decisions.

4. ENERGY DATA

FEA's data collection functions relating to energy supply would be transferred to DESNR, to be integrated with tasks now undertaken by the Bureau of Land Management, the Bureau of Mines, and the Geological Survey.

Each Cabinet department would continue to collect primary data on the use and flow of energy through the economy; that is, energy demand data. For example, Commerce, in a strengthened statistical bureau, would continue to collect energy data from industry and business.

5. ENERGY REGULATION

More than 40 Federal agencies, bureaus, and commissions have some role in energy regulation. Inconsistencies and conflicts cannot be resolved until there is a clearer identification of national energy policy.

Pending development of an integrated national energy policy by EPC, the General Accounting Office would review regulatory performance in the light of existing agency missions, and recommend appropriate reorganizations of regulatory activities to Congress within 2 years.

Since FEA under this proposed legislation would be eliminated, its remaining oil price regulatory responsibilities—to be phased out completely by May 1979—would be transferred to DESNR.

Mr. President, I have described some of the ideas that I feel should be considered as we begin to debate energy reorganization. My main purpose in describing them today is to broaden the range of reorganization options under consideration. The issues of how best to formulate energy policy, how best to deal with the divergent values of suppliers and users, and how best to rationalize and streamline energy regulatory programs, are issues that need wide debate and discussion.

As I said earlier, before Senator RIBIcoff and I introduce comprehensive energy reorganization act at the start of the 95th Congress, we intend to seek the thoughts and recommendations of a wide spectrum of interested citizens as well as knowledgeable persons in the executive and legislative branches of Government. My hope is that the ideas I have described will make some contribution toward the discussion of Government reform as it relates to our vital energy needs and I am happy to yield to my distinguished colleague, Senator Ribicoff, chairman of the Government Operations Committee for his comments.

Mr. RIBICOFF. Mr. President, I want to thank Senator Percy for his thoughts and proposals on reorganization of the Federal Government's responsibilities for energy and natural resource matters. As chairman of the Government Operations Committee, I welcome his proposals on a subject which will be one of high priority for the committee in the next Congress.

Our governmental structure for energy and natural resources is fragmented and lacking in effective leadership. The importance of a national energy policy is apparent. Considering the importance of energy, it seems incredible that we have no single governmental entity with prime overall responsibility concerned with our energy future.

Mr. President, the energy agencies which currently exist perform essential functions, and each is critical to our national energy posture. What is missing—and what is essential—is overall leadership and coordination. Without this leadership, there is little chance that we can attain the long-range energy goals which we have set for ourselves.

I have personally had a longstanding interest in energy reorganization. In April of this past year, I introduced a bill which would create a Department of Energy and Natural Resources. This bill would have consolidated those agencies with responsibility in the energy and natural resource areas into a single Cabinet-level department with overall responsibility for energy and natural resources. It combined into one agency—a Department of Energy and Natural Resources—all the activities of the Federal Energy Administration, the Energy Research and Development Administration, and the Department of the Interior, except those pertaining to regulation. I look forward to refining this proposal for the next Congress.

I noted with great interest that Jimmy Carter has also made energy reorganization one of his high priorities. The plan which he offers contains many constructive, thought-provoking ideas which we will consider as we develop our legislative proposal on energy reorganization for the next Congress.

I look forward to working with my good friend, the Senator from Illinois, in developing a reorganization plan. The ideas which the Senator puts forward today are extremely useful as we continue our search for the best solution to this problem.

Mr. PERCY. Mr. President, I am delighted to hear Senator Ribicoff emphasize his long-held interest in energy reorganization.

National energy policy is of vital concern to both of us, and the way the executive branch is organized is of crucial importance to the development of successful energy policy and programs.

Mr. RIBICOFF. As my good friend, the Senator from Illinois, can recall, we have discussed energy reorganization for several years. The attempts we have made in this direction thus far have not been adequate. Americans' consumption of oil has risen dramatically. We cannot afford to wait much longer for the development of a national energy policy. And it has become increasingly clear that reorganization of the Federal Government's responsibilities will provide one of the solutions to the problem.

Mr. PERCY. One of the consequences of the way the executive branch is currently organized to handle energy and natural resource issues is the dire neglect that the Government gives to energy conservation.

Conservation has to be the cornerstone of our national energy policy. What we find, however, is that the Energy Research and Development Administration's fiscal year 1977 budget request allocated only about 1 percent, or less than $60 million, to end-use conservation efforts. This is totally inadequate.

Mr. RIBICOFF. I agree with the Senator that the Nation's conservation efforts have suffered as a result of lack of focus, interest, and organization. Another critical function—that of data collection—has suffered greatly from the large number of agencies involved. There are other problems as well which result from the disorganization of energy and natural resource agencies. Most of them are well known and well documented: Problems of duplicative or overlapping energy regulatory activities; problems of competing policy priorities; and problems of interagency jealousy, to mention but a few.

Mr. PERCY. Mr. President, it is always a profound pleasure for me to work closely with the able Senator from Connecticut. He and I have worked together for a number of years now to develop a Federal organizational structure that adequately supports the Nation's energy policy. He has correctly identified several problems in the existing setup, and earlier in my remarks I identified a number of others. I look forward to working closely with Senator Ribicoff and his staff and I think I can speak for both of us when I say we are both anxious to initiate hearings on energy reorganization early in the 95th Congress and, indeed, intend to do so.

AFGE VOTES TO UNIONIZE MILITARY

Mr. THURMOND. Mr. President, from time to time since last March, I have informed the Senate that the effort to unionize our military forces is a serious threat. My bill, S. 3079, cosponsored by 30 other Senators from both sides of the aisle would prevent this action. Actions by leaders of the American Federation of Government Employees, compiled in "actions of the national executive council during the meeting of June 8–11, 1976, Washington, D.C.," gives us a clear picture of their intentions.

I call attention particularly to the quote from National Secretary Nolan:

> What is important to the government and to our status within the labor movement is that we have this weapon in the holster, and I think you should bear that in mind.

In his column of September 25, Mike Causey reports that the American Federation of Government Employees voted to amend their constitution to permit recruiting of members of our Armed Forces into the union.

I ask unanimous consent that the actions of the national executive council during the meeting of June 8–11, 1976, Washington, D.C., and "Job Actions Approved," as written by Mike Causey in "The Federal Diary," of the Washington Post, September 25, 1976, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, Sept. 25, 1976]

Job Actions Approved

(By Mike Causey)

Las Vegas, September 24.—Leaders of the union representing one of every five federal civil servants now have membership approval to call an illegal slowdown, or throw up picket lines around government offices and military bases.

The precedent-setting strike sanction got easy approval from the 1,855 delegates to the American Federation of Government Employees after a marathon session in which most business of this week-old convention was telescoped into the final 12 hours. The convention was held at the plush, name-your-pleasure MGM Grand Hotel.

To give some bite to their strike-slowdown bark delegates voted to raise their monthly per capita (national) dues by 70 cents over the next two years. A nickel per member per month will go into a war chest that would be used to finance a strike, and pay members' benefits while on picket duty. The union has about 260,000 dues paying members.

Phase one of the dues increase will be a 50 cent per month raise effective in January. There will be an additional 20-cent increase going into effect in January, 1978.

As another bargaining chip in the union's war of nerves with the White House, delegates amended this civilian organization's constitution to permit it to sign up uniformed personnel of the Army, Navy and Air Force.

AFGE officials said they don't expect recruiters to rush to military bases and naval stations. But they anticipate some members of the all-volunteer American military establishment will join the AFL–CIO union. And they hope to use their dues as seed money to launch a serious military recruiting campaign in the future.

The Pentagon is dead set against unions in the military. Legislation in Congress would bar any union organizing in the armed forces. But more than half of AFGE's membership—now all civilians—are Defense Department workers, and union offices at various installations—from Ft. Meade to Germany—would be a natural place to begin the recruiting.

The fact that strikes or slowdowns against the government are illegal (punishment: dismissal, a $1,000 fine, and/or a year and a day in jail) didn't seem to faze delegates here. There were constant reminders that nothing happened a few years back when 220,000 postal workers walked off the job. One reason nothing happened was because punishing them would have meant releasing all inmates of all federal prisons to make room for the wildcatting postal workers.

Delegates also officially endorsed an earlier decision of their national executive board, calling for a nationwide government slowdown unless Mr. Ford grants an Oct. 1 pay raise that is larger than the 4.8 per cent average he is considering. That boost—not a cost-of-living but a partial catch-up with industry—is one of three options Mr. Ford has. But the others are much more costly and it is considered unlikely even with the threat of the slowdown that the President will increase the amounts.

Union members here made it clear that even if they get a larger October pay raise, Mr. Ford isn't likely to win many votes from them. They endorsed the Carter-Mondale ticket with great relish and then booed a Ford message to the convention. Members denounced the President for being anti-employee and officially instructed their leaders to send the letter back to the White House.

AFGE's new president, a 41-year-old former paratrooper, took charge quickly and ran the convention on his timetable—which was nonstop. On several close voice votes Kenneth Blaylock gave the decision to the side he favored. Nobody—even at this frequently rambunctious and parliamentary-procedure happy gathering—challenged his interpretation.

Blaylock's command of the gavel saved the union—which has been losing money and members—from a potential financial disaster after delegates first rejected a proposed $1 dues increase. AFGE members—who now pay some of the lowest dues in the labor movement—said there should be more economy at the headquarters office. Some demanded that budgets be drawn up before they would consider any increase.

Blaylock let the delegates cool down late Wednesday evening and then a proposal for the 70-cent increase was brought up by delegates who only hours before had argued vigorously against any increase. The 70-cent figure passed, and although it doesn't give the new national officers all the money they say they need, it will save AFGE—at least for the present—from making staff layoffs.

AMERICAN FEDERATION
OF GOVERNMENT EMPLOYEES,
Washington, D.C., July 19, 1976.

Memorandum: lz/NEC.

To: National Executive Council; All Local Presidents; All Council Presidents.

From: Dennis Garrison, National President.

Subject: Actions of the National Executive Council during the Meeting of June 8–11, 1976, Washington, D.C.

Attached is a copy of the actions taken at the meeting of the National Executive Council held June 8–11, 1976, Washington, D.C.

ACTIONS—NATIONAL EXECUTIVE COUNCIL, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

SHOREHAM AMERICANA HOTEL,
Washington, D.C., June 8–11, 1976.

Present: Executive Vice President, Dennis Garrison; National Secretary-Treasurer, Nicholas J. Nolan.

NATIONAL VICE PRESIDENTS

Phillip J. O'Donnell—First District;
Joseph D. Gleason—Second District;
Royal L. Sims—Third District;
Ralph G. Fitch—Fourth District;
Kenneth T. Blaylock—Fifth District;
Kenneth C. Walsh—Sixth District;
Allen H. Kaplan—Seventh District;
Virgel W. Miller—Eighth District;
Sammy L. Penington—Ninth District;
Glen J. Peterson—Tenth District;
Morten J. Davis—Eleventh District;
Harold E. McLeod—Twelfth District;
Charles W. Carter—Thirteenth District;
Major H. Travis—Fourteenth District; and
Elwin E. Lewis—Fifteenth District.

Clyde M. Webber—National President—Excused.

PROPOSED AGENDA, NATIONAL EXECUTIVE COUNCIL MEETING

WASHINGTON, D.C.,
June 8–11, 1976

Opening Prayer.

Roll Call.

Report of National President.

Report of Executive Vice President.

Report of National Secretary-Treasurer.

Report of Committees: Budget; Insurance; Legal Rights; Merger; Organization; Collective Bargaining & Public Relations; Resolution on Membership of Military; J.F.G. Memorial; Special Election; 1980 Convention Site; AFGE Housing; Rally; and Expanded Recognition for Achievement.

Budget priorities (Blaylock).

Council procedures in assessment of locals (Sims).

59. Resolution on membership of military

Motion: That the resolution which proposes the amending of Article III, Section 1, and Section 1(a) of the National Constitution as follows:

"Section 1. All persons of the following classes, without regard to race, creed, color, national origin, sex, age, or political affiliation, excepting those over whom jurisdiction has been granted to other national or international unions by the American Federation of Labor and Congress of Industrial Organizations, shall be eligible for full membership of this Federation."

"Section 1(a). All employees of the United States Government, and any of its instrumentalities of whatever nature, including military personnel of the armed forces, and of the District of Columbia; and all other persons providing their personal services indirectly to the United States government, are eligible for membership in this Federation" be adopted.

Motion by NVP-Miller. Seconded by NVP-Carter.

Motion: That the proposals be divided due to two subjects.

Motion by NVP-Blaylock. Seconded by NVP-Carter.

Motion adopted by unanimous vote.

Question called to Cut Off Debate adopted by unanimous vote.

Question called on Motion to Amend Section 1(a) of Article III, resulted in the following vote:

IN FAVOR (12)

NVP-O'Donnell, NVP-Pennington, *NVP-Gleason, NVP-Davis, NVP-Blaylock, NVP-Carter, NVP-Walsh, NVP-Travis, NVP-Kaplan, NVP-Lewis, NVP-Miller, NST-Nolan.

OPPOSED (4)

NVP-Sims, NVP-Fitch, NVP-Peterson, and NVP-McLeod.

Motion to amend section 1(a) of article III, adopted by majority vote.

Motion: That the portion of the transcript of the proceeding of this National Executive Council dealing with this subject be furnished to each and every Local Union President.

Motion by NVP-Gleason. Seconded by NVP-Kaplan.

Motion: To Cut Off Debate.

Motion by NVP-Sims. Seconded by NVP-Carter.

Motion to cut off debate adopted by unanimous vote.

Question called on Original Motion resulted in the following vote:

IN FAVOR (14)

NVP-O'Donnell, NVP-Gleason, NVP-Sims, NVP-Fitch, NVP-Blaylock, NVP-Walsh, NVP-Kaplan, NVP-Penington, NVP-McLeod, NVP-Carter, NVP-Travis, NVP-Lewis, and NST-Nolan.

OPPOSED (2)

NVP-Peterson and NVP-Davis.

Motion adopted by majority vote.

Resolution on membership of military.

National Vice President MILLER. Committee——

Executive Vice President GARRISON. You have some good ones there?

National Vice President MILLER. Committee on organizing the military unanimously recommends the adoption of the draft resolution prepared by the Office of the General Counsel, which proposes the amending of Article III, Section 1, and Section 1(a) of the National Constitution. Further, that the last paragraph, page 3 of said draft, be deleted beginning with the words "and be it further resolved."

Mr. Chairman, I so move.

National Vice President CARTER. I will second that, Mr. Chairman.

Executive Vice President GARRISON. It has been moved and seconded.

Any discussion?

Being none, are you ready to vote?

(Chorus of "noes.")

National Vice President GLEASON. I thought perhaps the proponents might like to speak to it.

National Vice President KAPLAN. Well——

Executive Vice President GARRISON. Vice President Kaplan.

National Vice President KAPLAN. This issue has probably received more publicity than any other issue the last few years, and it has aroused a lot of interest in our membership.

This committee has worked very hard. We have studied the ramifications, the practicalities, the other systems, and we have come to the conclusion that for many reasons it is best for us to open our membership up to the military.

Now, some of the reasons for this are the following: One, this gives us an added power or an added weight when we go into the Congress, just the possibility that we are going to organize the military, more people are taking us seriously because of it than in the past.

Two, under the present system, the military is tied in with our classified pay system. We are carrying the military on our back, so to speak. And as long as we have got this system, it makes sense for them to pay their way.

Third, there is real needs for assistance amongst this group of workers. In many respects it is like the non-appropriated fund class of workers that we were told could not be organized, should not be organized, but they had legitimate complaints and expressed interest and we organized them.

Likewise with the military, there are serious problems of due process and working conditions, or cutbacks in their benefits now. These are some of the reasons.

We will get into the debate, get into some of the answers to objections.

I would like to point out one thing that is very important. Our committee wrestled with the details of how you go about organizing the military. We have a separate structure. They brought into our locals on a military base, or do we establish separate military locals.

They have a Vice President. Are they integrated into our regional setup that we have now, or do we set up an affiliated structure that goes along with us?

We have come to the conclusion that we just don't know all the answers. But the way to proceed would be to make it possible for us to develop those answers, and perhaps try out some pilot projects along the way.

If this proposal passes at the convention, then the next step would be for this committee to make specific recommendations that would be in the nature of a limited experimental stage, and that would be brought back to this Council. So that everybody was fully aware and approved of the steps we were taking. But that is the way we see it proceeding. I think I will close now and come back in later perhaps.

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*NVP-Gleason: Stipulation on the record I vote "aye" so that it can come on the floor of the convention for discussion and decision.

Maybe some of the other committee people may want to say something before—well, I end.

National Vice President CARTER. I would like to wait until we hear some comments in opposition.

Executive Vice President GARRISON. Blaylock.

National Vice President BLAYLOCK. Is a motion in order?

National Secretary-Treasurer NOLAN. Motion is on the floor.

National Vice President BLAYLOCK. Motion to divide is on?

Executive Vice President GARRISON. I think motion to divide would be in order.

National Vice President BLAYLOCK. I would like to divide the two proposals. One deals with Section 1, amending the Constitution; the other with Section 1(a).

The amendment to Section 1 brings that first section in line by adding the words "Political affiliation," which brings it in line with the Civil Rights Act, Landrum-Griffin and so on, which is a necessary thing.

The General Counsel then, in preparing this, used a vehicle to get one change that is necessary.

Section 1(a) amendment is the one that deals specifically with the authorization or the jurisdiction for military. So I would like to move we divide those two subjects at this time, Mr. Chairman.

National Vice President CARTER. Second.

National Vice President SIMS. Second.

Executive Vice President GARRISON. It has been moved and seconded.

Do any of you want to speak up?

National Vice President BLAYLOCK. No, I spoke on it before I made the motion, I reckon.

Mr. PELLERIZE. Age.

Executive Vice President GARRISON. Secretary-Treasurer Nolan.

National Secretary-Treasurer NOLAN. Mr. Chairman, speaking to the amendment.

National Vice President GLEASON. Point of order.

You haven't taken a vote on the gentleman's motion.

National Vice President CARTER. Right.

Executive Vice President GARRISON. All right.

Motion to divide the motion. All in favor of the motion let it be known by the sound of "aye."

(Chorus of "ayes.")

Executive Vice President GARRISON. All opposed?

(No response.)

Executive Vice President GARRISON. Motion carried.

National Secretary Treasury NOLAN. Mr. Chairman, speaking in favor of 1(a), the summary of what Mr. Kaplan said is what I feel very fervently is not important, whether we organize the military—it is important that we have the weapon in the holster.

We are not really in the mainstream of the American labor movement. One reason we are not is they regard us as a bunch of pantywaist federal employees; to some degree we are.

If we are walked up to the end of this issue and now back off, we are going to be severely weakened within our own house. We are going to be regarded as not having—in Mr. O'Donnell's word of yesterday—

National Vice President GLEASON. Say it.

National Secretary-Treasurer NOLAN. It is going to be very detrimental to the organization; to those members who have had very good reason to be concerned about the mechanics, the mechanics are not important at this point in time.

What is important to the government and to our own status within the labor movement is that we have this weapon in the holster, and I think you should bear that in mind.

Executive Vice President GARRISON. Vice President Lewis.

National Vice President LEWIS. This, I wish to add, is of tremendous concern to the military office, and every meeting I have had with the military officials since this came out in the papers, they have asked if we were sincere in this or if it was a publicity stunt. And I told them that it was up to the Council to submit resolution and for the convention to act on it.

So I am convinced that if we back off now, we have certainly lost face. So I am speaking in favor of the motion to Section 1(a).

National Vice President KAPLAN. Point of order.

The motion is to divide?

National Vice President LEWIS. That was passed.

National Vice President KAPLAN. Okay. And the motion is on 1(a)?

Executive Vice President GARRISON. Right.

(Chorus of "ayes.")

National Vice President LEWIS. Right, and I spoke in favor of the motion.

National Vice President GLEASON. Mr. Chairman.

Executive Vice President GARRISON. Vice President Gleason.

National Vice President GLEASON. What I had finished saying, what I am about to say on 1(a), I will vote for the resolution and ask there be an explanation for my vote in the record when I am voting for it, so it can come to the floor of the convention in debate.

Executive Vice President GARRISON. No problem.

National Vice President GLEASON. I speak against the proposition as such, and my rationale is it is an idea whose time has not yet come.

I don't oppose the philosophy, the concept. I never want to be put in the position as a labor official of saying that any group of people anywhere in the world, be they military or nonmilitary, do not have the right of self-association and self-organization.

It is predicated on the basis whether the ideas, time has ever arrived.

I don't think it has.

I have had an opportunity as candidate for National Office to travel into many areas of the country over and above my own. It would be logical to assume in those travels looking at one's own district, the Office of New York and New Jersey, probably considered the most liberal district in the country, depending on who you talk to, you are talking to would be a district pro, section 1(a). They are not, Mr. Chairman. And they are not just in military locals which runs the gamuts of all of the agencies involved.

As one travels out of the more liberal area, militant area, as one member of the Executive Council told me last night, the feelings and passions run even stronger, both in discussions with people, at mid-Atlantic area, southeast area; the west. I haven't found any real difference of opinion in terms of opposition.

But some of the letters which accompanied this ballot that I sent out are terrifying.

I received one—two letters specifically from a local in the State of Minnesota in which the officers of that local said if you, in so many words, you and the other idiots in the National Executive agree with this idea, I am going to withdraw from the AFGE—call it the subversive communist organization that it is.

I can cite numbers of these letters—when I say numbers, eight or nine to be specific, that wouldn't accomplish any useful purpose except to say there is a wellspring of opposition to this a lot deeper than the committee may recognize.

For the record, let me just give you the percentage on this ballot and some could say that the ballot was constructed to encourage opposition. It wasn't.

On the first question, should AFGE organize the military? 89.8 percent opposed.

National Secretary-Treasurer NOLAN. How many does that represent in number?

National Vice President GLEASON. 62 ballots.

National Secretary-Treasurer NOLAN. Thank you.

National Vice President GLEASON. That's nationwide, by the way, not the second district.

By the way, there are more of them at home, according to my wife, so I haven't taken that into account yet.

Two, do you believe AFGE is sufficiently organized, the civilian work force, to warrant military organizing at this point in time?

We have not organized sufficiently.

Question number three, do you believe that organizing the military would pose a conflict of interest for AFGE? 73.7 percent believed it would.

Do you believe that organizing the military will hurt AFGE with the Congress?

84.5 percent believe that it will.

Do you believe that AFGE can successfully organize the military?

86.8 percent, no.

And finally, the last one, which is a real hooker of a question, I would agree, which do you consider the most important issue, the passage of H.R. 13 or organizing the military?

100 percent for passage of H.R. 13.

It is a cross section, it is a cross section, and I would just be concerned that this issue at this time, in 1976, that the problems we are currently facing right now within the Federation could tear this Federation asunder in its convention.

And we might have a bare-bone skeleton, we wouldn't be talking to anybody about merger.

Now, Mr. Chairman, I would again repeat, I do not seek to deny anyone the right to self-organization.

If one of the members of the military who expressed opposition to me is my own son, who serve on the U.S.S. *Turner Joy*. Now, that boy was brought up in a labor family. His father, grandfather before him, were all in the labor movement for all of their adult lives. These boys were brought up with a labor code in the home. And he wouldn't join the American Federation of Government Employees. For different reasons than his father says. He just does not believe it is right.

That was difficult for me to accept. And that certainly wouldn't be the sole judgment beyond my reasoning.

So I will vote for it to get it to the floor of the convention and at that point when the vote is taken, I want the record to reflect why.

Thank you.

Executive Vice President GARRISON. Ken, then Carter.

Ken Blaylock.

National Vice President BLAYLOCK. Yes. This, of course, is a very controversial subject and it has been.

I have had mixed personal opinion and reactions to the basic philosophy of organizing military versus civilian.

Gradually working with the committee, I have tried to, you know, sort those feelings out and be practical, and as Joe very well stated, I will never be in the position of forwarding the idea that any group of American citizens, work forces, would not have the right to organize. So I think everybody pretty well buys that.

I would just have to make a couple of comments about the survey that was conducted mentioned just a few moments ago. It resembled very closely some of the surveys that our good friend Senator Helms put out from North Carolina: Are you for motherhood or are you against, it is hard to answer that, you know, in but one way.

If we extend the philosophy, you know, have we organized civilians—say have we organized the Air Force civilians enough, should we go for Social Security now. I don't quite buy that line of thinking.

As to the delegates, my main reason for supporting the committee in their unanimous decision to present the bare bones mechanical amendment to the convention to get, one, to get the issue on the floor, so the delegates can decide the issue; two, the same philosophy we used when we took the no-strike clause out of our Constitution, it did not give us the legal right to strike, at least it took us off the record as saying we are opposed to the tools of strike. And that was very controversial.

I reckon the thing that really convinced me to support this amendment or proposed amendment to the Constitution was my own district convention, and both you, Mr. Garrison, and Mr. Nolan were there. And we put this on the floor of our convention with some 350 to 400 delegates there, and the people, after a lot of discussion pro and con—and this surprised me, there was a lot more pro than I had expected, just talking to a few people; the vocal ones were negative. When we got it on the floor, it went both ways and finally tabled for further information. They wanted to see what the committee's report was, it indicated to me there was a genuine concern of the delegates and the members, you know, should we enter into this or not, and I think they are going to look at it very realistically.

For that reason I think we should take it to the convention floor.

Executive Vice President Garrison.—Mr. National Vice President Carter.

National Vice President Carter. Having been in the valley through all of this, I want to rise up to the mountaintop.

National Vice President Blaylock. That is where the air is the freshest.

National Vice President Carter. I too, as a member of the committee, supported this basically on the grounds that it gave us a vehicle to go ahead and proceed—didn't say we would or wouldn't. It said we had the vehicle to do so if we so desired.

I think we have a lot of publicity on it and other people have shown their interest.

An opportunity for AFGE to be a first, as in 1932, when they took steps to organize this organization, as O'Donnell said, had symbols to do some things.

I strongly believe that this here proposal in backing off on it would create a lot of embarrassment that we have yielded to undue pressures.

I think there is a considerable amount of silent majority out there and I have talked to some of the military people in the area, some are for it, some are against it; some are plain anti-union, just as we have in the federal sector.

We have an education problem. We have organizing problems. We have a structure problem. All of which will have to be dealt within the period of time that we attempt to come to grips of really organizing the military.

What will be the age and time to do this? Ten years, five years? I don't know. Twenty-five years; thirty years.

I know we need to deal with it now and be in the position we can in fact if it becomes of age to accomplish it or at least attempt to accomplish it.

I strongly believe that like Brother Blaylock has said, by simply removing the no-strike clause from our Constitution, we left reasonable doubt as to whether we would or wouldn't. By entering this into our Constitution, it certainly gives us a vehicle. It gives Congress something considerably to think about when there is some 25 Congressmen already gone to sponsor legislation to prevent us from organizing them.

When I read an article from the Air Force Sergeants Association saying, Congressman, while we are not sure whether we will or will not join a union, we do not wish you to take away a Constitutional right to us. So it has been beneficial all right to the Armed Forces Association.

It has also been beneficial to us I feel already to propose this to them that possibly we could make it happen.

On those grounds I say let us put it before the convention. We are not saying we are actually going to; we said we have set the mechanism if we want to do it.

Vote in favor.

Executive Vice President Garrison. Vice President.

National Vice President Sims. I find it quite difficult—

National Vice President Peterson. To get up?

National Vice President Sims. To get up, yes.

(Laughter)

I find it difficult to be in the position I am in.

When this thing first came to the Council, the record will show that I voted against you making one move and you wanted to make the junket from Brussels and every place else—I voted against that too.

Yet, on the other hand, I have been on three talk shows and I have spoken to Glen, in your district, that college down there, in the affirmative.

Let's review that position. Vice President Miller took me to the Army War College up in Carlisle and I said, "What are you taking me for? You know what my position is."

He said, "Yes, but I know what you are going to do."

And so I went up there talking about how great this was.

I share the views, I don't want anybody's Constitutional rights taken away from them.

Let me tell you something and I want you to face reality, I can't vote here today in the affirmative case, I would be inconsistent with what I have done, and what I must do at the convention.

I can't let the record show that I voted to go to the convention, because I can't support it simply because my district in its meeting—there were 230 on this and we didn't do it in one meeting; we did it in three, and each time the answer was no.

One of the reasons, of course, is that many of your civilian employees have a helluva time with military people in states.

Secondly, they have felt very strongly that we have just not done enough for those who are eligible to join the union. We talk about 725,000 we represent; we have got 725,000.

And thirdly, and perhaps this may sound cowardly, we have got more I think adverse publicity out of this than we have the other way.

We put it out and we said, "Oh, we got them stirred up, or got them concerned."

And I will tell you, a lot of the military people in this country have stiffened their backs in some of the places that have recognition. Glorified people, people being concerned with it.

I say to you here and now, in my opinion, when this is on the floor of the convention, it is going to take up more time than you can ever shake a stick at and you are going to have more flack you never want to see.

I am sure you will probably have the votes to do what you want to do here today, but you should be aware of the impact this whole thing will have on our convention and on our people. I want you to be mindful of that, what we do here today is simply going to say to our people that this Council went on record as we are going to put it on the convention floor. So be it, so be it.

Executive Vice President Garrison. Vice President McLeod.

National Vice President McLeod. I guess if you are going to vote against a stand for motherhood and sin, you had better stand up—I will stand up like everybody else.

But I have to join with Brother Sims. I recall the last meeting we had as well. I recall my opposition to sending anybody to the Netherlands or to Dutch East Indies, or any place else, to take an in-depth on-site survey of organizing military and people. I am involved right now out in California, very serious campaign against the Metal Trades Council. I used the philosophy opposing the Metal Trades Council, where are they going to stand when it comes to contracting out? They can't stand on both sides of the fence. They have to stand on one side or the other. I suspected they will stand on the side of the contractors and I think that is obvious.

I liken that to the same philosophy if we are going to start organizing military people, where are we going to stand when it comes to fighting military takeover of civilian jobs?

We cannot stand on both sides of that issue. We will have to stand on one side or the other.

That is one of the reasons why I oppose this. The other reason why I oppose this has been very well discussed, we are not ready to organize the military people. Again, I will have to refer to the state out in the Golden West, 250,000 civilian employees out there, 25,000 of which are organized, and I am doing all I can to organize those other 200,000, but I don't need the added burden of trying to organize whatever millions of military that would be involved.

I have heard a lot said here today about vehicles and about backing off from a position, and I think it might be well to reassert here today what National President Webber said way back when this clamour started.

Let me remind you all, he said, and the sum total of what he said is there is no law, rule, or regulation against it. He didn't say we are going to go out and organize any military people, he never even suggested it. Yet here today we find ourselves now in a position of having to back off, back off from what, from what he said?

I don't find it improper to back off from—we are not having to back off from what he said when all he suggested was there is no law, rule, or regulation against. And that is the sum total of what he said.

So if that statement has put us in a position now of having to go along with the Vice President from the first district, maybe he would place me in that context—then if we now as a Council endorse that thing, what is it going to be like when we go to convention, convention time, when that simple statement is going to put us in a position of having to back off from something, I wonder what position we are going to be in at convention time if we go there as National Executive Committee, proposing to change our Constitution to allow this thing to happen.

I am going to oppose it and will so vote.

Executive Vice President Garrison. Clarification, I believe, Clyde, President Webber, did state there would be a resolution go to the convention, whether they wanted to organize the military or not.

Is that true, Bernie?

Mr. Zwinak. Yes, change of Constitution.

Executive Vice President Garrison. Change of Constitution.

National Vice President Carter. I will yield to Peterson.

National Vice President Peterson. Mr. Chairman, I rise to speak against the motion.

I think the tenth district has 56 military installations in it that we have locals in; with 56 military installations everybody that I have talked to has been opposed to the fact that we organized the military.

I have been with so many military in the past where the management people or generals, if you please, have said they didn't care what is going on, if there is a private working in the organization, he is the boss.

So what we are saying, we are going to organize the bosses.

(Laughter)

Because I have been on installations where the private has told a GS–15 what to do and got by with it, and we have not been able to overcome it.

Bergstrom Air Force Base is one. We had a private up there, one little stripe, private first class, but he was in charge of a GS–15.

We had over at Laughlin Air Force Base, we had these noncommissioned officers there in charge of—they called them NCOIC's, noncommissioned officers in charge. And they literally run the place and they are the boss.

So what are we saying? Are we going to organize the bosses? Is that a conflict with the executive order? Where do we stop?

The tenth district is going to record as being opposed to this and the locals in my district have told me in no uncertain terms that we are making asses out of ourselves, and that is how we look in the newspapers, too. And let's go out and organize the civilian work force, do something about them, and forget about the bosses.

Executive Vice President GARRISON. Vice President.

National Vice President CARTER. Very briefly, Mr. Chairman, when organizing the AFGE, they said white collar against blue collar. Many said AFGE against the others.

By combining our efforts and bringing wage rates and white collar workers together, we have benefited.

We have the same problem existing by having the military set against us, divided we are standing—divided we fall, together we stand.

(Laughter)

Quotation is correct.

The military has used and is continuing to use the military personnel very effectively to hurt us in many, many areas and it is surely clear if we were going on strike tomorrow that the military poeple would step in and take a lot of our occupation over as they threatened to do with the Postal Workers when they went out in 1969 I think it was.

So we could probably debate the pros and cons of this for another four or five hours and I think our convention members want an opportunity to hear, they want an opportunity to decide on this issue, and they speak for us more so than we speak for them. And I think it should go to the convention floor, so move we call for the question if no one else cares to debate.

(Chorus of "noes.")

National Vice President CARTER. If no one else cares to debate. If not, I call for the question.

Executive Vice President GARRISON. National Secretary-Treasury.

National Secretary-Treasurer NOLAN. Just a couple of short comments.

Mr. Sims indicated he opposed this thing in the past.

The record shows while he did speak against the committee report, on the last go-around, he voted in favor of it.

National Vice President SIMS. You recorded me incorrectly.

Let the record be changed heretofore. You recorded me incorrectly. I distinctly said "no."

National Secretary-Treasurer NOLAN. Could I read you your comment?

National Vice President SIMS. I don't need the gentleman to read me my comment. Mr. President.

National Secretary-Treasurer NOLAN. Your comment would show you didn't record your vote wrong because you commented on your vote afterwards.

National Vice President SIMS. What the hell has that got to do with the issue—you spent all that time to find out how I voted.

I voted against it.

National Secretary-Treasurer NOLAN. My question would be really directed to Mr. Gleason in terms of fair play.

There was an article in the Federal Times May 24th which was entitled "To unionize or not," which contained a quote from a Secretary of the Army which, needless to say, was not in favor of unionizing the military and it was followed by an announcement about Mr. Gleason's questionnaire which he quoted to us and the final end of it was the result of this would be made public July 1st.

I would just like to ask maybe it ought to be the sense of the Council if this questionnaire is going to be released, then I would echo Mr. Blaylock's comment, I thought the questions were written by—

National Vice President GLEASON. I take exception—that is the vilest insult that can be hurled at a man in the labor movement. I resent it.

Don't you ever accuse me of talking in the same fashion as the National Right to Work Committee. Don't you ever do it.

National Secretary-Treasurer NOLAN. On point of clarification, the gentleman's charges, I was talking about the composition of those questions. They were loaded questions and that is the kind of thing I am constantly under attack from by the Right to Work Committee. We get them thrown at us all the time and we are using the same device ourselves. I felt it wasn't appropriate.

National Vice President GLEASON. Sometimes, Secretary-Treasurer Nolan, you make it very difficult to respond rationally to you. Sometimes you do.

This time I am going to let that pass and say yes, I believe that you asked how many ballots I was talking about, I believe I gave you the number, 60 or 62 said I had more at home. I would be perfectly willing to turn my ballots, which are personal ballots, by the way, paid for at my expense, over to the Public Relations Department if that is the desire of the National Office.

But the resentment wells up now, I said at the very beginning of my debate that I opposed no person's right to organize. No person's right to self-association. I said it was an idea whose time had not come.

I said I thought it would hurt the American Federation of Government Employees. I said I felt it would be a bare bones skeleton, other organizations would be picking apart. Those are the things that I said.

I want to pick up on a couple of comments that were made.

The question number one does not represent the type of a questionnaire I believe Jesse Helms put out.

I just asked point blank, do you think you should organize the military? Is that a loaded question? Honestly, is that a loaded question?

Doesn't a member have a right to express whether they do or do not have the right to organize military? Forget the rest of the questions on the ballot. Has it had an impact in Congress? It sure has.

We now have a block of 31 percent, not 25 as was pointed out earlier, 31 United States Senators have co-sponsored a bill to kill this idea aborning.

I don't think their approach is right. I oppose it. But I am a pragmatic man, aside from other things. And I recognize that when you go to the United States Senate basically you have got 31 of the people opposed to you on legislation you are seeking to get out of this Congress or out of that Senate. I think you have to take that into consideration.

In your desire to push this resolution, you also have to remember, your right and responsibility to the benefits you are trying to achieve for that civilian work force that has been sitting out there all of these years.

Now, Mr. Chairman, that is my final word on the subject. I can't be provoked into anything further.

Thank you.

(Laughter)

National Vice President SIMS. I call for the question.

National Vice President BLAYLOCK. I second it.

National Vice President KAPLAN. I haven't spoken.

Executive Vice President GARRISON. Who hasn't spoken? Who wants to speak to it?

Who wants to speak?

(Show of hands.)

National Vice President SIMS. I am going to say to the chair, on the one hand, we apply the rules of the book, parliamentary procedures, and on the other, we establish our own policy.

I am going to withdraw so you don't violate the rules any further.

National Vice President MCLEOD. I am not going to withdraw the second.

National Vice President SIMS. According to parliamentary procedure, it is not necessary.

(Laughter)

National Vice President MILLER. I think it is easy for the Council to see the inflamatory nature of this proposal.

I think to be fair with all of us, each other, we all have some mixed emotions about has the time come.

I agree with the gentleman from New York, everyone should have the unfettered right to a free association and the Supreme Court of this country has reaffirmed that right on several occasions.

I think we would be irresponsible, though, as a major labor union in this country not to present to our membership in a national convention the opportunity for that membership to decide whether they should have the opportunity to change their Constitution to provide for the affiliation or association of the military.

I think we have to remember now that the military is no longer a conscriptive force, it is a career force.

People go there to further their—not only to further their education, but also as a career. It is a career opportunity. They intend to spend perhaps not 20 years, but as the military and Congress, some of the Congress are now suggesting perhaps 30 years for their retirement.

They can see their benefits eroding daily.

When I was asked to speak at the Army War College, I think at first we received a rather cool reception. These are the future generals of the United States Army.

I think by the time that Mr. Sims and I left that distinguished War College, perhaps we had 35 to 50 percent of the future generals of the Army agreeing perhaps there was a place for organization.

They already recognized the fact they had several associations in the military.

We did check with the people in all of the countries—Sweden, Denmark, Holland, Belgium, Norway, Germany. A great deal of thought went into what is happening in these countries, what has been their experience with the military, and how did the civilian population assimilate unions into that posture.

It might be noted that one of the first things that Hitler did when he organized, when he first came into power in 1933, he destroyed the unions.

You must destroy the unions in order to have a dictatorship.

The German people in their wisdom and abundance after the war took that into consideration. They did not oppose the unionization of military for very good reason.

The difficulty, that happened before the debacle, was not to happen again in that country.

A lot of serious thinking went in. Some of the generals, some of the leadership of the German Army were instrumental in establishing the military Germany. People will say to you, yes, but this is America, this is not Germany. I suggest to you people of Sweden and Norway who have had unions since before the turn of the century, again established by some of the leadership who were members to the parliament of those countries, a lot of serious thought has been going into organization in these countries for some 70—in excess of 80 years.

We talk about questionnaires Mr. Gleason has put out and I happen to think my esteemed colleague from New York honestly seeks the support of his constituents by use of questionnaires, as he has demonstrated on many occasions. However, I can't agree that this questionnaire was not to some extent directed towards the opposition of consideration and adoption of a provision to enable the AFGE to organize the military.

I think while the first question, of course, he addressed himself to perhaps could be answered in a fashion that would be—that would not concern us, I think some of the other questions were perhaps, Joe, just a little bit designed to solicit the type of response that you received.

I think if that same question were asked in 1932 in organizing federal employees who worked for the United States Government, are we going to let them in the AFL–CIO where they will go out and take all of our jobs away from us? Just imagine how that question would have been answered.

If a further question were asked in this country today of the entire 80 million people in the work force, should we allow all the people in the United States to organize? I suggest there are only 24 percent of the people in the United States that are organized in organized labor today, and you would have 75 percent negative response.

I think if you were to have any survey in any right-to-work company, as I understand you did receive some response from Minnesota, I would be interested to know who the people were. Perhaps that would be privileged information, but I suggest there are people in Minnesota which is a 100 percent union state, we have 100 percent union organization in state, county, municipal, it provides for wherever you work as a public employee in the State of Minnesota that there is a union security agreement.

I suggest that there are substantial amounts of AFGE members who would not stand still for a union security agreement and perhaps have a difficult time being adopted at a national convention.

I want to talk about the time, the time has come, perhaps not. Perhaps the time has not come, may be six years down the road.

The committee is only proposing the vehicle for establishing that when the time has come that we will have the Constitutional provision so that we can go further into this.

We talked about organizing the Association of Civilian Technicians. Mr. Gleason and I have agreed to get together with Mr. Paterno.

Mr. Paterno has already organized 1,000 military people who are now in his organization and are now paying dues, we talked about taking over military jobs, that is vital.

We found out that did not become a problem in Germany. In Germany this has worked out better, now they are protecting each other's jobs, at least there is a cohesive force where they can sit down around the table and discuss when the job has to go. We know there are such things as selection, with the union cohesiveness.

(Discussion off the record.)

Executive Vice President Garrison, Okay, go ahead, Mr. Miller. You can go ahead.

National Secretary-Treasurer Nolan. Go ahead, Mr. Miller.

National Vice President Miller. Well, I would like to also add that we talk about committees at deliberation. We have voluminous material with which to research. We had the services of a Mr. David Cartright who had traveled to Germany recently, we met with him at length, and he has written a book you might be interested in reading called "Soldiers in Revolt."

We talk about what has happened to the military during the time of especially Vietnam, the fragging of the officers and terrible things that are happening today in Germany, the mutiny on the ships at sea, all of these have happened without benefit of the union. There was no organization. Many of these items have been covered up. The American people do not know what is happening in the military.

The race situation in the military today, the military today cannot expect, as the articles so provide, to secure the type of representation in courtmartials that will enable them to be successful in their fields.

Railroaded—gentlemen, that is what some of them feel, they are being railroaded.

They are searching, many of the ship-to-rail is a graduate of Naval Academy, has tried to help organize the military. Responsible people from West Point have attempted to—there are people that are searching, they are searching for help.

Now, I am going to close and I am going to say that in addition to the Association of Civilian Technicians, who are actively organizing today, and I know they are organizing in the State of Michigan, they are organizing in the reservists at the present time. And we all represent the military every day, I have more National Guard than any district in the country and I represent the military on a daily basis and, believe me, gentlemen, these are military problems.

The National Maritime Union is proposing to organize the military. And I suggest that many other major unions in the country will also join the National Maritime Union, which we all agree is perhaps one of the most responsible unions in the country today. But what is the National Maritime Union really doing any more than other unions or as much as any other union today? They are seeking mergers and they recognize there is strength and we would have strength, gentlemen.

We have for years and years and years now carried the military every time we went for a pay raise, we have been confronted by the same Senators and same House of Representatives, we cannot increase your pay, we cannot make it 6.4, we must limit it to 5 percent. Why, why, why? Because 3 million, 3 million military people are considered with our 1.4 million white collar work force.

Gentlemen, I say we cannot as responsible people refuse to submit to our membership the opportunity to vote this up or down.

Thank you.

National Vice President Gleason. Mr. Chairman, point of personal privilege.

I had said that I would not respond further, but there are a number of things that have just been said that I think bear responding to and a couple were addressed to me.

First, let me say that perhaps the most articulate and cogent argument that has been presented on behalf of this resolution is that which you have just heard. As a member who opposes the resolution, I want to commend the previous speaker.

I am sorry that it is felt that it was a survey designed purely to solicit the worst side of the question, because that really indeed was not the intention. It was not the intention.

I have to again remind the previous speaker and other members of the Council, I have not said I am opposed to organizing military, I repeat that for the third time, I am not opposed—the question is timing.

Reference is made to the National Maritime Union. That is headquartered in my city, that is a committee that did the job for its constituency, for merchant seamen in this country. It did not have a vast job left undone with the civilian work force as we do.

It is a union in virtual decline in AFL–CIO. Its membership may now be down to 21,000. It has sold off its major buildings in the City of New York.

Organizing the military happened to be something they grabbed on when after it announced its intentions in that area, as a means of survival.

I can't speak to what Vincent Paterno has done. You say there are 1,000 people in military uniform paying dues to Paterno. That is news to me. I wasn't aware of it.

Last but not least, a comparison between the nations of Germany, Sweden, Norway, are not necessarily a fair equation with the United States. These are smaller nations with a single common language for the most part. America is a vast sprawling nation of multi-tongue, multi-faceted, multi-philosophical in all of its regions.

So I don't think that we can necessarily draw up the same type of equations. Again, I repeat, I am not opposed to organizing the military, it is the timing of it, and will vote to bring the resolution to the floor.

I will further, after this resolution is disposed of, so that you can think about it, offer a motion that the portion of the National Executive Council that has dealt with this be sent to the local union offices so they can hear the arguments, pro and con, that were advanced in this Council meeting and will make it easier for them on the floor pro and con to be able to develop some of the arguments on both sides of this issue used, and I think you ought to think about that when you make the motion.

Thank you, Mr. Chairman.

NATIONAL SECRETARY-TREASURER NOLAN. Mr. Kaplan.

Wait a minute, Al.

With no objection to the body, can we take the recess now and debate later? Two o'clock?

Let's keep lunch short today so we can get something done.

Mr. Garrison, two o'clock. Break until two o'clock.

(Whereupon, at 12:50 o'clock, p.m., the meeting was recessed, to reconvene at 2:00 o'clock, p.m., the same day.)

AFTERNOON SESSION

Executive Vice President Garrison. Will Council come to order, please.

Vice President Kaplan.

National Vice President Kaplan. We are still on the military issue. As I said when I spoke earlier, I wanted to come back in later, speaking in the advocacy role.

One thing I think has to be said, this is an important issue to come before us, come before the convention this year, and it hits on our role as leaders in the union. Each of us has a dual role, both as an elected official who has a dual obligation, one to lead, to do what he believes is best based on all the information he has, and the other is to reflect the will of the people he represents.

Now, it is not always easy to match those two demands on our minds and hearts and there are times when we have an obligation to lead and I think this is one of those instances.

I will give you just a brief example on this issue. After our caucus we had a meeting of our district and this issue came up. Our delegates had read a lot about it in the paper and threw the floor open to debate.

A lot of the simple feelings came out as far as the left-handed tank driver and the auxiliary firemen and things like this, that really didn't have too much substance to them.

Once we got into the guts of the debate, people started expressing more reason, more measured thoughts on this subject.

Also at this meeting I gave a report on what my finding had been on the committee. I felt obligated to do so. I had been privileged to serve on the committee. I think our committee probably knows more about this than probably a handful of people in this country. And I gave those findings and I was surprised after about an hour's debate on this, I would say we had no formal vote, but I would say 80 to 90 percent of the delegates were supportive of our going ahead in this field.

I think I have a fairly good feel for how other people in my district feel.

So on this, we all have the advantage of going into this subject in more detail than most of the delegates will, and I hope that all of you will show or will exercise that role of leadership that I think is incumbent on all of us.

Along the same lines, I think I share the feeling of the committee, we really haven't discussed this. If any caucus at the convention district wants us to appear before it, I think we would be willing to do so.

Now, on the underlying philosophy of this issue, there is one thing that hasn't been touched on, hasn't been in the press, that really goes to what kind of society do we want in this country.

We now have a professional army. It is subject to very little control.

The rank and file in the military have their associations which are quite broad and quite extensive, but they are weak.

The military, the rank and file in the military has very little recourse to channels to correct abuses in the system and there are abuses, we all know there are.

The Congress has very little check on what happens in the military. A few weeks ago I saw that a recruit was killed in San Diego. When I was in the Marines, there was another instance of that and a few years before that there was another instance of that.

I am sure in a couple of years from now, there will be other Marine recruits murdered in the Marines.

In Vietnam, one out of four military people were not in position to find, whether from desertion, AWOL, or what not.

There is no recourse within channels to get justice.

Now, that is what we are really getting into in this country. We set up a professional military system with very little check on it.

If this unionization comes about, and I think it has to, and I think the time is now, what we are doing is for the good of the country. What we are doing is for the good of the rank and file person in the military. And this is something that the press hasn't picked up on.

We are really furthering the ideals of democracy.

I think I mentioned earlier when I was in Holland last year with this union group, we visited the NATO Headquarters and visited with the Deputy Commander of NATO, a Dutch man, and I asked him, I said, "You know, I read a lot about Holland, how the guys go around with long hair and don't salute. Has it really affected the morale and functioning and efficiency of your service?" And this guy was the Deputy Commander of NATO, our ally, said, "Well, you know, in Holland we are a democracy and we believe that if our soldiers have a say in the system, if they have something to fight for, when it really counts they will be better soldiers."

And I believe that. I accept that. And I think that is something that we should help to structure into the military in this country for the good of the country.

Now, there's another aspect of this situation. I have gotten some responses from military bases from soldiers saying we want to go organize. I have heard of others getting the same sort of thing.

There was a G.I. movement that existed in recent years and in a sense, the rank and file are asking us to come in and organize them.

In the 'thirties it was the industrial workers that said to the AFL—the AFL—"We want to be organized. We are getting a raw deal. We want you to organize us."

And at that time the AFL said, "No, we are just for crafts."

What happened, the workers organized themselves. The CIO was formed.

I think we are in position to lead this fight. The demand is out there and I think we have an obligation to respond to it.

Now, one other, another aspect is the extent of organization. What we are proposing really is not radical at all.

Virgil mentioned how it has gone on for a hundred years in Europe.

You go down to the European countries, I think every country with the exception of France, which is repressing attempts, has military organization. In some countries they bargain over wages, such as in the Scandinavian countries. In other countries they are a consultative type operation.

I think the only two major countries that don't allow or don't have military unions, organize in the military—also, by the way, don't have a right to strike for government workers—are the USSR and the USFA, and I really don't consider that good company.

Okay. That is, just in general, ideas of where I am coming from on this issue.

Now, what we have got before us is a simple resolution to change a word which will enable us to call the shots as we go in future years. Our hands won't be tied. I think that is easy to support.

But what I am asking for, though, here is that you actively support this if in conscience you can at the convention. It requires two-thirds to pass. And if you just sit back and say it is up to you delegates, you vote your conscience, it will fail. And I think everybody realizes that.

I just urge that you make an effort to get all the issues over and that we pass this.

Executive Vice President GARRISON. Vice President Fitch.

National Vice President FITCH. Mr. Chairman, I have heard the conversation that has come around the table. I confess to you I have been enlightened a great deal. But I am going to suggest to you that I have heard in my district no groundswell from my locals. Nothing from my locals indicating that they want to organize the military, that they think it is a good thing to organize the military.

And I am going to suggest to you that while I might agree in part in philosophy that the military should be organized, I am going to suggest to you that we represent the people who are organized. And in my district I have had some clear guidance from my caucus and that was that a resolution would be introduced that would oppose any organization of the military.

And I heard also awhile ago some conversation that would indicate that if we withdrew now, it would have some mark against us. I am going to suggest to you one thing. If you withdraw now, you may have some semblance of a strategic withdrawal and I believe if you come forward with this resolution and you go to this convention, you are going to have an overwhelming defeat by those people who are delegates at that convention.

You might think in terms of a strategic withdrawal now or look for a tremendous defeat at this convention.

Executive Vice President GARRISON. Any other?

National Vice President McLEOD. I would cut debate, unless somebody wants to speak who hasn't spoken.

National Vice President KAPLAN. Second.

Executive Vice President GARRISON. All in favor of cutting off debate signify by "aye."

(Chorus of "ayes.")

Executive Vice President GARRISON. Opposed?

National Vice President PETERSON. Aye.

Executive Vice President GARRISON. Unanimous.

Now on the motion.

National Vice President DAVIS. Just a second, I want to know what the motion is. Was it divided or all one?

National Vice President GLEASON. It is divided.

National Vice President DAVIS. Okay, I have got it. I am ready to vote.

Executive Vice President GARRISON. All in favor the motion let it be known by the usual sign of "aye."

(Chorus of "ayes.")

Executive Vice President GARRISON. All opposed?

(Chorus of "noes.")

National Secretary-Treasurer NOLAN. O'Donnell.

National Vice President O'DONNELL Aye.

National Secretary-Treasurer NOLAN. Gleason.

National Vice President GLEASON. I vote "aye," Mr. Chairman, with stipulation on the record I vote "aye" so that it can come on the floor of the convention for discussion and decision.

National Secretary-Treasurer NOLAN. Sims.

National Vice President SIMS. No.

National Secretary-Treasurer NOLAN. Fitch.

National Vice President FITCH. No.

National Secretary-Treasurer NOLAN. Blaylock.

National Vice President BLAYLOCK. Aye.

National Secretary-Treasurer NOLAN. Walsh.

National Vice President WALSH. Aye.

National Secretary-Treasurer NOLAN. Kaplan.

National Vice President KAPLAN. Aye.

National Secretary-Treasurer NOLAN. Miller.

National Vice President MILLER. Aye.

National Secretary-Treasurer NOLAN. Penington.

National Vice President PENINGTON. Aye.

National Secretary-Treasurer NOLAN. Peterson.

National Vice President PETERSON. No.

National Secretary-Treasurer NOLAN. Davis.

National Vice President DAVIS. Aye.

National Secretary-Treasurer NOLAN. McLeod.

National Vice President McLEOD. No.

National Secretary-Treasurer NOLAN. Carter.

National Vice President CARTER. Aye.

National Secretary-Treasurer NOLAN. Travis.

National Vice President TRAVIS. Aye.

National Secretary-Treasurer NOLAN. Lewis.

National Vice President LEWIS. Aye.

National Secretary-Treasurer NOLAN. Nolan aye.

12/4. Twelve for, four against.

Motion:

That the committee report to amend Article III, Section 1 be adopted.

Motion by NST-Nolan. Seconded by NVP-Blaylock.

Question called on Motion resulted in the following vote:

IN FAVOR (13)

NVP-O'Donnell, *NVP-Gleason, NVP-Blaylock, NVP-Wash, NVP-Kaplan, NVP-Miller, NVP-Penington, NVP-Davis, NVP-McLeod,

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*NVP-Gleason: Votes "Aye" so that it can come on the floor of the Convention for discussion and decision.

NVP-Carter, NVP-Travis, NVP-Lewis, and NST-Nolan.

OPPOSED (2)

NVP-Sims and NVP-Fitch.

ABSTAIN (1)

NVP-Peterson.

Motion adopted by majority vote.

BRITISH BODY SEES DANGER IN FAST BREEDER REACTOR

Mr. GRAVEL. Mr. President, on September 23 the Washington Post published an article reporting the conclusions of a recent study by Britain's Royal Commission on Environmental Pollution regarding the rapid buildup of fast breeder reactors. The commission urged the development of other energy sources, and an abandonment of long-range reactor construction plans. They warned that an increase in the availability of the highly dangerous plutonium used to fuel these reactors would enable terrorists with the "necessary expertise" to arm themselves with "a chilling weapon to blackmail society."

Also mentioned in the commission's report is the increased danger of death and suffering from a nuclear accident in which plutonium is involved. They cite an example in which the death toll from radiation-induced cancer would be up to 100 times greater in a plutonium plant than in one with a thermal reactor in the event of a nuclear accident. Such an accident would kill as many as 35,000 people in a semiurban 16-mile radius with a population of 300,000.

Mr. President, having long advocated a moratorium on the domestic construction of plutonium-fueled fast breeder reactors, I applaud the Royal Commission's study and recommendations, and ask unanimous consent that there be printed in the RECORD this article from the September 23, 1976, Washington Post.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BRITISH BODY SEES DANGER IN FAST BREEDER REACTORS

(By Bernard D. Nossiter)

LONDON.—A Royal Commission today warned that a rapid expansion of nuclear power could arm terrorists with a chilling weapon to blackmail society.

The commission singled out the fast breeder reactor, which produces more plutonium than it consumes, as offering a particularly vulnerable point. A plutonium economy, the study said, would enable "a sufficiently determined group with the necessary expertise" to construct a "crude bomb" with an explosive force of up to as much as 100 tons of TNT.

Resisting the demands of such a group, the commission said, "would present any government with an appalling dilemma."

For this and other reasons, the scientists urged Britain to abandon plans for a big buildup in fast breeders. Instead, the government was urged to stay with its present program of thermal reactors and develop new energy sources for future needs.

The 200-page report came from the Royal Commission on environmental pollution, a standing body here. Its outgoing chairman is an eminent nuclear physicist, Sir Brian Flowers, rector of the Imperial College of Science and Technology and a member of Britain's Atomic Energy Authority.

Royal Commissions are frequently more independent of executive wishes than presidential commissions in the United States and more closely resemble U.S. congressional studies.

The environmental team acknowledged that it strayed beyond its terms of reference and moved into a political area for which it had no special equipment. Even so, its standing is such that its recommendations are likely to have a powerful effect here and pose grave problems for the fast breeder proponents.

The report said there are no unacceptable risks of accident with the present thermal plants, although their spread to technologically backward countries of the Third World is a new danger.

If an accident in a nuclear power plant releases 10 per cent of its radioactive gases, the study estimated, up to 350 of 300,000 people living in a semiurban radius of 16 miles would die of lung, throat or thyroid cancer.

The same accident in a fast breeder plant, however, would increase the toll by 10 to 100 times, with up to 35,000 cancer deaths. Plutonium is both more toxic and more explosive than fuels.

The problem, the study made clear, is the rapid buildup planned for fast breeder plants. Britain now produces 10 tons of plutonium a year, will turn out 250 tons in 2000 and 2,500 in 2030. In contrast, the U.S. figure for 2020 is put at a whopping 30,000 tons.

Then, the study said, plutonium becomes a commodity like any other and the world is in a plutonium economy.

The commission said it was unconvinced that the British government was alive to the dangers this posed, a conclusion promptly disputed by Peter Shore, the environment minister.

Moreover, even if the government took measures to guard against plutonium thefts and sabotage, the resulting network of security measurers—informers, wire tapping, mail opening and the like—would impose an intolerable strain on the liberties of Britons, the report said.

The case for fast breeders, said the commission, is unproven and they should be postponed as long as possible.

PROPOSED TERMINATION OF THE GRAIN MARKET NEWS SERVICE FOR THE PACIFIC NORTHWEST

Mr. HATFIELD. Mr. President, early this year it was reported to me that the Agricultural Marketing Service was contemplating the termination of the Grain Market News for the Pacific Northwest, a report on market conditions that is prepared by Mr. W. D. Hughes in Portland. Accordingly, when the AMS came before the Appropriations Subcommittee on Agriculture in February to testify on its fiscal year 1977 budget request, I specifically asked AMS Administrator Wilkinson whether a budget reduction for this service was recommended. He replied that there was not.

Given this exchange during committee hearings, I was most surprised to learn just a few weeks ago that AMS had notified its regional offices of its decision to terminate all seven regional grain market news services as of October 1. This was reported to me by the subscribers to the service, not by Mr. Wilkinson or anyone else in AMS.

I immediately protested the decision, citing the hearing record. Mr. Wilkinson replied that no reduction in funding for the program had been made, but that an increase in mailing and printing costs necessitated the termination of the service and its replacement by a taped summary available on code-a-phone.

While Mr. Wilkinson's explanation of our exchange in the hearing is technically correct, in that I had asked about a budget reduction rather than a program reduction, nevertheless the subcommittee was left with the understanding that there would be no change in the Grain Market News service. Furthermore, the AMS did not inform the subcommittee or other interested committees of its intention to curtail the service.

Therefore, I appealed to the subcommittee for assistance in this matter. The upshot of my request was a letter to Mr. Wilkinson from Senators GALE MCGEE and HIRAM FONG, the chairman and ranking minority member, respectively, of the subcommittee, directing that the seven regional Grain Market News services, including the Pacific Northwest edition, be continued until January 1, 1977 pending congressional review.

We have not yet heard from Mr. Wilkinson, but I trust he will comply. And I trust that a review of this service will prove its worth and insure its continuation. Certainly the 1,400 subscribers in the Pacific Northwest can attest to its value.

Mr. President, I ask unanimous consent that my wire to Mr. Wilkinson on this matter, his response, and the letter from Senators MCGEE and FONG be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
August 30, 1976.

Mr. DONALD E. WILKINSON,
Administrator, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C.

Pacific Northwest grain growers have alerted me to the impending termination of the regional issue of USDA's Grain Market News. You will recall I raised this matter earlier this year in appropriations hearings, and you assured me that no such action was planned. Could you please advise me as to whether you have changed your mind and now plan to end publication of the Grain Market News for the Pacific Northwest? Thank you for your attention and prompt reply to this request.

MARK O. HATFIELD,
U.S. Senator.

AGRICULTURAL MARKETING SERVICE,
Washington, D.C., September 3, 1976.

Hon. MARK O. HATFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATFIELD: This is in response to your telegram of August 30 about the discontinuation of the Grain Market News regional weekly grain and feed market news reports.

Because of budget limitations resulting from increased printing and postage costs, effective October 1, the Department is discontinuing the printing and mailing of its regional weekly grain, feed, and hay market news reports. The Department will continue to gather the information contained in the reports, and will continue to release the information to the press, radio, television, and telephone recorded services, to private market news services and other subscriber drops via the Department's leased wire service and, with limitations, via national weekly market news reports.

In discontinuing the mailing, alternative arrangements were carefully reviewed, including additional funding, reduction in staffing, and less frequent mailings. In the interest of maintaining an efficient, effective, and timely nationwide market news service, it was concluded that for the present and foreseeable future the printing and weekly mailing of regional reports had the lowest priority of the practicable alternatives.

The discontinuation of the mailing will have no impact on the Department's leased wire service or the telephone recorded market news services in Oregon and the Pacific Northwest. Interested trade groups are invited to call their telephone company for information about subscriber drops to the leased wire service, and to explore with us the strengthening of telephone recorded services and the development of other economical and timely methods of dissemination.

In the appropriation hearings, we confirmed that the Portland Grain Market News office would be continued. We do not recall discussing or commenting on the printing and mailing of weekly market news reports.

Sincerely,

Donald E. Wilkinson,
Administrator.

Washington, D.C., *September 22, 1976.*

Mr. Donald E. Wilkinson,
Administrator, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C.

Dear Mr. Wilkinson: It has come to our attention that your agency has proposed to terminate on October 1, 1976 the seven market news regional reports which are mailed on a weekly basis to producers and other interested parties.

We understand that this action would eliminate four grain reports, two feed reports and one hay report currently issued by your Portland, Denver, Kansas City, and Chicago regional offices.

While similar information will continue to be made available through the mass media as well as telephone and wire services, we feel that this represents a significant change in your market news program. As such, we are concerned that at no time were we advised by your agency of this proposed action. In the public hearing on your 1977 fiscal year budget, Senator Hatfield directly inquired about the status of this program; your response, however, did not mention the proposed termination of the weekly market news report.

This Committee, in fact, did not learn of your proposed action until notice of it was made in the affected reports earlier this month.

This Committee recognizes that inflation related cost increases are having a significant impact on programs and we have sought to adjust support levels so that these cost increases will not jeopardize needed and necessary program activities. We are not at all convinced that the termination of these regional reports represents a sound method of meeting inflation related cost increases. Policies of the U.S. Department of Agriculture to promote a free market environment for agricultural commodities make it increasingly necessary that accurate and comprehensive information be made readily available to producers and others engaged in this sector of our economy.

The Congressional Office of Technology Assessment has recently completed a study of market information needs and we understand that the Economic Research Service is completing a similar report. We therefore direct that termination of the seven regional market news reports be postponed until January 1, 1977 so that this and other appropriate committee of Congress may have the opportunity to review and evaluate your proposed action.

Sincerely,

Gale W. McGee,
Chairman, Subcommittee on Agriculture and Related Agencies.
Hiram L. Fong,
Ranking Minority Member.

ERDA REPORT ADMITS RADIOACTIVE WASTE NIGHTMARE

Mr. GRAVEL. Mr. President, on September 3, 1976, Ralph Nader obtained a draft copy of an Energy Research and Development Administration sponsored study entitled "Radioactive Waste Management and Regulation" and commented:

> Congress needs to give this report immediate attention as it deliberates the future of atomic power here and abroad.

So my colleagues and interested citizens may have a chance to ponder this shocking indictment of nuclear power waste production, I ask unanimous consent that a news release concerning the the study be printed in the Record.

There being no objection, the news release was ordered to be printed in the Record, as follows:

ERDA Study Finds U.S. Radioactive Waste Program To Be "Unworkable" and "Inefficient"

A draft report commissioned by the Energy Research and Development Administration (ERDA) charges that "Thus far, the U.S. Government's record of management has been marred in a sufficient number of instances to be a cause of concern," the present system of radioactive waste management in the United States soon "will be unworkable," and Federal enforcement of standards "will be ineffective" unless some major changes in policy and administration are swiftly instituted.

The report explains that "Post-fission radioactive waste is highly toxic for extremely long periods of time—at least thousands, perhaps hundreds of thousands, or even a million years. Large quantities of HL (high level) waste are being temporarily and imperfectly stored in tanks at plutonium production facilities, and large amounts of spent fuel are being discharged periodically from commercial power reactors into increasingly crowded storage pools."

Already, the study reports, large quantities of high level radioactive wastes have leaked into the soil and atmosphere. As a result, the study brings into question the very future and the desirability of our nation's nuclear energy program.

The study, conducted by Mason Willrich under the auspices of the Energy Laboratory at the Massachusetts Institute of Technology, was completed on September 1, 1976. Ralph Nader, who obtained a copy of the draft report on September 3, commented:

"This sober report speaks volumes about the mismanagement of a million years of trust for future generations in the negligent handling of radioactive wastes. It shows how often the American people have been falsely assured, lied to and manipulated by government, Corporate executives and their indentured scientific lackeys. Congress needs to give this report immediate attention as it deliberates the future of atomic power here and abroad."

Willrich, who was the principal investigator for the ERDA contract study into "Radioactive Waste Management and Regulation", was until September a Visiting Professor of Nuclear Engineering at MIT and is currently Director for International Relations of the Rockefeller Foundation and Professor of Law at the University of Virginia (on leave). His conclusions and recommendations are supported by Dr. Norman C. Rasmussen, Chairman of the MIT Nuclear Engineering Department and by Dr. David J. Rose, Professor of Engineering at MIT.

The study portrays a chilling picture of our present radioactive waste management system and demonstrates the effectiveness of our current potpourri of local, state and federal regulations.

Calling the 216 million gallons of liquid high level radioactive waste now buried in the U.S. "a veritable witches' brew, seething with radioactivity," the MIT Visiting Professor warns ERDA that if it "escaped into the biosphere," it would "constitute a radiological hazard for hundreds of thousands, perhaps a million years."

What is so unsettling, charges Willrich, is the fact that "the basic goals of U.S. radioactive waste policy are nuclear." He says there is no agreement among scientists, industrialists or government officials of how containment and isolation of the harmful substances can be achieved, and he concludes that "Existing institutional arrangements for management and regulation of radioactive waste are inadequate for the future." Willrich categorically states that "There is today no long-term mangement of radioactive waste, no comprehensive scheme for regulation of such waste, and no commercial reprocessing industry." Complicating the problem in Willrich's view is the fact that there is a close interrelationship between waste mangement, waste reprocessing and plutonium recycle, activities commonly referred to as the back end of the fuel cycle. Government decisions in each of these areas are now pending.

Moreover, the report found that there is a "pervasive deficiency in the existing (radioactive) waste management structure" that leads to inefficient management. Willrich makes a number of recommendations to deal with the present overlapping and confusing sets of waste control responsibilities between the public and private sector which now create "incentives for each sector to pass through to the other as much as possible the risks and costs."

The consequences have already been felt, he says. "The liquid HL waste tank farms at the Hanford (Washington) reservation (where the Americium accident occurred on August 31) have developed eighteen leaks amounting to the loss of over 430,000 gallons of waste" Willrich notes in the report. The study cites eight other leaks at the Savannah River (Georgia) site, and mentions that between 1956 and 1958 about 31 million gallons of radioactive waste containing 1.3 million curies (excluding strontium and cesium but including plutonium) were poured into the soil on Hanford reservation.

Willrich points out some of the very difficult contradictions in the decisions which must be made in a plutonium economy. For example, while geologic isolation has obvious attractions, it is almost irreversible and there is the possibility that man-made waste storage systems can achieve higher levels of technological ability in the future. But, Willrich points out, ". . . some future civilizations may well resent our nuclear age if it has no escape from perpetual care for our waste. And a post-fission civilization may have grave difficulty in continuing to care for fission wastes centuries after all benefits from waste generating activities have ceased."

As to military wastes, the MIT report explains that they "will constitute a much larger and more difficult management problem in the near future than the wastes being generated by the commercial nuclear power industry. A large and still growing amount of military HL waste is being temporarily stored in tanks. No specific plans or schedule has been made public for treatment and permanent disposition of this waste. Rough estimates of the cost of preparing the existing inventory of military HL waste for safe permanent disposition run up to $20 billion. Very little is publicly known about management of military TRU (transuranic contaminated low-level wastes) waste, although a large amount is involved."

"The hazard," concludes Willrich, "will remain for hundreds of thousands of years." Cautioning ERDA about the desirability of nuclear power, the MIT Visiting Professor observed: "an inevitable legacy of our nuclear age, radioactive waste constitutes a potential Nth Century hazard."

CANAL TREATY IN PERIL

Mr. CLARK. Mr. President, with every passing day it becomes more clear that, in the absence of a renegotiated Panama Canal Treaty, the United States and Panama are on a confrontation course. This is, in my judgment, totally unnecessary, and in the interests of neither nation.

Unquestionably, the riots that have recently struck in Panama stem from a variety of reasons. There is dissatisfaction over rising food prices; the economy, severely affected by the world trade slump, has stagnated this year—not surprising for a nation so dependent on international trade. The government has been unable to stem the price increases, has imposed new taxes, and now faces a serious unemployment problem.

However, in all candor, we must concede that failure to make progress in negotiating a new treaty is also the source of considerable unrest. As the treaty negotiations became caught up in the U.S. Presidential election race, talks were, for all practical purposes, suspended. This, in turn, added to the domestic political problems facing President Gen. Omar Torrijos Herrera.

Mr. President, I am reminded that a study I requested from the Department of State, coordinated with the Department of Defense, projected that a real deterioration of relations could require an estimated 100,000 U.S. soldiers, with supporting air and naval forces, if the Panamanians—with Cuban help—would try to take the canal. We must not let it come to this.

Mr. President, I think it is imperative to emphasize the words of Ambassador Ellsworth Bunker in discussing the negotiations:

> The stakes are large;
>
> They involve not only the legitimate interests of both the United States and Panama and the future contributions of this important waterway to the world community.
>
> They involve as well our Nation's relations with Latin America as a whole and the credibility and reputation of our country as a force for creative leadership.

With this in mind, I request unanimous consent that a recent editorial on the issue in the New York Times be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CANAL TREATY IN PERIL

It would be an unspeakable tragedy if a new Panama Canal treaty—an imperative for future United States relations with Latin America—should become a casualty of the American Presidential campaign; but errors and excesses in both countries have made this in an alarming possibility.

Panama's "supreme leader," Gen. Omar Torrijos Herrera, faces the worst crisis of his eight years in power in part because the Canal treaty negotiations—which he had predicted would be successfully concluded late this year or early in 1977—have been in recess since May. The Panamanians accepted the necessity for adjourning the talks until after the major American party conventions, but say they had expected to resume discussions this month.

Ronald Reagan's demagogic accusation during the primary campaign that President Ford was planning to "give away" the Canal and Zone—a charge that aroused all the latent jingolism of the right wing—has made the Administration reluctant to reopen the negotiations until after the November election. But this obvious hiatus on the most combustible of political issues for Panamanians is highly embarrassing for General Torrijos.

It greatly increases the vulnerability of a Government already buffeted from many sides because of an economic recession marked by inflation, rising unemployment and higher taxes. Left-wing students were ostensibly protesting sharp rises in the prices of milk and rice when they launched the demonstrations two weeks ago that brought serious clashes with the National Guard and forced the closing of Panama's National University.

Faced with such defiance from a sector that had given him strong support, General Torrijos fell back on a traditional Latin American whipping boy. His Government charged the United States with responsibility for the student riots and said this was part of a "destabilization plan" for Panama. Officials hinted that Americans in the Canal Zone might be trying to provoke an incident that could give President Ford an excuse for a bellicose intervention that might give an emotional boost to his election campaign.

The long delay in negotiations because of the Presidential race is regrettable enough. Serious political instability in Panama—partly due to that delay—might be fatal. It is up to President Ford to send Ambassador Ellsworth Bunker back to Panama to resume the treaty talks; and it is up to General Torrijos to cool his own brand of jingoism, as he has done so successfully and responsibly in the past.

NUCLEAR TERRORISM COMING SOON?

Mr. GRAVEL. Mr. President, among the many dangers that those of us who oppose nuclear power have been alerting the Senate and the public to is the threat of nuclear terrorism. Along with their other deadly nuclear poisons, nuclear powerplants produce plutonium, the raw materials from which atomic bombs can be made. It only takes about 20 pounds of plutonium to make a workable bomb, according to several experts involved in the U.S. nuclear weapons program. By 1985, it is estimated that 100,000 pounds of plutonium may be in circulation if our nuclear power program is continued. I think it is highly unlikely that we will be able to control plutonium with the perfection required to be certain that terrorists do not have plutonium with which to build private atomic weapons. After all, 20 pounds is only one five-thousandth of the estimated 100,000 pounds. To assume that we will achieve that kind of perfection in containing a material so very attractive to terrorists, maniacs, and others is to lose touch with reality.

I was alarmed, but not especially surprised, recently when I received a clipping suggesting that the international terrorist Illich Ramirez Sanchez, known as "Carlos," already possesses a nuclear weapon. I certainly hope that the story is not true, and that we do not find out if it is true by way of Carlos demonstrating he has an atomic weapon.

The story does not say whether the alleged bomb came from the theft of an actual bomb, or whether it was fabricated from stolen plutonium. In any case, this story should serve as a warning about what kind of a world we can expect to live in if we continue to allow the production of ever greater quantities of bomb-making material.

Mr. President, I am grateful to Mr. and Mrs. Al Coleman of Pennsville, N.J., for bringing the United Press International story to my attention. The Colemans are, through a local organization called "Consumers United for Action"—Post Office Box 254, Penns Grove, N.J. 08069—working to halt nuclear power in their community and the Nation and to see major efforts in clean, safe solar power started now.

Mr. President, I ask unanimous consent that Terrorist Carlos at Large With N-Bomb; U.S. Angry" from the Atlantic City (New Jersey) Press of September 16, 1976, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From The Press, Atlantic City, N.J.,
September 16, 1976]

TERRORIST CARLOS AT LARGE WITH N-BOMB; U.S. ANGRY

WASHINGTON. Yugoslav officials reportedly let Carlos, the notorious international terrorist believed the mastermind of the kidnaping of OPEC ministers, slip through their fingers last week and the United States is angry about the fumble.

State Department officials said Wednesday they gave the Yugoslav government full details about Carlos' whereabouts last week and asked that he be apprehended. When the Yugoslavs failed to do so, the United States lodged a formal protest.

A Cairo newspaper, Al Akhbar, reported Wednesday that Carlos—a 27-year-old Venezuelan whose real name is Illich Ramirez Sanchez—is loose in Europe with a small nuclear bomb which he apparently intends to use in a terrorist operation.

State Department Spokesman Frederick Z. Brown disclosed the letter of protest to Belgrade and said the department had supplied enough details of Carlos' whereabouts that Belgrade could have apprehended him had they wished.

Carlos is sought for the murder of three French counter-intelligence agents when they appeared unarmed at his apartment in Paris to take him into custody.

Carlos was organizing genius behind the kidnaping of Arab oil ministers meeting in Vienna in 1975. And a State Department official says Carlos seems to have organized the hijack in July of a French jet that culminated in the dramatic rescue of hostages by Israeli commandos from the airport at Entebbe, Uganda.

At about the same time the United States gave Yugoslavia information on Carlos, State Department, officials said, West Germany also supplied Belgrade with details of his whereabouts.

The report in Al Akhbar said Carlos is hiding in an Arab Embassy in Western Europe with a small nuclear weapon. The dispatch came from its correspondent in London, Zaghlul Al-Sayyid, who said it was believed Carlos and his followers intend to use the bomb for terrorism.

Carlos first came to international public attention with the murder of the three French agents. When they knocked on his apartment door, they were greeted by a man about 5-feet-10, apparently between 25 and 30, wearing sunglasses.

Carlos, according to report, apparently turned to pick up a tote bag but swung around with a pistol, firing rapidly. Two agents and the informer who led them to the apartment were killed, the third agent seriously wounded.

NUCLEAR POWER BAD FOR THE ECONOMY

Mr. GRAVEL. Mr. President, when I began having concerns about proposals for nuclear power development over 5 years ago, my concerns were based primarily on the terrible environmental, health and safety hazards posed by nuclear power. Nuclear power is the only way to boil water to produce electricity that endangers the very viability of our planet through irreversible radioactive pollution. The sooner we stop nuclear power, the better chance our descendants will have.

While those concerns remain uppermost in my mind, I now wish to share with my colleagues a brief speech by energy consultant Egan O'Connor which explains the grave economic hazards of depending on nuclear power, and why turning to energy efficiency and solar energy make much better economic sense. As more and more Americans understand the horrendous impact nuclear power could have on their energy bills, I think we will see even faster growth in the already burgeoning antinuclear movement.

Mr. President, the economic hazards of nuclear power make all the more urgent prompt consideration of my bill, the Nuclear Power Reappraisal Act, S. 1826, which my colleague Senator ABOUREZK has cosponsored. This bill would stop the construction of new nuclear powerplants for at least 5 years while an independent review of all the economic, safety, health, environmental, terror and other hazards of nuclear fission is carried out by Congress Office of Technology Assessment. Representative HAMILTON FISH, JR., of New York, has introduced similar legislation in the House with about 40 cosponsors; the bill number is H.R. 4971.

I want to express my appreciation to the Committee for Nuclear Responsibility, Post Office Box 332, Yachats, Oreg. 97498, for bringing Egan O'Connor's speech to my attention. The committee consists of 15 eminent Americans including:

John W. Gofman, Professor Emeritus of Medical Physics, University of California at Berkeley.

Richard E. Bellman, Professor of Mathematics, University of Southern California.

Ramsey Clark, former Attorney General.

John T. Edsall, Professor of Biochemistry, Harvard.

Paul R. Erlich, Professor of Biology, Stanford.

Frances Tarlton Farenthold, President, Wells College, Aurora, New York.

David R. Inglis, Professor Emeritus of Physics, University of Massachusetts.

Eloise W. Kailin, American Board of Allergy and Immunology.

Richard Max McCarthy, former Congressman.

Ian McHarg, Chairman, Department of Landscape, Architecture and Regional Planning, University of Pennsylvania.

Lewis Mumford, author and Honorary Fellow, Science Policy Foundation.

Linus Pauling, Nobel laureate, Professor of Chemistry, Stanford.

Harold Urey, Nobel laureate, Professor Emeritus of Chemistry, University of California at San Diego.

George Wald, Nobel laureate, Professor of Biology, Harvard.

James D. Watson, Nobel laureate Professor of Biology, Harvard.

The committee is happy to provide to persons sending a stamped, self-addressed envelope a sampling of its several flyers on nuclear power and solar energy.

Mr. President, I ask unanimous consent that "Some Economic Benefits of Not Building Nukes" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Committee for Nuclear Responsibility, Yachats, Oreg., July 1976]

SOME ECONOMIC BENEFITS OF NOT BUILDING NUKES

(By Egan O'Connor)

Nuclear power is a bad economic bargain, and all of us would be much better off without it. Let's look at two big reasons.

A BETTER BARGAIN: ENERGY EFFICIENCY

The first pocketbook reason for saying "No more nuclear power plants" is that it would be crazy to build any more of them when the nation can get energy for lower cost by investing in energy efficiency.

It's important to understand why energy efficiency is such a good bargain. Imagine a house with a hole in the wall, losing heat. It would be energy-efficient to plug the hole. Or a car with a hole in its gas tank, losing gas. The lost heat and lost gas contribute absolutely nothing to a person's standard of living. On the contrary, the person has to pay more today for the wasted heat and gas, even though they do him no good, than for plugging the holes, and so he has less money left to pay for the things he would really enjoy. He has hurt his standard of living by wasting energy.

Whether we throw America's energy away at home, or in our industry, agriculture, and transportation, the waste simply lowers the American standard of living. Efficient use of energy, instead of asking people to do without things, would increase everyone's standard of living.

So Americans have a choice: shall we invest huge amounts of scarce capital to expand our energy facilities, just for the privilege of throwing the energy away—wasted by a hole in the wall, so to speak? Or shall we invest that precious capital in energy efficiency, which will increase our supply of available energy, provide jobs, and improve our standard of living?

Let me quote the authors of a government study (LBL–4438) done in 1975 at the Lawrence Berkeley Lab: "Today it is generally cheaper to save energy with more efficient buildings, products, and management, than it is to produce more energy." Other studies have reached the same conclusion.[1]

For instance, "Conservation projects should be the first energy priority for the country because this makes hard-nosed economic sense," said Roger Sant to a group of industrialists in New York last September. Sant was then Assistant Administrator of the Federal Energy Administration (FEA).

Economic sense is right! Sant's estimate is as follows: "If the nearly $1 trillion of capital that the U.S. is planning to pour into new energy sources by 1985 were invested instead in energy conservation, we could save twice the energy that the trillion dollars would produce in fossil fuel and nuclear plants."

In other words, energy gained through efficient use of existing supplies may cost us only half as much as energy from new nuclear and fossil fuel plants.[2]

The conclusion that energy efficiency is a better bargain than expanding energy production is now widely accepted. In fact, we can turn to the country's two energy chiefs for confirmation:

Frank Zarb, who is head of the FEA, testified to Congress in late 1975 that "Saving energy is synonymous with saving dollars. It can be considered as one of the least expensive (energy) supplies this nation has." (As quoted by columnist Tom Braden, 5/15/76).

Robert Seamans, head of the Energy Research and Development Administration (ERDA) now says (Apr. 19, 1976) that "I believe it is impossible to exaggerate the need and desirability to make more efficient use of energy. An example illustrative of this point is that ordinarily it costs less to save a barrel of oil than to buy it."

How much could we increase our supply of available energy through energy efficiency? Estimates vary from ERDA's low of 25% up to a theoretical maximum of about 85%, estimated in the 1975 study by the American Physical Society (physicists).

Here is a medium estimate from a study on energy conservation completed in 1976 for the FEA by the Worldwatch Institute in Washington DC: "More than one half the current U.S. energy budget is waste. For the next quarter century, the U.S. could meet all its new energy needs simply by improving the efficiency of existing uses."

This conclusion seems almost self-evident since in Sweden, West Germany, and some other European countries, the people enjoy the same standard of living now that we do, but they use up only half as much energy!

By the way, two years ago, the American Institute of Architects in Washington DC completed studies showing that just by a program to make the buildings in this country use energy efficiently, we could save an enormous amount of energy. That amount turns out to exceed by 50% the maximum possible energy contribution from the entire nuclear power program, even with the most optimistic assumptions about nuclear fuel discoveries and plant performance.

Nevertheless, nuclear power promoters will tell you that energy efficiency won't be enough. They say our country still needs to build every possible energy facility as fast as possible.

That's extremely debatable. But even assuming it were true that additional energy supply-sources are needed over and above energy efficiency, it would be extremely smart to avoid nuclear power . . . which brings us to the second big pocketbook reason.

FROM BARGAIN TO BURDEN:

We must keep uppermost in our minds that cartels, or monopoly arrangements, already exist for nuclear fuel, both domestically and abroad.[3] Furthermore, the nuclear fuel cartel is very closely identified with important segments of the ownership and distribution of oil and coal.

Everyone is aware of the oil cartel, which managed to increase the price of imported oil by 400% in 2 years, but few people are yet aware of the nuclear fuel cartel, which pushed the price of future uranium deliveries

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Footnotes at end of article.

up 500% in the last 2 years! The public has not noticed that move, yet, simply because nuclear power still provides less than 3% of the country's energy.

It is claimed currently by nuclear power advocates that Americans will save billions of dollars by choosing nuclear energy instead of fossil fuels to make electric power.[4] In fact, nuclear power advocates told Californians that rejecting nuclear power would cost them $40 billion in higher power bills over the next 20 years—that is, consenting to nuclear power would save them $40 billion! Since Californians represent about 10% of the U.S. population, the alleged savings nationwide would be about $400 billion over the next 20 years!

Such claims are based not only on the unsupported assertion that nuclear power is presently cheaper, but on the absurd promise that price of uranium and fossil fuels will retain the same relative positions through the next 20 years.

For the moment, though, let us assume that the relative prices of uranium and fossil fuels do make nuclear energy cheaper for electric power generation today. If true, we must ask why is the uranium cartel so generous with Americans, so willing to shower Americans with billions of dollars which could be going into the cartel's own treasuries instead? For surely the cartel could set uranium prices higher. What accounts for the cartel's willingness to serve as a money tree, with pretty little golden apples for every American family using electric power?

Generosity? Insanity? Shrewdness? By far the most likely answer is shrewdness—extreme shrewdness on the part of the energy-uranium cartel.

After all, the uranium cartel has the problem of selling a repulsive product, since more and more people recognize the potentially catastrophic dangers which come along with nuclear power, for themselves and all future generations. The obvious way for the uranium merchants to get around this reality is to offer nuclear power as a giant economic bargain, while the merchants know full well that this bargain is only for the purpose of getting the customer hooked as quickly as possible. Indeed, the push is on for a rapid buildup of all the nuclear plants (of the Light Water variety) which can ever be fueled by the discovered and still-to-be-discovered uranium.

And what if the nuclear planners (private and government) succeed in getting such nuclear plants built (at approximately $1 billion per plant)? What will happen to the nuclear power "bargain" once the plants are built and can use no other fuel except nuclear fuel?

Now the bait can really bring in the big fish. The price of uranium will undoubtedly then rise to make nuclear power at least as expensive as fossil power—or worse. For what earthly reason would this not happen?

Once our dependence on nuclear power has been secured, the nuclear power "bargain" may take on the proportions of a grand "rip-off". Not only will the promised $400 billion in savings disappear, but with utilities up to their ears in debt with expensive nuclear plants which can use only nuclear fuel, the uranium cartel can squeeze very hard . . . and the $400 billion "bargain" can readily become a $400 billion burden.[5]

There is ample and recent evidence that the energy cartels will charge any price they can get away with. Fuel prices no longer have limits relating to the costs of producing them. To illustrate the point, let's remember that following the 1973 increase in oil prices by the OPEC nations, the energy companies soon raised the prices of coal and uranium several fold—not because of a sudden doubling or quintupling of their production costs (which did not occur), but because they could get away with making all energy prices comparable.[6]

In the future, when the utilities are "hooked" with their nuclear power plants, not only can we expect a big boost in the price of uranium, but we can look forward to the additional rip-off when the energy companies then raise the price of oil and coal up to the price of uranium! If you find this scenario revolting, try thinking of a more likely one.

Some bargain we're being offered today! That glittering money-tree which the nuclear promoters point to, has hooks in each of its little golden apples.

AVOIDING THE TRAP

It all boils down to this: If Americans want to avoid a giant energy rip-off, we must reject nuclear power. It's a rip-off by comparison with energy efficiency. And for additional energy beyond what we gain from energy efficiency, nuclear power will be a rip-off too by comparison with solar energy.

For solar energy, in its variety of forms, its relative simplicity, and its suitability for local, small-scale production and use, is not easily subject to a monopoly's stranglehold on prices. And furthermore, solar energy will not present the massive economic costs to Americans (to be measured in the billions of dollars per year) from the cancer epidemics which will accompany nuclear power unless super-human perfection is achieved in containing radioactive nuclear by-products.

The nuclear power promoters have been trying to scare the public into accepting nuclear power, by painting pictures of economic collapse, unemployment, and heavy costs for every American family if we refuse the friendly nuke. Their economic threats are false in every respect, the promised money tree will be a cruel hoax, and the whole nuclear sales-pitch is an insult to American intelligence.

The best economic bargain for Americans is to reject nuclear power in favor of energy efficiency and solar power. And the sooner the better.

FOOTNOTES

[1] Some interesting figures are presented, also, in the article on "The CA Nuclear Safeguards Initiative" by Doctor, Harding, and Holdren, in the May 1976 issue of the Sierra Club Bulletin (530 Bush St., San Francisco 94108).

[2] Getting twice as much energy from $1 trillion is the equivalent of saving $500 billion. In other words, California's share (about 10%) of the savings from not building more nuclear and fossil fuel plants would be about $50 billion. This figure, even if it were only $10 billion, compares well with the alleged $2.3 billion cost of phasing out California's existing nukes.

[3] The uranium cartel is discussed in Forbes magazine, Jan. 15, 1975, "It Worked for the Arabs . . .", and also in a report by David G. Snow issued Jan. 1976 by the Mitchell, Hutchins Inc., investment firm in NY.

[4] Before a national TV audience (ABC's "Issues & Answers", 6/13/76), Carl Walske of the Atomic Industrial Forum claimed that in 1975 alone, when nuclear power produced less than 3% of our energy, it saved Americans $2 billion! On the other hand, Maurice Van Nostrand, Chairman of the Iowa Commerce Commission, states (as quoted in the New York Times, 2/16/76) that "We currently find it impossible to determine with any certainty the total economic costs of electricity generated in nuclear power plants now and in the future. To ignore the fact that there are monumental unanswered questions in the economics of nuclear generation is more than we can do, for it makes the comparisons between the costs of nuclear power and coal-fired power totally meaningless."

[5] According to the Wall Street Journal, 6/7/76, "Fuel Shortage Forecast for U.S. Nuclear Plants within Decade or Two", a government estimate is that every one-dollar increase in the price of a pound of uranium will cost consumers over $200 million annually by the year 2000. Uranium prices have already risen from $8 per pound to $40. The investment firm of Mitchell, Hutchins predicts the price is going to $200 to $300 per pound in the next few years. At that rate, it would not be long before the nuclear power "bargain" could become a $400 billion burden on the American public, just on the basis of its fuel costs (not counting its other higher costs).

[6] There is a simple reason why uranium prices were not raised closer to fossil fuel prices sooner. While a cartel is developing and is in the early stages of acquiring properties (e.g., uranium mines and claims), it is most anxious to do so at the lowest possible prices. The last thing it would do is to raise prices during that stage. In the 1960's and early 70's, the amount of nuclear fuel contracting was so small that only a little bit of uranium had to be sacrificed at $8–10 per pound (yellowcake).

INDIAN TRIBAL GOVERNMENT TAX STATUS ACT

Mr. PACKWOOD. Mr. President, on November 13, 1975, I introduced the Indian Tribal Government Tax Status Act, S. 2664.

This bill furthers the congressional goal of bolstering Indian tribal governments, as previously shown by the inclusion of Indian tribes and Alaskan Native villages in revenue sharing and other Federal programs. The Indian Tribal Government Tax Status Act extends to Indian tribal governments exemption from several Federal excise taxes, allows contributions to Indian tribal governments to be tax deductible, allows Indian tribal governments to issue tax-exempt bonds, allows citizens paying taxes to Indian tribal governments to deduct them for Federal income tax purposes, and provides that Indian tribal governments will be taxed like local governments in several other respects.

On September 27, 1976, after full hearings, the House Ways and Means Committee reported favorably on the companion bill to S. 2664, H.R. 8989—see page 32664 of the CONREGSSIONAL RECORD, September 27. There is every reason to expect H.R. 8989 will be overwhelmingly approved by the House of Representatives this week.

To enable interested Senators and other persons to have an opportunity to evaluate this legislation, I ask unanimous consent that H.R. 8989, and the report issued thereon by the House of Representatives, be printed in the RECORD in connection with these remarks.

There being no objection, the bill and report ordered to be printed in the RECORD, as follows:

THE INDIAN TRIBAL GOVERNMENTAL TAX STATUS ACT

(Mr. ULLMAN, from the Committee on Ways and Means, submitted the following report, to accompany H.R. 8989.)

The Committee on Ways and Means, to whom was referred the bill (H.R. 8989) to amend the Internal Revenue Code of 1954 to provide the same tax exemptions and general tax treatment to recognized Indian tribes as are applicable to other governmental units, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Page 2, strike out line 13 and all that follows down through line 10 on page 10 and insert the following:

Sec. 3. Recognized Indian Tribes Treated as States for Certain Purposes.

(a) General Rule.—Chapter 80 (relating to general rules) is amended by adding at the end thereof the following new subchapter:

"Subchapter C—Provisions Affecting More Than One Subtitle

"Sec. 7871. Recognized Indian Tribes Treated as States for Certain Purposes.

"A recognized Indian tribe shall be treated as a State—

"(1) for purposes of determining whether contributions or transfers to or for the use of such a tribe are deductible under—

"(A) section 170 (relating to income tax deduction for charitable, etc., contributions and gifts),

"(B) sections 2055 and 2106(a)(2) (relating to estate tax deduction for transfers for public, charitable, and religious uses), or

"(C) section 2522 (relating to gift tax deduction for charitable and similar gifts);

"(2) for purposes of any exemption from, or refund of, an excise tax imposed by—

"(A) chapter 31 (relating to tax on special fuels),

"(B) chapter 32 (relating to manufacturers excise taxes),

"(C) subchapter B of chapter 33 (relating to communications excise tax), or

"(D) subchapter D of chapter 36 (relating to tax on use of certain highway vehicles);

"(3) for purposes of section 164 (relating to deduction for taxes);

"(4) for purposes of section 511(a)(2)(B) (relating to the taxation of colleges and universities which are agencies or instrumentalities of governments or their political subdivisions); and

"(5) for purposes of—

"(A) section 37(e)(8)(A) (relating to certain public retirement systems),

"(B) section 41(c)(4) (defining State for purposes of credit for contributions to candidates for public offices),

"(C) section 117(b)(2)(A) (relating to scholarships and fellowship grants), and

"(D) section 403(b)(1)(A)(ii) (relating to the taxation of contributions of certain employers for employee annuities).

For the purposes specified in the preceding sentence and for purposes of section 103, a subdivision of a recognized Indian tribe may be treated as a political subdivision of a State only if such subdivision is recognized by the Secretary, after consultation with the Secretary of the Interior, as performing substantial governmental functions."

(b) Clerical Amendment.—The table of subchapters for chapter 80 is amended by adding at the end thereof the following new item:

"Subchapter C. Provisions Affecting More Than One Subtitle."

Sec. 4. Interest on Governmental Obligations.

(a) In General.—

(1) Paragraph (1) of section 103(a) (relating to interest on certain governmental obligations) is amended by striking out "or a possession of the United States" and inserting in lieu thereof "a possession of the United States, or a recognized Indian tribe,".

(2) Subsection (a) of section 103 is amended by adding at the end thereof the following new sentence:

"This subsection shall not apply to any obligation (other than an industrial development bond) issued by a recognized Indian tribe all or a major portion of the proceeds of which are to be used directly or indirectly in any commercial or industrial activity."

(b) Industrial Development Bonds.—

(1) Subparagraph (A) of section 103(b)(3) is amended by inserting "(including a recognized Indian tribe)" after "a governmental unit".

(2) Section 103(b) is amended by adding at the end thereof the following new paragraph:

"(8) Obligations issued by recognized Indian tribes.—An industrial development bond issued by a recognized Indian tribe may be treated as described in subsection (a)(1) only if—

"(A) the principal activities of the trade or business are to be carried on in the area reserved by Federal statute, Executive order, or treaty to the Indian tribe issuing the obligation, and

"(B) substantially all of the activities of the trade or business to be carried on outside of such area are purchasing, marketing, or similar activities directly related to the activities described in subparagraph (A)."

(3) Section 103(b)(6)(E) is amended by adding at the end thereof the following new sentence: "Where there is an issuer which is a recognized Indian tribe and another issuer, this subparagraph shall be applied separately with respect to each such issuer."

Sec. 5. Definition of Recognized Indian Tribe.

Subsection (a) of section 7701 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(37) Recognized Indian tribe.—The term 'recognized Indian tribe' means any tribe, band, community, village, or group of Indians or Alaska Natives which is recognized by the Secretary, after consultation with the Secretary of the Interior, as performing substantial governmental functions."

Sec. 6. Effective Dates.—

The amendments made by sections 3, 4, and 5—

(1) insofar as they relate to chapter 1 of the Internal Revenue Code of 1954, shall apply to taxable years beginning after September 30, 1977,

(2) insofar as they relate to chapter 11 of such Code, shall apply to the estates of decedents dying after September 30, 1977,

(3) insofar as they relate to chapter 12 of such Code, shall apply to gifts made after September 30, 1977, and

(4) insofar as they relate to taxes imposed by subtitle D of such Code, shall take effect on October 1, 1977.

I. SUMMARY

This bill amends the Internal Revenue Code of 1954 to provide in general the same tax treatment with respect to recognized Indian tribes and Alaskan native villages which is applicable with respect to other governmental units. This series of changes treats recognized Indian tribes and Alaskan native villages similar to States for the purpose of determining whether the tribes and villages can issue tax-exempt municipal bonds and industrial development bonds, and the same as States for determining whether taxes paid to and charitable contributions made to the tribes and villages are deductible and for certain other income and excise tax purposes.

II. GENERAL STATEMENT

Present law

The Internal Revenue Code does not specifically exempt Indian tribes from taxation; however, the Internal Revenue Service has ruled that "Income tax statutes do not tax Indian tribes. The tribe is not a taxable entity." (Rev. Rul. 67–284, 1967–2 CB 55, 58.)

Reasons for change

Indian tribes and Alaskan native villages perform many of the same functions as do municipal and State governments. The governmental functions provided by certain of the tribes include law enforcement, water, sewage and garbage services, business licensing and regulation, land use planning, housing, social and health programs, legal services, natural resource development and other activities. Your committee believes that in order to assist the Indian tribes and Alaskan native villages in carrying out their self-governing responsibilities, those tribes which perform substantial governmental functions should be provided with substantially the same tax status as that enjoyed by other governmental units.

Explanation of bill

The bill generally accords to recognized Indian tribes the tax treatment now available to State governments. The term "recognized Indian tribe" includes any tribe, band, community, village, or group of Indians or Alaska Natives which is recognized by the Secretary of the Treasury, after consultation with the Secretary of the Interior, as performing substantial governmental functions. This definition is intended to provide tax treatment as governmental units to the same Indian tribes and Alaskan native villages which are treated as governmental units for certain revenue sharing purposes under the State and Local Fiscal Assistance Act of 1972. (347 Indian groups are at present listed as eligible for revenue sharing entitlements under the Act.)

In particular, the bill provides beneficial tax treatment with respect to: retirement income derived from employment by such a tribe; contributions made to those seeking election to a tribal office; interest paid on bonds issued by tribes (including industrial development bonds); scholarships and fellowship grants made by tribes; taxes levied by tribes on real property and on income; charitable contributions to tribes; contributions by tribes for employee annuities; unrelated business income of tribes' colleges and universities; estate and gift tax, charitable contributions to tribes; retailers and manufacturers excise taxes; and communications excise tax as they relate to tribes. In addition, the bill provides for payments by the Treasury Department with respect to gasoline used on farms of such tribes; gasoline used for certain nonhighway purposes or by local transit systems of such tribes, lubricating oil not used in highway motor vehicles of such tribes, and fuels not used for taxable purposes by such tribes. In addition, the bill provides that certain tribal officials are to be "government officials" for purposes of the tax on self-dealing between a private foundation and a disqualified person.

A major effect of the bill is to permit recognized Indian tribes to issue debt obligations the interest on which is exempt from income taxation. However, tax-exempt treatment is not to be available for interest on any obligation (other than in industrial development bond) issued by a recognized Indian tribe if all or a major portion of the proceeds are to be used directly or indirectly in any commercial or industrial activity. In the case of industrial development bonds, the exemption is to apply only if (1) the principal activities of the trade or business financed with the proceeds of the bonds are carried on in the area reserved by Federal statute, Executive order, or treaty to the Indian tribe issuing the bonds, and (2) substantially all of the activities of the trade or business which are carried on outside of the reservation area are purchasing, marketing, or similar activities directly related to the activities carried out within the reservation area.

Effective dates

The provisions of the bill relating to income tax deductions or credits apply to taxable years beginning after September 30, 1977. The provisions relating to estate taxes apply to estates of decedents dying after that date, and those relating to gift taxes apply to gifts made after that date. The provisions relating to excise taxes take effect on October 1, 1977.

III. EFFECT OF THE BILL ON THE REVENUES AND VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with clause 7 of Rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effect of this bill on the revenues. Your committee estimates that the bill will reduce tax liability by less than $5 million per year. The Treasury agrees with this estimate.

In compliance with clause 2(1)(2)(B) of Rule XI of the Rule of the House of Representatives, the following statement is made concerning the vote by the committee on the motion to report the bill. This bill, as amended, was ordered reported by voice vote.

IV. OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER HOUSE RULES

In compliance with clause 2(1)(3) of Rule XI of the Rules of the House of Representatives, the following statements are made:

With respect to subdivision (A), relating to oversight findings, it was as a result of your committee's oversight activity concerning the application of the present law to Indian tribes and Alaskan native villages that it concluded that those tribes and villages should generally be treated as States for certain Internal Revenue Code purposes.

With respect to subdivision (B), after consultation with the Director of the Congressional Budget Office, your committee states that the changes made to existing law by this bill involve no new budget authority or new or increased tax expenditures.

With respect to subdivision (C), the Director of the Congressional Budget Office has not made an estimate or comparison of the estimates of the cost of H.R. 8989, but has examined the committee's estimates and agrees with the methods and the dollar estimates resulting therefrom.

With respect to subdivision (D), your committee advises that no oversight findings or recommendations have been submitted to your committee by the Committee on Government Operations with respect to the subject matter of H.R. 8989.

In compliance with clause 2(1)(4) of Rule XI of the Rules of the House of Representatives, your committee states that the enactment of this bill is not expected to have an inflationary impact on prices and costs in the operation of the national economy.

THE FAILURE IN FORD POLICY ON AGING: A RECORD OF NEGLECT

Mr. KENNEDY. Mr. President, I am pleased to join my colleagues in discussing the administration's failure to develop a positive policy toward the Nation's aging.

Neglect for the Nation's elderly, disinterest in their needs, and a total absence of caring; that has been the record of the Ford administration toward the Nation's elderly.

The proposals of the Ford administration—most of which have been rejected already by the Congress—reflected a failure to recognize the right of the Nation's elderly to a life of dignity.

That perhaps is the key to the difference between the approach of President Ford and the approach of Jimmy Carter. Jimmy Carter has expressed a commitment to assure the Nation's elderly a life of dignity, and WALTER MONDALE has shown that commitment throughout his years in the Senate.

I have served on the Senate Special Committee on the Aging and I am a member of the Aging Subcommittee of the Labor and Public Welfare Committee as well.

And during the past 8 years, I have witnessed a consistent failure from the Republican administration to consider the special needs of the Nation's elderly.

My only regret is that we could not have some of the elderly citizens from around the country standing here with us—the elderly from Waltham and Worcester in my own State, the elderly from Georgia and Mississippi, the elderly from Michigan and Oregon and Washington.

Then we would not have to tell you what 8 years of Republican administration have meant to the Nation's elderly. We would not have to tell you that the Nixon-Ford administrations consistently have proposed callous policies of neglect toward the Nation's elderly.

We would not have to tell you that the Ford administration has proposed cutbacks in nutrition programs for the elderly, cutbacks in housing for the elderly, cutbacks in jobs for the elderly, and cutbacks in health care for the elderly.

In every area that affects the elderly, we find neglect and disregard of the needs of the elderly from the White House.

The rhetoric of concern and the slick public relations brochures cannot wipe away the opposition, the rescissions and the vetoes of programs that directly benefit the elderly.

INCOME

First, there is the challenge of providing the elderly with adequate income. Despite our efforts to boost social security payments to a more decent rate over recent years—inflation still has sliced deeply into the living standard of older Americans.

Yet, when we proposed to have a cost-of-living index built into the social security system, the administration opposed us.

When we won and obtained that provision and wrote it into the law as a firm promise to the elderly, President Ford proposed to break that promise a year ago. He wanted to shortchange the elderly. Instead of the 8-percent increase in benefits they were entitled to, because of an 8-percent hike in the cost of living, President Ford proposed limiting the benefit increase to only 5 percent.

If he had proposed putting a cap on the salaries of the Nation's top corporate managers, it would have made some sense and it would have squared with a decent sense of equity. But to break that promise to the Nation's elderly reflects a sad lack of awareness of the reality of being old and being on a fixed income in this country. If he could propose a $7 billion hike in defense appropriations to hold Department of Defense harmless for inflation and another $7 billion for new programs, then he had no business proposing to take $2.1 billion away from the elderly, denying them the ability to cope with inflation.

HEALTH CARE

Second, there is the challenge of assuring the elderly quality health care. We all know the elderly face greater risks of poor health than other groups in society, paying a far higher share of their income for health care than the rest of us.

But what did President Ford propose? He proposed in 1975 to raise the cost of medicare to the Nation's elderly by $1 billion by raising deductibles and copayments. We rejected it then. But he came back again this year with the same outrageous proposal. And what is worse, he practiced the oldest carnival dodge in the world on the Nation's elderly.

In the state of the Union message, he proudly talked about catastrophic insurance for the elderly and then very quietly mentioned that there would be some added expenses in other health programs. It was the slickest piece of verbal sleight of hand that we have ever seen.

The catastrophic illness program would save the elderly $1.7 billion; but the added costs on medicare—costs which would affect all of the Nation's 24 million elderly—would add $2.2 billion to their out-of-pocket medicare costs.

The final tally of the President's proposal: A net pickpocketing of the elderly for $500 million to help cover the costs of his $14 billion increase in defense spending.

The one answer to the health care problems of the elderly, and other Americans as well is national health insurance. We have yet to see a proposal for this basic social service—a service that every other industrialized country now provides.

That is a key reason why I believe the Carter/Mondale position on aging is vital to put into practice. It includes a commitment to national health insurance.

NUTRITION

There is a third challenge and that is the area of nutrition.

I was particularly pleased to author the nutrition for the elderly program in 1971. We passed that 89 to 0 in the Senate of the United States on November 30, 1971. It would have been passed by the House the next day. But let me ask you to guess who objected to its consideration and forced us to wait nearly 4 months before it could be enacted—Gerald Ford. As House Republican minority leader he stood and objected to its consideration and killed it until the next session.

And that has been the pattern ever since. Each year that he has been President, he has proposed cutbacks in the nutrition program, $25 million in fiscal year 1976, and $37 million this year. If we had accepted his proposals, some 80,000 elderly would be denied the benefits of the hot meal program.

We rejected those examples of unwise proposals and have expanded the program so that this year we should be providing some 430,000 meals a day.

Finally, there is the challenge of jobs and community service. Many of the Nation's elderly do not want to quit their jobs. They cannot afford the income loss, but also they cannot afford the enforced idleness.

They have skills that they did not suddenly lose the moment they turned 65. They want to contribute to society. Yet, time and again, they have been denied that opportunity by this administration.

They were the ones hit hardest by the economic mismanagement of the Ford administration. Some 700,000 older workers are jobless, another 250,000 have despaired of finding work entirely and have left the labor force.

When we tried to target a program on these men and women, we were opposed by the administration. Each year, it has tried to cut back on the older workers community service employment programs. In fact, if the year's budget had been accepted, 12,000 older workers would have been sent to the unemployment office, or more likely, the welfare office, on October 1.

Instead, the current Labor-HEW bill now on his desk will permit us to double the past level of employment for this program.

However, as sure as I am sitting here today, we can expect a rescission request from this administration. That has been their pattern; that has been a sign of their neglect.

Rescissions, cutbacks, and vetoes—it is a sorry record that cannot be defended. And it must not be repeated.

The Nation's elderly deserve better. I am confident that the Carter/Mondale ticket would be a better answer both for the Nation's elderly and for the Nation.

THE ADMINISTRATION AND OLDER AMERICANS

Mr. EAGLETON. Mr. President, last evening the lead story on the CBS television news showed President Ford visiting a home for the elderly in Florida. It was a touching scene; several of the residents had tears in their eyes and one old lady stood up and gave the President a kiss.

In the jargon of the political advance man, it was a near perfect "media event," and a "visual," to boot.

All this hoopla is a part of every election. But the public has a right to know what Mr. Ford has said and, more importantly, what he has done for the 10 percent of our population that is 65 or over, during the entire time he has been in office—not just during one carefully arranged day of his reelection campaign. To this end, several of my colleagues and I have done an analysis of the Ford administration record on the aging.

The President's words on this subject are impressive. In a message to Congress on February 9, he said:

> As President, I intend to do everything in my power to help our nation demonstrate by its deeds a deep concern for the dignity and worth of our older persons. By so doing, our nation will continue to benefit from the contributions that older persons can make to the strengthening of our nation.
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> * * * * *
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> Today's older persons have made invaluable contributions to the strengthening of our nation. They have provided the nation with a vision and strength that has resulted in unprecedented advancements in all of the areas of our life. Our national moral strength is due in no small part to the significance of their contributions. We must continue and strengthen both our commitment to doing everything we can to respond to the needs of the elderly and our determination to draw on their strengths.

But note that the President himself recognized that words alone mean little, for he avowed his intention that our Nation's concern for older Americans be demonstrated "by its deeds," and spoke of "doing everything we can to respond to the needs of the elderly."

Has the administration done that? Have Mr. Ford's deeds matched his words?

The answer ought to be of interest to voters of all ages, for it is that the Ford administration's actions have been diametrically opposed to the goals set out in President Ford's rhetoric—so much so that one can only conclude that the President's cynicism in preaching what he does not practice goes together with an exceedingly low regard for the ability of American voters to see through the sham of his aging policy.

Many of the details of the Ford record on programs for the elderly will be discussed at greater length by my colleagues, but even a brief recitation of key administration actions belies the President's protestations of concern and commitment about older Americans and their problems. Among his proposals were the following:

A 5-percent limit on the July 1975 cost-of-living increase for social security beneficiaries.

A previously discredited Nixon plan to revise medicare which would result in at least $1.3 billion in increased costs for medicare patients.

A 1975 proposal to increase food stamp charges.

A $52 million cutback in funding for programs under the Older Americans Act for the coming fiscal year.

A $25 million rescission in funds already appropriated for the meals program for senior citizens.

Elimination of the program under which part-time community service jobs are made available to older workers.

Impoundment of funds appropriated by Congress to build housing for the elderly.

As chairman of the Subcommittee on Aging of the Committee on Labor and Public Welfare, which has jurisdiction over the Older Americans Act, I am particularly concerned about efforts of the Ford administration to impede progress under this act. The Older Americans Act authorizes a wide variety of programs and services for the elderly, including grants to State and area agencies on aging to support services at the local level, demonstration projects, research and training in gerontology, and nationwide meals and jobs programs for older persons.

Major revisions in the act were made last year. As our Senate subcommittee was considering legislation to provide far-reaching changes to the act that would greatly expand available services, the administration was proposing the reduction of some services and the termination of others. When it became apparent that the bill introduced at the request of the President was not acceptable to a majority of the Members of Congress, the administration devoted itself to an unsuccessful effort to sabotage the progress of the legislation that was finally adopted by overwhelming votes in both Houses.

When the time came to fund the programs authorized under last year's amendments to the Older Americans Act, the story was the same—the administration opposed all efforts to increase appropriations for Older Americans Act programs over the woefully inadequate and unrealistic amounts contained in the President's budget. Again, the Democratic Congress responded to the obvious needs of older people for programs and services that address their particular problems. Appropriations were increased both in the fiscal year 1976 appropriations bill and in the appropriations bill for fiscal year 1977 that is currently awaiting Presidential action.

The record of the Ford administration on issues affecting older Americans is spread out for all to see. It is not a matter of an occasional veto here or a budget cutback there, compelled by a policy of fiscal restraint. Rather, the Ford administration has demanded that the elderly—those with the least—to whom society owes so much—contribute the most—in the battle against inflation and recession. Indeed, the administration has shown a clear and consistent pattern of such insensitivity to the needs of older people that it borders on outright hostility.

By contrast, Governor Carter has made clear his support for programs that are important to older Americans. His proposals with respect to the social security system would retain the cost-of-living adjustments for beneficiaries while preserving the financial integrity of the system.

He has pledged initiatives in health care, housing, and transportation that go far beyond the do-nothing stance of the Ford administration.

Older Americans, and those concerned with their needs, have a clear choice in this Presidential election. By his deeds, President Ford has demonstrated that he is unworthy of their support. If they will take the time to examine the administration's record, I am confident that they will cast their votes for Governor Carter and for a new national administration, one in which Presidential expressions of concern for older people will be a mandate—and not a substitute—for action.

FAILURE IN FORD POLICY ON AGING: HOUSING

Mr. WILLIAMS. Mr. President, as chairman of the Senate Committee on Labor and Public Welfare, I have fought many battles with the Ford administration on matters related to aging.

That administration has sought to cut funds for Older Americans Act programs; it has consistently been blind to needs of older workers; it stalled so long on a home health care program that the Congress has had to act this year to extend it before it could really get started.

Familiar as I am with Mr. Ford's failure in aging on a wide number of fronts—including his willingness to reduce medicare's protection to the elderly—I will concentrate on matters which concern me as chairman of the Subcommittee on Housing for the Elderly of the Senate Special Committee on Aging.

One of the items of greatest concern to me is the perilous progress made by the 202 direct loan housing for the elderly program, including initial resistance by the Department of Housing and Urban Development, followed by extreme reluctance in implementing it after the Congress insisted that it be renewed, followed by attempts to thwart its essential purposes.

And after all that reluctance and hesitation, HUD now finds itself with 202 as perhaps its most popular program.

To document the Ford record on housing for the elderly, I would like to give this brief chronology of events:

Throughout the 1960's the 202 program attracted nonprofit sponsors—churches, labor unions, fraternal organizations—to plan and build housing designed specially for older Americans.

Successful as it was, 202 was nevertheless challenged by the Nixon administration and superseded by the 236 interest subsidy program, which was not as adaptable to nonprofit sponsorship.

As chairman of the Senate Special Committee on Aging and now as chairman of that committee's Subcommittee on Housing for the Elderly, I was determined not to let 202 die. I knew that many people who had been inspired by 202 felt as I do, and so in the 1970's a coalition was formed to bring 202 back into active service.

That coalition and I were successful in advancing a compromise 202 program which became part of the 1974 Housing and Community Development Act, Public Law 93-383, a compromise which resolved the objections the administration had voiced about the old 202 program.

Even though we had the statute on the books, the administration delayed in implementing the revitalized 202 program. Nine months after the enactment of the law, the administration finally issued proposed regulations, which were contrary to the intent of the law. I immediately convened hearings to hear the objections of the nonprofit sponsors. It was clear from the testimony that the regulations would kill the program.

However, HUD persisted; and it took a mandate from Congress directing that the funds be used for long-term direct loans before the tide turned for the 202 program.

Subsequently, HUD was swamped with applications from nonprofit sponsors and has responded to congressional action doubling the program activity for fiscal year 1976, and expanding the program for future years. Nonetheless, the administration did continue to resist efforts to change the interest rate formula—a change which will lower rental costs to consumers, and was adopted despite Mr. Ford's objections.

The 202 program is not my only concern. I must also report to the Senate that the Ford administration has offered no new initiatives in housing for the elderly, except to push its section 8 program.

And even with the strong backing of the administration, the section 8 program has moved at a snail's pace. Not only has it been criticized as the most expensive approach to housing the poor and the aged, but many landlords have shied away from the program, because of the paperwork involved. One of the most difficult features of the section 8 program for the elderly, especially the more frail elderly, is the requirement that they find their own unit. This can be an arduous task.

A program that would be of extreme benefit to the more frail elderly is section 207 of the Housing Act, a measure adopted by the Congress in 1970 to provide congregate housing for older adults. Such housing would be of practical help to elderly persons who might otherwise be institutionalized.

But the Ford administration has failed to make good use of this program, and 6 years later it is distressing to learn that only three congregate projects have been funded nationwide under this authority.

The Congress has also fought an uphill battle to provide for new construction of public housing units, 40 percent of which are occupied by elderly persons. The funds that Congress had intended for new construction were used by the administration instead to purchase defaulting properties. Waiting lists were averaging 2 years, and housing authorities were meeting less and less of the need for low-cost housing. Consequently, the Congress found it necessary in the 1976 Housing Amendments to mandate the expenditure of $85 million of the public housing funds available to HUD for new construction.

It should not be necessary for the Congress to repeatedly reaffirm its mandates to the administration. Unfortunately, this has been typical of the Ford years. As a result, the elderly persons of this Nation have had to wait for decent housing, for adequate incomes, for badly-needed nutrition programs, and other essential supports. How much longer should they be asked to wait? How much longer can they wait?

The problems of aging persons in this country must be a No. 1 concern. They require immediate—not delayed—action.

FAILURE IN FORD POLICY ON AGING: THE OVERVIEW

Mr CHURCH. Mr. President, the 1976 Presidential campaign would be incomplete without an assessment of President Ford's record on key issues.

As chairman of the Senate Committee on Aging, I am vitally concerned about his actions affecting older Americans and his proposals for the elderly of tomorrow.

On both counts, I must conclude that President Ford and his administration have struck out.

They have failed to provide effective leadership.

They have failed to demonstrate compassion for the needs of the elderly.

And, they have failed to develop a realistic retirement income strategy worthy of a great nation.

Instead, President Ford has chosen to run against the Congress this year. He is telling the American public that if the Congress had only listened to him, we would not be in our present mess.

But if the Congress had listened to him on matters related to aging, the elderly would have been the big losers.

Older Americans would have received smaller social security checks, paid higher medical bills, received fewer meals at nutrition sites, lost thosuands of fulfilling jobs, and paid more in the marketplace if the Congress had allowed President Ford to prevail.

In fact, I must conclude that Gerald Ford has the most negative record on aging of any President in our entire history—even more negative than that of his immediate predecessor.

Since assuming office, Mr. Ford has proposed no new initiatives on behalf of aged and aging Americans.

Instead, he has repeatedly tried to sabotage programs meant to help the elderly.

Others participating in the colloquy this morning will focus on specific failures—in housing, employment, and other areas—of the Ford administration.

I will provide an overview of the general failure of the administration's policy on aging.

SOCIAL SECURITY

Nowhere is the failure of the Ford administration more evident than on matters relating to income security.

Even his predecessor—when the political stakes were high enough—could propose some measures to benefit older Americans.

President Ford, though, has consistently attempted to put the burden of budget-cutting on the backs of the old and sick.

Perhaps the most dramatic example of his insensitivity to the needs of the elderly occurred in 1975 when he proposed an arbitrary 5-percent cap on the social security increase, even though older Americans were entitled to 8 percent by law.

His proposal struck at the very heart of the cost-of-living adjustment mechanism.

It asked older Americans to accept less, although they were entitled to more.

Fortunately, the Congress would not accept this ill-conceived Ford proposal. Instead, 53 Members of the Senate—Republicans and Democrats alike—joined me in sponsoring a resolution to oppose any reduction in the cost-of-living adjustment.

Because of this action, the average elderly couple received an additional $120 in social security benefits this year to pay for food, medicines, utilities, and other everyday expenditures.

And the average social security beneficiary received about $70 more this year to pay for these basic necessities.

If the Congress had listened to President Ford, many older Americans would not have the sufficient margin between income and outgo to afford necessary medicines and food for the table.

But this is only one sign of the Ford administration's unconcern about the elderly's daily struggles with the cost-of-living.

It is not enough that President Ford wants to play fast and loose with the cost-of-living adjustment mechanism. But his administration also wants to block any attempts to perfect it further, even though inflation is the No. 7 enemy for older Americans.

The Ford administration, for example, does not support my Social Security Cost-of-Living Improvement Act, which would provide older Americans with further protection from inflation by:

Authorizing cost-of-living adjustments twice a year during periods of accelerated inflation, instead of only once a year as under present law.

Establishing a special index to measure more accurately the impact of inflation upon the aged for purposes of computing benefit increases.

In addition, President Ford has proposed the wrong type of action at the wrong time to correct the short-term financing problem facing social security—caused in no small part by the failure of his administration to combat unemployment and inflation. If our unemployment level had remained at 5 percent—instead of the 7- or 8-percent level during the past 2 years—there would have been no short-term financing problem. This is not my estimate. It is that of Social Security Commissioner Cardwell.

President Ford proposes to resolve this problem by raising payroll taxes for 108 million workers and self-employed persons next year. But not one of these individuals would receive any improvement in retirement, disability, or survivor protection.

In all likelihood, this tax increase may intensify our unacceptably high unemployment rate, now at 7.9 percent. It would fall heavily upon low-income wage earners. And, it would add to the costs of small businessmen, many of whom are already struggling on a marginal income because of the Nixon-Ford inflation.

MEDICARE

At his acceptance speech at the Republican Convention, President Ford called for improvements in medicare so that our older citizens can enjoy the health and happiness they have earned. He said:

> There is no reason they should have to go broke just to get well.

I could not agree more, but Mr. Ford was talking merely about a tiny minority of medicare patients.

His so-called catastrophic health care package would be a disaster for most older Americans.

Only 3 percent of medicare hospital insurance beneficiaries would benefit under the Ford plan. The remaining 97 percent would not.

The Ford proposals to modify the part B supplementary medical insurance program would also be a colossal rip-off for the vast majority of older Americans.

Only one out of every seven persons receiving reimbursable services—or 1.8 million in all—would benefit under the catastrophic health care plan.

The remaining 12.4 million would not. In many cases they would pay substantially more than they do now.

Mr. Ford advanced this plan in January knowing full well, it seems to me, that the Congress would have no part of it.

But his agenda on aging is so anemic that even a major step backward is billed as a blessing, apparently in disguise.

But the disguise is transparent, given a fairly close look.

THE VETOES

During his first debate with Governor Carter, President Ford pointed with pride to his vetoes, claiming this action was necessary to put the lid on inflation.

But in reality, this is simply a coverup to deceive the voters about the real cause of inflation—the colossal failure of the Ford administration's economic game plan.

Besides vetoing bills urgently needed by the Nation's elderly, Mr. Ford has proposed to impound money for programs already funded.

What would be the consequences of these actions if Gerald Ford had prevailed?

Nearly 15,000 low-income persons 55 or older would be without jobs. Many would be forced to accept unemployment compensation, causing a further increase in the $17 billion in unemployment benefits already paid because of our extraordinarily high unemployment.

Almost 85,000 older Americans would be denied essential services to continue to live independently in their own homes, instead of being institutionalized at a much higher public cost.

Nearly 100,000 elderly persons would not be eating low-cost nutritious meals at senior centers, schools, and other settings.

These vetoes and rescissions affecting older Americans are penny wise and dollar foolish. In the long run they would cost the taxpayers more in welfare payments. And they would force proud older Americans onto the welfare rolls.

NEED FOR UNIFIED ACTION

What is needed now is unified action, from both the White House and the Congress, to respond to the challenges and problems facing aged and aging Americans. And above all else, effective leadership is needed in the White House to map out a sound course of action.

For nearly 8 long years now, older Americans have found it necessary to look to the Congress—and not the White House—for this leadership. For nearly 8 years, the Nixon and Ford administrations have attempted to make the elderly shoulder a disproportionate burden in the name of fighting inflation. And for 8 years the Congress has struggled with the administration in resisting shortsighted proposals to cut back benefits for older Americans—in social security, medicare, housing, supplemental security income, railroad retirement, and others.

A change in the leadership is needed now.

And Governor Carter can provide the type of leadership that the elderly need at the White House.

ANNOUNCEMENT OF HEARING

Mr. CHURCH. Mr. President, the Committee on Aging will hold a hearing at the Presidential Symposium of the Gerontological Conference on October 13, at 8 p.m., in the Grand Ballroom of the New York Hilton Hotel. Senator CHARLES H. PERCY will preside.

The hearing's focus will be on "Medicine and Aging: An Assessment of Opportunities and Neglect." Witnesses will discuss the response of the medical education field to the aging process and how the medical schools have addressed this specialty. Questions will be raised about how and where geriatrics should be addressed in the medical school curriculum.

Witnesses will include Dr. Robert N. Butler, Director of the National Institute on Aging; Dr. Robert W. Berliner, dean of Yale University School of Medicine; and Dr. John A. D. Cooper, president of the Association of American Medical Colleges.

REPORTS OF COMMITTEES

By special order, the following reports of committees were received today:

By Mr. JOHNSTON, from the Committee on Interior and Insular Affairs with an amendment:

H.R. 11891. An act to authorize the establishment of the Congaree Swamp National Monument in the State of South Carolina, and for other purposes (Rept. No. 94–1311).

By Mr. McCLELLAN, from the Committee on Appropriations:

Special Report entitled "Allocation to Subcommittees of Budget Totals From the Second Concurrent Resolution on the Budget" for fiscal year 1977 (S. Con. Res. 139) (Rept. No. 94–1312).

By Mr. HUMPHREY (for Mr. TALMADGE) from the Committee on Agriculture and Forestry with an amendment:

H.R. 12207. An act to amend the Rural Electrification Act of 1936, as amended, to correct unintended inequities in the interest rate criteria for borrowers from the Rural Electrification Administration, and to make other technical amendments (Rept. No. 94–1314).

By Mr. HUMPHREY, from the Committee on Agriculture and Forestry:

S. Res. 565. An original resolution relating to disaster payments made to farmers under the Agriculture and Consumer Protection Act of 1973 (Rept. No. 94–1315).

By Mr. HUMPHREY, from the Committee on Foreign Relations without amendment:

H. Con. Res. 737. A concurrent resolution expressing the sense of the Congress that every person throughout the world has a right to a nutritionally adequate diet and that the United States should increase substantially its assistance for self-help development among the world's poorest people (Rept. No. 94–1316).

By Mr. LONG, from the Committee on Finance with amendments:

H.R. 1142. An act to amend the Internal Revenue Code of 1954 to provide for a distribution deduction for certain cemetery perpetual care fund trusts (title amendment) (Rept. No. 94–1317).

H.R. 1144. An act to amend the Internal Revenue Code of 1954 with respect to the tax treatment of social clubs and certain other membership organizations (title amendment) (Rept. No. 94–1318).

H.R. 7228. An act to amend the Internal Revenue Code of 1954 to permit the authorization of means other than stamps on containers of distilled spirits as evidence of tax payment (title amendment) (Rept. No. 94–1319).

With an amendment:

H.R. 8046. An act to amend the Internal Revenue Code of 1954 to provide that the rental value of a parsonage furnished to the surviving spouse of a minister shall be excluded from gross income (title amendment) (Rept. No. 94–1320).

With amendments:

H.R. 10101. An act to amend the Internal Revenue Code of 1954 to exempt certain aircraft museums from Federal fuel taxes and the Federal tax on the use of civil aircraft, and for other purposes (Rept. No. 94–1321).

By Mr. RIBICOFF, from the Committee on Government Operations without amendment:

H.R. 14886. An act to revise the appropriation authorization for the Presidential Transition Act of 1963, and for other purposes (Rept. No. 94–1322).

With amendments:

H.R. 14451. An act to amend the Federal Property and Administrative Services Act of 1949 to permit the donation of Federal surplus personal property to the States and local organizations for public purposes, and for other purposes (Rept. No. 94–1323).

With an amendment:

H.R. 11347. An act to authorize conveyance of the interests of the United States in certain lands in Salt Lake County, Utah, to Shriners' Hospitals for Crippled Children, a Colorado corporation (Rept. No. 94–1324).

H.R. 1244. An act to establish procedures and regulations for certain protective services provided by the United States Secret Service (Rept. No. 94–1325).

With amendments:

H.R. 13828. An act to amend title 44, United States Code, to strengthen the authority of the Administrator of General Services with respect to records management by Federal agencies, and for other purposes (Rept. No. 94–1326).

By Mr. THURMOND, from the Committee on Armed Services with an amendment:

H.R. 14773. An act to amend title 10, United States Code, to make certain changes in the Retired Serviceman's Family Protection Plan and the Survivor Benefit Plan as authorized by chapter 73 of that title, and for other purposes (title amendment) (Rept. No. 94–1328).

INDIAN CLAIMS COMMISSION AUTHORIZATIONS, 1977—CONFERENCE REPORT—(REPT. NO. 94–1313)

Mr. JACKSON submitted a report from the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2981) to authorize appropriations for the Indian Claims Commission for fiscal year 1977, and for other purposes.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION AUTHORIZATION—CONFERENCE REPORT (S. REPT. NO. 94–1327)

Mr. JACKSON submitted a report from the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13350) to authorize appropriations to the Energy Research and Development Administration in accordance with section 361 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

By Mr. ROBERT C. BYRD (for Mr. MUSKIE), from the Committee on the Budget without amendments;

S. Res. 563. A resolution waiving section 402 of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 14886 (Rept. No. 94–1329).

S. Res. 552. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 10073 (Rept. No. 94–1330).

S. Res. 560. A resolution waiving section 402(a) of the Congressional Budget and Impoundment Control Act of 1974 with respect to the consideration of H.R. 14360, an act amending the John F. Kennedy Center Act to authorize funds for repairs (Rept. No. 94–1331).

By Mr. LONG, from the Committtee on Commerce without amendment:

S. 3181. A bill to amend title XII of the Merchant Marine Act, 1936 (Rept. No. 94–1332).

By Mr. MAGNUSON, from the Committee on Commerce with an amendment:

H.R. 12939. An act to amend certain laws affecting personnel of the Coast Guard, and for other purposes (Rept. No. 94–1333).

AMENDMENTS SUBMITTED FOR PRINTING

OMNIBUS RIVERS AND HARBORS ACT—S. 3823

AMENDMENT NO. 2457

Mr. HUGH SCOTT submitted an amendment intended to be proposed by him to S. 2323, the Omnibus Rivers and Harbors Act.

EXTENSION OF UNEMPLOYMENT COMPENSATION—H.R. 10210

AMENDMENT NO. 2458

Mr. PERCY. Mr. President, I am submitting an amendment to the Social Security Act—which would clarify and better define the right of unemployed workers to expeditious payment of unemployment compensation checks.

Those who are now jobless or have been jobless know how important that unemployment compensation payment is to them and their families. When it is unduly delayed—which has too often been the case during the recent recession—it can cause undue hardship and suffering. Even with regular receipt of a biweekly paycheck, many families have had a difficult time making ends meet. When that paycheck terminates, it can create a crisis.

Even though many economists see improved economic conditions in the months ahead, unemployment remains high. In August 1976, the national unemployment rate was 7.9 percent, or 7.5 million jobless persons, compared with 7.8 percent unemployed in July 1976, or 7.4 million persons without jobs.

The number of persons applying for unemployment compensation also remains high, though not quite as bad as the crest of the 1974–75 recession. For the week ending September 4, 1976, 4.1 million Americans were receiving some type of unemployment compensation. This figure does not include 1.9 million who have exhausted all benefits. Many of these persons have gone on welfare to survive economically.

Six months ago, 5.8 million persons were drawing some form of unemployment compensation, so we do see an improvement.

Even though the number of new applicants for unemployment compensation has dropped by 85,000 from 6 months ago, the number of new applicants remains high. For the week ending September 11, 1976, 280,920 American workers initially applied for unemployment compensation, almost the same as September 1974, when the recession was just beginning to cast a chill on the economy.

Unemployment compensation, though, goes beyond mere statistics.

I would like to clear up two misconceptions about the program that frequently come up in conversations. First, that it is a bonanza for cheats. Last summer, the media focused attention on a handful of social parasites who cheat the unemployment compensation program through fraudulent claims. These cheaters should be punished to the fullest extent of the law for stealing public funds. Additionally, I support the amendment denying benefits to illegal aliens and professional athletes during the off season.

But despite the presence of cheaters, I have also learned that the overwhelming majority of unemployment compensation beneficiaries are hard-working bread winners, who have been thrown out of work through no fault of their own. Virtually all of them, if given the choice, would prefer the paycheck that comes as a result of productive work over the unemployment check.

Second, there is a misconception that unemployment compensation is a welfare program. It is not. Unemployment compensation funds in 47 States come from a payroll tax levied on employers. In three States, employers and employees jointly contribute to the fund from which unemployment compensation benefits are paid. The Federal Government merely holds unemployment compensation funds in a fiduciary trust for the use of unemployed workers. In some way it resembles a form of insurance.

Perhaps one reason that our society weathered last year's recession was because the unemployment compensation program constructed a financial cushion for the jobless. The program provided, and still provides, the jobless with sustenance when their income has been cut off and their bills continue to mount. The worker need not take to the streets to beg his Government to financially support him.

Still, the program is far from perfect and needs a host of reforms. During the worst of the recession, I personally visited unemployment compensation offices in Chicago including one that serves the depressed Near South Side, and learned of some workers who were waiting 3 to 6 months for benefits. I was surprised to find out that the U.S. Labor Department, in the 37-year history of this program, never required the States to expeditiously process claims for unemployment compensation. States could delay payments without fearing any adverse reaction from the Labor Department.

I urged then-Labor Secretary John T. Dunlop to correct this situation, reminding him that in initiating the program, the 74th Congress stipulated that unemployment compensation should be made "when due."

Interpretation of that clause has been left solely to the Federal courts. They have ruled that the unemployed worker should receive his check within 2 weeks following the end of his first compensable week, which in most States is 28 days after he initially applies for benefits.

The leading case is *California Human Resources Department* v. *Java*, 402 U.S. 121 (1971). The U.S. Supreme Court ruled that the objective of Congress in passing the 1935 unemployment compensation law was to provide a substitute for wages lost during a period of unemployment. The Court said that while no program could be devised to make insurance payments available precisely on the nearest payday following the termination, this must be regarded as the intent of Congress. The Court noted that the report of the Committee on Economic Security, which laid the groundwork for the 1935 law, had estimated that the longest waiting period for unemployment compensation would be 4 weeks, with the normal time no longer than 2 weeks.

The "when due" clause of the 1935 act was further defined by *Phillips* v. *Dawson*, 393 F. Supp. 360 (W.D. Ky., 1975). A Louisville Federal court ordered employees of the Kentucky Department for Human Resources, Bureau for Social Insurance, to mail or personally deliver unemployment compensation payments to any qualified worker within 24 days of initial application.

More recently, the Legal Assistance Foundation of Chicago successfully argued that the Illinois Bureau of Employment Security, IBES, was disobeying the intent of Congress by unduly delaying first-benefit payments to jobless beneficiaries. In *Burtton* v. *Johnson and Dunlop*, 75 C 982 (N.D. Ill., 1975), Federal court Judge Thomas McMillen ruled that the IBES must pay beneficiaries within 14 days of the first week they are eligible for benefits, or 28 days after they initially apply.

This past July, the Federal Government finally issued regulations requiring that 80 percent of all intrastate and 60 percent of all interstate first-benefit claims must be paid within 14 days after the recipient becomes eligible.

Unfortunately, the rules hardly help first-claim beneficiaries who live in States that comply with the new Federal guidelines. And, it hardly aids the unemployed worker, whose claim has been delayed, to tell his creditors that he resides in a State whose unemployment compensation machinery has officially been declared "efficient" by the Federal Government. The applicant should have some way to force the State to make payment of unemployment compensation that is due him.

The amendment would permit applicants, whose first-benefit claims have been delayed, to receive a fair hearing to find out the reasons for the delay. A similar right to a hearing is now afforded to welfare applicants.

The amendment would further clarify and define the meaning of the "when due" clause in the Social Security Act. The amendment stipulates that full payment is due no later than 28 days after the jobless worker applies for benefits—in a few States it is 21 days—except when the delay is caused by the claimant or is beyond the control of the State.

The amendment would bring the unemployment compensation program in line with rules governing other Federal programs. For instance, food stamp applicants must either be approved or turned down for benefits within 30 days. States are given 45 days to approve or disapprove welfare applicants.

The rules promulgated by the U.S. Labor Department last July stipulate only that new applicants should be paid "with the greatest promptness that is administratively feasible." This provision is too vague. It would have to be interpreted by the courts, without adequate standards for clear resolution of the issue. My amendment would spell out in precise terms the performance standard expected of the State.

Mr. President, I ask unanimous consent that this amendment I am today introducing be printed in the Record at this point.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 2458

At the end of title III of the bill, add the following new section:

Sec. . Prompt Payment of Compensation When Due.

(a) In General.—Section 503(a) of the Social Security Act is amended—

(1) in paragraph (1) thereof, by inserting immediately before the semicolon at the end thereof the following: "(and full payment of unemployment compensation when due requires payment no later than two weeks from the end of the week for which unemployment compensation is payable, except as the Secretary shall prescribe by regulation in those cases in which a delay is caused by the claimant or is caused by factors beyond control of the agency administering the State law)",

(2) in paragraph (2) thereof, by inserting immediately before the semicolon at the end thereof the following: ", or are delayed beyond the period provided in paragraph (1)".

(b) Effective Date.—The amendments made by this section shall be effective with respect to certification periods, with respect to which the Secretary of Labor is authorized to make certification of payment to States under title III of the Social Security Act, which begin more than 90 days after the date of enactment of this Act.

HOUSING INCENTIVE INVESTMENT ACT—S. 3193

AMENDMENT NO. 2459

Mr. BROCK. Mr. President, I am today introducing an amendment to the Housing Incentive Investment Act addressing concerns raised by witnesses appearing at the Senate Housing Subcommittee's hearings last August on this legislation.

At those hearings questions were raised as to whether the $35,000 mortgage limitation would preclude the use of the program in certain high construction cost areas such as New England. Since the purpose of the plan is to enable the wage earner to acquire howeownership, I have dropped this mortgage qualification and substituted an income qualification. Thus the amendment would limit eligibility to homebuyers with family incomes not in excess of 40 percent over the most recent U.S. Census Bureau figure for the median family income. The 40-percent buffer is to compensate for inflationary rises during the time lag in publication of census figures and to extend coverage to middle-income families with income slightly above the median level. Although I have a number of reservations about income limitations, I feel there is a need for a device which will restrict the program to those intended to be benefited.

Another provision would make clear that mobile homes consisting of two or more modules and a lot on which such mobile home is or will be situated are covered by the act. The passage of the mobile home safety legislation has assured the homebuyer high quality mobile homes. When the double wide quality mobile home is financed together with a lot the owner's equity should increase over the years in a manner comparable to site-built homes, making the units compatible to the plan.

Other sections would convert the 2-percent GNMA loan to a 10-year non-interest-bearing loan. These provisions are intended to address the problems raised by the testimony of John C. Weicher of the Department of Housing and Urban Development who pointed out that the GNMA loan balance would accumulate rapidly, especially during the second half of the mortgage term, resulting in a significant decline in the rate of the homeowner's equity. Although experience has shown that most mortgages do not run their full term and are usually paid off after 6 or 8 years either through sale of the home or refinancing by the owner, these changes should take care of those exceptional cases which are not paid off early.

Finally the FHA/VA rate as an index would be replaced with an index based on the average of 3- to 5-year U.S. Government bonds and the rate on seasoned corporate bonds. This index was recommended by both Federal Home Loan Mortgage Corporation and the Federal Home Loan Bank Board as a possible index for variable rate mortgages and is known as the "medium term bond yield index." The major advantage of such an index is that it reflects market forces, rather than being an administered rate. Another advantage of this index is that the statistics are compiled monthly and are available in a publicly available source, the Federal Reserve Bulletin.

I am introducing these amendments with full recognition that there will be insufficient time for action to be taken on them before Congress adjourns, but for the purpose of comment. In any new innovative program there are problems to be worked out. I am grateful to the chairmen of the Senate Banking Committee and of the Housing Subcommittee, Senators Proxmire and Sparkman, for holding the hearings which brought to the surface a number of suggestions for improvements in the plan. My mind is open on the foregoing amendments and I welcome comments which I will take into consideration when drafting a revised bill to be introduced next year.

Mr. President, I request unanimous consent that the amendment be printed in the Record at this point.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

AMENDMENT No. 2459

On page 2, strike out lines 8 and 9, and insert in lieu thereof the following:

"(2) the home purchaser's family income does not exceed by more than 40 percent the most recent United States Census Bureau figure for median family income in the United States;".

On page 2, line 6, after "dwelling" insert "or a mobile home consisting of two or more modules and a lot on which such mobile home is or will be situated".

On page 2, strike out lines 10 through 18, and insert in lieu thereof the following:

"(3) the home purchaser's interest rate on the mortgage secured by the dwelling is established, at the option of the home purchaser, at not to exceed 2 percentage points less than the market rate on the date of execution of the mortgage, but in no case shall the home purchaser's interest rate be less than 6 per centum per annum, and such rate will be maintained and reflected in the purchaser's monthly payments until the home is sold or otherwise disposed of or is no longer used by the purchaser as his principal residence, but in no event longer than 10 years from the purchase date;".

On page 3, strike out lines 1 and 2 and insert in lieu thereof "section.".

On page 3, between lines 17 and 18, insert the following new paragraph:

"(4) If at the end of 10 years after date of purchase the mortgage has not been terminated and the home purchaser has elected a reduced home purchaser's interest rate under subsection (b)(3), then the home purchaser shall have an option to satisfy his obligation under the first and second mortgage without a prepayment penalty or to refinance and amortize the accumulated advances on account of the discount at the lender's interest rate.".

On page 3, lines 18 through 25, strike out all through the period on line 25 and insert in lieu thereof the following:

"(d) There shall be established for any mortgage approved under this section a lender's interest rate which may not exceed the medium-term bond yield as reflected in the index of the average of 3-5 year United States Government bonds and the rate on seasoned corporate bonds.".

ORDER FOR RECESS UNTIL 8:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 8:15 tomorrow morning.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDERS FOR RECOGNITION OF SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the prayer, the distinguished Senator from New Mexico (Mr. DOMENICI) be recognized for not to exceed 15 minutes, and that he be followed by Mr. ABOUREZK, Mr. CLARK, Mr. CRANSTON, and Mr. KENNEDY, each for not to exceed 15 minutes, prior to the order for the expressions of tribute to Senators, which order has already been entered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I revise my request for time for Messrs. ABOUREZK, CLARK, CRANSTON, and KENNEDY as follows: That instead of a total of 60 minutes for the four, there be a total of 30 minutes for the four, and they can allocate the time as they wish.

Mr. GRIFFIN. Mr. President, will the distinguished acting majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. GRIFFIN. I wonder if we can indicate when we will begin on the tributes for Senators HRUSKA and HUGH SCOTT.

Mr. ROBERT C. BYRD. Yes; we would expect to get on the tributes by 9 o'clock.

Mr. GRIFFIN. 9 o'clock?

Mr. ROBERT C. BYRD. Yes. I also ask unanimous consent that Mr. ALLEN have 15 minutes following the orders for Mr. ABOUREZK, Mr. CLARK, Mr. CRANSTON, and Mr. KENNEDY, and prior to the order for the expression of tributes.

The PRESIDING OFFICER. Does the Senator renew his request about the joint time allocated among the first group of Senators?

Mr. ROBERT C. BYRD. Yes. I thought that had been agreed to.

The PRESIDING OFFICER. Does the Senator renew his request for joint time allocation on those first-named Senators?

Mr. ROBERT C. BYRD. Yes; I thought that had been agreed to. Had it not?

The PRESIDING OFFICER. No, the Chair had not stated the order. Without objection, it is so ordered.

Mr. GRIFFIN. We will not be able to begin with tributes, then, to Senators HUGH SCOTT and HRUSKA until 9:15, for the guidance of Senators.

Mr. ROBERT C. BYRD. That is correct.

Mr. President, will the Chair state again the order as far as time is concerned for expression of tributes on tomorrow? Is it 1 hour, 1½ hours, or 2 hours?

The PRESIDING OFFICER. Two hours.

Mr. ROBERT C. BYRD. Not to exceed 2 hours?

The PRESIDING OFFICER. The Senator is correct.

Mr. THURMOND. Will the Senator announce who the Senators are?

Mr. ROBERT C. BYRD. Any Senators who wish to come within the time; the leadership on both sides will control the time.

EXTENSION OF TIME FOR SUBMITTING TRIBUTES

Mr. President, I ask unanimous consent that Senators may have 10 days in which to get their tributes in the RECORD, and I ask unanimous consent that Senators who wish to present statements at the desk tomorrow in tribute to retiring Senators may have those statements printed in the RECORD as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT NO BUSINESS BE TRANSACTED TOMORROW BEFORE 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the one request to approve the Journal, no business be in order prior to the hour of 10 o'clock a.m.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. That would include a further request on the Journal, would it not?

Mr. ROBERT C. BYRD. Yes. That is the reason I used the words "one request."

Mr. ALLEN. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT H.R. 14773 BE PLACED ON THE CALENDAR

Mr. THURMOND. Mr. President, I ask unanimous consent to report a bill from the Committee on Armed Services pertaining to a survivor benefit program for all military personnel, H.R. 14773.

The PRESIDING OFFICER. Does the Senator request that the bill be placed on the calendar?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO SUBMIT REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may submit, on behalf of Mr. MUSKIE from the Committee on the Budget, certain reports waiving section 402(a) of the Congressional Budget Act, with regard to the consideration of certain bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER AUTHORIZING THE COMMITTEE ON AGRICULTURE AND FORESTRY UNTIL MIDNIGHT TO FILE REPORT ON S. 3091

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture and Forestry may have until midnight tonight to file a report on S. 3091, a bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PROCEED TO CONSIDERATION OF H.R. 10210 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, in accordance with the order that was entered on yesterday, that upon the completion of the tributes to other Senators tomorrow, the Senate proceed to the consideration of H.R. 10210, the unemployment tax bill, for which an order was entered yesterday granting the leadership the authority to call it up at any time tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER DISCHARGING THE COMMITTEE ON COMMERCE FROM FURTHER CONSIDERATION OF H.R. 5523

Mr. ROBERT C. BYRD. Mr. President, with respect to a request that has been cleared on both sides of the aisle now, I ask unanimous consent that the Committee on Commerce may be discharged from further consideration of H.R. 5523, a bill to improve the administration and wildlife programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER DISCHARGING THE COMMITTEE ON COMMERCE FROM CONSIDERATION OF H.R. 12118 AND H.R. 5682

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce be discharged from the consideration of the following two House bills, H.R. 12118, a bill to provide for certain additions to the Tinicum National Environmental Center and H.R. 5682, a bill to amend the Independent Safety Board Act of 1974 to authorize additional appropriations and for other purposes, and that they both be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR H.R. 5523 TO BE PLACED ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 5523, the bill from which the Committee on Commerce was discharged from further consideration, be placed on the calendar at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

DONATION OF FEDERAL SURPLUS PROPERTY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 14451, which has been cleared on both sides.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 14451) to amend the Federal Property and Administrative Services Act of 1949 to permit the donation of Federal surplus personal property to the States and local organizations for public purposes, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Government Operations with amendments.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONVEYANCE OF CERTAIN LANDS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 11347, which has been cleared on both sides of the aisle.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 11347) to authorize conveyance of the interests of the United States in certain lands in Salt Lake County, Utah, to Shriners' Hospitals for Crippled Children, a Colorado corporation.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Government Operations with an amendment.

The amendment was agreed to.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CERTAIN PROTECTIVE SERVICES OF THE SECRET SERVICE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 1244, which has been cleared on both sides of the aisle.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 1244) to establish procedures and regulations for certain protective services provided by the United States Secret Service,

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Government Operations with an amendment.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECORDS MANAGEMENT BY FEDERAL AGENCIES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 13828, which has been cleared on both sides of the aisle.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 13828) to amend title 44, United States Code, to strengthen the authority of the Administrator of General Services with respect to records management by Federal agencies, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Government Operations with an amendment.

The amendment was agreed to.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATURAL GAS PIPELINE SAFETY ACT AMENDMENTS OF 1976

Mr. ROBERT C. BYRD. Mr. President, this matter has been cleared on both sides of the aisle.

I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 12168.

Mr. DURKIN. Mr. President, reserving the right to object, what is that?

Mr. ROBERT C. BYRD. Will the Senator allow the clerk to state the title? Then he may still object.

The legislative clerk read as follows:

A bill (H.R. 12168) to amend the Natural Gas Pipeline Safety Act of 1968 to authorize additional appropriations, and for other purposes.

Mr. DURKIN. I object, for now.

The PRESIDING OFFICER. Objection is heard.

COAST GUARD PERSONNEL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 12939, which has been cleared on both sides. It is a bill to amend certain laws affecting Coast Guard personnel.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 12939) to amend certain laws affecting the personnel of the Coast Guard and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to its immediate consideration.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, with an amendment.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT—LEAA CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order at any time for the leadership to proceed to the consideration of the conference report on LEAA.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT ON S. 3091

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order at any time for the leadership to proceed to the consideration of the conference report on S. 3091, the Forest Management Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT ON H.R. 12572

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order at any time for the leadership to proceed to the consideration of the conference report on H.R. 12572, the Grain Standards Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST—H.R. 10760

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it may be in order at any time for the leadership to proceed to the consideration of the black lung benefits bill.

Mr. GRIFFIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

NATURAL GAS PIPELINE SAFETY ACT AMENDMENTS OF 1976

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 12168.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 12168) to amend the Natural Gas Pipeline Safety Act of 1968, to authorize additional appropriations, and for other purposes.

(The amendment of the House is printed in the House proceedings of the Record of September 27, 1976).

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE CONSIDERATION OF CONFERENCE REPORT ON H.R. 11337 AT ANY TIME

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the leadership may be authorized to call up at any time the conference report on H.R. 11337, the mid-decade census bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I made that request at the order of the distinguished Senator who now presides.

ORDER OF BUSINESS DURING CLOTURE

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. In the consideration of measures being brought up by the majority whip, it was the ruling of the Chair last night that during the time cloture is invoked, and during consideration of these matters, that we temporarily set the civil rights bill aside for that, and that a call for the regular order, in the event there were extraneous matters being attempted to be brought in, would get us back to the civil rights bill. Does that still apply?

The PRESIDING OFFICER. The Senator is correct.

Mr. ABOUREZK. I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, may I ask the Chair whether or not H.R. 15136, an act to authorize appropriations for construction of facilities on Guam, and for other purposes, would require a budget waiver?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, may I ask the Chair if such a budget waiver has been filed?

The PRESIDING OFFICER. The answer to the Senator's question is no.

Mr. ROBERT C. BYRD. I thank the Chair.

WAR RISK INSURANCE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 1073, war risk insurance for the Merchant Marine, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER laid before the Senate H.R. 1073, an act to extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance, for an additional 3 years, ending September 7, 1978, which was read twice by its title.

The PRESIDING OFFICER. Without objection the Senate will proceed to its immediate consideration.

Mr. ROBERT C. BYRD. Mr. President, what action has been taken thus far?

The PRESIDING OFFICER. This bill has been stated.

Mr. ROBERT C. BYRD. Very well.

Mr. President, I ask unanimous consent that the text of S. 3181, which is at the desk, be substituted in lieu of the language in H.R. 1073, that the bill, H.R. 1073, be passed as amended, and that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1073), as amended, was passed as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1203(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1283(a)), is amended by inserting at the end thereof the following new sentences: "In determining whether to grant such insurance or reinsurance to foreign-flag vessels, the Secretary shall further consider the characteristics, the employment, and the general management of the vessel by the owner or charterer. American- and foreign-flag vessels so insured or reinsured shall be subject to such vessel location reporting requirements as the Secretary may establish by regulation.".

Sec. 2. Section 1203(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1283(b)), is amended by inserting at the end thereof the following new sentence: "For the purposes of this title, the term 'cargo' shall include loaded or empty containers located aboard such vessels.".

Sec. 3. Section 1203(f) of the Merchant Marine Act, 1936 (46 U.S.C. 1283(f)), is amended by striking out the word "on" between the words "Statutory" and "contractual" and inserting in lieu thereof "or".

Sec. 4. Section 1209(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1289(b)), is amended by inserting at the end thereof the following new sentence: "The Secretary may charge and collect an annual fee in an amount calculated to cover the expenses of processing applications for insurance, the employment of underwriting agents, and the appointment of experts.".

Sec. 5. Section 1214 of the Merchant Marine Act, 1936 (46 U.S.C. 1294), is amended by striking out "September 7, 1975" and inserting in lieu thereof "September 30, 1979.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 3181 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 8:15 a.m. tomorrow. After the prayer, the Senate will proceed immediately with the special orders which have been entered. Mr. Domenici will be recognized for not to exceed 15 minutes, after which Messrs. Abourezk, Clark, Cranston, and Kennedy will be recognized for not to exceed 30 minutes, following which Mr. Allen will be recognized for not to exceed 15 minutes, after which the orders for the expressions of tributes will begin and will continue for not to exceed 2 hours, the time to be under the control of the two leaders or their designees, and with the understanding that no order for the transaction of any business other than the one routine request to approve the Journal will be in order prior to the hour of 10 a.m.

Upon the consummation of the various orders, and with the understanding that all Senators may have 10 days in which to enter their tributes into the Record, with the further understanding that Senators may present their tributes at the desk tomorrow and they will be printed in the Record as though read, the Senate will then proceed to the consideration of the unemployment tax. Rollcall votes are expected thereon. During tomorrow afternoon the Senate will continue the consideration of the civil rights attorneys' fees bill with rollcall votes expected to occur on amendments and motions in relation to the same.

Conference reports may be called up during the afternoon on various and sundry matters, and various measures may be called up and passed by unanimous consent, if cleared for such action.

I would anticipate a full day tomorrow again, a long day, and hopefully as much progress as has been made today.

I thank Senator Abourezk, Senator Allen, and Senator Durkin, all Senators on both sides of the aisle, and Senators on both sides of the civil rights attorneys' fee question, for the splendid cooperation which has been given, for the understanding which has been shown, which I think will account in great measure for the progress which has been made.

RECESS TILL 8:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in recess until the hour of 8:15 tomorrow morning.

The motion was agreed to; and at 8:39 p.m., the Senate recessed until Wednesday, September 29, 1976, at 8:15 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, September 28, 1976*

The House met at 10 o'clock a.m.

Rev. Douglas H. Scott, Lower Dublin Baptist Church, Philadelphia, Pa., offered the following prayer:

Our gracious, loving Heavenly Father, we come today thankful for the freedom in which we gather. We come recognizing that as a nation we have sinned and fallen far short of Thy glory. We come with humble and appreciative hearts that Thou hast granted us forgiveness.

Father, we would this day ask that Your very presence would be felt in our midst. We would ask that in this body of lawmakers each one would be touched by Thy guidance and strength. Make each of us ever mindful that Thou art the creator of all people, that Thou art the giver and the sustainer of all life. In the midst of all our tasks, let us be mindful that Thou are God. We pray in Jesus' name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 2 and 3 to a bill of the House of the following title:

H.R. 10339. An act to encourage the direct marketing of agricultural commodities from farmers to consumers.

The message also announced that the Senate disagrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 13350) entitled "An act to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Pastore, Mr. Symington, Mr. Montoya, Mr. Jackson, Mr. Church, Mr. Johnston, Mr. Abourezk, Mr. Baker, Mr. Case, Mr. Fannin, Mr. Hansen, and Mr. Hatfield to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 22) entitled "An act for the general revision of the Copyright Law, title 17 of the United States Code, and for other purposes," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. McClellan, Mr. Philip A. Hart, Mr. Burdick, Mr. Hugh Scott, and Mr. Fong to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill and concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 2613. An act to amend the Small Business Investment Act of 1958, to change the title and duties of the Associate Administrator for Finance and Investment of the Small Business Administration, and for other purposes;

S. 3026. An act for the relief of Monchito C. Entena, Antonia V. Entena, Robert Entena, Cathleah Entena, Arvin Entena, and Eliza R. Ayala; and

S. Con Res. 209. Concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 5546.

THE REVEREND DOUGLAS H. SCOTT

(Mr. EILBERG asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. EILBERG. Mr. Speaker, I am very pleased to have been able to arrange for the Reverend Douglas Scott to deliver today's invocation.

Reverend Scott is the pastor of the Lower Dublin Baptist Church, which is located in my district in Philadelphia. This fine church is the former Pennepack Baptist Church, and is the oldest active Baptist Church in Pennsylvania.

Reverend Scott has been the pastor since 1974. He is also a chaplain at the Philadelphia House of Correction and field coordinator of summer activities of the Philadelphia Baptist Association.

I recently addressed the Lower Dublin congregation at a series of forums the church is sponsoring on important issues facing the community and was very much impressed by Pastor Scott. I found him to be a very warm person who cares strongly about the people and community he serves.

His good work will be of lasting benefit to all who have known or come into contact with him.

PRIVATE CALENDAR

The SPEAKER. Pursuant to the order of the House of Thursday, September 23, 1976, the Clerk will call the Private Calendar.

FIDEL GROSSO-PADILLA

The Clerk called the bill (H.R. 6817) for the relief of Fidel Grosso-Padilla.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That, notwithstanding the provisions of section 212 (a) (23) of the Immigration and Nationality Act, Fidel Grosso-Padilla may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MRS. ROSE THOMAS

The Clerk called the bill (H.R. 1424) for the relief of Mrs. Rose Thomas.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

MURRAY SWARTZ

The Clerk called the bill (H.R. 1560) for the relief of Murray Swartz.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

GARY DAVES AND MARC CAYER

The Clerk called the bill (H.R. 4480) for the relief of Gary Daves and Marc Cayer.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

MARCIAL CACERES ORTIZ

The Clerk called the bill (H.R. 7881) for the relief of Marcial Caceres Ortiz.

There being no objection, the Clerk read the bill, as follows:

H.R. 7881

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Marcial Caceres Ortiz shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant admissions authorized to be issued pursuant to section 21(e) of the Act of October 3, 1965.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JENNET JUANITA MILLER

The Clerk called the bill (H.R. 7909) for the relief of Jennet Juanita Miller.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CHIN-HO AN

The Clerk called the bill (H.R. 8118) for the relief of Chin-Ho An.

There being no objection, the Clerk read the bill as follows:

H.R. 8118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Chin-Ho An shall be deemed to be an immediate relative within the meaning of section 201(b) of that Act and may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PATRICIA R. TULLY

The Clerk called the bill (H.R. 8771) for the relief of Patricia R. Tully.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

GUNTHER GRIFFEL

The Clerk called the bill (H.R. 9592) for the relief of Gunther Griffel.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ROGELIO M. ENCOMIENDA

The Clerk called the bill (H.R. 10778) for the relief of Rogelio M. Encomienda.

There being no objection, the Clerk read the bill as follows:

H.R. 10778

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Rogelio M. Encomienda may be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed in his behalf by his adoptive parents, Renato P. Encomienda and Cecilia T. Maxino, citizens of the United States, pursuant to section 204 of such Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary of this Act shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ERNEST L. GREEN

The Clerk called the bill (H.R. 11283) for the relief of Ernest L. Green.

There being no objection, the Clerk read the bill as follows:

H.R. 11283

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Ernest L. Green, who lost United States citizenship under the provisions of section 349(a)(1) of the Immigration and Nationality Act, may be naturalized by taking prior to one year after the effective date of this Act, before any court referred to in subsection (a) of section 310 of the Immigration and Nationality Act or before any diplomatic or consular officer of the United States abroad, the oaths prescribed by section 337 of the said Act. From and after naturalization under this Act, the said Ernest L. Green shall have the same citizenship status as that which existed immediately prior to its loss.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That, for the purposes of the Immigration and Nationality Act, Ernest L. Green shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MRS. CHONG SUN YI RAUCH

The Clerk called the bill (H.R. 11858) for the relief of Mrs. Chong Sun Yi Rauch.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

BARRY RAY LEFTWICH DIBLING

The Clerk called the bill (H.R. 12707) for the relief of Barry Ray Leftwich Dibling.

There being no objection, the Clerk read the bill as follows:

H.R. 12707

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Barry Ray Leftwich Dibling shall be held and considered to be the natural-born alien son of E. Leftwich, father, a citizen of the United States.

With the following committee amendment:

On page 1, line 6, after the name "Ray E. Leftwich," strike out "father,".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CHRISTOPHER ROBERT WEST

The Clerk called the bill (H.R. 13583) for the relief of Christopher Robert West.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

WALTER LAQUEUR AND HIS WIFE BARBARA

The Clerk called the bill (H.R. 1555) for the relief of Walter Laqueur and his wife Barbara.

There being no objection, the Clerk read the bill as follows:

H.R. 1555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Walter Laqueur and his wife Barbara shall be held and considered to have satisfied the requirements of section 316 of the Immigration and Nationality Act relating to required periods of residence and physical presence within the United States and, notwithstanding the provisions of section 310(d) of that Act, they may be naturalized at any time after the date of enactment of this Act if they are otherwise eligible for naturalization under the Immigration and Nationality Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That Walter Louis Moritz Laqueur and his wife Barbara Auguste Helene Koch Laqueur shall be held and considered to have satisfied the requirements of section 316(a)(1) of the Immigration and Nationality Act with respect to the thirty-month physical presence requirement only insofar as such physical presence requirement must be maintained and satisfied within the five-year period of continuous residence within the United States and, notwithstanding the provisions of section 310(d) of that Act, they may be naturalized at any time after the date of enactment of this Act if they are otherwise eligible for naturalization under the Immigration and Nationality Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Walter Louis Moritz Laqueur and his wife Barbara Auguste Helene Koch Laqueur."

A motion to reconsider was laid on the table.

Mr. EILBERG. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 3757) for the relief of Walter Louis Moritz Laqueur and his wife Barbara Auguste Helene Koch Laqueur, a similar Senate bill to the bill just passed.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. WYLIE. Mr. Speaker, reserving the right to object, I wonder if the gentleman from Pennsylvania (Mr. EILBERG) would explain the necessity for adopting the Senate bill.

Mr. EILBERG. Mr. Speaker, if the gentleman will yield, all that is involved here is technical language, and this does not change the intent of the bill in any way whatsoever.

Mr. WYLIE. It does not effect any substantive change in the bill?

Mr. EILBERG. No, it does not.

Mr. WYLIE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the Senate bill as follows:

S. 3757

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Walter Louis Moritz Laqueur and his wife Barbara Auguste Helene Koch Laqueur shall be held and considered to have satisfied the requirements of section 316(a)(1) of the Immigration and Nationality Act with respect to the physical presence requirements specified therein, and may be naturalized at any time after the date of enactment of this Act if they are otherwise eligible for naturalization under the provisions of the Immigration and Nationaltiy Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DAE HO PARK AND MARIA PARK

The Clerk called the bill (H.R. 13417) for the relief of Dae Ho Park and Maria Park.

There being no objection, the Clerk read the bill, as follows:

H.R. 13417

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Dae Ho Park and Maria Park may be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in their behalf by Mr. and Mrs. Neil Markva, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

SEC. 2. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TULSEDEI ZALIM

The Clerk called the bill (H.R. 14075) for the relief of Tulsedei Zalim.

There being no objection, the Clerk read the bill, as follows:

H.R. 14075

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Tulsedei Zalim may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mrs. Maharaji Zalim citizens, of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

On page 1, line 7, strike out the word "citizens" and substitute the following: ", a citizen".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RÁUL EDUARDO RINGLE

The Clerk called the bill (H.R. 14470) for the relief of Rául Eduardo Ringle.

There being no objection, the Clerk read the bill, as follows:

H.R. 14470

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Rául Eduardo Ringle may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. Edward Ringle, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CHEA HYO SUK

The Clerk called the Senate bill (S. 2618) for the relief of Chea Hyo Suk.

There being no objection, the Clerk read the Senate bill, as follows:

S. 2618

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Chea Hyo Suk may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Theodore Thatcher, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act. Section 204(c) of the Immigration and Nationality Act shall be inapplicable in this case.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

KENRICK WITHINGTON BROOKES (ALSO KNOWN AS KENRICK WITHINGTON CLIFTON)

The Clerk called the Senate bill (S. 2942) for the relief of Kenrick Withington Brookes (also known as Kenrick Withington Clifton).

There being no objection, the Clerk read the Senate bill, as follows:

S. 2942

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Kenrick Withington Brookes (also known as Kenrick Withington Clifton) may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, and a petition filed in his behalf by Mr. Kurt I. Camerud, a citizen of the United States, may be approved pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MILOS FORMAN

The Clerk called the bill (H.R. 14693) for the relief of Milos Forman.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

DIMITRIOS PANOUTSOPOULOS, ANGELIKI PANOUTSOPOULOS, AND GEORGIOS PANOUTSOPOULOS

The Clerk called the bill (H.R. 2503) for the relief of Dimitrios Panoutsopoulos, Angeliki Panoutsopoulos, and Georgios Panoutsopoulos.

There being no objection, the Clerk read the bill, as follows:

H.R. 2503

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Dimitrios Panoutsopoulos, Angeliki Panoutsopoulos, and Georgios Panoutsopoulos shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fees.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARK CHARLES MIEIR AND LIANE MARIA MIEIR

The Clerk called the bill (H.R. 5655) for the relief of Mark Charles Mieir and Liane Maria Mieir.

There being no objection, the Clerk read the bill, as follows:

H.R. 5655

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Mark Charles Mieir and Liane Maria Mieir may be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in their behalf by Mr. and Mrs. Charles Mieir, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Mark Charles Mieir and Liane Maria Mieir.".

A motion to reconsider was laid on the table.

MARINA TINGALON BAGUYOS

The Clerk called the bill (H.R. 9185) for the relief of Marina Tingalon Baguyos.

There being no objection, the Clerk read the bill, as follows:

H.R. 9185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Marina Tingalon Baguyos may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Reverend and Mrs. William C. Houghton, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

On page 1, lines 7 and 8, strike out "citizens of the United States," and insert in lieu thereof "a citizen of the United States and a lawfully resident alien respectively,".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ROBERT ALEXANDER

The Clerk called the House resolution (H. Res. 540) referring the bill, H.R. 6812, for the relief of Robert Alexander, to the Chief Commissioner of the Court of Claims.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the resolution be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

KAM LIN CHEUNG

The Clerk called the Senate bill (S. 1786) for the relief of Kam Lin Cheung.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1786

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Kam Lin Cheung shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That, notwithstanding the provision of section 212(a)(25) of the Immigration and Nationality Act, Kam Lin Cheung may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: Provided, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act: Provided further, That a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of the said Act.

The committee amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LEO J. CONWAY

The Clerk called the Senate bill (S. 3146) for the relief of Leo J. Conway.

There being no objection, the Clerk read the Senate bill, as follows:

S. 3146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $5,000 to Leo J. Conway of Cleveland, Ohio, in full satisfaction of all claims against the United States of the said Leo J. Conway arising out of the crash of an airplane of the United States Government which the said Leo J. Conway, as an employee of the Department of the Treasury, was flying over Ashtabula, Ohio, on April 29, 1919, in connection with the promotion of the Victory Liberty Loan Campaign.

SEC. 2. No part of the amount appropriated by this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of this section shall be a misdemeanor punishable by a fine in any amount not exceeding $1,000.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CAMILLA A. HESTER

The Clerk called the Senate bill (S. 3790) for the relief of Camilla A. Hester.

There being no objection, the Clerk read the Senate bill, as follows:

S. 3790

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of subchapter III of chapter 83 of title 5, United States Code (relating to civil service retirement), Camilla A. Hester, of Foley, Alabama, shall be deemed a widow within the meaning of subsection (a)(1) of section 8341 of such title, and if otherwise entitled to a survivor annuity under such section, shall be paid that annuity from September 28, 1972.

SEC. 2. Any amounts payable by reason of the first section of this Act with respect to any period prior to the date of the enactment of this Act shall be paid in a lump sum within sixty days after such date, including interest at an annual rate of 6 per centum from the time when payments were due under the first section of this Act.

SEC. 3. In addition to amounts payable by reason of the first section of this Act the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated the sum of $5,000 to the said Camilla A. Hester, as compensation for hardships endured and expenses incurred, over a period of four years, in seeking to qualify for a survivor annuity.

SEC. 4. No part of the amount authorized by this Act in excess of 15 per centum of the sums described in sections 2 and 3 of this Act shall be paid or delivered to or received by an agent or attorney on account of services rendered in connection with this claim, and the same is unlawful, any contract to the contrary notwithstanding. A violation of this section is a misdemeanor punishable by a fine in an amount not to exceed $1,000.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOHN OAKASON AND H. R. MULHOLLAND

The Clerk called the Senate bill (S. 190) for the relief of John Oakason and H. R. Mulholland.

There being no objection, the Clerk read the Senate bill, as follows:

S. 190

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 31 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 188), upon payment of the required rental within sixty days following the date of the enactment of this Act, including back rental accruing from the date of termination of the lease, the Secretary of the Interior is authorized and directed to receive, consider, and act upon any petition of John Oakason and H. F. Mulholland, lessees of record of terminated oil and gas lease numbered W-11843 for reinstatement of said lease if filed within ninety days after the effective date of this Act notwithstanding the time limit for payment of such rental set forth in section 188(b) of title 30, United States Code.

With the following committee amendment:

Page 1, beginning on line 3, strike out all after the enacting clause and insert in lieu thereof the following:

That, in the administration of section 31(c) of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 188(c)), the Secretary of the Interior is authorized and directed to receive, consider, and act upon any petition of John Oakason and H. F. Mulholland, lessees of record of terminated oil and gas lease numbered W-11843, for reinstatement of said lease if such petition is filed within ninety days after the effective date of this Act together with the required rental, if any, including back rental accruing from the date of termination of the lease, notwithstanding the time limit for payment of such rental set forth in section 31(c) (30 U.S.C. 188(c)).

The committee amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

OPPOSING THE GRANTING OF PERMANENT RESIDENCE IN THE UNITED STATES OF CERTAIN ALIENS

The Clerk called the resolution (H. Res. 1555) opposing the granting of permanent residence in the United States of certain aliens.

There being no objection, the Clerk read the resolution, as follows:

H. RES. 1555

Resolved, That the House of Representatives does not approve the granting of permanent residence in the United States to the aliens hereinafter named in which cases the Attorney General has submitted reports to Congress pursuant to section 13 (c) of the Act of September 11, 1957 (71 Stat. 642–643):

A–19710466, Boissiere, Kevin L.
A–20618987, Boissiere, Michael C.
A–20480817, Gatabazi, Jean Marie.
A–20623724, Gatabazi, Shahla J. M.
A–20480815, Gatabazi, Veneranda V.
A–20316873, Hsiang, Kenneth.
A–20316865, Hsiang, Michael.
A–20316871, Hsiang, Rose.
A–20320940, Hsiang, Victor P.
A–20633887, Hussain, Arif.
A–20633889, Hussain, Asif.
A–20633885, Hussain, Bilqees.
A–20626280, Khan, Sultan Sahid.
A–20482875, Kim, Bo-Kyung.
A–20482869, Kim, Eun-Kyung.
A–20482871, Kim, Wulsoon.
A–20482873, Kim, Young-Ho.
A–20600213, Lee, Anna.
A–20600215, Lee, Eugene.
A–20600214, Lee, Giny.
A–20600219, Lee Jai Hyon.
A–20600220, Lee, Myongja Choi.
A–20600218, Lee, Nancy.
A–20599342, Lin, Charles.
A–20599345, Lin, Frank Tze-Chun.
A–20599344, Lin, Lily T.
A–20599343, Lin, Ru Tseng.
A–20414531, Montes, Origines Bombeo.
A–20626468, Richter, Aleit E.
A–20626470, Richter, Carola W.
A–20626472, Richter, Daniel H.
A–20626474, Richter, Jan K.
A–20626482, Richter, Karl H.
A–20626478, Richter, Rose E.
A–20530611, Santos, Enrique Lopez.
A–20623940, St. Martin, Anthony,
A–20626278, Sultan-Khan, Nuzhat.
A–14005983, Thang, Bouachine.
A–20640426, Thang, Sai Ling.
A–20600241, Tuanmu, Jerry C.
A–20600242, Tuanmu, Kuan-Hua.
A–20600239, Tuanmu, Stephen Hung-Hsia.
A–20600240, Tuanmu, Yu-Ying K.
A–19063216, Yoon, Chong D.
A–19063220, Yoon, Joon Soo.
A–19063218, Yoon, Ok Hee.

The resolution was agreed to, and a motion to reconsider was laid on the table.

RESOLUTION OPPOSING GRANTING OF PERMANENT RESIDENCE IN UNITED STATES TO CERTAIN ALIENS

The Clerk called the resolution (H. Res. 1558), a resolution opposing the granting of permanent residence in the United States to certain aliens.

There being no objection, the Clerk read the resolution, as follows:

H. RES. 1558

Resolved, That the House of Representatives does not approve the granting of permanent residence in the United States to the aliens hereinafter named in which cases the Attorney General has submitted reports to the Congress pursuant to section 244(a)(1) of the Immigration and Nationality Act, as amended:

A–16010177, Lee, Chung.
A–15210512, Chung Lai.
A–14820015, Wei Tao Wen (aka) Lila Tao Wen.
A–17535078, Concepcion Serrano Javier.
A–17272563, Vincent Juan Dudulao.
A–17504123, Orlando M. Alegria.
A–18059690, Liberadade Alegria.
A–18059688, Luis Alegria.
A–20354494, Edegard Alegria.
A–18059689, Orlando D. Alegria.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. That concludes the call of the Private Calendar.

FERNANDO ALVES MACOS

Mr. EILBERG. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H.R. 8119, for the relief of Fernando Alves Macos, with a Senate amendment thereto and concur in the amendment of the Senate.

The Clerk read the title of the bill.

The Clerk read the Senate amendment as follows:

Page 1, strike out lines 6, 7, and 8 and insert: "may be approved notwithstanding the provisions of sections 204(c) and 212(a) (19) of the Act."

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. WYLIE. Mr. Speaker, reserving the right to object, would the gentleman from Pennsylvania (Mr. EILBERG) explain the Senate amendment, what it does, and why it is needed?

Mr. EILBERG. Mr. Speaker, if the gentleman will yield, once again I would say that the intent of the House is being followed. It is just a technical amendment. The same bill that was before the House is before us now.

Mr. WYLIE. What is the technical change?

Mr. EILBERG. I am referring to a memorandum I have in front of me, and it says that the Senate proceeded to consider the bill for the relief of Fernando Alves Macos, which had been reported from the Committee on the Judiciary with an amendment at the beginning of line 6, strike out "may be approved pursuant to the provisions of section 204 of that Act.", and insert "may be approved notwithstanding the provisions of sections 204(c) and 212(a)(10) of the Act."

Mr. WYLIE. Will the gentleman from Pennsylvania assure us that there is no substantive change in the House bill as we passed it?

Mr. EILBERG. I do.

Br. WYLIE. I thank the gentleman and withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

A motion to reconsider was laid on the table.

HOLLIS ANTHONY MILLET

Mr. EILBERG. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H.R. 11199, for the relief of Hollis Anthony Millet, with the Senate amendments thereto and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

> Page 1, line 11, after "for" insert: "the purposes of".
>
> Page 2, strike out lines 2 and 3, and insert: "be a minor and to have acquired a priority date for Western Hemisphere immigration as of June 27, 1974."

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. WYLIE. Mr. Speaker, reserving the right to object, will the gentleman from Pennsylvania (Mr. EILBERG) please explain this amendment?

Mr. EILBERG. Mr. Speaker, if the gentleman will yield, the Senate here revised the wording to accomplish precisely the same intent as the House version.

Mr. WYLIE. Will the gentleman from Pennsylvania assure me that there is no substantial change from the bill as it passed in the House?

Mr. EILBERG. I do.

Mr. WYLIE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. RUSSO. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 815]

Anderson, Ill.
Andrew, N.C.
Ashley
AuCoin
Baucus
Bolling
Burke, Fla.
Burton, Phillip
Byron
Chisholm
Clay
Conlan
Conyers
Coughlin
Diggs
Dingell
Esch
Eshleman
Evans, Colo.
Flynt
Ford, Tenn.
Frey
Giaimo
Gibbons
Green
Harrington
Harsha
Hébert
Heinz
Henderson
Hinshaw
Holland
Howe
Jarman
Jeffords
Leggett
Lott
McCollister
McDade
Matsunaga
Melcher
Mink
Moss
Nix
Nolan
O'Hara
Passman
Pattison, N.Y.
Pepper
Reuss
Riegle
Risenhoover
Roncalio
Ryan
St Germain
Scheuer
Sikes
Simon
Spellman
Stanton, J. William
Steelman
Steiger, Ariz.
Stephens
Stuckey
Thompson
Udall
Van Deerlin
Wampler
Zablocki

On this rollcall 361 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORTS

Mr. LONG of Louisiana. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I would like to know what the reports are.

Mr. LONG of Louisiana. Mr. Speaker, I anticipate that we will meet this afternoon on the following:

We will have H.R. 15636, omnibus rivers and harbors bill; second, we will meet on the rule on H.R. 15081, national stockpile disposal, in order to file a report on that before midnight tonight. Third, a resolution providing for consideration of conference reports and suspending the provision requiring a two-thirds vote to consider reports of the Committee on Rules on the same day as reported.

Mr. BAUMAN. Does the gentleman know when the last resolution on suspending the rules might be brought before the House if it is filed today?

Mr. LONG of Louisiana. We would hope that would be tomorrow.

Mr. BAUMAN. I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

ADMINISTRATION UNDERESTIMATES PUBLIC CONCERN ABOUT CRIME

(Mr. JACOBS asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. JACOBS. Mr. Speaker, in connection with President Ford's statement yesterday that "too many politicians are underestimating the public concern about crime," it should be noted that the Nixon-Ford appointments to Federal courts have compiled a record of letting 50 percent of convicted criminals coming before them go free without prison penalties.

It would seem that this administration is underestimating the public concern about crime.

Of course, it is the same administration that let itself go.

CONFERENCE REPORT ON S. 521, OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1976

The SPEAKER. The unfinished business is the further consideration of the conference report on the Senate bill S. 521, which the Clerk will report by title.

The Clerk read the title of the Senate bill.

Mr. FISH. Mr. Speaker, I demand the question of consideration.

The SPEAKER. The question is, Will the House now consider the conference report on the Senate bill S. 521.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FISH. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 236, nays 150, not voting 44, as follows:

[Roll No. 816]

YEAS—236

Abzug
Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Breckinridge
Brinkley
Brodhead
Brown, Calif.
Broyhill
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Chisholm
Clausen, Don H.
Cleveland
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
D'Amours
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Fountain
Fraser
Frey
Fuqua
Gaydos
Giaimo
Gilman
Ginn
Gradison
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hechler, W. Va.
Hefner
Helstoski
Hicks
Holtzman
Horton
Howard
Howe
Hughes
Hungate
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jordan
Karth
Kastenmeier
Keys
Koch
Krebs
Lagomarsino
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
McCloskey
McCormack
McFall
McHugh
McKinney
Madden
Maguire
Mann
Mathis
Mazzoli
Meeds
Melcher

Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Murtha
Neal
Nedzi
Nichols
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Perkins
Pike
Pressler
Preyer
Price
Pritchard
Randall
Rangel
Reuss
Richmond
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Russo
Ryan
Santini
Sarasin
Sarbanes
Schroeder
Seiberling
Sharp
Simon
Sisk
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Stokes
Stratton
Studds
Sullivan
Taylor, N.C.
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
Wilson, C. H.
Wirth
Wolff
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Ga.
Zeferetti

NAYS—150

Abdnor
Alexander
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bell
Boggs
Bowen
Breaux
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burleson, Tex.
Butler
Carter
Cederberg
Chappell
Clancy
Clawson, Del
Cochran
Collins, Tex.
Conable
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
de la Garza
Derwinski
Devine
Dickinson
Duncan, Tenn.
Edwards, Ala.
English
Erlenborn
Findley
Fish
Flowers
Forsythe
Frenzel
Gibbons
Goldwater
Gonzalez
Goodling
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Heckler, Mass.
Henderson
Hightower
Hillis
Holt
Hubbard
Hutchinson
Hyde
Ichord
Johnson, Pa.
Jones, Okla.
Jones, Tenn.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
Landrum
Latta
Long, La.
Lujan
Lundine
McClory
McDonald
McEwen
McKay
Madigan
Mahon
Martin
Michel
Milford
Miller, Ohio
Mollohan
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Myers, Pa.
Natcher
O'Brien
Pattison, N.Y.
Paul
Pettis
Peyser
Pickle
Poage
Quie
Quillen
Railsback
Regula
Rhodes
Risenhoover
Roberts
Robinson
Rousselot
Runnels
Satterfield
Schneebeli
Schulze
Sebelius
Shipley
Shriver
Shuster
Skubitz
Slack
Smith, Nebr.
Snyder
Spence
Steed
Steiger, Wis.
Symington
Symms
Talcott
Taylor, Mo.
Teague
Thone
Thornton
Treen
Vander Jagt
Waggonner
White
Whitehurst
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wright
Young, Alaska
Young, Tex.

NOT VOTING—44

Anderson, Ill.
Baucus
Burke, Fla.
Clay
Conlan
Diggs
Esch
Eshleman
Evins, Tenn.
Flynt
Ford, Tenn.
Green
Hébert
Heinz
Hinshaw
Holland
Jarman
Johnson, Colo.
LaFalce
Lott
McCollister
McDade
Matsunaga
Mink
Moss
Mottl
Nix
Nolan
Passman
Pepper
Rees
Riegle
St Germain
Scheuer
Sikes
Stanton, J. William
Steelman
Steiger, Ariz.
Stephens
Stuckey
Thompson
Wampler
Wiggins
Zablocki

Mr. GILMAN changed his vote from "nay" to "yea."

So consideration of the conference report was ordered.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. FISH. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. FISH. Mr. Speaker, my parliamentary inquiry is as to whether my reserved points of order are in order at this time?

The SPEAKER. The Chair will state that they are.

POINTS OF ORDER

Mr. FISH. Mr. Speaker, I make a point of order against the conference report on grounds that it has been reported in violation of Rule XXVIII, clause 6, which requires that conference meetings be open to the public except when ordered closed by rollcall vote in open session.

Mr. Speaker, on the first day of this Congress, as one of its first moves toward reform, the House voted to amend its rules and open up conferences to public scrutiny. The Senate soon passed a similar measure, and the rule took effect.

At the first open meeting of the conference committee, one of the managers on the part of the Senate moved that the Senate recede from its disagreement to the House amendment with several amendments which he had caused to be printed as part of a conference document. Additional linear amendments were proposed by other Senate managers in the form of amendments to the motion, and in due course a majority of the Senators voted for the motion as amended.

The chairman of the conference committee, the gentleman from New York (Mr. MURPHY) then moved that the House agree to the amendments of the Senate. This motion was presumably amendable, although the chairman refused to allow any amendments to be offered. If he had, they would have been restricted to germane modifications of the various Senate amendments which would have been the only items in disagreement at that time. The motion was rushed to a vote and agreed to by the House managers, and the conference meeting was adjourned.

Mr. Speaker, the conference committee must have met again. It must have met without any notice to the minority and far from public view. It must have met in closed session without first having voted to do so in open session. I must assume that there was a closed session of the conference committee, because instead of reporting linear Senate amendments, as had been agreed to in open session, the committee reported a Senate amendment in the nature of a substitute.

Lest the Chair or any Member think this is a meaningless distinction, I will state that had this been done in open session. It would have significantly changed the scope of the opportunities open to the House managers. With linear amendments we were restricted to either accepting the Senate amendments as presented or proposing further changes in those few matters with which the Senate amendments dealt. If the Senate had proposed an amendment in the nature of a substitute, House conferees could have proposed any germane amendment within the scope of the conference—either linear amendments to the substitute, or a further substitute.

There must have been one more meeting—a closed meeting—in which a majority of the Senate conferees and a majority of the House conferees agreed to switch from linear amendments to an amendment in the nature of a substitute without giving minority House managers a chance to offer amendments and without being open to the public. I am willing to stipulate, if such is the wish of my chairman, that such meeting took place constructively, that is to say, the delegations never actually go together in the same room. Instead, staff circulated a piece of paper for signature before the report was ever written. The fact that the managers might not have known what they were signing makes no difference. The report is not what was voted on in open meeting.

It was changed at a closed meeting, albeit a constructive meeting, and my point of order should lie. The general principle set forth in chapter 33 of Deschler's Procedure, section 14.1, does not apply here. Deschler cites the case where informal conference agreements might not have been included in the report. In the current case, however, we are dealing with changes of formal conference agreements.

Clause 6 has never before been tested to my knowledge. If this point of order is overruled, it will mean that a majority of the managers can, in open session, agree to things they think the public will like, and then change those things around in private to suit themselves. Whether this is done by the managers at a face-to-face meeting, or by telephone or by mail or by staff without even informing the managers, it is being done in secret, in violation of the rules. Defeat of this point of order will make clause 6 meaningless and destroy the concept of open conferences.

The SPEAKER. Does the gentleman from New York (Mr. MURPHY) desire to be heard on the point of order?

Mr. MURPHY of New York. I do, Mr. Speaker.

Mr. Speaker, on the point of order, I would refer to the recorded minutes of the conference on page 2 of the opening day of the conference. Senator JACKSON moved that the conference be open to the public. The motion was seconded by Senator JACKSON and adopted by the conference without objection. If my colleague, the gentleman from New York, had been present at all sessions of the conference, I doubt if he would make this point of order. The motion made by Senator JACKSON at the conference and on page 8 of the first day's minutes of the conference is as follows:

> Mr. Chairman, I therefore move the Senate recede from its disagreement with the House and accept the House amendment

> with the amendment set forth in the September 13 conference print, except the technical amendments that occur on page 123 of the print.

Mr. Speaker, if I understand the gentleman's argument, he is asserting that the chair is to find an implied or "constructive" secret meeting of the majority of the conferees because the conference report is not consistent with the gentleman's interpretation of the procedures of the conference committee.

In the first place, there was no secret meeting and thus the rule relied upon by the gentleman was not violated.

In addition, I would point out that the conference report is consistent with the actions of the conference. Senator JACKSON moved that the Senate recede from its disagreement and agree to the amendment of the House with an amendment. During the course of the deliberations, the Senate conferees agreed to modify Senator JACKSON's proposed amendments. The Senate conferees then approved the Jackson motion.

The House conferees then agreed to adopt the language agreed to by the Senate conferees, to be inserted in lieu of the House amendment.

The conference report properly reflects these actions.

Moreover, rules of the House make it clear that once a conference report is filed by the required number of conferees there is a conclusive presumption as to the validity of the conference.

The speaker will not look behind the signatures as to the procedures in conference.*

Mr. Speaker, the gentleman's point of order should not be sustained.

Mr. FISH. Mr. Speaker, may I be heard further on this motion?

Mr. Speaker, I think the section that the gentleman from New York has read in which he quotes Senator JACKSON: "I, therefore, move the Senate recede from its disagreement with the House and accept the House amendment with the amendments set forth * * *" is precisely the point that we are making.

This is not an amendment in the nature of a substitute. Furthermore, the gentleman from New York, the chairman of the conference committee, just stated on the House floor that signatures to a conference report are conclusive, and I suggest that if signatures are conclusive, then any changes thereafter would have to be acceptable to the House.

The SPEAKER. The Chair is prepared to rule.

The gentleman from New York has made a point of order directed against conference procedure alleging a violation of clause 6, rule XXVIII.

The gentleman's point of order is that the form of the conference report does not conform to his understanding as to which motion was agreed to by the House conferees. The gentleman contends that there was a further constructive meeting of the conferees which was closed and unannounced.

The chief manager of the conference report has reported that in a meeting of the conferees which was open to the public, pursuant to the provisions of clause 6, rule XXVIII, a proper motion was made to agree to an amendment in the nature of a substitute for the House amendment to the Senate bill, and the signatures of a majority of the conferees of both Houses reflecting this agreement appear on the conference report.

The Chair does not feel that a violation of conference rules has been shown, and the Chair overrules the point of order.

POINT OF ORDER

Mr. FISH. Mr. Speaker, I make a point of order against the conference report.

The SPEAKER. The gentleman will state it.

Mr. FISH. Mr. Speaker, I make a point of order against the conference report on the grounds that in section 208 the managers have exceeded their authority in several instances and in section 101 in one instance, and the report, therefore, is in violation of clause 3 of rule XXVIII.

Mr. Speaker, so as not to burden the House with unnecessary discussion, I will ask the Chair to rule on these questions of scope one at a time, because as soon as one is upheld, consideration of the others will not be needed.

The SPEAKER. The Chair must state that when more than one point of order is going to be made under a particular House rule, it is proper under the precedents for the Chair to require all such points of order to be stated and for the Chair then to make his decision on the separate points of order, and the Chair intends to follow that procedure.

Mr. FISH. Very good, Mr. Speaker.

The SPEAKER. The Chair will hear all the arguments of the gentleman.

Mr. FISH. Mr. Speaker, prior to 1971, managers considering a bill and an amendment in the nature of a substitute were free to exercise wide discretion in discarding language appearing in both versions and in making germane amendments, even beyond the scope of the various issues in disagreement. All this was changed by the Legislative Reorganization Act of 1970. Section 125(B) of that act revised clause 3 of rule 28, so that each specific topic, question, issue, or proposition must now be looked at individually, as if linear amendments had been made by one House to the bill of the other. Under this rule the conferees cannot report new matter not committed by either House. Also, where the two Houses propose different language on a particular issue, the two versions set the boundaries for conference consideration of that issue. Amendments outside those boundaries may not be reported, even if germane. Where one House is silent on an issue proposed by the other, the silent House is deemed to be incorporating current law, if any, on the subject into its version. If both versions contain matter on a given issue, that issue must be reported by the conference, in disagreement if necessary. Finally, since the substitute is being handled as if it were several linear amendments, it is not in order for the managers to modify or fail to report language which is identical in both versions.

Mr. Speaker, the most glaring violation of rule 28, clause 3, is found at the bottom of page 27 of the printed version of the conference report in proposed subsection 22(e). In both the Senate bill and the House amendment a positive duty is put on designated officials to consider allegations of safety violations. Specifically, the Senate lists the Secretary of the Interior and the Secretary of the department in which the Coast Guard is operating. The House lists the same two officials and adds the Secretary of Labor as well. With respect to this particular issue, therefore, the only matter in disagreement is whether or not to include the Secretary of Labor on the list. The conference report does not in fact include the Secretary with a germane amendment within the scope of the conference defining his jurisdiction. It goes outside the scope however, by dropping the Secretary of the department in which the Coast Guard is operating from the list. This was never in question. Both Houses had already agreed that he was to be included. By going beyond the scope of the disagreement on this specific issue, the conference report violates clause 3 of rule 28 and should be ruled out of order.

Mr. Speaker, I make the further point of order that the conference report fails to comply with rule 28, clause 3, in section 101(10), found on page 3 of the printed version.

This section of the Senate bill finds that, and I quote:

> The development, processing, and distribution of the oil and gas resources of the Outer Continental Shelf, and the siting of related energy facilities, may cause adverse impacts on the coastal zones of the various coastal States.

The House amendment starts off in the same manner and ends with "may cause adverse impacts on the various coastal States and other States." The House, while showing concern for other States concurred with the Senate in singling out the coastal States for special attention.

The conference report, however, reads "may cause adverse impacts on various States," thus abandoning the agreement of the two Houses that coastal States are particularly vulnerable.

By deleting the reference by both Houses to the coastal States the managers exceed their authority and the report is not in order pursuant to the rule.

Mr. Speaker, I make a further point of order against the conference report for violations of rule 28, clause 3, in proposed section 21(a)(1) on page 25 of the printed version.

Mr. Speaker, although on its face the reported language would appear to be germane and lie within the scope of the disagreement between the Senate bill and the House amendment, such is not the case. The statement of the managers states that the intent of the conference language is to override section 4(b)(1) of the Occupational Safety and Health

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* Deschler, ch. 33, section 14, section 19.13.

Act of 1970 with respect to the Outer Continental Shelf.

Mr. Bert Concklin, Deputy Assistant Secretary of Labor, testified before the ad hoc committee on November 20, 1975, that the Occupational Safety and Health Act of 1970 does not apply to any hazardous working condition regulated by another agency under its own statutory authority. He stated that the purpose of that section was to avoid duplication of effort between the Department of Labor and other Federal agencies having statutory responsibilities which may affect occupational safety and health.

This creates a dual system. The Secretary under proposed section 21, or the Coast Guard under existing provisions of the Outer Continental Shelf Lands Act, can regulate a hazardous working condition, but this will not be deemed an exercise of statutory authority under section 4(b)(1) of OSHA. OSHA—the Agency—therefore, can continue to prescribe standards and regulations for the same hazardous working condition. This dual system was not contemplated in the Senate bill, which was silent on OSHA. The chairman of the House select committee, in defending the language of the House version against minority amendment claimed that the House version provided for joint regulation. The House, therefore did not contemplate a dual system of safety regulation. The House amendment, in fact, expressly stated in section 405, and I quote the applicable words "except as otherwise expressly provided in this act nothing in this act shall be construed to amend, modify, or repeal any provision of * * * any other act."

By modifying the Occupational Safety and Health Act of 1970, as described in the statement of the managers, the conference, although making a possibly germane amendment the report goes far beyond the scope of the issue as committed to the conference committee and is out of order. For the Chair to rule otherwise, it would have to state that the interpretation given to this language by the statement of the managers is faulty with respect to the application of section 4(b)(1) of OSHA, which will be useful to me if we have to debate the conference report. Either way, I welcome the ruling of the Chair.

Mr. Speaker, I make a further point of order against the conference report for violation of rule 28, clause 3, proposed in section 19(d) on page 24 of the printed version.

Mr. Speaker, here again we have a germane amendment bringing in new matter outside the scope of the conference, specifically the last sentence of the subsection. The Senate bill stated, and I quote:

> The Secretary's determination pursuant to this subsection shall be final unless determined in a judicial review to be arbitrary, or capricious.

It then went on to other matters not pertinent to this discussion. The House amendment had no comparable provision. The conference report, instead of concerning itself with the standards for judging the Secretary's determination, brings in the entirely new matter of the use to which such determination can or cannot be put. The introduction of this new matter not committed to to conference by either House is a direct violation of rule 28, clause 3, and the report should be ruled out of order.

Mr. Speaker, I make a further and final point of order against the report for violation of clause 3 of rule 28, in proposed sections 25(b), 5(f)(2), and 21(c)(1), on Pages 31, 11, and 26, respectively.

Mr. Speaker, in each of these instances, the conference has reported modifications of language where the Senate bill and House amendment are identical, or nearly so.

First, proposed section 5(d)(2) of the Senate bill and proposed section 25(b) of the House amendment are nearly identical. They both forbid oil and gas leases to be issued unless the lease requires submission of a development and production plan. This might not be overly consistent with section 25(a) of the House amendmet, which is not particularly notable for its consistency, but that is what the House committed to conference. So did the Senate. There was no disagreement. All new leases were to be covered under this subsection. The conference report went outside the scope of the two bills by exempting leases in certain offshore areas from the requirements of this subsection. This is a clear violation of rule 28, clause 3.

Similarly, the Senate bill required the lessee to produce at the maximum efficient rate, except under certain circumstances. The House amendment required that the rate be both efficient and safe. Both versions required that the rate be "efficient."

The conference report substitutes for "efficient" that the rate of production be that "which may be sustained without loss of ultimate recovery of oil or gas, or both, under sound engineering and economic principles." Although I do not find this a satisfactory definition of efficiency because it ignores the dimension of time and completely eliminates input of resources as a consideration, I will not argue that the amendment is nongermane. Once again, however, the use of the word "efficient" was not conferenceable. Both Houses were satisfied with its use, and it should have been reported by the managers.

Finally, proposed section 20(b)(1)(A) of the Senate bill and section 21(c)(1) of the House amendment required Federal officials to, and I quote identical language from both versions, "promulgate a complete set of safety regulations." The conference report gratuitously added the word "new" in the middle of the quoted language. Since both versions were identical, this should have been handled in the statement of the managers. It is not in order to consider such a modification of identical language, pursuant to rule 28, clause 3, and the conference report should be ruled out of order. I thank the Chair.

Mr. MURPHY of New York. Mr. Speaker, before reviewing as the specific points of order, I must review the rules and procedures of the House. Rule 28, paragraph three, indicates whenever a disagreement to a bill through an amendment in the nature of a substitute has been committed to a conference committee, the conference may report a total substitute so long as as no additional topic, question, issue, or proposition is included and so long as any modification suggested by the conference is not beyond the scope of the topics, questions, issues, or propositions sent to such conference.

Interpretation of this provision has made it clear that:

First. Where a substitute text is included in the conference report, broad discretion is to be given during review of its provisions and that the broad discretion given to the conferees ordinarily support the validity of the details of that substitute.[1]

Second. A substitute text may delete language even if in original bill and the House substitute and such deletion will only be considered invalid if it broadens the scope of the legislation sent to conference.[2]

Third. Where a bill and a House amendment in the nature of a substitute is sent to conference and the conference reports a new text, the conference report can discard language both in the bill and the substitute if it is intended to perfect the intent of both Houses.[3]

Clearly, then, if changes occur that do not affect the thrust of the House version or which clearly reflect the intent of the House version, or which properly resolve the differences between the two Houses, the broad discretion which is to be given to an interpretation to a conference committee amendment in the nature of a substitute eliminates any challenge on a point of order to such changes.

POINT OF ORDER NO. 1[4]

The gentleman first claims that the provision in the conference report allowing individuals to make allegations that safety regulations are being violated is not germane. It is necessary to review the specific conference committee language in the context of the whole report, and the original provisions in the Senate bill and the House amendment. Therefore, I must refer to the sections dealing with safety regulations and enforcement. The Senate—section 20(a)—gave general regulatory authority, including worker safety, to the Interior

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[1] Jefferson's Manual, section 546.

[2] Jefferson's Manual, section 546, Brown—section 913a.

[3] Brown, section 913a.

[4] See Senate-House comparison at pp. 32–33 (Section 20—Senate, Section 21—House; safety regulations); p. 37 (Section 22—House and Senate; safety enforcement); p. 39 (Section 22—House and Senate; safety enforcement-investigations); p. 40 (Section 22—House and Senate; allegations of violations of safety regulations).

Department, with concurrence required by the Coast Guard, and did not include or require concurrence by the Secretary of Labor. The House gave specific regulatory authority for worker safety to the Interior, Coast Guard, and Labor—section 21(a)(1)(C). Similarly, the Senate gave—section 22(a)—enforcement authority for worker safety to the Coast Guard and Interior as part of a general enforcement grant, and did not include Labor, while the House gave specific worker safety regulation and enforcement authority to Interior and Labor and did not list the Coast Guard. The conference, in both instances, provided regulatory and enforcement authority to the Interior, with required concurrence by Labor, and did not list or require concurrence by the Coast Guard.

The House—section 22(d)(2)—required the Secretary of Labor to make an investigation and public report on any death or serious injury and authorized him to make investigations of and reports on all other injuries. No such requirement or grant was included in the Senate bill. The conference adopted the House language providing for investigations and reports by Labor.

As the Coast Guard was no longer specifically included under the section granting regulatory, enforcement, and investigation authority as to worker safety in the conference report, the provision providing that a citizen can allege violations of a safety regulation, a provision included in both bills and the conference substitute as part of the safety enforcement section, should now relate to those agencies given detailed responsibility—Interior and Labor and not Coast Guard, and the conference report so stated.

Simply stated, the Senate required Interior and Coast Guard to consider allegations; the House required Interior, Labor and Coast Guard. Because the Coast Guard was removed from responsibility from worker safety regulations, worker safety investigations, and worker safety enforcement, a minor, almost technical, conforming change to section 22, removing Coast Guard as an agency to consider allegations of violations of safety regulations, is clearly within scope. It does not in any way affect the thrust of the provision, but rather strengthens it.

POINT OF ORDER NO. 2[5]

The next point of order complains about a minor, technical amendment in the finding section of the conference substitute.

A finding of the Senate describes impacts on the "coastal zone of the various coastal States"; a House finding describes, similarly, "impacts on the various coastal States and other States." It is clearly within scope to have the finding of the conference report relate to adverse impacts on various States. It does not affect the thrust of the finding.

I must point out that this technical amendment removing "coastal," was submitted to the minority by the majority weeks prior to the conference and they through their staff on the House OCS Committee, agreed to it. Moreover, similar technical amendments removing the word "coastal" in other provisions were proposed by the House OCS minority staff, at various meetings with majority staff, and accepted by the majority.

POINT OF ORDER NO. 3[6]

The next point relates to language within the statement of managers. This language describes the intent of the conference as to the promulgation and enforcement of worker safety regulations. A comparison of the explanations of the original House provision[7] with the conference committee provision[8] indicates that the clear intent of the House is adopted by the conference—certainly no scope problem. In any event, the offerer of the point admits that the reported language is germane and merely attacks the statement of managers. Language in the statement of managers is not subject to a point of order.

POINT OF ORDER NO. 4[9]

Mr. Speaker, the gentleman next complains that the provision in the conference report as to the "overriding" of a State Governor or regional board recommendation is not germane.

The Senate—section 29(d)—provided that the Secretary's decision overriding a State recommendation as to certain OCS activities is "final" and not subject to judicial review unless arbitrary or capricious. The Senate—section 30(b)—also provided for judicial review of the approval of these certain OCS activities to occur in the court of appeals, and that the test for reviewing approvals of activities was a "substantial evidence" test.

The House—section 19(d)—does not specifically discuss judicial review of the overriding of a State recommendation. Like the Senate, however, it does provide for judicial review of certain approvals of OCS activities to occur in the court of appeals, and that the test for reviewing approvals of activities was a "substantial evidence" test—section 23(c).

As the Senate specifically provided that the Secretary's determination of overriding review to be arbitrary or capricious, and the House amendment, by being silent, could be interpreted to broaden the scope of judicial review of the Secretary's determination, the conference committee sought to clarify this provision. Specifically, the conference committee retained the House language as to the effect of the overriding of the Governor's recommendation, but accepted the specific Senate limitation on judicial review of the overriding of a State Governor or regional board recommendation.

This makes it clear that the limitation on review was only as to the "overriding" of a recommendation, and not as to the approval of an activity for which such recommendations had been sought.

Thus, as was clearly the intent of the Senate version, the conference amendment provides that the overriding by the Secretary of the Interior of a State recommendation is not to be subject to judicial review unless determined to be arbitrary or capricious; however, this does not eliminate the ability to seek judicial review of the approval of the activity for which recommendations were secured, based on a substantial evidence test.[10]

POINT OF ORDER NO. 5[11]

Section 206 of the Senate bill provides that no new lease is to be issued unless it requires a later submission of a D. & P. plan. New section 25 of the House bill, in subsection (a) eliminates the requirement of submission of a D. & P. plan where there has been development prior to January 1, 1975. The areas where there has been development are the Gulf of Mexico and the Santa Barbara Channel. In a conforming amendment accepting the House amendment, no D. & P. plans are required in the conference report for new leases in the Gulf of Mexico and the Santa Barbara Channel. Simply stated, section 206 of the Senate provides for development and production plans for all leases. The House (sec. 25(a)) requires such plans except in areas where there has been development prior to January 1, 1975. These areas are the Gulf of Mexico and the Santa Barbara Channel. The conference also excludes those areas where there has been development but simply names them—the Santa Barbara Channel and the Gulf of Mexico.

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[5] See Senate-House comparison at page 4.

[6] See Senate-House comparison at pages 33, 37.

[7] Report No. 94-1084, pages 106-107.

[8] Report No. 94-1632, pages 65-66.

[9] See Senate-House comparison at pages 90-91; 91-92; 94.

[10] ILLUSTRATION—DEVELOPMENT AND PRODUCTION PLAN—STEPS:

	House	Senate	Conference
1. Proposed plan submitted to States.	§ 19(d).	§ 29(d).	§ 19(d).
2. Recommendations by Governor or Board Submitted.	§ 19(d).	§ 29(d).	§ 19(d).
3. Overriding of recommendation.	§ 19(d).	§ 29(d).	§19(d).
4. Judicial review of overriding of recommendation.	No provision.	No review unless arbitrary and capricious § 29(d).	No review unless arbitrary and capricious § 19(d).
5. Approval of plan.	§ 25(g).	Amended § 5(d)(8).	§ 25(g).
[Senate/House Comparison—Page 138]			
6. Judicial review of plan.	§ 23(c)(2); 19(d) substantial evidence test; Court of Appeals; overriding—reviewable as part of substantial evidence test.	§ 30(b); 29(d) substantial evidence test; Court of Appeals; overriding as part of decision—not reviewable unless arbitrary or capricious.	§ 19(d); 23(c)(2) substantial evidence test Court of Appeals—overriding—factor but not conclusive.

[11] See Senate-House comparison at pages 130-131.

POINT OF ORDER NO. 6[12]

The Senate (sec. 206—amending sec. 5(a)(5)) requires D. & P. plans to include a commitment for production at a maximum efficient rate (MER); the House has no such provision. The House (new sec. 5(f)) requires production at a rate to assure maximum rate of production which is efficient and safe. The Senate contains no such provision. Both provisions require regulations to be promulgated to define the respective terms—MER (Senate) and maximum rate which is efficient and safe (House).

The conference adopts language saying that production must be at a rate which may be sustained without loss of ultimate recovery, under sound engineering and economical principles, and which is safe. This compromise brings the rate to be required closer to the Senate MER concept, yet adopts the principle of the House that this be done by regulation and not in a plan, and that such rate must insure safe recovery. It is clearly within scope.

POINT OF ORDER NO. 7[13]

The Senate, in a new section 20(b), required a set of safety regulations to be prepared and provided specifically that the Secretary shall—promulgate a complete set of safety regulations—and that—any safety regulations in effect on the date of enactment of this section which the Secretary finds should be retained—shall remain in effect until so repromulgated." The clear meaning of this provision was to provide for a set of new safety regulations was to be promulgated and that existing regulations were to continue in effect until this new set was prepared. The fact that new safety regulations were to be prepared is emphasized by the use of the word repromulgated.

> The House, in new section 21(c)(1), similarly recognizes that the applicable Federal officials . . . shall . . . promulgate a complete set of safety regulations [and that] . . . any safety regulation in effect on the date of enactment of this section where such officials find should be retained . . . shall remain in effect until so promulgated.

While the clear intent of this provision was similarly to provide for a complete set of new regulations, and the continuation in effect of existing regulations until the new set is completed, the House amendment was not entirely clear.

To resolve this possible ambiguity, the conference, in section 21(c)(1), specifically stated that a complete set of new safety regulations were to be promulgated and that there was to be no period of time between the expiration of existing regulations and the effective date of new safety regulations, and that the new set of regulations can include preexisting ones. This conference substitute, adopted as a technical amendment, clarifies the intent of both Houses, eliminates any ambiguities, and is clearly within scope.

Mr. Speaker, for those reasons I believe the Chair should overrule the point of order of the gentleman from New York (Mr. Fish).

Mr. FISH. Mr. Speaker, may I be heard further on my point of order?

The SPEAKER. The gentleman from New York (Mr. Fish) will proceed.

Mr. FISH. Mr. Speaker, I will be brief.

Mr. Speaker, I am asking the Chair to rule exactly the way the chairman of the conference ruled during the conference. During our conference, a Senate conferee proposed an amendment to return baseline studies to the Department of the Interior. At that time the gentleman from New York (Mr. Murphy) ruled the Senator's amendment out of order because both the Senate bill and the House amendment moved the studies over to Commerce. He stated then, as I do now, that it is outside the scope of the conference to change something on which both Houses had agreed in principle. He ruled the amendment out of order for the same reason I am asking the Chair to rule the report out of order.

The SPEAKER. The Chair is prepared to rule.

The gentleman from New York (Mr. Fish) argues in his first point of order under clause 3, rule XXVIII, that the conferees have exceeded the scope of the matter committed to conference by removing from the Secretary of the Department in which the Coast Guard is operating concurrent responsibility for considering allegations of violations of safety regulations. It is the Chair's opinion that the portions of the conference report dealing with safety regulations and enforcement must be read as a whole. The House and Senate versions had differing provisions on the various aspects of that subject and gave regulatory and enforcement responsibility to differing officials. The conference report compromise gives the authority to the Interior and Labor Departments and makes the conforming change in the provision dealing with consideration of allegations of violations. For the reasons stated by the gentleman from New York (Mr. Murphy) the Chair overrules the point of order.

The gentleman's second point of order on scope deals with the findings at the beginning of the conference report, wherein the conferees agreed to language finding adverse impacts on the various States. It appears to the Chair that the language is between the Senate language, addressing the coastal zones of the various States, and the House language, addressing the various coastal States and other States. The conference language is no broader than the House language and the Chair overrules the point of order.

In his third point of order on scope, the gentleman from New York only points to language in the statement of managers and argues that a statement of intent by the conferees exceeds the scope of conference. Such a point of order must lie against language in the conference report itself and not in the joint statement and the Chair overrules the point of order.

The gentleman's fourth point of order on scope deals with the section of the conference report relating to judicial review of the Secretary of the Interior's determination whether to override State and regional recommendations as to development on the shelf. It appears to the Chair that the gentleman singles out one provision which must be read in conjunction with the other provisions in both bills on judicial review. Both bills provide for judicial review of shelf activities in other sections than the one pointed out. The conference language clarifies the fact that the limitation on judicial review of the Secretary's determination does not inhibit seeking judicial review of the underlying activities on the Outer Continental Shelf and does not exceed the scope of the matter committed to conference.

The gentleman makes several additional points of order on scope. The conference report exempted from the requirement of submission of development plans two regions, the Gulf of Mexico and Santa Barbara. The House version had exempted areas where there had been development prior to January 1, 1975. The intent of the conferees, as expressed in the joint statement, was to name the areas on which there had been such development, rather than retain the broader and categorical language of the House amendment.

The gentleman also argues that the conferees have modified the requirement as to production rate by eliminating the word "efficient." As the manager of the conference report has pointed out, the word efficient appeared in differing phrases in the House and Senate bill. The Senate bill and the House amendment did not have identical tests and did not have identical purposes, as the Senate bill required submission of a plan and the House amendment required regulations. The modification of the language is clearly within the scope.

The last argument of the gentleman from New York is that the conferees have added the word "new" in a provision that did not contain that word in either the Senate bill or the House amendment. A careful reading of the Senate bill demonstrates that the two provisions were not identical, as the Senate bill contained the word "repromulgate," not contained in the House amendment. Therefore, the issue whether the regulations were to be new regulations or could be existing regulations was a matter before the conferees.

For the reasons stated, the Chair overrules all the points of order.

The SPEAKER. The gentleman from New York (Mr. Murphy) is recognized for 30 minutes, and the gentleman from New York (Mr. Fish) is recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. Murphy).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I urge my colleagues to give swift and strong support to a bill which modernizes the 1953 Outer Continental Shelf Lands Act.

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[12] See Senate-House comparison at page 134.

[13] See Senate-House comparison at page 33.

This legislation is the product of over 3 years of work by both the House and Senate. In the course of our hearings, markups, and floor consideration, we have made every effort to accommodate the recommendations of the oil industry and its ally, the Department of the Interior.

Unfortunately, the Interior Department and the major oil companies continue to voice opposition to the reasonable and moderate provisions of this bill.

They continue to maintain that the present law which has governed the relatively slow development of the offshore oil industry over the past three decades in the Gulf of Mexico is adequate for the new accelerated leasing program promulgated by the Interior Department.

They persist in this position despite the fact that what may have been reasonably sufficient for one area of the country over a long period of time may not be adequate for the Atlantic and Alaskan coasts in a very compressed time frame.

They persist in this position despite the fact that our growing concern about the environment is much more acute today than it was in 1953.

They persist in this position despite the fact that the OCS rules and regulations promulgated by the Interior Department have grown in number and complexity over the last few years—thus indicating the emergence of new problems for which the law does not provide adequate congressional guidance.

They persist in this position despite the fact that this country has recently experienced new dimensions of intergovernmental relations in which State and local governments are asking for more of a voice in Federal decisions which affect them.

They persist in this position despite the fact that among American institutions, the Federal Government and the oil industry rank near the bottom with respect to their credibility.

They persist in this position despite the fact that the present method of awarding leases to private industry results in discouraging participation by the small independent oil and gas companies and thus discourages competition.

They persist in this position despite the fact that present health and safety standards for offshore operations are so tied up in a confusing bureaucracy that no one knows for sure who is responsible.

They persist in this position despite the fact that the U.S. Senate spent 2 years in studying the issue and, by a 67 to 19 margin, voted to update the 1953 law.

They persist in this position despite the fact that the House felt that the problem was urgent enough to create a special ad hoc select committee to cut through potential jurisdictional conflicts among committees.

They persist in this position despite the fact that the select committee went to every area of this country where offshore operations are either underway or scheduled for development, took testimony from a third of the coastal State Governors, negotiated in good faith with the Interior Department during the entire legislative process—accepting a substantial majority of the Department's recommendations—and fashioned a piece of legislation which was accepted by this body on a 247 to 140 vote.

They persist in this position despite the fact that the total record of the select committee in the House, the Interior Committee in the Senate, and the conference committee between both clearly and unmistakably resulted in a long, careful, and thoughtful process in which every conceivable argument for and against the provisions of the bill was studiously considered, debated, and voted upon.

They persist in their position despite the fact that this legislation has the support of almost all the gas distributors throughout the United States, many of the independent and small refiners, most coastal States, environmental and citizen organizations, the unions—including those worker's organizations which work on OCS facilities—many of the independent and smaller service station owners, and many of the smaller oil companies.

Now I want to emphasize that the "they" I am referring to are the Interior Department—not necessarily the entire administration—and the major oil companies—not the entire oil and gas industry in this country.

In regard to the Department of the Interior, it should be noted that the select committee worked tirelessly with its representatives to fashion a bill which met that agency's major concerns. I will not take your time going through the entire litany of our negotiations with Interior. A detailed discussion on these efforts was reprinted in the CONGRESSIONAL RECORD of September 14, 1976, including a copy of Secretary Kleppe's August 26 letter to Senator JACKSON and myself, and my reply to that communication.

I do want to bring to your attention a letter from Secretary Kleppe which I received shortly before the conference committee approved S. 521 on September 20, 1976.

In this letter, the Secretary makes the threat that if Congress enacts these changes we have worked on for over 3 years, at least one major oil company will not bid on future leases.

To quote the letter from Secretary Kleppe:

> In addition, I have recently received word from one of the bidders (in the recent Atlantic sale) that they will not participate in future lease sales if the new OCS bill, in its present form, is passed.

This is an outrage. It says, in effect, that the Congress cannot spend 3 years, hold dozens of hearings, take 8,000 pages of testimony from hundreds of expert witnesses, consider some 300 amendments in committee, floor, and conference activities and work out a sound modernization of an antiquated law without an oil company being able to dictate the final language of our bill.

The fact that this threat is transmitted by an official of this administration is shocking.

Equally shocking is the full page ad which appeared in the September 22 edition of the Washington Post. The advertisement, sponsored by the National Ocean Industries Association—NOIA—opposed passage of S. 521.

Now, I am not shocked by a full-page attack on a piece of legislation which is before the Congress. Clearly, any person or group has a constitutional right to let their views be known.

I am deeply concerned, however, by an advertisement which is full of misleading, inaccurate, malicious, and distorted statements like the one which appeared yesterday.

On the evening of September 22, I sent to every Member of the Congress a letter refuting the allegations made by NOIA. I hope that you have had time to read that communication carefully. Again, I will not take your time in going over every point, but I would like to emphasize the major issue in the controversy.

Contrary to the statement made by NOIA, this legislation will not delay the development of our OCS resources. Rather, it will expedite such production.

No substantial additional administrative procedures are required by S. 521.

This bill will replace many and not add to existing procedures.

This bill will modernize and improve those procedures.

This bill provides that activities operate concurrently—thus eliminating any delay in OCS development.

The conference report which is before you today is practically the same bill which this body approved on July 20. The Senate took the House bill, studied it, and accepted it in total with the exception of 19 minor amendments and some technical changes. A majority of the House conferees accepted the Senate amendments as improving the legislation.

A summary of the bill as it now stands has been made available to all Members. It illustrates, in my judgment, the balance which the select committee sought—and obtained.

A balance between our need for energy and our environmental concerns.

A balance between the responsibilities of the Federal Government to manage the people's resources and the rights of the States to participate in decisions which will affect them.

A balance between a recognition of the enormous capital required for offshore development and the right of smaller companies to participate in this effort.

This legislation is one of the most significant achievements of the 94th Congress. I urge my colleagues to send a message to the White House and the American people today—a message that the Congress has fashioned a sound and rational management system for the exploitation of our offshore energy resources.

It is possible to write legislation which balances the many competing interests in a complex endeavor like OCS oil and gas.

The congressional process can work—and we have shown in this effort that it does work.

Despite the forces which do not want even a moderate change in the rules of the game, I believe that the President will sign this bill.

Frankly, I think he has very little choice. There are few bills that reach his desk which are so clearly in the public interest.

Finally, on a more personal note, I would like to express my appreciation to the members of the Select OCS Committee. I am proud of the work of the committee and the record we have established. It has been my privilege to serve as chairman of a group which has been as hard-working and diligent as any I have seen in this House.

The staff of the committee has performed in an extraordinary manner, and my thanks goes to all of them. I must single out one of our counsels, Mr. Martin Belsky, who is actually on loan to us from the Judiciary Committee. Marty's work for the committee, as all the Members know, has been outstanding and in the best tradition of congressional staff. He may have lost a little hair and perhaps a little sleep in the last year and a half, but he has certainly gained high respect from those for whom he served.

Mr. FISH. Mr. Speaker, I would like to join the gentleman from New York (Mr. MURPHY), chairman of this committee, in his remarks with respect to the caliber of the staff work which has been enjoyed by both the majority and minority sides of the Select Committee on the Outer Continental Shelf. I think they have maintained a very high standard of work. The Members on both sides of this committee have had great success in the staffing of this committee and with the work product of the various counsel.

Mr. Speaker, unfortunately, it has been decided that no new OCS legislation will be enacted this Congress. After the expenditure of hundreds of thousands of dollars of taxpayers' money and nearly 18 full months of hard work by the Ad Hoc Select Committee on the Outer Continental Shelf, OCS legislation has been knowingly doomed. That is a fate which I have sought to prevent, but which I had no chance to prevent during the proceedings recently concluded. I will not attempt to ascribe motivations but I will describe the way in which this posture has been reached.

First, a conference procedure was devised which effectively precluded discussion of issues and, hence, compromise. On July 21, 1976, the House passed its version of S. 521, the Outer Continental Shelf Lands Act Amendments of 1976. However, it was not until September 10 that conferees were appointed. Conferees met on September 16 and 20 for a total of approximately 6 hours. The minority expected that the proceedings would at least resemble those of conferences we have been members of in the past. Unfortunately, they did not. House conferees were relegated to a role of mere spectators. Of the 6 hours of so-called conference, less than a minute was taken up in obtaining House concurrence in action taken by one Senate conferee and his pocket full of proxies. Final action on both Senate and House sides was concluded after a House conferee notified the chairman that there were only 8 minutes left to answer a recorded quorum on the House floor. Because of the abrupt conclusion of the proceedings, House conferees were denied their right to discuss or to amend changes made by the Senate conferees when they adopted the House bill. The same procedure prevented any consideration of the Senate version of the bill.

The conferees never got to consider any provisions of the Senate legislation due to the form of a motion made by the leader of the Senate's delegation. Anyone who has read both versions of the bill knows that there are significant differences in their scope and direction. These differences should have been discussed at a truly open conference. There were provisions in the Senate version which had considerable merit. Their adoption could have considerably improved the chances of this legislation becoming law. Yet the unfathomable decision was made to prevent their consideration.

Another effect of the procedure followed in the conference was that the usual byplay of ideas did not take place. Conferees could not discuss principles and, working out a philosophical compromise, instruct staff to come up with language of proposed solutions to disagreements. The proceedings came close to resemble a markup session at which we, the House conferees, were mere spectators.

When there is desire for the enactment of legislation, a large, bipartisan voting minority capable of sustaining a veto is usually not ignored. That is especially true when that minority spells out reasonable compromises and points the way to accomplishing the purposes set forth in the legislation being considered. The amendments presented in the Senate motion which controlled the meeting of your conferees were not substantially responsive to points raised in my motion to recommit made prior to passage of the House bill. They were not responsive to the points raised during the one and only joint staff meeting held between July 21 and September 16. They were not responsive to the continuing and constructive criticism leveled at the bill by the Secretary of the Interior.

Although the way to enactment was rather clearly marked, the more tangled path of sure veto was chosen. Some compromise amendments on mostly technical matters were adopted but the major, well-known areas of disagreement were never exposed to the melding influence of debate. No one should be misled into believing that the adoption of compromises on mere technical or ancillary substantive issues would suffice to overcome major disagreement. There is no reason for this so-called compromise to result in enactment of this legislation, even if the minor changes numerically represent a large proportion of minority amendments.

The most puzzling and troublesome step in the carefully choreographed program at this so-called conference was the adoption of the concept of Federal exploration. This concept was eliminated by committee action in the House. Members of the ad hoc select committee stood in this very Chamber to disavow any belief in the concept of Federal exploration. The Office of Technology Assessment completed a study a year ago showing that the concept was unworkable. Administration and industry spokesmen let it be known that Federal exploration was the single most objectionable item in the Senate bill. The inclusion of this concept could, in and of itself, cause the bill to be vetoed yet, here it is, slightly different from the Senate version, but mandatory and sure to do anything but grease the ways for the legislation. Why?

Another strange failing of the meetings of conferees was the insistence on injecting the chaos of multiagency decisionmaking into the present, orderly, one-agency procedure. The House provision only survived because of a 193-to-193 tie vote on an amendment to exclude it. The matter was conferenceable and could have been simplified. Yet, somehow the prospect of conflicting rules, mass confusion and, most importantly, delays in effecting new safety regulations appealed to the majority of conferees.

The total impact of the meetings of conferees on this bill is to leave the recommittal or defeat of the conference report as the only courses of conduct I could accept. For the reasons I have discussed, I will, at the appropriate time move that this legislation be recommitted to conference. The recommittal of this matter so that a true conference can take place is our only, slim chance of enacting new OCS legislation this Congress.

Should it not be recommitted, it must be defeated. The legislation has emerged from the meetings of the conferees in a more objectionable form than the bill voted on by the House on July 21.

Mr. MURPHY of New York. Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Speaker, I am particularly pleased that so many interested people are here this morning to hear this debate who never heard it before. Looking out over the audience, I notice it is mostly all members of the ad hoc select committee who have heard the debate for the last 3 years, which is one of the unfortunate things about the way we operate this place; but I would like to take at the beginning of my time to recognize a principle that I think is very important and has been shown by what the OCS Committee has done; that is, it is the first time, I think, that we were operating under the new rules of the House which have allowed three separate committees to come together in a special select committee to look at a particular problem. Had Chairman MURPHY not taken this approach I am afraid that we would still be fighting over which committee had jurisdiction.

CALL OF THE HOUSE

Mr. DEL CLAWSON. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore (Mr. MOORHEAD of Pennsylvania). Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 817]

Anderson, Ill.
Andrews, N.C.
Armstrong
Baucus
Beard, R.I.
Brooks
Brown, Calif.
Burke, Calif.
Burke, Fla.

Burton, John
Chisholm
Clausen, Don H.
Cochran
Cohen
Conlan
Conyers
Diggs
Drinan
Early
Esch
Eshleman
Evins, Tenn.
Flynt
Ford, Mich.
Ford, Tenn.
Fraser
Green
Hawkins
Hébert
Heinz
Hinshaw
Holland
Horton
Jarman
Johnson, Colo.
Kemp
Leggett
Lehman
McCollister
McDade
Matsunaga
Melcher
Mink
Mollohan
Moss
Nix
O'Hara
Passman
Pattison, N.Y.
Pepper
Peyser
Pressler
Railsback
Rangel
Rees
Reuss
Riegle
Risenhoover
Santini
Scheuer
Shipley
Shuster
Steelman
Steiger, Ariz.
Stephens
Stuckey
Sullivan
Teague
Thompson
Vigorito
Waggonner
Wampler
Wilson, C. H.
Young, Ga.

The SPEAKER pro tempore (Mr. Moorhead of Pennsylvania). On this rollcall 356 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Roddy, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On September 21, 1976:

H.R. 10394. An act to amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans' homes.

On September 22, 1976:

H.R. 14262. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes.

On September 24, 1976:

H.R. 8603. An act to amend title 39, United States Code, with respect to the organizational and financial matters of the U.S. Postal Service and the Postal Rate Commission, and for other purposes.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a Joint Resolution of the House of the following title:

H.J. Res. 1096. Joint Resolution making supplemental appropriations for the Department of Defense for the repair and replacement of facilities on Guam damaged or destroyed by Typhoon Pamela, and for other purposes.

The message also announced that the Senate insists upon its amendments to the joint resolution (H.J. Res. 1096) entitled "Joint resolution making supplemental appropriations for the Department of Defense for the repair and replacement of facilities on Guam damaged or destroyed by Typhoon Pamela, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. McClellan, Mr. Stennis, Mr. Pastore, Mr. Inouye, Mr. Johnston, Mr. Young, Mr. Hatfield, Mr. Stevens, and Mr. Bellmon to be the conferees on the part of the Senate.

CONFERENCE REPORT ON S. 521, OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1976

The SPEAKER pro tempore. The Chair recognizes the gentleman from Louisiana (Mr. Breaux) for 4 minutes.

Mr. BREAUX. Mr. Speaker, as I was saying before the interruption, I want to publicly congratulate the chairman of the Ad Hoc Select Committee on the Outer Continental Shelf, the gentleman from New York (Mr. Murphy), for taking an aggressive stand on making the new rules of the House work.

Mr. Speaker, this, indeed, is the first time that three committees have come together under a special select committee to try to address themselves to one major issue.

Concerning the product of the committee, Mr. Speaker, we have looked it for over 2 years. We have had extensive hearings. We have traveled around the country reviewing what is happening with respect to the Outer Continental Shelf to determine whether we should legislate in this area or not.

Mr. Speaker, I think there comes a time, at least once in every decade in this House, when a committee should look at an area and determine whether it is, perhaps, after looking at it, working fairly well, and whether or not legislation is needed.

Mr. Speaker, I have tried very hard to look at all of this in an effort to determine why we are here discussing an OCS bill and whether an OCS complete revision such as this is really necessary.

Mr. Speaker, in trying to arrive at that answer, I found something in the Congressional Record, and it is a statement as to why we should be having a complete revision. I would like to go over it with the Members very briefly.

Mr. Speaker, the first reason given as to why we need a new OCS bill is because there is to much risk of uncertainty and a shortage of capital.

Mr. Speaker, I do not know how many Members have ever heard of a major oil company, whether it be Exxon or Shell or Texaco, saying, "Please change this bill because we do not have enough capital."

Mr. Speaker, I think that is the most ludicrous reason for requiring an OCS bill that I have ever heard.

No one is complaining about not having enough money to invest in the OCS. That certainly is not a legitimate reason as to why we should have a new bill.

The second reason is because State governments, local communities, environmental organizations, and other with an affected interest do not have a statutory right to participate in the Federal decisionmaking process with regard to the development of OCS oil and gas.

Let me cite what took place in a recent OSC sale in California. In that sale the Interior Department coordinated with and/or obtained information and data from 26 Federal agencies, 18 California State agencies, 25 county organizations, 22 cities, 38 private companies and organizations, 26 citizens and/or professional groups, 2 regional government agencies, 22 universities and/or research organizations, numerous U.S. Senators and U.S. Congressmen who testified. All of this for one lease sale off California. Yet the reason is given that, well, they do not have the right to participate. How much participation is enough?

The third reason is because of inadequacy in dealing with the protection of the environment. With reference to the environment, the National Environmental Policy Act applies and requires a very detailed and complete environmental statement before any sale can take place. The Federal Water Pollution Control Act applies to everything happening offshore or on the Outer Continental Shelf. I am sure the Clean Air Act must apply. This Congress has spent days, months and weeks debating the oil spill liability fund, in order to protect against oil spills and to make sure the OSC activities conform with all environmental laws, and that certainly applies here. I do not think we have to rewrite the whole bill.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MURPHY of New York. Mr. Speaker, I yield 2 additional minutes to the gentleman from Louisiana (Mr. Breaux).

Mr. BREAUX. Mr. Speaker, the last reason, as printed in the Record is that the present law is also inadequate in dealing with the safety of the workers. Well, that is a legitimate concern, but I just want to remind the members of the committee that the Occupational Safety and Health Act is already authorized so as to take care of the health and safety needs of people working on the offshore oil and gas rigs. If those people are not doing a proper job, then what we should be looking at is trying to change the OSHA bill to see to it they are carrying out the mandate they already have. We do not need to rewrite the whole Outer Continental Shelf law, to see to it that OSHA is being carried out. If it is not, then we should reform OSHA.

Mr. Speaker, in 1973 this country was importing one-third of all our oil and gas needs, and that is when we had the oil and gas crisis when this country was almost brought to its knees. In 1976, right now, we are importing over 40 percent, and in some months over 50 percent of all the oil and gas that is used in this country, at a cost of some $35 billion.

So I ask the committee, is this bill intended to encourage more production more efficiently and in a safe manner? I do not think so. I submit it is more regulation, not less, that it will bring about more delays and not orderly progressive development of our natural resources, and that it is not needed.

Mr. Speaker, I urge the members of the committee to vote to recommit when that motion is made.

Mr. FISH. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. Forsythe).

Mr. FORSYTHE. Mr. Speaker, I do not want to fight old battles again. During the House's consideration of this legislation we discussed the major problems with the legislation and attempted, unsuccessfully for the most part, to pass constructive amendments.

Now the bill has come back from conference not only without substantive consideration of the differences between the House and Senate versions but with the major addition of provision of Federal exploration. Not only, therefore, does the bill still contain the potential for major delays in leasing and development of the OCS but now it also contains Federal exploration which could potentially cost the Federal Government billions.

To approach the issue from another perspective, the bill has become a major giveaway program for the oil companies. Federal exploration means that the taxpayer will now be paying for the exploratory gamble which is currently being paid by the oil companies. In fact, the taxpayer will be guaranteeing a profit to the oil company contracted to do the exploration even if the gamble fails and no oil and gas is produced.

Let me briefly cite some figures which highlight the potential economic disaster for the taxpayer associated with Federal exploration. Out of the total of 4,658 exploratory wells actually drilled on the Outer Continental Shelf up to January 1, 1976, only 810 wells found oil or gas—less than one out of six. The costs for these 3,848 dry holes in that total are now being paid by the oil companies. If this legislation is enacted, however, future costs for dry holes may very well be paid by the taxpayer. And the oil companies actually drilling the federally-financed exploratory wells will be given a percentage of profit for their trouble.

Another major danger inherent in Federal exploration is the very real possibility that major oil and gas deposits will simply not be found by an exploratory process which is subject to the political process. Look at the experience of the exploration in the North Sea. Over 70 exploratory wells were drilled before any appreciable amount of oil or gas was discovered. I seriously question whether the Federal Government could have persevered in such an exploration, given the budget constraints and the public reaction to such a seemingly fruitless operation. Yet the North Sea contains vast oil and gas resources and new discoveries continue to be made. Private capital took the risk of exploration. Reliance on government exploration would have probably meant that we would not have discovered these resources at all.

Mr. Speaker, I have many reservations about this legislation and its effect on the leasing and development of our oil and gas resources on the Outer Continental Shelf. The provision for Federal exploration now contained in the legislation is only one objectionable provision, but is definitely a major one. The distinguished ranking minority member has already pointed out that inclusion of this provision alone is almost a guarantee for a veto by the President. Accordingly, I strongly urge my colleagues here in the House to vote to recommit the report to conference. If this effort fails, I will urge the President to veto the bill.

Mr. FISH. Mr. Speaker, I yield 2 minutes to the gentleman from Idaho (Mr. Symms).

Mr. SYMMS. Mr. Speaker, I suppose some Members might ask why would someone from Idaho who does not have any offshore be so interested in offshore continental leasing. I think that could be summed up very well. We have an energy-intensive economy in this country. In States where we produce agricultural products, one of the reasons for our success is because we have had access to massive supplies of low-cost energy that has been produced by the private enterprise system. As I understand it, if this bill is passed, we are going to have massive Federal regulations to go through. The only problem we have in solving the energy crisis in this country is we have too much government. We have got a legislative depression of politicians passing too many laws and bureaucrats writing too many regulations. Here is what one has to go through—if I can get this unfolded. Look at this long, chart, my colleagues.

As I understand it, this is the flow chart one has to go through in order to get oil out from under the ground that is under the ocean. It is difficult enough to have the capital intensity to go out here and build some tower like the Eiffel Tower under water and actually get the technological job done of removing that oil to the surface. But the hard part of the job is going to be to get through Federal regulations. It will take several years to go through these flow charts.

We start over here with the Corps of Engineers permit request, and the BLM review of nominations and then we keep working down and go through the USGS, and then start to work out the evaluation, and so on, and for each one of these things we have to get Federal Government approval. By the time we get to the end we have taken up 7 years if we do not have the problem of cancellation of the lease at any time, or else if we do not have a civil suit.

I think the Members of this body would be well advised to recognize what kind of horrible mass of regulations we are talking about passing on to the oil producing companies in this country. Then we will wonder why we have an energy shortage and this will be part of the reason: because of what we are doing here today, passing another law, furthering a regulated, legislative depression.

I urge everyone to vote "no" on this conference report.

Mr. FISH. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. Bell).

Mr. BELL. Mr. Speaker, the very real danger of this bill, as I see it, is the aspect of Federal operation in offshore development. The statement has been made: "If you like our Postal Service, you will love our Federal Oil Corporation."

I think that it may prove itself to be a very serious problem to many Congressmen because when the Federal Government gets involved and starts drilling dry holes, then we will find some candidates running against us, if we favor this bill, who will say "You lost the Federal Government $100 million on this project and another $100 million on that project." They will probably be able to make a sizable impact on lessening the possibility of Members coming back here. We ought to think about it.

If we start losing huge sums of money for the Federal Government we will have a vulnerability for ourselves. There were 8,723 exploratory wells drilled in the United States in 1974, and there were 6,722 which were dry holes. If we just naturally analyze the possibility of our future success in offshore exploration on this basis, that means 80 percent will be dry holes. That is what we start with.

There is one feature in this bill which has an amendment introduced by the gentleman from New Jersey (Mr. Hughes), I believe, which says in effect it allows the oil corporation to do some exploratory work. What we do is explore in advance, so if it turns out to be a dry hole, that puts a depression on the whole offshore area for development. The other companies then are not going to bid because we will have already proven or disproven this area, so the taxpayers are not going to receive through the Government $500 million worth of bonuses or whatever it will be because the area will have already been dampened or depressed—and not just the area, but the whole coast possibly. In other words, we are bringing in the taxpaying public, in on the gamble. If by exploratory drilling before leasing, the public may end up on the losing end of a gamble to wit: That as a result of a dry hole drilled, the public will lose a sizable bonus.

I want to point out what we are getting into when we talk about bringing the Federal Government and the public into this exploratory effort, because we will be bringing into it a vulnerability for all of us who support the legislation. I do not include myself because I am not going to support it, in its present form, but I think the Members ought to give this matter careful consideration.

Mr. FISH. Mr. Speaker, I reserve the balance of my time.

Mr. MURPHY of New York. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. Conte).

Mr. CONTE. Mr. Speaker, I rise in support of this conference report amending the 1953 Outer Continental Shelf Lands Act.

This legislation has been over 3 years in the works, during which time exhaustive study has been made of the issues which it involves. It represents an excellent balancing of our need for energy and our environmental concerns. It strikes a balance between a recognition of the capital required for offshore development and the right of smaller companies to participate in the offshore drilling process.

Contrary to the claims of the oil barons, this measure will not cause lengthy delays in the development of offshore resources; it will not put the oil companies out of business; and it will not increase U.S. reliance on foreign oil imports.

Rather, it will prevent delays in the production of Outer Continental Shelf oil and gas leases, by preventing the speculative hoarding of resources by producers waiting for higher prices.

It will break the major oil companies' monopoly on the entire Outer Continental Shelf market, preventing them from making exorbitant profits from public resources.

And it will provide for the orderly development and production of our Outer Continental Shelf energy supply under proper environmental safeguards.

Mr. Speaker, the present law, which has governed the relatively slow development of the offshore oil industry over the past 25 years in the Gulf of Mexico, is totally inadequate for the new accelerated leasing program off the Atlantic and Alaskan coasts. The measure we must pass today deals effectively with the accelerated program by limiting the use of the out-moded "cash bonus bid" system.

Mr. Speaker, the development of our offshore resources must be one of the major priorities in the full utilization of our domestic energy supply. The fact that the vast majority of this country's new domestic oil and gas discoveries will be offshore, on this Federal Outer Continental Shelf Territory, makes this bill even more necessary.

Finally, Mr. Speaker, I understand that it is the intention of some Members to offer a motion to recommit this measure to conference. I urge my colleagues to oppose any such move. It must be obvious that recommittal would transparently kill this measure for the 94th Congress.

Mr. Speaker, the 1976 Outer Continental Shelf amendments are necessary as part of our creation of a rational energy policy. Defeat of this measure, whether by recommittal or otherwise, would represent a cave-in to the major oil company barons. I urge the adoption of this conference report.

Mr. FISH. Mr. Speaker, I yield 5 minutes to the gentleman from Delaware (Mr. du Pont).

CALL OF THE HOUSE

Mr. KETCHUM. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 818]

Abzug
Andrews, N.C.
Archer
Armstrong
Ashley
Baucus
Beard, R.I.
Blouin
Bonker
Burke, Calif.
Burke, Fla.
Cederberg
Chappell
Chisholm
Conlan
Conyers
Coughlin
Diggs
Dingell
Downing, Va.
Drinan
Eckhardt
Esch
Eshleman
Evins, Tenn.
Flynt
Green
Harsha
Hébert
Heinz
Hicks
Hinshaw
Holland
Holtzman
Howard
Hyde
Jarman
Jones, Ala.
Kemp
Landrum
Lehman
Lloyd, Calif.
McCloskey
McCollister
McDade
McKinney
Mathis
Matsunaga
Melcher
Mink
Moffett
Mosher
Moss
Nix
O'Hara
O'Neill
Passman
Pattison, N.Y.
Pepper
Pike
Pritchard
Rangel
Riegle
Roncalio
Rosenthal
Santini
Scheuer
Schneebeli
Shipley
Shuster
Skubitz
Spellman
Stark
Steelman
Steiger, Ariz.
Stephens
Stuckey
Taylor, N.C.
Teague
Thompson
Wampler
Wilson, C. H.
Young, Ga.

The SPEAKER pro tempore. (Mr. McFall). On this rollcall 347 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3149) entitled "An act to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes."

CONFERENCE REPORT ON S. 521, OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1976

The SPEAKER pro tempore. The gentleman from Delaware (Mr. du Pont) is recognized for 5 minutes.

Mr. DU PONT. Mr. Speaker, my object in taking the floor today is to try to persuade all the Members to vote in favor of the motion to recommit which strikes mandatory Federal drilling from the bill.

Let me say, first of all, that I am a very strong supporter of this bill. I worked on it in committee, I voted for it there. I worked for its passage on the floor of the House; I voted for it there. I worked in the conference committee to help us get a good bill to the floor and I support its provisions with one exception, in conference we added mandatory Federal drilling.

Now, in committee, when we were drafting this bill, I offered an amendment that would strike mandatory Federal drilling out, from the bill. We won that vote, and we ought to strike the same provision out here on the floor of the House. Let me tell the Members why: the reason is that it is going to cost the taxpayers a bundle of money.

Mr. Speaker, I would refer the Members to the study that was done by the Office of Technology Assessment for the Congress. It was completed in May 1975, and, Mr. Speaker, that study concluded that Federal drilling was going to cost somewhere between $2.5 and $20 billion.

Mr. Speaker, that is going to mean that the taxpayers of this country, instead of the oil companies, are going to pick up the tab for dry holes. It costs $5 million to drill an oil well out in the ocean, at a minimum; and the Federal Government is going to be paying for that when the oil companies could be paying for it.

Mr. Speaker, that is absolutely ridiculous.

Someone said earlier that there is a bumper sticker around, which says, "If you like our Post Office, you are going to love our Federal Oil Corporation."

Mr. Speaker, I do not know why the Federal Government, which cannot run the post office very well, which cannot run the welfare system very well, and which cannot run the military very well, is liable to take on the most highly technical and most difficult engineering job we have in our society and do it well at all.

Mr. Speaker and Members of the House, it is just not going to work. We do not need Federal exploratory drilling. We do not need the taxpayers to engage in wildcatting. We do not need the taxpayers to pay out that couple of billion dollars.

Mr. Speaker, why should the oil companies be allowed to transfer the risk of drilling to our constituents? They should not. Why should our constituents pay $5 million for each well drilled while the oil companies sit by and watch and then come in with the bids and skim off the cream? Let the oil companies do the job. They are competent enough to do it, and the Federal Government is not. They have the money to do it, and the Federal Government has not. It is just as simple as that.

Mr. Speaker, in a minute somebody on the other side is going to get up here and claim that there is no federally mandated exploratory drilling provided for in this bill. However, I suggest that the Members might read the language themselves. The language reads "The Secretary is authorized and directed to contract for exploratory drilling * * *." The Secretary has no discretion as to whether or not to do it. The language has given the Secretary discretion as to where to do it, and as soon as this bill passes, it is going to be argued that the Federal Government must engage in exploratory drilling under the mandatory language of this section.

Mr. Speaker, if any Member does not believe that, let him take a look at the language that was in the Senate bill. I am referring to page 23 of the print of the Senate bill, which reads as follows:

> The Secretary is further authorized and directed, on an experimental basis, to contract for exploratory drilling.

What did the conference committee do when it adopted that section? It said:

> The Secretary is authorized and directed to contract for exploratory drilling * * *.

In short, Mr. Speaker, they left out that critical phrase, "on an experimental basis," and they mandated the Federal drilling.

Mr. Speaker, I think that is a serious mistake, and I would urge the House to strike the mandatory drilling language.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. DU PONT. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, I thank the gentleman from Delaware for yielding.

I personally feel that the gentleman from Delaware (Mr. du Pont) has made a correct statement. However, considering the way this issue has been debated in the House during the past year, that we ought to have a little exploratory drilling on the part of the Federal Government for educational purposes, just to see how much more it is going to cost the taxpayers, Mr. Speaker, at least we may then have a yardstick which will be beneficial to the Members and the Government in measuring cost.

This is the reason I am going to vote against the motion to recommit.

Mr. MURPHY of New York. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. Miller).

Mr. MILLER of California. Mr. Speaker, before we vote on the conference report on S. 521, the Outer Continental Shelf Lands Act Amendments of 1976, I believe that the time has come to set the record straight concerning certain aspects of the legislation's history which have been misrepresented by some of the bill's opponents.

Throughout congressional consideration of this bill, by the ad hoc select committee, of which I am a member, by the full House, by the conference committee, and now, during the debate on the conference product, a small number of members have attempted to generate confusion in the public mind, and in the mind of this body, about the intent and scope of this legislation.

These machinations have resulted in long legislative delays, and have raised numerous false concerns about the impact of the bill. As a committee member who has spent a good deal of time over the past year working on S. 521, I would like to take a moment to refute some of these allegations.

There has been an attempt to create the impression that there is no need for this legislation, an impression enthusiastically supported by the giant oil companies who are the prime opponents of S. 521. Numerous Members of the House, who now rise in opposition to this bill, have echoed this position, maintaining that the 23-year-old OCS Lands Act, archaic in terms of the accelerated lease program embarked upon by the Department of Interior, is still adequate.

But if we look at the record, we discover that these Members did not always profess such faith in the OCS Lands Act. Nor were they always so concerned about the potential for "delays" if the Congress were to amend existing law. In fact, "delay" itself is a specious issue, irrelevant to consideration of this bill whose provisions, rather than adding administrative delays and procedures, largely track and streamline the dozens of rules and regulations promulgated since 1953 by Interior because of the inadequacy and unsuitability of the 1953 act.

Indeed, not only did many of these Members have grave questions about the adequacy of the existing law but they also introduced legislation themselves which, had it been adopted, would have severely delayed and disrupted the OCS development program. In total, no fewer than 48 bills in the House, and other dozens in the Senate, to amend laws relating to OCS development and impact, have been introduced during the 94th Congress by Members from coastal and interior States, by both Democrats and Republicans. On its face, that does not sound to me like anyone in Congress had much faith that the present OCS Act was sound.

Let us look, for a moment, at some of that legislation and, in particular, at some of the bills introduced by Members who now cry "delay" at the moderate provisions of S. 521.

H.R. 4300, and several identical bills, would have prohibited any preproduction or production program on the OCS unless the potentially affected coastal State has in place a management program or agrees with the program. And although objections were raised over S. 521's mandating approval or worker safety plans by the Secretary of Labor, a thoroughly reasonable procedure, H.R. 3638, also introduced by a current opponent of S. 521, would have mandated concurrence by the Secretaries of Commerce and Transportation of every OCS regulation. Imagine the delays in that procedure.

On the same subject of delays, numerous bills—H.R. 1777, 2929, 2889—would have imposed arbitrary delays in the leasing program.

As delaying as these bills would have been, none would have been more catastrophic to our offshore development program than H.R. 3079, a bill introduced over a year and a half ago by a colleague very familiar with the oil business. Under the terms of this legislation, every OCS lease would have to be submitted to the Congress, and either house had up to 90 days to disapprove it.

Needless to say, S. 521 does not contain any of these unwise, bureaucratic, delaying provisions originally suggested by Members who now criticize S. 521 for being bureaucratic and delaying. As one who sat through the year of hearings, the 4 months of markups, and the 300 amendments—yes, 300 amendments—offered in committee, on the floor and in conference, I believe I know the reason why such unwise procedures do not appear in S. 521. The reason is because we exhaustively studied the entire OCS area, heard witnesses from every point of view, and drafted legislation which will expedite OCS development. That is why a broad spectrum of support exists for this bill—among energy and consumer groups, labor and environmental organizations, coastal States and counties' representatives, and even within a sizable segment of the oil and gas industry.

In recent days, big oil interests have been spending large amounts of money to obfuscate the real issues in the OCS bill. Their interest in preventing consideration of this bill, let alone enactment, is somewhat understandable. For years, they have enjoyed the fruits of OCS without adequate supervision, free from responsible regulation and disclosure. Thanks to the nearly total reliance on the anticompetitive "front end bonus bid," the 17 largest companies have been able to garner control of 90 percent of OCS leases, producing 92 percent of OCS resources. Of course, this suits big oil, because it pays the American public only a speculative bonus and a royalty of 16⅔ percent, compared to alternative leasing methods, authorized in this bill, which the companies have agreed to when leasing lands belonging to foreign nations and even our own coastal States.

Little wonder that articles in such business oriented publications as the Wall Street Journal and Business Week have ridiculed the present leasing system as "the present ineffectual system" and "the biggest floating crap game, very likely in the world."

Virtually everyone concerned with the OCS program, including those who now denounce S. 521, has recognized the need for reform of the archaic OCS Act. Our bill is a reasonable piece of legislation which will better protect the public interest while expediting the safe production of our valuable offshore resources. I urge my colleagues to look beyond the hysterical and catastrophic predictions of special interests and support the sound public policy contained in S. 521.

Mr. FISH. Mr. Speaker, I yield such time as he may consume to the gentleman from Delaware (Mr. du Pont).

Mr. du PONT. Mr. Speaker, I thank the gentleman for yielding me this additional time. Let me say to the gentleman from California that I do not appreciate the gentleman's misrepresentation of my position on the bill. I have not decried the bill for any of the reasons the gentleman from California has mentioned. I just stood in the well of the House and said that I supported the bill, except for the Federal drilling. The gentleman from California has described me as being against the bill for various other reasons that I have not argued at all.

So, Mr. Speaker, I believe that the record ought to show that it is a good bill and I support it except for the fact that it is putting the Federal Government in the oil exploration business.

Further, Mr. Speaker, while the gentleman from California (Mr. Miller) was talking, I talked to the gentleman from Kentucky (Mr. Perkins) and he has agreed that if my recommittal motion passes, that he will put Federal exploratory drilling into an education bill in the next session of the Congress so that the HEW can have access to those moneys to educate the American people on the high cost of Federal exploratory drilling.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. du PONT. I yield to the gentleman from Kentucky.

Mr. PERKINS. I thank the gentleman for yielding.

I want to say that I was just jesting with the gentleman.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. FISH. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. Bauman).

Mr. BAUMAN. Mr. Speaker, I was one of the two minority members of the OCS Committee who voted in favor of this bill when it passed the House of Representatives. Although I had misgivings about some of its provisions, I felt at that time that the bill was in a form those of us from the coastal States, the so-called frontier areas of possible new gas and oil production, should support. The bill has valuable provisions increasing the role of coastal State Governors and regional advisory boards. Certain other provisions deal with oil spill liability and I do support that.

But the gentleman from Delaware, my colleague (Mr. du Pont), who has the honor of representing the adjoining section of the Atlantic Coast, has made the case very clear here against the bill in its present form. With all of these welcome provisions in this bill, it is amazing to me that the managers on the majority side in the House and in the other body would load it down with Federal oil and gas exploration and federally taxpayer-financed activities in those coastal areas. The point has been made well that this is totally unnecessary and unwise; it constitutes a subsidy to the oil companies at the expense of the taxpayers.

Only a few days ago I joined with my liberal colleagues and my conservative colleagues and voted against the so-called subsidy for synfuel. I did so because I did not think we should be putting $2 to $6 billion of taxpayers money into the hands of the oil companies.

Now we have a provision in this pending bill which allows subsidies to the oil companies at the taxpayers' expense for exploration and drilling. They would take away the oil company's risk at the taxpayers' expense. That to me is totally wrong-headed, and I will certainly support the motion to recommit to remove this provision.

I may well support the bill if it is cleaned up, but I do not think the majority wants a bill. They want the President of the United States to veto this bill. They want a campaign issue. As much as this antiquated OCS law needs cleaning up, I think it is a shame that instead of good legislation, we are trying to load it down with election year politics at the taxpayers' expense. Those of us who worked with the majority and supported this legislation do not appreciate that stand at this late date. We hope the motion to recommit is passed and the bill is promptly returned to us in a more acceptable fashion.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are about to vote on my motion to recommit to save the U.S. taxpayers the costs of wildcatting, and to untangle the bill's bureaucratic nightmare. I should like for a moment to address the so-called environmental issues in this conference report and challenge the statement of the managers, proponents of the bill, who, regrettably, have attempted to paint our opposition and the expected veto an antienvironmental.

This is utter nonsense. I am one Member of this House who has consistently shown his deep concern for the environment. I should be happy to match my voting record against any of this bill's chief proponents. I would not have come out against this bill without carefully weighing its overall effect on our marine and coastal environment.

Mr. Speaker, this might surprise some of my colleagues who have not been living with this issue for the past year and a half, but this bill threatens more harm to the environment than it prevents. Its sponsors, in an attempt to get the last incremental measure of environmental protection on our domestic offshore production, will delay that production for at least 2 years and expose our shorelines to the much greater environmental risk of continued heavy reliance on tankers.

Tanker spills are far more likely to occur and historically have been far more serious than accidental discharge from offshore oil rigs. Each day we delay getting a barrel of oil from the OCS is another day a tanker is going to bring that oil from overseas and pose a greater threat to our environment. A vote to recommit is a vote for reduced reliance on tankers and for greater protection for our environment.

Mr. Speaker, the statement of the managers which accompanies the report is supposed to explain it. In several instances it merely serves to confuse, which I suppose does no real harm. One statement, however, cannot remain unchallenged.

One pages 65–66 of the printed report, the statement claims that actions taken by the Coast Guard or the Interior Department, or other Federal agencies to protect workers by exercising statutory authority under this act to prescribe or enforce standards or regulations for hazardous working conditions on the OCS, will somehow not be an exercise of statutory authority to regulate for purposes of section 4(b)(1) of OSHA.

This is a logical absurdity. The assertion does not appear in the House report, nor was it made in markup, nor on the floor, nor in conference. In fact, it is a pipedream. In the conference report proposed section 21(a)(1)(B) reads:

> Regulations for occupational safety and health shall be developed with the concurrence of the Secretary of Labor.

The requirement of concurrence under this section of the Outer Continental Shelf Lands Act can in no way give rise to the presumption that a section of the Occupational Safety and Health Act of 1970 is overridden.

The effect of overriding section 4(b)(1) of OSHA should not be taken lightly. It was placed in that act to avoid duplicate regulation by OSHA. If the conference report is read to void 4(B)(1) with respect to the OCS, the result could be three sets of regulations: first, the Coast Guard has a duty to act independently under section 4(e) of the OCSLA. Another set of regulations is required under proposed section 21(a)(1)(b) with Interior as lead agency, but with the concurrence of the Labor Department. A final set of regulations could be imposed independently by OSHA under its own act, since 4(b)(1) would no longer apply.

Can you imagine three sets of regulations for the same hazardous working conditions? This is certainly not what any Member or Senator had in mind when this language was added to the conference report. By ruling out my point of order against the inclusion of this language in the report, the Speaker has tacitly concurred that it should not be taken to directly or indirectly amend another act.

The legislative history should state that the statement of the managers is in error in this respect.

I urge an aye vote on the motion to recommit.

Mr. MURPHY of New York. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Speaker, I rise in strong support of S. 521 and ask my colleagues to reject the motion to recommit and to support the legislation.

I am astounded that colleagues who served with me on the Ad Hoc Select Committee on the Outer Continental Shelf can get up here in the well and represent that there is Federal exploration mandated in this legislation. I supported my colleague, the gentleman from Delaware (Mr. DU PONT) when he offered his motion in the committee to strike provisions for mandatory Federal exploration. I was one of those, as my colleague knows, who joined with him and defeated that. I would join with him today if that were the case—but it is not the case.

My colleague has not read the conference report. It is very clear that Federal exploration is not mandated. My colleagues statements are simply not true. There is no provision in the bill that mandates a Government exploration program. There is no provision in the bill that establishes any agency or organization to run such a program. The Senate did have some $500 million in the legislation for a Federal exploratory program, and they receded to the House position on that issue. The legislation does not offer any change whatsoever in existing law. Prelease exploration is discretionary with the Secretary at the present time—and it's discretionary in the conference report.

If my colleague will go to the present Outer Continental Shelf Act, he will find that section 1340, a section dealing with prelease exploration, grants discretion to the Secretary to conduct exploratory testing in the OCS. My colleagues attack is a total distortion and smokescreen to divert our attention from the farsighted provisions in the bill.

I say to my colleagues once again that big oil has the most to gain by distorting the picture of what is in the legislation. They do not want this legislation. Big oil since the very time that this legislation came before the committee has attempted to defeat the legislation.

Some of my colleagues say they have not been heard. Yet we had some 210 amendments before the committee. There were some 80 amendments offered on the floor. There were some 34 amendments offered in the conference committee. We have had delay after delay. The opponents of this bill have resorted to filibustering and downright obstructionism.

Big oil does not want this legislation because it is competitive; because it is going to bring the smaller oil and gas companies into the OCS leasing program to compete with the big guys. Big oil likes it the way it is. They like the bonus bid system, because they are the only ones who have the capital to participate in the bonus bid system. They like to keep the Interior Department in the dark as to what resources might exist in the OCS.

If Members want oil and gas produced in this country by the entire industry—not just the majors—they will support the legislation.

The legislation has many things in it that the coastal States need. It is said the present lease arrangements do not need changing, that they work. If the program works so well, why has the State of Alaska filed suit against the Federal Government? The State of California also has filed suit. The State of New York has a suit. The State of New Jersey has just brought a suit. Does that sound like success? Are the affected States bringing these suits, because they are so happy with the present lease policy? Obviously not.

The frontier areas of this Nation need the protections which are provided in this legislation. I urge my colleagues to support this legislation—and reject the motion to recommit.

Mr. FISH. Mr. Speaker, I yield 1 minute to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Speaker, I voted for this bill when it left the House and I came to the floor today fully expecting to support it in every way. Not being a member of the committee, I have not been approached by any oil interests. I strongly support the provisions of the bill that allow the small companies to come in, and the OSHA provisions.

But I must admit I am puzzled, Mr. Speaker. The present law says any agency or a person authorized may let contracts. This bill says the Secretary shall—he is not only authorized but directed to drill by contract at the taxpayers' expense.

On what basis is there justification for directing? A good Secretary would have to do so if he is directed to do so, which he is in the clause (h), page 19 of the report.

Mr. MURPHY of New York. Mr. Speaker, will the gentlewoman yield?

Mrs. FENWICK. I cannot yield, because I have only 1 minute, but if the gentleman will yield me an additional minute, I will be glad to yield.

Mr. Speaker, the point is here we originally had a permission. Now we have a mandate. The Secretary is directed. And this is new.

Mr. Speaker, to close the debate for the minority, I yield the balance of our time, 2 minutes, to the gentleman from Delaware (Mr. DU PONT).

Mr. DU PONT. Mr. Speaker, while I listened with some interest to the gentleman from New Jersey, who correctly stated he did indeed in committee support removing the mandatory drilling from the bill, it seems to me he has fallen into a logical trap. Either the language is no different from the present law, in which case we do not need it, and ought to strike it out, or it is different from present law and does mandate Federal drilling, in which case we do not want it and we ought to strike it out.

So I trust at the appropriate time the gentleman will support the motion to recommit.

I do not think we need to beat a dead horse or pump a dry well, as it were, on this subject.

I would say in relation to big oil, if we want to turn over the cost of drilling dry wells to the taxpayer, then we will vote "no" on the motion to recommit. If we want the taxpayer to be free of the burden of $2 to $20 billion in offshore oil drilling costs and want that burden to be on the oil companies, then we will vote to strike exploratory drilling, and vote yes on the motion to recommit.

Mr. MURPHY of New York. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. STUDDS).

Mr. STUDDS. Mr. Speaker, I would like to place just one thought before the Members which seems to have escaped us in this debate.

Apparently great dismay and shock and horror is being suffered at the thought of the Federal Government becoming involved. The Federal Government is involved and for the very simple reason that it owns the oil and gas in the Outer Continental Shelf in the name of the people of the United States.

And there are suggestions on that side of the aisle and some on our side that we should not remove those awful burdens from the oil industry and put them on the taxpayers. But the taxpayers are now paying that price twice. First, because every penny of exploratory expense is fully deductible from taxes paid by the companies, and the average taxpayers of the Nation have to make up in the taxes they pay for whatever is deducted by the companies as exploratory expense.

Second, because those costs are added to the price of oil and paid the second time by the taxpayers as consumers. Let us remember our basic responsibility. We own that oil, not the major oil companies. We are involved and we have a job to do in the public interest.

Mrs. MINK. Mr. Speaker, again there is before this House the matter of revising the procedures for the leasing of our mineral resources of the Outer Continental Shelf. This bill, then H.R. 6218, passed the House on July 21. Now we have before us the report of the conference committee which has worked to resolve differences between that bill and the version passed by the Senate.

Mr. Speaker, this is not an extremist bill. It is the result of compromise and careful balancing. Even as the conference was assembling, we received new objections from the administration. But we have been responsive, time and time again, to the administration, and we on the ad hoc committee have done all that is reasonable to take their objections and suggestions into consideration. Now, I believe, this House owes it to the American people to proceed, and to approve this report today.

Mr. Speaker, the bill we are considering at this time is one of the most important that will come before the Congress in this decade. It represents the outcome of more than a year of hard work by a most unusual group, a special ad hoc committee which was directed by the House to deal with the subject of the development of the oil and gas resources of the Outer Continental Shelf. As such, it is a key step in the development of the overall energy policy that this Nation now so urgently requires.

Americans have been bombarded by rhetoric, to the effect that Congress has been unresponsive to the need for developing a national policy with regard to the important subject of energy and our present dependence on foreign sources of petroleum in particular. But I believe that a fair examination of the facts will demonstrate that it is not Congress but the administration which has been confused and divided—even schizophrenic—about the development of our domestic resources and about the need for strong policies in support of conservation and the expansion of alternative energy sources.

Mr. Speaker, this bill represents a major congressional initiative toward a coherent and balanced energy policy. It amends the Outer Continental Shelf Lands Act of 1953, to provide a new statutory regime for the management of the oil and gas resources of the Outer Continental Shelf. Its basic purpose is to promote the swift, orderly, and efficient exploration of the almost-untapped resources of that area, and thus to gain the time within which the Nation can, under better leadership, develop alternative sources of energy. At the same time, it replaces the outmoded and inadequate structure of the 1953 act with a statute that meets the vastly different needs of our own era.

The present law, Mr. Speaker, does not spell out responsibility and liability for the often severe effects of oil pollution which can result from activities on the Outer Continental Shelf. The bill before us changes that. Under present law, there is no provision for consultation with the States likely to be adversely affected by developmental and other activities on the shelf. The bill before us contains such provisions. Under present law, compensation to those damaged by oil spills is uncertain or inadequate in many cases. The bill before us deals with that. Present law is not adequate in its requirements for review of plans and activities connected with Outer Continental Shelf development, to make sure that environmental and safety risks are correctly weighed against anticipated benefits. The bill before us deals with that, and establishes carefully designed ways of weighing such balances.

The bill as it comes back from conference is long and in some respects complicated. Let me try to summarize its principal provisions. They fall into six categories:

First, the bill reorders and strengthens the role of the Department of the Interior with regard to the oil and gas of the Outer Continental Shelf. It vests in the Secretary of the Interior new responsibilities for the rational management of these resources, with a requirement that this management take into account the national energy needs, the needs of affected States, and the need for environmental protection and for consideration of alternative uses of the coastal waters and lands. Thus economic, environmental, and social realities must be taken into account.

Second, the bill changes the rules of the game for the energy industry. On the one hand, it means that lessees of the Federal lands of the Outer Continental Shelf will be subject to more, and stricter regulation. On the other, the bill means that those lessees will enjoy greater certainty about the political conditions and economic constraints which will affect their operations. The bill leaves with private enterprise the chief role in development of the resources of the Outer Continental Shelf. At the same time, it provides that a company which has obtained a lease must submit an exploration plan for approval by the Secretary of the Interior before it may proceed with exploration; the company must also submit a development and production plan prior to beginning development and production of the oil and gas covered by the lease. The development and production plan, which must include data concerning on-and-offshore facilities and operations, environmental and safety protections, the rate of development and production, and other information, goes through a review procedure by the Governors of affected States, a regional board, and other interested parties, after which the Secretary must finally approve, disapprove, or require changes in the plan.

Third, then, the bill before us involves the States in the entire process of development of these resources to a greater degree than is possible under existing law. They are provided an opportunity to participate in the decisionmaking processes, not only with regard to the Department of Interior's overall leasing program but also with regard to individual development and production plans of the various companies. The States will also be supplied with information necessary for them to have for planning and ameliorating the consequences of offshore development, and its onshore impacts. By involving States in the process from the very start, the bill will reduce the time-consuming lawsuits that are apt to follow if it is not enacted.

Fourth, the bill has been carefully drawn to insure that necessary development of oil and gas is not carried out in a way that unnecessarily endangers the marine, coastal, and human environment. It provides for baseline studies to obtain necessary information. It requires a review of activities after exploration and prior to development and production, to guard against unintended impacts. An environmental impact statement and a hearing is mandated for at least once in every major lease area in previously undeveloped regions. Other protections are required. And at the same time, the bill guarantees that if a development and production plan cannot be modified so as to insure a safe operation, because of exceptional circumstances, then the lessee is entitled to reimbursment for all considerations paid for the cancelled lease, plus intrest, and for all direct expenditures made after the date of issuance of the lease.

Fifth, the bill provides that regulations affecting the safety of the workers engaged in operations pursuant to its terms will be adequate and adequately enforced. It provides for a review by the National Academy of Engineering of existing safety regulations, and requires that on all new drilling and production operation—and on existing operations as well when that is practicable—the best available and safest technology economically available will be used. Regular and unannounced inspections of the operations are mandated, as are investigations of deaths, serious injuries, major fires, and oil spills.

Sixth, the bill provides important new protections for the citizen who may be adversely affected by operations on the Outer Continental Shelf. Citizen suits are authorized, whereby anyone having an interest which may be adversely affected can proceed against the relevant Government agency or department, or against any other person, for a violation of the provisions of the bill, for violations of regulations implementing it, or for violations of a lease or permit issued under it. Title III of H.R. 6218 establishes an offshore oil spill and pollution fund, and provides for procedures in the event of an oil spill, and compensation for damages from such a spill, whether the spill is from an offshore platform, or from a tanker or pipeline or other transportation device. Procedures are also established for the cleanup of spills, and it is provided that the lessee, or the operator of the vessel involved will be held to be strictly liable for all cleanup costs.

For damages from a spill—as opposed to cleanup costs—with certain exceptions, the lessee or operator will be strictly liable up to a limit of $35 million per spill; above that, damages will be met from the new oil and pollution fund. Taken together, then, these aspects of the bill go far to insure that citizens who may be inadvertent victims of side effects of development will not be without ways to protect themselves or make themselves whole.

Mr. Speaker, recent weeks have seen a great deal of hostility being expressed, openly or otherwise, toward passage of this bill. Certain portions of the petroleum industry have not hesitated to make their voices heard, urging rejection. And the administration has echoed these voices. I believe that this attitude stems from the prospect that the bill would alter, drastically, and against some special interests, the present law which is hopelessly outdated and weighted in favor of special, not national interests.

The present law, originally passed in 1954, provided an essentially open-ended grant of authority to the Secretary of the Interior to proceed with leasing on the Outer Continental Shelf. It was based on what was, at that time, an unproven technology and on assumptions that offshore production would be a relatively small supplement to our onshore production. Today, the situation has changed to the point where we estimate that a full third of our remaining discoverable and producible oil reserves are offshore, as are 22 percent of our natural gas deposits. The importance of the offshore fields is given dramatic proof by the accelerated plans to lease millions of acres, being implemented by the administration. In this situation, reform of the present law is more necessary than ever before.

In our investigations, we on the ad hoc committee found that the present law, which grants essentially total discretion to the Secretary of the Interior, has given the petroleum industry an unduly dominant voice in setting policy concerning the development of the resources of the Outer Continental Shelf. In short, industry and government have been practically indistinguishable. Their objectives have been basically identical. The result has been that the interests of States and of the taxpayers have been disregarded all too often.

Although in 1974, the Department of the Interior did establish an advisory board, with designated State representatives, and in 1975 the Department did set up an OCS Advisory Board with a limited policy role, both of these overdue steps, while welcome, still fall short of giving States and local communities adequate involvement in the decisionmaking process. This bill corrects that situation. Similarly, the bill will actually reduce the delays which are apt to result from lawsuits arising from the inadequacies of present law. By providing to the public assurance that development of the offshore oil and gas resources will be carried out in an open, thorough, and balanced manner, the bill should go far to dispell the doubts and suspicions which can lead to misdirected opposition and, often, legal challenges.

Mr. Speaker, we can and we must proceed with early exploration and development of our oil and gas resources on the Outer Continental Shelf. But we can and must do this in an environmentally and socially responsible manner. This bill provides the means for doing so. I urge its enactment.

Mr. DODD. Mr. Speaker, I rise in support of the conference report to S. 521—the Outer Continental Shelf, OCS, Lands Act Amendments of 1976. I urge all of my colleagues in the House to do likewise, and to vote for passage of this conference report.

The Outer Continental Lands Act Amendments of 1976 is an important piece of legislation for many reasons. Chief among them is that it represents comprehensive congressional action to increase our Nation's dwindling energy supplies.

This action to deal with our country's energy crisis is being taken in a considered, prudent manner. It strikes a responsible, reasonable balance between our needs to produce energy and stimulate the economy, and our requirements to protect our fragile ocean and coastal environments.

As one in but a series of congressional initiatives to begin solving our energy problems, S. 521 also directly contradicts the tired accusations by the executive branch that Congress has done little to deal with this dilemma.

Congress record is clear in this regard, and I believe the American people will recognize this.

Mr. Speaker, I had the privilege and honor of helping to draft S. 521—as one of only two New England members of the House Ad Hoc Select Committee on the Outer Continental Shelf. Under the distinguished leadership of our committee chairman, the gentleman from New York (Mr. MURPHY), I also served on the conference committee which is responsible for the final product before you today.

Having had this experience, I would like to share my thoughts on this legislation with my colleagues, so as to reemphasize my earlier encouragement to them that this conference report must be approved.

First, I think we should answer the obvious question as to "Why is it necessary to amend the original OCS Lands Act of 1953?"—legislation which already has channeled about $19 billion in revenues into the public Treasury and has resulted in production of hundreds of thousands of barrels of offshore oil in the last 23 years.

Granted there has been this revenue and production, the straightforward response to all this is that these revenues and energy production should have been, and could have been, even greater under a different system.

The present OCS system, as established by the 1953 act, is anticompetitive, potentially unsafe and under-productive. Current OCS leasing policies do not adequately respond to the necessity for national protection of our environment, for consideration of the legitimate interests of the coastal communities, for timely production of OCS oil and natural gas, and for improving the safety conditions for workers on offshore drilling rigs.

For example, because there have been no orderly production requirements included in past OCS leases, there have been cases of major oil firms withholding production of needed undersea oil until prices are more to their liking.

There also has come about a situation where, through implicit cooperation and explicit partnerships, known as joint ventures, that the Nation's eight largest energy conglomerates have depressed bids for OCS development rights, thus cheating the public Treasury, and yet still have obtained an absolute majority of the offshore leases.

Testimony our committee received from some of the more than 300 expert witnesses, during nine sets of hearings in 14 coastal cities, clearly indicates that in some cases, oil and natural gas companies paid the Government much less than what the OCS tracts actually were worth.

In the Gulf of Mexico, a single OCS tract was purchased by a group of oil companies in 1970 for $28 million. Today, that tract is producing energy resources worth more than $171.5 million annually.

Lastly, we have seen a major environmental disaster in the 1969, Santa Barbara oil rig spill, and numerous deaths of divers and oil rig workers engaged in OCS drilling.

The conference report and legislation now before us successfully address these and other past problems with OCS operations.

S. 521 guarantees prompt and orderly development of our needed OCS oil and natural gas in a way which insures a fair financial return to the public and which provides necessary protection for the environment.

Energy companies would be required to submit, and adhere to, OCS development plans containing schedules for production of oil and natural gas within reasonable time periods. Failure to follow these schedules could lead to a company losing its development rights, so the incentive to withhold production is removed.

Mr. Speaker, this OCS bill, rather than leading to a loss of revenue, a deficit in the annual balance of payments and an increase in foreign oil imports, and a decline in undersea energy exploration—all charges made by the opponents of this bill—will in fact, have the opposite effect.

Instead, this bill will result in additional revenues to the Federal Government, and thus the taxpayers, through use of new lease bidding systems, additional exploratory activities through involvement of additional energy companies in OCS lease sales, an increased development of our domestic energy resources through the new production requirements, and hopefully, cheaper energy prices for consumers through greater competition in OCS development and production.

This bill takes steps to insure more competition in OCS development by containing at least two significant antitrust sections—sections which I had the privilege of offering—and by allowing the use of alternative bidding systems for development rights.

The antitrust provisions are:

First. A prohibition against joint ventures among the Nation's eight or nine largest energy firms in bidding for OCS leases. This is to prevent smaller, independent energy firms from being frozen out of the bidding, and to allow them a piece of the OCS development field; and

Second. A requirement that the Secretary of Interior submit a proposed lease sale program to the Attorney General and Federal Trade Commission so they can determine whether the sale would hinder competition in the energy industry.

If either makes this determination, the Interior Secretary must hold a public hearing on the proposal, and if he decides to allow the sale, he must justify that its benefit to the public outweighs any adverse impact on competition.

This section will permit both the public and the antitrust agencies of our Government to challenge potentially anticompetitive OCS leases before they are issued. It also will make the Interior Department more accountable to our citizens for its management of this vast public energy resource.

The use of alternative bidding systems for OCS lease sales has a pro-competition effect in that it permits a certain percentage of OCS leases to be sold through financial arrangements different from the present "cash bonus" system.

The cash bonus system requires huge initial cash outlays for the leases, and the more independent energy companies cannot match the financial resources of the major oil firms in making these bids.

Using other bidding systems will open OCS development to other companies, which then would have a better chance to submit a winning offer, and it also should result in fairer returns to the Treasury.

The "royalty" bidding system, for example, provides for a lower initial bid, which frees more money for exploration, development and production, and for percentage payments to the Treasury over a long period of time. In the end, our taxpayers and energy users would win.

I will comment on three more important aspects of S. 521 and then close, Mr. Speaker. These are the additional environmental safeguards to be required for OCS operations, the provisions for increased input by State and local governments into the decisions about OCS development off their shores, and the provision for a discretionary, Federal exploration program of OCS resources.

This bill greatly increases environmental protections by creating a new offshore oil spill pollution fund to help pay necessary clean-up costs and to compensate areas for damages resulting from an oil spill.

Operators of offshore rigs or vessels moving oil from these facilities would be liable for spills up to $35 million, and the antipollution fund, financed by a per barrel levy, would pay for damages beyond that figure.

As for citizen and State-local government participation, S. 521 responds to many of the concerns of the affected coastal States. It establishes regional advisory boards, and allows these groups, the Governor of each affected State, local governments, and any other person to comment on proposed lease sales before these sales are finalized.

If the Interior Secretary decides not to follow the recommendations made by any of these interested parties, he will be required to justify this decision in writing. Congress also will be able to review the final leasing plan.

This legislation goes further to help the coastal States by mandating that these governments be provided with better, more comprehensive information for use in planning for, coping with, and ameliorating the onshore impacts of nearby OCS development.

Mr. Speaker, the Federal exploration sections of this bill are the least understood, and most misrepresented, by this measure's vociferous opponents.

These people state that these sections of S. 521 will require a Federal exploration program, which will cost the taxpayers untold billions and be yet another Government intrusion into private enterprise.

This simply is not true. There is no provision in the bill that mandates a Government exploraton program. There is no provision in the bill which establishes any agency or organization to run such a program.

At present, the Secretary of Interior has discretionary authority to conduct exploratory drilling before a lease sale. S. 521 simply, statutorily, reaffirms this discretionary authority—and nothing more.

A careful reading of the conference report before us will confirm this. The language is quite explicit. It states that Federal exploratory drilling would be limited to situations where the Interior Secretary determines, in his dirscretion, that Government exploration is needed for national security or environmental reasons or to expedite development in outlying OCS areas.

In emphasizing that this limited, discretionary program is a far cry from the Federal energy octopus imagined by the opponents of S. 521, I would note that this bill stipulates that such federally-sponsored exploration would be done under contract with private industry. Thus, rather than encroach on private enterprise, this measure would promote its economic well-being.

Regarding Federal exploration, I would add only that even if the Government does contract out for such work in the future, its intentions in doing so would only be to benefit the public which owns the OCS energy deposits.

Presently, the Government must rely to a great extent on information supplied to it from private energy companies to make estimates about the actual size of OCS energy resources, and to assess whether bids tendered by these companies represent a fair price for the amount of energy potentially available.

I think it is obvious to say that any storekeeper can hardly set a proper price on his scarce goods, without knowing the extent of his supply and how much his inventory is worth.

The Government has this difficulty, now, and the goal of any Federal exploration program would be to provide this necessary information, from which the taxpayers can only gain.

To me, these protaxpayer sections on exploration are yet another reason to support approval of this conference report.

We have heard a great number of threats lately, Mr. Speaker, that the President is opposed to S. 521, and that he will veto it if it reaches his desk.

If he does veto this legislation, I think that will show the American people exactly which branch of our Government truly is doing something constructive to fight the energy crisis, and which branch is opposed to such positive action.

Mr. Speaker, the conference report before us is the product of 16 months of careful work by our select committee, and of many months by our colleagues in the Senate.

This bill represents a commitment by the Congress that our Outer Continental Shelf resources should be developed in the best ways possible for the best energy, economic, and environmental results.

If this conference report is not approved, the American people will be the real losers. The House must not let this happen.

I urge adoption of this conference report.

Mr. MURPHY of New York. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT WITH INSTRUCTIONS OFFERED BY MR. FISH

Mr. FISH. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. FISH. In its present form, I am, Mr. Speaker.

The SPEAKER pro tempore. The gentleman qualifies. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. FISH moves to recommit the conference report on S. 521 to the committee of conference with the following instructions to the managers on the part of the House:

1. To amend the proposed Senate amendment in section 206 by striking proposed subsection (h) authorizing and directing the Secretary to contract for exploratory drilling; and

2. To further amend the proposed Senate amendment in section 208 by striking the proposed sections 21(a), (b), (c)(1), and (d) dealing with safety regulations and inserting in lieu thereof language to—

(1) Require the Department of the Interior and the Department in which the Coast Guard is operating to study the adequacy of existing safety regulations and to submit a plan to Congress as to what action each will take to promote safety, health and environmental protection;

(2) To require the use of the best available and safest technology if less would pose a significantly greater threat to safety, health, or the environment; and

(3) To retain current authority granted by other acts to the Secretary of Labor for occupational safety and health, to the Environmental Protection Agency for environmental protection, and to the Department of Transportation for pipeline safety.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FISH. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 198, nays 194, answered "present" 1, not voting 37, as follows:

[Roll No. 819]

YEAS—198

Abdnor
Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bell
Bennett
Boggs
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conable
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
de la Garza
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
du Pont
Edwards, Ala.
English
Erlenborn
Eshleman
Fenwick
Findley
Fish
Flowers
Forsythe
Fountain
Frey
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall, Tex.
Hamilton
Hammerschmidt
Hansen
Harsha
Heckler, Mass.
Hefner
Henderson
Hightower
Hillis
Holt
Horton
Hubbard
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Kasten
Kazen
Kelly
Ketchum
Kindness
Krueger
Lagomarsino
Landrum
Latta
Lehman
Lent
Levitas
Lloyd, Tenn.
Long, La.
Lott
Lujan
Lundine
McClory
McDonald
McEwen
McKay
McKinney
Madigan
Mahon
Mann
Martin
Mathis
Melcher
Michel
Milford
Miller, Ohio
Mills
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mosher
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nichols
O'Brien
Paul
Pettis
Peyser
Pickle
Poage
Pressler
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Rhodes
Risenhoover
Roberts
Robinson
Roncalio
Rousselot
Runnels
Ruppe
Santini
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Sharp
Shipley
Shriver
Shuster
Sikes
Skubitz
Slack
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steed
Steiger, Wis.
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Treen
Vander Jagt
Waggonner
Walsh
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wright
Wydler
Wylie
Young, Alaska
Young, Fla.
Young, Tex.

NAYS—194

Abzug
Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Annunzio
Aspin
AuCoin
Badillo
Baldus
Beard, R.I.
Bedell
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Breckinridge
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Chisholm
Clay
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
D'Amours
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Fuqua
Gaydos
Giaimo
Gibbons
Gude
Hall, Ill.
Hanley
Hannaford
Harkin
Harrington
Harris
Hayes, Ind.
Hechler, W. Va.
Helstoski
Hicks
Holtzman
Howard
Howe
Hughes
Hungate
Jenrette
Johnson, Calif.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Keys
Koch
Krebs
LaFalce
Leggett
Lloyd, Calif.
Long, Md.
McCloskey
McCormack
McFall
McHugh
Madden
Maguire
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Morgan
Mottl
Murphy, Ill.
Murphy, N.Y.
Neal
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pike
Preyer
Price
Rees
Reuss
Richmond
Rinaldo
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Sarbanes
Schroeder
Seiberling
Simon
Sisk
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Stokes
Stratton
Studds
Sullivan
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waxman
Weaver
Whalen
Wilson, C. H.
Wirth
Wolff
Yates
Yatron
Zablocki
Zeferetti

ANSWERED "PRESENT"—1

Brodhead

NOT VOTING—37

Ashley
Baucus
Brown, Calif.
Burke, Calif.
Conlan
Diggs
Esch
Flynt
Frenzel
Gilman
Green
Hawkins
Hébert
Heinz
Hinshaw
Holland
Jarman
Kemp
McCollister
McDade
Matsunaga
Mink
Moss
Nix
Passman
Pepper
Rangel
Riegle
Scheuer
Steelman
Steiger, Ariz.
Stephens
Stuckey

Symington
Thompson
Wampler
Young, Ga.

The Clerk announced the following pairs on this vote:

Mr. Hébert for, with Mr. Thompson against.

Mr. Passman for, with Mr. Ashley against.

Mr. Flynt for, with Ms. Burke of California against.

Mr. Stephens for, with Mr. Matsunaga against.

Mr. Stuckey for, with Mr. Nix against.

Mr. Frenzel for, with Mr. Rangel against.

Mr. Jarman for, with Mr. Young of Georgia against.

Mr. Kemp for, with Mr. Hawkins against.

Mr. McCollister for, with Mr. Diggs against.

Mr. Steiger of Arizona for, with Mr. Moss against.

Mr. Wampler for, with Mr. Pepper against.

Mr. Conlan for, with Mr. Riegle against.

Until further notice:

Mrs. Mink with Mr. Baucus.

Mr. Green with Mr. Brown of California.

Mr. Scheuer with Mr. Holland.

Messrs. BROWN of Ohio, BROOKS, RONCALIO, and HORTON changed their vote from "nay" to "yea."

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

STATEMENT OF HON. BROCK ADAMS ON BUDGET CEILINGS FOR FISCAL YEAR 1977

(Mr. ADAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ADAMS. Mr. Speaker, on September 16, 1976, the Congress of the United States completed the first phase of full year implementation of the Congressional Budget and Impoundment Control Act. In adopting Senate Concurrent Resolution 139, Congress exercised its fiscal responsibility for the upcoming fiscal year under the provisions of the new congressional budget process. Congress has reaffirmed its budgetary responsibility by setting binding ceilings for spending and a floor under revenues, as well as realigning the President's budget to better reflect the priorities of the Nation.

As you know, the seriousness of the concurrent resolution on the budget is underscored by the fact that any Member of the House can raise a point of order against any bill which would breach either the spending ceiling or the revenue floor. In order for the Members to fully understand the significance of such a motion, it is imperative that they receive the latest available budgetary information on the status of the current level of spending.

When Congress adopted its second budget resolution for fiscal year 1977 on September 16, 1976, it imposed upon itself binding ceilings on budget authority and outlays and a binding floor on revenues. Section 311 of the Congressional Budget Act provides that any Member may raise a point of order against bills, resolutions, and amendments—including conference reports—which would cause the ceilings or floor to be reached. I wish to emphasize that the ceilings apply only to the budget aggregates and not to the budget authority and outlays for the functional categories.

The Budget Act also requires the Budget Committee to provide estimates of the levels of spending and revenues so as to enable the Chair to determine when a point of order for breaching the totals is valid. This year, as last, the Budget Committee will advise the Speaker, on a daily basis, if necessary, of any changes in the amounts remaining before the totals are breached, so that the current status of the ceilings and the floor can be known on the floor of the House at all times.

The committee expects to file regular reports in the CONGRESSIONAL RECORD for the information of all Members and the public.

I have this day filed with the Speaker the current status report of the amounts now remaining under the congressional budget process for fiscal year 1977 as of September 23, 1976. These figures were arrived at after consultation with the Congressional Budget Office and the Senate Budget Committee, and according to the procedures the House Budget Committee adopted on January 22, 1976, for carrying out its responsibility under the act. I will insert at this point in my remarks the complete report to the Speaker:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, D.C., September 27, 1976.

Hon. CARL ALBERT,
Speaker, U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: In my letter of January 30, 1976, I outlined the procedures which the Committee on the Budget has adopted in connection with its responsibilities under Sec. 311 of the Congressional Budget Act of 1974 to provide estimates of the current level of revenues and spending. I am herewith transmitting the first status report for FY 1977 under Sec. 1 of S. Con. Res. 139. This report reflects completed action as of September 23, 1976.

With warm regards,

BROCK ADAMS,
Chairman.

REPORT TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1977 CONGRESSIONAL BUDGET ADOPTED IN SENATE CONCURRENT RESOLUTION 139

REFLECTING COMPLETED ACTION AS OF SEPT. 23, 1976

[In millions of dollars]

	Budget authority	Outlays	Revenue
Appropriate level	451, 550	413, 100	362, 500
Current level	419, 824	401, 822	362, 117
Amount remaining	31, 726	11, 278	−383

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and which exceeds $31,726 million for fiscal year 1977, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in S. Con. Res. 139 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and which would result in outlays exceeding $11,278 million for fiscal year 1977, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in S. Con. Res. 139 to be exceeded.

REVENUES

Since the current level for revenues is $383 million below the appropriate level for fiscal year 1977 as set forth in S. Con. Res. 139, any measure that would result in a revenue loss for fiscal year 1977, if adopted and enacted, would be subject to Sec. 311 of the Congressional Budget and Impoundment Control Act of 1974.

THE CURRENT LEVEL ESTIMATE FOR REVENUES

With regards to revenues, the current level reflects the fact that the Congress has yet to complete action on H.R. 10210—the Unemployment Compensation Amendments of 1976.

The estimated revenue gain of this bill when it passed the House on July 20, 1976, was $387 million. Although this bill is currently pending in the Senate, the revenue gain attributed to this bill was one of the factors in developing a total revenue floor for the fiscal year.

In addition to this bill, which requires final action by Congress if we are to attain our revenue goal, the other component pieces of our revenue estimate are:

Fiscal year 1977 revenues

[*In millions of dollars*]

Current law estimate (January, 1976)	377, 800
Enacted into law:	
H.R. 12725—Pension plan tax free roll over (P.L. 94–267)	−50
H.R. 3052—Tax treatment of certain option income of exempt organizations (P.L. 94–396)	−1
H.R. 12455—Child care and social services program (P.L. 94–401)	−4
Administrative action: Increase in sugar tariff	+105
Conference reports:	
H.R. 10612—Tax Reform Act of 1976	−15, 733
Tax Extension	(−17, 326)
Tax Reform	(+1, 593)
Current level (September 23, 1976)	362, 117
Second concurrent resolution	362, 500
Amount under revenue floor	−383

This analysis of revenues indicates that Congress may not consider any revenue measure which would result in a revenue loss in fiscal year 1977 until it first adopts the unemployment insurance tax increase. Adoption of this measure will fulfill the major revenue assumptions of the budget resolution for the fiscal year. Depending on the outcome of the conference on the unemployment insurance bill, a small margin might become available to cover additional revenue reducing measures.

WHAT IS COVERED BY THE CURRENT LEVEL ESTIMATE FOR SPENDING

The estimate for the current level of spending reports on the following categories of congressional action.

First. It covers all enacted budget authority and resulting outlays, whether that authority is a matter of permanent law—such as social security trust funds—or whether it came about from current action on fiscal year 1977 appropriations bills.

Second. It covers enacted entitlement legislation that requires further appropriation legislation for fiscal 1977. We need, for instance, additional liquidating funding for mandatory entitlement programs such as veterans disability benefits, veterans readjustment benefits, AFDC, medicaid, social services, pay increases, and other programs.

Third. The report shows House Joint Resolution 1105, the continuing resolution for fiscal year 1977, which has been reported to cover principally those programs which were unauthorized at the time the Labor-Health, Education, and Welfare appropriation bill was considered. The precise amount, will be shown in subsequent status reports after October 1, which is the effective date of the continuing resolution.

Fourth. This report shows the amounts in conference reports ratified by both Houses, but not yet signed into law, such as the Labor-HEW, D.C., Public Works employment and legislative branch appropriations for fiscal year 1977.

Bills carrying appropriations to liquidate mandatory requirements of entitlement legislation already covered in the current level estimate and bills providing appropriations for programs and activities carried under the continuing resolution will require special scorekeeping treatment. Amounts for these items—discussed under categories (2) and (3) above—are already included in the current level estimate, since they do represent spending commitments resulting from completed congressional action. Accordingly, for purposes of scorekeeping against the amount remaining under the ceiling, they will be deducted from bills carrying the liquidating appropriation when those bills come before the House.

Mr. Speaker, to give the Members a more complete picture of the situation, I will place in the Record at this point a letter and materials I received from Dr. Alice Rivlin, Director of the Congressional Budget Office providing detail on the status of the budget as of September 23, 1976, and the procedures adopted by the House Budget Committee on January 22, 1976 for determining the amounts available above the revenue floor, if any, and the amounts available to cover additional spending—amounts not yet authorized or appropriated as the case may be:

Congressional Budget Office,
Washington, D.C., September 24, 1976.

Hon. Brock Adams,
Chairman, Committee on the Budget, U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: Pursuant to section 308(b) and in aid of section 311(b) of the Congressional Budget Act, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays and established revenues in comparison with the appropriate levels for these items contained in the most recently agreed to concurrent resolution of the 1977 budget. This tabulation is as of close of business September 23, 1976.

[In millions of dollars]

	Budget authority	Outlays	Revenues
1. Enacted	354,669	330,767	377,850
2. Entitlement authority and other mandatory items requiring further appropriation action	6,031	5,871	---------
3. Continuing resolution authority			
4. Conference agreements ratified by both Houses	59,124	65,184	−15,733
Current level	419,824	401,822	362,117
2d concurrent resolution	451,550	413,100	362,500
Amount remaining	31,726	11,278	−383

Sincerely,

ALICE M. RIVLIN,
Director.

PARLIAMENTARIAN STATUS REPORT SUPPORTING DETAIL, FISCAL YEAR 1977, AS OF CLOSE OF BUSINESS SEPT. 23, 1976

[In millions]

	Budget authority	Outlays
I. Enacted		
Permanent appropriations and trust funds	209,312	191,160
Outlays from balances of prior-year authority associated with appropriation bills not yet included in Parliamentarian report: Foreign assistance		3,999
Offsetting receipts (including amounts generated by current appropriation action)	−53,673	−53,673
Enacted this session:		
Appropriation legislation:		
Agriculture (Public Law 94-351)	11,543	12,348
HUD-Independent Agencies (Public Law 94-378)	43,285	35,240
Interior (Public Law 94-373)	5,641	6,072
Military Construction (Public Law 94-367)	3,339	3,170
Public Works (Public Law 94-94-355)	9,704	8,870
State-Justice (Public Law 94-362)	6,680	7,180
Transportation (Public Law 94-387)	5,296	13,852
Treasury-Postal Service (Public Law 94-363)	8,313	8,311
Defense (Public Law 94-419)	104,344	94,123
Other spending legislation:		
Federal-aid Highway Act (Public Law 94-280)	288	---------
Increase veterans housing direct loan program (Public Law 94-324)		3
Airport and airway development grants (Public Law 94-353)	510	---------
Foreign Service retirement reforms (Public Law 94-350)	12	1
Increase payments to States from mineral lease receipts (Public Law 94-377)	30	30
Civil Service—agency contributions for reemployed annuitants (Public Law 94-397)	45	---------
Deferral resolution (H. Res. 1428)		1
Supplemental security income—disregard housing assistance payments in calculation of benefits (Public Law 94-375)		80
Total, enacted	354,669	330,767
II. Entitlement authority and other mandatory items requiring further appropriation action		
Function 050:		
Civilian and military pay raises (full estimated cost of pay raises)	2,037	1,976
Function 500:		
Social services—increase funding for child care programs (Public Law 94-401)	200	200
Function 550:		
Medicaid	921	854
Medicaid—reimburse Indian Health Service for services provided eligible Indians (S. 522) [1]	23	23
Function 600:		
Food stamps	756	723
Public Assistance (AFDC)	220	171
Public Assistance—increase employment of recipients as child care aides (Public Law 94-401)	—33	—33
Function 700:		
Veterans pension benefit increases (H.R. 14298) [1]	432	432
Veterans disability benefits increase (H.R. 14299) [1]	389	389
Function 800:		
Claims and judgements (President's estimate)	226	226
Undistributed by function:		
Civilian Agency pay raises (full estimated cost of pay raise)	860	910
Total, entitlement authority	6,031	5,871
III. Continuing Resolution Authority (None)		
(Note: In the absence of continuing appropriation legislation for fiscal year 1977, no estimates included at this time of on-going costs of certain health and education programs which were not considered in the Labor-HEW appropriation bill now pending conference agreement. It may be assumed that some provision will be made for these items (which amount to $2,496 million in budget authority and $501 million in outlays, as requested), and appropriate amounts will be reflected upon enactment of a continuing resolution.)		
IV. Conference agreements ratified by both Houses		
Appropriation legislation:		
Labor-HEW (H.R. 14262)	56,391	62,045
District of Columbia (H.R. 15193)	364	434
Public Works Employment (H.R. 15194)	1,418	1,88
Legislative Branch (H.R. 14238)	943	972
Other spending legislation:		
Civil Service—provide liberalized retirement benefits to certain employees affected by Indian preference laws (H.R. 5465)	8	3
Medicare—reimburse Indian Health Service for services provided eligible Indians (S. 522)		6
Civilian and military retirement—eliminate 1-percent kicker and change cost-of-living computation (H.R. 14238)		−164
Total, conference agreement	59,124	65,184
Total current level, as of Sept. 23, 1976	419,284	401,822
2d concurrent resolution	451,550	413,100
Amount remaining:		
Over ceiling		
Under ceiling	31,726	11,278

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[1] Pending signature.

Enforcement Procedure for Budget Authority and Outlay Ceilings and Revenue Floor Under Sec. 311 of the Budget Act

(Adopted by the House Budget Committee on January 22, 1976.)

I. Major Provisions of Sec. 311 of the Congressional Budget Act:

1. It is not in order to consider:

Bills, resolutions, amendments, conference reports—

Reducing revenues;

Or providing additional new budget authority or new entitlement authority.

2. After approval of second required concurrent resolution or after enactment of reconciliation bill or approval of reconciliation resolution if required,

3. If adoption and enactment would cause appropriate aggregate levels of new budget authority or outlays to exceed or revenues to be less than the appropriate levels set forth in the most recently agreed to resolution.

4. Outlays to be made and revenues to be received during a fiscal year are determined on the basis of estimates by Budget Committees.

II. Estimating Assumptions—The House and Senate Budget Committees would base their advice to their respective parliamentarians on the following estimating assumptions.

1. Base. Enacted law including budget authority, entitlement authority for which appropriations have not yet been enacted, continuing resolution and conference agreements ratified by both Houses.

Comment. CBO will work with the Appropriations Committees and the agencies to develop estimates for the continuing resolution. Adjustments for vetoed bills will reflect a sustaining vote or a determination of the Budget Committees, after consulting with the Leadership, that a vote will not be scheduled.

2. Regular Reestimates. On November 10, in the month of January, on April 10, and July 15 the OMB will submit comprehensive reestimates of outlays and revenues, which will be reviewed by the CBO and by the Budget Committees.

Comment. The dates for these required reestimates are set forth in the law.

3. Ad Hoc Reestimates. Either Budget Committee may initiate a reestimate, but the ground rule will be to keep them infrequent. The Budget Committees will be reluctant to direct reestimates for individual programs with relatively small budget impact.

Comment. Requested outlay reestimates from the OMB and revenue reestimates from the Treasury will be reviewed by the CBO and the Budget Committees.

4. Proposed Rescissions. Count only when conference reports have been agreed to in both Houses.

5. Proposed Deferrals. Count after Budget Committees' review of transmittal. Adjust as necessary if an impoundment resolution is adopted.

III. Procedures:

1. Advice to the Parliamentarian. Budget Committee advice to the Parliamentarian on the status of the floor and ceilings will reflect action through the previous day, but such advice would not necessarily be delivered daily. A Budget Committee notice will continue in effect until a change in the estimates requires transmittal of a revised notice. If the legislative schedule for spending or revenue bills is unusually heavy the Budget Committee may, insofar as practicable, advise the Parliamentarian more frequently.

2. A Budget Committee notice to the Parliamentarian might read:

(Note.—References to fiscal years and the budget resolution have been revised from the original proposal adopted by the Budget Committee merely to reflect current usage.)

REPORT TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1977 CONGRESSIONAL BUDGET ADOPTED IN SENATE CONCURRENT RESOLUTION 139

REFLECTING COMPLETED ACTION AS OF

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	XXX	XXX	XXX
Current level	YYY	YYY	YYY
Amount remaining	ZZZ	ZZZ	ZZZ

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and which exceed $ million for fiscal year 1977, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in S. Con. Res. 139 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and which would result in outlays exceeding $ million for fiscal year 1977, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in S. Con. Res. 139 to be exceeded.

REVENUES

Any measure that would result in a revenue loss exceeding $ million for fiscal year 1977, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in S. Con. Res. 139.

APPOINTMENT OF CONFEREES ON H.R. 11337, PROVIDING FOR MID-DECADE CENSUS OF POPULATION

Mr. HENDERSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11337) to amend title 13, United States Code, to provide for a mid-decade census of population, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina? The Chair hears none, and appoints the following conferees: Mr. HENDERSON, Mrs. SCHROEDER, Mr. LEHMAN, Mr. NEAL, Mrs. SPELLMAN, Messrs. BRODHEAD, SIMON, DERWINSKI, JOHNSON of Pennsylvania, and ROUSSELOT.

CONFERENCE REPORT ON S. 3149, TOXIC SUBSTANCES CONTROL ACT

Mr. MURPHY of New York. Mr. Speaker, I call up the conference report on the Senate bill (S. 3149) to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. (Mr. MCFALL). Is there objection to the request of the gentleman from New York?

Mr. ROUSSELOT. Mr. Speaker, may we, first of all, know what the bill is, and second, why it is necessary to get unanimous consent that the statement of the managers be read in lieu of the report.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield so that I may answer for the gentleman from New York (Mr. MURPHY)?

Mr. ROUSSELOT. I will be glad to yield to my distinguished colleague, the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, I am happy to explain that this is the usual procedure in bringing any conference report to the floor. That procedure always is to ask that the statement on the part of the managers be read in lieu of the report because that is the essence of what was done in the committee of conference.

That is the usual procedure, Mr. Speaker, and that is why the unanimous-consent request is made.

Mr. ROUSSELOT. Mr. Speaker, at this time I am constrained to object, and I do object.

The SPEAKER pro tempore. Objection is heard.

The Clerk will read.

The Clerk proceeded to read the conference report.

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the conference report be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The Clerk will read.

The Clerk continued to read the conference report.

Mr. DEVINE (during the reading). Mr. Speaker, I ask unanimous consent that the conference report be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

(For conference report and statement, see proceedings of the House of September 23, 1976.)

The SPEAKER pro tempore. The gentleman from West Virginia is recognized for one-half hour.

Mr. STAGGERS. Mr. Speaker, the Toxic Substances Control Act is legislation which first passed the Senate in March 1976 and then passed the House on August 23, 1976 by a vote of 319 to 45. The House language differed from that of the Senate and a conference was needed. The conferees have met and filed their report.

The conference report essentially preserves the structure of the House provisions. I will summarize very briefly the resolution of the differences between the two versions.

First, the EPA Administrator is authorized to act against chemical substances or mixtures which present an unreasonable risk of human health or the environment.

Second, if there is inadequate information to evaluate the health or environment effects of a new chemical substance the EPA Administrator can ask for an immediately effective order before the end of the premarket notification period to halt or limit its manufacture. The manufacturer can then file objections to the administrative order with EPA. If the Administrator does not agree with the manufacturer, he is authorized to seek a court injunction to halt or limit the manufacture of the new chemical substance pending the receipt of adequate information on the new chemical susbtance.

Third, the provisions in the House version protecting the small chemical manufacturer from burdensome reporting and filing fee requirements are retained.

Fourth, the language of the House version is retained regarding the Administrator's authority to use the Toxic Substances Control Act as opposed to other existing Federal laws, and the Administrator's decision is committed to his decision.

Fifth, the following sums are authorized to be appropriated:

[In millions]

Fiscal year 1977	$10.1
Fiscal year 1978	12.6
Fiscal year 1979	16.2

Sixth, the effective date is January 1, 1977.

Mr. Speaker, we fully expect this legislation to be signed by the President. This is a good conference report and I urge its enactment.

Mr. BROYHILL. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, the toxic substances control legislation gives the Administrator of the Environmental Protection Agency extensive and wide-ranging authorities to regulate all aspects of the chemical industry. Briefly stated, this legislation would authorize the Environmental Protection Agency to require that manufacturers of chemical substances perform testing, would require that manufacturers of new chemical substances or existing substances being put to significant new uses provide EPA with certain information 90 days prior to manufacture, and would authorize EPA to impose various kinds of regulations on substances which the Administrator has found pose an unreasonable risk to health or the environment. The general standard for taking action under the legislation is that the substance may present an unreasonable risk. The conferees intend to limit the Administrator to taking action only against unreasonable risks because to do otherwise assumes that a risk-free society is attainable, an assumption that Congress does not make.

Although the authorities granted to EPA are extremely broad, the conferees have made a concerted effort to include in the conference report safeguards against arbitrary action on the part of EPA. As is stated in section 2 of the conference substitute, the conferees intend that the Administrator of the Environmental Protection Agency carry out this legislation in a reasonable fashion, taking into consideration not only the environmental effects, but also the economic and societal impact of its regulatory actions. As section 2(c) makes clear, action should be taken in an informed and responsible manner based upon knowledge, information and facts. To do less is to act in an irresponsible, imprudent and overly cautious manner. Further, any legislation falls more heavily on this country's small business community and the conferees expect that the Administrator of the EPA will consider the impact which his actions may have on the small businesses regulated under this legislation.

One of the most far-reaching and controversial provisions of the legislation is section 5 setting out the premarket notification requirements for manufacturers and processors of new chemical substances and of existing chemical substances which are being put to significant new uses. This section requires that those manufacturers and processors submit information specified in the legislation to EPA at least 90 days prior to manufacture. This 90-day period may be extended for an additional 90 days for good cause. If the information available about a substance is inadequate, the Administrator may issue a proposed order to prohibit or limit production of the substance to go into effect upon the expiration of the premarket notification period. The proposed order would have to be issued at least 45 days prior to the expiration of the premarket notification period. If the manufacturer or processor of a substance files objections to the proposed order, or if the notice period will expire in less than 45 days, the Administrator may seek a court injunction to prohibit or limit the manufacture of the substance. The procedure I have just described would also be available to the Administrator if he had adequate information about the substance indicating that it poses an imminent hazard and he wishes to ban the particular substance.

The legislation states that a manufacturer or processor may file objections with the Administrator "specifying with particularity the provisions of the order deemed objectionable." The purpose of this provision is to put the Administrator on notice as to the objections of the manufacturer or processor. However, the Administrator could not put the proposed order into effect because he determined that the objections of the manufacturer were either unmeritorious or not of sufficient specificity. It is enough that the Administrator be on notice that objections do lie against the proposed order. Similarly, with respect to the 90-day premarket notice provision, this period would begin running when EPA receives the notice and information specified in the bill. EPA could not stop the tolling of the period by alleging that the information submitted by the manufacturer or processor was incomplete.

In section 6 of the conference substitute, we have given the Administrator authority to promulgate a number of different kinds of regulations ranging from the total ban of a substance to requirement that a substance be marked with warnings or instructions with respect to its use or disposal. However, I wish to emphasize that the conferees intend that the Administrator impose the least burdensome requirements necessary to adequately protect against the risk.

The conference substitute includes a provision regulating PCB's similar to the provision included in the House bill. This provision sets out a timetable for regulating PCB's culminating in a ban on the processing or distribution in commerce of PCB's 2½ years after the effective date of this act. The purpose of this ban is to preclude the manufacture, processing or distribution in commerce of new PCB's or new equipment containing PCB's in 2½ years after the effective date of this act. It should be noted, however, that equipment now in existence containing PCB's is clearly exempted from this ban. Similarly, any PCB substance in existence would also be exempted from the ban on processing and distributing in commerce if sold or used to maintain existing equipment or transported for purposes of disposal.

Mr. Speaker, the conference report now before us vests awesome, new responsibilities in the Environmental Protection Agency. However, I am confident that if the legislation is regulated in a prudent and reasonable manner, as the conferees intend, it will not prove to be overly burdensome to those regulated by it. Therefore, I support the passage of this conference report.

Mr. SKUBITZ. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. Mr. Speaker, I yield to the gentleman from Kansas for the purpose of asking a question.

Mr. SKUBITZ. Mr. Speaker, I thank the gentleman from North Carolina.

Mr. Speaker, yesterday the House passed the Resources Conservation and Recovery Act, which sets out a detailed plan for regulating the disposal of hazardous wastes. I note, however, that section 6 of the toxic substances conference report gives the Administrator of the Environmental Protection Agency authority to promulgate regulations with respect to the manner or method of disposal of toxic substances. I am concerned that we may be setting up two different regulatory schemes to regulate the same kinds of substances. Would the gentleman from North Carolina care to comment on that?

Mr. BROYHILL. Mr. Speaker, I will be glad to comment on that. Perhaps the gentleman from West Virginia also would want to comment on this.

Of course, I share the gentleman's concern about this. It is my understanding of what the conferees intend here is that, in this particular case, EPA would use the authorities that are granted to it in the Resource Conservation and Recovery Act. If those authorities can be used to regulate the potential problem, then we would expect those authorities would be used, rather than immediately going to the provisions of the Toxic Substances Act. I believe that section 9 of the conference report would require this result since it was the intent of the conferees that the Toxic Substances Act not be used, when another act is sufficient to regulate a particular risk.

Mr. SKUBITZ. I thank the gentleman.

The SPEAKER pro tempore (Mr. McFALL). The time of the gentleman from North Carolina has expired.

Mr. BROYHILL. Mr. Speaker, I yield myself one additional minute.

The SPEAKER pro tempore. The gentleman from North Carolina is recognized.

Mr. BROYHILL. The Administrator of EPA is to use authorities in the Toxic Substances Act if he cannot regulate potential hazards under other acts.

Mr. SKUBITZ. I thank the gentleman.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I would agree with the statement of the gentleman from North Carolina that this is the intention of the conferees. Section 9(b) of the conference report states that if the Administrator determines that a risk to health or the environment associated with a chemical substance or mixture could be reduced to a sufficient extent by acting under other EPA-administered laws, the Administrator must use those other laws unless he determines, in his discretion, that it is in the public interest to protect against the risk by using the Toxic Substances Control Act. Therefore, I would agree completely with the answer the gentleman from North

Carolina gave the gentleman from Kansas.

Mr. BROYHILL. Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana (Mr. Moore).

Mr. MOORE. Mr. Speaker, Members of the House, I am very disappointed in this conference report for several reasons, but the most important one is that on August 23, 1976, when we considered this bill, I offered an amendment which the House passed by a recorded vote of 210 to 157. At that time, that was the ninth instance the House had passed such an amendment. We know it now as the legislative veto amendment, wherein either House is given 60 legislative days to veto a regulation of an administrative agency; in this particular case, the agency having administrative jurisdiction of this bill.

Since that time, an additional and tenth time, the House passed such an amendment. Again, I offered it, and then even more recently, just a week ago, the House considered under suspension a bill which would have made this veto blanket law. That bill passed clearly by a majority, and failed by only six votes of having a two-thirds majority of this House voting for this legislative veto as a necessary curb of the bureaucracy.

In every instance, we passed this amendment save one, the House conferees have cratered or given it up in conference. I think it is high time that we stop playing games with the public and stop playing games with poor freshmen like myself, allowing us to pass these amendments, going to the public and saying, "We are making these reforms," and then going into the conference committee and cratering, letting them strip them off with no real attempt to hold them.

That is not the intent on the House floor. We voted on this amendment. We have thwarted the clear, distinct, overwhelming will of the House by stripping that amendment off. I do not know what it takes to have certain Members of this House understand what the will of the House is, but it certainly has been thwarted in this particular instance.

I would offer a motion to recommit this conference report with instructions to reinsert that amendment if it were possible, but this being the second House to consider the conference report, it is not possible. Therefore, it seems to me that Members—some 265 by the last count—who believe that we need this kind of reform, ought to consider voting this conference report down. It would be an even clearer message, evidently, of what we have been saying that we are serious about this bureaucratic reform, and expect amendments like these passed by the House and to be held to by the House conferees when the bill goes to conference.

Mr. STAGGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. Levitas).

Mr. LEVITAS. Mr. Speaker, I thank the gentleman for yielding to me. I would like to associate myself with the remarks of the gentleman from Louisiana. I am very disappointed that this congressional veto provision that was in the House bill was taken out of the bill by the conference committee. What disturbs me even more is the fact, according to information I have received, that the managers on the part of the House did not fight for the House position in this matter; did not stand up for the expressed will of the House, but went into that conference committee with the understanding that they would cave in as soon as challenged. Indeed one proponent of this bill who opposed the congressional veto amendment when it was offered in the House said that it would be stripped off in conference and he later served on the conference committee. His prediction came true.

I think that this type of action is flying in the face of everything that this process stands for. The openly and freely expressed will of the majority should be respected.

It is interesting. I look at the Members of the House who are managers on the part of the House, and some of them are in the forefront of the leadership reform in the House. They speak of reform. But they act otherwise. I think one of the reforms we ought to institute is to have the managers on the part of the House stand up for the House when they get into a conference committee. I think it is time to say, "Reformer, heal thyself," because they ought to stand up for the expressed will of the House or else the democratic process is perverted.

There were 265 Members of this House who went on record in favor of the congressional veto by voting for H.R. 12048 just last week. An opportunity to carry out that will was lost by our conferees. They are supposed to represent our position and the position of the American people, but they cave in and surrender. I think we ought to change that. If we do not do it today, it certainly ought to be the highest order of priority in the next Congress.

Mr. BROYHILL. Mr. Speaker, I yield myself 1 minute to very briefly respond to the gentleman from Georgia and also to the gentleman from Louisiana.

Mr. Speaker, I support the concept upon which the amendment to which the Members refer is based. Unfortunately, the Senate would not go along with us on that.

Mr. Speaker, I would point out to the gentleman from Georgia and also to the gentleman from Louisiana that there is a good chance that a similar amendment offered by the gentleman from Louisiana to the Clean Air Act may be left in that act. So perhaps we are making some progress.

Mr. STAGGERS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. Murphy).

Mr. MURPHY of New York. Mr. Speaker, the conference report before us today is one of the most important pieces of legislation to be considered by the Congress this year. It is legislation designed to protect our people and our environment from harmful chemical substances. It is the culmination of a legislative effort that spans three Congresses, and as recent incidents have indicated the legislation comes none too soon. The legislation is supported by such diverse groups as the National March of Dimes, the Manufacturing Chemists Association, the United Steelworkers, the Sierra Club, and the AFL–CIO.

Chemical substances have become an enduring part of our environment. They are in our air, our water, and our soil. They are used in our manufacturing processes and they are essential components for consumer and industrial goods. While society reaps enormous benefits from chemicals, we are learning that chemicals can also do tremendous harm. For example, contamination by polychlorinated biphenyls—PCB's—has resulted in closing some of our major water systems to fishing. Recent studies have linked this highly persistent, environmental poison to human cancer, and we are now discovering troublesome levels of PCB's in mothers' milk. Thousands of cattle have had to be killed in Michigan because of contamination by polybrominated biphenyls—PBB's. Asbestos, widely used in items ranging from talcum powder to brake linings to wallboard is now known to cause cancer and other debilitating illnesses. These examples make it quite clear that the country faces serious risk of harm to the health of its people and to its environment from the substantial use which is made of chemicals. Unfortunately, current Federal law is inadequate to deal with the risks presented by these substances. The legislation before us today will enable us to act to protect health and the environment from the pernicious effects of toxic chemicals.

The bill before us today is substantially similar to that which passed the House by a wide margin on August 23. Briefly, the bill will; First, require manufacturers and processors of potentially harmful chemical substances and mixtures to test their products so that their effects on health and the environment may be evaluated; second, require manufacturers of new chemical substances for significant new uses to notify the EPA 90 days in advance of commercial production; third, authorize delays or restrictions on the manufacture of new chemical substances which have been inadequately tested and which may be dangerous; fourth, authorize the EPA to adopt rules to prohibit or limit the manufacture, processing, distribution, use or disposal of chemical substances or mixtures which present an unreasonable risk to health or the environment; fifth, authorize the Administrator to take immediate action to protect the public and the environment from an imminently hazardous chemical substance or mixture; and sixth, ban the manufacture, processing, and use of PCB's within 2½ years.

The overriding purpose of the legislation is to provide protection of health and the environment through authorities which are designed to prevent chemical harm before it occurs, rather than merely reacting to harm after it has occurred. In addition, the legislation is designed to improve our abilities for dealing with hazardous chemicals after the harm has been manifested.

The legislation achieves these objectives through three major provisions. First, under the bill the Administrator of the Environmental Protection Agency is instructed to require manufacturers and processors to conduct testing on their chemical substances or mixtures if certain factors exist.

Testing will be required in instances in which there is inadequate information to evaluate the health and environmental effects of the substance or mixture and when testing is necessary to develop data respecting the health or environmental effects. In addition, there must be some basis for concern about the substance. If there is information indicating that the substance or mixture may present an unreasonable risk to health or the environment, testing is required. For example, if one substance is structurally similar to a second chemical with known adverse health or environmental effects, the Administrator could reasonably conclude that the first chemical may present an unreasonable risk and therefore require testing of it to determine its health and environmental effects. Or if there is reliable preliminary data indicating that a substance may be dangerous, again it would be reasonable to conclude that the chemical may present an unreasonable risk and that additional testing should be done. In addition, testing can be required in certain situations even though there is an absence of any information indicating that the substance or mixture per se may be harmful. This occurs when there is or will be substantial production coupled with substantial environmental or substantial or significant human exposure to a substance or mixture about which there is inadequate information. Thus, the legislation recognizes the importance in seeing that chemicals to which there is substantial human or environmental exposure be adequately tested to see that they are safe.

In the case of mixtures, the legislation encourages the Administrator to first look at the substances which comprise the mixture to determine whether the mixture's health and environmental effects may not be reasonably and more efficiently determined or predicted by testing the substances comprising the mixtures rather than the entire mixture. This is intended to reduce unnecessary or duplicative testing, since the assessment of safety of a mixture may well be based on the toxicity of particular components, and tests of the entire mixture with its varying component ratios may be unnecessary or unrewarding.

The testing authorities in the bill will enable us to find out about the chemical substances and mixtures which are already out in the environment as well as those which are just coming on to the market.

The second major regulatory provision which will enable us to protect against the occurrence of chemical harm is the premarket notification provisions of the legislation. Under the bill, manufacturers or new chemical substances and manufacturers and processors of existing chemical substances for significant new uses must give EPA 90 days' notice before commercial production begins. Because the conference report adopts the House definition of "chemical substance," the Administrator will receive advance notice not only of new synthetic chemicals, but also of naturally occurring substances which are produced or manufactured commercially for the first time. The notification requirements are intended to provide the Administrator with an opportunity to review and evaluate information with respect to the substance to determine if manufacture, processing, distribution in commerce, use or disposal should be limited, delayed, or prohibited because data is insufficient to evaluate the health and environmental effects or because the substance or the new use presents or will present an unreasonable risk of injury to health or the environment.

Because the damage which can be done by a chemical substance or mixture is oftentimes irreparable, our experience indicates that the most desirable time to determine the health and environmental effects of a substance, and to take action to protect against any potential adverse effects, occurs before there is human or environmental exposure to the substance. This is the only practical means of avoiding human and environmental harm. In addition, the cost of any regulatory action in terms of loss of jobs and capital investment is minimized.

In addition to the testing and the notification requirements of the bill, the legislation empowers and directs the Administrator of EPA to take action to protect the public and the environment from chemical substances and mixtures which present an unreasonable risk of injury. If there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use or disposal of a substance or mixture presents an unreasonable risk, then the Administrator is to take regulatory action necessary to adequately protect against the risk. The Administrator can prohibit or limit the manufacture, processing, distribution, use or disposal of the substance or any combination of these requirements. To impose one of these requirements, the Administrator must go through a rulemaking proceeding which allows all interested persons an opportunity for a hearing, and in certain instances an opportunity for cross-examination is also provided. However, if there is an imminent threat to health or the environment, the bill contains authority which allows the Administrator to take immediate action to protect health or the environment.

In addition to these major authorities, the conference report contains recordkeeping and reporting authority, and inspection authority necessary for EPA to adequately administer the act. It also assures adequate citizen participation through provisions authorizing citizen suits and petitions. The conference report also provides for protection for employees who cooperate in the administration and enforcement of the act.

The bill also delineates the relationship between the Federal Government and State or political subdivisions in regulating chemical substances or mixtures. Generally the legislation provides that nothing in the bill shall effect the authority of a State or political subdivision to establish or continue in effect regulation of a chemical substance or mixture or article containing a substance or mixture. However, State and local regulation is preempted in certain instances. For example, if the Administrator establishes a testing rule under section 4, no State or local government may establish or continue in effect a testing rule for purposes similar to those for which the testing is required under section 4. Nor may any State regulate any risk associated with a substance or mixture if the Administrator has prescribed a rule or order under sections 5 or 6 which is designed to protect against the risk unless the State or local requirement is one identical to that issued under this act, is adopted under the authority of another Federal law, or prohibits the use of the substance or mixture other than its use in the manufacture or processing of other chemical substances or mixtures. This last exemption from the preemptive effect of a Federal regulation recognizes the interest of the State in adequately protecting its citizens and its environment from harmful chemicals while at the same time protecting the interest of interstate commerce in chemical substances and mixtures. The purpose of the provision is to enable States to totally ban a specific end use of a substance or mixture while not interfering with the manufacture or processing and distribution of substances or mixtures. For instance, a State could totally prohibit the use within its boundaries of a detergent containing a particular chemical substance. However, the State could not prohibit the manufacture or processing within the State of either the substance or the detergent, nor could it prohibit or limit interstate distribution of the substance.

The conference report retains many of the provisions in the House legislation designed to protect small business. These include partial exemptions from the general reporting provisions of the bill, establishment of a special office which will help small manufacturers understand the provisions of the bill, a requirement that the economic effects on small businesses be considered by the Administrator in taking regulatory action under section 6, and a maximum of $100 for filing fees.

Mr. Speaker, the conference report will enable us to begin the very important task of protecting the public and the environment from harmful chemical substances and mixtures. It is legislation which is long overdue, and I urge my colleagues to approve the conference report.

Mr. STAGGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I feel a little bit as I did when I first came to Congress and was on the Veterans' Committee. We held some hearings on one of the first bills that came to the floor on veterans' benefits. I thought the bill was certainly for the best interests of the veterans of this land, having been a disabled veteran in World War II, and having voted every time for every veterans' benefit that came on the floor.

Two gentlemen came to the well and said that this was not done and that was not done, and all I did was to say, "Were you there when we discussed this in committee?" Both of them said they were not. I said, "You do not have a right to judge what was done."

I say to the gentleman from Louisiana and to the gentleman from Georgia, who are fine gentlemen, who represent their districts well, and are, as I say, gentlemen in every sense of the word, that in conference we did try to uphold what was in the best interests of the House. I have always tried to do that. I have never gone to a conference with my mind made up that I am going to give in on anything the House has done.

The Senate did not have a similar provision in their bill, and they said, "We will not have it in the conference report." They said not only that, but that a bill was vetoed recently that had such a provision, the pesticides legislation. The President gave that as his reason for vetoing that bill. That is one of the reasons that it did not come back to the House floor.

Mr. Speaker, I would like to see the provision in the bill. However, I see reality, too. When we go to conference we are a coequal branch, and we have to listen to what the Senate says on their side. There are points they think are valid; and we think we have points that are equally as valid. We are in such a situation right now with the Clean Air Act. The Senate thinks they are going to get their way, and we think they are wrong. We may not get a bill. If two men come up against a stone wall and nothing gives, then we do not get a bill. That is not the way we make laws in this Congress, nor the way the conference acts. When the House and Senate go to conference, they must compromise a little bit to try to get legislation approved by both sides.

This conference report passed the Senate this morning by a vote of 72 to 6. I think it ought to pass this House by the same majority, because this is the third time the toxic substances legislation has passed the House of Representatives, and it never has become law.

It is time now that this legislation is enacted, because we know that many chemical substances present serious risks to health and the environment in America. Problems of cancer or birth defects are serious ones. It is time that we remedy this situation. We have the opportunity as Representatives of the people to let them know we are trying to protect their health and provide a better environment.

Mr. Speaker, I urge the adoption of the conference report.

Mr. STAGGERS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. McFall). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. STEIGER of Wisconsin. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 360, nays 35, not voting 35, as follows:

[Roll No. 820]

YEAS—360

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Aspin
AuCoin
Bafalis
Baldus
Bauman
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Eshleman
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Henderson
Hicks
Hightower
Hillis
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hyde
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kemp
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shriver
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—35

Archer
Armstrong
Ashbrook
Burleson, Tex.
Cederberg
Clawson, Del
Collins, Tex.
Crane
Davis
de la Garza
English
Evans, Ind.
Grassley
Hall, Tex.
Hammerschmidt
Hansen
Hutchinson
Ichord
Jenrette
Kelly
Ketchum
McDonald
Montgomery
Moore
Paul
Risenhoover
Rousselot
Runnels
Sebelius
Shuster
Spence
Symms
Taylor, Mo.
Vander Jagt
Waggonner

NOT VOTING—35

Ashley
Badillo
Baucus
Beard, R.I.
Conlan
Esch
Flynt
Green
Hawkins
Hayes, Ind.
Hébert
Heinz
Hinshaw
Holland
Jarman
Keys
McCollister
McDade
McEwen
Matsunaga
Mink
Moss
Nix
Passman
Pepper
Riegle
Scheuer
Steelman
Steiger, Ariz.
Stuckey
Teague
Thompson
Wampler
Wilson, C. H.
Wilson, Tex.

The Clerk announced the following pairs:

Mr. Flynt with Mr. Baucus.
Mr. Hawkins with Mr. Hayes of Indiana.
Mr. Matsunaga with Mr. Wampler.
Mr. Moss with Mr. McEwen.
Mrs. Mink with Mr. Stuckey.
Mr. Ashley with Mr. Conlan.
Mr. Thompson with Mr. Charles Wilson of Texas.
Mr. Teague with Mr. Jarman.
Mr. Charles H. Wilson of California with Mr. Heinz.
Mr. Nix with Mr. Esch.
Mr. Passman with Mr. Steiger of Arizona.
Mr. Badillo with Mr. McDade.
Mr. Beard of Rhode Island with Mr. Green.
Mr. Hébert with Mr. Holland.
Mr. Pepper with Mr. Steelman.
Mr. Riegle with Mr. McCollister.
Mr. Scheuer with Ms. Keys.

Mr. ABDNOR changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING APPROPRIATION OF FUNDS NECESSARY TO IMPLEMENT PROVISIONS OF TREATY OF FRIENDSHIP AND COOPERATION BETWEEN UNITED STATES AND SPAIN

Mr. FASCELL submitted the following conference report and statement on the bill (S. 3557) an act to authorize the appropriation of funds necessary during the fiscal year 1977 to implement the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes:

Conference Report (H. Rept. No. 94–1704)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3557) to authorize the appropriation of funds necessary during the fiscal year 1977 to implement the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That (a) in order to carry out the programs and activities provided for in the Treaty of Friendship and Cooperation between the United States of America and Spain, signed at Madrid on January 24, 1976, including its Supplementary Agreements and the exchange of notes related to those Supplementary Agreements (hereafter in this Act referred to as the "treaty") of the amounts authorized to be appropriated for fiscal year 1977 under section 507 of the International Security Assistance and Arms Export Control Act of 1976, not to exceed the following amounts shall be available for obligation and expenditure to carry out the treaty:

(1) For military assistance under chapter 2 of part II of the Foreign Assistance Act of 1961, $15,000,000.

(2) For security supporting assistance under chapter 4 of part II of such Act, $7,000,000.

(3) For international military education and training under chapter 5 of part II of such Act, $2,000,000.

(4) For guaranties under section 24 of the Arms Export Control Act, $12,000,000.

(b) Subsection (b) of section 507 of the International Security Assistance and Arms Export Control Act of 1976 shall not apply with respect to the obligation or expenditure of funds appropriated under such section to carry out the treaty.

Sec. 2. (a) Except as provided in subsection (b), foreign assistance and military sales activities carried out pursuant to the treaty shall be conducted in accordance with provisions of law applicable to foreign assistance and military sales programs of the United States.

(b) Section 620(m) of the Foreign Assistance Act of 1961 shall not apply with respect to the programs and activities described in subsection (a).

(c) In carrying out the provisions of article VI of Supplementary Agreement Number 7 (relating to modernizing, semiautomating, and maintaining the aircraft control and warning network in Spain), the United States contribution of not to exceed $50,000,000 shall be financed from Department of Defense appropriations available for that purpose.

(d) This Act satisfies the requirements of section 7307 of title 10 of the United States Code with respect to the transfer of naval vessels pursuant to Supplementary Agreement Number 7.

(e) In order to carry out the provisions of article X of Supplementary Agreement Number 7 (relating to lease and purchase of aircraft), the proceeds from the lease of aircraft to Spain under that article shall be available only for appropriation for the purchase of aircraft by the United States for the purposes of that article.

Sec. 3. The authorities contained in this Act shall become effective only upon such date as the treaty enters into force and shall continue in effect only so long as the treaty remains in force.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the Title of the bill and agree to the same.

Thomas E. Morgan,
Clement J. Zablocki,
Dante B. Fascell,
Benjamin S. Rosenthal,
Stephen J. Solarz,
Wm. Broomfield,
Larry Winn, Jr.,
Managers on the Part of the House.

John Sparkman,
Frank Church,
Stuart Symington,
Clifford P. Case,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill S. 3557, to authorize the appropriation of funds necessary during the fiscal year 1977 to implement the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House struck out all of the Senate bill after the enacting clause and inserted in lieu thereof a substitute amendment.

The committee of conference recommends a substitute for both the Senate bill and the House amendment to the text of the Senate bill. Except for clarifying, clerical, and necessary conforming changes, the differences between the two Houses and the adjustments made in the committee of conference are noted below.

AUTHORIZATION

The Senate bill in section 1 provided that "there are authorized to be appropriated" designated amounts to carry out certain programs in fulfillment of the Spanish Bases Treaty (hereinafter referred to as the "treaty") during fiscal year 1977.

The House amendment in section 1 provided that "of the amounts authorized to be appropriated for fiscal year 1977 under section 507 of the International Security Assistance and Arms Export Control Act of 1976", not to exceed designated amounts were to be available for such programs. Both the amounts and the programs were the same as those in the Senate bill.

The committee of conference adopted the language of the House bill.

RELATING TO SECTION 507 OF THE INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORT CONTROL ACT OF 1976

The House bill in sections 1(b) expressly provided that the act satisfied the requirement of section 507(b) with respect to funds appropriated in section 507(a), thereby releasing the hold placed on the obligation and expenditure of such funds by section 507(b).

The Senate bill did not contain a comparable provision.

The committee of conference agreed to state, in more precise terms, that section 507(b) shall not apply with respect to the obligation or expenditure of funds authorized to be appropriated by section 507(a) to carry out the treaty. The committee of conference wishes to make it clear that this act should not be construed as legislation approving the treaty, since the Senate alone, through the passage of a resolution of advice and consent, is the only house of the legislative branch to approve treaties. At the same time, the committee of conference wishes to underscore the authorization prerogatives of the House and Senate, of the House Committee on International Relations and the Senate Committee on Foreign Relations, to authorize the appropriation of security assistance funds needed to implement the treaty commitments.

U.S. CONTRIBUTION TO SPANISH AIRCRAFT CONTROL AND WARNING NETWORK IN SPAIN

The Senate bill in section 2(b) provided that the United States contribution to modernizing, semiautomating, and maintaining the aircraft control and warning network in Spain (Combat Grande) be financed from the Department of Defense appropriations.

The House amendment in section 2(c) provided that that contribution be financed from Department of Defense appropriations "made for that purpose."

The committee of conference adopted the House provision with a clarifying amendment.

LEASE OF AIRCRAFT TO SPAIN

The Senate bill in section 3 authorized the President to apply the proceeds from the lease of aircraft to Spain under article X of Supplementary Agreement No. 7 "to the purchase of aircraft for the purposes of that article without regard to the provisions of section 2667 of title 10, United States Code, or any comparable provisions of law."

The House amendment in section 2(c) provided only that the proceeds from such lease "shall be available only for appropriation for the purchase of aircraft by the United States for the purposes of that article".

The committee of conference adopted the House provision.

SENSE-OF-THE-CONGRESS EXPRESSION

The House bill in section 3 contained a sense-of-the-Congress expression concerning the development of free institutions in Spain (section 3(a)); the relationship of this treaty to the existing U.S. defense commitment in the North Atlantic Treaty area (section 3(b)); and nuclear safeguards (section 3 (c)). These expressions in the House bill were very similar to language contained in the Senate's resolution of advice and consent to the treaty.

The Senate bill had no comparable provisions.

The committee of conference agreed to accept the Senate position.

EFFECTIVE DATE

The Senate bill in section 5 provided that the authorities therein will become effective "upon such date as the treaty enters into force".

The House amendment in section 5 provided that those authorities will become effective "upon ratification of the treaty".

The committee of conference adopted the Senate provision.

THOMAS E. MORGAN,
CLEMENT J. ZABLOCKI,
DANTE B. FASCELL,
BENJAMIN S. ROSENTHAL,
STEPHEN J. SOLARZ,
WM. BROOMFIELD,
LARRY WINN, JR.,
Managers on the Part of the House.

JOHN SPARKMAN,
FRANK CHURCH,
STUART SYMINGTON,
CLIFFORD P. CASE,
Managers on the Part of the Senate.

REQUEST TO APPOINT CONFEREES ON HOUSE JOINT RESOLUTION 1096, DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

Mr. MAHON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 1096) making supplemental appropriations for the Department of Defense for the repair and replacement of facilities on Guam damaged or destroyed by Typhoon Pamela, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, would the distinguished gentleman from Texas tell us about the other things which have no relation to Guam but which were tacked into this appropriation?

Mr. MAHON. Mr. Speaker, if the gentleman will yield, the additions made in the Senate include $200 million for the Teton Dam problem; the claims for judgments in the amount of $46 million; refunds under the Renegotiation Act, Presidential transition in the amount of $1 million, and Postal Service in the amount of $500 million.

Mr. ROUSSELOT. Mr. Speaker, could the gentleman from Texas tell us about the Renegotiation Board which I understand expires fairly soon–

Mr. MAHON. This was not for the operation of the Renegotiation Board but for payment of claims which are due as a result of the operation of the Board. That is my understanding of the situation.

There is a budget estimate for the Postal Service expenses in the sum of $1 billion.

Mr. ROUSSELOT. How much?

Mr. MAHON. It is in the sum of $1 billion.

Mr. ROUSSELOT. It is $1 billion.

Mr. MAHON. And in a bill when it was passed by the Senate it was $500 million. I believe I did mention the Presidential transition fund which was authorized by the House at a total level of $3 million including the $900,000 already provided. This would provide an additional $2.1 million for the transition in the supplemental.

Mr. ROUSSELOT. Mr. Speaker, I thank my chairman for the explanation.

Mr. Speaker, further reserving the right to object, I think it is unfortunate when the other body decides to tack so many extra things in a simple appropriation bill for Guam. I do not think these other items should be unnecessarily tacked on.

Therefore, Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

APPOINTMENT OF CONFEREES ON HOUSE JOINT RESOLUTION 1096, SUPPLEMENTAL APPROPRIATIONS FOR GUAM

Mr. MAHON. Mr. Speaker, by direction of the Committee on Appropriations I move to take from the Speaker' table the joint resolution (H.J. Res. 1096) making supplemental appropriations for the repair and replacement of facilities on Guam, and for other purposes, with Senate amendments thereto, disagree to the amendments of the Senate, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. MAHON, WHITTEN, SIKES, PASSMAN, EVINS of Tennessee, STEED, ADDABBO, EDWARDS of Alabama, MYERS of Indiana, and MILLER of Ohio.

REGULATING LOBBYING AND RELATED ACTIVITIES

Mr. FLOWERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15) to regulate lobbying and related activities.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama (Mr. FLOWERS).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SNYDER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 385, nays 1, not voting 44, as follows:

[Roll No. 821]

YEAS—385

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Aspin
AuCoin
Badillo
Bafalis
Baldus
Bauman
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frenzel
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Kindness
Koch
Krebs
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Waxman

Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—1

Waggonner

NOT VOTING—44

Ashley
Baucus
Beard, R.I.
Boggs
Breaux
Burke, Fla.
Conlan
Dent
Diggs
Esch
Eshleman
Evins, Tenn.
Flynt
Fraser
Frey
Green
Hawkins
Hébert
Heinz
Hinshaw
Horton
Jarman
Keys
Krueger
Landrum
McCollister
McDade
Matsunaga
Mink
Moss
Murphy, N.Y.
Nix
Pepper
Rees
Riegle
Scheuer
Steelman
Steiger, Ariz.
Stuckey
Teague
Thompson
Wampler
Wilson, C. H.
Young, Alaska

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 15, with Mr. BOLLING in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Alabama (Mr. FLOWERS) will be recognized for 1 hour, the gentleman from California (Mr. MOORHEAD) will be recognized for 1 hour, the gentleman from Florida (Mr. BENNETT) will be recognized for 1 hour, and the gentleman from South Carolina (Mr. SPENCE) will be recognized for 1 hour.

The Chair recognizes the gentleman from Alabama (Mr. FLOWERS).

Mr. FLOWERS. Mr. Chairman, may I inquire of the Chair if it is the Chairman's intention to alternate among the Members who have control of the time or at least loosely alternate among the Members who have control of the time?

The CHAIRMAN. The Chair will inform the gentleman from Alabama (Mr. FLOWERE) that the Chair will attempt to alternate among all four of the gentlemen who have control of the time.

Mr. FLOWERS. Mr. Chairman, it is the intention of the gentleman from Alabama to yield time first to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO), who will speak briefly to the bill. Then I have a more detailed explanation of the bill which I will present, and I would like to reserve the right to speak after the gentleman from New Jersey finishes his presentation. I do not think any of the Members would have any opposition to that.

Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Chairman, I am pleased to rise to voice my strong support for H.R. 15. This bill is a well-reasoned replacement for the current Federal Regulation of Lobbying Act which has proven to be thoroughly deficient both in the scope of its coverage and in its enforceability.

Early in the 94th Congress, I sponsored legislation calling for the increased disclosure of lobbying activities (H.R. 1734). The Subcommittee on Administrative Law and Governmental Relations held hearings on this and other related bills. I wish to commend the gentleman from Alabama and the members of his subcommittee for their painstaking efforts in reaching a fair balance between the first amendment rights of the citizenry to petition the Government and the need of the Congress and the public to be adequately informed as to the efforts of outside interest groups to influence the decisionmaking process of the Federal Government.

The Judiciary Committee bill would successfully eliminate the major shortcomings of the current lobbying law. It more clearly establishes the criteria for becoming a lobbyist. Also, coverage under this bill is expanded to include attempts to influence congressional staff and, to a limited degree, efforts to influence the executive branch. Furthermore, H.R. 15 provides for a workable and efficient means of enforcement that is totally lacking under the current law.

In rectifying these shortcomings, the Judiciary Committee has made a considerable effort to require the disclosure of only that data which would be truly informative to the public. Too much disclosure of unnecessary information would have the practical effect of rendering all of the data meaningless. If the requisite reports are too voluminous, who would read them? H.R. 15 protects the right of the Congress and the public to know, without imposing intolerable burdens upon those organizations that lobby.

As indicated by the extensive cosponsorship of lobbying legislation in this Congress, as well as the legislative history of attempts to revise the lobbying law in previous Congresses, there is a strong consensus that a substantial public interest would be served by implementation of a reasonable lobbying law. The disclosure requirements of H.R. 15 would serve:

First. To enable Members of Congress to understand more fully the actual nature and source of the lobbying on an issue;

Second. To increase public confidence in Government by removing the cloak of secrecy from efforts to influence both the legislative and executive branches of the Federal Government;

Third. To better inform the Congress and the public as to which views are most frequently represented before the legislative and executive branches, coupled with the potential corollary effect of stimulating participation in the governmental process by groups which had not previously been involved; and

Fourth. To enhance the reputation of the lobbying profession by removing the secrecy surrounding its activities. In conclusion, I strongly urge my fellow colleagues to support the Judiciary Committee bill. It has the support of several major labor, public interest, and business organizations which have recognized it as an equitable approach to the disclosure of lobbying activities.

Mr. FLOWERS. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, today we have the opportunity to adopt a lobbying disclosure bill that would replace a lobbying law which has proven to be totally inadequate.

This law has been justifiably criticized on several fronts. For example, it does not apply to organizations or individuals unless lobbying is their principal purpose. Numerous organizations which engage in substantial lobbying activities have been able to circumvent the law on the ground that lobbying is not a principal purpose of the organization. In addition, the current law only covers direct efforts to influence Members of Congress. There is no coverage of attempts to influence congressional staff or executive branch personnel. Finally, nobody has been given the clear responsibility and adequate investigatory powers to enforce the law.

The Subcommittee on Administrative Law and Governmental Relations, which I chair, has conducted extensive hearings on lobbying legislation in this Congress. Through the deliberations of the subcommittee and the full Judiciary Committee, we bring today a bill which adequately protects the public's right to know who is attempting to influence the governmental decisionmaking process without an unwarranted infringement of first amendment rights of the people to petition their Government. It is important to note that H.R. 15 in no way precludes anyone from communicating with the Federal Government. There are no restrictions or regulations in this respect. This is a disclosure bill only.

The Judiciary Committee bill would successfully eliminate the major shortcomings of the current lobbying law. It more clearly establishes the criteria for becoming a lobbyist. For instance, there are two and only two ways in which an organization can become a lobbyist organization and have to register as such. First, the organization could retain an outside person such as a law firm or consulting firm for more than $1,250 in any calendar quarter to engage in lobbying on behalf of the retaining organization. Second, the organization could employ at least one person within the organization who spends at least 20 percent of his or her time on a quarterly basis lobbying on behalf of the organization.

Organizations covered by the bill would register annually and file quarterly reports with the General Accounting Office. These reports would call for the disclosure of the following information:

First. The organization's identification;

Second. The total expenditures made by the organization for lobbying activities for that quarterly filing period, including an itemized listing of each expenditure in excess of $25 made for the benefit of a Federal officer or employee;

Third. A disclosure of expenditures for any dinner, reception, or other similar event for Federal officers or employees which is paid for a whole, or in part, by the reporting organization where the total cost of such event exceeds $500;

Fourth. An identification of those persons retained or employed by the organization to engage in lobbying on behalf of such organization and the amount of their remuneration for such activities;

Fifth. A description of the 25 issues upon which the organization spent the greatest proportion of its lobbying efforts during the quarterly filing period, together with a more generalized description of any other issues upon which the organization lobbied;

Sixth. A description of each solicitation—as defined in section 2(10)—initiated or paid for by the organization but only if the solicitation is directed to 500 or more persons, 25 or more officers or directors, 100 or more employees, or 12 or more affiliates of the organization;

Seventh. A disclosure of each known direct business contact between the organization and any Federal officer or employee which it has lobbied; and

Eighth. The dues or contributions schedule of the organization, and the identity of any contributor to the organization which contributes in excess of $2,500 during the calendar year where such contribution is more than 1 percent of the total dues or contributions received by the reporting organization and also is in excess of such dues or contributions schedule, together with the amount contributed that exceeds such schedule by such organization or individual.

In rectifying the shortcomings of the current law, the Judiciary Committee has made a considerable effort to require the disclosure of only that data which would be truly informative to the public. Disclosure of a plethora of unnecessary information would have the practical effect of rendering the reports meaningless.

The General Accounting Office will have the responsibility for administering the new law. To carry out its responsibilities, the Comptroller General is given rulemaking authority and investigative powers subject to the procedural safeguards of the Administrative Procedure Act. However, to insure that this rulemaking authority is not abused, a congressional veto provision has been incorporated into the bill.

To aid in compliance with the law, the Comptroller General is given the authority to issue advisory opinions. And any person or organization who receives an adverse advisory opinion may file an action for declaratory judgment in Federal district court.

The bill requires the Comptroller General to report annually to both the President and the Congress as to his activities in administering the new law, together with his recommendations for appropriate legislation relating to the disclosure of lobbying activities.

The Comptroller General is empowered to conduct investigations into apparent violations of this act. If, after such investigation, he ascertains that any organization or individual has engaged in activities which constitute a civil violation of the act, he may seek to correct the situation by informal methods of conference and conciliation. If such procedures fail, the Comptroller General must refer the matter to the Attorney General. All apparent criminal violations must be immediately referred to the Attorney General.

It is important to note that the formal enforcement authority under this bill rests in the Department of Justice. However, in all cases referred by the Comptroller General to the Attorney General, the Department of Justice is obligated to periodically report back to the Comptroller General on the status of such referred cases until they are finally resolved.

Both civil and criminal penalties are provided within the bill. The maximum fines range from $5,000 to $10,000 depending upon the nature of the violation, while the maximum prison sentence which may be imposed only for a willful and knowing violation shall not exceed 2 years.

The Judiciary Committee bill constitutes a substantial strengthening of the current law. It, unlike any other lobbying bill pending before the Congress, has the support of several major labor, public interest and business organizations which have recognized it as an equitable approach to the disclosure of lobbying activities.

I strongly urge you to support the Judiciary Committee bill.

Let me say this further: When we began our considerations with members of the subcommittee, I think we proceeded with several major assumptions. The first assumption that I know I had, and I think other members of the subcommittee had, was that lobbying in and of itself is an honorable profession, that what we wanted to do was to try to make it more honorable; second, that the 1946 act is, in and of itself, really a joke. It needs improvement and strengthening, and it needs that to be done right here and now in the 94th Congress.

We proceeded with several major criteria in mind. First of all, we wanted to have a bill that each and every one of us could consider to be a fair approach to the problem, fair in its application to all organizations, equally fair in that the reporting requirements for covered organizations, equally fair in that the reporting requirements for covered organizations under the bill would not be onerous or expensive or overly time consuming to those organizations. The second major criterion that I think all of us had in our minds on the subcommittee was that we absolutely would require that the bill be simple—simple in that it must be and ought to be understandable to every person in the United States, and simple in its concept. This is why we set out with a concept of covering organizations, or an organizational approach to the problem. And simple in its operation so that covered organizations would not need necessarily a Philadelphia lawyer to advise them, even if they were covered under the bill itself.

Mr. Chairman, these are the remarks that I would make on the legislation at this time. While urging the committee to accept the Judiciary Committee version. If there are any quesitons, I would be glad to answer them now or as we proceed further.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOORHEAD of California. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, the Subcommittee on Administrative Law and Governmental Relations of the Judiciary Committee, has been continually involved in the deliberations leading to this lobby disclosure legislation for many months. I assure the Members of this House, it has been a long and somewhat tedious road.

When our subcommittee began its hearings approximately 1 year ago, the primary focus was on H.R. 15 as originally introduced. I was seriously concerned about a number of the provisions it contained. First, it was replete with indefinite and vague terms that arguably violated the due process requirements of the fifth amendment. Clearly, more definiteness—specificity, if you will—was needed. The proposal also contained a controversial "logging" provision, requiring all executive branch employees above the GS-15 level to keep detailed records of all conversations or written communications on policy matters. The result of that ill-advised idea would have been to cut off access to Government decisionmakers, and thereby violating the first amendment.

The original H.R. 15 also contained a provision that would have required a voluntary membership organization to supply a list of its members under certain circumstances. Such a membership list requirement would have been clearly an unwarranted violation of the freedom to associate and the right of privacy. *NAACP* v. *Alabama,* 357 U.S. 499 (1958); *Bates* v. *Little Rock,* 361 U.S. 526(1960); *NAACP* v. *Button,* 371 U.S. 415(1963); *Gibson* v. *Florida Legislative Committee,* 371 U.S. 539(1963). It would have designated the Federal Election Commission as its administrative and enforcement agency, which was then facing a constitutional challenge to its very existence.

We wanted to put the Judiciary version of H.R. 15 in some perspective for the Members of the House. Many of the serious defects in the original bill have been rectified through our subcommittee deliberations. However, that is not to say that I do not retain some serious misgivings about a number of the key provisions of H.R. 15, as reported. More improvement is needed.

First, it is my view that a lobbying disclosure statute should be limited to direct, oral communications. As it now is constituted, H.R. 15 makes written communications lobbying activity, as well as any "preparation and drafting" leading up to the making of oral and written communications. The scope of what can be lobbying activity under H.R. 15 is far too broad.

It is also my view that this legislation should not extend itself to executive branch activities. The Justice Department, when testifying on lobby reform, urged that the bill be limited to legislative matters. Yet, section 3 of the bill makes it clear that attempts to influence the content of proposed regulations or the award of Government contracts is to be considered lobbying activity. The Administrative Procedure Act was enacted to encourage individual citizens and organizations to comment on proposed administrative regulations. Ironically we are now making some of those communications, explicitly encouraged by the APA, lobbying activity! I also feel that the coverage of Government contracts is extremely ill-advised and misplaced. I intend to support the amendment that will be offered later by the gentleman from Ohio to delete Government contracts from this legislation.

I also feel that a genuine constituent exemption, along the lines of that approved in our subcommittee, should be restored to the bill. Under it any person could talk to his Congressman and two Senators without fear that he was becoming a lobbyist. Furthermore, I feel that the reporting requirements of this legislation are more burdensome and detailed than they need be. Finally, we have left ourselves open to serious criticism by virtue of the fact that H.R. 15 will not reflect the lobbying activities of certain kinds of "volunteers." I speak not only of the renowned Mr. Ralph Nader, but also of the many other "professional volunteers" which we in Congress repeatedly encounter. Genuine, fair lobby disclosure legislation should cover one who carries on continuous, systematic lobbying activities, whether they are salaried or not.

Even with these defects—some of which I hope can be taken care of by floor amendments here today—the House version is far preferable to the Senate bill (S. 2477). The Senate-passed bill makes "solicitations" a threshold question for determining whether or not an organization is a lobbyist. There is serious question whether we can constitutionally make an organization or an individual a lobbyist solely on the basis of indirect, grassroots activity. One need only give the Harriss case a cursory reading to see that any regulation of indirect lobbying activity would most likely be closely scrutinized by the Supreme Court. By getting an already covered organization to report on such activity, without making solicitations a threshold question, H.R. 15 is superior to the Senate bill.

H.R. 15 is also more realistic with respect to types of contributions an organization is required to report in section 6(b)(8). The Senate bill would require a lobbying organization to list the amount and identity of the contributor, where a contribution exceeds $2,500. This seems to me to be an unnecessary invasion of both organizational and personal privacy. In fact, in the case of some smaller trade associations, the result might be a complete membership list. If that occurs, the provision would be clearly unconstitutional.

H.R. 15 is also superior in the sense that it recognizes that first amendment rights exist not only for newspapers and the radio-television media but also attach within the framework of an organization. We protect the right of an organization to communicate with its own membership, without making those communications lobbying activity per se.

While the coverage of Government contracts is ill-advised, the House approach is still more reasonable than that of the Senate. Reportable lobbying activities on Government contracts are limited to communications with Federal officers or employees of levels I–V. 5 U.S.C. sections 5312–5316. The Senate, in contrast, would require a company to track the activities of all sales and technical employees who come in contact with any Federal officials.

There is one last point that I want to touch on before I conclude. During the 5-minute rule, I intend to offer an amendment which will clarify the unfair and confusing treatment of loans in H.R. 15. Under section 6(b)(2), if a bank or other lending institution qualifies as an organizational lobbyist then it must list all loans made to Federal officers or employees valued in excess of $25. No distinction is made between loans that are made at the going rate of interest—those made in the ordinary course of business—and those made under unusual or more favorable terms. The purpose of this gift reporting provision is to unearth any special benefits received by public officials; it should not result in an unnecessary invasion of their privacy. Consequently, I intend to offer an amendment which would make it clear that a loan made in the ordinary course of business and under terms no more favorable than those available to the general public, would not be required to be reported. I offered this identical amendment in the Administrative Law Subcommittee but, unfortunately, it was not successful.

Recently, during a debate on another piece of legislation, I heard one of my colleagues remarking:

> My enthusiasm for this legislation is well under control.

I think that this remark fairly represents my attitude with respect to H.R. 15. However, that is not to say, I oppose lobby disclosure legislation. In fact, I think that the Judiciary Committee's version of H.R. 15 can be a fair and effective statute if a number of improving amendments are successful here today. In conclusion, I would emphasize that this is legislation dealing with basic first amendment rights and we need to be extremely cautious about both its scope and content.

Mr. BENNETT. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, regrettably, the chairman of the Committee on Standards is ill, as we know, in the hospital and I am pinch-hitting for the gentleman.

Mr. Chairman, for the committee I will offer a committee amendment in the nature of a substitute. It is the belief of the Members of the Committee on Standards of Official Conduct that this substitute is a better bill than H.R. 15, as reported by the Committee on the Judiciary, despite the best of intentions and the obvious hard work that went into their proposal.

We concede that both committees are trying to enact the best possible bill, as viewed from our separate hearings.

In amending the bill, H.R. 15, as reported, the Committee on Standards has relied quite extensively on the committee's past experience with lobbying legislation. We will recall that during the 92d Congress, the Committee on Standards reported out a lobby bill, the Legislative Activities Disclosure Act. This bill was reintroduced in the 93d and 94th Congress as H.R. 44 by the committee's distinguished former chairman, the gentleman from Illinois (Mr. PRICE).

Hearings were held on these provisions and other lobbying legislation during the current Congress in December 1975.

Mr. Chairman, I wish to commend the members of the committee on both sides of the aisle who worked equally hard. I wish to praise particularly the chairman, the gentleman from Georgia (Mr. FLYNT), who is at this time in the hospital and who never shirks any difficult task, regardless of his health, if it is at all possible; and I also wish to praise the gentleman from South Carolina (Mr. SPENCE), the ranking member of the committee, without whose assistance there would be no substitute bill before the committee today.

Just as we can point to the nonpartisan cooperation demonstrated in the consideration of lobby bills, I can also underscore the cooperation between committees, evidenced particularly by the gentleman from Alabama (Mr. FLOWERS). All of us have great respect for members of the Committee on the Judiciary and its distinguished chairman, the gentleman from New Jersey (Mr. RODINO).

I especially commend the efforts of the Subcommittee on Administrative Law, chaired by the gentleman from Alabama (Mr. FLOWERS), a Member who has consistently manifested a spirit of accommodation and consideration of the concerns of the Committee on Standards.

However, notwithstanding this fine spirit and conscientious work, the Committee on Standards of Official Conduct believes that our substitute is a better bill.

Mr. Chairman, I would like to point out the major changes that have been made in the bill, H.R. 15, as reported from the Committee on the Judiciary—changes that we believe the Members will find to be improvements.

The most important are as follows:

First, the substitute meets many objections of excessive paperwork by cutting in half the number of reports necessary. We compensate for this—in fact, improve on H.R. 15—by timely updating of registration. Given the fact that many important legislative issues come about in a short span of time and be passed within a 3-month period. Under the Judiciary bill, the quarterly report would be too late to supplement its annual registration with additional information about lobbying undertaken in such situations. If the organization was already registered under H.R. 15, it could retain additional persons and have a large number of its employees engaged full time on lobbying, and nothing would be disclosed. Neither the lobbyists nor the issue would be identified until after the issue had been resolved. The information added to the registration by the committee addresses this problem.

It would also—this substitute bill—cut back on paperwork with respect to recordkeeping. Under the judiciary bill, once an individual made one lobbying communication, he would have to keep extensive records on his time and activities to determine if he, at some future point, expended 20 percent of his time lobbying. With the substitute, the 6-day test, an employee making a communication has a vastly simpler recordkeeping duty from that day forward to ascertain whether he would be subject to the registration and reporting requirements.

Second, this substitute provides for broader coverage than the Judiciary bill in that organizations which only undertake grassroots lobbying campaigns are also covered under the substitute bill as distinguished from the Judiciary bill. The Judiciary bill does not cover such activities.

Under the Judiciary bill, an organization which did not directly lobby would not be covered, even though it sustained large scale grassroot efforts. The committee, as in its earlier bill, felt that such solicitation efforts are sufficiently prevalent that their sources ought to be disclosed. In keeping with another version's provision, which uses the sum of $5,000 for a quarter, the substitute requires an organization to register and report if it makes an aggregate expenditure in excess of $10,000 in any filing period to solicit, orally or otherwise, other persons to engage in covered activities.

Third, this substitute covers important lobbyists, whether they are paid or not, if they have a significant impact on the policy decisions of the registered organization. Language from a report on similar legislation passed in the other body explains this more fully, and I quote:

> The provision applies both to the chief executive officer and any principal officer. Any individual who in practice has a chief responsibility for either making or implementing policy, or both, will be covered. In many instances, but not always, the chief executive officer and the principal operating officer will be the same person. In any event, the provision is intended to apply to any official of the organization who in reality exercises a dominant ongoing influence over its activities.
>
> The provision does not apply to unpaid directors, employees or other individuals who do not play this leading role. The wording also excludes any volunteer who has no official role in the making or administering of the organization's policies and programs.

Fourth, if a conference on this legislation is to be at all feasible at this late hour, this substitute is a better vehicle to insure the enactment of lobbying legislation in this Congress. It is more comparable in structure to that passed in the other body.

In summation, I believe that this substitute is a stronger lobbying bill in the sense that it extends coverage to more people, to almost all lobbyists that we know to be lobbyists. Under the Judiciary bill, important lobbyists and lobbying campaigns would not be covered.

If Congress is not to be maligned for further undermining confidence in our institutions, we ought to deliver on our promises and enact a piece of legislation which would cover all of us, or as nearly as we can. If we are going to disclose all significant lobbying efforts to the light of day, let us pass a bill which does not exclude the massive grassroots campaigns and major lobbyists. All of these things are covered by the substitute bill and not by the Judiciary bill. Let us pass a bill that balances this need for disclosure with a measured and reasonable reporting requirement, timely registration, and clearcut and simple recordkeeping provisions.

In further summary, the substitute bill reduces paperwork. We all say we want to reduce paperwork, and this bill will do that. It covers grassroots lobbying. It covers effective lobbyists, whether paid or not. And, fourth, it is more compatible to the bill passed by the other House and, therefore, more likely to be enacted into law before this session ends.

Mr. Chairman, in 1965 I introduced a bill which the General Accounting Office had urged Congress to pass, to see to it that the law then on the books would be effective in the field of lobbying. That was in 1965. Since that time, I have introduced revisions of it to try to bring it up to date. I certainly feel that this is something that is long overdue, and I think we ought to do it in a way which actually touches lobbyists, to disclose their activities as fully as possible, as many lobbyists as possible, and at the same time require the very least that can be required in the field of extra paperwork. We ought not to load a bill down, like we did in OSHA, with a lot of paperwork to accomplish small things. I am not saying that what we accomplish in this lobby bill is small, because I do not think it is. But I do ask that we not require a single paper to be filed that is not necessary to be filed to accomplish our objectives.

In my way of thinking, the Standards bill does more in the field of lobbying than does the Judiciary bill, yet it introduces procedures in a way that I feel are more effective and more beneficial to the public.

Mr. Chairman, I urge that the substitute bill be adopted when it comes up.

Mr. **SPENCE**. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, there is great irony rounding consideration of lobbying reform legislation by this body today. The Committee on Standards of Official Conduct, which has rightful jurisdiction in this area, and to which H.R. 15 was properly referred, has been subjected to the most severe pressure tactics that I have ever experienced. The special interest which lobbied this bill was strident in its arguments, unyielding in its position, and its tactics were questionable, at best. This lobby did not consider the possibility that reasonable and sincere individuals could hold opposing views; nor would they participate to any extent in the spirit of compromise which enables the legislative process to operate smoothly. I am not referring to big oil, Mr. Chairman. It was not big labor or big business that used these tactics. It was a group lobbying for H.R. 15, and for its blind approval by our committee. It was a group which in this case has employed threats and propaganda as lobbying tools. It was, and is, a group which claims to represent and speak for "the people."

The irony is, Mr. Chairman, that, until I encountered this pressure group, I had never been subject to the abuses which they claim to be a threat, and to which their bill is addressed.

In accepting jurisdiction, the Committee on Standards was accused of attempting to block reform, and, as noted, was made the object of tremendous criticism and pressure. Yet, I must say that the critics of our committee would also have Congress chill communications between the people and their representatives; for this is the sure result of the onerous recordkeeping and reporting requirements that they advocate in the name of lobbying reform.

Mr. Chairman, the Members of this body know that it is difficult to vote against a bill labeled as reform legislation. Because of the unfortunate connotation now assigned to the term "lobbyist," some Members are especially hesitant in this political season to oppose a bill tagged "lobbying reform." They fear the adverse publicity which would result if they were to come down on the wrong side of such an attractive title.

But is this not a form of demagoguery, Mr. Chairman? Is it not a case of giving in to a perception of what lobbying is, forced upon our constituents by a special interest group, rather than trying to show them why irresponsible action in the name of reform can only hurt them in the long run? People are being led to believe that lobbying legislation will deal primarily with the abuses brought about by large contributions to Members of Congress. As we know, this problem has been covered by legislation which has already become law. Do we not have an obligation to explain to our constituents what lobbying really is?

Every Member of this body has been subjected to lobbying, in one form or another. Is it really an evil relationship? Is it a sinister effort to twist legislation to the public detriment? We all know that it is not. We know that lobbying is, in fact, an important adjunct to the legislative process—a valuable tool which we can use to advantage, along with other available information on a given issue.

The report of the Judiciary Committee on H.R. 15 concedes, "It should be noted that the primary purpose of lobby disclosure legislation is not to eliminate corrupt practices or unethical behavior, which account for a relatively small percentage of lobbying activities. The basic purpose of lobby disclosure is to inform the general public, including Members of Congress, of the nature and scope of activities which constitute and characterize the bulk of lobbying campaigns. Lobbyists often perform a valuable public service, but the nature of lobbying activities is too often hidden from public view."

In other words, Mr. Chairman, there is nothing whatsoever wrong with lobbying per se. It is, as we know, an important aid.

All we hope to accomplish by so-called lobbying reform legislation is more information on who is doing it.

The bill before us is entitled, "Public Disclosure of Lobbying Act of 1976." We must not let the emotional use of the term "reform" get in the way of our deliberations here today. The Committee on Standards intends to stick with the concept of disclosure; not prohibition. We want a simple, straightforward recital of what we expect of covered organizations; not a maze of rules which leave groups unsure as to whether or not they even come under the law.

Mr. Chairman, a good summary of the constitutional questions which concerned our committee may be found in the dissenting report to the Judiciary Committee version of H.R. 15. In that report, our colleague, Congressman CHARLES WIGGINS, asks two very pertinent questions:

> Does the Act, taken as a whole, unconstitutionally abridge freedom of speech or the right of the people to petition the government for a redress of grievances?
>
> Is it wise to exercise governmental power to regulate the sensitive First Amendment values in the manner contemplated by the legislation?

Mr. Chairman, I firmly believe that the gentleman from California, and others who have expressed similar concerns, will agree that the amendment before you in the nature of an Ethics Committee substitute, addresses the constitutional shortcomings of H.R. 15. Your committee was determined to present the Members of this body with an alternative with which they could not only be comfortable, but also which they could support with enthusiasm. The committee substitute is a good bill. It is responsible and it is reasonable. It corrects many of the problems that the Members have found in the judiciary version; yet, it is built upon the framework of H.R. 15 as reported, so that action on the floor today can be easily and expeditiously handled.

Despite the adverse media blitz to which our efforts have been subjected, I believe that the fairminded will concede that the product before you today in the form of an Ethics Committee substitute to H.R. 15 is a complete vindication of the committee's determination not to be stampeded by pressure tactics.

Although previous efforts in the area of lobbying reform have been highly complex and technical, this bill is straightforward. In fact, I can summarize its coverage and application in only one sentence:

Organizations which pay lobbyists $2,500 or more during the filing period, which is 6 months under our bill, or which have an employee who lobbies during 6 or more days during the 6-month period, or which solicit others to lobby, at a cost of $10,000 or more during the 6-month period; and who direct their lobbying to Members of Congress, staff or employees of Congress, or employees in the Executive Schedule 1 through 5; must register within 15 days of meeting the threshold, maintain records for 5 years, and file reports twice a year.

Naturally, there will be close questions and borderline situations. There is no way that we can anticipate all that might arise under this bill, and provide for it in statutory language. Such complications will be handled by regulations promulgated by the Comptroller General, under the authority of this act. Congress retains the right to pass on the reasonableness and propriety of all such regulations, through a section providing for a legislative veto.

Mr. Chairman, in the course of the 4-hour discussion provided by the rule on H.R. 15, there should be ample opportunity for the members to explore fully any aspect of this rather controversial legislation. At this point, there are just two provisions of H.R. 15 that I especially want to highlight. One, a very major consideration, and a key part of the proposed law; the other, a seemingly minor provision which I nevertheless feel to be especially important to Members of Congress, and to other observers of the legislative process.

First, the 6-day threshold. My friends on the Judiciary Committee can explain to you what they mean by the "20 percent test." In H.R. 15 as reported by Judiciary, the threshold for an employee of an organization—in other words, the trigger which propels a given organization into coverage under this act—is 20 percent of that employee's time spent on lobbying activities. Many members of the Ethics Committee were concerned about this standard because of its inherent ambiguity, and the meticulous recordkeeping requirements that it would entail. For example, what would be included in the 20-percent measure? Does one begin counting a lobbying expedition when he or she leaves the office and heads for Washington? If so, does this not discriminate against lobbyists who happen to live in California—or Hawaii? Does it favor lobbyists who live in Falls Church, or Baltimore—or Washington, D.C.?

What about the time spent waiting in a Congressman's office? Is this included in the 20 percent, or do you report only that time actually spent in discussing legislation with the Congressman? In determining the 20-percent threshold, do you base it on an 8-hour day, or do you keep track of every hour actually spent on the job? Must all organizations keep the precise records on all of their employees, so that they can prove later, in the event that they are challenged, that they were not covered?

The point is, Mr. Chairman, we felt that the 20-percent threshold would be too burdensome, too confusing, and too vague to be constitutional. We do not offer the 6-day test as the ideal. Frankly, we could not think of an ideal test under the circumstances. But we do consider our threshold to be far superior to any that we have considered, or that have been brought to our attention. While there would be some inequities, we feel that the simplicity of application would more than outweigh the possible abuses. We very strongly recommend adoption of the 6-day standard.

The other provision which I want to bring to the attention of my colleagues is a clause which is included in the registration section of both bills. Section 4(b) states, "The registration—shall contain—first, a general description of the methods by which such organization arrives at its position with respect to any issue."

A few years ago, Mr. Chairman, I received a communication from an organization called the Consumer Federation of America. I have since forgotten the position advocated, but the federation represented to me that it was speaking for 30 million Americans. I was so intrigued that any organization could presume to speak for 30 million Americans, that I had the Library of Congress check into this claim. It turned out that the AFL-CIO was one of the member organizations, and CFA had taken the liberty of including the entire union membership of AFL-CIO. When we are lobbied by such groups, we should be made aware of their methods—without having to go to the Library of Congress.

Another example is provided by the national church body which purports to speak for all the members of that denomination; or the National Council of Churches, which likes to speak for practically everyone in this country who belongs to any organized religion. What gives them the right to make such claims? Do they poll their entire membership? Or do they poll the board of directors? Or an executive committee? I suspect that Members of Congress have been intimidated in the past by such tactics, Mr. Chairman, and I know that the press on occasion has been impressed by them. That is why I consider section 4(b)(1) to be such a significant one.

Mr. Chairman, these are only two of the important features of the amendment being offered by the House Committee on Standards of Official Conduct, in the nature of a substitute to H.R. 15 as reported by the Judiciary Committee. Your committee has been very mindful of the delicate constitutional boundaries which encompassed us. We measured each substantive provision against the following standard, provided by our colleague, Mr. WIGGINS: Is there a significant risk that some organizations will forsake their first amendment rights to avoid the burden of this legislation? We believe that if you choose our substitute, the question can be answered in the negative.

Mr. Chairman, we were presented with a proposal, and we improved upon it. We created a responsible alternative. We accepted jurisdiction, and we have provided you with a bill which can be approved during this Congress.

I urge your support of our substitute when it is offered.

Mr. FLOWERS. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Wisconsin (Mr. KASTENMEIER), who is one of the authors of the original H.R. 15, and who has worked very strenuously to aid us in getting this legislation to the floor today. I appreciate his efforts very much, Mr. Chairman.

Mr. KASTENMEIER. Mr. Chairman, as a cosponsor of H.R. 15, the Public Disclosure of Lobbying Act, I am very pleased that the House has this opportunity today to vote for this long overdue lobbying reform legislation.

Before commenting on the need for the Public Disclosure of Lobbying Act, I would like to take a few moments to pay tribute to those who have contributed so much of their time and effort so that the House could consider this bill. Our distinguished colleague from Alabama, WALTER FLOWERS, who chairs the House Judiciary Subcommittee on Administrative Law and Governmental Relations, and his subcommittee members, GEORGE DANIELSON, BARBARA JORDAN, RON MAZZOLI, NED PATTISON, CARLOS MOORHEAD, and TOM KINDNESS, deserve our gratitude for their diligent and conscientious work in reporting a lobbying reform measure which protects the constitutional rights of citizens to communicate to their Government while, at the same time, opening the lobbying process to full public view. In addition, I would like to compliment the members of the Judiciary Committee for their contributions to H.R. 15 during our committee consideration of this measure. Also, the more than 160 cosponsors of H.R. 15, and, in particular, the freshmen Members of the 94th Congress, deserve praise for their steadfast support for reform of our lobbying law. Lastly, I want to extend particular credit to my good friend, TOM RAILSBACK, for his tireless efforts and his leadership on behalf of lobbying reform. Indeed, lobbying reform has been carried forth in the best tradition of the House, that of bipartisan cooperation.

Mr. Chairman, a healthy democracy demands that the business of the people be conducted in an open manner. The distinguished historian, Henry Steele Commager, wrote that "the generation that made the Nation thought secrecy in Government one of the instruments of old world tyranny and committed itself to the principle that a democracy cannot function unless the people are permitted to know what their Government is up to."

Yet, as we all know, this principle of open Government, particularly as it has applied to lobbying activities, has been and is ignored.

The right of the people to know what the Government is up to frequently has been replaced by the practice that what the Government is up to is none of the people's business.

The events of the past several years have made the American people more conscious of the dangers of secrecy in matters relating to the conduct of Government than at any time before. Confidence by the people in the Government and in their elected leaders has been replaced by distrust and cynicism. Fortunately, we are in the midst of a great reform movement to rid Government of concealment in matters affecting the conduct of the people's business. These reforms have and will improve the performance of our Government and our political processes.

Most House committee meetings are now open to the public. The Sunshine Act, which will open up to public viewing the meetings of some 50 Federal agencies, has recently been signed into law. Public financing has been infused into the costly Presidential campaigns, thus freeing candidates from becoming beholden to those who, in the past, have made substantial financial contributions to their campaigns.

Another necessary and essential reform which also must be approved if we are to be earnest in our continuing efforts to restore to a healthy state the shaken and badly eroded confidence of the people in the integrity of their Government is lobbying reform.

Lobbying activities with the Government are sanctioned by the first amendment to the Constitution as an exercise of the "right of the people—to petition the Government for a redress of grievances," and the efforts of organized interests and individuals to influence Government have always been an inseparable part of the American political process.

Pressure groups traditionally have had considerable impact upon our form of Government, going back to the early days of our Republic, and the constitutional writing proclivities of Americans clearly reveal the influence of the demands from such sources.

Although legislative and policymaking decisions have been extensively influenced by lobbying groups, this does not necessarily make lobbying an unhealthy or objectionable practice or mean that lobbying is a dirty business. Lobbying does provide a legitimate means for the wide variety of interest groups to present to the Government the opinions of their membership or clients.

Lobbyists do impart useful, independent information to the executive branch and the Congress in areas where they do have considerable expertise.

As legislators, we all have received and benefited from the advice and information given by lobbyists, and in no way does H.R. 15 seek to interfere with the right of any citizen or interest group to communicate or exercise free speech with Government officials.

There are those lobbying practices, however, which do pose a grave menace to honest and good Government, and thus, have given lobbying a bad name. Too much of the lobbying that takes place is shrouded in secrecy and there is virtually no accountability for the large sums of money that are expended in the conduct of lobbying activities.

In the public mind, the presumption of corruption is strongly attached to the term lobbying and the lobbyist personifies the influence problem. All too often the public does not understand the informational function which lobbyists play in the legislative process.

Instead the public sees lobbying as a process by which special interests obtain favors from the Government. Lobbying is considered an underhanded process, associated with the corrupt use of money, the wining and dining of legislators and Government bureaucrats, the free airplane trips, the way of conducting influence peddling with Government.

The public cannot be blamed for looking with such disfavor and suspicion upon lobbying or for believing that lobbying, again, connotates something evil.

Lobbying secrecy, the lack of accountability in the reporting of money spent on behalf of lobbying activities and occasional flagrant abuses have all contributed to this environment.

A House Select Committee on Lobbying Activities, set up in 1950 and chaired by the late Congressman Frank Buchanan of Pennsylvania, asked the rhetorical question, "The individual consumer and the billion-dollar corporation have equal rights before the law, but are they equal before the lawmakers?"

How many times, for example, have loopholes been written into so-called tax reform legislation behind closed doors where it is alleged that the influence of the private interest lobbies is most effectively serviced and conversely, where the public interest can be best ignored?

In 1973, the Congress considered the Alaska pipeline controversy. Yet, according to the lobbying spending totals reported to the House Clerk by the environmental groups and the oil consortium which comprised the Alyeska Pipeline Service Co., one would hardly know that this tough and expensive battle to influence the Congress on the pipeline was going on.

Does anyone ever recall seeing a full reporting of the money spent by lobbyists on behalf of those client nations that, in past years, sought sugar quotas?

How much money has been spent over 'the years fighting for or against the establishmennt of a consumer protection agency?

How much money was spent to influence congressional approval for the merchant marine subsidy program?

Mr. Chairman, we do not know. But the public and the Congress should be entitled to know the amounts spent to influence the legislative process. One of the important lessons we should have learned from Watergate and its related scandals is that the secret lobbying with the Government and the concealed use of money must be ended.

Unfortunately, the basic lobbying law, the Federal Regulation of Lobbying Act, part of the 1946 Legislative Reorganization Act, is vague in its wording, ill defined in its definitions, and it is the main reason why the public lacks substantive information about lobbying activities.

The 1954 Harriss case decision, by the U.S. Supreme Court, held that the 1946 act was constitutional and that Congress could compel the disclosure of lobbying activities. The majority report of the Court, written by Chief Justice Warren, said that to hold otherwise, "would be to deny Congress in large measure that power of self-protection." Warren went on to write:

> Present day legislative complexities are such that individual Members of Congress cannot be expected to explore the myriad pressures to which they are regularly subjected. Yet full realization of the American ideal of government by elected representatives depends to no small amount on their ability to properly evaluate such pressures.
>
> Otherwise the voice of the people may all too easily be drowned out by the voice of special interest groups seeking favored treatment while masquerading as proponents of the public weal. This is the evil which the Lobbying Act was designed to help prevent.

Having said that, however, the Court, based upon its reading of the legislative history of the 1946 act, prepared the way for several major loopholes to take effect, thus enabling organizations to avoid registering or reporting on spending.

The Court ruled that in order to be subject to the provisions of the lobbying law, a person must solicit, collect or receive contributions, that one of the main purposes of such person or such contributions must be to influence the passage or defeat of legislation and that the intended method of influencing legislation must be through direct communication with Members of Congress.

All three tests have to apply before an individual or organization is required to register and report. If the individual or group came under one test, another might not apply, and in many cases, this is exactly what has happened.

As we know, a number of groups contend that influencing Congress is not the main or substantial purpose for which they collect or receive funds, and thus, they maintain they are not covered by the 1946 act, regardless of what kind of lobbying activities they carry on.

Further, by limiting the disclosure requirement to sums spent on direct communication with Congress, the Court, for all practical purposes, exempted grassroots lobbying from reporting requirements.

Although the Court did define letter campaigns as a form of direct lobbying, the test apparently is whether the letter campaign material is merely informative in tone or specifically urges the recipient to write to a Member of Congress on a piece of legislation.

In addition to these problems, another difficulty with the present law is that it places the responsibility of each lobbyist or organization to determine what portion of expenditures should be reported as spending for lobbying. This situation has allowed many large and powerful groups to either make no report or to report only small amounts of funds which the group claimed was used, notwithstanding its extensive lobbying operations.

Those who do register report that only a very small portion of their salary, perhaps none at all, was paid for the principal purpose of lobbying. Their expenses are treated in the same modest way.

Lastly, the current law only applies to lobbying with the legislative branch, although some of the most important and intensive lobbying is practiced with the executive branch.

Mr. Chairman, Congress has long recognized the need for more detailed lobbying disclosure, and lobbying activities have been the subject of numerous congressional hearings. The Buchanan committee concluded, over 20 years ago, that lobbying was a billion dollar a year business. Yet, the record of spending by organizations to influence the Congress in 1973, complied by the Congressional Quarterly, totaled only $9,463,000, obviously just the tip of pressure group spending.

Six years ago, a report by the House Committee on Standards of Official Conduct described the 1946 Lobbying Act as a thoroughly deficient law.

A 1975 report prepared by the General Accounting Office for the Senate Committee on Government Operations stated that while the Clerk of the House and the Secretary of the Senate have responsibility for administering the 1946 act, they do not have investigative authority to determine the truthfulness of the reports filed with them, the right to inspect records or the power of enforcement. GAO compared 50 quarterly reports filed with the Secretary of the Senate that were incomplete, including some that were received late, with corresponding reports filed with the Clerk. In most instances reports filed with the Clerk were also incomplete and/or filed late. A review of prior quarterly submissions for the same 50 registrants generally showed the same incomplete reporting.

The Superintendent of the Office of Public Records in the Office of the Secretary of the Senate deals with lobbying matters. He does not monitor violations of the act. Incomplete reports are not returned to the lobbyists for completion, and there are no penalties for late filings. Although the act does not specifically grant authority to reject incomplete reports or penalize late reporting, acceptance of such reports negates the reporting requirements. In a review of 1,920 quarterly lobbying reports filed for the third quarter of 1974, GAO found that 48 percent were incomplete and 61 percent were received late. The Department of Justice, according to GAO, does not consider itself responsible for actively seeking potential violators of the Lobbying Act. Since March 1972, only five matters have been referred to the Department of Justice. Meaningful statistics before 1972 cannot be determined. Justice does not monitor the act's registration or disclosure requirements or evaluate effectiveness or compliance with the act.

Mr. Chairman, I do not believe that anyone can quarrel with the statement that the present law is not only vague, it is a farce, ineffective and unenforceable.

The House Judiciary Committee, after considerable deliberation, has recommended H.R. 15, a comprehensive lobbying disclosure law which provides for the public disclosure of the activities of those organizations that lobby with the Congress and the executive branch. The bill does so without interfering with the constitutional rights of free speech and petition.

H.R. 15, as reported by the Judiciary Committee, would require an organization which attempted to influence the content or disposition of certain matters pending before the Congress and the executive branch to register and report as a lobbyist if the organization retained an individual or organization and paid such individual or organization a sum in excess of $1,250 in any calendar quarter for lobbying or if the organization engaged in lobbying activities through its own employees, it must employ at least one individual who spends 20 percent of his or her time on a quarterly basis engaged in lobbying and associated work.

Under the terms of the bill, lobbying activities include efforts to influence the contents or disposition of any bill, resolution, treaty, nomination, hearing, report, investigation, ex parte communication in a rulemaking proceeding, or the award of Government contracts. Attempts to influence these executive branch officials listed in sections 5312 through 5316 of title 5, United States Code, are to be covered.

Within 15 days of becoming a lobbyist the organization must register with the Comptroller General and this registration must be renewed in January of each succeeding year. The registration would require the disclosure of those individuals employed or retained by the organization for lobbying purposes.

The lobbying organization must file a quarterly report with the Comptroller General within 30 days following the end of each quarterly period. This report must contain certain information, such as the organization's identification; the total expenditures made by the organization for lobbying activities for that quarterly filing period, including an itemized listing of each expenditure in excess of $25 made for the benefit of a Federal officer or employee; and the reporting of any dinner or reception for Federal officers or employees where the total cost exceeded $500. Further, the report must disclose the identification of those individuals retained or employed by the organization for lobbying purposes and the amount of their remuneration for such activities. A description must be given of the 25 issues that the organization spent the greatest proportion of its lobbying activities. The report must contain a description of each solicitation initiated or paid for by the organization if such solicition is directed to 500 or more persons, 25 or more officers or directors, 11 or more employees or 12 or more affiliates of the organization. In addition, if an individual or organization makes a contribution in excess of the dues or contribution schedule of the reporting organization and the total income to the reporting organization from that individual organization exceeds $2,500 in any calendar year and such income is greater than 1 percent of the total dues or contributions received by the reporting organization, such individual or organization must be identified. There also is a provision for disclosing potential conflicts of interest.

The General Accounting Office will have the responsibility for administering the Public Disclosure of Lobbying Act, and while the formal enforcement authority will rest in the Department of Justice, in all cases referred by the Comptroller General to the Attorney General, the Department of Justice is obligated to periodically report back to the Comptroller General on the status of such referred cases until they have been brought to a conclusion.

Mr. Chairman, H.R. 15, as reported by the Judiciary Committee, is not a cut and paste job. It is the product of careful and long deliberations of a complex issue.

Mr. Chairman, lobbyists do represent special interests and it is well for the public to know that such types of interests are being represented in dealings with the Federal Government. Full disclosure of lobbying activities will benefit the public by enabling them to better understand the nature of special interest pressures, and they will be better equipped to hold public officials accountable for their response to these pressures. In addition, public officials also will gain by lobbying reform since they will, with public disclosure, find it easier to evaluate lobbying pressures and put them in a better perspective.

It was Justice Brandeis who, making the argument for openness in public affairs, said, "Sunlight is the best disinfectant." As we celebrate the Bicentennial anniversary of the founding of our Nation, let us recall the commitment our Founding Fathers made to the principle of open government and do our utmost to bring openness to the affairs and conduct of Government.

Mr. Chairman, I urge the House to approve H.R. 15, the Public Disclosure of Lobbying Act.

Mr. MOORHEAD of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Chairman, we have before us a bill that reminds me very much of a baby's diaper. As the chairman of the subcommittee indicates, it is simple, it is easy to understand and it serves a good purpose but it may be unsatisfactory and unpleasant to live with under certain circumstances; and it needs changing. When it is warm and full like a diaper it may be comfortable to live with, but when it cools off, oh, that is very uncomfortable and that is when the baby cries.

I think if we were to pass H.R. 15 in either of the forms before us without some amendments, when that diaper cooled off we would find it very uncomfortable, indeed.

It is for that purpose that I would like to offer amendments later on. Certainly no one in the Congress would disagree with the contention that the existing law with respect to lobbying is unworkable and it is a farce. But that does not relieve us of our responsibility as legislators to closely scrutinize the proposed replacement of that existing law.

The lobbying disclosure legislation we are considering today impacts very heavily on basic first amendment rights. We must insure that H.R. 15 does not result in an unwarranted chilling effect on the exercise of first amendment rights.

Briefly, Mr. Chairman, I would like to share some observations on the Committee on the Judiciary's version of H.R. 15. At the outset I might mention that a number of the criticisms I would level at H.R. 15 equally apply to the substitute bill put forth by the Committee on Standards of Official Conduct.

First, this legislation treats lobbyists in the public sector differently than lobbyists in the private sector. No Federal department or agency which lobbies is covered by this legislation. The bureaucracy does not need to worry about any public scrutiny of their tax-supported lobbying endeavors and efforts. No individual Federal official or employee can come under the coverage of this legislation—and we all know how much lobbying is done by the executive branch. Furthermore, the States and localities and local governments are not covered by this legislation either, even though they might specifically employ or retain an individual to represent their interests here in the Nation's Capital.

Later on, when amendments are being offered, I will attempt to deal with a very small portion of governmental supported lobbying. Specifically, my amendment would require that States and local governments register and report concerning their lobbying activities carried on by their "Washington representatives."

Second, this bill totally exempts lobbying activity carried on by volunteers. and, as mentioned before, no matter how sustained or sizable that lobbying activity might be. H.R. 15 covers only those organizations which either retain or employ individuals to make lobbying communications. An organization which relies heavily on volunteer help at the grassroots level carries a lesser burden under this measure. Even beyond that, the activities of "professional volunteers" such as Mr. Nader who has been mentioned earlier, will not be reflected in an organization's report under the bill. When "Congress Watch" reports in compliance with section 6 of H.R. 15, Mr. Nader's activities will not be reflected in the expenditure figures nor in lobbying issues that will be listed.

No matter who the volunteers are, if they carry on continuous sustained lobbying activity, then fairness dictates that they should be included in any such bill. We are not here to make a value judgment about good lobbyists and bad lobbyists. During the 5-minute rule I will offer an amendment that will include a third threshold test for an organization to become a lobbyist. This amendment, very similar in content to the measure passed by the Senate, or a portion of it, would cover any organization that makes 12 or more oral lobbying contacts or communications in a calendar quarter. It is my view that this contacts test is the most fair manner to judge serious and genuine lobbying activity.

Next, the bill flirts with an outright violation of the first amendment, the right to petition for grievances. Constituent communications to his or her own Senator or Congressman should never be considered a lobbying activity, but under this bill in many instances this would be the case. I intend to offer yet another amendment which would include in H.R. 15 broad language exempting constituent communications. The language in this amendment is identical to that which was contained in the bill as reported by the Administrative Law Subcommittee of the Committee on the Judiciary when it was reported to the full committee.

Fourth, H.R. 15 covers activities that never before have been considered lobbying. I speak in particular about the coverage of Government contracting and procurement. While the awarding of Government contracts should be closely scrutinized to insure that no illicit or illegal influences have been brought to bear, it is simply not appropriate to include that subject matter within the scope of a lobbying disclosure bill. Compliance with the demands of H.R. 15 will be extremely burdensome and costly for the companies involved, while providing very little information to the Congress or to the public. When the Judiciary Subcommittee on Administrative Law conducted its hearings on proposed lobbying reform bills, this issue was never discussed in any detail. Here again I intend to offer an amendment to delete this unwise aspect of H.R. 15.

Mr. DEVINE. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Ohio.

Mr. DEVINE. I thank the gentleman for yielding.

I asked the gentleman to yield for a point of information. It is my understanding, hearing some of the discussion here, that probably the most active lobbying group in support of this legislation is John Gardner's Common Cause. It is my own understanding, further, that under the terms of the current bill his organization will not be included, nor would Mr. Nader's. I would ask whether the amendment that the gentleman from Ohio intends to propose would include Common Cause under the provisions of this bill.

Mr. KINDNESS. It would. I do not think it is quite fair to state that the existing provisions of the bill do not cover Common Cause, but they do not cover many of the activities of Common Cause.

One illustration is that of a personal experience in my district. There was an article in a local newspaper which was released by the local chairman of the Issues Committee of Common Cause for Butler County saying that this chairman had contacted me—had contacted Congressman KINDNESS—and urged action to move the financial disclosure bill out of the subcommittee, the same subcommittee out of which this bill came, when, indeed, I saw no such contact. The fact is that he was not lobbying because he did not communicate with me at all. However, by getting that news release published, there was some effect in so doing; but literally that activity would not be covered. Beyond that, being an unpaid volunteer, even though continuously engaged in activities intended to influence legislation, that person would not be covered, and others who are volunteers would not be covered. The issues on which they lobbied would be reported under the existing language of the bill, but their names would not be reported, and their activities would not really be disclosed.

Mr. DEVINE. If the gentleman will yield further, we share the same State, although we are in different congressional district, of course. I have been lobbied by the State director of Common Cause, and others who came in, in support of this legislation, and I indicated that I support the principle of the Lobbying Disclosure Act and intended to vote for the bill, but it seems to me this organization which is so hot for this legislation would be exempt from the provisions of the bill altogether.

It seems to me when we consider the amendment we should put in a pretty broad blanket to include all the people who actually lobby the Congress of the United States.

Mr. KINDNESS. As the gentleman knows from years of legislative experience, whenever it comes to touchy legislation we can always get the greatest amount of support from those who are not covered by the legislation.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I expressed myself with respect to this subject at the time we debated the rule under which this legislation is being discussed here today.

Mr. Chairman, I would like to speak in support of the amendment which will be offered by the gentleman from Ohio (Mr. KINDNESS) which would provide coverage of nonsalaried lobbyists of organizations covered by this measure. The amendment would, I believe, reach such active lobbyists as Ralph Nader who now appears to be exempted from the bill's coverage. It is my firm belief that lobbying reform, if passed, should be directed toward all of those who engage in what might be described as "consistent and substantial" lobbying. I should note that in committee I attempted, through other means, to include under the coverage of this act persons whom I believed are presently excluded from coverage, but who, nevertheless, exercise great influence over the votes cast by Members of both Houses of Congress. I, therefore, commend the gentleman for his efforts toward the same end.

H.R. 15, as reported, establishes, in section 3 of the act, two threshold tests for determining what activities are covered. First, in subsection 3(a)(1), it provides that any expenditure "in excess of $1,250 in any quarterly filing period for the retention of another person, to make oral or written communications directed to a Federal officer or employee—thereafter defined), to influence the content or disposition of any bill, * * *" triggers coverage. A "person" could be a law firm, consulting firm, or other independent constractor, or an individual who is not otherwise an employee of the retaining organization. Subsection 3(a)(1) also sets forth specific activities which are to be covered. Subsection 3(a)(2) establishes the second of the two thresholds which, if exceeded, will require an organization to register and report under the bill. To be covered under this test an organization would have to employ "at least one individual who spends 20 percent of his time or more in any quarterly filing period, engaged on behalf of that organization in those activities" previously referenced. The key word in the applicability section is "organization"; individuals are not required to register or report under this act.

The amendment to be offered by the gentleman from Ohio would make possible the coverage, under this act, of those who, though they are unpaid, exert immense pressure and influence on Members of Congress. It would track language contained in the bill passed by the other body, S. 2477, in that it will employ, in addition to the above tests, a "communications" or "contacts'" test. It is my firm and unfailing belief that if we are to enact legislation which will represent reform of the lobbying industry, we should, with the obvious exception stated in the bill, reach all those whose business it is to influence the outcome of legislation in the Congress of the United States. The primary catalyst of this legislation is the public's right to know what influence is exerted: that right to know should not be abridged by technical omissions. I urge your support of this amendment when it is offered following the conclusion of general debate on this measure.

I hope the legislation will not adversely affect any first amendment rights of any individuals. I know that may not be the intent of any of those who are promoting this legislation, but nevertheless since it is going to require reporting of all persons who do lobbying and who are engaged in influencing legislation, I am happy that the gentleman's amendment will be offered which will provide us with an opportunity to provide this coverage of persons such as those who might not now be covered because of the exemption which just automatically applies because of their being nonsalaried or involving less than 20 percent of his time in behalf of lobbying work or in behalf of an organization.

I thank the gentleman for yielding.

Mr. KINDNESS. I thank the gentleman from Illinois for his expression of support for that amendment.

I would only go back to the simile of the diaper which when it is brand new and fresh is soft and comfortable, but again if we do not change it, it is going to be uncomfortable.

Mr. Chairman, going quickly to the other matter of Government contracts being included under this bill, I will hope to cover that subject in more detail later when the amendment will come under consideration but I would like to point out one of the fallacies in having the area of Government contract awards included within the bill. It gives rise to the possibility that a corporation, for example, that might engage in much Government contract work, whether for research or for ordinary procurement, and which also engages in lobbying activities could hide its real lobbying activities, under the existing terms of H.R. 15, by referring to as many as perhaps 25 Government contracts as the issues that have to be reported, as involving the most time of the people engaged in supposedly lobbying activities. And the real lobbying activities would not be reported at all. That is an extreme situation but I feel rather certain it could occur with a number of defense contractors, for example.

If there is anything that gives rise to the enthusiasm for support of this bill, I think it is some of the recent disclosures that relate to activities of some of the companies involved in defense procurement and Government contracting. I think we are making a serious mistake in treating that exactly the same, for purposes of this bill, as lobbying in the legislative process or the administrative rulemaking process.

Mr. Chairman, I would like to make just a quick comparison between the bill reported by the Committee on the Judiciary and the bill reported by the Committee on Standards. I believe there are these drawbacks to the bill as reported by the Committee on Standards which we ought to take into account before deciding which of these measures really should be adopted, with or without amendments.

No. 1 is the definition of "solicitation." The Committee on Standards substitute definition of the term solicitation does not include the language which excludes communications between two registered organizations. What this means is that one lobbying organization writing to another lobbying organization becomes a reportable activity. I do not think that is intended; but, indeed, I believe that is what the language does as reported by the Committee on Standards.

No. 2 is solicitations as a threshold. Like the Senate bill, their substitute would trigger coverage of an organization solely based on indirect grass-roots lobbying activity. It could trigger an organization into coverage just because of indirect grassroots lobbying activity. Section 3 (a)(3) provides that an organization can become a lobbying organization by spending in excess of $10,000 in a 6-month period or who solicits others to make lobbying communications.

I hardly think that is the area that is most important, to trigger in an organization as a lobbying organization. Indeed, I question whether that indirect kind of lobbying has anything hidden or secret about it at all. It is public and rather out in the open.

No. 3 is alternation of the 20-percent time test. In other words, the use of the 20-percent employees standard in section 3 (a)(2), the Committee on Standards provides for an organization to become a lobbyist by any of its employees spending 6 or more calendar days lobbying within a 6-month period. Based on a 40-hour week, the test comes to 8 days in the judiciary bill and, consequently, the threshold based on employees' activities is easier to cross to gain access to the coverage of the bill.

I think maybe that is a matter of judgment I need not go into at this time.

As to the matter of a speech or address, would the gentleman from Florida (Mr. BENNETT) care to comment on that?

Mr. BENNETT. Mr. Chairman, if the gentleman will yield. None of it was accidentally done. All the bills bring lobbying in and that was the intention.

Mr. KINDNESS. Mr. Chairman, I appreciate the gentleman's point of view. I do not suggest it accidentally happened or was accidentally done. However, I would suggest that, from my point of view, the judiciary bill is better from the standpoint of including the things we really want to get at; whereas I believe the bill of the Committee on Standards tends to include far beyond what is necessary.

Mr. BENNETT. Mr. Chairman, if the gentleman will yield, I do not think the worst type of lobbying around here is grass-roots lobbying. But it is not always clearly lobbying. Actually, it is an easy situation to recognize and it has been experienced by all of us. Many of you have to be here only a few years to know whether we are getting insincere letters. I do not think there is anything more effective than a grass-roots lobbying campaign, and it can be bought, as anything else.

Mr. KINDNESS. Mr. Chairman, I was going to ask, has the gentleman from Florida ever failed to recognize a grass-roots campaign from the letters coming in?

Mr. BENNETT. I cannot recognize one now that did not come in.

Mr. KINDNESS. Well, the Committee on Standards deleted from the bill as reported by the Committee on the Judiciary a reference to a speech or address in the exemption, equating it to messages in newspapers or books or magazines. The speech or address language that had been added in the Judiciary subcommittee exemption language upon the recommendation of the American Civil Liberties Union and the Sierra Club. It is probably safer constitutionally to keep that language in the bill. I think we are dealing all along the way here with first amendment rights and the delicate balances necessary on some of these points.

Organizational communications is another point. From the beginning, the judiciary bill has exempted communications made by an organization to its own membership.

This language was deleted in the standard substitute, but the fact that it is there broadens the coverage of the bill, and our subcommittee of the Judiciary Committee concluded that, here again, first amendment rights attached to communications even within an organizational framework.

Section 4 of the Standards of Official Conduct bill added a number of new, burdensome details to the annual registration form, and that must be filed. I wonder how much good it will do, and certainly hope to hear further on that point.

The Standards of Official Conduct Committee version deletes the reporting provision which would disclose contributions, no matter how large they are, to a lobbying organization, and no matter if they exceed a given dues schedule. The Judiciary Committee version does provide for those exceptional contributions to lobbying organizations to be reported.

Advisory opinions by the Comptroller General are not provided for in the Standards of Official Conduct Committee bill, as they are in the Judiciary Committee bill, and here again I would suggest that we consider very carefully which version will solve the problem better and protect our first amendment rights of all Americans better. When I say "all Americans," I am speaking of lobbyists as well as anyone else. I would urge that in consideration of the two bills, that we look very closely at the Judiciary Committee version for the reason that it does include some longer thought out, I believe, expressions of the legislative purpose; whereas I understand the markup session in the Standards of Official Conduct Committee really was accomplished in one afternoon, and I believe it reflects some difference in the consideration given to first amendment rights.

Mr. BENNETT. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. FLOWERS. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from New York (Mr. BADILLO), a member of the Judiciary Committee.

Mr. BADILLO. Mr. Chairman, I want to commend the gentleman from Alabama (Mr. FLOWERS) for his work on this bill. I rise in support of this legislation.

Mr. Chairman, the atrocities of Watergate have awakened this country to call for a more open government. Congress has met the challenge of improving the institution of Government so as to make both Congress and the executive branch more open and responsive to the people. The Election Reform Acts of 1972 and 1974, the Budget Reform Act, and the Freedom of Information Act are examples of such efforts.

Although much has been accomplished, much more needs to be done. Lobbying plays a valuable and indispensable role in both the legislative and executive processes. Lobbying is a basic constitutional right, protected by the first amendment. Information must flow to Congress and every Federal agency, without which Government could not function.

Unfortunately, there is another side to lobbying. Lobbying also connotes sinister relationships, under-the-table pressures, and absolute secrecy. There is a widespread suspicion, even when unjustified, that secrecy breeds undue influence and corruption. Common Cause Chairman John Gardner has identified lobbying as among the "most secretive and potentially corrupting ingredients in American politics."

Today as we consider H.R. 15, we seek to dispose of the view that Government is the puppet of wealthy citizens and powerful interest groups with special access to Congress and the executive branch. With this legislation we seek to restore the American people's trust and confidence in Federal Government by laying bare the practices of lobbyists to full public view.

The failure of the present lobby law, the 1946 Regulation of Lobbying Act, is well known. There are large loopholes which allow many interests to avoid registration. Lobbying within the executive branch is not covered and there is virtually no enforcement of the lobby law. The legislation before the House today strikes a careful balance between the public interest in full disclosure of who is influencing public officials, on the one hand, and the public encouragement of citizen groups to present their views to their elected representatives, on the other. I commend the gentleman from Alabama (Mr. FLOWERS) and his subcommittee for providing us with such an excellent bill.

Knowing that there is widespread concern within Congress for lobby reform, I urge my colleagues to give their strong support to H.R. 15 as reported by the Judiciary Committee.

Mr. FLOWERS. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California (Mr. EDWARDS), a member of the Judiciary Committee.

Mr. EDWARDS of California. Mr. Chairman, as I pointed out in my dissenting views and after reading the hearings, I have some very real problems with this legislation. However, I want to say that most of the problems have to do with the Senate bill and many of them have been cleaned up by the good work of the gentleman from Alabama and his subcommittee.

We must always be extremely careful about infringing upon the constitutional right to petition the Government for a redress of grievances. With this in mind, we have to very carefully consider this legislation and I think it is important to establish a legislative history.

This is a disclosure bill, and there are extensive reporting requirements. My fear has been that these reporting requirements will fall most heavily on those least able to afford it, the low budget groups back home, grassroots lobbyists, often organized on an ad hoc basis to address a single issue. Will they be discouraged by the mountains of paperwork? There will be considerable paperwork connected with lobbying pursuant to this legislation. The organizations that I describe as grassroots lobbyists will be the ones that will have the most difficulty in complying with the bill and, indeed, might be discouraged from lobbying because they do not have adequate staff available.

They seldom have very much money. The big corporate lobbyists on the other hand, would not be discouraged by the reporting requirements because they, of course, can well afford to have CPA's and lawyers on the payroll.

In addition, the penalties are very severe in this bill. The fines can run as high as $10,000, and a person convicted of violating certain sections of the bill can be sent to a Federal penitentiary for a period of up to 2 years. Grassroots lobbyists, unable to afford legal counsel, may choose not to lobby rather than risk violation of this bills requirements.

Mr. Chairman, we have had some experience with a lobbying bill in California. It is called proposition 9, and it has been the law in California for well over a year. I refer to a article in the September 1976 issue of the California Journal on how this law is working. The California Journal is a highly respected publication, regularly reporting on the law and politics in Sacramento. This article on propositioning points out that the law has worked out so that the influential lobbyists, the corporate lobbyists, have no great difficulty complying with the disclosure provisions. I quote from the article:

> With small staffs and limited budgets, public-interest advocates can't afford the expert counsel needed to interpret the strict reporting requirements of the law.

Bill Keese, a representative of the California Dental Association, is quoted in the article as saying:

> In this sense Proposition 9 has actually served as a grandfather clause for the established lobbies. . . . The law was intended to be a spur to grass-roots politics, but the effect has been totally the opposite.

The article says:

> . . . that Proposition 9 paperwork is so complex, it actually works against the public right to review disclosures.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. FLOWERS. Mr. Chairman, I yield 2 additional minutes to the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Chairman, I would like to take this time to ask the distinguished gentleman from

Alabama, the Chairman of the subcommittee, a question.

The situation in California, with the strict disclosure requirements, has worked to the disadvantage of grassroots organizations to such an extent that a review is being made of the regulations. The regulations drafted as a result of the law were so complex and required so much paperwork that the result has been a chilling of efforts by grassroots neighborhood organizations.

Mr. Chairman, my question to the gentleman is this: Does the Judiciary Committee, in particular, the subcommittee, intend to exercise careful oversight of the law to assure that the regulations are not so burdensome as to discourage the kind of grassroots lobbying that is so important and constitutionally protected?

Mr. FLOWERS. Mr. Chairman, would the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Alabama (Mr. FLOWERS).

Mr. FLOWERS. I thank the gentleman for yielding.

Mr. Chairman, I can assure the gentleman that it is the intention of the gentleman from Alabama to continue the oversight in this field, insofar as our jurisdiction obtains and insofar as our time constraints permit.

If the gentleman had been here during the preceding debate—and I believe he was—I know he understands and appreciates that we have attempted to strike a balance between requiring strict compliance on the part of grassroots organizations which some would have on one hand and requiring no compliance on the part of grassroots organizations which others would have. We think we have struck a reasonable balance here, and it is our intention to continue with oversight of this legislation. The legislation provides that GAO will promulgate rules and regulations to administer the law, and we believe that with proper oversight we can assist them in maintaining that balance.

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman.

Mr. MOORHEAD of California. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Chairman, the ineffectiveness of the existing Federal Regulation of Lobbying Act is well documented. The 1946 law was badly drafted to begin with and the Supreme Court's desperate balancing act to save the law in the Harriss case only resulted in adding more fatal loopholes. What we have then is a confusing and vague statute, with little or no machinery for its enforcement. Perhaps the most telling point, demonstrating it ineffectiveness, is the fact that there has only been one successful prosecution under the Lobbying Act in 30 years.

The first amendment states that—

> Congress shall make no law abridging the freedom of speech . . . or the right of the people to assemble, *and to petition the Government for a redress of grievances.*

Lobbying is a first amendment right and has consistently been judicially recognized as such. *U.S.* v. *Harriss,* 347 U.S. 612 (1954); *Liberty Lobby* v. *Pearson,* 390 F. 2d 489 (1968). So, let there be no mistake about it, when we legislate to regulate lobbying activities we are regulating first amendment rights. The pivotal issue facing this House is whether or not the regulation prescribed by the Judiciary Committee's version of H.R. 15 is reasonable. I think it is.

When legislation impacts upon first amendment rights, it is subject to a "balancing" test defined by the Supreme Court. Is there a substantial relationship between the information sought and a compelling State interest which justifies the accompanying regulation of first amendment rights? *NAACP* v. *Alabama,* 357 U.S. 499 (1958); *Bates* v. *Little Rock,* 361 U.S. 526 (1960); *NAACP* v. *Button,* 371 U.S. 415 (1963); *Gibson* v. *Florida Legislative Committee,* 371 U.S. 539 (1963). Certainly, no one would argue with the fact that the Congress and the American public have a strong, even compelling, interest in knowing who does what to influence Federal policies and policymakers. If enormous amounts of money are spent to directly influence the content of legislation or administrative regulations, then the public has a right to know.

I would emphasize that H.R. 15 is a disclosure bill—no exercise of first amendment rights is forbidden, prevented, or foreclosed. The bill places the burden of registration and reporting on organizations, rather than on individuals. The bill contains a series of exemptions which amplify and recognize the first amendment rights. I am greatly troubled by the Standards Committee substitute which proposes deletion of the so-called geographic exemption. This exemption, if anything, should be broadened to insure there will be no interference with a constituent's right to communicate with his Represenatives in Congress.

Finally, I would stress that H.R. 15 contains the adequate machinery for administration and enforcement, which is so sadly lacking in the existing law. The GAO; that is, the Comptroller General, is given the primary responsibility for administering and implementing the new law. Among other things, the Comptroller General is given the power to investigate apparent violations of the act and has the authority to attempt to correct the matter by informal methods of conciliation. If such conciliation fails, he then must refer the matter to the Justice Department for prosecution. Both civil and criminal penalties are possible under the bill.

I do not mean to say that H.R. 15 cannot be further improved. Frankly, I question the wisdom of the 20-percent employee threshold test in section 3(a)(2) of H.R. 15. It seems to be too easy a threshold to cross. Further, I think the broader constituent exemption—originally included in the Administrative Law Subcommittee's version—should be reinstated in the bill.

I understand that amendments will be offered during the 5-minute rule to deal with and improve the specific provisions I question. However, I strongly feel that after spending a year and a half with this complicated and complex issue, that the Judiciary Committee is in a better position to recommend legislation on lobbying to the House. In conclusion, I again want to emphasize that lobby reform legislation is badly needed and long overdue. The Judiciary Committee's bill is a moderate and rational approach to the genuine disclosure we all seek, without imposing an unconstitutional "chilling effect" on first amendment freedoms.

Mr. SPENCE. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. MITCHELL).

Mr. MITCHELL of New York. Mr. Chairman, I wish to speak in support of the ethics committee substitute to H.R. 15. As we consider the important topic of lobbying disclosure I am reminded of a comment made at the Constitutional Convention in 1787 by that wise, old sage, Benjamin Franklin:

> Much of the strength and efficiency of any government, in procuring and securing happiness to the people, depends on opinion, on the general opinion of the goodness of that government, as well as of the wisdom and integrity of its governors.

We do not need any more reminders that in the minds and hearts of a great many Americans questions abound about the wisdom and integrity of those of us privileged to serve in high office, be that office elective or appointive. Let us not kid ourselves, these questions are not simply those of the confirmed cynics. They are the questions of a sincere, concerned, inquiring public from coast to coast.

While questions most certainly do abound about such critical virtues as wisdom and integrity, that by no means should be construed as evidence the answers are negative.

Based upon my experience, our Federal Government is people with hard-working men and women of principle, men and women who demonstrate daily in the discharge of their important duties the virtues of wisdom and integrity.

Why then, we should ask, are so many people doubtful.

My conclusion, after much deliberation, is the mystery which surrounds so much of what we do on a day-to-day basis, coupled with the extensive exposure given to accounts of the few who have strayed from the course of the many, prompts the discerning observer to ask questions.

The business of government is the people's business. If we are to meet with any degree of success in our effort to convince the American people what we all know to be true—there is goodness in government with wisdom and integrity in its governors—we must be forthright and open in making available to the public as much information as is possible and practical about what we are doing and how we are doing it.

In short, more openness in government.

This rather lengthy preamble brings me to the case in point, the discussion of the need for more comprehensive legislation falling under the general heading of lobbying reform as provided by the Ethics Committee substitute.

I truly believe passage of this sensible, workable measure requiring more extensive registration of professional lobbyists and greater public disclosure of their activities serves the best interests of all concerned—the American people, the men and women who hold a public trust by virtue of high office in the Federal Government, and the professional lobbyists.

It should be clear we are not attempting to eliminate legitimate lobbying activities. In our system of government, the professional advocate plays an important role.

What we are about is a sober, serious endeavor involving the removal of the cloud of secrecy which hovers over the activities of the professional advocate, the paid lobbyist who advances a point of view in an attempt to influence determinations made by the legislative and executive branches of our Federal Government.

It is a just and worthy cause, one that should be championed by all concerned. The business of government is the people's business. Let us share with them information which is rightfully theirs. Let us help remove that cloud by voting for the Ethics Committee substitute to H.R. 15.

Mr. FLOWERS. Mr. Chairman, I have no further requests for time.

Mr. BENNETT. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. MOORHEAD of California. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, I am pleased that we are today voting on H.R. 15, the lobby bill, and would particularly like to commend the subcommittee, chaired by my good friend and colleague WALTER FLOWERS, as well as Mr. MOORHEAD of California, for the efforts they put into the legislation. As you all know, the legislation was overwhelmingly reported by the House Judiciary Committee, and a similar bill has already passed the Senate. Hopefully, we will act without delay so that lobby reform can become a reality this year.

Lobbying itself can be a most useful service to lawmakers. Most lobbyists are ethical and principled men or women. Some are not. The few give the rest a bad name.

The existing statute is a sham. It is so treated by a multitude of professional lobbyists and Washington representatives who should certainly register and should certainly report, but who do not. One only has to look at the roller coaster history of registrations to see a cycle of highs and lows depending on what scandal has occurred which has prompted a rash of registrations. Once the scandal has subsided, then so do the registrations.

H.R. 15 is designed to correct several deficiencies in existing law. Because of the Harriss decision (347 U.S. 612) the definition of lobbyist includes only those whose principal purpose is lobbying. That has been used by many trade associations, labor unions, professional organizations, consumer groups, and Washington lawyers to avoid registering, even though everyone knows that a great part of their time is spent seeking to influence legislation or policy.

Second, even though the 1946 act contains the word "indirectly," the Harriss decision interpreted the act to relate only to direct lobbying contacts. Contacts with members of a congressional staff and much of the grassroots pressure are thus exempted.

Third, the efforts of lobbying the executive branch are not now covered, and

Fourth, enforcement is virtually nonexistent.

I would like to point out that a GAO report last year found that of 1,920 reports filed for the third quarter of 1974, 917 did not even sufficiently complete all their answers to the questions. In addition, 1,175 reports were filed late.

The need for lobby reform is clear, and I believe that H.R. 15—by defining in terms of the money or time spent on influencing Government policy, by including direct and indirect efforts, by relating to certain types of executive branch lobbying, and by placing enforcement in the GAO—will provide such reform.

To conclude, I would like to stress that I firmly believe that seeking to influence the decisions of Government officials is not inherently wrong or evil or injurious to the policymaking process. This is a right guaranteed by the constitutional safeguards of free speech, assembly, and petition for the redress of grievances. Further, interest groups often provide information and assistance that is unavailable elsewhere.

However, I believe just as strongly that we must also do away with the secrecy that too often dominates lobbying activities and which undermine accountability and contributes to the loss of confidence in the conduct of our Government. Unless the activities of all lobbyists are brought out into the open, the secrecy which protects the unsavory conduct of a few will condemn the reputation of all.

The need for lobby reform cannot be overstated. We all know of the valuable role the lobbyist plays in the day-to-day work of Congress. Five years before he became President of the United States, John F. Kennedy described a lobbyist's functions in an article for the New York Times. It said in part:

> Lobbyists are in many cases expert technicians and capable of explaining complex and difficult subjects in a clear, understandable fashion. They engage in personal discussions with Members of Congress in which they can explain in detail the reasons for positions they advocate . . . Lobbyists prepare briefs, memorandums, legislative analyses, and draft legislation for use by committees and Members of Congress: they are necessarily masters of their subject and, in fact, they frequently can provide useful statistics and information not otherwise available. Because our congressional representation is based on geographic boundaries, the lobbyists who speak for the various economic, commercial, and other functional interests of this country serve a very useful purpose and have assumed an important role in the legislative process.

This statement is even more true today than it was then. In this complex and diversified modern world, with its ever expanding information explosion, representatives in Congress are hard pressed to absorb all of the necessary information they need to make sound decisions. It is here that the lobbyists perform their vital task of assisting and supplementing the work of Congressmen. They inform the legislative and executive branches how various Government programs are working, what adjustments need to be made, and what injustices should be remedied.

Mr. Chairman, the Constitution safeguards lobbying by its guarantee of free speech and as an exercise of the right to petition for a redress of grievances. Unfortunately this constitutionally guaranteed right has, in the view of many Americans, been perverted into a sordid picture of the lobbyist as a covert operator. Such descriptions are grossly unfair to the vast majority of lobbyists who conduct themselves with professional integrity. But, unless the activities of all lobbyists are brought out into the open, the secrecy which protects the unsavory conduct of a few will condemn the reputation of the many.

There has been a groundswell of opinion in favor of lobby reform. H.R. 15 has been cosponsored by over 150 Representatives. It has been overwhelmingly reported from the House Judiciary Committee. Forty-eight of the 50 States already have some form of lobby law on their books. In fact, 13 of these States have just recently—with the past year and a half—either amended or written new lobby laws. As the Republican Task Force on Reform said in its draft statement on lobbying disclosure:

> The States are moving . . . so should Congress.

Mr. Chairman, the Senate has already passed legislation similar to H.R. 15. The time has come for the House to continue previous legislation to open up the government system and pass this bill to reform lobbying activities.

Historically the dangers of secret lobbying were understood by the Founding Fathers. James Madison, writing in the Federalist, set forth the importance of divergent groups upon government and the reasons for their development. But he also warned that special interests must never exert such influence as to prevent the development of laws insuring the greatest good for the greatest number.

Madison's concern for the "mischief of faction" has echoed down from the past, and the revelations of Watergate pointed out recent corruption in the lobbying process—such as the ITT and milk-fund scandals.

Regretfully, such lobbying abuses are not new to the legislative process. Between 1913 and 1946, when Congress passed the Regulation of Lobbying Act, there were no fewer than 10 congressional investigations of alleged lobbying abuses. Even more disturbing is the fact that since passage of the 1946 act, we have had at least that many investigations of alleged improprieties.

The 1946 Regulation of Lobbying Act—the present law governing lobbying—was intended originally to "expose to the pitiless light of publicity" the activities of lobbyists. It was rooted in the belief that we must provide an opportunity for representation, but not for manipulation.

The legislation was designed to bring lobbying of Congress out into the open. Congressmen would then be able to more adequately evaluate the pressures brought to bear on them, and the public would be able to hold accountable both Congressmen and interest groups responsible for illegal or improper activities.

However, as the law is presently construed, large loopholes exist which allow many interest groups to avoid registering as the act originally intended them to do. Under the narrow definitions of the law as set forth by the Supreme Court, numerous organizations do not register as a lobbying group by claiming that lobbying is not the "principal purpose" for which they collect or receive funds.

In addition, there is virtually no enforcement of the lobbying law. It does not require the Clerk of the House or the Secretary of the Senate, to whom reports are presently made, to investigate lobby registrations and financial reports for truthfulness; nor can they require individuals or groups to register as lobbyists. For instance, a GAO report made at the request of Senator ABRAHAM RIBICOFF in April 1975 found that of 1,920 reports filed for a third quarter of 1974, 917 did not even sufficiently complete all their answers to the questions. Furthermore, 1,175 were filed beyond the deadline of the 10th day of the following quarter. The Justice Department, the GAO found, "does not consider itself responsible for actively seeking out potential violators" and "has no specific written criteria on whether a complaint should be investigated." GAO assistant director, Jack Wild, concluded that "the lobbying law is enforced inadequately, if at all." A principal problem, he said, is that the 1946 act provides no enforcement of the disclosure requirement.

In the past, lobby registrations have fluctuated widely. Their roller coaster like rise and fall has merely reflected the change in atmosphere rather than the true number of lobbyists. It is, of course, somewhat difficult to establish and verify casual relationships between the rise in lobby registrations and times when Congress has investigated lobbying abuses. However, I do think that an effective lobby law could significantly discourage the type of registration fluctuations that we have witnessed in the past. For example, Watergate was investigated by Congress from early spring 1973 through the impeachment inquiry which ended in the summer of 1974. Available lobby registration figures disclose that for the period from October 1972 through December 1973, 799 persons registered as lobbyists. This is compared with the 374 persons who registered as lobbyists during the immediately preceding period of December 1971 to October 1972. This was more than a twofold increase. Again, the investigation into the activities of Bobby Baker was followed by a rise in lobby registrations. Baker was indicted in early 1966 after a 15-month investigation. Between October 1966 and December 1967 lobby registration totaled 449; while the total between October 1965 and October 1966 was only 332. In the period immediately following December 1967 registration dropped again—almost in half. These are the types of fluctuations that H.R. 15 is intended to correct.

The lobby reform bill is based on the premise that those who seek to influence public policy should, themselves, be open to public scrutiny. The bill does not in any way prevent or limit legitimate lobbying activities. It does not prescribe what a lobbyist can or cannot do. It does not restrict a lobbyist's activities. Rather, the intent is to do away with the elements of secrecy that too often dominate lobbying activities. Such secrecy in the policymaking process undermines accountability and contributes to the loss of public confidence in the conduct of Government.

Specifically, H.R. 15 covers only organizations that spend at least $1,250 in a quarter to make oral or written communications to a Federal officer or employee to influence legislation or other proceedings. It also covers those organizations that employ at least one individual who spends 20 percent of his time lobbying.

Specific exemptions are allowed for communications by an individual acting on his own behalf for redress of personal grievances or to express his own opinion; for communications submitted for the record or in response to a published notice; for practices and activities regulated by the Federal Elections Campaign Act of 1971; for communications made through the mass media for distribution to the general public or the membership of an organization; for statements given in congressional hearings; and lastly for communications to Members of the House, Senate, or their staffs from anyone residing in their home State or district.

The bill requires the identification of the lobbying organization and a general description of the methods by which it arrives at its position with respect to any issue. H.R. 15 also requires the identification of any person retained to make communication and any employee who spends 20 percent of his time on covered activities.

The Lobby Reform Act provides for the reporting of such information as the identification of the lobbying group; and a list of total expenditures made pursuant to the employment of persons to lobby, including an itemized listing of each expenditure in excess of $25. The bill also allows for disclosure of expenditures made for social activities such as receptions and dinners where the total cost of the event exceeds $500; for a description of the 25 issues upon which the organization spent the greatest portion of its efforts; a description of certain grassroots lobbying; disclosure of certain business relationships between the organization and Federal employees; and lastly, in some instances, a disclosure of the dues and contribution schedule of the organization.

H.R. 15 would be administered and enforced by the Comptroller General who would be provided with civil and criminal penalties to be administered. Finally, any regulations proposed by the Comptroller General under the act may be disapproved by a resolution of Congress at any time up to 90 days of continuous session after the regulations are first transmitted to Congress.

Some have argued that the bill will cause too much bookkeeping and related activities needed to compile the lobby registrations. However, according to Dick Clark, one of the chief congressional lobbyists for Common Cause, none of the lobbyists fail to keep their own expense account, so these other new provisions would be no great burden.

Mr. Chairman, the House recently took bold steps to make our governmental system more accountable and accessible to the public. In the last Congress, we decided to open up our committee meetings. As a result, in 1973, only 10 percent of all House hearings and business meetings were closed to the public—compared to more than 40 percent in 1972. Also, last Congress we passed the far-reaching campaign reform law. Surely we cannot call for explicit reform of the electoral process, and neglect the need for reform in the lobbying process.

It has been nearly 30 years since Congress passed legislation requiring information about lobbying activities. In each of these years there have been questions raised about the ways that certain lobbyists operate, and the present law has proved totally incapable of curbing lobbying abuses. The era of Watergate eroded America's confidence in our system of government, and lobbying activities were partially to blame. Now, in the aftermath, I am convinced that Congress can do much to restore public confidence by passing effective lobby legislation. The time has come to take a firm stand against continued secrecy in governmental deliberations. We must act to strengthen our democracy and open its processes to the public. The need is too great not to move. We need this lobby reform and I strongly urge the passage of the bill.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FLOWERS. Mr. Chairman, I yield 2 additional minutes to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I appreciate the gentleman's yielding to me the extra time.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I will be happy to yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Chairman, I thank the gentleman for yielding. I merely would like to commend the gentleman from Illinois (Mr. RAILSBACK) for the part he has played in getting this legislation moved forward. Not only is the gentleman one of the original sponsors of H.R. 15 along with the gentleman from Wisconsin, but he worked with the subcommittee and the full committee, he advised us and consoled us and played a very worthwhile part in helping get this legislation moved forward. I thank him very much for his efforts.

Mr. RAILSBACK. Mr. Chairman, I thank the gentleman for his kind words.

Again, Mr. Chairman, I urge the Members to support the passage of this legislation.

Mr. SPENCE. Mr. Chairman, I yield

5 minutes to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Chairman, I thank the gentleman from South Carolina for yielding me this time.

Mr. Chairman, this piece of legislation has been variously described thus far in the debate. My friend, the gentleman from Ohio (Mr. KINDNESS), equated it to a child's full diaper. I do not think that even in my most strenuous opposition I would condemn it that way. It is to be condemned by its own title, the "Public Disclosure of Lobbying Act of 1976," as if there were something wrong with lobbying which justifies its disclosure. I want the members of the committee to think about what the evil is. This bill, of course, is directed to oral or written communications made by an organization to a Federal official. Is that the evil which is popularly criticized when one discusses lobbying? Of course it is not. This bill has nothing to do with the evils of lobbying; rather, it exacts a high administrative price upon an organization, fully entitled to first amendment protection, that has the temerity to communicate with its government.

Mr. Chairman, I was raised to believe that communications with government are a virtue. Indeed, we have a duty to encourage people in a representative democracy to talk to their government and to reflect their points of view. This bill puts a price on the exercise of that right. If the bill passes constitutional muster depends on whether the price is too high.

The regulatory scheme can be said to have a chilling effect on first amendment rights if the price of exercising that right is such as to raise the unreasonable risk that some will forgo the exercise of that right. If the law or regulation has a chilling effect upon the first amendment it cannot be condoned.

Members of the committee, this bill places a very high price indeed upon communicating with government and does not deal at all with the excesses of lobbying.

What I am trying to convey to the Members in attendance is that this bill is directed to the wrong target. It ought to be referred to the committee to rethink this matter. A better bill would identify what is wrong with lobbying, identify the abuses, and appropriately punish them. That is the right approach to the problem.

In attempting to require public disclosure of lobbying, the bill has a series of definitions which are vague at best and need further explanation. For that purpose I propose to ask a series of questions of my friend, the gentleman from Alabama, who is the chairman of the subcommittee.

If the chairman would turn to page 18 of the bill, section 3 on page 18 purports to define a direct business contact. The language says it means any relationship between an organization and any Federal officer or employee in which—and then there is an itemization of three such relationships. 3(C) indicates that ownership of shares of publicly held securities or policies of insurance will not be counted as a direct business relationship.

What I would like to know is whether or not ownership by a Federal official of shares in a mutual savings and loan would require that that savings and loan, if required to report, to disclose the nature and extent of the shares owned by the Federal official.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Alabama.

Mr. FLOWERS. I thank the gentleman for yielding.

In the first place, ownership of shares in a mutual savings and loan is not commonly called that. I know when one has a savings account there, it is perhaps denoted as an ownership of shares, but by its own terms a mutual savings and loan does not have shares.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SPENCE. Mr. Chairman, I yield 5 additional minutes to the gentleman from California.

Mr. WIGGINS. I will ask the gentleman to accept for purposes of my question that ownership in a mutual savings and loan is represented by a certificate. I would like to know whether or not a Federal official who is a depositor in a mutual savings and loan must have the nature and amount of that deposit revealed by the savings and loan if it is covered by this act.

Mr. FLOWERS. If the gentleman would yield further, I would think that that would be covered by the same exemption as a stockholding exemption.

Mr. WIGGINS. All right. The gentleman is extending the definition of publicly held corporation securities to those security interests in mutual savings and loans. I hope the record is clear with respect to that, because it is a major narrowing of the definition as a result of what the gentleman has stated.

How about the case of ownership of a policy of insurance in a mutual insurance company or an ownership interest in a farm cooperative? The two are different, but I would like to get an answer with respect to each one.

Mr. FLOWERS. If the gentleman would yield, the ownership of a policy of insurance in a mutual insurance company I do not think one could in anywise consider as a direct business contract here, if the Federal officer is the owner of a share and the lobbyist is the insurance company.

Mr. WIGGINS. All right. How about a farm cooperative?

Mr. FLOWERS. If the gentleman would yield, a farm cooperative is one I would have to think through. I do not think we have contemplated the wide range of the gentleman's imagination in every category of this bill. I might say that that is the reason that we have retained jurisdiction for oversight in the rules and regulations of the GAO.

Mr. WIGGINS. Let us leave that question as one currently unanswered.

Mr. FLOWERS. It is not covered in here, just like other kinds of things are not covered very often in legislative proposals, of course.

Mr. WIGGINS. I am trying to get it covered by legislative history, but it appears that we must wait until another day in order to consider that question.

On line 16 of page 18 of the bill, it indicates the value of this interest owned by the Federal officer must exceed $1,000.

So that the record be clear, how is "value" to be determined? Is it current market value or acquisition value or some other value?

Mr. FLOWERS. In the absence of any other definition I would think fair market value would be the factor.

Mr. WIGGINS. At the time of the relationship?

Mr. FLOWERS. At the time that the direct business contact is taking place.

Mr. WIGGINS. I would hope that definition of value is not adopted because if in fact value is to be determined at the time of the particular business contact we have a floating value and we are going to have to have an appraisal at that time to determine whether or not value exceeds $1,000.

I want to proceed with some other questions. On page 20 organizations are defined. That is a very important definition, as the gentleman knows, since only organizations are covered. "Organization" includes "any corporation, company, foundation, association, labor organization, firm, partnership," and so forth. It is clear that the committee has made every effort to define "organization" quite broadly. Does that include a sole proprietorship?

Mr. FLOWERS. No.

Mr. WIGGINS. Even though that sole proprietorship may characterize itself as a company or a firm?

Mr. FLOWERS. No.

Mr. WIGGINS. What kind of company does the gentleman cover since he expressly includes "company"?

Mr. FLOWERS. I think we might have a limited corporation. We might have a limited partnership. The gentleman asked me if a sole proprietorship which is in and of itself an individual is an organization. I would say to the gentleman that an individual cannot be an organization under the terms here.

Mr. WIGGINS. All right.

There is an exclusion for certain associations, and one of them is "comprised solely of Members of Congress and congressional employees." Can the gentleman think of a single association that fits that definition? Is there any such organization "comprised solely of Members of Congress and congressional employees"?

Mr. FLOWERS. I would think that the Republican conference would be such an organization. The Democratic caucus would be such an organization and maybe the Democratic study group, and perhaps other similar organizations.

Mr. WIGGINS. My trouble, I would say to the gentleman from Alabama (Mr. FLOWERS), is with the use of the word "and". The organization must be comprised solely of Members and employees. We have organizations composed of merely Members of Congress and we have organizations I suppose composed of employees, but very seldom have I seen the two joined.

Mr. FLOWERS. I would be receptive to amending language there.

Mr. WIGGINS. The gentleman who

preceded me in the well, the gentleman from Illinois (Mr. RAILSBACK) spoke about lobbying activities to which he objected during the Watergate period, activities by the executive branch. I am not so sure the bill covers under the definition of "organizations" those agencies and branches and departments of the executive arm of our Government. Is in fact the SEC an organization? Is the Federal Trade Commission an organization? Is the White House itself an organization?

Mr. FLOWERS. No. There are certain lobbying-type functions which are prohibited to the executive branch of the Government, and we do not get into that. Under this definition of an organization it would be my understanding that the executive branch would not be an organization, nor would be a subsidiary of the executive branch of the Federal Government.

Mr. WIGGINS. Then this bill does not regulate communications between branches of the Federal Government?

Mr. FLOWERS. No.

Mr. WIGGINS. How about branches of State governments in relation to the Federal Government? That is, is a city an organization? I assume for the purposes of my question that it is in fact an incorporated city.

Mr. FLOWERS. That is about a city which is in fact a corporation?

We had stricken out in the committee a provision which allowed for Washington representatives of State and local governments to be covered.

Mr. WIGGINS. I am talking about a city itself and not its representatives.

I will say to the gentleman from Alabama (Mr. FLOWERS), the problem is created by use in the committee report of explicit language that cities, counties, and units of government are not covered; but, in fact, the definition of organization says "corporation," without limitation. Most cities, to my knowledge, are organized as municipal corporations. I would like to know what the intent is?

Mr. FLOWERS. Mr. Chairman, if the gentleman will yield further, a local unit of government is not intended to be covered under the act.

Mr. WIGGINS. Mr. Chairman, I am going to move on rapidly, because I know time is passing.

Mr. Chairman, if this legislation is to be sustained constitutionally, we are going to have to come up with some justification for the disclosure required by the act. Some public purpose has to be served by it all.

I would like to turn to page 24.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield further?

Mr. WIGGINS. Of course.

Mr. FLOWERS. Mr. Chairman, I think the gentleman is in error there, because a public purpose is obviously served by the act. The 1946 act was found to be constitutional. It has glaring loopholes, but it was found to be constitutional.

Mr. WIGGINS. I will tell my friend, the gentleman from Alabama, those loopholes were not created by Congress. They were created by the Supreme Court in trying to save the constitutionality of the act. The Supreme Court may have to find a number of loopholes in this bill to save its constitutionality.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Illinois

Mr. RAILSBACK. Mr. Chairman, perhaps we could use the same purpose that has prompted over 25 States to do exactly what we have been trying to do here.

Mr. WIGGINS. Mr. Chairman, I will not yield further.

Mr. Chairman, I will ask the gentleman from Alabama to stay at the microphone, because I want to ask a pointed question.

I would like to know what public purpose is going to be served by requiring an organization to state in writing to the Controller General a description of the method by which that organization arrived at its position with respect to any issue. Now, of what great interest is that?

Mr. FLOWERS. Mr. Chairman, if the gentleman would yield further, I will tell the gentleman from California that a lot of people, including myself, think a valuable purpose is served, the gentleman may disagree.

The CHAIRMAN. The time of the gentleman from California has again expired.

Mr. SPENCE. Mr. Chairman, I yield 3 additional minutes to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Chairman, my friend, the gentleman from Alabama, answers my question with a conclusion. I asked the gentleman what public purpose is served and the gentleman replies that a public purpose is served. Can the gentleman be more specific?

Mr. FLOWERS. Mr. Chairman, if the gentleman will yield further, obviously a public purpose is better informing Members of Congress and the general public as to how an organization arrives at a certain viewpoint. Oftentimes we have organizations say their point of view is that we should vote this way or that way, "yea" or "nay."

Now, is that the voice of the Chief Executive Officer, or is that the voice of the grassroots crying out for reform?

I think a valuable public purpose is served when we can know that information.

Mr. WIGGINS. Mr. Chairman, the answer gets us to the heart of the matter. This legislation is premised on the notion that we ought to be concerned with who voices an idea, rather than the merits of that idea itself. I, for one, do not care if the devil himself communicates with my office. I think I am sufficiently discriminating to segregate out good ideas from bad ideas without worrying about the identity of the sender. That is the vice of this bill. We worry about who talks with Government, rather than what is said to the Government.

Mr. FLOWERS. Mr. Chairman, if the gentleman will yield further, the gentleman from California is quick to point out the vice of the bill as he sees it, but I have seen no alternatives coming from the gentleman from California.

Mr. WIGGINS. The gentleman will see an alternative coming from me in the next Congress, if this Congress has the good sense to put this over so the issue may be considered adequately, deliberately, and not in the heat of passion immediately preceding an election.

Mr. BENNETT. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Florida.

Mr. BENNETT. Mr. Chairman, the gentleman from California asked a pertinent question, why we ought to have the public know the methods and steps by which some arrive at a certain position to lobby the Congress. I certainly have a lot of illustrations in my own personal experience as a Congressman. For instance, in Florida, we have what is called the Cross Florida Barge Canal. It is still a live issue.

When we looked into the matter, we found out that pressures that were applied to the Government were emanating from railroads, but with the facade of ecology. An ecological organization was set up and financed by railroads to be a facade to attack the canal. I think that sort of information is valuable.

Mr. WIGGINS. I hope that we are not so weak that we are swayed by a letterhead, rather than the content of the letter. I would not care if a letter came from a railroad, an ecology group, the Klu Klux Klan or any other organization. We ought to pay attention to the substance of a communication, rather than worrying about who sent it.

Mr. MOORHEAD of California. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 822]

Adams
Anderson, Ill.
Archer
Armstrong
Ashley
Baucus
Beard, Tenn.
Bingham
Boland
Bonker
Brademas
Breaux
Brown, Calif.
Brown, Ohio
Burton, Phillip
Carney
Chappell
Clancy
Clay
Cohen
Collins, Ill.
Conlan
D'Amours
Davis
Derrick
Dickinson
Diggs
Dingell
Downey, N.Y.
Drinan
Eckhardt
Erlenborn
Esch
Eshleman
Flynt
Foley
Forsythe
Fraser
Gaydos
Giaimo
Green
Harsha
Hawkins
Hayes, Ind.
Hébert
Heinz
Hinshaw
Holtzman
Howard
Jarman
Jeffords
Johnson, Colo.
Kastenmeier
Krebs
LaFalce
Landrum
Leggett
Lent
Lloyd, Calif.
Long, Md.
Lundine
McCloskey
McCollister
McDade
McDonald
McHugh
Matsunaga
Melcher
Meyner
Mikva
Milford
Miller, Calif.
Mink
Moffett
Moss
Nix
Nolan
O'Hara
O'Neill
Patten, N.J.
Patterson, Calif.
Pepper
Pike
Pressler
Preyer
Pritchard
Rees
Reuss
Riegle
Risenhoover
Rosenthal
Rostenkowski
Runnels
Ryan
Santini
Scheuer
Schneebeli
Shuster
Spellman
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stuckey
Studds
Sullivan
Symms
Thompson
Udall
Ullman
Vigorito
Wampler
Waxman
Weaver
Wilson, C. H.
Wright

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 15, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 314 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

Mr. RIEGLE. Mr. Chairman, today, we are considering a bill (H.R. 15) to replace the existing lobbying disclosure act with a comprehensive law covering registration and reporting by lobbying organizations. I am strongly committed to the concept of full disclosure and I urge my colleagues to support the bill reported by the Judiciary Committee.

The existing law, written in 1946, is obsolete. When we can find only one conviction of a lobbying law violation in 30 years, it is apparent that the law badly needs revision. The absence of meaningful legislation in this area has enabled lobbyists to exert undue influence on legislation and has provided too many opportunities for abuse. As a result, we have had too much special-interest legislation and special-interest Government—a Government which is not responsive to the needs of our people.

Under the provisions of this bill, all organizations which spend more than $1,250 on lobbying activities in any quarterly filing period must register as a lobbyist, maintain records and file quarterly reports with the Comptroller General. In addition, this bill will correct two major loopholes in the existing law.

A major provision of this bill will provide for the review and disclosure of lobbying on administrative agencies and the executive branch, instead of restricting regulation to only the Congress. We have seen too many bills pass the Congress as a result of pressures exerted on the executive branch by lobbyists.

This bill will also give the Comptroller General the authority to effectively enforce the law by conducting investigations and imposing sanctions against specific violations. In addition, the Comptroller General will compile a public file of lobbyist activities, and will make these registrations and reports available for public inspection.

This legislation is based on the premise that those who seek to influence public policy should be open to public scrutiny. I fully appreciate the informational value of lobbying activities and I believe that the lobbying function is an important part of the constitutional right to freedom of speech. This bill will enable us to know what the lobbyist and the lobying community is interested in and the agencies that are being influenced.

Just as corporate financial activity is registered with the Securities and Exchange Commission for the investing public, the legislative history of lobbying activity should also be exposed so that the full weight of public opinion is measured in the formation of public policy. A complete and honest record—which is open to the public—on all lobbying activities will help to restore the American people's trust of our leaders and confidence in the democratic process.

Mr. HARRIS. Mr. Chairman, I am pleased to cosponsor and rise in support of H.R. 15, the lobbying bill, which would require tough, new registration and reporting requirements by lobbying organizations. This bill is an important reform and will go a long way toward openinig up the various influences on our Government to the public's view.

Lobbying takes many forms. As far back as 1950 one House committee concluded that efforts to influence Congress had become "big business." That report showed that lobbying has become a billion-dollar industry, and in the subsequent 26 years, that figure has no doubt ballooned. Lobbying activities range from cornering elected officials at cocktail parties to a sophisticated computerized system which targets Congressmen and in a matter of hours floods Capitol Hill offices with telegrams.

Lobbying, influencing public decisionmaking, is a vital part of the process of government. The right of an individual to petition the Government is a fundamental ingredient of our Constitution. And organizations and individuals representing a particular point of view provide unique perspective and information on particular issues; this is a valuable public service. This bill does not prohibit these necessary expressions of opinion. The thrust of this bill is to let the public know and to let public officials know who is influencing what.

I believe the average citizen should be able to find out, for example, that the Representative or Senator who voted for oil decontrol received an honorarium from Mobil Oil. Or that Lockheed—a major Government contractor—spent thousands of dollars influencing the Nation's defense policy. It is important to an informed citizenry to understand more fully the various forces and influences which come to bear on an elected official's decision or vote.

The bill before us today will make important improvements over existing law. Currently, some lobbyists are required to register with the Clerk of the House and the Secretary of the Senate, but no agency of the Federal Government has the clear responsibility to monitor or enforce compliance with the law. In fact, since the law was enacted in 1946, only one successful prosecution has been brought against someone failing to register as a lobbyist. A 1966 report by a special congressional joint committee concluded that current lobbying registrations "reveal only a small fraction of the money paid and received from lobbying activities." Clearly, we need a tougher, more comprehensive law to make sure that lobbying gets on the public record, is accessible to the public and that those reports do not just get filed away.

Probably more importantly, this bill should enhance the public's faith in Government. No longer will some lobbying be shielded behind a cloak of secrecy. Suspicions of misdeeds should be removed. Disclosure can show the public in black and white all the competing forces which mold our public policy. The public will be able to know how much money is spent by the "special interests" and relate these expenditures to voting patterns and other legislative actions.

In the end analysis, I would hope that if we provide a mechanism by which the public can become better informed about the processes of government, the public will be encouraged to participate more. We can give our Government back to the people. If the people are able to see the power of the moneyed interests, I would hope that the people would use their unlimited and inherent power to become more involved in their Government. I believe this bill will provide a new avenue toward that goal and I am pleased to give it my vote.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding and I rise in support of H.R. 15, the Public Disclosure of Lobbying Act of 1976, a measure which would encourage significant Government reforms. I believe that those of us who have had the honor and privilege of serving in the 94th Congress, can take pride in our record of initiating and bringing about reforms within governmental agencies, and can now exert the same mandate with regard to lobby disclosure and reporting. The "Government in the sunshine bill" was a significant and essential step toward increased Government responsibility to the American public, requiring that agencies conduct their meetings and sessions in the open, and with the benefit of public cognizance and recognition of agencies' functions and inner workings.

Such openness can only prove beneficial in the long run: The fears expressed by a majority of the American public stem from an absence of knowledge about their Government and the Government's operations, and eradication of this fear, attempted by the opening of agencies' executive sessions, is an end which is not unrealizable.

It is essential, however, that we should not simply be satisfied with a few pieces of legislation which mandate change, but rather that we be constantly aware of the changes which are still to be made within our Government, and strive to reduce the possibility of errors, misunderstanding, and overstepping of limitations—traits which have, of late, characterized the American public's perception of its Government.

The first legislation since 1946 which deals specifically with lobbying practices, H.R. 15 attempts to rectify the vagueness, ambiguity, and general nonenforcement which lessened the prior bill's effectiveness. This present measure provides a new definition of lobbyists, requires registration and reporting of lobbying activities, calls for enforcement by the Comptroller General and Justice Department and specifies limitations to be placed upon outside lobbying directed toward the executive branch. Through effective disclosure requirements, the bill attempts to insure that Congress and the American public are fully informed of the activities of lobbyists and those employed to lobby in behalf of organizations.

Accordingly, in light of the significant and long-needed reforms in areas of lobbying disclosure, I urge my colleagues to support this worthwhile measure, H.R. 15.

Mr. LEGGETT. Mr. Chairman, the House recently passed a bill—the Government in the Sunshine Act, which has since been signed into law—which would open up to public scrutiny the meetings and deliberations of the Federal regulatory agencies. The bill before us, H.R. 15, which is the Public Disclosure of Lobbying Act, would cast some of that same sunshine on the activities of lobbyists. I would note that I am a cosponsor of H.R. 6942, an indentical version of the bill as introduced.

H.R. 15 represents the attempt to strike a balance between the legitimate functions of the lobbyist and the need to engender greater public awareness, as well as trust, in lobbying activities. And we should be clear that serving these ends will benefit the lobbyist as much as the public. For it is in his interest to dispel the notion, which appears to be prevalent that the lobbyist is the covert agent of the special interests, manipulating public policy in their favor. Most lobbyists are on the contrary, people of integrity who perform an important function in conveying information from various sectors of the public to their elected representatives. Opening the activities of all lobbyists to the public could help to dispel pernicious notions and prevent the unsavory conduct of the few from undermining the reputation of the many.

A good lobbying law embodying effective disclosure would thus serve a number of purposes. Removing the veil of secrecy would both enhance the stature of the lobbying profession and enable us as Members to understand better the actual nature and extent of lobbying on a given issue. Both we and the public would also be better informed about just which views are most represented to the Congress, and who is spending what money to influence the outcome of matters pending before the executive or legislative branches.

The net effect can only be to increase the confidence of the public in the governmental process. In these troubled times of distrust of the responsiveness of Government, that has to be a beneficial result.

There appears to be widespread agreement, however, that the existing lobbying law does not fulfill these purposes and is, in the words of our Judiciary Committee, "vague, ineffectual, and unenforceable." And GAO has found that there is essentially no enforcement of that law.

Current law has a number of shortcomings. It does not apply to organizations or individuals unless lobbying is their "principal purpose." And groups do not have to register their efforts to influence legislation unless they solicit or collect funds for that purpose. Furthermore, existing reporting requirements are so vague and ambiguous that those who do register tend to report quite differently. Finally, no Federal agency has clear responsibility or adequate investigatory powers to enforce compliance.

H.R. 15 would deal with many of these problems, specifying who are to be considered lobbyists and what they must report. For purposes of the bill as reported by the Judiciary Committee, "lobbyists" are organizations that either spend $1,250 or more per calendar quarter on lobbying activities, or employ at least one person 20 percent of whose time is spent trying to influence governmental decisions. All organizations which meet that definition would be required to register with the Comptroller General, describing the subject areas and methods of their lobbying activities, and identifying the people who perform them. Groups which register would report to GAO each calendar quarter on their contributions and expenditures involving lobbying, the people they employed to do it, and the issues on which their efforts were concentrated. The Comptroller General would be empowered to administer the law, issue advisory opinions on the bill's requirements, and deal with civil violations as well as refer allegations of criminal violations to the Attorney General for investigation. In addition, Congress would have the power to veto, by resolution passed by either House, rules or regulations issued by the Comptroller General.

In my estimation, this is a balanced and constructive set of requirements. It should neither limit the legitimate efforts of lobbyists nor interfere with our citizens' exercise of their right to communicate with their elected representatives or appointed officials. The bill specifically exempts individuals acting in their own behalf, statements to congressional committees, and communications to Members of Congress and Senators from their constituents.

Mr. Chairman, this bill can serve a salutary purpose. It can help the public become more aware of the useful role played by many lobbyists in serving as the informational link between particular groups of the people and their representatives and officials. Such an outcome can only make lobbying an endeavor more in the public interest and of higher repute. And if the bill accomplishes this purpose it will also give our citizens added confidence in the governmental process that is badly needed.

I urge my colleagues to support this attempt to shine new light on lobbying.

Mr. BINGHAM. Mr. Chairman, I rise in support of H.R. 15, the Lobbying Disclosure Act, and I wish to commend the chairman (Mr. FLOWERS) for the long, hard work he has put into this bill. This is important legislation before us today; important because it goes a long way toward restoring public confidence in the legislative process, important because it provides for public access to information about lobbyists' resources, important because it reaffirms this Congress commitment to respond to public concern and pass this type of popularly supported legislation.

We must remember that this bill was advanced in the wake of the worst scandal in the history of the U.S. Government. The abuses this legislation seeks to guard against strike at the very foundations of our democratic society.

And yet, I must confess that I do have some reservations about this bill, no matter how pure its motives. I am concerned that in seeking to correct imperfections of our system of government, we lawyers in Congress will put on the books laws which are absolutely unintelligible to the layman or woman. I need only cite the muddle created by the Congress when, with the best of intentions, it created the Federal Election Commission, to make my point.

Furthermore, I am somewhat disturbed by the attitude I find written between the lines of this legislation which would seem to hold that most lobbyists are furtive, shadowy figures with $100 bills spilling out of their pockets. This is simply not the case. Many lobbyists in Washington perform a most important function in our system of Government and legislation aimed at inhibiting their activities effects the most benign of public interest groups at the very same time that it seeks to curb the most flagrant of abuses by the lobbyists of less public-minded corporate organizations.

So while seeking to improve our Government and tighten the standards which apply to lobbying practices, this legislation injects another bureaucratic reporting system into our conduct of self-government. But this is not, in and of itself, an argument which compels me to oppose this bill. For this legislation has many positive aspects. In particular I would make note of its numerous provisions which limit the financial abuses of the wealthiest lobbies and generally open up the account books of all organizations which seek to influence the legislative decisionmaking process. Finally, the bill completely replaces the old, and now obsolete, 1946 lobby laws. I urge my colleagues to support the Judiciary Committee's bill and join with me in voting for final passage.

Mr. LEVITAS. Mr. Chairman, I rise in support of H.R. 15, the proposed Public Disclosure of Lobbying Act of 1976, which is now before the House of Representatives in a last-minute effort to secure its enactment before the 94th Congress adjourns at the end of this week.

When running for Congress in 1974, I made a campaign commitment to work for strengthening and improving lobbying regulations. In my opinion, H.R. 15 more than adequately fulfills that commitment. Accordingly, I support this bill, and I urge my colleagues to join with me in voting for it.

The present lobbying disclosure law governing those who seek to influence Congress on legislative matters was enacted 30 years ago, and in the decades since, there have been numerous studies by the Congress, all of which have resulted in recommendations that this law greatly needs to be significantly amended or, better yet, entirely replaced. That 1946 legislation is simply too vague and too weak to be enforced. For example, in the last 30 years, only one successful prosecution has been brought under its provisions against someone for failing to register as a lobbyist. It would not be any surprise to the public, though, to learn that there has been more than one person who lobbied without first having been careful to register.

The bill now before us would repeal

the existing Lobbying Disclosure Act and replace it with a comprehensive statute governing registration and reporting by lobbying organizations, with administration of the proposed act to be in the hands of the Comptroller General of the United States. It is important to note, however, that it would not in any way inhibit communications between any citizen and his elected representatives in Congress.

To mention some of its specific provisions, organizations which lobby or seek to influence Members of Congress and employees on their staffs, and certain officials of the executive branch would be required to register annually with the Comptroller General.

In this connection, H.R. 15 defines "lobbyist" as an organization which meets certain specific criteria. In comparison, present law applies only to those groups or individuals whose main intent was to lobby—hardly a specific definition. This proposed change would avoid imposing needless requirements upon those who lobby as volunteers without pay on behalf of various organizations, or those persons who are acting on their own, or those whose contacts are limited solely to their own Representatives and Senators in a "constituent" capacity. Also exempted are ad hoc volunteer groups.

The proposed Public Disclosure of Lobbying Act of 1976 defines lobbying activities as those which include efforts to influence the content or disposition of any bill, treaty, nomination, investigation, ex parte communication in a rulemaking proceeding, or award of Government contracts. On the other hand, it properly exempts those communications which, among others, are requested by a Federal officer or submitted for the record, and those which are made as speeches, published articles, or broadcasts other than paid advertisements. Naturally, letters, telegrams, phone calls, and visits to a Congressman, Senator, or congressional employee from those who reside in that congressional district or State are expressly and specifically exempted.

The best part of H.R. 15, though, is that it expressly directs lobbying organizations to file quarterly reports with the Comptroller General which show: Total expenditures for lobbying, itemizing each expenditure of $25 or more for the benefit of a Federal officer; expenditures for any dinner or function costing more than $500 for Federal officers; identification of persons retained or employed to lobby and amounts paid them; the issues lobbied upon; solicitations if the organization directs them to 500 or more persons, 25 or more of its officers, 100 or more of its employees, or 12 or more affiliates; disclosure of each known direct business contact between the organization and any Federal officer it has lobbied; and the dues or contributions schedule of the organization and the name of certain contributors of more than $2,500 a year.

One final point of special note is that the Comptroller General would be given rulemaking authority, investigative powers, and authority to issue advisory opinions. The rules promulgated by the Comptroller General would be subject to a one-House congressional veto within 90 days—a stipulation very similar to the intent of my administrative rulemaking control bill.

In short, the enactment of H.R. 15 would directly remove the secrecy that too often hides lobbying activities, and would indirectly do much to restore public confidence in the Federal Government. At the same time, it would not prevent or unduly limit the legitimate activities of lobbyists, and it would not interfere with the constitutional right of citizens to express their personal views to their Government officials.

The basic purpose of the bill is to bring some "sunshine" into the work of those who seek to influence public policy. Put another way, the legislation's purpose is to make lobbying activities clearly accessible to the scrutiny of the people.

Clearly, therefore, H.R. 15 represents an opportunity to reassure all Americans that we do, indeed, still have "a government of the people, by the people, and for the people."

Mr. FASCELL. Mr. Chairman, I rise in support of H.R. 15, the Public Disclosure of Lobbying Act of 1976.

As a cosponsor of H.R. 3045, a bill identical to this legislation as introduced, I support the measure and urge its adoption.

The time is long overdue for the enactment of comprehensive legislation regarding lobbying. During my testimony before the House Judiciary Committee's Subcommittee on Administrative Law and Governmental Relations, I pointed out that—

> The residual clouds of Watergate can be dissipated with legislation that lets the sunshine in.

This bill would be another major step forward in efforts to restore public confidence in our Government by opening up the decisionmaking process to public observation.

Congress has opened up its own procedures by various steps including open committee meetings. We have adopted a significant campaign reform act which discloses the contributions and expenditures of political candidates. Recently, the Government in the Sunshine Act was enacted, requiring open meetings by Federal executive agencies.

Now we are turning to lobbying reform, a serious problem in which there is substantial public concern. The existing law has been on the books for 30 years, and virtually everyone familiar with its performance agrees that it is inadequate. The law requires registration only by persons paid to lobby for someone else, and only by those whose principal purpose is lobbying.

Many organizations avoid registering by contending that lobbying is not their principal purpose. Moreover, since a 1954 Supreme Court decision interpreted the act to mean that lobbying efforts are not covered unless a Member of Congress is directly contacted, activities designed to generate public pressure on the Congress are not covered.

The existing act does not require the Secretary of the Senate nor the Clerk of the House to examine lobby registrations and financial reports for their accuracy, nor can they require individuals or groups to register as lobbyists. In addition, while the Justice Department can prosecute violators, it investigates reports and acts only when it receives a complaint. There have been only four prosecutions since 1946, and none in recent years.

Since the existing act covers only those persons who lobby Congress, there are no registration and reporting requirements for persons who lobby the executive agencies. All in all, there are so many loopholes that the General Accounting Office called the enforcement and administration of the law chaotic.

Although the meager reports on lobbying which are filed show spending of some $10 million per year, the real total may be up to three times that much. In a study of some 900 quarterly reports, the GAO found that more than half were filed late, about half were incomplete, and 40 lobbyists did not disclose how much they were paid.

Congress has considered various proposals to redress the shortcomings of existing law in the field of lobbying. The purpose of H.R. 15 is to replace the present disclosure law with a comprehensive new statute that specifies which organizations must register as lobbyists, and what information they must publicly disclose. It does not seek to regulate or prohibit lobbying itself, since that would violate constitutional rights.

The bill sets forth requirements covering registration and reporting, administration and enforcement designed to provide the public and the Government with information on lobbying, without unduly restricting the activities of those with a legitimate interest in making known their views and goals.

It seems to me that Congress should complete work on this legislation as soon as possible. Our democracy is founded on the principle that the people can best govern themselves, but this can be an empty promise unless the people have information on which to base sound decisions.

The disclosure of lobbying activities in the Government would contribute to the people's ability to make informed judgments. Therefore, I urge the adoption of this important legislation.

Ms. ABZUG. Mr. Chairman, I have always been concerned about the tremendous impact which large well-financed special interest lobbying groups have on the legislative process, and have long favored a reform of our outdated lobbying law to guarantee that lobbying is conducted openly so that the public knows which groups are attempting to influence the Government on specific issues. Congress and the public have the right to know which groups are trying to influence legislation.

At the same time, I have been a staunch defender of the right to free expression and have always opposed any interference with the exercise of first amendment rights. It is always difficult to speak out on new or different ideas, particularly when you are in a minority and we must insure that the right to speak out is protected. The impact of general popular opposition alone has a chilling effect; but to add the burdensome requirements of H.R. 15 for small organizations espousing unpopular causes could stifle the speech and other activities for such groups.

I believe that considerations of protecting first amendment rights to free expression must be considered so that the disclosure provisions do not inhibit the expression of new ideas. Although I would prefer legislation that is more sensitive to the exercise of these rights, while effectively monitoring the activities of lobbyists, I will vote in favor of this bill since it marks a beginning in the reform of our outdated and ineffective lobbying law.

My concerns are not for the large lobbying groups. They should have little difficulty in complying with the disclosure laws and it will greatly benefit the public to know the identity of those spending large sums of money to influence passage of legislation.

Rather, my concern is for the smaller groups and the groups holding unpopular ideas. Their memberships and contributions could drop dramatically because of an unwillingness to disclose their affiliation for fear of a stigma being attached. For ad hoc citizens groups without a professional staff, the administrative requirements will be more burdensome. Discouraging active participation by citizen groups conflicts with the first amendment and it would be a loss to the American people to have these groups eliminated from the legislative process while the corporate lobbyists continue to play an active role. Although these large lobbying groups may oppose this legislation, their activities will neither be deterred nor eliminated by it since they have plenty of staff available and the costs of compliance are tax deductible.

In the landmark decision of NAACP against Button, the Supreme Court ruled that the disclosure of names of the members of a group could operate against those individuals and against the promotion of the ideas articulated by that group. The Court reasoned that the mandate of freedom of expression embodied in the first amendment prevails over the benefits of the reporting requirements. I hope that the Comptroller General will keep these principles in mind in enforcing the provisions of H.R. 15 to avoid a potential repeat of a Button-type situation.

We recognize that the democratic process benefits from the "grass roots" efforts of small local organizations urging citizens in our districts and elsewhere to express their views to the Congress. In order to protect the rights of individuals and groups we must find ways of implementing the law which will not inhibit this ad hoc activity. We must encourage these local groups to comply with the administrative requirements by supplying simple, short forms with instructions. These groups should not be required to hire lawyers and accountants to comply with this law. We must minimize the burdens imposed by this bill to insure continued vigorous debate on all issues. With these reservations I will reluctantly support this measure.

Mr. FISHER. Mr. Chairman, as a cosponsor of H.R. 15, the Public Disclosure of Lobbying Act of 1976, I am pleased to rise in support of the bill and to urge my colleagues also to support it.

Interest groups are the lifestuff of the American political system. Citizens of every occupation, of every opinion, of every leisure interest, of every lifestyle have the right to organize to express and promote their interests. Without these organizations, we as Representatives would have a much harder time getting to know what is on the minds of many of our constituents, and what is happening around the country.

Some of these interest groups form for the specific purpose of lobbying, or they hire lobbyists to convince legislators to introduce or support measures favorable to their interests. They also express their views to and attempt to convince administrators who can make decisions favorable to them. Lobbying is a necessary and often valuable part of the political process; it provides decisionmakers with concise information on the wide range of issues with which they deal. Obviously, this information will reflect the interests the lobbyist is representing.

Because of this potential for bias in the information we receive, we must be in a position to evaluate our sources. Even more importantly, the public has a right to know who is giving information to Members of Congress and to the Government administrators who interpret and implement the laws Congress enacts.

Under this bill, organizations which seek to influence legislation must register as lobbyists and file reports with the Comptroller General. It makes the same requirement of organizations that seek to influence certain actions of the executive branch, notably the awarding of contracts. Persons to whom lobby organizations pay more than $1,250 per quarter or who spend more than 20 percent of their working time have to be listed. Reports must include the total expenditures for lobbying, including a list of gifts, entertainment, description of the major issues worked on, and a description of its solicitations.

The implementation of these provisions would enable the people to know the facts about those who seek to influence public policy. I think this would be another important step along the road to open government, continuing the progress already made by this Congress.

Although there is a lobby registration law on the books already, it is not of much value. Many lobbyists do not even have to register under that law. It contains a provision for criminal prosecution for violation of the law, but so far as I know there has never been a successful prosecution. The present law is limited to lobbyists who contact Congressmen, excluding all contacts with the executive branch or with congressional staff. Thus, the present law is not very useful for informing the public about those who attempt to influence the making and implementation of laws, nor is it useful in curbing abuses by some lobbyists.

The proposed new law will do nothing to stop the important and useful process of lobbying, but it will make it more open to public scrutiny. This is as it should be. The business of government is the people's business. When decisions are being made which affect the people, they should know who is affecting those decisions. I believe that this bill will help to accomplish that aim.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the reported bill as an original bill for the purpose of amendment.

It shall also be in order to consider the amendment in the nature of a substitute recommended by the Committee on Standards of Official Conduct, if offered as an amendment in the nature of a substitute for the amendment in the nature of a substitute recommended by the Committee on the Judiciary.

The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BENNETT

Mr. BENNETT. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. BENNETT:

Strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Public Disclosure of Lobbying Act of 1976".

DEFINITIONS

SEC. 2. As used in this Act—

(1) The term "Comptroller General" means the Comptroller General of the United States.

(2) The term "organizational relationship" means any relationship between an organization and any Federal officer or employee in which—

(A) such Federal officer or employee is a partner in such organization; or

(B) such Federal officer or employee is a member of the board of directors or similar governing body of such organization, or is an officer or employee of such organization.

(3) The term "exempt travel expenses" means any sum expended by any organization in payment or reimbursement of the cost of any transportation for any agent, employee, or other person engaging in activities described in section 3(a), plus such amount of any sum received by such agent, employee, or other person as a per diem allowance for each such day as is not in excess of the maximum applicable allowance payable under section 5702(a) of title 5, United States Code, to Federal employees subject to such section.

(4) The term "expenditure" means—

(A) a payment, distribution (other than normal dividends and interest), salary, loan, advance, deposit, or gift of money or other thing of value, other than exempt travel expenses; or

(B) a contract, promise, or agreement, whether or not legally enforceable, to make, disburse, or furnish any item referred to in subparagraph (A).

(5) The term "Federal officer or employee" means—

(A) any Member of the Senate or the House of Representatives, any Delegate to the House of Representatives, and the Resident Commissioner in the House of Representatives;

(B) any officer or employee of the Senate or the House of Representatives or any employee of any Member, committee, or officer of the Congress; and

(C) any officer of the executive branch of the Government listed in sections 5312 through 5316 of title 5, United States Code.

(6) The term "identification" means—

(A) in the case of an individual, the name, occupation, and business address of the individual and the position held in such business; and

(B) in the case of an organization, the name and address of the organization, the principal place of business of the organization, the nature of its business or activities, and the names of the executive officers and the directors of the organization, regardless of whether such officers or directors are paid.

(7) The term "organization" means any corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, national organization of State or local elected or appointed officials (excluding any national or State political party and any organization unit thereof, and excluding any association comprised solely of Members of Congress and congressional employees), group of organizations, or group of individuals, which has paid officers, directors, or employees.

(8) The term "filing period" means, as applicable, the calendar half year beginning on January 1 or July 1.

(9) The term "solicitation" means any oral or written communication directly urging, requesting, or requiring another person to advocate a specific position on a particular issue and to seek to influence a Federal officer or employee with respect to such issue.

(10) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

APPLICABILITY OF ACT

SEC. 3. (a) The provisions of this Act shall apply to any organization which—

(1) makes an expenditure in excess of $2,500 in any filing period for the retention of another person to make oral or written communications directed to a Federal officer or employee to influence the content or disposition of any bill, resolution, treaty, nomination, hearing, report, investigation (excluding civil or criminal investigations or prosecutions by the Attorney General and any investigation by the Comptroller General authorized by the provisions of this Act), rule (as defined in section 551(4) of title 5, United States Code), rulemaking (as defined in section 551(5) of title 5, United States Code), or the award of Government contracts (excluding the submission of bids), or for the express purpose of preparing or drafting any such oral or written communication;

(2) employs at least one individual who on all or part of six or more calendar days in any filing period engages on behalf of that organization in those activities described in paragraph (1); or

(3) makes aggregate expenditures in excess of $10,000 in any filing period to solicit, orally or otherwise, other persons to engage in activities described in paragraph (1).

(b) This Act shall not apply to—

(1) a communication (A) made at the request of a Federal officer or employee, (B) submitted for inclusion in a report or in response to a published notice of opportunity to comment on a proposed agency action, or (C) submitted for inclusion in the record, public docket, or public file of a hearing or agency proceeding;

(2) a communication or solicitation made through a newspaper, book, periodical, or magazine published for distribution to the general public, or through a radio or television broadcast: Provided, That this exemption shall not apply to an organization responsible for the purchase of a paid advertisement in a newspaper, magazine, book, periodical, or other publication distributed to the general public, or of a paid radio or television advertisement;

(3) a communication by an individual, acting solely on his own behalf, for redress of his personal grievances, or to express his personal opinion;

(4) practices or activities regulated by the Federal Election Campaign Act of 1971; or

(5) a communication on any subject directly affecting any organization to a Member of the Senate or of the House of Representatives, or to an individual on the personal staff of such Member, if such organization's principal place of business is located in the State, or in the congressional district within the State, represented by such Member, so long as that organization (A) acts on its own initiative and not at the suggestion, request, or direction of any other person, and (B) the costs incurred are not paid by any other person.

REGISTRATION

SEC. 4. (a) Each organization shall register with the Comptroller General not later than fifteen days after engaging in activities described in section 3(a).

(b) The registration shall be in such form as the Comptroller General shall prescribe by regulation, and shall contain the following, which shall be regarded as material for the purposes of this Act—

(1) an identification of the organization and a general description of the methods by which such organization arrives at its position with respect to any issue, except that nothing in this paragraph shall be construed to require the disclosure of the identity of the members of an organization;

(2) an identification of any person retained under section 3(a)(1) and of any employee described in section 3(a)(2);

(3) the financial terms and conditions (including any contingent fee arrangement) of any agreement or arrangement for the retention of any person under section 3(a)(1);

(4) a general description of the subject matter of each category of issues which the organization intends to influence through the services of any person described in section 3(a)(1) and of any employee described in section 3(a)(2) and

(5) a general description of the subject matter of each category of issues which the organization intends to influence through any solicitation described in section 3(a)(3) which is intended to reach, in identical or similar form, five hundred or more persons or twenty-five or more officers or directors of such organization.

(c) If, at any time, the information contained in a registration filed under subsection (a) by an organization is not completely accurate and up to date, the organization shall file with the Comptroller General, within fifteen days after the change has occurred, such amendment or amendments to the registration as may be necessary to make the information contained in the registration completely accurate and up to date, including notification of termination of such activities.

RECORDS

SEC. 5. (a) Each organization and each person retained by such organization shall maintain such records for each filing period as may be necessary to enable such organization to file the registrations and reports required to be filed under this Act. Such records shall be maintained in accordance with regulations prescribed by the Comptroller General. Any officer, director, employee, or retained person of any organization shall provide to such organization such information as may be necessary to enable such organization to comply with the recordkeeping and reporting requirements of this Act. Any organization which shall rely in good faith on the information provided by any such officer, director, employee, or retained person shall be deemed to have complied with this subsection.

(b) The record required by subsection (a) shall be preserved for a period of not less than five years after the close of the filing period to which such records relate.

REPORTS

SEC. 6. (a) Each organization shall not later than thirty days after the last day of each filing period, file a report with the Comptroller General concerning any activities described in section 3(a) which are engaged in by such organization during such period. Each such report shall be in such form as the Comptroller General shall prescribe by regulation.

(b) Each report required under subsection (a) shall contain the following, which shall be regarded as material for the purposes of this Act—

(1) an identification of the organization filing such report;

(2) the total expenditures which such organization made with respect to activities described in section 3(a) during such period, including an itemized listing of each expenditure in excess of $25 made to or for the benefit of any Federal officer or employee and an identification of such officer or employee, but not including any contribution to a candidate as defined in section 301(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(e));

(3) a disclosure of those expenditures for any reception, dinner, or other similar event paid for, in whole or in part, by the reporting organization for Federal officers or employees regardless of the number of persons invited or in attendance, where the total cost of the event exceeds $500;

(4) an identification of any person retained by the organization filing such report under section 3(a)(1) and of any employee described in section 3(a)(2) and the expenditures made pursuant to such retention or employment;

(5) a description of the twenty-five issues concerning which the organization filing such report engaged in activities described in section 3(a) and upon which the organization spent the greatest proportion of its efforts;

(6) a description of solicitations made or paid for by such organization, and the subject matter with which such solicitations were concerned, where such solicitations reached or could be reasonably expected to reach, in identical or similar form, five hundred or more persons or twenty-five or more officers or directors or one hundred or more employees, of such oganization, except that this paragraph may be satisfied, with respect to a written solicitation, at the discretion of the reporting organization, by filing a copy of such solicitaiton;

(7) disclosure of each organizational relationship of the organization with a Federal officer or employee whom such organization has sought to influence during the filing period involved; and

(8) an identification of any chief executive officer or any principal operating officer of the organization who, on all or part of twelve or more calendar days in the filing period engages in activities described in section 3(a)(1) on behalf of the organization, and a description of each issue with respect to which such activities were engaged in; and in the case of any such officer who engaged in such activities with respect to more than ten issues, the officer shall describe only those ten issues which the officer estimates accounted for the greatest proportion of time devoted to such activities.

(c) If an organization which is required to register under this Act directs an organization which is not required to register to engage in a solicitation relating to an issue with respect to which such organization (which is required to be registered) is engaging in any activity described in section 3(a), or reimburses such an organization (which is not required to register) for expenses incurred in such a solicitation, then such organization (which is required to be registered) must report such solicitation as if it were made by such organization (which is required to be registered).

(d) If any item of expenditure is attributable in part to activities described in section 3(a) and in part to other purposes, such item shall be reported in conformity with regulations prescribed by the Comptroller General by a reasonably accurate allocation which sets forth that portion of the item respecting activities described in section 3(a) and the basis on which the allocation is made.

JOINT REGISTRATION AND JOINT FILING OF REPORTS

SEC. 7. Where organizations are related to each other in any manner or where an organization is a subpart of another organization, then, upon the request of such organizations and for purposes of convenience to them, the Comptroller General may, under regulations prescribed by him, permit the joint registration under section 3 of such organizations. Any organizations which jointly register under section 3 must jointly file reports under section 6.

POWERS OF COMPTROLLER GENERAL

SEC. 8. (a) The Comptroller General, in carrying out the provisions of this Act, is authorized—

(1) to informally request or to require by subpena any individual or organization to submit in writing such reports, records, correspondence, and answers to questions as the Comptroller General may consider necessary to carry out the provisions of this Act, within such reasonable period of time and under oath or such other conditions as the Comptroller General may require;

(2) to administer oaths or affirmations;

(3) to require by subpena the attendance and testimony of witnesses and the production of documentary evidence;

(4) in any proceeding or investigation, to order testimony to be taken by deposition before any person designated by the Comptroller General who has the power to administer oaths and to compel testimony and the production of evidence in any such proceeding or investigation in the same manner as authorized under paragraph (3);

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States; and

(6) to petition any United States district court having jurisdiction for an order to enforce subpenas issued pursuant to paragraphs (1), (3), and (4) of this subsection.

(b) No individual or organization shall be civilly liable in any private suit brought by any other person for disclosing information at the request of the Comptroller General under this Act.

DUTIES OF THE COMPTROLLER GENERAL

SEC. 9. (a) It shall be the duty of the Comptroller General—

(1) to develop filing, coding, and cross-indexing systems to carry out the purposes of this Act, including (A) a cross-indexing system which, for any person identified in any registration or report filed under this Act, discloses each organization identifying such person in any such registration or report, and (B) a cross-indexing system, to be developed in cooperation with the Federal Election Commission, which discloses for any such person each identification of such person in any report filed under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

(2) to make copies of each registration and report filed with him under this Act available for public inspection and copying, commencing as soon as practicable after the date on which the registration or report involved is received, but not later than the end of the fifth working day following such date, and to permit copying of such registration or report by hand or by copying machine or, at the request of any individual or organization, to furnish a copy of any such registration or report upon payment of the cost of making and furnishing such copy; but no information contained in any such registration or report shall be sold or utilized by any individual or organization for the purpose of soliciting contributions or business;

(3) to preserve the originals or accurate reproductions of such registraitons and reports for a period of not less than five years from the date on which the registration or report is received;

(4) to compile and summarize, with respect to each filing period, the information contained in registrations and reports filed during such period in a manner which clearly presents the extent and nature of the activities described in section 3(a) which are engaged in during such period;

(5) to make the information compiled and summarized under paragraph (4) available to the public within sixty days after the close of each filing period, and to publish such information in the Federal Register at the earliest practicable opportunity;

(6) to conduct investigations with respect to any registration or report filed under this Act, with respect to alleged failures to file any registration or report required under this Act, and with respect to alleged violations of any provision of this Act; and

(7) to prescribe such procedural rules and regulations, and such forms as may be necessary to carry out the provisions of this Act in an effective and efficient manner.

(b) For purposes of this Act, the duties of the Comptroller General described in subsections (a)(6) and (a)(7) of this section shall be carried out in conformity with chapter 5 of title 5, United States Code.

ENFORCEMENT

SEC. 10. (a) If the Comptroller General has reason to believe that any individual or organization has violated any provision of this Act, the Comptroller General shall notify such individual or organization of such apparent violation, unless the Comptroller General determines that such notice would interfere with effective enforcement of this Act, and shall make such investigation of such apparent violation as the Comptroller General considers appropriate. Any such investigation shall be conducted expeditiously, and with due regard for the rights and privacy of the individual or organization involved.

(b) If the Comptroller General determines, after any investigation under subsection (a), that there is reason to believe that any individual or organization has engaged in any acts or practices which constitute a civil violation of this Act, he shall endeavor to correct such violation—

(1) by informal methods of conference or conciliation; or

(2) if such methods fail, by referring such apparent violation to the Attorney General.

(c) Upon a referral by the Comptroller General pursuant to subsection (b)(2), the Attorney General may institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate relief in the United States district court for the district in which such individual or organization is found, resides, or transacts business. The Attorney General shall transmit a report to the Comptroller General describing any action taken by the Attorney General regarding the apparent violation involved.

(d) The Comptroller General shall refer apparent criminal violations of this Act to the Attorney General. In any case in which the Comptroller General refers such an apparent violation to the Attorney General, the Attorney General shall act upon such referral in as expeditious a manner as possible, and shall transmit a report to the Comptroller General describing any action taken by the Attorney General regarding such apparent violation.

(e) The reports required by subsections (c) and (d) shall be transmitted not later than sixty days after the date the Comptroller General refers the apparent violation involved, and at the close of every ninety-day period thereafter until there is final disposition of such apparent violation.

REPORTS BY THE COMPTROLLER GENERAL

SEC. 11. The Comptroller General shall transmit reports to the President of the United States and to each House of the Congress no later than March 31 of each year. Each such report shall contain a detailed statement with respect to the activities of the Comptroller General in carrying out his duties and functions under this Act, together with recommendations for such legislative or other action as the Comptroller General considers appropriate.

CONGRESSIONAL DISAPPROVAL REGULATIONS

SEC. 12. (a) Upon proposing to place any regulation in effect under section 4, 5, or 6, the Comptroller General shall transmit notice of such regulation to the Congress. The Comptroller General may place such regulation in effect as proposed at any time after the expiration of ninety calendar days of continuous session after the date on which such notice is transmitted to the Congress unless, before the expiration of such ninety days, either House of the Congress adopts a resolution disapproving such regulation.

(b) For purposes of this section—

(1) continuity of session of the Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the ninety calendar days referred to in subsection (a).

SANCTIONS

SEC. 13. (a) Any individual or organization knowingly violating section 4, 5, or 6 of this Act, or the regulations promulgated thereunder, shall be subject to a civil penalty of not more than $5,000 for each such violation.

(b) Any individual or organization who knowingly and willfully violates section 4, 5, or 6 of this Act, or the regulations promulgated thereunder, or who, in any statement required to be filed, furnished or maintained pursuant to this Act, knowingly and willfully makes any false statement of a material fact, omits any material fact required to be disclosed, or omits any material fact necessary to make statements made not misleading, shall be fined not more than $10,000 or imprisoned for not more than two years, or both, for such violation.

(c) Any individual or organization knowingly and willfully failing to provide or falsifying all or part of any records required to be furnished to an employing or retaining organization in violation of section 5(a) shall be fined not more than $10,000, or imprisoned for not more than two years, or both.

(d) Any individual or organization selling or utilizing information contained in any registration or report in violation of section 9(a)(2) of this Act shall be subject to a civil penalty of not more than $10,000.

REPEAL OF FEDERAL REGULATION OF LOBBYING ACT

SEC. 14. The Federal Regulation of Lobbying Act (2 U.S.C. 261 et seq.), and that part of the table of contents of the Legislative Reorganization Act of 1946 which pertains to title III thereof, are repealed.

SEPARABILITY

SEC. 15. If any provision of this Act, or the application thereof, is held invalid, the validity of the remainder of this Act and the application of such provision to other persons and circumstances shall not be affected thereby.

AUTHORIZATION OF APPROPRIATIONS

SEC. 16. There are authorized to be appropriated such sums as may be necessary to carry out this Act.

EFFECTIVE DATE

SEC. 17. (a) Except as provided in subsection (b), the provisions of this Act shall take effect on the first day of the first calendar half year which begins more than one hundred and eighty days after enactment of this Act.

(b) The provisions of this Act requiring the issuance of regulations to implement this Act shall become effective upon enactment.

Mr. BENNETT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. QUIE. Mr. Chairman, reserving the right to object, the bill from the Committee on the Judiciary is that also open for amendment at any place or is only the amendment in the nature of a substitute under this arrangement available for amendment at this time?

The CHAIRMAN. The Chair will state that only the amendment in the nature of a substitute offered by the Committee on Standards of Official Conduct will be open to amendment at this point.

Mr. QUIE. Mr. Chairman, I thank the Chair and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BENNETT. Mr. Chairman and members of the committee, I want to congratulate the Committee on the Judiciary and also the Committee on Standards of Official Conduct for the study and effort they have put forth in bringing legislation of this nature to the floor. Both of these committees held hearings both last year and this year. The Committee on the Judiciary brought their bill in first before the bill of the Committee on Standards of Official Conduct came forward, therefore the bill of the Committee on Standards of Official Conduct somewhat responds to the Committee on the Judiciary.

The amendment in the nature of a substitute meets many objections with respect to excessive paperwork in the bill of the Committee on the Judiciary, by cutting in half the number of reports that are necessary.

We also compensate for this in a way which is not done by the Committee on the Judiciary by requiring updating of the registration procedure. If new material is to be lobbied upon, it is to be brought forward by updating the registration. Because of the fact that many important legislative issues come about in a short period of time it is entirely possible that an issue could arise and be passed within a 3-month period of time. In the bill of the Committee on the Judiciary the quarterly report would be too late to supplement its annual registration with additional information about the lobbying undertaken in such situations, but the bill of the Committee on Standards of Official Conduct would provide such important information.

Our substitute also cuts back on the paperwork with respect to recordkeeping. Under the bill offered by the Committee on the Judiciary, once an individual made one lobbying communication, he would have to keep extensive records on his time and activities to determine if he, at some future point, expended 20 percent of his time on lobbying. With the substitute's 6-day test, this situation would make recordkeeping easier.

Second, the amendment in the nature of a substitute offered by the Committee on Standards of Official Conduct provides for broader coverage than the bill of the Committee on the Judiciary, in that organizations which only undertake "grassroots" lobbying campaigns are also covered. The Judiciary Committee bill does not cover them.

Under the Judiciary bill, an organization which did not directly lobby would not be covered even though it sustained continuing large-scale grassroots lobbying efforts. All of the Members in Congress know that some of the most effective lobbying that can be done is by the grassroots approach. It is, in fact, the most sophisticated and most effective way in which one can lobby today. To cut that out, as the bill of the Committee on the Judiciary does, seemed to the Committee on Standards of Official Conduct to be a mistake.

Thirdly, Mr. Chairman, this amendment in the nature of a substitute covers important lobbyists whether they are paid or not.

Mr. POAGE. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Texas.

Mr. POAGE. Mr. Chairman, do I understand that the gentleman from California means to tell us that the amendment in the nature of a substitute offered by the Committee on Standards of Official Conduct covers Mr. Nader and Mr. Gardner?

Mr. BENNETT. Absolutely.

Mr. POAGE. And labor unions?

Mr. BENNETT. The Committee on the Judiciary's bill does not cover Mr. Nader.

Mr. POAGE. Does it cover labor unions?

Mr. BENNETT. I think they all cover labor unions.

Mr. POAGE. Does it?

Mr. BENNETT. It does.

Mr. POAGE. Does it cover farm organizations?

Mr. BENNETT. Correct.

Mr. POAGE. I thank the gentleman.

Mr. BENNETT. Mr. Chairman, in addition the Committee on the Judiciary has a narrower scope of coverage than does that of the Committee on Standards of Official Conduct. The amendment in the nature of a substitute offered by the Committee on Standards of Official Conduct is designed to cover such people as Mr. Nader, who are very effective lobbyists and yet are not covered under the bill of the Committee on the Judiciary.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Alabama.

Mr. FLOWERS. I thank the gentleman for yielding.

The Standards version does not extend coverage to individuals at all.

Mr. BENNETT. It covers an organization of a person like Mr. Nader.

Mr. FLOWERS. The same as the Committee on the Judiciary's version would cover the same organizations that the other committee would.

Mr. BENNETT. Yes, but his activities would not be covered.

Let me finish, and I will get back to the gentleman from Ohio.

Thirdly, this substitute covers important lobbyists who otherwise would not be included, like Mr. Nader.

If a conference is to be held on this legislation—and obviously it must because the bill is different from the Senate version—it would be more feasible to take the Standards Committee's substitute because it is more nearly the same as the Senate bill than the bill from the Committee on the Judiciary.

In summation, I believe this substitute is a stronger lobbying bill. It extends its coverage to almost all the lobbyists that we know to be lobbyists today. Under the Judiciary bill there are important lobbyists and lobbying campaigns that would not be covered at all. The law that we are to replace is held in disgrace at this moment, and Congress should correct that by including as many lobbyists as possible. If we are going to disclose all significant lobbying efforts to the light of day, let us do it to everybody. Let us not exclude massive grassroots campaigns, and major lobbyists because they are not paid as lobbyists.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. BENNETT was allowed to proceed for 1 additional minute.)

Mr. BENNETT. Let us pass a bill that balances this need for disclosure with a measured and reasonable reporting requirement, timely registration, and clear-cut and simple recordkeeping provisions. It reduces paperwork. It covers grassroots lobbying. It covers effective lobbyists who otherwise are not covered. It is more comparable to the Senate bill and is, therefore, more likely to come out of conference.

Mr. Chairman, I urge the substitute bill be adopted.

Mr. KINDNESS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like first to touch on the subject which was involved in colloquy here a moment ago as to whether labor unions, farm organizations, Common Cause, and Nader organizations are, indeed, included within the scope of either one of the bills. Clearly, there is inadequate coverage in terms of the reporting requirements of such organizations. If I could direct the Members' attention to the Standards Committee bill, on page 11, at line 17, in the reporting requirements it is required that there be reported an identification of any chief executive officer or any principal operating officer of the organization, and that is the point on which the question is hinged, I believe, in the answer the gentleman just gave to the question.

The fact is that Mr. Nader in one of his organizations, for example, could resign as the chief executive officer and still exercise all of the lobbying activities that he does at the present time. Indeed, I am not sure whether he is the principal operating officer or chief executive officer, or what organizations are involved in that setup. So it is that part of the bill upon which we must rely for coverage of such people under the reporting requirements. Indeed, it would be very easy to get around that, so that is why I think we have an inadequate bill as it now stands.

An amendment I will offer in a while will deal with tightening that up. Whether a person is a chief executive officer or not, if he functions for that organization, I think his activities ought to be reported, and I trust that proposition would be supported by the gentleman also.

Mr. BENNETT. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Florida.

Mr. BENNETT. I thank the gentleman for yielding.

I think it is fairly clear. It says, indeed, they have got to be a chief executive officer, which is a rather technical thing, or any principal operating officer. That does not really require a corporate structure at all. Therefore, Mr. Nader would be included under that as it is now, but if we have some way of making more sure, I personally certainly want to provide it. But I do not think there is any doubt of his coverage.

Mr. KINDNESS. I applaud the gentleman's intent and would look forward to his support of my amendment.

In the meantime I would like to draw to the attention of members of the committee the drawbacks of the Standards Committee substitute that is being offered at this time. Just quickly, there are nine points in which I believe it is fair to state or at least to argue that the version of the bill coming out of the Judiciary Committee is superior to the version of the bill now offered as a substitute.

Mr. BENNETT. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Florida.

Mr. BENNETT. Mr. Chairman, I earlier made a statement similar to that, and I pointed out to the gentleman that the Judiciary Committee bill is superior if we do not want to have any lobbyists covered, but every point the gentleman made was a place where they would be covered under our bill but not under this other bill, H.R. 15. I do not see how that makes H.R. 15 a better bill. I think it is a worse bill.

Mr. KINDNESS. We have a very delicate balance in the first amendment considerations involved here. If we are to have a bill which is worth as much as the baby's diaper, that is not going to be cold and uncomfortable when it cools off, then I think we had better be careful about what we do here about protection of first amendment rights.

Mr. BENNETT. But the gentleman does not deny the standards bill covers more lobbyists, not less. Yes or no?

Mr. KINDNESS. Let us take an example of that. The solicitations of others to contact Members of Congress or administrative people as the sole measure of whether an organization becomes covered under this bill I think goes a bit far, as far as the first amendment rights.

Mr. BENNETT. The gentleman makes the point we may be straining the Constitution to put all the people in it that the Standards bill has put in. The gentleman is not suggesting we left out any lobbyists that may be covered.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent, Mr. KINDNESS was allowed to proceed for 2 additional minutes.)

Mr. KINDNESS. Mr. Chairman, at this point I will yield no further.

The nine points in which there are substantial differences that need to come to the attention of the Members are these:

DRAWBACKS OF THE STANDARDS COMMITTEE SUBSTITUTE

First. Definition of solicitation.—The Standards substitute definition of the term of "solicitation" does not include the language excluding communications between two registered organizations. What this means is that one lobbying organization writing to another lobbying organization becomes a reportable activity.

Second. Solicitations as a threshold.—Like the Senate bill, their substitute would trigger coverage of an organization solely based upon indirect, grassroots lobbying activity. Section 3(a)(3) provides that an organization can become a lobbyist by spending in excess of $10,000 in a 6-month period to solicit others to make lobbying communications.

Third. Alteration of the 20-percent test.—Instead of using the 20-percent employee standard in section 3(a)(2), the Standards Committee provides for an organization to become a lobbyist by any of its employees spending 6 or more calendar days lobbying within a 6-month period. Based upon a 40-hour week, our test computes out to 8 days in a quarter. Consequently, their threshold, based upon employee activities, is much easier to cross.

Fourth. Speech or addresses.—The Standards Committee deleted the reference to "speech or address" in the exemption covering newspapers, books, magazines, et cetera. The speech or address language had been added to our bill's exemption in subcommittee upon the recommendation of the ACLU and the Sierra Club. It is probably safer constitutionally to keep that language in the bill.

Fifth. Organizational Communications.—From the beginning, our bill has exempted communications made by an organization "to its own membership." This phrase was deleted by the Standards Committee. Our subcommittee concluded that first amendment rights attach to written communciations even within an organizational framework.

Sixth. Registration.—Section 4 of the Standards bill adds a number of new and burdensome details to the annual registration form that must be filed under this law.

Seventh. Reporting.—The Standards bill would require semiannual, whereas our bill calls for quarterly reports.

Eighth. Contributions.—The Standards substitute contains no reporting provisions which would disclose contributions, no matter how large or if they exceed a given dues schedule.

Ninth. Advisory Opinions.—The Standards substitute completely deletes the power of the Comptroller General to issue advisory opinions to individuals or organizations as to the applicability of the new lobbying statute.

Mr. GONZALEZ. Mr. Speaker, I move to strike the requisite number of words.

Mr. Chairman, I find myself quite unenthusiastic about this type of legislation, whether it is the Senate version, the House committee version, or the substitute or the substitute for the substitute, because I am almost sure, unless somebody can point where I am wrong, that we really are not addressing ourselves to the real issue.

We had fairly good laws in the past and I think the fault has not been so much on the statutory stipulations as in either the corrupt enforcement or the lack of enforcement of the same. Nowhere do I see any reference in this legislation or any other legislation that has been offered in this Congress to such disparities and injustices as having a big official of the Gulf Oil Corp. or the American Airlines violating the law identically and in the same manner as an official from the Milk Producer's Union. Yet the big corporate executive gets a $1,000 or a $500 fine. The milk producer goes to jail, plus a fine.

Now, these things are the matters we should address ourselves to, the manifest injustice, the enforcement, the miscarriage of justice.

All of this to my mind just brings modern relevancy to an old English saying:

> The law jails both man and woman who steals the goose from off the common, but lets the greater felon loose who steals the common from the goose.

Mr. FLOWERS. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment of the gentleman from Florida.

Mr. Chairman, let me say, first of all, that the Committee on Standards and the Committee on the Judiciary certainly have been able to work in concert toward a common goal here. Any differences we have are minor in comparison to what we agree on here. Our basic approach is to avoid the loopholes in the 1946 act. I see about three major problems with their proposal and I want to ask for a "no" vote on the gentleman's amendment.

Then I see lurking behind the scene the specter of Ralph Nader and John Gardner and the implication that they are covered more under the Standards bill than they are under the judiciary bill. Frankly, I cannot accept that.

Under the approach that we take in the Judiciary bill, H.R. 15, as amended, and brought to the floor by the committee, the various organizations, Common Cause, the Gardner Organization, Public Citizens, Congress Watch, the Health Research Group, these are at least three of the Nader organizations, and all will be covered as lobbying organizations in our approach to the problem. When they act as individual citizens, the activities of Ralph Nader or John Gardner or John Doe would not be covered, because as the gentleman from Ohio so aptly stated, we are talking about first amendment rights of expression and the petitioning of the Government. We have a specific exemption which seeks to keep a guarantee of constitutionality of the bill.

Now, as to specific things that I think are problems with the Committee on Standards approach. There are three and I will be brief. No. 1, the gentleman from Florida says they have a provision, first of all, they will have twice yearly reports, but they will call for updating the information on all those reports. Now, the organizations that are likely to be covered, say this would create problems for them. They would rather have four definite dates a year to contend with than worrying about updating something on a periodic basis that is not defined.

Second, there is much more coverage under the Standards version. If you want to cover much smaller organizations that have much less lobbying effort, in fact, that have one-fourth of the lobbying effort as under our bill, then you will want to support the substitute. I would hope that we do not do that, because what we try to achieve in our version is a clear and realistic compromise balance where we require reporting by those organizations that have a significant or substantial amount of lobbying. Those who do not or who have an insignificant or unsubstantial amount, we do not want to be covered.

We have a 20-percent test. Their daytime figures would work out to about a 5-percent test.

I oppose enlarging coverage in that respect. Third, they would create an entirely new threshold aside from the 20-percent test, or dollar test, for outside retained people for the amount expended in what has been called at times grassroots lobbying. I oppose that as well, so I urge a shift "no" vote on the amendment offered by the gentleman from Florida.

Mr. WIGGINS. Mr. Chairman, I move to strike the last word. I do so for the purpose of asking a question about the substitute of the Committee on Standards of Official Conduct.

Section 3(a) of the substitute places a new triggering element which is contained on lines 13 through 16 of page 5 of the committee print. If the gentleman from Florida would refer to that language, I would like to ask him a question.

My question is whether or not the 6 or more calendar days must be 6 or more consecutive calendar days.

Mr. BENNETT. No.

Mr. WIGGINS. Then do I understand that over a 6-month period, which is the reporting period in the gentleman's substitute, an employee who may communicate with a Federal official once a month would result in triggering that organization, and the full duty of registration and reporting thereunder?

Mr BENNETT. No.

Mr. WIGGINS. Why not?

Mr. BENNETT. The gentleman said contact somebody once a month. That is not a full day's work.

Mr. WIGGINS. I am reading the language:

> Employs at least one individual who on all or part of six or more calendar days in any filing period engages on behalf of that organization in those activities described in paragraph 1.

Mr. BENNETT. The staff has corrected me. It does say part of a day.

Mr. WIGGINS. The practical effect, however, is that if an employee takes 10 minutes in getting on the telephone and communicating orally with a Federal official as described——

Mr BENNETT. The staff advises me that was the intent of the committee when they worked it out.

Mr. WIGGINS. What in the world prompted the gentleman to so fashion the trigger to catch an organization and submit it to the duty of all of this onerous reporting if one of its employees should get on the phone six times during a 6-month period protesting certain governmental action?

Mr. BENNETT. I do not know that I understand the gentleman's question. The thrust of the bill is, despite all the rhetoric about it, the thrust of the standards of official conduct bill is to include more lobbyists, not less. It does include them, and it is designed to do that. The 20 percent was considered to be too high a threshold.

Mr. WIGGINS. The consequence of this added language to the trigger is to expand enormously the scope of the bill and the number of organizations covered by it.

Mr. BENNETT. That is our intention.

Mr. WIGGINS. If the gentleman is attempting to love the bill to death, this may be a way to do it.

Mr. BENNETT. But on the other side, although we include practically all lobbyists, at the same time we eliminate unnecessary reports. They make fewer reports and as a matter of fact better reports because when they change their operation of lobbying and start lobbying for something else, they have to state that. So, they have better reports but at fewer times, so we are going to have a better reporting system. It is going to be less onerous on the people, but there are going to be lots more people covered, including, surely, Mr. Nader.

Mr. WIGGINS. Indeed there will be. I would like to go back for a moment and ask a question of my friend from Alabama (Mr. FLOWERS) concerning the Judiciary Committee bill. As the gentleman knows, there is provision in that bill for advisory opinions which is not included, incidentally, in the other committee bill. The Judiciary Committee provides for judicial review of an advisory opinion.

Mr. FLOWERS. That is correct.

Mr. WIGGINS. I presume that an advisory opinion may be sought on a hypothetical set of facts.

Mr. FLOWERS. That is correct.

Mr. WIGGINS. Can the gentleman cite to me any precedent which authorizes the judicial review of a hypothetical set of facts?

It seems to make the court a participant in rendering an advisory opinion.

Mr. FLOWERS. On page 34, line 17, "Any individual or organization who has received and is aggrieved by any advisory opinion."

One would have to be aggrieved. I do not think a hypothetical could be an aggrieved individual.

Mr. WIGGINS. I think we need a definition of "aggrieved." Does that mean some actual damage to person, property, or reputation?

Mr. FLOWERS. Within the meaning of the Declaratory Judgment Act.

AMENDMENT OFFERED BY MR. SISK TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BENNETT

Mr. SISK. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment offered by Mr. SISK to the amendment in the nature of a substitute offered by Mr. BENNETT: Section 3(a)(1) of the bill be amended by striking everything beginning with the word "or" on line 10, page 5, up to and including the word "communication" on line 12 of the same page.

Mr. SISK. Mr. Chairman, H.R. 15 requires the inclusion of time devoted to preparing or drafting oral or written lobby communications to Members of Congress or executive branch personnel to be covered under the act. A secretary, for example, that types the letter, a staff member who researches a subject, the mail clerk who processes the correspondence, the individual who maintains the filing room, the executive who signs the letter—all are included in computing time devoted to lobbying. And we must remember that lobbying under H.R. 15 is expanded to include contacts with the executive branch's senior officials on rules, rulemaking, and contracts.

Therefore, a road construction company seeking a highway contract from the Department of Transportation could, if it met the threshold criteria in the bill, become a "lobbyist." Recordkeeping would be a nightmare for virtually all office employees who spent any time in preparing or drafting oral or written communications. This is ridiculous. It is unenforceable and subjects individual employees who are not lobbyists in the normal sense to civil and criminal penalties for violation of a law they never heard of.

My amendment simply strikes the provision covering preparation and drafting or oral or written communications and leaves intact the section relating to actual contact with Congressmen and Government officials.

Mr. Chairman, it just seems to me, from the standpoint of recordkeeping, I do not see where it weakens the bill in any way, but I think it does eliminate what amounts to almost an impossible situation in connection with keeping any records at all. I would urge the committee to accept this particular amendment.

I am sorry that unfortunately the gentleman from Georgia (Mr. FLYNT) cannot be here. I might say that I discussed the amendment with the gentleman from Florida. It was acceptable to him. I did talk to the gentleman from New Jersey (Mr. RODINO). I did not talk to the gentleman from Alabama (Mr. FLOWERS).

Mr. BENNETT. Mr. Chairman, if the gentleman will yield, if the gentleman talked to the gentleman from Georgia (Mr. FLYNT) and if it is agreeable with the gentleman, the chairman, it is agreeable with me.

Mr. SISK. I thank the gentleman.

Mr. Chairman, I do think it does improve the ability to operate under this law if in fact it does become law. I would hope that the committee would see fit to adopt the amendment.

Mr. FLOWERS. Mr. Chairman, I regretfully must rise in opposition to the gentleman's amendment.

Mr. Chairman, the problem here—and I know it proceeds from the gentleman from California in good faith—is that the amendment would create a giant loophole in the legislation. We attempted to cover this by specifically putting this language into the bill. I would refer the gentleman from California to our report, if he has a copy of it handy, at page 19, at the bottom of the page, and the top of page 20. I will read it, very quickly, here. It is a very short passage.

> The language in this subsection covering work done "for the express purpose of preparing or drafting any such oral or written communication" is intended to apply directly to the preparation of oral or the drafting of written communications covered by subsection 3(a). Accordingly, to come within the scope of this language, the preparatory or drafting activity must have been commissioned or undertaken for the express purpose of making a covered communication with the knowledge and intention that the materials thus produced would be for such use.

Mr. Chairman, the alternative to having this language in here is that the only covered activity would be the actual activity of the lobbyist appearing in a Member's office or catching a Member out there on the steps or meeting him somewhere, and then the only covered time would be the actual time involved in making the communication. I think it is rather naive to presume that is the only time that is spent in lobbying activities. Time is spent in directly preparing a communication, whether it is oral or written, or in directly studying for the communication. In my judgment, that is clearly lobbying activity time, and it ought to be covered.

This is a very important amendment. We should not leave this loophole. Although we might agree to this amendment to the substitute, but then we would still have to meet the problem later on, so let us defeat the amendment now.

Mr. SISK. Mr. Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from California.

Mr. SISK. Mr. Chairman, in discussing this section 3(a)(1), I am sure my colleague, the gentleman from Alabama (Mr. FLOWERS), will agree that this amendment leaves practically all the language intact. This language starts on page 4, line 20, of the substitute bill and continues through the balance of that page and down through line 12 on page 5.

We are striking only one thing there. I will not take time to read it all, but the paragraph outlines specifically the items that would be covered, and the only thing we are knocking out is "or for the express purpose of preparing or drafting any such oral or written communication."

It does not in any case, in my opinion, eliminate any provision having to do with expertise or eliminate anything having to do with the information gathered, but it does eliminate the necessity of keeping a time schedule on every secretary in the office and on exactly how much time is spent on one given communication.

Mr. Chairman, I would appreciate having the gentleman explain to me how in the world he can expect that kind of a record could be kept in the first place. Is it going to be based on anything other than guesswork?

Mr. FLOWERS. Mr. Chairman, it is not within my contemplation that under any usual circumstances a secretary's time in, for instance, typing written communications would ever amount to 20 percent and thus become a threshold. We are talking about the actual threshold here, and we are really dealing with the firing-line lobbyist himself, the individual lobbyist who is out actually making the communication, who is in a Member's office or out on the steps of the Capitol here.

If we exclude the time spent in preparing an oral or written communication, I say that we create a giant loophole. I point that out because I know the gentleman from Florida (Mr. BENNETT) is anxious to include more people under his committee's approach to this bill. This loophole would allow all those people he wants to include, as well as many others, to escape coverage under this bill.

Mr. Chairman, I say regretfully that I must oppose this amendment.

Mr. MOORHEAD of California. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, once an organization meets a threshold, it has to report under every single section of this bill if they meet the qualifications. Now, there is no purpose whatsoever on behalf of the public or anyone else to require an organization to report the work of a secretary or of a research staff in preparing the materials that they will perhaps use later in lobbying work. It will not even be used in lobbying work, but it may have been prepared originally for that purpose.

If we want to get at the real purposes of this kind of legislation, which is to inform the people of excess pressure by lobbying organizations on their representatives, then we should not worry about this kind of thing, the work that goes on back in the organization itself in making the preparations and in gathering the materials and the information to make its case.

Mr. Chairman, I cannot see that any possible good can come from requiring organizations to report the time that is taken up by the secretarial staff or by the dictating staff or by the research people.

For that reason, Mr. Chairman, I think this is a good amendment and I support it.

Mr. KINDNESS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I would like to point out to my colleagues that it is particularly important that this amendment be adopted, not necessarily so much for the reason that we are dealing with the kind of lobbying that many of us are really thinking about here as because of the fact that this bill covers contacts relating to Government contracts, the award of Government contracts.

Let us picture a research and development firm which, through its employees, makes contact with people in, let us say, the Department of Defense about a proposed future area of research work to be done. Eventually the Congress passes authorizing legislation and appropriation legislation, and it becomes a reality that this research work will be done. Then this same firm is a successful bidder or becomes a contractor for that work.

Mr. Chairman, how far back do they go to determine what time was spent by what people in preparing for the contacts that were made relating to that Government contract? It is an impossible task, and it is obviously unnecessary for us to include all of that with relation to Government contract communications.

Incidentally, Mr. Chairman, I will be offering an amendment in a little while to exclude Government contract awards from the coverage of this act because I think it is an entirely different area of subject matter.

However, Mr. Chairman, particularly in the light of the existence of that coverage at the present time, I urge the adoption of the amendment.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Chairman, perhaps the gentleman from Ohio (Mr. KINDNESS) was not listening to me a while ago when I read the section which is a part of our committee report.

Mr. KINDNESS. Mr. Chairman, to get back to the subject of what was going on in the subcommittee hearings, sometimes I think the chairman was not listening to me either.

Mr. FLOWERS. Mr. Chairman, if the gentleman will yield further, if the gentleman will read line 10 page 5 and if he understands what "express" and what "purpose" mean, I think his scenario is clearly not covered. It is not intended in the language; it is not intended in the report; and it is not intended in the hearts and minds of his countrymen. Therefore, Mr. Chairman, it would not be covered.

Mr. KINDNESS. Mr. Chairman, I certainly appreciate the gentleman's liberality in the construction of the language. However, I do not believe that that is the way a court would interpret it, because such work is directed toward the preparation of communications relating to that particular Government contract, and there is not any way in which anyone is going to get around it.

Mr. Chairman, I would urge support of the amendment.

Mr. DANIELSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, very reluctantly do I oppose the amendment offered by my distinguished colleague, the gentleman from California (Mr. Sisk); but I must side with my subcommittee chairman, the gentleman from Alabama (Mr. Flowers), in this matter.

Mr. Chairman, it is not unusual in the course of human activities for much more time to be spent in preparation for an act than in the accomplishment of the act itself.

Mr. Chairman, that is certainly true in this instance. If we were only to count the amount of time that went into the actual transmission of the communication from the lobbyist to the Federal official, it might be only a few moments; and it certainly would not reflect the time, the expense, the motivation that went behind the preparation.

I am reminded that a few years ago I had the privilege of journeying down to Cape Canaveral and watched the Apollo blastoff. I was really disappointed. It took about 2 minutes from the time I first saw some smoke and fire until there was nothing left. Yet, I do know that it must have cost about $25 billion, plus months of effort, to cause that big rocket to take off.

Mr. Chairman, if we were simply going to take the amount of time it takes for the lobbyist to drop a piece of mail in the slot and try to account for 20 percent of his total time, we would never get around to including anybody.

Talk about loving something to death, why, my distinguished friend, the gentleman from California (Mr. Sisk), you know, we would not have anything left in this bill if all we talked about was the time it took to mail a letter.

If we are really going to do something about lobbying, then let us do it, or let us not do anything, but, let us not kid ourselves into thinking that posting a letter is the only accountable act that that lobbyist did.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, do I also understand from the remarks of the gentleman from Alabama (Mr. Flowers) that it is clearly not the intent to include secretary's typing? In other words, what we are trying to get at right here are the people who are engaged in actually formulating or preparing, that is their express purpose?

Mr. DANIELSON. Mr. Chairman, might I reply to the gentleman from Illinois (Mr. Railsback) by saying that I do not understand what the gentleman understood from the remarks of the gentleman from Alabama (Mr. Flowers) but the observation of the gentleman agrees with mine. I would like to yield to the gentleman from Alabama to answer that question.

Mr. FLOWERS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we are talking about a threshold here. I think if under the scheme of things his secretary did spend 20 percent of his or of her time that that would cross the threshold. But that is a very outlandish assumption. What we are really trying to get at, as the gentleman says, is the preparation for the lobbying activities whether oral or written. And I agree totally with what the gentleman from California says. If we exclude this then we are left with an empty bag here.

This, as I said earlier, is a most important amendment, we are either for lobbying reform and regulation here or we are not.

Mr. KINDNESS. Mr. Chairman, if the gentleman will yield, on the point that is just being clarified, we are talking about the period of time being used by an employee, like a secretary, in a calendar quarter. In a calendar quarter there might be quite a considerable expenditure in this one area and it could, indeed, get over the threshold. Indeed secretaries, or people engaged in art work, for example, on a piece of material that was to be mailed out, or something of that nature, might give rise to coverage.

Mr. DANIELSON. I do not know anything about the art work. I have never been lobbied by art work so I do not know how that really fits in. But if the work is calculated to promote the activities of the lobbyist, it certainly ought to be counted, no matter who does it. I repeat, if the work is part of the lobbying effort, then it certainly should be counted. In the preparation of a speech, for heaven's sake, as the Members well know, one can prepare for a couple of weeks in order to give a 20-minute speech. I certainly think that time ought to be included.

Mr. KINDNESS. Would the gentleman from California agree that the matter of contacts and communications and preparation for them, relating to Government contracts awards might be an extremely complex consideration in the light of this language?

Mr. DANIELSON. It might be very complex, I agree.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BOWEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. SISK. Mr. Chairman, would the gentleman yield?

Mr. BOWEN. I yield to the gentleman from California.

Mr. SISK. Mr. Chairman, I appreciate the comments of my good friend, the gentleman from California (Mr. Danielson) for whom I have the greatest respect because I know the excellence of his ability as an attorney, but I would like, very quickly, to read from section 3(a). The title is "Applicability of Act" and it reads:

> Sec. 3. (a) The provisions of this Act shall apply to any organization which—
>
> (1) makes an expenditure in excess of $1,250 in any quarterly filing period for the retention of another person to make oral or written communications directed to a Federal officer or employee to influence the content or disposition of any bill, resolution, treaty, nomination, hearing, report, investigation (excluding civil or criminal investigations or prosecutions by the Attorney General and any investigation by the Comptroller General authorized by the provisions of this Act), rule (as defined in section 551 (4) of title 5, United States Code), rule making (as defined in section 551(5) of title 5, United States Code) or the award of Government contracts (excluding the submission of bids),

That is all in this section, none of which is touched by my amendment. That paragraph ends with this language:

> . . . or for the express purpose of preparing or drafting any such oral or written communication; . . .

That is the only portion that is stricken by this amendment, which deals, of course, with the rather elementary part of the secretarial work that goes into drafting and putting together that communication.

I just wonder what we are doing to ourselves and to what extent we are going to require every company or every individual who is involved in contact either with a Member of Congress or an agency of Government, to the point of having to count every minute put in by each secretary or each mail handler, or anything else. All I am trying to do, hopefully—and I propose to offer this amendment to H.R. 15, assuming the substitute does not carry—is to try to get this bill into some kind of conformity that I think the American people can live with and, frankly, be honest in doing it, because I find no way under the sun that we could actually account for the kind of time that seems to be stipulated by this requirement.

Mr. Chairman, I ask for support for the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Sisk) to the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. Bennett).

The question was taken; and on a division (demanded by Mr. SISK) there were—ayes 29, noes 12.

Mr. FLOWERS. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears. Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the request of the gentleman from Alabama (Mr. FLOWERS) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 143, noes 236, not voting 51, as follows:

[Roll No. 823]

AYES—143

Abdnor
Annunzio
Archer
Armstrong
Ashbrook
Bauman
Beard, Tenn.
Bell
Bennett
Bowen
Brinkley
Brooks
Broyhill
Burgener
Burleson, Tex.
Butler
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cochran
Collins, Tex.
Corman
Crane
Daniel, Dan
Daniel, R. W.
Dent
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
English
Erlenborn
Evans, Colo.
Evans, Ind.
Fary
Fish
Ginn
Goldwater
Goodling
Hall, Ill.
Hammerschmidt
Hansen
Harsha
Henderson
Hightower
Hillis
Holt
Howe
Hutchinson
Hyde
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
Lagomarsino
Latta
Lent
Lloyd, Calif.
Long, La.
Lott
Lujan
McClory
McDonald
McKay
Madigan
Mann
Martin
Mathis
Melcher
Michel
Milford
Miller, Ohio
Mills
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Murphy, Ill.
Myers, Ind.
Natcher
O'Brien
Passman
Paul
Pettis
Pickle
Poage
Price
Pritchard
Quillen
Randall
Regula
Rhodes
Risenhoover
Roberts
Robinson
Roncalio
Rousselot
Runnels
Ruppe
Ryan
Satterfield
Schneebeli
Shuster
Sikes
Sisk
Smith, Iowa
Snyder
Spence
Stanton, James V.
Steed
Stephens
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thornton
Treen
Waggonner
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Winn
Wright
Wydler
Young, Alaska
Young, Tex.
Zeferetti

NOES—236

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Aspin
AuCoin
Badillo
Bafalis
Baldus
Beard, R.I.
Bedell
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Buchanan
Burke, Calif.
Burke, Fla.
Burke Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Chisholm
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Conyers
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
du Pont
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Eshleman
Fascell
Fenwick
Fisher
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Gonzalez
Gradison
Grassley
Gude
Hagedorn
Hall, Tex.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Hicks
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, Ala.
Jordan
Kasten
Kastenmeier
Keys
Koch
Krebs
LaFalce
Leggett
Lehman
Lloyd, Tenn.
Long, Md.
Lundine
McCloskey
McCormack
McEwen
McHugh
McKinney
Madden
Maguire
Mahon
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mitchell Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Mosher
Mottl
Murtha
Myers, Pa.
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Peyser
Pike
Pressler
Preyer
Quie
Railsback
Reuss
Richmond
Rinaldo
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Roush
Roybal
Russo
St Germain
Santini
Sarasin
Sarbanes
Schroeder
Schulze
Seiberling
Sharp
Shipley
Simon
Slack
Smith, Nebr.
Solarz
Spellman
Staggers
Stanton, J. William
Stark
Steiger, Wis.
Stratton
Studds
Symington
Thone
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
Wilson, Tex.
Wirth
Wolff
Wylie
Yates
Yatron
Young, Fla.
Zablocki

NOT VOTING—51

Ashley
Baucus
Biaggi
Breaux
Brown, Ohio
Clancy
Clay
Conlan
Early
Esch
Evins, Tenn.
Findley
Fithian
Flynt
Green
Guyer
Haley
Hawkins
Hébert
Heinz
Hinshaw
Holland
Jarman
Landrum
Levitas
McCollister
McDade
McFall
Matsunaga
Mink
Moss
Murphy, N.Y.
Nix
Pepper
Rangel
Rees
Riegle
Rostenkowski
Scheuer
Sebelius
Shriver
Skubitz
Steelman
Steiger, Ariz.
Stokes
Stuckey
Teague
Thompson
Vander Jagt
Wampler
Young, Ga.

The Clerk announced the following pairs:

Mr. Hébert for, with Mr. Thompson against.

Mr. Teague for, with Mr. Rangel against.

Mr. Breaux for, with Mr. Stokes against.

Mr. EVINS of Tennessee for, with Mr. Young of Georgia against.

Mr. Flynt for, with Mr. Levitas against.

Mr. Haley for, with Mr. Biaggi against.

Mr. Landrum for, with Mr. Clay against.

Mr. Stuckey for, with Mr. Nix against.

Messrs. CHARLES WILSON of Texas, MAHON, BEVILL, and MADDEN changed their vote from "aye" to "no."

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ASHBROOK TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BENNETT

Mr. ASHBROOK. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK to the amendment in the nature of a substitute offered by Mr. BENNETT: On page 5, line 20 strike the period and insert a colon. On page 5, following line 20 insert the following new language: "*Provided, however*, That no officer, agent, or employee of an organization defined as a lobbyist by this Act may lobby on any legislative matter within one hundred feet of either Chamber of the Congress when either body of said Congress is in session;"

Mr. FLOWERS. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Alabama (Mr. FLOWERS) reserves a point of order.

Mr. ASHBROOK. Mr. Chairman, this is a rather simple amendment and I hope that it will pass rather handily.

I believe one of the chronic complaints throughout the country regarding the Congress is that normally we make laws which affect other people and exempt ourselves to the largest degree possible. We are often accused of following that old adage of "don't do as I do, just do as I say." On several occasions we have had lobbying held out as something that, if it is not pernicious, at least it deserves further regulation by the Congress, and on that I would agree. But, if lobbying is bad, if lobbying is dangerous, then I think it makes sense that the closer it gets to these legislative bodies, the more dangerous it is.

I think we have all seen the spectacle of lobbyists positioning themselves at the various doors as we enter and maybe giving their friends a "yes" or "no." Sometimes they tell their friends what the bill is, and often tell their cronies what their vote is, if the Member is more dutiful to their particular cause. But, at any rate, I think in all seriousness we should at least regulate and prevent this as much as possible. My amendment, as I say, is very simple. All it says is that no officer, agent, or employee of an organization defined as a lobbyist by this act may lobby on any legislative matter within 100 feet of either Chamber of the Congress when either body of said Congress is in session.

I think that makes a lot of sense. I think it would in many ways improve the image of this body. I think there are a substantial number of people who think that Congressmen make their votes on the basis of what a lobbyist tells them when they come through the door.

At any rate, I think this is the type

of amendment that can make lobbying regulation much more meaningful because we are saying it applies to us; it does not apply just to something that is happening in some office.

In the debate thus far we have heard about a secretary in some office. The gentleman from Florida (Mr. BENNETT) talked about lobbying emanating from grassroots. Here we are getting at the source here in Congress. We are saying that although lobbying is something that can be regulated back at the grassroots, or some executive office of some organization, union, business, activist group or whatever it might be, but it is even more important to be regulated right here near these Chambers.

Some Members might think this is done in jest. I assure them it is not done in jest. I think if we are to have a meaningful lobbying bill we should say to the American people that we are in dead earnest that it is going to apply to us, maybe even more so to us here in Congress than it does to people back in Iowa, Ohio, or California.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from California.

Mr. KETCHUM. I thank the gentleman for yielding.

I certainly support the gentleman's amendment. Of course, I do not think 50 feet is far enough; I think 50 yards would be more like it.

But I gather that what the gentleman is driving at is, as an example, outside of these doors when we try to come in and vote, there would be no lobbyist standing there representing whatever organization he might represent trying to influence the votes of Members as they come and go from the Chambers. Is that not right?

Mr. ASHBROOK. Yes. I drafted it very closely with the 100 feet in mind because those who still feel they need the aid of a lobbyist can come through the rotunda. If someone stations himself in the rotunda, when a Congressman comes through there, he could get the thumb up or thumb down indication of a vote, but not in this Chamber.

Mr. KETCHUM. I thank the gentleman, and I certainly support his amendment.

Mr. ALLEN. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Tennessee.

Mr. ALLEN. I thank the gentleman for yielding.

As a matter of clarification, sir, would the gentleman's provision apply to anyone who is defined as a lobbyist at all times, whether or not a bill is before either House concerning which such lobbyist had an interest? In other words, is such person barred from being within 100 feet of either body at all times when the Congress is in session, or just at such times as when he has a matter in which he has an interest, and concerning which he is trying to influence our votes?

Mr. ASHBROOK. I would say to my friend, the gentleman from Tennessee, that there are several nets for catching people. There are some who would be full-time lobbyists just by the nature of their work. Others, because of the fact that they spend x percent of their time lobbying Congress, would be covered. There are others who by various provisions would be caught because they are going to lobby once in awhile.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ASHBROOK was allowed to proceed for 1 additional minute.)

Mr. ASHBROOK. I have drafted it so that anyone who would be defined as a lobbyist, whether of the full-time variety or the part-time variety, could not lobby within 100 feet of the House Chamber when either House is in session. The farmer from Tennessee who comes in, a teamster visitor, or someone who might want to contact his Congressman who does not come under the definition, can come to the Chamber at any time, as he normally would, but not a person who comes under the definition of the act.

Mr. ALLEN. If the gentleman will yield further, that means whether or not the measure before the House concerns such lobbyists or not, he would still be barred from coming within 100 feet.

Mr. ASHBROOK. That is right, not for just the specific measure coming up that day.

Mr. ALLEN. I thank the gentleman for his clarification.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Alabama (Mr. FLOWERS) insist on his point of order?

Mr. FLOWERS. I do, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. FLOWERS. Mr. Chairman, I raise the point of order that the gentleman's amendment is not germane to the main purpose of the bill, which is public disclosure of public activities and not a prohibition of lobbying activities. I would also suggest to the Chair in raising my point of order to the gentleman's amendment that additional duties hereunder would be imposed on the Comptroller General than otherwise would be imposed upon him. For that purpose it ought to be also considered nongermane, and the point of order ought to be sustained.

The CHAIRMAN. Does the gentleman desire to be heard on the point of order?

Mr. ASHBROOK. Yes, Mr. Chairman.

I fail to see how the amendment would add additional duties to the Comptroller General. The amendment is simply a statement of exception to the various provisions we have. I do not see it as broadening the coverage of the act.

I think we could find several places where we do in effect have limitations, where we do have regulations. I do not look upon this amendment as any different than any of those. I hope the Chairman would reject the point of order.

The CHAIRMAN (Mr. BOLLING). The Chair is ready to rule.

The Chairman would like to read from the report of the committee on the bill which the Chair believes properly characterizes the Bennett amendment as well. On page 8, in the middle of the page, under the title "Purpose," as the gentleman from Alabama (Mr. FLOWERS) indicated:

> The purpose of H.R. 15, as amended—

And here the Chair would add the words "and of the Bennett amendment"—

> is to replace the present lobbying disclosure law with a comprehensive new statute that specifies which organization must register as lobbyists and what information they must publicly disclose. It does not in any manner seek to regulate or prohibit lobbying itself.

The Chair agrees with the statement of purpose made in the report and in the statement of the gentleman from Alabama. Therefore, the Chair thinks that the amendment offered by the gentleman from Ohio (Mr. ASHBROOK) goes well beyond the fundamental purpose of the basic amendment in the nature of a substitute offered by the gentleman from Florida, and attempts to directly regulate lobbying activities. And the Chair sustains the point of order.

AMENDMENT OFFERED BY MR. MATHIS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BENNETT

Mr. MATHIS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. BENNETT).

The Clerk read as follows:

> Amendment offered by Mr. MATHIS to the amendment in the nature of a substitute offered by Mr. BENNETT: Page 10, line 23 after "a description of the", strike out "twenty-five" and insert "primary".

Mr. MOORHEAD of California, Mr. Chairman, may we have a copy of the amendment?

Mr. MATHIS. I would say to the gentleman, I am sorry I do not have a copy of the amendment prepared. I would, in the time I have, attempt to explain what the amendment does.

The amendment strikes out on line 23, page 10, of the committee substitute the word "twenty-five" and inserts therein the word "primary".

The purpose of this amendment, I would say, Mr. Chairman, is simply to allow these organizations that are labeled under the bill and under the substitute as lobbying organizations to report on their primary efforts, the primary issues on which they are involved, and not on 25 issues that they are concerned with or that they are involved with or that they are working with.

Mr. Chairman, I have discussed this matter with both the distinguished gentleman from Florida and the distinguished chairman of the Subcommittee on the Judiciary which brought this bill here. I apologize to my friends, the gentleman from South Carolina and the gentleman from California for not having had an opportunity to speak with them earlier. I think the amendment does no damage to the bill but in fact would make this bill more workable in terms of these organizations that are required to file these reports on a quarterly basis.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Chairman, the gentleman has discussed this matter with me. I think the inclusion of "twenty-five" as a number was intended to create a ceiling and would not require organizations with many pieces of legislation they are interested in to specifically talk to or describe specifically more than 25, that being about all the mind could comprehend. But I have no objection to the gentleman's amendment. I do not think it does any violence to the concept here at all.

We are talking about requiring the organizations to list the issues they are interested in and describe those issues as 1, 2, 3, 4, and 5, however many, and describe how many they are interested in but not ask them that they specifically describe every conceivable issue they might have some passing interest in. Is that the gentleman's intent?

Mr. MATHIS. Mr. Chairman, I would say to my friend, the gentleman from Alabama, that is the understanding of the gentleman from Georgia. That is exactly what I am trying to avoid, that kind of nightmarish record-keeping situation that I can see from some of our organizations, such as labor organizations and Chamber of Commerce types, who are certainly interested in 25 or more at one time.

Mr. FLOWERS. Which issue they do spend the most time on.

Mr. MATHIS. Yes.

Mr. FLOWERS. Mr. Chairman, if the gentleman will yield further, there has never been any intention to require that kind of record-keeping.

Mr. Chairman, we will accept the amendment.

Mr. BENNETT. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from Florida.

Mr. BENNETT. Mr. Chairman, as the gentleman described the matter to me, we might get better information from the suggested amendment by listing the 25, because they cannot list 25 things they are interested in and sort of obfuscate or draw attention away from the things they are primarily interested in. Therefore, it is in our committee's favor.

Mr. KINDNESS. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from Ohio.

Mr. KINDNESS. Mr. Chairman, I would like to understand the meaning of the subsection as it will be amended by the gentleman's amendment, because at the end of the subsection there appear the words:

> and upon which the organization spent the greatest proportion of its efforts.

That seems to me to mean about the same thing as "primary issues." I believe it creates an ambiguity to say "concerning the primary matters upon which the organization spent the greatest proportion of its efforts."

Would it not be clearer, for example, to strike "twenty-five" and rely upon the remainder of the words in that section?

Mr. MATHIS. Mr. Chairman, I certainly would have no trouble with that. What I am trying to do is remove the No. 25 as the base from which they have to work. I would certainly have no trouble with that. If the gentleman cares to offer such an amendment, I would support it.

I would be willing to ask unanimous consent that my amendment simply read to strike the number "25" and not insert therein the word "primary", if that is agreeable to the gentleman from Ohio and the gentleman from Florida.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. MATHIS) has expired.

(By unanimous consent, Mr. MATHIS was allowed to proceed for an additional 3 minutes.)

Mr. MOORHEAD of California. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from California.

Mr. MOORHEAD of California. Mr. Chairman, the question I have is if we take the "25" out and put "primary" in, are we then forcing the organization to make a subjective judgment as to which issues are primary? Whether to list three and say they are the primary issues, or whether to go on up to 20 or 25 more important ones? We are putting the responsibility on the organization to guess what the law would require. We make it less specific.

I wonder if we are not making this more difficult than it is already when we do that.

Mr. MATHIS. Mr. Chairman, I would say in response that I do not think that is the case.

Further in response to the gentleman from California, I have also asked unanimous consent that the amendment now read just to strike the word "twenty-five" and not to reinsert "primary."

Therefore, that would make that section to read concerning a description of the issues concerning which the organization filing such report engaged in.

I think it would still put a burden on the organization to file the report in which they are concerned.

Mr. MOORHEAD of California. Mr. Chairman, if the gentleman will yield further, then he would have to report every single issue with which he had any involvement, regardless of how minute it was.

Mr. MATHIS. Mr. Chairman, I would say in response to the gentleman that the rest of the section reads, "upon which the organization spent the greatest proportion of its efforts."

Mr. MOORHEAD of California. Mr. Chairman, if the gentleman will yield further, there may be one that spent 30 percent of its time and another that spent 60 percent of its time and we are confusing the issue.

Mr. MATHIS. Mr. Chairman, to reclaim the time that I have left, we have no provision in either bill that says they have to break down whether they spent 51 percent on one issue and 49 percent on the remaining 24 issues that are required.

All we are attempting to do in my amendment is to simplify the record-keeping process for these organizations that are going to be required to report under the provisions of both H.R. 15 and the Standards of Official Conduct Committee substitute. In discussions with everyone concerned about it, I believe that there is consensus that this, in fact, is an improvement over the language in the bill, and I urge the gentleman's support.

Mr. MOORHEAD of California. I really think it confuses the legislation more.

Mr. MATHIS. I am glad the gentleman said "more," because I do think it is a confusing situation as is. I urge adoption of the amendment.

The CHAIRMAN. The Clerk will report the amendment as it is sought to be modified by the unanimous-consent request of the gentleman from Georgia (Mr. MATHIS).

The Clerk read as follows:

> Amendment offered by Mr. MATHIS to the amendment in the nature of a substitute offered by Mr. BENNETT: Page 10, line 23, after "a description of the" strike out "twenty-five".

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. MATHIS), as modified, to the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. BENNETT).

The amendment, as modified, to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. MICHEL TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BENNETT

Mr. MICHEL. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment offered by Mr. MICHEL to the amendment in the nature of a substitute offered by Mr. BENNETT: Page 6, line 22, in section 3(b)(5), strike out all that follows "State" on line 22.

Mr. MICHEL. Mr. Chairman, I apologize to the members of the Committee for not having copies of the amendment, but it is a very simple one.

It simply strikes out the balance of the sentence on line 22, page 6, "or in the Congressional District within the State."

Now, under the consideration of the Committee today we have this unbelievable provision regarding our relationship with our own constituents. I do not need to remind this body that constituents are voters. As I understand this legislation, the substitute amendment provides that an organization is not a lobbying organization if it communicates with its own Senators and Congressmen in the State and district wherein the organization maintains its principal place of business. However, let us take the case of a trade union leader, a business executive or an association official who qualifies as a lobbyist and lives across town in another congressional district from his principal place of business. He would be covered under the onerous provisions of this act if he communicated with his own Congressman on a matter of official business.

Unbelievable? Read the bill. Exemption

is granted for free communications to the Members of Congress representing a constituent's principal place of business.

Look at another complication. A farmer may have several places of business; his home, his farm, downtown office or place where he does business, sales office in another town, and so forth. Which one is really his principal place of business?

My amendment is not perfect in that it does not address itself to those metropolitan areas that sprawl across State lines. It does not correct the situation where a corporate official or union leader represents plants of workers in other States. Nevertheless, this amendment is the least we can do to protect our own constituents, our own voters, in not restricting their communications with us.

My amendment simply permits free exchange of views between an organization and its employees and Members of the Senate or Members of the House of Representatives as long as the principal place of business is in the State and not in the congressional district. I am sure the Members will find other Members of Congress, if they were as alert to the specifics of this legislation, who would be just as frustrated about this thing as I am, because we have a river that divides part of our district from another. A lot of people live on one side of the river and have a principal place of business on the other.

Obviously, they are voting where their residence is. But their principal place of business is across the district line. I think it is sufficient that we just leave it rest with the word "State." My amendment has not remedied the problem of those people in New York, New Jersey, in the Philadelphia-Camden area. I can perceive all kinds of problems that just make it rather ridiculous that we foreclose an individual from speaking freely with his own Congressman.

Mr. Chairman, I urge the adoption of the amendment.

Mr. FLOWERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, my friend, the gentleman from Illinois (Mr. MICHEL), I think has slightly erroneously characterized it. We have specific exemptions for individuals talking to, conversing with, communicating with his own Congressman. There is a specific exemption for the individual talking to his own Congressman. This section goes to the organization itself. This is an exemption which applies to the organization, the covered organization.

Mr. MICHEL. If the gentleman will yield, let us say that here I am, as an individual, and my corporate entity or my business is across the State line. Now the Members know that I happen to be a Member of Congress. We are talking in different terms. But separate me from serving in this body. I am just an individual now. But I also have my business on the other side of the river. And then I will be forced to do all of these things that are required in this bill.

Mr. FLOWERS. No, no. None of these things would create in and of themselves a threshold. The threshold itself is sufficiently high. On top of that, we impose the somewhat artificial but I think well-founded provisions. One of them is the exemption to the two Senators, in the gentleman's case, from Illinois, and that anybody in any organization whose principal place of business is in the gentleman's congressional district, any time they spend lobbying the gentleman from Illinois (Mr. MICHEL), that would not go into the threshold time, the 20-percent test, for that organization. I think to do otherwise, to create a full statewide exemption rather than what we might call a congressional district exemption would create problems. All we have to do is look at the disparity between the two adjoining States of California and Nevada, and we will see that a company or an organization that is home-stated in Nevada has three people that their communications would be exempt to under the change the gentleman proposes. The one in California has 40-some-odd. The disparity there I think creates an imbalance and it is somewhat uneven in its application. What we tried to do, while maintaining an exemption that would be fair and reasonable, we tried to hold it down so that it would also be fair and reasonable looking at the geographical regions of the country. That is our purpose.

I urge a "no" vote on the amendment.

Mr. MICHEL. If the gentleman will yield, I do not read this bill the same way the gentleman does, but that is what the difference is among the Members.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MICHEL) to the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. BENNETT).

The amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. SISK TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BENNETT

Mr. SISK. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. SISK to the amendment in the nature of a substitute offered by Mr. BENNETT: Section 5(b) of the bill be amended by deleting the word "five" on line 12, page 9, and substituting therefor the word "two".

Mr. SISK. Mr. Chairman, I am only going to take a minute or 2 to explain this amendment. What it does is very obvious to anyone reading the amendment.

The amendment changes from 5 years to 2 years the period of time that an individual or a company would be required to keep records. This is somewhat in line with what I had attempted to do earlier in connection with my other amendment which, by the way, was voted down. I still think that was a good amendment because it would have eliminated, I believe, some of the atrocious requirements for recordkeeping that are going to be provided in this bill. However, that is neither here nor there; that amendment was voted down, and the House chose not to accept it.

It seems to me to be totally foolish to require an individual or a company to keep a bunch of these records laying around for 5 years. Therefore, this amendment simply reduces from 5 years to 2 years the necessary time for keeping such records by these organizations.

Mr. Chairman, I think this is a reasonable amendment, and I urge its adoption.

Mr. KINDNESS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I believe the amendment, if adopted, would present us with a mechanical problem that could not be reconciled.

If records were to be kept for only 2 years rather than 5 years and if the statute of limitations on criminal actions for violation of this bill, if it becomes law, provides for 5 years, then the records ought to be kept for the same period of time, I should think, as the period of time required by the statute of limitations. If the records were gone or had been destroyed after 2 years, obviously prosecutions would be thwarted. Mechanically, this simply would not work.

So, Mr. Chairman, I urge the rejection of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. SISK) to the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. BENNETT).

The amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. MOORHEAD OF CALIFORNIA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BENNETT

Mr. MOORHEAD of California. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. MOORHEAD of California to the amendment in the nature of a substitute offered by Mr. BENNETT: Page 10, line 11, strike the semicolon and insert the following additional language: ", or any loan made on terms and conditions that are no more favorable than those available to the general public;".

Mr. MOORHEAD of California. Mr. Chairman, this provision would make it clear that a loan made in the ordinary course of business and under terms and conditions no more favorable than those available to the general public would not be required to be reported. There is no justification for requiring an organization, such as a bank, which may engage in such transactions, and which may also be registered as a lobbyist, to disclose such a loan. Clearly, this would be an unconscionable invasion of the privacy of the Federal officer or employee involved. The disclosure requirements of this section should be directed toward those situations where, at least arguably, special favors have been granted or special benefits have been conferred on the individuals involved.

The bill as now drafted could be the subject of litigation over first amendment rights and invasion of privacy. My amendment is one step that corrects a potential problem area without damaging the thrust of the legislation.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Chairman, I was just talking to my friend, the gentleman from Florida (Mr. BENNETT), and we nodded our heads in agreement. The amendment is all right, and as far as we are concerned, it would be a valuable addition to either the substitute or to the main bill.

Mr. MOORHEAD of California. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. MOORHEAD) to the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. BENNETT).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. MOORHEAD OF CALIFORNIA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BENNETT

Mr. MOORHEAD of California. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment offered by Mr. MOORHEAD of California to the amendment in the nature of a substitute offered by Mr. BENNETT: On page 10, line 17, strike the semicolon and insert the following: ": *Provided, however*, That this shall not apply to a reception, dinner, or similar event connected with an international exhibit, or events sponsored by trade or industry associations where substantial numbers of member companies participate and share in the cost of such event;"

Mr. MOORHEAD of California. Mr. Chairman, a disclosure of any expenditure for any reception, dinner, or other similar event paid for in whole or in part by the reporting organization where the total cost of the event exceeds $500. It is common knowledge that Washington, particularly, has innumerable receptions, dinners, or other events usually sponsored by labor unions, trade associations, industrial associations, associations affiliated with the armed services. Few, if any, of these involved a total cost of less than $500. In view of the preceding section which requires the reporting of entertainment or expenditures made for the benefit of a Federal officer or employee where the amount exceeds $25, it seems to be superfluous to require a reporting of these large organization receptions and dinners. If the aim of this provision is directed toward monitoring large expenditures made on behalf of Federal officers and employees, then the significant factor is the amount spent per person. A $1,000 dinner with three Federal employees at a cost per employee of $20 has no real significance as a reportable event for the aims and purposes of H.R. 15. Furthermore it tends to discourage the healthy practice of constituents in these trade associations and labor unions from coming to Washington and meeting with their Congressmen and Senators under hospitable circumstances. Despite the exemption previously granted to encourage constituents communicating with their elected officers, this section makes the event reportable, no matter how small the per person cost and no matter whether it is solely for the communication with the constituent's Congressman and Senator which is described in section 3(b)(5) as an exempt communication.

Mr. FLOWERS. Mr. Chairman, I rise in opposition to the amendment.

First of all, Mr. Chairman, I would say that this, of course, is not a threshold expenditure limitation, in any event. It is merely in the reporting requirements.

It also has within the provision, as we will see both in the substitute and the committee bill, language which says:

> . . . for any reception, dinner, or other similar event paid for in whole or in part by the reporting organization for Federal officers or employees regardless of the number of persons invited to or in attendance.

Mr. Chairman, I think the actionable or key words are "for Federal officers or employees," in other words, the congressional dinner of XYL trade association or the congressional reception of some other organization.

This is not intended to influence international exhibits where the purpose is just inviting people and it is only incidental that a few Members of Congress are invited.

Mr. Chairman, I do not think that the amendment should be adopted. I think that there could possibly be some valuable information that would be derived from an instance such as this.

Mr. Chairman, I would urge defeat of the amendment.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I also reluctantly oppose the amendment for the reasons stated by the gentleman from Alabama (Mr. FLOWERS).

My understanding of this issue—and I think it has been pointed out—is that this is not part of the threshold qualification. It simply requires an organization to report this as an item of expenditure. I do not see that that imposes any great hardship on anybody.

Mr. BENNETT. Mr. Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Florida.

Mr. BENNETT. Mr. Chairman, I associate myself with the remarks of the gentleman from Alabama (Mr. FLOWERS) on this matter, and I urge that we do not adopt this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. MOORHEAD) to the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. BENNETT).

The amendment to the amendment in the nature of a substitute was rejected.

AMENDMENTS OFFERED BY MR. KINDNESS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BENNETT

Mr. KINDNESS. Mr. Chairman, I offer amendments to the amendment in the nature of a substitute, and ask unanimous consent that they be considered as read, printed in the RECORD, and considered en bloc.

The Clerk read as follows:

> Amendments offered by Mr. KINDNESS to the amendment in the nature of a substitute offered by Mr. BENNETT: Page 5, strike out lines 17–20 and insert the following new subsection:
>
> "(3) makes or causes to be made by its members, officers, directors, agents, or employees twelve or more oral communications of the type described in section 3(a) to one or more Federal officers or employees in any quarterly filing period."
>
> Page 10, line 19, insert a comma immediately after "(1)".
>
> Page 10, line 20, strike out "and" and insert immediately after "(2)" the following: ", and of any member, officer, director, agent, or employee of such organization who makes twelve or more communications referred to in section 3(a)(3)".
>
> Page 10, line 21, strike out "such retention' and insert in lieu thereof the following: "the retention of any person under section 3(a)(1)".
>
> Page 10, line 22, strike out "employment" and insert in lieu thereof the following: "the employment of any employee described in section 3(a)(2)".
>
> Page 11, line 1, insert immediately after "efforts," the following: "and the individuals principally responsible for conducting or directing such activities with respect to each of such twenty-five issues;"

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. ROUSSELOT. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2 of rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 824]

Adams
Andrews, N.C.
Armstrong
Ashley
Badillo
Baucus
Bergland
Biaggi
Bingham
Blanchard
Boggs
Bonker
Breaux
Breckinridge
Brodhead
Brown, Calif.
Brown, Ohio
Burke, Calif.
Burleson, Tex.
Burton, Phillip
Chappell
Clancy
Clawson, Del
Clay
Conable
Conlan
Conyers
Daniels, N.J.
Davis
Dent
Derwinski
Dickinson
Diggs
Dingell
Dodd
Downing, Va.
Drinan
Duncan, Tenn.
Early
Eckhardt
Esch
Eshleman
Evins, Tenn.
Findley
Fithian
Flynt
Foley
Ford, Mich.
Gaydos
Giaimo
Gibbons
Green
Gude
Guyer
Haley
Hawkins
Hébert
Heinz
Hicks
Hinshaw
Horton
Jarman
Jenrette
Johnson, Colo.
Jones, Ala.
Karth
Kemp
Landrum
Leggett
Lent
Levitas
Lloyd, Calif.
Lundine
McCloskey
McCollister
McCormack
McDade
McFall
McKinney
Madden
Martin
Mathis
Matsunaga
Meeds
Meyner
Mikva
Mills
Mink
Moffett
Mollohan
Moorhead, Calif.
Moorhead, Pa.

Morgan
Mosher
Moss
Murphy, N.Y.
Nix
O'Hara
O'Neill
Pepper
Peyser
Pickle
Pike
Pressler
Pritchard
Randall
Rangel
Rees
Reuss
Riegle
Risenhoover
Rose
Rosenthal
Rostenkowski
Sarbanes
Scheuer
Schneebeli
Shuster
Sisk
Stanton, James V.
Stark
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stuckey
Symington
Teague
Thompson
Traxler
Udall
Ullman
Vanik
Vigorito
Waggonner
Wampler
Whitten
Wiggins
Wilson, C. H.
Wright
Yates
Young, Ga.
Zeferetti

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Bolling, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 15, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 287 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. When the Committee rose, the gentleman from Ohio Mr. Kindness) had been recognized.

PARLIAMENTARY INQUIRY

Mr. DANIELSON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DANIELSON. Mr. Chairman, as I understand it, we are at the present time considering amendments to the amendment in the nature of a substitute which was offered by the Committee on Standards of Official Conduct.

The CHAIRMAN. That is correct. We are considering perfecting amendments to the amendment in the nature of a substitute offered by the gentleman from Florida on behalf of the Committee on Standards of Official Conduct.

Mr. DANIELSON. I thank the Chair.

Mr. Chairman, in the event the substitute should be defeated, would it be proper to offer the same amendments to the committee bill?

The CHAIRMAN. In substance, they would be in order. They might have to be redrafted, but essentially the same kind of amendments could be offered.

Mr. DANIELSON. But the defeat of an amendment to the substitute which we are now considering would not bar this same amendment, in substance?

The CHAIRMAN. That is correct.

Mr. DANIELSON. I thank the Chair.

Mr. KINDNESS. Mr. Chairman, the amendment that we have before us is one of several that I would propose to offer and hope to dispose of very quickly, if we have enough interest for the people to stay around; but it does not look like that is the case. I do not expect that we would have rollcall votes, if we had anybody here to vote.

The current amendment being considered is one which would provide, as in the Senate bill, that one of the tests for coverage under the bill is if a lobbying organization through its people makes 12 or more contacts within a filing period. The Senate bill has that same number in its provisions, and I would suggest to the Members that is one good reason to adopt this amendment. We might get a little bit closer with the Senate on this bill and get something accomplished.

I should point out that in this amendment what is proposed is that any such contacts by a member of an organization, officers, directors, agents, or employees, would bring it within the coverage of the bill.

Only employees who are paid, in the bill as it is before us, if they take any of the actions that are covered by the bill, that trigger the organization into the coverage of the bill.

This amendment would expand that so that anybody who is a member of the organization, an officer, director, agent, or employee, might make those communications and thus bring the organization under coverage of the bill.

This is the amendment that would bring the Ralph Naders, the John Gardners, everyone who makes the lobbying contacts, under the coverage of the bill. I think the argument has been made or inferred here several times already in discussion of the bill that if anybody is going to be covered, everybody ought to be covered. I think this is the amendment that might be considered to accomplish that purpose.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Ohio (Mr. Latta).

Mr. LATTA. I thank the gentleman for yielding.

Mr. Chairman, I wish to commend the gentleman for offering this amendment. I think it is necessary if we are going to have any kind of an effective lobbying bill.

As I was indicating when I handled the rule on this bill, I think we ought to have a lobbying bill which would include all the lobbyists. I believe the amendment the gentleman from Ohio (Mr. Kindness) is offering now will do exactly that.

For certain lobbying groups—and the gentleman has mentioned them—to be around the country saying, "We are for a lobbying bill for everyone but ourselves" is, I think, hypocritical. I think this amendment will bring them all under the provisions of the Lobbying Act where they should be.

Mr. Chairman, I hope the Members of the House will support the gentleman's amendment.

Mr. KINDNESS. Mr. Chairman, I thank the gentleman.

Mr. Chairman, it has just been brought to my attention that inadvertently the term, "filing period," in the amendment is still qualified by the word, "quarterly." That is the way the amendment was drafted for inclusion in H.R. 15.

Mr. Chairman, I ask unanimous consent to strike from my amendment the word, "quarterly," before the words, "filing period," appearing in the last line of the first portion of the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. KINDNESS. Mr. Chairman, I will close by asking for the support of the Members for my amendment.

Mr. BENNETT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is with reluctance that I rise in opposition to this amendment because the gentleman from Ohio (Mr. Kindness) has always demonstrated complete sincerity in everything he has done, and, therefore, I must conclude that he really wants to accomplish the purpose of bringing Mr. Nader under this bill.

Although I say that is my conclusion, practically all the conversation the gentleman from Ohio (Mr. Kindness) has had about this bill to date has been along the line that he is apprehensive that the first amendment would be breached and the whole bill would be declared unconstitutional. The gentleman from Ohio (Mr. Kindness) has never appealed to me as being a devious man. I do not know him very well, but he strikes me as being a very forthright individual. Therefore, I believe he is not doing this as a trick and that he really believes that striking lines 17 through 20 on page 5 and adding this language would give us an advantage.

In my opinion, it would be no advantage whatsoever, because the language that is in the bill was specifically designed as a constitutional way for getting at people like Mr. Nader. It has a dollar figure attached to it.

If Mr. Nader is involved with an organization as a principal officer, he will be covered and reports will have to be made about him and his activities.

On the other hand, if we do what the gentleman from Ohio (Mr. Kindness) wants to do—and I say this in all kindness—it would be probable that the bill will be held unconstitutional, in my opinion, and, therefore, I think this amendment would be a negative approach. It might endanger the whole bill. Certainly it would endanger the section in question.

Therefore, Mr. Chairman, I oppose the amendment, not because of the principle that the gentleman from Ohio (Mr. Kindness) has in mind but because the bill already covers Mr. Nader and does it well and does it constitutionally.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Chairman, is the gentleman saying that Mr. Nader is already covered by this bill?

Mr. BENNETT. The bill is drafted to accomplish that.

Mr. LATTA. I assume the gentleman is talking about the substitute.

The gentleman is talking about the substitute rather than H.R. 15?

Mr. BENNETT. The substitute, yes.

Mr. LATTA. How about Common Cause?

Mr. BENNETT. That organization will be covered also.

Mr. LATTA. And does the gentleman wish to cover them?

Mr. BENNETT. Mr. Chairman, I want to cover that organization, and I want to cover all lobbyists in the country.

Mr. LATTA. Mr. Chairman, I cannot quite follow the reasoning of the gentleman. If the gentleman wants to cover them, as he indicated he does—and I take him at his word—I cannot understand why he would object to language which would be more inclusive, such as the language the gentleman from Ohio (Mr. KINDNESS) has offered.

Mr. BENNETT. Mr. Chairman, I will tell the gentleman why. I did not before go into the legalisms of the court decisions, but the legalisms of the court decisions would lead us to say that if we do not have something else to tie it to besides one man and if you do not have any other structure to tie him to the lobbying bill, he is going to get off the hook by the first amendment, and really there is nothing substantial in the amendment offered by the gentleman from Ohio (Mr. KINDNESS) such as there is in lines 17 through 20 on page 5, which sets forth a dollar figure of $10,000 and which would allow him to be covered.

That is the thrust of the decisions. I did not make the decisions. They were made years ago by courts of law.

Mr. Chairman, I just feel that the amendment of the gentleman from Ohio (Mr. KINDNESS), although well-intentioned, will let Mr. Nader and Common Cause off the hook if not amended. I do not think they ought to be off the hook. I think they are among the most effective lobbies in this country, and therefore, obviously should be covered by a lobby bill.

Mr. LATTA. Mr. Chairman, if the gentleman will yield, obviously the gentleman is referring to some Supreme Court decision, is he not?

Mr. BENNETT. I do not know whether I have it here, but yes, there was a court decision. I do not know whether it was a Supreme Court decision or not.

Mr. LATTA. It would have to be a Supreme Court decision or a circuit court of appeals decision.

Mr. BENNETT. It could be a circuit court of appeals decision.

Mr. LATTA. Mr. Chairman, if the gentleman will yield further, the question is, Does the gentleman have any citations so that he can say that the amendment of the gentleman from Ohio (Mr. KINDNESS) would be unconstitutional based on those citations?

Mr. BENNETT. I do not have them here.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the amendment offered by the gentleman from Ohio (Mr. KINDNESS) is similar, if not identical, to the amendment I offered in the Committee on the Judiciary to H.R. 15. It was specifically designed to take care of lobbyists like Mr. Nader, who is not on the payroll of the organization which he purports to represent. In any event, it would cover him because he involves himself in continuous, systematic lobbying activity on behalf of that organization on a number of different subjects that are before the Congress. We have the threshold in there of 12 different topics, 12 different subjects.

Mr. Chairman, we have not considered the solicitation of others to lobby as a proper threshold basis for invoking coverage of this lobby legislation.

Mr. Chairman, let me just add one additional point—this legislation on page 11, talks about the identification of a chief executive officer and, presumably, that that would also involve Mr. Nader. However, it would be a very simple thing to adopt the amendment offered by the gentleman from Ohio (Mr. KINDNESS) to involve any lobbyist, whether he is a volunteer, wherever he gets his income from. Maybe he has independent means; but if he is down here lobbying, the Kindness amendment would identify him and require reporting by him.

If the most anyone can say in opposition to this amendment is that Mr. Nader is already covered, then this is redundant. However, it seems to me that even through redundancy, we must be sure that we cover one of the biggest lobbyists in the country.

Mr. BENNETT. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Florida.

Mr. BENNETT. Mr. Chairman, I would be happy to be redundant. However, the gentleman, unfortunately, strikes language on page 5, line 17 through 20, which includes Mr. Nader.

I do not have any question as to whether the gentleman's amendment is constitutional or unconstitutional, but I would not want to strike this particular language that is in this bill, which is going to take care of Mr. Nader and which is constitutional.

Incidentally, there is nothing in the bill that has to do with solicitation of funds. It is the expenditure of funds that is covered in the Standards Committee bill.

Mr. McCLORY. Mr. Chairman, I would like to ask the gentleman from Ohio (Mr. KINDNESS) a question.

Would the gentleman from Ohio respond to me with respect to his preference for a number of contacts, in lieu of the expenditure of funds to solicit others to lobby, that is the language which would be stricken. Why do you favor the contacts approach?

Mr. KINDNESS. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Ohio.

Mr. KINDNESS. Mr. Chairman, I thank the gentleman for yielding.

I would answer in this way: The language in the substitute bill, on page 5, lines 17 to 20, meets in only one way the operation of organizations such as Common Cause or Nader's organizations or what have you, and they can shift their operations to get around that requirement very readily.

I would certainly prefer to have included within the coverage of the bill the people who are members, officers, directors, agents, and employees of those organizations, paid or unpaid.

I would suggest to the gentleman from Florida (Mr. BENNETT) that unanimous consent might be obtained to modify the amendment. Let us have both of them in the bill.

Mr. BENNETT. I would prefer that. I would not object to adding another way to get at this coverage.

Mr. McCLORY. Will the gentleman accept the amendment as modified on his side, I would ask?

Mr. BENNETT. Yes, I would.

Mr. KINDNESS. Mr. Chairman, I ask unanimous consent to modify the pending amendment so that instead of striking out lines 17 through 20 and inserting the following new subsection, it would read, "Page 5, line 21, add the following new subsection and insert the new paragraph."

Mr. BENNETT. If the gentleman will yield further, that is agreeable to me.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Ohio (Mr. KINDNESS) to the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. BENNETT) as proposed to be modified.

The Clerk read as follows:

> Page 5, line 21, add the following new subsection:
>
> "(4) makes or causes to be made by its members, officers, directors, agents, or employees twelve or more oral communications of the type described in section 3(a) to one or more Federal officers or employees in any filing period."
>
> Page 10, line 19, insert a comma immediately after "(1)".
>
> Page 10, line 20, strike out "and" and insert immediately after "(2)" the following: ", and of any member, officer, director, agent, or employee of such organization who makes twelve or more communications referred to in section 3(a)(3)".
>
> Page 10, line 21, strike out "such retention" and insert in lieu thereof the following: "the retention of any person under section 3(a)(1)".
>
> Page 10, line 22, strike out "employment" and insert in lieu thereof the following: "the employment of any employee described in section 3(a)(2)".
>
> Page 11, line 2, insert immediately after "efforts," the following: "and the individuals principally responsible for conducting or directing such activities with respect to each of such twenty-five issues;".

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio to modify his amendment?

There was no objection.

Mr. FLOWERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in not so reluctant opposition to the amendment.

Mr. Chairman, where are all the voices for the first amendment? Where are all the voices against "chilling effects"? They must be elsewhere.

The gentleman from Ohio a few moments ago was talking about the first amendment. The gentleman was talking about encouraging communications between people and their elected representatives.

My goodness, Mr. Chairman, just put this amendment in there, that "12 contacts" threshold and it will virtually make every organization in the gentleman's State, and mine as well and others across this land, lobbyists' organizations under this bill. The smoke will go up down home, I guarantee you that.

My friends, we have a carefully balanced bill that applies to Ralph Nader just like it applies to your local chamber of commerce president. It applies to John Gardner just as it applies to your local bank president. It is even-handed. It is clear. It is understandable. It is simple in its concept and in its application. If we start sticking in another threshold here, on the one hand, it is going to be confusing and, on the other hand, it is going to catch everybody. That is what it will do.

But, Mr. Chairman, that is not what we want to do; we want to catch significant lobbyist organizations and not those that make 12 contacts in a 6-month period.

Mr. Chairman, can the gentleman from Ohio tell me what group worth its salt in Ohio, or in Illinois, or in Alabama, or New York, that does not write 12 letters to Members of the Congress in a 6-month period of time?

Mr. PATTISON of New York. Mr. Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from New York.

Mr. PATTISON of New York. I thank the gentleman for yielding.

Will the gentleman agree that not only is this possibly unconstitutional and unquestionably would have a chilling effect on all contacts which are guaranteed by the first amendment, but in addition would the gentleman agree that under this amendment if the Boy Scout troop in his local hometown got together and wrote 12 letters to the gentleman, that that organization would then become a lobbying organization subject to the reporting requirements of this act just by doing that?

Mr. FLOWERS. They would have to have paid employees, officers, or directors.

Mr. PATTISON of New York. Yes if it had a paid employee. Furthermore, we have a bill here that is going to require criminal and civil sanctions. Is it not true that no organization could ever know whether it was in fact a lobbying organization or not because organizations do not have control over their members as to whether they write to their Congressman, so we would have a totally unworkable bill. It would cover actually everybody, and essentially nobody would be able to talk to their Representatives at any time without making any organization it belonged to a covered organization.

Mr. FLOWERS. I certainly agree with the gentleman. Every organization that I have ever had any knowledge of who has come to us and with whom we have worked trying to accommodate their special needs—and this covers a whole spectrum, a whole waterfront; I did not say "Watergate"; I said "waterfront"—would be opposed to this amendment, I assure the Members here.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from California.

Mr. DANIELSON. I thank the gentleman for yielding.

I certainly concur with my chairman's position. I am dismayed to think that anyone would offer this amendment seemingly under the belief that it is constitutional. Any time we try to prevent an American citizen or a resident, any person in the United States, from exercising his first amendment right to freedom of speech, freedom to assemble, freedom to petition the Government for redress of his grievances, we are obviously running right into the first amendment. Do not forget this. The very same first amendment that guarantees the freedom of press guarantees the right of people to petition their Government. The very same first amendment that guarantees freedom of religion makes that same guarantee to people to petition their Government.

I submit that if we were to try to do something which would impinge upon the freedom of the press, which would impinge upon their right to freedom of the press, as we are doing here with the right of the people to petition their Government, they would be all over us. For once they would be right, and I would be in support of them.

I say let us vote down this very pernicious amendment right now.

Mr. FLOWERS. Mr. Chairman, what I want to say here is let us quit playing games with this thing, because that is exactly what we are doing. Let us get to the issues. We are for the bill or against the bill. Let us quit trying to load it up and make it unacceptable, and let us get down to the issues.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Moorhead of California, and by unanimous consent, Mr. Flowers was allowed to proceed for 2 additional minutes.)

Mr. MOORHEAD of California. Mr. Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from California.

Mr. MOORHEAD of California. I thank the gentleman for yielding.

We are talking about an amendment to the substitute, not the bill that we so carefully drafted. The substitute goes much further covering all kinds of people and minor contacts, and so forth; beyond what we do in our bill that came out of the Committee on the Judiciary. It is not accurate to talk about the protections that we have built into the Judiciary version when we talk about one substitute.

Mr. FLOWERS. I am just saying to my friend that I am just getting warmed up to oppose it when he offers it to the main bill later on.

Mr. MOORHEAD of California. It does not hurt to offer it to this bill.

Mr. LATTA. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I listened intently to the very "chilling" remarks which just took place. Let me say to my good friends who were attempting to "chill" us that they should have read the substitute. If they will turn to page 5 and follow along with me perhaps they will warm up to the amendment, read as follows:

> This Act shall not apply to—
>
> (1) a communication (A) made at the request of a Federal officer or employee, (B) submitted for inclusion in a report or in response to a published notice of opportunity to comment on a proposed agency action, or (C) submitted for inclusion in the record, public docket, or public file of a hearing or agency proceeding;
>
> (2) a communication or solicitation made through a newspaper, book, periodical, or magazine published for distribution to the general public, or through a radio or television broadcast: *Provided*, That this exemption shall not apply to an organization responsible for the purchase of a paid advertisement in a newspaper, magazine, book, periodical, or other publication distributed to the general public, or of a paid radio or television advertisement;

And now let us get this:

> (3) a communication by an individual, acting solely on his own behalf, for redress of his personal grievances, or to express his personal opinion;

That language clearly says that individuals are not covered when they are acting on their own.

Mr. Chairman, I yield back the balance of my time after clarifying this point.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Ohio (Mr. Kindness) to the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. Bennett).

The question was taken; and on a division (demanded by Mr. Kindness) there were—ayes 23, noes 35.

RECORDED VOTE

Mr. KINDNESS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 68, noes 298, not voting 64, as follows:

[Roll No. 825]

AYES—68

Abdnor
Andrews,
  N. Dak.
Archer
Ashbrook
Beard, Tenn.
Bennett
Broomfield
Brown, Mich.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Cederberg
Clawson, Del
Collins, Tex.
Coughlin
Crane
Daniel, Dan
de la Garza
Derwinski
Devine
Edwards, Ala.
Erlenborn
Forsythe
Frenzel
Goodling
Hagedorn
Hansen
Harsha
Hefner
Hicks
Hillis
Johnson, Colo.
Johnson, Pa.
Ketchum
Kindness
Krueger
Latta
Lott
McClory
McDonald
Mathis
Michel
Miller, Ohio
Montgomery
Moore
Moorhead,
  Calif.
Myers, Ind.
Quie
Quillen
Rhodes
Robinson
Rousselot
Satterfield
Schulze
Sebelius
Shriver
Snyder
Spence
Stanton,
  J. William
Symms
Taylor, Mo.
Treen
Vander Jagt
Vanik
Waggonner
Wilson, Bob
Winn

NOES—298

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson,
  Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Armstrong
Aspin
AuCoin
Badillo
Bafalis
Baldus
Bauman
Beard, R.I.
Bedell
Bell
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Carney
Carr
Carter
Chappell
Chisholm
Cleveland
Cochran
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
D'Amours
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
English

Eshleman
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Gradison
Grassley
Gude
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Helstoski
Henderson
Hightower
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Keys
Koch
Krebs
LaFalce
Lagomarsino
Leggett
Lehman
Lent
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Lundine
McCloskey
McCormack
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Martin
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mottl
Murphy, Ill.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Railsback
Randall
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Roush
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Schroeder
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Staggers
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Thone
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vigorito
Walsh
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Tex.
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—64

Ashley
Baucus
Biaggi
Boggs
Breaux
Brown, Calif.
Brown, Ohio
Burke, Calif.
Clancy
Clausen, Don H.
Clay
Conable
Conlan
Diggs
Early
Esch
Evins, Tenn.
Findley
Flynt
Green
Guyer
Haley
Hawkins
Hébert
Heinz
Hinshaw
Jarman
Jones, Ala.
Karth
Landrum
Levitas
McCollister
McDade
McFall
Madden
Matsunaga
Mink
Mitchell, Md.
Mosher
Moss
Murphy, N.Y.
Nix
Passman
Pepper
Peyser
Rangel
Rees
Riegle
Rostenkowski
Sarbanes
Scheuer
Schneebeli
Spellman
Steelman
Steiger, Ariz.
Stephens
Stokes
Stuckey
Teague
Thompson
Wampler
Wilson, C. H.
Young, Alaska
Young, Ga.

Messrs. EVANS of Indiana, RINALDO, and DICKINSON changed their vote from "aye" to "no."

So the amendment, as modified, to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Mr. FLOWERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, with this many Members here, I cannot resist taking advantage of the opportunity to advise the Members, if I may have their attention, of what I am going to do to try to facilitate this matter and get us out of here tonight.

What I would propose to do is this: After we deal with the substitute, which we are attempting to amend with the substitute, which we are attempting to amend now, should the substitute be voted down—and I will respectfully ask for a no vote on the substitute—when we then move to the consideration of H.R. 15, as reported out of the Committee on the Judiciary, I would, as far as I am concerned, accept as amendments to the bill reported out of our committee any amendments that have been adopted to the substitute.

Hopefully, Mr. Chairman, those Members who are offering amendments that are now being turned down might show the same courtesy, may I say, to the other Members of this body.

Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. QUIE TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BENNETT

Mr. QUIE. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. QUIE to the amendment in the nature of a substitute offered by Mr. BENNETT: Page 4, line 3, insert after the comma: "State or local government or agency thereof which qualifies as an organization to which the provisions of this Act shall apply under section 3(a)(2) or which maintains an office in or near the District of Columbia to which the provisions of subsection (a) of section 3 apply,".

Mr. QUIE. Mr. Chairman, what this amendment would do is include certain employees who lobby for State and local governments.

We have just finished and will soon have before the Members a conference report on a large education bill. A number of the people who lobbied in that matter and who were present in the room when we were in conference will be covered by this amendment. The American Council on Education, the National Education Association, and other such groups are covered by this bill.

However, probably the most effective lobbyists and the lobbyists who are most aggressive are those representing States. I have watched these individuals lobby, they fit any definition of lobbyist except the definition in this bill. They are presently exempted from both the substitute and from H.R. 15, and I think they ought to be included.

Mr. Chairman, I will put in the RECORD a list of a number of these organizations representing many States, including California, Connecticut, New Jersey, Michigan, and Minnesota. I will also list the names of the individuals who head up those offices.

WASHINGTON LIAISON OFFICES OF STATE DEPARTMENTS OF EDUCATION

Don White, Kay Wildt, California State Department of Education, 417 New Jersey Avenue, S.E., Washington, D.C. 20002, 202-546-1900.

Joe Marinelli, Florida State Department of Education, 225 Constitution Avenue, N.E., No. 1, Washington, D.C. 20002, 202-547-0404.

Susan Adler, New Jersey State Department of Education, 419 New Jersey Avenue, S.E., Washington, D.C. 20003, 202-546-1300.

Miriam Kazanjian, New York State Department of Education, 1201-16th Street, N.W., Washington, D.C. 20036, 202-833-4195.

Ann Elmore, North Carolina State Department of Education, 1201-16th Street, N.W., Suite 809, Washington, D.C. 20001, 202-628-2082.

Richard DiEugenio, Pennsylvania State Department of Education, 1201 16th Street, N.W., Washington, D.C. 20036, 202-833-4272.

Bill Daley, Washington State Department of Education, 225 Constitution Avenue, N.E., No. 1, Washington, D.C. 20002, 202-547-5101.

Frank Hartman, Michigan State Department of Education, Suite 609, 1150-17th Street, N.W., Washington, D.C. 20036, 202-872-8550.

David Nesenholtz, State of Texas Office, 1019 19th Street, N.W., Suite 830, Washington, D.C. 20036, 202-223-3265.

There was a similar amendment included in the bill before the Committee on the Judiciary, but during the markup of H.R. 15 it was stricken out. I might mention that the American Federation of State, County, and Municipal Employees Union was opposed to striking that amendment out.

We are trying to make this a strong bill, but we need also to make this a fair and equitable bill. To leave out individuals who constantly lobby around here I think is unfair.

Mr. Chairman, a question may be raised in some people's minds as to whether this amendment is constitutional or not; but there is no constitutional question here.

League of Cities against Usery, which held that the commerce clause does not extend to the regulation of the wages and hours of State and local employees, clearly does not apply to the regulation of lobbying activities under H. R. 15.

H.R. 15 does not rest upon the commerce clause of the Constitution, but upon the inherent power of the Congress to take action to protect the integrity of its own processes. If State and local governments and their agencies seek to influence those processes in the manner described in this bill they should be subject to the requirements of this bill. This would impose no requirement upon the States that they regulate the activities of their employees or those of their subdivisions; it would merely make certain requirements of certain employees who are engaged in lobbying the Federal Government.

The argument that the Congress cannot constitutionally impose requirements upon representatives of State and local governments who are engaged in certain activities affecting the operation of the Congress and of the Federal Government generally has no more merit than to argue that State and local governmental employees cannot be covered by statutes making mail fraud a Federal offense. Indeed the whole Federal criminal code applies to State and local employees as well as to all other persons within the United States.

In League of Cities against Usery the Supreme Court held that Congress could not use the power to regulate interstate commerce as a means of regulating State and local governmental control over the conditions of employment of their own employees—it did not go beyond that to say in any respect that State and local employees, even acting in their capacity as such, are beyond the reach of Federal statutes designed to regulate the conduct of individuals generally. Obviously, the provisions of a wide range of Federal laws apply to State and local governments and to their employees. Indeed, Justice Blackmun, one of the five judges forming the majority in the case, issued a separate concurring opinion to state it seemed to him that the Court's opinion—

> does not outlaw federal power in areas such as environmental protection, where the federal interest is demonstrably greater and where state facility compliance with imposed federal standards would be essential,

And he said that—

> With this understanding on my part of the Court's opinion, I join it.

If H.R. 15 were amended to include lobbying operations of State and local governments and their agencies it would still not impose any standards on them with which they must comply—except as their activities bring them within the scope of the act. So there would seem to be no constitutional argument against including the lobbying activities of State and local government within the scope of the bill on the same terms as the activities of private entities.

Mr. Chairman, the argument I make is that each one of us knows that on a number of pieces of legislation, we have State lobbyists effectively lobbying around here. I have no objection to their lobbying. I only request that they report on their lobbying the same as everyone else will have to do so that we might know what is happening here in the Congress and what is happening with regard to rulemaking down there in the various departments of the executive branch of Government.

Mr. KINDNESS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Ohio.

Mr. KINDNESS. Mr. Chairman, I would like to ask the gentleman a question in regard to the interpretation of the amendment. It refers to section 3(a) (2), which has to do with employees, but is it intended that those States which hire someone or retain, for example, an attorney to represent them here would be covered or would not be covered?

Mr. QUIE. Whether the person is actually housed here or whether they send him from the State, the substitute applies to an individual who in all or in part of 6 or more calendar days is engaged on behalf of that organization.

If the substitute is voted down and this amendment would be accepted, then in H.R. 15 it would be an individual who spends 20 percent or more of his or her time who would be included, plus those who maintain an office here in the environs of the District of Columbia.

Mr. KINDNESS. Mr. Chairman, if the gentleman will yield further, I would say that I commend him in his effort to accomplish fairness in this area. It would be warranted, and I support the interpretation that the gentleman from Minnesota (Mr. QUIE) has just given.

Mr. Chairman, the gentleman's answer satisfies me, and I would urge support of the gentleman's amendment.

Mr. BENNETT. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Florida.

Mr. BENNETT. Mr. Chairman, there was some talk that I did not hear, but what the gentleman is doing through his amendment is adding more lobbyists to be covered; is that correct?

Mr. QUIE. That is right; more lobbyists would be covered. These are different from those in the Kindness amendment which was voted down.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. QUIE) has expired.

(By unanimous consent, Mr. QUIE was allowed to proceed for 1 additional minute.)

Mr. BENNETT. Mr. Chairman, will the gentleman yield further?

Mr. QUIE. I yield to the gentleman from Florida.

Mr. BENNETT. Mr. Chairman, I believe the gentleman meant to say after the comma on line 5, rather than after the comma on line 3, because on line 3 we are dealing with exclusion, and the gentleman is trying to include.

Therefore, Mr. Chairman, I think the gentleman from Minnesota (Mr. QUIE) should state in his amendment, as I see it, "after the comma on line 5" rather than "line 3."

Mr. Chairman, I favor the gentleman's amendment if he includes that change.

Mr. QUIE. Mr. Chairman, the gentleman is correct.

I ask unanimous consent that the amendment be inserted after the comma on line 5.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota (Mr. QUIE) that the amendment be modified accordingly?

There was no objection.

The CHAIRMAN. The amendment is so modified.

Mr. QUIE. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. QUIE) has expired.

(On request of Mr. MOORHEAD of California, and by unanimous consent, Mr. QUIE was allowed to proceed for 1 additional minute.)

Mr. MOORHEAD of California. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from California.

Mr. MOORHEAD of California. Does not this amendment work a hardship on the cities on the west coast, where there is difficulty and expense on the part of their elected officials to get to Washington? So, they have to hire representatives here, whereas those within 500 or 1,000 miles of Washington can have the Mayor or the city council just fly or drive down to Washington?

Mr. QUIE. Mr. Chairman, I would say to the gentleman from California (Mr. MOORHEAD) that the language in H.R. 15 that was stricken in the committee would have been a hardship on those from a longer distance away, but this would not because whether they are housed here or flown in by airplane each day or once a week, they would be treated in the same way under my amendment.

Mr. MOORHEAD of California. However, most of the western cities hire someone back here; do they not?

Mr. QUIE. That is right. Therefore, whether they hire someone right here, as the western States do—and I might say some of the east coast States do—or whether the States actually just fly them in from the office in their home area, they both would be covered in the first part of my amendment.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. FRENZEL, and by unanimous consent, Mr. QUIE was allowed to proceed for 1 additional minute.)

Mr. QUIE. Mr. Chairman, I thank the gentleman for the additional time and I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I just wanted to congratulate the gentleman from Minnesota on the amendment he has offered and hope that it is swiftly adopted.

Mr. Chairman, I speak first for the House Republican Task Force on Reform which has endorsed a strong lobby disclosure and registration bill. The task force has been on record in support of a bill like this for over a year. Representing the House Republican Task Force on Reform, I testified before both the Judiciary Subcommittee and the Standards of Official Conduct Committee in support of a strong lobby disclosure bill.

H.R. 15 is a suitably strong lobby bill. It needs improvement, but, nevertheless, it is deserving of support and passage.

Speaking next for myself, I intend to vote for a number of amendments to enhance the bill, but I shall vote for the bill in any case.

Lobbying is a constitutional right and a legislative necessity. The peoples' right to petition this legislature must be protected. But, it is also appropriate, and, necessary, that the people be informed of such activities and their costs.

Americans, with good reason have become cynical about their Government. Lobby disclosure is just one more form of openness which allows the people to see who spent what trying to pass, or stop, legislation. It will not improve the legislative product at all, but it is the least we can do to show the people just what goes on here.

One of the needed amendments will be moved by my distinguished colleague from Minnesota (Mr. QUIE). It will insure that one of the largest, biggest spending, lobbying groups, States and local governments, will be covered by disclosure provisions.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, I do not have a copy of the gentleman's amendment, and I did not quite follow it when it was being read. As I understand it, any municipality or a State that has a representative in Washington, who comes to a Member of Congress' office, to discuss legislation then must be registered as a lobbyist to comply with the statute?

Mr. QUIE. The threshold that is provided in this bill, which is in section 3(a)(2) is the one that would apply. Either the ones who have an office located here, or anyone who, under the substitute bill would be here on part of 6 or more calendar days.

Mr. MYERS of Indiana. If the gentleman will yield further, a number of States do have representatives who work in various capacities in Washington, would they be covered under the substitute, according to the gentleman's amendment?

Mr. QUIE. That is correct.

Mr. PATTISON of New York. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment offered by the gentleman from Minnesota (Mr. QUIE), to the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. BENNETT).

Mr. Chairman, I do not believe that the evil we are seeking to get at is addressed by this particular amendment. In our system the Federal Government and the State government are, theoretically, equal partners in this Federal system. We are trying here to get at the disclosure of lobbyists' activities by people who, otherwise, do not have to disclose anything.

State governments have to disclose, all elected officials have to disclose. The city governments are composed of elected officials and they have to disclose in their budgets. They are all publicly accountable.

The whole purpose and object of treating a State government that has a representative here in Washington as a lobbyist, that this is the kind of activity we are trying to get at in this bill, just simply is not addressed by this amendment. This is not the evil we are trying to get at. All it does is treat a State government as if it is somehow inferior to the Federal Government. That is not the basis of our system. The basis is that they are basically equal partners but they have their own different areas.

I might just put the shoe on the other foot. A State government could pass a law which says that a Congressman who lobbies in his district with his State government, or with his local city or county government, would become a lobbyist and would have to register as a lobbyist under that State law.

I think we would all be very offended by that because there are times when we feel we have to relate to a State, city, or county government, and that we can feel free to do so because we are acting government to government.

So I do not think this amendment would address the purpose we are trying to get at, which is the disclosure of lobbying activities by people who otherwise do not have to disclose.

So I am very much opposed to this amendment.

The Governors' conference is very much opposed to this amendment. The superintendent of public education of California is opposed to the amendment. I have communications from national associations and county officials; almost all State government officials are opposed to the amendment.

I think it would be a pernicious amendment and I urge that the amendment be rejected.

Mr. KINDNESS. Mr. Chairman, if the gentleman will yield, when the gentleman talks about the evil that we are trying to get at, I understood the bill was proposing the disclosure of known lobbyists' activities. If we are just talking about opening things up to sunshine rather than getting at some evil then that is a different thing. The gentleman from New York infers that there is something evil about lobbying when, as a matter of fact, there is a great deal of good about it.

Mr. PATTISON of New York. I would disagree. I do not think there is anything evil about lobbying. I encourage lobbying. We all encourage lobbying. We think it is good.

The point is we are trying to get disclosure. The State governments are accountable to their own citizens, and they must either disclose or not disclose, depending upon what their State laws are. Most State laws require that they have an open budget and at least they are accountable to the electorate. People who lobby for General Motors or Ralph Nader or anybody else are not responsible to the electorate. State governments are. I do not think this is the kind of thing we really are trying to get at with this bill.

Mr. KINDNESS. I thank the gentleman for yielding.

Mr. SPENCE. Mr. Chairman, I move to strike the last word.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. SPENCE. I yield to the gentleman from Minnesota.

Mr. QUIE. I thank the gentleman for yielding.

I think we see evidence here of how effective the State lobbyists are, the ones who are located here in Washington, because they bragged that they were able to lobby well enough to get themselves out of the lobbying bill. That indicates how effective they are.

I have no objection, as I said, to their lobbying, but we ought to know what they are doing, because I know from experience they go way beyond just representing the Governor. I know that they get into far more extensive lobbying activity. Again, they ought to report on what they are doing, and this is the only way this bill could be fair and equitable.

Mr. ALLEN. Mr. Chairman, will the gentleman yield?

Mr. SPENCE. I yield to the gentleman from Tennessee.

Mr. ALLEN. I thank the gentleman for yielding.

May I ask the author of this amendment if it goes beyond the mere representatives in Washington and actually tells me as a Congressman that there are certain restrictions and inhibitions upon messages delivered in person, or by letter, from the Governor, from the mayor, from the city council, and if they are more than a certain number, they must register as lobbyists even though they are the duly elected representatives of the communities of their States? Is that the thrust of this amendment? Or does it confine itself strictly to those municipalities and States and counties which have paid lobbyists or representatives here on Capitol Hill?

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. SPENCE. I yield to the gentleman from Minnesota.

Mr. QUIE. I thank the gentleman for yielding.

If one would look at the threshold of the bill as this applies, it does not add any new criterion or threshold to bring them under it. If the gentleman will look at section 3(a)(2), that is what brings them under the same threshold that applies to any other "organization."

Mr. ALLEN. If the gentleman would yield further, so the Governor of my State, or the mayor of my city, or the city council, if they undertake to influence legislation up here on behalf of their constituency through their representatives, they would have to be classified and registered as lobbyists? Is that the thrust of the gentleman's amendment?

Mr. QUIE. If the gentleman would yield further, I do not believe they qualify under the threshold of this bill, the elected representatives. It is the paid lobbyists.

Mr. ALLEN. Does it confine itself just to the paid lobbyists and representatives?

Mr. QUIE. It defines the same as the threshold under the bill. It is my understanding that the State and local governments themselves are exempt from the bill.

Mr. ALLEN. If the gentleman would yield further, then I do not understand the language of his amendment.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. SPENCE. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. I thank the gentleman for yielding.

This last colloquy has somewhat disturbed me. If a Governor's representative who is paid by the State and who is stationed in Washington—he or she—comes to us and is concerned about legislation, must he register and must he or she comply with the provisions of this statute under the gentleman's amendment?

Mr. QUIE. If the gentleman will yield, that is right.

Mr. MYERS of Indiana. If the gentleman would yield further, then what is the difference between the gentleman's and my administrative assistant or legislative assistant, or someone working in the State forum who happens to appear in the State legislature? Might not also the Governor of the State of Minnesota, or some other State, require similarly that our representatives would have to qualify as a lobbyist in the State? It seems to me there ought to be some rule of comity here.

Mr. QUIE. If the gentleman would yield further, if, in fact, one hires him to be a lobbyist in the State, he ought to be registered in the State.

Mr. MYERS of Indiana. If the gentleman would yield further, what constitutes hiring as a lobbyist? The State's representative here does much more than lobby. In fact, our representative for our own State of Indiana is of great assistance to us in much more than legislation. Members of Congress ask him for information and there is frequent exchange of ideas. I feel that government at all levels should have the right to communicate with each other.

Mr. QUIE. The same thing that brings the Association of Chief State School Officers under this bill.

Mr. PATTISON of New York. Will the gentleman yield on that point?

Mr. SPENCE. I yield to the gentleman from New York.

Mr. PATTISON of New York. Mr. Chairman, the Association of School Officers or NATO or other organizations of similar kind are not exempt under the bill at all.

Mr. QUIE. Mr. Chairman, if the gentleman will yield, that is right, they are covered and they are not exempt under this bill. The lobbyists for the States who operate in Washington also would be covered under the bill if my amendment is adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. QUIE) to the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. BENNETT).

The question was taken; and on a division (demanded by Mr. QUIE) there were—ayes 37, noes 25.

RECORDED VOTE

Mr. PATTISON of New York. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 150, noes 215, not voting 65, as follows:

[Roll No. 826]

AYES—150

Abdnor
Abzug
Adams
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Badillo
Bafalis
Beard, R.I.
Bedell
Bennett
Blouin
Bonker
Brodhead
Broomfield
Brown, Mich.
Buchanan
Burgener
Burke, Fla.
Burton, John
Burton, Phillip
Carr
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Cleveland
Collins, Tex.
Conyers
Crane
Dellums
Derwinski
Devine
Dickinson
Dingell
du Pont
Edgar
Edwards, Ala.
Emery
Erlenborn
Eshleman
Evans, Ind.
Fenwick
Fisher
Florio
Forsythe
Frenzel
Frey
Gibbons
Gilman
Goldwater
Goodling
Gradison
Grassley
Hagedorn
Hamilton
Hansen
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Hutchinson
Hyde
Ichord
Jacobs
Johnson, Pa.
Karth
Kelly
Kemp
Ketchum
Kindness
Koch
Krebs
Latta
Lent
Long, Md.
McClory
McDonald
McEwen
McHugh
McKay
Madigan
Maguire
Mazzoli
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Moffett
Mottl
Nolan
Oberstar
O'Brien
O'Hara
Patterson, Calif.
Pettis
Pressler
Pritchard
Quie
Railsback
Regula
Rinaldo
Risenhoover
Rogers
Roncalio
Rose
Rousselot
Ruppe
Russo
Ryan
Sarasin
Schroeder
Schulze
Sebelius
Sharp
Shriver
Shuster
Simon
Sisk
Skubitz
Slack
Snyder
Solarz
Staggers
Stanton, J. William
Stark
Steiger, Wis.
Symms
Talcott
Taylor, Mo.
Traxler
Udall
Vander Jagt
Waggonner
Walsh
Weaver
White
Wilson, Bob
Winn
Wolff
Wydler
Wylie
Young, Fla.
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waxman
Whalen
Whitehurst
Whitten
Wiggins
Wilson, Tex.
Wirth
Yates
Yatron
Young, Tex.
Zablocki
Zeferetti

NOES—215

Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Aspin
AuCoin
Baldus
Bauman
Beard, Tenn.
Bergland
Bevill
Biester
Bingham
Blanchard
Boggs
Boland
Bolling
Bowen
Brademas
Breckinridge
Brinkley
Brooks
Broyhill
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carney
Carter
Cochran
Cohen
Collins, Ill.
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Diggs
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edwards, Calif.
Eilberg
English
Evans, Colo.
Fary
Fascell
Fish
Fithian
Flood
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Fuqua
Gaydos
Giaimo
Ginn
Gonzalez
Gude
Hall, Ill.
Hall, Tex.
Hammerschmidt
Hanley
Hannaford
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Henderson
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Keys
Krueger
LaFalce
Lagomarsino
Leggett
Lehman
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lujan
Lundine
McCloskey
McCormack
McKinney
Mahon
Mann
Martin
Thone
Mathis
Melcher
Metcalfe
Meyner
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nowak
Obey
O'Neill
Ottinger
Patten, N.J.
Pattison, N.Y.
Paul
Perkins
Pickle
Pike
Poage
Preyer
Price
Quillen
Randall
Reuss
Rhodes
Richmond
Roberts
Robinson
Rodino
Roe
Rooney
Rosenthal
Roush
Roybal
Runnels
St Germain
Santini
Satterfield
Seiberling
Shipley
Sikes
Smith, Iowa
Smith, Nebr.
Spence
Steed
Stratton
Studds
Sullivan
Symington
Taylor, N.C.
Thornton
Treen
Tsongas

NOT VOTING—65

Ashley
Baucus
Bell
Biaggi
Breaux
Brown, Calif.
Brown, Ohio
Burke, Calif.
Clancy
Clay
Conable
Conlan
Early
Esch
Evins, Tenn.
Findley
Flynt
Green
Guyer
Haley
Hawkins
Hébert
Heinz
Hicks
Hinshaw
Jarman
Landrum
Levitas
Lott
McCollister
McDade
McFall
Madden
Matsunaga
Meeds
Mink
Mitchell, Md.
Mosher
Moss
Murphy, N.Y.
Nix
Passman
Pepper
Peyser
Rangel
Rees
Riegle
Rostenkowski
Sarbanes
Scheuer
Schneebeli
Spellman
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stokes
Stuckey
Teague
Thompson
Wampler
Wilson, C. H.
Wright
Young, Alaska
Young, Ga.

Messrs. HARRINGTON, ROSE, DELLUMS, McKAY, and EDGAR changed their vote from "no" to "aye."

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Mr. FLOWERS. Mr. Chairman, I would tend to be generous in any requests, but with a view toward limiting debate on the amendment in the nature of a substitute and all amendments thereto, I would like to inquire if we could limit it to 30 minutes.

Mr. Chairman, I ask unanimous consent that all debate on the amendment in the nature of a substitute and all amendments thereto close in 30 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

Mr. BROWN of Michigan. Mr. Chairman, reserving the right to object, I would like to inquire of the Chair as to the number of amendments now at the desk.

The CHAIRMAN. The Chair will state that there are 11 amendments at the desk.

Mr. FLOWERS. Mr. Chairman, if the gentleman will yield, I will say very briefly that this request would not apply to amendments to the bill itself but only to amendments to the substitute bill.

Mr. BROWN of Michigan. Mr. Chairman, for the gentleman's information, was it not the statement of the chairman that there are 11 amendments pending to the substitute?

The CHAIRMAN. The Clerk informed the Chair that there are 11 amendments at the desk that may be offered to the substitute.

Mr. BROWN of Michigan. Mr. Chairman, I would then be constrained to object to the gentleman's request.

Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. FLOWERS. Mr. Chairman, I move that all debate on the amendment in the nature of a substitute and all amendments thereto be limited to 30 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from Alabama (Mr. FLOWERS).

The question was taken; and the

Chairman announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the motion was agreed to.

The CHAIRMAN. Members standing at the time the motion was agreed to will each be recognized for a fraction over 2 minutes.

PARLIAMENTARY INQUIRIES

Mr. ASHBROOK. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ASHBROOK. Mr. Chairman, the way the motion was stated, would the time for votes be taken out of the 30 minutes, or will there be 30 minutes of debate?

The CHAIRMAN. The Chair will state that the time consumed by votes would be excluded from the time allotted.

Mr. ASHBROOK. So, Mr. Chairman, the time for votes, if we would have votes, would not come out of the 30 minutes?

The CHAIRMAN. The gentleman is correct.

Mr. MIKVA. Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MIKVA. Mr. Chairman, if any Member has had an amendment to the amendment in the nature of a substitute printed in the RECORD, that Member, would, of course, be protected by the rule and would be allowed to speak for 5 minutes?

The CHAIRMAN. If the amendment had been printed in the proper form, the gentleman is correct.

Mr. KINDNESS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. KINDNESS. Mr. Chairman, to clarify the previous parliamentary inquiry, if an amendment was published in the RECORD as an amendment to be offered to H.R. 15 and not as an amendment to the substitute, I take it that the Member offering the amendment would not be protected at this stage of the proceedings?

The CHAIRMAN. The gentleman is correct.

Mr. KINDNESS. I thank the Chair.

AMENDMENT OFFERED BY MR. BROWN OF MICHIGAN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BENNETT

Mr. BROWN of Michigan. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. BROWN of Michigan to the amendment in the nature of a substitute offered by Mr. BENNETT: On page 5 line 20 strike the period and insert a colon. On page 5 following line 20, insert the following: *Provided, however,* That any officer, agent or employee of an organization regulated as a lobbyist by this Act who influences, or attempts to influence, any Member of Congress with respect to any legislative matter, shall prominently display on his or her person an identification name tag, stating in clearly discernible print, his or her full name and the organization he or she represents; said name tag shall be printed in not less than 24 point type; *Provided further however,* This requirement shall only be applicable to those persons who influence, or attempt to influence, Members within 50 feet of any entrance to either Chamber of the Congress while such is in session.

Mr. BENNETT. Mr. Chairman, I have a point of order. I think this is the same amendment as the one previously offered.

The CHAIRMAN. The Chair will state that this is not the same amendment.

The Chair is perfectly willing to entertain a point of order if the gentleman from Florida (Mr. BENNETT) wishes to offer it.

POINT OF ORDER

Mr. BENNETT. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BENNETT. Mr. Chairman, I make a point of order against the amendment because I do not think it has any relevancy to the bill.

The distance of how far away one is or whether he or she is wearing a badge of 24-point type has nothing to do with the bill. There are a lot of things it is pertinent to, but not that.

The CHAIRMAN. Does the gentleman from Michigan (Mr. BROWN) desire to be heard?

Mr. BROWN of Michigan. I do, Mr. Chairman.

I respectfully disagree with the gentleman from Florida (Mr. BENNETT).

This is a disclosure bill. We require people to register and to identify themselves. It seems to me that if we are going to have a piece of disclosure legislation that is effective, we ought to be able to associate names and faces; and that is all that this amendment does. It just implements the disclosure requirements of this legislation.

Mr. BENNETT. Mr. Chairman, if I may be heard further, the part that has to do with entrances is already in the bill.

Mr. BROWN of Michigan. Mr. Chairman, the only reason I am limiting it with respect to the entrances is that I did not really want it to be oppressive.

I want to facilitate and to implement it for those in favor of this legislation.

Mr. BENNETT. Mr. Chairman, I may agree with that latter point, but I do not like that 24-point type provision. However, the Chair has already ruled that it is not in order.

Mr. BROWN of Michigan. I beg to differ with the gentleman, Mr. Chairman.

The CHAIRMAN. The Chair is ready to rule.

The Chair has examined this amendment, and it is not the same as the one on which the Chair ruled before.

The Chair would have to say that this amendment would seem to have as its purpose the disclosure of information by lobbyists and to come within the fundamental purposes of the amendment to which it has been offered.

Therefore, the Chair overrules the point of order, and the gentleman from Michigan (Mr. BROWN) is recognized for 2 minutes in support of his amendment.

Mr. BROWN of Michigan. Mr. Chairman and Members of the House, this is not a specious or a spurious amendment. It applies across the board. It applies to lobbyists, covered by the act, whether they come from the White House, to this side, or on behalf of someone else on that side. It seems to me that we ought to be able to identify those who are contacting us about particular measures. Oftentimes I do not know them, and I think we all ought to know who is contacting us as we walk in the door.

Furthermore, it is properly limited, it does not apply across the board. It does not apply, as the Ashbrook amendment did, to within 100 feet of the Chamber. It only says "within 50 feet of any entrance." It would have no application to anyone who did not attempt to do his lobbying further than 50 feet from the doors.

It therefore only applies to the three main entrances to this Chamber and the entrances to the Speaker's lobby.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, may I ask the gentleman what provision he has in his amendment for an ID that somebody manufactures illegally or that makes a misrepresentation?

Mr. BROWN of Michigan. I think there are ample laws on the books to deal with the problem of misrepresentation. Therefore, I do not think we have to get into that problem in this legislation.

Mr. Chairman, somebody has raised a question about 24-point type. This has been looked into.

Mr. Chairman, 24-point type is not as large as "H.R. 15," the number of this bill. It is not even that size. With respect to type size, it is as small as the type which says "Committee Print," on the substitute.

Is that too glaring and too obvious and too oppressive? I do not think so.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I would inquire of the gentleman from Michigan whether this would apply to our former colleagues that are now watching out for us?

Mr. BROWN of Michigan. It applies to any person that influences or attempts to influence Members on any legislative matter, who is required to register and is regulated by this amendment.

Mr. Chairman, I urge the adoption of the amendment. It seems to me it is one that is necessary and desirable, and is completely consistent with the identification and disclosure provisions of this bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. BROWN), to the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. BENNETT).

The question was taken and the Chairman announced that the noes appear to have it.

RECORDED VOTE

Mr. BROWN of Michigan. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 84, noes 271, not voting 75, as follows:

[Roll No. 827]

AYES—84

Abdnor
Andrews, N. Dak.
Archer
Ashbrook
Bauman
Beard, Tenn.
Broomfield
Brown, Mich.
Buchanan
Burgener
Byron
Clausen, Don H.
Cleveland
Collins, Tex.
Crane
Devine
Edwards, Ala.
Erlenborn
Evans, Ind.
Fenwick
Florio
Forsythe
Frenzel
Frey
Gibbons
Goodling
Gradison
Grassley
Hagedorn
Hansen
Harsha
Holt
Hutchinson
Johnson, Pa.
Jones, N.C.
Kelly
Kemp
Ketchum
Latta
Lent
Long, Md.
McClory
McDonald
McKay
Maguire
Mathis
Milford
Miller, Ohio
Montgomery
Moorhead, Calif.
Mottl
Myers, Ind.
Myers, Pa.
O'Brien
Ottinger
Pettis
Poage
Pressler
Quie
Randall
Rhodes
Rinaldo
Rooney
Ruppe
Ryan
Satterfield
Schroeder
Schulze
Sebelius
Shuster
Sikes
Smith, Nebr.
Snyder
Studds
Symms
Talcott
Taylor, Mo.
Thone
Traxler
Treen
Vander Jagt
Wydler
Wylie
Young, Fla.

NOES—271

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Armstrong
Aspin
AuCoin
Badillo
Baldus
Bedell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broyhill
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clawson, Del
Cochran
Cohen
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
English
Evans, Colo.
Fary
Fascell
Fish
Fisher
Fithian
Flood
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Fuqua
Gaydos
Giaimo
Gilman
Ginn
Gonzalez
Gude
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Henderson
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hyde
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Leggett
Lehman
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lujan
Lundine
McCloskey
McCormack
McEwen
McHugh
McKinney
Madigan
Mahon
Mann
Martin
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Morgan
Murphy, Ill.
Murtha
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Neill
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Perkins
Pickle
Pike
Preyer
Price
Pritchard
Quillen
Railsback
Regula
Reuss
Richmond
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rose
Roush
Rousselot
Roybal
Runnels
Russo
St Germain
Santini
Sarasin
Seiberling
Sharp
Shipley
Shriver
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Solarz
Spence
Staggers
Stanton, J. William
Steed
Steiger, Wis.
Stratton
Sullivan
Symington
Taylor, N.C.
Thornton
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Yates
Yatron
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—75

Ashley
Bafalis
Baucus
Beard, R.I.
Bell
Biaggi
Breaux
Breckinridge
Brown, Calif.
Brown, Ohio
Burke, Calif.
Clancy
Clay
Collins, Ill.
Conable
Conlan
Early
Esch
Eshleman
Evins, Tenn.
Findley
Flynt
Goldwater
Green
Guyer
Haley
Hawkins
Hébert
Heinz
Hicks
Hinshaw
Jarman
Karth
Kasten
Landrum
Levitas
Lott
McCollister
McDade
McFall
Madden
Matsunaga
Mink
Mosher
Moss
Murphy, N.Y.
Nix
O'Hara
Passman
Pepper
Peyser
Rangel
Rees
Riegle
Rosenthal
Rostenkowski
Sarbanes
Scheuer
Schneebeli
Spellman
Stanton, James V.
Stark
Steelman
Steiger, Ariz.
Stephens
Stokes
Stuckey
Teague
Thompson
Udall
Wampler
Wilson, C. H.
Wright
Young, Alaska
Young, Ga.

Messrs. STEIGER of Wisconsin and CHAPPELL changed their vote from "aye" to "no."

Mr. KEMP changed his vote from "no" to "aye."

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BOWEN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BENNETT

Mr. BOWEN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. BOWEN to the amendment in the nature of a substitute offered by Mr. BENNETT: On page 4, line 14, after the word "issue", change the period to a comma and add the following: "but does not mean such oral or written communications by one organization registered under this Act to another organization registered under this Act."

Mr. BOWEN. Mr. Chairman, this amendment would simply restore the original Judiciary Committee language regarding solicitation.

The language of the Standards Committee is slightly different and I think that the Members would prefer that to be found in the Judiciary Committee version.

I think the best way to argue this is simply to quote from the Judiciary Committee report itself regarding the definition of solicitation and who may contact each other without reporting. The definition does not include oral or written communications by one organization registered under this bill to another organization which is also registered under the bill. It says:

The committee feels that since the registered organization which received such a solicitation would have to report on its lobbying activities in response to said solicitation, it would not be necessary to require the registered organization making the solicitation to report thereon. The key lobbying activity will still be disclosed to the public.

In other words, the language of the substitute would require that any lobbyists who communicate with each other in any way with or without contacting a Member of Congress must report, while the Judiciary Committee version would exempt them from this reporting responsibility.

Mr. Chairman, I think this amendment would be a major gain in terms of reduction of paperwork and in terms of actual cost to the taxpayers. It would include the original Judiciary Committee language, which would not attempt to require detailed reporting on conversations that might take place among and between registered lobbyists, that may or may not result in communication with Members of Congress.

Mr. Chairman, I move the acceptance of this amendment.

Mr. KINDNESS, Mr. Chairman, will the gentleman yield?

Mr. BOWEN. I yield to the gentleman from Ohio.

Mr. KINDNESS. Mr. Chairman, at least those of us in the minority on the Judiciary Committee concur in the gentleman's amendment, and urge its support.

Mr. BOWEN. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Mississippi (Mr. BOWEN) to the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. BENNETT).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. KINDNESS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BENNETT

Mr. KINDNESS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. KINDNESS to the amendment in the nature of a substitute offered by Mr. BENNETT: Page 5, line 6, insert "or" immediately before "rule".

Page 5, line 9, strike out "or the award" and all that follows through "submission of bids)" in line 10.

Mr. KINDNESS. Mr. Chairman, this amendment would strike from the coverage of the bill the area of Government contracts. Obviously, that subject matter is quite different from what we are talking about, in the main, under this lobbying bill. Contacts made by Government contractors through employees with people in the procurement area of the executive branch of Government have entirely different considerations involved in their contacts. It is really mixing apples and oranges.

This is an activity that is better scrutinized under other statutes and under other regulations, both of which are in effect. Title 18, sections 203, 205 and 207 of the United States Code, already control the conflicts of interest and the areas of impropriety in terms of Government contracting. I would submit that is the appropriate area for the control of such matters.

There was no testimony heard on this important element of the bill either at the subcommittee or full committee stage. "Government contracts" was added to the coverage of the bill in the Senate. It was a floor amendment in the other body with very little consideration, and I really think we need to take a separate, independent approach to that subject matter. It is costly and expensive to include all of that in order to have information reporting on the part of Government contractors with a very imprecise sort of measure of what communications would be covered and what communications would not be covered.

If communications were made over a long period by employees of a Government contractor on a speculative prospect of a contract that might arise in the future, they have to go back and pick up reporting for past periods. I do not see any sense in that.

Mr. Chairman, the Public Disclosure of Lobbying Act of 1976, which the House will consider this week, contains a number of unfortunate provisions. Perhaps, the most ill-advised among these is the inclusion of Government contract activity under the category of lobbying. Lumping Government contracts in with attempts to influence legislation or regulations might be the definitive attempt at "mixing apples and oranges" in a Federal statute. Government contracting and procurement is a distinct subject matter, involving different people in different geographical locations.

Under H.R. 15 only organizations can become lobbyists—never individuals. Now, how does an organization become a lobbyist under H.R. 15? Well, one way is by employing a single individual who spends one-fifth, that is 20 percent of his working time making oral or written lobbying communications or preparing for them. The other is by retaining an agent, independent contractor, or law firm and paying out $1,250 for the making of lobbying communications, or preparing for them.

What does this mean for a corporation or small business which is involved in some Government contracting? Let us take, for example, a hypothetical "Company A" which has 5,000 employees. Let us assume that they have one employee who spends 20 percent of his time making or preparing for oral or written lobbying communications—note that he need not be located in or near Washington, D.C. Based upon the activities of this one employee, Company A becomes a lobbyist. It must register annually, it must keep extensive records on lobbying communications, and must report four times a year. Included in its quarterly report must be: First, a total dollar figure reflecting expenditures in connection with lobbying activities; second, identification of all employees making lobbying communications and a pro rata allocation of their salary attributable to lobbying activities; and third, a list of the 25 issues on which the organization focused its lobbying efforts.

In the case of Company A, the total expenditure figure required by section 6(b)(2) might actually involve very little legislative or regulatory lobbying activity. But, the total figure itself may be sizable because it will have to reflect the sales, marketing, and research activities of the company on a national basis with respect to Federal contracts.

It probably will be necessary for Company A to establish a totally new internal reporting system in order to comply with the disclosure requirements of H.R. 15. Many companies have a number of affiliates or are divided into nearly autonomous divisions.

The decentralized nature of these divisions will make it difficult to compile precise information on the total number of communications between company and Federal employees regarding Government contracts and on the total number of employees that make such communications.

Existing internal reporting systems in most companies do not now provide the information necessary to allocate that portion of each employee's time spent "lobbying" on contracts, as required by section 6(b)(4). Company A's new reporting system will also have to reflect the effort devoted to each contract so as to determine which 25 issues receive the greatest effort. Section 6(b)(5) of H.R. 15 requires that these issues be itemized. In the case of some companies it is conceivable that all 25 of their policy issues might involve 25 different Federal contracts—and any real lobbying issues would be hidden from view.

The fact that H.R. 15 limits covered communications only to certain Federal officers or employees—levels I–V—is more illusory than useful. An officer of one company frequently involved in bids on Federal defense contracts advised me that communications with employees of levels I–V could average as high as one per day. Remember, written, as well as oral communications are considered lobbying.

There is one final point that I would make, there are existing Federal conflict-of-interest laws that already deal with this subject.

For example, 18 U.S.C. 203 prohibits any Federal officer or employee from soliciting or receiving compensation for services rendered on behalf of another before a Government department or agency regarding any matter in which the United States has a direct or substantial interest. Section 208 of title 18 requires an officer of the executive branch to refrain from participating in any matter which he, his spouse, dependents, or partner has a financial interest. Wrongdoing related to Government contracts is already covered by a variety of Federal criminal statutes and individual agency code of ethics regulations.

To call sales activity or research "lobbying" is absurd. I urge my colleagues to lend me their support in removing Government contracts from the lobbying disclosure legislation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. KINDNESS) to the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. BENNETT).

The question was taken; and on a division (demanded by Mr. KINDNESS) there were—ayes 34; noes 53.

RECORDED VOTE

Mr. KINDNESS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 89, noes 268, not voting 73, as follows:

[Roll No. 828]

AYES—89

Abdnor
Archer
Armstrong
Ashbrook
Beard, Tenn.
Boland
Broomfield
Broyhill
Burgener
Burke, Mass.
Burleson, Tex.
Butler
Carter
Cederberg
Clausen, Don H.
Clawson, Del
Cochran
Collins, Tex.
Conte
Crane
Daniel, Dan
Daniel, R. W.
Devine
Dickinson
Duncan, Oreg.
Fish
Forsythe
Frenzel
Goldwater
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Hefner
Holt
Hutchinson
Hyde
Johnson, Pa.
Jones, N.C.
Kasten
Kelly
Ketchum
Kindness
Lagomarsino
Latta
Lujan
McClory
McDonald
McEwen
Martin
Milford
Miller, Ohio
Moakley
Moore
Moorhead, Calif.
Myers, Ind.
Myers, Pa.
O'Neill
Patten, N.J.
Paul
Pettis
Pritchard
Quie
Quillen
Randall
Robinson
Rousselot
Runnels
Satterfield
Sebelius
Shriver
Skubitz
Smith, Nebr.
Snyder
Spence
Steiger, Wis.
Symms
Talcott
Taylor, Mo.
Thone
Treen
Tsongas
Waggonner
Walsh
Whitehurst
Wiggins
Wilson, Bob
Winn

NOES—268

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Aspin
AuCoin
Badillo
Baldus
Bauman
Bedell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Mich.
Buchanan
Burke, Fla.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Chappell
Chisholm
Cleveland
Cohen
Collins, Ill.
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
du Pont
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gradison
Grassley
Gude
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Helstoski
Henderson
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Ichord
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kemp
Koch
Krebs
Krueger

LaFalce
Leggett
Lehman
Lent
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McCormack
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Morgan
Mottl
Murphy, Ill.
Murtha
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
Ottinger
Patterson, Calif.
Pattison, N.Y.
Perkins
Pickle
Pike
Poage
Pressler
Preyer
Price
Railsback
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Roush
Roybal
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Slack
Smith, Iowa
Solarz
Staggers
Stanton, J. William
Stark
Steed
Stratton
Studds
Symington
Taylor, N.C.
Thornton
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waxman
Weaver
Whalen
White
Whitten
Wilson, Tex.
Wirth
Wolff
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—73

Ashley
Bafalis
Baucus
Beard, R.I.
Bell
Biaggi
Breaux
Brown, Calif.
Brown, Ohio
Burke, Calif.
Clancy
Clay
Conable
Conlan
Early
Esch
Eshleman
Evins, Tenn.
Findley
Flynt
Green
Guyer
Haley
Hawkins
Hébert
Heinz
Hicks
Hinshaw
Jacobs
Jarman
Karth
Keys
Landrum
Levitas
Lott
McCloskey
McCollister
McDade
McFall
Madden
Matsunaga
Mink
Mosher
Moss
Murphy, N.Y.
Nix
O'Hara
Passman
Pepper
Peyser
Rangel
Rees
Riegle
Risenhoover
Rostenkowski
Sarbanes
Scheuer
Schneebeli
Spellman
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stokes
Stuckey
Sullivan
Teague
Thompson
Wampler
Wilson, C. H.
Wright
Young, Alaska
Young, Ga.

Mr. MOAKLEY changed his vote from "no" to "aye."

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MIKVA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BENNETT

Mr. MIKVA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MIKVA to the amendment in the nature of a substitute offered by Mr. BENNETT: On page 20, immediately after line 13, insert the following new subsection:

"(e)(1) No organization shall make expenditures reportable under section 6 to or for the benefit of any Federal officer or employee that exceed $100 in value in the aggregate in any calendar year: *Provided*, That, for the purposes of this limitation all reimbursed expenditures made by persons employed or retained by the organization shall be considered to have been made by the organization: *Provided further*, That this limitation shall not apply to any loan of money in the ordinary course of business on terms and conditions that are no more favorable than are generally available or to any honorarium within the meaning of section 328 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441(i)).

"(2) Any organization which knowingly and willfully violates this subsection shall be fined not more than $10,000 for each such violation."

POINT OF ORDER

Mr. FLOWERS. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. FLOWERS. Mr. Chairman, my point of order against the amendment offered by my friend, the gentleman from Illinois (Mr. MIKVA), lies, I think, because the gentleman's amendment violates the central purpose of the proposed legislation and that is to provide a method of lobbying disclosure and not in any wise, Mr. Chairman, regulating amounts or providing any ceiling or floor or anything else but disclosure.

The amendment offered by my friend, the gentleman from Illinois (Mr. MIKVA), clearly violates the intent of the statute in that it imposes duties upon the Comptroller General that would not otherwise be imposed by this statute, or duties of a different kind.

It imposes a different penalty that would be imposed than otherwise in this statute. It is not clear whether it is a civil or a criminal penalty.

For all of these reasons, Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. Does the gentleman from Illinois desire to be heard on the point of order?

Mr. MIKVA. Mr. Chairman, I am not sure what my distinguished colleague on the Committee on the Judiciary is referring to, but there is nothing in this amendment that talks about the Comptroller General. He may be a little precipitous about something else. What this says, very simply, is that there ought to be a $100 limitation on the amount lobbyists can give as gifts. It excludes honoraria; it excludes political contributions; it excludes all of the nonreportable items. The rules now existing in this House of Representatives—already the Rules of this House—make it clear that no gifts of any substantial value shall be given by a lobbyist to a Member. What this does is define that substantial interest in terms of $100. It is put in the sanctions section, and it deals with the other sanctions that are already in the bill. It seems to me that it is consistent with and consonant with the rest of the bill and the Rules of the House, and I think the point of order ought to be overruled.

Mr. FLOWERS. Mr. Chairman, might I be heard one moment further here on the point of order?

Mr. Chairman, the gentleman extends the bill much further than it is already intended, in that he says:

> That, for the purposes of this limitation—

And again a limitation which is not a part of the purpose of the bill—

> —all reimbursed expenditures made by persons employed or retained by the organization shall be considered to have been made by the organization.

This is a concept not within the proposed legislation, and we think, Mr. Chairman, clearly that this does extend the purpose of the legislation far beyond that of the substitute or H.R. 15, as amended. We feel that the point of order ought to be sustained.

The CHAIRMAN (Mr. BOLLING). The Chair is ready to rule.

For the reason first stated by the gentleman from Alabama and by the Chair in an earlier ruling on the Ashbrook amendment, the point of order is sustained.

AMENDMENT OFFERED BY MR. MIKVA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BENNETT

Mr. MIKVA. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. MIKVA to the amendment in the nature of a substitute offered by Mr. BENNETT: On page 10, lines 8 and 9, strike out ", but not including" and insert in lieu thereof the following: ": *Provided*, That the Comptroller General shall refer to the Committee on Standards of Official Conduct for investigation of any expenditures by an organization reportable under this subsection to or for the benefit of any federal officer or employee (under the jurisdiction of said Committee) that exceed $100 in value in the aggregate in any calendar year to determine if the receipt of such expenditure is acceptance of a gift of substantial value, directly or indirectly, from an organization having a direct interest in legislation before the Congress as prohibited under the Rules of the House of Representatives; but such expenditures shall not include".

POINT OF ORDER

Mr. FLOWERS. Mr. Chairman, we are just getting a copy of this amendment. The gentleman from Florida (Mr. BENNETT) might want to join in this point of order.

Mr. Chairman, I should like to interpose a point of order on this amendment as well. I think that the point of order would lie, Mr. Chairman, in that there are duties here that are not contemplated in the purposes of the legislation, in that the gentleman from Illinois would require additional duties of the Committee on Standards of Office Conduct, to which there are none within the purview of the legislation of either the Committee on the Judiciary or the Standards Committee.

Mr. BENNETT. Mr. Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Florida.

Mr. BENNETT. I thank the gentleman for yielding.

Mr. Chairman, I join in that observation. This would not come within the normal or statutory provisions of the Standards of Official Conduct.

We have just had one exercise in that with Mr. Schorr, which was not a matter that would normally come before that committee, and it cost us $150,000 and nothing was accomplished particularly by it.

I just do not believe that this is the proper thing to do, and I think it is subject to the point of order for the reasons stated by the gentleman from Alabama.

The CHAIRMAN. Does the gentleman

from Illinois desire to be heard on the point of order?

Mr. MIKVA. Mr. Chairman, I would like to point out that this amendment that I have just offered imposes no prohibitions or anything else. The statute has been referred to over and over again by the distinguished gentleman from Alabama as a disclosure statute. It seems to me that the people are entitled to know why we are disclosing these things. We have rules in the House. One of the rules of the House says that no Member or other employee shall receive a gift of substantial value.

All this amendment suggests is that where gifts of substantial value are given, they ought to be referred to the appropriate committee for investigation. If we are not doing that, I think the people are entitled to inquire just what it is we propose to do with all of this information.

This does not impose any prohibitions or any criminal sanctions on anybody. It does not add to the breadth of the bill in any manner, shape, or form. It merely says any gifts over a certain amount which are required to be reported under the bill should be referred to the committee to see whether they violate the rule. If they do not, there is no requirement that they do anything except to look to see if the rules of the House of Representatives are being enforced.

The CHAIRMAN (Mr. BOLLING). The Chair is ready to rule.

For the reasons stated by the gentleman from Illinois, the Chair believes that the point of order is not good and therefore overrules the point of order.

The gentleman from Illinois is recognized for 2 minutes in support of his amendment.

Mr. MIKVA. Mr. Chairman, rule XLIII now in existence in the House of Representatives says that a Member, officer, or employee of the House of Representatives shall accept no gift of substantial value, directly or indirectly, from any person, organization, or corporation having a direct interest in legislation before the Congress. That is the rule.

I am not proposing to change that by one whit. What I am suggesting is that there is a very difficult phrase for the Committee on Standards of Official Conduct to operate under in that present rule, and that is: What is a substantial gift? Under the bill as it has been proposed by the Judiciary Committee we have had anything under $25 need not be reported at all. My amendment does not change that at all. Anything under $25 need not be reported at all. But if there are any reportable expenditures, meaning expenditures of more than $25, and in fact they amount to more than $100 in a year, then my amendment would require that information to be referred by the Comptroller General to the Committee on Standards of Official Conduct to decide whether or not there is a violation of rule XLIII.

It seems to me that is a minimum we ought to do if we are going to be sincere about our concern about the public not only having a right to know who influences legislation but also how it is influenced.

Let me point out this does not apply to political contributions, it does not apply to honoraria, and it does not apply to any expenditures of less than $25.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Chairman, one basic problem is that it applies only to the House of Representatives and does not even apply to the other body. Our bill attempts to apply to the House and to the Senate and all lobbying organizations equally. Here we have a requirement of an additional reference to the committee of the House of Representatives with no similar requirement on the other side.

Mr. MIKVA. Let me point out to my colleague that this bill obviously is going to have to go to conference if the bill passes. In the regular comity arrangements with the other body I am sure something can be worked out in conference. We should not determine the enforcement of the rules of the other body for the other body.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MIKVA).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MIKVA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 294, noes 61, not voting 75, as follows:

[Roll No. 829]

AYES—294

Abdnor
Abzug
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Archer
Armstrong
Ashbrook
Aspin
AuCoin
Badillo
Baldus
Bauman
Beard, Tenn.
Bedell
Bennett
Bergland
Biester
Bingham
Blanchard
Blouin
Boland
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chisholm
Clausen, Don H.
Clawson, Del
Cleveland
Cohen
Collins, Ill.
Collins, Tex.
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Dellums
Derrick
Derwinski
Devine
Dickinson
Diggs
Dodd
Downey, N.Y.
Drinan
Duncan, Tenn.
du Pont
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Hagedorn
Hall, Ill.
Hamilton
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Hillis
Holland
Holt
Holtzman
Howard
Howe
Hubbard
Hughes
Hyde
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Keys
Koch
Krebs
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
Lujan
Lundine
McClory
McCloskey
McCormack
McDonald
McHugh
McKay
McKinney
Maguire
Mann
Martin
Mathis
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Poage
Pressler
Preyer
Pritchard
Quie
Quillen
Railsback
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Rooney
Rose
Rosenthal
Roush
Rousselot
Runnels
Russo
St Germain
Santini
Sarasin
Satterfield
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shriver
Shuster
Simon
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
Stanton, J. William
Stark
Steiger, Wis.
Stratton
Studds
Symington
Symms
Talcott
Taylor, Mo.
Thone
Thornton
Traxler
Tsongas
Udall
Ullman
Vander Jagt
Vander Veen
Vanik
Vigorito
Waxman
Weaver
Whalen
White
Whitehurst
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NOES—61

Adams
Andrews, N. Dak.
Annunzio
Bevill
Bolling
Burleson, Tex.
Burlison, Mo.
Chappell
Cochran
Daniels, N.J.
Delaney
Dent
Dingell
Downing, Va.
Duncan, Oreg.
Flowers
Ford, Mich.
Giaimo
Hall, Tex.
Hammerschmidt
Henderson
Hightower
Horton
Hungate
Hutchinson
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Ketchum
Kindness
Krueger
Long, La.
Lott
McEwen
Mahon
Michel
Mills
Montgomery
Morgan
Nedzi
Patten, N.J.
Paul
Pickle
Pike
Price
Randall
Roncalio
Roybal
Ruppe
Ryan
Sebelius
Sisk
Skubitz
Slack
Staggers
Steed
Treen
Van Deerlin
Waggonner
Walsh
Whitten

NOT VOTING—75

Ashley
Bafalis
Baucus
Beard, R.I.
Bell
Biaggi
Boggs
Breaux
Brown, Calif.
Brown, Ohio
Burke, Calif.
Clancy
Clay
Conable
Conlan
Early
Esch
Eshleman
Evins, Tenn.
Findley
Flynt
Green
Guyer
Haley
Hawkins
Hébert
Heinz
Hicks
Hinshaw
Jarman
Karth
Landrum
Lent
Levitas
McCollister
McDade
McFall
Madden
Madigan
Matsunaga
Melcher
Mink
Mosher
Moss
Murphy, N.Y.
Nix
O'Hara
Passman
Pepper
Peyser
Rangel
Rees
Riegle
Rodino

Rostenkowski
Sarbanes
Scheuer
Schneebeli
Sikes
Spellman
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stokes
Stuckey
Sullivan
Taylor, N.C.
Teague
Thompson
Wampler
Wilson, C. H.
Wright
Young, Alaska
Young, Ga.

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MYERS OF PENNSYLVANIA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BENNETT

Mr. MYERS of Pennsylvania. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. MYERS of Pennsylvania to the amendment in the nature of a substitute offered by Mr. BENNETT: Following line 19 on page 7 add the following:

"(3) an identification of any individual who has contributed or who expects to contribute $2,500 to the organization or an affiliate during any calendar year and who spends or will spend 20 percent of his time or more in any filing quarter engaged on behalf of that organization in activities described in section 3(a)(1) of this Act."

Renumber the following section:

Following "employee" on line 3 of page 9 add "contributor," strike line 20 on page 10 and insert in lieu thereof the following: "and of any person described in sections 3(a)(2) and 4(b)(3)".

Mr. MYERS of Pennsylvania (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MYERS of Pennsylvania. Mr. Chairman, I ask unanimous consent that I may be permitted to reserve half of my time for the offering of a second amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. MYERS) is recognized for 1 minute.

(Mr. MYERS of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. MYERS of Pennsylvania. Mr. Chairman, this amendment will simply require the registration of any individual who substantially finances a lobbying organization effort, probably through the hiring of others, and spends a significant amount of his own personal time lobbying himself. This amendment makes a distinction from the provision in the bill in that the individual who would be brought in under this provision is an individual who is not an employee lobbyist but is a contributor lobbyist.

The amendment in fact addresses the problem which the gentleman from Ohio (Mr. KINDNESS) attempted in some fashion to address in one of his earlier amendments.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. MYERS) to the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. BENNETT).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MYERS of Pennsylvania. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 159, noes 195, not voting 76, as follows:

[Roll No. 830]

AYES—159

Abdnor
Ambro
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
AuCoin
Baldus
Bauman
Beard, Tenn.
Bedell
Bowen
Brinkley
Broomfield
Brown, Mich.
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Butler
Byron
Carney
Carr
Cederberg
Clausen, Don H.
Clawson, Del
Cleveland
Collins, Tex.
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
de la Garza
Devine
Dickinson
Duncan, Oreg.
Duncan, Tenn.
du Pont
Edwards, Ala.
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Fary
Fithian
Flood
Frenzel
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Gude
Hagedorn
Hall, Ill.
Hall, Tex.
Hamilton
Hanley
Hansen
Harsha
Hechler, W. Va.
Heckler, Mass.
Hefner
Holt
Horton
Hubbard
Hutchinson
Hyde
Ichord
Johnson, Calif.
Johnson, Pa.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Latta
Leggett
Lent
Lloyd, Tenn.
Lott
McClory
McDonald
McEwen
McKay
Maguire
Mahon
Martin
Mathis
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Mottl
Murphy, Ill.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nichols
O'Brien
O'Hara
Pickle
Pike
Poage
Quie
Quillen
Randall
Regula
Risenhoover
Roberts
Robinson
Rogers
Rooney
Roush
Rousselot
Runnels
Ruppe
Russo
Ryan
Sarasin
Satterfield
Schulze
Sebelius
Sharp
Shriver
Shuster
Slack
Smith, Nebr.
Snyder
Spence
Staggers
Stanton, J. William
Steed
Stratton
Symms
Taylor, Mo.
Traxler
Treen
Vander Jagt
Vander Veen
Waggonner
Walsh
Whitehurst
Whitten
Wilson, Bob
Wolff
Wydler
Young, Fla.

NOES—195

Abzug
Adams
Addabbo
Alexander
Allen
Anderson, Calif.
Andrews, N.C.
Armstrong
Aspin
Badillo
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Broyhill
Buchanan
Burlison, Mo.
Burton, John
Burton, Phillip
Carter
Chappell
Chisholm
Cochran
Cohen
Collins, Ill.
Conte
Conyers
Cornell
Cotter
D'Amours
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Fascell
Fenwick
Fish
Fisher
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Gaydos
Gonzalez
Hammerschmidt
Hannaford
Harkin
Harrington
Harris
Hayes, Ind.
Helstoski
Henderson
Hightower
Hillis
Holland
Holtzman
Howard
Howe
Hughes
Hungate
Jacobs
Jeffords
Jenrette
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Lehman
Long, La.
Long, Md.
Lujan
Lundine
McCloskey
McCormack
McHugh
McKinney
Mann
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Moffett
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Murtha
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Perkins
Pettis
Pressler
Preyer
Price
Pritchard
Railsback
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Roncalio
Rose
Rosenthal
Roybal
Schroeder
Seiberling
Shipley
Simon
Sisk
Skubitz
Smith, Iowa
Solarz
Stark
Steiger, Wis.
Studds
Symington
Talcott
Thone
Thornton
Tsongas
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waxman
Weaver
Whalen
White
Wiggins
Wilson, Tex.
Winn
Wirth
Wylie
Yates
Yatron
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—76

Ashley
Bafalis
Baucus
Beard, R.I.
Bell
Biaggi
Boggs
Breaux
Brown, Calif.
Brown, Ohio
Burke, Calif.
Clancy
Clay
Conable
Conlan
Corman
Early
Esch
Eshleman
Evins, Tenn.
Findley
Florio
Flynt
Green
Guyer
Haley
Hawkins
Hébert
Heinz
Hicks
Hinshaw
Jarman
Karth
Landrum
Levitas
Lloyd, Calif.
McCollister
McDade
McFall
Madden
Madigan
Matsunaga
Melcher
Mink
Moss
Murphy, N.Y.
Nix
Passman
Pepper
Peyser
Rangel
Rees
Riegle
Rostenkowski
St Germain
Santini
Sarbanes
Scheuer
Schneebeli
Sikes
Spellman
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stokes
Stuckey
Sullivan
Taylor, N.C.
Teague
Thompson
Wampler
Wilson, C. H.
Wright
Young, Alaska
Young, Ga.

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. MYERS OF PENNSYLVANIA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BENNETT

Mr. MYERS of Pennsylvania. Mr. Chairman, I offer amendments to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendments offered by Mr. MYERS of Pennsylvania to the amendment in the nature of a substitute offered by Mr. BENNETT: On page 19, line 17, insert immediately following "thereunder,": "or ex-Members of the House of Representatives, former Parliamentarians of the House, former elected officers of the House, and former elected minority employees of the House of Representatives who violate Rule XXXII of the Rules of the House of Representatives by appearing in the Hall of the House or adjacent rooms as a representative of an organization which is required to register under this Act,".

On page 20, line 1, insert immediately following "misleading," "or ex-Members of the House of Representatives, former Parliamentarians of the House, former elected officers of the House, and former elected minority employees of the House of Representatives who willfully violate Rule XXXII of the Rules of the House of Representatives by appearing in the Hall of the House or adjacent rooms as a representative of an organization which is required to register under this Act,".

Mr. MYERS of Pennsylvania. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

POINT OF ORDER

Mr. FLOWERS. Mr. Chairman, I would raise a point of order to the amendments offered by the gentleman from Pennsylvania. I have just gotten the amendments, but it would appear to me, Mr. Chairman, that they would violate the purposes of the bill and the substitute for the bill in that they would require sanctions against ex-Members of the House, former parliamentarians of the House, former elected officers of the House, and so forth, as opposed to the organizational concept from which both the bill and substitute recede.

Mr. Chairman, for those reasons we feel that they are not germane to the bill or the substitute therefor.

Mr. MYERS of Pennsylvania. Mr. Chairman, the amendment applies only to those ex-Members of the House, and so forth, who are mentioned here, who would be required to register under another section by this act.

And in relationship to the gentleman's remarks about the sanctions applying to individuals, section 13(a) begins:

> SEC. 13. (a) Any individual or organization knowingly violating section 4, 5, or 6 of this Act, or the regulations promulgated thereunder, shall be subject to a civil penalty of not more than $5,000 for each such violation.

So, query, Mr. Chairman: The amendment is designed in such a way that not all ex-Members will have to comply but only those who find themselves as lobbyists or who would be required to file under another section of this act.

There is no prohibition in this act preventing a Member from being fined under the sanction section.

The CHAIRMAN (Mr. BOLLING). The Chair is prepared to rule.

The Chair has had an opportunity to look at the sanction provisions in the amendment in the nature of a substitute and to examine the amendment thereto. For a variety of reasons, but the primary one which the Chair will state, the Chair is prepared to sustain the point of order. The reason that the Chairman will sustain the point of order is that the effect of the amendment is tantamount to a rules change, an attempt to provide a new enforcement mechanism for violation of a House rule and the Chair feels that it is important that the rules of the House be very carefuly protected. The sanctions provided in the Bennett amendment in the nature of a substitute are for failure to report or disclose, information, and the Chair feels that this amendment goes well beyond that and in effect deals with the rules of the House and he therefore sustains the point of order.

Mr. MYERS of Pennsylvania. Mr. Chairman, may I be heard further on the point of order?

The CHAIRMAN. No. The Chair has ruled.

PREFERENTIAL MOTION OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. WIGGINS moves that the Committee do now rise and report the bill H.R. 15 back to the House with the recommendation that the enacting clause be stricken out.

Mr. WIGGINS. Mr. Chairman, the hour is now 10:30 p.m. We have been working for many hours to amend a substitute to a committee bill. It is not at all clear to me that the substitute as amended will be passed by this body since it is opposed by the Judiciary Committee and by many others. If in fact the substitute is voted down, then we shall proceed with amending the Judiciary Committee bill, and all of those amendments heretofore having been considered may be offered again.

What we are doing at 10:30 p.m. 4 days from the end of the session is writing a very important piece of legislation on the floor of the House. The prospect of this bill becoming law is negligible. The differences between this bill and the bill enacted by the Senate are so vast that a conference is inevitable and a conclusion of the legislative process within the time remaining in this session is highly unlikely.

Why is it that we are moving with such haste and dispatch at this late hour so late in the session? Is it an emergency measure?

My friends, the act which we are amending has been on the statute books for 30 years. Thirty years. Now, at the eleventh hour, with the clock nearly ready to strike midnight, we have decided to amend a 30-year-old statute. Why act now, especially when the effective date of the legislation is postponed until next year?

Mr. Chairman, given the far-reaching impact of this legislation, given the sharp divisions within this body with respect to the proper approach to the problem, the sensible thing to do, which we can easily defend, is to strike the enacting clause and consider this legislation in a calmer, more deliberative setting in the next Congress.

I think that the responsible vote at this time is to strike the enacting clause and go home.

Mr. Chairman, I urge adoption of my preferential motion.

Mr. BENNETT. Mr. Chairman, I rise in opposition to the motion.

Mr. Chairman, we have important legislation before us tonight. It is not true that the Standards Committee and the Judiciary Committee and the Senate are far apart on this legislation. As a matter of fact, they are very close together. There have been some amendments which were not very well drafted and submitted here tonight and favorably approved; but most of them that should have been turned down were turned down.

Mr. Chairman, there are differences between these two bills. I feel that having the responsibility I have for the Standards Committee, I should say I am in no way critical of the Judiciary Committee bill; but there are some strong things that I feel warrant the approval of the Standards Committee bill. No. 1, it has a broader coverage. More lobbyists will be brought in under this bill and nobody is excluded. There is no additional coverage from the Judiciary Committee and there is some additional coverage of a substantial nature from the Standards Committee bill. In other words, the Standards Committee bill covers more people.

Second, the thing that concerned me from the very beginning about this legislative effort has been somewhat addressed in the Standards Committee bill; that is, I am worried as to whether or not when legislation is finally passed the amount of good we get out of it might be exceeded by the amount of harm we do in requiring business, small business particularly and others in this country, to be further surfeited by paperwork. This is one of the most alarming and distressing things in the economy today, the additional paperwork required.

Mr. Chairman, I have come to the conclusion on balance that the Standards Committee bill as it came out of the committee and as it now stands does more good than it does harm. There is a lot of paperwork involved in it, but it does not require nearly as much paperwork as does the Judiciary Committee bill.

Mr. Chairman, for those two reasons, additional coverage and more thoughtfulness with regard to paperwork, I feel that the Standards Committee bill should be the bill we should bring out.

I want to say, however, that if the Standards Committee bill should be turned down, there is no reason at all that we should not go to H.R. 15. It is a good bill, too. The Standards Committee bill is a little closer to the Senate bill. It would be easier to get together in conference, but the Judiciary Committee bill is a good bill as well.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Chairman, the gentleman from Florida (Mr. BENNETT) almost took my speech. I do not think the differences between the gentleman's bill and my bill and the preferential motion of the gentleman from California (Mr. WIGGINS) justify us to close this matter in this way.

Clearly, we should not do that.

Mr. Chairman, we have got to improve the system of archaic laws and make this live in the 20th century. We cannot defend the 1946 law on the basis that it is 30 years old. It is time to bring it up to date and close the loopholes and then go to conference and straighten it out.

The CHAIRMAN. The question is on

the preferential motion offered by the gentleman from California (Mr. WIGGINS).

The question was taken; and on a division (demanded by Mr. WIGGINS) there were—ayes 52; noes 120.

So the preferential motion was rejected.

AMENDMENT OFFERED BY MR. ASHBROOK TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BENNETT

Mr. ASHBROOK. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK to the amendment in the nature of a substitute offered by Mr. BENNETT: On page 5, line 20, strike the period and insert a colon. On page 5, following line 20 insert the following new language: "*Provided, however,* That when any officer, agent or employee of an organization defined as a lobbyist by this Act lobbies on any legislative matter within 50 feet of either chamber of the Congress, the organization must report any and all individuals who lobby at said chamber, the hours they have engaged in lobbying at said chamber and the purpose of their lobbying activity."

Mr. ASHBROOK. Mr. Chairman, for the benefit of those Members who were not present when a similar amendment was offered earlier but ruled out of order, I would merely say that one of the problems we have in this body is that the public thinks that we pass laws for everyone else, but to the extent we can gingerly do it, we usually exempt ourselves. If lobbying is as important as we are saying in this bill, if it is pernicious, if it is something to be controlled back at the grassroots, if it is something to be reported on, then certainly it should be reported on the closer it gets to the Congress.

Mr. BENNETT. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Florida.

Mr. BENNETT. Mr. Chairman, in order to expedite things, we have considered this amendment and it is agreeable to us.

Mr. ASHBROOK. In the interest of time, I yield back the balance of my time.

Mr. FLOWERS. Mr. Chairman, the gentleman had better go forward with his time if he wants to say anything else. I want to hear his rationale.

Mr. ASHBROOK. The gentleman from Alabama heard my rationale on the previous amendment to which he objected. The same rationale in a somewhat watered down version would apply to this amendment.

Mr. FLOWERS. Would the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Alabama.

Mr. FLOWERS. I am interested in gaining the gentleman's support for this legislation. Is the likelihood of this amendment passing going to bring him over to our side on the bill?

Mr. ASHBROOK. It would make the likelihood more likely, I will say to the gentleman.

Mr. FLOWERS. But still somewhere between slim and none, I suspect.

Mr. Chairman, I must oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK) to the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. BENNETT).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ASHBROOK. Mr. Chairman, reluctantly I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 137, noes 223, not voting 70, as follows:

[Roll No. 831]

AYES—137

Abdnor
Allen
Ambro
Archer
Armstrong
Ashbrook
AuCoin
Bafalis
Bauman
Beard, Tenn.
Bennett
Biester
Brinkley
Broomfield
Brown, Mich.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Byron
Cederberg
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Cotter
Coughlin
Crane
Daniel, R. W.
Devine
Dickinson
Duncan, Tenn.
Edwards, Ala.
Emery
English
Erlenborn
Fithian
Florio
Forsythe
Frenzel
Frey
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Hagedorn
Hammerschmidt
Hansen
Harsha
Hechler, W. Va.
Hefner
Henderson
Holt
Hutchinson
Hyde
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Kasten
Kelly
Kemp
Ketchum
Kindness
Krebs
Krueger
Latta
Lehman
Lent
Long, Md.
Lott
McClory
McDonald
McEwen
McKay
Martin
Mathis
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moorhead, Calif.
Mosher
Mottl
Murtha
Myers, Ind.
Myers, Pa.
Neal
O'Brien
Pettis
Pressler
Quie
Quillen
Rhodes
Risenhoover
Robinson
Rooney
Roush
Rousselot
Runnels
Ruppe
Ryan
Sarasin
Satterfield
Schulze
Sebelius
Shipley
Shriver
Shuster
Sikes
Smith, Nebr.
Snyder
Spence
Steed
Studds
Symms
Talcott
Taylor, Mo.
Treen
Tsongas
Vander Jagt
Vigorito
Walsh
Whitehurst
Wilson, Bob
Winn
Wydler
Wylie
Yatron
Young, Fla.

NOES—223

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Aspin
Badillo
Baldus
Bedell
Bergland
Bevill
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brodhead
Brooks
Broyhill
Burke, Calif.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Carney
Carr
Carter
Chappell
Chisholm
Collins, Ill.
Conte
Corman
Cornell
D'Amours
Daniel, Dan
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
du Pont
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Flood
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Fuqua
Gonzalez
Gude
Hall, Ill.
Hall, Tex.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hayes, Ind.
Heckler, Mass.
Helstoski
Hightower
Hillis
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Keys
Koch
LaFalce
Lagomarsino
Leggett
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lundine
McCloskey
McCormack
McHugh
McKinney
Maguire
Mahon
Mann
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Morgan
Murphy, Ill.
Natcher
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Perkins
Pickle
Pike
Poage
Preyer
Price
Pritchard
Railsback
Randall
Regula
Reuss
Richmond
Rinaldo
Roberts
Rodino
Roe
Rogers
Roncalio
Rose
Rosenthal
Roybal
Russo
St Germain
Santini
Schroeder
Seiberling
Sharp
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, J. William
Stark
Steiger, Wis.
Stratton
Symington
Taylor, N.C.
Thone
Thornton
Traxler
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Waggonner
Waxman
Weaver
Whalen
White
Whitten
Wiggins
Wilson, Tex.
Wirth
Wolff
Yates
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—70

Andrews, N.C.
Ashley
Baucus
Beard, R.I.
Bell
Biaggi
Boggs
Breaux
Brown, Calif.
Brown, Ohio
Clancy
Clay
Conable
Conlan
Conyers
Early
Esch
Eshleman
Evins, Tenn.
Findley
Flynt
Green
Guyer
Haley
Hawkins
Hébert
Heinz
Hicks
Hinshaw
Holland
Jarman
Karth
Landrum
Levitas
Lujan
McCollister
McDade
McFall
Madden
Madigan
Matsunaga
Melcher
Mink
Moss
Murphy, N.Y.
Nix
Passman
Pepper
Peyser
Rangel
Rees
Riegle
Rostenkowski
Sarbanes
Scheuer
Schneebeli
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stokes
Stuckey
Sullivan
Teague
Thompson
Wampler
Wilson, C. H.
Wright
Young, Alaska
Young, Ga.

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments?

The Chair recognizes the gentleman from South Carolina (Mr. SPENCE).

Mr. SPENCE. Mr. Chairman, I rise in support of the substitute, and I urge all of the Members to seriously consider voting for the amendment in the nature of a substitute as offered by the Committee on Standards of Official Conduct.

The main problem with this lobby disclosure bill, is that it might end up "disclosing" many of our good organizations out of business.

One of the biggest problems we have facing this country today is government regulations. Government regulations are choking our businesses, public interest groups, and individuals. I would like to point out two examples to show why the amendment in the nature of a substitute would require less recordkeeping and therefore should be supported. No. 1, the 20-percent threshold versus the 6-day threshold.

If we go along with the 20-percent threshold as contained in H.R. 15, as amended, it will require businesses in this country to keep records on every employee to prove that that employee did not come under this act. If we have the 6-day threshold, it will not necessitate that much recordkeeping.

Further, our bill only calls for semiannual reporting whereas H.R. 15, as amended, calls for quarterly reporting, which means that more reports have to be filed.

Mr. Chairman and members of the committee, I would say in closing that if we pass H.R. 15 instead of our substitute we will be enabling the larger businesses, labor organizations, and public interest groups, to thrive and the smaller organizations will be forced to spend their meager funds to employ people to keep and file records.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. MOORHEAD).

Mr. MOORHEAD of California. Mr. Chairman, I rise in opposition to the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. BENNETT).

Mr. Chairman, there are a number of reasons why the amendment in the nature of a substitute should be turned down. The 6-day rule would provide that any organization that has an employee who spends a part of any 6 days during a year, would come under this bill. It would put people who really do not belong under the bill, under it.

Six telephone calls scattered over a period of time could bring them under the control of this bill.

From the beginning our bill has exempted communications made to an organization to its own membership. This amendment in the nature of a substitute would require Government control over communications between one organization and its employees, to bring them under the control of the bill.

In regard to registration, section 4 of the standards bill adds a number of new and burdensome details to the annual registration form that must be filed under this law. They are not necessary.

Also, the standards substitute eliminates the advisory opinions by the Comptroller General, which would allow organizations or individuals to determine whether or not they are are covered by the act.

Misery may love company, but there is no reason to give everyone in this country who has anything to do with a few pieces of legislation misery just to impose disclosure on the bigtime lobbyists of the country.

Mr. Chairman, I ask that the amendment in the nature of a substitute be rejected.

Mr. FLOWERS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment in the nature of a substitute.

Mr. Chairman, I hesitate to rise at this late hour, but I must voice opposition as my friend, the gentleman from California has and ask for a no vote. We tried to make appropriate changes so that I could offer an amendment to the substitute that would basically incorporate the Judiciary Committee bill. I just do not think we have time to do that at this late date.

Let me say to the Members here that we must defeat the substitute in order to incorporate in any ensuing conference report the kinds of things that I think the Members and I both want to be a part of this legislation. If we had to go to conference with the Standards of Official Conduct legislation and the Senate legislation, there simply are some matters that would not be in controversy that I think the Members and I both want to be in controversy where the House position could prevail. I sincerely ask for a no vote on the amendment in the nature of a substitute.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding.

I simply want to agree and just point out that the House Committee on the Judiciary spent literally weeks working on the bill, and the ethics committee through no fault of its own simply did not have enough time to do the job that we did.

Mr. FLOWERS. Mr. Chairman, I ask for a no vote.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. BENNETT).

The question was taken; and the Chair announced that the noes appeared to have it.

RECORDED VOTE

Mr. BENNETT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 74, noes 291, not voting 65, as follows:

[Roll No. 832]

AYES—74

Abdnor
Anderson, Calif.
Armstrong
Bafalis
Beard, Tenn.
Bennett
Bowen
Brinkley
Broomfield
Burleson, Tex.
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cochran
Collins, Tex.
Davis
de la Garza
Dent
Devine
Downing, Va.
Duncan, Oreg.
English
Erlenborn
Flood
Gibbons
Ginn
Goodling
Hammerschmidt
Harsha
Hefner
Holt
Hutchinson
Jacobs
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Kelly
Keys
Latta
Lott
Lujan
McCormack
Martin
Mathis
Miller, Ohio
Mills
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Pa.
Myers, Ind.
Poage
Quillen
Rhodes
Rogers
Roncalio
Runnels
Ryan
Sebelius
Shuster
Sikes
Slack
Snyder
Spence
Taylor, Mo.
Treen
Ullman
Vander Jagt
Waggonner
Whitten
Wilson, Bob
Young, Fla.

NOES—291

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Aspin
AuCoin
Badillo
Baldus
Bauman
Beard, R.I.
Bedell
Bell
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Chisholm
Cleveland
Cohen
Collins, Ill.
Conte
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Delaney
Dellums
Derrick
Derwinski
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Tenn.
du Pont
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gilman
Goldwater
Gonzalez
Gradison
Grassley
Gude
Hagedorn
Hall, Ill.
Hall, Tex.
Hamilton
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Helstoski
Henderson
Hightower
Hillis
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hyde
Ichord
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kemp
Ketchum
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Leggett
Lehman
Lent
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McClory
McCloskey
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Calif.
Morgan
Mosher
Mottl
Murphy, Ill.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Randall
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rooney
Rose
Rosenthal
Roush
Rousselot
Roybal
Ruppe
Russo
St Germain
Santini
Sarasin
Satterfield
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shriver
Simon
Sisk
Skubitz
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stratton
Studds
Symington
Symms
Talcott
Taylor, N.C.
Thone
Thornton
Traxler
Tsongas
Udall
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
White
Whitehurst
Wiggins
Wilson, Tex.
Winn
Wirth
Wolff
Wydler
Wylie
Yates
Yatron
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—65

Ashley
Baucus
Biaggi
Boggs
Breaux
Brown, Calif.
Brown, Ohio
Clancy
Clay
Conable
Conlan
Conyers
Early
Esch
Eshleman
Evins, Tenn.
Findley
Flynt
Green
Guyer
Haley
Hawkins
Hébert
Heinz
Hicks
Hinshaw
Holland
Jarman
Karth
Landrum
Levitas
McCollister
McDade
McFall
Madden
Matsunaga
Melcher
Mink
Moss
Murphy, N.Y.
Nix
Passman

Pepper
Peyser
Rangel
Rees
Riegle
Rostenkowski
Sarbanes
Scheuer
Schneebeli
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stokes
Stuckey
Sullivan
Teague
Thompson
Wampler
Wilson, C. H.
Wright
Young, Alaska
Young, Ga.

The Clerk announced the following pairs:

On this vote:

Mr. Flynt for, with Mr. Thompson against.

Mr. Breaux for, with Mr. Baucus against.

Mr. Hébert for, with Mr. Levitas against.

Mr. Landrum for, with Mr. Rangel against.

Mr. Passman for, with Mr. Stokes against.

Mr. Stephens for, with Mr. McFall against.

Mr. Teague for, with Mr. Murphy of New York against.

Mr. Stuckey for, with Mr. Biaggi against.

Mr. Charles H. Wilson of California for, with Mr. Young of Georgia against.

Mr. Haley for, with Mr. Hawkins against.

Mr. RISENHOOVER changed his vote from "aye" to "no."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Mr. FLOWERS. Mr. Chairman, in an effort to expedite this matter and gain approval of the amendments that were adopted in the Committee of the Whole, which I agreed I would agree to, I would ask unanimous consent that the bill be considered as read, printed in the Record, and open to amendment at any point; I would offer also the amendments that were adopted in the Committee of the Whole and ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk read as follows:

DEFINITIONS

SEC. 2. As used in this Act—

(1) The term "affiliate" means—

(A) organizations which are associated with each other through a formal relationship based upon ownership or an agreement (including a charter, franchise agreement, or bylaws) under which one of the organizations maintains actual control or has the right of potential control of all or a part of the activities of the other organization;

(B) units of a particular denomination of a church or of a convention or association of churches; and

(C) national membership organizations and their State and local membership organizations or units, national trade associations and their State and local trade associations, national business leagues and their State and local business leagues, national federations of labor organizations and their State and local federations, and national labor organizations and their State and local labor organizations.

(2) The term "Comptroller General" means the Comptroller General of the United States.

(3) The term "direct business contact" means any relationship between an organization and any Federal officer or employee in which—

(A) such Federal officer or employee is a partner in such organization;

(B) such Federal officer or employee is a member of the board of directors or similar governing body of such organization, or is an officer or employee of such organization; or

(C) such organization and such Federal officer or employee each hold a legal or beneficial interest (exclusive of stock holdings in publicly traded corporations, policies of insurance, and commercially reasonable leases made in the ordinary course of business) in the same business or joint venture, and the value of each such interest exceeds $1,000.

(4) The term "exempt travel expenses" means any sum expended by any organization in payment or reimbursement of the cost of any transportation for any agent, employee, or other person engaging in activities described in section 3(a), plus such amount of any sum received by such agent, employee, or other person as a per diem allowance for each such day as is not in excess of the maximum applicable allowance payable under section 5702(a) of title 5, United States Code, to Federal employees subject to such section.

(5) The term "expenditure" means—

(A) a payment, distribution (other than normal dividends and interest), salary, loan, advance, deposit, or gift of money or other thing of value, other than exempt travel expenses, made—

(i) to a Federal officer or employee; or

(ii) for mailing, printing, advertising, telephones, consultant fees, or the like which are attributable to activities described in section 3(a), and for costs attributable partly to activities described in section 3(a) where such costs, with reasonable preciseness and ease, may be directly allocated to those activities; or

(B) a contract, promise, or agreement, whether or not legally enforceable, to make, disburse, or furnish any item referred to in subparagraph (A).

(6) The term "Federal officer or employee" means—

(A) any Member of the Senate or the House of Representatives, any Delegate to the House of Representatives, and the Resident Commissioner in the House of Representatives;

(B) any officer or employee of the Senate or the House of Representatives or any employee of any Member, committee, or officer of the Congress; and

(C) any officer of the executive branch of the Government listed in sections 5312 through 5316 of title 5, United States Code.

(7) The term "identification" means—

(A) in the case of an individual, the name, occupation, and business address of the individual and the position held in such business; and

(B) in the case of an organization, the name and address of the organization, the principal place of business of the organization, the nature of its business or activities, and the names of the executive officers and the directors of the organization, regardless of whether such officers or directors are paid.

(8) The term "organization" includes any corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, national organization of State or local elected or appointed officials (excluding any national or State political party and any organizational unit thereof, and excluding any association comprised solely of Members of Congress and congressional employees), group of organizations, or group of individuals, which has paid officers, directors, or employees.

(9) The term "quarterly filing period" means any calendar quarter beginning on January 1, April 1, July 1, or October 1.

(10) The term "solicitation" means any oral or written communication directly urging, requesting, or requiring another person to advocate a specific position on a particular issue and to seek to influence a Federal officer or employee with respect to such issue, but does not mean such oral or written communications by one organization registered under this Act to an other organization registered under this Act.

(11) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

Mr. FLOWERS (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the Record and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued to read the bill.

Mr. FLOWERS (during the reading). Mr. Chairman, I ask unanimous consent that section 2 of the bill be considered as read, printed in the Record and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued to read the bill.

AMENDMENT OFFERED BY MR. FLOWERS

Mr. FLOWERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Flowers: Page 20, line 22: After "excluding" insert "any Federal, State, or local unit of government or Indian tribe,".

Page 20, line 25: After "Congress" and "or Members of Congress".

Mr. FLOWERS. Mr. Chairman, this amendment is offered on my part in order to correct a deficiency in the bill that was pointed out to me in the colloquy earlier by the gentleman from California (Mr. Wiggins). I think the adoption of this amendment would clearly mean the intent of the bill, as shown in the report of the Committee on the Judiciary, has been carried out in the bill itself. That, I think, would be entirely appropriate.

Mr. Chairman, I ask for an aye vote on the amendment.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield

Mr. FLOWERS. I yield to my friend, the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Chairman, I thank the gentleman for yielding.

Not having seen the amendment, I rise to ask the gentleman from Alabama (Mr. Flowers) if the intent of this amendment is not the same as what I intended to offer with the amendment I just a few moments ago handed to the gentleman at his desk. That amendment is labeled amendment No. 1, and it would have the effect of providing for officials of State and local governments the same exemption which is provided for Members of Congress and congressional employees.

Mr. FLOWERS. Mr. Chairman, although I have not studied the gentleman's amendment, it would be my judgment that that is correct.

There is a difference between what is stated in the bill and what is stated in the report, as pointed out to me by the gentleman from California (Mr. Wiggins). I told him what my intent was, and this amendment is offered to carry out that intent in the bill itself.

We voted on this once, I will say to my friend, the gentleman from Minnesota (Mr. Quie), and he lost on that vote. This amendment would show clearly in the legislation itself that units of State and local governments are not intended to be organizations, covered or otherwise, under the terms of this act.

Mr. WAGGONNER. Mr. Chairman, I thank the gentleman.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to my friend, the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, I would like to ask the gentleman this question:

Presently would a private college or university that is incorporated in a State be included in an organization as a corporation?

Mr. FLOWERS. I think it is, clearly so.

Mr. QUIE. Would a private university which is under a State charter be included?

Mr. FLOWERS. In my judgment, it would.

Mr. QUIE. Would a public university that is under a State charter be included?

Mr. FLOWERS. In my judgment, it would.

Mr. QUIE. And would a public college or university which is a part of the State government be included?

Mr. FLOWERS. Mr. Chairman, I think that it would be included unless it was a part of the government acting in some sort of a function as the State sovereign. I cannot conceive of any difference between a State government and a charter under the State, but the State universities and colleges of which I have any knowledge would be covered. It is the intent of the committee and of myself at least, speaking personally and for the committee, that hopefully there would be an even across-the-board coverage of universities and colleges.

Mr. QUIE. Mr. Chairman, if the gentleman will yield further, my understanding is that the University of California is a State-chartered institution, but that the remaining public institutions are a part of the State government as such. If this be the case, it seems to me that the University of California as a chartered institution would be included and perhaps not the other State institutions of higher education.

But the remaining State institutions would not be included unless in some way all of the State institutions of higher education were to come under this definition of "organization" one way or another; is that correct?

Mr. FLOWERS. I would say to the gentleman from Minnesota (Mr. Quie) that it is difficult to say here, right now, what the legal status of all of the State institutions of education might be, but we do not contemplate a situation where one State may escape coverage by calling its educational institutions chartered or calling its personnel in-house or whatever. They would all be covered equally.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. Flowers) has expired.

Mr. QUIE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to address a question to the gentleman from Alabama (Mr. Flowers).

I ask the gentleman whether he is familiar with the Kindness amendment which defines the term "Washington representative" to mean "any agent or employee of a State or of a unit of local government who maintains a business address in the standard metropolitan statistical area which includes the city of Washington, District of Columbia, and whose functions includes engaging in the activities described in section 3(a)."

Mr. FLOWERS. If the gentleman will yield, my answer is yes.

Mr. QUIE. If the amendment of the gentleman from Alabama (Mr. Flowers) was adopted and the Kindness amendment was adopted thereafter, at the end of the subsection, would then the Flowers amendment apply only to State and local governments, with the exception of their Washington representative?

Mr. FLOWERS. That is correct. It would not be mutually exclusive.

Mr. QUIE. Mr. Chairman, I would then support the gentleman's amendment; and I hope that the Kindness amendment will be offered and adopted.

Mr. KAZEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time in order to ask the gentleman from Alabama (Mr. Flowers) a question.

I heard him mention the University of Texas a while ago.

With respect to the University of Texas plus the universities of the other 49 States, will they actually be deemed lobbyists if they should come to Washington to lobby for a program that they wanted?

Mr. FLOWERS. Mr. Chairman, if the gentleman will yield, my answer is absolutely not unless they otherwise exceed the threshold requirements.

The only reason the gentleman from Alabama mentioned the University of Texas is because of the natural rivalry and admiration that we share for that great institution.

Mr. KAZEN. I understand.

Mr. FLOWERS. The gentleman from Illinois (Mr. Yates) spoke a little over the normal murmur that we have on the House floor, and I heard Texas mentioned. I could not resist mentioning it likewise, but we would not single out the University of Texas.

Mr. KAZEN. No. This is what I am talking about, the 50 State universities or as many as there may be.

My question is this: Suppose those people were to come up here under the gentleman's definition of frequency; would they then become lobbyists?

Mr. FLOWERS. That is correct.

Mr. KAZEN. But would that be 20 percent of the time?

Mr. FLOWERS. It would require at least one individual at the University of Texas to spend at least 20 percent of his or her time in covering lobbying activities.

I say to my friend, the gentleman from Texas (Mr. Kazen), quite honestly, that I cannot conceive of that being the case.

Mr. KAZEN. All right. Let me ask this question: Suppose any of these people did lobby a State legislature for a certain percentage of the time, but would then turn their attention to this Congress, just for a very small fraction of that time, but all together it amounts to 20-percent lobbying on the State and on the national level. Is that included?

Mr. FLOWERS. No; it is not.

Mr. KAZEN. All right. I thank the gentleman.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, I would like to ask one other question.

I understand that this act pertains to all Federal officers. Many of the schools will come to Washington seeking grant programs or grant projects. It could very well be that we are going to have representatives from these universities who are in contact with the National Science Foundation, with HEW, and with various Federal agencies.

Mr. FLOWERS. Mr. Chairman, if the gentleman will yield, I do not think it would apply because it does not apply to all Federal officers. It only applies to Federal officers defined in the act here, and it is generally the Assistant Secretary level or up in the executive branch. When they are dealing with respect to a contract or a grant at a college or a university, they are dealing at a level much lower than that.

Mr. KAZEN. If the gentleman will yield so that I may ask another question, the gentleman from Alabama (Mr. Flowers) in his bill is exempting the State officers located in Washington; is that correct?

Mr. FLOWERS. No. The exemption is within the definition of "organization." Unfortunately, we were a little too inclusive. We said "any corporation."

We are providing an exclusion basically that a municipal corporation is not intended to be included on the basis of a reference to the term "corporation."

Mr. KAZEN. Is the gentleman saying that the office of the State of Texas in Washington that is maintained under the direction of the Governor and is staffed to help our delegation work with problems concerning the State of Texas, will then become lobbyists and will they have to be registered?

Mr. FLOWERS. Under the bill as it now stands they will not have to be.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. Flowers).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Quie: Page 21, line 2, insert immediately before the period the following: ", and, with respect to the activities of its Washington representative, a State or unit of local government".

Page 21, immediately after line 17, insert the following new paragraph:

"(12) The term 'Washington representative' means any agent or employee of a State or of a unit of local government who maintains a business address in the standard metropolitan statistical area which includes the city of Washington, District of Columbia, and whose function includes engaging in the activities described in section 3(a)."

Mr. QUIE. Mr. Chairman, this is the amendment that I referred to that of the gentleman from Ohio (Mr. Kindness).

As the Members will recall, I did offer an amendment earlier to the Bennett substitute which would have included not only the Washington representative, but anyone from the State who qualified under section 3(a)(2). H.R. 15 includes anyone who spends 20 percent of his or her time lobbying. This would be the Washington representative of the States that have offices here.

As I indicated before, we just finished the conference on the education bill. At that time the Washington representatives were actively lobbying, handing up suggestions to the members of the conference, working with other lobbyists to coalesce them and was not just providing services to the Members from his State but was operating in a way that one would call such person a lobbyist under any definition of lobbyist with the exception of this bill. To me this is totally inconsistent.

I recognize some of the Members do not want to include that person who would commute from their State, and worried that my previous amendment might include some elected official. I did not think it would, but this is language that was in H.R. 15 in the Committee on the Judiciary but removed it in committee. If we go out of this session exempting individuals who are totally immersed in lobbying and who do not limit it only to their own delegation but who are constantly involved with other delegations, other Members of the Congress, and who are also trying to bring together the other groups who are lobbying as well, we will be exempting from reporting some of the biggest lobbyists.

And so, as I have observed many of them, they are lobbyists and certainly they ought to report on their activities.

I urge support of the amendment.

Mr. PATTISON of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is going over old ground that we have already plowed. Of course, the Washington representatives are lobbyists. We have no question about that. That is in our bill. The question that we are trying to resolve in this bill is what kind of activity should be disclosed to the public, not whether one activity should be prevented or restricted. State governments and local governments are responsible to the people who elect them. Their activities are open to the public pursuant to their own law. They are coequal with the Federal Government. They are not subordinate to the Federal Government in our federal system. So it seems to me that what we are trying to get at here is the disclosure of activities of people who otherwise do not have to disclose. That is not true of State and local officials. This would make cities who have Washington representatives down here require their registration and would make them do a great deal of paperwork. It certainly is not necessary on a government-to-government basis.

We are trying to get disclosure about the amount and cost and extent of lobbying activity that goes on by private corporations and organizations who currently do not have to disclose and are not responsible or accountable to an electorate.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. PATTISON of New York. I yield to the gentleman from Minnesota.

Mr. QUIE. I thank the gentleman for yielding.

Let me give the gentleman an example. The lobbyist in education for the State of California was keenly involved in the Indo-China Refugee Children's Education Act. When we were in conference, he sat down with me and discussed at length how we should resolve the conference. I would think that that would not only be of interest to all of my colleagues but especially of interest to my colleagues in California. Why we would want to exempt such an individual from a lobbying bill is certainly beyond me.

Mr. PATTISON of New York. I would say to the gentleman that the activities that he is engaged in are already reportable to the people of California under California law. To whatever extent the people of the State of California feel they have the right to know that, they have laws which provide that, and he is accountable to the people of California. That is not true of the president of General Motors.

Mr. QUIE. If the gentleman would yield further, one could use the same example and suggest that the lobbyist for General Motors ought to be required to report only to the people of the State of Michigan, but other lobbyists are covered by H.R. 15 so all people might know what they are doing.

If it is important that we know what the others are engaged in, certainly we ought to know what the Washington representatives of the States are engaged in in lobbying, especially when they go much further than just bringing the information to the delegation from their particular State.

Mr. PATTISON of New York. I would say to the gentleman that the basic mistake he makes is that he seems to think that we are trying to do away with lobbying or restrict lobbying. We are encouraging lobbying. We want as much lobbying as possible. That is what we all say to our constituents out in the country—come and see us. Come and tell us what is on your mind. That is not the point. We want disclosure of lobbying, but government to government lobbying has no place in this bill. That is not the evil we are seeking to correct.

Mr. QUIE. If the gentleman would yield further, I have never said I am trying to limit lobbying. The purpose of this legislation is for persons engaged in lobbying to divulge certain information to the public so that they might know what lobbyists are doing. So these Washington lobbyists of States who are lobbying in every sense of the word ought to report as well so that we can make a judgment in regard to them.

Mr. PATTISON of New York. If that were the case, then we would say everybody who writes his Congressman a letter is lobbying, or who comes into his office and sees him on any issue at any time is lobbying, and therefore, his activity should be disclosed, and I disagree with the gentleman.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words, and rise in opposition to the amendment.

Mr. Chairman, this amendment is, doubtless, well intended, but truly it should be defeated. There may be some arguable case to be made for requiring the disclosure of an organization with an obscure name such as the Good Government League. One hardly knows from the name itself what its activities might be. And perhaps some public purpose is served by having that organization describe the issues in which it may be interested. But when a representative of the State of Texas lobbies the Federal Government, what earthly good is served by requiring the State of Texas to reveal that the man is an employee of the State of Texas? That is known to the Federal official.

This would simply require unnecessary paper work when no public good is served by it. As the gentleman from New York has correctly stated, this is not an attempt to prohibit the activity but merely to force a disclosure. But telling the world that a representative of California is hired by the people of California tells us nothing. It requires the State of course to fill out quarterly reports. But for no useful purpose.

It is simply an unnecessary amendment and I urge defeat of it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. Quie).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORD VOTE

Mr. QUIE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 145, noes 209, not voting 76, as follows:

[Roll No. 833]

AYES—145

Abdnor
Abzug
Addabbo
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Badillo
Bafalis
Beard, Tenn.
Bedell
Bennett
Blouin
Bonker
Brodhead
Broomfield
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burton, John
Burton, Phillip
Carr
Cederberg
Chisholm
Clausen, Don H.
Clawson, Del
Cleveland
Collins, Tex.
Coughlin
Crane
Delaney
Dellums
Derwinski
Devine
Dickinson
Dingell
Duncan, Tenn.
du Pont
Edgar
Edwards, Ala.
Emery
Erlenborn
Evans, Ind.
Fenwick
Fisher
Florio
Ford, Mich.
Forsythe
Fraser
Frenzel
Frey
Gibbons
Gilman
Goldwater
Goodling
Gradison
Grassley
Hagedorn
Hall, Ill.
Hamilton
Hansen
Harkin
Harrington
Harris
Harsha
Hillis
Hyde
Johnson, Pa.
Jones, N.C.
Kelly
Kemp
Koch
Krebs
Latta
Lent
Long, Md.
McClory
McDonald
McEwen
McHugh
McKay
Madigan
Maguire
Mazzoli
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Moffett
Mottl
Nolan
Oberstar
O'Brien
O'Hara
Patterson, Calif.
Pressler
Pritchard
Quie

Railsback
Regula
Rhodes
Rinaldo
Rogers
Roncalio
Rooney
Rosenthal
Rousselot
Roybal
Ruppe
Russo
Ryan
Sarasin
Satterfield
Schroeder
Schulze
Sebelius
Sharp
Shriver
Shuster
Simon
Skubitz
Snyder
Solarz
Stanton, J. William
Stark
Steiger, Wis.
Symms
Talcott
Taylor, Mo.
Vander Jagt
Waggonner
Walsh
Weaver
White
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wydler
Wylie
Young, Fla.

NOES—209

Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Aspin
AuCoin
Baldus
Baucus
Bauman
Beard, R.I.
Bell
Bergland
Bevill
Biester
Bingham
Blanchard
Boland
Bolling
Bowen
Brademas
Breckinridge
Brinkley
Brooks
Broyhill
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carney
Carter
Chappell
Cochran
Cohen
Collins, Ill.
Conte
Corman
Cornell
Cotter
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Dent
Derrick
Diggs
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Eckhardt
Edwards, Calif.
Eilberg
English
Evans, Colo.
Fary
Fascell
Fish
Fithian
Flood
Flowers
Foley
Ford, Tenn.
Fountain
Fuqua
Gaydos
Ginn
Gonzalez
Gude
Hall, Tex.
Hammerschmidt
Hanley
Hannaford
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Henderson
Hightower
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Ichord
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Ketchum
Krueger
LaFalce
Lagomarsino
Leggett
Lehman
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lundine
McCloskey
McCormack
McKinney
Mahon
Mann
Martin
Mathis
Meeds
Melcher
Metcalfe
Meyner
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nowak
Obey
O'Neill
Ottinger
Patten, N.J.
Pattison, N.Y.
Paul
Perkins
Pettis
Pickle
Pike
Poage
Preyer
Price
Randall
Reuss
Richmond
Risenhoover
Roberts
Robinson
Rodino
Roe
Rose
Roush
St Germain
Santini
Seiberling
Shipley
Sikes
Slack
Smith, Iowa
Smith, Nebr.
Spellman
Spence
Staggers
Steed
Stratton
Studds
Taylor, N.C.
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Van Deerlin
Vander Veen
Vanik
Vigorito
Wampler
Waxman
Whalen
Whitehurst
Whitten
Wiggins
Wirth
Yates
Yatron
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—76

Adams
Annunzio
Ashley
Biaggi
Boggs
Breaux
Brown, Calif.
Brown, Mich.
Brown, Ohio
Clancy
Clay
Conable
Conlan
Conyers
Duncan, Oreg.
Early
Esch
Eshleman
Evins, Tenn.
Findley
Flynt
Giaimo
Green
Guyer
Haley
Hawkins
Hébert
Heinz
Hicks
Hinshaw
Hutchinson
Jacobs
Jarman
Karth
Keys
Kindness
Landrum
Levitas
Lujan
McCollister
McDade
McFall
Madden
Matsunaga
Mink
Moss
Murphy, N.Y.
Nix
Passman
Pepper
Peyser
Quillen
Rangel
Rees
Riegle
Rostenkowski
Runnels
Sarbanes
Scheuer
Schneebeli
Sisk
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stokes
Stuckey
Sullivan
Symington
Teague
Thompson
Ullman
Wilson, C. H.
Wright
Young, Alaska
Young, Ga.

Mr. LATTA changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. LATTA

Mr. LATTA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LATTA: Page 21, line 1, after the word "has" strike out the word "paid".

Mr. LATTA. Mr. Chairman, this amendment proposes to strike one word, but it is quite an important word. Therefore, I wish the Members would read the section I am attempting to amend.

Without going into great detail, I might explain to the Members that according to testimony before the Committee on Rules, the way this bill is drafted, Mr. Nader escapes its coverage. He is unpaid and does not, therefore, fall under the provisions as a paid officer, director, or employee of his organization.

Mr. Chairman, I think the American people want Mr. Nader covered in this bill because they know he does as much or more lobbying than any other organization. By virtue of the bill's phraseology he escapes, and I think he should not escape its provisions.

Therefore, I am attempting to strike out the word, "paid," so that a paid or unpaid officer, director, or employee of any organization would be covered. It is just that simple.

I might say—and the Members know this—that on a couple of votes tonight, right outside that door several lobbyists from these "volunteer" organizations were carrying on their activities. This is a vicious form of lobbying and should cease.

Many will want to go home and beat their chests and say they did something to curb the bad features of lobbying. Let us include Common Cause and Nader's organization. If we go home and say that we had an opportunity to cover these organizations and did not do it, I do not know how you will explain such omissions to your constituents. Now, here is our chance to include them.

Mr. Chairman, I hope that we will all stand for a rollcall vote on this amendment to tell your people whether or not you really wanted an all-inclusive lobbying bill or whether you wanted a lobbying bill by title only.

I realize that my friend, the gentleman from Alabama (Mr. FLOWERS), is going to oppose this amendment because this bill came out of his committee. Language is sacrosanct sometimes when a bill comes out of a committee. We are not supposed to change one word. We as Members do not sit on every committee of the Congress, but we are elected Members of this body, so I think we ought to use a little bit of our own input in these bills as they come on the floor and not just automatically follow along because it is the committee's language. Committees come out with bills containing language here and a comma there, and they cannot be changed.

Mr. Chairman, I think it is high time that we pay a little attention to the language in these bills. This one word changes this bill's intent. So let us strike it out and make this an all-inclusive lobbying bill.

Mr. FLOWERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am sure that the gentleman from Ohio (Mr. LATTA) is an ardent supporter of his one-word amendment, but this is not going to catch Ralph Nader any more than a fishnet in the deepest, darkest ocean is going to catch Ralph Nader unless he is swimming there, because he is not swimming in an organization that does not have paid officers, directors, or employees. All of the organizations that Ralph Nader is connected with, I can assure the Members, have paid employees. The people standing outside that door or this door or any other door are working, and they are getting paid for their work. This amendment would not in any wise catch them.

What it would catch, Mr. Chairman, is perhaps a small volunteer organization in some nook or cranny of the State of Ohio that has no officers, directors, or employees but that is involved in public service and is interested in government and wants to have a voice that can be heard by its elected representatives and maybe even perhaps by Members from adjoining districts.

I dare say, Mr. Chairman, coming from the State of Alabama, I do not want the people of Ohio to be caught in that net, and, therefore, I must oppose the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. LATTA).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LATTA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 106, noes 246, not voting 78, as follows:

[Roll No. 834]

AYES—106

Abdnor
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Bennett
Bowen
Broomfield
Burgener
Burke, Fla.
Burleson, Tex.
Byron
Carney
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Collins, Tex.
Crane
Daniel, Dan
Derwinski
Devine
Dickinson
Dingell
Edwards, Ala.
Erlenborn
Evans, Ind.
Fithian
Forsythe
Goodling
Gradison
Grassley
Hansen
Harsha
Hefner
Henderson
Holt
Hubbard
Hyde
Ichord
Johnson, Colo
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kemp
Ketchum
LaFalce
Latta
Lent
Long, Md.
Lott
Lujan
McClory
McCormack
McDonald
McEwen
Madigan
Maguire
Martin
Michel
Milford
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Myers, Pa.
O'Brien
Pettis
Poage
Pritchard
Quillen

Randall
Regula
Rhodes
Roberts
Robinson
Rogers
Rousselot
Ruppe
Ryan
Satterfield
Schulze
Sebelius
Shriver
Shuster
Skubitz
Smith, Nebr.
Snyder
Stanton, J. William
Symms
Talcott
Taylor, Mo.
Traxler
Treen
Vander Jagt
Waggonner
Wampler
Wilson, Bob
Winn
Wydler
Young, Fla.

NOES—246

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bell
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Mich.
Broyhill
Buchanan
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Carr
Carter
Chisholm
Cleveland
Cochran
Cohen
Collins, Ill.
Conte
Corman
Cornell
Cotter
D'Amours
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Diggs
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Eckhardt
Edgar
Edwards, Calif.
Emery
English
Evans, Colo.
Fary
Fascell
Fenwick
Fish
Fisher
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Frenzel
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Gude
Hagedorn
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Howe
Hughes
Hungate
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Keys
Koch
Krebs
Krueger
Lagomarsino
Leggett
Lehman
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lundine
McCloskey
McHugh
McKay
McKinney
Mahon
Mann
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Mottl
Murphy, Ill.
Murtha
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Perkins
Pickle
Pike
Pressler
Preyer
Price
Quie
Railsback
Reuss
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Roush
Roybal
Russo
St Germain
Santini
Sarasin
Schroeder
Seiberling
Sharp
Shipley
Simon
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stark
Steed
Steiger, Wis.
Stratton
Studds
Taylor, N.C.
Thone
Thornton
Tsongas
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Tex.
Wirth
Wolff
Wylie
Yates
Yatron
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—78

Anderson, Ill.
Annunzio
Ashley
Beard, Tenn.
Biaggi
Boggs
Breaux
Brown, Calif.
Brown, Ohio
Clancy
Clay
Conable
Conlan
Conyers
Coughlin
Early
Eilberg
Esch
Eshleman
Evins, Tenn.
Findley
Flynt
Frey
Giaimo
Green
Guyer
Haley
Hawkins
Hébert
Heinz
Hicks
Hinshaw
Hutchinson
Jarman
Karth
Kindness
Landrum
Levitas
McCollister
McDade
McFall
Madden
Matsunaga
Mink
Moss
Murphy, N.Y.
Nix
O'Hara
Passman
Pepper
Peyser
Rangel
Rees
Riegle
Rostenkowski
Runnels
Sarbanes
Scheuer
Schneebeli
Sikes
Sisk
Spence
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stokes
Stuckey
Sullivan
Symington
Teague
Thompson
Udall
Ullman
Wilson, C. H.
Wright
Young, Alaska
Young, Ga.

The Clerk announced the following pairs:

On this vote:

Mr. Breaux for, with Mr. Thompson against.

Mr. Passman for, with Mr. Annunzio against.

Mr. Hébert for, with Mr. Levitas against.

Mr. Teague for, with Mr. Rostenkowski against.

Mr. Sikes for, with Mr. Matsunaga against.

Mr. Runnels for, with Mr. Pepper against.

Mr. Charles H. Wilson of California for, with Mr. Eilberg against.

So the amendment was rejected.

The result of the vote was announced as above recorded.

PREFERENTIAL MOTION OFFERED BY MR. JONES OF NORTH CAROLINA

Mr. JONES of North Carolina. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Preferential motion offered by Mr. JONES of North Carolina: Mr. JONES moves that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from North Carolina.

The question was taken; and on a division (demanded by Mr. JONES of North Carolina) there were—ayes 103, noes 67.

RECORDED VOTE

Mr. FLOWERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 148, noes 202, not voting 80, as follows:

[Roll No. 835]

AYES—148

Abdnor
Andrews, N.C.
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bell
Bevill
Biester
Bowen
Broomfield
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Carter
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cochran
Collins, Ill.
Collins, Tex.
Cotter
Crane
Daniel, Dan
Daniel, R. W.
Davis
Delaney
Dellums
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
du Pont
Edwards, Ala.
English
Erlenborn
Evans, Colo.
Forsythe
Fountain
Frey
Gaydos
Goldwater
Goodling
Gradison
Grassley
Hagedorn
Hall, Tex.
Hanley
Hansen
Harrington
Harsha
Heckler, Mass.
Hillis
Holland
Holt
Hyde
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Kelly
Kemp
Ketchum
Krueger
LaFalce
Latta
Leggett
Lloyd, Calif.
Long, Md.
Lott
Lujan
McClory
McCloskey
McDonald
McEwen
McKay
Martin
Metcalfe
Michel
Milford
Miller, Ohio
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mosher
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Nichols
O'Brien
Paul
Poage
Quie
Quillen
Randall
Regula
Rhodes
Risenhoover
Roberts
Robinson
Rousselot
Ruppe
Ryan
Satterfield
Schulze
Sebelius
Shipley
Shriver
Shuster
Simon
Skubitz
Slack
Smith, Nebr.
Snyder
Stanton, J. William
Steiger, Wis.
Symms
Talcott
Taylor, Mo.
Treen
Van Deerlin
Vander Jagt
Waggonner
Walsh
Whalen
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wydler
Wylie
Yates
Young, Fla.

NOES—202

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N. Dak.
Archer
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carr
Chisholm
Cleveland
Cohen
Conte
Corman
Cornell
Coughlin
D'Amours
Daniels, N.J.
Danielson
de la Garza
Derrick
Dodd
Downey, N.Y.
Drinan
Eckhardt
Edgar
Edwards, Calif.
Emery
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Frenzel
Fuqua
Gibbons
Gilman
Ginn
Gonzalez
Gude
Hall, Ill.
Hamilton
Hammerschmidt
Hannaford
Harkin
Harris
Hayes, Ind.
Hechler, W. Va.
Hefner
Helstoski
Hightower
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Keys
Koch
Krebs
Lagomarsino
Lehman
Lent
Lloyd, Tenn.
Long, La.
Lundine
McCormack
McHugh
McKinney
Maguire
Mahon
Mann
Mathis
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Pa.
Morgan
Mottl
Natcher
Neal
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Railsback
Reuss
Richmond
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Roush
Roybal
Russo
St Germain
Santini
Sarasin
Schroeder
Seiberling
Sharp
Smith, Iowa
Solarz
Spellman
Spence
Staggers
Stark
Steed
Stratton
Studds
Thone
Thornton
Traxler
Tsongas
Vander Veen
Vanik
Wampler
Waxman
Weaver
White
Wirth
Wolff
Yatron
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—80

Anderson, Ill.
Annunzio
Ashley
Biaggi
Boggs
Breaux
Brown, Calif.
Brown, Ohio
Byron
Carney
Clancy
Clay
Conable
Conlan
Conyers
Early
Eilberg
Esch
Eshleman
Evins, Tenn.
Findley
Flynt
Giaimo
Green
Guyer
Haley
Hawkins
Hébert
Heinz
Henderson
Hicks
Hinshaw
Hutchinson
Jarman
Karth
Kindness
Landrum
Levitas
McCollister
McDade
McFall
Madden
Madigan
Matsunaga
Mink

Moss
Murphy, N.Y.
Nix
O'Hara
Passman
Pepper
Peyser
Rangel
Rees
Riegle
Rostenkowski
Runnels
Sarbanes
Scheuer
Schneebeli
Sikes
Sisk
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stokes
Stuckey
Sullivan
Symington
Taylor, N.C.
Teague
Thompson
Udall
Ullman
Vigorito
Wilson, C. H.
Wright
Young, Alaska
Young, Ga.

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to section 2?

If not, the Clerk will read:

The Clerk read as follows:

APPLICABILITY OF ACT

SEC. 3. (a) The provisions of this Act shall apply to any organization which—

(1) makes an expenditure in excess of $1,250 in any quarterly filing period for the retention of another person to make oral or written communications directed to a Federal officer or employee to influence the content or disposition of any bill, resolution, treaty, nomination, hearing, report, investigation (excluding civil or criminal investigations or prosecutions by the Attorney General and any investigation by the Comptroller General authorized by the provisions of this Act), rule (as defined in section 551(4) of title 5, United States Code), rule making (as defined in section 551(5) of title 5, United States Code) or the award of Government contracts (excluding the submission of bids), or for the express purpose of preparing or drafting any such oral or written communication; or

(2) employs at least one individual who spends 20 percent of his time or more in any quarterly filing period engaged on behalf of that organization in those activities described in paragraph (1),

except that this Act shall not apply to an affiliate of a registered organization if such affiliate engages in activities described in paragraphs (1) and (2) of this subsection and such activities are reported by the registered organization.

(b) This Act shall not apply to—

(1) a communication (A) made at the request of a Federal officer or employee, (B) submitted for inclusion in a report or in response to a published notice of opportunity to comment on a proposed agency action, or (C) submitted for inclusion in the record, public docket, or public file of a hearing or agency proceeding;

(2) a communication or solicitation made through a speech or address, through a newspaper, book, periodical, or magazine published for distribution to the general public or to the membership of an organization, or through a radio or television broadcast: *Provided*, That this exemption shall not apply to an organization responsible for the purchase of a paid advertisement in a newspaper, magazine, book, periodical, or other publication distributed to the general public, or of a paid radio or television advertisement;

(3) a communication by an individual, acting solely on his own behalf, for redress of his personal grievances, or to express his personal opinion;

(4) practices or activities regulated by the Federal Election Campaign Act of 1971;

(5) a communication on any subject directly affecting any organization to a Member of the Senate or of the House of Representatives, or to an individual on the personal staff of such Member, if such organization's principal place of business is located in the State, or in the congressional district within the State, represented by such Member, so long as that organization (A) acts on its own initiative and not at the suggestion, request, or direction of any other person, and (B) the costs incurred are not paid by any other person; or

(6) activities of the National Academy of Sciences conducted under section 3 of the Act of March 3, 1863 (36 U.S.C. 253).

AMENDMENT OFFERED BY MR. RAILSBACK

Mr. RAILSBACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RAILSBACK: At page 23, line 4 after "public", strike "or to the membership of an organization".

At page 23, line 5, after "broadcast," strike the colon and insert the following: ", or through a regular publication of a voluntary membership organization published in substantial part for purposes unrelated to engaging in activities described in paragraphs (1) and (2) of subsection 3(a);"

Mr. RAILSBACK. Mr. Chairman, section 3(b)(2) of the act creates a major loophole by exempting from the act's coverage any communication or solicitation made to the membership of a lobbying organization. This would mean, for example, that all the costs incurred by an organization in sending newsletters or telegrams to its members to urge them to pressure their Representatives or an executive branch official would escape coverage. Often, their costs constitute a very substantial portion of an organization's expenses related to lobbying, particularly as more and more organizations engage in generating so-called indirect or grassroots lobbying.

Nevertheless, there is a legitimate need for exempting a regular publication of voluntary membership organizations when such publication is substantially unrelated to lobbying activities. Otherwise, such organizations will have imposed upon them the burden of ascertaining the reporting as lobbying expenses a proportion of costs of publications which are primarily devoted to other purposes.

This exemption would, however, in no way prevent disclosure of any other expenses; for example, special mailings, telephone calling, and so forth, incurred in generating grassroots lobbying.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Chairman, I have studied the amendment of the gentleman from Illinois (Mr. RAILSBACK). I think it is aimed in the right direction with respect to this bill as far as the Members are concerned; and we accept it on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. RAILSBACK).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. SNYDER. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING: On page 22, line 11, following "who", insert "earns a salary in excess of $1,250 in any quarterly filing period and".

Mr. SEIBERLING. Mr. Chairman, the purpose of this amendment is to correct an inequity that now exists in H.R. 15. Under the bill as presently drafted, corporations and large organizations which can afford to retain lobbyists would not have to register if they retained a lobbyist for a fee of $1,250 per quarter; but a small organization would be required to register and file periodic reports under the threat of possible criminal sanctions if it employed a person for a nominal salary of $25 per week and that person spent 20 percent of his or her time directly lobbying Congress or the executive branch.

For example, suppose a group of citizens in East Lansing, Mich., form the East Lansing Right To Live Committee and Mrs. John Smith, a housewife, donates her free time to coordinate the committee's activities. For her services the committee decides to compensate her at a salary of $25 per week. During the consideration of the Labor-HEW appropriations bill, Mrs. Smith writes a series of letters to Congress. For a period of about 3 weeks this consumes 75 percent of her time.

Under this bill the committee is then a lobbying organization and before Mrs. Smith can legally write letters, she must register as a lobbyist and prepare a system to enable her to file periodic reports, all under the threat of criminal penalty.

On the other hand, an association of corporations could be spending a few thousand dollars a year on each of its retained lobbyists and still avoid registration provided that it does not pay any one person more than $1,250 per quarter.

This amendment attempts to correct this inequitable result by setting a minimum dollar threshold for employees. This threshold would raise the minimum standard for section 3(a)(2) so that small local organizations would therefore be removed from the scope of the act. By imposing this minimum standard, required registration and reports and possible criminal sanctions will not intimidate smaller organizations, thereby discouraging them from engaging in the vital process of communicating with their elected representatives. Removing small local organizations from the scope of this act will lessen, though not entirely eliminate, the chilling effect of this bill on the free exercise of the right to petition the government for a redress of grievances. Mr. Chairman, I urge the adoption of my amendment.

Mr. FLOWERS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

Mr. Chairman, I do not think we can make an arbitrary distinction between small organizations and large organizations in this way. Employees or lobbyists of small organizations could, in effect, be the highest paid among the lobbyists on the Hill or among the lowest paid, or, vice versa, for the larger organizations.

This is an arbitrary distinction which really does not carry water in my judgment and, Mr. Chairman, I think we ought to defeat the amendment.

We have a fair test here, it applies equally to all types of organizations wherever they may be found. I think it would be the better part of wisdom for us to carry this on through and leave it like it is without adding this additional exemption which could produce something adverse in the interpretation of the legislation.

I urge a no vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

The amendment was rejected.

AMENDMENT OFFERED BY MR. WAGGONNER

Mr. WAGGONNER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WAGGONNER: Section 3(a) of the bill is amended by striking everything after the number "(1)" on line 21 of page 21 up to and including the word "person" on line 23 of page 21, substituting therefor the following: "retains another person who spends 20 percent of his time or more in any quarterly filing period".

Mr. WAGGONNER. Mr. Chairman, on page 21 of the bill, section 3(a)(1) will now read:

The provisions of this Act shall apply to any organization which—

(1) retains another person who spends 20 percent of his time or more in any quarterly filing period to make oral or written communications directed to a Federal officer or employee to influence the content or disposition of any bill, resolution, treaty, nomination, hearing . . .

Mr. Chairman, there must be questions raised about the abridgement of rights in the first amendment to the Constitution guaranteeing the freedom to petition the Government for redress of grievances in H.R. 15.

Moreover, there is the probability this bill will be in court over the provision in section 3 setting forth the qualifications for an organization to register as a lobbyist.

There are two ways to qualify: one if the organization retains an individual, law firm or consulting group and pays $1,250 in any quarter for lobbying. The other is if the organization has at least one employee who spends 20 percent of his time per quarter in lobbying.

Now this could result in denial of the individual in the first case his or her civil rights. An organization's own employee has, in effect, 100 "free" hours without registering. If the legislative issue falls over two quarterly periods, the employee could have 200 "free" hours for lobbying maybe within a few weeks' period.

The independent contractor, however, is discriminated against, for regardless of time spent in lobbying he or she makes the client organization a lobbyist simply by a $1,250 payment. Thus, a $5,000 annual retainer to the law firm for communications with Congress or the executive branch, as an example, makes the client a lobbyist while five employees of an organization each working 1 day a week on lobbying and giving the employing group full coverage on Capitol Hill, would not be a lobbyist under the criteria set forth under H.R. 15.

The problem, of course, is that the judiciary bill compares apples and oranges—a dollar qualification in one case and a time threshold in the other. An organization may be reluctant to retain an independent firm under contract if it could employ its own personnel to cover the same ground without registering.

The same measurement of time should be applied to both independent contractors and the organization's own employees, and this amendment puts them on equal footing.

Mr. FLOWERS. Mr. Chairman, I rise in opposition to the amendment.

If I may be heard very briefly, Mr. Chairman, I can remember a few short years ago when the medical profession rose up almost in unison in opposition to medicare. Look at who has benefited therefrom. I think the same analogy would follow here.

The independent contractor, the lobbyist, the law firm, or a contracting representative firm here in Washington is more likely to gain his business under this than lose business. It would be most easy for the organization likely to be covered to contract out lobbying activity rather than keep up with the time within its own house. I think that clearly the result of the situation would be to hire outside firms. The intent of the subcommittee and the full committee in arriving at the 20-percent figure and therefrom, then, the $1,250 per quarter figure was that it would be a more evenhanded approach.

They both approximate each other. I daresay if the amendment offered by my friend is adopted we would virtually rule out any independent contracting firm from ever pushing anybody over the threshold to become a lobbyist organization. I fear it would create a loophole we do not want at this point. We have tried to be fair. I think our bill is fair. I think we ought to defeat this amendment.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Pennsylvania.

(Mr. EDGAR asked and was given permission to speak out of order.)

Mr. EDGAR. Mr. Chairman, we are talking about a lobbyist bill and lobbying tonight. I would just like to speak out of order to announce the birth of a new child to Anne and MAX BAUCUS, born at 4:15 this afternoon. MAX is here with us tonight. It is their first child.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. WAGGONNER).

The amendment was rejected.

AMENDMENT OFFERED BY MR. MANN

Mr. MANN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MANN: Page 23, line 22, insert "(A)" immediately before "that".

Page 23, line 23, strike out "(A)" and insert "(i)" immediately after "acts".

Page 23, line 24, immediately after "person," insert the following: "or (ii) in response to a communication or solicitation described in paragraph (2),".

Page 23, line 25, strike out "costs incurred" and insert in lieu thereof "expenditures made therefor".

The CHAIRMAN. The gentleman from South Carolina is recognized for 5 minutes in support of his amendment.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. MANN. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Chairman, the gentleman and I have gone over this amendment. I think it improves the language in the bill. I have no objection to it. I hope the amendment can be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina (Mr. MANN).

The amendment was agreed to.

Mr. FRENZEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wonder if the distinguished chairman of the subcommittee would answer a question. I invite his attention to lines 7 and 8 on page 22, relating to the award of Government contracts, which was the section that the gentleman from Ohio (Mr. KINDNESS) tried to strike.

It is a little difficult for me to understand exactly what the gentleman meant when he wrote this language, so I would ask for a little amplification. Did the gentleman intend that the oral and written communications directed to a Federal employee to influence the content and disposition of the award of Government contracts, would apply only prior to the awarding of a contract?

Mr. FLOWERS. If the gentleman will yield, I do not think we could restrict it in that manner because we might have change orders on contracts and all kinds of lobbying activities directed at after the award of the contracts, but I think there are sufficient exemptions in the bill to take care of the ordinary operating problems of any organization.

The only level of executive branch coverage is, I would say, the Assistant Secretary level and up.

Mr. FRENZEL. I thank the gentleman.

The problem was we had only 2 minutes, under the debate restrictions in force when this amendment was dispatched, so we had no chance to discuss it. I am told the gentleman had no hearings that dwelt on this particular problem so we really do not know what the language of bill means.

I am told companies have literally thousands of contracts between development of a contract and the completion of the contract, so I was wondering what the gentleman was getting at, if the chairman could be a little more specific.

Do we want literally dozens of reports or what was the gentleman trying to get at here?

Mr. FLOWERS. Mr. Chairman, if the gentleman will yield, we are trying to get at the same thing that we are always trying to get at, that is the undue type of influence on a Federal officer or an employee, the kind of lobbying activities in advance of obtaining a contract or the disposition of that contract one way or the other, and I would say in the same vein a change order in a contract in one way or another might be similar to the initial award of a contract.

Mr. FRENZEL. Mr. Chairman, if the gentleman from Alabama would take a look at page 21 of the committee report, it says:

Once a contract has been awarded, it is not the intent of this legislation to regulate or require disclosure of the necessary communications between an organization to which the contract was awarded and the Federal officials responsible for administering the contract until it is fully performed.

Does the gentleman stand behind that language?

Mr. FLOWERS. Mr. Chairman, if the gentleman will yield further, oh, yes; I stand behind that and I have tried to retain the distinction in the change order, which would be almost a different contract; but the normal contract is not what we are trying to get at here.

Mr. FRENZEL. I suppose if a contractor called up the Government and said, "We want to use an aluminum screw instead of an iron screw," that would be a change in the contract and they have to report that. I really believe it is too late to worry about amending this, but I cannot imagine why the gentleman put this in the bill. It does not relate to lobbying as we understand it in the legislature. It just seems to me to create an awful lot of unnecessary paperwork.

I hope if the bill goes to conference, the gentleman from Alabama will take another closer look at this and try to relieve some of our contractors of what I think is a terribly unnecessary burden of paperwork.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Chairman, this sort of situation could apply to entertaining top officials of the Pentagon on a duck hunting trip on the Eastern Shore and similar activities.

Mr. FRENZEL. I am sure it can, but it can also refer to a telephone call.

Mr. PATTISON of New York. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from New York.

Mr. PATTISON of New York. Mr. Chairman, merely making a number of contacts does not meet the organizational definition. They have to meet the threshold.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

(By unanimous consent, Mr. FRENZEL was allowed to proceed for 1 additional minute.)

Mr. PATTISON of New York. Mr. Chairman, I would say if the gentleman will yield further, it would be unusual that he would meet the threshold of one employee per quarter. That is a lot of time for one employee. The chances are in most Government contracts they do not meet the threshold.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman from New York for his contribution; but anyone who is doing very much contract work is certainly going to spend $1,250 a quarter. That is going to put him over the threshold.

Mr. PATTISON of New York. Mr. Chairman, if the gentleman will yield further, only if he spends that on inhouse help. Most employers would not spend $1,250 per quarter on outside help.

Mr. FRENZEL. If they do not hire an outside agent and if they do not have an employee spending more than 20 percent of his or her time trying to get contracts, they surely are not going to get any contracts. I see no way to avoid crossing the threshold.

Mr. PATTISON of New York. Mr. Chairman, if the gentleman will yield further, that is only for lobbying activities.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

I would like to quickly address one question to the able chairman. On page 23, lines 14 and 15, exemption (4), has the chairman of the committee considered the breadth of this particular exemption? I can conceive of many areas where they have lobbying activities directly affecting legislation that comes under the exemption of the Federal Election Campaign Act.

I am thinking particularly say an organization is exempt and gives inkind contributions. These inkind contributions would be used for whatever lobbying efforts there are, say the Full Employment Act of the National Health Insurance. Would not that directly seem to violate the intentions of the gentleman and the committee in those kinds of activities?

Mr. FLOWERS. I am not sure I understand the gentleman's question clearly. What comes to my mind here is whether a campaign contribution is not intended to be covered by the reporting requirements of the $25 limitation elsewhere in this act, but it is covered by the FECA. Those kinds of things are what we are trying to distinguish here.

Mr. ASHBROOK. It is kind of a Catch-22. We are exempting everything covered by the Federal Election Campaign Act of 1971. Certain activities are exempted from the coverage of the 1971 act. Would not that, in effect, leave them a loophole or a completely open area for lobbying? Indeed, lobbying possibly on a grand scale?

Mr. FLOWERS. The only exemption here is practices or activities regulated by the Federal Election Campaign Act. If something is exempted by that act, it is not regulated, but then it is here.

Mr. ASHBROOK. I just hope that we do not have a Catch-22 where activities that are allowed—we are not talking about illegal activities, but broad activities—that are allowed for exemption of the 1971 Act would be used as a means of saying, "We are not covered by H.R. 15."

Why? Because in paragraph 4 we specifically exempt all those activities covered. When the gentleman says "regulated", it might mean those that are exempted, those that are covered. I only raise that because I do think it is a potential loophole here. I do not wish to prolong the discussion.

Mr. FLOWERS. We will join together in trying to close it at the first available opportunity, I assure the gentleman.

Mr. ASHBROOK. I thank the gentleman.

The CHAIRMAN. Are there further amendments to section 3? If not, the Clerk will read.

The Clerk read as follows:

REGISTRATION

SEC. 4. (a) Each organization shall register with the Comptroller General not later than fifteen days after engaging in activities described in section 3(a).

(b) The registration shall be in such form as the Comptroller General shall prescribe by regulation, and shall contain the following, which shall be regarded as material for the purposes of this Act—

(1) an identification of the organization and a general description of the methods by which such organization arrives at its position with respect to any issue, except that nothing in this paragraph shall be construed to require the disclosure of the identity of the members of an organization; and

(2) an identification of any person retained under section 3(a)(1) and of any employee described in section 3(a)(2).

(c) A registration filed under subsection (a) in any calendar year shall be effective until January 15 of the succeeding calendar year. Each organization required to register under subsection (a) shall file a new registration under such subsection within fifteen days after the expiration of the previous registration, unless such organization has ceased to engage in activities described in section 3(a).

Mr. FLOWERS (during the reading). Mr. Chairman, once again I would ask unanimous consent that the bill be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk continued reading section 4.

AMENDMENT OFFERED BY MR. MYERS OF PENNSYLVANIA

Mr. MYERS of Pennsylvania. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MYERS of Pennsylvania: Following line 20 on page 24 add the following:

"(3) an identification of any individual who has contributed or who expects to contribute $2500 to the organization or an affiliate during any calendar year and who spends or will spend 20% of his time or more in any filing quarter engaged on behalf of that organization in activities described in section 3(a)(1) of this Act."

Following "employee" on line 10 of page 25 add "contributor,".

Strike line 2 on page 27 and insert in lieu thereof the following: "and of any person described in sections 3(a)(2) and 4(b)(2)".

Mr. MYERS of Pennsylvania. Mr. Chairman, this amendment is nearly identical to the one I offered to the substitute amendment earlier, or late last night. Essentially, what it does is that it folds into the coverage of this lobbying bill those individuals who substantially finance a personal lobbying organization, probably through an effort of hiring others, and he or she also would spend significant amounts of his or her time also lobbying for that organization.

The distinction here is simply that the bill does require those organizations to register the activities, lobbying activities, of individuals who are hired and paid for their activity, but does not in its present form require recordkeeping and registration of those individuals who contribute to the lobbying activities and who, as well, do a significant amount of lobbying.

Mr. Chairman, the amendment would capture only those who have a significant financial interest in lobbying and also a significant actual interest in lobbying by requiring that they both contribute more than $2,500 to the organization and spend 20 percent of their time lobbying for that organization.

Mr. Chairman, it would seem to me that anyone who could afford to do both of those certainly should have their lobbying activities reported by the organization.

I stress the fact that this amendment does not require any individual to do the reporting. It only requires the organization to register and report his or her activities. I think it is an important loophole that is now in the present bill. I would ask the Committee's acceptance of the amendment.

Mr. FLOWERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we voted on this previously. I do not remember what the vote was, but I think it was soundly defeated. It in effect asks for reporting in advance. The bill proceeds from the concept that you tell what you have done and not what you are going to do. I think that is what the problem is with this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Myers).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. MYERS of Pennsylvania. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to section 4? If not, the Clerk will read.

The Clerk read as follows:

RECORDS

Sec. 5. (a) Each organization required to be registered and each person retained by such organization shall maintain such records for each quarterly filing period as may be necessary to enable such organization to file the registrations and reports required to be filed under this Act. Such records shall be maintained in accordance with regulations prescribed by the Comptroller General. Any officer, director, employee, or retained person of any organization shall provide to such organization such information as may be necessary to enable such organization to comply with the recordkeeping and reporting requirements of this Act. Any organization which shall rely in good faith on the information provided by any such officer, director, employee, or retained person shall be deemed to have complied with this subsection.

(b) The records required by subsection (a) shall be preserved for a period of not less than five years after the close of the quarterly filing period to which such records relate.

REPORTS

Sec. 6. (a) Each organization shall, not later than thirty days after the last day of each quarterly filing period, file a report with the Comptroller General concerning any activities described in section 3(a) which are engaged in by such organization during such period. Each such report shall be in such form as the Comptroller General shall prescribe by regulation.

(b) Each report required under subsection (a) shall contain the following, which shall be regarded as material for the purposes of this Act—

(1) an identification of the organization filing such report;

(2) the total expenditures which such organization made with respect to activities described in section 3(a) during such period, including an itemized listing of each expenditure in excess of $25 made to or for the benefit of any Federal officer or employee and an identification of such officer or employee, but not including any contribution to a candidate as defined in section 301(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(e));

(3) a disclosure of those expenditures for any reception, dinner, or other similar event paid for, in whole or in part, by the reporting organization for Federal officers or employees regardless of the number of persons invited or in attendance, where the total cost of the event exceeds $500;

(4) an identification of any person retained by the organization filing such report under section 3(a)(1) and of any employee described in section 3(a)(2) and the expenditures made pursuant to such retention or employment, except that in reporting expenditures for the employment or retention of such persons, the organization filing such report shall—

(A) allocate, in a manner acceptable to the Comptroller General, and disclose that portion of the retained or employed person's income which is paid by the reporting organization and which is attributable to engaging in such activities for the organization filing such report; or

(B) disclose the total expenditures paid to the retained or employed person by the organization filing such report;

(5) a description of the twenty-five issues concerning which the organization filing such report engaged in activities described in section 3(a) and upon which the organization spent the greatest proportion of its efforts, and a general description of any other issues concerning which the organizations engaged in such activities.

(6) a description of solicitations initiated or paid for by such organization, and the subject matter with which such solicitations were concerned, where such solicitations reached or could be reasonably expected to reach, in identical or similar forms, five hundred or more persons, or twenty-five or more officers or directors, one hundred or more employees, or twelve or more affiliates of such organization, except that this paragraph may be satisfied, with respect to a written solicitation, at the discretion of the reporting organization, by filing a copy of such solicitation;

(7) disclosure of each known direct business contact by the organization involved with a Federal officer or employee whom such organization has sought to influence during the quarterly filing period involved; and

(8) the dues or contribution schedule of the organization, and, if—

(A) an individual or organization contributes in excess of such schedule;

(B) the total income to the reporting organization from that individual or organization exceeds $2,500 in any calendar year; and

(C) such income is greater than one percent of the total dues or contributions received by the reporting organization,

the name of each such individual or organization and the amount contributed in excess of such schedule by such individual or organization: *Provided*, That nothing herein shall require the identification of an individual or organizational donor of a contribution to an organization described in section 501(c)(3) of the Internal Revenue Code of 1954, or the corresponding provision or provisions of any future Federal revenue law.

As used in paragraph (8), the term "income" means a gift, donation, contribution, payment, loan, advance, service, salary, or other thing of value received, and a contract, promise, or agreement, whether or not legally enforceable, to receive any such item, but does not include the value of any voluntary services provided by individuals without compensation from the organization.

(c) If an organization which is required to register under this Act directs an affiliate which is not required to register to engage in a solicitation relating to an issue with respect to which such organization is engaging in any activity described in section 3(a), or reimburses such an affiliate for expenses incurred in such a solicitation, then such organization must report such solicitation as if it were initiated, or paid for, by such organization.

AMENDMENT OFFERED BY MR. EDWARDS OF CALIFORNIA

Mr. EDWARDS of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Edwards of California: Section 6(b)(6), page 27, line 23, Strike the word "initiated" and substitute in lieu thereof the word "made".

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Chairman, we have gone over this amendment with the gentleman from California (Mr. Edwards). It was included in the substitute version of the bill.

Mr. Chairman, I have no objection to the changes recommended by the gentleman from California.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Edwards).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MOORHEAD OF CALIFORNIA

Mr. MOORHEAD of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Moorhead of California: Page 26, line 28, strike the semicolon and insert the following additional language: ", or any loan made on terms and conditions that are no more favorable than those available to the general public;".

Mr. MOORHEAD of California. Mr. Chairman, this is the same amendment that was offered to the substitute bill earlier. It was unanimously adopted.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Chairman, I would be delighted to accept the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Moorhead).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MIKVA

Mr. MIKVA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Mikva: On page 26, lines 15 and 16, strike out ", but not including" and insert in lieu thereof the following: ": *Provided*, That the Comptroller General shall refer to the Committee on Standards of Official Conduct for investigation of any expenditures by an organization reportable under this subsection to or for the benefit of any federal officer or employee (under the jurisdiction of said Committee) that exceed $100 in value in the aggregate in any calendar year to determine if the receipt of such expenditure is an acceptance of a gift of substantial value, directly or indirectly, from an organization having a direct interest in legislation before the Congress as prohibited under the Rules of the House of Representatives; but such expenditures shall not include".

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Chairman, although I am unhappy with the gentleman's amendment, in accordance with what I said earlier, I would be delighted to accept the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Mikva).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RAILSBACK

Mr. RAILSBACK. Mr. Chairman, I offer and amendment.

The Clerk read as follows:

Amendment offered by Mr Railsback: Page 28, strike lines 14–25 and page 29, strike lines 1 through 6, and substitute in lieu thereof the following:

"(8) an identification of—

"(A) each organization from which the reporting organization received income during such period, including the amount of income provided by the organization, where the income was expended in whole or in part to engage in activities described in section 3(a), if the amount of income received from the organization has totaled $2,500 or more in amount or value during the calendar year; and

"(B) each individual from whom the reporting organization received income during such period, including the amount of income provided by the individual, where the income was expended in whole or part to engage in actiivties described in section 3(a), if the amount of income received from the individual and his immediate family has totaled $2,500 or more in amount or value during the calendar year. This paragraph shall not apply to any income received by the organization in the form of a return on an investment by the organization or a return on the capital of the organization."

Mr. RAILSBACK. Mr. Chairman, under H.R. 15, as reported, there would be no reporting of contributions to a lobbying organization unless the amount: First, exceeds $2,500 per year; and second, constitutes more than 1 percent of the organization's annual dues or contributions; and third, is in excess of the organization's normal dues schedule. In contrast, the Senate-passed bill uses only a dollar threshold requiring disclosure of the identity of all who give more than $2,500 and the amount given.

The effect of the three-pronged approach taken in H.R. 15 would hide from public view the identity of many very large contributors, due to the inclusion of the 1-percent threshold and the in-excess-of-normal-dues-schedule threshold. The percentage approach allows for an increasing dollar amount of contribution without disclosure, the greater the total dues and contributions received. This means that the greater the financial backing of an organization, the greater can be the size of the contribution without being disclosed. Such a formula benefits the larger well-heeled lobbying groups and discriminates against organizations with small lobbying budgets and relatively few donors.

The purpose of this disclosure section is to identify all individuals who make sizable dollar contributions to influence public policy. Therefore, a disclosure standard should be adopted which applies equally to the sources of support for all lobbying groups. The dollar threshold approach achieves this objective.

There is ample precedent for employing the straight dollar threshold approach used in the Senate bill, both in the present lobby law—which uses a $500-per-quarter threshold—and in Federal campaign finance laws, where contributions in excess of $100 must be identified.

For these reasons, I propose use of a dollar threshold of $2,500 during any calendar year to trigger disclosure of contributions from organizations or individuals to a lobbying organization.

Case example of dues and contributions income of lobbying organizations

National Rifle Association:[1]	
Total 1975 contributions	$717, 776. 95
1 percent	7, 177. 76
Common Cause:[2]	
Total 1975 dues and contributions	5, 681, 970. 00
1 percent	56, 819. 70
American Petroleum Institute:	
Total dues and contributions for 1st quarter of 1974 (approximate)	10, 306. 000. 00
1 percent of contributions for 1 quarter only (does not even take into account contributions from succeeding 3 quarters)	103, 060. 00

[1] From 1975 4th quarterly lobby disclosure report.

[2] From a 1975 Price Waterhouse audit.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. Seiberling, and by unanimous consent, Mr. Railsback was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Ohio.

Mr. SEIBERLING. In other words, as presently written, you contend that the bill discriminates against small organizations with small incomes and in favor of those with large incomes with respect to this particular reporting feature of the bill, and that this amendment would cure that situation and treat them all alike?

Mr. RAILSBACK. The gentleman from Ohio is absolutely right. If there was a small concern and it had contributions of, say, $25,000 or $300,000 then 1 percent would be $2,500 or $3,000, as the case might be, and they would have to report that contributor. But if one reports to a large enough association or organization, then that big contributor is not going to have to be reported.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. I thank the gentleman for yielding.

I want to compliment the gentleman on his amendment. I think it is a very important amendment, probably the most important amendment we have had to this bill.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Railsback was allowed to proceed for 1 additional minute.)

Mr. MAGUIRE. If the gentleman would yield further, if we are going to be looking at money and where the money is coming from and where the money is going, and how it may be influencing through lobbying the legislative process, we have to be concerned about absolute amounts of money, not percentages of people's budgets. So the only logical approach to this is the one that the gentleman suggests, and I urge adoption of his amendment.

Mr. RAILSBACK. I thank the gentleman.

AMENDMENT OFFERED BY MR. EDWARDS OF CALIFORNIA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. RAILSBACK

Mr. EDWARDS of California. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Edwards of California as a substitute for the amendment offered by Mr. Railsback: Section 6(b)(8)(B), page 28, line 20, strike "$2,500" and substitute in lieu thereof "$5,000".

Section 6(b)(8)(C), page 28, line 21, strike "one percent and substitute in lieu thereof "five percent".

Mr. EDWARDS of California. Mr. Chairman, as presently drafted, section 6(b)(8) of H.R. 15 represents a balancing of two principles; the right of associational privacy and the public's right to know. The public has a right to know who is attempting to influence inordinately the legislative process. In many instances, this would be impossible without the names of the major financiers of an organization. On the other hand, as the Supreme Court has ruled in a series of cases beginning with *NAACP* v. *Alabama ex. rel. Patterson,* 357 U.S. 449 (1968), the disclosure of an individual's associational ties has a significant deterrent effect on the free exercise of the right of association. Retaliation or retribution can result from such disclosure especially to those contributors to organizations devoted to unpopular causes. Thus, the Congress must carefully draft this contributor disclosure provision.

The present language of this section sets a standard which is too low. According to the committee discussion at the time the provision was passed, it is only aimed at those few individuals who pour huge amounts of money into, and at- contribute to general interest organizations. The Congress should avoid any language that could potentially cover a large number of individuals who simply contribute to general interest organizations utilizing only a small portion of that contribution for lobbying purposes. Therefore, a higher dollar threshold, $5,000, and a higher percentage threshold, 5 percent, should be used. The right of associational privacy demands no less. As Mr. Justice Goldberg wrote in a decision striking down Florida's membership list disclosure law:

> To permit legislative inquiry to proceed on less than an adequate foundation would be to sanction unjustified and unwarranted intrusions into the very heart of the constitutional privilege to be secure in associations in legitimate organizations engaged in the exercise of First and Fourteenth Amendment rights; to impose a lesser standard than we do here would be inconsistent with the maintenance of those essential conditions basic to the preservation of democracy. *Gibson v. Florida Legislative Investigation Committee,* 327 U.S. 539, 558 (1963).

Mr. Chairman, I urge approval of my substitute.

Mr. PATTISON of New York. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from New York.

Mr. PATTISON of New York. Mr. Chairman, I congratulate the gentleman on his remarks and I support them wholly.

The question of who gives to an organization, whether it is the NAACP or the National Right To Work Committee, is pretty much irrelevant to us. The only thing we have a legitimate interest in is when someone is in control of an organization. That is what our bill does and this substitute would strengthen that.

I think this idea that contributors to causes or whatever they happen to be should be made public is a pernicious invasion of privacy and something we should be very careful about. It is in fact a two-way sword.

I should point out that under this notion we would be able to get the names of all the contributors, so that if one would give $10,000 to Cornell University, basically for educational purposes, and Cornell University ends up being a lobbying organization, because they have an employee who uses 20 percent of his time for one quarter, then one would have to be listed as a contributor and his name and the amount of his contribution disclosed.

The CHAIRMAN. The time of the gentleman from California has expired.

(On request of Mr. PATTISON of New York, and by unanimous consent, Mr. EDWARDS of California was allowed to proceed for 1 additional minute.)

Mr. PATTISON of New York. Mr. Chairman, if the gentleman will yield further, I think we have a right when we make contributions, whether they are in good causes or bad or any other causes, to privacy and that our names should not be spread all over the place, and it would be a very serious infringement on our civil liberties to pass the Railsback amendment, and I oppose it and urge support of the substitute offered by the gentleman from California.

Mr. MOORHEAD of California. Mr. Chairman, I rise in support of the language in the committee bill. But I do prefer the substitute offered by the gentleman from California over the amendment offered by my friend, the gentleman from Illinois, even though I am far from sure that it is superior to the provision in the committeee bill. I think one thing we have to clarify is that our committee used a three-pronged approach, so we would not risk the disclosure of membership lists. The Supreme Court has found it violates the first amendment and privacy rights of organizations to require that a membership list be disclosed. If we have a dollar amount, that is just what might be the result.

There have been a number of cases decided by the Supreme Court—*NAACP* v. *Alabama,* 357 U.S. 499 (1958); *Bates* v. *Little Rock,* 361 U.S. 526 (1960); and *Gibson* v. *Florida,* Legislative Committee, 372 U.S. 539 (1963), and others—where it has been ruled unconstitutional to require disclosure of a membership list.

The test laid down by the Court is whether or not there is a substantial relationship between the information sought, that is the list, and a compelling overriding State interest. An overriding interest is not present here and it would seem to be a mistake to adopt a proposal which could result in the disclosure of a membership lists.

Mr. FLOWERS. Mr. Chairman, if the gentleman will yield, I join with my friend, the gentleman from California. I would prefer the Edwards amendment much over the Railsback amendment, but I think we have the best position of middle road, middle ground in the committee bill as offered.

I would urge a "yes" vote on the substitute amendment and then a "no" vote on the amendment.

Mr. FRENZEL. Mr. Chairman, I rise to speak in support of the Railsback amendment and move to strike the requisite number of words.

Mr. Chairman, we have had some ringing endorsements for privacy from the people who are managing the bill, but as the distinguished gentleman from Illinois pointed out they are great defenders of privacy for those who contribute to large organizations, and much worse defenders of privacy for those who contribute to small organizations.

The person who contributes to a small organization may be revealed with a contribution as low as $2,500, but the person who contributes to the petroleum institute will not be relieved unless there is a contribution of $103,000.

So there seems to be a double standard on the part of those managing the bill with respect to their dedication to privacy.

I would also say, Mr. Chairman, this House has decided long before now that privacy is a cherished right.

Yet we have seen fit to modify it severely in other areas. We are told by the gentleman from California that we have to protect those who contribute to unpopular causes from revelation of their names, if they contribute as low as $2,500.

Mr. Chairman, I would like to remind the House that we have stripped the privacy from contributors to causes as unpopular as our own election campaigns down to $100. If we are willing to do that to the precious privacy of the franchise, I do not know why we have to protect contributors to lobbying groups.

Mr. Chairman, I believe that the Railsback amendment is the only way we can put some responsibility into this bill, or at least have a single standard for large groups and small groups. Under the Railsback amendment, contributors will be revealed as they should be revealed. That was the intention of the law, and that would have been the form of this bill had the committee accepted the much wiser Senate language which our distinguished gentleman from Illinois is now offering.

Mr. MIKVA. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Illinois.

Mr. MIKVA. Mr. Chairman, I commend the gentleman from Minnesota and I intend to support the Railsback amendment.

Mr. Chairman, I hope I am as sensitive to the first amendment rights as the gentleman from California; but there are recent Supreme Court adjudications on the conflict of rights between the people's right to know who is giving to whom, and the individual's rights to be private; these cases indicate as the gentleman from Minnesota suggested, where political contributions were concerned, there was an overwhelming right to know who those contributors were and it transcended the individual's right to privacy. The Court indicated that in the absence of a clear showing that the interest of that individual is so overwhelmingly threatened, as in the NAACP cases, that the Court would not intervene.

Mr. Chairman, this is squarely on all fours with the election cases; if the people have a right to know who gives $100 to a Congressman, then they have the right to know who gives $2,500 to a lobbyist.

Mr. Chairman, I support the Railsback amendment.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for his support. I agree, as in the Buckley against Valeo case, the Court was willing to let us reveal contributors of as low as $100 for unpopular causes, like the Democratic National Committee and others. Certainly it will not protect $100,000 contributions to organizations like the American Petroleum Institute.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I would like to make it very clear that I have a $2,500 threshold for everybody, not a 1 percent or 5 percent, but $2,500 is the figure.

Mr. Chairman, I have not heard anybody even address the issue of the unfairness of differentiating between the large organizations and contributions to the smaller. It does not make sense.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman.

Mr. FLOWERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I deeply regret having to stand up again. I feel there is too much enthusiasm for the Railsback amendment to let it go by the board. I rise in strong opposition to the Railsback amendment. I will address it on whatever basis the gentleman wants me to address it on, but I will say to this House that if they want a lobby disclosure bill, they had better vote down the Railsback amendment.

Again, it is well-intentioned and we will have some great supporters for the amendment who will join for purposes that I do not know; but the people on this side or over there who really want to get a bill out of this Congress this week ought to vote against this Railsback proposal, because it will completely destroy the rather fragile support of the people we have for this bill now. Not only will we disturb the large associations, as somebody has thrown up the Petroleum Institute, whoever they are, but they will also disturb the very small trade associations, the Textile Manufacturing Institute, and other small farm organizations that have very few members who contribute far more than $2,500 annually apiece. If we require a disclosure of what they contribute, we require, in effect, their membership list and that violates, in my judgment, the first amendment and the Supreme Court edicts. Not only would it be bad policy, but it would destroy the prospect of getting this bill passed.

I sincerely plead that no matter what Members might think in the quiet of their rooms; no matter what they feel, if they want a bill, they should vote against the Railsback amendment.

Mr. RAILSBACK. Mr. Chairman will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Why is it right that politicians have to disclose every contribution over $100, and the contributors' names are divulged; yet the gentleman is so worried, because a couple of special interest groups have circulated a letter which indicates their strong unhappiness at the prospect that they might have to disclose their large contributions? I say to the gentleman, I think we are making a terrible mistake if we cave in to the Sierra Club, or whoever it is. I will tell you this, Common Cause—

Mr. FLOWERS. The gentleman is correct. This is the Common Cause amendment. Call it what it is. It is the Common Cause amendment.

Mr. RAILSBACK. I will be glad to. They have dues of something like $5 million, so all of their contributors will be exempted under the 5-percent amendment, or 1 percent.

Mr. FLOWERS. Mr. Chairman, I urge an "aye" vote on the Edwards of California amendment and a "no" vote on the Railsback amendment.

The CHAIRMAN. The question is on the amendment offered as a substitute by the gentleman from California (Mr. EDWARDS) for the amendment offered by the gentleman from Illinois (Mr. RAILSBACK).

The substitute amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. RAILSBACK).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FLOWERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 290, noes 53, not voting 87, as follows:

[Roll No. 836]

AYES—290

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Bedell
Bell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burton, John
Butler
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Cohen
Collins, Tex.
Conte
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Eckhardt
Edgar
Edwards, Ala.
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Fary
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Gude
Hagedorn
Hall, Ill.
Hamilton
Hammerschmidt
Hanley
Hansen
Harkin
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Hightower
Holt
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hyde
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
Latta
Leggett
Lent
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCormack
McDonald
McEwen
McHugh
McKay
McKinney
Maguire
Mahon
Martin
Mathis
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Morgan
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nichols
Nolan
Nowak
O'Brien
Ottinger
Patten, N.J.
Patterson, Calif.
Pettis
Pickle
Pike
Poage
Pressler
Price
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Reuss
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Roncalio
Rooney
Roush
Rousselot
Ruppe
Russo
St Germain
Santini
Sarasin
Satterfield
Schroeder
Schulze
Sebelius
Sharp
Shipley
Shriver
Shuster
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Steed
Stratton
Studds
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thornton
Traxler
Treen
Tsongas
Vander Jagt
Vander Veen
Vanik
Waggonner
Walsh
Wampler
Whalen
White
Whitehurst
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wydler
Wylie
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NOES—53

Abzug
Armstrong
Brooks
Burlison, Mo.
Burton, Phillip
Cleveland
Cochran
Collins, Ill.
Corman
Danielson
Davis
Dellums
Diggs
Edwards, Calif.
Fascell
Flowers
Ford, Mich.
Gonzalez
Hall, Tex.
Hannaford
Harrington
Holtzman
Jones, Ala.
Jordan
Kasten
Lagomarsino
Lehman
Lundine
Mann
Metcalfe
Minish
Mitchell, Md.
Moorhead, Calif.
Nedzi
Oberstar
Obey
O'Neill
Pattison, N.Y.
Paul
Perkins
Preyer
Richmond
Rodino
Rose
Roybal
Seiberling
Stark
Steiger, Wis.
Thone
Van Deerlin
Waxman
Weaver
Wiggins

NOT VOTING—87

Annunzio
Ashley
Beard, Tenn.
Biaggi
Boggs
Breaux
Brown, Calif.
Brown, Ohio
Byron
Clancy
Clay
Conable
Conlan
Conyers
Downing, Va.
Early
Eilberg
Esch
Eshleman
Evins, Tenn.
Findley
Flynt
Giaimo
Green
Guyer
Haley
Hawkins
Hébert
Heinz
Henderson
Hicks
Hillis
Hinshaw
Holland
Hutchinson
Jarman
Johnson, Pa.
Karth
LaFalce
Landrum
Levitas
McCollister
McDade
McFall
Madden
Madigan
Matsunaga
Mink
Mosher
Moss
Murphy, N.Y.
Nix
O'Hara
Passman
Pepper
Peyser
Rangel
Rees
Riegle
Rosenthal
Rostenkowski
Runnels
Ryan
Sarbanes
Scheuer
Schneebeli
Sikes
Sisk
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stokes
Stuckey
Sullivan
Symington
Teague
Thompson
Udall
Ullman
Vigorito
Whitten
Wilson, C. H.
Wright
Yates
Young, Alaska
Young, Ga.

Mr. KINDNESS changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. FLOWERS. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from Alabama (Mr. FLOWERS).

RECORDED VOTE

Mr. RHODES. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 129, noes 207, not voting 94, as follows:

[Roll No. 837]

AYES—129

Abdnor
Abzug
Anderson, Ill.
Andrews, N.C.
Armstrong
Ashbrook
Aspin
Beard, Tenn.
Bell
Bevill
Biester
Bowen
Brademas
Brooks
Brown, Mich.
Buchanan
Burke, Calif.
Burleson, Tex.
Cederberg
Chisholm
Clawson, Del
Cochran
Collins, Ill.
Collins, Tex.
Crane
D'Amours
Daniel, R. W.
Danielson
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Duncan, Oreg.
Duncan, Tenn.
du Pont
Edwards, Calif.
English
Erlenborn
Fish
Flowers
Ford, Mich.
Ford, Tenn.
Gaydos
Goldwater
Grassley
Hall, Tex.
Hanley
Harrington
Harsha
Holtzman
Horton
Hughes
Hyde
Ichord
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, Okla.
Jordan
Kazen
Kelly
Ketchum
Krueger
Lagomarsino
Lloyd, Calif.
Lloyd, Tenn.
Lott
Lujan
McClory
McCormack
McDonald
Mann
Mathis
Metcalfe
Meyner
Milford
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Murtha
Myers, Ind.
Nedzi
Nichols
Oberstar
O'Brien
O'Neill
Patten, N.J.
Paul
Pickle
Pike
Poage
Preyer
Quie
Roberts
Rodino
Rousselot
Ruppe
Schulze
Seiberling
Shipley
Shriver
Shuster
Simon
Skubitz
Smith, Nebr.
Snyder
Stanton, J. William
Stark
Steiger, Wis.
Symms
Thone
Treen
Van Deerlin
Waggonner
Weaver
Whalen
Whitehurst
Whitten
Wiggins
Wilson, Tex.
Winn
Wydler
Young, Fla.
Young, Tex.

NOES—207

Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N. Dak.
Archer
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Bedell
Bennett
Bergland
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Breckinridge
Brinkley
Brodhead
Broomfield
Broyhill
Burgener
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Carney
Carr
Carter
Chappell
Clausen, Don H.
Cleveland
Cohen
Conte
Corman
Cornell
Cotter
Coughlin
Daniel, Dan
Daniels, N.J.
Davis
de la Garza
Dodd
Downey, N.Y.
Drinan
Eckhardt
Edgar
Edwards, Ala.
Emery
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Fisher
Fithian
Flood
Florio
Foley
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gilman
Ginn
Gonzalez
Goodling
Gradison
Gude
Hagedorn
Hall, Ill.
Hamilton
Hammerschmidt
Hannaford
Hansen
Harkin
Harris
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Hightower
Holt
Howard
Howe
Hubbard
Hungate
Jeffords
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kasten
Kastenmeier
Kemp
Kindness
Koch
Krebs
Latta
Leggett
Lehman
Lent
Long, La.
Lundine
McEwen
McHugh
McKay
McKinney
Maguire
Mahon
Martin
Mazzoli
Meeds
Melcher
Mezvinsky
Michel
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mottl
Murphy, Ill.
Myers, Pa.
Natcher
Neal
Nolan
Nowak
Obey
Ottinger
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pressler
Price
Pritchard
Quillen
Railsback
Randall
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Robinson
Rhodes
Roe
Rogers
Roncalio
Rooney
Roush
Russo
St Germain
Santini
Sarasin
Satterfield
Schroeder
Sebelius
Sharp
Slack
Smith, Iowa
Solarz
Spellman
Spence
Staggers
Steed
Stratton
Studds
Talcott
Taylor, Mo.
Thornton
Traxler
Tsongas
Vander Jagt
Vander Veen
Vanik
Walsh
Wampler
Waxman
White
Wilson, Bob
Wirth
Wolff
Wylie
Yatron
Zablocki
Zeferetti

NOT VOTING—94

Annunzio
Ashley
Biaggi
Boggs
Breaux
Brown, Calif.
Brown, Ohio
Byron
Clancy
Clay
Conable
Conlan
Conyers
Diggs
Downing, Va.
Early
Eilberg
Esch
Eshleman
Evins, Tenn.
Findley
Flynt
Giaimo
Gibbons
Green
Guyer
Haley
Hawkins
Hébert
Heinz
Henderson
Hicks
Hillis
Hinshaw
Holland
Hutchinson
Jacobs
Jarman
Johnson, Pa.
Karth
Keys
LaFalce
Landrum
Levitas
Long, Md.
McCloskey
McCollister
McDade
McFall
Madden
Madigan
Matsunaga
Mink
Mosher
Moss
Murphy, N.Y.
Nix
O'Hara
Passman
Pepper
Peyser
Rangel
Rees
Riegle
Rose
Rosenthal
Rostenkowski
Roybal
Runnels
Ryan
Sarbanes
Scheuer
Schneebeli
Sikes
Sisk
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stokes
Stuckey
Sullivan
Symington
Taylor, N.C.
Teague
Thompson
Udall
Ullman
Vigorito
Wilson, C. H.
Wright
Yates
Young, Alaska
Young, Ga.

So the motion was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING: On page 29, following line 21, insert the following new subsection:

(d) In the case of an organization which is either—

(A) described in section 501(c)(3) of the Internal Revenue Code of 1954, or

(B) a college or university or instrumentality thereof, which is an agency or instrumentality of any government or any political subdivision thereof, or which is owned or operated by a government or any political subdivision thereof, or by any agency or instrumentality of one or more governments or political subdivisions,

such organization may, in lieu of the quarterly report required by subsection (b) of this section, elect to report annually—

(1) an estimate of the total expenditure it has made on activities described in subsection 3(a) (not otherwise excluded under subsection 3(b)) of this Act which are directed to persons described in subsection 2(6)(C) of this Act;

(2) either—

(A) an estimate of the total expenditure it has made on activities described in subsection 3(a) (not otherwise excluded under subsection 3(b)) of this Act which are directed to persons described in subsections 2(6)(A) and (B) of this Act, or

(B) such information as is described in section 6033(b)(8) of the Internal Revenue Code of 1954; and

(3) a general description of the principal issues concerning which the organization engaged in activities described in subsection 3(a).

Mr. SEIBERLING (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. SEIBERLING. Mr. Chairman, we just had a vote by which we passed an amendment that was opposed by the League of Women Voters, by the American Civil Liberties Union, by organized labor, and by the chairman of the subcommittee. One reason for their opposition was because it would substantially impair the ability of citizens of this country to exercise the right guaranteed under the Constitution to communicate with their elected Representatives. My amendment would repair part of that deficiency.

The amendment would simplify the reporting requirements of charitable organizations recognized by the Internal Revenue Code; that is, tax exempt public charitable, educational, religious, and scientific organizations, and for those State universities which under this bill would have to report their lobbying activities.

The amendment would not exempt these organizations from reporting, but it would ease the burden of their recordkeeping and reporting. Since public charities presently must file an annual report with the IRS detailing their lobbying expenditures, the amendment would enable them to use that report as a basis for reporting their legislative lobbying activities under this bill. The amendment would require these organizations to file only reports annually, estimating their expenditures on lobbying activities, containing a general statement about the principal issues on which they do lobbying and, therefore, insuring that the Congress and the public have an accurate picture of their areas of interest and the extent of their lobbying.

Effective, responsible, democratic Government, requires not only openness; that is, disclosure, but ease of access. What good is a public disclosure law if one of its primary results is to reduce substantially public access to the very process which the disclosure is supposed to reveal?

It is obvious that the extraordinary expense of complying with this very burdensome bill will fall most heavily on organizations which do not have the ability, as business organizations do. For example, to pass on the cost to their customers.

Therefore, it is no coincidence that this particular amendment is supported by a number of university organizations, including those which have as members the University of Alabama, the University of New York, California, Penn State, Minnesota, Illinois, and others, as well as several citizens organizations, such as the ACLU, the Sierra Club, the National Wildlife Federation, and so forth.

Therefore, Mr. Chairman, I urge the adoption of this amendment and, hopefully, it will make passage eventually of this bill a little bit easier for those who still believe in the first amendment of the United States, in the Constitution that we celebrate every so often.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Ohio.

Mr. TREEN. Mr. Chairman, I do not have much trouble with the (B) part, but the (A) part would include in this a very broad exemption, any organization described in section 501(c) (3) of the Internal Revenue Code of 1954. That would include a great number of organizations that have that tax exemption, but do engage very heavily in lobbying.

They do indeed very heavily lobby. I inquired earlier about this on the floor as to whether the National Education Association would be a 501(c) organization. I was informed by a member of the Ways and Means Committee that it would be. They are apparently a heavy lobbying organization.

Mr. SEIBERLING. I do not know whether they are or not, but under the Internal Revenue Code any 501(c) organization——

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. MOORHEAD of California. Mr. Chairman, I move to strike the last word.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield so that I may answer the question that was addressed to me?

Mr. MOORHEAD of California. I will yield, but I want time to make my own statement first.

Mr. SEIBERLING. It would read better if I could answer it now.

Mr. MOORHEAD of California. Mr. Chairman, I rise in opposition to this amendment. Under section 501(c) of the code, such organizations as the ACLU, the Sierra Club, Environmental Defense Fund, the League of Women Voters, and many other organizations who do lobby here in Washington would be given an unusual preference. I think everyone should live under the same law. People on both sides of a lobbying issue should have an opportunity to lobby under the same situation.

If we adopt a lobbying law that is slanted in one direction or the other, so that we have required restrictions on one element of our society and not on the other, we are not really legislating the way we should. I know that every bit as much pressure can be put on the Congress by groups that are under section 501(c) (3), as by groups who are in business or who are manufacturers or are any other kind of professional interest group. For that reason, I would oppose this special interest amendment, which is designed only to help the certain groups.

Mr. PATTISON of New York. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I opposed this amendment in the committee, because I also felt that charities should be regulated in their lobbying activities, but as a result of the last vote, what this means is that charities are going to have to disclose vast numbers of contributors to their causes, and I think that is pernicious.

So, I will support this amendment at this time because I think, with the damage done by the earlier amendment, it is necessary to relieve some of that damage. I might point out that this does not exempt the National Education Association or the League of Women Voters or any other organization under section 501(c) (4), which is specifically not a public charity, so that the answer to the question of the gentleman from Wisconsin is that it does not affect those kinds of organizations.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. PATTISON of New York. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, simply responding to the question that was asked on the other side of the aisle before I ran out of time, under present law a 501(c) (3) organization is prohibited from devoting any substiantial part of its income or activities to influencing legislation. Nevertheless, if it is a fairly large organization such as the Sierra Club, it could still fall within the scope of this bill and have to go through all of the elaborate reporting and recording requirements and still be a charitable organization under section 501(c) (3). So, that is why this is a reasonable classification.

Mr. FLOWERS. Mr. Chairman, I rise in opposition to the amendment. I hesitate to do it. I want to help pass the bill at this late date, but I oppose the amendment. However, I do not think two bads make one good, and I think this would be a gigantic loophole we do not want to impose upon this legislation if it is ever to be legislation.

I would urge a "no" vote to exempt 501(c) (3) organizations. It sounds awfully good, but we do not even know what the extent of it is. One of the Members over here says, "What about NEA?" I do not know. We just do not know what groups are covered under 501(c) (3) organizations. I think it would be very foolish indeed for us to embark upon this. It was raised in committee, not in the subcommittee, as another exemption. How far it goes, we do not know.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. I thank the gentleman for yielding.

Mr. Chairman, it does not exempt the organizations. It merely relieves them of some of the filing burdens.

Mr. STEIGER of Wisconsin. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there is, I am afraid, some confusion and misunderstanding about exactly where we are and where we ought to go. I am not the right one, perhaps, to talk about this. I voted to go home, but that motion lost.

In H.R. 10612, the tax reform bill that this House just passed and sent to the President, the so-called Conable bill was adopted. The Conable bill provided for the first time a rewriting of the requirements insofar as lobbying is concerned, for 501(c) (3) organizations. The Congress, both Houses, in adopting that provision, lifted what had heretofore been exceedingly vague and, frankly, very, very unworkable provisions as to the extent to which charitable organizations could use their resources for lobbying purposes.

The Conable bill which passed this House and will become law for the first time writes down some specific guidelines on what 501(c) (3) organizations can do. I think those, including the gentleman from California (Mr. MOORHEAD), who argue that the Seiberling amendment will exempt certain kinds of organizations, and then we begin to list them, are not correct because we have a difference. We have today 501(c) (3) organizations, charitable organizations, exempt under the tax law as charities which have been established 501(c) (4) organizations, which are the organizations that basically are the lobby organizations. And the gifts that are given to 501(c) (4) organizations are not tax exempt and those that are given to 501(c) (3) organizations are tax exempt.

If I understand the Seiberling amendment correctly, what the gentleman is saying—and I will ask this of the gentleman from Ohio—is that what will now be the law and what they are going to be required to file, insofar as lobbying as 501(c) (3) organizations, suffices to qualify for this particular organization.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield, that is absolutely correct. As a matter of fact, the amendment basically ties into the Internal Revenue Code, as it will be amended when the new tax bill is signed by the President, and authorizes the organizations to either file under this bill or the reports that they are required to file under that bill. It seems a vain thing to make them go through two filing processes when we thought the one in the tax law was adequate.

Mr. STEIGER of Wisconsin. I will only say my hope is that however the Members decide how they will vote on this particular amendment, at least they understand what it is, what the law at this moment looks like, so that no one misunderstands.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I would like to get one point straight here. We are not including just charitable organizations in one category and everything else in another category, as I understand it. We would still be putting part of the lobbying organizations in the exempt category while some other organizations are down here in Washington, D.C., busily lobbying on the legislation before us. Is that not correct?

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. Yes; I yield to the gentleman from Ohio.

Mr. McCORMACK. Mr. Chairman, may I ask the gentleman to answer the question?

Mr. STEIGER of Wisconsin. Mr. Chairman, I will yield to the gentleman from Ohio (Mr. SEIBERLING), who offered the amendment.

Mr. SEIBERLING. Mr. Chairman, the amendment only deals with those categories of charitable organizations which are not lobbying organizations but which have the right, as long as it is a minor part of their activities, to express their views and to communicate with the Federal Government, and with State universities which are already caught by the definitions in this bill and would have to file lobbying reports and which obviously by no stretch of the imagination are lobbying organizations but which also have a right to communicate with their government.

I can only say that if the Members want to just vote blindly and then go back and answer to all these organizations as to what we have done to them, they can go ahead, but if they do not want to do that, they had better vote for this amendment.

Mr. RAILSBACK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I know the hour is very, very late, and I will be very brief.

There is a difference, I think, when we are dealing with the report section, as we are, and when we are dealing with the section that governs applicability. Now, the difference is for an organization to have to report it has to have qualified under section 3(a), which means that it is, in effect, in the business of lobbying. In other words, they have retained somebody for $1,250 per quarter or they have an employee who is spending 20 percent or more of his or her time lobbying. So what I am saying is if we want to exempt someone from the reporting requirements, we ought to know that we are exempting an organization that has qualified as what I will call a lobbyist. I do not think we want to do that. I think that would be a mistake.

Mr. CHARLES WILSON of Texas. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Texas.

Mr. CHARLES WILSON of Texas. Mr. Chairman, I have just listened to the colloquy, and I believe there is some confusion. Is it the gentleman's interpretation that the Sierra Club under this amendment would be exempt?

Mr. RAILSBACK. Mr. Chairman, my concern is that the Sierra Club would be exempt from the reporting requirements even though the Sierra Club may come under the provisions of section 3, which says that it is an organization engaged in lobbying.

Mr. CHARLES WILSON of Texas. Mr. Chairman, how would the gentleman interpret this as it relates to Congress Watch and the Ralph Nader organization, which, of course, is very secretive as to such activities?

Mr. RAILSBACK. Of course, Mr. Chairman, when I offered my amendment, one of the reasons I included such organizations as Congress Watch was that I looked to the source of their contributions and considered who their big contributors were. We are talking about contributors who contribute more than $2,500. A lot of people think that figure ought to be a lot lower than that.

Frankly, I do not think we are certain as to what organizations are going to be exempted from the report, but I do know this: We are talking about exempting organizations that are lobbying organizations under the terms of the act, and I agree with the distinguished chairman of the subcommittee, the gentleman from Alabama (Mr. FLOWERS), who is strongly opposed to the amendment.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, the Sierra Club is not a 501(c)(3) organization and would not be covered by this exemption, and neither is Congress Watch. These are not lobbying organizations.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I would like to say, in spite of the fact that we can single out some organization and say it would not qualify, the fact is that there are dozens of so-called scientific and public interest and educational organizations which would still be free to come down here and lobby under this loophole. That is why I join with the chairman of the subcommittee in opposing the Seiberling amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

The amendment was rejected.

AMENDMENT OFFERED BY MR. MATHIS

Mr. MATHIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MATHIS: Page 27, line 16, after "A description of the", strike out "twenty-five" and insert "primary".

And on line 19, strike "the greatest proportion" and insert "a significant amount".

And on line 20, after "efforts" insert a semicolon and strike the remainder of line 20, and all of lines 21 and 22.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Chairman, in accordance with the agreement which I made earlier, I would accept the amendment of the gentleman from Georgia (Mr. MATHIS), which was adopted earlier tonight to the substitute.

Mr. MATHIS. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. MATHIS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. YOUNG OF FLORIDA

Mr. YOUNG of Florida. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Florida: On page 29, after line 13, insert the following:

"(9) A listing of the names of each Federal officer or employee contacted by the organization respecting any activities described in section 3(a)."

Mr. YOUNG of Florida. Mr. Chairman, this is just a simple little amendment; and I hope that it will be accepted by the distinguished chairman and the ranking minority member.

It is not a rerun of any amendment previously voted on. It merely perfects section 6 to make it fully responsive to full disclosure.

Mr. Chairman, it merely expands the reporting provisions of section 6 to require that lobbyists and lobbying organizations include in their reports the identities of those Federal employees and Members of Congress that they have lobbied.

Mr. Chairman, I will be happy to yield to the chairman for his acceptance of the amendment.

Mr. FLOWERS. Mr. Chairman, if the gentleman will yield, with a copy of the amendment, I would say to the gentleman that we would have a better chance of making a decision in that respect. I do not have a copy.

Mr. YOUNG of Florida. Mr. Chairman, I would respond by saying that about 8 hours ago I presented to the gentleman from Florida (Mr. BENNETT), to the gentleman from California (Mr. MOORHEAD), to the gentleman from South Carolina (Mr. SPENCE), and to the gentleman from Alabama (Mr. FLOWERS) copies of this amendment. I realize that it was a long time ago.

Mr. FLOWERS. Mr. Chairman, there has been a lot of water over the dam since then. Could the gentleman give me another copy?

Mr. YOUNG of Florida. I understand, Mr. Chairman. I will present the gentleman from Alabama with another copy.

Mr. FLOWERS. Mr. Chairman, if the gentleman will yield further, I am deeply sorry that I am going to have to disappoint the gentleman again. It may help his amendment to carry, but I must oppose his amendment.

Mr. Chairman, I think the amendment goes in the direction of extensive logging on the part of covered organizations. It would make the reporting requirements far more onerous than they would be under the bill as it is now.

Again, I am sorry that I have to oppose the amendment. I just think that it would open up an entirely new framework of reporting, and I am opposed to that.

Mr. YOUNG of Florida. Mr. Chairman, I appreciatae the gentleman's response. I recognize that it is going to require a little more effort on the part of those reporting; but if we are going to have full disclosure, we might as well find out who is getting the lobbying as well as who is doing the lobbying. There are two sides of the coin involved.

Mr. Chairman, I think this amendment is a legitimate one, and I think this House ought to agree to it.

The CHAIRMAN. The question is on

the amendment offered by the gentleman from Florida (Mr. YOUNG).

The amendment was rejected.

The CHAIRMAN. Are there further amendments? If not, the Clerk will read.

The Clerk read as follows:

POWERS OF COMPTROLLER GENERAL

SEC. 7. (a) The Comptroller General, in carrying out the provisions of this Act, is authorized—

(1) to informally request or to require by subpena any individual or organization to submit in writing such reports, records, correspondence, and answers to questions as the Comptroller General may consider necessary to carry out the provisions of this Act, within such reasonable period of time and under oath or such other conditions as the Comptroller General may require;

(2) to administer oaths or affirmations;

(3) to require by subpena the attendance and testimony of witnesses and the production of documentary evidence;

(4) in any proceeding or investigation, to order testimony to be taken by deposition before any person designated by the Comptroller General who has the power to administer oaths and to compel testimony and the production of evidence in any such proceeding or investigation in the same manner as authorized under paragraph (3);

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States; and

(6) to petition any United States district court having jurisdiction for an order to enforce subpenas issued pursuant to paragraphs (1), (3), and (4) of this subsection.

(b) No individual or organization shall be civilly liable in any private suit brought by any other person for disclosing information at the request of the Comptroller General under this Act.

DUTIES OF THE COMPTROLLER GENERAL

SEC. 8. (a) It shall be the duty of the Comptroller General—

(1) to develop filing, coding, and cross-indexing systems to carry out the purposes of this Act, including (A) a cross-indexing system which, for any person identified in any registration or report filed under this Act, discloses each organization identifying such person in any such registration or report, and (B) a cross-indexing system, to be developed in cooperation with the Federal Election Commission, which discloses for any such person each identification of such person in any report filed under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

(2) to make copies of each registration and report filed with him under this Act available for public inspection and copying, commencing as soon as practicable after the date on which the registration or report involved is received, but not later than the end of the fifth working day following such date, and to permit copying of such registration or report by hand or by copying machine or, at the request of any individual or organization, to furnish a copy of any such registration or report upon payment of the cost of making and furnishing such copy; but no information contained in any such registration or report shall be sold or utilized by any individual or organization for the purpose of soliciting contributions or business;

(3) to preserve the originals or accurate reproductions of such registrations and reports for a period of not less than five years from the date on which the registration or report is received;

(4) to compile and summarize, with respect to each quarterly filing period, the information contained in registrations and reports filed during such period in a manner which clearly presents the extent and nature of the activities described in section 3(a) which are engaged in during such period;

(5) to make the information compiled and summarized under paragraph (4) available to the public within sixty days after the close of each quarterly filing period, and to publish such information in the Federal Register at the earliest practicable opportunity;

(6) to conduct investigations with respect to any registration or report filed under this Act, with respect to alleged failures to file any registration or report required under this Act, and with respect to alleged violations of any provision of this Act; and

(7) to prescribe such procedural rules and regulations, and such forms as may be necessary to carry out the provisions of this Act in an effective and efficient manner.

(b) For purposes of this Act, the duties of the Comptroller General described in subsections (a)(6) and (a)(7) of this section shall be carried out in conformity with chapter 5 of title 5, United States Code.

ADVISORY OPINIONS

SEC. 9. (a) Upon written request to the Comptroller General by any individual or organization, the Comptroller General shall, within a reasonable time, render a written advisory opinion with respect to the applicability of the recordkeeping, registration, or reporting requirements of this Act to any specific set of facts involving such individual or organization, or other individuals or organizations similarly situated.

(b) Notwithstanding any other provision of law, any individual or organization with respect to whom an advisory opinion is rendered under subsection (a) who acts in good faith in accordance with the provisions and findings of such advisory opinion shall be presumed to be in compliance with the provisions of this Act to which such advisory opinion relates. The Comptroller General may modify or revoke any such advisory opinion, but any modification or revocation shall be effective only with respect to action taken after such individual or organization has been notified, in writing, of such modification or revocation.

(c) All requests for advisory opinions, all advisory opinions, and all modifications or revocations of advisory opinions shall be published by the Comptroller General in the Federal Register.

(d) The Comptroller General shall, before rendering an advisory opinion under this section, provide any interested individual or organization with an opportunity, within such reasonable period of time as the Comptroller General may provide, to transmit written comments to the Comptroller General with respect to such advisory opinion.

(e) Any individual or organization who has received and is aggrieved by any advisory opinion from the Comptroller General may file a declaratory action in the United States district court for the district in which such individual resides or such organization maintains its principal place of business.

ENFORCEMENT

SEC. 10. (a) If the Comptroller General has reason to believe that any individual or organization has violated any provision of this Act, the Comptroller General shall notify such individual or organization of such apparent violation, unless the Comptroller General determines that such notice would interfere with effective enforcement of this Act, and shall make such investigation of such apparent violation as the Comptroller General considers appropriate. Any such investigation shall be conducted expeditiously, and with due regard for the rights and privacy of the individual or organization involved.

(b) If the Comptroller General determines, after any investigation under subsection (a), that there is reason to believe that any individual or organization has engaged in any acts or practices which constitute a civil violation of this Act, he shall endeavor to correct such violation—

(1) by informal methods of conference or conciliation; or

(2) if such methods fail, by referring such apparent violation to the Attorney General.

(c) Upon a referral by the Comptroller General pursuant to subsection (b)(2), the Attorney General may institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate relief in the United States district court for the district in which such individual or organization is found, resides, or transacts business. The Attorney General shall transmit a report to the Comptroller General describing any action taken by the Attorney General regarding the apparent violation involved.

(d) The Comptroller General shall refer apparent criminal violations of this Act to the Attorney General. In any case in which the Comptroller General refers such an apparent violation to the Attorney General, the Attorney General shall act upon such referral in as expeditious a manner as possible, and shall transmit a report to the Comptroller General describing any action taken by the Attorney General regarding such apparent violation.

(e) The reports required by subsections (c) and (d) shall be transmitted not later than sixty days after the date the Comptroller General refers the apparent violation involved, and at the close of every ninety-day period thereafter until there is final disposition of such apparent violation.

REPORTS BY THE COMPTROLLER GENERAL

SEC. 11. The Comptroller General shall transmit reports to the President of the United States and to each House of the Congress no later than March 31 of each year. Each such report shall contain a detailed statement with respect to the activities of the Comptroller General in carrying out his duties and functions under this Act, together with recommendations for such legislative or other action as the Comptroller General considers appropriate.

CONGRESSIONAL DISAPPROVAL OF RESOLUTIONS

SEC. 12. (a) Upon proposing to place any regulation in effect under section 4, 5, or 6, the Comptroller General shall transmit notice of such regulation to the Congress. The Comptroller General may place such regulation in effect as proposed at any time after the expiration of ninety calendar days of continuous session after the date on which such notice is transmitted to the Congress unless, before the expiration of such ninety days, either House of the Congress adopts a resolution disapproving such regulation.

(b) For purposes of this section—

(1) continuity of session of the Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the ninety calendar days referred to in subsection (a).

SANCTIONS

SEC. 13. (a) Any individual or organization knowingly violating section 4, 5, or 6 of this Act, or the regulations promulgated thereunder, shall be subject to a civil penalty of not more than $5,000 for each such violation.

(b) Any individual or organization who knowingly and willfully violates section 4, 5, or 6 of this Act, or the regulations promulgated thereunder, or who, in any statement required to be filed, furnished or maintained pursuant to this Act, knowingly and willfully makes any false statement of a material fact, omits any material fact required to be disclosed, or omits any material fact necessary to make statements made not misleading,

shall be fined not more than $10,000 or imprisoned for not more than two years, or both, for each such violation.

(c) Any individual or organization knowingly and willfully failing to provide or falsifying all or part of any records required to be furnished to an employing or retaining organization in violation of section 5 (a) shall be fined not more than $10,000, or imprisoned for not more than two years, or both.

(d) Any individual or organization selling or utilizing information contained in any registration or report in violation of section 8(a)(2) of this Act shall be subject to a civil penalty of not more than $10,000.

REPEAL OF FEDERAL REGULATION OF LOBBYING ACT

SEC. 14. The Federal Regulation of Lobbying Act (2 U.S.C. 261 et seq.), and that part of the table of contents of the Legislative Reorganization Act of 1946 which pertains to title III thereof, are repealed.

SEPARABILITY

SEC. 15. If any provision of this Act, or the application thereof, is held invalid, the validity of the remainder of this Act and the application of such provision to other persons and circumstances shall not be affected thereby.

AUTHORIZATION OF APPROPRIATIONS

SEC. 16. There are authorized to be appropriated such sums as may be necessary to carry out this Act.

EFFECTIVE DATES

SEC. 17. (a) Except as provided in subsection (b), the provisions of this Act shall take effect on the date of enactment.

(b) The authority of the Comptroller General to prescribe regulations under sections 4, 5, and 6 shall take effect on the date of the enactment of this Act. The remaining provisions of section 4, 5, and 6 and the provisions of sections 10, 13, and 14 shall take effect on the first day of the first calendar quarter beginning after the date on which, in accordance with section 12, the first regulations so prescribed take effect.

Mr. FLOWERS (during the reading). Mr. Chairman, with a little bit of apprehension, I would ask unanimous consent that the remainder of the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

AMENDMENT OFFERED BY MS. ABZUG

Ms. ABZUG. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. Abzug: Page 32, line 10, strike out the period and insert in lieu thereof ", and any records maintained by the Comptroller General under this Act shall be subject to the provisions of sections 552 and 552a of title 5.".

Ms. ABZUG. Mr. Chairman, this amendment is more technical than substantive, but I would like to offer a brief explanation.

Under this bill, three kinds of information come in to the Comptroller General: First, lobbyists' registrations and periodic reports; second, requests for advisory opinions; and third, "such reports, records, correspondence, and answers to questions as the Comptroller General may consider necessary to carry out the provisions of this act."

Materials received under the first two categories are required to be made public under the bill, but the bill says nothing about the materials received under the catch-all third category.

Were the Comptroller General an ordinary executive agency, this material would be subject to the Freedom of Information and Privacy Acts and available to the public unless exempt from disclosure under those statutes. Since the Comptroller General is a creature of Congress, however, it is unclear whether his records are subject to those laws. This amendment would not resolve that general issue one way or the other.

This amendment would be to make the materials received under the third category subject to Freedom of Information and Privacy. If they contain exempt material, such as that relating to law enforcement, personal privacy, or trade secrets, they would not be available to the public.

I reiterate that the offering of this amendment is not intended to indicate a belief on my part that the Comptroller General is or is not subject to the Freedom of Information and Privacy statutes. That is an issue to be settled at another time and perhaps in another place. I would hope that the next Congress will review generally the functions, authority, and duties of the Comptroller General, and that review might include consideration of this issue. This limited amendment, which applies only to the new legislation we are considering today, need not await an overall review and I urge its adoption.

Mr. FLOWERS. Mr. Chairman, will the gentlewoman yield?

Ms. ABZUG. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Chairman, let me say that we have discussed this amendment and we have gone over it with the staff and we have no objection to its inclusion in the bill.

Ms. ABZUG. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. Abzug).

The amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Ms. HOLTZMAN. Mr. Chairman, I am glad that Congress, at long last, has taken steps to regulate lobbying of the Congress and the executive branch. For too long, organizations that spend thousands of dollars to influence Members of Congress and Federal officials have been able to operate behind closed doors and to hide their massive efforts to affect Federal decisions. This bill goes a long way toward assuring that Members of Congress represent their constituents and not special interests.

Since first amendment rights are involved, the bill does not apply to individual constituents expressing their personal opinions nor does it prohibit lobbying. It simply requires disclosure about lobbying efforts by groups that spend substantial time and money trying to influence Government behavior.

I am seriously troubled, however, by the so-called Railsback amendment that was adopted to H.R. 15. The amendment would require disclosure of the name of persons who contribute more than $2,500 to organizations covered by this bill.

Courts have long been skeptical of requirements for disclosure of those who support voluntary organizations. Such requirements tread too closely to the first amendment freedoms we cherish. I fear the chilling effect that this amendment may have on free expression.

There may be reasons for wanting to know who finances a particular lobbying group, for instance in order to know what its policies really are. Generally speaking, however, it is not necessary to know who backs an organization to know what it stands for. Thus the potential benefit, if any, of disclosure of contributors is minor. On the other hand, the risk of harm in requiring the disclosure of contributors to voluntary organizations is substantial.

Take the following example: An organization is covered by the bill if it has one employee who spends 20 percent of his or her time in one quarter lobbying. Assume Columbia University hires one person to monitor Federal education legislation and spend a portion of his or her time communicating with Members of Congress. The university would then have to disclose the names of every person who contributes $2,501 or more to the school.

Such disclosure might not discourage contributions to Columbia, but it certainly would discourage contributions to groups that espouse politically unpopular causes, innovative or avant-garde ideas, and the like. Would a white person in rural Mississippi unhesitatingly contribute to the NAACP if that contribution would be disclosed? Probably not. This amendment would therefore help dry up financing for many public interest groups that have played an enormously valuable role in American life.

I regret that this amendment was adopted and hope that, in the next Congress, the lobbying act can be amended to delete this contributor disclosure provision.

The CHAIRMAN. Under the rule, the committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. O'Neill) having assumed the Chair, Mr. Bolling, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 15) to regulate lobbying and related activities, pursuant to House resolution 1551, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore (Mr. O'Neill). Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. ASHBROOK. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Ashbrook moves to recommit the bill H.R. 15 to the Committees on the Judiciary and Standards of Official Conduct.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. MOORHEAD of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 307, nays 34, not voting 89, as follows:

[Roll No. 838]

YEAS—307

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Carney
Carr
Cederberg
Chisholm
Clausen, Don H.
Cleveland
Cochran
Cohen
Collins, Tex.
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Tenn.
du Pont
Eckhardt
Edgar
Edwards, Ala.
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Hagedorn
Hall, Ill.
Hall, Tex.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Hightower
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hyde
Ichord
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Keys
Koch
Krebs
Krueger
Lagomarsino
Latta
Leggett
Lehman
Lent
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McHugh
McKinney
Maguire
Mahon
Mathis
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Roush
Roybal
Ruppe
Russo
St Germain
Santini
Sarasin
Satterfield
Schroeder
Schulze
Sebelius
Sharp
Shipley
Shriver
Shuster
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stratton
Studds
Talcott
Taylor, Mo.
Thone
Thornton
Traxler
Treen
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, Tex.
Winn
Wirth
Wolff
Wydler
Wylie
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—34

Armstrong
Ashbrook
Burleson, Tex.
Carter
Chappell
Clawson, Del
Collins, Ill.
Crane
Davis
Dickinson
Duncan, Oreg.
Edwards, Calif.
Forsythe
Hammerschmidt
Hansen
Jones, N.C.
Ketchum
Kindness
McDonald
McEwen
McKay
Mann
Martin
Melcher
Mitchell, Md.
Montgomery
Paul
Poage
Rousselot
Seiberling
Symms
Waggonner
Wiggins
Wilson, Bob

NOT VOTING—89

Annunzio
Ashley
Biaggi
Boggs
Breaux
Brown, Calif.
Brown, Ohio
Byron
Clancy
Clay
Conable
Conlan
Conyers
Dent
Diggs
Downing, Va.
Early
Eilberg
Esch
Eshleman
Evins, Tenn.
Findley
Flynt
Giaimo
Green
Guyer
Haley
Hawkins
Hébert
Heinz
Henderson
Hicks
Hillis
Hinshaw
Holland
Hutchinson
Jarman
Jenrette
Johnson, Pa.
Karth
LaFalce
Landrum
Levitas
McCollister
McDade
McFall
Madden
Madigan
Matsunaga
Mink
Mosher
Moss
Murphy, N.Y.
Nix
O'Hara
Passman
Pepper
Peyser
Rangel
Rees
Riegle
Rosenthal
Rostenkowski
Runnels
Ryan
Sarbanes
Scheuer
Schneebeli
Sikes
Sisk
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stokes
Stuckey
Sullivan
Symington
Taylor, N.C.
Teague
Thompson
Udall
Ullman
Vigorito
Wilson, C. H.
Wright
Yates
Young, Alaska
Young, Ga.

The Clerk announced the following pairs:

On this vote:

Mr. Thompson for, with Mr. Hébert against.
Mr. Annunzio for, with Mr. Sikes against.
Mr. Biaggi for, with Mr. Passman against.
Mr. Breaux for, with Mr. Charles H. Wilson of California against.
Mr. Levitas for, with Mr. Haley against.
Mr. McFall for, with Mr. Teague against.

Until further notice:

Mr. Murphy of New York with Mr. Brown of California.
Mr. Flynt with Mr. Byron.
Mr. Rangel with Mr. Dent.
Mr. Matsunaga with Mr. Giaimo.
Mr. Stokes with Mr. Evins of Tennessee.
Mr. Eilberg with Mr. Conlan.
Mr. Young of Georgia with Mr. Mosher.
Mr. Ashley with Mr. Downing of Virginia.
Mr. Rostenkowski with Mr. Peyser.
Mr. Runnels with Mr. Esch.
Mr. Pepper with Mr. Karth.
Mrs. Mink with Mr. Eshleman.
Mr. Early with Mr. Findley.
Mrs. Boggs with Mr. Guyer.
Mr. Green with Mr. Brown of Ohio.
Mr. Hawkins with Mr. Rees.
Mr. Landrum with Mr. Conable.
Mr. Nix with Mr. Rosenthal.
Mr. Riegle with Mr. Steelman.
Mr. Scheuer with Mr. Heinz.
Mrs. Sullivan with Mr. Clancy.
Mr. Yates with Mr. Hillis.
Mr. Wright with Mr. Hutchinson.
Mr. Stuckey with Mr. McDade.
Mr. Conyers with Mr. Jenrette.
Mr. O'Hara with Mr. Madigan.
Mr. Diggs with Mr. Hicks.
Mr. Moss with Mr. Johnson of Pennsylvania.
Mr. Clay with Mr. Madden.
Mr. LaFalce with Mr. McCollister.
Mr. Udall with Mr. Jarman.
Mr. Sarbanes with Mr. Taylor of North Carolina.
Mr. Symington with Mr. Holland.
Mr. Ryan with Mr. Henderson.
Mr. Stephens with Mr. James V. Stanton.
Mr. Ullman with Mr. Sisk.
Mr. Young of Alaska with Mr. Vigorito.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. FLOWERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 2477) to provide more effective disclosure to Congress and the public of certain lobbying activities to influence issues before the Congress, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. O'Neill). Is there objection to the request of the gentleman from Alabama?

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

GENERAL LEAVE

Mr. FLOWERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 15.

The SPEAKER pro tempore. Is there

objection to the request of the gentleman from Alabama?

There was no objection.

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 1096, SUPPLEMENTAL APPROPRIATIONS FOR DEPARTMENT OF DEFENSE

Mr. MAHON submitted the following conference report and statement on the joint resolution (H.J. Res. 1096) making supplemental appropriations for the Department of Defense for the repair and replacement of facilities on Guam damaged or destroyed by Typhoon Pamela, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 94-1717)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution "making supplemental appropriations for the Department of Defense for the repair and replacement of facilities on Guam damaged or destroyed by Typhoon Pamela, and for other purposes," having met after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 6, 7, and 13.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 12 and 15, and agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$122,033,000"; and the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$65,699,000"; and the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$30,491,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$18,241,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 5, 9, 14, 16, 17, 18 and 19.

George Mahon,
Jamie L. Whitten,
Robert L. F. Sikes,
Otto E. Passman,
Joe L. Evins,
Tom Steed,
Joseph P. Addabbo,
Jack Edwards,
John T. Myers,
Managers on the Part of the House.
John L. McClellan,
John C. Stennis,
John O. Pastore,
Daniel K. Inouye,
J. Bennett Johnston,
Milton R. Young,
Mark O. Hatfield,
Ted Stevens,
Henry Bellmon,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the House joint resolution (H.J. Res. 1096) making supplemental appropriations for the Department of Defense for the repair and replacement of facilities on Guam damaged or destroyed by Typhoon Pamela, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Amendment No. 1: Inserts a proviso in the enacting clause making various funds contained in the resolution available through the end of fiscal year 1977.

Amendment No. 2: Inserts heading as proposed by the Senate.

RESTORATION OF FACILITIES ON GUAM, DEFENSE

Amendment No. 3: Inserts a proviso making the funds under this heading available for the period ending September 30, 1976 as proposed by the Senate.

Amendment No. 4: Appropriates $122,033,000 instead of $163,073,000 as proposed by the House and $115,312,000 as proposed by the Senate.

Amendment No. 5: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating an additional amount of $30,900,000 instead of $18,639,000 as proposed by the Senate. The conference agreement also provides that $20,861,000 will be derived by transfer from "Military Personnel, Navy, 1976" rather than $8,600,000 as proposed by the Senate. The conferees also agreed to make $6,339,000 available for transfer from "Military Personnel, Air Force, 1976" rather than from "Aircraft Procurement, Air Force, 1976/1978" as proposed by the Senate. The revised amendment reads as follows:

"And in addition, $30,900,000, of which $20,861,000 shall be derived by transfer from "Military Personnel, Navy, 1976", $3,700,000 shall be derived by transfer from "Military Personnel, Army, 1976" and $6,339,000 shall be derived by transfer from "Military Personnel, Air Force, 1976","

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 6: Provides $19,960,000 for "Operation and Maintenance, Navy" as proposed by the House instead of $10,890,000 as proposed by the Senate. The Senate had only provided funds to cover obligations already incurred. The conferees agreed that additional funds would be required as proposed by the House.

Amendment No. 7: Provides $10,940,000 for "Operation and Maintenance, Air Force" as proposed by the House instead of $7,749,000 as proposed by the Senate. The conferees agreed that additional funds would be required for facility repair on Guam as proposed by the House.

Amendment No. 8: Provides $65,699,000 for Navy military construction instead of $67,400,000 as proposed by the House and $61,684,000 as proposed by the Senate.

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $25,843,000 for Air Force military construction instead of $24,400,000 as proposed by the House and $24,537,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment on the Senate.

Amendment No. 10: Provides $30,491,000 for family housing, in total, instead of $40,373,000 as proposed by the House and $29,091,000 as proposed by the Senate.

Amendment No. 11: Provides $18,241,000 for Air Force family housing construction instead of $20,121,000 as proposed by the House and $16,841,000 as proposed by the Senate.

Amendment No. 12: Deletes amount of $8,002,000 for family housing operation and maintenance as allowed by the House.

Amendment No. 13: The House provided that operation and maintenance funds made available by the resolution and unobligated at September 30, 1976 could be carried forward into fiscal year 1977. The Senate deleted this provision. The conferees agree that this provision is necessary because of the closeness to the end of the transition quarter.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

CONSTRUCTION AND REHABILITATION

Amendment No. 14: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $200,000,000 for the payment of claims for damages to or loss of property, personal injury, or death resulting from the failure of the Teton River Dam structure.

DEPARTMENT OF THE TREASURY

Amendment No. 15: Appropriates $46,951,838 for claims and judgments rendered against the United States, as proposed by the Senate.

UNITED STATES POSTAL SERVICE

Amendment No. 16: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $500,000,000 for Payment to the Postal Service Fund pursuant to the provisions of Public Law 94-421 signed by the President on September 24, 1976. The funds are to be used to apply against the accumulated operating indebtedness of the Postal Service as of September 30, 1976, and allow the Postal Service to continue operating at the same level of service and rates pending recommendations of the temporary study commission established by the law.

GENERAL SERVICES ADMINISTRATION

Amendment No. 17: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to insert a center heading.

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to appropriate $1,000,000 for Refunds under Renegotiation Act, as proposed by the Senate. The funds will be used for necessary expenses to carry out Section 201(f) of the Renegotiation Act of 1951.

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to appropriate $2,100,000 for Expenses, Presidential Transition. Including the $900,000 previously appropriated for this purpose, these funds would provide $2,000,000 for the incoming administration and $1,000,000 for the outgoing. Where the President-elect is the incumbent President or where the Vice President-elect is the incumbent Vice President, there shall be no expenditures under this Act, and any funds appropriated will be returned to the general fund of the Treasury. The Conferees are agreed that these funds shall be available to cover all expenses of a presidential transition and that government personnel shall not be made available for such activities on a non-reimbursable basis.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1977 and the transition period recommended by the Committee of Conference, with comparisons to the 1977 budget estimates, the transition quarter estimates, and the House and Senate bills for 1977 follows:

Budget estimates of new (obligational) authority, fiscal year 1977	[1] $247,951,838
Transition period	[1] 689,000,000
House bill, fiscal year 1977	------------
Transition period	163,073,000
Senate bill, fiscal year 1977	250,051,838
Transition period	615,312,000
Conference agreement, fiscal year 1977	250,051,838
Transition period	622,033,000
Conference agreement compared with:	
Budget estimates of new (obligational) authority, fiscal year 1977	+2,100,000
Transition period	−66,967,000
House bill, fiscal year 1977	+250,051,838
Transition period	+458,960,000
Senate bill, fiscal year 1977	------------
Transition period	+6,721,000

[1] Includes $747,951,838 of budget estimates not considered by the House, contained in House Documents 94–603, 94–617, 94–618, and 94–626.

George Mahon,
Jamie L. Whitten,
Robert L. F. Sikes,
Otto E. Passman,
Joe L. Evins,
Tom Steed,
Joseph P. Addabbo,
Jack Edwards,
John T. Myers,
Managers on the Part of the House.

John L. McClellan,
John C. Stennis,
John O. Pastore,
Daniel K. Inouye,
J. Bennett Johnston,
Milton R. Young,
Mark O. Hatfield,
Ted Stevens,
Henry Bellmon,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 13350, AUTHORIZING APPROPRIATIONS TO ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Mr. McCORMACK submitted the following conference report and statement on the bill (H.R. 13350) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes:

Conference Report (H. Rept. No. 94–1718)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13350) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

The Congress finds that the traditional energy sources of this country are being depleted and we must convert to other forms of energy. In addition, it may be necessary to undertake aggressive conservation programs to cut back on energy consumption and eliminate waste and reduce energy use. In spite of these efforts, Congress finds that energy consumption in this country will approximately double in coming decades. Therefore, it is essential that the policy of the Congress be established that every form of energy be put into use at the earliest possible moment, consistent with existing environmental laws, that new elements of energy production be placed on line as quickly as possible.

AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1977

Sec. 2. In accordance with section 261 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2017), section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5915), there is hereby authorized to be appropriated to the Energy Research and Development Administration for fiscal year 1977, subject to the provisions of this Act, the following:

(A) For nonnuclear energy research, development, and demonstration of fossil, solar, geothermal, and other forms of energy for energy conservation, and for scientific and technical education, $1,175,671,000.

(B) For nuclear energy research and development, basic research, space nuclear systems and other technology, uranium enrichment, national security, and related programs, $5,271,679,000.

(C) For environmental research and safety, basic energy sciences, program support, and related programs, 0691,795,000.

TITLE I—NONNUCLEAR PROGRAMS

OPERATING EXPENSES

Sec. 101. For "Operating expenses", for the following programs, a sum of dollars equal to the total of the following amounts:

FOSSIL ENERGY DEVELOPMENT

(1) Coal:

(A) Coal liquefaction:

Costs, $81,130,000.

Changes in selected resources, −$4,300,000.

(B) High Btu gasification (coal):

Costs, $59,254,000.

Changes in selected resources, −$14,200,000.

(C) Low Btu gasification (coal):

Costs, $50,000,000.

Changes in selected resources, −$3,000,000.

(D) Advanced power systems:

Costs, $12,800,000.

Changes in selected resources, $9,700,000.

(E) Direct combustion (coal):

Costs, $55,116,000.

Changes in selected resources, $2,284,000.

(F) Advanced research and supporting technology:

Costs, $38,500,000.

Changes in selected resources, $1,100,000: *Provided*, That the following amounts thereof shall be for systems studies:

Costs, $9,350,000.

Changes in selected resources, $1,000,000.

(G) Demonstration plants (coal):

Costs, $50,600,000.

Changes in selected resources, $2,400,000.

(H) Magnetohydrodynamics:

Costs, $27,841,000.

Changes in selected resources, $10,145,000.

(2) Petroleum and natural gas:

(A) Natural gas and oil extraction:

Costs, $35,269,000.

Changes in selected resources, $7,900,000.

(B) Supporting research:

Costs, $1,831,000.

Changes in selected resources, $0.

(3) In-situ Technology:

(A) Oil shale:

Costs, $12,085,000.

Changes in selected resources, $9,000,000.

(B) Coal gasification:

Costs, $13,536,000.

Changes in selected resources, $1,500,000.

(C) Supporting research:

Costs, $1,310,000.

Changes in selected resources, $0.

SOLAR ENERGY DEVELOPMENT

(4) Solar Heating and Cooling:

Costs, $88,000,000.

Changes in selected resources, $26,500,000.

(5) Other Solar Energy Programs:

Costs, $136,100,000.

Changes in Selected resources $35,600,000; including costs of $3,000,000 and changes in selected resources of $1,000,000 for initiation of activities of the Solar Energy Research Institute and costs of $112,200,000 and changes in selected resources of $27,500,000 for solar electric applications.

GEOTHERMAL ENERGY DEVELOPMENT

(6) Geothermal Energy:

(A) Hydrothermal Technology Applications:

Costs, $14,200,000.

Changes in selected resources, $1,800,000.

(B) Other Geothermal Energy Development:

Costs, $46,100,000.

Changes in selected resources, $3,600,000.

CONSERVATION RESEARCH AND DEVELOPMENT

(7) Conservation Research and Development:

(A) Electric Energy Systems:

Costs, $22,000,000.

Changes in selected resources, $4,000,000.

(B) Energy Storage:

Costs, $32,000,000.

Changes in selected resources, $6,000,000.

(C) Building Conservation:

Costs, $27,600,000.

Changes in selected resources, $4,400,000.

(D) Industry Conservation:

Costs, $18,000,000.

Changes in selected resources, $4,000,000.

(E) Transportation Energy Conservation, including $3,000,000 for methanol and other alternate fuels:

Costs, $31,400,000.

Changes in selected resources, $4,600,000.

(F) Improved Conversion Efficiency:

Costs, $15,300,000.

Changes in selected resources, $11,700,000.

(G) Energy Conservation Institutes and Extension Service:

Costs, $18,000,000.

Changes in selected resources, $7,000,000.

(H) Small Grant Program for Appropriate Technologies:

Costs, $7,500,000.

Changes in selected resources, $2,500,000.

(I) To carry out the municipal solid waste demonstration price guarantee program authorized by section 107 of this Act:

Costs, $200,000.

Changes in selected resources, $4,800,000.

SCIENTIFIC AND TECHNICAL EDUCATION

(8) Scientific and Technical Education:

Costs, $3,750,000.

Changes in selected resources, $1,250,000.

PLANT AND CAPITAL EQUIPMENT

Sec. 102. (a) For "Plant and capital equipment", including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the following amounts.

(1) Fossil Energy Development Coal.

(A) Project 77–1–a, modifications and additions to Energy Research Centers, $6,900,000.

(B) Project 77–1–b for a high Btu pipeline gas demonstration plant (which is estimated to cost a total of $500,000,000, including the non-Federal share of such cost) is authorized. The amount authorized for such plant is $10,000,000.

(C) Project 77–1–c for fuel gas low Btu demonstration plant (which is estimated to cost a total of $380,000,000, including the non-Federal share of such cost) is authorized. The amount authorized for such plant is $8,000,000.

(D) Project 77–1–d, MHD component development and integration facility, $6,700,000.

(2) Conservation Research and Development.

(A) Project 77–17–a Combustion Research Center, $8,500,000.

(3) Capital Equipment, not related to construction.

(A) Fossil energy development, $1,020,000.

(B) Conservation research and development, $12,000,000.

(C) Solar energy development, $8,500,000, including $1,500,000 for initiation of activities at the Solar Energy Research Institute in the areas of modification of facilities, acquisition and fabrication of capital equipment, and design of the final installation.

(D) Geothermal energy development, $2,350,000.

(b) There is authorized an additional sum of $50,000,000 for the clean boiler fuel demonstration plant (project 76–1–a) authorized by section 101(b)(1) of the Act of December 31, 1975 (89 Stat. 1065).

(c) There is authorized an additional sum of $15,000,000 for the five megawatt solar thermal test facility (76–2–a) authorized by section 101(b)(2) of the Act of December 31, 1975 (89 Stat. 1065).

(3) Solar Energy Development:

Project 77–18–j, $10,000,000 for the following Solar Energy Development Projects:

(i) OTEC sea test facility, $1,000,000.

(ii) two 200 kw wind energy facility, $1,000,000.

(iii) two 1.5 mw high velocity wind facilities, $1,500,000.

(iv) total solar energy plant, $1,500,000.

(v) 5 mw solar thermal demonstration for small community, $2,000,000.

(vi) biomass conversion facility, $3,000,000.

PROVISIONS RELATING ONLY TO FOSSIL ENERGY DEVELOPMENT PROGRAMS

Sec. 103. Funds appropriated pursuant to this Act for "Operating expenses" for fossil energy purposes may be used for (1) any facilities which may be required at locations, other than installations of the Administration, for the performance of research and development contracts and (2) grants to any organization for purchase or construction of research facilities. No such funds shall be used for the acquisition of land. Fee title to all such facilities shall be vested in the United States, unless the Administrator determines in writing that the programs of research and development authorized by this Act shall best be implemented by vesting fee title in an entity other than the United States: Provided, That, before approving the vesting of title in such entity the Administrator shall (A) transmit such determination, together with all pertinent data, to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate, and (B) wait a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action. Each grant shall be made under such conditions as the Administrator deems necessary to insure that the United States will receive therefrom benefits adequate to justify the making of the grant. No such funds shall be used under clause (1) of the first sentence of this section for the construction of any major facility the estimated cost of which, including collateral equipment,, exceeds, 250,000 unless the Administrator shall (i) transmit a report on such major facility showing the nature, purpose, location, and estimated cost of such facility to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate, and (ii) wait a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

Sec. 104. Not to exceed 3 per centum of all funds appropriated pursuant to this Act for "Operating expenses" for fossil energy purposes may be used by the Administrator to construct, expand, or modify laboratories and other facilities, including the acquisition of land, at any location under the control of the Administrator, if the Administrator determines that (1) such action would be necessary because of changes in the national programs authorized to be funded by this Act or because of new scientific or engineering developments, and (2) deferral of such action until the enactment of the next authorization Act would be inconsistent with the policies established by Congress for the Administration. No portion of such sums may be obligated for expenditure or expended for such activities, unless (A) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the Administrator has transmitted to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate a written report containing a full and complete statement concerning (i) the nature of construction, expansion, or modification, (ii) the cost thereof, including the cost of any real estate action pertaining thereto, and (iii) the reason why such construction, expansion, or modification is necessary and in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action: *Provided*, That this sentence shall not apply to projects to construct, expand, or modify such laboratories or facilities, the estimated total cost of which does not exceed $25,000.

Sec. 105. Notwithstanding any other applicable provision of law, the initial authorization in this Act or any other Act heretofore or hereafter enacted to construct, pursuant to section 8 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5907), any fossil energy demonstration plant shall expire at the end of the three full fiscal years following the date of enactment of such authorization, unless (1) funds to construct each such plant are appropriated or otherwise provided pursuant to applicable law prior thereto, or (2) such authorization period is extended by specific Act of Congress hereafter enacted.

Sec. 106. All moneys received by the Administrator from any fossil energy activity shall be paid into the Treasury to the credit of miscellaneous receipts, except that on December 1 of each year the Administrator shall provide to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate a report of all such receipts for the preceding fiscal year, including, but not limited to, the amount and source of such revenues and the program and subprogram activity generating such revenues.

GENERAL PROVISIONS RELATING TO NONNUCLEAR PROGRAMS OTHER THAN FOSSIL ENERGY DEVELOPMENT

Sec. 107. The Administrator is authorized, subject to the appropriation of funds pursuant to section 101(10) of this Act, to establish and implement, under section 7(a)(4) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906 (a)(4)) and in accordance with section 7(c) of such Act (42 U.S.C. 5906(c)), a price-support program to demonstrate muncipal solid waste reprocessing for the production of fuels and energy intensive products. Prior to entering into any contract for such demonstration, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate a full and complete report on the proposed commercial demonstration facility and the necessary project demonstration guarantees. Such contract shall not be finalized under the authority granted by this section prior to the expiration of ninety calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees.

GENERAL PROVISIONS RELATING TO ALL NONNUCLEAR PROGRAMS

Sec. 108. Except as otherwise provided in this Act.—

(a) no amount appropriated pursuant to this Act may be used for any nonnuclear program in excess of the amount actually authorized for that particular program by this Act,

(b) no amount appropriated pursuant to this Act may be used for any nonnuclear program which has not been presented to, or requested of, the Congress,

unless (1) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate of notice given by the Administrator containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon the support of such proposed action, or (2) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action: *Provided*, That the following categories may not, as a result of reprograming, be decreased by more than 10 per centum of the sums appropriated pursuant to this Act for such categories: Coal, petroleum and natural gas, in situ technology, solar, geothermal, and conservation.

Sec. 109. The Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate a detailed explanation of the allocation of all of the funds appropriated pursuant to, and this Act for nonnuclear energy programs and subprograms, reflecting the relationships, consistencies, and dissimilarities between those allocations and (a) the comprehensive program definition transmitted pursuant to section 102 of the Geothermal Energy Research, Development, and Demonstration Act, (b) the comprehensive program definition transmitted pursuant to section 15 of the Solar Energy Research, Development, and Demonstration Act of 1974 (42 U.S.C. 5564), (c) the comprehensive plan for nonnuclear energy research, development, and demonstration transmitted pursuant to section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905).

Sec. 110. Section 13 of the Federal Energy Research and Development Act of 1974 (42 U.S.C. 5912) is amended by—

(1) striking, in the first sentence of subsection (a), the words "At the request of the Administrator, the" and inserting therein "The";

(2) striking, in the first sentence of subsection (b), the words "prepare or have prepared an assessment of the availability of adequate water resources." and inserting therein the following: "request the Water Resources Council to prepare an assessment of water requirements and availability for such project."; and

(3) adding at the end thereof a new subsection to read as follows: "(f) The Administrator shall, upon enactment of this subsection, be a member of the Council."

Sec. 111. (a) The Administrator shall classify each recipient of any award, contract, or other financial arrangement in any nonnuclear research, development, or demonstration category as—

(1) a Federal agency,

(2) a non-Federal governmental entity,

(3) a profitmaking enterprise (indicating whether or not it is a small business concern),

(4) a nonprofit enterprise other than an educational institution, or

(5) a nonprofit educational institution.

(b) The information required by subsection (a), along with the dollar amount of each award, contract, or other financial arrangement made, shall be included as an appendix to the annual report required by section 15(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914): *Provided*, That small purchases or contracts of less than $10,000, which are expected from the requirements of advertising by section 252(c)(3) of title 41, United States Code, shall be exempt from the reporting requirements of this section.

Sec. 112. A program for appropriate technology under the direction of the Assistant Administrator for Conservation Research and Development. The Administrator shall develop and implement a program of small grants for the purpose of encouraging development and demonstration projects described in subsection (c) of this section.

(b) The aggregate amount of financial support made available to any participant in such program, including affiliates, under this section shall not exceed $50,000 during any two-year period.

(c) Funds made available under this section shall be used to provide for a coordinated and expanded effort for the development and demonstration of, and the dissemination of information with respect to, energy-related systems and supporting technologies appropriate to—

(1) the needs of local communities and the enhancement of community self-reliance through the use of available resources;

(2) the use of renewable resources and the conservation of non-renewable resources;

(3) the use of existing technologies applied to novel situations and uses;

(4) applications which are energy conserving, environmentally sound, small scale, durable or low cost; and

Act of 1974.

Guidelines implementing this section shall be promulgated with full opportunity for public comment.

(g) The Administrator shall

(1) prepare and submit no later than March 10, 1977 a detailed report on plans for implementation of including the timing of implementation of the provisions of this title to the Committee on Interior and Insular Affairs and the Committee on Science and Technology of the House of Representatives and shall keep such committees fully and currently informed concerning the development of such plans.

(2) include as a part of the annual report required by section 15(a)(1) of the Federal Non-nuclear Energy Research and Development Act of 1974 beginning in 1977, a full and complete report on the program under this title.

Sec. 113. The Administrator, in consultation with the Administrator of the Environmental Protection Agency, shall submit a report to the Congress, six months after enactment of this Act, on the environmental monitoring, assessment, and control efforts, relating to environment, safety, and health, which are required to successfully demonstrate any project, which is subject to sections 8(c) and (j) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5907 (e) and (f)), and is authorized by this Act or, any prior Act. The report shall contain the extent to which monitoring and control is required, the estimated costs thereof.

TITLE II.—FOR NUCLEAR ENERGY RESEARCH AND DEVELOPMENT, BASIC RESEARCH, SPACE NUCLEAR SYSTEMS AND OTHER TECHNOLOGY, URANIUM ENRICHMENT, NATIONAL SECURITY, AND RELATED PROGRAMS

OPERATING EXPENSES

Sec. 201. For "Operating expenses", $3,390,051,000. No funds authorized under this Act may be used to produce any nuclear fuel for export to supply a nuclear power reactor under an Agreement for Cooperation which has not been reviewed by the Congress of the United States under the procedures in section 123d. of the Atomic Energy Act of 1954 (42 U.S.C. 2153(d)), as amended by Public Law 93–485, to a country which has not ratified the Treaty on Nonproliferation of Nuclear Weapons unless the first proposed license authorizing the export of either such reactor or such fuel after the date of this Act is first submitted to the Congress for review under the congressional review procedures provided for Agreements for Cooperation in the above-referenced section 123d. of the Atomic Energy Act of 1954, as amended.

PLANT AND CAPITAL EQUIPMENT

Sec. 202. For "Plant and capital equipment", including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of captal equipment not related to construction, a sum of dollars equal to the total of the following amounts:

(1) Magnetic Fusion:

Project 77–2–a, computer building, Lawrence Livermore Laboratory, Livermore, California, $5,000,000.

(2) Laser Fusion:

Project 77–3–a, electron beam fusion facilities, Sandia Laboratories, Albuquerque, New Mexico, $13,500,000.

(3) Fission Power Reactor Development:

Project 77–4–a, modifications to reactors, $5,000,000.

Project 77–4–b, breeding nondestructive assay facility, Idaho National Engineering Laboratory, Idaho, $9,500,000.

Project 77–4–c, high performance fuel laboratory, Richland, Washington (A–E only), $1,500,000.

Project 77–4–d, fuel storage facility, Richland, Washington (A–E and long-lead procurement), $7,000,000.

(4) Fission Power Reactor Development:

Project 77–5–a, computer building acquisition, Idaho National Engineering Laboratory, Idaho Falls, Idaho, $950,000.

(5) High Energy Physics:

Project 77–7–a, accelerator improvements and modifications, various locations, $3,600,000.

(6) Basic Energy Sciences:

Project 77–8–a, accelerator and reactor improvements and modifications, various locations, $1,300,000.

Project 77–8–b, expanded experimental capabilities, Bates Linear Accelerator, Massachusetts Institute of Technology, Massachusetts, $5,000,000.

Project 77–8–c, increased flux, high flux beam reactor, Brookhaven National Laboratory, New York, $2,500,000.

Project 77–S–d, conversion of steam plant facilities, Oak Ridge National Laboratory, Tennessee, $12,200,000.

(7) Uranium Enrichment Activities:

Project 77–9–a, expansion of feed vaporization and sampling facilities, gaseous diffusion plants, multiple sites, $30,000,000.

Project 77–9–b, air and nitrogen system uprating, gaseous diffusion plant, Oak Ridge, Tennessee, $5,200,000.

Project 77–9–c, upgrade ventilation systems, technical services building, gaseous diffusion plant, Portsmouth, Ohio, $3,000,000.

Project 77–9–d, centrifuge plant demonstration facility, Oak Ridge, Tennessee, $60,000,000.

(8) Uranium Enrichment Activities:

Project 77–10–a, fire protection upgrading, gaseous diffusion plants, multiple sites, $8,300,000.

Project 77–10–b, modifications to comply with the Occupational Safety and Health Act, gaseous diffusion plants, and Feed Materials Production Center, Fernald, Ohio, $8,200,000.

(9) Weapons Activities:

Project 77–11–a, safeguards and research and development laboratory facility, Sandia Laboratories, Albuquerque, New Mexico, $9,300,000.

Project 77–11–b, safeguards and site security improvements, various locations, $13,500,000.

Project 77–11–c, 8-inch artillery fired atomic projectile production facilities, various locations, $20,500,000.

Project 77–11–d, tritium confinement system, Savannah River, South Carolina, $3,500,000.

(10) Weapons Activities:

Project 77–12–a, fire and safety project, Lawrence Livermore Laboratory, California, $2,300,000.

Project 77–12–b, life safety corridor modifications, Bendix Plant, Kansas City, Missouri, $3,100,000.

Project 77–12–c, modifications to comply with the Occupational Safety and Health Act, Y–12 Plant, Oak Ridge, Tennessee, $6,400,000.

Project 77–12–d, upgrade reliability of fire protection, Bendix Plant, Kansas City, Missouri, $7,800,000.

Project 77–12–e, sludge disposal facility, Y–12 Plant, Oak Ridge, Tennessee, $3,000,000.

(11) Weapons Materials Production:

Project 77–13–a, fluorinel dissolution process and fuel receiving improvements, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho (A–E and long-lead procurement), $10,000,000.

Project 77–13–b, improved confinement of radioactive releases, reactor areas, Savannah River, South Carolina, $6,000,000.

Project 77–13–c, seismic protection, reactor areas, Savannah River, South Carolina, $3,000,000.

Project 77–13–d, high level waste storage and waste management facilities, Savannah River, South Carolina, $56,000,000.

Project 77–13–e, high level waste storage and handling facilities, Richland, Washington, $40,000,000.

Project 77–13–f, waste isolation pilot plant, site undesignated (A-E, land acquisition, and long-lead procurement), $6,000,000.

Project 77–13–g, safeguards and security upgrading, production facilities, multiple sites, $12,600,000.

Project 77–13–h, personnel protection and support facility, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $10,500,000.

(12) Project 77–14, General Plant Projects, $74,610,000.

(13) Project 77–15, Construction Planning and Design $7,200,000.

(14) Capital Equipment, $276,368,000.

LIMITATIONS

Sec. 203. The Administration is authorized to start any project set forth in title II, subsection 202 (2), (3), (5), (6), (7), (9), and (11), only if the currently estimated cost of that project does not exceed by more than 25 percentum the estimated cost set forth for that project.

Sec. 204. The Administration is authorized to start any project set forth in title II, subsections 202 (1), 4), (8), and (10), only if the currently estimated cost of that project does not exceed by more than 10 per centum the estimated cost set forth for that project.

Sec. 205. The Administration is authorized to start any project under title II, subsection 202(12) only if it is in accordance with the following:

(1) The maximum currently estimated cost of any project shall be $750,000 and the maximum currently estimated cost of any building included in such project shall be $300,000: Provided, That the building cost limitation may be exceeded if the Administration determines that it is necessary in the interest of efficiency an economy.

(2) The total cost of all projects undertaken under title II, subsection 202(12) shall not exceed the estimated cost set forth in that subsection by more than 10 per centum.

Sec. 206. The total cost of any project undertaken under title II, subsections 202 (2), (3), (5), (6), (7), (9), and (11), shall not exceed the estimated cost set forth for that project by more than 25 per centum unless and until additional appropriations are authorized: Provided, That this subsection will not apply to any project with an estimated cost less than $5,000,000.

Sec. 207. The total cost of any project undertaken under title II, subsections 202 (1), (4), (8), and (10), shall not exceed the estimated cost set forth for that project by more than 10 per centum, unless and until additional appropriations are authorized: *Provided*, That this subsection will not apply to any project with an estimated cost less than $5,000,000.

AMENDMENTS TO PRIOR YEAR ACTS

Sec. 208. (a) Section 101 of Public Law 89–428, as amended, is further amended by striking from subsection (b)(3), project 67–3–a, a fast flux test facility, the figure "$420,000,000" and substituting therefor the figure "$540,000,000".

(b) Section 101 of Public Law 91–273, as amended, is further amended by striking from subsection (b)(1), project 71–1–f, process equipment modifications, gaseous diffusion plans, the figure "$510,100,000" and substituting therefor the figure "$820,000,000".

(c) Section 101 of Public Law 93–60, as amended, is further amended by striking from subsection (b)(1), project 74–1–g, cascade uprating program, gaseous diffusion plants, the figure "$270,400,000" and substituting therefor the figure "$417,300,000".

(d) Section 101 of Public Law 93–276, as amended, is further amended by—

(1) striking from subsection (b)(1), project 75–1–c, new waste calcining facility, Idaho Chemical Processing Plant, National Reactor Testing Station, Idaho, the figure "$27,500,000" and substituting therefor the figure "$65,000,000";

(2) striking from subsection (b)(3), project 75–3–b, high energy laser facility, Los Alamos Scientific Laboratory, New Mexico, the figure "$22,600,000" and substituting therefor the figure "$54,500,000";

(3) striking from subsection (b)(6), project 75–6–c, positronelectron joint project, Lawrence Berkeley Laboratory and Stanford Linear Accelerator Center, the figure "$11,900,000" and substituting therefor the figure "$78,000,000".

(e) Public Law 94–187 is amended by—

(1) striking from subsection 101(b)(5), "project 76–5–a, Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, New Jersey, $23,000,000.", and striking from subsection 201(b)(5) "project 76–5–a, Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, New Jersey, $7,000,000.", which authorized appropriations for this project totaling $30,000,000 and substituting therefor in section 101(b)(5), "project 76–5–a, Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, New Jersey, $214,600,000.";

(2) striking from subsection 101(b)(8), project 76–8–e, conversion of existing steam plants to coal capability, gaseous diffusion plants and Feed Materials Production Center, Fernald, Ohio, the figure "$12,200,000" and substituting therefor the figure "$13,500,000";

(3) transferring the text appearing as section 106 in section 201(a) of title II to follow immediately after the colon in (d) of section 103 of title I; and

(4) striking the words "June 30, 1976, and the interim period following that fiscal year and ending September 30, 1976" in the text of section 106(a) and substitute therefor the words "September 30, 1977";

(5) prior to issuing a Construction Permit for the Clinch River Breeder Reactor Demonstration Plant the Nuclear Regulatory Commission must first find that there is reasonable assurance that the plant can be constructed and operated at the proposed location without undue risk to the health and safety of the public and that, in the opinion of the Commission, the issuance of a Construction Permit will not be inimical to the common defense and security;

(6) striking from subsection 101(b)(8), "project 76–8–g, additional facilities, enriched uranium production, locations undetermined, $25,000,000." and substituting therefor "project 76–8–g, enriched uranium production facility, Portsmouth, Ohio, $225,000,000.".

Sec. 209. For a period of one year subsequent to the date of enactment of this Act, no nuclear fuel shall be exported to supply a nuclear power reactor under an Agreement for Cooperation which has not been reviewed by the Congress of the United States under the procedures in section 123d. of the Atomic Energy Act of 1954 (42 U.S.C. 2153(d)), as amended by Public Law 93–485, to a non-nuclear-weapon state (within the meaning of the Treaty on the Non-Proliferation of Nuclear Weapons) which has not ratified the Treaty on the Non-Proliferation of Nuclear Weapons unless the first proposed license under such agreement authorizing the export of either such facility or such material after the date of this Act is first submitted to the Congress for review under procedures provided for Agreements for Cooperation in the above-referenced section 123d. of the Atomic Energy Act of 1954, as amended; *Provided, however*, That the foregoing prohibition shall not apply where the Nuclear Regulatory Commission receives advice, in accordance with procedures established by the President, that it is the judgment of the Department of State and other concerned Executive Branch agencies that the proposed export would not be inimical to the common defense and security of the United States and where the Nuclear Regulatory Commission finds that the recipient nation or group of nations has committed itself to apply and adhere to the following principles or their equivalent, and any others which the Commission deems necessary to meet the applicable statutory requirements of the Atomic Energy Act of 1954, as amended, and where the Commission finds that such principles will be applied in a manner acceptable to the United States:

(1) International Atomic Energy Agency safeguards as required by Article III(2) of the Treaty shall be applied with respect to such export and to any special nuclear material produced through the use thereof.

(2) No such material or equipment transferred, and no special nuclear material produced through the use thereof, shall be used for any nuclear explosive device or for research on or development of any nuclear explosive device.

(3) Adequate physical security measures shall be maintained with respect to the material or equipment transferred and with respect to any special nuclear material produced through the use thereof.

(4) No such material or equipment transferred, and no special nuclear material produced through the use thereof, shall be retransferred to the jurisdiction of any other nation or group of nations except under conditions acceptable to the United States. The United States shall not approve such retransfer unless the nation or group of nations designated to receive such retransfer agree that it shall be subject to the principles stated herein.

(5) No such material transferred and no special nuclear material used in or produced through the use of transferred nuclear material or equipment shall be reprocessed, and no irradiated fuel elements containing such material removed from a reactor shall be altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration, or unless such reprocessing or alteration will be under other conditions acceptable to the United States.

(6) The foregoing conditions shall be applied to any nuclear material or equipment which is produced or constructed in the recipient nation or group of nations by or through the use of any exported sensitive nuclear technology.

TITLE III—FOR ENVIRONMENTAL RESEARCH AND SAFETY, BASIC ENERGY SCIENCES, PROGRAM SUPPORT, AND RELATED PROGRAMS

OPERATING EXPENSES

Sec. 301. For "Operating expenses", for the following programs, a sum of dollars equal to the total of the following amounts:

(1) Biomedical and environmental research, $205,400,000, of which $1,000,000 shall be made available to the Water Resources Council to carry out the provisions of section 13 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5912).

(2) Operational safety, $8,800,000.

(3) Environmental control technology, $22,000,000.

(4) Basic energy sciences for the following:

(A) Material sciences, $65,000,000.

(B) Molecular, mathematical, and geosciences, $58,500,000.

(5) Program support, $293,670,000: *Provided*, That $1,250,000 is authorized to be appropriated pursuant to this subparagraph (5) to reimburse the National Bureau of Standards for costs incurred in carrying out the provisions of section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5913).

(6) To carry out the provisions of section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5910),

$500,000 for the Council on Environmental Quality.

PLANT AND CAPITAL EQUIPMENT

SEC. 302. For "Plant and capital equipment", including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the following amounts:

(1) Biomedical and Environmental Research:

Project 77-6-a, modifications and additions to biomedical and environmental research facilities, various locations, $4,200,000.

(2) Program Support:

Project 77-16-a, laboratory support complex, Los Alamos Scientific Laboratory, New Mexico, $6,000,000.

(3) Capital Equipment, not related to construction:

(A) Biomedical and environmental research, $11,418,000.

(B) Operational safety, $1,100,000.

(C) Environmental control technology, $682,000.

(D) Basic energy sciences for the following:

(i) Material sciences, $5,600,000.

(ii) Molecular, mathematical, and geosciences, $3,700,000.

(E) Program Support, $5,225,000.

LIMITATIONS

SEC. 303. The Administration is authorized to start any project set forth in title III, subsection 302 (1) and (2) only if the currently estimated cost of that project does not exceed by more than 25 per centum the estimated cost set forth for that project.

AMENDMENTS TO PRIOR YEAR ACTS

SEC. 304. (a) Section 101 of Public Law 92-314 is amended by striking from subsection (a) "Operating expenses" the figure "$2,110,480,000" and substituting therefor the figure "$2,113,480,000".

(b) Section 202 of Public Law 92-314 is amended by—

(1) striking from subsection (b) the words "four years" and substituting therefor the words "seven years", and

(2) adding the following subsections:

"(h) that payment may be made to those who undertook action of a remedial nature prior to the date of this amendment without the determination required in subsection (b) of this section and notwithstanding the requirement in subsection (c) of this section: *Provided, however,* That the determination whether and to what extent such payment shall be made shall be the decision of the Administration based on the recommendation of the State; that requests for such payments shall not be considered after one year from the date of this amendment: *And provided further,* That the United States shall be released from any mill tailings related liability or claim thereof upon such payment.

"(i) That the requirement in subsection (c) of this section that any remedial action shall be performed by the State of Colorado or its authorized contractor may be waived in advance in writing by the State with approval of the Administration: *Provided, however,* That the determination whether and to what extent payment shall be made shall be the decision of the administration based on the recommendation of the State: *And provided further,* That the United States shall be released from any mill tailings related liability or claim thereof upon such payment.".

(c) Section 204 of Public Law 92-314 is amended by striking the figure "$5,000,000" and substituting therefore the figure "$8,000,000".

TITLE IV—GENERAL PROVISIONS

SEC. 401. Subject to the applicable requirements and limitations of this Act, when so specified in appropriations Acts amounts appropriated for the Administration pursuant to this Act for "Operating expenses" or for "Plant and capital equipment" may be merged with any other amounts appropriated for like purposes pursuant to any other Act authorizing appropriations for the Administration.

SEC. 402. When so specified in appropriation Acts, amounts appropriated pursuant to this Act for "Operating expenses" or for "Plant and capital equipment" may remain available until expended.

SEC. 403. Amounts appropriated pursuant to title II of this Act for construction planning and design, and for general plant projects, are available for use, when necessary, in connection with all Administration programs.

SEC. 404. (a) Any Government-owned contractor operated laboratory, energy research center, or other laboratory performing functions under contract to the Administration may, with the approval of the Administrator, use a reasonable amount of its operating budget for the funding of employee-suggested research projects up to the pilot stage of development. It shall be a condition of any such approval that the director of the laboratory or center involved form an internal mechanism for determining which employee-suggested projects merit funding in a given fiscal year; and any such project may be funded in one or more succeeding years if the review process indicates that it merits such funding.

(b) Each director of a laboratory or center specified in subsection (a) of this section shall submit an annual report to the Administrator on projects being funded under this section; and on completion of each such project shall submit a report to the Technical Information Center of the Administration for inclusion in its data base.

SEC. 405. The Administrator is authorized to perform construction design services for any Administration construction project whenever the Administrator determines that the project is of such urgency that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction in order to meet the needs of national defense or protection of life and property or health and safety.

SEC. 406. Any moneys received by the Administration may be retained and used, as provided in annual appropriations Acts enacted after the date of enactment of this Act, for operating expenses (except sums received from disposal of property under the Atomic Energy Community Act of 1955 and the Strategic and Critical Materials Stockpiling Act, as amended, and fees received for tests or investigations under the Act of May 16, 1910), as amended (42 U.S.C. 2301; 50 U.S.C. 98h; 30 U.S.C. 7)), notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and may remain available until expended. Funds may be obligated for purposes stated in this section only to the extent provided in appropriations Acts.

SEC. 407. Transfers of sums from the "Operating expenses" appropriation may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred, may be merged with the appropriation to which transferred.

SEC. 408. Notwithstanding any other provision of this Act, provisions of sections 405, 406, and 407 of this Act shall not be applicable to any fossil energy activity, program, or subprogram.

SEC. 409. (a) Each officer or employee of the Energy Research and Development Administration who—

(1) performs any function or duty under this Act or any other Act amended by this Act; and

(2) has any known financial interest—

(A) in any person engaged in the business, other than at the retail level, of developing, producing, refining, transporting by pipeline, or converting into synthetic fuel, minerals, wastes, or renewable resources, or in the generation of energy from such minerals, wastes, or renewable resources, or in conducting research, development, and demonstration with financial assistance under this Act or any other Act amended by this Act, or

(B) in property from which minerals are commercially produced.

shall, beginning on February 1, 1977, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statements shall be available to the public.

(b) The Administrator shall—

(1) act within ninety days after the date of enactment of this section—

(A) to define the term "known financial interest" for purposes of paragraph (2) of subsection (a) of this section; and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b) of this section, the Administrator may identify positions within the Administration which are of a nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section or any regulation issued thereunder, shall be fined not more than $2,500 or imprisoned not more than one year, or both.

SEC. 410. The Administrator shall not use any funds appropriated pursuant to this Act under any contract in effect on or after October 1, 1977 for research, services, or material conducted or supplied by the Lawrence Livermore Laboratory for the Energy Research and Development Administration unless that contract specifically provides that the employees of the Lawrence Livermore Laboratory will be guaranteed the establishment of an impartial grievance procedure and further guarantees employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of other mutual aid or protection, and shall also have the right to refrain from any or all of such activiites: *Provided, however,* That no employee rights or activities shall be guaranteed in such contract which would be in violation of California State law.

TITLE V—BASIS FOR GOVERNMENT CHARGE FOR URANIUM ENRICHMENT SERVICES

SEC. 501. Subsection 161v. of the Atomic Energy Act of 1954, as amended, is amended—

(1) by striking out the word "Commission" each time it appears in the subsection, and inserting in lieu thereof the words "Administrator of Energy Research and Development" in all instances except when the deleted word "Commission" is used in the context of ownership of uranium enrichment facilities, the words "Energy Research and Development Administration" shall be substituted therefor;

(2) by deleting in the first proviso in this subsection the words after "(iii)" of the first proviso to the beginning of the second proviso and inserting in lieu thereof the following: "any prices established under this subsection shall be on such a basis as will recover not less than the Government's costs over a

reasonable period of time, and in the opinion of the Administrator of Energy Research and Development will not discourage the development of domestic sources of supply independent of the Energy Research and Development Administration" and

(3) by deleting the third proviso in this subsection and substituting therefor the following: "*Provided*, That before the Administrator of Energy Research and Development establishes such criteria, the proposed criteria shall be submitted to the Congress and referred to the Joint Committee and a period of sixty days shall elapse while the Congress is in session (in computing such sixty days, there shall be excluded the days on which either House is not in session because of adjournment of more than three days): *And provided further*, That any such proposed criteria shall not become effective if during such sixty-day period the Congress passes a joint resolution stating in substance that it does not favor the proposed action: *And provided further*, That prior to the elapse of the first thirty days of any such sixty-day period the Joint Committee shall hold full and complete hearings on the proposed criteria and shall submit a report to the Congress of its views and recommendations respecting the proposed criteria and an accompanying proposed joint resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed criteria. The foregoing provision for Joint Committee review and approval shall also apply prior to any changes by the Administrator of Energy Research and Development in the basic approach used in arriving at the fair value charge for the Government's uranium enrichment services or any additions to that charge for the purpose of not discouraging the development of private uranium enrichment projects."

TITLE VI—ORGANIZATIONAL CONFLICTS

SEC. 601. The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C.) is amended by adding a new section to read as follows:

"SEC. 19. (a) The Administrator shall by regulation require any person proposing to enter into a contract, agreement, or other arrangement, whether by advertising or negotiation, for the conduct of research, development, evaluation activities, or for technical and management support services to provide the Administrator, prior to entering into any such contract, agreement, or arrangement, with all relevant information bearing on whether that person has a possible conflict of interest with respect to (1) being able to render impartial, technically sound, or objective assistance or advice in light of other activities or relationships with other persons or (2) being given an unfair competitive advantage. Such person shall insure, in accordance with regulations published by the Administrator, compliance with this section by any subcontractor of such person, except supply contractors: *Provided*, that this requirement shall not apply to subcontracts of $10,000 or less.

"(b) The Administrator shall not enter into any such contract, agreement, or arrangement unless he affirmatively finds, after evaluating all such information and any other relevant information otherwise available to him, either that (1) there is little or no likelihood that a conflict of interest would exist, or (2) that such conflict has been avoided after appropriate conditions have been included in such contract, agreement, or arrangement; Provided, That if he determines that such conflict of interest exists and that such conflict of interest cannot be avoided by including appropriate conditions therein, the Administrator may enter into such contract, agreement, or arrangement, if he determines that it is in the best interests of the United States to do so and includes appropriate conditions in such contract, agreement, or arrangement to mitigate such conflict.

"(c) The Administrator shall publish rules for the implementation of this section, in accordance with 5 U.S.C. 553, as soon as possible after the date of enactment of this section but in no event later than 180 days after such date."

TITLE VII—LOAN GUARANTEE PROGRAM FOR COMMERCIAL DEMONSTRATION FACILITIES

LOAN GUARANTEE PROGRAM FOR COMMERCIAL DEMONSTRATION FACILITIES

(701) Section 7(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906) is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(7) Federal loan guarantees". "*Provided*, That all of the other provisions of this Act apply to such guarantees in the same manner and to the same extent as they apply to demonstrations under this Act."

TITLE VIII—LOAN GUARANTEES FOR BIOMASS COMMERCIAL DEMONSTRATION FACILITIES

SEC. 801. The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, *et seq.*) is further amended by adding at the end thereof the following new section:

"LOAN GUARANTEES FOR COMMERCIAL BIOMASS DEMONSTRATION FACILITIES

SEC. 20. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a commercial demonstration program to produce on a commercial scale synthetic fuels and other desirable forms of energy from biomass;

"(2) to authorize loan guarantees for the construction and startup and related costs of commercial demonstration facilities for the conversion of biomass into synthetic fuels and other forms of energy; and

"(3) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such commercial demonstration facilities.

"(b)(1) The Administrator is authorized in accordance with such rules and regulations as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this Act) as he deems appropriate, the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by or on behalf of any borrower for the purpose of (A) financing the construction and start-up costs of commercial demonstration facilities for the conversion of biomass into synthetic fuels; and (B) financing the construction and start-up costs of commercial demonstration facilities to generate desirable forms of energy (including synthetic fuels) in commercial quantities from bioconversion. The outstanding indebtedness guaranteed and committed to be guaranteed under clauses (A), and (B), of this paragraph shall at no time exceed $300,000,000.

"(2) An applicant for any guarantee under this section shall provide information to the Administrator in such form and with such content as the Administrator deems necessary.

"(3) Prior to issuing any guarantee under this section the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee.

"(4) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

"(5) With respect to any demonstration facility for the conversion of solid waste (as that term is defined in the Solid Waste Disposal Act, as amended), the Administrator, prior to issuing any guarantee under this section, must be in receipt of a certification from the Administrator of the Environmental Protection Agency and any appropriate State or areawide solid waste management planning agency that the proposed application for a guarantee is consistent with any applicable suggested guidelines published pursuant to section 209(a) of the Solid Waste Disposal Act, as amended, and any applicable State or regional solid waste management plan.".

"(c) The Administrator, with due regard for the need for competition, shall guarantee or make a commitment to guarantee any obligation under subsection (b) only if—

"(1) the Administrator is satisfied that the financial assistance applied for is necessary to encourage financial participaiton;

"(2) the amount guaranteed does not exceed 75 per centum of the total cost of the commercial demonstration facility, as determined by the Administrator: *Provided*, That the amount guaranteed may not exceed 90 per centum of the total cost of the commercial demonstration facility during the period of construction and startup;

"(3) the Administrator has determined that there will be a continued reasonable assurance of full repayment;

"(4) the obligation is subject to the condition that it not be subordinated to any other financing;

"(5) the Administrator has determined, taking into consideration all available forms of assistance under this section and other Federal statutes, that the impacts directly resulting from the proposed commercial demonstration facility have been fully evaluated by the borrower, the Administrator, and others;

"(6) the maximum maturity of the obligation does not exceed thirty years, or 90 per centum of the projected useful economic life of the physical assets of the commercial demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator.

"(d) At least sixty days prior to submitting a report to Congress pursuant to subsection (m) of this section on each guarantee, the Administrator shall request from the Attorney General and the Chairman of the Federal Trade Commission written views, comments, and recommendations concerning the impact of such guarantee or commitment on competition and concentration in the production of energy and give due consideration to views, comments, and recommendations received: *Provided*, That if either official recommends against making such guarantee or commitment, the Administrator shall not do so unless he determines in writing that such guarantee or commitment is in the national interest.

"(e) As soon as the Administrator knows the geographic location of a proposed facility for which a guarantee or a commitment to guarantee is sought under this section, he shall inform the Governor of the State, and officials of each political subdivision and Indian tribe, as appropriate, in which the facility would be located or which would be impacted by such facility. The Administrator shall not guarantee or make a commitment to guarantee under subsection (b) of this section if the Governor of the State in which the proposed facility would be located recommends that such action not be taken unless the Administrator finds that there is an overriding national interest in taking such action in order to achieve the purpose of this section. If the Administrator decides to guarantee or make a com-

mitment to guarantee despite a Governor's recommendation not to take such action, the Adminstrator shall communicate, in writing, to the Governor reasons for not concurring with such recommendation. The Administrator's decision, pursuant to this subsection, shall be final unless determined upon judicial review to be arbitrary and capricious. Such review shall take place in the United States court of appeals for the circuit in which the State involved is located, upon application made within ninety days from the date of such decision. The Administrator shall, by regulation, establish procedures for review of, and comment on, the proposed facility by States; local political subdivisions, and Indian tribes which may be impacted by such facility, and the general public.

"(2) The Administrator shall review and approve the plans of the applicant for the construction and operation of any commercial demonstration and related facilities constructed or to be constructed with assistance under this section. Such plans and the actual construction shall include such monitoring and other data-gathering costs associated with such facility as are required by the comprehensive plan and program under this section. The Administrator shall determine the estimated total cost of such demonstration facility, including, but not limited to, construction costs and start-up costs.

"(f) Except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no guarantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud or material misrepresentation on the part of the holder.

"(g) (1) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on and unpaid principal of the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(2) If the Administrator makes a payment under paragraph (1) of this subsection the Administrator shall be subrogated to the rights of the recipient of such payment as specified in the guarantee or related agreements including, where appropriate, the authority (notwithstanding any other provision of law) to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the commercial demonstration facility if the Administrator determines that this is in the public interest.

"(3) In the event of a default on any guarantee under this section, the Administrator shall notify the Attorney General. who shall take such action as may be appropriate to recover the amounts of any payments made under paragraph (1) (including any payment of principal and interest under subsection (h)) from such assets of the defaulting borrower as are associated with the commercial demonstration facility, or from any other security included in the terms of the guarantee.

"(4) For purposes of this section, patent and technology resulting from the commercial demonstration facility shall be treated as project assets of such facility in accordance with the terms and conditions of the guarantee agreement. Furthermore, the guarantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the commercial demonstration facility shall be available to the Government and its designees on equitable terms, including due consideration to the amount of the Government's default payments.

"(h) With respect to any obligation guaranteed under this section, the Administrator is authorized to enter into a contract to pay, and to pay, the holders of the obligation, for and on behalf of the borrower, from the fund established by this section, as applicable, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such demonstration facility; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of default.

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.

"(i) Regulations required by this section shall be issued within one hundred and eighty days after enactment of this section, except as provided in subsection (s) of this section. All regulations under this section and any amendments thereto shall be issued in accordance with section 553 of title 5, of the United States Code.

"(j) The Administrator shall charge and collect fees for guarantees of obligations authorized by clauses (A) and (B), of subsection (b) (1), in amounts sufficient in the judgment of the Administrator to cover the applicable administrative costs and probable losses on guaranteed obligations, but in any event not to exceed 1 per centum per annum of the outstanding indebtedness covered by the guarantee.

"(k) (1) The Administrator is directed to submit a report to the Congress within one hundred and eighty days after the enactment of this section setting forth his recommendations on the best opportunities to implement a program of Federal financial assistance with the objective of demonstrating production and conservation of energy.

"(2) The report submitted under paragraph (1) of this subsection shall include a comprehensive plan and program to acquire information and evaluate the environmental, economic, social, and technological impacts of the demonstration program under this section. In preparing such a comprehensive plan and program, the Administrator shall consult with the Environmental Protection Agency, the Federal Energy Administration, the Department of Housing and Urban Development, the Department of the Interior, and the Department of Agriculture.

"(3) The comprehensive plan and program described in paragraph (2) shall include, but not be limited to—

"(A) information about potential commercial demonstration facilities proposed in the program under this section;

"(B) any significant adverse impacts which may result from any activity included in the program;

"(C) proposed regulations required to carry out the purposes of this section;

"(D) a list of Federal agencies, governmental entities, and other persons that will be consulted or utilized to implement the program; and

"(E) methods and procedures by which the information gathered under the program will be analyzed and disseminated.

"(4) The report required under paragraph (1) of this subsection shall be updated and submitted to the Congress at least annually for the duration of that program under this section.

"(1) Prior to issuing any guarantee or commitment to guarantee pursuant to subsection (b) of this section, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate a full and complete report on the proposed commercial demonstration facility and such guarantee. Such guarantee or commitment to guarantee shall not be finalized under the authority granted by this section prior to the expiration of ninety calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees: *Provided,* That, where the cost of such commercial demonstration facility exceeds $50,000,000, such guarantee or commitment to guarantee shall not be finalized if prior to the close of such ninety-day period either House passes a resolution stating in substance that such House does not favor the making of such guarantee or commitment.

"(m) (1) There is hereby created within the Treasury a separate fund (hereafter in this section called the 'fund') which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by clauses (A), and (B), of subsection (b) (1) and subsections (g) and (h) of this section.

"(2) There are authorized to be appropriated to the fund from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debt. All amounts received by the Administrator as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund.

"(3) All payments on obligations, appropriate expenses (including reimbursements to other government accounts), and repayments pursuant to operations of the Administrator under this section shall be paid from the fund subject to appropriations. If at any time the Administrator determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

"(4) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities as authorized by subsections (b)(1), (g), and (h), of this section, the Administrator shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by clauses (A), and (B), of subsection (b)(1) and subsections (g), and (h) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act; and the purpose for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(n) For the purposes of this section, the term—

"(1) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, or any territory or possession of the United States,

"(2) 'United States' means the several States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and

"(3) 'borrower' or 'applicant' shall include any individual, firm, corporation, company, partnership, association, society, trust, joint venture, joint stock company, or other non-Federal entity.

"(o) An applicant seeking a guarantee under subsection (b) of this section must be a citizen or national of the United States. A corporation, partnership, firm, or association shall not be deemed to be a citizen or national of the United States unless the Administrator determines that it satisfactorily meets all the requirements of section 802 of title 46, United States Code, for determining such citizenship, except that the provisions in subsection (a) of such section 802 concerning (1) the citizenship of officers or directors of a corporation, and (2) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable.

"(p) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section: *Provided*, That project agreements entered into pursuant to this section for any commercial demonstration facility for the conversion or bioconversion of solid waste (as that term is defined in the Solid Waste Disposal Act, as amended) shall be administered in accordance with the May 7, 1976, Interagency Agreement between the Environment Protection Agency and the Energy Research and Development Administration on the Development of Energy from Solid Wastes, and specifically, that in accordance with this agreement, (1) for those energy-related projects of mutual interest, planning will be conducted jointly by the Environment Protection Agency and the Energy Research and Development Administration, following which project responsibility, will be assigned to one agency; (2) energy-related portions of projects for recovery of synthetic fuels or other forms of energy from solid waste shall be the responsibility of the Energy Research and Development Administration; and (3) the Environmental Protection Agency shall retain responsibility for the environmental, economic, and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines published pursuant to section 209(a) of the Solid Waste Disposal Act, as amended, and any applicable State or regional solid waste management plan.

"(q) Inventions made or conceived in the course of or under a guarantee authorized by this section shall be subject to the title and waiver requirements and conditions of section 9 of this Act.

"(r) With respect to any obligation which is issued after the enactment of this section by, or in behalf of, any State, political subdivision, or Indian tribe and which is either guaranteed under, or supported by taxes levied by said issuer which are guaranteed under, this section, the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successor in interest) shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954, as amended: *Provided*, That the Administrator shall pay to such issuer out of the fund established by this section such portion of the interest on such obligations, as determined by the Secretary of the Treasury to be appropriate after taking into account current market yields (1) on obligations of said issuer, if any, or (2) on other obligations with similar terms and conditions the interest on which is not so included in gross income for purposes of chapter 1 of said Code, and in accordance with, such terms and conditions as the Secretary of the Treasury shall require.

"(s)(1) Each officer or employee of the Energy Research and Development Administration who—

"(A) performs any function or duty under this section; and

"(B)(i) has any known financial interest in any person who is applying for or receiving financial assistance for a commercial demonstration facility under this section; or

"(ii) has any known financial interest in property from which biomass or other energy resources are commercially produced in connection with any commercial demonstration facility receiving financial assistance under this section,

shall, beginning February 1, 1977, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(2) The Administrator shall—

"(A) act within ninety days after the date of enactment of this Act—

"(i) to define the term 'known financial interest' for purposes of paragraph (1) of this subsection; and

"(ii) to establish the methods by which the requirement to file written statements specified in paragraph (1) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

"(B) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(3) In the rules prescribed in paragraph (2) of this subsection, the Administrator may identify specific positions within the Administration which are of a nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this subsection.

"(4) Any officer or employee who is subject to, and knowingly violates, this subsection or any regulation issued thereunder shall be fined not more than $2,500 or imprisoned not more than one year, or both.

"(t) Nothing in this section shall be construed as affecting obligations of any borrower receiving a guarantee pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.

"(u) The information maintained by the Administrator under this section shall be made available to the public, subject to the provisions of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination. *Provided*, That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof, obtained under this section by the Administrator directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further*, That the Administrator shall, upon request, provide such information to (A) any delegate of the Administrator for the purpose of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the chairman. For the purposes of this subsection, the term 'person' shall include the borrower.

"(v) Notwithstanding any other provision of this section, the authority to make guarantees or commitments to guarantee under subsection (b)(1), the authority to make contracts under subsection (h), the authority to charge and collect fees under subsection (j), and the authorities under subsection (m) of this section shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this section.

"(w) For purposes of this section 'biomass' shall include, but is not limited to, animal and timber waste, urban and industrial waste, sewerage sludge and oceanic and terrestrial crops.".

TITLE IX—ENERGY EXTENSION SERVICE

SHORT TITLE

SEC. 901. This title may be cited as the "National Energy Extension Service Act".

FINDINGS AND PURPOSE

SEC. 902(a). The Congress hereby declares—

(1) that the general welfare and the common defense and security require a greater public knowledge of energy conservation opportunities;

(2) that scientific identification and practical demonstration of specifically designed energy conservation opportunities, the dissemination of information relating thereto, and the prompt delivery and acceptance of specific energy conservation opportunities require a national effort;

(3) that the national effort required to develop, demonstrate, and encourage acceptance and adoption of energy conservation opportunities should be coordinated at the Federal level by the Energy Research and Development Administration;

(4) that a special effort must be made to develop and demonstrate practical alternative energy technologies such as solar heating and cooling;

(5) that successful implementation of energy conservation and new energy technologies will require both public awareness and individual capability to use the conservation opportunities and new technology;

(6) that this required awareness and capability can only be achieved on a national basis by an active outreach effort;

(7) that existing energy outreach programs are underfunded;

(8) that any Federal outreach program should be organized with the States as full participants, and each State should plan and coordinate the outreach activities within the State, optimizing the use of existing outreach capabilities;

(9) that Federal assistance should be provided for energy outreach activity, including coordinated energy outreach activities and technical support in each State for such efforts;

(10) that the Energy Research and Development Administration should provide overall national direction and review of federally assisted State energy outreach programs.

(b) The Congress declares that the purposes of this title are—

(1) to establish a positive energy outreach program directed toward small business and individual energy consumers and the organizations that influence energy consumption;

(2) to stimulate, provide for and supplement programs for the conduct of evaluation, planning and other technical support of energy conservation efforts, including energy outreach activities of States.

ESTABLISHMENT OF EXTENSION SERVICE

SEC. 903. (a) There is established in the Energy Research and Development Administration an office to be designated as the Energy Extension Service (hereinafter in this Act referred to as the "Service"). The Service shall be headed by a Director who shall be appointed by and directly responsible to the Administrator of the Energy Research and Development Administration (hereinafter referred to as the "Administrator"). The Director shall be a person who by reason of training, experience, and attainments is exceptionally qualified to implement the programs of the Service. There shall be in the Service a Deputy Director who shall be appointed by the Administrator, who shall have such functions, powers, and duties as may be prescribed from time to time by the Director, and who shall act for, and exercise the powers of, the Director during the absence of disability of, or in the event of a vacancy in the office of, the Director.

(b) The Director shall receive basic pay at the rate provided for level IV of the Executive Schedule in section 5315 of title 5, United States Code, and the Deputy Director shall receive basic pay at the rate provided for level V of such Schedule in section 5316 of such title.

(c) The Director shall have overall responsibility for the national direction of the comprehensive program developed under section 1004 and of all other activities conducted under this title and shall annually review the programs of the various States under section 905 and 906 to insure that they are effectively promoting the realization of the objectives of this title.

DESCRIPTION OF EXTENSION SERVICE

SEC. 904. (a) The Service shall develop and implement a comprehensive program for the identification, development, and practical demonstration of energy conserving opportunities, techniques, materials, and equipment, including opportunities, techniques, or methods responsive to local needs or resources, and alternative energy technologies such as solar heating and cooling, for—

(1) agricultural, commercial, and small business operations, and

(2) new and existing residential, commercial, and agricultural buildings or structures.

Such program shall provide for technical assistance, instruction, information dissemination, and practical demonstrations in energy conservation opportunities, and shall provide an active interface with end use energy consumers at the local level for the purpose of offering active outreach assistance and affording a communication channel for end user technology requirements. Such outreach assistance shall be provided by means of such appropriate local offices, including metropolitan city offices, county agents, and technical staff assistants, as may be required to provide energy extension services.

(b) The program authorized under subsection (a) of this section shall permit each State to establish a technical support institute at one or more colleges or universities designated by the Governor of that State. Each such institute shall—

(1) arrange with other colleges and universities within the State to participate in the work of the institute;

(2) assist in the coordination, support, augmentation and implementation of programs contributing to the understanding of local State and regional energy conservation problems and opportunities;

(3) provide a nucleus of administrative, professional, scientific, technical or other personnel capable of planning, coordinating and directing interdisciplinary programs related to energy conservation methods, technologies and opportunities in support of the energy conservation and energy outreach efforts of such State.

(c) The comprehensive program developed under subsection (a) shall be implemented and carried out within each State pursuant to sections 905 and 906.

(d) The Director shall take such steps as may be necessary to insure that the comprehensive program is implemented in a manner which minimizes conflict with existing services in the private sector of the economy that are similar to those provided under such program.

INITIAL IMPLEMENTATION OF EXTENSION SERVICE

SEC. 905. (a) The Director shall within 45 days after the effective date of this title invite the Governor of each State through competitive procurement to submit a plan for the conduct of energy extension service activities as described in section 904 of this title throughout such State including provisions for appropriate technical support within such State of such activities to disseminate information and provide advice and assistance to individuals, groups, and units of State and local government by means of—

(1) specific studies and recommendations applicable to individual residences, businesses, and agricultural or commercial establishments;

(2) demonstration projects;

(3) distribution of studies and instructional materials;

(4) seminars and other training sessions for State and local government officials and the public; and

(5) other public outreach programs.

(b) Each State shall be accorded not more than 90 days to submit a plan to the Director under subsection (a) of this section. The Director shall promptly review such proposals and shall, with the approval of the Administrator, and subject to the limitations of Sec. 912(c) (1) and (2), provide funds adequate for the support of the proposed energy outreach plan of a State if the Director finds that, such plan—

(1) meets the objectives of this title;

(2) was prepared with opportunity for input from State, county, and local officials, State universities and community colleges, cooperative extension services, community service action agencies, and other public or private organizations involved in active energy outreach programs;

(3) consistent with the objectives and requirements of this title, makes optimum use of existing active outreach or delivery mechanisms or programs, and includes to the optimum extent any existing State, local, university, or other organizations' programs for enemy information, education, or technology transfer which have objectives similar to those of this title and activities similar or related to those specified in section 904 and subsection (a) of this section;

(4) provides that the State will maintain, or require other participating entities within the State to maintain, and make available upon request to the Director, such records with respect to the use and expenditure of any Federal funds paid to the State, or to entities within the State, under this title as the Director may require;

(5) provides for the establishment of effective procedures for responding to external inputs and inquiries;

(6) requires that, to the extent possible, within personnel and funding limitations, on-site energy evaluations will be made available to all consumers and small business concerns, and to other business concerns within such limitations (as to size or otherwise) as the Director may specify.

(7) provides that the State will furnish and widely disseminate information on the types of assistance available under this title, and other Federal and State laws, with respect to the planning, financing, installation, and effective monitoring of energy-related facilities and activities;

(8) provides that the allocation within the State of the funds made available to it under this title will be based on, or give due consideration to, such factors (specifically including potential energy savings and number of persons affected) as the Director determines will best carry out the purpose of this title; and

(9) requires the establishment and implementation of policies and procedures de-

signed to assure that assistance provided under this title does not replace or supplant the expenditures of other Federal or State or local funds for the same purposes, but rather supplements such funds and increases the expenditure of such State or local funds to the maximum extent possible; *Provided,* That there shall be no requirement for matching State or local funds in the guidelines, unless such requirement is included in an annual authorization;

(10) requires effective coordination of the programs under such State plans with other Federal programs which provide funds for university extension programs, in order to avoid duplication;

(11) requires the establishment and implementation of effective procedures specifically designed for the dissemination of information to small business concerns;

(12) limits to a maximum of 20 per centum the portion of the funds made available under this title which may be used for the purchase of equipment, facilities, and library and related materials; and

(13) prohibits the use of any such funds for the purchase of land or interests therein or the repair of buildings or structures;

(14) satisfies such other criteria as the Director may establish to carry out the purpose of this title.

IMPLEMENTATION OF NATIONAL EXTENSION SERVICE

SEC. 906. (a). Notwithstanding the provisions of section 1004, the Director, on behalf of the Administrator, is authorized and directed to provide in each State of the United States not then participating in the program for the conduct at the earliest practicable date, but no later than one year after the effective date of enactment of this title, of energy extension service activities, including provisions for appropriate technical support in such State, to disseminate information and provide advice and assistance to individuals, groups, and units of State and local government by means of—

(1) specific studies and recommendations applicable to individual residences, businesses, and agricultural or commercial establishments;

(2) demonstration projects;

(3) distribution of studies and instructional materials;

(4) seminars and other training sessions for State and local government officials and the public; and

(5) other public outreach programs.

(b) Pursuant to authority described in subsection (a) of this section, the director, with the approval of the Administrator, shall issue guidelines for the preparation and submission of State plans under subsection (c). Such guidelines shall be designed to assure that the plans so submitted will be consistent with this title and will effectively contribute to the achievement of its objectives, and shall allow maximum flexibility and the exercise of maximum discretion by the States. In the preparation of such guidelines, the Administrator shall provide a reasonable opportunity for inputs by representatives of the several States and for a reasonable period for public review and comment. In any event, such guidelines—

(1) shall require the establishment and implementation of policies and procedures designed to assure that assistance provided under this title does not replace or supplant the expenditure of other Federal or State or local funds for the same purposes, but rather supplements such funds and increases the expenditure of such State or local funds to the maximum extent possible;

(2) shall require effective coordination of the programs under such State plans with other Federal programs which provide funds for university extension programs, in order to avoid duplication;

(3) shall require the establishment and implementation of effective procedures specifically designed for the dissemination of information to small business concerns;

(4) shall limit to a maximum of 20 per centum the portion of the funds made available under this title which may be used for the purchase of equipment, facilities, and library and related materials; and

(5) shall prohibit the use of any such funds for the purchase of land or interests therein or the repair of buildings or structures.

(c) On the effective date of the guidelines described in subsection (b) of this section, the Director shall invite the Governor of each State not then participating in the program to submit a plan for the conduct of energy extension service activities throughout such State.

(d) Each State plan submitted under subsection (c) shall be approved by the Director if the Director finds that such plan—

(1) meets the objectives of this title;

(2) was prepared with opportunity for input from State, county, and local officials, State universities and community colleges, cooperative extension services, community service action agencies, and other public or private organizations involved in active energy outreach programs;

(3) consistent with the objectives and requirements of this title, makes optimum use of existing active outreach or delivery mechanisms or programs, and includes to the optimum extent any existing State, local, university, or other organizations' programs for energy information, education, or technology transfer which have objectives similar to those of this title and activities similar or related to those specified in section 904 and subsection (a) of this section;

(4) provides that the State will maintain, or require other participating entities within the State to maintain, and make available upon request to the Director, such records with respect to the use and expenditure of any Federal funds paid to the State, or to entities within the State, under this title as the Director may require;

(5) provides for the establishment of effective procedures for responding to external inputs and inquiries;

(6) requires that, to the extent possible, within personnel and funding limitations, on-site energy evaluations will be made available to all consumers and small business concerns, and to other business concerns within such limitations (as to size or otherwise) as the Director may specify;

(7) provides that the State will furnish and widely disseminate information on the types of assistance available under this title, and under other Federal and State laws, with respect to the planning, financing, installation, and effective monitoring of energy-related facilities and activities;

(8) provides that the allocation within the State of the funds made available to it under this title will be based on, or give due consideration to, such factors (specifically including potential energy savings and number of persons affected) as the Director determines will best carry out the purpose of this title; and

(9) satisfies such other criteria as the Director may establish to carry out the purpose of this title.

(e) If the Director finds that a State plan submitted under subsection (a) does not satisfy the requirements of subsection (d), he shall provide a reasonable opportunity for the State to present arguments in support of such plan and to revise the plan within a reasonable period of time to satisfy such requirements.

(f)(1) If a State does not submit a plan under subsection (a) or its plan as so submitted (with any revisions made under subsection (e)) is not acceptable, the Director (after giving notice and an opportunity for comment to the Governor of such State) shall develop consistent with other subsections of this section an energy extension service plan for the State involved, which conforms to the requirements of subsection (d). In conducting energy extension service activities under any plan developed under this subsection, the Director is authorized to enter into agreements for the utilization of existing Agriculture Extension Service offices and personnel, or such other offices and personnel as may be appropriate, and to provide funds for such operations; and in carrying out the functions of such offices the Director shall make maximum use of any existing delivery mechanisms for the State or local region concerned which are appropriate for purposes of this section, while coordinating his activities in connection with the performance of such functions with all such mechanisms in the State or region which are related to, but not directly involved in, the program under this title.

(2) Each State shall have a period of one hundred and eighty days after the issuance of the indication referred to in subsection (b) (or a longer period if the Director finds, at the request of the Governor of such State, that an extension is justified) within which to submit its plan under subsection (a) and if necessary to revise such plan under subsection (e) before the Director may undertake the development of a plan for such State under paragraph (1) of this subsection.

(3) Any such plan developed by the Director shall be transmitted to the Governor of such state and shall not be implemented for 90 days after the date of transmittal: *Provided,* That notwithstanding the provisions of paragraphs (1) and (2) of this subsection, no such plan shall be implemented if the Governor within the 90 day period notifies the Administration in writing of his objection to the implementation of said plan.

(g) The Director shall annually review the implementation of State plans approved under subsection (d) to insure continued conformance with the requirements of this title. If the Director determines that the implementation of any approved State plan does not satisfy any of such requirements, he shall notify the Governor of the State and any other designated officials of the deficiency, with specific details, and shall provide a reasonable time and opportunity for remedial action. If, after such reasonable time and opportunity, satisfactory remedial action has not been taken to place the implementation in conformance with such requirements, the Director shall so inform the Administrator, who shall give to the Governor notice of intention to terminate Federal assistance, after the opportunity for the Governor's comment, if the implementation continues to not satisfy all such requirements. Federal assistance shall be terminated thereafter if satisfactory action is not taken. In the event Federal assistance is terminated under this subsection, the Director shall proceed in accordance with the procedures in subsection (f) to develop an energy extension service for the

State. In so doing, the Director shall provide for continuation of all activities under the State plan which were in conformance with the requirements of this title and shall effect only such changes in the activities under such plan as are necessary to satisfy such requirements. The Director shall give the Governor notice of any such changes and shall provide a reasonable opportunity for the Governor to comment prior to proceeding with the changes.

(h) In any case where a State has submitted a State energy conservation plan under part C of title III of the Energy Policy and Conservation Act, as amended, the State's plan submitted under subsection (a) of this section shall specifically indicate how its proposed extension service program will complement or supplement any programs of public education under section 362(d)(4) of such Act which are included under such energy conservation plan. In any event, each State plan submitted under subsection (a) of this section shall indicate how its proposed extension service program will complement or supplement any other energy conservation programs being carried out within the State with assistance from Federal funds or under other Federal laws.

(i) The Director shall provide financial assistance to each State having a plan approved under subsection (d) from funds allocated to such State under section 912(c), and shall provide information and technical assistance to such State, for the development, implementation, or modification of the State's plan submitted under subsection (a) of this section.

(j) Nothing in this title, or in the comprehensive program developed under 904 or any State plan approved under this section, shall have the effect of modifying or altering the relationships existing between educational institutions and the States in which they are located in connection with activities provided for under this title.

ADMINISTRATIVE PROVISIONS

SEC. 907. (a) The Director shall promulgate such regulations and directives as may be necessary to carry out the functions and projects of the Service.

(b) The Director shall consult and cooperate with the Secretary of Housing and Urban Development, the Administrator of the Federal Energy Administration, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, the Secretary of Health, Education, and Welfare, the Community Services Administration (and its Institute for Appropriate Technology), the Secretary of Commerce (and the Regional Centers of the Economic Development Administration in the Department of Commerce), the Administrator of the Small Business Administration, and the heads of other Federal agencies administering energy-related programs, with a view toward achieving maximum coordination with such other programs, and for the purpose of insuring to the maximum extent possible that all energy conservation and new energy technology information disseminated by or through Federal programs in a given area are consistent and are fully coordinated in order to minimize duplication of effort and to maximize public confidence in the credibility of Federal or federally assisted programs. It shall be the responsibility of the Director to promote the coordination of programs under this title with other public or private programs or projects of a similar nature.

(c) Federal agencies described in subsection (b) shall cooperate with the Director in disseminating information with respect to the availability of assistance under this title, and in promoting the identification and interests of individuals, groups, or business and commercial establishments eligible for assistance through programs funded under this title.

(d) At such time as the Energy Resources Council is terminated, pursuant to section 108 of the Energy Reorganization Act of 1974 (42 U.S.C. 5818), there shall be established an Interagency Advisory Group, consisting of the Director (as Chairman) and the heads of the Federal agencies described in subsection (b) or their delegates, to assist the Director in carrying out his responsibilities under this section and to provide a mechanism for use by the Director and the heads of such agencies in the performance of their functions under subsections (b) and (c).

COMPREHENSIVE PLAN AND PROGRAM

SEC. 908. (a) The Administrator is authorized and directed to prepare a comprehensive program and plan for Federal energy education, extension, and information activities authorized by this title and any other law. In the preparation of the program and plan, the Administrator shall utilize and consult with the head of each agency referred to in this title and any other Federal agency with an energy education, extension, or information program. Preparation of such program and plan shall not delay in any way the procedures specified in sections 905 and 906 or the implementation otherwise of this title. Rather, the program and plan should reflect the activities mandated by this title and serve as a mechanism for Federal Government-wide coordination and management of those activities with the activities of other Federal agencies under other law.

(b) The comprehensive program and plan shall include, but not be limited to, the following elements:

(1) specific delineation of responsibility of each participating Federal agency in the conduct of this title;

(2) mechanisms established to coordinate the activities under this title, pursuant to section 907 (b), (c), and (d);

(3) a detailed summary of all related Federal programs under other law, including program descriptions, types of delivery mechanisms, budget, and objectives;

(4) procedures for defining and measuring the effectiveness, in terms of increased energy efficiency, fuel savings, adoption of new energy technologies, and other appropriate criteria, of the activities under this title and related activities under other law;

(5) an assessment of other existing Federal assistance and incentives, other than public education, extension, and outreach programs, and their relation to such programs in achieving the objectives of this title;

(6) procedures pursuant to section 904(d) to minimize conflict with existing services in the private sector of the economy which are similar to those under this title and other law; and

(7) a comprehensive and integrated plan for the resulting Federal program, taking into account paragraphs (1) through (6).

(c) The Administrator shall transmit the comprehensive program and plan to the President and to each House of Congress within one hundred and eighty days after the date of enactment of this Act. Thereafter, the Administrator shall revise the program and plan on an annual basis and submit the revision as part of the annual fiscal year budget submission and the report required by section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974.

ADVISORY BOARD

SEC. 909. (a) There is hereby established a National Energy Extension Service Advisory Board (hereinafter in this section referred to as the "Board"), which shall consist of not less than fifteen nor more than twenty members appointed by the Administrator from among persons representative of State, county, and local governments, State universities, community colleges, community service action agencies, consumers, small business, and agriculture. The Administrator shall designate one of the members of the Board to serve as its chairman, and shall provide the Board with such services and facilities as may be necessary for the performance of its functions. The Administrator shall reimburse members of the Board for the full amount of any expenses (including travel expenses) necessarily incurred by them in the performance of their duties as such.

(b) The Board shall carry on a continuing review of the operation of the comprehensive program developed under section 904 and the various State plans approved under sections 905 and 906, for the purpose of evaluating their effectiveness in achieving the objectives of this title and determining how their operation might be improved in furtherance of such objectives.

(c) The Board shall report at least annually to the Administrator, the Director, and the Congress on the status of the program under this title, including any recommendations it may have for administrative or legislative changes to improve its operation.

CONFORMING AMENDMENTS

SEC. 910. (a) Section 103 of the Energy Reorganization Act of 1974 (42 U.S.C. 5801) is amended by redesignating paragraphs (7) through (11) as paragraphs (8) and (12), respectively, and inserting immediately after paragraph (6), the following new paragraph:

"(7) establishing, in accordance with the National Energy Extension Service Act, an Energy Extension Service to provide technical assistance, instruction, and practical demonstrations on energy conservation measures and alternative energy systems to individuals, businesses, and State and local government officials;".

(b) Section 108(b) of such Act (42 U.S.C. 5818(b)) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and", and by adding after paragraph (3) the following new paragraph:

"(4) insure that Federal agencies fully discharge their responsibilities under sections 907 and 908 of the National Energy Extension Service Act for coordination and planning of their related activities under such Act and any other law, including but not limited to the Energy Policy and Conservation Act.".

(c) Section 108 of such Act is further amended by adding at the end thereof the following new subsection:

"(c) There is hereby established an Energy Conservation Subcommittee within the Council, which shall be chaired by the Administrator of the Energy Research and Development Administration, to discharge the responsibilities specified in subsection (b) (4) of this section and other related functions associated with the coordination and management of Federal efforts in the areas of energy conservation and energy conservation research, development and demonstration."

RECORDS

SEC. 911. Each State or other entity within a State receiving Federal funds under this title shall make and retain such records as the Administrator shall require, including records which fully disclose the amount and disposition of such funds; the total cost of the facilities and activities for which such funds were given or used; the source and amount of any funds not supplied by the Administrator; and any data and information which the Administrator determines are necessary to protect the interests of the United States and to facilitate an effective financial audit and performance evaluation. Such recordkeeping shall be in accordance with Federal Management Circular 74–7 (34 C.R.F. part 256) and any modification thereto. The Administrator, or any of his duly authorized representatives, shall have access until the expiration of 3 years after the completion of the facilities or activities involved, to any books, documents, papers, and records or receipts which the Administrator deems to be related or pertinent, directly or indirectly, to any such Federal funds.

APPROPRIATION AUTHORIZATION

SEC. 912. (a) There are authorized to be appropriated to the Director to carry out this title such sums as may be included in the annual authorization, for the fiscal year 1977 (as provided in section 101(7)(G) of title I of this Act) for the nonnuclear programs of the Energy Research and Development Administration.

(b) To the extent provided in the Act making the appropriation involved, any portion of the amount appropriated pursuant to subsection (a) for any fiscal year may be transferred by the Director, with the approval of the Administrator, to the head of any other Federal agency for payment to or expenditure within one or more States under sections 905 and 906 upon a determination by the Director that the existence of regular payment channels or administrative relationships between that agency and the State involved (or entities within such State) makes such transfer and such payment or expenditure administratively more efficient or effective or otherwise promotes the achievement of the objectives of this title; but no transfer of funds under this subsection shall result in any loss by the Director of any authority over program direction or control which is vested in him by this title.

(c)(1) The total amount appropriated pursuant to subsection (a) for any fiscal year (other than the portion thereof needed for administrative expenses, which shall not exceed 5 per centum of such total amount) shall be allocated among the States in accordance with the following formula:

(i) one-half shall be divided equally among all the States; and

(ii) one-half shall be divided among the States in proportion to their respective populations, with each State being entitled to a sum that bears the same ratio to one-half of such total amount as such State's population (determined on the basis of the most recent decennial census) bears to the total population of all the States (as so determined).

Amounts allocated to any State for any fiscal year in accordance with paragraphs (1) and (2) shall be expended only within that State.

(2) During the fiscal year in which this title becomes effective, the Director shall provide funds in accordance with paragraph (1) of this subsection for the implementation of the energy extension service activities in the maximum number of States determined by the Director to be feasible with the total amount appropriated pursuant to subsection (a): *Provided*, That in no case shall such number be less than 10 States.

DEFINITIONS

SEC. 913. As used in this title, the term—

(1) "energy conservation" means "energy conservation, efficient energy use and the utilization of renewable energy resources"; and

(2) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, or any territory or possession of the United States.

And the Senate agree to the same.

MELVIN PRICE,
OLIN E. TEAGUE,
JOHN YOUNG,
THOMAS N. DOWNING,
DON FUQUA,
GEORGE BROWN, Jr.,
TENO RONCALIO,
MIKE MCCORMACK,
RAY THORNTON,
JOHN B. ANDERSON,
CHARLES A. MOSHER,
JOHN W. WYDLER,
BARRY M. GOLDWATER, Jr.,
MANUEL LUJAN, Jr.,
Managers on the Part of the House.
JOHN O. PASTORE,
HENRY M. JACKSON,
STUART SYMINGTON,
FRANK CHURCH,
JOSEPH M. MONTOYA,
J. BENNETT JOHNSTON, Jr.,
JAMES ABOUREZK,
DALE BUMPERS,
CLIFFORD P. CASE,
PAUL J. FANNIN,
HOWARD H. BAKER, Jr.,
CLIFFORD P. HANSEN,
MARK O. HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13350), Energy Research and Development Administration Authorization Act, 1976, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

NONNUCLEAR ENERGY

The compromise funding provisions adopted by the Conference Committee regarding the nonnuclear programs is reflected in the language of the Conference report.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, FISCAL YEAR 1977 CONGRESSIONAL ACTION TABLE

[In thousands]

	Costs	Changes in selected resources	Construction obligations	Capital equipment obligations	Total	Appropriations	Administration request
FOSSIL ENERGY DEVELOPMENT							
Coal:							
Liquefaction:							
Senate authorization	$60,546	−$7,600	$71,000	0	$123,946		
House authorization	81,130	−4,300	50,000	0	126,830	$102,957	[1] $123,946
Committee recommendation	81,130	−4,300	50,000	0	126,830		
High Btu gasification:							
Senate authorization	59,254	−14,200	10,000	$100	55,154		
House authorization	64,400	−11,346	10,000	100	63,154	54,154	[2] 45,154
Committee recommendation	59,254	−14,200	10,000	100	55,154		
Low Btu gasification:							
Senate authorization	30,052	−3,500	24,500	0	51,052		
House authorization	50,000	−3,000	5,000	0	52,000	40,352	[3] 33,052
Committee recommendation	50,000	−3,000	5,000	0	52,000		
Advanced power systems:							
Senate authorization	12,800	9,700	0	0	22,500		
House authorization	12,800	9,700	0	0	22,500	22,500	22,500
Committee recommendation	12,800	9,700	0	0	22,500		
Direct combustion:							
Senate authorization	58,116	4,300	0	0	62,416		
House authorization	52,116	300	0	0	52,416	51,901	52,416
Committee recommendation	55,116	2,284	0	0	57,400		
Advanced research and supporting technology:							
Senate authorization	36,585	500	6,900	150	44,135		
House authorization	38,585	1,100	6,900	150	46,735	44,120	46,685
Committee recommendation	38,500	1,100	6,900	150	46,650		
Demonstration plants:							
Senate authorization	50,600	2,400	0	0	53,000		
House authorization	50,600	2,400	0	0	53,000	53,000	53,000
Committee recommendation	50,600	2,400	0	0	53,000		

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, FISCAL YEAR 1977 CONGRESSIONAL ACTION TABLE—Continued

[In thousands]

	Costs	Changes in selected resources	Construction obligations	Capital equipment obligations	Total	Appropriations	Administration request
FOSSIL ENERGY DEVELOPMENT—Continued							
Coal—Continued							
Magnetohydrodynamics:							
Senate authorization	$27,841	$10,145	$6,700	0	$44,686	$39,990	$37,441
House authorization	27,341	10,100	0	0	37,441		
Committee recommendation	27,841	10,145	6,700	0	44,686		
Total coal:							
Senate authorization	335,794	1,745	119,100	$250	456,889	408,974	411,644
House authorization	376,972	4,954	71,900	250	454,076		
Committee recommendation	375,241	4,129	78,600	250	458,220		
Petroleum and natural gas:							
Gas and oil extraction:							
Senate authorization	37,374	7,700	0	100	45,174	41,156	35,174
House authorization	34,674	6,600	0	100	41,374		
Committee recommendation	35,269	7,900	0	100	43,269		
Supporting research:							
Senate authorization	1,831	0	0	170	2,001	2,001	2,001
House authorization	1,831	0	0	170	2,001		
Committee recommendation	1,831	0	0	170	2,001		
Total petroleum and natural gas:							
Senate authorization	39,205	7,700	0	270	47,175	43,157	37,175
House authorization	36,505	6,600	0	270	43,375		
Committee recommendation	37,100	7,900	0	270	45,270		
In situ technology:							
Oil shale:							
Senate authorization	12,085	9,000	0	450	21,535	21,418	21,535
House authorization	12,085	9,000	0	450	21,535		
Committee recommendation	12,085	9,000	0	450	21,535		
In situ coal gasification:							
Senate authorization	13,536	1,500	0	0	15,036	8,236	8,236
House authorization	12,836	2,200	0	0	15,036		
Committee recommendation	13,536	1,500	0	0	15,036		
Supporting research:							
Senate authorization	1,310	0	0	50	1,360	1,360	1,360
House authorization	1,310	0	0	50	1,360		
Committee recommendation	1,310	0	0	50	1,360		
Total in situ technology:							
Senate authorization	26,931	10,500	0	500	37,931	31,014	31,131
House authorization	26,231	11,200	0	500	37,931		
Committee recommendation	26,931	10,500	0	500	37,931		
Total fossil energy development:							
Senate authorization	401,930	19,945	119,100	1,020	541,995	483,145	[4] 479,950
House authorization	439,708	22,754	71,900	1,020	535,382		
Committee recommendation	439,272	22,529	78,600	1,020	541,421		
SOLAR ENERGY DEVELOPMENT							
Direct thermal applications:							
Heating and cooling of buildings:							
Residential demonstrations:							
Senate authorization	13,500	1,800	0	(5)	15,300	(5)	(5)
House authorization	37,600	13,400	0	(5)	51,000		
Committee recommendation	33,000	10,000	0	(5)	43,000		
Commercial demonstrations:							
Senate authorization	31,500	−500	0	(5)	31,000	(5)	(5)
House authorization	35,200	11,200	0	(5)	46,400		
Committee recommendation	29,000	10,000	0	(5)	39,000		
Research and development:							
Senate authorization	9,900	2,600	0	(5)	12,500	(5)	(5)
House authorization	13,700	3,800	0	(5)	17,500		
Committee recommendation	12,000	3,000	0	(5)	15,000		
Development in support of demonstration:							
Senate authorization	11,500	2,500	0	(5)	14,000	(5)	(5)
House authorization	15,500	4,500	0	(5)	20,000		
Committee recommendation	14,000	3,500	0	(5)	17,500		
Subtotal heating and cooling of buildings:							
Senate authorization	66,400	6,400	0	500	[6] 73,300	86,500	45,300
House authorization	102,000	32,900	0	1,700	[6] 136,600		
Committee recommendation	88,000	26,500	0	1,700	[6] 116,200		
Agriculture and process heat:							
Senate authorization	7,400	1,300	0	0	8,700	7,800	3,900
House authorization	7,500	3,500	0	0	11,000		
Committee recommendation	7,500	3,500	0	0	11,000		
Subtotal direct thermal applications:							
Senate authorization	73,800	7,700	0	500	82,000	94,300	49,200
House authorization	109,500	36,400	0	1,700	147,600		
Committee recommendation	95,500	30,000	0	1,700	127,200		
Technology support and utilization:							
Solar energy resource assessment:							
Senate authorization	4,700	800	0	200	5,700	6,000	1,500
House authorization	6,000	1,000	0	0	7,000		
Committee recommendation	5,000	1,000	0	0	6,000		
Solar Energy Research Institute:							
Senate authorization	1,700	800	0	200	2,700	2,500	1,500
House authorization	1,700	800	0	0	2,500		
Committee recommendation	1,700	800	0	0	2,500		
Technology utilization and information dissemination:							
Senate authorization	2,100	900	0	200	3,200	3,000	1,000
House authorization	4,300	1,800	0	0	6,100		
Committee recommendation	3,200	1,300	0	0	4,500		
Subtotal technology support and utilization:							
Senate authorization	8,500	2,500	0	600	11,600	11,500	4,000
House authorization	12,000	3,600	0	0	15,600		
Committee recommendation	9,900	3,100	0	0	13,000		

Footnotes at end of table.

	Costs	Changes in selected resources	Construction obligations	Capital equipment obligations	Total	Appropriations	Administration request
SOLAR ENERGY DEVELOPMENT—Continued							
Solar electric applications:							
Solar thermal:							
Senate authorization	$41,000	$5,500	$21,000	0	$67,500	$75,800	[7] $45,900
House authorization	41,200	10,200	15,000	0	66,400		
Committee recommendation	41,000	8,400	20,000	0	69,400		
Photovoltaics:							
Senate authorization	45,000	8,000	2,500	$11,900	67,400	64,000	32,800
House authorization	36,300	12,900	0	5,700	54,900		
Committee recommendation	41,000	10,000	0	5,700	56,700		
Wind:							
Senate authorization	16,000	4,000	2,600	2,700	25,300	21,600	17,100
House authorization	19,300	7,300	0	1,100	27,700		
Committee recommendation	16,500	4,800	0	1,100	22,400		
Ocean thermal:							
Senate authorization	11,000	3,000	1,000	0	15,000	13,500	9,200
House authorization	15,900	5,100	0	0	21,000		
Committee recommendation	13,700	4,300	0	0	18,000		
Subtotal solar electric applications:							
Senate authorization	113,000	20,500	27,100	14,600	175,200	174,900	105,000
House authorization	112,700	35,500	15,000	6,800	170,000		
Committee recommendation	112,200	27,500	20,000	6,800	166,500		
Fuels from biomass:							
Senate authorization	6,500	1,500	5,000	1,500	14,500	9,700	4,300
House authorization	5,600	2,400	0	0	8,000		
Committee recommendation	6,500	1,500	5,000	0	13,000		
Total solar energy development:							
Senate authorization	201,800	32,200	32,100	17,200	283,300	290,400	162,500
House authorization	239,800	77,900	15,000	8,500	341,200		
Committee recommendation	224,100	62,100	25,000	8,500	319,700		
GEOTHERMAL ENERGY DEVELOPMENT							
Engineering research and development:							
Senate authorization	17,600	0	0	200	17,800	13,700	11,700
House authorization	15,100	0	0	600	15,700		
Committee recommendation	16,000	0	0	450	16,450		
Resource exploration and assessment:							
Senate authorization	9,600	400	0	100	10,100	9,100	10,100
House authorization	16,500	800	0	800	18,100		
Committee recommendation	13,400	600	0	400	14,400		
Hydrothermal technology applications:							
Senate authorization	16,200	2,400	0	700	19,300	14,700	12,900
House authorization	10,200	2,000	0	700	12,900		
Committee recommendation	14,200	1,800	0	700	16,700		
Advanced technology applications:							
Senate authorization	8,200	1,900	0	500	10,600	12,400	10,600
House authorization	14,200	3,500	0	900	18,600		
Committee recommendation	11,500	3,000	0	700	15,200		
Utilization experiments:							
Senate authorization	0	0	0	0	0	0	0
House authorization	3,200	800	0	0	4,000		
Committee recommendation	0	0	0	0	0		
Environmental control and institutional studies:							
Senate authorization	4,800	0	0	0	4,800	4,800	4,800
House authorization	5,600	0	0	200	5,800		
Committee recommendation	5,200	0	0	100	5,300		
Total geothermal energy development:							
Senate authorization	56,400	4,700	0	1,500	62,600	54,700	50,100
House authorization	64,800	7,100	0	3,200	75,100		
Committee recommendation	60,300	5,400	0	2,350	68,050		
CONSERVATION RESEARCH AND DEVELOPMENT							
Electric energy systems and energy storage:							
Electric energy systems:							
Senate authorization	25,920	4,040	0	9,500	39,460	26,500	24,460
House authorization	17,920	3,040	0	3,500	24,460		
Committee recommendation	22,000	4,000	0	7,000	33,000		
Energy storage:							
Senate authorization	33,920	7,290	0	1,500	43,340	33,500	22,340
House authorization	29,620	5,020	0	2,700	37,340		
Committee recommendation	32,000	6,000	0	2,000	40,000		
Subtotal electric energy systems and energy storage:							
Senate authorization	59,840	11,960	0	11,000	82,800	60,000	46,800
House authorization	47,540	8,060	0	6,200	61,800		
Committee recommendation	54,000	10,000	0	9,000	73,000		
End-use and technologies to improve efficiency:							
Industry:							
Senate authorization	18,760	3,670	0	1,000	23,430	15,430	12,430
House authorization	16,360	4,570	0	1,500	22,430		
Committee recommendation	18,000	4,000	0	1,000	23,000		
Buildings:							
Senate authorization	25,910	4,490	0	0	30,400	26,600	21,600
House authorization	30,310	5,290	0	1,000	36,600		
Committee recommendation	27,600	4,400	0	500	32,500		
Transportation:							
Senate authorization	33,290	6,180	0	500	39,970	27,670	23,670
House authorization	29,690	2,980	0	1,000	33,670		
Committee recommendation	31,400	4,600	0	750	36,750		
Improved conversion efficiency:							
Senate authorization	19,800	11,700	8,500	500	40,500	23,650	15,500
House authorization	12,300	10,850	8,500	1,350	33,000		
Committee recommendation	15,300	11,700	8,500	750	36,250		
Energy Extension Service:							
Senate authorization	18,000	7,000	0	0	25,000	7,500	0
House authorization	8,000	2,000	0	0	10,000		
Committee recommendation	18,000	7,000	0	0	25,000		

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, FISCAL YEAR 1977 CONGRESSIONAL ACTION TABLE—Continued

[In thousands]

	Costs	Changes in selected resources	Construction obligations	Capital equipment obligations	Total	Appropriations	Administration request
CONSERVATION RESEARCH AND DEVELOPMENT—Continued							
End-use and technologies improve efficiency—Continued							
Small grants program:							
Senate authorization	$7, 500	$2, 500	0	0	$10, 000	0	0
House authorization	0	0	0	0	0		
Committee recommendation	7, 500	2, 500	0	0	10, 000		
Price supports for MSW reprocessing:							
Senate authorization	0	0	0	0	0	0	0
House authorization	200	4, 800	0	0	5, 000		
Committee recommendation	200	4, 800	0	0	5, 000		
Total end-use and technologies to improve efficiency:							
Senate authorization	123, 260	35, 540	$8, 500	$2, 000	169, 300	$100, 850	$73, 200
House authorization	96, 860	30, 490	8, 500	4, 850	140, 700		
Committee recommendation	118, 000	39, 000	8, 500	3, 000	168, 500		
Total conservation research and development:							
Senate authorization	183, 100	47, 500	8, 500	13, 000	252, 100	160, 850	120, 000
House authorization	144, 400	38, 550	8, 500	11, 050	202, 500		
Committee recommendation	172, 000	49, 000	8, 500	12, 000	241, 500		
ENVIRONMENTAL RESEARCH AND SAFETY							
Biomedical research:							
Senate authorization	196, 734	9, 682	4, 200	10, 418	221, 034	211, 934	197, 534
House authorization	194, 624	9, 682	4, 200	11, 918	220, 424		
Conference recommendation	195, 700	9, 700	4, 200	11, 418	221, 018		
Operational safety:							
Senate authorization	5, 958	2, 649	0	1, 000	9, 607	9, 407	8, 707
House authorization	6, 268	2, 649	0	1, 100	10, 017		
Conference recommendation	6, 200	2, 600	0	1, 100	9, 900		
Environmental:							
Senate authorization	20, 155	1, 422	0	560	22, 137	19, 637	16, 137
House authorization	21, 455	1, 422	0	960	23, 837		
Conference recommendation	20, 700	1, 300	0	682	22, 682		
Scientific and technical education:							
Senate authorization	3, 750	1, 250	0	0	5, 000	0	0
House authorization	3, 750	1, 250	0	0	5, 000		
Conference recommendation	3, 750	1, 250	0	0	5, 000		
Total Environmental Research and Safety:							
Senate authorization	226, 597	15, 003	4, 200	11, 978	257, 778	240, 978	222, 378
House authorization	226, 097	15, 003	4, 200	13, 978	259, 278		
Conference recommendation	226, 350	14, 850	4, 200	13, 200	258, 600		
BASIC ENERGY SCIENCES							
Materials sciences:							
Senate authorization	59, 100	5, 900	0	5, 700	70, 700	61, 500	55, 700
House authorization	57, 000	5, 200	0	5, 500	67, 700		
Conference recommendation	59, 100	5, 900	0	5, 600	70, 600		
Molecular, mathematical, and geosciences:							
Senate authorization	54, 800	4, 700	0	3, 800	63, 300	53, 800	53, 300
House authorization	53, 400	4, 300	0	3, 600	61, 300		
Conference recommendation	54, 100	4, 400	0	3, 700	62, 200		
Total basic energy sciences:							
Senate authorization	113, 900	10, 600	0	9, 500	134, 000	115, 300	109, 000
House authorization	110, 400	9, 500	0	9, 100	129, 000		
Conference recommendation	113, 200	10, 300	0	9, 300	132, 800		
Program support:							
Senate authorization	289, 455	1, 860	6, 000	5, 225	302, 540	287, 647	280, 530
House authorization	291, 810	1, 860	6, 000	5, 100	304, 770		
Conference recommendation	291, 810	1, 860	6, 000	5, 225	304, 895		
CEQ—Operating expenses:							
Senate authorization	500	0	0	0	500	500	500
House authorization	500	0	0	0	500		
Conference recommendation	500	0	0	0	500		
Total nonnuclear/common:							
Senate authorization	1, 473, 682	131, 808	169, 900	59, 423	1, 834, 813	1, 633, 520	1, 424, 958
House authorization	1, 517, 515	172, 667	105, 600	51, 948	1, 847, 730		
Conference recommendation	1, 527, 532	166, 039	122, 300	51, 595	1, 867, 466		

[1] Authorization basis; appropriation request is $103,946,000.
[2] Authorization basis; appropriation request is $55,194,000.
[3] Authorization basis; appropriation request is $40,352,000.
[4] Authorization basis; appropriation request is $477, 250,000.
[5] Detail not available.
[6] Does not total since detail not available.
[7] Authorization basis; appropriation request was $43,400,000.

DISCUSSION OF SELECTED PROVISIONS

The Conferees look favorably on the need to pursue the rapid development of low Btu combined cycle plants. Therefore, the Conferees intend that the technology, which is more appropriate for a second low Btu pilot plant for utility use, be aggressively pursued under operating expenses.

By the authorization of a second low Btu fuel gas demonstration, the Conferees intend that the demonstration plant program, which is the result of the Congressional initiative in the FY '76 authorization (P.L. 94–187), be accelerated. The Committee notes that responses to the ERDA "Request for Proposal" (RFP) for a low Btu fuel gas demonstration plant have included both industrial and utility applications. Therefore, although the Senate authorization report, 94–332, spoke of utility applications, the Conferees believe that the broader goal of this program is the demonstration of both industrial and utility applications. The Conferees note that the specific nomenclature of the plants does not require ERDA to choose between sectors of the economy but to pursue the goal of a balanced program. At the same time, the Conferees emphasize that one of the demonstration plants should be given favorable consideration by ERDA for the utility application of low Btu combined cycle technology.

The Conference Committee accepted an authorization for ERDA's oil and gas recovery program, which is $1.9 million above the House figure of $43 million.

The Conference Committee is concerned that this program has been expanded by the agency without sufficient new personnel to properly manage the program. Basic research work, the backbone of the entire program, will continue to suffer as personnel from the laboratories are assigned to the management of the increased number of field tests. While no adverse affect may occur at present, future expansion may be jeopardized. Without the basic research work as background, decisions on future field tests and even program direction cannot be made. The Conferees feel that ERDA must take a close look at this program to assure the Congress that needed research programs are continued and accelerated field demonstrations are being pursued.

The Conference Committee requests the completion of a report on the ERDA fluidized bed test facilities contemplated in this authorization prior to the obligation of any funds authorized pursuant to this legislation.

The study should consider the adequacy of the two program plans, one for the Morgantown Energy Research Center and one for the Argonne National Laboratory.

The report should set forth the basis for the decision to proceed, including the advantages and disadvantages of locating the facilities at such installations or elsewhere. The ERDA report should also include a detailed presentation for each proposed facility of the:

Organization and Staffing.

Technical Services and Resources.

Contracting Plan.
Design Control Procedures.
Program Scheduling and Control.
Cost Accounting.
Field Construction Control.
Shakedown and Startup Procedures.
Total Estimated Costs.

The House version of the geothermal authorization, section 101(6) of H.R. 13350, contained a specific authorization of $3,600,000 for "initiation of activities necessary to the construction of a hot brine test facility." The conference language for geothermal energy development in Section 201(e) does not expressly include the specific authorization for the hot brine test facility. The conferees do not intend that this omission be construed to negate the authorization for the facility, nor reduce the priority placed on the initiation of the necessary activities.

The conference recommendation of the authorization for resource assessment in the geothermal energy development is based on the action of the Appropriations Committee in providing $6,000,000 under other continuing authority for funding of the Geological Survey's resource assessment in support of the ERDA program under the Geothermal Energy Research, Development and Demonstration Act of 1974. In the absence of that Appropriations Committee action, the authorization included in the conference recommendation would have been appropriately increased.

The Conferees strongly urge ERDA to seriously consider all aspects of technology development in its review of responses for the demonstration plant program.

HYGAS technology, which has been developed in an ERDA pilot plant, offers the potential for economic success as revealed in a recent independent study made for ERDA. The Conferees urge ERDA to consider the selection of a process for the demonstration plant, which has both economic promise and process reliability. The Conferees recognize the importance of the cost sharing aspects in any joint program but are concerned if the best technology for demonstration is not developed promptly.

The conference substitute follows the Senate version with respect to the establishment of a $50,000 limitation on financial support to any participant and the list of characteristics of "appropriate technology".

The conference substitute places management direction of the program in appropriate technology under the Assistant Administrator for Conservation Research and Development. The conferees for the House insisted however, that a new statutory "Office of Appropriate Technology" not be created within ERDA. This choice of location should in no way be construed to imply that projects funded under this program be restricted to energy conservation. Appropriate energy technology can and will involve technologies utilizing energy resources, including renewable sources of energy, as well as the technologies of energy conservation. The conferees intend that recipients of financial support under this title be fully accountable to ERDA for the use of public funds. The conference substitute, therefore, requires that a written report be submitted on all activities funded by the Office. The conferees have also incorporated language to emphasize their intent that the ERDA patent policy embodied in section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 apply to all grants, agreements or contracts under this title.

The conferees also wish to emphasize the responsibility of the Administrator to exercize his best judgment in choosing among the proposals submitted to ERDA under this title. The conferees anticipate that there will be significant competition for funds authorized by this legislation. The conferees expect that many worthy proposals will be submitted and funded and that the Administrator will adopt firm, fair and defensible criteria for setting priorities for selection.

The United States economy annually generates a total of 3.5 billion tons of solid waste, or about 34,000 pounds per person. The disposal costs associated with solid waste disposal are rapidly increasing, so that the collection and disposal costs for municipal waste alone amount to $4.5 billion annually. Additionally, suitable landfill sites are difficult to find and expensive. This solid waste contains both combustible, energy producing materials and recycable products and materials.

In recognition of the potential for energy production from municipal solid waste the conferees have agreed to authorize a price guarantee program to stimulate demonstrations of processes to recover energy from waste. The ERDA enabling legislation (Section 7 (a) and (c) of the Federal Non-Nuclear Energy Research and Development Act of 1974) already authorizes ERDA to issue price supports subject to specific authorization. The language adopted by the conferees to authorize ERDA to issue price guarantees is intended to more clearly define the type of program to be established by ERDA. Price guarantees for the product of the plant would assure adequate project revenues to cover debt service and plant operating costs.

Thus, section 110 of the 1977 ERDA authorization allows the Administrator to assist in the demonstration of the production of synthesis gas, methane, methanol, anhydrous ammonia, and similar energy intensive products from municipal waste by entering into agreements with units of local government or persons proposing to construct facilities for the manufacture of such products from municipal waste. These agreements may guarantee that the income received from such demonstration project will remain at levels which make such construction and operation economically feasible. The level of income guaranteed should give consideration to technological, production, and market price risks and shall be so structured as to provide adequate incentive for efficient and economic operation.

The conferees' intentions are that the term of such agreements should not exceed the projected useful life of the facility. The term involved should provide for favorable economic safeguards and incentives so that a local government or persons entering into such contracts can obtain suitable long term financing from non-Federal sources.

The agreements should also specify the level at which support payments become payable thereunder, and provide for possible adjustment thereto, when with the actual cost of manufacture in the facility involved becomes established. The support payments level should insure that the annual payments to be provided by the unit of local government shall not exceed the annual principle and interest associated with the project bonded indebtedness, together with other manufacturing costs.

The conferees support the House report language,

"It should be emphasized that the Committee intends that the prescribed procedure in section 7(c) of P.L. 93-577 be utilized by ERDA in implementing the authorized program even though the Congressional authorization required by section 7(c) is included in this bill. The Committee directs that ERDA keep the appropriate committees of Congress fully and currently informed about its implementation of this section, with specific report(s) including the information developed under sections 7(c)(1) through 7(c)(5)."

The conferees instruct the Administrator to promulgate and publish in the Federal Register regulations and procedures relating to the program authorized by this subsection as soon as feasible.

Both the Senate and House of Representatives adopted provisions in the ERDA authorization bill which would transfer responsibility for preparation of demonstration project water assessments as defined in section 13(b) of the Nonnuclear Energy Research and Development Act of 1974 from ERDA to the Water Resources Council. Because the language in the two bills is identical, the Conferees do not consider this matter to be at issue. However, in accepting the language in the Senate measure as an amendment offered during debate on the authorization bill, the managers of the Senate bill indicated that acceptance was contingent upon the orderly and timely preparation of the water assessments. If this responsibility is not carried out in an effective and timely manner, preparation of these necessary and essential water assessments could result in lengthy unnecessary delays in the demonstration plant program. It is intended that the report for the water resource assesment be a precondition to actual construction and not to any preliminary work and studies such as site selection, conceptual design, and data collection which do not result in a commitment to the demonstration at the site. Actual consideration of a demonstration project will still be precluded until the water assessment has been completed. By clarifying the intent of the provision, the Conferees also recognize that adequate water assessments often cannot be made until work on site selection and other preliminary matters has been undertaken.

Furthermore, since elements of the WRC-prepared Water Assessment may address environmental issues which should also be properly addressed by ERDA in its NEPA process, it is preferable that the WRC Assessment be available for use in preparation of the draft EIS in order to avoid duplication of effort. At the very least, the WRC Assessment should be available for public comment concurrently with the draft EIS so that ERDA will be able to consider all environmentally related concerns in a timely fashion in its final EIS. To achieve this result, ERDA and WRC shall coordinate preparation of their draft EIS's and Water Assessments, respectively. Additionally, ERDA shall request WRC to conduct its Water Assessment as early as practicable in each matter subject to Section 13 (b) and (c) and, in any event, prior to ERDA's site acceptance.

The Committee also suggests that the WRC and ERDA develop a memorandum of understanding immediately after enactment of this legislation to detail more specifically the scheduling and working arrangements for the two agencies to implement these amendments.

Section 206 of the Senate bill, contained a provision deleted in Conference which would have required 20 per cent of the funds made available for programs in solar energy technology to be set aside for small business concerns and individual inventors.

The deletion was predicated on the understanding of the Conferees that it would prevent rigidity in the administration of solar energy technology programs, and the recognition of the Conferees that current practice results in more than 20 per cent of the solar funds being made available to small business concerns and individual inventors.

The Conferees do not in any way intend to denigrate their concern for small business and individual involvement in ERDA's solar energy programs by the deletion of this section.

By including Section 116 in the Conference report, the Managers intended to gather relevant and necessary information on environmental monitoring and control associated with ERDA's pilot plants and demonstration plants. This one-time report will greatly aid Congressional oversight of the ERDA research program and will eventually result in a much better program. However, the Conferees did not intend that this would ever be used to delay ERDA's program, either through judicial or administrative means. The Conferees expect this report to be accurate, but still an estimate of the environmental monitoring and control needs of ERDA's pilot and demonstration plants. The report is not a final agency decision on the plants themselves.

The Conferees authorized an increase in program support level, in excess of the Presidential budget request. The Conferees expect that the budget increase approved by the Appropriation Conference Committee for program support will be apportioned in approximately the ratio of the increases approved by the authorizing Committees.

The Committee of Conference encourages ERDA to hold hearings in connection with significant expenditures of funds in geographic areas that will be affected by the scope of the programs and activities resulting from such expenditures.

Even though not presently required by law to do so, the ERDA already has an established practice of holding all environmentally-related hearings in the areas to be affected. Hearings by the Board of Contract Appeals are also held in local areas to be affected by a contract with ERDA and other parties.

While the conferees do not believe that a statutory requirement is necessary to insure that views of citizens located in areas to be impacted by ERDA activities, the conferees endorse the ERDA practice of holding localized hearings. Wherever possible such hearings should be consolidated over a broad geographic area as possible to insure economy and efficiency.

In considering National Energy Extension Service the Conferees evaluated Title VI of the Senate amendment to H.R. 13350 in juxtaposition to House Bill, H.R. 13676 which was included in conference with House bill, H.R. 13350 by adoption of a House rule (H. 1553).

The action of the conferees was to adopt the general approach of the House bill with a number of specific changes to reflect provisions contained in Title VI of the Senate amendment. The Conferees agreed to include the basic concept of Energy Conservation Institutes, but in a modified form. Since there may be a need for technical support for the energy extension service to perform analytic and advisory functions, the conferees agreed to specifically authorize each State to designate one or more universities and colleges as technical support institutes as part of the State plan submitted to the Director. The conferees do not intend that the institutes be established for the purpose of performing energy-related basic research, hardware development or demonstration projects. The conferees also do not intend that funds for the technical support institutes be used to fund the writing of proposals for the conduct of further research. The technical support institutes are intended to provide State conservation programs under direction of the Governor with an enhanced analytical and research capability. It is not intended that the technical support centers be created to compete with each other and with programs funded by ERDA nationally.

The Conferees do intend that the institutes have the authority at the discretion of the Governor of the State to plan and conduct, as a component of the State Energy Extension plan at the college or university with which it is affiliated, competent investigations and evaluations of energy conservation methods, technologies, and opportunities, and to provide for seminars in areas of energy conservation of scientists, engineers, architects, economists, urban planners, and others in related disciplines. Such investigations and evaluations may include supply and demand for various energy resources; conservation and best use of available supplies of energy; practical demonstrations of energy conserving methods, techniques, and equipment for transportation, residential, commercial, industrial and agricultural applications; methods for the use of renewable energy technologies and for the development and use of energy technologies which are appropriate to the needs of local communities and enhance community self-reliance; methods for the development and use of energy technologies characterized by simplicity of installation, operation and maintenance; economic, legal, geographic, and ecological aspects of energy conservation; and scientific information dissemination activities including identifying, assembling, and interpreting energy data relating to energy conservation, and the results of scientific, engineering, economic, and other research deemed potentially significant for solution of problems involving energy conservation, providing means for improved communication regarding such research results, and ascertaining the existing and potential effectiveness of such research in the solution of practical problems;

In describing the functions of an Energy Extension Service, the conferees have used the term "practical demonstration". This term should not be construed to encompass the construction of buildings or large pieces of equipment or the "demonstration" of technology in the sense of pilot or demonstration plants. Rather the conferees anticipate that the role of the service will be the demonstration to end use consumers of techniques, methods of operation, or cost effectiveness of energy technologies.

The Conferees direct that, in the period between enactment of this title and the appointment of the Director of the Extension Service, activity under this title in furtherance of the ERDA Extension Service program be initiated under the supervision of an acting director which the Administrator may choose from existing ERDA personnel. This must be an interim measure of short duration to permit the immediate initiation of the energy extension service program.

The House amendment provided authority, in the event that a State failed to submit a proposal for an energy extension service, for the Administrator to develop and operate a service in such State. The conference substitute adopts the language authorizing their initiative on the part of ERDA, but provides that the Governor may, if he wishes, veto implementation of the ERDA plan by communicating in writing with the Administrator.

The Conferees understand that the Administrator will have to select a limited number of States for funding in the first fiscal year with the current appropriated funding. However with appropriations already enacted, the Conferees believe a minimum of ten (10) such initial programs can be supported. The Conferees wish to emphasize that this is a minimum number. The conferees by their authorization of $25,000,000 for energy extension in title I, contemplate enactment of supplemental appropriations for fiscal year 1977 for the operation of the program authorized under this title. Therefore, the authority enacted in this title will permit support of approved extension service proposals in as many States as available appropriations will allow.

NUCLEAR ENERGY

EXPLANATORY STATEMENT OF THE COMMITTEE ON CONFERENCE

Uranium enrichment

The Senate amendment includes an additional $8.8 million authorization not included in the House bill to be used in support of the add-on uranium enrichment facility at Portsmouth, Ohio. This additional authorization was requested by Dr. Robert Seamans, Administrator of Energy Research and Development, on June 8, 1976.

Of the $8.8 million additional authorization, $6 million will provide for an increase in the level of effort in ERDA's program to permit actual in-plant testing of new and larger equipment being designed for use in the so-called "add-on" gaseous diffusion plant and for an increase in the level of technical support for design and construction of the "add-on" plant. The rest of the $8.8 million is for engineering and administrative support necessary to carry out various activities related to expansion of uranium enrichment capacity in the United States.

Because the additional authorization is needed to meet the design and construction schedules for expansion of the Portsmouth uranium enrichment facility—a matter which is vital to assuring that domestic and foreign nuclear powerplants in the mid-1980's will not suffer from a shortage of nuclear fuel—the conferees have agreed to accept the provisions in the Senate amendment.

The conferees note that this authorization of $8.8 million is in addition to the $230 million authorization for this construction project which is already contained in H.R. 13350. In that regard, the fiscal year 1977 project authorization in H.R. 13350 for expansion of the Portsmouth facility includes only a part of the total funding authorization for the project and does not represent an authorization for the total estimated cost of that project. Thus, any limitation provision under this or earlier Acts which applies to the total estimated cost of the Portsmouth add-on would not be limited to the fiscal year funding authorization for that project. The budget estimate submitted by Dr. Seamans estimates the cost of an 8.75 million swu/year add-on plant to be $2,800,000,000 in constant fiscal year 1977 dollars, not including any costs associated with the construction of the three to six powerplants that would be required to provide electricity to such an add-on plant.

Naval reactor development

The Senate amendment includes an additional authorization of $6.7 million in operating expenses for naval reactor development which is not included in the House bill.

The additional authorization would restore funds which were reduced during the budget review process by the Office of Management and Budget. The additional authorization would avoid delays in advanced development work directed at achieving improved longer-life and more reliable nuclear propulsion plants. The conferees have agreed to accept the provision in the Senate amendment in order to preclude delays in the development of these vital advanced propulsion plants.

Laser fusion

The House bill includes an authorization for laser fusion operating expenses to be used to further the development of laser fusion through cooperative efforts with private industry which exceeds the comparable authorization in the Senate amendment by $5,675,000.

In view of the progress which has been achieved by the Laser Fusion Program, the contributions of private industry to that program, and the potential which this program has for contributing to the development of clean economic power by thermonuclear reaction, the conferees have agreed to accept the additional authorization in the House bill.

Congressional review of certain nuclear exports

The House bill includes a provision in section 201 which would require Congressional review of the next licensing activity relating to the export of a nuclear power reactor or nuclear fuel for a power reactor to any country not a party to the Treaty on the Non-Proliferation of Nuclear Weapons. This would occur in cases where the covering Agreement for Cooperation had not been reviewed by the Congress under the procedures of section 123 d. of the Atomic Energy Act of 1954, as amended by Public Law 93-485. Section 407 of the Senate amendment includes a similar provision. The Senate version differs from the House provision in two respects: first, the Senate provision would not be limited to the use of funds authorized for fiscal year 1977; and second, it would exempt exports to nuclear weapons states from the further Congressional review procedures.

Under the Atomic Energy Act of 1954, as amended by Public Law 93-485, any proposed Agreement for Cooperation for the peaceful uses of atomic energy or any proposed amendment to, or extension of, an existing Agreement must be submitted to the Congress for review. The procedures for Congressional review of new Agreements or amendments, and extensions of existing agreements, give the Congress the opportunity to determine whether the proposed Agreement meets the nonproliferation objectives of the United States and provides a basis for rejection of any proposal which does not meet those objectives. The purpose of the House and Senate provisions is to give the Congress the opportunity to review the first export of nuclear fuel or facilities under those Agreements for Cooperation which were entered into before these Congressional review and approval procedures were adopted. Under both the House and Senate provisions, Congressional review of such proposed exports would be limited to those Agreements entered into prior to October 14, 1975, with countries which have not ratified the Treaty on the Non-Proliferation of Nuclear Weapons. The Senate provision would add an additional limitation that the Agreement be with a non-nuclear, weapons state. No further export of either a reactor or fuel under an Agreement covered by the provision could take place until after the Congress had been given an opportunity to review the proposed export, as it now has for a new Agreement for Cooperation or an amendment or an extension of an existing Agreement.

The conferees have determined that the requirement for further Congressional review of an export under each of the affected Agreements could impose additional procedural requirements for exports under existing commitments which could result in procedural delays.

An alternative approach to the House and Senate provisions would be to permit further exports under the existing Agreements covered by the provision without Congressional review, but only under Congressionally-imposed conditions which will assure the Congress that the export will not be contrary to the nonproliferation objectives of the United States. This approach would have the advantage of avoiding the imposition of additional procedural requirements for exports under existing commitments, but it would still permit the Congress to assure that all future exports of nuclear material and equipment are in accord with our nonproliferation objectives. The export would be subject to Congressional review and approval only if it failed to meet the minimum acceptable standards established by the Congress.

The conferees have agreed, therefore, to a substitute provision which sets forth two conditions which must be met to exempt the particular export from the Congressional review and approval procedures of the provision. First, it must be the judgment of the State Department and other concerned Executive Branch agencies that the proposed export would not be inimical to the national security interests of the United States. This is now required by the President's February 2, 1976, Executive Order on export licensing policy procedures. Second, the Nuclear Regulatory Commission must find that the recipient nation or group of nations will apply to the export, in a manner acceptable to the United States, certain fundamental nonproliferation principles governing (1) the application of international safeguards requirements to exported material and equipment, (2) the use of exported material or equipment to make nuclear explosives for any purpose, (3) the application of adequate physical security arrangements, (4) the retransfer by the recipient country of material or equipment exported by the United States or the retransfer of material produced from U.S.-exported material or equipment, (5) the reprocessing of U.S.-exported material or material used in U.S.-exported equipment and (6) the application of the foregoing principles to any nuclear equipment which is constructed by the recipient country using any sensitive nuclear technology or utilization facility exported by the United States. The term "sensitive nuclear technology" means any information (including information incorporated in a production or utilization facility or important component part thereof, or in a nuclear-related substance) which is not available to the public and which is important to the design, construction, fabrication, operation or maintenance of a uranium enrichment or nuclear fuel reprocessing facility, or a facility for the production of heavy water. In addition to the principles set forth in the substitute provision, the proposed export would be subject to the terms and conditions of the covering Agreement for Cooperation and any further conditions or requirements imposed by the Nuclear Regulatory Commission in the exercise of its export licensing authority.

With two exceptions (the requirement for U.S. approval of the reprocessing of non-U.S. fuel used in a U.S.-exported reactor and the imposition of the nonproliferation principles to nuclear facilities constructed by the recipient country using any U.S.-exported sensitive nuclear technology or utilization facility), the nonproliferation principles set forth in the substitute provision are the same principles now applied by NRC, ERDA, and the State Department in considering proposed nuclear exports and by ERDA and the State Department in negotiating new Agreements for Cooperation. All of these requirements are essential elements for a fully effective nonproliferation policy. Thus, the conditions specified in the substitute provision would not represent a fundamental change in United States export policy. At the same time, the conditions would assure that the right of Congressional review of these exports would be waived only if the proposed export meets the minimum requirements necessary to the fulfillment of our national nonproliferation objectives. In addition, the language in this bill does not reduce the need for comprehensive nuclear explosives proliferation control legislation of the type reported out by the Joint Committee this month to each House. To avoid any reduction in the priority and emphasis which such broad legislation should receive, the life of procedures in the conference language is limited to one year.

Clinch River breeder reactor licensing requirements

The House bill includes a provision which requires the Nuclear Regulatory Commission to find, prior to issuing a construction permit for the Clinch River Breeder Reactor, that there is reasonable assurance that the plant can be constructed and operated at the proposed location without undue risk to the public health and safety and that, in the opinion of the Commission, the issuance of a construction permit will not be inimical to the common defense and security. The Senate amendment contains no comparable provision.

The House provision would incorporate into the statute those requirements for the issuance of a construction permit which are now contained in section 50.35 of the Nuclear Regulatory Commission's regulations (10 CFR section 50.35).

The language adopted by the House does not mean that the Nuclear Regulatory Commission could not change its existing regulations to impose additional requirements. The concern which leads to this amendment in the House is in large measure a result of some lack of understanding regarding the licensing process for the Clinch River plant. For this reason, the Nuclear Regulatory Commission is directed to submit a report to the Joint Committee on Atomic Energy, for the information of the Congress, on the safety and environmental analyses and findings which have to be made at each step of the licensing process for the Clinch River plant. This report is to be submitted no later than January 10, 1977. For the foregoing reasons, the conferees agree to accept the House provision.

Public disclosure of financial interests

The House bill includes a provision which would require a publicly available written report by each employee of the Energy Research and Development Administration setting forth all known financial interests of the employee in any person engaged in the energy business with ERDA financial assistance or in property from which minerals are commercially produced. The Senate amendment contains no comparable provision.

The House provision is intended to require public disclosure by ERDA policy making officials of their known financial interests in companies which deal with ERDA. Virtually identical requirements have already been enacted by the Congress for the Federal Energy Administration and the Interior Department.

Recent investigations conducted by the General Accounting Office indicate a general failure by the agencies of the Executive Branch to enforce existing conflict of interest requirements. According to the proponents of the provision, this failure to enforce is due in large part to the absence of a statutory provision specifying enforcement procedures and penalties for violations. The proponents argue that the House provision would remedy this deficiency and that public disclosure is required to assure compliance.

The House provision would assist in identifying potential conflict of interest situations and in assuring that action is taken to correct those situations. The conferees, therefore, agree to accept the House provision.

Funding of employee-suggested research projects

The House bill contains in Section 404 a provision that any Government-owned contractor operated laboratory, energy research center, or other laboratory performing functions under contract to ERDA may, with the approval of the Administrator of ERDA, use up to one-half of one percent of its operating budget for the funding of employee-suggested research projects up to the pilot stage of development. The Senate amendment contains no comparable provision. The House provision, by very modest funding, could result in substantial employee research contributions. The conferees agreed to adopt the House provision, as modified in the conference committee.

Labor relations at Lawrence Livermore Laboratory

The House bill includes a provision which requires that any future contract entered into by the Energy Research and Development Administration for the operation of the Lawrence Livermore Laboratory provide that the employees of the laboratory will be guaranteed the establishment of an impartial grievance procedure, the right to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and the right to refrain from any and all such activities. The provision also specifies that no employee rights or activities shall be guaranteed in the contract which would be in violation of California State law. The Senate amendment contains no comparable provision.

The conferees note that there is a continuing dispute between the University of California, the contractor now operating the Lawrence Livermore Laboratory, and its employees at the laboratory. Apparently, that dispute focuses principally upon the contractor's failure to establish an impartial grievance procedure which is acceptable to the employees at the laboratory. The House provision would require ERDA and the contractor to make their best efforts to resolve this dispute on or before October 1, 1977, the time when the present contract for operating the laboratory would expire. Such efforts would be clearly limited by the requirement that any right guaranteed the employees of the laboratory cannot be in violation of California State law.

In light of the apparent failure of normal labor management negotiations to resolve this dispute, the conferees have agreed to accept the House provision. The conferees wish to emphasize, however, that any efforts to resolve this dispute which are required by this provision must be consistent with applicable State of California law.

The conferees do not intend that this provision serve as a precedent for federal involvement in labor relations at other ERDA facilities or other government contractor-operated facilities. Rather, the provision is intended to address what appears to be a unique and continuing situation present at this laboratory.

Title V

Both the House bill and the Senate amendment include provisions which would amend subsection 161 v. of the Atomic Energy Act of 1954, as amended, to permit the Energy Research and Development Administration to change the basis for establishing the price for the Government's uranium enrichment services in order to enable the Government to obtain a fair value for these services from both foreign and domestic customers. The House bill includes a proviso which specifies that no increase in the price for the Government's enrichment services which is based upon proposed criteria under the revised pricing authority contained in the bill can go into effect until after the Joint Committee holds full and complete hearings on the proposal and gives its prior approval to the proposal. The Senate amendment does not contain any provision comparable to this proviso.

The proviso in the House bill was added by the Joint Committee during the April 29, 1976, mark-up session for H.R. 13350. The proviso was intended to permit ERDA to come forward with proposals to change the price for enrichment services but to prevent any such change from going into effect until after the Joint Committee had fully assessed the potential consequences of the price change through hearings at which all interested parties had been given an opportunity to testify.

Although ERDA finds the Senate amendment to be acceptable, it strongly objects to the proviso in the House bill as being unconstitutional on the ground that the provision gives a Committee of the Congress the power to nullify enacted legislation unilaterally by inaction.

In order to satisfy this objection, the conferees have agreed to accept the Senate amendment with the additional requirements that (1) the period for congressional review of the proposed change be extended to 60 days, (2) the Joint Committee hold full hearings on the proposal within the 60-day period, and (3) any such proposed change not become effective if, within the 60-day period, the Congress passes a joint resolution stating in substance that it does not favor the proposed change. This alternative would give the Joint Committee ample time to hold full hearings on any pricing proposal and would give the Congress the opportunity to prevent any proposal which is not in the public interest from going into effect. At the same time, the alternative would satisfy ERDA's stated objection that the House provision would permit a congressional committee to prevent a pricing proposal from going into effect by inaction.

Organizational conflict of interest

The Senate amendment includes a provision which would amend the Energy Reorganization Act of 1974 to define by statute the responsibility of the Energy Research and Development Administration to avoid conflicts of interest in its contracts with private persons or organizations involved in energy research and development. The House bill contains no comparable provision.

The Energy Research and Development Administration has advised that it is strongly opposed to adoption of the Senate provision. ERDA's principal objection is to the requirement that it solicit and evaluate public comments on a written notice of potential organizational conflicts of all prospective contractors prior to the making of any contract or other arrangement. This requirement, according to ERDA, would be extremely burdensome and time-consuming for the agency and would result in unavoidable delay in ERDA's procurement process. ERDA also argues that the requirement would conflict with the Administrative Procedure Act and would impose on ERDA procedural requirements which would not be applicable to other major procurement agencies such as the Department of Defense and NASA.

ERDA contends that the prohibition on entering into contracts for which appropriate restrictions cannot be attached to avoid an organizational conflict of interest and the requirement that ERDA maintain and promote active and open competition are already fully satisfied by the statutes and regulations governing ERDA's procurement activities.

Finally, ERDA argues that any legislation governing organizational conflicts of interest ought to take a Government-wide approach. ERDA, therefore, suggests that an amendment to the existing laws governing *all* Federal procurement activities, adopted after suitable hearings at which all interested agencies are given an opportunity to participate, would be a preferable approach to the Senate provision.

A Government-wide approach to solving organizational conflict of interest problems is also recommended by the Office of Federal Procurement Policy of the Office of Management and Budget, and the General Services Administration is presently developing regulations following this approach.

Although it would appear that a Government-wide approach to this problem is the preferred approach, there is no sound reason to defer all individual approaches until an all-encompassing bill is enacted. For this reason, the conferees have agreed to the Senate provision with clarifying revisions adopted by the conference committee.

RESERVATION TO TITLE VIII BY BARRY M. GOLDWATER, JR.

Representative Barry M. Goldwater, Jr., although he signed the Conference Report on the part of the House, emphasized that he did so with reservations about enacting at this time Title VIII, the major new Title added by the Senate, and the additional reservation that the House should be allowed to have a separate vote on the Title.

Melvin Price,
Olin E. Teague,
John Young,
Thomas N. Downing,
Don Fuqua,
George Brown, Jr.,
Teno Roncalio,
Mike McCormack,
Ray Thornton,
John B. Anderson,
Charles A. Mosher,
John W. Wydler,
Barry M. Goldwater, Jr.,
Manuel Lujan, Jr.,
Managers on the Part of the House.

John O. Pastore,
Henry M. Jackson,
Frank Church,
Joseph M. Montoya,
J. Bennett Johnston, Jr.,
James Abourezk,
Dale Bumpers,
Clifford P. Case,
Paul J. Fannin,
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Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 11337, PROVIDING FOR MID-DECADE CENSUS OF POPULATION

Ms. SCHROEDER, on behalf of Mr. Henderson, filed the following conference report and statement on the bill (H.R. 11337) to amend title 13, United States Code, to provide for a mid-decade census of population, and for other purposes:

Conference Report (H. Rept. No. 94–1719)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11337) to amend title 13, United States Code, to provide for a mid-decade census of population, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That section 1 of title 13, United States Code, relating to definitions, is amended to read as follows:

"§1. Definitions

"As used in this title, unless the context requires another meaning or unless it is otherwise provided—

"(1) 'Bureau' means the Bureau of the Census;

"(2) 'Secretary' means the Secretary of Commerce; and

"(3) 'respondent' includes a corporation, company, association, firm, partnership, proprietorship, society, joint stock company, individual, or other organization or entity which reported information, or on behalf of which information was reported, in response to a questionnaire, inquiry, or other request of the Bureau."

Sec. 2. Section 3 of title 13, United States Code, relating to the seal of the Bureau of the Census, is amended by striking out "affixed to all certificates and attestations that may be required from the Bureau" and inserting in lieu thereof "affixed to all documents authenticated by the Bureau".

SEC. 3. (a) Section 4 of title 13, United States Code, relating to the functions of the Secretary, is amended to read as follows:

"§ 4. Functions of Secretary; regulations; delegation

"The Secretary shall perform the functions and duties imposed upon him by this title, may issue such rules and regulations as he deems necessary to carry out such functions and duties, and may delegate the performance of such functions and duties and the authority to issue such rules and regulations of such officers and employees of the Department of Commerce as he may designate."

(b) The table of sections of chapter 1 of title 13, United States Code, is amended by striking out—

"4. Functions of Secretary; delegation."

and inserting in lieu thereof—

"4. Functions of Secretary; regulations; delegation."

SEC. 4. (a) Section 5 of title 13, United States Code, relating to schedules and inquiries, is amended—

(1) in the section heading, by striking out "Schedules" and inserting in lieu thereof "Questionnaires"; and

(2) in the text thereof, by striking out "schedules" and inserting in lieu thereof "questionnaires".

(b) The table of sections of chapter 1 of title 13, United States Code, is amended by striking out—

"5. Schedules; number, form, and scope of inquiries."

and inserting in lieu thereof—

"5. Questionnaires; number, form, and scope of inquiries."

SEC. 5. (a) Section 6 of title 13, United States Code, relating to requests for information, is amended to read as follows:

"§ 6. Information from other Federal departments and agencies; acquisition of reports from other governmental and private sources

"(a) The Secretary, whenever he considers it advisable, may call upon any other department, agency, or establishment of the Federal Government, or of the government of the District of Columbia, for information pertinent to the work provided for in this title.

"(b) The Secretary may acquire, by purchase or otherwise, from States, counties, cities, or other units of government, or their instrumentalities, or from private persons and agencies, such copies of records, reports, and other material as may be required for the efficient and economical conduct of the censuses and surveys provided for in this title.

"(c) To the maximum extent possible and consistent with the kind, timeliness, quality and scope of the statistics required, the Secretary shall acquire and use information available from any source referred to in subsection (a) or (b) of this section instead of conducting direct inquiries."

(b) The table of sections of chapter 1 of title 13, United States Code, is amended by striking out—

"6. Requests to other departments and offices for information, acquisition of reports from governmental and other sources."

and inserting in lieu thereof—

"6. Information from other Federal departments and agencies; acqusition of reports from other governmental and private sources."

SEC. 6. (a) So much of section 8 of title 13, United States Code, as precedes subsection (d) thereof is amended to read as follows:

"§ 8. Authenticated transcripts or copies of certain returns; other data; restriction on use; disposition of fees received

"(a) The Secretary may, upon written request, furnish to any respondent, or to the heir, successor, or authorized agent of such respondent, authenticated transcripts or copies of reports (or portions thereof) containing information furnished by, or on behalf of, such respondent in connection with the surveys and census provided for in this title, upon payment of the actual or estimated cost of searching the records and furnishing such transcripts or copies.

"(b) Subject to the limitations contained in sections 6(c) and 9 of this title, the Secretary may furnish copies of tabulations and other statistical materials which do not disclose the information reported by, or on behalf of, any particular respondent, and may make special statistical compilations and surveys, for departments, agencies, and establishments of the Federal Government, the government of the District of Columbia, the government of any possession or area (including political subdivisions thereof) referred to in section 191(a) of this title, State or local agencies, or other public and private persons and agencies, upon payment of the actual or estimated cost of such work. In the case of nonprofit agencies or organizations, the Secretary may engage in joint statistical projects, the purpose of which are otherwise authorized by law, but only if the cost of such projects are shared equitably, as determined by the Secretary.

"(c) In no case shall information furnished under this section be used to the detriment of any respondent or other person to whom such information relates, except in the prosecution of alleged violations of this title."

(b) The table of sections of chapter 1 of title 13, United States Code, is amended by striking out—

"8. Certified copies of certain returns; other data; restriction on use, disposition of fees received."

and inserting in lieu thereof—

"8. Authenticated transcripts or copies of certain returns; other data; restriction on use; disposition of fees received.

SEC. 7. (a) Section 141 of title 13, United States Code, relating to censuses of population, unemployment, and housing, is amended to read as follows:

"§ 141. Population and other census information

"(a) The Secretary shall, in the year 1980 and every 10 years thereafter, take a decennial census of population as of the first day of April of such year, which date shall be known as the 'decennial census date', in such form and content as he may determine, including the use of sampling procedures and special surveys. In connection with any such census, the Secretary is authorized to obtain such other census information as necessary.

"(b) The tabulation of total population by States under subsection (a) of this section as required for the apportionment of Representatives in Congress among the several States shall be completed within 9 months after the census date and reported by the Secretary to the President of the United States.

"(c) The officers or public bodies having initial responsibility for the legislative apportionment or districting of each State may, not later than 3 years before the decennial census date, submit to the Secretary a plan identifying the geographic areas for which specific tabulations of population are desired. Each such plan shall be developed in accordance with criteria established by the Secretary, which he shall furnish to such officers or public bodies not later than April 1 of the fourth year preceding the decennial census date. Such criteria shall include requirements which assure that such plan shall be developed in a nonpartisan manner. Should the Secretary find that a plan submitted by such officers or public bodies does not meet the criteria established by him, he shall consult to the extent necessary with such officers or public bodies in order to achieve the alterations in such plan that he deems necessary to bring it into accord with such criteria. Any issues with respect to such plan remaining unresolved after such consultation shall be resolved by the Secretary, and in all cases he shall have final authority for determining the geographic format of such plan. Tabulations of population for the areas identified in any plan approved by the Secretary shall be completed by him as expeditiously as possible after the decennial census date and reported to the Governor of the State involved and to the officers or public bodies having responsibility for legislative apportionment or districting of such State, except that such tabulations of population of each State requesting a tabulation plan, and basic tabulations of population of each other State, shall, in any event, be completed, reported, and transmitted to each respective State within one year after the decennial census date.

"(d) Without regard to subsections (a), (b), and (c) of this section, the Secretary, in the year 1985 and every 10 years thereafter, shall conduct a mid-decade census of population in such form and content as he may determine, including the use of sampling procedures and special surveys, taking into account the extent to which information to be obtained from such census will serve in lieu of information collected annually or less frequently in surveys or other statistical studies. The census shall be taken as of the first day of April of each such year, which date shall be known as the 'mid-decade census date'.

"(e) (1) If—

"(A) in the administration of any program established by or under Federal law which provides benefits to State or local governments or to other recipients, eligibility for or the amount of such benefits would (without regard to this paragraph) be determined by taking into account data obtained in the most recent decennial census, and

"(B) comparable data is obtained in a mid-decade census conducted after such decennial census,

then in the determination of such eligibility or amount of benefits the most recent data available from either the mid-decade or decennial census shall be used.

"(2) Information obtained in any mid-decade census shall not be used for apportionment of Representatives in Congress among the several States, nor shall such information be used in prescribing congressional districts.

"(f) With respect to each decennial and mid-decade census conducted under subsection (a) or (d) of this section, the Secretary shall submit to the committees of Congress having legislative jurisdiction over the census—

"(1) not later than 3 years before the appropriate census date, a report containing the Secretary's determination of the subjects proposed to be included, and the types of information to be compiled, in such census;

"(2) not later than 2 years before the appropriate census date, a report containing the Secretary's determination of the questions proposed to be included in such census; and

"(3) after submission of a report under paragraph (1) or (2) of this subsection and before the appropriate census date, if the

Secretary finds new circumstances exist which necessitate that the subjects, types of information, or questions contained in reports so submitted be modified, a report containing the Secretary's determination of the subjects, types of information, or questions as proposed to be modified.

"(g) As used in this section, 'census of population' means a census of population, housing, and matters relating to population and housing.".

(b) The table of sections of chapter 5 of title 13, United States Code, is amended by striking out—

"141. Population, unemployment, and housing."

and inserting in lieu thereof—

"141. Population and other census information."

Sec. 8. (a) Subchapter IV of chapter 5 of title 13, United States Code, is amended by striking out section 181 and inserting in

"§ 181. Population

"(a) During the intervals between each census of population required under section 141 of this title, the Secretary, to the extent feasible, shall annually produce and publish for each State, county, and local unit of general purpose government which has a population of fifty thousand or more, current data on total population and population characteristics and, to the extent feasible, shall biennially produce and publish for other local units of general purpose government current data on total population. Such data shall be produced and published for each State, county, and other local unit of general purpose government for which data is compiled in the most recent census of population taken under section 141 of this title. Such data may be produced by means of sampling or other methods which the Secretary determines will produce current, comprehensive, and reliable data.

"(b) If the Secretary is unable to produce and publish current data during any fiscal year on total population for any county and local unit of general purpose government as required by this section, a report shall be submitted by the Secretary to the President of the Senate and to the Speaker of the House of Representatives not later than 90 days before the commencement of the following fiscal year, enumerating each government excluded and giving the reasons for such exclusion.

"§ 182. Surveys

"The Secretary may make surveys deemed necessary to furnish annual and other interim current data on the subjects covered by the censuses provided for in this title.

"§ 183. Use of most recent population data

"(a) Except as provided in subsection (b), for the purpose of administering any law of the United States in which population or other population characteristics are used to determine the amount of benefit received by State, county, or local units of general purpose government, the Secretary shall transmit to the President for use by the appropriate departments and agencies of the executive branch the data most recently produced and published under this title.

"(b) This section shall not apply with respect to any law of the United States which, for purposes of determining the amount of benefit received by State, county, or local units of general purpose government, provides that only population or population characteristics data obtained in the most recent decennial census may be used in such determination.

"§ 184. Definitions

"For purposes of this subchapter—

"(1) the term 'local unit of general purpose government' means the government of a county, municipality, township, Indian tribe, Alaskan native village, or other unit of government (other than a State) which is a unit of general government, and

"(2) the term 'State' includes the District of Columbia."

(b) The table of sections for chapter 5 of title 13, United States Code, is amended by striking out—

"181. Surveys."

and inserting in lieu thereof—

"181. Population.
"182. Surveys.
"183. Use of most recent population data.
"184. Definitions.

Sec. 9. Section 191 of title 13, United States Code, relating to geographic scope of censuses, is amended to read as follows:

"§ 191. Geographic scope of censuses

"(a) Each of the censuses authorized by this chapter shall include each State, the District of Columbia, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Commonwealth of Puerto Rico, and as may be determined by the Secretary, such other possessions and areas over which the United States exercises jurisdiction, control, or sovereignty. Inclusion of other areas over which the United States exercises jurisdiction or control shall be subject to the concurrence of the Secretary of State.

"(b) For censuses taken in the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or any possession or area not specifically designated in subsection (a) of this section, the Secretary may use census information collected by the Governor or highest ranking Federal official, if such information was obtained in accordance with plans prescribed or approved by the Secretary.

"(c) If, pursuant to a determination by the Secretary under subsection (a) of this section, any census is not taken in a possession or area over which the United States exercises jurisdiction, control, or sovereignty the Secretary may include data obtained from other Federal agencies or government sources in the census report. Any data obtained from foreign governments shall be obtained through the Secretary of State.".

Sec. 10. Section 195 of title 13, United States Code, relating to use of sampling, is amended to read as follows:

"§ 195. Use of sampling

"Except for the determination of population for purposes of apportionment of Representatives in Congress among the several States, the Secretary shall, if he considers it feasible, authorize the use of the statistical method known as 'sampling' in carrying out the provisions of this title.".

Sec. 11. (a) Subchapter V of chapter 5 of title 13, United States Code, is amended by adding at the end thereof the following new section:

"§ 196. Special censuses

"The Secretary may conduct special censuses for the government of any State, or of any county, city, or other political subdivision within a State, for the government of the District of Columbia, and for the government of any possession or area (including political subdivisions thereof) referred to in section 191(a) of this title, on subjects covered by the censuses provided for in this title, upon payment to the Secretary of the actual or estimated cost of each such special census. The results of each such special census shall be designated 'Official Census Statistics'. These statistics may be used in the manner provided by applicable law."

(b) The table of sections of subchapter V of chapter 5 of title 13, United States Code, is amended by adding at the end thereof—

"196 Special censuses."

Sec. 12. (a) Section 214 of title 13, United States Code, relating to wrongful disclosure of information, is amended to read as follows:

"§ 214. Wrongful disclosure of information

"Whoever, being or having been an employee or staff member referred to in subchapter II of chapter 1 of this title, having taken and subscribed the oath of office, or having sworn to observe the limitations imposed by section 9 of this title, publishes or communicates any information, the disclosure of which is prohibited under the provisions of section 9 of this title, and which comes into his possession by reason of his being employed (or otherwise providing services) under the provisions of this title, shall be fined not more than $5,000 or imprisoned not more than 5 years, or both."

(b) Section 23 of title 13, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The Secretary may utilize temporary staff, including employees of Federal, State, or local agencies or instrumentalities, and employees of private organizations to assist the Bureau in performing the work authorized by this title, but only if such temporary staff is sworn to observe the limitations imposed by section 9 of this title."

Sec. 13. Section 221 of title 13, United States Code, relating to refusal or neglect to answer questions and to willful false answers, is amended—

(1) by striking out "or imprisoned not more than 60 days, or both" in subsection (a);

(2) by striking out "or imprisoned not more than one year, or both" in subsection (b) thereof; and

(3) by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of this title, no person shall be compelled to disclose information relative to his religious beliefs or to membership in a religious body."

Sec. 14. Section 224 of title 13, United States Code, relating to failure to answer questions affecting companies, businesses, religious bodies, and other organizations and to willful false answers, is amended—

(1) by striking out "whether such request be made by registered mail, by certified mail, by telegraph, by visiting representative, or by one or more of these methods,";

(2) by striking out "schedule" and inserting in lieu thereof "schedule or questionnaire";

(3) by striking out "or imprisoned not more than sixty days, or both"; and

(4) by striking out "or imprisoned not more than one year, or both".

Sec. 15. (a) Section 225 of title 13, United States Code, relating to applicability of penal provisions in certain cases, is amended—

(1) by inserting "and questionnaires" immediately after "schedules" in subsection (a)(1) thereof; and

(2) by striking out "sections 221, 222 and 224" in subsection (b) thereof and inserting in lieu thereof "section 222".

(b) Section 241 of title 13, United States Code, relating to evidence, is amended by striking out "as authorized by section 224 of this title".

Sec. 16. If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in one or more of its applications, the provision remains in effect in all valid applications that are severable from the invalid application or applications.

Sec. 17. The amendments made by this Act shall take effect on October 1, 1976, or on the date of the enactment of this Act, whichever date is later.

And the Senate agree to the same.

David N. Henderson,
Pat Schroeder,
William Lehman,
Steve Neal,
Gladys Spellman,
W. M. Brodhead,
Paul Simon,
Managers on the Part of the House.
Frank E. Moss,
Richard (Dick) Stone,
Ted Stevens,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11337) to amend title 13, United States Code, to provide for a mid-decade census of population, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

DEFINITIONS

House bill.—The first section of the House bill amends section 1 of title 13, United States Code, by adding a new subsection (b) to provide a definition of "respondent".

Senate amendment.—The first section of the Senate amendment is the same as the House bill.

Conference substitute.—The conference substitute is the same as the provisions of the House bill and the Senate amendment.

SEAL OF THE BUREAU OF THE CENSUS

House bill.—No provision.

Senate amendment.—Section 2 of the Senate amendment makes a technical modification of section 3 of title 13, relating to the use of the Census Bureau's seal as proof of the authenticity of documents provided by the Bureau. Since section 8 of title 13 is amended by section 6 of the Senate amendment to refer to "authenticated transcripts" instead of "certified copies" to conform with present practices, section 3 is modified to be consistent with that amendment.

Conference substitute.—The conference substitute is the same as the Senate amendment, except that a clarifying amendment is made so that the seal of the Census Bureau will be affixed only to the documents authenticated by the Bureau.

REGULATIONS; DELEGATION OF AUTHORITY

House bill.—No provision.

Senate amendment.—Section 3 of the Senate amendment makes a technical amendment to section 4 of title 13 to grant the Secretary of Commerce and his delegates authority to issue rules and regulations necessary to the performance of the functions and duties required under the title. This is a technical modification intended to bring the statute into conformance with existing law and current administrative practices.

Conference substitute.—The conference substitute is the same as the Senate amendment except that a clarifying amendment is made to such amendment to preclude an interpretation that functions and duties of the Secretary of Commerce could be delegated by him to anyone outside of the Department of Commerce.

USE OF TERM "QUESTIONNAIRES"

House bill.—Section 2 of the House bill makes a technical change by substituting the term "questionnaires" for the term "schedules" as it appears in section 5 of title 13. The term "schedule" has been dropped from usage by the Bureau of the Census for many years.

Senate amendment.—Section 4 of the Senate amendment is identical to the provisions of section 2 of the House bill.

Conference substitute.—The conference substitute is the same as the provisions of the House bill and the Senate amendment.

INFORMATION OBTAINED FROM FEDERAL AGENCIES AND OTHER SOURCES

House bill.—Section 3 of the House bill amends section 6 of title 13 by adding a new subsection (c), the provisions of which direct the Secretary of Commerce to acquire and use to the greatest extent possible statistical data available from other sources in lieu of making direct inquiries. While existing law authorizes the Secretary to purchase or otherwise acquire such information, the amendment made by the House bill is intended to emphasize the Congress' desire that such authority be used whenever possible in the dual interests of economizing and reducing respondent burden.

Senate amendment.—Section 5 of the Senate amendment is the same as section 3 of the House bill.

Conference substitute.—The conference substitute is the same as the provisions of the House bill and the Senate amendment.

AUTHENTICATED TRANSCRIPTS OR COPIES OF CERTAIN CENSUS RETURNS; RESTRICTION ON USE

House bill.—Section 4 of the House bill makes amendments to section 8 of title 13 with respect to the protection of individual privacy. Subsection (a) of section 8, as amended, eliminates the present authority of the Secretary to furnish data to Governors of States, territories, and courts of record. That authority is replaced by a new subsection which authorizes the Secretary to furnish authenticated transcripts of reports filed by or for respondens only to respondents, their heirs, or authorized agents.

Section 8(b) of title 13 currently allows the Secretary to furnish census records and undertake special statistical activities for certain public and private entities upon the payment of the costs involved. As amended by the House bill, such section prohibits the furnishing of statistical information which would disclose information reported by or on behalf of any respondent.

Secton 8(c) of title 13 currently prohibits the use of information furnished under section 8 from being used to the detriment of the persons to whom that information relates. The House bill amends that provision by using the defined term "respondent".

Senate amendment.—Section 6 of the Senate amendment is the same as section 4 of the House bill except that section 8(c) is amended by adding at the end thereof "except in the prosecution of alleged violations of this title." That amendment is intended to guarantee the privacy of respondents by assuring access to documentary evidence in the prosecution of those who violate the confidentiality of census records.

Conference substitute.—The conference substitute is essentially the same as the Senate amendment.

MID-DECADE CENSUS

House bill.—Section 141(c) of title 13, as added by section 5 of the House bill, authorizes the Secretary of Commerce to conduct a mid-decade census of population in 1985 and every ten years thereafter. The Secretary is required to take into account the extent to which information collected under section 141(c) is available from other sources.

Section 141(d)(1) of title 13, as amended by the House bill, provides that if decennial census data is used to determine eligibility for or the amount of benefits under any Federal program, and if the mid-decade census provides comparable data, the mid-decade data will be used to determine such eligibility and benefit levels.

Section 141(d)(2) of title 13, as amended by the House bill, prohibits the use of mid-decade census data for the apportionment of Representatives in Congress among the several States, and also prohibits the use of such information in prescribing Congressional districts.

Senate amendment.—Section 141(d) of title 13, as added by section 7(a) of the Senate amendment, provides for a mid-decade census essentially similar to the one provided under the House bill, but varying in two respects. First, in lieu of taking into account the extent to which current information is available, the Secretary is to take into account "the extent to which information to be obtained from such census will serve in lieu of information collected annually or less frequently in surveys or other statistical studies". Second, for the dual purposes of economizing and reducing respondent burden, language is provided to express the intent that the Secretary will, whenever possible, use sampling procedures and special surveys in conducting such censuses.

Conference substitute.—The conference substitute is the same as the Senate amendment.

PROVISIONS DIRECTLY RELATED TO DECENNIAL AND MID-DECADE CENSUSES

House bill.—Section 141(a) of title 13, as amended by section 5(a) of the House bill, provides for the decennial census, and is essentially the same as the provisions of existing law, except that a reference is made (as in the case of the mid-decade census) to the use of sampling procedures and special surveys.

Section 141(b) of title 13 is amended by the House bill to require the tabulation of population by States for the reapportionment of the United States House of Representatives be completed within 9 months after the census date rather than within 8 months, as is required under existing law.

Section 141(e) of title 13, as added by the House bill, requires that the Secretary of Commerce submit at various intervals the subjects and questions to be used in the decennial and mid-decade censuses of population to the appropriate committees of Congress for their review and recommendations.

Section 141(g), as added by the House bill, defines the term "census of population" to mean a census of population, housing, and related matters.

Senate amendment.—Subsections (a) and (b) of section 141, as amended by section 7 of the Senate amendment, are the same as the House bill. Subsection (c) of such section is essentially the same as it was when created by Public Law 94–171, except that it is amended by inserting "decennial" before "census" each place such term appears in order to make clear the intent that section 141(c) is to relate solely to decennial census tabulations for reapportionment or redistricting purposes.

Subsections (f) and (g) of section 141, as amended by the Senate amendment, are essentially the same as subsections (e) and (f) of such section, as proposed under the House bill.

Conference substitute.—The conference substitute is essentially the same as the Senate amendment.

GEOGRAPHICAL SCOPE OF CENSUS

House bill.—Section 6 of the House bill amends section 191 of title 13, which describes the geographical scope of census, to update the text of such provision and to conform it to present practices. Territorial references to Alaska and Hawaii are deleted in order to reflect their statehood.

Senate amendment.—Section 191 of title 13, as provided under section 9 of the Senate amendment, is essentially the same as it is under the House provision, except that the provision is updated to reflect the attainment of Commonwealth status by the Northern Mariana Islands.

Conference substitute.—The conference substitute is essentially the same as the Senate amendment. A clerical correction is made to the heading of section 191.

INTERIM CURRENT DATA

House bill.—No provision.

Senate amendment.—Under existing law, section 181 of title 13 grants the Secretary of Commerce authority to conduct such surveys as he deems necessary in order to provide annual or other interim current data on subjects covered by the censuses. As amended by section 8 of the Senate amendment, the section requires that during the intervals between each census of population as required under section 141 of title 13, there shall be published annually for each State, county, and local unit of general purpose government which has a population of 50,000 or more, current data on total population. Information for small local units of general purpose government shall be collected and published biennially. Data produced under this section shall account for each State, county, and local unit of government enumerated in the most recent population census. The Secretary may use statistical techniques such as sampling and surveys to produce current, comprehensive, and reliable data. If for any reason the Secretary is unable to produce this information for any county or local jurisdiction, he shall report to the Congress, specifying each government excluded and giving the reason for its exclusion.

Section 182 of title 13, under the Senate amendment, contains the original language of section 181, the purpose of which was discussed at the beginning of the preceding paragraph.

Section 183(a) of title 13, as added by the Senate amendment, requires the Secretary (except for those times when the data from the decennial or mid-decade census is most current) to transmit the information required under section 181 to the President for use by the appropriate agencies and departments of the executive branch in the administration of Federal benefit programs. Section 183(b) of such title provides that this section shall not apply to any law of the United States which, for the purpose of determining the amount of benefit to be received, requires that only population or population characteristics data obtained in the most recent decennial census be used in making determinations.

Section 184 of title 13, as added by the Senate amendment, defines "local unit of general purpose government" to include governing entities of counties, municipalities, townships, Indian tribes, and Alaskan native villages.

Conference substitute.—The conference substitute is essentially the same as the Senate amendment, except that in section 184 of title 13 the term "State" is defined to include the District of Columbia.

USE OF SAMPLING

House bill.—Section 7 of the House bill amends section 195 of title 13 to require that the Secretary of Commerce authorize the use of sampling procedures in carrying out the provisions of such title whenever he deems it feasible, except in the apportionment of the U.S. House of Representatives. This differs from the present provisions of section 195 which grant the Secretary discretion to use sampling when it is considered appropriate. The section, as amended, strengthens the congressional intent that, whenever possible, sampling shall be used.

Senate amendment.—Section 10 of the Senate amendment is the same as section 7 of the House bill.

Conference substitute.—The conference substitute is the same as the House bill and the Senate amendment.

SPECIAL CENSUSES

House bill.—Section 8 of the House bill adds a new section 197 to title 13 to define more clearly the authority of the Secretary of Commerce to conduct special censuses, and sets forth the conditions under which they are to be conducted. Such censuses may be conducted for the government of any State, the District of Columbia, the government of any possession or territory, or the government of any political subdivision of any of the foregoing, on subjects covered by censuses provided for under title 13. The results of such censuses shall be certified as "Official Census Statistics", and may be used in the manner provided by applicable law. These amendments conform the provisions of title 13 to present practices.

Senate amendment.—Section 11 of the Senate amendment is essentially the same as section 8 of the House bill.

Conference substitute.—The conference substitute is essentially the same as the House bill and the Senate amendment.

WRONGFUL DISCLOSURE OF INFORMATION; TEMPORARY STAFF

House bill.—Section 9(a) of the House bill revises section 214 of title 13 to increase the penalties applicable to wrongful disclosure of confidential census information by anyone now or formerly sworn to observe the confidentiality provisions of section 9 of title 13. In so doing, penalty provisions are extended to former as well as present employees of the Bureau of the Census and those who served temporarily as well as permanently. The fine for wrongful disclosure is raised from a maximum of $1,000 to $5,000, and the maximum term of imprisonment is extended from 2 years to 5 years.

Section 9(b) of the House bill adds a new subsection (c) to section 23 of title 13 to clarify existing practices whereby temporary staff are utilized to assist in the duties assigned under such title. That provision also requires that such staff are to be sworn to observe the limitations imposed by section 9 of title 13 and thus made subject to the penalties stated in section 214.

Senate amendment.—Section 12 of the Senate amendment is essentially the same as section 9 of the House bill.

Conference substitute.—The conference substitute is essentially the same as the House bill and the Senate amendment.

REFUSAL, NEGLECT TO ANSWER, OR FALSELY ANSWERING QUESTIONS; REFUSAL TO DISCLOSE INFORMATION ON RELIGIOUS BELIEFS OR MEMBERSHIP

House bill.—Section 10 of the House bill amends section 221 of title 13 by striking out the criminal penalties for an individual's refusing or willfully neglecting to answer questions asked of him on a census questionnaire, and by striking out the penalty of imprisonment of up to one year for the giving of a false answer to questions in a census.

Section 11 of the House bill also eliminated the penalties of imprisonment imposed under section 224 of title 13 (relating to failure to answer questions affecting companies, businesses, etc.) and reduced the maximum fine which can be imposed under that section from $10,000 to $1,000. Section 12 of the House bill made conforming changes to sections 225 and 241 of title 13 necessitated by the amendments made to section 224 of title 13 by section 11 of the House bill.

Section 10 of the House bill also added a new subsection (c) to section 221 of title 13 which provided that a person may not be compelled to disclose information regarding his religious beliefs or membership in a religious body.

Senate amendment.—The Senate amendment does not provide for the reduction or elimination of criminal penalties for refusing, willfully failing to answer, or falsely answering census questions.

Conference substitute.—The conference substitute amends sections 221 and 224 of title 13 so that a penalty of imprisonment may not be imposed under such sections, and retains the provisions of existing law under which fines can be imposed under those sections. The conference substitute also includes the provision contained in the House bill which provided that a person may not be compelled to disclose information regarding his religious beliefs or membership in a religious body.

SEVERABILITY PROVISION

House bill.—Section 13 of the House bill is a severability provision.

Senate amendment.—The Senate amendment contains a severability provision which is identical to the provisions of section 13 of the House bill.

Conference substitute.—The conference substitute is the same as the House bill and the Senate amendment.

EFFECTIVE DATE

House bill.—Section 14 of the House bill provides that the amendments made by the bill take effect on October 1, 1976, or on the date of enactment, if after October 1, 1976.

Senate amendment.— The Senate amendment contains an effective date which is the same as in section 14 of the House bill.

Conference substitute.—The conference substitute is the same as the House bill and the Senate amendment.

DAVID N. HENDERSON,
PAT SCHROEDER,
WILLIAM LEHMAN,
STEVE NEAL,
GLADYS SPELLMAN,
W. M. BRODHEAD,
PAUL SIMON,
Managers on the Part of the House.

FRANK E. MOSS,
RICHARD (DICK) STONE,
TED STEVENS,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 13367, EXTENDING AND AMENDING STATE AND LOCAL FISCAL ASSISTANCE ACT OF 1972

Mr. BROOKS submitted the following conference report and statement on the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 94–1720)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION. 1. SHORT TITLE.

This Act may be cited as the "State and Local Fiscal Assistance Amendments of 1976".

SEC. 2. AMENDMENT OF STATE AND LOCAL FISCAL ASSISTANCE ACT OF 1972.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the State and Local Fiscal Assistance Act of 1972, as amended (31 U.S.C. 1221 et seq.; 86 Stat. 919).

SEC. 3. ELIMINATION OF EXPENDITURE CATEGORIES.

(a) Section 103 (relating to requirement that local governments use revenue sharing funds only for priority expenditures) is repealed.

(b) Section 123(a) (relating to assurances to the Secretary of the Treasury) is amended by striking out paragraph (3).

SEC. 4. ELIMINATION OF PROHIBITION ON USE OF FUNDS FOR MATCHING.

(a) Section 104 (relating to prohibition on use of revenue sharing funds as matching funds) is repealed.

(b) Section 143(a) (relating to judicial review of withholding of payments) is amended by striking out "104(b) or".

SEC. 5. EXTENSION OF PROGRAM AND FUNDING.

(a) IN GENERAL.—Section 105 (relating to funding for revenue sharing) is amended—

(1) by inserting "or (c)" immediately after "as provided in subsection (b)" in subsection (a)(1);

(2) by redesignating subsection (c) as subsection (d);

(3) by inserting immediately after subsection (b) the following new subsection:

"(c) AUTHORIZATION OF APPROPRIATIONS FOR ENTITLEMENTS.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided—

"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $4,987,500,000; and

"(B) for each of the fiscal years beginning October 1 of 1977, 1978, and 1979, $6,850,000,000.

"(2) NONCONTIGUOUS STATES ADJUSTMENT AMOUNTS.—There are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided—

"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $3,585,000; and

"(B) for each of the fiscal years beginning on October 1 of 1977, 1978, and 1979, $4,923,759."; and

(4) by inserting "; AUTHORIZATIONS FOR ENTITLEMENTS" in the heading of such section immediately after "APPROPRIATIONS".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 106 (relating to general rule for allocation among States is amended to read as follows:

"(a) IN GENERAL.—There shall be allocated an entitlement to each State—

"(1) for each entitlement period beginning before December 31, 1976, out of amounts appropriated under section 105(b)(1) for that entitlement period, an amount which bears the same ratio to the amount appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b); and

"(2) for each entitlement period beginning on or after January 1, 1977, out of amounts authorized under section 105(c)(1) for that entitlement period, an amount which bears the same ratio to the amount authorized under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b).".

(2) Paragraph (1) of section 106(b) (relating to general rule for determining allocable amounts) is amended to read as follows:

"(1) IN GENERAL.—For purposes of subsection (a), the amount allocable to a State under this subsection for any entitlement period shall be determined under paragraph (2), except that such amount shall be determined under paragraph (3) if—

"(A) in the case of an entitlement period beginning before December 31, 1976, the amount allocable to such State under paragraph (3) is greater than the sum of the amounts allocable to such State under paragraph (2) and subsection (c); and

"(B) in the case of an entitlement period beginning on or after January 1, 1977, the amount allocable to such State under paragraph (3) is greater than the amount allocable to such State under paragraph (2).".

(3) Paragraph (1) of section 106(c) (general rule for noncontiguous State adjustment) is amended to read as follows:

"(1) IN GENERAL.—In addition to the amounts allocated to the States under subsection (a), there shall be allocated for each entitlement period an additional amount to any State in which civilian employees of the United States Government receive an allowance under section 5941 of title 5, United States Code—

(A) in the case of an entitlement period beginning before December 31, 1976, out of amounts appropriated under section 105(b)(2), if the allocation of such State under subsection (b) is determined by the formula set forth in paragraph (2) of that subsection; and

"(B) in the case of an entitlement period beginning on or after January 1, 1977, out of amounts authorized under section 105(c)(2).".

(4) Section 106(c)(2) (relating to amount of noncontiguous State adjustments) is amended—

(A) by striking out "subsection (b)(2)" and inserting in lieu thereof "subsection (b)", and

(B) by inserting immediately after "section 105(b)(2) for any entitlement period" the following: "beginning before December 31, 1976, or authorized under section 105(c)(2) for any entitlement period beginning on or after January 1, 1977.".

(5) Section 108(b)(6)(D)(i) (relating to entitlements less than $200) is amended by inserting after "6 months" the following: ", $150 for an entitlement period of 9 months".

(6) Section 108(c)(1)(C) (relating to optional formula for allocation among local governments) is amended by striking out "December 31, 1976," and inserting in lieu thereof "September 30, 1980,".

(7) Section 141(b) (relating to definition of "entitlement period") is amended by inserting at the end thereof the following new paragraphs:

"(6) The period beginning January 1, 1977, and ending September 30, 1977.

"(7) The one-year periods beginning October 1 of 1977, 1978, and 1979.".

SEC. 6. SPECIAL ENTITLEMENT RULES.

(a) STATE MAINTENANCE OF TRANSFERS TO LOCAL GOVERNMENTS.—

(1) Paragraph (1) of section 107(b) (relating to general rule for State maintenance of transfers to local governments) is amended to read as follows:

"(1) GENERAL RULE.—

"(A) PRE-1977 ENTITLEMENT PERIODS.—The entitlement of any State government for any entitlement period beginning on or after July 1, 1973, and before December 31, 1976, shall be reduced by the amount (if any) by which—

"(i) the average of the aggregate amounts transferred by the State government (out of its own sources) during such period and the preceding entitlement period to all units of local government in such State, is less than,

"(ii) the similar aggregate amount for the one-year period beginning July 1, 1971.

"(B) POST-1976 ENTITLEMENT PERIODS.—The entitlement of any State government for any entitlement period beginning on or after January 1, 1977, shall be reduced by the amount (if any) by which—

"(i) one-half of the aggregate amounts transferred by the State government (out of its own sources) during the 24-month period ending on the last day of the last fiscal year of such State for which the relevant data are available (in accordance with regulations prescribed by the Secretary) on the first day of such entitlement period, to all units of local government in such State, is less than,

"(ii) one-half of the similar aggregate amount for the 24-month period ending on the day before the start of the 24-month period described in clause (i).

"(C) For purposes of subparagraphs (A)(i) and (B)(i), the amount of any reduction in the entitlement of a State government under this subsection for any entitlement period shall, for subsequent entitlement periods, be treated as an amount transferred by the State government (out of its own sources) during such period to units of local government in such State.".

(2) Section 107(b)(2) (relating to adjustment where State assumes responsibility for category of expenditures) is amended—

(A) by striking out "under paragraph (1)(B)" and inserting in lieu thereof "under paragraph (1)(A)(ii) or (1)(B)(ii)"; and

(B) by striking out "the one-year period beginning July 1, 1971," and inserting in lieu thereof "the period utilized for purposes of such paragraph".

(3) Section 107(b)(3) (relating to adjustments in the case of new taxing powers) is amended by striking out "paragraph (1)(B)" and inserting in lieu thereof "paragraph (1)(A)(ii) (in the case of an entitlement period beginning before December 31, 1976) or paragraph (1)(B)(ii) (in the case of an entitlement period beginning on or after January 1, 1977)".

(4) Section 107(b) (relating to State maintenance of support to local governments) is amended by redesignating paragraphs (6) and (7) as paragraphs (8) and (9), respectively, and by inserting after paragraph (5) the following new paragraphs:

"(6) SPECIAL RULE FOR THE PERIOD BEGINNING JANUARY 1, 1977.—In the case of the entitlement period beginning January 1, 1977, and ending September 30, 1977, the aggregate amounts taken into account under clauses (i) and (ii) of paragraph (1)(B) shall be three-fourths of the amount which (but for this paragraph) would be taken into account.

"(7) ADJUSTMENT WHERE FEDERAL GOVERNMENT ASSUMES RESPONSIBILITY FOR CATEGORY OF EXPENDITURES.—If, for an entitlement period beginning on or after January 1, 1977, a State government establishes to the satisfaction of the Secretary that during all or part of the period utilized for purposes of paragraph (1)(B)(i), the Federal Government has assumed responsibility for a category of expenditures for which such State government transferred amounts which (but for this paragraph) would be included in the aggregate amount taken into account under paragraph (1)(B)(ii) for the period utilized for purposes of such paragraph, then (under regulations prescribed by the Secretary) the aggregate amount taken into account under paragraph(1)(B)(ii) shall be reduced to the extent that increased Federal Government spending in that State for such category of expenditures has replaced corresponding amounts which such State government had transferred to units of local government during the period utilized for purposes of paragraph (1) (B) (ii).".

(b) Waivers by Indian Tribes and Alaskan Native Villages.—

(1) Paragraph (4) of section 108(b) (relating to Indian tribes and Alaskan native villages) is amended by striking out the last sentence.

(2) Paragraph (6) (D) of such section (relating to effect of waivers) is amended by adding at the end thereof the following: "If the entitlement of an Indian tribe or Alaskan native village is waived for any entitlement period by the governing body of that tribe or village, then the amount of such entitlement for such period shall (in lieu of being paid to such tribe or village) be added to, and shall become a part of, the entitlement for such period of the county government of the county area in which such tribe or village is located.".

(c) Separate Law Enforcement Officers.—

(1) General rule.—Section 108 (relating to entitlements of local governments) is amended by adding at the end thereof the following new subsection:

"(e) Separate Law Enforcement Officers.—

"(1) Entitlement of separate law enforcement officer.—The office of the separate law enforcement officer for any county area in the State of Louisiana, other than the parish of East Baton Rouge, shall be entitled to receive for each entitlement period beginning on or after January 1, 1977, an amount equal to 15 percent of the amount which would (but for the provisions of this subsection) be the entitlement of the government of such county area. The office of the separate law enforcement officer for the parish of East Baton Rouge shall be entitled to receive for each entitlement period beginning on or after January 1, 1977, an amount equal to 7.5 percent of the sum of the amounts which would (but for the provisions of this subsection) be the entitlements of the governments of Baton Rouge, Baker, and Zachary, Louisiana, for each such entitlement period.

"(2) Reduction of entitlement of county government.—The entitlement of the government of a county area for an entitlement period shall be reduced by an amount equal to one half of the entitlement for the separate law enforcement officer for such county area for such entitlement period. For the purpose of applying this paragraph to the parish of East Baton Rouge, Louisiana, the entitlements of the governments of Baton Rouge, Baker, and Zachary, Louisiana, for each entitlement period shall each be reduced by an amount equal to 3.75 percent of the amount which would (but for the provisions of this paragraph) be the entitlement of each such government.

"(3) Reduction of entitlement of state government.—The entitlement of the State government of Louisiana for an entitlement period shall be reduced by an amount equal to the sum of the reductions provided under paragraph (2) for governments of county areas in such State for such entitlement period. For purposes of this paragraph—

"(A) the reductions provided under paragraph (2) for the governments of Baton Rouge, Baker, and Zachary, Louisiana, shall be considered as reductions of entitlements of governments of county areas, and

"(B) the entitlement of the parish of Orleans for an entitlement period shall be considered to have been reduced by an amount equal to the additional amount provided for such parish for that entitlement period under paragraph (4).

"(4) Entitlement of parish of orleans.—In the case of the parish of Orleans, Louisiana, paragraphs (1) and (2) shall not apply, and such parish shall be entitled to receive, for each entitlement period beginning after December 31, 1976, an additional amount equal to 7.5 percent of the amount which would otherwise be the entitlement of such parish.".

(2) Conforming amendments.—

(A) Section 108(b) (7) (A) (relating to general rule for adjustment of entitlement) is amended by striking out "and any adjustment required under paragraph (6) (D) last." and inserting in lieu thereof "any adjustment required under paragraph (6) (D) next, and any adjustment required under subsection (e) last.".

(B) Section 108(d) (1) (defining "unit of local government") is amended by adding at the end thereof the following: "Such term also means (but only for purposes of subtitles B and C) the office of the separate law enforcement officer to which subsection (e) (1) applies.".

(C) Section 107 (relating to entitlements of State government) is amended by adding at the end thereof the following new subsection:

"(c) Cross Reference.—

"For reduction of State government entitlement because of provisions for separate law enforcement officers, see section 108(e).".

(d) Currency of Data.—

(1) Section 109(a) (7) (relating to data used and uniformity of data) is amended—

(A) in subparagraph (A) by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraph (B) or (C)", and

(B) by adding at the end thereof the following new subparagraph:

"(C) Tax collections.—Data with respect to tax collections for a period more recent than the most recent reporting year for an entitlement period (as defined in subsection (c) (2) (B)) shall not be used in the determination of entitlements for such period.".

(2) Section 109(c) (2) (B) (defining "most recent reporting year") is amended by striking out "made before the close of such period." and inserting in lieu thereof "made before the beginning of such period.".

(e) Limitation on Adjustment of Payments.—Section 102 (relating to payments to State and local governments) is amended—

(1) by striking out "Except" and inserting in lieu thereof "(a) In General.—Except"; and

(2) adding at the end thereof the following new subsection:

"(b) Limitations on Adjustments.—No adjustment shall be made to increase or decrease a payment made for any entitlement period beginning after December 31, 1976, to a State government or a unit of local government, unless a demand therefor shall have been made by such government or the Secretary within 1 year of the end of the entitlement period with respect to which the payment was made.".

(f) Reserves for Adjustments.—Section 102 (relating to payments to State and local governments), as amended by subsection (e), is amended by adding at the end thereof the following new subsection:

"(c) Reserves for Adjustments.—The Secretary may reserve such percentage (not exceeding 0.5 percent) of the total entitlement payment for any entitlement period with respect to any State government and all units of local government within such State as he deems necessary to insure that there will be sufficient funds available to pay adjustments due after the final allocation of funds among such governments.".

(g) Recovery of Certain Overpayments.—In the case of an adjustment to decrease a payment made for an entitlement period ending before January 1, 1977, under title I of the State and Local Fiscal Assistance Act of 1972 to a unit of local government (as defined in section 108(d) (1) of that Act), the amount of such adjustment shall be withheld from the reserves for adjustments established by the Secretary under section 102(c) of such Act for the State within which such units of local government are located. Amounts withheld under this subsection shall be covered into the State and Local Government Fiscal Assistant Trust Fund.

Sec. 7. Citizen Participation; Reports, Enforcement.

(a) Citizens Participation.—Section 121 (relating to reports on use of funds and publication of reports) is amended to read as follows:

"Sec. 121. Report on Use of Funds; Publication and Public Hearings

"(a) Reports on Use of Funds.—Each State government and unit of local government which receives funds under subtitle A shall, after the close of each fiscal year, submit a report to the Secretary (which report shall be available to the public for inspection setting forth the amounts and purposes for which funds received under subtitle A have been appropriated, spent, or obligated during such period and showing the relationship of those funds to the relevant functional items in the government's budget. Such report shall identify differences between the actual use of funds received and the proposed use of such funds. Such reports shall be in such form and detail and shall be submitted at such time as the Secretary may prescribe.

"(b) Public Hearings Required.—

"(1) Hearing on proposed use.—Not less than 7 calendar days before its budget is presented to the governmental body responsible for enacting the budget, each State government or unit of local government which expends funds received under subtitle A in any fiscal period, the budget for which is to be enacted on or after January 1, 1977, shall, after adequate public notice, have at least one public hearing at which citizens shall have the opportunity to provide written and oral comment on the possible uses of such funds before the governmental authority responsible for presenting the proposed budget to such body.

"(2) Budget hearing.—Each State government or unit of local government which expends funds received under subtitle A in any fiscal period, the budget for which is to be enacted on or after January 1, 1977, shall have at least one public hearing on the proposed use of such funds in relation to its entire budget. At such hearing, citizens shall have the opportunity to provide written and oral comment to the body responsible for enacting the budget, and to ask questions concerning the entire budget and the relation thereto of the funds made available under subtitle A. Such hearing shall be at a place and time that permits and encourages public attendance and participation.

"(3) Waiver.—The provisions of paragraph (1) may be waived in whole or in part in accordance with regulations of the Secretary if the cost of such a requirement would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitle A. The provisions of paragraph (2) may be waived in whole or in part in accordance with regulations of the Secretary if the budget processes required under applicable State or local laws or charter provisions assure the opportunity for public attendance and participation contemplated by the provisions of this subsection and a portion of such process includes a hearing on the proposed use of funds made available under subtitle A in relation to its entire budget.

"(c) Notification and Publicity of Public Hearings; Access to Budget Summary and Proposed Use of Funds.—

"(1) In general.—Each State government and unit of local government which expends funds received under subtitle A in any fiscal period, the budget for which is to be enacted on or after January 1, 1977, shall—

"(A) at least 10 days prior to the public hearing required by subsection (b) (2)—

"(i) publish, in at least one newspaper of general circulation, the proposed uses of funds made available under subtitle A together with a summary of its proposed budget and a notice of the time and place of such public hearing; and

"(ii) make available for inspection by the public at the principal office of such State government or unit of local government a statement of the proposed use of funds, together with a summary of its proposed budget; and

"(B) within 30 days after adoption of its budget as provided for under State or local law—

"(i) make a summary of the adopted budget, including the proposed use of funds made available under subtitle A, available for inspection by the public at the principal office of such State government or unit of local government; and

"(ii) publish in at least one newspaper of general circulation a notice of the availability for inspection of the information referred to in clause (i).

"(2) Waiver.—The provisions of paragraph (1) may be waived, in whole or in part, with respect to publication of the proposed use of funds and the summaries, in accordance with regulations of the Secretary, where the cost of such publications would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitle A, or where such publication is otherwise impractical or infeasible. In addition, the 10-day provisions of paragraph (1)(A) may be modified to the maximum extent necessary to comply with applicable State and local law if the Secretary is satisfied that the citizens of such State or local government will receive adequate notification of the proposed use of funds consistent with the intent of this section.

"(d) Report Submitted to the Governor.—The Secretary shall furnish to the Governor of the State in which any unit of local government which receives funds under subtitle A is located, a copy of each report filed with the Secretary as required under subsection (a), in such manner and form as the Secretary may prescribe by regulation.

"(e) Budgets.—The Secretary shall promulgate regulations for the application of this section to circumstances under which the State government or unit of local government does not adopt a budget.

"(f) Report of the Secretary.—The Secretary shall include with the report required under section 105(a)(2) a report to the Congress on the implementation and administration of this Act during the preceding fiscal year. Such report shall include, but not be limited to, a comprehensive and detailed analysis of—

"(1) the measures taken to comply with section 122, including a description of the nature and extent of any noncompliance and the status of all pending complaints;

"(2) the extent to which recipient jurisdictions have complied with section 123, including a description of the nature and extent of any noncompliance and of measures taken to ensure the independence of audits conducted pursuant to subsection (c) of such section;

"(3) the manner in which funds distributed under subtitle A have been distributed in recipient jurisdictions; and

"(4) any significant problems arising in the administration of the Act and the proposals to remedy such problems through appropriate legislation.

"(g) Participation by Senior Citizens.—In conducting any hearing required under this section, or under its own budget processes, a State or unit of local government shall endeavor to provide senior citizens and their organizations with an opportunity to be heard prior to the final allocation of any funds provided under the Act pursuant to such a hearing.".

Sec. 8. Nondiscrimination Provisions.

(a) In General.—Section 122 (relating to nondiscrimination provisions) is amended to read as follows:

"Sec. 122. Nondiscrimination Provisions.

"(a) Prohibition.—

"(1) In general.—No person in the United States shall, on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a State government or unit of local government, which government or unit receives funds made available under subtitle A. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity. Any prohibition against discrimination on the basis of religion, or any exemption from such prohibition, as provided in the Civil Rights Act of 1964 or title VIII of the Act of April 11, 1968, hereafter referred to as Civil Rights Act of 1968, shall also apply to any such program or activity.

"(2) Exceptions.—

"(A) Funding.—The provisions of paragraph (1) of this subsection shall not apply where any State government or unit of local government demonstrates, by clear and convincing evidence, that the program or activity with respect to which the allegation of discrimination has been made is not funded in whole or in part with funds made available under subtitle A.

"(B) Construction projects in progress.—The provisions of paragraph (1), relating to discrimination on the basis of handicapped status, shall not apply with respect to construction projects commenced prior to January 1, 1977.

"(b) Determination by the Secretary.—

"(1) Notice of noncompliance.—Within 10 days after the Secretary has received a holding described in subsection (c)(1) or has made a finding described in subsection (c)(4), with respect to a State government or a unit of local government, he shall send a notice of noncompliance to such government setting forth the basis of such holding or finding.

"(2) Procedure bfeore Secretary; suspension of payment of revenue sharing funds.—Within 30 days after a notice of noncompliance has been sent to a State government or a unit of local government in accordance with paragraph (1), such government may informally present evidence to the Secretary regarding the issues of—

"(A) (except in the case of a holding described in subsection (c)(1)) whether there has been exclusion, denial, or discrimination on account of race, color, national origin, or sex, or a violation of any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975, or with respect to an 'otherwise qualified handicapped individual', as provided in section 504 of the Rehabilitation Act of 1973, or a violation of any prohibition against discrimination on the basis of religion as provided in the Civil Rights Act of 1964 or title VIII of the Civil Rights Act of 1968, and

"(B) whether the program or activity in connection with which such exclusion, denial, discrimination, or violation is charged has been funded in whole or in part with funds made available under subtitle A.

Before the end of such 30-day period, unless a compliance agreement is entered into with such government, the Secretary shall issue a determination as to whether such government failed to comply with subsection (a). If the Secretary determines that such government has failed to comply with subsection (a), the Secretary shall suspend the payment of funds under subtitle A to such government unless such government within the 10 day period following such determination enters into a compliance agreement or requests a hearing with respect to such determination.

"(3) Hearings before administrative law judge; suspension or termination of payment of revenue sharing funds.—

"(A) Hearings requested by a State government or a unit of local government pursuant to paragraph (2) shall begin before an administrative law judge within 30 days after the Secretary receives the request for the hearing.

"(B) Within 30 days after the beginning of the hearing provided under subparagraph (A), the administrative law judge conducting the hearing shall, on the record then before him, issue a preliminary finding (which shall be consistent with subsection (c)(2)) as to whether such government has failed to comply with subsection (a). If the administrative law judge issues a preliminary finding that such government is not likely to prevail, on the basis of the evidence presented, in demonstrating compliance with subsection (a), then the Secretary shall suspend the payment of funds under subtitle A to such government. No such preliminary finding shall be issued in any case where a determination has previously been issued under subparagraph (C).

"(C) If, after the completion of such hearing, the administrative law judge issues a determination (consistently with subsection (c)(2)) that such government has failed to comply with subsection (a), then, unless such government enters into a compliance agreement before the 31st day after such issuance, the Secretary, subject to the provisions of subparagraph (D), shall suspend the payment of funds under subtitle A to such government; if a suspension in accordance with subparagraph (B) is still in effect, then, subject to the provisions of subparagraph (D), that suspension is to be continued.

"(D) In the event of a determination described in subparagraph (C), the administrative law judge may, in his discretion, order the termination of payment of funds under subtitle A to such government or unit.

"(E) If, after the completion of such hearing, the administrative law judge issues a determination (consistently with subsection (c)(2)) that there has not been a failure to comply with subsection (a), and a suspension is in effect in accordance with subparagraph (B), such suspension shall be promptly discontinued.

"(c) Holding by Court or Governmental Agency; Finding by Secretary.—

"(1) Description.—A holding is described in this paragraph if it is a holding by a Federal Court, a State Court, or a Federal administrative law judge, with respect to a State government or a unit of local government which expends funds received under subtitle A that such government has, in the case of a person in the United States, excluded such person from participation in, denied such person the benefits of, or subjected such person to discrimination under any program or activity on the ground of race, color, national origin, or sex, or violated any prohibition against discrimination (A) on the basis of age under the Age Discrimination Act of 1975 or (B) with respect to an 'otherwise qualified handicapped individual', as provided in section 504 of the Rehabilitation Act of 1973 or (C) on the basis of religion as provided in the Civil Rights Act of 1964 or title VIII of the Civil Rights Act of 1968, in connection with any such program or activity.

"(2) Effect on proceedings or hearing.—If there has been a holding described in paragraph (1) with respect to a State government or a unit of local government, then, in the case of proceedings by the Secretary pursuant to subsection (b)(2) or a hearing pursuant to subsection (b)(3) with respect to such government, such proceedings or such hearing shall relate only to the question of whether the program or activity in which the exclusion, denial, discrimination, or violation occurred is funded in whole or in part with funds made available under subtitle A. In such proceedings or hearing, the holding described in paragraph (1), to the effect that there has been exclusion, denial, or discrimination on account of race, color, national origin, or sex, or a violation of any prohibition against discrimination (A) on the basis of age effected by the Age Discrimination Act of 1975, (B) with respect to an 'otherwise qualified handicapped individual', as provided in section 504 of the Rehabilitation Act of 1973, (C) on the basis of religion as provided in the Civil Rights Act of 1964 or title VIII of the Civil Rights Act of 1968, shall be treated as conclusive.

"(3) EFFECT OF REVERSAL.—If a holding described in paragraph (1) is reversed by an appellate tribunal, then proceedings under subsection (b) which are dependent upon such holding shall be discontinued; any suspension or termination of payments resulting from such proceedings shall also be discontinued.

"(4) FINDING BY SECRETARY.—A finding is described in this paragraph if it is a finding by the Secretary with respect to a complaint referred to in section 124(d), a determination by a State or local administrative agency, or other information (pursuant to procedures provided in regulations prescribed by the Secretary) that it is more likely than not that a State government or unit of local government has failed to comply with subsection (a).

"(d) COMPLIANCE AGREEMENT.—For purposes of this section and section 124, a compliance agreement is an agreement between—

"(1) the governmental office or agency responsible for prosecuting the claim or complaint which is the basis of the holding described in subsection (c)(1) and the chief executive officer of the State government or the unit of local government that has failed to comply with subsection (a), if such agreement is approved by the Secretary, or

"(2) the Secretary and such chief executive officer, setting forth the terms and conditions with which such government or unit has agreed to comply that would satisfy the obligations of such government under subsection (a). Such agreement shall cover all the matters which had been determined or would constitute failures to comply with subsection (a), and may consist of a series of agreements which, in the aggregate, dispose of all such matters. Within 15 days after the execution of such agreement (or, in the case of an agreement under paragraph (1), the approval of such agreement by the Secretary, if later), the Secretary shall send a copy of such agreement to each person who has filed a complaint referred to in section 124(d) with respect to such failure to comply with subsection (a) or, in the case of an agreement under paragraph (1), to each person who has filed a complaint with the governmental office or agency (described in such paragraph) with respect to such failure to comply with subsection (a).

"(e) RESUMPTION OF SUSPENDED PAYMENTS.—If payment to a State government or a unit of local government of funds made available under subtitle A has been suspended under subsection (b)(2) or (b)(3), payment of such funds shall be resumed only if—

"(1) such government enters into a compliance agreement (but only at the times and under the circumstances set forth in such agreement or, in the case of an agreement under subsection (d)(1), only at the times and under the circumstances set forth in the Secretary's approval of such agreement);

"(2) such government complies fully with the holding of a Federal or State court, or Federal administrative law judge, if that holding covers all the matters raised by the Secretary in the notice pursuant to subsection (b)(1), or if such government is found to be in compliance with subsection (a) by such court or Federal administrative law judge;

"(3) in the case of a hearing before an administrative law judge under subsection (b)(3), the judge determines that such government is in compliance with subsection (a); or

"(4) the provisions of subsection (c)(3) (relating to reversal of holding of discrimination) require such suspension of payment to be discontinued.

For purposes of this section, compliance by a government may include the satisfying of a requirement of the payment of restitution to persons injured by the failure of such government to comply with subsection (a).

"(f) RESUMPTION OF TERMINATED PAYMENTS.—If payment to a State government or unit of local government of funds made available under subtitle A has been terminated under subsection (b)(3)(E), payment of such funds shall be resumed only if the determination resulting in such termination is reversed by an appellate tribunal.

"(g) AUTHORITY OF ATTORNEY GENERAL.—Whenever the Attorney General has reason to believe that a State government or a unit of local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of funds made available under subtitle A, or placing any further payments under subtitle A in escrow pending the outcome of the litigation.

"(h) AGREEMENTS BETWEEN AGENCIES.—The Secretary shall endeavor to enter into agreements with State agencies and with other Federal agencies authorizing such agencies to investigate noncompliance with subsection (a). The agreements shall describe the cooperative efforts to be undertaken (including the sharing of civil rights enforcement personnel and resources) to secure compliance with this section, and shall provide for the immediate notification of the Secretary of any actions instituted by such agencies against a State government or a unit of local government alleging a violation of any Federal civil rights statute or regulations issued thereunder.".

"SEC. 122. NONDISCRIMINATION PROVISIONS.

* * * * *

"(—) AUTHORITY OF ATTORNEY GENERAL.—Whenever the Attorney General has reason to believe that a State government or a unit of local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of funds made available under subtitle A, or placing any further payment under subtitle A in escrow pending the outcome of the litigation.

"(—) AGREEMENTS BETWEEN AGENCIES.—The Secretary shall endeavor to enter into agreements with State agencies and with other Federal agencies authorizing such agencies to investigate noncompliance with subsection (a). The agreements shall describe the cooperative efforts to be undertaken (including the sharing of civil rights enforcement personnel and resources) to secure compliance with this section, and shall provide for the immediate notification of the Secretary * * *.".

(b) ENFORCEMENT.—Subtitle B (relating to administrative provisions) is amended by adding at the end thereof the following new sections:

"SEC. 124. PRIVATE CIVIL ACTIONS.

"(a) STANDING.—Whenever a State government or a unit of local government, or any officer or employee thereof acting in an official capacity, has engaged or is engaging in any act or practice prohibited by this Act, upon exhaustion of administrative remedies, a civil action may be instituted by the person aggrieved in an appropriate United States district court or in a State court of general jurisdiction.

"(b) RELIEF.—The court may grant as relief to the plaintiff any temporary restraining order, preliminary or permanent injunction or other order, including the suspension, termination, or repayment of funds, or placing any further payments under this title in escrow pending the outcome of the litigation.

"(c) INTERVENTION BY ATTORNEY GENERAL.—In any action instituted under this section to enforce compliance with section 122(a), the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.

SEC. 9. ACCOUNTING AND AUDITING PROVISIONS.

Section 123(c) (relating to accounting, auditing, and evaluation) is amended—

(1) by redesignating paragraph (2) as paragraph (9), and

(2) by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) INDEPENDENT AUDITS.—Each State government and unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after January 1, 1977 (other than a government to which an election under paragraph (2) applies with respect to such entitlement period), shall have an independent audit of its financial statements conducted for the purpose of determining compliance with this title, in accordance with generally accepted auditing standards, not less often than once every 3 years.

"(2) ELECTION.—Paragraph (1) shall not apply to any State or unit of local government whose financial statements are audited by independent auditors under State or local law not less often than every 3 years, if (A) such government makes an election under this paragraph that the provisions of paragraph (1) shall not apply, and (B) such government certifies that such audits under State or local law will be conducted in accordance with generally accepted auditing standards. Such election shall include a brief description of the auditing standards to be applied. Such election shall apply to audits of funds received under subtitle A for such entitlement periods as are specified in such election and as to which such State or local law auditing provisions are applicable.

"(3) SERIES OF AUDITS.—If a series of audits conducted over a period not exceeding 3 fiscal years covers, in the aggregate, all of the funds of accounts in the financial activity of such a government, then such series of audits shall be treated as a single audit for purposes of paragraph (1) and paragraph (2).

"(4) Entitlements under $25,000.—

"(A) The requirements of paragraph (1) shall not apply to a State government or unit of local government for any fiscal period in which such government receives less than $25,000 of funds made available under subtitle A, unless subparagraph (B) applies for such fiscal period.

"(d) Exhaustion of Administrative Remedies.—As used in this section, administrative remedies shall be deemed to be exhausted upon the expiration of 90 days after the date the administrative complaints were filed with the Secretary or with an Agency with which the Secretary has an agreement under section 122(h) if, within such period, the Secretary or such Agency—

"(1) issues a determination that such Government under unit has not failed to comply with this Act; or

"(2) fails to issue a determination on such complaint.

"(e) Attorney Fees.—In any action under this section to enforce section 122(a), the court, in its discretion, may allow to the prevailing party, other than the United States, reasonable attorney fees, and the United States shall be liable for fees and costs the same as a private person.

"Sec. 125. Investigations and Compliance Reviews.

"By March 31, 1977, the Secretary shall promulgate regulations establishing—

"(1) reasonable and specific time limits (in no event to exceed 90 days for the Secretary to conduct an investigation and make a finding after receiving a complaint (described in section 124(d)), a determination by a State or local administrative agency, or other information relating to the possible violation of the provisions of this Act;

"(2) reasonable and specific time limits for the Secretary to conduct audits and reviews (including investigations of allegations) relating to possible violations of the provisions of this Act.

The regulations promulgated pursuant to paragraphs (1) and (2) shall also establish reasonable and specific time limits for the Secretary to advise any complainant of the status of his investigation, audit, or review of any allegation of violation of section 122 (a) or any other provision of this Act.

(c) Judiciary Review.—Section 143(a) (relating to petitions for judicial review) is amended by striking out "receives a notice of withholding of payments under section 104(b) or 123(b)," and inserting in lieu thereof "receives a notice of withholding of payments under section 104(b) or 123(b) a determination under section 122(b)(3)(C) that payments be suspended, or a determination under section 122(b)(3)(D) that payments be terminated,".

"(B) In the case of a fiscal period which is described in subparagraph (A), if State or local law requires an audit of such government's financial statements, then the conducting of such audit shall constitute compliance with the requirements of paragraph (1).

"(5) Waiver.—The Secretary may waive the requirements of paragraph (1) or paragraph (2), in whole or in part, with respect to any State government or unit of local government for any fiscal period as to which he finds (in accordance with regulations prescribed by the Secretary) (A) that the financial accounts of such governments for such period are not auditable, and (B) that such government demonstrates substantial progress toward making such financial accounts auditable.

"(6) Coordination with other federally required audits.—An audit of the financial statements of a State government or unit of local government for a fiscal period, conducted in accordance with the provisions of any Federal law other than this title, shall be accepted as an audit which satisfies the requirements of paragraph (1) with respect to the fiscal period for which such audit is conducted, if such audit substantially complies with the requirements for audits conducted under paragraph (1).

"(7) Audit opinions.—Any opinions rendered with respect to audits made pursuant to this subsection shall be provided to the Secretary, in such form and at such times as he may require.

"(8) Comptroller general shall review compliance.—The Comptroller General of the United States shall make such reviews of the work as done by the Secretary, the State governments, and the units of local government as may be necessary for the Congress to evaluate compliance and operations under this title.".

Sec. 10. Miscellaneous Provisions

(a) Budget Act.—In accordance with section 401(d)(2) of the Congressional Budget Act of 1974 (31 U.S.C. 1351(d)(2); 88 Stat. 297, 318), subsections (a) and (b) of section 401 of such Act shall not apply to this Act.

(b) Definition of "Unit of Local Government".—Section 108(d)(1) (defining "unit of local government") is amended by striking out "municipality, township, or other unit of local government below the State which is a unit of general government" and inserting in lieu thereof "municipality, or township, which is a unit of general government below the State".

Sec. 11. Study of Revenue Sharing and Federalism.

Subtitle C (relating to general provisions) is amended by adding at the end thereof the following new section:

"Sec. 145. Study of Revenue Sharing and Federalism.

"(a) Study.—The Advisory Commission on Intergovernmental Relations shall study and evaluate the American Federal fiscal system in terms of the allocation and coordination of public resources among Federal, State, and local governments including, but not limited to, a study and evaluation of—

"(1) the allocation and coordination of taxing and spending authorities between levels of government, including a comparison of other Federal Government systems;

"(2) State and local governmental organization from both legal and operational viewpoints to determine how general local governments do and ought to relate to each other, to special districts, and to State governments in terms of service and financing responsibilities, as well as annexation and incorporation responsibilities;

"(3) the effectiveness of Federal Government stabilization policies on State and local areas and the effects of State and local fiscal decisions on aggregate economic activity;

"(5) the legal and operational aspects of citizen participation in Federal, State, and local governmental fiscal decisions;

"(5) forces likely to affect the nature of the American Federal system in the short-term and long-term future and possible adjustments to such system, if any, which may be desirable, in light of future developments.

"(b) Cooperation of Other Federal Agencies.—

"(1) Each department, agency, and instrumentality of the Federal Government is authorized and directed to furnish to the Commission, upon request made by the Chairman, and to the extent permitted by law and within the limits of available funds, such data, reports, and other information as the Commission deems necessary to carry out its functions under this section.

"(2) The head of each department or agency of the Federal Government is authorized to provide to the Commission such services as the Commission requests on such basis, reimbursable and otherwise, as may be agreed between the department or agency and the Chairman of the Commission. All such requests shall be made by the Chairman of the Commission.

"(3) The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

"(c) Reports.—The Commission shall submit to the President and the Congress such interim reports as it deems advisable, and not later than three years after the day on which the first appropriation is made available under subsection (d), a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations for legislation as it deems advisable.

"(d) Authorization of Appropriations.—There are authorized to be appropriated to the Commission, effective with the fiscal year beginning October 1, 1977, such sums as may be necessary to carry out the provisions of this section.".

Sec. 12. Prohibition on Use for Lobbying Purposes.

Section 123 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

"(e) Prohibition of Use for Lobbying Purposes.—No State government or unit of local government may use any part of the funds it receives under subtitle A for the purpose of lobbying or other activities intended to influence any legislation regarding the provisions of this Act. For the purpose of this subsection, dues paid to National or State associations shall be deemed not to have been paid from funds received under subtitle A.".

Sec. 13. Effective Dates.

(a) Except as otherwise provided in this Act, the amendments made by this Act shall apply to entitlement periods beginning on or after January 1, 1977.

(b) The amendment made by section 11 takes effect on February 1, 1977.

And the Senate agree to the same.

Jack Brooks,
L. H. Fountain,
Don Fuqua,
Edward Mezvinsky,
Barbara Jordan,
John Burton,
Robert Drinan,
Frank Horton,
John W. Wydler,
Clarence J. Brown,
Managers on the Part of the House.

Russell B. Long,
Herman Talmadge,
Gaylord Nelson,
Mike Gravel,
W. D. Hathaway,
Paul Fannin,
Cliff Hansen,
Bob Packwood,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13367) to extend and amend the State and local Fiscal Assistance Act of 1972, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement

to the amendment of the Senate with an amendment which is a complete substitute for the Senate amendment, and the Senate agrees to the same. The differences among the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE

House bill

The House bill is entitled the "Fiscal Assistance Amendments of 1976."

Senate Amendment

The Senate amendment is entitled the "State and Local Fiscal Assistance Amendments of 1976."

Conference Substitute

The conference substitute is the same as the Senate amendment.

AMENDMENT OF 1972 ACT

House bill

The House bill provides that all references to "the Act" are references to the State and Local Fiscal Assistance Act of 1972.

Senate Amendment

The Senate amendment provides that all references to section numbers are to section numbers of the State and Local Fiscal Assistance Act of 1972, as amended.

Conference substitute

The conference substitute is the same as the Senate amendment.

ELIMINATION OF EXPENDITURE CATEGORIES

The House bill, the Senate amendment, and the Conference substitute provide in section 3, that section 103 of the Act is repealed and section 123(a) of the Act is amended by striking out paragraph (3), thus eliminating the expenditure categories of the 1972 Act.

ELIMINATION OF PROHIBITION ON USE OF FUNDS FOR MATCHING

The House bill, the Senate amendment and the Conference substitute provide in section 4, that section 104 of the Act is repealed and that section 143(a) of the Act is amended by striking out the words, "104 (b) or," thus eliminating the prohibition on State and local governments against the use of revenue sharing funds to match Federal grants received under other programs.

AMOUNT OF FUNDING

House bill

The House bill provides for an annual basic entitlement of $6.65 billion and noncontiguous State adjustment of $4,780,000. The chart below summarizes the House funding level provision for each entitlement period.

[In millions of dollars]

Entitlement period	House bill		
	Basic	Noncontiguous[1]	Total[1]
(8) Jan. 1 to Sept. 30, 1977	4,987.5	3.59	4,991.09
(9) Oct. 1, 1977 to Sept. 30, 1978	6,650.0	4.78	6,654.78
(10) Oct. 1, 1978 to Sept. 30, 1979	6,650.0	4.78	6,654.78
(11) Oct. 1, 1979 to Sept. 30, 1980	6,650.0	4.78	6,654.78
Total	24,937.5	[1]17.93	[1]24,955.43

[1] Rounded to the nearest 10,000's.

Senate amendment

The Senate bill provides the same basic funding level as the House bill but includes a $200 million annual increment. The chart below summarizes the Senate funding level provision for each entitlement period.

[In millions of dollars]

Entitlement period	Senate amendment		
	Basic	Noncontiguous[1]	Total[1]
(8) Jan. 1 to Sept. 30, 1977	4,987.5	3.59	4,991.09
(9) Oct. 1, 1977 to Sept. 30, 1978	6,850.0	4.92	6,854.92
(10) Oct. 1, 1978 to Sept. 30, 1979	7,050.0	5.07	7,055.07
(11) Oct. 1, 1979 to Sept. 30, 1980	7,250.0	5.21	7,255.21
(12) Oct. 1, 1980 to Sept. 30, 1981	7,450.0	5.36	7,455.36
(13) Oct. 1, 1981 to Sept. 30, 1982	7,650.0	5.50	7,655.50
Total	41,252.5	[1]29.65	[1]41,267.15

[1] Rounded to the nearest 10,000's.

Conference substitute

The conference substitute differs from both House and Senate provision. The dollar amount of the entitlement was raised from $6.65 billion annually to $6.85 billion annually after October 1, 1977. The chart below summarizes the conference substitute.

[In millions of dollars]

Entitlement period	Conference susbtitute		
	Basic	Noncontiguous[1]	Total[1]
(8) Jan. 1, to Sept. 30, 1977	4,987.5	3.59	4,991.09
(9) Oct. 1, 1977 to Sept. 30, 1978	6,850.0	4.92	6,854.92
(10) Oct. 1, 1978 to Sept. 30, 1979	6,850.0	4.92	6,854.92
(11) Oct. 1, 1979 to Sept. 30, 1980	6,850.0	4.92	6,854.92
Total	25,537.5	[1]18.35	[1]25,555.85

[1] Rounded to the nearest 10,000's.

LENGTH OF RENEWAL PERIOD

House bill

The House bill extends the program for 3¾ years: January 1, 1977 through September 30, 1980. The three-quarter year segment synchronizes the program with the Federal government's new fiscal year, which begins on October 1 each year and terminates on September 30 of the following year.

Senate amendment

The Senate bill extends the program for 5¾ years: January 1, 1977 through September 30, 1982.

Conference substitute

The conference substitute is the same as the House bill.

METHOD OF PAYMENT

House bill

The House bill uses an entitlement procedure in lieu of the authorization-appropriation procedure followed in the 1972 Act. The Congressional Budget Impoundment Control Act of 1974 contains a provision permitting the enactment of spending authority by way of entitlement. Use of the entitlement procedure guarantees the provision of funds at the stipulated amounts for each of the entitlement periods.

Senate amendment

The Senate bill makes no change from the House entitlement provision.

Conference substitute

The conference substitute is the same as the House bill.

SEC. 5(b) 1—NONCONTIGUOUS STATE ADJUSTMENT AMOUNTS

House bill

Present law provides that noncontiguous States which benefit under the 3-factor formula for allocation of funds among States benefit from the noncontiguous-State adjustment. The adjustment provides that the States of Alaska and Hawaii will receive increased amounts which reflect differential cost-of-living adjustments available in other laws. The adjustments, however, may not exceed the amount of funding annually provided.

The House bill continues to apply the noncontiguous State adjustment to the 3-factor formula of present law, and provides that funds of up to $4.78 million be made available for entitlements ($3.585 million for the period January 1, 1977–September 30, 1977).

Senate amendment

The Senate amendment applies the noncontiguous State adjustment to both the 3-factor and 5-factor formulas of present law and provides that the entitlement funding of up to $4.9 million be available in fiscal year 1978. The funding grows through the renewal period to $5.5 million in fiscal year 1982.

Conference substitute

The conference substitute applies the noncontingous State adjustment to both the 3-factor and 5-factor formulas, and provides entitlement funding of up to $3.585 million for the 9-month period January 1, 1977–September 30, 1977, and $4.924 million for fiscal year 1978, 1979, and 1980.

STATE MAINTENANCE OF EFFORT

House bill

Present law requires that for any entitlement period beginning on or after July 1, 1973, a State government's revenue sharing payment will be reduced by the amount which the average of local transfers from its own sources for that period and the immediately preceding period is less than the similar total for the one year period beginning July 1, 1971. A two-year moving average is compared against the base year amount to measure compliance.

Present law allows adjustments in the base amount (one year beginning July 1, 1971) to reflect State assumption of new expenditure categories or the granting of new taxing powers to local governments. Special rules are also provided for the two entitlement periods beginning July 1, 1973, and July 1, 1976. The House bill requires that States maintain their intergovernmental transfers at fiscal year 1976 levels, or the most recent similar one-year period prior to 1976 for which date is available.

The Senate amendment provides that State governments must maintain a 2-year average of their intergovernmental transfers to localities. This average must equal or exceed the average of such transfers for the immediately preceding 2 years.

In both instances the period of time to which the requirement applies is the State's fiscal period, and the information to be used is the most recent data which is available. It is expected that the Secretary of the Treasury will rely on the Bureau of the Census to collect such information on intergovernmental transfers and apply procedures which will identify transfers made by the State out of its own resources. Also, the amendment provides that where the Federal Government assumes a local responsibility which was previously funded (in whole or in part) by the State, such transfers by the State are not to be included in the application of the maintenance of effort requirement. The amendment further provides for a special rule for the 9-month period January 1, 1977–September 30, 1977.

Conference substitute

The conference substitute adopts the Senate provision. It is understood that the provision for the situation in which the Federal Government assumes such a responsibility is not to be construed to be encouragement of such Federal action by the conference agreement.

TREATMENT OF WAIVERS BY INDIAN TRIBES AND ALASKAN NATIVE VILLAGES

House bill

No provision.

Senate amendment

Under present law, waived entitlements of cities and townships go to the county government; waived entitlements of Indian tribes and Alaskan native villages proportionately to county governments and all cities and townships. The Senate amendment provides that the waived entitlements of Indian tribes and Alaskan native villages are to go to county governments, as waived entitlements of cities and townships are now treated.

Conference substitute

The conference substitute follows the Senate amendment.

SEPARATE LAW ENFORCEMENT OFFICERS IN LOUISIANA

House bill

No provision.

Senate amendment

Under present law, the office of sheriff for each of the Louisiana parishes is not treated as a unit of local government eligible to receive revenue sharing funds. The Senate amendment provides that, except in the parish of Orleans, the office of sheriff is to be treated as a unit of local government eligible to receive revenue sharing funds. This office is to receive 15 percent of what would otherwise be the entitlement of the parish government.

The entitlements of the parish government and the State government each are to be reduced by half the amount going to the sheriff.

CURRENCY OF DATA

House bill

No provision.

Senate amendment

Under present law, the data to be used must be the most recently available, and where such data provided by the Bureau of the Census are not current enough or not comprehensive enough to provide equitable allocations, the Secretary may use additional data, including data based on estimates as provided by regulations. Present law also provides, except as provided otherwise by regulations, that computations of allocations for an entitlement period be made 3 months prior to the beginning of the entitlement period.

The Senate amendment provides that the Secretary must use tax data which relates to the period ending before the entitlement period in question. Thus, the Secretary must use tax data throughout an entitlement period without introducing new data (e.g., for a more recent period) until the beginning of the next entitlement period.

Conference substitute

The conference substitute adopts the Senate provision.

LIMITATION ON ADJUSTMENT OF PAYMENTS

House bill

No provision.

Senate amendment

Present law provides that the Secretary may make payments on the basis of estimates. Proper adjustment is to be made if governments are under or overpaid.

The Senate amendment prohibits the Secretary of the Treasury from decreasing a payment previously made to a recipient government, unless the Secretary makes a demand for such payment within a year after the close of any entitlement period beginning on or after January 1, 1972.

Also the amendment prohibits increasing a payment unless the recipient government makes a demand for such increase within a year after the close of any entitlement period beginning on or after January 1, 1977.

Conference substitute

The conference substitute modifies the Senate provision so that increases or decreases, demanded by the Secretary or recipient within one year after entitlement periods beginning January 1, 1977, be funded out of the State reserve fund provided for in the conference substitute (described below). Deficiency amounts in dispute for the period January 1, 1972–December 30, 1976 are to be recaptured through the adjustment reserve fund. It is understood that the conference substitute does not preclude the closing of the data for an entitlement period by administrative action and does not require the Secretary to make adjustments to entitlements on the basis of data more current than otherwise required under the currency of data provision in the conference substitute (described above).

RESERVES FOR ADJUSTMENTS

House bill

No provisions.

Senate amendment

Under present law, the Secretary must make at least quarterly payments to recipient governments, and may adjust amounts to recipients resulting from over and underpayments and has set aside a national reserve fund for such purposes. Under the Senate amendment, the Secretary may reserve up to 0.5 percent of each State area's entitlement to pay adjustment amounts in each entitlement period.

Conference substitute

The conference substitute adopts the Senate amendment.

REPORT ON USE OF FUNDS

House bill

Present law requires that reports on planned and actual uses of revenue sharing funds be published in a newspaper of general circulation before and after each entitlement period. The reports are also provided to the Secretary of the Treasury.

Section 8 of the House bill requires a recipient government to report to its constituents on the proposed uses of funds received under this Act and also expands the content of the report required under the present law on the actual uses of funds.

The proposed use (designated "planned use" in the 1932 Act) provisions requires State and local governments which expect to receive funds under this Act to submit proposed use reports to the Secretary of the Treasury (who, in turn, is responsible for providing such reports to the respective Governors) for entitlement periods beginning on or after January 1, 1977. Such governments are required to report on how they expect to spend their entitlements, to provide comparative data on the use of such funds during the two immediately preceding entitlement periods, and information on how past, current, and the proposed use of the funds relate to relevant functional items in the recipient government's budget. It requires further that the report also indicate whether the proposed use is for a new activity, to expand or continue an existing activity, or for tax stabilization or reduction purposes. The Secretary is to prescribe the form and detail of the report in addition to the time when it is to be filed.

The bill provides that each report on the use of funds, which must be submitted to the Secretary of the Treasury who, in turn, would be responsible for providing such reports to the respective governors) as well as published locally and made available to the public for inspection and reproduction, is to include the following information: how the State or local unit of government's entitlement was spent or obligated; the relationship of these funds to the relevant functional items in the recipient government's budget; and an explanation of differences between the proposed use of funds and how the funds were actually spent during the entitlement period.

Senate amendment

Section 7 of the Senate bill requires each recipient government to prepare a planned use report showing a summary of the entire budget for such government's previous, current and coming fiscal periods. It also requires for each fiscal period a statement of the amount of funds made available under this Act, in addition to other sources of funds, and of total expenditures.

The Senate bill does not provide for a separate report on the use of funds.

Committee substitute

The committee substitute requires a report on the use of funds by each State and local government which receives funds under this Act. That report, which is to be submitted to the Secretary at the close of the recipient government's fiscal period and which is to be available to the public for inspection, must show the amounts and purposes for which the funds have been appropriated, spent or obligated and the relationship of those funds to the relevant functional items in the government's budget. In addition, this report must identify the differences between the actual and proposed use of such funds. The Secretary is authorized to prescribe the form and detail of the report, as well as the time when the report is to be filed.

The Secretary is required to furnish copies of reports on the use of funds submitted by units of local government to the governors of the respective States in which such governments are located. It is expected that this requirement could be satisfied by transmittals of facsimile copies (eg. a photocopy or photoreduction such as microfiche) or in machine readable form. The manner in which they would be provided would be agreed upon by the Secretary and the Governor made available to the public for inspection and reproduction, is to include the following information: how the State or local unit of government's entitlement was spent or obligated; the relationship of these funds to the relevant functional items in the recipient government's budget; and an explanation of differences between the proposed use of funds and how the funds were actually spent during the entitlement period.

PUBLICATION

House bill

Present law requires that reports on planned and actual uses of revenue sharing funds be published in a newspaper of general circulation before and after each entitlement period. The reports are also provided to the Secretary of the Treasury.

The House bill requires publication in a general circulation newspaper the proposed use report together with a narrative summary explaining the entire proposed budget and notice of the time and place for a hearing on the budget 30 days before the prebudget hearing is to be held. The budget document and the published report and narrative summary is to be available for public inspection and reproduction at the principal governmental office and in public libraries. In addition, the proposed use report is to be submitted to the metropolitan area planning organization if the local government is located within a metropolitan area.

After adoption of the budget, each recipient State and local unit of government is required to publish (in a general circulation newspaper) a narrative summary of the budget explaining changes made from the proposed budget and the relation of funds received under this Act to items in the budget. In addition, the budget summary is to be made available for public inspection and reproduction at the principal office of the government and the public libraries.

The Secretary is authorized to waive publication requirements if their cost would be unreasonably burdensome in relation to entitlements received under this Act, or if such publication would be impractical or infeasible.

Senate amendment

The Senate amendment would require publication of the planned use report in a newspaper of general circulation prior to the required hearing for each recipient government. This publication is also to provide notice of the time and place of the public hearing. Publication is not required if its cost exceeds 15 percent of the government entitlement or if such publication were impractical.

The conference substitute requires each State and local government which expends funds received under this Act in any fiscal period on or after January 1, 1977, to take the following actions:

A. at least 10 days prior to the budget hearing—

1. publish in at least one newspaper of general circulation, the proposed uses of such funds together with a summary of its proposed budget and a notice of the time and place of the budget hearing; and

2. make available for inspection by the public at the principal office of the State or local government the proposed use of funds, together with a summary of its proposed budget; and

B. within 30 days after adoption of its budget as provided for under State or local law—

1. make a summary of the adopted budget, including the proposed use of funds made available under this Act, available for inspection by the public at the principal office of such State or local government; and

2. publish in at least one newspaper of general circulation a notice of the availability for inspection of the information referred to immediately above.

The requirements specified in the Act for making available certain information for inspection by the public at the principal office of the State and local governments are intended to be the minimum requirements.

It is expected that the documents referred to would normally be made available at other public places, including public libraries, for the convenience of the public.

The committee substitute authorizes the Secretary to waive, in whole or in part, the requirements with respect to the publication of the proposed use of funds and the summaries where the cost of such publication would be unreasonably burdensome in relation to a government's entitlement, or where such publication is otherwise impractical or infeasible.

In addition, the 10 day requirement of the newspaper publication requirement can be waived by the Secretary if applicable State or local law, which requires publication of a budget summary or a newspaper of general circulation, will provide adequate notice to the citizens. Were such a law to require such a publication 7 days prior to the public hearing, it is contemplated that adequate notice would be available. A publication in an evening newspaper the evening of the hearing would not, however, be interpreted to provide adequate notice.

It is understood there are some local governments receiving funds which are not served by a newspaper of general circulation. Also, it is contemplated that the Secretary will provide through regulation for situations in which localities consolidate the newspaper publication in a joint publication if such publication clearly identifies each unit's proposed uses and budget summary.

It is contemplated in providing this waiver authority that alternative publication methods, such as making the notice a part of water bills sent out generally, would be acceptable, and that the regulations of the Secretary provide for such alternative publication methods when publication is impractical. With respect to the test of unreasonably burdensome cost for waiver of the publication requirement, it is contemplated that were costs of publication to exceed 15 percent of a recipient's entitlement, the publication costs could be deemed to be unreasonably burdensome.

PUBLIC HEARINGS

House bill

Recipient governments are generally required to expend revenue sharing funds in the same manner as they expend their own funds. If State or local law requires a public hearing on a recipient's budget, a hearing on the expenditure of revenue sharing is also required.

The bill provides that a pre-report hearing be held, after adequate notice and at least 7 days before submitting a proposed use report to the Secretary, to afford citizens, including specifically senior citizens, an opportunity to provide oral and written comment on the possible uses of entitlements to be received under this Act.

A pre-budget hearing is to be held at least 7 days before the recipient government's budget is adopted. This hearing is to deal with the proposed use of funds received under the Act in relation to the government's entire budget. At this hearing, citizens, including specifically senior citizens, are to have an opportunity to provide written and oral comment and to have their questions answered. The bill requires that the hearing be held at a time and place that will encourage public participation and be held before the body responsible for enacting the budget.

The House bill authorizes the Secretary to waive a pre-report hearing if the cost would be unreasonably burdensome in relation to the amount of entitlement, and to waive the pre-budget hearing if the budget processes required under applicable State or local laws or charter provisions assure an opportunity for public participation, including a hearing on the proposed use of revenue sharing funds.

Senate amendment

The Senate amendment provides that each State and local government which receives funds under this Act hold a public hearing on its proposed budget at least 7 days before its adoption. Such hearing is to be held at a time and place convenient for general public attendance and citizens are to have the opportunity to provide written and oral comment to the body responsible for enacting the budget concerning the use of these funds. Each recipient government is to be permitted to waive the public hearing requirement if it certifies that it will hold a public hearing at which citizens may give written and oral comment upon adequate notice. The election must describe the hearing and reporting process as it relates to its own revenues and expenditures.

Conference substitute

The conference substitute provides for both a hearing on the proposed use of funds received under this Act and a budget hearing.

The hearing on the proposed use of funds is to be held, after adequate public notice, not less than 7 calendar days before the budget of a recipient government is presented to the governmental body responsible for enacting the budget. At this hearing, citizens must have the opportunity to provide written and oral comment on the possible uses of funds. It is contemplated that this first hearing would be held after adequate notice before the executive branch prior to its finalization of a budget to be submitted to a legislative body.

The budget hearing is intended to afford citizens the opportunity to provide written and oral comment (to the body responsible for enacting the budget) on the proposed use of funds received under this Act in relation to the government's entire budget. At such hearing, citizens are to be given an opportunity to ask questions concerning the entire budget and the relationship of funds received under this Act to that budget. It is intended that meaningful efforts be made to permit maximum citizen participation in the budget hearing and that those officials responsible for holding the hearing will make every effort to respond to questions raised. The hearing is to be held at a place and time that permits and encourages public attendance and participation.

The hearing on the proposed use of funds may be waived in whole or in part if the cost of such a requirement would be unreasonably burdensome in relation to funds received under this Act by any State government or unit of local government. For example, were the costs of such hearing to exceed 15 percent of the revenue sharing entitlement, the requirement could be waived. The second public hearing may be waived in whole or in part by the Secretary if the budget process, under generally applicable state or local law which governs the expenditure of a recipient's own funds, permits citizens to give written and oral comment on the proposed uses of revenue sharing funds when a hearing is held on the recipient's budget. Similarly, if state or local law requires the publication of a summary of a recipient's budget, the Secretary may waive the publication of the proposed uses of revenue sharing funds if the publication were to provide adequately for notification of the proposed uses of revenue sharing funds as contemplated by the general requirement.

The requirement for the budget hearing may be waived in whole or in part if the budget processes required under applicable State or local laws or charter provisions assure the opportunity for public attendance and participation contemplated by the provisions of this subsection and a portion of such process includes a hearing on the proposed use of funds received under this Act in relation to the government's entire budget.

In addition to this waiver authority, the Secretary is required to promulgate regulations to deal with situations in which a recipient government does not formally enact or adopt a single budget, as is generally contemplated in the general public hearing requirements. Such regulations are to provide that information will be provided to the public and public hearings will be held at such point in the development of budget acts, appropriations, authorizing legislation, etc., as to permit and encourage the type of public participation in the authorization on expenditure process intended by this section. For example, where a State legislature does not adopt a single omnibus appropriation act, public hearings before the appropriations committees of the two Houses prior to their actions on the executive proposed budget, are to constitute hearing consistent with the intention of the requirements.

NONDISCRIMINATION SECTION

TYPE OF DISCRIMINATION PROHIBITED

House bill

The House bill broadens the present nondiscrimination provision by adding further prohibitions against discrimination on the basis of age, handicapped status, and religion. It directs that the prohibition against discrimination on account of race, color, religion, sex, or national origin be interpreted in accordance with Title II, III, IV, VI, and VII of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, and Title IX of the Education Amendments Act of 1972.

Senate amendment

The Senate amendment is substantially the same as the House bill except for (1) some clarifying language with respect to the application of the Civil Rights Acts in interpreting the prohibition against religious discrimination and (2) the prohibition against discrimination on account of age will not take effect until the effective date of the Age Discrimination Act of 1975.

Conference substitute

The conference substitute is the same as the Senate bill except that:

1. The prohibition against discrimination on account of handicapped status is not to apply to construction projects commenced prior to January 1, 1977.

2. The provision pertaining to discrimination on the ground of handicapped status shall refer to discrimination with respect to "an otherwise qualified handicapped individual."

APPLICATION OF PROHIBITIONS

House bill

The prohibitions are applied to all the programs and activities of a government except those programs and activities which the government proves, by clear and convincing evidence, are not funded in whole or in part, directly or indirectly, with revenue sharing funds.

Senate amendment

The prohibitions are applied to those programs and activities of a government which are (1) designated as being funded, in whole or in part, with revenue sharing funds, or (2) under all the facts and circumstances, demonstrated to be funded, in whole or in part, with revenue sharing funds.

Conference substitute

The conference substitute adopts the House provision with the deletion of the words "directly or indirectly". By this deletion, it is intended that, if the recipient government demonstrates by clear and convincing evidence that the challenged program or activity is not directly funded with revenue sharing funds, then that program or activity does not violate the nondiscrimination provision.

AUTHORITY OF THE SECRETARY AND PROCEDURE IN WITHHOLDING FUNDS

House bill

The central feature is a trigger mechanism which determines when the Secretary will begin compliance proceedings by sending appropriate notices to the noncomplying recipients. Such notification will be triggered under two circumstances:

1. When a Federal or State court or administrative agency, after notice and opportunity for the recipient to be heard, makes a finding of discrimination on the basis of race, color, religion, sex, national origin, age, or handicapped status; and

2. When the Secretary, after affording the recipient an opportunity to make a documentary submission, makes an initial determination of noncompliance based on his own investigation.

After the notification, the recipient has 90 days to end the discrimination and take whatever affirmative steps are necessary to conform its practices to the law. The recipient may request a hearing on the merits which the Secretary is required to initiate within 30 days of the request. At that hearing the recipient may raise any defense available under the law, including the contention that the shared revenues were not used in the program or activity in which the alleged discrimination occurred.

In advance of the hearing on the merits, the recipient may also request a preliminary hearing before an administrative law judge when the notification to the recipient is based on the Secretary's initial determination of noncompliance. Such a preliminary hearing must be requested within 30 days of the notification of noncompliance and must be completed within the 90-day period. If the recipient demonstrates that it is likely to prevail on the merits at a subsequent full hearing, the administrative judge is authorized to order a deferral of a fund suspension which would otherwise automatically occur at the conclusion of the 90 days if compliance is not achieved.

At the end of the 90 days, the payment of shared revenues is automatically suspended if a compliance agreement has not been signed, or if compliance itself has not been achieved, or if an administrative law judge has not entered an appropriate order. The suspension of funds applies only to a local government which is the subject of the notification from the Secretary. The payment of funds to other governments in the state or the state itself remains unaffected. The suspension then remains in effect for a period of 120 days, or 30 days after the conclusion of a hearing on the merits, whichever is later. During this period of suspension, the Secretary is obligated to make a final determination of compliance or noncompliance. If insufficient evidence of noncompliance is presented to the Secretary, then the suspended payments and all future payments are paid to the recipient. If noncompliance is found, the funds are terminated and the Attorney General is notified. The recipient government could, of course, seek resumption of payments when it achieved compliance with the Act.

Senate amendment

A central feature of the Senate amendment regarding procedure is a trigger mechanism which determines when the Secretary will begin compliance proceedings. His notification to the recipient is triggered under similar circumstances to that of the House bill with a distinction being made, however, between federal administrative agency findings and state administrative agency findings.

After the notification, the recipient has 60 days within which to present its side of the case to the Secretary. After such time the Secretary is required to make a determination as to whether the recipient has violated the nondiscrimination provision. Within the next 60 days following the Secretary's determination that the nondiscrimination provision has been violated, a compliance negotiation period ensues in which a compliance agreement may be executed between the recipient and the Office of Revenue Sharing. If within this 60 day period a compliance agreement is not executed, the recipient would have ten days in which to request a hearing before an administrative law judge. The hearing must commence within 30 days of the request. Within 60 days of the commencement of the hearing, the Administrative Law Judge would be required to make a preliminary finding as to whether the recipient would not prevail on the merits. Such a determination would result in a suspension of funds, pending the outcome of the hearing. At the conclusion of the hearing, the Administrative Law Judge would make a final determination as to whether the recipient has violated the nondiscrimination provision. A finding to this effect would result in an indefinite suspension of funds within 30 days of the determination, unless within that time period a compliance agreement is entered into.

CONFERENCE SUBSTITUTE

The conference substitute essentially adopts the Senate procedure with a reduction in some of the time periods. It also provides the administrative law judge with discretion to terminate funds. The conferees adopted the following procedure.

The initial formal step of the procedure involves the Secretary's sending of noncompliance notice to a revenue sharing recipient. This notice will be triggered by and must be sent within 10 days of:

(1) actual receipt by the Secretary of a holding by a Federal or State court or by a Federal administrative law judge of discrimination on the grounds of either race, color, national origin, sex, age, handicapped status, or religion in any of the State's or local unit's activities or programs. A Federal administrative law judge's holding must have been preceded by a notice and opportunity for a hearing and it must be rendered pursuant to the provisions of the Administrative Procedures Act; or

(2) a finding by the Secretary, as a result of an investigation, that it is more likely than not that the recipient has failed to comply with the nondiscrimination provision. This finding will be made with respect to any complaint, information, or holding from any source other than the holding of a court or Federal administrative law judge. If after the Secretary receives a complaint, information (including information generated within the Office of Revenue Sharing), or a holding by a State or local administrative agency pertaining to discrimination on the grounds of either race, color, national origin, sex, age, handicapped status, or religion, he finds that it is more likely than not that the recipient has failed to comply with the nondiscrimination provision, he will send a noncompliance notice to the recipient.

In the 30 days following notification by the Secretary, the recipient will have the opportunity to informally present its evidence and contentions to the Secretary. In those instances where the notice was triggered by a holding of discrimination by a court or Federal administrative law judge, the question of discrimination will be considered resolved against the recipient so long as the Secretary's notice was restricted to the particular holding of the court or Federal administrative law judge. The only issue in this instance would be whether the particular program or activity was funded with revenue sharing funds.

In those instances where the notice was triggered by a complaint, information or State or local administrative agency finding, both the issues of discrimination and funding would be subject to discussion during this 30-day period.

By the end of the initial 30-day period following notification, the Secretary must issue a determination as to whether the recipient has failed to comply with the nondiscrimination provision.

The recipient has 10 days from the date of the Secretary's adverse determination to request a full hearing before an administrative law judge. This hearing must commence within 30 days after the request. Within this 40-day period, before the hearing begins, the recipient may enter into a voluntary compliance agreement.

In those instances where the notice was triggered by a holding of a Federal or State court or by a Federal administrative law judge, a compliance-type agreement entered into between the recipient and the Federal administrative agency involved, or with the authorities (including the Attorney General) which brought the action in the Federal or State court, would constitute a compliance agreement for purposes of these provisions. The Secretary, however, will have the discretion to reject the agreement involved if he determines that it does not adequately remedy the discrimination involved.

In those instances where the compliance agreement is between the Secretary and a State government, the necessary signators will be the Secretary and the Governor of the affected State. In those instances where the compliance agreement is between a locality and the Secretary, the necessary signators will be the Secretary and the chief executive officer of the locality.

If the recipient fails to request a hearing within 10 days of the Secretary's determination, the Secretary will be required to immediately suspend payment of revenue sharing funds to the recipient.

Within 30 days of the request for a hearing, a Federal administrative law judge must commence a hearing. If a finding of discrimination has already been made by a court or a Federal administrative law judge, the hearing would only pertain to whether the program or activity involved received revenue sharing funds. Within 30 days of commencement of the hearing, the administrative law judge will be required to make a preliminary finding on the record of evidence then before him as to whether it is likely that the recipient would not prevail on the issues to which the hearing pertained. Within this 30-day period, something akin to a summary hearing would be held, where both parties, through affidavits and other evidence, would present their sides of the case.

A preliminary finding by the administrative law judge in favor of the Secretary within the 30-day period following the commencement of the hearing will result in the immediate suspension of any further payments of revenue sharing funds to the recipient pending the outcome of the full hearing, unless a compliance agreement has been entered into. At the conclusion of the hearing, the administrative law judge will make a finding based upon the complete record of evidence. If the Secretary prevails upon the issues, an indefinite suspension of the payment of funds will occur within 30 days after the rendering of the finding by the administrative law judge unless within that 30-day period a compliance agreement is entered into.

In lieu of the suspension of funds, the administrative law judge has the discretion to order the termination of the payment of funds made available under subtitle A. The administrative law judge's determination is subject to the applicable appellate procedures.

Payment of suspended funds is to be resumed in the following instances: (1) when a compliance agreement is entered into or the Secretary determines that the recipient has complied with certain provisions of a compliance agreement, such determination being a condition precedent to the resumption of payments; (2) after a hearing before an administrative law judge, where a preliminary suspension of funds has occurred, the administrative law judge holds that the recipient is in compliance with the nondiscrimination provision; (3) the recipient complies fully with the order of a court or Federal administrative law judge if that order covers all the matters raised by the secretary in his notice of noncompliance; (4) upon a rehearing or similar proceeding, the court or administrative law judge which originally held that the recipient had discriminated on the grounds of either race, color, national origin, sex, age, handicapped status, or religion, holds that the recipient did not so discriminate; or (5) an appellate court reverses the findings of discrimination by a lower court or administrative law judge, such initial findings having triggered the notice of noncompliance and ultimately the suspension of funds by the Secretary.

AUTHORITY OF AN ATTORNEY GENERAL

The House bill, the Senate amendment, and the Conference substitute are all the same.

The Attorney General's authority is expanded so that whenever he believes that a State government or unit of local government has engaged in a pattern or practice of discriminatory actions in violation of the nondiscrimination provision, he may bring a civil action seeking as relief any temporary restraining order, preliminary or permanent injunction, or other order calling for, among other things, the suspension, termination, repayment, or placing of revenue sharing funds in escrow pending the outcome of the litigation.

AGREEMENTS BETWEEN AGENCIES

House bill

The House bill provides that the Secretary is to enter into agreements with State agencies and with other Federal agencies authorizing these agencies to investigate alllegations of noncompliance with the nondiscrimination provision. Each agreement is to describe the cooperative efforts to be undertaken (including the sharing of civil rights enforcement personnel and resources) to secure compliance and will provide for immediate notification to the Secretary of any actions instituted against a State government or unit of local government alleging a violation of any Federal civil rights statute or regulations issued thereunder.

Senate amendment

The Senate amendment is substantially the same as the House bill except that it provides that the Secretary is to "endeavor" to enter into agreements, as opposed to mandating the Secretary to enter into agreements.

Conference substitute

The conferees adopted the Senate provision. It is contemplated that the Secretary will make vigorous efforts to enter into these cooperative agreements.

CITIZEN REMEDIES

House bill

The House bill provides that upon exhaustion of administrative remedies, a civil action may be instituted by an aggrieved person in an appropriate United States District Court or State Court. This action, alleging any violation of the provisions of this Act by a State government or a unit of local government, could seek such relief as a temporary restraining order, preliminary or permanent injunction, or other order providing for the suspension, termination, repayment of funds, or placing any further payments of revenue sharing funds in escrow pending the outcome of the litigation.

Senate amendment

The Senate amendment is the same as the House bill except that it limits private citizen suits to actions alleging a violation of the nondiscrimination provision of the Act.

Conference substitute

The Conference substitute adopts the House provision.

EXHAUSTION OF ADMINISTRATION REMEDIES

House bill

In the House bill, administrative remedies will be considered "exhausted" upon the expiration of the 60-day period following the date an administrative complaint is filed with the Office of Revenue Sharing or any other administrative enforcement agency, unless within this time period the agency involved makes a determination on the merits of the complaint, in which case the administrative remedies will not be considered exhausted until the determination becomes final.

Senate amendment

In the Senate amendment, administrative remedies will be considered "exhausted" upon:

(a) the expiration of the 60-day period following the date the complaint is filed with the Office of Revenue Sharing, during which time it either (i) fails to issue a determination on the merits of the complaint, (ii) issues a determination that the recipient did not violate the nondiscrimination provision, or (iii) refers the complaint to the Department of Justice, and

(b) the expiration of the subsequent 60-day period where the complaint is filed with or referred to the Department of Justice, during which time it either (i) fails to issue a determination on the merits of the complaint or, (ii) issues a determination that the recipient did not violate the nondiscrimination provision.

Conference substitute

Under the conference agreement, administrative remedies will be considered "exhausted" upon expiration of the 90-day period following the date an administrative complaint is filed with the Office of Revenue Sharing or any other administrative enforcement agency which has entered into a cooperative agreement with the Office of Revenue Sharing, if within this time period the Office of Revenue Sharing or other administrative enforcement agency (1) fails to issue a determination on the merits of the complaint or (2) issues a determination that the recipient did not violate the nondiscrimination provision. It is contemplated that the other administrative agencies to which this provision applies will, pursuant to the cooperative agreement with the Office of Revenue Sharing, provide the Office of Revenue Sharing with notice of the complaint filed with that agency.

REGULATIONS

House bill

The Secretary is directed to promulgate regulations by March 31, 1977, which set forth reasonable and specific time limits for response by the Secretary or the appropriate cooperating agency to a complaint by any person alleging a violation of the provisions of the Act by a State Government or unit of local government. Moreover, the regulatons are to establish reasonable and specific time limits for the Secretary to conduct independent audits and review of State governments and units of local government regarding compliance with the provisions of the Act.

Senate amendment

Senate amendment has no comparable provision.

Conference substitute

The conference adopt essentially the House provision, providing that the reasonable and specific time limit for the Secretary to conduct investigations and make findings in response to citizen complaints, State and local administrative agency findings, or other information is not to exceed 90 days. The conferees do not intend a violation of this provision to in any way relate to the validity of a notice sent by the Secretary under section 122(b).

ATTORNEYS FEES

House bill

No provisions.

Senate amendment

The Senate provides that in private citizen actions to enforce the nondiscrimination provision, the court, in its discretion, may allow reasonable attorney fees to the prevailing party (other than the United States).

Conference substitute

The Conference substitute adopts the Senate provision.

ACCOUNTING AND AUDITING PROVISIONS

House bill

Recipient governments, under existing law, are required to use fiscal accounting and audit procedures in conformity with guidelines developed by the Secretary of the Treasury, after consultation with the Comptroller General. A recipient government also is required to grant access to its books and documents to the Secretary and the Comptroller General for the purpose of monitoring compliance. The House bill requires each recipient to conduct an annual independent financial audit in accordance with generally accepted auditing standards. The Secretary, after consultation with the Comptroller General, is directed to promulgate regulations including such requirements as may be necessary to assure that independent audits are conducted in accordance with generally accepted audit standards. The Secretary may provide for less formal reviews of financial information or less frequent audits to the extent necessary to ensure that the cost of such audits will not be unreasonably burdensome in relation to the payments made to recipient units of government. The Comptroller General is required to review the efforts of the Secretary and recipient governments for the purpose of enabling Congressional evaluation of compliance and operations with respect to these auditing and accounting requirements.

Senate amendment

The Senate amendment generally requires an independent financial and compliance audit for recipient governments. Governments receiving less than $25,000 in revenue sharing entitlements for any fiscal period are exempt from this requirement. An exception is also provided where a recipient government's financial statements are audited pursuant to generally applicable State or local audit requirements. If a recipient government is unauditable, under either the general audit requirement or under State or local audit requirements, the Secretary may waive the audit requirement if the recipient government demonstrates that it is making progress toward making its financial accounts auditable. Under the general audit and accounting requirement, an independent financial and compliance audit of a recipient government's financial statements, according to generally accepted auditing standards and generally accepted accounting principles, is required at least every three years. A series of audits which aggregate the entire financial activity of the recipient government and which are performed over not more than three fiscal years would meet this requirement. The amendment also provides that other Federally-required independent audits in accordance with generally accepted auditing standards shall be accepted as satisfactory by the Secretary. Where a recipient government's financial statements are subject to an independent audit under State or local law, the recipient must certify that such audits will be conducted in accordance with generally accepted auditing standards. It also must inlude a brief description of the auditing standards to be applied.

Any opinion rendered with respect to the required audits are to be provided to the Secretary pursuant to regulations setting forth the form and time for such submissions.

Conference agreement

The conference agreement generally follows the Senate amendment. However, the conference agreement requires that a recipient government which is found to be unauditable by the Secretary must demonstrate in accordance with regulations, that it is making substantial progress toward becoming auditable. In addition, the conference agreement adopts the provision of the House bill under which the Comptroller General is directed to review the efforts of the Secretary and recipient governments for the purpose of enabling Congressional evaluation of compliance and operations with respect to these auditing and accounting requirements.

ELIGIBILITY REQUIREMENTS

House bill

Under present law, to receive revenue sharing funds a recipient government must be a State government or a unit of local government as defined by the Bureau of the Census for general statistical purposes. The House bill provides, in addition to the requirement of current law that a unit of local government meet the Bureau of the Census definition, it must also perform certain functions to continue to receive revenue sharing payments. A unit of local government must impose taxes or receive intergovernmental transfers for substantial performance of two of fourteen enumerated categories: (1) police protection, (2) courts and corrections, (3) fire protection, (4) health services, (5) social services for the poor or aged, (6) public recreation, (7) public libraries, (8) zoning or land use planning, (9) sewage disposal or water supply, (10) solid waste disposal, (11) pollution abatement, (12) road or street construction, (13) mass transportation, and (14) education. In addition, at least 10% of the local government's expenditures must be within each of two of these fourteen service categories. This requirement would not apply where the locality substantially performs four or more of these enumerated services. Finally, the House bill eliminates the reference in current law to "other units of local government."

Senate agreement

The Senate amendment makes no substantive change in the definition of "units of local government." The Senate amendment eliminates the reference to "other units of local government."

Conference agreement

The conference agreement follows the Senate amendment.

STUDY OF REVENUE SHARING AND FEDERALISM

House bill

No provision.

Senate amendment

The Senate amendment provides that the Advisory Commission on Intergovernmental Relations (ACIR) shall conduct a 3-year study and evaluation of the American federal fiscal system in terms of the allocation and coordination of public resources among Federal, State, and local governments including (but not limited to) the following specific areas: (1) the allocation and coordination of taxing and spending authorities among levels of government; (2) State and local governmental organization; (3) effectiveness of Federal stabilization policies on State and local governments and impact of State and local fiscal decisions on aggregate economic activity; (4) quality of financial control and audit procedures in Federal, State, and local governments; (5) citizen participation in Federal, State, and local government fiscal decisions; (6) the specific relationship of revenue sharing to other Federal grant-in-aid programs and its role in Federal, State, and local fiscal interrelationships; (7) forces likely to affect the nature of American federalism in long and shortrun; (8) the processes whereby State and local governments designate Federal revenue sharing funds among projects, as well as the role of revenue sharing in long-term planning in State and local governments. A final report (along with any recommendations for legislation) is to be submitted to the President and Congress at the end of the study. Appropriations are authorized as may be necessary, beginning with fiscal year 1978.

Conference substitute

The Conference substitute deletes from the scope of the study the subject areas identified in items (4), (6) and (8) of the Senate amendment. In addition, the Conference deleted provisions: (a) authorizing and directing Federal departments and agencies to furnish requested information, since a similar provision is already contained in P.L. 86–380, the statute under which ACIR was established, and (b) directing the Administrator of General Services to provide administrative support services to the Commission on a reimbursable basis; this provision was found to be unnecessary because ACIR itself possesses adequate support services for the purposes of this section. The Conference also changes the time limit for a final report from 3 years after the appointment of Commission members to 3 years after an initial appropriation is made for the study; this change was made because ACIR, as an existing, continuing body, would not require the appointment of members for the purposes of this section.

PROHIBITION OF USE FOR LOBBYING PURPOSES

House bill

The House bill provides that no State and local government recipient is to use, directly or indirectly, any part of its allocation of funds received under this Act for lobbying activities which are for the purpose of influencing legislation relating to the provisions of this Act. Dues paid to National or State associations are not deemed to have been paid from funds received under subtitle A.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute eliminates the words "directly or indirectly" from the House provision.

SUBURBAN IMPROVEMENT DISTRICTS IN ARKANSAS

House bill

No provision.

Senate amendment

Under present law, the Arkansas suburban improvement districts are not regarded as units of local government entitled to receive revenue sharing funds. The Senate amendment provides that such a district is to be entitled to receive revenue sharing funds if they perform at least 2 of 14 enumerated categories of governmental functions and at least 10 percent of the district's total budget is for each of 2 categories of governmental functions.

Conference substitute

The conference substitute omits the provision.

FREQUENCY OF PAYMENT

House bill

No provision.

Senate amendment

Current law provides for quarterly payments, within five days after the close of each quarter.

The Senate bill amends this provision to require that governments receiving less than $4,000 annually be paid on an annual basis receiving their full year's payment within five days after the close of the first quarter.

Conference substitute

The conference substitute drops the Senate amendment.

OPTIONAL FORMULA

House bill

Under present law, a State may use a variation of the within-State formula for allocating revenue sharing funds if it passes a law to that effect and notifies the Secretary of the Treasury. Any such formula, once enacted, remains in effect until December 31, 1976. The House bill provides that any such formula is to remain in effect until September 30, 1980.

Senate amendment

The Senate amendment provides that any such formula is to remain in effect until September 30, 1982; it also forbids Louisiana from enacting any such formula change.

Conference substitute

The conference substitute follows the House bill.

SUBURBAN IMPROVEMENT DISTRICTS IN ARKANSAS

House bill

No provision.

Senate amendment

Under present law, the Arkansas suburban improvement districts are not regarded as units of local government entitled to receive revenue sharing funds. The Senate amendment provides that such a district is to be entitled to receive revenue sharing funds if they perform at least 2 of 14 enumerated categories of governmental functions and at least 10 percent of the district's total budget is for each of 2 categories of governmental functions.

Conference substitute

The conference substitute omits the provision.

ECONOMIC AND TECHNICAL ASSISTANCE

House bill

No provision.

Senate amendment

Under the Senate amendment, the Director of the Office of Revenue Sharing is directed to provide upon request, economic and technical assistance necessary to encourage, develop, and implement long-range planning. Present law and the House bill do not contain a similar provision.

Conference substitute

The conference substitute deletes the Senate amendment.

JACK BROOKS,
L. H. FOUNTAIN,
DON FUQUA,
EDWARD MEZVINSKY,
BARBARA JORDAN,
JOHN BURTON,
ROBERT DRINAN,
FRANK HORTON,
JOHN W. WYDLER,
CLARENCE J. BROWN,
Managers on the Part of the House.

RUSSELL B. LONG,
HERMAN TALMADGE,
GAYLORD NELSON,
MIKE GRAVEL,
W. D. HATHAWAY,
PAUL FANNIN,
CLIFF HANSEN,
BOB PACKWOOD,
Managers on the Part of the Senate.

PROVIDING FOR CONSIDERATION OF S. 3521, ALASKAN NATURAL GAS TRANSPORTATION ACT OF 1976

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 94–1721) on the resolution (H. Res. 1584), which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON H.R. 12572, UNITED STATES GRAIN STANDARDS ACT OF 1976

Mr. FOLEY submitted the following conference report and statement on the bill (H.R. 12572) to amend the United States Grain Standards Act to improve the grain inspection and weighing system, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 94–1722)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12572) to amend the United States Grain Standards Act to improve the grain inspection and weighing system; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "United States Grain Standards Act of 1976".

DECLARATION OF POLICY

SEC. 2. The United States Grain Standards Act (39 Stat. 482–485, as amended; 7 U.S.C. 71, 74–79, 84–87, and 87a–87h) is amended by amending section 2(7 U.S.C. 74) as follows:

(a) by striking out in the second sentence the word "and" immediately before "to provide" and by inserting in such sentence immediately before the semicolon the following: ", and to regulate the weighing and the certification of the weight of grain shipped in interstate or foreign commerce in the manner hereinafter provided";

(b) by inserting immediately following the word "orderly" in the second sentence the words "and timely"; and

(c) by adding a new sentence at the end thereof to read as follows: "It is hereby found that all grain and other articles and transactions in grain regulated under this Act are either in interstate or foreign commerce or substantially affect such commerce and that regulation thereof as provided in this Act is necessary to prevent or eliminate burdens on such commerce and to regulate effectively such commerce.".

DEFINITIONS

SEC. 3. Section 3 of the United States Grain Standards Act, as amended (7 U.S.C. 75), is amended as follows:

(a) Subsection (i) is amended to read as follows:

"(i) the term 'official inspection' means the determination (by original inspection, and when requested, reinspection and appeal inspection) and the certification, by official inspection personnel of the kind, class, quality, or condition of grain, under standards provided for in this Act, or the condition of vessels and other carriers or receptacles for the transportation of grain insofar as it may affect the quality or condition of such grain; or, upon request of the interested party applying for inspection, the quantity of sacks of grain, or other facts relating to grain under other criteria approved by the Administrator under this Act (the term 'officially inspected' shall be construed accordingly);".

(b) Subsection (j) is amended to read as follows:

"(j) the term 'official inspection personnel' means persons licensed or otherwise authorized by the Administrator pursuant to section 8 of this Act to perform all or specified functions involved in official inspection, official weighing, or supervision of weighing, or in the supervision of official inspection, official weighing or supervision of weighing;".

(c) Subsection (k) is amended to read as follows: "(k) the term 'official mark' means any symbol prescribed by regulations of the Administrator to show the official determination of official inspection or official weighing;".

(d) Subsection (l) defining the term "official grade designation" is amended by inserting immediately after the word "standards", the following: "relating to kind, class, quality, and condition of grain,".

(e) Subsection (m) is amended to read as follows: "(m) the term 'official agency' means any State or local governmental agency, or any person, designated by the Administrator pursuant to subsection (f) of section 7 of this Act for the conduct of official inspection (other than appeal inspection), or subsection (b) of section 7A of this Act for the conduct of supervision of weighing;".

(f) Subsection (n) is amended by striking out the word "Secretary" and inserting in lieu thereof the word "Administrator".

(g) Subsection (u) is amended to read as follows: "(u) the term 'deceptive loading, handling, weighing, or sampling' means any manner of loading, handling, weighing, or sampling that deceives or tends to deceive official inspection personnel, as specified by regulations of the Administrator under this Act;".

(h) Section 3 is further amended by adding at the end thereof new subsections (v), (w), (x), (y), (z), and (aa) as follows:

"(v) the term 'export elevator' means any grain elevator, warehouse, or other storage or handling facility in the United States as determined by the Administrator, from which grain is shipped from the United States to an area outside thereof;

"(w) the term 'export port location' means a commonly recognized port of export in the United States or Canada, as determined by the Administrator, from which grain produced in the United States is shipped to any place outside the United States;

"(x) the term 'official weighing' means the determination and certification by official inspection personnel of the quantity of a lot of grain under standards provided in this Act, based on the actual performance of weighing or the physical supervision thereof, including the physical inspection and testing for accuracy of the weights and scales and the physical inspection of the premises at which the weighing is performed and the monitoring of the discharge of grain into the elevator or conveyance (the terms 'officially weigh' and 'officially weighed' shall be construed accordingly);

"(y) the term 'supervision of weighing' means the supervision of the weighing process and of the certification of the weight of grain, and the physical inspection of the premises at which the weighing is performed to assure that all the grain intended to be weighed has been weighed and discharged into the elevator or conveyance represented on the weight certificate or other document;

"(z) the term 'Administrator' means the Administrator of the Federal Grain Inspection Service or his delegates;

"(aa) the term 'Service' means the Federal Grain Inspection Service.".

FEDERAL GRAIN INSPECTION SERVICE

SEC. 4. The United States Grain Standards Act, as amended, is amended by adding a new section 3A as follows:

"FEDERAL GRAIN INSPECTION SERVICE

"SEC. 3A. There is created and established in the Department of Agriculture a Service to be known as the Federal Grain Inspection Service, all the powers of which shall be exercised by an Administrator, under the general direction and supervision of the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall be responsible for the administration of this Act and for the establishment of policies, guidelines, and regulations by which the Service is to carry out the provisions of this Act.".

STANDARDS

SEC. 5. Section 4 of the United States Grain Standards Act, as amended (7 U.S.C. 76), is amended as follows:

(a) Subsection (a) is amended to read as follows:

"(a) The Administrator is authorized to investigate the handling, weighing, grading, and transportation of grain and to fix and establish (1) standards of kind, class, quality, and condition for corn, wheat, rye, oats, barley, flaxseed, grain sorghum, soybeans, mixed grain, and such other grains as in his judgment the usages of the trade may warrant and permit, and (2) standards for accurate weighing and weight certification procedures and controls, including safeguards over equipment calibration and maintenance, for grain shipped in interstate or foreign commerce; and the Administrator is authorized to amend or revoke such standards whenever the necessities of the trade may require.".

(b) Subsection (b) is amended by striking out the word "Secretary" wherever it appears therein and inserting in lieu thereof the word "Administrator".

OFFICIAL INSPECTION AND WEIGHING REQUIREMENTS

SEC. 6. Section 5 of the United States Grain Standards Act, as amended (7 U.S.C. 77), is amended to read as follows:

"OFFICIAL INSPECTION AND WEIGHING REQUIREMENTS

"SEC. 5. (a) Whenever standards are effective under section 4 of this Act for any grain—

"(1) no person shall ship from the United States to any place outside thereof any lot of such grain, unless such lot is officially weighed and officially inspected (on the basis of official samples taken after final elevation as near the final spout through which the grain passes as physically practicable as it is being loaded aboard, or while it is in, the final carrier in which it is to be transported from the United States) in accordance with such standards, and unless a valid official certificate showing the official grade designation and certified weight of the lot of grain has been provided by official inspection personnel and is promptly furnished by the shipper, or his agent, to the consignee with the bill of lading or other shipping documents covering the shipment: *Provided,* That the Administrator may waive the foregoing requirement which would not impair the objectives of this Act: *Provided further,* That the Administrator shall waive the requirement for official inspection whenever the parties to a contract for such shipment of a lot of grain (which is not sold, offered for sale, or consigned for sale by grade) from the United States to any place outside thereof mutually agree under the contract to ship such lot of grain without official inspection being performed and a copy of the contract is furnished to the Administrator;

"(2) except as the Administrator may provide in emergency or other circumstances which would not impair the objectives of this Act, all other grain transferred out of and all grain transferred into an export elevator at an export port location shall be officially weighed in accordance with such standards; and

"(3) authorized by the Administrator, whenever a lot of grain is both officially inspected and officially weighed while being transferred into or out of a grain elevator, warehouse, or other storage or handling facility, an official certificate shall be issued showing both the official grade designation and the certified weight of the lot of grain.

"(b) All official inspection and official weighing, whether performed by authorized Service employees or any other person licensed under section 8 of this Act, shall be supervised by representatives of the Administrator, in accordance with such regulations as he may provide.".

REQUIRED USE OF OFFICIAL GRADE DESIGNATIONS

SEC. 7. Section 6(a) of the United States Grain Standards Act, as amended (7 U.S.C. 78), is amended by inserting immediately after the words "Whenever standards", the following: "relating to kind, class, quality, or condition of grain".

OFFICIAL INSPECTION AUTHORITY

SEC. 8. (a) Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 79), is amended as follows:

(1) Subsections (a), (b), and (c) are amended by striking out the word "Secretary" wherever it appears and inserting in lieu thereof the word "Administrator".

(2) Subsection (b) is further amended by striking out the words "or with respect to United States grain in Canadian ports".

(3) Subsection (c) is further amended (A) by striking out the words "Department of Agriculture" and inserting in lieu thereof the word "Service"; (B) by inserting the words "and surrender" immediately after the word "cancellation"; and (C) by adding immediately before the period at the end of the first sentence the following: "; and the use of standard forms for official certificates".

(4) Subsection (d) is amended by striking out the word "Certificates" and inserting in lieu thereof the words "Official certificates setting out the results of official inspection".

(5) Section 7 is further amended by changing subsections (e) and (f) and adding new subsections (g), (h), (i), and (j) to read, respectively, as follows:

"(e)(1) Except as otherwise provided in paragraph (2) of this subsection, the Administrator shall cause official inspection at export port locations, for all grain required or authorized to be inspected by this Act, to be performed by official inspection personnel employed by the Service or other persons under contract with the Service as provided in section 8 of this Act.

"(2) If the Administrator determines pursuant to paragraph (3) of this subsection that a State agency which was performing official inspection at an export port location under this Act on July 1, 1976, is qualified to perform official inspection and meets the criteria in subsection (f)(1)(A) of this section, the Administrator may delegate authority to the State agency to perform all or specified functions involved in official inspection (other than appeal inspection) at export port locations within the State, including export port locations which may in the future be established, subject to such rules, regulations, instructions, and oversight as he may prescribe, and any such official inspection shall continue to be the direct responsibility of the Administrator. Any such delegation may be revoked by the Administrator, at his discretion, at any time upon notice to the State agency without opportunity for a hearing. The Administrator may provide that grain loaded at an interior point in the United States into a rail car, barge, or other container as the final carrier in which it is to be transported from the United States shall be inspected in the manner provided in this subsection or subsection (f) of this section, as the Administrator determines will best meet the objectives of this Act.

"(3) Prior to delegating authority to a State agency for the performance of official inspection at export port locations pursuant to paragraph (2) of this subsection, the Administrator shall (A) conduct an investigation to determine whether such agency is qualified, and (B) make findings based on such investigation. In conducting the investigation, the Administrator shall consult with, and review the available files of the Department of Justice, the Office of Investigation of the Department of Agriculture (or such other organization or agency within the Department of Agriculture which may be delegated the authority, in lieu thereof, to conduct investigations on behalf of the Department of Agriculture), and the General Accounting Office.

"(f)(1) With respect to official inspections other than at export port locations, the Administrator is authorized, upon application by any State or local governmental agency, or any person, to designate such agency or person as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection) at locations where the Administrator determines official inspection is needed, if:

"(A) the agency or person shows to the satisfaction of the Administrator that such agency or person:

"(i) has adequate facilities and qualified personnel for the performance of such official inspection functions;

"(ii) will provide for the periodic rotation of official inspection personnel among the grain elevators, warehouses, or other storage or handling facilities at which the State or person provides official inspection, as is necessary to preserve the integrity of the official inspection service;

"(iii) will meet training requirements and personnel standards established by the Administrator under section 8(g) of this Act;

"(iv) will otherwise conduct such training and provide such supervision of its personnel as are necessary to assure that they will provide official inspection in accordance with this Act and the regulations and instructions thereunder;

"(v) will not charge official inspection fees that are discriminatory or unreasonable;

"(vi) if a State or local governmental agency, will not use any moneys collected pursuant to the charging of fees for any purpose other than the maintenance of the official inspection operation or other agricultural programs operated by the State or local governmental agency;

"(vii) and any related entities do not have a conflict of interest prohibited by section 11 of this Act;

"(viii) will maintain complete and accurate records of its organization, staffing, official activities, and fiscal operations, and such other records as the Administrator may require by regulation;

"(ix) if a State or local governmental agency, will employ personnel on the basis of job qualifications rather than political affiliations;

"(x) will comply with all provisions of this Act and the regulations and instructions thereunder; and

"(xi) meets other criteria established in regulations issued under this Act relating to official functions under this Act; and

"(B) the Administrator determines that the applicant is better able than any other applicant to provide official inspection service.

"(2) Not more than one official agency for carrying out the provisions of this Act shall be operative at one time for any geographic area as determined by the Administrator to effectuate the objectives stated in section 2 of this Act, but this paragraph shall not be applicable to prevent any inspection agency from operating in any area in which it was operative on August 15, 1968. No official agency or State delegated authority pursuant to subsection (e)(2) of this section shall officially inspect under this Act any official or other sample drawn from a lot of grain and submitted for inspection unless such lot of grain is physically located within the geographic area assigned to the agency by the Administrator at the time such sample is drawn. No State or local governmental agency or person shall provide any official inspection for the purposes of this Act except pursuant to an unsuspended and unrevoked delegation of authority or designation by the Administrator, as provided in this section, or as provided in section 8(a) of this Act.

"(g)(1) Designations of official agencies shall terminate at such time as specified by the Administrator but not later than triennially and may be renewed in accordance with the criteria and procedure prescribed in subsections (e) and (f) of this section.

"(2) A designation of an official agency may be amended at any time upon application by the official agency if the Administrator determines that the amendment will be consistent with the provisions and objectives of this Act; and a designation will be cancelled upon request by the official agency with ninety days written notice to the Administrator. A fee as prescribed by regulations of the Administrator shall be paid by the official agency to the Administrator for each such amendment, to cover the costs incurred by the Service in connection therewith, and it shall be deposited in subsection (j) of this section.

"(3) The Administrator may revoke a designation of an official agency whenever, after opportunity for hearing is afforded the agency, the Administrator determines that the agency has failed to meet one or more of the criteria specified in subsection (f) of this section or the regulations under this Act for the performance of official functions, or otherwise has not complied with any provision of this Act or any regulation prescribed or instruction issued to such agency under this Act, or has been convicted of any violation of other Federal law involving the handling or official inspection of grain: *Provided,* That the Administrtaor may, without first affording the official agency an opportunity for a hearing, suspend any designation pending final determination of the proceeding whenever the Administrator has reason to believe there is cause for revocation of the designation and considers such action to be in the best interest of the official inspection system under this Act. The Administrator shall afford any such agency an opportunity for a hearing within thirty days after temporarily suspending such designation.

"(h) If the Administrator determines that official inspection by an official agency designated under subsection (f) of this section is not available on a regular basis at any location (other than at an export port location) where the Administrator determines such inspection is needed to effectuate the objectives stated in section 2 of this Act, and that no official agency within reasonable proximity to such location is willing to provide or has or can acquire adequate personnel and facilities for providing such service on an interim basis, official inspection shall be provided by authorized employees of the Service, and other persons licensed by the Administrator to perform official inspection functions, as provided in section 8 of this Act, until such time as the service can be provided on a regular basis by an official agency.

"(i) The Administrator is authorized to cause official inspection under this Act to be made, as provided in subsection (a) of section 5 of this Act, in Canadian ports of United States export grain transshipped through Canadian ports, and pursuant thereto the Secretary is authorized to enter into an agreement with the Canadian Government for such inspection.

"(j)(1) The Administrator shall, under such regulations as he may prescribe, charge and collect reasonable inspection fees to cover the estimated cost to the Service incident to the performance of official inspection except when the official inspection is performed by a designated official agency or by a State under a delegation of authority. The fees authorized by this subsection shall, as nearly as practicable and after taking into consideration any proceeds from the sale of samples, cover the costs of the Service incident to its performance of official inspection services in the United States and on United States grain in Canadian ports, including administrative and supervisory costs directly related to such official inspection of grain incurred outside the Service's Washington office. Such fees, and the proceeds from the sale of samples obtained for purposes of official inspection which become the property of the United States, shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Service incident to providing services under this Act.

"(2) Each designated official agency and each State agency to which authority has been delegated under subsection (e) of this section shall pay to the Administrator fees in such amount as the Administrator determines fair and reasonable and as will cover the estimated costs incurred by the Service (outside of the Washington office) relating to direct supervision of official agency personnel and direct supervision by Service personnel of its field office personnel, except costs incurred under paragraph (3) of subsection (g) of this section and sections 9, 10, and 14 of this Act. The fees shall be payable after the services are performed at such times as specified by the Administrator and shall be deposited in the fund created in paragraph (1) of this subsection. Failure to pay the fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Administrator, of the fee currently due plus interest and any further expenses incurred by the Service because of such termination.".

(b)(1) In order to provide information for use by the Congress in evaluating the needs of the grain inspection and weighing system than at export port locations; the Administrator of the Federal Grain Inspection Service, the Director of the Office of Investigation of the United States Department of Agriculture (or such other organization or agency within the Department of Agriculture which may be delegated the authority, in lieu thereof, to conduct investigations on behalf of the Department of Agriculture), and the Comptroller General of the United States shall severally conduct investigations into and study grain inspection and weighing in the interior of the United States. The studies shall address, but are not limited to, the tasks of (A) determining the reliability and effectiveness of present official inspection and weighing procedures in the interior of the United States, and (B) evaluating the operating procedures and management practices of agencies providing grain inspection and weighing services in the interior of the United States, as they relate to the integrity and accuracy of the services.

(2) The Director of the Office of Investigation specifically is directed to study the extent of any irregularities or problem areas under the present inspection and weighing systems and conflict of interest rules and develop factual summaries of evidence disclosed in the Director's investigations into violations of the United States Grain Standards Act, the grain weighing provisions of the United States Warehouse Act, and related provisions of title 18 of the United States Code: *Provided,* That the Director shall not submit such summary with respect to any criminal investigation which is pending.

(3) The Administrator of the Federal Grain Inspection Service shall make findings with respect to present grain inspection and weighing agencies at each inland terminal marketing area of the United States at which over 50,000,000 bushels of grain are inspected in an average year, such findings to include (A) results of interviews with shippers who ship grain to and consignees who receive grain from such terminal marketing areas, and (B) a thorough analysis of inspection and weighing error rates of such agencies, based on existing documentation and the sampling during the investigation of a representative number of randomly selected lots of grain shipped to and from such terminal marketing areas.

(4) The Director of the Office of Investigation and the Administrator of the Federal Grain Inspection Service shall complete their investigations and study and shall submit their reports to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate and the Comptroller General not later than 18 months after the effective date of this Act.

(5) The Comptroller General, in making his investigations and study, shall (A) assess the present grain inspection and weighing system in the interior of the United States, and (B) evaluate the reports submitted under this subsection by the Director of the Office of Investigation and the Administrator of the Federal Grain Inspection Service. The Comptroller General shall submit a report setting forth the findings of such study and evaluation and his recommendations for changes in the United States Grain Standards Act to such Committees not later than two years after the effective date of this Act.

WEIGHING AND EQUIPMENT TESTING

SEC. 9. The United States Grain Standards Act, as amended, is amended by adding new sections 7A and 7B as follows:

"WEIGHING AUTHORITY

"SEC. 7A. (a) The Administrator shall cause official weighing under standards provided for in section 4 of this Act to be made of all grain required to be officially weighed as provided in section 5 of this Act, in accordance with such regulations as the Administrator may prescribe.

"(b) The Administrator is authorized to cause supervision of weighing under standards provided in section 4 of this Act to be performed at any grain elevator, warehouse, or other storage or handling facility located other than at export port locations at which official inspection is provided pursuant to the provisions of this Act, in such manner as the Administrator deems appropriate and under such regulations as the Administrator may provide.

"(c)(1) With respect to official weighing or supervision of weighing for locations at which official inspection is provided by the Service, the Administrator shall cause such official weighing or supervision of weighing to be performed by official inspection personnel employed by the Service.

"(2) With respect to official weighing or supervision of weighing for any location at which official inspection is provided other than by the Service, the Administrator is authorized, with respect to export port locations, to delegate authority to perform official weighing to the State agency providing official inspection service at such location, and with respect to any other location, to designate the agency or person providing official inspection service at such location to perform supervision of weighing, if such agency or person qualifies for a delegation of authority or designation under section 7 of this Act, except that where the term 'official inspection' is used in such section it shall be deemed to refer to 'official weighing' or 'supervision of weighing' under this section. If such agency or person is not available to perform such weighing services, or the Administrator determines that such agency or person is not qualified to perform such weighing services, then (A) at export elevators at export port locations official weighing shall be performed by official inspection personnel employed by the Service, and (B) at any other location, the Administrator is authorized to cause supervision of weighing to be performed by official inspection personnel employed by the Service or designate any State or local governmental agency, or any person to perform supervision of weighing, if such agency or person meets the same criteria that agencies must meet to be designated to perform official inspection as set out in section 7 of this Act, except that where the term 'official inspection' is used in such section it shall be deemed to refer to 'supervision of weighing' under this section. Delegations and designations made pursuant to this subsection shall be subject to the same provisions for delegations and designations set forth in subsection (g) of section 7 of this Act.

"(d) The Administrator is authorized to cause official weighing under this Act to be made, as provided in subsection (a) of section 5 of this Act, in Canadian ports of United States export grain transshipped through Canada; and pursuant thereto the Secretary is authorized to enter into an agreement with the Canadian government for such official weighing.

"(e) The Administrator is further authorized to cause official weighing or supervision of weighing under standards provided for in section 4 of this Act to be made at grain elevators, warehouses, or other storage or handling facilities not subject to subsection (a) or (b) of this section, upon request of the operator of such grain elevator, warehouse, or other storage or handling facility and in accordance with such regulations as he may prescribe. Such weighing service shall not be provided for periods of less than one year; and the fees therefor shall be set separately from those fees provided for in subsection (l) of this section and shall be reasonable, nondiscriminatory, and equal, as nearly as possible, to the cost of providing such services.

"(f) No official weighing or supervision of weighing shall be provided for the purposes of this Act at any grain elevator, warehouse, or other storage or handling facility until such time as the operator of the facility has demonstrated to the satisfaction of the Administrator that the operator (1) has and will maintain, in good order, suitable grain-handling equipment and accurate scales for all weighing of grain at the facility, in accordance with the regulations of the Administrator; (2) will employ only competent persons with a reputation for honesty and integrity to operate the scales and to handle grain in connection with weighing of the grain, in accordance with this Act; (3) when weighing is to be done by employees of the facility, will require employees to operate the scales in accordance with the regulations of the Administrator and to require that each lot of grain for delivery from any railroad car, truck, barge, vessel, or other means of conveyance at the facility is entirely removed from such means of conveyance and delivered to the scales without avoidable waste or loss, and each lot of grain weighed at the elevator for shipment from the facility is entirely delivered to the means of conveyance for which intended, and without avoidable waste or loss, in accordance with the regulations of the Administrator; (4) will provide all assistance needed by the Administrator for making any inspection or examination and carrying out other functions at the facility pursuant to this Act; and (5) will comply with all other requirements of this Act and the regulations hereunder.

"(g) Official certificates setting out the results of official weighing, issue and not cancelled under this Act, shall be received by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated therein.

"(h) No State or local governmental agency or person shall weigh or state in any document the weight of grain determined at a location where official weighing is required to be performed as provided for in this section except in accordance with the procedures prescribed pursuant to this section.

"(i) No State or person other than an authorized employee of the Service shall perform official weighing or supervision of weighing for the purposes of this Act except in accordance with the provisions of an unsuspended and unrevoked delegation of authority or designation by the Administrator as provided in this section.

"(j) The provisions of this section shall not limit any authority vested in the Secretary under the United States Warehouse Act (39 Stat. 486, as amended; 7 U.S.C. 241 et seq.).

"(k) The representatives of the Administrator shall be afforded access to any elevator, warehouse, or other storage or handling facility from which grain is delivered for shipment in interstate or foreign commerce or to which grain is delivered from shipment in interstate or foreign commerce and all facilities therein for weighing grain.

"(l)(1) The Administrator shall, under such regulations as he may prescribe, charge and collect reasonable fees to cover the estimated costs to the Service incident to the performance of the functions provided for under this section except as otherwise provided in paragraph (2) of this subsection. The fees authorized by this paragraph shall, as nearly as practicable, cover the costs of the Service (outside of the Washington office) incident to performance of its functions related to weighing, including administrative and supervisory costs directly related thereto. Such fees shall be deposited into the fund created in section (7)(j) of this Act.

"(2) Each agency to which authority has been delegated under this section and each agency or other person which has been designated to perform functions related to weighing under this section shall pay to the Administrator fees in such amount as the Administrator determines fair and reasonable and as will cover the costs incurred by the Service (outside of the Washington office) relating to direct supervision of the agency personnel and direct supervision by Service personnel of its field office personnel incurred as a result of the functions performed by such agencies, except costs incurred under section 7(g)(3), 9, 10 and 14 of this Act. The fees shall be payable after the services are performed at such times as specified by the Administrator and shall be deposited in the fund created in section 7(j) of this Act. Failure to pay the fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Administrator, of the fee currently due plus interest and any further expenses incurred by the Service because of such termination.

"TESTING OF EQUIPMENT

"SEC. 7B(a) The Administrator shall provide for the testing of all equipment used in the sampling, grading, inspection, and weighing of grain located at all grain elevators, warehouses, or other storage or handling facilities at which official inspection or weighing services are provided under this Act, to be made on a random and periodic basis, but at least annually and under such regulations as the Administrator may prescribe, as he deems necessary to assure the accuracy and integrity of such equipment.

"(b) The Administrator is authorized to cause such testing provided for in subsection (a) to be performed (1) by personnel employed by the Service, or (2) by States, political subdivisions thereof, or persons under the supervision of the Administrator, under such regulations as the Administrator may prescribe.

"(c) Notwithstanding any other provision of law, no person shall use any such equipment not approved by the Administrator.".

LICENSES AND AUTHORIZATIONS

SEC. 10. Section 8 of the United States Grain Standards Act, as amended (7 U.S.C. 84) is amended to read as follows:

"LICENSES AND AUTHORIZATIONS

"SEC. 8. (a) The Administrator is authorized (1) to issue a license to any individual upon presentation to him of satisfactory evidence that such individual is competent, and is employed by an official agency or a State agency delegated authority under section 7A of this Act, to perform all or specified functions involved in original inspection or reinspection functions involved in official inspection, or in the official weighing or the supervsion of weighing of grain in the United States; (2) to authorize any competent employee of the Service to (A) perform all or specified original inspection, reinspection, or appeal inspection functions involved in official inspection of grain in the United States, or of United States grain in Canadian ports, (B) perform official weighing or supervision of weighing of grain, (C) supervise the official inspection, official weighing, or supervision of weighing of grain in the United States and of United States grain in Canadian ports or the testing of equipment, and (D) perform monitoring activities in foreign ports with respect to grain officially inspected and officially weighed under this Act; (3) to contract with any person to perform specified sampling and laboratory testing and to license competent persons to perform such functions pursuant to such contract; and (4) to contract with any competent person for the performance of monitoring activities in foreign ports with respect to grain officially inspected and officially weighed under this Act. No person shall perform any official inspection or weighing function for purposes of this Act unless such person holds an unsuspended and unrevoked license or authorization from the Administrator under this Act.

"(b) All classes of licenses issued under this Act shall terminate triennially on a date or dates to be fixed by regulation of the Administrator: *Provided*, That any license shall be suspended automatically when the licensee ceases to be employed by an official agency or by a State agency under a delegation of authority pursuant to this Act or to operate independently under the terms of a contract for the conduct of any function involved in official inspection under this Act: *Provided further*, That subject to subsection (c) of this section such license shall be reinstated if the licensee is employed by an official agency or by a State agency under a delegation of authority pursuant to this Act or resumes operation under such a contract within one year of the suspension date and the license has not expired in the interim.

"(c) The Administrator may require such examinations and re-examinations as he may deem warranted to determine the competence of any applicants for licenses, licensees, or employees of the Service, to perform any official inspection or weighing function under this Act.

"(d) Persons employed by an official agency (including persons employed by a State agency under a delegation of authority pursuant to this Act) and persons performing official inspection functions under contract with the Service shall not, unless otherwise employed by the Federal Government, be determined to be employees of the Federal Government of the United States: *Provided*, That such persons shall be considered in the performance of any official inspection, official weighing, or supervision of weighing function as prescribed by this Act or by the rules and regulations of the Administrator, as persons acting for or on behalf of the United States, for the purpose of determining the application of section 201 of title 18 of the United States Code, to such persons and as employees of the Department of Agriculture assigned to perform inspection functions for the purposes of sections 1114 and 111 of title 18 of the United States Code.

"(e) The Administrator may hire (without regard to the provisions of title 5 of the United States Code, governing appointments in the competitive service) as official inspection personnel any individual who is licensed (on the date of enactment of the United States Grain Standards Act of 1976) to perform functions of official inspection under the United States Grain Standards Act and as personnel to perform supervisory weighing or official weighing functions any individual who, on the date of enactment of the United States Grain Standards Act of 1976, was performing similar functions: *Provided*, That the Administrator determines that such individual is of good moral character and is technically and professionally qualified for the duties to which the individual will be assigned.

"(f) The Administrator shall provide for the periodic rotation of supervisory personnel and official inspection personnel employed by the Service as he deems necessary to preserve the integrity of the official inspection system provided by this Act.

"(g) The Administrator shall develop and effectuate standards for the recruiting, training, and supervising of official inspection personnel and appropriate work production standards for such personnel, which shall be applicable to the Service, all State agencies under delegation of authority pursuant to this Act, and all official agencies and all persons licensed or authorized to perform functions under this Act: *Provided*, That persons licensed or authorized on the date of enactment of the United States Grain Standards Act of 1976 to perform any official function under this Act, shall be exempted from the uniform recruiting and training provisions of this subsection and regulations or standards issued pursuant thereto if the Administrator determines that such persons are technically and professionally qualified for the duties to which they will be assigned and they agree to complete whatever additional training the Administrator deems necessary.".

REFUSAL OF RENEWAL, OR SUSPENSION OR REVOCATION OF LICENSES

SEC. 11. Section 9 of the United States Grain Standards Act, as amended (7 U.S.C. 85), is amended as follows:

(a) by striking out the word "Secretary" wherever it appears and inserting in lieu thereof the word "Administrator";

(b) by inserting after the word "inspected" wherever it appears the words "or weighed or supervised the weighing of"; and

(c) by adding at the end thereof a new sentence as follows: "The Administrator may summarily revoke any license whenever the licensee has been convicted of any offense prohibited by section 13 of this Act or convicted of any offense proscribed by title 18 of the United States Code, with respect to performance of functions under this Act.".

REFUSAL OF INSPECTION AND WEIGHING SERVICES AND CIVIL PENALTIES

SEC. 12. Section 10 of the United States Grain Standards Act, as amended (7 U.S.C. 86), is amended as follows:

(a) The title is changed to read "REFUSAL OF INSPECTION AND WEIGHING SERVICES AND CIVIL PENALTIES".

(b) Subsection (a) is amended to read as follows:

"(a) The Administrator may (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this Act) refuse to provide official inspection or the services related to weighing otherwise available under this Act with respect to any grain offered for such services, or owned, wholly or in part, by any person if he determines (1) that the individual (or in case such person is a partnership, any general partner; or in case such person is a corporation, any officer, director, or holder or owner of more than 10 per centum of the voting stock; or in case such person is an unincorporated association or other business entity, any officer or director thereof; or in case of any such business entity, any individual who is otherwise responsibly connected with the business) has knowingly committed any violation of section 13 of this Act or has been convicted of any violation of other Federal law with respect to the handling, weighing, or official inspection of grain, or that official inspection or the services related to weighing have been refused for any of the above-specified causes (for a period which has not expired) to such person, or any other person conducting a business with which the former was, at the time such cause existed, or is responsibly connected; and (2) that providing such service with respect to such grain would be inimical to the integrity of the service.".

(c) Subsection (c) is amended and new subsections (d) and (e) are added, to read, respectively, as follows:

"(c) In addition to, or in lieu of, penalties provided under section 14 of this Act, or in addition to, or in lieu of, refusal of official inspection or services related to weighing in accordance with this section, the Administrator may assess against any person who has knowingly committed any violation of section 13 of this Act or has been convicted of any violation of other Federal law with respect to the handling, weighing, or official inspection of grain a civil penalty not to exceed $75,000 for each such violation as the Administrator determines is appropriate to effectuate the objectives stated in section 2 of this Act.

"(d) Before official inspection or services related to weighing is refused to any person or a civil penalty is assessed against any person under this section, such person shall be afforded opportunity for a hearing in accordance with sections 554, 556, and 557 of title 5 of the United States Code: *Provided,* That the Administrator may, without first affording the person a hearing, refuse official inspection or services related to weighing temporarily pending final determination whenever the Administrator has reason to believe there is cause for refusal of inspection or services related to weighing and considers such action to be in the best interest of the official inspection system under this Act. The Administrator shall afford such person an opportunity for a hearing within seven days after temporarily refusing official inspection or services related to weighing; and such hearing and ancillary procedures related thereto shall be conducted in an expedited manner.

"(e) Moneys received in payment of such civil penalties shall be deposited in the general fund of the United States Treasury. Upon any failure to pay the penalties assessed under this section, the Administrator may request the Attorney General of the United States to institute a civil action to collect the penalties in the appropriate court identified in subsection (h) of section 17 of this Act for the jurisdiction in which the respondent is found or resides or transacts business, and such court shall have jurisdiction to hear and decide any such action.".

PROHIBITION ON CERTAIN CONFLICTS OF INTEREST

SEC. 13. Section 11 of the United States Grain Standards Act, as amended (7 U.S.C. 87), is amended:

(a) by striking out the word "Secretary" wherever it appears and inserting in lieu thereof the word "Administrator";

(b) by striking out the word "inspection" immediately following the phrase "to perform any official'; and

(c) by designating the provisions thereof as subsection (a) and adding new subsections (b) and (c) as follows:

"(b) (1) No official agency or a State agency delegated authority under this Act, or any member, director, officer, or employee thereof, and no business or governmental entity related to any such agency, shall be employed in or otherwise engaged in, or directly or indirectly have any stock or other financial interest in, any business involving the commercial transportation, storage, merchandising, or other commercial handling of grain, or the use of official inspection service (except that in the case of a producer such use shall not be prohibited for grain in which he does not have an interest); and no business or governmental entity conducting any such business, or any member, director, officer, or employee thereof, and no other business or governmental entity related to any such entity, shall operate or be employed by or directly or indirectly have any stock or other financial interest in, any official agency or a State agency delegated inspection authority. Further, no substantial stockholder in any incorporated official agency shall be employed in or otherwise engaged in, or be a substantial stockholder in any corporation conducting any such business, or directly or indirectly have any other kind of financial interest in any such business; and no substantial stockholder in any corporation conducting such a business shall operate or be employed by or be a substantial stockholder in, or directly or indirectly have any other kind of financial interest in, any official agency.

"(2) A substantial stockholder of a corporation shall be any person holding 2 per centum or more, or one hundred shares or more, of the voting stock of the corporation, whichever is the lesser interest. Any entity shall be considered to be related to another entity if it owns or controls, or is owned or controlled by, such other entity, or both entities are owned or controlled by another entity.

"(3) Each State agency delegated official weighing authority under section 7A and each State or local agency or other person designated by the Administrator under such section to perform supervision of weighing shall be subject to the provisions of subsection (b) of this section. The term 'use of official inspection service' shall be deemed to refer to the use of the services provided under such a delegation or designation.

"(4) If a State or local governmental agency is delegated authority to perform official inspection or official weighing, or a State or local governmental agency is designated as an official agency, the Administrator shall specify the officials and other personnel thereof to which the conflict of interest provisions of this subsection (b) apply.

"(5) Notwithstanding the foregoing provisions of this subsection, the Administrator may delegate authority to a State agency or designate a governmental agency, board of trade, chamber of commerce, or grain exchange to perform official inspection or perform supervision of weighing for purposes of supervision of weighting only, he may also designate any other person, if he determines that any conflict of interest which may exist between the agency or person or any member, officer, employee, or stockholder thereof and any business involving the transportation, storage, merchandising, or other handling of grain or use of official inspection or weighing service is not such as to jeopardize the integrity or the effective and objective operation of the functions performed by such agency. Whenever the Administrator makes such a determination and makes a delegation or designation to an agency that has a conflict of interest otherwise prohibited by this subsection, the Administrator shall, within 30 days after making such a determination, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate, detailing the factual bases for such determination.

"(c) The provisions of this section shall not prevent an official agency from engaging in the business of weighing grain".

RECORDS

SEC. 14. Section 12 of the United States Grain Standards Act, as amended (7 U.S.C. 87a), is amended by amending subsections (a), (b), and (c) and adding a new subsection (d) to read, respectively, as follows:

"(a) Every official agency and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this Act shall maintain such samples of officially inspected grain and such other records as the Administrator may by regulation prescribe for the purpose of administration and enforcement of this Act.

"(b) Every official agency and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this Act required to maintain records under this section shall keep such records for a period of five years after the inspection, weighing, or transaction, which is the subject of the record, occurred: *Provided,* That grain samples shall be required to be maintained only for such period not in excess of ninety days as the Administrator, after consultation with the grain trade and taking into account the needs and circumstances of local markets, shall prescribe; and in specific cases other records may be required by the Administrator to be maintained for not more than three years in addition to the five-year period whenever in his judgment the retention of such records for the longer period is necessary for the effective administration and enforcement of this Act.

"(c) Every official agency and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this Act required to maintain records under this section shall permit any authorized representative of the Secretary or Administrator or the Comptroller General of the United States to have access to, and to copy, such records at all reasonable times. The Administrator shall, from time to time, perform audits of official agencies and State agencies delegated authority under this Act in such manner and at such periodic intervals as he deems appropriate.

"(d) Every State, political subdivision thereof, or person who is the owner or operator of a commercial grain elevator, warehouse, or other storage or handling facility or is engaged in the merchandising of grain other than as a producer, and who, at any time, has obtained or obtains official inspection or weighing services shall, within the five year period thereafter, maintain complete and accurate records of purchases, sales, transportation, storage, weighing, handling, treating, cleaning, drying, blending, and other processing, and official inspection and official weighing of grain, and permit any authorized representative of the Secretary or the Administrator, at all reasonable times, to have access to, and to copy, such records and to have access to any grain elevator, warehouse, or other storage or handling facility used by such person for handling of grain.".

PROHIBITED ACTS

SEC. 15. Section 13 of the United States Grain Standards Act, as amended (7 U.S.C. 87b), is amended as follows:

(a) Subsection (a) is amended as follows:

(1) by striking out in paragraphs (1) and (2) thereof the word "inspection" wherever it appears and by striking out the word "Secretary" in paragraph (2) and inserting in lieu thereof the word "Administrator";

(2) by amending paragraph (3) thereof to read as follows:

"(3) knowingly cause or attempt (whether successfully or not) to cause to issuance of a false or incorrect official certificate or other official form by any means, including but not limited to deceptive loading, handling, weighing, or sampling of grain, or submitting grain for official inspection or official weighing or supervision of weighing knowing that it has been deceptively loaded, handled, weighed, or sampled, without disclosing such knowledge to the official inspection personnel before official sampling or official weighing or supervision of weighing;";

(3) by amending paragraph (5) thereof to read as follows:

"(5) knowingly use any official grade designation or official mark on any container of grain by means of a tag, label, or otherwise, unless the grain in such container was officially inspected on the basis of an official sample taken while the grain was being loaded into or was in such container or officially weighed, respectively, and the grain was found to qualify for such designation or mark;";

(4) by inserting in paragraphs (7) and (8) immediately after the word "personnel" the words "or personnel of agencies delegated authority or of agencies or other persons designated under this Act";

(5) by inserting in paragraphs (9) and (10) immediately after the words "official inspection" the words "or official weighing or supervision of weighing" and by inserting in paragraph (11) "7(f)(2), 7A, 7B(c)," after "section 5, 6"; and

(6) by striking the word "or" at the end of paragraph (10) striking the period at the end of subsection (a) and inserting a semicolon in lieu thereof, and adding new paragraphs (12) and (13) as follows:

"(12) knowingly engage in falsely stating or falsifying the weight of any grain shipped in interstate or foreign commerce by any means, including, but not limited to, the use of inaccurate, faulty, or defective testing equipment; or

"(13) knowingly prevent or impede any buyer or seller of grain or other person having a financial interest in the grain, or the authorized agent of any such person, from observing the loading of grain inspected under this Act and the weighing, sampling, and inspection of such grain under conditions prescribed by the Administrator.".

(b) Subsection (b) is amended by inserting in paragraph (2) the words "or weighing" after the word "inspection".

PROTECTION OF SERVICE PERSONNEL

SEC. 16. Section 1114 of title 18 of the United States Code, as amended, is hereby amended by (a) striking the phrase "any employee of the Bureau of Animal Industry of the Department of Agriculture," and (b) by inserting immediately after the phrase "or of the Department of Labor" the words "or of the Department of Agriculture".

PENALTIES

SEC. 17. Section 14 of the United States Grain Standards Act, as amended (7 U.S.C. 87c), is amended to read as follows:

"CRIMINAL PENALTIES

"SEC. 14. (a) Any person who commits an offense prohibited by section 13 (except an offense prohibited by paragraphs (a)(7), (a)(8), and (b)(4) in which case he shall be subject to the general penal statutes in title 18 of the United States Code relating to crimes and offenses against the United States) shall be guilty of a misdemeanor and shall, on conviction thereof, be subject to imprisonment for not more than twelve months, or a fine of not more than $10,000 or both such imprisonment and fine; but, for each subsequent offense subject to this subsection such person shall be guilty of a felony and shall, on conviction thereof, be subject to imprisonment for not more than five years, or a fine of not more than $20,000, or both such imprisonment and fine.

"(b) Nothing in this Act shall be construed as requiring the Administrator to report minor violations of this Act for criminal prosecution whenever he believes that the public interest will be adequately served by a suitable written notice or warning, or to report any violation of this Act for prosecution when he believes that institution of a proceeding under section 10 of this Act will obtain compliance with this Act and he institutes such a proceeding.

"(c) Any officer or employee of the Department of Agriculture assigned to perform weighing functions under this Act shall be considered as an employee of the Department of Agriculture assigned to perform inspection functions for the purposes of sections 1114 and 111 of title 18 of the United States Code.".

GENERAL AUTHORITIES

SEC. 18. Section 16 of the United States Grain Standards Act, as amended (7 U.S.C. 87e), is amended to read as follows:

"GENERAL AUTHORITIES

"SEC. 16. (a) The Administrator is authorized to conduct such investigations; hold such hearings; require such reports from any official agency, any State agency delegated authority under this Act, licensee, or other person; require by regulation as a condition for official inspection, among other things, (1) that there be installed specified sampling and monitoring equipment in grain elevators, (2) that approval of the Administrator be obtained as to the condition of vessels and other carriers or receptacles for transporting or storing of grain, and (3) that persons having a financial interest in the grain which is to be inspected (or their agents) shall be afforded an opportunity to observe the weighing, loading, and official inspection thereof, under conditions prescribed by the Administrator. The Administrator is further authorized to prescribe such other rules, regulations, and instructions as he deems necessary to effectuate the purposes or provisions of or any official transaction with which this Act is concerned; and (2) taking appropriate action on the basis of the findings of any investigation of such complaints. The Administrator shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate at the end of every three-month period with respect to investigative action taken on complaints, during the immediately preceding three-month period.

"(c) The Administrator is authorized to cause official inspection personnel to monitor in foreign nations which are substantial importers of grain from the United States, grain imported from the United States upon its entry into the foreign nation, to determine whether such grain is of a comparable kind, class, quality, and condition after considering the handling methods and conveyance utilized at the time of loading, and the same quantity that it was certified to be upon official inspection and official weighing in the United States.

"(d) The Office of Investigation of the Department of Agriculture (or such other organization or agency within the Department of Agriculture which may be delegated the authority, in lieu thereof, to conduct investigations on behalf of the Department of Agriculture) shall conduct such investigations regarding the operation or administration of this Act or any official transaction with which this Act is concerned, as the Director thereof deems necessary to assure the integrity of official inspection and weighing under this Act.

"(e) The Administrator is authorized to conduct, in cooperation with other agencies within the Department of Agriculture, a continuing research program for the purpose of developing methods to improve accuracy and uniformity in grading grain.

"(f) To assure the normal movement of grain at all inspection points in a timely manner consistent with the policy expressed in section 2 of this Act, the Administrator shall, notwithstanding any other provision of law, provide adequate personnel to meet the **additional inspection and weighing requirements of this Act.".**

ENFORCEMENT PROVISIONS

SEC. 19. Section 17 of the United States Grain Standards Act, as amended (7 U.S.C. 87f), is amended as follows:

(a) by striking out the word "Secretary" wherever it appears and inserting in lieu thereof the word "Administrator";

(b) by inserting in subsection (a) the words "by the Administrator" immediately following the words "under investigation";

(c) by inserting in subsection (e) the words "subsection (a) of" immediately before the words "section 14"; and

(d) by striking out subsection (g).

RELATION TO STATE AND LOCAL LAWS; SEPARABILITY OF PROVISIONS

SEC. 20. Section 18 of the United States Grain Standards Act, as amended (7 U.S.C. 87g), is amended by striking out from the first sentence of subsection (a) the words "function under this Act by official inspection personnel" and inserting in lieu thereof the following: "or weighing function under this Act by official inspection personnel".

APPROPRIATIONS

SEC. 21. Section 19 of the United States Grain Standards Act, as amended (7 U.S.C. 87h), is amended to read as follows:

"APPROPRIATIONS

"SEC. 21. There are hereby authorized to be appropriated such sums as are necessary for research and development as provided in section 16 of this Act; monitoring in foreign ports grain officially inspected and officially weighed under this Act; development and issuance of rules, regulations, and instructions; improvement of official standards for grain, improvement of inspection and weighing procedures and equipment, and other activities authorized by section 4 of this Act; those Federal administrative and supervisory costs incurred within the Service's Washington office or not directly related to the official inspection or the provision of weighing services for grain; the purchase or lease of any buildings, other facilities, or equipment necessary to carry out the provisions of this Act; and any other expenses necessary to carry out the provisions of this Act to the extent that financing is not obtained from the fees and sales of samples as provided for in sections 7, 7A, and 17A of this Act.".

REGISTRATION AND REPORTING REQUIREMENTS

SEC. 22. The United States Grain Standards Act, as amended, is amended by adding new sections 17A and 17B as follows:

"REGISTRATION REQUIREMENTS

"SEC. 17A. (a) The Administrator shall provide, by regulation, for the registration of all persons engaged in the business of buying grain for sale in foreign commerce, and in the business of handling, weighing, or transporting of grain for sale in foreign commerce. This section shall not apply to—

"(1) any person who only incidentally or occasionally buys for sale, or handles, weighs, or transports grain for sale and is not engaged in the regular business of buying grain for sale, or handling, weighing or transporting grain for sale;

"(2) any producer of grain who only incidentally or occasionally sells or transports grain which he has purchased;

"(3) any person who transports grain for hire and does not own a financial interest in such grain; or

"(4) any person who buys grain for feeding or processing and not for the purpose of reselling and only incidentally or occasionally sells such grain as grain.

"(b)(1) All persons registered under this Act shall submit the following information to the Administrator:

"(A) the name and principal address of the business,

"(B) the names of all directors of such business,

"(C) the names of the principal officers of such business,

"(D) the names of all persons in a control relationship with respect to such business,

"(E) a list of locations where the business conducts substantial operations, and

"(F) such other information as the Administrator deems necessary to carry out the purposes of this Act.

Persons required to register under this section shall also submit to the Administrator the information specified in clauses (A) through (F) of this paragraph with respect to any business engaged in the business of buying grain for sale in interstate commerce, and in the business of handling, weighing, or transporting of grain for sale in interstate commerce, if, with respect to such business, the person otherwise required to register under this section is in a control relationship.

"(2) For the purposes of this section, a person shall be deemed to be in a 'control relationship' with respect to a business required to register under subsection (a) and with respect to applicable interstate businesses if—

"(A) such person has an ownership interest of 10 per centum or more in such business, or

"(B) a business or group of business entities, with respect to which such person is in a control relationship, has an ownership interest of 10 per centum or more in such business.

"(3) For purposes of clauses (A) and (B) of paragraph (2) of this subsection, a person shall be considered to own the ownership interest which is owned by his or her spouse, minor children, and relatives living in the same household.

"(c) The Administrator shall issue a certificate of registration to persons who comply with the provisions of this section. The certificate of registration issued in accordance with this section shall be renewed annually. If there has been any change in the information required under subsection (b), the person holding such certificate shall, within thirty days of the discovery of such change, notify the Administrator of such change. No person shall engage in the business of buying grain for sale in foreign commerce, and in the business of handling, weighing, or transporting of grain in foreign commerce unless he has registered with the Administrator as required by this Act and has an unsuspended and unrevoked certificate of registration.

"(d) The Administrator may suspend or revoke any certificate of registration issued under this section whenever, after the person holding such certificate has been afforded an opportunity for a hearing in accordance with sections 554, 556, and 557 of title 5 of the United States Code, the Administrator shall determine that such person has violated any provision of this Act or of the regulations promulgated thereunder, or has been convicted of any violation involving the handling, weighing, or inspection of grain under title 18 of the United States Code.

"(e) The Administrator shall charge and collect fees from any person registered under this section. The amount of such fees shall be determined on the basis of the costs of the Administrator in administering the registration required by this section. Such fees shall be deposited in, and used as part of, the fund described in section 7(j) of this Act.

"REPORTING REQUIREMENTS

"SEC. 17B. (a) The Administrator shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate one year after the effective date of the United States Grain Standards Act of 1976 setting forth the actions taken by him in implementing the provisions of that Act and, on December 1 of each year thereafter, the Administrator shall report to such Committees regarding the effectiveness of the official inspection system under this Act for the prior fiscal year, with recommendations for any legislative changes necessary to accomplish the objectives stated in section 2 of this Act.

"(b) The Administrator shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate (1) of any complaint regarding faulty grain delivery made to the Department of Agriculture by a foreign purchaser of United States grain, within thirty days after a determination by the Administrator that there is reasonable cause to believe that the grain delivery was in fact faulty and (2) within thirty days after receipt by the Administrator or the Secretary of the cancellation of any contract for the export of more than one hundred thousand metric tons of grain.

"(c) On December 1 of each year, the Administrator shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate a summary of all other complaints received by the Department of Agriculture during the prior fiscal year from foreign purchasers and prospective purchasers of United States grain and other foreign purchasers interested in the trade of grain, and the resolution thereof: *Provided*, That the summary shall not include a complaint unless reasonable cause exists to believe that the complaint is valid, as determined by the Administrator.".

PURCHASE OR LEASE OF INSPECTION EQUIPMENT

SEC. 23. Notwithstanding the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) and section 302 1949 (40 U.S.C. 490), the Administrator of the Federal Grain Inspection Service is authorized to negotiate for and purchase or lease, from any person licensed or designated (on the date of enactment of this Act) to perform official inspection functions under the United States Grain Standards Act, at fair market value, any facilities or equipment which the Administrator determines to be necessary for the conduct of official inspection.

STUDIES OF GRAIN STANDARDS

SEC. 24. (a) In order to assure that producers, handlers, and transporters of grain are encouraged and rewarded for the production, maintenance, and delivery of high quality grain and grain of the type needed to meet the end-use requirements of domestic and foreign buyers, the Administrator of the Federal Grain Inspection Service shall conduct an investigation and make a study regarding the adequacy of the current grain standards established under the United States Grain Standards Act.

(b) To determine the items of concern to buyers, both foreign and domestic, and how sellers in the United States might best satisfy those needs, the Administrator may seek the advice of and may employ the services of representatives of the grain industry, land-grant colleges, and other members of the public (without regard to the provisions of title 5 of the United States Code, governing appointments in the competitive service).

(c) The study shall address specifically, but is not limited thereto, the tasks of determining (A) if standards may be developed that would reduce grading errors and remove, where possible, subjective human judgment from grading by increased utilization of mechanical, electrical, and chemical means of grading, (B) whether grain should be subclassed according to color or other factor not affecting the quality of the grain, (C) whether the protein factor should be included in the standards, and (D) whether broken grain should be grouped together with foreign material.

(d) On the basis of the results of such study, the Administrator, in accordance with section 4 of the United States Grain Standards Act, shall make such changes in the grain standards as he determines necessary and appropriate, and, not later than two years after the date of enactment of this Act, submit a report to the Congress setting forth the findings of such study and action taken by him as a result of the study.

TEMPORARY EXERCISE OF POWERS, DUTIES, AND AUTHORIZATIONS

SEC. 25. The powers, duties, and authorizations established by this Act for the Administrator of the Federal Grain Inspection Service shall in all instances be exercised by the Secretary of Agriculture of the United States during the period between the effective date of this Act and the appointment of the Administrator.

CONFORMING AMENDMENT

SEC. 26. Section 5316 of title 5 of the United States Code, as amended, is amended by adding at the end thereof a new paragraph to read as follows:

"(137) Administrator, Federal Grain Inspection Service, Department of Agriculture.".

EFFECTIVE DATE

SEC. 27. This Act shall become effective 30 days after enactment hereof; and thereafter no State agency shall provide official inspection at an export port location or official weighing at an export elevator at an export port location without a delegation of authority and no agency or person shall provide official inspection service or supervision of weighing in any other area without a designation under the United States Grain Standards Act, as amended by this Act, except that any agency or person then providing such service in any area, who pays fees when due, in the same manner as prescribed in section 7 or 7A of the United States Grain Standards Act, as amended by this Act, may continue to operate in that area without a delegation or designation but shall be subject to all provisions of the United States Grain Standards Act and regulations thereunder in effect immediately prior to the effective date of this Act, until whichever of the following events occurs first:

(1) a delegation or designation of such agency or person to perform such services is granted or denied by the Administrator of the Federal Grain Inspection Service pursuant to the United States Grain Standards Act, as amended by this Act; or

(2) such agency or person, or two or more members or employees thereof, have been or are convicted of a violation of any provision of the United States Grain Standards Act in effect immediately prior to the effective date of this Act; or convicted of any offense proscribed by other Federal law involving the handling, weighing, or official inspection of grain;

(3) with respect to export port locations and export elevators located at export port locations, the expiration of a period determined by the Administrator of not more than eighteen months following the effective date hereof; or

(4) with respect to any other area, the expiration of a period as determined by the Administrator of not more than two years following the effective date hereof: *Provided*, That the Administrator is authorized and directed to cause official inspection and official weighing of grain pursuant to the provisions of the United States Grain Standards Act, as amended by this Act, to be performed by authorized employees of the United States Department of Agriculture or the Service, to begin at any time immediately thereafter the date of enactment of this Act, at those export port locations and export elevators located at export port locations at which the Administrator determines that such performance by such authorized employees is necessary to effectuate the provisions of section 2 of the United States Grain Standards Act, as amended.

And the Senate agree to the same.

THOMAS S. FOLEY,
JOSEPH P. VIGORITO,
ED JONES,
BOB BERGLAND,
WILLIAM C. WAMPLER,
KEITH G. SEBELIUS,
CHARLES THONE,
Managers on the Part of the House.

HERMAN E. TALMADGE,
GEORGE MCGOVERN,
HUBERT H. HUMPHREY,
WALTER D. HUDDLESTON,
BOB DOLE,
MILTON R. YOUNG,
HENRY BELLMON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12572), to amend the United States Grain Standards Act to improve the grain inspection and weighing system, and for other purposes, submit the following joint statement to the House and the Senate in explanation to the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

Except for clarifying, clerical, and necessary conforming changes, the differences between the two Houses and the adjustments made in the committee of conference are noted below.

A. DECLARATION OF POLICY

The House bill amends the Declaration of Policy by adding a reference to the regulation of weighing of grain as provided for in the bill.

The Senate amendment adds a reference to the regulation of weighing and the certification of the weight of grain and to the timely marketing of grain.

The Senate amendment also adds a legislative finding that all grain or transactions in grain regulated under the Act are either in interstate or foreign commerce or substantially affect such commerce.

The Conference substitute adopts the Senate amendnment.

B. DEFINITIONS

1. Agency and Administrator

The Senate amendment provides for new definitions, those of "Agency" to mean the "Federal Grain Inspection Agency" established by the Senate amendment, and "Administrator" to mean the Administrator of the new Federal Grain Inspection Agency. Thereafter, in the Senate amendment, every reference in the Act to the Department of Agriculture or the Secretary is deleted and these terms substituted.

There is no comparable provision in the House bill.

The Conference sustitute provides, instead, a new definition of "Service" to mean the "Federal Grain Inspection Service" established by the conference report, and "Administrator" to mean Administrator of such service. Thereafter, in the Conference substitute every reference in the Act to the "Secretary" is deleted and the term "Administrator" substituted.

2. Official Inspection

The House bill includes in the definition of official inspection a determination of the condition of "containers for transporting or storing grain." The Senate amendment refers to "receptacles for the transportation of grain."

The Conference substitute adopts the Senate amendment.

The House bill retains the existing provision that official inspection may include, upon request, certification of the quantity of sacks of grain. The Senate amendment deletes this provision from the definition.

The Conference substitute retains the House provision.

The House bill authorizes inspection of other facts, upon request of an interested "person". The Senate amendment refers to an interested "party".

The Conference substitute adopts the Senate amendment.

3. Official Inspection Personnel

The House bill redefines the term to mean persons licensed or authorized by the Secretary to perform or supervise the performance of official inspection under Section 8 (which includes employees of USDA, State agencies delegated authority and official inspection agencies).

The Senate amendment uses, instead, the term "official personnel" and redefines the term to mean employees of the Agency, a State under an agreement, or an official contractor licensed or authorized by the Administrator to perform or supervise the performance of official inspection or official weighing, or to monitor grain shipments in foreign ports. Every reference in the Act thereafter to "official inspection personnel" is deleted and this term substituted therefor.

The Conference substitute uses the term "official inspection personnel" and defines it to mean persons licensed or authorized by the Secretary to perform or supervise the performance of official inspection, official weighing and supervision of weighing (including USDA employees, State agencies and official inspection agencies).

4. Official inspection mark

The House bill retains the term and the definition now contained in the Act.

The Senate amendment amends the term "official inspection mark" to read "official mark" and changes its definition to mean the symbol which shows the determination of official weighing as well as the determination of official inspection as now appears in the definition of "official inspection mark".

The Senate amendment thereafter uses the term "official mark" in the Act.

The Conference substitute adopts the Senate amendment.

5. Official grade designation

The House bill retains the definition now in the Act.

The Senate amendment amends the definition to change the reference to "standards provided for in the Act" to read "standards relating to kind, class, quality, and condition of grain, provided for in this Act".

The Conference substitute adopts the Senate amendment.

6. Official inspection agency

The House bill redefines the term to mean a State, local government agency or person designated by the Secretary for the conduct of official inspection (other than appeal inspection).

The Senate amendment uses the term "official contractor" and defines it as a State or person who has entered into a contract with the Administrator for the conduct of official inspection (others than appeal inspection) or official weighing at a designated point. The Senate amendment thereafter makes use of term "official contractor" instead of the term "official inspection agency".

The Conference substitute uses the term "official agency" and defines it to include a State agency, local government agency, or designated person for the conduct of official inspection (other than appeal inspection) and supervision of weighing.

7. Deceptive loading, handling or sampling

The House bill retains the current definition without change.

The Senate amendment amends the term to include "deceptive weighing".

The Conference substitute adopts the Senate amendment.

8. Export port elevator and export elevator

The House bill adds a definition of "export port elevator" to include a facility at an export port location in the U.S. from which grain is shipped to any place outside the U.S.

The Senate bill uses the term "export elevator" and defines it as a facility in the U.S. as determined by the Administrator from which grain is shipped outside thereof.

The Conference substitute adopts the Senate amendment.

9. Export port location

The House bill provides for a new definition, that of "export port location", to mean a commonly recognized port in the United States or Canada from which United States grain is exported.

There is no comparable provision in the Senate amendment.

The Conference substitute retains the House provision.

10. Major inland terminal elevator

The *Senate* amendment provides for a new definition, that of "major inland terminal elevator", to mean an elevator (other than export) located in an interior terminal marketing area at which over 50,000,000 bushels of grain are inspected in an average year.

There is no comparable definition in the *House* bill.

The *Conference* substitute deletes the definition contained in the *Senate* amendment since the *Conference* substitute does not contain any of the provisions in the *Senate* amendment covering major inland terminals.

11. Supervision of weighing and official weighing

The *House* bill provides for a new definition, that of "supervision of weighing", to mean the supervision of weighing and weight certification processes and the physical inspection of the premises at which the weighing is performed to assure that all the grain in a lot has been weighed and discharged.

The *Senate* amendment uses the term "official weighing" and defines it to mean the determination and certification of the weight of a lot of grain by official personnel under standards provided in the Act, based on actual weighing or the supervision thereof, to include physical inspection of the premises, monitoring of the flow of grain, and the testing of weights and scales for accuracy.

The *Conference* substitute adopts the definitions of both the *House* bill and the *Senate* amendment.

C. ESTABLISHMENT OF FEDERAL GRAIN INSPECTION AGENCY

The Senate amendment adds a new section to the Act. The section provides for the establishment of a separate Federal Grain Inspection Agency (FGIA) within the Department of Agriculture to administer the Act. The Administrator of FGIA shall be appointed by the President, by and with the consent of the Senate, for a term of 10 years, and shall have an annual salary of Level V of the Executive Schedule. He shall be responsible for the establishment of Agency policies, guidelines, and regulations.

There is no comparable provision in the House bill.

The Conference substitute provides, instead, for establishment of a separate Federal Grain Inspection Service within the Department of Agriculture to administer the Act. The Administrator of the Service shall be appointed by the President, by and with the consent of the Senate, with no fixed term of office, and shall have the salary and the powers as set forth in the Senate amendment. The Conference substitute does not preclude the Secretary, if he should so elect, to delegate authority to the new Service to handle inspection and weighing functions of commodities other than those subject to the requirements of the Act.

The Senate amendment provides that the Secretary of Agriculture shall act for the Administrator between time of enactment of this Act and appointment of the Administrator by the President.

There is no comparable provision in the House bill.

The Conference substitute adopts the Senate amendment.

D. STANDARDS

The *House* bill in adding a new section to the Act dealing with the weighing of grain authorizes the Secretary to investigate the weighing and certification of the weight of grain shipped in interstate or foreign commerce. Also, it authorizes him to prescribe by regulation, standards, proceedures, and controls for accurate weighing and the certification of the weights of grain, including safeguards over equipment, and the calibration and the maintenance thereof, for certain export elevators.

The *Senate* amendment makes the same authorizations to the Administrator in its amendment to section 5 of the Act dealing with standards in general. However, the standards authorized by the *Senate* amendment may apply to all grain shipped in interstate or foreign commerce.

The *Conference* substitute adopts the *Senate* amendment.

E. OFFICIAL INSPECTION AND WEIGHING REQUIREMENTS

1. Export grain

The *House* bill retains without change the language of Section 5 which requires the official inspection of grain exported from the United States if it is sold by grade.

The *Senate* amendment changes the language of Sec. 5 of the Act to require the official inspection of all grain exported from the United States. The Senate amendment requires, in addition, that such export grain be sampled as near the final spout through which it passes as physically practicable as it is being loaded aboard the vessel.

The *Conference* substitute adopts the *Senate* amendment, with an exception to the requirement for inspection of all grain exported to cover cases where otherwise agreed in the export sales contract. With respect to the requirement for sampling as near the final spout through which the grain passes as physically practicable, it was agreed that the Administrator would be authorized to determine what was physically practicable.

2. Weighing at export port elevators

The House bill requires that all grain received or shipped out of export elevators located at export port locations must be weighed. Such weighing must be supervised (as provided in Section 7A) except in emergency or other circumstances that would not impair the objectives of the Act. (The House bill authorizes but does not require the Secretary to provide for regulation of actual weighing and testing of scales through USDA employees or designated State or private agencies at such locations).

The Senate amendment requires, except where it would be impracticable, that all export grain and all grain received at and all other than export grain shipped from an export elevator must be officially weighed which includes weighing and testing of scales.

The Conference substitute adopts the Senate amendment with an exception, as in the House bill, for emergency or other circumstances that would not impair the objectives of the Act.

3. Weighing of officially inspected grain

The Senate amendment requires that all grain that is officially inspected while being transferred into or out of a major inland terminal elevator must be officially weighed except in emergency or other circumstances that would not impair the objectives of the Act.

There is no comparable provision in the House bill.

The Conference substitute deletes the *Senate* amendment.

4. Single certificate

The Senate amendment requires that whenever the same lot of grain is both officially inspected and officially weighed, a single certificate must be issued showing both the results of inspection and weighing.

There is no comparable provision in the House bill.

The Conference substitute adopts the Senate amendment.

5. Supervision

The Senate amendment specifically requires that all official inspection and official weighing must be supervised by the Agency.

The House bill requires supervision of the weighing process at export port locations, provides for USDA oversight of supervision of weighing and official inspection conducted by State agencies at export port locations (Sec. 7(e) and 7A(a)). It also provides for official inspection to be conducted pursuant to regulations prescribed by the Secretary (Secs. 7(a) and (g)).

The Conference substitute adopts the Senate amendment.

F. REQUIRED USE OF OFFICIAL GRADE DESIGNATION

1. Standards

The House bill retains the provisions of current law requiring use of official grade designations when standards are effective under the Act for any grain.

The Senate amendments amends the provision by specifying "standards relating to kind, class, quality or condition of grain", under the Act.

The Conference substitute adopts the Senate amendment.

2. False description of grain

Tre House bill retains the prohibition in current law against a person "knowingly" describing grain by a false or misleading grade designation.

The Senate amendment deletes the word "knowingly".

The Conference substitute deletes the Senate amendment.

G. OFFICIAL INSPECTION AUTHORITY

1. General

The Senate amendment changes section 7 (b) of the Act concerning non-mandatory grain inspection. It deletes reference to determination of the quantity of sacks of grain and to the provision for inspection services, on the request of an interested person, for United States grain transshipped through Canadian ports. In the place of the latter, the Administrator is authorized to cause *required* official inspection of such United States grain transshipped through Canada. And, to that end, the Secretary is authorized to enter into an agreement with the Canadian government for such inspection.

The House bill retains existing provisions of law and provides that where inspection is made of U.S. grain at a Canadian port, it shall be carried out by USDA personnel (see Section 7(e)).

The Conference substitute adopts the Senate amendment, with an exception to the requirement for official inspection of grain transshipped through Canada to cover cases where otherwise agreed by contract. The Conference substitute also retains provisions of existing law regarding the determination of sacks of grain which were retained in the House bill.

The House bill retains provisions of section 7(c) for reinspection, appeal inspection, and cancellation of superseded certificates.

The Senate amendment adds to section 7 (c) of the Act requirements for the Administrator to develop regulations providing for the use of standard forms for official certificates and for the surrender of superseded certificates.

The Conference substitute adopts the Senate amendment.

2. Who is to perform official inspection at export locations

The House bill and the Senate amendment amend section 7 of the Act and provide that all grain required or authorized to be inspected under the Act at export port locations (at export elevators in the case of the Senate amendment) and of U.S. grain at Canadian ports be performed by authorized Federal employees. The House bill, however, gives the Secretary the power to delegate his authority to a State inspection agency, if he determines the State agency to be qualified; although the responsibility for such official inspection shall remain his, and he may revoke the delegation at any time, without a hearing.

The Conference substitute adopts the House provision but limits the State agencies to which delegations of authority may be made to those agencies which were conducting official inspection at an export location as of July 1, 1976. Any such agency could qualify to perform inspection at all export locations in the State including locations in addition to those where it was performing inspection as of July 1, 1976. Prior to making a delegation of authority the Administrator is required to make a positive finding that the agency is qualified after having investigated the agency's history of performance in consultation with the USDA's Office of Investigation, the Department of Justice (including the applicable United States Attorney and the Federal Bureau of Investigation) and the General Accounting Office. The Administrator shall submit a report of his findings to the Agriculture Committees of the Congress and include in such report a summary of the factual evidence relating to the integrity and accuracy of the inspection service on which the Administrator relied in making the determination.

3. *Who is to perform official inspection other than at export locations*

The House bill amends Section 7 of the Act and authorizes the Secretary to designate any State, local government agency, or person who qualifies, to perform official inspection at any location at which he determines that official inspection is needed.

The Senate amendment changes Section 7 of the Act to require that official inspection at major inland terminal elevators (as defined in the amendment) be performed by authorized Federal employees. At any other location which the Administrator determines that official inspection is needed, the *Senate* amendment authorizes him to cause it to be performed by Federal employees or to enter into a contract with any State or person to provide it.

The Conference substitute adopts the House provision and provides for a report within two years after enactment of the Act on the reliability and effectiveness of the inspection system at inland locations as described below.

4. *Delegations of authority and designations under House bill and contracts under Senate amendment*

(i) Criteria. The House bill establishes criteria which States must meet to qualify for a delegation from the Secretary to perform inspection or which States or private persons must meet before they can be designated as an official inspection agency in the interior of the United States. The determination with respect to the criteria shall be made by the Secretary. In addition, the Secretary must, in these instances, also determine that the applicant for inspection designation or delegation is better able to provide the services than any other applicants.

The Senate amendment would delete all provisions in the Act relating to designation for the conduct of official inspection. It would, in its stead, add a new section requiring the Administrator to contract with a State or private person for the performance of official inspection (at other than export or major inland terminal areas).

However, the Senate amendment does provide that every applicant for a contract meet the same criteria as provided in the House bill, except that it deletes the criteria that the applicant will not charge unreasonable or discriminatory fees (the Senate amendment does not provide for fees to be charged by contractors), and except that the conflict of interest criteria differ as explained below. The Senate amendment has an additional criterion, calling for rotation of personnel employed by the contractor.

The *Conference* substitute adopts the *House* provision, but adds to it language: (a) from the *Senate* amendment providing for rotation of personnel; (b) based on section 13 of the Act as amended by the *Senate* for the Administrator to develop and prescribe personnel standards, including standards for training, work production and recruitment, selection of personnel based on qualifications, not political affiliations; (c) and based on *Senate* amendment contract provisions, calling for periodic audits and prohibiting the use of fees collected by designated or delegated State agencies for non-agricultural State programs.

(ii) *Supervision.* The House bill provides with respect to delegations of authority to States at export port locations that the performance of functions shall be subject to such oversight as the Secretary may prescribe. There is no comparable specific provision as to designations.

The Senate amendment adds the requirement with respect to non-Federal inspection that all contracts include provisions that permit Agency supervision of the work of the Contractor.

The *Conference* substitute adopts the *House* provision.

(iii) *Agencies in Each Geographic Area.* The House bill retains Section 7(f) which provides that there shall not be more than one inspection agency operative in any area.

The Senate amendment deletes this provision.

The *Conference* substitute adopts the *House* provision including a provision to make explicit that inspection or grading must be performed by the agency having jurisdiction over the area where the sample was taken, to prohibit "grade-shopping" abuses. The Administrator would, however, be authorized to make exceptions in those cases deemed to be in the best interest of the Service.

(iv) *Termination Dates.* The House bill would provide that every designation (but not delegation) shall terminate not later than triennially. Under the Senate amendment the contract would terminate at the end of five years.

The Conference substitute adopts the House provision.

(v) *Temporary Authority.*

The House bill provides that when the Secretary determines that no inspection agency is available at a location (other than an export location), he is authorized to cause official inspection to be performed by authorized Federal employees until an agency is available to provide services on a regular basis.

The Senate amendment has no comparable provision for temporary authority.

The Conference substitute adopts the House provision.

5. *Fees*

(i) The House bill would provide for the prescription and collection of fees by the Secretary from users for official inspection and weighing functions performed by personnel of the Department.

The Senate amendment would provide for the Administrator to collect all user fees for inspection, weighing, and testing services performed under the Act, whether performed by Agency personnel or official contractors.

The Conference substitute adopts the House provision.

(ii) The House bill provides that fees charged by designated agencies shall not be discriminatory or unreasonable.

The Senate amendment would require that all fees authorized by the Act be reasonable nondiscriminatory and, in addition, as nearly equal as possible in each geographic area of the United States.

The Conference substitute adopts the House provision and in lieu of the Senate provision requiring fees to be nearly equal as possible throughout the United States provides that States may not use fees for non-agricultural programs.

(iii) The *House* bill provides that all fees charged by the Department for services performed by USDA employees shall as nearly as practicable cover the costs of providing the services and up to 75% of the total of supervisory and administrative costs.

The *Senate* amendment provides that all fees shall cover the cost of services and all supervisory and administrative costs to the Agency directly related thereto and not covered by appropriations made under Section 26 of the Act.

The *Conference* substitute provides that fees charged by the Department for services performed by Service employees shall cover estimated expenses to the Service outside of Washington.

(iv) The *House* bill provides that all designated agencies, and State agencies delegated authority shall pay fees to the Secretary to cover the cost of direct supervision of the agency personnel and direct supervision by Department personnel (outside of Washington) of its field office personnel. Such fees shall not exceed 75% of the estimated total Federal costs relating to the provision of services under the Act. Failure to pay the fee in 30 days would result in the termination of the delegation or designation until the fee is paid.

The *Senate* amendment provides that fees charged under a contract shall include amounts to cover Agency supervision of the activities of the contractor, to the extent this is not covered by appropriations under Sec. 26 of the Act.

The *Conference* substitute provides that designated agencies and State agencies delegated authority shall pay fees to the Service to cover estimated Service expenses incurred outside of Washington.

(v) The *House* bill provides that all fees charged by the Secretary shall be deposited in the miscellaneous receipts of the U.S. Treasury.

The *Senate* amendment provides that all fees be deposited in a revolving fund to be available to pay for the expenses of the Federal Grain Inspection Agency.

The *Conference* substitute adopts the *Senate* amendment.

(vi) The *Senate* amendment contains a proviso that the amount of fees for services shall not be increased during the course of any fiscal year more than 10% over the amount of the fee in effect at the end of the previous year, without express authorization of the Administrator.

There is no comparable provision in the *House* bill.

The *Conference* substitute deletes the *Senate* amendment.

6. *Special study of grain inspection and weighing system*

The *House* bill provides for the Secretary to make a study of weighing and supervision of weights and report the results of the study to the two Committees within a year after the effective date of the 1976 Act together with recommendations for legislation deemed necessary.

The *Senate* amendment has no comparable provision.

In lieu of the *House* provision for the weighing study and the provisions of the *Senate* amendment requiring Federal inspection and Federal or State official weighing at major inland terminals, the *Conference* substitute requires the Federal Grain Inspection Service to conduct a further analysis of the needs of the interior inspection and weighing systems. In addition, the Office of Investigation would be required to investigate the effect of irregularities and problem areas under the present system and conflict of interest rules, and the General Accounting Office would be required to assess the present grain inspection and weighing system in the interior of the United States and review the conclusions reached by the USDA study groups. The *Conference* substitute provides for the reports from these agencies to be submitted to the Agriculture Committees of the Congress not later than two years after the effective date of the 1976 Act.

H. WEIGHING

1. Weighing at export locations

The *House* bill requires, with certain exceptions that all grain received or shipped from export port elevators in the United States must be weighed. It provides that supervision of such weighing shall be performed either by authorized Federal employees or by qualified State agencies to which the Secretary has delegated authority. Any such delegation may be revoked by the Secretary, at any time without a hearing. The Secretary is authorized, but not required, to provide that the functions of weighing and certification of weights and testing of scales at export port elevators be performed by Federal employees or by State or local agencies designated by him in accordance with regulations and instructions prescribed by the Secretary.

The *House* bill further authorizes the Secretary to prescribe by regulation the standards, procedures and controls for accurate weighing and certification of weights of grain and safeguards of equipment at export port elevators. It also sets forth a number of conditions which an elevator operator must satisfy to obtain supervision of weighing.

The *Senate* amendment provides for similar standards in section 5 of the Act and would require official weighing of all grain transferred into or out of an export elevator and that such weighing be performed by authorized Federal employees.

The *Conference* substitute adopts the *Senate* provision requiring official weighing of all grain transferred into or out of an export elevator, but provides that such weighing would be carried out by the same agency performing official inspection at the elevator, except that if a State agency delegated authority to perform inspection did not wish to undertake the function or could not qualify, it would be performed by Service personnel. The *Conference* substitute further requires monitoring and certification of weights to be performed of all grain exported and not merely of a representative number of lots.

2. Weighing of grain transshipped through Canada

The House bill adds a provision to the Act authorizing an agreement to be entered into with Canada to provide for the supervision of weighing of United States grain transshipped through Canadian ports, in which event the Secretary shall cause the weighing of all such grain to be supervised by Federal employees.

The Senate amendment authorizes the Secretary to enter into a similar agreement for the official weighing of United States grain transshipped through Canadian ports in which event the Administrator shall cause official weighing to be conducted of United States grain so transshipped.

The Conference substitute adopts the Senate amendment.

3. Weighing at other than export elevators

The Senate amendment requires official weighing of grain officially inspected while it is being transferred into or out of a major inland terminal elevator (except in certain circumstances when the Administrator finds it would not impair the objectives of the Act) and authorizes official weighing upon request of an interested person at any elevator at which official inspection is provided.

The Senate amendment further authorizes the Administrator to provide official weighing services at any elevator, upon the request of the elevator, for a period not less than one year. The fees for this service shall be separately set and shall be reasonable, non-discriminatory, and equal to the cost of providing such services.

The Senate amendment would authorize the Administrator to cause official weighing at major inland terminal elevators for grain required or authorized to be officially weighed, to be performed by authorized Federal employees or States under a cooperative agreement with him.

The Senate amendment further provides that for the conduct of official weighing at any other location, the Administrator is authorized to cause it to be performed by authorized Federal employees, States under a cooperative agreement with him, or States or persons under a contract with him.

The House bill contains no provision for regulation of weighing at other than export elevators but provides instead in subsection (e) for the Secretary to make a study of weighing and certification of weights and the inspection and testing of scales used in weighing grain and report the results of the study to the two Committees within a year after the effective date of the Act together with any recommendations for legislation deemed necessary.

The Conference substitute authorizes, but does not require, the Administrator to provide for supervision of weighing to be performed at interior locations. If the Administrator provides for supervision of weighing at such locations, the weighing would be carried out by the same agency performing official inspection, except that if that agency did not wish to carry out the weighing function or could not qualify, it would be handled by Service personnel, a State agency or other persons as the Administrator might designate. The extent of monitoring and certification of weights at an interior location would be as determined by the Administrator to be in the best interests of the system. The Conference substitute does not contain special requirements for major inland terminals as in the Senate amendment.

4. Requirements for the provision of supervision of weighing

The House bill provides that no supervision of weighing will be conducted unless an elevator operator has demonstrated to the Secretary that he:

(i) has suitable grain-handling equipment and accurate scales and will cause the scales to be tested periodically by competent agencies;

(ii) will employ competent and honest persons to operate scales and handle grain that is to be weighed;

(iii) will require employees to weigh grain in accordance with Federal regulations, remove all incoming grain from the means of conveyance, and deliver in its entirety each lot of grain to its means of conveyance;

(iv) will assist the Secretary in inspecting or examining his premises; and

(v) will comply with all other requirements of the Act and regulations.

There is no comparable provision in the Senate amendment.

The Conference substitute adopts the House provision.

5. Criteria for delegations and designation and for contracts

The House bill establishes criteria which States must meet for declarations of authority and which States and private agencies must meet for designations. The Senate amendment, as with respect to official inpection, provides for contracts, instead of delegations and designations, and sets forth in section 11 of the Senate amendment criteria for such contracts.

The Senate amendment provides that applicants for a contract must meet the same criteria as provided in the House bill, except that it deletes the criterion that the applicant will not charge unreasonable or discriminatory fees (the Senate amendment does not provide for fees to be charged by contractors), and except that the conflict of interest criteria differ as explained below.

The Senate amendment has additional requirements calling for rotation of personnel, providing specifically that agencies keep fiscal records, and providing that the Secretary must choose the most qualified of all applicants.

The House bill has no specific comparable provisions but it provides for the keeping of such records as required by the Secretary and the meeting of other criteria established by the Secretary.

Also, with respect to official weighing at major inland terminals, the Senate amendment authorizes the Administrator to enter into an agreement with a State to perform these services if it conducts weighing under procedures equivalent to those prescribed under Sec. 9 but the Senate amendment does not make applicable to these agreements the criteria specified in section 11.

The Conference substitute adopts the House provision but adds language based on the Senate amendment providing for rotation of personnel and other special provisions described above for designation of official inspection agencies. The Conference substitute does not contain any special provisions relating to major inland terminals.

6. Weighing certificates

The Senate amendment provides that official certificates issued as the result of official weighing shall be received by all United States courts as prima facie evidence of the truth of the facts stated therein.

There is no comparable provision in the House bill.

The Conference substitute adopts the Senate amendment.

6A. Weighing records

The House bill provides authority for the Secretary to require maintenance of complete and accurate records of weighing of grain for such period as prescribed by the Secretary. The Senate amendment requires a contractor to maintain accurate records of weighing for a five year period plus an additional three years at the discretion of the Administrator, and for the States or person who obtain official weighing to maintain accurate records for a five year period.

The Conference substitute adopts the Senate amendment as to records required by designated agencies.

7. Prohibition against unauthorized weighing

The Senate amendment provides that no person other than authorized Federal personnel, shall perform official weighing under the Act, except under the provisions of a cooperative agreement or an official contract.

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment except that it provides for personnel to perform weighing under a delegation of authority or designation rather than under a cooperative agreement or official contract.

8. Access to elevators

The House bill gives the representatives of the Secretary access, without limitation, to any elevator from or to which grain moves in interstate or foreign commerce.

The Senate amendment specifies that such access must be for the purpose of providing official weighing or supervision thereof under the Act. The Senate amendment authorizes access to elevators for other purposes as well.

The Conference substitute adopts the House provision.

I. TESTING OF EQUIPMENT

The Senate amendment adds a new section to the Act to deal with equipment testing. It requires that the Administrator provide for random and periodic testing (but at least twice a year) of all equipment used in the inspection, grading, and weighing of grain, located at elevators at which official inspection or official weighing is provided. The Senate amendment would authorize the Administrator to supervise the testing, by States, political subdivisions thereof, or other persons, of equipment located at elevators from or to which grain is shipped in interstate or foreign commerce.

The House bill would require in section 7A(b) of the amended Act that, for all scales at export port elevators where supervision is to be provided, the elevator operator must cause such scales to be tested properly by competent agencies at suitable intervals. It also authorizes the Secretary to require that at export elevators the testing of scales be done by USDA employees or designated State or private firms.

The Conference substitute adopts the Senate amendments but requires testing of equipment at least once, rather than twice, a year and limits the testing authority of the Administrator to the equipment used for official inspection and official weighing rather than equipment located at all elevators used in the shipment of grain in interstate and foreign commerce.

The House bill provides that no person shall use any scales disapproved by the Secretary or a designated agency.

The Senate amendment provides that no person shall use any such equipment not approved by the Administrator.

The Conference substitute adopts the Senate amendment.

J. LICENSES AND AUTHORIZATIONS

1. Persons covered

The House bill amends the present law to allow the Secretary to authorize Department employes to perform original inspection and to contract with an individual to perform specified laboratory or sampling functions. It also provides for USDA employees to perform supervision of weighing at export port elevators.

The Senate amendment also extends to the Administrator these additional authorities:

(i) to license employees of the Agency, official contractor, and State to officially weigh grain;

(ii) to authorize Federal employees to supervise the official inspection and official weighing of grain or the testing of equipment; and

(iii) to authorize Agency employees or contract with any person for the performance of monitoring activities in foreign ports.

The Conference substitute combines the provisions of the House bill and Senate amendment. It amends the present law to allow the Administrator to authorize (but not license) employees of the Service to perform original inspection and official weighing and to supervise official inspection, official weighing or testing of equipment. It also authorizes the Administrator to contract with an individual to perform specified laboratory or sampling functions, to license employees of State or private agencies to officially weigh grain and to authorize, but not require monitoring activities in foreign ports through employees of the Service or contracts with any person.

2. Prohibitions

The House bill retains the present provision of law that no person shall perform official inspection under this Act unless he holds an effective license or authorization.

The Senate amendment adds performance of official weighing to this prohibition.

The Conference substitute adopts the provision of the Senate amendment.

3. Licenses, authorizations and examinations

The *House* bill retains the present provisions of law that licenses shall terminate triennially. The *Senate* amendment extends these requirements to authorized persons.

The *Conference* substitute adopts the *House* provision.

3A. The *House* bill retains provisions of existing law regarding examination of inspection personnel. The *Senate* amendment extends this requirement of weighing personnel.

The *Conference* substitute adopts the *Senate* amendment.

4. Status of non-Federal licensees

The *House* bill amends section 8(d) of the Act to provide that persons performing inspection and weighing functions regulated under the Act and not employed by the Department shall be considered (in performance of official duties) as employees of the Department for the purpose of providing them protection from assaults and interference in the performance of their functions, under title 18 of the U.S. Code.

There is no comparable provision in the *Senate* amendment.

The *Conference* substitute adopts the *House* provision.

5. Hiring of new Federal personnel

Both the House bill and the Senate amendment authorize the hiring by the Federal government of presently licensed personnel without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

The House bill extends this authority in the case of weighing services to persons now performing similar functions. The Senate amendment requires that they be licensed, authorized or certified by the USDA, State or a political subdivision.

Both the House and the Senate provide that the persons hired must be technically and professionally qualified. The House bill also requires that such persons be of good moral character.

There is no comparable provision in the Senate amendment.

The Conference substitute adopts the House provision.

6. Retention of certain rights on entering Federal service

The Senate amendment provides that inspectors and weighers hired into Federal service under this bill from both State and private agencies shall:

(i) be hired at the rate of compensation equal to that on their last day of other employment but not to exceed maximum rate set by the Administrator;

(ii) receive full credit for the purposes of Civil Service Commission benefits (including retirement) for all service with their former employer;

(iii) receive credit for the balance of sick leave outstanding on last day of employment (sick leave balance at time of separation from Federal civil service shall not be recredited during another period of employment with Federal civil service);

(iv) if eligible for an annuity or retirement credit, must transfer to the United States Government the benefits of such annuity or payment to qualify for the provisions of this section.

There is no comparable provision in the House bill.

The Conference substitute deletes the Senate amendment. However, the Conferees intend that fairness and equity be shown in the employment of persons working for private and public agencies who are displaced because of Federal preemption of inspection and weighing functions under this Act. If qualified, the Conferees expect that these people be given preference in employment to fill available positions over other new applicants, and that, insofar as practicable, they be considered along with qualified employees of the Department for positions of at least comparable responsibility and rank to that enjoyed in the private or State system. In setting their pay within the appropriate grade, to the extent possible, cognizance should be taken of the rank, benefits and longevity the employees had under the system where employed

7. Rotation of agency personnel

The Senate amendment adds a new subsection to section 8 of the Act requiring that the Administrator provide for the periodic rotation of supervisory personnel and official personnel (as defined in the amendment), as he deems necessary for the integrity of the system.

There is no comparable provision in the House bill.

The Conference substitute adopts the Senate amendment.

8. Uniform personnel standards

The Senate amendment adds another subsection to section 8 of the Act which requires the Administrator to develop and effectuate uniform personnel standards relating to recruitment, training, supervision, and work production. Persons licensed under the Act as of June 1, 1976 shall be exempted from the recruitment and training standards if they are otherwise qualified for their duties and agree to complete necessary additional training.

There is no comparable provision in the House bill. (But the Committee report provides that, to the extent practicable, the Secretary would be expected to adopt uniform qualifications and expertise requirements for employment in delegations of authority to States but not necessarily with identical terms and conditions of employment).

The Conference substitute adopts the Senate amendment requiring the Administrator to establish personnel standards, except that he is authorized, but not required, to make the standards uniform in all particulars.

K. REFUSAL OF RENEWAL, SUSPENSION OR REVOCATION OF LICENSES

The House bill retains the present provision of law that the Secretary may suspend, or revoke, or refuse to renew, licenses subject to the conditions prescribed in the section.

The Senate amendment extends this authority to include authorized persons (USDA employees).

The Conference substitute adopts the House provision.

The House bill retains the existing provision of law that the Secretary suspend, revoke, or refuse to renew licenses if he determines that a person has improperly inspected grain.

The Senate amendment extends the scope of his authority in this regard to include improper weighing.

The Conference substitute adopts the Senate amendment.

L. REFUSAL OF SERVICES AND CIVIL PENALTIES

1. Refusal of services

The House bill amends subsection (a) of section 10 of the Act by permitting the Secretary to refuse inspection or weighing services under the Act and by adding as a possible basis therefor any knowing violation of the Act, as well as any grain-related conviction.

The Senate amendment also makes these amendments to the Act, except that it does not require that the violation be "knowing".

The House bill also amends this subsection to include among the individuals whose knowing violation of the Act can be the basis for refusal of services imposed against a business entity, any individual "responsibly connected with the business", as well as partners, officers, directors, and so on, under present law.

The Senate amendment contains no comparable amendment.

The Conference substitute adopts the House provisions on refusal of services.

2. Civil penalties

The House bill adds new subsections to section 10 which allow the Secretary to assess a civil penalty, in lieu of, or in addition to, refusal of services or criminal prosecution, against persons he has found to have knowingly violated the Act or been convicted of any grain-related crime. The maximum penalty would be $500,000. The collected penalties would be deposited in the general fund of the United States and the Secretary is authorized to obtain the assistance of the Attorney General to collect penalties due. Before services are refused or a penalty assessed, the respondent would be entitled to an administrative hearing under title 5 of the U.S. Code.

The Senate amendment makes the same changes in the Act, except that:

(i) the violations of the Act need not be "knowing" in order that a civil penalty might be assessed;

(ii) the maximum penalty is set at $100,000; and

(iii) the Administrator is authorized to temporarily refuse services without a hearing for up to 7 days.

The conference substitute adopts the House provision except that it establishes a maximum civil penalty at $75,000 and authorizes the Administrator to temporarily refuse services without a hearing for up to 7 days as in the Senate amendment but provides thereafter for an expedited hearing.

M. CONFLICTS OF INTEREST

1. Prohibited conflicts

The House bill amends section 14 of the Act by adding two new subsections. New subsection (b) imposes conflict of interest requirements on designated and delegated inspection and weighing agencies. Such agencies (and members, directors, officers or employees thereof) may not be employed or engaged in the grain business or have a financial interest in such business. Nor may any such business (or member, director, officer, or employee thereof) be employed by or have a financial interest in such an agency.

The Senate amendment in contrast contains a conflict of interest prohibition in section 11(b) which prohibits contracting with (1) a person who owns, operates or is employed by a commercial grain elevator or warehouse, is engaged in merchandising grain or is financially interested therein or (2) any business entity owned, operated or managed by such a person.

The Senate provision also does not apply the conflict of interest provision to State agencies with which the USDA has an agreement for weighing services.

2. Employees who are producers

The House bill provides further that subsection (b) shall not exclude agencies that have officials or employees who are also producers, as long as the producer does not provide services for his own grain and is not otherwise engaged in grain merchandising.

There is no comparable provision in the Senate amendment.

3. Substantial stockholders

The House bill would prevent "substantial" (as defined in subsection (b)) stockholders of an agency from being employed in or holding substantial amounts of stock in a grain company, and vice versa.

The Senate amendment does not require that the stock interest be substantial.

4. State agencies

The House bill provides that, with respect to States or local government agencies, the Secretary shall specify which employees thereof may not have the prohibited conflict of interest.

There is no comparable provision in the Senate amendment.

5. Boards of trade

The House bill provides that the Secretary may delegate or designate a State or board of trade, chamber of commerce, or grain exchange to perform services under the Act if he determines that any existing conflict of interest would not jeopardize the integrity or objective operation of the inspection or weighing service. This exception would also apply to private persons to be designated to provide weighing.

There is no comparable provision in the Senate amendment.

6. Inspection agency performing weighing

The House bill adds a new subsection (c) to section 17 of the Act which provides that the conflict of interest provisions shall not prevent an official inspection agency from engaging in the business of weighing grain.

There is no comparable provision in the Senate amendment.

The *Conference* substitute adopts the conflict of interest provisions of the *House* bill, but provides in the case of a waiver that the Administrator must make a full report to the House Committee on Agriculture and the Senate Agriculture and Forestry Committee of the reasons for the waiver within 30 days after he takes action. The *Conferees* expect that in such a case the Administrator would require the organization to establish an autonomous committee to manage the grain inspection or weighing operation which is free of any conflict of interest.

N. RECORDS

1. Official inspection

The *House* bill extends the record-keeping requirements contained in subsection (b) of section 12 of the Act to every person licensed to perform an official inspection function under the Act.

There is no comparable provision in the *Senate* amendment.

The *Conference* substitute adopts the *House* provision. The *Conferees* intend that the Administrator in issuing regulations with respect to States delegated authority, will prescribe record keeping requirements similar to those contained in section 12 of the Act.

2. Time requirement

The *Senate* amendment requires official contractors to maintain records required by the Administrator and extends from two years to five years the time period for which official contractors are required to keep records.

The *House* bill retains the current two-year requirement with respect to official inspection agencies. State agencies acting under delegations of authority are required to comply with regulations issued by the Secretary which include authority to prescribe time requirements for recordkeeping. (Sec. 7(e) and Sec. 7A(a)). In addition, all persons may be required by the Secretary to maintain records of weighing grain and for such time period as he may prescribe.

The *Conference* substitute adopts the *Senate* amendment regarding time requirements for maintenance of records under section 12.

3. Users of Services

Both the *House* bill and the *Senate* amendment add to the Act new requirements that users of services under the Act keep detailed records (for a five-year period) of all their grain purchases, sales, transportation, storage, treating, cleaning, drying, blending, and other processing, and of their grain inspection, that they allow the Department/Agency access to and to copy, such records, and that they give the Department/Agency access to their grain elevators and other physical facilities. The user of services to which this provision applies in the House bill is "every person" and in the *Senate* amendment is "every State, or person who is the owner or operator of a commercial elevator or merchandises grain other than as a producer."

The *Senate* amendment extends the record-keeping and access requirements in the Act to users of official weighing services. Also, it requires all users of services to keep records of grain weighing and handling and of official weighing, in addition to the other types of records listed above.

The *House* bill in the weighing section authorizes the Secretary to require persons to maintain accurate records of weights (which would extend to users of the service) and also requires that USDA) employees be given access to facilities for handling grain.

The *Conference* substitute adopts the *Senate* provisions amendment.

O. PROHIBITED ACTS

1. Criminal Liability

The *Senate* amendment amends the "Prohibited Acts" section of the Act by assigning four levels of responsibility for the commission of all acts prohibited therein, to wit: acts committed knowingly, intentionally, recklessly and negligently. In conjunction with this, the Senate amendment deletes subsection (c) of this section.

There is no comparable provision in the *House* bill.

The *Conference* substitute deletes the *Senate* amendment.

2. Official inspection and official marks

The *Senate* amendment deletes reference to "inspection" in the phrases "official inspection certificate" and "official inspection mark" in paragraphs (1), (2) and (5) of subsection (a) of section 13.

There is no comparable provision in the House bill.

The *Conference* substitute adopts the *Senate* amendment.

3. Weighing

The *Senate* amendment broadens the prohibitions of paragraphs (3), (5), (6), (9), and (10) of subsection (a) and paragraph (2) of subsection (b) to include acts with respect to weighing or official weighing, as well as to acts relating to official inspection as now covered by existing law.

The *House* amended paragraph (b)(2) in a similar manner but there is no comparable provision in the House bill added to the other cited paragraphs. However, the *House* bill in subsection (a)(11) makes a prohibited act any violation of section 7A. That section provides that no person shall weigh or state in any document the weight of grain determined at a location where weighing procedures are regulated, except in accordance with procedures prescribed under that section and that no person shall use scales disapproved by the Secretary, a delegated agency, or a designated agency.

The *Conference* substitute adopts the *Senate* amendment.

4. Improper influencng

The *House* bill expands the coverage of paragraph (7) of subsection (a) (which makes it a prohibited act to improperly influence the listed persons in performance of duties under the Act) to include personnel of designated or delegated agencies.

The *Senate* amendment deletes paragraph (7) in its entirety.

The *Conference* substitute adopts the *House* provision.

5. Designated and delegated agencies

The *House* bill expands the coverage of paragraph S of subsection (a) to include personnel of designated or delegated agencies; thereby including agencies performing both inspection and weighing functions.

The *Senate* amendment changes this paragraph to exclude Department or Agency employees, and changes remaining coverage from official inspection personnel to "persons licensed to perform official inspection or official weighing".

The *Conference* substitute adopts the *House* provision.

6. Additional prohibitions

The *House* bill extends the coverage under paragraph (11) of subsection (a) to the new weighing section in the bill and to the amendment to the provision of section 7 of the Act prohibiting anyone from providing official inspection except pursuant to an operative designation or delegation.

The *Senate* amendment extends coverage under this paragraph to the revised section 7, the new weighing section; and the new testing section of the bill.

The Conference substitute adopts the provisions of the *House* bill and the *Senate* amendment.

7. Falsifying weights

The House bill adds to subsection (a) a new paragraph (12) which prohibits engaging knowingly in falsely stating or falsifying weight of grain.

The Senate amendment adds a prohibition against engaging in the falsifying of the weight, quality, or grade of grain by any means including the use of faulty or defective equipment.

The Conference substitute combines these provisions and provides a prohibition against engaging knowingly in falsifying the weight of grain as specified in the *House* bill and Senate amendment.

8. Impending interested persons

The House bill adds a new paragraph (13) to subsection (a) prohibiting the act of knowingly preventing or impeding an interested person or his agent from observing the loading, weighing, sampling, and inspection of grain.

There is no comparable provision in the Senate amendment

The Conference substitute adopts the House provision.

9. Bribes

The Senate amendment deletes from subsection (b), paragraph (4), which prohibits licenses or authorized persons from accepting consideration for neglect or improper performance of duties.

There is no comparable deletion in the House bill.

The Conference substitute deletes the Senate amendment.

P. PENALTIES

1. Increased penalties

The House bill amends section 14 of the Act to:

(i) increase the maximum penalties for violations of the Act from 6 months/$3,000 to 12 months/$10,000;

(ii) increase the maximum penalties for second or succeeding violations from 1 year/ $5,000 to 5 years/$20,000; and

(iii) places violations of paragraph 13(a) (7) (Improper Influencing), paragraph 13 (a)(8) (Assault); and paragraph 13(b)(4) (Accepting a Bribe), within the title 18, U.S. Code, penal statutes.

The Senate amendment calls for the following increased maximum penalties:

(i) For knowing or intentional violations, 5 years/$10,000; and

(ii) for reckless or negligent violations, 9 months/$5,000.

The Conference substitute adopts the provisions of the House bill.

2. Coverage under title 18 assault provision

The House bill amends section 1114 of title 18, U.S. Code, by extending the coverage of this provision which protects certain classes of United States officers and employees from murder (and by reference from assault and intimidation) to all Department employees assigned to perform investigative, inspection or law enforcement functions.

The House bill (Sec. 14(c) of the Act) also extends this coverage under sections 1114 and 111 of title 18 U.S. Code to (a) Department personnel performing weighing functions under the Act, and to (b) persons conducting official inspection and weighing functions under the Act employed by delegated and designated agencies.

The Senate amendment amends section 1114 of title 18, U.S. Code, for a different class of persons by adding coverage for "any employee of the (FGIA) of the Department of Agriculture assigned to perform official inspection or official weighing, or the supervision thereof, under the United States Grain Standards Act".

The Conference substitute adopts the House provisions.

Q. GENERAL AUTHORITY

The House bill adds a new authority, that the Secretary may require as a condition for official inspection services that interested persons have the opportunity to observe weighing, loading and official inspection.

There is no comparable provision in the *Senate* amendment.

The Conference substitute adopts the House provision.

The Senate amendment authorizes the Secretary to require installation of weighing and handling equipment in elevators. The *House* bill has a comparable provision in sec. 7A(b) of the Act for export port elevators.

The Conference substitute adopts the House provision.

The House bill authorizes the Secretary to conduct investigations.

The Senate amendment contains a comparable provision and, in addition, specifically authorizes the Administrator to investigate reports or complaints of discrepancies or abuses under the Act and requires the Secretary to develop procedures for prompt investigation and action on the basis of his investigative findings. He is also required to report to the House and Senate Committees every 3 months, with respect to investigative action taken on complaints.

The Conference substitute adopts the Senate amendment.

The Senate amendment, in addition:

(i) authorizes but does not require the Administrator to cause foreign grain shipments to be monitored overseas;

(ii) gives the Director of the Department's Office of Investigation the authority to conduct investigations regarding the operation or administration of the Act as he deems necessary to insure integrity under the Act;

(iii) authorizes the Administrator to conduct continuing research to develop methods for more accurate and uniform grain grading;

(iv) requires that the Administrator, in all instances, provide adequate personnel for the performance of services under the Act, to assure the continued normal movement of grain. In this regard, the Policy Section of the Act is amended by making it an objective of the Act that grain may be marketed in a timely manner.

There are no comparable provisions in the House bill.

The Conference substitute adopts the Senate amendment.

R. ENFORCEMENT PROVISIONS

1. Penalties for Refusing to Testify

The Senate amendment changes the penalties provided for in section 17(e) from "(those) set forth in section 14" to 6 months/ $3,000 maximum.

The House bill retains the penalties of section 14 for these violations.

The Conference substitute adopts the House provision.

2. Disclosure of information by USDA employees

The House bill extends the prohibition in section 17(g) of the Act against disclosure of information to include:

(i) employees of delegated and designated agencies and other licensees; and

(ii) former employees of the Department and these agencies. However, it also establishes an exception that the prohibition shall not apply to the divulgence of information on conduct believed to be criminal, or information pursuant to a request from a Committee of Congress or in connection with a law enforcement proceeding.

The Senate amendment deletes the entire subsection from the Act.

The Conference substitute adopts the Senate amendment. It was the judgment of the Committee of Conference that the criminal provisions contained in title 18 of the United States Code provides adequate protection against disclosure by Federal employees of trade secrets and related information.

S. RELATION TO STATE AND LOCAL LAWS

The House bill retains unchanged current provisions of the law. The Senate amendment adds to the prohibition against State or local government restrictions upon the performance of official inspection, interference with official weighing under the Act.

The Conference substitute adopts the Senate amendment.

T. APPROPRIATIONS

1. General authorization

The House bill, after naming a few specific items provides a general authorization of appropriations for all other Federal costs incurred under the Act. Under the House bill all fees collected are deposited in miscellaneous receipts to the Treasury and an appropriation is required for all costs incurred under the Act.

The Senate amendment, likewise, names a few specific items, some additional to those contained in the House bill, and then provides a general authorization for the balance of expenses needed to carry out the Act, but unlike the House bill it is limited to the extent financing is not obtained from the fees and sale of samples. Under the *Senate* amendment the fees collected are deposited in a revolving fund and used to help fund activities under the Act.

The Conference substitute adopts the Senate amendment.

2. Official standards

The House bill specifically provides an appropriation authorization for improvement of official standards. There is no such specific provision in the Senate amendment.

The Conference substitute adopts the House provision.

3. Senate additions

The Senate amendment authorizes appropriations specifically for:

(i) research and development as provided in section 21;

(ii) other initial Federal costs in implementing a system for Federal inspection and weighing;

(iii) Federal administrative and supervisory costs not directly related to the provision of services under the Act; and

(iv) the purchase or lease of buildings and equipment necessary to implement the Act. The Senate amendment also authorizes the Administrator to provide Federally-owned or leased facilities and equipment for the use of official contractors under an arrangement where the cost thereof will be amortized and reimbursed to the current appropriation from fees collected by the contractor.

There are no such specific provisions in the House bill.

The Conference substitute adopts the Senate amendments except that estimated Federal administrative and supervisory costs incurred outside of Washington would be borne by fees and except that the Conference substitute deletes the provisions of the Senate amendment for use of Federal facilities by official contractors.

4. Sale of samples

The House bill deletes from the Act the provision deducting from the sum authorized to be appropriated for administration of the Act, the proceeds from the sale of samples.

The Senate amendment retains this provision.

The Conference substitute adopts the Senate amendment.

U. REGISTRATION REQUIREMENTS

The Senate amendment would add a new section to the Act which would: (a) Require the registration as prescribed by regulations of the Administrator, of all persons (with certain exceptions) engaged in the business of buying grain for sale in foreign commerce, and in the business of handling, weighing, or transporting of such grain for sale.

b. Require all persons registered under the Act to submit certain itemized information to the Administrator.

c. Provide that the Administrator issue a certificate of registration, to be renewed annually, to persons who comply with provisions of this section. Further provides that no person shall engage in the business of buying or handling, weighing, or transporting of grain in foreign commerce unless he holds an unsuspended and unrevoked certificate of registration.

d. Authorize the Administrator to suspend or revoke a certificate of registration, after affording the holder thereof opportunity for hearing, for violation of the Act or regulations, or a conviction involving the weighing, handling or inspection of grain under title 18, United States Code, provided that the Administrator may suspend a certificate of registration temporarily without a hearing if he deems that such suspension is in accordance with the purposes of the Act, a hearing to be held within 30 days after suspension.

e. Authorize the Administrator to charge and collect fees for registration.

There is no comparable provision in the House bill.

The Conference substitute adopts the Senate amendment but provides that no action could be taken to suspend or revoke a certificate of registration without a prior hearing in accordance with the Administrative Procedures Act.

V. REPORTING REQUIREMENTS

1. Report on inspection system

The Senate amendment would require the Administrator to report on December 1 of every year regarding the effectiveness of the official grain inspection system under this Act, including his recommendations for necessary legislative changes in the Act.

There is no comparable provision in the House bill.

The Conference substitute adopts the Senate amendment.

2. Report on implementation of Act

The House bill would require the Secretary to submit a report one year after date of enactment of the bill setting forth actions taken by him to implement the Act.

There is no comparable provision in the Senate amendment.

The Conference substitute adopts the House provision and provides that this report be combined with the first annual report on the inspection system.

3. 30-Day reports

The Senate amendment would also require the Administrator to notify the Committees, in each instance, within 30 days of:

(i) any reasonably-based complaint of faulty grain delivery made by a foreign purchaser of United States grain; and

(ii) the cancellation of any contract for the sale of more than 100,000 metric tons of grain.

There is no comparable provision in the House bill.

The Conference substitute adopts the Senate amendment.

4. Annual summary of complaints

The House bill and the Senate amendment would require that the Secretary/Administrator submit (February 1—House; December 1—Senate) every year a summary of all complaints from foreign purchasers he had received during the previous year. The requirement would be limited to only those complaints for which there was reasonable cause to believe there was a basis therefor.

The Senate amendment would also require the Administrator to report on the resolution of the complaints.

The Conference substitute adopts the Senate amendment.

W. PURCHASE OR LEASE OF EQUIPMENT

The Senate amendment authorizes the Administrator to negotiate with persons presently licensed or designated to perform official functions under the United States Grain Standards Act, for the purchase or lease of facilities or equipment as necessary for the conduct of official inspection, notwithstanding other Federal procurement statutes.

There is no comparable provision in the House bill.

The Conference substitute adopts the Senate amendment.

X. STUDY OF GRAIN STANDARDS

1. Objectives

The House bill sets as an objective of the study that standards be developed which will encourage production of grain of a quality needed to meet the end-use requirements of domestic and foreign buyers and how sellers in the United States might best satisfy these needs.

The Senate amendment refers to production and delivery of "high quality grain" as the objective and would require that the study specifically address the following issues:

(i) whether grading errors and subjective human error could be reduced by changing the standards to utilize mechanical, electrical and chemical analysis;

(ii) whether grain should be subclassed by color;

(iii) whether a protein factor should be included; and

(iv) whether broken grain should be grouped with foreign material.

The Conference substitute adopts the provisions of both the House bill and the Senate amendment.

2. Outside assistance

The House bill authorizes the Secretary to seek the assistance of and to employ representatives of the grain industry, land-grant colleges, and the public, without regard to the provision of title 5, U.S. Code, governing appointments in the competitive service.

There is no comparable provision in the Senate amendment.

The Conference substitute adopts the House provision.

3. Time period

The House bill requires that the study be completed in one year.

The Senate amendment requires that it be completed in two years.

The Conference substitute adopts the Senate provision amendment.

Y. EFFECTIVE DATE

The House bill provides that any existing inspection agency and any agency providing weighing supervision and weighing services at export locations may continue to operate for a period, determined by the Secretary, up to 2 years after the effective date of the Act, without a delegation or designation or prior to Federal assumption of responsibilities under the bill, unless the agency or two or more employees thereof are convicted of a grain-related crime, or a delegation or designation is granted or denied.

The Senate amendment provides that private or State inspection or weighing agencies may continue to operate at export elevators prior to Federal assumption of duties for up to one year. However, the Administrator is specifically authorized to begin Federal operations at any export elevator at any time after the effective date.

The Senate amendment also provides that for all other locations, existing agencies may continue to operate for up to 2 years after the effective date without an official contract, or prior to Federal assumption of duties, unless the agency or 2 or more employees thereof are convicted of a grain-related crime.

The Conference substitute provides that after the effective date of the Act there would be a phase-in period of up to 18 months at export port locations and of up to two years at inland points, with certain exceptions, including a provision which would authorize the inspection provisions to become effective at an earlier date at export locations if needed to effectuate the purposes of the Act.

Z. SHORT TITLE

The House bill provides that the short title is the "United States Grain Standards Act of 1976".

The Senate amendment provides that the short title is the "Grain Inspection Reform Act of 1976".

The Conference substitute adopts the House provision.

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Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 2212, AMENDING THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

Mr. MAZZOLI, on behalf of Mr. ROONEY, filed the following conference report and statement on the bill (S. 2212) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 94–1723)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2212) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the amendment of the House to the text of the Senate bill, insert the following:

That this Act may be cited as the "Crime Control Act of 1976".

TITLE I—AMENDMENTS RELATING TO L.E.A.A.

AMENDMENTS TO STATEMENT OF PURPOSE

SEC. 101. The "Declaration and Purpose" of title I of the Omnibus Crime Control and Safe Streets Act of 1968, is amended as follows:

(1) By inserting between the second and third paragraphs the following additional paragraph:

"Congress finds further that the financial and technical resources of the Federal Government should be used to provide constructive aid and assistance to State and local governments in combating the serious problem of crime and that the Federal Government should assist State and local governments in evaluating the impact and value of programs developed and adopted pursuant to this title.".

(2) By striking out the fourth paragraph and inserting in lieu thereof the following new paragraph:

"It is therefore the declared policy of the Congress to assist State and local governments in strengthening and improving law enforcement and criminal justice at every level by Federal assistance. It is the purpose of this title to (1) encourage, through the provision of Federal technical and financial aid and assistance, States and units of general local government to develop and adopt comprehensive plans based upon their evaluation of and designed to deal with their particular problems of law enforcement and criminal justice; (2) authorize, following evaluation and approval of comprehensive plans, grants to States and units of local government in order to improve and strengthen law enforcement and criminal justice; and (3) encourage, through the provision of Federal technical and financial aid and assistance, research and development directed toward the improvement of law enforcement and criminal justice and the development of new methods for the prevention and reduction of crime and the detection, apprehension, and rehabilitation of criminals."

SUPERVISION BY ATTORNEY GENERAL

SEC. 102. Section 101(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting after "authority" the following: ", policy direction, and general control".

OFFICE OF COMMUNITY ANTI-CRIME PROGRAMS

SEC. 103. Section 101 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end the following:

"(c) There is established in the Administration the Office of Community Anti-Crime Programs (hereinafter in this subsection referred to as the 'Office'). The Office shall be under the direction of the Deputy Administrator for Policy Development. The Office shall—

"(1) provide appropriate technical assistance to community and citizens groups to enable such groups to apply for grants to encourage community and citizen participation in crime prevention and other law enforcement and criminal justice activities;

"(2) coordinate its activities with other Federal agencies and programs (including the Community Relations Divisions of the Department of Justice) designed to encourage and assist citizen participation in law enforcement and criminal justice activities; and

"(3) provide information on successful programs of citizen and community participation to citizen and community groups."

AMENDMENT TO PART B PURPOSES

SEC. 104. Section 201 of title I of such Act is amended by inserting immediately after "part" the following: "to provide financial and technical aid and assistance".

SECTION 203 AMENDMENTS

SEC. 105. Section 203 of title I of such Act is amended to read as follows:

"SEC. 203. (a) (1) A grant made under this part to a State shall be utilized by the State to establish and maintain a State planning agency. Such agency shall be created or designated by the chief executive of the State or by State law and shall be subject to the jurisdiction of the chief executive. Where such agency is not created or designated by State law, it shall be so created or designated by no later than December 31, 1978. The State planning agency and any regional planning units within the State shall, within their respective jurisdictions, be representative of the law enforcement and criminal justice agencies, including agencies directly related to the prevention and control of juvenile delinquency, units of general local government, and public agencies maintaining programs to reduce and control crime, and shall include representatives of citizens, professional, and community organizations, including organizations directly related to delinquency prevention.

"(2) The State planning agency shall include as judicial members, at a minimum, the chief judicial officer or other officer of the court of last resort, the chief judicial administrative officer or other appropriate judicial administrative officer of the State, and a local trial court judicial officer. The local trial court judicial officer and, if the chief judicial officer or chief judicial administrative officer cannot or does not choose to serve, the other judicial members, shall be selected by the chief executive of the State from a list of no less than three nominees for each position submitted by the chief judicial officer of the court of last resort within thirty days after the occurrence of any vacancy in the judicial membership. Additional judicial members of the State planning agency as may be required by the Administration pursuant to section 515(a) of this title shall be appointed by the chief executive of the State from the membership of the judicial planning committee. Any executive committee of a State planning agency shall include in its membership the same proportion of judicial members as the total number of such members bears to the total membership of the State planning agency. The regional planning units within the State shall be comprised of a majority of local elected officials. State planning agencies which choose to establish regional planning units may utilize the boundaries and organization of existing general purpose regional planning bodies within the State.

"(b) The State planning agency shall—

"(1) develop, in accordance with part C, a comprehensive statewide plan for the improvement of law enforcement and criminal justice throughout the State;

"(2) define, develop, and correlate programs and projects for the State and the units of general local government in the State or combinations of States or units for improvement in law enforcement and criminal justice;

"(3) establish priorities for the improvement in law enforcement and criminal justice throughout the State; and

"(4) assure the participation of citizens and community organizations at all levels of the planning process.

"(c) The court of last resort of each State or a judicial agency authorized on the date of enactment of this subsection by State law to perform such function, provided it has a statutory membership of a majority of court officials (including judges, court administrators, prosecutors, and public defenders) may establish or designate a judicial planning committee for the preparation, development, and revision of an annual State judicial plan. The members of the judicial planning committee shall be appointed by the court of last resort or a judicial agency authorized on the date of enactment of this subsection by State law to perform such function, provided it has a statutory membership of a majority of court officials (including judges, court administrators, prosecutors, and public defenders) and serve at its pleasure. The committee shall be reasonably representative of the various local and State courts of the State, including appellate courts, and shall include a majority of court officials (including judges, court administrators, prosecutors, and public defenders).

"(d) The judicial planning committee shall—

"(1) establish priorities for the improvement of the courts of the State;

"(2) define, develop, and coordinate programs and projects for the improvement of the courts of the State; and

"(3) develop, in accordance with part C, an annual State judicial plan for the improvement of the courts of the State to be included in the State comprehensive plan.

The judicial planning committee shall submit to the State planning agency its annual State judicial plan for the improvement of the courts of the State. The State planning agency shall incorporate into the comprehensive statewide plan the annual State judicial plan, except to the extent that such State judicial plan fails to meet the requirements of section 304(b).

"(e) If a State court of last resort or a judicial agency authorized on the date of enactment of this subsection by State law to perform such function, provided it has a statutory membership of at least a majority of court officials (including judges, court administrators, prosecutors, and public defenders) does not create or designate a judicial planning committee, or if such committee fails to submit an annual State judicial plan in accordance with this section, the responsibility for preparing and developing such plan shall rest with the State planning agency. The State planning agency shall consult with the judicial planning committee in carrying out functions set forth in this section as they concern the activities of courts and the impact of the activities of courts on related agencies (including prosecutorial and defender services). All requests from the courts of the State for financial assistance shall be received and evaluated by the judicial planning committee for appropriateness and conformity with the purposes of this title.

"(f) The State planning agency shall make such arrangements as such agency deems necessary to provide that at least $50,000 of the Federal funds granted to such agency under this part for any fiscal year will be available to the judicial planning committee and at least 40 per centum of the remainder of all Federal funds granted to the State planning agency under this part for any fiscal year will be available to units of general local government or combinations of such units to participate in the formulation of the comprehensive State plan required under this part. The Administration may waive this requirement, in whole or in part, upon a finding that the requirement is inappropriate in view of the respective law enforcement and criminal justice planning responsibilities exercised by the State and its units of general local government and that adherence to the requirement would not contribute to the efficient development of the State plan required under this part. In allocating funds under this subsection, the State planning agency shall assure that major cities and counties within the State receive planning funds to develop comprehensive plans and coordinate functions at the local level. Any portion of such funds made available to the judicial planning committee and such 40 per centum in any State for any fiscal year not required for the purpose set forth in this subsection shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development by it of the State plan required under this part.

"(g) The State planning agency and any other planning organization for the purposes of this title shall hold each meeting open to the public, giving public notice of the time and place of such meeting, and the nature of the business to be transacted, if final action is to be taken at that meeting on (1) the State plan, or (2) any application for funds under this title. The State planning agency and any other planning organization for the purposes of this title shall provide for public access to all records relating to its functions under this title, except such records as are required to be kept confidential by any other provision of local, State, or Federal law.".

JUDICIAL PLANNING EXPENSES FUNDING

SEC. 106. Section 204 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting "the judicial planning committee and" between the words "by" and "regional" in the first sentence; and by striking out the words "expenses, shall," and inserting in lieu thereof "expenses shall".

JUDICIAL PLANNING PROVISION AND REALLOCATION OF CERTAIN FUNDS

SEC. 107. Section 205 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by—

(1) inserting ", the judicial planning committee," immediately after the word "agency" in the first sentence;

(2) striking out "$200,000" from the second sentence and inserting in lieu thereof "$250,000"; and

(3) inserting the following sentence at the end thereof: "Any unused funds reverting to the Administration shall be available for reallocation under this part among the States as determined by the Administration.".

STATE LEGISLATURES

SEC. 108. Part B of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following new section;

"SEC. 206. At the request of the State legislature while in session or a body designated to act while the legislature is not in session, the comprehensive statewide plan shall be submitted to the legislature for an advisory review prior to its submission to the Administration by the chief executive of the State. In this review the general goals, priorities, and policies that comprise the basis of that plan, including possible conflicts with State statutes or prior legislative Acts, shall be considered. If the legislature or the interim body has not reviewed the plan forty-five days after receipt, such plan, shall then be deemed reviewed.".

SECTION 301 AMENDMENTS

SEC. 109. (a) Section 301 of title I of such Act is amended by—

(1) inserting immediately after "part" in subsection (a) the following: ", through the provision of Federal technical and financial aid and assistance,";

(2) striking out "Public education relating to crime prevention" from paragraph (3) of subsection (b) and inserting in lieu thereof "Public education programs concerned with law enforcement and criminal justice"; and

(3) striking out "and coordination" from paragraph (8) of subsection (b) and inserting in lieu thereof ", coordination, monitoring, and evaluation".

(b) Section 301(b) of such Act is amended—

(1) by striking out paragraph (6);

(2) by redesignating paragraph (7) as paragraph (6);

(3) by redesignating paragraphs (8) through (10) as paragraphs (7) through (9), respectively; and

(4) by adding at the end the following:

"(10) The definition, development, and implementation of programs and projects designed to improve the functioning of courts, prosecutors, defenders, and supporting agencies, reduce and eliminate criminal case backlog, accelerate the processing and disposition of criminal cases, and improve the administration of criminal justice in the courts; the collection and compilation of judicial data and other information on the work of the courts and other agencies that relate to and affect the work of the courts; programs and projects for expediting criminal prosecution and reducing court congestion; revision of court criminal rules and procedural codes within the rulemaking authority of courts or other judicial entities having criminal jurisdiction within the State; the development of uniform sentencing standards for criminal cases; training of judges, court administrators, and support personnel of courts having criminal jurisdiction; support of court technical assistance and support organizations; support of public education programs concerning the administration of criminal justice; and equipping of court facilities.

"(11) The development and operation of programs designed to reduce and prevent crime against elderly persons.

"(12) The development of programs to identify the special needs of drug-dependent offenders (including alcoholics, alcohol abusers, drug addicts, and drug abusers).

"(13) The establishment of early case assessment panels under the authority of the appropriate prosecuting official for any unit of general local government within the State having a population of two hundred and fifty thousand or more to screen and analyze cases as early as possible after the time of the bringing of charges, to determine the feasibility of successful prosecution, and to expedite the prosecution of cases involving repeat offenders and perpetrators of violent crimes.

"(14) The development and operation of crime prevention programs in which members of the community participate, including but not limited to 'block watch' and similar programs.".

ADDITIONAL JUDICIAL PARTICIPATION

SEC. 110. Section 302 of the Omnibus Crime Control and Safe Streets Act is amended by inserting "(a)" immediately after "Sec. 302." and by adding at the end the following new subsections:

"(b) Any judicial planning committee established pursuant to this title may file at the end of each fiscal year with the State planning agency, for information purposes only, a multiyear comprehensive plan for the improvement of the State court system. Such multiyear comprehensive plan shall be based on the needs of all the courts in the State and on an estimate of funds available to the courts from all Federal, State, and local sources and shall, where appropriate—

"(1) provide for the administration of programs and projects contained in the plan;

"(2) adequately take into account the needs and problems of all courts in the State and encourage initiatives by the appellate and trial courts in the development of programs and projects for law reform, improvement in the administration of courts and activities within the responsibility of the courts, including bail and pretrial release services and prosecutional and defender services, and provide for an appropriately balanced allocation of funds between the statewide judicial system and other appellate and trial courts;

"(3) provide for procedures under which plans and requests for financial assistance from all courts in the State may be submitted annually to the judicial planning committee for evaluation;

"(4) incorporate innovations and advanced techniques and contain a comprehensive outline of priorities for the improvement and coordination of all aspects of courts and court programs, including descriptions of (A) general needs and problems; (B) existing systems; (C) available resources; (D) organizational systems and administrative machinery for implementing the plan; (E) the direction, scope, and general types of improvements to be made in the future; and (F) to the maximum extent practicable, the relationship of the plan to other relevant State or local law enforcement and criminal justice plans and systems;

"(5) provide for effective utilization of existing facilities and permit and encourage units of general local government to combine or provide for cooperative arrangements with respect to services, facilities, and equipment provided for courts and related purposes;

"(6) provide for research, development, and evaluation;

"(7) set forth policies and procedures designed to assure that Federal funds made available under this title will be so used as not to supplant State or local funds, but to increase the amounts of such funds that would, in the absence of such Federal funds, be made available for the courts; and

"(8) provide for such fund accounting, auditing, monitoring, and program evaluation procedures as may be necessary to assure sound fiscal control, effective management, and efficient use of funds received under this title.

"(c) Each year, the judicial planning committee shall submit an annual State judicial plan for the funding of programs and projects recommended by such committee to the State planning agency for approval and incorporation, in whole or in part, in accordance with the provisions of section 304(b), into the comprehensive State plan which is submitted to the Administration pursuant to part B of this title. Such annual State judicial plan shall conform to the purposes of this part.".

STATE PLAN REQUIREMENTS AMENDMENTS

SEC. 111. Section 303 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by—

(1) in paragraph (4) of subsection (a), inserting immediately before the semicolon the following: ". Approval of such local comprehensive plan or parts thereof shall result in the award of funds to the units of general local government or combinations thereof to implement the approved parts of their plans, unless the State planning agency finds the implementation of such approved parts of their plan or revision thereof to be inconsistent with the overall State plan";

(2) inserting immediately after "necessary" in paragraph (12) of subsection (a) the following: "to keep such records as the Administration shall prescribe";

(3) striking out "and" after paragraph (14) of subsection (a), striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and", and adding after paragraph (15) the following:

"(16) provide for the development of programs and projects for the prevention of crimes aaginst the elderly, unless the State planning agency makes an affirmative finding in such plan that such a requirement is inappropriate for the State;

"(17) provide for the development and, to the maximum extent feasible, implementation of procedures for the evaluation of programs and projects in terms of their success in achieving the ends for which they were intended, their conformity with the purposes and goals of the State plan, and their effectiveness in reducing crime and strengthening law enforcement and criminal justice; and

"(18) establish procedures for effective coordination between State planning agencies and single State agencies designated under section 409(e)(1) of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1176 (e)(1)) in responding to the needs of drug dependent offenders (including alcoholics, alcohol abusers, drug addicts, and drug abusers).";

(4) striking out subsection (b) and inserting in lieu thereof the following:

"(b) Prior to its approval of any State plan, the Administration shall evaluate its likely effectiveness and impact. No approval shall be given to any State plan unless and until the Administration makes an affirmative finding in writing that such plan reflects a determined effort to improve the quality of law enforcement and criminal justice throughout the State and that, on the basis of the evaluation made by the Administration, such plan is likely to contribute effectively to an improvement of law enforcement and criminal justice in the State and make a significant and effective contribution to the State's efforts to deal with crime. No award of funds that are allocated to the States under this part on the basis of population shall be made with respect to a program or project other than a program or project contained in an approved plan.";

(5) inserting in subsection (c) immediately after "unless" the following: "the Administration finds that"; and

(6) adding at the end the following new subsection:

"(d) In making grants under this part, the Administration and each State planning agency, as the case may be, shall provide an adequate share of funds for the support of improved court programs and projects, including projects relating to prosecutorial and defender services. No approval shall be given to any State plan unless and until the Administration finds that such plan provides an adequate share of funds for court programs (including programs and projects to reduce court congestion and accelerate the processing and disposition of criminal cases). In determining adequate funding, consideration shall be given to (1) the need of the courts to reduce court congestion and backlog; (2) the need to improve the fairness and efficiency of the judicial system; (3) the amount of State and local resources committed to courts; (4) the amount of funds available under this part; (5) the needs of all law enforcement and criminal justice agencies in the State; (6) the goals and priorities of the comprehensive plan; (7) written recommendations made by the judicial planning committee to the Administration; and (8) such other standards as the Administration may deem consistent with this title.".

GRANTS TO UNITS; JUDICIAL PARTICIPATION

SEC. 112. Section 304 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"SEC. 304. (a) State planning agencies shall receive plans or applications for financial assistance from units of general local government and combinations of such units. When a State planning agency determines that such a plan or application is in accordance with the purposes stated in section 301 and in conformance with an existing statewide comprehensive law enforcement plan or revision thereof, the State planning agency is authorized to disburse funds to implement the plan or application.

"(b) After consultation with the State planning agency pursuant to subsection (e) of section 203, the judicial planning committee shall transmit the annual State judicial plan approved by it to the State planning agency. Except to the extent that the State planning agency thereafter determines that such plan or part thereof is not in accordance with this title, is not in conformance with, or consistent with, the statewide comprehensive law enforcement and criminal justice plan, or does not conform with the fiscal accountability standards of the State planning agency, the State planning agency shall incorporate such plan or part thereof in the State comprehensive plan to be submitted to the Administration.".

SECTION 306 AMENDMENTS

SEC. 113. Section 306 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting the following between the third and fourth sentences of the unnumbered paragraph in subsection (a): "Where a State does not have an adequate forum to enforce grant provisions imposing liability on Indian tribes, the Administration is authorized to waive State liability and may pursue such legal remedies as are necessary.".

SECTION 307 AMENDMENT

SEC. 114. Section 307 of such Act is amended by striking out "and of riots and other violent civil disorders" and inserting in lieu thereof the following "and programs and projects designed to reduce court congestion and backlog and to improve the fairness and efficiency of the judicial system".

TECHNICAL AMENDMENT

SEC. 115. Section 308 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking out "302(b)" and inserting "303" in lieu thereof.

ANTITRUST ENFORCEMENT GRANTS

SEC. 116. Part C of title I of such Act is amended by inserting immediately after section 308 the following new section—

"SEC. 309. (a) The Attorney General is authorized to provide assistance and make grants to States which have State plans approved under subsection (c) of this section to improve the antitrust enforcement capability of such State.

"(b) The attorney general of any State desiring to receive assistance or a grant under this section shall submit a plan consistent with such basic criteria as the Attorney General may establish under subsection (d) of this section. Such plan shall—

"(1) provide for the administration of such plan by the attorney general of such State;

"(2) set forth a program for training State officers and employees to improve the antitrust enforcement capability of such State;

"(3) establish such fiscal controls and fund accounting procedures as may be necessary to assure proper disposal of and accounting of Federal funds paid to the State including such funds paid by the State to any agency of such State under this section; and

"(4) provide for making reasonable reports in such form and containing such information as the Attorney General may reasonably require to carry out his function under this section, and for keeping such records and affording such access thereto as the Attorney General may find necessary to assure the correctness and verification of such reports.

"(c) The Attorney General shall approve any State plan and any modification thereof which complies with the provisions of subsection (b) of this section.

"(d) As soon as practicable after the date of enactment of this section the Attorney General shall, by regulation, prescribe basic criteria for the purpose of establishing equitable distribution of funds received under this section among the States.

"(e) Payments under this section shall be made from the allotment to any State which administers a plan approved under this section. Payments to a State under this section may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment, and may be made directly to a State or to one or more public agencies designated for this purpose by the State, or to both.

"(f) The Comptroller General of the United States or any of his authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grantee under this section.

"(g) Whenever the Attorney General, after giving reasonable notice and opportunity for hearing to any State receiving a grant under this section finds—

"(1) that the program for which such grant was made has been so changed that it no longer complies with the provisions of this section; or

"(2) that in the operation of the program there is failure to comply substantially with any such provision;

the Attorney General shall notify such State of his findings and no further payments may be made to such State by the Attorney General until he is satisfied that such noncompliance has been, or will promptly be, corrected. However, the Attorney General may authorize the continuance of payments with respect to any program pursuant to this part which is being carried out by such State and which is not involved in the noncompliance.

"(h) As used in this section the term—

"(1) 'State' includes each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;

"(2) 'attorney general' means the principal law enforcement officer of a State, if that officer is not the attorney general of that State; and

"(3) 'State officers and employees' includes law or economics students or instructors engaged in a clinical program under the supervision of the attorney general of a State or the Assistant Attorney General in charge of the Antitrust Division.

"(i) In addition to any other sums authorized to be appropriated for the purposes of this title, there are authorized to be appropriated to carry out the purposes of this section not to exceed $10,000,000 for the fiscal year ending September 30, 1977; not to exceed $10,000,000 for the fiscal year ending September 30, 1978; and not to exceed $10,000,000 for the fiscal year ending September 30, 1979.".

INSTITUTE AMENDMENTS

SEC. 117. (a) Section 402 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by striking out "Administrator" in the third sentence of subsection (a) and inserting in lieu thereof "Attorney General";

(2) in the second paragraph of subsection (c), by striking out "to evaluate" and inserting in lieu thereof the following: "to make evaluations and to receive and review the results of evaluations of";

(3) in the second paragraph of subsection (c), by adding at the end the following: "The Institute shall, in consultation with State planning agencies, develop criteria and procedures for the performance and reporting of the evaluation of programs and projects carried out under this title and shall disseminate information about such criteria and procedures to State planning agencies. The Institute shall also assist the Administrator in the performance of those duties mentioned in section 515(a) of this title.";

(4) by inserting immediately before the final paragraph of subsection (c) the following:

"The Institute shall, in consultation with the National Institute on Drug Abuse, make studies and undertake programs of research to determine the relationship between drug abuse and crime and to evaluate the success of the various types of drug treatment programs in reducing crime and shall report its findings to the President, the Congress, and the State planning agencies, and upon request, to units of general local government"; and

(5) by adding at the end of such subsection the following:

"The Institute shall, before September 30, 1977, survey existing and future needs in correctional facilities in the Nation and the adequacy of Federal, State, and local programs to meet such needs. Such survey shall specifically determine the effect of anticipated sentencing reforms such as mandatory minimum sentences on such needs. In carrying out the provisions of this section, the Director of the Institute shall make maximum use of statistical and other related information of the Department of Labor, Department of Health, Education, and Welfare, the General Accounting Office, Federal, State, and local criminal justice agencies and other appropriate public and private agencies.

"The Institute shall identify programs and projects carried out under this title which have demonstrated success in improving law enforcement and criminal justice and in furthering the purposes of this title, and which offer the likelihood of success if continued or repeated. The Institute shall compile lists of such programs and projects for the Administrator who shall disseminate them to State planning agencies and upon request, to units of general local government.".

(b) Section 402(b)(3) of such Act is amended by striking out ", and to evaluate the success of correctional procedures".

CONFORMING AMENDMENT

SEC. 118. (a) Section 453(10) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking out "and (15)" and inserting in lieu thereof "(15), and (17)".

NONPROFIT ORGANIZATIONS; INDIAN TRIBES

SEC. 119. Section 455 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking out "or" in paragraph (a)(2) and by inserting "or nonprofit organizations," after the second occurrence of the word "units," in that paragraph.

(b) Section 507 of such Act is amended—

(1) by inserting "(a)" immediately after "SEC. 507."; and

(2) by adding at the end the following new subsection:

"(b) In the case of a grant to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the costs of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. Where a State does not have an adequate forum to enforce grant provisions imposing liability on Indian tribes, the Administration is authorized to waive State liability and may pursue such legal remedies as are necessary.".

RULES AND REGULATIONS REQUIREMENT

SEC. 120. Section 501 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding the following sentence at the end: "The Administration shall establish such rules and regulations as are necessary to assure the proper auditing, monitoring, and evaluation by the Administration of both the comprehensiveness and impact of programs funded under this title in order to determine whether such programs submitted for funding are likely to contribute to the improvement of law enforcement and criminal justice and the reduction and prevention of crime and juvenile delinquency and whether such programs once implemented have achieved the goals stated in the original plan and application.".

HEARING EXAMINERS

SEC. 121. Section 507 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"SEC. 507. Subject to the Civil Service and classification laws, the Administration is authorized to select, appoint, employ, and fix compensation of such officers and employees as shall be necessary to carry out its powers and duties under this title and is authorized to select, appoint, employ, and fix compensation of such hearing examiners or to request the use of such hearing examiners selected by the Civil Service Commission pursuant to section 3344 of title 5, United States Code, as shall be necessary to carry out its powers and duties under this title.".

CIVIL RIGHTS ENFORCEMENT PROCEDURES

SEC. 122. (a) Section 509 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking out "Whenever the Administration" and all that follows down through "grantee under this title," and inserting in lieu thereof "Except as provided in section 518(c), whenever the Administration, after notice to an applicant or a grantee under this title and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code,".

(b) Section 518(c) of such Act is amended to read as follows:

"(c)(1) No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under or denied employment in connection with any program or activity funded in whole or in part with funds made available under this title.

"(2)(A) Whenever there has been—

"(i) receipt of notice of a finding, after notice and opportunity for a hearing, by a Federal court (other than in an action brought by the Attorney General) or State court, or by a Federal or State administrative agency (other than the Administration under subparagraph (ii), to the effect that there has been a pattern or practice of discrimination in violation of subsection (c)(1); or

"(ii) a determination after an investigation by the Administrator (prior to a hearing under subparagraph (F) but including an opportunity for the State government or unit of general local government to make a documentary submission regarding the allegation of discrimination with respect to such program or activity, with funds made available under this title) that a State government or unit of general local government is not in compliance with subsection (c)(1);

the Administration shall, within ten days after such occurrence, notify the chief executive of the affected State, or the State in which the affected unit of general local government is located, and the chief executive of such unit of general local government, that such program or activity has been so found or determined not to be in compliance with subsection (c)(1), and shall request each chief executive, notified under this subparagraph with respect to such violation, to secure compliance. For purposes of subparagraph (i) a finding by a Federal or State administrative agency shall be deemed rendered after notice and opportunity for a hearing if it is rendered pursuant to procedures consistent with the provisions of subchapter II of chapter 5, title 5, United States Code.

"(B) In the event the chief executive secures compliance after notice pursuant to subparagraph (A), the terms and conditions with which the affected State government or unit of general local government agrees to comply shall be set forth in writing and signed by the chief executive of the State, by the chief executive of such unit (in the event of a violation by a unit of general local government), and by the Administration. On or prior to the effective date of the agreement, the Administration shall send a copy of the agreement to each complainant, if any, with respect to such violation. The chief executive of the State, or the chief executive of the unit (in the event of a violation by a unit of general local government) shall file semiannual reports with the Administration detailing the steps taken to comply with the agreement. Within 15 days of receipt of such reports, the Administration shall send a copy thereof to each such complainant.

"(C) If, at the conclusion of ninety days after notification under subparagraph (A)—

"(i) compliance has not been secured by the chief executive of that State or the chief executive of that unit of general local government; and

"(ii) an administrative law judge has not made a determination under subparagraph (F) that it is likely the State government or unit of local government will prevail on the merits; the Administration shall notify the Attorney General that compliance has not been secured and suspend further payment of any funds under this title to that program or activity. Such suspension shall be limited to the specific program or activity cited by the Administration in the notice under subparagraph (A). Such suspension shall be effective for a period of not more than one hundred and twenty days, or, if there is a hearing under subparagraph (G), not more than thirty days after the conclusion of such hearing, unless there has been an express finding by the Administration after notice and opportunity for such a hearing, that the recipient is not in compliance with subsection (c)(1).

"(D) Payment of the suspended funds shall resume only if—

"(i) such State government or unit of general local government enters into a compliance agreement approved by the Administrator and the Attorney General in accordance with subparagraph (B);

"(ii) such State government or unit of general local government complies fully with the final order or judgment of a Federal or State court, or by a Federal or State administrative agency if that order or judgment covers all the matters raised by the Administration in the notice pursuant to subparagraph (A), or is found to be in compliance with subsection (c)(1) by such court; or

"(iii) after a hearing the Administration pursuant to subparagraph (F) finds that noncompliance has not been demonstrated.

"(E) Whenever the Attorney General files a civil action alleging a pattern or practice of discriminatory conduct on the basis of race, color, religion, national origin, or sex in any program or activity of a State government or unit of local government which State government or unit of local government receives funds made available under this title, and the conduct allegedly violates the provisions of this section and neither party within forty-five days after such filing has been granted such preliminary relief with regard to the suspension or payment of funds as may be otherwise available by law, the Administration shall suspend further payment of any funds under this title to that specific program or activity alleged by the Attorney General to be in violation of the provisions of this subsection until such time as the court orders resumption of payment.

"(F) Prior to the suspension of funds under subparagraph (C), but within the ninety-day period after notification under subparagraph (C), the State government or unit of local government may request an expedited preliminary hearing by an administrative law judge in order to determine whether it is likely that the State government or unit of local government would, at a full hearing under subparagraph (G), prevail on the merits on the issue of the alleged noncompliance. A finding under this subparagraph by the administrative law judge in favor of the State government or unit of local government shall defer the suspension of funds under subparagraph (C) pending a finding of noncompliance at the conclusion of the hearing on the merits under subparagraph (G).

"(G)(i) At any time after notification under subparagraph (A), but before the conclusion of the one hundred and twenty day period referred to in subparagraph (C), a State government or unit of general local government may request a hearing, which the

Administration shall initiate within sixty days of such request.

"(ii) Within thirty days after the conclusion of the hearing, or, in the absence of a hearing, at the conclusion of the one hundred and twenty day period referred to in subparagraph (C), the Administration shall make a finding of compliance or noncompliance. If the Administrator makes a finding of noncompliance, the Administration shall notify the Attorney General in order that the Attorney General may institute a civil action under subsection (c)(3), terminate the payment of funds under this title, and, if appropriate, seek repayment of such funds.

"(iii) If the Administration makes a finding of compliance, payment of the suspended funds shall resume as provided in subparagraph (D).

"(H) Any State government or unit of general local government aggrieved by a final determination of the Administration under subparagraph (G) may appeal such determination as provided in section 511 of this title.

"(3) Whenever the Attorney General has reason to believe that a State government or unit of local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of such funds made available under this title as the court may deem appropriate, or placing any further such funds in escrow pending the outcome of the litigation.

"(4)(A) Whenever a State government or unit of local government, or any officer or employee thereof acting in an official capacity, has engaged or is engaging in any act or practice prohibited by this subsection, a civil action may be instituted after exhaustion of administrative remedies by the person aggrieved in an appropriate United States district court or in a State court of general jurisdiction. Administrative remedies shall be deemed to be exhausted upon the expiration of sixty days after the date the administrative complaint was filed with the Administration, or any other administrative enforcement agency, unless within such period there has been a determination by the Administration or the Agency on the merits of the complaint, in which case such remedies shall be deemed exhausted at the time the determination becomes final.

"(B) In any civil action brought by a private person to enforce compliance with any provision of this subsection, the court may grant to a prevailing plaintiff reasonable attorney fees, unless the court determines that the lawsuit is frivolous, vexatious, brought for harassment purposes, or brought principally for the purpose of gaining attorney fees.

"(C) In any action instituted under this section to enforce compliance with section 518(c)(1), the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.".

CONFORMING AMENDMENT

SEC. 123. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking out section 512.

ADMINISTRATIVE PROVISIONS

SEC. 124. Section 515 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"SEC. 515. (a) Subject to the general authority of the Attorney General and under the direction of the Administrator, the Administration shall—

"(1) review, analyze, and evaluate the comprehensive State plan submitted by the State planning agency in order to determine whether the use of financial resources and estimates of future requirements as requested in the plan are consistent with the purposes of this title to improve and strengthen law enforcement and criminal justice and to reduce and prevent crime; if warranted, the Administration shall thereafter make recommendations to the State planning agency concerning improvements to be made in that comprehensive plan;

"(2) assure that the membership of the State planning agency is fairly representative of all components of the criminal justice system and review, prior to approval, the preparation, justification, and execution of the comprehensive plan to determine whether the State planning agency is coordinating and controlling the disbursement of the Federal funds provided under this title in a fair and proper manner to all components of the State and local criminal justice system; to assure such fair and proper disbursement, the State planning agency shall submit to the Administration, together with its comprehensive plan, a financial analysis indicating the percentage of Federal funds to be allocated under the plan to each component of the State and local criminal justice system;

"(3) develop appropriate procedures for determining the impact and value of programs funded pursuant to this title and whether such funds should continue to be allocated for such programs; and

"(4) assure that the programs, functions, and management of the State planning agency are being carried out efficiently and economically.

"(b) The Administration is also authorized—

"(1) to collect, evaluate, publish, and disseminate statistics and other information on the condition and progress of law enforcement within and without the United States; and

"(2) to cooperate with and render technical assistance to States, units of general local government, combinations of such States or units, or other public or private agencies, organizations, institutions, or international agencies in matters relating to law enforcement and criminal justice.

"(c) Funds appropriated for the purposes of this section may be expanded by grant or contract, as the Administration may determine to be appropriate.".

ANNUAL REPORTS AMENDMENT

SEC. 125. Section 519 of the Omnibus Crime Control and Safe Streets Act of 1968, is amended to read as follows:

SEC. 519. On or before December 31 of each year, the Administration shall report to the President and to the Committees on the Judiciary of the Senate and House of Representatives on activities pursuant to the provisions of this title during the preceding fiscal year. Such report shall include—

"(1) an analysis of each State's comprehensive plan and the programs and projects funded thereunder including—

"(A) the amounts expended for each of the components of the criminal justice system,

"(B) a brief description of the procedures followed by the State in order to audit, monitor, and evaluate programs and projects,

"(C) the descriptions and number of program and project areas, and the amounts expended therefore, which are innovative or incorporate advanced techniques and which have demonstrated promise of furthering the purposes of this title,

"(D) the descriptions and number of program and project areas, and amounts expended therefore, which seek to replicate programs and projects which have demonstrated success in furthering the purposes of this title,

"(E) the descriptions and number of program and project areas, and the amounts expended therefor, which have achieved the purposes for which they were intended and the specific standards and goals set for them,

"(F) the descriptions and number of program and project areas, and the amounts expended therefor, which have failed to achieve the purposes for which they were intended or the specific standards and goals set for them, and

"(2) a summary of the major innovative policies and programs for reducing and preventing crime recommended by the Administration during the preceding fiscal year in the course of providing technical and financial aid and assistance to State and local governments pursuant to this title;

"(3) an explanation of the procedures followed by the Administration in reviewing, evaluating, and processing the comprehensive State plans submitted by the State planning agencies and programs and projects funded thereunder;

"(4) the number of comprehensive State plans approved by the Administration without recommending substantial changes;

"(5) the number of comprehensive State plans on which the Administration recommended substantial changes, and the disposition of such State plans;

"(6) the number of State comprehensive plans funded under this title during the preceding three fiscal years in which the funds allocated have not been expended in their entirety;

"(7) the number of programs and projects with respect to which a discontinuation, suspension, or termination of payments occurred under section 509, or 518(c), together with the reasons for such discontinuation, suspension, or termination;

"(8) the number of programs and projects funded under this title which were subsequently discontinued by the States following the termination of funding under this title;

"(9) a summary of the measures taken by the Administration to monitor criminal justice programs funded under this title in order to determine the impact and value of such programs;

"(10) an explanation of how the funds made available under sections 306(a)(2), 402(b), and 455(a)(2) of this title were expended, together with the policies, priorities, and criteria upon which the Administration based such expenditures; and

"(11) a description of the implementation of, and compliance with, the regulations, guidelines, and standards required by section 454 of this Act.".

EXTENSION OF PROGRAM; AUTHORIZATION OF APPROPRIATIONS

SEC. 126. (a) Section 520(a) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking out the first sentence and inserting in lieu thereof the following: "There are authorized to be appropriated for the purposes of carrying out this title not to exceed $220,000,000 for the period beginning on July 1, 1976, and ending on September 30, 1976, not to exceed $880,000,000 for the fiscal year ending September 30, 1977; $800,000,000 for the fiscal year ending September 30, 1978; and $800,000,000 for the fiscal year ending September 30, 1979. In addition to any other sums available for the purposes of grants under part C of this title, there is authorized to be appropriated not to exceed $15,000,000 for the fiscal year ending September 30, 1977; and not to exceed $15,000,000 for each of the two succeeding fiscal years; for the purposes of grants to be administered by the Office of Community Anti-Crime Programs for community patrol activities and the encouragement of neighborhood participation in crime prevention and public safety efforts under section 301(b)(6) of this title.".

(b) Section 520(b) of such Act is amended to read as follows:

"(b) In addition to the funds appropriated under section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, the Administration shall maintain from the appropriation for the Law Enforcement Assistance Administration, each fiscal year, at least 19.15 percent of the total appropriations for the Administration, for juvenile delinquency programs.".

REGULATIONS REQUIREMENT

SEC. 127. Section 521 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by inserting immediately after subsection (c) the following:

"(d) Within one hundred and twenty days after the enactment of this subsection, the Administration shall promulgate regulations establishing—

"(1) reasonable and specific time limits for the Administration to respond to the filing of a complaint by any person alleging that a State government or unit of general local government is in violation of the provisions of section 518(c) of this title; including reasonable time limits for instituting an investigation, making an appropriate determination with respect to the allegations, and advising the complainant of the status of the complaint, and

"(2) reasonable and specific time limits for the Administration to conduct independent audits and reviews of State governments and units of general local government receiving funds pursuant to this title for compliance with the provisions of section 518(c) of this title."; and

(2) by redesignating subsection (d) as subsection (e).

OPERATION STING

SEC. 128. (a) Section 521 of the Omnibus Crime Control and Safe Streets Act of 1968 is further amended by adding at the end the following new subsection:

"(e) There is hereby established a revolving fund for the purpose of supporting projects that will acquire stolen goods and property in an effort to disrupt illicit commerce in such goods and property. Notwithstanding any other provisions of law, any income or royalties generated from such projects together with income generated from any sale or use of such goods or property, where such goods or property are not claimed by their lawful owner, shall be paid into the revolving fund. Where a party establishes a legal right to such goods or property, the Administrator of the fund may in his discretion assert a claim against the property or goods in the amount of Federal funds used to purchase such goods or property. Proceeds from such claims shall be paid into the revolving fund. The Administrator is authorized to make disbursements by appropriate means, including grants, from the fund for the purpose of this section.".

(b) Section 301(c) of such Act is amended by adding at the end of the section the following: "In the case of a grant for the purpose of supporting projects that will acquire stolen goods and property in an effort to disrupt commerce in such property, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary.".

DEFINITIONS AMENDMENTS

SEC. 129. (a) Section 601 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end the following:

"(p) The term 'court of last resort' means that State court having the highest and final appellate authority of the State. In States having two or more such courts, court of last resort shall mean that State court, if any, having highest and final appellate authority, as well as both administrative responsibility for the State's judicial system and the institutions of the State judicial branch and rulemaking authority. In other States having two or more courts with highest and final appellate authority, court of last resort shall mean that highest appellate court which also has either rulemaking authority or administrative responsibility for the State's judicial system and the institutions of the State judicial branch. Except as used in the definition of the term 'court of last resort', the term 'court' means a tribunal or judicial system having criminal or juvenile jurisdiction.".

"(q) The term 'evaluation' means the administration and conduct of studies and analyses to determine the impact and value of a project or program in accomplishing the statutory objectives of this title.".

(b) Section 601(c) of such Act is amended by inserting "the Trust Territory of the Pacific Islands," after "Puerto Rico,".

JUVENILE JUSTICE ACT AMENDMENT

SEC. 130. (a) Section 261 of the Juvenile Justice and Delinquency Prevention Act of 1974 (88 Stat. 1129) is amended by striking subsection (b) and inserting in lieu thereof the following:

"(b) addition to the funds appropriated under section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, the Administration shall maintain from the appropriation for the Law Enforcement Assistance Administration, each fiscal year, at least 19.15 percent of the total appropriations for the Administration, for juvenile delinquency programs.".

(b) Section 223(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 is amended by striking out "and (15)" and inserting in lieu thereof "(15), and (17)".

(c) Section 225 of the Juvenile Justice and Delinquency Prevention Act of 1974 is amended as follows:

(1) After section 225(c)(6) add a new paragraph as follows:

"(7) the adverse impact that may result from the restriction of eligibility, based upon population, for cities with a population greater than forty thousand, located within States which have no city with a population over two hundred and fifty thousand.".

(2) Add at the end a new subsection (d) as follows:

"(d) No city should be denied an application solely on the basis of its population.".

TITLE II—PROVISIONS RELATING TO OTHER MATTERS

DRUG ENFORCEMENT ADMINISTRATION

SEC. 201. (a) Effective beginning one year after the date of the enactment of this Act, the following positions in the Drug Enforcement Administration (and individuals holding such positions) are hereby excepted from the competitive service:

(1) positions at GS–16, 17, and 18 of the General Schedule under section 5332(a) of title 5, United States Code, and

(2) positions at GS–15 of the General Schedule which are designated as—

(A) regional directors,

(B) office heads, or

(C) executive assistants (or equivalent positions) under the immediate supervision of the Administrator (or the Deputy Administrator) of the Drug Enforcement Administration.

(b) Effective during the one year period beginning on the date of the enactment of this Act, vacancies in positions in the Drug Enforcement Administration (other than positions described in subsection (a)) at a grade not lower than GS–14 shall be filled—

(1) first, from applicants who have continuously held positions described in subsection (a) since the date of the enactment of this Act and who have applied for, and are qualified to fill, such vacancies, and

(2) then, from other applicants in the order which would have occurred in the absence of this subsection.

Any individual placed in a position under paragraph (1) shall be paid in accordance with subsection (d).

(c)(1) Effective beginning one year after the date of the enactment of this Act, an individual in a position described in subsection (a) may be removed, suspended for more than 30 days, furloughed without pay, or reduced in rank or pay by the Administrator of the Drug Enforcement Administration if—

(A) such individual has been employed in the Drug Enforcement Administration for less than the one-year period immediately preceding the date of such action, and

(B) the Administrator determines, in his discretion, that such action would promote the efficiency of the service.

(2) Effective beginning one year after the date of the enactment of this Act, an individual in a position described in subsection (a) may be reduced in rank or pay by the Administrator within the Drug Enforcement Administration if—

(A) such individual has been continuously employed in such position since the date of the enactment of this Act, and

(B) the Administrator determines, in his discretion, that such action would promote the efficiency of the service.

Any individual reduced in rank or pay under this paragraph shall be paid in accordance with subsection (d).

(3) The provisions of sections 7512 and 7701 of title 5, United States Code, and otherwise applicable Executive orders, shall not apply with respect to actions taken by the Administrator under paragraph (1) or any reduction in rank or pay (under paragraph (2) or otherwise) of any individual in a position described in subsection (a).

(d) Any individual whose pay is to be determined in accordance with this subsection shall be paid basic pay at the rate of basic pay he was receiving immediately before he was placed in a position under subsection (b)(1) or reduced in rank or pay under subsection (c)(2), as the case may be, until such time as the rate of basic pay he would receive in the absence of this subsection exceeds such rate of basic pay. The provisions of section 5337 of title 5, United States Code, shall not apply in any case in which this subsection applies.

JUSTICE DEPARTMENT PERSONNEL

SEC. 202. (a) Subsection (c) of section 5108 of title 5, United States Code, is amended by striking out paragraph (8) and inserting in lieu thereof the following new paragraph:

"(8) the Attorney General, without regard to any other provision of this section, may place a total of 32 positions in GS–16, 17 and 18:".

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(109) Commissioner of Immigration and Naturalization, Department of Justice.

"(110) United States attorney for the Northern District of Illinois.

"(111) United States attorney for the Central District of California.

"(112) Director, Bureau of Prisons, Department of Justice.

"(113) Deputy Administrator for Administration of the Law Enforcement Assistance Administration.".

(c) Section 5316 of title 5, United States Code, is amended by—

(1) striking out paragraph (44);

(2) striking out paragraph (115);

(3) striking out paragraph (116);

(4) striking out paragraph (58); and

(5) striking out paragraph (134).

TERM OF FBI DIRECTOR

SEC. 203. Section 1101 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting "(a) immediately after

"Sec. 1101." and by adding at the end thereof the following new subsection:

"(b) Effective with respect to any individual appointment by the President, by and with the advice and consent of the Senate, after June 1, 1973, the term of service of the Director of the Federal Bureau of Investigation shall be ten years. A Director may not serve more than one ten-year term. The provisions of subsections (a) through (c) of section 8335 of title 5, United States Code, shall apply to any individual appointed under this section."

AUTHORIZING JURISDICTION

Sec. 204. No sums shall be deemed to be authorized to be appropriated for any fiscal year beginning on or after October 1, 1978, for the Department of Justice (including any bureau, agency, or other similar subdivision thereof) except as specifically authorized by Act of Congress with respect to such fiscal year. Neither the creation of a subdivision in the Department of Justice, nor the authorization of an activity of the Department, any subdivision, or officer thereof, shall be deemed in itself to be an authorization of appropriations for the Department of Justice, such subdivision, or activity, with respect to any fiscal year beginning on or after October 1, 1978.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the Senate bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the Senate bill, insert the following: "An Act to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes.".

And the House agree to the same.

Peter W. Rodino, Jr.,
Don Edwards,
John Conyers, Jr.,
James R. Mann,
George E. Danielson,
Barbara Jordan,
Elizabeth Holtzman,
Romano L. Mazzoli,
William J. Hughes,
Edward Hutchinson,
(Except as to section relating to antitrust),
Robert McClory,
Charles E. Wiggins,
M. Caldwell Butler,
(Except as to section pertaining to antitrust),
Managers on the Part of the House.

John L. McClellan,
James O. Eastland,
Edward M. Kennedy,
Robert C. Byrd,
Roman L. Hruska,
Hugh Scott,
Strom Thurmond,
William L. Scott,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2212) to amend the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

AMENDMENT TO TEXT

The managers recommended that the Senate agree to the amendment of the House to the text of the bill, with an amendment. That amendment will be referred to here as the "Conference substitute" and there follows an issue by issue breakdown of the Senate bill, the House amendment, and the conference substitute:

Declaration of purpose

The Senate bill would have declared it the policy of title I (relating to law enforcement assistance) of the Omnibus Crime Control and Safe Streets Act of 1968, to provide technical assistance to State and local government and to stress evaluation.

The House amendment would not have changed the present overall statement of purpose.

The conference substitute will adopt the Senate provision.

Authority of Attorney General over LEAA

The Senate bill would add "policy direction and control" to the list of the Attorney General's authority.

The House amendment would add "policy direction and general control" to the list.

The conference substitute will adopt the House provision.

Community anti-crime

The Senate bill would require that LEAA establish an appropriate organizational unit to conduct community anti-crime coordination, technical assistance, and other programs.

The House amendment would establish an Office of Community Anti-Crime Programs in LEAA and earmark funds for grants for community anti-crime projects.

The conference substitute will adopt the House provision as to the establishment of the Office and earmark funds via the authorization section of the bill.

Planning money for "financial and technical aid and assistance"

The Senate bill would provide planning money can be used for "financial and technical aid and assistance."

The House amendment would have no parallel provision.

The conference substitute will adopt the Senate provision.

Designation of State planning agency by law

The Senate bill would mandate that all State planning agencies be established or designated by State law by 1979 rather than created by the State's chief executive without further legislative act, as is the case in some instances now.

The House amendment would leave this matter as it is in current law.

The conference substitute will adopt the Senate provision, and require the change be accomplished by 1978, since the managers are informed that this may be a technical improvement and is feasible.

Judicial membership in State planning agency

The Senate bill would mandate a minimum of three judicial members in the State planning agency and set forth a procedure for the selection of those members.

The House amendment would mandate a minimum of two judicial members in the State planning agency.

The conference substitute will adopt the Senate provision.

Regional planning units

The Senate bill would leave this issue as is in present law.

The House amendment would require, where practicable, the same boundaries and organization for the regional planning units established under this title for law enforcement purposes and general purpose regional planning units already in existence.

The conference substitute will authorize, but not require the same boundaries and organization for such units.

Multi-year planning

The Senate bill would explicitly recognize the practice of annual update of State plans.

The House amendment would contain no parallel provision.

The conference substitute will adopt the House positon.

Judicial planning committees and State judicial plans

The Senate bill would provide for the establishment of separate judicial planning committees and the preparation of separate State judicial plans, to be incorporated in the overall part C comprehensive plan as a basis for funding under title I.

The House amendment would not establish a separate plan or planning process for the judiciary.

The conference substitute will adopt the Senate approach.

Use of reverted funds

The Senate bill would make reverted funds part of the money available for discretionary grants by LEAA.

The House amendment would retain current law which requires reallocation by the original population formula of reverted bloc grant funds.

The conference substitute will adopt the Senate provision, as to part B funds, but specify that those funds be used for planning purposes. As to part C, the House position is retained.

Review by State legislatures

The Senate bill would permit review of State plan by State legislatures.

The House amendment would also permit that review, but makes technical changes in the process provided for achieving it.

The conference substitute will adopt the House provision.

Part C purpose; technical assistance

The Senate bill would include technical assistance as a purpose of part C.

The House amendment would not change the present purpose statement.

The conference substitute will adopt the Senate approach.

Public education

The Senate bill would make funds available for public education on "the administration of justice".

The House amendment would keep present law unchanged.

The conference substitute will make funds available for public education on law enforcement and criminal justice.

Approval of local officials for community programs

The Senate bill would change present requirement that local mayor or police chief approve community organization law enforcement grants to a requirement that the local official be notified of each such grant.

The House amendment would leave present requirement unchanged.

The conference substitute will adopt the House approach.

Part C funds for monitoring and evaluation

The Senate bill would permit the use of part C funds for monitoring and evaluation.

The House amendment would not change present law, which would preclude the use of part C funds for those purposes.

The conference substitute will adopt the Senate provision. This will permit the use of part C funds for monitoring and evaluation *in addition* to any other funds made available for these purposes under other parts of title I, and is *not* intended to limit access by criminal justice coordinating councils to these other funds, but to provide an additional source for increased funding of monitoring and evaluation.

Purpose of preventing, reducing crime

The Senate bill would not change part C and D statements of purpose.

The House amendment would make the reduction and prevention of crime a specific goal of part C and part D.

The conference substitute will adopt the Senate approach.

Riot control

The Senate bill would eliminate special emphasis on riot control but retain explicit authority for permissive grants, and add special emphasis on courts.

The House amendment would eliminate special emphasis on riot control and explicit statement on permissive grants, and eliminate special emphasis on organized crime.

The conference substitute will eliminate the special emphasis on riot control, but retain the special emphasis on organized crime and add a special emphasis on the courts. The explicit statement on permissive grants is also eliminated, but this is not intended to preclude grants for riot control, which are also authorized, and continue to be authorized under more general paragraphs of section 301(b).

Permissive grants for judicial matters

The Senate bill would make judiciary and court related projects specifically eligible for grants under part C.

The House amendment would also make these projects specifically eligible, but adds prosecutorial and defender services as well.

The conference substitute will adopt the House provision.

Crime against the elderly

The Senate bill would add grants for crime against the elderly to both permissive and mandatory grant sections.

The House amendment would add such grants to the permissive section only.

The conference substitute will adopt the Senate provisions. The language permitting the State agency to make an affirmative finding that this requirement is inappropriate is intended only to permit such a finding where there is found to be no substantial problem with crime against the elderly in such State.

Drug programs

The Senate bill would have added programs to identify needs of drug dependent offenders and coordinate various drug programs to the permissive grant section.

The House amendment would have added these programs to the mandatory grant section.

The conference substitute will add programs to identify needs of drug dependent offenders to the permissive grant section and procedures to coordinate various drug programs to the mandatory section. It is anticipated, however, that no State plan could be determined to be comprehensive if it fails to provide programs which are here added to the permissive section where the need for those programs has been demonstrated.

Early case assessment panels

The Senate bill would provide for early case assessment panels in the permissive grant section.

The House amendment would also provide for these panels, but specify they be under authority of appropriate prosecutor.

The conference substitute will adopt the House provision.

Block watch

The Senate bill would specify block watch programs as a permissible grant.

The House amendment would not specify this.

The conference substitute will adopt the Senate provision.

Innovative programs salary limitation exception

The Senate bill would make an additional exception to the limitation.

The House amendment would not contain any comparable provision on use of grants for salaries for "innovative programs".

The conference substitute will adopt the House provision, since it appears that the existing exception was intended to achieve the same objective.

Organization of plan requirements

The Senate bill would retain the organizational scheme of existing law for the planning requirements.

The House amendment would reorganize the planning requirements into a single sequential system.

The conference substitute will adopt the Senate provision, since various administrative determinations are cross referenced to the existing format.

Mini block grant to units and combinations

The Senate bill would liberalize the current procedure for receiving mini block grants by units of general local government and combinations of these units, and would have no minimum population requirement.

The House amendment would retain current law.

The conference substitute will adopt the House position with a modification. It is intended that the State planning agency may require the submission of such applications as necessary to assure that the requirements of title I and regulations thereunder are met.

Evaluation procedures in part C plan

The Senate bill would retain current law.

The House amendment would require evaluation procedure to be set forth in State plan.

The conference substitute will adopt the House provision.

Recordkeeping requirement

The Senate bill would provide that plan would provide for recordkeeping.

The House amendment would retain present law.

The conference substitute will adopt the Senate provision.

Written evaluation by Administrator

The Senate bill would require a written evaluation of a State plan by the Administrator prior to approval.

The House amendment would have no parallel provision.

The conference substitute will adopt the Senate provision.

Adequate part C funding for courts

The Senate bill would require adequate Part C funding for courts.

The House amendment would have no parallel provision.

The conference substitute will adopt the Senate provision with modifications.

Antitrust enforcement grants

The Senate bill would provide for antitrust enforcement grants to the States.

The House amendment had no similar provision.

The conference substitute adopts the Senate position. It is intended that the authorization of appropriations for this purpose be separate from and in addition to other authorizations under this title, and that the program be administered separately from L.E.A.A. by the Attorney General.

Appointment of Institute Director

The Senate bill would have the Attorney General appoint the Director of the Institute created under part D.

The House amendment would retain present law, under which the Administrator appoints the Director of the Institute.

The conference substitute adopts the Senate provision.

Institute studies

The Senate bill would provide for drug abuse studies, for the assisting of the Administrator in evaluative functions, and for the study of the needs of correctional facilities.

The House amendment would provide that the Institute receive as well as make evaluations of State plans, establish evaluation criteria, make continuing drug abuse studies, and make and distribute a list of successful LEAA projects.

The conference substitute will provide that the Institute shall make drug studies, and studies of the needs of correctional institutions, and that the Institute assist the Administrator in evaluations, receive as well as make evaluations of State plans, establish evaluation criteria, and make a list of successful projects.

National Advisory Committee

The Senate bill would not have a provision on this matter.

The House amendment would make statutory the national advisory committee.

The conference substitute will adopt the Senate position.

Jail standards

The Senate bill would provide that the Administration and the States set physical and service standards for correctional institutions.

The House amendment did not have a similar provision.

The conference substitute will adopt the House position.

Nonprofit organizations

The Senate bill would have provided part D grants to nonprofit organizations.

The House amendment would specify that such organizations be private.

The conference substitute adopts the Senate provision.

Administrative rules on evaluation

The Senate bill required the Administration to make rules regarding evaluation procedures.

The House amendment did not.

The conference substitute adopts the Senate provision.

Hearing examiners

The Senate bill permits the borrowing of hearing examiners from the Civil Service Commission.

The House amendment did not.

The conference substitute adopts the Senate provision.

Duplicate authorization

The Senate bill would have retained current law.

The House amendment would strike a duplicate authorization section as superfluous.

The conference substitute adopts the House provision.

Evaluation of State plans by Administrator and various administrative provisions

The Senate bill would require a detailed evaluation and makes various other administrative changes.

The House amendment had no comparable provision.

The conference substitute adopts the Senate provision.

Attorney General's advisory board

The Senate bill would create an advisory board for the Attorney General.

The House amendment would not.

The conference substitute adopts the House approach.

Annual reporting requirement

The Senate bill would require annual reports on a variety of issues and facts from the Administration.

The House bill would also require such a report, but requires more detail.

The conference substitute will adopt the House provision with several technical changes designed to assure reporting by general program area and eliminate reporting in excessive detail.

Sunshine in government

The Senate bill did not contain a provision on this.

The House amendment would have required financial reporting by Administration employees.

The conference substitute will adopt the Senate approach.

Definitions amendments

The Senate bill would add definitions of court of last resort, court, and evaluation, and add the Trust Territory of the Pacific and the Marianas to the list of "States" for grant purposes.

The House bill would add definitions of court of last resort, court (to include juvenile courts), and local elective officials (restricting number), and add the Trust Territory as in Senate bill.

The conference substitute will use the Senate definition of court of last resort, the House definition of court, contain the Senate definition of evaluation, and add the Trust Territory. It is understood that under the terms of the "Covenant to Establish the Northern Mariana Islands in Political Union With the United States of America" the Northern Mariana Islands will be eligible for funding under title I of the Omnibus Crime Control and Safe Streets Act of 1968 and the Juvenile Justice and Delinquency Prevention Act of 1974, separate and apart from the Trust Territory of the Pacific Islands, sometime in 1978. The exact date will be determined and proclaimed by the President after approval of the Constitution of the Northern Mariana Islands by Congress but prior to the achievement of Commonwealth status. Until that time, the Northern Mariana Islands are eligible for assistance as a part of the Trust Territory of the Pacific Islands.

Juvenile justice amendments

The Senate bill would mandate a 19.15 percent funding of juvenile justice under title I and prohibit discrimination in funding against small cities.

The House amendment would do neither, but was merely a conforming amendment to reflect changes in planning requirements.

The conference substitute adopts all of the Senate and House provisions.

Drug Enforcement Administration

The Senate bill would make certain DEA positions now in the competitive service into excepted service positions.

The House amendment had no parallel provisions.

The conference substitute adopts a modified and more restrictive version of the Senate bill provisions.

Additional supergrades for Justice Department

The Senate bill would add more supergrade positions and make other promotions for the Justice Department.

The House amendment would not have this provision.

The conference substitute adopts the Senate provision with technical amendments in numbering, etc.

Operation Sting

The Senate bill specifically would make available assistance for Operation Sting type ventures to disrupt the commerce in stolen goods.

The House bill would not.

The conference substitute will adopt the Senate provision.

Authorization jurisdiction

The Senate bill had no provision on this.

The House amendment would require specific authorization of appropriations for the Department of Justice.

The conference substitute will adopt the House provision.

High crime impact grants

The Senate bill would provide specific authorization for a high crime impact program.

The House amendment would contain no parallel provision.

The conference substitute will adopt the House position.

Civil rights compliance procedures

The Senate bill would retain present law with respect to civil rights compliance procedures.

The House bill would provide extensive procedures for civil rights compliance.

The conference substitute will adopt the House provisions with modification. It is intended that compliance under section 518 (c)(2)(B) includes the securing of an agreement to comply over a period of time, particularly in complex cases or where compliance would require an extended period of time for implementation. In the area of employment cases brought under this section it is intended by the conferees that the standards of title VII of the Civil Rights Act of 1964 apply.

F.B.I. Director

The Senate bill would provide a single ten-year term for the Director of the Federal Bureau of Investigation.

The House amendment would contain no parallel provision.

The conference substitute will adopt the Senate provision.

Authorization of appropriations

The Senate bill would have authorized appropriations for five years.

The House bill would have authorized appropriations for a single year.

The conference substitute will provide an authorization of $880,000,000 for the fiscal year ending September 30, 1977, $800,000,000 for the fiscal year ending September 30, 1978, and $800,000,000 for the fiscal year ending September 30, 1979. For each of those years an additional $15,000,000 is authorized for the community anti-crime program, to be administered by the Office created by the conference substitute language.

AMENDMENT TO TITLE

The managers recommend that the bill be entitled "An Act to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes". This is an amalgam of the two titles proposed by the two Houses, and does not materially differ from either title.

Peter W. Rodino, Jr.,
Don Edwards,
James R. Mann,
George E. Danielson,
Barbara Jordan,
Elizabeth Holtzman,
Romano L. Mazzoli,
William J. Hughes,
Edward Hutchinson,
(except as to section relating to antittrust),
Robert McClory,
Charles E. Wiggins,
M. Caldwell Butler,
(except as to section pertaining to antitrust),
Managers on the Part of the House.

John L. McClellan,
James O. Eastland,
Edward M. Kennedy,
Robert C. Byrd,
Roman L. Hruska,
Hugh Scott,
Strom Thurmond,
William L. Scott,
Managers on the Part of the Senate.

ANNUAL REPORT DESCRIBING CURRENT PLANNED FEDERAL ACTIVITIES CONTRIBUTING TO THE WORLD WEATHER PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. O'Neill) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science and Technology:

To the Congress of the United States:

Weather and climate are at once familiar and sources of deep concern. Through technology, we have minimized the harmful effects of weather and have adapted our civilization to a wide range of climatic conditions. Yet, we now know how fragile is the balance between our activities and the environment. Understanding that balance is the key to the successful management of energy, food, and water resources and the beneficial application of technology. Our national goals in improving weather predictions and warnings and coping with the vagaries of climate cannot be accomplished except in the context of a world-wide endeavor. All nations play roles; the United States can be truly proud of our contributions.

The World Weather Program is the U.S. commitment to an effort that will affect every one of us. I am pleased to report significant and continuing progress in furthering the goals of the World Weather Program. The following accomplishments are representative of the progress being made:

—There has been a smooth transition into the operational use of geostationary meteorological satellites. The Western Hemisphere, much of the Atlantic, and part of the Pacific are now observed continuously. A nationwide network of Satellite Field Service Stations has been implemented by NOAA to capitalize on these new data. Hurricane and typhoon forecasting has been aided, for example, as has the observation, tracking, and warning of severe weather over the United States.

—The data processiing system at the World Meteorological Center, Suitland, Maryland, has been expanded through the operational use of a third, fourth-generation computer. This system is essential to handle the improved forecast models and the increased volume of data being received from the World Weather Watch.

—Augmented environmental monitoring and climatic programs have been initiated at the South Pole, American Samoa, and Barrow, Alaska.

—Engineering tests have been completed on large meteorological and oceanographic buoys. The first prototype operational system was moored 240 miles off the Oregon coast. Others are scheduled for operation this summer.

—The initial data-processing phase for the Global Atmospheric Research Program's (GARP) Atlantic Tropical Experiment has been completed and scientific analysis is well underway.

—A series of Data Systems Tests have been completed as a dress rehearsal for the First GARP Global Experiment which starts in 1978.

—The Global Experiment received major impetus when over 40 nations met in February 1976 and agreed to commit ships, buoys, balloon systems, satellites, and other critical facilities for the observational period planned for 1977–1979.

It is with pleasure that I transmit this annual report describing current planned Federal activities contributing to the World Weather Program. The report details how the United States is following the intent of Senate Concurrent Resolution 67 of the 90th Congress to participate in this international program.

GERALD R. FORD.

THE WHITE HOUSE, *September 28, 1976.*

FOURTH ANNUAL REPORT ON THE ADMINISTRATION OF COOLEY'S ANEMIA PROGRAMS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. O'NEILL) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

I am pleased to send to the Congress the Fourth Annual Report on the Administration of the Cooley's Anemia Programs in accordance with the requirements of Section 1115 of the Public Health Service Act before it was amended by P.L. 94–278.

The Report describes the activities of the Health Services Administration (HSA), the Center for Disease Control (CDC), and the National Institutes of Health (NIH) in implementing the Public Health Service Act, as amended by the National Cooley's Anemia Control Act. Screening, counseling, and education activities are underway to provide such services to the public through ongoing genetic blood diseases programs. Efforts are continuing to improve laboratory methods for the detection of Cooley's anemia and expanded training programs for health personnel are improving the capability for such detection. Research in the diagnosis, treatment, and prevention of Cooley's anemia is progressing with continued high priority being given to the development and evaluation of more effective ways to reduce the iron load in the bodies of patients that has resulted from repeated blood transfusions required to maintain life.

GERALD R. FORD.

THE WHITE HOUSE, *September 28, 1976.*

IMPOUNDMENT CONTROL ACT OF 1974—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94–633)

The SPEAKER pro tempore (Mr. O'NEILL) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I report routine revisions to two deferrals previously transmitted.

A deferral for the higher education program of the Office of Education has been increased by $36.9 million. The Department of Defense's military construction deferral reflects a net increase of $3.9 million.

The details of each revised deferral are contained in the attached reports.

GERALD R. FORD.

THE WHITE HOUSE, *September 28, 1976.*

THE SUNSET LAW WILL CUT GOVERNMENT WASTE AND DUPLICATION

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ANDERSON of California. Mr. Speaker, although our hearts are in the right place, regrettably, all congressional creations are not apocalyptic masterpieces. Hence, our Federal Government has come full circle from "Let's do it," to "What have we done?"

The various proposals collectively termed the "sunset" bills address this problem of Government waste and duplication. I am pleased to be a cosponsor.

A "sunset" law would require periodic examination of all Federal programs. The Senate bill, S. 2925, the Government Economy and Spending Reform Act, establishes congressional overhaul every 5 years. Any program that fails the 5-year test is abolished. Any program continued would have to meet stringent "zero base" budgeting guidelines. In other words, every nickel of Federal money spent would have to be accounted for.

All agencies in one field would be examined simultaneously, so any waste or overlap could be eliminated.

As a logical extension of the 1974 Congressional Budget and Impoundment Control Act, a "sunset" law will fundamentally change the norms of business in the Congress. With a congressional mandate for the establishment of spending priorities in effect, then a periodic review of the funded programs makes eminent good sense.

Sure, some have said that we already have the 1946 Legislative Reorganization Act which directs congressional committees to exercise "continuous watchfulness" over the programs under their jurisdiction. And, we have the 1968 Intergovernmental Cooperation Act directing committees to review all Federal grant programs. And, we have the 1970 Legislative Reorganization Act; a bill mandating General Accounting Office—GAO—cost/benefit analysis of Federal programs.

But, if this oversight authority was truly effective, why has our Federal Government become a Frankenstein monster in the eyes of many Americans?

Mr. Speaker, this idea is not new, in fact President Roosevelt during his administration recommended that Federal agencies should live for 10 years—then die. Today, over half the Senate, and more than 100 Members of the House have cosponsored "sunset" legislation.

Simply, as Senator WEICKER has said, "If a program is not performing, Congress should fix it or fire it." That is what a "sunset" bill is all about, and the next Congress should make it a top priority.

PLAYING WITH LIVES: NEW YORK CITY HOSPITALS SHOULD NEGOTIATE WITH THEIR INTERNS AND RESIDENTS

(Mr. KOCH asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. KOCH. Mr. Speaker, an unnecessary tragedy is about to take place in New York City. The medical mainstays of New York's voluntary hospitals—its interns and residents—are threatening to strike next Tuesday.

In order that our colleagues understand the situation, I will briefly describe the history of events that have led to this strike threat by the interns and residents.

In 1974, Congress passed the health care amendments to the National Labor Relations Act to insure good faith bargaining between voluntary hospitals and their staffs in order to prevent labor disputes which may endanger the lives of hospital patients. The need for this legislation arose, because at the time only two States had a law protecting the bargaining rights of voluntary hospital workers. New York was one of them.

In March 1976 the National Labor Relations Board issued a decision in a dispute between the management of a voluntary hospital and a group of interns and residents. That decision declared that interns and residents are "primarily students" and are therefore not entitled to protection under the National Labor Relations Act.

The decision was not unanimous. John Fanning, an NLRB member, stated in his dissenting opinion:

> All housestaff officers are M.D.'s. All fellows and residents are licensed physicians in every State in the Union. It is, of course, impossible to set forth the full range of services that these physicians perform for the hospital and, more importantly, for the patient . . . The records before us demonstrate, for example, that housestaff officers, without immediate supervision of any kind, continually deal in matters literally of the ultimate significance . . . The housestaff works round

the clock, seven days a week, fifty-two weeks a year. No other physicians do. They perform their services, on an individual basis, for periods lasting, at times well over 100 hours a week, in shifts that often exceed 50 consecutive hours. They singly staff emergency rooms, frequently at times when their 'supposed" teachers are not even in the facility. That accounts for the record facts which demonstrate that without supervision, a housestaff officer can be called upon and, in fact has been called upon, to open the chest wall of a 3-year-old child; hold the heart of a patient in his hands; remove breast tissue, kidneys, veins; deliver babies; insert tubes into the trachea of newborns and catheters into the abdominal cavities; administer closely controlled and potentially lethal medications; and for a host of similar procedures.

At oversight hearings held by the Subcommittee on Labor Management Relations our distinguished colleague the chairman of that subcommittee Frank Thompson stated:

> We never dreamt that this interpretation would follow . . . it was clearly and absolutely not the intention of the author of the legislation or its sponsor . . . and nowhere in the report of legislative history is it indicated that interns and residents are to be considered as students.

Congressional action may be required to clarify the intent of the Congress and confirm the status of these interns and residents, who appear to me to be employees of these hospitals and should be within the scope of the labor law. However, the Committee on Interns and Residents and their parent organization, the Physician National Housestaff Organization, have already gone to the Federal and State courts seeking a judicial determination to reverse the NLRS decision. A decision is expected in the next few months.

On September 23, the 41-member New York congressional delegation sent an urgent appeal to Mr. William Abelow, executive vice president of the League of Voluntary Hospitals and Homes, to reconsider the league's refusal to negotiate with the doctors' union. I was shocked to learn from the Committee on Interns and Residents—CIR—that, in the midst of this crisis, Mr. Abelow is out of town and will not be returning until after the October 5 strike deadline. I have today sent a telegram to Mr. Jeffrey Solvan, president of the league, urging that he enter into good faith bargaining on behalf of the league with the union.

My interpretation is that the Federal law already provides collective bargaining rights to these interns and residents. But whether or not it does is not the real issue. Even if a court were to find that the Federal law has to be amended to mandate collective bargaining, in good conscience, the league should not wait for a statutory requirement to bargain collectively. The league is playing with lives and time is running out.

Mr. Speaker, the Committee on Interns and Residents has in fact represented doctors at municipal hospitals in New York since 1958, and at many voluntary hospitals since 1970. They have represented and presented their collective professional interests in a responsible manner. By refusing to bargain in good faith the league is seeking to take unconscionable advantage of a possible ambiguity in the law. This failure to bargain must not be permitted by those in charge of the league. Those league officials are responsible not only to their member hospital but also to the city, State, and Federal governments, which pay most of the voluntary hospitals' expenses, and to the philanthropic organizations, which have donated millions of dollars to them. It would be criminal if the league were to hide behind an alleged philanthropic exemption to avoid collective bargaining, thereby endangering patients' lives.

By negotiating with the CIR, the League of Voluntary Hospitals and Homes can help avoid a potentially catastrophic health care crisis in New York City, a crisis that New York can well do without. There is no reason why the league, a responsible and civic minded group, cannot negotiate with an equally responsible and professional union. This policy of brinkmanship being practiced by the league may well result in untold suffering for the pawns in the middle—the city's hospital patients.

Too many mistakes have been made thus far. Too much time has been wasted. Further delay in entering bona fide collective bargaining cannot be tolerated.

A TRIBUTE TO HON. OTTO E. PASSMAN, REPRESENTATIVE FROM LOUISIANA

The SPEAKER pro tempore (Mr. O'Neill). Under a previous order of the House, the gentleman from Louisiana (Mr. Waggonner) is recognized for 10 minutes.

Mr. WAGGONNER. Mr. Speaker, the distinguished congressional career of our dear friend and respected colleague, Otto E. Passman, will soon draw to a close. I know that his many friends and admirers will want to join me today in paying tribute to this man who has earned the respect of his fellow Congressmen and the gratitude of the American people for his selfless dedication to duty and to his country.

Otto Passman has represented the Fifth Congressional District of Louisiana with honor since 1946. In those three decades he has become known for his strong, articulate voice in behalf of limited Government spending and fiscal responsibility. Otto has earned the well-deserved reputation for watchful diligence as chairman of the Foreign Operations Subcommittee of the Appropriations Committee since 1955. During that time, he has maintained a solid position as an energetic, intensely serious financial guardian of the best interests of the American taxpayer in foreign aid programs.

Hard work and homework have always been Otto's watchwords for success, both in business and in Congress. Otto has known hard work throughout his life. The son of sharecroppers in rural north Louisiana, he left school at the age of 13 to earn his own living and to help support his family. Otto is proud of his heritage that instilled in him a determination and a drive that have been strong factors in his success.

Without formal educational opportunities, Otto Passman educated himself as a young man by reading and studying mathematics and science. His boundless energy enabled him to work during the day and study at night; and when the opportunity came he resumed his formal education; earning degrees in economics and business administration.

Otto went on to establish a successful business and later to serve with honor in the Navy, rising to the rank of lieutenant commander. He was elected to Congress in 1946, and became a freshman in the 80th Congress. But he was no ordinary freshman Representative. He brought with him years of business and leadership experience. These qualities soon were recognized and his talents were put to work on the Appropriations Committee. His businessman's commonsense and eye for wisely spending tax dollars made Otto one of the most valuable members on the committee. For the past 21 years, he has directed his immense talents and energy into serving as chairman of the Foreign Operations Subcommittee.

From this important position Otto has spoken forthrightly against wasteful programs he labeled "frustrating, fanatical, frightening and foolish." He courageously carried out his duties to oversee the proper spending of taxpayers' dollars with the same vigor and watchfulness he employed in operating his own successful businesses. Some years ago he warned the American public against uncontrolled foreign assistance programs, saying:

> This practice of giving away our wealth is creating inflation and reducing the purchasing power of your dollar which is the equivalent of confiscating your savings.

It has been estimated that during Otto's chairmanship of the Foreign Operations Subcommittee, foreign aid requests by various administrations have been reduced by some $17 billion. Otto has never had the objective of destroying the foreign assistance program, however. His overriding consideration has always been to see to it that taxpayers' money was spent wisely and frugally. As he has so often said, his mission in Congress has been to end "this crazy system of spending more money every year than we take in."

He has the rare ability to translate his positions into effective legislative initiatives—to be more than just an advocate, to be a leader. For every hour he spends in the committee or on the floor debating the merits of a bill, Otto has spent many more in preparation doing his homework. We have learned to admire his flair for recalling and citing facts and figures during debate. This is the result of study, preparation and long years of close dealings with this important area of legislation. Otto brings a strong personal courage and incredible concentration to his work, and the results of his labors are clearly visible.

The late and much beloved Speaker of the House, Sam Rayburn, used to say of the job of a Representative:

> It takes more than just seniority to make a good Congressman. It takes brains and guts and, most of all, hard work. Backbreaking work.

Otto Passman qualifies on all counts. I

would like to add one more quality to Speaker Rayburn's list—compassion. Here too, OTTO PASSMAN is eminently qualified. His interest in and concern for his fellow man has been shown by his participation in civic, religious, and philanthropic activities over the years. Especially close to his heart are the problems of crippled and retarded children, and the treatment of Hansen's disease, including the support of leprosariums in many parts of the world.

His private life is filled with examples of personal compassion for the unfortunate and underprivileged.

For most of his adult life, OTTO has also been active in Masonry, including service as past Grand Master of the Masons of Louisiana. His Masonic distinctions and honors are legion. He is a Shriner, Knight Templar, thirty-third degree Scottish Rite Mason, Grand Cross Court of Honor, a member of the El Karubah Temple, a member of the Red Cross of Constantine, and serves on the board of directors of the George Washington Masonic National Memorial Association. His active civic and professional schedule leaves him little time for personal relaxation and recreation. Quite literally, his congressional work and his civic work are his life.

OTTO's dedication to serving the people he represents is well know. In his dealing with the grave problems on the international scene, he has never overlooked the needs of the people of the Fifth District. Over the years he has been instrumental in securing millions of Federal dollars for his district to help with flood control projects, loans to farmers, highways, and education. He is also known for the long hours he spends at his office personally assisting his constituents. Anyone who has had the opportunity to call OTTO's office, knows that more often than not he will answer the telephone himself. OTTO has prided himself on being accessible to the people of his district, and being ready to lend a hand when they need him.

When OTTO leaves at the end of this session, the Nation will lose the devoted services of a truly remarkable public servant—a man who has labored long in behalf of his district, his State, his Nation, and the people of this country. His shoes will be difficult to fill, for he is truly a great American. His absence in the 95th Congress will create a void for those many of us who have sought his counsel and looked to him for wisdom.

I know that OTTO's service to his fellow man will not end when he leaves Congress. A man who has devoted a lifetime to helping others, will continue his good works.

OTTO PASSMAN has left his mark on Congress. He will be long remembered, and sorely missed. I am personally proud to have had the honor of serving with him and of having enjoyed his friendship. I have no better friend. I know I speak for all our colleagues when I say that we wish OTTO all the best of life's bounties in the years ahead.

Mr. SLACK. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from West Virginia.

Mr. SLACK. Mr. Speaker, along with many Members of the House, I find it difficult to realize that when the next Congress convenes in January we will assemble without the presence in this body of OTTO PASSMAN, our distinguished colleague from Louisiana.

During my years of service on the Appropriations Committee, I have developed a strong sense of admiration and respect for OTTO PASSMAN. As chairman of the Foreign Operations Subcommittee on Appropriations it was his duty to review a program each year which had become progressively less popular and more controversial.

It was his further duty to bring a bill to the floor so that the foreign aid program could be continued, and to defend as best he could a national commitment which was often criticized for excesses and shortcomings.

During the past 10 years or more OTTO PASSMAN has been in a "no-win" position. Whatever he recommended could be and usually was attacked on all sides.

But the laws of the land and the will of the Congress must be served. As long as the program was authorized, its budget must be reviewed annually and some funds must be recommended for appropriation.

To OTTO PASSMAN fell that difficult and unpopular job. I doubt very seriously that there are many among us who would have wished to trade places with him, and I feel certain none of us could have approached the responsibility with greater fortitude and determination.

Many years ago he concluded that foreign aid money is spent in such a way that it slips beyond the consciousness of the taxpayer. He began to issue tabulations at intervals down through the years, detailing the use of these funds in every foreign jurisdiction. These were the only documents which gave the American people a clear and comprehensive summary of how much was spent on foreign aid and who received it.

His work as subcommittee chairman was his duty to the law and the Congress. His careful summary reports were his duty to the people who paid the cost each year with their taxes.

For this reason I feel that his career in the House finds a parallel with the philosophy expressed by Gen. Douglas MacArthur in his famous speech to the West Point cadets titled "Duty—Honor—Country."

Through his years of service, duty ranked first for OTTO PASSMAN, supported by honorable conduct at all times, and with the best interests of our country always in the foreground. The end of his service in Congress is our loss, but those of us who will carry on can expect to be guided by no finer example than OTTO PASSMAN, dedicated public servant.

Mr. HÉBERT. Mr. Speaker, OTTO PASSMAN and I have been around here a long time. We have walked these Halls of Congress together for 30 years, and I was here 6 years before he arrived on the scene in 1947. That is a long time.

Now, we exit together, I through retirement and OTTO the victim of that political uncertainty which lurks around the corner for every elected official. Nothing, however, can dull the luster of OTTO PASSMAN's distinguished and productive career or diminish the legislative impact he has had on international affairs. I know. I watched him in action through his entire service in the House.

He is one of the most energetic and conscientious Congressmen I have ever known. OTTO always tackled his congressional duties and the problems faced by his constituents with a refreshing fervor. He never lost his enthusiasm.

When OTTO came to Congress to represent Louisiana's Fifth Congressional District, a mostly rural area in the northeastern corner of the State, he called himself a "country boy." I, of course, representing New Orleans, the largest city in the State, was a "city slicker."

But OTTO and I became fast friends. We scaled the seniority ladder together and eventually I became dean of the Louisiana delegation and OTTO vice dean. He has always been a tremendous help to me in coordinating the delegation's efforts for our State.

As OTTO leaves the Congress, he ranks 15th in seniority in the House out of 435 Members and is fourth on the Appropriations Committee and chairman of its Foreign Operations Subcommittee.

Chairman of that subcommittee since 1955, after being in Congress only 8 years, OTTO PASSMAN tackled the job vigorously and took stands on foreign assistance which were at times unpopular. But he had a genuine concern about the amount of money the United States was spending abroad on countries which turned around and used the money in anti-American endeavors.

He has always been critical of deficit spending, and we were spending more money than we took in because of the big monetary gifts going to foreign governments. OTTO accepted the responsibility which this subcommittee entailed and became an expert on foreign assistance, made tough decisions, and let the chips fall where they may.

It can be documented that OTTO PASSMAN saved the taxpayers billions of dollars while he was chairman of the Foreign Operations Subcommittee. That, in itself, is a great accomplishment and something for which the American people should be grateful.

OTTO PASSMAN, indeed, changed the course of foreign aid and set our foreign assistance ship on steadier waters. For this, he has earned his niche in the history books.

While responsible for duties of international importance, OTTO never overlooked his constituents or the State of Louisiana. He helped his district obtain millions of Federal dollars for various programs and his service to constituents with problems, no matter how big or small, always had a personal touch.

He was a true representative of his people, reflecting their views on legislation and providing them with a powerful national voice. Like me, he believes in representative government and he cast many tough votes which went against the grain of the national party but was the position of the majority of the people who sent him here as their representative. In my book, that is what representative government is all about.

I am going to miss OTTO PASSMAN. I think this House will miss him, too. He is colorful, courageous, conscientious, knowledgeable, and dedicated—qualities which we do not find in great abundance in our Congress today.

OTTO and I will stay in touch from our respective areas of the State. I am proud to have had him as a colleague and to have served with him for 30 years.

I am proud to call OTTO PASSMAN my friend.

Mr. O'NEILL. Mr. Speaker, I am pleased to join my colleagues in honoring our long-time friend and colleague, the distinguished gentleman from Louisiana, OTTO PASSMAN.

Energetic, knowledgeable, and hardworking, OTTO PASSMAN has been a persistent and articulate spokesman for limited Government spending. We all know and recognize his important contribution to the funding of foreign aid at reasonable levels during his tenure as chairman of the Appropriations Subcommittee on Foreign Operations. A fair and just chairman, OTTO PASSMAN has firmly believed that everyone on his subcommittee should have an opportunity to speak his or her mind and should share in the input of foreign aid funding. Each year for 20 years, OTTO PASSMAN has conscientiously and steadfastly streamlined our foreign aid program to prevent the American taxpayer from too burdensome an expenditure in both economic and military assistance abroad.

OTTO PASSMAN has consistently placed the public interest first. His dedication to his constituents and to the Nation at large have earned for him a reputation as an intensely serious financial guardian of the interests of the American taxpayer in the foreign aid programs.

OTTO has always put the whole of his energy and competence into every legislative task before him. He will be forever remembered by his constituents and colleagues for his friendliness and willingness to help a member with any problem, his compassionate understanding of divergent points of view, and his nononsense, straightforward manner.

For three decades, OTTO PASSMAN has graced this Chamber and this House with enthusiasm, boundless energy and tenacious steadfastness. He never betrayed his trust, never defaulted on a promise, never let the people of his district or the Nation down. He always gave his best, and that best was always more than enough.

I wish OTTO good health and happiness in the years ahead.

Mr. McFALL. Mr. Speaker, one of our most able colleagues, Congressman OTTO PASSMAN of Louisiana, is retiring after 29 years in the House and will not be with us in the 95th Congress.

I have a special affection for OTTO PASSMAN. He was already a veteran and effective legislator when I came to the House in 1957. And he had served on the Appropriations Committee for more than a decade before I became a committee member in 1963.

We have worked side by side on countless important issues over the years, and unfailingly OTTO PASSMAN—in committee, in conference, and on the floor—has proven himself a courteous, constructive man of principle.

In his long career in the House, Congressman PASSMAN contributed much to the Nation and to his district.

As chairman of the Appropriations Subcommittee on Foreign Operations, he was floor manager for the annual foreign assistance appropriations bills, and for those of us on the floor and those fortunate enough to be in the galleries it was an annual lesson in political skill, parliamentary astuteness, and persuasive debate. During his tenure as chairman, foreign aid requests by Presidents were reduced by $17 billion.

He will have an enduring place in the history of the House of Representatives for his devotion to the principle of fiscal responsibility. His leadership has prompted all of us to take a harder look at the budget and appropriations processes. In a very real sense, his leadership in this respect hastened our adoption of such needed fiscal reforms as the historic Congressional Budget Act.

OTTO PASSMAN did not win on every fiscal issue over the years. But his conscience and devotion to principle influenced all of us, and he will leave the Congress a more fiscally responsible institution than when he first entered it.

Congressman PASSMAN will be remembered also for his tireless work on behalf of his district in Louisiana, which he has said has made the greatest economic progress in the last 25 years of any congressional district in the Nation.

He helped obtain for his district some $140 million in loans from the Farmers Home Administration, loans and grants for rural water systems which now serve more than 47,000 of the district's families. He helped obtain needed flood control development for the district and more than 136 miles of good highways.

All of this built a strong economic infrastructure, making possible a new prosperity in his district, the most rural in Louisiana.

I will remember OTTO PASSMAN most for his integrity, his forthrightness and his strength of character.

Two of his own statements capsulize his personal qualities.

He once said:

> I shall always speak after the fact and not before, because my policy is to be an accomplisher and not a promiser.

He also said:

> My mother taught me to never believe a half truth, because you may believe the wrong half. This philosophy has guided me well all of my life.

OTTO PASSMAN will be profoundly missed by all of us. I know my colleagues join me in wishing him a bright future and many more years of productive service in whatever endeavors to which he may now turn.

Mr. MAHON. Mr. Speaker, I rise to join my colleagues in paying tribute to OTTO PASSMAN, a distinguished and effective member of the Committee on Appropriations and chairman of the Subcommittee on Foreign Operations.

OTTO has had a unique career in the Congress. He was first elected in November of 1946 to the 80th Congress. In the next Congress, the 81st, he became a member of the Committee on Appropriations—the committee on which he has served during his entire tenure here. He has served on a number of important subcommittees and became chairman of the Foreign Operations Subcommittee during the 84th Congress.

He was the third chairman of this subcommittee and has served far longer in this position than any other man. While he has often opposed the philosophy of many of the foreign aid programs, he has handled the foreign aid bills very skillfully. Rarely have amendments been adopted to the bills which he and his subcommittee recommended.

Over the years he has been responsible for making sharp reductions in the budget requests for foreign aid that have totaled billions of dollars. He takes just pride in these accomplishments.

It has been a privilege to serve with the distinguished Member. OTTO, as your friend of many years I wish you much happiness as you return to your beloved State of Louisiana.

Mr. LONG of Louisiana. Mr. Speaker, few people have overcome the seemingly insurmountable odds that faced our colleague OTTO PASSMAN. Born into poverty and forced to terminate his formal education at the age of 13, he exhibited an energy and drive that has not diminished through the years. This man has spent a lifetime in public service for the people of the Fifth District of Louisiana. During his 30 years in the House of Representatives he has worked untiringly for his district, his State, and his Nation.

His acceptance of the chairmanship of the Foreign Operations Committee on Appropriations exemplifies his willingness to take on a necessary but unpopular program. His acceptance of the challenge presented in the administration of the foreign aid program shows the courage and stamina of this rare man. As a fiscal conservative he unhesitatingly spoke his beliefs, and made his mark on this program. During his tenure as chairman of this committee, foreign aid requests by Presidents were reduced by a total of nearly $17 billion. Throughout his chairmanship he displayed a real talent in mastering a complex subject. His knowledge of the intricate facts and figures involved in the foreign aid program rightfully earned for him the respect and admiration of his colleagues. At the State Department, an agency he worked closely with, he is known as a man of his word.

The Fifth District has seen enormous changes during the decades of OTTO PASSMAN's congressional service. When Mr. PASSMAN took congressional office, northeast Louisiana was an area poor in industry, an area subject to the danger of seasonal flooding, an area of need for the small farmer. During the last 30 years, the Fifth District experienced a dramatic growth of industry, with industrial payrolls quadrupling. Bordered on the east by the mighty Mississippi River, the Fifth District is today more secure from the dangers of flooding than ever before in its history, due to the development of modern methods of flood control. Nearly one-half billion dollars of critically needed Federal expenditures went to this area during Mr. PASSMAN's tenure. His long support of the small farmer is highlighted by his continual support of the Rural Development Act, which allows for small low-interest loans badly needed by this group.

In addition to his years of congressional service, Mr. PASSMAN has been a business and civic leader all of his life. He is a 33d degree Scottish Rite Mason, Grand Cross Court of Honor, and a past Grand Master of the Masons of Louisiana. After serving as an officer during World War II, he became a member of the American Legion, and is a past Louisiana State commander of the American Veterans of World War II.

Louisiana and the Nation will miss the diligent service of OTTO PASSMAN, our colleague, as we will miss his long and familiar presence.

Mr. FLOOD. Mr. Speaker, the departure of the Honorable OTTO PASSMAN of Louisiana from this House will bring down the curtain on a congressional career which stands as among the more enviable of anyone who has been priviliged to serve in these great Halls.

I have known OTTO PASSMAN since I first came to Congress. We have worked together on the House Appropriations Committee for nearly 30 years. He has been priviliged to serve as the chairman of the Subcommittee on Foreign Operations, while I have been likewise fortunate to head the Subcommittee for Labor; Health, Education, and Welfare. Since the time OTTO and I first met, we have worked on a multitude of programs of great benefit to this Nation, programs in agriculture, in the conquest of space, programs of fiscal reform, and so many more.

It is in his capacity as a member of the House Appropriations Committee that OTTO PASSMAN will perhaps best be remembered. On the Subcommittee on Public Works, he has spearheaded to fruition projects which aided the great State of Louisiana in flood control and irrigation, making it possible for industry and agriculture as well to grow and prosper. The American farmer and the entire agriculture business community owe a debt of gratitude to OTTO PASSMAN, for generations to come will long profit by the works and legislative programs he has undertaken in the House.

Mr. Speaker, I submit today in this Chamber that a great man is departing from among this distinguished body. OTTO PASSMAN is a man who will be greatly missed, both here at home, and in foreign nations, where the impact of the American interest, promoted and protected by OTTO PASSMAN, will long be remembered.

To my friend and colleague, I say thanks for a job well done. May he enjoy good health for many years to come.

Mr. EVINS of Tennessee. Mr. Speaker, I wish to join with my colleagues in paying a brief and sincere tribute to my good friend, the Honorable OTTO E. PASSMAN of Louisiana, who will be leaving the Congress at the end of this session.

First of all, let me say that OTTO and I have been very close ever since the two of us were freshmen together in the 80th Congress, the one that came to fame as the "do nothing" Congress.

It was not really a "do nothing" Congress, but President Truman had reason to criticize it for some of its failures. Whatever its merits, however, it had an outstanding freshman class that has produced two Presidents, a Speaker, several Senators and Governors, a number of ambassadors, and many excellent committee chairmen.

Among the greatest of these has been Chairman PASSMAN of the Foreign Operations Subcommittee of the Appropriations Committee, an important post he has held since 1955.

These have been years when the foreign policy of the United States has been expansionary, attempting in various ways but especially through not too selective largesse to influence or control events throughout the world. It has not been very successful.

Through all these years Chairman PASSMAN has been a salutary thorn in the side of a succession of Presidents and Secretaries of State who have sought to obtain from the Congress countless billions of dollars for foreign military and economic aid.

He has been called to the White House many times in efforts to win his support for spending proposals. He has been courted by Secretaries of State, always in hope of winning his support for increased foreign aid expenditures. Nearly all these overtures have failed to convince OTTO, our beloved friend, whose consistent concern has been providing reductions wherever possible in the best interest of the United States.

There is no question in my mind that the country is deeply indebted to OTTO PASSMAN for the diligence he has exercised in holding down foreign aid boondoggles. He has cut billions from the budget. He has labored mightily. He has read the fine print and the charts and graphs of a myriad of Government reports until he has acquired a command of technical detail second to none. OTTO knows his subject and is a recognized able chairman.

There are few in the House of Representatives more genial, more personable, more deserving of accolades than the gentleman from Louisiana.

He has served his district, his State of Louisiana, and the Nation well.

OTTO PASSMAN is a great American and his departure from the Congress will be a great loss to our country.

I wish my friend OTTO PASSMAN well in his future endeavors and shall always treasure the memory of my colleague and 33d degree Masonic brother and our close association over 30 historic years.

Mr. ROYBAL. Mr. Speaker, it is with great pleasure that I rise to add my voice to those paying a well-deserved tribute to our esteemed colleague Congressman OTTO PASSMAN who will be retiring at the close of the 94th Congress. During his 30 years in Congress, OTTO has served the people of Louisiana and of the Nation with great distinction and dedication.

I had the pleasure of serving with OTTO on the Appropriations Foreign Operations Subcommittee—which he has so ably chaired since 1954. As a former member of the subcommittee, I have only the greatest respect for Mr. PASSMAN and his singlehanded effort to contain our spending abroad. He is an unsung leader in the area of foreign policy and deserves full recognition for the exemplary job he has done as chairman of the Foreign Operations Subcommittee.

He is an extremely articulate and industrious person, and a force to be reckoned with. His constant watchfulness has kept us all on our toes, knowing that we must be able to defend any monetary requests. He has set a fine example as a Congressman, working unceasingly to keep foreign spending in line, while offering support where it could be most beneficial.

It has been a true privilege to know and work with OTTO PASSMAN, and I place great value on the friendship which has developed over the years. I am pleased to have this opportunity to add my words of praise for a friend and colleague who has done such an outstanding job and whose presence is sure to be missed.

Mr. BURLESON of Texas. Mr. Speaker, I rise to join my colleagues in honoring our friend, the Honorable OTTO E. PASSMAN, who is retiring from the House of Representatives after 30 years of distinguished service.

OTTO and I both came to Washington in January of 1947 at the beginning of the 80th Congress. We have, of course, observed many changes over the years and I am sure that he will agree that we have learned much during this association. As a fiscal conservative, I have often admired and agreed with OTTO's watchful eye on Government spending. His dedication, his industry, and courage have all been examples for all of us and his services in the Congress have contributed greatly to our Nation and the State which he represents, Louisiana.

I join with all of you in wishing for him health and happiness as he goes into a quieter life and one which he richly deserves.

Mr. HALEY. Mr. Speaker, I am pleased to join my colleagues today in paying tribute to my old friend, OTTO PASSMAN, who is leaving the Congress at the end of this year.

When I first came to the Congress in 1953, I found a friend in Congressman PASSMAN who espoused a philosophy near and dear to my heart. He has been an outstanding spokesman for fiscal responsibility and limited Government. I just wish there were more like him. He was most helpful to me as a freshman and has been a valued friend throughout these many years.

He has my sincere appreciation for the job he has done here in the House and my best wishes for a happy and enjoyable retirement.

Mr. BENNETT. Mr. Speaker, I rise to pay tribute to my longtime friend and colleague, OTTO E. PASSMAN of Louisiana. His dedication to his district, State, and

Nation and to mankind will always be a monument to his great service in the U.S. Congress. He is a man that has watched out for the needs of all who needed Government help and has done this in the context of trying to achieve the maximum good for the least possible expense evading always unnecessary expenditures in order to keep alive a viable economy and a healthy nation. Leadership of this quality is in scarce supply. We will all miss him here in Congress as he leaves us. It will be a particular loss to those of us who have been his close personal friends, such as myself.

Mr. LONG of Maryland. Mr. Speaker, Otto Passman of Louisiana has since 1955 ably chaired the Appropriations Committee's Subcommittee on Foreign Operations.

As one deeply concerned with tax expenditures and with effective use of America's aid to other nations, Chairman Passman has performed an outstanding service throughout the years in scrutinizing giveaway programs and in forcing aid administrators to answer for their stewardship of tax dollars.

I have served for 12 years on his subcommittee, and have come to hold his legislative expertise and his knowledge of the foreign aid program in the highest esteem.

I doubt that any Member of Congress or of the administration knowns as much as Otto Passman about the labyrinths of foreign aid.

He has shared his knowledge. For many years, he has identified the various hidden foreign assistance programs which provide U.S. tax dollars for the benefit of other nations.

To further highlight the extent of our foreign aid program, my distinguished chairman has insured that in our report to the House, we set forth all the budget requests, not just those under the "Foreign Operations" umbrella, which provide U.S. tax dollars to other nations. For fiscal 1977, there are 22 such programs, totaling over $14.2 billion.

Chairman Passman also keeps track of what has happened to the funds we have appropriated. In this year's report, it is noted that some $18.6 billion remains available, in 22 separate "pipelines," to supplement our fiscal 1977 appropriations.

The chairman has consistently sought to reduce to essentials the appropriations requested for foreign aid. In the 22 years of his chairmanship, his subcommittee has appropriated $17.3 billion less than the sums sought by the executive branch.

Otto Passman has left a record that will never be matched, Mr. Speaker. His contributions to the U.S. foreign aid program will be noted in the textbooks for future students to examine for decades to come.

Mr. CONTE. Mr. Speaker, I rise along with my colleagues on both sides of the aisle today in paying well-deserved tribute to a gentleman with whom I have served for many years on the Foreign Operations Appropriations Subcommittee. I speak, of course, of the distinguished Member from Louisiana, Otto Passman.

There is probably no better vantage point from which to view the performance of a Member than to observe him at work in committee. In the real salt mines of the Congress, the appropriations subcommittees, a lot of hard work has been done. None has been more diligent at his labor in subcommittee than Otto Passman, chairman of the Foreign Operations Subcommittee.

As chairman, he has had a great deal of responsibility in the implementation of this country's foreign policies. He has met that responsibility with knowledge seasoned by his 30 years in the House. His is not the easiest subcommittee to chair—for, as it has been pointed out, foreign aid has no domestic constituency. But Otto Passman has conducted his work on behalf of all of the people of this country, and ultimately, the people of the world.

Chairman Passman is truly a master of the foreign affairs budget. Certainly, no one in the House has a better or deeper understanding of its intricacies than Chairman Passman.

Yesterday, we passed the final foreign assistance bill that will benefit from the stewardship of Chairman Passman. The spontaneous and warm tributes of many of his colleagues on that occasion served only as a prelude to this special order today.

The gentleman from Louisiana knows my personal warm regard for him. It has been a pleasure to serve with him in subcommittee and I wish him all the very best in retirement. He will be sorely missed in the Subcommittee on Foreign Operations and in this House.

Mr. CEDERBERG. Mr. Speaker, duty, honor, and devotion—these are the qualities that mark our colleague Otto E. Passman, who is retiring at the end of this Congress after 30 remarkable years in this Chamber. An American above all, an individual totally dedicated to the democratic principles on which this Nation was forged, Otto is one of those rare persons who has given totally of himself to these ideals. This country could ask no greater sacrifice.

He has been a bastion of fiscal responsibility and limited government. As chairman of the Foreign Operations Appropriations Subcommittee since 1955, he has earned a well deserved reputation as a tireless guardian of the interests of the American taxpayer. No foreign aid program has escaped his thorough scrutiny. Every item has to be justified, every program worthy of support.

Appreciation for this intense effort can never be fully expressed in a few short paragraphs. Otto Passman went the extra mile for the American people and for his constituents. His reward is their eternal gratitude. I can only add my name to that long list of admirers and say thanks for a job well done.

Louisiana is losing a respected and articulate voice in the Congress while gaining back a native son. Her loss is indeed great. Only yesterday, we paid tribute to Otto's fellow colleague from Louisiana, F. Edward Hébert, who is retiring after 36 years in the House. Side by side, these Louisianians were energetic spokesmen for their State and the South as well as emblematic patriots for our Nation.

The respect of Otto's fellow Americans is overshadowed only by that of his colleagues. We are losing a conscientious public servant but more importanly, we are losing a dear friend. This sentiment emanates from both sides of the aisle. We saluted our colleague while he was in our midst and we revere his accomplishments in parting. His absence will be noticed.

I wish Otto the best of luck in the future. May he and his wife enjoy the coming years of retirement. He has earned this due. In further tribute to this great American, I would add this thought—his voice was the voice of the people.

Mr. BREAUX. Mr. Speaker, with the conclusion of this session of Congress, Louisiana loses two distinguished public officials who together have served 66 years in this body, the Honorable F. Edward Hébert and the Honorable Otto Passman.

Otto is a living example of a young man born with few advantages who, because of his hard work, has reached the pinnacle of success in his profession. Otto has never feared the true meaning of hard work, both as a private citizen and during his service as a Member of the House.

Many of our constituents do not fully realize the dedication with which Members approach their service. I doubt whether many Louisianians know that most Saturday and Sunday mornings found the Representative from the Fifth Congressional District seated at his desk in his office, at work on the problems of the Fifth District. During his 30 years of service, Otto even chose to live across the street from the House Office Building in order to have more access to the job he took so seriously and loved so greatly.

I remember well when I first came to Congress hearing Otto Passman rattle off figures on budget or foreign aid matters from 5 or 10 years back. And at first I thought, "Well, I'm sure he's only tossing figures in the air; no one could have that good a memory." I soon learned that when Otto said some small country 10 years ago received x amount of dollars, he was accurate to a penny and further, could even tell you how each dime was spent. That is the kind of person we had in charge of the foreign aid program, and it has been good for America.

In leaving the Congress I wish Otto the best of everything for he has earned his rest. Knowing Otto's energy, good health, and determination, however, I feel he will rest only shortly for he truly lives those poetic lines, "There are miles to go and things to do before I sleep." Otto will continue to work hard and in so doing, to set examples for the rest of us in what hard work and determination can bring.

May his retirement be spent happily among his many friends who wish him well.

Mr. BEVILL. Mr. Speaker, when the gentleman from the Fifth District of Louisiana casts his final vote sometime this week, Congress and the United States will be losing what I consider to be its foremost authority on the subject of foreign expenditures.

I am speaking, of course, of Chairman Otto Passman, of the House Appropriations Subcommittee on Foreign Operations.

My comment about Chairman Passman's expertise in the field of foreign expenditures does not represent flattery without a basis for the opinion. Since 1972, I have been fortunate to sit on the Foreign Operations Subcommittee and view firsthand the chairman's knowledge in this area.

During those 4 years, I have been enormously impressed with Otto Passman's candor, knowledge, questioning, and in general his expert overview of the U.S. foreign aid program as we find it today.

I should note at this point that my position on the Foreign Operations Subcommittee has strengthened by objections to our foreign aid expenditures. I have always opposed foreign aid bills since coming to Congress, the idea being that they are wasteful drains on the U.S. Treasury which carry little, if any return on the investment.

I should further point out that my convictions on this subject have been bolstered through my close work with Otto Passman.

Otto Passman will be remembered as one of the most informed Representatives in our Nation's history on the subject of foreign aid. He knows the foreign aid program in great detail and depth.

The fact his position as chairman of the congressional committee charged with annually writing the foreign aid appropriations bill has not kept Otto Passman from speaking out against the wastefulness of many of our foreign aid programs.

In fact, the distinguished chairman has consistently voted against foreign aid authorization measures. As chairman of the Foreign Operations Subcommittee, he has, however carried out the mandates of Congress, thus overseeing the writing and preparation of foreign aid appropriations since 1955.

This, however, did not stop Otto Passman from saving the American taxpayers literally millions of dollars through his cost-cutting actions as committee chairman.

During my service with Otto Passman, it has become evident that he was ever watchful and quick to jump on opportunities to save tax dollars in the foreign aid program.

He has held foreign expenditures at a minimum and has been quick to make cuts in the program whenever possible. From my experience on the subcommittee, I have come to the conclusion that had it not been for the efforts of Otto Passman, U.S. foreign expenditures over the past two decades would have been far greater, therefore allowing for an even greater waste of taxpayers' dollars.

As Otto Passman prepares to leave this Chamber, he deserves our highest praise for his efforts at keeping foreign aid expenditures at a minimum. He has saved the taxpayers millions and this is certainly no small accomplishment in light of recent administration requests and commitments which have only sent foreign spending to new heights.

Stated simply, Otto Passman has labored exhaustingly in the best interests of the people he represented from the Fifth District of Louisiana and indeed for all Americans through his position as chairman of the Appropriations Subcommittee on Foreign Operations.

His knowledge of the exacting foreign aid program has through the years been the most comprehensive in Washington.

His tireless efforts during the past three decades will certainly remain an inspiration to those of us who knew and served with him.

Otto Passman has given 30 of his best years to public service and for that his district, his State, his country and, indeed, this Congress have profited enormously.

Otto Passman will be missed, but his work will never be forgotten.

Mr. ADDABBO. Mr. Speaker, I rise to salute our friend and distinguished colleague from Louisiana, the Honorable Otto E. Passman as he prepares to retire from our Chamber after 30 years of outstanding service.

Few Members have guarded the financial interests of America in the way that Otto has during his service in the House. As chairman of the Foreign Operations Subcommittee of the Appropriations Committee since 1965 he has monitored the foreign aid program to weed out waste and inefficiency. The American taxpayer has had a real friend in Otto Passman and it has been my pleasure to sit with him on the House Appropriations Committee.

I wish Otto a healthy and happy retirement and I join his many admirers and colleagues in honoring him today.

Mr. de la GARZA. Mr. Speaker, Otto Passman already was a fixture in the House when I entered upon my first term in January 1965. When he retires at the end of this session of Congress, he will have served here for 30 eventful years. Many sweeping changes have taken place in the United States and in the world during those years, and the gentleman from Louisiana has often had a strong hand in dealing with those changes.

Although I have not supported his foreign aid bills, I have never doubted the sincerity of his conviction regarding them. And I have admired the skill and knowledge he threw behind his efforts. Otto Passman has always done his homework well and thoroughly.

He is a dedicated public servant, a man devoted to the interests of his constituents, a patriotic American who through the years has consistently upheld the principles of government in which he believes. He has brought honor to the House. It is fitting that we should today honor him.

Otto Passman is an institution in himself. The House will not be the same without him. He will be missed here. My best wishes along with those of our colleagues go with him in his retirement.

Mr. McCLORY. Mr. Speaker, we are all aware of the importance of foreign aid as a diplomatic tool. Used creatively, it can not only foster friendships, but also can bring developing nations to a new level of self-sufficiency that serves as a foundation for revolutionary changes in the quality of their citizens' lives.

Despite its potential benefits, this tool—which comes to us in the form of U.S. taxpayer dollars—must be applied judiciously. Congressman Otto Passman has done that during his 21-year tenure as chairman of the Foreign Operations Subcommittee.

For over two decades, Congressman Passman has had to walk the narrow line between what we would like and what we can afford. His ability to recognize valuable programs and his care in committing Federal funds have served the American public well.

The years of his chairmanship have produced some of the most challenging developments in the history of our foreign relations: two wars in Asia, the strident emergence of the Third World, international crises in food and energy, and rapid political realignments all over the globe. Our successes in meeting these challenges are in large measure due to the dedicated service of Otto Passman.

Mr. Speaker, I take this opportunity to congratulate Otto Passman on his accomplishments in the House of Representatives, and to extend him every best wish for a rewarding retirement.

Mr. MOORE. Mr. Speaker, after 30 years of dedicated and outstanding service, Otto Passman will be leaving Congress at the end of this session. As the 10th ranking member of the House and 4th ranking majority member of the Appropriations Committee, his expertise and detailed knowledge of the legislative and appropriations process will be sorely missed. Moreover, as the chairman of the House Appropriations' Subcommittee on Foreign Operations, the American taxpayers will be losing one of the staunchest defenders of their hard earned tax dollars and one of the most effective guardians of the U.S. Treasury. Finally, the Louisiana delegation of which I am proud to be a member, will be losing an esteemed, trusted and beloved colleague. I will be losing a friend as well.

Otto Passman's life is the kind of Horatio Alger success story that is possible only in this great country of ours. His parents were poor but proud Louisiana sharecroppers, who instilled in him a love of country, dedication to hard work, and total honesty and integrity.

Forced by need to drop out of grade school at the age of 13, our esteemed colleague continued his education in night school while laboring long and hard during the day. Following high school, he went on to earn a business degree and then, through sheer persistence, sacrifice and ability, amass a small fortune in his own hotel supply, furniture manufacturing, and investment business. Throughout this trying period, he exhibited the fierce determination, keen intelligence and dedication which have since so distinguished his life.

During the Second World War, Otto Passman enlisted in the service of his country. He entered the Navy as a lieutenant in 1942 and was quickly promoted to lieutenant commander, a rank he held when he was discharged in September 1944.

In 1946, with his election to the House of Representatives, Otto Passman began his long and distinguished public service. Because of his ability and willingness to rapidly master a large amount of details, he was quickly appointed to the powerful and prestigious Committee on Appropriations. His excellent work on the committee, his legislative ability and his interest in the field of foreign aid led to his appointment, in 1955, as chairman of the important Subcommittee on Foreign Operations.

During these early postwar years, the foreign aid program was still in its infancy. As chairman of the Subcommittee on Foreign Operations, OTTO PASSMAN wielded an enormous influence on foreign aid and, as a result, on American foreign policy. Through the appropriations process, the purse strings as it were, he effectively utilized Congress constitutional prerogative to assure congressional input into the foreign policy area. As a result, he assured a more responsive, economically sound, and better managed foreign aid program. In the process, he saved the American taxpayer and the U.S. Treasury untold billions of dollars. For his dedication and unyielding efforts, we are all deeply indebted to him. In many a subcommittee meeting, he could be forcefully and prophetically heard to say, "Just remember, from little acorns, big trees grow."

Because of his frequently successful efforts to curb the foreign aid program, OTTO PASSMAN has often been accused of endangering American foreign policy. Nothing could be further from the truth. He has consistently sought to improve our country's defenses and to provide military assistance to our allies. However, he early became aware of the dangers involved in a poorly conceived and badly managed foreign aid program. He realized that wasteful and unnecessary foreign aid expenditures could drain the American treasury and anger the American taxpayers. This, he knew, would not only weaken our Nation militarily, but would also weaken the resolve of our people to continue to finance those programs which were essential for the defense of the free world.

And so, OTTO PASSMAN assumed the burdensome, though crucial, task of familiarizing himself with the incredibly detailed and complex foreign aid programs presented to Congress each year. Through such efforts, he became the most knowledgeable and informed critic of our foreign aid program.

Based on his knowledge, he invariably went after the fat—and there was plenty of it—in each foreign aid budget which came before his subcommittee. As a result of OTTO PASSMAN's expertise, his Subcommittee on Foreign Operations became one of the most effective in Congress in saving the American taxpayers' dollars. Both his colleagues in Congress and the American people knew that after he held hearings on foreign aid programs, he had effectively pinpointed those projects that could be cut or substantially reduced. That is why his subcommittee's actions and recommendations have invariably been accepted by the House.

Although his most effective contribution has been in the field of foreign aid, OTTO PASSMAN's interests have touched on various other fields. The plight of older Americans greatly concerns him, and is one in which he has expressed frequent interest. He has consistently supported efforts to establish a Joint Committee on Aging to study the problems of older Americans and to encourage both public and private development programs to meet those problems. He has also been at the forefront of efforts to remove the amount of outside income which an individual can earn while receiving benefits under the Old Age and Survivors Disability Act.

OTTO PASSMAN has faithfully and effectively represented the interests, attitudes and beliefs of his constituents in our great State of Louisiana. He would not have been returned to Congress for 15 terms if he had not. The respect, gratitude and love which his constituents have shown him all these years can also be found among his colleagues in the House.

We are losing an experienced, dedicated, and conscientious public servant, one who has skillfully served his country over many years. I know that all his colleagues join me in wishing him well in the years ahead.

Mr. FUQUA. Mr. Speaker, the distinguished career of one of the most outstanding Members of the House will soon be drawing to a close.

When the 94th Congress adjorns this week our long-time friend and respected colleague, OTTO E. PASSMAN, will end 30 years of dedicated service to the people of Louisiana and the Nation.

A strong and forthright advocate of fiscal responsibility and limited Government, OTTO has served with watchful diligence as chairman of the Foreign Operations Subcommittee of the Appropriations Committee since 1955.

A valued legislator of exceptional ability, he has served with distinction and has been the financial guardian of the interests of the American taxpayers in foreign aid programs.

He has earned the respect of his colleagues for his fairness and, as one of his friends, I join with those who wish him well. He is going to be missed by this House which he has so faithfully served.

Mr. MONTGOMERY. Mr. Speaker, I appreciate the gentleman from Louisiana, Mr. WAGGONNER, for yielding to me and providing this opportunity to pay tribute to the 30 years of outstanding service of OTTO PASSMAN.

As a fiscal conservative, I will sorely miss the leadership of OTTO PASSMAN and his never ending efforts to reduce unnecessary Federal spending. Nowhere have his efforts been more apparent and more successful than in the area of foreign aid. For 21 years he has maintained a very tight rein on the level of U.S. economic assistance to other nations and as a result has saved the taxpayers of America untold billions of dollars. Thankfully he has been a man that has fully realized the futility of trying to achieve American goodwill abroad simply by doling out money.

Mr. Speaker, OTTO PASSMAN has been a friend, as well as a colleague. I will miss him and most of all I will miss his sage advice which has been of great benefit so many times. I wish him well in the years to come and hope he will continue to speak out for a sensible program of foreign aid.

Mr. JOHNSON of California. Mr. Speaker, I rise today to pay tribute to OTTO PASSMAN with whom I have been proud to be associated throughout the entire 18 years I have served in these Halls. The gentleman from Louisiana, Mr. PASSMAN, has provided me with an outstanding example of intelligent, knowledgeable, dedicated representation of his people.

For most of the Nation, his greatest fame came in his fight to insure that wasteful spending overseas was eliminated. No individual has been more determined in his efforts to achieve efficiency and effectiveness in our foreign aid program.

He has been chairman of the Foreign Operations Subcommittee of the Appropriations Committee for as long as I have known him and I have admired his energy, his intensity, and his economy.

However, I have worked with OTTO PASSMAN on many other problems and programs, including those relating to our agricultural resources of our Nation. I have respected his knowledge and his leadership in these areas as well. On behalf of the people of Northern California and on my own behalf, I can only say, "OTTO, we are going to miss you."

You can "hang up your hat" confident in the knowledge that your 30 years of service in the House of Representatives has benefited all of us in this great Nation of ours.

In many ways, not the least of which is in our pocketbooks, you have been an outstanding, forthright, fighter for fiscal responsibility and I want to say there is no greater responsibility for any of us to hold. You have done a fine job. Thanks for you assistance and help. Best wishes in the years ahead.

Mr. COLLINS of Texas. Mr. Speaker, OTTO E. PASSMAN has represented well the common sense viewpoint here in Congress for 30 years. The gentleman from Louisiana will be missed by the conservative members of Congress.

PASSMAN was a man who always thought of his country first. When it is so easy to be a big spender with the taxpayers' money, OTTO PASSMAN always stood on the side of limited Government spending and diligence in allocation of appropriations.

I always counted on OTTO PASSMAN to hold the line on foreign aid. Since I am convinced that you cannot buy friends, I have never understood nor favored the foreign aid program. Here in Congress where we have continued this foreign aid program for 30 years, it has been a great strength for the American people that PASSMAN stood firmly at the gate as a watchdog.

Although OTTO PASSMAN will be gone, he will be remembered for his traditions. Every time we see another deficit stacked on top of last term's deficit, we will think about the plain spoken advice of OTTO PASSMAN. Every time we see a hard vote where the forces of fiscal responsibility lose out, we will be missing OTTO PASSMAN and wishing he were back up here to continue the good fight. OTTO PASSMAN was a conservative, a Southern gentleman, and a man of strong character and convictions. He represents the best from our area of the country. He is a great man, a wonderful friend and an outstanding Congressman.

Mr. SHRIVER. Mr. Speaker, there will be a great number of words spoken in the House of Representatives, praising our distinguished colleague from Louisiana, Otto E. Passman. But no matter how many words are uttered, somehow it will not be enough. No matter how many words are spoken, the loss will never be erased.

We will lose one of the most truly knowledgeable men we have in Congress on the subject of foreign affairs. As the ranking minority member of the Foreign Operations Appropriations Subcommittee, I have worked very closely with Chairman Passman during the 11 years I have served on that subcommittee. I have valued greatly his leadership and knowledge on so intricate and often delicate a subject.

They say there is no substitute for knowledge. There will be no substitute for Otto Passman's knowledge of the appropriations procedure and foreign affairs, no substitute for his skill in shedding light on the complexity of international relationships, no substitute for his ability to place the needs of the entire world in proper priorities.

Yet, Otto Passman has been a veritable Scrooge with the taxpayers' hard-earned dollars. During his chairmanship of the Foreign Operations Subcommittee, foreign aid requests by Presidents have been trimmed by an astronomical $17 billion.

I have worked with Otto Passman a long time, and I will miss him.

Otto Passman has been an outstanding credit to the House of Representatives. He has served effectively on the Agriculture and Flood Control Appropriations Subcommittees, as well as the Foreign Operations Subcommittee. In these capacities and commensurate with his additional responsibilities as a Congressman, Mr. Passman has worked to serve humanity and fight against communism. That service will never be forgotten. Our freedoms are a little safer, a little more secure for Otto Passman's having served in the House of Representatives.

A lot of people say they are courageous, but I can point to Otto Passman and say, "There stands a man whose deeds speak courage. He does what he thinks is right." Mr. Passman has truly followed the dictates of his conscience, even when his actions conflicted with his own party's political interests. He has served loyally under Presidents of both parties, but, above all, he has been loyal to our country.

We have been privileged to know a man whose word is good, whose heart is loyal. We will miss this man.

Best wishes for a fulfilling retirement, Otto. Godspeed.

Mr. KETCHUM. Mr. Speaker, it can truly be said that Louisiana will have some very big shoes to fill in her delegation to the Congress. We have bade our farewell to the "grand-daddy" of that delegation, Eddie Hébert, and today we must follow suit in wishing Otto Passman well as he retires from this Congress. I am most pleased to have this opportunity to pay tribute to Mr. Passman's many contributions here today.

There comes a time when partisan politics and differences in philosophy become irrelevant. Men such as Otto Passman, through outstanding leadership and dedication to the sound representation of the people, bring about this abandoning of "party lines." Universally admired for his outspoken fight against excessive Government spending, Otto Passman has been a great asset to each undertaking he has accepted. Most particularly, his efforts have held fast as he assumed the Chair of the Foreign Operations Subcommittee of the Appropriations Committee. Through 21 years, his diligence and determination have made themselves known.

Otto has exemplified the very best legislative qualities: he has been flexible, but strong; objective, but not easily swayed; responsive to the people, but not at the expense of his beliefs. His enthusiasm, energy, innovation and motivation have made themselves felt throughout his State, and across the country.

I believe that Mr. Passman is a fine example of the great necessity for experienced legislators here in this House. Moreover, he has achieved a fine, and well deserved, reputation in every area of his life: community service, private enterprise, military service, concerned citizenry, and exemplary legislator.

I offer my very best personal regards to Otto Passman, and I know that I speak for all of us when I say he will be sorely missed. The years ahead will, I hope, bring only the finest to a man who has truly earned them through his many, many years of concern for others.

Mr. BIAGGI. Mr. Speaker, I take great pleasure in joining my many colleagues in this special order to pay tribute to a good friend and exemplary Member of the House, Honorable Otto E. Passman.

Otto Passman has graced the halls of the House of Representatives for the past 30 years, as Representative of the Fifth Congressional District of Louisiana. During these 3 decades, Otto has distinguished himself as both a skilled legislator and a dedicated servant of his constituents.

Otto will best be remembered for his outstanding work as chairman of the Foreign Operations Subcommittee on the Committee on Appropriations. In this capacity, Otto had direct control over the billions of dollars we provide annually for foreign aid under the Foreign Assistance Act. In his 21 years as chairman of this vital subcommittee, Otto Passman has gained the lasting respect and admiration of his colleagues for his extensive knowledge of our foreign assistance programs.

I recall with great pleasure one specific example of Otto Passman's leadership as chairman. During consideration of the 1974 Foreign Assistance Authorization bill, I had successfully authored an amendment providing $25 million in emergency relief aid to war ravaged Cyprus. When the appropriations bill was considered, there was an effort made to reduce the amount of my amendment.

Without Otto's support and strong speech outlining the urgency for the aid, the effort to reduce the funds would have been successful. This aid has proven invaluable for rebuilding the shattered Cypriot economy.

Otto Passman in addition to his extensive knowledge of the budgetary requirements of our foreign assistance programs, was also aware of the human needs which this aid should meet. Under his leadership our billions in foreign assistance have made this Nation a leader in the providing of economic aid to needy nations, especially in the area of world hunger.

Otto Passman enjoyed a great deal of respect among his colleagues in the House. I considered him a good friend who was always available to give advice in the area of foreign aid. He was also widely respected in his home district, best exemplified by the fact that they voted on 14 different occasions to return him to Congress.

This year, the House is losing some of its most prominent leaders. There will be many new faces here in January. The person who inherits Otto Passman's place will have his work cut out for him trying to follow in Otto's footsteps. Otto meanwhile can leave the House with the knowledge that he has served the Congress and the Nation with distinction during the past 30 years. I extend to Otto and his family my warmest best wishes for a happy and successful retirement.

Mr. BOLAND. Mr. Speaker, I would like to take this opportunity to join my colleagues in paying tribute to Otto E. Passman, who will be retiring at the end of this session.

I have served here in the House with Otto Passman since the 83d Congress and rarely have I seen a Member of Congress dedicate himself so completely to the duties of office. For 30 years Otto Passman has been an outspoken champion of fiscal responsibility in drafting spending programs. Taxpayers everywhere can be grateful for his efforts.

For more than 20 years, Otto Passman has distinguished himself in the role of chairman of the Appropriations Subcommittee on Foreign Operations. He has been tireless in his scrutiny of foreign spending bills. The Appropriations Committee is losing one of its hardest workers.

I would like to take this opportunity to wish Otto Passman the best of luck in all future undertakings. We will miss him here in Congress.

Mr. KAZEN. Mr. Speaker, we are saying farewell, in these closing days of the 94th Congress, to a number of distinguished Members of the House. I use the term "distinguished" advisedly, because while these men are alike in years of service to their constituents and to their Nation, each has made his own contribution to this body and to the role of the Congress in the Government of our Nation.

I share many memories of Otto Passman with other Members who have known his work on the Appropriations Committee, all of it diligent, but I believe my colleagues will agree that he has been best known to us as chairman of the Subcommittee on Foreign Operations. He has considered himself to be a guardian of our national interests, and it was in that spirit, during his chairmanship, that cuts in the requests of Presidents for foreign aid funds have approached $20 billion.

Yet when I recall Otto Passman, I think of something I read in one of his statements announcing that he would be a candidate for reelection from his beloved fifth district of Louisiana. He said his mother had taught him never to believe a half-truth, because in doing so, one might believe the wrong half. This, I suggest, was a precept of a thinking man, and one that I have tried to take unto myself.

Mr. Speaker, I shall miss Otto Passman, and I hope his years of retirement give him the happiness and gratification that he has earned by his work in this House.

Mr. JONES of Tennessee. Mr. Speaker, I want to take this opportunity to join with my colleagues in paying tribute to our dear friend and colleague, Otto Passman.

Since he came here 30 years ago. Otto Passman has developed a solid reputation among his colleagues, especially as a staunch guardian of the American taxpayer. His service as chairman of the Appropriations Subcommittee on Foreign Operations has been nothing short of outstanding. No doubt, all of us here will miss his strong sense of fiscal responsibility and his deep belief that Government should not be so large as to become unresponsive to the people. He is a great American and a great Member of this body.

I want to wish him well in the years ahead, and hope for him and his family a long life and much happiness.

Mr. WHITTEN. Mr. Speaker, it has been my pleasure to serve with my friend, Otto Passman of Louisiana, on the House Committee on Appropriations. We also serve together on the Appropriations Subcommittees on Agriculture and on Public Works.

An energetic worker, a fine Representative of his district and State, Otto Passman will be sorely missed by his constituents and by his friends here. The whole Mississippi Valley, as well as the entire country, and particularly the people of his area, are the losers when it comes to his contributions in the field of flood control and other public works projects. Too, in the field of agriculture, I can attest to his very worthwhile efforts and accomplishments in maintaining our country's many "firsts" in food and fiber production.

It is with genuine regret that we come to his retirement from Congress. His untiring dedication to his work here is unsurpassed, and I shall treasure our friendship over the years.

Otto, I share the many fine statements made here today and wish for you and yours many happy and successful years.

Mr. DERWINSKI. Mr. Speaker, I appreciate this opportunity to join in a tribute to Otto E. Passman for his 30 years of distinguished service. He is certainly worthy of our accolades.

Otto has a strong sense of dedication and his effective work as Chairman of the Foreign Operations Subcommittee of the Appropriations Committee must be especially noted.

Otto is a man of great energy who has earned the reputation as a financial guardian of the interests of the American taxpayer. In handling complex legislation in the foreign aid appropriation area, he was dedicated to seeing that our Nation's best interests are served in funding investments in foreign aid programs and in limiting Government spending.

In addition, his contribution to the Rural Development Act and the Farmers Home Administration program have helped make possible the vast productivity of our farms.

Otto Passman has played a major role in the consideration and passage of landmark legislation helpful to his constituents and to the bests interests of America.

The long and productive public service of Otto Passman will certainly be long remembered.

Mrs. Derwinski joins me in extending our best wishes to Otto for good health and a happy and enjoyment retirement.

Mr. SIKES. Mr. Speaker, I join my fellow Members in bidding farewell to the Honorable Otto E. Passman, my colleague and companion for the past 30 years. I say farewell only in the sense that he is closing out an illustrious career of outstanding service in the Congress. It would never be appropriate to say farewell to the recollections of warm and close friendship or to say farewell to the enduring monument of good legislative service which he has built.

America has always paid tribute to the men and women who rise from humble origin to make for themselves distinguished careers in business, the arts, law, medicine, or government. We call them living proof of the validity of the American Dream. Otto Passman is such a person.

Representative Passman was born on a farm in Washington Parish, La. His parents were hard-working small farmers who had little in the way of worldly comforts. They could not give their son the material advantages we all seek to provide for our children, but they instilled in him strength of character worth far more. Otto Passman learned from them the value of an education. He attended Pine Ridge Grade School, Baton Rouge High School, and, in the fact of great hardship, completed his courses at Soule Business College at Bogalusa. From his earliest years he had known the value of hard work and the reward it brings. He began as a small businessman in 1929, building commercial refrigerators and distributing restaurant supplies. His business grew into a thriving and prosperous firm, Passman Investment Co.

As a young man, Otto Passman was imbued with fierce patriotism, a pride in and love for our country. He was determined to serve America in every way he could. He showed this in his service as a U.S. Navy officer in World War II, where he attained the rank of lieutenant commander.

Congressman Passman was first elected by his fellow Louisianans in 1946 to serve them in the 80th Congress. They have returned him to Washington ever since. We both became members of the Appropriations Committee in 1949, when the Democratic Party regained control of the Congress, thus beginning 27 years of close cooperation and warm friendship. While our close association will come to an end at the close of the 94th Congress, I know our friendship will remain as strong as ever.

In 1955, Otto Passman became chairman of the Subcommittee on Foreign Operations. In the 20 years since then, he has had greater influence on the shape of the U.S. foreign aid programs than most other men. His influence stems from the fact that he is the acknowledged expert in the House on the program. No other Member has such a broad range or deep perception of this program from its sweeping concepts to its smallest details. Secretaries of State have come and gone, but none has ever mastered the intricacies of the issues to equal that of Otto Passman.

Chairman Passman has put his command of the subject to good use. Year after year, he scrutinized the foreign aid bill cutting from it useless, redundant, and obsolete programs. Budget padding and poor planning have, similarly, never escaped his critical examination and, as a result, each year he takes to the floor a lean, streamlined bill designed to accomplish the purposes for which it is intended without draining the pockets of America's taxpayers. He has saved us billions of dollars during his two decades of careful stewardship and for this he deserves to be recognized as one of the great legislators of our time. Otto Passman has, by his careful and determined pruning of the foreign aid program, saved the American people more tax dollars than any other living American. He has the all-too-rare knowledge that every dollar Uncle Sam spends is another dollar taken from the pockets of the American taxpayers. For these accomplishments every citizen of the United States owes him a debt of gratitude.

It has been both an honor and a pleasure for me to serve with Otto Passman for the past 30 years and it is a sad day for the Nation, for the House, and for me as he leaves us. I know my colleagues join with me in wishing for him and his family a happy and productive retirement. Otto Passman's work here will live on long after he leaves the halls of Congress.

Mr. PICKLE. Mr. Speaker, today we are paying tribute to some of the real giants whom we will no longer enjoy the pleasure of serving with in the 95th Congress.

Otto Passman, a native of the 5th District of Louisiana, was a member of the illustrious freshmen class of 1946, the 80th Congress. Among that group which began service right after the war were two future Presidents, John Kennedy and Richard Nixon; our Speaker, Carl Albert, and several of the real stalwarts of this Congress including Omar Burleson, Joe Evins and Bob Jones.

During his 30 years in Congress, Passman has carved out a record of service both for his district and for his Nation, that will be long envied and admired.

In his most important role as the chairman of the Appropriations Subcommittee on Foreign Operations, Otto Passman has been a careful guardian of the taxpayer's dollar. This country has historically been very generous to the less fortunate throughout the world and I hope that we will never turn our back on those in genuine need. But at the same time there have been those who would take advantage of our beneficence and I feel certain that Otto Passman has saved us millions upon millions of dollars because of his vigilance in weeding out the deserving from the unscrupulous. We will attempt to uphold your traditions in this important area.

On a more personal note, it must be admitted that Otto is one of the most colorful characters we have ever had in this body. A downright character is what he is. Now, some will say that Otto is extremely nervous as he twitches and turns and jerks his way along. It is true that he appears to be nervous. But I tell you, he is mostly concerned—just full of the fight, anticipating the arguments and ready for fray. He is a racehorse, waiting in the starting gate, and he has run many a race and won nearly every one of them. His track record is good. He has accomplished much, and he has kept his word at all times.

Best of all, Otto has been a good friend—and an able colleague. As much as anyone, we will miss him.

Mr. STEED. Mr. Speaker, the workload of the U.S. Congress is as varied as the Nation. It requires many skills, a lot of time and no little dedication for these functions to be performed properly and in the national interest.

While some of these many chores are more glamorous or rewarding to those who hold chief responsibility for them, there are some parts of the congressional work load that impose heavy demands upon the time, the energy and the political fortunes of those who perform the work.

Such a burden and responsibility has been the annual appropriations bill in which all the more than 20 programs commonly known as "foreign aid" have been lumped. And none of the duties of this particular bill are the sort that endear a member to his home constituency. Yet, through all these more than 25 years, Honorable Otto Passman of Louisiana has chaired this Appropriations Subcommittee and has probably weathered more legislative storms than any other Member.

Every Member of the House who desires has a greater knowledge of the foreign aid program, and deeper understanding of its entire concept and effect, its glories and its shortcomings because Otto Passman has been tireless in providing this information. Without any concern of helping or harming the program, he has seen to it that the true facts have been presented to the membership before action.

I have a particularly warm spot for Otto because he stepped aside many years ago as senior member of the Post Office, Treasury and General Government Subcommittee to permit me to become its chairman. The price he paid was to continue carrying the burden of foreign aid. It is to be regretted that this great service caused him political harm instead of the accolades he deserves. I wish him all the best in his retirement.

GENERAL LEAVE

Mr. WAGGONNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the life, character, and public service of the gentleman from Louisiana, the Honorable Otto Passman.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

A TRIBUTE TO HON. WILBUR D. MILLS, REPRESENTATIVE FROM ARKANSAS

The SPEAKER pro tempore (Mr. Mineta). Under a previous order of the House, the gentleman from Arkansas (Mr. Alexander) is recognized for 60 minutes.

Mr. ALEXANDER. Mr. Speaker, I have obtained this special order on behalf of the Arkansas congressional delegation to honor the retiring dean of our delegation, Congressman Wilbur D. Mills. The man we honor this morning has made his mark in American history. He is a man who has achieved what few men achieve. He has shown us the courage and strength under stress that we would like to believe we would find in ourselves.

He is a man others have found it right and true to describe as humane, a pragmatist, warm, a realist, powerful, unpretentious, efficient, energetic, humorous, smart, unbelievably accessible, interested and interesting.

Wilbur Daigh Mills has had all of these things said of him at the same time and by some of the same people who were calling him the "second most powerful man in Washington." His courage and strength has been as evident in adversity as in achievement.

When Wilbur Mills was a 10-year-old lad in Kensett, Ark., he already knew he wanted to serve his fellow Arkansans and Americans in the Congress. He knew he wanted to be a member of the Committee on Ways and Means, the oldest of the House committees, though he may not have known that piece of history in 1919.

By the time he was 34, Wilbur Mills had reached both goals.

As he moved up the paths of our Nation's history he would not only become chairman of the Committee on Ways and Means, a position he would hold for more years than any other chairman before him, but he was destined to earn for that role more prestige and respect than it had ever before commanded and to mold the committee into one of the most effective, efficient, and influential in the Congress.

Product of a small, hill town in Arkansas he never forgot his beginnings as his path through life took him to law school at Harvard, to the highest reaches of congressional influence, to the tasks of shaping trade agreements between our Nation and foreign trading partners, and to a place as adviser to Presidents.

The legislative annals of the Nation record Wilbur Mills' stamp on law after law dealing with issues which touch all human lives. The taxes we pay. The money we get back. Inflation. How we live in retirement. How the products of our labor are marketed. How our medical needs are financed. The way we pay for our highways.

As present and former members of the Ways and Means Committee recall, in assembling the laws under his powerful leadership and influence, Wilbur Mills was a catalyst for consensus, drawing from each of his colleagues the best their talent had to offer and including shares of it in the law.

Among the major tax laws which have been formulated and enacted into law under Wilbur Mills' leadership are:

First. The Revenue Act of 1962 which was the first major tax reform effort of the decade;

Second. The Revenue Act of 1964 that adopted the principle that tax policy should be employed as a means to set up an overall national economic policy;

Third. The Excise Tax Reduction Act of 1965 which repealed most of the Federal excise taxes adopted during the Korean War;

Fourth. The Revenue and Expenditure Control Act of 1968 which encompassed the principle that increases in Federal income taxes should be directly tied to decreases in unnecessary Federal expenditures;

Fifth. The Tax Reform Act of 1969 that was the most extensive legislative effort toward significant reform of the Federal income tax system since it came into being in 1913; and,

Sixth. The Revenue Act of 1971 which accelerated individual income tax relief provisions adopted in 1969, liberalized the child and dependent care expense deductions, and repealed excise taxes on passenger cars and some light duty trucks.

Data kept by the Department of Treasury shows that not only were the income tax returns of 12 million low-income persons removed from the tax rolls between 1962 and 1971 and a net cut of 25 percent in tax burdens made for individuals, but that the tax relief provided for individuals during this time was roughly eight times more than that provided for corporations.

It was during 1972 that the Congress passed the State and Local Fiscal Assistance Act, under the leadership of Wilbur Mills. This legislative milestone in relations between the Federal, State, and local governments was envisioned as a way to relieve the money-troubles of the State and local governments and to help keep them financially sound.

Two of the major tax reform laws shaped and moved to passage under Wilbur Mills leadership were of special significance to persons planning for retirement. These are:

First. The Self-Employed Individual's Retirement Tax Act of 1962, which made it possible for persons who are self-employed and other small businessmen to provide tax sheltered pension and retirement benfits for themselves and their employees on a basis comparable to that available to large corporations; and,

Second. The Employee's Retirement Income Security Act of 1974 which was the first comprehensive effort by the Congress to deal with the extremely complex problems of private pension reform.

Under the more familiar pension program, social security, changes in the law made during WILBUR MILLS chairmanship improved the level of benefits, lowered the age at which retired persons may begin receiving pensions, and broadened the coverage. The average pension under the old-age and survivors insurance program is more than twice what it was in 1958, when WILBUR MILLS became committee chairman. The number of persons receiving these pensions has more than doubled.

The investment, in terms of benefits, under the disability insurance program has expanded even more rapidly. The dollar value of the benefits went from $249 million in 1958 to $5.2 billion in 1973. The number of persons receiving the payments, and their dependents, moved from 268,000 to 3,660,000 between 1958 and 1974.

In the area of providing assistance to pay for health care services, WILBUR MILLS has helped lead the way. The Kerr-Mills Act, which became law in 1960, extended the provisions of direct payments for medical care for welfare recipients and, for the first time, set up a substantial medical services payment program for older Americans who can pay their daily living costs but not the large medical bills they may face.

Five years later, still under WILBUR MILLS leadership, the Committee on Ways and Means successfully pushed through to passage the medicare program which provides substantial assistance with financial hospital, physician, and nursing home care for persons who are 65 years old and older.

Passage of the Child Health Act of 1967 was to continue the maternal and child health program begun in 1963 and to improve the services to crippled children program.

Under WILBUR MILLS' chairmanship the Committee on Ways and Means made a number of changes in the welfare program aiding families with dependent children and older persons, the blind and the disabled. Among these were the authorization of the Work Incentive program to provide training and employment for unemployed parents; day care for children of families involved in the welfare programs; and, the supplemental security income program to provide uniform Federal administration and a minimum amount of income to eligible persons regardless of their place of residence.

Throughout his tenure as chairman of the Committee on Ways and Means, WILBUR D. MILLS exercised strong leadership in the field of international trade. During his first year he helped guide through the Congress the Trade Agreement Extension Act of 1958 authorizing the Dillon round of trade negotiations.

The Trade Expansion Act of 1962, which set the stage for the Kennedy round of trade negotiations was formulated in 1961 and 1962 under the leadership of WILBUR MILLS. In passing it, the House gave this trade act the largest majority in the history of trade agreements legislation. This law significantly aided in sustaining the huge expansion in world trade during the decade of the sixties.

During 1962, Chairman MILLS presided over the consideration of the Tariff Classification Act which revised and modernized the entire schedule of U.S. tariffs for the first time since 1930. Potentially controversial, the legislation was easily approved by the Congress, under WILBUR MILLS' leadership.

His knowledge and skill as a committee chairman and as a legislator is also clearly evident in the literally hundreds of minor tariff and trade bills benefiting U.S. producers and consumers which became law, without public rancor and controversy, during his service as chairman of the Committee on Ways and Means.

In 1971, Chairman MILLS spoke out for needed action on domestic inflation, an overvalued dollar, and the disintegration of the international economic position of the United States. Most of his recommendations were later the basis of action by the administration, including an income policy to combat inflation, renewal of investment credit to spur production and restore the competitive edge to U.S. industry, tax reductions for lower income families, and international monetary reform.

On numerous occasions WILBUR MILLS took the lead in getting other nations to recognize trade problems facing some of our basic industries, such as textiles, apparel, and steel. His leadership in calling for U.S. initiative toward new trade negotiations set the stage for passage of the Trade Act of 1974.

In addition to his work as chairman of the Ways and Means Committee, I should also point out that he was the legislative leader in the development of the highway trust fund. This fund, through which highway users contribute money for highway construction with each gallon of gasoline they buy, has provided billions of dollars for interstate, primary, secondary, and urban highway systems development which would have otherwise not been possible.

During his years of service on the Committee on Ways and Means, WILBUR MILLS also worked for 4 years as a member of the Joint Economic Committee and for two decades as a member of the Joint Committee on Internal Revenue Taxation. In odd-numbered years from 1958 to 1974, he was chairman of the JCIRT.

A great many words will be used to attempt to describe and sum up WILBUR MILLS' decades of service to the people of Arkansas and the Nation. Possibly, though, the most apt thing we can say of him is that WILBUR MILLS is an individual who made his own mark in giving lon gand dedicated service to the interests and needs of his fellow men and women.

He at the same time maintained the respect and love of the constituents of the district that he represented.

The achievements of WILBUR D. MILLS are many, and he is a talented and dedicated man. From having now served in the Congress for 4 years myself, I know from personal experience that there are at least two people on each congressional team. The other player on this team is Polly Billingsley Mills of Izard County, Ark., who has served alongside her husband with as much loyalty, as much energy, and as much dedication as any Member of Congress. There is a longstanding precedent in Arkansas that applies here. Although a candidate's name appears on the ballot, a family is elected to serve. Polly Mills has served Arkansas and the Nation with distinction.

Mr. Speaker, I now yield to the gentleman from Arkansas (Mr. HAMMERSCHMIDT).

Mr. HAMMERSCHMIDT. Mr. Speaker, I join my distinguished colleagues from Arkansas, BILL ALEXANDER and RAY THORNTON, in paying tribute to the gentleman from Arkansas, WILBUR MILLS. I consider the special order which BILL ALEXANDER obtained, in behalf of the Arkansas delegation, to be of the highest order, because it gives all of us in the House of Representatives the opportunity to honor a great legislator.

When I entered Congress in 1967, as a fledgling congressman and as the first Republican to represent Arkansas in 94 years, WILBUR MILLS took me under his wing. He and Took Gathings were senior Members both of the Arkansas delegation to the House and of this esteemed body itself. Both were generous in sharing their knowledge of the congressional process and of congressional operation with a freshman Member from their State.

WILBUR MILLS, a man of long tenure and extensive experience, graciously kept his door open to me. Whether he discussed the choice of committee assignments or the folkways of the House, he was always willing to share his keen grasp of the issues. For example, as chairman of the Ways and Means Committee, he was generous in imparting his expertise on tax, trade, and other economic issues. As a chairman who was cited by political scholars as a model of effective leadership, he was eager to describe the committee process. As a matter of fact, Mr. Speaker, WILBUR MILLS will always be "Mr. Chairman" to me and to many of his colleagues.

In referring to WILBUR MILLS as "Mr. Chairman," I point to his ability to develop a point of view, to establish consensus, and to legitimatize decisions. I point to his facility in turning disadvantage to advantage, negative to positive. Even now, having weathered adversity, he is turning a problem into a potential, by assuming leadership of the movement to end alcoholism. This is both typical and fitting of him, and deserves our admiration.

I have known Wilbur Mills not only as a colleague in the House but also as a neighbor in Arkansas. The Second District, which he represents, adjoins the Third District, which I represent. We have cooperated on many projects, in behalf of the people of Arkansas.

This dual colleague-neighbor relationship has meant the forging of personal bonds, not only between Wilbur Mills and myself, but also between our wives. When my wife and I first came to Washington, Polly Mills took my wife under her wing, and made her feel part of the Washington scene. Polly Mills was one of the leaders in the Congressional Wives' Club, her gracious friendship meant a great deal to my wife—and to me.

This relationship extends to the Mills daughters: Martha Sue and Becky Ann. My wife joins me in expressing best wishes to Polly and Wilbur Mills and to their daughters.

Since it is now 3:30 a.m. I will not continue. I know that I or many of my colleagues could literally use dozens of hours if we attempted to recount the accomplishments and contributions that this outstanding legislator and House leader has made to our country during the past 38 years. I will not repeat the account of his many legislative achievements because they have been well listed by Bill Alexander in his tribute to our distinguished dean.

Wilbur Mills has chosen to end his long period of service and write the last chapter of his legend. As he enters retirement, he begins his prologue. I hope that it will be fulfilling and satisfying in every way.

Mr. ALEXANDER. Mr. Speaker, I yield to the gentleman from Arkansas (Mr. Thornton).

Mr. THORNTON. Mr. Speaker, some very good men have served on the House Committee on Ways and Means, Andrew Jackson, William McKinley, Millard Fillmore and James K. Polk are names that everyone knows.

Few, however, have brought to the oldest panel in this Chamber the intellect and the dedication of Wilbur Mills.

Over the past 38 years, his influence as a legislative engineer has been enormous. Nearly every piece of our generation's tax, trade, social security and health legislation has reflected the skills and efforts of this man.

Laws he has steered through Congress have touched the lives of all Americans. It has been a privilege to serve with him in the House of Representatives.

His constituents in Arkansas value his many contributions to our Nation.

They applaud his achievements and his reputation as one of the most brilliant and practical economists to serve in Congress.

They recognize his remarkable recall of detail, his clear grasp of complexities and the easy-going manner with which he gets things done.

They praise his personal courage and patience.

But, even more important, is their knowledge that he has approached the needs of individual constituents with the same care and concern that he has brought to national issues.

Talent, skill, and perserverence bring recognition in public life. But true success is realized only when those virtues are applied to the problems of those in need.

Chairman Mills has shown that help for the poor, the sick, and the elderly can go hand in hand with fairness and practicality in Government.

When the 94th Congress adjourns, we will miss his leadership and his legislative genius. But we will long remember the high standard of service established by his career.

We will always remember the friendship of the gentleman from Arkansas (Mr. Mills).

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Ohio (Mr. Ashbrook).

Mr. ASHBROOK. Mr. Speaker, I would like to join with the gentleman from Arkansas. There are not many of us here, but I certainly would like to show that it is not only the members of the Arkansas delegation that will miss Wilbur Mills. It will be a shortcoming that all of us in all 50 States will certainly have in the next session.

Mr. Speaker, I am sort of known as a floor person. I spend quite a bit of time on the floor of the House. I watch what goes on and once in awhile I even participate in what goes on. Over the years I have found that there are not many things I really am impressed with. I think that may be an unfortunate statement I have to make, but I would have to say there are very few superlatives that I feel this body deserves. One of those superlatives that I think is deserving is the accolades that have been given the former chairman of the Committee on Ways and Means. I know as a young Member and as I have gradually become an older Member I would sit and watch debate, particularly in areas where it was over my head many times on trade matters, minor matters and major matters of tax and finance. I know one of the impressions I will take away from this body when I leave is the very strong impression made on me when I watched Wilbur Mills debate, the ability he had, the grasp of the issues, and I say this in the nice sense of the word, the way that he always seemed to be in command or control. Very rarely do I remember in my 16 years that anybody got the best of Wilbur Mills. It was not that he was trying to get the best of them. It was simply the ability this man had to be on top of the situation. He was always in command. He knew what he was going to do. He knew what he wanted to do and he was able to do it.

Mr. Speaker, I would add only one word in conclusion to that and I think it has been touched on by others; that is, first, last, and always being a gentleman. I think Wilbur Mills in that way epitomizes to me the old values and the old virtues that we think just ring in this body, ability, and when all is said and done in every way being a gentleman. I think from that standpoint, speaking for those from other States and other delegations, I certainly join with the very able gentleman from Arkansas in giving commendation to what I feel is one of the greatest men I have ever served with and probably one of the greatest men who ever served in Congress.

Mr. ALEXANDER. Mr. Speaker, I thank the gentleman from Ohio.

Mr. BURLISON of Missouri. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. I yield to my friend, the gentleman from Missouri (Mr. Burlison).

Mr. BURLISON of Missouri. Mr. Speaker, as I have listened to the accolades to Chairman Mills from my three colleagues from Arkansas, I made two notes of things that I felt they had not mentioned. One was the skill and the expertise with which Chairman Mills handled Ways and Means bills. The gentleman from Ohio (Mr. Ashbrook) mentioned that point, but I recall when I came here with my friend, the gentleman from Arkansas (Mr. Alexander) in 1969 that frequently I heard older Members say, "If you want a real treat, if you want a real experience, make sure that you are on the floor when Chairman Mills has his committee bill before the House."

I took that advice, I am glad to admit it, to recognize that Chairman Mills always handled the bills of his committee with the greatest expertise. He was always in command of the situation.

The other thing that I wanted to mention that has been overlooked up to now is the tremendous contribution, the tremendous work, the tremendous influence that Chairman Mills has had in the House of Representatives through his position as chairman of the Committee on Committees for the Democratic Members as a result of his position as chairman of the Committee on Ways and Means.

Mr. Speaker, I think that all of us that have seen him work and have seen the time and the effort and again the expertise that he applied in that phase of his work think it is most commendable.

I want to join my colleagues in saying goodby, certainly, to one of the truly great Members of the House of Representatives who have served in this body in the past 185 years or so.

Mr. O'NEILL. Mr. Speaker, it is with extremely mixed emotions that I rise on this occasion to pay tribute and honor to one of the greatest and most powerful legislators that has ever graced this Chamber, the dean of the Arkansas delegation and my personal friend, Wilbur D. Mills.

I say with mixed emotions because, first I am privileged and delighted to stand here today to honor this fine gentleman who has given 38 years of dedicated and outstanding leadership to the people of Arkansas and the Nation.

But I am also saddened because I will no longer have the kindly guidance and counsel of this great friend: For Wilbur was one of the Members to whom I frequently turned for direction and advice since I first came to the House 24 years ago. I can truthfully say I have never been disappointed with the advice I received from Wilbur. Here was a man who knew and understood the operations of the Congress, who knew and understood the legislative process, who knew and understood what motivated men and women, who knew and understood political power and how to use it wisely, firmly, and effectively. He was always accessible, always willing to share his vast knowledge with new Members, always ready and able to help solve the problems of their constituents, and help them master the complexities of the legislative process.

Perhaps Wilbur Mills understood the complexities of the legislative process better than anyone else who ever chaired the most powerful committee in the Congress, the Ways and Means Committee. Wilbur has the great distinction of serving longer consecutively, from 1958 until 1974, than any other chairman of that committee. Wilbur Mills was one of the hardest working chairmen and always did his homework thoroughly. No one was ever better prepared than Wilbur when he brought a bill to the floor. I can remember when he first became chairman, he lost a measure on the floor which taught him a great lesson. It taught him the necessity of counting votes. And from then on, he developed a phenomenal floor record because he did his homework and he knew how to count votes better than anyone else. Wilbur could read the House better than any other Member or chairman of a committee. He developed a great sense of timing, the crucial ingredient to any successful political venture. He never brought a bill to the floor unless he knew he had the votes. And I remember that day long ago when we were working on a tax matter and he said to me:

> Tip, always make sure you have about 15 votes in your pocket in case it gets a little tighter than you figured. But don't tell anyone about those fifteen votes extra, or else people will stop working. And then always act scared, even when you know you've got it won. Because once people become too confident they stop working, and then you have defeated your purpose.

Wilbur Mills was a legend in his own time. Revered, feared, and respected by his colleagues, he ruled the Ways and Means Committee with a firm hand, yet he was a fair and sensitive chairman. He had a toughness of spirit about him, unswerving in perseverance of his goals. He could be a tough and mean negotiator and hard bargainer as spokesman for the interests of the House in conference committees, before Presidents or with foreign dignitaries.

Wilbur Mills was a powerful chairman of the Ways and Means Committee. Presidents would seek his advice, prime ministers would often ask for his support. Wilbur Mills' committee touched every aspect of American life—tax, trade, health, social security, and well-being of this Nation. Wilbur has left a legacy of landmark legislation. He is the prime author of the Revenue Act of 1962, 1964, the Excise Reduction Act of 1965. The Tax Reform Act of 1969, 1971, the Social Security Amendments of 1958, 1960, 1965, 1967, and 1972. Wilbur is the sponsor of new programs which we take so much for granted today, medicare and medicaid, the Trade Expansion Act of 1962, and Trade Reform Act of 1974. These are only a sampling of Wilbur's legislative milestones and accomplishments. Perhaps, Wilbur Mills is best known for his vast knowledge of tax law. Wilbur is unquestionably the greatest tax lawyer and legislator in this country and his familiarity with the internal tax code is unsurpassed by any other living American. For who, except Wilbur can quote verbatim, section by section, paragraph by paragraph, the internal revenue code and discuss its legislative history?

Wilbur Mills was a powerful Member of this House. He brought stature to the position of Congressman and honor to this body. Wilbur Mills' voice and vote played a key role in virtually every major decision affecting special and public interests for the last two decades. Not only his expertise as a legislative draftsman and negotiator, but the depth and breadth of his abilities is what earned him the respect and admiration of his colleagues. When Wilbur Mills rose to take the well, you could hear a pin drop on the floor of the House. All chattering stopped, for everyone in this Chamber and in the galleries knew that what Wilbur Mills had to say, and he was a great orator, would affect them directly.

In Wilbur's retirement, this Nation is losing one of its greatest public servants. His departure leaves a void in this House and a void in the public service of this Nation.

We will miss his knowledge, input, and dedication.

Mr. McFALL. Mr. Speaker, one of the towering figures in the history of the House of Representatives is retiring at the end of this 94th Congress, Chairman Wilbur Mills, of Arkansas.

It is astonishing to realize that his service in the House, beginning in 1939, covered all or part of five decades.

He served on the Ways and Means Committee for 34 years, 16 as chairman, establishing the longest tenure of continuous service as chairman in the committee's history. And during that period, he was the leading figure in shaping landmark legislation that has affected the lives of every American—tax reform, social security improvements, medicare and medicaid, trade reform, revenue sharing, unemployment insurance, and much more.

Wilbur Mills served during the administrations of our last seven Presidents, from Franklin Roosevelt to Gerald Ford. All of them sought his advice and his assistance. All of them found him candid, devoted to the national welfare and perhaps the most knowledgeable man in America on U.S. tax legislation and other matters within the purview of Ways and Means.

Yet powerful and influential though he was, Congressman Mills was always accessible. I could and did consult with him as a freshman Congressman in 1957 and as a new Appropriations Committee member 6 years later. Though he worked painstakingly on committee legislation, he always had time for a constituent from Arkansas, no matter how large or small his problem.

His accomplishments as Ways and Means chairman have left an indelible mark on the Nation.

When President Kennedy issued his call in the 1960's to "get this country moving again," Wilbur Mills responded with the Revenue Act of 1964, substantially reducing individual income tax rates.

We learn from history. In part because of the success of that tax cut in revitalizing the economy, this 94th Congress enacted an even larger cut to again combat recession.

He was the legislative leader in passage of the Tax Reform Act of 1969, at that time the most extensive reform since the adoption of the Federal income tax system in 1913; in developing the highway trust fund from which the Interstate Highway System has been financed; in the Revenue and Expenditure Control Act of 1968, an attempt to relate Federal revenue and expenditure policies, which culminated in 1974 with passage of the Congressional Budget Act; in the Trade Agreement Act of 1958, and other landmark bills of fundamental importance to the Nation almost too numerous to recount.

The important thing to Wilbur Mills is that millions of Americans are better off because of his dedicated service.

His tax legislation reduced liabilities from 1962 to 1971 by $40.4 billion. Total expenditures for old-age and survivors insurance increased from $8.3 billion in 1958 to $42.1 billion in 1973; disability insurance benefits from $249 million to $5.1 billion; millions of Americans were brought under the coverage of medicare and medicaid.

Wilbur Mills in his long and distinguished career has had more than his share of triumphs and a full measure of tragedies, too.

I am proud to have been his colleague and to be his friend. Millions of Americans, whose lives have been enriched by his many contributions to the national welfare, will wish him peace and serenity in his well-deserved retirement.

Mr. MAHON. Mr. Speaker, it is a pleasure to rise in tribute to Wilbur Mills and to take note of the contribution he has made to the House and the Nation.

For a decade and a half—from 1958 to 1974—Wilbur served as chairman of the Committee on Ways and Means, presiding in a very singular way over the tax and health destiny of the Nation.

He has done a great job in the House and we shall miss him next year. We all wish him and his wife Polly a great abundance of happiness as they return to their home in Arkansas.

Mr. BURLESON of Texas. Mr. Speaker, I take this opportunity to extend my congratulations and warm good wishes to my friend and colleague, the Honorable Wilbur Mills from Arkansas, as he prepares to retire from Congress.

I have had the added privilege of serving with Wilbur Mills on the Ways and Means Committee for a number of years and, thus, have had the opportunity to observe his quiet and effective leadership, both in committee and on the floor of the House of Representatives. His concern for the people of Arkansas and, of course, the entire Nation, has been and will continue to be an inspiration to those of us who have had the privilege of his association.

I certainly wish him the very best in his coming retirement and I feel sure that he will continue to contribute his dedicated services to our Nation from his home base in Arkansas.

Mr. KARTH. Mr. Speaker, no task in the House of Representatives is more difficult and no task is more thankless than the chairmanship of the Ways and Means Committee.

But difficult and thankless though it may be, the chairmanship of the Ways and Means Committee is one of the heaviest and most important responsibilities we ask a Member of this House to assume.

Our colleague, Wilbur Mills, for the many years of his tenure as chairman, has borne that great responsibility with skill, profound knowledge and courage. We who have worked with him in the committee and on the floor of the House know of his deep devotion to this body, its work, and traditions.

For many of us Wilbur has been a most knowledgeable teacher and guide on complex issues of revenue and expenditures. We are in his debt as is the Nation, and his major legislative contributions will endure and serve as a model for Members who will follow us to this Chamber.

Mrs. SULLIVAN. Mr. Speaker, I am happy to join the Members of the Arkansas delegation in this tribute to their dean, the Honorable Wilbur D. Mills, He has been one of the towering intellects of the House of Representatives and the author of some of the best legislation the Congress has ever passed.

Every person in this country over the age of 65, and everyone who will eventually become eligible for medicare, owes Wilbur Mills a deep debt of gratitude for the leadership he provided as chairman of the Committee on Ways and Means in bringing about the enactment of that program. Almost all other advances in social security benefits over the past generation have been Wilbur Mills accomplishments.

None of us who watched him manage a tax bill or other complex measures in the House will ever forget, or cease to wonder about, his remarkable mastery of the subject—an encyclopedic knowledge coupled with a rare ability to explain the issues in understandable terms.

As a Member whose State adjoins Arkansas, I have always found Wilbur Mills willing, and never too busy no matter what major legislation he was working on, to join in efforts to advance our area of the country. As his 19 elections to the House have demonstrated, his constituents have known for 38 years that they have had outstanding representation in the U.S. Congress. And we who have been privileged to serve with Wilbur Mills can certainly attest to that fact.

Mr. FLOOD. Mr. Speaker, the chronicles of the Congress will record one day that I was privileged to serve for many years in this great House. If it were my fortune to guide the pen of the authors who will make note of my service, it would be an honor to record that among other accomplishments, I was privileged to serve in the same House as the Honorable Wilbur Mills of Arkansas.

Few men in this Congress can truly be called a legend in their own time. But if such a characterization is true, Mr. Speaker, then it is true of Wilbur Mills. The force of his hand, the might of his wisdom, the brilliance of his judgment, the genius of his legislative statesmanship, when will we ever see the like again?

Time does not permit me to recount the magnificent legislative accomplishments of this great man who for so many years guided the Committee on Ways and Means through some of the greatest social and tax legislation that has ever been enacted. Nor does time permit me to recount the effect that his leadership will have on the small wage earner in the United States, or those who have benefited from medicare or medicaid.

I dare say, Mr. Speaker, that there is no American who has not in some way felt the impact of the genius of the statecraft of Wilbur Mills, and millions of Americans everywhere have profited by his good works and deeds.

My wife Catherine joins me in expressing our best wishes for health and happiness to Wilbur and his wife Polly, as they return to a well deserved relaxed pace in private life.

Mr. EVINS of Tennessee. Mr. Speaker, I wish to join with my colleagues in paying a brief but sincere tribute to my good friend, the Honorable Wilbur Mills of Arkansas, who will be retiring from the Congress at the end of this session.

I have known Wilbur since first coming to the House 30 years ago. During all this time he has been a great source of help and counsel. I am proud to claim Wilbur Mills as my friend.

Congressman Mills' career has been among the most illustrious in the history of the House of Representatives. Few Members have achieved a higher place in the esteem of their colleagues or played a more critical role in the passage of important legislation.

As chairman of the great Committee on Ways and Means, Wilbur Mills was once described as the most powerful Member of the House and one of the most powerful men in Washington.

He earned that reputation through hard work and devotion to this great institution.

He has made his mark in the Congress and in the legislative history of the Congress.

Neil MacNeill in his book "Forge of Democracy," pays tribute repeatedly to Congressman Mills' parliamentary and persuasive skills. One of the most interesting passages is the following:

> In 1962 when Wilbur Mills of Arkansas presented a tax bill to the House of Representatives, [he] had been chairman of the Committee on Ways and Means for four years and a member of the committee for sixteen years. . . . His colleagues knew him to be both a master of tax law and a sure-footed judge of the political temper of the country. Mills asked the House to pass a bill that increased taxes in nineteen of its twenty-one sections and stiffened tax collections in still another section. . . . Mills stood in the well of the House and explained the bill and the need for it in detail to his colleagues. Then he answered a series of hostile questions from the opponents of the measure. Throughout the explanation and the onslaught against the bill, Mills did not so much as consult a note; it was a performance of remarkable deftness and mastery of the complex bill. "No other member of Congress," said one House colleague, "would have dared to do that." Noah Mason of Illinois, one of the leading opponents of the bill, felt compelled to take the floor when Mills was through and compliment Mills as the "most capable" chairman of Ways and Means that he had ever known in his twenty-five years in the House. Mills' performance, his colleagues agreed, played a major role in persuading the House to pass the bill.

Mr. Speaker, Wilbur Mills as a legislator has set a standard of skill and excellance that few will be able to match in service in the Congress. He has been a great legislator, a great committee chairman and a great Congressman. He has served his district, his State of Arkansas, and the Nation well.

I know that we all will miss Wilbur Mills and that we wish him good health and much happiness in his future endeavors and in his retirement from the Congress.

Mr. ARCHER. Mr. Speaker, it is a great personal honor for me to have an opportunity to join in this special tribute to our distinguished colleague, Wilbur Mills.

With his retirement, the House of Representatives is losing one of the most effective and dedicated leaders in its history. But while he is leaving the Congress in which he served so admirably for so many years, the effects of his personal dedication and leadership will be felt for years throughout our society.

Perhaps no other individual will ever match the influence he has had on major legislation. His understanding of the complexities of the tax code, and his efforts to bring about reform through simplification of the code, will probably never be surpassed by any other individual. It was his mastery of his subject, and his sense of fairness in debate, that contributed so much to the respect and admiration with which he was viewed by those who served on the Committee on Ways and Means under his chairmanship.

It is fitting indeed that we gather here today to honor Wilbur Mills. Few men have ever served this House so well for so long.

Mr. JONES of North Carolina. Mr. Speaker, few, if any men ever rose to a position of power in the U.S. Congress as did my friend, Wilbur Mills. As chairman of the powerful Ways and Means Committee, he exercised leadership and direction equalled by few former chairmen. He guided this committee well.

He served as chairman of this powerful committee under four Presidents, and it is an accepted fact that these Executives sought his advice from time to time. I am sure he could be the author of a most interesting book, the title of which would be, "Presidents I Have Known." I have been the beneficiary of his relating of his many and varied experiences with the different Presidents, all of which were enjoyable.

An occasion occurred in 1974 which caused me to get to know Wilbur Mills extremely well and it was then that I truly learned of his warmth and his concern for this great Nation. I think it should be noted that this concern for his fellowman has been exhibited in a most positive way since 1974. And I would be remiss if I did not mention his charming wife, Polly.

So, in conclusion, I want to pay tribute to a truly great American, surely one of the great leaders of this generation, and wish for him and his family many years of health and happiness in their retirement from this Congress.

Mr. REUSS. Mr. Speaker, today we honor a veteran of this Chamber who has spent a good part of his life molding the fiscal policies of this Nation.

It is a long way from Kensett, Ark., to the Halls of Congress, but Wilbur Mills covered the distance with ease. Sent to Washington by the Second District of his State, he has served that district and all Americans for the last 38 years.

His brilliant memory, sense of timing, and affinity for financial details brought him to the chairmanship of the House Ways and Means Committee where he served the longest unbroken tenure of any to hold that position.

Born to politics and the master of compromise, we bid farewell to a friend and colleague, and to a man who has influenced the course of his country.

Mr. MONTGOMERY. Mr. Speaker, I would like to commend the gentlemen from Arkansas for reserving this time today in order that we might pay tribute to the long and distinguished career of Wilbur D. Mills. I consider it a privilege to have been able to serve with Wilbur for 10 of the 38 years he was a Member of this body.

There is probably no other man or woman who has the grasp and knowledge of the U.S. tax code as does Wilbur Mills. Tax legislation is by far always the most complicated to reach the House floor, but the former chairman of the Ways and Means Committee always had the ability to explain each minute detail in a manner that it was easily understood by his colleagues. His expertise will probably never be matched.

Mr. Speaker, the elderly in America also owe Wilbur Mills a great debt of gratitude for his strong support of social security and health-related legislation. He has been the prime architect of many of the progressive bills in this area enacted by Congress.

On a more personal note, I will deeply miss the the very wise counsel Wilbur has afforded me over the years. I often looked to him for leadership and he never let me down. My very best wishes to Wilbur and his lovely wife, Polly, in the years ahead for a fruitful retirement.

Mr. WAGGONNER. Mr. Speaker, perhaps more than any other single individual in this Congress, Wilbur D. Mills has shaped, molded, and guided more far-reaching legislation in the areas of taxes, health, social security, and trade.

His renown as the leading congressional tax expert is hard-earned and well-deserved. But those of us who know and respect him as a friend, admire Wilbur for more than just his great legislative experience and knowledge. His strength of character, his courage in the face of all challenges, his steadfast loyalty and strong personal integrity and compassion make Wilbur Mills an exceptional human being and the great American he is.

For 37 years, Wilbur has toiled in these Chambers for the people of Arkansas. As a tribute to his devotion to duty, his people reelected him to represent them in 19 consecutive Congresses. He has earned not only their respect, but their love and trust as well.

This is more of a tribute than any of us can pay to him here today.

During my 15 years in Congress, I have worked about as close with Wilbur Mills as I have with any man here. He has been a good friend and a source of inspiration. I have watched him in action in committee and on the floor. He tackled each new job vigorously and made the hard decisions that had to be made. At times the positions Wilbur has taken were unpopular. But he has remained true to his conscience and principles, and let the chips fall where they may.

Together we have fought many legislative battles, and I have always been proud to have been on the side of Wilbur Mills. He is a gallant legislative warrior who always places personal honor above merely winning. In my book, this is the mark of a wise and thoughtful statesman.

Wilbur Mills is a southern gentleman in the finest and truest sense. His area of Arkansas and my area of Louisiana are similar geographically and in the ways our people look at issues. I can say without any hesitation that he represents the best of that great region of the country. Too, I can readily understand desire to return to the beautiful rolling hills of central Arkansas.

As Wilbur leaves the Halls of Congress at the close of a brilliant and illustrious career, I want him to know that this is one Member who will long remember and cherish the warm friendship and close association we have had over the years. This House and this Nation owe Wilbur Mills more than can ever be repaid.

Wilbur, you will certainly be missed—but definitely not forgotten. May God continue to bless you.

Mr. BENNETT. Mr. Speaker, our colleague Wilbur Mills will not be returning to Congress in January; but he will be leaving behind him a monument of important and valuable legislation, for the benefit of all Americans.

He helped to shape, through his strong leadership capacity, social security and health legislation, tax and foreign trade legislation and legislation in a variety of other major fields. His contributions have been really outstanding.

At a time like this, on the departure of a colleague, what mostly comes to mind to a Congressman is the warm friendship and kindness and consideration shown by a Member as demonstrated through the years of his service. I feel that it has been a very rich and rewarding experience for me to have known this fine man through these many years of close association here on Capitol Hill. I have been made a better man because of this experience with him, and I am deeply grateful for his friendship and wish for him and his beloved wife every happiness in his retirement.

Mr. ADDABBO. Mr. Speaker, I rise to join my colleagues in honoring a legislative giant whose record of public service and achievement will stand forever as a record to be admired and respected by future generations of U.S. Representatives. I join in praising the Honorable Wilbur D. Mills for his 38 years of service to his Nation, his home State of Arkansas, and to his colleagues.

Few men have been able to understand and maintain their knowledge of the complex subjects of social security, taxes, foreign trade, health care, and welfare legislation the way Wilbur Mills has done. As chairman of the House Committee on Ways and Means, he was a strong leader with a sound basis for guiding this body on important and complex subject matters which came under the broad jurisdiction of that committee.

So many landmark bills bear his name and were enacted because of his leadership that time does not permit us to recite them all. We will miss his expertise in the next Congress and in future sessions.

At this time I want to wish our distinguished colleague personal happiness and success in the future as he leaves our body.

Mr. CORMAN. Mr. Speaker, I join my colleagues in paying tribute to Wilbur D. Mills, former chairman of the Ways and Means Committee. When I joined the committee in 1968, I began my education in the complicated area of tax law. I found the chairman to be both a master legislator and an authority on tax policy. It was under his tutelage that I acquired 90 percent of the knowledge of taxes that I possess today.

Accompanying his brilliance and profound understanding of the law was a patience and a willingness to let each member of the committee be heard. He never let his superior knowledge shut out the voices of those less knowledgeable. Action taken by the committee under his leadership always represented a consensus of the members. Each issue received a full and unbiased airing before a decision was reached. His particular genius was in getting the diverse views of all the committee members to converge on a decision.

Once the committee had expressed its will, Chairman Mills would employ his full authority in implementing it. Legislation arriving on the floor always carried a special weight when Wilbur Mills was its advocate. His thorough understanding of the legislative process combined with his substantial knowledge almost assured House passage of any bill he brought to the floor. He made the process of getting legislation approved look easy.

What was not evident to observers was the painstaking effort on his part that preceded the committee's final action. It was Wilbur Mills who was the guiding spirit in obtaining a committee consensus. After that, the rest was easy.

Mr. DE LA GARZA. Mr. Speaker, the tremendous contribution Wilbur Mills has made to our Nation is a matter of official record, written in legislation that has affected all Americans. During his 38 years of service in this House, the gentleman from Arkansas has left his mark on vitally important tax, foreign trade, health, and social security laws. As he goes into retirement with the end of the 94th Congress, he can take with him the knowledge that the good he has accomplished will long endure.

Wilbur Mills was already a fixture in the House when I came to Washington as a Member of this body in 1965. Like many of my colleagues, I learned much about the legislative process from him. His skill as a productive legislator has rarely been matched.

As a human being, he has proved himself a man of strength, a man worthy of the respect of his colleagues. Wilbur Mills will be missed here. My best wishes are with him as he concludes his service with us.

Mr. CONABLE. Mr. Speaker, Wilbur Mills has been one of those towers of strength on which the Nation has leaned for many years. His patience and skill are impressed in countless ways on the Nation's laws, particularly on those dealing with the central issue of taxation. This mark will not be erased by the changes of many years, given the stability of the legislative system in which he has performed so major a role.

Mr. Speaker, quite apart from the importance of this man to the institution of which we are a part, I view him with the affection and understanding of an old friend. I have admired him in countless ways, and I salute him with gratitude as he completes monumental service to us all.

Mr. ANNUNZIO. Mr. Speaker, I rise in tribute to Honorable Wilbur D. Mills, who is retiring at the end of the 94th Congress after some 38 years of service to his constituents in the 2d district of Arkansas, and to the people of this Nation in his capacity as the chairman of the House Ways and Means Committee.

Having served for 12 years in the House of Representatives with Wilbur Mills, I can say that he will be sorely missed as the business of this Chamber goes forward.

It is rare indeed, when in one man a deep and sympathetic understanding of the influence of the past upon the present is combined with the compassionate insight to understand the needs of the future. Wilbur Mills provided us with that link and supplied us with the leadership which made that link so vital, alive, and meaningful in the day-to-day business of the House of Representatives.

During his four decades of service, Congressman Mills has compiled a splendid and admirable record in the course of his distinguished career in the shaping of important tax, foreign trade, health and social security legislation. During those years, he has witnessed some of the greatest moments in the history of mankind and he has experienced the triumphs and the tragedies of our Nation.

Wilbur Mills can retire with the assurance that through his efforts the people of America have benefited, and I extend to him my best wishes for a healthy and happy retirement.

Mr. LaFALCE. Mr. Speaker, it is with great pleasure that I today honor my colleague Wilbur Mills upon his retirement. I feel most grateful to have had the opportunity to come to know him and benefit from his 38 years of experience as a Member of the House of Representatives.

I know him as a kind, thoughtful, and compassionate man who was very willing to take his time to guide me, as a freshman Member, in unraveling the intricacies of the legislative process.

In his years of service he has gained a thorough understanding of the delicate workings of our Government. With his knowledge of the tax laws, which is unparalleled in either the past or present, he has been influential in the drafting of perhaps more of the laws of the United States than any man, particularly in the areas of taxation, foreign trade, health, and social security.

Wilbur Mills is an exceptional human being, whose sensitivity, dedication, and wisdom will be remembered and valued by all of us who have been privileged to know and work with him, and by our fellow Americans who have profited from his skills as a legislator. I thank him again for the personal legislative guidance which he has given me and wish him well in his retirement. It is richly deserved.

Mr. KOCH. Mr. Speaker, when I came to the Congress, the Member of Congress whom I admired most and had heard the most about in terms of ability was Chairman Wilbur Mills of the Ways and Means Committee. And very quickly, it was clear that his reputation as the single most effective Member of Congress was well deserved. On each occasion that he stood to speak either in the well of the House or at the majority table, a hush would fall over the Chamber without the need of the Speaker to use his gavel. Wilbur Mills took the most complicated tax legislation and made it understandable to everyone listening. I came here respecting him and as a result of the courtesies that he extended to me and the many conversations that I held with him over the years, I came not only to respect him but also to have an enormous personal affection for him.

When he suffered personal trauma which shook both him and the country, along with every Member of Congress, I worried with and about him and prayed for his recovery. And in his magnificent way, he not only recovered but became a symbol of recovery for those who have similarly suffered from what is recognized as an illness—alcoholism—that one can overcome. And he has overcome.

I truly regret that Wilbur Mills has decided not to run again for reelection and to retire. He will be missed by all of us. The mark that he made during his career in the Congress reflects the strength of our great country and its 50 States. The State of Arkansas gave us Wilbur Mills, and the country today is better for that. Each State in the Union produces men and women of stature; and in the future each person will be weighed against the contributions to this country of Wilbur Mills. Unfortunately too few will meet that standard of excellence, but they will all be tested against it.

I wish the best to him and his wife in the years of retirement to come. They have earned a well-deserved rest from the service of their country.

Mr. KETCHUM. Mr. Speaker, this week will see us paying tribute to many Members, all fine legislators, as they prepare to retire from this Congress, passing along the responsibility of serving our citizens to incoming Members. While I shall, indeed, miss all of them, this tribute we are paying to Wilbur Mills is one in which I am particularly honored to be participating. It is also perhaps the most difficult—I have often said that our language is extremely limiting when it comes to selecting appropriate words for occasions such as this. It is seldom that an individual of Wilbur Mills' caliber comes to this Congress, and it is surely to the detriment of every American that he is leaving us. He takes with him a wealth of information, the important experience gained through 38 years of service, and leaves this House without the guidance of one of its most dedicated and capable legislators. I doubt the American people will ever fully comprehend the contributions of Mr. Mills to their lifestyle; his efforts and remarkable abilities have shaped legislation ranging from taxes to foreign trade, health issues to social security. He is one who has surely given far beyond what he has received, and he has done so without question.

As a relatively new member of the House Ways and Means Committee, I was not privileged to serve on that committee during Mr. Mills' distinguished tenure as chairman. However, I am sure I do not have to tell the Members of this House that his remarkable knowledge of our tax code has become legend. Throughout my years in public office, I have maintained that the best way to become acquainted with an issue is to talk to the master—in this case, that individual was Wilbur Mills. I never cease to be amazed at his incredible recall of tax statutes. He is able, I am convinced, to answer any question posed to him concerning our tax structure, quoting line for line and indicating. This is only one example, but surely it demonstrates the dedication and diligence with which Wilbur Mills has fulfilled his responsibility in elected office, serving the people of his district, his State, and his Nation in the best possible way.

I know I do not need to reiterate to this body the many other accomplishments of Wilbur Mills. He has achieved the highest standards of excellence in leadership; he has gained the respect and admiration of all who have been privileged to know and work with him, and, perhaps above and beyond all else, he has never become "too big" to remember those whom he serves. Mr. Mills' accessibility and responsive availability to those who wish to seek his counsel are well known.

Mr. Mills' upcoming years of retirement are well earned. He will, I am sure, continue to demonstrate his outstanding abilities in private life. It has been my privilege and pleasure to know him, and, with profound regret at his departure, I extend to him my very warmest regards.

Mr. DAVIS. Mr. Speaker, it is a privilege to be able to take part in the tributes to our esteemed colleague, Wilbur D. Mills. In a career spanning almost 40 years, he has played an unparalleled part in shaping this Nation.

His legislative contributions in the fields of social security, health, and tax laws are almost beyond number. How fortunate this Nation has been, to have had the services of Wilbur Mills for all these years. His retirement represents a great loss, one that cannot easily be filled.

Moreover, it represents to me a great personal loss. For whenever I have needed Wilbur Mills' help or counsel, it has been forthcoming, even to the extent of coming to my district to campaign in my behalf.

Mr. Speaker, I know that our beloved colleague looks forward to a hard-earned and happy retirement. Certainly, I wish for him the best of everything. My only worry is for those of us who remain in Washington, for we shall all be diminished by his absence.

Mr. FORD of Michigan. Mr. Speaker, I am pleased to join today in paying tribute to our colleague and friend, Wilbur D. Mills, whose long career in the House will come to a close with the 94th Congress.

Wilbur Mills has surely set a unique record during his 38 years in this House, as Representative of the Second District of Arkansas. During his many years as chairman of the Ways and Means Committee, he spearheaded the enactment of legislation which has truly shaped the future of our great Nation.

In tax laws, social security, health legislation and many other fields, the imprint of Wilbur Mills is indelibly marked for years to come. Future generations will enjoy better lives because of Wilbur Mills and the dedicated service he has given to our Nation.

I wish him good luck and Godspeed as he says farewell to this House, in which he has labored so well for so long.

Mr. BOLAND. Mr. Speaker, I would like to take this opportunity to join with my colleagues and pay tribute to Wilbur Mills under this Special Order.

The Congress is losing one of its greatest Members with the retirement of Wilbur Mills. In his more than 15 years as chairman of the House Ways and Means Committee, he distinguished himself as the national expert on tax law. His ability to grasp complex tax matters is legendary. The Congress is losing one of its finest minds.

The people of Arkansas are also losing one of their finest Representatives. Wilbur Mills has served them, and all the people of this country, in a dedicated manner for 38 years. He will be greatly missed.

Mr. Speaker, I would like to extend my best wishes to Wilbur Mills and wish him the very best of luck in all future endeavors.

Mr. KEMP. Mr. Speaker, in his 38 yeas of service to the American people, Wilbur Mills has many fine accomplishments. One of his greatest, in my view, was his leadership on the Kennedy tax cuts which reduced the barriers to investment and employment and got the American economy moving in the early 1960's. Many people then, as now, could not understand that removing tax barriers to economic activity would allow the productivity of the American economy to rise, and with the great expansion of economic activity would come higher tax revenues to the Government in spite of the reductions in the tax rates.

As chairman of Ways and Means Wilbur Mills had a remarkable grasp of the impact of tax measures on the productivity and rate of growth of the economy. As the Wall Street Journal put it in their September 23 issue:

> In 1962, President Kennedy wanted to fulfill his campaign pledge to get the country moving again. Representative Wilbur Mills, then chairman of the House Ways and Means Committee, recalls that he, Treasury Secretary Douglas Dillon and the President were aware of what Mellon had done in the 1920's. The idea of stimulating the economy through deficit spending was rejected and a tax-cutting program ordered up. By way of introducing the Kennedy tax program, which sharply reduced personal and business tax rates, Mr. Mills explicitly argued that the lower rates would mean higher revenues.

Wilbur Mills had to battle the Treasury which then, as now, would not admit that a lowering of rates would expand the tax base and produce revenue gains. However, Wilbur Mills' leadership prevailed, and the Nation benefited greatly and for the record, tax revenues increased substantially.

Today when the American economy is again stifled by high tax rates, it is time to again cut the tax rates and get America on the move again.

Wilbur Mills taught the Congress that tax measures impact on the economy just as monetary and fiscal policies do. No greater honor could be paid to Wilbur Mills than the great benefits that would flow to the American people if the Congress today would reaffirm the principle he laid down in 1962 and 1964 and reduce the tax rates on work and investment.

I salute Wilbur Mills on his distinguished record of service and wish him and his wife all the best.

Mr. ROUSSELOT. Mr. Speaker, let me first express my gratitude to my colleagues Ray Thornton, John Paul Hammerschmidt and Bill Alexander—all distinguished Members of the Arkansas delegation for this special order. You have made sure that we take appropriate time here today to express appreciation to Wilbur Mills for his 38 years of service in the House of Representatives.

More important, we feel a special degree of expressed gratitude for the work that Wilbur Mills achieved as a superior legislator, especially during the time that he served as chairman of the important Ways and Means Committee. There have been few Members of Congress who have achieved the high levels of legislative skill that Wilbur Mills exercised not only as chairman of the Ways and Means Committee but as manager of many major pieces of legislation that came to the floor of the House of Representatives.

Former Chairman Mills always conducted both the Committee on Ways and Means meetings and the floor debates with a sense of fairness for those who opposed and/or supported legislation which he brought before either the Committee or the House. We have already learned by the past 2 years' experience how much he meant to the House in legislation capability and skill and are now indeed regretful that he has voluntarily decided to leave our halls after such long and faithful service not only to the Nation but also his constituents in the State of Arkansas. Wilbur, we will miss you and hope that your good advice and counsel is not permanently lost because you have deserved your quiet retirement years and could easily decide not to assist us in such ways that you might in the future. Our very best wishes and regards to both you and your fine wife.

Mr. ICHORD. Mr. Speaker, it gives me great pleasure to have this opportunity to join in tribute to the long and distinguished career of our friend and colleague, Congressman Wilbur Mills, who retires at the end of the 94th Congress after 38 years of leadership and service to his much beloved State of Arkansas and his Nation.

Wilbur Mills' career spanned a long and at times troubled era of American history. He was first elected on the eve of war in Europe and served throughout World War II, the years of war recovery, the Korean conflict, the turbulence of the 1960's, the close of the Vietnam war and witnessed the immense changes which have been wrought in this Nation and our Federal Government during all these intervening decades. Throughout these years, Wilbur Mills brought to Congress his unique talent of producing consensus where there were only differences and compromises where there was only conflict. During his years as a Member of this House, Wilbur Mills has stood out as one of the great legislative geniuses of this body, guiding the House Ways and Means Committee during 16 years of chairmanship to significant tax reforms which have brought greater equity and justice to millions of Americans. Earlier this month, Wilbur Mills made the following statement on the floor in reference to the Tax Reform Act of 1976:

> I had wanted, during the period of my Chairmanship, to overhaul the estate and gift tax, but for one reason or another, this is a task I was not able to achieve . . . I would like to see this one additional tax reform adopted while I am still a Member of Congress. If we are to have a fair tax system, this reform must come sooner or later. It will be an important affirmative step that all of us who believe in tax reform can take at this time.

As Wilbur Mills' colleagues know, the Tax Reform Act of 1976, now awaiting Presidential signature, grants that wish, providing for the first time in over three decades comprehensive reform of our antiquated, inequitable estate and gift tax laws. This tax reform and numerous other reforms in taxation, foreign trade, health, and social security stand as witness to a master legislative technician who spent over half of his life representing the fine citizens of Arkansas' Second Congressional District.

Mr. Speaker, WILBUR MILLS never forgot his roots in Arkansas nor the constituents who supported him through the years. He was a dedicated, loyal, and hard-working legislator and proved a teacher and inspiration to all who were students of the art of legislative government. All of us know of the events and misfortunes which overtook WILBUR MILLS in recent times, but these can never detract from his fine service to his Nation nor from the fact that his leadership and guidance will be sorely missed by his friends, his colleagues, his Arkansas constituents, and his Nation.

Mr. CONTE. Mr. Speaker, we gather at this time to pay sincere tribute to one of the giants of the House, the distinguished Member from Arkansas, WILBUR D. MILLS.

For the 18 years that I have been a Member of this body, Mr. MILLS has stood for hard work and competence, diligent preparation and thorough knowledge.

Only six Members have served in the House of Representatives longer than Mr. MILLS. But we are talking about more than a record of longevity. We are talking about a record that I believe will go long unmatched in this Congress.

The people of Arkansas' Second District, this Congress and the American people have been well served by WILBUR MILLS. He will be best remembered for his chairmanship of the House Ways and Means Committee. He assumed the chairmanship in 1958 as the youngest ever to serve in that capacity. During his 16 years as chairman, he was overseer, draftsman, mediator and advocate. For the answer to a complex question on tax law, it has long been, is now, and long will be, "ask Mr. MILLS."

Today we "ask Mr. MILLS" to accept our warmest congratulations on a genuinely outstanding career of public service. May his retirement years be ones of happiness and peace.

Mr. ROYBAL. Mr. Speaker, it is a distinct pleasure to join with my colleagues today in paying tribute to Congressman WILBUR MILLS who has played such a singularly important role in the review and revision of our Nation's tax structure and spending programs.

During his 38 years in the House of Representatives, WILBUR MILLS has led in the shaping of important tax, foreign trade, health and social security legislation. As chairman of the House Ways and Means Committee from 1958 to 1974, Congressman MILLS has earned wide acclaim for his expertise and the high degree of excellence which he brought to this all-important position.

Without a doubt, WILBUR MILLS has been a key force in the shaping of legislative history. He may, indeed, take pride in the outstanding work he has done and the widespread recognition he has received. And his retirement should come with the knowledge that his efforts, talents and devoted service have most certainly been appreciated.

It is a personal pleasure to have worked with WILBUR MILLS here in Congress and I want to take this opportunity to wish him a long and enjoyable retirement, filled with good health and happiness.

Mr. JONES of Tennessee. Mr. Speaker, I want to join with my colleagues here this evening to pay tribute to a great man and a great Member of this body, WILBUR MILLS.

There are not enough words to describe the important and constructive role that this one man has played in the history of this country. He has had a hand in shaping foreign trade, health and social security legislation and I do not believe there is another man alive who has such a commanding knowledge of this country's tax system.

His career has been nothing short of remarkable. His dedication, experience, and wisdom will be missed by all of us and will certainly be missed by all Americans. His contribution to the greatness of this Nation cannot be measured in words, but his achievements will stand as a lasting tribute to him as he leaves this body.

I wish for him much happiness and the best of wishes for the years ahead.

Mr. LENT. Mr. Speaker, I am pleased to join with my colleagues in paying tribute to the gentleman from Arkansas, WILBUR MILLS.

Individuals who serve in this body are ultimately judged on the basis of the results they achieve. WILBUR MILLS can leave the Congress knowing that his record of achievement is virtually unsurpassed in our history. Virtually every piece of tax, social security or foreign trade legislation which has become law in recent years has been shaped in large measure by WILBUR MILLS. He has, for the past 38 years, given generously of his energy and his great expertise to produce legislation which is valuable to all Americans.

I know that all of us here and the people of Arkansas whom he has represented so well will miss his service.

Mr. COLLINS of Texas. Mr. Speaker, with the close of the 94th Congress we will be losing one of our greatest colleagues in WILBUR D. MILLS. It is hard to realize that he has served 38 years in behalf of the State of Arkansas and in the interest of our entire country.

As chairman of the Ways and Means Committee, he has guided many, many pieces of important legislation through the House. But WILBUR D. MILLS will be remembered in history most for his deep understanding of Government taxation. He understood how taxes can serve as encouragement and incentive to stimulate production. He understood the need for industry to be able to retain an adequate portion of its earnings so that it could reinvest in capital equipment and set the pace for economic development. His keen understanding of economics is reflected in the growth of his own State of Arkansas which has moved from an agrarian economy to one of the more progressive balanced commercial States in America.

I have always liked WILBUR MILLS. The nice thing about this fine gentleman is that the longer you know him, the better you like him. Arkansas is fortunate to have her native son back with them full time. In Congress we will miss the wisdom, the knowledge, and the experience that has come through the great leadership and experience of WILBUR MILLS here in Congress.

Mr. DERWINSKI. Mr. Speaker, it is a privilege for me to join in paying tribute to one of our outstanding colleagues, WILBUR MILLS. Throughout his long career, he has ably served the needs of our Nation and of his district.

It is not an exaggeration to state that WILBUR MILLS is more knowledgeable on the subject of the U.S. Tax Code than any other Member of Congress. He will long be remembered for his leadership in this area.

Serving as chairman of the Ways and Means Committee from 1958 through 1974, WILBUR established a record of the longest tenure of continuous service as chairman of this committee. In addition, he was a most effective chairman, and this can certainly be seen from objective observation of the chaos that has ensued in tax legislation in the 2 years since his chairmanship of the Ways and Means Committee.

His record attests to the fact that he is a diligent and skillful legislator. His contributions, in the areas of tax reform, social security improvements, and trade reform, have benefited not only his constitutents but the Nation. As a member of the House Ways and Means Committee, he carried his responsibilities with a sense of deep concern knowing that the committee's actions affect every American.

During his congressional career of 38 years, WILBUR has served with great distinction. We will all miss his wise counsel and his expertise in tax matters.

Mrs. Derwinski joins me in extending our very best to WILBUR and his wife, Clarine.

Mr. STAGGERS. Mr. Speaker, my words can add little to the tribute, nothing to the regard and esteem that WILBUR MILLS has won from his colleagues here and from the people of this Nation.

He is my friend; he knows it, and I know it.

WILBUR MILLS knows as much about what makes the Federal Government operate as any person in this body. He knows this because he has studied it very carefully during his long years in the House of Representatives.

In my years of service in this House, it has been an honor to have known and worked with WILBUR MILLS. I sought his advice on various matters, and was always impressed with both his knowledge and keen insight of various subjects and his eagerness to assist me in every way.

WILBUR MILLS was chairman of the powerful Ways and Means Committee from 1958 until this 94th Congress. During that time, he authored or sponsored every major law on Federal revenue, tax reform, the National debt, import tariffs, and reciprocal foreign trade agreements, social security, and health insurance. His knowledge of these subjects is legendary.

He was always a strong advocate of the consensus approach to legislation. He always saw to it that all sides were heard and had an opportunity to express their views.

Former Secretary of the Department of Health, Education, and Welfare, Robert H. Finch, speaking at MILLS' alma mater, Hendrix College, in Arkansas, said MILLS was easily one of the 10 outstanding legislators in the history of the Republic.

Congressman MILLS has been lauded for his intellect, open mind, patience and tenacity to stick to an orderly decisionmaking process.

WILBUR MILLS has served almost 38 years in the House of Representatives. I have served 28 of those years with him, over a quarter of a century. You get to know a man pretty well in that length of time.

WILBUR MILLS has been loyal to his country and loyal to the people of Arkansas whom he served.

There is no better measure of a man's worth than the character and extent of his influence over men. Judged by such a standard, the value of WILBUR MILLS, to those among whom he worked, cannot be overestimated.

WILBUR, on the eve of your retirement from this body, we wish you well in the years ahead and many years of happiness with your fine family.

You are a great American and a true patriot.

Fortunately for you and all of us, there is One who never forgets; and I have no doubt that on some future day, He will place a crown upon your brow and say to you, in words or effect: "Well done thou good and faithful servant: enter now into the joy of thy Lord."

God bless you WILBUR. We wish you the very best for days and years to come.

Mr. BENITEZ. Mr. Speaker, I wish to express my sorrow at the departure of WILBUR MILLS as well as my deep affection for him. WILBUR MILLS has been my friend, faithful and just to me. But it is much more than personal loyalty which moves me to add my testimony of gratitude to this man, outstanding in his brillance, his fairness and his profound dedication to public service. There are many other gifted and dedicated men and women in these halls. During these four eventful years I have had the special privilege of knowing and admiring in many of you qualities of intelligence, integrity and dedication similar to those of WILBUR MILLS, far surpassing the cynical evaluation of Congress and its membership now so much in vogue, and like so many cynical postures, so superficial and so remote from ultimate reality.

What leads me to speak of WILBUR MILLS, now that he is no longer powerful, is the spiritual resolution he has shown in adversity. The intellectual vigor, the sharp turn of phrase, the intuitive flash of clarity which served the Congress and the Nation so well for many years continue to be part and parcel of WILBUR MILLS. But over and above these virtues of the intellect, there is a new quality of personal self-mastery and of kindness which adds a new dimension to his personality.

I hope that WILBUR MILLS will write the memoirs of his years in the House of Representatives and that he will distill therein his own reflections on how best to reorganize congressional structures to facilitate greater parliamentary achievement. Nothing would advance congressional activity more than a scheme of work where available talent may find full and efficient utilization. WILBUR MILLS himself has demonstrated exceptional efficiency throughout the years. May this distinguished Congressman help all future Members of this body by assisting in the identification of patterns for full employment of talent and abnegation. For I believe that in the years ahead the United States will need increasingly to strengthen and make more significant the branch of government which the Constitution ranks first in legislative and policy responsibilities.

Mr. HELSTOSKI. Mr. Speaker, I would like to join my fellow colleagues in the House in paying tribute to a fine legislator and statesman, the Honorable WILBUR D. MILLS. Since his election to the 76th Congress, he has effectively dealt with domestic as well as international issues confronting our Nation and its citizens. As the former chairman of the House Ways and Means Committee, he exerted his energy on the enactment of important legislation on taxes, foreign trade, health, and social security. I was pleased to have served on that committee with him and to share his ideas and concepts on the issues considered by the 94th Congress. He sought the support of his Democratic colleagues to approve the proper measures which would effectively cope with the Nation's economic situation. His prediction of economic trends is accurate and consistent with his reputation.

Mr. Speaker, the Second District of Arkansas as well as the Nation will lose a statesman and a friend when the 94th Congress adjourns. Congressman MILLS will long be remembered by his colleagues for his strength and stamina as a productive and delicated legislator. I am proud to have had the honor to serve with him in the House of Representatives and I would like to extend my best wishes to him and his family for a happy and prosperous future.

Mr. SIKES. Mr. Speaker, it is difficult to arrive at new words or phrases which adequately tell the story of one of the most powerful and dedicated men to serve in the Congress. It is not hard to join in honoring this man who has contributed so much to the sound legislative history of our Nation. Few have given more effective service at any period in our history than the man of whom I speak, the Honorable WILBUR MILLS of Arkansas. WILBUR MILLS truly deserves these accolades. In fact, for a long time, he was described as second only in power to the President and there are those who sat in the White House who privately agree that the man from Kensett, Ark., wielded more power than the President.

WILBUR MILLS became chairman of Ways and Means at age 48, the youngest man ever to hold that exalted position—a position which also focused the attention of the Nation on other great leaders, two of whom became President, one a Vice President, and still another who became Secretary of the Treasury.

The scope of the power and influence which he exercised as chairman may best be measured by a remark once made when someone inquired as to his reported ambition to become Speaker of the House. The statement was, "If you were chairman of Ways and Means, you wouldn't want to be Speaker."

WILBUR was the driving force which motivated his committee from the time he assumed its chairmanship in 1958 until his resignation from the post. The chairmanship of the Committee on Ways and Means is an awesome task; it is charged with the responsibility of raising fairly and adequately all of the money which makes possible all of the operations of our Government.

The imprint of WILBUR MILLS is on every tax measure, foreign trade, social security, interstate highway, welfare, and medicaid law which was placed on the statute books during his chairmanship.

When he came to Congress 38 years ago, he decided he could best carry out his duties by becoming an expert. He set out to make taxation his area of expertise and no one can deny his success. There is not another man or woman in this Congress who could dare to stand on the floor and speak from memory on the very complicated and voluminous tax laws of our Nation without fear of committing grievous error. WILBUR's memory is but one of the great things about him. He has been known to expound at length on a particular bill, and when questioned about it, cite the precise paragraph in the bill which clarifies his point.

To exercise the kind of influence history thrust upon WILBUR MILLS, a towering intellect is required. This man has that kind of brainpower. He knows what he is talking about when he takes the floor of the House of Representatives. He can, and has argued successfully for his position with Presidents and with Cabinet members. In fact, more often than not, they came to him to find out what was going on in the field of tax legislation.

His sense of timing is legend. Since having one of his first bills as chairman defeated back in 1958, WILBUR MILLS developed an uncanny sense of being able to know when to bring a bill to the floor and have it pass. He could take the most complicated legislation and, with his acute knack of reasoning, make its contents clear to his colleagues and to the Nation.

There are those who believed WILBUR MILLS should have been President. He would have made a great one. Many felt he should have been Speaker. He would have been outstanding. There also are many who, having greatly admired his ability and dedication, have felt that his greatest contributions were in his chosen field as chairman of Ways and Means where he could guide the Nation's Congress down the difficult path of collecting the money fairly and equitably from the people so that government could function with compassion for the people.

Our tax laws are not perfect. Wilbur Mills is the first to say this, and he spent most of his adult life working to improve them. He made great headway, but his work is not yet finished.

He has now decided to retire from the Congress. This decision brings a great loss to our Nation. Wilbur Mills is the type of man whose services always are needed in the principal deliberative body of a nation. He has worn the cloak of greatness and he has built a monument to his efforts. I sincerely trust that his advice will be available to our leaders just as it has been in the past, quietly, with dignity, and with understanding.

The long hours, great pressures, and tremendous responsibility have taken their toll on our good friend. But he has shown he has the strength to meet those tests and that is a lesson for us all. The great majority love and respect him for all he has done for his State and his Nation.

He leaves us just as he served with us, with honor, dignity, and patriotism. No man could have given more than our friend, Wilbur Mills. I have been proud to share his friendship. I shall be equally proud to share it in the years ahead. I wish godspeed to Wilbur and to Mrs. Mills and to their family in all the years ahead.

Mr. BENITEZ. Mr. Speaker, I wish to express my sorrow at the departure of Wilbur Mills as well as my deep affection for him. Wilbur Mills has been my friend, faithful and just to me. But it is much more than personal loyalty which moves me to add my testimony of gratitude to this man, outstanding in his brilliance, his fairness, and his profound dedication to public service. There are many other gifted and dedicated men and women in these Halls. During these 4 eventful years I have had the special privilege of knowing and admiring in many of you, qualities of intelligence, integrity, and dedication similar to those of Wilbur Mills, far surpassing the cynical evaluation of Congress and its membership now so much in vogue, and like so many cynical postures, so superficial and so remote from ultimate reality.

What leads me to speak of Wilbur Mills, now that he is no longer powerful, is the spiritual resolution he has shown in adversity. The intellectual vigor, the sharp turn of phrase, the intuitive flash of clarity which served the Congress and the Nation so well for many years continue to be part and parcel of Wilbur Mills. But over and above these virtues of the intellect, there is a new quality of personal self-mastery and of kindness which adds a new dimension to his personality.

I hope that Wilbur Mills will write the memoirs of his years in the House of Representatives and that he will distill therein his own reflections on how best to reorganize congressional structures to facilitate greater parliamentary achievement. Nothing would advance congressional activity more than a scheme of work where available talent may find full and efficient utilization. Wilbur Mills himself has demonstrated exceptional efficiency throughout the years. May this distinguished Congressman help all future Members of this body by assisting in the identification of patterns for full employment of talent and abnegation. For I believe that in the years ahead the United States will need increasingly to strengthen and make more significant the branch of Government which the Constitution ranks first in legislative and policy responsibilities.

Mrs. MINK. Mr. Speaker, I rise to join my colleagues in paying tribute to one of the great figures of the House of Representatives, Wilbur Mills.

Wilbur Mills entered the House in the 76th Congress in 1939. In his 19 consecutive terms of service in the House, Wilbur Mills has seen this Nation change a great deal. As the domestic and international responsibilities of the Federal Government grew, so did the responsibilities of the House.

In his long, distinguished career in the Ways and Means Committee and as that committee's powerful and respected chairman, Wilbur Mills has played an unusually large role in shaping the affairs of this Nation. He has guided the House through several major tax reforms and he played a crucial role in the formation of medicare and medicaid as well as other significant social welfare programs.

His accomplishments during his 16-year tenure as chairman are too numerout to list individually. Suffice it to say that he has given the greater part of his life in dedicated and memorable service to the House and this country. Succeeding generations will, perhaps even more than we here today, appreciate his leadership and enduring contributions.

I join with my colleagues in extending to Wilbur Mills my very best wishes and kind regards. As he retires, Wilbur Mills will, I hope, take great pride and deserved satisfaction in his long, illustrious service; I know his colleagues here today feel it certainly is warranted by his career.

Mr. BELL. Mr. Speaker, I wish to join in this tribute to our dear friend and highly respected colleague, Wilbur Mills.

Wilbur's almost limitless contributions and keen leadership in shaping important, major legislation in the areas of tax law, foreign trade, health and social security will be remembered long after he has departed from these Chambers.

His service to the Nation during his 38 years in Congress is rivaled by none.

His leadership will be sorely missed by all of us in the American Government.

Mr. McCLORY. Mr. Speaker, in the special orders taken out for the final week of this Congress, we will honor few men more deserving than Wilbur Mills.

Congressman Mills' distinguished career of public service includes 38 years in the House of Representatives. As we all know, he served not only Arkansas, but the Nation.

The story of his 16-year tenure as chairman of the Ways and Means Committee reads like a textbook on the interaction of Federal policy and the quality of American life. His chairmanship spanned some of the most difficult years in our history, and the legislative responses he fashioned to rapidly changing and always unprecedented conditions had a clear and positive impact on the lives of our citizens. His contributions on tax law, social security, and foreign trade are a legacy of distinction.

Mr. Speaker, I take this opportunity to congratulate Wilbur Mills on his achievements in this Chamber, and to extend him my best wishes for a rewarding retirement from public life.

Mr. UDALL. Mr. Speaker, few Congressmen in our time have had more impact on public policy than Wilbur Mills of Arkansas. For more than a decade and a half he was, second only to the President, perhaps the most influential man in Washington. His legislative skill, his limitless energy, his keen knack for the workable compromise, and his skills as an orator are all legendary. Though we have had our disagreements on matters of public policy, my respect for the gentleman's abilities has never faltered.

When illness and resulting misfortunes shadowed the later stages of his career, Wilbur Mills had the inner strength and grace to recognize his very human problems, to acknowledge his errors, and to leave the field with dignity. Where a lesser man might have become an object of pity, Wilbur Mills earned our sympathy and respect. I am grateful to him for many personal kindnesses over the years, and I wish him serenity and good fortune in his retirement.

Mr. DON H. CLAUSEN. Mr. Speaker, very shortly the gavel will come down marking the adjournment of the 94th Congress and the end of a long career in public service for our friend and colleague, Wilbur Mills.

Wilbur Mills has been a dedicated and able public servant throughout his entire 38 years of service to the people of the Second District of Arkansas.

He is a legislator of the highest order. He has the ability to analyze a problem, organize his thoughts and respond with unflinching candor and acuteness.

No one exceeds Wilbur's grasp of parliamentary rules and the intricacies that make up the legislative process. And it is a high tribute to him to say that he utilized his skills and abilities strictly in behalf of the public interest.

Under his effective leadership the House Ways and Means Committee shaped major legislation affecting our tax structure, the social security and medicare programs and our foreign trade policy. His mark in history is significant.

His unique legislative accomplishments and his success in overcoming personal adversities will leave a long-lasting impact on the House of Representatives and on the country. He is a remarkable man who can take great pride in the legacy he leaves here.

Mr. MURPHY of New York. Mr. Speaker, our colleague, Wilbur Mills, has spent more than a third of a century representing the people of the Second Congressional District of Arkansas in the U.S. Congress. Thirty-eight years, just slightly less than one-fifth of the entire time this Nation has existed. His years in Congress began before the majority of today's American citizens were even born.

The quantitative comparisons could go on indefinitely, for Mr. MILLS has usually been in the forefront of most of the important legislation over the past four decades. But I would point out that the quality of legislation in which he has had a leading role was made possible by the fact that he has displayed over the years a quality of legislative leadership that is difficult to match, even with those other congressional giants who are leaving this body at the end of the year.

WILBUR MILLS' name has been almost inseparable from the Ways and Means Committee; the result has been a man who not only was responsible for much of the tax legislation to affect every citizen of this Nation, but a man who fully understood every facet of that legislation—something very few men and women in this complex body can claim. And the same holds true for his grasp, and his influence, on important legislation in the fields of foreign trade, health, and social security.

There seems little sense in believing that the Congress will now proceed without WILBUR MILLS—his influence on this body has been so intense and so effective, that this House of Congress will, for many years to come, operate in the presence of Congressman MILLS.

Mr. ALEXANDER. I thank the gentlemen and gentlewomen all across this land who have risen this morning on this occasion to pay tribute to a man of great energy and great intellect, who has made his mark in American history.

I think in conclusion that I would best remember WILBUR MILLS' service in the U.S. Congress by a characterization that was made of him by former President Johnson on a photograph of President Johnson and WILBUR MILLS which once hung in Mr. MILLS' office. On this photograph, former President Johnson referred to WILBUR MILLS as, "The master Congressman."

I think it would be unanimous among the Members of this body who have had the privilege of knowing and serving with and observing WILBUR MILLS that he will always be remembered by those of us who have enjoyed that privilege as, "The master Congressman."

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include therein extraneous material, on the subject of the special order taken today by the gentleman from Illinois (Mr. PRICE).

The SPEAKER pro tempore (Mr. O'NEILL). Is there objection to the request of the gentleman from California?

There was no objection.

ELECTION REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. BURLISON) is recognized for 60 minutes.

Mr. BURLISON of Missouri. Mr. Speaker, each of us in this Congress knows only too well that he is here by the grace of the people, all the people, that he represents. To me, the fact that every citizen has a full and equal voice in the election of his national officials is the essence of American representative democracy, and should be the real cause for celebrating the 200th anniversary of our freedom. We should celebrate not so much that we won immediate freedom from a distant tyrant, but that we have been able to make that freedom live and grow and prosper. The working manifestation of our freedom, that is, our system of democracy, has developed over the years, based on the principle of majority rule through popular election.

This principle, however, was not necessarily endorsed from the very beginning. The growth and evolution of the American electorate into a truly representative, democratic body has followed a slow and sometimes tortuous path. We have come a long way from the first days of the Republic when only free, male property holders were allowed to have any say in their government. Individual voting rights and universal sufferage have been a long time coming. But we have indeed made progress. In this century alone, the struggle has been highlighted by victories such as the attainment of full sufferage for women, the elimination of poll taxes and other arbitrary hindrances, and the establishment of the "one-man-one-vote" rule as the law of the land.

Yes, we have progressed. And I think it fitting that we can mark the Bicentennial with the grandest of all American political events—the Presidential election. Nothing excites the interest and imagination of the American people like the spectacle of a national campaign. The run for the Presidency every 4 years is the sole opportunity the American people have of coming together, as a nation, to exercise their democratic freedoms.

Yet for all the patriotic speeches, brass bands, and general hoopla that accompany the campaign, the fact remains that the election of our President—the one official representing the entire Nation—is the least democratic in our entire system of government. The people of the United States still do not elect their President. We elect electors, just as we did in 1789, long before there were political parities, party tickets, or slates of pledged electors. In modern times, fortunately, the system has managed to reflect the will of the people, and thereby maintain the illusion of being democratic. But the election is still indirect; the system has backfired before and could do so again at any time.

But I do not want to speak today of electoral college reform, which incidentally I favor very strongly. There will be other opportunities for that. Something more urgent has my immediate attention. For as undemocratic as our electoral process may be, it is far surpassed on that count by our nominating process. It has been said that it matters not who wins the election, as long as you can control the nominations. Unfortunately, this truism has a certain validity to it; for there are people who operate on just that principle. This year, as in the past, one heard a lot of talk of a "brokered" convention, meaning, of course, that a handful of nameless people, "party professionals" if you will, might very well determine for the entire Nation who the next President would be.

There should be but one way to select the President. The voters, all the voters, should be in control of the selection of their Chief Executive at each level of the process—from the first bold announcement of candidacy to the swearing-in on the Capitol steps.

The manipulative elements of the nominating process are not limited to the backroom maneuverings of a brokered convention, they are evident all down the line, at every stage of delegate selection. In nearly 30 States, including 10 that hold so-called advisory primaries party delegates are still selected independently of the voters, by means of the caucus/convention system.

Fortunately, our society has taken an increased awareness in recent years of the rights of individuals in relation to their Government; and, as a result, the major political parties have placed increased emphasis on greater electorate involvement in the Presidential nominating process. Reform party rules on delegate selection have been very instrumental in eliminating the most blatant instances of arbitrary and high handed "politicking" in delegate selection. Winner-take-all rules have been outlawed and strict representational requirements have been instituted. Moreover, these recent reforms have succeeded in drawing wider attention to the inherent evils of a nominating system removed from the will of the people. Since 1968, the number of States abandoning the caucus/convention system in favor of the primary election has almost doubled. I welcome the trend. Eventually, I hope, the reform spirit will lead us to a truly democratic system of nominating our national candidates, one that will be responsive to the directly expressed will of the people on a national basis.

Personally, I favor a national primary and I have introduced a constitutional amendment to establish such a primary, which would be held in the summer of each election year. I have favored this plan for a long time; and, indeed, I first introduced such legislation prior to the 1972 elections.

Political realism, however, tells me that such a major step could be a long way off. I do not foresee the elimination of the national convention anytime soon. In the absence of this final reform, my immediate concern is that the candidates, through their convention delegates, be subject to the will of the people, and not that of State and local party leaders, no matter how responsible and well-intended they may be. The people of the Nation must have more say in the nomination of Presidential candidates. If we cannot yet accomplish full reform on a national level, we should at least strive to reform the system on a State level. While 15 States have amended their primary laws in the past 8 years, there are still many lagging behind. The caucus/convention system must go. My own State, Missouri, provides a perfect example of the situation in which the citizen has little to say about the nomination of his party's national candidate. Missouri, incidentally, is now the largest State not holding a Presidential primary.

I have been personally involved in a number of our delegate selections. I went to the national convention in Atlantic City in 1964 as a full vote delegate. In 1972, I fought it out with the Governor of my State for control of the delegation in my congressional district, and lost in a close winner-take-all contest. This year I have been a delegate at the ward, county, district, State and national levels. My participation has each time confirmed my basic conviction that our system is inherently wrong. It discourages participation by the people by its complexity and consumption of time. It lends itself to manipulation by a few party leaders who totally control the process.

Hopefully those of use who still have the caucus system will urge our State legislators to put our States in the mainstream of electoral reform with adoption of a State Presidential primary. I pledge to do my part.

Mr. Speaker, I insert at this point editorials published in Missouri's 10th district and the State of Missouri which call for a Presidential primary in Missouri:

[From the Daily Dunklin Democrat, Apr. 15, 1976]

A Better Primary System

This newspaper has consistently favored adoption by Missouri of the presidential preferential primary for two reasons: the system would enable the state's voters to become better acquainted with the candidates seeking the highest office in the land, and the power of politicians to juggle the state's delegations at national conventions would be greatly curtailed.

Seemingly, with the number of state primaries risen to blizzard proportions, there is more debate than ever about the primary system's effectiveness. The general tenor of the debate is that the present system is brutally demanding, and that there ought to be a better way.

This is, not unexpectedly, the consensus among former presidential candidates who have been through the mill. In a recent piece Saul Pett of The Associated Press surveyed their attitudes and offered this summation: "After 200 years, the world's oldest democracy has yet to devise a rational, revelant way of choosing its leaders."

There is dissent from this conclusion, however. A different view is that primary contests have the virtue of forcing presidential candidates to move among the people in what amount to a voyage of discovery. In a democracy, that is the way it should be.

For all their faults, the primaries have the virtue of repeatedly exposing would-be presidents to the test of direct, popular approval.

It is virtually impossible for a man to run in primary after primary, in state after state, without revealing something about what kind of man he is.

We agree with the view that regional primaries or a single nation-wide primary would lessen the ordeal. But this would give voters correspondingly less time to assess the candidates and should force greater use of television with less genuine voter contact than now.

The regional or nation-wide primary does have certain arguments in its favor. An optimum period of campaigning could be agreed to, culminating in regional primaries or a national primary shortly before the party conventions. This would have some advantages.

Candidates would not be forced to mount intensive campaigns in state after state just prior to the elections. Freed of this need, they could concentrate on building national support; they could spend more time on national issues, less on scoring debating points about essentially parochial concerns.

Nor do we agree that greater use of television is necessarily all bad. As things now stand, there is inadequate use of this medium—too many political "set pieces," too little of the give and take of debate among the candidates. Better use of nation-wide television and less locally oriented campaigning would enhance the national character of the contest for our chief national office.

[From the Daily Dunklin Democrat, Apr. 19, 1976]

Now Is the Time

Without expecting much in the way of response, we can only urge Democrats and Republicans alike to attend their parties' township and county conventions being scheduled this month and next. The chance of large turnouts at either party meeting is slim, indeed, but we hope at least some will avail themselves of the opportunity, if only out of curiosity.

The Democratic township meetings will be held tomorrow night, while the party's county convention will be held May 11. The GOP county convention will be held this Saturday. Congressional meetings of both parties will be held next month at Sikeston, with the Democrats meeting May 25, and the Republicans May 15.

Without a presidential primary, this is the only method available to rank-and-file party members in expressing an opinion on party candidates, positions and other issues.

We admit, it's not much of a system, and one that in years past could generally accommodate the crowds in a telephone booth. But it's all we've got—and we hope party members will use it until something better comes along.

[From the Daily Dunklin Democrat, Apr. 27, 1976]

Democracy, It Is Not

Missourians have about as much input into selecting this year's presidential nominees as do Puerto Ricans, who don't have much of a voice either. The difference is that Missourians are supposed to be full-fledged citizens of the United States, while our Puerto Rican friends occupy a somewhat more provisional status.

And while a vast majority of Americans this year will go to the polls to express their preference for both the Republican and Democratic candidates for President, Democrats who live in Missouri are being told to live with the preference of a handful of party leaders.

Democracy, it is not.

Thanks to the self-serving interests of past and present Democratic leaders in the state, as well as the blissful lethargy of the Missouri General Assembly, Missouri is denied the rigors of a presidential primary election.

We are denied the rigors of seeing and meeting and getting to know the presidential candidates of both parties.

We are denied the inconvenience of having to go to the polls to express our personal preferences for the man who will lead our nation for the next four years.

We are denied the mental process of deciding on our own whom we favor to be our parties' nominees.

In Missouri, we don't have to go through the process of personal preference—our preferences are made for us.

Now don't you feel better for that?

Democrats in Missouri are told that they prefer to have a 71-vote delegation—the largest in the nation from a non-primary state—go to New York City "uncommitted."

We have been told that this preference of ours is the wisest political course, because the wisdom of the "leaders" of the party will suddenly transform Missouri from "uncommitted" to "king-maker" at Madison Square Garden.

We are told that at the propitious moment, these wise, if unknown, leaders will throw the gigantic power of the uncommitted 71 votes and will shift the potential spotlight of the nation to the state of Jesse James, the Dalton boys and the Younger brothers.

We have been told that we prefer it this way.

Do we?

No one really knows. No one really knows whether the majority of Democrats in Missouri believe they should go to New York and stand by while someone attempts to negotiate a cabinet post for one leader, a valuable appointment for another leader or a federal project somewhere around the state.

We recall the year 1968, the year Hubert Horatio Humphrey became the presidential nominee after a few unkind words were spoken by Richard Daley's police in Lincoln and Grant parks. That was another year in which Missouri sent an uncommitted delegation to a national convention. And the payoff, we were told at the time, was that Senator Humphrey was going to designate the chairman of the Democratic state committee, Delton Houtchens, as chairman of the national committee.

That was the year that Missouri got the national chairmanship as a reward for its uncommitted delegation.

Only a funny thing happened. Delton Houtchens somehow never became national chairman.

Missouri Democrats protested. We were promised, they said.

And Senator Humphrey smiled and smiled.

The word came down that Mr. Humphrey was sorry.

Anyone who believes that was only a unique experience has the need of a psychiatrist.

It happens all the time. Why?

Politicians, being politicians, are quick to give their word and slow to respond when the time comes. It's the nature of the process, not necessarily the nature of the men.

Uncommitted delegations, despite all the sugar-coating being given them now, aren't that much of a prize at a national convention. They always represent a question mark, and presidential candidates don't like question marks. They have the peculiar preference of counting solid votes and letting the unknowns filter through. You can't depend on uncommitted votes—and everyone who is old enough to go to New York and look at the sin on Times Square knows it.

It is virtually impossible to move uncommitted delegations fast enough and at the proper moment. If a candidate lacks 71 votes, he isn't going to sell his soul to Missouri for them, you can bet your last McGovern-Eagleton campaign button.

Missouri's delegation to the national convention should, as we view it, represent the preference of the individuals selected and the preferences of the areas from whence they come. If a majority favor Jimmy Carter, let a majority say so at the convention. At least Carter, or any candidate, will know where Missouri stands and will be grateful for it. If one-third favor Senator Jackson, then let's have the honesty to put one-third of the votes in his corner.

It's strange to hear politicians in a city named for Thomas Jefferson declare that they have some inherent right to disenfranchise the remainder of the Democratic party of Missouri. Almost as strange as hearing Missouri politicians in a city named for George Washington say the same thing.

If this is democracy, then we've been reading the wrong Bill of Rights.

[From the Daily Dunklin Democrat, May 20, 1976]

FOR REGIONAL PRIMARIES

During an election year, Americans can be pardoned if they occasionally wonder just who is running the ship of state while the captains and their hand-picked crews are on leave. Indeed, it sometimes appears as if the entire nation is coasting along in neutral while politicians curry favor with the electorate, many of whom seem not even to notice.

Most of the nation's major problems at the moment, ranging from a nuclear arms treaty with the Russians to a Panama Canal treaty with the Panamanians, have been temporarily disconnected to await decisions and announcements after the political process is completed. This is not exactly the way in which the Founding Fathers envisioned our republic, but the condition has grown steadily worse because of an increasingly complicated political process.

That process is the state presidential primary, which holds both advantages and disadvantages for the nation.

The advantages are obvious. By holding preferential primaries, voters in some 30 states are now able to view the candidates first hand, to assess the capabilities of those who want to lead the nation. It is basic democracy, this preferential primary, and from this single standpoint, it is well worth the doing.

The disadvantage, however, is cause for concern as more and more national problems are placed on the back burner to await a more advantageous and propitious moment for solution. The disadvantage hasn't been too apparent until recent years because formerly many states continued to select delegates in smoke-filled, back rooms. Gradually, however, the preferential primary has become the preferred way of diminishing the power of power-hungry politicians and more and more states have moved to party elections. The larger number of states embracing the primary has served to occupy more and more time of candidates, and they in turn have been forced to make almost frantic efforts to make public appearances in primary states.

The number of these states will surely continue in the next few years. Surely we can expect Missouri to move into this century within the next decade, and several other state legislatures approved proposals for preferential primaries this spring.

Thus the disadvantage of this preferable system will heighten in the years to come, and more and more of the nation's important business will be relegated to the expedient demands of vote-gathering.

That's why it is now essential for the Congress to consider a proposal to hold not state primaries but regional ones, a plan that retains the advantages of the system and serves to diminsh the singlemost disadvantage. Under this proposal, each state would continue to hold its own presidential primary, but these elections would be scheduled on a regional basis so that instead of 30 or even 50 individual primary election dates, the states within a region would all vote at a specific time, just as the nation does in the general election in November.

Candidates would be freed of travel time and having to devote inordinate periods of time in meeting schedules that cross the country. More time could be spent in campaigning within the designated regions, but less time would be required from the candidates themselves.

We highly favor this concept for the reasons stated above and because we see it as offering a solution to the growing drift that the nation is now experiencing as a result of today's prolonged elections in a multitude of states. We fear that the postponement of important and critical national problems, while the political problems are being solved, can only work against America's best interests in a world that doesn't understand why primaries in Michigan and Maryland were so important to Americans when the rest of the world is concerned with global survival.

[From the Daily Dunklin Democrat, June 16, 1976]

LESSON IN DEMOCRACY

The President of the United States undoubtedly left Missouri the other day wondering what happened to him, for a not-so-funny tornado struck in Springfield when state Republicans gathered for their quadrennial convention over the weekend. Ronald Reagan carried the day, routing the Ford-for-President forces as if the former California chief executive had all the power of incumbency and constituency that belongs to Ford.

What happened to Gerald Ford over the weekend in Missouri is, it seems to us, instructive for all politicians and both political parties. For what happened to Ford was simply the decision of rank-and-file members that they would exercise their primary rights in the management of their own party.

Stating it another way, it was a decision made by party members after their leaders had attempted to make the decision for them.

Initially Missouri was considered as a Ford state, an assumption that could be traced to several factors. First, the state is considered to have a mixture of both moderate and conservative; its elected leaders are generally from the moderate-to-liberal school of the party; and Governor Bond was being mentioned as a possible vice presidential nominee on a Ford ticket. Then, too, Ford had the support not only of Governor Bond but Lt. Gov. William Phelps, Atty. Gen. John C. Danforth and St. Louis County Supervisor Gene McNary. That's a clean sweep of the party's major officeholders.

The decision to swing Missouri into the Ford camp didn't suit a lot of Republicans, however, including many from Southeast Missouri's Tenth Congressional District. The decision was seen as arbitrary and undemocratic; those who objected strenuously began organizing to overturn the decision that had already been made for them by others in the party. One of those who objected and who led the effort to reverse the decision was Glen Brogden of Kennett, who served last weekend as the convention's credentials chairman.

When the votes were all counted in Greene County last weekend, the at-large delegates, save one, were Reagan supporters. Only Gov. Bond was permitted to go to the convention committed to Ford. Others who helped make the decision for the party, including Phelps and Danforth, were denied selection to the national convention, leaving the party's certain nominees for U.S. Senator and Lt. Governor without a vote at a convention being held in Missouri.

It was, without doubt, an humbling experience for Republican state leaders.

In another sense, it was a resounding vote for party democracy, a clarion voice from the rank-and-file that they will not be dictated to nor taken for granted.

A great many politicians in both parties experience, upon election, a sense of the ameliorates over the years. Politicians, being human, begin to take on super-human qualities that are foreign to the democracy professed by both Democrats and Republicans. It's always been thus, and sometimes the more fortunate leaders never experience the humbling experience of a weekend in Springfield. Others experience it and never learn from the lesson. Still others benefit from the reminder that the parties, in the final word, belong to no one individual nor to one segment.

We can only wonder if the President of the United States was given to any such musings when he received word that despite his personal appearance, a special task force from national headquarters of some 70 persons, and the panoply of office, he will get only 16 votes from his party in Missouri, while his opponent will receive 30.

Perhaps he wonders, as we are wondering, how three uncommitted delegates managed to get membership in the state's 49-vote national convention delegation. Maybe three uncommitteds are only further evidence of democracy in action.

[From the Daily Dunklin Democrat, June 16, 1976]

HEADING FOR THE FINISH—AT LAST

The most sustained presidential primary election campaign in the nation's history is just about over. Jimmy Carter is either very close to or now has the Democratic nomination sewed up. On the Republican side it looks like a battle to the finish between President Ford and his challenger, Ronald Reagan. That sums up the situation as we enter the period of relative quiet before the Democratic and then the Republican national conventions which will make the final decisions.

The quiet is only relative, of course. Behind the scenes there will be intensive effort to win the uncommitted delegates and those from the 20 states which did not hold primaries. The thrust of this effort will differ in the two major parties.

Among the Democrats it will be mainly a matter of dealing with various groups trying to maximize their power, and at the same time seeking to unify the party. Most Democratic leaders, scenting victory after a long dry spell, seem determined to avert the kind of internecine fighting that has openly characterized their party's operations in the past.

It is in the Republican party that a bitter struggle can be expected between now and convention time. Neither Mr. Ford nor his opponent seems likely to come to Missouri in August with overwhelming strength. Both will be straining to gain the delegates that might ultimately make the difference.

Events since New Hampshire make it clear that the primary system could be better. It ought to be performed with a view to encouraging more attention to the issues, and outgrowing the sophomoric "who's ahead?" syndrome.

Still, the primaries did achieve two things. They reduced the field—on the Democratic side, at least—and they gave the electorate a considerable if distorted perception of what the aspirants are like.

This argues for retaining and improving the system, rather than throwing it out as some advocate at the moment.

[From the Daily Dunklin Democrat, June 18, 1976]

PRIMARY FOR MISSOURI

In recent days the news has shifted from how many delegates Jimmy Carter has to just which man or woman he will select as his vice presidential running mate. A convention that was earlier seen as a party donnybrook now has all the potential of a tea party in contrast to the Republican convention which is so close that neither side can afford to let committed delegates leave their seats for a cup of coffee.

Carter apparently has more than enough votes at this very moment to put him over the magical 1,505 on the first ballot. With the exception of some second-term presidents we can think of no convention in recent history that has been so programmed to nominate a favored candidate so early.

The Carter nomination becomes all the more remarkable given the fact that at the start of this year he was still seen as being far from the leading primary contender. With 19 victories out of 30 primaries, Carter must be not only elated but exhausted. It is a trying and tiring experience, yet despite everything negative that's being written about the primaries, they still provide the nation with a view of the candidates afforded by no other means, including national television.

We admit there must be a better system than the present primary maze, yet for the Democrats, the process has worked remarkably well. In a sense, despite the proximity of a deadlock, it has worked remarkably well for the Republicans also, illustrating the major divisiveness that afflicts them at the moment.

With all of its faults, the presidential primary should be adopted in Missouri, which has thus far resisted turning the election over to the voters.

[From the Chaffee Signal, Aug. 18, 1976]

Editorial: Voters Should Select Presidential Candidates

Over the past few years, the Nation has experienced a dramatic move to reform the methods by which we nominate and elect the President of the United States. Recent emphasis within both major parties on greater, more equitable involvement of the electorate has led to a doubling of the number of states holding presidential primary elections. Thirty states now have some form of presidential primary. Unhappily, Missouri is not one of them. In fact, Missouri is now the largest state not holding a presidential primary.

The State's present system of ward, county, and district meetings denies a vast majority of the voters any say in the selection of even convention delegates, let alone national candidates.

The system is seriously flawed; it actually discourages participation by its complexity and consumption of time, while labyrinthine rules and procedures invite manipulation by a few party leaders who totally control the process. The recent spectacle of national candidates wooing uncommitted delegates is an example of the system at its worst, underscoring the awesome, totally inordinate power bestowed upon a handful of unknown, unelected individuals.

There should be but one way to select the President. The voters, all the voters, should be in control of the selection of their Chief Executive at every level. The total process must be more responsive to the will of the people.

The ultimate reform would seem to be the establishment of a national presidential primary or a system of regional primaries. Until such plans can be established, however, Missouri should strive for reform on its own by setting up a presidential primary before the next election.

Up to this point, the General Assembly has taken little or no action on any of the various primary proposals offered in the past. This year's political events, however, have sparked a renewed interest in the primary as a means of influencing presidential politics; and popular support for reform is widespread and growing. Missouri House Speaker Richard Rabbitt recently appointed a special committee to study the question, which in itself is a good indication of gathering momentum.

We hope you will contact your state legislators and urge them to support the move toward a presidential primary in Missouri. It is time for Missouri to enter the mainstream of electoral reform. The voters of this State deserve full participation in the nomination and election of their President.

[From the Fredericktown (Mo.) Democrat-News, Aug. 19, 1976]

Editorial: Presidential Primary Needed

Talk has been bandied back and forth about the possibility of a presidential primary in Missouri for the 1980 election.

As in any controversial issue there are pros and cons to consider. Cost, of course is a major factor. To conduct a presidential primary is very expensive. And who would bear the expense of a primary? The public of course.

A question that needs to be asked is whether a primary is necessary. The state does go through a delegate selection process and opponents of establishing a primary in Missouri say the present system is sufficient.

Proponents for the primary, however, disagree. They feel that the delegate selection process has failed in its intent to get more people involved in the political process.

One such proponent, William Cason, president Pro Tem of the Missouri Senate, told a Special House Committee July 7 a presidential primary should be established to increase citizen participation in the selection of presidential candidates.

"At a time when there is growing dissatisfaction among many Missourians with their government and their political system," Cason said, "it is incumbent upon us to make every effort to make participation in government as simple and as convenient as possible."

Bill Burlison, 10th District congressman, has also stated as being in favor of establishing a presidential primary in Missouri.

We wholeheartedly agree. A presidential primary could be just the cure for the ailing amount of voter participation that presently exists.

[From the Festus (Mo.) Daily News-Democrat, July 27, 1976]

The Daily News Today's Editorial: On the Mark

Congressman Bill Burlison has come out strongly in support of Missouri having a presidential primary.

It has merit. A presidential primary would give all voters an opportunity to go to the polls and make their choice known for president in Missouri.

There are objections. The present system, ideally, would bring party people into the delegate selection process, and make for democratic participation at its best, beginning with the local level.

But it doesn't work that way. Too many people don't consider themselves party people, and the turnout at delegate selection meetings is usually not good.

A presidential primary is usually attacked because of a low voter turnout not being really representative, but it would surely be as representative as Missouri's present system.

People like primaries, and a regional primary, or possibly a national primary as Rep. Burlison favors, makes more sense in time and money involved.

Burlison, who is expected to gain another two-year term in Congress, has picked a winner in advocating and devoting effort towards gaining a presidential primary for Missouri.

It makes sense.

[From the St. Louis-Post-Dispatch, Apr. 22, 1976]

Editorial: A Primary Next Time

The results of the grass-roots caucuses—the first step in the state's process for selecting delegates to the national political convention—provide a powerful argument as to why it would be in the best interests of voters of Missouri to replace the present system with a presidential primary election. As it is, a tiny percentage of the state's electorate has chosen those who will cast their ballots for the national candidates; and in the case of the Democrats, more than one half of the delegates will be doing the bidding of party professionals instead of expressing the preference of the people.

Statewide, only about 20,000 voters attended the caucuses. In the Sixth and Twenty-fifth city wards, to take two random examples, a total of fewer than 250 Democrats participated in the sessions. Those same wards, in the last mayoral election, each turned out well in excess of 2000 democratic voters. Obviously, a presidential primary would draw a far higher percentage of voters, thus providing a more representative and democratic selection process than the caucuses.

For reasons of space limitations alone, not every registered voter can attend a caucus, most of which are held in churches, community centers, school gymnasiums and the like. By contrast, the polls are intended to and can accommodate everyone. Moreover, the casting of a ballot, which can be done at any time while the polls are open, is a model of efficiency and convenience compared to attending a caucus, where hours are consumed in numbing procedural minutia.

While most of the Republican delegates apparently were won by President Ford, about 65 per cent of the Democratic delegates elected Tuesday will go to the district meetings uncommitted. Thus ultimately, a majority of Missouri's delegates at the Democratic National Convention will not be bound to any particular candidate. Party leaders have strongly urged just such a situation, on the assumption that the state's influence will be increased at the convention. That assumption is open to question, but in any case the power of the party leadership has been enhanced. Unfettered by any mandate from the people, the leaders will feel free to bargain with the major share of the delegation.

The assumption of influence is challengeable because the overall importance of state caucuses has been greatly diminished. In 1964, nearly 50 per cent of the convention delegates were elected by caucuses. In 1972, about one third came from caucuses. This year, less than a quarter will have been selected by that process. If a candidate sweeps through the primaries with a commanding lead by convention time, the party will scarcely dare deny him the nomination, for to do so would be to risk tearing the party apart. That being the case, a state party leader commanding a few uncommitted delegates would hardly qualify as a power broker . . .

It may be, of course, that no candidate will be close to the nomination when the primaries end. And in that case, Missouri may well have more influence than it would had its delegates all been committed. Still, the principle of full participation should greatly outweigh the momentary attractions of convention power. A primary—preferably part of a regional grouping of primaries—would afford the people of Missouri the greatest opportunity to have a personal role in the eventual selection of the parties' presidential nominees. The General Assembly should provide for such a primary by the 1980 election.

[From the Springfield (Mo.) Leader-Press, Apr. 22, 1976]

Today's Editorial: Primary Proof—Missouri Should Look at New System

The presidential politicking that began around the state on Tuesday prompts us to offer three observations.

First, it is time for Missouri to give very serious thought to replacing the party caucuses with a state—or regional—primary.

The system of picking delegates through caucuses that lead up to a state convention is cumbersome, and too complicated for most citizens to bother with.

It is a formidable obstacle to any hope that the parties in Missouri will be able to break out of their ancient, plainly ailing "old boy" habits of mind. The caucus system encourages "just folks" to stay home.

Missouri will have the largest caucus-picked delegation at the Democratic convention, and the second largest caucus delegation at the Republican convention. The party structures are dying, and everyone who cares is aware of it. It is time to start thinking primary.

Second, Georgia's toothy ex-governor, Jimmy Carter, acquitted himself well in the ward-level caucusing by Democrats. He picked up about 20 per cent of the county convention delegates selected in Greene County. Statewide, his percentage seemed to be running around 15.

Carter was running, in effect, against the state party leaders who want to take an uncommitted delegation to New York City in July. They won the numbers game in the first round, but Carter has nothing to be ashamed of.

On the Republican side, the bottom line in the first round between President Ford and Ronald Reagan was shrouded because GOP state rules allow the county parties to conduct county caucuses through this week. We do know that Reagan forces in the 7th District took the driver's seat in most of the smaller counties that have caucused so far. And we expect them to display considerable muscle on Saturday, when Greene County Republicans hold their county convention.

[From the Springfield (Mo.) Leader-Press, May 17, 1976]

TODAY'S EDITORIAL: COVERING THE FLANKS—MORE THAN EVER, WE FAVOR PRIMARY

Almost to a person, the chiefs of the Missouri Democratic Party have scrambled out from under the wheels of the Jimmy Carter bandwagon. They have climbed aboard, in the hope that the Indians will follow.

Before Carter's phenomenal campaign for the party's presidential nomination truly caught fire in Pennsylvania on April 27, the leaders of the Missouri party were urging the rank and file to send an uncommitted delegation to the convention in New York City.

The idea, of course, was to give Missouri as much bargaining power as possible. If the first ballot were in doubt, the 71 Missouri delegates might find themselves holding a high trump. (In Madison Square Garden, Missouri's delegation will be the largest picked through caucuses. All delegations larger than Missouri's, and most of the ones that are smaller, are chosen through direct primaries.)

Then, the soft-spoken Georgian annihilated Sen. Henry Jackson, in Pennsylvania, and humiliated the traditionally powerful labor leaders and organization politicians who were backing the Washington senator. Uncommitted looked significantly less promising, with Carter for the first time posing the plain threat of carrying off a first ballot victory.

Then, Sen. Hubert Humphrey bowed out by refusing to bow in. He said he would take a draft if it were offered, but would not campaign for the nomination. This left Rep. Morris Udall, Sen. Frank Church, and California Gov. Edmund Brown, Jr., as the only in-place opponents to Carter. And uncommitted looked like no fun at all, as Carter crushed Texas Sen. Lloyd Bentsen's favorite-son candidacy in that state's primary on May 1—just as Jackson Day was winding down in Springfield, and the state leaders were clinging to their "uncommitted" battle stations.

It is beyond doubt that the state's party leaders left Jackson Day worried sick that they would end up in the foolish position of holding 71 convention votes that Carter didn't need, and that no other candidate could put to any use.

Visions of 1972: Then-Gov. Warren Hearnes holding the lion's share of Missouri votes away from certain nominee George McGovern, in favor of no chance Jackson—who, by that point in the raucous 1972 convention, was nothing more than an anyone-but-McGovern candidate.

Another vision of 1972, of course, was the bitter memory of Hearnes and Sens. Thomas Eagleton and Stuart Symington endorsing Sen. Edmund Muskie early on. They were scorched when Muskie folded. No doubt, playing the uncommitted game for so long as possible this time around looked like the best course.

The three biggest names absent from the Eagleton-led jump to Carter were Sen. Symington, and Reps. James Symington, running for the Senate seat opened by his father's retirement, and Rep. Richard Bolling of Kansas City. The elder Symington and noncandidate Humphrey are very good friends, and this may have accounted for Symington's nonendorsement of Carter. His son may have seen nothing to gain, and something to lose, in his Senate campaign. One of his foes, Rep. Jerry Litton, endorsed Carter last week; the other, Hearnes, was not among the Carter endorsers, even though he and Carter became acquainted during their terms as governors. Bolling has his hands very full politically just now, trying to put together a winning campaign for majority floor leader in the next Congress.

The great irony in all this, to us, is that none of the leading Carter endorsers had much, if anything, to say about whether or not Carter would make a good President.

Eagleton, for instance, issued a statement saying that national party sentiment is for Carter, that Carter is not a captive of any narrow wing of the party, and that Carter is a proven campaigner. We do trust that Eagleton thinks Carter would make a passing good chief executive, since he is urging his nomination to that office.

State Treasurer James Spainhower laid it on the line. Joining Eagleton, he said he hopes Missouri's votes will help Carter lock up the nomination, and that Jimmy will remember whence came help in an hour of need.

Altogether, a nice boost for Carter's campaign. The test will come on May 25, when the state's Democrats pick all but 17 of the 71 delegates, at Congressional district meetings. (The 17 are chosen at the state party convention on June 12; traditionally, they are reserved for statewide figures such as Eagleton and congressmen). Spainhower sees Carter getting at least 60 of the 71 delegates.

. . . And a terrific boost for our argument that Missouri needs a direct presidential primary. It is well and good for the party's leaders to voice their druthers on presidential politics; but the emphasis is all wrong. The emphasis is not upon Carter's qualifications to be President. It is upon the cover-your-flanks idea that Missouri could benefit—party appointments, and, if Carter wins in November, grants, military bases, whatnot—by "getting right" with Carter. And that Missouri could suffer if it doesn't get right with Carter.

What relation does the sentiment of the party leaders have with Carter's Missouri prospects in November, given the many weaknesses of traditional party politics (shown up by Carter in other states, as a matter of fact)? Not much. It should be remembered that Missouri went Republican in 1968 and 1972.

Among the benefits of a direct presidential primary, we urge, would be the prospect of a new and welcome focus on why Jimmy Carter, or another person, should—or should not be—President. And less focus on getting right with whoever looks like a winner.

[Broadcast by KMOX Radio 1120, June 22, 1976]

EDITORIAL: MISSOURI NEEDS A PRIMARY

Republican and Democratic delegates from Missouri are preparing to go to their parties' national conventions in Kansas City and New York. There, they will vote for the men who will contend for the presidency of the United States.

Most Missouri voters have had little or nothing to say about the choices they will make. Our state does not have a presidential primary.

Instead, Missouri has a system called "indirect voting". It's indirect, all right. It involves ward and township meetings and caucuses, committed and uncommitted delegates, congressional district meetings and state party conventions. The whole system is governed by a complex set of rules that would challenge a Philadelphia lawyer.

Most Missourians don't attend these sessions. Some political observers estimate that district meetings attract as few as 1 percent of the eligible voters.

That's not enough. Missouri's political parties need the input of a broad cross section of voters—not just a few party regulars. Twenty-five million Americans in 31 other states voted in presidential primaries this year. We think the voters would turn out in Missouri, too. As we have stated in previous editorials, America needs a national or regional primary system to nominate candidates for president. Until such a system is formulated, Missouri should set up a primary of its own.

House Speaker Richard Rabbitt has appointed a committee to investigate the primary idea. Such proposals have been offered in the past. But, they never got out of committee.

We intend to write our state lawmakers and ask them to support this latest move for a presidential primary. We hope you will, too. Missouri voters are tired of being left out of the nominating process.

Mr. Speaker, other newspapers in my congressional district which have expressed their support of Presidential primary include: The Dexter Statesman Messenger, and Flat River Journal.

Missouri newspapers outside the 10th District which have endorsed the Presidential primary include: South St. Louis County News, Hannibal Courier Post, and Joplin Globe.

Mr. MURTHA. Mr. Speaker, I believe this debate on reform of the existing Presidential selection system is extremely important. I want to congratulate Congressman BURLISON for stimulating this special discussion.

I believe it is essential for Congress and the Nation to discuss the Presidential selection system. As important as this process is to the future of our Nation, the fact is that never once in the 200 years of our Nation has a comprehensive study of the Presidential selection system been conducted.

In these brief remarks, I want to recommend strongly that a top congressional priority of 1977 be creation of a special commission to study the entire Presidential nominating and election system. Much like the amendment adopted earlier this year in the Senate, the commission should consist of 18 members. Those members should be citizens from throughout the United States. They should be selected by the House and Senate leadership along with the President. The commission should be bipartisan.

In its mandate the commission should be directed to investigate all aspects of the present selection system. They should be required to make their report by the end of 1977 so there is ample time for Congress to implement and study recommendations before the 1980 Presidential election. Very important, I believe the commission's mandate should include a requirement to hold hearings throughout the United States to sample citizen opinion.

Since 1960 we have watched voter participation dip from 63 percent in the Presidential election that year to 56 percent in the 1972 presidential election and just 40 percent in the 1974 congressional elections. The hearings by this commission should be a valuable first step in finding ways to bring our citizens back into the election process.

While there are many questions for the panel to study, among the most important I would mention:

The positive and negative affects of public financing of Presidential candidates, and what changes should be made in this process;

The impact of spending and contribution ceilings on the selection process;

Development of new ways to bring the views of candidates before the citizens to insure a thorough debate of the issues;

Selection and role of the Vice-Presidential candidates; and

Increased ways to make the entire system accessible to the people and to increase voter participation.

The present system, Mr. Speaker, involves 55 separate and different systems. This year 30 States held primaries, each without any relation to the others. Congressman BURLISON and many others feels there should be a universal and uniform Presidential primary. Maybe that is the answer. Whatever the answer is, it is past the time for us to devote the vast resources of our Nation to discovering the formula that will improve our Presidential selection process and involve the citizens of the United States more directly in the election process.

Mr. QUIE. Mr. Speaker, the time arrived several elections ago for us to change the methods by which we choose Presidential candidates. If there was any lingering doubt in anyone's mind, the 1976 Presidential primary contests abolished it. From February 24 through June 8, the candidates and the populace were exposed to 30 State primaries, including the District of Columbia. Caucuses occurred in the other 21 States and extended the delegate selection process to January 19 at one end and to July 19 at the other. Voters again were bewildered, pressured, disenfranchised, and alienated. There has to be a better way, and I am very appreciative of my colleague from Missouri having obtained this special order to discuss the choices.

My belief is that a 1-day national primary election, with a runoff election where no candidate has received the majority of votes of his party's registered voters, is the best choice. It enhances the democratic principle of voter participation in choosing candidates for office. It terminates the system of artificially creating momentum through the selective use of State primaries and forces candidates to be outspoken and consistent. It benefits and broadens political parties.

Although not mentioned in our Constitution, the right to vote is considered the most basic of our political rights. Amendments to the Constitution and laws enacted pursuant to those amendments have perfected this right for all Americans. Ironically, however, the same principles have not been applied to the selection process for candidates for the Presidency. Our major political parties have worked to broaden the inclusion of underrepresented segments of the American populace in the selection process, but through the workings of the primary and caucus system most voters are excluded from any significant role.

The choosing of who is to be the candidate of one of the major political parties is largely determinative of who is to be the next President. Yet, the selection of these candidates is done by a process of a contestant's manipulation of his entry into certain primaries and caucuses, primaries—but only in some States—which are essentially popularity contests, favorite son strategies, local party leader influence and so on. The national political convention, which is neither representative nor deliberative, is the consummation of this process.

I believe that for an office as important as the Presidency—and the Vice-Presidency as well—that the selection process must have a truly national base and that every voter must have the opportunity to participate in the selection process. In this way, a small number of voters in New Hampshire will not determine who will continue the race; voters in small population primary States and caucus States will not be left out of determining the candidates; and the appeal of the primary will be to those outside narrow partisan streams to the direct interest and concern of common people. Additionally, voter interest is heightened since each has a voice in the selection process.

The most amazing aspect of the increase in State primaries, which theoretically democratize the Presidential selection process, is that a few voters in a few States decide who are the candidates. Through the dscrete choosing of certain primaries to enter, the avoidance of major contests until the optimum moment and the fostering of a bandwagon through showmanship and posturing, contestants and their organizations are able to manipulate their parties' adherents. A steamroller effect is created which denies voters knowledge of the contestants and their ideas and moves voters into a contestant's camp through his campaign's momentum. One good or top showing begets another and yet another, barring some mutant occurrence, and the contestant or small number of surviving contestants are propelled into their party's convention.

This was not always the case. In earlier days, the candidate stayed in the governor's mansion or on Capitol Hill while his proponents moved about the country gathering delegates for the national convention. The growth of the primary system was in part a reaction to this type of political wheeling and dealing which effectively precluded the electorate from participation in the candidate selection process. The State primary system now, too, has demonstrated its shortcomings and cannot be termed democratic, efficient or majoritarian. The proliferation of primaries covering nearly 4 months is a deviation from all rationality and from all principles of participatory and informed democracy.

Two advantages of a national primary are an increase in the categories of persons who may mount a campaign and an increase in substantive debate on national issues. With a national primary, Governors and Members of the House of Representatives become more feasible candidates since such a system tends to equalize contestants. More importantly, contestants are forced to debate and be outspoken on their positions, to be consistent in those positions and to differentiate themselves substantively from the other contestants. A contestant will not be able, as under the current State primary system, to spin a network of delegates from the single thread of a strong showing in a media-important primary.

A facet of a national primary system is the strengthening and nationalizing of political parties. Voter interest will be piqued, and that interest will be transferred into political parties. The parties' organization and vehicle roles still are important to the realization of goals and winning. Furthermore, the President is the only political officer for whom we all vote, and the inclusion of all voters in his selection enhances the contest for the office and the stake which voters have in it. Voters in each State are important to success so that a successful campaign would depend upon nationwide support.

One of the choices offered to replace the present State primary system is that of regional primaries. I believe that such a system would be the slightest improvement over the present system. The regional system simply organizes the current game and does not overcome the problems inherent in that game. Voters in the earliest regional primary have a more important vote than those in the last, and in a hard fought battle the voters in the last may have the final say as to who will be the candidate. Campaigns still are built on momentum and not on the candid votes of the rank and file; hence, the regional primary does nothing about the bandwagon building and ultimate steamroller effect of sequential contests. Furthermore, just as under the present system, debate is superficial, and the contestants are not flushed out on their positions.

Very serious new problems are created by the regional primaries. First, a contestant's campaign apparatus becomes significantly more important. At the end of each regional primary, it simply is transferred to the next region where it can build on the impetus created in the first primary. Voters are manipulated more than ever, and the apparatus goes on creating vote-gathering hoopla. Second, the hands of regional contestants are strengthened vis-a-vis contestants who intend to run nationally in all or most regional primaries. Either they will be "spoilers" of the whole primary system, or they will be the new favorite son surrogates and convention brokers.

I therefore introduced a bill in this Congress which would establish a 1-day national primary for President and Vice President. This bill, H.R. 2465, provides that the national primary will occur on the first Tuesday after the first Monday in August in the year of the general election for President and Vice President and that a party's candidates for those offices will be selected by the direct popular vote of the registered voters of the party. In the event that no candidate received a majority of his party's votes, there would be a runoff primary election 28 days after the national primary between the two candidates who received the most votes in the national primary.

In order to qualify as a political party, a party must be determined by the President of the Senate to have registered as members more than 5 percent of the total registered voters of the United States. Furthermore, to be recognized as a contestant for his party's nomination, between January 1 of the general election year and the first Tuesday after the first Monday in June, an individual must present to the President of the Senate a petition signed by 1 percent of the number of voters who voted for all Presidential candidates in the previous general election. Upon the presentation of that petition, the individual's name will be entered on the primary ballot in every State. The same rules apply to Presidential and Vice-Presidential contestants, and an individual may seek only one of those candidacies. A provision of the bill deals with write-ins which are valid ways of selecting either the President or the Vice President.

This bill also provides a means for selecting a new Presidential or Vice-Presidential candidate should one of these candidates die or resign. In the case of a Presidential candidate dying or resigning, the Vice-Presidential candidate would become the Presidential candidate. In the case of a Vice-Presidential candidate, a national committee of his party would select the new Vice-Presidential candidate.

Mr. Speaker, I have been very happy to participate in this special order on Presidential primaries. The discussion has been most timely, and I would hope that the Congress which convenes in 1977 will feel compelled to conduct a thorough study of this most important subject and will consider legislation. H.R. 2465 is one vehicle for legislative activity, and I firmly believe that the essence of this bill—the national primary election—would be a most progressive change in our national political affairs.

GENERAL LEAVE

Mr. BURLISON of Missouri. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of my special order today.

The SPEAKER pro tempore (Mr. Mineta). Is there objection to the request of the gentleman from Missouri?

There was no objection.

HON. JOE L. EVINS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. Jones) is recognized for 60 minutes.

Mr. JONES of Tennessee. Mr. Speaker, we are taking this hour today to pay tribute to one of our distinguished colleagues who is retiring at the end of the 94th Congress. He is Representative Joe L. Evins of the Fourth Congressional District of Tennessee. Mr. Evins has been a Member of this body for 30 years, having first been elected in 1946 and has served since the 90th Congress as dean of the Tennessee delegation.

But his public service goes back further than that. He was born in DeKalb County, Tenn., where he still makes his home. He was educated in the public schools there before attending Vanderbilt University where he obtained his A.B. degree in 1933 and received his law degree in 1934 from the Cumberland School of Law. It was then that he began his public service, serving as a member of the legal staff and as Assistant Secretary of the Federal Trade Commission.

During the Second World War, he served 4 years in the U.S. Army, being discharged as a major after 2 years overseas in the European theater of operations. During the war, he received the Democratic nomination for State senator from Tennessee's 12th Senatorial District but declined the nomination during continuance of the war.

He came back from the war and was elected to the 80th Congress in 1946. Since his arrival in Washington, he has risen to the post of chairman of the Committee on Small Business, and chairman of the Appropriations Subcommittee on Public Works. He has distinguished himself as an author, having written "Understanding Congress" which was published in 1962.

Mr. Speaker, that is just a review of Mr. Evins' distinguished record. It is by no means, meant to cover every aspect of his service in this body. If I tried to do that, we would be here all afternoon because his record is indeed distinguished and long.

But I might point out that his record is indicative of his dedication to the people of the Fourth District, the State of Tennessee, and the Nation. He has attacked every endeavor with vitality and enthusiasm and has completed every project he started. During his tenure as chairman of the Subcommittee on Public Works, he has taken an active role in overseeing the many public works projects that have helped build this Nation. He has especially sought to develop areas in this country that, at the outset, appeared to have little or no economic future. Through his dedication and hard work, many of those areas today are better places to live and raise a family.

Likewise, his service as chairman of the Committee on Small Business has been nothing short of outstanding. He has always sought to look out for the little man and his efforts have made a great contribution to our free enterprise system and to the small businessmen of this country.

Joe L. Evins' efforts on behalf of the "little people" in this country do not end with the small businessman. He has sought to lend a helping hand to farmers, housewives, factory workers, anybody who needed it. He has done his utmost to help the people of his district and the State of Tennessee.

As a colleague, Joe L. Evins has meant a great deal to me as he has to every Tennessean. His leadership as dean of the Tennessee delegation has been inspiring and truly outstanding. I know we will all miss him but I can assure you that Tennessee will miss him greatly.

He has the reputation in our State of being a man of integrity, a man of dignity, and a man dedicated to the principles of our democratic system. His guidance and expertise will be missed by all of us.

I want to take this time to congratulate him for a job well done and I want to wish him happiness and good health for both he and his family in the years that lie ahead.

Today, I received a hand delivered letter from the Honorable Ray Blanton, Governor of Tennessee, who also had the pleasure of serving in this body with our distinguished colleague. That letter reads as follows:

September 28, 1976.

Hon. Ed Jones,
Cannon House Office Building,
Washington, D.C.

Dear Ed: I wish it were possible for me to be present in person with my friends and former colleagues in Congress to pay honor to Tennessee's great statesman, Joe Evins.

During his 30 years in Washington, Joe Evins has given dedicated service to the people of Tennessee and of the Nation.

Because of his love for our State and because of the depth of his knowledge, the soundness of his judgment, and the personal effort he has given to his job, many needed projects have been created and implemented for Tennessee, the South, and the Nation.

Joe Evins has devoted his life to building a better Tennessee and a better America, and our citizens will miss his wise deliberations in the Congress.

He has upheld the highest traditions of the true Volunteer, compiling a record of continuous service unmatched by any Tennessee Congressman in history.

There's no need to recite his many positions of influence and his many successes in Congress—I'm sure every member of Congress and every Tennessean is well aware of his superior record. His retirement comes at the pinnacle of his successful career.

Tennessee is proud of Joe Evins and his achievements. We welcome him back home for the well-earned rest. Joe Evins never lost his close association with the people who entrusted their Congressional business to him for 30 years, and we look forward to even warmer ties of friendship with him than before.

I'm sure we will continue to lean on him for advice and counsel—I know I will.

We wish for Joe Evins and his family all the good things that life can afford, in the best of all possible places—at home in Tennessee.

Sincerely,

Ray Blanton.

Mr. O'NEILL. Mr. Speaker, I rise on this occasion to join my colleagues in paying heartfelt tribute to an outstanding Member of the House of Representatives, the Dean of the Tennessee delegation, Joe Evins.

Joe Evins has applied his unflagging energy to serving the people of Tennessee's fourth district and of the Nation, in Congress since 1946. He has distinguished himself in every facet of public service.

Joe Evins is a model of integrity, honesty, and hard work. Dedicated, reliable, resourceful, and understanding, Joe Evins has always been a first-rate Congressman. He is certainly among the most popular Members of the House. His charm and wit make him welcome company.

When he leaves us, Joe Evins will be able to recall his years in the House of Representatives with considerable, well earned, pride. As chairman of the Subcommittee on Public Works, and before that as chairman of the Subcommittee on Independent Agencies, Joe Evins brought reason, conciliation, and effective advocacy to many significant pieces of legislation.

Countless Americans owe a personal debt of gratitude to Joe Evins for public works projects that directly benefit them. These projects are perhaps the best example of what the Federal Government can do to help people. Joe Evins deserves a large measure of credit for helping to pull the country out of its present recession by putting Americans back to work.

Sharp legislative skills, leadership, flexibility, fairness, hard work, and principle are required of a good committee chairman. Joe Evins has been among the best. He holds all the qualifications.

Joe Evins loves his State, his country, and the House of Representatives. It is with great sadness and deep gratitude that I must join with my colleagues in bidding him farewell. I am profoundly grateful that I have been able to serve with Joe Evins. I will miss his wisdom and guidance.

SPECIAL ORDER FOR JOE EVINS

Mr. MAHON. Mr. Speaker, it is a great privilege to rise in tribute to my colleague and friend, the distinguished Joe Evins of Tennessee.

For many years now Joe and I have worked together on the Committee on Appropriations and during this time I have developed the highest respect and warm friendship for him.

Truly Joe Evins has been a distinguished Member of Congress and has served his district and Nation with great distinction over a long period of years.

He became a member of the Committee on Appropriations in the 84th Congress, chairman of the Subcommittee on Independent Offices in the 89th Congress, and chairman of the Public Works Subcommittee in the 92d Congress.

In this latter role he has played a key part in the development of the Nation's water resources and in the development of nuclear energy.

We all owe Joe a debt of gratitude and shall certainly miss him as he returns to his beloved State of Tennessee.

Mr. QUILLEN. Mr. Speaker, a great Tennessean is retiring after 30 years of distinguished service to the people of Tennessee and of the Nation at the end of this Congress. Joe L. Evins, the dean of the Tennessee congressional delegation, is a man who I have been proud to know as a friend and colleague for many years. I will miss him.

For 30 years Joe L. Evins has represented his district in the Congress of the United States, and I can say from personal experience that he has served with great effectiveness and great distinction.

His personal qualities of uncommon ability, determination, and absolute integrity have produced an outstanding public record during his many years of dedicated service in the U.S. House of Representatives.

As chairman of the Subcommittee on Public Works of the Committee on Appropriations, Congressman Evins has had a decisive influence on projects of enormous benefit to the American people. Likewise, the fine leadership he provided as chairman of the Committee on Small Business has made an important contribution to the free enterprise system and to the American economy.

With the retirement of Joe L. Evins, Tennessee has lost the services of a great Congressman, and the House of Representatives has lost one of its truly outstanding Members.

I am confident that all of my colleagues join with me in tribute to Joe L. Evins, and extend to him our sincere best wishes for the years which lie ahead.

Mr. ALLEN. Mr. Speaker, it was a wonderful piece of good fortune to me that I managed to get elected to Congress and come to Washington before my most esteemed friend, the Honorable Joe L. Evins, decided that 30 years of service in the Congress was enough.

Joe has been my very good friend for most of the years that he and I have been in public service. During these years, I have conducted various statewide campaigns in our beloved State of Tennessee. Joe was always my loyal friend and most trusted advisor. As we all know, from his long record of service in the House, I could emulate only a small portion of his success.

I arrived in Washington last December, the newest of green freshmen. Joe took me in tow and made himself freely available to me with companionship and good advice. When I reflect on the heavy responsibilities he was bearing, as Chairman of the Public Works Subcommittee of the august Appropriations Committee and as chairman of the Small Business Committee, I find words inadequate to describe my gratitude and affection— affection for a great legislator, a warm and wonderful human being and a beloved friend.

We shall all miss his cheerful presence among us when he leaves us for a most deserved rest from the labors of public service. To my friend and colleague, God speed, best wishes, and warm affection, Joe L. Evins.

Mr. BEARD of Tennessee. Mr. Speaker, I am proud to participate in this tribute to a distinguished Member of the House of Representatives, and the dean of the Tennessee delegation, Joe L. Evins.

This man has had a long and distinguished career. For 30 years, he has served his district, his State, and his Nation with dedication, honor, and integrity. It goes without saying that his presence will be sorely missed.

During those 30 years that Joe Evins served in the House, this Nation has experienced both war and peace, hard times and good. But no period has been so difficult for elected officials as our very recent past. Politicians are maligned from all sides, and the Nation's skepticism and distrust of public officials is at a highpoint. But, in Joe Evins we have the best example of what a politician should be. His career is marked by an unyielding honesty, and personal integrity. This is the kind of record of service and leadership that should be held up as an example to the people of this country.

There is no question that the entire delegation will miss the benefit of his sound judgment, and the wisdom of his experience. I regret that the House will no longer benefit from his leadership, but I am sure that an even greater loss will be felt among his colleagues and friends in the Tennessee delegation.

Mrs. LLOYD of Tennessee. Mr. Speaker, in the history of the State of Tennessee, there have been many illustrious and dedicated public servants, names like Andrew Jackson, Cordell Hull, Andrew Johnson, Davy Crockett; two former Speakers of this House, James K. Polk and Joseph W. Byrns, Estes Kefauver, and many more have impressed their mark on this Nation's history. Tonight we are memorializing the addition of a new name to that distinguished rollcall.

When the final gavel falls at the end of the 94th Congress, our colleague, the dean of the Tennessee delegation, the honorable Joe L. Evins will end his remarkable and distinguished career in the House of Representatives. It is hard to express the regret that all of us feel at his departure. He is the leader of this delegation, and his leadership and ability will be surely missed in the years ahead.

Tennessee this session has sent three freshman Members to the House, out of a total of eight in the delegation. As one of those new Members, I know that I personally have benefited from the wisdom, advice, and experience of Joe Evins. He has never been too busy to talk with the younger members of the delegation; he has been generous in his encouragement and support for all of us; and above all, he has shared with us the wealth of knowledge and experience that he earned over 30 years in this Chamber. He has certainly earned the title of senior statesman of the Tennessee delegation.

I think that one of the finest of the many well-deserved accolades that have been given to Joe Evins is the steadfast support and affection which the people of the Fourth Congressional District have given to him over the years. Without a doubt, Joe Evins could serve in this body for many years to come. It was with great regret that I learned of his decision to retire, but no Member of Congress has better claim to a well-earned rest.

Mr. Chairman, our best wishes go with you and Ann, and I hope you will continue to use your many talents in behalf of the people of the great State of Tennessee. I know you will long remain one of our greatest public figures.

Thank you.

Mr. FORD of Tennessee. Mr. Speaker, I rise to join my colleagues in paying tribute to the dean of the Tennessee delegation, Chairman Joe Evins.

As the only full committee chairman from Tennessee, Joe Evins has used his unique position to work unceasingly for the good of our State, for the improvement of the Midsouth area, and for the growth and prosperity of our Nation.

Joe Evin's career, encompassing two of three branches of Government, exemplifies his dedication to the service of his country. In 1941, although established and advancing in his responsibilities with the Federal Trade Commssion, he gave up his position of security to stake his life in the gathering global conflict whose outcome would depend on men like Joe Evins.

In 1946, leaving the military with the rank of major, Joe Evins achieved his dream. Early that November, as the newly elected Representative from Tennessee's Fourth District, he began to help make preparations to restore a war weary world to a time of peace.

As his career progressed, aided by the loyalty, love, and shrewd judgment of his constituency, Joe Evins expanded his realm of expertise to include the technical knowledge and administrative ability necessary to so effectively chair the House Subcommittee on Public Works Appropriations, which oversees funding for the Tennessee Valley Authority, the Atomic Energy Commission, and the public works undertaken by the Army Corps of Engineers. The same expertise, combined with sheer determination and much hard work, also enabled him, as chairman, to expand the status and responsibilities of the Committee on Small Business.

Although occupied by so many interests and commitments, Joe Evins found time to be a loyal and vital party member, acting as a delegate to the Democratic National Convention on four occasions.

It is my deep regret that my recent arrival as a Member of this body has not allowed me more time to work with, and learn from Joe Evins. His thoughtful advice, his gracious aid, and his careful attention to the newest members of the Tennessee delegation will never be forgotten. To say that he will be missed is to understate the sentiments of his colleagues, his constituents, and all who knew him, or knew of his outstanding record of achievements. To say that he is held in high esteem is but a cold verbalization of the warmth with which he is regarded. To wish him a happy and rewarding retirement is to voice our fondest hopes for his future.

As I tread the uneven stairsteps of these halls, I often reflect upon the careers of the hardworking patriots who have helped to wear down that unyielding marble. Those worn stairways stand as a monument to the tireless efforts of men like Joe Evins, a tribute more fitting than any I may attempt tonight. As our time of service together draws to an end, I am overcome by a sense of loss, both for the help of my trusted mentor, and for the privilege and enjoyment of working with one of my dearest friends.

Mr. WAGGONNER. Mr. Speaker, the freshman class of the 80th Congress in 1947 produced many great Congressmen who went on in later years to distinguish themselves by their outstanding records of accomplishments. Joe L. Evins, the much honored and respected dean of the Tennessee congressional delegation, must be recognized as one of the best and brightest of this class of great Americans.

One of the things that sets the class of 1947 apart is the fact that it was filled with patriotic young men who had fought for their country in the Second World War, and, upon returning home, dedicated themselves to fighting in Congress to make it a better and stronger Nation in peacetime. This certainly holds true for Joe Evins. As a citizen-soldier during World War II, Joe distinguished himself in the service of his country in Europe. In his peacetime career in Congress he continued fighting for his beliefs and for programs that would benefit his people of Tennessee's Fourth District and citizens throughout the Nation.

As chairman of the Subcommittee on Public Works Appropriations and the Committee on Small Business, Joe has been in a position to help and assist in the growth and development of the entire country. From the largest city to the smallest community, Joe's skillful direction of public works projects can be seen in public buildings and other Federal projects. His personal accomplishments in these areas are too numerous to enumerate here. It is sufficient to say that virtually everyone in these Chambers owes some debt of gratitude to Joe for his guidance and help. I know I personally do.

He has served in this House through many troubled years filled with one crisis after another. His levelheaded approach to legislation, and his untiring and unselfish efforts to do the right thing have always been most effective during crisis times. His philosophy of government is close to mine. A few years ago, I recall that Joe summed up his beliefs in the American system of government, when he said:

> It has been my policy to avoid extremes and to adhere to a philosophy of reason and moderation. I believe in working with my colleagues in the Congress in achieving agreement and accord that represent the views of the great majority of Americans. I do not favor legislation that represents extremism. In this age of extremes both on the Far Right and the Far Left, I work to achieve a proper balance between the two.

Congress could do with more, not less, of this commonsense, time-honored brand of representation. I am sorry to see a man of Joe's ability, personal charm and wisdom leave Congress.

Joe, may whatever you choose to do in the future bring you all the pleasure and happiness you so rightly deserve. I am proud to have had you as a colleague and friend.

Mr. GIBBONS. Mr. Speaker, I regret that the distinguished career in the House of my good friend Joe L. Evins is drawing to an end. I have enjoyed a close association with Joe and will miss him greatly.

Joe Evins has served in many capacities in the House and his guidance has been sought by many for his expertise as chairman of the Committee on Small Business, and as chairman of the Appropriations Subcommittee on Public Works. It is in the latter capacity that he has been of invaluable help to me and my district. It has always been a pleasure and an honor to appear before him for I have found his judgment and his advice sound.

It is my belief that the entire Nation has been helped by his efforts on projects that have built wise waterways and sound public development programs.

As Joe leaves the House, he will take with him the respect and admiration of many, and he will be deeply missed.

Mr. BEVILL. Mr. Speaker, Congress will feel the loss of an outstanding colleague and close friend when Chairman Joe L. Evins of Tennessee retires from the House of Representatives at the close of business this week.

Chairman Evins is retiring after 30 years of service to the people of the Fourth District of Tennessee—the longest period ever served in the House in terms of continuous service by a Tennessee Congressman.

The retirement of Joe Evins will be greatly felt by strong supporters of public works programs, such as myself.

For Joe Evins has become known as a builder through his works and action as chairman of the Appropriations Subcommittee on Public Works, a position he has held for the past 8 years.

I have been fortunate to serve with Chairman Evins on this committee for the past 2 years and observe firsthand his considerable knowledge at work in this vital field.

In this capacity, Joe Evins has overseen funding of public works and energy-related projects which total some $8 billion annually.

During the course of his work with the Subcommittee on Public Works, Chairman Evins often refers to his beliefs about building America through public works programs.

After serving with him, I have come to have a much better understanding of those words.

Joe Evins has been instrumental in the funding for construction of numerous dams, reservoirs, roads, bridges, highways, airports, post offices, Federal buildings, hospitals, community centers, libraries, vocational schools, water treatment plants, rural electrification systems, and many other projects that have helped revitalize both our urban and rural areas.

Joe Evins regards public works projects as investments in America. On many occasions when he has brought a public works appropriation bill to the floor, he has referred to the legislation as an "All-

American" bill that touches the lives of nearly all of the citizens of the United States.

Chairman Evins is a truly great American who will go down in the history of this Nation as one of the most outstanding men ever to serve in the U.S. Congress. He has done more to help build America than any man I have ever had the privilege and honor of working with.

His voice as chairman of the Appropriations Subcommittee on Public Works will be greatly missed by the entire Nation which has benefited from his efforts to build a better America.

While Joe Evins will go down in history as a champion of the public works cause, he will likewise be remembered for his support of small business, the backbone of the free enterprise system as we know it today.

For the past 12 years, he has served as chairman of the Committee on Small Business. During his reign over that committee, he has seen it enlarged and expanded to 37 members and given legislative status by the Congress.

Through his service as chairman of the Committee on Small Business and as chairman of the Appropriations Subcommittee on Public Works, he has quite naturally become one of the most influential Members of Congress.

When the 94th Congress chose its leaders, Joe Evins was the only Member of the House to be elected to two committee chairmanships by his colleagues.

That voice of confidence sums up the reputation and respect Joe Evins has gained among his peers.

A magazine article once described Joe Evins as "a man of action, a doer, a workhorse, an expert in government eminently qualified and highly skilled in making the wheels of government turn."

That description seems hard to improve on.

For the past 30 years, Joe Evins has been a leader of rare quality. The people of the fourth district of Tennessee deserve the gratitude of the entire Nation for sending to Congress a man such as Joe Evins.

Mr. ADDABBO. Mr. Speaker, I rise to praise a friend, a colleague and a chairman for whom I have worked, the Honorable Joe L. Evins of Tennessee. As Joe prepares to retire at the end of this session of Congress, we must reflect on what his absence will mean to the next Congress. Joe is not only dean of the Tennessee delegation but he has been an influential leader in the House.

As chairman of the House Committee on Small Business, Joe has given new meaning to the concern of Congress about the climate in which small business must operate. It has been a real privilege for me to serve under Joe on that important committee which was formerly a select committee and became a legislative committee under Joe's leadership. In addition he has chaired the House Appropriations Subcommittee on Public Works and in that capacity he has helped shape America's policy on important public works projects.

I will miss Joe on a personal basis as well for he has always been available to his colleagues for consultation and guidance. He is a true legislative leader and we will all miss him. I join my colleagues and Joe's many friends in Washington, Tennessee, and throughout the Nation in wishing him every personal success in his retirement.

Mr. ANNUNZIO. Mr. Speaker, I rise in tribute to Hon. Joe L. Evins, who is retiring as the senior member of the Tennessee delegation to Congress.

Joe Evins has given three decades of dedicated and devoted service to his constituents of the Fourth District of Tennessee, and has compiled an outstanding record during his distinguished career. His diligent efforts as chairman of the Appropriations Subcommittee on Public Works have been both fruitful and beneficial to the citizens of this Nation, and indeed, these successful efforts have made America a more prosperous and productive country.

Few men have given more of themselves to good government, or have a more compassionate understanding of human problems than has Joe Evins. As chairman of the House Committee on Small Business he has been in the forefront of efforts to implement meaningful solutions and effective action on behalf of small businesses.

Joe is a fine legislator and a distinguished leader, and he shall be missed by both his constituents and his colleagues.

I extend to Joe Evins my best wishes for a healthy and happy retirement.

Mr. de la GARZA. Mr. Speaker, it is with a deep sense of personal regret that I note the forthcoming retirement, by his own decision, of the Honorable Joe L. Evins, who for 30 years has represented the Fourth District of Tennessee in this body.

Joe Evins is a man who has helped move the work of this House forward. As chairman of the House Small Business Committee and of the Appropriations Subcommittee on Public Works, he has made contributions of great value to the people not only of his district and State but of the Nation as well. He understands the needs of small business. He knows the value of sound investments in public works. Throughout the United States there are many individuals and communities indebted to this gentleman from Tennessee.

He will be sorely missed by all of us who have had the privilege of serving with him. He is preeminently a man of the House—the House of Representatives—as shown by his authorship of the book "Understanding Congress."

It is with a feeling of sadness that I contemplate Joe Evins' retirement. He is a good man to have on your side and I have often been pleased to find him by my side when legislation of importance to my district was under consideration.

He has earned retirement and I earnestly hope he will enjoy every minute of it.

Mr. HUNGATE. Mr. Speaker, it is but fitting and proper that we pause from our legislative duties to pay special tribute to a true southern gentleman and public servant, the Honorable Joe L. Evins, dean of the Tennessee Congressional Delegation. He has been continually and repeatedly reelected for 30 years by the citizens of the Fourth District of the Volunteer State, because he has continually and repeatedly represented the interests of the people of that district and of the Nation.

It has been an honor for me to serve under Chairman Evins on the Committee on Small Business of this people's legislative body. Under his leadership the committee has grown from a small select committee to its present status as a legislative committee of the House with legislative powers. The committee under Joe Evins' leadership has established itself as the foremost voice and protector of the Nation's small business men and women.

At the end of this year, small business loses its No. 1 friend, but I think I can speak for us all when I say small business will never forget that friend's good deeds.

Mr. MONTGOMERY. Mr. Speaker, following 30 years of distinguished service in the Congress, our colleague and good friend, Joe L. Evins, will be leaving the House at the end of the 94th Congress to return to his native Tennessee. To say he will be missed would be an understatement since his guiding hand can be seen in so many legislative initiatives passed by the Congress over the years, especially in the area of public works. It has been a rare privilege to to have been able to serve with Joe Evins and to have had the benefit of his wise counsel.

While Joe has been at the forefront of beneficial public works legislation, I am most thankful for his leadership in the area of small business legislation. Thanks to Joe, the Congress is now placing greater and much-needed emphasis on the plight of our small businesses throughout America. Being a strong believer in the free enterprise system, I am grateful for his leadership and devoted work on behalf of small business concerns.

I join with my colleagues in wishing Joe the very best in retirement and saying a very special thank you for a job well done on behalf of the people of Tennessee and the Nation.

Mr. CONTE. Mr. Speaker, upon the retirement of Congressman Joe Evins, I want to join my colleagues in saluting his 30 years of distinguished service for his constituents, for small businessmen, and for the Nation. History books will certainly rank Joe Evins as one of Tennessee's greatest public servants.

In addition to his other duties, Joe Evins served as chairman of the Committee on Small Business for 14 years. He was responsible for promoting this committee, at the beginning of the 94th Congress, from a select committee to a permanent standing committee with legislative jurisdiction.

To his colleagues here in the House, and to the small business community across the Nation, Joe Evins has been the true champion of small business. Of all the tributes that have been paid to him, I believe none is more fitting than the fact that he is known across the land as "Mr. Small Business."

Under Chairman Evins' stewardship, the interests of small business always came first. Partisan squabbles, regional differences, and personal clashes were always subdued. He permitted no room for them.

It has been my distinct privilege to serve under Chairman Evins and to work closely with him in the role I have held for 8 years as the ranking minority member of the Small Business Committee. We worked together as a team to do what we could, whenever we could, to insure that this Nation's commitment to small business was fulfilled.

One of the great strengths of the Small Business Committee has always been its ability to operate in a nonpartisan or bipartisan manner. It was a mark of Chairman Evins' strong leadership and wise guidance that the committee in the past decade unanimously reported a long series of hard-hitting reports on controversial subjects.

Throughout his distinguished congressional career, Joe Evins lived by a creed given to him by his father, the late J. Edgar Evins, who said:

> Always remember there is no substitute for honesty, loyalty and sincerity. Make this your motto.

He was ever mindful of advice given him by the late Cordell Hull, who said that "of the many qualifications necessary in being a successful Congressman, two of the most important are patience and perserverance."

The achievements of Congressman Joe Evins for his constituents and for his Nation are monumental. He brought great credit to this House, and his absence will be fervently marked in the Congress.

With deep appreciation and great respect, I join my colleagues in thanking him for his many distinguished years of service, and in bidding farewell to Joe Evins and wishing him good health and Godspeed.

Mr. FOLEY. Mr. Speaker, it is a great pleasure for me to join with my colleagues in honoring the distinguished career of Joe L. Evins of the Fourth District of Tennessee. In his 30 years as a Member of the House of Representatives, he has built a record of great achievement and his list of contributions to the strength of our Nation are numerous indeed.

As chairman of the Appropriations Subcommittee on Public Works, he has consistently responded to the continuing need to develop and expand the economic strength of our country. I know that all of us have reason to appreciate his sense of commitment to meeting the real needs and the real concerns of American citizens throughout the land.

I hope that he will continue to permit us to call upon his guidance and counsel, and I would like to take this opportunity to extend my personal best wishes on his retirement.

Mr. LUJAN. Mr. Speaker, the small businessmen of America will lose a valuable friend and ally when our esteemed colleague, Joe Evins, leaves the Congress this year.

I was privileged to serve for two terms on the Select Committee on Small Business under his chairmanship and can attest to his genuine concern for the small entrepreneur. The success of the small business set-aside program is due in large part to his consistent efforts to make sure that the Government's procurement policies included provisions for local purchase and local contracting wherever possible. During his 13 years on that committee, Joe has been a strong buffer between the small businessman and both corporate and government bigness.

As chairman of the Public Works Subcommittee of the Appropriations Committee, Joe Evins has held life and death power over thousands of projects, large and small. He used that power very judiciously and fairly, always willing to listen to Members to whose districts those projects were important.

I will miss Joe, both as a friend and as one of the most able colleagues in the House. More importantly, he will be missed by the many thousands of small businessmen in this Nation who owe him a lasting debt of gratitude.

Mr. FUQUA. Mr. Speaker, the distinguished career of the dean of the Tennessee congressional delegation, Joe L. Evins, will end this week with the adjournment of the 94th Congress.

Joe came to Washington in 1946 and has faithfully served the people of Tennessee's Fourth Congressional District for 16 consecutive terms.

As an articulate spokesman, his voice as chairman of the Appropriations Subcommittee on Public Works has benefitted the entire Nation. In addition, as chairman of the Committee on Small Business, he has been the able guardian of small businesses which are so important to the economic well-being of our Nation's economy.

To each of these assignments he has brought a probing and perceptive insight. I join with all those who wish this affable and energetic gentleman well and hope he enjoys many years of good health and happiness in his retirement.

Mr. BOLAND. Mr. Speaker, I would like to join with my colleagues in honoring one of our most distinguished Members, Joe Evins of Tennessee.

As a member of the Appropriations Subcommittee on Public Works, it has been my pleasure to serve with Joe Evins for 22 years. In those 22 years, I have been constantly impressed with his dedication to his many duties. He has served in an evenhanded and knowledgeable manner as chairman of the Appropriations Subcommittee on Public Works and as chairman of the important Small Business Committee. In addition to performing so admirably in these posts, Joe Evins has remained devoted to the people of his district and they have returned him to Congress for 30 years.

In his work as chairman of the Public Works Subcommittee, Joe Evins has had a guiding hand in the development and realization of some of America's most useful construction projects. He has truly equaled the stature of some of the famous Tennessee natives who preceded him, including such great Americans as Andrew Jackson, Cordell Hull, and Albert Gore. With his retirement, the committees, the Congress, and the Nation are losing one of their finest workers.

Mr. Speaker, I would like to extend my best personal wishes to Joe Evins and join with my colleagues in wishing him good luck in all future undertakings. He will be sorely missed in Congress.

Mr. SKUBITZ. Mr. Speaker, it has truly been a pleasure and a privilege to serve with Joe Evins in the House of Representatives. I want to be counted among Joe's many friends in expressing appreciation for the outstanding service he has provided this body as a committee chairman, a distinguished representative of the Fourth District of Tennessee, a colleague, and a friend.

As his distinguished career of over 20 years comes to a close, I must reflect on his responsible and dedicated leadership as chairman of the Small Business Committee and the Appropriations Subcommittee of the Public Works Committee. His record of service in a leadership capacity is one we all might choose to emulate. He can truly point with pride to the many projects and programs he is leaving to future generations.

Were it not for men of Joe Evins' caliber, men blessed with the God-given ability to shape compromise out of disagreement—and the good sense to use that ability to the fullest—the failures of this body would far surpass the successes. But Joe has provided guidance and direction to Democrats and Republicans alike, in a manner that has led to progress in the shaping of public works legislation. Chairman Evins is truly a master of the fine art of turning the butting of heads into the shaking of hands. Joe's talents and abilities will be sorely missed.

The void left by Joe Evins' retirement will not be easy to fill. His expertise in the field of public works has truly been a tremendous asset to all of us who have served with Joe.

It is with great warmth and personal affection that I pay my personal respects to Joe Evins and wish him the best in retirement.

Mr. LENT. Mr. Speaker, I wish to join in paying tribute to our good friend and colleague, Joe Evins, on his impending retirement from Congress.

Joe Evins has had a long and distinguished career in this body. He has a keen knowledge of the appropriations process and an awareness of the problems which confront our Nation's small businessmen. The kind of expertise which he has, which is gained through long experience and hard work, will be sorely missed.

I want to wish Joe Evins health and happiness in his retirement. He can leave with the assurance that he did his job well.

Mr. BURGENER. Mr. Speaker, it is a privilege and indeed an honor to join my colleagues in honoring a distinguished American as he voluntarily terminates his 30 years' service to his nation as a Member of the House of Representatives. The good people from the Fourth District of Tennessee have chosen wisely and well. Chairman Evins of the Subcommittee on Public Works of the House Appropriations Committee, has served his district, his State, and his nation with real distinction and unselfishness.

As one of the newest members of his

subcommittee, I have particularly appreciated his leadership. All of the meetings of the subcommittee were convened on time and were chaired by Joe Evins in a highly professional, dignified, and competent manner. Throughout his congressional career, he has supported all of those great projects for public works which build our Nation. He considers all of the taxpayers' money spent in such projects as solid investments for future generations of Americans.

In whatever pursuits Joe Evins decides upon for his own personal future, we wish him only the best. I know that his will be an active, constructive, and, at the same time, a richly deserved retirement. So long as men and women of the caliber of Congressman Joe Evins agree to take positions in elective public service, our Nation will prosper and endure.

Mr. WHITTEN. Mr. Speaker, I would like to join my colleagues in honoring my very good friend, Joe L. Evins.

We have served together for many years on the Committee on Appropriations and on the Subcommittee on Public Works, where he is an outstanding chairman.

Congressman Evins' service has had far-reaching effects and has proven highly beneficial to the progress of America. This chairmanship has given him such a wonderful opportunity to aid in things so essential to the well-being of our country. Truly, Joe Evins has realized the importance of the land and the need to provide for, to protect, and to preserve our Nation's natural resources. I am pleased to have the opportunity to join with him and members of the committee in looking after our best assets, the lands of our Nation.

I truly regret to see my friend, the gentleman from Tennessee, retire—as much as he has earned it. We have come to love him and his family and just wish them the very best in the world.

Mr. DERWINSKI. Mr. Speaker, I am pleased to join my colleagues in paying a well deserved tribute to Joe L. Evins, who will be leaving the House at the end of this session after 30 years of dedicated and capable service.

Joe Evins has distinguished himself as a man of integrity and ability, and has been a great asset to the Congress, to his State, and to the Nation. He has been an outstanding leader and an effective legislator, keenly aware of contemporary problems. He has made valuable contributions on behalf of urban residents as chairman of the Appropriations Subcommittee on Public Works. He has demonstrated his interest in the American people by his effective manner as a legislator and a leader.

Having served with Joe on the Committee on Small Business, I can attest to his thoroughness and wisdom in developing legislation to protect small business and to maintain the competitive nature of our free enterprise system.

The people of the Fourth District of Tennessee have been fortunate to have such a fine and effective Representative serving them in the Congress.

He will long be remembered by his colleagues. I join in wishing Joe a happy and healthy retirement.

Mr. BROOKS. Mr. Speaker, it is with great sadness that I must at last acknowledge the fact that my distinguished friend and colleague, Joe Evins, is retiring.

It has been my privilege to serve in this body with him for 24 of his 30 years. I have witnessed his outstanding service not only to his people in Tennessee, but to all citizens of this country in his capacity as chairman of the Appropriations Subcommittee on Public Works. Certainly my consituents are aware of his valuable assistance in behalf of our river and harbor projects which are so vital to the well-being and prosperity of the 9th Congressional District of Texas. We are deeply appreciative of his keen understanding of our needs over the years.

While chairman of the Committee on Small Business, he again displayed great leadership and earned the respect of all of us here in the Congress.

I am honored to join with my colleagues today in paying tribute to Joe Evins' countless contributions to this Nation. He is a dedicated, able gentleman and a good friend I am deeply sorry to see leave; however, I wish him a well-deserved rest and an enjoyable retirement with his lovely wife Ann.

Mr. SCHNEEBELI. Mr. Speaker, Joe Evins was one of the first Congressmen I had much conversation with when I first came to Washington. During my first summer here, we both were living at a nearby hotel. Frequently, we would walk to and from our offices together.

In this manner, I came to know and respect Joe Evins at an early stage in my own congressional career. The impressions he made then have endured, and my high regard for his industrious attitude and respect for his accomplishments continue.

As we both now prepare to leave Washington, I am happy to join with the many other friends of Joe Evins in congratulating him on a job well done and in expressing our warmest wishes for his future.

Mr. FORD of Michigan. Mr. Speaker, I join with pleasure today in honoring our good friend and colleague, Joe L. Evins, the dean of the Tennessee congressional delegation, who is retiring from the Congress at the end of this session.

Joe Evins has had a long and distinguished career in the House. As chairman of the Appropriations Subcommittee on Public Works, he has left his imprint on public works projects throughout the Nation. As chairman of the Committee on Small Business, he has worked diligently and successfully for legislation of vital importance to the small businessmen and women of our Nation.

In his 30 years in the House, Joe has become a skilled legislator, who has mastered the complexities of the legislative process. As a new Member 12 years ago, I often turned to him for advice, and it was always freely given.

The House will miss his wise counsel and his strong presence, but his accomplishments will long remain as a monument to this man whom we all love and respect.

Mr. BADILLO. Mr. Speaker, it gives me great pleasure to rise on the floor of the House today to pay tribute to one of our colleagues who will retire at the end of this term. Although he represents a constituency that is quite different from mine, we share many of the same concerns.

The Honorable Joe L. Evins has served his country in many capacities—as Assistant Secretary of the Federal Trade Commission, as an officer in the U.S. Army during World War II, and as a Representative from the Fourth District of Tennessee. It was during these 20 years in the House of Representatives that he made his most lasting contributions.

As chairman of the Subcommittee on Public Works Appropriations, he has effectively monitored the purse strings of the best public works programs of the Nation. He has often commented that he believes in "building America" and he regards public works construction projects as "investments in America." With his retirement, he leaves a legacy of dams, bridges, reservoirs, roads, highways, airports, and many other construction projects which have revitalized our cities and communities.

During the past 2 years, I have had the privilege of working with him on the Committee on Small Business, of which he is chairman. He has continuously impressed me with his dedication to infusing lifeblood into the small businesses of the United States through legislation. He has fought long and hard for greater opportunities for the independent businessman in securing Federal contracts for goods and services. These efforts I strongly applaud.

His support of medicare, medicaid, increases in social security, the headstart child development program, and assistance for the handicapped is appreciated by the needy throughout the United States.

This legislative body will miss his presence here in Washington; just as surely his constituents will miss his representation of their concerns. I hope you will join with me in expressing best wishes to Mr. Evins in his retirement and our hope that he will live a long and continued productive life.

Mr. DOWNING of Virginia. Mr. Speaker, I am pleased and honored to be able to express here today my respect and admiration for my esteemed colleague, the Honorable Joe L. Evins, dean of the Tennessee congressional delegation. It is with mixed emotions that I view his retirement.

As the dean of the Virginia congressional delegation and as an imminent retiree, I can share Joe's feelings at this time, feelings of regret and yet of relief. In his 30 years here in the House, Joe has accomplished so much for the public's benefit. As chairman of the Subcommittee on Public Works Appropriations, he has helped to guide the use, conservation, and development of our water resources and the growth and efficiency of a massive Interstate Highway System of which we should be duly proud. Since my congressional district encompasses massive shoreline and extensive bodies of water, including the lower Chesapeake Bay, I have personally observed the fine work in utilization and preservation of our waterways. My district's having been the beneficiary of extensive Interstate Highway construction, which greatly eases my weekly trips home, I can appreciate the planning and work necessary to effect this safe, expansive transportation system.

My distinguished colleague was honored by his selection as the chairman of the Committee on Small Business which was granted full committee status beginning with the 94th Congres. His years of effort in behalf of America's small businessmen, one of our most valuable national resources, were thusly rewarded. I sincerely believe that the small businessman very nearly reflects the ideal of our Founding Fathers, and I was gratified to see the committee elevated and my most deserving friend remain there to nourish it.

Joe will be missed as a respected colleague and valued friend. But I know we both have interesting futures toward which to look which will somewhat assauge our sense of loss in leaving our beloved House.

Mr. SHRIVER. Mr. Speaker, those of us who worked especially closely to the appropriations process here in Congress will feel greatly the loss of the fine leadership we have enjoyed under the guidance of Joe Evins, our distinguished colleague from Tennessee.

His experience, foresight, and wisdom as chairman of the Public Works Appropriations Subcommittee benefited this Nation, as few men could. He led the way with his support for necessary flood control, water resources development, conservation, and recreation projects. I want to express appreciation on behalf of the people of my district and all Kansas for his understanding and support over the years of necessary projects that have resulted in the saving of lives and property as well as economic and agricultural progress.

Joe Evins will not only be missed in the House of Representatives. Small businessmen all across the Nation will regret the loss of so competent an advisor, so helpful a friend.

I personally wish Joe the very best of many years to come. May he enjoy his retirement to the very fullest.

Mr. KARTH. Mr. Speaker, our colleague, the industrious and far-sighted Congressman from Tennessee's Fourth District, Joe Evins, has, in a very true sense, been a builder of our country.

As chairman of the Appropriations Subcommittee on Public Works he has encouraged and guided construction projects that have benefited the entire country and which will continue to benefit the American people for a great many years to come.

Likewise his insight and tireless legislative work as chairman of the Committee on Small Business have contributed greatly toward strengthening small business and therefore the entire American economy.

For three historic and hectic decades Joe Evins has served the U.S. Congress and the American people with wisdom and steadfastness. His contributions will not simply endure; I am convinced they will grow in importance with the passage of years.

Mr. UDALL. Mr. Speaker, Joe Evins has served his country well. His terms in the House have spanned an important part of our country's history. Joe Evins combined the best of the conservative and progressive traditions of American politics. On the great issues of developing our natural resources while preserving the environment for future generations, he was sensible and forward looking.

I wish him and his family well in what I hope will be a new and rewarding phase in the life of a very able, generous, and intelligent man. We will all miss his counsel and engaging presence.

Mr. COLLINS of Texas. Mr. Speaker, I want to add my word of tribute to Joe L. Evins, the dean of the Tennessee congressional delegation. With all of Joe's dynamic spirit, he seems too young to be leaving us in Congress. Those of us who go before his Public Works Committee every year will miss him the most. I imagine that few Congressmen out of the 435 of us up here have not been before Joe Evins' Public Works Committee every year. In the 2 or 3 days each year when our Texas delegation appears before Joe, I am most appreciative of the time he gives us for the presentation. He always listens attentively, he weighs all of the facts carefully, and he maintains an even disposition. Everytime I have been in his hearing room, the Hall is crowded with everyone wanting to have an opportunity to make a speech. It seems that all of us have an intense feeling that our request is the most essential for America's future.

Yet, when Chairman Evins completely weighs all of the requests, he comes up with a most logical and fair appraisal on which we can all agree.

Of all of the money that is spent in Congress, the money that goes through Joe Evins' Public Works Subcommittee best represents an investment in the future.

Joe Evins plans to go back to Smithville, Tenn. and live in the home where his folks have been for generations. He is still the same friendly, energetic Joe Evins that came to Washington. Joe represents the best of the South and those of us from the South will look forward to seeing him continue to be involved in the South's future.

Mr. FLYNT. Mr. Speaker, for the past 22 years, I have had the distinct honor and privilege of serving in the U.S. House of Representatives with the distinguished gentleman from Tennessee, the Honorable Joe L. Evins.

For more than 30 years, Joe Evins has served this country in many capacities and has created a superb record of devoted public service to the Fourth District of Tennessee and to his State and Nation. His leadership as chairman of the Appropriations Subcommittee on Public Works and as chairman of the Small Business Committee will serve as an inspiration to all of us who carry on in his absence. The conscientious application of his energy and skills to the betterment of this country has earned him the respect and admiration of all who know him. As dean of the Tennessee delegation, Joe's selfless dedication to the citizens he served will long be remembered to all of us as a legacy of a man who loved his State and his country and gave of his very best for both.

I join with my colleagues in the House today in commemorating the significant contributions of our mutual friend, Joe L. Evins, after 30 years of dedicated public service. His leadership, his skill, his perseverance, and his patience will be notably missed in this body, but we wish him and his family much happiness, good health, and Godspeed.

Mr. ICHORD. Mr. Speaker, I greatly appreciate this opportunity to join in tribute to my good friend and distinguished colleague, Joe Evins.

Joe Evins was first elected by the people of the Fourth District of Tennessee in 1946. He was subsequently reelected for 14 consecutive terms, compiling during his 30 years of service and leadership in this House a record of distinguished achievement. Joe came to Congress armed with sound advice from his father:

> Always remember there is no substitute for honesty, loyalty, and sincerity. Make this your motto.

During his years in Congress, Joe never deviated from this motto and undertook all his duties with wisdom, foresight, and compassion.

My very sincere regret is that as I enter on my new duties on the Committee on Small Business that Joe Evins will not be there. Joe chaired the Small Business Committee for 27 years, and under his tutelage, Congress adopted many sweeping reforms and legislative measures which today provide equity and assistance to the tens of millions of small businesses which form the backbone of our free enterprise system. I will miss his fine advice and counsel. I also had the pleasure of appearing before Joe Evins on numerous occasions as he chaired the Subcommittee on Public Works Appropriations. He was a fair man of deep perspective who walked with ease between the need to hold the budget and the need to provide sound water supply, flood control, and recreation projects for the American people.

Joe has spent 30 years of untiring effort on behalf of his much beloved Nation and State. As dean of the Tennessee congressional delegation, Joe served longer in the House in terms of consecutive service than any other Congressman from Tennessee. His chairmanship of the Small Business Committee and his work on the Appropriations Committee stand as legacies which will serve generations long after Joe's retirement from this body. One magazine article stated:

> Joe Evins is . . . a man of action, a doer, a workhorse, an expert in government . . .

But most of all, Joe was a Congressman, in every fine sense of the word, a man of the people who was a devoted public servant and a fair and objective leader.

Mr. Speaker, there will be a great void in the 95th Congress without Joe Evin's leadership. When he retires, the people of the United States will lose an honest and fine Representative. The State of Tennessee will lose a forceful and loyal spokesman. And, while Joe has promised to maintain a "lively interest" in public affairs, his colleagues will lose a valuable friend and knowledgeable colleague whose immense contributions to this Nation will be sorely missed.

Mr. DRINAN. Mr. Speaker, I am pleased to join my colleagues today in honoring Congressman Joe L. Evins. Congressman Evins is retiring from the House of Representatives after 30 years of dedicated service. His many achievements during his 15 terms in office have been characterized by leadership and true concern for the people of this country.

As chairman of the Appropriations Subcommittee on Public Works, Joe Evins has demonstrated his unending commitment to the development of this country in providing funds for important public works programs. Congressman Evins' leadership of the Subcommittee on Public Works has led to funding for the construction of dams, reservoirs, bridges, highways, airports, post offices, hospitals, libraries, community centers, rural electrification, and other programs and facilities for the growth of the country.

Congressman Evins also distinguished himself in serving as the chairman of the Committee on Small Business. His dedication to this committee and the small businessmen of America was no less than his unfailing support of vital public works programs. Joe Evins has always demonstrated this sort of commitment, dedication, and concern to everything he has done in the Congress.

For three decades, Congressman Evins has proven himself a dedicated leader, an effective legislator, and a man of kindness and integrity. We shall all miss him.

Mr. BURLESON of Texas. Mr. Speaker, I take this opportunity to extend my congratulations and warm good wishes to the Honorable Joe L. Evins of Tennessee as he completes 30 years as a Member of Congress and prepares to retire at the end of this term. We both came to Washington at the same time, that is, the beginning of the 80th Congress in January of 1947. I am sure that he will agree that we have learned much over the years and shared many good times.

Over the years, we have all observed his quiet and effective leadership and I am sure that I can be counted among many other Members of Congress who have valued his friendship. He will be remembered with fondness by those of us who have served with him here in the Congress and his contributions to our Nation and the people he represents have been many.

I wish Joe the very best as he returns to Tennessee and I look forward to our continued association and friendship.

Mr. SIKES. Mr. Speaker, I wish to join in paying high tribute to our distinguished friend and colleague, the Honorable Joe L. Evins of Tennessee, who is retiring from the Congress with the adjournment of this session. I deeply regret his decision to leave the House and I am confident this feeling is shared by every Member of this body. Certainly he is one of the most highly regarded Members in Congress and the respect which he enjoys comes from both sides of the aisle. He has been my very good friend for these many years and it has been a privilege, an honor, and a great pleasure for me to work closely with him in the House and on the Appropriations Committee.

For 30 years Joe Evins has provided outstanding leadership to the Congress. His sound counsel and constructive efforts have proven highly beneficial in the enactment of sound legislation for the progress of America. Through the years he has helped to mold the American resolve to protect the land and waterways which are such a precious heritage of our country. Many waterway projects already completed or now in progress throughout the Nation have been made possible through the interest and efforts of the Public Works Subcommittee under his able leadership. As chairman of the Public Works Subcommittee, Mr. Evins has not hesitated to add funds where needed and has had the courage to delete items for which a justification has not been fully shown. We can all agree he has been one of the great subcommittee chairmen of the House.

In addition to his many years of service and accomplishments on the Appropriations Committee, Joe Evins has served for 29 years on the House Small Business Committee and has been its chairman for the past 14 years. He was the first chairman of the new standing Committee on Small Business. His work in the field of small business has brought him many awards for outstanding service to the small business industry. Ninety-seven percent of American businesses are considered small business and they produce 43 percent of the gross national product. This committee has jurisdiction over small businesses. It has been very active under the able leadership of Joe Evins, particularly in holding oversight hearings on the problems relating to small business. Mr. Evins has been responsible for major legislation that have significantly benefitted the small businessman. One in particular is the legislation which increased the dollar amount of SBA loans per applicant and extended the terms of the loans. He also is credited with legislation which established an Office of Chief Counsel for Advocacy within the Small Business Administration. This Office is filled by Presidential appointment and subject to Senate confirmation. Joe Evins has been a friend indeed to the small businessman and to the small business industry.

When Joe Evins came to Congress in 1947, he brought with him valuable experience gained in years of service in the State of Tennessee as a young attorney and, later, as a member of the legal staff and Assistant Secretary for the Federal Trade Commission. He also brought with him the ability to make friends and to offer responsible service in the lawmaking processes in the Nation's Capital.

Joe Evins has established an enviable record in the Congress and I say with full sincerity that the Congress and the Nation shall miss his wise counsel and effective service. His dedicated work has earned for him the highest admiration and respect of his colleagues. He is truly an outstanding American. My best wishes go with him and his wife and family in all that they undertake in the years ahead.

Mr. PICKLE. Mr. Speaker, some of our greatest Democrats throughout history have come from the Volunteer State of Tennessee. These would include Andrew Jackson, Cordell Hull, Estes Kefauver, Albert Gore, and the man we honor today, Joe L. Evins.

Joe Evins has spent the last 30 years in Washington, D.C., working hard to improve the quality of life for the people of the Fourth District of Tennessee, and for the entire citizenry of this country. That we have prospered greatly during the years which he has served is in no small way attributable to the work Evins has accomplished as chairman of the Appropriations Public Works Subcommittee. Joe Evins is a builder in its best sense.

His hometown of Smithville is a small town but this is not something Joe Evins regards as a liability, and rightly so. It is a commentary upon his character that Joe Evins has gone to great heights; dined with the Kings and Queens; known Presidents on a first-name basis; but yet he still feels a common bond with the small farmer, the independent businessmen, the widow, and the veteran of World War I. Joe Evins has real empathy for the common, everyday folk who make this country work and make it what it is. He has proved this time and time again as the chairman of the Small Business Committee where he has championed the Robinson-Patman Act, an effort to prevent predatory pricing practices against small business by the gigantic multinational oligarchies.

The late President Lyndon Johnson had great admiration for Congressman Evins. He recognized the contributions Evins made when he said:

> Generations of Americans yet unborn will benefit from the labors of this man.

I can verify this statement. This session, I have worked very closely with Chairman Evins on a project to be expanded at the University of Texas in Austin. This involves the reconstruction of the Tokamak device, which perhaps is the key to solving energy problems of the future through the use of fusion. Joe Evins understands the importance of this project and what it could mean for this country in the next generation. I consider his friendship priceless, and our community is grateful to him and his committee.

Most of all, I am grateful to have known the pleasant and affable Joe Evins. He and his wife Ann are one of the most popular couples in Washington. What a joy to have the friendship of these two people. Together they have helped countless thousands of persons have a little better life on this Earth.

If anyone ever built a way to heaven, Joe Evins has done it.

Mr. ABDNOR. Mr. Speaker, when the

record book is compiled on the "Builders of America," one of the names high on that list of great contributors to our national well-being will be that of our esteemed colleague, the gentleman from Tennessee who is the dean of that State's congressional delegation.

It has been my pleasure to serve in the few years I have been in the Congress on the House Public Works Committee. As a result of that particular assignment, I have on a number of occasions had the opportunity to work with JOE EVINS in his capacity as chairman of the Appropriations Subcommittee on Public Works.

To say that he has been most helpful on those occasions is an understatement. His understanding concern has been directly beneficial to my State and I know that I speak for my constituents in expressing appreciation for the contributions JOE EVINS has made to the progress and success of programs in South Dakota.

I am pleased to join in this farewell salute to a fine American and wish him the greatest happiness as he returns to the people he has served so well and so faithfully for three decades.

Mr. MURPHY of New York. Mr. Speaker, these brief remarks about the dean of the Tennessee delegation to the House of Representatives, JOE L. EVINS, cannot do justice to the reality of his presence here. He came to this body in 1947, the same year as our distinguished Speaker, and has served 15 consecutive terms in the service of the people of Tennessee's Fourth District.

He has kept the chairmanship of the House Appropriations Subcommittee on Public Works as a position of leadership for the rest of us to look up to in looking for a model of congressional service to the people of the entire Nation. And as chairman of the Committee on Small Business, he has served every individual entrepeneur in the country with his dedication to the ideals of the American way of life. His wisdom and guidance in the legislative affairs of those areas with which he was entrusted, as well as with every area of lawmaking in this Congress, have shown him to be one of the most knowledgeable and effective leaders in this generation. There is quite literally no area of congressional interest in which he has not proven his worth to the Nation, and to the people of Tennessee.

I am pleased to be able to add my small commentary to the praise of this gentleman. My only regret is that there can be no replacement which is his equal, only one which can learn greatly from his example.

Mr. DON H. CLAUSEN. Mr. Speaker, my colleagues and I will greatly miss a man who has become an institution in our midst. Our good friend and colleague, JOE L. EVINS, of Smithville, Tenn., has decided, after 30 years in Congress, to retire.

We shall miss his diligence, fairness, dedication, wit, and ability to get things done. As chairman of the Subcommittee on Public Works of the Appropriations Committee, his leadership and judgment have been truly inspirational.

His detailed knowledge of the Public Works funding requirements meant the speedy passage of deserving projects and the disapproval of many which failed to measure up to established criteria. His service has meant a great deal to the American people in terms of jobs, and also in lasting public works improvements in communities across the Nation.

Few of us who have worked closely with JOE will ever forget his responsiveness to our many requests or the extra effort he put forth to meet national and regional needs. The people of northern California will long remember the time, effort, and attention he has given to our unique requirements.

The small businessman will also miss his many contributions on their behalf. He has worked arduously and effectively to maintain the independence of the small businessman and the free enterprise system.

I join with my colleagues in wishing our good friend the best of health, fortune, peace, and contentment in his retirement. He has amply earned it and it is richly deserved.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include therein extraneous material, on the subject of the special order taken today by the gentleman from Tennessee (Mr. JONES).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. SARASIN) is recognized for 5 minutes.

Mr. SARASIN. Mr. Speaker, on September 23, 1976, I was absent from Washington for part of the legislative afternoon. Had I been present, I would have voted in the following fashion:

Rollcall No. 803, H.R. 12112, synthetic fuels: the rule, House Resolution 1545 to provide for the consideration of and 4 hours of debate on the measure, "nay"; and

Rollcall No. 804, H.R. 15, lobbying: the rule, House Resolution 1551 to provide for the consideration of and 4 hours of debate on the measure, "yea."

CONGRESS SHOULD SUSTAIN THE VETO OF THE AUTOMOTIVE TRANSPORT RESEARCH AND DEVELOPMENT ACT, H.R. 13655

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 20 minutes.

Mr. KEMP. Mr. Speaker, the car of tomorrow—whether it is to be an electric car, a solar energy car, or one with traditional propulsion systems—is known in research circles as the "S3E." These signify: Safety, economy, energy, and environment. These four elements reflect major socioeconomic problems in this country, all related to the motor vehicle.

Ten years ago, in 1966, the Congress met the safety issue headon and passed two bills, the National Traffic and Motor Vehicle Safety Act and the Highway Safety Act. The National Highway Traffic Safety Administration was created within the Department of Transportation and assigned the responsibility for safety.

Subsequently, the Congress passed the Motor Vehicle Information and Cost Savings Act (Public Law 92–513) and gave the NHTSA the responsibility to explore the economy factor. Next, we passed last year, the Energy Conservation Act of 1975 and again gave the NHTSA the responsibility for energy by the promulgation of fuel economy standards. In addition, the NHTSA to some extent has worked with EPA in the former's diagnostic test centers on pollution control and other environmental factors involving the motor vehicle.

So we see that the total car picture has been developing for some time in the NHTSA.

I point with pride that a pioneering corporation in my own district, Calspan, in cooperation with the Chrysler Corp., has helped to make great strides in developing performance standards for these integrated test vehicles which are now on display at the Department of Transportation.

Therefore, Mr. Speaker, I cannot understand, notwithstanding previous votes, how this body can vote $100 million for a project that already exists. Unfortunately, the House Committee on Science and Technology has kept from us DOT's advanced role in this program. Perhaps this was due to the Congression Reform Act when much of the responsibility and jurisdiction for automobile research and development was shifted to the Science and Technology Committee. In fact, it is my understanding that it was not until August 24 of this year, that NHTSA's Associate Administrator for Research and Development was able to testify at length on that Agency's role in the development of the S3E.

The President has been consistent in his desire to organize and streamline our energy needs. I urge that we sustain his veto here as an important part of his overall plan to eliminate waste and duplication, and, to keep the government out of private enterprise.

Mr. Speaker, a veto of H.R. 13655 will eliminate one of the most extraordinarily duplicative and unnecessary bills to have been presented to this Congress.

I am especially concerned by the fact that the program which would be established by this bill would duplicate work presently underway in the private sector. The argument has been made that the program established by the bill would be supplemental to the effort in private enterprise rather than supplanting it. There is, in fact, a provision in the bill which would prohibit governmental duplication of the efforts of industry. However, it is quite clear to me that this provision and therefore, this bill is unrealistic, impractical and patently absurd. There is simply no way that this proposed governmental program will not be engaging in research and development that the automobile companies have already been doing in one form or another.

Private industry already is heavily involved in developing advanced automotive propulsion systems. As an example, let me cite some figures concerning the expenditures by the three largest domestic automobile manufacturers with respect to alternative automobile engine research:

TABLE 1.—ALTERNATIVE POWER SOURCE RESEARCH DIRECT EXPENDITURES

[In millions of dollars]

	1967	1968	1969	1970	1971	1972	1973	Total 1967–73
General Motors	1.64	4.74	8.46	11.33	18.92	20.80	23.69	89.58
Ford	4.81	4.87	6.56	7.97	12.99	20.19	24.53	81.92
Chrysler	NA	NA	NA	.10	.30	.80	3.5	4.70
Total								

TYPES OF ALTERNATIVE POWER SYSTEMS

1. GM.—Rankine cycle (steam), stratified, electric, gas, turbine, Stirling, rotary, and Honda CVCC evaluation. "GM's expenditures for emissions control applicable to the rotary engine do not include the approximately $50 million forecast to be paid over the period 1970–1975 for the rights to produce this engine."

2. Ford.—Stratified charge (PROCO and flash burn), diesel, Rankine cycle, Stirling, rotary, turbine, pre-chamber spark-ignited, and auxiliary power units (APU).

3. Chrysler.—Gas Turbine, Rankine cycle, TCCS evaluation, Brayton cycle, rotary, and Honda CVCC evaluation.

Source: E.P.A. additional information for the record, Hearings on Research on Ground Propulsion Systems, Subcommittee on Space Science and Application, February 6, 1974.

Mr. Speaker, I believe that any consideration of a new governmental program of this highly technical nature should first address the threshold issue of whether or not industry is already doing the required research. I for one am not at all convinced that this proposed program could go anywhere without duplicating what has already been done by private industry and what private industry already has on the drawing boards.

Placing the Federal Government in a major automotive research, development, and construction role should not be taken lightly. Both the long- and short-term consequences of this program could have very serious consequences on our entire system of free enterprise.

Through the DOT's National Highway Traffic Safety Administration, NHTSA, DOT conducts research concerning all major components and systems of automobiles. The NHTSA's research safety vehicle, RSV, program is already well along in its sponsorship of the development and evaluation of advanced safety automobiles which will achieve advanced levels of damage-resistance, safety, fuel economy, and lower emissions while it also is designed to be produced at reasonable costs. Detailed design development for two versions of such advanced research automobiles, which should meet the Nation's goals for advanced automobiles through the mid-1980's, will be completed before the end of this year. The contracts for the development of the two versions of these advanced automobiles were awarded to the Calspan Corp., and to Minicars, Inc., in July 1975.

If the Calspan and Minicars designs appear practical, and vehicle fabrication is determined to be in DOT's interest, each of these contractors will be awarded a contract for final design and manufacture of test vehicles, which is scheduled for completion in mid-1978. The final phase of the program will consist of comprehensive testing of the RSV vehicles, which should be completed in mid-1979.

Calspan, I am happy to say, is developing an RSV based on modification and improvement of a new production vehicle. Key features of this car include crashworthiness and a soft foam bumper which will reduce pedestrian injuries. Excellent fuel economy and provisions for materials recycling also are featured.

With the foregoing facts in consideration, I commend the President's well-advised veto and urge my colleagues to sustain that veto.

THE PLIGHT OF THE RYZHYI FAMILY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 10 minutes.

Mr. FRENZEL. Mr. Speaker, 35 nations, including the United States and the Soviet Union, signed the Helsinki accords on August 1, 1975. All of these nations pledged to do everything possible to reunite families separated by political boundaries. However, the Soviet Government has failed to live up to that promise in numerous instances. Therefore, for the past year a vigil has been conducted by Members of Congress in behalf of the families who remain separated.

A case history of these families entitled "Orphans of the Exodus," dramatically details this tragic problem. I would like to direct the Members' attention to the situation of the Ryzhyi family, which to me demonstrates a clear violation of the Helsinki agreement.

Nachum Mordkhovich Ryzhyi, his wife Sara, and her mother Golda Vaisman currently reside in Kishinev in the Soviet Union. Their two sons, David and Shimon, were previously granted permission to leave the Soviet Union and are now living in Israel. On February 3, 1976, Nachum, Sara and Golda applied to leave the U.S.S.R. in hopes of being reunited with their sons in Israel. Their application was refused on June 2, and Nachum was fired from his job immediately thereafter.

The Soviet Government indicated that the Ryzhyi's emigration application was refused because of the secret work of Nachum. To the contrary, Nachum claims that he has never had contact with any sort of secret material, nor does he have the education necessary to be given access to secret material. From 1964 to 1975, he was employed as a buyer in a factory and later as a buyer in a construction company. It would seem that there is no justifiable reason for the refusal to allow the Ryzhyi family to be reunited.

I was pleased to learn that a special interest in the plight of this family has been taken by members of the Beth El Synagogue, which is located in my district in Minnesota. Hopefully, the dedicated efforts of these concerned individuals will help expedite the reunification of the Ryzhyis.

I believe the continued separation of the Ryzhyi family, and of other families like them, demonstrates the failure of the Soviet Government to honor the Helsinki Accords, and may have an effect on future efforts to further the cause of mutual understanding, trade, and cultural exchange between the United States and the Soviet Union. It is my firmest hope that the U.S.S.R. will soon begin to honor the basic human rights of free emigration and of family unification, so that then we may jointly turn our full resources to the search for peace.

SENATOR PAUL DOUGLAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, I rise in tribute to our former colleague, Senator Paul Douglas, who served with distinction the people of Illinois and our Nation in the Senate from 1948 to 1966.

Until the moment of his death on September 24, Senator Douglas symbolized this Nation's fight for compassionate reform, and during his entire lifetime he fought for reform in housing policies, in civil rights, in labor relations, in social security, in consumer protection, in civil liberty, and in education. The people of Illinois and all of America have benefited because of his efforts and that is the highest tribute any man or woman can earn.

I met Paul Douglas in the early 1930's when he was a professor of economics at the University of Chicago and he was deeply interested in the plight of the unorganized industrial workers of America.

Paul Douglas was a giant among men who fought the good fight for personal freedom and self-determination of each individual. He firmly believed in the principle that the individual comprised the State and the individual was greater than the State, and certain inalienable rights belonged to each and every man and woman who is a member of a free society.

In 1948 I was secretary-treasurer of the Illinois Political Action Committee. It was our organization which passed a resolution at a convention urging the Cook County Central Democratic Committee to name Paul Douglas as the Democratic Party's candidate for U.S. Senator. He was elected to the Senate in 1948 when all of the political pundits said he could not win, defeating the then Senator Charles Wayland Brooks.

Paul Douglas was a man of tremendous courage, integrity, and commonsense and he truly earned the recognition bestowed upon him by his fellow Senators who regarded him as the "conscience of the Senate."

I have known both Paul and Emily Douglas for over 40 years. His loss is a great one for our party, State, and Nation, but those of us who had the privilege of knowing him all have a feeling of pride in the friendship we shared with this outstanding American.

Mrs. Annunzio joins me in extending deepest sympathy to his children, and to his devoted wife, Emily.

TREES GROW IN BROOKLYN, TOO

The **SPEAKER** pro tempore. Under a previous order of the House the gentleman from California (Mr. PHILLIP BURTON) is recognized for 5 minutes.

Mr. **PHILLIP BURTON**. Mr. Speaker, in today's Washington Star, there appears the following editorial praising our distinguished colleague from New York, Mr. FRED RICHMOND.

This well-deserved tribute should be of interest to his friends and colleagues:

TREES GROW IN BROOKLYN, TOO

It's unusual for a freshman congressman to head a subcommittee but what's even more unusual in the case of Rep. Fred Richmond is that a city boy has been put in charge of U.S. forest oversight.

Mr. Richmond, who hails from Brooklyn, is from all accounts one of the hardest working members of the House Agriculture Committee, of which the Forests Subcommittee is a part. In looking through our files we came upon an editorial written last year in which we gave Mr. Richmond high marks for beefing about a proposal to create a beef research and marketing board. We and Representative Richmond didn't think it necessary for the federal government to get into the business of promoting beef eating, considering how much cholesterol most overfed and overweight Americans already are packing around; but Congress went ahead and passed the legislation anyway.

At any rate, Mr. Richmond's colleagues on the Agriculture Committee must have thought he was doing something right. They selected him the other day to chair the Forests Subcommittee which has jurisdiction over legislation affecting 155 national forests encompassing 187 million acres, and the Forest Service which has 20,000 employes and an annual budget of $1.2 billion. He takes over the post made vacant by the death of Rep. Jerry Litton of Missouri, who had an impressive background in agriculture.

Mr. Richmond is going to have his hands full. Preservation of national forests has become an emotional issue at a time when high demand for lumber is depleting privately-owned stands of timber. Industry and ecologists are locked in a raging battle over when and how timber should be cut from the national forests.

Mr. Richmond said he hopes "to bring a fresh, unbiased outlook to the complex issues of balancing supply and demand for our nation's timber with ecological concerns."

While he's providing congressional oversight of the vast hinterland forests Mr. Richmond apparently isn't going to forget where he comes from. He said a priority item will be the Urban Forestry Act, which he has sponsored along with two New York Republicans, Sen. Jacob Javits and Rep. Hamilton Fish Jr., to provide greenery and some shady spots for the city folks.

The Urban Forest Act would authorize federal dollar-for-dollar matching funds for private contributions for tree planting and maintenance in urban areas and 50 cents on the dollar for contributions from municipalities. That's no small thing; the city fathers of Dayton, Ohio found, for example, that it cost $33,600 to plant 47 medium-sized trees around the city's new Courthouse Square—more than $700 a tree.

We see no reason why Mr. Richmond shouldn't do well in his new assignment. After all, farm and forest legislation affects consumers as much as it does farmers and foresters.

Besides, trees grow in Brooklyn, don't they?

WHY RETIRE AT 65?

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 10 minutes.

Mr. **BRADEMAS**. Mr. Speaker, at a time when we look with confidence to medicine and the other sciences for discoveries which will extend the human lifespan, we have paid insufficient attention to the personal and social implications of growing older. It is for this reason that as chairman of the Subcommittee on Select Education, which has jurisdiction over the Older Americans Act, I have been interested in legislation aimed at providing older people opportunities they deserve to lead independent lives in health and dignity.

One of the major concerns of older persons stems from the realization that they will be denied the chance to work merely on the basis of age. There is no excuse for this form of discrimination. Ageism, like racism and sexism, cannot exist in a nation with ideals such as ours.

The determination not to deprive our society of the unique contributions offered by older Americans led to the Age Discrimination in Employment Act, but this measure only protects those who have not reached the age of 65. It does not protect those 65 and older from so-called mandatory retirement. This is an issue which I hope will be given serious consideration in the next Congress.

Indeed, we have already seen some movement in this direction with the passage of the Age Discrimination Act of 1975, which prohibits programs or activities receiving Federal aid from exercising "unreasonable discrimination on the basis of age." And I would remind you that unlike the Age Discrimination in Employment Act, this legislation applies to all Americans, including those over age 65.

We must begin to examine critically the assumptions behind mandatory retirement for if we base retirement on age alone we shall not only be depriving society of much valuable talent, but we shall also be deeply affecting the dignity of the individual who has been forced from his work.

I am placing at this point in the RECORD an article from the September 5, 1976 issue of the Washington Post which is an excellent examination of the issue of mandatory retirement:

[From the Washington Post, Sept. 5, 1976]

WHY RETIRE AT 65?

(By Paul Woodring)

Each day of the year more than 4,000 Americans reach the age of 65. On that day they are not discernibly older, either physically or mentally, than they were the day before, and most of them still think of themselves as "middle-aged." But in the literature of sociologists they have moved abruptly into a new category—"the aged." Henceforth they will be treated as "old" by both employers and governmental bureaucracies. They have entered into what one writer calls "statutory senility."

Merely by having a birthday they have suddenly lost one of their most important legal protections—the "age discrimination" law, which protects workers between 40 and 65. Because Congress has decided that it is legitimate for employers to discriminate against employees over 65, they can now be discharged without a hearing regardless of their health, vigor, intelligence or alertness. It is not called "firing"—we prefer the euphemism "mandatory retirement"—but the result is the same: denial of the right to continue working at the job one knows best.

And while earlier periods of unemployment were temporary, this one is permanent. The person who reaches the age of 65 in good health suddenly faces perhaps 20 years of unemployment—a period as long as infancy, childhood and adolescence combined.

There are, to be sure, some compensations. Those who will meekly agree not to seek further employment become eligible for Social Security, and some receive other pensions as well. Those over 65 enjoy some minor tax advantages, and a few cities make the patronizing gesture of offering free rides on buses to those who show their Medicare cards. But, for many, these "old-age benefits" are poor recompense for the loss of the right to be useful and productive members of society.

Like most people, I never gave much thought to all this when I was younger. I just assumed that all people over 65 were eager to retire and wanted nothing more than the right to go fishing 365 days a year.

But when I found myself approaching 65—without feeling particularly "aged" and while still enjoying my work—I began wondering who had decided that everyone became "old" at this fixed chronological age. I began asking who had decided that 65 is the proper age for forced retirement. By whose authority was the decision made? Were the people most directly affected consulted? Was the decision based on sound psychological, sociological, biological or medical evidence that people over 65 must be placed in a separate category because they are no longer able to work? Was appropriate attention given to the widespread evidence of individual differences in the rate of aging?

THE OFFHAND DECISION

It was not easy to find the answers, but during two years of investigation I have made some interesting discoveries.

The decision to base retirement on a fixed chronological age, applicable to a wide variety of jobs, both physical and intellectual, is of recent origin, dating back no further than the passage of the Social Security Act of 1935.

The choice of age 65 was made by a small group of youthful New Deal brain trusters who had been assigned the task of drafting a bill.

The decision was made at a time when 25 per cent of the labor force was unemployed and hence it was desirable to remove older workers from competition for jobs.

Those who made the decision gave no attention to the available evidence of differential aging or to the differing requirements of various occupations. Prof. Douglas Brown, now of Princeton, who was one of the group that made the decision, says in retrospect, "I can remember no suggestion of another age."

At the time the age was selected it was assumed that the new pension plan to be called "Social Security" would apply primarily to industrial workers—not to those whose work was mental rather than physical. Teachers, for example, did not become eligible for Social Security until 1950; for other professions it was even later.

The people most immediately affected were not consulted: no effort was made to find out whether people wanted to retire at 65; nor, it appears, were there any congressional hearings at which the choice of age 65 was discussed and debated.

The congressmen and senators who voted for the act were unaware of its social implications.

Whatever the intention of Congress may have been, the Social Security Act had the effect of establishing age 65 in the minds of employers and the general public as the one at which workers ought to retire. And when the program later was extended to cover teachers and other professionals, it gradually came to be a part of the conventional wisdom that they, too, should be forced to retire at 65.

Retirement as we know it is found only in urbanized, industrialized societies that are under bureaucratic control. In earlier times, an aging farmer might do less of the heavy work, but he continued to do his chores and to help with the harvesting while his wife continued to cook and sew, spin and weave. An older carpenter or mason might let his apprentice lift the rafters and carry the bricks, but he continued to supervise and to do the work that required knowledge and experience. Complete withdrawal from the work force was rare.

Industrialization, with its bondage to the clock, made it inconvenient to make the adjustment of hours appropriate for older workers. The assembly line made it difficult to provide work for those whose pace had slowed or who needed rest periods during the day. But prior to the Depression of the 1930s, retirement, even of industrial workers, usually was on the basis of inability to do the job rather than on the basis of age alone.

VARIED CLOCKS

Employers have supported mandatory retirement for reasons of administrative convenience. When age alone is the basis for retirement, it is unnecessary for the employer to judge quality of work, and a uniform retirement age makes it easier for clerks and accountants to compute retirement benefits.

Middle-aged executives, bureaucrats and salaried professionals favor mandatory retirement for reasons related to their own advancement. Young workers—if they think about it at all—favor mandatory retirement at 65 because, when one is young, it is difficult to believe that anyone so old can be competent or would want to work.

The case against mandatory retirement on the basis of age rests upon the facts of differential aging, the differing effects of aging on various vocational skills, the waste of talent when men and women who still can do their work well are forced to disengage from the work they can do best and the issue of human rights.

People do not suddenly become "aged" at 65. They age gradually over a lifetime, some much more rapidly than others. It is a common observation that some individuals are "older," both physically and mentally, at 60 than others at 70 or 80. There is also a growing body of evidence that those engaged in intellectual work age less rapidly than those whose activities are less stimulating. Consequently, those who engage in intellectual pursuits are able to carry on their work far beyond the age appropriate for the retirement of those engaged in physical labor.

There is also a growing body of evidence that the assumption that intelligence declines sharply with age is largely false, based on a fallacious comparison of test scores of older people with limited schooling with a younger generation with much more schooling.

WASTING TALENTS

There is also evidence that forced retirement accelerates the aging process. Ample clinical evidence exists, according to the American Medical Association's Committee on Aging, that physical and emotional problems can be brought on or made worse by denial of employment opportunities. It charges that setting a chronological age for retirement inflicts enforced idleness, which it characterizes as a "disease-or disability-producing condition that is no less devastating than cancer, tuberculosis, or heart disease."

Mandatory retirement results in an enormous waste of human talent. A 1974 Harris poll revealed that nearly 40 per cent of the 20 million Americans now retired would prefer to be actively engaged in work that would allow them to contribute to the mainstream of American society. Thus, some 8 million individuals who could continue to be productive members of society are forced by present retirement rules to be nonproductive. As the number of older people grows while the working-age population declines because of the present low birthrate, the demand for increases in Social Security and other pensions will place a heavy burden on younger workers.

Finally, forced retirement, when based on a criterion that ignores the individual's ability to do the required work, is an arbitrary denial of human rights without due process, which appears to be in violation of the equal protection clause of the 14th Amendment. Local courts in several states have so ruled, and soon the issue will come before the U.S. Supreme Court. If the courts fail to act, the legislative bodies may do so.

Regardless of new laws or court decisions, the best solution would be widespread acceptance of a more flexible policy that would provide for gradual instead of complete and abrupt retirement. Most people over 65, as well as many of 55 or 60, would be happy to accept a reduced income in exchange for shorter hours, a lighter work load and longer vacations—if it could be done without the loss of status and personal identity that results from complete disengagement from the work force.

Although a policy of phased retirement would cause some initial inconvenience to employers, there is ample precedent for it in other countries where it works well. Such a policy does much to reduce the severity of "retirement shock"—a psychological trauma well known to millions of older men and women even though younger people are unaware of its existence. It would contribute to the physical and mental health of the older generation while making better use of the special talents that come with maturity.

In an affluent society, voluntary retirement, with adequate pensions, is socially desirable and economically feasible. But mandatory retirement, when based on age alone, is unjust, unnecessary and wasteful of human talent. It is a system designed by the young for the convenience of the young and imposed on older people without regard to their rights or their wishes. It will take time for the American people to become aware of this injustice, just as it took time for us to become aware of injustices imposed on women, blacks and other groups. But it seems safe to say that before the end of this century a better-informed electorate will look back on 1976 and wonder how it was ever considered just and fair to discriminate against other workers.

GEN. FRED C. WEYAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. PRICE) is recognized for 30 minutes.

Mr. PRICE. Mr. Speaker, I wish to pay tribute today to a great American, Gen. Fred C. Weyand, who is retiring as Chief of Staff, U.S. Army, after 36 years of active service.

During his long and distinguished career, General Weyand has rendered many notable services to his country. Today I want to recognize him and the Army for a service that was not noted.

General Weyand served as Chief of Staff, U.S. Army, during one of the most severe political crises that this Nation has ever suffered, a crisis culminating in the resignation of the President—the Commander-in-Chief. In many countries of the world, where "political power grows out of the barrel of a gun," the military would have played a dominant role in such a crisis.

Yet, even though this political crisis came on the heels of the Army's withdrawal from Vietnam—the same type of withdrawal that had led to riots and revolts in France after Algeria and in Portugal after Angola—there was never any question of the steadfastness, stability, and loyalty of the American Army. It remained dedicated to the Constitution of the United States.

It is a comment on the strength of our democratic system and the faith that this country has in its Army that this remarkable action was unremarked. But because it was unremarked, we must never forget that it was due in large measure to the dedication and devoted service of General Weyand and the men and women in the U.S. Army—as well as their colleagues in the other services—that made it so. They remembered what many of us sometimes forget—that they are citizens first, imbued with the principles of representative democracy, and soldiers second, sworn to defend those principles against all enemies foreign and domestic.

The United States of America was indeed fortunate to have Gen. Fred C. Weyand as Chief of Staff of its Army during a critical period in its history. He personifies those attributes of enlightened leadership we all admire and respect in our leaders, both military and civilian. He will be sorely missed. We wish him well.

At this point in the RECORD, I would like to include the remarks of my colleagues, the Honorable F. EDWARD HÉBERT and the Honorable JOHN FLYNT:

REMARKS OF HON. JOHN FLYNT

Mr. Speaker, I would like to add my comments to those accolades expressed by my colleagues in honor of General Fred C. Weyand, Chief of Staff, United States Army, who is retiring this week after 36 years of active service.

General Weyand has served his country well in a succession of difficult assignments. I was aware of his splendid performance when he was Deputy Chief and Chief of Legislative Liaison from 1961 to 1964, as well as his outstanding work as Vice Chief of Staff and Chief of Staff of the Army from 1973 to 1976.

While others might point with justifiable pride to his combat service in three wars, I note with interest his service as Military Advisor to the Chairman, United States Delegation, Paris, France, concerning termination of the Vietnam war. I know how frustrating this service must have been, since I had a small taste of it myself in the spring of 1975 when I attempted to reason with the North Vietnamese Delegation, Four Party Joint Military Team in Saigon; concerning our missing and dead. They were impossible to deal with, impossible to negotiate with. And while this was difficult for me, I know how much more difficult it must have been for a combat soldier. But General Weyand accomplished this task, as he accomplished all tasks, with grace, efficiency, and good humor.

General Weyand has taken the Army out of the morass of Vietnam and taken it well down the road as the protector of this Republic. We all owe him a debt of gratitude.

Remarks of Hon. F. Edward Hébert

Mr. Speaker, it is my special pleasure today to join my many colleagues in the Senate and House in paying tribute to a distinguished American soldier, and a close personal friend, General Fred C. Weyand.

As you know, General Weyand retires this week, capping a career that has encompassed well over three decades including service in World War II, Korea, and Vietnam.

I believe it was Oliver Wendell Holmes, Jr., who said:

"The reward of the General is not a bigger tent, but command." General Weyand has known the reward of command, from small unit to high level command. He has also experienced the awesome challenges that come with being responsible for the lives and welfare of literally hundreds of thousands of soldiers under his command.

In addition to his outstanding record as a commander, General Weyand has excelled in a wide array of key staff positions, culminating in his appointment as Chief of Staff, United States Army following General Abram's untimely death in 1974.

We are all aware of General Weyand's tremendous achievements in war and in peace. I need not recount them here. However, I would like to make just a few personal remarks about General Weyand and what I think he means to the Army and the Nation.

As one who has long championed the cause of ROTC, even during the dark days of Vietnam and the attendant campus unrest, I am especially proud of the outstanding record General Weyand has compiled. As an ROTC graduate who has made it to the top of his profession, he stands as a shining example to those in the Army's ranks, regardless of their source of commission, who aspire to positions of great trust and responsibility.

In a larger sense, General Weyand stands as living vindication of the value of ROTC programs across the country. These programs have long provided and, indeed, continue to provide the military services with a broad base of officers who bring to their profession an added dimension in terms of perspective and representation of the society they are sworn to defend. Moreover, the leadership skills they acquire are readily transferable to other sectors of our society, as attested to by their successes in every major field of human endeavor in this country. In short, ROTC makes sense for the military and it makes sense for the Nation. Without it, we would be deprived of men of the caliber of General Weyand, men who answer their country's call to arms and serve its interests unflinchingly through good times and bad.

In a democracy the people get the leaders they deserve. This is just as true of our military leaders as it is of our civilian leaders. If the military profession is viewed by the citizens as unworthy of our best talents, then good people like General Weyand will seek other outlets for their energies. Military service could then deteriorate into competition among the mediocre. Those of us who are charged with the Constitutional duty to raise and support the Army must never allow this situation to happen.

Mr. Speaker, General Weyand and I entered government service at the same time in 1940. We have both come a long way. I hate to see him go, but I know he is looking forward to his retirement . . . 36 years is a long time. I wish him well.

Mr. BOB WILSON. Mr. Speaker, I wish to pay tribute today to a distinguished Californian, Gen. Fred C. Weyand, who is retiring this week as Chief of Staff of the U.S. Army after 36 years of active service.

In April of this year, an event took place at Berkeley that could not even have been imagined several years ago—the Chief of Staff of the U.S. Army—Gen. Fred C. Weyand—was not only welcomed on the Berkeley campus, but he also received the California Alumni Association Award for 1975. And, the standing ovation that he received was not only a tribute to the honor that General Weyand had brought to the University of California since his graduation in 1939, but was also a tribute to the outstanding leadership that General Weyand gave to the U.S. Army during a particularly traumatic period in its history.

It was only a few years ago that the viewers-with-alarm were prophesying the total collapse of the U.S. Army—were warning of a right wing revolt if the Army was withdrawn from Vietnam.

Yet today, the Army is stronger, better trained, and better prepared than any peacetime Army we have had in history. It has reached that level quietly and competently under the low-key but steady and professional leadership of General Weyand. Because of his humility, the Army's successes have not been trumpeted, but we should not lose sight of the progress that has been made and the man who made that progress possible.

General Weyand is a credit to California. He is a credit to ROTC—and he is a credit to the Army and the Nation that he has served so well for $3\frac{1}{2}$ decades. I join my colleagues in saluting him and I wish him good luck and Godspeed.

GENERAL LEAVE

Mr. ALEXANDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of the life, character, and public service of the gentleman from Arkansas, the Honorable WILBUR D. MILLS.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

AMENDMENT TO H.R. 15636

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. HARRIS) is recognized for 5 minutes.

Mr. HARRIS. Mr. Speaker, tomorrow I will be introducing the following amendment to H.R. 15636, the Water Resources Development Act of 1976. This amendment is designed to establish equitable water rates for water delivered to Washington, D.C. and Virginia and to encourage water conservation in the Washington metropolitan area.

This amendment is the result of ongoing investigations my colleague from Maryland (Mr. GUDE) and I have been conducting into Potomac River water supply and water treatment problems. This investigation has revealed that Arlington and Falls Church, Va., are paying 54 percent more than the District of Columbia for the same water pumped in the same way, by the same Corps of Engineers from Dalecarlia Reservoir.

The Virginia suburbs are not only being overcharged but this year's estimated $700,000 in excess payments flow directly into the District's coffers and can be used however the city chooses.

I believe that this investigation provides a dramatic endorsement of the wisdom of the Congress in recently enacting legislation to audit the District of Columbia's finances. Who knows what the District's true financial picture is when a water conservation probe reveals that the Virginia suburbs are subsidizing the District's budget through excessive water charges?

On July 1, 1976, Virginia's water rates were increased 30 percent, to $1.75 per 10,000 gallons. The District of Columbia water rates remained unchanged at approximately $1.13. Enactment of this legislation could result in a 30-percent reduction of Arlington and Falls Church water bills and an increase of about 10 percent to the District. The estimated new rate would be approximately $1.25 per 10,000 gallons to Virginia and the District.

The Corps of Engineers sells water to Arlington and Falls Church under a pricing formula established in 1926 when the Virginia suburbs hooked into the Washington aqueduct system. The formula, applied by the Secretary of the Army, includes a premium to recoup the original aqueduct investment plus current operating and maintenance costs.

The District is not actually billed by the corps for water it uses. Rather, the cost of running the aqueduct, although owned and operated by the corps, appears as an expense item in the District budget. Amounting to approximately $9 million a year, this expense is paid out of the $20 million the District collects in water fees from Virginia, the Federal Government, and its own residential and commercial customers. In addition to the costs of running the aqueduct, the moneys collected pay for the cost of distribution of the water by the city.

The pricing formula may have been equitable in 1926, but over the past 50 years Virginia has contributed about $14 million toward the operating and maintenance costs of the system, and another $14 million for capital improvements. Arlington and Falls Church have more than paid their fair share. It is time to set rates that are equitable for all users of the aqueduct.

Under current billing procedures, money collected by the corps from Arlington and Falls Church is turned over to the District treasury. This is a carryover from the days before the District gained home rule, but until this year the money stayed in a special water fund that could be used only for special water utility related purposes.

In January the D.C. City Council eliminated the water fund so the money collected from Virginia goes into general operating funds. I think it is wrong that Virginia water payments can be used to underwrite the District budget.

This bill will also help to encourage water conservation among jurisdictions served by the Washington aqueduct by permitting the corps to establish a seasonal rate structure based on higher fees in peak summer-use period and lower rates in the winter.

All other water authorities in the Washington area have already adopted similar pricing systems to discourage wastage during the summer when the Potomac is at its lowest level.

On September 9, 1976, the Committee on the District of Columbia Subcommittee on the Bicentennial, the Environment and the International Community received testimony from the U.S. Army Corps of Engineers, the city of Falls Church and Arlington County, Va., as well as the District of Columbia concerning the legislation.

Although the District of Columbia opposes the bill, no new facts were introduced to refute the justification for this legislation.

I therefore urge the Congress to vote in favor of this amendment to H.R. 15636.

The text of the amendment follows:

AMENDMENT TO H.R. 15636

Redesignate section 174 as section 175 and insert the following new section, immediately after section 173.

SEC. 174. (a) (1) Not later than the end of the one hundred and eighty-day period beginning on the date of enactment of this Act, the Secretary of the Army, acting through the Chief of Engineers, shall enter into an agreement with the Mayor of the District of Columbia regarding the rates to be paid by the District of Columbia for the delivery of water from the Potomac River through the Washington Aqueduct, District of Columbia. Such agreement shall provide separate rate schedules for the period beginning May 1 of each year and ending October 31 of such year and for the period beginning November 1 of each year and ending April 30 of the succeeding year. The rate schedule for each such period shall reflect the availability of water from the Potomac River and the operational and capital costs of delivery of water during such period.

(2) The agreement entered into pursuant to paragraph (1) shall provide for the periodic adjustment of the rate schedules established by such agreement in order that such schedules accurately reflect changes in the availability of and the demand of water and the costs associated with meeting such demand.

(b) Nothwithstanding any other Act or any agreement entered into under any other Act, the rate schedules established pursuant to this section shall apply with respect to any delivery of water from the Potomac River through the Washington Aqueduct to the District of Columbia or any other unit of government.

(c) The agreement entered into pursuant to paragraph (1) of subsection (a) and any other agreement entered into in carrying out this Act may contain such terms and items as may be appropriate to encourage equitable water conservation.

FEDERAL AGENCY LOBBYING IN STATE LEGISLATIVE PROCESSES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. WIRTH) is recognized for 5 minutes.

Mr. WIRTH. Mr. Speaker, last June, the voters of California considered an initiative that would have limited nuclear powerplants in the State. Shortly after the election, the Energy Research and Development Administration released 37 documents in answer to a request under the Freedom of Information Act. Those documents showed that, while maintaining official neutrality, ERDA waged a comprehensive and surreptitious campaign to defeat the initiative.

This effort by a Federal agency to determine the outcome of a State law-making process, while repugnant to our federalist system of Government, was not illegal. Indeed, ERDA could have gone further, as far as mounting an overt campaign to persuade the State's voters to defeat the measure, while still staying within the bounds of the law. Although Federal agencies have long been prohibited from lobbying the Congress, no similar prohibition exists for lobbying either a State legislature or State voters considering an initiative or referendum.

The gentleman from Arizona (Mr. UDALL), the gentleman from California (Mr. HANNAFORD), and I will push during the next Congress for legislation to close this loophole. However, among the legislative issues on State ballots this fall are nuclear initiatives, similar to the California proposition, in seven States—Arizona, Colorado, Missouri, Montana, Ohio, Oregon, and Washington. While we do not necessarily support these initiatives, we believe that the voters should be able to make their decisions free from clandestine interference by ERDA or other agencies. Consequently, in order to demonstrate to Federal agencies that there are strong feelings about this in the Congress, we have introduced a bill to expand the existing law so as to prohibit Federal agency intervention in state law-making processes.

On Thursday, we will reintroduce our bill with additional cosponsors. Members who wish to cosponsor the bill, or who have any questions, should call Stephen Saunders at 52161.

INTRODUCTION OF FEDERAL PENSION DISCLOSURE ACT

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, in mid-June an article appeared in the Federal Employees News Digest, concerning the lack of public access to information relating to the pensions of Federal employees. This brief article, which I insert into the RECORD at this point, correctly points out an unwarranted inconsistency in the disclosure laws concerning Federal employees:

[From Federal Employees News Digest, June 1976]

NO PRIVACY

If your nosy neighbor wants to know what your grade and actual salary is as a government employee and exactly what your job duties entail, he or she is entitled to such information.

All someone has to do is call the federal agency where a person is employed and ask for such information.

Under the Freedom of Information Act and related Civil Service Commission regulations, federal departments and agencies are obliged to give such data to anyone who asks for it.

The only exceptions are the intelligence and sensitive agencies such as the FBI, the Central Intelligence Agency, etc.

Interestingly enough, the annuities drawn by retired federal employees remain confidential. The Freedom of Information Act does not apply to them.

The CSC previously, with congressional approval, issued regulations safeguarding such annuity information from the general public.

Perhaps it's because members of Congress are under civil service retirement and don't want the public to know how much they draw in annuities on leaving Capitol Hill.

Mr. Speaker, while I disagree with the article's contention that citizens should be denied access to the information concerning the salaries of current Federal employees, I do heartily endorse the article's contention that it makes no sense to make a distinction between a Federal employee's current wages and his retirement annuity. I believe that the American public is entitled to information concerning both the current employee and the former employee receiving a Federal pension. Because of these beliefs, on June 21 I wrote the Honorable Robert Hampton, Chairman of the U.S. Civil Service Commission, seeking his explanation for the apparently unwarranted distinction. I also indicated my intention to introduce curative legislation should the Civil Service Commission determine that it did not want to alter its policy.

In a letter dated July 9, Thomas Tinsley, Director of the Commission's Bureau of Retirement, Insurance, and Occupational Health, explained the Commission's policy and confirmed my understanding that by regulation the Commission would acknowledge whether or not an individual was in fact an annuitant, but would not disclose any other information, including the level of the pension.

In addition, while in the process of researching this area, I came upon the case of Mr. George Miller, a reporter for the Erie Pennsylvania Times in Erie, Pa. In his attempt to write an article comparing various pension funds, Mr. Miller requested from the Civil Service Commission information concerning the names of the civil servant annuitants from Erie County Pa., and specifically, the annual annuity received by certain retired local officials, including former U.S. Senator Joseph S. Clark. That information was denied Mr. Miller by the Civil Service Commission, and he has been kind enough to provide me with a portion of his correspondence with the Commission which I am inserting in the Record.

Mr. Speaker, as coauthor of the Federal Privacy Act, I obviously have great concern for an individual's personal privacy. However, where it is imperative that the public have a "right to know," I have also advocated Federal disclosure of information measures. Certainly, my correspondence and George Miller's experience with the Civil Service Commission illustrates the need to end the disclosure discrepancy in the records of current and former Federal employees. For this reason, today I am introducing the Federal Pension Disclosure Act which will make available to all citizens information concerning the existence and the levels of Federal pensions paid to former Federal employees.

The Federal Pension Disclosure Act would require each agency administering a Government retirement system to maintain a list of each employee who is or has been eligible to receive a Federal pension and the amount of his or her entitlement. That list would be updated every 3 months and made available for public inspection. Utilizing a list will insure that other information included in the annuitant's file will not be inappropriately disclosed. This is a very simple, noncomplicated procedure which will minimize privacy considerations and at the same time make appropriate information available to the public.

Mr. Speaker, I would like to close by pointing out that this is not an earth-shattering piece of legislation. It will not profoundly affect the lives of many Americans. However, I think it is important that those of us in the Congress patiently and thoroughly follow through on issues like disclosure. Disclosure of information concerning Government employees is a small part of the greater problem of insuring that our citizenry has maximum access to the information concerning its Government. But if the policy of openness is in our best interests, then that policy ought to be as broad and consistent as it can be.

I believe that a policy which denies information concerning the pensions of Members of Congress and other Federal employees has the appearance of the old politics. It would seem that we in the Congress are attempting to hide something and this naturally breeds public distrust of our institutions. We should not allow the Civil Service Commission to continue a policy which has the slightest appearance of impropriety and we must support legislation which fosters public confidence by offering an open and even-handed policy.

Copies of Mr. Miller's and my correspondence with the Civil Service Commission follow:

Civil Service Commission, Bureau
of Retirement, Insurance, and
Occupational Health,
Washington, D.C., June 7, 1976.

Mr. George Miller,
Erie Daily Times,
Erie, Pa.

Dear Mr. Miller: As stated in Mr. McCarthy's letter of May 14, 1976; we cannot release the names or annuities of individual Civil Service annuitants. If sufficient information is supplied to assure positive identification, Section 831.106 of our retirement regulations permits confirmation that an individual is or is not an annuitant and the type of annuity (employee or survivor) being paid. The release of other information would constitute an unwarranted invasion of the personal privacy of Civil Service annuitants, and is prohibited both by the above regulations and the Privacy Act of 1974. The disclosure of such information is also exempt under Section (B)(6) of the Freedom of Information Act.

I must, therefore, deny your request, made under the Freedom of Information Act, for the names of Civil Service annuitants who reside in Erie County, Pennsylvania, and for the amount of annuity received by Clifford J. Welch, Dr. James Weaver, and former U.S. Senator Joseph S. Clark.

You may request that my decision regarding the disclosure of this information be reconsidered by writing to the Commission's Assistant Executive Director for Freedom of Information, Donald J. Biglin, within ten days of your receipt of this letter. If you choose to pursue this course of action, please label your request as an appeal under the Freedom of Information Act.

It is the Commission's policy to comply with requests for information as fully as possible. I can inform you that, as of December 30, 1975, there were approximately 300 Civil Service annuitants who have their checks mailed to Erie County, Pennsylvania addresses, who received gross monthly annuities totaling approximately $159,500.00. With respect to the information you requested pertaining to Messrs. Welch, Weaver and Clark, I can inform you that a Joseph Sill Clark and a Clifford J. Welch are employee annuitants under the Civil Service Retirement System. James Dorman Weaver is not a Civil Service Annuitant. We shall attempt to contact Messrs. Clark and Welch to determine if they wish to supply you with any additional information.

Your letter also requested general information regarding the Civil Service Retirement System's annuity computation formulas and retirement eligibility provisions. I am enclosing a copy of Pamphlet 18, Your Retirement System, which contains the information you requested. See Section H for information on annuity computations and Section F for information on retirement eligibility.

Your specific question concerning the retirement pension of an employee with an average salary of $10,000 cannot be answered without assuming a specific length of service. The table on page 44 of Pamphlet 18 shows the monthly annuity in the instance of a $10,000 average salary and service ranging from 5 to 23 years; page 48 contains the information where length of service is 24 years and over. I have highlighted the applicable columns for you. The figures in the tables are based on the normal annuity computation formula. A more generous formula is used for Congressional service. The Congressional formula is contained in the Certificate of Congressional Membership BRI 41-9, which was enclosed in my letter of May 14, 1976.

The information in this letter is supplied without charge. However, should we, in the future, supply you with information which requires accessing, through computer, the annuity file, there would be a charge of $500.00 to $700.00.

Sincerely yours,
Thomas A. Tinsley,
Director.

June 14, 1976.

Donald J. Biglin,
Assistant Executive Director,
Freedom of Information,
U.S. Civil Service Commission.

Dear Sir: I am appealing a decision denying me information on the amount of money received by annuitants in Erie County under the U.S. Civil Service Commission.

That decision, which is enclosed, was made by Thomas A. Tinsley, director of the Bureau of Retirement, Insurance and Occupational Health for the commission.

Tinsley states the disclosure of information is exempt under Section (B)(6) of the Freedom of Information Act.

I wish to protest that decision. First, a large amount of money contributed the retirement fund comes from the federal government, i.e., tax money. Second, the argument of "clearly unwarranted invasion" of privacy does not apply any more than it would apply to the employee's salary while working for the government.

The idea that an annuitant must be contacted prior to the release of information on his annuity is almost ludicrous. Again, I don't believe there is any situation where a government employee must be contacted prior to the release of his salary. Since the government contributes all funds for salaries and a considerable amount for pensions, I don't think there is a distinction between the two for purposes of public inspection.

I also feel that the cost of $500 to $700 for access to these records is prohibitive. The cost itself makes these records private even if they are public under the act.

I request that this fee be waived since it could be considered as "primarily benefiting the public" in the sense that I am writing a series of stories comparing various governmental retirement systems.

Sincerely,
George M. Miller.

U.S. Civil Service Commission,
Washington, D.C., July 1, 1976.

Mr. George M. Miller,
Erie Daily Times,
Erie, Pa.

Dear Mr. Miller: This is in response to your letter of June 14, 1976, in which you appeal the decision of Mr. Thomas A. Tinsley, Director of the Commission's Bureau of Retirement, Insurance, and Occupational Health, denying your Freedom of Information Act request for the names of Civil Service annuitants who reside in Erie County, Pennsylvania, and the amount of annuity received by three specifically named individuals. Mr. Tinsley based his denial of this information on exemption (6) of the Freedom of Information Act, the Privacy Act, and the Commission's regulations implementing those Acts.

In your letter to this office, you assert that your requests should receive the same treatment as one for the salary of a specifically identified Government employee. In addition, you request a waiver of the $500 to $700 fee which Mr. Tinsley advised you would be charged if information were provided to you which required accessing, through computer, the annuity file.

Civil Service Retirement Records are a system of records as defined by subsection (a)(5) of the Privacy Act, 5 U.S.C. 552a, for which the Civil Service Commission has claimed responsibility, 5 C.F.R. 293.102. As a record in a system of records, disclosure of an individual's retirement file in whole or in part, without the written consent or written request of the annuitant, would be prohibited by subsection (b) of the Privacy Act unless disclosure would be within one of the exceptions to that subsection. I find, however, that none of those conditions apply in this case, including the exemption pursuant to which disclosure would be "required under section 552 of this title" (that is, the Freedom of Information Act).

Exemption (6) of the Freedom of Information Act, at 5 U.S.C. 552 (b)(6), protects personnel and medical files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. It is our belief that the records you are seeking fall squarely within the literal language of this exemption, and are therefore exempt from the disclosure requirements of the Freedom of Information Act. Unlike the release of the name, grade, and salary of a Federal employee, which historically have been information available to the public, the Commission has had a long established policy of declining to furnish lists of the names and addresses, or the amount of the annuity, of civil service retirees. As indicated above, this position is now supported by the provisions of both the Privacy and Freedom of Information Acts.

The fee which Mr. Tinsley advised you would be charged was based on the eight or nine hours of computer time needed to search the twelve rolls of tape which contain the entire annuity roll, and the print out of a report. The Commission's Schedule of Fees for an automated records search, which can be found at 5 C.F.R. 294.107(c), provide for a charge of $65.00 per hour for computer time. While the Commission may waive or reduce a fee if it determines that the information would primarily benefit the general public, with respect to your request I have considered such factors as the size of the public to be benefited, the significance of the benefit, the private interest of the requester which the release may further, and the likelihood that tangible public good will be realized, and I have concluded that waiver of fees is not appropriate in this case.

In light of the above, I find that Mr. Tinsley's response to your Freedom of Information Act request was proper. You may seek judicial review of this decision in accordance with 5 U.S.C. 552(a)(4).

Sincerely yours,

DONALD J. BIGLIN,
Assistant Executive Director for Freedom of Information and Privacy.

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 21, 1976.

Hon. ROBERT E. HAMPTON,
Chairman, Civil Service Commission,
Washington, D.C.

DEAR MR. HAMPTON: It has come to my attention, through an article which appeared in the Federal Employees *News Digest* on June 14, 1976, that information concerning the grade and salary of current government employees is available, but the information concerning the annuities drawn by retired federal employees remains confidential. It is my understanding that pursuant to the Civil Service Retirement Act (5 U.S.C. 8437) the Commission has promulgated regulations which permit the Commission to acknowledge whether or not a former federal employee is an annuitant, but that no other details are permitted to be revealed (5 C.F.R. 831.106).

The distinction between these two situations does not make sense to me. If the public is entitled to information concerning the work of government employees, then surely it is also entitled to information concerning the pensions of retired employees and especially Members of Congress.

I am writing to you to express my dissatisfaction with the regulations as they now exist. I would hope that you would attempt in the near future to review these regulations and to amend them so that they conform wih the spirit of the Freedom of Information Act. I would appreciate your responding to my request as soon as possible, as I would consider introducing legislation to rectify this lack of disclosure in the event that you do not decide to change your regulations. For your information, I am enclosing a copy of the letter I sent to the editor of the Federal Employees *News Digest* concerning this issue.

I look forward to hearing from you and in advance thank you for your assistance. All the best.

Sincerely,

EDWARD I. KOCH.

CIVIL SERVICE COMMISSION, BUREAU OF RETIREMENT, INSURANCE, AND OCCUPATIONAL HEALTH,
Washington, D.C., July 9, 1976.

Hon. EDWARD I. KOCH,
House of Representatives.

DEAR MR. KOCH: This is in reply to your letter of June 21, 1976 concerning the Commission's information disclosure policies with respect to current government employees and Civil Service annuitants. Specifically, you requested an explanation of the Commission's policy of disclosing the grade and salary of current Federal employees, while, at the same time, refusing to disclose the amount of annuity received by employees retired under the Civil Service Retirement System.

The Commission's policy concerning the disclosure of information concerning current employees and annuitants seeks to strike a balance between freedom of information and individual's right of privacy in his personal affairs. This is admittedly difficult to do.

The Commission has reviewed its policies a number of times and has concluded that although Government employees sacrifice much of their right to privacy while a public servant because of the public's legitimate interest in governmental operations, those same employees are entitled to reclaim that right when they retire from public service and resume their status as private citizens.

The long-established Commission policy of declining to make public the amounts of annuity paid to Civil Service retirees is consistent with the provisions of the Freedom of Information Act of 1966, as amended in 1974, Section 552 of Title 5, United States Code, which exempts from disclosure:

"Personal and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy."

The enactment of the Privacy Act of 1974, Section 552a of Title 5, United States Code, seemed to underscore our policy in that it specifically barred the disclosure of any personal information about an individual which is contained in a system of records. The Privacy Act did make an exception for information which is required to be disclosed under the Freedom of Information Act. However, inasmuch as the annuities received by Civil Service annuitants have never been considered to be public information, this exception is not broad enough to now permit the Commission to disclose this information. By the same token, the names, grades, position titles, and duty stations of current Federal employees have always been considered to be public information and are thus exempt from the provisions of the Privacy Act.

I would like to add, however, that the Commission goes to considerable lengths to make information available to the Congress and to the public about the number, kind, and amount of benefits paid each year under the Civil Service Retirement System. We believe that this information is sufficiently detailed to keep the public reasonably well informed about the amount and kind of retirement benefits paid under our system without actually making public the rates of annuity paid to individual annuitants. I am enclosing a copy of our latest annual report, which supplies such information.

Sincerely yours,

THOMAS A. TINSLEY,
Director.

H.R. 15723

A bill to provide for disclosure of certain information relating to retirement benefits paid to Federal officers and employees and their survivors

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each agency administering a Government retirement system shall establish procedures which insure that the following information shall be maintained and made available for public inspection and copying in accordance with the requirements of section 2:

(1) whether or not any present or former Federal officer or employee specifically identified in a request for such an inspection is or has been entitled to receive retirement benefits under such system based on his service;

(2) the periods during which such an officer or employee was so entitled to receive such benefits, and the annual rate of such benefits during each such period;

(3) whether or not one or more individuals (other than the officer or employee) is or has been entitled to receive retirement benefits under such system based on the service of such officer or employee; and

(4) the periods during which such individual or individuals were so entitled to receive such benefits and the annual rate of such benefits during each such period, or if more than one individual was so entitled for any period, the aggregate of the annual rates for such period.

SEC. 2. Information required to be maintained under the first section of this Act shall—

(1) be maintained separately from records which contain any information not required to be made available under the first section of this Act,

(2) be made available for inspection and copying under such section in a manner which ensures that information described in paragraph (1) will not be disclosed,

(3) be reviewed and updated periodically (but not less often than quarterly), and

(4) be made available for inspection and copying not later than 30 days, after the day on which a request therefor is made.

SEC. 3. For purposes of this Act—

(1) the term "agency" means each authority of the Government of the United States, including the government of the District of Columbia;

(2) the term "Federal officer or employee" means—

(A) a Member of Congress, as defined in section 2106 of title 5, United States Code,

(B) any employee, as defined in section 2105 of such title 5 (determined without regard to sections 2105(c) and (e) and 2104 (b) of such title),

(C) any member of a uniformed service, as defined in section 101(3) of title 37, United States Code, and

(D) any elected or appointed officer or employee of the government of the District of Columbia;

(3) the term "retirement benefits" means—

(A) any annuity payable under subchapter III of chapter 83 of title 5, United States Code,

(B) any compensation or lump-sum payment under chapter 81 of such title 5,

(C) retired pay under subtitle A of title 10, United States Code,

(D) salary payable under chapter 17 of title 28, United States Code, and

(E) any other annuity, compensation, retired pay, or benefit similar to the benefits referred to in subparagraphs (A) through (D) of this paragraph; and

(4) the term "retirement system" means any program or system established by or pursuant to any law, regulation, or Executive order for the purpose of providing retirement benefits to Federal officers and employees.

SEC. 4. Procedures required under the first section of this Act shall be established by each agency not later than 90 days after the date of the enactment of this Act. Such procedures shall apply with respect to information regarding retirement benefits based on the service of Federal officers and employees who retire before, on, or after the date of the enactment of this Act; except that such procedures shall not apply in the case of information regarding such retirement benefits in the case of Federal officers and employees who retired before such date of enactment if such information could only reasonably be obtained from records which are not in the possession of such agency on September , 1976.

RENT CONTROL IN THE CITY OF NEW YORK MUST BE CONTINUED

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, today I received a newsletter entitled the Tudor City Association Newsletter, which is sent regularly to the tenants of one of the great apartment housing complexes in my district. The newsletter discusses rent control and the need to preserve it. As one who believes that it would be an outrage, indeed catastrophic, to end rent control in the city of New York with our pressing housing shortage. I was distressed to see this usually informative newsletter misrepresent my point of view. The newsletter states, and I quote:

> Both TCA and the N.Y. State Tenants Coalition asked Congressman Koch for help. He waited over a month before answering a letter requesting that he help arrange a meeting of the N.Y. Congressional delegation with tenant leaders to discuss the problem. Then he finally replied, asking us to put the case in writing. On more than one occasion, Congressman Koch has gone out of his way to belittle tenant concern with the federal official attitude about rent regulation.

I regret that the newsletter's representation of both my position with respect to rent control and my response to the association's request is simply not accurate. Indeed, I did receive a request, as secretary of the New York Bipartisan Delegation, from the Tudor City Association, requesting a meeting with the delegation. The text of my response to Mr. John McKean of the Tudor City Association appears below. In my letter of April 28, 1976, I advised him that it is the policy of the New York State congressional delegation to request of the many groups seeking to meet with it, "a memorandum containing the pertinent facts." My experience having participated in many meetings between delegation members, not all of whom are of the same mind on controversial issues, and constitutent organizations is that a prior memorandum makes for a much more productive session. And I went on in my letter to state:

> I would be happy to invite all the Congressional offices and to arrange for the meeting here at the Federal Building.

Mr. Speaker, regrettably to date I have received neither the memorandum nor a request that I arrange a meeting, from any representative of the Tudor City Association. I think it is also important to note that the New York delegation has on a number of occasions devoted substantial discussion to the future of and need for rent control. On May 12, 1976, the delegation met with Mr. Robert Gerard, Assistant Secretary of the Treasury for Capital Markets and Debt Management. At that time I pressed him on the need to maintain rent control in the city of New York and advised him of the concerns of many New Yorkers that the Secretary of the Treasury might mandate the elimination of rent control as a condition of Federal assistance to the city.

An article in the New York Times of May 13, 1976, reported on Mr. Gerard's response and left no doubt as to the administration's position. The article stated, and I quote:

> Mr. Gerard, who oversees the $2.3 billion in seasonal federal loans to the City, responded to a question from Representative Edward I. Koch, Democrat of Manhattan, who said that many of his constituents had been "distressed" by fears that the Administration would insist that rent control be abolished.

The article went on to say that—

> Robert A. Gerard, Deputy Assistant Secretary of the Treasury told the closed door meeting that . . . "it will never be a condition for a continuation of the loan that rent control be abolished."

Mr. Gerard's statement to the delegation confirmed an earlier exchange between my distinguished colleagues Congresswoman Elizabeth Holtzman and Congressman J. William Stanton of Ohio. During debate on Federal assistance legislation for New York City, Congresswoman Holtzman asked:

> Am I correct . . . that the terms and conditions that the Secretary can impose really relate solely to the time, the manner, and the circumstances of repayment, and that the Secretary would not be authorized . . . to impose as a condition of making a loan to the City, for example . . . abolishing rent control.

To which Congressman Stanton speaking for the administration replied,

> May I say to the Gentlewoman from New York that in my opinion she is absolutely correct in principle. It is not the purpose of the Secretary of the Treasury to be involved with the day-to-day operations.

Mr. Speaker, I would respectfully suggest to the leaders of the Tudor City Association that we should concentrate on the real battleground where the decisive battle on rent control will be won or lost: Albany and the State legislature. I would also reiterate my earlier suggestion to the Tudor City Association, prepare your memorandum and let me know when you would like a meeting with the congressional delegation in the city of New York. I would be delighted to host that meeting at my office and will invite every member of the congressional delegation. I look forward to working closely with the Tudor City Association and tenant associations throughout my district on rent control legislation which must be extended during the next session of the State legislature.

My letter of April 28, 1976, addressed to John McKean, Tudor City Association, appears below:

U.S. House of Representatives,
Washington, D.C., April 28, 1976.

John McKean,
The Tudor City Association,
New York, N.Y.

Dear John: I would be delighted to meet with you and the members of your committee—all you need to do to set up such a meeting at my office is to call Laurie Rudie.

With respect to the New York Congressional Delegation however, it is somewhat different. We have found over the years, that an organization can most effectively present its views to the Delegation by doing the following: first, it would be helpful if you were to prepare, and send to each Delegation member, a memorandum containing the pertinent facts of your proposal; second, to request a meeting with the various members of the particular Congressional committee having jurisdiction over the matter with which you are concerned and then to meet with them separately in Washington or in their New York offices.

Finally, if you prefer to have a meeting in New York to which you would invite all the members of the Delegation, I would be happy to invite all the Congressional officers and to arrange for the meeting here at the Federal Building.

Sincerely,

Edward I. Koch.

GOVERNOR CARTER HITS REPUBLICAN ADMINISTRATION'S ECONOMIC POLICIES

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I insert in the Record the text of the remarks of Gov. Jimmy Carter at Portland, Oreg. today, September 28, 1976.

Governor Carter points out that under the Ford administration, 2½ million Americans fell below the poverty line last year.

The text of Governor Carter's remarks follows:

Two and One-Half Million Americans Fell Below Poverty Line Last Year

(Governor Carter at Portland, Oreg., September 28, 1976)

On Saturday, the U.S. Census Bureau reported that 2½ million Americans fell below the official poverty line last year. That is the largest increase in poverty since the Bureau began keeping records 17 years ago.

There can be no clearer indictment of economic mismanagement by this Republican Administration and no better symbol of the issues which lie at the heart of this year's campaign.

Several times during this campaign I have said that this is not simply a contest between two presidential candidates, but a choice between two political heritages. It is a choice between the party which cares about the common man and the party which puts the special interests first. . . .

Sixteen years ago, John Kennedy based his presidential campaign on the theme that our country could do better. He said there was an "Other America" whose poverty we in the majority preferred not to see. He saw the other America when he went to the coal mines of West Virginia. He saw it in the center of our cities. . . .

Over the next eight years, under Presidents Kennedy and Johnson, Americans did have a chance to work their way to self-sufficiency. During every one of those years, the number of Americans living in poverty decreased. By the end of those years, the percentage of Americans living in poverty had been nearly cut in half, from 22.4% when John Kennedy took office, to 12.1% when Lyndon Johnson left the White House.

Only three times since 1959, when the records started, has that trend been reversed. The first time was in 1970, when Mr. Nixon's recession pushed 1.3 million Americans away from independence and back to the poverty they had escaped. The second time was in 1974, when the Nixon-Ford recession forced another 1.3 million Americans back into poverty. And the third time is now. According to the Census Bureau an addittional 2.5 million Americans . . . fell below the poverty line defined as $5,500 for a non-farm family of four. . . . After eight years of Republican Administration, a higher percentage of our people are poor than when Lyndon Johnson left office.

MR. NIXON, MR. FORD AND MR. HOOVER

These figures mean that we are on our way to creating a different kind of Other America, a class that has been called the New Poor . . . the New Poor were not raised in deprivation . . . According to the Census Bureau, one million of the people who became poor last year earned adequate incomes before, but fell below the line when they were 'unable to find work during the entire year' or 'unemployed for 15 weeks or more.'

Mr. Nixon and Mr. Ford have made these people poor in the same way Mr. Hoover made people poor in the 1930s—by denying them the chance to work. The Republicans pay lip service to work, but they veto bills that would create jobs. They have become the party not of work, but of welfare. . . .

Think of the price the entire country pays when we transfer families from self-reliance to dependence. Each time the unemployment rate goes up by 1%, we lost $17 billion in taxes that would have been paid, and welfare and unemployment benefits to those who are out of work. Since under Mr. Ford, we have had the highest unemployment since the Great Depression, it is no surprise that we have also had the largest deficits in history.

And then think about the Republican economic record. Mr. Ford says he is proud of his record. He says he deserves to be elected because he has turned the economy around.

They cannot be thinking about taxpayers, families, and the people they have made poor when they speak that way.

They cannot be thinking about the high inflation which has accompanied their high unemployment. . . . The inflation rate . . . has averaged 6% over the last eight years. The Republicans want us to think that is normal. But it averaged 2% during the 16 years before they came into office. . . .

That isn't fair. It isn't right. And I know Americans can do better.

It's time for Democratic leadership that can enact economic policies that put people ahead of special interests and return us to the prosperity of the Democratic years. . . .

FAMILY FARM ENERGY CONVERSION ACT

(Mr. RICHMOND asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RICHMOND. Mr. Speaker, Congressman BERGLAND and Congressman JEFFORDS have joined me in the introduction of the Family Farm Energy Conversion Act. This legislation provides for a study and pilot program to determine the costs and benefits of anaerobic digesters.

Anaerobic digesters, which can range in size from an inner tube to a 40,000- to 50,000-gallon unit, convert farm wastes such as crop residues, manure, and garbage into methane gas and nitrogen-rich fertilizer. These digesters concentrate the naturally occurring bacterial decomposition process found in swamps and mines. This process involves the breakdown of complex organic materials in the absence of oxygen by bacteria.

Methane gas is a clean, reliable fuel which the Chinese have produced for decades by a "covered lagoon" process whereby animal and human wastes are anaerobically decomposed into gas. Louis Pasteur in the 1800's discussed the bacterial process whereby organic material is converted into methane gas.

In 1900, the first digester was built in Bombay, India, to convert cow manure to metane. During the 1920's and 1930's, there were many small-scale experiments; the Germans used converted methane to fuel their tractors during World War II. Currently India and South Africa are extensively utilizing this technology. There are also limited experimental projects ongoing throughout our midwestern States.

THE LEGISLATION

The bill would authorize the Department of Agriculture, in consultation with the National Science Foundation and the National Bureaus of Standards, to conduct a study of the various models of anaerobic digesters. The study would consider their effectiveness in differing climates, and with various raw waste materials. It would also include a projection of the cost/benefits of each model.

After completion of the study, a pilot program to demonstrate field performance would begin. Farmers with 640 acres or less would be eligible to receive up to $10,000 to build digesters. Each farmer would maintain records of the time and cost of construction and operation, and of the quantities of wastes put in and the gas and fertilizer obtained.

The field performance data would be collected and reported to the public and Congress. The safest and most effective models would be "certified." No model would be certified unless it produced gas and fertilizer worth at least as much as the cost of the digester over an 8-year period. Small farmers wanting to build certified models would be eligible for grants.

THE BENEFITS

Methane conversion has four primary assets. First, it provides the farmer with inexpensive methane gas, which can be substituted for increasingly rare and expensive natural gas.

Second, the fertilizer which remains after the gas is drawn off is high in nitrogen, and can be used in place of a part of the chemical fertilizer the farmer must now buy.

Third, the hazard and environmental liability of runoff pollution is turned into a financial and ecological assets.

Last, the technology gives the small farmer some independence from the increases in energy prices which threaten his economic viability.

FURTHER SOURCE OF INFORMATION

A leader in this technology is Ram Bux Singh, director of the Bobar Gas Research Station in Northern India. I am including an article from Mother Earth News based on two of his works:

Facts About Gobar* Gas

Cow dung gas is 55–65% methane, 30–35% carbon dioxide, with some hydrogen, nitrogen and other traces. Its heat value is about 600 B.T.U.'s per cubic foot.

A sample analyzed by the Gas Council Laboratory at Watson House in England contained 68% methane, 31% carbon dioxide and 1% nitrogen. It tested at 678 B.T.U.

This compares with natural gas's 80% methane, which yields a B.T.U. value of about 1,000.

Gobar gas may be improved by filtering it through limewater (to remove carbon dioxide), iron filings (to absorb corrosive hydrogen sulphide) and calcium chloride (to extract water vapor).

Cow dung slurry is composed of 1.8–2.4% nitrogen (N), 1.0–1.2% phosphorus (P_2O_5), 0.6–0.8% potassium (K_2O) and from 50–75% organic humus.

About one cubic foot of gas may be generated from one pound of cow manure at .75° F. This is enough gas to cook a day's meals for 4–6 people.

About 225 cubic feet of gas equals one gallon of gasoline. The manure produced by one cow in one year can be converted to methane which is the equivalent of over 50 gallons of gasoline.

Gas engines require 18 cubic feet of methane per horsepower per hour.

Gobar Gas: Methane Experiments in India

It's been a wild, exciting ride . . . but our blindly wasteful squandering of the planet's fossil fuels will soon be a thing of the past. In the United States alone (the worst example, perhaps, but not really unusual among "modern" nations), every man, woman and child consumes an average of three gallons of oil *each day*. That's well over two hundred billion gallons a year.

If we continue burning off petroleum at only this rate—which isn't very likely since population is climbing and the big oil companies remain chained to "sell-more-tomorrow" economics—experts predict the world will run out of refineable oil within (are you ready for this?) 30 years.

So where does that leave us? Well, number one, we obviously must get serious about population control and per-capita consumption of power and, number two, if we don't want to see brownouts and rationing of the power we *do* use . . . we'd better start looking around for ecologically-sound alternative sources of energy.

And there *are* alternatives. One potent reservoir that's hardly been tapped is methane gas.

Hundreds of millions of cubic feet of methane—sometimes called "swamp" or biogas—are generated every year by the decomposition of organic material. It's a near-twin of the natural gas that big utility companies pump out of the ground and which so many of us use for heating our homes and for cooking. Instead of being harnessed like natural gas, however, methane has traditionally been considered as merely a dangerous nuisance that should be gotten rid of as fast as possible. Only recently have a few thoughtful men begun to regard methane as a potentially revolutionary source of controllable energy.

One such man is Ram Bux Singh, director of the Gobar Gas Research Station at Ajitmal in northern India. Although some basic research into methane gas production was done in Germany and England during World War II's fuel shortages, the most active exploration of the gas's potential is being done today in India.

And with good reason. Population pressure has practically eliminated India's forests, causing desperate fuel shortages in most rural areas. As a result, up to three-quarters of the country's annual billion tons of manure (India has two cows for every person) is burned for cooking or heating. This creates enormous medical problems—the drying dung is a dangerous breeding place for flies and the acrid smoke is responsible for widespread eye disease—and deprives the country's soil of vital organic nutrients contained in the manure.

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* Hindi for "cow dung"

The Gobar (Hindi for "cow dung") Gas Research Station—established in 1960 as the latest of a long series of Indian experimental projects dating back to the 1930's—has concentrated its efforts, as the name suggests, on generating methane gas from cow manure. At the station, Ram Bux Singh and his coworkers have designed and put into operation bio-gas plants ranging in output from 100 to 9,000 cubic feet of methane a day. They've installed heating coils, mechanical agitators and filters in some of the generators and experimented with different mixes of manure and vegetable wastes. Results of the project have been meticulously documented and recorded.

This comprehensive eleven-year-long research program has yielded designs for five standardized, basic gobar plants that operate efficiently under widely varying conditions with only minor modifications (see construction details of 100 cubic foot digester that accompany this article) . . . and a treasure trove of specific, field-tested principles for methane gas production.

Ram Bux Singh has compiled much of this information into two booklets, "Bio-Gas Plant" and "Some Experiments With Bio-Gas." The set of two manuals is available Air Mail for $5.00 from Ram Bux Singh, Gobar Gas Research Station, Ajitmal, Etawah (U.P.), India. The following information has been adapted, by permission, from the handbooks:

FERMENTATION

There are two kinds of organic decomposition: aerobic (requiring oxygen) and anaerobic (in the absence of oxygen). Any kind of organic material—animal or vegetable—may be broken down by either process, but the end-products will be quite different. Aerobic fermentation produces carbon dioxide, ammonia, small amounts of other gases, considerable heat and a residue which can be used as fertilizer. Anaerobic decomposition—on the other hand—creates combustible methane, carbon dioxide, hydrogen, traces of other gases, only a little heat and a slurry which is *superior in nitrogen content* to the residue yielded by aerobic fermentation.

Anaerobic decomposition takes place in two stages as certain micro-organisms feed on organic materials. First, acid-producing bacteria break the complex organic molecules down into simpler sugars, alcohol, glycerol and peptides. Then—and only when these substances have accumulated in sufficient quantities—a second group of bacteria converts some of the simpler molecules into methane. The methane-releasing microorganisms are especially sensitive to environmental conditions.

TEMPERATURE

Anaerobic digestion of waste material will occur at temperatures ranging from 32° to 156° F. The action of the bacteria responsible for the fermentation decreases rapidly below 60° F, however, and gas production is most rapid at 85-105° and 120-140° F. Different bacteria thrive in the two ranges and those active within the higher limits are much more susceptible to environmental changes. Thus, a temperature of 90° to 95° F. is the most nearly ideal for stable methane gas generation.

ACIDITY

The proper pH range for anaerobic fermentation is between 6.8 and 8.0 and an acidity either higher or lower than this will hamper fermentation. The introduction of too much raw material can cause excess acidity (a too-low pH reading) and the gas-producing bacteria will not be able to digest the acids quickly enough. Decomposition will stop until balance is restored by the growth of more bacteria. If the pH grows too high (not enough acid), fermentation will slow until the digestive process forms enough acidic carbon dioxide to restore balance.

CARBON-NITROGEN RATIO

Although bacteria responsible for the anaerobic process require both elements in order to live, they consume carbon about 30 to 35 times faster than they use nitrogen. Other conditions being favorable, then, anaerobic digestion will proceed most rapidly when raw material fed into a gobar plant contains a carbon-nitrogen ratio of 30–1. If the ratio is higher, the nitrogen will be exhausted while there is still a supply of carbon left. This causes some bacteria to die, releasing the nitrogen in their cells and—eventually—restoring equilibrium. Digestion proceeds slowly as this occurs. On the other hand, if there is too much nitrogen, fermentation (which will stop when the carbon is exhausted) will be incomplete and the "left over" nitrogen will not be digested. This lowers the fertilizing value of the slurry. Only the proper ratio of carbon to nitrogen will insure conversion of all available carbon to methane and carbon dioxide with minimum loss of available nitrogen.

PERCENTAGE OF SOLIDS

The anaerobic decay of organic matter proceeds best if the raw material consists of about 7 to 9 percent solids. Fresh cow manure can be brought down to approximately this consistency by diluting it with an equal amount of water.

BASIC DESIGN

Central to the operation and common to all gobar plant designs is an enclosed tank called a digester. This is an airtight tank which may be filled with raw organic waste and from which the final slurry and generated gas may be drawn. Differences in the design of these tanks are based primarily on the material to be fed to the generator, the cycle of fermentation desired and the temperatures under which the plant will operate.

Tanks designed for the digestion of liquid or suspended-solid waste (such as cow manure) are usually filled and emptied with pipes and pumps. Circulation through the digester may also be achieved without pumps by allowing old slurry to overflow the tank as fresh material is fed in by gravity. An advantage of the gravity system is its ability to handle bits of chopped vegetable matter which would clog pumps. This is quite desirable, since the vegetable waste provides more carbon than the nitrogen-rich animal manure.

CONTINUOUS FEEDING (LIQUIDS)

Complete anaerobic digestion of animal wastes, such as cow manure, takes about fifty days at moderately warm temperatures. Such matter—if allowed to remain undisturbed for the full period—will produce more than a third of the total gas the first week, another quarter the second week and the remainder during the final six weeks.

A more consistent and rapid rate of gas production may be maintained by continuously feeding small amounts of waste into the digester daily. The method has the additional advantage of preserving a higher percentage of the nitrogen in the slurry for effective fertilizer use.

If this continuous feeding system is used, care must be taken to insure that the plant is large enough to accommodate all the waste material that will be fed through in one fermentation cycle. A two-stage digester—in which the first tank produces the bulk of the methane (up to 80%) while the second finishes the digestion at a more leisurely rate—is often the answer.

BATCH FEEDING (SOLIDS)

Bio-gas plants may be designed to digest vegetable wastes alone but, since plant matter will not flow easily through pipes, it's best to operate such a digester on a single-batch basis. With this method the tank is opened completely, old slurry removed and fresh material added. The tank is then resealed.

Depending on the fermenting material and temperature, gas production from a batch-feeding will begin after two to four weeks, gradually increase to a maximum output and then fall off after about three or four months. It's best, therefore, to use two or more batch digesters in combination so that at least one will always be producing gas.

Because the carbon-nitrogen ratio of some vegetable matter is much higher than that of animal wastes, some nitrogen (preferably of organic origin) usually must be added to the cellulose digested this way. On the other hand, vegetable waste produces—pound for pound—about seven times more gas than animal waste, so proportionally less must be digested to maintain equal gas production.

AGITATION

Some means of mixing the slurry in a digester is always desirable, though not absolutely essential. If left alone, the slurry tends to settle out in layers and its surface may be covered with a hard scum which hinders the release of gas.

This is a greater problem with vegetable matter than with manure, since the animal waste has a somewhat greater tendency to remain suspended in water and, thus, in intimate contact with the gas-releasing bacteria. Continuous feeding also helps, since fresh material entering the tank always induces some movement in the slurry.

TEMPERATURE CONTROL

Although it's relatively easy to hold the temperature of a digester at ideal operating levels by shading a globar plant located in a hot region, maintaining the same ideal temperature in a cold climate is somewhat more difficult.

The first and most obvious provision, of course, is insulating the tank with a two or three-foot thick layer of straw or similar material that is, in turn, protected with a waterproof seal. If this proves insufficient, the addition of heating coils must be considered.

When hot water is regulated by a thermostat and circulated through coils built into a digester, the fermenting process may be kept at an efficient gas producing temperature quite easily. In fact, circulation only for a couple of hours in the morning and again in the evening should be sufficient in most climates. It is especially interesting to note that using a portion of the gas generated to heat the water is entirely feasible . . . *the resulting enormously-increased rate of gas production more than compensates for the gas thus burned.*

GAS COLLECTION

Gas is collected inside an anaerobic digester tank in an inverted drum. The walls of this upsidedown drum extend down into the slurry, forming a "cap" which both seals in the gas and is free to rise and fall as more or less gas is generated.

The drum's weight provides the pressure which forces the gas to its point of use through a small valve in the top of the cap. Drums on larger plants must be counter-weighted to keep them for exerting too much pressure on the slurry. Care must also be taken to insure that such a cap is not counter-weighted to less than atmospheric pressure, since this would allow air to travel backwards through the exhaust line into the digester with two results: destruction of the anaerobic conditions inside the tank and possible destruction of you by an explosion of the methane-oxygen mixture.

The radius of an inverted drum should never be less than three inches smaller than the radius of the tank in which it floats, so that minimal slurry is exposed to the air and maximum gas is captured.

ABOVE VERSUS BELOW GROUND DIGESTERS

Gobar tanks built above ground must be made of steel to withstand the pressure of the slurry and it's simpler and less expensive to construct underground methane plants. It's also easier to gravity-feed a tank built at least partially beneath the earth's surface. On the other hand, above-surface models are easier to maintain and, if painted black, may be partially heated by solar radiation.

These brief excerpts from Ram Bux Singh's books should make it obvious that methane gas production from manure and vegetable waste is no armchair visionary's dream. It's being done right now and over 2,500 gobar plants are currently operating in India alone.

Here, in the U.S. our more than four hundred million cattle, pigs and chickens produce over two billion tons of manure a year . . . enough to spread four feet deep over an area of five hundred square miles! This valuable natural resource can be used to generate *both* combustible gas—thus relieving part of our reliance on fossil fuels—*and* a fertilizer richer in nitrogen than raw manure.

Instead of contributing mightily to our water pollution crisis as feedlot runoff, this bountiful end-product of animal life could be turned to our advantage . . . as an economical and ecologically-sound power source!

VISITS OF THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES TO THE KINGDOM OF SAUDI ARABIA, KUWAIT, IRAN, AND SPAIN

(Mr. ALBERT (at the request of Mr. Mineta) was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. ALBERT. Mr. Speaker, I insert in the Record a report on my visit, during the Easter recess of April 15–25, 1976, to the Kingdom of Saudi Arabia, Kuwait, Iran, and Spain. The heavy duties of the intervening months have delayed the writing of the report but I hope that it may be of interest to the Members since the areas visited are among the most vitally important in the world and Members can only benefit from knowledge and understanding of our relationships with them. The report follows:

Visits of the Speaker of the U.S. House of Representatives to the Kingdom of Saudi Arabia, Kuwait, Iran, and Spain, April 15–25, 1976

PURPOSE OF THE VISIT

During his visit to the United States in 1971, the late King Faisal of Saudi Arabia extended to the Speaker an invitation to visit his country at the Speaker's convenience.

Partly in response to this invitation, which remained in effect following the tragic death of the King in 1975, but also because of the broadening relationship between the United States and the oil-producing countries of the Middle East that has increasingly engaged the attention of both Congress and the Executive Branch of the United States Government, it was determined that a visit to that area should include Kuwait and Iran as well as the Kingdom of Saudi Arabia. Important questions to be explored included the perception of these countries of their relationship with the United States, present and future; their relationship toward each other and positions on the main issues of the Middle East; and their views on their roles within an increasingly complex global structure.

SAUDI ARABIA

At first view, Saudi Arabia presents a picture of a country whose society is in the process of great physical change. Vastly increased oil revenues over the past three years have given the Saudi Government the ability to move quickly on a program of internal development and construction which it is estimated will cost more than $140 billion over a five-year period. One result of this, however, has been an explosion of building activity in the main population centers, including the capital of Riyadh. Other consequences include a large-scale influx of rural population to the cities; the development of a new technocratic class of civil servants employed by the Kingdom's ministries, many of whose members have been educated in the United States; and the increasing role of foreign governments and companies—in particular the U.S. Government and American companies—in all fields of the Kingdom's development.

The Saudi leadership is acutely aware of the challenge it faces in treading the path of rapid internal economic development without courting social dislocation and dissatisfaction, or compromising the strong religious tenets upon which Saudi social structure and outlook are based, or damaging the essential cohesiveness of Saudi society. It is also strongly conscious of what it sees as a benevolent role played by the United States in its own advancement. The top three members of the Kingdom's leadership—King Khalid, Crown Prince Fahd and Prince Abdallah—in separate meetings noted their satisfaction at the constructive relationship their country enjoys with the United States in the field of Saudi economic and technological development. This view is paralleled by one similarly held in the international arena, where the Saudis look upon the United States as a strategic partner in confronting what they see as a direct threat to them from Communism and an aggressive and expansionist Soviet Union. This perspective may be colored in part by the natural antipathy of fundamentalist Islams for the Soviets' secular ideology. Nevertheless, it is deeply felt by the Saudis who see their relationship with the United States as being key to their own security as a nation.

Around their own periphery, the Saudis see a clouded horizon, particularly in countries such as Iraq, South Yemen and Somalia where the Soviets have worked strongly their influence.

Even so, it was specifically implied during the visit that this challenge of Soviet penetration in the Arab world was something which Saudi Arabia was prepared to face with its own resources. But it was imperative that the United States stay strong as a super power and be fully aware of Soviet designs and moves across the globe.

In regard to the Middle East conflict, both the King and Crown Prince applauded the strong efforts the United States has made since 1973 to resolve the issue. The point was made repeatedly that the United States must continue its efforts toward a "just" solution in the area, one that in particular would take into account the interests of the Palestinians. A special note was made that the United States should continue to strengthen its relationship with Egypt.

A recurrent theme throughout the Speaker's talks was that Saudi Arabia was a friend of the United States, and that it would continue to act as a friend in the councils of Arab opinion and in areas of mutual concern, including those of oil supply and pricing. It asked, however, that the United States respond to Saudi needs as a friend and with understanding of the Kingdom's role and security needs in the Middle East.

KUWAIT

In a number of respects, Kuwait is unique in the Arab world. It is on one hand an oil producer whose relatively long experience with sizable revenues has caused it to develop considerable sophistication in its investment policies abroad and in its use of its income to provide many free social services at home. While the Amir stands as head of Kuwait's Government, Kuwait has a parliamentary tradition and a vigorous Assembly which is well-prepared to use its parliamentary powers to influence State policy. At the same time, Kuwait's preparedness to use foreign talent to develop and manage its resources and its need for foreign labor has brought about a situation where native Kuwaitis are in a slight minority in their own country. Significantly, more than 25 per cent of Kuwaiti population is Palestinian; this, Kuwait's own colonial experience, and the country's traditionally strong sensitivity to Arab world opinion, explains in part the very strong position many Kuwaitis take toward the Arab-Israeli conflict and the Arab boycott of Israel.

Globally, Kuwait is among the most neutral of Arab states, preserving good relations with both East and West, and being the only country of the Persian Gulf to have both Soviet and American Embassies within its border.

The impression left by the Amir, the Crown Prince, the Ministers of Finance and Defense, and the many Parliamentarians who accompanied Kuwait National Assembly Speaker (and official host during the visit) Khalid Ghoneim during his talks with the Speaker was that Kuwait's current relationship with the United States was good and constructive and that it should be maintained and strengthened. Nevertheless, Kuwaitis are disappointed in what they perceive as American policies heavily biased toward Israel, and believe that the United States was not sensitive to American interests in the Middle East which could be compromised or seriously damaged by policies which continued to support Israel against the Arabs. An oil embargo similar to that of 1973–74 and the loss of billions of U.S. investment interests were alluded to—not as threats, but as factural consequences of popular attitudes—as events which could occur should another Middle East conflict erupt, or should the United States take actions which could be seen as anti-Arab.

IRAN

Iran's size and strategic geographic position—adjacent to the Soviet Union, at the head of the Persian Gulf, and situated between the Arab Middle East on one hand and South Asia on the other—would be alone sufficient to give it importance to a global power. With its considerable oil output and revenues, its central position within OPEC, its driving desire to become a power of major political and military significance, its pro-Western orientation and past history of Soviet occupation, Iran is a country of special importance to the United States. This fact, while acknowledging at the same time that the United States—and particularly a strong United States interested in a vigorous relationship with Iran—is fundamental to Iranian security.

The Shah was not present during the Speaker's visit. Prime Minister Hoveyda, however, pointed out clearly that a key to Iranian thinking was Iran's concern for its own security in an increasingly complex international environment. Iran was conscious of the Soviet presence on its own frontier, and of the constant possibility of further instability in the Middle East and Persian Gulf area.

It sought a normal relationship with Moscow, but felt the need to provide for itself a credible military deterrent. It was attentive to the requirement of supporting stable relationships and governments in the Arab world, had made concrete moves toward an improved dialogue with Saudi Arabia as a major power in the Middle East and a partner in OPEC. Most important, however, it looked to the United States to deal with it realistically and maturely and to understand that Iran followed the U.S. global position closely. The Prime Minister, Speaker of the Iranian Majles (Parliament) Abdullah Riazi, and the many other Iranians, with whom the Speaker talked, emphasized their desire to see a strong United States, and reflected their concern at what they perceived as a diminution of American power and international resolve.

The refusal or inability of the U.S. adequately to support its allies in Southeast Asia and Africa (Angola) were viewed as signs of this trend, as was the increased degree of difference between the Congress and the President over issues of national concern, to the detriment in Iranian eyes of U.S. policies and the U.S. position as a global power.

On specific issues of bilateral friction, the Iranian leadership took the position that vast increases in the price of commodities and services purchased on the international market had forced Iran to seek higher oil prices, and that until the developed world brought its own inflation under control, Iran would continue to seek protection for its dwindling resources by scaling oil prices upward in proportion.

SPAIN

As a result of a direct request by His Majesty, King Juan Carlos, the Speaker met with the King in Madrid immediately before departing for the United States. His Majesty asked that the Speaker convey to the Congress and the Administration his pleased anticipation at his own forthcoming visit to the United States (June, 1976), and his general satisfaction at the general state of the Spanish/U.S. relationship—and, in specific, at the progress that had been made in negotiations over the status of U.S. base facilities in Spain.

RELIGIOUS FREEDOM DAY

(Mr. GUDE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, I would like to add my support to proposals by Mr. Robinson of Virginia for the designation of January 13, 1977, as "Religious Freedom Day" and for the striking of a medal commemorating the 200th anniversary of the drafting of the Virginia Statute for Religious Freedom.

Both proposals recognize that at Fredericksburg, Va., on January 13, 1777, the first draft of a bill for religious freedom was prepared by a committee headed by Thomas Jefferson.

The statute was vigorously supported in the Virginia Assembly by James Madison and was passed at the end of 1785, a great victory for religious freedom. The principle established in this statute was that no religious profession would "diminish, enlarge, or effect" a person's "civil capacity."

This principle then became the first of the Bill of Rights added to the U.S. Constitution.

In supporting the Virginia Congressman's proposals, I am reminded of the contribution of my own State of Maryland in the development of the basic law of our Nation. The promise of religious toleration was an important inducement, from the first, in obtaining prospective settlers of Maryland, and this policy was incorporated into law by the Maryland Assembly's passage of the Toleration Act of 1649, which guaranteed freedom of worship to all who believed in the Holy Trinity.

The Virginia statute went much further, establishing freedom for non-Christian religious persons and for agnostics and atheists.

The Virginia statute also went much further than toleration in that it barred State support for one religion or denomination over another.

And so for its time, nearly 130 years earlier, the Maryland Toleration Act was a great and important step forward.

APPRECIATING HOME

(Mr. GUDE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, Michael Collins, director of the National Air and Space Museum and a member of the first team of astronauts to set foot on the Moon, has seen the Earth from a perspective shared by few others. And this point of view has made him more sensitive to environmental issues and more intrigued by technologies that promise energy without environmental destruction.

I commend his talk, which was made September 9 to the Wells Fargo Bicentennial awards banquet, to your close attention, and ask that pertinent sections be printed here:

> The Earth's albedo, or percentage of sunlight it reflects, is four times that of the Moon, so that it shines with an unexpected brilliance. This intensity somehow is very inviting. Even if you did not know it was your home and that of all your ancestors, if you were a visitor from another solar system, you would be strongly drawn to this beacon; it pulls you like a magnet attracts iron filings.
>
> And it seems fragile. I do not know why—after a lifetime of walking its surface, I know it is solid and substantial enough, but from space there is no hint of ruggedness to it. It looks smooth as a billiard ball, but as breakable as a Christmas tree ornament, fragile—above all else, something which must be nurtured and protected.
>
> Once this concept of apparent earthly fragility is introduced, one questions whether it is real or imagined, and that leads inexorably to an examination of its surface. Here we find things are very fragile indeed. Is the sea water clean enough to pour over your head, or is there a glaze of oil on its surface? Is the sky blue and the cloud white, or are both obscured by yellow-brown airborne filth? Is the riverbank a delight or an obscenity? The difference between a blue-and-white planet and a black-and-brown one is delicate indeed.
>
> I expressed these same thoughts a couple of years ago in a book I wrote, and I went on to question some of our activities here on the surface. Let me read you one short paragraph:
>
> We rush about like busy ants, bringing immense quantities of subsurface solids, liquids, and gases up from their hiding places, and converting them into quickly discarded solids, liquids, and waste gases which lie on or just above the surface as unholy evidence of our collective insanity. The entropy of the planet, its unavailable energy, is increasing at an alarming rate; the burning of fossil fuels is an irreversible process and can only be slowed down. At the same time, the Sun shines on us whether we like it or not; yet we are making but feeble efforts to focus this energy for our use. For that matter, the Sun's energy, which is produced by converting hydrogen into helium, can probably be duplicated by creating our own little thermonuclear reactors here on Earth, if we put every effort into the attempt. Anyone who has viewed our planet from afar can only cry out in pain at the knowledge that the pristine blue and whiteness he can still close his eyes and see is an illusion masking an ever more senseless ugliness below. The beauty of the planet from 100,000 miles should be a goal for all of us, to help in our struggle to make it as it appears to be.
>
> Thus, I feel at home with all of you who express concern over the ravages to the planet, the plundering of our natural resources which continues unabated.
>
> What we are doing to our planet is of paramount importance, it seems to me, even if protecting it may encroach a bit on our individual rights.
>
> I am astounded at the engineering genius which has gone into the automobile. To visit an auto assembly line is an unforgettable experience, for rarely does one find such a model of efficiency. Each motion in the line, each cog of machinery, along the way, has been studied exhaustively to disgorge a stream of shiny new chariots. And a remarkable machine it is, the 1977 Belchfire 99, 2 tons worth, able to accelerate itself from zero to 60 miles an hour in 12 seconds, with a vinyl roof and a radio antenna that retracts upon command, but completely the wrong type of machine for anything except stock car racing.
>
> Why so heavy? Why so powerful? Why so wasteful of our scarce petroleum supply? What we need today is energy efficiency, and there could hardly be anything less efficient than a 300 horse power behemoth used to carry a hundred pound housewife on a four block shopping trip. Smaller cars really are practical.
>
> We seem to close our eyes to the wastefulness of the automobile both in regard to human life and petroleum resources. Should we pump furiously until the last well runs dry? I think not. I think we should be working toward smaller, lighter, safer, more efficient cars, and cars using electric rather than internal combustion engines.
>
> Now what is Detroit's answer to all this? A very good answer. They say they are only giving people what they want, and they have reams of facts and figures to prove it. So where do we go from here? Should we give the American people what they want or not?
>
> Personally, I would like to see less Government interference in our lives, not more, but in this case I think the enormity of the waste of our precious resources overrides the issue of individual freedom.
>
> I would like to see Government regulations limiting the weight and horsepower of cars, and I mean really limiting them. I do not see any reason why we have to go over 2,000 pounds or 50 horsepower.
>
> In discussing energy it is more interesting and more fashionable to debate new energy sources than it is to discuss ways of conserving what we have. I can get my children to talk about the Sun but I cannot get them to turn out the lights when they leave a room.

We Americans are the big wasters in the world, and I think that is a sad thing, that being rich automatically means we cannot be frugal. Again I hate to see more Government, but perhaps some form of rationing of resources will become necessary. The Government today, it seems to me, is getting pretty good at funding research and development of new energy sources—just look at ERDA's budget—but it is a total flop at teaching frugality or common sense when it comes to energy consumption. It is just not a sexy topic. You younger folks are going to have to carry the ball on that one, that is if you can spare the time from cruising around town with your friends. I would also like to see you invent a device for storing electrical energy.

That is one of the big problems today: How to store the energy that has been generated. How to get the Sun's rays into the rear wheels of a car. Today's storage batteries and electrical accumulators have serious drawbacks. You need to work on improving them.

But more basically, I think we need to think small, to learn to live without unnecessary consumption. I think one of the most useful documents ever published was the Club of Rome study which predicted that we are soon going to run out of the planet's resources, if our population continues to expand at its present rate. I do not give two hoots if all the computerized assumptions and projections in the Club of Rome study are erroneous; at least the study got people's attention, and that is the first step in any public process.

I think the idea of zero population growth has great merit, but it is an unpopular notion, particularly, among the developing nations. At the other end of the spectrum is the idea of fleeing the planet.

I hope I have given you some idea of what flying to the Moon has meant to me in terms of my attitude toward the Earth. I want to protect it, in ways I never considered before I made the trip.

I am sure you can reach the same conclusions without making such a voyage, but I still wish all of you could have come with me.

I just couldn't appreciate the first planet fully until I had seen the second one at close hand. That monotonous, tortured, pile of rocks we call the Moon, a gnarled peach pit, versus the verdant valleys, rose gardens, and misty waterfalls of Earth.

We just don't realize how lucky we are to have this planet as our home. You young folks take good care of it.

So few people have been able to get really far away from the Earth: Only 25 Americans, mostly test pilots, who have been to the Moon and back.

For these astronauts, seeing the Earth may begin with not being able to see it at all.

You have five windows in the Apollo spacecraft, and one by one you look out each. Nothing. That is the starting point. You have to find the Earth. You swing the spacecraft this way and that, and finally it drifts lazily into view: Your home, your beautiful home, blue and white, very bright in the unfiltered sunshine, about the size of your thumbnail held at arm's length.

SOLAR ENERGY—THE ULTIMATE SOLUTION

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, "Solar Energy—the Ultimate Solution," by Daniel W. Smith, one of my constituents from Bethesda, Md., was the second-place award winning essay by a person under 18 in the recent Bicentennial awards program sponsored by the Wells Fargo Bank in cooperation with the Smithsonian Institution.

I commend excerpts of Daniel Smith's essay to the reading of my colleagues. He raises many good points in favor of solar energy but also notes some of the problems in its usage as in his proposed futuristic "Solar City."

SOLAR ENERGY—THE ULTIMATE SOLUTION

(By Daniel W. Smith)

The United States and the world have painted themselves into an untenable corner. Today the country's vast technology, its whole gross national product, rests on the shaky pinions of disappearing energy resources. There has always been an end to our oil reserves. But, for some reason, only now that the end draws very near does anyone notice its existence.

The answer to our energy problems is surprisingly obvious. It is the sun. Green plants seem to have known this for several billion years; they derive their energy from the sun. They are then eaten by animals (us) or possibly by other animals, which are then eaten by more animals (us). Or else they decompose, and provide a medium for the growth of more plants. Under very special conditions, including the passage of several million years, they decompose into coal or oil.

Oil, natural gas, coal, firewood, food: the sun has kept America going for 200 years. The irony is that we did not think to go to the horse's mouth sooner.

The nation's proven coal reserves will last 500 years, according to the latest government figures. Is this a God-sent reprieve? Hardly. It is only an opportunity to show ourselves capable of something beyond the mean, shortsighted actions we have been noted for in the past.

Today's energy consumption is increasing in an exponential curve. In simple terms, an exponential curve is one that is very hard to keep up with. Expressing it as a graph, a near-horizontal line begins sloping more and more sharply until it goes almost straight up. Thus it may be less than 500 years before we scrape the bottom of the coal bin.

Are we willing to pay a relatively small price—soon enough—to switch over to the world's most obvious energy source?

For the same reasons they favor coal, utilities also advocate nuclear energy. Atomic energy also has the upper hand in the Congressional appropriations war. "Most Congressmen think solar energy just needs research and development money," explains Bill Reinsch, Legislative Assistant specializing in solar energy to Congressman Gilbert Gude, R-Md.

Nuclear power falls into two main categories, fission and fusion.

Fusion, the forcing together of two hydrogen isotopes, occurs at temperatures around 100 million degrees. No material has yet been found to restrain and contain a reaction of this magnitude. Rather, a magnetic field must be used to hold it in. However, intriguing though it may be to nuclear physicists, fusion does not at present generate more energy than is needed to keep the reaction going.

Most theorists maintain the sun runs on fusion. But even if it were to become feasible tomorrow, fusion might be more trouble than it is worth. Why generate astronomical temperatures for this high-energy reaction when the sun has already done so? Instead, we can collect the sun's energy with equipment simple enough to be installed in most residential homes.

Nuclear fission is the one remaining practical alternative. In fission, atoms are split to set off a chain reaction. Here the big question is safety.

Impressive clusters of graphs are brandished to assure us of the miniscule probability of any power-plant disaster. But the human fallibility variable may have been neglected in preparing these statistics.

An example was the incident in the fall of 1975 when a worker used a flame test to check for a fault in the core wall of a New England reactor. There was indeed a fault; his flame was drawn in through it. This set off a huge conflagration which had run through most of the plant's engineered safeguards before it was finally brought under control.

Admittedly, the probability of a complete power-plant catastrophe is small. A greater worry has to do with the radio-active waste left over after a reaction, parts of which have half-lives on the order of ten thousand years. In other words, they will go on emitting radiation for all the foreseeable future.

Especially where such open-ended time quantities are involved, there is a possibility that leaching from these buried wastes might result in groundwater contamination. Salt deposits are the preferred medium for waste burial because of their stability. Of course, they are finite. But while running out of convenient caches for nuclear waste now seems an impossibility, who would have believed in 1900 that we would or could run out of clean air to breathe?

Then, too, the step from nuclear reactor to atomic bomb is large, but not superhuman. Perhaps the proliferation of nuclear technology cannot be prevented. But it certainly need not be encouraged.

A common nightmare scenario has the government of some tiny third world nation, armed with an A-bomb, demanding a king's ransom for not bombarding New York (or Tokyo, or Moscow, or Washington, etc.) It would only take a slightly crazed, foolhardy ruler, and we've had those before.

Finally, nuclear fission itself depends on a resource of which we have limited reserves: uranium. Introduction of large-scale nuclear energy is based on the premise that by about 1990 the breeder-reactor will have progressed past the theoretical stage to the point where it can produce additional uranium.

What we have, then, is a catalogue of calculated risks. Some are small; some cannot be accurately gauged at all. They are risks which we would clearly have to take to shake free from our present dependence on fossil fuels . . . if there were no viable alternative.

But there is. The solution may be found by returning to the source of all our other energy sources. We may hope that people in the United States and elsewhere will eventually come to the realization that solar energy is the best answer. At any rate, it will exist as long as our sun exists. After that, it is rather doubtful whether we would need it. Solar energy is the ultimate solution.

Possibilities for solar energy use in the next century are almost infinite. As a matter of fact, the technology already exists for extensive utilization. It is simpler than one might think.

Today, solar collectors are primarily limited to two categories: flat-plate collectors and solar cells (silicon semiconductors). Solar cells will be treated later.

In liquid flat-plate collectors, the sun shines on a metal surface painted flat black which has water piping either constructed as part of it or welded on. Above the metal surface are one or two layers of glass, with an air-space sandwiched beneath. The glass lets in practically all the light striking it. while preventing the escape of the longer-wavelength heat generated in the metal.

Heated by circulation through the collection plate piping, water will be piped to a storage tank and used to heat the home. Alternatively, this system can be used directly as a hot water heater.

In the northern hemisphere, solar collectors are usually installed on south-facing, sloping surfaces with pitches slightly greater than the latitude of the installation.

Like warm air, warm water rises in a process called convection. When a solar heating system is completely full of water, cool water from a storage tank will flow up the collector of its own accord as it becomes heated, while the hottest water continually accumulates at the top of the system. Cooler water is pushed down and through the collector again. Thus a good location for hot water storage is usually above the collector. In this case, no pump may be needed.

While copper is the most efficient material for collector plates and piping, it may not be the most cost-efficient. A simple sheet of corrugated aluminum with water run in the troughs, perhaps covered with fiberglass sheeting, will make a workable system.

Other flat-plate collectors use air as the collecting medium by passing it over a group of glass fins above the collector surface.

The solar furnace developed by International Solarthermics Corporation is an appealing option in this field for the near future. Approximately 12' 9'' x 9' x 8'' high, the furnace resembles an A-frame toolshed. One sloping side is taken up with the aluminum collector, from which air is circulated into the rock-filled interior. In this storage "battery", heat can be retained with the minimal loss of about 3° F. per day.

Collector panels are placed directly on the roof in the most common adaptation of solar energy to existing structures. But where an existing house lacks a suitable unshaded south roof slope, this solar furnace's effectiveness up to 75' from a heating site makes it a good candidate to start supplementing energy needs. Small size and self-sufficiency are other big pluses.

Where roofs are resorted to, a mansard roof will have a good angle for winter collection in northern latitudes. Similarly, a ranch-style roof is well adapted to summer powering of a solar air conditioner in the South. In a barn roof, or hipped roof, the two different slopes provide a chance to choose the right angle for optimum heat gain. Or the "working slopes" could be alternated: during the summer months, when the sun's rays are more nearly vertical, the gentler slope of the roof could be used for heat collection to run an air conditioner; in winter the water flow could be switched to the steep part of the roof.

Although solar air conditioners are still exorbitant, Dr. Harry Thomason of Washington, D.C. hit upon a more workable solution. He simply switched the water flow of his solar collector to his roof's north slope in summer, with a resulting cooling effect.

Not all solar houses need have all their roofs facing south; a home's primary orientation could be east-west. Windows on the lower floor of the split-level would be canted and concealed under a south overhang so as to be shielded from the high sun's rays during the summer, while letting in winter sunlight because of its lower angle.

A well-placed skylight in the south slope could aid a sun-run cooker beneath. Solar cookers mirror sunlight off a surface curved in a parabola, causing it to converge on a focal point: the site where cooking occurs. Edmund's Scientific Catalog already advertises these cookers for camping trips.

Another application of the parabolic principle is its use to heat water to a very high temperature as it is piped through the focal point of a large mirror.

The following two ideas, though original with me, are nonetheless founded on established solar energy realities as cited.

First and much more futuristic is a city relying primarily on the sun for all its power needs. While cities do not spring up full-formed, a city such as this could be a goal to work toward.

The buildings, progressively taller so as not to screen one another, would have south-angled roofs for solar energy collection (solar energy has already been applied this way to a 60-story skycraper, the Citicorp Ctr. Bldg., N.Y., N.Y.). Though such a mass of tightly packed buildings might be expected to exclude sunlight from the area below, well placed and coordinated adjustable mirrors could send a good deal of sun to lower levels.

Along the south-facing, vertical wall of each building, toward the top, is a shallow area encased by a transparent covering and filled with water. Here, on each building, millions of algae would be used to partially process various organic wastes. Some algae might also be kept in huge tanks below street-level where mirrored light would reach them.

The second function of all this algae would be as a storage vehicle for solar energy. As described in the NSF/NASA booklet, "Solar Energy as a National Energy Resource," algae can be fermented to produce methane. During periods of low insolation with a need for additional power, the algae would be harvested and methane generated.

Wind, too, is basically solar energy, since it results from the alternate heating and cooling of parts of the atmosphere.

In my hypothetical "Solar City of the Future," parallel cross streets would be oriented in the direction of the prevailing wind—west or southwest in most of the continental U.S. To smoothly channel air flow down the long wind corridors, leading structures on the windward side of the city would be contoured like prows. And above the breezy boulevards, supported between buildings, great multi-rotor windmills would churn as they turned the wind to torque.

Each section resembling an eggbeater, the basis for the rotor windmill, was invented half a century ago in France and Finland. Its unorthodox design, as well as permitting stacking, also allows the mechanism to be activated by wind from any direction (an advantage not fully realized here). Perhaps unfavorable winds could be deflected down the big "breezeways" by a series of airfoils on the city's windward side.

Another potential future application for solar energy for the Solar City would be a spacious one-story-deep excavation in the earth, as for a conventional basement. But the wide hole would be covered only with a framework of steel-reinforced concrete at ground level. This upper framework consists of a series of parallel concrete troughs connected by crosswise supports, and supported at intervals by pillars with safety glass or a similar material in the interstices.

As a result of the subterranean construction, living or working space beneath the windowed ceiling would be extremely well insulated—by the earth—on five sides.

Meanwhile, at ground level, most of the troughs would be filled with earth. Only those directly over pillar-supports for the upper framework would be left empty. Next, a wide-track vehicle designed to straddle the unsupported area with its wheels on the empty troughs only would be used to seed the earth-filled troughs. It would be best to sow a green leafy plant with relatively shallow roots, e.g. corn.

During the summer, this crop would grow up and obscure the glass areas with its leaves, preventing light entry and contributing to the coolness beneath. The crop could be irrigated, if necessary, by letting water stand above the glass troughs and seep into the earth gradually through slightly porous parts of the concrete.

As a fringe benefit, the irrigation could be used to cool the area below. As in Harold R. Hay's roof ponds, a sheet of movable insulation would be placed over the water-filled area by day; uncovered at night, the water would radiate heat absorbed from beneath out into the cooler air.

One might expect a plowing problem with this kind of a crop. The answer: Plowing is not necessary. Already, about 70 percent of the corn in Maryland is planted by a method called no-tillage farming.

In no-tillage farming, rye is planted as a winter cover crop. Since rye does not begin to grow in earnest until spring, and never spreads as luxuriantly as corn, if planted in the concrete troughs it would tend to leave the glass areas unobstructed for winter light penetration.

The next step in no-till farming is to kill the rye in the spring, creating a mulch. This mulch, rather than plow-turned earth, is the medium for the seeded corn's growth.

Any system incorporating this kind of dual land usage may seem far-out at present. However, efficient use of all our nation's length and breadth is liable to become increasingly vital in the coming century.

The orbital space station is not to be overlooked as a final theater for solar energy technology application. First propounded by Princeton physics professor Gerald K. O'-Neill, and Dr. Peter Glaser of Arthur D. Little Co., this station could use vast arrays of solar cells to generate electricity for Earth use. Large reflecting mirrors would augment the solar array's effectiveness.

In solar cells, silicon is arranged in positive (p) and negative (n) layers. When sunlight strikes a semiconductor of this nature, activity at the p-n junction generates electricity. With silicon, about an 11-14 percent conversion efficiency of incoming energy can be achieved. Cadmium sulfide, less expensive but less efficient, is also used as a semiconductor or solar cell.

In the past, a major objection to the orbital space station concept has been the high cost of collectors. However, experimentation now in progress at Itek Corporation may lead to a hundredfold reduction in solar cell prices. Itek's theory is that high-speed fabrication of semiconductor material can be achieved by rapidly "gluing" tiny semiconductor particles to a surface.

Materials mining on the moon would also reduce project cost substantially. Significantly, silicon, among Eearth's most abundant elements, is also present on the moon.

Within solar energy ranks, the space station's opposition comes from a faction favoring an extensive desert solar array in parts of Arizona and New Mexico. But this suggestion suffers from basic impracticality. The installation would have to extend over something like three percent of the U.S. land area to provide a noticeable portion of our national energy needs.

Returning to the exponential curve, we see ourselves in the unenviable position of having space needed for population and space needed for solar energy both increasing at once.

In contrast, a satellite placed in synchronous orbit would receive sunlight practically all the time, while occupying no space on Earth. Also, there is no atmospheric screening effect in space to sort the sun's rays.

A space station or stations for generation of solar energy, especially one with a number of workers, might have other benefits not measured in British Thermal Units or barrels of oil. The sense of a frontier, an escape, has never seemed to harm our country when it has been present. Even the vicarious spirit of adventure assimilated by those who keep the home fires burning could make for a welcome change in the nation's general attitude.

In conclusion, only widespread public awareness and mass production of components are lacking to make our sun a major energy source.

Here's to our third century, century of the sun!

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of September 27, 1976, page 32765.

HOUSE BILLS

H.R. 15400. September 1, 1976. Interior and Insular Affairs; Public Works and Transportation. Directs the Secretary of the Army and the Secretary of the Interior to prepare comprehensive plans for the development of hydroelectric power at water resource projects within their respective jurisdictions.

H.R. 15401. September 1, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 15402. September 1, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 15403. September 1, 1976. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 15404. September 2, 1976. Public Works and Transportation. Amends the Water Resources Development Act of 1974 to authorize the appropriation of such sums as may be necessary for collection and removal of drift in New York Harbor.

H.R. 15405. September 2, 1976. Government Operations. Establishes within the Executive Branch the Department of Women's Affairs. Transfers to the Department specified functions of other Federal agencies concerned with issues affecting women.

Directs the Department to analyze Federal programs and provide leadership for State and local programs dealing with women's needs. Empowers the Department to participate in rulemaking proceedings of other Federal agencies and to initiate or intervene in specified civil proceedings which may affect the interests of women.

H.R. 15406. September 2, 1976. Public Works and Transportation. Modifies the project for flood protection on the Souris River in North Dakota to direct the Secretary of the Army, acting through the Chief of Engineers, to reimburse non-Federal interests for additional expenses incurred in undertaking cooperation with the project.

H.R. 15407. September 2, 1976. Banking, Currency and Housing. Establishes a government corporation to be known as the Federal Shared-Risk Insurance Fund which shall fund a program of residential mortgage loan insurance whereby the risk of making loans for specified property may be equitably apportioned between a federally established insurance fund and the lender.

Creates a Federal Shared-Risk Insurance Advisory Council.

H.R. 15408. September 2, 1976. Merchant Marine and Fisheries. Amends the Commercial Fisheries Research and Development Act of 1964 to amend the calculation of apportionment of fisheries resources development funds to the States.

H.R. 15409. September 2, 1976. Banking, Currency and Housing. Prescribes procedures for foreclosure of multifamily mortgages owned or held by the United States encumbering real estate located in any state. Provides for the designation of a foreclosure commissioner who shall have a nonjudicial power of sale and who shall conduct foreclosures and sales as a fiduciary to both the mortgagor and the United States.

H.R. 15410. September 2, 1976. Education and Labor. Amends the Occupational Safety and Health Act to include among the persons to whom an employer owes a duty to provide a place of employment free from recognized hazards all individuals engaged in any employment controlled, coordinated, or otherwise supervised by the employer.

Limits the duties to provide a safe work place and to comply with occupational safety and health standards, at workplaces where two or more employers are engaged in activities, to any employer whose activity results in a recognized hazard or violates a standard and to any other employer at the workplace who controls, coordinates, or otherwise supervises such activity.

H.R. 15411. September 2, 1976. Banking, Currency and Housing. Sets national standards for the sale of condominium units and for the conversion of existing rental units into condominiums. Requires developers to disclose specified information concerning their condominium projects. Makes provisions for the enforcement of this Act by individual owners of dwelling units and by those who face eviction due to condominium conversions which do not adhere to the requirements of this Act.

H.R. 15412. September 2, 1976. Interstate and Foreign Commerce. Directs the Federal Communications Commission to amend its rules and regulations and with respect to the Fire Radio Service to permit the transmission of communications of a nonemergency nature relating to official fire department business over frequencies available to the Fire Radio Service.

H.R. 15413. September 2, 1976. Ways and Means. Establishes on the books of the Treasury a fund to be known as the "United States Olympic Fund." Allows an individual taxpayer to designate that $1 of any overpayment of his tax, or $1 of any contribution which he makes with his return be available to such fund.

Provides that amounts in the fund shall be available as stated in appropriation Acts, to the United States Olympic Committee, of specified purposes.

H.R. 15414. September 2, 1976. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize and direct the Secretary of Health, Education, and Welfare to make grants to designated State agencies to meet part of the costs involved in planning, establishing, maintaining, coordinating, and evaluating programs for comprehensive services for school-age girls, their infants and children. Specifies the requirements for State plans to qualify for Federal aid under this Act.

H.R. 15415. September 2, 1976. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to authorize the Commissioner of Education to make grants to, and enter into contracts with, schools of medicine, dentistry, and osteopathy for the purpose of offering regional three-year demonstration programs introducing secondary students from disadvantaged backgrounds to the health professions.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GUYER (at the request of Mr. RHODES), for September 29, 1976, on account of official business.

Mr. PEPPER (at the request of Mr. O'NEILL), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. BRADEMAS, on Thursday, September 30, 1976, for 30 minutes, and to include extraneous material.

(The following Members (at the request of Mr. PRESSLER) to revise and extend their remarks and include extraneous material:)

Mr. FINDLEY, for 5 minutes, today.

Mr. SARASIN, for 5 minutes, today.

Mr. CONABLE, for 5 minutes, today.

Mr. KEMP, for 20 minutes, today.

Mr. FRENZEL, for 10 minutes, today.

(The following Members (at the request of Mr. MINETA) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. PHILLIP BURTON, for 5 minutes, today.

Mr. BRADEMAS, for 10 minutes, today.

Mr. COTTER, for 5 minutes, today.

Ms. HOLTZMAN, for 15 minutes, today.

Mr. PRICE, for 30 minutes, today.

Mr. HARRIS, for 5 minutes, today.

Mr. WIRTH, for 5 minutes, today.

Mr. ALEXANDER, for 60 minutes, September 29, 1976.

Mr. BOLLING, for 60 minutes, September 30, 1976.

Mr. BRINKLEY, for 60 minutes, September 30, 1976.

EXTENSIONS OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. PRESSLER) and to include extraneous material:)

Mr. GILMAN.

Mr. HANSEN.

Mr. BELL.

Mr. WIGGINS.

Mr. PAUL.

Mr. QUIE.

Mr. KEMP in five instances.

Mr. ASHBROOK in three instances.

Mr. SYMMS in three instances.

Mr. ROUSSELOT in two instances.

Mr. ESCH in two instances.

Mr. EMERY.

Mr. FINDLEY.

Mr. DERWINSKI.

Mr. GRASSLEY.

Mr. ABDNOR.

Mr. KEMP.

The following Members (at the request of Mr. MINETA) and to include extraneous material:)

Mr. GONZALEZ in three instances.

Mr. ANDERSON of Califonia in three instances.

Mr. BREAUX.

Mr. HAYES of Indiana.

Mr. MINETA.

Mrs. BURKE of California.

Mr. CHARLES H. WILSON of California.

Mr. BOLLING.

Mr. GAYDOS.

Mr. OBEY.

Mr. CONYERS.

Mr. SISK.
Mr. MCDONALD in five instances.
Mr. DELLUMS in five instances.
Mr. NOLAN in two instances.
Mr. WAXMAN in 10 instances.
Mr. BRADEMAS.
Mr. LEHMAN in two instances.
Mr. ALEXANDER.
Mr. HARRINGTON.
Mr. BAUCUS.
Mr. PHILLIP BURTON in five instances.
Mr. ICHORD.
Mr. RANGEL.
Mr. GINN.
Mr. RUSSO.
Mr. PREYER.
Mr. UDALL.
Mr. MURTHA.
Mr. AMBRO in two instances.
Mr. HUNGATE in two instances.
Mr. LEGGETT.
Mr. WRIGHT.
Mr. BRECKINRIDGE.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 649. An act for the relief of Roberto Quispe; to the Committee on the Judiciary.

S. 842. An act for the relief of the Mondakota Gas Co.; to the Committee on the Judiciary.

S. 2613. An act to amend the Small Business Investment Act of 1958, to change the title and duties of the Associate Administrator for Finance and Investment of the Small Business Administration, and for other purposes; to the Committee on Small Business.

S. 2647. An act for the relief of Dr. Reynaldo P. Perez, his wife, Raquel Perez, and their child, Marie Freinde Perez; to the Committee on the Judiciary.

S. 2736. An act for the relief of Dr. Abraham Horwitz; to the Committee on the Judiciary.

S 2894. An act for the relief of Maria Fineza Fortich; to the Committee on the Judiciary.

S. 2917. An act for the relief of Guy Marius Langlois and Diane Mireille V. Langlois; to the Committee on the Judiciary.

S. 3017. An act for the relief of Lee Young Soo; to the Committee on the Judiciary.

S. 3026. An act for the relief of Monchita C. Entena, Antonio V. Entena, Robert Entena, Cathleah Entena, Arvin Entena, and Eliza R. Ayala; to the Committee on the Judiciary.

S. 3204. An act to designate certain lands as wilderness areas and wilderness study areas; to the Committee on Interior and Insular Affairs.

S. 3313. An act for the relief of Lucila Domingo Santos; to the Committee on the Judiciary.

S. 3314. An act for the relief of Isidaria Gallardo Avaricio; to the Committee on the Judiciary

S. 3315. An act for the relief of Felina Aranador Afinidad; to the Committee on the Judiciary.

S. 3490. An act for the relief of Gaspar Louis Sayoc; to the Committee on the Judiciary.

S. 3556. An act for the relief of Marciano Santiago and his wife, Eleanor L. Santiago; to the Committee on the Judiciary.

S. 3819. An act for the relief of Comdr. Edward White Rawlins, United States Navy (retired); to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 10339. An act to encourage the direct marketing of agricultural commodities from farmers to consumers; and

H.R. 12838. An act to amend and extend the National Foundation on the Arts and Humanities Act of 1965, to provide for the improvement of museum services, to establish a challenge grant program, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 3734. An act to approve the sale of certain naval vessels, and for other purposes; and

S. 3843. An act to name the Visitors' Center at the Sleeping Bear Dunes National Lakeshore the "Philip A. Hart Visitors' Center".

ADJOURNMENT

Mr. BURLISON of Missouri. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 58 minutes a.m.) the House adjourned until today, Wednesday, September 29, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4086. A communication from the President of the United States, transmitting a proposed supplemental appropriation for fiscal year 1977 for the Department of Agriculture (H. Doc. No. 94–634); to the Committee on Appropriations and ordered to be printed.

4087. A letter from the Assistant Secretary of the Army (Civil Works); transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on Flathead and Clark Fork River Basins (Flathead River near Kalispell), Mont. (H. Doc. No. 94–635); to the Committee on Public Works and Transportation and ordered to be printed with illustrations.

4088. A letter from the Chairman, National Transportation Safety Board, transmitting the Board's budget request for fiscal year 1978, pursuant to section 304(b)(7) of Public Law 93–633; jointly, to the Committees on Public Works and Transportation, Interstate and Foreign Commerce, and Appropriations.

RECEIVED FROM THE COMPTROLLER GENERAL

4089. A letter from the Comptroller General of the United States, transmitting his views on H.R. 3249, currently before the Committee on the Judiciary, together with a draft of a proposed amendment to the bill; to the Committee on the Judiciary.

4090. A letter from the Comptroller General of the United States, transmitting a report on the Equal Employment Opportunity Commission's effectiveness in eliminating employment discrimination; jointly, to the Committees on Governnment Operations, and Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALEY: Committee on Interior and Insular Affairs. S. 2798. An act to eliminate a restriction on use of certain lands conveyed to the city of Yakutat, Alaska (Rept. No. 94–1703). Referred to the Committee of the Whole House on the State of the Union.

Mr. MORGAN: Committee of Conference. Conference report on S. 3557 (Rept. No. 94–1704). Ordered to be printed.

Mr. RODINO: Committee on the Judiciary. S. 287. An act to provide for the appointment of additional district court judges and for other purposes; with an amendment (Rept. No. 94–1705). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 1143. A bill to amend certain provisions of the Internal Revenue Code of 1954 to authorize refund of tax on distilled spirits, wines, rectified products, and beer lost or rendered unmarketable due to fire, flood, casualty, or other disaster, or breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief while held for sale; with amendments (Rept. No. 94–1706). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 11134. A bill to amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera; with an amendment (Rept. No. 94–1707). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on finding jobs for workers: The performance of the U.S. Employment Service and its State partners (Rept. No. 94–1708). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 14717. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to allow a participant in a qualified employee savings plan to use the nonforfeitable benefit accrued in such plan as security for a loan from a bank or insured credit union; with amendments (Rept. No. 94–1709, pt. 1). Ordered to be printed.

Mr. ULLMAN: Committee on Ways and Means. H.R. 13649. A bill to amend the Second Liberty Bond Act to allow the interest rates paid on U.S. retirement plan and individual retirement bonds to be increased to the rate paid on U.S. series E savings bonds (Rept. No. 94–1710). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 15571. A bill to amend chapter 21 of the Internal Revenue Code of 1954 and title II of the Social Security Act to provide that the payment of social security taxes by a nonprofit organization with respect to its employees shall constitute (for both tax and benefit purposes) a constructive filing by such organization of the certificate otherwise required to provide social security coverage for such employees if it has not received a refund or credit of such taxes, and to require the filing of such a certificate by any nonprofit organization which paid such taxes but received a refund or credit because it had not previously filed such certificate. (Rept. No. 94–1711). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on the adequacy of executive branch evaluations of the potential impact of a New York City default. (Rept. No. 94–1712). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Texas. Committee on Rules. House Resolution 1580. A resolution providing for the consideration of H.R. 15636. A bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes (Rept. No. 94–1713). Referred to the House Calendar.

Mr. SISK: Committee on Rules. House Resolution 1581. A resolution providing for the consideration of reports from the Committee on Rules (Rept. No. 94–1714). Referred to the House Calendar.

Mr. SISK: Committee on Rules. House Resolution 1582. A resolution authorizing the Consideration of conference reports on the same day reported or any day thereafter during the remainder of this session (Rept. No. 94–1715). Referred to the House Calendar.

Mr. SISK: Committee on Rules. House Resolution 1583. A resolution providing for the Speaker to declare recesses (Rept. No. 94–1716). Referred to the House Calendar.

Mr. MAHON: Committee of Conference. Conference report on House Joint Resolution 1096 (Rept. No. 94–1717). Ordered to be printed.

Mr. TEAGUE: Committee of Conference. Conference report on H.R. 13350 (Rept. No. 94–1718). Ordered to be printed.

Mr. HENDERSON: Committee of Conference. Conference report on H.R. 11337 (Rept. No. 94–1719). Ordered to be printed.

Mr. BROOKS: Committee of Conference. Conference report on H.R. 13367 (Rept. No. 94–1720). Ordered to be printed.

Mr. SISK: Committee on Rules. House Resolution 1584. A resolution providing for the consideration of S. 3521, an act to expedite a decision on the delivery of Alaska natural gas to United States markets, and for other purposes (Rept. No. 94–1721). Referred to the House Calendar.

Mr. FOLEY: Committee of Conference. Conference report on H.R. 12572 (Rept. No. 94–1722). Ordered to be printed.

Mr. RODINO: Committee of Conference. Conference report on S. 2212 (Rept. No. 94–1723). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BEARD of Tennessee (for himself and Mr. McClory):

H.R. 15716. A bill to amend the Occupational Safety and Health Act of 1970 to provide that any employer who successfully contests a citation or penalty shall be awarded a reasonable attorney's fee and other reasonable litigation costs; to the Committee on Education and Labor.

By Mr. BRINKLEY (for himself and Mr. Nichols):

H.R. 15717. A bill to provide for the establishment within the National Cemetery System of the Fort Mitchell Regional Veterans' Cemetery in Russell County, Ala.; to the Committee on Veterans' Affairs.

By Mr. DON H. CLAUSEN:

H.R. 15718. A bill to authorize the Secretary of the Army, acting through the Chief of Engineers, to plan and establish wetland areas in association with water resources development projects; to the Committee on Public Works and Transportation.

By Mr. HARRINGTON (for himself, Mr. Simon, Mr. Conyers, Mr. Lehman, Mr. Won Pat, Mr. Mitchell of Maryland, Mr. Tsongas, Mr. Waxman, Mr. Stokes, Ms. Spellman, Mr. Badillo, Ms. Abzug, Mr. Roybal, and Mr. Rosenthal):

H.R. 15719. A bill to establish a program of full employment, vocational training, and employment placement for all young Americans willing and able to work, and for other purposes; to the Committee on Education and Labor.

By Mr. KARTH:

H.R. 15720. A bill to amend the Internal Revenue Code of 1954 relating to the reduction of Federal Estate Tax deductions for charitable transfers where death taxes are payable out of such transfers; to the Committee on Ways and Means.

By Mr. KELLY:

H.R. 15721. A bill to make supplemental appropriations for the Animal and Plant Health Inspection Service to conduct pest control programs with respect to the Mediterranean fruit fly and the citrus black fly, and for the Agricultural Research Service to conduct research with respect to the citrus black fly; to the Committee on Appropriations.

H.R. 15722. A bill to amend section 2 of the act of August 22, 1964, to provide that articles which are produced or manufactured in foreign-trade zones from foreign meat shall, upon their entry into the customs territory of the United States, be subject to certain import restrictions, and for other purposes; to the Committee on Ways and Means.

By Mr. KOCH:

H.R. 15723. A bill to provide for disclosure of certain information relating to retirement benefits paid to Federal officers and employees and their survivors; to the Committee on Post Office and Civil Service.

By Mr. MOORHEAD of Pennsylvania:

H.R. 15724. A bill to provide for the establishment of the George W. Norris Home National Historic Site in the State of Nebraska, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. NOLAN:

H.R. 15725. A bill to direct the Secretary of Agriculture to make payments to owners of cattle who sell their cattle in order to avoid excessive losses which would force such owners out of the dairy or cattle business; to the Committee on Agriculture.

H.R. 15726. A bill to amend title II of the Social Security Act to provide that the marriage of a child otherwise qualified shall not prevent or terminate his or her eligibility for child's insurance benefits; to the Committee on Ways and Means.

H.R. 15727. A bill to amend the meat and meat products import control law; to the Committee on Ways and Means.

By Mr. QUIE:

H.R. 15728. A bill to reorganize, simplify, deregulate and consolidate certain elementary and secondary education programs in order to provide improved State administration of the programs, and for other purposes; to the Committee on Education and Labor.

By Mr. ROSENTHAL (for himself, Mr. Cohen, Ms. Collins of Illinois, and Mr. Stokes):

H.R. 15729. A bill to terminate age discrimination in employment; to the Committee on Education and Labor.

By Mr. BIAGGI:

H.R. 15730. A bill to authorize the Secretary of the Department in which the Coast Guard is operating to prescribe manning requirements for certain small craft propelled by steam, and for certain vessels propelled by mechanical or electrical power, carrying freight or passengers for hire, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. JONES of Alabama (for himself, Mr. Harsha, Mr. Wright, Mr. Cleveland, Mr. Johnson of California, Mr. Don H. Clausen, Mr. Henderson, Mr. Snyder, Mr. Roberts, Mr. Hammerschmidt, Mr. Howard, Mr. Hagedorn, Mr. Anderson of California, Mr. Goldwater, Mr. Roe, Mr. McCormack, Mr. James V. Stanton, Mr. Breaux, Mr. Ginn, Mr. Milford, Mr. Mineta, Mr. Howe, Mr. Oberstar, Mr. Nowak, and Mr. Fary):

H.R. 15731. A bill to increase and extend the authorization for the Federal-aid primary system, to increase the Federal share for Federal-aid primary system projects, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. KEMP:

H.R. 15732. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for amounts paid by a taxpayer for tuition to provide an education for himself or for his dependents; to the Committee on Ways and Means.

By Mr. MAGUIRE (for himself, Mrs. Chisholm, Mr. Harrington, Mr. Harris and Mr. Nolan):

H.R. 15733. A bill to amend the Public Health Service Act to encourage the formation of comprehensive medical practices, to encourage medical training in such practices, to encourage the study of systems of delivery of health care, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MURTHA:

H.R. 15734. A bill to reorganize the executive branch of the Federal Government to eliminate excessive, duplicative, inflationary, and anticompetitive regulation; jointly, to the Committees on Government Operations, and Rules.

H.R. 15735. A bill to provide for the elimination of inactive and overlapping Federal programs, to require authorizations of new budget authority for Government programs and activities at least every 4 years, to establish a procedure for zero-base review and evaluation of Government programs and activities every 4 years, and for other purposes; jointly, to the Committees on Rules, and Government Operations.

By Mr. TEAGUE (for himself and Mr. Fuqua):

H.R. 15736. A bill to develop, establish, and validate an Earth Resources Information System, to direct the National Aeronautics and Space Administration to continue a research and development program, to provide, if necessary, for establishment of a corporation to operate the domestic ground segment of such a system, to establish an Office of Earth Resources Policy, and for other purposes; to the Committee on Science and Technology.

By Mr. WAXMAN (for himself, Mr. Scheuer, Mr. Edwards of California, Mr. Long of Maryland, Mr. Harrington, Mr. Koch, and Mr. Patterson of California):

H.R. 15737. A bill to amend the Public Health Service Act to establish a Commission to undertake certain studies on the various implications of advances in biomedical research and medical technology, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WIRTH (for himself, Mr. Udall, and Mr. Hannaford):

H.R. 15738. A bill to prohibit the use of Federal funds for certain activities designed to support or defeat any legislation pending before the Congress or any State legislature or any legislation or legislative issue on the ballot in any State; jointly to the Committees on Standards of Official Conduct, and the Judiciary.

By Ms. HOLTZMAN (for herself, Mr. Richmond, Mrs. Spellman, Mr. Moffett, Mr. Moss, Mr. Udall, Mr. Rangel, Mr. Badillo, Mr. Wirth, Ms. Abzug, Mr. Roush, Mr. Maguire, Mr. Rees, Mr. D'Amours, Mr. Ottinger, Mr. Weaver, Mr. Flood, Mr. Edwards of California, Mr. Koch, Mr. Fraser, Mr. Mezvinsky, Mr. Solarz, Mr. Drinan, Mr. Edgar, and Mr. Steelman):

H.R. 15739. A bill to amend the Federal

Rules of Evidence to provide for the protection of the privacy of rape victims; to the Committee on the Judiciary.

By Ms. HOLTZMAN (for herself, Mr. Davis, Mr. Krebs, Mr. Florio, Mr. Harrington, Mr. Won Pat, Mr. Nix, Mr. Stark, Mr. Roybal, Mr. Vander Veen, Mr. Hechler of West Virginia, Mrs. Chisholm, Mr. Mitchell of Maryland, Mr. Peyser, Mr. Rosenthal, Mr. Harris, Mr. Scheuer, Mr. Miller of California, Mr. Pickle, Mrs. Mink, Mr. Fithian, Mrs. Fenwick, Ms. Keys, and Mr. Frenzel):

H.R. 15740. A bill to amend the Federal Rules of Evidence to provide for the protection of the privacy of rape victims; to the Committee on the Judiciary.

By Ms. HOLTZMAN (for herself and Mr. Matsunaga):

H.R. 15741. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for certain diagnostic tests and examinations given for the detection of breast cancer; to the Committee on Ways and Means.

By Mr. FAUNTROY (for himself, Mr. Sarbanes, Mrs. Spellman, Mr. Gude, and Mr. Fisher):

H.J. Res. 1112. A joint resolution making an emergency supplemental appropriation for the District of Columbia for the fiscal year ending September 30, 1977, and for other purposes; to the Committee on Appriations.

By Mr. HARRINGTON (for himself, Mr. Stark, Mr. Long of Maryland, Mr. Seiberling, Mr. Gude, Ms. Collins of Illinois, Mr. Miller of California, Mr. Bedell, Mr. Ryan, and Mr. Cornell):

H. Con. Res. 774. A concurrent resolution disapproving certain proposed sales to Iran of defense articles and services; to the Committee on International Relations.

By Mr. LONG of Maryland:

H. Con. Res. 775. A concurrent resolution disapproving the proposed sale to Saudi Arabia under the Foreign Military Sales Act described in transmittal numbered 7T–15; to the Committee on International Relations.

H. Con. Res. 776. A concurrent resolution disapproving the proposed sale to Saudi Arabia under the Foreign Military Sales Act described in transmittal numbered 7T–21; to the Committee on International Relations.

H. Con. Res. 777. A concurrent resolution disapproving the proposed sale to Saudi Arabia under the Foreign Military Sales Act described in transmittal numbered 7T–39; to the Committee on International Relations.

By Mr. THOMPSON:

H. Res. 1576. A resolution to amend section 5 of House Resolution 1238 of the 91st Congress; to the Committee on Hour Administration.

By Mr. CONTE (for himself, Mr. Ambro, Mr. Harrington, Mr. Gilman, and Mr. Fary):

H. Res. 1577. A resolution directing the Committee on International Relations to conduct hearings to determine the nature and extent of any U.S. involvement in the hostilities in Northern Ireland; to the Committee on Rules.

By Mr. KOCH (for himself and Mr. Conte):

H. Res. 1578. A resolution calling for the appropriation of $10 million to recondition, activate, and operate the hospital ship U.S.S. *Sanctuary* to provide medical assistance to the wounded in Lebanon and to other areas of the world that will need similar emergency medical assistance; to the Committee on Armed Services.

By Mr. MOFFETT (for himself and Mr. Roe):

H. Res. 1579. A resolution expressing the sense of the House of Representatives condemning the murders of Orlando Letelier and Ronnie Karpen Moffitt; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6684

By Mr. JEFFORDS:

Page 4, line 17, strike out the quotation marks and the last period.

Page 4, after line 17 insert the following:

"(D) (i) Subparagraphs (A) and (B) shall not apply to any licensee who is engaged in the manufacture (including manufacture by a sublicensee, agent, or subcontractor), distribution, and sale of a trademarked soft drink product if—

"(I) during the first calendar year which begins after the effective date of subparagraphs (A) and (B), more than 50 percent of such licensee's total production of such products are not produced in returnable containers;

"(II) during the second calendar year which begins after such effective date, more than 55 percent of such licensee's total production of such products are not produced in returnable containers;

"(III) during the third calendar year which begins after such effective date, more than 60 percent of such licensee's total production of such products are not produced in returnable containers;

"(IV) during the fourth calendar year which begins after such effective date, more than 65 percent of such licensee's total production of such products are not produced in returnable containers; and

"(V) during the fifth calendar year which begins after such effective date and during any calendar year which begins therafter, more than 70 percent of such licensee's total production of such products are not produced in returnable containers.

"(ii) For purposes of this subparagraph, the term 'returnable container' means a container which is clearly and conspicuously embossed, stamped, or labeled, or which is otherwise securely affixed, in a manner which the Federal Trade Commission shall by rule, prescribe in accordance with section 553 of title 5, United States Code, with a statement of a refund value of not less than 5 cents which is payable when such container is returned to the licensee referred to in clause (i) of this subparagraph, or to any person to whom a trademarked soft drink product is distributed for resale to another for purposes of sale to the ultimate consumer, or for purposes of sale to the ultimate consumer.".

H.R. 15636

BY MR. FITHIAN:

Immediately before the last section of title I, add the following new section:

Sec. —. The Lafayette Dam and Reservoir, Wabash River, Indiana, authorized by section 204 of the Flood Control Act of 1965 (Public Law 89–298), is not authorized after the date of enactment of this Act.

Renumber the succeeding section accordingly.

By Mr. HARRIS:

Redesignate section 174 as section 175 and insert the following new section, immediately after section 173:

Sec. 174. (a) (1) Not later than the end of the one hundred and eighty-day period beginning on the date of enactment of this Act, the Secretary of the Army, acting through the Chief of Engineers, shall enter into an agreement with the Mayor of the District of Columbia regarding the rates to be paid by the District of Columbia for the delivery of water from the Potomac River through the Washington Aqueduct, District of Columbia. Such agreement shall provide separate rate schedules for the period beginning May 1 of each year and ending October 31 of such year and for the period beginning November 1 of each year and ending April 30 of the succeeding year. The rate schedule for each such period shall reflect the availability of water from the Potomac River and the operational and capital costs of delivery of water during such period.

(2) The agreement entered into pursuant to paragraph (1) shall provide for the periodic adjustment of the rate schedules established by such agreement in order that such schedules accurately reflect changes in the availability of and the demand of water and the costs associated with meeting such demand.

(b) Notwithstanding any other Act or any agreement entered into under any other Act, the rate schedules established pursuant to this section shall apply with respect to any delivery of water from the Potomac River through the Washington Aqueduct to the District of Columbia or any other unit of government.

(c) The agreement entered into pursuant to paragraph (1) of subsection (a) and any other agreement entered into in carrying out this Act may contain such terms and items as may be appropriate to encourage equitable water conservation.

EXTENSIONS OF REMARKS

1976 RESOLUTIONS OF THE NATIONAL ASSOCIATION OF PRO AMERICA

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1976

Mr. ROUSSELOT. Mr. Speaker, yesterday I brought to the attention of the Members of this body the first 8 of the 23 resolutions of the National Association of Pro America for 1976. Following here is the second installment of these resolutions, including numbers 9 through 16. The final installment of the Pro America Resolutions will appear in a subsequent edition of the Record:

FOR CONTROL OF ILLEGAL ALIENS

Whereas the Immigration and Naturalization Service reports that between four million and twelve million aliens are in the United States illegally, and that these illegal aliens are taking at least one million jobs that United States citizens and legal alien residents could hold; and

Whereas these illegal aliens are not subject to income taxes, and in many cases send their earnings out of the country, thus adversely affecting United States balance of payments; and

Whereas whether employed or not, many of them are begetting families to add to the welfare burden; and

Whereas the welfare budget is being rapidly depleted and the problem is increased by the fact that public welfare agencies are not required by law to report illegal aliens nor to deny them financial assistance; therefore, be it

Resolved, That the National Association of Pro America urge the passage of a law to require that aliens seeking jobs or assistance from public welfare agencies be required to furnish proof of citizenship or lawful residence; and be it further

Resolved, That the National Association of Pro America reaffirm its Resolutions No. IX (1972), No. XIX (1974) and No. I (1975).

GOVERNMENT RESPONSIBILITY FOR INFLATION

Whereas the present fiscal policies of the United States government—

1. Spending exorbitant sums of taxpayer's money,
2. Inhibiting the initiative of the people with frustrating bureaucratic regulations,
3. Taxing savings and capital formation to oblivion,
4. Creating government programs which have resulted in shortages of essential materials and energy,
5. Giving away billions of dollars and vast quantities of raw materials to foreign governments, and
6. Tinkering with the economic machinery by using unsound panaceas which add to inflation and the destruction of the dollar—

continue to destroy the United States economy; and

Whereas history has shown that the aftermath of economic destruction almost always has been totalitarianism; therefore, be it

Resolved That the National Association of Pro America reaffirm its Resolution No. IV, 1975, which demands that government return to the gold standard, restore the free market economy and divest itself of all business now federally owned.

CONDEMN CONTINUED INVESTIGATION OF INTELLIGENCE SERVICES

Whereas the Federal Bureau of Investigation (F.B.I.) and the Central Intelligence Agency (C.I.A.) are information gatherers only and have no power to prosecute criminals or subversives but only to supply pertinent information to the proper government bodies; and

Whereas there has been zealous activity on the part of the United States Congress to investigate the Intelligence Services which has resulted in leaks to news media and foreign agents; and

Whereas these actions have and are endangering the lives of those serving the United States in those Intelligence Services (already resulting in at least one death); and

Whereas these actions have given aid and comfort to foreign governments against the best interests of the United States, and are potentially harmful to its allies; and

Whereas this continuing investigation by committees of Congress (there have been six investigations of the C.I.A. alone), with innuendo, false accusations and the exposure of matters which should have remained secret, is destroying the confidence of United States agencies in these protective agencies and endangering the security of this country; therefore, be it

Resolved That the National Association of Pro America urge Congress to bring these investigations to a speedy close; and be it further

Resolved That the National Association of Pro America urge Congress to pass appropriate legislation to protect the inviolability of the information gathered by these agencies, and to prosecute any person or persons who jeopardize the safety of the Intelligence community, or the security of the United States, internal or external.

INDEPENDENCE OR INTERDEPENDENCE? FREEDOM OR SLAVERY?

Whereas The United States Declaration of Independence proclaims ". . . That these United Colonies are, and of Right ought to be Free and Independent States; . . . and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do."; and

Whereas The Constitution of the United States of America is the basic law and charter of a *free, independent* and *sovereign* nation; and

Whereas "A Declaration of Interdependence," sponsored by the World Affairs Council of Philadelphia, is only the first of a five-step plan to submerge the United States in a "global community," "free from the limitations of national prejudice," in which there will be a "more equitable sharing of the resources of the earth," "collaborative regulation" of all parts of the earth and every facet of people's lives, including the "processes of production" and "monetary systems," armaments and jurisprudence by "international authorities" and a commitment to secure for "people everywhere" the "blessings of life and liberty, peace and security and the realization of their full potential" (the American tradition teaches that people must work for these things, that nations preserve peace by constantly preparing for war and that realizing one's "full potential" is a personal struggle and not something to which one is entitled; and

Whereas the second step of this infamous plan is the "Signing of the Declaration by Members of Congress and other leading leading Americans to promote widespread awareness"; and

Whereas ninety-two House members and thirty-two Senators have already signed, or permitted their names to be signed to, this treasonable instrument of world government; and

Whereas the National Education Association (N.E.A.) has now issued "A Declaration of Interdependence: Education for a Global Community" with plans which include "significant changes in curriculum ('with global emphasis'), "instructional materials and teacher education," international film festivals, art and crafts exhibits, pageants, choral works, sculpture and anything else which will contribute to "world peace" and the concept of a "global community"; and

Whereas a key part of NEA's project is a concerted effort to gain congressional approval of their bill to realize these goals; and

Whereas unbelievable as it may seem, the American Revolutionary Bicentennial administration has officially recognized both "A Declaration of Interdependence," sponsored by the World Affairs Council of Philadelphia, and "Education for a Global Community" sponsored by the National Education Association; and

Whereas if the members of Congress who signed the Declaration of Interdependence, or permitted their names to be signed to it, do not understand the difference between *independence* and *interdependence* (freedom or slavery), they should take immediate steps to remedy this lack of education; now, therefore, be it

Resolved That the National Association of Pro America urge Congress to reject the plans of the National Education Association (NEA), and conduct an investigation of the American Revolutionary Bicentennial Administration; and be it further

Resolved That the National Association of Pro America condemn every member of Congress who signed or permitted his or her name to be signed to, the "Declaration of Interdependence" of the World Affairs Council of Philadelphia, as having been guilty of abysmal ignorance of the United States Constitution (which they are sworn to "support and defend . . . against all enemies, foreign and domestic") or of treasonable action; and be it further

Resolved That the National Association of Pro America ask Congress to census those members of that body who, by signing that "Declaration of Interdependence," violated their oath of office to support and defend the Constitution of this free, *independent* nation, and advocated instead that it be submerged in a world government.

OPPOSE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Whereas according to the Fifth Annual Report of the Law Enforcement Assistance Administration (LEAA), the National Advisory Commission on Criminal Justice Standards and Goals recommends the following inclusive gun control measures-prohibition of private possession of hand guns for *all* persons other than law enforcement and military personnel, the termination of the manufacture and sale of hand guns, the acquisition of all existing hand guns, and the modification of hand guns held as collector's items to make them inoperable; and

Whereas the Commission recommends the decriminalization of drunkenness, that States re-evaluate and/or repeal their laws on vagrancy, gambling, possession and use of marijuana, pornography, prostitution and sexual acts between consenting adults in private, and suggests removal of minor traffic offenses from judicial to administrative disposition; and

Whereas the Commission recommends the consolidation or elimination of police departments with fewer than ten full-time police officers, that every police agency should take affirmative action to achieve the proportion of minority group employees in an agency which they represent in the population, and that all records of arrests and convictions be closed to any but law enforcement agencies, thus denying employers the right to know of criminal backgrounds of prospective employees; and

Whereas these practices could lead to the hiring by school districts of a child molestor as a teacher or custodian, the sending by utility companies of convicted rapists to read meters, and the hiring by truck firms of convicted hijackers to drive or dispatch vehicles; and

Whereas one of the Commission's major objectives for the courts includes the following drastic changes—the unification of all trial courts within a state in a single court of general jurisdiction under the administrative authority of the state's highest Appellate Court, the establishment of a State Court Administrator responsible for setting policies for the administration of the entire State court system, provision for public representation to all "eligible" defendants from the moment of arrest to the exhaustion of all avenues of relief, an end to plea negotiations, the elimination of many pre-trial proceedings, and the abolition of the trial de novo system; and

Whereas LEAA funds have been granted in some cases to organizations, such as the Alliance to End Repression, in Chicago, a highly radicalized group, called a communist front by a Chicago police intelligence officer, which are harassing police departments and actually hampering their work of law enforcement; and

Whereas despite seven years of "evaluating," "computerizing" and "monitorizing" and the expenditure of well over $4.1 billion for the program, effectiveness in crime control is *decreasing,* crime is *increasing* and the LEAA has proven to be a disastrous failure in every way; therefore, be it

Resolved, That the National Association of Pro America reaffirm its previous Resolution No. V (1971), VIII (1973) XII (1975) and request Congress to take immediate steps to abolish the Law Enforcement Assistance Administration.

OPPOSE MULTI-LINGUAL VOTING REQUIREMENT

Whereas in order to become a naturalized citizen of the United States, a person must pass both a written and an oral examination in the English language; and

Whereas among provisions of the recent amendments to the federal Voting Rights Act is the requirement that election materials (ballots and instructions) be printed in minority languages as well as in English, and that interpreters in a given minority language be present at each polling place; and

Whereas the requirement of printing ballots and instructions in languages other than English (Italian, Spanish, Mexican, Japanese, Chinese, German, French, etc.), and maintaining clerks who understand and can answer questions asked by voters in languages other than English in voting precincts on election day is prohibitive in cost and outrageous in principle; therefore, be it

Resolved That the National Association of Pro America urge the Congress of the United States to take the necessary steps to eliminate the amendment to the Voting Rights Act which requires that ballots and instructions be printed in languages other than English.

SUPPORT UNITED STATES CONTROL OF PANAMA CANAL

Whereas despite President Ford's statements to the contrary, and the opposition of the people and of the Congress, the president's chief negotiator, Ellsworth Bunker, has admitted in testimony before a congressional committee that negotiations to surrender United States rights in the Canal Zone are going right ahead; and

Whereas by the power granted in Article IV, United States Constitution, the *Congress*, and not just the Senate as in the case of most treaties, has the power to make disposition of United States property; and

Whereas nothing changes the fact that United States rights in the Panama Canal Zone were bought, paid for, and granted in perpetuity, and that United States possession, control and management of the Canal Zone and Canal are essential to the commerce and the national defense of this nation and the rest of the free world; therefore, be it

Resolved That we, the National Association of Pro America, do hereby petition and urge the Congress of the United States to take immediate and positive steps to rescind the unwarranted action of the State Department with regard to the Panama Canal Zone and Canal in the present instance, and to take such action as necessary to guarantee that no further attempts will ever again be made to abrogate the sovereignty of the United States in this territory.

SUPPORT REFORM OF UNITED STATES POSTAL SERVICE

Whereas members of the Postal Service Governing Board are again requesting an increase in the subsidy from the government instead of employing sound business methods; and

Whereas the United States Postal Service has capriciously and arbitrarily instituted rate increases while at the same time proposing curtailed service; and

Whereas at excessive cost and sometimes with political bias, the Postal Service has issued a multitude of commemorative stamps; and

Whereas it has engaged in building extravagant new accommodations while at the same time vacating very adequate quarters; therefore, be it

Resolved That the National Association of Pro America urge the Congress of the United States to remove whatever restrictions there are against the delivery of First Class Mail by private enterprise; and further be it

Resolved That the National Association of Pro America urge an end to extravagance and to the use of postage stamps for propaganda purposes.

REPRESENTATIVE HAWKINS CITES UNDERREPORTING OF JOBLESS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1976

Mr. CONYERS. Mr. Speaker, it has been apparent for a long time that the unemployment statistics issued by the Bureau of Labor Statistics grossly underreport the true extent of joblessness. The criteria which are used in computing these statistics exclude major segments of the potential labor force such as discouraged individuals who have abandoned efforts to look for work and individuals who work only a tiny fraction of their time though their preference is full-time employment.

My distinguished colleague, Mr. Augustus Hawkins, indicated the seriousness of this underreporting, and its implications for the debate and action on full employment legislation, in a speech on August 31 before the United Steelworkers of America convention in Las Vegas, Nev. Like other labor unions, the United Steelworkers of America are strong supporters of the Full Employment and Balanced Growth Act of 1976. As reported in the September issue of "Steel Labor," published by the USWA, Mr. Hawkins' discussion of unemployment statistics warrants our concern, and I commend the article to the attention of my colleagues:

Ford Unemployment Figures Are "Phoney" Hawkins Tells USWA

America's number one problem, unemployment, is intentionally understated in the figures issued by the Nixon-Ford Administration, USWA members heard here. Instead of the currently reported figure of 7.6 per cent, joblessness amounts to more than twice that, with an estimated 16 million idled by the Nixon-Ford depression, according to Augustus F. Hawkins (D-Calif.), co-author of the Humphrey-Hawkins "full employment" bill now before Congress.

What's more, the lack of full employment is costing the nation some $45 billion annually in unemployment benefits and welfare payments, the Congressman told the delegates at the 18th Constitutional Convention here. Mr. Hawkins claims that the public is being made a victim "of gross deception" and that, as a result "we do not know the human suffering that unemployment brings about."

He said that some are willing to accept a level of eight million jobless as reported by the administration even though more than 1½ million are between jobs looking for work and that an additional six per cent in the workforce are so disenchanted that they no longer seek employment. The Congressman whose district includes the Watts area of Los Angeles, where more than 25 per cent are without jobs, regards government's unemployment figures as "phoney." He claims that at least five million are either the jobless who are discouraged and don't seek work or are the part-time workers whom the statistics escape.

Hawkins adds that over a million males between the ages of 25 and 55 are not included in the government's jobless figures and that another million over 65 who are regarded as "unemployable" swell the total by millions more.

When over 1½ million school drop-outs are added to the jobless total as well as the huge number of students attending school only because there are no jobs available plus two million known to be "engaged in illicit" operations crime "we have more than 16 million person jobless in America today," he said.

Contrasting his full employment bill with the Republican party's proposals, he said that they are again suggesting that jobs be created by "the old trickle-down theory" of providing incentives to big business through tax credits and other loopholes which he feels may actually aggravate the problem instead of helping to solve it. There is little or no benefit, he said, in granting tax shelters and credits to business that will not actually create new jobs but which may, in fact, cause job losses from automated technology.

While the Republicans want to create a controversy over the measure that bears his name along with that of Senator Hubert Humphrey (D-Minn.), he told the delegates that his bill is "less costly than the Republican tax incentive proposal, is actually far less inflationary, is economically sound, socially desirable and morally just." He added that the bill he is sponsoring along with more than one hundred Congressmen calls on the private sector to do everything possible to create jobs but that it would require the government to be the employer of last resort.

Optimistic that millions of new jobs can be created, notably in the nation's housing, transportation and health care industries, Mr. Hawkins warned that the program for expanding employment that the Republicans are advancing could result in wage cutting by employers of the already low-paid workers even below the present legal minimums.

Such a regressive concept, he said, would only increase competition among the low-paid workers, adding more discrimination against those already in need. Joblessness in America is very expensive, he said. "As consumers, we are losing over $200 billion of goods and services annually. Yet the administration continues to use the scare that any increase in jobs will create more inflation."

MORE ON THE TETON DAM

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1976

Mr. HANSEN. Mr. Speaker, it is hard to fix a picture in your mind of a huge, 300-foot-high, earthen dam with the entire right wall washed away.

There is such a picture in eastern Idaho, in my district. It is the Teton Dam that gave way the morning of last June 5, releasing a 20-foot-high wall of water that eventually covered five counties and sent some 4,000 families out of their homes, some with only a moment's notice.

The spactacle of a real broken dam is well told in the following story by reporter Chris Dunagan of the Idaho Falls, Idaho, Post-Register:

They Come From All Over the Country To Stand and Look at a Broken Dam

(By Chris Dunagan)

Teton Dam.—A family from Florida walked briskly down to the viewpoint overlooking the broken remains of the Teton Dam.

"Daddy, was the water really up to the top of that mountain?" asked a little blond-haired girl, about four years old.

"I guess so," came the slow reply from her father.

They come from all over the country to stand and look at the "mountain" with the gaping hole through it. On weekends, cars arrive at the viewpoint at a rate better than one every minute—Utah, Wisconsin, New Mexico, New York, Nevada, California, and Texas, are only a few of the license plates seen.

Most people stand, holding onto the viewpoints guard rail, and quietly reflect on what the canyon must have looked like the day the dam collapsed. Scarred canyon walls are remnants of the volume and force of the water.

A man from Salt Lake City with relatives in Idaho Falls said, "The dam failure seemed very distant on the day it happened, but coming to the area and seeing the people in Rexburg and Sugar City puts a new light on the situation."

A New Mexico family said they had never heard of Teton Dam before June 5, but were passing through from Yellowstone Park and "had to come and see for ourselves."

Many families bring their children, sit them on the edge of the railing and try to explain how such a disaster could have happened and the results. But the smaller children seem hardly interested; most want to go and climb on the dam.

Pictures are an important part of the sight-seeing venture. "Stand over there, mom," says the teenager with a 35 mm camera. His goal is to snap a portrait of his mother with the dam looming behind.

The dam may be getting more attention now than it would have with a full reservoir. And the numbers of people coming to the site are beginning to play on the nerves of Bureau of Reclamation (USBR) officials.

The glass door of the USBR office was recently covered with cardboard to discourage visitors from peering in. A receptionist pointed out that many are looking for the restrooms or drinking fountain.

"Some of them asked what caused the dam to break," she added. And how does she answer?

"We tell them we don't know, but some of the loudmouths have it all figured out anyway and tell us."

At the observation point, discussion concerns not only the cause of the dam's failure, but also its result. Local residents describe to out-of-owners how the water washed through Rexburg and Sugar City.

And sometimes arguments ensue over whether the dam should be rebuilt.

But as they arrived, one-by-one, so they leave, climbing the hill back to the parking lot and shaking their heads in disbelief.

I. W. ABEL URGES PASSAGE OF H.R. 50

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1976

Mr. CONYERS. Mr. Speaker, I take this opportunity to point out that the major labor unions in the United States are steadfast in their support of full employment, specifically the Full Employment and Balanced Growth Act of 1976 (H.R. 50), authored by my distinguished colleague, Mr. AUGUSTUS F. HAWKINS. In particular, the United Steel Workers Union and the entire AFL–CIO have been among the strongest supporters of the Hawkins-Humphrey full employment bill.

The following article, printed in the September issue of "Steel Labor," cites USWA President I. W. Abel's endorsement of H.R. 50 as the best method for achieving full employment. I commend it to the attention of my colleagues.

FULL EMPLOYMENT—GOAL OF ALL WORKING PEOPLE ON LABOR DAY

Urging the American people to join organized labor in pressing Congress to enact the Humphrey-Hawkins Full Employment bill into law this year, President I. W. Abel stated "that full employment—job opportunity at a decent wage for each person able and seeking work is an economic necessity" which will generate mass purchasing power and help lift the nation out of deficit spending.

In his 1976 Labor Day radio address, Mr. Abel declared that "there is no lack of will to work in America: there is only a lack of jobs." He outlined the specific program of the Steelworkers and the AFL–CIO to put America back to work in the form of the Humphrey-Hawkins bill, of Sen. Hubert Humphrey, and Rep. Augustus Hawkins.

The bill proposes, Abel said, that the President recommends specific goals for employment, production and purchasing power as well as the fiscal policies to reach the desired goal to reduce unemployment to three percent within four years.

He refuted claims by opposition as "outright propaganda" that its passage would increase budget deficits or that it's inflationary. He lambasted the notion that there is any "trade off" between unemployment and inflation.

"On the contrary, every time the American economy has approached full employment in the past 25 years, inflation has been far lower than it is today. The bill is logical and is a workable one. It is urgently needed," he said.

In his message, he remembered the past of labor "with much gratitude," pointing to victories made by the United Steelworkers of America over much brutal opposition from the steel industry in moving the workers out of conditions of insecurity and dominance by the employer to today when members enjoy not only paid vacations but vacation bonuses, extended vacations, substantial pensions, dental care, hospitalization programs, cost-of-living protection and other safeguards.

"I am happy to emphasize that the relationship between our union and the employers we bargain with is a far cry from those early days. . . . It is still an adversary relationship to be sure but a giant step over the old days.

EARTH RESOURCES INFORMATION SYSTEM

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1976

Mr. FUQUA. Mr. Speaker, I am most pleased to join the distinguished chairman of the Committee on Science and Technology, the Honorable OLIN E. TEAGUE of Texas in sponsoring this proposed legislation which would seek to establish an Earth resources information system.

Fully recognizing that the resources of the Earth are limited and will be depleted unless better knowledge and management of those resources are established, we now take note of the existence of new technologies which have been developed by NASA in its Landsat satellites that can assist in better management.

The Earth resources data provided by Landsat and other satellites has a broad community of users who consider the major deterrent to more extensive use of available data to be the lack of commitment to the development of a fully operational Earth resources information system. This bill addresses these concerns and although not perfect in its original form will provide a sufficient foundation from which to improve.

As stated so succinctly by Mr. TEAGUE, the bill attempts to have private industry supplant some of the current Federal role. We recognize that there are potentially severe concerns among foreign nations on this matter and so we have kept the Federal Government in ownership and control of the space segment of this bill which consists of the satellites and their associated command and control facilities.

We also recognize that while the private sector may supply some services more efficiently than Government, there may be unprofitable but nevertheless highly beneficial remote sensing activities that the private sector would discontinue. This bill looks to NASA and to other Government agencies to continue pursuing such activities if they merit continuation. But where the market exists for that activity, then we feel it is in the national interest to transfer that activity to the private sector.

Mr. Speaker, I believe that the remote sensing technology which NASA has developed offers an impressive potential to not only this country but also to the world. Once again, let me say I am pleased to cosponsor this legislation and I look forward to working with my colleagues in both the House and Senate in perfecting this bill.

FRANK LOPEZ

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1976

Mr. WAXMAN. Mr. Speaker, it is gratifying to be the instrument through which the Congress is made aware of Frank Lopez, a selfless man whose life has been dedicated to the betterment of his community. A native of Mexico City, Mr. Lopez arrived in California at the age of 8 and graduated from Polytechnic High School in Long Beach where he was president of the Mexican Students' Club. He later served as an international representative and convention delegate in various unions, was public relations director of the Foreign Born Commission for the Defense of the Bill of Rights, and has been active in politics, serving twice as president of the Hollywood-Highlands Democratic Club, and a convention delegate.

Frank Lopez' outstanding contribution to the Mexican American Community in Los Angeles has been as one of the founders of La Plaza de la Raza, a cultural and community center developed with the untiring and unceasing efforts of both Frank Lopez and his wife Ann. Plaza is now a thriving gathering point offering a number of bilingual bicultural activities to enrich the area.

It is an honor to count myself among the friends of Frank and Ann and to memorialize the occasion of a banquet which will be given as a tribute to Frank Lopez on October 10, 1976, by the hundreds of his fellow citizens whose lives have been enriched by knowing him.

AN OPTIONAL APPROACH TO THE CONSOLIDATION OF EDUCATION PROGRAMS

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1976

Mr. QUIE. Mr. Speaker, today I have introduced in the House a bill which has been authored by two esteemed Members of the Senate—PETER DOMENICI of New Mexico and HENRY BELLMON of Oklahoma.

The Domenici-Bellmon bill is an attempt—I believe a good one—to design an optional approach to the consolidation of education programs. It takes as its premise the fact that there are a number of States which have the capacity to consolidate programs of Federal aid to education in order to do a more effective and efficient job of delivering services to children.

Earlier this year I introduced H.R. 12196, an administration bill, which also aims at the consolidation of Federal programs of assistance to elementary and secondary education. That bill takes a different approach, and there is much in it which I support.

I am introducing the Domenici-Bellmon bill not because of any change in my support for consolidation at the Federal level, but rather because I believe that in the optional approach the two Senators have an idea well worth pursuing and one which needs to be placed before the House—specifically the Education and Labor Committee—for its consideration.

I urge my colleagues to study both bills, to make their suggestions on how each might be improved, and then to join with me in putting to an end the continuing growth of the Federal presence in the operation of schools at the local and State level. For the benefit of my colleagues, I insert at his point a summary of the bill:

PROGRAMS CONSOLIDATED

Title I—Special educational needs

Part A—Educationally Deprived Children.

Sec. 101—Consolidates ESEA Title I, Sections 103, 123, and 126.

Sec. 102—Consolidates Headstart and Follow Through.

Sec. 103—Migrant Education.

Part B—Handicapped Children.

Consolidates authorizations under Part B of the Education of the Handicapped Act as amended including Sec. 611 and 619, ESEA Title I Sec. 121 and ESEA Title IV Sec. 403 (a) (8) (B).

Part C—Children with limited English Speaking Ability.

Consolidates ESEA Title VII, Sec. 708(c) of the Emergency School Aid Act, and Part J of the Vocational Education Act.

Title II—Vocational and adult education and training

Part A—Consolidates all Parts of the Vocational Education Act of 1963.

Part B—Consolidates programs under the Adult Education Act, and Sec. 405 of the Special Projects Act.

Part C—Provides for cooperative administration of CETA Title I training funds.

Title III—Special curriculum projects

Part A—Libraries and Learning Resources under ESEA Title IV Part B.

Part B—Consolidates Innovation and Support authorized under ESEA Title IV Part C with Guidance and Counseling from ESEA Title IV Part B, the Environmental Education Act, the Alcohol and Drug Abuse Education Act, ESEA Title IX as relates to Ethnic Heritage, Title V of the Higher Education Act relating to Teacher Corps, and ESEA Title VII relating to the National Reading Improvement Program. Programs from the Special Project Arts will be included in the consolidation in fiscal year 1979 and thereafter including Sec. 403 relating to metric education, Sec. 404 relating to gifted and talented children, Sec. 406 relating to career education, Sec. 408 relating to women's educational equity, and Sec. 409 relating to arts in education.

Title IV—General provisions

Contains administrative requirements and authorizations for Planning Grants and for a Supplemental Grant.

Title I encompasses the special needs of high cost populations. This title identifies three such populations and targets funds to each of the three.

Part A of title I consolidates several programs for educationally disadvantaged children. Funds derived from title I parts A and B of the Elementary and Secondary Education Act of 1965 will flow through to local education agencies according to the low income formula established in part A of title I of the 1965 Act. Once the funds are in the local school district, they must be used for educationally deprived children. The local agency will determine how and where such services will be provided in the comprehensive planning process. Requirements for use of the funds include an excess cost provision, a prohibition against supplanting which applies to the entire Act, and maintenance of effort which is applied by title to the entire Act. Programs for Migrant Children, neglected and delinquent children, and children in Headstart and Follow Through Programs are also included in this part.

Part B consolidates several programs which serve handicapped children. The provisions of this part guarantee the right of a handicapped student to a free appropriate education and maintain procedural safeguards which protect those rights. All funds in this part must be spent on excess costs for handicapped programs.

Part C consolidates several programs which provide services to persons of limited English-speaking ability. The Census Bureau has recently taken a census of such persons so that funds can be allocated to the State based on the actual numbers of such students. States can distribute the funds to locals on either a formula or a project grant basis depending on the nature and needs of the State's population of such children. This program is also subject to the excess cost provision.

Title II parts A and B is an option within the option for those states which have a separate vocational education agency. Title II part C is an option within the option for all states. Title II part A consolidates all vocational education programs. All funds pursuant to this part must be spent for vocational education, and a minimum of 75% of the funds must be distributed to local school districts or area vocational schools. Title II part B consolidates adult and community education.

Title II part C allows states to administer CETA title I in those states that can come to an agreement to do so among the State education agency, the State vocational education agency if it is separate, the Governor of the State, and the CETA Planning Council. The duplication of effort between vocational education programs and CETA has been exceptionally high. Including CETA in the comprehensive planning process and providing state administration should improve the effectiveness of manpower and vocational training.

Title III consolidates programs that deal with specific curricular areas. Part A Libraries and Learning Resources flows to the local education agencies and must be used to purchase equipment and materials.

Part B funds will be distributed to local education agencies based on criteria developed in the comprehensive state plan. Guidance and Counseling which is a part of Libraries and Learning Resources in the present law was moved to this consolidation of curriculum programs where it more logically belongs. The programs from the Special Projects Act which was created by the Education Amendments of 1974 will not become a part of the consolidation until Fiscal Year 1979. This is consistent with the original intent for these programs as indicated in the Report which accompanied that legislation. This part will allow states and local school districts to determine priorities within the curricular areas which have been identified for special emphasis. The title III consolidation has provided several provisions which should remedy the problems incurred in administration of title IV of PL 93-380.

Authorizations and Allocations

This Act does not repeal the categorical legislation which remains in force for states which choose not to consolidate. Since those laws will remain in effect, it is possible for us to incorporate by reference provisions from those Acts into this bill. Since this Act is optional, we have chosen to incorporate all authorizations and the allocations to states that are made by formula. This will work very simply. The Appropriations Committee will appropriate funds each year for all the categorical programs just as they always do. The Commissioner of Education will then develop state tables for those funds which are currently given to states by formula. The Commissioner will reserve the share of funds for each state which chooses the consolidated option. For funds that are currently given to states on a project grant basis, the Commissioner will determine and reserve a state share for each state choosing the consolidation based on the ratio of school age population in the state to the total school age population in all states. The Commissioner will then take the funds reserved for a state, organize it according to this Act, and award grants to the state as directed in section 402. By authorizing and allocating the funds in this manner, states which choose the consolidation are assured of their share of funds.

A supplemental grant is also available to states which opt for the consolidation. The use for this grant will be determined in the comprehensive planning process, and it may be used for any of the purposes authorized in titles I, II (if applicable) and III of this Act. As needs differ from state to state, this supplemental grant which authorizes an additional 10% to a state's total allocation, will provide needed flexibility to state and local educational agencies.

State Administration

One of the main concerns expressed to Senator Bellmon and myself focuses on the rigid federal requirements which often cause federal programs to be administered as appendages that are not coordinated with the regular school program or even with other federal programs.

Each federal program requires its own needs assessment, planning, administration, and evaluation. Separate rules and regulations, procedures and requirements have been devised for state and local educational agencies to follow in carrying out activities for each federal program. These activities are often completed in total isolation from other programs which serve the same students.

Perhaps the most significant consolidation in this Act is the provision for one set of administrative procedures, one process which the state and local school districts must follow in administering all the federal programs reorganized by this Act. Only one comprehensive state plan will be prepared by the state educational agency and by each local education agency. This means that the state and local agencies will conduct one comprehensive needs assessment of all the children in the state. This assessment will identify the students with special educational needs, the services these students are receiving, and the need for continuing, additional and related services. Special curricular needs and priorities will also be determined. Programs can then be planned based on this needs assessment. A comprehensive plan must be prepared every four years and updated annually. Our bill directs that programs under this Act will be coordinated with each other, with other federal programs, and with state and local programs. The current proliferation of inflexible federal education legislation has resulted in enormous waste, duplication of effort, and inefficiency. By establishing one comprehensive process, this waste can be eliminated. One process for assessing needs of students, for planning programs to meet these needs, for administering and evaluating programs will lead to more effective and efficient use of federal funds.

Another important aspect of the planning process should also be noted. States are directed to obtain in the development of the plan, the participation of local education agencies, appropriate state and local government agencies, and interested citizens and organizations. This bill lets the sunshine in on federal education programs.

Planning Grants

It will not be an easy task to develop the comprehensive plan. A great deal of time and effort must be expended and a certain level of expertise will be necessary.

For this reason, we have included provision, we have included provision for a planning grant for which a state may apply. Any state planning to choose the consolidated option offered by this Act will be eligible to receive a grant which will offset cost to the state of implementing the comprehensive planning process, or writing the plan and regulations, and the cost of gearing up for administration of the consolidation. A state may receive a maximum of $1 million and a minimum of $200 thousand for such purposes.

Federal Administration

Federal administration of this Act will be carried out by one separate and identifiable administrative unit within the Office of Education. Thus a state will deal with only one office, and all contracts with the state can be coordinated. This will be a vast improvement over the current system where a state must deal with numerous administrative units, none of which are aware of what the others are doing or requiring of the states. This unit will be staffed by the number and type of personnel deemed necessary by the Commissioner for carrying out the functions mandated by the law. While it will be necessary to add staff to the Office of Education to establish a core staff for consolidation, the Commissioner is directed to transfer additional staff to the unit from the units administering categorical programs, based on the number and size of states which select the option to consolidate.

The federal responsibility will include annual monitoring in each participating state. Such monitoring will include review of the development and implementation of the state plan for conformity with the Act. When non-compliance is found, the Commissioner and the state will establish procedures to modify the state plan and/or its implementation. If a state does not follow such procedures and remains out of compliance, the Commissioner has the authority to withhold funds. The Commissioner may withhold 5% of the funds across the board or for serious violations, may withhold all funds pursuant to a particular section or part, or for the entire Act.

The Act contains an appeals process for both state and local educational agencies. Civil Rights requirements are specified as well as provisions for the participation of non-public school children.

GREG NICOSIA AND ED SEGAL: PEOPLE-MINDED PUBLIC SERVANTS

HON. PHILIP H. HAYES

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1976

Mr. HAYES of Indiana. Mr. Speaker, we are fortunate in having so many talented men and women working on Capitol Hill, and assisting us with the business of government.

I would like to bring to the attention of the House the talents and abilities of two such individuals, Greg Nicosia, chief counsel to the Rules Committee; and Ed Segal, legislative assistant and press secretary to Congressman JOHN L. BURTON of California.

Greg Nicosia has distinguished himself as chief counsel to the Rules Committee and before that, as majority counsel. He comes from a family which has given the people of Indiana a variety of generous and people-minded public servants. Both his late grandfather, Frank Migas, and his father, Dr. John B. Nicosia, are past mayors of East Chicago, Ind.

Greg's background, together with his avid interest in government and proven knowledge of the Congress and its legislative process, makes him a highly regarded asset to the Rules Committee.

Ed Segal, a native Californian, came to Washington 4 years ago, determined to write and become fully involved in the legislative process.

In California, Ed worked on the campaigns of our colleagues, Congressman GLENN M. ANDERSON and CHARLES H. WILSON. He arrived in Washington to serve as an aide to Congressman GLENN ANDERSON. When JOHN L. BURTON was elected to the House in a special election in 1974, Ed joined the staff as press secretary and legislative assistant, positions in which he has continuously proven himself.

Mr. Speaker, I am inserting into the RECORD a column written by Ed Segal about Greg Nicosia and the House Rules Committee. The article not only gives us a better understanding of Greg Nicosia, it also sets forth the writing skills of Ed Segal.

The column, of which the text follows, appeared in the Torrance, Calif., Daily Breeze on August 31, 1976:

[From the Torrance (Calif.) Daily Breeze, Aug. 31, 1976]

RULES COMMITTEE POWER IS CRUCIAL

(By Ed Segal)

WASHINGTON.—One of the most important and influential parts of the federal government is one of the least known or understood.

In fact, more people today know how the Central Intelligence Agency works than they do about one of the most crucial committees in Congress, the rules committee in the House of Representatives.

None of the 21 other committees in the House carry the same weight or responsibility of influencing the fate of a piece of legislation—be it an impeachment inquiry, election laws or a declaration of war.

The House Rules Committee is a traffic cop, deciding when, if and under what conditions legislation will reach the floor for consideration.

It is rare indeed that a measure gets to the House without first getting the go-ahead of the rules committee.

There is an automatic three-day lapse between the time a measure is reported out of a committee, however, and the first available day when it may be brought up on the floor of the House.

This provision can only be dispensed with when the rules committee recommends such an action and the House votes on it. This delaying provision usually assures enough time so that copies of the legislation may be printed and distributed to members.

Greg Nicosia is the chief counsel to the rules committee. He is, 28, the youngest person ever to direct a committee of this size and importance.

His position is a testimony to his talents and skills and evidence of the opportunity for advancement that is available to staff people on the Hill.

After graduating from the Indiana University School of Law at Indianapolis, he served on the committee staff, first as a research assistant and then as majority counsel.

Today, as chief counsel, Mr. Nicosia has the task of keeping in touch with the 11 Democrats and five Republicans who sit on the committee.

He assists in the drafting of summaries of legislation that will be presented and keeps in constant contact with his counterparts on other committees.

A big part of his job is scheduling when a bill, resolution or conference report will be brought up for a "rule."

According to Nicosia, a rule provides for consideration in the House of a bill or resolution and allocates the number of hours of debate that will be spent on a bill when it is debated, whether amendment will be permitted to be offered to it and, if so, how many and what type.

The power to give a rule on a bill is the power to determine if legislation might be altered from its original form and how much time members of Congress will have to convince their colleagues of its merits or faults.

And this is the crux of the deliberative side of the legislative process—convincing other congressmen that a measure should be passed or defeated.

The rules committee has assumed different degrees of importance throughout the history of Congress.

In its early years, the panel met only briefly at the start of a session and quickly issued rules for bills that were expected to be introduced.

But from about 1945 to 1966, a combination of factors caused the committee to cease to be an arm of the leadership of Congress and it took on a life of its own.

Speakers of the House acquired more power. Political balances in Congress and the committee shifted.

An unlikely coalition of Southern Democrats and Republicans came together to prevent controversial or important bills from ever reaching the floor.

From the late 60s to the early 70s, the committee began drifting back to its traditional role as the arm of the majority party. The change came as the composition of the House shifted with the defeat or death of its members and new political pressures came to bear on the rules panel.

OCEAN DUMPING AND THE TOXIC SUBSTANCES ACT

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1976

Mr. MURPHY of New York. Mr. Speaker, for several years, the Congress has been taking a hard look at the need to protect one of our most valuable resources—the oceans—from degradation.

At the conclusion of the 92d Congress, two laws were enacted which significantly enhanced the protection of our oceans. In October, 1972, the Congress passed the Federal Water Pollution Control Act amendments which has as its goal the elimination of all discharges of pollutants into navigable waters by 1985. The act sets up a permit program to regulate discharges of pollutants from all land-based sources into ocean waters through outfall pipes.

A few days after the Federal Water Pollution Control Act was passed, Congress enacted the Marine Protection, Research and Sanctuaries Act, which sets up a permit program to regulate the dumping of all types of materials into ocean waters from vessels or other floating craft.

While these acts have made a commendable step forward, it is becoming increasingly apparent that they will not provide adequate protection for our oceans. Toxic materials, only some of which are regulated, have become a pervasive and enduring part of our environment. They are in our air, our water, and our soil. They are used in our manufacturing processes, and they are essential components for consumer and industrial goods. And through their own movements or through man's direct actions, many of these chemicals come to rest in the oceans.

In 1974 alone, approximately 5.7 million tons of industrial wastes and 5.6 million tons of sewage sludge were dumped into the oceans, contributing such toxic pollutants as mercury, cadmum, pesticides, lead, zinc, nickel, and many others. And with our increased sewage treatment capabilities, there will be even more pressure for increased ocean dumping of sewage sludge which is a primary source of many of these toxic contaminants.

We are beginning to see that dealing with pollution in one media often has significant consequences for other media. For instance, only regulating ocean dumping may encourage the transfer of wastes from other, more stringently regulated media to the oceans. The FWPCA, with its higher levels of municipal and industrial treatment and its zero discharge goal, will actually cause the total amount of sludge produced to increase significantly over the next 5 years. While many dangerous materials can be removed from sewage, many others cannot. Therefore, it seems prudent now to provide authority to limit the amounts of dangerous materials introduced into the environment before they are allowed to escape. It is here that properly implemented toxic substances legislation can have the greatest effect, because it will regulate the manufacture of these substances themselves.

For example, the Toxic Substances Act will prohibit the manufacture of a dangerous contaminant such as PCB's whereas the FWPCA and the Ocean Dumping Act only control and limit the amount of discharge through permit programs.

Under the Toxic Substances Act, there will now be a mechanism for required testing of possible hazards from chemicals before they are released into the environment as well as some mechanism for regulating those hazards in all media if some degree of risk is deemed acceptable.

It is with particular enthusiasm, therefore, that I welcome the Toxic Substances Control Act and the protection it will provide not only our oceans but our other resources as well. Perhaps the most important provision of this act is that for premarket testing of chemicals. The Administrator of the EPA must require testing if the manufacture of the chemical, its processing, distribution, use or disposal may present an unreasonable risk, there is insufficient data or experience upon which to judge the effects upon health and the environment and testing is necessary to develop data. In addition, testing shall be required if the material may present significant or substantial human or environment exposure because it is or will be produced in substantial quantities and insufficient information is available to determine its adverse effects. The Administrator is also instructed to adopt rules to regulate the manufacture, processing, or distribution of a chemical substance to require labeling or to regulate the manner of its disposal if data shows that there is sufficient reason to suspect that it will present an unreasonable risk to health or environment.

Although all ocean dumping is scheduled to be phased out, optimistically by 1981, in the interim, these toxic substances controls will decrease the existing risk to our oceans by both decreasing the amount of toxics in waste to be dumped and by increasing the amenability of such other disposal alternatives as incineration and landfills.

I had the privilege to sponsor the Ocean Dumping Act and as the chairman of the Oceanography Subcommittee, I have worked to push the act toward its goal of complete elimination of all ocean dumping. And now, as chairman of the Consumer Protection and Finance Subcommittee, I am proud to have guided the Toxic Substances Act through the legislative process.

The Federal Water Pollution Control Act, the Ocean Dumping Act, and the Toxic Substances Act—all developed by different committees of Congress to solve serious environmental problems—have come together in this instance to finally protect human health and our marine environment from contamination by toxic pollutants.

The FWPCA and the Ocean Dumping Act are progressive bills which limit and control wastes upon entering the marine environment. And the Toxic Substances Act will supplement these laws by regulating and eliminating toxic substances before they enter the waste stream and pollute our environment.

MARK NASHPITZ, SOVIET PRISONER OF CONSCIENCE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1976

Mr. GILMAN. Mr. Speaker, once again, I wish to bring to the attention of my colleagues the plight of the Soviet Jew and, most particularly, the case of Mark Nashpitz, my "prisoner of conscience" who is currently serving a 5-year term of exile in Tupik near the Soviet-Chinese border on a trumped-up charge that is wholly without merit even in the eyes of Soviet criminal law.

Since the infamous Leningrad trials of 1970, the plight of Soviet prisoners of conscience have been the focus of extensive efforts by international organizations, national officials, domestic organizations like the National Conference on Soviet Jewry, families and friends, and other concerned individuals in order to educate and arouse public opinion. Sentenced to long and unjust terms in Soviet labor camps, only because they sought to live freely as Jews in Israel, these courageous people are held captive in Soviet prisons under inhumane conditions. Each day of incarceration, harassment, and maltreatment adds new danger to their very existence. In recognition of this, just last week the House of Representatives passed House Concurrent Resolution 726, to urge the Soviet Union to release Georgi Vins who was imprisoned for 5 years at hard labor for the alleged crime of administering to the congregation that elected him as their pastor and for preaching the Baptist faith.

Over the past 12 months, I have thrice written to Soviet Ambassador Anatoliy Dobrynin—twice in my own right and once in behalf of numerous colleagues in the House of Representatives—for the release of Mark Nashpitz and his safe conduct to Israel. During this same period, I have undertaken an in-depth investigation of the substantive and procedural aspects of Mark's trial. As a result of this study, I have prepared a brief which sets forth patent violations during the course of Mark's trial of both Soviet criminal law and procedure, as well as an obvious disregard of defined principles of international law. A copy of my brief can be found in the CONGRESSIONAL RECORD of June 25, 1976, page 20575. This brief, Mr. Speaker, is being readied for final submission to the Procurator General of the Soviet Union.

Finally, Mr. Speaker, I want it to be known to everyone concerned that I will not cease my personal efforts in behalf of Mark Nashpitz until the day that Mark can set foot outside the Soviet Union as a free man and I urge my colleagues to join with me in this endeavor.

My latest letter to the Soviet Ambassador to the United States reads as follows:

SEPTEMBER 21, 1976.

His Excellency ANATOLIY DOBRYNIN,
Embassy of the Union of Soviet Socialist Republics, Washington, D.C.

DEAR MR. AMBASSADOR: Over the past twelve months, I have twice petitioned you—once in my own right and the other in behalf of forty-five of my colleagues in the Congress—for the release of Mark Nashpitz (see attached letters), a twenty-seven year old stomatologist from Moscow who was illegally arrested on February 24, 1975, and subsequently charged with a violation of Article 190.3, Code of Criminal Law, R.S.F.S.R., "active partaking in group activities that are disturbing public order".

On March 31, 1975, Mr. Nashpitz was convicted, albeit without substantial proof, in a "closed session" of the Moscow City Court that took place in the offices of the People's Court of the Babushkinsky Region (Lenskaya Street No. 2). While prosecuted for a violation of Article 190.3, supra, he was sentenced to five years in exile per Article 43, Code of Criminal Law, R.S.F.S.R. (an alleged "mitigation of punishment" article, although the worst he could have received under Article 190.3, supra, was deprivation of freedom up to three years, correctional tasks for a term not exceeding one year, or a fine up to 100 rubles). Following the denial of his cessation complaint, he was ordered removed to the Tupik labor camp near the Soviet-Chinese border where he is currently serving out the remainder of his sentence.

Mr. Ambassador, the disgraceful treatment of Mark Nashpitz by Soviet authorities—repeated refusal to approve Mr. Nashpitz's application for emigration, thereby denying him the right of unification with his family in Israel, because he understandably refused to turn informant against his friends at the insistance of the KGB; numerous, but unsuccessful, attempts at coercion and intimidation through the methods of inducements, threats, and finally arrests; and his ultimate conviction on a trumped-up charge that is wholly without merit in the eyes of Soviet criminal law—constitute not only violations of Soviet law but recognized international rights and principles, as codified in the U.N. Charter and the recent Helsinki agreement, as well.

Accordingly, Mr. Ambassador, I again urge you to personally review this case and to bring the merits of Mr. Nashpitz's appeal before appropriate Soviet authorities for their own review and judgment. In this regard, and in order to assist your review, I have taken the liberty of preparing a brief setting forth what I consider are the salient facts and arguments supporting Mr. Nashpitz's petition for relief.

In the continuing spirit of detente, I ask you to act expeditiously in this matter and rectify the serious injustice that this innocent man has too long suffered for.

Trusting your prompt attention to this concern, I am,

Sincerely,

BENJAMIN A. GILMAN,
Member of Congress.

BUREAUCRACY: HOW MUCH IS TOO MUCH?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1976

Mr. ASHBROOK. Mr. Speaker, a recent New York Times article stated that there are over 1,000 people in the U.S. Department of Health, Education, and Welfare, HEW, writing regulations and taking a special course in English to make their regulations more understandable. Most of us probably think that is about 999 too many.

Not too long ago OSHA published proposed regulations on walking surfaces and ladders. Those regulations covered more than 120 pages of the Federal Register. More than 70 pages of the 120 deal specifically with ladders.

But let us not be too hard on OSHA. They did put forth a proposal for roofers to build a fence around the roof before they started working on the roof. I suppose there was no danger of the workers falling off the roof while they were building the fence or maybe OSHA wanted them to build another fence on the roof to protect them while they built the first fence. OSHA finally did withdraw this proposal but there was still the cost of printing it and the cost of the salaries of those who dreamed it up.

Recently, an article appeared that a high school principal was concerned about having a homecoming queen for the high school because it might violate Federal regulations barring sex discrimination. Also, we should not forget the recent attempt of HEW to prohibit mother-daughter and father-son banquets in public schools on the same grounds. There has been the same issue raised about all-male or all-female choirs.

These regulations are based on what is known as title IX of the Elementary and Secondary Education Act. I opposed it because I saw it giving the regulators in Washington, D.C., much too much power and latitude. Most of the regulators seem to be of the opinion that they are the only ones who know how we should lead our lives.

All the various regulations are printed in the Federal Register. To date this year there are already more than 50,000 pages of the Federal Register. There has been an annual increase of about 25 percent in the number of pages.

I have been serving on a conference committee on education. Today there are about 125 Federal programs in HEW dealing with education. Some want to add still another dozen.

If one looks at a chart of the Office of Education in HEW, it looks like a maze. And it is. It is a maze of programs and agencies that are costing the taxpayers huge amounts of money in administrative costs alone. My bill to return funds directly to the States for education looks better all the time. This would give local communities control over their local education without the often senseless controls from Washington and without the added costs.

DISASTER ASSISTANCE

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1976

Mr. NOLAN. Mr. Speaker, I am today introducing legislation which will help to assure that cattle producers and dairy farmers facing disastrous drought conditions in the Midwest and West are not forced out of business.

Confronted with the worst drought in several decades, cattlemen and dairymen have had to make hard decisions about liquidating their herds. Hay prices have doubled since mid-May. Grain-feed prices have risen 21 percent. Already this year Minnesota farmers have sold 21,000 more cattle for slaughter than over the same period last year. This was the highest volume since 1971. Over 25 percent more cattle are being readied for slaughter than a year ago.

This forced selloff has hit farmers doubly hard since cattle prices are already severely depressed. Producers have suffered record losses in the last 3 years—often $100 to $200 a head. According to USDA figures, mid-July beef prices were 12 cents below the break-even level for producers.

Farmers in the Midwest are presently receiving some assistance to cover the increased cost of transporting hay into disaster areas. However, they must still foot the bill for the purchase price of the hay or other feed. Most farmers have grave fears about their ability to carry their herds through the winter.

The bill I am introducing would provide cattle and dairy producers in disaster areas with assistance to help assure that they are not forced out of business by disastrous weather conditions. Under the bill, the Secretary of Agriculture is authorized to reimburse farmers—at the rate of 10 cents per pound—for cattle or dairy cows which they are forced to sell at a loss because of drought or other disaster. Farmers would be required to rebuild their herds within 2 years or repay the funds with interest.

In my judgment, this is a sensible method of providing assistance when it is needed most, of assuring that cattlemen and dairy farmers are not driven out of business and that they are able to rebuild their herds in the future so that consumers will have an adequate supply of beef at reasonable prices.